retary of the Treasury shall consult with the Secretary regarding the exercise of any such authority not delegated to the Secretary.

(2) STATUTES.—The provisions of law referred to in paragraph (1) are the following: the Tariff Act of 1930; section 249 of the Revised Statutes of the United States (19 U.S.C. 3); section 2 of the Act of March 4, 1923 (19 U.S.C. 6); section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c); section 251 of the Revised Statutes of the United States (19 U.S.C. 66); section 1 of the Act of June 26, 1930 (19 U.S.C. 68); the Foreign Trade Zones Act (19 U.S.C. 81a et seq.); section 1 of the Act of March 2, 1911 (19 U.S.C. 198); the Trade Act of 1974; the Trade Agreements Act of 1979; the North American Free Trade Area Implementation Act; the Uruguay Round Agreements Act; the Caribbean Basin Economic Recovery Act; the Andean Trade Preference Act; the African Growth and Opportunity Act; and any other provision of law vesting customs revenue functions in the Secretary of the Treasury.

(b) MAINTENANCE OF CUSTOMS REVENUE FUNCTIONS.—

(1) MAINTENANCE OF FUNCTIONS.—Notwithstanding any other provision of this Act, the Secretary may not consolidate, alter, discontinue, or diminish those functions described in paragraph (2) performed by the United States Customs Service (as established under section 451) on or after the effective date of this Act, reduce the staffing level, or the compensation or benefits under title 5, United States Code, of personnel attributable to such functions, or reduce the resources attributable to such functions, and the Secretary shall ensure that an appropriate management structure is implemented to carry out such functions.

(2) FUNCTIONS.—The functions referred to in paragraph (1) are those functions performed by the following personnel, and associated support staff, of the United States Customs Service on the day before the effective date of this Act: Import Specialists, Entry Specialists, Drawback Specialists, National Import Specialist, Fines and Penalties Specialists, attorneys of the Office of Regulations and Rulings, Customs Auditors, International Trade Specialists, Financial Systems Specialists.

(c) NEW PERSONNEL.—The Secretary of the Treasury is authorized to appoint up to 20 new personnel to

work with personnel of the Department in performing customs revenue functions.

SEC. 453. ESTABLISHMENT AND IMPLEMENTATION OF COST ACCOUNTING SYSTEM; REPORTS.

(a) ESTABLISHMENT AND IMPLEMENTATION.—

(1) IN GENERAL.—Not later than September 30, 2003, the Commissioner of Customs shall, in accordance with the audit of the Customs Service's fiscal years 2000 and 1999 financial statements (as contained in the report of the Office of the Inspector General of the Department of the Treasury issued on February 23, 2001), establish and implement a cost accounting system for expenses incurred in the operation of the Customs Service.

(2) ADDITIONAL REQUIREMENT.—The cost accounting system described in paragraph (1) shall provide for an identification of expenses based on the type of operation, the port at which the operation took place, the amount of time spent on the operation by personnel of the Customs Service, and an identification of expenses based on any other appropriate classification necessary to provide for an accurate and complete accounting of the expenses.

(3) USE OF MERCHANDISE PROCESSING FEES.—The cost accounting system described in

REV_00148479

paragraph (1) shall provide for an identification of all amounts expended pursuant to section 13031(f)(2) of the Consolidated Omnibus Reconciliation Act of 1985.

(b) REPORTS.—Beginning on the date of the enactment of this Act and ending on the date on which the cost accounting system described in subsection (a) is fully implemented, the Commissioner of Customs shall prepare and submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on a quarterly basis a report on the progress of implementing the cost accounting system pursuant to subsection (a).

SEC. 454. PRESERVATION OF CUSTOMS FUNDS.

Notwithstanding any other provision of this Act, no funds available to the United States Customs Service or collected under paragraphs (1) through (8) of section 13031(a) of the Consolidated Omnibus Reconciliation Act of 1985 may be transferred for use by any other agency or office in the Department.

SEC. 455. SEPARATE BUDGET REQUEST FOR CUSTOMS.

The President shall include in each budget transmitted to the Congress under section 1105 of title 31, United States Code, a separate budget request for the United States Customs Service.

SEC. 456. PAYMENT OF DUTIES AND FEES.

Section 505(a) of the Tariff Act of 1930 (19 U.S.C. 1505(a)) is amended—

(1) in the first sentence—

(A) by striking ''Unless the merchandise'' and inserting ''Unless the entry of merchandise is covered by an import activity summary statement, or the merchandise''; and

(B) by inserting after ''by regulation'' the following: ''(but not to exceed 10 working days after entry or release, whichever occurs first)''; and

(2) by striking the second and third sentences and inserting the following: ''If an import activity summary statement is filed, the importer or record shall deposit estimated duties and fees for entries of merchandise covered by the import activity summary statement no later than the 15th day of the month following the month in which the merchandise is entered or released, whichever occurs first.''.

SEC. 457. DEFINITION.

In this subtitle, the term ''customs revenue function'' means the following:

(1) Assessing and collecting customs duties (including antidumping and countervailing duties and duties imposed under safeguard provisions), excise

taxes, fees, and penalties due on imported merchandise, including classifying and valuing merchandise for purposes of such assessment.

(2) Processing and denial of entry of persons, baggage, cargo, and mail, with respect to the assessment and collection of import duties.

(3) Detecting and apprehending persons engaged in fraudulent practices designed to circumvent the customs laws of the United States.

(4) Enforcing section 337 of the Tariff Act of 1930 and provisions relating to import quotas and the marking of imported merchandise, and providing Customs Recordations for copyrights, patents, and trademarks.

(5) Collecting accurate import data for compilation of international trade statistics.

(6) Enforcing reciprocal trade agreements.

(7) Functions performed by the following personnel, and associated support staff, of the United States Customs Service on the day before the effective date of this Act: Import Specialists, Entry Specialists, Drawback Specialists, National Import Specialist, Fines and Penalties Specialists, attorneys of the Office of Regulations and Rulings, Customs

Auditors, International Trade Specialists, Financial Systems Specialists.

(8) Functions performed by the following offices, with respect to any function described in any of paragraphs (1) through (7), and associated support staff, of the United States Customs Service on the day before the effective date of this Act: the Office of Information and Technology, the Office of Laboratory Services, the Office of the Chief Counsel, the Office of Congressional Affairs, the Office of International Affairs, and the Office of Training and Development.

SEC. 458. GAO REPORT TO CONGRESS.

Not later than 3 months after the effective date of this Act, the Comptroller General of the United States shall submit to the Congress a report that sets forth all trade functions performed by the executive branch, specifying each agency that performs each such function.

TITLE V—EMERGENCY PREPAREDNESS AND RESPONSE

SEC. 501. UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.

The Secretary, acting through the Under Secretary for Emergency Preparedness and Response, shall be responsible for the following:

(1) Helping to ensure the preparedness of emergency response providers for terrorist attacks, major disasters, and other emergencies.

(2) With respect to the Nuclear Incident Response Team (regardless of whether it is operating as an organizational unit of the Department pursuant to this title)—

(A) establishing standards and certifying when those standards have been met;

(B) conducting joint and other exercises and training and evaluating performance; and

(C) providing funds to the Department of Energy and the Environmental Protection Agency, as appropriate, for homeland security planning, exercises and training, and equipment.

(3) Providing the Federal Government's response to terrorist attacks and major disasters, including—

(A) managing such response;

(B) directing the Domestic Emergency Support Team, the Strategic National Stockpile, the National Disaster Medical System, and (when operating as an organizational unit of

the Department pursuant to this title) the Nuclear Incident Response Team;

(C) overseeing the Metropolitan Medical Response System; and

(D) coordinating other Federal response resources in the event of a terrorist attack or major disaster.

(4) Aiding the recovery from terrorist attacks and major disasters.

(5) Building a comprehensive national incident management system with Federal, State, and local government personnel, agencies, and authorities, to respond to such attacks and disasters.

(6) Consolidating existing Federal Government emergency response plans into a single, coordinated national response plan.

(7) Developing comprehensive programs for developing interoperative communications technology, and helping to ensure that emergency response providers acquire such technology.

SEC. 502. FUNCTIONS TRANSFERRED.

In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and obligations of the following:

(1) Except as provided in section 402, the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, and the Integrated Hazard Information System of the Department of Defense.

(2) The Office for Domestic Preparedness of the Office of Justice Programs, including the functions of the Attorney General relating thereto.

(3) The National Domestic Preparedness Office of the Federal Bureau of Investigation, including the functions of the Attorney General relating thereto.

(4) The Domestic Emergency Support Teams of the Department of Justice, including the functions of the Attorney General relating thereto.

(5) The Office of Emergency Preparedness, the National Disaster Medical System, and the Metropolitan Medical Response System of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services and the Assistant Secretary for Public Health Emergency Preparedness relating thereto.

(6) The Strategic National Stockpile of the Department of Health and Human Services, including

REV_00148486

the functions of the Secretary of Health and Human Services relating thereto.

SEC. 503. NUCLEAR INCIDENT RESPONSE.

(a) HOMELAND SECURITY CENTER.—(1) Notwithstanding section 307, the Secretary, acting through the Under Secretary for Science and Technology, shall establish at a national security laboratory of the National Nuclear Security Administration, a center to serve as the primary location for carrying out research, development, test, and evaluation activities of the Department related to the goals described in section 301(6)(A) and (B). The Secretary shall establish, in concurrence with the Secretary of Energy, such additional centers at one or more national laboratories of the Department of Energy as the Secretary considers appropriate to serve as secondary locations for carrying out such activities.

(2) Each center established under paragraph (1) shall be composed of such facilities and assets as are required for the performance of such activities. The particular facilities and assets shall be designated by the Secretary of Energy with the concurrence of the Secretary.

(b) NUCLEAR INCIDENT RESPONSE TEAM.—At the direction of the Secretary (in connection with an actual or threatened terrorist attack, major disaster, or other emergency), the Nuclear Incident Response Team shall

REV_00148487

operate as an organizational unit of the Department. While so operating, the Nuclear Incident Response Team shall be subject to the direction, authority, and control of the Secretary.

(c) CONSTRUCTION.—Nothing in this title shall be understood to limit the ordinary responsibility of the Secretary of Energy and the Administrator of the Environmental Protection Agency for organizing, training, equipping, and utilizing their respective entities in the Nuclear Incident Response Team, or (subject to the provisions of this title) from exercising direction, authority, and control over them when they are not operating as a unit of the Department.

(d) INDEMNIFICATION OF CONTRACTORS DURING TRANSITION PERIOD.—(1) To the extent the Department of Energy has a duty under a covered contract to indemnify an element of the Nuclear Incident Response Team, the Department and the Department of Energy shall each have that duty, whether or not the Nuclear Incident Response Team is operating as an organizational element of the Department.

(2) Paragraph (1) applies only to a contract in effect on the date of the enactment of this Act, and not to any extension or renewal of such contract carried out after the date of the enactment of this Act.

(e) DELIVERY OF POTASSIUM IODIDE.—In the event of a terrorist attack, major disaster, or other emergency, the Secretary shall devise a plan to deliver Potassium Iodide (KI) to the people for whom it is intended within 4 hours after exposure to radioactive iodines from a nuclear power plant, and as expeditiously as possible to persons beyond the immediate 20-mile radius of protection.

SEC. 504. DEFINITION.

For purposes of this title, ''nuclear incident response team'' means a resource that includes—

(1) those entities of the Department of Energy that perform nuclear or radiological emergency support functions (including accident response, search response, advisory, and technical operations functions), radiation exposure functions at the medical assistance facility known as Oak Ridge National Laboratory, radiological assistance functions, and related functions;

(2) those entities of the Environmental Protection Agency that perform radiological emergency response and support functions; and

(3) those entities of the Nuclear Regulatory Commission that perform such support and related functions.

TITLE VI—MANAGEMENT

SEC. 601. UNDER SECRETARY FOR MANAGEMENT.

The Secretary, acting through the Under Secretary for Management, shall be responsible for the management and administration of the Department, including the following:

(1) The budget, appropriations, expenditures of funds, accounting, and finance.

(2) Procurement.

(3) Human resources and personnel.

(4) Information technology and communications systems.

(5) Facilities, property, equipment, and other material resources.

(6) Security for personnel, information technology and communications systems, facilities, property, equipment, and other material resources.

(7) Identification and tracking of performance measures relating to the responsibilities of the Department.

(8) Grants and other assistance management programs.

(9) The transition and reorganization process, to ensure an efficient and orderly transfer of func-

tions and personnel to the Department, including the development of a transition plan.

(10) The conduct of internal audits and management analyses of the programs and activities of the Department.

(11) Any other management duties that the Secretary may designate.

SEC. 602. CHIEF FINANCIAL OFFICER.

Notwithstanding section 902(a)(1) of title 31, United States Code, the Chief Financial Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct.

SEC. 603. CHIEF INFORMATION OFFICER.

Notwithstanding section 3506(a)(2) of title 44, United States Code, the Chief Information Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct.

TITLE VII—MISCELANEOUS

Subtitle A—Inspector General

SEC. 701. AUTHORITY OF THE SECRETARY.

(a) IN GENERAL.—Notwithstanding the last two sentences of section 3(a) of the Inspector General Act of 1978, the Inspector General shall be under the authority, direction, and control of the Secretary with respect to au-

dits or investigations, or the issuance of subpoenas, that require access to sensitive information concerning—

(1) intelligence, counterintelligence, or counterterrorism matters;

(2) ongoing criminal investigations or proceedings;

(3) undercover operations;

(4) the identity of confidential sources, including protected witnesses;

(5) other matters the disclosure of which would, in the Secretary's judgment, constitute a serious threat to the protection of any person or property authorized protection by section 3056 of title 18, United States Code, section 202 of title 3 of such Code, or any provision of the Presidential Protection Assistance Act of 1976; or

(6) other matters the disclosure of which would, in the Secretary's judgment, constitute a serious threat to national security.

(b) PROHIBITION OF CERTAIN INVESTIGATIONS.—With respect to the information described in subsection (a), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete

such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to prevent the disclosure of any information described in subsection (a), to preserve the national security, or to prevent a significant impairment to the interests of the United States.

(c) NOTIFICATION REQUIRED.—If the Secretary exercises any power under subsection (a) or (b), the Secretary shall notify the Inspector General of the Department in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice and a written response thereto that includes (1) a statement as to whether the Inspector General agrees or disagrees with such exercise and (2) the reasons for any disagreement, to the President of the Senate and the Speaker of the House of Representatives and to appropriate committees and subcommittees of the Congress.

(d) ACCESS TO INFORMATION BY CONGRESS.—The exercise of authority by the Secretary described in subsection (b) should not be construed as limiting the right of Congress or any committee of Congress to access any information it seeks.

(e) OVERSIGHT RESPONSIBILITY—The Inspector General Act of 1978 (5 U.S.C. App.) is further amended by inserting after section 8I the following:

"SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

"SEC. 8J. Notwithstanding any other provision of law, in carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of Homeland Security shall have oversight responsibility for the internal investigations performed by the Office of Internal Affairs of the United States Customs Service and the Office of Inspections of the United States Secret Service. The head of each such office shall promptly report to the Inspector General the significant activities being carried out by such office.".

Subtitle B—United States Secret Service

SEC. 711. FUNCTIONS TRANSFERRED.

In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and obligations of the United States Secret Service, which shall be maintained as a distinct entity within the Department, including the functions of the Secretary of the Treasury relating thereto.

Subtitle C—Critical Infrastructure Information

SEC. 721. SHORT TITLE.

This subtitle may be cited as the "Critical Infrastructure Information Act of 2002".

SEC. 722. DEFINITIONS.

In this subtitle:

(1) AGENCY.—The term "agency" has the meaning given it in section 551 of title 5, United States Code.

(2) COVERED FEDERAL AGENCY.—The term "covered Federal agency" means the Department of Homeland Security.

(3) CRITICAL INFRASTRUCTURE INFORMATION.—The term "critical infrastructure information" means information not customarily in the public domain and related to the security of critical infrastructure or protected systems—

(A) actual, potential, or threatened interference with, attack on, compromise of, or incapacitation of critical infrastructure or protected systems by either physical or computer-based attack or other similar conduct (including the misuse of or unauthorized access to all types of communications and data transmission systems)

that violates Federal, State, or local law, harms interstate commerce of the United States, or threatens public health or safety;

(B) the ability of any critical infrastructure or protected system to resist such interference, compromise, or incapacitation, including any planned or past assessment, projection, or estimate of the vulnerability of critical infrastructure or a protected system, including security testing, risk evaluation thereto, risk management planning, or risk audit; or

(C) any planned or past operational problem or solution regarding critical infrastructure or protected systems, including repair, recovery, reconstruction, insurance, or continuity, to the extent it is related to such interference, compromise, or incapacitation.

(4) CRITICAL INFRASTRUCTURE PROTECTION PROGRAM.—The term ''critical infrastructure protection program'' means any component or bureau of a covered Federal agency that has been designated by the President or any agency head to receive critical infrastructure information.

(5) INFORMATION SHARING AND ANALYSIS ORGANIZATION.—The term ''Information Sharing and

Analysis Organization'' means any formal or informal entity or collaboration created or employed by public or private sector organizations, for purposes of—

(A) gathering and analyzing critical infrastructure information in order to better understand security problems and interdependencies related to critical infrastructure and protected systems, so as to ensure the availability, integrity, and reliability thereof;

(B) communicating or disclosing critical infrastructure information to help prevent, detect, mitigate, or recover from the effects of a interference, compromise, or a incapacitation problem related to critical infrastructure or protected systems; and

(C) voluntarily disseminating critical infrastructure information to its members, State, local, and Federal Governments, or any other entities that may be of assistance in carrying out the purposes specified in subparagraphs (A) and (B).

(6) PROTECTED SYSTEM.—The term ''protected system''—

(A) means any service, physical or computer-based system, process, or procedure that directly or indirectly affects the viability of a facility of critical infrastructure; and

(B) includes any physical or computer-based system, including a computer, computer system, computer or communications network, or any component hardware or element thereof, software program, processing instructions, or information or data in transmission or storage therein, irrespective of the medium of transmission or storage.

(7) VOLUNTARY.—

(A) IN GENERAL.—The term ''voluntary'', in the case of any submittal of critical infrastructure information to a covered Federal agency, means the submittal thereof in the absence of such agency's exercise of legal authority to compel access to or submission of such information and may be accomplished by a single entity or an Information Sharing and Analysis Organization on behalf of itself or its members.

(B) EXCLUSIONS.—The term ''voluntary''—

(i) in the case of any action brought under the securities laws as is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))—

(I) does not include information or statements contained in any documents or materials filed with the Securities and Exchange Commission, or with Federal banking regulators, pursuant to section 12(i) of the Securities Exchange Act of 1934 (15 U.S.C. 781(I)); and

(II) with respect to the submittal of critical infrastructure information, does not include any disclosure or writing that when made accompanied the solicitation of an offer or a sale of securities; and

(ii) does not include information or statements submitted or relied upon as a basis for making licensing or permitting determinations, or during regulatory proceedings.

SEC. 723. DESIGNATION OF CRITICAL INFRASTRUCTURE PROTECTION PROGRAM.

A critical infrastructure protection program may be designated as such by one of the following:

(1) The President.

(2) The Secretary of the Department of Homeland Security.

(3) The head of a covered Federal agency by notice published in the Federal Register. This duty may not be delegated.

SEC. 724. PROTECTION OF VOLUNTARILY SHARED CRITICAL INFRASTRUCTURE INFORMATION.

(a) PROTECTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, critical infrastructure information (including the identity of the submitting person or entity) that is voluntarily submitted to a covered Federal agency for use by that agency regarding the security of critical infrastructure and protected systems, if analysis, warning, interdependency study, recovery, reconstitution, or other informational purpose, when accompanied by an express statement specified in paragraph (2)—

(A) shall be exempt from disclosure under section 552 of title 5, United States Code (com-

monly referred to as the Freedom of Information Act);

(B) shall not be subject to any agency rules or judicial doctrine regarding ex parte communications with a decision making official;

(C) shall not, without the written consent of the person or entity submitting such information, be used directly by such agency, any other Federal, State, or local authority, or any third party, in any civil action arising under Federal or State law if such information is submitted in good faith;

(D) shall not, without the written consent of the person or entity submitting such information, be used or disclosed by any officer or employee of the United States for purposes other than the purposes of this subtitle, except—

(i) in furtherance of an investigation or the prosecution of a criminal act; or

(ii) when disclosure of the information would be—

(I) to either House of Congress, or to the extent of matter within its jurisdiction, any committee or sub-

committee thereof, any joint committee thereof or subcommittee of any such joint committee; or

(II) to the Comptroller General, or any authorized representative of the Comptroller General, in the course of the performance of the duties of the General Accounting Office.

(E) shall not, if provided to a State or local government or government agency—

(i) be made available pursuant to any State or local law requiring disclosure of information or records;

(ii) otherwise be disclosed or distributed to any party by said State or local government or government agency without the written consent of the person or entity submitting such information; or

(iii) be used other than for the purpose of protecting critical infrastructure or protected systems, or in furtherance of an investigation or the prosecution of a criminal act; and

(F) does not constitute a waiver of any applicable privilege or protection provided under law, such as trade secret protection.

(2) EXPRESS STATEMENT.—For purposes of paragraph (1), the term "express statement", with respect to information or records, means—

(A) in the case of written information or records, a written marking on the information or records substantially similar to the following: "This information is voluntarily submitted to the Federal Government in expectation of protection from disclosure as provided by the provisions of the Critical Infrastructure Information Act of 2002."; or

(B) in the case of oral information, a similar written statement submitted within a reasonable period following the oral communication.

(b) LIMITATION.—No communication of critical infrastructure information to a covered Federal agency made pursuant to this subtitle shall be considered to be an action subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. App. 2).

(c) INDEPENDENTLY OBTAINED INFORMATION.—Nothing in this section shall be construed to limit or other-

wise affect the ability of a State, local, or Federal Government entity, agency, or authority, or any third party, under applicable law, to obtain critical infrastructure information in a manner not covered by subsection (a), including any information lawfully and properly disclosed generally or broadly to the public and to use such information in any manner permitted by law.

(d) TREATMENT OF VOLUNTARY SUBMITTAL OF INFORMATION.—The voluntary submittal to the Government of information or records that are protected from disclosure by this subtitle shall not be construed to constitute compliance with any requirement to submit such information to a Federal agency under any other provision of law.

(e) PROCEDURES.—

(1) IN GENERAL.—The Secretary of the Department of Homeland Security shall, in consultation with appropriate representatives of the National Security Council and the Office of Science and Technology Policy, establish uniform procedures for the receipt, care, and storage by Federal agencies of critical infrastructure information that is voluntarily submitted to the Government. The procedures shall be established not later than 90 days after the date of the enactment of this subtitle.

(2) ELEMENTS.—The procedures established under paragraph (1) shall include mechanisms regarding—

(A) the acknowledgement of receipt by Federal agencies of critical infrastructure information that is voluntarily submitted to the Government;

(B) the maintenance of the identification of such information as voluntarily submitted to the Government for purposes of and subject to the provisions of this subtitle;

(C) the care and storage of such information; and

(D) the protection and maintenance of the confidentiality of such information so as to permit the sharing of such information within the Federal Government and with State and local governments, and the issuance of notices and warnings related to the protection of critical infrastructure and protected systems, in such manner as to protect from public disclosure the identity of the submitting person or entity, or information that is proprietary, business sensitive, relates specifically to the submitting per-

son or entity, and is otherwise not appropriately in the public domain.

(f) PENALTIES.—Whoever, being an officer or employee of the United States or of any department or agency thereof, publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law, any critical infrastructure information protected from disclosure by this subtitle coming to him in the course of this employment or official duties or by reason of any examination or investigation made by, or return, report, or record made to or filed with, such department or agency or officer or employee thereof, shall be fined under title 18 of the United States Code, imprisoned not more that one year, or both, and shall be removed from office or employment.

(g) AUTHORITY TO ISSUE WARNINGS.—The Federal Government may provide advisories, alerts, and warnings to relevant companies, targeted sectors, other governmental entities, or the general public regarding potential threats to critical infrastructure as appropriate. In issuing a warning, the Federal Government shall take appropriate actions to protect from disclosure—

(1) the source of any voluntarily submitted critical infrastructure information that forms the basis for the warning; or

(2) information that is proprietary, business sensitive, relates specifically to the submitting person or entity, or is otherwise not appropriately in the public domain.

(h) AUTHORITY TO DELEGATE.—The President may delegate authority to a critical infrastructure protection program, designated under subsection (e), to enter into a voluntary agreement to promote critical infrastructure security, including with any Information Sharing and Analysis Organization, or a plan of action as otherwise defined in section 708 of the Defense Production Act of 1950 (50 U.S.C. App. 2158).

SEC. 725. NO PRIVATE RIGHT OF ACTION.

Nothing in this subtitle may be construed to create a private right of action for enforcement of any provision of this Act.

Subtitle D—Acquisitions

SEC. 731. RESEARCH AND DEVELOPMENT PROJECTS.

(a) AUTHORITY.—During the five-year period following the effective date of this Act, the Secretary may carry out a pilot program under which the Secretary may exercise the following authorities:

(1)(A) In carrying out basic, applied, and advanced research and development projects for response to existing or emerging terrorist threats, the

Secretary may exercise the same authority (subject to the same limitations and conditions) with respect to such research and projects as the Secretary of Defense may exercise under section 2371 of title 10, United States Code (except for subsections (b) and (f) of such section), after making a determination that—

(i) the use of a contract, grant, or cooperative agreement for such projects is not feasible or appropriate; and

(ii) use of other authority to waive Federal procurement laws or regulations would not be feasible or appropriate to accomplish such projects.

(B) The annual report required under subsection (h) of such section 2371, as applied to the Secretary by this paragraph, shall be submitted to the President of the Senate and the Speaker of the House of Representatives.

(2)(A) Under the authority of paragraph (1) and subject to the limitations of such paragraph, the Secretary may carry out prototype projects, in accordance with the requirements and conditions provided for carrying out prototype projects under section 845 of the National Defense Authorization Act

for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 2371 note).

(B) In applying the authorities of such section 845—

(i) subsection (c) thereof shall apply with respect to prototype projects under this paragraph, except that in applying such subsection any reference in such subsection to the Comptroller General shall be deemed to refer to the Comptroller General and the Inspector General of the Department; and

(ii) the Secretary shall perform the functions of the Secretary of Defense under subsection (d) thereof.

(b) REPORT.—Not later than one year after the effective date of this Act, and annually thereafter, the Comptroller General shall report to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate on—

(1) whether use of the authorities described in subsection (a) attracts nontraditional Government contractors and results in the acquisition of needed technologies; and

(2) if such authorities were to be made permanent, whether additional safeguards are needed with respect to the use of such authorities.

(c) DEFINITION OF NONTRADITIONAL GOVERNMENT CONTRACTOR.—In this section, the term "nontraditional Government contractor" has the same meaning as the term "nontraditional defense contractor" as defined in section 845(e) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 2371 note).

SEC. 732. PERSONAL SERVICES.

The Secretary—

(1) may procure the temporary or intermittent services of experts or consultants (or organizations thereof) in accordance with section 3109 of title 5, United States Code; and

(2) may, whenever necessary due to an urgent homeland security need, procure temporary (not to exceed 1 year) or intermittent personal services, including the services of experts or consultants (or organizations thereof), without regard to the pay limitations of such section 3109.

SEC. 733. SPECIAL STREAMLINED ACQUISITION AUTHORITY.

(a) AUTHORITY.—(1) The Secretary may use the authorities set forth in this section with respect to any procurement made during the period beginning on the effective date of this Act and ending September 30, 2007, if the Secretary determines in writing that the mission of the Department (as described in section 101) would be seriously impaired without the use of such authorities.

(2) The authority to make the determination described in paragraph (1) may not be delegated by the Secretary to an officer of the Department who is not appointed by the President with the advice and consent of the Senate.

(3) Not later than the date that is seven days after the date of any determination under paragraph (1), the Secretary shall submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate—

(A) notification of such determination; and

(B) the justification for such determination.

(b) INCREASED MICRO-PURCHASE THRESHOLD FOR CERTAIN PROCUREMENTS.—(1) The Secretary may designate certain employees of the Department to make procurements described in subsection (a) for which in the administration of section 32 of the Office of Federal Pro-

curement Policy Act (41 U.S.C. 428) the amount specified in subsections (c), (d), and (f) of such section 32 shall be deemed to be $5,000.

(2) The number of employees designated under paragraph (1) shall be—

(A) fewer than the number of employees of the Department who are authorized to make purchases without obtaining competitive quotations, pursuant to section 32(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 428(c));

(B) sufficient to ensure the geographic dispersal of the availability of the use of the procurement authority under such paragraph at locations reasonably considered to be potential terrorist targets; and

(C) sufficiently limited to allow for the careful monitoring of employees designated under such paragraph.

(3) Procurements made under the authority of this subsection shall be subject to review by a designated supervisor on not less than a monthly basis. The supervisor responsible for the review shall be responsible for no more than 7 employees making procurements under this subsection.

(c) SIMPLIFIED ACQUISITION PROCEDURES.—(1) With respect to a procurement described in subsection (a),

the Secretary may deem the simplified acquisition threshold referred to in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)) to be $175,000.

(2) Section 18(c)(1) of the Office of Federal Procurement Policy Act is amended by adding at the end the following new subparagraph:

"(H) the procurement is by the Secretary of Homeland Security pursuant to the special procedures provided in section 733(c) of the Homeland Security Act of 2002.".

(d) APPLICATION OF CERTAIN COMMERCIAL ITEMS AUTHORITIES.—(1) With respect to a procurement described in subsection (a), the Secretary may deem any item or service to be a commercial item for the purpose of Federal procurement laws.

(2) The $5,000,000 limitation provided in section 31(a)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)(2)) and section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(B)) shall be deemed to be $7,500,000 for purposes of property or services under the authority of this subsection.

(3) Authority under a provision of law referred to in paragraph (2) that expires under section 4202(e) of the

Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106; 10 U.S.C. 2304 note) shall, notwithstanding such section, continue to apply for a procurement described in subsection (a).

(e) REPORT.—Not later than 180 days after the end of fiscal year 2005, the Comptroller General shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a report on the use of the authorities provided in this section. The report shall contain the following:

(1) An assessment of the extent to which property and services acquired using authorities provided under this section contributed to the capacity of the Federal workforce to facilitate the mission of the Department as described in section 101.

(2) An assessment of the extent to which prices for property and services acquired using authorities provided under this section reflected the best value.

(3) The number of employees designated by each executive agency under subsection (b)(1).

(4) An assessment of the extent to which the Department has implemented subsections (b)(2) and (b)(3) to monitor the use of procurement authority by employees designated under subsection (b)(1).

(5) Any recommendations of the Comptroller General for improving the effectiveness of the implementation of the provisions of this section.

Subtitle E—Property

SEC. 741. REAL PROPERTY MANAGEMENT.

The Secretary, in accordance with this title and regulations prescribed jointly by the Secretary, the Administrator of General Services, and the Director of the Office of Management and Budget—

(1) may acquire replacement real property (including interests therein)—

(A) by transfer or exchange of real property under the jurisdiction, custody, and control of the Department with other executive agencies; or

(B) by sale to or exchange of such property with non-Federal entities, if—

(i) the transaction does not conflict with other applicable laws governing the acquisition of interests in real property by Federal agencies;

(ii) following consultation with the Administrator, the agency first made the property available for transfer or exchange to other Federal agencies; and

(iii) the transaction results in the agency receiving fair market value, which shall be based upon an appraisal;

(2) by lease, permit, license, or other similar instrument, may make available to other executive agencies and to non-Federal entities, on a fair market rental value basis, the unexpired portion of any Government lease for real property under the jurisdiction, custody, and control of the Director;

(3) may make available by outlease agreements with other executive agencies or with non-Federal entities, any unused or underused portion of or interest in any real property and related personal property under the jurisdiction, custody, and control of the Department; and

(4) obligate or expend amounts received by the United States as a result of any exercise of the authority granted by paragraph (2) or (3) without regard to fiscal year limitations, for the capital asset expenditures of the Department.

SEC. 742. CRITERIA FOR USING AUTHORITIES.

(a) IN GENERAL.—Subject to the requirements of subsection (b), the Secretary may apply authority under section 741 to a real property interest only if—

(1) the Secretary has determined that such real property interest is not excess property, and includes as part of the documentation required under subsection (b)(3) a description of the need and mission requirement fulfilled by the Federal property;

(2) the real property interest is used to fulfill or support a continuing mission requirement of the Department; and

(3) the real property interest can, by the application of the authority, improve the support of such mission.

(b) CRITERIA FOR APPLICATION.—Before applying authority under section 741 to a real property interest, the Secretary, in consultation with the Administrator of General Services, must determine that such application meets all of the following criteria:

(1) The application supports the goals and objectives set forth in the Department's strategic plan under section 306 of title 5, United States Code.

(2) Use of the real property is economical, cost effective, and in the best interests of the United States.

(3) The application is documented in a business plan that, commensurate with the nature of the authority applied—

(A) analyzes all reasonable options for using the property;

(B) describes how the application will be in compliance with applicable provisions of law, including such provisions of—

(i) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(ii) the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.), including by—

(I) describing the result of the determination under that Act by the Secretary of Housing and Urban Development of the suitability of the property for use to assist the homeless; and

(II) explaining the rationale for the Department's decision not to make the property available for use to assist the homeless; and

(C) establishes effective procedures for soliciting, assessing, and taking into account input from the local community.

SEC. 743. OUTLEASES.

(a) IN GENERAL.—The Secretary may make property available by an outlease agreement authorized by section 741 only if—

(1) the Secretary finds that—

(A) there is no long-term mission requirement for the property, but the Federal Government is not permitted to dispose of it; or

(B)(i) there is a continuing, long-term mission requirement of the Department for the property to remain in Government ownership; and

(ii) the use of the real property by the lessee will not be inconsistent with such mission;

(2) in the case of an outlease to a non-Federal entity, the outlease is conducted competitively; and

(3) the agreement—

(A) is for a term no longer than 50 years; and

(B) will result in the Department receiving fair market value which, in the case of an exchange or sale of Federal real property, shall be based upon an appraisal.

(b) CONSTRUCTION ON OUTLEASED PROPERTY; APPLICABLE LAW.—

(1) PROPERTY SUBJECT TO RETAINED AUTHORITY.—If the Secretary retains authority over any decision to construct or alter buildings on property outleased to a non-Federal entity under section 741, then any such construction or alteration shall comply with section 21 of the Public Buildings Act of 1959 (40 U.S.C. 619).

(2) PROPERTY NOT SUBJECT TO RETAINED AUTHORITY.—(A) If the Secretary does not retain authority over any decision to construct or alter buildings on property outleased to a non-Federal entity under section 741, then any such construction or alteration shall comply with all laws described in subparagraph (B) that would apply to such construction or alteration if the property were not Federal property.

(B) The laws referred to in subparagraph (A) are all laws of a State, and of a political subdivision of a State, relating to zoning, landscaping, open space, minimum distance of a building from a property line, maximum building height, historic preservation, esthetic qualities of a building, building codes, and similar matters, and any other State or local laws relating to construction or alteration of a

building, respectively, by the non-Federal entity on non-Federal lands.

(C) The Secretary may waive the application of subparagraph (A) if the Secretary determines that application of that subparagraph would hinder fulfillment of the mission of the Department under section 101(b).

(c) REPORTS.—The Comptroller General of the United States shall submit biennial reports to the Congress, including to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate, on the effectiveness of the use of outlease authority under section 741.

SEC. 744. REVIEW AND REVISION OF TRANSACTIONS BY ADMINISTRATOR.

The Administrator of General Services may, in the sole discretion of the Administrator, review any transaction of the Department undertaken utilizing authority under section 741. After such review, the Administrator may disapprove such transaction if the Administrator determines the transaction does not reflect due diligence by the Department, is not in the best interest of the United States, or does not comply with the requirements of this title.

SEC. 745. TRANSACTIONAL REPORTS.

(a) IN GENERAL.—For those transactions authorized under section 741 involving the sale, exchange, or outlease to a non-Federal entity of any asset valued in excess of $700,000 at the time of the transaction, the Secretary shall submit the business plan required by section 742(b)(3) to the Director of the Office of Management and Budget, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives at least 30 calendar days before the final execution of such transaction.

(b) DISPOSAL OF REAL PROPERTY BY NEGOTIATION.—The Secretary shall prepare and submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives, a statement explaining the circumstances of each disposal by negotiation, under section 741, of any real property that has an estimated fair market value in excess of $700,000.

(c) ADJUSTMENT OF THRESHOLD.—The Administrator of General Services may increase or decrease the dollar amounts in subsections (a) and (b) to reflect a percentage increase or decrease in the Department of Commerce Consumer Price Index.

Subtitle F—Other Provisions

SEC. 752. ADVISORY COMMITTEES.

The Secretary may establish, appoint members of, and use the services of, advisory committees, as the Secretary may deem necessary. An advisory committee established under this section may be exempted by the Secretary from Public Law 92–463, but the Secretary shall publish notice in the Federal Register announcing the establishment of such a committee and identifying its purpose and membership. Notwithstanding the preceding sentence, members of an advisory committee that is exempted by the Secretary under the preceding sentence who are special Government employees (as that term is defined in section 202 of title 18, United States Code) shall be eligible for certifications under subsection (b)(3) of section 208 of title 18, United States Code, for official actions taken as a member of such advisory committee.

SEC. 753. REORGANIZATION; TRANSFER OF APPROPRIATIONS.

(a) REORGANIZATION.—

(1) IN GENERAL.—The Secretary may allocate or reallocate functions among the officers of the Department, and may establish, consolidate, alter, or discontinue organizational units within the Department, but only—

(A) pursuant to section 802; or

(B) after the expiration of 60 days after providing notice of such action to the appropriate congressional committees, which shall include an explanation of the rationale for the action.

(2) LIMITATIONS.—(A) Authority under paragraph (1)(A) does not extend to the abolition of any agency, entity, organizational unit, program, or function established or required to be maintained by this Act.

(B) Authority under paragraph (1)(B) does not extend to the abolition of any agency, entity, organizational unit, program, or function established or required to be maintained by statute.

(b) TRANSFER OF APPROPRIATIONS.—

(1) IN GENERAL.—Except as otherwise specifically provided by law, not to exceed two percent of any appropriation available to the Secretary in any fiscal year may be transferred between such appropriations, except that not less than 15 days' notice shall be given to the Committees on Appropriations of the Senate and House of Representatives before any such transfer is made.

(2) EXPIRATION OF AUTHORITY.—The authority under paragraph (1) shall expire two years after the date of enactment of this Act.

SEC. 754. MISCELLANEOUS PROVISIONS.

(a) SEAL.—The Department shall have a seal, whose design is subject to the approval of the President.

(b) GIFTS, DEVISES, AND BEQUESTS.—With respect to the Department, the Secretary shall have the same authorities that the Attorney General has with respect to the Department of Justice under section 524(d) of title 28, United States Code.

(c) PARTICIPATION OF MEMBERS OF THE ARMED FORCES.—With respect to the Department, the Secretary shall have the same authorities that the Secretary of Transportation has with respect to the Department of Transportation under section 324 of title 49, United States Code.

(d) REDELEGATION OF FUNCTIONS.—Unless otherwise provided in the delegation or by law, any function delegated under this Act may be redelegated to any subordinate.

SEC. 755. MILITARY ACTIVITIES.

Nothing in this Act shall confer upon the Secretary any authority to engage in warfighting, the military defense of the United States, or other military activities, nor

shall anything in this Act limit the existing authority of the Department of Defense or the Armed Forces to engage in warfighting, the military defense of the United States, or other military activities.

SEC. 756. REGULATORY AUTHORITY.

This Act vests no new regulatory authority in the Secretary or any other Federal official, and transfers to the Secretary or another Federal official only such regulatory authority as exists on the date of enactment of this Act within any agency, program, or function transferred to the Department pursuant to this Act, or that on such date of enactment is exercised by another official of the executive branch with respect to such agency, program, or function. Any such transferred authority may not be exercised by an official from whom it is transferred upon transfer of such agency, program, or function to the Secretary or another Federal official pursuant to this Act.

SEC. 757. PROVISIONS REGARDING TRANSFERS FROM DEPARTMENT OF ENERGY.

(a) SEPARATE CONTRACTING.—To the extent that programs or activities transferred by this Act from the Department of Energy to the Department of Homeland Security are being carried out through contracts with the operator of a national laboratory of the Department of Energy, the Secretary of Homeland Security and the Sec-

retary of Energy shall ensure that contracts for such programs and activities between the Department of Homeland Security and such operator are separate from the contracts of the Department of Energy with such operator.

(b) REIMBURSEMENT OF COSTS.—In the case of an activity carried out by the operator of a national laboratory of the Department of Energy but under contract with the Department of Homeland Security, the Department of Homeland Security shall reimburse the Department of Energy for costs of such activity through a method under which the Secretary of Energy waives any requirement for the Department of Homeland Security to pay administrative charges or personnel costs of the Department of Energy or its contractors in excess of the amount that the Secretary of Energy pays for an activity carried out by such contractor and paid for by the Department of Energy.

(c) LABORATORY DIRECTED RESEARCH AND DEVELOPMENT BY THE DEPARTMENT OF ENERGY.—No funds authorized to be appropriated or otherwise made available to the Department in any fiscal year may be obligated or expended for laboratory directed research and development activities carried out by the Department of Energy

unless such activities support the mission of the Department described in section 101.

(d) DEPARTMENT OF ENERGY COORDINATION ON HOMELAND SECURITY RELATED RESEARCH.—The Secretary of Energy shall ensure that any research, development, test, and evaluation activities conducted within the Department of Energy that are directly or indirectly related to homeland security are fully coordinated with the Secretary to minimize duplication of effort and maximize the effective application of Federal budget resources.

SEC. 758. COUNTERNARCOTICS OFFICER.

The Secretary shall appoint a senior official in the Department to assume primary responsibility for coordinating policy and operations within the Department and between the the Department and other Federal departments and agencies with respect to interdicting the entry of illegal drugs into the United States, and tracking and severing connections between illegal drug trafficking and terrorism.

SEC. 759. OFFICE OF INTERNATIONAL AFFAIRS.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary an Office of International Affairs. The Office shall be headed by a Director, who shall be a senior official appointed by the Secretary.

(b) DUTIES OF THE DIRECTOR.—The Director shall have the following duties:

(1) To promote information and education exchange with nations friendly to the United States in order to promote sharing of best practices and technologies relating to homeland security. Such information exchange shall include the following:

(A) Joint research and development on countermeasures.

(B) Joint training exercises of first responders.

(C) Exchange of expertise on terrorism prevention, response, and crisis management.

(2) To identify areas for homeland security information and training exchange where the United States has a demonstrated weakness and another friendly nation or nations have a demonstrated expertise.

(3) To plan and undertake international conferences, exchange programs, and training activities.

(4) To manage international activities within the Department in coordination with other Federal officials with responsibility for counter-terrorism matters.

SEC. 760. PROHIBITION OF THE TERRORISM INFORMATION AND PREVENTION SYSTEM.

Any and all activities of the Federal Government to implement the proposed component program of the Citizen Corps known as Operation TIPS (Terrorism Information and Prevention System) are hereby prohibited.

Subtitle G—Support Anti-terrorism by Fostering Effective Technologies Act of 2002 (the SAFETY Act)

SEC. 771. SHORT TITLE.

This subtitle may be cited as the "Support Anti-terrorism by Fostering Effective Technologies Act of 2002" or the "SAFETY Act".

SEC. 772. ADMINISTRATION.

(a) In General.—The Secretary shall be responsible for the administration of this subtitle.

(b) DESIGNATION OF QUALIFIED ANTI-TERRORISM TECHNOLOGIES.—The Secretary may designate anti-terrorism technologies that qualify for protection under the system of risk management set forth in this subtitle in accordance with criteria that shall include, but not be limited to, the following:

(1) Prior and extensive United States government use and demonstrated substantial utility and effectiveness.

(2) Availability of the technology for immediate deployment in public and private settings.

(3) Existence of extraordinarily large or extraordinarily unquantifiable potential third party liability risk exposure to the Seller or other provider of such anti-terrorism technology.

(4) Substantial likelihood that such anti-terrorism technology will not be deployed unless protections under the system of risk management provided under this subtitle are extended.

(5) Magnitude of risk exposure to the public if such anti-terrorism technology is not deployed.

(6) evaluation of all scientific studies that can be feasibly conducted in order to assess the capability of the technology to substantially reduce risks of harm.

(c) REGULATIONS.—The Secretary may issue such regulations, after notice and comment in accordance with section 553 of title 5, United States, Code, as may be necessary to carry out this subtitle.

SEC. 773. LITIGATION MANAGEMENT.

(a) FEDERAL CAUSE OF ACTION.—(1)There shall exist a Federal cause of action for claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in

defense against such act and such claims result or may result in loss to the Seller. The substantive law for decision in any such action shall be derived from the law, including choice of law principles, of the State in which such acts of terrorism occurred, unless such law is inconsistent with or preempted by Federal law.

(2) Such appropriate district court of the United States shall have original and exclusive jurisdiction over all actions for any claim for loss of property, personal injury, or death arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against such act and such claims result or may result in loss to the Seller.

(b) SPECIAL RULES.—In an action brought under this section for damages the following provisions apply:

(1) No punitive damages intended to punish or deter, exemplary damages, or other damages not intended to compensate a plaintiff for actual losses may be awarded, nor shall any party be liable for interest prior to the judgment.

(2)(A) Noneconomic damages may be awarded against a defendant only in an amount directly proportional to the percentage of responsibility of such defendant for the harm to the plaintiff, and no

plaintiff may recover noneconomic damages unless the plaintiff suffered physical harm.

(B) For purposes of subparagraph (A), the term ''noneconomic damages'' means damages for losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium, hedonic damages, injury to reputation, and any other nonpecuniary losses.

(c) COLLATERAL SOURCES.—Any recovery by a plaintiff in an action under this section shall be reduced by the amount of collateral source compensation, if any, that the plaintiff has received or is entitled to receive as a result of such acts of terrorism that result or may result in loss to the Seller.

(d) GOVERNMENT CONTRACTOR DEFENSE.—(1) Should a product liability lawsuit be filed for claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies approved by the Secretary, as provided in paragraphs (2) and (3) of this subsection, have been deployed in defense against such act and such claims result or may result in loss to the Seller, there shall be a rebuttable presumption that the government contractor defense applies in such

lawsuit. This presumption shall only be overcome by evidence showing that the Seller acted fraudulently or with willful misconduct in submitting information to the Secretary during the course of the Secretary's consideration of such technology under this subsection. This presumption of the government contractor defense shall apply regardless of whether the claim against the Seller arises from a sale of the product to federal government or non-federal government customers.

(2) The Secretary will be exclusively responsible for the review and approval of anti-terrorism technology for purposes of establishing a government contractor defense in any product liability lawsuit for claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies approved by the Secretary, as provided in this paragraph and paragraph (3), have been deployed in defense against such act and such claims result or may result in loss to the Seller. Upon the Seller's submission to the Secretary for approval of anti-terrorism technology, the Secretary will conduct a comprehensive review of the design of such technology and determine whether it will perform as intended, conforms to the Seller's specifications, and is safe for use as intended. The Seller will conduct safety and hazard analyses on such

technology and will supply the Secretary with all such information.

(3) For those products reviewed and approved by the Secretary, the Secretary will issue a certificate of conformance to the Seller and place the product on an Approved Product List for Homeland Security.

(d) EXCLUSION.—Nothing in this section shall in any way limit the ability of any person to seek any form of recovery from any person, government, or other entity that—

(1) attempts to commit, knowingly participates in, aids and abets, or commits any act of terrorism, or any criminal act related to or resulting from such act of terrorism; or

(2) participates in a conspiracy to commit any such act of terrorism or any such criminal act.

SEC. 774. RISK MANAGEMENT.

(a) IN GENERAL.—(1) Any person or entity that sells or otherwise provides a qualified anti-terrorism technology to non-federal government customers (''Seller'') shall obtain liability insurance of such types and in such amounts as shall be required in accordance with this section to satisfy otherwise compensable third-party claims arising out of, relating to, or resulting from an act of terrorism when

qualified anti-terrorism technologies have been deployed in defense against such act.

(2) For the total claims related to one such act of terrorism, the Seller is not required to obtain liability insurance of more than the maximum amount of liability insurance reasonably available from private sources on the world market at prices and terms that will not unreasonably distort the sales price of Seller's anti-terrorism technologies.

(3) Liability insurance obtained pursuant to this subsection shall, in addition to the Seller, protect the following, to the extent of their potential liability for involvement in the manufacture, qualification, sale, use, or operation of qualified anti-terrorism technologies deployed in defense against an act of terrorism:

(A) contractors, subcontractors, suppliers, vendors and customers of the Seller.

(B) contractors, subcontractors, suppliers, and vendors of the customer.

(4) Such liability insurance under this section shall provide coverage against third party claims arising out of, relating to, or resulting from the sale or use of anti-terrorism technologies.

(b) RECIPROCAL WAIVER OF CLAIMS.—The Seller shall enter into a reciprocal waiver of claims with its con-

tractors, subcontractors, suppliers, vendors and customers, and contractors and subcontractors of the customers, involved in the manufacture, sale, use or operation of qualified anti-terrorism technologies, under which each party to the waiver agrees to be responsible for losses, including business interruption losses, that it sustains, or for losses sustained by its own employees resulting from an activity resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against such act.

(c) EXTENT OF LIABILITY.—Notwithstanding any other provision of law, liability for all claims against a Seller arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against such act and such claims result or may result in loss to the Seller, whether for compensatory or punitive damages or for contribution or indemnity, shall not be in an amount greater than the limits of liability insurance coverage required to be maintained by the Seller under this section.

SEC. 775. DEFINITIONS.

For purposes of this subtitle, the following definitions apply:

(1) QUALIFIED ANTI-TERRORISM TECHNOLOGY.—For purposes of this subtitle, the term

"qualified anti-terrorism technology" means any product, device, or technology designed, developed, or modified for the specific purpose of preventing, detecting, identifying, or deterring acts of terrorism and limiting the harm such acts might otherwise cause, that is designated as such by the Secretary.

(2) ACT OF TERRORISM.—(A) The term "act of terrorism" means any act that the Secretary determines meets the requirements under subparagraph (B), as such requirements are further defined and specified by the Secretary.

(B) REQUIREMENTS.—An act meets the requirements of this subparagraph if the act—

(i) is unlawful;

(ii) causes harm to a person, property, or entity, in the United States, or in the case of a domestic United States air carrier or a United States flag vessel (or a vessel based principally in the United States on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), in or outside the United States; and

(iii) uses or attempts to use instrumentalities, weapons or other methods designed or in-

tended to cause mass destruction, injury or other loss to citizens or institutions of the United States.

(3) INSURANCE CARRIER.—The term ''insurance carrier'' means any corporation, association, society, order, firm, company, mutual, partnership, individual aggregation of individuals, or any other legal entity that provides commercial property and casualty insurance. Such term includes any affiliates of a commercial insurance carrier.

(4) LIABILITY INSURANCE.—

(A) IN GENERAL.—The term ''liability insurance'' means insurance for legal liabilities incurred by the insured resulting from—

(i) loss of or damage to property of others;

(ii) ensuing loss of income or extra expense incurred because of loss of or damage to property of others;

(iii) bodily injury (including) to persons other than the insured or its employees; or

(iv) loss resulting from debt or default of another.

(5) LOSS.—The term ''loss'' means death, bodily injury, or loss of or damage to property, including business interruption loss.

(6) NON-FEDERAL GOVERNMENT CUSTOMERS.—The term ''non-Federal Government customers'' means any customer of a Seller that is not an agency or instrumentality of the United States Government with authority under Public Law 85-804 to provide for indemnification under certain circumstances for third-party claims against its contractors, including but not limited to State and local authorities and commercial entities.

TITLE VIII—TRANSITION

Subtitle A—Reorganization Plan

SEC. 801. DEFINITIONS.

For purposes of this title:

(1) The term ''agency'' includes any entity, organizational unit, program, or function.

(2) The term ''transition period'' means the 12-month period beginning on the effective date of this Act.

SEC. 802. REORGANIZATION PLAN.

(a) SUBMISSION OF PLAN.—Not later than 60 days after the date of the enactment of this Act, the President

shall transmit to the appropriate congressional committees a reorganization plan regarding the following:

(1) The transfer of agencies, personnel, assets, and obligations to the Department pursuant to this Act.

(2) Any consolidation, reorganization, or streamlining of agencies transferred to the Department pursuant to this Act.

(b) PLAN ELEMENTS.—The plan transmitted under subsection (a) shall contain, consistent with this Act, such elements as the President deems appropriate, including the following:

(1) Identification of any functions of agencies transferred to the Department pursuant tothis Act that will not be transferred to the Department under the plan.

(2) Specification of the steps to be taken by the Secretary to organize the Department, including the delegation or assignment of functions transferred to the Department among officers of the Department in order to permit the Department to carry out the functions transferred under the plan.

(3) Specification of the funds available to each agency that will be transferred to the Department as a result of transfers under the plan.

(4) Specification of the proposed allocations within the Department of unexpended funds transferred in connection with transfers under the plan.

(5) Specification of any proposed disposition of property, facilities, contracts, records, and other assets and obligations of agencies transferred under the plan.

(c) MODIFICATION OF PLAN.—The President may, on the basis of consultations with the appropriate congressional committees, modify or revise any part of the plan until that part of the plan becomes effective in accordance with subsection (d).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The reorganization plan described in this section, including any modifications or revisions of the plan under subsection (d), shall become effective for an agency on the earlier of—

(A) the date specified in the plan (or the plan as modified pursuant to subsection (d)), except that such date may not be earlier than 90 days after the date the President has transmitted the reorganization plan to the appropriate congressional committees pursuant to subsection (a); or

(B) the end of the transition period.

(2) STATUTORY CONSTRUCTION.—Nothing in this subsection may be construed to require the transfer of functions, personnel, records, balances of appropriations, or other assets of an agency on a single date.

(3) SUPERSEDES EXISTING LAW.—Paragraph (1) shall apply notwithstanding section 905(b) of title 5, United States Code.

Subtitle B—Transitional Provisions

SEC. 811. TRANSITIONAL AUTHORITIES.

(a) PROVISION OF ASSISTANCE BY OFFICIALS.—Until the transfer of an agency to the Department, any official having authority over or functions relating to the agency immediately before the effective date of this Act shall provide to the Secretary such assistance, including the use of personnel and assets, as the Secretary may request in preparing for the transfer and integration of the agency into the Department.

(b) SERVICES AND PERSONNEL.—During the transition period, upon the request of the Secretary, the head of any executive agency may, on a reimbursable or non-reimbursable basis, provide services or detail personnel to assist with the transition.

(c) TRANSFER OF FUNDS.—Until the transfer of an agency to the Department, the President is authorized to

transfer to the Secretary to fund the purposes authorized in this Act—

(1) for administrative expenses related to the establishment of the Department of Homeland Security, not to exceed two percent of the unobligated balance of any appropriation available to such agency; and

(2) for purposes for which the funds were appropriated, not to exceed three percent of the unobligated balance of any appropriation available to such agency;

except that not less than 15 days' notice shall be given to the Committees on Appropriations of the House of Representatives and the Senate before any such funds transfer is made.

(d) ACTING OFFICIALS.—(1) During the transition period, pending the advice and consent of the Senate to the appointment of an officer required by this Act to be appointed by and with such advice and consent, the President may designate any officer whose appointment was required to be made by and with such advice and consent and who was such an officer immediately before the effective date of this Act (and who continues in office) or immediately before such designation, to act in such office until the same is filled as provided in this Act. While so

acting, such officers shall receive compensation at the higher of—

(A) the rates provided by this Act for the respective offices in which they act; or

(B) the rates provided for the offices held at the time of designation.

(2) Nothing in this Act shall be understood to require the advice and consent of the Senate to the appointment by the President to a position in the Department of any officer whose agency is transferred to the Department pursuant to this Act and whose duties following such transfer are germane to those performed before such transfer.

(e) TRANSFER OF PERSONNEL, ASSETS, OBLIGATIONS, AND FUNCTIONS.—Upon the transfer of an agency to the Department—

(1) the personnel, assets, and obligations held by or available in connection with the agency shall be transferred to the Secretary for appropriate allocation, subject to the approval of the Director of the Office of Management and Budget and notwithstanding the provisions of section 1531(a)(2) of title 31, United States Code; and

(2) the Secretary shall have all functions relating to the agency that any other official could by law

exercise in relation to the agency immediately before such transfer, and shall have in addition all functions vested in the Secretary by this Act or other law.

(f) PROHIBITION ON USE OF TRANSPORTATION TRUST FUNDS.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, no funds derived from the Highway Trust Fund, Airport and Airway Trust Fund, Inland Waterway Trust Fund, Harbor Maintenance Trust Fund, or Oil Spill Liability Trust Fund may be transferred to, made available to, or obligated by the Secretary or any other official in the Department.

(2) LIMITATION.—This subsection shall not apply to security-related funds provided to the Federal Aviation Administration for fiscal years preceding fiscal year 2003 for (A) operations, (B) facilities and equipment, or (C) research, engineering, and development.

SEC. 812. SAVINGS PROVISIONS.

(a) COMPLETED ADMINISTRATIVE ACTIONS.—(1) Completed administrative actions of an agency shall not be affected by the enactment of this Act or the transfer of such agency to the Department, but shall continue in

effect according to their terms until amended, modified, superseded, terminated, set aside, or revoked in accordance with law by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(2) For purposes of paragraph (1), the term ''completed administrative action'' includes orders, determinations, rules, regulations, personnel actions, permits, agreements, grants, contracts, certificates, licenses, registrations, and privileges.

(b) PENDING PROCEEDINGS.—Subject to the authority of the Secretary under this Act—

(1) pending proceedings in an agency, including notices of proposed rulemaking, and applications for licenses, permits, certificates, grants, and financial assistance, shall continue notwithstanding the enactment of this Act or the transfer of the agency to the Department, unless discontinued or modified under the same terms and conditions and to the same extent that such discontinuance could have occurred if such enactment or transfer had not occurred; and

(2) orders issued in such proceedings, and appeals therefrom, and payments made pursuant to such orders, shall issue in the same manner and on the same terms as if this Act had not been enacted or the agency had not been transferred, and any

such orders shall continue in effect until amended, modified, superseded, terminated, set aside, or revoked by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(c) PENDING CIVIL ACTIONS.—Subject to the authority of the Secretary under this Act, pending civil actions shall continue notwithstanding the enactment of this Act or the transfer of an agency to the Department, and in such civil actions, proceedings shall be had, appeals taken, and judgments rendered and enforced in the same manner and with the same effect as if such enactment or transfer had not occurred.

(d) REFERENCES.—References relating to an agency that is transferred to the Department in statutes, Executive orders, rules, regulations, directives, or delegations of authority that precede such transfer or the effective date of this Act shall be deemed to refer, as appropriate, to the Department, to its officers, employees, or agents, or to its corresponding organizational units or functions. Statutory reporting requirements that applied in relation to such an agency immediately before the effective date of this Act shall continue to apply following such transfer if they refer to the agency by name.

(e) EMPLOYMENT PROVISIONS.—(1) Notwithstanding the generality of the foregoing (including sub-

sections (a) and (d)), in and for the Department the Secretary may, in regulations prescribed jointly with the Director of the Office of Personnel Management, adopt the rules, procedures, terms, and conditions, established by statute, rule, or regulation before the effective date of this Act, relating to employment in any agency transferred to the Department pursuant to this Act; and

(2) except as otherwise provided in this Act, or under authority granted by this Act, the transfer pursuant to this Act of personnel shall not alter the terms and conditions of employment, including compensation, of any employee so transferred.

SEC. 813. TERMINATIONS.

Except as otherwise provided in this Act, whenever all the functions vested by law in any agency have been transferred pursuant to this Act, each position and office the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V, of the Executive Schedule, shall terminate.

SEC. 814. INCIDENTAL TRANSFERS.

The Director of the Office of Management and Budget, in consultation with the Secretary, is authorized and directed to make such additional incidental dispositions of personnel, assets, and obligations held, used, arising from,

available, or to be made available, in connection with the functions transferred by this Act, as the Director may deem necessary to accomplish the purposes of this Act.

SEC. 815. NATIONAL IDENTIFICATION SYSTEM NOT AUTHORIZED.

Nothing in this Act shall be construed to authorize the development of a national identification system or card.

SEC. 816. CONTINUITY OF INSPECTOR GENERAL OVERSIGHT.

Notwithstanding the transfer of an agency to the Department pursuant to this Act, the Inspector General that exercised oversight of such agency prior to such transfer shall continue to exercise oversight of such agency during the period of time, if any, between the transfer of such agency to the Department pursuant to this Act and the appointment of the Inspector General of the Department of Homeland Security in accordance with section 103(b) of this Act.

SEC. 817. REFERENCE.

With respect to any function transferred by or under this Act (including under a reorganization plan that becomes effective under section 802) and exercised on or after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or

any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, other official, or component of the Department to which such function is so transferred.

TITLE IX—CONFORMING AND TECHNICAL AMENDMENTS

SEC. 901. INSPECTOR GENERAL ACT OF 1978.

Section 11 of the Inspector General Act of 1978 (Public Law 95–452) is amended—

(1) by inserting ''Homeland Security,'' after ''Transportation,'' each place it appears;

(2) by striking ''; and'' each place it appears and inserting '';'';

(3) by striking '',,'' and inserting '','' ; and

(4) by striking '';;'' and inserting '';''.

SEC. 902. EXECUTIVE SCHEDULE.

(a) IN GENERAL.—Title 5, United States Code, is amended—

(1) in section 5312, by inserting ''Secretary of Homeland Security.'' as a new item after ''Affairs.'';

(2) in section 5313, by inserting ''Deputy Secretary of Homeland Security.'' as a new item after ''Affairs.'';

(3) in section 5314, by inserting "Under Secretaries, Department of Homeland Security." as a new item after "Affairs." the third place it appears;

(4) in section 5315, by inserting "Assistant Secretaries, Department of Homeland Security.", "General Counsel, Department of Homeland Security.", "Chief Financial Officer, Department of Homeland Security.", "Chief Information Officer, Department of Homeland Security.", and "Inspector General, Department of Homeland Security." as new items after "Affairs." the first place it appears; and

(5) in section 5315, by striking "Commissioner of Immigration and Naturalization, Department of Justice.".

(b) SPECIAL EFFECTIVE DATE.—Notwithstanding section 4, the amendment made by subsection (a)(5) shall take effect on the date on which the transfer of functions specified under section 411 takes effect.

SEC. 903. UNITED STATES SECRET SERVICE.

(a) IN GENERAL.—The United States Code is amended in sections 202 and 208 of title 3, and in section 3056 of title 18, by striking "of the Treasury", each place it appears and inserting "of Homeland Security".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of transfer of the United States Secret Service to the Department.

SEC. 904. COAST GUARD.

(a) TITLE 14, U.S.C.—Title 14 of the United States Code is amended—

(1) in sections 1, 3, 53, 95, 145, 516, 666, 669, 673 (as added by Public Law 104–201), 673 (as added by Public Law 104–324), 674, 687, and 688, by striking "of Transportation", each place it appears, and inserting "of Homeland Security"; and

(2) after executing the other amendments required by this subsection, by redesignating the section 673 added by Public Law 104–324 as section 673a.

(b) TITLE 10, U.S.C.—(1) Title 10, United States Code, is amended in sections 101(9), 130b(a), 130b(c)(4), 130c(h)(1), 379, 513(d), 575(b)(2), 580(e)(6), 580a(e), 651(a), 671(c)(2), 708(a), 716(a), 717, 806(d)(2), 815(e), 888,946(c)(1), 973(d), 978(d), 983(b)(1), 985(a), 1033(b)(1), 1033(d), 1034, 1037(c), 1044d(f), 1058(c), 1059(a), 1059(k)(1), 1073(a), 1074(c)(1), 1089(g)(2), 1090, 1091(a), 1124, 1143, 1143a(h), 1144, 1145(e), 1148, 1149, 1150(c), 1152(a), 1152(d)(1), 1153, 1175, 1212(a), 1408(h)(2), 1408(h)(8), 1463(a)(2), 1482a(b),

1510, 1552(a)(1), 1565(f), 1588(f)(4), 1589, 2002(a), 2302(1), 2306b(b), 2323(j)(2), 2376(2), 2396(b)(1), 2410a(a), 2572(a), 2575(a), 2578, 2601(b)(4), 2634(e), 2635(a), 2734(g), 2734a, 2775, 2830(b)(2), 2835, 2836, 4745(a), 5013a(a), 7361(b), 10143(b)(2), 10146(a), 10147(a), 10149(b), 10150, 10202(b), 10203(d), 10205(b), 10301(b), 12103(b), 12103(d), 12304, 12311(c), 12522(c), 12527(a)(2), 12731(b), 12731(a)(e), 16131(a), 16136(a), 16301(g), and 18501 by striking ''of Transportation'' each place it appears and inserting ''of Homeland Security''.

(2) Section 801(1) of such title is amended by striking ''the General Counsel of the Department of Transportation'' and inserting ''an official designated to serve as Judge Advocate General of the Coast Guard by the Secretary of Homeland Security''.

(3) Section 983(d)(2)(B) of such title is amended by striking ''Department of Transportation'' and inserting ''Department of Homeland Security''.

(4) Section 2665(b) of such title is amended by striking ''Department of Transportation'' and inserting ''Department in which the Coast Guard is operating''.

(5) Section 7045 of such title is amended—

(A) in subsections (a)(1) and (b), by striking ''Secretaries of the Army, Air Force, and Transpor-

tation'' both places it appears and inserting ''Secretary of the Army, the Secretary of the Air Force, and the Secretary of Homeland Security''; and

(B) in subsection (b), by striking ''Department of Transportation'' and inserting ''Department of Homeland Security''.

(6) Section 7361(b) of such title is amended in the subsection heading by striking ''TRANSPORTATION'' and inserting ''HOMELAND SECURITY''.

(7) Section 12522(b) of such title is amended in the subsection heading by striking ''TRANSPORTATION'' and inserting ''HOMELAND SECURITY''.

(c) TITLE 37, U.S.C.—Title 37, United States Code, is amended in sections 101(5), 204(i)(4), 301a(a)(3), 306(d), 307(c), 308(a)(1), 308(d)(2), 308(f), 308b(e), 308c(c), 308d(a), 308e(f), 308g(g), 308h(f), 308i(e), 309(d), 316(d), 323(b), 323(g)(1), 325(i), 402(d), 402a(g)(1), 403(f)(3), 403(l)(1), 403b(i)(5), 406(b)(1), 417(a), 417(b), 418(a), 703, 1001(c), 1006(f), 1007(a), and 1011(d) by striking ''of Transportation'' each place it appears and inserting ''of Homeland Security''.

(d) OTHER DEFENSE-RELATED LAWS.—(1) Section 363 of Public Law 104–193 (110 Stat. 2247) is amended—

(A) in subsection (a)(1) (10 U.S.C. 113 note), by striking "of Transportation" and inserting "of Homeland Security"; and

(B) in subsection (b)(1) (10 U.S.C. 704 note), by striking "of Transportation" and inserting "of Homeland Security".

(2) Section 721(1) of Public Law 104–201 (10 U.S.C. 1073 note) is amended by striking "of Transportation" and inserting "of Homeland Security".

(3) Section 4463(a) of Public Law 102–484 (10 U.S.C. 1143a note) is amended by striking "after consultation with the Secretary of Transportation".

(4) Section 4466(h) of Public Law 102–484 (10 U.S.C. 1143 note) is amended by striking "of Transportation" and inserting "of Homeland Security".

(5) Section 542(d) of Public Law 103–337 (10 U.S.C. 1293 note) is amended by striking "of Transportation" and inserting "of Homeland Security".

(6) Section 740 of Public Law 106–181 (10 U.S.C. 2576 note) is amended in subsections (b)(2), (c), and (d)(1) by striking "of Transportation" each place it appears and inserting "of Homeland Security".

(7) Section 1407(b)(2) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 926(b)) is amended by

striking "of Transportation" both places it appears and inserting "of Homeland Security".

(8) Section 2301(5)(D) of Public Law 107–110 (20 U.S.C. 6671(5)(D)) is amended by striking "of Transportation" and inserting "of Homeland Security".

(9) Section 2307(a) of Public Law 107–110 (20 U.S.C. 6677(a)) is amended by striking "of Transportation" and inserting "of Homeland Security".

(10) Section 1034(a) of Public Law 105–85 (21 U.S.C. 1505a(a)) is amended by striking "of Transportation" and inserting "of Homeland Security".

(11) The Military Selective Service Act is amended—

(A) in section 4(a) (50 U.S.C. App. 454(a)), by striking "of Transportation" in the fourth paragraph and inserting "of Homeland Security";

(B) in section 4(b) (50 U.S.C. App. 454(b)), by striking "of Transportation" both places it appears and inserting "of Homeland Security";

(C) in section 6(d)(1) (50 U.S.C. App. 456(d)(1)), by striking "of Transportation" both places it appears and inserting "of Homeland Security";

(D) in section 9(c) (50 U.S.C. App. 459(c)), by striking "Secretaries of Army, Navy, Air Force, or Transportation" and inserting "Secretary of a mili-

tary department, and the Secretary of Homeland Security with respect to the Coast Guard,''; and

(E) in section 15(e) (50 U.S.C. App. 465(e)), by striking ''of Transportation'' both places it appears and inserting ''of Homeland Security''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of transfer of the Coast Guard to the Department.

SEC. 905. STRATEGIC NATIONAL STOCKPILE AND SMALLPOX VACCINE DEVELOPMENT.

(a) IN GENERAL.—The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 is amended—

(1) in section 121(a)(1)—

(A) by striking ''Secretary of Health and Human Services'' and inserting ''Secretary of Homeland Security'';

(B) by inserting ''the Secretary of Health and Human Services and'' between ''in coordination with'' and ''the Secretary of Veterans Affairs''; and

(C) by inserting ''of Health and Human Services'' after ''as are determined by the Secretary''; and

(2) in subsections 121(a)(2) and (b), by inserting ''of Health and Human Services'' after ''Secretary'' each place it appears.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of transfer of the Strategic National Stockpile of the Department of Health and Human Services to the Department.

SEC. 906. BIOLOGICAL AGENT REGISTRATION; PUBLIC HEALTH SERVICE ACT.

(a) PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act is amended—

(1) in section 351A(a)(1)(A), by inserting ''(as defined in subsection (l)(9))'' after ''Secretary'';

(2) in section 351A(h)(2)(A), by inserting ''Department of Homeland Security, the'' before ''Department of Health and Human Services''; and

(3) in section 351A(l), by inserting after paragraph (8) a new paragraph as follows:

''(9) The term 'Secretary' means the Secretary of Homeland Security, in consultation with the Secretary of Health and Human Services.''.

(b) PUBLIC HEALTH SECURITY AND BIOTERRORISM PREPAREDNESS AND RESPONSE ACT OF 2002.—Section 201(b) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 is amended by

striking ''Secretary of Health and Human Services'' and inserting ''Secretary of Homeland Security''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of transfer of the select agent registration enforcement programs and activities of the Department of Health and Human Services to the Department.

SEC. 907. TRANSFER OF CERTAIN SECURITY AND LAW ENFORCEMENT FUNCTIONS AND AUTHORITIES.

(a) AMENDMENT TO PROPERTY ACT.—Section 210(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(a)(2)) is repealed.

(b) LAW ENFORCEMENT AUTHORITY.—The Act of June 1, 1948 (40 U.S.C. 318–318d; chapter 359; 62 Stat. 281) is amended to read as follows:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Protection of Public Property Act'.

''SEC. 2. LAW ENFORCEMENT AUTHORITY OF SECRETARY OF HOMELAND SECURITY FOR PROTECTION OF PUBLIC PROPERTY.

''(a) IN GENERAL.—The Secretary of Homeland Security (in this Act referred to as the ''Secretary'') shall protect the buildings, grounds, and property that are owned, occupied, or secured by the Federal Government

(including any agency, instrumentality, or wholly owned or mixed-ownership corporation thereof) and the persons on the property.

"(b) OFFICERS AND AGENTS.—

"(1) DESIGNATION.—The Secretary may designate employees of the Department of Homeland Security, including employees transferred to the Department from the Office of the Federal Protective Service of the General Services Administration pursuant to the Homeland Security Act of 2002, as officers and agents for duty in connection with the protection of property owned or occupied by the Federal Government and persons on the property, including duty in areas outside the property to the extent necessary to protect the property and persons on the property.

"(2) POWERS.—While engaged in the performance of official duties, an officer or agent designated under this subsection may—

"(A) enforce Federal laws and regulations for the protection of persons and property;

"(B) carry firearms;

"(C) make arrests without a warrant for any offense against the United States committed in the presence of the officer or agent or

for any felony cognizable under the laws of the United States if the officer or agent has reasonable grounds to believe that the person to be arrested has committed or is committing a felony;

"(D) serve warrants and subpoenas issued under the authority of the United States; and

"(E) conduct investigations, on and off the property in question, of offenses that may have been committed against property owned or occupied by the Federal Government or persons on the property.

"(F) carry out such other activities for the promotion of homeland security as the Secretary may prescribe.

"(c) REGULATIONS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Administrator of General Services, may prescribe regulations necessary for the protection and administration of property owned or occupied by the Federal Government and persons on the property. The regulations may include reasonable penalties, within the limits prescribed in paragraph (2), for violations of the regulations. The regulations shall be posted and remain posted in a conspicuous place on the property.

"(2) PENALTIES.—A person violating a regulation prescribed under this subsection shall be fined under title 18, United States Code, imprisoned for not more than 30 days, or both.

"(d) DETAILS.—

"(1) REQUESTS OF AGENCIES.—On the request of the head of a Federal agency having charge or control of property owned or occupied by the Federal Government, the Secretary may detail officers and agents designated under this section for the protection of the property and persons on the property.

"(2) APPLICABILITY OF REGULATIONS.—The Secretary may—

"(A) extend to property referred to in paragraph (1) the applicability of regulations prescribed under this section and enforce the regulations as provided in this section; or

"(B) utilize the authority and regulations of the requesting agency if agreed to in writing by the agencies.

"(3) FACILITIES AND SERVICES OF OTHER AGENCIES.—When the Secretary determines it to be economical and in the public interest, the Secretary may utilize the facilities and services of Federal,

State, and local law enforcement agencies, with the consent of the agencies.

"(e) AUTHORITY OUTSIDE FEDERAL PROPERTY.—For the protection of property owned or occupied by the Federal Government and persons on the property, the Secretary may enter into agreements with Federal agencies and with State and local governments to obtain authority for officers and agents designated under this section to enforce Federal laws and State and local laws concurrently with other Federal law enforcement officers and with State and local law enforcement officers.

"(f) SECRETARY AND ATTORNEY GENERAL APPROVAL.—The powers granted to officers and agents designated under this section shall be exercised in accordance with guidelines approved by the Secretary and the Attorney General.

"(g) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to—

"(1) preclude or limit the authority of any Federal law enforcement agency; or

"(2) restrict the authority of the Administrator of General Services to promulgate regulations affecting property under the Administrator's custody and control.".

SEC. 908. TRANSPORTATION SECURITY REGULATIONS.

Title 49, United States Code, is amended—

(1) in section 114(l)(2)(B), by inserting "for a period not to exceed 30 days" after "effective"; and

(2) in section 114(l)(2)(B), by inserting "ratified or" after "unless".

TITLE X—TRANSFERS TO THE DEPARTMENT OF JUSTICE

SEC. 1001. TRANSFER OF THE FEDERAL LAW ENFORCEMENT TRAINING CENTER.

There shall be transferred to the Attorney General the functions, personel, assets, and liabilities of the Federal Law Enforcement Training Center, including any functions of the Secretary of the Treasury relating thereto.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>
Sent: 7/22/2002 5:51:31 AM
Subject: : Re: Provisions on liability in Department of Homeland Security legislation
Attachments: P_XULW8003_WHO.TXT_1.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:22-JUL-2002 09:51:31.00
SUBJECT:: Re: Provisions on liability in Department of Homeland Security legislation
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

No problem. Just make clear to everyone that I cannot turn to this until later today so it will be tonight or tomorrow a.m. before paper is produced.

Bradford A. Berenson
07/22/2002 09:41:28 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Provisions on liability in Department of Homeland Security legislation

Brett, thanks for taking a look at these. I think for present purposes a 1-2 page summary and analysis of these provisions, focusing on what's wrong with them and how they fit or conflict with positions the Administration has taken on other similar proposals, would be ideal. If you shoot that to me, I'll take care of making sure the homeland security cast of thousands gets it. Thanks again.
---------- Forwarded by Bradford A. Berenson/WHO/EOP on 07/22/2002 09:40 AM ----------

David Aidekman
07/22/2002 09:37:10 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: Bradford A. Berenson/WHO/EOP@EOP, Lucy G. Clark/WHO/EOP@EOP
Subject: Provisions on liability in Department of Homeland Security legislation

Brett, I understand from Brad that you were interested in looking at the provisions in the House DHS legislation on liability. They are located in Sections 773-774 in the Armey chairman's mark (attached below). This was not actually an amendment.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_XULW8003_WHO.TXT_1>

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 5005 OFFERED BY MR. ARMEY

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Homeland Security Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Construction; severability.
Sec. 4. Effective date.

TITLE I—DEPARTMENT OF HOMELAND SECURITY

Sec. 101. Executive department; mission.
Sec. 102. Secretary; functions.
Sec. 103. Other officers.

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

Subtitle A—Under Secretary for Information Analysis and Infrastructure Protection

Sec. 201. Under Secretary for Information Analysis and Infrastructure Protection.
Sec. 202. Functions transferred.
Sec. 203. Access to information.
Sec. 204. Procedures for sharing information.
Sec. 205. Privacy officer.
Sec. 206. Federal cybersecurity program.

Subtitle B—Intelligence Analysis Center

Sec. 211. Intelligence Analysis Center
Sec. 212. Mission of the Intelligence Analysis Center.

TITLE III—UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY

Sec. 301. Under Secretary for Science and Technology.
Sec. 302. Functions transferred.
Sec. 303. Conduct of certain public health-related activities.
Sec. 304. Federally funded research and development center.
Sec. 305. Miscellaneous provisions.
Sec. 306. Homeland Security Science and Technology Coordination Council.
Sec. 307. Conduct of research, development, demonstration, testing and evaluation.
Sec. 308. Transfer of Plum Island Animal Disease Center, Department of Agriculture.

TITLE IV—BORDER AND TRANSPORTATION SECURITY

Subtitle A—General Provisions

Sec. 401. Under Secretary for Border and Transportation Security.
Sec. 402. Functions transferred.
Sec. 403. Visa issuance.
Sec. 404. Transfer of certain agricultural inspection functions of the Department of Agriculture.
Sec. 405. Functions of Administrator of General Services.
Sec. 406. Functions of Transportation Security Administration.
Sec. 407. Preservation of Transportation Security Administration as a distinct entity.
Sec. 408. Annual assessment of terrorist-related threats to public transportation.
Sec. 409. Explosive detection systems; minimum number of screeners.
Sec. 410. Transportation security.

Subtitle B—Immigration and Nationality Functions

Chapter 1—Immigration Enforcement

Sec. 411. Transfer of functions to under Secretary for Border and Transportation Security.
Sec. 412. Establishment of Bureau of Immigration Enforcement.
Sec. 413. Professional responsibility and quality review.
Sec. 414. Employee discipline.
Sec. 415. Report on improving enforcement functions.
Sec. 416. Report on interior checkpoints.

Chapter 2—Citizenship And Immigration Services

subchapter a—transfers of functions

Sec. 421. Establishment of Bureau of Citizenship and Immigration Services.
Sec. 422. Citizenship and Immigration Services Ombudsman.
Sec. 423. Professional responsibility and quality review.
Sec. 424. Employee discipline.
Sec. 425. Office of Immigration Statistics within Bureau of Justice Statistics.
Sec. 426. Preservation of Attorney General's authority.
Sec. 427. Effective date.
Sec. 428. Transition.

SUBCHAPTER B—OTHER PROVISIONS

Sec. 431. Funding for citizenship and immigration services.
Sec. 432. Backlog elimination.
Sec. 433. Report on improving immigration services.
Sec. 434. Report on responding to fluctuating needs.
Sec. 435. Application of Internet-based technologies.
Sec. 436. Children's affairs.

CHAPTER 3—GENERAL PROVISIONS

Sec. 441. Abolishment of INS.
Sec. 442. Voluntary separation incentive payments.
Sec. 443. Authority to conduct a demonstration project relating to disciplinary action.
Sec. 444. Sense of Congress.
Sec. 445. Reports and implementation plans.

Subtitle C—United States Customs Service

Sec. 451. Establishment; Commissioner of Customs.
Sec. 452. Retention of customs revenue functions by Secretary of the Treasury.
Sec. 453. Establishment and implementation of cost accounting system; reports.
Sec. 454. Preservation of Customs funds.
Sec. 455. Separate budget request for Customs.
Sec. 456. Payment of duties and fees.
Sec. 457. Definition.
Sec. 458. GAO report to Congress.

TITLE V—EMERGENCY PREPAREDNESS AND RESPONSE

Sec. 501. Under Secretary for Emergency Preparedness and Response.
Sec. 502. Functions transferred.
Sec. 503. Nuclear incident response.
Sec. 504. Definition.

TITLE VI—MANAGEMENT

Sec. 601. Under Secretary for Management.
Sec. 602. Chief Financial Officer.
Sec. 603. Chief Information Officer.

TITLE VII—MISCELANEOUS

Subtitle A—Inspector General

Sec. 701. Authority of the Secretary.

Subtitle B—United States Secret Service

Sec. 711. Functions transferred.

Subtitle C—Critical Infrastructure Information

Sec. 721. Short title.
Sec. 722. Definitions.
Sec. 723. Designation of critical infrastructure protection program.
Sec. 724. Protection of voluntarily shared critical infrastructure information.

Sec. 725. No private right of action.

Subtitle D—Acquisitions

Sec. 731. Research and development projects.
Sec. 732. Personal services.
Sec. 733. Special streamlined acquisition authority.

Subtitle E—Property

Sec. 741. Real property management.
Sec. 742. Criteria for using authorities.
Sec. 743. Outleases.
Sec. 744. Review and revision of transactions by Administrator.
Sec. 745. Transactional reports.

Subtitle F—Other Provisions

Sec. 752. Advisory committees.
Sec. 753. Reorganization; transfer of appropriations.
Sec. 754. Miscellaneous provisions.
Sec. 755. Military activities.
Sec. 756. Regulatory authority.
Sec. 757. Provisions regarding transfers from department of energy.
Sec. 758. Counternarcotics officer.
Sec. 759. Office of international affairs.
Sec. 760. Prohibition of the terrorism information and prevention system.

Subtitle G—Support Anti-Terrorism by Fostering Effective Technologies Act of 2002 (the SAFETY Act)

Sec. 771. Short title.
Sec. 772. Administration.
Sec. 773. Litigation management.
Sec. 774. Risk management.
Sec. 775. Definitions.

TITLE VIII—TRANSITION

Subtitle A—Reorganization Plan

Sec. 801. Definitions.
Sec. 802. Reorganization plan.

Subtitle B—Transitional Provisions

Sec. 811. Transitional authorities.
Sec. 812. Savings provisions.
Sec. 813. Terminations.
Sec. 814. Incidental transfers.
Sec. 815. National identification system not authorized.
Sec. 816. Continuity of Inspector General oversight.
Sec. 817. Reference.

TITLE IX—CONFORMING AND TECHNICAL AMENDMENTS

Sec. 901. Inspector General Act of 1978.
Sec. 902. Executive Schedule.
Sec. 903. United States Secret Service.

Sec. 904. Coast Guard.
Sec. 905. Strategic National Stockpile and smallpox vaccine development.
Sec. 906. Biological agent registration; Public Health Service Act.
Sec. 907. Transfer of certain security and law enforcement functions and authorities.
Sec. 908. Transportation security regulations.

TITLE X—TRANSFERS TO THE DEPARTMENT OF JUSTICE

Sec. 1001. Transfer of the Federal Law Enforcement Training Center.

SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

(1) Each of the terms ''American homeland'' and ''homeland'' means the United States.

(2) The term ''appropriate congressional committee'' means any committee of the House of Representatives or the Senate having legislative or oversight jurisdiction under the Rules of the House of Representatives or the Senate, respectively, over the matter concerned.

(3) The term ''assets'' includes contracts, facilities, property, records, unobligated or unexpended balances of appropriations, and other funds or resources (other than personnel).

(4) The term ''critical infrastructure'' has the meaning given that term in section 1016(e) of Public Law 107–56 (42 U.S.C. 5195c(e)).

(5) The term ''Department'' means the Department of Homeland Security.

(6) The term ''emergency response providers'' includes Federal, State, and local emergency public safety, law enforcement, emergency response, emergency medical, and related personnel, agencies, and authorities.

(7) The term ''executive agency'' means an executive agency and a military department, as defined, respectively, in sections 105 and 102 of title 5, United States Code.

(8) The term ''functions'' includes authorities, powers, rights, privileges, immunities, programs, projects, activities, duties, and responsibilities.

(9) The term ''key resources'' means means publicly or privately controlled resources essential to the minimal operations of the economy and government.

(10) The term ''local government'' means—

(A) a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (regardless of whether the council of governments is incorporated as a nonprofit corporation under State law), regional or interstate government entity, or agency or instrumentality of a local government;

(B) an Indian tribe or authorized tribal organization, or Alaska Native village or organization; and

(C) a rural community, unincorporated town or village, or other public entity.

(11) The term ''major disaster'' has the meaning given in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

(12) The term ''personnel'' means officers and employees.

(13) The term ''Secretary'' means the Secretary of Homeland Security.

(14) The term ''terrorism'' means any activity that—

(A) involves an act that—

(i) is dangerous to human life or potentially destructive of critical infrastructure or key resources; and

(ii) is a violation of the criminal laws of the United States or of any State or other subdivision of the United States; and

(B) appears to be intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping.

(15) The term ''United States'', when used in a geographic sense, means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any possession of the United States, and any waters within the jurisdiction of the United States.

SEC. 3. CONSTRUCTION; SEVERABILITY.

Any provision of this Act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable from this Act and shall not affect the remainder thereof, or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.

SEC. 4. EFFECTIVE DATE.

This Act shall take effect thirty days after the date of enactment or, if enacted within thirty days before January 1, 2003, on January 1, 2003.

TITLE I—DEPARTMENT OF HOMELAND SECURITY

SEC. 101. EXECUTIVE DEPARTMENT; MISSION.

(a) ESTABLISHMENT.—There is established a Department of Homeland Security, as an executive department of the United States within the meaning of title 5, United States Code.

(b) MISSION.—

(1) IN GENERAL.—The primary mission of the Department is to—

(A) prevent terrorist attacks within the United States;

(B) reduce the vulnerability of the United States to terrorism;

(C) minimize the damage, and assist in the recovery, from terrorist attacks that do occur within the United States; and

(D) carry out all functions of entities transferred to the Department, including by acting as a focal point regarding natural and manmade crises and emergency planning.

(2) RESPONSIBILITY FOR INVESTIGATING AND PROSECUTING TERRORISM.—Except as specifically provided by law with respect to entities transferred to the Department under this Act, primary responsibility for investigating and prosecuting acts of terrorism shall be vested not in the Department, but rather in Federal, State, and local law enforcement agencies with jurisdiction over the acts in question.

SEC. 102. SECRETARY; FUNCTIONS.

(a) SECRETARY.—(1) There is a Secretary of Homeland Security, appointed by the President, by and with the advice and consent of the Senate.

(2) The Secretary is the head of the Department and shall have direction, authority, and control over it.

(3) All functions of all officers, employees, and organizational units of the Department are vested in the Secretary.

(b) FUNCTIONS.—The Secretary—

(1) except as otherwise provided by this Act, may delegate any of the Secretary's functions to any officer, employee, or organizational unit of the Department;

(2) shall have the authority to make contracts, grants, and cooperative agreements, and to enter into agreements with other executive agencies, as

may be necessary and proper to carry out the Secretary's responsibilities under this Act or otherwise provided by law; and

(3) shall take reasonable steps to ensure that information systems and databases of the Department are compatible with each other.

(c) COORDINATION WITH NON-FEDERAL ENTITIES.—The Secretary shall coordinate (including the provision of training and equipment) with State and local government personnel, agencies, and authorities, with the private sector, and with other entities, including by—

(1) coordinating with State and local government personnel, agencies, and authorities, and with the private sector, to ensure adequate planning, equipment, training, and exercise activities;

(2) coordinating and, as appropriate, consolidating, the Federal Government's communications and systems of communications relating to homeland security with State and local government personnel, agencies, and authorities, the private sector, other entities, and the public;

(3) directing and supervising grant programs of the Federal Government for State and local government emergency response providers; and

(4) distributing or, as appropriate, coordinating the distribution of, warnings and information to State and local government personnel, agencies, and authorities and to the public.

(d) MEETINGS OF NATIONAL SECURITY COUNCIL.—The Secretary may, subject to the direction of the President, attend and participate in meetings of the National Security Council.

(e) ISSUANCE OF REGULATIONS.—The issuance of regulations by the Secretary shall be governed by the provisions of chapter 5 of title 5, United States Code, except as specifically provided in this Act, in laws granting regulatory authorities that are transferred by this Act, and in laws enacted after the date of enactment of this Act.

SEC. 103. OTHER OFFICERS.

(a) DEPUTY SECRETARY; UNDER SECRETARIES.—There are the following officers, appointed by the President, by and with the advice and consent of the Senate:

(1) A Deputy Secretary of Homeland Security, who shall be the Secretary's first assistant for purposes of subchapter III of chapter 33 of title 5, United States Code.

(2) An Under Secretary for Information Analysis and Infrastructure Protection.

(3) An Under Secretary for Science and Technology.

(4) An Under Secretary for Border and Transportation Security.

(5) An Under Secretary for Emergency Preparedness and Response.

(6) An Under Secretary for Management.

(7) Not more than four Assistant Secretaries.

(b) INSPECTOR GENERAL.—There is an Inspector General, who shall be appointed as provided in section 3(a) of the Inspector General Act of 1978.

(c) COMMANDANT OF THE COAST GUARD.—To assist the Secretary in the performance of the Secretary's functions, there is a Commandant of the Coast Guard, who shall be appointed as provided in section 44 of title 14, United States Code.

(d) OTHER OFFICERS.—To assist the Secretary in the performance of the Secretary's functions, there are the following officers, appointed by the President:

(1) A General Counsel, who shall be the chief legal officer of the Department.

(2) Not more than eight Assistant Secretaries.

(3) A Director of the Secret Service.

(4) A Chief Financial Officer.

(5) A Chief Information Officer.

(e) PERFORMANCE OF SPECIFIC FUNCTIONS.—Subject to the provisions of this Act, every officer of the Department shall perform the functions specified by law for the official's office or prescribed by the Secretary.

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

Subtitle A—Under Secretary for Information Analysis and Infrastructure Protection

SEC. 201. UNDER SECRETARY FOR INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION.

The Secretary, acting through the Under Secretary for Information Analysis and Infrastructure Protection, shall be responsible for the following:

(1) Conducting analysis of information, including foreign intelligence and open source information, lawfully collected by Federal, State and local law enforcement agencies and by elements of the intelligence community with respect to threats of terrorist acts against the United States.

(2) Integrating information, intelligence, and intelligence analyses to produce and disseminate infrastructure vulnerability assessments with respect to such threats.

(3) Identifying priorities for protective and support measures by the Department, by other executive agencies, by State and local governments, by the private sector, and by other entities.

(4) Reviewing, analyzing, and recommending improvements in law, policy, and procedure for the sharing of intelligence and other information with respect to threats against the United States within the Federal Government and between the Federal Government and State and local governments.

(5) Under the direction of the Secretary, developing a comprehensive national plan to provide for the security of key resources and critical infrastructures.

(6) Coordinating with other executive agencies, State and local government personnel, agencies, and authorities, and the private sector, to provide advice on implementation of such comprehensive national plan.

(7) Supporting the intelligence and information requirements of the Department.

(8) Performing such other functions as the Secretary may direct.

(9) Administering the Homeland Security Advisory System, exercising primary responsibility for

public advisories relating to terrorist threats, and (in coordination with other executive agencies) providing specific warning information to State and local government personnel, agencies, and authorities, the private sector, other entities, and the public, as well as advice about appropriate protective actions and countermeasures.

SEC. 202. FUNCTIONS TRANSFERRED.

In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and obligations of the following:

(1) The National Infrastructure Protection Center of the Federal Bureau of Investigation (other than the Computer Investigations and Operations Section), including the functions of the Attorney General relating thereto.

(2) The National Communications System of the Department of Defense, including the functions of the Secretary of Defense relating thereto.

(3) The Critical Infrastructure Assurance Office of the Department of Commerce, including the functions of the Secretary of Commerce relating thereto.

(4) The Energy Security and Assurance Program of the Department of Energy, including the

National Infrastructure Simulation and Analysis Center and the functions of the Secretary of Energy relating thereto.

(5) The Federal Computer Incident Response Center of the General Services Administration, including the functions of the Administrator of General Services relating thereto.

SEC. 203. ACCESS TO INFORMATION.

The Secretary shall have access to all reports, assessments, and analytical information relating to threats of terrorism in the United States and to other areas of responsibility described in section 101(b), and to all information concerning infrastructure or other vulnerabilities of the United States to terrorism, whether or not such information has been analyzed, that may be collected, possessed, or prepared by any executive agency, except as otherwise directed by the President. The Secretary shall also have access to other information relating to the foregoing matters that may be collected, possessed, or prepared by an executive agency, as the President may further provide. With respect to the material to which the Secretary has access under this section—

(1) the Secretary may obtain such material by request, and may enter into cooperative arrangements with other executive agencies to share such

material on a regular or routine basis, including requests or arrangements involving broad categories of material;

(2) regardless of whether the Secretary has made any request or entered into any cooperative arrangement pursuant to paragraph (1), all executive agencies promptly shall provide to the Secretary—

(A) all reports, assessments, and analytical information relating to threats of terrorism in the United States and to other areas of responsibility described in section 101(b);

(B) all information concerning infrastructure or other vulnerabilities of the United States to terrorism, whether or not such information has been analyzed;

(C) all information relating to significant and credible threats of terrorism in the United States, whether or not such information has been analyzed, if the President has provided that the Secretary shall have access to such information; and

(D) such other material as the President may further provide;

(3) the Secretary shall have full access and input with respect to information from any national

collaborative information analysis capability (as referred to in section 924 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1199)) established jointly by the Secretary of Defense and the Director of Central Intelligence; and

(4) the Secretary shall ensure that any material received pursuant to this section is protected from unauthorized disclosure and handled and used only for the performance of official duties, and that any intelligence information shared under this section shall be transmitted, retained, and disseminated consistent with the authority of the Director of Central Intelligence to protect intelligence sources and methods under the National Security Act and related procedures or, as appropriate, similar authorities of the Attorney General concerning sensitive law enforcement information.

SEC. 204. PROCEDURES FOR SHARING INFORMATION.

The Secretary shall establish procedures on the use of information shared under this title that—

(1) limit the redissemination of such information to ensure that it is not used for an unauthorized purpose;

(2) ensure the security and confidentiality of such information;

(3) protect the constitutional and statutory rights of any individuals who are subjects of such information; and

(4) provide data integrity through the timely removal and destruction of obsolete or erroneous names and information.

SEC. 205. PRIVACY OFFICER.

The Secretary shall appoint a senior official in the Department to assume primary responsibility for privacy policy, including—

(1) assuring that the use of information technologies sustain, and do not erode, privacy protections relating to the use, collection, and disclosure of personal information;

(2) assuring that personal information contained in Privacy Act systems of records is handled in full compliance with fair information practices as set out in the Privacy Act of 1974;

(3) evaluating legislative proposals involving collection, use, and disclosure of personal information by the Federal Government;

(4) conducting a privacy impact assessment of proposed rules on the privacy of personal informa-

tion, including the type of personal information collected and the number of people affected; and

(5) preparing a report to Congress on an annual basis on activities of the Department that affect privacy, including complaints of privacy violations, implementation of the Privacy Act of 1974, internal controls, and other matters.

SEC. 206. FEDERAL CYBERSECURITY PROGRAM.

(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Information Analysis and Infrastructure Protection, shall establish and manage a program to improve the security of Federal critical information systems, including carrying out responsibilities under paragraphs (1) and (2) of section 201 that relate to such systems.

(b) DUTIES.—The duties of the Secretary under subsection (a) are—

(1) to evaluate the increased use by civilian executive agencies of techniques and tools to enhance the security of Federal critical information systems, including, as appropriate, consideration of cryptography;

(2) to provide assistance to civilian executive agencies in protecting the security of Federal critical

information systems, including identification of significant risks to such systems; and

(3) to coordinate research and development for critical information systems relating to supervisory control and data acquisition systems, including, as appropriate, the establishment of a test bed.

(c) FEDERAL INFORMATION SYSTEM SECURITY TEAM.—

(1) IN GENERAL.—In carrying out subsection (b)(2), the Secretary shall establish, manage, and support a Federal information system security team whose purpose is to provide technical expertise to civilian executive agencies to assist such agencies in securing Federal critical information systems by conducting information security audits of such systems, including conducting tests of the effectiveness of information security control techniques and performing logical access control tests of interconnected computer systems and networks, and related vulnerability assessment techniques.

(2) TEAM MEMBERS.—The Secretary shall ensure that the team under paragraph (1) includes technical experts and auditors, computer scientists, and computer forensics analysts whose technical

competence enables the team to conduct audits under such paragraph.

(3) AGENCY AGREEMENTS REGARDING AUDITS.—Each civilian executive agency may enter into an agreement with the team under paragraph (1) for the conduct of audits under such paragraph of the Federal critical information systems of the agency. Such agreement shall establish the terms of the audit and shall include provisions to minimize the extent to which the audit disrupts the operations of the agency.

(4) REPORTS.—Promptly after completing an audit under paragraph (1) of a civilian executive agency, the team under such paragraph shall prepare a report summarizing the findings of the audit and making recommendations for corrective action. Such report shall be submitted to the Secretary, the head of such agency, and the Inspector General of the agency (if any), and upon request of any congressional committee with jurisdiction over such agency, to such committee.

(d) DEFINITION.—For purposes of this section, the term ''Federal critical information system'' means an ''information system'' as defined in section 3502 of title 44, United States Code, that—

(1) is, or is a component of, a key resource or critical infrastructure;

(2) is used or operated by a civilian executive agency or by a contractor of such an agency; and

(3) does not include any national security system as defined in section 5142 of the Clinger-Cohen Act of 1996.

Subtitle B—Intelligence Analysis Center

SEC. 211. INTELLIGENCE ANALYSIS CENTER

(a) ESTABLISHMENT; NFIP AGENCY.—(1) There is established within the Department the Intelligence Analysis Center. The Under Secretary for Information Analysis and Infrastructure Protection shall be the head of the Intelligence Analysis Center.

(2) The Intelligence Analysis Center is a program of the intelligence community for purposes of the National Foreign Intelligence Program (as defined in section 3(6) of the National Security Act of 1947 (50 U.S.C. 401a(6))).

(b) FUNCTIONS.—The Under Secretary for Information Analysis and Infrastructure Protection, through the Intelligence Analysis Center, shall carry out the duties specified in paragraphs (1), (2), (3), (6), and (7) of section 201(b).

(c) DETAIL OF CERTAIN PERSONNEL.—

(1) IN GENERAL.—The Secretary and the Director of Central Intelligence, the Secretary of Defense, the Attorney General, the Secretary of State, or the head of another agency or department as the case may be, shall enter into cooperative arrangements to provide for an appropriate number of individuals to be detailed to the Under Secretary to perform analytical functions and duties with respect to the mission of the Department from the following agencies:

(A) The Central Intelligence Agency.

(B) The Federal Bureau of Investigation.

(C) The National Security Agency.

(D) The National Imagery and Mapping Agency.

(E) The Department of State.

(F) The Defense Intelligence Agency.

(G) Any other agency or department that the President determines appropriate.

(2) TERMS OF DETAIL.—Any officer or employee of the United States or a member of the Armed Forces who is detailed to the Under Secretary under paragraph (1) shall be detailed on a reimbursable basis for a period of less than two years

for the performance of temporary functions as required by the Under Secretary.

(d) INCLUSION OF OFFICE OF INTELLIGENCE AS AN ELEMENT OF THE INTELLIGENCE COMMUNITY.—Section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) is amended—

(1) by striking ''and'' at the end of subparagraph (I);

(2) by redesignating subparagraph (J) as subparagraph (K); and

(3) by inserting after subparagraph (I) the following new subparagraph:

''(J) the Intelligence Analysis Center of the Department of Homeland Security; and''.

SEC. 212. MISSION OF THE INTELLIGENCE ANALYSIS CENTER.

(a) IN GENERAL.—The mission of the Intelligence Analysis Center is as follows:

(1) ANALYSIS AND PRODUCTION.—

(A) Correlating and evaluating information and intelligence related to the mission of the Department collected from all sources available.

(B) Producing all-source collaborative intelligence analysis, warnings, tactical assessments, and strategic assessments of the ter-

rorist threat and infrastructure vulnerabilities of the United States.

(C) Providing approporiate dissemination of such assessments.

(D) Improving the lines of communication with respect to homeland security between the Federal Government and State and local public safety agencies and the private sector through the timely dissemination of information pertaining to threats of acts of terrorism against the United States.

(2) COORDINATION OF INFORMATION.—Coordinating with elements of the intelligence community and with Federal, State, and local law enforcement agencies, and the private sector as appropriate.

(3) ADDITIONAL DUTIES.—Performing such other functions as the Secretary may direct.

(b) STRATEGIC AND TACTICAL MISSIONS OF THE INTELLIGENCE ANALYSIS CENTER.—The Under Secretary shall conduct strategic and tactical assessments and warnings through the Intelligence Analysis Center, including research, analysis, and the production of assessments on the following as they relate to the mission of the Department:

(1) Domestic terrorism.

(2) International terrorism.

(3) Counterintelligence.

(4) Transnational crime.

(5) Proliferation of weapons of mass destruction.

(6) Illicit financing of terrorist activities.

(7) Cybersecurity and cybercrime.

(8) Key resources and critical infrastructures.

(c) STAFFING OF THE INTELLIGENCE ANALYSIS CENTER.—

(1) FUNCTIONS TRANSFERRED.—In accordance with title VIII, for purposes of carrying out this title, there is transferred to the Under Secretary the functions, personnel, assets, and liabilities of the following entities:

(A) The National Infrastructure Protection Center of the Federal Bureau of Investigation (other than the Computer Investigations and Operations Section).

(B) The Critical Infrastructure Assurance Office of the Department of Commerce.

(C) The Computer Security Division of the National Institute of Standards and Technology.

(D) The Federal Computer Incident Response Center of the General Services Administration.

(E) The National Infrastructure Simulation and Analysis Center of the Department of Energy.

(F) The National Communications System of the Department of Defense.

(G) The intelligence element of the Coast Guard.

(H) The intelligence element of the United States Customs Service.

(I) The intelligence element of the Immigration and Naturalization Service.

(J) The intelligence element of the Transportation Security Administration.

(K) The intelligence element of the Federal Protective Service.

(L) The El Paso Intelligence Center of the Drug Enforcement Administration.

(2) STRUCTURE.—It is the sense of Congress that the Under Secretary should model the Intelligence Analysis Center on the technical, analytic approach of the Information Dominance Center of the

Department of the Army to the maximum extent feasible and appropriate.

TITLE III—UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY

SEC. 301. UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY.

The Secretary, acting through the Under Secretary for Science and Technology, shall have responsibility for—

(1) establishing and administering the primary research and development activities of the Department, including the long-term research and development needs and capabilities for all elements of the Department;

(2) conducting basic and applied research, development, demonstration, testing, and evaluation activities that are relevant to any or all elements of the Department, through both intramural and extramural programs; provided that such responsibility does not extend to human health-related research and development activities;

(3) coordinating and integrating all research, development, demonstration, testing, and evaluation activities of the Department;

(4) coordinating with other appropriate executive agencies in developing and carrying out the science and technology agenda of the Department to reduce duplication and identify unmet needs;

(5) in consultation with other appropriate executive agencies, developing a national policy and strategic plan for, identifying priorities for, and coordinating the Federal Government's civilian efforts to identify and develop countermeasures to chemical, biological, radiological, nuclear, andother emerging terrorist threats;

(6) establishing Federal priorities for research, development, demonstration, testing, and, as appropriate, procurement and transitional operation of technology and systems—

(A) for preventing the importation of chemical, biological, radiological, and nuclear weapons and related materials;

(B) for detecting, preventing, and protecting against terrorist attacks that involve such weapons or related materials; and

(C) for interoperability of communications systems for emergency response providers;

(7) ensuring that the research, development, demonstration, testing, and evaluation activities of

the Department are aligned with the Department's procurement needs;

(8) facilitating the deployment of technology that will serve to enhance homeland security, including through the establishment of a centralized Federal repository for information relating to technologies described in subparagraphs (A), (B), and (C) of paragraph (6) for dissemination to Federal, State, and local government and private sector entities, and for information for persons seeking guidance on how to pursue proposals to develop or deploy technologies that would contribute to homeland security;

(9) providing guidance, recommendations, and technical assistance as appropriate to assist Federal, State, and local government and private sector efforts to evaluate and implement the use of technologies described in subparagraphs (A), (B), and (C) of paragraph (6); and

(10) developing and overseeing the administration of guidelines for merit review of research and development projects throughout the Department, and for the dissemination of research conducted or sponsored by the Department.

SEC. 302. FUNCTIONS TRANSFERRED.

In accordance with Title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the following:

(1) The program under section 351A of the Public Health Service Act, and functions thereof, including the functions of the Secretary of Health and Human Services relating thereto, subject to the amendments made by section 906(3), except that such transfer shall not occur unless the program under section 212 of the Agricultural Bioterrorism Protection Act of 2002 (subtitle B of title II of Public Law 107–188), and functions thereof, including the functions of the Secretary of Agriculture relating thereto, subject to the amendments made by section 907, is transferred to the Department.

(2) Programs and activities of the Department of Energy, including the functions of the Secretary of Energy relating thereto (but not including programs and activities relating to the strategic nuclear defense posture of the United States), as follows:

(A) the programs and activities relating to chemical and biological national security, and supporting programs and activities directly related to homeland security, of the non-prolifera-

tion and verification research and development program;

(B) the programs and activities relating to nuclear smuggling, and other programs and activities directly related to homeland security, within the proliferation detection program of the non-proliferation and verification research and development program;

(C) those aspects of the nuclear assessment program and activities of the assessment, detection, and cooperation program of the international materials protection and cooperation program that are directly related to homeland security;

(D) such life sciences activities of the biological and environmental research program related to microbial pathogens as may be designated by the President for transfer to the Department and that are directly related to homeland security;

(E) the Environmental Measurements Laboratory; and

(F) the advanced scientific computing research program and activities at Lawrence Livermore National Laboratory; and

(3) the homeland security projects within the Chemical Biological Defense Program of the Department of Defense known as the Biological Defense Homeland Security Support Program and the Biological Counter-Terrorism Research Program.

SEC. 303. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES.

With respect to civilian human health-related research and development activities relating to countermeasures for chemical, biological, radiological, and nuclear and other emerging terrorist threats carried out by the Department of Health and Human Services (including the Public Health Service), the Secretary of Health and Human Services shall set priorities for such activities in collaboration with the Secretary of the Department of Homeland Security.

SEC. 304. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER.

The Secretary, acting through the Under Secretary for Science and Technology, shall have the authority to establish or contract with one or more federally funded research and development centers to provide independent analysis of homeland security issues, or to carry out other responsibilities under this Act.

SEC. 305. MISCELLANEOUS PROVISIONS.

(a) CLASSIFICATION.—To the greatest extent practicable, research conducted or supported by the Department shall be unclassified.

(b) CONSTRUCTION.—Nothing in this title shall be construed to preclude any Under Secretary of the Department from carrying out research, development, demonstration, or deployment activities, as long as such activities are coordinated through the Under Secretary for Science and Technology.

(c) REGULATIONS.—The Secretary, acting through the Under Secretary for Science and Technology, may issue necessary regulations with respect to research, development, demonstration, testing, and evaluation activities of the Department, including the conducting, funding, and reviewing of such activities.

(d) NOTIFICATION OF PRESIDENTIAL LIFE SCIENCES DESIGNATIONS.—Not later than 60 days before effecting any transfer of Department of Energy life sciences activities pursuant to section 302(2)(D) of this Act, the President shall notify the Congress of the proposed transfer and shall include the reasons for the transfer and a description of the effect of the transfer on the activities of the Department of Energy.

SEC. 306. HOMELAND SECURITY SCIENCE AND TECHNOLOGY COORDINATION COUNCIL.

(a) ESTABLISHMENT AND COMPOSITION.—There is established within the Department a Homeland Security Science and Technology Coordination Council (in this section referred to as the ''Coordination Council''). The Coordination Council shall be composed of all the Under Secretaries of the Department and any other Department officials designated by the Secretary, and shall be chaired by the Undersecretary for Science and Technology. The Coordination Council shall meet at the call of the chair.

(b) RESPONSIBILITIES.—The Coordination Council shall—

(1) establish priorities for research, development, demonstration, testing, and evaluation activities conducted or supported by the Department;

(2) ensure that the priorities established under paragraph (1) reflect the acquisition needs of the Department; and

(3) assist the Under Secretary for Science and Technology in carrying out his responsibilities under section 301(3).

SEC. 307. CONDUCT OF RESEARCH, DEVELOPMENT, DEMONSTRATION, TESTING AND EVALUATION.

(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Science and Technology, shall carry

out the responsibilities under section 301(2) through both extramural and intramural programs.

(b) EXTRAMURAL PROGRAMS.—(1) The Secretary, acting through the Under Secretary for Science and Technology, shall operate extramural research, development, demonstration, testing, and evaluation programs so as to—

(A) ensure that colleges, universities, private research institutes and companies (and consortia thereof) from as many areas of the United States as practicable participate; and

(B) distribute funds through grants, cooperative agreements and contracts through competitions that are as open as possible.

(2) In carrying out the duties under section 301, the Secretary, acting through the Under Secretary for Science and Technology, may establish university centers of excellence to perform research in support of the mission of the Department. Such centers may be consortia, which may include one or more colleges or universities, private research institutes, or companies.

(c) INTRAMURAL PROGRAMS.—(1) In carrying out the duties under section 301, the Secretary, acting through the Under Secretary for Science and Technology, may draw upon the expertise of any laboratory of the Fed-

eral government, whether operated by a contractor or the Government.

(2) The Secretary, acting through the Under Secretary for Science ant Technology, may establish a headquarters laboratory for the Department at any national laboratory and may establish additional laboratory units at other national laboratories.

(3) If the Secretary chooses to establish a headquarters laboratory pursuant to paragraph (2), then the Secretary shall do the following:

(A) Establish criteria for the selection of the headquarters laboratory in consultation with the National Academy of Sciences, appropriate Federal agencies, and other experts.

(B) Publish the criteria in the Federal Register.

(C) Evaluate all appropriate national laboratories against the criteria.

(D) Select a national laboratory on the basis of the criteria.

(E) Report to the appropriate committees of the Congress on which laboratory was selected, how the selected laboratory meets the published criteria, and what duties the headquarters laboratory shall perform.

(4) No laboratory shall begin operating as the headquarters laboratory of the Department until at least 30 days after the transmittal of the report required by paragraph (3)(E).

SEC. 308. TRANSFER OF PLUM ISLAND ANIMAL DISEASE CENTER, DEPARTMENT OF AGRICULTURE.

(a) TRANSFER REQUIRED.—In accordance with title VIII, the Secretary of Agriculture shall transfer to the Secretary of Homeland Security the Plum Island Animal Disease Center of the Department of Agriculture, including the assets and liabilities of the Center.

(b) CONTINUED DEPARTMENT OF AGRICULTURE ACCESS.—Upon the transfer of the Plum Island Animal Disease Center, the Secretary of Homeland Security and the Secretary of Agriculture shall enter into an agreement to ensure Department of Agriculture access to the center for research, diagnostic, and other activities of the Department of Agriculture.

TITLE IV—BORDER AND TRANSPORTATION SECURITY

Subtitle A—General Provisions

SEC. 401. UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY.

The Secretary, acting through the Under Secretary for Border and Transportation Security, shall be responsible for the following:

(1) Preventing the entry of terrorists and the instruments of terrorism into the United States.

(2) Securing the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States, including managing and coordinating governmental activities at ports of entry.

(3) Carrying out the immigration enforcement functions vested by statute in, or performed by, the Commissioner of Immigration and Naturalization (or any officer, employee, or component of the Immigration and Naturalization Service) immediately before the date on which the transfer of functions specified under section 411 takes effect.

(4) Establishing and administering rules, in accordance with section 403, governing the granting of visas or other forms of permission, including parole,

to enter the United States to individuals who are not a citizen or an alien lawfully admitted for permanent residence in the United States.

(5) Except as provided in subtitle C, administering the customs laws of the United States.

(6) Conducting the inspection and related administrative functions of the Department of Agriculture transferred to the Secretary of Homeland Security under section 404.

(7) In carrying out the foregoing responsibilities, ensuring the speedy, orderly, and efficient flow of lawful traffic and commerce.

SEC. 402. FUNCTIONS TRANSFERRED.

In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and obligations of the following:

(1) The United States Customs Service, except as provided in subtitle C.

(2) The Coast Guard of the Department of Transportation, which shall be maintained as a distinct entity within the Department, including the functions of the Secretary of Transportation relating thereto.

(3) The Transportation Security Administration of the Department of Transportation, including the

functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto.

(4) The Federal Protective Service of the General Services Administration, including the functions of the Administrator of General Services relating thereto.

(5) The Office of National Preparedness of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto.

(6) The Office for Domestic Preparedness of the Office of Justice Program of the Department of Justice, including the functions of the Attorney General relating thereto.

(7) The National Domestic Preparedness Office of the Federal Bureau of Investigation, including the functions of the Attorney General relating thereto.'

SEC. 403. VISA ISSUANCE.

(a) IN GENERAL.—Notwithstanding section 104(a) of the Immigration and Nationality Act (8 U.S.C. 1104(a)) or any other provision of law, and except as provided in subsection (b) of this section, the Secretary—

(1) shall be vested exclusively with all authorities to issue regulations with respect to, administer,

and enforce the provisions of such Act, and of all other immigration and nationality laws, relating to the functions of consular officers of the United States in connection with the granting or refusal of visas, and shall have the authority to refuse visas in accordance with law and to develop programs of homeland security training for consular officers (in addition to consular training provided by the Secretary of State), which authorities shall be exercised through the Secretary of State, except that the Secretary shall not have authority to alter or reverse the decision of a consular officer to refuse a visa to an alien; and

(2) shall have authority to confer or impose upon any officer or employee of the United States, with the consent of the head of the executive agency under whose jurisdiction such officer or employee is serving, any of the functions specified in paragraph (1).

(b) AUTHORITY OF THE SECRETARY OF STATE.—

(1) IN GENERAL.—Notwithstanding subsection (a), the Secretary of State may direct a consular officer to refuse a visa to an alien if the Secretary of State deems such refusal necessary or advisable in

the foreign policy or security interests of the United States.

(2) CONSTRUCTION REGARDING AUTHORITY.—Nothing in this section shall be construed as affecting the authorities of the Secretary of State under the following provisions of law:

(A) Section 101(a)(15)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(A)).

(B) Section 204(d)(2) of the Immigration and Nationality Act (8 U.S.C. 1154) (as it will take effect upon the entry into force of the Convention on Protection of Children and Cooperation in Respect to Inter-Country Adoption).

(C) Section 212(a)(3)(B)(vi)(II) of the Immigration and Nationality Act.

(D) Section 212(a)(3)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(C)).

(E) Section 212(a)(10)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(C)).

(F) Section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)).

(G) Section 237(a)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(C)).

(H) Section 401 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6034; Public Law 104–114).

(I) Section 613 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999 (as contained in section 101(b) of division A of Public Law 105–277) (Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; 112 Stat. 2681; H.R. 4328 (originally H.R. 4276) as amended by section 617 of Public Law 106–553).

(J) Section 801 of H.R. 3427, the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, as enacted by reference in Public Law 106–113.

(K) Section 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115).

(3) CONSTRUCTION REGARDING DELEGATION OF AUTHORITY.—Nothing in this section shall be

construed to affect any delegation of authority to the Secretary of State by the President pursuant to any proclamation issued under section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)).

(c) ASSIGNMENT OF HOMELAND SECURITY EMPLOYEES TO DIPLOMATIC AND CONSULAR POSTS.—

(1) IN GENERAL.—The Secretary is authorized to assign employees of the Department of Homeland Security to any diplomatic and consular posts abroad to perform the following functions:

(A) Provide expert advice and training to consular officers regarding specific security threats relating to individual visa applications or classes of applications.

(B) Review any or all such applications prior to their adjudication, either on the initiative of the employee of the Department of Homeland Security or upon request by a consular officer or other person charged with adjudicating such applications.

(C) Conduct investigations with respect to matters under the jurisdiction of the Secretary.

(2) PERMANENT ASSIGNMENT; PARTICIPATION IN TERRORIST LOOKOUT COMMITTEE.—When appropriate, employees of the Department of Homeland

Security assigned to perform functions described in paragraph (1) may be assigned permanently to overseas diplomatic or consular posts with country-specific or regional responsibility. If the Secretary so directs, any such employee, when present at an overseas post, shall participate in the terrorist lookout committee established under section 304 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1733).

(3) TRAINING AND HIRING.—

(A) The Secretary shall ensure that any employees of the Department of Homeland Security assigned to perform functions described in paragraph (1) shall be provided all necessary training to enable them to carry out such functions, including training in foreign languages, interview techniques, fraud detection techniques, and other skills required by such employees, in conditions in the particular country where each employee is assigned, and in other appropriate areas of study.

(B) The Secretary shall promulgate regulations within 60 days of the enactment of this Act establishing foreign language proficiency requirements for employees of the Department

performing the functions described in paragraph (1) and providing that preference shall be given to individuals who meet such requirements in hiring employees for the performance of such functions.

(C) The Secretary is authorized to use the National Foreign Affairs Training Center, on a reimbursable basis, to obtain the training described in subparagraph (A).

(d) NO CREATION OF PRIVATE RIGHT OF ACTION.—Nothing in this section shall be construed to create or authorize a private right of action to challenge a decision of a consular officer or other United States official or employee to grant or deny a visa.

(e) STUDY REGARDING USE OF FOREIGN NATIONALS.—

(1) IN GENERAL.—The Secretary of Homeland Security shall conduct a study of the role of foreign nationals in the granting or refusal of visas and other documents authorizing entry of aliens into the United States. The study shall address the following:

(A) The proper role, if any, of foreign nationals in the process of rendering decisions on such grants and refusals.

REV_00148616

(B) Any security concerns involving the employment of foreign nationals.

(C) Whether there are cost-effective alternatives to the use of foreign nationals.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report containing the findings of the study conducted under paragraph (1) to the Committee on the Judiciary, the Committee on International Relations, and the Committee on Government Reform of the House of Representatives, and the Committee on the Judiciary, the Committee on Foreign Relations, and the Committee on Government Affairs of the Senate.

(f) VISA ISSUANCE PROGRAM FOR SAUDI ARABIA.—Notwithstanding any other provision of law, after the date of the enactment of this Act all third party screening, interview waiver, or other non-interview visa issuance programs in Saudi Arabia shall be terminated. On-site personnel of the Department of Homeland Security shall review all visa applications prior to adjudication. All visa applicants in Saudi Arabia shall be interviewed unless on-site personnel of the Department of Homeland Security determine, in writing and pursuant to written guidelines issued by the Secretary of Homeland Security, that the

alien is unlikely to present a risk to homeland security. The Secretary of Homeland Security shall promulgate such guidelines not later than 30 days after the date of the enactment of this Act.

SEC. 404. TRANSFER OF CERTAIN AGRICULTURAL INSPECTION FUNCTIONS OF THE DEPARTMENT OF AGRICULTURE.

(a) TRANSFER OF AGRICULTURAL IMPORT AND ENTRY INSPECTION FUNCTIONS.—There shall be transferred to the Secretary of Homeland Security the functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under the laws specified in subsection (b).

(b) COVERED ANIMAL AND PLANT PROTECTION LAWS.—The laws referred to in subsection (a) are the following:

(1) The Act commonly known as the Virus-Serum-Toxin Act (the eighth paragraph under the heading ''Bureau of Animal Industry'' in the Act of March 4, 1913; 21 U.S.C. 151 et seq.).

(2) Section 1 of the Act of August 31, 1922 (commonly known as the Honeybee Act; 7 U.S.C. 281).

(3) Title III of the Federal Seed Act (7 U.S.C. 1581 et seq.).

(4) The Plant Protection Act (7 U.S.C. 7701 et seq.).

(5) The Animal Protection Act (subtitle E of title X of Public Law 107–171; 7 U.S.C. 8301 et seq.).

(6) The Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.).

(7) Section 11 of the Endangered Species Act of 1973 (16 U.S.C. 1540).

(c) EXCLUSION OF QUARANTINE ACTIVITIES.—For purposes of this section, the term ''functions'' does not include any quarantine activities carried out under the laws specified in subsection (b).

(d) EFFECT OF TRANSFER.—

(1) COMPLIANCE WITH DEPARTMENT OF AGRICULTURE REGULATIONS.—The authority transferred pursuant to subsection (a) shall be exercised by the Secretary of Homeland Security in accordance with the regulations, policies, and procedures issued by the Secretary of Agriculture regarding the administration of the laws specified in subsection (b).

(2) RULEMAKING COORDINATION.—The Secretary of Agriculture shall coordinate with the Secretary of Homeland Security whenever the Secretary of Agriculture prescribes regulations, policies, or

procedures for administering the laws specified in subsection (b) at the locations referred to in subsection (a).

(3) EFFECTIVE ADMINISTRATION.—The Secretary of Homeland Security, in consultation with the Secretary of Agriculture, may issue such directives and guidelines as are necessary to ensure the effective use of personnel of the Department of Homeland Security to carry out the functions transferred pursuant to subsection (a).

(e) TRANSFER AGREEMENT.—

(1) AGREEMENT REQUIRED; REVISION.—Before the end of the transition period, as defined in section 801(2), the Secretary of Agriculture and the Secretary of Homeland Security shall enter into an agreement to effectuate the transfer of functions required by subsection (a). The Secretary of Agriculture and the Secretary of Homeland Security may jointly revise the agreement as necessary thereafter.

(2) REQUIRED TERMS.—The agreement required by this subsection shall specifically address the following:

(A) The supervision by the Secretary of Agriculture of the training of employees of the Secretary of Homeland Security to carry out

the functions transferred pursuant to subsection (a).

(B) The transfer of funds to the Secretary of Homeland Security under subsection (f).

(3) COOPERATION AND RECIPROCITY.—The Secretary of Agriculture and the Secretary of Homeland Security may include as part of the agreement the following:

(A) Authority for the Secretary of Homeland Security to perform functions delegated to the Animal and Plant Health Inspection Service of the Department of Agriculture regarding the protection of domestic livestock and plants, but not transferred to the Secretary of Homeland Security pursuant to subsection (a).

(B) Authority for the Secretary of Agriculture to use employees of the Department of Homeland Security to carry out authorities delegated to the Animal and Plant Health Inspection Service regarding the protection of domestic livestock and plants.

(f) PERIODIC TRANSFER OF FUNDS TO DEPARTMENT OF HOMELAND SECURITY.—

(1) TRANSFER OF FUNDS.—Out of funds collected by fees authorized under sections 2508 and

2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136, 136a), the Secretary of Agriculture shall transfer, from time to time in accordance with the agreement under subsection (e), to the Secretary of Homeland Security funds for activities carried out by the Secretary of Homeland Security for which such fees were collected.

(2) LIMITATION.—The proportion of fees collected pursuant to such sections that are transferred to the Secretary of Homeland Security under this subsection may not exceed the proportion of the costs incurred by the Secretary of Homeland Security to all costs incurred to carry out activities funded by such fees.

(g) TRANSFER OF DEPARTMENT OF AGRICULTURE EMPLOYEES.—During the transition period, the Secretary of Agriculture shall transfer to the Secretary of Homeland Security not more than 3,200 full-time equivalent positions of the Department of Agriculture.

(h) PROTECTION OF INSPECTION ANIMALS.—Title V of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 2279e, 2279f) is amended—

(1) in section 501(a)—

(A) by inserting ''or the Department of Homeland Security'' after ''Department of Agriculture''; and

(B) by inserting ''or the Secretary of Homeland Security'' after ''Secretary of Agriculture'';

(2) by striking ''Secretary'' each place it appears (other than in sections 501(a) and 501(e)) and inserting ''Secretary concerned''; and

(3) by adding at the end of section 501 the following new subsection:

''(e) SECRETARY CONCERNED DEFINED.—In this title, the term 'Secretary concerned' means—

''(1) the Secretary of Agriculture, with respect to an animal used for purposes of official inspections by the Department of Agriculture; and

''(2) the Secretary of Homeland Security, with respect to an animal used for purposes of official inspections by the Department of Homeland Security.''.

SEC. 405. FUNCTIONS OF ADMINISTRATOR OF GENERAL SERVICES.

(a) OPERATION, MAINTENANCE, AND PROTECTION OF FEDERAL BUILDINGS AND GROUNDS.—Nothing in this Act may be construed to affect the functions or au-

thorities of the Administrator of General Services with respect to the operation, maintenance, and protection of buildings and grounds owned or occupied by the Federal Government and under the jurisdiction, custody, or control of the Administrator. Except for the law enforcement and related security functions transferred under section 402(4), the Administrator shall retain all powers, functions, and authorities vested in the Administrator under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) and other provisions of law that are necessary for the operation, maintenance, and protection of such buildings and grounds.

(b) COLLECTION OF RENTS AND FEES; FEDERAL BUILDINGS FUND.—

(1) STATUTORY CONSTRUCTION.—Nothing in this Act may be construed—

(A) to direct the transfer of, or affect, the authority of the Administrator of General Services to collect, rents and fees, including fees collected for protective services; or

(B) to authorize the Secretary or any other official in the Department to obligate amounts in the Federal Buildings Fund established by section 210(f) of the Federal Property and Ad-

ministrative Services Act of 1949 (40 U.S.C. 490(f)).

(2) USE OF TRANSFERRED AMOUNTS.—Any amounts transferred by the Administrator of General Services to the Secretary out of rents and fees collected by the Administrator shall be used by the Secretary solely for the protection of buildings or grounds owned or occupied by the Federal Government.

SEC. 406. FUNCTIONS OF TRANSPORTATION SECURITY ADMINISTRATION.

(a) CONSULTATION WITH FEDERAL AVIATION ADMINISTRATION.—The Secretary and other officials in the Department shall consult with the Administrator of the Federal Aviation Administration before taking any action that might affect aviation safety, air carrier operations, aircraft airworthiness, or the use of airspace. The Secretary shall establish a liaison office within the Department for the purpose of consulting with the Administrator of the Federal Aviation Administration.

(b) REPORT TO CONGRESS.—Not later than 60 days after the date of enactment of this Act, the Secretary of Transportation shall transmit to Congress a report containing a plan for complying with the requirements of section 44901(d) of title 49, United States Code.

(c) LIMITATIONS ON STATUTORY CONSTRUCTION.—

(1) GRANT OF AUTHORITY.—Nothing in this Act may be construed to vest in the Secretary or any other official in the Department any authority over transportation security that is not vested in the Under Secretary of Transportation for Security, or in the Secretary of Transportation under chapter 449 of title 49, United States Code, on the day before the date of enactment of this Act.

(2) OBLIGATION OF AIP FUNDS.—Nothing in this Act may be construed to authorize the Secretary or any other official in the Department to obligate amounts made available under section 48103 of title 49, United States Code.

SEC. 407. PRESERVATION OF TRANSPORTATION SECURITY ADMINISTRATION AS A DISTINCT ENTITY.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, and subject to subsection (b), the Transportation Security Admnistration shall be maintained as a distinct entity within the Department under the Under Secretary for Border Transportation and Security.

(b) SUNSET.—Subsection (a) shall cease to apply two years after the date of enactment of this Act.

SEC. 408. ANNUAL ASSESSMENT OF TERRORIST-RELATED THREATS TO PUBLIC TRANSPORTATION.

On an annual basis, the Secretary, in consultation with the heads of other appropriate Federal departments and agencies, shall conduct an assessment of terrorist-related threats to all forms of public transportation, including public gathering areas related to public transportation.

SEC. 409. EXPLOSIVE DETECTION SYSTEMS; MINIMUM NUMBER OF SCREENERS.

(a) INSTALLATION OF SYSTEMS.—Section 44901(d) of title 49, United States Code, is amended by adding at the end the following:

"(2) MODIFICATION OF AIRPORT TERMINAL BUILDINGS TO ACCOMMODATE EXPLOSIVE DETECTION SYSTEMS.—

"(A) NOTIFICATION OF AIRPORTS.—Not later than October 1, 2002, the Under Secretary shall notify the owner or operator of each United States airport described in section 44903(c) of the number and type of explosive detection systems that will be required to be deployed at the airport in order to screen all checked baggage by explosive detection systems without imposing unreasonable delays on the passengers using the airport.

"(B) ASSESSMENTS OF AIRPORT TERMINAL BUILDINGS.—If the owner or operator of a United States airport described in section 44903(c) determines that the airport will not be able to make the modifications to the airport's terminal buildings that are necessary to accommodate the explosive detection systems required under subparagraph (A) in a cost-effective manner on or before December 31, 2002, the owner or operator shall provide notice of that determination to the Under Secretary not later than November 1, 2002.

"(C) PLANS FOR MAKING MODIFICATIONS TO AIRPORT TERMINAL BUILDINGS.—

"(i) IN GENERAL.—If the owner or operator of an airport provides notice to the Under Secretary under subparagraph (B), the Under Secretary and the owner or operator, acting jointly, shall develop, not later than December 1, 2002, a plan for making necessary modifications to the airport's terminal buildings so as to deploy and fully utilize explosive detection systems to screen all checked baggage.

"(ii) DEADLINE.—A plan developed under this subparagraph shall include a date for completing the plan. All such plans shall be completed as expeditiously as practicable.

"(iii) TRANSMISSION OF PLANS TO CONGRESS.—On the date of completion of a plan under this subparagraph, the Under Secretary shall transmit a copy of the plan to Congress. For security purposes, information contained in the plan shall not be disclosed to the public.

"(D) REQUIREMENTS FOR PLANS.—A plan developed and published under subparagraph (C), shall provide for, to the maximum extent practicable—

"(i) the deployment of explosive detection systems in the baggage sorting area or other non-public area rather than the lobby of an airport terminal building; and

"(ii) the deployment of state of the art explosive detection systems that have high throughput, low false alarm rates, and high reliability without reducing detection rates.

"(E) USE OF SCREENING METHODS OTHER THAN EDS.—Notwithstanding the deadline in paragraph (1)(A), after December 31, 2002, if explosive detection systems are not screening all checked baggage at a United States airport described in section 44903(c), such baggage shall be screened by the methods described in subsection (e) until such time as all checked baggage is screened by explosive detection systems at the airport.

"(3) PURCHASE OF EXPLOSIVE DETECTION SYSTEMS.—Any explosive detection system required to be purchased under paragraph (2)(A) shall be purchased by the Under Secretary.

"(4) EXPLOSIVE DETECTION SYSTEM DEFINED.—In this subsection, the term 'explosive detection system' means a device, or combination of devices, that can detect different types of explosives.".

(b) NEW AVIATION SECURITY TECHNOLOGIES.—

(1) REPORT TO CONGRESS.—Not later than January 31, 2003, the Under Secretary shall transmit to Congress a report on the plans of the Under Secretary for implementation of new aviation security technologies.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the Under Secretary should expand testing of new aviation security technologies by increasing the number of airports at which such testing is conducted.

(c) CORRECTION OF REFERENCE.—Section 44901(e) of title 49, United States Code, is amended by striking "(b)(1)(A)" and inserting "(d)(1)(A)".

(d) MINIMUM NUMBER OF SCREENERS.—Section 110(c) of the Aviation and Transportation Security Act (115 Stat. 616) is amended by adding at the end the following:

"(3) MINIMUM NUMBER OF SCREENERS.—

"(A) IN GENERAL.—After November 19, 2002, the number of screeners deployed at an airport described in paragraph (1) shall not be less than the total number of screeners deployed at that airport on September 11, 2001, or on the date of enactment of this paragraph, whichever is greater.

"(B) ACTION OF UNDER SECRETARY.—If on November 20, 2002, the number of Federal employees screening passengers and carry-on baggage at an airport described in paragraph

(1) is less than the number required by this paragraph, the Under Secretary shall—

"(i) continue to contract with private screening companies to supplement the Federal screeners at that airport in order to comply with this paragraph; or

"(ii) not later December 20, 2002, publish a notice in the Federal Register certifying that the fewer number of Federal screeners will not result in additional or unreasonable delays for passengers at that airport.".

SEC. 410. TRANSPORTATION SECURITY.

(a) TRANSPORTATION SECURITY OVERSIGHT BOARD.—

(1) ESTABLISHMENT.—Section 115(a) of title 49, United States Code, is amended by striking "Department of Transportation" and inserting "Department of Homeland Security".

(2) MEMBERSHIP.—Section 115(b)(1) of title 49, United States Code, is amended—

(A) by striking subparagraph (G);

(B) by redesignating subparagraphs (A) through (F) as subparagraphs (B) through (G), respectively; and

(C) by inserting before subparagraph (B) (as so redesignated) the following:

"(A) The Secretary of Homeland Security, or the Secretary's designee.".

(3) CHAIRPERSON.—Section 115(b)(2) of title 49, United States Code, is amended by striking "Secretary of Transportation" and inserting "Secretary of Homeland Security".

(b) APPROVAL OF AIP GRANT APPLICATIONS FOR SECURITY ACTIVITIES.—Section 47106 of title 49, United States Code, is amended by adding at the end the following:

"(g) CONSULTATION WITH SECRETARY OF HOMELAND SECURITY.—The Secretary shall consult with the Secretary of Homeland Security before approving an application under this subchapter for an airport development project grant for activities described in section 47102(3)(B)(ii) (relating to security equipment) or section 47102(3)(B)(x) (relating to installation of bulk explosive detection systems).".

Subtitle B—Immigration and Nationality Functions

CHAPTER 1—IMMIGRATION ENFORCEMENT

SEC. 411. TRANSFER OF FUNCTIONS TO UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY.

In accordance with title VIII, there shall be transferred from the Commissioner of Immigration and Naturalization to the Under Secretary for Border and Transportation Security all functions performed under the following programs, and all personnel, assets, and liabilities pertaining to such programs, immediately before such transfer occurs:

(1) The Border Patrol program.

(2) The detention and removal program.

(3) The intelligence program.

(4) The investigations program.

(5) The inspections program.

SEC. 412. ESTABLISHMENT OF BUREAU OF IMMIGRATION ENFORCEMENT.

(a) ESTABLISHMENT OF BUREAU.—

(1) IN GENERAL.—There is established in the Department of Homeland Security a bureau to be

known as the "Bureau of Immigration Enforcement".

(2) DIRECTOR.—The head of the Bureau of Immigration Enforcement shall be the Director of the Bureau of Immigration Enforcement, who—

(A) shall report directly to the Under Secretary for Border and Transportation Security; and

(B) shall have a minimum of 10 years professional experience in law enforcement, at least 5 of which shall have been years of service in a managerial capacity.

(3) FUNCTIONS.—The Director of the Bureau of Immigration Enforcement—

(A) shall establish the policies for performing such functions as are—

(i) transferred to the Under Secretary for Border and Transportation Security by section 411 and delegated to the Director by the Under Secretary for Border and Transportation Security; or

(ii) otherwise vested in the Director by law;

(B) shall oversee the administration of such policies; and

(C) shall advise the Under Secretary for Border and Transportation Security with respect to any policy or operation of the Bureau of Immigration Enforcement that may affect the Bureau of Citizenship and Immigration Services of the Department of Justice established under chapter 2, including potentially conflicting policies or operations.

(4) PROGRAM TO COLLECT INFORMATION RELATING TO FOREIGN STUDENTS.—The Director of the Bureau of Immigration Enforcement shall be responsible for administering the program to collect information relating to nonimmigrant foreign students and other exchange program participants described in section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372), including the Student and Exchange Visitor Information System established under that section, and shall use such information to carry out the enforcement functions of the Bureau.

(5) MANAGERIAL ROTATION PROGRAM.—

(A) IN GENERAL.—Not later than 1 year after the date on which the transfer of functions specified under section 411 takes effect, the Director of the Bureau of Immigration En-

forcement shall design and implement a managerial rotation program under which employees of such bureau holding positions involving supervisory or managerial responsibility and classified, in accordance with chapter 51 of title 5, United States Code, as a GS–14 or above, shall, as a condition on further promotion—

(i) gain some experience in all the major functions performed by such bureau; and

(ii) work in at least one local office of such bureau.

(B) REPORT.—Not later than 2 years after the date on which the transfer of functions specified under section 411 takes effect, the Secretary shall submit a report to the Congress on the implementation of such program.

(b) CHIEF OF POLICY AND STRATEGY.—

(1) IN GENERAL.—There shall be a position of Chief of Policy and Strategy for the Bureau of Immigration Enforcement.

(2) FUNCTIONS.—In consultation with Bureau of Immigration Enforcement personnel in local offices, the Chief of Policy and Strategy shall be responsible for—

(A) establishing national immigration enforcement policies and priorities;

(B) performing policy research and analysis on immigration enforcement issues; and

(C) coordinating immigration policy issues with the Chief of Policy and Strategy for the Bureau of Citizenship and Immigration Services of the Department of Justice (established under chapter 2), and the Assistant Attorney General for Citizenship and Immigration Services, as appropriate.

(c) GENERAL COUNSEL.—

(1) IN GENERAL.—There shall be a position of General Counsel for the Bureau of Immigration Enforcement.

(2) FUNCTIONS.—The General Counsel shall serve as the principal legal advisor to the Director of the Bureau of Immigration Enforcement. The General Counsel shall be responsible for—

(A) providing specialized legal advice, opinions, determinations, regulations, and any other assistance to the Director of the Bureau of Immigration Enforcement with respect to legal matters affecting the Bureau of Immigration Enforcement; and

(B) representing the Bureau of Immigration Enforcement in all exclusion, deportation, or removal proceedings before the Executive Office for Immigration Review, including in proceedings to adjudicate relief from exclusion, deportation, or removal, and in other legal or administrative proceedings involving immigration enforcement issues.

(d) CHIEF BUDGET OFFICER.—

(1) IN GENERAL.—There shall be a position of Chief Budget Officer for the Bureau of Immigration Enforcement.

(2) FUNCTIONS.—

(A) IN GENERAL.—The Chief Budget Officer shall be responsible for—

(i) formulating and executing the budget of the Bureau of Immigration Enforcement;

(ii) financial management of the Bureau of Immigration Enforcement; and

(iii) collecting all payments, fines, and other debts for the Bureau of Immigration Enforcement.

(3) AUTHORITY AND FUNCTIONS OF AGENCY CHIEF FINANCIAL OFFICERS.—The Chief Budget

Officer for the Bureau of Immigration Enforcement shall have the authorities and functions described in section 902 of title 31, United States Code, in relation to financial activities of such bureau.

(e) CHIEF OF CONGRESSIONAL, INTERGOVERNMENTAL, AND PUBLIC AFFAIRS.—

(1) IN GENERAL.—There shall be a position of Chief of Congressional, Intergovernmental, and Public Affairs for the Bureau of Immigration Enforcement.

(2) FUNCTIONS.—The Chief of Congressional, Intergovernmental, and Public Affairs shall be responsible for—

(A) providing information relating to immigration enforcement to the Congress, including information on specific cases relating to immigration enforcement;

(B) serving as a liaison with other Federal agencies on immigration enforcement issues; and

(C) responding to inquiries from the media and the general public on immigration enforcement issues.

(f) CITIZENSHIP AND IMMIGRATION SERVICES LIAISON.—

(1) IN GENERAL.—There shall be a position of Citizenship and Immigration Services Liaison for the Bureau of Immigration Enforcement.

(2) FUNCTIONS.—The Citizenship and Immigration Services Liaison shall be responsible for the appropriate allocation and coordination of resources involved in supporting shared support functions for the Bureau of Citizenship and Immigration Services of the Department of Justice (established under chapter 2) and the Bureau of Immigration Enforcement, including—

(A) information resources management, including computer databases and information technology;

(B) records and file management; and

(C) forms management.

SEC. 413. PROFESSIONAL RESPONSIBILITY AND QUALITY REVIEW.

(a) IN GENERAL.—The Under Secretary for Border and Transportation Security shall be responsible for—

(1) conducting investigations of noncriminal allegations of misconduct, corruption, and fraud involving any employee of the Bureau of Immigration Enforcement that are not subject to investigation by the Inspector General for the Department;

(2) inspecting the operations of the Bureau of Immigration Enforcement and providing assessments of the quality of the operations of such bureau as a whole and each of its components; and

(3) providing an analysis of the management of the Bureau of Immigration Enforcement.

(b) SPECIAL CONSIDERATIONS.—In providing assessments in accordance with subsection (a)(2) with respect to a decision of the Bureau of Immigration Enforcement, or any of its components, consideration shall be given to—

(1) the accuracy of the findings of fact and conclusions of law used in rendering the decision;

(2) any fraud or misrepresentation associated with the decision; and

(3) the efficiency with which the decision was rendered.

SEC. 414. EMPLOYEE DISCIPLINE.

The Under Secretary for Border and Transportation Security may, notwithstanding any other provision of law, impose disciplinary action, including termination of employment, pursuant to policies and procedures applicable to employees of the Federal Bureau of Investigation, on any employee of the Bureau of Immigration Enforcement who willfully deceives the Congress or agency leadership on any matter.

SEC. 415. REPORT ON IMPROVING ENFORCEMENT FUNCTIONS.

(a) IN GENERAL.—The Secretary, not later than 1 year after the effective date of this Act, shall submit to the Committees on Appropriations and the Judiciary of the United States House of Representatives and of the Senate a report with a plan detailing how the Bureau of Immigration Enforcement, after the transfer of functions specified under section 411 takes effect, will enforce comprehensively, effectively, and fairly all the enforcement provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) relating to such functions.

(b) CONSULTATION.—In carrying out subsection (a), the Secretary of Homeland Security shall consult with the Attorney General, the Secretary of State, the Assistant Attorney General for Citizenship and Immigration Services, the Director of the Federal Bureau of Investigation, the Secretary of the Treasury, the Secretary of Labor, the Commissioner of Social Security, the Director of the Executive Office for Immigration Review, and the heads of State and local law enforcement agencies to determine how to most effectively conduct enforcement operations.

SEC. 416. REPORT ON INTERIOR CHECKPOINTS.

Not later than 6 months after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report on whether all permanent interior

checkpoints operated by the Immigration and Naturalization Service ought to be closed, and the funds that otherwise would be expended for the operation of such checkpoints ought to be reallocated for protecting and maintaining the integrity of the borders of the United States and increasing enforcement at other points of entry into the United States.

CHAPTER 2—CITIZENSHIP AND IMMIGRATION SERVICES

Subchapter A—Transfers of Functions

SEC. 421. ESTABLISHMENT OF BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES.

(a) ESTABLISHMENT OF BUREAU.—

(1) IN GENERAL.—There is established in the Department of Justice a bureau to be known as the ''Bureau of Citizenship and Immigration Services''.

(2) ASSISTANT ATTORNEY GENERAL.—The head of the Bureau of Citizenship and Immigration Services shall be the Assistant Attorney General for Citizenship and Immigration Services, who—

(A) shall report directly to the Deputy Attorney General; and

(B) shall have a minimum of 10 years professional experience in the rendering of adjudications on the provision of government bene-

fits or services, at least 5 of which shall have been years of service in a managerial capacity or in a position affording comparable management experience.

(3) FUNCTIONS.—The Assistant Attorney General for Citizenship and Immigration Services—

(A) shall establish the policies for performing such functions as are transferred to the Assistant Attorney General by this section or this Act or otherwise vested in the Assistant Attorney General by law;

(B) shall oversee the administration of such policies;

(C) shall advise the Deputy Attorney General with respect to any policy or operation of the Bureau of Citizenship and Immigration Services that may affect the Bureau of Immigration Enforcement of the Department of Homeland Security, including potentially conflicting policies or operations;

(D) shall meet regularly with the Ombudsman described in section 422 to correct serious service problems identified by the Ombudsman; and

(E) shall establish procedures requiring a formal response to any recommendations submitted in the Ombudsman's annual report to the Congress within 3 months after its submission to the Congress.

(4) MANAGERIAL ROTATION PROGRAM.—

(A) IN GENERAL.—Not later than 1 year after the effective date specified in section 427, the Assistant Attorney General for Citizenship and Immigration Services shall design and implement a managerial rotation program under which employees of such bureau holding positions involving supervisory or managerial responsibility and classified, in accordance with chapter 51 of title 5, United States Code, as a GS–14 or above, shall, as a condition on further promotion—

(i) gain some experience in all the major functions performed by such bureau; and

(ii) work in at least one field office and one service center of such bureau.

(B) REPORT.—Not later than 2 years after the effective date specified in section 427, the Attorney General shall submit a report to the

Congress on the implementation of such program.

(5) PILOT INITIATIVES FOR BACKLOG ELIMINATION.—The Assistant Attorney General for Citizenship and Immigration Services is authorized to implement innovative pilot initiatives to eliminate any remaining backlog in the processing of immigration benefit applications, and to prevent any backlog in the processing of such applications from recurring, in accordance with section 204(a) of the Immigration Services and Infrastructure Improvements Act of 2000 (8 U.S.C. 1573(a)). Such initiatives may include measures such as increasing personnel, transferring personnel to focus on areas with the largest potential for backlog, and streamlining paperwork.

(b) TRANSFER OF FUNCTIONS FROM COMMISSIONER.—There are transferred from the Commissioner of Immigration and Naturalization to the Assistant Attorney General for Citizenship and Immigration Services the following functions, and all personnel, infrastructure, and funding provided to the Commissioner in support of such functions immediately before the effective date specified in section 427:

(1) Adjudications of immigrant visa petitions.

(2) Adjudications of naturalization petitions.

(3) Adjudications of asylum and refugee applications.

(4) Adjudications performed at service centers.

(5) All other adjudications performed by the Immigration and Naturalization Service immediately before the effective date specified in section 427.

(c) CHIEF OF POLICY AND STRATEGY.—

(1) IN GENERAL.—There shall be a position of Chief of Policy and Strategy for the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—In consultation with Bureau of Citizenship and Immigration Services personnel in field offices, the Chief of Policy and Strategy shall be responsible for—

(A) establishing national immigration services policies and priorities;

(B) performing policy research and analysis on immigration services issues; and

(C) coordinating immigration policy issues with the Chief of Policy and Strategy for the Bureau of Immigration Enforcement of the Department of Homeland Security.

(d) GENERAL COUNSEL.—

(1) IN GENERAL.—There shall be a position of General Counsel for the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—The General Counsel shall serve as the principal legal advisor to the Assistant Attorney General for Citizenship and Immigration Services. The General Counsel shall be responsible for—

(A) providing specialized legal advice, opinions, determinations, regulations, and any other assistance to the Assistant Attorney General for Citizenship and Immigration Services with respect to legal matters affecting the Bureau of Citizenship and Immigration Services; and

(B) representing the Bureau of Citizenship and Immigration Services in visa petition appeal proceedings before the Executive Office for Immigration Review and in other legal or administrative proceedings involving immigration services issues.

(e) CHIEF BUDGET OFFICER.—

(1) IN GENERAL.—There shall be a position of Chief Budget Officer for the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—

(A) IN GENERAL.—The Chief Budget Officer shall be responsible for—

(i) formulating and executing the budget of the Bureau of Citizenship and Immigration Services;

(ii) financial management of the Bureau of Citizenship and Immigration Services; and

(iii) collecting all payments, fines, and other debts for the Bureau of Citizenship and Immigration Services.

(3) AUTHORITY AND FUNCTIONS OF AGENCY CHIEF FINANCIAL OFFICERS.—The Chief Budget Officer for the Bureau of Citizenship and Immigration Services shall have the authorities and functions described in section 902 of title 31, United States Code, in relation to financial activities of such bureau.

(f) CHIEF OF CONGRESSIONAL, INTERGOVERNMENTAL, AND PUBLIC AFFAIRS.—

(1) IN GENERAL.—There shall be a position of Chief of Congressional, Intergovernmental, and Public Affairs for the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—The Chief of Congressional, Intergovernmental, and Public Affairs shall be responsible for—

(A) providing information relating to immigration services to the Congress, including information on specific cases relating to immigration services issues;

(B) serving as a liaison with other Federal agencies on immigration services issues; and

(C) responding to inquiries from the media and the general public on immigration services issues.

(g) IMMIGRATION ENFORCEMENT LIAISON.—

(1) IN GENERAL.—There shall be a position of Immigration Enforcement Liaison for the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—The Immigration Enforcement Liaison shall be responsible for the appropriate allocation and coordination of resources involved in supporting shared support functions for the Bureau of Immigration Enforcement of the Department of Homeland Security and the Bureau of Citizenship and Immigration Services, including—

(A) information resources management, including computer databases and information technology;

(B) records and file management; and

(C) forms management.

(h) CHIEF OF OFFICE OF CITIZENSHIP.—

(1) IN GENERAL.—There shall be a position of Chief of the Office of Citizenship for the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—The Chief of the Office of Citizenship for the Bureau of Citizenship and Immigration Services shall be responsible for promoting instruction and training on citizenship responsibilities for aliens interested in becoming naturalized citizens of the United States, including the development of educational materials.

SEC. 422. CITIZENSHIP AND IMMIGRATION SERVICES OMBUDSMAN.

(a) IN GENERAL.—Within the Department of Justice, there shall be a position of Citizenship and Immigration Services Ombudsman (in this section referred to as the ''Ombudsman''). The Ombudsman shall report directly to the Deputy Attorney General. The Ombudsman shall have a background in customer service as well as immigration law.

(b) FUNCTIONS.—It shall be the function of the Ombudsman—

(1) to assist individuals and employers in resolving problems with the Bureau of Citizenship and Immigration Services;

(2) to identify areas in which individuals and employers have problems in dealing with the Bureau of Citizenship and Immigration Services;

(3) to the extent possible, to propose changes in the administrative practices of the Bureau of Citizenship and Immigration Services to mitigate problems identified under paragraph (2); and

(4) to identify potential legislative changes that may be appropriate to mitigate such problems.

(c) ANNUAL REPORTS.—

(1) OBJECTIVES.—Not later than June 30 of each calendar year, the Ombudsman shall report to the Committee on the Judiciary of the United States House of Representatives and the Senate on the objectives of the Office of the Ombudsman for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and—

(A) shall identify the initiatives the Office of the Ombudsman has taken on improving

services and responsiveness of the Bureau of Citizenship and Immigration Services;

(B) shall contain a summary of the most pervasive and serious problems encountered by individuals and employers, including a description of the nature of such problems;

(C) shall contain an inventory of the items described in subparagraphs (A) and (B) for which action has been taken and the result of such action;

(D) shall contain an inventory of the items described in subparagraphs (A) and (B) for which action remains to be completed and the period during which each item has remained on such inventory;

(E) shall contain an inventory of the items described in subparagraphs (A) and (B) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and shall identify any official of the Bureau of Citizenship and Immigration Services who is responsible for such inaction;

(F) shall contain recommendations for such administrative and legislative action as

may be appropriate to resolve problems encountered by individuals and employers, including problems created by excessive backlogs in the adjudication and processing of immigration benefit petitions and applications; and

(G) shall include such other information as the Ombudsman may deem advisable.

(2) REPORT TO BE SUBMITTED DIRECTLY.—Each report required under this subsection shall be provided directly to the committees described in paragraph (1) without any prior review or comment from the Attorney General, Deputy Attorney General, Assistant Attorney General for Citizenship and Immigration Services, or any other officer or employee of the Department of Justice or the Office of Management and Budget.

(d) OTHER RESPONSIBILITIES.—The Ombudsman—

(1) shall monitor the coverage and geographic allocation of local offices of the Ombudsman;

(2) shall develop guidance to be distributed to all officers and employees of the Bureau of Citizenship and Immigration Services outlining the criteria for referral of inquiries to local offices of the Ombudsman;

(3) shall ensure that the local telephone number for each local office of the Ombudsman is published and available to individuals and employers served by the office; and

(4) shall meet regularly with the Assistant Attorney General for Citizenship and Immigration Services to identify serious service problems and to present recommendations for such administrative action as may be appropriate to resolve problems encountered by individuals and employers.

(e) PERSONNEL ACTIONS.—

(1) IN GENERAL.—The Ombudsman shall have the responsibility and authority—

(A) to appoint local ombudsmen and make available at least 1 such ombudsman for each State; and

(B) to evaluate and take personnel actions (including dismissal) with respect to any employee of any local office of the Ombudsman.

(2) CONSULTATION.—The Ombudsman may consult with the appropriate supervisory personnel of the Bureau of Citizenship and Immigration Services in carrying out the Ombudsman's responsibilities under this subsection.

(f) RESPONSIBILITIES OF BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES.—The Assistant Attorney General for Citizenship and Immigration Services shall establish procedures requiring a formal response to all recommendations submitted to such Assistant Attorney General by the Ombudsman within 3 months after submission to such director.

(g) OPERATION OF LOCAL OFFICES.—

(1) IN GENERAL.—Each local ombudsman—

(A) shall report to the Ombudsman or the delegate thereof;

(B) may consult with the appropriate supervisory personnel of the Bureau of Citizenship and Immigration Services regarding the daily operation of the local office of such ombudsman;

(C) shall, at the initial meeting with any individual or employer seeking the assistance of such local office, notify such individual or employer that the local offices of the Ombudsman operate independently of any other component of the Department of Justice and report directly to the Congress through the Ombudsman; and

(D) at the local ombudsman's discretion, may determine not to disclose to the Bureau of Citizenship and Immigration Services contact with, or information provided by, such individual or employer.

(2) MAINTENANCE OF INDEPENDENT COMMUNICATIONS.—Each local office of the Ombudsman shall maintain a phone, facsimile, and other means of electronic communication access, and a post office address, that is separate from those maintained by the Bureau of Citizenship and Immigration Services, or any component of the Bureau of Citizenship and Immigration Services.

SEC. 423. PROFESSIONAL RESPONSIBILITY AND QUALITY REVIEW.

(a) IN GENERAL.—The Assistant Attorney General for Citizenship and Immigration Services shall be responsible for—

(1) conducting investigations of noncriminal allegations of misconduct, corruption, and fraud involving any employee of the Bureau of Citizenship and Immigration Services that are not subject to investigation by the Department of Justice Office of the Inspector General;

(2) inspecting the operations of the Bureau of Citizenship and Immigration Services and providing assessments of the quality of the operations of such bureau as a whole and each of its components; and

(3) providing an analysis of the management of the Bureau of Citizenship and Immigration Services.

(b) SPECIAL CONSIDERATIONS.—In providing assessments in accordance with subsection (a)(2) with respect to a decision of the Bureau of Citizenship and Immigration Services, or any of its components, consideration shall be given to—

(1) the accuracy of the findings of fact and conclusions of law used in rendering the decision;

(2) any fraud or misrepresentation associated with the decision; and

(3) the efficiency with which the decision was rendered.

SEC. 424. EMPLOYEE DISCIPLINE.

The Assistant Attorney General for Citizenship and Immigration Enforcement may, notwithstanding any other provision of law, impose disciplinary action, including termination of employment, pursuant to policies and procedures applicable to employees of the Federal Bureau of Investigation, on any employee of the Bureau of Citizen-

ship and Immigration Services who willfully deceives the Congress or agency leadership on any matter.

SEC. 425. OFFICE OF IMMIGRATION STATISTICS WITHIN BUREAU OF JUSTICE STATISTICS.

(a) IN GENERAL.—Part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3731 et seq.) is amended by adding at the end the following:

"OFFICE OF IMMIGRATION STATISTICS

"SEC. 305. (a) There is established within the Bureau of Justice Statistics of the Department of Justice an Office of Immigration Statistics (in this section referred to as the 'Office'), which shall be headed by a Director who shall be appointed by the Attorney General and who shall report to the Director of Justice Statistics.

"(b) The Director of the Office shall be responsible for the following:

"(1) Maintenance of all immigration statistical information of the Bureau of Citizenship and Immigration Services and the Executive Office for Immigration Review. Such statistical information shall include information and statistics of the type contained in the publication entitled 'Statistical Yearbook of the Immigration and Naturalization Service' prepared by the Immigration and Naturalization Service (as in effect on the day prior to the effective

date specified in section 427 of the Homeland Security Act of 2002), including region-by-region statistics on the aggregate number of applications and petitions filed by an alien (or filed on behalf of an alien) and denied by such offices and bureaus, and the reasons for such denials, disaggregated by category of denial and application or petition type.

"(2) Establishment of standards of reliability and validity for immigration statistics collected by the Bureau of Citizenship and Immigration Services and the Executive Office for Immigration Review.

"(c) The Bureau of Citizenship and Immigration Services and the Executive Office for Immigration Review shall provide statistical information to the Office of Immigration Statistics from the operational data systems controlled by the Bureau of Citizenship and Immigration Services and the Executive Office for Immigration Review, respectively, for the purpose of meeting the responsibilities of the Director.".

(b) TRANSFER OF FUNCTIONS.—There are transferred to the Office of Immigration Statistics established under section 305 of the Omnibus Crime Control and Safe Streets Act of 1968, as added by subsection (a), the functions performed immediately before such transfer occurs by the Statistics Branch of the Office of Policy and Plan-

ning of the Immigration and Naturalization Service with respect to the following:

(1) Adjudications of immigrant visa petitions.

(2) Adjudications of naturalization petitions.

(3) Adjudications of asylum and refugee applications.

(4) Adjudications performed at service centers.

(5) All other adjudications performed by the Immigration and Naturalization Service.

(c) CONFORMING AMENDMENTS.—Section 302(c) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3732(c)) is amended—

(1) by striking ''and'' at the end of paragraph (22);

(2) by striking the period at the end of paragraph (23) and inserting ''; and''; and

(3) by adding at the end the following:

''(24) collect, maintain, compile, analyze, publish, and disseminate information and statistics involving the functions of the Bureau of Citizenship and Immigration Services and the Executive Office for Immigration Review.''.

REV_00148662

SEC. 426. PRESERVATION OF ATTORNEY GENERAL'S AUTHORITY.

(a) IN GENERAL.—Any function for which this subchapter vests responsibility in an official other than the Attorney General, or which is transferred by this subchapter to such an official, may, notwithstanding any provision of this subchapter, be performed by the Attorney General, or the Attorney General's delegate, in lieu of such official.

(b) REFERENCES.—In a case in which the Attorney General performs a function described in subsection (a), any reference in any other Federal law, Executive order, rule, regulation, document, or delegation of authority to the official otherwise responsible for the function is deemed to refer to the Attorney General.

SEC. 427. EFFECTIVE DATE.

Notwithstanding section 4, this subchapter, and the amendments made by this subchapter, shall take effect on the date on which the transfer of functions specified under section 411 takes effect.

SEC. 428. TRANSITION.

(a) REFERENCES.—With respect to any function transferred by this subchapter to, and exercised on or after the effective date specified in section 427 by, the Assistant Attorney General for Citizenship and Immigration Services, any reference in any other Federal law, Execu-

tive order, rule, regulation, or delegation of authority, or any document of or pertaining to a component of government from which such function is transferred—

(1) to the head of such component is deemed to refer to the Assistant Attorney General for Citizenship and Immigration Services; or

(2) to such component is deemed to refer to the Bureau of Citizenship and Immigration Services.

(b) OTHER TRANSITION ISSUES.—

(1) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, a Federal official to whom a function is transferred by this subchapter may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date specified in section 427.

(2) SAVINGS PROVISIONS.—Subsections (a), (b), and (c) of section 812 shall apply to a transfer of functions under this subchapter in the same manner as such provisions apply to a transfer of functions under this Act to the Department of Homeland Security.

(3) TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.—The personnel of the Department of Justice employed in connection with the functions transferred by this subchapter (and functions that the Attorney General determines are properly related to the functions of the Bureau of Citizenship and Immigration Services), and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to, the Immigration and Naturalization Service in connection with the functions transferred by this subchapter, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Assistant Attorney General for Citizenship and Immigration Services for allocation to the appropriate component of the Department of Justice. Unexpended funds transferred pursuant to this paragraph shall be used only for the purposes for which the funds were originally authorized and appropriated. The Attorney General shall have the right to adjust or realign transfers of funds and personnel effected pursuant to this subchapter for a pe-

riod of 2 years after the effective date specified in section 427.

(4) AUTHORITIES OF ATTORNEY GENERAL.—The Attorney General (or a delegate of the Attorney General), at such time or times as the Attorney General (or the delegate) shall provide, may make such determinations as may be necessary with regard to the functions transferred by this subchapter, and may make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this subchapter. The Attorney General shall provide for such further measures and dispositions as may be necessary to effectuate the purposes of this subchapter.

Subchapter B—Other Provisions

SEC. 431. FUNDING FOR CITIZENSHIP AND IMMIGRATION SERVICES.

(a) ESTABLISHMENT OF FEES FOR ADJUDICATION AND NATURALIZATION SERVICES.—Section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) is amended by striking ''services, including the costs of simi-

lar services provided without charge to asylum applicants or other immigrants.'' and inserting ''services.''.

(b) AUTHORIZATION OF APPROPRIATIONS FOR REFUGEE AND ASYLUM ADJUDICATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 207 through 209 of the Immigration and Nationality Act (8 U.S.C. 1157–1159). All funds appropriated under this subsection shall be deposited into the Immigration Examinations Fee Account established under section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) and shall remain available until expended.

SEC. 432. BACKLOG ELIMINATION.

Section 204(a) of the Immigration Services and Infrastructure Improvements Act of 2000 (8 U.S.C. 1573(a)) is amended by striking ''October 17, 2000;'' and inserting ''1 year after the date of the enactment of the Homeland Security Act of 2002;''.

SEC. 433. REPORT ON IMPROVING IMMIGRATION SERVICES.

(a) IN GENERAL.—The Attorney General, not later than 1 year after the effective date of this Act, shall submit to the Committees on the Judiciary and Appropriations of the United States House of Representatives and of the Senate a report with a plan detailing how the Bureau of Citizenship and Immigration Services, after the

transfer of functions specified in subchapter 1 takes effect, will complete efficiently, fairly, and within a reasonable time, the adjudications described in paragraphs (1) through (5) of section 421(b).

(b) CONTENTS.—For each type of adjudication to be undertaken by the Assistant Attorney General for Citizenship and Immigration Services, the report shall include the following:

(1) Any potential savings of resources that may be implemented without affecting the quality of the adjudication.

(2) The goal for processing time with respect to the application.

(3) Any statutory modifications with respect to the adjudication that the Attorney General considers advisable.

(c) CONSULTATION.—In carrying out subsection (a), the Attorney General shall consult with the Secretary of State, the Secretary of Labor, the Director of the Bureau of Immigration Enforcement of the Department of Homeland Security, and the Director of the Executive Office for Immigration Review to determine how to streamline and improve the process for applying for and making adjudications described in section 421(b) and related processes.

SEC. 434. REPORT ON RESPONDING TO FLUCTUATING NEEDS.

Not later than 30 days after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report on changes in law, including changes in authorizations of appropriations and in appropriations, that are needed to permit the Immigration and Naturalization Service, and, after the transfer of functions specified in subchapter 1 takes effect, the Bureau of Citizenship and Immigration Services, to ensure a prompt and timely response to emergent, unforeseen, or impending changes in the number of applications for immigration benefits, and otherwise to ensure the accommodation of changing immigration service needs.

SEC. 435. APPLICATION OF INTERNET-BASED TECHNOLOGIES.

(a) ESTABLISHMENT OF TRACKING SYSTEM.—The Attorney General, not later than 1 year after the effective date of this Act, in consultation with the Technology Advisory Committee established under subsection (c), shall establish an Internet-based system, that will permit a person, employer, immigrant, or nonimmigrant who has filings with the Attorney General for any benefit under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), access to online information about the processing status of the filing involved.

(b) FEASIBILITY STUDY FOR ONLINE FILING AND IMPROVED PROCESSING.—

(1) ONLINE FILING.—The Attorney General, in consultation with the Technology Advisory Committee established under subsection (c), shall conduct a feasibility study on the online filing of the filings described in subsection (a). The study shall include a review of computerization and technology of the Immigration and Naturalization Service relating to the immigration services and processing of filings related to immigrant services. The study shall also include an estimate of the timeframe and cost and shall consider other factors in implementing such a filing system, including the feasibility of fee payment online.

(2) REPORT.—A report on the study under this subsection shall be submitted to the Committees on the Judiciary of the United States House of Representatives and the Senate not later than 1 year after the effective date of this Act.

(c) TECHNOLOGY ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—The Attorney General shall establish, not later than 60 days after the effective date of this Act, an advisory committee (in

this section referred to as the "Technology Advisory Committee") to assist the Attorney General in—

(A) establishing the tracking system under subsection (a); and

(B) conducting the study under subsection (b).

The Technology Advisory Committee shall be established after consultation with the Committees on the Judiciary of the United States House of Representatives and the Senate.

(2) COMPOSITION.—The Technology Advisory Committee shall be composed of representatives from high technology companies capable of establishing and implementing the system in an expeditious manner, and representatives of persons who may use the tracking system described in subsection (a) and the online filing system described in subsection (b)(1).

SEC. 436. CHILDREN'S AFFAIRS.

(a) TRANSFER OF FUNCTIONS.—There are transferred to the Director of the Office of Refugee Resettlement of the Department of Health and Human Services functions under the immigration laws of the United States with respect to the care of unaccompanied alien children that were vested by statute in, or performed by, the Com-

missioner of Immigration and Naturalization (or any officer, employee, or component of the Immigration and Naturalization Service) immediately before the effective date specified in subsection (d).

(b) FUNCTIONS.—

(1) IN GENERAL.—Pursuant to the transfer made by subsection (a), the Director of the Office of Refugee Resettlement shall be responsible for—

(A) coordinating and implementing the care and placement of unaccompanied alien children who are in Federal custody by reason of their immigration status, including developing a plan to be submitted to the Congress on how to ensure that qualified and independent legal counsel is timely appointed to represent the interests of each such child;

(B) ensuring that the interests of the child are considered in decisions and actions relating to the care and custody of an unaccompanied alien child;

(C) making placement determinations for all unaccompanied alien children who are in Federal custody by reason of their immigration status;

(D) implementing the placement determinations;

(E) implementing policies with respect to the care and placement of unaccompanied alien children;

(F) identifying a sufficient number of qualified individuals, entities, and facilities to house unaccompanied alien children;

(G) overseeing the infrastructure and personnel of facilities in which unaccompanied alien children reside;

(H) reuniting unaccompanied alien children with a parent abroad in appropriate cases;

(I) compiling, updating, and publishing at least annually a state-by-state list of professionals or other entities qualified to provide guardian and attorney representation services for unaccompanied alien children;

(J) maintaining statistical information and other data on unaccompanied alien children for whose care and placement the Director is responsible, which shall include—

(i) biographical information, such as a child's name, gender, date of birth, country of birth, and country of habitual residence;

(ii) the date on which the child came into Federal custody by reason of his or her immigration status;

(iii) information relating to the child's placement, removal, or release from each facility in which the child has resided;

(iv) in any case in which the child is placed in detention or released, an explanation relating to the detention or release; and

(v) the disposition of any actions in which the child is the subject;

(K) collecting and compiling statistical information from the Department of Justice, the Department of Homeland Security, and the Department of State on each department's actions relating to unaccompanied alien children; and

(L) conducting investigations and inspections of facilities and other entities in which unaccompanied alien children reside.

(2) COORDINATION WITH OTHER ENTITIES; NO RELEASE ON OWN RECOGNIZANCE.—In making determinations described in paragraph (1)(C), the Director of the Office of Refugee Resettlement—

(A) shall consult with appropriate juvenile justice professionals, the Director of the Bureau of Citizenship and Immigration Services of the Department of Justice, and the Director of the Bureau of Immigration Enforcement of the Department of Homeland Security to ensure that such determinations ensure that unaccompanied alien children described in such subparagraph—

(i) are likely to appear for all hearings or proceedings in which they are involved;

(ii) are protected from smugglers, traffickers, or others who might seek to victimize or otherwise engage them in criminal, harmful, or exploitive activity; and

(iii) are placed in a setting in which they not likely to pose a danger to themselves or others; and

(B) shall not release such children upon their own recognizance.

(3) DUTIES WITH RESPECT TO FOSTER CARE.—In carrying out the duties described in paragraph (1)(G), the Director of the Office of Refugee Resettlement is encouraged to use the refugee children foster care system established pursuant to section

412(d) of the Immigration and Nationality Act (8 U.S.C. 1522(d)) for the placement of unaccompanied alien children.

(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to transfer the responsibility for adjudicating benefit determinations under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) from the authority of any official of the Department of Justice, the Department of Homeland Security, or the Department of State.

(d) EFFECTIVE DATE.—Notwithstanding section 4, this section shall take effect on the date on which the transfer of functions specified under section 411 takes effect.

(e) REFERENCES.—With respect to any function transferred by this section, any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a component of government from which such function is transferred—

(1) to the head of such component is deemed to refer to the Director of the Office of Refugee Resettlement; or

(2) to such component is deemed to refer to the Office of Refugee Resettlement of the Department of Health and Human Services.

(f) OTHER TRANSITION ISSUES.—

(1) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, a Federal official to whom a function is transferred by this section may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date specified in subsection (d).

(2) SAVINGS PROVISIONS.—Subsections (a), (b), and (c) of section 812 shall apply to a transfer of functions under this section in the same manner as such provisions apply to a transfer of functions under this Act to the Department of Homeland Security.

(3) TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.—The personnel of the Department of Justice employed in connection with the functions transferred by this section, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations,

allocations, and other funds employed, held, used, arising from, available to, or to be made available to, the Immigration and Naturalization Service in connection with the functions transferred by this section, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Director of the Office of Refugee Resettlement for allocation to the appropriate component of the Department of Health and Human Services. Unexpended funds transferred pursuant to this paragraph shall be used only for the purposes for which the funds were originally authorized and appropriated.

(g) DEFINITIONS.—As used in this section—

(1) the term ''placement'' means the placement of an unaccompanied alien child in either a detention facility or an alternative to such a facility; and

(2) the term ''unaccompanied alien child'' means a child who—

(A) has no lawful immigration status in the United States;

(B) has not attained 18 years of age; and

(C) with respect to whom—

(i) there is no parent or legal guardian in the United States; or

(ii) no parent or legal guardian in the United States is available to provide care and physical custody.

CHAPTER 3—GENERAL PROVISIONS

SEC. 441. ABOLISHMENT OF INS.

The Immigration and Naturalization Service of the Department of Justice is abolished.

SEC. 442. VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

(a) DEFINITIONS.—For purposes of this section—

(1) the term ''employee'' means an employee (as defined by section 2105 of title 5, United States Code) who—

(A) has completed at least 3 years of current continuous service with 1 or more covered entities; and

(B) is serving under an appointment without time limitation;

but does not include any person under subparagraphs (A)–(G) of section 663(a)(2) of Public Law 104–208 (5 U.S.C. 5597 note);

(2) the term ''covered entity'' means—

(A) the Immigration and Naturalization Service;

(B) the Bureau of Immigration Enforcement of the Department of Homeland Security; and

(C) the Bureau of Citizenship and Immigration Services of the Department of Justice; and

(3) the term ''transfer date'' means the date on which the transfer of functions specified under section 411 takes effect.

(b) STRATEGIC RESTRUCTURING PLAN.—Before the Attorney General or the Secretary obligates any resources for voluntary separation incentive payments under this section, such official shall submit to the appropriate committees of Congress a strategic restructuring plan, which shall include—

(1) an organizational chart depicting the covered entities after their restructuring pursuant to this Act;

(2) a summary description of how the authority under this section will be used to help carry out that restructuring; and

(3) the information specified in section 663(b)(2) of Public Law 104–208 (5 U.S.C. 5597 note).

As used in the preceding sentence, the "appropriate committees of Congress" are the Committees on Appropriations, Government Reform, and the Judiciary of the House of Representatives, and the Committees on Appropriations, Governmental Affairs, and the Judiciary of the Senate.

(c) AUTHORITY.—The Attorney General and the Secretary may, to the extent necessary to help carry out their respective strategic restructuring plan described in subsection (b), make voluntary separation incentive payments to employees. Any such payment—

(1) shall be paid to the employee, in a lump sum, after the employee has separated from service;

(2) shall be paid from appropriations or funds available for the payment of basic pay of the employee;

(3) shall be equal to the lesser of—

(A) the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(B) an amount not to exceed $25,000, as determined by the Attorney General or the Secretary;

(4) may not be made except in the case of any qualifying employee who voluntarily separates

(whether by retirement or resignation) before the end of—

(A) the 3-month period beginning on the date on which such payment is offered or made available to such employee; or

(B) the 3-year period beginning on the date of the enactment of this Act,

whichever occurs first;

(5) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(6) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any payments which it is otherwise required to make, the Department of Justice and the Department of Homeland Security shall, for each fiscal year with respect to which it makes any voluntary separation incentive payments under this section, remit to the Office of Personnel Management for deposit in the Treasury

of the United States to the credit of the Civil Service Retirement and Disability Fund the amount required under paragraph (2).

(2) AMOUNT REQUIRED.—The amount required under this paragraph shall, for any fiscal year, be the amount under subparagraph (A) or (B), whichever is greater.

(A) FIRST METHOD.—The amount under this subparagraph shall, for any fiscal year, be equal to the minimum amount necessary to offset the additional costs to the retirement systems under title 5, United States Code (payable out of the Civil Service Retirement and Disability Fund) resulting from the voluntary separation of the employees described in paragraph (3), as determined under regulations of the Office of Personnel Management.

(B) SECOND METHOD.—The amount under this subparagraph shall, for any fiscal year, be equal to 45 percent of the sum total of the final basic pay of the employees described in paragraph (3).

(3) COMPUTATIONS TO BE BASED ON SEPARATIONS OCCURRING IN THE FISCAL YEAR INVOLVED.—The employees described in this para-

graph are those employees who receive a voluntary separation incentive payment under this section based on their separating from service during the fiscal year with respect to which the payment under this subsection relates.

(4) FINAL BASIC PAY DEFINED.—In this subsection, the term ''final basic pay'' means, with respect to an employee, the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who receives a voluntary separation incentive payment under this section and who, within 5 years after the date of the separation on which the payment is based, accepts any compensated employment with the Government or works for any agency of the Government through a personal services contract, shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment. Such payment shall be made to the covered entity from which the individual separated or, if made on or after the transfer date, to the Deputy Attorney General (for



transfer to the appropriate component of the Department of Justice, if necessary) or the Under Secretary for Border and Transportation Security (for transfer to the appropriate component of the Department of Homeland Security, if necessary).

(f) EFFECT ON EMPLOYMENT LEVELS.—

(1) INTENDED EFFECT.—Voluntary separations under this section are not intended to necessarily reduce the total number of full-time equivalent positions in any covered entity.

(2) USE OF VOLUNTARY SEPARATIONS.—A covered entity may redeploy or use the full-time equivalent positions vacated by voluntary separations under this section to make other positions available to more critical locations or more critical occupations.

SEC. 443. AUTHORITY TO CONDUCT A DEMONSTRATION PROJECT RELATING TO DISCIPLINARY ACTION.

(a) IN GENERAL.—The Attorney General and the Secretary may each, during a period ending not later than 5 years after the date of the enactment of this Act, conduct a demonstration project for the purpose of determining whether one or more changes in the policies or pro-

cedures relating to methods for disciplining employees would result in improved personnel management.

(b) SCOPE.—A demonstration project under this section—

(1) may not cover any employees apart from those employed in or under a covered entity; and

(2) shall not be limited by any provision of chapter 43, 75, or 77 of title 5, United States Code.

(c) PROCEDURES.—Under the demonstration project—

(1) the use of alternative means of dispute resolution (as defined in section 571 of title 5, United States Code) shall be encouraged, whenever appropriate; and

(2) each covered entity under the jurisdiction of the official conducting the project shall be required to provide for the expeditious, fair, and independent review of any action to which section 4303 or subchapter II of chapter 75 of such title 5 would otherwise apply (except an action described in section 7512(5) thereof).

(d) ACTIONS INVOLVING DISCRIMINATION.—Notwithstanding any other provision of this section, if, in the case of any matter described in section 7702(a)(1)(B) of title 5, United States Code, there is no judicially review-

able action under the demonstration project within 120 days after the filing of an appeal or other formal request for review (referred to in subsection (c)(2)), an employee shall be entitled to file a civil action to the same extent and in the same manner as provided in section 7702(e)(1) of such title 5 (in the matter following subparagraph (C) thereof).

(e) CERTAIN EMPLOYEES.—Employees shall not be included within any project under this section if such employees are—

(1) neither managers nor supervisors; and

(2) within a unit with respect to which a labor organization is accorded exclusive recognition under chapter 71 of title 5, United States Code.

Notwithstanding the preceding sentence, an aggrieved employee within a unit (referred to in paragraph (2)) may elect to participate in a complaint procedure developed under the demonstration project in lieu of any negotiated grievance procedure and any statutory procedure (as such term is used in section 7121 of such title 5).

(f) REPORTS.—The General Accounting Office shall prepare and submit to the Committees on Government Reform and the Judiciary of the House of Representatives and the Committees on Governmental Affairs and the Judiciary of the Senate periodic reports on any demonstra-

tion project conducted under this section, such reports to be submitted after the second and fourth years of its operation. Upon request, the Attorney General or the Secretary shall furnish such information as the General Accounting Office may require to carry out this subsection.

(g) DEFINITION.—In this section, the term "covered entity" has the meaning given such term in section 442(a)(2).

SEC. 444. SENSE OF CONGRESS.

It is the sense of the Congress that—

(1) the missions of the Bureau of Immigration Enforcement of the Department of Homeland Security and the Bureau of Citizenship and Immigration Services of the Department of Justice are equally important and, accordingly, they each should be adequately funded; and

(2) the functions transferred under this subtitle should not, after such transfers take effect, operate at levels below those in effect prior to the enactment of this Act.

SEC. 445. REPORTS AND IMPLEMENTATION PLANS.

(a) DIVISION OF FUNDS.—The Attorney General and the Secretary, not later than 120 days after the effective date of this Act, shall each submit to the Committees on Appropriations and the Judiciary of the United States

House of Representatives and of the Senate a report on the proposed division and transfer of funds, including unexpended funds, appropriations, and fees, between the Bureau of Citizenship and Immigration Services and the Bureau of Immigration Enforcement.

(b) DIVISION OF PERSONNEL.—The Attorney General and the Secretary, not later than 120 days after the effective date of this Act, shall each submit to the Committees on Appropriations and the Judiciary of the United States House of Representatives and of the Senate a report on the proposed division of personnel between the Bureau of Citizenship and Immigration Services and the Bureau of Immigration Enforcement.

(c) IMPLEMENTATION PLAN.—

(1) IN GENERAL.—The Attorney General and the Secretary, not later than 120 days after the effective date of this Act, and every 6 months thereafter until the termination of fiscal year 2005, shall each submit to the Committees on Appropriations and the Judiciary of the United States House of Representatives and of the Senate an implementation plan to carry out this Act.

(2) CONTENTS.—The implementation plan should include details concerning the separation of the Bureau of Citizenship and Immigration Services

and the Bureau of Immigration Enforcement, including the following:

(A) Organizational structure, including the field structure.

(B) Chain of command.

(C) Procedures for interaction among such bureaus.

(D) Fraud detection and investigation.

(E) The processing and handling of removal proceedings, including expedited removal and applications for relief from removal.

(F) Recommendations for conforming amendments to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(G) Establishment of a transition team.

(H) Methods to phase in the costs of separating the administrative support systems of the Immigration and Naturalization Service in order to provide for separate administrative support systems for the Bureau of Citizenship and Immigration Services and the Bureau of Immigration Enforcement.

(d) COMPTROLLER GENERAL STUDIES AND REPORTS.—

(1) STATUS REPORTS ON TRANSITION.—Not later than 18 months after the date on which the transfer of functions specified under section 411 takes effect, and every 6 months thereafter, until full implementation of this subtitle has been completed, the Comptroller General of the United States shall submit to the Committees on Appropriations and on the Judiciary of the United States House of Representatives and the Senate a report containing the following:

(A) A determination of whether the transfers of functions made by chapters 1 and 2 have been completed, and if a transfer of functions has not taken place, identifying the reasons why the transfer has not taken place.

(B) If the transfers of functions made by chapters 1 and 2 have been completed, an identification of any issues that have arisen due to the completed transfers.

(C) An identification of any issues that may arise due to any future transfer of functions.

(2) REPORT ON MANAGEMENT.—Not later than 4 years after the date on which the transfer of functions specified under section 411 takes effect, the

Comptroller General of the United States shall submit to the Committees on Appropriations and on the Judiciary of the United States House of Representatives and the Senate a report, following a study, containing the following:

(A) Determinations of whether the transfer of functions from the Immigration and Naturalization Service to the Bureau of Citizenship and Immigration Services and the Bureau of Immigration Enforcement have improved, with respect to each function transferred, the following:

(i) Operations.

(ii) Management, including accountability and communication.

(iii) Financial administration.

(iv) Recordkeeping, including information management and technology.

(B) A statement of the reasons for the determinations under subparagraph (A).

(C) Any recommendations for further improvements to the Bureau of Citizenship and Immigration Services and the Bureau of Immigration Enforcement.

(3) REPORT ON FEES.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report examining whether the Bureau of Citizenship and Immigration Services is likely to derive sufficient funds from fees to carry out its functions in the absence of appropriated funds.

Subtitle C—United States Customs Service

SEC. 451. ESTABLISHMENT; COMMISSIONER OF CUSTOMS.

(a) ESTABLISHMENT.—There is established in the Department the United States Customs Service, under the authority of the Under Secretary for Border and Transportation Security, which shall be vested with those functions set forth in section 457(7), and the personnel, assets, and liabilities attributable to those functions.

(b) COMMISSIONER OF CUSTOMS.—

(1) IN GENERAL.—There shall be at the head of the Customs Service a Commissioner of Customs, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) COMPENSATION.—Section 5314 of title 5, United States Code, is amended by striking

"Commissioner of Customs, Department of the Treasury"

and inserting

"Commissioner of Customs, Department of Homeland Security.".

(3) CONTINUATION IN OFFICE.—The individual serving as the Commissioner of Customs on the day before the effective date of this Act may serve as the Commissioner of Customs on and after such effective date until a Commissioner of Customs is appointed under paragraph (1).

SEC. 452. RETENTION OF CUSTOMS REVENUE FUNCTIONS BY SECRETARY OF THE TREASURY.

(a) RETENTION BY SECRETARY OF THE TREASURY.—

(1) RETENTION OF AUTHORITY.—Notwithstanding sections 401(6), 402(1), and 803(e)(2), authority that was vested in the Secretary of the Treasury by law before the effective date of this Act under those provisions of law set forth in paragraph (2) shall not be transferred to the Secretary by reason of this Act, and on and after the effective date of this Act, the Secretary of the Treasury may delegate any such authority to the Secretary at the discretion of the Secretary of the Treasury. The Sec-

retary of the Treasury shall consult with the Secretary regarding the exercise of any such authority not delegated to the Secretary.

(2) STATUTES.—The provisions of law referred to in paragraph (1) are the following: the Tariff Act of 1930; section 249 of the Revised Statutes of the United States (19 U.S.C. 3); section 2 of the Act of March 4, 1923 (19 U.S.C. 6); section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c); section 251 of the Revised Statutes of the United States (19 U.S.C. 66); section 1 of the Act of June 26, 1930 (19 U.S.C. 68); the Foreign Trade Zones Act (19 U.S.C. 81a et seq.); section 1 of the Act of March 2, 1911 (19 U.S.C. 198); the Trade Act of 1974; the Trade Agreements Act of 1979; the North American Free Trade Area Implementation Act; the Uruguay Round Agreements Act; the Caribbean Basin Economic Recovery Act; the Andean Trade Preference Act; the African Growth and Opportunity Act; and any other provision of law vesting customs revenue functions in the Secretary of the Treasury.

(b) MAINTENANCE OF CUSTOMS REVENUE FUNCTIONS.—

(1) MAINTENANCE OF FUNCTIONS.—Notwithstanding any other provision of this Act, the Secretary may not consolidate, alter, discontinue, or diminish those functions described in paragraph (2) performed by the United States Customs Service (as established under section 451) on or after the effective date of this Act, reduce the staffing level, or the compensation or benefits under title 5, United States Code, of personnel attributable to such functions, or reduce the resources attributable to such functions, and the Secretary shall ensure that an appropriate management structure is implemented to carry out such functions.

(2) FUNCTIONS.—The functions referred to in paragraph (1) are those functions performed by the following personnel, and associated support staff, of the United States Customs Service on the day before the effective date of this Act: Import Specialists, Entry Specialists, Drawback Specialists, National Import Specialist, Fines and Penalties Specialists, attorneys of the Office of Regulations and Rulings, Customs Auditors, International Trade Specialists, Financial Systems Specialists.

(c) NEW PERSONNEL.—The Secretary of the Treasury is authorized to appoint up to 20 new personnel to

work with personnel of the Department in performing customs revenue functions.

SEC. 453. ESTABLISHMENT AND IMPLEMENTATION OF COST ACCOUNTING SYSTEM; REPORTS.

(a) ESTABLISHMENT AND IMPLEMENTATION.—

(1) IN GENERAL.—Not later than September 30, 2003, the Commissioner of Customs shall, in accordance with the audit of the Customs Service's fiscal years 2000 and 1999 financial statements (as contained in the report of the Office of the Inspector General of the Department of the Treasury issued on February 23, 2001), establish and implement a cost accounting system for expenses incurred in the operation of the Customs Service.

(2) ADDITIONAL REQUIREMENT.—The cost accounting system described in paragraph (1) shall provide for an identification of expenses based on the type of operation, the port at which the operation took place, the amount of time spent on the operation by personnel of the Customs Service, and an identification of expenses based on any other appropriate classification necessary to provide for an accurate and complete accounting of the expenses.

(3) USE OF MERCHANDISE PROCESSING FEES.—The cost accounting system described in

paragraph (1) shall provide for an identification of all amounts expended pursuant to section 13031(f)(2) of the Consolidated Omnibus Reconciliation Act of 1985.

(b) REPORTS.—Beginning on the date of the enactment of this Act and ending on the date on which the cost accounting system described in subsection (a) is fully implemented, the Commissioner of Customs shall prepare and submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on a quarterly basis a report on the progress of implementing the cost accounting system pursuant to subsection (a).

SEC. 454. PRESERVATION OF CUSTOMS FUNDS.

Notwithstanding any other provision of this Act, no funds available to the United States Customs Service or collected under paragraphs (1) through (8) of section 13031(a) of the Consolidated Omnibus Reconciliation Act of 1985 may be transferred for use by any other agency or office in the Department.

SEC. 455. SEPARATE BUDGET REQUEST FOR CUSTOMS.

The President shall include in each budget transmitted to the Congress under section 1105 of title 31, United States Code, a separate budget request for the United States Customs Service.

SEC. 456. PAYMENT OF DUTIES AND FEES.

Section 505(a) of the Tariff Act of 1930 (19 U.S.C. 1505(a)) is amended—

(1) in the first sentence—

(A) by striking "Unless the merchandise" and inserting "Unless the entry of merchandise is covered by an import activity summary statement, or the merchandise"; and

(B) by inserting after "by regulation" the following: "(but not to exceed 10 working days after entry or release, whichever occurs first)"; and

(2) by striking the second and third sentences and inserting the following: "If an import activity summary statement is filed, the importer or record shall deposit estimated duties and fees for entries of merchandise covered by the import activity summary statement no later than the 15th day of the month following the month in which the merchandise is entered or released, whichever occurs first.".

SEC. 457. DEFINITION.

In this subtitle, the term "customs revenue function" means the following:

(1) Assessing and collecting customs duties (including antidumping and countervailing duties and duties imposed under safeguard provisions), excise

taxes, fees, and penalties due on imported merchandise, including classifying and valuing merchandise for purposes of such assessment.

(2) Processing and denial of entry of persons, baggage, cargo, and mail, with respect to the assessment and collection of import duties.

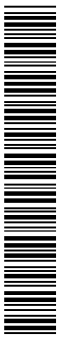
(3) Detecting and apprehending persons engaged in fraudulent practices designed to circumvent the customs laws of the United States.

(4) Enforcing section 337 of the Tariff Act of 1930 and provisions relating to import quotas and the marking of imported merchandise, and providing Customs Recordations for copyrights, patents, and trademarks.

(5) Collecting accurate import data for compilation of international trade statistics.

(6) Enforcing reciprocal trade agreements.

(7) Functions performed by the following personnel, and associated support staff, of the United States Customs Service on the day before the effective date of this Act: Import Specialists, Entry Specialists, Drawback Specialists, National Import Specialist, Fines and Penalties Specialists, attorneys of the Office of Regulations and Rulings, Customs



Auditors, International Trade Specialists, Financial Systems Specialists.

(8) Functions performed by the following offices, with respect to any function described in any of paragraphs (1) through (7), and associated support staff, of the United States Customs Service on the day before the effective date of this Act: the Office of Information and Technology, the Office of Laboratory Services, the Office of the Chief Counsel, the Office of Congressional Affairs, the Office of International Affairs, and the Office of Training and Development.

SEC. 458. GAO REPORT TO CONGRESS.

Not later than 3 months after the effective date of this Act, the Comptroller General of the United States shall submit to the Congress a report that sets forth all trade functions performed by the executive branch, specifying each agency that performs each such function.

TITLE V—EMERGENCY PREPAREDNESS AND RESPONSE

SEC. 501. UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.

The Secretary, acting through the Under Secretary for Emergency Preparedness and Response, shall be responsible for the following:

(1) Helping to ensure the preparedness of emergency response providers for terrorist attacks, major disasters, and other emergencies.

(2) With respect to the Nuclear Incident Response Team (regardless of whether it is operating as an organizational unit of the Department pursuant to this title)—

(A) establishing standards and certifying when those standards have been met;

(B) conducting joint and other exercises and training and evaluating performance; and

(C) providing funds to the Department of Energy and the Environmental Protection Agency, as appropriate, for homeland security planning, exercises and training, and equipment.

(3) Providing the Federal Government's response to terrorist attacks and major disasters, including—

(A) managing such response;

(B) directing the Domestic Emergency Support Team, the Strategic National Stockpile, the National Disaster Medical System, and (when operating as an organizational unit of

the Department pursuant to this title) the Nuclear Incident Response Team;

(C) overseeing the Metropolitan Medical Response System; and

(D) coordinating other Federal response resources in the event of a terrorist attack or major disaster.

(4) Aiding the recovery from terrorist attacks and major disasters.

(5) Building a comprehensive national incident management system with Federal, State, and local government personnel, agencies, and authorities, to respond to such attacks and disasters.

(6) Consolidating existing Federal Government emergency response plans into a single, coordinated national response plan.

(7) Developing comprehensive programs for developing interoperative communications technology, and helping to ensure that emergency response providers acquire such technology.

SEC. 502. FUNCTIONS TRANSFERRED.

In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and obligations of the following:

(1) Except as provided in section 402, the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, and the Integrated Hazard Information System of the Department of Defense.

(2) The Office for Domestic Preparedness of the Office of Justice Programs, including the functions of the Attorney General relating thereto.

(3) The National Domestic Preparedness Office of the Federal Bureau of Investigation, including the functions of the Attorney General relating thereto.

(4) The Domestic Emergency Support Teams of the Department of Justice, including the functions of the Attorney General relating thereto.

(5) The Office of Emergency Preparedness, the National Disaster Medical System, and the Metropolitan Medical Response System of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services and the Assistant Secretary for Public Health Emergency Preparedness relating thereto.

(6) The Strategic National Stockpile of the Department of Health and Human Services, including

the functions of the Secretary of Health and Human Services relating thereto.

SEC. 503. NUCLEAR INCIDENT RESPONSE.

(a) HOMELAND SECURITY CENTER.—(1) Notwithstanding section 307, the Secretary, acting through the Under Secretary for Science and Technology, shall establish at a national security laboratory of the National Nuclear Security Administration, a center to serve as the primary location for carrying out research, development, test, and evaluation activities of the Department related to the goals described in section 301(6)(A) and (B). The Secretary shall establish, in concurrence with the Secretary of Energy, such additional centers at one or more national laboratories of the Department of Energy as the Secretary considers appropriate to serve as secondary locations for carrying out such activities.

(2) Each center established under paragraph (1) shall be composed of such facilities and assets as are required for the performance of such activities. The particular facilities and assets shall be designated by the Secretary of Energy with the concurrence of the Secretary.

(b) NUCLEAR INCIDENT RESPONSE TEAM.—At the direction of the Secretary (in connection with an actual or threatened terrorist attack, major disaster, or other emergency), the Nuclear Incident Response Team shall

operate as an organizational unit of the Department. While so operating, the Nuclear Incident Response Team shall be subject to the direction, authority, and control of the Secretary.

(c) CONSTRUCTION.—Nothing in this title shall be understood to limit the ordinary responsibility of the Secretary of Energy and the Administrator of the Environmental Protection Agency for organizing, training, equipping, and utilizing their respective entities in the Nuclear Incident Response Team, or (subject to the provisions of this title) from exercising direction, authority, and control over them when they are not operating as a unit of the Department.

(d) INDEMNIFICATION OF CONTRACTORS DURING TRANSITION PERIOD.—(1) To the extent the Department of Energy has a duty under a covered contract to indemnify an element of the Nuclear Incident Response Team, the Department and the Department of Energy shall each have that duty, whether or not the Nuclear Incident Response Team is operating as an organizational element of the Department.

(2) Paragraph (1) applies only to a contract in effect on the date of the enactment of this Act, and not to any extension or renewal of such contract carried out after the date of the enactment of this Act.

(e) DELIVERY OF POTASSIUM IODIDE.—In the event of a terrorist attack, major disaster, or other emergency, the Secretary shall devise a plan to deliver Potassium Iodide (KI) to the people for whom it is intended within 4 hours after exposure to radioactive iodines from a nuclear power plant, and as expeditiously as possible to persons beyond the immediate 20-mile radius of protection.

SEC. 504. DEFINITION.

For purposes of this title, ''nuclear incident response team'' means a resource that includes—

(1) those entities of the Department of Energy that perform nuclear or radiological emergency support functions (including accident response, search response, advisory, and technical operations functions), radiation exposure functions at the medical assistance facility known as Oak Ridge National Laboratory, radiological assistance functions, and related functions;

(2) those entities of the Environmental Protection Agency that perform radiological emergency response and support functions; and

(3) those entities of the Nuclear Regulatory Commission that perform such support and related functions.

TITLE VI—MANAGEMENT

SEC. 601. UNDER SECRETARY FOR MANAGEMENT.

The Secretary, acting through the Under Secretary for Management, shall be responsible for the management and administration of the Department, including the following:

(1) The budget, appropriations, expenditures of funds, accounting, and finance.

(2) Procurement.

(3) Human resources and personnel.

(4) Information technology and communications systems.

(5) Facilities, property, equipment, and other material resources.

(6) Security for personnel, information technology and communications systems, facilities, property, equipment, and other material resources.

(7) Identification and tracking of performance measures relating to the responsibilities of the Department.

(8) Grants and other assistance management programs.

(9) The transition and reorganization process, to ensure an efficient and orderly transfer of func-

tions and personnel to the Department, including the development of a transition plan.

(10) The conduct of internal audits and management analyses of the programs and activities of the Department.

(11) Any other management duties that the Secretary may designate.

SEC. 602. CHIEF FINANCIAL OFFICER.

Notwithstanding section 902(a)(1) of title 31, United States Code, the Chief Financial Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct.

SEC. 603. CHIEF INFORMATION OFFICER.

Notwithstanding section 3506(a)(2) of title 44, United States Code, the Chief Information Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct.

TITLE VII—MISCELANEOUS

Subtitle A—Inspector General

SEC. 701. AUTHORITY OF THE SECRETARY.

(a) IN GENERAL.—Notwithstanding the last two sentences of section 3(a) of the Inspector General Act of 1978, the Inspector General shall be under the authority, direction, and control of the Secretary with respect to au-

dits or investigations, or the issuance of subpoenas, that require access to sensitive information concerning—

(1) intelligence, counterintelligence, or counterterrorism matters;

(2) ongoing criminal investigations or proceedings;

(3) undercover operations;

(4) the identity of confidential sources, including protected witnesses;

(5) other matters the disclosure of which would, in the Secretary's judgment, constitute a serious threat to the protection of any person or property authorized protection by section 3056 of title 18, United States Code, section 202 of title 3 of such Code, or any provision of the Presidential Protection Assistance Act of 1976; or

(6) other matters the disclosure of which would, in the Secretary's judgment, constitute a serious threat to national security.

(b) PROHIBITION OF CERTAIN INVESTIGATIONS.—With respect to the information described in subsection (a), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete

such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to prevent the disclosure of any information described in subsection (a), to preserve the national security, or to prevent a significant impairment to the interests of the United States.

(c) NOTIFICATION REQUIRED.—If the Secretary exercises any power under subsection (a) or (b), the Secretary shall notify the Inspector General of the Department in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice and a written response thereto that includes (1) a statement as to whether the Inspector General agrees or disagrees with such exercise and (2) the reasons for any disagreement, to the President of the Senate and the Speaker of the House of Representatives and to appropriate committees and subcommittees of the Congress.

(d) ACCESS TO INFORMATION BY CONGRESS.—The exercise of authority by the Secretary described in subsection (b) should not be construed as limiting the right of Congress or any committee of Congress to access any information it seeks.

(e) OVERSIGHT RESPONSIBILITY—The Inspector General Act of 1978 (5 U.S.C. App.) is further amended by inserting after section 8I the following:

"SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

"SEC. 8J. Notwithstanding any other provision of law, in carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of Homeland Security shall have oversight responsibility for the internal investigations performed by the Office of Internal Affairs of the United States Customs Service and the Office of Inspections of the United States Secret Service. The head of each such office shall promptly report to the Inspector General the significant activities being carried out by such office.".

Subtitle B—United States Secret Service

SEC. 711. FUNCTIONS TRANSFERRED.

In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and obligations of the United States Secret Service, which shall be maintained as a distinct entity within the Department, including the functions of the Secretary of the Treasury relating thereto.

Subtitle C—Critical Infrastructure Information

SEC. 721. SHORT TITLE.

This subtitle may be cited as the "Critical Infrastructure Information Act of 2002".

SEC. 722. DEFINITIONS.

In this subtitle:

(1) AGENCY.—The term "agency" has the meaning given it in section 551 of title 5, United States Code.

(2) COVERED FEDERAL AGENCY.—The term "covered Federal agency" means the Department of Homeland Security.

(3) CRITICAL INFRASTRUCTURE INFORMATION.—The term "critical infrastructure information" means information not customarily in the public domain and related to the security of critical infrastructure or protected systems—

(A) actual, potential, or threatened interference with, attack on, compromise of, or incapacitation of critical infrastructure or protected systems by either physical or computer-based attack or other similar conduct (including the misuse of or unauthorized access to all types of communications and data transmission systems)

that violates Federal, State, or local law, harms interstate commerce of the United States, or threatens public health or safety;

(B) the ability of any critical infrastructure or protected system to resist such interference, compromise, or incapacitation, including any planned or past assessment, projection, or estimate of the vulnerability of critical infrastructure or a protected system, including security testing, risk evaluation thereto, risk management planning, or risk audit; or

(C) any planned or past operational problem or solution regarding critical infrastructure or protected systems, including repair, recovery, reconstruction, insurance, or continuity, to the extent it is related to such interference, compromise, or incapacitation.

(4) CRITICAL INFRASTRUCTURE PROTECTION PROGRAM.—The term ''critical infrastructure protection program'' means any component or bureau of a covered Federal agency that has been designated by the President or any agency head to receive critical infrastructure information.

(5) INFORMATION SHARING AND ANALYSIS ORGANIZATION.—The term ''Information Sharing and

Analysis Organization'' means any formal or informal entity or collaboration created or employed by public or private sector organizations, for purposes of—

(A) gathering and analyzing critical infrastructure information in order to better understand security problems and interdependencies related to critical infrastructure and protected systems, so as to ensure the availability, integrity, and reliability thereof;

(B) communicating or disclosing critical infrastructure information to help prevent, detect, mitigate, or recover from the effects of a interference, compromise, or a incapacitation problem related to critical infrastructure or protected systems; and

(C) voluntarily disseminating critical infrastructure information to its members, State, local, and Federal Governments, or any other entities that may be of assistance in carrying out the purposes specified in subparagraphs (A) and (B).

(6) PROTECTED SYSTEM.—The term ''protected system''—

(A) means any service, physical or computer-based system, process, or procedure that directly or indirectly affects the viability of a facility of critical infrastructure; and

(B) includes any physical or computer-based system, including a computer, computer system, computer or communications network, or any component hardware or element thereof, software program, processing instructions, or information or data in transmission or storage therein, irrespective of the medium of transmission or storage.

(7) VOLUNTARY.—

(A) IN GENERAL.—The term ''voluntary'', in the case of any submittal of critical infrastructure information to a covered Federal agency, means the submittal thereof in the absence of such agency's exercise of legal authority to compel access to or submission of such information and may be accomplished by a single entity or an Information Sharing and Analysis Organization on behalf of itself or its members.

(B) EXCLUSIONS.—The term ''voluntary''—

(i) in the case of any action brought under the securities laws as is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))—

(I) does not include information or statements contained in any documents or materials filed with the Securities and Exchange Commission, or with Federal banking regulators, pursuant to section 12(i) of the Securities Exchange Act of 1934 (15 U.S.C. 781(I)); and

(II) with respect to the submittal of critical infrastructure information, does not include any disclosure or writing that when made accompanied the solicitation of an offer or a sale of securities; and

(ii) does not include information or statements submitted or relied upon as a basis for making licensing or permitting determinations, or during regulatory proceedings.

REV_00148717

SEC. 723. DESIGNATION OF CRITICAL INFRASTRUCTURE PROTECTION PROGRAM.

A critical infrastructure protection program may be designated as such by one of the following:

(1) The President.

(2) The Secretary of the Department of Homeland Security.

(3) The head of a covered Federal agency by notice published in the Federal Register. This duty may not be delegated.

SEC. 724. PROTECTION OF VOLUNTARILY SHARED CRITICAL INFRASTRUCTURE INFORMATION.

(a) PROTECTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, critical infrastructure information (including the identity of the submitting person or entity) that is voluntarily submitted to a covered Federal agency for use by that agency regarding the security of critical infrastructure and protected systems, if analysis, warning, interdependency study, recovery, reconstitution, or other informational purpose, when accompanied by an express statement specified in paragraph (2)—

(A) shall be exempt from disclosure under section 552 of title 5, United States Code (com-

monly referred to as the Freedom of Information Act);

(B) shall not be subject to any agency rules or judicial doctrine regarding ex parte communications with a decision making official;

(C) shall not, without the written consent of the person or entity submitting such information, be used directly by such agency, any other Federal, State, or local authority, or any third party, in any civil action arising under Federal or State law if such information is submitted in good faith;

(D) shall not, without the written consent of the person or entity submitting such information, be used or disclosed by any officer or employee of the United States for purposes other than the purposes of this subtitle, except—

(i) in furtherance of an investigation or the prosecution of a criminal act; or

(ii) when disclosure of the information would be—

(I) to either House of Congress, or to the extent of matter within its jurisdiction, any committee or sub-

committee thereof, any joint committee thereof or subcommittee of any such joint committee; or

(II) to the Comptroller General, or any authorized representative of the Comptroller General, in the course of the performance of the duties of the General Accounting Office.

(E) shall not, if provided to a State or local government or government agency—

(i) be made available pursuant to any State or local law requiring disclosure of information or records;

(ii) otherwise be disclosed or distributed to any party by said State or local government or government agency without the written consent of the person or entity submitting such information; or

(iii) be used other than for the purpose of protecting critical infrastructure or protected systems, or in furtherance of an investigation or the prosecution of a criminal act; and

(F) does not constitute a waiver of any applicable privilege or protection provided under law, such as trade secret protection.

(2) EXPRESS STATEMENT.—For purposes of paragraph (1), the term "express statement", with respect to information or records, means—

(A) in the case of written information or records, a written marking on the information or records substantially similar to the following: "This information is voluntarily submitted to the Federal Government in expectation of protection from disclosure as provided by the provisions of the Critical Infrastructure Information Act of 2002."; or

(B) in the case of oral information, a similar written statement submitted within a reasonable period following the oral communication.

(b) LIMITATION.—No communication of critical infrastructure information to a covered Federal agency made pursuant to this subtitle shall be considered to be an action subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. App. 2).

(c) INDEPENDENTLY OBTAINED INFORMATION.—Nothing in this section shall be construed to limit or other-

wise affect the ability of a State, local, or Federal Government entity, agency, or authority, or any third party, under applicable law, to obtain critical infrastructure information in a manner not covered by subsection (a), including any information lawfully and properly disclosed generally or broadly to the public and to use such information in any manner permitted by law.

(d) TREATMENT OF VOLUNTARY SUBMITTAL OF INFORMATION.—The voluntary submittal to the Government of information or records that are protected from disclosure by this subtitle shall not be construed to constitute compliance with any requirement to submit such information to a Federal agency under any other provision of law.

(e) PROCEDURES.—

(1) IN GENERAL.—The Secretary of the Department of Homeland Security shall, in consultation with appropriate representatives of the National Security Council and the Office of Science and Technology Policy, establish uniform procedures for the receipt, care, and storage by Federal agencies of critical infrastructure information that is voluntarily submitted to the Government. The procedures shall be established not later than 90 days after the date of the enactment of this subtitle.

(2) ELEMENTS.—The procedures established under paragraph (1) shall include mechanisms regarding—

(A) the acknowledgement of receipt by Federal agencies of critical infrastructure information that is voluntarily submitted to the Government;

(B) the maintenance of the identification of such information as voluntarily submitted to the Government for purposes of and subject to the provisions of this subtitle;

(C) the care and storage of such information; and

(D) the protection and maintenance of the confidentiality of such information so as to permit the sharing of such information within the Federal Government and with State and local governments, and the issuance of notices and warnings related to the protection of critical infrastructure and protected systems, in such manner as to protect from public disclosure the identity of the submitting person or entity, or information that is proprietary, business sensitive, relates specifically to the submitting per-

son or entity, and is otherwise not appropriately in the public domain.

(f) PENALTIES.—Whoever, being an officer or employee of the United States or of any department or agency thereof, publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law, any critical infrastructure information protected from disclosure by this subtitle coming to him in the course of this employment or official duties or by reason of any examination or investigation made by, or return, report, or record made to or filed with, such department or agency or officer or employee thereof, shall be fined under title 18 of the United States Code, imprisoned not more that one year, or both, and shall be removed from office or employment.

(g) AUTHORITY TO ISSUE WARNINGS.—The Federal Government may provide advisories, alerts, and warnings to relevant companies, targeted sectors, other governmental entities, or the general public regarding potential threats to critical infrastructure as appropriate. In issuing a warning, the Federal Government shall take appropriate actions to protect from disclosure—

(1) the source of any voluntarily submitted critical infrastructure information that forms the basis for the warning; or

(2) information that is proprietary, business sensitive, relates specifically to the submitting person or entity, or is otherwise not appropriately in the public domain.

(h) AUTHORITY TO DELEGATE.—The President may delegate authority to a critical infrastructure protection program, designated under subsection (e), to enter into a voluntary agreement to promote critical infrastructure security, including with any Information Sharing and Analysis Organization, or a plan of action as otherwise defined in section 708 of the Defense Production Act of 1950 (50 U.S.C. App. 2158).

SEC. 725. NO PRIVATE RIGHT OF ACTION.

Nothing in this subtitle may be construed to create a private right of action for enforcement of any provision of this Act.

Subtitle D—Acquisitions

SEC. 731. RESEARCH AND DEVELOPMENT PROJECTS.

(a) AUTHORITY.—During the five-year period following the effective date of this Act, the Secretary may carry out a pilot program under which the Secretary may exercise the following authorities:

(1)(A) In carrying out basic, applied, and advanced research and development projects for response to existing or emerging terrorist threats, the

Secretary may exercise the same authority (subject to the same limitations and conditions) with respect to such research and projects as the Secretary of Defense may exercise under section 2371 of title 10, United States Code (except for subsections (b) and (f) of such section), after making a determination that—

(i) the use of a contract, grant, or cooperative agreement for such projects is not feasible or appropriate; and

(ii) use of other authority to waive Federal procurement laws or regulations would not be feasible or appropriate to accomplish such projects.

(B) The annual report required under subsection (h) of such section 2371, as applied to the Secretary by this paragraph, shall be submitted to the President of the Senate and the Speaker of the House of Representatives.

(2)(A) Under the authority of paragraph (1) and subject to the limitations of such paragraph, the Secretary may carry out prototype projects, in accordance with the requirements and conditions provided for carrying out prototype projects under section 845 of the National Defense Authorization Act

for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 2371 note).

(B) In applying the authorities of such section 845—

(i) subsection (c) thereof shall apply with respect to prototype projects under this paragraph, except that in applying such subsection any reference in such subsection to the Comptroller General shall be deemed to refer to the Comptroller General and the Inspector General of the Department; and

(ii) the Secretary shall perform the functions of the Secretary of Defense under subsection (d) thereof.

(b) REPORT.—Not later than one year after the effective date of this Act, and annually thereafter, the Comptroller General shall report to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate on—

(1) whether use of the authorities described in subsection (a) attracts nontraditional Government contractors and results in the acquisition of needed technologies; and

(2) if such authorities were to be made permanent, whether additional safeguards are needed with respect to the use of such authorities.

(c) DEFINITION OF NONTRADITIONAL GOVERNMENT CONTRACTOR.—In this section, the term "nontraditional Government contractor" has the same meaning as the term "nontraditional defense contractor" as defined in section 845(e) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 2371 note).

SEC. 732. PERSONAL SERVICES.

The Secretary—

(1) may procure the temporary or intermittent services of experts or consultants (or organizations thereof) in accordance with section 3109 of title 5, United States Code; and

(2) may, whenever necessary due to an urgent homeland security need, procure temporary (not to exceed 1 year) or intermittent personal services, including the services of experts or consultants (or organizations thereof), without regard to the pay limitations of such section 3109.

SEC. 733. SPECIAL STREAMLINED ACQUISITION AUTHORITY.

(a) AUTHORITY.—(1) The Secretary may use the authorities set forth in this section with respect to any procurement made during the period beginning on the effective date of this Act and ending September 30, 2007, if the Secretary determines in writing that the mission of the Department (as described in section 101) would be seriously impaired without the use of such authorities.

(2) The authority to make the determination described in paragraph (1) may not be delegated by the Secretary to an officer of the Department who is not appointed by the President with the advice and consent of the Senate.

(3) Not later than the date that is seven days after the date of any determination under paragraph (1), the Secretary shall submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate—

(A) notification of such determination; and

(B) the justification for such determination.

(b) INCREASED MICRO-PURCHASE THRESHOLD FOR CERTAIN PROCUREMENTS.—(1) The Secretary may designate certain employees of the Department to make procurements described in subsection (a) for which in the administration of section 32 of the Office of Federal Pro-

curement Policy Act (41 U.S.C. 428) the amount specified in subsections (c), (d), and (f) of such section 32 shall be deemed to be $5,000.

(2) The number of employees designated under paragraph (1) shall be—

(A) fewer than the number of employees of the Department who are authorized to make purchases without obtaining competitive quotations, pursuant to section 32(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 428(c));

(B) sufficient to ensure the geographic dispersal of the availability of the use of the procurement authority under such paragraph at locations reasonably considered to be potential terrorist targets; and

(C) sufficiently limited to allow for the careful monitoring of employees designated under such paragraph.

(3) Procurements made under the authority of this subsection shall be subject to review by a designated supervisor on not less than a monthly basis. The supervisor responsible for the review shall be responsible for no more than 7 employees making procurements under this subsection.

(c) SIMPLIFIED ACQUISITION PROCEDURES.—(1) With respect to a procurement described in subsection (a),

the Secretary may deem the simplified acquisition threshold referred to in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)) to be $175,000.

(2) Section 18(c)(1) of the Office of Federal Procurement Policy Act is amended by adding at the end the following new subparagraph:

"(H) the procurement is by the Secretary of Homeland Security pursuant to the special procedures provided in section 733(c) of the Homeland Security Act of 2002.".

(d) APPLICATION OF CERTAIN COMMERCIAL ITEMS AUTHORITIES.—(1) With respect to a procurement described in subsection (a), the Secretary may deem any item or service to be a commercial item for the purpose of Federal procurement laws.

(2) The $5,000,000 limitation provided in section 31(a)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)(2)) and section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(B)) shall be deemed to be $7,500,000 for purposes of property or services under the authority of this subsection.

(3) Authority under a provision of law referred to in paragraph (2) that expires under section 4202(e) of the

Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106; 10 U.S.C. 2304 note) shall, notwithstanding such section, continue to apply for a procurement described in subsection (a).

(e) REPORT.—Not later than 180 days after the end of fiscal year 2005, the Comptroller General shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a report on the use of the authorities provided in this section. The report shall contain the following:

(1) An assessment of the extent to which property and services acquired using authorities provided under this section contributed to the capacity of the Federal workforce to facilitate the mission of the Department as described in section 101.

(2) An assessment of the extent to which prices for property and services acquired using authorities provided under this section reflected the best value.

(3) The number of employees designated by each executive agency under subsection (b)(1).

(4) An assessment of the extent to which the Department has implemented subsections (b)(2) and (b)(3) to monitor the use of procurement authority by employees designated under subsection (b)(1).

(5) Any recommendations of the Comptroller General for improving the effectiveness of the implementation of the provisions of this section.

Subtitle E—Property

SEC. 741. REAL PROPERTY MANAGEMENT.

The Secretary, in accordance with this title and regulations prescribed jointly by the Secretary, the Administrator of General Services, and the Director of the Office of Management and Budget—

(1) may acquire replacement real property (including interests therein)—

(A) by transfer or exchange of real property under the jurisdiction, custody, and control of the Department with other executive agencies; or

(B) by sale to or exchange of such property with non-Federal entities, if—

(i) the transaction does not conflict with other applicable laws governing the acquisition of interests in real property by Federal agencies;

(ii) following consultation with the Administrator, the agency first made the property available for transfer or exchange to other Federal agencies; and

(iii) the transaction results in the agency receiving fair market value, which shall be based upon an appraisal;

(2) by lease, permit, license, or other similar instrument, may make available to other executive agencies and to non-Federal entities, on a fair market rental value basis, the unexpired portion of any Government lease for real property under the jurisdiction, custody, and control of the Director;

(3) may make available by outlease agreements with other executive agencies or with non-Federal entities, any unused or underused portion of or interest in any real property and related personal property under the jurisdiction, custody, and control of the Department; and

(4) obligate or expend amounts received by the United States as a result of any exercise of the authority granted by paragraph (2) or (3) without regard to fiscal year limitations, for the capital asset expenditures of the Department.

SEC. 742. CRITERIA FOR USING AUTHORITIES.

(a) IN GENERAL.—Subject to the requirements of subsection (b), the Secretary may apply authority under section 741 to a real property interest only if—

(1) the Secretary has determined that such real property interest is not excess property, and includes as part of the documentation required under subsection (b)(3) a description of the need and mission requirement fulfilled by the Federal property;

(2) the real property interest is used to fulfill or support a continuing mission requirement of the Department; and

(3) the real property interest can, by the application of the authority, improve the support of such mission.

(b) CRITERIA FOR APPLICATION.—Before applying authority under section 741 to a real property interest, the Secretary, in consultation with the Administrator of General Services, must determine that such application meets all of the following criteria:

(1) The application supports the goals and objectives set forth in the Department's strategic plan under section 306 of title 5, United States Code.

(2) Use of the real property is economical, cost effective, and in the best interests of the United States.

(3) The application is documented in a business plan that, commensurate with the nature of the authority applied—

(A) analyzes all reasonable options for using the property;

(B) describes how the application will be in compliance with applicable provisions of law, including such provisions of—

(i) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(ii) the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.), including by—

(I) describing the result of the determination under that Act by the Secretary of Housing and Urban Development of the suitability of the property for use to assist the homeless; and

(II) explaining the rationale for the Department's decision not to make the property available for use to assist the homeless; and

(C) establishes effective procedures for soliciting, assessing, and taking into account input from the local community.

SEC. 743. OUTLEASES.

(a) IN GENERAL.—The Secretary may make property available by an outlease agreement authorized by section 741 only if—

(1) the Secretary finds that—

(A) there is no long-term mission requirement for the property, but the Federal Government is not permitted to dispose of it; or

(B)(i) there is a continuing, long-term mission requirement of the Department for the property to remain in Government ownership; and

(ii) the use of the real property by the lessee will not be inconsistent with such mission;

(2) in the case of an outlease to a non-Federal entity, the outlease is conducted competitively; and

(3) the agreement—

(A) is for a term no longer than 50 years; and

(B) will result in the Department receiving fair market value which, in the case of an exchange or sale of Federal real property, shall be based upon an appraisal.

(b) CONSTRUCTION ON OUTLEASED PROPERTY; APPLICABLE LAW.—

(1) PROPERTY SUBJECT TO RETAINED AUTHORITY.—If the Secretary retains authority over any decision to construct or alter buildings on property outleased to a non-Federal entity under section 741, then any such construction or alteration shall comply with section 21 of the Public Buildings Act of 1959 (40 U.S.C. 619).

(2) PROPERTY NOT SUBJECT TO RETAINED AUTHORITY.—(A) If the Secretary does not retain authority over any decision to construct or alter buildings on property outleased to a non-Federal entity under section 741, then any such construction or alteration shall comply with all laws described in subparagraph (B) that would apply to such construction or alteration if the property were not Federal property.

(B) The laws referred to in subparagraph (A) are all laws of a State, and of a political subdivision of a State, relating to zoning, landscaping, open space, minimum distance of a building from a property line, maximum building height, historic preservation, esthetic qualities of a building, building codes, and similar matters, and any other State or local laws relating to construction or alteration of a

building, respectively, by the non-Federal entity on non-Federal lands.

(C) The Secretary may waive the application of subparagraph (A) if the Secretary determines that application of that subparagraph would hinder fulfillment of the mission of the Department under section 101(b).

(c) REPORTS.—The Comptroller General of the United States shall submit biennial reports to the Congress, including to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate, on the effectiveness of the use of outlease authority under section 741.

SEC. 744. REVIEW AND REVISION OF TRANSACTIONS BY ADMINISTRATOR.

The Administrator of General Services may, in the sole discretion of the Administrator, review any transaction of the Department undertaken utilizing authority under section 741. After such review, the Administrator may disapprove such transaction if the Administrator determines the transaction does not reflect due diligence by the Department, is not in the best interest of the United States, or does not comply with the requirements of this title.

SEC. 745. TRANSACTIONAL REPORTS.

(a) IN GENERAL.—For those transactions authorized under section 741 involving the sale, exchange, or outlease to a non-Federal entity of any asset valued in excess of $700,000 at the time of the transaction, the Secretary shall submit the business plan required by section 742(b)(3) to the Director of the Office of Management and Budget, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives at least 30 calendar days before the final execution of such transaction.

(b) DISPOSAL OF REAL PROPERTY BY NEGOTIATION.—The Secretary shall prepare and submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives, a statement explaining the circumstances of each disposal by negotiation, under section 741, of any real property that has an estimated fair market value in excess of $700,000.

(c) ADJUSTMENT OF THRESHOLD.—The Administrator of General Services may increase or decrease the dollar amounts in subsections (a) and (b) to reflect a percentage increase or decrease in the Department of Commerce Consumer Price Index.

Subtitle F—Other Provisions

SEC. 752. ADVISORY COMMITTEES.

The Secretary may establish, appoint members of, and use the services of, advisory committees, as the Secretary may deem necessary. An advisory committee established under this section may be exempted by the Secretary from Public Law 92–463, but the Secretary shall publish notice in the Federal Register announcing the establishment of such a committee and identifying its purpose and membership. Notwithstanding the preceding sentence, members of an advisory committee that is exempted by the Secretary under the preceding sentence who are special Government employees (as that term is defined in section 202 of title 18, United States Code) shall be eligible for certifications under subsection (b)(3) of section 208 of title 18, United States Code, for official actions taken as a member of such advisory committee.

SEC. 753. REORGANIZATION; TRANSFER OF APPROPRIATIONS.

(a) REORGANIZATION.—

(1) IN GENERAL.—The Secretary may allocate or reallocate functions among the officers of the Department, and may establish, consolidate, alter, or discontinue organizational units within the Department, but only—

(A) pursuant to section 802; or

(B) after the expiration of 60 days after providing notice of such action to the appropriate congressional committees, which shall include an explanation of the rationale for the action.

(2) LIMITATIONS.—(A) Authority under paragraph (1)(A) does not extend to the abolition of any agency, entity, organizational unit, program, or function established or required to be maintained by this Act.

(B) Authority under paragraph (1)(B) does not extend to the abolition of any agency, entity, organizational unit, program, or function established or required to be maintained by statute.

(b) TRANSFER OF APPROPRIATIONS.—

(1) IN GENERAL.—Except as otherwise specifically provided by law, not to exceed two percent of any appropriation available to the Secretary in any fiscal year may be transferred between such appropriations, except that not less than 15 days' notice shall be given to the Committees on Appropriations of the Senate and House of Representatives before any such transfer is made.

(2) EXPIRATION OF AUTHORITY.—The authority under paragraph (1) shall expire two years after the date of enactment of this Act.

SEC. 754. MISCELLANEOUS PROVISIONS.

(a) SEAL.—The Department shall have a seal, whose design is subject to the approval of the President.

(b) GIFTS, DEVISES, AND BEQUESTS.—With respect to the Department, the Secretary shall have the same authorities that the Attorney General has with respect to the Department of Justice under section 524(d) of title 28, United States Code.

(c) PARTICIPATION OF MEMBERS OF THE ARMED FORCES.—With respect to the Department, the Secretary shall have the same authorities that the Secretary of Transportation has with respect to the Department of Transportation under section 324 of title 49, United States Code.

(d) REDELEGATION OF FUNCTIONS.—Unless otherwise provided in the delegation or by law, any function delegated under this Act may be redelegated to any subordinate.

SEC. 755. MILITARY ACTIVITIES.

Nothing in this Act shall confer upon the Secretary any authority to engage in warfighting, the military defense of the United States, or other military activities, nor

REV_00148743

shall anything in this Act limit the existing authority of the Department of Defense or the Armed Forces to engage in warfighting, the military defense of the United States, or other military activities.

SEC. 756. REGULATORY AUTHORITY.

This Act vests no new regulatory authority in the Secretary or any other Federal official, and transfers to the Secretary or another Federal official only such regulatory authority as exists on the date of enactment of this Act within any agency, program, or function transferred to the Department pursuant to this Act, or that on such date of enactment is exercised by another official of the executive branch with respect to such agency, program, or function. Any such transferred authority may not be exercised by an official from whom it is transferred upon transfer of such agency, program, or function to the Secretary or another Federal official pursuant to this Act.

SEC. 757. PROVISIONS REGARDING TRANSFERS FROM DEPARTMENT OF ENERGY.

(a) SEPARATE CONTRACTING.—To the extent that programs or activities transferred by this Act from the Department of Energy to the Department of Homeland Security are being carried out through contracts with the operator of a national laboratory of the Department of Energy, the Secretary of Homeland Security and the Sec-

retary of Energy shall ensure that contracts for such programs and activities between the Department of Homeland Security and such operator are separate from the contracts of the Department of Energy with such operator.

(b) REIMBURSEMENT OF COSTS.—In the case of an activity carried out by the operator of a national laboratory of the Department of Energy but under contract with the Department of Homeland Security, the Department of Homeland Security shall reimburse the Department of Energy for costs of such activity through a method under which the Secretary of Energy waives any requirement for the Department of Homeland Security to pay administrative charges or personnel costs of the Department of Energy or its contractors in excess of the amount that the Secretary of Energy pays for an activity carried out by such contractor and paid for by the Department of Energy.

(c) LABORATORY DIRECTED RESEARCH AND DEVELOPMENT BY THE DEPARTMENT OF ENERGY.—No funds authorized to be appropriated or otherwise made available to the Department in any fiscal year may be obligated or expended for laboratory directed research and development activities carried out by the Department of Energy

unless such activities support the mission of the Department described in section 101.

(d) DEPARTMENT OF ENERGY COORDINATION ON HOMELAND SECURITY RELATED RESEARCH.—The Secretary of Energy shall ensure that any research, development, test, and evaluation activities conducted within the Department of Energy that are directly or indirectly related to homeland security are fully coordinated with the Secretary to minimize duplication of effort and maximize the effective application of Federal budget resources.

SEC. 758. COUNTERNARCOTICS OFFICER.

The Secretary shall appoint a senior official in the Department to assume primary responsibility for coordinating policy and operations within the Department and between the the Department and other Federal departments and agencies with respect to interdicting the entry of illegal drugs into the United States, and tracking and severing connections between illegal drug trafficking and terrorism.

SEC. 759. OFFICE OF INTERNATIONAL AFFAIRS.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary an Office of International Affairs. The Office shall be headed by a Director, who shall be a senior official appointed by the Secretary.

(b) DUTIES OF THE DIRECTOR.—The Director shall have the following duties:

(1) To promote information and education exchange with nations friendly to the United States in order to promote sharing of best practices and technologies relating to homeland security. Such information exchange shall include the following:

(A) Joint research and development on countermeasures.

(B) Joint training exercises of first responders.

(C) Exchange of expertise on terrorism prevention, response, and crisis management.

(2) To identify areas for homeland security information and training exchange where the United States has a demonstrated weakness and another friendly nation or nations have a demonstrated expertise.

(3) To plan and undertake international conferences, exchange programs, and training activities.

(4) To manage international activities within the Department in coordination with other Federal officials with responsibility for counter-terrorism matters.

SEC. 760. PROHIBITION OF THE TERRORISM INFORMATION AND PREVENTION SYSTEM.

Any and all activities of the Federal Government to implement the proposed component program of the Citizen Corps known as Operation TIPS (Terrorism Information and Prevention System) are hereby prohibited.

Subtitle G—Support Anti-terrorism by Fostering Effective Technologies Act of 2002 (the SAFETY Act)

SEC. 771. SHORT TITLE.

This subtitle may be cited as the "Support Anti-terrorism by Fostering Effective Technologies Act of 2002" or the "SAFETY Act".

SEC. 772. ADMINISTRATION.

(a) In General.—The Secretary shall be responsible for the administration of this subtitle.

(b) DESIGNATION OF QUALIFIED ANTI-TERRORISM TECHNOLOGIES.—The Secretary may designate anti-terrorism technologies that qualify for protection under the system of risk management set forth in this subtitle in accordance with criteria that shall include, but not be limited to, the following:

(1) Prior and extensive United States government use and demonstrated substantial utility and effectiveness.

(2) Availability of the technology for immediate deployment in public and private settings.

(3) Existence of extraordinarily large or extraordinarily unquantifiable potential third party liability risk exposure to the Seller or other provider of such anti-terrorism technology.

(4) Substantial likelihood that such anti-terrorism technology will not be deployed unless protections under the system of risk management provided under this subtitle are extended.

(5) Magnitude of risk exposure to the public if such anti-terrorism technology is not deployed.

(6) evaluation of all scientific studies that can be feasibly conducted in order to assess the capability of the technology to substantially reduce risks of harm.

(c) REGULATIONS.—The Secretary may issue such regulations, after notice and comment in accordance with section 553 of title 5, United States, Code, as may be necessary to carry out this subtitle.

SEC. 773. LITIGATION MANAGEMENT.

(a) FEDERAL CAUSE OF ACTION.—(1)There shall exist a Federal cause of action for claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in

defense against such act and such claims result or may result in loss to the Seller. The substantive law for decision in any such action shall be derived from the law, including choice of law principles, of the State in which such acts of terrorism occurred, unless such law is inconsistent with or preempted by Federal law.

(2) Such appropriate district court of the United States shall have original and exclusive jurisdiction over all actions for any claim for loss of property, personal injury, or death arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against such act and such claims result or may result in loss to the Seller.

(b) SPECIAL RULES.—In an action brought under this section for damages the following provisions apply:

(1) No punitive damages intended to punish or deter, exemplary damages, or other damages not intended to compensate a plaintiff for actual losses may be awarded, nor shall any party be liable for interest prior to the judgment.

(2)(A) Noneconomic damages may be awarded against a defendant only in an amount directly proportional to the percentage of responsibility of such defendant for the harm to the plaintiff, and no

plaintiff may recover noneconomic damages unless the plaintiff suffered physical harm.

(B) For purposes of subparagraph (A), the term ''noneconomic damages'' means damages for losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium, hedonic damages, injury to reputation, and any other nonpecuniary losses.

(c) COLLATERAL SOURCES.—Any recovery by a plaintiff in an action under this section shall be reduced by the amount of collateral source compensation, if any, that the plaintiff has received or is entitled to receive as a result of such acts of terrorism that result or may result in loss to the Seller.

(d) GOVERNMENT CONTRACTOR DEFENSE.—(1) Should a product liability lawsuit be filed for claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies approved by the Secretary, as provided in paragraphs (2) and (3) of this subsection, have been deployed in defense against such act and such claims result or may result in loss to the Seller, there shall be a rebuttable presumption that the government contractor defense applies in such

lawsuit. This presumption shall only be overcome by evidence showing that the Seller acted fraudulently or with willful misconduct in submitting information to the Secretary during the course of the Secretary's consideration of such technology under this subsection. This presumption of the government contractor defense shall apply regardless of whether the claim against the Seller arises from a sale of the product to federal government or non-federal government customers.

(2) The Secretary will be exclusively responsible for the review and approval of anti-terrorism technology for purposes of establishing a government contractor defense in any product liability lawsuit for claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies approved by the Secretary, as provided in this paragraph and paragraph (3), have been deployed in defense against such act and such claims result or may result in loss to the Seller. Upon the Seller's submission to the Secretary for approval of anti-terrorism technology, the Secretary will conduct a comprehensive review of the design of such technology and determine whether it will perform as intended, conforms to the Seller's specifications, and is safe for use as intended. The Seller will conduct safety and hazard analyses on such

REV_00148752

technology and will supply the Secretary with all such information.

(3) For those products reviewed and approved by the Secretary, the Secretary will issue a certificate of conformance to the Seller and place the product on an Approved Product List for Homeland Security.

(d) EXCLUSION.—Nothing in this section shall in any way limit the ability of any person to seek any form of recovery from any person, government, or other entity that—

(1) attempts to commit, knowingly participates in, aids and abets, or commits any act of terrorism, or any criminal act related to or resulting from such act of terrorism; or

(2) participates in a conspiracy to commit any such act of terrorism or any such criminal act.

SEC. 774. RISK MANAGEMENT.

(a) IN GENERAL.—(1) Any person or entity that sells or otherwise provides a qualified anti-terrorism technology to non-federal government customers (''Seller'') shall obtain liability insurance of such types and in such amounts as shall be required in accordance with this section to satisfy otherwise compensable third-party claims arising out of, relating to, or resulting from an act of terrorism when

qualified anti-terrorism technologies have been deployed in defense against such act.

(2) For the total claims related to one such act of terrorism, the Seller is not required to obtain liability insurance of more than the maximum amount of liability insurance reasonably available from private sources on the world market at prices and terms that will not unreasonably distort the sales price of Seller's anti-terrorism technologies.

(3) Liability insurance obtained pursuant to this subsection shall, in addition to the Seller, protect the following, to the extent of their potential liability for involvement in the manufacture, qualification, sale, use, or operation of qualified anti-terrorism technologies deployed in defense against an act of terrorism:

(A) contractors, subcontractors, suppliers, vendors and customers of the Seller.

(B) contractors, subcontractors, suppliers, and vendors of the customer.

(4) Such liability insurance under this section shall provide coverage against third party claims arising out of, relating to, or resulting from the sale or use of anti-terrorism technologies.

(b) RECIPROCAL WAIVER OF CLAIMS.—The Seller shall enter into a reciprocal waiver of claims with its con-

tractors, subcontractors, suppliers, vendors and customers, and contractors and subcontractors of the customers, involved in the manufacture, sale, use or operation of qualified anti-terrorism technologies, under which each party to the waiver agrees to be responsible for losses, including business interruption losses, that it sustains, or for losses sustained by its own employees resulting from an activity resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against such act.

(c) EXTENT OF LIABILITY.—Notwithstanding any other provision of law, liability for all claims against a Seller arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against such act and such claims result or may result in loss to the Seller, whether for compensatory or punitive damages or for contribution or indemnity, shall not be in an amount greater than the limits of liability insurance coverage required to be maintained by the Seller under this section.

SEC. 775. DEFINITIONS.

For purposes of this subtitle, the following definitions apply:

(1) QUALIFIED ANTI-TERRORISM TECHNOLOGY.—For purposes of this subtitle, the term

"qualified anti-terrorism technology" means any product, device, or technology designed, developed, or modified for the specific purpose of preventing, detecting, identifying, or deterring acts of terrorism and limiting the harm such acts might otherwise cause, that is designated as such by the Secretary.

(2) ACT OF TERRORISM.—(A) The term "act of terrorism" means any act that the Secretary determines meets the requirements under subparagraph (B), as such requirements are further defined and specified by the Secretary.

(B) REQUIREMENTS.—An act meets the requirements of this subparagraph if the act—

(i) is unlawful;

(ii) causes harm to a person, property, or entity, in the United States, or in the case of a domestic United States air carrier or a United States flag vessel (or a vessel based principally in the United States on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), in or outside the United States; and

(iii) uses or attempts to use instrumentalities, weapons or other methods designed or in-

tended to cause mass destruction, injury or other loss to citizens or institutions of the United States.

(3) INSURANCE CARRIER.—The term ''insurance carrier'' means any corporation, association, society, order, firm, company, mutual, partnership, individual aggregation of individuals, or any other legal entity that provides commercial property and casualty insurance. Such term includes any affiliates of a commercial insurance carrier.

(4) LIABILITY INSURANCE.—

(A) IN GENERAL.—The term ''liability insurance'' means insurance for legal liabilities incurred by the insured resulting from—

(i) loss of or damage to property of others;

(ii) ensuing loss of income or extra expense incurred because of loss of or damage to property of others;

(iii) bodily injury (including) to persons other than the insured or its employees; or

(iv) loss resulting from debt or default of another.

(5) LOSS.—The term ''loss'' means death, bodily injury, or loss of or damage to property, including business interruption loss.

(6) NON-FEDERAL GOVERNMENT CUSTOMERS.—The term ''non-Federal Government customers'' means any customer of a Seller that is not an agency or instrumentality of the United States Government with authority under Public Law 85-804 to provide for indemnification under certain circumstances for third-party claims against its contractors, including but not limited to State and local authorities and commercial entities.

TITLE VIII—TRANSITION

Subtitle A—Reorganization Plan

SEC. 801. DEFINITIONS.

For purposes of this title:

(1) The term ''agency'' includes any entity, organizational unit, program, or function.

(2) The term ''transition period'' means the 12-month period beginning on the effective date of this Act.

SEC. 802. REORGANIZATION PLAN.

(a) SUBMISSION OF PLAN.—Not later than 60 days after the date of the enactment of this Act, the President

shall transmit to the appropriate congressional committees a reorganization plan regarding the following:

(1) The transfer of agencies, personnel, assets, and obligations to the Department pursuant to this Act.

(2) Any consolidation, reorganization, or streamlining of agencies transferred to the Department pursuant to this Act.

(b) PLAN ELEMENTS.—The plan transmitted under subsection (a) shall contain, consistent with this Act, such elements as the President deems appropriate, including the following:

(1) Identification of any functions of agencies transferred to the Department pursuant tothis Act that will not be transferred to the Department under the plan.

(2) Specification of the steps to be taken by the Secretary to organize the Department, including the delegation or assignment of functions transferred to the Department among officers of the Department in order to permit the Department to carry out the functions transferred under the plan.

(3) Specification of the funds available to each agency that will be transferred to the Department as a result of transfers under the plan.

(4) Specification of the proposed allocations within the Department of unexpended funds transferred in connection with transfers under the plan.

(5) Specification of any proposed disposition of property, facilities, contracts, records, and other assets and obligations of agencies transferred under the plan.

(c) MODIFICATION OF PLAN.—The President may, on the basis of consultations with the appropriate congressional committees, modify or revise any part of the plan until that part of the plan becomes effective in accordance with subsection (d).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The reorganization plan described in this section, including any modifications or revisions of the plan under subsection (d), shall become effective for an agency on the earlier of—

(A) the date specified in the plan (or the plan as modified pursuant to subsection (d)), except that such date may not be earlier than 90 days after the date the President has transmitted the reorganization plan to the appropriate congressional committees pursuant to subsection (a); or

(B) the end of the transition period.

(2) STATUTORY CONSTRUCTION.—Nothing in this subsection may be construed to require the transfer of functions, personnel, records, balances of appropriations, or other assets of an agency on a single date.

(3) SUPERSEDES EXISTING LAW.—Paragraph (1) shall apply notwithstanding section 905(b) of title 5, United States Code.

Subtitle B—Transitional Provisions

SEC. 811. TRANSITIONAL AUTHORITIES.

(a) PROVISION OF ASSISTANCE BY OFFICIALS.—Until the transfer of an agency to the Department, any official having authority over or functions relating to the agency immediately before the effective date of this Act shall provide to the Secretary such assistance, including the use of personnel and assets, as the Secretary may request in preparing for the transfer and integration of the agency into the Department.

(b) SERVICES AND PERSONNEL.—During the transition period, upon the request of the Secretary, the head of any executive agency may, on a reimbursable or non-reimbursable basis, provide services or detail personnel to assist with the transition.

(c) TRANSFER OF FUNDS.—Until the transfer of an agency to the Department, the President is authorized to

transfer to the Secretary to fund the purposes authorized in this Act—

(1) for administrative expenses related to the establishment of the Department of Homeland Security, not to exceed two percent of the unobligated balance of any appropriation available to such agency; and

(2) for purposes for which the funds were appropriated, not to exceed three percent of the unobligated balance of any appropriation available to such agency;

except that not less than 15 days' notice shall be given to the Committees on Appropriations of the House of Representatives and the Senate before any such funds transfer is made.

(d) ACTING OFFICIALS.—(1) During the transition period, pending the advice and consent of the Senate to the appointment of an officer required by this Act to be appointed by and with such advice and consent, the President may designate any officer whose appointment was required to be made by and with such advice and consent and who was such an officer immediately before the effective date of this Act (and who continues in office) or immediately before such designation, to act in such office until the same is filled as provided in this Act. While so

acting, such officers shall receive compensation at the higher of—

(A) the rates provided by this Act for the respective offices in which they act; or

(B) the rates provided for the offices held at the time of designation.

(2) Nothing in this Act shall be understood to require the advice and consent of the Senate to the appointment by the President to a position in the Department of any officer whose agency is transferred to the Department pursuant to this Act and whose duties following such transfer are germane to those performed before such transfer.

(e) TRANSFER OF PERSONNEL, ASSETS, OBLIGATIONS, AND FUNCTIONS.—Upon the transfer of an agency to the Department—

(1) the personnel, assets, and obligations held by or available in connection with the agency shall be transferred to the Secretary for appropriate allocation, subject to the approval of the Director of the Office of Management and Budget and notwithstanding the provisions of section 1531(a)(2) of title 31, United States Code; and

(2) the Secretary shall have all functions relating to the agency that any other official could by law

exercise in relation to the agency immediately before such transfer, and shall have in addition all functions vested in the Secretary by this Act or other law.

(f) PROHIBITION ON USE OF TRANSPORTATION TRUST FUNDS.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, no funds derived from the Highway Trust Fund, Airport and Airway Trust Fund, Inland Waterway Trust Fund, Harbor Maintenance Trust Fund, or Oil Spill Liability Trust Fund may be transferred to, made available to, or obligated by the Secretary or any other official in the Department.

(2) LIMITATION.—This subsection shall not apply to security-related funds provided to the Federal Aviation Administration for fiscal years preceding fiscal year 2003 for (A) operations, (B) facilities and equipment, or (C) research, engineering, and development.

SEC. 812. SAVINGS PROVISIONS.

(a) COMPLETED ADMINISTRATIVE ACTIONS.—(1) Completed administrative actions of an agency shall not be affected by the enactment of this Act or the transfer of such agency to the Department, but shall continue in

effect according to their terms until amended, modified, superseded, terminated, set aside, or revoked in accordance with law by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(2) For purposes of paragraph (1), the term ''completed administrative action'' includes orders, determinations, rules, regulations, personnel actions, permits, agreements, grants, contracts, certificates, licenses, registrations, and privileges.

(b) PENDING PROCEEDINGS.—Subject to the authority of the Secretary under this Act—

(1) pending proceedings in an agency, including notices of proposed rulemaking, and applications for licenses, permits, certificates, grants, and financial assistance, shall continue notwithstanding the enactment of this Act or the transfer of the agency to the Department, unless discontinued or modified under the same terms and conditions and to the same extent that such discontinuance could have occurred if such enactment or transfer had not occurred; and

(2) orders issued in such proceedings, and appeals therefrom, and payments made pursuant to such orders, shall issue in the same manner and on the same terms as if this Act had not been enacted or the agency had not been transferred, and any

such orders shall continue in effect until amended, modified, superseded, terminated, set aside, or revoked by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(c) PENDING CIVIL ACTIONS.—Subject to the authority of the Secretary under this Act, pending civil actions shall continue notwithstanding the enactment of this Act or the transfer of an agency to the Department, and in such civil actions, proceedings shall be had, appeals taken, and judgments rendered and enforced in the same manner and with the same effect as if such enactment or transfer had not occurred.

(d) REFERENCES.—References relating to an agency that is transferred to the Department in statutes, Executive orders, rules, regulations, directives, or delegations of authority that precede such transfer or the effective date of this Act shall be deemed to refer, as appropriate, to the Department, to its officers, employees, or agents, or to its corresponding organizational units or functions. Statutory reporting requirements that applied in relation to such an agency immediately before the effective date of this Act shall continue to apply following such transfer if they refer to the agency by name.

(e) EMPLOYMENT PROVISIONS.—(1) Notwithstanding the generality of the foregoing (including sub-

sections (a) and (d)), in and for the Department the Secretary may, in regulations prescribed jointly with the Director of the Office of Personnel Management, adopt the rules, procedures, terms, and conditions, established by statute, rule, or regulation before the effective date of this Act, relating to employment in any agency transferred to the Department pursuant to this Act; and

(2) except as otherwise provided in this Act, or under authority granted by this Act, the transfer pursuant to this Act of personnel shall not alter the terms and conditions of employment, including compensation, of any employee so transferred.

SEC. 813. TERMINATIONS.

Except as otherwise provided in this Act, whenever all the functions vested by law in any agency have been transferred pursuant to this Act, each position and office the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V, of the Executive Schedule, shall terminate.

SEC. 814. INCIDENTAL TRANSFERS.

The Director of the Office of Management and Budget, in consultation with the Secretary, is authorized and directed to make such additional incidental dispositions of personnel, assets, and obligations held, used, arising from,

available, or to be made available, in connection with the functions transferred by this Act, as the Director may deem necessary to accomplish the purposes of this Act.

SEC. 815. NATIONAL IDENTIFICATION SYSTEM NOT AUTHORIZED.

Nothing in this Act shall be construed to authorize the development of a national identification system or card.

SEC. 816. CONTINUITY OF INSPECTOR GENERAL OVERSIGHT.

Notwithstanding the transfer of an agency to the Department pursuant to this Act, the Inspector General that exercised oversight of such agency prior to such transfer shall continue to exercise oversight of such agency during the period of time, if any, between the transfer of such agency to the Department pursuant to this Act and the appointment of the Inspector General of the Department of Homeland Security in accordance with section 103(b) of this Act.

SEC. 817. REFERENCE.

With respect to any function transferred by or under this Act (including under a reorganization plan that becomes effective under section 802) and exercised on or after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or

any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, other official, or component of the Department to which such function is so transferred.

TITLE IX—CONFORMING AND TECHNICAL AMENDMENTS

SEC. 901. INSPECTOR GENERAL ACT OF 1978.

Section 11 of the Inspector General Act of 1978 (Public Law 95–452) is amended—

(1) by inserting ''Homeland Security,'' after ''Transportation,'' each place it appears;

(2) by striking ''; and'' each place it appears and inserting '';'';

(3) by striking '',,'' and inserting '','' ; and

(4) by striking '';;'' and inserting '';''.

SEC. 902. EXECUTIVE SCHEDULE.

(a) IN GENERAL.—Title 5, United States Code, is amended—

(1) in section 5312, by inserting ''Secretary of Homeland Security.'' as a new item after ''Affairs.'';

(2) in section 5313, by inserting ''Deputy Secretary of Homeland Security.'' as a new item after ''Affairs.'';

(3) in section 5314, by inserting "Under Secretaries, Department of Homeland Security." as a new item after "Affairs." the third place it appears;

(4) in section 5315, by inserting "Assistant Secretaries, Department of Homeland Security.", "General Counsel, Department of Homeland Security.", "Chief Financial Officer, Department of Homeland Security.", "Chief Information Officer, Department of Homeland Security.", and "Inspector General, Department of Homeland Security." as new items after "Affairs." the first place it appears; and

(5) in section 5315, by striking "Commissioner of Immigration and Naturalization, Department of Justice.".

(b) SPECIAL EFFECTIVE DATE.—Notwithstanding section 4, the amendment made by subsection (a)(5) shall take effect on the date on which the transfer of functions specified under section 411 takes effect.

SEC. 903. UNITED STATES SECRET SERVICE.

(a) IN GENERAL.—The United States Code is amended in sections 202 and 208 of title 3, and in section 3056 of title 18, by striking "of the Treasury", each place it appears and inserting "of Homeland Security".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of transfer of the United States Secret Service to the Department.

SEC. 904. COAST GUARD.

(a) TITLE 14, U.S.C.—Title 14 of the United States Code is amended—

(1) in sections 1, 3, 53, 95, 145, 516, 666, 669, 673 (as added by Public Law 104–201), 673 (as added by Public Law 104–324), 674, 687, and 688, by striking "of Transportation", each place it appears, and inserting "of Homeland Security"; and

(2) after executing the other amendments required by this subsection, by redesignating the section 673 added by Public Law 104–324 as section 673a.

(b) TITLE 10, U.S.C.—(1) Title 10, United States Code, is amended in sections 101(9), 130b(a), 130b(c)(4), 130c(h)(1), 379, 513(d), 575(b)(2), 580(e)(6), 580a(e), 651(a), 671(c)(2), 708(a), 716(a), 717, 806(d)(2), 815(e), 888,946(c)(1), 973(d), 978(d), 983(b)(1), 985(a), 1033(b)(1), 1033(d), 1034, 1037(c), 1044d(f), 1058(c), 1059(a), 1059(k)(1), 1073(a), 1074(c)(1), 1089(g)(2), 1090, 1091(a), 1124, 1143, 1143a(h), 1144, 1145(e), 1148, 1149, 1150(c), 1152(a), 1152(d)(1), 1153, 1175, 1212(a), 1408(h)(2), 1408(h)(8), 1463(a)(2), 1482a(b),

1510, 1552(a)(1), 1565(f), 1588(f)(4), 1589, 2002(a), 2302(1), 2306b(b), 2323(j)(2), 2376(2), 2396(b)(1), 2410a(a), 2572(a), 2575(a), 2578, 2601(b)(4), 2634(e), 2635(a), 2734(g), 2734a, 2775, 2830(b)(2), 2835, 2836, 4745(a), 5013a(a), 7361(b), 10143(b)(2), 10146(a), 10147(a), 10149(b), 10150, 10202(b), 10203(d), 10205(b), 10301(b), 12103(b), 12103(d), 12304, 12311(c), 12522(c), 12527(a)(2), 12731(b), 12731(a)(e), 16131(a), 16136(a), 16301(g), and 18501 by striking ''of Transportation'' each place it appears and inserting ''of Homeland Security''.

(2) Section 801(1) of such title is amended by striking ''the General Counsel of the Department of Transportation'' and inserting ''an official designated to serve as Judge Advocate General of the Coast Guard by the Secretary of Homeland Security''.

(3) Section 983(d)(2)(B) of such title is amended by striking ''Department of Transportation'' and inserting ''Department of Homeland Security''.

(4) Section 2665(b) of such title is amended by striking ''Department of Transportation'' and inserting ''Department in which the Coast Guard is operating''.

(5) Section 7045 of such title is amended—

(A) in subsections (a)(1) and (b), by striking ''Secretaries of the Army, Air Force, and Transpor-

tation'' both places it appears and inserting ''Secretary of the Army, the Secretary of the Air Force, and the Secretary of Homeland Security''; and

(B) in subsection (b), by striking ''Department of Transportation'' and inserting ''Department of Homeland Security''.

(6) Section 7361(b) of such title is amended in the subsection heading by striking ''TRANSPORTATION'' and inserting ''HOMELAND SECURITY''.

(7) Section 12522(b) of such title is amended in the subsection heading by striking ''TRANSPORTATION'' and inserting ''HOMELAND SECURITY''.

(c) TITLE 37, U.S.C.—Title 37, United States Code, is amended in sections 101(5), 204(i)(4), 301a(a)(3), 306(d), 307(c), 308(a)(1), 308(d)(2), 308(f), 308b(e), 308c(c), 308d(a), 308e(f), 308g(g), 308h(f), 308i(e), 309(d), 316(d), 323(b), 323(g)(1), 325(i), 402(d), 402a(g)(1), 403(f)(3), 403(l)(1), 403b(i)(5), 406(b)(1), 417(a), 417(b), 418(a), 703, 1001(c), 1006(f), 1007(a), and 1011(d) by striking ''of Transportation'' each place it appears and inserting ''of Homeland Security''.

(d) OTHER DEFENSE-RELATED LAWS.—(1) Section 363 of Public Law 104–193 (110 Stat. 2247) is amended—

(A) in subsection (a)(1) (10 U.S.C. 113 note), by striking "of Transportation" and inserting "of Homeland Security"; and

(B) in subsection (b)(1) (10 U.S.C. 704 note), by striking "of Transportation" and inserting "of Homeland Security".

(2) Section 721(1) of Public Law 104–201 (10 U.S.C. 1073 note) is amended by striking "of Transportation" and inserting "of Homeland Security".

(3) Section 4463(a) of Public Law 102–484 (10 U.S.C. 1143a note) is amended by striking "after consultation with the Secretary of Transportation".

(4) Section 4466(h) of Public Law 102–484 (10 U.S.C. 1143 note) is amended by striking "of Transportation" and inserting "of Homeland Security".

(5) Section 542(d) of Public Law 103–337 (10 U.S.C. 1293 note) is amended by striking "of Transportation" and inserting "of Homeland Security".

(6) Section 740 of Public Law 106–181 (10 U.S.C. 2576 note) is amended in subsections (b)(2), (c), and (d)(1) by striking "of Transportation" each place it appears and inserting "of Homeland Security".

(7) Section 1407(b)(2) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 926(b)) is amended by

striking "of Transportation" both places it appears and inserting "of Homeland Security".

(8) Section 2301(5)(D) of Public Law 107–110 (20 U.S.C. 6671(5)(D)) is amended by striking "of Transportation" and inserting "of Homeland Security".

(9) Section 2307(a) of Public Law 107–110 (20 U.S.C. 6677(a)) is amended by striking "of Transportation" and inserting "of Homeland Security".

(10) Section 1034(a) of Public Law 105–85 (21 U.S.C. 1505a(a)) is amended by striking "of Transportation" and inserting "of Homeland Security".

(11) The Military Selective Service Act is amended—

(A) in section 4(a) (50 U.S.C. App. 454(a)), by striking "of Transportation" in the fourth paragraph and inserting "of Homeland Security";

(B) in section 4(b) (50 U.S.C. App. 454(b)), by striking "of Transportation" both places it appears and inserting "of Homeland Security";

(C) in section 6(d)(1) (50 U.S.C. App. 456(d)(1)), by striking "of Transportation" both places it appears and inserting "of Homeland Security";

(D) in section 9(c) (50 U.S.C. App. 459(c)), by striking "Secretaries of Army, Navy, Air Force, or Transportation" and inserting "Secretary of a mili-

tary department, and the Secretary of Homeland Security with respect to the Coast Guard,''; and

(E) in section 15(e) (50 U.S.C. App. 465(e)), by striking ''of Transportation'' both places it appears and inserting ''of Homeland Security''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of transfer of the Coast Guard to the Department.

SEC. 905. STRATEGIC NATIONAL STOCKPILE AND SMALLPOX VACCINE DEVELOPMENT.

(a) IN GENERAL.—The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 is amended—

(1) in section 121(a)(1)—

(A) by striking ''Secretary of Health and Human Services'' and inserting ''Secretary of Homeland Security'';

(B) by inserting ''the Secretary of Health and Human Services and'' between ''in coordination with'' and ''the Secretary of Veterans Affairs''; and

(C) by inserting ''of Health and Human Services'' after ''as are determined by the Secretary''; and

(2) in subsections 121(a)(2) and (b), by inserting ''of Health and Human Services'' after ''Secretary'' each place it appears.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of transfer of the Strategic National Stockpile of the Department of Health and Human Services to the Department.

SEC. 906. BIOLOGICAL AGENT REGISTRATION; PUBLIC HEALTH SERVICE ACT.

(a) PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act is amended—

(1) in section 351A(a)(1)(A), by inserting ''(as defined in subsection (l)(9))'' after ''Secretary'';

(2) in section 351A(h)(2)(A), by inserting ''Department of Homeland Security, the'' before ''Department of Health and Human Services''; and

(3) in section 351A(l), by inserting after paragraph (8) a new paragraph as follows:

''(9) The term 'Secretary' means the Secretary of Homeland Security, in consultation with the Secretary of Health and Human Services.''.

(b) PUBLIC HEALTH SECURITY AND BIOTERRORISM PREPAREDNESS AND RESPONSE ACT OF 2002.—Section 201(b) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 is amended by

striking ''Secretary of Health and Human Services'' and inserting ''Secretary of Homeland Security''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of transfer of the select agent registration enforcement programs and activities of the Department of Health and Human Services to the Department.

SEC. 907. TRANSFER OF CERTAIN SECURITY AND LAW ENFORCEMENT FUNCTIONS AND AUTHORITIES.

(a) AMENDMENT TO PROPERTY ACT.—Section 210(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(a)(2)) is repealed.

(b) LAW ENFORCEMENT AUTHORITY.—The Act of June 1, 1948 (40 U.S.C. 318–318d; chapter 359; 62 Stat. 281) is amended to read as follows:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Protection of Public Property Act'.

''SEC. 2. LAW ENFORCEMENT AUTHORITY OF SECRETARY OF HOMELAND SECURITY FOR PROTECTION OF PUBLIC PROPERTY.

''(a) IN GENERAL.—The Secretary of Homeland Security (in this Act referred to as the ''Secretary'') shall protect the buildings, grounds, and property that are owned, occupied, or secured by the Federal Government

(including any agency, instrumentality, or wholly owned or mixed-ownership corporation thereof) and the persons on the property.

"(b) OFFICERS AND AGENTS.—

"(1) DESIGNATION.—The Secretary may designate employees of the Department of Homeland Security, including employees transferred to the Department from the Office of the Federal Protective Service of the General Services Administration pursuant to the Homeland Security Act of 2002, as officers and agents for duty in connection with the protection of property owned or occupied by the Federal Government and persons on the property, including duty in areas outside the property to the extent necessary to protect the property and persons on the property.

"(2) POWERS.—While engaged in the performance of official duties, an officer or agent designated under this subsection may—

"(A) enforce Federal laws and regulations for the protection of persons and property;

"(B) carry firearms;

"(C) make arrests without a warrant for any offense against the United States committed in the presence of the officer or agent or

for any felony cognizable under the laws of the United States if the officer or agent has reasonable grounds to believe that the person to be arrested has committed or is committing a felony;

"(D) serve warrants and subpoenas issued under the authority of the United States; and

"(E) conduct investigations, on and off the property in question, of offenses that may have been committed against property owned or occupied by the Federal Government or persons on the property.

"(F) carry out such other activities for the promotion of homeland security as the Secretary may prescribe.

"(c) REGULATIONS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Administrator of General Services, may prescribe regulations necessary for the protection and administration of property owned or occupied by the Federal Government and persons on the property. The regulations may include reasonable penalties, within the limits prescribed in paragraph (2), for violations of the regulations. The regulations shall be posted and remain posted in a conspicuous place on the property.

"(2) PENALTIES.—A person violating a regulation prescribed under this subsection shall be fined under title 18, United States Code, imprisoned for not more than 30 days, or both.

"(d) DETAILS.—

"(1) REQUESTS OF AGENCIES.—On the request of the head of a Federal agency having charge or control of property owned or occupied by the Federal Government, the Secretary may detail officers and agents designated under this section for the protection of the property and persons on the property.

"(2) APPLICABILITY OF REGULATIONS.—The Secretary may—

"(A) extend to property referred to in paragraph (1) the applicability of regulations prescribed under this section and enforce the regulations as provided in this section; or

"(B) utilize the authority and regulations of the requesting agency if agreed to in writing by the agencies.

"(3) FACILITIES AND SERVICES OF OTHER AGENCIES.—When the Secretary determines it to be economical and in the public interest, the Secretary may utilize the facilities and services of Federal,

State, and local law enforcement agencies, with the consent of the agencies.

"(e) AUTHORITY OUTSIDE FEDERAL PROPERTY.—For the protection of property owned or occupied by the Federal Government and persons on the property, the Secretary may enter into agreements with Federal agencies and with State and local governments to obtain authority for officers and agents designated under this section to enforce Federal laws and State and local laws concurrently with other Federal law enforcement officers and with State and local law enforcement officers.

"(f) SECRETARY AND ATTORNEY GENERAL APPROVAL.—The powers granted to officers and agents designated under this section shall be exercised in accordance with guidelines approved by the Secretary and the Attorney General.

"(g) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to—

"(1) preclude or limit the authority of any Federal law enforcement agency; or

"(2) restrict the authority of the Administrator of General Services to promulgate regulations affecting property under the Administrator's custody and control.".

SEC. 908. TRANSPORTATION SECURITY REGULATIONS.

Title 49, United States Code, is amended—

(1) in section 114(l)(2)(B), by inserting "for a period not to exceed 30 days" after "effective"; and

(2) in section 114(l)(2)(B), by inserting "ratified or" after "unless".

TITLE X—TRANSFERS TO THE DEPARTMENT OF JUSTICE

SEC. 1001. TRANSFER OF THE FEDERAL LAW ENFORCEMENT TRAINING CENTER.

There shall be transferred to the Attorney General the functions, personel, assets, and liabilities of the Federal Law Enforcement Training Center, including any functions of the Secretary of the Treasury relating thereto.

From: CN=Brian C. Conklin/OU=WHO/O=EOP [WHO]
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
CC: brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;mark mcclellan/cea/eop@eop [CEA] <mark mcclellan>;jay p. lefkowitz/opd/eop@eop [OPD] <jay p. lefkowitz>
Sent: 7/22/2002 11:35:46 AM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:22-JUL-2002 15:35:46.00
SUBJECT:: Re:
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:mark mcclellan (CN=mark mcclellan/OU=cea/O=eop@eop [CEA])
READ:UNKNOWN
CC:jay p. lefkowitz (CN=jay p. lefkowitz/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
End Original ARMS Header

I am having the latest version sent to me now.

Kristen Silverberg
07/22/2002 03:35:07 PM
Record Type: Record

To: Jay P. Lefkowitz/OPD/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP,
Mark McClellan/CEA/EOP@EOP
cc: Brian C. Conklin/WHO/EOP@EOP
Subject:

Can someone send me as soon as possible the latest copy of greenwood? Our summaries don't reflect the bill as introduced. do we have a current version?

From: CN=Kristen Silverberg/OU=WHO/O=EOP [WHO]
To: Jay P. Lefkowitz/OPD/EOP@EOP [OPD] <Jay P. Lefkowitz>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Mark McClellan/CEA/EOP@EOP [CEA] <Mark McClellan>
CC: Leslie A. Mooney/OPD/EOP@EOP [OPD] <Leslie A. Mooney>
Sent: 7/22/2002 11:51:27 AM
Subject: : memo on tx law
Attachments: P_3P8X8003_CEA.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:22-JUL-2002 15:51:27.00
SUBJECT:: memo on tx law
TO:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Mark McClellan ( CN=Mark McClellan/OU=CEA/O=EOP@EOP [ CEA ] )
READ:UNKNOWN
CC:Leslie A. Mooney ( CN=Leslie A. Mooney/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Will you review this one-pager on TX law? If it's OK, Leslie can attach
this to the cover memo for tomorrow's briefing.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_3P8X8003_CEA.TXT_1>
```

COMPARISON BETWEEN HEALTH ACT AND TEXAS LAW

Rep. Greenwood's bipartisan Health Act (H.R. 4600), which you will be endorsing on Thursday, includes the following medical malpractice reforms:

- Allows patients to recover unlimited economic damages, such as medical expenses and lost wages, but caps non-economic damages, such as pain and suffering, at $250,000;
- Makes punitive damages available only when there is "clear and convincing" evidence of egregious conduct;
- Limits punitive damages to the greater of two times economic damages or $250,000; and
- Allocates damages in proportion to a defendant's degree of fault

Reforms similar to these provisions were enacted in Texas, in some cases as part of legislation you signed.

I. TEXAS CAP ON COMPENSATORY DAMAGES

Since 1977, Texas law has limited total damages in medical malpractice cases, excluding medical costs, to $500,000 adjusted annually against CPI. Today, the inflation-adjusted medical malpractice cap is almost $1.5 million. The Texas Supreme Court has held that, under the "open courts" provision of the Texas Constitution, this cap may not apply to common law actions (meaning those that exist without statutory authority). In practice, this means that the Texas medical malpractice cap applies only in wrongful death cases, which are statutory.

II. TEXAS LAW ON PUNITIVE DAMAGES

In 1995, you signed a bill that would allow punitive damage awards in Texas only if the plaintiff presents "clear and convincing" evidence of fraud, malice, or a willful or grossly negligent act resulting in death.

In addition, the legislation limited punitive damage awards to the greater of:

a) $200,000; or
b) Two times economic damages plus non-economic damages. For purposes of the formula, the amount of non-economic damages included in the calculation may not exceed $750,000.

The punitives cap is subject to limited exceptions for certain criminal conduct.

Examples of punitives cap:

The jury awards $0 in economic damages, $500,000 in non-economic damages, and $1.5 million in punitives. The judge will reduce the punitives award as follows:

	Two times economic damages	$0
+	Non-economic damages	$500,000
=	Punitives cap	$500,000

The jury awards $2 million in economic damages, $1 million in non-economic damages, and $20 million in punitives. The judge will reduce the punitives award as follows

	Two times economic damages	$4,000,000
+	Non-economic damages	$750,000 (maximum included in formula)
=	Punitives cap	$4,750,000

III. TEXAS LAW ON JOINT AND SEVERAL LIABILITY

When two or more defendants contribute to a single injury to the plaintiff, the common law principle of "joint and several liability" may allow the plaintiff to hold any single defendant liable for the full amount of damages. For example, if a jury finds that two physicians and an HMO each contributed to the plaintiff's medical injuries, joint and several liability principles may allow the plaintiff to collect the full amount of his damages from one of the physicians, even if he was only marginally responsible.

In Texas, you signed a bill that would require juries to determine each defendant's percentage of responsibility. Unless the defendant's percentage of responsibility is greater than 50%, he is responsible only for his proportionate share of damages.

From: Alex Dahl) (Alex_Dahl@judiciary.senate.gov (Alex Dahl) [UNKNOWN]
To: nancy.scottfinan@usdoj.gov [UNKNOWN] <nancy.scottfinan@usdoj.gov>;Ryan Higginbotham) (Ryan_Higginbotham@judiciary.senate.gov (Ryan Higginbotham) [UNKNOWN] <Ryan_Higginbotham@judiciary.senate.gov>;joe_jacquot@hutchison.senate.gov [UNKNOWN] <joe_jacquot@hutchison.senate.gov>;Steve.Koebele@usdoj.gov [UNKNOWN] <Steve.Koebele@usdoj.gov>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;William Castle) (William_Castle@judiciary.senate.gov (William Castle) [UNKNOWN] <William_Castle@judiciary.senate.gov>;Pete Olson) (Pete_Olson@gramm.senate.gov (Pete Olson) [UNKNOWN] <Pete_Olson@gramm.senate.gov>;Nathan.Sales@usdoj.gov [UNKNOWN] <Nathan.Sales@usdoj.gov>;Pat.O'Brien@usdoj.gov [UNKNOWN] <Pat.O'Brien@usdoj.gov>;Don.Willett@usdoj.gov [UNKNOWN] <Don.Willett@usdoj.gov>
Sent: 7/22/2002 2:41:28 PM
Subject: : HEARING ROOM
Attachments: P_F4IX8003_WHO.TXT_1.wpd

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Alex_Dahl@judiciary.senate.gov (Alex Dahl) ( Alex_Dahl@judiciary.senate.gov (Alex
Dahl) [ UNKNOWN ] )
CREATION DATE/TIME:22-JUL-2002 18:41:28.00
SUBJECT:: HEARING ROOM
TO:nancy.scottfinan@usdoj.gov ( nancy.scottfinan@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Ryan_Higginbotham@judiciary.senate.gov (Ryan Higginbotham) (
Ryan_Higginbotham@judiciary.senate.gov (Ryan Higginbotham) [ UNKNOWN ] )
READ:UNKNOWN
TO:joe_jacquot@hutchison.senate.gov ( joe_jacquot@hutchison.senate.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Steve.Koebele@usdoj.gov ( Steve.Koebele@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:William_Castle@judiciary.senate.gov (William Castle) (
William_Castle@judiciary.senate.gov (William Castle) [ UNKNOWN ] )
READ:UNKNOWN
TO:Pete_Olson@gramm.senate.gov (Pete Olson) ( Pete_Olson@gramm.senate.gov (Pete Olson) [
UNKNOWN ] )
READ:UNKNOWN
TO:Nathan.Sales@usdoj.gov ( Nathan.Sales@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Pat.O'Brien@usdoj.gov ( Pat.O'Brien@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Don.Willett@usdoj.gov ( Don.Willett@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

NOTE that the Owen hearing will be in Russell 325.

- WLJuly2302-noms.wpd
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_F4IX8003_WHO.TXT_1>
```

Tentative Witness List

Senate Judiciary Committee Hearing on "Judicial Nominations"
Tuesday, July 23, 2002 at 10:00am
Room 325, Russell Senate Office Building

Chaired by Senator Feinstein

Panel I

The Honorable Phil Gramm
United States Senator (R-TX)

The Honorable Kay Bailey Hutchison
United States Senator (R-TX)

The Honorable Bill Nelson
United States Senator (D-FL)

The Honorable Kay Granger
United States Representative (R-TX)

Panel II
Priscilla Owen to the U.S. Court of Appeals for the Fifth Circuit

Panel III

Timothy J. Corrigan to be U.S. District Court Judge for the Middle District of Florida

Jose E. Martinez to be U.S. District Court Judge for the Southern District of Florida

From: CN=Heather Wingate/OU=WHO/O=EOP [WHO]
To: Anne Womack/WHO/EOP@EOP [WHO] <Anne Womack>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 7/23/2002 1:58:26 AM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:23-JUL-2002 05:58:26.00
SUBJECT:: Re:
TO:Anne Womack (CN=Anne Womack/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

9:15. From East Wing. I'm meeting the judge in the capitol in vp's office at 9:30.

.

----- Original Message -----
From:Brett M. Kavanaugh/WHO/EOP
To:Anne Womack/WHO/EOP@EOP
Cc:Heather Wingate/WHO/EOP@EOP
Date: 07/22/2002 11:37:30 PM
Subject:

1. anne: should you be at hearing tomorrow? i tend to think yes.

2. heather: what time are you leaving? do you have car? i assume you know it is in Russell.

From: CN=Heather Wingate/OU=WHO/O=EOP [WHO]
To: Anne Womack/WHO/EOP@EOP [WHO] <Anne Womack>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 7/23/2002 2:01:19 AM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:23-JUL-2002 06:01:19.00
SUBJECT:: Re:
TO:Anne Womack (CN=Anne Womack/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

9:15. From East Wing. I'm meeting the judge in the capitol in vp's office at 9:30.

.

----- Original Message -----
From:Brett M. Kavanaugh/WHO/EOP
To:Anne Womack/WHO/EOP@EOP
Cc:Heather Wingate/WHO/EOP@EOP
Date: 07/22/2002 11:37:30 PM
Subject:

1. anne: should you be at hearing tomorrow? i tend to think yes.

2. heather: what time are you leaving? do you have car? i assume you know it is in Russell.

From: Brett_M._Kavanaugh@who.eop.gov [UNKNOWN]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>
CC: Timothy E. Flanigan/WHO/EOP@EOP [WHO] <Timothy E. Flanigan>;Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>
Sent: 7/23/2002 10:29:21 AM
Subject: : Re:

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett_M._Kavanaugh@who.eop.gov ( Brett_M._Kavanaugh@who.eop.gov [ UNKNOWN ] )
CREATION DATE/TIME:23-JUL-2002 14:29:21.00
SUBJECT:: Re:
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Timothy E. Flanigan ( CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Kennedy is finished. She did well. Now dewine.

-----------------
Sent from my BlackBerry Handheld.
```

From: Brett_M._Kavanaugh@who.eop.gov [UNKNOWN]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Elizabeth N. Camp/WHO /EOP@EOP [WHO] <Elizabeth N. Camp>
CC: Timothy E. Flanigan/WHO/EOP@EOP [WHO] <Timothy E. Flanigan>;Alberto R. Gonzales/WHO /EOP@EOP [WHO] <Alberto R. Gonzales>
Sent: 7/23/2002 10:42:48 AM
Subject: : Re:

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett_M._Kavanaugh@who.eop.gov ( Brett_M._Kavanaugh@who.eop.gov [ UNKNOWN ] )
CREATION DATE/TIME:23-JUL-2002 14:42:48.00
SUBJECT:: Re:
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Timothy E. Flanigan ( CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Awesome responses to feingold.

-----------------
Sent from my BlackBerry Handheld.
```

From: CN=Lucy G. Clark/OU=WHO/O=EOP [WHO]
To: Steven Cooper/WHO/EOP@EOP [WHO] <Steven Cooper>;Wendy J. Grubbs/WHO /EOP@EOP [WHO] <Wendy J. Grubbs>
CC: Sally Canfield/WHO/EOP@EOP [WHO] <Sally Canfield>;John F. Wood/OMB/EOP@EOP [OMB] <John F. Wood>;Angela B. Styles/OMB/EOP@EOP [OMB] <Angela B. Styles>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Richard Falkenrath/WHO /EOP@EOP [WHO] <Richard Falkenrath>;Michael Allen/WHO/EOP@EOP [WHO] <Michael Allen>;Philip J. Perry/OMB/EOP@EOP [OMB] <Philip J. Perry>;Christine Ciccone/WHO /EOP@EOP [WHO] <Christine Ciccone>;Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;Joel D. Kaplan/WHO/EOP@EOP [WHO] <Joel D. Kaplan>
Sent: 7/23/2002 11:57:32 AM
Subject: : Re: Thompson Indemnification Language

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Lucy G. Clark (CN=Lucy G. Clark/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:23-JUL-2002 15:57:32.00
SUBJECT:: Re: Thompson Indemnification Language
TO:Steven Cooper (CN=Steven Cooper/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Sally Canfield (CN=Sally Canfield/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:John F. Wood (CN=John F. Wood/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Angela B. Styles (CN=Angela B. Styles/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Michael Allen (CN=Michael Allen/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Christine Ciccone (CN=Christine Ciccone/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Spoke to Ellen. Fact that the Administration opposes this language is new to her. She was told by an Industry representative that, according to a conversation with someone in the Admin. a few days ago, the Administration didn't have an opinion/was neutral on this. I assured her that we oppose (that the issue was imp., we would continue to monitor, but that the case hadn't been made yet). She will take that information to Thompson.

Wendy J. Grubbs
07/23/2002 03:29:44 PM
Record Type: Record

To: Lucy G. Clark/WHO/EOP@EOP
cc:

bcc:
Subject: Re: Thompson Indemnification Language

Call Ellen Brown in thompson's office and see if their boss will withdraw it?

Lucy G. Clark
07/23/2002 03:28:32 PM
Record Type: Record

To: Wendy J. Grubbs/WHO/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: Thompson Indemnification Language

Just left a meeting of (6) OMB folks trying to address this issue. They are still talking but the bottom line is that this language is unacceptable and they don't think it would be possible to come up with 2nd Amendment that work.

Wendy J. Grubbs
07/23/2002 03:06:20 PM
Record Type: Record

To: Lucy G. Clark/WHO/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: Thompson Indemnification Language

It is generated by his staffer, Ellen and call her. I think we can get him to back down....

Lucy G. Clark
07/23/2002 03:05:21 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Thompson Indemnification Language

Does anyone know the history of the Thompson indemnification amendment? Generally the administration has been against this type of proposal.

Message Sent
To:_____
Richard Falkenrath/WHO/EOP@EOP
Joel D. Kaplan/WHO/EOP@EOP
Sally Canfield/WHO/EOP@EOP
Bradford A. Berenson/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Michael Allen/WHO/EOP@EOP
Wendy J. Grubbs/WHO/EOP@EOP
Christine Ciccone/WHO/EOP@EOP

Message Copied
To:_____
richard falkenrath/who/eop@eop
joel d. kaplan/who/eop@eop
sally canfield/who/eop@eop
bradford a. berenson/who/eop@eop
brett m. kavanaugh/who/eop@eop
michael allen/who/eop@eop
christine ciccone/who/eop@eop

Message Copied
To:_____
richard falkenrath/who/eop@eop
joel d. kaplan/who/eop@eop
sally canfield/who/eop@eop
bradford a. berenson/who/eop@eop
brett m. kavanaugh/who/eop@eop
michael allen/who/eop@eop
christine ciccone/who/eop@eop

From: CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>
Sent: 7/23/2002 1:24:18 PM
Subject: : Hague Protocol

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:23-JUL-2002 17:24:18.00
SUBJECT:: Hague Protocol
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Is anyone working on this? Does anyone know where this is in the White
House?

Thanks.
```

From: CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>
Sent: 7/23/2002 1:24:18 PM
Subject: : Hague Protocol

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:23-JUL-2002 17:24:18.00
SUBJECT:: Hague Protocol
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Is anyone working on this? Does anyone know where this is in the White
House?

Thanks.
```

From: CN=Kirk Blalock/OU=WHO/O=EOP [WHO]
To: Ken Mehlman/WHO/EOP@EOP [WHO] <Ken Mehlman>;Brian C. Conklin/WHO/EOP@EOP [WHO] <Brian C. Conklin>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>;D. Marcus Sumerlin/OPD/EOP@EOP [OPD] <D. Marcus Sumerlin>;Lezlee J. Westine/WHO/EOP@EOP [WHO] <Lezlee J. Westine>;Daniel J. Bartlett/WHO/EOP@EOP [WHO] <Daniel J. Bartlett>;Randall S. Kroszner/CEA/EOP@EOP [CEA] <Randall S. Kroszner>;peter.fisher@do.treas.gov @ inet [UNKNOWN] <peter.fisher@do.treas.gov @ inet>;Matthew Kirk/WHO/EOP@EOP [WHO] <Matthew Kirk>;Karl C. Rove/WHO/EOP@EOP [WHO] <Karl C. Rove>
Sent: 7/24/2002 7:36:56 AM
Subject: : Congress Daily AM Today - Terrorism Insurance

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kirk Blalock ( CN=Kirk Blalock/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:24-JUL-2002 11:36:56.00
SUBJECT:: Congress Daily AM Today - Terrorism Insurance
TO:Ken Mehlman ( CN=Ken Mehlman/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brian C. Conklin ( CN=Brian C. Conklin/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:D. Marcus Sumerlin ( CN=D. Marcus Sumerlin/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Lezlee J. Westine ( CN=Lezlee J. Westine/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Daniel J. Bartlett ( CN=Daniel J. Bartlett/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Randall S. Kroszner ( CN=Randall S. Kroszner/OU=CEA/O=EOP@EOP [ CEA ] )
READ:UNKNOWN
TO:peter.fisher@do.treas.gov @ inet ( peter.fisher@do.treas.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:Matthew Kirk ( CN=Matthew Kirk/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Karl C. Rove ( CN=Karl C. Rove/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

FINANCE
Senate To Name Insurance Conferees; Republicans Vie For Spots
The Senate is expected to name conferees on terrorism reinsurance
legislation as
early as today, despite some political gamesmanship behind the scenes over
the selection,
sources said Tuesday.
Senate Democratic and Republican sources blamed senators on opposite
sides of the
aisle of backing a delay in naming conferees, a task that has been pending
since before the
July Fourth recess.
Democrats blamed the delay on Republican competition for spots at the
conference table,
which the majority wants split between four Democrats and three
Republicans.
But a Senate Republican leadership source blamed Democratic leaders
for failing to
respond to the GOP for a new ratio of 5-4, so they can accommodate each of
four Republicans
seeking a seat.
Senate Banking ranking member Phil Gramm, R-Texas, will lead
```

Republican conferees. But
a runoff is developing among Sens. Richard Shelby, R-Ala., Robert Bennett,
R-Utah, and Mitch
McConnell, R-Ky., for the two remaining seats.
Shelby, who sources said is the latest to request a seat, had shown
little interest in the
legislation. However, the GOP leadership aide said Shelby is eager to show
leadership on the
high- profile issue, since he will assume the top Republican spot on the
Banking panel next year
when Gramm retires.
The Banking Committee will oversee implementation of the new law.
On the Democratic side, Senate Banking Chairman Sarbanes and Sens.
Christopher Dodd,
D-Conn., Charles Schumer, D-N.Y., and Jack Reed, D-R.I., are slated to be
conferees, sources
said. By Pamela Barnett

From:	CN=Edward McNally/OU=WHO/O=EOP [WHO]
To:	Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>
CC:	Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Magda E. Angulo/WHO /EOP@EOP [WHO] <Magda E. Angulo>;Timothy E. Flanigan/WHO/EOP@EOP [WHO] <Timothy E. Flanigan>
BCC:	Robert J. Delahunty (Robert J. Delahunty/WHO/EOP [WHO])
Sent:	7/24/2002 2:52:46 PM
Subject:	: Revised 7/24 Drafts: ARG memo and EEM memos re: TPO docs
Attachments:	P_09309003_WHO.TXT_1.doc; P_09309003_WHO.TXT_2.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:24-JUL-2002 18:52:46.00
SUBJECT:: Revised 7/24 Drafts: ARG memo and EEM memos re: TPO docs
TO:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Magda E. Angulo ( CN=Magda E. Angulo/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Timothy E. Flanigan ( CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
BCC:Robert J. Delahunty ( CN=Robert J. Delahunty/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Libby -- These are the final versions, as we've discussed, with only
slight modifications/corrections today. You also have Phil Perry's final
draft of his own memo, sent to you under separate cover a few minutes
ago. -- Ed
---------------------- Forwarded by Edward McNally/WHO/EOP on 07/24/2002
06:50 PM ---------------------------



Magda E. Angulo
07/24/2002 06:31:50 PM
Record Type: Record

To: Edward McNally/WHO/EOP@EOP, robert.j.delahunty@usdoj.gov,
Robert J. Delahunty/WHO/EOP@EOP
cc:
Subject: McNally/ARG Memo re TPO Updated

Two documents as requested.




ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_09309003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_09309003_WHO.TXT_2>
```

MEMORANDUM TO OHS STAFF

FROM: EDWARD McNALLY

SUBJECT: SEPARATION OF OHS AND TRANSITION PLANNING OFFICE DOCUMENTS

Attached is a copy of Judge Gonzales' memorandum to all WHO and certain other employees concerning the general rules on White House materials (which includes any OHS materials) which you might make available to Transition Planning Office (TPO) staff. In addition to complying with this guidance, OHS staff are also obliged to maintain certain files separately. The background is as follows.

As has been discussed at staff meetings, some OHS staff may become involved in preparing materials related to the transition for the new Department of Homeland Security (DHS). Most of these materials will be OHS materials. But some, such as copies of Governor Ridge's testimony before Congress, may be created for the Governor in his capacity as Director of the TPO at OMB (established by Executive Order 13267, also attached), and not in his capacity at OHS. Furthermore, as the TPO begins to be staffed, you may be receiving written materials created by TPO. E.O. 13267 directs that the "records" of OHS "shall be kept separate" from the records of TPO. In order to ensure compliance with the E.O., please observe the following procedures:

- **Hard Copies** – You should keep separate files for records which are:

(a) prepared specifically for the use of TPO (including documents prepared for the Governor in his capacity as Director of TPO), and which

(b) have in fact been transmitted to TPO.

For example, copies of testimony and briefing materials used by Governor Ridge in testifying before Congress (as you know he's appearing in his capacity as TPO Director) should be kept separate. Please maintain any such materials in file folders labeled "TPO", and store them separately, *e.g.,* in a separate drawer in a file cabinet.

- **E-mail** – OMB is making arrangements via OMB and OA IT personnel to handle e-mail appropriately.

If you have any questions please contract Robert Delahunty, Kate Anderson or myself.

This memorandum is for internal purposes only and is not intended to, and does not, create any right, benefit, trust, or responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies or entities, its officers or employees, or any person.

Attachments

MEMORANDUM FOR ALL WHO, OVP, NSC, CEA AND OPD EMPLOYEES

FROM: ALBERTO R. GONZALES

SUBJECT: MANAGEMENT OF WHITE HOUSE MATERIALS MADE AVAILABLE TO TRANSITION PLANNING OFFICE (TPO) STAFF FOR THE NEW DEPARTMENT OF HOMELAND SECURITY

White House materials may be made available from time to time to the staff of the Transition Planning Office (TPO) that was formed in expectation of the creation of the Department of Homeland Security (DHS). Because of the sensitivity and confidentiality of such materials, the White House Office (or, as appropriate, other White House entities[1]) will maintain control over such materials even after they have been made available to TPO staff. The attached Memorandum of Understanding sets forth procedures intended to ensure that the relevant White House entities maintain control over any such House materials. This cover memorandum is intended to provide you with a guide to follow when you make White House materials available to TPO staff.

"White House materials" means any written, typed, recorded or graphic matter of any nature whatsoever, regardless of how recorded and whether an original or copy, including information therein, that is originated or received by a White House entity.

The general rules on White House materials made available to TPO staff are as follows:

- You must not make White House materials available to TPO staff other than for TPO's internal purposes.

- All White House materials that are made available to TPO staff (other than e-mail or e-mail attachments) must first be routed to TPO via Distie Carstensen or Brook Holladay at 1800 G Street, 9th floor. They will ensure that those materials are stamped: "White House-controlled material/Protected from Disclosure."

- OMB is making arrangements with IT personnel so that the same text "White House-controlled material/Protected from Disclosure" will be placed automatically on e-mail sent from White House entity e-mail addresses to TPO e-mail addresses.

---

1 "White House entities" means the White House Office, the Office of Policy Development, the National Security Council, all other entities in the Executive Office of the President to whom section 552 of Title 5 of the U.S. Code does not apply, and (with respect to executive materials) the Office of the Vice President.

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 7/24/2002 5:02:25 PM
Subject: : Re:

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:24-JUL-2002 21:02:25.00
SUBJECT:: Re:
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I think so - will confirm tomorrow morning.

Have a good night:-))

.
```

From: CN=Kristen Silverberg/OU=WHO/O=EOP [WHO]
To: Mark McClellan/CEA/EOP@EOP [CEA] <Mark McClellan>
CC: d. marcus sumerlin/opd/eop@eop [OPD] <d. marcus sumerlin>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;jay p. lefkowitz/opd/eop@eop [OPD] <jay p. lefkowitz>
Sent: 7/25/2002 4:41:09 AM
Subject: : Re: Factsheet
Attachments: P_WKB09003_WHO.TXT_1.doc; P_WKB09003_WHO.TXT_2.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:25-JUL-2002 08:41:09.00
SUBJECT:: Re: Factsheet
TO:Mark McClellan (CN=Mark McClellan/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
CC:d. marcus sumerlin (CN=d. marcus sumerlin/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:jay p. lefkowitz (CN=jay p. lefkowitz/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
End Original ARMS Header

Here are my comments. Globally -- I'm not sure we can describe these as "minimum" standards b/c the states can't have tighter standards. Also -- list of policies had early offer on it. I would also delete lump sum line. If we list everything from Greenwood, it highlights the things we aren't listing, which will irritate people. In the list, I would always use "doctors and other health care professionals" instead of "defendants." Also, I think that the reference to $250K should say "such as" or something like that.

Mark McClellan
07/24/2002 09:29:40 PM
Record Type: Record

To: Kristen Silverberg/WHO/EOP@EOP
cc: jay p. lefkowitz/opd/eop@eop, d. marcus sumerlin/opd/eop@eop
bcc:
Subject: Re: Factsheet

I did. Press wanted it now for evening stories since they decided to have HHS release their report tonight rather than in the morning, sorry I didnt clear first. We have not yet put it up on web or distributed it to anyone other than press writing on deadline, and Communications wont until morning. So we can revise.

Kristen Silverberg
07/24/2002 09:02:07 PM
Record Type: Record

To: Jay P. Lefkowitz/OPD/EOP@EOP
cc: Mark McClellan/CEA/EOP@EOP, D. Marcus Sumerlin/OPD/EOP@EOP
Subject: Factsheet

Who wrote the factsheet that just went out? Did anyone get it cleared with josh? (I didn't b/c I hadn't seen it before)

.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WKB09003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WKB09003_WHO.TXT_2>

President Proposes Minimum Standards for Medical Liability
New HHS Study Highlights Higher Costs, Lower Quality Care Resulting from Badly Broken Liability System

TODAY'S PRESIDENTIAL ACTION

- In a speech at the Highpoint University, President Bush proposed major legislative reforms to address the medical liability crisis. To make health care more affordable, more available, and better and safer for patients, the President proposed national minimum standards for medical liability reforms and new protections for good-faith efforts by health professionals to improve health care quality and safety through new Patient Safety Organizations.

- The President was accompanied by HHS Secretary Tommy Thompson, who released a new HHS report on *Confronting the New Health Care Crisis: Improving Health Care Quality and Lowering Costs by Fixing Our Medical Liability System.* The report presents a comprehensive review of how excessive litigation is threatening access to care, threatening patient safety and the quality of health care, raising health care costs for all Americans, adding billions to Federal health expenditures. The report also highlights the proven success of the national medical liability reforms proposed by the President in reducing medical costs and improving health care access and quality.

THE PRESIDENT'S FRAMEWORK FOR IMPROVING THE MEDICAL LIABILITY SYSTEM

In his speech today, the President proposed a framework for urgent Federal action to address the medical liability crisis.

- National adoption of proven minimum standards to make the medical liability system more fair, predictable, and timely. Experience in many states has demonstrated that these standards can reduce Federal government costs by $30 billion per year or more, freeing up needed funds for making health care more affordable. These standards can reduce health care costs for all Americans by $60 billion or more, and improve access to quality health care as well.
  - Secure the ability of injured patients to get quicker, unlimited compensation for their "economic losses," including the loss of ability to provide unpaid services like care for children or parents.
  - Ensure that recoveries for non-economic damages do not exceed a reasonable amount ($250,000).
  - Reserve punitive damages for cases where they are justified, and limit punitive damages to reasonable amounts (i.e., up to the greater of two times economic damages or $250,000).
  - Provide for payments of judgments over time rather than in a single lump sum, to ensure that appropriate payments are there when patients need them.
  - Ensure that old cases cannot be brought years after an event.
  - Ensure that juries are informed if a plaintiff has other sources of reimbursement for an injury.
  - Provide that defendants pay judgments in proportion to their fault.

- Improvements in health care quality and patient safety through litigation reform. Patients deserve high-quality health care without avoidable medical errors and complications, and the Administration is supporting many efforts to achieve this goal, through better information and other steps to improve quality. One proven approach to reducing errors and complications is patient safety and quality improvement programs implemented by doctors and health care organizations working together. By sharing information on quality problems, errors, and near-misses, health professionals can determine ways to avoid errors and complications in the first place. But these efforts are blocked by fear of litigation – good-faith efforts to improve quality and safety result in lawsuits based on the new information about opportunities to improve care that these efforts create.
  - Earlier this year, the President called for legislation to give health professionals the limited liability protections necessary to implement new programs to improve quality and safety.

- Bipartisan legislation is now pending in both the House and the Senate that will provide protection from use in lawsuits of new reports and efforts of Patient Safety Organizations to improve patient care.
- This protection will make it possible for health professionals to work together more effectively to provide the best possible care for all patients.

HIGHLIGHTS OF THE NEW HHS REPORT, *CONFRONTING THE NEW HEALTH CARE CRISIS: IMPROVING HEALTH CARE QUALITY AND LOWERING COSTS BY FIXING OUR MEDICAL LIABILITY SYSTEM*, RELEASED TODAY BY HHS SECRETARY TOMMY THOMPSON

The HHS report includes a detailed review of recent studies on the consequences of out-of-control medical liability, and new evidence on the magnitude and consequences of the medical liability crisis that is threatening health care in many parts of America.

- The medical liability crisis is threatening access to care in many states.
  - In Las Vegas, Nevada, the only Level 1 Trauma Center had to close temporarily because its surgeons could no longer afford malpractice insurance – and it may have to close again. Overall, 10% or more of Las Vegas doctors may leave their practice as a result of the crisis, and many patients including expectant mothers cannot find a physician.
  - In New Jersey, Pennsylvania, and West Virginia, dozens of physicians are ending their practices, depriving patients of long-term, trusted relationships and sometimes leaving them without a physician altogether.
  - In Mississippi, no doctors are available to deliver babies in many communities.
  - As a result, in many of these states, patients must travel to a different state in order to get care.
  - Many doctors cannot volunteer their services for patients who cannot pay, and the proportion of physicians who provide any charity care at all has declined, because doctors cannot afford the required liability coverage.

- The medical liability crisis is threatening patient safety and quality of care.
  - Many preventable errors and complications in the health care system do not result from failures by individual doctors, but from problems in how health professionals work together to provide increasingly complex medical services. For this reason, health care organizations have been able to reduce errors and complications through better information systems and careful studies of how mistakes occur, and how to prevent them. For example, the doctors and hospitals of the Pittsburgh Regional Healthcare Initiative has reduced blood infections in intensive care units by 20 percent through collaborative work to identify safer ways to treat intensive care patients.
  - But these efforts are impeded by litigation fears: good-faith efforts by medical professionals to generate new information and insights to improve care should not be rewarded by lawsuits based on this new information.

- The medical liability crisis is raising health care costs, including adding billions to Federal spending.
  - Doctors alone had to pay over $6 billion in medical liability premiums last year, and premiums this year in many states have increased by more than 20% on average and more than 75% for specialties in some states.
  - In addition, the costs of "defensive" medicine – additional, unnecessary tests and treatments that help avoid frivolous lawsuits but do not improve patient health – add many billions more to American health expenditures.
  - Altogether, medical liability adds $60 to 110 billion to the costs of health care each year – higher health insurance premiums and higher medical costs for all Americans.
  - Excessive medical liability also adds $30 to $60 billion annually to Federal government payments for Medicare, Medicaid, the State Children's Health Insurance Program, Veterans' Administration health care, health care for Federal employees, and other government programs. It also accounts for billions in additional tax deductions for the added costs of liability of employer health insurance coverage.

- The cause of the medical liability crisis is a badly broken system of litigation that serves the interest of specialized trial lawyers, not patients.

- The vast majority of medical liability claims (up to 70%) do not result in any payments to patients. Less than 2% of cases result in trial victories for plaintiffs. But each of these claims costs almost $25,000 on average to defend.
- Within the very small proportion of jury cases that find for the plaintiff, "mega-verdicts" with large awards of noneconomic damages have been increasing in states that do not have reasonable limits on non-economic damages. For example, there have been over 20 verdicts of $9 million or more in Mississippi since 1995, and individual cases in Pennsylvania and Mississippi have reached the $100 million level.
- Yet even patients who are lucky enough to get awards don't get most of the money. Lawyers' fees account for 40% or more of the multimillion-dollar payouts. And less than 30% of all the money that doctors pay in liability insurance fees goes to patients. And patients must wait five years on average for these payouts (longer in cases that go to trial).
- This system rewards personal injury lawyers who adopt a "lottery" strategy: seek out patients and encourage them to file lots of claims, even though the vast majority will have no merit and the patient will get nothing; and then encourage patients to wait it out through years of litigation for a small chance of a big win. If exaggerated awards are possible, even if very unlikely, a personal injury lawyer only needs to win one out of hundreds of cases to make it all worthwhile – from the standpoint of the lawyer. But the vast majority of patients get nothing for their troubles, doctors lose billions in insurance costs and time and may have to leave their practice altogether, and all patients pay higher prices and get worse care as a result.

- The HHS report also shows that there is a proven solution: liability reforms including reasonable limits on non-economic damages ($250,000-350,000) are working in many states to reduce health care costs and improve access and quality of care.
  - Reasonable caps on noneconomic damages result in lower medical liability costs, resulting in much lower medical liability premiums and stable availability of liability insurance, so that access to doctors is not threatened. Liability premium increases last year averaged 12% in states with caps, and 44% in states without. Liability premiums for OB/Gyns in Florida (no cap) are $100,000-$200,000 but in California (reasonable cap) are $46,000-$57,000. Over the past 25 years since California instituted a reasonable cap on noneconomic damages, liability premiums have increased by less than one third as much as in the rest of the country.
  - If applied nationally, studies based on the experience of these states indicate that: over $60 billion per year in health care costs could be redirected from lawsuits and unnecessary care toward paying for valuable drugs and other treatments; over $30 billion in Federal payments could be redirected toward improving Medicare, Medicaid, and other Federal programs for reducing health care costs; and over 2 million more Americans would be able to afford health insurance.
  - Studies also show no adverse effects on patient care associated with these caps. In fact, quality of care improves because of greater access to physicians.

For more information on the President's initiatives please visit www.whitehouse.gov

President Proposes ~~Minimum~~ Federal Standards for Medical Liability
New HHS Study Highlights Higher Costs, Lower Quality Care Resulting from Badly Broken Liability System

TODAY'S PRESIDENTIAL ACTION

- In a speech at ~~the~~ Highpoint University, President Bush proposed major legislative reforms to address the medical liability crisis. To make health care more affordable, more available, and better and safer for patients, the President proposed national ~~minimum standards for~~ medical liability reforms and new protections for good-faith efforts by health professionals to improve health care quality and safety ~~through new Patient Safety Organizations~~. [too long]

- The President was accompanied by HHS Secretary Tommy Thompson, who released a new HHS report on *Confronting the New Health Care Crisis: Improving Health Care Quality and Lowering Costs by Fixing Our Medical Liability System.* The report presents a comprehensive review of how excessive litigation is threatening access to care, threatening patient safety and the quality of health care, raising health care costs for all Americans, adding billions to Federal health expenditures. The report also highlights the proven success of the national medical liability reforms proposed by the President in reducing medical costs and improving health care access and quality.

THE PRESIDENT'S FRAMEWORK FOR IMPROVING THE MEDICAL LIABILITY SYSTEM

In his speech today, the President proposed a framework for urgent Federal action to address the medical liability crisis.

- National adoption of proven ~~minimum~~ standards to make the medical liability system more fair, predictable, and timely. Experience in many states has demonstrated that these standards can reduce Federal government costs by $30 billion per year or more, freeing up needed funds for making health care more affordable. These standards can reduce health care costs for all Americans by $60 billion or more, and improve access to quality health care as well.
  - ~~Secure the ability of injured patients to get quicker, unlimited compensation for their "economic losses," including the loss of ability to provide unpaid services like care for children or parents.~~ [we aren't doing this]
  - Ensure that recoveries for non-economic damages do not exceed a reasonable amount, such as the ~~(~~$250,000 limit supported by a bipartisan group in Congress~~)~~.
  - Reserve punitive damages against doctors and other health care professional for cases where they are justified, and limit punitive damages to reasonable amounts (e.g.~~i.~~e., up to the greater of two times economic damages or $250,000).
  - ~~Provide for payments of judgments over time rather than in a single lump sum, to ensure that appropriate payments are there when patients need them.~~
  - Ensure that old cases cannot be brought against doctors years after an event.
  - Ensure that juries are informed if a plaintiff has other sources of reimbursement for an injury.
  - Provide that doctors and other health care professionals ~~defendants~~ pay judgments in proportion to their fault.

- Improvements in health care quality and patient safety through litigation reform. Patients deserve high-quality health care without avoidable medical errors and complications, and the Administration is supporting many efforts to achieve this goal, through better information and other steps to improve quality. One proven approach to reducing errors and complications is patient safety and quality improvement programs implemented by doctors and health care organizations working together. By sharing information on quality problems, errors, and near-misses, health professionals can determine ways to avoid errors and complications in the first place. But these efforts are blocked by fear of litigation – good-faith efforts to improve quality and safety result in lawsuits based on the new information about opportunities to improve care that these efforts create.

- Earlier this year, the President called for legislation to give health professionals the limited liability protections necessary to implement new programs to improve quality and safety.
- Bipartisan legislation is now pending in both the House and the Senate that will provide protection from use in lawsuits of new reports and efforts of Patient Safety Organizations to improve patient care.
- This protection will make it possible for health professionals to work together more effectively to provide the best possible care for all patients.

HIGHLIGHTS OF THE NEW HHS REPORT, *CONFRONTING THE NEW HEALTH CARE CRISIS: IMPROVING HEALTH CARE QUALITY AND LOWERING COSTS BY FIXING OUR MEDICAL LIABILITY SYSTEM*, RELEASED TODAY BY HHS SECRETARY TOMMY THOMPSON

The HHS report includes a detailed review of recent studies on the consequences of out-of-control medical liability, and new evidence on the magnitude and consequences of the medical liability crisis that is threatening health care in many parts of America.

- The medical liability crisis is threatening access to care in many states.
  - In Las Vegas, Nevada, the only Level 1 Trauma Center had to close temporarily because its surgeons could no longer afford malpractice insurance – and it may have to close again. Overall, 10% or more of Las Vegas doctors may leave their practice as a result of the crisis, and many patients including expectant mothers cannot find a physician.
  - In New Jersey, Pennsylvania, and West Virginia, dozens of physicians are ending their practices, depriving patients of long-term, trusted relationships and sometimes leaving them without a physician altogether.
  - In Mississippi, no doctors are available to deliver babies in many communities.
  - As a result, in many of these states, patients must travel to a different state in order to get care.
  - Many doctors cannot volunteer their services for patients who cannot pay, and the proportion of physicians who provide any charity care at all has declined, because doctors cannot afford the required liability coverage.

- The medical liability crisis is threatening patient safety and quality of care.
  - Many preventable errors and complications in the health care system do not result from failures by individual doctors, but from problems in how health professionals work together to provide increasingly complex medical services. For this reason, health care organizations have been able to reduce errors and complications through better information systems and careful studies of how mistakes occur, and how to prevent them. For example, the doctors and hospitals of the Pittsburgh Regional Healthcare Initiative has reduced blood infections in intensive care units by 20 percent through collaborative work to identify safer ways to treat intensive care patients.
  - But these efforts are impeded by litigation fears: good-faith efforts by medical professionals to generate new information and insights to improve care should not be rewarded by lawsuits based on this new information.

- The medical liability crisis is raising health care costs, including adding billions to Federal spending.
  - Doctors alone had to pay over $6 billion in medical liability premiums last year, and premiums this year in many states have increased by more than 20% on average and more than 75% for specialties in some states.
  - In addition, the costs of "defensive" medicine – additional, unnecessary tests and treatments that help avoid frivolous lawsuits but do not improve patient health – add many billions more to American health expenditures.
  - Altogether, medical liability adds $60 to 110 billion to the costs of health care each year – higher health insurance premiums and higher medical costs for all Americans.
  - Excessive medical liability also adds $30 to $60 billion annually to Federal government payments for Medicare, Medicaid, the State Children's Health Insurance Program, Veterans' Administration health care, health care for Federal employees, and other government programs. It also accounts for billions in additional tax deductions for the added costs of liability of employer health insurance coverage.

- The cause of the medical liability crisis is a badly broken system of litigation that serves the interest of specialized trial lawyers, not patients.
  - The vast majority of medical liability claims (up to 70%) do not result in any payments to patients. Less than 2% of cases result in trial victories for plaintiffs. But each of these claims costs almost $25,000 on average to defend.
  - Within the very small proportion of jury cases that find for the plaintiff, "mega-verdicts" with large awards of noneconomic damages have been increasing in states that do not have reasonable limits on non-economic damages. For example, there have been over 20 verdicts of $9 million or more in Mississippi since 1995, and individual cases in Pennsylvania and Mississippi have reached the $100 million level.
  - Yet even patients who are lucky enough to get awards don't get most of the money. Lawyers' fees account for 40% or more of the multimillion-dollar payouts. [always??[And less than 30% of all the money that doctors pay in liability insurance fees goes to patients. And patients must wait five years on average for these payouts (longer in cases that go to trial).
  - This system rewards personal injury lawyers who adopt a "lottery" strategy: seek out patients and encourage them to file lots of claims, even though the vast majority will have no merit and the patient will get nothing; and then encourage patients to wait it out through years of litigation for a small chance of a big win. If exaggerated awards are possible, even if very unlikely, a personal injury lawyer only needs to win one out of hundreds of cases to make it all worthwhile – from the standpoint of the lawyer. But the vast majority of patients get nothing for their troubles, doctors lose billions in insurance costs and time and may have to leave their practice altogether, and all patients pay higher prices and get worse care as a result.

- The HHS report also shows that there is a proven solution: liability reforms including reasonable limits on non-economic damages ($250,000-350,000) are working in many states to reduce health care costs and improve access and quality of care.
  - Reasonable caps on noneconomic damages result in lower medical liability costs, resulting in much lower medical liability premiums and stable availability of liability insurance, so that access to doctors is not threatened. Liability premium increases last year averaged 12% in states with caps, and 44% in states without. Liability premiums for OB/Gyns in Florida (no cap) are $100,000-$200,000 but in California (reasonable cap) are $46,000-$57,000. Over the past 25 years since California instituted a reasonable cap on noneconomic damages, liability premiums have increased by less than one third as much as in the rest of the country.
  - If applied nationally, studies based on the experience of these states indicate that: over $60 billion per year in health care costs could be redirected from lawsuits and unnecessary care toward paying for valuable drugs and other treatments; over $30 billion in Federal payments could be redirected toward improving Medicare, Medicaid, and other Federal programs for reducing health care costs; and over 2 million more Americans would be able to afford health insurance.
  - Studies also show no adverse effects on patient care associated with these caps. In fact, quality of care improves because of greater access to physicians.

For more information on the President's initiatives please visit www.whitehouse.gov

From: Doug Hoelscher <dhoelscher@georgewbush.com>
To: AMayol@nrsc.org [UNKNOWN] <AMayol@nrsc.org>
CC: Leonard B. Rodriguez/WHO/EOP@EOP [WHO] <Leonard B. Rodriguez>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;mschlapp@georgewbush.com [WHO] <mschlapp@georgewbush.com>
Sent: 7/25/2002 9:34:13 AM
Subject: : RE: Govt employees and candidate aid.
Attachments: P_ZAT09003_WHO.TXT_1.htm

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Doug Hoelscher <dhoelscher@georgewbush.com> (Doug Hoelscher <dhoelscher@georgewbush.com> [UNKNOWN])
CREATION DATE/TIME:25-JUL-2002 13:34:13.00
SUBJECT:: RE: Govt employees and candidate aid.
TO:AMayol@nrsc.org (AMayol@nrsc.org [UNKNOWN])
READ:UNKNOWN
CC:Leonard B. Rodriguez (CN=Leonard B. Rodriguez/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:mschlapp@georgewbush.com (mschlapp@georgewbush.com [WHO])
READ:UNKNOWN
End Original ARMS Header

Govt employees and candidate aid.Annie,
The below information is not correct. I confirmed with Brett Kavanaugh in the White House Counsel's Office that there is no such rule. Who told you the below information?
-Doug
-----Original Message-----
From: Leonard Rodriguez [mailto:lrodriguez@georgewbush.com]
Sent: Thursday, July 25, 2002 12:06 PM
To: dhoelscher@georgewbush.com
Cc: mschlapp@georgewbush.com; Ken Mehlman
Subject: Govt employees and candidate aid.

Are you aware of this?

-----Original Message-----
From: Mayol, Annie <AMayol@nrsc.org>
To: Leonard Rodriguez <lrodriguez@georgewbush.com>
Sent: Thu Jul 25 11:58:02 2002
Subject: RE: FW: DNC Chairman McAuliffe Establishes Hispanic Business Council

It has come to my attention that a rule exists for all government employees,
including appointees like Hector Barreto, cannot do an event with a candidate on a contested race 60 day before the election (November 5th).
Due to the events that I had hope to organized with Hispanic surrogates and
our Senatorial races - I need to know how does this affect us and what are
our limitations? Please advice.

Annie Mayol
Director of Hispanic Outreach
National Republican Senatorial Committee
425 Second Street, NE
Washington, DC 20002
202-675-6064
202-675-4269 fax

-----Original Message-----
From: Leonard Rodriguez [mailto:lrodriguez@georgewbush.com]
Sent: Thursday, July 25, 2002 10:57 AM
To: AMayol@nrsc.org
Subject: RE: FW: DNC Chairman McAuliffe Establishes Hispanic Business Council

Talk to rudy on reconvening the group. Talk to rudy on nrcc and nrsc co chairs. Nclr will not move on estrada, but it does not mean you can ask.

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ZAT09003_WHO.TXT_1>

Annie,
The below information is not correct. I confirmed with Brett Kavanaugh in the White House Counsel's Office that there is no such rule. Who told you the below information?
-Doug

-----Original Message-----
From: Leonard Rodriguez [mailto:lrodriguez@georgewbush.com]
Sent: Thursday, July 25, 2002 12:06 PM
To: dhoelscher@georgewbush.com
Cc: mschlapp@georgewbush.com; Ken Mehlman
Subject: Govt employees and candidate aid.

Are you aware of this?

-----Original Message-----
From: Mayol, Annie <AMayol@nrsc.org>
To: Leonard Rodriguez <lrodriguez@georgewbush.com>
Sent: Thu Jul 25 11:58:02 2002
Subject: RE: FW: DNC Chairman McAuliffe Establishes Hispanic Business Council

It has come to my attention that a rule exists for all government employees, including appointees like Hector Barreto, cannot do an event with a candidate on a contested race 60 day before the election (November 5th). Due to the events that I had hope to organized with Hispanic surrogates and our Senatorial races - I need to know how does this affect us and what are our limitations? Please advice.

Annie Mayol
Director of Hispanic Outreach
National Republican Senatorial Committee
425 Second Street, NE
Washington, DC 20002
202-675-6064
202-675-4269 fax

-----Original Message-----
From: Leonard Rodriguez [mailto:lrodriguez@georgewbush.com]
Sent: Thursday, July 25, 2002 10:57 AM
To: AMayol@nrsc.org
Subject: RE: FW: DNC Chairman McAuliffe Establishes Hispanic Business Council

Talk to rudy on reconvening the group. Talk to rudy on nrcc and nrsc co chairs. Nclr will not move on estrada, but it doe s not mean you can ask.

From: Doug Hoelscher <dhoelscher@georgewbush.com>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Leonard B. Rodriguez/WHO/EOP@EOP [WHO] <Leonard B. Rodriguez>;Matt Schlapp <mschlapp@georgewbush.com>
Sent: 7/25/2002 11:57:09 AM
Subject: : RE: FW: Govt employees and candidate aid.
Attachments: P_J7219003_WHO.TXT_1.htm

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Doug Hoelscher <dhoelscher@georgewbush.com> (Doug Hoelscher <dhoelscher@georgewbush.com> [UNKNOWN])
CREATION DATE/TIME:25-JUL-2002 15:57:09.00
SUBJECT:: RE: FW: Govt employees and candidate aid.
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Leonard B. Rodriguez (CN=Leonard B. Rodriguez/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Matt Schlapp <mschlapp@georgewbush.com> (Matt Schlapp <mschlapp@georgewbush.com> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Re: FW: Govt employees and candidate aid.awesome -- thanks Brett
-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Thursday, July 25, 2002 3:29 PM
To: Doug Hoelscher
Cc: Matt Schlapp; Leonard_B._Rodriguez@who.eop.gov
Subject: Re: FW: Govt employees and candidate aid.

I talked to him. He referenced an SBA-specific "standard operating procedure." He is following up by e-mail with me. Will keep you posted.

(Embedded
image moved Doug Hoelscher <dhoelscher@georgewbush.com>
to file: 07/25/2002 03:05:00 PM
pic31944.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc: Matt and Mercy Schlapp <mschlapp@georgewbush.com>, Leonard B. Rodriguez/WHO/EOP@EOP
Subject: FW: Govt employees and candidate aid.

Govt employees and candidate aid.Brett,
Do you want to talk to Peter Dugas or would you like me to?

Peter Dugas
205-6440
Peter.Dugas@sba.gov

-Doug

-----Original Message-----
From: Mayol, Annie [mailto:AMayol@nrsc.org]
Sent: Thursday, July 25, 2002 2:51 PM
To: Doug Hoelscher
Subject: RE: Govt employees and candidate aid.

Peter Dugas from Hector Barreto's office. He was checking with his legal
counsel as well, but I am glad to hear that. Maybe he was looking at an
SBA
rule.

Annie Mayol
Director of Hispanic Outreach
National Republican Senatorial Committee
425 Second Street, NE
Washington, DC 20002
202-675-6064
202-675-4269 fax

-----Original Message-----
From: Doug Hoelscher [mailto:dhoelscher@georgewbush.com]
Sent: Thursday, July 25, 2002 1:40 PM
To: AMayol@nrsc.org
Cc: mschlapp@georgewbush.com; Leonard Rodriguez;
Brett_M._Kavanaugh@who.eop.gov
Subject: RE: Govt employees and candidate aid.

Annie,
The below information is not correct. I confirmed with Brett Kavanaugh
in
the White House Counsel's Office that there is no such rule. Who told
you
the below information?
-Doug
-----Original Message-----
From: Leonard Rodriguez [mailto:lrodriguez@georgewbush.com]
Sent: Thursday, July 25, 2002 12:06 PM
To: dhoelscher@georgewbush.com
Cc: mschlapp@georgewbush.com; Ken Mehlman
Subject: Govt employees and candidate aid.

Are you aware of this?

-----Original Message-----
From: Mayol, Annie <AMayol@nrsc.org>
To: Leonard Rodriguez <lrodriguez@georgewbush.com>
Sent: Thu Jul 25 11:58:02 2002
Subject: RE: FW: DNC Chairman McAuliffe Establishes Hispanic Business
Council

It has come to my attention that a rule exists for all government
employees,

including appointees like Hector Barreto, cannot do an event with a candidate on a contested race 60 day before the election (November 5th).
Due to the events that I had hope to organized with Hispanic surrogates
and
our Senatorial races - I need to know how does this affect us and what
are
our limitations? Please advice.

Annie Mayol
Director of Hispanic Outreach
National Republican Senatorial Committee
425 Second Street, NE
Washington, DC 20002
202-675-6064
202-675-4269 fax

-----Original Message-----
From: Leonard Rodriguez [mailto:lrodriguez@georgewbush.com]
Sent: Thursday, July 25, 2002 10:57 AM
To: AMayol@nrsc.org
Subject: RE: FW: DNC Chairman McAuliffe Establishes Hispanic Business Council

Talk to rudy on reconvening the group. Talk to rudy on nrcc and nrsc co
chairs. Nclr will not move on estrada, but it does not mean you can ask.

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_J7219003_WHO.TXT_1>

awesome -- thanks Brett

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov [mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Thursday, July 25, 2002 3:29 PM
To: Doug Hoelscher
Cc: Matt Schlapp; Leonard_B._Rodriguez@who.eop.gov
Subject: Re: FW: Govt employees an d candidate aid.

I talked to him. He referenced an SBA-specific "standard operating procedure." He is following up by e-mail with me. Will keep you posted.

&nbs p; ; & nbsp; &n bsp;
(Embedded & nbsp; &n bsp; &nb sp; &nbs p;
image moved Doug Hoelscher <dhoelscher@georgewbush.com>
to file: 07/25/2002 03:05:00 PM &nb sp; &nbs p;
pic31944.pcx) &nb sp; &nbs p; ;
&nbs p; ; & nbsp; &n bsp;

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc: Matt and Mercy Schlapp <mschlapp@georgewbush.com>, Leonard B. Rodriguez/WHO/EOP@EOP
Subject: FW: Govt employees and candidate aid.

Govt employees and candidate aid.Brett,
Do you want to talk to Peter Dugas or would you like me to?

Peter Dugas
205-6440
Peter.Dugas@sba.gov

-Doug

-----Original Message-----
From: Mayol, Annie [mailto:AMayol@nrsc.org]
Sent: Thursday, July 25, 2002 2:51 PM

To: Doug Hoelscher
Subject: RE: Govt employees and candidate aid.

Peter Dugas from Hector Barreto's office. He was checking wit h his legal counsel as well, but I am glad to hear that . Maybe he was looking at an SBA rule.

Annie Mayol
Director of Hispanic Outreach
National Republican Senatorial Committee
425 Second Street, NE
Washington, DC 20002
202-675-6064
202-675-4269 fax

-----Original Message-----
From: Doug Hoelscher [mailto:dhoelscher@georgewbush.com]
Sent: Thursday, July 25, 2002 1:40 PM
To: AMayol@nrsc.org
Cc: mschlapp@georgewbush.com; Leonard Rodriguez; Brett_M._Kavanaugh@who.eop.gov
Subject: RE: Govt employees and candidate aid.

Annie,
The below information is not correct. I confirmed with Brett Kavanaugh in the White House Counsel's Office that there is no such rule. Who told you the below information?
-Doug

-----Original Message-----
From: Leonard Rodriguez [mailto:lrodriguez@georgewbush.com]
Sent: Thursday, July 25, 2002 12:06 PM
To: dhoelscher@georgewbush.com
Cc: mschlapp@georgewbush.com; Ken Mehlman
Subject: Govt employees and candidate aid.

Are you aware of this?

-----Original Message-----
From: Mayol, Annie <AMayol@nrsc.org>
To: Leonard Rodriguez <lrodriguez@georgewbush.com>
Sent: Thu Jul 25 11:58:02 2002
Subject: RE: FW: DNC Chairman McAuliffe Establishes Hispanic Business Council

It has come to my attention that a rule exists for all government employees,
including appointees like Hector Barreto, cannot do an event with a candidate on a contested race 60 day before the election (November 5th).
Due to the events that I had hope to organized with Hispanic surrogates and
our Senatorial races - I need to know how does this affect us and what

are
our limitations? Please advice.

Annie Mayol
Director of Hispanic Outreach
National Republican Senatorial Committee
425 Second Street, NE
Washington, DC 20002
202-675-6064
202-675-4269 fax

-----Original Message-----
From: Leonard Rodriguez [mailto:lrodriguez@georgewbush.com]
Sent: Thursday, July 25, 2002 10:57 AM
To: AMayol@nrsc.org
Subject: RE: FW: DNC Chairman McAuliffe Establishes Hispanic Business Council

Talk to rudy on reconvening the group. Tal k to rudy on nrcc and nrsc co chairs . Nclr will not move on estrada, but it does not mean you can ask.

From:	CN=Joel D. Kaplan/OU=WHO/O=EOP [WHO]
To:	Kyle Simmons) (Kyle_Simmons@mcconnell.senate.gov (Kyle Simmons) [UNKNOWN] <Kyle_Simmons@mcconnell.senate.gov>
CC:	dylan c. glenn/opd/eop@eop [OPD] <dylan c. glenn>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>
Sent:	7/25/2002 1:24:47 PM
Subject:	: Re: Re[2]: Golf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:25-JUL-2002 17:24:47.00
SUBJECT:: Re: Re[2]: Golf
TO:Kyle_Simmons@mcconnell.senate.gov (Kyle Simmons) (Kyle_Simmons@mcconnell.senate.gov (Kyle Simmons) [UNKNOWN])
READ:UNKNOWN
CC:dylan c. glenn (CN=dylan c. glenn/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

well, you snooze, you lose. No time at whiskey creek. Sorry, Kyle, I know you're upset about that.

DG--let's try to chase the rabbit at that track out at Andrews.

Kyle_Simmons@mcconnell.senate.gov (Kyle Simmons)
07/25/2002 11:41:25 AM
Record Type: Record

To: Joel D. Kaplan/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP, Dylan C. Glenn/OPD/EOP@EOP
cc:
Subject: Re[2]: Golf

ok.

1. raspberry falls doesn't have any tee time until 2:20pm on sat.
2. whiskey creek has a 7:20am and then nothing until 12:30pm.
3. westfields has an 11:34am which i tentatively confirmed although their cart path rules vary based on weather conditions.
4. AND we still have the 9ish tee time at augustine.

why don't we make a decision in the next hour and nail this down.

_____ Reply Separator _____
Subject: Re: Golf
Author: Joel_D._Kaplan@who.eop.gov at Internet
Date: 7/23/02 7:30 PM

Even assuming that Dylan is right, and you can't have everything (Brett--say it ain't so), I must register my concerns with Augustine, which operates under those primitive and oppressive cart-path only rules. Any other options?

Dylan C. Glenn
07/23/2002 07:10:46 PM

Record Type: Record

To: Kyle_Simmons@mcconnell.senate.gov (Kyle Simmons), Brett M. Kavanaugh/WHO/EOP

cc: Joel D. Kaplan/WHO/EOP
Subject: Re: Golf

You're such a good man. The only thing better would be a tee time at Congressional...well I guess you can't have everything.

.

From: CN=Blake Gottesman/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 7/25/2002 2:57:27 PM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:25-JUL-2002 18:57:27.00
SUBJECT:: Re:
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

let's talk tomorrow

thanks

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)

----- Original Message -----
From:Brett M. Kavanaugh/WHO/EOP
To:Blake Gottesman/WHO/EOP@EOP
Cc:
Date: 07/25/2002 04:20:57 PM
Subject: Re:

I have the video. What's the story? call me.

From: CN=Blake Gottesman/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 7/25/2002 3:14:27 PM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:25-JUL-2002 19:14:27.00
SUBJECT:: Re:
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

let's talk tomorrow

thanks

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)

----- Original Message -----
From:Brett M. Kavanaugh/WHO/EOP
To:Blake Gottesman/WHO/EOP@EOP
Cc:
Date: 07/25/2002 04:20:57 PM
Subject: Re:

I have the video. What's the story? call me.

From: CN=Mary Ann Hanusa/OU=WHO/O=EOP [WHO]
To: Linda M. Gambatesa/WHO/EOP@EOP [WHO] <Linda M. Gambatesa>
CC: terry w. good/who/eop@eop [WHO] <terry w. good>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;christa j. bailey/who/eop@eop [WHO] <christa j. bailey>;harriet miers/who/eop@eop [WHO] <harriet miers>
Sent: 7/26/2002 4:55:52 AM
Subject: : Re: Update on Bush #41 Exhibit Items

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Mary Ann Hanusa (CN=Mary Ann Hanusa/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:26-JUL-2002 08:55:52.00
SUBJECT:: Re: Update on Bush #41 Exhibit Items
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:terry w. good (CN=terry w. good/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:christa j. bailey (CN=christa j. bailey/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:harriet miers (CN=harriet miers/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

So sorry! The satellite truck will arrive in DC either August 13 or 14!!
!

Linda M. Gambatesa
07/26/2002 07:58:20 AM
Record Type: Record

To: Mary Ann Hanusa/WHO/EOP@EOP
cc: harriet miers/who/eop@eop, brett m. kavanaugh/who/eop@eop,
christa j. bailey/who/eop@eop, terry w. good/who/eop@eop
bcc:
Subject: Re: Update on Bush #41 Exhibit Items

Hopefully, you mean the truck will arrive in DC around AUGUST 13 or 14!!

Mary Ann Hanusa
07/25/2002 07:21:35 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Update on Bush #41 Exhibit Items

FYI:

The Fathers/Sons Exhibit at the Bush Library will be dismantled next week. I have confirmed with the Library that our items on loan will be returned as follows:

The Bush Family Bible, the Sept. 11 and Sept. 20 speeches, and the President's cufflinks will return to DC with Patricia Burchfield. She is

the curator for the Library and will be in DC on Archives business the first week of September. Patricia will hand carry these items when she travels here.

All remaining items loaned to the Library will return to DC on the Archives' exclusive use, satellite truck, which will arrive in DC September 13 or 14. The Bullhorn, which the Smithsonian would like to borrow for its exhibit, will be on this truck.

The Smithsonian wants the Bullhorn around the middle of August, so this plan should work out fine. Let me know if you have any questions. Thanks.

Message Sent
To:_____
Harriet Miers/WHO/EOP@EOP
Linda M. Gambatesa/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Christa J. Bailey/WHO/EOP@EOP
Terry W. Good/WHO/EOP@EOP

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 7/26/2002 10:01:35 AM
Subject: : LRM IKK250 - - TREASURY Testimony on the World Trade Organization's (WTO) Decision on the Extraterritorial Income Exclusion Provisions
Attachments: P_2Z029003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:26-JUL-2002 14:01:35.00
SUBJECT:: LRM IKK250 - - TREASURY Testimony on the World Trade Organization's (WTO) Decision on the Extraterritorial Income Exclusion Provisions
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 07/26/2002 02:01 PM ----------

From: Irene Kho on 07/26/2002 01:58:51 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: LRM IKK250 - - TREASURY Testimony on the World Trade Organization's (WTO) Decision on the Extraterritorial Income Exclusion Provisions

Attached is Treasury testimony on the WTO's decision on the US extraterritorial income exclusion provisions for a hearing before the Senate Finance Committee on Tuesday, July 30th, at 10:00 AM. Please review and provide your comments by 11:00 AM, Monday, July 29th.

- tt0181a.doc

LRM ID: IKK250
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Friday, July 26, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: Irene Kho
PHONE: (202)395-5858 FAX: (202)395-3109
SUBJECT: TREASURY Testimony on the World Trade Organization's (WTO) Decision on the Extraterritorial Income Exclusion Provisions

DEADLINE: 11:00 AM Monday, July 29, 2002
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the

program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Attached is Treasury testimony on the WTO's decision on the US extraterritorial income exclusion provisions for a hearing before the Senate Finance Committee on Tuesday, July 30th, at 10:00 AM. Please review and provide your comments by 11:00 AM, Monday, July 29th.

We have e-mailed this Legislative Referral Memorandum (LRM) to you and have sent this fax transmission as an alert only. Please check your e-mail; if you have not received this LRM, please notify the OMB contact as soon as possible.

DISTRIBUTION LIST

AGENCIES:
128-US Trade Representative - Carmen Suro-Bredie - (202) 395-4755
033-Environmental Protection Agency - Edward Krenik - (202) 564-5200
007-AGRICULTURE - Geraldine Broadway - (202) 720-1518
006-AGRICULTURE (CR) - Wanda Worsham - (202) 720-7095
061-JUSTICE - Daniel Bryant - (202) 514-2141
062-LABOR - Robert A. Shapiro - (202) 693-5500
025-COMMERCE - Michael A. Levitt - (202) 482-3151
114-STATE - Paul Rademacher - (202) 647-1963
107-Small Business Administration - Richard Spence - (202) 205-6700
018-Council of Economic Advisers - Liaison Officer - (202) 395-5084

EOP:
James D. Foster
David J. Haun
Maureen Walsh
Randolph M. Lyon
Neia L. George
Mark J. Schwartz
Andrew D. Hire
Yvette M. Dennis
James Boden
Douglas J. Holtz-Eakin
Alice H. Williams
NEC LRM
Dirksen Lehman
Carlos E. Bonilla
OVP LRM
WHGC LRM
Christine C. McCarlie
Michael Casella
Ronald L. Silberman
Adrienne C. Erbach
Richard E. Green
James J. Jukes
John D. Burnim
Annette E. Rooney
John A. Cloud
Lauren C. Lobrano
Dennis Craythorn
Matthew Kirk
Mary C. Barth
Laurence R. Jacobson
Alan B. Rhinesmith
Matthew J. Schneider
Steven D. Aitken
John F. Wood
Phillip L. Swagel
LRM ID: IKK250 SUBJECT: TREASURY Testimony on the World Trade Organization's (WTO) Decision on the Extraterritorial Income Exclusion Provisions

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Irene Kho Phone: 395-5858 Fax: 395-3109
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-3454

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Sent
To:_____
laffairs@ustr.gov
epalrm@epamail.epa.gov
usdaobpaleg@obpa.usda.gov
usdaocrleg@obpa.usda.gov
justice.lrm@usdoj.gov
dol-sol-leg@dol.gov
CLRM@doc.gov
statelrm@state.gov
cla@sba.gov @ inet

Message Copied
To:_____
James D. Foster/OMB/EOP@EOP
David J. Haun/OMB/EOP@EOP
Maureen Walsh/OMB/EOP@EOP
Randolph M. Lyon/OMB/EOP@EOP
Neia L. George/OMB/EOP@EOP
Mark J. Schwartz/OMB/EOP@EOP

Andrew D. Hire/OMB/EOP@EOP
Yvette M. Dennis/OMB/EOP@EOP
James Boden/OMB/EOP@EOP
Douglas J. Holtz-Eakin/CEA/EOP@EOP
Alice H. Williams/CEA/EOP@EOP
NEC LRM
Dirksen Lehman/WHO/EOP@EOP
Carlos E. Bonilla/OPD/EOP@EOP
OVP LRM
WHGC LRM
Christine C. McCarlie/OMB/EOP@EOP
Michael Casella/OMB/EOP@EOP
Ronald L. Silberman/OMB/EOP@EOP
Adrienne C. Erbach/OMB/EOP@EOP
Richard E. Green/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
John D. Burnim/OMB/EOP@EOP
Annette E. Rooney/OMB/EOP@EOP
John A. Cloud/NSC/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
Dennis Craythorn/OMB/EOP@EOP
Matthew Kirk/WHO/EOP@EOP
Mary C. Barth/OMB/EOP@EOP
Laurence R. Jacobson/OMB/EOP@EOP
Alan B. Rhinesmith/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
Steven D. Aitken/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Phillip L. Swagel/CEA/EOP@EOP
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_2Z029003_WHO.TXT_1>

Draft 7/26/02

TESTIMONY OF KENNETH W. DAM
DEPUTY SECRETARY
UNITED STATES DEPARTMENT OF THE TREASURY
BEFORE THE SENATE COMMITTEE ON FINANCE
REGARDING THE WTO DECISION ON THE EXTRATERRITORIAL INCOME EXCLUSION PROVISIONS AND INTERNATIONAL COMPETITIVENESS

Introduction

Mr. Chairman, Senator Grassley, and distinguished Members of the Committee, I appreciate the opportunity to appear today at this hearing regarding the World Trade Organization (WTO) decision with respect to the extraterritorial income exclusion (ETI) provisions of U.S. tax law and the implications for international competitiveness. I commend the Committee for holding this hearing on this matter of vital importance to U.S. businesses that operate in the global marketplace and to the U.S. workers that are employed in those businesses.

On January 29, 2002, the WTO Dispute Settlement Body adopted a final report finding that the ETI provisions are inconsistent with the United States' obligations under the WTO. That decision is the culmination of a challenge brought by the European Union in late 1997 against the foreign sales corporation (FSC) provisions then contained in the U.S. tax law. However, the origins of this dispute go back almost 30 years, predating the World Trade Organization itself. The United States has vigorously pursued this matter and defended its laws because of the importance of the provisions and principles at stake.

A WTO arbitration panel currently is considering the European Union's request for authority from the WTO to impose trade sanctions on $4.043 billion worth of U.S. exports. The arbitration panel is expected to issue its report on the appropriate level of trade sanctions imminently. Following adoption of that report, the European Union will be authorized to begin imposing trade sanctions on U.S. exports up to the level set by the arbitrators and the authority for such sanctions will continue until the United States rectifies the WTO violation.

This is an urgent matter that requires our immediate attention. The threat of substantial retaliatory sanctions against U.S. exports is not something that any of us takes lightly. Such sanctions, if imposed, would do real damage to U.S. businesses and American workers. And the imposition of such sanctions would have serious adverse consequences for the overall trade relationship between the United States and the European Union beyond those sectors directly targeted with sanctions, which would have a direct and detrimental effect on U.S. consumers. Of course the urgency is not just about the critical need to avert costly retaliation. The WTO has issued its final decision in this case, and we must comply with that decision. That is a matter of principle.

REV_00148987

The President has spoken on this and his message was clear. The United States will honor its WTO obligations and will come into compliance with the recent WTO decision. To do so will require legislation to change our tax law. The Administration is committed to working closely with the Congress to develop and enact the legislation necessary to bring the United States into compliance with WTO rules.

Given the analysis of the current WTO rules reflected in the decision in the FSC/ETI case, we do not believe legislation that simply replicates FSC or ETI benefits will pass muster in the WTO. It will not be possible to satisfy our WTO obligations and comply with WTO rules through minor "tweaks" to the ETI provisions. The WTO Appellate Body has made clear that a benefit such as is provided through the ETI provisions that is tied to export activity is not permitted. Therefore, it will not be fruitful to pursue another similar replacement of the ETI provisions. Rather, addressing the WTO decision through the tax law will require real and meaningful changes to our current international tax laws. And we must ensure that those changes do not adversely affect the competitive position of U.S.-based businesses in the global marketplace

In stating his commitment to compliance in this case, the President also has made clear that, in making the necessary changes to our tax laws, we must focus on enhancing the competitiveness of U.S. businesses that operate in the global marketplace because that is the key to protecting American jobs. At its core, this case raises fundamental questions regarding a level global playing field with respect to tax policy. The ETI provisions, like the FSC provisions that preceded them, represent an integral part of our larger system of international tax rules. These provisions were designed to help level the global playing field for U.S.-based businesses that are subject to those international tax rules. In making the modifications to our tax law needed to comply with this decision, we must not lose sight of that objective which is about American jobs.

There is much that we can, and must do to rationalize our international tax rules through reforms both small and large. The U.S. international tax rules can operate to impose a burden on U.S.-based companies with foreign operations that is disproportionate to the tax burden imposed by our trading partners on the foreign operations of their companies. The U.S. rules for the taxation of foreign-source income are unique in their breadth of reach and degree of complexity. Both the recent activity involving so-called corporate inversion transactions and the increase in foreign acquisitions of U.S. multinationals are evidence that the competitive disadvantage caused by our international tax rules is a serious issue with significant consequences for U.S. businesses and the U.S. economy. We must address these tax disadvantages in order to level the playing field for U.S.-based companies that do business abroad relative to their counterparts in our major trading partners. As we consider appropriate reform of our system of international tax rules, we should not underestimate the benefits to be gained from reducing the complexity of the current rules. The bottom line is clear and simple: our system of international tax rules should not disadvantage U.S.-based companies competing in the global marketplace. If we allow that to happen, the cost will be measured in lost jobs here at home.

REV_00148988

While we work toward the needed changes to our international tax rules, we also must continue to maintain a dialogue with the European Union. Given the importance of this matter, we must pursue a multi-faceted approach to resolving it, including both tax and trade approaches. It is essential that we achieve a resolution of this matter that is clear, fair and final. We must take every step needed to ensure that this does not further escalate to the detriment of the global trading environment, and must pursue all available avenues to achieving an appropriate final resolution – a resolution that protects America's interests and satisfies our obligations under the WTO.

As I said in opening, resolving this case is an urgent matter that requires our immediate attention. We must work toward enactment of legislation that will bring us into compliance with the international WTO rules and protect the interests of American workers and businesses. On this there can be no delay – we must make real progress now.

However, this case highlights significant issues that will require further consideration as the discussions regarding WTO matters continue in the new round. As I said in my opening statement in the WTO appellate proceeding in this case in Geneva last November, "few things are as central to a country's sovereignty as how it raises revenue." The WTO Appellate Body in its report in the FSC case stated that that the WTO rules do not "compel Members to choose a particular kind of tax system." That is a critically important point.

Compliance with the WTO decision in this case will require that we make meaningful changes to our tax law. We believe that we have an obligation to U.S. workers and businesses not simply to eliminate the ETI provisions. Our commitment to the American worker requires that we protect the competitive position of our businesses. We believe that we must couple the changes needed to address the WTO decision with needed reforms of our tax rules that will help level the playing field for U.S.-based businesses that compete in the global marketplace. The reforms that are needed address basic inequities in our international tax rules, rules that are out of step with those of our major trading partners. Such reform to the U.S. system for taxing income earned abroad is not a matter in which there is any role for the WTO to play.

This case has been about the application of WTO rules to a particular aspect of the U.S. income tax system. However, there is a much more fundamental question regarding the treatment of taxes under the WTO rules that demands our careful consideration. The WTO rules on prohibited export subsidies make a distinction between direct taxes, such as income taxes, and indirect taxes, such as value added taxes. Under the WTO agreements, direct taxes are not permitted to be border adjustable. Therefore, the U.S. income tax is not rebatable on export under these rules. In contrast, indirect taxes are permitted to be border adjustable under the WTO rules. Accordingly, the European value added taxes may be, and are, rebated at the border consistent with WTO rules.

This disparity in treatment between direct and indirect taxes dates back formally to a 1960 GATT working party and its informal origins date back even farther.

REV_00148989

Notwithstanding this long history, there is no economic rationale for disparate treatment of direct and indirect taxes. The perceived difference in incidence between taxes borne by the producer and taxes borne by the consumer does not have any real relevance to whether the tax should be border adjustable. However, this disparity in treatment is imbedded in WTO rules. And it is a disparity that disproportionately burdens the United States, given that we rely almost exclusively on income taxes while our European trading partners make much greater use of consumption taxes. Reconsideration of this distinction in the treatment of direct and indirect taxes under the WTO rules will be appropriate as we continue the ongoing discussion of WTO matters in the new round.

I would like to turn now to a brief history of the WTO case and our tax provisions that have been the subject of this protracted litigation. I will conclude with a discussion of the international competitiveness issues that must be a central focus in formulating the tax law changes needed to satisfy our WTO obligations and protect the interests of U.S. businesses and workers.

Overview of the History of the WTO Case

The FSC provisions were enacted in 1984. They provided an exemption from U.S. tax for a portion of the income earned from export transactions. This partial exemption from tax was intended to provide U.S. exporters with tax treatment that was more comparable to the treatment provided to exporters under the tax systems common in other countries.

The FSC provisions were enacted to resolve a General Agreement on Tariffs and Trade (GATT) dispute involving a prior U.S. tax regime – the domestic international sales corporation (DISC) provisions enacted in 1971. Following a challenge to the DISC provisions brought by the European Union and a counter-challenge to several European tax regimes brought by the United States, a GATT panel in 1976 ruled against all the contested tax measures. This decision led to a stalemate that was resolved with a GATT Council Understanding adopted in 1981 (the "1981 Understanding"). Pursuant to this 1981 Understanding regarding the treatment of tax measures under the trade agreements, the United States repealed the DISC provisions and enacted the FSC provisions.

The European Union formally challenged the FSC provisions in the WTO in November 1997, thirteen years after their enactment. Consultations to resolve the matter were unsuccessful, and the EU challenge was referred to a WTO dispute resolution panel. In October 1999, the WTO panel issued a report finding that the FSC provisions constituted a violation of WTO rules. The United States appealed the panel report; the European Union also appealed the report. In February 2000, the WTO Appellate Body issued its report substantially upholding the findings of the panel.

Although the United States believed that the FSC provisions were blessed by the 1981 Understanding, the WTO panel completely dismissed this argument, concluding that the 1981 Understanding had no continuing relevance in the interpretation of current WTO rules. The panel's analysis focused mainly on the application of the WTO Agreement on

REV_00148990

Subsidies and Countervailing Measures. The panel found that the FSC provisions constituted a prohibited export subsidy under the Subsidies Agreement.

In response to the WTO decision against the FSC provisions, the FSC Repeal and Extraterritorial Income Exclusion Act was enacted on November 15, 2000. The legislation repealed the FSC provisions and adopted in their place the ETI provisions. The legislation was intended to bring the United States into compliance with WTO rules by addressing the analysis reflected in the WTO decision. The new regime addressed the subsidy issue by establishing a new general rule of taxation under which extraterritorial income is excluded from gross income; the new regime addressed the export-contingency issue by applying to income from all foreign sales and leases of property, without regard to where the property is manufactured. At the same time, the legislation also was intended to ensure that U.S. businesses not be foreclosed from opportunities abroad because of differences in the U.S. tax laws as compared to the laws of other countries.

Immediately following the enactment of the ETI Act, the European Union brought a challenge in the WTO. In August 2001, a WTO panel issued a report finding that the ETI provisions also violate WTO rules. The panel report contained sweeping language and conclusory statements that had broad implications beyond the case at hand. Because of the importance of the issues involved and the troubling implications of the panel's analysis, the United States appealed the panel report. The WTO Appellate Body generally affirmed the panel's findings, although it modified and narrowed the panel's analysis in some respects. The Dispute Settlement Body adopted the report as modified by the Appellate Body on January 29, 2002.

The Appellate Body report makes four main findings with respect to the ETI provisions: (1) the ETI provisions constitute a prohibited export subsidy under the WTO Subsidies Agreement; (2) the ETI provisions constitute a prohibited export subsidy under the WTO Agriculture Agreement; (3) the limitation on foreign content contained in the ETI provisions violate the national treatment provisions of Article III:4 of GATT; and (4) the transition rules contained in the ETI Act violate the WTO's prior recommendation that the FSC subsidy be withdrawn with effect from November 1, 2000.

When it challenged the ETI Act in November 2000, the European Union simultaneously requested authority from the WTO to impose trade sanctions on $4.043 billion worth of U.S. exports. The United States responded by initiating a WTO arbitration proceeding on the grounds that the amount of trade sanctions requested by the European Union was excessive under WTO standards. This arbitration was suspended pending the outcome of the European Union's challenge to the WTO-consistency of the ETI Act, and resumed on January 29th with the Dispute Settlement Body's adoption of its final report. As I noted at the outset, the arbitration panel is expected to issue its report on the appropriate level of trade sanctions imminently and, following adoption of that report, the European Union will be authorized to begin imposing trade sanctions on U.S. exports up to the level set by the arbitrators.

REV_00148991

Competitiveness and U.S. Tax Policy

The U.S. international tax rules have developed in a patchwork fashion, beginning during the 1950s and 1960s. It reflects tax policy principles developed during a time when America's foreign direct investment was preeminent abroad, and competition from imports to the United States was scant. Today, we have a truly global economy, in terms of both trade and investment. The value of goods traded to and from the United States increased more than three times faster than GDP between 1960 and 2000, rising to more than 20 percent of GDP. The flow of cross-border investment, both inflows and outflows, rose from a scant 1.1 percent of GDP in 1960 to 15.9 percent of GDP in 2000.

Multinational corporations are a vital part of the United States economy. They employ over 20 million people in the United States, or about one in every six American workers. Approximately one fourth of U.S. Gross National Product is produced by U.S. non-bank multinationals. Multinationals in the manufacturing sector produce over half of all U.S. gross manufactured product.

U.S. multinationals also contribute substantially to international trade. Their merchandise exports account for about two-thirds of overall U.S. merchandise exports. Their merchandise imports account for about 40 percent of all U.S. merchandise imports. On balance, the operations of these companies showed a net trade surplus of $64 billion in 1999.

Multinational companies compete abroad in order to increase their shares of foreign markets. Much of their foreign activities are aimed at providing services that can not be exported, obtaining access to natural resources abroad, and to selling goods that are costly to export due to transportation costs, tariffs, and local content requirements. About one third of the gross product of foreign affiliates of U.S. multinationals is produced by affiliates the service sector, including distribution, marketing, and servicing U.S. exports.

Among the most important assets of U.S. multinationals is their technical and scientific expertise. Their foreign investments broaden the opportunities to benefit from such expertise and thus encourage them to spend more on research and development. Spending on research and development allows the United States to maintain its competitive advantage in business and be unrivaled as the world leader in scientific and technological know-how. In 1999, non-financial U.S. multinationals performed $142 billion of research and development. Nearly 90 percent of this activity was located in the United States. It accounted for more than two thirds of all research and development conducted by companies in the United States.

At one time, the strength of America's economy was thought to be tied to its abundant natural resources. Today, America's strength is its ability to innovate: to create new technologies and to react faster and smarter to the commercialization of these technologies. America's preeminent resource today is its knowledge base.

REV_00148992

A feature of a knowledge-driven economy is that unlike physical capital, technological know-how can be applied across the world without reducing the productive capacity of the United States. For example, computer software designed to enhance the efficiency of a manufacturing process may require substantial investment, but once developed it can be employed around the world without diminishing the benefits of the know-how within the United States. Foreign direct investment by companies in a knowledge-driven economy provides opportunities to export this know-how at low cost and incentives to undertake greater domestic investment in developing these sources of competitive advantage.

There are many reasons to believe that the principles that guided U.S. international tax policy adequately in the past should be reconsidered in today's highly competitive, knowledge-driven economy. In this regard, it is significant that the U.S. tax system differs in fundamental ways from those of our major trading partners. In order to ensure the ability of U.S. workers to achieve higher living standards, we must ensure that the U.S. tax law does not hinder the ability of the U.S. businesses that employ those workers to compete on a global scale. If U.S. businesses are to succeed in the global economy, the U.S. tax system must not generate a bias against their ability to compete effectively against foreign-based companies – especially in foreign markets.

To understand the effect of U.S. tax policy on the competitiveness of U.S. business, we must consider how U.S. businesses compete in today's global marketplace. A U.S. business operating at home and abroad must compete in several ways for capital and customers. Competition may be among:

- U.S.-managed firms that produce within the United States;
- U.S.-managed firms that produce abroad;
- Foreign-managed firms that produce within the United States;
- Foreign-managed firms that produce abroad within the foreign country in which they are headquartered; and
- Foreign-managed firms that produce abroad within a foreign country different from the one in which they are headquartered.

These entities may be simultaneously competing for sales within the United States, within a foreign country against local foreign production (either U.S., local, or other foreign managed), or within a foreign country against non-local production. Globalization requires that U.S. companies be competitive both in foreign markets and at home.

Other elements of competition among firms exist at the investor level: U.S.-managed firms may have foreign investors and foreign-managed firms may have U.S. investors. Portfolio investment accounts for approximately two-thirds of U.S. investment abroad and a similar fraction of foreign investment in the United States. Firms compete in global capital markets as well as global consumer markets.

In a world without taxes, competition among these different firms and different markets would be determined by production costs. In a world with taxes, however, where

REV_00148993

countries make different determinations with respect to tax rates and tax bases, these competitive decisions inevitably are affected by taxes. Assuming other countries make sovereign decisions on how to establish their own tax systems and tax rates, it simply is not possible for the United States to establish a tax system that restores the same competitive decisions that would have existed in a world without taxes.

The United States can, for example, attempt to equalize the taxation of income earned by U.S. companies from their U.S. exports to that of U.S. companies producing abroad for the same foreign market. However, in equalizing this tax burden, it may be the case that the U.S. tax imposed results in neither type of U.S. company being competitive against a foreign-based multinational producing for sale in this foreign market.

The manner in which balance is achieved among these competitive concerns changes over time as circumstances change. For example, as foreign multinationals have increased in their worldwide position, the likelihood of a U.S. multinational company competing against a foreign multinational in a foreign market has increased relative to the likelihood of U.S. export sales competing against sales from a U.S. multinational producing abroad. The desire to restore competitive decisions to those that would occur in the absence of taxation therefore may place greater weight today on U.S. taxes not impeding the competitive position of U.S. multinationals vis-à-vis foreign multinationals in the global marketplace. Similarly, while at one time U.S. foreign production may have been thought to be largely substitutable with U.S. domestic production for export, today it is understood that foreign production may provide the opportunity for the export of firm-specific know-how and domestic exports may be enhanced by the establishment of foreign production facilities through supply linkages and service arrangements.

Given the significance today of competitiveness concerns, it is important to understand the major features of the U.S. tax system and how they differ from those of our major trading partners. The primary features of the U.S. tax system considered here are: (i) the taxation of worldwide income; (ii) the current taxation of certain types of active foreign-source income; (iii) the limitations placed on the use of foreign tax credits; and (iv) the unintegrated taxation of corporate income at both the entity level and the individual level.

U.S. Worldwide Tax System

The United States, like about half of the OECD countries, including the United Kingdom and Japan, operates a worldwide system of income taxation. Under this worldwide approach, U.S. citizens and residents, including U.S. corporations, are taxed on all their income, regardless of where it is earned. Income earned from foreign sources potentially is subject to taxation both by the country where the income is earned, the country of source, and by the United States, the country of residence. To provide relief from this potential double taxation, the United States allows taxpayers a foreign tax credit that reduces the U.S. tax on foreign-source income by the amount of foreign income and withholding taxes paid on such income.

REV_00148994

The U.S. worldwide system of taxation is in contrast to the territorial tax systems operated by the other half of the OECD countries, including Canada, Germany, France, and the Netherlands. Under these territorial tax systems, domestic residents and corporations generally are subject to tax only on their income from domestic sources. A domestic business is not subject to domestic taxation on the active income earned abroad by a foreign branch or on dividends paid from active income earned by a foreign subsidiary. A domestic corporation generally is subject to tax on other investment-type income, such as royalties, rent, interest, and portfolio dividends, without regard to where such income is earned; because this passive income is taxed on a worldwide basis, relief from double taxation generally is provided through either a foreign tax credit or a deduction allowed for foreign taxes imposed on such income. This type of territorial tax system sometimes is referred to as a "dividend exemption" system because active foreign business income repatriated in the form of a dividend is exempt from taxation. By contrast, a pure territorial system would provide an exemption for all income received from foreign sources, including passive income such as royalties, rent, interest, and portfolio dividends. Such pure territorial systems have existed only in a few developing countries.

Differences between a worldwide tax system and a territorial system can affect the ability of U.S.-based multinationals to compete for sales in foreign markets against foreign-based multinationals. Under a worldwide tax system, repatriated foreign income is taxed at the higher of the source country rate or the residence country rate. In contrast, foreign income under a territorial tax system is subject to tax at the source country rate.

Moreover, it is important to note that both worldwide and territorial systems involve the taxation of income. The complexities present in taxing income generally are heightened in determining the taxation of income from multinational activities, where in addition to measuring the income one must determine its source (foreign or domestic). This complexity affects both tax administrators and taxpayers. Indeed, the U.S. international tax rules have been identified as one of the largest sources of complexity facing U.S. corporate taxpayers.

Given the complexity of the task of taxing multinational income under a worldwide or territorial system on top of the general complexity of the income tax system, some consideration might be given to alternative tax bases other than income. Other OECD countries typically rely on taxes on goods and services, such as under a value added tax, for a substantial share of tax revenues. In the European OECD countries, for example, these taxes raise nearly five times the amount of revenue as does the U.S. corporate income tax as a share of GDP.

Other Worldwide Tax Systems

As described above, about half of the OECD countries employ a worldwide tax system as does the United States. However, the details of our system are such that U.S. multinationals may be disadvantaged when competing abroad against multinational companies established in other countries using a worldwide tax system. This is because

REV_00148995

the United States employs a worldwide tax system that, unlike other worldwide systems, may tax active forms of business income earned abroad before it has been repatriated and may more strictly limit the use of the foreign tax credits that prevent double taxation of income earned abroad.

Limitations on Deferral

Under the U.S. international tax rules, income earned abroad by a foreign subsidiary generally is subject to U.S. tax at the U.S. parent corporation level only when such income is distributed by the foreign subsidiary to the U.S. parent in the form of a dividend. An exception to this general rule is provided with the rules of subpart F of the Code, under which a U.S. parent is subject to current U.S. tax on certain income of its foreign subsidiaries, without regard to whether that income is actually distributed to the U.S. parent. The focus of the subpart F rules is on passive, investment-type income that is earned abroad through a foreign subsidiary. However, the reach of the subpart F rules extends well beyond passive income to encompass some forms of income from active foreign business operations. No other country has rules for the immediate taxation of foreign-source income that are comparable to the U.S. rules in terms of breadth and complexity.

Several categories of active business income are covered by the subpart F rules. Under subpart F, a U.S. parent company is subject to current U.S. tax on income earned by a foreign subsidiary from certain sales transactions. Accordingly, a U.S. company that uses a centralized foreign distribution company to handle sales of its products in foreign markets is subject to current U.S. tax on the income earned abroad by that foreign distribution subsidiary. In contrast, a local competitor making sales in that market is subject only to the tax imposed by that country. Moreover, a foreign competitor that similarly uses a centralized distribution company to make sales into the same markets also generally will be subject only to the tax imposed by the local country. While this subpart F rule may operate in part as a "backstop" to the transfer pricing rules that require arms' length prices for intercompany sales, this rule has the effect of imposing current U.S. tax on income from active marketing operations abroad. U.S. companies that centralize their foreign distribution facilities therefore face a tax penalty not imposed on their foreign competitors.

The subpart F rules also impose current U.S. taxation on income from certain services transactions performed abroad. In addition, a U.S. company with a foreign subsidiary engaged in shipping activities or in certain oil-related activities, such as transportation of oil from the source to the consumer, will be subject to current U.S. tax on the income earned abroad from such activities. In contrast, a foreign competitor engaged in the same activities generally will not be subject to current home-country tax on its income from these activities. While the purpose of these rules is to differentiate passive or mobile income from active business income, they operate to subject to current tax some classes of income arising from active business operations structured and located in a particular country for business reasons wholly unrelated to tax considerations.

REV_00148996

Limitations on Foreign Tax Credits

Under the worldwide system of taxation, income earned abroad potentially is subject to tax in two countries – the taxpayer's country of residence and the country where the income was earned. Relief from this potential double taxation is provided through the mechanism of a foreign tax credit, under which the tax that otherwise would be imposed by the country of residence may be offset by tax imposed by the source country. The United States allows U.S. taxpayers a foreign tax credit for taxes paid on income earned outside the United States.

The foreign tax credit may be used only to offset U.S. tax on foreign-source income and not to offset U.S. tax on U.S.-source income. The rules for determining and applying this limitation are detailed and complex and can have the effect of subjecting U.S.-based companies to double taxation on their income earned abroad. The current U.S. foreign tax credit regime also requires that the rules be applied separately to separate categories or "baskets" of income. Foreign taxes paid with respect to income in a particular category may be used only to offset the U.S. tax on income from that same category. Computations of foreign and domestic source income, allocable expenses, and foreign taxes paid must be made separately for each of these separate foreign tax credit baskets, further adding to the complexity of the system. Moreover, the U.S. foreign tax credit regime requires the allocation of U.S. interest expense against foreign-source income in a manner that reduces the foreign tax credit limitation by understating foreign income.

These rules can have the effect of denying U.S.-based companies the full ability to credit foreign taxes paid on income earned abroad against the U.S. tax liability with respect to that income and therefore can result in the imposition of the double taxation that the foreign tax credit rules are intended to eliminate.

U.S. Corporate Taxation

While concern about the effects of the U.S. tax system on international competitiveness may focus on the tax treatment of foreign-source income, competitiveness issues arise in very much the same way in terms of the general manner in which corporate income is subject to tax in the United States.

One aspect of the U.S. tax system is that the income from an equity-financed investment in the corporate sector is taxed twice. Equity income, or profit, is taxed first under the corporate income tax. Profit is taxed again under the individual income tax when received by the shareholder as a dividend or as a capital gain on the appreciation of corporate shares. In contrast, most other OECD countries offer some form of integration, under which corporate tax payments are either partially or fully taken into consideration when assessing shareholder taxes on this income, eliminating or reducing the double tax on corporate profits.

The non-integration of corporate and individual tax payments on corporate income applies equally to domestically earned income or foreign-source income of a U.S.

REV_00148997

company. This double tax increases the "hurdle" rate, or the minimum rate of return required on a prospective investment. In order to yield a given after-tax return to an individual investor, the pre-tax return must be sufficiently high to offset both the corporate level and individual level taxes paid on this return.

Whether competing at home against foreign imports or competing abroad through exports from the United States or through foreign production, the double tax makes it less likely that the U.S. company can compete successfully against a foreign competitor.

As noted above, most OECD countries offer some form of tax relief for corporate profits. This integration typically is provided by reducing personal income tax payments on corporate distributions rather than by reducing corporate level tax payments. International comparisons of corporate tax burdens, however, sometimes fail to account for differences in integration across countries and consider only corporate level tax payments. To be meaningful, comparisons between the total tax burden faced on corporate investments by U.S. companies and those of foreign multinational companies must take into account the total tax burden on corporate profits at both the corporate and individual levels.

Closing Thoughts

U.S. businesses that compete in the global marketplace are an integral part of the U.S. economy, and their global activities are part of their domestic success. Accordingly, we must ensure that U.S. tax rules do not adversely impact the ability of U.S. businesses to compete successfully around the world. Relative to the tax systems of our major trading partners, the U.S. tax rules can impose significantly heavier burdens on the foreign operations of domestically based companies. As we make the changes to our tax law that are needed to comply with WTO rules, we must keep our focus on the objectives served by the FSC and ETI provisions and look to removing biases against the ability of U.S. businesses to compete globally. Such reforms will allow the United States to retain its world economic leadership. Such reforms will protect American jobs.

The Administration is committed to working with Congress to satisfy the twin objectives of meeting our WTO obligations and ensuring that we protect the competitive position of American businesses and workers.

REV_00148998

From:	CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To:	Irene Kho/OMB/EOP@EOP [OMB] <Irene Kho>;Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>
Sent:	7/26/2002 10:11:58 AM
Subject:	: Re: LRM IKK250 - - TREASURY Testimony on the World Trade Organization's (WTO) Decision on the Extraterritorial Income Exclusion Provisions
Attachments:	P_7D129003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:26-JUL-2002 14:11:58.00
SUBJECT:: Re: LRM IKK250 - - TREASURY Testimony on the World Trade Organization's (WTO) Decision on the Extraterritorial Income Exclusion Provisions
TO:Irene Kho (CN=Irene Kho/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

White House Counsel has no objection.

Patrick J. Bumatay
07/26/2002 02:01:24 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: LRM IKK250 - - TREASURY Testimony on the World Trade Organization's (WTO) Decision on the Extraterritorial Income Exclusion Provisions

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 07/26/2002 02:01 PM ----------

From: Irene Kho on 07/26/2002 01:58:51 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: LRM IKK250 - - TREASURY Testimony on the World Trade Organization's (WTO) Decision on the Extraterritorial Income Exclusion Provisions

Attached is Treasury testimony on the WTO's decision on the US extraterritorial income exclusion provisions for a hearing before the Senate Finance Committee on Tuesday, July 30th, at 10:00 AM. Please review and provide your comments by 11:00 AM, Monday, July 29th.

- tt0181a.doc

LRM ID: IKK250
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Friday, July 26, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: Irene Kho
PHONE: (202)395-5858 FAX: (202)395-3109
SUBJECT: TREASURY Testimony on the World Trade Organization's (WTO) Decision on the Extraterritorial Income Exclusion Provisions

DEADLINE: 11:00 AM Monday, July 29, 2002
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Attached is Treasury testimony on the WTO's decision on the US extraterritorial income exclusion provisions for a hearing before the Senate Finance Committee on Tuesday, July 30th, at 10:00 AM. Please review and provide your comments by 11:00 AM, Monday, July 29th.

We have e-mailed this Legislative Referral Memorandum (LRM) to you and have sent this fax transmission as an alert only. Please check your e-mail; if you have not received this LRM, please notify the OMB contact as soon as possible.

DISTRIBUTION LIST

AGENCIES:
128-US Trade Representative - Carmen Suro-Bredie - (202) 395-4755
033-Environmental Protection Agency - Edward Krenik - (202) 564-5200
007-AGRICULTURE - Geraldine Broadway - (202) 720-1518
006-AGRICULTURE (CR) - Wanda Worsham - (202) 720-7095
061-JUSTICE - Daniel Bryant - (202) 514-2141
062-LABOR - Robert A. Shapiro - (202) 693-5500
025-COMMERCE - Michael A. Levitt - (202) 482-3151
114-STATE - Paul Rademacher - (202) 647-1963
107-Small Business Administration - Richard Spence - (202) 205-6700
018-Council of Economic Advisers - Liaison Officer - (202) 395-5084

EOP:
James D. Foster
David J. Haun
Maureen Walsh
Randolph M. Lyon
Neia L. George
Mark J. Schwartz
Andrew D. Hire
Yvette M. Dennis
James Boden
Douglas J. Holtz-Eakin
Alice H. Williams
NEC LRM
Dirksen Lehman
Carlos E. Bonilla
OVP LRM
WHGC LRM
Christine C. McCarlie

Michael Casella
Ronald L. Silberman
Adrienne C. Erbach
Richard E. Green
James J. Jukes
John D. Burnim
Annette E. Rooney
John A. Cloud
Lauren C. Lobrano
Dennis Craythorn
Matthew Kirk
Mary C. Barth
Laurence R. Jacobson
Alan B. Rhinesmith
Matthew J. Schneider
Steven D. Aitken
John F. Wood
Phillip L. Swagel
LRM ID: IKK250 SUBJECT: TREASURY Testimony on the World Trade Organization's (WTO) Decision on the Extraterritorial Income Exclusion Provisions
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Irene Kho Phone: 395-5858 Fax: 395-3109
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-3454

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Sent
To:_____
laffairs@ustr.gov
epalrm@epamail.epa.gov
usdaobpaleg@obpa.usda.gov
usdaocrleg@obpa.usda.gov
justice.lrm@usdoj.gov
dol-sol-leg@dol.gov
CLRM@doc.gov
statelrm@state.gov
cla@sba.gov @ inet

Message Copied
To:_____
James D. Foster/OMB/EOP@EOP
David J. Haun/OMB/EOP@EOP
Maureen Walsh/OMB/EOP@EOP
Randolph M. Lyon/OMB/EOP@EOP
Neia L. George/OMB/EOP@EOP
Mark J. Schwartz/OMB/EOP@EOP
Andrew D. Hire/OMB/EOP@EOP
Yvette M. Dennis/OMB/EOP@EOP
James Boden/OMB/EOP@EOP
Douglas J. Holtz-Eakin/CEA/EOP@EOP
Alice H. Williams/CEA/EOP@EOP
NEC LRM
Dirksen Lehman/WHO/EOP@EOP
Carlos E. Bonilla/OPD/EOP@EOP
OVP LRM
WHGC LRM
Christine C. McCarlie/OMB/EOP@EOP
Michael Casella/OMB/EOP@EOP
Ronald L. Silberman/OMB/EOP@EOP
Adrienne C. Erbach/OMB/EOP@EOP
Richard E. Green/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
John D. Burnim/OMB/EOP@EOP
Annette E. Rooney/OMB/EOP@EOP
John A. Cloud/NSC/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
Dennis Craythorn/OMB/EOP@EOP
Matthew Kirk/WHO/EOP@EOP
Mary C. Barth/OMB/EOP@EOP
Laurence R. Jacobson/OMB/EOP@EOP
Alan B. Rhinesmith/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
Steven D. Aitken/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Phillip L. Swagel/CEA/EOP@EOP

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_7D129003_WHO.TXT_1>

Draft 7/26/02

TESTIMONY OF KENNETH W. DAM
DEPUTY SECRETARY
UNITED STATES DEPARTMENT OF THE TREASURY
BEFORE THE SENATE COMMITTEE ON FINANCE
REGARDING THE WTO DECISION ON THE EXTRATERRITORIAL INCOME EXCLUSION PROVISIONS AND INTERNATIONAL COMPETITIVENESS

Introduction

Mr. Chairman, Senator Grassley, and distinguished Members of the Committee, I appreciate the opportunity to appear today at this hearing regarding the World Trade Organization (WTO) decision with respect to the extraterritorial income exclusion (ETI) provisions of U.S. tax law and the implications for international competitiveness. I commend the Committee for holding this hearing on this matter of vital importance to U.S. businesses that operate in the global marketplace and to the U.S. workers that are employed in those businesses.

On January 29, 2002, the WTO Dispute Settlement Body adopted a final report finding that the ETI provisions are inconsistent with the United States' obligations under the WTO. That decision is the culmination of a challenge brought by the European Union in late 1997 against the foreign sales corporation (FSC) provisions then contained in the U.S. tax law. However, the origins of this dispute go back almost 30 years, predating the World Trade Organization itself. The United States has vigorously pursued this matter and defended its laws because of the importance of the provisions and principles at stake.

A WTO arbitration panel currently is considering the European Union's request for authority from the WTO to impose trade sanctions on $4.043 billion worth of U.S. exports. The arbitration panel is expected to issue its report on the appropriate level of trade sanctions imminently. Following adoption of that report, the European Union will be authorized to begin imposing trade sanctions on U.S. exports up to the level set by the arbitrators and the authority for such sanctions will continue until the United States rectifies the WTO violation.

This is an urgent matter that requires our immediate attention. The threat of substantial retaliatory sanctions against U.S. exports is not something that any of us takes lightly. Such sanctions, if imposed, would do real damage to U.S. businesses and American workers. And the imposition of such sanctions would have serious adverse consequences for the overall trade relationship between the United States and the European Union beyond those sectors directly targeted with sanctions, which would have a direct and detrimental effect on U.S. consumers. Of course the urgency is not just about the critical need to avert costly retaliation. The WTO has issued its final decision in this case, and we must comply with that decision. That is a matter of principle.

The President has spoken on this and his message was clear. The United States will honor its WTO obligations and will come into compliance with the recent WTO decision. To do so will require legislation to change our tax law. The Administration is committed to working closely with the Congress to develop and enact the legislation necessary to bring the United States into compliance with WTO rules.

Given the analysis of the current WTO rules reflected in the decision in the FSC/ETI case, we do not believe legislation that simply replicates FSC or ETI benefits will pass muster in the WTO. It will not be possible to satisfy our WTO obligations and comply with WTO rules through minor "tweaks" to the ETI provisions. The WTO Appellate Body has made clear that a benefit such as is provided through the ETI provisions that is tied to export activity is not permitted. Therefore, it will not be fruitful to pursue another similar replacement of the ETI provisions. Rather, addressing the WTO decision through the tax law will require real and meaningful changes to our current international tax laws. And we must ensure that those changes do not adversely affect the competitive position of U.S.-based businesses in the global marketplace

In stating his commitment to compliance in this case, the President also has made clear that, in making the necessary changes to our tax laws, we must focus on enhancing the competitiveness of U.S. businesses that operate in the global marketplace because that is the key to protecting American jobs. At its core, this case raises fundamental questions regarding a level global playing field with respect to tax policy. The ETI provisions, like the FSC provisions that preceded them, represent an integral part of our larger system of international tax rules. These provisions were designed to help level the global playing field for U.S.-based businesses that are subject to those international tax rules. In making the modifications to our tax law needed to comply with this decision, we must not lose sight of that objective which is about American jobs.

There is much that we can, and must do to rationalize our international tax rules through reforms both small and large. The U.S. international tax rules can operate to impose a burden on U.S.-based companies with foreign operations that is disproportionate to the tax burden imposed by our trading partners on the foreign operations of their companies. The U.S. rules for the taxation of foreign-source income are unique in their breadth of reach and degree of complexity. Both the recent activity involving so-called corporate inversion transactions and the increase in foreign acquisitions of U.S. multinationals are evidence that the competitive disadvantage caused by our international tax rules is a serious issue with significant consequences for U.S. businesses and the U.S. economy. We must address these tax disadvantages in order to level the playing field for U.S.-based companies that do business abroad relative to their counterparts in our major trading partners. As we consider appropriate reform of our system of international tax rules, we should not underestimate the benefits to be gained from reducing the complexity of the current rules. The bottom line is clear and simple: our system of international tax rules should not disadvantage U.S.-based companies competing in the global marketplace. If we allow that to happen, the cost will be measured in lost jobs here at home.

REV_00149004

While we work toward the needed changes to our international tax rules, we also must continue to maintain a dialogue with the European Union. Given the importance of this matter, we must pursue a multi-faceted approach to resolving it, including both tax and trade approaches. It is essential that we achieve a resolution of this matter that is clear, fair and final. We must take every step needed to ensure that this does not further escalate to the detriment of the global trading environment, and must pursue all available avenues to achieving an appropriate final resolution – a resolution that protects America's interests and satisfies our obligations under the WTO.

As I said in opening, resolving this case is an urgent matter that requires our immediate attention. We must work toward enactment of legislation that will bring us into compliance with the international WTO rules and protect the interests of American workers and businesses. On this there can be no delay – we must make real progress now.

However, this case highlights significant issues that will require further consideration as the discussions regarding WTO matters continue in the new round. As I said in my opening statement in the WTO appellate proceeding in this case in Geneva last November, "few things are as central to a country's sovereignty as how it raises revenue." The WTO Appellate Body in its report in the FSC case stated that that the WTO rules do not "compel Members to choose a particular kind of tax system." That is a critically important point.

Compliance with the WTO decision in this case will require that we make meaningful changes to our tax law. We believe that we have an obligation to U.S. workers and businesses not simply to eliminate the ETI provisions. Our commitment to the American worker requires that we protect the competitive position of our businesses. We believe that we must couple the changes needed to address the WTO decision with needed reforms of our tax rules that will help level the playing field for U.S.-based businesses that compete in the global marketplace. The reforms that are needed address basic inequities in our international tax rules, rules that are out of step with those of our major trading partners. Such reform to the U.S. system for taxing income earned abroad is not a matter in which there is any role for the WTO to play.

This case has been about the application of WTO rules to a particular aspect of the U.S. income tax system. However, there is a much more fundamental question regarding the treatment of taxes under the WTO rules that demands our careful consideration. The WTO rules on prohibited export subsidies make a distinction between direct taxes, such as income taxes, and indirect taxes, such as value added taxes. Under the WTO agreements, direct taxes are not permitted to be border adjustable. Therefore, the U.S. income tax is not rebatable on export under these rules. In contrast, indirect taxes are permitted to be border adjustable under the WTO rules. Accordingly, the European value added taxes may be, and are, rebated at the border consistent with WTO rules.

This disparity in treatment between direct and indirect taxes dates back formally to a 1960 GATT working party and its informal origins date back even farther.

REV_00149005

Notwithstanding this long history, there is no economic rationale for disparate treatment of direct and indirect taxes. The perceived difference in incidence between taxes borne by the producer and taxes borne by the consumer does not have any real relevance to whether the tax should be border adjustable. However, this disparity in treatment is imbedded in WTO rules. And it is a disparity that disproportionately burdens the United States, given that we rely almost exclusively on income taxes while our European trading partners make much greater use of consumption taxes. Reconsideration of this distinction in the treatment of direct and indirect taxes under the WTO rules will be appropriate as we continue the ongoing discussion of WTO matters in the new round.

I would like to turn now to a brief history of the WTO case and our tax provisions that have been the subject of this protracted litigation. I will conclude with a discussion of the international competitiveness issues that must be a central focus in formulating the tax law changes needed to satisfy our WTO obligations and protect the interests of U.S. businesses and workers.

Overview of the History of the WTO Case

The FSC provisions were enacted in 1984. They provided an exemption from U.S. tax for a portion of the income earned from export transactions. This partial exemption from tax was intended to provide U.S. exporters with tax treatment that was more comparable to the treatment provided to exporters under the tax systems common in other countries.

The FSC provisions were enacted to resolve a General Agreement on Tariffs and Trade (GATT) dispute involving a prior U.S. tax regime – the domestic international sales corporation (DISC) provisions enacted in 1971. Following a challenge to the DISC provisions brought by the European Union and a counter-challenge to several European tax regimes brought by the United States, a GATT panel in 1976 ruled against all the contested tax measures. This decision led to a stalemate that was resolved with a GATT Council Understanding adopted in 1981 (the "1981 Understanding"). Pursuant to this 1981 Understanding regarding the treatment of tax measures under the trade agreements, the United States repealed the DISC provisions and enacted the FSC provisions.

The European Union formally challenged the FSC provisions in the WTO in November 1997, thirteen years after their enactment. Consultations to resolve the matter were unsuccessful, and the EU challenge was referred to a WTO dispute resolution panel. In October 1999, the WTO panel issued a report finding that the FSC provisions constituted a violation of WTO rules. The United States appealed the panel report; the European Union also appealed the report. In February 2000, the WTO Appellate Body issued its report substantially upholding the findings of the panel.

Although the United States believed that the FSC provisions were blessed by the 1981 Understanding, the WTO panel completely dismissed this argument, concluding that the 1981 Understanding had no continuing relevance in the interpretation of current WTO rules. The panel's analysis focused mainly on the application of the WTO Agreement on

REV_00149006

Subsidies and Countervailing Measures. The panel found that the FSC provisions constituted a prohibited export subsidy under the Subsidies Agreement.

In response to the WTO decision against the FSC provisions, the FSC Repeal and Extraterritorial Income Exclusion Act was enacted on November 15, 2000. The legislation repealed the FSC provisions and adopted in their place the ETI provisions. The legislation was intended to bring the United States into compliance with WTO rules by addressing the analysis reflected in the WTO decision. The new regime addressed the subsidy issue by establishing a new general rule of taxation under which extraterritorial income is excluded from gross income; the new regime addressed the export-contingency issue by applying to income from all foreign sales and leases of property, without regard to where the property is manufactured. At the same time, the legislation also was intended to ensure that U.S. businesses not be foreclosed from opportunities abroad because of differences in the U.S. tax laws as compared to the laws of other countries.

Immediately following the enactment of the ETI Act, the European Union brought a challenge in the WTO. In August 2001, a WTO panel issued a report finding that the ETI provisions also violate WTO rules. The panel report contained sweeping language and conclusory statements that had broad implications beyond the case at hand. Because of the importance of the issues involved and the troubling implications of the panel's analysis, the United States appealed the panel report. The WTO Appellate Body generally affirmed the panel's findings, although it modified and narrowed the panel's analysis in some respects. The Dispute Settlement Body adopted the report as modified by the Appellate Body on January 29, 2002.

The Appellate Body report makes four main findings with respect to the ETI provisions: (1) the ETI provisions constitute a prohibited export subsidy under the WTO Subsidies Agreement; (2) the ETI provisions constitute a prohibited export subsidy under the WTO Agriculture Agreement; (3) the limitation on foreign content contained in the ETI provisions violate the national treatment provisions of Article III:4 of GATT; and (4) the transition rules contained in the ETI Act violate the WTO's prior recommendation that the FSC subsidy be withdrawn with effect from November 1, 2000.

When it challenged the ETI Act in November 2000, the European Union simultaneously requested authority from the WTO to impose trade sanctions on $4.043 billion worth of U.S. exports. The United States responded by initiating a WTO arbitration proceeding on the grounds that the amount of trade sanctions requested by the European Union was excessive under WTO standards. This arbitration was suspended pending the outcome of the European Union's challenge to the WTO-consistency of the ETI Act, and resumed on January 29th with the Dispute Settlement Body's adoption of its final report. As I noted at the outset, the arbitration panel is expected to issue its report on the appropriate level of trade sanctions imminently and, following adoption of that report, the European Union will be authorized to begin imposing trade sanctions on U.S. exports up to the level set by the arbitrators.

REV_00149007

Competitiveness and U.S. Tax Policy

The U.S. international tax rules have developed in a patchwork fashion, beginning during the 1950s and 1960s. It reflects tax policy principles developed during a time when America's foreign direct investment was preeminent abroad, and competition from imports to the United States was scant. Today, we have a truly global economy, in terms of both trade and investment. The value of goods traded to and from the United States increased more than three times faster than GDP between 1960 and 2000, rising to more than 20 percent of GDP. The flow of cross-border investment, both inflows and outflows, rose from a scant 1.1 percent of GDP in 1960 to 15.9 percent of GDP in 2000.

Multinational corporations are a vital part of the United States economy. They employ over 20 million people in the United States, or about one in every six American workers. Approximately one fourth of U.S. Gross National Product is produced by U.S. non-bank multinationals. Multinationals in the manufacturing sector produce over half of all U.S. gross manufactured product.

U.S. multinationals also contribute substantially to international trade. Their merchandise exports account for about two-thirds of overall U.S. merchandise exports. Their merchandise imports account for about 40 percent of all U.S. merchandise imports. On balance, the operations of these companies showed a net trade surplus of $64 billion in 1999.

Multinational companies compete abroad in order to increase their shares of foreign markets. Much of their foreign activities are aimed at providing services that can not be exported, obtaining access to natural resources abroad, and to selling goods that are costly to export due to transportation costs, tariffs, and local content requirements. About one third of the gross product of foreign affiliates of U.S. multinationals is produced by affiliates the service sector, including distribution, marketing, and servicing U.S. exports.

Among the most important assets of U.S. multinationals is their technical and scientific expertise. Their foreign investments broaden the opportunities to benefit from such expertise and thus encourage them to spend more on research and development. Spending on research and development allows the United States to maintain its competitive advantage in business and be unrivaled as the world leader in scientific and technological know-how. In 1999, non-financial U.S. multinationals performed $142 billion of research and development. Nearly 90 percent of this activity was located in the United States. It accounted for more than two thirds of all research and development conducted by companies in the United States.

At one time, the strength of America's economy was thought to be tied to its abundant natural resources. Today, America's strength is its ability to innovate: to create new technologies and to react faster and smarter to the commercialization of these technologies. America's preeminent resource today is its knowledge base.

REV_00149008

A feature of a knowledge-driven economy is that unlike physical capital, technological know-how can be applied across the world without reducing the productive capacity of the United States. For example, computer software designed to enhance the efficiency of a manufacturing process may require substantial investment, but once developed it can be employed around the world without diminishing the benefits of the know-how within the United States. Foreign direct investment by companies in a knowledge-driven economy provides opportunities to export this know-how at low cost and incentives to undertake greater domestic investment in developing these sources of competitive advantage.

There are many reasons to believe that the principles that guided U.S. international tax policy adequately in the past should be reconsidered in today's highly competitive, knowledge-driven economy. In this regard, it is significant that the U.S. tax system differs in fundamental ways from those of our major trading partners. In order to ensure the ability of U.S. workers to achieve higher living standards, we must ensure that the U.S. tax law does not hinder the ability of the U.S. businesses that employ those workers to compete on a global scale. If U.S. businesses are to succeed in the global economy, the U.S. tax system must not generate a bias against their ability to compete effectively against foreign-based companies – especially in foreign markets.

To understand the effect of U.S. tax policy on the competitiveness of U.S. business, we must consider how U.S. businesses compete in today's global marketplace. A U.S. business operating at home and abroad must compete in several ways for capital and customers. Competition may be among:

- U.S.-managed firms that produce within the United States;
- U.S.-managed firms that produce abroad;
- Foreign-managed firms that produce within the United States;
- Foreign-managed firms that produce abroad within the foreign country in which they are headquartered; and
- Foreign-managed firms that produce abroad within a foreign country different from the one in which they are headquartered.

These entities may be simultaneously competing for sales within the United States, within a foreign country against local foreign production (either U.S., local, or other foreign managed), or within a foreign country against non-local production. Globalization requires that U.S. companies be competitive both in foreign markets and at home.

Other elements of competition among firms exist at the investor level: U.S.-managed firms may have foreign investors and foreign-managed firms may have U.S. investors. Portfolio investment accounts for approximately two-thirds of U.S. investment abroad and a similar fraction of foreign investment in the United States. Firms compete in global capital markets as well as global consumer markets.

In a world without taxes, competition among these different firms and different markets would be determined by production costs. In a world with taxes, however, where

REV_00149009

countries make different determinations with respect to tax rates and tax bases, these competitive decisions inevitably are affected by taxes. Assuming other countries make sovereign decisions on how to establish their own tax systems and tax rates, it simply is not possible for the United States to establish a tax system that restores the same competitive decisions that would have existed in a world without taxes.

The United States can, for example, attempt to equalize the taxation of income earned by U.S. companies from their U.S. exports to that of U.S. companies producing abroad for the same foreign market. However, in equalizing this tax burden, it may be the case that the U.S. tax imposed results in neither type of U.S. company being competitive against a foreign-based multinational producing for sale in this foreign market.

The manner in which balance is achieved among these competitive concerns changes over time as circumstances change. For example, as foreign multinationals have increased in their worldwide position, the likelihood of a U.S. multinational company competing against a foreign multinational in a foreign market has increased relative to the likelihood of U.S. export sales competing against sales from a U.S. multinational producing abroad. The desire to restore competitive decisions to those that would occur in the absence of taxation therefore may place greater weight today on U.S. taxes not impeding the competitive position of U.S. multinationals vis-à-vis foreign multinationals in the global marketplace. Similarly, while at one time U.S. foreign production may have been thought to be largely substitutable with U.S. domestic production for export, today it is understood that foreign production may provide the opportunity for the export of firm-specific know-how and domestic exports may be enhanced by the establishment of foreign production facilities through supply linkages and service arrangements.

Given the significance today of competitiveness concerns, it is important to understand the major features of the U.S. tax system and how they differ from those of our major trading partners. The primary features of the U.S. tax system considered here are: (i) the taxation of worldwide income; (ii) the current taxation of certain types of active foreign-source income; (iii) the limitations placed on the use of foreign tax credits; and (iv) the unintegrated taxation of corporate income at both the entity level and the individual level.

U.S. Worldwide Tax System

The United States, like about half of the OECD countries, including the United Kingdom and Japan, operates a worldwide system of income taxation. Under this worldwide approach, U.S. citizens and residents, including U.S. corporations, are taxed on all their income, regardless of where it is earned. Income earned from foreign sources potentially is subject to taxation both by the country where the income is earned, the country of source, and by the United States, the country of residence. To provide relief from this potential double taxation, the United States allows taxpayers a foreign tax credit that reduces the U.S. tax on foreign-source income by the amount of foreign income and withholding taxes paid on such income.

REV_00149010

The U.S. worldwide system of taxation is in contrast to the territorial tax systems operated by the other half of the OECD countries, including Canada, Germany, France, and the Netherlands. Under these territorial tax systems, domestic residents and corporations generally are subject to tax only on their income from domestic sources. A domestic business is not subject to domestic taxation on the active income earned abroad by a foreign branch or on dividends paid from active income earned by a foreign subsidiary. A domestic corporation generally is subject to tax on other investment-type income, such as royalties, rent, interest, and portfolio dividends, without regard to where such income is earned; because this passive income is taxed on a worldwide basis, relief from double taxation generally is provided through either a foreign tax credit or a deduction allowed for foreign taxes imposed on such income. This type of territorial tax system sometimes is referred to as a "dividend exemption" system because active foreign business income repatriated in the form of a dividend is exempt from taxation. By contrast, a pure territorial system would provide an exemption for all income received from foreign sources, including passive income such as royalties, rent, interest, and portfolio dividends. Such pure territorial systems have existed only in a few developing countries.

Differences between a worldwide tax system and a territorial system can affect the ability of U.S.-based multinationals to compete for sales in foreign markets against foreign-based multinationals. Under a worldwide tax system, repatriated foreign income is taxed at the higher of the source country rate or the residence country rate. In contrast, foreign income under a territorial tax system is subject to tax at the source country rate.

Moreover, it is important to note that both worldwide and territorial systems involve the taxation of income. The complexities present in taxing income generally are heightened in determining the taxation of income from multinational activities, where in addition to measuring the income one must determine its source (foreign or domestic). This complexity affects both tax administrators and taxpayers. Indeed, the U.S. international tax rules have been identified as one of the largest sources of complexity facing U.S. corporate taxpayers.

Given the complexity of the task of taxing multinational income under a worldwide or territorial system on top of the general complexity of the income tax system, some consideration might be given to alternative tax bases other than income. Other OECD countries typically rely on taxes on goods and services, such as under a value added tax, for a substantial share of tax revenues. In the European OECD countries, for example, these taxes raise nearly five times the amount of revenue as does the U.S. corporate income tax as a share of GDP.

Other Worldwide Tax Systems

As described above, about half of the OECD countries employ a worldwide tax system as does the United States. However, the details of our system are such that U.S. multinationals may be disadvantaged when competing abroad against multinational companies established in other countries using a worldwide tax system. This is because

REV_00149011

the United States employs a worldwide tax system that, unlike other worldwide systems, may tax active forms of business income earned abroad before it has been repatriated and may more strictly limit the use of the foreign tax credits that prevent double taxation of income earned abroad.

Limitations on Deferral

Under the U.S. international tax rules, income earned abroad by a foreign subsidiary generally is subject to U.S. tax at the U.S. parent corporation level only when such income is distributed by the foreign subsidiary to the U.S. parent in the form of a dividend. An exception to this general rule is provided with the rules of subpart F of the Code, under which a U.S. parent is subject to current U.S. tax on certain income of its foreign subsidiaries, without regard to whether that income is actually distributed to the U.S. parent. The focus of the subpart F rules is on passive, investment-type income that is earned abroad through a foreign subsidiary. However, the reach of the subpart F rules extends well beyond passive income to encompass some forms of income from active foreign business operations. No other country has rules for the immediate taxation of foreign-source income that are comparable to the U.S. rules in terms of breadth and complexity.

Several categories of active business income are covered by the subpart F rules. Under subpart F, a U.S. parent company is subject to current U.S. tax on income earned by a foreign subsidiary from certain sales transactions. Accordingly, a U.S. company that uses a centralized foreign distribution company to handle sales of its products in foreign markets is subject to current U.S. tax on the income earned abroad by that foreign distribution subsidiary. In contrast, a local competitor making sales in that market is subject only to the tax imposed by that country. Moreover, a foreign competitor that similarly uses a centralized distribution company to make sales into the same markets also generally will be subject only to the tax imposed by the local country. While this subpart F rule may operate in part as a "backstop" to the transfer pricing rules that require arms' length prices for intercompany sales, this rule has the effect of imposing current U.S. tax on income from active marketing operations abroad. U.S. companies that centralize their foreign distribution facilities therefore face a tax penalty not imposed on their foreign competitors.

The subpart F rules also impose current U.S. taxation on income from certain services transactions performed abroad. In addition, a U.S. company with a foreign subsidiary engaged in shipping activities or in certain oil-related activities, such as transportation of oil from the source to the consumer, will be subject to current U.S. tax on the income earned abroad from such activities. In contrast, a foreign competitor engaged in the same activities generally will not be subject to current home-country tax on its income from these activities. While the purpose of these rules is to differentiate passive or mobile income from active business income, they operate to subject to current tax some classes of income arising from active business operations structured and located in a particular country for business reasons wholly unrelated to tax considerations.

REV_00149012

Limitations on Foreign Tax Credits

Under the worldwide system of taxation, income earned abroad potentially is subject to tax in two countries – the taxpayer's country of residence and the country where the income was earned. Relief from this potential double taxation is provided through the mechanism of a foreign tax credit, under which the tax that otherwise would be imposed by the country of residence may be offset by tax imposed by the source country. The United States allows U.S. taxpayers a foreign tax credit for taxes paid on income earned outside the United States.

The foreign tax credit may be used only to offset U.S. tax on foreign-source income and not to offset U.S. tax on U.S.-source income. The rules for determining and applying this limitation are detailed and complex and can have the effect of subjecting U.S.-based companies to double taxation on their income earned abroad. The current U.S. foreign tax credit regime also requires that the rules be applied separately to separate categories or "baskets" of income. Foreign taxes paid with respect to income in a particular category may be used only to offset the U.S. tax on income from that same category. Computations of foreign and domestic source income, allocable expenses, and foreign taxes paid must be made separately for each of these separate foreign tax credit baskets, further adding to the complexity of the system. Moreover, the U.S. foreign tax credit regime requires the allocation of U.S. interest expense against foreign-source income in a manner that reduces the foreign tax credit limitation by understating foreign income.

These rules can have the effect of denying U.S.-based companies the full ability to credit foreign taxes paid on income earned abroad against the U.S. tax liability with respect to that income and therefore can result in the imposition of the double taxation that the foreign tax credit rules are intended to eliminate.

U.S. Corporate Taxation

While concern about the effects of the U.S. tax system on international competitiveness may focus on the tax treatment of foreign-source income, competitiveness issues arise in very much the same way in terms of the general manner in which corporate income is subject to tax in the United States.

One aspect of the U.S. tax system is that the income from an equity-financed investment in the corporate sector is taxed twice. Equity income, or profit, is taxed first under the corporate income tax. Profit is taxed again under the individual income tax when received by the shareholder as a dividend or as a capital gain on the appreciation of corporate shares. In contrast, most other OECD countries offer some form of integration, under which corporate tax payments are either partially or fully taken into consideration when assessing shareholder taxes on this income, eliminating or reducing the double tax on corporate profits.

The non-integration of corporate and individual tax payments on corporate income applies equally to domestically earned income or foreign-source income of a U.S.

REV_00149013

company. This double tax increases the "hurdle" rate, or the minimum rate of return required on a prospective investment. In order to yield a given after-tax return to an individual investor, the pre-tax return must be sufficiently high to offset both the corporate level and individual level taxes paid on this return.

Whether competing at home against foreign imports or competing abroad through exports from the United States or through foreign production, the double tax makes it less likely that the U.S. company can compete successfully against a foreign competitor.

As noted above, most OECD countries offer some form of tax relief for corporate profits. This integration typically is provided by reducing personal income tax payments on corporate distributions rather than by reducing corporate level tax payments. International comparisons of corporate tax burdens, however, sometimes fail to account for differences in integration across countries and consider only corporate level tax payments. To be meaningful, comparisons between the total tax burden faced on corporate investments by U.S. companies and those of foreign multinational companies must take into account the total tax burden on corporate profits at both the corporate and individual levels.

Closing Thoughts

U.S. businesses that compete in the global marketplace are an integral part of the U.S. economy, and their global activities are part of their domestic success. Accordingly, we must ensure that U.S. tax rules do not adversely impact the ability of U.S. businesses to compete successfully around the world. Relative to the tax systems of our major trading partners, the U.S. tax rules can impose significantly heavier burdens on the foreign operations of domestically based companies. As we make the changes to our tax law that are needed to comply with WTO rules, we must keep our focus on the objectives served by the FSC and ETI provisions and look to removing biases against the ability of U.S. businesses to compete globally. Such reforms will allow the United States to retain its world economic leadership. Such reforms will protect American jobs.

The Administration is committed to working with Congress to satisfy the twin objectives of meeting our WTO obligations and ensuring that we protect the competitive position of American businesses and workers.

REV_00149014

From: CN=Stuart W. Bowen/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 7/26/2002 10:14:46 AM
Subject: : Lavenski Smith article

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Stuart W. Bowen (CN=Stuart W. Bowen/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:26-JUL-2002 14:14:46.00
SUBJECT:: Lavenski Smith article
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Stuart W. Bowen/WHO/EOP on 07/26/2002 02:15 PM ----------

Patrick J. Bumatay
07/26/2002 11:29:57 AM
Record Type: Record

To: Stuart W. Bowen/WHO/EOP@EOP, H. Christopher Bartolomucci/WHO/EOP@EOP, Brent D. Greenfield/WHO/EOP@EOP
cc:
Subject: Lavenski Smith article

Affirmative action benchscars

Paul Greenberg
Here's another example of the problem * well, one of the problems * with what has happened to affirmative action, which used to be a respectable term.
It used to mean just casting the net wide enough to make sure all those eligible for some consideration were indeed considered * whether for a job, a political appointment, or a place in medical school.
Unfortunately, affirmative action is now little more than a euphemism for the use of quotas, though they often go under the cover of "goals" or "diversity" or some other verbal disguise. One result of all this doublespeak is that almost anyone black (or female, or Hispanic) gets tagged a quota kid, or a token appointment. No matter how great their merit or promise or deserts.
The latest example has been the deplorable campaign waged against Lavenski Smith's appointment to the U.S. 8th Circuit Court of Appeals. To quote Kevin Freking's story in last Sunday's Arkansas Democrat-Gazette:
"To [his] supporters, the 43-year-old's ascent is a testament to what can happen when you're bright, work hard, and treat others with respect. To critics, it is a story of just how far you can go in life when you are the beneficiary of affirmative action. "
One of the most mean-spirited statements in opposition to Judge Smith's elevation to the appellate bunch came from another black judge here in Arkansas, Wendell Griffen: "I do not want to be associated to the slightest favorable degree with a campaign to promote someone for this historic appointment whose background and inexperience would be a reason for outright protest by our society if he were white."
Actually, Lavenski Smith's record is impressive: He has had to deal with a number of complex legal questions on his brief but busy legal career. To cite a few examples: the Resolution Trust Corp.'s clean-up of the mess left when savings-and-loans were falling like dominoes back in the 1980s; telecom deregulation legislation; and public utility regulation here in Arkansas. He has served not just on the state's Supreme Court but still

serves on its Public Services Commission.
Yet the man is accused of lacking experience * as if experience were a matter of years rather than, well, experience. Vince Smith has actually packed a lot of experience in his 15 years in the law, which can happen with the talented and determined. And yet he never seems driven. Maybe it's his roots in faith, roots he keeps well tended.
Yes, there are a lot of lawyers who have been practicing much longer than Lavenski Smith Esq., but it's always useful to remember that there's a difference between, say, 20 years of experience and the same year's experience 20 times.
Lavenski Smith is one of those individuals who has grown by his trials * and not just trials in the legal sense. That much is clear to anyone who's ever talked with the man for more than a few minutes * or it should be clear if they can sense the unmistakable air of someone whose life exemplifies a quiet but constantly active faith.
One suspects that Vince Smith's real sin isn't his meteoric rise in the law or his spiritual gift, both of which have been known to offend lesser talents, but his guilt by association with Republicans * a long suspect breed in these latitudes. But since he's black, his critics have been given a prejudice they can use against him. They can fasten on his color to claim his appointment was race-based. Just as affirmative action is. This is a familiar sneer by now, thanks to the stigma that the current system of racial quotas places on those it is ostensibly designed to help. Which is another reason why affirmative action needs to go the way of Jim Crow.
Lavenski Smith's case is only the latest example of the injustice that all systems of racial discrimination foster, even those that were supposed to counteract it.
Despite the slurs he's been subjected to, Judge Smith is well qualified by education, experience and judicial temperament for an appellate appointment, as he is about to demonstrate now that his appointment has been confirmed by the U.S. Senate. Congratulations.
Paul Greenberg is a nationally syndicated columnist.

From: Ben Wittes <wittesb@washpost.com>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 7/26/2002 11:07:43 AM
Subject: : Re: >Check_Subject

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Ben Wittes <wittesb@washpost.com> (Ben Wittes <wittesb@washpost.com> [UNKNOWN])
CREATION DATE/TIME:26-JUL-2002 15:07:43.00
SUBJECT:: Re: >Check_Subject
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Can those number be right? Do they include people who never received a hearing during the Clinton administration? Can you send me lists of the people who make up the figures?

Thanks.

_____
Benjamin Wittes
Editorial Writer
The Washington Post
1150 15th Street, NW
Washington DC 20071
phone: 202-334-4134
fax: 202-334-5269

Brett_M.
_Kavanaugh@who.eop. To:
wittesb@washpost.com
gov cc:
Subject: >Check_Subject
07/26/2002 02:36 PM

In the 8 years of the Clinton Administration, 13 circuit nominees were forced to wait more than a year for a hearing (3 of whom were subsequently confirmed). In the 4 years of George H.W. Bush Administration, the number was
2. In the 8 years of Reagan Administration, the number was 3.

In only 1.5 years of the Bush Administration, 11 circuit nominees already
have been forced to wait more than a year for a hearing and the number will rise
to 15 by November 8 (with Steele and 3 Michigan CA6 nominees).

From: CN=Charlotte L. Montiel/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 7/29/2002 11:48:10 AM
Subject: : chart
Attachments: P_0UL39003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:29-JUL-2002 15:48:10.00
SUBJECT:: chart
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_0UL39003_WHO.TXT_1>
```

Judicial Appointments
Historical Comparison: First Two Years of a Presidency

President	Circuit Court Nominees who waited more than a year for a hearing
G.W. Bush (as of July 26, 2002)	11
Clinton	0
George H.W. Bush	0
Reagan	0

From:	CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To:	P. Thaddeus Messenger/OMB/EOP@EOP [OMB] <P. Thaddeus Messenger>;Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>
Sent:	7/30/2002 5:14:58 AM
Subject:	: Re: LRM PTM144 - - OMB Request for Views on S. 2132 - Medical Emergency Preparedness Centers in Veterans Health Administration
Attachments:	P_77549003_WHO.TXT_1.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:30-JUL-2002 09:14:58.00
SUBJECT:: Re: LRM PTM144 - - OMB Request for Views on S. 2132 - Medical Emergency Preparedness Centers in Veterans Health Administration
TO:P. Thaddeus Messenger (CN=P. Thaddeus Messenger/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

White House Counsel has no objection.

Patrick J. Bumatay
07/30/2002 08:21:28 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: LRM PTM144 - - OMB Request for Views on S. 2132 - Medical Emergency Preparedness Centers in Veterans Health Administration

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 07/30/2002 08:19 AM ----------

From: P. Thaddeus Messenger on 07/29/2002 06:32:39 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: LRM PTM144 - - OMB Request for Views on S. 2132 - Medical Emergency Preparedness Centers in Veterans Health Administration

LRM ID: PTM144
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Monday, July 29, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: P. Thaddeus Messenger
PHONE: (202)395-7754 FAX: (202)395-6148
SUBJECT: OMB Request for Views on S. 2132 - Medical Emergency

Preparedness Centers in Veterans Health Administration

DEADLINE: 5:00 p.m. Tuesday, July 30, 2002
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Attached for your review, please find an advance copy of S. 2132, as reported by the Senate Veterans Affairs Committee. The bill may be considered on the Senate floor this week.

(18 pp.)

Please provide your comments by 5:00 p.m., Tuesday, July 30, 2002. If we do not receive your comments by that time, we will assume you have no objection to the bill as reported.

If you experience difficulty with this LRM, or its attachment, please contact us immediately. To ensure receipt by Agency addressees, the electronic copy of this LRM will be followed by a duplicate copy via facsimile.

Thank you.

DISTRIBUTION LIST

AGENCIES:
129-VETERANS AFFAIRS - John H. Thompson - (202) 273-6666
029-DEFENSE - Samuel T. Brick Jr. - (703) 697-1305
030-EDUCATION - Jack Kristy - (202) 401-8313
032-ENERGY - Bob Rabben - (202) 586-6718
039-Federal Emergency Management Agency - Michael D. Brown - (202) 646-4105
051-General Services Administration - Shawn McBurney - (202) 501-0563
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773
061-JUSTICE - Daniel Bryant - (202) 514-2141
083-National Security Council - Stephen E. Biegun - (202) 456-9221
088-Office of Government Ethics - Jane Ley - (202) 208-8022
092-Office of Personnel Management - Harry Wolf - (202) 606-1424
095-Office of Science and Technology Policy - Anthony Gibson - (202) 456-6098
110-Social Security Administration - Diane B. Garro - (202) 358-6030
117 & 340-TRANSPORTATION - Tom Herlihy - (202) 366-4687
118-TREASURY - Thomas M. McGivern - (202) 622-2317

EOP:
Robin Cleveland
Karyn T. Carson
Kathleen Peroff
Mary Jo Siclari
Toni S. Hustead
Danny A. Ermann
Narahari Sastry
Lourdes M. Lamela
John J. Bartrum
Kelli A. Hagen
Mark R. Seastrom
Winifred Y. Chang
Shalini M. Benson
Arecia A. Grayton
Lisa A. Conte
Cameron M. Leuthy
Wendell H. Waites
Eugene J. Devine
Mark Vinkenes
David J. Haun

Douglas Pitkin
Julie L. Haas
Kathryn B. Stack
Lorenzo Rasetti
Lisa B. Fairhall
Lauren Uher
Daniel LaPlaca
Jennifer S. Kron
Michael F. Crowley
Justine F. Rodriguez
Mathew C. Blum
Cristal A. Thomas
Stuart Shapiro
Sarah S. Lee
Attia Little
Pamula L. Simms
Aquiles F. Suarez
Anne E. Phelps
Layton Skelly
Clifford J. Gabriel
OVP LRM
OHS LRM
WHGC LRM
Philip J. Perry
Matthew J. Schneider
John F. Wood
Christine Ciccone
Elizabeth L. Rossman
Christine C. McCarlie
Lauren C. Lobrano
Ingrid M. Schroeder
James J. Jukes
P. Thaddeus Messenger
Richard E. Green
Oscar Gonzalez
LRM ID: PTM144 SUBJECT: OMB Request for Views on S. 2132 -
Medical Emergency Preparedness Centers in Veterans Health Administration

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: P. Thaddeus Messenger Phone: 395-7754 Fax:
395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-7362

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Sent
To:_____
valrm@mail.va.gov
dodlrs@osdgc.osd.mil
ogc_legislation@ed.gov
energy.gc71@hq.doe.gov
legis@fema.gov
ca.legislation@gsa.gov
lrm@hhs.gov
justice.lrm@usdoj.gov
NSC LRM
legteam@oge.gov
ola@opm.gov
OSTP LRM
ODCLCA.LRM.SSA@ssa.gov
dot.legislation@ost.dot.gov
llr@do.treas.gov

Message Copied
To:_____
Robin Cleveland/OMB/EOP@EOP
Karyn T. Carson/OMB/EOP@EOP
Kathleen Peroff/OMB/EOP@EOP
Mary Jo Siclari/OMB/EOP@EOP
Toni S. Hustead/OMB/EOP@EOP
Danny A. Ermann/OMB/EOP@EOP
Narahari Sastry/OMB/EOP@EOP
Lourdes M. Lamela/OMB/EOP@EOP
John J. Bartrum/OMB/EOP@EOP
Kelli A. Hagen/OMB/EOP@EOP
Mark R. Seastrom/OMB/EOP@EOP
Winifred Y. Chang/OMB/EOP@EOP
Shalini M. Benson/OMB/EOP@EOP
Arecia A. Grayton/OMB/EOP@EOP
Lisa A. Conte/OMB/EOP@EOP
Cameron M. Leuthy/OMB/EOP@EOP
Wendell H. Waites/OMB/EOP@EOP
Eugene J. Devine/OMB/EOP@EOP
Mark Vinkenes/OMB/EOP@EOP
David J. Haun/OMB/EOP@EOP
Douglas Pitkin/OMB/EOP@EOP
Julie L. Haas/OMB/EOP@EOP
Kathryn B. Stack/OMB/EOP@EOP
Lorenzo Rasetti/OMB/EOP@EOP
Lisa B. Fairhall/OMB/EOP@EOP
Lauren Uher/OMB/EOP@EOP
Daniel LaPlaca/OMB/EOP@EOP
Jennifer S. Kron/OMB/EOP@EOP
Michael F. Crowley/OMB/EOP@EOP

Justine F. Rodriguez/OMB/EOP@EOP
Mathew C. Blum/OMB/EOP@EOP
Cristal A. Thomas/OMB/EOP@EOP
Stuart Shapiro/OMB/EOP@EOP
Sarah S. Lee/OMB/EOP@EOP
Attia Little/OMB/EOP@EOP
Pamula L. Simms/OMB/EOP@EOP
Aquiles F. Suarez/OPD/EOP@EOP
Anne E. Phelps/OPD/EOP@EOP
Layton Skelly/OPD/EOP@EOP
Clifford J. Gabriel/OSTP/EOP@EOP
OVP LRM
OHS LRM
WHGC LRM
Philip J. Perry/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Christine Ciccone/WHO/EOP@EOP
Elizabeth L. Rossman/OMB/EOP@EOP
Christine C. McCarlie/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
Ingrid M. Schroeder/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
P. Thaddeus Messenger/OMB/EOP@EOP
Richard E. Green/OMB/EOP@EOP
Oscar Gonzalez/OMB/EOP@EOP

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_77549003_WHO.TXT_1>

[COMMITTEE PRINT]

Calendar No. _____

107TH CONGRESS
2D SESSION

S. 2132

[Report No. 107-___]

IN THE SENATE OF THE UNITED STATES

APRIL 16, 2002

Mr. ROCKEFELLER introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

____ (legislative day, _____), 2002

Reported by Mr. ROCKEFELLER, with an amendment and an amendment to the title

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend title 38, United States Code, to provide for the establishment of medical emergency preparedness centers in the Veterans Health Administration, to provide for the enhancement of the medical research activities of the Department of Veterans Affairs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

REV_00149061

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Department of Veterans Affairs Emergency Preparedness Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—MEDICAL EMERGENCY PREPAREDNESS

Sec. 101. Medical emergency preparedness centers in Veterans Health Administration.

TITLE II—DEPARTMENT OF VETERANS AFFAIRS ADMINISTRATION

Sec. 201. Additional Assistant Secretary of Veterans Affairs and functions for Assistant Secretaries of Veterans Affairs.
Sec. 202. Additional Deputy Assistant Secretaries of Veterans Affairs.

TITLE III—HEALTH CARE MATTERS

Sec. 301. Authority to furnish health care during major disasters and medical emergencies.

TITLE IV—RESEARCH CORPORATIONS

Sec. 401. Modification of certain authorities on research corporations.
Sec. 402. Coverage of research corporation personnel under Federal Tort Claims Act and other tort claims laws.
Sec. 403. Permanent authority for research corporations.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

REV_00149062

TITLE I—MEDICAL EMERGENCY PREPAREDNESS

SEC. 101. MEDICAL EMERGENCY PREPAREDNESS CENTERS IN VETERANS HEALTH ADMINISTRATION.

(a) IN GENERAL.—(1) Subchapter II of chapter 73 is amended by inserting after section 7320 the following new section:

"§ 7320A. Medical emergency preparedness centers

"(a) The Secretary shall establish and maintain within the Veterans Health Administration four centers for research and activities on medical emergency preparedness.

"(b) The purposes of each center established under subsection (a) shall be as follows:

"(1) To carry out research on the detection, diagnosis, prevention, and treatment of injuries, diseases, and illnesses arising from the use of chemical, biological, radiological, or incendiary or other explosive weapons or devices, including the development of methods for the detection, diagnosis, prevention, and treatment of such injuries, diseases, and illnesses.

"(2) To provide to health-care professionals in the Veterans Health Administration education, training, and advice on the treatment of the medical consequences of the use of chemical, biological, radi-

REV_00149063

ological, or incendiary or other explosive weapons or devices.

"(3) Upon the direction of the Secretary, to provide education, training, and advice described in paragraph (2) to health-care professionals outside the Department through the National Disaster Medical System or through interagency agreements entered into by the Secretary for that purpose.

"(4) In the event of a national emergency, to provide such laboratory, epidemiological, medical, or other assistance as the Secretary considers appropriate to Federal, State, and local health care agencies and personnel involved in or responding to the national emergency.

"(c)(1) Each center established under subsection (a) shall be established at an existing Department medical center, whether at the Department medical center alone or at a Department medical center acting as part of a consortium of Department medical centers for purposes of this section.

"(2) The Secretary shall select the sites for the centers from among competitive proposals that are submitted by Department medical centers seeking to be sites for such centers.

REV_00149064

"(3) The Secretary may not select a Department medical center as the site of a center unless the proposal of the Department medical center under paragraph (2) provides for—

"(A) an arrangement with an accredited affiliated medical school and an accredited affiliated school of public health (or a consortium of such schools) under which physicians and other health care personnel of such schools receive education and training through the Department medical center;

"(B) an arrangement with an accredited graduate program of epidemiology under which students of the program receive education and training in epidemiology through the Department medical center; and

"(C) the capability to attract scientists who have made significant contributions to innovative approaches to the detection, diagnosis, prevention, and treatment of injuries, diseases, and illnesses arising from the use of chemical, biological, radiological, or incendiary or other explosive weapons or devices.

"(4) In selecting sites for the centers, the Secretary shall—

"(A) utilize a peer review panel (consisting of members with appropriate scientific and clinical ex-

pertise) to evaluate proposals submitted under paragraph (2) for scientific and clinical merit; and

"(B) to the maximum extent practicable, ensure the geographic dispersal of the sites throughout the United States.

"(d)(1) Each center established under subsection (a) shall be administered jointly by the offices within the Department that are responsible for directing research and for directing medical emergency preparedness.

"(2) The Secretary and the heads of the agencies concerned shall take appropriate actions to ensure that the work of each center is carried out—

"(A) in close coordination with the Department of Defense, Department of Health and Human Services, Office of Homeland Security, and other departments, agencies, and elements of the Federal Government charged with coordination of plans for United States homeland security; and

"(B) in accordance with any applicable recommendations of the Working Group on Bioterrorism and Other Public Health Emergencies, or any other joint interagency advisory groups or committees designated to coordinate Federal research on weapons of mass destruction.

REV_00149066

"(e)(1) Each center established under subsection (a) shall be staffed by officers and employees of the Department.

"(2) Subject to the approval of the head of the department or agency concerned and the Director of the Office of Personnel Management, an officer or employee of another department or agency of the Federal Government may be detailed to a center if the detail will assist the center in carrying out activities under this section. Any detail under this paragraph shall be on a non-reimbursable basis.

"(f) In addition to any other activities under this section, a center established under subsection (a) may, upon the request of the agency concerned and with the approval of the Secretary, provide assistance to Federal, State, and local agencies (including criminal and civil investigative agencies) engaged in investigations or inquiries intended to protect the public safety or health or otherwise obviate threats of the use of a chemical, biological, radiological, or incendiary or other explosive weapon or device.

"(g) Notwithstanding any other provision of law, each center established under subsection (a) may, with the approval of the Secretary, solicit and accept contributions of funds and other resources, including grants, for purposes of the activities of such center under this section.".

REV_00149067

(2) The table of sections at the beginning of chapter 73 is amended by inserting after the item relating to section 7320 the following new item:

"7320A. Medical emergency preparedness centers.".

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) There is hereby authorized to be appropriated for the Department of Veterans Affairs amounts for the centers established under section 7320A of title 38, United States Code (as added by subsection (a)), $20,000,000 for each of fiscal years 2003 through 2007.

(2) The amount authorized to be appropriated by paragraph (1) is not authorized to be appropriated for the Veterans Health Administration for Medical Care, but is authorized to be appropriated for the Administration separately and solely for purposes of the centers referred to in that paragraph.

(3) Of the amount authorized to be appropriated by paragraph (1) for a fiscal year, $5,000,000 shall be available for such fiscal year for each center referred to in that paragraph.

TITLE II—DEPARTMENT OF VETERANS AFFAIRS ADMINISTRATION

SEC. 201. ADDITIONAL ASSISTANT SECRETARY OF VETERANS AFFAIRS AND FUNCTIONS FOR ASSISTANT SECRETARIES OF VETERANS AFFAIRS.

(a) INCREASE IN MAXIMUM AUTHORIZED NUMBER OF ASSISTANT SECRETARIES OF VETERANS AFFAIRS.—Section 308(a) is amended by striking "six" and inserting "seven".

(b) ADDITIONAL AUTHORIZED FUNCTIONS.—Section 308(b) is amended by adding at the end the following new paragraph:

"(11) Operations, preparedness, security, and law enforcement functions.".

(c) CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by striking the item relating to Assistant Secretaries, Department of Veterans Affairs and inserting the following new item:

"Assistant Secretaries, Department of Veterans Affairs (7)".

REV_00149069

SEC. 202. ADDITIONAL DEPUTY ASSISTANT SECRETARIES OF VETERANS AFFAIRS.

Section 308(d)(1) is amended by striking "18" and inserting "20".

TITLE III—HEALTH CARE MATTERS

SEC. 301. AUTHORITY TO FURNISH HEALTH CARE DURING MAJOR DISASTERS AND MEDICAL EMERGENCIES.

(a) IN GENERAL.—(1) Subchapter VII of chapter 17 is amended by inserting after section 1784 the following new section:

"§ 1785. Care and services during major disasters and medical emergencies

"(a) During and immediately following a disaster or emergency referred to in subsection (b), the Secretary may furnish hospital care and medical services to individuals responding to, involved in, or otherwise affected by such disaster or emergency, as the case may be.

"(b) A disaster or emergency referred to in this subsection is any disaster or emergency as follows:

"(1) A major disaster or emergency declared by the President under the Robert B. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

REV_00149070

"(2) A disaster or emergency in which the National Disaster Medical System is activated.

"(c) The Secretary may furnish care and services under this section to veterans without regard to their enrollment in the system of annual patient enrollment under section 1705 of this title.

"(d) The Secretary may give a higher priority to the furnishing of care and services under this section than to the furnishing of care and services to any other group of persons eligible for care and services in medical facilities of the Department with the exception of—

"(1) veterans with service-connected disabilities; and

"(2) members of the Armed Forces on active duty who are furnished health-care services under section 8111A of this title.

"(e)(1) The cost of any care or services furnished under this section to an officer or employee of a department or agency of the Federal Government other than the Department shall be reimbursed at such rates as may be agreed upon by the Secretary and the head of such department or agency based on the cost of the care or service furnished.

"(2) Amounts received by the Department under this subsection shall be credited to the funds allotted to the

REV_00149071

Department facility that furnished the care or services concerned.

"(f) Within 60 days of the commencement of a disaster or emergency referred to in subsection (b) in which the Secretary furnishes care and services under this section (or as soon thereafter as is practicable), the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the Secretary's allocation of facilities and personnel in order to furnish such care and services.

"(g) The Secretary shall prescribe regulations governing the exercise of the authority of the Secretary under this section.".

(2) The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 1784 the following new item:

"1785. Care and services during major disasters and medical emergencies.".

(b) EXCEPTION FROM REQUIREMENT FOR CHARGES FOR EMERGENCY CARE.—Section 1784 is amended by inserting ", except as provided in section 1785 of this title with respect to a disaster or emergency covered by that section," after "but".

(c) MEMBERS OF THE ARMED FORCES.—Subsection (a) of section 8111A is amended to read as follows:

"(a)(1) During and immediately following a period of war, or a period of national emergency declared by the

REV_00149072

President or Congress that involves the use of the Armed Forces in armed conflict, the Secretary may furnish hospital care, nursing home care, and medical services to members of the Armed Forces on active duty.

"(2)(A) During and immediately following a disaster or emergency referred to in subparagraph (B), the Secretary may furnish hospital care and medical services to members of the Armed Forces on active duty responding to or involved in such disaster or emergency, as the case may be.

"(B) A disaster or emergency referred to in this subparagraph is any disaster or emergency follows:

"(i) A major disaster or emergency declared by the President under the Robert B. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

"(ii) A disaster or emergency in which the National Disaster Medical System is activated.

"(3) The Secretary may give a higher priority to the furnishing of care and services under this section than to the furnishing of care and services to any other group of persons eligible for care and services in medical facilities of the Department with the exception of veterans with service-connected disabilities.

REV_00149073

"(4) In this section, the terms 'hospital care', 'nursing home care', and 'medical services' have the meanings given such terms by sections 1701(5), 101(28), and 1701(6) of this title, respectively.".

TITLE IV—RESEARCH CORPORATIONS

SEC. 401. MODIFICATION OF CERTAIN AUTHORITIES ON RESEARCH CORPORATIONS.

(a) RESTATEMENT AND ENHANCEMENT OF AUTHORITY ON AVAILABILITY OF FUNDS.—Section 7362 is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by striking the second sentence of subsection (a); and

(3) by inserting after subsection (a) the following new subsection (b):

"(b)(1) Any funds, other than funds appropriated for the Department, that are received by the Secretary for the conduct of research or education and training may be transferred to and administered by a corporation established under this subchapter for the purposes set forth in subsection (a).

"(2) Funds appropriated for the Department are available for the conduct of research or education and

REV_00149074

training by a corporation, but only pursuant to the terms of a contract or other agreement between the Department and such corporation that is entered into in accordance with applicable law and regulations.

"(3) A contract or agreement executed pursuant to paragraph (2) or section 8153 of this title may facilitate only research or education and training described in subsection (a). Such contract or agreement may not be executed for the provision of a health-care resource unless such health-care resource is related to such research or education and training.".

(b) TREATMENT OF CORPORATIONS AS AFFILIATED INSTITUTIONS FOR SHARING OF HEALTH-CARE RESOURCES.—Section 8153(a)(3) is amended—

(1) by redesignating subparagraphs (C), (D), and (E) as subsections (D), (E), and (F), respectively;

(2) by inserting after subparagraph (B) the following new subparagraph (C):

"(C) If the resource required is research or education and training (as that term is defined in section 7362(c) of this title) and is to be acquired from a corporation established under subchapter IV of chapter 73 of this title, the Secretary may make arrangements for acquisition of the resource without regard to any law or regulation (in-

REV_00149075

cluding any Executive order, circular, or other administrative policy) that would otherwise require the use of competitive procedures for acquiring the resource.";

(3) in subparagraph (D), as so redesignated, by striking "(A) or (B)" and inserting "(A), (B), or (C)"; and

(4) in subparagraph (E), as so redesignated, by striking "(A)" and inserting "(A) or (B)".

SEC. 402. COVERAGE OF RESEARCH CORPORATION PERSONNEL UNDER FEDERAL TORT CLAIMS ACT AND OTHER TORT CLAIMS LAWS.

(a) IN GENERAL.—Subchapter IV of chapter 73 is amended by inserting after section 7364 the following new section:

"§ 7364A. Coverage of employees under certain Federal tort claims laws

"(a) An employee of a corporation established under this subchapter who is described by subsection (b) shall be considered an employee of the government, or a medical care employee of the Veterans Health Administration, for purposes of the following provisions of law:

"(1) Section 1346(b) of title 28.

"(2) Chapter 171 of title 28.

"(3) Section 7316 of this title.

REV_00149076

"(b) An employee described in this subsection is an employee who—

"(1) has an appointment with the Department, whether with or without compensation;

"(2) is directly or indirectly involved or engaged in research or education and training that is approved in accordance with procedures established by the Under Secretary for Health for research or education and training; and

"(3) performs such duties under the supervision of Department personnel.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 is amended by inserting after the item relating to section 7364 the following new item:

"7364A. Coverage of employees under certain Federal tort claims laws.".

SEC. 403. PERMANENT AUTHORITY FOR RESEARCH CORPORATIONS.

(a) REPEAL OF SUNSET.—Section 7368 is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 is amended by striking the item relating to section 7368.

REV_00149077

Amend the title to read: "A Bill to amend title 38, United States Code, to enhance the emergency preparedness of the Department of Veterans Affairs, and for other purposes.".

REV_00149078

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Doug Hoelscher <dhoelscher@georgewbush.com>
CC: leonard b. rodriguez/who/eop@eop [WHO] <leonard b. rodriguez>;Matthew A. Schlapp/WHO /EOP@EOP [WHO] <Matthew A. Schlapp>;matt schlapp <mschlapp@georgewbush.com>
Sent: 7/30/2002 8:39:29 AM
Subject: : RE: FW: Govt employees and candidate aid.
Attachments: P_L0J49003_WHO.TXT_1.htm

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:30-JUL-2002 12:39:29.00
SUBJECT:: RE: FW: Govt employees and candidate aid.
TO:Doug Hoelscher <dhoelscher@georgewbush.com> (Doug Hoelscher <dhoelscher@georgewbush.com> [UNKNOWN])
READ:UNKNOWN
CC:leonard b. rodriguez (CN=leonard b. rodriguez/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:matt schlapp <mschlapp@georgewbush.com> (matt schlapp <mschlapp@georgewbush.com> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Note that some depts and agencies appear to have policies about out-of-town OFFICIAL events within 30-60 days of an election when a PAS official appears with a candidate (including an incumbent candidate). I am tracking these down as these are not government-wide or WH-dictated policies. Note that such a policy would not affect participation in out-of-town POLITICAL events in any way.

Doug Hoelscher <dhoelscher@georgewbush.com>
07/25/2002 03:54:32 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: Matt Schlapp <mschlapp@georgewbush.com>, Leonard B. Rodriguez/WHO/EOP@EOP
Subject: RE: FW: Govt employees and candidate aid.

Re: FW: Govt employees and candidate aid.awesome -- thanks Brett
-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov [mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Thursday, July 25, 2002 3:29 PM
To: Doug Hoelscher
Cc: Matt Schlapp; Leonard_B._Rodriguez@who.eop.gov
Subject: Re: FW: Govt employees and candidate aid.

I talked to him. He referenced an SBA-specific "standard operating procedure." He is following up by e-mail with me. Will keep you posted.

(Embedded
image moved Doug Hoelscher <dhoelscher@georgewbush.com>
to file: 07/25/2002 03:05:00 PM
pic31944.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc: Matt and Mercy Schlapp <mschlapp@georgewbush.com>, Leonard B.
Rodriguez/WHO/EOP@EOP
Subject: FW: Govt employees and candidate aid.

Govt employees and candidate aid.Brett,
Do you want to talk to Peter Dugas or would you like me to?

Peter Dugas
205-6440
Peter.Dugas@sba.gov

-Doug

-----Original Message-----
From: Mayol, Annie [mailto:AMayol@nrsc.org]
Sent: Thursday, July 25, 2002 2:51 PM
To: Doug Hoelscher
Subject: RE: Govt employees and candidate aid.

Peter Dugas from Hector Barreto's office. He was checking with his legal
counsel as well, but I am glad to hear that. Maybe he was looking at an
SBA
rule.

Annie Mayol
Director of Hispanic Outreach
National Republican Senatorial Committee
425 Second Street, NE
Washington, DC 20002
202-675-6064
202-675-4269 fax

-----Original Message-----
From: Doug Hoelscher [mailto:dhoelscher@georgewbush.com]
Sent: Thursday, July 25, 2002 1:40 PM
To: AMayol@nrsc.org
Cc: mschlapp@georgewbush.com; Leonard Rodriguez;
Brett_M._Kavanaugh@who.eop.gov
Subject: RE: Govt employees and candidate aid.

Annie,
The below information is not correct. I confirmed with Brett Kavanaugh
in
the White House Counsel's Office that there is no such rule. Who told
you
the below information?
-Doug
-----Original Message-----
From: Leonard Rodriguez [mailto:lrodriguez@georgewbush.com]
Sent: Thursday, July 25, 2002 12:06 PM
To: dhoelscher@georgewbush.com
Cc: mschlapp@georgewbush.com; Ken Mehlman
Subject: Govt employees and candidate aid.

Are you aware of this?

-----Original Message-----
From: Mayol, Annie <AMayol@nrsc.org>
To: Leonard Rodriguez <lrodriguez@georgewbush.com>
Sent: Thu Jul 25 11:58:02 2002
Subject: RE: FW: DNC Chairman McAuliffe Establishes Hispanic Business
Council

It has come to my attention that a rule exists for all government
employees,
including appointees like Hector Barreto, cannot do an event with a
candidate on a contested race 60 day before the election (November
5th).
Due to the events that I had hope to organized with Hispanic
surrogates
and
our Senatorial races - I need to know how does this affect us and
what
are
our limitations? Please advice.

Annie Mayol
Director of Hispanic Outreach
National Republican Senatorial Committee
425 Second Street, NE
Washington, DC 20002
202-675-6064
202-675-4269 fax

-----Original Message-----
From: Leonard Rodriguez [mailto:lrodriguez@georgewbush.com]
Sent: Thursday, July 25, 2002 10:57 AM
To: AMayol@nrsc.org
Subject: RE: FW: DNC Chairman McAuliffe Establishes Hispanic Business
Council

Talk to rudy on reconvening the group. Talk to rudy on nrcc and nrsc
co
chairs. Nclr will not move on estrada, but it does not mean you can
ask.

- att1.htm

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_L0J49003_WHO.TXT_1>

awesome -- thanks Brett

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov [mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Thursday, July 25, 2002 3:29 PM
To: Doug Hoelscher
Cc: Matt Schlapp; Leonard_B._Rodriguez@who.eop.gov
Subject: Re: FW: Govt employees an d candidate aid.

I talked to him. He referenced an SBA-specific "standard operating procedure." He is following up by e-mail with me. Will keep you posted.

&nbs p; ; & nbsp; &n bsp;
(Embedded & nbsp; &n bsp; &nb sp; &nbs p;
image moved Doug Hoelscher <dhoelscher@georgewbush.com>
to file: 07/25/2002 03:05:00 PM &nb sp; &nbs p;
pic31944.pcx) &nb sp; &nbs p; ;
&nbs p; ; & nbsp; &n bsp;

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc: Matt and Mercy Schlapp <mschlapp@georgewbush.com>, Leonard B. Rodriguez/WHO/EOP@EOP
Subject: FW: Govt employees and candidate aid.

Govt employees and candidate aid.Brett,
Do you want to talk to Peter Dugas or would you like me to?

Peter Dugas
205-6440
Peter.Dugas@sba.gov

-Doug

-----Original Message-----
From: Mayol, Annie [mailto:AMayol@nrsc.org]
Sent: Thursday, July 25, 2002 2:51 PM

To: Doug Hoelscher
Subject: RE: Govt employees and candidate aid.

Peter Dugas from Hector Barreto's office. He was checking wit h his legal counsel as well, but I am glad to hear that . Maybe he was looking at an SBA rule.

Annie Mayol
Director of Hispanic Outreach
National Republican Senatorial Committee
425 Second Street, NE
Washington, DC 20002
202-675-6064
202-675-4269 fax

-----Original Message-----
From: Doug Hoelscher [mailto:dhoelscher@georgewbush.com]
Sent: Thursday, July 25, 2002 1:40 PM
To: AMayol@nrsc.org
Cc: mschlapp@georgewbush.com; Leonard Rodriguez; Brett_M._Kavanaugh@who.eop.gov
Subject: RE: Govt employees and candidate aid.

Annie,
The below information is not correct. I confirmed with Brett Kavanaugh in the White House Counsel's Office that there is no such rule. Who told you the below information?
-Doug

-----Original Message-----
From: Leonard Rodriguez [mailto:lrodriguez@georgewbush.com]
Sent: Thursday, July 25, 2002 12:06 PM
To: dhoelscher@georgewbush.com
Cc: mschlapp@georgewbush.com; Ken Mehlman
Subject: Govt employees and candidate aid.

Are you aware of this?

-----Original Message-----
From: Mayol, Annie <AMayol@nrsc.org>
To: Leonard Rodriguez <lrodriguez@georgewbush.com>
Sent: Thu Jul 25 11:58:02 2002
Subject: RE: FW: DNC Chairman McAuliffe Establishes Hispanic Business Council

It has come to my attention that a rule exists for all government employees,
including appointees like Hector Barreto, cannot do an event with a candidate on a contested race 60 day before the election (November 5th).
Due to the events that I had hope to organized with Hispanic surrogates and
our Senatorial races - I need to know how does this affect us and what

are
our limitations? Please advice.

Annie Mayol
Director of Hispanic Outreach
National Republican Senatorial Committee
425 Second Street, NE
Washington, DC 20002
202-675-6064
202-675-4269 fax

-----Original Message-----
From: Leonard Rodriguez [mailto:lrodriguez@georgewbush.com]
Sent: Thursday, July 25, 2002 10:57 AM
To: AMayol@nrsc.org
Subject: RE: FW: DNC Chairman McAuliffe Establishes Hispanic Business Council

Talk to rudy on reconvening the group. Tal k to rudy on nrcc and nrsc co chairs . Nclr will not move on estrada, but it does not mean you can ask.

From: LDoud@riaa.com [UNKNOWN]
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 7/30/2002 11:55:41 AM
Subject: : tuned In! -- July 30
Attachments: P_FEU49003_WHO.TXT_1.pdf

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:LDoud@riaa.com ( LDoud@riaa.com [ UNKNOWN ] )
CREATION DATE/TIME:30-JUL-2002 15:55:41.00
SUBJECT:: tuned In! -- July 30
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

(See attached file: tuned in july 30.PDF)
- tuned in july 30.PDF
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_FEU49003_WHO.TXT_1>
```

tuned In!

July 30, 2002 WHAT TO BUY. HOW TO HEAR IT. WHERE TO SEE IT.

new releases

On Sale July 30th

Bruce Springsteen & the E Street Band
The Rising (Columbia)

Def Leppard
X (Island)

Filter
The Amalgamut (Reprise)

Linkin Park
Reanimation (Warner Bros.)

Beth Orton
Daybreaker (Heavenly/Astralwerks)

Darius Rucker
Back To Then (Columbia)

live sounds

Dwight Yoakam
9:30 Club 7/30

Yo Yo Ma
Wolf Trap 7/30

Maxwell
Constitution Hall 7/31 and 8/1

Santana w/ Rusted Root
Merriweather Post Pavilion 8/2

Lauryn Hill w/ Outkast and The Roots
Nissan Pavilion 8/3

riaa goes gold:

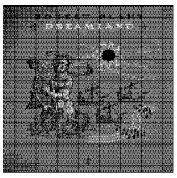
50 years for the music.

In 1988, compact disc sales officially surpassed LP sales, leaving cassettes and CDs as the two dominant forms of selling music to consumers.

off the charts







This week gives us a huge #1 debut by The Dave Matthews Band as their "Busted Stuff" (RCA Records) album sold more than 620,000 copies its first week.

"Highly Evolved," (Capitol Records) the eagerly anticipated debut by Australian rock trio The Vines also posted very strong sales with a #11 debut and more than 64,000 copies sold. "Incredible," (Columbia) the second album by R&B/gospel duo Mary Mary makes a strong showing as well, with a #20 debut.

"Dreamland," (Universal Records) the first solo album by Led Zeppelin frontman Robert Plant in more than eight years enters the charts at #40 this week, with first week sales of more than 25,000 copies.

Two other notable debuts this week were Darryl Worley's "I Miss My Friend" (DreamWorks) at #21 and The Flaming Lips' "Yoshimi Battles The Pink Robots" (Warner Bros.) at #50.

tuned In!

July 30, 2002

tunes on the tube

Norah Jones
Tonight Show w/ Jay Leno 7/30

Our Lady Peace
Late Late Show w/ Craig Kilborn 7/30

Duncan Sheik
The Tonight Show w/ Jay Leno 7/31

Bruce Springsteen
Late Show w/ David Letterman 8/1

Emmylou Harris and Alison Krauss
The Tonight Show w/ Jay Leno 8/1

Counting Crows
The Tonight Show w/ Jay Leno 8/2

Goo Goo Dolls
Late Late Show w/ Craig Kilborn 8/2

Belle and Sebastian
Late Night w/ Conan O'Brien 8/2 (R)

Tweet
The Tonight Show w/ Jay Leno 8/5

Paulina Rubio
Late Late Show w/ Craig Kilborn 8/5

this week in music history

July 30, 1936
Blues guitar legend Buddy Guy born in Lettsworth, LA.

August 1, 1971
George Harrison was joined by Eric Clapton, Bob Dylan, Ravi Shankar, Ringo Starr among others at New York's Madison Square Garden at the Concert for Bangla Desh. The concert was organized and staged in an effort to raise money for victims of famine and war in Bangla Desh.

August 3, 1963
The Beatles made their final appearance at The Cavern Club in London.

gold and platinum

Following up his debut at #1, St. Louis born rapper Nelly saw his latest effort, "Nellyville," reach triple Platinum status for the sale of more than three million copies just one month after being released. Combined with his 2000 debut, "Country Grammar," he has sold more than 11 million albums.

As they cross the country on yet another blockbuster summer tour, the Dave Matthews Band saw their debut album, "Remember Two Things" reach Platinum status. Each of the band's recordings has been certified at least Platinum. Their best selling album is 1996's "Crash" which has sold more than seven million copies.

Industry success story Jack Johnson received the first Gold record of what is sure to be a long career as his debut, "Brushfire Fairytales" climbed past the 500,000 sales mark.

R&B superstar Usher added another million to the already triple Platinum "8701," moving it past the four million mark. In addition, his breakthrough album, "My Way" has sold more than six million copies.

This newsletter is intended to serve as a digest of current information found among a number of publicly available sources about significant recordings, artists and noteworthy events and trends of interest to music fans.

The mention of any specific sound recording or artist or other data within the newsletter constitutes neither an express nor implicit endorsement, promotion or recommendation by RIAA of any sound recording, performing artist, recording company, product or service.

From: CN=Adam F. Greenstone/OU=OA/O=EOP [OA]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 7/30/2002 3:02:03 PM
Subject: : Re: inquiry re FOIA requests

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Adam F. Greenstone (CN=Adam F. Greenstone/OU=OA/O=EOP [OA])
CREATION DATE/TIME:30-JUL-2002 19:02:03.00
SUBJECT:: Re: inquiry re FOIA requests
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett--We did receive a May 20 request and have been processing it. No documents have yet been released. I had been keeping Rachel Brand informed of this and another request and we had an understanding that we would advise your office before we responded. Since I believe Rachel has departed, I can keep you informed instead.

Brett M. Kavanaugh
07/28/2002 08:16:58 PM
Record Type: Record

To: David S. Addington/OVP/EOP@EOP, Adam F. Greenstone/OA/EOP@EOP
cc:
Subject: inquiry re FOIA requests

I received an inquiry from DOJ Associate AG office related to anthrax-related FOIA requests dated May 20. The question is whether OVP and OA have yet responded to these requests.

From:	CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To:	Irene Kho/OMB/EOP@EOP [OMB] <Irene Kho>;Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>
Sent:	7/31/2002 5:04:06 AM
Subject:	: Re: LRM IKK251 - - TREASURY Draft Bill on Coin Design Advisory Committtee
Attachments:	P_Y6D59003_WHO.TXT_1.doc; P_Y6D59003_WHO.TXT_2; P_Y6D59003_WHO.TXT_3.doc; P_Y6D59003_WHO.TXT_4.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:31-JUL-2002 09:04:06.00
SUBJECT:: Re: LRM IKK251 - - TREASURY Draft Bill on Coin Design Advisory Committtee
TO:Irene Kho (CN=Irene Kho/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

No objection.

Patrick J. Bumatay
07/31/2002 08:21:21 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: LRM IKK251 - - TREASURY Draft Bill on Coin Design Advisory Committtee

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 07/31/2002 08:17 AM ----------

From: Irene Kho on 07/30/2002 05:53:39 PM
Record Type: Record

To: Staff@cfa.gov, justice.lrm@usdoj.gov
cc: See the distribution list at the bottom of this message
Subject: LRM IKK251 - - TREASURY Draft Bill on Coin Design Advisory Committtee

Attached is a Treasury draft amendment to section 4 of H.R. 4903. Section 4 of H.R. 4903 would create a new Coin Design Advisory Committee to advise the Secretary of the Treasury on any design proposals relating to circulating coinage and numismatic items. Treasury amendment would amend the current Citizens Commemorative Coin Advisory Committee under 31 U.S.C. 5135 and convert it into a Citizens Coin Advisory Committee. Treasury advises that they will submit this informally. Please review and provide comments by 12:00 PM, Thursday, August 1st.

Also, attached for your convenience are: (1) a bill text of H.R. 4903, and (2) two charts for comparison purposes. The first chart compares Treasury amendment with section 4 of H.R. 4903. The second chart compares current law with section 4 of H.R. 4903.

- hr4903bfin.doc

- hr4903bcht1.doc
- hr4903bcht2.doc

LRM ID: IKK251
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, July 30, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: Irene Kho
PHONE: (202)395-5858 FAX: (202)395-3109
SUBJECT: TREASURY Draft Bill on Coin Design Advisory Committtee

DEADLINE: 12:00 PM Thursday, August 1, 2002
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Attached is a Treasury draft amendment to section 4 of H.R. 4903. Section 4 of H.R. 4903 would create a new Coin Design Advisory Committee to advise the Secretary of the Treasury on any design proposals relating to circulating coinage and numismatic items. Treasury amendment would amend the current Citizens Commemorative Coin Advisory Committee under 31 U.S.C. 5135 and convert it into a Citizens Coin Advisory Committee. Treasury advises that they will submit this informally. Please review and provide comments by 12:00 PM, Thursday, August 1st.

Also, attached for your convenience are: (1) a bill text of H.R. 4903, and (2) two charts for comparison purposes. The first chart compares Treasury amendment with section 4 of H.R. 4903. The second chart compares current law with section 4 of H.R. 4903.

DISTRIBUTION LIST

AGENCIES:
042-Fine Arts - Charles H. Atherton - (202) 504-2200
061-JUSTICE - Daniel Bryant - (202) 514-2141

EOP:
Joanne Chow
Mark J. Schwartz
Stephen S. McMillin
Lauren C. Lobrano
Christine C. McCarlie
WHGC LRM
OVP LRM
David J. Haun
Douglas Pitkin
Heather Wingate
Kristen Silverberg
Joel D. Kaplan
Richard E. Green
James J. Jukes
J C. Crutchfield

Janet E. Irwin
LRM ID: IKK251 SUBJECT: TREASURY Draft Bill on Coin Design
Advisory Committtee
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Irene Kho Phone: 395-5858 Fax: 395-3109
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-3454

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Copied
To:_____
Joanne Chow/OMB/EOP@EOP
Mark J. Schwartz/OMB/EOP@EOP
Stephen S. McMillin/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
Christine C. McCarlie/OMB/EOP@EOP
WHGC LRM
OVP LRM
David J. Haun/OMB/EOP@EOP
Douglas Pitkin/OMB/EOP@EOP
Heather Wingate/WHO/EOP@EOP
Kristen Silverberg/WHO/EOP@EOP
Joel D. Kaplan/WHO/EOP@EOP
Richard E. Green/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
J C. Crutchfield/OMB/EOP@EOP
Janet E. Irwin/OMB/EOP@EOP

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_Y6D59003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_Y6D59003_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_Y6D59003_WHO.TXT_3>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_Y6D59003_WHO.TXT_4>

Section 5135 of Title 31, United States Code is amended to read as follows:

Sec. 5135. Citizens Coinage Advisory Committee

(a) Establishment Required. –

(1) In general. – The Secretary of the Treasury shall establish a Citizens Coinage Advisory Committee (hereafter in this section referred to as the "Advisory Committee") to advise the Secretary on the selection of subjects and designs for coins.

(2) Oversight of Advisory Committee. – The Advisory Committee shall be subject to the direction and oversight of the Secretary of the Treasury.

(3) Membership. –

(A) Voting members. - The Advisory Committee shall consist of 7 voting members appointed by the Secretary of the Treasury –

(i) 1 of whom shall be appointed for a term of 4 years from among individuals who are specially qualified to serve on the Advisory Committee by virtue of his or her education, training, or experience as a nationally or internationally recognized curator in the United States of a numismatic collection;

(ii) 1 of whom shall be appointed for a term of 4 years from among individuals who are specially qualified to serve on the Advisory Committee by virtue of his or her experience in the medallic arts, or sculpture;

(iii) 1 of whom shall be appointed for a term of 3 years from among individuals who are specially qualified to serve on the Advisory Committee by virtue of his or her education, training, or experience in American history;

(iv) 1 of whom shall be appointed for a term of 2 years from among individuals who are specially qualified to serve on the Advisory Committee by virtue of his or her education, training, or experience in numismatics; and

(v) 3 of whom shall be appointed for a term of 3 years from among individuals who will represent the interest of the general public.

(B) Nonvoting members. –

(i) One member of the Commission of Fine Arts may participate in the proceedings of the Advisory Committee as a nonvoting member.

(ii) The Director of the Mint, or his or her designee, shall participate in the proceedings of the Advisory Committee as a nonvoting member.

(C) Legal Advisor. – The Chief Counsel of the Mint, or his or her designee, shall provide a legal advisor to the Advisory Committee to afford counsel on issues pertaining to intellectual property rights and on other matters that may arise in the Advisory Committee's proceedings.

(D) Transition from the Citizens Commemorative Coin Advisory Committee. – Any person who is a member on the Citizens Commemorative Coin Advisory Committee on the effective date of this section, except for the member appointed from among the officers or employees of the United States Mint, may continue to serve on the Advisory Committee until his or her appointment expires, provided that—

(i) Any member selected by reason of his or her education, training, or experience in art, art history, museum or numismatic collection curation, or numismatics, shall serve the remainder of his or her current term in one of the positions provided for under subsection (a)(3)(A)(i), (ii), (iii), or (iv), as the Secretary may determine.

(ii) Any member selected to represent the interests of the general public shall serve the remainder of his or her term in a position provided for under subsection (a)(3)(A)(v).

(4) Nominations, Vacancies, and Service. –

(A) Whenever a vacancy exists in a position provided for under subsections (a)(3)(A)(i)-(iv), the Director of the Mint shall nominate one or more individuals to serve as a member in that position.

(B) Whenever a vacancy exists in a position provided for in subsection (a)(3)(A)(v), the following officials shall make nominations, by rotation, in the following order:

(i) The Speaker of the House of Representatives shall nominate a Member of the House of Representatives;

(ii) The President Pro Tempore of the Senate shall nominate a Member of the Senate; and

(iii) The Chief Justice of the Supreme Court shall nominate a Member of the Judiciary.

(C) Notwithstanding subsection (B), if the Secretary fills a vacancy by appointing someone other than the nominee provided for in subsection (B), the official who nominated that nominee will make the next nomination.

(D) Continuation of service. – Each member appointed may continue to serve for up to 6 months after the expiration of the term to which such member was appointed until a successor has been appointed.

(E) Removal. - The Secretary shall notify any voting member of the Committee who has been personally absent from 3 consecutive meetings of the Advisory Committee that his or her membership shall terminate should that member fail to personally attend the next meeting. Should that member be personally absent from the meeting of the Committee following such notification, his or her appointment shall terminate and that member shall be removed by operation of this subsection.

(5) Compensation; travel expenses. –

(A) No compensation. – Members of the Advisory Committee shall serve without pay.

(B) Travel expenses. – Members of the Advisory Committee shall be entitled to receive reimbursement for their travel, lodging, meals and incidental expenses related to their duties as Advisory Committee members in the same amounts and under the same conditions as employees of the United States Mint who engage in official travel.

(6) Funding. – The expenses of the Advisory Committee that the Secretary of the Treasury determines to be reasonable and appropriate shall be paid by the Secretary in the manner provided in section 5134(a)(4).

(7) Chairperson. – The Chairperson of the Advisory Committee shall be elected by the members of the Advisory Committee from among such members, provided that: a member's election as Chairperson shall not alter the length of the term to which he or she was appointed.

(8) Meetings. – The Advisory Committee shall meet at the call of the Secretary of the Treasury, or his or her designee.

(b) Duties. –

(1) Preparation of proposals for commemorative coins for 5-year period. - The Advisory Committee shall -

(A) Designate annually the events, persons, or places that the Advisory Committee recommends be commemorated by the issuance of commemorative coins in each of the 5 calendar years succeeding the year in which such designation is made;

(B) Make recommendations with respect to the mintage level for any commemorative coin recommended under subparagraph (A);

(C) Review proposed designs for commemorative coins and provide recommendations to the Secretary of the Treasury with respect to such proposals.

(2) Preparation of proposals for coin and medal themes and designs. – The Advisory Committee shall advise the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, Congressional gold medals, national and other medals.

(c) Bylaws. – The Advisory Committee shall adopt bylaws or operating procedures, to be approved by the Secretary, for voting, the conduct of its meetings, administration, and other matters pertaining to its proceedings.

(d) Annual Report-

(1) Required. – Not later than January 30 of each year, the Advisory Committee shall submit a report to Congress.

(2) Contents. – The report required by subparagraph (1) shall—

(A) Describe generally the activities of the Advisory Committee during the preceding year and the reports and recommendations made by the Advisory Committee to the Secretary of the Treasury.

(B) Describe, in particular—

(i) Its recommendations on the events, persons, or places to be commemorated by a coin and the mintage level for any such commemorative coin, and its reasons for such recommendations;

(ii) Its recommendations on design proposals relating to circulating coinage, and national and other medals, and its reasons for such recommendations; and

(iii) Its response to Secretary requests for review and comment on any proposals for numismatic items produced under the authority of the United States Mint.

(e) Federal Advisory Committee Act Not Applicable. – The Federal Advisory Committee Act shall not apply to the Advisory Committee.

107TH CONGRESS
2D SESSION

H. R. 4903

IN THE SENATE OF THE UNITED STATES

JULY 23, 2002

Received; read twice and referred to the Committee on Banking, Housing, and Urban Affairs

AN ACT

To ensure continuity for the design of the 5-cent coin, establish the Coin Design Advisory Committee, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "American 5-Cent Coin Design Continuity Act of 2002".

SEC. 2. DESIGNS ON THE 5–CENT COIN COMMEMORATING THE BICENTENNIAL OF THE LOUISIANA PURCHASE.

(a) IN GENERAL.—Subject to subsection (b) and after consulting with the Coin Design Advisory Committee and the Commission of Fine Arts, the Secretary of the Treasury may change the design on the obverse and the reverse of the 5-cent coin for coins issued in 2003, 2004, and 2005 in commemoration of the bicentennial of the Louisiana Purchase.

(b) DESIGN SPECIFICATIONS.—

(1) OBVERSE.—If the Secretary of the Treasury elects to change the obverse of 5-cent coins issued during 2003, 2004, and 2005, the design shall include an image of President Thomas Jefferson in commemoration of his role with respect to the Louisiana Purchase and the commissioning of the Louis and Clark Expedition to explore the newly acquired territory.

(2) REVERSE.—If the Secretary of the Treasury elects to change the reverse of the 5-cent coins issued during 2003, 2004, and 2005, the design selected shall commemorate the Louisiana Purchase.

REV_00149113

(3) OTHER INSCRIPTIONS.—5-cent coins issued during 2003, 2004, and 2005 shall continue to meet all other requirements for inscriptions and designations applicable to circulating coins under section 5112(d)(1) of title 31, United States Code.

SEC. 3. DESIGNS ON THE 5-CENT COIN SUBSEQUENT TO THE COMMEMORATION OF THE BICENTENNIAL OF THE LOUISIANA PURCHASE.

(a) IN GENERAL.—Section 5112(d)(1) of title 31, United States Code, is amended by inserting after the 4th sentence the following new sentences: ''The obverse of any 5-cent coin issued after December 31, 2005, shall bear an image of Thomas Jefferson. The reverse of any 5-cent coin issued after December 31, 2005, shall bear an image of the home of Thomas Jefferson at Monticello.''.

(b) DESIGN CONSULTATION.— The 2d sentence of section 5112(d)(2) of title 31, United States Code, is amended by inserting '', after consulting with the Coin Design Advisory Committee and the Commission of Fine Arts,'' after ''The Secretary may''.

SEC. 4. COIN DESIGN ADVISORY COMMITTEE.

(a) IN GENERAL.—Subchapter III of chapter 51 of title 31, United States Code, is amended by inserting after section 5136 (as amended by section 5 of this Act) the following new section:

REV_00149114

"§ 5137. Coin Design Advisory Committee

(a) ESTABLISHMENT.—There is hereby established the Coin Design Advisory Committee (in this section referred to as the "Advisory Committee").

"(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Advisory Committee shall consist of 9 members, as follows:

"(A) The Chief of Staff to the Secretary of the Treasury.

"(B) 4 persons appointed by the President—

"(i) 1 of whom shall be appointed for a term of 4 years from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience as a nationally or internationally recognized curator in the United States of a numismatic collection;

"(ii) 1 of whom shall be appointed for a term of 4 years from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their experience in the medallic arts or sculpture;

"(iii) 1 of whom shall be appointed for a term of 3 years from among individuals

REV_00149115

who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience in American history; and

"(iv) 1 of whom shall be appointed for a term of 2 years from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience in numismatics.

"(C) 1 person appointed by the Speaker of the House of Representatives from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience, including staff employees of the House of Representatives, who shall serve at the pleasure of the Speaker.

"(D) 1 person appointed by the minority leader of the House of Representatives from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience, including staff employees of the House of Representatives, who shall serve at the pleasure of the minority leader.

REV_00149116

"(E) 1 person appointed by the majority leader of the Senate from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience, including staff employees of the Senate, who shall serve at the pleasure of the majority leader.

"(F) 1 person appointed by the minority leader of the Senate from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience, including staff employees members of the Senate, who shall serve at the pleasure of the minority leader.

"(2) CONTINUATION OF SERVICE.—Each appointed member may continue to serve after the expiration of the term of office to which such member was appointed until a successor has been appointed and qualified.

"(3) VACANCY.—

"(A) IN GENERAL.—Any vacancy on the Advisory Committee shall be filled in the manner in which the original appointment was made.

REV_00149117

"(B) ACTING OFFICIALS MAY SERVE.—In the event of a vacancy in a position described in paragraph (1)(A), and pending the appointment of a successor, or during the absence or disability of any individual serving in any such position, any individual serving in an acting capacity in any such position may serve on the Advisory Committee while serving in such capacity.

"(4) CHAIRPERSON.—The Chairperson of the Advisory Committee shall be the person serving in the position described in paragraph (1)(A) (or serving in an acting capacity in such position).

"(5) PAY AND EXPENSES.—Members of the Advisory Committee shall serve without pay for such service but each member of the Advisory Committee shall be reimbursed from the United States Mint Public Enterprise Fund for expenses incurred in connection with attendance of such members at meetings of the Advisory Committee.

"(6) MEETINGS.—The Advisory Committee shall meet, not less frequently than quarterly, at the call of the chairperson or a majority of the members.

"(7) QUORUM.—7 members of the Advisory Committee shall constitute a quorum.

REV_00149118

"(c) DUTIES OF THE ADVISORY COMMITTEE.—The duties of the Advisory Committee are as follows:

"(1) Advise the Secretary of the Treasury on any design proposals relating to circulating coinage and numismatic items, including congressional gold medals.

"(2) Advise the Secretary of the Treasury with regard to any other proposals or issues relating to any items produced by the United States Mint that the Secretary may request of the Advisory Committee.

"(d) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Advisory Committee, the Director of the United States Mint shall provide to the Advisory Committee the administrative support services necessary for the Advisory Committee to carry out its responsibilities under this section.

"(e) ANNUAL REPORT.—

"(1) REQUIRED.—Not later than January 30 of each year, the Advisory Committee shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(2) CONTENTS.—The report required by paragraph (1) shall describe the activities of the Advisory

REV_00149119

Committee during the preceding year and the reports and recommendations made by the Advisory Committee to the Secretary of the Treasury.

"(f) FEDERAL ADVISORY COMMITTEE ACT DOES NOT APPLY.—The Federal Advisory Committee Act shall not apply with respect to the Committee, except that each meeting of the Advisory Committee shall be open to the public following publication of a notice of the meeting in the Federal Register.".

Passed the House of Representatives July 22, 2002.

Attest: JEFF TRANDAHL,

Clerk.

REV_00149120

A Comparison:
Treasury's Proposed Citizens Coin Advisory Committee
vs. Proposed Coin Design Advisory Committee

	CCAC	CDAC
Established by	"The Secretary of the Treasury shall establish"	"There is hereby established"
Oversight	Secretary of the Treasury	None
Number of Members	7+2 non-voting Mint and CFA[1] reps	9
Source of Appointments and Interests Represented	Secretary appoints all: 1—curator of numismatic museum 1-- medallic arts 1-- American history 1-- numismatics 3—general public	Treasury Chief of Staff (by law) President appoints 4— numismatic curation, medallic arts, history, numismatics House and Senate party leaders each appoint 1 (4 total)
Terms	Numismatic curation – 4 years Medallic arts – 4 years History – 3 years Numismatics –2 years General Public – 3 years	Numismatic curation—4 years Medallic arts—4 years History—3 years Numismatics—2 years Party leaders—Indefinite
Chairperson	Elected by members	Treasury Chief of Staff
Meetings	At the call of the Secretary	At least 4 times annually, or more often, if called by Chairperson or majority
Funding Source	Mint	Mint
Funding Criteria	Only expenses that the Secretary determines are reasonable and appropriate	Upon request of Committee, the Mint Director "shall" provide necessary support
Member Compensation	None	None
Member Travel Reimbursement	Travel and transportation expenses, or per diem when in service	All expenses incurred relating to attendance at meetings
Advisory Charter and Duties	-Subjects for commemoration -Mintage levels -Commemorative coin designs -Theme or design proposals for coins (circulating, bullion), and medals	-Design proposals for circulating coins and for all "numismatic items"[2] -Any other proposals or issues relating to items produced by the Mint
FACA	Does not apply	Does not apply
Report	Annually—to Congress	Annually—to Chairmen of House Financial Services and Senate Banking

[1] Commission of Fine Arts. Under Executive Order 3524 and 40 C.F.R. § 2101.1(d), the CFA must review all coin and medal designs produced by the federal government. Individual commemorative coin bills also have consistently required CFA review prior to Secretary design selection.

[2] Under 31 U.S.C. § 5136, "the term 'numismatic item' includes any medal, proof coin, uncirculated coin, bullion coin, numismatic collectible, other monetary issuances and products and accessories related to any such medal or coin."

A Comparison:
Citizens Commemorative Coin Advisory Committee
vs. Proposed Coin Design Advisory Committee

	CCCAC	CDAC
Established by	"The Secretary of the Treasury shall establish"	"There is hereby established"
Oversight	Secretary of the Treasury	None
Number of Members	7 (plus 1 non-voting CFA[1] rep.)	9
Source of Appointments and Interests Represented	Secretary appoints all: 3—arts, collectibles, museum, numismatics 3—general public 1—Mint	Treasury Chief of Staff (by law) President appoints 4— numismatic curation, medalic arts, history, numismatics House and Senate party leaders each appoint 1 (4 total)
Terms	All—4 years w/ staggered terms	Numismatic curation—4 years Medalic arts—4 years History—3 years Numismatics—2 years Party leaders—Indefinite
Chairperson	Elected by members, but cannot be Mint representative	Treasury Chief of Staff
Meetings	No requirement	At least 4 times annually, or more often, if called by Chairperson or majority
Funding Source	Mint	Mint
Funding Criteria	Only expenses that the Secretary determines are reasonable and appropriate	Upon request of Committee, the Mint Director "shall" provide necessary support
Member Compensation	None	None
Member Travel Reimbursement	Travel and transportation expenses, or per diem when in service	All expenses incurred in connection with attendance at meetings
Advisory Charter and Duties	-Subjects for commemoration -Mintage levels -Commemorative coin designs, including circulating commemorative state quarters	-Design proposals for circulating coins and for all "numismatic items"[2] -Any other proposals or issues relating to items produced by the Mint
FACA	Does not apply	Does not apply
Report	Annually—to Congress	Annually—to Chairmen of House Financial Services and Senate Banking

[1] Commission of Fine Arts. Under Executive Order 3524 and 40 C.F.R. § 2101.1(d), the CFA must review all coin and medal designs produced by the federal government. Individual commemorative coin bills also have consistently required CFA review prior to Secretary design selection.

[2] Under 31 U.S.C. § 5136, "the term 'numismatic item' includes any medal, proof coin, uncirculated coin, bullion coin, numismatic collectible, other monetary issuances and products and accessories related to any such medal or coin."

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 7/31/2002 12:59:36 PM
Subject: : LRM PTM145 - - VETERANS AFFAIRS Report on H.R. 3733 - Veterans Claims Continuation Act
Attachments: P_PM569003_WHO.TXT_1.doc; P_PM569003_WHO.TXT_2.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:31-JUL-2002 16:59:36.00
SUBJECT:: LRM PTM145 - - VETERANS AFFAIRS Report on H.R. 3733 - Veterans Claims Continuation Act
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 07/31/2002 04:59 PM ----------

From: P. Thaddeus Messenger on 07/31/2002 04:58:22 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: LRM PTM145 - - VETERANS AFFAIRS Report on H.R. 3733 - Veterans Claims Continuation Act

LRM ID: PTM145
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Wednesday, July 31, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: P. Thaddeus Messenger
PHONE: (202)395-7754 FAX: (202)395-6148
SUBJECT: VETERANS AFFAIRS Report on H.R. 3733 - Veterans Claims Continuation Act

DEADLINE: 5:00 p.m. Wednesday, August 7, 2002
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Attached for your review, please find a draft copy of a VA views letter opposing H.R. 3733. A copy of the bill text, as introduced in the House, is included for your convenience.

H.R. 3733, introduced by Mr. Evans (D-IL) would allow for a substitution of parties for a claim of veterans benefits, when the claimant for such benefit has died on or after the date of enactment of this Act.

Please provide your comments by 5:00 p.m., Wednesday August 7th. If we

do not receive your comments by that time, we will assume you have no objection to the document as drafted.

If you experience difficulty with this LRM, or its attachment, please contact us immediately. To ensure receipt by Agency addressees, the electronic copy of this LRM will be followed by a duplicate copy via facsimile.

Thank you.

DISTRIBUTION LIST

AGENCIES:
029-DEFENSE - Samuel T. Brick Jr. - (703) 697-1305
117 & 340-TRANSPORTATION - Tom Herlihy - (202) 366-4687
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773
110-Social Security Administration - Diane B. Garro - (202) 358-6030
061-JUSTICE - Daniel Bryant - (202) 514-2141

EOP:
NSP
VAB
Lisa A. Conte
Cameron M. Leuthy
Wendell H. Waites
Steven M. Mertens
Jennifer S. Kron
Jack A. Smalligan
Diana L. Meredith
Jennifer Hanson-Kilbride
David J. Haun
Douglas Pitkin
Sarah S. Lee
Attia Little
Pamula L. Simms
Sheila Conley
Robert J. Shea
Aquiles F. Suarez
Christine Ciccone
Robert Marsh
Rosalyn J. Rettman
Elizabeth L. Rossman
LRM
LRM ID: PTM145 SUBJECT: VETERANS AFFAIRS Report on H.R. 3733 - Veterans Claims Continuation Act
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: P. Thaddeus Messenger Phone: 395-7754 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):

395-7362

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Sent
To:_____
dodlrs@osdgc.osd.mil @ inet
dot.legislation@ost.dot.gov @ inet
lrm@hhs.gov @ inet
ODCLCA.LRM.SSA@ssa.gov @ inet
justice.lrm@usdoj.gov @ inet

Message Copied
To:_____
Robin Cleveland/OMB/EOP@EOP
Karyn T. Carson/OMB/EOP@EOP
Kathleen Peroff/OMB/EOP@EOP
Mary Jo Siclari/OMB/EOP@EOP
Toni S. Hustead/OMB/EOP@EOP
Arecia A. Grayton/OMB/EOP@EOP
Winifred Y. Chang/OMB/EOP@EOP
Kelli A. Hagen/OMB/EOP@EOP
Lourdes M. Lamela/OMB/EOP@EOP
Shalini M. Benson/OMB/EOP@EOP
Danny A. Ermann/OMB/EOP@EOP
Narahari Sastry/OMB/EOP@EOP
John J. Bartrum/OMB/EOP@EOP
Mark R. Seastrom/OMB/EOP@EOP
Lisa A. Conte/OMB/EOP@EOP
Cameron M. Leuthy/OMB/EOP@EOP
Wendell H. Waites/OMB/EOP@EOP
Steven M. Mertens/OMB/EOP@EOP
Jennifer S. Kron/OMB/EOP@EOP
Jack A. Smalligan/OMB/EOP@EOP
Diana L. Meredith/OMB/EOP@EOP
Jennifer Hanson-Kilbride/OMB/EOP@EOP
David J. Haun/OMB/EOP@EOP
Douglas Pitkin/OMB/EOP@EOP
Sarah S. Lee/OMB/EOP@EOP
Attia Little/OMB/EOP@EOP
Pamula L. Simms/OMB/EOP@EOP
Sheila Conley/OMB/EOP@EOP
Robert J. Shea/OMB/EOP@EOP
Aquiles F. Suarez/OPD/EOP@EOP

Christine Ciccone/WHO/EOP@EOP
Robert Marsh/WHO/EOP@EOP
Rosalyn J. Rettman/OMB/EOP@EOP
Elizabeth L. Rossman/OMB/EOP@EOP
OVP LRM
WHGC LRM
Philip J. Perry/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Ingrid M. Schroeder/OMB/EOP@EOP
P. Thaddeus Messenger/OMB/EOP@EOP
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_PM569003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_PM569003_WHO.TXT_2>

The Honorable Lane Evans
Ranking Democratic Member
Committee on Veterans' Affairs
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Evans:

This is in response to your request for the views of the Department of Veterans Affairs (VA) on H.R. 3733, 107th Congress, the "Veterans' Claims Continuation Act," a bill "[t]o amend title 38, United States Code, to allow for substitution of parties in the case of a claim for benefits provided by [VA] when the applicant for such benefits dies while the claim is pending." VA opposes this bill.

Sections 2 and 4 of H.R. 3733 would add new sections 5127 and 7270 to title 38, United States Code. These sections would provide that, in the event a claimant for monetary veterans benefits dies on or after the date of enactment of this legislation and before a decision on the claim becomes final, an "eligible person" may submit an application to VA or a motion to a court within one year after the claimant's death to be substituted as the claimant. Section 3 would amend 38 U.S.C. § 5121, the statute authorizing payment of accrued benefits upon the death of a claimant, by limiting its application to claims of individuals who die prior to enactment of H.R. 3733 and by providing that, if there is no person in the specified classes to claim accrued benefits, such benefits would be payable to the decedent's estate, unless it would escheat.

VA opposes this legislation primarily because it would represent a significant departure from established principles governing provision of veterans benefits. Traditionally, VA monetary benefits have been provided to meet subsistence needs of veterans and their dependents and survivors. By making such benefits subject to claim by the veteran's estate, the benefits would be transformed into property to be inherited by estate beneficiaries or claimed by creditors. Further, benefits could pass from the estate to individuals who had little or no contact with the veteran. We do not believe the limited funds available for payment of veterans benefits should be expended in this manner.

In addition, unlike current 38 U.S.C. § 5121, H.R. 3733 is not limited in its application to claims for benefits in which benefits are due and unpaid under existing ratings and decisions or where evidence sufficient to decide the claim has already been developed. Under section 5121, the findings necessary to support an award of accrued ben-

efits are made by reference to a factual record established during the veteran's lifetime. In contrast, section 5127(g) contemplates that a substitute claimant may submit evidence to substantiate the deceased's claim. Section 5127(d) would require VA to assist the substituted claimant in developing the claim pursuant to the Veterans Claims Assistance Act (VCAA) in essentially the same manner as if the veteran had survived.

As a result, the legislation would impose significant additional burdens by requiring evidentiary development after the death of the veteran, at a time when the veteran is unavailable to provide critical information necessary to properly develop and adjudicate the claim. Inasmuch as VA would be unable to rely upon the veteran's participation in providing information concerning events in service, treatment during and subsequent to service, and the nature and extent of his or her condition, as the VCAA contemplates, it would be unusually difficult and burdensome for VA to develop those claims to the extent required by the VCAA. Indeed, in many cases, it simply may be impossible for VA to obtain sufficient information for proper resolution of the claim. Claims for disability compensation often cannot be resolved without conducting an examination of the veteran for the purpose of discerning the nature and extent of the claimed disability and determining whether the disability may be related to events or injuries that occurred in service. In requiring VA to conduct medical examinations when necessary to a decision, the VCAA recognizes that, absent a medical examination of the veteran, there often will not be sufficient evidence for VA to make a reasoned decision on the claim. Even if the issue of service connection can be resolved, there may be no basis on which to establish a degree of disability. Accordingly, where a veteran is deceased, VA's inability to contact or examine the veteran may be an insurmountable obstacle to the proper development and adjudication of a claim for benefits or to accurate rating of a disability.

Moreover, the notification requirements in H.R. 3733 would impose an enormous additional burden on VA's already over-taxed adjudication system. Under section 5127(c), VA would be required to notify a decedent's estate and the authorized representative of the estate that the claim will be dismissed unless an application for substitution is received within one year of the claimant's death. VA would also have to notify any surviving spouse, child, parent, or legal representative of the decedent's estate, if it has actual knowledge of such a person's name and last known address. It appears that this provision would require VA to send multiple notices if VA has actual knowledge of the last known addresses of surviving spouses, children, and parents, and of the address of the estate representative. Not only would this provision require multiple mailings, it would require a burdensome search of the deceased's complete file to see if it contained addresses of any individuals in the listed classes. In addition, other VA records, such as hospital records, would apparently have to be searched. Further, if VA records were found to contain addresses of (adult) children or parents, VA would

have to send notices to all such persons, even if the information identifying them was many years old and VA had no way of knowing whether they were surviving.

H.R. 3733 would not afford VA or a court sufficient discretion in carrying out its provisions. Sections 5127(a) and 7270(b) would require VA or a court to approve a timely application for substitution submitted by an eligible person. Compare Fed. R. Civ. P. 25(a)(1) and Fed. R. App. P. 43(a)(1) (party "may" be substituted). Thus, if, for example, an incompetent person submitted an application for substitution, VA or a court would be required to approve the substitution.

H.R. 3733 would also provide no guidance on several critical matters. Under section 5127(a), VA or the court would be required to approve "any" application for substitution submitted by an eligible person. Section 5127(b)(2) would provide that, where more than one eligible person applies for substitution, the eligible person shall be determined in order of priority based on the list in section 5127(b)(1). However, that list contains categories in which there could be more than one eligible person, i.e., surviving children, surviving parents, next of kin. H.R. 3733 does not state what is to be done if two persons from the same class apply for substitution.

Finally, it appears that section 5127(f) is intended to carry forward the requirement currently found in 38 U.S.C. § 5121(b) that accrued benefits may not be used to reimburse a political subdivision of the United States for expenses incurred in the last sickness or burial of any beneficiary. Inclusion of subsection (b) in 38 U.S.C. § 5121 makes sense in light of section 5121(a)(5), which provides for payment of accrued benefits to reimburse the person who bore the expense of the veteran's last sickness and burial. Under that statute, in the absence of current subsection (b), a state that expended funds with regard to a veteran's last sickness or burial might seek to claim accrued benefits under subsection (a)(5). However, section 5127, as included in H.R. 3733, contains no provision regarding reimbursement of the bearer of the veteran's last sickness and burial expenses. Rather, benefits would be paid to the veteran's estate, if there were no one in the designated classes of relatives who could claim the funds. If a state sought reimbursement for sickness or burial costs it incurred, its recourse would be against the estate, which under section 5127(f), would apparently be prohibited from paying. Viewed in this light, section 5127(f) appears to place a restriction on what an "eligible person" can do with the funds he or she receives as a substituted claimant. The veterans benefit laws generally do not attempt to regulate the conduct of beneficiaries with respect to expenditure of benefit funds after they receive them. Further, it is not clear how this provision would be enforced, that is, whether VA would be expected to attempt to recover funds from the eligible person or a political subdivision if funds were paid by the eligible person in violation of section 5127(f).

The Honorable Lane Evans

It is our understanding that H.R. 3733 is intended to provide veterans' families with benefits in the same manner as is currently done with regard to survivors of Social Security claimants. 148 Cong. Rec. E176 (daily ed. Feb. 15, 2002) (statement of Rep. Evans). The Social Security Act provides for adjustment of underpayments of Supplemental Security Income by payment to the underpaid individual's surviving spouse or, if the underpaid individual is a disabled or blind child, by payment to the child's surviving parents. 42 U.S.C. § 1383(b)(1)(A). That Act also provides for adjustment of underpayments of Old-Age and Survivors Benefits by payment to survivors of the underpaid individual or to the individual's estate. 42 U.S.C. § 404(d). Thus, the current differences between treatment of Social Security benefits and veterans benefits upon the death of an unpaid individual are the two-year limitation on retroactive payment under 38 U.S.C. § 5121 and the parties to whom the unpaid benefits can be paid. We believe that such differences can best be addressed by deleting the two-year limitation in 38 U.S.C. § 5121(a) and by expanding that provision to authorize payment to adult children.

VA estimates that enactment of H.R. 3733 would result in benefit costs of $4.2 million in fiscal year (FY) 2003 and $14.7 million over the five-year period FY 2003-2007. We also estimate that enactment of H.R. 3733 would result in administrative costs of $1.6 million in FY 2003 and $8.5 million for FY 2003-2007.

The Honorable Christopher H. Smith
Chairman
Committee on Veterans' Affairs
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in response to the request of Congressman Lane Evans for the views of the Department of Veterans Affairs (VA) on H.R. 3733, 107th Congress, the "Veterans' Claims Continuation Act," a bill "[t]o amend title 38, United States Code, to allow for substitution of parties in the case of a claim for benefits provided by [VA] when the applicant for such benefits dies while the claim is pending." VA opposes this bill.

Sections 2 and 4 of H.R. 3733 would add new sections 5127 and 7270 to title 38, United States Code. These sections would provide that, in the event a claimant for monetary veterans benefits dies on or after the date of enactment of this legislation and before a decision on the claim becomes final, an "eligible person" may submit an application to VA or a motion to a court within one year after the claimant's death to be substituted as the claimant. Section 3 would amend 38 U.S.C. § 5121, the statute authorizing payment of accrued benefits upon the death of a claimant, by limiting its application to claims of individuals who die prior to enactment of H.R. 3733 and by providing that, if there is no person in the specified classes to claim accrued benefits, such benefits would be payable to the decedent's estate, unless it would escheat.

VA opposes this legislation primarily because it would represent a significant departure from established principles governing provision of veterans benefits. Traditionally, VA monetary benefits have been provided to meet subsistence needs of veterans and their dependents and survivors. By making such benefits subject to claim by the veteran's estate, the benefits would be transformed into property to be inherited by estate beneficiaries or claimed by creditors. Further, benefits could pass from the estate to individuals who had little or no contact with the veteran. We do not believe the limited funds available for payment of veterans benefits should be expended in this manner.

In addition, unlike current 38 U.S.C. § 5121, H.R. 3733 is not limited in its application to claims for benefits in which benefits are due and unpaid under existing ratings and decisions or where evidence sufficient to decide the claim has already been devel-

oped. Under section 5121, the findings necessary to support an award of accrued benefits are made by reference to a factual record established during the veteran's lifetime. In contrast, section 5127(g) contemplates that a substitute claimant may submit evidence to substantiate the deceased's claim. Section 5127(d) would require VA to assist the substituted claimant in developing the claim pursuant to the Veterans Claims Assistance Act (VCAA) in essentially the same manner as if the veteran had survived.

As a result, the legislation would impose significant additional burdens by requiring evidentiary development after the death of the veteran, at a time when the veteran is unavailable to provide critical information necessary to properly develop and adjudicate the claim. Inasmuch as VA would be unable to rely upon the veteran's participation in providing information concerning events in service, treatment during and subsequent to service, and the nature and extent of his or her condition, as the VCAA contemplates, it would be unusually difficult and burdensome for VA to develop those claims to the extent required by the VCAA. Indeed, in many cases, it simply may be impossible for VA to obtain sufficient information for proper resolution of the claim. Claims for disability compensation often cannot be resolved without conducting an examination of the veteran for the purpose of discerning the nature and extent of the claimed disability and determining whether the disability may be related to events or injuries that occurred in service. In requiring VA to conduct medical examinations when necessary to a decision, the VCAA recognizes that, absent a medical examination of the veteran, there often will not be sufficient evidence for VA to make a reasoned decision on the claim. Even if the issue of service connection can be resolved, there may be no basis on which to establish a degree of disability. Accordingly, where a veteran is deceased, VA's inability to contact or examine the veteran may be an insurmountable obstacle to the proper development and adjudication of a claim for benefits or to accurate rating of a disability.

Moreover, the notification requirements in H.R. 3733 would impose an enormous additional burden on VA's already over-taxed adjudication system. Under section 5127(c), VA would be required to notify a decedent's estate and the authorized representative of the estate that the claim will be dismissed unless an application for substitution is received within one year of the claimant's death. VA would also have to notify any surviving spouse, child, parent, or legal representative of the decedent's estate, if it has actual knowledge of such a person's name and last known address. It appears that this provision would require VA to send multiple notices if VA has actual knowledge of the last known addresses of surviving spouses, children, and parents, and of the address of the estate representative. Not only would this provision require multiple mailings, it would require a burdensome search of the deceased's complete file to see if it contained addresses of any individuals in the listed classes. In addition, other VA records, such as hospital records, would apparently have to be searched. Further, if VA records were found to contain addresses of (adult) children or parents, VA would

have to send notices to all such persons, even if the information identifying them was many years old and VA had no way of knowing whether they were surviving.

H.R. 3733 would not afford VA or a court sufficient discretion in carrying out its provisions. Sections 5127(a) and 7270(b) would require VA or a court to approve a timely application for substitution submitted by an eligible person. Compare Fed. R. Civ. P. 25(a)(1) and Fed. R. App. P. 43(a)(1) (party "may" be substituted). Thus, if, for example, an incompetent person submitted an application for substitution, VA or a court would be required to approve the substitution.

H.R. 3733 would also provide no guidance on several critical matters. Under section 5127(a), VA or the court would be required to approve "any" application for substitution submitted by an eligible person. Section 5127(b)(2) would provide that, where more than one eligible person applies for substitution, the eligible person shall be determined in order of priority based on the list in section 5127(b)(1). However, that list contains categories in which there could be more than one eligible person, i.e., surviving children, surviving parents, next of kin. H.R. 3733 does not state what is to be done if two persons from the same class apply for substitution.

Finally, it appears that section 5127(f) is intended to carry forward the requirement currently found in 38 U.S.C. § 5121(b) that accrued benefits may not be used to reimburse a political subdivision of the United States for expenses incurred in the last sickness or burial of any beneficiary. Inclusion of subsection (b) in 38 U.S.C. § 5121 makes sense in light of section 5121(a)(5), which provides for payment of accrued benefits to reimburse the person who bore the expense of the veteran's last sickness and burial. Under that statute, in the absence of current subsection (b), a state that expended funds with regard to a veteran's last sickness or burial might seek to claim accrued benefits under subsection (a)(5). However, section 5127, as included in H.R. 3733, contains no provision regarding reimbursement of the bearer of the veteran's last sickness and burial expenses. Rather, benefits would be paid to the veteran's estate, if there were no one in the designated classes of relatives who could claim the funds. If a state sought reimbursement for sickness or burial costs it incurred, its recourse would be against the estate, which under section 5127(f), would apparently be prohibited from paying. Viewed in this light, section 5127(f) appears to place a restriction on what an "eligible person" can do with the funds he or she receives as a substituted claimant. The veterans benefit laws generally do not attempt to regulate the conduct of beneficiaries with respect to expenditure of benefit funds after they receive them. Further, it is not clear how this provision would be enforced, that is, whether VA would be expected to attempt to recover funds from the eligible person or a political subdivision if funds were paid by the eligible person in violation of section 5127(f).

The Honorable Christopher H. Smith

It is our understanding that H.R. 3733 is intended to provide veterans' families with benefits in the same manner as is currently done with regard to survivors of Social Security claimants. 148 Cong. Rec. E176 (daily ed. Feb. 15, 2002) (statement of Rep. Evans). The Social Security Act provides for adjustment of underpayments of Supplemental Security Income by payment to the underpaid individual's surviving spouse or, if the underpaid individual is a disabled or blind child, by payment to the child's surviving parents. 42 U.S.C. § 1383(b)(1)(A). That Act also provides for adjustment of underpayments of Old-Age and Survivors Benefits by payment to survivors of the underpaid individual or to the individual's estate. 42 U.S.C. § 404(d). Thus, the current differences between treatment of Social Security benefits and veterans benefits upon the death of an unpaid individual are the two-year limitation on retroactive payment under 38 U.S.C. § 5121 and the parties to whom the unpaid benefits can be paid. We believe that such differences can best be addressed by deleting the two-year limitation in 38 U.S.C. § 5121(a) and by expanding that provision to authorize payment to adult children.

VA estimates that enactment of H.R. 3733 would result in benefit costs of $4.2 million in fiscal year (FY) 2003 and $14.7 million over the five-year period FY 2003-2007. We also estimate that enactment of H.R. 3733 would result in administrative costs of $1.6 million in FY 2003 and $8.5 million for FY 2003-2007.

HR3733
VERSION: INTRODUCED IN HOUSE

107TH CONGRESS
2D SESSION

H. R. 3733

To amend title 38, United States Code, to allow for substitution of parties in the case of a claim for benefits provided by the Department of Veterans Affairs when the applicant for such benefits dies while the claim is pending, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2002

Mr. EVANS (for himself and Mr. REYES) introduced the following bill; which was referred to the Committee on Veterans´ Affairs

A BILL

To amend title 38, United States Code, to allow for substitution of parties in the case of a claim for benefits provided by the Department of Veterans Affairs when the applicant for such benefits dies while the claim is pending, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans´ Claims Continuation Act".

SEC. 2. CONTINUATION OF CLAIM AND SUBSTITUTION OF PARTIES UPON DEATH OF APPLICANT FOR BENEFITS.

(a) IN GENERAL.-Chapter 51 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 5127. Deaths of applicants for benefits: continuation of claims and substitution of parties

"(a) In the case of a claim for monetary benefits (other than insurance and servicemember´s indemnity) under laws administered by the Secretary that was submitted to the Secretary by a claimant who dies on or after the date of the enactment of the Veterans´ Claims Continuation Act and before a decision on that claim becomes final in accordance with section 7291 of this title, the claim shall not be extinguished if, within one year of the claimant´s death, an eligible person submits an application to the Secretary, or submits a motion to a court with jurisdiction over the claim, to be substituted as the claimant in order to continue prosecution of that claim. The Secretary or the court, as the case may be, shall approve any such application submitted by an eligible person.

"(b)(1) For purposes of this section and section 7270 of this title, subject to paragraph (2), the term `eligible person´ means any of the following individuals:

"(A) The surviving spouse.

"(B) Surviving children who have attained the age of 21.

"(C) A surviving parent.

"(D) The executor, administrator or other legal representative of the deceased claimant´s estate.

"(E) The next of kin of the veteran.

"(2) In a case where more than one individual referred to in paragraph (1) submits an application or motion under subsection (a) to be substituted as a claimant, the eligible person shall be determined in the order listed in subparagraphs (A) through (E) of paragraph (1).

"(c) Upon being notified of the death of a claimant, the Secretary shall send a notice to the estate of the decedent at the decedent´s last know address and to the authorized representative of the decedent, if any, informing the estate and the representative that the claim will be dismissed unless an application for substitution as the claimant is received by the Secretary within one year of the claimant´s death. If the Secretary has actual knowledge of the name and last known address of the surviving spouse, surviving children, surviving parent, or the legal representative of the decedent´s estate, a copy of such notice shall be mailed or delivered to each such person. An application under this section for substitution as the claimant on a claim must be filed within one year after the date of the claimant´s death.

"(d) A person named as a substitute claimant under section (a) shall be accorded all the rights and responsibilities of the original claimant.

"(e) If benefits are payable as a result of a decision on a claim by a substituted claimant named under this section, such benefits shall be paid as follows:

"(1) If the deceased claimant was claiming benefits as a veteran, to the living person first listed below:

"(A) The veteran´s spouse.

"(B) The veteran´s children (in equal shares).

"(C) The veteran´s dependent parents (in equal shares).

"(2) If the deceased claimant was claiming benefits as the surviving spouse of a veteran, to the surviving children of the deceased veteran (in equal shares).

"(3) If the deceased claimant was claiming benefits under chapter 18 of this title as the child of a veteran, to the surviving parents of the child (in equal shares).

"(4) If there is no beneficiary who meets the criteria of paragraphs (1), (2), and (3) and in all other cases, to the decedent´s estate, unless the estate will escheat.

"(f) No part of any benefit payable to a person as a result of being substituted as the claimant on a claim under this section shall be used to reimburse any political subdivision of the United States for expenses incurred in the last sickness or burial of the deceased claimant.

"(g) Upon the appointment of a substitute claimant, the Secretary shall notify the person substituted as the claimant as to the evidence or information necessary to substantiate the pending claim. If such information or evidence is not received within one year from the date of such notification, no benefits may be paid on the claim.".

(b) CLERICAL AMENDMENT.-The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"5127. Deaths of applicants for benefits: continuation of claims and substitution of parties.".

SEC. 3. PAYMENT OF ACCRUED BENEFITS APPLICABLE TO DEATHS BEFORE DATE OF ENACTMENT.

(a) IN GENERAL.-Subsection (a) of section 5121 of title 38, United States Code, is amended-

(1) in the matter preceding paragraph (1), by striking "periodic monetary benefits" and all that follows through "be paid" and inserting "accrued benefits of a deceased individual who died before the date of the enactment of the Veterans´ Claims Continuation Act that are due and unpaid for a period not to exceed two years shall be paid"; and

(2) in paragraph (5), by striking "only so much" and all that follows through "burial" and inserting "to the decedent´s estate, unless the estate will escheat".

(b) DEFINITION OF ACCRUED BENEFITS.-Such section is further amended by adding at the end the following new subsection:

"(d) For purposes of this section and section 5122 of this title, the term `accrued benefits´, with respect to a deceased individual, means periodic monetary benefits (other than insurance and servicemember´s indemnity) under laws administered by the Secretary to which the deceased individual was entitled at death under existing ratings or decisions or based on evidence in the file at date of death.".

SEC. 4. SUBSTITUTION OF SURVIVOR IN CASES PENDING BEFORE A COURT.

(a) IN GENERAL.-(1) Subchapter II of chapter 72 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 7270. Cases pending on death of claimant: substitution of parties

"(a) If a claimant dies before filing an appeal under section 7266 of this title, an eligible person may file an appeal as a substituted claimant for the decedent within the time period specified under section 7266 of this title. If an appellant or respondent dies while a claim is pending before a court and before a final decision is rendered under section 7291 of this title, an eligible person may move the court for substitution of claimant in the pending action. Any such appeal to the United States Court of Appeals for Veterans Claims or to the United States Court of Appeals for the Federal Circuit must be filed within the time period prescribed by sections 7266 and 7292 of this title, respectively, or within one year of the claimant´s death, whichever is earlier.

"(b) In any case in which a final decision under section 7291 of this title has not been

made, an eligible person may move a court to be substituted as the appellant (or respondent as the case may be) for an appellant or respondent who dies while an appeal is pending. The court shall, upon filing of a timely motion, appoint an eligible person to substitute as the claimant to continue prosecution or defense of that claim.

"(c) Nothing in this section shall require or authorize substitution for a deceased claimant if a final decision under section 7291 of this title has been entered before the filing of a motion for substitution.

"(d) In this section, the term `eligible person´ has the meaning given that term in section 5127(b) of this title.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"7270. Cases pending on death of claimant: substitution of parties.".

(b) EFFECTIVE DATE.-Section 7270 of title 38, United States Code, as added by subsection (a), shall apply with respect to deaths of claimants on or after the date of the enactment of this Act.

From: CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 8/1/2002 8:44:52 AM
Subject: : Away On Vacation

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 1-AUG-2002 12:44:52.00
SUBJECT:: Away On Vacation
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I am currently out of the office. If you need immediate assistance,
please call (202) 456-2632. Thank you.
```

From: CN=Kyle Sampson/OU=WHO/O=EOP [WHO]
To: Timothy E. Flanigan/WHO/EOP@EOP [WHO] <Timothy E. Flanigan>;Alberto R. Gonzales/WHO /EOP@EOP [WHO] <Alberto R. Gonzales>
CC: Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Helgard C. Walker/WHO /EOP@EOP [WHO] <Helgard C. Walker>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 8/1/2002 9:58:11 AM
Subject: : revised USA&USM stats for POTUS meeting

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 1-AUG-2002 13:58:11.00
SUBJECT:: revised USA&USM stats for POTUS meeting
TO:Timothy E. Flanigan (CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

to reflect diversity of our nominees:

United States Attorney and United States Marshal
Appointment Statistics
August 1, 2002

U.S. ATTORNEY APPOINTMENTS

Numbers: Out of 93 U.S. Attorney positions,
80 have been nominated and confirmed (86 percent).
2 have been nominated, but not yet confirmed (Lam & Van Hollen).
4 are in the background investigation phase (O,Connor, Rapadas, Suddaby & Garcia).
3 are serving under court appointments and won,t be nominated (Silsby, Letten & Nissman).
1 is being selected today (Morford).
1 district still has no candidates (E.D. Cal.).
2 are Clinton-appointed holdovers (Curran & Warner).

Demographics: Out of 87 Bush selections,
24 percent non-traditional
13 percent women
5 percent African-American
3 percent Asian-American
7 percent Hispanic

U.S. MARSHAL APPOINTMENTS

Numbers: Out of 93 U.S. Marshal positions,
54 have been nominated and confirmed (58 percent).
23 have been nominated, but not yet confirmed (25 percent).
6 are in the background investigation phase.
2 are being selected today (Costner & Elliott).
3 were interviewed today (D. Conn., E.D.N.Y. & N.D. Iowa).
5 districts still have no candidates (D.P.R., C.D. Cal., S.D. Cal., W.D. Ark. & W.D. Tex.).

Demographics: Out of 75 Bush selections,
19 percent non-traditional
3 percent women
8 percent African-American
3 percent Asian-American
5 percent Hispanic

From: CN=Edwina C. Rogers/OU=OPD/O=EOP [OPD]

To: Jeffrey A. Weinberg/OMB/EOP@EOP [OMB] <Jeffrey A. Weinberg>;Ashley D. Drummond/WHO/EOP@EOP [WHO] <Ashley D. Drummond>;Blake Gottesman/WHO /EOP@EOP [WHO] <Blake Gottesman>;Brent D. Greenfield/WHO/EOP@EOP [WHO] <Brent D. Greenfield>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>;Stephen M. Garrison/WHO /EOP@EOP [WHO] <Stephen M. Garrison>;John M. Bridgeland/OPD/EOP@EOP [OPD] <John M. Bridgeland>;Candida P. Wolff/OVP/EOP@EOP [OVP] <Candida P. Wolff>;Cesar Conda/OVP/EOP@EOP [OVP] <Cesar Conda>;Krista L. Ritacco/WHO/EOP@EOP [WHO] <Krista L. Ritacco>;Amy L. Call/OMB/EOP@EOP [OMB] <Amy L. Call>;James C. Capretta/OMB/EOP@EOP [OMB] <James C. Capretta>;Marcus Peacock/OMB/EOP@EOP [OMB] <Marcus Peacock>;John Graham/OMB/EOP@EOP [OMB] <John Graham>;Adam B. Goldman/WHO/EOP@EOP [WHO] <Adam B. Goldman>;Alicia P. Clark/WHO/EOP@EOP [WHO] <Alicia P. Clark>;Reuben Jeffery/OPD/EOP@EOP [OPD] <Reuben Jeffery>;James Connaughton/CEQ/EOP@EOP [CEQ] <James Connaughton>;John P. McConnell/OVP /EOP@EOP [OVP] <John P. McConnell>;Ashley Estes/WHO/EOP@EOP [WHO] <Ashley Estes>;Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>;Timothy E. Flanigan/WHO/EOP@EOP [WHO] <Timothy E. Flanigan>;Britt Grant/OPD/EOP@EOP [OPD] <Britt Grant>;Ronald I. Christie/OPD/EOP@EOP [OPD] <Ronald I. Christie>;Catherine J. Martin/OVP/EOP@EOP [OVP] <Catherine J. Martin>;Charles D. McGrath Jr/OVP/EOP@EOP [OVP] <Charles D. McGrath Jr>;Lewis Libby/OVP/EOP@EOP [OVP] <Lewis Libby>;Randall S. Kroszner/CEA/EOP@EOP [CEA] <Randall S. Kroszner>;Stephen S. McMillin/OMB /EOP@EOP [OMB] <Stephen S. McMillin>;James D. Foster/OMB/EOP@EOP [OMB] <James D. Foster>;Nancy Dorn/OMB/EOP@EOP [OMB] <Nancy Dorn>;Augustine T. Smythe/OMB/EOP@EOP [OMB] <Augustine T. Smythe>;Kasey S. Pipes/WHO/EOP@EOP [WHO] <Kasey S. Pipes>;Dina Powell/WHO/EOP@EOP [WHO] <Dina Powell>;Lauren J. Vestewig/OPD/EOP@EOP [OPD] <Lauren J. Vestewig>

BCC: Edwina C. Rogers (Edwina C. Rogers/OPD/EOP [OPD]), Christie Parell (Christie Parell/OPD/EOP [OPD]), Leslie A. Mooney (Leslie A. Mooney/OPD/EOP [OPD]), D. Marcus Sumerlin (D. Marcus Sumerlin/OPD/EOP [OPD])

Sent: 8/1/2002 7:08:53 AM

Subject: : SAVE THE DATE: Aug. 24th

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Edwina C. Rogers ( CN=Edwina C. Rogers/OU=OPD/O=EOP [ OPD ] )
CREATION DATE/TIME: 1-AUG-2002 11:08:53.00
SUBJECT:: SAVE THE DATE: Aug. 24th
TO:Jeffrey A. Weinberg ( CN=Jeffrey A. Weinberg/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Ashley D. Drummond ( CN=Ashley D. Drummond/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Blake Gottesman ( CN=Blake Gottesman/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brent D. Greenfield ( CN=Brent D. Greenfield/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Stephen M. Garrison ( CN=Stephen M. Garrison/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:John M. Bridgeland ( CN=John M. Bridgeland/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Candida P. Wolff ( CN=Candida P. Wolff/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Cesar Conda ( CN=Cesar Conda/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Krista L. Ritacco ( CN=Krista L. Ritacco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Amy L. Call ( CN=Amy L. Call/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
```

TO:James C. Capretta (CN=James C. Capretta/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Marcus Peacock (CN=Marcus Peacock/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:John Graham (CN=John Graham/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Adam B. Goldman (CN=Adam B. Goldman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Reuben Jeffery (CN=Reuben Jeffery/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:James Connaughton (CN=James Connaughton/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Timothy E. Flanigan (CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Britt Grant (CN=Britt Grant/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Catherine J. Martin (CN=Catherine J. Martin/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Charles D. McGrath Jr (CN=Charles D. McGrath Jr/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Randall S. Kroszner (CN=Randall S. Kroszner/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
TO:Stephen S. McMillin (CN=Stephen S. McMillin/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:James D. Foster (CN=James D. Foster/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Nancy Dorn (CN=Nancy Dorn/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Augustine T. Smythe (CN=Augustine T. Smythe/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Kasey S. Pipes (CN=Kasey S. Pipes/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Lauren J. Vestewig (CN=Lauren J. Vestewig/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
BCC:Edwina C. Rogers (CN=Edwina C. Rogers/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Christie Parell (CN=Christie Parell/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Leslie A. Mooney (CN=Leslie A. Mooney/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:D. Marcus Sumerlin (CN=D. Marcus Sumerlin/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
End Original ARMS Header

SAVE THE DATE!

Dr. Larry Lindsey and the Staff of the National Economic Council cordially invite you to attend a farewell cocktail party for Deputy Assistant to the President Marc Sumerlin. The party will be held at the Rogers' home in McLean, VA on Saturday, August 24th at 7pm. Invitations will be arriving in the mail.

Please reply with your home mailing address and, if you're married, the name of your spouse.

We hope you are able to join us!

From: CN=Anne Womack/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 8/1/2002 1:37:29 PM
Subject: : Re:

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Anne Womack ( CN=Anne Womack/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 1-AUG-2002 17:37:29.00
SUBJECT:: Re:
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I will ask.
```

From:	CN=Edward Ingle/OU=WHO/O=EOP [WHO]
To:	Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC:	Melissa L. McAdoo/WHO/EOP@EOP [WHO] <Melissa L. McAdoo>;Matthew Koch/WHO /EOP@EOP [WHO] <Matthew Koch>;Ali H. Tulbah/WHO/EOP@EOP [WHO] <Ali H. Tulbah>;Laura S. Lawlor/WHO/EOP@EOP [WHO] <Laura S. Lawlor>;Carrie B. Loy/WHO /EOP@EOP [WHO] <Carrie B. Loy>;Cheryl A. Oldham/WHO/EOP@EOP [WHO] <Cheryl A. Oldham>;L. Camille Welborn/WHO/EOP@EOP [WHO] <L. Camille Welborn>;Albert Hawkins/WHO/EOP@EOP [WHO] <Albert Hawkins>
Sent:	8/1/2002 2:08:35 PM
Subject:	: agency FOIA requests
Attachments:	P_SFE79003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Edward Ingle ( CN=Edward Ingle/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 1-AUG-2002 18:08:35.00
SUBJECT:: agency FOIA requests
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Melissa L. McAdoo ( CN=Melissa L. McAdoo/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Matthew Koch ( CN=Matthew Koch/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Ali H. Tulbah ( CN=Ali H. Tulbah/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Laura S. Lawlor ( CN=Laura S. Lawlor/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Carrie B. Loy ( CN=Carrie B. Loy/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Cheryl A. Oldham ( CN=Cheryl A. Oldham/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:L. Camille Welborn ( CN=L. Camille Welborn/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Albert Hawkins ( CN=Albert Hawkins/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

....as contained in this week's cabinet report submissions.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_SFE79003_WHO.TXT_1>
```

8/1/02

AGENCY FOIA REQUESTS

DOT

National Highway Traffic Safety Administration (NHTSA) received a request from the **Center for Auto Safety**, seeking information on reports of safety-related defects.

DOJ

Cedric Laurant, of the Electronic Privacy Information Center (EPIC), has requested all "records pertaining to the United States' efforts to promote data retention in foreign countries, and especially, the European Union . . . between January 2001 and July 2002." EPIC defines "data retention" as "the preventive storage by telephone companies and Internet service providers of the traffic and location data of their subscribers' electronic communications for various law enforcement purposes."

Jessica L. Mainard, in her personal capacity, has requested a copy of the Attorney General's November 9, 2001, memorandum to the United States Attorneys regarding the Second Amendment.

Mathew S. Nosanchuk, of the Violence Policy Center, has requested all records concerning : 1) the November 9, 2001, memorandum to the United States Attorneys; 2) the Department of Justice's brief filed in the U.S. Supreme Court in *Emerson v. United States*; and, 3) the Department of Justice's brief filed in the Supreme Court in *Haney v. United States*.

Leslie Oberhaus, of FOI Services, Inc., has submitted four separate requests for records pertaining to 1) all correspondence between the Office of the Attorney General and Worldcom from January 1, 2001, to the present; 2) all correspondence between the Office of the Attorney General and Davita between January 1, 2001, and the present; 3) all correspondence between the Office of the Attorney General and PG & E between January 1, 2001, and the present; and, 4) all correspondence between the Office of the Attorney General and Qwest between January 1, 2001, and the present.

EDUCATION

Patrick Butler, Vice President, The Washington Post Company, has requested a list of the 8,652 Title I-funded schools identified for improvement.

Mark Waner has requested copies of all correspondence for Representative Anne Northup from January 1, 1994 to the present.

Michael Ravnitzky, of American Lawyer Media, has requested documents to or from the U.S. Supreme Court, Administrative Office of U.S. Courts, and the Judicial Conference of the U.S. since 1990.

COMMERCE

Received 7/25/02 from **Mark Waner (Washington, DC),** requesting records of communications between the Department of Commerce and Representative Anne Northup from January 1, 1994 to the present; and records of any complaints, investigations, or violations involving Representative Anne Northup from January 1, 1994 to the present.

Received on 07/25/02, from **Michael Senatore & Jonathan Zisser, Defenders of Wildlife,** requesting all documents relating to the United States' agreement at the June 2-7, 2002, North Atlantic Salmon Conservation Organization (NASCO) meeting in the Faroe Islands, for a West Greenland harvest of endangered North Atlantic wild salmon.

Received 7/23/02 from **Alec C. Zacaroli, Wallace, King, Marraro & Branson (Washington, DC),** requesting documents related to settlements between the United States government and any private party involving liability or alleged liability on the part of the government under the Comprehensive Enforcement Response Compensation and Liability Act for environmental clean-up costs or other relief related to properties allegedly owned or operated by the government during World War II, the Korean War, and the Vietnam War.

Received 7/22/02 from the Nuclear Regulatory Commission five referred documents related to a request from **David DeKok (Philadelphia, PA)** for all records from 1957 through 1962 pertaining to the criteria used to evaluate sites for nuclear plants and test reactors.

DOL

- **Kevin Maurer, *Inside OSHA,*** requested a list of individuals and organizations that have contacted OSHA through the A/S office between 10-24 Jul 02.

- **Patricia Scarcelli, International Vice President Director, Legislative and Political Affairs Department, United Food & Commercial Workers International Union (UFCW), AFL-CIO, CLC, is seeking:**

  any and all documents, memoranda, letters, notes, correspondence or any other written materials, including those contained on a diskette or database since July 2001, that were relied on by the Department of Labor (DOL) in changing its position regarding the application of 3(o) of the Fair Labor Standards Act (FLSA), as demonstrated by the Department of Labor's opinion letter of June 8, 2002. Ms. Scarcelli is specifically seeking any documents that comprise the administrative record for the issuance of the opinion letter.

- **Michael Ravnitzky, Director of Database & Computer-Assisted Reporting, American Lawyer Media, is seeking:**

  a copy of any correspondence to or from the United States Supreme Court, also known as the Supreme Court of the United States or the U.S. Supreme Court, or from any of the

REV_00149229

current Supreme Court Justices. He also seeks a copy of any correspondence to or from the Administrative Office of the United States Court (AOUSC) or the Judicial Conference of the United States. Mr. Ravnitzky limited his request to the Office of the Secretary and the Office of General Counsel.

- **Susan J. Lynch, Charlestown, Massachusetts, is seeking:**

  a list of all personal service/independent contracts, including advising or consulting contracts, with the Office of the Secretary of Labor and Secretary Reich. Ms. Lynch is not specifically seeking the actual contracts themselves, but rather a list including the names of individuals and companies, dollar amount and terms of contracts, contract numbers, any correspondence and all other public documents from, to, or about said contractors.

  a list of all official travel by Secretary Reich outside of Washington, D.C., including records of food and lodging expenditures for any travel done in the performance of duties associated with the Office of the Secretary, but excluding any of the Secretary's trips home to the Boston, MA area.

  a list of all employees in the Office of the Secretary, including names, dates of tenure with the Department of Labor, official titles and annual salaries, during the tenure of Secretary Reich.

  a list of all lobbyist or other official gifts received by Secretary Reich, including date of receipt, a description of the gift, the approximate value of the gift, and the name, address and employer of the given (if known).

  any correspondence and related documents between Secretary Reich or any agent of the Office of the Secretary and any agent of the Democratic National Committee (DNC).

- **Mark Waner, Washington, D.C., is seeking:**

  any and all records of communication (including but not limited to letters, written requests, reports, telephone conversations, and memos) between the Department (and all divisions and agencies under our jurisdiction) and Congresswoman Ann Northup from January 1, 1994 to the present.

  any and all records of complaint, investigation or violation held or conducted by the Department (and all divisions and agencies under our jurisdiction), concerning Congresswoman Ann Northup from January 1, 1994 to the present.

- **Kevin Maurer, Associate Editor, *Inside OSHA, Arlington,* Virginia, is seeking:**

  a list of all individuals, organizations and corporations that have contacted OSHA through the Assistant Secretary's office (John Henshaw) from

REV_00149230

July 10, 2002 to July 24, 2002. Mr. Maurer is also requesting a list of all responses to correspondence from the Assistant Secretary within the same time frame.

REV_00149231

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Mashburn, John (Lott) <John_Mashburn@lott.senate.gov>
CC: joe matal at judiciary (e-mail) <imceaccmail-joe+20matal+20at+20judiciary"@routing.senate.gov>;randy brandt (e-mail) <randall_brandt@santorum.senate.gov>;brian benczkowski (e-mail) <imceaccmail-brian+2ea+2ebenczkowski+40usdoj+2egov+20at+20internet"@routing.senate.gov>;manuel miranda at judiciary (e-mail) <imceaccmail-manuel+20miranda+20at+20judiciary"@routing.senate.gov>;pat.o'brien@usdoj.gov [UNKNOWN] <pat.o'brien@usdoj.gov>;makan_delrahim@judiciary.senate.gov [UNKNOWN] <makan_delrahim@judiciary.senate.gov>;stephen_higgins@judiciary.senate.gov [UNKNOWN] <stephen_higgins@judiciary.senate.gov>;john abegg <john_abegg@mcconnell.senate.gov>;lincoln oliphant <lincoln_oliphant@rpc.senate.gov>;barbara ledeen (e-mail) <imceaccmail-barbara+20ledeen+20at+20republican-conf"@routing.senate.gov>;don willett (e-mail) <don.willett@usdoj.gov>;alex dahl (e-mail) <imceaccmail-alex+20dahl+20at+20judiciary"@routing.senate.gov>;bob_taylor@aml.senate.gov [UNKNOWN] <bob_taylor@aml.senate.gov>;viet.dinh@usdoj.gov [UNKNOWN] <viet.dinh@usdoj.gov>;katie_gumerson@aml.senate.gov [UNKNOWN] <katie_gumerson@aml.senate.gov>;ed_haden@judiciary.senate.gov [UNKNOWN] <ed_haden@judiciary.senate.gov>;gregg willhauck <gregg_willhauck@kyl.senate.gov>;mashburn, john (lott) <john_mashburn@lott.senate.gov>
Sent: 8/2/2002 10:29:54 AM
Subject: : judges charts
Attachments: P_2J589003_WHO.TXT_1.doc; P_2J589003_WHO.TXT_2.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 2-AUG-2002 14:29:54.00
SUBJECT:: judges charts
TO:"Mashburn, John (Lott)" <John_Mashburn@lott.senate.gov> ( "Mashburn, John (Lott)"
<John_Mashburn@lott.senate.gov> [ UNKNOWN ] )
READ:UNKNOWN
CC:"joe matal at judiciary (e-mail)" <"imceaccmail-
joe+20matal+20at+20judiciary"@routing.senate.gov> ( "joe matal at judiciary (e-mail)"
<"imceaccmail-joe+20matal+20at+20judiciary"@routing.senate.gov> [ UNKNOWN ] )
READ:UNKNOWN
CC:"randy brandt (e-mail)" <randall_brandt@santorum.senate.gov> ( "randy brandt (e-mail)"
<randall_brandt@santorum.senate.gov> [ UNKNOWN ] )
READ:UNKNOWN
CC:"brian benczkowski (e-mail)" <"imceaccmail-
brian+2ea+2ebenczkowski+40usdoj+2egov+20at+20internet"@routing.senate.gov> ( "brian
benczkowski (e-mail)" <"imceaccmail-
brian+2ea+2ebenczkowski+40usdoj+2egov+20at+20internet"@routing.senate.gov> [ UNKNOWN ] )
READ:UNKNOWN
CC:"manuel miranda at judiciary (e-mail)" <"imceaccmail-
manuel+20miranda+20at+20judiciary"@routing.senate.gov> ( "manuel miranda at judiciary
(e-mail)" <"imceaccmail-manuel+20miranda+20at+20judiciary"@routing.senate.gov> [ UNKNOWN ]
)
READ:UNKNOWN
CC:pat.o'brien@usdoj.gov ( pat.o'brien@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
CC:makan_delrahim@judiciary.senate.gov ( makan_delrahim@judiciary.senate.gov [ UNKNOWN ] )
READ:UNKNOWN
CC:stephen_higgins@judiciary.senate.gov ( stephen_higgins@judiciary.senate.gov [ UNKNOWN ]
)
READ:UNKNOWN
CC:john abegg <john_abegg@mcconnell.senate.gov> ( john abegg
<john_abegg@mcconnell.senate.gov> [ UNKNOWN ] )
READ:UNKNOWN
CC:lincoln oliphant <lincoln_oliphant@rpc.senate.gov> ( lincoln oliphant
<lincoln_oliphant@rpc.senate.gov> [ UNKNOWN ] )
READ:UNKNOWN
CC:"barbara ledeen (e-mail)" <"imceaccmail-barbara+20ledeen+20at+20republican-
```

conf"@routing.senate.gov> ("barbara ledeen (e-mail)" <"imceaccmail-barbara+20ledeen+20at+20republican-conf"@routing.senate.gov> [UNKNOWN])
READ:UNKNOWN
CC:"don willett (e-mail)" <don.willett@usdoj.gov> ("don willett (e-mail)" <don.willett@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
CC:"alex dahl (e-mail)" <"imceaccmail-alex+20dahl+20at+20judiciary"@routing.senate.gov> ("alex dahl (e-mail)" <"imceaccmail-alex+20dahl+20at+20judiciary"@routing.senate.gov> [UNKNOWN])
READ:UNKNOWN
CC:bob_taylor@aml.senate.gov (bob_taylor@aml.senate.gov [UNKNOWN])
READ:UNKNOWN
CC:viet.dinh@usdoj.gov (viet.dinh@usdoj.gov [UNKNOWN])
READ:UNKNOWN
CC:katie_gumerson@aml.senate.gov (katie_gumerson@aml.senate.gov [UNKNOWN])
READ:UNKNOWN
CC:ed_haden@judiciary.senate.gov (ed_haden@judiciary.senate.gov [UNKNOWN])
READ:UNKNOWN
CC:gregg willhauck <gregg_willhauck@kyl.senate.gov> (gregg willhauck <gregg_willhauck@kyl.senate.gov> [UNKNOWN])
READ:UNKNOWN
CC:"mashburn, john (lott)" <john_mashburn@lott.senate.gov> ("mashburn, john (lott)" <john_mashburn@lott.senate.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

some updated charts

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_2J589003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_2J589003_WHO.TXT_2>

Judicial Appointments
Historical Comparison: First Two Years of a Presidency

President	Nominations Submitted	Nominees Confirmed	Percentage Of Nominees Confirmed	Circuit Court Nominations Submitted	Circuit Court Nominees Confirmed	Circuit Court Percentage of Nominees Confirmed
G.W. Bush (as of Aug. '02 Senate recess)	123	72	**59%**	32	13	**41%**
Clinton	140	126	**90%**	22	19	**86%**
George H.W. Bush	74	70	**95%**	23	22	**96%**
Reagan	88	87	**99%**	20	19	**95%**

Judicial Appointments
Historical Comparison: First Two Years of a Presidency

President	Circuit Court Nominees who waited more than a year for a hearing
G.W. Bush (as of August 2002)	11
Clinton	0
George H.W. Bush	0
Reagan	0

From:	CN=Edward McNally/OU=WHO/O=EOP [WHO]
To:	David G. Leitch TPO/TPO/OMB/EOP@EOP [OMB] <David G. Leitch TPO>
CC:	Timothy E. Flanigan/WHO/EOP@EOP [WHO] <Timothy E. Flanigan>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>
BCC:	John F. Wood (John F. Wood/OMB/EOP [OMB]), Kenneth Hill TPO (Kenneth Hill TPO/TPO /OMB/EOP [OMB]), Carl Buchholz (Carl Buchholz/WHO/EOP [WHO])
Sent:	8/2/2002 1:39:45 PM
Subject:	: Draft Text for WHO-to-TPO e-mail
Attachments:	P_Z6E89003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 2-AUG-2002 17:39:45.00
SUBJECT:: Draft Text for WHO-to-TPO e-mail
TO:David G. Leitch TPO (CN=David G. Leitch TPO/OU=TPO/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Timothy E. Flanigan (CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
BCC:John F. Wood (CN=John F. Wood/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
BCC:Kenneth Hill TPO (CN=Kenneth Hill TPO/OU=TPO/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
BCC:Carl Buchholz (CN=Carl Buchholz/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

David, just to clear up any ambiguity I've included the final text for the pop ups and footers below, in large bold type. The only change is restoring the words
"under any circumstances" to the footer. It was deleted fro a time (and replaced with "without appropriate authorization"), but then put back in as per Phil/OMB. The history of the edits is in the string below, if you're interested in the rationales that were debated back and forth. But in any event, the final language is noted right her in bold text. If I'm reading the early (bottom) part of these strings correctly, then the action office is OA (Office of Administration), which has an IS office within OA. Please let us know if we can help. And hope you can enjoy a peice of this summer weekend -- Ed

Pop-Up:

The system recognizes you as a White House employee who may be sending an e-mail to the Transition
Planning Office in OMB. Do you want to continue?

Footer:

White House-controlled Materials/Protected from Disclosure. TPO staff (or others receiving this e-mail in error)
may not, under any circumstances, disseminate these materials outside TPO or the White House.

---------- Forwarded by Edward McNally/WHO/EOP on 08/02/2002 05:25 PM ----------

Bradford A. Berenson
08/02/2002 04:27:27 PM
Record Type: Record

To: Edward McNally/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Draft Text for WHO-to-TPO e-mail

Looks ok to me.

From: Edward McNally on 08/02/2002 10:24:52 AM
Record Type: Record

To: Timothy E. Flanigan/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc: Bradford A. Berenson/WHO/EOP@EOP
Subject: Re: Draft Text for WHO-to-TPO e-mail

Any final edits re: the e-mail footer/pop up text?
---------- Forwarded by Edward McNally/WHO/EOP on 08/02/2002 10:24 AM ----------

From: Edward McNally on 08/02/2002 10:23:10 AM
Record Type: Record

To: Philip J. Perry/OMB/EOP@EOP
cc: David G. Leitch TPO/TPO/OMB/EOP@EOP, john f. wood/omb/eop@eop
bcc: Records Management@EOP
Subject: Re: Draft Text for WHO-to-TPO e-mail

Phil -- Is Austin coordinating this via OMB IT -- or is there anything further you need from us either as to the text itself, or as to coordinating with OA? As to your edit/item 2 below, we are in agreement -- the "authorization" caveat should be excluded. Beyond that, please let us know how we can help. -- E.

Philip J. Perry
07/24/2002 08:33:55 PM
Record Type: Record

To: Edward McNally/WHO/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: Draft Text for WHO-to-TPO e-mail

1. The pop-up and footer should say whatever WH Counsel prefers. I don't care which version is used.

2. I wouldn't bother with the "authorization" concept. P.S. Neither Mitch nor Clay Johnson are TPO staff; Gov. Ridge is TPO Director.

3. Can anybody tell me when the actual transition personnel are planning to move into TPO? It's time to get this thing going.

From: Edward McNally on 07/24/2002 08:05:06 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Philip J. Perry/OMB/EOP@EOP
cc: Timothy E. Flanigan/WHO/EOP@EOP, John F. Wood/OMB/EOP@EOP,
Elizabeth N. Camp/WHO/EOP@EOP, Allison L. Riepenhoff/WHO/EOP@EOP
Subject: Draft Text for WHO-to-TPO e-mail

Brett and Phil -- As I understand it the question Phil Larsen was posing to Joe and Tim was whether the proposed OA language was correct. Attached above is a black-line version of the OA draft text with a number of suggested changes.

Pop-up changes:
(1) The word "attempt" was deleted and replaced, just due to semantics and the way the word "attempt" is sometimes used in other contexts.
(2) In place of "Do you still want to send this?" which could sound a bit coercive, we've offered "Do you want to continue?" which is a fairly common, standard prompt seen on many e-mail and internet systems.

Footer changes:
(1) Judge Gonzales' cover memo (still in draft/not yet executed) says that the following words will appear on WHO e-mails sent to TPO: "White House-controlled material/Protected from Disclosure". Thus the footer was edited to reflect the Judge's label.
(2) "White House entities" is a defined term in the MOU, but would not have any automatic meaning here. Should it just be "White House" in the final line of this header?

The final question is a POLICY question. The footer -- reflecting the MOU itself (which would also have to be changed) -- says that TPO staff "may not, UNDER ANY CIRCUMSTANCES, disseminate these materials outside TPO or the White House entities." Is that realistic? Won't there be a practical, functional need for dissemination in some situations? (E.g.: OMB Director ... or Clay Johnson ... or Gov. Ridge ... need to send something to an official at one of the affected Departments?) Also, wouldn't violations of this rule be so numerous and often inadvertent or unintentional (someone adding a non-WHO address to a forwarded e-mail, e.g.) that the result of the absolute ban would be a rule that is often violated -- and thus we would just be setting out a standard that would hurt us in litigation? Thus, finally: Wouldn't a better standard -- for both the MOU and the e-mail footer -- be: "TPO staff may not, WITHOUT AUTHORIZATION, disseminate these materials outside ..." ??

(The idea would be that what constitutes "authorization" should NOT be stated, an ambiguity that may have its own value. If Mitch Daniels is forwarding an e-mail the only authorization required would presumably be his own judgment. For staffers at the OTHER end of the chart, maybe in some cases authorization would come from their supervisor at OMB, or in some cases maybe it would come from the WHO person who sent it in the first place, or maybe in some context authorization would be understood or implied?)

So Tim, Phil, Brett -- the question is: are we better advantaged by an absolute ban, or by a more flexible but still strict rule?

---------- Forwarded by Edward McNally/WHO/EOP on 07/24/2002 07:41 PM ----------

Brett M. Kavanaugh
07/24/2002 07:06:16 PM
Record Type: Record

To: Edward McNally/WHO/EOP@EOP
cc:
Subject: FW: TPO information update

have not done anything on this other than to review; what next?

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on
07/24/2002 07:06 PM ----------

Timothy E. Flanigan
07/23/2002 06:01:17 PM
Record Type: Record

To: Edward McNally/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP
cc:
Subject: FW: TPO information update

---------- Forwarded by Timothy E. Flanigan/WHO/EOP on
07/23/2002 06:02 PM ----------

Phillip Larsen
07/23/2002 04:49:45 PM
Record Type: Record

To: Joseph W. Hagin/WHO/EOP@EOP, Timothy E. Flanigan/WHO/EOP@EOP
cc: Hector F. Irastorza/WHO/EOP@EOP
Subject: FW: TPO information update

Is the attached language correct?
---------- Forwarded by Phillip Larsen/OA/EOP on 07/23/2002
04:46 PM ----------

From: Tim Campen/EOPEXCH@Exchange on 07/22/2002 01:40:38 PM
Record Type: Record

To: Phillip Larsen/OA/EOP@EOP, Hector F. Irastorza/WHO/EOP@EOP
cc:
Subject: FW: TPO information update

Here is the text of the messages that OMB/TPO wants us to display(.

Here is the language for the pop-up and the footer and the list of WH
employees. We should chat on Monday about the list of employees.

Pop-Up:
The system recognizes you as a White House employee attempting to send
information to the Transition Planning Office in OMB. Do you still want
to send this?

Footer:
The information in this e-mail has been sent to you from a White House
Office. These materials are White House-controlled and protected from
disclosure. TPO staff (or others receiving this e-mail in error) may not,
under any circumstances, disseminate these materials outside TPO or the
White House entities.

White House Employees these should apply to:
The White House Office
The Office of Policy Development

The National Security Council
The Office of the Vice President
Council of Economic Advisers

Message Copied
To:_____
brett m. kavanaugh/who/eop@eop
timothy e. flanigan/who/eop@eop
john f. wood/omb/eop@eop
elizabeth n. camp/who/eop@eop
allison l. riepenhoff/who/eop@eop

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_Z6E89003_WHO.TXT_1>

TPO e-mail – Draft Text for Pop-ups and Footers

The original text proposed below was contained in Phil Larsen's e-mail to Joe Hagin and Tim Flanigan. The pop up would appear whenever a WHO computer user typed a TPO address as an e-mail destination. The footer would appear at the bottom of any WHO e-mails sent to a TPO address.

Pop-Up:

The system recognizes you as a White House employee who may be sending an e-mail ~~attempting to send information~~ to the Transition Planning Office in OMB. Do you ~~still~~ want to ~~send this~~ continue?

Footer:

~~The information in this e-mail has been sent to you from a White House Office. These materials are~~ White House-controlled Materials/~~and p~~Protected from ~~d~~Disclosure. TPO staff (or others receiving this e-mail in error) may not, without authorization~~under any circumstances~~, disseminate these materials outside TPO or the White House ~~entities~~.

From: CN=David G. Leitch TPO/OU=TPO/OU=OMB/O=EOP [OMB]
To: Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>
CC: timothy e. flanigan/who/eop@eop [WHO] <timothy e. flanigan>;brett m. kavanaugh/who /eop@eop [WHO] <brett m. kavanaugh>;alberto r. gonzales/who/eop@eop [WHO] <alberto r. gonzales>
Sent: 8/2/2002 1:44:33 PM
Subject: : Re: Draft Text for WHO-to-TPO e-mail
Attachments: P_WCE89003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:David G. Leitch TPO (CN=David G. Leitch TPO/OU=TPO/OU=OMB/O=EOP [OMB])
CREATION DATE/TIME: 2-AUG-2002 17:44:33.00
SUBJECT:: Re: Draft Text for WHO-to-TPO e-mail
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:timothy e. flanigan (CN=timothy e. flanigan/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:alberto r. gonzales (CN=alberto r. gonzales/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

Thanks, Ed. I'm told by Ken Hill over here in the TPO that effecting the addition of these items should not be a problem. He'll work with the appropriate IT folks to get it done and I'll stay on top of it too.

From: Edward McNally on 08/02/2002 05:39:41 PM
Record Type: Record

To: David G. Leitch TPO/TPO/OMB/EOP@EOP
cc: Alberto R. Gonzales/WHO/EOP@EOP, Timothy E. Flanigan/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
Subject: Draft Text for WHO-to-TPO e-mail

David, just to clear up any ambiguity I've included the final text for the pop ups and footers below, in large bold type. The only change is restoring the words
"under any circumstances" to the footer. It was deleted fro a time (and replaced with "without appropriate authorization"), but then put back in as per Phil/OMB. The history of the edits is in the string below, if you're interested in the rationales that were debated back and forth. But in any event, the final language is noted right her in bold text. If I'm reading the early (bottom) part of these strings correctly, then the action office is OA (Office of Administration), which has an IS office within OA. Please let us know if we can help. And hope you can enjoy a peice of this summer weekend -- Ed

Pop-Up:

The system recognizes you as a White House employee who may be sending an e-mail to the Transition
Planning Office in OMB. Do you want to continue?

Footer:

White House-controlled Materials/Protected from Disclosure. TPO staff (or others receiving this e-mail in error)
may not, under any circumstances, disseminate these materials outside TPO

or the White House.

---------- Forwarded by Edward McNally/WHO/EOP on 08/02/2002 05:25 PM ----------

Bradford A. Berenson
08/02/2002 04:27:27 PM
Record Type: Record

To: Edward McNally/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Draft Text for WHO-to-TPO e-mail

Looks ok to me.

From: Edward McNally on 08/02/2002 10:24:52 AM
Record Type: Record

To: Timothy E. Flanigan/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc: Bradford A. Berenson/WHO/EOP@EOP
Subject: Re: Draft Text for WHO-to-TPO e-mail

Any final edits re: the e-mail footer/pop up text?
---------- Forwarded by Edward McNally/WHO/EOP on 08/02/2002 10:24 AM ----------

From: Edward McNally on 08/02/2002 10:23:10 AM
Record Type: Record

To: Philip J. Perry/OMB/EOP@EOP
cc: David G. Leitch TPO/TPO/OMB/EOP@EOP, john f. wood/omb/eop@eop
bcc: Records Management@EOP
Subject: Re: Draft Text for WHO-to-TPO e-mail

Phil -- Is Austin coordinating this via OMB IT -- or is there anything further you need from us either as to the text itself, or as to coordinating with OA? As to your edit/item 2 below, we are in agreement -- the "authorization" caveat should be excluded. Beyond that, please let us know how we can help. -- E.

Philip J. Perry
07/24/2002 08:33:55 PM
Record Type: Record

To: Edward McNally/WHO/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: Draft Text for WHO-to-TPO e-mail

1. The pop-up and footer should say whatever WH Counsel prefers. I don't care which version is used.

2. I wouldn't bother with the "authorization" concept. P.S. Neither Mitch nor Clay Johnson are TPO staff; Gov. Ridge is TPO Director.

3. Can anybody tell me when the actual transition personnel are planning to move into TPO? It's time to get this thing going.

From: Edward McNally on 07/24/2002 08:05:06 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Philip J. Perry/OMB/EOP@EOP
cc: Timothy E. Flanigan/WHO/EOP@EOP, John F. Wood/OMB/EOP@EOP,
Elizabeth N. Camp/WHO/EOP@EOP, Allison L. Riepenhoff/WHO/EOP@EOP
Subject: Draft Text for WHO-to-TPO e-mail

Brett and Phil -- As I understand it the question Phil Larsen was posing to Joe and Tim was whether the proposed OA language was correct. Attached above is a black-line version of the OA draft text with a number of suggested changes.

Pop-up changes:
(1) The word "attempt" was deleted and replaced, just due to semantics and the way the word "attempt" is sometimes used in other contexts.
(2) In place of "Do you still want to send this?" which could sound a bit coercive, we've offered "Do you want to continue?" which is a fairly common, standard prompt seen on many e-mail and internet systems.

Footer changes:
(1) Judge Gonzales' cover memo (still in draft/not yet executed) says that the following words will appear on WHO e-mails sent to TPO: "White House-controlled material/Protected from Disclosure". Thus the footer was edited to reflect the Judge's label.
(2) "White House entities" is a defined term in the MOU, but would not have any automatic meaning here. Should it just be "White House" in the final line of this header?

The final question is a POLICY question. The footer -- reflecting the MOU itself (which would also have to be changed) -- says that TPO staff "may not, UNDER ANY CIRCUMSTANCES, disseminate these materials outside TPO or the White House entities." Is that realistic? Won't there be a practical, functional need for dissemination in some situations? (E.g.: OMB Director ... or Clay Johnson ... or Gov. Ridge ... need to send something to an official at one of the affected Departments?) Also, wouldn't violations of this rule be so numerous and often inadvertent or unintentional (someone adding a non-WHO address to a forwarded e-mail, e.g.) that the result of the absolute ban would be a rule that is often violated -- and thus we would just be setting out a standard that would hurt us in litigation? Thus, finally: Wouldn't a better standard -- for both the MOU and the e-mail footer -- be: "TPO staff may not, WITHOUT AUTHORIZATION, disseminate these materials outside ..." ??

(The idea would be that what constitutes "authorization" should NOT be stated, an ambiguity that may have its own value. If Mitch Daniels is forwarding an e-mail the only authorization required would presumably be his own judgment. For staffers at the OTHER end of the chart, maybe in some cases authorization would come from their supervisor at OMB, or in some cases maybe it would come from the WHO person who sent it in the first place, or maybe in some context authorization would be understood or implied?)

So Tim, Phil, Brett -- the question is: are we better advantaged by an absolute ban, or by a more flexible but still strict rule?

---------- Forwarded by Edward McNally/WHO/EOP on 07/24/2002 07:41 PM ----------

Brett M. Kavanaugh
07/24/2002 07:06:16 PM
Record Type: Record

To: Edward McNally/WHO/EOP@EOP
cc:
Subject: FW: TPO information update

have not done anything on this other than to review; what next?

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 07/24/2002 07:06 PM ----------

Timothy E. Flanigan
07/23/2002 06:01:17 PM
Record Type: Record

To: Edward McNally/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP
cc:
Subject: FW: TPO information update

---------- Forwarded by Timothy E. Flanigan/WHO/EOP on 07/23/2002 06:02 PM ----------

Phillip Larsen
07/23/2002 04:49:45 PM
Record Type: Record

To: Joseph W. Hagin/WHO/EOP@EOP, Timothy E. Flanigan/WHO/EOP@EOP
cc: Hector F. Irastorza/WHO/EOP@EOP
Subject: FW: TPO information update

Is the attached language correct?
---------- Forwarded by Phillip Larsen/OA/EOP on 07/23/2002 04:46 PM ----------

From: Tim Campen/EOPEXCH@Exchange on 07/22/2002 01:40:38 PM
Record Type: Record

To: Phillip Larsen/OA/EOP@EOP, Hector F. Irastorza/WHO/EOP@EOP
cc:
Subject: FW: TPO information update

Here is the text of the messages that OMB/TPO wants us to display(.

Here is the language for the pop-up and the footer and the list of WH employees. We should chat on Monday about the list of employees.

Pop-Up:
The system recognizes you as a White House employee attempting to send information to the Transition Planning Office in OMB. Do you still want to send this?

Footer:
The information in this e-mail has been sent to you from a White House Office. These materials are White House-controlled and protected from disclosure. TPO staff (or others receiving this e-mail in error) may not,

under any circumstances, disseminate these materials outside TPO or the White House entities.

White House Employees these should apply to:
The White House Office
The Office of Policy Development
The National Security Council
The Office of the Vice President
Council of Economic Advisers

Message Copied
To:_____
brett m. kavanaugh/who/eop@eop
timothy e. flanigan/who/eop@eop
john f. wood/omb/eop@eop
elizabeth n. camp/who/eop@eop
allison l. riepenhoff/who/eop@eop

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WCE89003_WHO.TXT_1>

TPO e-mail – Draft Text for Pop-ups and Footers

The original text proposed below was contained in Phil Larsen's e-mail to Joe Hagin and Tim Flanigan. The pop up would appear whenever a WHO computer user typed a TPO address as an e-mail destination. The footer would appear at the bottom of any WHO e-mails sent to a TPO address.

Pop-Up:

The system recognizes you as a White House employee who may be sending an e-mail ~~attempting to send information~~ to the Transition Planning Office in OMB. Do you ~~still~~ want to ~~send this~~ continue?

Footer:

~~The information in this e-mail has been sent to you from a White House Office. These materials are~~ White House-controlled Materials/~~and p~~Protected from ~~d~~Disclosure. TPO staff (or others receiving this e-mail in error) may not, without authorization~~under any circumstances~~, disseminate these materials outside TPO or the White House ~~entities~~.

From: CN=Stephen M. Lineberry/OU=CEA/O=EOP [CEA]
To: Alex Azar/WHO/EOP@EOP [WHO] <Alex Azar>;LNorwalk@cms.hhs.gov [UNKNOWN] <LNorwalk@cms.hhs.gov>;Philip J. Perry/OMB/EOP@EOP [OMB] <Philip J. Perry>;ttrysla@cms.hhs.gov [UNKNOWN] <ttrysla@cms.hhs.gov>;James C. Capretta/OMB/EOP@EOP [OMB] <James C. Capretta>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 8/5/2002 2:55:37 PM
Subject: : Medicare Drug Card Meeting

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Stephen M. Lineberry ( CN=Stephen M. Lineberry/OU=CEA/O=EOP [ CEA ] )
CREATION DATE/TIME: 5-AUG-2002 18:55:37.00
SUBJECT:: Medicare Drug Card Meeting
TO:Alex Azar ( CN=Alex Azar/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:LNorwalk@cms.hhs.gov ( LNorwalk@cms.hhs.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Philip J. Perry ( CN=Philip J. Perry/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:ttrysla@cms.hhs.gov ( ttrysla@cms.hhs.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:James C. Capretta ( CN=James C. Capretta/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

There will be a Medicare Drug Card meeting in room 48a on Wednesday, 8/7
at 4pm. Please let me know if you can't make this time and we will
possibly work out another time. If you require clearance into the
building, please provide me with your date of birth and social security
number. Thanks.

Steve
395-5036
```

From: CN=Lucy G. Clark/OU=WHO/O=EOP [WHO]
To: Julie L. Nichols/WHO/EOP@EOP [WHO] <Julie L. Nichols>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 8/6/2002 3:39:10 AM
Subject: : House SAP

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Lucy G. Clark ( CN=Lucy G. Clark/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 6-AUG-2002 07:39:10.00
SUBJECT:: House SAP
TO:Julie L. Nichols ( CN=Julie L. Nichols/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Julie-

Can you send Brett and me an electronic copy of the House SAP?
Thanks in advance.
```

From: Thomas, Ginni <ginni.thomas@heritage.org>
To: Government Relations <GovernmentRelations@heritage.org>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 8/6/2002 7:19:10 AM
Subject: : Recent Heritage Publications and Upcoming Events

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Thomas, Ginni" <ginni.thomas@heritage.org> ("Thomas, Ginni"
<ginni.thomas@heritage.org> [UNKNOWN])
CREATION DATE/TIME: 6-AUG-2002 11:19:10.00
SUBJECT:: Recent Heritage Publications and Upcoming Events
TO:Government Relations <GovernmentRelations@heritage.org> (Government Relations
<GovernmentRelations@heritage.org> [UNKNOWN])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

We have some new events that are being scheduled - see ones listed below.
Also, on August 16th we expect to have a panel to discuss Reparations for
Slavery, in anticipation of a March in DC for Reparations on August 17th.

For anyone interested in a CBO/Heritage conference tomorrow on dynamic
scoring, please give me a call, as it is open. Thanks - Ginni

Recent Publications:

Foreign/Defense Policy:

After the Victory: America's Role in Afghanistan's Future by James
Phillips,
Jack Spencer, & John Hulsman
http://www.heritage.org/library/backgrounder/bg1574.html

The National Guard and Homeland Security by Jack Spencer
http://www.heritage.org/library/execmemo/em826.html

Not Yet Time To Rejoin UNESCO by Brett Schaefer
http://www.heritage.org/views/2002/ed073102.html

Domestic Policy:

The Effects of Marriage and Maternal Education in Reducing Child Poverty by
Robert Rector and Kirk A. Johnson
http://www.heritage.org/library/cda/cda02-05.html

Too Much "Static" by Bill Beach
http://www.heritage.org/views/2002/ed073002a.html

Taxpayers Prop Up Sports Profits by Ron Utt
http://www.heritage.org/views/2002/ed073002.html

Ludwig von Mises as Policy Analyst: Monetary Reform, Fiscal Policy, and
Foreign Exchange Controls by Richard Ebeling
http://www.heritage.org/library/lecture/hl754.html

Upcoming Events:
For most event details and RSVP, link to: http://www.heritage.org/events/
For others, please call us to inquire.

Corporate Scandals: Is Deregulation the Culprit?
Featuring: Robert Crandall, Brookings Institution; Bert Ely, Ely and
Company; C. Boyden Gray, Wilmer, Cutler, and Pickering

Wednesday, August 14, 12:00 p.m.

Putting Faith in Neighborhoods: Making Cities Work through Grassroots Citizenship
Featuring: Hon. Stephen Goldsmith, Chair, Corporation For National and Community Service
Thursday, August 15, 12:00 p.m.

Moving Beyond Environmental Conflict: Private Stewardship, Partnership and Performance
Featuring: Hon. Lynn Scarlett, Assistant Secretary of Interior for Policy, Management and Budget
Thursday, August 29th, 12:00 p.m.

Larry Kudlow will be speaking on "Corporate Responsibility" to communication
and speechwriting staff for the Administration, the House and the Senate on Sept. 20 at noon - place TBA

POSTPONED: Reining in Redtape: The Past and Future of Regulatory Review
Featuring: Former OIRA Administrators Sally Katzen & Jim MacRae, and James Miller
originally scheduled for Thursday, July 18, 12:00 p.m., new date tba

Virginia (Ginni) Thomas, Director
Executive Branch Relations, The Heritage Foundation
214 Mass. Ave, NE/Washington, D.C. 20002
phone: (202) 608-6240 or 546-4400
fax: (202) 608-6068 (fax)
e-mail: ginni.thomas@heritage.org
www.heritage.org

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 8/6/2002 5:24:36 AM
Subject: : Re: Do we have an agenda for JSC on Wed or not?

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 6-AUG-2002 09:24:36.00
SUBJECT:: Re: Do we have an agenda for JSC on Wed or not?
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Judge is out on the 28th. Would you want to have this with Tim leading the meeting?

Just want to be clear before I talk to the Judge about what is needed.

Brett M. Kavanaugh
08/05/2002 04:11:11 PM
Record Type: Record

To: Elizabeth N. Camp/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Do we have an agenda for JSC on Wed or not?

I think we should have one on the 14th and one on the 28th and that's it for August. (if he agrees)

Elizabeth N. Camp
08/05/2002 04:05:34 PM
Record Type: Record

To: Brett_M._Kavanaugh@who.eop.gov
cc:
Subject: Re: Do we have an agenda for JSC on Wed or not?

Do you think I should suggest to the Judge that we cancel JSC for tomorrow? What about the rest of the month of August?

---------- Forwarded by Elizabeth N. Camp/WHO/EOP on 08/05/2002 04:03 PM ----------

Brent D. Greenfield
08/05/2002 04:03:44 PM
Record Type: Record

To: Elizabeth N. Camp/WHO/EOP@EOP
cc:

bcc:
Subject: Re: Do we have an agenda for JSC on Wed or not?

No agenda. (I sent out the email this morning)

Elizabeth N. Camp
08/05/2002 03:49:03 PM
Record Type: Record

To: Brent Greenfield
cc:
Subject: Do we have an agenda for JSC on Wed or not?

From:	CN=Edward McNally/OU=WHO/O=EOP [WHO]
To:	David G. Leitch TPO/TPO/OMB/EOP@EOP [OMB] <David G. Leitch TPO>
CC:	Robert J. Delahunty/WHO/EOP@EOP [WHO] <Robert J. Delahunty>;John F. Wood/OMB /EOP@EOP [OMB] <John F. Wood>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Philip J. Perry/OMB/EOP@EOP [OMB] <Philip J. Perry>
BCC:	Timothy C. Stout (Timothy C. Stout/WHO/EOP [WHO]), Kenneth Hill TPO (Kenneth Hill TPO/TPO/OMB/EOP [OMB]), Carl Buchholz (Carl Buchholz/WHO/EOP [WHO])
Sent:	8/6/2002 7:02:28 AM
Subject:	: For your Review: Draft Cover Sheet for WH Documents to TPO
Attachments:	P_OX2A9003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 6-AUG-2002 11:02:28.00
SUBJECT:: For your Review: Draft Cover Sheet for WH Documents to TPO
TO:David G. Leitch TPO ( CN=David G. Leitch TPO/OU=TPO/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
CC:Robert J. Delahunty ( CN=Robert J. Delahunty/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:John F. Wood ( CN=John F. Wood/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Philip J. Perry ( CN=Philip J. Perry/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
BCC:Timothy C. Stout ( CN=Timothy C. Stout/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Kenneth Hill TPO ( CN=Kenneth Hill TPO/OU=TPO/OU=OMB/O=EOP [ OMB ] )
READ:UNKNOWN
BCC:Carl Buchholz ( CN=Carl Buchholz/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

David -- Robert Delahunty prepared the attached initial draft cover sheet
based on his discussions with Phil Perry just before you started. It's
intended to be attached to WH docs that are routed from WHO to TPO via WHO
staffers Brook and Distie on the 9th floor at 18th & G. We would be
interested in any edits, comments, improvements you would like to offer
(John and Brett, you should also feel free to jump in).
Also interested in your view on whether or not the cover sheet should
include a return date. In any future litigation, the return date would
have at least one advantage (as evidence of WHO intent to maintain
continuous control), and at least one disadvantage -- b/c as a practical
matter we can expect that a substantial number of WHO docs would NOT end
up being returned on the date indicated, so failing to enforce this
(potentially cumbersome) practice could, obviously, hurt us. The return
date mechanism will have an impact on docs management in your office, so
we wanted to be sure you and OMB were apprised of the options.
Please let us know your thoughts. Thanks -- E.

---------------------- Forwarded by Edward McNally/WHO/EOP on 08/06/2002
10:36 AM ---------------------------



Robert J. Delahunty
07/22/2002 10:59:53 AM
Record Type: Record

To: Philip J. Perry/OMB/EOP@EOP
cc: Edward McNally/WHO/EOP@EOP
Subject: Cover for WH Documents
```

Phil:

Phil: Following through on your thoughts of this morning, I've drafted a cover (attached) that could be stapled on incoming WH documents for TPO. Let me know what edits/changes you'd like. I have Distie's and Brooks' fax/telephone numbers if we want them added. They don't have rooms, only cubicles, but they said the materials will reach them if they're addressed to 1800 G on the 9th floor.
On the procedures, I told them to fill in the blanks on the covers, staple them to the incoming, copy that package and file the copy, and then send on the package to the intended TPO recipients(s). Since we've asked Room One to create a stamp for them, I suggested that they stamp the front page of the incoming material as well as stapling the cover. They seem to have adequate filing space for storing the copies. They understand that ordinary newsclips aren't to be considered WH materials, and that we'll check after a week or so to see what the incoming looks like.
They asked what to do if they got classified documents (because their clearances may not be high enough). This is something I'll need to discuss with Ed. I doubt that there will be much if any classified matter. Robert

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_OX2A9003_WHO.TXT_1>

WHITE HOUSE CONTROLLED MATERIALS/
PROTECTED FROM DISCLOSURE

Handling:

- Do not disclose these documents outside TPO or the White House.

- Do not make unnecessary copies of these documents.

- Keep these documents in separate files that clearly identify their contents as White House Materials. Do not commingle them with other files.

- Return these documents and all copies made of them to Distie Carstensen or Brook Holladay, 1800 G Street, 9th floor, on the date(s) requested below, and in no circumstances later than the date of the termination of the TPO.

Return by:

_____

Distribution:

_____

From: CN=Helgard C. Walker/OU=WHO/O=EOP [WHO]
To: Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>
CC: helgard c. walker/who/eop@eop [WHO] <helgard c. walker>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>
Sent: 8/6/2002 8:15:36 AM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 6-AUG-2002 12:15:36.00
SUBJECT:: Re:
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:helgard c. walker (CN=helgard c. walker/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

Not mine. I'd say it's Jen's as HHS.

Benjamin A. Powell 08/06/2002 11:17:13 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: helgard c. walker/who/eop@eop
bcc:
Subject: Re:

She did not mention the issue to me and I have not done anything on the medicare drug issue (is Jennifer handling HHS now?).

In any event, let me know if I can be of any help on this.

Brett M. Kavanaugh
08/06/2002 11:00:38 AM
Record Type: Record

To: Helgard C. Walker/WHO/EOP@EOP, Benjamin A. Powell/WHO/EOP@EOP
cc:
Subject:

either of you have medicare drug card issue? probably was rachel's previously

From: CN=Philip J. Perry/OU=OMB/O=EOP [OMB]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 8/6/2002 8:29:38 AM
Subject: : Re: For your Review: Draft Cover Sheet for WH Documents to TPO
Attachments: P_168A9003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP [OMB])
CREATION DATE/TIME: 6-AUG-2002 12:29:38.00
SUBJECT:: Re: For your Review: Draft Cover Sheet for WH Documents to TPO
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

thank god leitch is here.

Brett M. Kavanaugh
08/06/2002 11:43:54 AM
Record Type: Record

To: David G. Leitch TPO/TPO/OMB/EOP@EOP
cc: edward mcnally/who/eop@eop, philip j. perry/omb/eop@eop, john f. wood/omb/eop@eop, robert j. delahunty/who/eop@eop
bcc:
Subject: Re: For your Review: Draft Cover Sheet for WH Documents to TPO

yes, those additions make sense.

DAVID G. LEITCH
TPO
08/06/2002 11:42:01 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: edward mcnally/who/eop@eop, philip j. perry/omb/eop@eop, john f. wood/omb/eop@eop, robert j. delahunty/who/eop@eop
bcc:
Subject: Re: For your Review: Draft Cover Sheet for WH Documents to TPO

Brett -- That strikes me as a bit too vague to be meaningful; what if we said reasonably prompt, immediately upon request, and in all events not later than the termination of the TPO?

Brett M. Kavanaugh
08/06/2002 11:35:19 AM
Record Type: Record

To: David G. Leitch TPO/TPO/OMB/EOP@EOP

cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: For your Review: Draft Cover Sheet for WH Documents
to TPO

I would not have a firm return date, but would require a "reasonably
prompt return" or some formulation like that.

DAVID G. LEITCH
TPO
08/06/2002 11:20:44 AM

Record Type: Record

To: Edward McNally/WHO/EOP@EOP
cc: philip j. perry/omb/eop@eop, john f. wood/omb/eop@eop, brett m.
kavanaugh/who/eop@eop, robert j. delahunty/who/eop@eop
bcc:
Subject: Re: For your Review: Draft Cover Sheet for WH Documents
to TPO

This looks fine to me. The question of whether to have a return date
seems largely to turn on whether we can enforce the discipline of having
people fill in the blank (or have a default of x days for Distie and Brook
to provide if one is not given) and then enforce the requirement. I'll
consult with Ken Hill --- Exec. Sec. for TPO -- on these questions. If we
can work them out -- and I'd like to think we can -- I think we'd be well
advised to have a return date. Brett may have particular views from the
WH perspective on the utility of this procedure.

From: Edward McNally on 08/06/2002 11:02:25 AM
Record Type: Record

To: David G. Leitch TPO/TPO/OMB/EOP@EOP
cc: Philip J. Perry/OMB/EOP@EOP, John F. Wood/OMB/EOP@EOP, Brett M.
Kavanaugh/WHO/EOP@EOP, Robert J. Delahunty/WHO/EOP@EOP
Subject: For your Review: Draft Cover Sheet for WH Documents to TPO

David -- Robert Delahunty prepared the attached initial draft cover sheet
based on his discussions with Phil Perry just before you started. It's
intended to be attached to WH docs that are routed from WHO to TPO via WHO
staffers Brook and Distie on the 9th floor at 18th & G. We would be
interested in any edits, comments, improvements you would like to offer
(John and Brett, you should also feel free to jump in).
Also interested in your view on whether or not the cover sheet should
include a return date. In any future litigation, the return date would
have at least one advantage (as evidence of WHO intent to maintain
continuous control), and at least one disadvantage -- b/c as a practical
matter we can expect that a substantial number of WHO docs would NOT end
up being returned on the date indicated, so failing to enforce this
(potentially cumbersome) practice could, obviously, hurt us. The return
date mechanism will have an impact on docs management in your office, so
we wanted to be sure you and OMB were apprised of the options.
Please let us know your thoughts. Thanks -- E.

---------- Forwarded by Edward McNally/WHO/EOP on 08/06/2002
10:36 AM ----------

Robert J. Delahunty
07/22/2002 10:59:53 AM
Record Type: Record

To: Philip J. Perry/OMB/EOP@EOP
cc: Edward McNally/WHO/EOP@EOP
Subject: Cover for WH Documents

Phil:

Phil: Following through on your thoughts of this morning, I've drafted a cover (attached) that could be stapled on incoming WH documents for TPO. Let me know what edits/changes you'd like. I have Distie's and Brooks' fax/telephone numbers if we want them added. They don't have rooms, only cubicles, but they said the materials will reach them if they're addressed to 1800 G on the 9th floor.
On the procedures, I told them to fill in the blanks on the covers, staple them to the incoming, copy that package and file the copy, and then send on the package to the intended TPO recipients(s). Since we've asked Room One to create a stamp for them, I suggested that they stamp the front page of the incoming material as well as stapling the cover. They seem to have adequate filing space for storing the copies. They understand that ordinary newsclips aren't to be considered WH materials, and that we'll check after a week or so to see what the incoming looks like.
They asked what to do if they got classified documents (because their clearances may not be high enough). This is something I'll need to discuss with Ed. I doubt that there will be much if any classified matter. Robert

Message Copied
To:_____
edward mcnally/who/eop@eop
philip j. perry/omb/eop@eop
john f. wood/omb/eop@eop
brett m. kavanaugh/who/eop@eop
robert j. delahunty/who/eop@eop

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_168A9003_WHO.TXT_1>

WHITE HOUSE CONTROLLED MATERIALS/
PROTECTED FROM DISCLOSURE

Handling:

- Do not disclose these documents outside TPO or the White House.

- Do not make unnecessary copies of these documents.

- Keep these documents in separate files that clearly identify their contents as White House Materials. Do not commingle them with other files.

- Return these documents and all copies made of them to Distie Carstensen or Brook Holladay, 1800 G Street, 9th floor, on the date(s) requested below, and in no circumstances later than the date of the termination of the TPO.

Return by:

_____

Distribution:

_____

From: CN=Douglas L. Hoelscher/OU=WHO/O=EOP [WHO]
To: Katja Bullock/WHO/EOP@EOP [WHO] <Katja Bullock>
CC: Matthew A. Schlapp/WHO/EOP@EOP [WHO] <Matthew A. Schlapp>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 8/6/2002 12:19:51 PM
Subject: : political appointees

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Douglas L. Hoelscher ( CN=Douglas L. Hoelscher/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 6-AUG-2002 16:19:51.00
SUBJECT:: political appointees
TO:Katja Bullock ( CN=Katja Bullock/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Matthew A. Schlapp ( CN=Matthew A. Schlapp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Katja,
Are the names of the political appointees publicly available information?
-Doug
```

From:	CN=Edward McNally/OU=WHO/O=EOP [WHO]
To:	Allison L. Riepenhoff/WHO/EOP@EOP [WHO] <Allison L. Riepenhoff>;Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>;Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>
CC:	Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent:	8/7/2002 7:16:24 AM
Subject:	: Fax # for WHO docs sent to TPO = 456-6208
Attachments:	P_6U7B9003_WHO.TXT_1.doc; P_6U7B9003_WHO.TXT_2.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 7-AUG-2002 11:16:24.00
SUBJECT:: Fax # for WHO docs sent to TPO = 456-6208
TO:Allison L. Riepenhoff (CN=Allison L. Riepenhoff/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Lib -- Att'd is a copy of the notice I sent to all OHS staff re: the fax number they should use for faxes sent to TPO. Consistent with the Judge's memo, this same fax number will need to be sent around to all WHO staff. Brad and I can raise it with the Judge today at 3:00, and we'd also welcome your thoughts on the easiest/best way to get this done. In the meantime, I wanted your office to have the new fax number, too. Thanks -- Ed
---------- Forwarded by Edward McNally/WHO/EOP on 08/07/2002 11:08 AM ----------

From: Edward McNally on 08/07/2002 11:04:44 AM
Record Type: Record

To: All OHS Users
cc: Brook Holladay/WHO/EOP@EOP, Distie Carstensen/WHO/EOP@EOP
Subject: Fax # for OHS docs sent to TPO = 456-6208

All OHS Staff:

The new fax number for any WHO (which includes OHS) documents which you may make available to TPO (the DHS Transition Planning Office) is 6-6208.

As you know from Judge Gonzales' previously transmitted memo, "all White House materials that are made available to TPO staff (other than e-mail or e-mail attachments) must first be routed to TPO via Distie Carstensen or Brook Holladay at 1800 G Street, 9th floor."

The fax number listed above goes directly to Brook and Distie and therefore complies with this provision.

As with any documents you may make available to TPO staff, please ensure that any such faxes you may send to TPO include the notation: "White House-controlled Material/Protected from Disclosure."

This is the ONLY fax number you should use for OHS documents that are made available to TPO.

A copy of Judge Gonzales' previously transmitted memorandum to all White House Staff is attached for your reference and use.
Please do not hesitate to contact me, Robert Delahunty or Kate Anderson if you have any questions.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_6U7B9003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_6U7B9003_WHO.TXT_2>

July 26, 2002

MEMORANDUM FOR ALL WHITE HOUSE STAFF

FROM: ALBERTO R. GONZALES
COUNSEL TO THE PRESIDENT

SUBJECT: MANAGEMENT OF WHITE HOUSE MATERIALS MADE AVAILABLE TO TRANSITION PLANNING OFFICE FOR THE NEW DEPARTMENT OF HOMELAND SECURITY

White House materials may be made available from time to time to the Transition Planning Office (TPO) that was formed within the Office of Management and Budget in expectation of the creation of the Department of Homeland Security (DHS). Because of the sensitivity and confidentiality of such materials, the White House Office (or, as appropriate, other White House entities) will maintain control over such materials even after they have been made available to TPO staff. The attached Memorandum of Understanding sets forth procedures intended to ensure that the relevant White House entities maintain control over any such White House materials. This memorandum is intended to provide you with a guide to follow when you make White House materials available to TPO staff, summarizing the attached Memorandum of Understanding.

"White House materials" means, for purposes of this memorandum, any written, typed, recorded or graphic matter of any nature whatsoever, regardless of how recorded and whether an original or copy, including information therein, that is originated or received by a White House entity.

The general rules on White House materials made available to TPO staff are as follows:

- You must not make White House materials available to TPO staff other than for TPO's internal purposes.

- All White House materials that are made available to TPO staff (other than e-mail or e-mail attachments) must first be routed to TPO via Distie Carstensen or Brook Holladay at 1800 G Street, 9th floor. They will ensure that those materials are stamped: "White House-controlled Material/Protected from Disclosure."

- OMB is making arrangements with Information Technology personnel so that the same text "White House-controlled Material/Protected from Disclosure" will be placed automatically on e-mail sent from White House entity e-mail addresses to TPO e-mail addresses.

"White House entities" means, for purposes of this memorandum, the White House Office, the Office of Policy Development, the National Security Council, all other entities in the Executive Office of the President to whom section 552 of Title 5 of the U.S. Code does not apply, and (with respect to executive materials) the Office of the Vice President.

MEMORANDUM OF UNDERSTANDING:
Certain White House Materials Made Available to the Staff of the OMB Transition Planning Office for the Department of Homeland Security

This Memorandum of Understanding (MOU) sets forth our mutual understanding regarding the possession, custody, access, use, ownership, and control of White House materials made available temporarily to the staff of the Transition Planning Office (TPO) within the Office of Management and Budget (OMB) pursuant to Executive Order 13267 (June 20, 2002).

The White House entities (defined below) intend to and do retain control over White House materials (defined below) and are making such materials available to TPO on a temporary basis only for limited purposes and on condition of confidentiality.

I. Ownership, Custody and Control: It is understood and agreed that each White House entity retains exclusive ownership, custody and control of White House materials that it makes available to TPO staff, and that TPO shall not have any proprietary or other interest in White House materials, nor custody or control thereof. White House entities are strongly encouraged whenever practicable to mark White House materials made available to TPO staff "White House-controlled Material/Protected from Disclosure" to aid in compliance with this MOU, but White House materials shall be subject to this MOU whether so marked or not.

II. Return of White House Materials: It is understood and agreed that the White House entities will be making such documents available to TPO on a temporary basis for the limited purpose of transition planning and related activities and on condition of confidentiality, and that TPO staff shall have an obligation to return such documents to the originating White House entity in a prompt and timely manner.

III. Restrictions on Dissemination of White House Materials: It is understood and agreed that White House materials are to be made available by TPO to TPO staff for internal purposes only. White House materials made available to TPO staff may not, in any circumstances, be disseminated by TPO staff outside the White House entities or TPO.

IV. Definitions:

For purposes of this MOU--

(1) the term "White House entities" means the White House Office, the Office of Policy Development, the National Security Council, all other entities in the Executive Office of the President to whom Section 552 of Title 5 of the U.S. Code does not apply, and (with respect to executive materials) the Office of the Vice President.

(2) the term "White House materials" means any written, typed, recorded or graphic matter of any nature whatsoever, regardless of how recorded and whether an original or copy, including information therein, that is originated or received by a White House entity.

V. Other: This MOU shall be implemented in a manner consistent with the Presidential Records Act and other applicable law. OMB will promptly issue internal guidelines for TPO consistent with the provisions of this MOU.

This MOU addresses certain issues relating to the TPO, and nothing in this MOU shall be construed to imply that any White House entity lacks control or lacks the intent to exercise control over any White House materials in the possession or use of any other entity of the United States Government.

This MOU is intended only to improve the internal management of the executive branch and it is not intended to, and does not, create any right, benefit, trust, or responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies or entities, its officers or employees, or any person.

FOR THE PRESIDENT:	ALBERTO R. GONZALES Counsel to the President	7/26/02 Date
FOR THE VICE PRESIDENT:	DAVID S. ADDINGTON Counsel to the Vice President	7/26/02 Date
FOR THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET:	PHILIP J. PERRY General Counsel Office of Management and Budget	7/26/02 Date

From: CN=William H. Leary/OU=NSC/O=EOP [NSC]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 8/7/2002 7:37:39 AM
Subject: : Re: please review
Attachments: F_G69B9003_NSC.TXT_1.doc; F_G69B9003_NSC.TXT_2.doc

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:William H. Leary (CN=William H. Leary/OU=NSC/O=EOP [NSC])
CREATION DATE/TIME: 7-AUG-2002 11:37:39.00
SUBJECT:: Re: please review
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett,

I have suggested a few changes. The added sentence at the end reflects the understanding I thought we had in the meeting with Gary and Nancy.

Brett M. Kavanaugh
08/06/2002 12:57:14 PM
Record Type: Record

To: William H. Leary/NSC/EOP@EOP
cc:
Subject: please review

draft letter on Historian access to NSC institutional files. please give me any thoughts.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <F_G69B9003_NSC.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <F_G69B9003_NSC.TXT_2>

August 6, 2002

Rod Soubers
Director, Access Management
National Security Council
Washington, DC 20504

Dear Mr. Soubers:

This letter approves general access by Department of State historians to the National Security Council institutional files requested by Dr. Marc Susser, the Historian of the Department of State. These NSC files are maintained at the National Archives and Records Administration and at certain presidential libraries. The Historian's Office will request access for individual historians and provide their specific research subjects. It also will verify the historians' clearances with the National Archives and Records Administration.

This letter does not approve the disclosure of any records or information reviewed or obtained by the historians during their research. All rights, privileges, and immunities pertaining to the reviewed records, and the information contained therein, are reserved pending subsequent review and decision.

Sincerely,

Brett M. Kavanaugh
Associate Counsel to the President

Cc: Nancy Smith
Dr. Marc J. Susser

REV_00149366

August 6, 2002

~~Rod Soubers~~
~~Director, Access Management~~
~~National Security Council~~
Ms. Nancy K. Smith
Director, Presidential Materials Staff
National Archives & Records Administration

Washington, DC 20408~~504~~

Dear Mr. Soubers:

This letter approves general access by Department of State historians to the National Security Council institutional files requested by Dr. Marc Susser, the Historian of the Department of State. These NSC files are maintained ~~at~~as presidential records in the legal custody of the National Archives and Records Administration~~ and at certain presidential libraries~~. The Historian's Office will request access for individual historians and provide their specific research subjects. It also will verify the historians' clearances with the National Archives and Records Administration.

This letter does not approve the disclosure of any records or information reviewed or obtained by the historians during their research. All rights, privileges, and immunities pertaining to the reviewed records, and the information contained therein, are reserved pending subsequent review and decision. The review of all documents selected by the State Department for potential publication will be coordinated by the NSC's Office of Access Management in accordance with Executive Order 13233.

Sincerely,

Brett M. Kavanaugh
Associate Counsel to the President

Cc: Bill Leary, NSC~~Nancy Smith~~
Dr. Marc J. Susser

From: CN=William H. Leary/OU=NSC/O=EOP [NSC]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 8/7/2002 7:37:39 AM
Subject: : Re: please review
Attachments: P_G69B9003_WHO.TXT_1.doc; P_G69B9003_WHO.TXT_2.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:William H. Leary (CN=William H. Leary/OU=NSC/O=EOP [NSC])
CREATION DATE/TIME: 7-AUG-2002 11:37:39.00
SUBJECT:: Re: please review
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett,

I have suggested a few changes. The added sentence at the end reflects the understanding I thought we had in the meeting with Gary and Nancy.

Brett M. Kavanaugh
08/06/2002 12:57:14 PM
Record Type: Record

To: William H. Leary/NSC/EOP@EOP
cc:
Subject: please review

draft letter on Historian access to NSC institutional files. please give me any thoughts.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_G69B9003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_G69B9003_WHO.TXT_2>

August 6, 2002

Rod Soubers
Director, Access Management
National Security Council
Washington, DC 20504

Dear Mr. Soubers:

This letter approves general access by Department of State historians to the National Security Council institutional files requested by Dr. Marc Susser, the Historian of the Department of State. These NSC files are maintained at the National Archives and Records Administration and at certain presidential libraries. The Historian's Office will request access for individual historians and provide their specific research subjects. It also will verify the historians' clearances with the National Archives and Records Administration.

This letter does not approve the disclosure of any records or information reviewed or obtained by the historians during their research. All rights, privileges, and immunities pertaining to the reviewed records, and the information contained therein, are reserved pending subsequent review and decision.

Sincerely,

Brett M. Kavanaugh
Associate Counsel to the President

Cc: Nancy Smith
Dr. Marc J. Susser

August 6, 2002

~~Rod Soubers~~
~~Director, Access Management~~
~~National Security Council~~
Ms. Nancy K. Smith
Director, Presidential Materials Staff
National Archives & Records Administration

Washington, DC 20408~~504~~

Dear Mr. Soubers:

This letter approves general access by Department of State historians to the National Security Council institutional files requested by Dr. Marc Susser, the Historian of the Department of State. These NSC files are maintained ~~at~~as presidential records in the legal custody of the National Archives and Records Administration~~ and at certain presidential libraries~~. The Historian's Office will request access for individual historians and provide their specific research subjects. It also will verify the historians' clearances with the National Archives and Records Administration.

This letter does not approve the disclosure of any records or information reviewed or obtained by the historians during their research. All rights, privileges, and immunities pertaining to the reviewed records, and the information contained therein, are reserved pending subsequent review and decision. The review of all documents selected by the State Department for potential publication will be coordinated by the NSC's Office of Access Management in accordance with Executive Order 13233.

Sincerely,

Brett M. Kavanaugh
Associate Counsel to the President

Cc: Bill Leary, NSC~~Nancy Smith~~
Dr. Marc J. Susser

REV_00149370

From: CN=PostMaster/O=EOP [OA]

To: Candida P. Wolff/OVP/EOP [OVP] <Candida P. Wolff>;Heather Wingate/WHO/EOP [WHO] <Heather Wingate>;Daniel K. Wilmot/OVP/EOP [OVP] <Daniel K. Wilmot>;James R. Wilkinson/WHO/EOP [WHO] <James R. Wilkinson>;Jocelyn White/WHF/EOP [OPM] <Jocelyn White>;Lezlee J. Westine/WHO/EOP [WHO] <Lezlee J. Westine>;Peter H. Wehner/WHO/EOP [WHO] <Peter H. Wehner>;Paul A. Wedderien/NSC/EOP [NSC] <Paul A. Wedderien>;John P. Walters/ONDCP/EOP [ONDCP] <John P. Walters>;Helgard C. Walker/WHO/EOP [WHO] <Helgard C. Walker>;Jim Towey/WHO/EOP [WHO] <Jim Towey>;Catherine W. Tobias/OVP/EOP [OVP] <Catherine W. Tobias>;D. Marcus Sumerlin/OPD/EOP [OPD] <D. Marcus Sumerlin>;Jose G. Suarez/WHO/EOP [WHO] <Jose G. Suarez>;Aquiles F. Suarez/OPD/EOP [OPD] <Aquiles F. Suarez>;Angela B. Styles/OMB/EOP [OMB] <Angela B. Styles>;Mary K. Sturtevant/NSC/EOP [NSC] <Mary K. Sturtevant>;Margaret M. Spellings/OPD/EOP [OPD] <Margaret M. Spellings>;Deborah A. Spagnoli/WHO/EOP [WHO] <Deborah A. Spagnoli>;Mary A. Solberg/ONDCP/EOP [ONDCP] <Mary A. Solberg>;Augustine T. Smythe/OMB/EOP [OMB] <Augustine T. Smythe>;Kristen Silverberg/WHO/EOP [WHO] <Kristen Silverberg>;Joseph J. Shattan/WHO/EOP [WHO] <Joseph J. Shattan>;Thomas J. Sharpy/OVP/EOP [OVP] <Thomas J. Sharpy>;Scott N. Sforza/WHO/EOP [WHO] <Scott N. Sforza>;Howard A. Schmidt/NSC/EOP [NSC] <Howard A. Schmidt>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Daniel Schecter/ONDCP/EOP [ONDCP] <Daniel Schecter>;Diana L. Schacht/OPD/EOP [OPD] <Diana L. Schacht>;Desiree T. Sayle/WHO/EOP [WHO] <Desiree T. Sayle>;Kyle Sampson/WHO/EOP [WHO] <Kyle Sampson>;Richard M. Russell/OSTP/EOP [OSTP] <Richard M. Russell>;Stephen S. Ruhlen/OVP/EOP [OVP] <Stephen S. Ruhlen>;Karl C. Rove/WHO/EOP [WHO] <Karl C. Rove>;Mark V. Rosenker/WHO/EOP [WHO] <Mark V. Rosenker>;Thomas J. Ridge/WHO/EOP [WHO] <Thomas J. Ridge>;Condoleezza Rice/NSC/EOP [NSC] <Condoleezza Rice>;Nina Rees/OVP/EOP [OVP] <Nina Rees>;Craig Ray/WHO/EOP [WHO] <Craig Ray>;Dina Powell/WHO/EOP [WHO] <Dina Powell>;Anne E. Phelps/OPD/EOP [OPD] <Anne E. Phelps>;Philip J. Perry/OMB/EOP [OMB] <Philip J. Perry>;Anna M. Perez/NSC/EOP [NSC] <Anna M. Perez>;Eric C. Pelletier/OMB/EOP [OMB] <Eric C. Pelletier>;Marcus Peacock/OMB/EOP [OMB] <Marcus Peacock>;Neil S. Patel/OVP/EOP [OVP] <Neil S. Patel>;Sean C. O'Keefe/OMB/EOP [OMB] <Sean C. O'Keefe>;Ziad S. Ojakli/WHO/EOP [WHO] <Ziad S. Ojakli>;Claire M. O'Donnell/OVP/EOP [OVP] <Claire M. O'Donnell>;Jennifer G. Newstead/WHO/EOP [WHO] <Jennifer G. Newstead>;Susan K. Neely/WHO/EOP [WHO] <Susan K. Neely>;Edmund C. Moy/WHO/EOP [WHO] <Edmund C. Moy>;James F. Moriarty/NSC/EOP [NSC] <James F. Moriarty>;Brian D. Montgomery/WHO/EOP [WHO] <Brian D. Montgomery>;Michael H. Miller/WHO/EOP [WHO] <Michael H. Miller>;Franklin C. Miller/NSC/EOP [NSC] <Franklin C. Miller>;Harriet Miers/WHO/EOP [WHO] <Harriet Miers>;Ken Mehlman/WHO/EOP [WHO] <Ken Mehlman>;Edward McNally/WHO/EOP [WHO] <Edward McNally>;Robert C. McNally/OPD/EOP [OPD] <Robert C. McNally>;Stephen S. McMillin/OMB/EOP [OMB] <Stephen S. McMillin>;Brian V. McCormack/OVP/EOP [OVP] <Brian V. McCormack>;John P. McConnell/OVP/EOP [OVP] <John P. McConnell>;Scott McClellan/WHO/EOP [WHO] <Scott McClellan>;Mark McClellan/CEA/EOP [CEA] <Mark McClellan>;Mary J. Matalin/OVP/EOP [OVP] <Mary J. Matalin>;Catherine J. Martin/OVP/EOP [OVP] <Catherine J. Martin>;Robert Marsh/WHO/EOP [WHO] <Robert Marsh>;John H. Marburger/OSTP/EOP [OSTP] <John H. Marburger>;K. Philippa Malmgren/OPD/EOP [OPD] <K. Philippa Malmgren>;John F. Maisto/NSC/EOP [NSC] <John F. Maisto>;Robin A. MacLean/WHO/EOP [WHO] <Robin A. MacLean>;Ado A. Machida/OVP/EOP [OVP] <Ado A. Machida>;Andrew D. Lundquist/OVP/EOP [OVP] <Andrew D. Lundquist>;Deborah A. Loewer/NSC/EOP [NSC] <Deborah A. Loewer>;Roland N. Litterst/WHO/EOP [WHO] <Roland N. Litterst>;Lawrence B. Lindsey/OPD/EOP [OPD] <Lawrence B. Lindsey>;Lewis Libby/OVP/EOP [OVP] <Lewis Libby>;Dirksen Lehman/WHO/EOP [WHO] <Dirksen Lehman>;Jay P. Lefkowitz/OPD/EOP [OPD] <Jay P. Lefkowitz>;Laura S. Lawlor/WHO/EOP [WHO] <Laura S. Lawlor>;Bruce M. Lawlor/WHO/EOP [WHO] <Bruce M. Lawlor>;Phillip Larsen/OA/EOP [OA] <Phillip Larsen>;Paul B. Kurtz/NSC/EOP [NSC] <Paul B. Kurtz>;David Kuo/WHO/EOP [WHO] <David Kuo>;Randall S. Kroszner/CEA/EOP [CEA] <Randall S. Kroszner>;Karen Y. Knutson/OVP/EOP [OVP] <Karen Y. Knutson>;Frank G. Klotz/NSC/EOP [NSC] <Frank G. Klotz>;Elizabeth W. Kleppe/OVP/EOP [OVP] <Elizabeth W. Kleppe>;Ellis Kitchen/OA/EOP [OA] <Ellis Kitchen>;Matthew Kirk/WHO/EOP [WHO] <Matthew Kirk>;Zalmay M. Khalilzad/NSC/EOP [NSC] <Zalmay M. Khalilzad>;Daniel J. Keniry/WHO/EOP [WHO] <Daniel J. Keniry>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Joel D. Kaplan/WHO/EOP [WHO] <Joel D. Kaplan>;Charles D. McGrath Jr/OVP/EOP [OVP]

<Charles D. McGrath Jr>;Robert G. Joseph/NSC/EOP [NSC] <Robert G. Joseph>;Reuben Jeffery/OPD/EOP [OPD] <Reuben Jeffery>;Barry S. Jackson/WHO/EOP [WHO] <Barry S. Jackson>;Hector F. Irastorza/WHO/EOP [WHO] <Hector F. Irastorza>;Edward Ingle/WHO/EOP [WHO] <Edward Ingle>;Clay Johnson III/WHO/EOP [WHO] <Clay Johnson III>;Glenn Hubbard/CEA/EOP [CEA] <Glenn Hubbard>;Jack Howard/WHO/EOP [WHO] <Jack Howard>;Mark Holman/WHO/EOP [WHO] <Mark Holman>;David W. Hobbs/WHO/EOP [WHO] <David W. Hobbs>;Israel Hernandez/WHO/EOP [WHO] <Israel Hernandez>;Chris Henick/WHO/EOP [WHO] <Chris Henick>;Debra Heiden/OVP/EOP [OVP] <Debra Heiden>;Albert Hawkins/WHO/EOP [WHO] <Albert Hawkins>;Ronald Haskins/OPD/EOP [OPD] <Ronald Haskins>;John P. Hannah/OVP/EOP [OVP] <John P. Hannah>;John F. Haley/OVP/EOP [OVP] <John F. Haley>;Joseph W. Hagin/WHO/EOP [WHO] <Joseph W. Hagin>;Stephen J. Hadley/NSC/EOP [NSC] <Stephen J. Hadley>;Ann Gray/WHO/EOP [WHO] <Ann Gray>;John Graham/OMB/EOP [OMB] <John Graham>;John A. Gordon/NSC/EOP [NSC] <John A. Gordon>;Alberto R. Gonzales/WHO/EOP [WHO] <Alberto R. Gonzales>;Stephen Goldsmith/WHO/EOP [WHO] <Stephen Goldsmith>;Tim Goeglein/WHO/EOP [WHO] <Tim Goeglein>;Dylan C. Glenn/OPD/EOP [OPD] <Dylan C. Glenn>;Alan Gilbert/OPD/EOP [OPD] <Alan Gilbert>;Michael J. Gerson/WHO/EOP [WHO] <Michael J. Gerson>;Stephen M. Garrison/WHO/EOP [WHO] <Stephen M. Garrison>;Kelley Gannon/WHO/EOP [WHO] <Kelley Gannon>;Linda M. Gambatesa/WHO/EOP [WHO] <Linda M. Gambatesa>;Diana E. Furchtgott-Roth/CEA/EOP [CEA] <Diana E. Furchtgott-Roth>;Daniel Fried/NSC/EOP [NSC] <Daniel Fried>;Jendayi E. Frazer/NSC/EOP [NSC] <Jendayi E. Frazer>;Noel J. Francisco/WHO/EOP [WHO] <Noel J. Francisco>;Lawrence A. Fleischer/WHO/EOP [WHO] <Lawrence A. Fleischer>;Timothy E. Flanigan/WHO/EOP [WHO] <Timothy E. Flanigan>;Catherine S. Fenton/WHO/EOP [WHO] <Catherine S. Fenton>;Richard Falkenrath/WHO/EOP [WHO] <Richard Falkenrath>;Nanette Everson/WHO/EOP [WHO] <Nanette Everson>;Mark Everson/OMB/EOP [OMB] <Mark Everson>;Ashley Estes/WHO/EOP [WHO] <Ashley Estes>;Tucker A. Eskew/WHO/EOP [WHO] <Tucker A. Eskew>;Gary R. Edson/NSC/EOP [NSC] <Gary R. Edson>;Eric S. Edelman/OVP/EOP [OVP] <Eric S. Edelman>;Wayne A. Downing/NSC/EOP [NSC] <Wayne A. Downing>;Elizabeth S. Dougherty/OPD/EOP [OPD] <Elizabeth S. Dougherty>;Nancy P. Dorn/WHO/EOP [UNKNOWN] <Nancy P. Dorn>;Diana C. Donnelly/WHO/EOP [WHO] <Diana C. Donnelly>;Nicolle Devenish/WHO/EOP [WHO] <Nicolle Devenish>;Mitchell Daniels/OMB/EOP [OMB] <Mitchell Daniels>;James F. Daniel/OA/EOP [OA] <James F. Daniel>;Stacia L. Cropper/OA/EOP [OA] <Stacia L. Cropper>;Barry Crane/ONDCP/EOP [ONDCP] <Barry Crane>;John B. Craig/NSC/EOP [NSC] <John B. Craig>;Steven Cooper/WHO/EOP [WHO] <Steven Cooper>;Phil Cooney/CEQ/EOP [CEQ] <Phil Cooney>;Rebecca Contreras/WHO/EOP [WHO] <Rebecca Contreras>;Charles Conner/OPD/EOP [OPD] <Charles Conner>;James Connaughton/CEQ/EOP [CEQ] <James Connaughton>;Brian C. Conklin/WHO/EOP [WHO] <Brian C. Conklin>;Cesar Conda/OVP/EOP [OVP] <Cesar Conda>;Douglas F. Cochrane/OVP/EOP [OVP] <Douglas F. Cochrane>;Robert W. Cobb/WHO/EOP [UNKNOWN] <Robert W. Cobb>;John A. Cloud/NSC/EOP [NSC] <John A. Cloud>;Robin Cleveland/OMB/EOP [OMB] <Robin Cleveland>;Richard A. Clarke/NSC/EOP [NSC] <Richard A. Clarke>;Alicia P. Clark/WHO/EOP [WHO] <Alicia P. Clark>;Frank Cilluffo/WHO/EOP [WHO] <Frank Cilluffo>;Christine Ciccone/WHO/EOP [WHO] <Christine Ciccone>;Ronald I. Christie/OVP/EOP [UNKNOWN] <Ronald I. Christie>;Barbara C. Chaffee/WHO/EOP [WHO] <Barbara C. Chaffee>;Kirsten A. Chadwick/WHO/EOP [WHO] <Kirsten A. Chadwick>;Laura F. Chadwick/OVP/EOP [OVP] <Laura F. Chadwick>;Andrew H. Card/WHO/EOP [WHO] <Andrew H. Card>;James C. Capretta/OMB/EOP [OMB] <James C. Capretta>;Tim Campen/EOPEXCH [OA] <Tim Campen>;Nicholas E. Calio/WHO/EOP [WHO] <Nicholas E. Calio>;Scott Burns/ONDCP/EOP [ONDCP] <Scott Burns>;Katja Bullock/WHO/EOP [WHO] <Katja Bullock>;Carl Buchholz/WHO/EOP [WHO] <Carl Buchholz>;Claire E. Buchan/WHO/EOP [WHO] <Claire E. Buchan>;John M. Bridgeland/OPD/EOP [OPD] <John M. Bridgeland>;Rachel L. Brand/WHO/EOP [WHO] <Rachel L. Brand>;Stuart W. Bowen/WHO/EOP [WHO] <Stuart W. Bowen>;Carlos E. Bonilla/OPD/EOP [OPD] <Carlos E. Bonilla>;Joshua B. Bolten/WHO/EOP [WHO] <Joshua B. Bolten>;Lloyd A. Blanchard/OMB/EOP [UNKNOWN] <Lloyd A. Blanchard>;Kirk Blalock/WHO/EOP [WHO] <Kirk Blalock>;Bradley A. Blakeman/WHO/EOP [WHO] <Bradley A. Blakeman>;Charles P. Blahous/OPD/EOP [OPD] <Charles P. Blahous>;Stephen E. Biegun/NSC/EOP [NSC] <Stephen E. Biegun>;Rebecca A. Beynon/WHO/EOP [WHO] <Rebecca A. Beynon>;Janet L. Berman/OVP/EOP [OVP] <Janet L. Berman>;Bradford A. Berenson/WHO/EOP [WHO] <Bradford A. Berenson>;John B. Bellinger/NSC/EOP [NSC] <John B. Bellinger>;H. Christopher Bartolomucci/WHO/EOP [WHO] <H. Christopher Bartolomucci>;Daniel J. Bartlett/WHO/EOP [WHO] <Daniel J. Bartlett>;Andrea G. Barthwell/ONDCP/EOP [ONDCP] <Andrea G. Barthwell>;Ruben S. Barrales/WHO/EOP [WHO

] <Ruben S. Barrales>;Andrea G. Ball/WHO/EOP [WHO] <Andrea G. Ball>;Jackie Arends/WHO/EOP [WHO] <Jackie Arends>;George M. Andricos/NSC/EOP [NSC] <George M. Andricos>;Cathy Alix/WHO/EOP [WHO] <Cathy Alix>;Penrose C. Albright/OSTP/EOP [OSTP] <Penrose C. Albright>;David S. Addington/OVP/EOP [OVP] <David S. Addington>;Elliott Abrams/NSC/EOP [NSC] <Elliott Abrams>;Charles S. Abbot/OVP/EOP [OVP] <Charles S. Abbot>;Christina H. Yarmchuk/NSC/EOP [NSC] <Christina H. Yarmchuk>;Anne Womack/WHO/EOP [WHO] <Anne Womack>;Gina M. Wolford/NSC/EOP [NSC] <Gina M. Wolford>;Harry W. Wolff/WHO/EOP [WHO] <Harry W. Wolff>;Alexian T. Wines/NSC/EOP [NSC] <Alexian T. Wines>;Patricia Williams/WHO/EOP [WHO] <Patricia Williams>;Jared B. Weinstein/WHO/EOP [WHO] <Jared B. Weinstein>;Matthew C. Waxman/NSC/EOP [NSC] <Matthew C. Waxman>;Lauren J. Vestewig/OPD/EOP [OPD] <Lauren J. Vestewig>;Sibyl M. Turner/WHO/EOP [WHO] <Sibyl M. Turner>;Terrill G. Tucker/NSC/EOP [NSC] <Terrill G. Tucker>;Tevi Troy/OPD/EOP [OPD] <Tevi Troy>;Anne Trenolone/WHO/EOP [WHO] <Anne Trenolone>;Carol J. Thompson/WHO/EOP [WHO] <Carol J. Thompson>;Julieanne H. Thomas/WHO/EOP [WHO] <Julieanne H. Thomas>;Rachael L. Sunbarger/WHO/EOP [WHO] <Rachael L. Sunbarger>;Susan L. Sterner/WHO/EOP [WHO] <Susan L. Sterner>;Ashley Snee/WHO/EOP [WHO] <Ashley Snee>;Pamela J. Seward/WHO/EOP [WHO] <Pamela J. Seward>;Robert E. Schubert/NSC/EOP [NSC] <Robert E. Schubert>;Deborah Sandler/NSC/EOP [NSC] <Deborah Sandler>;Jean M. Russell/OPD/EOP [OPD] <Jean M. Russell>;Peter M. Rowan/WHO/EOP [UNKNOWN] <Peter M. Rowan>;Noelia Rodriguez/WHO/EOP [WHO] <Noelia Rodriguez>;Josephine B. Robinson/WHO/EOP [WHO] <Josephine B. Robinson>;Maurice C. Robinson/NSC/EOP [NSC] <Maurice C. Robinson>;Christina D. Roberts/WHO/EOP [WHO] <Christina D. Roberts>;Krista L. Ritacco/WHO/EOP [WHO] <Krista L. Ritacco>;Robert J. Riley/NSC/EOP [NSC] <Robert J. Riley>;Allison L. Riepenhoff/WHO/EOP [WHO] <Allison L. Riepenhoff>;January M. Riecke/WHO/EOP [WHO] <January M. Riecke>;Katherine A. Rhodes/WHO/EOP [WHO] <Katherine A. Rhodes>;Tim Reynolds/WHO/EOP [WHO] <Tim Reynolds>;David Reyes/NSC/EOP [NSC] <David Reyes>;Susan B. Ralston/WHO/EOP [WHO] <Susan B. Ralston>;Leslie E. Radcliff/NSC/EOP [NSC] <Leslie E. Radcliff>;Clare Pritchett/WHO/EOP [WHO] <Clare Pritchett>;Suzanne Primoff/WHO/EOP [WHO] <Suzanne Primoff>;John I. Pray/NSC/EOP [NSC] <John I. Pray>;Elizabeth D. Pollock/WHO/EOP [WHO] <Elizabeth D. Pollock>;Susan D. Phillips/NSC/EOP [NSC] <Susan D. Phillips>;Sarah Penny/WHO/EOP [WHO] <Sarah Penny>;Raymond H. Payne/NSC/EOP [NSC] <Raymond H. Payne>;Richard S. Paulus/WHO/EOP [WHO] <Richard S. Paulus>;Edward J. Padinske/NSC/EOP [NSC] <Edward J. Padinske>;Eric H. Otto/OPD/EOP [OPD] <Eric H. Otto>;Virginia R. Neumann/NSC/EOP [NSC] <Virginia R. Neumann>;Lee B. Mynatt/NSC/EOP [NSC] <Lee B. Mynatt>;Steven Myers/NSC/EOP [NSC] <Steven Myers>;Sarah M. Garrison/WHO/EOP [WHO] <Sarah M. Garrison>;Paul L. Morse/WHO/EOP [WHO] <Paul L. Morse>;Leslie A. Mooney/OPD/EOP [OPD] <Leslie A. Mooney>;Cathy L. Millison/NSC/EOP [NSC] <Cathy L. Millison>;Holly M. Miller/WHO/EOP [WHO] <Holly M. Miller>;Cynthia R. Mendl/WHO/EOP [WHO] <Cynthia R. Mendl>;Sonya E. Medina/WHO/EOP [WHO] <Sonya E. Medina>;Vickie A. McQuade/WHO/EOP [WHO] <Vickie A. McQuade>;Sara B. McIntosh/WHO/EOP [WHO] <Sara B. McIntosh>;Peter A. McCauley/NSC/EOP [NSC] <Peter A. McCauley>;Daniel M. McCarthy/WHO/EOP [WHO] <Daniel M. McCarthy>;William D. Mathews/NSC/EOP [NSC] <William D. Mathews>;Thomas S. Marsh/NSC/EOP [NSC] <Thomas S. Marsh>;Heather M. Lyster/WHO/EOP [WHO] <Heather M. Lyster>;Colleen Litkenhaus/WHO/EOP [WHO] <Colleen Litkenhaus>;Lindsey M. Lineweaver/WHO/EOP [WHO] <Lindsey M. Lineweaver>;Laura E. Lineberry/NSC/EOP [NSC] <Laura E. Lineberry>;Adam L. Levine/WHO/EOP [WHO] <Adam L. Levine>;Christopher S. Legrand/NSC/EOP [NSC] <Christopher S. Legrand>;Sang W. Lee/NSC/EOP [NSC] <Sang W. Lee>;Jennie M. Koch/NSC/EOP [NSC] <Jennie M. Koch>;Andrew M. Kaver/NSC/EOP [UNKNOWN] <Andrew M. Kaver>;Dora Kale/NSC/EOP [NSC] <Dora Kale>;Alexander S. Joves/NSC/EOP [NSC] <Alexander S. Joves>;M. Kay Joshi/NSC/EOP [NSC] <M. Kay Joshi>;Alison Jones/WHO/EOP [WHO] <Alison Jones>;Megan R. Johnston/WHO/EOP [WHO] <Megan R. Johnston>;Sydney R. Johnson/WHO/EOP [WHO] <Sydney R. Johnson>;Clarence C. Johnson/NSC/EOP [NSC] <Clarence C. Johnson>;Gordon D. Johndroe/WHO/EOP [WHO] <Gordon D. Johndroe>;Melanie A. Jackson/WHO/EOP [WHO] <Melanie A. Jackson>;Marilyn R. Jacanin/WHO/EOP [WHO] <Marilyn R. Jacanin>;Theresa M. Hunter/NSC/EOP [NSC] <Theresa M. Hunter>;A. Merrill Hughes/WHO/EOP [UNKNOWN] <A. Merrill Hughes>;Lamont S. Hoyer/NSC/EOP [NSC] <Lamont S. Hoyer>;Jeffrey P. Houle/NSC/EOP [NSC] <Jeffrey P. Houle>;Ashley Holbrook/WHO/EOP [WHO] <Ashley Holbrook>;Josephine L. Hirsch/WHO/EOP [WHO] <Josephine L. Hirsch>;Jane C. Heishman/NSC/EOP [NSC] <Jane C. Heishman>;Anne Heiligenstein/WHO/EOP [WHO] <Anne Heiligenstein>;Robert C. Hargis/NSC/EOP [NSC]

<Robert C. Hargis>;Alison M. Harden/WHO/EOP [WHO] <Alison M. Harden>;Mary Ann Hanusa/WHO/EOP [WHO] <Mary Ann Hanusa>;Thomas A. Hall/NSC/EOP [NSC] <Thomas A. Hall>;Mary A. Haines/NSC/EOP [NSC] <Mary A. Haines>;Katharina M. Hager/WHO/EOP [WHO] <Katharina M. Hager>;Henry C. Hager/WHO/EOP [WHO] <Henry C. Hager>;Albert J. Guarnieri/NSC/EOP [NSC] <Albert J. Guarnieri>;Ginger G. Loper/WHO/EOP [WHO] <Ginger G. Loper>;Andrew W. Green/NSC/EOP [NSC] <Andrew W. Green>;Emily S. Gray/WHO/EOP [WHO] <Emily S. Gray>;Wendy E. Gray/NSC/EOP [NSC] <Wendy E. Gray>;Britt Grant/OPD/EOP [OPD] <Britt Grant>;Blake Gottesman/WHO/EOP [WHO] <Blake Gottesman>;Travis C. Good/NSC/EOP [NSC] <Travis C. Good>;Georgia D. Godfrey/WHO/EOP [WHO] <Georgia D. Godfrey>;Eleanor L. Gillmor/OPD/EOP [OPD] <Eleanor L. Gillmor>;Dorothy C. Garvin/WHO/EOP [WHO] <Dorothy C. Garvin>;Joachim D. Fuchs/NSC/EOP [NSC] <Joachim D. Fuchs>;Barbara J. Finn/OA/EOP [OA] <Barbara J. Finn>;Kara G. Figg/WHO/EOP [WHO] <Kara G. Figg>;Jeanie L. Figg/WHO/EOP [WHO] <Jeanie L. Figg>;Jennifer D. Field/OVP/EOP [OVP] <Jennifer D. Field>;Charlene E. Fern/WHO/EOP [WHO] <Charlene E. Fern>;Douglas M. Erdahl/NSC/EOP [NSC] <Douglas M. Erdahl>;Ruth E. Elliott/NSC/EOP [NSC] <Ruth E. Elliott>;Kady Dunlap/WHO/EOP [WHO] <Kady Dunlap>;Eric A. Draper/WHO/EOP [WHO] <Eric A. Draper>;Joan R. Doty/WHO/EOP [WHO] <Joan R. Doty>;Katherine L. Disston/WHO/EOP [WHO] <Katherine L. Disston>;Reed Dickens/WHO/EOP [WHO] <Reed Dickens>;Josh Deckard/WHO/EOP [WHO] <Josh Deckard>;Ashley E. Davis/WHO/EOP [WHO] <Ashley E. Davis>;Jill Davie/WHO/EOP [WHO] <Jill Davie>;Karen D. Cruson/WHO/EOP [WHO] <Karen D. Cruson>;Colin Crosby/NSC/EOP [NSC] <Colin Crosby>;Lynn A. Crable/WHO/EOP [WHO] <Lynn A. Crable>;Colby J. Cooper/NSC/EOP [NSC] <Colby J. Cooper>;Michael J. Conway/WHO/EOP [WHO] <Michael J. Conway>;Carolyn E. Cleveland/WHO/EOP [WHO] <Carolyn E. Cleveland>;Shane P. Chambers/WHO/EOP [WHO] <Shane P. Chambers>;Lois A. Cassano/WHO/EOP [WHO] <Lois A. Cassano>;Pamela R. Casey/WHO/EOP [WHO] <Pamela R. Casey>;Anne E. Campbell/WHO/EOP [WHO] <Anne E. Campbell>;Elizabeth N. Camp/WHO/EOP [WHO] <Elizabeth N. Camp>;Marcia J. Caler/NSC/EOP [UNKNOWN] <Marcia J. Caler>;Johnathan C. Bunting/NSC/EOP [NSC] <Johnathan C. Bunting>;Patrick J. Bumatay/WHO/EOP [WHO] <Patrick J. Bumatay>;Marko R. Broz/NSC/EOP [NSC] <Marko R. Broz>;Bonnie S. Broadwick/NSC/EOP [NSC] <Bonnie S. Broadwick>;Gary E. Bresnahan/NSC/EOP [NSC] <Gary E. Bresnahan>;Brian Bravo/WHO/EOP [WHO] <Brian Bravo>;Jay P. Bonds/NSC/EOP [NSC] <Jay P. Bonds>;David R. Bohrer/OVP/EOP [OVP] <David R. Bohrer>;Debra D. Bird/WHO/EOP [WHO] <Debra D. Bird>;Melissa S. Bennett/WHO/EOP [WHO] <Melissa S. Bennett>;Cheryl E. Barnett/NSC/EOP [NSC] <Cheryl E. Barnett>;Tiffany L. Barfield/WHO/EOP [WHO] <Tiffany L. Barfield>;Mitchell P. Backfield/NSC/EOP [NSC] <Mitchell P. Backfield>;Jill L. Angelo/WHO/EOP [UNKNOWN] <Jill L. Angelo>;Ashleigh A. Adams/WHO/EOP [UNKNOWN] <Ashleigh A. Adams>

Sent: 8/8/2002 4:36:22 AM

Subject: : Postmaster: White House Mess Hours

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME: 8-AUG-2002 08:36:22.00
SUBJECT:: Postmaster: White House Mess Hours
TO:Candida P. Wolff ( CN=Candida P. Wolff/OU=OVP/O=EOP [ OVP ] )
READ:UNKNOWN
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Daniel K. Wilmot ( CN=Daniel K. Wilmot/OU=OVP/O=EOP [ OVP ] )
READ:UNKNOWN
TO:James R. Wilkinson ( CN=James R. Wilkinson/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Jocelyn White ( CN=Jocelyn White/OU=WHF/O=EOP [ OPM ] )
READ:UNKNOWN
TO:Lezlee J. Westine ( CN=Lezlee J. Westine/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Peter H. Wehner ( CN=Peter H. Wehner/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Paul A. Wedderien ( CN=Paul A. Wedderien/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:John P. Walters ( CN=John P. Walters/OU=ONDCP/O=EOP [ ONDCP ] )
```

READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine W. Tobias (CN=Catherine W. Tobias/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:D. Marcus Sumerlin (CN=D. Marcus Sumerlin/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Jose G. Suarez (CN=Jose G. Suarez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Aquiles F. Suarez (CN=Aquiles F. Suarez/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Angela B. Styles (CN=Angela B. Styles/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary A. Solberg (CN=Mary A. Solberg/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Augustine T. Smythe (CN=Augustine T. Smythe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joseph J. Shattan (CN=Joseph J. Shattan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Sharpy (CN=Thomas J. Sharpy/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Howard A. Schmidt (CN=Howard A. Schmidt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel Schecter (CN=Daniel Schecter/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard M. Russell (CN=Richard M. Russell/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Stephen S. Ruhlen (CN=Stephen S. Ruhlen/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark V. Rosenker (CN=Mark V. Rosenker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Ridge (CN=Thomas J. Ridge/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Nina Rees (CN=Nina Rees/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Craig Ray (CN=Craig Ray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne E. Phelps (CN=Anne E. Phelps/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])

READ:UNKNOWN
TO:Eric C. Pelletier (CN=Eric C. Pelletier/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Marcus Peacock (CN=Marcus Peacock/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Neil S. Patel (CN=Neil S. Patel/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Sean C. O'Keefe (CN=Sean C. O'Keefe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire M. O'Donnell (CN=Claire M. O'Donnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan K. Neely (CN=Susan K. Neely/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen S. McMillin (CN=Stephen S. McMillin/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark McClellan (CN=Mark McClellan/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Mary J. Matalin (CN=Mary J. Matalin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Catherine J. Martin (CN=Catherine J. Martin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John H. Marburger (CN=John H. Marburger/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:K. Philippa Malmgren (CN=K. Philippa Malmgren/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:John F. Maisto (CN=John F. Maisto/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin A. MacLean (CN=Robin A. MacLean/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ado A. Machida (CN=Ado A. Machida/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Andrew D. Lundquist (CN=Andrew D. Lundquist/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Deborah A. Loewer (CN=Deborah A. Loewer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence B. Lindsey (CN=Lawrence B. Lindsey/OU=OPD/O=EOP [OPD])

READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Dirksen Lehman (CN=Dirksen Lehman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Laura S. Lawlor (CN=Laura S. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bruce M. Lawlor (CN=Bruce M. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Phillip Larsen (CN=Phillip Larsen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Randall S. Kroszner (CN=Randall S. Kroszner/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Karen Y. Knutson (CN=Karen Y. Knutson/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Frank G. Klotz (CN=Frank G. Klotz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Ellis Kitchen (CN=Ellis Kitchen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles D. McGrath Jr (CN=Charles D. McGrath Jr/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Reuben Jeffery (CN=Reuben Jeffery/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hector F. Irastorza (CN=Hector F. Irastorza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Glenn Hubbard (CN=Glenn Hubbard/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Jack Howard (CN=Jack Howard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Holman (CN=Mark Holman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Chris Henick (CN=Chris Henick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Debra Heiden (CN=Debra Heiden/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Albert Hawkins (CN=Albert Hawkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald Haskins (CN=Ronald Haskins/OU=OPD/O=EOP [OPD])

READ:UNKNOWN
TO:John P. Hannah (CN=John P. Hannah/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John F. Haley (CN=John F. Haley/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John Graham (CN=John Graham/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:John A. Gordon (CN=John A. Gordon/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen Goldsmith (CN=Stephen Goldsmith/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen M. Garrison (CN=Stephen M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Diana E. Furchtgott-Roth (CN=Diana E. Furchtgott-Roth/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Timothy E. Flanigan (CN=Timothy E. Flanigan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Everson (CN=Mark Everson/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric S. Edelman (CN=Eric S. Edelman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Wayne A. Downing (CN=Wayne A. Downing/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Nancy P. Dorn (CN=Nancy P. Dorn/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Diana C. Donnelly (CN=Diana C. Donnelly/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:James F. Daniel (CN=James F. Daniel/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Stacia L. Cropper (CN=Stacia L. Cropper/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Barry Crane (CN=Barry Crane/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:John B. Craig (CN=John B. Craig/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Steven Cooper (CN=Steven Cooper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:James Connaughton (CN=James Connaughton/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cesar Conda (CN=Cesar Conda/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Douglas F. Cochrane (CN=Douglas F. Cochrane/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert W. Cobb (CN=Robert W. Cobb/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:John A. Cloud (CN=John A. Cloud/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin Cleveland (CN=Robin Cleveland/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Richard A. Clarke (CN=Richard A. Clarke/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Frank Cilluffo (CN=Frank Cilluffo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christine Ciccone (CN=Christine Ciccone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Barbara C. Chaffee (CN=Barbara C. Chaffee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Laura F. Chadwick (CN=Laura F. Chadwick/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James C. Capretta (CN=James C. Capretta/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Tim Campen (CN=Tim Campen/O=EOPEXCH [OA])
READ:UNKNOWN
TO:Nicholas E. Calio (CN=Nicholas E. Calio/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott Burns (CN=Scott Burns/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carl Buchholz (CN=Carl Buchholz/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])

READ:UNKNOWN
TO:Rachel L. Brand (CN=Rachel L. Brand/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stuart W. Bowen (CN=Stuart W. Bowen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carlos E. Bonilla (CN=Carlos E. Bonilla/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lloyd A. Blanchard (CN=Lloyd A. Blanchard/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Kirk Blalock (CN=Kirk Blalock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen E. Biegun (CN=Stephen E. Biegun/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Janet L. Berman (CN=Janet L. Berman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Barthwell (CN=Andrea G. Barthwell/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Cathy Alix (CN=Cathy Alix/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Penrose C. Albright (CN=Penrose C. Albright/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Christina H. Yarmchuk (CN=Christina H. Yarmchuk/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anne Womack (CN=Anne Womack/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gina M. Wolford (CN=Gina M. Wolford/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harry W. Wolff (CN=Harry W. Wolff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Alexian T. Wines (CN=Alexian T. Wines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patricia Williams (CN=Patricia Williams/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jared B. Weinstein (CN=Jared B. Weinstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Matthew C. Waxman (CN=Matthew C. Waxman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lauren J. Vestewig (CN=Lauren J. Vestewig/OU=OPD/O=EOP [OPD])

READ:UNKNOWN
TO:Sibyl M. Turner (CN=Sibyl M. Turner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Terrill G. Tucker (CN=Terrill G. Tucker/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tevi Troy (CN=Tevi Troy/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Anne Trenolone (CN=Anne Trenolone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carol J. Thompson (CN=Carol J. Thompson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Julieanne H. Thomas (CN=Julieanne H. Thomas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Rachael L. Sunbarger (CN=Rachael L. Sunbarger/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan L. Sterner (CN=Susan L. Sterner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Pamela J. Seward (CN=Pamela J. Seward/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert E. Schubert (CN=Robert E. Schubert/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Deborah Sandler (CN=Deborah Sandler/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jean M. Russell (CN=Jean M. Russell/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Peter M. Rowan (CN=Peter M. Rowan/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Noelia Rodriguez (CN=Noelia Rodriguez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine B. Robinson (CN=Josephine B. Robinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Maurice C. Robinson (CN=Maurice C. Robinson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Christina D. Roberts (CN=Christina D. Roberts/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert J. Riley (CN=Robert J. Riley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Allison L. Riepenhoff (CN=Allison L. Riepenhoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:January M. Riecke (CN=January M. Riecke/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Rhodes (CN=Katherine A. Rhodes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Reynolds (CN=Tim Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David Reyes (CN=David Reyes/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie E. Radcliff (CN=Leslie E. Radcliff/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Clare Pritchett (CN=Clare Pritchett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Suzanne Primoff (CN=Suzanne Primoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John I. Pray (CN=John I. Pray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth D. Pollock (CN=Elizabeth D. Pollock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan D. Phillips (CN=Susan D. Phillips/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah Penny (CN=Sarah Penny/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Raymond H. Payne (CN=Raymond H. Payne/OU=NSC/O=EOP [NSC])

READ:UNKNOWN
TO:Richard S. Paulus (CN=Richard S. Paulus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward J. Padinske (CN=Edward J. Padinske/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric H. Otto (CN=Eric H. Otto/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Virginia R. Neumann (CN=Virginia R. Neumann/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lee B. Mynatt (CN=Lee B. Mynatt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Steven Myers (CN=Steven Myers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah M. Garrison (CN=Sarah M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul L. Morse (CN=Paul L. Morse/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie A. Mooney (CN=Leslie A. Mooney/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Cathy L. Millison (CN=Cathy L. Millison/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Holly M. Miller (CN=Holly M. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cynthia R. Mendl (CN=Cynthia R. Mendl/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sonya E. Medina (CN=Sonya E. Medina/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Vickie A. McQuade (CN=Vickie A. McQuade/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sara B. McIntosh (CN=Sara B. McIntosh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter A. McCauley (CN=Peter A. McCauley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel M. McCarthy (CN=Daniel M. McCarthy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:William D. Mathews (CN=William D. Mathews/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Thomas S. Marsh (CN=Thomas S. Marsh/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Heather M. Lyster (CN=Heather M. Lyster/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lindsey M. Lineweaver (CN=Lindsey M. Lineweaver/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Laura E. Lineberry (CN=Laura E. Lineberry/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Adam L. Levine (CN=Adam L. Levine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christopher S. Legrand (CN=Christopher S. Legrand/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sang W. Lee (CN=Sang W. Lee/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jennie M. Koch (CN=Jennie M. Koch/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Andrew M. Kaver (CN=Andrew M. Kaver/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Dora Kale (CN=Dora Kale/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexander S. Joves (CN=Alexander S. Joves/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:M. Kay Joshi (CN=M. Kay Joshi/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Megan R. Johnston (CN=Megan R. Johnston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sydney R. Johnson (CN=Sydney R. Johnson/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Clarence C. Johnson (CN=Clarence C. Johnson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gordon D. Johndroe (CN=Gordon D. Johndroe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melanie A. Jackson (CN=Melanie A. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marilyn R. Jacanin (CN=Marilyn R. Jacanin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Theresa M. Hunter (CN=Theresa M. Hunter/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:A. Merrill Hughes (CN=A. Merrill Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Lamont S. Hoyer (CN=Lamont S. Hoyer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jeffrey P. Houle (CN=Jeffrey P. Houle/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ashley Holbrook (CN=Ashley Holbrook/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine L. Hirsch (CN=Josephine L. Hirsch/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jane C. Heishman (CN=Jane C. Heishman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anne Heiligenstein (CN=Anne Heiligenstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. Hargis (CN=Robert C. Hargis/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison M. Harden (CN=Alison M. Harden/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary Ann Hanusa (CN=Mary Ann Hanusa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas A. Hall (CN=Thomas A. Hall/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary A. Haines (CN=Mary A. Haines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Katharina M. Hager (CN=Katharina M. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Henry C. Hager (CN=Henry C. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Albert J. Guarnieri (CN=Albert J. Guarnieri/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew W. Green (CN=Andrew W. Green/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Emily S. Gray (CN=Emily S. Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wendy E. Gray (CN=Wendy E. Gray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Britt Grant (CN=Britt Grant/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Travis C. Good (CN=Travis C. Good/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Georgia D. Godfrey (CN=Georgia D. Godfrey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Dorothy C. Garvin (CN=Dorothy C. Garvin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joachim D. Fuchs (CN=Joachim D. Fuchs/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Barbara J. Finn (CN=Barbara J. Finn/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jeanie L. Figg (CN=Jeanie L. Figg/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Jennifer D. Field (CN=Jennifer D. Field/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Charlene E. Fern (CN=Charlene E. Fern/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Douglas M. Erdahl (CN=Douglas M. Erdahl/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ruth E. Elliott (CN=Ruth E. Elliott/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kady Dunlap (CN=Kady Dunlap/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eric A. Draper (CN=Eric A. Draper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joan R. Doty (CN=Joan R. Doty/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine L. Disston (CN=Katherine L. Disston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Reed Dickens (CN=Reed Dickens/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josh Deckard (CN=Josh Deckard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley E. Davis (CN=Ashley E. Davis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jill Davie (CN=Jill Davie/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Karen D. Cruson (CN=Karen D. Cruson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colin Crosby (CN=Colin Crosby/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lynn A. Crable (CN=Lynn A. Crable/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colby J. Cooper (CN=Colby J. Cooper/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Shane P. Chambers (CN=Shane P. Chambers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lois A. Cassano (CN=Lois A. Cassano/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Pamela R. Casey (CN=Pamela R. Casey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne E. Campbell (CN=Anne E. Campbell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marcia J. Caler (CN=Marcia J. Caler/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Johnathan C. Bunting (CN=Johnathan C. Bunting/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marko R. Broz (CN=Marko R. Broz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Bonnie S. Broadwick (CN=Bonnie S. Broadwick/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gary E. Bresnahan (CN=Gary E. Bresnahan/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jay P. Bonds (CN=Jay P. Bonds/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David R. Bohrer (CN=David R. Bohrer/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Cheryl E. Barnett (CN=Cheryl E. Barnett/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell P. Backfield (CN=Mitchell P. Backfield/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jill L. Angelo (CN=Jill L. Angelo/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Ashleigh A. Adams (CN=Ashleigh A. Adams/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

White House Mess Hours

Beginning Saturday, August 10, 2002, the White House Mess will be closed on Saturdays. There will be no other changes to the current Mess hours. The Mess will re-open for Saturday hours on September 7, 2002. In the event it is deemed necessary to change these arrangements, all Mess members will be notified.

Thank you.

From: CN=PostMaster/O=EOP [OA]

To: Candida P. Wolff/OVP/EOP [OVP] <Candida P. Wolff>;Heather Wingate/WHO/EOP [WHO] <Heather Wingate>;Daniel K. Wilmot/OVP/EOP [OVP] <Daniel K. Wilmot>;James R. Wilkinson/WHO/EOP [WHO] <James R. Wilkinson>;Jocelyn White/WHF/EOP [OPM] <Jocelyn White>;Lezlee J. Westine/WHO/EOP [WHO] <Lezlee J. Westine>;Peter H. Wehner/WHO/EOP [WHO] <Peter H. Wehner>;Paul A. Wedderien/NSC/EOP [NSC] <Paul A. Wedderien>;John P. Walters/ONDCP/EOP [ONDCP] <John P. Walters>;Helgard C. Walker/WHO/EOP [WHO] <Helgard C. Walker>;Jim Towey/WHO/EOP [WHO] <Jim Towey>;Catherine W. Tobias/OVP/EOP [OVP] <Catherine W. Tobias>;D. Marcus Sumerlin/OPD/EOP [OPD] <D. Marcus Sumerlin>;Jose G. Suarez/WHO/EOP [WHO] <Jose G. Suarez>;Aquiles F. Suarez/OPD/EOP [OPD] <Aquiles F. Suarez>;Angela B. Styles/OMB/EOP [OMB] <Angela B. Styles>;Mary K. Sturtevant/NSC/EOP [NSC] <Mary K. Sturtevant>;Margaret M. Spellings/OPD/EOP [OPD] <Margaret M. Spellings>;Deborah A. Spagnoli/WHO/EOP [WHO] <Deborah A. Spagnoli>;Mary A. Solberg/ONDCP/EOP [ONDCP] <Mary A. Solberg>;Augustine T. Smythe/OMB/EOP [OMB] <Augustine T. Smythe>;Kristen Silverberg/WHO/EOP [WHO] <Kristen Silverberg>;Joseph J. Shattan/WHO/EOP [WHO] <Joseph J. Shattan>;Thomas J. Sharpy/OVP/EOP [OVP] <Thomas J. Sharpy>;Scott N. Sforza/WHO/EOP [WHO] <Scott N. Sforza>;Howard A. Schmidt/NSC/EOP [NSC] <Howard A. Schmidt>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Daniel Schecter/ONDCP/EOP [ONDCP] <Daniel Schecter>;Diana L. Schacht/OPD/EOP [OPD] <Diana L. Schacht>;Desiree T. Sayle/WHO/EOP [WHO] <Desiree T. Sayle>;Kyle Sampson/WHO/EOP [WHO] <Kyle Sampson>;Richard M. Russell/OSTP/EOP [OSTP] <Richard M. Russell>;Stephen S. Ruhlen/OVP/EOP [OVP] <Stephen S. Ruhlen>;Karl C. Rove/WHO/EOP [WHO] <Karl C. Rove>;Mark V. Rosenker/WHO/EOP [WHO] <Mark V. Rosenker>;Thomas J. Ridge/WHO/EOP [WHO] <Thomas J. Ridge>;Condoleezza Rice/NSC/EOP [NSC] <Condoleezza Rice>;Nina Rees/OVP/EOP [OVP] <Nina Rees>;Craig Ray/WHO/EOP [WHO] <Craig Ray>;Dina Powell/WHO/EOP [WHO] <Dina Powell>;Anne E. Phelps/OPD/EOP [OPD] <Anne E. Phelps>;Philip J. Perry/OMB/EOP [OMB] <Philip J. Perry>;Anna M. Perez/NSC/EOP [NSC] <Anna M. Perez>;Eric C. Pelletier/OMB/EOP [OMB] <Eric C. Pelletier>;Marcus Peacock/OMB/EOP [OMB] <Marcus Peacock>;Neil S. Patel/OVP/EOP [OVP] <Neil S. Patel>;Sean C. O'Keefe/OMB/EOP [OMB] <Sean C. O'Keefe>;Ziad S. Ojakli/WHO/EOP [WHO] <Ziad S. Ojakli>;Claire M. O'Donnell/OVP/EOP [OVP] <Claire M. O'Donnell>;Jennifer G. Newstead/WHO/EOP [WHO] <Jennifer G. Newstead>;Susan K. Neely/WHO/EOP [WHO] <Susan K. Neely>;Edmund C. Moy/WHO/EOP [WHO] <Edmund C. Moy>;James F. Moriarty/NSC/EOP [NSC] <James F. Moriarty>;Brian D. Montgomery/WHO/EOP [WHO] <Brian D. Montgomery>;Michael H. Miller/WHO/EOP [WHO] <Michael H. Miller>;Franklin C. Miller/NSC/EOP [NSC] <Franklin C. Miller>;Harriet Miers/WHO/EOP [WHO] <Harriet Miers>;Ken Mehlman/WHO/EOP [WHO] <Ken Mehlman>;Edward McNally/WHO/EOP [WHO] <Edward McNally>;Robert C. McNally/OPD/EOP [OPD] <Robert C. McNally>;Stephen S. McMillin/OMB/EOP [OMB] <Stephen S. McMillin>;Brian V. McCormack/OVP/EOP [OVP] <Brian V. McCormack>;John P. McConnell/OVP/EOP [OVP] <John P. McConnell>;Scott McClellan/WHO/EOP [WHO] <Scott McClellan>;Mark McClellan/CEA/EOP [CEA] <Mark McClellan>;Mary J. Matalin/OVP/EOP [OVP] <Mary J. Matalin>;Catherine J. Martin/OVP/EOP [OVP] <Catherine J. Martin>;Robert Marsh/WHO/EOP [WHO] <Robert Marsh>;John H. Marburger/OSTP/EOP [OSTP] <John H. Marburger>;K. Philippa Malmgren/OPD/EOP [OPD] <K. Philippa Malmgren>;John F. Maisto/NSC/EOP [NSC] <John F. Maisto>;Robin A. MacLean/WHO/EOP [WHO] <Robin A. MacLean>;Ado A. Machida/OVP/EOP [OVP] <Ado A. Machida>;Andrew D. Lundquist/OVP/EOP [OVP] <Andrew D. Lundquist>;Deborah A. Loewer/NSC/EOP [NSC] <Deborah A. Loewer>;Roland N. Litterst/WHO/EOP [WHO] <Roland N. Litterst>;Lawrence B. Lindsey/OPD/EOP [OPD] <Lawrence B. Lindsey>;Lewis Libby/OVP/EOP [OVP] <Lewis Libby>;Dirksen Lehman/WHO/EOP [WHO] <Dirksen Lehman>;Jay P. Lefkowitz/OPD/EOP [OPD] <Jay P. Lefkowitz>;Laura S. Lawlor/WHO/EOP [WHO] <Laura S. Lawlor>;Bruce M. Lawlor/WHO/EOP [WHO] <Bruce M. Lawlor>;Phillip Larsen/OA/EOP [OA] <Phillip Larsen>;Paul B. Kurtz/NSC/EOP [NSC] <Paul B. Kurtz>;David Kuo/WHO/EOP [WHO] <David Kuo>;Randall S. Kroszner/CEA/EOP [CEA] <Randall S. Kroszner>;Karen Y. Knutson/OVP/EOP [OVP] <Karen Y. Knutson>;Frank G. Klotz/NSC/EOP [NSC] <Frank G. Klotz>;Elizabeth W. Kleppe/OVP/EOP [OVP] <Elizabeth W. Kleppe>;Ellis Kitchen/OA/EOP [OA] <Ellis Kitchen>;Matthew Kirk/WHO/EOP [WHO] <Matthew Kirk>;Zalmay M. Khalilzad/NSC/EOP [NSC] <Zalmay M. Khalilzad>;Daniel J. Keniry/WHO/EOP [WHO] <Daniel J. Keniry>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Joel D. Kaplan/WHO/EOP [WHO] <Joel D. Kaplan>;Charles D. McGrath Jr/OVP/EOP [OVP]

<Charles D. McGrath Jr>;Robert G. Joseph/NSC/EOP [NSC] <Robert G. Joseph>;Reuben Jeffery/OPD/EOP [OPD] <Reuben Jeffery>;Barry S. Jackson/WHO/EOP [WHO] <Barry S. Jackson>;Hector F. Irastorza/WHO/EOP [WHO] <Hector F. Irastorza>;Edward Ingle/WHO/EOP [WHO] <Edward Ingle>;Clay Johnson III/WHO/EOP [WHO] <Clay Johnson III>;Glenn Hubbard/CEA/EOP [CEA] <Glenn Hubbard>;Jack Howard/WHO/EOP [WHO] <Jack Howard>;Mark Holman/WHO/EOP [WHO] <Mark Holman>;David W. Hobbs/WHO/EOP [WHO] <David W. Hobbs>;Israel Hernandez/WHO/EOP [WHO] <Israel Hernandez>;Chris Henick/WHO/EOP [WHO] <Chris Henick>;Debra Heiden/OVP/EOP [OVP] <Debra Heiden>;Albert Hawkins/WHO/EOP [WHO] <Albert Hawkins>;Ronald Haskins/OPD/EOP [OPD] <Ronald Haskins>;John P. Hannah/OVP/EOP [OVP] <John P. Hannah>;John F. Haley/OVP/EOP [OVP] <John F. Haley>;Joseph W. Hagin/WHO/EOP [WHO] <Joseph W. Hagin>;Stephen J. Hadley/NSC/EOP [NSC] <Stephen J. Hadley>;Ann Gray/WHO/EOP [WHO] <Ann Gray>;John Graham/OMB/EOP [OMB] <John Graham>;John A. Gordon/NSC/EOP [NSC] <John A. Gordon>;Alberto R. Gonzales/WHO/EOP [WHO] <Alberto R. Gonzales>;Stephen Goldsmith/WHO/EOP [WHO] <Stephen Goldsmith>;Tim Goeglein/WHO/EOP [WHO] <Tim Goeglein>;Dylan C. Glenn/OPD/EOP [OPD] <Dylan C. Glenn>;Alan Gilbert/OPD/EOP [OPD] <Alan Gilbert>;Michael J. Gerson/WHO/EOP [WHO] <Michael J. Gerson>;Stephen M. Garrison/WHO/EOP [WHO] <Stephen M. Garrison>;Kelley Gannon/WHO/EOP [WHO] <Kelley Gannon>;Linda M. Gambatesa/WHO/EOP [WHO] <Linda M. Gambatesa>;Diana E. Furchtgott-Roth/CEA/EOP [CEA] <Diana E. Furchtgott-Roth>;Daniel Fried/NSC/EOP [NSC] <Daniel Fried>;Jendayi E. Frazer/NSC/EOP [NSC] <Jendayi E. Frazer>;Noel J. Francisco/WHO/EOP [WHO] <Noel J. Francisco>;Lawrence A. Fleischer/WHO/EOP [WHO] <Lawrence A. Fleischer>;Timothy E. Flanigan/WHO/EOP [WHO] <Timothy E. Flanigan>;Catherine S. Fenton/WHO/EOP [WHO] <Catherine S. Fenton>;Richard Falkenrath/WHO/EOP [WHO] <Richard Falkenrath>;Nanette Everson/WHO/EOP [WHO] <Nanette Everson>;Mark Everson/OMB/EOP [OMB] <Mark Everson>;Ashley Estes/WHO/EOP [WHO] <Ashley Estes>;Tucker A. Eskew/WHO/EOP [WHO] <Tucker A. Eskew>;Gary R. Edson/NSC/EOP [NSC] <Gary R. Edson>;Eric S. Edelman/OVP/EOP [OVP] <Eric S. Edelman>;Wayne A. Downing/NSC/EOP [NSC] <Wayne A. Downing>;Elizabeth S. Dougherty/OPD/EOP [OPD] <Elizabeth S. Dougherty>;Nancy P. Dorn/WHO/EOP [UNKNOWN] <Nancy P. Dorn>;Diana C. Donnelly/WHO/EOP [WHO] <Diana C. Donnelly>;Nicolle Devenish/WHO/EOP [WHO] <Nicolle Devenish>;Mitchell Daniels/OMB/EOP [OMB] <Mitchell Daniels>;James F. Daniel/OA/EOP [OA] <James F. Daniel>;Stacia L. Cropper/OA/EOP [OA] <Stacia L. Cropper>;Barry Crane/ONDCP/EOP [ONDCP] <Barry Crane>;John B. Craig/NSC/EOP [NSC] <John B. Craig>;Steven Cooper/WHO/EOP [WHO] <Steven Cooper>;Phil Cooney/CEQ/EOP [CEQ] <Phil Cooney>;Rebecca Contreras/WHO/EOP [WHO] <Rebecca Contreras>;Charles Conner/OPD/EOP [OPD] <Charles Conner>;James Connaughton/CEQ/EOP [CEQ] <James Connaughton>;Brian C. Conklin/WHO/EOP [WHO] <Brian C. Conklin>;Cesar Conda/OVP/EOP [OVP] <Cesar Conda>;Douglas F. Cochrane/OVP/EOP [OVP] <Douglas F. Cochrane>;Robert W. Cobb/WHO/EOP [UNKNOWN] <Robert W. Cobb>;John A. Cloud/NSC/EOP [NSC] <John A. Cloud>;Robin Cleveland/OMB/EOP [OMB] <Robin Cleveland>;Richard A. Clarke/NSC/EOP [NSC] <Richard A. Clarke>;Alicia P. Clark/WHO/EOP [WHO] <Alicia P. Clark>;Frank Cilluffo/WHO/EOP [WHO] <Frank Cilluffo>;Christine Ciccone/WHO/EOP [WHO] <Christine Ciccone>;Ronald I. Christie/OVP/EOP [UNKNOWN] <Ronald I. Christie>;Barbara C. Chaffee/WHO/EOP [WHO] <Barbara C. Chaffee>;Kirsten A. Chadwick/WHO/EOP [WHO] <Kirsten A. Chadwick>;Laura F. Chadwick/OVP/EOP [OVP] <Laura F. Chadwick>;Andrew H. Card/WHO/EOP [WHO] <Andrew H. Card>;James C. Capretta/OMB/EOP [OMB] <James C. Capretta>;Tim Campen/EOPEXCH [OA] <Tim Campen>;Nicholas E. Calio/WHO/EOP [WHO] <Nicholas E. Calio>;Scott Burns/ONDCP/EOP [ONDCP] <Scott Burns>;Katja Bullock/WHO/EOP [WHO] <Katja Bullock>;Carl Buchholz/WHO/EOP [WHO] <Carl Buchholz>;Claire E. Buchan/WHO/EOP [WHO] <Claire E. Buchan>;John M. Bridgeland/OPD/EOP [OPD] <John M. Bridgeland>;Rachel L. Brand/WHO/EOP [WHO] <Rachel L. Brand>;Stuart W. Bowen/WHO/EOP [WHO] <Stuart W. Bowen>;Carlos E. Bonilla/OPD/EOP [OPD] <Carlos E. Bonilla>;Joshua B. Bolten/WHO/EOP [WHO] <Joshua B. Bolten>;Lloyd A. Blanchard/OMB/EOP [UNKNOWN] <Lloyd A. Blanchard>;Kirk Blalock/WHO/EOP [WHO] <Kirk Blalock>;Bradley A. Blakeman/WHO/EOP [WHO] <Bradley A. Blakeman>;Charles P. Blahous/OPD/EOP [OPD] <Charles P. Blahous>;Stephen E. Biegun/NSC/EOP [NSC] <Stephen E. Biegun>;Rebecca A. Beynon/WHO/EOP [WHO] <Rebecca A. Beynon>;Janet L. Berman/OVP/EOP [OVP] <Janet L. Berman>;Bradford A. Berenson/WHO/EOP [WHO] <Bradford A. Berenson>;John B. Bellinger/NSC/EOP [NSC] <John B. Bellinger>;H. Christopher Bartolomucci/WHO/EOP [WHO] <H. Christopher Bartolomucci>;Daniel J. Bartlett/WHO/EOP [WHO] <Daniel J. Bartlett>;Andrea G. Barthwell/ONDCP/EOP [ONDCP] <Andrea G. Barthwell>;Ruben S. Barrales/WHO/EOP [WHO

] <Ruben S. Barrales>;Andrea G. Ball/WHO/EOP [WHO] <Andrea G. Ball>;Jackie Arends/WHO/EOP [WHO] <Jackie Arends>;George M. Andricos/NSC/EOP [NSC] <George M. Andricos>;Cathy Alix/WHO/EOP [WHO] <Cathy Alix>;Penrose C. Albright/OSTP/EOP [OSTP] <Penrose C. Albright>;David S. Addington/OVP/EOP [OVP] <David S. Addington>;Elliott Abrams/NSC/EOP [NSC] <Elliott Abrams>;Charles S. Abbot/OVP/EOP [OVP] <Charles S. Abbot>;Christina H. Yarmchuk/NSC/EOP [NSC] <Christina H. Yarmchuk>;Anne Womack/WHO/EOP [WHO] <Anne Womack>;Gina M. Wolford/NSC/EOP [NSC] <Gina M. Wolford>;Harry W. Wolff/WHO/EOP [WHO] <Harry W. Wolff>;Alexian T. Wines/NSC/EOP [NSC] <Alexian T. Wines>;Patricia Williams/WHO/EOP [WHO] <Patricia Williams>;Jared B. Weinstein/WHO/EOP [WHO] <Jared B. Weinstein>;Matthew C. Waxman/NSC/EOP [NSC] <Matthew C. Waxman>;Lauren J. Vestewig/OPD/EOP [OPD] <Lauren J. Vestewig>;Sibyl M. Turner/WHO/EOP [WHO] <Sibyl M. Turner>;Terrill G. Tucker/NSC/EOP [NSC] <Terrill G. Tucker>;Tevi Troy/OPD/EOP [OPD] <Tevi Troy>;Anne Trenolone/WHO/EOP [WHO] <Anne Trenolone>;Carol J. Thompson/WHO/EOP [WHO] <Carol J. Thompson>;Julieanne H. Thomas/WHO/EOP [WHO] <Julieanne H. Thomas>;Rachael L. Sunbarger/WHO/EOP [WHO] <Rachael L. Sunbarger>;Susan L. Sterner/WHO/EOP [WHO] <Susan L. Sterner>;Ashley Snee/WHO/EOP [WHO] <Ashley Snee>;Pamela J. Seward/WHO/EOP [WHO] <Pamela J. Seward>;Robert E. Schubert/NSC/EOP [NSC] <Robert E. Schubert>;Deborah Sandler/NSC/EOP [NSC] <Deborah Sandler>;Jean M. Russell/OPD/EOP [OPD] <Jean M. Russell>;Peter M. Rowan/WHO/EOP [UNKNOWN] <Peter M. Rowan>;Noelia Rodriguez/WHO/EOP [WHO] <Noelia Rodriguez>;Josephine B. Robinson/WHO/EOP [WHO] <Josephine B. Robinson>;Maurice C. Robinson/NSC/EOP [NSC] <Maurice C. Robinson>;Christina D. Roberts/WHO/EOP [WHO] <Christina D. Roberts>;Krista L. Ritacco/WHO/EOP [WHO] <Krista L. Ritacco>;Robert J. Riley/NSC/EOP [NSC] <Robert J. Riley>;Allison L. Riepenhoff/WHO/EOP [WHO] <Allison L. Riepenhoff>;January M. Riecke/WHO/EOP [WHO] <January M. Riecke>;Katherine A. Rhodes/WHO/EOP [WHO] <Katherine A. Rhodes>;Tim Reynolds/WHO/EOP [WHO] <Tim Reynolds>;David Reyes/NSC/EOP [NSC] <David Reyes>;Susan B. Ralston/WHO/EOP [WHO] <Susan B. Ralston>;Leslie E. Radcliff/NSC/EOP [NSC] <Leslie E. Radcliff>;Clare Pritchett/WHO/EOP [WHO] <Clare Pritchett>;Suzanne Primoff/WHO/EOP [WHO] <Suzanne Primoff>;John I. Pray/NSC/EOP [NSC] <John I. Pray>;Elizabeth D. Pollock/WHO/EOP [WHO] <Elizabeth D. Pollock>;Susan D. Phillips/NSC/EOP [NSC] <Susan D. Phillips>;Sarah Penny/WHO/EOP [WHO] <Sarah Penny>;Raymond H. Payne/NSC/EOP [NSC] <Raymond H. Payne>;Richard S. Paulus/WHO/EOP [WHO] <Richard S. Paulus>;Edward J. Padinske/NSC/EOP [NSC] <Edward J. Padinske>;Eric H. Otto/OPD/EOP [OPD] <Eric H. Otto>;Virginia R. Neumann/NSC/EOP [NSC] <Virginia R. Neumann>;Lee B. Mynatt/NSC/EOP [NSC] <Lee B. Mynatt>;Steven Myers/NSC/EOP [NSC] <Steven Myers>;Sarah M. Garrison/WHO/EOP [WHO] <Sarah M. Garrison>;Paul L. Morse/WHO/EOP [WHO] <Paul L. Morse>;Leslie A. Mooney/OPD/EOP [OPD] <Leslie A. Mooney>;Cathy L. Millison/NSC/EOP [NSC] <Cathy L. Millison>;Holly M. Miller/WHO/EOP [WHO] <Holly M. Miller>;Cynthia R. Mendl/WHO/EOP [WHO] <Cynthia R. Mendl>;Sonya E. Medina/WHO/EOP [WHO] <Sonya E. Medina>;Vickie A. McQuade/WHO/EOP [WHO] <Vickie A. McQuade>;Sara B. McIntosh/WHO/EOP [WHO] <Sara B. McIntosh>;Peter A. McCauley/NSC/EOP [NSC] <Peter A. McCauley>;Daniel M. McCarthy/WHO/EOP [WHO] <Daniel M. McCarthy>;William D. Mathews/NSC/EOP [NSC] <William D. Mathews>;Thomas S. Marsh/NSC/EOP [NSC] <Thomas S. Marsh>;Heather M. Lyster/WHO/EOP [WHO] <Heather M. Lyster>;Colleen Litkenhaus/WHO/EOP [WHO] <Colleen Litkenhaus>;Lindsey M. Lineweaver/WHO/EOP [WHO] <Lindsey M. Lineweaver>;Laura E. Lineberry/NSC/EOP [NSC] <Laura E. Lineberry>;Adam L. Levine/WHO/EOP [WHO] <Adam L. Levine>;Christopher S. Legrand/NSC/EOP [NSC] <Christopher S. Legrand>;Sang W. Lee/NSC/EOP [NSC] <Sang W. Lee>;Jennie M. Koch/NSC/EOP [NSC] <Jennie M. Koch>;Andrew M. Kaver/NSC/EOP [UNKNOWN] <Andrew M. Kaver>;Dora Kale/NSC/EOP [NSC] <Dora Kale>;Alexander S. Joves/NSC/EOP [NSC] <Alexander S. Joves>;M. Kay Joshi/NSC/EOP [NSC] <M. Kay Joshi>;Alison Jones/WHO/EOP [WHO] <Alison Jones>;Megan R. Johnston/WHO/EOP [WHO] <Megan R. Johnston>;Sydney R. Johnson/WHO/EOP [WHO] <Sydney R. Johnson>;Clarence C. Johnson/NSC/EOP [NSC] <Clarence C. Johnson>;Gordon D. Johndroe/WHO/EOP [WHO] <Gordon D. Johndroe>;Melanie A. Jackson/WHO/EOP [WHO] <Melanie A. Jackson>;Marilyn R. Jacanin/WHO/EOP [WHO] <Marilyn R. Jacanin>;Theresa M. Hunter/NSC/EOP [NSC] <Theresa M. Hunter>;A. Merrill Hughes/WHO/EOP [UNKNOWN] <A. Merrill Hughes>;Lamont S. Hoyer/NSC/EOP [NSC] <Lamont S. Hoyer>;Jeffrey P. Houle/NSC/EOP [NSC] <Jeffrey P. Houle>;Ashley Holbrook/WHO/EOP [WHO] <Ashley Holbrook>;Josephine L. Hirsch/WHO/EOP [WHO] <Josephine L. Hirsch>;Jane C. Heishman/NSC/EOP [NSC] <Jane C. Heishman>;Anne Heiligenstein/WHO/EOP [WHO] <Anne Heiligenstein>;Robert C. Hargis/NSC/EOP [NSC]

<Robert C. Hargis>;Alison M. Harden/WHO/EOP [WHO] <Alison M. Harden>;Mary Ann Hanusa/WHO/EOP [WHO] <Mary Ann Hanusa>;Thomas A. Hall/NSC/EOP [NSC] <Thomas A. Hall>;Mary A. Haines/NSC/EOP [NSC] <Mary A. Haines>;Katharina M. Hager/WHO/EOP [WHO] <Katharina M. Hager>;Henry C. Hager/WHO/EOP [WHO] <Henry C. Hager>;Albert J. Guarnieri/NSC/EOP [NSC] <Albert J. Guarnieri>;Ginger G. Loper/WHO/EOP [WHO] <Ginger G. Loper>;Andrew W. Green/NSC/EOP [NSC] <Andrew W. Green>;Emily S. Gray/WHO/EOP [WHO] <Emily S. Gray>;Wendy E. Gray/NSC/EOP [NSC] <Wendy E. Gray>;Britt Grant/OPD/EOP [OPD] <Britt Grant>;Blake Gottesman/WHO/EOP [WHO] <Blake Gottesman>;Travis C. Good/NSC/EOP [NSC] <Travis C. Good>;Georgia D. Godfrey/WHO/EOP [WHO] <Georgia D. Godfrey>;Eleanor L. Gillmor/OPD/EOP [OPD] <Eleanor L. Gillmor>;Dorothy C. Garvin/WHO/EOP [WHO] <Dorothy C. Garvin>;Joachim D. Fuchs/NSC/EOP [NSC] <Joachim D. Fuchs>;Barbara J. Finn/OA/EOP [OA] <Barbara J. Finn>;Kara G. Figg/WHO/EOP [WHO] <Kara G. Figg>;Jeanie L. Figg/WHO/EOP [WHO] <Jeanie L. Figg>;Jennifer D. Field/OVP/EOP [OVP] <Jennifer D. Field>;Charlene E. Fern/WHO/EOP [WHO] <Charlene E. Fern>;Douglas M. Erdahl/NSC/EOP [NSC] <Douglas M. Erdahl>;Ruth E. Elliott/NSC/EOP [NSC] <Ruth E. Elliott>;Kady Dunlap/WHO/EOP [WHO] <Kady Dunlap>;Eric A. Draper/WHO/EOP [WHO] <Eric A. Draper>;Joan R. Doty/WHO/EOP [WHO] <Joan R. Doty>;Katherine L. Disston/WHO/EOP [WHO] <Katherine L. Disston>;Reed Dickens/WHO/EOP [WHO] <Reed Dickens>;Josh Deckard/WHO/EOP [WHO] <Josh Deckard>;Ashley E. Davis/WHO/EOP [WHO] <Ashley E. Davis>;Jill Davie/WHO/EOP [WHO] <Jill Davie>;Karen D. Cruson/WHO/EOP [WHO] <Karen D. Cruson>;Colin Crosby/NSC/EOP [NSC] <Colin Crosby>;Lynn A. Crable/WHO/EOP [WHO] <Lynn A. Crable>;Colby J. Cooper/NSC/EOP [NSC] <Colby J. Cooper>;Michael J. Conway/WHO/EOP [WHO] <Michael J. Conway>;Carolyn E. Cleveland/WHO/EOP [WHO] <Carolyn E. Cleveland>;Shane P. Chambers/WHO/EOP [WHO] <Shane P. Chambers>;Lois A. Cassano/WHO/EOP [WHO] <Lois A. Cassano>;Pamela R. Casey/WHO/EOP [WHO] <Pamela R. Casey>;Anne E. Campbell/WHO/EOP [WHO] <Anne E. Campbell>;Elizabeth N. Camp/WHO/EOP [WHO] <Elizabeth N. Camp>;Marcia J. Caler/NSC/EOP [UNKNOWN] <Marcia J. Caler>;Johnathan C. Bunting/NSC/EOP [NSC] <Johnathan C. Bunting>;Patrick J. Bumatay/WHO/EOP [WHO] <Patrick J. Bumatay>;Marko R. Broz/NSC/EOP [NSC] <Marko R. Broz>;Bonnie S. Broadwick/NSC/EOP [NSC] <Bonnie S. Broadwick>;Gary E. Bresnahan/NSC/EOP [NSC] <Gary E. Bresnahan>;Brian Bravo/WHO/EOP [WHO] <Brian Bravo>;Jay P. Bonds/NSC/EOP [NSC] <Jay P. Bonds>;David R. Bohrer/OVP/EOP [OVP] <David R. Bohrer>;Debra D. Bird/WHO/EOP [WHO] <Debra D. Bird>;Melissa S. Bennett/WHO/EOP [WHO] <Melissa S. Bennett>;Cheryl E. Barnett/NSC/EOP [NSC] <Cheryl E. Barnett>;Tiffany L. Barfield/WHO/EOP [WHO] <Tiffany L. Barfield>;Mitchell P. Backfield/NSC/EOP [NSC] <Mitchell P. Backfield>;Jill L. Angelo/WHO/EOP [UNKNOWN] <Jill L. Angelo>;Ashleigh A. Adams/WHO/EOP [UNKNOWN] <Ashleigh A. Adams>

Sent: 8/8/2002 4:36:22 AM

Subject: : Postmaster: White House Mess Hours

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME: 8-AUG-2002 08:36:22.00
SUBJECT:: Postmaster: White House Mess Hours
TO:Candida P. Wolff ( CN=Candida P. Wolff/OU=OVP/O=EOP [ OVP ] )
READ:UNKNOWN
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Daniel K. Wilmot ( CN=Daniel K. Wilmot/OU=OVP/O=EOP [ OVP ] )
READ:UNKNOWN
TO:James R. Wilkinson ( CN=James R. Wilkinson/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Jocelyn White ( CN=Jocelyn White/OU=WHF/O=EOP [ OPM ] )
READ:UNKNOWN
TO:Lezlee J. Westine ( CN=Lezlee J. Westine/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Peter H. Wehner ( CN=Peter H. Wehner/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Paul A. Wedderien ( CN=Paul A. Wedderien/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:John P. Walters ( CN=John P. Walters/OU=ONDCP/O=EOP [ ONDCP ] )
```

READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine W. Tobias (CN=Catherine W. Tobias/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:D. Marcus Sumerlin (CN=D. Marcus Sumerlin/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Jose G. Suarez (CN=Jose G. Suarez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Aquiles F. Suarez (CN=Aquiles F. Suarez/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Angela B. Styles (CN=Angela B. Styles/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary A. Solberg (CN=Mary A. Solberg/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Augustine T. Smythe (CN=Augustine T. Smythe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joseph J. Shattan (CN=Joseph J. Shattan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Sharpy (CN=Thomas J. Sharpy/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Howard A. Schmidt (CN=Howard A. Schmidt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel Schecter (CN=Daniel Schecter/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard M. Russell (CN=Richard M. Russell/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Stephen S. Ruhlen (CN=Stephen S. Ruhlen/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark V. Rosenker (CN=Mark V. Rosenker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Ridge (CN=Thomas J. Ridge/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Nina Rees (CN=Nina Rees/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Craig Ray (CN=Craig Ray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne E. Phelps (CN=Anne E. Phelps/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])

READ:UNKNOWN
TO:Eric C. Pelletier (CN=Eric C. Pelletier/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Marcus Peacock (CN=Marcus Peacock/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Neil S. Patel (CN=Neil S. Patel/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Sean C. O'Keefe (CN=Sean C. O'Keefe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire M. O'Donnell (CN=Claire M. O'Donnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan K. Neely (CN=Susan K. Neely/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen S. McMillin (CN=Stephen S. McMillin/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark McClellan (CN=Mark McClellan/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Mary J. Matalin (CN=Mary J. Matalin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Catherine J. Martin (CN=Catherine J. Martin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John H. Marburger (CN=John H. Marburger/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:K. Philippa Malmgren (CN=K. Philippa Malmgren/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:John F. Maisto (CN=John F. Maisto/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin A. MacLean (CN=Robin A. MacLean/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ado A. Machida (CN=Ado A. Machida/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Andrew D. Lundquist (CN=Andrew D. Lundquist/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Deborah A. Loewer (CN=Deborah A. Loewer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence B. Lindsey (CN=Lawrence B. Lindsey/OU=OPD/O=EOP [OPD])

READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Dirksen Lehman (CN=Dirksen Lehman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Laura S. Lawlor (CN=Laura S. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bruce M. Lawlor (CN=Bruce M. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Phillip Larsen (CN=Phillip Larsen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Randall S. Kroszner (CN=Randall S. Kroszner/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Karen Y. Knutson (CN=Karen Y. Knutson/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Frank G. Klotz (CN=Frank G. Klotz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Ellis Kitchen (CN=Ellis Kitchen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles D. McGrath Jr (CN=Charles D. McGrath Jr/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Reuben Jeffery (CN=Reuben Jeffery/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hector F. Irastorza (CN=Hector F. Irastorza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Glenn Hubbard (CN=Glenn Hubbard/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Jack Howard (CN=Jack Howard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Holman (CN=Mark Holman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Chris Henick (CN=Chris Henick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Debra Heiden (CN=Debra Heiden/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Albert Hawkins (CN=Albert Hawkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald Haskins (CN=Ronald Haskins/OU=OPD/O=EOP [OPD])

READ:UNKNOWN
TO:John P. Hannah (CN=John P. Hannah/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John F. Haley (CN=John F. Haley/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John Graham (CN=John Graham/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:John A. Gordon (CN=John A. Gordon/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen Goldsmith (CN=Stephen Goldsmith/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen M. Garrison (CN=Stephen M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Diana E. Furchtgott-Roth (CN=Diana E. Furchtgott-Roth/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Timothy E. Flanigan (CN=Timothy E. Flanigan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Everson (CN=Mark Everson/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric S. Edelman (CN=Eric S. Edelman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Wayne A. Downing (CN=Wayne A. Downing/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Nancy P. Dorn (CN=Nancy P. Dorn/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Diana C. Donnelly (CN=Diana C. Donnelly/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:James F. Daniel (CN=James F. Daniel/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Stacia L. Cropper (CN=Stacia L. Cropper/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Barry Crane (CN=Barry Crane/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:John B. Craig (CN=John B. Craig/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Steven Cooper (CN=Steven Cooper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:James Connaughton (CN=James Connaughton/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cesar Conda (CN=Cesar Conda/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Douglas F. Cochrane (CN=Douglas F. Cochrane/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert W. Cobb (CN=Robert W. Cobb/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:John A. Cloud (CN=John A. Cloud/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin Cleveland (CN=Robin Cleveland/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Richard A. Clarke (CN=Richard A. Clarke/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Frank Cilluffo (CN=Frank Cilluffo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christine Ciccone (CN=Christine Ciccone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Barbara C. Chaffee (CN=Barbara C. Chaffee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Laura F. Chadwick (CN=Laura F. Chadwick/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James C. Capretta (CN=James C. Capretta/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Tim Campen (CN=Tim Campen/O=EOPEXCH [OA])
READ:UNKNOWN
TO:Nicholas E. Calio (CN=Nicholas E. Calio/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott Burns (CN=Scott Burns/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carl Buchholz (CN=Carl Buchholz/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])

READ:UNKNOWN
TO:Rachel L. Brand (CN=Rachel L. Brand/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stuart W. Bowen (CN=Stuart W. Bowen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carlos E. Bonilla (CN=Carlos E. Bonilla/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lloyd A. Blanchard (CN=Lloyd A. Blanchard/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Kirk Blalock (CN=Kirk Blalock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen E. Biegun (CN=Stephen E. Biegun/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Janet L. Berman (CN=Janet L. Berman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Barthwell (CN=Andrea G. Barthwell/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Cathy Alix (CN=Cathy Alix/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Penrose C. Albright (CN=Penrose C. Albright/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Christina H. Yarmchuk (CN=Christina H. Yarmchuk/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anne Womack (CN=Anne Womack/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gina M. Wolford (CN=Gina M. Wolford/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harry W. Wolff (CN=Harry W. Wolff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Alexian T. Wines (CN=Alexian T. Wines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patricia Williams (CN=Patricia Williams/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jared B. Weinstein (CN=Jared B. Weinstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Matthew C. Waxman (CN=Matthew C. Waxman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lauren J. Vestewig (CN=Lauren J. Vestewig/OU=OPD/O=EOP [OPD])

READ:UNKNOWN
TO:Sibyl M. Turner (CN=Sibyl M. Turner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Terrill G. Tucker (CN=Terrill G. Tucker/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tevi Troy (CN=Tevi Troy/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Anne Trenolone (CN=Anne Trenolone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carol J. Thompson (CN=Carol J. Thompson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Julieanne H. Thomas (CN=Julieanne H. Thomas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Rachael L. Sunbarger (CN=Rachael L. Sunbarger/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan L. Sterner (CN=Susan L. Sterner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Pamela J. Seward (CN=Pamela J. Seward/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert E. Schubert (CN=Robert E. Schubert/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Deborah Sandler (CN=Deborah Sandler/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jean M. Russell (CN=Jean M. Russell/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Peter M. Rowan (CN=Peter M. Rowan/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Noelia Rodriguez (CN=Noelia Rodriguez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine B. Robinson (CN=Josephine B. Robinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Maurice C. Robinson (CN=Maurice C. Robinson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Christina D. Roberts (CN=Christina D. Roberts/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert J. Riley (CN=Robert J. Riley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Allison L. Riepenhoff (CN=Allison L. Riepenhoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:January M. Riecke (CN=January M. Riecke/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Rhodes (CN=Katherine A. Rhodes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Reynolds (CN=Tim Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David Reyes (CN=David Reyes/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie E. Radcliff (CN=Leslie E. Radcliff/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Clare Pritchett (CN=Clare Pritchett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Suzanne Primoff (CN=Suzanne Primoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John I. Pray (CN=John I. Pray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth D. Pollock (CN=Elizabeth D. Pollock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan D. Phillips (CN=Susan D. Phillips/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah Penny (CN=Sarah Penny/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Raymond H. Payne (CN=Raymond H. Payne/OU=NSC/O=EOP [NSC])

READ:UNKNOWN
TO:Richard S. Paulus (CN=Richard S. Paulus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward J. Padinske (CN=Edward J. Padinske/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric H. Otto (CN=Eric H. Otto/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Virginia R. Neumann (CN=Virginia R. Neumann/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lee B. Mynatt (CN=Lee B. Mynatt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Steven Myers (CN=Steven Myers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah M. Garrison (CN=Sarah M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul L. Morse (CN=Paul L. Morse/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie A. Mooney (CN=Leslie A. Mooney/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Cathy L. Millison (CN=Cathy L. Millison/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Holly M. Miller (CN=Holly M. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cynthia R. Mendl (CN=Cynthia R. Mendl/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sonya E. Medina (CN=Sonya E. Medina/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Vickie A. McQuade (CN=Vickie A. McQuade/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sara B. McIntosh (CN=Sara B. McIntosh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter A. McCauley (CN=Peter A. McCauley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel M. McCarthy (CN=Daniel M. McCarthy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:William D. Mathews (CN=William D. Mathews/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Thomas S. Marsh (CN=Thomas S. Marsh/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Heather M. Lyster (CN=Heather M. Lyster/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lindsey M. Lineweaver (CN=Lindsey M. Lineweaver/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Laura E. Lineberry (CN=Laura E. Lineberry/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Adam L. Levine (CN=Adam L. Levine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christopher S. Legrand (CN=Christopher S. Legrand/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sang W. Lee (CN=Sang W. Lee/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jennie M. Koch (CN=Jennie M. Koch/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Andrew M. Kaver (CN=Andrew M. Kaver/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Dora Kale (CN=Dora Kale/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexander S. Joves (CN=Alexander S. Joves/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:M. Kay Joshi (CN=M. Kay Joshi/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Megan R. Johnston (CN=Megan R. Johnston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sydney R. Johnson (CN=Sydney R. Johnson/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Clarence C. Johnson (CN=Clarence C. Johnson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gordon D. Johndroe (CN=Gordon D. Johndroe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melanie A. Jackson (CN=Melanie A. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marilyn R. Jacanin (CN=Marilyn R. Jacanin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Theresa M. Hunter (CN=Theresa M. Hunter/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:A. Merrill Hughes (CN=A. Merrill Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Lamont S. Hoyer (CN=Lamont S. Hoyer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jeffrey P. Houle (CN=Jeffrey P. Houle/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ashley Holbrook (CN=Ashley Holbrook/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine L. Hirsch (CN=Josephine L. Hirsch/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jane C. Heishman (CN=Jane C. Heishman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anne Heiligenstein (CN=Anne Heiligenstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. Hargis (CN=Robert C. Hargis/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison M. Harden (CN=Alison M. Harden/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary Ann Hanusa (CN=Mary Ann Hanusa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas A. Hall (CN=Thomas A. Hall/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary A. Haines (CN=Mary A. Haines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Katharina M. Hager (CN=Katharina M. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Henry C. Hager (CN=Henry C. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Albert J. Guarnieri (CN=Albert J. Guarnieri/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew W. Green (CN=Andrew W. Green/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Emily S. Gray (CN=Emily S. Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wendy E. Gray (CN=Wendy E. Gray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Britt Grant (CN=Britt Grant/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Travis C. Good (CN=Travis C. Good/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Georgia D. Godfrey (CN=Georgia D. Godfrey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Dorothy C. Garvin (CN=Dorothy C. Garvin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joachim D. Fuchs (CN=Joachim D. Fuchs/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Barbara J. Finn (CN=Barbara J. Finn/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jeanie L. Figg (CN=Jeanie L. Figg/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Jennifer D. Field (CN=Jennifer D. Field/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Charlene E. Fern (CN=Charlene E. Fern/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Douglas M. Erdahl (CN=Douglas M. Erdahl/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ruth E. Elliott (CN=Ruth E. Elliott/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kady Dunlap (CN=Kady Dunlap/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eric A. Draper (CN=Eric A. Draper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joan R. Doty (CN=Joan R. Doty/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine L. Disston (CN=Katherine L. Disston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Reed Dickens (CN=Reed Dickens/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josh Deckard (CN=Josh Deckard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley E. Davis (CN=Ashley E. Davis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jill Davie (CN=Jill Davie/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Karen D. Cruson (CN=Karen D. Cruson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colin Crosby (CN=Colin Crosby/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lynn A. Crable (CN=Lynn A. Crable/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colby J. Cooper (CN=Colby J. Cooper/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Shane P. Chambers (CN=Shane P. Chambers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lois A. Cassano (CN=Lois A. Cassano/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Pamela R. Casey (CN=Pamela R. Casey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne E. Campbell (CN=Anne E. Campbell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marcia J. Caler (CN=Marcia J. Caler/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Johnathan C. Bunting (CN=Johnathan C. Bunting/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marko R. Broz (CN=Marko R. Broz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Bonnie S. Broadwick (CN=Bonnie S. Broadwick/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gary E. Bresnahan (CN=Gary E. Bresnahan/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jay P. Bonds (CN=Jay P. Bonds/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David R. Bohrer (CN=David R. Bohrer/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Cheryl E. Barnett (CN=Cheryl E. Barnett/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell P. Backfield (CN=Mitchell P. Backfield/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jill L. Angelo (CN=Jill L. Angelo/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Ashleigh A. Adams (CN=Ashleigh A. Adams/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

White House Mess Hours

Beginning Saturday, August 10, 2002, the White House Mess will be closed on Saturdays. There will be no other changes to the current Mess hours. The Mess will re-open for Saturday hours on September 7, 2002. In the event it is deemed necessary to change these arrangements, all Mess members will be notified.

Thank you.

From: CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 8/9/2002 12:51:32 PM
Subject: : Away On Vacation

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 9-AUG-2002 16:51:32.00
SUBJECT:: Away On Vacation
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I am currently out of the office. If you need immediate assistance,
please call (202) 456-2632. Thank you.
```

From:	CN=Edward McNally/OU=WHO/O=EOP [WHO]
To:	David G. Leitch TPO/TPO/OMB/EOP@EOP [OMB] <David G. Leitch TPO>
CC:	Brook Holladay/WHO/EOP@EOP [WHO] <Brook Holladay>;Distie Carstensen/WHO /EOP@EOP [WHO] <Distie Carstensen>;Magda E. Angulo/WHO/EOP@EOP [WHO] <Magda E. Angulo>
BCC:	Robert J. Delahunty (Robert J. Delahunty/WHO/EOP [WHO]), Bradford A. Berenson (Bradford A. Berenson/WHO/EOP [WHO]), Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO]), Elizabeth N. Camp (Elizabeth N. Camp/WHO/EOP [WHO])
Sent:	8/9/2002 11:24:46 AM
Subject:	: TPO e-mail address for incoming docs to Brook and Distie?

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 9-AUG-2002 15:24:46.00
SUBJECT:: TPO e-mail address for incoming docs to Brook and Distie?
TO:David G. Leitch TPO ( CN=David G. Leitch TPO/OU=TPO/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
CC:Brook Holladay ( CN=Brook Holladay/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Distie Carstensen ( CN=Distie Carstensen/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Magda E. Angulo ( CN=Magda E. Angulo/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
BCC:Robert J. Delahunty ( CN=Robert J. Delahunty/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

David, along with the specified fax number for docs to be transmitted from
WHO to TPO via Brook and Distie, we're happy to incorporate a specified
e-mail address for electronic documents (meaning attachments) if that's
the way you and Phil would like to see it routed/handled. Please let me
and Magda know, and please let us know (or maybe you'll have Ken Hill
follow up?) what e-mail address you'd like included in the notice that
would go around OHS and WHO. Thanks -- Ed
```

From: CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 8/11/2002 10:30:00 AM
Subject: : Away On Vacation

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:11-AUG-2002 14:30:00.00
SUBJECT:: Away On Vacation
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I am currently out of the office. If you need immediate assistance,
please call (202) 456-2632. Thank you.
```

From: CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 8/13/2002 5:27:04 AM
Subject: : Away On Vacation

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:13-AUG-2002 09:27:04.00
SUBJECT:: Away On Vacation
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I am currently out of the office. If you need immediate assistance,
please call (202) 456-2632. Thank you.

From: CN=Tim Goeglein/OU=WHO/O=EOP [WHO]
To: Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Jay P. Lefkowitz/OPD/EOP@EOP [OPD] <Jay P. Lefkowitz>;Anne Womack/WHO/EOP@EOP [WHO] <Anne Womack>;Susan B. Ralston/WHO /EOP@EOP [WHO] <Susan B. Ralston>
CC: joschal@att.net @ inet [UNKNOWN] <joschal@att.net @ inet>;Matthew E. Smith/WHO /EOP@EOP [WHO] <Matthew E. Smith>;Lezlee J. Westine/WHO/EOP@EOP [WHO] <Lezlee J. Westine>
Sent: 8/14/2002 5:28:35 AM
Subject: : Daily Update - August 13, 2002

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Tim Goeglein ( CN=Tim Goeglein/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:14-AUG-2002 09:28:35.00
SUBJECT:: Daily Update - August 13, 2002
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Anne Womack ( CN=Anne Womack/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Susan B. Ralston ( CN=Susan B. Ralston/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:joschal@att.net @ inet ( joschal@att.net @ inet [ UNKNOWN ] )
READ:UNKNOWN
CC:Matthew E. Smith ( CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Lezlee J. Westine ( CN=Lezlee J. Westine/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Colleagues:

fyi: 1 Pledge/ACLU, 2 Owen, and 3 cloning, from FOCUS ON THE FAMILY

warmly

tsg

CITIZENLINK
August 13, 2002


SHOWDOWN OVER OWEN NOMINATION SOON:
One of the president's judicial nominees will soon face
the Democrat-led Senate Judiciary Committee.
http://www.family.org/cforum/fnif/news/A0021777.html

ABA POISED TO ENDORSE CLONING:
The American Bar Association may take the unusual
step of endorsing therapeutic cloning.
http://www.family.org/cforum/fnif/news/A0021773.html

CITIZENLINK NEWS:
--------------------------------------------------------------------------
Legal Group Files Suit on Behalf of Pledge

The American Center for Law and Justice (ACLJ), a pro-
family legal organization, has filed a legal brief with the
9th U.S. Circuit Court of Appeals on behalf of members
of Congress, asking the appeals court to reconsider a
```

recent decision in which a three-judge panel declared the phrase "One Nation under God" unconstitutional in the Pledge of Allegiance.

According to Jay Sekulow, chief counsel of the ACLJ, the decision is not only flawed in a legal sense, but it ignores Supreme Court precedent protecting such language.

"It is critical that a larger panel of the 9th Circuit re-hear this case and correct the faulty conclusions reached by the three-judge panel," Sekulow said. "Not only is there tremendous public support for reversing this damaging decision, but there is ample legal precedent to do so as well. At the end of the day, we're confident the Pledge of Allegiance that includes the phrase 'One nation under God' will be upheld as constitutional."

The ACLJ filed its brief on behalf of 17 Republican members of the U.S. House of Representatives: Reps. Robert Aderholt (Ala.); Todd Akin (Mo.); Chris Cannon (Utah); Michael Collins (Ga.); Jo Ann Davis (Va.); John Doolittle (Calif.); Jeff Flake (Ariz.); Virgil Goode, Jr. (Va.); Lindsey Graham (S.C.); Duncan Hunter, (Calif.); Ernest Istook, Jr. (Okla.); Donald Manzullo (Ill.), Charles Pickering, Jr. (Miss.); Bob Riley (Ala.); Jim Ryun (Kan.); J.C. Watts, Jr. (Okla.); and Dave Weldon, M.D. (Fla.).

Sekulow said the ACLJ is also sending letters to state school superintendents outside of the 9th Circuit to make sure that students will continue to have the opportunity to voluntarily recite the Pledge.

Showdown Over Owen Nomination Soon
By David Brody, Washington, D.C., correspondent

SUMMARY: One of the president's judicial nominees will soon face the Democrat-led Senate Judiciary Committee.

One of the biggest battles in Congress predicted for September will take place in the Senate Judiciary Committee, where the fate of Judge Priscilla Owen will be decided.

Owen is a controversial judicial nominee, because, her critics claim, she's a judicial activist when it comes to her rulings on abortion. In fact, as a justice on the Texas Supreme Court, Owen voted with the minority to uphold a parental notification provision for minors seeking abortions -- a provision which was nonetheless struck down, 4-3.

Liberal special interest groups are out in force to stop her nomination.

Tom Jipping, a legal affairs analyst with Concerned Women for America, said it will be a sad day if Owen doesn't get past the committee.

"It does not look good at this point," Jipping said. "There have only been six nominees in the last 60 years that the Judiciary Committee has not permitted the full Senate to even consider. And if Priscilla Owen is the second one of this Congress -- the first one being Charles Pickering -- it will signal an unprecedented partisan shutdown of the confirmation process."

Does the nominee have enough votes? At this point, it looks like her supporters are one vote short. Ten Democrats are expected to vote against her, with nine Republicans voting for her, according to John Nowacki, with the Free Congress Foundation's Judicial Monitoring Project.

"It's going to be a very, very tight vote and the Democrats apparently feel they have the votes right now (to sink the nomination)," Nowacki said. "What conservatives need to be doing is contacting some of these Senators who might be more willing to look at her record for themselves, like Joe Biden (of Delaware), Herb Kohl (of Wisconsin), maybe even Russ Feingold (of Wisconsin)."

But Nowacki admits that convincing a Democrat will be a tall order, given the positions the Senate majority has already taken on some nominees.

"The Democrats have demonstrated that they're willing to do pretty much anything to block otherwise qualified nominations just simply because they want judges that are going to have their own political views," Nowacki said.

The vote is expected the first week of September.

TAKE ACTION: Please contact the members of the Senate Judiciary Committee -- especially if they represent your state -- and ask them to support Priscilla Owen's judicial nomination.

Democrats:
Patrick Leahy (Vt.) - 202-224-4242
Edward Kennedy (Mass.) - 202-224-4543
Joseph Biden (Del.) - 202-224-5042
Herbert Kohl (Wis.) - 202-224-5653
Dianne Feinstein (Calif.) - 202-224-3841
Russell Feingold (Wis.) - 202-224-5323
Charles Shumer (N.Y.) - 202-224-6542
Richard Durbin (Ill.) - 202-224-2152
Maria Cantwell (Wash.) - 202-224-3441
John Edwards (N.C.) - 202-224-3154

Republicans:
Orrin Hatch (Utah) - 202-224-5251
Strom Thurmond (S.C.) - 202-224-5972
Charles Grassley (Iowa) - 202-224-3744
Arlen Specter (Pa.) - 202-224-4254
Jon Kyl (Ariz.) - 202-224-4521
Mike DeWine (Ohio) - 202-224-2315
Jeff Sessions (Ala.) 202-224-4124
Sam Brownback (Kan.) - 202-224-6521
Mitch McConnell (Ky.) - 202-224-2541

For other help in contacting senators, please see our Legislative Action Center:
http://www.family.org/citizenaction

ABA Poised to Endorse Cloning
By David Brody, Washington, D.C., correspondent

SUMMARY: The American Bar Association may take the unusual step of endorsing therapeutic cloning.

The American Bar Association (ABA) is expected to vote on the issue of research -- or "therapeutic" -- cloning this week at their annual meeting in Washington.

At first glance, it may seem strange that a bunch of lawyers would even take up an issue such as cloning human embryos so that scientific experiments may be performed. But the ABA is a very powerful lobbying organization and, since the cloning issue is still undecided by Congress, an endorsement could mean key support for those who favor therapeutic cloning.

Michael Manganiello, with the Coalition for the Advancement of Medical Research, said his group supports this type of cloning and would welcome ABA support.

"There are still senators out there that haven't made up their minds on it and I think (the opinion) of an organization like the ABA, with its hundreds of thousands of members and (influence) on Capitol Hill, would matter," Manganiello said.

Paige Cunningham, with the Center for Bioethics and Human Dignity, said the ABA has a clear agenda.

"What we need senators to realize is that the ABA has become a political organization," Cunningham said. "(It is) not really a professional organization anymore. It tends to be controlled by a handful of (extreme liberals)."

Cunningham said if lawyers endorse cloning, they are missing the bigger picture: "It just means another professional organization has chosen expediency and a utilitarian argument over the issue of what's really involved and that is: Who is part of the human community? Who are we going to recognize as human and who are going to exclude?"

In the Senate, California Democratic Sen. Dianne Feinstein's bill on therapeutic cloning would allow the creation of human embryos in order to harvest their stem cells for medical purposes. The embryos are then killed. Another bill in the Senate, however, sponsored by Kansas Republican Sen. Sam Brownback, would ban all forms of cloning.

TAKE ACTION
Please contact your senators and ask them to support only Sen. Sam Brownback's total ban on all forms of cloning, S. 1899, and to oppose all other cloning bills -- especially Sen. Dianne Feinstein's bill allowing so-called "therapeutic" cloning , S. 2439.

The Capitol switchboard number is 202-224-3121. For additional help in contacting your senators, please see our Legislative Action Center:
http://www.family.org/citizenaction

From:	Sandra L. Golas
To:	Brett M. Kavanaugh </EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6246020-C20FEE19-852569DA-7648DC>
CC:	James B. Wright </EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /JAMES_B._WRIGHT>;Adam F. Greenstone </EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C257DCEA-29C22B8A-85256509-69A9E8>;Daniel A. Barry </EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /51140775-89F7D560-85256348-552C59>
Sent:	8/14/2002 9:49:50 AM
Subject:	

I have completed the search for messages to, from, cc, bcc regarding Mr. Gillespie. The results may be found at:

http://cd.eop.gov/~search_res40. If you give me a call at 56528, I will give you the password.

Thanks,

Sandi

From: CN=Helgard C. Walker/OU=WHO/O=EOP [WHO]
To: Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>
CC: stephen l. poizner/who/eop@eop [WHO] <stephen l. poizner>;jennifer g. newstead/who /eop@eop [WHO] <jennifer g. newstead>;h. christopher bartolomucci/who/eop@eop [WHO] <h. christopher bartolomucci>;nanette everson/who/eop@eop [WHO] <nanette everson>;noel j. francisco/who/eop@eop [WHO] <noel j. francisco>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>
Sent: 8/14/2002 6:17:26 AM
Subject: : Re: Detail issue for USAFC

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:14-AUG-2002 10:17:26.00
SUBJECT:: Re: Detail issue for USAFC
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:stephen l. poizner (CN=stephen l. poizner/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:jennifer g. newstead (CN=jennifer g. newstead/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:h. christopher bartolomucci (CN=h. christopher bartolomucci/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:nanette everson (CN=nanette everson/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:noel j. francisco (CN=noel j. francisco/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

USA Freedom Corps.

Bradford A. Berenson
08/14/2002 10:00:56 AM
Record Type: Record

To: Helgard C. Walker/WHO/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: Detail issue for USAFC

That's me. I'll do it. What's USAFC?

Helgard C. Walker
08/14/2002 09:46:48 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: Stephen L. Poizner/WHO/EOP@EOP
Subject: Detail issue for USAFC

Who handles issues relating to detailing federal employees to the WH?
Brad, I think it's you, but I am not sure. Whoever it is, pls call Steve
Poizner of USAFC -- 6-3882 - to discuss their desire to have a detailee
run a task force on disadvantaged youth. Thanks!

Message Sent
To:_____
Brett M. Kavanaugh/WHO/EOP@EOP
Bradford A. Berenson/WHO/EOP@EOP
H. Christopher Bartolomucci/WHO/EOP@EOP
Noel J. Francisco/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
Nanette Everson/WHO/EOP@EOP

Message Copied
To:_____
brett m. kavanaugh/who/eop@eop
h. christopher bartolomucci/who/eop@eop
noel j. francisco/who/eop@eop
jennifer g. newstead/who/eop@eop
nanette everson/who/eop@eop
stephen l. poizner/who/eop@eop

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]

To: James W. Carroll/WHO/EOP@EOP [WHO] <James W. Carroll>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Bradford A. Berenson/WHO /EOP@EOP [WHO] <Bradford A. Berenson>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Allison L. Riepenhoff/WHO/EOP@EOP [WHO] <Allison L. Riepenhoff>;Helgard C. Walker/WHO /EOP@EOP [WHO] <Helgard C. Walker>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Timothy E. Flanigan/WHO/EOP@EOP [WHO] <Timothy E. Flanigan>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>

Sent: 8/14/2002 10:17:29 AM

Subject: : No JSC Prep today - just show up in Roosevelt at 4pm

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:14-AUG-2002 14:17:29.00
SUBJECT:: No JSC Prep today - just show up in Roosevelt at 4pm
TO:James W. Carroll ( CN=James W. Carroll/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Allison L. Riepenhoff ( CN=Allison L. Riepenhoff/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Timothy E. Flanigan ( CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]

To: James W. Carroll/WHO/EOP@EOP [WHO] <James W. Carroll>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Bradford A. Berenson/WHO /EOP@EOP [WHO] <Bradford A. Berenson>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Allison L. Riepenhoff/WHO/EOP@EOP [WHO] <Allison L. Riepenhoff>;Helgard C. Walker/WHO /EOP@EOP [WHO] <Helgard C. Walker>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Timothy E. Flanigan/WHO/EOP@EOP [WHO] <Timothy E. Flanigan>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>

Sent: 8/14/2002 10:17:29 AM

Subject: : No JSC Prep today - just show up in Roosevelt at 4pm

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:14-AUG-2002 14:17:29.00
SUBJECT:: No JSC Prep today - just show up in Roosevelt at 4pm
TO:James W. Carroll ( CN=James W. Carroll/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Allison L. Riepenhoff ( CN=Allison L. Riepenhoff/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Timothy E. Flanigan ( CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]

To: Wendy.J.Keefer@usdoj.gov [UNKNOWN] <Wendy.J.Keefer@usdoj.gov>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Tracy.T.Washington@usdoj.gov [UNKNOWN] <Tracy.T.Washington@usdoj.gov>;don.willett@usdoj.gov [UNKNOWN] <don.willett@usdoj.gov>;David McMaster/WHO/EOP@EOP [WHO] <David McMaster>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>;evelyn.v.long@usdoj.gov [UNKNOWN] <evelyn.v.long@usdoj.gov>;adam.Ciongoli@usdoj.gov [UNKNOWN] <adam.Ciongoli@usdoj.gov>;andrew.beach@usdoj.gov [UNKNOWN] <andrew.beach@usdoj.gov>;Allison L. Riepenhoff/WHO/EOP@EOP [WHO] <Allison L. Riepenhoff>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Timothy E. Flanigan/WHO/EOP@EOP [WHO] <Timothy E. Flanigan>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Alison Jones/WHO/EOP@EOP [WHO] <Alison Jones>;Carol J. Thompson/WHO/EOP@EOP [WHO] <Carol J. Thompson>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Adam.Charnes@usdoj.gov [UNKNOWN] <Adam.Charnes@usdoj.gov>;Sarah K. Lockart@who.eop.gov [WHO] <Sarah K. Lockart@who.eop.gov>;Albert.Brewster@usdoj.gov [UNKNOWN] <Albert.Brewster@usdoj.gov>;Ann Gray/WHO/EOP@EOP [WHO] <Ann Gray>;Douglas L. Hoelscher/WHO/EOP@EOP [WHO] <Douglas L. Hoelscher>;Jason.J.Sutton@usdoj.gov [UNKNOWN] <Jason.J.Sutton@usdoj.gov>;Viet.Dinh@usdoj.gov [UNKNOWN] <Viet.Dinh@usdoj.gov>;Brent D. Greenfield/WHO/EOP@EOP [WHO] <Brent D. Greenfield>;amy.petersen@usdoj.gov [UNKNOWN] <amy.petersen@usdoj.gov>;Dee Dee Benkie/WHO/EOP@EOP [WHO] <Dee Dee Benkie>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;Michael J. Conway/WHO/EOP@EOP [WHO] <Michael J. Conway>;Susan B. Ralston/WHO/EOP@EOP [WHO] <Susan B. Ralston>;Melissa S. Bennett/WHO/EOP@EOP [WHO] <Melissa S. Bennett>

Sent: 8/14/2002 8:32:05 AM

Subject: : Reminder-JSC will be held today

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:14-AUG-2002 12:32:05.00
SUBJECT:: Reminder-JSC will be held today
TO:Wendy.J.Keefer@usdoj.gov ( Wendy.J.Keefer@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tracy.T.Washington@usdoj.gov ( Tracy.T.Washington@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:don.willett@usdoj.gov ( don.willett@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:David McMaster ( CN=David McMaster/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:evelyn.v.long@usdoj.gov ( evelyn.v.long@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:adam.Ciongoli@usdoj.gov ( adam.Ciongoli@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:andrew.beach@usdoj.gov ( andrew.beach@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Allison L. Riepenhoff ( CN=Allison L. Riepenhoff/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Timothy E. Flanigan ( CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
```

TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Carol J. Thompson (CN=Carol J. Thompson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Adam.Charnes@usdoj.gov (Adam.Charnes@usdoj.gov [UNKNOWN])
READ:UNKNOWN
TO:Sarah K. Lockart@who.eop.gov (Sarah K. Lockart@who.eop.gov [WHO])
READ:UNKNOWN
TO:Albert.Brewster@usdoj.gov (Albert.Brewster@usdoj.gov [UNKNOWN])
READ:UNKNOWN
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Douglas L. Hoelscher (CN=Douglas L. Hoelscher/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jason.J.Sutton@usdoj.gov (Jason.J.Sutton@usdoj.gov [UNKNOWN])
READ:UNKNOWN
TO:Viet.Dinh@usdoj.gov (Viet.Dinh@usdoj.gov [UNKNOWN])
READ:UNKNOWN
TO:Brent D. Greenfield (CN=Brent D. Greenfield/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:amy.petersen@usdoj.gov (amy.petersen@usdoj.gov [UNKNOWN])
READ:UNKNOWN
TO:Dee Dee Benkie (CN=Dee Dee Benkie/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

JSC will be held today at 4:00 pm in the Roosevelt Room.

DOJ staff - please call Hana Brilliant at 456-5049 for clearance.

Thank you.

From:	CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To:	Irene Kho/OMB/EOP@EOP [OMB] <Irene Kho>;Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>
Sent:	8/14/2002 8:38:02 AM
Subject:	: Re: LRM IKK253 - - TREASURY Report on Tax Law Complexity
Attachments:	P_1KHG9003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:14-AUG-2002 12:38:02.00
SUBJECT:: Re: LRM IKK253 - - TREASURY Report on Tax Law Complexity
TO:Irene Kho (CN=Irene Kho/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

No objections. Defer.

Patrick J. Bumatay
08/14/2002 11:59:27 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: LRM IKK253 - - TREASURY Report on Tax Law Complexity

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 08/14/2002 11:58 AM ----------

Irene Kho
08/14/2002 11:51:36 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: LRM IKK253 - - TREASURY Report on Tax Law Complexity

FRIENDLY REMINDER: Comments are due today at 2:00 PM.
---------- Forwarded by Irene Kho/OMB/EOP on 08/14/2002 11:45 AM ----------

From: Irene Kho on 08/01/2002 02:17:02 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: LRM IKK253 - - TREASURY Report on Tax Law Complexity

Attached is a Treasury report on tax law complexity. The Internal Revenue Service (IRS) Reform and Restructuring Act of 1998 requires the Commissioner of the IRS to report on areas of complexity in the Tax Code and to make recommendations for reducing complexity. Please review and provide comments by 2:00 PM, Wednesday, August 14th.

- treas0083a.doc

LRM ID: IKK253
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Thursday, August 1, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: Irene Kho
PHONE: (202)395-5858 FAX: (202)395-3109
SUBJECT: TREASURY Report on Tax Law Complexity

DEADLINE: 2:00 PM Wednesday, August 14, 2002
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Attached is a Treasury report on tax law complexity. The Internal Revenue Service (IRS) Reform and Restructuring Act of 1998 requires the Commissioner of the IRS to report on areas of complexity in the Tax Code and to make recommendations for reducing complexity. Please review and provide comments by 2:00 PM, Wednesday, August 14th.

DISTRIBUTION LIST

AGENCIES:
110-Social Security Administration - Diane B. Garro - (202) 358-6030
007-AGRICULTURE - Jacquelyn Chandler - (202) 720-1272
006-AGRICULTURE (CR) - Wanda Worsham - (202) 720-7095
030-EDUCATION - Jack Kristy - (202) 401-8313
018-Council of Economic Advisers - Liaison Officer - (202) 395-5084
117 & 340-TRANSPORTATION - Tom Herlihy - (202) 366-4687
107-Small Business Administration - Richard Spence - (202) 205-6700
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773
061-JUSTICE - Daniel Bryant - (202) 514-2141

EOP:
Robert F. Mahaffie
Mark J. Schwartz
Alan B. Rhinesmith
James D. Foster
Justine F. Rodriguez
Mary C. Barth
Sarah S. Lee
Jack A. Smalligan
David J. Haun
James Boden
Thomas Reilly
Steven M. Mertens
Phillip L. Swagel
Douglas J. Holtz-Eakin

WHGC LRM
OVP LRM
NEC LRM
Richard E. Green
James J. Jukes
Kathryn B. Stack
Adrienne C. Erbach
Matthew J. Schneider
John F. Wood
Philip J. Perry
David W. Hobbs
Dirksen Lehman
OFBCI LRM
David Kuo
Rebecca A. Beynon
LRM ID: IKK253 SUBJECT: TREASURY Report on Tax Law Complexity

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Irene Kho Phone: 395-5858 Fax: 395-3109
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-3454

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Sent
To:_____
ODCLCA.LRM.SSA@ssa.gov @ inet

usdaobpaleg@obpa.usda.gov @ inet
usdaocrleg@obpa.usda.gov @ inet
ogc_legislation@ed.gov @ inet
dot.legislation@ost.dot.gov @ inet
cla@sba.gov @ inet
lrm@hhs.gov @ inet
justice.lrm@usdoj.gov @ inet

Message Copied
To:_____
Robert F. Mahaffie/OMB/EOP@EOP
Mark J. Schwartz/OMB/EOP@EOP
Alan B. Rhinesmith/OMB/EOP@EOP
James D. Foster/OMB/EOP@EOP
Justine F. Rodriguez/OMB/EOP@EOP
Mary C. Barth/OMB/EOP@EOP
Sarah S. Lee/OMB/EOP@EOP
Jack A. Smalligan/OMB/EOP@EOP
David J. Haun/OMB/EOP@EOP
James Boden/OMB/EOP@EOP
Thomas Reilly/OMB/EOP@EOP
Steven M. Mertens/OMB/EOP@EOP
Phillip L. Swagel/CEA/EOP@EOP
Douglas J. Holtz-Eakin/CEA/EOP@EOP
WHGC LRM
OVP LRM
NEC LRM
Richard E. Green/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Kathryn B. Stack/OMB/EOP@EOP
Adrienne C. Erbach/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Philip J. Perry/OMB/EOP@EOP
David W. Hobbs/WHO/EOP@EOP
Dirksen Lehman/WHO/EOP@EOP
OFBCI LRM
David Kuo/WHO/EOP@EOP
Rebecca A. Beynon/WHO/EOP@EOP

Message Sent
To:_____
ODCLCA.LRM.SSA@ssa.gov @ inet
usdaobpaleg@obpa.usda.gov @ inet
usdaocrleg@obpa.usda.gov @ inet
ogc_legislation@ed.gov @ inet
dot.legislation@ost.dot.gov @ inet
cla@sba.gov @ inet
lrm@hhs.gov @ inet
justice.lrm@usdoj.gov @ inet

Message Copied
To:_____
Robert F. Mahaffie/OMB/EOP@EOP
Mark J. Schwartz/OMB/EOP@EOP
Alan B. Rhinesmith/OMB/EOP@EOP
Mary C. Barth/OMB/EOP@EOP
Sarah S. Lee/OMB/EOP@EOP
Jack A. Smalligan/OMB/EOP@EOP
David J. Haun/OMB/EOP@EOP
James Boden/OMB/EOP@EOP
Thomas Reilly/OMB/EOP@EOP
Steven M. Mertens/OMB/EOP@EOP
Phillip L. Swagel/CEA/EOP@EOP
Douglas J. Holtz-Eakin/CEA/EOP@EOP

WHGC LRM
OVP LRM
NEC LRM
Kathryn B. Stack/OMB/EOP@EOP
Adrienne C. Erbach/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Philip J. Perry/OMB/EOP@EOP
David W. Hobbs/WHO/EOP@EOP
Dirksen Lehman/WHO/EOP@EOP
OFBCI LRM
David Kuo/WHO/EOP@EOP
Rebecca A. Beynon/WHO/EOP@EOP
Danielle M. Simonetta/OMB/EOP@EOP
Christine C. McCarlie/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_1KHG9003_WHO.TXT_1>

Report from the
Commissioner of the
Internal Revenue Service

on

TAX LAW COMPLEXITY

Office of Research, Analysis, and Statistics
Internal Revenue Service

REV_00149502

July xx, 2002

TABLE OF CONTENTS

Introduction 1
- Complexity Roundtable 2
- Complexity and the Mission of IRS 2
- The Impact of Statutory Change 3
- Scope and Methodology 6
- Overview of Appendices 7

Chapter I Credit Eligibility Determination 8
- Who Files 11
- Taxpayer and IRS Burden 12
- Reducing Complexity 14
  - *Complexity Issue*: Definitions can create confusion about eligibility. 15
  - *Complexity Issue*: Credits differ in how they are calculated and their phaseouts, both in terms of the income level at which the phaseout begins/ends and how the credit is phased out. 21
  - *Complexity Issue*: Hope and Lifetime Learning education credits differ in amount and whether they can be claimed by more than on taxpayer of dependent on the return. 24
  - *Complexity Issue*: Determining when to claim eligible expenses under the Adoption Credit is difficult. 24
  - *Complexity Issue*: Income Basis of the Credit for the Elderly or Disabled difficult to calculate. 25
  - *Complexity Issue*: In some instances certain personal credits must be taken before others in determining final income tax liability. 27
- Simplification Options 28

Chapter II Personal Deductions and Exemptions 29
- Who Claims Deductions 30
- Taxpayer and Administrative Burden 32
- Reducing Complexity 33
  - *Complexity Issue*: Itemized deductions and the personal exemption have different limits and their value to taxpayers differs. 33
  - *Complexity Issue*: The recordkeeping requirements for charitable contributions are cumbersome. 38
- Simplification Options 39

REV_00149503

Chapter III Capital Gains and Losses 41
Taxation of Capital Gains 41
Who Claims Capital Gains and Losses 47
Taxpayer and Administrative Burden 48
Reducing Complexity 48
Complexity Issue: Gains and losses from the same sale can have different tax treatments. 49
Simplification Options 49

Appendices Introduction 50

Appendix A Taxpayer Questions 51

Appendix B Common Errors Taxpayers Make on Their Returns 54

Appendix C Areas of Law Which Frequently Result in Disagreements Between Taxpayers and the Internal Revenue Service 61

Appendix D Major Areas of Law in Which There is No (or Incomplete) Guidance or in Which the Law is Uncertain 62

Appendix E Areas in Which Tax Examiners Make Frequent Errors Interpreting or Applying the Law 82

Appendix F The Impact of Recent Legislation on Complexity 85

Appendix G Tax Forms and Burden on the Taxpayer 87

REV_00149504

INTRODUCTION

This report is the second on complexity called for by the Internal Revenue Service Reform and Restructuring Act of 1998 (RRA98).[1] *The Act requires that the Commissioner of Internal Revenue report on areas of complexity in the Tax Code (Code) and to make recommendations for reducing complexity.*[2]

Complexity is well entrenched in the Federal tax system. Complicated provisions create confusing calculations and instructions that frustrate taxpayers and make it difficult for them to file accurate tax returns. Many circumstances contribute to the Code being complex. Complexity is added both knowingly and inadvertently as (1) tax laws are changed, (2) legislative tradeoffs are made, and (3) the economy and society as a whole become more complex.[3] Complexity is also introduced through the interactions among the varying code provisions that affect the same taxpayers.

Changes in individuals' circumstances also can introduce complexity. For example, marriage, having children, changing jobs, and relocating can all have significant effects on income tax liability that a taxpayer must work through. When taxpayers attempt to comply with the tax law in the face of changing circumstances, they often must deal with tax system complexity.

In a complex economy and social structure such as exists in the United States, many tax goals can only be achieved with tax provisions that reflect the underlying complexity of the financial transaction or goal. Complexity is frequently introduced as policymakers make trade-offs between simple tax designs and the desire to make the tax system fair and equitable in a fashion that supports social and economic as well as tax policy goals.

[1] P.L. 105-206.
[2] P.L. 105-206, section 4022(a)(2).
[3] Legislative tradeoffs include equity, fairness, economic growth, revenue targets, compliance and social policy goals.

REV_00149505

Tax system simplification may occur either through legislation or administrative change. For example, the new Earned Income Tax Credit (EITC) rules and definitions, effective after tax year 2001, will simplify claiming EITC for many filers. IRS' administrative change increasing the accrual accounting requirement to $5 million of gross receipts may simplify return preparation for those taxpayers who now can use the cash accounting method. However, change, in itself, generally adds complexity, and in 2001, there were 107 new provisions in tax legislation, including 87 in the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA).[4] Many of the taxpayers, tax practitioners, scholars, and other stakeholders with whom we spoke emphasized that even the simplest of changes to the Code can have complex consequences if change is frequent and/or has a retroactive or short lead time for the effective date. These issues are also problems for the Service.
Consistent with the requirements of RRA'98, the objectives of this report are to:

- Provide an analysis of selected code provisions that impact large numbers of Wage and Investment and Small Business/Self-Employed taxpayers to determine the types of complexity present and the impact on taxpayers and IRS; and

- Develop options for reducing the complexity of those provisions.

This report is a companion piece to two recent reports on complexity. The December 2001 report of the National Taxpayer Advocate identified 23 issues considered the most serious problems encountered and identified by front-line employees, practitioners, and taxpayers. The Joint Committee on Taxation report of April 2001 is a comprehensive review of the Federal tax system, including both personal and corporate taxes, and many recommendations for tax simplification are put forth. This report, on the other hand, concentrates on three burdensome provisions of the Tax Code. In addition to the analysis, some options for reducing their complexity are discussed.

In the report we analyze the tax law complexity associated with (1) personal credits, (2) personal deductions and exemptions, and (3) capital gains associated with depreciable business assets. Each section is presented from a taxpayer's point of view and is organized in the same way—description of the area of complexity, taxpayer burden associated with each area of complexity, complexity issues requiring attention, and suggested options for alleviating the complexity. The illustrative data in this report are for various years, depending on the data availability when the report was written.

COMPLEXITY ROUNDTABLE

Many of the issues developed in this report first surfaced during a complexity roundtable co-sponsored by the IRS, Office of Program Evaluation and Risk Analysis (OPERA) and the National Society of Tax Professionals (NSTP) held in July 2000 at Georgetown

[4] EGTRRA modifies several tax credits, including the adoption credit, child and dependent care tax credit, child tax credit, additional child tax credit, and the earned income tax credit.

REV_00149506

University. Companies and organizations represented at the roundtable, included H&R Block, Padgett Business Services Foundation, National Association of Enrolled Agents, National Society of Tax Professionals, American Institute of Certified Public Accountants, National Society of Accountants, American Association of Attorney Certified Public Accountants, U.S. General Accounting Office, U.S. Department of the Treasury, and, various offices within IRS.

COMPLEXITY AND THE MISSION OF THE IRS

The mission of the Service is to

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.

Three strategic goals and five principles guide the modernization of the Service and the accomplishment of its mission. The strategic goals are (1) service to each taxpayer, (2) service to all taxpayers, and (3) productivity through a quality work environment. The five guiding principles provide insights into how IRS will achieve its mission. The principles are (1) understand and solve problems from the taxpayer's point of view, (2) expect managers to be accountable, (3) use balanced measures of performance, (4) foster open and honest communication, and (5) insist on total integrity.

Reducing complexity will aid the Service in achieving all of its strategic goals. Reduced complexity can lead to reduced burden. By reducing burden, IRS better serves each taxpayer. Reduced complexity also can lead to a better understanding of the law, leading to increased compliance. By increasing compliance, IRS better serves all taxpayers. Finally, when the Code becomes less complex, the working environment for IRS employees becomes more productive.

THE IMPACT OF STATUTORY CHANGE

Many of the taxpayers, tax practitioners, scholars, and other stakeholders with whom we spoke emphasized that even the simplest of changes to the Code can have complex consequences if change is frequent and/or has a retroactive or short lead time for the effective date. These issues are also problems for the Service.

When tax laws change, individuals often face uncertainty as to how to comply with the changes, especially if they are frequent or if the individuals and IRS are given little time to prepare before the changes are effective. In 1986, the Code was rewritten for the first time in about 30 years. In the next fifteen years, there have been about 84 tax laws enacted. Just one of these, the Tax and Trade Relief Extension Act of 1998, contained 25 sections of tax changes. Of these, 11 were effective retroactively and 4 were effective within 90 days of the end of the calendar year. The inability to stay current has

REV_00149507

been cited by small business owners and individuals as a primary reason for their use of paid preparers.

Both the Service and taxpayers are challenged in these situations. The Service needs to issue clear guidance and forms covering the changes in time for the next filing season. Taxpayers face the uncertainty that late changes introduce around their current and future tax obligations. With short lead times, both the Service and taxpayers have little time to become knowledgeable about the changes. This creates additional opportunities for error as well as heightened frustration and conflict

The Service faces its own challenges in making sure its systems, training, and other employee tools are current and reflect the most recent legislation. In addition, because the time between when a return is filed and when it is audited may be 1-2 years, taxpayers and Service employees must also accommodate circumstances where the Code has changed, sometimes significantly, in the intervening time period.
The enactment of provisions with retroactive or short effective lead times also increases complexity. Both taxpayers and the Service frequently must act quickly to accommodate these changes. For the Service, especially problematic are changes that come late in the calendar year when the forms and publications for the next filing season are ready to go or have gone to the printers. Short timeframes frequently do not allow the Service to consult with taxpayers and other stakeholders in developing new forms. This can result in the forms being more difficult for taxpayers to understand or complete than they would be under normal circumstances.

Time limitations also may affect our ability to make the systems changes necessary to support statutory change. The Taxpayer Relief Act of 1997 and RRA98 are good examples of Acts with many tax-related changes and short effective date lead times. Table 2 details the changes made by recent acts.

REV_00149508

Table 2. Selected Tax Laws Since 1996 and Some Aspects of Complexity

Bill Title	Date Passed	Number of Sections	Retroactive Over 1 Year	Number of Retroactive Sections	Effective Date Between Oct.1 and Dec. 31
Small Business Job Protection Act of 1996	8/20/96	111	12	28	44
Taxpayer Bill of Rights 2	7/30/96	47	0	3	2
Balanced Budget Act of 1997 Taxpayer Relief Act of 1997	8/5/97	218	10	24	77
Tax Provisions of the Transportation Equity Act for the 21st Century	6/9/98	13	1	2	0
IRS Reform and Restructuring Act of '98	7/22/98	113	2	12	2
Tax and Trade Relief Extension Act of 1998	10/21/98	25	2	11	4
Tax Relief Extension Act of 1999	12/17/99	38	1	8	13
FSC Repeal and Extraterritorial Income Exclusion Act of 2000	11/15/00	5	0	5	5
Community Renewal Tax Relief Act of 2000	12/21/00	57	16	20	23
Installment Tax Correction Act of 2000	12/29/00	1	0	0	1
Economic Growth and Tax Relief Reconciliation Act of 2001	6/7/01	86	3	11	1
Air Transportation Safety and System Stabilization Act	9/22/01	1	0	0	0
USA Patriot Act of 2001	10/26/01	14	0	0	14
Railroad Retirement and Survivor's Improvement Act of 2001	12/21/01	6	0	1	1

Source: IRS Legislative Affairs.

REV_00149509

SCOPE AND METHODOLOGY

For this report, we limited our analysis to provisions that affect individual taxpayers, both Wage and Investment (W&I) and the Self-Employed. In this way, we focused on provisions that affect large numbers of taxpayers who are less likely to have the resources necessary to deal with complex tax issues.

RRA98 suggests that certain information that reflects complexity and taxpayer burden be included in this report.[5] Using these criteria as a guide we developed and refined the list of areas of complexity we selected for this year's report by:

- Conducting interviews with senior managers from Jackson Hewitt, H&R Block, Padgett Business Services, Padgett Business Services Foundations who work with individual taxpayers regularly and can identify areas in the Code that create the most complexity for their clients.

- Conducting interviews with various Department of the Treasury and IRS employees who interact with taxpayers and can articulate how various areas of the Code cause confusion and frustration not only for taxpayers but for IRS employees as well.

- Co-sponsoring with the National Society of Tax Professionals a complexity roundtable held in July 2000, at Georgetown University. More than twenty public and private organizations and companies were represented during the roundtable discussion.

- Interviewing tax practitioners, by telephone and in person, willing to share their knowledge and experiences with us about areas of the tax law they considered unduly complex.

- Reviewing a wide range of literature in legal theory addressing complexity and its legal manifestations.

Based on the results of these activities we selected three specific provisions for in-depth analysis. These provisions are (1) personal credits, (2) personal exemptions and itemized deductions, and (3) capital gains.

It is important to note how we addressed two specific items contained in the statutory requirement to which this report responds. They are "administrative complexity" and "undue and unnecessary complexity." For administrative complexity, we found it was

[5] Information suggested was: questions frequently asked by taxpayers when filing their return, common taxpayer errors, areas of law that frequently result in disagreement between taxpayers and IRS, areas of the law where there is no or incomplete guidance or where the law is uncertain, areas of the law where revenue officers make frequent mistakes, the impact of recent legislation on complexity, and the time required for taxpayers to complete forms.

REV_00149510

difficult to isolate the impact of a specific provision on IRS without also looking at its impact on taxpayers. Looking only at administrative complexity could also lead to options that would reduce the burden on IRS but significantly increase it on taxpayers. Accordingly, we looked at overall complexity.

We did not specifically address "undue and unnecessary" complexity. To do so would have required a series of value judgments regarding the goals of a particular provision and the complexity the provision introduces. Instead, we attempted to provide the analysis necessary for the reader to determine if the complexity is warranted.

In addition, because any recommendations for changing the Code must consider the full range of tax policy considerations including the impact of the changes on (1) budgetary costs or how the cost of these changes might compare with other important policy priorities; (2) economic efficiency, (3) which taxpayers are affected; (4) the degree to which the changes would affect the policy goals the provision was intended to meet; (5) the impact of the changes on the degree to which the affected tax provisions accomplish the purposes for which they were enacted; and (6) other related provisions, the report does not contain recommendations. The report only addresses complexity as it relates to administration of the Code and taxpayer's ability to comply with the Code. The options therefore are not policy recommendations. For example, one of the options presented in the report is to coordinate the income phaseout ranges for at least some credits and, hence, affect the overall distribution of the individual income tax burden. It also could lead to fairly high marginal tax rates within the phaseout range as multiple tax benefits are phased out simultaneously. Depending on the specifications of the new phaseout ranges, there could be significant revenue implications. And there may be complicated interactions of the proposal with other provisions of the tax law (such as the Alternative Minimum Tax). For all these reasons, the proposals listed would need substantial analysis before they could be evaluated in making tax policy decisions.

OVERVIEW OF APPENDICES

The appendices to this report were developed based on the requirements established in RRA98. Appendix A focuses on questions posed to IRS by taxpayers. Appendix B provides a summary of the common errors taxpayers make on their returns. Appendix C highlights areas of law, which frequently result in disagreements between taxpayers and the IRS. Appendix D covers areas of law in which there is no or incomplete guidance or in which the law is uncertain. Appendix E describes areas in which tax examiners make frequent errors interpreting or applying the law. Appendix F summarizes the impact of recent legislation on complexity. And finally, Appendix G relates tax forms to taxpayer burden.

REV_00149511

CHAPTER I
CREDIT ELIGIBILITY DETERMINATIONS

A variety of definitions is used to determine a taxpayer's eligibility to claim the dependency exemptions and certain tax credits. Understanding these definitions and how to apply them is necessary for the taxpayer to file a correct return. In addition to the filing status designation required on individual tax returns, separate but sometimes related, determinations must be made regarding dependents and qualifying individuals for personal tax credits. The definitions associated with filing status and dependents and qualifying individuals are some of the more complex issues faced by over 124 million individual taxpayers. While on the surface this may appear to be a rather straightforward determination, for many taxpayers the correct answer depends on their economic and/or other relationships to other members of their family or household. For this reason, any complexity in the Code around credit eligibility that emanates from filing status definitions can result in substantial overall burden.

Tax credits provide policymakers with a channel for easily delivering tax incentives to specific groups. While tax credits can provide special incentives or relief for specific groups of taxpayers, the burden associated with understanding and applying various eligibility requirements, income phaseouts and thresholds, and many other special considerations significantly add to the complexity of the tax laws and the difficulty taxpayers have in understanding and complying with them

While personal credits have resulted in lower income taxes for many taxpayers, they also have greatly increased the complexity faced by those taxpayers. Legislative tradeoffs have been made based on equity, fairness, economic efficiency, revenue targets, compliance and social policy goals with a resulting increase in complexity. In addition, in some cases complexity has inadvertently crept into the Code as credits were added and modified over time. Unfortunately, items that appear simple or innocuous in isolation can create great complexity when considered in total. For example, specific definitions, phaseout ranges, and age limitations associated with various credits are implemented to ensure relief reaches a targeted group of taxpayers. But, the calculations and form completion requirements that flow from these limitations create enormous burden and complexity for taxpayers.

Credit complexity has also been created by frequent changes. The EITC, for example, has been changed almost annually since 1986. Changes are even more frequently proposed than enacted. For example, in the 106th Congress over 339 bills were introduced proposing new tax credits or modifying existing ones.[6] Most of the credits would have required detailed guidance from Treasury and IRS to define precisely the items and activities that were eligible for a particular credit, thereby adding complexity to the tax system.

[6] Tax Notes, December 15, 2000.

REV_00149512

In addition to creating additional compliance burden for taxpayers and administrative burden for the Service, the complexities present within the personal credits also increase noncompliance by making it more difficult for taxpayers to file an accurate return.

The personal credits we analyzed for this report were the ones most commonly taken by individual taxpayers. They are the Adoption Credit, Child Tax Credit, Child and Dependent Care Credit, Earned Income Tax Credit, Education Credits (Hope and Lifetime Learning), and the Credit for the Elderly or Disabled.[7] The EGTRRA legislation modified several of the credits effective in 2002 and after. These changes are noted as appropriate later in the report. Table 1.1 illustrates some of the differences in eligibility rules, income thresholds and phaseouts, and other features of these credits. We have simplified some exceptions and special conditions.

[7] EITC was enacted in 1975 (P.L. 94-12, Tax Reduction Act of 1975). The Child and Dependent Care Credit was enacted in 1976 (P.L. 94-455, Tax Reform Act of 1976). The Child Tax Credit and the Hope Scholarship Credit and Lifetime Learning Credit (Education credit) were enacted in 1997 (P.L. 105-34, Taxpayer Relief Act of 1997). The Adoption Expense Credit was enacted by The Small Business Job Protection Act of 1996 (P.L. 104-188).

REV_00149513

Table 1.1: Personal Credit Characteristics (Tax Year 2000)

Item	Income Basis	Phaseouts/Thresholds	Maximum Credit	Qualifying Individuals	Other Characteristics
Adoption Credit	Modified AGI[b]	Between $75,000 - $115,000 credit is phased out ratably	$5,000 per adoption ($6,000 for special needs child)	Child under age 18 or an incapacitated person	Nonrefundable - May be carried over 5 years. Phaseout is determined in initial year and does not apply in carryover years.[f,+]
Child and Dependent Care Tax Credit	AGI	Between $10,000 - $28,000 credit phases down from 30% to 20% of qualifying expenses	$480 -$720 for one child $960 - $1,440 for two or more children	Dependent under age 13, a disabled spouse, or a dependent of any age	Must have earned income; Married Filing Jointly both parties generally must have earned income; Nonrefundable
Child Tax Credit	Modified AGI[b]	Credit reduced by 5% for each $1,000 of Modified AGI over $55,000 - $110,000[d,e]	$500 per child	Dependent under age 17	Nonrefundable
Additional Child Tax Credit	Modified AGI[b]	Same as Child Tax Credit	Refundable extension of $500 Child Tax Credit	Taxpayer must have at least three qualifying children under age 17	Constitutes a refund of withheld Social Security and Medicare taxes.
Elderly or Disabled Credit	AGI	$12,500 - 25,000[d]	15% of credit base	Must be at least 65 years old or permanently and totally disabled and under mandatory retirement age	Credit base is AGI reduced by nontaxable retirement benefits and excess AGI over $5000-10,000; Nonrefundable
Earned Income Tax Credit	Earned Income and Modified AGI[b]	1 child between $12,700 and $27,413; 2 or more children - $12,700 - $31,152; no children $5,800 - $10,380. (A variety of rates apply to each group.)	One child - $2,353 Two or more children - $3,888 No children - $353	Child under age 19, students under age 24 or a disabled person of any age	Credit has phase-in, plateau and phase-out ranges that depend on the number of qualifying children; Refundable
Education (Hope and Lifetime Learning) Tax Credits	Modified AGI[c]	Between $40,000 - $50,000 or $80,000 – 100,000[d] the amount of the credit is reduced ratably.	Hope - $1,500 Lifetime Learning - $1,000	Taxpayers and dependents	Cannot take both credits for the same taxpayer in one year; Nonrefundable

Note: The adoption credit, child and dependent care credit, EITC, and education credits were modified by EGTRRA for future years.

[a] From Form 1040

[b] Taxpayer can have no more than $2,400 disqualified income.

[c] Modified AGI includes certain income from Puerto Rico, American Samoa, and certain other foreign earned income.

[d] Depending on Filing status

[e] For married filing separately, the credit reduction begins at $55,000 Modified AGI; for single, head of household, or qualifying widow(er), at $75,000; and for married filing jointly, at $110,000.

REV_00149514

[f] The amount of the credit, including adjustments, if any, due to phaseouts, is determined in the initial year. Thus, no additional phaseout calculations are required in the year carryover credits are used.

WHO FILES

All filers must make certain determinations regarding their filing status, dependents, and qualifying individuals for the personal credits. The number of taxpayers making each of these determinations is shown in Table 1.2.

Table 1.2: Filing Determinations (Tax Year 1998)

Type of Determination	Number of Taxpayer Returns
Filing Status (all 1040 Forms)	**124,770,662**
Married Filing Jointly	49,706,101
Married Filing Separately	2,531,742
Single	55,104,964
Head of Household	17,427,855
Claim Dependents	**45,887,973**
Married Filing Jointly	27,246,285
Married Filing Separately	660,936
Single	1,835,291
Head of Household	16,145,460
Personal Credits (total all returns)[1]	**41,916,863**
Adoption Tax Credit	40,668
Child and Dependent Care Tax Credit	6,128,155
Child Tax Credit	24,810,781
Additional Child Tax Credit	754,363
Earned Income Tax Credit[2]	19,704,707
Elderly or Disabled Credit	180,473
Education Tax Credit	4,652,596

[1] Individual components do not add to total because taxpayers can claim more than one of these credits.
[2] Includes taxpayers who have qualifying children and those who do not.

Table 1.3 shows the number of tax returns that claim various credits and combinations of credits.

REV_00149515

Table 1.3: Number of Returns with Various Credits and Credit Combinations (Tax Year 1999)

Credit/Combinations	Estimated Number of Returns (000's)	Percent of Total Returns
Child Tax Only	13,350.0	10.5%
Earned Income Only	12,208.3	9.6%
Child Tax, Earned Income	5,632.9	4.4%
Child Tax, Child and Dependent Care	3,930.7	3.1%
Education Only	4,269.6	3.4%
Child Tax, Education	1,308.8	1.0%
Child Tax, Child and Dependent Care, Earned Income	855.3	0.7%
Child and Dependent Care Only	567.1	0.4%
All Other Combinations	4,899.1	3.9%
Total Number of Returns with Credits or Credit Combinations	47,021.9	37.0%

As the tables illustrate, about one-third of all individual taxpayers claim one or more personal credits; in fact, more than that must determine their filing status and whether they have dependents in order to claim the credits. For taxpayers with AGI between $50,000 and $100,000, 43 percent claim at least one personal credit. In addition, almost 10 percent of all individual taxpayers claim multiple credits. This includes more than six million taxpayers with AGI of $25,000 or less.

TAXPAYER AND IRS BURDEN

Taxpayer

Taxpayers must file a number of forms and schedules and complete associated worksheets to determine if they qualify for a specific credit, calculate the amount of the credit, and claim it on their tax return. Table 1.5 identifies the forms, schedules, publications, and worksheets for each credit as well as the estimated time involved. The fact that each of the credits has its own publication explaining who is eligible and how to claim the credit is an indicator of the complexity each involves. Table 1.6 shows that many taxpayer inquiries relate to these tax credits. More striking, however, is that a large number of taxpayers make errors in claiming these tax benefits.

REV_00149516

Table 1.5: Personal Credit Paperwork Requirements (Tax Year 2000)

Credit	Form/Schedule	Publication	Number of Worksheets	Estimated Time to Complete
Adoption	Form 8839		4	3.5 hours[a]
Child and Dependent Care	Form 2441 or Schedule 2 for Form 1040A filers	503	None	2.4 hours
Child Tax	None	972	1 or Pub 972 Worksheet	N/A[b]
Additional Child Tax[c]	Form 8812	972	None	.8 hours
Earned Income Tax Credit	Schedule EITC (A or B)	596	3 in Pub 596	N/A[b]
Elderly or Disabled	Schedule R or Schedule 3 for Form 1040A filers	524	1	N/A[b]
Education	Form 8863	970	None	1.5 hours

[a] Includes time attributable to the credit and the exclusion for employer-paid or -reimbursed benefits. Approximately 1.3 hours of that is attributable to the exclusion worksheets.
[b] Not calculated separately from form 1040 time estimates.
[c] The Additional Child Tax Credit is the refundable extension of the Child Tax Credit.
Source: Tax Forms and Publications Division

Table 1.6:Taxpayer Questions and IRS Math Error Notices (Tax Year 2000)

Credit Type	Customer Service Calls	Tele-Tax	E-mail	Total Taxpayer Contacts	Percentage of Contacts to Total Credits Claimed in Table 1.2	Math Error Notices	Percentage of Math Errors to Total Credits
Adoption[a]	N/A	N/A	N/A	N/A	N/A	1,724[a]	4%
Child and Dependent Care	68,989	63,761	7,661	140,411	2%	176,892	17%
EITC	2124,842	55,623	3,228	273,693	1%	1,485,425	8%
Education	N/A	21,842	N/A	21,842	.5%	6,908	.1%
Elderly/Disabled	N/A	32,193	N/A	32,139	18%	73,038	41%

[a] Except for math errors, IRS does not track this information for the Adoption Credit. Math error rate includes errors attributable to the employer exclusion.
Source: Various IRS Reports.

REV_00149517

IRS

Frontline IRS employees dealing with taxpayers in either office or field audits cite definitions of eligibility for credits as one of the more persistently complex aspects of their job. Their comments pinpoint a lack of consistency across a number of tax provisions and credits.

As a further indication of burden, Table 1.7 below summarizes data from an H&R Block analysis of the type and number of questions its preparers asked the corporate tax research department about various complex tax issues. Of the 577 questions received relating to personal tax credits, over three-quarters related to EITC and the Education credits.

Table 1.7: H&R Block Preparer Inquiries During the 1999 Tax Season

Credit	Number of Inquiries
Adoption	40
Child and Dependent Care Credit	38
Child Tax/Additional Child Tax	43
Earned Income	335
Education (Hope and Lifetime Learning)	121
Total	**577**

Source: H&R Block Research Department

REDUCING COMPLEXITY

We analyzed six areas of complexity related to personal credits. The selection was based on the number of tax credits claimed on 1999 tax returns, the number of questions taxpayers asked IRS about credits, the questions tax practitioners had about credits, and information received in interviews with tax professionals. The areas of complexity we identified are definitional complexity, inconsistency in phaseout thresholds and calculations, differences in the Education credits, calculating the income basis for the Credit for the Elderly or Disabled, when qualifying expenses can be taken for the Adoption Credit, and the rules for determining the order in which tax credits are applied to income tax liability (stacking rules).

REV_00149518

Complexity Issue: Definitions can create confusion about eligibility.

One of the most apparent areas of complexity associated with personal credits is the dissimilarity in how terms are defined. The identifying titles of some of the credits appear to overlap, but the tax law governing the credits is markedly different. For example, the definition of a "qualifying child" or "qualifying individual," used to determine eligibility to claim the child and dependent care tax credit, the child tax credit, and the earned income tax credit, is different for each credit. Therefore, taxpayers must fill out different worksheets or schedules and look to different instructions each time they claim similar-sounding credits to determine which definition applies and if their circumstances meet the requirements.

Prior attempts at simplification have not eliminated the confusion. For instance, the definition of a qualifying foster child for purposes of the child tax credit and earned income tax credit has been greatly simplified. An unmarried qualifying foster child need not be claimed as a dependent on the taxpayer's return for purposes of the earned income tax credit, but must be claimed as a dependent for the child tax credit. Table 1.8 summarizes the different tests that taxpayers must meet to qualify for the personal tax credits.

REV_00149519

Table 1.8: Comparison of Qualifying Tests for Personal Credits (Tax Year 2000)

Credit	Age	Residency	Relationship or Member of Household	Income Limits	Support	Filing Status[b]	Must be Claimed as a Dependent[c]
Adoption	Under 18 or disabled	IF Married Filing Separately (MFS), child must live with taxpayer more than half the year	N/A	$115,000[d]	None except if MFS must pay half the costs of keeping up home	Available to MFS if lived apart last 6 months of year	No
Child Tax	Under 17 at end of year	No except foster child must live with taxpayer for entire year	Child, stepchild, adopted child, grandchild, or foster child.	$55,000 - $110,000[a] (Points at which credit reduction begins)	Dependency test	Available to all filing status	Yes
Child and Dependent Care	Under 13 unless disabled spouse or dependent	IF Married Filing Separately (MFS) child must live with taxpayer more than half the year	Dependent or spouse	None Must have earned income	Dependency test	Available to MFS only if lived apart last 6 months of year	Yes
Earned Income	For qualifying child - Under 19 or under 24 if full-time student or any age if disabled Adults with no children - at least 25 but under 65	Child must live with taxpayer in the U.S. for more than half the year (All year if eligible foster child)	Child, stepchild, adopted child, grandchild, or eligible foster child.	$27,413 with one qualifying child $31,152 with two $10,380 with no children Must have earned income Limit on investment income	None	MFS cannot claim credit	No unless qualifying child is married
Elderly or Disabled	65 or older or under 65 and disabled	None	N/A	$12,500-25,000[a]	None	MFS cannot claim credit if lived together at any time during the year	N/A
Education	None	None	Taxpayer or dependent	$40,000-100,000[a]	Dependency test	MFS cannot claim credit	Yes

[a]Varies depending on filing status.
[b]There are certain exceptions which are discussed later.
[c]There are certain exceptions where credit can be claimed if dependency is waived to other parent.
[d] For the Adoption Credit, except for married taxpayers filing separate returns, the income limits for phasing out benefits are independent of filing status. The EGTRRA legislation changed the income limit to $150,000 beginning in 2002.

REV_00149520

In addition to having varying qualification tests, the specific requirements for the tests also vary among the credits. For example, as discussed below the relationship test is different for dependents than for qualifying children under the Earned Income Tax Credit.

Relationship or Member of Household Test

To qualify a taxpayer for a dependency exemption the individual in question must be the taxpayer's child, stepchild, sibling, niece, nephew, grandchild or foster child. In 2000, other family members or persons who resided with the taxpayer for the entire year may also be claimed as dependents.[8] This definition is also generally used for the Head of Household filing status and the Child and Dependent Care, Child Tax and Education credit purposes. [9]

The relationship test for a qualifying child for the EITC and Adoption credit are different in that the qualifying child does not have to, and may not, qualify as a dependent. The qualifying child under the EITC does not have to be a dependent unless the child is married. But if the qualifying child is a foster child not related to the taxpayer, they must be placed in the home by an authorized placement agency, not simply live with the taxpayer for the entire year. Before Tax Year 2002, a qualifying child under the Adoption credit (e.g., an unrelated individual living with the taxpayer) may not qualify as a dependent if they do not live in the taxpayer's home for the entire year. This residency requirement was changed by EGTRRA, and beginning in 2002, a foster child must reside with the taxpayer for more than six months.

The over 16 million taxpayers with qualifying children who claim the EITC must make two subtle but important differentiations in correctly filing their return. The first is to recognize that not all of the children in the household may qualify the taxpayer for EITC even if the taxpayer provides all of their support, and the taxpayer maintains the household. The second is that a child may qualify the taxpayer for the EITC and not qualify as a dependent.

Support Test

To meet the support test for the dependency exemption, the taxpayer generally must provide more than half of the qualifying individual's support during the calendar year covered by the return.[10] Because the Child and Dependent Care, Child Tax, and Education credits require the qualifying individual to be a dependent, this support test also applies to these credits. There is no support test for the EITC or under most circumstances for the adoption credit.

---

[8] Cousins are eligible only if they live with the taxpayer as a family member for the entire year.
[9] Under certain limited conditions non-dependents may also be covered such as disabled spouses for the Child and Dependent Care credit.
[10] There are different rules for multiple support agreements and for children of divorced or separated parents.

REV_00149522

Residency or Keeping Up a Home Test

To qualify for HOH and the Child and Dependent Care credit the taxpayer must meet the "Keep Up a Home" test. This test requires the taxpayer to pay more than half the cost of running the home for the year.[11] The EITC, on the other hand, has a residency test that simply requires the qualifying child to live with the taxpayer in the United States for more than half of the year.[12] There is no residency test for dependents or the Child Tax credit except for qualifying foster children. Foster children must live with the taxpayer for the entire year to qualify for the credit. A residency test applies to the adoption credit only if the taxpayer uses the filing status Married Filing Separately (MFS).

Age Test

Recognizing that many of the personal credits are targeted to a "qualifying child" there is no consistent age definition for a child. The Child and Dependent Care credit is limited to qualifying individuals under 13 or who cannot care for themselves. The Child Tax credit is limited to those under 17. The EITC applies to qualifying children under 19 (24 if the child is a full-time student).[13] The adoption credit age test is under 18. While there is no age test for dependents or the Education credits, a taxpayer must be at least 25 but under 65 to claim the EITC with no qualifying children and 65 or over or fully disabled to qualify for the Credit for the Elderly or Disabled.

Qualifying Income

Currently, taxpayers must calculate their qualifying income different ways to determine whether they qualify for specific personal credits. The Child and Dependent Care Credit and the Credit for the Elderly or Disabled both use AGI (line 34 on Form 1040). The Adoption, Child Tax, and Education credits use a modified definition of AGI that adds to the income considered in determining credit eligibility certain foreign source income excluded when calculating AGI. For the EITC, taxpayers must calculate their earned income and a modified AGI that includes certain losses deducted and income excluded when calculating AGI.[14]

Filing Status

Taxpayers who are Married Filing Separately face additional limitations and complications in qualifying for the personal credits. These are illustrated in Table 1.9.

[11] The household maintenance test for the Child and Dependent Care credit can be prorated over the course of the year if the taxpayer and child did not reside together for the full year.
[12] For foster children, the residency was one year in 2000 but was changed to 'more than six months' in 2002.
[13] There is no age limit if the individual is permanently and totally disabled.
[14] In 2002, the income used to determine EITC eligibility changes to AGI and taxable earned income.

REV_00149523

Table 1.9: Impact of Married Filing Separately Status

Credit	MFS Lived Apart Last 6 Months of the Year	MFS Lived Apart All Year	Result
Adoption	Full Credit Allowed	Full Credit Allowed	Credit will be lost if taxpayers lived together at any time during the last 6 months of the year.
Child and Dependent Care	Full Credit Allowed	Full Credit Allowed	Credit is unavailable if taxpayers lived together at any time during the last 6 months of the year.
Child Tax	Full Credit Allowed	Full Credit Allowed	Full credit allowed if exemption for dependent allowed
Earned Income	Not Allowed	Not Allowed	EITC is unavailable if MFS filing status is used.
Education	Not Allowed	Not Allowed	Credits are unavailable if MFS filing status is used
Elderly/Disabled	Not Allowed	Full Credit Allowed	Credit is unavailable if taxpayers lived together any time during the year.

Options for Reducing Definitional Complexity

- Standardize the definitions of "qualified child" and "qualified individual" as they relate to the Child/Dependent Care, Child Tax, Adoption, and Earned Income Tax credits.

This option would obviously require tradeoffs. For example, there are two relationship tests, one for dependency and one for the EITC/Child Tax Credit. One obvious option for reducing complexity would be to use one or the other. If the dependency exemption test were used, more children would potentially be qualifying children for EITC and Child Tax credit purposes. Specifically, this would include siblings, nieces and nephews, who lived with the taxpayer more than half the year but not the entire year, and certain other family members and other individuals, who lived with the taxpayer for the entire year. How many additional individuals would be covered is difficult to estimate. The number would be limited, however, by other tests and provisions, specifically the age limits, and the EITC requirement that the qualifying child live with the taxpayer in the United States for more than half the year. The EGTRRA legislation reduced definitional complexity in 2002 by modifying the residency test for foster children from one year to more than six months. This is a first step in reducing definitional complexity.

Extending the more limited EITC/Child Tax credit relationship definition to dependents would have more dramatic effects. Taxpayers would no longer be able to claim as dependents many older family members or other individuals who lived in their household for the entire year. Fewer taxpayers would qualify as Head of Household or be eligible for other credits that require the qualifying individual to be a dependent.

REV_00149524

Making the residency, support, and relationship tests the same would reduce the time and money taxpayers spend on compliance. It could also make for more accurate returns.

- Use one age for defining a child.

Currently, there are four different criteria in the provisions analyzed. Recognizing there are potential revenue and other policy implications of choosing one age to define a child, consistency would make it much easier for taxpayers to determine whether a child qualifies them for credits. For example, it would simplify the Child and Dependent Care and the Adoption credits if the age of the qualifying child were determined at the end of the year like the other credits rather than when the care was provided, but this could affect the number of children receiving benefits.

- Consistently define qualifying income.

While few taxpayers may have to calculate their Modified Adjusted Gross Income (MAGI), all must figure out what the difference is and whether they have any income to include. The use of MAGI instead of AGI for phasing out some of the personal tax credits may be intended to deny credits to persons with considerable incomes only a small portion of which is subject to federal tax.[15] Eliminating this provision would possibly make additional taxpayers eligible for the credits. By the same token, it would save a lot of time for other taxpayers.

- Make consistent the treatment of taxpayers that select the Married Filing Separately (MFS) filing status.

MFS taxpayers are subject to four different treatments in the credits analyzed. They

- are unable to claim the EITC and the Education credits,
- can take advantage of the Child Tax Credit without restrictions,
- can take advantage of the Child and Dependent Care and Adoption credits only if they lived apart from the spouse for the last 6 months of the year, and
- can take advantage of the Credit for Elderly or Disabled only if they lived apart from the spouse for the entire year.

Whether or not there is any rationale for the differences, treating MFS taxpayers consistently would simplify tax compliance for them.

[15] The EGTRRA legislation changed the basis for calculating the EITC from the Modified Adjusted Gross Income (MAGI) to Adjusted Gross Income (AGI).

REV_00149525

Complexity Issue: Credits differ in how they are calculated and their phaseouts, both in terms of the income level at which the phaseout begins/ends and how the credit is phased out.

As illustrated in Table 1.10, the personal credits begin phasing out at different income levels. With the exception of the Child and Dependent Care credit, all of the credits also completely phase out at different levels. As a result, taxpayers must determine for each credit whether they are eligible to claim the credit based on their income.

Table 1.10 Credit Income Limits/Phaseout Thresholds[a] (Tax Year 2000)

Credit	Single/HOH	MFJ	MFS
Adoption	$75,000	$75,000	$75,000
Child Tax	75,000	110,000	55,000
Child and Dependent Care	10,000	10,000	10,000
Education	40,000	80,000	N/A
EITC – 1 qualifying child	12,690	12,690	N/A
EITC – 2 or more qualifying children	12,690	12,690	N/A
EITC -- No qualifying children	5,770	5,770	N/A
Elderly or Disabled	17,500	20,000-25,000[b]	12,500

Note: The phaseout thresholds for the adoption credit, the dependent care tax credit, and an education credit (HOPE) were changed by EGTRRA effective in future years.
[a]Income level at which phaseouts begin. The credits completely phase out at different amounts.
[b]Depends on whether one or both taxpayers are eligible.

In addition, the credits phase out in different ways. The Child and Dependent Care credit is available to taxpayers with all levels of income, but the percentage of eligible expenses declines from 30 percent to 20 percent at higher incomes. The other personal credits phase out entirely at set income levels but use different calculations to determine the actual amount of the credit.

An example may help make this clear. Mr. and Mrs. Cleaver have four children. They file a joint return. Their combined AGI is $110,150, with Mrs. and Mr. Cleaver having $4,000 and $96,150 in earned income respectively. Mr. Cleaver earned $15,000 of his income from foreign sources. The Cleavers had $7,000 in childcare expenses for two children and $6,000 in qualified adoption expenses during the tax year. The Cleavers also had $8,000 in education expenses; $2,000 for Mrs. Cleaver and $6,000 in college tuition for their son Wally. The Cleavers would determine the amount of credits they are eligible for as follows.

REV_00149526

Adoption

The maximum Adoption credit of $5,000 is reduced by the ratio to $40,000 of the amount by which the taxpayer's MAGI exceeds $75,000. This is illustrated in the following calculations:

1. $110,150 – 75,000 = $35,150
2. $35,150/$40,000 = 88%
3. $5,000 X 88% = $4,393.
4. $5,000 - $4,393 = $607

The Cleavers are able to take an adoption credit of $607. If their total personal credits exceed their precredit tax liability, they can carry forward the adoption credit for up to five years.

Child and Dependent Care

Because their AGI exceeds $28,000, the percentage of qualifying child care expenses that the Cleavers can claim is 20 percent. In calculating their credit the Cleavers apply this percentage to the smaller of

- their qualified expenses ($7,000), or
- the yearly dollar limit for two or more children ($4,800) or
- the lesser of their earned incomes ($4,000).

For the Cleavers, their Child and Dependent Care credit would be $800 (20 percent of $4,000). It is interesting to note that if Mr. Cleaver was a single parent filing as Head of Household, his Child and Dependent Care credit would be $160 more because it would not be constrained by the lower earned income of Mrs. Cleaver.

Child Tax Credit

Computing the Child Tax credit is even more complicated. In this example, the Cleavers have 3 children under 17. This potentially makes them eligible for a $1,500 Child Tax Credit. However, this amount must be reduced because their MAGI exceeds the Married Filing Jointly threshold of $110,000. The credit amount is reduced by 5% of each $1000 (or any part thereof) of MAGI over the $110,000 threshold.[16] Accordingly the Cleavers have a Child Tax credit of $700 calculated as follows.

- $125,150 - $110,000 = $15,150 ($110,000 is the threshold for MFJ)
- $15,150 X .05 = $800 (The $15,150 is rounded up to $16,000)
- $1,500 - $800 = $700.

[16] In calculating their MAGI for this credit, the Cleavers must add back the foreign source income they had previously excluded in calculating their AGI.

REV_00149527

Because of their income level, the Cleavers are not eligible for the Additional Child Tax credit, the Education credits, or the EITC.

Other Personal Credits

The other personal credits also have complex phaseout rules. Education credits involve numerous steps and calculations such as determining the MAGI to see if the credit is phased out partially or completely. The EITC involves a recalculation of income as well as application of phase-in and phase-out rules.[17] Few of the steps or calculations for any of the credits are the same. To calculate the Additional Child Tax credit, the taxpayer must complete a two page worksheet that involves information not entered elsewhere on the return and 10 additional steps including four separate calculations.

The Additional Child Tax Credit is for certain individuals who get less than the full amount of the child tax credit. It is available only to the extent the taxpayers' Social Security and Medicare taxes exceed any refundable EITC. This not only makes it more complex to calculate, but low-income taxpayers whose EITC exceeds the amount of Social Security taxes they paid get no benefit from this provision. In fact, a married couple with three children with earned income of less than $22,850 receives no additional child tax credit. If the same family earned $26,000, their additional child tax credit would be $799.

Reducing Phaseout Complexity

- Use one set of phaseout thresholds and consistently calculate how credits are phased out.

Complexity for taxpayers could be reduced if phaseouts began and ended at the same income levels for all credits. Doing this would require that phaseouts also be calculated in the same way. This would also reduce complexity and taxpayer burden. The biggest changes under this option would be to the Child and Dependent Care Credit that does not currently phase out but is available to eligible taxpayers at all income levels.

An exception to this might be the EITC which is refundable and intended to provide income support to some of the lowest income workers. The other credits are designed to have a broader reach. Therefore, the income limits for the EITC would need to remain lower than those of the other credits, and the EITC would not be folded into this option. Other issues that would need to be resolved under this option are the start of the phaseout range and the amount of income over which the benefits would be phased out. Generally, a narrower phaseout range will increase the marginal tax rate on taxpayers whose incomes are, or potentially could be, within the range.

[17] Effective for tax year 2002, EGTRRA legislation changed the EITC so that taxpayers use the adjusted gross income, rather than the modified adjusted gross income for calculating the credit. Other changes include simplifying the eligibility rules by excluding nontaxable employee compensation from the earned income definition and eliminating the AMT as a factor.

REV_00149528

Complexity Issue: Hope and Lifetime Learning education credits differ in amount and whether they can be claimed by more than one taxpayer or dependent on the return.

The Hope Credit and Lifetime Learning Credit have the same qualifying expenses but differ in that the Hope Credit can be used for each of the eligible individuals—taxpayers and dependents—on a tax return, while the Lifetime Learning Credit amount is on a per family basis. In addition the Hope Credit can be as large as $1,500 per eligible student, while the Lifetime Learning Credit is limited to $1,000 per return.

As the two credits cannot be taken for the same student on the same return, having different amounts and availability requires the taxpayer to do additional calculations in order to determine which credit is most advantageous in their particular situation. And unless the taxpayer reads the instructions and associated publication closely, he or she may assume both credits apply to all individuals on the return. The complexity is increased by the inability of taxpayers to take a tax free distribution from an Education IRA and also claim an Education Tax Credit.

Reducing Education Credit Complexity

- Make education credit amounts and constraints on use consistent.

Making the amounts of the credits consistent, and either making both credits available to be taken on either a per student or per family basis would reduce the burden and complexity associated with these credits.

Complexity Issue: Determining when to claim eligible expenses under the Adoption Credit is difficult.

Qualifying adoption expenses are reasonable and necessary adoption fees, court costs, attorney fees, and other expenses directly related to, and whose principal purpose is for, the legal adoption of an eligible child. The maximum amount of the credit is $5,000 ($6,000 for a child with special needs). The credit is phased out ratably for those with modified adjusted gross income between $75,000 and $115,000.[18]

When claiming an Adoption Credit for a child who is a U.S. citizen or resident, qualifying expenses paid in the year before the adoption becomes final may be claimed in the year after the year of payment. Qualifying expenses paid in the year the adoption becomes final are claimed in that year. Qualifying expenses paid in the year after the adoption becomes final are claimed in the year of payment.

[18] The adoption credit and the beginning of the phase-out range were changed by EGTRRA legislation to a credit of $10,000 per year per child (TY2002), including special needs children (TY2003), and a beginning phase-out range of $150,000 of MAGI (TY2002).

REV_00149529

If a taxpayer adopts a child who is not a U.S. citizen or resident at the time the adoption effort began, a credit may not be claimed until the year the adoption becomes final. If adoption expenses are paid after the tax year in which the adoption becomes final, a credit for such expenses is allowed for the tax year of payment.

The fact that the credit is per adoption, and adoptions can involve costs over several years can make these provisions very burdensome. The rules about timing are quite different for other provisions affecting individual taxpayers, most of which are included in the tax return in the year in which the expense is paid.

In addition, in calculating tax liability with the Adoption Credit the taxpayer must first consider other personal credits. If the remaining tax liability is less than the amount of the adoption credit, any remaining Adoption Credit amount can be carried forward for the next five years. In future years, there is no recalculation of the phaseout. The Adoption Credit is the only personal credit we analyzed with the carry forward option.

Reducing Adoption Credit Complexity

- Allow credit for adoption expenses to be taken in the year the qualifying expenses are paid regardless of whether it is a domestic or foreign adoption.

In most parts of the Code that affect non-business taxpayers, expenses are taken into account in the tax year in which they are paid. Using this rule for adoption expenses would eliminate much of the complexity associated when expenses can be claimed. It would also eliminate the differential between domestic and foreign adoptions.

Complexity Issue: Income basis of the Credit for the Elderly or Disabled difficult to calculate.

The credit for the Elderly or Disabled is a nonrefundable credit available to low-income taxpayers. A qualified individual is one who is age 65 or older; or, if under age 65, (1) is retired because of permanent and total disability, (2) had not reached the mandatory retirement age for his employer's retirement program at the beginning of the tax year, and (3) has received taxable disability benefits during the year.

The average credit received by the 159,270 taxpayers who claimed the Credit for the Elderly or Disabled in 1999 was $208. Complexity in the credit includes calculating the correct base amount to start from and calculating the ensuing reduction in that base amount as a function of nontaxable Social Security and pension payments and AGI.

The credit is figured starting with an initial amount that is set by statute. See Table 1.11 for the initial amounts.

REV_00149530

Table 1.11 Credit for Elderly or Disabled Initial Amounts

Filing Status	Initial Amount
Single, HOH, Qualified Widow(er) and by the end of 2000 you were	
• 65 or older	$5,000
• under 65 and retired on permanent and total disability	$5,000[a]
Married Filing Joint Return and by the end of 2000	
• both of you were 65 or older	$7,500
• both of you were under 65 and one of you retired on permanent and total disability	$5,000[a]
• both of you were under 65 and both of you retired on permanent and total disability	$7,500[a]
• one of you was 65 or older and the other was under 65 and retired on permanent and total disability	$7,500[a]
• one of you was 65 or older, and the other was under 65 and not retired on permanent and total disability	$5,000
Married and filing a separate return and did not live with your spouse at any time during the year and by the end of 2000 were	
• 65 or older	$3750
• under 65 and retired on permanent and total disability	$3750[a]

[a] The lesser of this amount or taxable disability income.

After determining their initial amount (above), the taxpayer's next step is to subtract from this amount certain nontaxable pensions and benefits such as nontaxable social security payments, certain railroad retirement pension payments, and other nontaxable pension benefits.

Next taxpayers must determine their excess AGI by subtracting from their AGI $7500 if single, HOH, or qualifying widow(er), $10,000 if MFJ, and $5,000 MFS. This amount is then divided by two. If the final income amount is smaller than the initial amount, taxpayers may qualify for a credit that is limited by their tax after adjusting for the Foreign tax credit and the Child and Dependent Care Credit.

All of these calculations are required for a credit that averages about $200, in part because of the low income thresholds and the fact that the credit has not been adjusted for inflation since 1983. This means that as Social Security benefits are raised to keep pace with increases in the cost of living, eligibility thresholds erode the benefit. Even those taxpayers that are eligible for the credit do not receive much benefit. A married couple with one qualifying taxpayer who had $9,425 in taxable disability income, $5,196 of nontaxable disability, and an AGI of $14,004 gets a credit of $45.
The likelihood that a taxpayer will qualify for this credit is so small that one tax professional noted that there is a saying in her office: "If it worked, you did it wrong." This is borne out by the high number of contacts taxpayers make with IRS on the credit

REV_00149531

and the number of error notices that are sent in response to problems on the taxpayers' returns.

The credit also differs from other personal credits in that it requires MFS taxpayers to live apart for the entire year rather than the last six months of the year. This also increases the burden on a group of taxpayers that may be in a poor position to correctly determine their tax liability and corresponding eligibility for the credit.

Reducing the Complexity of the Credit for the Elderly or Disabled

- Base credit on qualifying individual's AGI.

The credit's complexity could be significantly reduced if eligibility for and the amount of the credit were based on the qualifying individual's AGI adjusted to reflect income from nontaxable sources such as Social Security benefits. This would eliminate the difficulties taxpayers face in determining eligibility based on a recalculated income base and allow the credit to be calculated from information on the return or otherwise readily available.

- Require MFS taxpayers to live apart only for the last six months of the year to make this credit consistent with the other personal credits.

Complexity Issue: In some instances certain personal credits must be taken before others in determining final income tax liability.

When claiming the Adoption Credit and the Credit for the Elderly or Disabled, taxpayers must first adjust their tax liability to reflect any other personal credits they are eligible for. For the Adoption Credit, it appears the reason is to allow the taxpayer to carry forward into future tax years any credit amount in excess of their tax liability. The reasoning is not clear for the Credit for the Elderly or Disabled. This credit "stacking" requires taxpayers taking the Credit for the Elderly or Disabled to determine if they can take the Child and Dependent Care Credit for which few are eligible.

Reducing Complexity Associated with Credit Stacking

- Eliminate order in which certain personal credits are taken.

By eliminating the stacking order for certain credits and simply limiting the availability of credits by the taxpayer's liability, taxpayers will have to undertake fewer unproductive steps in completing their tax returns. However, refundable tax credits, such as the Additional Child Tax Credit and the EITC, would have to be considered last to maintain their refundable nature.

REV_00149532

SIMPLIFICATION OPTIONS

Complexity within the personal credits analyzed could be reduced by making the credits as consistent as possible in design, qualifications, income limits, phaseouts, and filing status eligibility. As currently enacted, each of the credits requires taxpayers to make a series of independent determinations and calculations, often for little financial benefit. This results in taxpayer confusion, errors on tax returns, and additional work for the Service.

Specifically, the personal credits could be less complex and burdensome on taxpayers if the following changes were made.

- Standardize the definitions of "qualifying child" and "qualified individual" as they relate to the Child/Dependent Care, Child Tax, Adoption, and Earned Income Tax credits.
- Use one age for defining a child.
- Consistently define qualifying income.
- Make consistent the treatment of taxpayers that select the Married Filing Separately filing status.
- Use one set of phaseout thresholds and consistently calculate how credits are phased out.
- Make education credit amounts and constraints on usage consistent.
- Base amount of and eligibility for the Credit for the Elderly or Disabled on qualifying individual's AGI.
- Allow certain personal credits to be taken in any order (refundable credits would need to be considered after the others).

REV_00149533

CHAPTER II
PERSONAL DEDUCTIONS AND EXEMPTIONS

Tax deductions and personal exemptions are the principal vehicles individual taxpayers use to reduce taxable income. Many personal deductions, such as those for charitable contributions and mortgage interest, are allowed only if the taxpayer itemizes deductions on Form 1040, Schedule A, rather than taking the standard deduction. About 30 percent of taxpayers itemize deductions. Taxpayers who itemize struggle with many of the same complexity issues as taxpayers that claim credits (See Chapter I). For example, like credits, various deductions and exemptions include definitional issues, differing value limits (floors and caps) and reductions (phaseouts), and differing income bases for determining their eligibility for and value of the deduction or exemption. For the 10 percent of individual taxpayers that itemize and claim at least one credit the impact of this complexity is compounded. In general, because itemized deductions and exemptions are claimed on over 30 million tax returns, even relatively minimal complexity can have a huge impact on the overall system.

Because of the strong links between personal exemptions and itemized deductions, we analyzed personal exemptions as well as the deductions for medical and dental expenses, home mortgage interest, charitable contributions, personal casualty loss, job and most other miscellaneous expenses and other miscellaneous deductions in light of these issues. Table 2.1 presents whether the exemption/deduction has a floor (minimum amount of expense before a deduction can be taken), cap (maximum amount that can be deducted), and whether there are other limitations or if the item is phased out at higher income levels.

The various limits on exemptions/deductions have been put into the code over time generally to limit the revenue impact of the exemption/deduction. In addition to the limitations discussed below, the personal exemption and certain deductions also interact with the Alternative Minimum Tax (AMT). In the case of personal exemptions, a high number compared to AGI can trigger the AMT. Some deductions, such as medical and dental expenses, are treated differently than in the regular tax system in calculating the AMT adding further complexity. The EGTRRA legislation gradually eliminates the limitation on itemized deductions and phases out the restrictions on personal exemptions between Tax Year 2006 and Tax Year 2010.

REV_00149534

Table 2.1: Characteristics of Personal Exemptions, Certain Itemized Deductions

Deduction	Floor	Cap	Limitations or Phaseouts
Personal Exemptions			X
Medical and Dental Expenses	X		
Home Mortgage Interest and Points		X	X
Investment Interest		X	X
Charitable Contributions		X	X[a]
Personal Casualty Loss	X		X
Job Expenses and Most Other Miscellaneous Expenses	X		X[a]
Casualty or Theft Loss from Income Producing Property			
Gambling Losses		X	(a)
Other Miscellaneous Expenses	X		X

[a] Certain itemized deductions are uniformly subject to the overall limit on deductions based on AGI. There is a single phaseout for all affected itemized deductions. This limitation will be reduced beginning in TY 2006 and eliminated after TY 2009.

WHO CLAIMS DEDUCTIONS

Generally, taxpayers are entitled to claim two types of deductions: (1) personal exemptions for themselves, their spouses, and any dependents; and (2) either a standard deduction or the total of their itemized deductions. For 1998, 38 million taxpayers chose to itemize deductions rather than take the standard deduction. Generally, taxpayers itemize deductions when the total of their itemized deductions exceeds the amount of the standard deduction to which they are otherwise entitled. However, some taxpayers may itemize even if their itemized deductions are less than their standard deduction.[19] The top 10 deductions claimed on returns in 1998 are listed in Table 2.2 below.

[19] One reason that some taxpayers may itemize deductions even when that does not appear to be tax-minimizing behavior is due to interactions with state income taxes. Some states do not permit a taxpayer to itemize on a state income tax return unless they do so on a federal income tax return. As a result, itemizing may reduce a taxpayer's state income taxes by more than it increases his or her federal income taxes.a taxpayer's state income taxes by more than it increases his or her federal income taxes.

REV_00149535

Table 2.2: Top Ten Personal Deductions Claimed On Returns (Tax Year 1999)

	Deduction	Number of Returns (000's)
1.	Real Estate Taxes	35,420.1
2.	Charitable Contributions (Cash)	34,206.9
3.	State and Local Income Taxes	33,609.5
4.	Home Mortgage Interest	32,700.1
5.	Charitable Contributions (Other than Cash)	19,292.4
6.	Personal Property Taxes	19,018.8
7.	Tax Preparation Fees	14,093.0[a]
8.	Unreimbursed Employee Expenses	12,039.8[a]
9.	Other Expenses	8,225.4[b]
10.	Medical Expenses	5,884.4[c]

[a] Tax preparation fees and unreimbursed employee expenses are subcategories of miscellaneous deductions and are eliminated if total miscellaneous deductions are less than 2 percent of AGI.
[b] Other expenses include investment, safe deposit box, etc..
[c] The number of medical deductions is only the number benefiting from it (i.e., with medical expenses exceeding 7.5 percent of AGI).

Many taxpayers that itemize claim more than one deduction. Table 2.3 shows the number of deductions claimed by taxpayers.

Table 2.3: Deductions Claimed per Return (Tax Year 1999)

Number of Deductions Claimed on Return	Number of Returns (000's)
None	11,539.4
One	46,386.4
Two	33,694.7
Three	16,203.4
Four	12,583.4
Five	4,812.8
Six	1,331.1
Seven	377.8
Eight	95.2
Nine	34.6
Ten	12.6
Eleven	3.7

Information on the number of returns having various combinations of deductions is shown in Table 2.4. The categories of itemized deductions included in the table are real estate taxes, charitable contributions, state and local taxes, home mortgage interest, and a combination of miscellaneous expenses. Real estate taxes with charitable contributions is the most frequently used combination of deductions, and the other

REV_00149536

categories of deductions included in Table 2.4 were chosen by frequency of occurrence with that combination.

Table 2.4: Frequency of Combinations of Deductions (Tax Year 1999)

Combination	Number of Returns with the Combination (000's)	Percent of All Returns	Percent of All Returns with Itemized Deductions
Real Estate Taxes and Charitable Contributions[a]	31,802.2	25.0%	79.0%
Real Estate Taxes, Charitable Contributions[a], and Home Mortgage Interest	28,443.7	22.4%	70.1%
Real Estate Taxes, Charitable Contributions[a], and State and Local Income Taxes	26,911.3	21.2%	66.9%
Real Estate Taxes, Charitable Contributions[a], Tax Preparation Fees, Employee Expenses, and Other Expenses[b]	16,510.3	13.0%	41.0%
Real Estate Taxes, Charitable Contributions[a], and Personal Property Taxes	15,908.8	12.5%	39.5%

[a] Charitable contributions include both cash and other than cash contributions.
[b] Other expenses include employee business expenses and other expenses (investment, safe deposit box, etc.).

TAXPAYER AND ADMINISTRATIVE BURDEN

Taxpayers must file a number of forms and schedules and complete associated worksheets to determine if they qualify for a specific deduction, calculate the amount of the deduction, and claim it on their tax return. The amount of resulting burden varies according to the individual taxpayer's situation. For example, taxpayers who contribute money or appreciable property to charities will experience more burden than those taxpayers who give a similar amount weekly through employer deductions to a United Fund campaign. Table 2.5 identifies the forms, schedules, publications, and worksheets for each deduction we analyzed. All itemized deductions must be reported on Schedule A (Form 1040).

REV_00149537

Table 2.5 Itemized Deduction Burden Associated with Paperwork Requirements for Selected Deductions (Tax Year 2000)

Deduction	Form/Schedule	Publication	# of Worksheets
Medical and Dental Expenses	Schedule A	502	2
Taxes Paid	Schedule A	525	None
Home Mortgage Interest	Schedule A	936	1
Investment Interest	Schedule A and Form 4952[a]	550	None
Charitable Contributions	Schedule A And Form 8283	526	1
Personal Casualty or Theft Loss [a]	Schedule A and Form 4684[b]	547	None
Casualty or Theft from Income Producing Property	Schedule A and Form 4684 or Form 4797[c]	547	None
Job Expenses and Most Other Miscellaneous Deductions	Schedule A and Form 2106 or Form 2106-EZ	529	Varies by Type of Expense

[a] A form 8582, form 6198, or form 6251 may also be required, if there is passive activity or at-risk activity involved, or an AMT adjustment.
[b] Inventories of personal property by room may be required.
[c] A form 4797 may be required if the property has been depreciated.

REDUCING COMPLEXITY

There are many issues associated with complexity of personal exemptions and itemized deductions. This report focuses on the many different approaches used to limit the value of certain deductions in some situations and on the recordkeeping requirements for charitable contributions.

Complexity Issue: Itemized deductions and the personal exemption have different limits and their value to taxpayers differs.

As illustrated in Table 2.6 a variety of limitations are imposed on a taxpayer's ability to take itemized deductions and personal exemptions. These include floors, caps, and other limits. In many cases these limitations are applied differently for different deductions. Specifically,

- some itemized deductions are limited based on AGI,
- some itemized deductions can only be taken after the amount of the expense has exceeded a set percentage of the taxpayer's AGI,
- some are limited by the value of the underlying financial transaction, and
- almost all are subject to a different combination of the above.

REV_00149538

Table 2.6:Characteristics of Personal Exemptions and Certain Itemized Deductions (Tax Year 2000)

Exemption or Deduction	Floor	Cap	Limitations or Phaseouts
Personal Exemptions	None	None	Phased out for taxpayers with AGIs between: S - $128,950 - $251,450; HOH - $161,150 - $283,650; MFJ - $193,400 - $315,900; MFS - $96,700 - $157,950
Medical and Dental Expenses	7.5% of AGI	None	None
Home Mortgage Interest and Points	None	*Home Mortgage Interest*: $1 million loan maximum ($500,000 if MFS) unless grandfather rules apply *Home Equity Loan*: Maximum loan amount of $100,000 [$50,000 MFS].	Included in deductions covered by limit on itemized deductions. (The smaller of 3% of the amount by which AGI exceeds $128,950 or $64,475 if MFS or 80% of itemized deductions that are limited)
Investment Interest	None	Cannot deduct interest that exceeds net investment income. There is a one year carryover for investment interest	None
Charitable Contributions	None	20%, 30%, or 50% of AGI depending on the type of contribution and type of qualifying organization	Included in deductions covered by limit on certain itemized deductions
Personal Casualty/Theft Loss	$100 per casualty plus excess of all casualty losses for year subject to a 10% of AGI floor	None	None
Job Expenses and Most Other Misc. Expenses	2% of AGI	None	Included in deductions covered by limit on certain itemized deductions
Casualty or Theft Loss from Income Producing Property	None	None	None
Gambling Losses	None	Cannot deduct losses in excess of winnings	None
Other Miscellaneous Expenses	Most are subject to 2% of AGI	None	Included in deductions covered by limit on certain itemized deductions

Limits on Itemized Deductions

Currently, the total amount a taxpayer can deduct of home mortgage interest, charitable contributions, taxes, job expenses, and most other miscellaneous deductions is limited for higher income taxpayers. For tax year 2000, taxpayers with an AGI above $128,950 ($64,475 if married filing separately) must reduce the total amount that they can deduct by the smaller of

- three percent of the amount by which their AGI exceeds the above thresholds or
- 80 percent of the itemized deductions that are subject to the limit.

REV_00149539

To figure the limit, taxpayers must complete a 10-step worksheet that includes five separate calculations. The EGTRRA legislation reduces the limitation on itemized deductions by one-third beginning in 2006 and eliminates it entirely beginning in 2010.

Floors on Deductions

Some items such as medical and dental expenses, job expenses, and other miscellaneous expenses can only be deducted if the amount of the expense exceeds a certain percentage of AGI. After that floor is reached, qualified expenses can be deducted subject to other limits in some cases. The floors are

- Medical and dental expenses - 7.5 percent of AGI (10 percent when calculating AMT),
- Job expenses and other miscellaneous expenses -- two percent of AGI, and
- Personal casualty loss - $100 per casualty plus the excess of all casualty losses for the year subject to a 10 percent of AGI floor.

Caps

Five deductions are capped; each in a different way. Specifically,

- The home mortgage interest deduction is limited to the interest on a loan amount of $ 1 million or $500,000 (MFS) unless grandfather rules apply,
- The home equity loan interest deduction is limited to a loan amount of $100,000 or $50,000 (MFS),
- The investment interest deduction cannot exceed net investment income,
- Gambling losses deducted cannot exceed winnings, and
- Charitable contributions are limited to 20, 30, or 50 percent of AGI depending on the type of contribution and type of qualifying organization.

Carry Forwards

Two deductions—charitable contributions and investment interest expenses—can be carried forward to the next year's tax returns[20].

Other Limits on Charitable Contributions

Charitable deductions may be the most complex in terms of calculating how much can be deducted. In part this is due to the many types of contributions that can be made and the different types of organizations involved. If the taxpayer's charitable contributions do not exceed 20 percent of income, there are no other limits on charitable

[20] A casualty loss of a business which becomes part of a net operating loss can be carried forward.

REV_00149540

contributions except the overall limit on certain deductions.[21] If the value of the contributions is between 20 and 50 percent of AGI, a variety of conditions affect the amount that can be deducted. The amount deducted for charitable contributions cannot be more than 50 percent of the taxpayer's AGI for the year.

Depending on the nature of the organization and the donated property, a deduction cap of 50 percent, 30 percent, or 20 percent of adjusted gross income applies. Also, carry forward provisions and overall deduction limits apply. The box below summarizes this complex process.

[21] Ninety-seven percent of taxpayer returns with charitable contributions have charitable contributions that are less than 20 percent of AGI.

REV_00149541

Charitable Donation Deduction Rules:

The deduction caps identified below are applied in a specific order with a total deduction for the year limited to 50 percent of adjusted gross income.

1. 50 percent deduction caps for 50 percent limit organizations.[22]
2. 30 percent of adjusted gross income caps for contributions to organizations that are not 50 percent limit organizations, except for contributions of capital gain property subject to the 20 percent cap under "4" below. (Also, if any contributions to 50 percent limit organizations were made, including donations of capital gain property that are subject to the 30 percent cap under "3" below, this cap is the lesser of (1) 30 percent of adjusted gross income or (2) 50 percent of adjusted gross income minus the contributions to the 50 percent limit organizations.)
3. 30 percent of adjusted gross income cap for contributions of capital gain property to 50 percent limit organizations. (If contributions qualifying for the 50 percent cap (step 1) were made, the allowable deduction for these 30 percent limit contributions is the lesser of (1) 30 percent of adjusted gross income or (2) 50 percent of adjusted gross income minus the contributions qualifying for the 50 percent cap.)
4. 20 percent of adjusted gross income cap for contributions of capital gain property to organizations that are not 50 percent limit organizations. (*If contributions are deductible under any of the other caps (steps 1-3) the taxpayer may deduct contributions subject to the 20 percent cap only to the extent that there is any adjusted gross income remaining under the overall adjusted gross limit.)*

Further, even if none of the charitable contributions are subject to the caps, a taxpayer's overall charitable deduction is subject to the three percent reduction in itemized deductions if his or her 2000 adjusted gross income exceeds $128,950 ($64,475 for married filing separately).

If a taxpayer's deduction is limited by any of the caps, a five-year carry forward is allowed for the excess.

[22] Certain charitable organizations are designated as 50 percent limit organizations, because the amount of deduction that may be taken for contributions to them is 50 percent of the taxpayer's adjusted gross income. Some examples are churches, educational organizations, and hospitals. Other organizations are limited to 30 percent or 20 percent, depending on the type of property given and the type of organization.

REV_00149542

Personal Exemption Phaseout

The amount taxpayers can deduct in Tax year 2000 for personal exemptions begins to be phased out for taxpayers with AGI between $96,700 and $193,400 for tax year 2000 depending on filing status. It is completely phased out between $157,950 and $315,900 (for tax year 2000) again depending on filing status.

Reducing the Complexity of Itemized Deductions and Personal Exemptions

The many different limits on when and how many taxpayers can claim itemized deductions create multiple layers of complexity and burden. Except for casualty or theft loss from income producing property all itemized deductions are subject to some limit. Taxpayers must not only determine what limit or limits the deduction(s) are subject to, but also what the limit is, and how it is calculated. Personal exemptions are phased out in yet a different way. Many taxpayers must consult a number of publications, fill out multiple forms and make many calculations to determine whether it is advantageous to itemize and their ultimate tax liability.

One straightforward way to reduce this complexity and associated taxpayer burden would be to subject all itemized deductions to the same overall limit or limits. For example

- Itemized deductions could be limited to a certain percentage of the taxpayer's AGI either individually or in total. Currently, this is the limitation most frequently imposed.
- Taxpayers could be allowed to claim itemized deductions only in excess of a percentage of AGI, a common floor.
- Itemized deductions could be phased out at higher income levels.

What limit is imposed is less important than using a single limit. The impact of the limitations on lower income taxpayers could be eliminated or reduced by setting an AGI threshold only above which the limits apply as is currently done. Complexity could be further reduced if any AGI thresholds or phaseouts for itemized deductions and personal exemptions are the same as those for personal credits.

Complexity Issue: The recordkeeping requirements for charitable contributions are cumbersome.

Recordkeeping creates a large burden for taxpayers completing and filing Form 1040 and Schedule A. The rules related to recordkeeping for charitable donations and contributions can be extremely cumbersome. Different forms of proof are required for different types and amounts of contributions. These are explained in the box below.

REV_00149543

Recordkeeping Requirements For Charitable Contributions:

Donations made by cash or check for less than $250 require only a statement, receipt, or cancelled check. Donations of goods, clothing or other property also require a receipt from the organization to which the items were donated.

If the value of the donation is $250 or more, the taxpayer needs to get a letter or other written acknowledgement of their donation from the charity. This letter must show the name and address of the organization, the date and location of the donation, the amount of cash or a description of the items donated and whether or not the organization gave the taxpayer anything in return for their donation. If so, a description of the goods received and an estimate of their value is required.

Form 8283 must be completed if the amount of the deduction is more than $500, or donates less than the entire interest in property (e.g., charitable remainder trusts).

If the total deduction for the property is more than $5,000, the taxpayer must complete Section B of Form 8283 and may be required to attach an appraisal of the item(s) they donated. Form 8283, Section B also includes a section for the appraiser and donee organization to complete.

Many of the recordkeeping requirements are necessary because IRS does not receive any information from the charitable organizations on the contributions that they receive from taxpayers. If the charitable organization were allowed to provide the taxpayer and the IRS with this information then the recordkeeping requirements for individuals could be reduced. This could be done on a voluntary basis. Those charitable organizations who chose to do this type of third party reporting to IRS could market the reduced recordkeeping as a benefit to their contributors.

SIMPLIFICATION OPTIONS

As with the personal credits, complexity within itemized deductions and personal exemptions could best be reduced by making the specific deductions as consistent as possible in design, qualifications, income limits, and phaseouts. To the extent the rules surrounding deductions and exemptions mirror those applicable to personal tax credits, more simplification and reduced taxpayer burden would be achieved. Under current law, each of the deductions requires taxpayers to make a series of independent determinations and calculations. This results in taxpayer confusion, errors on tax returns, and additional work for the Service. In addition, if voluntary information reporting was allowed to substitute for other charitable contributions, recordkeeping requirements for individual taxpayers (and some amount of complexity) would also be reduced.

Specifically, itemized deductions and the personal exemption could be made less complex and burdensome on taxpayers if the following changes were made.

- Limit itemized deductions to a certain percentage of the taxpayer's AGI either individually or in total.
- Allow taxpayers to claim itemized deductions only in excess of a percentage of their AGI
- Change phaseouts for personal exemptions to be consistent with the income thresholds for itemized deductions.
- Allow charitable organizations to file information returns with taxpayers and the IRS.

REV_00149545

CHAPTER III
CAPITAL GAINS AND LOSSES

Taxpayers are subjected to significant burden and complexity when reporting capital gains and losses from the sale of assets. They also do tax planning to offset the impact of capital gains tax provisions. This burden and complexity result from the need for the taxpayer to determine asset holding periods, figure cost basis, determine if capital losses can be used to offset capital gains or other income, distinguish among asset classes, and determine what tax rate to apply.

Comment [b1]: Page: 1
No need to differentiate. All taxpayers are subject to the burden.

The accuracy and completeness of reported capital gains/losses is negatively affected by the amount of recordkeeping and time needed to make calculations and understand rules and instructions for completing special forms and worksheets. This chapter identifies several areas of complexity relating to the treatment of capital gains and losses as well as options for reducing complexity and taxpayer burden. While both individual and corporate taxpayers have capital gains income, this discussion is limited to individual taxpayers.

TAXATION OF CAPITAL GAINS

In their simplest form, capital gains are profits from the sale or exchange of capital assets. Assets may include stocks, mutual funds and other financial instruments, real estate, collectibles and other property whether or not the property is used in a business or acquired for investment. Both Wage and Investment and Self-Employed taxpayers may have capital gains. Determining whether a taxpayer has a capital gain (or loss) is a multi-step process. The steps involved include determining:

- the amount of capital gain/loss,
- the holding period,
- the source of the gain/loss,
- whether the gain/loss can be offset against other capital gains/losses, and
- the tax rate to apply.

These types of complexity include maintaining records (potentially over long periods of time), Making multiple or complicated calculations to compute basis and the amount of tax, having to make judgements about complicated technical legal issues, and tax from issues (long forms, interactions between different forms).

Is there a gain or loss?

After selling assets, taxpayers must determine whether they sold their property for more than their "cost basis". In the simplest terms, cost basis, or basis, is what the taxpayer paid for the asset. However, in many cases this amount must be adjusted. For example, previous depreciation amounts and all nontaxable distributions must be subtracted from the taxpayer's basis. Purchase commissions, qualified improvements, and state and local transfer taxes paid by the taxpayer all increase the asset's basis. In

REV_00149546

addition, specific types of assets may be subject to other basis adjustments. After any adjustments to basis, taxpayers calculate the difference between the sales price and the basis to determine their capital gain or loss.

To determine their basis, taxpayers must keep adequate records for capital assets to be able to determine if, at the time of sale, they incurred a capital gain or loss. In many cases this can be a burdensome task, depending on the length of time the asset is held, the way the asset was acquired, the type of asset, the number of assets the taxpayer has, and other considerations.

What is the holding period?

A taxpayer's holding period is generally determined by the amount of time that elapses between the purchase date and the date of sale. In general the holding period begins on the day after an asset is acquired. But if the taxpayer acquired the property through means other than by purchase (e.g., through a like-kind exchange or gift), the computation of its holding period may begin at an earlier date. Wash sale and short sale rules may require a taxpayer to use a date other than the acquisition date.[23]

Comment [b2]: Page: 1
Inherited assets are always considered held long term.

Historically there have been two holding period categories for capital gains/losses. These are short term for assets generally held one year or less and long term for assets held longer than one year. The Taxpayer Relief Act of 1997, as amended by RRA '98, created a third category for assets held for more than five years.

There are exceptions to the general definition of short-term *gain*. For instance:

- When a taxpayer disposes of stock acquired in the exercise of an incentive stock option, the sale results in a long-term capital gain or loss if the stock was held ***at least one year***. As such the holding period for this asset begins on the day of acquisition---not the day after.
- A short-term loss on the sale or exchange of shares in a mutual fund held six months or less could incorporate a long-term loss if a capital gain dividend is distributed before the shares are sold. For example, assume a taxpayer purchases shares in a regulated investment company for $3,000 on July 30, 2000 and sells them on December 18, 2000 for $2,500. Also assume that the company distributes a $50 capital gain dividend to the taxpayer. Disregarding sales commissions, the $500 loss ($2,500 sales price - $3,000 basis) is reported as a $450 short-term loss and a $50 long-term loss.
- A gain or loss on the sale of cattle and horses that were held by the taxpayer for draft, breeding, dairy, or sporting purposes for less than 24 months is short term. However, a gain or loss on the sale of other livestock (not including poultry), held by

[23] A "wash sale" is a financial transaction that involves selling a security at a loss and then buying the same security back within thirty days. A "short sale" refers to a financial transaction in which an investor borrows and sells a security they do not own with the hope of buying it back at a later date at a lower price.

the taxpayer for draft, breeding, dairy, or sporting purposes for less than 12 months is short term.

- Gain or loss with respect to a section 1256 contract[24] is treated as 40 percent short-term capital gain or loss, and 60 percent long-term capital gain or loss regardless of the taxpayer's holding period.

What is the source of the gain/loss?

The type of asset that is the source of the capital gain/loss also may have an impact on how it is taxed. For example, $250,000 of the gain ($500,000 for Married Filing Jointly) generated from the sale of a primary residence is in many circumstances excluded from income and therefore exempt from taxation. Other special rules apply to sales of stock in certain small businesses, exchanges of similar property, and collectibles such as art and jewelry.

Can the gain/loss be offset against other gains/losses?

Depending on the type of asset, the gain/loss may be offset against other gains or losses. In addition, under certain circumstances a capital loss that exceeds any potentially offsetting gain may be carried forward.

Gains from the sale of property used for personal use only, rather than for investment are taxed. However, any loss from the sale of personal use property cannot be deducted. Only losses from investment or business use property can be deducted.

In general, short-term capital gains can be offset by short-term losses. The same is true for long-term gains and losses. In addition, any long-term loss in excess of long-term gain can be used to reduce short-term gain. And, a net loss in excess of a net gain is deductible up to the $3,000 capital loss limit.

If a taxpayer's capital losses exceed the amount of capital gain, up to $3,000 annually ($1,500 if MFS) is deductible against other income.[25] Any capital loss not used is carried forward to the next tax year. Unused capital losses are carried over until they are used or the taxpayer dies.

What rate is applied?

Capital gains are taxed at a variety of rates depending on the holding period, when the assets are/were purchased/sold, the source of the gain, and the amount of the other

[24] A section 1256 contract is defined as any regulated futures contract, any foreign currency contract, any nonequity option, dealer equity option, or any dealer securities futures contract.
[25] Business inventory and property held for sale to customers are not classified as capital assets and are not subject to capital gain treatment when sold.

REV_00149548

income of the taxpayer. Table 3.1 below illustrates the capital gains tax rates by tax bracket, holding period, and date of sale/purchase.[26]

Table 3.1: Capital Gain Tax Rates

Ordinary income tax bracket	Rate for Assets Held ≤ 1 year	Rate for assets held >1<5 years	Held > 5 years		
				Sold after 2000[a]	
			Sold before 2001	Bought before 2001	Bought after 2000
15.0	15.0	10.0[b]	10.0[b]	8.0[b]	8.0[b]
28.0	28.0	20.0	20.0	20.0	18.0
31.0	31.0	20.0	20.0	20.0	18.0
36.0	36.0	20.0	20.0	20.0	18.0
39.6	39.6	20.0	20.0	20.0	18.0

[a] Assets may be marked to market as of January 1, 2001, by paying tax on accrued capital gains. These assets are then taxed at the lower rate if held until 2006.
[b] Lower rate only applies to the portion of the capital gain that would be taxed at 15% if there were no capital gains rates.

There are additional sub-categories of long-term gains and losses (e.g., long-term gains or losses resulting from the sale of collectibles) that are taxed at special rates. Table 3.2 summarizes the rates at which long-term capital gains from sales of some special assets are taxed.

Table 3.2: Special Long-Term Capital Gain Tax Rates

If your net long-term capital gain is from…	Then your capital gain rate is…
Collectibles	28%[a]
Unrecaptured Section 1250 gain[b]	25%[a]
Gain eligible for the 50% exclusion under Section 1202[c]	28%

[a] 15% if taxpayer's marginal tax rate is 15%.
[b] Section 1250 refers to real property that has been depreciated. Determination of unrecaptured section 1250 gain requires completion of a 17-line IRS worksheet.
[c] A 10% rate applies to the part of the net capital gain that would be taxed at 15% if there were no capital gains rates.

Where Capital Gains / Losses are Reported

Table 3.3 below categorizes various capital assets, identifies allowable gains and losses, and notes where such gains and losses are reported on IRS forms.

[26] The tax rate in the table is that applying to gains on sales of assets other than collectibles and depreciable assets subject to recapture.

REV_00149549

Table 3.3 Taxpayer Reporting of Capital Asset Sales

If a Taxpayer Sells…	Then…	Capital Gains and Losses are Reported on…
Stocks, bonds, mutual funds, stamps, coins, gems, art, or land held for personal-use or investment	Capital gains are taxed based on the holding period of the asset and, for long-term gains, based on the type of asset. Capital losses other than losses on personal-use assets are deductible to the extent they exceed capital gains, subject to an annual limit of $3,000, $1,500 if married filing separately.	Schedule D
Land, residential rental property, trucks, autos, computers, machinery, fixtures, or equipment used in a trade or business section 1231 (b)(2)-(4) property.	Short-term: Gain or loss is reported on Form 4797 (Sale of Business Assets), Part II and carried to Form 1040, page 1 as ordinary gain or loss.	Form 4797
	Long-term: A net loss is carried from Form 4797, Part 1 to Form 4797, Part II and then carried to Form 1040, page 1 and reported as an ordinary gain or loss. A net section 1231 gain[a] is carried to Schedule D and reported as a long-term capital gain. This gain is taxed at a maximum rate of 25% to the extent of unrecaptured section 1250 gain. The remaining gain is taxed at 20%, 10%, or 8% rate, whichever applies.	Form 4797 Schedule D

[a] Section 1231 gain minus section 1231 losses taken in the prior five years that have not previously been used to offset section 1231 gains.

Comment [b3]: Page: 4
Changed the order. Form 4797 is point of original entry.

REV_00149550

Example

The following example illustrates the process for calculating capital gains.

Mr. and Mrs. Nelson and their two children live in Springfield. Mrs. Nelson is the sole proprietor of a company that makes special tires for Sport Utility Vehicles. The Nelsons own their primary residence and a rental property at the beach. They jointly own a variety of securities including 1,000 shares of common stock in New Emerging Development Technology, Inc. (NEDTECH). Mr. Nelson collects coins.

The Nelsons have decided to liquidate several of their holdings. They decide to sell 100 shares of NEDTECH, Mr. Nelson's coin collection, and their rental property at the beach. What steps do they have to take to calculate their gains or losses and any tax they owe from the transactions?

- How would the Nelsons calculate the capital gain or loss on the sale of their shares in NEDTECH?

Determine the cost basis of the stock. The Nelsons would need to retrieve and review brokerage statements to determine the price of the stock when it was purchased, the price when the stock was sold, and the amount of commission paid on the purchase and sale. If the Nelsons participated in NEDTECH's Dividend Reinvestment Plan, they would also need to determine how many shares were purchased, on what dates, and at what price.

Determine the holding period. The Nelsons would need to review brokerage statements to determine exactly how many years and months they owned the stock.

A short-term gain or loss (shares held one year or less) is reported in Part I of Schedule D. A long-term gain or loss (shares held more than one year) is reported in Part II of Schedule D. A short-term gain would be taxed at ordinary income rates while a long-term gain would be taxed at a maximum rate of 20%.

- How would the Nelsons calculate the capital gain or loss on the sale of the coin collection?

Determine the cost basis of the collectibles. The Nelsons would need to find invoices that show how much they paid for each coin in the collection.

Determine the holding period. Calculate the number of years and months the Nelsons owned the collection before they sold it.

Losses on the sale of personal assets, such as personal coin collections, are not deductible although profits on the sale of collectibles meeting the holding requirement for long term gains are taxable at the same rates as ordinary income, but not to exceed a 28% rate. Any capital gain would be reported in Part II of Schedule D.

REV_00149551

- How would the Nelsons calculate the capital gain or loss on the sale of their rental property?

As the Nelsons did with their securities and coin collection, in order to report the capital gain or loss on the sale of their rental property they must first determine the asset's cost basis and holding period. The basis may have been reduced over time due to depreciation deductions claimed by the Nelsons or increased over time if the Nelsons made significant improvements to the property. Depreciable property used in a business, such as rental property held for more than one year, is referred to as a Section 1231 asset. A short-term gain or loss is reported on Form 4797, Part II and carried to Form 1040, page 1 as ordinary income. A long-term net loss is carried from Form 4797, Part 1 to Form 4797, Part II and then carried to Form 1040, page 1 and reported as an ordinary loss. A long-term net section 1231 gain is carried to Schedule D and reported as a long-term capital gain. This gain is taxed at a maximum rate of 25% to the extent of unrecaptured section 1250 gain. The remaining gain is taxed at 20%, 10%, or 8% rate, whichever applies.

WHO CLAIMS CAPITAL GAINS AND LOSSES

During their lifetime, most taxpayers will incur a capital gain or loss. For many taxpayers this will be limited to the sale of their primary residence and any gain may be wholly or partially excluded. But an increasing number of taxpayers are investing in capital assets such as mutual funds, stocks, and bonds. For 1999, 21 percent of all individual tax returns claimed capital gains or losses. Nineteen percent filed a Schedule D, and two percent either a form 4797 or both a Schedule D and form 4797. In 1996, 14 percent of taxpayers claimed a capital gain or loss, with 12 percent filing a Schedule D and 2 percent a form 4797 or both. Table 3.4 breaks down these taxpayers for 1999 by AGI.[27]

Table 3.4: Tax Returns with Schedule D and Form 4797 by Preparation Method[a] (Tax Year 1999)

AGI	Schedule D Only		Form 4797 Only		Both		Total
	Paid	Self	Paid	Self	Paid	Self	
<$ 100,000	3,553,285	1,468,500	55,190	10,674	383,158	51,353	5,522,160
$100,000 and over	13,266,736	6,242,003	423,795	81,622	622,104	92,091	20,728,351
Total	16,820,021	7,710,503	478,985	92,296	1,005,262	143,444	26,250,511

[a]Preparation method--either paid preparer or self.

REV_00149552

TAXPAYER AND ADMINISTRATIVE BURDEN

The two primary forms used by individual taxpayers to report capital gains and losses are Schedule D and Form 4797. The following publications are also available:

- 523 – Selling Your Home
- 537 – Installment Sales
- 544 – Sales and other Dispositions of Assets
- 550 - Investment Income and Expenses
- 551 – Basis of Assets

A recent survey of taxpayers shows that an average of 6 hours is spent completing Schedule D, for a total of 154 million hours. IRS currently estimates that the average time it takes a taxpayer to prepare, complete, and file Form 4797 is 49 hours. The 1.7 million taxpayers that filed this form are estimated to have spent 84 million hours completing it. Of the 49 hours taxpayers spend completing and filing Form 4797, two thirds of that time (33 hours) is spent creating and maintaining records. Additionally, 8.5 hours is spent preparing, copying and assembling the form, while another 7.5 hours is needed for learning the law and/or the form. Sixty-nine percent of Schedule D filers use a paid preparer. This increases to 84 percent for Form 4797 filers.

From an IRS perspective, Schedule D was one of the top 10 reasons taxpayers called or e-mailed for assistance.

REDUCING COMPLEXITY

We analyzed two complexity issues related to capital gains. They are multiple long-term capital gains rates, and differences in the tax treatment of gains and losses.

Complexity Issue: Multiple long-term capital gains tax rates can create confusion.

Historically, there have been two capital gains rates based on the holding period for the asset—short term and long term. In recent years however, additional long-term rate categories have been added. These are based on holding period as well as type of asset or gain. There are now six different long-term rates ranging from 8 percent to 28 percent.

Reducing Tax Rate Complexity

Replacing the existing rate structure for long-term gains with two rates (one for the 10 and 15 percent brackets and another for higher brackets) would greatly simplify what is required of taxpayers in determining their tax liability for capital gains. Building on the current rate structure that has one rate for taxpayers in the 10 and 15 percent tax brackets and another rate for taxpayers in all higher brackets and applying these rates to the gains from all types of assets would result in a two-thirds reduction in the number of long-term rates.

REV_00149553

Complexity Issue: Gains and losses from the same sale can have different tax treatments.

Whether the sale of an asset results in a gain or loss affects its tax treatment. For example, gains from personal assets (e.g., collectibles) are taxed, but losses from the sale of personal assets cannot be deducted. Losses from the sale of depreciable property that is used in a business are treated as ordinary losses, where as those that are sold at a gain are taxed as capital gains.

Reducing Complexity

Treating the gain/loss from the sale of capital assets consistently would help simplify this issue. This could involve allowing taxpayers to deduct losses from the sale of personal property or eliminating taxes on capital gains from personal property. For depreciable property used in a business this would include treating all losses and gains as either ordinary income/loss or capital income/loss.

SIMPLIFICATION OPTIONS

The complexity associated with capital gains could be reduced if

- The number of long-term capital gains rates were reduced to two, one for the 10 and 15 percent brackets for ordinary income and one for all other tax brackets.
- The gain/loss from the sale of capital assets were consistently determined to be either capital or ordinary.

REV_00149554

APPENDICES

Introduction

The Reform and Restructuring Act of 1998 provides a list of topics which may be included in IRS' analysis of the sources of complexity in administration of the Federal tax laws. Each of the Appendices in the report addresses one of these topics. The seven topics listed in Sec. 4022(a)(1) are:

(A)- questions frequently asked by taxpayers with respect to return filing,
(B)- common errors made by taxpayers in filling out their returns,
(C)- areas of law which frequently result in disagreements between taxpayers and the IRS,
(D)- major areas of law in which there is no (or incomplete) published guidance or in which the law is uncertain,
(E)- areas in which revenue agents make frequent errors interpreting or applying the law,
(F)- the impact of recent legislation on complexity,
(G)- forms supplied by the IRS, including the time it takes for taxpayers to complete, and review forms, the number of taxpayers who use each form, and how recent legislation has affected the time it takes to complete and review forms.

Several concerns arose as we examined IRS data systems to obtain current data relevant to each of these topics. First, the data were developed by various functions for their own purposes, and were not designed to answer tax policy questions such as these. We chose the data to use by how closely they would respond to the specific topics of interest. Nevertheless, the fact remains that these analyses are based on data sources that were not designed for this purpose. A second concern is that the data do not necessarily relate well to each other. Therefore, although we sometimes combined more than one data source for a specific issue, we must caveat the results. In the future, as IRS develops its new data systems, we expect they will be more comparable across business units and functions.

The Appendices of this report present the data which formed one piece of the decision-making process when choosing issues for this report from complex provisions. In each Appendix, we give an overview of each of the seven topics suggested by Congress.

REV_00149555

Appendix A
Taxpayer Questions

Overview

IRS receives taxpayer questions on return filing via three communication channels: (1) customer service calls, (2) TeleTax calls, and (3) Internet e-mail correspondence. The IRS records the subject of each question asked and tracks the frequency with which a specific subject is received by each channel and reports them in the Customer Service Calls Report, the TeleTax Report, and the Internet E-mail Report. Each report is based on a different source and each categorizes questions uniquely for its own purposes and so are not directly comparable. Nevertheless, these are some of the best IRS data for analyzing specific taxpayer stumbling points.

Customer Service Calls Report

The Customer Service Calls report is compiled from data tracked via the IRS Telephone Routing and Interactive System (TRIS). When calling IRS on a Customer Service line, taxpayers access a "live" person. TRIS records the frequency of these incoming calls to IRS through its toll free lines and tabulates taxpayer questions by subject. In 2000, about 5 million of the 68 million calls received were inquiries relating to tax provisions.[28] These taxpayer questions were tracked among 40 subject categories related to tax law. The call descriptions of the ten most frequently asked questions of IRS by taxpayers using TRIS are shown in Table A.1.

[28]An example of questions not related to tax provisions would be, for example, refund inquiries which accounted for more than 22 million calls.

REV_00149556

Table A.1. Ten Most Frequent Customer Service Calls Related to tax Provisions Received by IRS through TRIS, Calendar Year 2000

Rank in 2000	Call Description	Frequency
1 (2)	Help With Filing Status	526,598
2 (3)	Help With Employer Identification Numbers of Federal Tax Deposit Coupons	458,435
3 (1)	Help With Employment Forms	416,491
4 (4)	Help With Innocent Spouse	347,145
5 (5)	Help With Claiming Dependents	342,823
6 (8)	Help With Wages, Interest, Dividends	285,711
7 (6)	Help With Standard vs. Itemized Deductions	274,685
8 (10)	Help With IRA's	240,272
9 (13)	Help With "Need to File"	230,375
10 (11)	Help With Schedule D	22,714

Note: 1999 rank in parentheses.

Source: Customer Service Report. Calls on non-tax questions as well as abandoned calls have been excluded.

REV_00149557

Internet E-mail Report

The IRS Internet site, at www.irs.gov, contains a Web page that allows taxpayers to submit questions by e-mail to Agency customer service representatives. Currently, questions relating to any of 18 tax categories can be submitted and answered. Based on the tax category selected, questions asked through the Web site are routed to one of five IRS locations to the representative best able to respond to it. Prepared answers to frequently asked questions are used to reply to routine questions but most questions require individual responses. Even though IRS historically has not advertised this service, other than in some IRS publications, and the Web page is not located in a prominent part of the site, IRS received and answered approximately 295,000 e-mail questions in FY00.

Data describing the subject and frequency of questions asked through the Web site are recorded in the Internet E-mail report. The ten most frequently asked questions of IRS though its Web site in FY00 as reported in the Internet E-mail report are listed in Table A.2.

Table A.2. The Ten Most Frequently Asked Questions of IRS by Taxpayers Through its Web Site, October 1, 1999 – September 30, 2000

Rank	E-mail Topic	Frequency
1 (9)	IRS Procedures	46,411
2 (3)	Filing Requirement, Filing Status, and Exemptions	30,196
3 (N/A[1])	Pensions, Annuity, IRS	26,248
4 (4)	Itemized Deductions, Standard Deductions	21,996
5 (N/A[1])	Small Business, Self-Employed, Other Business	20,821
6 (N/A[1])	Capital Gains/Losses, Sale of Home	18,032
7 (5)	Aliens and US Citizens Living Abroad	15,424
8 (N/A[1])	Interest, Dividends, Other Types of Income	14,599
9 (N/A[1])	Electronic Filing and Tele-File	8,176
10 (N/A[1])	Child Care Credit, Other Credits	7,661

Note: 1999 rank in parentheses.
[1] New e-mail categories were added for FY 2000.
Source: Internet E-mail reports from Customer Service

REV_00149558

Appendix B
Common Errors Taxpayers Make on Their Returns

Overview

Errors can occur at any stage of tax return processing—from the very beginning when taxpayers complete their returns through a three-year period in which adjustments to the returns can be made. IRS tracks the number of errors made by taxpayers during these various stages in two reports—the Math Error Notice Code Report and the Customer Service Adjustments Report. Together, these reports identify routine errors, including both math and clerical errors, made by taxpayers on their returns. A high number of errors may reflect difficulties taxpayers encounter due to complex provisions

The Math Error Notice Code Report

Errors in returns are found at different stages of processing. During the initial input processing of a return, a series of automated checks for errors is performed, and all returns are reviewed by an automated system for over 230 different types of errors. When errors are found, notices are generated and sent to taxpayers either alerting them to corrective actions already taken by the Agency or requesting their review of an apparent problem in their return. The Math Error Notice Code Report, produced by Forms and Submission Processing, records reasons for notices having been sent to taxpayers and where on a form or schedule the error appeared. Although the report is titled the Math Error Notice Code Report, it includes many non-computational errors, such as the reporting of an incorrect Social Security Number or errors in transferring numbers from supporting schedules and forms. The ten math errors made most frequently by taxpayers in 2000 are shown in Table B.1.a. Similarly, the ten math errors made most frequently by taxpayers in 1999 are shown in Table B.1.b. Together these ten errors account for 54 percent of all math errors recorded in the report. Together these ten math errors account for over half of the math errors recorded in the both years.

REV_00149559

Table B.1.a The Ten Most Frequently Made Math Errors in 2000, Calendar Year 2000

Math Error Description	Total Errors	Percent of Total Errors Made
Taxpayer Identification Number or Names for Dependent Exemption does Not Match (1)	959,366	12.5%
Taxpayer Identification Number or Names for Child Tax Credit Does Not Match (2)	526,661	6.9%
Earned Income Credit Figured or Entered Incorrectly on Return (3)	476,107	6.2%
Refund Amount or Amount Owed Figured Incorrectly (5)	426,954	5.6%
Child Tax Credit Figured Incorrectly (4)	375,957	4.9%
Tax Amount Entered Wasn't the Correct Amount from the Tax Table (6)	319,446	4.2%
Taxable Amount of Social Security Benefits Figured Incorrectly (9)	236,313	3.1%
Taxpayer Identification Number for Dependent Exemptions not Included (7)	228,609	3.0%
Taxable Income Figured Incorrectly (11)	183,363	2.4%
Earned Income Credit Figured Incorrectly Because it Excluded Nontaxable Earned Income (8)	179,275	2.3%

Note: 1999 rank in parentheses.

Source: The Math Error Notice Code Report

REV_00149560

Table B.1. b. The Ten Most Frequently Made Math Errors in 1999, Calendar Year 1999

Math Error Description	Total Errors	Percent of Total Errors Made
Taxpayer Identification Number or Names for Dependent Exemption does Not Match (2)	968,735	10.8%
Taxpayer Identification Number or Names for Child Tax Credit Does Not Match (N/A[1])	831,045	9.3%
Earned Income Credit Figured or Entered Incorrectly on Return (1)	633,851	7.1%
Child Tax Credit Figured Incorrectly (N/A[1])	512,726	5.7%
Refund Amount or Amount Owed Figured Incorrectly (3)	481,211	5.4%
Tax Amount Entered Wasn't the Correct Amount from the Tax Table (6)	354,478	4.0%
Taxpayer Identification Number for Dependent Exemptions not Included (4)	285,167	3.2%
Earned Income Credit Figured Incorrectly Because it Excluded Nontaxable Earned Income (7)	259,398	2.9%
Taxable Amount of Social Security Benefits Figured Incorrectly (8)	252,784	2.8%
Taxpayer Did Not include a Social security Number (5)	212,652	2.4%

[1] New math error codes were added for 1999
Note: 1998 rank in parentheses.

Source: The Math Error Notice Code Report

Taxpayer Errors and Complexity

The large number of errors made may reflect that a large number of people complete the form (e.g., for Earned Income Credit) and not necessarily that a large percentage of the taxpayers make errors. The percentage of taxpayers making errors, however, is a better indication of the complexity. Using data from the 1999 Math Error report, OPERA staff calculated the percentage of errors made by taxpayers completing a line on their tax return that related to an issue identified in the body of this report as complex. In constructing Table B.2, staff reviewed the 230 math error categories identified in the Math Error report and combined and sorted these categories according to a corresponding area of complexity. The results of this analysis show that the highest taxpayer error rate (9.3 percent) occurs in the process of calculating the Earned Income Tax Credit.

REV_00149561

Table B.2. Taxpayers Filing Returns with Errors in Specific Forms/Schedules

Math Error Category	Number of Returns with Errors	Number of Returns with Line Completed	Percentage of Returns with Line Completed Having Errors
Filing Definitions	N/A	N/A	N/A
Filing Status	249,527	121,448,655	2.1%
Dependents	1,291,907	44,810,766	2.9%
Earned Income Credit	1,796,427	19,391,179	9.3%
Child & Dependent Care Credit	147,382	6,570,693	2.2%

Source: Math Error Notice Code Report

The data shown in Table B.3 are based on a separate review of data from the 1999 Math Error report. Grouping the errors by complexity category shows that in 1999, 45.6 percent of the total 8.9 million math errors made by taxpayers related to filing definitional issues. As a separate category, Earned Income Tax Credit errors accounted for the highest percentage (51.5 percent) of math errors related to categories of complexity.

Table B.3. Percent of Total Math Errors Corresponding to Complex Issues, Calendar Year 1999

Math Error	Number of Returns with Errors	Percentage of Returns Having Errors
Filing Definitions	N/A	N/A
Filing Status	249,527	7.2%
Dependents	1,291,907	37.1%
Earned Income Tax Credit	1,796,427	51.5%
Child & Dependent Care Credit	147,382	4.2%

Source: Math Error Notice Code Report

REV_00149562

The Adjustments Report

An adjustment is defined as a modification to a taxpayer's account. Adjustments can be initiated by the taxpayer or the IRS and can relate to any of five categories:

1) Taxpayer requested changes [e.g., amended return, claim],
2) Taxpayer response to an IRS Math Error Notice,
3) Change in legislation late in the year or a retroactive change,
4) IRS error, or
5) Taxpayer requested carryback.

The number and type of dollar adjustments (increase or decrease) made to taxpayers' accounts are listed in the Adjustments Report produced by Customer Service. This report consists of 45 adjustment categories. Unlike the Math Error Notice Code report which records errors during report processing, adjustments to taxpayer accounts can occur any time during the three years after a return is processed. Therefore, complete data for a specific tax year is not available from the Adjustments report for three years after the end of a tax year.

The ten most frequent adjustments based on taxpayer-requested adjustments and taxpayer responses to an IRS notice for tax year 1997 are shown in Table B.4.a. Together these ten adjustments account for about 73 percent of all adjustments reported in the 2000 Adjustment Report. According to the data from both the Math Error Notice Code Report and the Adjustment Report, the highest percentage of taxpayer errors occurred at some point in the process of calculating and reporting an Earned Income Tax Credit.

REV_00149563

Table B.4.a. The Ten Most Frequent Adjustments to Taxpayer Accounts, Tax Year 1997 (Adjustments Made Between January 1998 and December 2000)

Adjusted Item	Taxpayer Initiated Adjustments	Taxpayer Responses to IRS Notice	Total Adjustments	Percent of Adjustments
Total Exemption Amount (1)	1,023,338	205,484	1,228,822	13.7%
Earned Income Credit (2) (Increased/decreased)	1,035,079	154,956	1,190,035	13.3%
Income from Wages, Salaries, Tips (4)	326,608	410,178	736,786	8.2%
Total federal income Tax Withheld (7)	273,940	462,499	736,439	8.2%
Interest and/or Dividends Income (5)	201,973	403,875	632,848	7.1%
Taxable Income (8)	407,427	65,668	473,095	5.3%
Other Income (6)	83,432	366,283	449,715	5.0%
Schedule A (Itemized Deductions) (10)	392,950	19,088	412,038	4.6%
Self-Employment Tax (9)	163,072	197,482	360,554	4.0%
Pensions and Annuities (3)	126,667	190,902	317,569	3.5%

Note: Data for three categories—changes in legislation, IRS error, and taxpayer requested carryback—are not shown in this table as the frequency of all three of these adjustments combined only accounted for about two percent of total adjustments.
Note: 1999 rank in parentheses.

Source: Customer Service, Adjustments Report.

The ten most frequent adjustments based on taxpayer-requested adjustments and taxpayer responses to an IRS notice for tax year 1996 are shown in Table B.4.b. Together these ten adjustments account for over 74 percent of all adjustments reported in the 1999 Adjustment Report.

REV_00149564

Table B.4.b. The Ten Most Frequent Adjustments to Taxpayer Accounts, Tax Year 1996 (Adjustments Made Between January 1997 and December 1999)

Adjusted Item	Taxpayer Initiated Adjustments	Taxpayer Responses to IRS Notice	Total Adjustments	Percent of Adjustments
Total Exemption Amount (10)	1,301,251	287,489	1,588,740	13.9%
Earned Income Credit (1) (Increased/decreased)	1,198,408	188,572	1,386,980	12.2%
Pensions and Annuities (12)	126,886	940,388	1,067,274	9.4%
Income from Wages, Salaries, Tips (2)	321,225	591,153	912,378	8.0%
Interest and/or Dividends Income (4)	201,482	548,430	749,912	6.6%
Other Income (5)	81,617	591,128	672,745	5.9%
Total federal income Tax Withheld (3)	254,847	415,108	669,955	5.9%
Taxable Income (N/A)	423,822	99,116	522,938	4.6%
Self-Employment Tax (6)	167,346	322,376	499,722	4.4%
Schedule A (Itemized Deductions) (7)	382,981	19,196	402,177	3.5%

Note: Data for three categories—changes in legislation, IRS error, and taxpayer requested carryback—are not shown in this table as the frequency of all three of these adjustments combined accounted for only two percent of total adjustments.
Note: 1999 rank in parentheses.

Source: Customer Service, Adjustments Report.

REV_00149565

Appendix C
Areas of Law Which Frequently Result in Disagreements Between Taxpayers and the Internal Revenue Service

Overview

Provisions of federal tax law that, when implemented, result in disagreements between taxpayers and the IRS may result in litigation. The National Taxpayer Advocate's Annual Report to Congress identifies the top ten tax issues most litigated by taxpayers. Issues related to tax complexity discussed in this report are prominent in the lists of litigated issues.

Findings from Taxpayer Advocate Report

The following list identifies the ten most common areas in which court opinions were rendered. It should be noted that virtually all cases involved a penalty issue along with at least one of the other issues. In the absence of a penalty most taxpayers have no financial incentive to incur the high costs of litigation. Penalties, as an issue by itself, is probably not a top issue comparable to the other, non-penalty issues identified in the table below.

Table C.1. Areas in Which Court Opinions Were Rendered

Rank	Description
1	Penalty issues
2	Court Procedures
3	Deductible vs Not Deductible trade or business expenses
4	Earned income credit
5	Gross Income Inclusions and Exclusions)
6	Accounting Methods
7	Statute of Limitations
8	Abatements
9	Self Employed, Independent Contractor vs Employee
10	Last Known Address and Notice of Deficiency

Note: The data collection methodology for issues that are ranked as the most common represents a review of tax cases for a three month period, October 1, 1999 – December 31, 1999. This sample of 302 opinions comprised 22 percent of the nearly 1400 opinions for 1999. Opinions are from the U.S. Tax Court, U.S. Court of Federal claims, and U.S. District Court.

Source: Taxpayer Advocate Service.

REV_00149566

Appendix D
Major Areas of Law in Which There is No (or Incomplete) Guidance or in Which the Law is Uncertain

The Internal Revenue Service issues regulations and other published guidance to interpret and explain the Internal Revenue Code. The Office of Chief Counsel in IRS is the primary drafter of guidance published by the IRS and is responsible for coordinating its development with Treasury and other IRS offices. Through the published guidance process, the Office seeks to develop rules that are consistent with the language of the Code and the intent of Congress, that are reasonably administrable by the IRS, and that help taxpayers comply with the law.

The Role of Published Guidance in Tax Administration

Published guidance helps taxpayers better understand and meet their tax obligations. By providing interpretation and explanation of the law, published guidance also helps taxpayers plan their transactions to avoid controversy. This is increasingly important at a time when the complexity of tax law is often identified as both a burden on taxpayers and an impediment to compliance with the tax law. Published guidance also promotes the consistent interpretation and application of the tax law by the IRS.

How the Published Guidance Process Works

Published guidance can be issued in the form of proposed, temporary, or final regulations; revenue rulings; revenue procedures; notices; or announcements.

Annually, the IRS and Treasury publish a list of guidance priorities to identify the guidance projects scheduled for completion during the year. In 2000, the IRS and Treasury implemented a more formalized system for developing the Priority Guidance Plan (PGP). Each year, IRS and Treasury directly solicit suggestions from all interested parties, including taxpayers, tax practitioners and industry groups. All the proposals for guidance are then reviewed by the newly formed Published Guidance Advisory Committee (PGAC), which includes senior officials from the Internal Revenue Service and Treasury's Office of Tax Policy. The projects on the PGP (Exhibit D-1) are in response to newly enacted legislation, court opinions, changes in the market, changes in taxpayer behavior, and comments from taxpayers or their representatives. Accordingly, the projects are representative of areas of the tax law in which there is no (or incomplete) guidance or in which the tax law is uncertain. The PGP ensures that resources for published guidance focus on the highest priority projects. The PGP also serves as a means of communicating IRS guidance priorities to taxpayers. Publication of the PGP early in the year informs taxpayers and their representatives of IRS guidance priorities so that they have an opportunity to participate as the guidance is developed.

REV_00149567

The guidance process is open to public participation in a number of ways. Regulations are generally issued in proposed form, with the public invited to submit written comments and to testify at public hearings. In the past several years, the IRS has posted guidance on the Internet and accepted comments submitted though the Internet. The Service has also added a teleconferencing capability so taxpayers outside the Washington, D.C. area can participate in regulation hearings from alternate sites. In 2001, the plan year was changed to end on June 30, due, in part, to taxpayer concerns about a deluge of guidance at the end of the calendar year. Accordingly, the 2002 plan year will end on June 30, 2002.

REV_00149568

OFFICE OF TAX POLICY
AND
INTERNAL REVENUE SERVICE
2001 PRIORITY GUIDANCE PLAN

Consolidated Returns

1. Conforming amendments to section 446 regulations to reflect changes in the consolidated return regulations.
2. Final regulations regarding authorization to act for the consolidated group.
3. Revenue Procedure regarding designation by common parent of a new agent for the consolidated group.
4. Final regulations on tentative carryback adjustments.
5. Guidance under section 1502 regarding transactions involving obligations of consolidated group members.
6. Guidance regarding stock basis adjustments.
7. Guidance regarding continuation of a consolidated group in certain transactions.
8. Amend section 1.1502-34 to reflect legislative change.
9. Clarification of section 1.1502-80.
10. Revise Rev. Proc. 91-71 regarding reconsolidation within five years.

Corporations and Their Shareholders

1. Final regulations under sections 301 and 357 regarding corporate distributions.
2. Guidance regarding redemptions of corporate stock.
3. Guidance regarding conversions of C corporations to RIC or REIT status.
4. Guidance regarding taxable asset acquisitions and dispositions of insurance companies.
5. Guidance regarding the active trade or business requirement of section 355(b).
6. Reconsideration of Rev. Rul. 73-236 (regarding application of section 355(b) to REITs).
7. Guidance under section 355(e).
8. Guidance regarding employee stock options and restricted stock in section 355 transactions.
9. Update Rev. Proc. 96-30 regarding requests for rulings under section 355.
10. Guidance under sections 357 and 358 regarding the assumption of liabilities in certain transfers of property.
11. Guidance under section 368 regarding mergers of a corporation with a disregarded entity.
12. Guidance under section 368 regarding mergers with or into a foreign corporation.
13. Guidance regarding forward subsidiary mergers under section 368.
14. Guidance regarding reverse subsidiary mergers under section 368.
15. Guidance regarding multi-step acquisitions under section 368.
16. Guidance regarding built-in items under section 382.
17. Guidance regarding treatment by a corporation of financial instruments based on the value of that corporation=s stock.

REV_00149569

18. Guidance under section 1374 regarding timber transactions.

Employee Benefits

A. Retirement Benefits

1. Final regulations relating to plan loans under section 72(p).
2. Final regulations relating to new comparability plan designs.
3. Guidance relating to the application of nondiscrimination and coverage rules to church retirement plans.
5. Final regulations under section 401(a)(9) on required minimum distributions.
6. Guidance on reporting of required minimum distributions.
7. Guidance on the application of section 401(a)(13) to certain plan loan transactions.
8. Guidance relating to section 401(a)(17).
9. Guidance relating to cash or deferred arrangements under section 401(k) and relating to section 401(m).
10. Guidance relating to sections 401(k) and 401(m) in mergers and acquisitions.
11. Guidance regarding the interaction between sections 404 and 461.
12. Guidance with respect to the calculation of net income attributable to returned or recharacterized IRA contributions.
13. Guidance relating to the application of section 411(a).
14. Guidance regarding issues under section 411(b).
15. Guidance relating to cash balance pension plans.
16. Final regulations under section 411(c).
17. Guidance relating to the application of section 411(d)(6).
18. Guidance on disclosure to participants regarding their distributions from pension plans.
19. Guidance relating to pension distributions and retirement age.
20. Guidance with respect to mortality tables for defined benefit pension plans.
21. Guidance relating to funding requirements under section 412.
22. Guidance on the use of aggregate entry age normal funding method under section 412.
23. Guidance for multiemployer plans relating to refund of mistaken contribution and withdrawal liability payments.
24. Guidance on exclusive benefit issues relating to qualified plans.
25. Regulations relating to the definition of employer under section 414.
26. Guidance relating to the definition of highly compensated employee.
27. Notice updating Rev. Proc. 2000-20 as it relates to plan provisions implementing sections 415 and 417.
28. Guidance updating the definition of compensation to reflect section 132(f) salary reduction.
29. Final regulations relating to the application of the retroactive annuity starting date provisions under section 417(a)(7).
30. Final regulations implementing section 420(c)(3)(E).
31. Proposed regulations relating to section 457(b) plans.
32. Guidance on determining excise taxes applicable to certain multi-year prohibited

REV_00149570

transactions.
33. Guidance relating to application of section 4980 to certain transactions involving payment for surplus pension assets.
34. Final regulations relating to use of new technologies in delivering notice to interested parties.
35. Guidance relating to coordination with the Department of Labor delinquent filer program for Form 5500 annual reports.
36. Notice on the determination letter process.
37. Revenue Procedure clarifying Rev. Proc. 2000-20 as it relates to the GUST amendment process.
38. Guidance on the GUST remedial amendment period for employers that use M&P or volume submitter plans. (Completed. See Announcement 2001-12.)
39. Guidance with respect to sections 401(a)(9) and 408, in connection with the determination letter program.
40. Guidance providing for updating of prototype SEP documents.
41. Revenue Procedure amending and restating employee plans compliance resolution system (EPCRS).
42. Guidance relating to oversight of qualified plan compliance.
43. Guidance on restorative payments to qualified plans.

B.Executive Compensation, Health Care and Other Benefits, and Employment Taxes

44. Proposed regulations under section 83 relating to transfers by non-employer parties.
45. Guidance on stock option issues under section 83.
46. Guidance on certain uses of stock interests for deferred compensation.
47. Guidance relating to certain arrangements under sections 106 and 125.
48. Guidance on the application of section 125 in mergers and acquisitions.
49. Guidance under section 125 relating to cafeteria plans and the Family and Medical Leave Act.
50. Guidance on automatic enrollment in cafeteria plans under section 125.
51. Guidance on demonstrator vehicles provided for use by employees.
52. Guidance relating to the golden parachute rules under section 280G.
53. Guidance on issues under section 419A.
54. Guidance on incentive stock options under section 422.
55. Guidance on income tax withholding with respect to incentive stock options under section 422 and employee stock purchase plans under section 423.
56. Proposed regulations on FICA and FUTA tax with respect to incentive stock options under section 422 and employee stock purchase plans under section 423.
57. Revision of the standards set forth in Rev. Proc. 71-19 regarding nonqualified deferred compensation.
58. Guidance relating to severance pay plans under section 457(e)(11).
59. Guidance relating to section 457(f).
60. Guidance with respect to the employment tax treatment of amounts received in employment-related litigation.
61. Guidance on issues relating to reporting and employment tax obligations with respect to chore workers.

REV_00149571

62. Clarification of regulations under section 3401(d).
63. Final regulations under section 6205.
64. Guidance under section 6413 concerning adjustments of employment tax overpayments.
65. Guidance with respect to section 7436.
66. Final regulations under section 9801 relating to HIPAA.
67. Guidance on electronic filing of Form 8850.

Excise Taxes

1. Guidance under section 4051 regarding the definition of highway vehicles in regulation sections 145.4051 and 48.4061(a)-1.
2. Proposed regulations under section 4081 relating to the revision of definition of diesel fuel.
3. Regulations under section 4081 regarding the measurement of taxable fuels.
4. Guidance under section 4221 regarding fuel used in foreign trade.
5. Guidance under sections 4261 and 4271 regarding the transportation of persons and property by air.
5. Final regulations under section 6302 regarding deposits of excise taxes.

Exempt Organizations

1. Guidance on section 501(c)(4) organizations.
2. Guidance under section 501(c)(12).
3. Guidance under section 507 regarding termination of private foundation status.
4. Final regulations under section 513(i) regarding corporate sponsorship payments received by exempt organizations.
5. Guidance under section 514 regarding the investment of proceeds of qualified 501(c)(3) bonds.
6. Final regulations under section 529 regarding qualified state tuition programs.
7. Guidance on split-interest trusts.
8. Announcement requesting comments on updates to private foundation regulations.
9. Final regulations under section 4958 for certain excess benefit transactions.

Financial Institutions and Products

1. Guidance regarding securitization of the rights to recover stranded costs.
2. Guidance regarding accruals on sales of REMIC regular interests between payment dates.
3. Guidance regarding the conformity election for banks under section 1.166-2(d)(3).
4. Guidance under section 263(g) regarding certain interest and carrying costs in the case of straddles.
5. Guidance under section 446 regarding notional principal contracts.
6. Guidance under section 446 regarding prepaid forward contracts.
7. Guidance to provide an automatic method change for cash method banks. (Competed. See Rev. Proc. 2001-25.)

REV_00149572

8. Guidance regarding investments by RICs in partnerships.
9. Guidance under section 856 regarding taxable REIT subsidiaries.
10. Final regulations regarding REMIC residual interests.
11. Final regulations under section 1092(c)(4) regarding certain equity options that do not have standard terms.
12. Guidance under section 1092 regarding straddles where one position is larger than the offsetting position.
13. Final regulations under section 1221(a)(7) regarding hedging transactions.
14. Guidance under section 1256(g) regarding securities futures contracts. (Request for comments published. See Notice 2001-27.)
15. Guidance under section 1259 regarding constructive sales treatment for appreciated financial positions.
16. Guidance under section 1272(a)(6) regarding pools of credit card receivables.
17. Guidance under section 7701 regarding certain obligation shifting transactions.
18. Guidance regarding certain equity derivative transactions.

General Tax Issues

1. Final regulations under section 25A regarding the Hope Scholarship and Lifetime Learning credits.
2. Guidance under section 29 regarding synthetic fuels from coal. (Completed. See Rev. Proc. 2001-30.)
3. Final regulations under section 32 regarding EIC eligibility requirements.
4. Reconsider final regulations under section 41 regarding the research credit.
5. Final regulations under section 41 regarding computation of the research tax credit in a controlled group.
6. Guidance under section 41 regarding the research credit attributable to a suspension period. (Completed. See Notice 2001-29.)
7. Guidance regarding treatment of investment earnings on tax-exempt bond proceeds under section 42(h)(4) and section 1.42-1T(f)(1).
8. Guidance under section 42 on eligible basis.
9. Guidance under section 45D regarding the new markets tax credit.
10. Guidance under sections 46 and 167 relating to normalization.
11. Guidance under section 61 regarding Indian Tribal trusts for minors.
12. Proposed regulations under section 104 regarding the exclusion of damages for personal physical injury or sickness.
13. Guidance under section 110 regarding the purpose requirement for qualified lessee construction allowances. (Completed. See Rev. Rul. 2001-20.)
14. Guidance concerning the treatment of interconnection payments received by public utilities.
15. Final regulations under section 121 regarding the exclusion of gain on the sale of a principal residence.
16. Guidance under section 167 relating to certain costs of golf course construction.
17. Proposed regulations under section 167 regarding the income forecast method.
18. Proposed regulations under section 168 relating to like-kind exchanges.
19. Guidance under section 168 regarding the treatment of truck tires.

REV_00149573

20. Guidance on charitable contributions to disregarded entities.
21. Final regulations under section 221 regarding interest on education loans.
22. Proposed regulations under section 274 regarding expenses for goods, services, and facilities that are treated as compensation.
23. Proposed regulations under section 465 regarding interest other than as a creditor.
24. Final regulations under section 469 regarding self-charged interest.
25. Guidance regarding the determination of recoverable reserves of oil and gas for cost depletion purposes.
26. Final regulations under section 1031 regarding the definition of a disqualified person.
27. Guidance under section 1041 on the tax treatment of transfers of stock options and other deferred compensation rights between spouses.
28. Regulations under section 1041 regarding when transfers of property to third parties are made Aon behalf of@ the nontransferring spouse.
29. Guidance on corporations chartered under Indian tribal law.

Gifts, Estates and Trusts

1. Notice under sections 1361 and 641 regarding estimated tax election for owners of ESBTs. (Completed. See Notice 2001-25.)
2. Update Rev. Rul. 76-270 concerning charitable remainder trusts that make distributions to a trust for a beneficiary.
3. Final regulations under section 643 regarding the state law definition of income for trust purposes.
4. Final regulations under section 645 regarding an election by certain revocable trusts to be treated as part of the associated estate.
5. Notice under section 645 regarding the first (short) taxable year of the trust. (Completed. See Notice 2001-26.)
6. Update Revenue Procedures under section 664 containing sample charitable remainder trust provisions.
7. Guidance under section 671 regarding reporting requirements for widely held fixed investment trusts.
8. Final regulations under section 2001 relating to an automatic extension for Form 706.
9. Revise regulations under section 2055 and 2522 based on the Boeshore decision.
10. Guidance under section 2056 regarding a Qualified Terminal Interest Property election that has no effect.
11. Proposed regulations under section 2057 regarding the estate tax deduction for certain family owned business interests.
12. Guidance under section 2519 regarding net gifts.
13. Final regulations under section 7701 regarding the application of foreign trust rules to employee benefit trusts.

Insurance Companies and Products

1. Guidance regarding captive insurance companies.

REV_00149574

2. Guidance under section 807.
3. Guidance under section 817A regarding modified guaranteed contracts.
4. Automatic change in accounting method for premium acquisition expenses.
5. Final regulations under section 1275(a)(1)(B)(ii) regarding definition of annuities.
6. Guidance on split dollar life insurance.

International Issues

A. Subpart F / Deferral

7. Proposed regulations regarding mark to market procedures for passive foreign investment companies.

B. Inbound Transactions

1. Proposed regulations on the disallowance of deductions under sections 882(c)(2) and 874(a).
2. Final regulations under sections 892 and 7701.
3. Guidance relating to the reporting obligations of nonqualified intermediaries.
4. Guidance concerning U.S. real property interests.
5. Other guidance regarding withholding on payments to foreign persons.
7. Guidance under section 1503(d) concerning triggering events.

C. Outbound Transactions

1. Guidance on international restructurings.
2. Final regulations under section 684.
3. Final regulations under section 679.
4. Final regulations relating to the grouping rules under section 925. (Completed. See T.D. 8944.)
5. Guidance relating to the Extraterritorial Income Exclusion Act.
6. Guidance under section 1504(d).
7. Guidance concerning certain extraordinary transactions involving disregarded entities.

D. Sourcing and Expense Allocation

1. Guidance relating to the treatment of fringe benefits.
2. Guidance concerning the allocation and apportionment of expenses.
3. Final regulations on the treatment of losses from dispositions of personal property under section 865.
4. Guidance under section 883.
5. Update Rev. Proc. 97-31 (listing section 883 countries and types of excluded income).

REV_00149575

E. Application of U.S. Income Tax Treaties

1. Guidance concerning the relief from double taxation and adjustments to taxpayers= accounts arising from section 482 allocations (see Rev. Procs. 96-14 and 99-32).
2. Final regulations relating to the application of the income tax treaties to payments from reverse hybrid entities.
3. Guidance under the Canadian treaty relating to Canadian Registered Retirement Savings Plans.
4. Update Rev. Proc. 96-13 relating to the procedures for requesting competent authority assistance.
5. Guidance concerning the application of certain U.S. income tax treaties. (Completed. See Announcement 2001-34.)
8. Guidance relating to the reporting of bank deposit interest.

F. Other

1. Guidance relating to the conduct of cross-border, securities dealing operations (Aglobal dealing@).
2. Guidance on the treatment of cross border services under section 482 and related provisions.
3. Guidance under section 954(i) relating to the determination of appropriate foreign loss payment patterns and interest rates.
4. Guidance concerning the treatment of currency gain or loss.
5. Guidance under section 4374.
6. Guidance concerning the international activities of partnerships.

Partnerships

1. Guidance regarding aggregation for purposes of section 704(c) for certain master-feeder partnerships.
2. Final regulations under section 705 regarding special basis rules.
3. Final regulations under section 706 and foreign partners.
4. Guidance regarding partnership options and convertible instruments.
5. Proposed regulations under section 752 regarding the assumption of partnership liabilities.
6. Final regulations regarding the coordination of sections 755 and 1060.
7. Final regulations regarding TEFRA partnership proceedings.
8. Guidance on the receipt of a profits interest subject to a substantial risk of forfeiture.
9. Guidance under section 1031 regarding undivided fractional interests in real estate.
10. Guidance regarding entity classification and community property owners.
11. Final regulations amending the check the box regulations under section 7701.

Subchapter S

1. Final regulations under section 1361 regarding electing small business trusts.
2. Guidance under section 1361 regarding the time for beneficiary to make a QSST

REV_00149576

election.
3. Guidance under section 1367 regarding shareholder basis and S corp charitable contributions.

Tax Accounting

1. Guidance under sections 61 and 451 regarding the characterization of a lessee=s capital cost reduction payments.
2. Guidance regarding the treatment of costs incurred for railroad track maintenance.
3. Guidance under sections 162 and 263 regarding deduction and capitalization of expenditures.
4. Guidance under sections 162 and 263 regarding the tax treatment of restaurant smallwares packages.
5. Final regulations under sections 263A and 612 regarding the treatment of delay rentals.
6. Proposed regulations under sections 441 and 442 regarding accounting periods.
7. Update Rev. Proc. 87-32 regarding automatic annual accounting period change procedures for certain passthrough entities.
8. Revenue Procedure under section 442 regarding prior approval of annual accounting period changes.
9. Update Rev. Proc. 99-49 regarding automatic method change procedures.
10. Guidance under section 446 regarding general procedures applicable to voluntary and involuntary changes in methods of accounting.
11. Guidance under sections 446 and 471 regarding the cash method of accounting.
12. Guidance under section 451 regarding the treatment of advance payments.
13. Guidance under section 453 regarding the installment method of accounting. (Completed. See Notice 2001-22)
14. Final regulations under section 460 regarding changes in parties to a contract.
15. Update Rev. Proc. 75-21.
16. Final regulations under section 468B regarding certain escrow funds.
17. Guidance under section 471 regarding the unit livestock price method of accounting.
18. Regulations under section 472 regarding the dollar value LIFO inventory method.
19. Guidance under section 472 regarding the LIFO inventory method.
20. Final regulations under section 1301 regarding income averaging by farmers.
21. Guidance under section 1341 regarding claim of right.

Tax Administration

1. Proposed regulations to implement the section 66(c) provisions for innocent spouse relief in community property jurisdictions.
2. Proposed regulations under section 3406 to clarify the counting of notices to payors when multiple notices are received.
3. Modification of Rev. Proc. 97-31 regarding the TIN matching program for federal agencies to expand the scope of reporting agents included.
4. Regulations under section 6011 regarding electronic payee statements.
5. Regulations regarding electronic filing of attachments to Form 1040.

REV_00149577

6. Guidance under section 6011 to remove impediments to electronic filing of certain business returns.
7. Guidance under section 6011 regarding the disclosure of certain large transactions.
8. Annual Compilation of Tax Shelter Listed Transactions under section 6011.
9. Final regulations under section 6015 regarding election by a spouse to limit joint and several liability.
10. Final regulations under section 6041 regarding middleman reporting.
11. Proposed regulations regarding information reporting and backup withholding for purchasing card transactions.
12. Notice clarifying the effect of the section 1441 regulations on the section 6041A reporting exceptions.
13. Guidance under section 6045 regarding reporting of gross proceeds on the sale of stock acquired by exercising nonqualified employee stock options.
14. Regulations under section 6045(f) regarding information reporting on payments to attorneys.
15. Announcement revising Form W-9 to permit a taxpayer to authorize an agent to furnish Form W-9 to the payor.
16. Regulations under section 6050P regarding information reporting on cancellation of indebtedness.
17. Guidance regarding information reporting for tuition and student loan interest under section 6050S.
18. Revenue Ruling clarifying Rev. Rul. 80-218 regarding application of the timely mailing/ timely filing rules to foreign postmarks.
19. Proposed regulations regarding the disclosure of unrelated third party tax information in tax proceedings.
20. Final regulations allowing disclosures to the Department of Agriculture for statistical purposes.
21. Proposed regulations regarding the definition of agent in section 6103.
22. Regulations regarding triangular disclosure of tax return information.
23. Regulations under section 6110 to address changes enacted in RRA 98.
24. Guidance under section 6111 regarding corporate tax shelter registration.
25. Guidance under section 6112 regarding list of tax shelter investors.
26. Final regulations under section 6302 regarding the amount of tax considered de minimis and therefore not required to be deposited.
27. Final regulations removing the Federal Reserve as an option for depositing taxes.
28. Regulations authorizing payment of taxes by credit card.
29. Final regulations regarding collection due process with respect to liens.
30. Final regulations setting forth circumstances under which the IRS may withdraw a filed notice of federal tax lien.
31. Final regulations regarding collection due process with respect to levies.
32. Proposed regulations applying section 6331(k) to installment agreements.
33. Revenue Ruling modifying Rev. Rul. 78-127 to remove references to specific form numbers used to schedule overassessments.
34. Proposed regulations regarding the suspension of the statute of limitations for noncompliance with a designated summons.
35. Update Rev. Rul. 73-305 and Rev. Rul. 79-284 to provide for the application of

REV_00149578

undesignated payments to liabilities having the earliest collection statute expiration date.
36. Withdrawal of Treas. Reg. " 301.6656-1 and 301.6656-2 relating to repealed penalty for overstated deposit claims.
37. Revenue Procedure updating Rev. Proc. 90-58 to reflect LIFO method for payroll tax deposits as required by RRA 98 amendment to section 6656.
38. Proposed regulations under sections 6662 and 6664 regarding penalties relating to tax shelters.
39. Guidance, including updating Rev. Proc. 83-78 and Rev. Proc. 84-84, regarding procedures to investigate abusive tax shelters.
40. Final regulations regarding offers-in-compromise.
41. Announcement regarding modifications to Appeals Arbitration Pilot Program.
42. Guidance necessary to facilitate electronic tax administration.
43. Proposed regulations under section 7430 regarding miscellaneous changes made by TRA >97 and RRA >98.
44. Proposed regulations updating prerequisites for bringing damage actions under section 7433.
45. Revenue Procedure listing additional tax deadlines that may be postponed under disaster relief rules.
46. Final regulations under section 7602(c) regarding third party contacts.
47. Proposed regulations regarding third party and John Doe summonses.
48. Proposed regulations to provide exception to return preparer definition in section 7701(a)(36) for employees of low income tax clinics charging a nominal fee for return preparation.
49. Revenue Procedure updating Rev. Proc. 87-24 regarding the role of Appeals in docketed Tax Court cases.
50. Guidance regarding practice before the IRS under Circular 230.
51. Statement of Procedural Regulations regarding Freedom of Information Act.

Tax-Exempt Bonds

1. Regulations under section 141 regarding allocation and accounting provisions.
2. Regulations under section 141 regarding refundings.
3. Clarifying guidance on short-term arrangements under section 141.
4. Modification of Rev. Proc. 97-13 with respect to adjustment of fees.
5. Regulations under section 148 regarding investment-type property.
6. Regulations under section 148 regarding brokers= commissions and similar fees.
7. Guidance on procedures for requesting an extension of time to file information returns required by section 149(e).

APPENDIX A

1. Update proposed regulations under sections 1.125-1 and 1.125-2.
2. Guidance regarding multi-family housing bonds.
3. Study section 269.
4. Compendium of retirement plan revenue rulings (An update of Pub. 778).

REV_00149579

5. Final regulations under section 475.
6. Guidance regarding group rulings under section 501(c)(3).
7. Guidance regarding simplifying the advance ruling process for public charities under section 509(a).
8. Guidance regarding allocating deductions in computing UBIT.
9. Guidance under section 707 regarding disguised sales of partnership interests.
10. Proposed regulations under section 736(b)(3)(B).
11. Guidance under sections 863(d),(e).
12. Study section 1001 regulations regarding modifications of debt instruments.
13. Guidance regarding reporting of payments to employees who own heavy equipment used by their employers.
14. Private foundations regulations update.
15. Guidance under section 6621 regarding interest netting computations.
16. Update of the section 6655 corporate estimated tax penalty regulations.
17. Reconsideration of Rev. Rul. 75-191 regarding the application of the section 6656 penalty where taxes should have been withheld but were not.
18. Application of section 7503 to various factual scenarios.
19. Final regulations under section 9802.
20. Revision of Statement of Procedural Regulations section 601.106 regarding Appeals.

Appendix B. Regularly Scheduled Publication Items

January

1. Revenue Procedure updating the procedures for issuing private letter rulings, determination letters, and information letters on specific issues under the jurisdiction of the Chief Counsel.
2. Revenue Procedure updating the procedures for furnishing technical advice to certain IRS offices, in the areas under the jurisdiction of the Chief Counsel.
3. Revenue Procedure updating the previously published list of "no-rule" issues under the jurisdiction of certain Associates Chief Counsel other than the Associate Chief Counsel (International) on which advance letter rulings or determination letters will not be issued.
4. Revenue Procedure updating the previously published list of "no-rule" issues under the jurisdiction of the Associate Chief Counsel (International) on which advance letter rulings or determination letters will not be issued.
5. Revenue Procedure updating procedures for furnishing letter rulings, general information letters, etc., in employee plans and exempt organization matters relating to sections of the Code under the jurisdiction of the Office of the Commissioner, Tax Exempt and Government Entities Division.
6. Revenue Procedure updating procedures for furnishing technical advice in employee plans and exempt organization matters under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division.
7. Revenue Ruling setting forth tables of the adjusted applicable federal rates for the current month for purposes of sections 1274, 1288, 382, 42, and 7520.

REV_00149580

8. Revenue Ruling setting forth the prevailing state assumed interest rates provided for the determination of reserves under section 807 for contracts issued in 2000 and 2001.
9. Revenue Ruling providing the dollar amounts, increased by the 2001 inflation adjustment for section 1274A.
10. Revenue Ruling setting forth the amount that section 7872 permits a taxpayer to lend to a qualified continuing care facility without incurring imputed interest, adjusted for inflation.
11. Revenue Procedure providing procedures for limitations on depreciation deductions for owners of passenger automobiles first placed in service during the calendar year; amounts to be included in income by lessees of passenger automobiles first leased during the calendar year; and the maximum allowable value of employer-provided automobiles first made available to employees for personal use in the calendar year.
12. Revenue Procedure providing the domestic asset/liability percentages and domestic investment yield percentages for taxable years beginning after December 31, 2000, for foreign companies conducting insurance business in the U.S.
13. Revenue Procedure updating procedures for issuing determination letters on the qualified status of employee plans under sections 401(a), 403(a), 409, and 4975 of the Code.
14. Revenue Procedure updating the user fee program as it pertains to requests for letter rulings, determination letters, etc. in employee plans and exempt organizations matters under the jurisdiction of the Office of the Commissioner, Tax Exempt and Government Entities Division.
15. Notice setting forth the weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability for the purpose of the full funding limitation of section 412(c)(7) of the Code for plan years beginning in January 2001.
16. Revenue Ruling under section 472 providing the Bureau of Labor Statistics price indexes that department stores may use in valuing inventories.

February

1. Revenue Ruling setting forth tables of the adjusted applicable federal rates for the current month for purposes of sections 1274, 1288, 382, 42, and 7520.
2. Revenue Ruling under section 472 providing the Bureau of Labor Statistics price indexes that department stores may use in valuing inventories.
3. Revenue Ruling under section 165 listing the Presidentially declared major disaster areas for the preceding calendar year.
4. Notice setting forth the weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability for the purpose of the full funding limitation of section 412(c)(7) of the Code for plan years beginning in February 2001.

REV_00149581

March

1. Revenue Ruling setting forth tables of the adjusted applicable federal rates for the current month for purposes of sections 1274, 1288, 382, 42, and 7520.
2. Notice providing resident population of the states for determining the calendar year state housing credit ceiling under section 42(h), and the private activity bond volume cap under section 146.
3. Revenue Ruling providing the monthly bond factor amounts to be used by taxpayers who dispose of qualified low-income buildings or interests therein during the period January through March, 2001.
4. Revenue Ruling under section 6621 regarding the applicable interest rates for overpayments and underpayments of tax for the period April through June, 2001.
5. Notice providing a tentative determination under section 809 of the differential earnings rate for 2000 and the recomputed differential earnings rate for 1999 for use by mutual life insurance companies to compute their income tax liabilities for 2000.
6. Revenue Ruling setting forth the terminal charge and the standard industry fare level (SIFL) cents-per-mile rates for the first half of 2001 for use in valuing personal flights on employer-provided aircraft.
7. Notice setting forth the weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability for the purpose of the full funding limitation of section 412(c)(7) of the Code for plan years beginning in March 2001.
8. Revenue Ruling under section 472 providing the Bureau of Labor Statistics price indexes that department stores may use in valuing inventories.

April

1. Revenue Ruling setting forth tables of the adjusted applicable federal rates for the current month for purposes of sections 1274, 1288, 382, 42, and 7520.
2. Revenue Ruling providing the average annual effective interest rates charged by each Farm Credit Bank District.
3. Notice providing the inflation adjustment factor, nonconventional fuel source credit, and reference price for the calendar year that determines the availability of the credit for producing fuel from a nonconventional source under section 29.
4. Revenue Procedure providing a current list of countries and the dates those countries are subject to the section 911(d)(4) waiver and guidance to individuals who fail to meet the eligibility requirements of section 911(d)(1) because of adverse conditions in a foreign country.
5. Notice setting forth the weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability for the purpose of the full funding limitation of section 412(c)(7) of the Code for plan years beginning in April 2001.
6. Revenue Ruling under section 472 providing the Bureau of Labor Statistics price indexes that department stores may use in valuing inventories.

REV_00149582

May

1. Revenue Ruling setting forth tables of the adjusted applicable federal rates for the current month for purposes of sections 1274, 1288, 382, 42, and 7520.
2. Notice setting forth the weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability for the purpose of the full funding limitation of section 412(c)(7) of the Code for plan years beginning in May 2001.
3. Revenue Ruling under section 472 providing the Bureau of Labor Statistics price indexes that department stores may use in valuing inventories.
4. Revenue Procedure under section 6012 regarding the magnetic media filing of Forms 1040NR for 2000.
5. Revenue Procedure providing guidance for use of the national and area median gross income figures by issuers of qualified mortgage bonds and mortgage credit certificates in determining the housing cost/income ratio under section 145.

June

1. Revenue Ruling setting forth tables of the adjusted applicable federal rates for the current month for purposes of sections 1274, 1288, 382, 42, and 7520.
2. Revenue Ruling providing the monthly bond factor amounts to be used by taxpayers who dispose of qualified low-income buildings or interests therein during the period April through June, 2001.
3. Revenue Ruling under section 6621 regarding the applicable interest rates for overpayments and underpayments of tax for the period July through September, 2001.
4. Notice providing the calendar year inflation adjustment factor and reference prices for the renewable electricity production credit under section 45.
5. Notice setting forth the weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability for the purpose of the full funding limitation of section 412(c)(7) of the Code for plan years beginning in June 2001.
6. Revenue Ruling under section 472 providing the Bureau of Labor Statistics price indexes that department stores may use in valuing inventories.

July

1. Revenue Ruling setting forth tables of the adjusted applicable federal rates for the current month for purposes of sections 1274, 1288, 382, 42, and 7520.
2. Notice setting forth the weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability for the purpose of the full funding limitation of section 412(c)(7) of the Code for plan years beginning in July 2001.
3. Revenue Ruling under section 472 providing the Bureau of Labor Statistics price indexes that department stores may use in valuing inventories.

REV_00149583

August

1. Revenue Ruling setting forth tables of the adjusted applicable federal rates for the current month for purposes of sections 1274, 1288, 382, 42, and 7520.
2. Revenue Procedure providing the amounts of unused housing credit carryover allocated to qualified states under section 42(h)(3)(D) for the calendar year.
3. Notice providing the inflation adjustment factor to be used in determining the enhanced oil recovery credit under section 43 for tax years beginning in the calendar year.
4. Notice providing the applicable percentage to be used in determining percentage depletion for marginal properties under section 613A for the calendar year.
5. Revenue Procedure providing the loss payment patterns and discount factors for the 2001 accident year to be used for computing unpaid losses under section 846.
6. Revenue Procedure providing the salvage discount factors for the 2001 accident year to be used for computing discounted estimated salvage recoverable under section 832.
7. Revenue Ruling setting forth the terminal charge and the standard industry fare level (SIFL) cents-per-mile rates for the second half of 2001 for use in valuing personal flights on employer-provided aircraft.
8. Notice setting forth the weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability for the purpose of the full funding limitation of section 412(c)(7) of the Code for plan years beginning in August 2001.
9. Revenue Ruling under section 472 providing the Bureau of Labor Statistics price indexes that department stores may use in valuing inventories.
10. Update Notice 99-41 to add approved applicants for designated private delivery service status under section 7502(f). Will be published only if any new applicants are approved.

September

1. Revenue Ruling setting forth tables of the adjusted applicable federal rates for the current month for purposes of sections 1274, 1288, 382, 42, and 7520.
2. Revenue Ruling providing the monthly bond factor amounts to be used by taxpayers who dispose of qualified low-income buildings or interests therein during the period July through September, 2001.
3. Revenue Ruling under section 6621 regarding the applicable interest rates for overpayments and underpayments of tax for the period October through December, 2001.
4. Revenue Ruling providing the determination under section 809 of the differential earnings rate for 2000 and the recomputed differential earnings rate for 1999 for use by mutual life insurance companies to compute their income tax liabilities for 2000.

REV_00149584

5. Notice setting forth the weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability for the purpose of the full funding limitation of section 412(c)(7) of the Code for plan years beginning in September 2001.
6. Revenue Ruling under section 472 providing the Bureau of Labor Statistics price indexes that department stores may use in valuing inventories.
7. Revenue Procedure under section 62 regarding the deduction and deemed substantiation of federal standard mileage amounts.
68. Announcement on whether the number of Archer MSAs has exceeded the applicable statutory limits.

October

1. Revenue Ruling setting forth tables of the adjusted applicable federal rates for the current month for purposes of sections 1274, 1288, 382, 42, and 7520.
2. News release setting forth cost-of-living adjustments effective January 1, 2002, applicable to the dollar limits on benefits under qualified defined benefit pension plans and other provisions affecting certain plans of deferred compensation.
3. Notice setting forth the weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability for the purpose of the full funding limitation of section 412(c)(7) of the Code for plan years beginning in October 2001.
4. Revenue Ruling under section 472 providing the Bureau of Labor Statistics price indexes that department stores may use in valuing inventories.
5. Revenue Procedure under section 1 and other sections of the Code regarding the inflation adjusted items for 2002.

November

1. Revenue Ruling setting forth tables of the adjusted applicable federal rates for the current month for purposes of sections 1274, 1288, 382, 42, and 7520.
2. Revenue Ruling providing the "base period T-Bill rate" as required by section 995(f)(4).
3. Revenue Ruling setting forth covered compensation tables for the 2002 calendar year for determining contributions to defined benefit plans and permitted disparity.
4. Notice setting forth the weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability for the purpose of the full funding limitation of section 412(c)(7) of the Code for plan years beginning in November 2001.
5. Revenue Ruling under section 472 providing the Bureau of Labor Statistics price indexes that department stores may use in valuing inventories.
6. Update Rev. Proc. 2001-11 regarding adequate disclosure for purposes of the section 6662 substantial understatement penalty and the section 6694 preparer penalty.

REV_00149585

December

1. Revenue Ruling setting forth tables of the adjusted applicable federal rates for the current month for purposes of sections 1274, 1288, 382, 42, and 7520.
2. Revenue Ruling providing the monthly bond factor amounts to be used by taxpayers who dispose of qualified low-income buildings or interests therein during the period October through December, 2001.
3. Revenue Ruling under section 6621 regarding the applicable interest rates for overpayments and underpayments of tax for the period January through March, 2002.
4. Notice setting forth the weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability for the purpose of the full funding limitation of section 412(c)(7) of the Code for plan years beginning in December 2001.
5. Revenue Ruling under section 472 providing the Bureau of Labor Statistics price indexes that department stores may use in valuing inventories.
6. Revenue Procedure under section 62 regarding the deduction and deemed substantiation of federal travel per diem amounts.
7. Revenue Procedure setting forth, pursuant to section 1397E of the Code, the maximum face amount of Qualified Zone Academy Bonds that may be issued for each state during 2002.
8. Update list of recognized tribes.

REV_00149586

Appendix E
Areas in Which Tax Examiners Make Frequent Errors Interpreting or Applying the Law

Overview

The IRS Examination Quality Measurement System (EQMS) provides quality review data from a nationwide sample of closed examination cases conducted in the field (field audits) or at the Service's thirty-three district offices (office audits). Most of the quality elements identified by EQMS cover various work processes and procedures. However, the number of errors made by Tax Examiners in interpreting or applying the law is tracked via EQMS Quality Element 6B.

EQMS Quality Element 6B Results

A sample of 8780 closed field audits and 4868 closed office audits were examined during FY 2000. A summary of these examinations contained 116 (1.3 percent) identifiable UIL code misinterpretations or misapplications of law made during field examinations and another 50 (1 percent) misinterpretations or misapplications made during office audits.

Top Misapplications and Misinterpretations of Law

The most frequent misapplications or misinterpretations of law by UIL description during a field examination for FY2000 are identified in Table E.1 below.

REV_00149587

Table E.1. Misapplications or Misinterpretations of Law Found Most Frequently in a Field Examination, FY 2000

Description	Number of Field Examination Misapplications or Misinterpretations
Trade or Business (Deductible vs Not Deductible)	9
Depreciation	9
Disallowance of Certain Entertainment, etc. Expenses (Allowable vs Not Allowable)	7
Gross Income vs. Not Gross Income	6
Modified Accelerated Cost Recovery System	6
Net Operating Loss Deduction (Deductible vs Not Deductible)	5
Activities Not Engaged in For Profit	4
Passive Activity Losses and Credits Limited	4
Adjustments to Basis of Stock of, Indebtedness Owing Shareholders	4
Distributions	4
Definitions	4
General Rule for Methods of Accounting (Permissible vs. Not Permissible)	3
Adjustments Required by Changes in Method of Accounting	3

Source: EQMS

The most frequent misapplications or misinterpretations of law by UIL description during an office audit for FY2000 are identified in Table E.2.

REV_00149588

Table E.2. Misapplications or Misinterpretations of Law Found Most Frequently in an Office Audit, FY 2000

Description	Number of Office Audit Misapplications or Misinterpretations
Trade or Business (Deductible vs Not Deductible)	11
Dependent Defined	5
Definitions and Special Rules	4
Gross Income vs. Not Gross Income	3
Activities Not Engaged in For Profit	3
Disallowance of Certain Expenses in Connection with Business Use of Home, Rental of Vacation Home etc.	3

Source: EQMS

REV_00149589

Appendix F
The Impact of Recent Legislation on Complexity

The implementation of new tax laws, or even the modification of current tax laws, that impact issues related to a taxpayer's filing status or affect procedures for calculating estimated and alternative minimum taxes has a direct bearing on complexity. To assess the impact of recent congressional initiatives on complexity each piece of legislation must be assessed independently. While Congress has enacted tax law legislation recently that has added to complexity, they have also enacted other legislation that had minimal (if any) impact on complexity.

The Taxpayer Relief Act of 1997 (1997 Act) is an example of tax legislation that resulted in many new tax complexities. The 1997 Act contained many new tax credits that are beneficial to certain categories of taxpayers. These new tax credits required significant tax changes to the tax forms, schedules, and instructions for individuals. Because the credits were targeted to certain types of taxpayers or to certain types of activities, specific qualifications had to be met in order to qualify for the credits. In many cases taxpayers had to decipher complex rules in order to determine whether they qualified for the credits. Several of the credits phased in their maximum benefit over two years. In addition all of the new credits phased out at certain levels of adjusted gross income. These phase-ins and phase-outs lead to increased complexity in the tax law. In some cases taxpayers were given choices (for example, with respect to which of various educational tax incentives to claim), which created the complexity and the possibility of increased errors.

One of the most complex provisions of the 1997 Act was the reduction in the maximum capital gains rates. This provision presents many difficulties for tax payers largely because of the different maximum rates (10, 20, 25, or 28 percent) that apply depending on the nature of the capital asset sold and the taxpayers's marginal tax rate bracket. Part IV of 1999 Schedule D, which provides the tax computation reflecting these reduced rates, contains thirty-five line entries. New complexities are introduced after the year 2000 when the 10 and 20 percent rates dropped to 8 and 18 percent, respectively, for gain from property held for more than five years.

Examples of legislation that did not impact complexity include three new tax laws enacted in 1998: The Surface Revenue Transportation Act of 1998, The Internal Revenue Service Restructuring and Reform Act of 1998, and the Tax and Trade Relief Extension Act of 1998. None of these Acts imposed significant new complexities on taxpayers as these pieces of legislation focused on changes within IRS.

REV_00149590

106th Congress (1999-2000)
Legislation Signed into Law with Ramifications to the Service

Public Law	Popular Title	Title 26 Changes
106-21	Extending tax benefits to combat zone in Yugoslavia	0
106-36	Miscellaneous Trade & Technical Corrections Act	15
106-51	Kosovo & Southwest Asia Emergency Supplements	
106-58	Treasury Appropriations for FY2000	
106-78	Agriculture Appropriations	1
106-170	Work Incentives Improvement Act of 1999 (Extenders)	
106-200	Trade and Development Act of 2000	
106-229	Electronic Signatures	
106-230	To require 527 organizations to disclose	
106-519	Repeal provisions relating to FSCs	
106-554	Consolidated Approps FY2001 (includes Treas Approps and Community Renewal Tax Relief)	
106-573	Repeal modification of installment Method	

REV_00149591

Appendix G
Tax Forms and Burden on the Taxpayer

Overview

One of the indicators of complexity of the tax system is the burden encountered by taxpayers in completing tax forms and filing their returns. Estimates of the time to complete forms have been made based on a mathematical model, the Arthur D. Little model, developed in the 1980s. There are several weaknesses in the model. First, it relies on the number of forms, instructions, and words to be read or lines necessary to complete to comply with the tax code. Second, the model is out of date, and recent modifications to the tax system are not reflected in it. Third, the model contains certain peculiarities, such as counting lines added to instructions or forms for the purpose of clarification and simplification for the taxpayer as additional burden. However, the model is still relied on, because it is the only available current estimate of burden.

The estimates of the time to complete tax forms and the quantity of forms distributed are made by the Operations Division. Estimates of the number of taxpayers filing the forms are provided by the Statistics of Income Division.

Forms Supplied by the IRS

Taxpayers obtain tax forms from a variety of sources. These sources include tax form packages mailed to individual taxpayers; IRS distributed forms available, for example, at libraries, post offices, and IRS walk-in offices; IRS-approved computer software and electronic tax forms; and Internet web sites. Tax year 1999 is the latest year with the most complete information on mailings, distribution and filings of forms. The number and method for distributing selected tax forms is identified in Table G.1.

In general, mailing of tax forms to taxpayers continues to decline as electronic return filing increases. Mailings of tax packages containing a 1040 series form plus one or more other forms to targeted taxpayers have declined from approximately 77 million in 1995 to approximately 54 million in 1999. Approximately xx.x million returns were filed electronically in 1999. IRS expects to receive over 33 million electronically filed returns in TY00.

REV_00149592

Table G.1. Selected Forms Supplied to Taxpayers, Tax Year 1999

Form	1999 Tax Forms Filed	Tax Forms Mailed	Tax Forms Distributed to Libraries and Post Offices
1040	78,708,914	11,557,150	77,700,000
1040A	23,634,141	10,538,030	69,700,000
1040-EZ	14,672,182	18,192,469[1]	70,000,000
1040-PC[2]	5,146,271	N/A	N/A
Total	122,161,508	40287649	217,400,000

[1]There were 408,879-EZ and 17,783,597 TeleFile packages mailed out to taxpayers in 1999. The TeleFile packages were mailed exclusively to 1040-EZ users.
[2]Form 1040-PCs are reported separately under 1999 Tax Forms Filed. These are computer-generated forms that have subsequently been reclassified as Form 1040, 1040A, or 1040-EZ.

Source: Forms and Publications Division

REV_00149593

Table G.2.b. Burden Estimates for Widely Used and/or Burdensome Federal Tax Forms (in Minutes and Hours), Tax Year 2000

Form	Minutes of Record Keeping	Minutes to Learn about Law/ Form	Minutes to Prepare Form	Minutes to Copy, Assemble & Mail Form	Total Time in Mins.	Total Time (hrs/min)	Number of Taxpayers Projected to Use the Form
Form 4562 (Depreciation and Amortization)	2239	310	359	0	2908	48hr. 28min.	
Form 1040 (and PC) (U.S. Individual Income Tax Form)	165	205	376	35	781	13hr. 1min.	5,146,271
Schedule C (!040) (Profit & Loss from Business)	362	81	139	41	623	10hr. 23min.	20,476,915
Form 1040A (U.S. Individual Income Tax Form)	70	184	298	34	586	9hr. 46min.	23,634,141
Schedule D (1040) (Capital Gains & Losses)	90	184	110	34	418	6hr. 58min.	27,789,749
Form 6251 (Alternative Minimum Tax)	151	71	110	28	360	6hr. 0min.	4,201,459
Schedule A (1040) (Itemized Deductions)	184	39	94	20	337	5hr. 37min.	40,866,650
Form 1040EZ (Income Tax Return for Single and Joint Filers with no Dependents)	5	98	110	20	233	3hr. 53min	19,832,226
Form 2441 (Child and Dependent Care Expenses)	40	25	50	28	143	2hr. 23min.	6,687,550
Schedule 2 (Child & Dependent Care Expenses/Form 1040A)	33	10	52	31	126	2hr. 6min.	1,385,490
Form W-4 (Employee's Withholding Allowance Certificate)							
Schedule SE - Long (Self-Employment)	26	20	33	20	99	1hr. 39min.	
Schedule B (1040) (Interest and Ordinary Dividends)	33	8	25	20	86	1hr. 26min.	
Schedule SE –Short (Self-Employment)	13	14	12	13	52	0hr. 52min.	
Schedule 1 (Interest and Ordinary Income for Form 1040A)	19	4	13	20	56	0hr. 56min.	
Schedule EIC (1040) (Earned Income Credit)	0	1	13	20	34	0hr. 34min.	16,433,664

Source: Time estimates from IRS Forms and Publications Division; estimate of number of taxpayers from IRS' Midwest Audit Classification System

REV_00149594

From: Elizabeth_N._Camp@who.eop.gov [UNKNOWN]

To: Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Adam.Charnes@usdoj.gov [UNKNOWN] <Adam.Charnes@usdoj.gov>;Tracy.T.Washington@usdoj.gov [UNKNOWN] <Tracy.T.Washington@usdoj.gov>;don.willett@usdoj.gov [UNKNOWN] <don.willett@usdoj.gov>;David McMaster/WHO/EOP@EOP [WHO] <David McMaster>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>;evelyn.v.long@usdoj.gov [UNKNOWN] <evelyn.v.long@usdoj.gov>;adam.Ciongoli@usdoj.gov [UNKNOWN] <adam.Ciongoli@usdoj.gov>;andrew.beach@usdoj.gov [UNKNOWN] <andrew.beach@usdoj.gov>;Allison L. Riepenhoff/WHO/EOP@EOP [WHO] <Allison L. Riepenhoff>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Timothy E. Flanigan/WHO/EOP@EOP [WHO] <Timothy E. Flanigan>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Alison Jones/WHO/EOP@EOP [WHO] <Alison Jones>;Carol J. Thompson/WHO/EOP@EOP [WHO] <Carol J. Thompson>;Wendy.J.Keefer@usdoj.gov [UNKNOWN] <Wendy.J.Keefer@usdoj.gov>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Albert.Brewster@usdoj.gov [UNKNOWN] <Albert.Brewster@usdoj.gov>;Ann Gray/WHO/EOP@EOP [WHO] <Ann Gray>;Douglas L. Hoelscher/WHO/EOP@EOP [WHO] <Douglas L. Hoelscher>;Jason.J.Sutton@usdoj.gov [UNKNOWN] <Jason.J.Sutton@usdoj.gov>;Viet.Dinh@usdoj.gov [UNKNOWN] <Viet.Dinh@usdoj.gov>;Brent D. Greenfield/WHO/EOP@EOP [WHO] <Brent D. Greenfield>;amy.petersen@usdoj.gov [UNKNOWN] <amy.petersen@usdoj.gov>;Dee Dee Benkie/WHO/EOP@EOP [WHO] <Dee Dee Benkie>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;Michael J. Conway/WHO/EOP@EOP [WHO] <Michael J. Conway>;Susan B. Ralston/WHO/EOP@EOP [WHO] <Susan B. Ralston>;Melissa S. Bennett/WHO/EOP@EOP [WHO] <Melissa S. Bennett>

BCC: Sarah K. Lockart (Sarah K. Lockart/WHO/EOP [WHO])

Sent: 8/14/2002 8:40:32 AM

Subject: : Reminder-JSC will be held today

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Elizabeth_N._Camp@who.eop.gov ( Elizabeth_N._Camp@who.eop.gov [ UNKNOWN ] )
CREATION DATE/TIME:14-AUG-2002 12:40:32.00
SUBJECT:: Reminder-JSC will be held today
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Adam.Charnes@usdoj.gov ( Adam.Charnes@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Tracy.T.Washington@usdoj.gov ( Tracy.T.Washington@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:don.willett@usdoj.gov ( don.willett@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:David McMaster ( CN=David McMaster/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:evelyn.v.long@usdoj.gov ( evelyn.v.long@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:adam.Ciongoli@usdoj.gov ( adam.Ciongoli@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:andrew.beach@usdoj.gov ( andrew.beach@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Allison L. Riepenhoff ( CN=Allison L. Riepenhoff/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Timothy E. Flanigan ( CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
```

READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Carol J. Thompson (CN=Carol J. Thompson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Wendy.J.Keefer@usdoj.gov (Wendy.J.Keefer@usdoj.gov [UNKNOWN])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Albert.Brewster@usdoj.gov (Albert.Brewster@usdoj.gov [UNKNOWN])
READ:UNKNOWN
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Douglas L. Hoelscher (CN=Douglas L. Hoelscher/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jason.J.Sutton@usdoj.gov (Jason.J.Sutton@usdoj.gov [UNKNOWN])
READ:UNKNOWN
TO:Viet.Dinh@usdoj.gov (Viet.Dinh@usdoj.gov [UNKNOWN])
READ:UNKNOWN
TO:Brent D. Greenfield (CN=Brent D. Greenfield/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:amy.petersen@usdoj.gov (amy.petersen@usdoj.gov [UNKNOWN])
READ:UNKNOWN
TO:Dee Dee Benkie (CN=Dee Dee Benkie/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
BCC:Sarah K. Lockart (CN=Sarah K. Lockart/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

JSC will be held today at 4:00 pm in the Roosevelt Room.

DOJ staff - please call Hana Brilliant at 456-5049 for clearance.

Thank you.

From: NR Advance <advance@nationalreview.com>
To: NR Advance <advance@nationalreview.com>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 8/14/2002 12:52:55 PM
Subject: : Advance e-copy of National Review September 2, 2002 Issue

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:NR Advance <advance@nationalreview.com> (NR Advance <advance@nationalreview.com> [UNKNOWN])
CREATION DATE/TIME:14-AUG-2002 16:52:55.00
SUBJECT:: Advance e-copy of National Review September 2, 2002 Issue
TO:NR Advance <advance@nationalreview.com> (NR Advance <advance@nationalreview.com> [UNKNOWN])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

As you may already know, National Review is now e-mailing to a selected list an advance e-copy of highlights from the magazine. Here is how it works: You will get an e-mail from us once every two weeks that highlights various pieces in NR. If you want to read more, you can click a link to an exclusive web page with the full text of the pieces. You will receive this e-mail a few days before copies of the print magazine are distributed. If you wish to be taken off this list, please let us know. The link follows the excerpts:

America's Best Governor
By John J. Miller

At the Empower America event, Bill Bennett delivered an impromptu tribute: "Governor Owens, you're the best. We really mean it. You've led the way on so many things." A growing number of talent-spotters on the right agree: Owens is America's best governor. His instinctive conservatism on everything from taxes and education to guns and abortion has served him well during his first term, and also has set him apart from an older wave of Republican governors whose reformist impulses have waned. When the Cato Institute's fiscal report card on governors comes out in September, Owens will rank at or near the top--one of just two or three chief executives to earn an A grade. The 51-year-old Owens is one of the few governors this summer not sweating out their budgets.

Out of the Doldrums
By John O'Sullivan

No one in the Bush administration seems to have grasped the concept of intellectual "investment"--namely the acceptance that a political leader may have to spend some years propagating an argument before the public accepts it. Polls direct politicians to satisfy the current tastes of the voters; they tell them nothing about what the public might be persuaded to accept. Yet almost all major political changes occur when events suddenly confirm

what a political leader has been preaching, perhaps in the wilderness, for a
decade or two. The Soviet invasion of Afghanistan confirmed the wisdom of
Reagan's anti-Communism; Hitler's seizure of Czechoslovakia converted
appeasers into supporters of Winston Churchill. A political leader who
outlines a clear argument will at a minimum give voters a reason for
rallying to him and resisting the policies of his opponents. Daschle's
"obstructionism" has, paradoxically, gained more political ground for his
party than the president's positive thinking has gained for the GOP.

Clinton the Anti-Terrorist
By Byron York

Saxby Chambliss is a little perplexed. The Republican congressman from
Georgia is chairman of the House Subcommittee on Terrorism and Homeland
Security and a key player in the investigation into the September 11
attacks. He knows a lot about the subject. Yet it was not until he read a
recent issue of <I>Time</I> magazine that he learned that in late 2000 the
Clinton administration came up with a new, aggressive, wide-ranging plan to
topple al-Qaeda. In an article headlined "Could 9/11 Have Been Prevented?"
Time reported that top Clinton officials handed the plan to the incoming
administration, but, tragically, the Bush team chose not to act. The story's
heroes were Richard Clarke, a top anti-terrorism aide, and Samuel Berger,
Clinton's national security adviser. And that's what has Chambliss
perplexed. "I've had Dick Clarke testify before our committee several times,
and we've invited Samuel Berger several times," Chambliss says. If the plan
was such a big deal, Chambliss wonders, why didn't anyone mention it?

A Time for Kings?
By David Pryce-Jones

Washington is searching for a successor regime to Saddam Hussein. It is an
exercise in political science. Can an even passably democratic government be
devised to take the place of a dictator who has stripped his people of
decency and trust in others? Iraqis of all sorts are putting themselves
forward: dissidents and exiles, former army officers who fled from Saddam in
fear of their lives, men of substance certainly. But how representative are
they? Why should Iraqis have confidence in self-selected and evidently
ambitious leaders whose legitimacy is questionable? This is where the
Hashemite family comes in. The last ruler in Baghdad to enjoy legitimacy was
a Hashemite, King Faisal II, grandson of the man appointed--imposed, if you
will--by the British after World War I to rule Iraq. The legitimacy was
admittedly tenuous, but better than none at all. A return to a
constitutional monarchy might provide the framework for law and order and
national unity.

Smith vs. Sununu
By Bernadette Malone

Rep. Sununu is both solid on policy and very electable. His image fits well
with New Hampshire's growing high-tech population: a 38-year-old suburban
husband and father with a degree in engineering and an MBA. Methodical but
affable, Sununu has the kind of personality that promises no surprises or
embarrassments. (Smith's blustering presence suggests that at any moment he
might break into a floor speech about the need for retirement homes for

monkeys. Yes, he has.) Certainly, there's a difference in emphasis between the two Republicans: Smith leads with social issues, Sununu with economic ones. Implementing a flat tax, privatizing Social Security, and expanding free trade are this MIT and Harvard graduate's goals for the next decade. The Club for Growth gave Sununu a $1,000 contribution, though many of its members are still fond of Smith. But, says co-founder Steve Moore, "With Phil Gramm retiring, it will be healthy for the Senate to have John Sununu as a member."

What Juan Diego Saw
By Rod Dreher

In the Catholic view, the Guadalupe image is a sign to the Aztecs that Christianity, the religion of the Spanish, had come to defeat their bloodthirsty paganism. But Guadalupe cannot be reduced to crude triumphalism: The Mother of Christ appears as an Indian queen and mother, representing the benevolent universality of Christianity, and prophesying the unity of the New World Spanish and Indians to create a new culture. Within a few years of the image's being made known to the Aztecs, millions abandoned the old religion and were baptized. If Guadalupe is fake, it is one of the greatest pieces of religious and political propaganda of all time. And that, indeed, is what some Mexican social critics say, calling Guadalupe a conquistador ruse to subdue the Indians. Others claim that John Paul is continuing in that tradition, canonizing Juan Diego for essentially propagandistic reasons--chiefly to halt the conversion of modern-day Mexican
Indians to Protestantism, renewed paganism, or political radicalism.

The Stock Market Without Tears
Kevin A. Hassett

Dow 36,000 rests upon solid conservative foundations: Its premise is that free markets deliver prosperity over time. While fluctuations are inevitable, they are spurred principally by the hard economic news that rationally should affect prices. (The recent decline in the Dow, for example, is about the same size as the drop in corporate earnings.) Over time, bear markets are reversed not because the free market is always perfect, but rather because it corrects itself when it makes mistakes. The Left proposes an alternative view: Markets are prone to manias. Their wild swings drive economies into deep depressions, and a large government is therefore necessary to protect us. Historically, the economy itself has only
rarely posted years of negative growth, but it is quite common for the stock
market to drop. And whenever it does, we hear yet again about the dangers of
unfettered capitalism.

Fallout
By Robert Elegant

The pioneer medical investigator Viktor Moshkevich wrote that "no territory in the world has suffered from radioactive, chemical, and bacteriological weapons as much as Kazakhstan"; he added that the Semey Polygon is "the most
heavily contaminated place on earth." When Field Marshal Grigori Zhukov ordered 45,000 troops to engage in war games less than an hour after a nuclear explosion overhead, he watched the maneuvers from a lead-lined tank.
The Soviets deliberately exposed soldiers and civilians to unchecked

radiation--in part because the apparatchiks running the show could not be bothered with precautions, but primarily because they were curious as to the
effects of prolonged exposure on human beings. They were not concerned to treat the consequent maladies; they merely wanted to record them.

Salem in Newcastle
By Theodore Dalrymple

It started nine years ago, when a mother allegedly heard her two-year-old child say that Lillie had hurt him. Only a few days before, another nurse had been sentenced for abuse of the children in his care. Before the episode
was over, the parents of 350 children claimed that their children had been abused. Had the parents not found a compliant pediatrician to substantiate their claims, the lack of physical injuries to any of the children might have caused the police to retain a decent skepticism; but Dr. Camille San Lazaro of Newcastle University, on the basis of cursory, poorly-performed, and worse-documented examinations, confirmed that the children had indeed been abused as claimed. The police, responding to local pressure, arrested the two nurses. The subsequent court case exonerated them completely, with the judge ruling that the evidence against them was so poor that he was not prepared even to put it to a jury. And that should have been that: but it wasn't.

'Soli Deo Gloria'
By Jay Nordlinger

MasterWorks attracts both top students and top faculty. Some of the most notable performers and teachers in the world participate in the camp, "outing" themselves as earnest Christians, in a way, and giving young people
examples to follow. Midori, the violinist, has been there. Christopher Parkening, the guitarist, is a favorite. And then you have John Nelson, the conductor, Philip Smith, principal trumpet for the New York Philharmonic, and Lawrence Dutton, violist for the Emerson String Quartet. As Delta David Gier, assistant conductor for the New York Philharmonic, puts it, "The fusion of our two great concerns, music and faith, finds full expression [at
the camp]." Over and over, campers give some variation of, "I wasn't quite sure that real musicians could be real Christians, or that real Christians could be true musicians. But now I see it all around me."

http://www.nationalreview.com/advance/advance090202.asp

From: Sandra L. Golas
To: <Brett M. Kavanaugh>
CC: <James B. Wright>;<Adam F. Greenstone>;<Daniel A. Barry>
Sent: 8/14/2002 1:49:50 PM
Subject:

I have completed the search for messages to, from, cc, bcc regarding Mr. Gillespie. The results may be found at:

http://cd.eop.gov/~search_res40. If you give me a call at 56528, I will give you the password.

Thanks,

Sandi

From: CN=Darren D. Grubb/OU=WHO/O=EOP [WHO]
To: Darren D. Grubb/WHO/EOP@EOP [WHO] <Darren D. Grubb>
BCC: logan.walters@hq.doe.gov (logan.walters@hq.doe.gov [UNKNOWN]), Todd W. Beyer (Todd W. Beyer/WHO/EOP [WHO]), Tim_Goeglein@who.eop.gov @ inet (Tim_Goeglein@who.eop.gov @ inet [UNKNOWN]), Susan B. Ralston (Susan B. Ralston/WHO/EOP [WHO]), Scott_Stanzel@who.eop.gov @ inet (Scott_Stanzel@who.eop.gov @ inet [UNKNOWN]), Scott_McClellan@who.eop.gov @ inet (Scott_McClellan@who.eop.gov @ inet [UNKNOWN]), Sarah_M._Moss@who.eop.gov (Sarah_M._Moss@who.eop.gov [UNKNOWN]), Sarah E. Youssef (Sarah E. Youssef/OPD/EOP [OPD]), Sally_Canfield@who.eop.gov @ inet (Sally_Canfield@who.eop.gov @ inet [UNKNOWN]), Reed_Dickens@who.eop.gov @ inet (Reed_Dickens@who.eop.gov @ inet [UNKNOWN]), Paul L. Morse (Paul L. Morse/WHO/EOP [WHO]), Neil H. Zimmerman (Neil H. Zimmerman/WHO/EOP [WHO]), Michael_Fullerton@ita.doc.gov @ inet (Michael_Fullerton@ita.doc.gov @ inet [UNKNOWN]), Meredith A. Terpeluk (Meredith A. Terpeluk/WHO/EOP [WHO]), Melanie A. Jackson (Melanie A. Jackson/WHO/EOP [WHO]), Mary_Elizabeth_Farr@who.eop.gov @ inet (Mary_Elizabeth_Farr@who.eop.gov @ inet [UNKNOWN]), Lorraine_Nisbet@oa.eop.gov @ inet (Lorraine_Nisbet@oa.eop.gov @ inet [UNKNOWN]), Leslie_A._Shockley@oa.eop.gov (Leslie_A._Shockley@oa.eop.gov [UNKNOWN]), Lawrence A. Fleischer (Lawrence A. Fleischer/WHO/EOP [WHO]), Laura S. Lawlor (Laura S. Lawlor/WHO/EOP [WHO]), L. Camille Welborn (L. Camille Welborn/WHO/EOP [WHO]), Ken_Mehlman@who.eop.gov @ inet (Ken_Mehlman@who.eop.gov @ inet [UNKNOWN]), Katherine_G._Marinis@who.eop.gov (Katherine_G._Marinis@who.eop.gov [UNKNOWN]), Kara G. Figg (Kara G. Figg/WHO/EOP [WHO]), John D. Estes (John D. Estes/WHO/EOP [WHO]), JEissensta@aol.com @ inet (JEissensta@aol.com @ inet [UNKNOWN]), Israel_Hernandez@who.eop.gov @ inet (Israel_Hernandez@who.eop.gov @ inet [UNKNOWN]), Heather L. West (Heather L. West/WHO/EOP [WHO]), Gretchen P. Steen (Gretchen P. Steen/WHO/EOP [WHO]), EWILLEFO@fcc.gov @ inet (EWILLEFO@fcc.gov @ inet [UNKNOWN]), Elizabeth W. Kleppe (Elizabeth W. Kleppe/OVP/EOP [OVP]), Dylan C. Glenn (Dylan C. Glenn/OPD/EOP [OPD]), Douglas L. Hoelscher (Douglas L. Hoelscher/WHO/EOP [WHO]), Dee_Dee_Benkie@who.eop.gov @ inet (Dee_Dee_Benkie@who.eop.gov @ inet [UNKNOWN]), Darren W. Bearson (Darren W. Bearson/WHO/EOP [WHO]), Collister W. Johnson (Collister W. Johnson/WHO/EOP [WHO]), cod@ovp.eop.gov @ inet (cod@ovp.eop.gov @ inet [UNKNOWN]), Chris_Henick@who.eop.gov @ inet (Chris_Henick@who.eop.gov @ inet [UNKNOWN]), Brian V. McCormack (Brian V. McCormack/OVP/EOP [OVP]), Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO]), Barry S. Jackson (Barry S. Jackson/WHO/EOP [WHO]), Ashley E. Davis (Ashley E. Davis/WHO/EOP [WHO]), Andrea G. Ball (Andrea G. Ball/WHO/EOP [WHO]), Alicia W. Davis (Alicia W. Davis/WHO/EOP [WHO]), Ali H. Tulbah (Ali H. Tulbah/WHO/EOP [WHO]), Adam B. Goldman (Adam B. Goldman/WHO/EOP [WHO]), wendy.benestante@fema.gov (wendy.benestante@fema.gov [UNKNOWN]), Tim_Reynolds@who.eop.gov @ inet (Tim_Reynolds@who.eop.gov @ inet [UNKNOWN]), Taylor_S._Gross@who.eop.gov (Taylor_S._Gross@who.eop.gov [UNKNOWN]), sdouglas@NRCC.org @ inet (sdouglas@NRCC.org @ inet [UNKNOWN]), Scott_N._Sforza@who.eop.gov (Scott_N._Sforza@who.eop.gov [UNKNOWN]), SCarlson@AKINGUMP.com @ inet (SCarlson@AKINGUMP.com @ inet [WHO]), Sarah_M._Lenti@nsc.eop.gov (Sarah_M._Lenti@nsc.eop.gov [UNKNOWN]), Sara_M._Taylor@who.eop.gov (Sara_M._Taylor@who.eop.gov [UNKNOWN]), Reed_H._Galen@who.eop.gov (Reed_H._Galen@who.eop.gov [UNKNOWN]), Ray_Joiner@ios.doi.gov @ inet (Ray_Joiner@ios.doi.gov @ inet [UNKNOWN]), Paul_B._Dyck@who.eop.gov (Paul_B._Dyck@who.eop.gov [UNKNOWN]), Natalie_Rule@ovp.eop.gov @ inet (Natalie_Rule@ovp.eop.gov @ inet [UNKNOWN]), Michael_J._Napolitano@who.eop.gov (Michael_J._Napolitano@who.eop.gov [UNKNOWN]), Melissa_S._Bennett@who.eop.gov (Melissa_S._Bennett@who.eop.gov [UNKNOWN]), Matthew_E._Smith@who.eop.gov (Matthew_E._Smith@who.eop.gov [UNKNOWN]), Magda_E._Angulo@who.eop.gov (Magda_E._Angulo@who.eop.gov [UNKNOWN]), Linda_M._Gambatesa@who.eop.gov (Linda_M._Gambatesa@who.eop.gov [UNKNOWN]), Leonard_B._Rodriguez@who.eop.gov (Leonard_B._Rodriguez@who.eop.gov [UNKNOWN]), Lavin_Gartland@ondcp.eop.gov @ inet (Lavin_Gartland@ondcp.eop.gov @ inet [UNKNOWN]), Laura_L._Funderburk@who.eop.gov (Laura_L._Funderburk@who.eop.gov [UNKNOWN]),

Kristen_Silverberg@who.eop.gov @ inet (Kristen_Silverberg@who.eop.gov @ inet [UNKNOWN]), kcjones@rnchq.org @ inet (kcjones@rnchq.org @ inet [UNKNOWN]), Kasey_S._Pipes@who.eop.gov (Kasey_S._Pipes@who.eop.gov [UNKNOWN]), Julieanne_H._Thomas@who.eop.gov (Julieanne_H._Thomas@who.eop.gov [UNKNOWN]), Joel_D._Kaplan@who.eop.gov (Joel_D._Kaplan@who.eop.gov [UNKNOWN]), Jeanie_L._Figg@who.eop.gov (Jeanie_L._Figg@who.eop.gov [UNKNOWN]), Heidi_K._Marquez@who.eop.gov (Heidi_K._Marquez@who.eop.gov [UNKNOWN]), Harriet_Miers@who.eop.gov @ inet (Harriet_Miers@who.eop.gov @ inet [UNKNOWN]), Gordon_D._Johndroe@who.eop.gov (Gordon_D._Johndroe@who.eop.gov [UNKNOWN]), Eric_W._Terrell@who.eop.gov (Eric_W._Terrell@who.eop.gov [UNKNOWN]), Elizabeth_N._Camp@who.eop.gov (Elizabeth_N._Camp@who.eop.gov [UNKNOWN]), Duncan_Campbell@who.eop.gov @ inet (Duncan_Campbell@who.eop.gov @ inet [UNKNOWN]), Distie_Carstensen@who.eop.gov @ inet (Distie_Carstensen@who.eop.gov @ inet [UNKNOWN]), David_H._McArthur@who.eop.gov (David_H._McArthur@who.eop.gov [UNKNOWN]), Curtis_R._Jablonka@who.eop.gov (Curtis_R._Jablonka@who.eop.gov [UNKNOWN]), Clare_Pritchett@who.eop.gov @ inet (Clare_Pritchett@who.eop.gov @ inet [UNKNOWN]), Christopher_Furlow@who.eop.gov @ inet (Christopher_Furlow@who.eop.gov @ inet [UNKNOWN]), Catherine_S._Fenton@who.eop.gov (Catherine_S._Fenton@who.eop.gov [UNKNOWN]), Brian_D._Montgomery@who.eop.gov (Brian_D._Montgomery@who.eop.gov [UNKNOWN]), Brent_D._Greenfield@who.eop.gov (Brent_D._Greenfield@who.eop.gov [UNKNOWN]), Ashley_Estes@who.eop.gov @ inet (Ashley_Estes@who.eop.gov @ inet [UNKNOWN]), Ashley_D._Drummond@who.eop.gov (Ashley_D._Drummond@who.eop.gov [UNKNOWN]), Alison_Jones@who.eop.gov @ inet (Alison_Jones@who.eop.gov @ inet [UNKNOWN]), Alicia_P._Clark@who.eop.gov (Alicia_P._Clark@who.eop.gov [UNKNOWN]), Adrian_G._Gray@who.eop.gov (Adrian_G._Gray@who.eop.gov [UNKNOWN]), Abel_Guerra@who.eop.gov @ inet (Abel_Guerra@who.eop.gov @ inet [UNKNOWN])

Sent: 8/14/2002 3:15:54 PM

Subject: : New Contact Information

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Darren D. Grubb ( CN=Darren D. Grubb/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:14-AUG-2002 19:15:54.00
SUBJECT:: New Contact Information
TO:Darren D. Grubb ( CN=Darren D. Grubb/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
BCC:logan.walters@hq.doe.gov ( logan.walters@hq.doe.gov [ UNKNOWN ] )
READ:UNKNOWN
BCC:Todd W. Beyer ( CN=Todd W. Beyer/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Tim_Goeglein@who.eop.gov @ inet ( Tim_Goeglein@who.eop.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
BCC:Susan B. Ralston ( CN=Susan B. Ralston/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Scott_Stanzel@who.eop.gov @ inet ( Scott_Stanzel@who.eop.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
BCC:Scott_McClellan@who.eop.gov @ inet ( Scott_McClellan@who.eop.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
BCC:Sarah_M._Moss@who.eop.gov ( Sarah_M._Moss@who.eop.gov [ UNKNOWN ] )
READ:UNKNOWN
BCC:Sarah E. Youssef ( CN=Sarah E. Youssef/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
BCC:Sally_Canfield@who.eop.gov @ inet ( Sally_Canfield@who.eop.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
BCC:Reed_Dickens@who.eop.gov @ inet ( Reed_Dickens@who.eop.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
BCC:Paul L. Morse ( CN=Paul L. Morse/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Neil H. Zimmerman ( CN=Neil H. Zimmerman/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
```

BCC:Michael_Fullerton@ita.doc.gov @ inet (Michael_Fullerton@ita.doc.gov @ inet [UNKNOWN]
)
READ:UNKNOWN
BCC:Meredith A. Terpeluk (CN=Meredith A. Terpeluk/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Melanie A. Jackson (CN=Melanie A. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Mary_Elizabeth_Farr@who.eop.gov @ inet (Mary_Elizabeth_Farr@who.eop.gov @ inet [
UNKNOWN])
READ:UNKNOWN
BCC:Lorraine_Nisbet@oa.eop.gov @ inet (Lorraine_Nisbet@oa.eop.gov @ inet [UNKNOWN])
READ:UNKNOWN
BCC:Leslie_A._Shockley@oa.eop.gov (Leslie_A._Shockley@oa.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Laura S. Lawlor (CN=Laura S. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:L. Camille Welborn (CN=L. Camille Welborn/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Ken_Mehlman@who.eop.gov @ inet (Ken_Mehlman@who.eop.gov @ inet [UNKNOWN])
READ:UNKNOWN
BCC:Katherine_G._Marinis@who.eop.gov (Katherine_G._Marinis@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:John D. Estes (CN=John D. Estes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:JEissensta@aol.com @ inet (JEissensta@aol.com @ inet [UNKNOWN])
READ:UNKNOWN
BCC:Israel_Hernandez@who.eop.gov @ inet (Israel_Hernandez@who.eop.gov @ inet [UNKNOWN])
READ:UNKNOWN
BCC:Heather L. West (CN=Heather L. West/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Gretchen P. Steen (CN=Gretchen P. Steen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:EWILLEFO@fcc.gov @ inet (EWILLEFO@fcc.gov @ inet [UNKNOWN])
READ:UNKNOWN
BCC:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
BCC:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Douglas L. Hoelscher (CN=Douglas L. Hoelscher/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Dee_Dee_Benkie@who.eop.gov @ inet (Dee_Dee_Benkie@who.eop.gov @ inet [UNKNOWN])
READ:UNKNOWN
BCC:Darren W. Bearson (CN=Darren W. Bearson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:cod@ovp.eop.gov @ inet (cod@ovp.eop.gov @ inet [UNKNOWN])
READ:UNKNOWN
BCC:Chris_Henick@who.eop.gov @ inet (Chris_Henick@who.eop.gov @ inet [UNKNOWN])
READ:UNKNOWN
BCC:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Ashley E. Davis (CN=Ashley E. Davis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
BCC:Alicia W. Davis (CN=Alicia W. Davis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Ali H. Tulbah (CN=Ali H. Tulbah/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Adam B. Goldman (CN=Adam B. Goldman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:wendy.benestante@fema.gov (wendy.benestante@fema.gov [UNKNOWN])
READ:UNKNOWN
BCC:Tim_Reynolds@who.eop.gov @ inet (Tim_Reynolds@who.eop.gov @ inet [UNKNOWN])
READ:UNKNOWN
BCC:Taylor_S._Gross@who.eop.gov (Taylor_S._Gross@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:sdouglas@NRCC.org @ inet (sdouglas@NRCC.org @ inet [UNKNOWN])
READ:UNKNOWN
BCC:Scott_N._Sforza@who.eop.gov (Scott_N._Sforza@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:SCarlson@AKINGUMP.com @ inet (SCarlson@AKINGUMP.com @ inet [WHO])
READ:UNKNOWN
BCC:Sarah_M._Lenti@nsc.eop.gov (Sarah_M._Lenti@nsc.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Sara_M._Taylor@who.eop.gov (Sara_M._Taylor@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Reed_H._Galen@who.eop.gov (Reed_H._Galen@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Ray_Joiner@ios.doi.gov @ inet (Ray_Joiner@ios.doi.gov @ inet [UNKNOWN])
READ:UNKNOWN
BCC:Paul_B._Dyck@who.eop.gov (Paul_B._Dyck@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Natalie_Rule@ovp.eop.gov @ inet (Natalie_Rule@ovp.eop.gov @ inet [UNKNOWN])
READ:UNKNOWN
BCC:Michael_J._Napolitano@who.eop.gov (Michael_J._Napolitano@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Melissa_S._Bennett@who.eop.gov (Melissa_S._Bennett@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Matthew_E._Smith@who.eop.gov (Matthew_E._Smith@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Magda_E._Angulo@who.eop.gov (Magda_E._Angulo@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Linda_M._Gambatesa@who.eop.gov (Linda_M._Gambatesa@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Leonard_B._Rodriguez@who.eop.gov (Leonard_B._Rodriguez@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Lavin_Gartland@ondcp.eop.gov @ inet (Lavin_Gartland@ondcp.eop.gov @ inet [UNKNOWN])
READ:UNKNOWN
BCC:Laura_L._Funderburk@who.eop.gov (Laura_L._Funderburk@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Kristen_Silverberg@who.eop.gov @ inet (Kristen_Silverberg@who.eop.gov @ inet [UNKNOWN
])
READ:UNKNOWN
BCC:kcjones@rnchq.org @ inet (kcjones@rnchq.org @ inet [UNKNOWN])
READ:UNKNOWN
BCC:Kasey_S._Pipes@who.eop.gov (Kasey_S._Pipes@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Julieanne_H._Thomas@who.eop.gov (Julieanne_H._Thomas@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Joel_D._Kaplan@who.eop.gov (Joel_D._Kaplan@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Jeanie_L._Figg@who.eop.gov (Jeanie_L._Figg@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Heidi_K._Marquez@who.eop.gov (Heidi_K._Marquez@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Harriet_Miers@who.eop.gov @ inet (Harriet_Miers@who.eop.gov @ inet [UNKNOWN])

READ:UNKNOWN
BCC:Gordon_D._Johndroe@who.eop.gov (Gordon_D._Johndroe@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Eric_W._Terrell@who.eop.gov (Eric_W._Terrell@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Elizabeth_N._Camp@who.eop.gov (Elizabeth_N._Camp@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Duncan_Campbell@who.eop.gov @ inet (Duncan_Campbell@who.eop.gov @ inet [UNKNOWN])
READ:UNKNOWN
BCC:Distie_Carstensen@who.eop.gov @ inet (Distie_Carstensen@who.eop.gov @ inet [UNKNOWN]
)
READ:UNKNOWN
BCC:David_H._McArthur@who.eop.gov (David_H._McArthur@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Curtis_R._Jablonka@who.eop.gov (Curtis_R._Jablonka@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Clare_Pritchett@who.eop.gov @ inet (Clare_Pritchett@who.eop.gov @ inet [UNKNOWN])
READ:UNKNOWN
BCC:Christopher_Furlow@who.eop.gov @ inet (Christopher_Furlow@who.eop.gov @ inet [UNKNOWN
])
READ:UNKNOWN
BCC:Catherine_S._Fenton@who.eop.gov (Catherine_S._Fenton@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Brian_D._Montgomery@who.eop.gov (Brian_D._Montgomery@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Brent_D._Greenfield@who.eop.gov (Brent_D._Greenfield@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Ashley_Estes@who.eop.gov @ inet (Ashley_Estes@who.eop.gov @ inet [UNKNOWN])
READ:UNKNOWN
BCC:Ashley_D._Drummond@who.eop.gov (Ashley_D._Drummond@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Alison_Jones@who.eop.gov @ inet (Alison_Jones@who.eop.gov @ inet [UNKNOWN])
READ:UNKNOWN
BCC:Alicia_P._Clark@who.eop.gov (Alicia_P._Clark@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Adrian_G._Gray@who.eop.gov (Adrian_G._Gray@who.eop.gov [UNKNOWN])
READ:UNKNOWN
BCC:Abel_Guerra@who.eop.gov @ inet (Abel_Guerra@who.eop.gov @ inet [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Please note new contact information

Darren Grubb
Office of Global Communications
202-456-6164 - direct
darren_grubb@who.eop.gov

Thanks - hope all is well.

DG

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 8/15/2002 8:24:40 AM
Subject: : Re: SPEECH draft
Attachments: P_KVEH9003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:15-AUG-2002 12:24:40.00
SUBJECT:: Re: SPEECH draft
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Thanks!

Brett M. Kavanaugh
08/15/2002 11:49:33 AM
Record Type: Record

To: Elizabeth N. Camp/WHO/EOP@EOP
cc: Alberto R. Gonzales/WHO/EOP@EOP
Subject: SPEECH draft

I think this would be appropriate speech for FDR conference. It talks (i) general job and (ii) civil justice reform.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_KVEH9003_WHO.TXT_1>

Speech to FDR Conference

August 20, 2002

[Acknowledgements]

Thank you all for inviting me here today. I would like to talk to you this morning about my job as Counsel to the President and also about the Administration's approach to civil justice reform issues. And then I would be happy to answer questions that you may have about any subject.

I. Role of Counsel to the President

I have been President Bush's counsel in the White House for over 18 months. And a lot has happened. Thinking back over the last year and a half, what has really struck me is how important the integrity and honesty of the President are to the proper functioning of the Administration in general and the Counsel's office in particular. During the campaign, President Bush pledged repeatedly that he would uphold not just the laws of the land, but also the honor and dignity of the Presidency. And I think we all can be grateful that President Bush is as advertised: a man of integrity and of his word whom all Americans can respect and look to for principled leadership in times of peace and, as now, in times of war.

As Counsel to President Bush, much of my day-to-day job is necessarily reactive, responding to the crisis or issue at hand. But that said, standing here with the benefit of over a year of service, I can say that two core principles guide me in serving the Presidency and this President.

The first is fidelity to the rule of law. Several prior Counsels to the President have been criticized -- or worse -- for disserving the Presidency: for subordinating the rule of law to the political and personal interests. Knowing this history, the lawyers on my staff and I fully

understand that the first principle that must influence and determine everything we do is fidelity to the rule of law.

The second principle is preservation and defense of the constitutional prerogatives of the Presidency. Those prerogatives are constantly tested and challenged: Congressional requests for documents of internal policy debates, Senatorial demands regarding nomination of judges, congressional attempts to ensure that certain Executive Branch agencies, or at least certain Executive Branch officers, operate independently of the President. One of the most important jobs we have in the Counsel's office is to preserve the powers and prerogatives of the Presidency against inappropriate congressional incursions.

II. Civil Justice Reform

Another aspect of my job is to participate, in conjunction with the President's domestic policy advisors and the relevant departments and agencies, in the development of legal policy. Civil justice reform is one part of that. So let me turn to that subject.

A. Background

We cannot begin to achieve meaningful civil justice reform without first convincing the American people and the Congress that there is a problem that needs fixing. When the issue of civil justice reform is described -- as is often is -- as big business against consumer or big business against labor, we have seen that meaningful reform is not likely to get very far.

So the first imperative continues to be educational -- to educate the Congress and the public on the problem and to show that proposals for reform will benefit consumers, labor, and shareholders.

The civil justice system must strongly protect consumers by ensuring that legitimate victims of corporate malfeasance can obtain justice and receive fair and just compensation. The

REV_00149640

issue is one of balance. We do not want a tort system that unduly sacrifices product development and innovation -- new drugs and new vaccines, for example. But we also do not want a legal system that unduly sacrifices safety -- allowing new drugs that have deadly side effects, for example. Finding the right balance so as to ensure appropriate standards of liability and appropriate damages awards is therefore a critical function of the tort system.

Apart from substance, we also want sensible and efficient litigation *procedures* to ensure that shareholders, employees, and plaintiffs are not penalized by waste and undue inefficiency in the litigation process.

On both substance and procedure, there is surely room for improvement. The existing tort regime is often characterized by excessive payouts, lottery-style awards, and an inequitable division of the spoils among claimants and counsel. It not only fails properly to deter unsafe conduct, but also often fails to compensate victims fully for their losses.

Escalating lawsuit abuse imposes enormous and varied costs on our economy. Consumers pay higher prices for fewer products. Shareholders lose value when stock prices drop as a result of a spurious lawsuit. Employees lose their jobs or receive reduced compensation as the companies for which they work are forced to cover excess litigation expense.

America's civil justice system is the most expensive in the industrialized world. The overall cost of our system is conservatively estimated at nearly $180 billion annually, or about 2 percent of GDP. And costs have grown steadily over time, up from only 1.3% of GDP in 1970, and approximately 0.6% in 1950.

Americans understand that the current system is broken. The better they understand the inequities of the system, the more inclined they will be to view civil justice reform favorably.

REV_00149641

Of course, when we talk about the civil justice "system" in the singular, we ignore one major issue -- federalism. Lawsuits to recover damages for injuries are traditionally governed by state substantive law. And many in my party are appropriately cautious about the federal government stepping in to override substantive state law. To justify federal tort reform measures that would alter state tort law, therefore, one must convincingly show the relationship and effect of state tort law on the national economy and interstate markets.

B. Administration's Approach to Congress

Let me turn to the Administration's views on the civil justice reform outlook in Congress. The President has spoken on this issue and stated that "a society that is so kind of litigious-oriented is one that is bad for jobs, bad for the creation of jobs. And . . . I will support reforms which reduce lawsuits and at the same time provide -- give people the opportunity to take their case to court."

On civil justice reform, as with any matter requiring legislation, we work very closely with Congress and must be aware of the views of Congress. It appears that meaningful civil justice reform in Congress is most likely to be accomplished not through one massive tort reform bill covering a slew of often controversial issues, but rather through targeted measures on specific bills related to specific issues -- whether that be a class action bill, a terrorism insurance bill, a patients bill of rights, a medical malpractice reform bill.

With that in mind, I want to focus on two pieces of proposed legislation that the Administration strongly supports and that are now before the Congress.

1. Class Action Legislation

The first relates to class action reform. As you know, one of today's major civil justice problems is class-action litigation. In many cases, defending on the merits is a bet-the-company

REV_00149642

strategy, as Judge Richard Posner noted some years ago. The threat of class certification inevitably leads to settlement because every good lawyer or savvy client knows that markets will respond to certification with a major drop in the stock price.

Right now, moreover, a handful of State courts, through their certification and settlement of large-scale class action lawsuits, are effectively making law and dictating corporate behavior for 49 other States. A class action lawsuit brought in State court may be removed to federal court only if there is *full* diversity among the defendants and the named plaintiffs. In addition, *each class member's* claim alone must exceed $75,000, even if the aggregate amount in controversy far exceeds this amount. These requirements make it easy for plaintiffs' lawyers to bring large class actions in favorable state forums, even where these lawsuits have significant interstate commerce implications and involve the residents and laws of multiple states.

The individual consumers on whose behalf these suits are brought often receive only a few dollars each from a class action settlement. Frequently, they do not even get cash, but instead receive a "coupon" for a noncash discount on one of the defendant's products. By contrast, the lawyers who bring the suits often negotiate very large fees.

To address these problems, the Administration strongly supports the Class Action Fairness Bill, H.R. 2341, that has passed the House but is awaiting action by the Senate. The commonsense provisions in that bill include (1) notice of a lawsuit to class members in "plain English"; (2) judicial review of "coupon" settlements; and (3) prohibitions against court approval of proposed settlements providing for preferential payments to certain designated members of the class.

In addition, this bill calls for modification of diversity requirements for federal jurisdiction over class actions, such that cases would be removable if the aggregate amount in

REV_00149643

controversy exceeds $2,000,000 and there is minimal diversity. Federal jurisdiction for major class actions of this kind would help protect out-of-state defendants, as well as out-of-State plaintiff class members, from local biases in cases that affect their substantial interests and therefore is consistent with and fulfills the Constitution's original design.

2. Procedures for mass tort terrorism cases.

I also want to talk briefly about one other important issue currently being debated in Congress -- the legal system's handing of mass terrorism incidents. Congress has been debating for months how the legal system and the insurance industry will cope with additional terrorist attacks.

As to insurance, the Administration and most in Congress agree that some level of government backstop is necessary so that the insurance industry can manage the risk of future terrorism incidents and continue to provide coverage for major building projects, stadiums, air carriers, and the like.

A sticking point in passing any bill has concerned the appropriate litigation procedures for mass tort terrorism incidents. The Administration has proposed that sensible litigation procedures for mass terrorism incidents be part of any terrorism insurance bill.

Sensible litigation procedures for mass tort *terrorism* incidents are necessary for several reasons.

First, sensible litigation procedures will help reduce the substantial uncertainty faced by the insurance industry in pricing terrorism risk. The largest piece of the terrorism risk to insurers is likely to be the liability component of property and casualty insurance.

REV_00149644

Second, absent sensible litigation procedures, the resources of liable defendants, including resources from their liability insurance policies, will not suffice to compensate the class of successful plaintiff-victims in mass tort terrorism incidents.

Third, the number and variety of cases, plaintiffs, defendants, causes of action, liability standards, and damages rules in mass tort terrorism cases will overwhelm the ordinary legal system and cause extraordinary delays.

The Administration advanced four proposals to respond to these issues.

First, tort cases arising out of a mass tort terrorism incident should be consolidated in a single federal court. This is a common procedure in mass tort cases and was a central feature of the legislation recently enacted by Congress for the tort cases arising out of the September 11 attacks.

Second, there should be no punitive damage awards in mass tort terrorism cases. In mass tort cases, only a limited pool of resources will be available to plaintiffs who prove liability (whether because of bankruptcy or settlement). Because of the limited pool of resources, it would be grossly inequitable and unfair to allow one plaintiff or class of plaintiffs to receive an excessive award -- including a punitive component entirely unrelated to the plaintiff's injuries and unnecessary to compensate the plaintiff -- that could greatly limit or outright preclude recovery by other plaintiffs.

Third, there should be no joint and several liability for non-economic damages in mass tort terrorism cases, but rather should be proportional fault for recovery of non-economic damages. Without such a provision, a court could hold any defendant "jointly and severally" liable for the full amount of the plaintiff's non-economic damages, *even for those damages attributable to the terrorists' acts* and unrelated to the defendant's actions.

REV_00149645

Fourth, the plaintiff's recovery in mass terrorism cases should be offset by the amount of first-party insurance received by the plaintiff. This will ensure that injured parties receive appropriate compensation, but also preserve the pool of defendant assets and thereby allow equitable recovery for all injured parties.

I am pleased to report that the House of Representatives agreed with the Administration's four proposals (and even added a fifth proposal to limit attorneys' fees) and passed a strong bill at the end of last year.

That leaves the Senate.

In negotiations with the Senate, we thought we had achieved a good bipartisan agreement. The Administration -- along with key members of the Banking Committee, Democrat Senators Sarbanes and Dodd and Republican Senators Gramm and Enzi -- agreed that some sensible litigation procedures should be part of any terrorism insurance bill. In particular, there was a bipartisan agreement for two provisions: consolidation of claims in a single court and the elimination of punitive damages.

But just when we thought there was agreement, Senator Daschle intervened at the 11th hour and overrode his Senators, Sarbanes and Dodd, and prevented the bill from coming to the Senate floor. The sole ground on which Senator Daschle took this action were the liability procedures, modest and limited as they are.

The Administration remains deeply disappointed that Senate leadership took this extraordinary step and prevented the Senate from considering a bill that had wide bipartisan agreement. We are continuing to support a terrorism insurance bill with sensible litigation management procedures. But what happened in the Senate shows us all that any civil justice reform, no matter how sensible the proposal in question, will be a real fight in the Senate.

REV_00149646

III. Conclusion

[. . .]

With that, I would be happy to answer questions.

REV_00149647

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Cynthia Lesser) (Cynthia_Lesser@govt-aff.senate.gov (Cynthia Lesser) [UNKNOWN] <Cynthia_Lesser@govt-aff.senate.gov>
CC: laurie rubenstein) (laurie_rubenstein@govt-aff.senate.gov (laurie rubenstein) [UNKNOWN] <laurie_rubenstein@govt-aff.senate.gov>;pat hart) (pat_hart@govt-aff.senate.gov (pat hart) [UNKNOWN] <pat_hart@govt-aff.senate.gov>;david berick) (david_berick@govt-aff.senate.gov (david berick) [UNKNOWN] <david_berick@govt-aff.senate.gov>
Sent: 8/15/2002 10:59:23 AM
Subject: : Re:<no subject>

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:15-AUG-2002 14:59:23.00
SUBJECT:: Re:<no subject>
TO:Cynthia_Lesser@govt-aff.senate.gov (Cynthia Lesser) (Cynthia_Lesser@govt-aff.senate.gov (Cynthia Lesser) [UNKNOWN])
READ:UNKNOWN
CC:laurie_rubenstein@govt-aff.senate.gov (laurie rubenstein) (laurie_rubenstein@govt-aff.senate.gov (laurie rubenstein) [UNKNOWN])
READ:UNKNOWN
CC:pat_hart@govt-aff.senate.gov (pat hart) (pat_hart@govt-aff.senate.gov (pat hart) [UNKNOWN])
READ:UNKNOWN
CC:david_berick@govt-aff.senate.gov (david berick) (david_berick@govt-aff.senate.gov (david berick) [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

They were being delivered early this afternoon; you should have
them any time now. The volume of these records from the previous
Administration proved to be much greater than we had anticipated (largely
because of PCAST records, as you will see), which in turn required more
time. There are approximately 1750 pages you will be receiving today.

Cynthia_Lesser@govt-aff.senate.gov (Cynthia Lesser)
08/15/2002 02:43:06 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, David_Berick@govt-aff.senate.gov (David Berick), Laurie_Rubenstein@govt-aff.senate.gov (Laurie Rubenstein), Pat_Hart@govt-aff.senate.gov (Pat Hart)
cc:
Subject: Re:<no subject>

Brett:

I don't think we've gotten the 1992-2001 emails you refer to below; should
we
have received them by now?

Cindy

_____Reply Separator_____
Subject: <no subject>
Author: Brett_M._Kavanaugh@who.eop.gov
Date: 8/12/2002 8:24 AM

You should have an additional production from NARA today or tomorrow.
Also, you should have the relevant 1992-2001 non-PRA EOP e-mails by
tomorrow
morning.

Received: from mailsims1.senate.gov ([156.33.203.10]) by
imaexch.senate.gov with
SMTP
(IMA Internet Exchange 3.13) id 00935452; Mon, 12 Aug 2002 08:27:57 -0400
Received: from eop2.eop.gov (eop253.eop.gov)
by mailsims1.senate.gov (Sun Internet Mail Server
sims.3.5.2000.03.23.18.03.p10)
with SMTP id <0H0Q00746DAUD8@mailsims1.senate.gov>; Mon,
12 Aug 2002 08:28:13 -0400 (EDT)
Received: from CONVERSION-DAEMON by EOP.GOV (PMDF V5.2-33 #41062)
id <01KL7CLOOR5C9QXBUC@EOP.GOV>; Mon, 12 Aug 2002 08:26:54 -0400 (EDT)
Received: from mhub2.eop.gov ([198.137.241.11])
by EOP.GOV (PMDF V5.2-33 #41062) with ESMTP id
<01KL7CL29GBM9OHZK2@EOP.GOV>;
Mon, 12 Aug 2002 08:26:29 -0400 (EDT)
Received: from sgeop03.eop.gov ([165.119.1.37])
by mhub.eop.gov (PMDF V6.1-1 #41014)
with SMTP id <01KL7CL15Y249DAMA5@mhub.eop.gov>; Mon,
12 Aug 2002 08:26:07 -0400 (EDT)
Received: by sgeop03.eop.gov(Lotus SMTP MTA v4.6.7 (934.1 12-30-1999))
id 85256C13.00444ECF ; Mon, 12 Aug 2002 08:26:05 -0400
Date: Mon, 12 Aug 2002 08:24:49 -0400
From: Brett_M._Kavanaugh@who.eop.gov
To: laurie_rubenstein@govt-aff.senate.gov (laurie rubenstein),
cynthia_lesser@govt-aff.senate.gov (cynthia lesser),
david_berick@govt-aff.senate.gov (david berick),
pat_hart@govt-aff.senate.gov (pat hart)
Message-id: <85256C13.00444D00.00@sgeop03.eop.gov>
MIME-version: 1.0
Content-type: text/plain; charset=us-ascii
Content-disposition: inline
X-Lotus-FromDomain: EOP

From: CN=Emily Winland/OU=OPD/O=EOP [OPD]
To: Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>
CC: nanette everson/who/eop@eop [WHO] <nanette everson>;noel j. francisco/who/eop@eop [WHO] <noel j. francisco>;bradford a. berenson/who/eop@eop [WHO] <bradford a. berenson>;elizabeth n. camp/who/eop@eop [WHO] <elizabeth n. camp>;jennifer g. newstead/who/eop@eop [WHO] <jennifer g. newstead>;h. christopher bartolomucci/who/eop@eop [WHO] <h. christopher bartolomucci>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>
Sent: 8/16/2002 8:40:42 AM
Subject: : Re: Monday Meeting

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Emily Winland (CN=Emily Winland/OU=OPD/O=EOP [OPD])
CREATION DATE/TIME:16-AUG-2002 12:40:42.00
SUBJECT:: Re: Monday Meeting
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:nanette everson (CN=nanette everson/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:noel j. francisco (CN=noel j. francisco/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:bradford a. berenson (CN=bradford a. berenson/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:elizabeth n. camp (CN=elizabeth n. camp/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:jennifer g. newstead (CN=jennifer g. newstead/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:h. christopher bartolomucci (CN=h. christopher bartolomucci/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

I was just given more info on this meeting. When whomever is attending confirms with me I will give you more information on it.

-Emily

Helgard C. Walker
08/16/2002 12:31:09 PM
Record Type: Record

To: Emily Winland/OPD/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: Monday Meeting

SSA is Bart.

Emily Winland

08/16/2002 12:20:19 PM

Record Type: Record

To: Helgard C. Walker/WHO/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Monday Meeting

The Commissioner of SSA- the Social Security Admin. will be here on Monday- not FAA.
Please let me know if you will attend.

thanks,
Emily

Helgard C. Walker
08/16/2002 11:25:24 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: Elizabeth N. Camp/WHO/EOP@EOP, Emily Winland/OPD/EOP@EOP
Subject: FAA Briefing

I just got word that the Administrator of the FAA will be here on Monday at 10am to do a briefing re "social security enumeration." I am not sure what the means, but I suspect is has to do with security matters. DPC would like somebody from WHCO to attend but I will be on vacation. Can anybody cover this meeting? If so, please let Emily Winland know at 6-6534. Thanks.

Message Sent
To:_____
Brett M. Kavanaugh/WHO/EOP@EOP
Bradford A. Berenson/WHO/EOP@EOP
H. Christopher Bartolomucci/WHO/EOP@EOP
Noel J. Francisco/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
Nanette Everson/WHO/EOP@EOP

Message Copied
To:_____
brett m. kavanaugh/who/eop@eop
bradford a. berenson/who/eop@eop
h. christopher bartolomucci/who/eop@eop
noel j. francisco/who/eop@eop
jennifer g. newstead/who/eop@eop
nanette everson/who/eop@eop
elizabeth n. camp/who/eop@eop

Message Copied
To:_____

brett m. kavanaugh/who/eop@eop
bradford a. berenson/who/eop@eop
h. christopher bartolomucci/who/eop@eop
noel j. francisco/who/eop@eop
jennifer g. newstead/who/eop@eop
nanette everson/who/eop@eop
elizabeth n. camp/who/eop@eop

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 8/16/2002 12:32:11 PM
Subject: : Re:<no subject>

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:16-AUG-2002 16:32:11.00
SUBJECT:: Re:<no subject>
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on
08/16/2002 04:36 PM ----------

Cynthia_Lesser@govt-aff.senate.gov (Cynthia Lesser)
08/15/2002 02:43:06 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, David_Berick@govt-aff.senate.gov
(David Berick), Laurie_Rubenstein@govt-aff.senate.gov (Laurie Rubenstein),
Pat_Hart@govt-aff.senate.gov (Pat Hart)
cc:
Subject: Re:<no subject>

Brett:

I don't think we've gotten the 1992-2001 emails you refer to below; should
we
have received them by now?

Cindy

_____Reply Separator_____
Subject: <no subject>
Author: Brett_M._Kavanaugh@who.eop.gov
Date: 8/12/2002 8:24 AM

You should have an additional production from NARA today or tomorrow.
Also, you should have the relevant 1992-2001 non-PRA EOP e-mails by
tomorrow
morning.

Received: from mailsims1.senate.gov ([156.33.203.10]) by
imaexch.senate.gov with
SMTP
(IMA Internet Exchange 3.13) id 00935452; Mon, 12 Aug 2002 08:27:57 -0400
Received: from eop2.eop.gov (eop253.eop.gov)
by mailsims1.senate.gov (Sun Internet Mail Server
sims.3.5.2000.03.23.18.03.p10)
with SMTP id <0H0Q00746DAUD8@mailsims1.senate.gov>; Mon,
12 Aug 2002 08:28:13 -0400 (EDT)
Received: from CONVERSION-DAEMON by EOP.GOV (PMDF V5.2-33 #41062)
id <01KL7CLOOR5C9QXBUC@EOP.GOV>; Mon, 12 Aug 2002 08:26:54 -0400 (EDT)
Received: from mhub2.eop.gov ([198.137.241.11])
by EOP.GOV (PMDF V5.2-33 #41062) with ESMTP id
<01KL7CL29GBM9OHZK2@EOP.GOV>;
Mon, 12 Aug 2002 08:26:29 -0400 (EDT)

Received: from sgeop03.eop.gov ([165.119.1.37])
by mhub.eop.gov (PMDF V6.1-1 #41014)
with SMTP id <01KL7CL15Y249DAMA5@mhub.eop.gov>; Mon,
12 Aug 2002 08:26:07 -0400 (EDT)
Received: by sgeop03.eop.gov(Lotus SMTP MTA v4.6.7 (934.1 12-30-1999))
id 85256C13.00444ECF ; Mon, 12 Aug 2002 08:26:05 -0400
Date: Mon, 12 Aug 2002 08:24:49 -0400
From: Brett_M._Kavanaugh@who.eop.gov
To: laurie_rubenstein@govt-aff.senate.gov (laurie rubenstein),
cynthia_lesser@govt-aff.senate.gov (cynthia lesser),
david_berick@govt-aff.senate.gov (david berick),
pat_hart@govt-aff.senate.gov (pat hart)
Message-id: <85256C13.00444D00.00@sgeop03.eop.gov>
MIME-version: 1.0
Content-type: text/plain; charset=us-ascii
Content-disposition: inline
X-Lotus-FromDomain: EOP

From:	CN=Edward McNally/OU=WHO/O=EOP [WHO]
To:	Timothy E. Flanigan/WHO/EOP@EOP [WHO] <Timothy E. Flanigan>;Adam F. Greenstone/OA /EOP@EOP [OA] <Adam F. Greenstone>
CC:	cathy alix/who/eop@eop [WHO] <cathy alix>;john b. bellinger/nsc/eop@eop [NSC] <john b. bellinger>;tim campen/eopexch@exchange [OA] <tim campen>;david s. addington/ovp /eop@eop [OVP] <david s. addington>;david g. leitch tpo/tpo/omb/eop@eop [OMB] <david g. leitch tpo>
BCC:	Bradford A. Berenson (Bradford A. Berenson/WHO/EOP [WHO]), Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent:	8/16/2002 3:10:39 PM
Subject:	: Re: Status of TPO Pop-up

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:16-AUG-2002 19:10:39.00
SUBJECT:: Re: Status of TPO Pop-up
TO:Timothy E. Flanigan ( CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Adam F. Greenstone ( CN=Adam F. Greenstone/OU=OA/O=EOP@EOP [ OA ] )
READ:UNKNOWN
CC:cathy alix ( CN=cathy alix/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:john b. bellinger ( CN=john b. bellinger/OU=nsc/O=eop@eop [ NSC ] )
READ:UNKNOWN
CC:tim campen ( CN=tim campen/O=eopexch@exchange [ OA ] )
READ:UNKNOWN
CC:david s. addington ( CN=david s. addington/OU=ovp/O=eop@eop [ OVP ] )
READ:UNKNOWN
CC:david g. leitch tpo ( CN=david g. leitch tpo/OU=tpo/OU=omb/O=eop@eop [ OMB ] )
READ:UNKNOWN
BCC:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

The basic answer to 1. is yes, WHCO request was that this should cover all
White House offices that are non-FOIA entities.
Obviously, I defer entirely to David and John as to OVP or NSC.
But Adam, keep in mind, this should not be delayed further in order to
make the "who's covered" list absolutely perfect. It would be better to
put it into effect immediately, using the initial list that was in the
yellow folder. The IT programs can always be expanded to include add'l
covered offices and individuals. But I believe it was the Judge's
expectation that this would be activated by Monday. Please let us know if
your anticipated timetable for activation is different from that. And
please let us know if we can assist you or Cathy or anyone else in helping
to get this done.




Adam F. Greenstone
08/16/2002 06:53:35 PM

Record Type: Record

To: David G. Leitch TPO/TPO/OMB/EOP@EOP, Edward McNally/WHO/EOP@EOP, John
B. Bellinger/NSC/EOP@EOP
cc: David S. Addington/OVP/EOP@EOP, Cathy Alix/WHO/EOP@EOP, John B.
Bellinger/NSC/EOP@EOP, Tim Campen/EOPEXCH@Exchange
```

Subject: Status of TPO Pop-up

Ed wrote a note on the package with which I concur. If the intention is to cover everyone in the White House Office, we should do it automatically (i.e. anyone with a WHO.EOP.GOV address) if possible. I've asked CIO if there are any technical issues--they are working on a new e-mail system which may have some differences; note how Tim Campen's address appears on the cc: line above.

Some related questions:

1. Ed/John--Should we do this for all OPD, NSC and CEA accounts as well?

2. David--Should we do the same for all OVP accounts?

Status: Cathy Alix is sending the package, which was approved by Judge Gonzales, to Joe Hagin for approval. On my advice, she is also sending David a copy since this involves OVP accounts.

From: CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO]
To: Blake Gottesman/WHO/EOP@EOP [WHO] <Blake Gottesman>
CC: Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;christa j. bailey/who/eop@eop [WHO] <christa j. bailey>;joseph w. hagin/who/eop@eop [WHO] <joseph w. hagin>;mary ann hanusa/who/eop@eop [WHO] <mary ann hanusa>
Sent: 8/19/2002 4:32:24 AM
Subject: : Re: saddle - gift for 43

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:19-AUG-2002 08:32:24.00
SUBJECT:: Re: saddle - gift for 43
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
CC:christa j. bailey (CN=christa j. bailey/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:joseph w. hagin (CN=joseph w. hagin/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:mary ann hanusa (CN=mary ann hanusa/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

BG,
MAH is on vacation this week. However, Patricia Burchfield will be here sometime today to return items from the Fathers and Sons Exhibit which we wanted hand carried back .... i.e. the Bush Family Bible, etc. I can ask her at that time. I think we may also need to check w/Counsel's office (Brett) to make sure they don't have a problem with doing so.
Thanks.
LG

Blake Gottesman
08/17/2002 10:09:22 AM
Record Type: Record

To: Linda M. Gambatesa/WHO/EOP@EOP, Mary Ann Hanusa/WHO/EOP@EOP
cc: Christa J. Bailey/WHO/EOP@EOP, Joseph W. Hagin/WHO/EOP@EOP
Subject: saddle - gift for 43

let's talk early next week about a very nice custom-made saddle the president received at the mt. rushmore event. when the president suggested that it would be great to display it in his future presidential library, the presenters / donors suggested that they would like to have the saddle displayed in 41's library until 43's is avail. president agreed and asked me to look into it.

i can't imagine any reason why we couldn't at least send it to 41's library to hold. the question is whether they have an exhibit that could incorporate the saddle for display?

mah - do you know?

(cb - i've got the completed gift forms for you - and we're handling the ty's from here).

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Rachael L. Sunbarger/WHO/EOP@EOP [WHO] <Rachael L. Sunbarger>
Sent: 8/19/2002 7:50:36 AM
Subject: : Brett M. Kavanaugh/WHO/EOP is out of the office.

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:19-AUG-2002 11:50:36.00
SUBJECT:: Brett M. Kavanaugh/WHO/EOP is out of the office.
TO:Rachael L. Sunbarger ( CN=Rachael L. Sunbarger/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I will be out of the office from 08/19/2002 until 08/23/2002.
```

From: CN=PostMaster/O=EOP [OA]

To: TRHLS/WHO/EOP [WHO] <TRHLS>;Kristen Silverberg/WHO/EOP [WHO] <Kristen Silverberg>;Joseph J. Shattan/WHO/EOP [WHO] <Joseph J. Shattan>;Desiree T. Sayle/WHO/EOP [WHO] <Desiree T. Sayle>;Susan K. Neely/WHO/EOP [WHO] <Susan K. Neely>;Edward McNally/WHO/EOP [WHO] <Edward McNally>;Laura S. Lawlor/WHO/EOP [WHO] <Laura S. Lawlor>;Joel D. Kaplan/WHO/EOP [WHO] <Joel D. Kaplan>;Stephen M. Garrison/WHO/EOP [WHO] <Stephen M. Garrison>;Nanette Everson/WHO/EOP [WHO] <Nanette Everson>;John B. Craig/NSC/EOP [NSC] <John B. Craig>;Steven Cooper/WHO/EOP [WHO] <Steven Cooper>;Rebecca Contreras/WHO/EOP [WHO] <Rebecca Contreras>;Charles Conner/OPD/EOP [OPD] <Charles Conner>;Frank Cilluffo/WHO/EOP [WHO] <Frank Cilluffo>;Ronald I. Christie/OPD/EOP [OPD] <Ronald I. Christie>;Barbara C. Chaffee/WHO/EOP [WHO] <Barbara C. Chaffee>;Katja Bullock/WHO/EOP [WHO] <Katja Bullock>;Carl Buchholz/WHO/EOP [WHO] <Carl Buchholz>;Stephen E. Biegun/NSC/EOP [NSC] <Stephen E. Biegun>;Rebecca A. Beynon/WHO/EOP [WHO] <Rebecca A. Beynon>;Jackie Arends/WHO/EOP [WHO] <Jackie Arends>;Cathy Alix/WHO/EOP [WHO] <Cathy Alix>;Jim Towey/WHO/EOP [WHO] <Jim Towey>;Jay P. Lefkowitz/OPD/EOP [OPD] <Jay P. Lefkowitz>;Mark Holman/WHO/EOP [WHO] <Mark Holman>;Charles S. Abbot/OVP/EOP [OVP] <Charles S. Abbot>;Heather Wingate/WHO/EOP [WHO] <Heather Wingate>;James R. Wilkinson/WHO/EOP [WHO] <James R. Wilkinson>;Lezlee J. Westine/WHO/EOP [WHO] <Lezlee J. Westine>;Peter H. Wehner/WHO/EOP [WHO] <Peter H. Wehner>;Helgard C. Walker/WHO/EOP [WHO] <Helgard C. Walker>;D. Marcus Sumerlin/OPD/EOP [OPD] <D. Marcus Sumerlin>;Aquiles F. Suarez/OPD/EOP [OPD] <Aquiles F. Suarez>;Mary K. Sturtevant/NSC/EOP [NSC] <Mary K. Sturtevant>;Margaret M. Spellings/OPD/EOP [OPD] <Margaret M. Spellings>;Deborah A. Spagnoli/WHO/EOP [WHO] <Deborah A. Spagnoli>;Scott N. Sforza/WHO/EOP [WHO] <Scott N. Sforza>;Matthew O. Scully/WHO/EOP [UNKNOWN] <Matthew O. Scully>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Diana L. Schacht/OPD/EOP [OPD] <Diana L. Schacht>;Kyle Sampson/WHO/EOP [WHO] <Kyle Sampson>;Karl C. Rove/WHO/EOP [WHO] <Karl C. Rove>;Mark V. Rosenker/WHO/EOP [WHO] <Mark V. Rosenker>;Condoleezza Rice/NSC/EOP [NSC] <Condoleezza Rice>;Craig Ray/WHO/EOP [WHO] <Craig Ray>;Dina Powell/WHO/EOP [WHO] <Dina Powell>;Anne E. Phelps/OPD/EOP [OPD] <Anne E. Phelps>;Anna M. Perez/NSC/EOP [NSC] <Anna M. Perez>;Ziad S. Ojakli/WHO/EOP [WHO] <Ziad S. Ojakli>;Edmund C. Moy/WHO/EOP [WHO] <Edmund C. Moy>;Brian D. Montgomery/WHO/EOP [WHO] <Brian D. Montgomery>;Franklin C. Miller/NSC/EOP [NSC] <Franklin C. Miller>;Harriet Miers/WHO/EOP [WHO] <Harriet Miers>;Kenneth B. Mehlman/WHO/EOP [UNKNOWN] <Kenneth B. Mehlman>;Robert C. McNally/OPD/EOP [OPD] <Robert C. McNally>;Scott McClellan/WHO/EOP [WHO] <Scott McClellan>;Mary J. Matalin/OVP/EOP [OVP] <Mary J. Matalin>;Robert Marsh/WHO/EOP [WHO] <Robert Marsh>;K. Philippa Malmgren/OPD/EOP [OPD] <K. Philippa Malmgren>;John F. Maisto/NSC/EOP [NSC] <John F. Maisto>;Roland N. Litterst/WHO/EOP [WHO] <Roland N. Litterst>;Lawrence B. Lindsey/OPD/EOP [OPD] <Lawrence B. Lindsey>;Lewis Libby/OVP/EOP [OVP] <Lewis Libby>;Dirksen Lehman/WHO/EOP [WHO] <Dirksen Lehman>;Phillip Larsen/OA/EOP [OA] <Phillip Larsen>;David Kuo/WHO/EOP [WHO] <David Kuo>;Matthew Kirk/WHO/EOP [WHO] <Matthew Kirk>;Zalmay M. Khalilzad/NSC/EOP [NSC] <Zalmay M. Khalilzad>;Daniel J. Keniry/WHO/EOP [WHO] <Daniel J. Keniry>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Robert G. Joseph/NSC/EOP [NSC] <Robert G. Joseph>;Barry S. Jackson/WHO/EOP [WHO] <Barry S. Jackson>;Hector F. Irastorza/WHO/EOP [WHO] <Hector F. Irastorza>;Edward Ingle/WHO/EOP [WHO] <Edward Ingle>;Clay Johnson III/WHO/EOP [WHO] <Clay Johnson III>;Karen Hughes/WHO/EOP [UNKNOWN] <Karen Hughes>;Jack Howard/WHO/EOP [WHO] <Jack Howard>;David W. Hobbs/WHO/EOP [WHO] <David W. Hobbs>;Israel Hernandez/WHO/EOP [WHO] <Israel Hernandez>;Chris Henick/WHO/EOP [WHO] <Chris Henick>;Albert Hawkins/WHO/EOP [WHO] <Albert Hawkins>;Joseph W. Hagin/WHO/EOP [WHO] <Joseph W. Hagin>;Stephen J. Hadley/NSC/EOP [NSC] <Stephen J. Hadley>;Alberto R. Gonzales/WHO/EOP [WHO] <Alberto R. Gonzales>;Tim Goeglein/WHO/EOP [WHO] <Tim Goeglein>;Dylan C. Glenn/OPD/EOP [OPD] <Dylan C. Glenn>;Michael J. Gerson/WHO/EOP [WHO] <Michael J. Gerson>;Kelley Gannon/WHO/EOP [WHO] <Kelley Gannon>;Linda M. Gambatesa/WHO/EOP [WHO] <Linda M. Gambatesa>;Daniel Fried/NSC/EOP [NSC] <Daniel Fried>;Jendayi E. Frazer/NSC/EOP [NSC] <Jendayi E. Frazer>;Noel J. Francisco/WHO/EOP [WHO] <Noel J. Francisco>;Lawrence A. Fleischer/WHO/EOP [WHO] <Lawrence A. Fleischer>;Timothy E. Flanigan/WHO/EOP [WHO] <Timothy E. Flanigan>;Catherine S. Fenton/WHO/EOP [WHO] <Catherine S. Fenton>;Tucker A. Eskew/WHO/EOP [WHO] <Tucker A. Eskew>;Courtney S.

Elwood/WHO/EOP [UNKNOWN] <Courtney S. Elwood>;Gary R. Edson/NSC/EOP [NSC] <Gary R. Edson>;Wayne A. Downing/NSC/EOP [UNKNOWN] <Wayne A. Downing>;Elizabeth S. Dougherty/OPD/EOP [OPD] <Elizabeth S. Dougherty>;Nicolle Devenish/WHO/EOP [WHO] <Nicolle Devenish>;Brian C. Conklin/WHO/EOP [WHO] <Brian C. Conklin>;John A. Cloud/NSC/EOP [NSC] <John A. Cloud>;Richard A. Clarke/NSC/EOP [NSC] <Richard A. Clarke>;Alicia P. Clark/WHO/EOP [WHO] <Alicia P. Clark>;Christine Ciccone/WHO/EOP [WHO] <Christine Ciccone>;Kirsten A. Chadwick/WHO/EOP [WHO] <Kirsten A. Chadwick>;Andrew H. Card/WHO/EOP [WHO] <Andrew H. Card>;Nicholas E. Calio/WHO/EOP [WHO] <Nicholas E. Calio>;Claire E. Buchan/WHO/EOP [WHO] <Claire E. Buchan>;John M. Bridgeland/OPD/EOP [OPD] <John M. Bridgeland>;Rachel L. Brand/WHO/EOP [WHO] <Rachel L. Brand>;Stuart W. Bowen/WHO/EOP [WHO] <Stuart W. Bowen>;Carlos E. Bonilla/OPD/EOP [OPD] <Carlos E. Bonilla>;Joshua B. Bolten/WHO/EOP [WHO] <Joshua B. Bolten>;Kirk Blalock/WHO/EOP [WHO] <Kirk Blalock>;Bradley A. Blakeman/WHO/EOP [WHO] <Bradley A. Blakeman>;Charles P. Blahous/OPD/EOP [OPD] <Charles P. Blahous>;Bradford A. Berenson/WHO/EOP [WHO] <Bradford A. Berenson>;John B. Bellinger/NSC/EOP [NSC] <John B. Bellinger>;H. Christopher Bartolomucci/WHO/EOP [WHO] <H. Christopher Bartolomucci>;Daniel J. Bartlett/WHO/EOP [WHO] <Daniel J. Bartlett>;Ruben S. Barrales/WHO/EOP [WHO] <Ruben S. Barrales>;Andrea G. Ball/WHO/EOP [WHO] <Andrea G. Ball>;George M. Andricos/NSC/EOP [NSC] <George M. Andricos>;Elliott Abrams/NSC/EOP [NSC] <Elliott Abrams>

Sent: 8/22/2002 10:22:44 AM

Subject: : Postmaster: Space Station 3D on Wednesday, August 28,2002

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME:22-AUG-2002 14:22:44.00
SUBJECT:: Postmaster: Space Station 3D on Wednesday, August 28,2002
TO:TRHLS ( CN=TRHLS/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Joseph J. Shattan ( CN=Joseph J. Shattan/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Desiree T. Sayle ( CN=Desiree T. Sayle/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Susan K. Neely ( CN=Susan K. Neely/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Laura S. Lawlor ( CN=Laura S. Lawlor/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Joel D. Kaplan ( CN=Joel D. Kaplan/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Stephen M. Garrison ( CN=Stephen M. Garrison/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:John B. Craig ( CN=John B. Craig/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Steven Cooper ( CN=Steven Cooper/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Rebecca Contreras ( CN=Rebecca Contreras/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Charles Conner ( CN=Charles Conner/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
TO:Frank Cilluffo ( CN=Frank Cilluffo/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Ronald I. Christie ( CN=Ronald I. Christie/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
TO:Barbara C. Chaffee ( CN=Barbara C. Chaffee/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Katja Bullock ( CN=Katja Bullock/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Carl Buchholz ( CN=Carl Buchholz/OU=WHO/O=EOP [ WHO ] )
```

READ:UNKNOWN
TO:Stephen E. Biegun (CN=Stephen E. Biegun/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cathy Alix (CN=Cathy Alix/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Mark Holman (CN=Mark Holman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James R. Wilkinson (CN=James R. Wilkinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:D. Marcus Sumerlin (CN=D. Marcus Sumerlin/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Aquiles F. Suarez (CN=Aquiles F. Suarez/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Matthew O. Scully (CN=Matthew O. Scully/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark V. Rosenker (CN=Mark V. Rosenker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Craig Ray (CN=Craig Ray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne E. Phelps (CN=Anne E. Phelps/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])

READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kenneth B. Mehlman (CN=Kenneth B. Mehlman/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary J. Matalin (CN=Mary J. Matalin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:K. Philippa Malmgren (CN=K. Philippa Malmgren/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:John F. Maisto (CN=John F. Maisto/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence B. Lindsey (CN=Lawrence B. Lindsey/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Dirksen Lehman (CN=Dirksen Lehman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Phillip Larsen (CN=Phillip Larsen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hector F. Irastorza (CN=Hector F. Irastorza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Karen Hughes (CN=Karen Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jack Howard (CN=Jack Howard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Chris Henick (CN=Chris Henick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Albert Hawkins (CN=Albert Hawkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP [OPD])

READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Timothy E. Flanigan (CN=Timothy E. Flanigan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Courtney S. Elwood (CN=Courtney S. Elwood/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Wayne A. Downing (CN=Wayne A. Downing/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John A. Cloud (CN=John A. Cloud/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Richard A. Clarke (CN=Richard A. Clarke/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christine Ciccone (CN=Christine Ciccone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nicholas E. Calio (CN=Nicholas E. Calio/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Rachel L. Brand (CN=Rachel L. Brand/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stuart W. Bowen (CN=Stuart W. Bowen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carlos E. Bonilla (CN=Carlos E. Bonilla/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kirk Blalock (CN=Kirk Blalock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])

READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
End Original ARMS Header

Space Station 3D on Wednesday, August 28, 2002

NASA Administrator Sean O,Keefe would like to invite members of the White House staff and their families to a private showing of the IMAX© movie Space Station 3D at 7:00 p.m. on Wednesday, August 28 at the National Air and Space Museum's IMAX© Theater.

The first three-dimensional movie filmed in orbit, Space Station 3D documents the development of the International Space Station, which has been under construction since 1998. This movie, directed and photographed in space by 25 NASA astronauts and Russian cosmonauts, spotlights the extensive international cooperation in putting together the greatest engineering feat in the history of human exploration. Space Station 3D runs 47 minutes.

Those staff members interested in attending this showing should RSVP to Ali Tulbah at x62764 by close of business on Monday, August 26th. Attendees should enter through the Independence Avenue entrance at 7:00 p.m., and the movie will begin at approximately 7:15 p.m.

From: Thomas, Ginni <ginni.thomas@heritage.org>
To: Government Relations <GovernmentRelations@heritage.org>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 8/22/2002 11:30:23 AM
Subject: : Heritage Invitation: Administration/Congressional Invite - Kudlow Sept. 20 - Corp Scandals

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Thomas, Ginni" <ginni.thomas@heritage.org> ("Thomas, Ginni"
<ginni.thomas@heritage.org> [UNKNOWN])
CREATION DATE/TIME:22-AUG-2002 15:30:23.00
SUBJECT:: Heritage Invitation: Administration/Congressional Invite - Kudlow Sept. 20 - Corp
Scandals
TO:Government Relations <GovernmentRelations@heritage.org> (Government Relations
<GovernmentRelations@heritage.org> [UNKNOWN])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

The Heritage Foundation

You are Cordially Invited to a Luncheon lecture for Administration and Congressional Staff

"Corporate Scandals: How Politicians Can Restore Corporate Ethics"

Featuring:

Larry Kudlow
Co-Host of CNBC's "Kudlow & Cramer"

Larry Kudlow is CEO of Kudlow & Co., LLC, an economic and investment research firm in New York City. Each night he co-hosts a popular business-oriented public affairs show. He is a syndicated columnist and frequently appears on the McLaughlin Group. He has served as a chief economist for a number of Wall Street firms. He served in the Reagan Administration at OMB where he helped develop economic and budget policy. Since then he has been a policy advisor to many, a member of the board of directors of Empower America, a contributing editor of National Review, as well as a columnist and economics editor for National Review Online. He also authored a book, "American Abundance: The New Economic and Moral Prosperity." In this speech, Larry Kudlow will focus on Washington's value added to the corporate scandals in the news. He will provide practical tips including: Growth wins, austerity loses; Rising stocks win, falling stocks lose; Outside-the-box thinking wins, conventional political thought loses; Sticking to a clear compass wins, wobbling loses.

September 20th
12:30 p.m.
Cannon Caucus Room (345 CHOB)
Lunch Provided/Space Limited

RSVP by September 12th to: mira.zawadzki@heritage.org
or 202-608-6175

Virginia (Ginni) Thomas, Director

Executive Branch Relations, The Heritage Foundation
214 Mass. Ave, NE/Washington, D.C. 20002
phone: (202) 608-6240 or 546-4400
fax: (202) 608-6068 (fax)
e-mail: ginni.thomas@heritage.org
www.heritage.org

From: CN=PostMaster/O=EOP [OA]

To: TRHLS/WHO/EOP [WHO] <TRHLS>;Kristen Silverberg/WHO/EOP [WHO] <Kristen Silverberg>;Joseph J. Shattan/WHO/EOP [WHO] <Joseph J. Shattan>;Desiree T. Sayle/WHO/EOP [WHO] <Desiree T. Sayle>;Susan K. Neely/WHO/EOP [WHO] <Susan K. Neely>;Edward McNally/WHO/EOP [WHO] <Edward McNally>;Laura S. Lawlor/WHO/EOP [WHO] <Laura S. Lawlor>;Joel D. Kaplan/WHO/EOP [WHO] <Joel D. Kaplan>;Stephen M. Garrison/WHO/EOP [WHO] <Stephen M. Garrison>;Nanette Everson/WHO/EOP [WHO] <Nanette Everson>;John B. Craig/NSC/EOP [NSC] <John B. Craig>;Steven Cooper/WHO/EOP [WHO] <Steven Cooper>;Rebecca Contreras/WHO/EOP [WHO] <Rebecca Contreras>;Charles Conner/OPD/EOP [OPD] <Charles Conner>;Frank Cilluffo/WHO/EOP [WHO] <Frank Cilluffo>;Ronald I. Christie/OPD/EOP [OPD] <Ronald I. Christie>;Barbara C. Chaffee/WHO/EOP [WHO] <Barbara C. Chaffee>;Katja Bullock/WHO/EOP [WHO] <Katja Bullock>;Carl Buchholz/WHO/EOP [WHO] <Carl Buchholz>;Stephen E. Biegun/NSC/EOP [NSC] <Stephen E. Biegun>;Rebecca A. Beynon/WHO/EOP [WHO] <Rebecca A. Beynon>;Jackie Arends/WHO/EOP [WHO] <Jackie Arends>;Cathy Alix/WHO/EOP [WHO] <Cathy Alix>;Jim Towey/WHO/EOP [WHO] <Jim Towey>;Jay P. Lefkowitz/OPD/EOP [OPD] <Jay P. Lefkowitz>;Mark Holman/WHO/EOP [WHO] <Mark Holman>;Charles S. Abbot/OVP/EOP [OVP] <Charles S. Abbot>;Heather Wingate/WHO/EOP [WHO] <Heather Wingate>;James R. Wilkinson/WHO/EOP [WHO] <James R. Wilkinson>;Lezlee J. Westine/WHO/EOP [WHO] <Lezlee J. Westine>;Peter H. Wehner/WHO/EOP [WHO] <Peter H. Wehner>;Helgard C. Walker/WHO/EOP [WHO] <Helgard C. Walker>;D. Marcus Sumerlin/OPD/EOP [OPD] <D. Marcus Sumerlin>;Aquiles F. Suarez/OPD/EOP [OPD] <Aquiles F. Suarez>;Mary K. Sturtevant/NSC/EOP [NSC] <Mary K. Sturtevant>;Margaret M. Spellings/OPD/EOP [OPD] <Margaret M. Spellings>;Deborah A. Spagnoli/WHO/EOP [WHO] <Deborah A. Spagnoli>;Scott N. Sforza/WHO/EOP [WHO] <Scott N. Sforza>;Matthew O. Scully/WHO/EOP [UNKNOWN] <Matthew O. Scully>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Diana L. Schacht/OPD/EOP [OPD] <Diana L. Schacht>;Kyle Sampson/WHO/EOP [WHO] <Kyle Sampson>;Karl C. Rove/WHO/EOP [WHO] <Karl C. Rove>;Mark V. Rosenker/WHO/EOP [WHO] <Mark V. Rosenker>;Condoleezza Rice/NSC/EOP [NSC] <Condoleezza Rice>;Craig Ray/WHO/EOP [WHO] <Craig Ray>;Dina Powell/WHO/EOP [WHO] <Dina Powell>;Anne E. Phelps/OPD/EOP [OPD] <Anne E. Phelps>;Anna M. Perez/NSC/EOP [NSC] <Anna M. Perez>;Ziad S. Ojakli/WHO/EOP [WHO] <Ziad S. Ojakli>;Edmund C. Moy/WHO/EOP [WHO] <Edmund C. Moy>;Brian D. Montgomery/WHO/EOP [WHO] <Brian D. Montgomery>;Franklin C. Miller/NSC/EOP [NSC] <Franklin C. Miller>;Harriet Miers/WHO/EOP [WHO] <Harriet Miers>;Kenneth B. Mehlman/WHO/EOP [UNKNOWN] <Kenneth B. Mehlman>;Robert C. McNally/OPD/EOP [OPD] <Robert C. McNally>;Scott McClellan/WHO/EOP [WHO] <Scott McClellan>;Mary J. Matalin/OVP/EOP [OVP] <Mary J. Matalin>;Robert Marsh/WHO/EOP [WHO] <Robert Marsh>;K. Philippa Malmgren/OPD/EOP [OPD] <K. Philippa Malmgren>;John F. Maisto/NSC/EOP [NSC] <John F. Maisto>;Roland N. Litterst/WHO/EOP [WHO] <Roland N. Litterst>;Lawrence B. Lindsey/OPD/EOP [OPD] <Lawrence B. Lindsey>;Lewis Libby/OVP/EOP [OVP] <Lewis Libby>;Dirksen Lehman/WHO/EOP [WHO] <Dirksen Lehman>;Phillip Larsen/OA/EOP [OA] <Phillip Larsen>;David Kuo/WHO/EOP [WHO] <David Kuo>;Matthew Kirk/WHO/EOP [WHO] <Matthew Kirk>;Zalmay M. Khalilzad/NSC/EOP [NSC] <Zalmay M. Khalilzad>;Daniel J. Keniry/WHO/EOP [WHO] <Daniel J. Keniry>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Robert G. Joseph/NSC/EOP [NSC] <Robert G. Joseph>;Barry S. Jackson/WHO/EOP [WHO] <Barry S. Jackson>;Hector F. Irastorza/WHO/EOP [WHO] <Hector F. Irastorza>;Edward Ingle/WHO/EOP [WHO] <Edward Ingle>;Clay Johnson III/WHO/EOP [WHO] <Clay Johnson III>;Karen Hughes/WHO/EOP [UNKNOWN] <Karen Hughes>;Jack Howard/WHO/EOP [WHO] <Jack Howard>;David W. Hobbs/WHO/EOP [WHO] <David W. Hobbs>;Israel Hernandez/WHO/EOP [WHO] <Israel Hernandez>;Chris Henick/WHO/EOP [WHO] <Chris Henick>;Albert Hawkins/WHO/EOP [WHO] <Albert Hawkins>;Joseph W. Hagin/WHO/EOP [WHO] <Joseph W. Hagin>;Stephen J. Hadley/NSC/EOP [NSC] <Stephen J. Hadley>;Alberto R. Gonzales/WHO/EOP [WHO] <Alberto R. Gonzales>;Tim Goeglein/WHO/EOP [WHO] <Tim Goeglein>;Dylan C. Glenn/OPD/EOP [OPD] <Dylan C. Glenn>;Michael J. Gerson/WHO/EOP [WHO] <Michael J. Gerson>;Kelley Gannon/WHO/EOP [WHO] <Kelley Gannon>;Linda M. Gambatesa/WHO/EOP [WHO] <Linda M. Gambatesa>;Daniel Fried/NSC/EOP [NSC] <Daniel Fried>;Jendayi E. Frazer/NSC/EOP [NSC] <Jendayi E. Frazer>;Noel J. Francisco/WHO/EOP [WHO] <Noel J. Francisco>;Lawrence A. Fleischer/WHO/EOP [WHO] <Lawrence A. Fleischer>;Timothy E. Flanigan/WHO/EOP [WHO] <Timothy E. Flanigan>;Catherine S. Fenton/WHO/EOP [WHO] <Catherine S. Fenton>;Tucker A. Eskew/WHO/EOP [WHO] <Tucker A. Eskew>;Courtney S.

Elwood/WHO/EOP [UNKNOWN] <Courtney S. Elwood>;Gary R. Edson/NSC/EOP [NSC] <Gary R. Edson>;Wayne A. Downing/NSC/EOP [UNKNOWN] <Wayne A. Downing>;Elizabeth S. Dougherty/OPD/EOP [OPD] <Elizabeth S. Dougherty>;Nicolle Devenish/WHO/EOP [WHO] <Nicolle Devenish>;Brian C. Conklin/WHO/EOP [WHO] <Brian C. Conklin>;John A. Cloud/NSC/EOP [NSC] <John A. Cloud>;Richard A. Clarke/NSC/EOP [NSC] <Richard A. Clarke>;Alicia P. Clark/WHO/EOP [WHO] <Alicia P. Clark>;Christine Ciccone/WHO/EOP [WHO] <Christine Ciccone>;Kirsten A. Chadwick/WHO/EOP [WHO] <Kirsten A. Chadwick>;Andrew H. Card/WHO/EOP [WHO] <Andrew H. Card>;Nicholas E. Calio/WHO/EOP [WHO] <Nicholas E. Calio>;Claire E. Buchan/WHO/EOP [WHO] <Claire E. Buchan>;John M. Bridgeland/OPD/EOP [OPD] <John M. Bridgeland>;Rachel L. Brand/WHO/EOP [WHO] <Rachel L. Brand>;Stuart W. Bowen/WHO/EOP [WHO] <Stuart W. Bowen>;Carlos E. Bonilla/OPD/EOP [OPD] <Carlos E. Bonilla>;Joshua B. Bolten/WHO/EOP [WHO] <Joshua B. Bolten>;Kirk Blalock/WHO/EOP [WHO] <Kirk Blalock>;Bradley A. Blakeman/WHO/EOP [WHO] <Bradley A. Blakeman>;Charles P. Blahous/OPD/EOP [OPD] <Charles P. Blahous>;Bradford A. Berenson/WHO/EOP [WHO] <Bradford A. Berenson>;John B. Bellinger/NSC/EOP [NSC] <John B. Bellinger>;H. Christopher Bartolomucci/WHO/EOP [WHO] <H. Christopher Bartolomucci>;Daniel J. Bartlett/WHO/EOP [WHO] <Daniel J. Bartlett>;Ruben S. Barrales/WHO/EOP [WHO] <Ruben S. Barrales>;Andrea G. Ball/WHO/EOP [WHO] <Andrea G. Ball>;George M. Andricos/NSC/EOP [NSC] <George M. Andricos>;Elliott Abrams/NSC/EOP [NSC] <Elliott Abrams>

Sent: 8/22/2002 10:22:44 AM

Subject: : Postmaster: Space Station 3D on Wednesday, August 28,2002

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME:22-AUG-2002 14:22:44.00
SUBJECT:: Postmaster: Space Station 3D on Wednesday, August 28,2002
TO:TRHLS ( CN=TRHLS/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Joseph J. Shattan ( CN=Joseph J. Shattan/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Desiree T. Sayle ( CN=Desiree T. Sayle/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Susan K. Neely ( CN=Susan K. Neely/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Laura S. Lawlor ( CN=Laura S. Lawlor/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Joel D. Kaplan ( CN=Joel D. Kaplan/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Stephen M. Garrison ( CN=Stephen M. Garrison/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:John B. Craig ( CN=John B. Craig/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Steven Cooper ( CN=Steven Cooper/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Rebecca Contreras ( CN=Rebecca Contreras/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Charles Conner ( CN=Charles Conner/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
TO:Frank Cilluffo ( CN=Frank Cilluffo/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Ronald I. Christie ( CN=Ronald I. Christie/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
TO:Barbara C. Chaffee ( CN=Barbara C. Chaffee/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Katja Bullock ( CN=Katja Bullock/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Carl Buchholz ( CN=Carl Buchholz/OU=WHO/O=EOP [ WHO ] )
```

READ:UNKNOWN
TO:Stephen E. Biegun (CN=Stephen E. Biegun/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cathy Alix (CN=Cathy Alix/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Mark Holman (CN=Mark Holman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James R. Wilkinson (CN=James R. Wilkinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:D. Marcus Sumerlin (CN=D. Marcus Sumerlin/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Aquiles F. Suarez (CN=Aquiles F. Suarez/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Matthew O. Scully (CN=Matthew O. Scully/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark V. Rosenker (CN=Mark V. Rosenker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Craig Ray (CN=Craig Ray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne E. Phelps (CN=Anne E. Phelps/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])

READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kenneth B. Mehlman (CN=Kenneth B. Mehlman/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary J. Matalin (CN=Mary J. Matalin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:K. Philippa Malmgren (CN=K. Philippa Malmgren/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:John F. Maisto (CN=John F. Maisto/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence B. Lindsey (CN=Lawrence B. Lindsey/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Dirksen Lehman (CN=Dirksen Lehman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Phillip Larsen (CN=Phillip Larsen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hector F. Irastorza (CN=Hector F. Irastorza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Karen Hughes (CN=Karen Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jack Howard (CN=Jack Howard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Chris Henick (CN=Chris Henick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Albert Hawkins (CN=Albert Hawkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP [OPD])

READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Timothy E. Flanigan (CN=Timothy E. Flanigan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Courtney S. Elwood (CN=Courtney S. Elwood/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Wayne A. Downing (CN=Wayne A. Downing/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John A. Cloud (CN=John A. Cloud/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Richard A. Clarke (CN=Richard A. Clarke/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christine Ciccone (CN=Christine Ciccone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nicholas E. Calio (CN=Nicholas E. Calio/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Rachel L. Brand (CN=Rachel L. Brand/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stuart W. Bowen (CN=Stuart W. Bowen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carlos E. Bonilla (CN=Carlos E. Bonilla/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kirk Blalock (CN=Kirk Blalock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])

READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
End Original ARMS Header

Space Station 3D on Wednesday, August 28, 2002

NASA Administrator Sean O,Keefe would like to invite members of the White House staff and their families to a private showing of the IMAX© movie Space Station 3D at 7:00 p.m. on Wednesday, August 28 at the National Air and Space Museum's IMAX© Theater.

The first three-dimensional movie filmed in orbit, Space Station 3D documents the development of the International Space Station, which has been under construction since 1998. This movie, directed and photographed in space by 25 NASA astronauts and Russian cosmonauts, spotlights the extensive international cooperation in putting together the greatest engineering feat in the history of human exploration. Space Station 3D runs 47 minutes.

Those staff members interested in attending this showing should RSVP to Ali Tulbah at x62764 by close of business on Monday, August 26th. Attendees should enter through the Independence Avenue entrance at 7:00 p.m., and the movie will begin at approximately 7:15 p.m.

From: CN=PostMaster/O=EOP [OA]

To: TRHLS/WHO/EOP [WHO] <TRHLS>;Kristen Silverberg/WHO/EOP [WHO] <Kristen Silverberg>;Joseph J. Shattan/WHO/EOP [WHO] <Joseph J. Shattan>;Desiree T. Sayle/WHO/EOP [WHO] <Desiree T. Sayle>;Susan K. Neely/WHO/EOP [WHO] <Susan K. Neely>;Edward McNally/WHO/EOP [WHO] <Edward McNally>;Laura S. Lawlor/WHO/EOP [WHO] <Laura S. Lawlor>;Joel D. Kaplan/WHO/EOP [WHO] <Joel D. Kaplan>;Stephen M. Garrison/WHO/EOP [WHO] <Stephen M. Garrison>;Nanette Everson/WHO/EOP [WHO] <Nanette Everson>;John B. Craig/NSC/EOP [NSC] <John B. Craig>;Steven Cooper/WHO/EOP [WHO] <Steven Cooper>;Rebecca Contreras/WHO/EOP [WHO] <Rebecca Contreras>;Charles Conner/OPD/EOP [OPD] <Charles Conner>;Frank Cilluffo/WHO/EOP [WHO] <Frank Cilluffo>;Ronald I. Christie/OPD/EOP [OPD] <Ronald I. Christie>;Barbara C. Chaffee/WHO/EOP [WHO] <Barbara C. Chaffee>;Katja Bullock/WHO/EOP [WHO] <Katja Bullock>;Carl Buchholz/WHO/EOP [WHO] <Carl Buchholz>;Stephen E. Biegun/NSC/EOP [NSC] <Stephen E. Biegun>;Rebecca A. Beynon/WHO/EOP [WHO] <Rebecca A. Beynon>;Jackie Arends/WHO/EOP [WHO] <Jackie Arends>;Cathy Alix/WHO/EOP [WHO] <Cathy Alix>;Jim Towey/WHO/EOP [WHO] <Jim Towey>;Jay P. Lefkowitz/OPD/EOP [OPD] <Jay P. Lefkowitz>;Mark Holman/WHO/EOP [WHO] <Mark Holman>;Charles S. Abbot/OVP/EOP [OVP] <Charles S. Abbot>;Heather Wingate/WHO/EOP [WHO] <Heather Wingate>;James R. Wilkinson/WHO/EOP [WHO] <James R. Wilkinson>;Lezlee J. Westine/WHO/EOP [WHO] <Lezlee J. Westine>;Peter H. Wehner/WHO/EOP [WHO] <Peter H. Wehner>;Helgard C. Walker/WHO/EOP [WHO] <Helgard C. Walker>;D. Marcus Sumerlin/OPD/EOP [OPD] <D. Marcus Sumerlin>;Aquiles F. Suarez/OPD/EOP [OPD] <Aquiles F. Suarez>;Mary K. Sturtevant/NSC/EOP [NSC] <Mary K. Sturtevant>;Margaret M. Spellings/OPD/EOP [OPD] <Margaret M. Spellings>;Deborah A. Spagnoli/WHO/EOP [WHO] <Deborah A. Spagnoli>;Scott N. Sforza/WHO/EOP [WHO] <Scott N. Sforza>;Matthew O. Scully/WHO/EOP [UNKNOWN] <Matthew O. Scully>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Diana L. Schacht/OPD/EOP [OPD] <Diana L. Schacht>;Kyle Sampson/WHO/EOP [WHO] <Kyle Sampson>;Karl C. Rove/WHO/EOP [WHO] <Karl C. Rove>;Mark V. Rosenker/WHO/EOP [WHO] <Mark V. Rosenker>;Condoleezza Rice/NSC/EOP [NSC] <Condoleezza Rice>;Craig Ray/WHO/EOP [WHO] <Craig Ray>;Dina Powell/WHO/EOP [WHO] <Dina Powell>;Anne E. Phelps/OPD/EOP [OPD] <Anne E. Phelps>;Anna M. Perez/NSC/EOP [NSC] <Anna M. Perez>;Ziad S. Ojakli/WHO/EOP [WHO] <Ziad S. Ojakli>;Edmund C. Moy/WHO/EOP [WHO] <Edmund C. Moy>;Brian D. Montgomery/WHO/EOP [WHO] <Brian D. Montgomery>;Franklin C. Miller/NSC/EOP [NSC] <Franklin C. Miller>;Harriet Miers/WHO/EOP [WHO] <Harriet Miers>;Kenneth B. Mehlman/WHO/EOP [UNKNOWN] <Kenneth B. Mehlman>;Robert C. McNally/OPD/EOP [OPD] <Robert C. McNally>;Scott McClellan/WHO/EOP [WHO] <Scott McClellan>;Mary J. Matalin/OVP/EOP [OVP] <Mary J. Matalin>;Robert Marsh/WHO/EOP [WHO] <Robert Marsh>;K. Philippa Malmgren/OPD/EOP [OPD] <K. Philippa Malmgren>;John F. Maisto/NSC/EOP [NSC] <John F. Maisto>;Roland N. Litterst/WHO/EOP [WHO] <Roland N. Litterst>;Lawrence B. Lindsey/OPD/EOP [OPD] <Lawrence B. Lindsey>;Lewis Libby/OVP/EOP [OVP] <Lewis Libby>;Dirksen Lehman/WHO/EOP [WHO] <Dirksen Lehman>;Phillip Larsen/OA/EOP [OA] <Phillip Larsen>;David Kuo/WHO/EOP [WHO] <David Kuo>;Matthew Kirk/WHO/EOP [WHO] <Matthew Kirk>;Zalmay M. Khalilzad/NSC/EOP [NSC] <Zalmay M. Khalilzad>;Daniel J. Keniry/WHO/EOP [WHO] <Daniel J. Keniry>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Robert G. Joseph/NSC/EOP [NSC] <Robert G. Joseph>;Barry S. Jackson/WHO/EOP [WHO] <Barry S. Jackson>;Hector F. Irastorza/WHO/EOP [WHO] <Hector F. Irastorza>;Edward Ingle/WHO/EOP [WHO] <Edward Ingle>;Clay Johnson III/WHO/EOP [WHO] <Clay Johnson III>;Karen Hughes/WHO/EOP [UNKNOWN] <Karen Hughes>;Jack Howard/WHO/EOP [WHO] <Jack Howard>;David W. Hobbs/WHO/EOP [WHO] <David W. Hobbs>;Israel Hernandez/WHO/EOP [WHO] <Israel Hernandez>;Chris Henick/WHO/EOP [WHO] <Chris Henick>;Albert Hawkins/WHO/EOP [WHO] <Albert Hawkins>;Joseph W. Hagin/WHO/EOP [WHO] <Joseph W. Hagin>;Stephen J. Hadley/NSC/EOP [NSC] <Stephen J. Hadley>;Alberto R. Gonzales/WHO/EOP [WHO] <Alberto R. Gonzales>;Tim Goeglein/WHO/EOP [WHO] <Tim Goeglein>;Dylan C. Glenn/OPD/EOP [OPD] <Dylan C. Glenn>;Michael J. Gerson/WHO/EOP [WHO] <Michael J. Gerson>;Kelley Gannon/WHO/EOP [WHO] <Kelley Gannon>;Linda M. Gambatesa/WHO/EOP [WHO] <Linda M. Gambatesa>;Daniel Fried/NSC/EOP [NSC] <Daniel Fried>;Jendayi E. Frazer/NSC/EOP [NSC] <Jendayi E. Frazer>;Noel J. Francisco/WHO/EOP [WHO] <Noel J. Francisco>;Lawrence A. Fleischer/WHO/EOP [WHO] <Lawrence A. Fleischer>;Timothy E. Flanigan/WHO/EOP [WHO] <Timothy E. Flanigan>;Catherine S. Fenton/WHO/EOP [WHO] <Catherine S. Fenton>;Tucker A. Eskew/WHO/EOP [WHO] <Tucker A. Eskew>;Courtney S.

Elwood/WHO/EOP [UNKNOWN] <Courtney S. Elwood>;Gary R. Edson/NSC/EOP [NSC] <Gary R. Edson>;Wayne A. Downing/NSC/EOP [UNKNOWN] <Wayne A. Downing>;Elizabeth S. Dougherty/OPD/EOP [OPD] <Elizabeth S. Dougherty>;Nicolle Devenish/WHO/EOP [WHO] <Nicolle Devenish>;Brian C. Conklin/WHO/EOP [WHO] <Brian C. Conklin>;John A. Cloud/NSC/EOP [NSC] <John A. Cloud>;Richard A. Clarke/NSC/EOP [NSC] <Richard A. Clarke>;Alicia P. Clark/WHO/EOP [WHO] <Alicia P. Clark>;Christine Ciccone/WHO/EOP [WHO] <Christine Ciccone>;Kirsten A. Chadwick/WHO/EOP [WHO] <Kirsten A. Chadwick>;Andrew H. Card/WHO/EOP [WHO] <Andrew H. Card>;Nicholas E. Calio/WHO/EOP [WHO] <Nicholas E. Calio>;Claire E. Buchan/WHO/EOP [WHO] <Claire E. Buchan>;John M. Bridgeland/OPD/EOP [OPD] <John M. Bridgeland>;Rachel L. Brand/WHO/EOP [WHO] <Rachel L. Brand>;Stuart W. Bowen/WHO/EOP [WHO] <Stuart W. Bowen>;Carlos E. Bonilla/OPD/EOP [OPD] <Carlos E. Bonilla>;Joshua B. Bolten/WHO/EOP [WHO] <Joshua B. Bolten>;Kirk Blalock/WHO/EOP [WHO] <Kirk Blalock>;Bradley A. Blakeman/WHO/EOP [WHO] <Bradley A. Blakeman>;Charles P. Blahous/OPD/EOP [OPD] <Charles P. Blahous>;Bradford A. Berenson/WHO/EOP [WHO] <Bradford A. Berenson>;John B. Bellinger/NSC/EOP [NSC] <John B. Bellinger>;H. Christopher Bartolomucci/WHO/EOP [WHO] <H. Christopher Bartolomucci>;Daniel J. Bartlett/WHO/EOP [WHO] <Daniel J. Bartlett>;Ruben S. Barrales/WHO/EOP [WHO] <Ruben S. Barrales>;Andrea G. Ball/WHO/EOP [WHO] <Andrea G. Ball>;George M. Andricos/NSC/EOP [NSC] <George M. Andricos>;Elliott Abrams/NSC/EOP [NSC] <Elliott Abrams>

Sent: 8/22/2002 10:22:44 AM

Subject: : Postmaster: Space Station 3D on Wednesday, August 28,2002

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME:22-AUG-2002 14:22:44.00
SUBJECT:: Postmaster: Space Station 3D on Wednesday, August 28,2002
TO:TRHLS ( CN=TRHLS/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Joseph J. Shattan ( CN=Joseph J. Shattan/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Desiree T. Sayle ( CN=Desiree T. Sayle/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Susan K. Neely ( CN=Susan K. Neely/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Laura S. Lawlor ( CN=Laura S. Lawlor/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Joel D. Kaplan ( CN=Joel D. Kaplan/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Stephen M. Garrison ( CN=Stephen M. Garrison/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:John B. Craig ( CN=John B. Craig/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Steven Cooper ( CN=Steven Cooper/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Rebecca Contreras ( CN=Rebecca Contreras/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Charles Conner ( CN=Charles Conner/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
TO:Frank Cilluffo ( CN=Frank Cilluffo/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Ronald I. Christie ( CN=Ronald I. Christie/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
TO:Barbara C. Chaffee ( CN=Barbara C. Chaffee/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Katja Bullock ( CN=Katja Bullock/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Carl Buchholz ( CN=Carl Buchholz/OU=WHO/O=EOP [ WHO ] )
```

READ:UNKNOWN
TO:Stephen E. Biegun (CN=Stephen E. Biegun/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cathy Alix (CN=Cathy Alix/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Mark Holman (CN=Mark Holman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James R. Wilkinson (CN=James R. Wilkinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:D. Marcus Sumerlin (CN=D. Marcus Sumerlin/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Aquiles F. Suarez (CN=Aquiles F. Suarez/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Matthew O. Scully (CN=Matthew O. Scully/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark V. Rosenker (CN=Mark V. Rosenker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Craig Ray (CN=Craig Ray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne E. Phelps (CN=Anne E. Phelps/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])

READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kenneth B. Mehlman (CN=Kenneth B. Mehlman/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary J. Matalin (CN=Mary J. Matalin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:K. Philippa Malmgren (CN=K. Philippa Malmgren/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:John F. Maisto (CN=John F. Maisto/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence B. Lindsey (CN=Lawrence B. Lindsey/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Dirksen Lehman (CN=Dirksen Lehman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Phillip Larsen (CN=Phillip Larsen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hector F. Irastorza (CN=Hector F. Irastorza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Karen Hughes (CN=Karen Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jack Howard (CN=Jack Howard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Chris Henick (CN=Chris Henick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Albert Hawkins (CN=Albert Hawkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP [OPD])

READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Timothy E. Flanigan (CN=Timothy E. Flanigan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Courtney S. Elwood (CN=Courtney S. Elwood/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Wayne A. Downing (CN=Wayne A. Downing/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John A. Cloud (CN=John A. Cloud/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Richard A. Clarke (CN=Richard A. Clarke/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christine Ciccone (CN=Christine Ciccone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nicholas E. Calio (CN=Nicholas E. Calio/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Rachel L. Brand (CN=Rachel L. Brand/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stuart W. Bowen (CN=Stuart W. Bowen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carlos E. Bonilla (CN=Carlos E. Bonilla/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kirk Blalock (CN=Kirk Blalock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])

READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
End Original ARMS Header

Space Station 3D on Wednesday, August 28, 2002

NASA Administrator Sean O,Keefe would like to invite members of the White House staff and their families to a private showing of the IMAX© movie Space Station 3D at 7:00 p.m. on Wednesday, August 28 at the National Air and Space Museum's IMAX© Theater.

The first three-dimensional movie filmed in orbit, Space Station 3D documents the development of the International Space Station, which has been under construction since 1998. This movie, directed and photographed in space by 25 NASA astronauts and Russian cosmonauts, spotlights the extensive international cooperation in putting together the greatest engineering feat in the history of human exploration. Space Station 3D runs 47 minutes.

Those staff members interested in attending this showing should RSVP to Ali Tulbah at x62764 by close of business on Monday, August 26th. Attendees should enter through the Independence Avenue entrance at 7:00 p.m., and the movie will begin at approximately 7:15 p.m.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>
Sent: 8/27/2002 4:59:13 AM
Subject: : Contractor Indemnification & homeland security -- Draft Response to Lieberman
Attachments: P_08YO9003_WHO.TXT_1.doc; P_08YO9003_WHO.TXT_2.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:27-AUG-2002 08:59:13.00
SUBJECT:: Contractor Indemnification & homeland security -- Draft Response to Lieberman
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

fyi
---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 08/27/2002 09:03 AM ----------

Mathew C. Blum

08/26/2002 11:26:13 PM

Record Type: Record

To: Lucy G. Clark/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc: See the distribution list at the bottom of this message
Subject: Contractor Indemnification & homeland security -- Draft Response to Lieberman

Attached is a draft response OFPP has prepared to the recent Lieberman letter seeking OMB's views and various pieces of information regarding contractor indemnification. (If you need another copy of the incoming, let me know and I'll fax it to you.) I have prepared a cover letter giving our overall response and then attached more detailed responses as an enclosure. The draft is still under review within OMB, including in OGC, but we wanted to make sure you had sufficient time to review the document and provide your policy guidance.

Given the time constraints, I limited agency input to the following agencies: DOT and HHS (given their recent experiences with indemnification related specifically to the defense against terrorism), DoD (which has indemnified contractors against unusually hazardous or nuclear risks), and DOE (which, pursuant to the Price-Anderson Act, includes an indemnification clause in each contract that involves the risk of a nuclear incident). Each of these agencies is reviewing the factual statements in the response (the policy discussion has not been shared with them). We should have their input by no later than noon on Tuesday.

Lee-Ann Bracket from Lieberman's staff left a voice-mail for me (228-3533) which I passed on to Christine and Danielle for followup. I'm sure she is anxious to have the responses before the Senate resumes its deliberations next week.

We are also hearing that the House Technology and Procurement Policy Subcommittee may hold a hearing on this subject sometime in September.

FYI, Angela is out of town but will be checking emails. (We discussed the basic responses late last week.)

To assist in your review, you might note the following points (any and all of which can obviously be revised/reworked as may be necessary):

The draft strongly opposes the Govt Reform Committee (GROC) indemnification proposal, consistent with the House SAP language. (The letter states that the current indemnification scheme under Public Law 85-804 is sufficient. There is not an extensive comparison made between 85-804 and the GROC proposal other than to point out that the GROC proposal would drastically increase exposure to liability through potential coverage of state and local contractors. It is possible that, at some point, we may be asked why we think the GROC proposal will result in greater indemnification of federal contractors than may occur under 85-804.)

The draft expresses support for the SAFETY Act. This should help to clarify some confusion that apparently has arisen regarding what was intended by the House SAP. FYI, I wasn't sure whether we wanted to support the Act outright or just the "types of protections" it provides -- the latter being a hedge in case we want to work with Congress to fine-tune the mechanics

Although there is limited discussion on the SAFETY Act, there is no specific discussion of the government contractor defense. The government contractor defense (which already exists today through case law) shields contractors from unbounded liability when: (a) the government provides reasonably specific specifications, (b) the contractor follows the specifications, and (c) the contractor makes known risks uniquely known to the contractor. Our initial review of case law suggests that courts traditionally have appeared to overwhelmingly rule in favor of contractors -- and we haven't yet come across a case where the government has been held liable (which comes as little surprise because there appears to be no waiver of sovereign immunity). We might undercut our concern about indemnification if we emphasize that the government contractor defense generally has worked well.

Although the letter asks for parameters for reaching a compromise, the draft does not expressly indicate support for a compromise. There are places in the response where the door theoretically is left open. For example, the last sentence of the second paragraph of the cover letter states that it would be fiscally irresponsible to expose the Treasury to unbounded liability -- which arguably leaves the door open for bounded liability). The response to the first question includes reference to an FAA example where one key consideration of indemnification apparently centered around the fact that the item was highly customized (as opposed to commercial off-the-shelf). If I recall correctly, Brett drew this type of distinction at our meeting with industry several weeks ago.

The specific responses to the questions focus primarily on Public Law 85-804. However, there is also brief discussion on both the Commercial Space Launch Act (CSLA) and the Price-Anderson Act, since the questions asked us to discuss other authorities in addition to 85-804. It is probably beneficial to discuss CSLA, since its model for limiting liability (e.g., requiring approval of a compensation plan and congressional appropriation of funds) is fiscally responsible. On the other hand, Price-Anderson (which mandates indemnification for contracts that involve the risk of a nuclear incident) is probably not a desirable model to emulate. (As I assume you know, Price-Anderson expired and I understand discussions are ongoing regarding an extension of the authority.)

The responses do not attempt to address every question in explicit detail. For example, it is difficult to gauge how often indemnification is provided when a contract is eligible for such because (1) there is no government-wide database of such information and (2) agencies probably determine there is no unusually hazardous risk as opposed to finding such and then telling the contractor no indemnification will be provided.

The cover letter expresses support for a terrorism insurance program. The language should basically mirror SAP discussion for S. 2600. I wasn't sure if you wanted to address this in the letter; hence, the language is bracketed.

The draft indicates that we are not aware of the federal government having previously entered into agreements indemnifying sellers who hold contracts with state or local governments. It is possible that there may have been legislation in the 1960s related to the riots in Washington that involved payment from federal to local govt related to indemnification. We're checking into this.

DRAFT RESPONSE AND ENCLOSURE

ATTACHMENT A (to enclosure)

- TSA Indemnifications.PDF

Message Copied
To:_____
Angela B. Styles/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Richard C. Loeb/OMB/EOP@EOP
Danielle M. Simonetta/OMB/EOP@EOP
Christine C. McCarlie/OMB/EOP@EOP
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_08YO9003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_08YO9003_WHO.TXT_2>

D R A F T

The Honorable Joseph I. Lieberman
Chairman
Committee on Governmental Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This letter is in response to your August 7, 2002 correspondence requesting our views regarding the indemnification of contractors who provide products and services to aid in our Nation's homeland security efforts. Your letter indicates that when the Senate considers its version of the Homeland Security legislation in September, an amendment may be offered to authorize indemnification.

We understand that the amendment the Senate may consider is similar to what was proposed by the House Government Reform Committee for the Homeland Security Act of 2002 (H.R. 5005). The Government Reform Committee's proposal, which was not part of the House-passed bill, would have authorized the federal government to provide unlimited indemnification to companies that sell counterterrorism technology to federal, state, and local government agencies. These actions would not be subject to the availability of appropriations. The Administration would strongly oppose such an amendment, given the potential for excessive costs that can be neither reasonably estimated nor controlled. It would be fiscally irresponsible to expose the Treasury to this unbounded liability.

Catastrophic business risks associated with selling antiterrorism technology to the government which cannot otherwise be covered through private insurance can generally be addressed, as may be appropriate, under indemnification authorities already provided to agencies. Most notable among these authorities is Public Law 85-804. Under this law, the President may empower the heads of agencies to indemnify contractors for unusually hazardous or nuclear risks associated with activities facilitating the national defense. While the types of activities for which indemnification is available under Public Law 85-804 are limited, covered agencies still have considerable discretion to determine if an activity qualifies as unusually hazardous or nuclear.

Following the events of September 11th, agencies have found certain activities associated with defending the homeland to involve unusually hazardous risks and have negotiated indemnification clauses using the existing authorities of Public Law 85-804. For example, the Department of Health and Human Services (HHS) indemnified a contractor that produced the government's current stockpile of smallpox vaccine. The Secretary of HHS concluded that the steps the contractor has been asked to take to assure adequate availability of vaccine, including dilution of the vaccine, will materially increase the contractor's exposure to liability for which adequate insurance is not available at a reasonable cost. As another example, the Secretary of Transportation recently determined that certain contracts for the design and reconfiguration of passenger security checkpoints and installation and maintenance of explosive detection systems involve unusually hazardous risk and warrant indemnification.

To the extent the Senate intends to consider new options for handling risks associated with the sale of anti-terrorism technologies, it should give careful consideration to the protections that would be afforded by the Support Anti-terrorism by Fostering Effective Technologies (SAFETY) Act, which was passed by the House as part of H.R. 5005. The SAFETY Act would bolster government access to needed suppliers of anti-terrorism technology in a fiscally sound manner. It would require a contractor selling anti-terrorism technologies to obtain liability insurance to satisfy compensable third-party claims for injuries associated with a terrorist attack in which the contractor's technology was deployed to protect the public from harm. The Act would create a federal cause of action for injured parties but, at the same time, shield the Treasury and contractors from predatory lawsuits by generally capping recovery. Because its protections would apply to both federal and non-federal customers, the SAFETY Act would promote marketplace participation with all levels of government.

[In addition, the Senate should move promptly to create a terrorism risk insurance program. The backstop insurance program that would be established by the Terrorism Risk Insurance Act (S. 2600) is an effective mechanism for ensuring the continued availability of insurance for terrorist-related acts and will add much needed stability to our economy. As the Administration has previously noted, the program would aid the economy by ensuring that businesses and properties are able to spread risk efficiently by providing access to a well-functioning insurance market. [Although this measure is short-term, insurers should, as a general matter, have a better ability to measure risk and thus to provide insurance as the country continues to acclimate to the new security measures being implemented in the aftermath of September 11th.] **]**

The Administration is committed to ensuring that the Department of Homeland Security and other agencies engaged in the war on terrorism have timely and cost-effective access to the expertise and ingenuity of the private sector, upon whom we will rely heavily for the quality goods and services needed to ensure the safety of the American people. We recognize that threats posed by terrorism may present new business risks for sellers of anti-terrorism technologies. When considering this risk, we urge the Committee to reject any proposal that will expose the Treasury to unbounded

and unfunded contingent liabilities and look instead to more fiscally sound approaches, such as that proposed by the SAFETY Act [and a terrorism insurance, program].

Additional information responding to your questions[, which was prepared by OMB's Office of Federal Procurement Policy], is set forth in the attached enclosure.

Sincerely,

Mitchell E. Daniels, Jr.
Director

Enclosure

REV_00149780

Enclosure

Responses to Questions on Contractor Indemnification Posed by the Senate Committee on Governmental Affairs

Note: Information on agency use of indemnification is not collected in a centralized manner. Due to the limited time frame available for responding to this inquiry, OMB informally sought information from the following agencies: the Departments of Transportation (DOT) and Health and Human Services (HHS), which have had recent experiences with indemnification under acquisitions to address needs for the defense against terrorism; the Department of Defense (DoD) which has indemnified contractors for unusually hazardous or nuclear risks; and the Department of Energy (DOE), which, pursuant to statute, includes an indemnification clause in each contract that involves the risk of a nuclear incident.

Question 1: The government currently has authority to offer indemnification in a narrow set of contracts. What has the government's experience been in using this existing authority, whether under Public Law 85-804 or otherwise? For example, how often are indemnification clauses included in government contracts? Are they included in all cases in which they are authorized? If not, in what portion are they included, and what criteria are used to determine whether to use them? Do they usually carry limits on the government's liability or imposed specific requirements on the indemnified party? Has the use of these provisions resulted in actual costs to the government? If so, what has been the cost of these provisions to the government? What lessons has the government learned from the use of these provisions?

The main authorities used by the government to indemnify its contractors against catastrophic risk are: (1) Public Law 85-804 (50 U.S.C. 1431-1435), (2) 49 U.S.C. Subtitle IX, Chapter 701 (popularly known as the Commercial Space Launch Act), and (3) the Price-Anderson Act. A short summary of the government's experiences with each of these authorities is discussed below.

Public Law 85-804

Public Law 85-804 (50 U.S.C. 1431-1435) vests the President with authority to empower agencies to grant various forms of extraordinary contractual relief, where the relief would facilitate the national defense. As implemented by Executive Order 10789, as amended, and the Federal Acquisition Regulation (FAR, 48 CFR Part 50), Public Law 85-804 has enabled agencies (including the major procuring agencies) to secure private

sector performance of activities involving unusually hazardous or nuclear risks by indemnifying them against third-party claims.[1]

Criteria.

Guidance emphasizes the need for all due deliberations, reflective of the extraordinary nature of the relief that can be granted -- which is not subject to the availability of appropriated funds. FAR 50.102(b) states that actions "shall be accomplished as expeditiously as practicable, consistent with the care, restraint, and exercise of sound judgment appropriate to the use of such extraordinary authority."

Three important safeguards were incorporated into the exercise of Public Law 85-804 when Executive Order 10789 was amended in 1971. Executive Order 11610 added requirements that: (1) indemnification provisions be approved in advance by an official at a level not below that of the secretary, (2) indemnification could apply only to claims or losses arising out of or resulting from risks that the contract defines as unusually hazardous or nuclear in nature, and (3) the approving official, in determining whether and to what extent indemnification should be authorized, must take into account the availability, cost, and terms of private insurance, self-insurance, other proof of financial responsibility, and workers' compensation insurance. These safeguards help to ensure that agencies, as stewards of the public fisc, fully consider whether indemnification and the potential financial liability it imposes on the government is in the taxpayers' best interest.

Usage in general.

Comprehensive government-wide data is not readily available regarding the use of Public Law 85-804. However, it appears from the limited data reviewed and discussions with several agencies that indemnification under Public Law 85-804 is used sparingly. Typically, indemnification for unusually hazardous or nuclear activities is provided when there is no other way for an agency to accomplish its mission. For example, in 1996, the Defense Logistics Agency indemnified a manufacturer of Pyridostigmine Bromide Tablets (PBT), which is used as a nerve agent pre-treatment to enhance the efficacy of post-exposure antidote therapy. Critical to DoD's decision was the fact that the contractor was the sole manufacturer of the item and had indicated its refusal to deliver PBT without an indemnification provision. In reaching its decision, DoD also took into account that acquisition of PBT could impose liability upon the contractor in excess of financial protection reasonably available.[2]

---

[1] Relief may also include an increase of contract price without consideration.

[2] Allegations had been made that PBT caused Gulf War veterans' illnesses. As a result, the contractor, as manufacturer was threatened by unknown liability for which insurance coverage was not available.

In FY 1998, the last year that DoD compiled a department-wide report on its use of Public Law 85-804,[3] indemnification clauses were included in 30 of DoD's contracts. Contractors were indemnified against claims for death, injury, or property damage arising from nuclear radiation, use of high energy propellants, or other risks not covered by the contractors' insurance program.[4]

While the universe of activities for which indemnification is available under Public Law 85-804 is appropriately limited, the law, as implemented, gives agencies a fair amount of discretion to determine if a given activity poses an unusually hazardous or nuclear risk. Not surprisingly, agencies have justified use of indemnification under Public Law 85-804 for the production of items which are themselves inherently dangerous (e.g., high energy propellants or nuclear submarines). But agencies have also justified indemnification under other circumstances, such as where the government was procuring highly customized items whose use by the government could pose risk of very large claims. In 1981, for instance, the Secretary of Transportation authorized indemnification for contractors engaged in the upgrading the *en route* air traffic control system for the Federal Aviation Administration (FAA). Of particular note, the Secretary found that the equipment to be purchased would possess technical characteristics "which far exceeded the technical requirements for hardware and software utilized in most commercial applications." In addition, claims from an accident could be far in excess of the insurance coverage that reliably and reasonably could be obtained by the manufacturers in the marketplace for the life of the system.[5]

Usage in the context of protecting the homeland.

Following the events of September 11th, several agencies have exercised their discretion to indemnify selected contractors for certain activities associated with protection of our homeland where they have determined that such activities qualify as unusually hazardous. In this regard, HHS found solid grounds to indemnify a contractor that produced the government's current stockpile of smallpox vaccine.[6] HHS has been working with the contractor to assure that the available stockpile of smallpox vaccine can be released promptly if and when directed by HHS. HHS is seeking to have the contractor perform various tasks critical to having vaccine available. These tasks include, among others, delivering vaccine whose original expiration date has passed for possible dilution. Because HHS has concluded that these and other tasks materially increase the contractor's exposure to liability and adequate insurance is not available at a reasonable

---

[3] Section 901(r)(1) of the Federal Reports Elimination Act of 1998 (Public Law 105-362) repealed 50 U.S.C. 1434, which required preparation of annual reports to Congress regarding actions taken on contractor requests for relief under Public Law 85-804.

[4] In addition to Public Law 85-804, DoD may indemnify a research and development contractor pursuant to 10 U.S.C. 2354 for claims by third persons for death, bodily injury, or loss of or damage to property, from a risk that the contract defines as unusually hazardous.

[5] See 46 Fed. Reg. 62596 (December 24, 1981) and 47 Fed. Reg. 1229 (January 11, 1982).

[6] The President added the Department of Health and Human Services (HHS) to the list of agencies authorized to use Public Law 85-804 on October 20, 2001. See Executive Order 13232, 66 Fed. Reg. 53941.

REV_00149784

cost, HHS has indemnified the contractor for: (a) adverse events associated with the vaccine, (b) failure of the vaccine to immunize, and (c) transmission of the vaccinia virus.

DOT has determined that certain contracts providing services and products related to the screening of airport passengers and baggage for the presence of dangerous items constitute an unusually hazardous risk for which indemnification is appropriate. DOT further concluded that there is an unusually hazardous risk associated with the design and reconfiguration of passenger security checkpoints and installation and maintenance of explosive detection systems. A table briefly describing indemnification actions taken by DOT's Transportation Security Administration (TSA) is provided at Attachment A.

Limitations on liability.

Both HHS and DOT have taken steps to limit the government's liability. For instance, indemnification for the smallpox vaccine manufacturer is limited to liability that might arise if the vaccine were to be used in a national emergency. With one exception, the indemnification agreements with the airport screening contractors provides for a monetary cap, and all of the agreements will expire when the government screeners are deployed.

Payments under indemnification clauses.

To OFPP's knowledge, there have been no payments made under indemnification clauses entered into pursuant to Public Law 85-804.

The Commercial Space Launch Act (CSLA)

CLSA requires the Secretary of Transportation to establish insurance (or other financial responsibility) requirements in amounts sufficient to address certain risks associated with the conduct of licensed launch activities. The CSLA provides detailed requirements for allocating risk among the various launch participants, including federal agencies involved in launch services. First enacted in 1988, this comprehensive scheme was intended to facilitate the development of the U.S. commercial launch industry by allowing it to compete effectively in the international marketplace and by providing to launch participants certain protections against the risk of catastrophic losses that could result from hazardous launch activities.

Under the CSLA, the government accepts responsibility for successful third-party claims that exceed the limits of liability insurance (obtained by licensees in amounts established by the agency) up to $1.5 billion (as adjusted for inflation occurring after January 1, 1989). The licensee remains liable for amounts above this cap. FAA sets insurance requirements based on its determination of the maximum probable loss (MPL) that would result from licensed launch or reentry activities, within statutory ceilings, not to exceed the lesser of $500 million or the maximum available on the world market at

reasonable cost.[7] The government may cover claims from the first dollar of loss in the event of an insurance policy exclusion that is determined to be "usual." However, payment -- in all cases -- is subject both to the approval of a compensation plan prepared by the agency and congressional appropriation of funds. In addition, indemnification will not be provided for a party's willful misconduct.[8]

The Commercial Space Transportation Competitiveness Act of 2000, Public Law 106-405, directed the Secretary of Transportation to review the liability risk-sharing regime for U.S. commercial space transportation. The report, which was submitted to Congress earlier this year, concluded that the current regime is adequate, appropriate, and effective.[9] The report found that CSLA's liability structure facilitates the competitiveness of the U.S. launch industry in the international space transportation market, while effectively limiting the government's liability. According to the report, there have been no claims for third-party liability resulting form a U.S.-licensed commercial launch. In fact, DOT is aware of no claims of third-party liability having been presented against the required coverage.

The Price-Anderson Act

The Price-Anderson Act established a system of financial protection for persons who may be liable for, and persons who may be injured by, a nuclear incident. The Act requires DOE to include an indemnification in each contract that involves the risk of a nuclear incident. The indemnification: (1) provides omnibus coverage of all persons who might be legally liable; (2) indemnifies fully all legal liability up to the statutory limit on such liability (currently $9.43 billion for a nuclear incident in the United States); (3) covers all DOE contractual activity that might result in a nuclear incident in the United States; (4) is not subject to the usual limitation on the availability of appropriated funds; and (5) is mandatory and exclusive. The Department of Energy Acquisition Regulation (DEAR) sets forth standard nuclear indemnification clauses that are incorporated into all DOE contracts and subcontracts involving source, special nuclear, or by-product material (nuclear material).[10]

According to DOE, a number of claims have been filed in federal district courts seeking recovery under the Price-Anderson Act. Within the past 15 years, settlements have been paid in two cases, totaling just under $100 million.

---

[7] According to DOT, the MPL is structured so that the risk estimate of government indemnification obligations is no greater than 1 in 10 million. The current MPL values range up to $261 million for third-party losses resulting from launch vehicle flight.

[8] Regulations setting forth financial responsibility requirements may be found at 14 CFR Part 440.

[9] The report is available at http://www.ast.faa.gov.

[10] See 48 CFR Parts 950, 952, and 970.

Question 2: The request to expand indemnification authority rests on the premise that the government is having, or will have, difficulty in obtaining the technology and products it needs to protect the homeland in the war on terrorism. What is the executive branch's experience in this regard? Has it been difficult or impossible to get the needed products? If so, how extensive has the difficulty been? Has it been government-wide or limited to just a few Departments or agencies? To what do you attribute any difficulty that exists? Is it due to the absence of indemnification authority? Would greater indemnification authority resolve the problem? If so, what should the scope of statutory authority for such provisions be?

To date, OFPP has not been advised by federal agencies of significant or widespread difficulties in obtaining access to the marketplace for products and services needed for homeland security. We are aware of limited difficulties in accessing the marketplace due to contractor concerns with catastrophic liability. Some of these concerms have been dealt with through, or are being considered for, indemnification under Public Law 85-804.

According to DOT, screening companies made clear after September 11th that they would refuse to enter into contractual agreements with the federal government unless indemnification was provided. In January 2002, the Secretary authorized FAA to negotiate indemnification agreements with airport security screening companies to secure contract screening services during the transition to federal airport screening by employees of TSA. Manufacturers of vaccine and related products have advised HHS that such products carry safety and efficacy risks that prevent them from meeting the government's needs at fair and reasonable prices without indemnification. As noted in the response to Question no. 1, the Secretary granted indemnification to one contractor and currently is considering requests from other manufacturers.

Expanding indemnification authority is neither necessary nor appropriate. Most homeland security-related needs will not warrant indemnification. DOT points out, as just one example, that procurement assistance, general services or other management support services would not merit indemnification, if sought, among other reasons because they do not constitute unusually hazardous risks. As a general matter, insurers should have a better ability to measure risk and thus to provide insurance as the country acclimates to the new security measures being implemented in the aftermath of September 11th. However, protections of the type set forth in the Support Anti-terrorism by Fostering Effective Technologies (SAFETY) Act, passed by the House as part of H.R. 5005, are worthy of consideration. The SAFETY Act would establish a federal cause of action to recognize claims of parties injured in terrorist attacks where anti-terrorism technology was deployed but, at the same time, limit potential contractor and government liability in a fiscally responsible manner.

Question 3: The amendment before the House would have allowed the Secretary of Homeland Security to indemnify contractors with State and local governments. Has the Federal government ever before entered into agreements indemnifying contractors with State or local governments? Does the Administration believe there is a need to do so? Should Congress consider different factors when evaluating this part of the proposal than when reviewing the expansion of authority for federal government contracts?

We appreciate that state and local governments, like the federal government, need effective access to the innovation and expertise of the private sector. In this regard, we understand, for example, that New York City's Metropolitan Transit Authority and Policy Department have faced difficulties obtaining chemical-biological detection systems. While these difficulties should be addressed, unbounded federal indemnification is not the answer. Indemnification of this nature would be fiscally irresponsible due to the potential for excessive costs that can be neither reasonably estimated nor controlled. To our knowledge, the federal government has not previously entered into agreements indemnifying sellers who hold contracts with state or local governments.

Rather than increasing indemnification, state and local access to anti-terrorism technologies could be enhanced through the types of protections proposed by the SAFETY Act (sections 751-755 of H.R. 5005). The SAFETY Act, which would cover sales of products to both federal and non-federal government customers, would require a contractor to obtain liability insurance to satisfy compensable third-party claims arising out of, relating to, or resulting from an act of terrorism when anti-terrorism technologies that have been approved by the Department of Homeland Security have been deployed in defense against such act. The Act would create a federal cause of action for injured parties, and, at the same time, protect contractors from predatory lawsuits and punitive damages. This type of framework should facilitate state and local government access to contractors that can assist them in carrying out their critical role in the fight against terrorism.

Question 4: I understand that the Administration issued a Statement of Administration Policy (SAP) opposing the House indemnification proposal, but that this view may be evolving. What is the Administration's current view? Even if the Administration still opposes the specific proposal offered in the House, is that opposition a blanket one to any expansion of indemnification authority, or do you believe a narrower authorization would be appropriate? If so, I would appreciate your providing guidance on the parameters of a proposal you believe would be appropriate.

The opposition expressed by the Administration in its SAP on H.R. 5005 was directed at the indemnification proposal recommended by the House Government Reform Committee. That proposal is highly objectionable because it would subject the Treasury to unlimited unfunded contingent liabilities. By contrast, the provisions that the House ultimately adopted (i.e., the SAFETY Act) offer a disciplined and fiscally sound

approach to addressing the potential liabilities that sellers of anti-terrorism technology could face.

August 23, 2002

INDEMNIFICATION ACTIONS BY THE TRANSPORTATION SECURITY ADMINISTRATION/DEPARTMENT OF TRANSPORTATION IN FISCAL YEAR 2002

Contractor	Description of Work	Contract Amount	Approval of Indemnification Agreement	Cap on Indemnification Amount
Airport Security Screening Firms (total of approx. 74 contracts)	Passenger screening services at airports prior to transition to Federal screener workforce.	Individual contracts not yet definitized. Total estimated value is $1.5 billion	May 16, 2002	Yes (except for one contractor)
Accenture Federal Services Group	Design and reconfiguration of passenger security checkpoints at 10 airports.	$39 million	June 12, 2002	Yes
Lockheed Martin Mission Systems	Design and reconfiguration of passenger security checkpoints at approximately 400 airports.	$500 million	July 24, 2002	No
The Boeing Company	Installation and maintenance of Explosive Detection Systems and Explosive Trace Detection systems at airport screening checkpoints; implementation of improvements to security equipment and processes; training of airport screeners who operate equipment.	$1.37 billion	August 15, 2002	No

REV_00149790

Contractor	Description of Work	Contract Amount	Approval of Indemnification Agreement	Cap on Indemnification Amount
Unisys Corporation	Information Technology Managed Services involving architecture development, design, installation, operation, and maintenance of IT infrastructure at TSA Headquarters, 429 airports, and 2 data centers.	Task Order contract; Tasks under the contract could total $1 billion	Indemnification agreement currently being negotiated; authorization to negotiate indemnification agreement issued August 15, 2002	Indemnification agreement currently being negotiated.

REV_00149791

From:	CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To:	Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>;Kevin Warsh/OPD /EOP@EOP [OPD] <Kevin Warsh>
Sent:	8/27/2002 4:59:02 AM
Subject:	: Contractor Indemnification & homeland security -- Draft Response to Lieberman
Attachments:	P_R7YO9003_OPD.TXT_1.doc; P_R7YO9003_OPD.TXT_2.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:27-AUG-2002 08:59:02.00
SUBJECT:: Contractor Indemnification & homeland security -- Draft Response to Lieberman
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
End Original ARMS Header

This overlaps with terrorism insurance issue as you will see in
draft letter. You should review.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on
08/27/2002 09:02 AM ----------

Mathew C. Blum

08/26/2002 11:26:13 PM

Record Type: Record

To: Lucy G. Clark/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc: See the distribution list at the bottom of this message
Subject: Contractor Indemnification & homeland security -- Draft Response
to Lieberman

Attached is a draft response OFPP has prepared to the recent Lieberman letter seeking OMB's views and various pieces of information regarding contractor indemnification. (If you need another copy of the incoming, let me know and I'll fax it to you.) I have prepared a cover letter giving our overall response and then attached more detailed responses as an enclosure. The draft is still under review within OMB, including in OGC, but we wanted to make sure you had sufficient time to review the document and provide your policy guidance.

Given the time constraints, I limited agency input to the following agencies: DOT and HHS (given their recent experiences with indemnification related specifically to the defense against terrorism), DoD (which has indemnified contractors against unusually hazardous or nuclear risks), and DOE (which, pursuant to the Price-Anderson Act, includes an indemnification clause in each contract that involves the risk of a nuclear incident). Each of these agencies is reviewing the factual statements in the response (the policy discussion has not been shared with them). We should have their input by no later than noon on Tuesday.

Lee-Ann Bracket from Lieberman's staff left a voice-mail for me (228-3533) which I passed on to Christine and Danielle for followup. I'm sure she is anxious to have the responses before the Senate resumes its deliberations next week.

We are also hearing that the House Technology and Procurement Policy Subcommittee may hold a hearing on this subject sometime in September.

FYI, Angela is out of town but will be checking emails. (We discussed the basic responses late last week.)

To assist in your review, you might note the following points (any and all of which can obviously be revised/reworked as may be necessary):

The draft strongly opposes the Govt Reform Committee (GROC) indemnification proposal, consistent with the House SAP language. (The letter states that the current indemnification scheme under Public Law 85-804 is sufficient. There is not an extensive comparison made between 85-804 and the GROC proposal other than to point out that the GROC proposal would drastically increase exposure to liability through potential coverage of state and local contractors. It is possible that, at some point, we may be asked why we think the GROC proposal will result in greater indemnification of federal contractors than may occur under 85-804.)

The draft expresses support for the SAFETY Act. This should help to clarify some confusion that apparently has arisen regarding what was intended by the House SAP. FYI, I wasn't sure whether we wanted to support the Act outright or just the "types of protections" it provides -- the latter being a hedge in case we want to work with Congress to fine-tune the mechanics

Although there is limited discussion on the SAFETY Act, there is no specific discussion of the government contractor defense. The government contractor defense (which already exists today through case law) shields contractors from unbounded liability when: (a) the government provides reasonably specific specifications, (b) the contractor follows the specifications, and (c) the contractor makes known risks uniquely known to the contractor. Our initial review of case law suggests that courts traditionally have appeared to overwhelmingly rule in favor of contractors -- and we haven't yet come across a case where the government has been held liable (which comes as little surprise because there appears to be no waiver of sovereign immunity). We might undercut our concern about indemnification if we emphasize that the government contractor defense generally has worked well.

Although the letter asks for parameters for reaching a compromise, the draft does not expressly indicate support for a compromise. There are places in the response where the door theoretically is left open. For example, the last sentence of the second paragraph of the cover letter states that it would be fiscally irresponsible to expose the Treasury to unbounded liability -- which arguably leaves the door open for bounded liability). The response to the first question includes reference to an FAA example where one key consideration of indemnification apparently centered around the fact that the item was highly customized (as opposed to commercial off-the-shelf). If I recall correctly, Brett drew this type of distinction at our meeting with industry several weeks ago.

The specific responses to the questions focus primarily on Public Law 85-804. However, there is also brief discussion on both the Commercial Space Launch Act (CSLA) and the Price-Anderson Act, since the questions asked us to discuss other authorities in addition to 85-804. It is probably beneficial to discuss CSLA, since its model for limiting liability (e.g., requiring approval of a compensation plan and congressional appropriation of funds) is fiscally responsible. On the other hand, Price-Anderson (which mandates indemnification for contracts that involve the risk of a nuclear incident) is probably not a desirable model to emulate. (As I assume you know, Price-Anderson expired and I understand discussions are ongoing regarding an extension of the authority.)

The responses do not attempt to address every question in explicit detail.

For example, it is difficult to gauge how often indemnification is provided when a contract is eligible for such because (1) there is no government-wide database of such information and (2) agencies probably determine there is no unusually hazardous risk as opposed to finding such and then telling the contractor no indemnification will be provided.

The cover letter expresses support for a terrorism insurance program. The language should basically mirror SAP discussion for S. 2600. I wasn't sure if you wanted to address this in the letter; hence, the language is bracketed.

The draft indicates that we are not aware of the federal government having previously entered into agreements indemnifying sellers who hold contracts with state or local governments. It is possible that there may have been legislation in the 1960s related to the riots in Washington that involved payment from federal to local govt related to indemnification. We're checking into this.

DRAFT RESPONSE AND ENCLOSURE

ATTACHMENT A (to enclosure)

- TSA Indemnifications.PDF

Message Copied
To:_____
Angela B. Styles/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Richard C. Loeb/OMB/EOP@EOP
Danielle M. Simonetta/OMB/EOP@EOP
Christine C. McCarlie/OMB/EOP@EOP
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_R7YO9003_OPD.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_R7YO9003_OPD.TXT_2>

D R A F T

The Honorable Joseph I. Lieberman
Chairman
Committee on Governmental Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This letter is in response to your August 7, 2002 correspondence requesting our views regarding the indemnification of contractors who provide products and services to aid in our Nation's homeland security efforts. Your letter indicates that when the Senate considers its version of the Homeland Security legislation in September, an amendment may be offered to authorize indemnification.

We understand that the amendment the Senate may consider is similar to what was proposed by the House Government Reform Committee for the Homeland Security Act of 2002 (H.R. 5005). The Government Reform Committee's proposal, which was not part of the House-passed bill, would have authorized the federal government to provide unlimited indemnification to companies that sell counterterrorism technology to federal, state, and local government agencies. These actions would not be subject to the availability of appropriations. The Administration would strongly oppose such an amendment, given the potential for excessive costs that can be neither reasonably estimated nor controlled. It would be fiscally irresponsible to expose the Treasury to this unbounded liability.

Catastrophic business risks associated with selling antiterrorism technology to the government which cannot otherwise be covered through private insurance can generally be addressed, as may be appropriate, under indemnification authorities already provided to agencies. Most notable among these authorities is Public Law 85-804. Under this law, the President may empower the heads of agencies to indemnify contractors for unusually hazardous or nuclear risks associated with activities facilitating the national defense. While the types of activities for which indemnification is available under Public Law 85-804 are limited, covered agencies still have considerable discretion to determine if an activity qualifies as unusually hazardous or nuclear.

Following the events of September 11th, agencies have found certain activities associated with defending the homeland to involve unusually hazardous risks and have negotiated indemnification clauses using the existing authorities of Public Law 85-804. For example, the Department of Health and Human Services (HHS) indemnified a contractor that produced the government's current stockpile of smallpox vaccine. The Secretary of HHS concluded that the steps the contractor has been asked to take to assure adequate availability of vaccine, including dilution of the vaccine, will materially increase the contractor's exposure to liability for which adequate insurance is not available at a reasonable cost. As another example, the Secretary of Transportation recently determined that certain contracts for the design and reconfiguration of passenger security checkpoints and installation and maintenance of explosive detection systems involve unusually hazardous risk and warrant indemnification.

To the extent the Senate intends to consider new options for handling risks associated with the sale of anti-terrorism technologies, it should give careful consideration to the protections that would be afforded by the Support Anti-terrorism by Fostering Effective Technologies (SAFETY) Act, which was passed by the House as part of H.R. 5005. The SAFETY Act would bolster government access to needed suppliers of anti-terrorism technology in a fiscally sound manner. It would require a contractor selling anti-terrorism technologies to obtain liability insurance to satisfy compensable third-party claims for injuries associated with a terrorist attack in which the contractor's technology was deployed to protect the public from harm. The Act would create a federal cause of action for injured parties but, at the same time, shield the Treasury and contractors from predatory lawsuits by generally capping recovery. Because its protections would apply to both federal and non-federal customers, the SAFETY Act would promote marketplace participation with all levels of government.

[In addition, the Senate should move promptly to create a terrorism risk insurance program. The backstop insurance program that would be established by the Terrorism Risk Insurance Act (S. 2600) is an effective mechanism for ensuring the continued availability of insurance for terrorist-related acts and will add much needed stability to our economy. As the Administration has previously noted, the program would aid the economy by ensuring that businesses and properties are able to spread risk efficiently by providing access to a well-functioning insurance market. [Although this measure is short-term, insurers should, as a general matter, have a better ability to measure risk and thus to provide insurance as the country continues to acclimate to the new security measures being implemented in the aftermath of September 11th.] **]**

The Administration is committed to ensuring that the Department of Homeland Security and other agencies engaged in the war on terrorism have timely and cost-effective access to the expertise and ingenuity of the private sector, upon whom we will rely heavily for the quality goods and services needed to ensure the safety of the American people. We recognize that threats posed by terrorism may present new business risks for sellers of anti-terrorism technologies. When considering this risk, we urge the Committee to reject any proposal that will expose the Treasury to unbounded

and unfunded contingent liabilities and look instead to more fiscally sound approaches, such as that proposed by the SAFETY Act [and a terrorism insurance, program].

Additional information responding to your questions[, which was prepared by OMB's Office of Federal Procurement Policy], is set forth in the attached enclosure.

Sincerely,

Mitchell E. Daniels, Jr.
Director

Enclosure

REV_00149797

Enclosure

Responses to Questions on Contractor Indemnification Posed by the Senate Committee on Governmental Affairs

Note: Information on agency use of indemnification is not collected in a centralized manner. Due to the limited time frame available for responding to this inquiry, OMB informally sought information from the following agencies: the Departments of Transportation (DOT) and Health and Human Services (HHS), which have had recent experiences with indemnification under acquisitions to address needs for the defense against terrorism; the Department of Defense (DoD) which has indemnified contractors for unusually hazardous or nuclear risks; and the Department of Energy (DOE), which, pursuant to statute, includes an indemnification clause in each contract that involves the risk of a nuclear incident.

Question 1: The government currently has authority to offer indemnification in a narrow set of contracts. What has the government's experience been in using this existing authority, whether under Public Law 85-804 or otherwise? For example, how often are indemnification clauses included in government contracts? Are they included in all cases in which they are authorized? If not, in what portion are they included, and what criteria are used to determine whether to use them? Do they usually carry limits on the government's liability or imposed specific requirements on the indemnified party? Has the use of these provisions resulted in actual costs to the government? If so, what has been the cost of these provisions to the government? What lessons has the government learned from the use of these provisions?

The main authorities used by the government to indemnify its contractors against catastrophic risk are: (1) Public Law 85-804 (50 U.S.C. 1431-1435), (2) 49 U.S.C. Subtitle IX, Chapter 701 (popularly known as the Commercial Space Launch Act), and (3) the Price-Anderson Act. A short summary of the government's experiences with each of these authorities is discussed below.

Public Law 85-804

Public Law 85-804 (50 U.S.C. 1431-1435) vests the President with authority to empower agencies to grant various forms of extraordinary contractual relief, where the relief would facilitate the national defense. As implemented by Executive Order 10789, as amended, and the Federal Acquisition Regulation (FAR, 48 CFR Part 50), Public Law 85-804 has enabled agencies (including the major procuring agencies) to secure private

sector performance of activities involving unusually hazardous or nuclear risks by indemnifying them against third-party claims.[1]

Criteria.

Guidance emphasizes the need for all due deliberations, reflective of the extraordinary nature of the relief that can be granted -- which is not subject to the availability of appropriated funds. FAR 50.102(b) states that actions "shall be accomplished as expeditiously as practicable, consistent with the care, restraint, and exercise of sound judgment appropriate to the use of such extraordinary authority."

Three important safeguards were incorporated into the exercise of Public Law 85-804 when Executive Order 10789 was amended in 1971. Executive Order 11610 added requirements that: (1) indemnification provisions be approved in advance by an official at a level not below that of the secretary, (2) indemnification could apply only to claims or losses arising out of or resulting from risks that the contract defines as unusually hazardous or nuclear in nature, and (3) the approving official, in determining whether and to what extent indemnification should be authorized, must take into account the availability, cost, and terms of private insurance, self-insurance, other proof of financial responsibility, and workers' compensation insurance. These safeguards help to ensure that agencies, as stewards of the public fisc, fully consider whether indemnification and the potential financial liability it imposes on the government is in the taxpayers' best interest.

Usage in general.

Comprehensive government-wide data is not readily available regarding the use of Public Law 85-804. However, it appears from the limited data reviewed and discussions with several agencies that indemnification under Public Law 85-804 is used sparingly. Typically, indemnification for unusually hazardous or nuclear activities is provided when there is no other way for an agency to accomplish its mission. For example, in 1996, the Defense Logistics Agency indemnified a manufacturer of Pyridostigmine Bromide Tablets (PBT), which is used as a nerve agent pre-treatment to enhance the efficacy of post-exposure antidote therapy. Critical to DoD's decision was the fact that the contractor was the sole manufacturer of the item and had indicated its refusal to deliver PBT without an indemnification provision. In reaching its decision, DoD also took into account that acquisition of PBT could impose liability upon the contractor in excess of financial protection reasonably available.[2]

---

[1] Relief may also include an increase of contract price without consideration.

[2] Allegations had been made that PBT caused Gulf War veterans' illnesses. As a result, the contractor, as manufacturer was threatened by unknown liability for which insurance coverage was not available.

In FY 1998, the last year that DoD compiled a department-wide report on its use of Public Law 85-804,[3] indemnification clauses were included in 30 of DoD's contracts. Contractors were indemnified against claims for death, injury, or property damage arising from nuclear radiation, use of high energy propellants, or other risks not covered by the contractors' insurance program.[4]

While the universe of activities for which indemnification is available under Public Law 85-804 is appropriately limited, the law, as implemented, gives agencies a fair amount of discretion to determine if a given activity poses an unusually hazardous or nuclear risk. Not surprisingly, agencies have justified use of indemnification under Public Law 85-804 for the production of items which are themselves inherently dangerous (e.g., high energy propellants or nuclear submarines). But agencies have also justified indemnification under other circumstances, such as where the government was procuring highly customized items whose use by the government could pose risk of very large claims. In 1981, for instance, the Secretary of Transportation authorized indemnification for contractors engaged in the upgrading the *en route* air traffic control system for the Federal Aviation Administration (FAA). Of particular note, the Secretary found that the equipment to be purchased would possess technical characteristics "which far exceeded the technical requirements for hardware and software utilized in most commercial applications." In addition, claims from an accident could be far in excess of the insurance coverage that reliably and reasonably could be obtained by the manufacturers in the marketplace for the life of the system.[5]

Usage in the context of protecting the homeland.

Following the events of September 11th, several agencies have exercised their discretion to indemnify selected contractors for certain activities associated with protection of our homeland where they have determined that such activities qualify as unusually hazardous. In this regard, HHS found solid grounds to indemnify a contractor that produced the government's current stockpile of smallpox vaccine.[6] HHS has been working with the contractor to assure that the available stockpile of smallpox vaccine can be released promptly if and when directed by HHS. HHS is seeking to have the contractor perform various tasks critical to having vaccine available. These tasks include, among others, delivering vaccine whose original expiration date has passed for possible dilution. Because HHS has concluded that these and other tasks materially increase the contractor's exposure to liability and adequate insurance is not available at a reasonable

---

[3] Section 901(r)(1) of the Federal Reports Elimination Act of 1998 (Public Law 105-362) repealed 50 U.S.C. 1434, which required preparation of annual reports to Congress regarding actions taken on contractor requests for relief under Public Law 85-804.

[4] In addition to Public Law 85-804, DoD may indemnify a research and development contractor pursuant to 10 U.S.C. 2354 for claims by third persons for death, bodily injury, or loss of or damage to property, from a risk that the contract defines as unusually hazardous.

[5] See 46 Fed. Reg. 62596 (December 24, 1981) and 47 Fed. Reg. 1229 (January 11, 1982).

[6] The President added the Department of Health and Human Services (HHS) to the list of agencies authorized to use Public Law 85-804 on October 20, 2001. See Executive Order 13232, 66 Fed. Reg. 53941.

REV_00149801

cost, HHS has indemnified the contractor for: (a) adverse events associated with the vaccine, (b) failure of the vaccine to immunize, and (c) transmission of the vaccinia virus.

DOT has determined that certain contracts providing services and products related to the screening of airport passengers and baggage for the presence of dangerous items constitute an unusually hazardous risk for which indemnification is appropriate. DOT further concluded that there is an unusually hazardous risk associated with the design and reconfiguration of passenger security checkpoints and installation and maintenance of explosive detection systems. A table briefly describing indemnification actions taken by DOT's Transportation Security Administration (TSA) is provided at Attachment A.

Limitations on liability.

Both HHS and DOT have taken steps to limit the government's liability. For instance, indemnification for the smallpox vaccine manufacturer is limited to liability that might arise if the vaccine were to be used in a national emergency. With one exception, the indemnification agreements with the airport screening contractors provides for a monetary cap, and all of the agreements will expire when the government screeners are deployed.

Payments under indemnification clauses.

To OFPP's knowledge, there have been no payments made under indemnification clauses entered into pursuant to Public Law 85-804.

The Commercial Space Launch Act (CSLA)

CLSA requires the Secretary of Transportation to establish insurance (or other financial responsibility) requirements in amounts sufficient to address certain risks associated with the conduct of licensed launch activities. The CSLA provides detailed requirements for allocating risk among the various launch participants, including federal agencies involved in launch services. First enacted in 1988, this comprehensive scheme was intended to facilitate the development of the U.S. commercial launch industry by allowing it to compete effectively in the international marketplace and by providing to launch participants certain protections against the risk of catastrophic losses that could result from hazardous launch activities.

Under the CSLA, the government accepts responsibility for successful third-party claims that exceed the limits of liability insurance (obtained by licensees in amounts established by the agency) up to $1.5 billion (as adjusted for inflation occurring after January 1, 1989). The licensee remains liable for amounts above this cap. FAA sets insurance requirements based on its determination of the maximum probable loss (MPL) that would result from licensed launch or reentry activities, within statutory ceilings, not to exceed the lesser of $500 million or the maximum available on the world market at

reasonable cost.[7] The government may cover claims from the first dollar of loss in the event of an insurance policy exclusion that is determined to be "usual." However, payment -- in all cases -- is subject both to the approval of a compensation plan prepared by the agency and congressional appropriation of funds. In addition, indemnification will not be provided for a party's willful misconduct.[8]

The Commercial Space Transportation Competitiveness Act of 2000, Public Law 106-405, directed the Secretary of Transportation to review the liability risk-sharing regime for U.S. commercial space transportation. The report, which was submitted to Congress earlier this year, concluded that the current regime is adequate, appropriate, and effective.[9] The report found that CSLA's liability structure facilitates the competitiveness of the U.S. launch industry in the international space transportation market, while effectively limiting the government's liability. According to the report, there have been no claims for third-party liability resulting form a U.S.-licensed commercial launch. In fact, DOT is aware of no claims of third-party liability having been presented against the required coverage.

The Price-Anderson Act

The Price-Anderson Act established a system of financial protection for persons who may be liable for, and persons who may be injured by, a nuclear incident. The Act requires DOE to include an indemnification in each contract that involves the risk of a nuclear incident. The indemnification: (1) provides omnibus coverage of all persons who might be legally liable; (2) indemnifies fully all legal liability up to the statutory limit on such liability (currently $9.43 billion for a nuclear incident in the United States); (3) covers all DOE contractual activity that might result in a nuclear incident in the United States; (4) is not subject to the usual limitation on the availability of appropriated funds; and (5) is mandatory and exclusive. The Department of Energy Acquisition Regulation (DEAR) sets forth standard nuclear indemnification clauses that are incorporated into all DOE contracts and subcontracts involving source, special nuclear, or by-product material (nuclear material).[10]

According to DOE, a number of claims have been filed in federal district courts seeking recovery under the Price-Anderson Act. Within the past 15 years, settlements have been paid in two cases, totaling just under $100 million.

---

[7] According to DOT, the MPL is structured so that the risk estimate of government indemnification obligations is no greater than 1 in 10 million. The current MPL values range up to $261 million for third-party losses resulting from launch vehicle flight.

[8] Regulations setting forth financial responsibility requirements may be found at 14 CFR Part 440.

[9] The report is available at http://www.ast.faa.gov.

[10] See 48 CFR Parts 950, 952, and 970.

Question 2: The request to expand indemnification authority rests on the premise that the government is having, or will have, difficulty in obtaining the technology and products it needs to protect the homeland in the war on terrorism. What is the executive branch's experience in this regard? Has it been difficult or impossible to get the needed products? If so, how extensive has the difficulty been? Has it been government-wide or limited to just a few Departments or agencies? To what do you attribute any difficulty that exists? Is it due to the absence of indemnification authority? Would greater indemnification authority resolve the problem? If so, what should the scope of statutory authority for such provisions be?

To date, OFPP has not been advised by federal agencies of significant or widespread difficulties in obtaining access to the marketplace for products and services needed for homeland security. We are aware of limited difficulties in accessing the marketplace due to contractor concerns with catastrophic liability. Some of these concerms have been dealt with through, or are being considered for, indemnification under Public Law 85-804.

According to DOT, screening companies made clear after September 11th that they would refuse to enter into contractual agreements with the federal government unless indemnification was provided. In January 2002, the Secretary authorized FAA to negotiate indemnification agreements with airport security screening companies to secure contract screening services during the transition to federal airport screening by employees of TSA. Manufacturers of vaccine and related products have advised HHS that such products carry safety and efficacy risks that prevent them from meeting the government's needs at fair and reasonable prices without indemnification. As noted in the response to Question no. 1, the Secretary granted indemnification to one contractor and currently is considering requests from other manufacturers.

Expanding indemnification authority is neither necessary nor appropriate. Most homeland security-related needs will not warrant indemnification. DOT points out, as just one example, that procurement assistance, general services or other management support services would not merit indemnification, if sought, among other reasons because they do not constitute unusually hazardous risks. As a general matter, insurers should have a better ability to measure risk and thus to provide insurance as the country acclimates to the new security measures being implemented in the aftermath of September 11th. However, protections of the type set forth in the Support Anti-terrorism by Fostering Effective Technologies (SAFETY) Act, passed by the House as part of H.R. 5005, are worthy of consideration. The SAFETY Act would establish a federal cause of action to recognize claims of parties injured in terrorist attacks where anti-terrorism technology was deployed but, at the same time, limit potential contractor and government liability in a fiscally responsible manner.

REV_00149804

Question 3: The amendment before the House would have allowed the Secretary of Homeland Security to indemnify contractors with State and local governments. Has the Federal government ever before entered into agreements indemnifying contractors with State or local governments? Does the Administration believe there is a need to do so? Should Congress consider different factors when evaluating this part of the proposal than when reviewing the expansion of authority for federal government contracts?

We appreciate that state and local governments, like the federal government, need effective access to the innovation and expertise of the private sector. In this regard, we understand, for example, that New York City's Metropolitan Transit Authority and Policy Department have faced difficulties obtaining chemical-biological detection systems. While these difficulties should be addressed, unbounded federal indemnification is not the answer. Indemnification of this nature would be fiscally irresponsible due to the potential for excessive costs that can be neither reasonably estimated nor controlled. To our knowledge, the federal government has not previously entered into agreements indemnifying sellers who hold contracts with state or local governments.

Rather than increasing indemnification, state and local access to anti-terrorism technologies could be enhanced through the types of protections proposed by the SAFETY Act (sections 751-755 of H.R. 5005). The SAFETY Act, which would cover sales of products to both federal and non-federal government customers, would require a contractor to obtain liability insurance to satisfy compensable third-party claims arising out of, relating to, or resulting from an act of terrorism when anti-terrorism technologies that have been approved by the Department of Homeland Security have been deployed in defense against such act. The Act would create a federal cause of action for injured parties, and, at the same time, protect contractors from predatory lawsuits and punitive damages. This type of framework should facilitate state and local government access to contractors that can assist them in carrying out their critical role in the fight against terrorism.

Question 4: I understand that the Administration issued a Statement of Administration Policy (SAP) opposing the House indemnification proposal, but that this view may be evolving. What is the Administration's current view? Even if the Administration still opposes the specific proposal offered in the House, is that opposition a blanket one to any expansion of indemnification authority, or do you believe a narrower authorization would be appropriate? If so, I would appreciate your providing guidance on the parameters of a proposal you believe would be appropriate.

The opposition expressed by the Administration in its SAP on H.R. 5005 was directed at the indemnification proposal recommended by the House Government Reform Committee. That proposal is highly objectionable because it would subject the Treasury to unlimited unfunded contingent liabilities. By contrast, the provisions that the House ultimately adopted (i.e., the SAFETY Act) offer a disciplined and fiscally sound

approach to addressing the potential liabilities that sellers of anti-terrorism technology could face.

August 23, 2002

INDEMNIFICATION ACTIONS BY THE TRANSPORTATION SECURITY ADMINISTRATION/DEPARTMENT OF TRANSPORTATION IN FISCAL YEAR 2002

Contractor	Description of Work	Contract Amount	Approval of Indemnification Agreement	Cap on Indemnification Amount
Airport Security Screening Firms (total of approx. 74 contracts)	Passenger screening services at airports prior to transition to Federal screener workforce.	Individual contracts not yet definitized. Total estimated value is $1.5 billion	May 16, 2002	Yes (except for one contractor)
Accenture Federal Services Group	Design and reconfiguration of passenger security checkpoints at 10 airports.	$39 million	June 12, 2002	Yes
Lockheed Martin Mission Systems	Design and reconfiguration of passenger security checkpoints at approximately 400 airports.	$500 million	July 24, 2002	No
The Boeing Company	Installation and maintenance of Explosive Detection Systems and Explosive Trace Detection systems at airport screening checkpoints; implementation of improvements to security equipment and processes; training of airport screeners who operate equipment.	$1.37 billion	August 15, 2002	No

REV_00149807

Contractor	Description of Work	Contract Amount	Approval of Indemnification Agreement	Cap on Indemnification Amount
Unisys Corporation	Information Technology Managed Services involving architecture development, design, installation, operation, and maintenance of IT infrastructure at TSA Headquarters, 429 airports, and 2 data centers.	Task Order contract; Tasks under the contract could total $1 billion	Indemnification agreement currently being negotiated; authorization to negotiate indemnification agreement issued August 15, 2002	Indemnification agreement currently being negotiated.

REV_00149808

From:	CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To:	Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>;Kevin Warsh/OPD /EOP@EOP [OPD] <Kevin Warsh>
Sent:	8/27/2002 4:59:02 AM
Subject:	: Contractor Indemnification & homeland security -- Draft Response to Lieberman
Attachments:	P_R7YO9003_WHO.TXT_1.doc; P_R7YO9003_WHO.TXT_2.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:27-AUG-2002 08:59:02.00
SUBJECT:: Contractor Indemnification & homeland security -- Draft Response to Lieberman
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
End Original ARMS Header

This overlaps with terrorism insurance issue as you will see in
draft letter. You should review.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on
08/27/2002 09:02 AM ----------

Mathew C. Blum

08/26/2002 11:26:13 PM

Record Type: Record

To: Lucy G. Clark/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc: See the distribution list at the bottom of this message
Subject: Contractor Indemnification & homeland security -- Draft Response
to Lieberman

Attached is a draft response OFPP has prepared to the recent Lieberman letter seeking OMB's views and various pieces of information regarding contractor indemnification. (If you need another copy of the incoming, let me know and I'll fax it to you.) I have prepared a cover letter giving our overall response and then attached more detailed responses as an enclosure. The draft is still under review within OMB, including in OGC, but we wanted to make sure you had sufficient time to review the document and provide your policy guidance.

Given the time constraints, I limited agency input to the following agencies: DOT and HHS (given their recent experiences with indemnification related specifically to the defense against terrorism), DoD (which has indemnified contractors against unusually hazardous or nuclear risks), and DOE (which, pursuant to the Price-Anderson Act, includes an indemnification clause in each contract that involves the risk of a nuclear incident). Each of these agencies is reviewing the factual statements in the response (the policy discussion has not been shared with them). We should have their input by no later than noon on Tuesday.

Lee-Ann Bracket from Lieberman's staff left a voice-mail for me (228-3533) which I passed on to Christine and Danielle for followup. I'm sure she is anxious to have the responses before the Senate resumes its deliberations next week.

We are also hearing that the House Technology and Procurement Policy Subcommittee may hold a hearing on this subject sometime in September.

FYI, Angela is out of town but will be checking emails. (We discussed the basic responses late last week.)

To assist in your review, you might note the following points (any and all of which can obviously be revised/reworked as may be necessary):

The draft strongly opposes the Govt Reform Committee (GROC) indemnification proposal, consistent with the House SAP language. (The letter states that the current indemnification scheme under Public Law 85-804 is sufficient. There is not an extensive comparison made between 85-804 and the GROC proposal other than to point out that the GROC proposal would drastically increase exposure to liability through potential coverage of state and local contractors. It is possible that, at some point, we may be asked why we think the GROC proposal will result in greater indemnification of federal contractors than may occur under 85-804.)

The draft expresses support for the SAFETY Act. This should help to clarify some confusion that apparently has arisen regarding what was intended by the House SAP. FYI, I wasn't sure whether we wanted to support the Act outright or just the "types of protections" it provides -- the latter being a hedge in case we want to work with Congress to fine-tune the mechanics

Although there is limited discussion on the SAFETY Act, there is no specific discussion of the government contractor defense. The government contractor defense (which already exists today through case law) shields contractors from unbounded liability when: (a) the government provides reasonably specific specifications, (b) the contractor follows the specifications, and (c) the contractor makes known risks uniquely known to the contractor. Our initial review of case law suggests that courts traditionally have appeared to overwhelmingly rule in favor of contractors -- and we haven't yet come across a case where the government has been held liable (which comes as little surprise because there appears to be no waiver of sovereign immunity). We might undercut our concern about indemnification if we emphasize that the government contractor defense generally has worked well.

Although the letter asks for parameters for reaching a compromise, the draft does not expressly indicate support for a compromise. There are places in the response where the door theoretically is left open. For example, the last sentence of the second paragraph of the cover letter states that it would be fiscally irresponsible to expose the Treasury to unbounded liability -- which arguably leaves the door open for bounded liability). The response to the first question includes reference to an FAA example where one key consideration of indemnification apparently centered around the fact that the item was highly customized (as opposed to commercial off-the-shelf). If I recall correctly, Brett drew this type of distinction at our meeting with industry several weeks ago.

The specific responses to the questions focus primarily on Public Law 85-804. However, there is also brief discussion on both the Commercial Space Launch Act (CSLA) and the Price-Anderson Act, since the questions asked us to discuss other authorities in addition to 85-804. It is probably beneficial to discuss CSLA, since its model for limiting liability (e.g., requiring approval of a compensation plan and congressional appropriation of funds) is fiscally responsible. On the other hand, Price-Anderson (which mandates indemnification for contracts that involve the risk of a nuclear incident) is probably not a desirable model to emulate. (As I assume you know, Price-Anderson expired and I understand discussions are ongoing regarding an extension of the authority.)

The responses do not attempt to address every question in explicit detail.

For example, it is difficult to gauge how often indemnification is provided when a contract is eligible for such because (1) there is no government-wide database of such information and (2) agencies probably determine there is no unusually hazardous risk as opposed to finding such and then telling the contractor no indemnification will be provided.

The cover letter expresses support for a terrorism insurance program. The language should basically mirror SAP discussion for S. 2600. I wasn't sure if you wanted to address this in the letter; hence, the language is bracketed.

The draft indicates that we are not aware of the federal government having previously entered into agreements indemnifying sellers who hold contracts with state or local governments. It is possible that there may have been legislation in the 1960s related to the riots in Washington that involved payment from federal to local govt related to indemnification. We're checking into this.

DRAFT RESPONSE AND ENCLOSURE

ATTACHMENT A (to enclosure)

- TSA Indemnifications.PDF

Message Copied
To:_____
Angela B. Styles/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Richard C. Loeb/OMB/EOP@EOP
Danielle M. Simonetta/OMB/EOP@EOP
Christine C. McCarlie/OMB/EOP@EOP
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_R7YO9003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_R7YO9003_WHO.TXT_2>

D R A F T

The Honorable Joseph I. Lieberman
Chairman
Committee on Governmental Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This letter is in response to your August 7, 2002 correspondence requesting our views regarding the indemnification of contractors who provide products and services to aid in our Nation's homeland security efforts. Your letter indicates that when the Senate considers its version of the Homeland Security legislation in September, an amendment may be offered to authorize indemnification.

We understand that the amendment the Senate may consider is similar to what was proposed by the House Government Reform Committee for the Homeland Security Act of 2002 (H.R. 5005). The Government Reform Committee's proposal, which was not part of the House-passed bill, would have authorized the federal government to provide unlimited indemnification to companies that sell counterterrorism technology to federal, state, and local government agencies. These actions would not be subject to the availability of appropriations. The Administration would strongly oppose such an amendment, given the potential for excessive costs that can be neither reasonably estimated nor controlled. It would be fiscally irresponsible to expose the Treasury to this unbounded liability.

Catastrophic business risks associated with selling antiterrorism technology to the government which cannot otherwise be covered through private insurance can generally be addressed, as may be appropriate, under indemnification authorities already provided to agencies. Most notable among these authorities is Public Law 85-804. Under this law, the President may empower the heads of agencies to indemnify contractors for unusually hazardous or nuclear risks associated with activities facilitating the national defense. While the types of activities for which indemnification is available under Public Law 85-804 are limited, covered agencies still have considerable discretion to determine if an activity qualifies as unusually hazardous or nuclear.

Following the events of September 11th, agencies have found certain activities associated with defending the homeland to involve unusually hazardous risks and have negotiated indemnification clauses using the existing authorities of Public Law 85-804. For example, the Department of Health and Human Services (HHS) indemnified a contractor that produced the government's current stockpile of smallpox vaccine. The Secretary of HHS concluded that the steps the contractor has been asked to take to assure adequate availability of vaccine, including dilution of the vaccine, will materially increase the contractor's exposure to liability for which adequate insurance is not available at a reasonable cost. As another example, the Secretary of Transportation recently determined that certain contracts for the design and reconfiguration of passenger security checkpoints and installation and maintenance of explosive detection systems involve unusually hazardous risk and warrant indemnification.

To the extent the Senate intends to consider new options for handling risks associated with the sale of anti-terrorism technologies, it should give careful consideration to the protections that would be afforded by the Support Anti-terrorism by Fostering Effective Technologies (SAFETY) Act, which was passed by the House as part of H.R. 5005. The SAFETY Act would bolster government access to needed suppliers of anti-terrorism technology in a fiscally sound manner. It would require a contractor selling anti-terrorism technologies to obtain liability insurance to satisfy compensable third-party claims for injuries associated with a terrorist attack in which the contractor's technology was deployed to protect the public from harm. The Act would create a federal cause of action for injured parties but, at the same time, shield the Treasury and contractors from predatory lawsuits by generally capping recovery. Because its protections would apply to both federal and non-federal customers, the SAFETY Act would promote marketplace participation with all levels of government.

[In addition, the Senate should move promptly to create a terrorism risk insurance program. The backstop insurance program that would be established by the Terrorism Risk Insurance Act (S. 2600) is an effective mechanism for ensuring the continued availability of insurance for terrorist-related acts and will add much needed stability to our economy. As the Administration has previously noted, the program would aid the economy by ensuring that businesses and properties are able to spread risk efficiently by providing access to a well-functioning insurance market. [Although this measure is short-term, insurers should, as a general matter, have a better ability to measure risk and thus to provide insurance as the country continues to acclimate to the new security measures being implemented in the aftermath of September 11th.] **]**

The Administration is committed to ensuring that the Department of Homeland Security and other agencies engaged in the war on terrorism have timely and cost-effective access to the expertise and ingenuity of the private sector, upon whom we will rely heavily for the quality goods and services needed to ensure the safety of the American people. We recognize that threats posed by terrorism may present new business risks for sellers of anti-terrorism technologies. When considering this risk, we urge the Committee to reject any proposal that will expose the Treasury to unbounded

and unfunded contingent liabilities and look instead to more fiscally sound approaches, such as that proposed by the SAFETY Act [and a terrorism insurance, program].

Additional information responding to your questions[, which was prepared by OMB's Office of Federal Procurement Policy], is set forth in the attached enclosure.

Sincerely,

Mitchell E. Daniels, Jr.
Director

Enclosure

REV_00149814

Enclosure

Responses to Questions on Contractor Indemnification Posed by the Senate Committee on Governmental Affairs

Note: Information on agency use of indemnification is not collected in a centralized manner. Due to the limited time frame available for responding to this inquiry, OMB informally sought information from the following agencies: the Departments of Transportation (DOT) and Health and Human Services (HHS), which have had recent experiences with indemnification under acquisitions to address needs for the defense against terrorism; the Department of Defense (DoD) which has indemnified contractors for unusually hazardous or nuclear risks; and the Department of Energy (DOE), which, pursuant to statute, includes an indemnification clause in each contract that involves the risk of a nuclear incident.

Question 1: The government currently has authority to offer indemnification in a narrow set of contracts. What has the government's experience been in using this existing authority, whether under Public Law 85-804 or otherwise? For example, how often are indemnification clauses included in government contracts? Are they included in all cases in which they are authorized? If not, in what portion are they included, and what criteria are used to determine whether to use them? Do they usually carry limits on the government's liability or imposed specific requirements on the indemnified party? Has the use of these provisions resulted in actual costs to the government? If so, what has been the cost of these provisions to the government? What lessons has the government learned from the use of these provisions?

The main authorities used by the government to indemnify its contractors against catastrophic risk are: (1) Public Law 85-804 (50 U.S.C. 1431-1435), (2) 49 U.S.C. Subtitle IX, Chapter 701 (popularly known as the Commercial Space Launch Act), and (3) the Price-Anderson Act. A short summary of the government's experiences with each of these authorities is discussed below.

Public Law 85-804

Public Law 85-804 (50 U.S.C. 1431-1435) vests the President with authority to empower agencies to grant various forms of extraordinary contractual relief, where the relief would facilitate the national defense. As implemented by Executive Order 10789, as amended, and the Federal Acquisition Regulation (FAR, 48 CFR Part 50), Public Law 85-804 has enabled agencies (including the major procuring agencies) to secure private

sector performance of activities involving unusually hazardous or nuclear risks by indemnifying them against third-party claims.[1]

Criteria.

Guidance emphasizes the need for all due deliberations, reflective of the extraordinary nature of the relief that can be granted -- which is not subject to the availability of appropriated funds. FAR 50.102(b) states that actions "shall be accomplished as expeditiously as practicable, consistent with the care, restraint, and exercise of sound judgment appropriate to the use of such extraordinary authority."

Three important safeguards were incorporated into the exercise of Public Law 85-804 when Executive Order 10789 was amended in 1971. Executive Order 11610 added requirements that: (1) indemnification provisions be approved in advance by an official at a level not below that of the secretary, (2) indemnification could apply only to claims or losses arising out of or resulting from risks that the contract defines as unusually hazardous or nuclear in nature, and (3) the approving official, in determining whether and to what extent indemnification should be authorized, must take into account the availability, cost, and terms of private insurance, self-insurance, other proof of financial responsibility, and workers' compensation insurance. These safeguards help to ensure that agencies, as stewards of the public fisc, fully consider whether indemnification and the potential financial liability it imposes on the government is in the taxpayers' best interest.

Usage in general.

Comprehensive government-wide data is not readily available regarding the use of Public Law 85-804. However, it appears from the limited data reviewed and discussions with several agencies that indemnification under Public Law 85-804 is used sparingly. Typically, indemnification for unusually hazardous or nuclear activities is provided when there is no other way for an agency to accomplish its mission. For example, in 1996, the Defense Logistics Agency indemnified a manufacturer of Pyridostigmine Bromide Tablets (PBT), which is used as a nerve agent pre-treatment to enhance the efficacy of post-exposure antidote therapy. Critical to DoD's decision was the fact that the contractor was the sole manufacturer of the item and had indicated its refusal to deliver PBT without an indemnification provision. In reaching its decision, DoD also took into account that acquisition of PBT could impose liability upon the contractor in excess of financial protection reasonably available.[2]

---

[1] Relief may also include an increase of contract price without consideration.

[2] Allegations had been made that PBT caused Gulf War veterans' illnesses. As a result, the contractor, as manufacturer was threatened by unknown liability for which insurance coverage was not available.

In FY 1998, the last year that DoD compiled a department-wide report on its use of Public Law 85-804,[3] indemnification clauses were included in 30 of DoD's contracts. Contractors were indemnified against claims for death, injury, or property damage arising from nuclear radiation, use of high energy propellants, or other risks not covered by the contractors' insurance program.[4]

While the universe of activities for which indemnification is available under Public Law 85-804 is appropriately limited, the law, as implemented, gives agencies a fair amount of discretion to determine if a given activity poses an unusually hazardous or nuclear risk. Not surprisingly, agencies have justified use of indemnification under Public Law 85-804 for the production of items which are themselves inherently dangerous (e.g., high energy propellants or nuclear submarines). But agencies have also justified indemnification under other circumstances, such as where the government was procuring highly customized items whose use by the government could pose risk of very large claims. In 1981, for instance, the Secretary of Transportation authorized indemnification for contractors engaged in the upgrading the *en route* air traffic control system for the Federal Aviation Administration (FAA). Of particular note, the Secretary found that the equipment to be purchased would possess technical characteristics "which far exceeded the technical requirements for hardware and software utilized in most commercial applications." In addition, claims from an accident could be far in excess of the insurance coverage that reliably and reasonably could be obtained by the manufacturers in the marketplace for the life of the system.[5]

Usage in the context of protecting the homeland.

Following the events of September 11th, several agencies have exercised their discretion to indemnify selected contractors for certain activities associated with protection of our homeland where they have determined that such activities qualify as unusually hazardous. In this regard, HHS found solid grounds to indemnify a contractor that produced the government's current stockpile of smallpox vaccine.[6] HHS has been working with the contractor to assure that the available stockpile of smallpox vaccine can be released promptly if and when directed by HHS. HHS is seeking to have the contractor perform various tasks critical to having vaccine available. These tasks include, among others, delivering vaccine whose original expiration date has passed for possible dilution. Because HHS has concluded that these and other tasks materially increase the contractor's exposure to liability and adequate insurance is not available at a reasonable

---

[3] Section 901(r)(1) of the Federal Reports Elimination Act of 1998 (Public Law 105-362) repealed 50 U.S.C. 1434, which required preparation of annual reports to Congress regarding actions taken on contractor requests for relief under Public Law 85-804.

[4] In addition to Public Law 85-804, DoD may indemnify a research and development contractor pursuant to 10 U.S.C. 2354 for claims by third persons for death, bodily injury, or loss of or damage to property, from a risk that the contract defines as unusually hazardous.

[5] See 46 Fed. Reg. 62596 (December 24, 1981) and 47 Fed. Reg. 1229 (January 11, 1982).

[6] The President added the Department of Health and Human Services (HHS) to the list of agencies authorized to use Public Law 85-804 on October 20, 2001. See Executive Order 13232, 66 Fed. Reg. 53941.

REV_00149818

cost, HHS has indemnified the contractor for: (a) adverse events associated with the vaccine, (b) failure of the vaccine to immunize, and (c) transmission of the vaccinia virus.

DOT has determined that certain contracts providing services and products related to the screening of airport passengers and baggage for the presence of dangerous items constitute an unusually hazardous risk for which indemnification is appropriate. DOT further concluded that there is an unusually hazardous risk associated with the design and reconfiguration of passenger security checkpoints and installation and maintenance of explosive detection systems. A table briefly describing indemnification actions taken by DOT's Transportation Security Administration (TSA) is provided at Attachment A.

Limitations on liability.

Both HHS and DOT have taken steps to limit the government's liability. For instance, indemnification for the smallpox vaccine manufacturer is limited to liability that might arise if the vaccine were to be used in a national emergency. With one exception, the indemnification agreements with the airport screening contractors provides for a monetary cap, and all of the agreements will expire when the government screeners are deployed.

Payments under indemnification clauses.

To OFPP's knowledge, there have been no payments made under indemnification clauses entered into pursuant to Public Law 85-804.

The Commercial Space Launch Act (CSLA)

CLSA requires the Secretary of Transportation to establish insurance (or other financial responsibility) requirements in amounts sufficient to address certain risks associated with the conduct of licensed launch activities. The CSLA provides detailed requirements for allocating risk among the various launch participants, including federal agencies involved in launch services. First enacted in 1988, this comprehensive scheme was intended to facilitate the development of the U.S. commercial launch industry by allowing it to compete effectively in the international marketplace and by providing to launch participants certain protections against the risk of catastrophic losses that could result from hazardous launch activities.

Under the CSLA, the government accepts responsibility for successful third-party claims that exceed the limits of liability insurance (obtained by licensees in amounts established by the agency) up to $1.5 billion (as adjusted for inflation occurring after January 1, 1989). The licensee remains liable for amounts above this cap. FAA sets insurance requirements based on its determination of the maximum probable loss (MPL) that would result from licensed launch or reentry activities, within statutory ceilings, not to exceed the lesser of $500 million or the maximum available on the world market at

reasonable cost.[7] The government may cover claims from the first dollar of loss in the event of an insurance policy exclusion that is determined to be "usual." However, payment -- in all cases -- is subject both to the approval of a compensation plan prepared by the agency and congressional appropriation of funds. In addition, indemnification will not be provided for a party's willful misconduct.[8]

The Commercial Space Transportation Competitiveness Act of 2000, Public Law 106-405, directed the Secretary of Transportation to review the liability risk-sharing regime for U.S. commercial space transportation. The report, which was submitted to Congress earlier this year, concluded that the current regime is adequate, appropriate, and effective.[9] The report found that CSLA's liability structure facilitates the competitiveness of the U.S. launch industry in the international space transportation market, while effectively limiting the government's liability. According to the report, there have been no claims for third-party liability resulting form a U.S.-licensed commercial launch. In fact, DOT is aware of no claims of third-party liability having been presented against the required coverage.

The Price-Anderson Act

The Price-Anderson Act established a system of financial protection for persons who may be liable for, and persons who may be injured by, a nuclear incident. The Act requires DOE to include an indemnification in each contract that involves the risk of a nuclear incident. The indemnification: (1) provides omnibus coverage of all persons who might be legally liable; (2) indemnifies fully all legal liability up to the statutory limit on such liability (currently $9.43 billion for a nuclear incident in the United States); (3) covers all DOE contractual activity that might result in a nuclear incident in the United States; (4) is not subject to the usual limitation on the availability of appropriated funds; and (5) is mandatory and exclusive. The Department of Energy Acquisition Regulation (DEAR) sets forth standard nuclear indemnification clauses that are incorporated into all DOE contracts and subcontracts involving source, special nuclear, or by-product material (nuclear material).[10]

According to DOE, a number of claims have been filed in federal district courts seeking recovery under the Price-Anderson Act. Within the past 15 years, settlements have been paid in two cases, totaling just under $100 million.

---

[7] According to DOT, the MPL is structured so that the risk estimate of government indemnification obligations is no greater than 1 in 10 million. The current MPL values range up to $261 million for third-party losses resulting from launch vehicle flight.

[8] Regulations setting forth financial responsibility requirements may be found at 14 CFR Part 440.

[9] The report is available at http://www.ast.faa.gov.

[10] See 48 CFR Parts 950, 952, and 970.

Question 2: The request to expand indemnification authority rests on the premise that the government is having, or will have, difficulty in obtaining the technology and products it needs to protect the homeland in the war on terrorism. What is the executive branch's experience in this regard? Has it been difficult or impossible to get the needed products? If so, how extensive has the difficulty been? Has it been government-wide or limited to just a few Departments or agencies? To what do you attribute any difficulty that exists? Is it due to the absence of indemnification authority? Would greater indemnification authority resolve the problem? If so, what should the scope of statutory authority for such provisions be?

To date, OFPP has not been advised by federal agencies of significant or widespread difficulties in obtaining access to the marketplace for products and services needed for homeland security. We are aware of limited difficulties in accessing the marketplace due to contractor concerns with catastrophic liability. Some of these concerms have been dealt with through, or are being considered for, indemnification under Public Law 85-804.

According to DOT, screening companies made clear after September 11th that they would refuse to enter into contractual agreements with the federal government unless indemnification was provided. In January 2002, the Secretary authorized FAA to negotiate indemnification agreements with airport security screening companies to secure contract screening services during the transition to federal airport screening by employees of TSA. Manufacturers of vaccine and related products have advised HHS that such products carry safety and efficacy risks that prevent them from meeting the government's needs at fair and reasonable prices without indemnification. As noted in the response to Question no. 1, the Secretary granted indemnification to one contractor and currently is considering requests from other manufacturers.

Expanding indemnification authority is neither necessary nor appropriate. Most homeland security-related needs will not warrant indemnification. DOT points out, as just one example, that procurement assistance, general services or other management support services would not merit indemnification, if sought, among other reasons because they do not constitute unusually hazardous risks. As a general matter, insurers should have a better ability to measure risk and thus to provide insurance as the country acclimates to the new security measures being implemented in the aftermath of September 11th. However, protections of the type set forth in the Support Anti-terrorism by Fostering Effective Technologies (SAFETY) Act, passed by the House as part of H.R. 5005, are worthy of consideration. The SAFETY Act would establish a federal cause of action to recognize claims of parties injured in terrorist attacks where anti-terrorism technology was deployed but, at the same time, limit potential contractor and government liability in a fiscally responsible manner.

REV_00149821

Question 3: The amendment before the House would have allowed the Secretary of Homeland Security to indemnify contractors with State and local governments. Has the Federal government ever before entered into agreements indemnifying contractors with State or local governments? Does the Administration believe there is a need to do so? Should Congress consider different factors when evaluating this part of the proposal than when reviewing the expansion of authority for federal government contracts?

We appreciate that state and local governments, like the federal government, need effective access to the innovation and expertise of the private sector. In this regard, we understand, for example, that New York City's Metropolitan Transit Authority and Policy Department have faced difficulties obtaining chemical-biological detection systems. While these difficulties should be addressed, unbounded federal indemnification is not the answer. Indemnification of this nature would be fiscally irresponsible due to the potential for excessive costs that can be neither reasonably estimated nor controlled. To our knowledge, the federal government has not previously entered into agreements indemnifying sellers who hold contracts with state or local governments.

Rather than increasing indemnification, state and local access to anti-terrorism technologies could be enhanced through the types of protections proposed by the SAFETY Act (sections 751-755 of H.R. 5005). The SAFETY Act, which would cover sales of products to both federal and non-federal government customers, would require a contractor to obtain liability insurance to satisfy compensable third-party claims arising out of, relating to, or resulting from an act of terrorism when anti-terrorism technologies that have been approved by the Department of Homeland Security have been deployed in defense against such act. The Act would create a federal cause of action for injured parties, and, at the same time, protect contractors from predatory lawsuits and punitive damages. This type of framework should facilitate state and local government access to contractors that can assist them in carrying out their critical role in the fight against terrorism.

Question 4: I understand that the Administration issued a Statement of Administration Policy (SAP) opposing the House indemnification proposal, but that this view may be evolving. What is the Administration's current view? Even if the Administration still opposes the specific proposal offered in the House, is that opposition a blanket one to any expansion of indemnification authority, or do you believe a narrower authorization would be appropriate? If so, I would appreciate your providing guidance on the parameters of a proposal you believe would be appropriate.

The opposition expressed by the Administration in its SAP on H.R. 5005 was directed at the indemnification proposal recommended by the House Government Reform Committee. That proposal is highly objectionable because it would subject the Treasury to unlimited unfunded contingent liabilities. By contrast, the provisions that the House ultimately adopted (i.e., the SAFETY Act) offer a disciplined and fiscally sound

approach to addressing the potential liabilities that sellers of anti-terrorism technology could face.

August 23, 2002

INDEMNIFICATION ACTIONS BY THE TRANSPORTATION SECURITY ADMINISTRATION/DEPARTMENT OF TRANSPORTATION IN FISCAL YEAR 2002

Contractor	Description of Work	Contract Amount	Approval of Indemnification Agreement	Cap on Indemnification Amount
Airport Security Screening Firms (total of approx. 74 contracts)	Passenger screening services at airports prior to transition to Federal screener workforce.	Individual contracts not yet definitized. Total estimated value is $1.5 billion	May 16, 2002	Yes (except for one contractor)
Accenture Federal Services Group	Design and reconfiguration of passenger security checkpoints at 10 airports.	$39 million	June 12, 2002	Yes
Lockheed Martin Mission Systems	Design and reconfiguration of passenger security checkpoints at approximately 400 airports.	$500 million	July 24, 2002	No
The Boeing Company	Installation and maintenance of Explosive Detection Systems and Explosive Trace Detection systems at airport screening checkpoints; implementation of improvements to security equipment and processes; training of airport screeners who operate equipment.	$1.37 billion	August 15, 2002	No

REV_00149824

Contractor	Description of Work	Contract Amount	Approval of Indemnification Agreement	Cap on Indemnification Amount
Unisys Corporation	Information Technology Managed Services involving architecture development, design, installation, operation, and maintenance of IT infrastructure at TSA Headquarters, 429 airports, and 2 data centers.	Task Order contract; Tasks under the contract could total $1 billion	Indemnification agreement currently being negotiated; authorization to negotiate indemnification agreement issued August 15, 2002	Indemnification agreement currently being negotiated.

REV_00149825

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>
CC: h. christopher bartolomucci/who/eop@eop [WHO] <h. christopher bartolomucci>
Sent: 8/27/2002 10:42:57 AM
Subject: : Re: DOJ brief in Clinton pardon case

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:27-AUG-2002 14:42:57.00
SUBJECT:: Re: DOJ brief in Clinton pardon case
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:h. christopher bartolomucci (CN=h. christopher bartolomucci/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

I have and will take care of it.

Bradford A. Berenson
08/27/2002 02:33:22 PM
Record Type: Record

To: H. Christopher Bartolomucci/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: DOJ brief in Clinton pardon case

Bryan Cunningham, Bellinger' Deputy in NSC, would like to read the brief referenced in the paper today in which DOJ argued that all papers associated with the pardon process are covered by executive privilege. Does either of you have it? If so, would you forward a copy to Bryan? If not, do you know who I should call at DOJ to get it?

From: Koebele, Steve <Steve.Koebele@usdoj.gov>
To: 'Manuel_Miranda@judiciary.senate.gov' <Manuel_Miranda@judiciary.senate.gov>;'KRdaly@aol.com' <KRdaly@aol.com>;'Ed_Haden@judiciary.senate.gov' <Ed_Haden@judiciary.senate.gov>;'Barbara_Ledeen@src.senate.gov' <Barbara_Ledeen@src.senate.gov>;'joschal@att.net' <joschal@att.net>
CC: Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>;Willett, Don <Don.Willett@usdoj.gov>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Anne Womack/WHO/EOP@EOP [WHO] <Anne Womack>;Remington, Kristi L <Kristi.L.Remington@usdoj.gov>
Sent: 8/28/2002 7:27:41 AM
Subject: : Owen - Democrats Hightower, Hill, and SBOT
Attachments: P_DQ5Q9003_WHO.TXT_1.pdf; P_DQ5Q9003_WHO.TXT_2.pdf; P_DQ5Q9003_WHO.TXT_3.pdf; P_DQ5Q9003_WHO.TXT_4.pdf; P_DQ5Q9003_WHO.TXT_5.pdf

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Koebele, Steve" <Steve.Koebele@usdoj.gov> ( "Koebele, Steve"
<Steve.Koebele@usdoj.gov> [ UNKNOWN ] )
CREATION DATE/TIME:28-AUG-2002 11:27:41.00
SUBJECT:: Owen - Democrats Hightower, Hill, and SBOT
TO:"'Manuel_Miranda@judiciary.senate.gov'" <Manuel_Miranda@judiciary.senate.gov> (Receipt
Notification Requested) (IPM Return Requested) ( "'Manuel_Miranda@judiciary.senate.gov'"
<Manuel_Miranda@judiciary.senate.gov> (Receipt Notification Requested) (IPM Return
Requested) [ UNKNOWN ] )
READ:UNKNOWN
TO:"'KRdaly@aol.com'" <KRdaly@aol.com> (Receipt Notification Requested) (IPM Return
Requested) ( "'KRdaly@aol.com'" <KRdaly@aol.com> (Receipt Notification Requested) (IPM
Return Requested) [ UNKNOWN ] )
READ:UNKNOWN
TO:"'Ed_Haden@judiciary.senate.gov'" <Ed_Haden@judiciary.senate.gov> (Receipt Notification
Requested) (IPM Return Requested) ( "'Ed_Haden@judiciary.senate.gov'"
<Ed_Haden@judiciary.senate.gov> (Receipt Notification Requested) (IPM Return Requested) [
UNKNOWN ] )
READ:UNKNOWN
TO:"'Barbara_Ledeen@src.senate.gov'" <Barbara_Ledeen@src.senate.gov> (Receipt Notification
Requested) (IPM Return Requested) ( "'Barbara_Ledeen@src.senate.gov'"
<Barbara_Ledeen@src.senate.gov> (Receipt Notification Requested) (IPM Return Requested) [
UNKNOWN ] )
READ:UNKNOWN
TO:"'joschal@att.net'" <joschal@att.net> (Receipt Notification Requested) (IPM Return
Requested) ( "'joschal@att.net'" <joschal@att.net> (Receipt Notification Requested) (IPM
Return Requested) [ UNKNOWN ] )
READ:UNKNOWN
CC:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:"Willett, Don" <Don.Willett@usdoj.gov> (Receipt Notification Requested) (IPM Return
Requested) ( "Willett, Don" <Don.Willett@usdoj.gov> (Receipt Notification Requested) (IPM
Return Requested) [ UNKNOWN ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Anne Womack ( CN=Anne Womack/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:"Remington, Kristi L" <Kristi.L.Remington@usdoj.gov> (Receipt Notification Requested)
(IPM Return Requested) ( "Remington, Kristi L" <Kristi.L.Remington@usdoj.gov> (Receipt
Notification Requested) (IPM Return Requested) [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

For your joint use in sending to appropriate target audiences, attached
below are 3 letters from Jack Hightower, a former democrat Justice of the
Supreme Court of Texas, to Sens. Feingold, Kohl and Feinstein. Also,
```

attached below are letters from former democrat Justice John Hill and and former presidents (Democrats and Republicans) of the State Bar of Texas.

Thank you very much for properly distributing. Steve.

- Letter-Hightower to Feingold.pdf - Letter-Hightower to Kohl.pdf - Letter-Hightower to Feinstein.pdf - Letter-John Hill 7-19-02.pdf - State Bar of TX-Past Presidents.pdf
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_DQ5Q9003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_DQ5Q9003_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_DQ5Q9003_WHO.TXT_3>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_DQ5Q9003_WHO.TXT_4>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_DQ5Q9003_WHO.TXT_5>

JACK HIGHTOWER

5905 Doone Valley Court
Austin, Texas 78731
512/452-7327
E-Mail: hitr@onr.com

August 20, 2002

Via Facsimile 202-224-2725

The Honorable Russell Feingold
Committee on the Judiciary
United States Senate
506 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Feingold:

It was my privilege to serve as a member of the Supreme Court of Texas with Justice Priscilla Owen for two years prior to my retirement from the bench January 1, 1996. I had not known her personally prior to that time. I knew that she had graduated from my alma mater with honor and was a valued member of the Andrews & Kurth law firm in Houston.

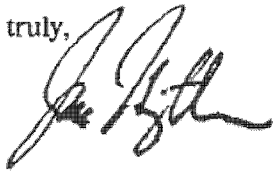
When Justice Owen joined the court she impressed me as being a very quick study because although she had no previous judicial experience she seemed to be able to quickly grasp the issues and frame them into judicial questions with great clarity.

In my opinion she was unbiased and wanted to find the core legal issue in each case.

When she joined the court I knew, of course, that Priscilla was a Republican. She ran and was elected on the Republican ticket. I am convinced that he political philosophy is honestly Republican. That is as it should be. I am a Democrat and my political philosophy is Democratic, but I tried very hard not to let preconceived philosophy influence my decision on matters before the court. I believe that Justice Owen has done the same.

I am also of the opinion that the people are not well served by the partisan election of judges. I have not always been of this opinion, but after two statewide elections for the court, and after raising and spending millions of dollars, I believe that there must be a better way.

Yours truly,



JACK HIGHTOWER

5905 Doone Valley Court
Austin, Texas 78731
512/452-7327
E-Mail: hitr@onr.com

August 20, 2002

Via Facsimile 202-224-9787

The Honorable Herb Kohl
Committee on the Judiciary
United States Senate
330 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Kohl:

It was my privilege to serve as a member of the Supreme Court of Texas with Justice Priscilla Owen for two years prior to my retirement from the bench January 1, 1996. I had not known her personally prior to that time. I knew that she had graduated from my alma mater with honor and was a valued member of the Andrews & Kurth law firm in Houston.

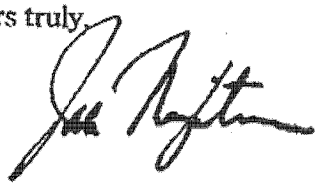
When Justice Owen joined the court she impressed me as being a very quick study because although she had no previous judicial experience she seemed to be able to quickly grasp the issues and frame them into judicial questions with great clarity.

In my opinion she was unbiased and wanted to find the core legal issue in each case.

When she joined the court I knew, of course, that Priscilla was a Republican. She ran and was elected on the Republican ticket. I am convinced that he political philosophy is honestly Republican. That is as it should be. I am a Democrat and my political philosophy is Democratic, but I tried very hard not to let preconceived philosophy influence my decision on matters before the court. I believe that Justice Owen has done the same.

I am also of the opinion that the people are not well served by the partisan election of judges. I have not always been of this opinion, but after two statewide elections for the court, and after raising and spending millions of dollars, I believe that there must be a better way.

Yours truly,



JACK HIGHTOWER

5905 Doone Valley Court
Austin, Texas 78731
512/452-7327
E-Mail: hitr@onr.com

August 20, 2002

Via Facsimile 202-228-3954

The Honorable Dianna Feinstein
Committee on the Judiciary
United States Senate
331 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Feinstein:

It was my privilege to serve as a member of the Supreme Court of Texas with Justice Priscilla Owen for two years prior to my retirement from the bench January 1, 1996. I had not known her personally prior to that time. I knew that she had graduated from my alma mater with honor and was a valued member of the Andrews & Kurth law firm in Houston.

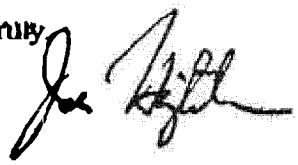
When Justice Owen joined the court she impressed me as being a very quick study because although she had no previous judicial experience she seemed to be able to quickly grasp the issues and frame them into judicial questions with great clarity.

In my opinion she was unbiased and wanted to find the core legal issue in each case.

When she joined the court I knew, of course, that Priscilla was a Republican. She ran and was elected on the Republican ticket. I am convinced that he political philosophy is honestly Republican. That is as it should be. I am a Democrat and my political philosophy is Democratic, but I tried very hard not to let preconceived philosophy influence my decision on matters before the court. I believe that Justice Owen has done the same.

I am also of the opinion that the people are not well served by the partisan election of judges. I have not always been of this opinion, but after two statewide elections for the court, and after raising and spending millions of dollars, I believe that there must be a better way.

Yours truly,



John L. Hill
JP Morgan Chase Tower
600 Travis Street, Suite 3400
Houston, Texas 77002
(713) 226-1230

July 19, 2002

Via Facsimile (202) 224-9516
and First Class Mail

The Honorable Patrick Leahy
Chairman, Committee on the Judiciary
United States Senate
224 Russell Senate Office Building
Washington, D. C. 20510

Dear Chairman:

President Bush honored impeccable integrity, character, and scholarship when he nominated to the U.S. Court of Appeals for the Fifth Circuit a leading voice for reform in the Texas judiciary: Priscilla Owen.

I came to know Justice Owen several years ago during her service on the Texas Supreme Court, where I had previously served as Chief Justice. Then and now, Justice Owen has distinguished herself as a forceful advocate for reforming Texas's system for selecting judges. Under the state Constitution, for more than 125 years, Texas has selected its judges through contested elections, and the law therefore permits judicial candidates to receive campaign contributions. The system has positive aspects, but one of the downsides is that it invites speculation about whether judges should preside in cases where their contributors appear as attorneys or parties. That's why Justice Owen tirelessly has fought to minimize the influence of campaign contributions in judicial elections.

Reflecting her early commitment to the integrity of the courts, Justice Owen signed a judicial reform pledge during her first campaign in 1994. She has championed several proposed constitutional amendments, including an option for judges to run in non-partisan retention elections. She has written to members of the bench and bar, urging them to back reform. She has argued that the judiciary should be above the influence of partisan politics. And in a unique combination of symbolism and substance, Justice Owen *returned* over a third of her campaign contributions after not drawing a Democrat or Republican opponent during her 2000 re-election campaign.

Justice Owen and I would be the first to admit that the Texas judicial-selection system is in need of reform. But some special interest groups confuse flaws in our system with flaws in our judges. These groups insist on denouncing individual members of the judiciary, when reform of the laws they dislike can only come from amending the Texas Constitution, which Justice Owen strongly supports.

Their attacks on Justice Owen in particular are breathtakingly dishonest, ignoring her long-held commitment to reform and grossly distorting her rulings. Tellingly, the groups make no effort to assess whether her decisions are legally sound, and instead are content to fall back on the canard of an "appearance of impropriety." Nor have they so much as acknowledged Justice Owen's unswerving leadership in seeking reform—reforms of which they presumably approve. The groups lack credibility when they attack Justice Owen for participating in a system that has been in place longer than a century, is mandated by the Texas Constitution, and is not within her ability to change by herself. I know Texas politics and can clearly say that these assaults on Justice Owen's record are false, misleading, and deliberate distortions.

After years of closely observing Justice Owen's work, I can assert with confidence that her approach to judicial decision-making is restrained, that her opinions are fair and well reasoned, and that her integrity is beyond reproach. I echo the American Bar Association's *unanimous* conclusion that she is "well qualified" for the federal bench—the highest rating possible. United States Senators from both sides of the aisle have called the ABA's rating the "gold standard" of a nominee's fitness for the federal bench, and I agree with them. I know personally just how impeccable Justice Owen's credentials are.

After graduating in 1977 from Baylor Law School with honors at the top of her class, Justice Owen earned the highest score on the Texas bar exam. Her academic excellence foreshadowed the exceptional career to follow. Elected twice by the people of Texas, Justice Owen has served with distinction on the Texas Supreme Court for more than seven years. In 2000, every major Texas newspaper endorsed Justice Owen during her successful re-election bid.

President Bush and both Senators from Texas strongly support Justice Owen. I join them and many, many others – of all political stripes – in calling on the U.S. Senate to give this intelligent, ethical, and gifted woman a fair hearing and swift Senate confirmation.

Very truly yours,

John L. Hill

JLH:br

cc: ***Via Facsimile (202) 228-1698***
and First Class Mail
The Honorable Orrin Hatch
United States Senate
152 Dirksen, Senate Office Building
Washington, D. C. 20510

HUGHES | LUCE LLP
ATTORNEYS AND COUNSELORS

1717 Main Street, Suite 2800
Dallas, TX 75201
214.939.5500
214.939.6100 fax

hughesluce.com

Darrell E. Jordan
214.939.5656
jordand@hughesluce.com

July 15, 2002

The Honorable Patrick Leahy
Chairman, Committee on the Judiciary
224 Russell Senate Office Building
Washington, D.C. 20510

Dear Chairman Leahy:

As past presidents of the State Bar of Texas, we join in this letter to strongly recommend an affirmative vote by the Judiciary Committee and confirmation by the full Senate for Justice Priscilla Owen, nominee to the United States Court of Appeals for the Fifth Circuit.

Although we profess different party affiliations and span the spectrum of views of legal and policy issues, we stand united in affirming that Justice Owen is a truly unique and outstanding candidate for appointment to the Fifth Circuit. Based on her superb integrity, competence and judicial temperament, Justice Owen earned her *Well Qualified* rating unanimously from the American Bar Association Standing Committee on the Federal Judiciary – the highest rating possible. A fair and bipartisan review of Justice Owen's qualifications by the Judiciary Committee certainly would reach the same conclusion.

Justice Owen's stellar academic achievements include graduating *cum laude* from both Baylor University and Baylor Law School, thereafter earning the highest score on the Texas Bar Exam in November 1977. Her career accomplishments are also remarkable. Prior to her election to the Supreme Court of Texas in 1994, for 17 years she practiced law specializing in commercial litigation in both the federal and state courts. Since January 1995, Justice Owen has delivered exemplary service on the Texas Supreme Court, as reflected by her receiving endorsements from every major newspaper in Texas during her successful re-election bid in 2000.

The status of our profession in Texas has been significantly enhanced by Justice Owen's advocacy of *pro bono* service and leadership for the membership of the State Bar of Texas. Justice Owen has served on committees regarding legal services to the poor and diligently worked with others to obtain legislation that provides substantial resources for those delivering legal services to the poor.

REV_00149857

Justice Owen also has been a long-time advocate for an updated and reformed system of judicial selection in Texas. Seeking to remove any perception of a threat to judicial impartiality, Justice Owen has encouraged the reform debate and suggested positive changes that would enhance and improve our state judicial branch of government.

While the Fifth Circuit has one of the highest per judge caseloads of any circuit in the country, there are presently two vacancies on the Fifth Circuit bench. Both vacancies have been declared "judicial emergencies" by the Administrative Office of the U. S. Courts. Justice Owen's service on the Fifth Circuit is critically important to the administration of justice.

Given her extraordinary legal skills and record of service in Texas, Justice Owen deserves prompt and favorable consideration by the Judiciary Committee. We thank you and look forward to Justice Owen's swift approval.

Sincerely,

Darrell E. Jordan

On behalf of former Presidents of the State Bar of Texas

Blake Tartt	Jim D. Bowmer
James B. Sales	Travis D. Shelton
Hon. Tom B. Ramey, Jr.	M. Colleen McHugh
Lonny D. Morrison	Lynne Liberato
Charles R. Dunn	Gibson Gayle, Jr.
Richard Pena	David J. Beck
Charles L. Smith	Cullen Smith

cc: The Honorable Orrin G. Hatch
Office of Legal Policy U. S. Justice Department

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 8/28/2002 8:15:53 AM
Subject: : Re: Mtgs. for week of Sept. 3

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:28-AUG-2002 12:15:53.00
SUBJECT:: Re: Mtgs. for week of Sept. 3
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Wed., Sept. 4
2:45-3:00 Prep/brief for Call
3:00-3:30 Call
3:30-4:00 JSC Prep
4:00-5:00 JSC

Brett M. Kavanaugh
08/28/2002 12:07:36 PM
Record Type: Record

To: Elizabeth N. Camp/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Mtgs. for week of Sept. 3

yes, 15 minutes

Elizabeth N. Camp
08/28/2002 12:09:13 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Mtgs. for week of Sept. 3

That works. Do you need a few minutes to prep him or brief him for the call?

Brett M. Kavanaugh
08/28/2002 10:56:10 AM
Record Type: Record

To: Elizabeth N. Camp/WHO/EOP@EOP
cc:
Subject: Re: Mtgs. for week of Sept. 3

Can you block out time for Wed at 3? 20 minutes for a call on judges with groups around the country.

Sent from my BlackBerry Handheld.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 8/28/2002 2:26:50 PM
Subject: : District court process

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:28-AUG-2002 18:26:50.00
SUBJECT:: District court process
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Ideal: Notice of a vacancy and application instructions are put
out to members of state bar as well as home-State Senators, Members of
Congress, federal and state judges, US Attorneys, state prosecutors,
public defenders, state bar association, county and city bar associations,
state and local bar presidents. Application forms are made available and
submitted on WH web site. Recommendations and reference letters are
received and checked. WHC interviews are conducted. References and
recommendations are checked further. Home-State Senators are consulted.
Recommendation is made to President. FBI background check is conducted.
```

From: CN=Tim Goeglein/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: matthew e. smith/who/eop@eop [WHO] <matthew e. smith>
Sent: 8/29/2002 1:21:36 PM
Subject: : Re: President's comments today in Oklahoma at Sen. Inhofe event

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:29-AUG-2002 17:21:36.00
SUBJECT:: Re: President's comments today in Oklahoma at Sen. Inhofe event
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:matthew e. smith (CN=matthew e. smith/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

great; will send widely

tsg

Brett M. Kavanaugh
08/29/2002 02:39:53 PM
Record Type: Record

To: Tim Goeglein/WHO/EOP@EOP, Matthew E. Smith/WHO/EOP@EOP
cc:
Subject: President's comments today in Oklahoma at Sen. Inhofe
event

And finally, we need to get him back up there so he'll support some judges that I nominated. (Applause.) I found fine people to serve on our bench; good, honorable, honest people. We named one, Priscilla Owen, recently. She's smart, she's capable, one of the top students when she was in law school at Baylor. She got elected twice -- I think twice, but I know she got elected at least twice statewide in Texas, with overwhelming numbers. She's a very, very smart and capable woman. But somehow, some of them up there don't like her. I guess maybe they don't like the fact that I nominated her. But this isn't right for the judicial system, for them to be playing politics with a fine, smart, capable woman. And we need people like Jim Inhofe up there to defend my judicial nominees in Washington, D.C. (Applause.)

From: Sales, Nathan <Nathan.Sales@usdoj.gov>
To: 'leonard leo (e-mail)' <lleo@fed-soc.org>;'kay daly (e-mail)' <krdaly@aol.com>;Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>;Keefer, Wendy J <Wendy.J.Keefer@usdoj.gov>;O'Brien, Pat <Pat.O'Brien@usdoj.gov>;Remington, Kristi L <Kristi.L.Remington@usdoj.gov>;Charnes, Adam <Adam.Charnes@usdoj.gov>;'jennifer oschal (e-mail)' <joschal@att.net>;'barbara ledeen (e-mail)' <barbara_ledeen@src.senate.gov>;Anne Womack/WHO/EOP@EOP [WHO] <Anne Womack>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Koebele, Steve <Steve.Koebele@usdoj.gov>;Goodling, Monica <Monica.Goodling@usdoj.gov>;Willett, Don <Don.Willett@usdoj.gov>;Dinh, Viet <Viet.Dinh@usdoj.gov>
Sent: 8/30/2002 10:06:07 AM
Subject: : Jipping on Owen and Biden
Attachments: P_9R6S9003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Sales, Nathan" <Nathan.Sales@usdoj.gov> ( "Sales, Nathan" <Nathan.Sales@usdoj.gov>
[ UNKNOWN ] )
CREATION DATE/TIME:30-AUG-2002 14:06:07.00
SUBJECT:: Jipping on Owen and Biden
TO:"'leonard leo (e-mail)'" <lleo@fed-soc.org> ( "'leonard leo (e-mail)'" <lleo@fed-
soc.org> [ UNKNOWN ] )
READ:UNKNOWN
TO:"'kay daly (e-mail)'" <krdaly@aol.com> ( "'kay daly (e-mail)'" <krdaly@aol.com> [
UNKNOWN ] )
READ:UNKNOWN
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:"Keefer, Wendy J" <Wendy.J.Keefer@usdoj.gov> ( "Keefer, Wendy J"
<Wendy.J.Keefer@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"O'Brien, Pat" <Pat.O'Brien@usdoj.gov> ( "O'Brien, Pat" <Pat.O'Brien@usdoj.gov> [
UNKNOWN ] )
READ:UNKNOWN
TO:"Remington, Kristi L" <Kristi.L.Remington@usdoj.gov> ( "Remington, Kristi L"
<Kristi.L.Remington@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Charnes, Adam" <Adam.Charnes@usdoj.gov> ( "Charnes, Adam" <Adam.Charnes@usdoj.gov> [
UNKNOWN ] )
READ:UNKNOWN
TO:"'jennifer oschal (e-mail)'" <joschal@att.net> ( "'jennifer oschal (e-mail)'"
<joschal@att.net> [ UNKNOWN ] )
READ:UNKNOWN
TO:"'barbara ledeen (e-mail)'" <barbara_ledeen@src.senate.gov> ( "'barbara ledeen
(e-mail)'" <barbara_ledeen@src.senate.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:Anne Womack ( CN=Anne Womack/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:"Koebele, Steve" <Steve.Koebele@usdoj.gov> ( "Koebele, Steve" <Steve.Koebele@usdoj.gov>
[ UNKNOWN ] )
READ:UNKNOWN
TO:"Goodling, Monica" <Monica.Goodling@usdoj.gov> ( "Goodling, Monica"
<Monica.Goodling@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Willett, Don" <Don.Willett@usdoj.gov> ( "Willett, Don" <Don.Willett@usdoj.gov> [
UNKNOWN ] )
READ:UNKNOWN
TO:"Dinh, Viet" <Viet.Dinh@usdoj.gov> ( "Dinh, Viet" <Viet.Dinh@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

-----Original Message-----
```

From: Tom Jipping [mailto:Tjipping@cwfa.org]
Sent: Friday, August 30, 2002 1:50 PM
To: Sales, Nathan; 'tim(u)goeglein(a)who.eop.gov';
'ed(u)haden(a)judiciary.senate.gov';
'manuel(u)miranda(a)judiciary.senate.gov'
Subject: This will be in the Washington Times on Tuesday 9-3-02

- WT piece on Owen_.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_9R6S9003_WHO.TXT_1>

The Senate Judiciary Committee's vote on Priscilla Owen's appeals court nomination will reveal the health of the judicial confirmation process.

Qualifications really mattered once. On ~~Jonc~~June 24, 1986, Judiciary Committee member Joseph Biden (D-DE) explained that he would vote for judicial nominees with "the earmarks of excellence, intellectual capability, high achievement, and demonstrated excellence in the law and the requisite judicial temperament." A member of the Texas Supreme Court since 1994, Justice Owen received a unanimous "Well Qualified" rating from the American Bar Association, once praised by Democrats as the "gold standard."

Democrats once opposed partisanship. On March 19, 1997, Judiciary Committee member Edward Kennedy (D-MA) said it is "time to end the excessive partisanship over judicial nominations." On June 16, 1997, Judiciary Committee Chairman Patrick Leahy (D-VT) said that "if there is one area where partisan politics should not be allowed, it is in the area of the federal judiciary."

Democrats once opposed litmus tests. On April 14, 1994, then-Chairman Biden condemned as "inappropriate" the fact that some critics of a female appeals court nominee "object to some of her decisions and therefore her confirmation on ideological grounds." On March 19, 1997, he said if judicial nominees "will be [persons] of their word and follow [precedent], it does not matter to me what their ideology is." On July 10, 1997, Sen. Leahy said he hoped "that no senator is imposing an ideological litmus test on judicial nominations." On March 17, 1998, he warned the Senate not to head "down a road toward an ideological litmus test."

Democrats once said that judicial nominees deserve a vote by the full Senate. On March 19, 1997, Sen. Biden said that "everyone who is nominated is entitled to … have a hearing and to have … a vote on the [Senate] floor.... We in the Judiciary Committee have the right to give advice to the Senate, but it is the Senate that gives its advice and consent on judicial nominations." On September 28, 1998, Judiciary Committee member Richard Durbin (D-IL) said that 150 days was too long for a nominee to wait without a full Senate vote (Justice Owen was nominated 476 days ago). In fact, in the past 60 years, the Senate Judiciary Committee has voted to prevent a judicial nominee from reaching the full Senate just five times.

That was then, this is now. Despite Justice Owen's qualifications, community service, and widespread support in Texas, far-left political interest groups have ordered Democrat senators to oppose her on purely ideological grounds. Abortion extremists, for example, say Justice Owen has a "strong personal bias against the right to choose" based on a few votes in parental notification cases. Yet Justice Owen was in the majority in nine of those 12 cases, dissenting only three times to uphold the decision of two lower courts requiring notification. The liberal Washington Post said on July 24 that these three votes were not "beyond the range of reasonable judicial disagreement." Will senators once opposed to litmus tests vote against a qualified nominee because of three votes that even a liberal editorial page says are reasonable?

Sen. Biden has outlined the better course. On April 19, 1994, he said he would support nominees who have "the capacity, competence, and temperament," who are "of good character" and "free of conflict of interest," and who will "faithfully apply the Constitution and the precedents of the Supreme Court." According to the ABA, its "well qualified" rating means that Justice Owen is "at the top of the legal profession" and has "outstanding legal ability, breadth of experience," and "the highest reputation for integrity."

As if he were speaking today about the Owen nomination, Sen. Biden said on June 24, 1986, that a judicial confirmation "is not about right to life, it is not about conservative or liberal, it is not about Democrat or Republican. It is about intellectual and professional competence to serve as a member of the third coequal branch of the government." And so it should be today.

Will senators capitulate to the far-left groups that want them to ignore qualifications and impose ideological litmus tests? Will they vote against Justice Owen because they disagree about the outcome of some cases? Or will they instead use the standard Sen. Biden outlined on September 17, 1986: "[T]he fact that I may disagree with the nominee about the outcome of one or another matter within the legitimate parameters of debate is not enough" to oppose a nominee?

The Judiciary Committee's vote will speak volumes.

Thomas L. Jipping, J.D., is Senior Fellow in Legal Studies at Concerned Women for America, the nation's largest public policy women's organization.

From: CN=Ashley Estes/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>
Sent: 8/30/2002 3:20:48 PM
Subject: : Test

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Ashley Estes ( CN=Ashley Estes/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:30-AUG-2002 19:20:48.00
SUBJECT:: Test
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
Sent: 9/3/2002 4:57:39 PM
Subject: : e-mail me when you know whether vote will occur Thursday; thx

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 3-SEP-2002 20:57:39.00
SUBJECT:: e-mail me when you know whether vote will occur Thursday; thx
###### End Original ARMS Header ######
```

From: Koebele, Steve <Steve.Koebele@usdoj.gov>
To: Goodling, Monica <Monica.Goodling@usdoj.gov>;Willett, Don <Don.Willett@usdoj.gov>;Charnes, Adam <Adam.Charnes@usdoj.gov>;Dinh, Viet <Viet.Dinh@usdoj.gov>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 9/4/2002 3:10:10 AM
Subject: : NY Times Editorial - Owen

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Koebele, Steve" <Steve.Koebele@usdoj.gov> ("Koebele, Steve"
<Steve.Koebele@usdoj.gov> [UNKNOWN])
CREATION DATE/TIME: 4-SEP-2002 07:10:10.00
SUBJECT:: NY Times Editorial - Owen
TO:"Goodling, Monica" <Monica.Goodling@usdoj.gov> (Receipt Notification Requested) (IPM
Return Requested) ("Goodling, Monica" <Monica.Goodling@usdoj.gov> (Receipt Notification
Requested) (IPM Return Requested) [UNKNOWN])
READ:UNKNOWN
TO:"Willett, Don" <Don.Willett@usdoj.gov> (Receipt Notification Requested) (IPM Return
Requested) ("Willett, Don" <Don.Willett@usdoj.gov> (Receipt Notification Requested) (IPM
Return Requested) [UNKNOWN])
READ:UNKNOWN
TO:"Charnes, Adam" <Adam.Charnes@usdoj.gov> (Receipt Notification Requested) (IPM Return
Requested) ("Charnes, Adam" <Adam.Charnes@usdoj.gov> (Receipt Notification Requested) (IPM
Return Requested) [UNKNOWN])
READ:UNKNOWN
TO:"Dinh, Viet" <Viet.Dinh@usdoj.gov> (Receipt Notification Requested) (IPM Return
Requested) ("Dinh, Viet" <Viet.Dinh@usdoj.gov> (Receipt Notification Requested) (IPM
Return Requested) [UNKNOWN])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

All -- While Justice Owen's confirmation was endorsed by several papers,
including the Washington Post and the Chicago Tribune, the New York Times
elected to oppose her, as shown by the link below.

http://www.nytimes.com/2002/09/04/opinion/04WED1.html?pagewanted=print&posi
tion=top

Thank you, Steve.

From: CN=Douglas L. Hoelscher/OU=WHO/O=EOP [WHO]
To: Collister W. Johnson/WHO/EOP@EOP [WHO] <Collister W. Johnson>
CC: dmcmaster@georgewbush.com @ inet [UNKNOWN] <dmcmaster@georgewbush.com @ inet>;Andrew W. McGarrity/WHO/EOP [WHO] <Andrew W. McGarrity>;jhuntsberry@rnchq.org @ inet [UNKNOWN] <jhuntsberry@rnchq.org @ inet>;bhazelwood@rnchq.org @ inet [UNKNOWN] <bhazelwood@rnchq.org @ inet>;david j. patterson/who/eop@eop [WHO] <david j. patterson>;matthew a. schlapp/who/eop@eop [WHO] <matthew a. schlapp>;vmaldonado@rnchq.org @ inet [UNKNOWN] <vmaldonado@rnchq.org @ inet>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>
Sent: 9/4/2002 4:00:01 AM
Subject: : Re: 72 hour Task Force Recruitment letters
Attachments: P_ZD7U9003_WHO.TXT_1.doc; P_ZD7U9003_WHO.TXT_2.doc; P_ZD7U9003_WHO.TXT_3.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Douglas L. Hoelscher (CN=Douglas L. Hoelscher/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 4-SEP-2002 08:00:01.00
SUBJECT:: Re: 72 hour Task Force Recruitment letters
TO:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:dmcmaster@georgewbush.com @ inet (dmcmaster@georgewbush.com @ inet [UNKNOWN])
READ:UNKNOWN
CC:Andrew W. McGarrity (CN=Andrew W. McGarrity/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
CC:jhuntsberry@rnchq.org @ inet (jhuntsberry@rnchq.org @ inet [UNKNOWN])
READ:UNKNOWN
CC:bhazelwood@rnchq.org @ inet (bhazelwood@rnchq.org @ inet [UNKNOWN])
READ:UNKNOWN
CC:david j. patterson (CN=david j. patterson/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:matthew a. schlapp (CN=matthew a. schlapp/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:vmaldonado@rnchq.org @ inet (vmaldonado@rnchq.org @ inet [UNKNOWN])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

Ken is thinking about using his name and will discuss it this morning.

Collister W. Johnson
09/03/2002 07:39:17 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: See the distribution list at the bottom of this message
Subject: 72 hour Task Force Recruitment letters

Brett signed off on these so long as we don not use Ken's name in any of them -
if we do want to use Ken's name, we cannot need use the title, and we need to talk about the consequences - since it will definitely make news.

Hoelscher is back in town, so he is taking the lead on pushing these through -
I imagine we are okay without using Ken's name and that these can go out asap.

Doug and Blaise - thoughts?

c

---------- Forwarded by Collister W. Johnson/WHO/EOP on 09/03/2002 07:38 PM ----------

Collister W. Johnson
08/28/2002 07:13:16 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: See the distribution list at the bottom of this message
Subject: 72 hour Task Force Recruitment letters

Brett:

Attached are three letters for your approval.

Each will be sent out as recruitment tools on behalf of RNC's 72 Hour Task Force program, where recipients will be encouraged to take 1-3 weeks and volunteer for key targeted campaigns.

Please note these these three separate letters are designated by the universe to which they will be sent, i.e.L
- "72 Hour Letter volunteer (sched c)": will go to sched. c's thru the approved process of WH Liaison hand-delivery (note that Ken does NOT sign this letter).
- "72 Hour Letter volunteer (non-sched c)": will go to Hill staffers and K street workers whom the RNC believes willing to volunteer (note that Ken does sign this letter).
- "72 Hour Letter Elected Officals": will go to GOP elected officials across the country who do not face competitive elections this cycle.

Your guidance when you have a moment... thank you sir (!)

c

- 72 Hour Letter volunteer (sched c).doc
- 72 Hour Letter volunteer (non-sched c).doc
- 72 Hour Letter Elected Officials.doc

Message Copied
To:
bhazelwood@rnchq.org @ inet
vmaldonado@rnchq.org @ inet
jhuntsberry@rnchq.org @ inet
Matthew A. Schlapp/WHO/EOP@EOP
Andrew_w._Mcgarrity@who.eop.gov
David J. Patterson/WHO/EOP@EOP
dmcmaster@georgewbush.com @ inet
Douglas L. Hoelscher/WHO/EOP@EOP

Message Copied
To:_____
bhazelwood@rnchq.org @ inet
vmaldonado@rnchq.org @ inet
jhuntsberry@rnchq.org @ inet
Matthew A. Schlapp/WHO/EOP@EOP
Andrew_w._Mcgarrity@who.eop.gov
David J. Patterson/WHO/EOP@EOP
dmcmaster@georgewbush.com @ inet
Douglas L. Hoelscher/WHO/EOP@EOP

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ZD7U9003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ZD7U9003_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ZD7U9003_WHO.TXT_3>

August 15, 2002

The President's victory in the 2000 Election was due in large part to the extraordinary way in which our Republican team came together. Thank you for the important role you played – and continue to play - in making that team so successful.

Perhaps most critical was our turnout effort on Election Day – an effort that, while strong in 2000, can almost certainly be improved and expanded in 2002. To that end the RNC is recruiting talented and capable leaders to join the "72 Hour Task Force": an elite group of volunteers who will help direct turnout efforts in targeted states and districts across the country.

We invite you to join this Task Force.

Please contact Jason Huntsberry at your earliest possible convenience at 202-863-8823 or jhuntsberry@rnchq.org to sign up.

Thank you again for your support and dedication – and onward to success this November!

Jack Oliver
Deputy Chairman
Republican National Committee

Blaise Hazelwood
Political Director
Republican National Committee

August 15, 2002

The President's victory in the 2000 Election was due in large part to the extraordinary way in which our Republican team came together. Thank you for the important role you played – and continue to play - in making that team so successful.

Perhaps most critical was our turnout effort on Election Day – an effort that, while strong in 2000, can almost certainly be improved and expanded in 2002. To that end the RNC is recruiting talented and capable leaders to join the "72 Hour Task Force": an elite group of volunteers who will help direct turnout efforts in targeted states and districts across the country.

We invite you to join this Task Force.

Please contact Jason Huntsberry at your earliest possible convenience at 202-863-8823 or jhuntsberry@rnchq.org to sign up.

Thank you again for your support and dedication – and onward to success this November!

Ken Mehlman
Deputy Assistant to the President and
Director of Political Affairs

Blaise Hazelwood
Political Director
Republican National Committee

August 15, 2002

The President's victory in the 2000 Election was due in large part to the extraordinary way in which our Republican team came together. Thank you for the important role you played – and continue to play - in making that team so successful.

Perhaps most critical was our turnout effort on Election Day – an effort that, while strong in 2000, can almost certainly be improved and expanded in 2002. To that end the RNC is recruiting talented and capable leaders to join the "72 Hour Task Force": an elite group of volunteers who will help direct turnout efforts in targeted states and districts across the country.

We invite you to join by allowing the men and women of your campaign teams to volunteer for this Task Force. Please encourage them to contact Jason Huntsberry at their earliest possible convenience at 202-863-8823 or jhuntsberry@rnchq.org to sign up.

Thank you again for your support and dedication – and onward to success this November!

Ken Mehlman
Deputy Assistant to the President and
Director of Political Affairs

Blaise Hazelwood
Political Director
Republican National Committee

From: PFA War Room) (warroom@progressforamerica.org (PFA War Room) [UNKNOWN]
To: warroom@progressforamerica.org [UNKNOWN] <warroom@progressforamerica.org>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 9/4/2002 8:44:39 AM
Subject: : USA Today: Bush's agenda hinges on midterm election
Attachments: P_FLFU9003_WHO.TXT_1.htm

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:warroom@progressforamerica.org (PFA War Room) ( warroom@progressforamerica.org (PFA
War Room) [ UNKNOWN ] )
CREATION DATE/TIME: 4-SEP-2002 12:44:39.00
SUBJECT:: USA Today: Bush's agenda hinges on midterm election
TO:warroom@progressforamerica.org ( warroom@progressforamerica.org [ UNKNOWN ] )
READ:UNKNOWN
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

"...In the Senate, the switch of a single seat would swing control to the
Republicans from the Democrats. That presumably would speed consideration
of
50 backlogged judicial nominations. If Republicans had control, they
probably could have forced the full Senate to vote on the nomination of
Mississippi federal Judge Charles Pickering for the Appeals Court. Instead,
the Judiciary Committee voted along party lines in March to reject it..."
http://www.usatoday.com/usatonline/20020904/4416110s.htm

Bush's agenda hinges on midterm election Results of Nov. 5 vote could shape
his -- and the country's -- future

By Susan Page
USA TODAY


WASHINGTON -- President Bush isn't on the ballot this fall, but much of his
presidency will be at stake.

The results of Senate, House and gubernatorial races in November will
determine what compromises the president will have to strike over the next
two years to enact his legislative priorities, whether he'll be able to
force confirmation votes on his judicial nominees, how much he can count on
big-state governors to boost his re-election campaign in 2004 -- even how
many congressional subpoenas his administration is likely to face.

''What it means to the president is how much he gets accomplished during
his
watch,'' Republican National Committee Chairman Marc Racicot says of the
election returns.

''It can slam the brakes on any agenda that you may have as a president,
depending on the kind of Congress you're confronting,'' says Leon Panetta,
White House chief of staff during the election that came midway through
President Clinton's first term in 1994. That year, Democrats lost control
of
the House of Representatives and Senate.

''The reality is you may control the bully pulpit, but Capitol Hill
basically controls the purse and what ultimately gets done in terms of
legislation,'' Panetta says. ''It can be very significant in terms of the
legacy of any administration.''

Little wonder, then, that White House strategists have watched with concern
while an election landscape that lacked much national drama has been shaken
through the summer by growing economic unease and reports of corporate
```

misdeeds. The administration's economic forum in Waco, Texas, last month couldn't do anything to affect the economy, organizers knew, but at least it would demonstrate presidential concern about its course.

Likewise, Bush has embarked on a record-breaking round of campaign appearances for GOP candidates even though his strategists acknowledge he'll have a marginal effect on the outcome of their races. A top White House political adviser says that's one thing the economy and the election have in common: They are critical to Bush's fortunes but outside his control.

Republican strategists who were reasonably confident in the spring that the GOP could maintain its slim margin of control in the House this year are no longer so sure as fall campaigning begins in earnest. ''We honestly believe that we can hold on to the majority in the House . . . and we honestly believe that we can regain control of the Senate,'' Racicot says. ''But we certainly wouldn't guarantee that's going to happen.''

The election halfway through Bush's term also will be seen as a sort of referendum on him and his first two years on the job. That may be the case more so than for most presidents because of the way Bush took office last year -- after a disputed election in which he lost the popular vote. The first big Election Day since then will test whether he has coattails and the Republican message has legs.

Of special concern: the Senate contest in Bush's home state of Texas, where an upset victory by Democrat Ron Kirk over Republican John Cornyn would be particularly embarrassing. Karen Hughes, a member of Bush's inner circle who recently moved back to Austin, is keeping an eye on that race. She is his former counselor.

''It is a straw in the wind,'' Ross Baker, a political scientist at Rutgers University in New Jersey, says of the November election. ''If it's adverse, if the Democrats really score big, it would probably tell a prudent president that he's got to make a midcourse correction.''

Shaping the 2004 field

If the Democrats score big, that's also likely to energize those who are testing the waters for the 2004 presidential campaign. Within weeks after the election, former vice president Al Gore, Sen. John Edwards of North Carolina, Sen. John Kerry of Massachusetts and others will be forced by the early Democratic primary schedule to decide whether Bush seems vulnerable enough to make a grueling presidential campaign look worthwhile.

The results will shape the presidential field in other ways. If Democrats lose control of the Senate, Democratic leader Tom Daschle of South Dakota may be more likely to run for president. In the House, Democratic leader Richard Gephardt of Missouri has told friends he will run for president if his party stays in the minority. If Democrats regain control, making him speaker, it's not clear what he'll decide.

Even so, history says midterm elections don't signal whether a president will win re-election two years later. If anything, damaging midterms can be a political blessing in disguise, forcing changes at the White House and giving the president an easy foil in an opposition Congress. Since World War II, the presidents whose political parties had the most disastrous midterms -- Harry Truman in 1946, Dwight Eisenhower in 1954 and Bill Clinton in 1994 -- were re-elected two years later.

Consider this: In that time, no opposition party that has gained control of the House or Senate in the election midway through a president's first term

has managed to win back the White House two years later.

The two presidents who were defeated for second terms -- Jimmy Carter and the elder George Bush -- had better-than-average showings in their midterm elections in 1978 and 1990, respectively.

''In 1982, we lost 26 seats in Congress before Reagan romped to re-election in '84,'' recalls Ron Kaufman, a Republican consultant who was then national
political director for the Republican National Committee. In 1990, Kaufman was a senior White House aide for the first President Bush when the GOP lost
just eight House seats -- only to see Bush lose re-election two years later.

One election has nothing to do with the next, Kaufman says. The impact of midterms are ''overstated and overreported'' by strategists and journalists,
he says.

Getting things done

But he acknowledges that the election does affect the following two years of
the president's term. The substantive impact on Bush's legislative agenda could be especially powerful this year, when control of both houses of Congress is up for grabs.

''In terms of personal survival, sometimes a president is better off with an
opposition party'' scoring gains, says Rep. Tom Davis of Virginia, chairman of the Republicans' congressional campaign committee. ''But if you talk about doing things for the country, you want to control at least one house.''

In the House, a switch of just six seats would swing control to Democrats from the Republicans. That would upend the strategy the White House has used
on almost every major legislative priority: Push the president's proposal through the House and use that as a lever to pressure the Democratic-controlled Senate.

Now, GOP leaders in the House often protect the White House's political interests. Democrats complain the Republicans have blocked votes on measures
that Bush might find awkward, including the Democratic version of a prescription drug benefit for seniors and a measure to endorse -- or reject -- the recommendations of Bush's Social Security commission. The panel proposed adding private investment accounts to the retirement system, a suggestion that many officeholders see as politically radioactive.

''You'd have a different agenda if Democrats controlled the House,'' says Rep. Martin Frost, D-Texas, who would be in line to take over the powerful Rules Committee. He also will run for majority leader if the election elevates Gephardt to speaker. ''They'll be more legitimate contests and philosophical contests in terms of the content of legislation.''

Before a bill could be passed, Frost says, the White House would be forced to negotiate and compromise with Democrats.

Davis sees another important consequence if the GOP loses control of the House: Rep. Henry Waxman, D-Calif., would become chairman of the Government Reform Committee.

Republican Chairman Dan Burton of Indiana used the committee to launch debilitating investigations of the Clinton White House. Waxman has been a fierce critic of the Bush White House on issues such as the secrecy of its energy task force. But without control of the committee, Democrats have

been
unable to schedule hearings or issue subpoenas.

''You'd have one hearing after another,'' Davis predicts. ''I don't think they realize what's in store for them if that happens.''

As chairman, Waxman would call hearings on issues he felt were important, says Phil Schiliro, his chief of staff -- issues such as what industry leaders met with Vice President Cheney's energy task force. ''The public has
a right to know,'' he says. ''There needs to be accountability.''

A single Senate seat

In the Senate, the switch of a single seat would swing control to the Republicans from the Democrats. That presumably would speed consideration of
50 backlogged judicial nominations. If Republicans had control, they probably could have forced the full Senate to vote on the nomination of Mississippi federal Judge Charles Pickering for the Appeals Court. Instead, the Judiciary Committee voted along party lines in March to reject it.

To the frustration of Republicans, Daschle has refused to bring up for quick
consideration a series of administration-backed bills that have cleared the House, among them proposals to make the tax cuts in last year's legislation permanent and to change pension laws. The measures probably would have been debated on the Senate floor, though not necessarily enacted, if Republicans were in charge.

''We'd be in a different situation if we still controlled the Senate,'' says
a senior White House official who helps formulate strategy. ''Being able to set the calendar and being able to control committee action is critical. And
to state the obvious, having House Republicans -- particularly with their discipline and ability to get things done -- is critical.''

In the statehouses, Democrats are favored to gain control of a half-dozen governorships now held by Republicans, including in such key electoral states as Illinois, Michigan and Pennsylvania. Governors can provide a ready-made political infrastructure for the party's presidential candidate. ''Clearly the governor's office is crucial in fundraising in a state, message development, political organization -- all the things presidential campaigns like,'' says Connecticut Gov. John Rowland, chairman of the Republican Governors Association. ''It's worth a couple of points.''

Think of the natural advantages for Bush in having a fellow Republican, not to mention a brother, as Florida governor in 2000.

Defying history

Aides say Bush can help Republican candidates most this fall by headlining fundraisers -- he has already broken presidential records by raising about $115 million so far this year -- and maintaining his approval rating. An internal White House analysis notes the relationship between presidential approval and midterm elections. If a president's approval rating is above 60%, an average of five House seats has been lost. If it's below 50%, the average is 41.

What the White House hopes to do this year is defy a historic pattern. Since
World War II, the president's party has lost an average of 24 House seats and two to three Senate seats in his first midterm. (Losses midway through a
second term tend to be much higher.)

Holding control of the House will mean losing no more than five Republican

House seats -- a better showing for the president's party than that in any first-term midterm in four decades. The White House also hopes to gain at least the single Senate seat needed for control.

''When you have a House and Senate that share his vision and his priorities,
the president will be able to move swiftly to implement his positive agenda,'' White House spokesman Anne Womack says. She calls the Nov. 5 election ''one of the president's priorities.''

Even so, there can be unexpected consequences from the election returns. The
Republican takeover of Congress in 1946 gave Harry Truman a fat target. Railing against ''the do-nothing 80th Congress'' helped lead to his upset victory in 1948. The Republican takeover of Congress in 1994 so unnerved Bill Clinton that ''it took a few months to really be able to move beyond the shock of what happened in that election,'' Panetta recalls.

But those losses prompted Clinton to move to more centrist policies, pre-empt some Republican issues and gain credit for welfare reform and balancing the budget. One result: He won another term two years later.

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_FLFU9003_WHO.TXT_1>

"...In the Senate, the switch of a single seat would swing control to the Republicans from the Democrats. That presumably would speed consideration of 50 backlogged judicial nominations. If Republicans had control, they probably could have forced the full Senate to vot e on the nomination of Mississippi federal Judge Charles Pickering for the Appeal s Court. Instead, the Judiciary Committee voted along party lines in March to reject it..."

http://www.usat oday.com/usatonline/20020904/4416110s.htm

Bush's agenda hinges on midterm election Results of Nov. 5 vote could shape his -- and the country's -- future

By Susan Page
USA TODAY

WASHINGTON -- President Bush isn't on the ballot this fall, but much of his presidency will be at stake.

The results of Senate, House and gubernatorial races in November will determine what compromises the president will have to strike over the next two years to enact his legislative priorities, whether he'll be able to force confirmation votes on his judicial nominees, how much he can count on big-state governors to boost his re-election campaign in 2004 -- even how many congressional subpoenas his administration is likely to face.

"What it means to the president is how much he gets accomplished during his watch," Republican National Committee Chairman Marc Racicot says of the election returns.

"It can slam the brakes on any agenda that you may have as a president, depending on the kind of Congress you're confronting," says Leon Panetta, Whit e House chief of staff during the election that came midway through President Clinton's first term in 1994. That year, Democrats lost control of the House of Representatives and Senate.

"The reality is you may control the bully pulpit, but Capitol Hill basicall y controls the purse and what ultimately gets done in terms of legislation," Panetta says. "It can be very significant in terms of the legacy of any administration."

Little wonder, then, that White House strategists have watched with concern while an election landscape that lacked much national drama has been shaken through the summer by growing economic unease and reports of corporate misdeeds . The administration's economic forum in Waco, Texas, last month couldn't do anything to affect the economy, organizers knew, but at least it would demonstrate presidential concern about its course.

Likewise, Bush has embarked on a record-breaking round of campaign appearances for GOP candidates even though his strategists acknowledge he'll have a marginal effect on the outcome of their races. A top White House political adviser says that's one thing the economy and the election have in common: They are critical to Bush's fortunes but outside his control.

Republican strategists who were reasonably confident in the spring that the GOP could maintain its slim margin of control in the House this year are no longer so sure as fall campaigning begins in earnest. "We honestly believe tha t we can hold on to the majority in the House . . . and we honestly believ e that we can regain control of the Senate," Racicot says. "But we certainly wouldn't guarantee that's going to happen."

The election halfway through Bush's term also will be seen as a sort of referendum on him and his first two years on the job. That may be the case more so than for most presidents because of the way Bush took office last year -- after

a disputed election in which he lost the popular vote. The first big Election Day since then will test whether he has coattails and the Republican message has legs.

Of special concern: the Senate contest in Bush's home state of Texas, where an upset victory by Democrat Ron Kirk over Republican John Cornyn would be particularly embarrassing. Karen Hughes, a member of Bush's inner circle who recently moved back to Austin, is keeping an eye on that race. She is his forme r counselor.

"It is a straw in the wind," Ross Baker, a political scientist at Rutgers University in New Jersey, says of the November election. "If it's adverse, if the Democrats really score big, it would probably tell a prudent president that he's got to make a midcourse correction."

Shaping the 2004 field

If the Democrats score big, that's also likely to energize those who are testing the waters for the 2004 presidential campaign. Within weeks after the election, former vice president Al Gore, Sen. John Edwards of North Carolina, Sen. John Kerry of Massachusetts and others will be forced by the early Democratic primary schedule to decide whether Bush seems vulnerable enough to make a grueling presidential campaign look worthwhile.

The results will shape the presidential field in other ways. If Democrats lose control of the Senate, Democratic leader Tom Daschle of South Dakota may b e more likely to run for president. In the House, Democratic leader Richard Gephardt of Missouri has told friends he will run for president if his party stays in the minority. If Democrats regain control, making him speaker, it's no t clear what he'll decide.

Even so, history says midterm elections don't signal whether a president wil l win re-election two years later. If anything, damaging midterms can be a political blessing in disguise, forcing changes at the White House and giving the president an easy foil in an opposition Congress. Since World War II, the presidents whose political parties had the most disastrous midterms -- Harry Truman in 1946, Dwight Eisenhower in 1954 and Bill Clinton in 1994 -- were re-elected two years later.

Consider this: In that time, no opposition party that has gained control of the House or Senate in the election midway through a president's first term has managed to win back the White House two years later.

The two presidents who were defeated for second terms -- Jimmy Carter and th e elder George Bush -- had better-than-average showings in their midterm election s in 1978 and 1990, respectively.

"In 1982, we lost 26 seats in Congress before Reagan romped to re-election in '84," recalls Ron Kaufman, a Republican consultant who was then national political director for the Republican National Committee. In 1990, Kaufman was a senior White House aide for the first President Bush when the GOP lost just eight House seats -- only to see Bush lose re-election two years later.

One election has nothing to do with the next, Kaufman says. The impact of midterms are "overstated and overreported" by strategists and journalists, he says.

Getting things done

But he acknowledges that the election does affect the following two year s of the president's term. The substantive impact on Bush's legislative agenda could be especially powerful this year, when control of both houses of Congress is up for grabs.

"In terms of personal survival, sometimes a president is better off with an opposition party" scoring gains, says Rep. Tom Davis of Virginia, chairman of the Republicans' congressional campaign committee. "But if you talk about doin g things for the country, you want to control at least one house."

In the House, a switch of just six seats would swing control to Democrats from the Republicans. That would upend the strategy the White House has used on almost every major legislative priority: Push the president's proposal through the House and use that as a lever to pressure the Democratic-controlled Senate.

Now, GOP leaders in the House often protect the White House's political interests. Democrats complain the Republicans have blocked votes on measures that Bush might find awkward, including the Democratic version of a prescriptio n drug benefit for seniors and a measure to endorse -- or reject -- the recommendations of Bush's Social Security commission. The panel proposed adding private investment accounts to the retirement system, a suggestion that many officeholders see as politically radioactive.

"You'd have a different agenda if Democrats controlled the House," says Rep. Martin Frost, D-Texas, who would be in line to take over the powerful Rule s Committee. He also will run for majority leader if the election elevates Gephardt to speaker. "They'll be more legitimate contests and philosophical contests in terms of the content of legislation."

Before a bill could be passed, Frost says, the White House would be forced t o negotiate and compromise with Democrats.

Davis sees another important consequence if the GOP loses control of the House: Rep. Henry Waxman, D-Calif., would become chairman of the Government Reform Committee.

Republican Chairman Dan Burton of Indiana used the committee to launch debilitating investigations of the Clinton White House. Waxman has been a fierc e critic of the Bush White House on issues such as the secrecy of its energy task force. But without control of the committee, Democrats have been unable to schedule hearings or issue subpoenas.

"You'd have one hearing after another," Davis predicts. "I don't think they realize what's in store for them if that happens."

As chairman, Waxman would call hearings on issues he felt were important, says Phil Schiliro, his chief of staff -- issues such as what industry leaders met with Vice President Cheney's energy task force. "The public has a right to know," he says. "There needs to be accountability."

A single Senate seat

In the Senate, the switch of a single seat would swing control to the Republicans from the Democrats. That presumably would speed consideration of 50 backlogged judicial nominations. If Republicans had control, they probably coul d have forced the full Senate to vote on the nomination of Mississippi federal Judge Charles Pickering for the Appeals Court. Instead, the Judiciary Committee voted along party lines in March to reject it.

To the frustration of Republicans, Daschle has refused to bring up for quick consideration a series of administration-backed bills that have cleared the House, among them proposals to make the tax cuts in last year's legislation permanent and to change pension laws. The measures probably would have been debated on the Senate floor, though not necessarily enacted, if Republicans wer e in charge.

"We'd be in a different situation if we still controlled the Senate," says a senior White House official who helps formulate strategy. "Being able to set the calendar and being able to control committee action is critical. And to state

the obvious, having House Republicans -- particularly with their discipline and ability to get things done -- is critical."

In the statehouses, Democrats are favored to gain control of a half-dozen governorships now held by Republicans, including in such key electoral states a s Illinois, Michigan and Pennsylvania. Governors can provide a ready-made political infrastructure for the party's presidential candidate. "Clearly the governor's office is crucial in fundraising in a state, message development, political organization -- all the things presidential campaigns like," says Connecticut Gov. John Rowland, chairman of the Republican Governors Association . "It's worth a couple of points."

Think of the natural advantages for Bush in having a fellow Republican, not to mention a brother, as Florida governor in 2000.

Defying history

Aides say Bush can help Republican candidates most this fall by headlining fundraisers -- he has already broken presidential records by raising about $115 million so far this year -- and maintaining his approval rating. An internal White House analysis notes the relationship between presidential approval and midterm elections. If a president's approval rating is above 60%, an average of five House seats has been lost. If it's below 50%, the average is 41.

What the White House hopes to do this year is defy a historic pattern. Since World War II, the president's party has lost an average of 24 House seats and two to three Senate seats in his first midterm. (Losses midway through a second term tend to be much higher.)

Holding control of the House will mean losing no more than five Republican House seats -- a better showing for the president's party than that in any first-term midterm in four decades. The White House also hopes to gain at least the single Senate seat needed for control.

"When you have a House and Senate that share his vision and his priorities, the president will be able to move swiftly to implement his positive agenda," White House spokesman Anne Womack says. She calls the Nov. 5 election "one of the president's priorities."

Even so, there can be unexpected consequences from the election returns. The Republican takeover of Congress in 1946 gave Harry Truman a fat target. Railing against "the do-nothing 80th Congress" helped lead to his upset victory in 1948. The Republican takeover of Congress in 1994 so unnerved Bill Clinton that "it took a few months to really be able to move beyond the shock of what happened in that election," Panetta recalls.

But those losses prompted Clinton to move to more centrist policies, pre-emp t some Republican issues and gain credit for welfare reform and balancing the budget. One result: He won another term two years later.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Matthew A. Schlapp/WHO/EOP@EOP [WHO] <Matthew A. Schlapp>
Sent: 9/4/2002 4:19:14 PM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 4-SEP-2002 20:19:14.00
SUBJECT::
TO:Matthew A. Schlapp ( CN=Matthew A. Schlapp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I will call DoC and DoAg in morning about the leave.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: mblum@ij.org @ inet [OMB] <mblum@ij.org @ inet>
Sent: 9/4/2002 4:59:17 PM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 4-SEP-2002 20:59:17.00
SUBJECT::
TO:mblum@ij.org @ inet ( mblum@ij.org @ inet [ OMB ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Got your voice mail. Sounds good. I talked to Miguel.
```

From: CN=Leonard B. Rodriguez/OU=WHO/O=EOP [WHO]
To: Brian R. Besanceney/OPD/EOP@EOP [OPD] <Brian R. Besanceney>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Ken Mehlman/WHO/EOP@EOP [WHO] <Ken Mehlman>;Ruben S. Barrales/WHO/EOP@EOP [WHO] <Ruben S. Barrales>;Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>
Sent: 9/5/2002 10:23:30 AM
Subject: : Guidance

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Leonard B. Rodriguez (CN=Leonard B. Rodriguez/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 5-SEP-2002 14:23:30.00
SUBJECT:: Guidance
TO:Brian R. Besanceney (CN=Brian R. Besanceney/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Two questions regarding this meeting:
1. Is it okay to solicite money at this event to help drive this DED public awareness campaign.
Secretary Martinez will pitch the ask for corporate sponsors and it is being held on WHO grounds.

2. Are we okay that is Sec Martinez driving this and not Sec. Paige?

4 September 2002 2
Corporate Leaders Asked to Join Yes I Can/Yo Si Puedo! Partnership

WHAT: Yes, I Can! Partnership Initial Meeting

WHO: HUD Secretary Mel Martinez, U.S. Treasurer Rosario Marin, Deputy Assistant to the President Ruben Barrales, White House Initiative on Education Excellence for Hispanic Americans, Hispanic Scholarship Fund CEO Sara Martinez Tucker, and Corporate Leaders

WHEN: Tuesday, September 17, 3:00 p.m.

WHERE: The White House Conference Center, Eisenhower Room

WHY: Raising the educational attainment of Hispanic students is imperative for the Nation,s short and long term economic viability. Currently, 57 percent of Hispanics have a high school degree, and only 10 percent go on to earn a college degree. Research shows that bringing Hispanics (and African Americans) on educational par with the rest of society would mean that for every dollar spent on their education, $4.90 would be realized from gains in consumer spending, tax revenues, savings, and social revenues.

Recently, President Bush announced several initiatives designed to take the next step in overcoming the educational barriers faced by many in the Hispanic community, including the launching an interactive, informative bilingual website: www.YesICan.gov/www.YoSiPuedo.gov. The President directed parents, students, and others to this revolutionary bilingual website, emphasizing that individuals who want to change the state of Hispanic education now have relevant information and tools at their disposal.

Building upon this momentum, HUD Secretary Martinez and the White House Initiative on Education Excellence for Hispanic Americans are inviting an influential group of corporate leaders to join the Yes I Can/Yo Si Puedo Partnership. The purpose of the partnership will be to develop and implement the Yes I Can/Yo Si Puedo Public Awareness Campaign. The goal of the Campaign will be to &reframe the possible8 among young Hispanics, thereby raising the &educational ceiling8 and breaking the generational cycle of underachievement.

Breaking the cycle requires a long term, widespread, and sustainable effort. To reach this goal, the Yes I Can/Yo Si Puedo Partnership will provide for a one-year public awareness Campaign pilot that will research, test, measure, and assess the effectiveness of a heightened public awareness initiative. The message Campaign is designed to raise expectations among Hispanic parents/youth and provide basic tools for what families need to do to ensure their children are prepared for a post secondary education. The pilot will launch in three targeted markets (Las Vegas, Albuquerque, and Orlando) and include research and assessment, public relations strategies, creative strategies and a media plan. The Campaign will also include plans for a national mainstream media buy to reach various Hispanic audiences. After measuring the success of the initial pilot, recommendations will be made regarding the feasibility of a nationally sustained effort.

The primary audience for this initiative is Hispanic parents/caregivers. Secondary audiences include students, educators, community leaders, public and private sector organizations, and faith-based organizations. Coordinated mass media, public and private sector partnerships, and grassroots efforts are core strategies.

TARGETED AUDIENCE CAMPAIGN OBJECTIVES

HISPANIC PARENTS/CAREGIVERS

ú To heighten awareness of public awareness Campaign,s messages among Hispanics
ú To raise expectations for Hispanic youth and attainability of higher education
ú To increase the involvement of Hispanics in the Campaign,s activities
ú To maximize Hispanic awareness of public-private partnerships
ú To increase the time Hispanics devote to positive educational activities or planning

STUDENTS

ú To increase the number of students interested in higher academic achievement
ú To raise awareness on the attainability of higher education
ú To raise awareness of resources available and steps required to prepare for post-secondary education

EDUCATORS

ú To increase awareness of cultural aspects of the Hispanic community and how to develop outreach plans to support parents
ú To heighten awareness of Campaign,s messages among Hispanic communities

PUBLIC-PRIVATE PARTNER ORGANIZATIONS

ú To establish media, corporate, community and state/local government agency partnerships to reinforce Campaign messages, strategies and tools that promote higher expectations and increased awareness among Hispanic families
ú To support, reinforce, and expand current government and other organizational activities designed to strengthen parent-child relationships and desire for higher academic success

From: Rebecca Seidel) (Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) [UNKNOWN]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;John F. Wood/OMB /EOP@EOP [OMB] <John F. Wood>
Sent: 9/5/2002 5:30:25 PM
Subject: : Fwd:Victims' comp

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) (
Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) [UNKNOWN])
CREATION DATE/TIME: 5-SEP-2002 21:30:25.00
SUBJECT:: Fwd:Victims' comp
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:John F. Wood (CN=John F. Wood/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
End Original ARMS Header

Don't know if you saw this - it is good:

http://www.boston.com/dailyglobe2/241/oped/US_funds_can_t_heal_the_losses_o
f_9_1
1P.shtml

US funds can't heal the losses of 9/11

By Jeff Jacoby, 8/29/2002

LAST WEEK the federal Victims Compensation Fund announced its first 25
awards to
the families of those killed on Sept. 11. The amounts offered were not
uniform,
but after taking into account the mandatory deductions for life insurance
policies and pensions, the average award came to $1.36 million. That much
income
would ordinarily be taxable at the highest rate - currently, 38.6 percent.
Thanks to legislation passed in January, however, the victims' families
will
receive their awards tax-free. The same law also exempted Sept. 11 victims
retroactively from income tax liability for 2000 and 2001. Any taxes they
already paid will be refunded.

Last week's awards were actually on the low side. According to Kenneth
Feinberg,
the special master overseeing the fund, the average net payout will
ultimately
be around $1.5 million. That is roughly 36 times the median US household
income
and is considerably more money than the vast majority of American families
will
ever see. No amount of money, of course, could ever replace a murdered
loved
one. But as an expression of sympathy and support for those who suffered a
devastating loss in the terrorist attacks, the federal victims fund was
munificent in the extreme.

It was also a mistake.

The American people didn't need the government's help to demonstrate their
compassion for the families of the Sept. 11 victims. Well before the law
creating the federal compensation fund was passed, tens of millions of
Americans
had donated hundreds of millions of dollars for the benefit of those
affected by

the attacks. By now, the total raised by private charities is estimated at a mind-boggling $2.7 billion, more than half of which has already been distributed.

This torrent of private relief has not merely ensured that survivors can meet their mortgage payments and put food on the table. It has turned many of them into millionaires. USA Today reports that relatives of the New York police officers who died on Sept. 11 are receiving an average of $929,000 in charitable funds. The families of firefighters and ambulance crews are getting $1,037,000. All of these gifts are tax-free. (Surviving spouses of most rescue workers also receive a lifetime pension equal to the victim's salary, plus a federal death benefit of $259,000 for public safety officers killed in the line of duty.)

To be sure, not every victim's family has been enriched as lavishly as those of the emergency workers killed at Ground Zero. The charitable gifts received by other families have averaged only $146,000. But ''only'' $146,000 is hardly trivial, especially when it comes with no strings attached, when it is not taxed, and when it is in addition to any insurance, pension, or Social Security benefits the family is entitled to.

Add to all this the billions of dollars' worth of goods and services that have been donated to the victims' families - from free financial planning for life by top Wall Street firms to the hundreds of free slots at children's summer camps nationwide.

Never has the extraordinary generosity of ordinary Americans been more evident than in the months since Sept. 11. It wasn't necessary for the government to get in on the act, let alone to shower the victims' families with seven-figure jackpots. Those who lost a child, parent, or spouse in the attacks last fall suffered a terrible tragedy, and the hearts of decent people everywhere went out to them. But tragedy strikes American families every day, and their grief is not eased with million-dollar fortunes from the Treasury. Why should the families of Sept. 11 have been treated differently?

The Victims Compensation Fund was created in part to protect the airlines from being bankrupted by wrongful death litigation; survivors who accept money from the fund are barred from filing suit. But the airlines were not to blame for the horrors of Sept. 11. Their losses that day, both human and financial, were staggering. If Congress wanted to shield them from catastrophic lawsuits, the way to do it was to cap their liability at $0.00, not to bribe the victims' families with million-dollar awards.

With huge sums of money at stake, the congressional fund has predictably led to feuds and ill will as relatives of the dead fight over the federal

largesse. It
has inflamed greed, too. Many families now insist that the planned awards
are
not lucrative enough; others gripe that after insurance and pension
proceeds are
deducted, they will get nothing. (''Nothing,'' in this case, means a
quarter of
a million dollars, which Feinberg says is the minimum payment guaranteed to
virtually every victim's family.)

Meanwhile, the precedent has been set for the future. The next time
innocent
victims die in a terrorist attack, their relatives will expect a handsome
government payment. The next time any catastrophe strikes - terrorist or
otherwise - there will be a clamor for federal compensation. But the worst
consequence of all is that after the next disaster, fewer Americans will
give
willingly to private charity. After all, why donate to help the survivors
when
Uncle Sam is going to make them rich anyway?

A Pandora's box has been opened. It will not easily be closed.

Jeff Jacoby's e-mail address is jacoby@globe.com.

This story ran on page A23 of the Boston Globe on 8/29/2002.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Timothy E. Flanigan/WHO/EOP@EOP [WHO] <Timothy E. Flanigan>;Alberto R. Gonzales/WHO /EOP@EOP [WHO] <Alberto R. Gonzales>
Sent: 9/6/2002 3:06:53 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 6-SEP-2002 07:06:53.00
SUBJECT::
TO:Timothy E. Flanigan ( CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Important to note that some of the outside group concern expressed
yesterday (per don's email and LL) was directed NOT at the pre-vote
efforts by admin but rather at post-vote response and perceived lack of
intent to retaliate.

.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Rebecca Seidel) (Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) [UNKNOWN] <Rebecca_Seidel@judiciary.senate.gov>
Sent: 9/6/2002 3:31:21 AM
Subject: : Re: Fwd:Victims' comp

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 6-SEP-2002 07:31:21.00
SUBJECT:: Re: Fwd:Victims' comp
TO:Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) (
Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Thanks

.

----- Original Message -----
From:Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel)
To:John F. Wood/OMB/EOP@EOP,
Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 09/05/2002 09:24:19 PM
Subject: Fwd:Victims' comp

Don't know if you saw this - it is good:

http://www.boston.com/dailyglobe2/241/oped/US_funds_can_t_heal_the_losses_o
f_9_1
1P.shtml

US funds can't heal the losses of 9/11

By Jeff Jacoby, 8/29/2002

LAST WEEK the federal Victims Compensation Fund announced its first 25
awards to
the families of those killed on Sept. 11. The amounts offered were not
uniform,
but after taking into account the mandatory deductions for life insurance
policies and pensions, the average award came to $1.36 million. That much
income
would ordinarily be taxable at the highest rate - currently, 38.6 percent.
Thanks to legislation passed in January, however, the victims' families
will
receive their awards tax-free. The same law also exempted Sept. 11 victims
retroactively from income tax liability for 2000 and 2001. Any taxes they
already paid will be refunded.

Last week's awards were actually on the low side. According to Kenneth
Feinberg,
the special master overseeing the fund, the average net payout will
ultimately
be around $1.5 million. That is roughly 36 times the median US household
income
and is considerably more money than the vast majority of American families
will
ever see. No amount of money, of course, could ever replace a murdered
loved
one. But as an expression of sympathy and support for those who suffered a
devastating loss in the terrorist attacks, the federal victims fund was

munificent in the extreme.

It was also a mistake.

The American people didn't need the government's help to demonstrate their compassion for the families of the Sept. 11 victims. Well before the law creating the federal compensation fund was passed, tens of millions of Americans had donated hundreds of millions of dollars for the benefit of those affected by the attacks. By now, the total raised by private charities is estimated at a mind-boggling $2.7 billion, more than half of which has already been distributed.

This torrent of private relief has not merely ensured that survivors can meet their mortgage payments and put food on the table. It has turned many of them into millionaires. USA Today reports that relatives of the New York police officers who died on Sept. 11 are receiving an average of $929,000 in charitable funds. The families of firefighters and ambulance crews are getting $1,037,000. All of these gifts are tax-free. (Surviving spouses of most rescue workers also receive a lifetime pension equal to the victim's salary, plus a federal death benefit of $259,000 for public safety officers killed in the line of duty.)

To be sure, not every victim's family has been enriched as lavishly as those of the emergency workers killed at Ground Zero. The charitable gifts received by other families have averaged only $146,000. But ''only'' $146,000 is hardly trivial, especially when it comes with no strings attached, when it is not taxed, and when it is in addition to any insurance, pension, or Social Security benefits the family is entitled to.

Add to all this the billions of dollars' worth of goods and services that have been donated to the victims' families - from free financial planning for life by top Wall Street firms to the hundreds of free slots at children's summer camps nationwide.

Never has the extraordinary generosity of ordinary Americans been more evident than in the months since Sept. 11. It wasn't necessary for the government to get in on the act, let alone to shower the victims' families with seven-figure jackpots. Those who lost a child, parent, or spouse in the attacks last fall suffered a terrible tragedy, and the hearts of decent people everywhere went out to them. But tragedy strikes American families every day, and their grief is not eased with million-dollar fortunes from the Treasury. Why should the families of Sept. 11 have been treated differently?

The Victims Compensation Fund was created in part to protect the airlines from being bankrupted by wrongful death litigation; survivors who accept money

from
the fund are barred from filing suit. But the airlines were not to blame
for the
horrors of Sept. 11. Their losses that day, both human and financial, were
staggering. If Congress wanted to shield them from catastrophic lawsuits,
the
way to do it was to cap their liability at $0.00, not to bribe the
victims'
families with million-dollar awards.

With huge sums of money at stake, the congressional fund has predictably
led to
feuds and ill will as relatives of the dead fight over the federal
largesse. It
has inflamed greed, too. Many families now insist that the planned awards
are
not lucrative enough; others gripe that after insurance and pension
proceeds are
deducted, they will get nothing. (''Nothing,'' in this case, means a
quarter of
a million dollars, which Feinberg says is the minimum payment guaranteed
to
virtually every victim's family.)

Meanwhile, the precedent has been set for the future. The next time
innocent
victims die in a terrorist attack, their relatives will expect a handsome
government payment. The next time any catastrophe strikes - terrorist or
otherwise - there will be a clamor for federal compensation. But the worst
consequence of all is that after the next disaster, fewer Americans will
give
willingly to private charity. After all, why donate to help the survivors
when
Uncle Sam is going to make them rich anyway?

A Pandora's box has been opened. It will not easily be closed.

Jeff Jacoby's e-mail address is jacoby@globe.com.

This story ran on page A23 of the Boston Globe on 8/29/2002.

From: Thomas, Ginni <ginni.thomas@heritage.org>
To: Government Relations <GovernmentRelations@heritage.org>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 9/6/2002 7:51:59 AM
Subject: : Heritage Update - #2 for this week
Attachments: P_3K6X9003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Thomas, Ginni" <ginni.thomas@heritage.org> ("Thomas, Ginni"
<ginni.thomas@heritage.org> [UNKNOWN])
CREATION DATE/TIME: 6-SEP-2002 11:51:59.00
SUBJECT:: Heritage Update - #2 for this week
TO:Government Relations <GovernmentRelations@heritage.org> (Government Relations
<GovernmentRelations@heritage.org> [UNKNOWN])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

We have just put our an op ed, similar in message to the George Shultz one in the Post today on Iraq, that should play in papers around the nation. See text by Jim Phillips below. Take a look at our daily updated appropriations watch too. Hope springs eternal.

Space is filling up for the Larry Kudlow event - which we predict will be a good one; please rsvp if you are still interested and have not yet responded. Have a nice weekend! Ginni

Appropriations Watch: A new Heritage product lets users track the 2003 Appropriations Bill. Pork-barrel spending continues to grow when defense needs are a priority, and lawmakers ignore the best way to create short-term and long-term stimulus for the economy -- accelerating President Bush's tax cuts, and returning more money to the taxpayers. See http://www.heritage.org/Research/Features/Appropriations/index.cfm

How Washington Increased Spending by Nearly $800 Billion in Just Four Years by Brian Riedl
http://www.heritage.org/Research/Budget/BG1581.cfm

Foreign/Defense Policy:

Defusing Iraq's Ticking Timebomb by Jim Phillips
http://www.heritage.org/Press/Commentary/ed090602.cfm

U.N. Authorization for War with Iraq Is Unnecessary by Brett Schaefer
http://www.heritage.org/Research/MiddleEast/em831.cfm

Iran's Claim Over Caspian Sea Resources Threaten Energy Security by Ariel Cohen
http://www.heritage.org/Research/MiddleEast/bg1582.cfm

Domestic Policy:

Census Shows Commuters are Rejecting Transit by Ron Utt and Wendall Cox
http://www.heritage.org/Research/UrbanIssues/em832.cfm

Who Needs a Government? A Declaration of Independence by Matt Spalding
http://www.heritage.org/Press/Commentary/ed090502b.cfm

Read the latest issue of the Insider, a monthly compilation of publication abstracts, events, and news by the Heritage Foundation.
http://www.heritage.org/about/community/insider/

Upcoming Events:
For event details and RSVP, link to:
http://www.heritage.org/Press/Events/index.cfm

Larry Kudlow will be speaking on "Corporate Responsibility" to Administration and Congressional staff on Friday, September 20th at 12:30 p.m. in Cannon House Office Building's Caucus Room (345 Cannon). RSVP to mira.zawadzki@heritage.org or (202) 608-6175 or visit http://www.heritage.org/press/events/ev092002a.cfm

You are invited to attend a special Heritage Foundation class for Administration appointees entitled "The Use and Abuse of Statistics" on Wednesday, October 9 from 8:30-10:00am. This workshop will equip attendees with tools for recognizing and understanding misleading statistics, as well as suggestions for effective responses. This class is also designed for people without a background in statistics. See the attached flyer and RSVP to mira.zawadzki@heritage.org or (202) 608-6175. Another class will be offered later for those who can't attend the October 9 session.

The National Guard in Homeland Security: A View from Local, State and Federal Leaders
Featuring: Edwin Meese III, The Heritage Foundation; James S. Gilmore, Former Virginia Governor, Chairman, Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction, and Distinguished Fellow, The Heritage Foundation; Thomas C. Frazier, Executive Director, Major Cities Chiefs of North America and Former Chief of Police of Baltimore, Maryland; Major General John R. Groves, Jr., Former Adjutant General, National Guard of Kentucky
Monday, September 9th, 12:00 p.m.

Constitution Day: Can Patriotism Be Taught? Civic Literacy and Self Government
Keynote address by Hon. Eugene Hickok, Under Secretary, U.S. Department of Education
Featuring Edwin Meese III, The Heritage Foundation; Victoria Hughes, Bill of Rights Institute; David Warren Saxe, Pennsylvania State University; and Matt Spalding, The Heritage Foundation.
Monday, September 16th, 11:00 a.m.

Jiang Zemin at the Crawford Summit
Featuring: Dr. Joseph Fewsmith, Boston University; Dr. Carol Hamrin, George Mason University; Dr. Cheng Li, Woodrow Wilson Center; John Tkacik, The Heritage Foundation
Thursday, October 3rd, 10:00 a.m.

<<Use and Abuse of Statistics Flyer1.doc>>

Virginia (Ginni) Thomas, Director
Executive Branch Relations, The Heritage Foundation
214 Mass. Ave, NE/Washington, D.C. 20002
phone: (202) 608-6240 or 546-4400
fax: (202) 608-6068 (fax)
e-mail: ginni.thomas@heritage.org
www.heritage.org

- Use and Abuse of Statistics Flyer1.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_3K6X9003_WHO.TXT_1>



The Center for Media & Public Policy
& The Center for Data Analysis

cordially invite you to a workshop on

THE USE AND ABUSE OF STATISTICS

Wednesday, October 9, 2002
8:30 – 10:00 a.m.
at
The Heritage Foundation

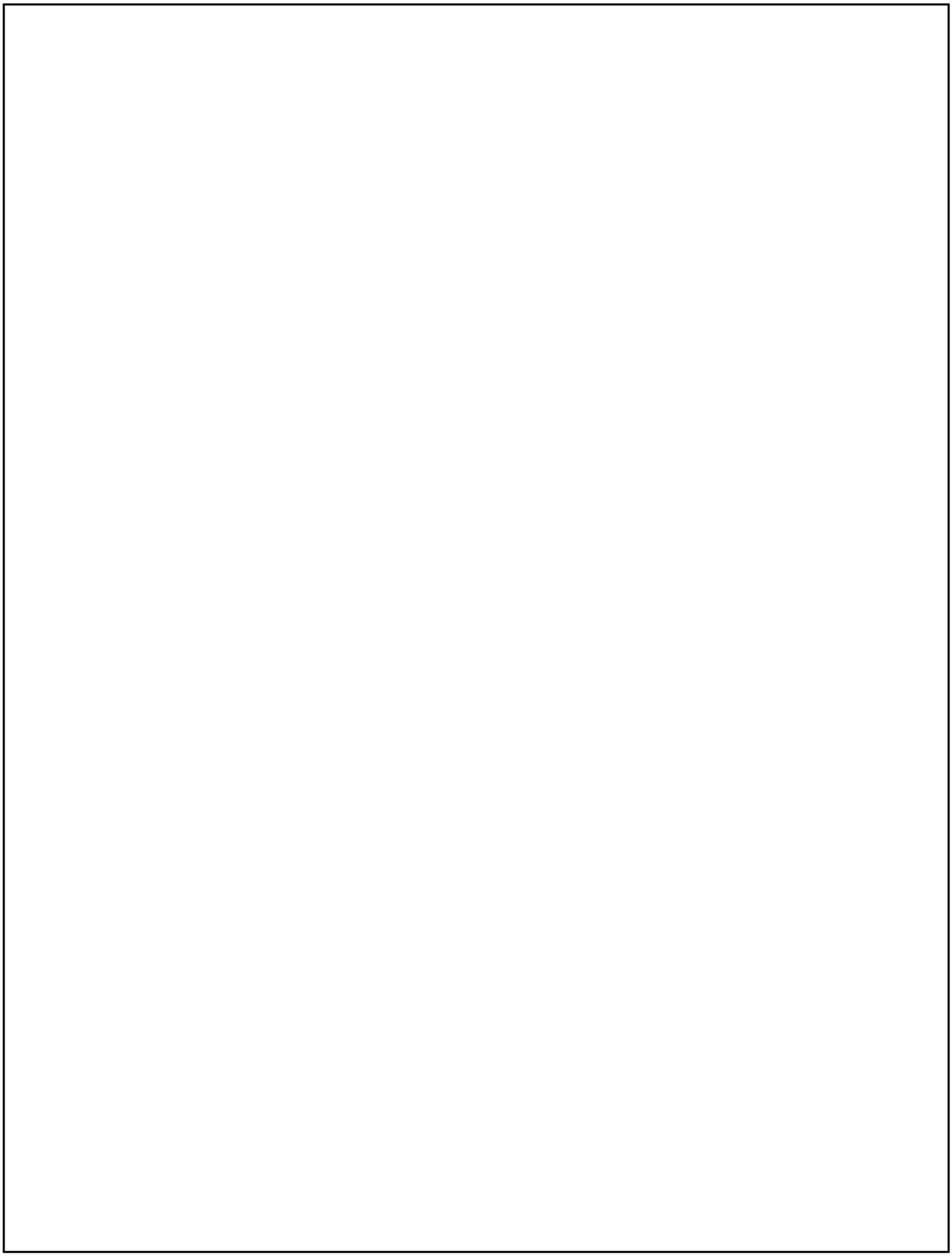
Hosted by
Mark Tapscott, Director, Center for Media & Public Policy
& William Beach, Director, Center for Data Analysis

News stories, academic reports and analyses by public policy advocacy groups are often marked by inaccurate or misleading statistics. Too often, such statistics become part of the conventional wisdom on important national and international issues, thus detracting from the nation's public policy debates. This workshop will equip attendees with tools for recognizing and understanding misleading statistics, as well as suggestions for effective responses.

Please RSVP by Tuesday October 8,
Contact Mira Zawadzki at mira.zawadzki@heriage.org

The Heritage Foundation
214 Massachusetts Ave. NE | Washington, DC 20002 | (202) 546-4400

REV_00150075



From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Sarah K. Lockart/WHO/EOP@EOP [WHO] <Sarah K. Lockart>
Sent: 9/6/2002 4:57:50 AM
Subject: : Re: Permission from the White House to Republish New Freedom Initiative

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 6-SEP-2002 08:57:50.00
SUBJECT:: Re: Permission from the White House to Republish New Freedom Initiative
TO:Sarah K. Lockart (CN=Sarah K. Lockart/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

No, you can just pass along this permission.

Sarah K. Lockart
09/06/2002 08:40:43 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Permission from the White House to Republish New Freedom Initiative

Great thanks -

Is there anything else we need - a formal letter from your office, or is there a form?

Thanks,
Sarah

Brett M. Kavanaugh
09/06/2002 07:54:51 AM
Record Type: Record

To: Sarah K. Lockart/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Permission from the White House to Republish New Freedom Initiative

Permission granted.

Sarah K. Lockart
09/05/2002 11:05:28 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:

Subject: Permission from the White House to Republish New Freedom Initiative

Brett -

This is the issue that I wanted to talk to you about. Sally Atwater is the Director of the President's Commission on Mental Retardation. I have spoken with Sally and she said that HHS is willing to pay for the reprints, but they need WH permission. Please let me know if this can be done and if so what we need to do.

Thanks,
Sarah

---------- Forwarded by Sarah K. Lockart/WHO/EOP on 09/05/2002 10:58 AM ----------

"Atwater, Sally (ACF)" <SAtwater@acf.hhs.gov>
08/26/2002 07:47:59 AM
Record Type: Record

To: Sarah K. Lockart/WHO/EOP@EOP
cc:
Subject: Permission from the White House to Republish New Freedom Initiative

Sarah,

I am requesting permission from the White House to republish President George W. Bush's New Freedom Initiative that was originally published in February 2001. I would also like the White House's permission to republish his Progress Report, May, 2002.

I can get the reports republished here at HHS. However, the Public Affairs Office said I do need the permission.

The New Freedom Document is the publication that outlines President George W. Bush's disability policy for his administration.

I want to send both documents to my new committee members and for distribution to the public.

Troy Justensen in White House Domestic Policy needs 50 copies.

Time is important as I want to get the mailing out by September 6, 2002.
Thanks! Sally

Sally D. Atwater
Executive Director
President's Committee on Mental Retardation
(202) 619-0634

****
Please note new e-mail address:
satwater@acf.hhs.gov

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Doris J. Wingard/OMB/EOP [OMB] <Doris J. Wingard>
Sent: 9/6/2002 8:38:48 AM
Subject: RECEIVED: September 6 Follow-Up Mtg re Indemnification

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 6-SEP-2002 12:38:48.00
SUBJECT:RECEIVED: September 6 Follow-Up Mtg re Indemnification
TO:Doris J. Wingard ( CN=Doris J. Wingard/OU=OMB/O=EOP [ OMB ] )
READ:UNKNOWN
###### End Original ARMS Header ######

RETURN RECEIPT

Your Document:
September 6 Follow-Up Mtg re Indemnification
was successfully received by:
CN=Brett M. Kavanaugh/OU=WHO/O=EOP
at:
09/06/2002 12:43:22 PM
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Sarah M. Garrison/WHO/EOP@EOP [WHO] <Sarah M. Garrison>
Sent: 9/6/2002 8:46:49 AM
Subject: : Re: Contact in Arizona

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 6-SEP-2002 12:46:49.00
SUBJECT:: Re: Contact in Arizona
TO:Sarah M. Garrison (CN=Sarah M. Garrison/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I would use political letterhead for that. Thanks.

Sarah M. Garrison
09/06/2002 12:20:29 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Re: Contact in Arizona

Hello there!
Quick question.... Mrs. Bush is interested in responding to a letter written to her mom and providing the gentleman with a contact number to volunteer in Arizona... do I need to use political letterhead?

Thank you very much in advance!!
---------- Forwarded by Sarah M. Garrison/WHO/EOP on 09/06/2002 12:23 PM ----------

Katherine M. Walters
09/05/2002 04:01:27 PM
Record Type: Record

To: Sarah M. Garrison/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Contact in Arizona

David Thomas said to have him Call Jake Logan at the AZ Party 602-957-7770.

You may want to just run by Counsel to make sure it is not a problem to put on regular letterhead. We have political letterhead for Mrs. Bush in our office if you need. It is probably fine though. Thanks!

Sarah M. Garrison
09/05/2002 02:06:16 PM
Record Type: Record

To: Katherine M. Walters/WHO/EOP@EOP

cc:
Subject: Contact in Arizona

Kate -
Hello! Quick question - do you have a generic phone number that I could give a gentleman who is wanting to volunteer in Arizona? He has written the President more than once and also reached out to Mrs. Welch.... Mrs. Bush wants to write him to thank him for writing and give him a contact number in hopes that he will stop writing.... thank you very much in advance!

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;DThomas@georgewbush.com [WHO] <DThomas@georgewbush.com>
Sent: 9/8/2002 7:18:14 PM
Subject: : Re: Quick question

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 8-SEP-2002 23:18:14.00
SUBJECT:: Re: Quick question
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:DThomas@georgewbush.com (DThomas@georgewbush.com [WHO])
READ:UNKNOWN
End Original ARMS Header

I think it makes more sense to send them to the officials themselves in this instance.

.

----- Original Message -----
From:Dave Thomas <DThomas@georgewbush.com>
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 09/08/2002 01:29:25 PM
Subject: Quick question

Sorry to bug you with a relatively minor question on the weekend, but DT wants to get these out Monday a.m. - Can we send these presidential proclamations to the campaigns on official letterhead? A sample letter is below:

Thanks,

JJ

September 8, 2002
Bill Gordon
Campaign Manager
Frank Murkowski for Governor
P.O. Box 101299
Anchorage, AK 99510
Dear Bill:
Please accept these official copies of the President s 2002 proclamation of
National Days of Prayer and Remembrance and the commemoration of Patriot Day
in honor of those Americans who were affected by the events of September 11,
2001.

I thought you would enjoy having your own copy of each of these historic proclamations and I hope you will not hesitate to contact our office with any thoughts or concerns you may have.

Sincerely,

David Thomas
Associate Political Director
Office of Political Affairs
The White House

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>
Sent: 9/9/2002 1:37:35 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 9-SEP-2002 05:37:35.00
SUBJECT::
TO:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Will call you tonight. Was at skins game and postgame cookout activities
yesterday and last evening.

.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>
Sent: 9/9/2002 1:37:39 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 9-SEP-2002 05:37:39.00
SUBJECT::
TO:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Will call you tonight. Was at skins game and postgame cookout activities
yesterday and last evening.

.
```

From: CN=Doris J. Wingard/OU=OMB/O=EOP [OMB]
To: Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;Lucy G. Clark/WHO /EOP@EOP [WHO] <Lucy G. Clark>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 9/9/2002 5:35:15 AM
Subject: : Follow-Up Mtg re Indemnification

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Doris J. Wingard (CN=Doris J. Wingard/OU=OMB/O=EOP [OMB])
CREATION DATE/TIME: 9-SEP-2002 09:35:15.00
SUBJECT:: Follow-Up Mtg re Indemnification
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Lucy G. Clark (CN=Lucy G. Clark/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Angela Styles and Phil Perry's schedules are clear 10:30 to Noon tomorrow. Are you available during that time frame to meet w/Lockheed and U.S. Chamber reps?

---------- Forwarded by Doris J. Wingard/OMB/EOP on 09/09/2002 09:32 AM ----------

Doris J. Wingard
09/05/2002 05:34:10 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: Carla B. Stone/OMB/EOP@EOP
Subject: September 6 Follow-Up Mtg re Indemnification

This mtg is cancelled for tomorrow. Lockheed/U.S. Chamber reps have conflicting schedules. They're now suggesting Tuesday, September 10. What are your schedules like for that morning?

Thank you -- Jean Wingard

Message Sent
To:_____
Brett M. Kavanaugh/WHO/EOP@EOP
Bradford A. Berenson/WHO/EOP@EOP
Lucy G. Clark/WHO/EOP@EOP
Philip J. Perry/OMB/EOP@EOP
Mathew C. Blum/OMB/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Mashburn, John (Lott) <John_Mashburn@lott.senate.gov>
Sent: 9/9/2002 6:54:12 AM
Subject: : RE: Gold Standard quote

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 9-SEP-2002 10:54:12.00
SUBJECT:: RE: Gold Standard quote
TO:"Mashburn, John (Lott)" <John_Mashburn@lott.senate.gov> ("Mashburn, John (Lott)"
<John_Mashburn@lott.senate.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

It is contained in a March 16, 2001, letter from Sens. Schumer and
Leahy to the President.

"Mashburn, John (Lott)" <John_Mashburn@lott.senate.gov>
09/09/2002 09:58:00 AM
Record Type: Record

To:
cc: Brett M. Kavanaugh/WHO/EOP@EOP
Subject: RE: Gold Standard quote

could you send a copy to 224-4639 -- everyone keeps using this, we need
it documented.

-----Original Message-----
From: Stephen Higgins at JUDICIARY
Sent: Monday, September 09, 2002 9:15 AM
To: Mashburn, John (Lott)
Cc: brett_m._kavanaugh@who.eop.gov at INTERNET
Subject: Re:Gold Standard quote

John

I think that Brett Kavanaugh has a copy of the letter in which Leahy
used the
term "gold standard." Brett could fax it to you.

Stephen

_____Reply Separator_____
Subject: Gold Standard quote
Author: John Mashburn
Date: 9/7/2002 5:30 PM

Anyone have a specific cite to a quote from Leahy or the Dems saying the
ABA is
the "gold standard". We keep saying that, but I'm trying to docuemnt
it.

From: CN=Kyle Sampson/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 9/9/2002 7:56:11 AM
Subject: : Re: Fwd: From NARAL -- McConnell targeted next

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 9-SEP-2002 11:56:11.00
SUBJECT:: Re: Fwd: From NARAL -- McConnell targeted next
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Got it -- I'm on a conference call now.

Brett M. Kavanaugh
09/09/2002 11:52:55 AM
Record Type: Record

To: Kyle Sampson/WHO/EOP@EOP
cc:
Subject: Fwd: From NARAL -- McConnell targeted next

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 09/09/2002 11:59 AM ----------

Tim Goeglein
09/09/2002 11:52:24 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Fwd: From NARAL -- McConnell targeted next

fyi: all the email buzz today is that McConnell is the next big target.

warmly

tsg

Message Sent
To:_____
Brett M. Kavanaugh/WHO/EOP@EOP
Susan B. Ralston/WHO/EOP@EOP
Timothy E. Flanigan/WHO/EOP@EOP
Heather Wingate/WHO/EOP@EOP
Anne Womack/WHO/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Doris J. Wingard/OMB/EOP [OMB] <Doris J. Wingard>
Sent: 9/9/2002 11:02:18 AM
Subject: RECEIVED: re followup mtg concerning indemnifcation

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 9-SEP-2002 15:02:18.00
SUBJECT:RECEIVED: re followup mtg concerning indemnifcation
TO:Doris J. Wingard ( CN=Doris J. Wingard/OU=OMB/O=EOP [ OMB ] )
READ:UNKNOWN
###### End Original ARMS Header ######

RETURN RECEIPT

Your Document:
re followup mtg concerning indemnifcation
was successfully received by:
CN=Brett M. Kavanaugh/OU=WHO/O=EOP
at:
09/09/2002 03:07:03 PM
```

From: Coffin, Shannen <Shannen.Coffin@usdoj.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;David S. Addington/OVP /EOP@EOP [OVP] <David S. Addington>;Timothy E. Flanigan/WHO/EOP@EOP [WHO] <Timothy E. Flanigan>;Coffin, Shannen <Shannen.Coffin@usdoj.gov>
CC: Salmons, David B <David.B.Salmons@usdoj.gov>;Jordan, Bill <Bill.Jordan@usdoj.gov>;McCallum, Robert <Robert.McCallum@usdoj.gov>;Whelan, M Edward III <M.Edward.Whelan@usdoj.gov>;Kneedler, Edwin S <Edwin.S.Kneedler@usdoj.gov>;Katsas, Gregory <Gregory.Katsas@usdoj.gov>;Klitenic, Jason <Jason.Klitenic@usdoj.gov>;Clement, Paul D <Paul.D.Clement@usdoj.gov>
Sent: 9/9/2002 11:04:19 AM
Subject: : Activity in Case 1-01-01530-EGS JUDICAL WATCH, INC., et al v. NATIONAL ENERGY POLICY DEVELOPMENT GROUP et al "Response to Do...
Attachments: P_X40Z9003_WHO.TXT_1

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Coffin, Shannen" <Shannen.Coffin@usdoj.gov> ( "Coffin, Shannen"
<Shannen.Coffin@usdoj.gov> [ UNKNOWN ] )
CREATION DATE/TIME: 9-SEP-2002 15:04:19.00
SUBJECT:: Activity in Case 1-01-01530-EGS JUDICAL WATCH, INC., et al v. NATIONAL ENERGY
POLICY DEVELOPMENT GROUP et al "Response to Do...
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Timothy E. Flanigan ( CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:"Coffin, Shannen" <Shannen.Coffin@usdoj.gov> (Receipt Notification Requested) (IPM
Return Requested) ( "Coffin, Shannen" <Shannen.Coffin@usdoj.gov> (Receipt Notification
Requested) (IPM Return Requested) [ UNKNOWN ] )
READ:UNKNOWN
CC:"Salmons, David B" <David.B.Salmons@usdoj.gov> (Receipt Notification Requested) (IPM
Return Requested) ( "Salmons, David B" <David.B.Salmons@usdoj.gov> (Receipt Notification
Requested) (IPM Return Requested) [ UNKNOWN ] )
READ:UNKNOWN
CC:"Jordan, Bill" <Bill.Jordan@usdoj.gov> (Receipt Notification Requested) (IPM Return
Requested) ( "Jordan, Bill" <Bill.Jordan@usdoj.gov> (Receipt Notification Requested) (IPM
Return Requested) [ UNKNOWN ] )
READ:UNKNOWN
CC:"McCallum, Robert" <Robert.McCallum@usdoj.gov> (Receipt Notification Requested) (IPM
Return Requested) ( "McCallum, Robert" <Robert.McCallum@usdoj.gov> (Receipt Notification
Requested) (IPM Return Requested) [ UNKNOWN ] )
READ:UNKNOWN
CC:"Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov> (Receipt Notification Requested) (IPM
Return Requested) ( "Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov> (Receipt
Notification Requested) (IPM Return Requested) [ UNKNOWN ] )
READ:UNKNOWN
CC:"Kneedler, Edwin S" <Edwin.S.Kneedler@usdoj.gov> (Receipt Notification Requested) (IPM
Return Requested) ( "Kneedler, Edwin S" <Edwin.S.Kneedler@usdoj.gov> (Receipt Notification
Requested) (IPM Return Requested) [ UNKNOWN ] )
READ:UNKNOWN
CC:"Katsas, Gregory" <Gregory.Katsas@usdoj.gov> (Receipt Notification Requested) (IPM
Return Requested) ( "Katsas, Gregory" <Gregory.Katsas@usdoj.gov> (Receipt Notification
Requested) (IPM Return Requested) [ UNKNOWN ] )
READ:UNKNOWN
CC:"Klitenic, Jason" <Jason.Klitenic@usdoj.gov> (Receipt Notification Requested) (IPM
Return Requested) ( "Klitenic, Jason" <Jason.Klitenic@usdoj.gov> (Receipt Notification
Requested) (IPM Return Requested) [ UNKNOWN ] )
READ:UNKNOWN
CC:"Clement, Paul D" <Paul.D.Clement@usdoj.gov> (Receipt Notification Requested) (IPM
Return Requested) ( "Clement, Paul D" <Paul.D.Clement@usdoj.gov> (Receipt Notification
Requested) (IPM Return Requested) [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

Attached is the reply brief we just filed in support of our protective order motion in the Judicial Watch/Sierra Club NEPDG FACA case.

Shannen W. Coffin
Civil Division
U.S. Department of Justice
(202) 514-3310 (phone)
(202) 514-8071 (fax)
<< File: tmp.htm >>
- sierraprotectreply.pdf
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_X40Z9003_WHO.TXT_1>

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

JUDICIAL WATCH, INC.,
Plaintiff,

v.

NATIONAL ENERGY POLICY
DEVELOPMENT GROUP, et al.,
Defendants.

C.A. No. 01-1530(EGS)
Consolidated Cases

SIERRA CLUB,
Plaintiff,

v.

VICE PRESIDENT RICHARD CHENEY, et al,
Defendants.

MEMORANDUM OF POINTS AND AUTHORITIES IN REPLY TO PLAINTIFFS' PRELIMINARY OPPOSITION TO DEFENDANTS' MOTION FOR A PROTECTIVE ORDER

Preliminary Statement

Notwithstanding Sierra Club's assertion that defendants have made "no effort" to comply with discovery (Sierra Club Resp. at 7), defendants have provided plaintiffs in this case with thousands of pages of documents and detailed answers to interrogatories from the defendant agency heads. Defendants have further provided significant information on relevant factual issues regarding the operations of the National Energy Policy Development Group ("NEPDG") in a declaration from its former Deputy Director. Without even reviewing the mass of information already provided or offering any claim of need beyond generalities, plaintiffs assert an entitlement to the disclosure of information concerning the manner in which the President's most

REV_00150162

senior advisers carried out a specific charge from the President to enable him to discharge his core constitutional responsibilities. In response to the moving defendants' opening brief ("Def. Mem."), which outlined in detail why the challenged discovery raises serious constitutional concerns and proposed a recognized procedural alternative to narrow or eliminate entirely these disputes, plaintiff Sierra Club has filed a response that largely ignores or mischaracterizes defendants' arguments.[1]

The Court has previously expressed a desire to avoid the unnecessary adjudication of constitutional issues. Defendants submit that their proposed course of action offers the only opportunity for the Court to do so at this stage.

Argument

I. Defendants' Motion for Summary Judgment Is An Appropriate Basis To Assess The Need For Further Discovery

In opposition to defendants' motion for a protective order, plaintiffs assert nothing less than the proposition that summary judgment is never appropriate until the completion of full-scale discovery. This is decidedly incorrect. While both Rule 56 and cases like Celotex Corp. v. Catrett, 477 U.S. 317 (1986), acknowledge that discovery may precede summary judgment and that a district court "may refuse the application for judgment or order a continuance to permit . . . discovery," Rule 56(f), there is no per se rule precluding a motion for summary judgment until all discovery has concluded. Indeed, courts routinely stay discovery pending the resolution of a pending dispositive motion to prevent the needless expenditure of resources by courts and litigants. See, e.g., United States Catholic Conference v. Abortion Rights Mobilization, Inc., 487

[1] Plaintiff Judicial Watch's filing contains no substantive argument and defendants will respond to any future filing which Judicial Watch may make.

REV_00150163

U.S. 72, 79-80 (1988); Patterson v. United States, 901 F.2d 927, 929 (11th Cir. 1990); Brennan v. Local Union No. 639, Int'l Bhd. of Teamsters, Chauffers, Warehousemen, and Helpers of America, 494 F.2d 1092, 1100 (D.C. Cir. 1974). Defendants' motion for a protective order simply seeks the same relief in anticipation of their soon-to-be-filed motion for summary judgment.[2]

Given that defendants' summary judgment motion is proper at this point, the manner in which plaintiffs must respond to that motion is dictated by Rule 56. That is, plaintiffs "need[] to respond with . . . 'affirmative evidence,'" Doe v. Gates, 981 F.2d 1316, 1323 (D.C. Cir.) (quoting Frito Lay, Inc. v. Willoughby, 863 F.2d 1029, 1034 (D.C. Cir. 1988)), cert. denied sub nom. Doe v. Woolsey, 510 U.S. 928 (1993), showing that "a reasonable jury could return a verdict" in their favor. Laningham v. United States Navy, 813 F.2d 1236, 1241 (D.C. Cir. 1987). See also Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 252 (1986).

Here, plaintiffs have repeatedly represented that energy industry personnel "participated in the activities" of the NEPDG, Sierra Club Resp. at 1, thus suggesting that they possess a factual basis for such representations. See Fed. R. Civ. P. 11. Plaintiffs have also received substantial information concerning the operations of the NEPDG and the agencies supporting its activities through the discovery provided to date and the Knutson declaration. In light of those disclosures, plaintiffs cannot simply claim that they possess no information and that all of the

---

[2] Plaintiffs' suggestion that defendants' summary judgment motion is somehow inappropriate because discovery is not finished is further contradicted by the plain language of Rule 56. Under Rule 56(b), a defendant is expressly authorized to move for summary judgment "at any time." The only limit on when summary judgment may be sought is the 20-day period following the filing of a complaint during which a plaintiff may not seek summary judgment. Fed. R. Civ. P. 56(a).

REV_00150164

relevant information is in the exclusive control of the moving defendants. Cf. Sierra Club Resp. at 4. Indeed, it is quite likely that, if any evidence existed to prove plaintiffs' case, it would be available from the agencies that were represented on the NEPDG, thus obviating any need for discovery against the moving defendants. Given the serious constitutional issues arising from discovery against the moving defendants, discussed *infra* at Section II, plaintiffs have an obligation to exhaust all available resources of information, including discovery from the agencies, before seeking any discovery from the moving defendants.[3]

Applying the procedures of Rule 56 will allow the Court to assess the specific facts (allegedly) in contention and to assess concretely the need for further discovery (if any). As shown in the next section, however, in the context of this constitutional dispute, it is unlikely that plaintiffs will be able to make the threshold showing of strong need necessary to seek the discovery at issue.

II. Separation-of-Powers Considerations Mandate A Strong Showing Of Need Prior To The Discovery Sought By Plaintiffs

Plaintiff Sierra Club spends the bulk of its brief responding to arguments which defendants have not made, incorrectly suggesting that defendants have asserted an overbroad theory of executive privilege. But plaintiffs have not made the strong threshold showing necessary under the separation-of-powers doctrine to entitle them even to test whether they can

---

[3] Alternatively, as plaintiff Sierra Club acknowledges (Sierra Club Resp. at 4), plaintiffs may seek relief under Rule 56(f), specifying the discovery necessary to oppose defendants' motion. Under Rule 56(f), plaintiffs cannot, however, rest on generalities (as they do now) but must state "concretely" why discovery is necessary. Stang v. United States Arms Control & Disarmament Agency, 864 F.2d 859, 861 (D.C. Cir. 1989). Moreover, as discussed *infra* at Section II, plaintiffs must demonstrate substantial need for the particular discovery that is the subject of this motion.

REV_00150165

obtain discovery from the moving defendants, let alone put defendants in a position where they must invoke executive privilege for specific documents or information. Indeed, requiring defendants to assert executive privilege at this stage of the litigation would be premature and would itself raise constitutional questions under the circumstances of this case. Instead, defendants assert two key constitutional points as the basis for their protective order:

- *First*, to the extent they are directed at the moving defendants and their activities, plaintiffs' discovery requests seek disclosures of information even beyond that which they could obtain if the FACA were applied to the NEPDG. Inasmuch as the Supreme Court and the D.C. Circuit have acknowledged that applying FACA to an entity like the NEPDG would itself raise serious constitutional concerns, Public Citizen v. United States Dep' t of Justice, 491 U.S. 440 (1989); Association of American Physicians and Surgeons v. Clinton, 997 F.2d 898 (D.C. Cir. 1993) ("AAPS"), imposing even greater burdens through discovery should not be undertaken lightly.

- *Second*, because the core purpose of plaintiffs' discovery requests, to the extent directed to the moving defendants, is to seek information regarding the process by which the President's closest advisers – including the Vice President and two Presidential assistants – gathered information and advised the President at his request, the Court should not burden the Executive with unnecessary and invasive demands that intrude heavily on the functioning of the Executive, particularly when plaintiffs have failed to demonstrate the requisite substantial need for the information at issue in the requests.

Consequently, as a result of these related constitutional concerns at the heart of this motion, plaintiffs must make a strong threshold showing of need before they seek to place any discovery burden – whether searching for documents or asserting privilege as to particular documents or communications – on the moving defendants.[4]

Plaintiff Sierra Club does not, and cannot, question that the executive branch possesses

---

[4] As noted above, the procedures of Rule 56 provide a useful and familiar mechanism for that assessment by requiring both sides to proffer their evidence and by requiring plaintiffs to articulate their need for further discovery, in light of all the information currently available to them, with specificity. The Court, however, can just as readily require that assessment upon defendants' motion for a protective order.

REV_00150166

constitutionally-based interests both with respect to confidentiality and to independence. According to Sierra Club, however, those interests begin and end with the executive privilege for confidential communications. But as defendants have pointed out (see Def. Mem. at 9-11), in arguments Sierra Club ignores, the executive branch's need for confidentiality and independence from intrusion has been acknowledged in a variety of contexts.

It is no doubt true that the evidentiary privilege for communications among the President and his close advisers is the most familiar and most frequently encountered litigation context where these types of constitutional concerns are presented. See United States v. Nixon, 418 U.S. 683 (1974); Senate Select Comm. on Presidential Campaign Activities v. Nixon, 498 F.2d 725 (D. C. Cir. 1974). Even within that context, however, courts have not permitted routine inquiry. For example, in criminal cases, the Supreme Court has cautioned lower courts to employ a "particularly meticulous" application of procedural rules "in deference to a coordinate branch of Government" *before* matters of privilege are even addressed. United States v. Nixon, 418 U.S. at 702. An assertion of the privilege itself can be overcome in that context only by a "demonstrated, specific need." Id. at 713.

In the context of civil litigation, moreover, the D.C. Circuit has required a showing that a discovery request was supported by "sufficient evidentiary substantiation" before proceeding with disclosure of presumptively privileged Presidential communications. Dellums v. Powell, 561 F.2d 242, 247 (D.C. Cir.), cert. denied, 434 U.S. 880 (1977) (discussed in Def. Mem. at 10-11).[5] And, in other contexts as well (see Def. Mem. at 11), the courts have protected the

[5]Even there, the court cautioned that it was doing so only because the underlying dispute involved substantiated allegations that the defendants conspired to violate the *constitutional* rights of the plaintiffs. See 561 F.2d at 247. Tellingly, the court did not suggest

REV_00150167

constitutional prerogatives of the Executive from the intrusion caused by discovery. See United States v. Armstrong, 517 U.S. 456 (1996) (requiring threshold showing for discovery into selective prosecution claim); Harlow v. Fitzgerald, 457 U.S. 800 (1982) (requiring threshold showing for discovery into qualified immunity defense); Nixon v. Fitzgerald, 457 U.S. 731 (1982) (President may not be sued civilly for damages in claims arising out of his official acts).

Sierra Club simply ignores the first three of these cases (Dellums, Armstrong and Harlow) and dismisses the last one (Nixon v. Fitzgerald) as merely a damages case. This approach misses the point of those cases. Each acknowledges the underlying constitutional concerns presented here, albeit in different contexts, and supports the proposition that the area of executive confidentiality may not be the subject of unjustified interference through civil discovery. As the Supreme Court said in Fitzgerald, before a court may permit *any* exercise of judicial authority over the Executive, it "must balance the constitutional weight of the interest to be served against the dangers of intrusion on the authority and functions of the Executive Branch." 457 U.S. at 754. Moreover, as the Armstrong Court suggested, the constitutional concerns inherent in such discovery, coupled with the presumption of regularity afforded government conduct, dictate that "the showing necessary to obtain discovery should itself be a significant barrier to the litigation of insubstantial claims." Armstrong, 517 U.S. at 463-64.[6]

---

that such discovery was appropriate in every civil case.

[6]As defendants have argued (Def. Mem. at 12), the presumption of regularity is itself a strong argument against the need for discovery, particularly in light of the record now presented and defendants' expected summary judgment motion. Sierra Club largely ignores this argument, citing Citizens to Preserve Overton Park v. Volpe, 401 U.S. 402, 415 (1971), an Administrative Procedure Act ("APA") case, for the proposition that the presumption does not preclude a thorough review. See Sierra Club Resp. at 6 n.3. Such review, however, in an APA claim like that presented here, is confined to "the full administrative record," 401 U.S. at 420, and provides

REV_00150168

Here, plaintiffs' interests in enforcing FACA have no constitutional weight and, indeed, as noted in Public Citizen and AAPS, are themselves constitutionally suspect. Moreover, plaintiffs have placed nothing else on the scale to substantiate their claim for discovery beyond generalized and unsubstantiated assertions of need. If, at the end of the day, the only purpose in discovery against the moving defendants is to find out whom the President's closest advisers met with in formulating their advice to the President – separate and apart from the meetings of the NEPDG that have been fully disclosed in discovery – then the separation-of-powers considerations discussed in Public Citizen and AAPS would preclude that discovery in its entirety.

Thus, based solely on plaintiffs' ability to plead facts "on information and belief" and with no showing that the information and discovery already provided to them are inadequate, Sierra Club's position is that plaintiffs, with no showing of need, should be permitted, through civil discovery, to invade an area which the Supreme Court has determined enjoys a "presumptive privilege." See, e.g., Sierra Club Resp. at 8-9. The normal effect of a presumption, however, is to require the opposing party to meet a burden to justify overcoming it in some way. See Fed. R. Evid. 301. That is especially true where, as here, the very nature of the plaintiffs' request is to delve into communications and processes at the highest level of the executive branch.

---

no basis for discovery absent some showing of bad faith or improper behavior. Moreover, plaintiff misconstrues the significance of the presumption of regularity. While that presumption does not serve as an *absolute* bar to inquiry, it does require plaintiffs to "dispel the presumption" through a threshold showing of wrongdoing or lack of regularity by the government before discovery may be permitted. See Armstrong, 517 U.S. at 465. Indeed, in Armstrong, the Court held that the presumption of regularity shielded prosecutorial decisions from any discovery "'in the absence of clear evidence to the contrary,'" i.e., that the government had acted unlawfully. See 517 U.S. at 464 (citation omitted).

REV_00150169

Sierra Club's view, however, is that defendants' only remedy is to assert privilege for each and every document and piece of responsive information. Sierra Club. Resp. at 10. But Sierra Club fails to recognize that, borrowing from Judge Gesell's reasoning in Nader v. Baroody, "constitutional questions" are raised by the fact that a statute such as FACA and discovery related to that statute "might impinge on the effective discharge of the President's powers, the interest necessitating the [executive] privilege." See 396 F.Supp. 1231, 1234 n.5 (D.D.C. 1975).[7] As defendants noted in their opening brief (see Def. Mem. at 15-17), constitutional separation-of-powers concerns are, in this instance, broader than specific executive privilege concerns. See Common Cause v. Nuclear Regulatory Comm'n, 674 F.2d 921, 935 (D.C. Cir. 1982). Thus, particularly in the absence of any preliminary showing of need or any evaluation of the vast amounts of discovery already provided, plaintiffs should not be permitted to pursue their discovery of the moving defendants.[8]

III. Limits Against Discovery Of The Moving Defendants Are Appropriate

Asserting that the Vice President, two Assistants to the President, and the Executive Director of the NEPDG are "lower-level staff" (Sierra Club Resp. at 7), Sierra Club claims the activities of these officials lack a sufficient connection to the President to warrant constitutional

---

[7]The mere burden of being required to assert individualized privileges in this case could be particularly high, given the breadth of plaintiffs' discovery requests. For instance, plaintiffs' interrogatories seek information regarding any "meeting" relating to the NEPDG's mission, defining "meeting" to include virtually every form of communication between any two persons, within or without the government.

[8] Even under Sierra Club's view of executive privilege, plaintiffs would bear the burden of showing that the evidence sought "is not available with due diligence elsewhere." Sierra Club Resp. at 8 (quoting In re Sealed Case, 121 F.3d 729, 754 (D.C. Cir. 1997)). As In re Sealed Case noted, the basis for this requirement is that Presidential communications "should not be treated as just another source of information." 121 F.3d at 754.

REV_00150170

protection. This argument is plainly mistaken.[9]

Compelling the Vice President, a constitutionally unique officer, and senior advisers to the President to disclose the details of the processes by which a President obtains information and advice raises separation-of-powers problems of the first order. The principles that generally raise a presumptive privilege for executive branch communications apply with special force to communications among the President, the Vice President, and their close advisers relating to the President's exercise of his core powers. Here, the moving parties were tasked by the President to perform a specific mission on his behalf and in execution of his constitutional powers under the Recommendations and Opinion Clauses of the Constitution. As such, they were expressly acting "in the course of preparing advice for the President," In re Sealed Case, 121 F.3d at 752, and their activities enjoy constitutional protection from intrusion by plaintiffs' requested discovery. In particular, the Vice President has respectfully but resolutely maintained that, especially where, as here, plaintiffs are incapable of demonstrating any need for the information, extending the legislative and judicial powers to compel a Vice President to disclose to private persons the details of the process by which a President obtains information and advice from, among others, the Vice President would constitute an unconstitutional intrusion into the effective functioning of

[9] In trying to cast defendants' arguments as overbroad, Sierra Club attempts to infer significance from the fact that Andrew Lundquist, the Executive Director of the NEDPG, was an employee of the Department of Energy formally assigned to the Office of the Vice President. See Sierra Club Resp. at 1. But to the extent any of Mr. Lundquist's documents were within the control of the Department of Energy, they have been produced (or withheld as privileged) by the Department of Energy. Thus, objections regarding Mr. Lundquist's documents concern those documents within the control of the Vice President, on whose staff Mr. Lundquist was an assignee. Moreover, as Ms. Knutson's Declaration demonstrates, Mr. Lundquist is no longer a federal employee and his position as Executive Director of the now-defunct NEPDG was not refilled. Knutson Dec. ¶ 3. Accordingly, Mr. Lundquist is no longer a proper defendant in this lawsuit, and defendants' motion for summary judgment will request relief on that basis.

REV_00150171

the Presidency and Vice Presidency.[10]

Conclusion

For all of the foregoing reasons, and those set forth in defendants' opening brief, defendants' motion for a protective order should be granted.[11]

Respectfully submitted,

ROBERT D. MCCALLUM, JR.
Assistant Attorney General

ROSCOE C. HOWARD, JR.
United States Attorney

SHANNEN W. COFFIN
Deputy Assistant Attorney General

---

[10] In its final argument, Sierra Club maintains that defendants' alternative motion for reconsideration is somehow inappropriate. Plaintiff is wrong. Defendants responded to plaintiffs' discovery requests with substantive answers and a motion for a protective order limited to the discovery that posed the constitutional concerns defendants have outlined above and in their opening brief. Such a motion is appropriate, if not required, under Rule 37(d). Defendants' alternative motion acknowledges that, in general terms, these issues have already been addressed by the Court and requests reconsideration. Plaintiff Sierra Club acknowledges that a motion for reconsideration is appropriate to cite new case law and that defendants have cited new law in support of their position that the FACA cannot be enforced though mandamus (the only remaining claim against the Vice President). See Def. Mem. at 20 (citing Gonzaga Univ. v. Doe, 122 S. Ct. 2268 (2002)). The sum total of Sierra Club's response (Resp. at 11) is simply to say that this new case "has no bearing" and merits no response.

[11] Without substantial discussion, plaintiff Sierra Club asks for discovery sanctions under Rule 37(a)(4), while plaintiff Judicial Watch indicates that it will move for contempt. As demonstrated above and in defendants' opening brief, defendants have complied with plaintiffs' discovery demands to the extent possible, consistent with defendants' underlying constitutional concerns. Defendants submit that their discussion of the constitutional issues presented here and in their opening brief provides substantial justification under Rule 37(a)(4) and Sierra Club's request for sanctions should be denied. Should the Court deny this motion, defendants may seek interlocutory review. In that circumstance, and in light of the abbreviated schedule ordered by the Court, defendants submit that, at a minimum, further consideration of these requests is premature and should await the opportunity for fuller briefing and argument.

REV_00150172

THOMAS MILLET
D.C. Bar # 294405
CRAIG BLACKWELL
JENNIFER PAISNER
Attorneys, Civil Division
Department of Justice
901 E ST, NW
P.O. Box 883
Washington, D.C. 20044
Tel:(202) 514-3313
Fax: (202) 616-8202

REV_00150173

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Douglas L. Hoelscher/WHO/EOP@EOP [WHO] <Douglas L. Hoelscher>
Sent: 9/9/2002 6:07:56 PM
Subject: : Re: political letters to political appointees

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 9-SEP-2002 22:07:56.00
SUBJECT:: Re: political letters to political appointees
TO:Douglas L. Hoelscher (CN=Douglas L. Hoelscher/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

yes

Douglas L. Hoelscher
09/09/2002 09:15:49 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: political letters to political appointees

Brett,
Until we have a better process in place, is it ok to send the volunteer request letter that you saw a week or so ago to the political appointees through the same process you outlined to deliver the invites for last week's reception?
-Doug

From: Maureen Blum <mblum@ij.org>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 9/10/2002 4:51:20 AM
Subject: : RE: miguel mock hearing 090902

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Maureen Blum <mblum@ij.org> (Maureen Blum <mblum@ij.org> [UNKNOWN])
CREATION DATE/TIME:10-SEP-2002 08:51:20.00
SUBJECT:: RE: miguel mock hearing 090902
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I am hoping thursday 9/12 @ 6pm will be our second mock hearing.

Mike Carvin : confirmed
Tom Jipping: confirmed
Roger Clegg: tentative
Manus Cooney: tentative

I would like a minimum of 3 hard commitments before we go for it.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Tuesday, September 10, 2002 8:38 AM
To: Maureen Blum
Subject: RE: miguel mock hearing 090902

ok, thanks. just wanted to know what I needed to pass along to DOJ
guys
and what they already know. Thanks again for all the great work.

(Embedded
image moved Maureen Blum <mblum@ij.org>
to file: 09/10/2002 08:16:51 AM
pic06760.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: RE: miguel mock hearing 090902

only my friends - kellyanne conway, george conway and jerome -who have been
working together on this

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov

[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Tuesday, September 10, 2002 8:15 AM
To: mblum@ij.org; Brett_M._Kavanaugh@who.eop.gov
Subject: Re: miguel mock hearing 090902

Who received this email?

.

----- Original Message -----
From:Maureen Blum <mblum@ij.org>
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 09/10/2002 07:56:20 AM
Subject: FW: miguel mock hearing 090902

fyi

-----Original Message-----
From: Maureen Blum
Sent: Monday, September 09, 2002 9:39 PM
To: Maureen Blum
Subject: miguel mock hearing 090902

Miguel Mock Hearings: #1
Monday 09/09/02

Attendees included:
1. Matthew Berry
2. Todd Gaziano
3. Boyden Gray
4. Roger Pilon
5. Nathan Sayles (OLP at DOJ)

Lessons Learned and Recommendations:

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Christine M. Burgeson/OMB/EOP@EOP [OMB] <Christine M. Burgeson>
Sent: 9/10/2002 7:36:16 AM
Subject: : Re: blocked assets

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-SEP-2002 11:36:16.00
SUBJECT:: Re: blocked assets
TO:Christine M. Burgeson (CN=Christine M. Burgeson/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
End Original ARMS Header

456-5104 for me; thanks

Christine M. Burgeson
09/10/2002 11:19:02 AM
Record Type: Record

To: John F. Wood/OMB/EOP@EOP, Christine M. Burgeson/OMB/EOP@EOP
cc: Philip J. Perry/OMB/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
Subject: Re: blocked assets

I can get a copy now and send it to you -- fax?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Barry S. Jackson/WHO/EOP@EOP [WHO] <Barry S. Jackson>
Sent: 9/10/2002 9:44:06 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:10-SEP-2002 13:44:06.00
SUBJECT::
TO:Barry S. Jackson ( CN=Barry S. Jackson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

fyi that Jay Lefkowitz also used to work with Ken at his law firm
and would happily help as needed (Jay and I were discussing this idea at
lunch today).
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Katherine M. Walters/WHO/EOP@EOP [WHO] <Katherine M. Walters>
Sent: 9/10/2002 9:54:33 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:10-SEP-2002 13:54:33.00
SUBJECT::
TO:Katherine M. Walters ( CN=Katherine M. Walters/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

It is ok to do Christmas card list on WH computers.
```

From: CN=Charlotte L. Montiel/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 9/11/2002 7:44:22 AM
Subject: : WAVEs

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:11-SEP-2002 11:44:22.00
SUBJECT:: WAVEs
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Do you want Peter Jongloed, William Reiner, and Joseph McTague WAVEd in on
Mon at 10 am?
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Jonathan R. Scharfen/NSC/EOP@EOP [NSC] <Jonathan R. Scharfen>;John F. Wood/OMB /EOP@EOP [OMB] <John F. Wood>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 9/11/2002 3:59:16 AM
Subject: : Re: Terrorism Insurance

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:11-SEP-2002 07:59:16.00
SUBJECT:: Re: Terrorism Insurance
TO:Jonathan R. Scharfen (CN=Jonathan R. Scharfen/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:John F. Wood (CN=John F. Wood/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Jock and I are talking this morning. Will report back.

.

----- Original Message -----
From:John F. Wood/OMB/EOP
To:Jonathan R. Scharfen/NSC/EOP@EOP
Cc:Brett M. Kavanaugh/WHO/EOP@EOP
Date: 09/10/2002 07:02:17 PM
Subject: Terrorism Insurance

I thought you might be interested in this if you have not seen it already.

---------------------- Forwarded by John F. Wood/OMB/EOP on 09/10/2002 06:59 PM ----------------------------

Lauren C. Lobrano
09/10/2002 05:29:03 PM
Record Type: Record

To: John F. Wood/OMB/EOP@EOP
cc:
Subject: Terrorism Insurance

---------------------- Forwarded by Lauren C. Lobrano/OMB/EOP on 09/10/2002 05:26 PM ----------------------------

Lauren C. Lobrano
09/10/2002 05:17:51 PM
Record Type: Record

To: Nancy Dorn/OMB/EOP@EOP
cc:
Subject: Terrorism Insurance

Sept. 10, 2002 - The House voted 373-0 on Tuesday to endorse Senate language that would allow terrorists% frozen assets to be used to pay compensatory damages.

;;;;The House adopted a motion to instruct its conferees on legislation (HR;3210) that would create a federal backstop for commercial property and casualty insurers for terrorist acts. The motion was offered by Vito J. Fossella, R-N.Y., and Melvin Watt, D-N.C.

;;;;House and Senate conferees on the terrorism insurance bill have not met publicly, despite President Bush%s repeated calls in recent weeks for action on the legislation. One of the main sticking points is whether to ban punitive damage awards in civil lawsuits arising from terrorist acts.

;;;;Senate Minority Whip Don Nickles, Okla., blasted Senate Democratic leaders who have complained that Republican objections are stalling the conference.

;;;;"I think the Democrats are saying you can%t get terrorism insurance unless you get a blank check for the trial lawyers," Nickles said.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>
Sent: 9/11/2002 5:27:33 PM
Subject: : Re: Sr staff mtg

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:11-SEP-2002 21:27:33.00
SUBJECT:: Re: Sr staff mtg
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Yes

.

----- Original Message -----
From:Elizabeth N. Camp/WHO/EOP
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 09/11/2002 09:21:30 PM
Subject: Sr staff mtg

Can you attend sr staff mtg tomorrow at 7:30 am? Judge is taking his wife
to the airport and Tim is off campus all day.

.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Anne Womack/WHO/EOP@EOP [WHO] <Anne Womack>
Sent: 9/12/2002 7:19:17 PM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:12-SEP-2002 23:19:17.00
SUBJECT::
TO:Anne Womack ( CN=Anne Womack/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Got back from hill too late to catch you.

.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>
Sent: 9/13/2002 10:34:49 AM
Subject: : Re:Meeting

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:13-SEP-2002 14:34:49.00
SUBJECT:: Re:Meeting
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 09/13/2002 02:37 PM ----------

Brett M. Kavanaugh
09/09/2002 02:02:41 PM
Record Type: Record

To: Elizabeth N. Camp/WHO/EOP@EOP
cc: Timothy E. Flanigan/WHO/EOP@EOP
Subject: Re:Meeting

Unless Tim F. thinks otherwise, please schedule this. I can attend as well.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 09/09/2002 02:05 PM ----------

Tim Goeglein
09/06/2002 11:01:39 AM
Record Type: Record

To: Timothy E. Flanigan/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Re:Meeting

Tim and Brett

Jay Sekulow would like to meet with the Judge to discuss judicial nominations, and other ways to be helpful.

Can we make this meeting happen in the next couple weeks my chance?

Warmly

tsg

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Timothy E. Flanigan/WHO/EOP@EOP [WHO] <Timothy E. Flanigan>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>
Sent: 9/16/2002 1:43:52 PM
Subject: : Ring aftermath

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:16-SEP-2002 17:43:52.00
SUBJECT:: Ring aftermath
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Timothy E. Flanigan ( CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Important story about the many issues created by Ring v. Arizona,
which was decided last year (over the dissent of O'Connor and Rehnquist
and over the concurrence of Kennedy explaining that the decision
undergirding Ring -- namely, Apprendi -- was still wrong).
```

A Supreme Court Ruling Roils Death Penalty Cases
By ADAM LIPTAK

ot long after the United States Supreme Court invalidated Arizona's death penalty statute in June and only a week before the Arizona Legislature enacted emergency legislation to reinstate it, two men accused of murder tried a bold legal maneuver that may save their lives. They pleaded guilty.

The prosecutor was surprised but candid: he said the men could plead guilty without fear of execution. He has since changed his mind. The judge, in Holbrook, Ariz., will hear arguments Thursday on the prosecutor's motion to undo the pleas.

He will not be alone in trying to untangle the consequences of the Supreme Court's decision in Ring v. Arizona, which said juries rather than judges must make the crucial factual determinations that support the death penalty. Courts and legislatures in the nine states where juries do not make such findings, or render only advisory verdicts, have had a busy summer doing the same thing.

"It's a can of worms," said Richard C. Dieter, the executive director of the Death Penalty Information Center, a Washington advocacy group critical of capital punishment.

Immediately after the decision, even prosecutors said that at least some of the 800 people already on death row in those states would be entitled to new sentences. But prosecutors in Arizona, the state most directly affected by the decision, have retreated from that position. In pending cases like the one in Holbrook, the Ring decision has created intense procedural confusion in several states.

In its ruling, the Supreme Court answered one question and created half a dozen others, including how the new rule affects defendants at various stages in the cases against them; whether the decision requires actions in states where juries render advisory verdicts; what new laws are required to fix the problem the court identified; and what happens in cases like the one in Arizona.

The Ring decision effectively declared the death penalty statutes in five states unconstitutional, and it called into question statutes in four other states where juries render advisory verdicts but judges make the ultimate decision.

The five states in which judges made all of the relevant decisions are Arizona, Colorado, Idaho, Montana and Nebraska. The four so-called hybrid states are Alabama, Delaware, Florida and Indiana. About 630 death row prisoners are in the hybrid states, most of them in Florida and Alabama.

Several legislatures have acted quickly, sometimes by convening special sessions, to fix their statutes by giving juries a larger role. The supreme courts in a handful of states are considering Ring-related issues.

People on death row who have exhausted their direct appeals face daunting obstacles in arguing that the decision should apply to them retroactively. Courts have not been receptive to similar arguments.

People with pending appeals are in a much stronger position. But they, too, are facing vigorous arguments from prosecutors.

On the day Ring was decided, for instance, Kent Cattani, chief counsel of the death penalty appeals unit in the Arizona attorney general's office, said the 30 people on death row in Arizona who had not exhausted their direct appeals would be entitled to resentencings involving juries. But in August, Mr. Cattani's office filed papers in the Arizona Supreme Court arguing that the original death penalties should stand.

In a recent interview, Mr. Cattani said the revised position was the result of case-by-case analysis. He said all the Ring-related errors in these cases were harmless because factors supporting the death penalty were found implicitly by juries in an earlier phase of the trial, and because the Arizona Supreme Court rigorously reviewed death sentences. That leaves people whose cases were pending at the trial court level when Ring was decided.

Nicholas S. Sizemore and Scott B. Brian, the two Arizona men who pleaded guilty, were already serving time for murder when they fatally stabbed Carlos R. Ceniceros, a fellow inmate, in November 2000. Mr. Sizemore, 21, was in the fourth year of a 30-year sentence. Mr. Brian, 38, was serving a life sentence.

They were charged with first-degree murder, and the prosecution sought the death penalty. The case proceeded fitfully until a routine hearing on July 24, when the men announced they were pleading guilty.

The pleas startled the prosecutor, Joseph Duarte. Serious criminal cases

generally end in plea bargains and occasionally result in trials. They almost never end in simple acknowledgments of guilt, and the defendant who simply pleads is rarely better off as a consequence.

But in court that day, Mr. Duarte acknowledged that this case was the exception. "There does not appear to be a viable death penalty sentence to which Mr. Sizemore would be exposed," he told the judge. He added a similar comment about Mr. Brian.

The judge, Dale P. Neilson, agreed, telling the defendants that life in prison was the maximum sentence and accepting their pleas. He scheduled a sentencing hearing for September. In Mr. Brian's case, as everyone in the courtroom that day understood it, the hearing would be pointless. He had gotten a free pass for the killing and would face no additional time or other consequences for it.

A week later, the Arizona Legislature enacted emergency legislation, saying it wanted "no hiatus in the imposition of the death penalty."

A month after that, and just days before the sentencing, Mr. Duarte had his own surprise for the court. He said in court papers that he had been wrong about the death penalty and that the sentencing could proceed under the new law. He suggested that the defendants should be allowed to withdraw their pleas.

This drew a strong reaction from one of Mr. Sizemore's lawyers in a court filing.

"Why, in the name of God, would Mr. Sizemore want to withdraw?" the lawyer, Thomas J. Phalen, asked. "So that the state can kill him?"

Arizona, Colorado, Delaware, Indiana and Montana have all enacted laws to address the Ring decision. Some of the statutes became effective after the decision but were drafted in anticipation of it.

Defense lawyers have complained about aspects of the new statutes. In Arizona, for instance, the Legislature limited the ability of both the trial and supreme courts to review a jury's verdict and allowed victims a larger role in proceedings than Supreme Court precedent allows, said John Stookey, an Arizona lawyer who represents capital defendants.

Before Arizona acted, lawyers for Mr. Sizemore and Mr. Brian sweated about their tactical decision, nervous that they were missing something. In the end, they advised their clients to plead guilty.

"It was like a window open," Mr. Phalen concluded, "and it was clear as a matter of law that there was no death penalty statute."

Mr. Brian's lawyer, Patrick McGillicuddy, said his client followed Mr. Sizemore's "bold move."

Mr. Duarte, the prosecutor, did not return a telephone call.

Mr. Cattani, of the attorney general's office, said Mr. Duarte had misspoken. "The prosecutor was wrong in terms of saying there's no statute under which they can be sentenced," he said. "They could even have been sentenced under the old statute."

That analysis is at odds with a statement in a letter Attorney General Janet Napolitano sent to Arizona judges the day Ring was decided. Ms. Napolitano argued the Ring case in the Supreme Court and is now a candidate for governor.

"It would now be unconstitutional to conduct a capital sentencing under the present version" of the death penalty statute, she wrote in June, urging judges not to proceed "until the statute is amended to conform to the law." She did not say what should happen to defendants who pleaded guilty in the meantime.

From:	CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To:	Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>;P. Thaddeus Messenger/OMB/EOP@EOP [OMB] <P. Thaddeus Messenger>
Sent:	9/16/2002 2:20:26 PM
Subject:	: LRM PTM156 - - VETERANS AFFAIRS Testimony on VA Research Programs
Attachments:	P_TDP6A003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:16-SEP-2002 18:20:26.00
SUBJECT:: LRM PTM156 - - VETERANS AFFAIRS Testimony on VA Research Programs
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:P. Thaddeus Messenger (CN=P. Thaddeus Messenger/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
End Original ARMS Header

No objection.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 09/16/2002 06:22 PM ----------

Patrick J. Bumatay
09/16/2002 06:10:37 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: LRM PTM156 - - VETERANS AFFAIRS Testimony on VA Research Programs

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 09/16/2002 06:11 PM ----------

From: P. Thaddeus Messenger on 09/16/2002 05:46:50 PM
Record Type: Record

To: dodlrs@osdgc.osd.mil, lrm@hhs.gov
cc: See the distribution list at the bottom of this message
Subject: LRM PTM156 - - VETERANS AFFAIRS Testimony on VA Research Programs

LRM ID: PTM156
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Monday, September 16, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: P. Thaddeus Messenger
PHONE: (202)395-7754 FAX: (202)395-6148
SUBJECT: VETERANS AFFAIRS Testimony on VA Research Programs

DEADLINE: 3:00 p.m. Tuesday, September 17, 2002
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Attached for your review, please find a draft copy of DVA (Roswell) testimony on VA research programs, to be delivered Thursday, September 19, 2002 before the House Veterans Affairs Committee. The Department of Health and Human Services will also appear at this hearing. That testimony was previously circulated under LRM PTM154.

Please provide your comments by 3:00 p.m. tomorrow, Tuesday, September 17, 2002. If we do not receive your comments by that time, we will assume you have no objection to the document as drafted.

If you experience difficulty with this LRM, or its attachment, please contact us immediately. To ensure receipt by Agency addressees, the electronic copy of this LRM will be followed by a duplicate copy via facsimile.

Thank you.

DISTRIBUTION LIST

AGENCIES:
029-DEFENSE - Samuel T. Brick Jr. - (703) 697-1305
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773

EOP:
NSP
VAB
Cameron M. Leuthy
Wendell H. Waites
Thomas Reilly
Patrick Aylward
Keith J. Fontenot
Mark Vinkenes
Judy C. Lin
Jennifer M. Forshey
Stuart Shapiro
Eva Kleederman
Brooke Dickson
Lauren Wittenberg
Sarah S. Lee
Pamula L. Simms
Attia Little
Aquiles F. Suarez
OVP LRM
WHGC LRM
Philip J. Perry
Matthew J. Schneider
John F. Wood
Rosalyn J. Rettman
Robert Marsh
Danielle M. Simonetta
Elizabeth L. Rossman
Lauren C. Lobrano
James J. Jukes
Ingrid M. Schroeder
P. Thaddeus Messenger
LRM ID: PTM156 SUBJECT: VETERANS AFFAIRS Testimony on VA Research Programs
RESPONSE TO

LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: P. Thaddeus Messenger Phone: 395-7754 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Copied
To:_____
Robin Cleveland/OMB/EOP@EOP
Karyn T. Carson/OMB/EOP@EOP
Kathleen Peroff/OMB/EOP@EOP
Mary Jo Siclari/OMB/EOP@EOP
Toni S. Hustead/OMB/EOP@EOP
Arecia A. Grayton/OMB/EOP@EOP
Winifred Y. Chang/OMB/EOP@EOP
Kelli A. Hagen/OMB/EOP@EOP
Lourdes M. Lamela/OMB/EOP@EOP
Shalini M. Benson/OMB/EOP@EOP
Danny A. Ermann/OMB/EOP@EOP
Narahari Sastry/OMB/EOP@EOP
John J. Bartrum/OMB/EOP@EOP
Mark R. Seastrom/OMB/EOP@EOP
Cameron M. Leuthy/OMB/EOP@EOP
Wendell H. Waites/OMB/EOP@EOP
Thomas Reilly/OMB/EOP@EOP
Patrick Aylward/OMB/EOP@EOP
Keith J. Fontenot/OMB/EOP@EOP

Mark Vinkenes/OMB/EOP@EOP
Judy C. Lin/OMB/EOP@EOP
Jennifer M. Forshey/OMB/EOP@EOP
Stuart Shapiro/OMB/EOP@EOP
Eva Kleederman/OMB/EOP@EOP
Brooke Dickson/OMB/EOP@EOP
Lauren Wittenberg/OMB/EOP@EOP
Sarah S. Lee/OMB/EOP@EOP
Pamula L. Simms/OMB/EOP@EOP
Attia Little/OMB/EOP@EOP
Aquiles F. Suarez/OPD/EOP@EOP
OVP LRM
WHGC LRM
Philip J. Perry/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Rosalyn J. Rettman/OMB/EOP@EOP
Robert Marsh/WHO/EOP@EOP
Danielle M. Simonetta/OMB/EOP@EOP
Elizabeth L. Rossman/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Ingrid M. Schroeder/OMB/EOP@EOP
P. Thaddeus Messenger/OMB/EOP@EOP

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_TDP6A003_WHO.TXT_1>

DRAFT

Statement of
The Honorable Robert H. Roswell, M.D.
Under Secretary for Health
Department of Veterans Affairs
On Various Research Issues
before the
Subcommittee on Oversight and Investigations
of the
Committee on Veterans' Affairs
U.S. House of Representatives

September 19, 2002

*****

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to appear before you to discuss various research and development issues that we understand you are interested in. Specifically, my testimony focuses on the Department of Veterans Affairs (VA) technology transfer program, non-profit research corporations and educational foundations, human subject protections, and the recovery of indirect costs associated with conducting National Institutes of Health funded research at VA facilities. With me today are Dr. James F. Burris, Chief Research and Development Officer; Dr. John H. Mather, Chief Officer, Office of Research Compliance and Assurance; Dr. Mindy L. Aisen, Director, Rehabilitation Research and Development Service; and Mr. John A. Bradley, Director of Finance, Office of Research and Development.

1. VA Technology Transfer Program (TTP)

The history of the VA research program is a history of discoveries that have benefited not only veterans but also all American citizens. VA researchers have played key roles in developing the cardiac pacemaker, the CAT Scanner, the Seattle Foot, magnetic resonance imaging, and the nicotine patch. The first liver transplant in the United States was performed at a VA medical facility, and VA researchers pioneered the first successful drug treatments for high blood pressure and schizophrenia.

For many years, VA did not claim ownership rights to the new technologies its researchers developed. As a result, VA facilities and laboratories lost the opportunity to benefit financially from the discoveries they brought to life. Some important VA discoveries that did not capture the interest of private industry were never offered to the general public, despite their benefits to veterans and others. Today, VA takes credit for both the past and the future work of its researchers. If that work results in financial gain, VA uses that gain on behalf of veterans.

To facilitate this vision, the TTP requires that VA assert an ownership interest whenever appropriate, so that VA can build upon its discoveries and ensure access to technologies by veterans. The TTP is committed to supporting the highest quality intramural research program. This means not only moving discovery from the laboratory to clinical practice in a timely manner, but also assuring that inventors and their host VA medical centers (VAMC) receive optimal advice and support so that they may realize equitable compensation and recognition.

VA operates a substantial research program in connection with the research programs at many of the medical institutions with whom it is affiliated. As a result, many VA researchers also hold academic appointments with VA affiliates. Some of VA's best and most beneficial inventions have come out of this setting, and VA continues to promote this research relationship, as it benefits our veterans and the public generally.

Although VA can assert an ownership right in inventions made by its employees under Executive Order 10096, it cannot, and does not, do so to the exclusion of our university partners or the inventors. Since many of VA's researchers hold dual appointments with VA and a university, VA recognizes that, in such cases, the universities often have an interest in an invention made at a VA facility, leading to joint ownership.

To further enhance cooperation between VA and its research affiliates, and to facilitate the technology transfer process, VA's TTP developed a Cooperative Technology Administration Agreement (CTAA). The first such

agreement, developed in collaboration with the University of California, was signed in May 2000 and included all 10 campuses of the University system. This CTAA served as the template for future agreements with other affiliates, but has evolved with input from other research partners. To date, over 50 percent of our major university partners have executed a CTAA with VA. In the absence of a CTAA, VA and an affiliated university would have to negotiate jointly developed technology on a case-by-case basis, a time consuming and expensive process. With a CTAA, an affiliated university will generally take the lead on patenting and commercializing jointly owned inventions.

VA understands that the Bayh-Dole Act has imposed certain requirements and responsibilities on its university research affiliates. VA believes that its own rights, responsibilities, and interests in the operation of a research program are not in conflict with those requirements.

VA has been meeting with members of the Association of American Medical Colleges and the Council on Governmental Relations to discuss VA technology transfer issues. Both organizations expressed general support of the use of the CTAA but also requested that VA consider authorizing variations from the model CTAA as circumstances at individual research universities dictate. VA has provided an updated model CTAA on the Research web site that allows potential partners to select specific language that best suits their particular needs for certain sections of the CTAA. Feedback on this has been very positive. The website also contains other information to assist partners in understanding this program.

When VA is the sole owner or the university partner does not wish to take the lead in developing an invention, VA may choose to patent and commercialize the intellectual property. In the last two years, nine patent applications have been submitted to the US Patent and Trademark Office (USPTO) for action. An additional five applications are in preparation with contract patent counsel for submission to USPTO. VA has recently concluded its first commercial licensing agreement and will finalize a second agreement this autumn.

REV_00150986

VA's intellectual property portfolio has grown steadily from FY 1999 to date, as shown below.

- In FY 1999, VA received 48 invention disclosures and asserted ownership rights on 20. Of those 20 inventions, 12 involved joint ownership where the affiliate assumed the lead. In the remaining eight, VA obtained sole ownership or assumed responsibility as the lead agency. VA retained a government use license in 13 inventions.
- In FY 2000, VA received 85 invention disclosures and VA asserted ownership rights on 51. Thirty-nine (39) involved joint ownership where the affiliate assumed the lead. VA obtained sole ownership or assumed responsibility as the lead agency in the remaining 12. VA retained a government use license in 18 inventions.
- In FY 2001, VA received 132 invention disclosures and asserted ownership rights on 91. Sixty-eight involved joint ownership where the affiliate assumed the lead. In 20, VA obtained sole ownership or assumed responsibility as the lead agency. Three are being handled under public domain processing. VA retained a government use license in 15 inventions.
- In FY 2002 to date, VA has received 115 invention disclosures. VA has asserted ownership rights on 62, 55 of which involved joint ownership where the affiliate assumed the lead. VA obtained sole ownership or assumed responsibility as the lead agency in 7, and none were handled under public domain processing. VA retained a government use license in 7 inventions.

2. Non-profit Research Corporations and Educational Foundations

In 1988, Congress authorized the creation of non-profit research corporations at VAMCs to support the VA research mission. Public Law 106-117 (1999), the Veterans Millennium Health Care and Benefits Act, expanded the authority to create new VA non-profit corporations to support research or education or both. It also authorized existing VA non-profit corporations to expand their mission to include support of education activities as well as research. Education activities supported by the non-profits may be directed at patients or employees. Such activities include broad instructional learning

experiences for veterans and their families that focus on improving and maintaining patient health as well as work-related instruction and training for VA staff.

There are 85 active VA non-profit research corporations and educational foundations (non-profits). These non-profits enable the Department to spend optimally the funds it receives from non-VA sources. The non-profits have greater procurement flexibility than the General Post Fund and are not subject to Federal employment regulations or ceilings. Further, the non-profits are not subject to the restriction under current National Institute of Health (NIH) policy that limits reimbursements for indirect costs if the research is conducted at VA. Several non-profits have successfully negotiated with NIH to include an indirect cost reimbursement rate for NIH grants administered by the corporations.

In 2001, non-profits received $179.5 million in donations, grants, and interest for both research and education activities. Non-profits supported almost 4,700 VA-approved projects. Many are medical research clinical trials that focus on conditions prevalent in the veteran population and thus provide a direct benefit to VA patients. Non-profits also provide salary support for clinical research personnel to monitor veteran patients enrolled in clinical trials. These services enable the research participants to receive additional care and attention. In addition, the general public benefits from approval of new treatments that are developed through this research.

Non-profits also enable many facilities to fund essential services. For example, some non-profits, such as the McGuire Research Institute in Richmond, Virginia, are helping facilities meet increasingly complex and stringent human research requirements by hiring research compliance and institutional review board (IRB) staff. Others, such as the Atlanta Research and Education Foundation, have paid for numerous renovation and repair projects, which include the design and remodeling of laboratories. The Indiana Institute for Medical Research has purchased confocal microscopes and other equipment for the Indianapolis VAMC.

REV_00150988

In 2001, non-profits managed funds very efficiently, as evidenced by a low administrative overhead rate whose mean and median equaled 11 percent. As a result, 90 percent of all non-profit expenditures directly supported approved research and education. This reflects the sound oversight and management of each board of directors and the dedicated efforts of the non-profit staffs.

VA assigns primary oversight of non-profits to the local facility leadership. The facility director approves all board members and, as required by statute, serves on the board with the facility chief of staff and the associate chief of staff for research/education. A certified public accountant and an external auditor assist each corporation board of directors in their oversight function. In addition, facility directors have at their disposal the same measures to prevent waste, fraud, and abuse in the operations of the VA non-profits as they do for other organizations within their purview. This would include, for example, a request that the Chief Financial Officer at the facility review certain corporation documents or investigations conducted by the Office of the Inspector General. Non-profits also are subject to audit and inspection by the Internal Revenue Service. They also receive periodic scrutiny by state, city, and other local government agencies.

3. Human Subject Protections

VA is fully committed to protecting those who participate in clinical trials and other research projects. At the previous hearing, I described many of the initiatives that VA has undertaken to ensure that its scientists and research staff fully understand and comply with the stringent ethical principles and rigorous regulatory requirements of our human research protection program. The role of the Office of Research Compliance and Assurance (ORCA) was discussed at the previous hearing. In this statement I will update information previously provided and focus more on the activities of VA's Office of Research and Development (ORD).

During the past three years VA facilities received more than $85 million to support research administrative functions including human subject protections. This funding has permitted facilities to increase staffing, education, resources

REV_00150989

(such as computers and computer software to allow better tracking and more complete record keeping), and networking among facilities to disseminate best practices and model documents.

This year, ORD is providing over $30 million per year in administrative support funding, and it will make up to an additional $10 million in non-recurring funds available over two years for Institutional Review Board-related proposals.

An important educational tool is the Research and Development Accreditation Consultation Team, or ReDACT. ReDACT offers consultation, coaching and counseling for local IRBs and research personnel. The team consists of experts in human subjects protection and NCQA standards, and we expect it to be a key part of VA's effort to protect research participants.

Participants in clinical trials will also benefit from several other initiatives. ORD has collaborated with veterans service organizations to convene focus groups that review informed consent documents and procedures to make the process more understandable and meaningful to potential research participants. Trial investigators must receive formal training in human research protections before submitting research proposals to their IRB for review and approval. In addition, investigators in our Cooperative Studies Program, a program that conducts very large multi-site studies, must attend training in Good Clinical Practices, the international "gold standard" for conducting clinical trials. A Site Monitoring and Review Team (SMART) provides site monitoring and Good Clinical Practices reviews in an effort to improve the conduct of clinical trials. SMART conducts approximately 125 random and requested site visits per year.

The Handbook on Human Subjects Protection is awaiting final review before being disseminated to the field. The handbook combines the concerted effort of both VA and non-VA experts in the field of human subjects protection to enhance VA policies. Facilities will need virtually no additional time and effort to implement the handbook. The draft handbook has been available on VA's web site throughout its development and many of the new requirements are good clinical practices that the field has begun to adopt. ORD is also developing a Web-based instruction/guidance document on writing informed consent

REV_00150990

documents. Educational efforts will also be provided through national and regional conferences, programs in conjunction with the ReDACT effort, and national conference calls.

Indicative of the success of these efforts is a recent quality improvement survey that ORD conducted. Ninety-seven percent of responding research subjects agreed with the statement "The Informed Consent process including discussion with study staff gave me the information needed to make an informed decision about whether or not to participate in the study."

At the previous hearing, I discussed at length VA's efforts to accredit its human research protection programs through the National Committee on Quality Assurance (NCQA). As of September 18, 2002, eight additional final reports have been issued, with seven facilities being "Accredited with Conditions," and one site receiving "Not Accredited" status. Cumulatively, 15 facilities have been "Accredited with Conditions," two have received a final result of "Not Accredited," two have received a preliminary result of "Not Accredited," and four sites still await final reports. ORCA is continuing to conduct reviews at these sites.

I also noted that this first-of-its-kind program had temporarily suspended accreditation reviews in order to conduct quality improvement activities, based on the experiences of the first 23 inspections. VA and NCQA have both agreed that the standards needed modification to help streamline the review process and to clarify selected requirements. As a result, NCQA released revised standards for public comment on September 5.

The revised standards reflect Institute of Medicine recommendations encouraging institutions to involve participants in human research programs. NCQA has proposed broadening standards requiring research centers to conduct surveys of participants and potential participants and to use their input to help improve their research and their human subject protection programs. The standards also promote self-evaluation, through which VA medical centers can analyze and rate their own performance, and continuously improve their research programs.

REV_00150991

For the program's second year, NCQA and VA have agreed on an approach to coordinate oversight requirements for VAMCs that use the IRBs of affiliated academic institutions. Under this process, sites that use the IRBs of an academic affiliate accredited by the Association for the Accreditation of Human Research Protection Programs (AAHRPP) will be permitted to undergo a more limited NCQA survey. Upon completion of the survey, NCQA will issue an accreditation decision that combines the results of the NCQA and AAHRPP surveys. NCQA, AAHRPP, and VA will be developing detailed plans to implement the new process in the coming weeks.

4. Recovery of Indirect Costs for National Institutes for Health (NIH) Funded Research

The strength of VA's medical research program can be assessed not only through its discoveries and Nobel Prize winners but also by the success of its investigators in winning research grants from the NIH. In FY 2001, VA researchers received almost $400 million in NIH grants, a sum greater than VA's own Medical and Prosthetic Research budget.

Although the VA/NIH partnership has grown to both institutions' benefit, the facilities and administration (F&A) or indirect costs of supporting NIH funded research has strained VA resources and infrastructure. Unlike universities and even some foreign facilities, VA sites do not receive NIH reimbursement for indirect costs incurred in supporting that research. VA has had to absorb this cost. The inability to recoup the F&A costs associated with the NIH-sponsored research threatens to limit artificially the amount of NIH funded research conducted at VA sites.

VA estimates that its F&A costs for NIH-supported research are almost 24 percent of the direct grant amounts, a rate that is lower than those negotiated with most universities and non-profit organizations. These lower costs reflect the significant contribution that VA will continue to make toward supporting NIH funded research conducted in VA facilities.

Since the May hearing, NIH officials have acknowledged the need for VA to be properly reimbursed for indirect research costs. However, in recent

REV_00150992

meetings with NIH, VA was informed that NIH would limit VA reimbursement to a rate based on incremental costs above the current level of indirect support for research that VA provides. This methodology would present tremendous difficulty for VA and is different from that applied to determine the reimbursement rate for other sites that conduct NIH funded research. At this time, we are considering what our next steps should be, but will meet again in October in a further attempt to resolve this issue.

Mr. Chairman, this concludes my statement. My colleagues and I will now be happy to answer any questions that you and other members of the Subcommittee might have.

REV_00150993

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Henry C. Hager/WHO/EOP@EOP [WHO] <Henry C. Hager>;Israel Hernandez/WHO /EOP@EOP [WHO] <Israel Hernandez>
Sent: 9/16/2002 4:17:42 PM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:16-SEP-2002 20:17:42.00
SUBJECT::
TO:Henry C. Hager ( CN=Henry C. Hager/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Israel Hernandez ( CN=Israel Hernandez/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Do you all feel that things are working w/r/t the issues of (i)
payment for video and audio tapes and (ii) restrictions on use of those
tapes?
```

From: CN=William T. Griffin/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 9/17/2002 4:33:23 AM
Subject: : Re: video for GOP-TV

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:William T. Griffin (CN=William T. Griffin/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:17-SEP-2002 08:33:23.00
SUBJECT:: Re: video for GOP-TV
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

So, legally, if we made it available to GOP-TV, we'd have to make it available to DNC-TV as well. Right?

Brett M. Kavanaugh
09/16/2002 08:02:06 PM
Record Type: Record

To: William T. Griffin/WHO/EOP@EOP
cc:
bcc:
Subject: Re: video for GOP-TV

Where does this stand? Bottom line is that we should not make video available on a preferential basis to political entities. If available to them, should be available to others on same terms and conditions.

William T. Griffin
09/11/2002 10:44:24 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: video for GOP-TV

On a routine basis, no. But at times, when appropriate, we make tapes available free of charge. For example, the Oklahoma City Museum wanted a copy of the President's Speech on Sept. 14 at the National Cathedral -- we provided it. Does that count?

Brett M. Kavanaugh
09/11/2002 10:27:14 AM
Record Type: Record

To: William T. Griffin/WHO/EOP@EOP

cc:
bcc:
Subject: Re: video for GOP-TV

Do we allow other outside entities to purchase the footage? If so, the footage may be made available to GOP-TV on the same terms and conditions as it is made available to those other entities (with the caveat that we should always approve the GOP-TV usage in advance). Keep me posted.

William T. Griffin
09/11/2002 10:20:02 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: video for GOP-TV

Brett --

We talked a while back about finding a way to let RNC's GOP-TV use White House TV footage. Any movement on that? They need footage from the PA ceremony today and cannot get it commercially. Can we do anything to help?

Taylor
x66552

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Susan B. Ralston/WHO/EOP@EOP [WHO] <Susan B. Ralston>
Sent: 9/17/2002 4:59:47 AM
Subject: : Re: 10/7 memo re: judges

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:17-SEP-2002 08:59:47.00
SUBJECT:: Re: 10/7 memo re: judges
TO:Susan B. Ralston ( CN=Susan B. Ralston/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I sent you an email and also left 2 hard copy memos on your chair. Note
that the ABA memo on your chair is not one of the emailed documents since
it is an external document.

.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: mestrada@gibsondunn.com @ inet [UNKNOWN] <mestrada@gibsondunn.com @ inet>
Sent: 9/17/2002 9:16:24 AM
Subject: : Miguel Estrada -- An American Success Story

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:17-SEP-2002 13:16:24.00
SUBJECT:: Miguel Estrada -- An American Success Story
TO:mestrada@gibsondunn.com @ inet (mestrada@gibsondunn.com @ inet [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on
09/17/2002 01:19 PM ----------

Leonard B. Rodriguez
09/17/2002 11:25:35 AM
Record Type: Record

To:
cc:
Subject: Miguel Estrada -- An American Success Story

Miguel Estrada:
An American Success Story

http://www.thelatinocoalition.org

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Douglas L. Hoelscher/WHO/EOP@EOP [WHO] <Douglas L. Hoelscher>
Sent: 9/17/2002 8:12:44 AM
Subject: : Re: RNC letters to political appointeess -- Quick question

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:17-SEP-2002 12:12:44.00
SUBJECT:: Re: RNC letters to political appointeess -- Quick question
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Douglas L. Hoelscher ( CN=Douglas L. Hoelscher/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Yes

.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Brent D. Greenfield/WHO /EOP@EOP [WHO] <Brent D. Greenfield>;Alicia W. Davis/WHO/EOP@EOP [WHO] <Alicia W. Davis>
Sent: 9/18/2002 9:35:47 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:18-SEP-2002 13:35:47.00
SUBJECT::
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brent D. Greenfield ( CN=Brent D. Greenfield/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alicia W. Davis ( CN=Alicia W. Davis/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

We can continue with the charter for the Card trip to
Massachusetts.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Melissa S. Bennett/WHO/EOP@EOP [WHO] <Melissa S. Bennett>
Sent: 9/18/2002 9:20:49 AM
Subject: : am trying to straighten it out

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:18-SEP-2002 13:20:49.00
SUBJECT:: am trying to straighten it out
TO:Melissa S. Bennett ( CN=Melissa S. Bennett/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Charlotte L. Montiel/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 9/18/2002 2:17:35 PM
Subject: : hr 3210
Attachments: P_PPD9A003_WHO.TXT_1.htm

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-SEP-2002 18:17:35.00
SUBJECT:: hr 3210
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Double click on the .htm thing at the bottom and it will open (it just doesn't have an icon).

Charlotte

---------- Forwarded by Charlotte L. Montiel/WHO/EOP on 09/18/2002 06:07 PM ----------

Hana F. Brilliant
09/18/2002 06:02:03 PM
Record Type: Record

To: Charlotte L. Montiel/WHO/EOP@EOP
cc:
Subject: hr 3210

---------- Forwarded by Hana F. Brilliant/WHO/EOP on 09/18/2002 06:10 AM ----------

Hana F. Brilliant
09/18/2002 05:50:08 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: hr 3210

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_PPD9A003_WHO.TXT_1>

HR 3210 EH

107th CONGRESS
1st Session
H. R. 3210

AN ACT< /b>

To ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE- This Act may be cited as the `Terrorism Risk Protection Act'.

(b) TABLE OF CONTENTS- The table of contents for this Act is as follows:

Sec. 1. < span class=GramE>Short title and table of contents.
Sec. 2. < span class=GramE>Congressional findings.
Sec. 3. < span class=GramE>Authority of Secretary of the Treasury.
Sec. 4. < span class=GramE>Submission of premium information to Secretary.
Sec. 5. < span class=GramE>Initial and subsequent triggering determinations.
Sec. 6. < span class=GramE>Federal cost-sharing for commercial insurers.
Sec. 7. < span class=GramE>Assessments.
Sec. 8. < span class=GramE>Terrorism loss repayment surcharge.
Sec. 9. < span class=GramE>Administration of assessments and surcharges.
Sec. 10. Application to self-insurance arrangements and offshore insurers and reinsurers.
Sec. 11. Study of reserves for property and casualty insurance for terrorist or other catastrophic events.
Sec. 12. State preemption.
Sec. 13. Consistent State guidelines for coverage for acts of terrorism.
Sec. 14. Consultation with State insurance regulators and NAIC.
Sec. 15. Litigation management.
Sec. 16. Study of potential effects of terrorism on life insurance industry.
Sec. 17. Railroad and trucking insurance study.
Sec. 18. Study of reinsurance pool system for future acts of terrorism.
Sec. 19. Definitions.
Sec. 20. Covered period and extension of program.

Sec. 21. Regulations.

SEC. 2. CONGRESSIONAL FINDINGS.< /span>

The Congress finds that--

(1) the terrorist attacks on the World Trade Center and the Pentagon of September 11, 2001, resulted in a large number of deaths and injuries, the destruction and damage to buildings, and interruption of business operations;

(2) the attacks have inflicted possibly the largest losses ever incurred by insurers an d reinsurers in a single day;

(3) while the insurance and reinsurance industries have committed to pay the losses arising from the September 11 attacks, the resulting disruption has created widespread market uncertainties with regard to the risk of losses arising from possible future terrorist attacks;

(4) such uncertainty threatens the continued availability of United States commercial property and casualty insurance for terrorism risk at meaningful coverage levels;

(5) the unavailability of affordable commercial property and casualty insurance for terrorist acts threatens the growth and stability of the United States economy, including impeding the ability of financial services providers to finance commercial property acquisitions and new construction;

(6) in the past, the private insurance and reinsurance markets have shown a remarkable resiliency in adapting to changed circumstances;

(7) given time, the private markets will diversify and develop risk spreading mechanisms to increase capacity and guard against possible future losses incurred by terrorist attacks;

(8) it is necessary to create a temporary industry risk sharing program to ensure the continued availability of commercial property and casualty insurance and reinsurance for terrorism-related risks;

(9) such action is necessary to limit immediate market disruptions, encourage economic stabilization, and facilitate a transition to a viable market for private terrorism risk insurance;

(10) in addition, it is necessary promptly to conduct a study of whether there is a need for reserves for property and casualty insurance for terrorist or other catastrophic events; and

(11) terrorism insurance plays an important role in the efficient functioning of the economy and the financing of commercial property acquisitions and new construction and, therefore, the Congress intends to continue to monitor, review, and evaluate the private terrorism insurance and reinsurance marketplace to determine whether additional action is necessary to maintain the long-term stability of the real estate and capital markets.

SEC. 3. AUTHORITY OF SECRETARY OF THE TREASURY.

The Secretary of the Treasury shall be responsible for carrying out a program for financial assistance for commercial property and casualty insurers, as provided in this Act.

SEC. 4. SUBMISSION OF PREMIUM INFORMATION TO SECRETARY.

To the extent such information is not otherwise available to the Secretary, the Secretary may require each insurer to submit, to the Secretary or to the NAIC, a statement specifying the net premium amount of coverage written by such insurer under each line of commercial property and casualty insurance sold by such insurer during such periods as the Secretary may provide.

SEC. 5. INITIAL AND SUBSEQUENT TRIGGERING DETERMINATIONS.

(a) IN GENERAL- For purposes of this Act, a `triggering determination' is a determination by the Secretary that an act of terrorism has occurred during the covered period and that the aggregate insured losses resulting from such occurrence or from multiple occurrences of acts of terrorism all occurring during the covered period, meet the requirements under either of the following paragraphs:

(1) INDUSTRY-WIDE TRIGGER- Such industry-wide losses exceed $1,000,000,000.

(2) INDIVIDUAL INSURER TRIGGER- Such industry-wide losses exceed $100,000,000 and some portion of such losses for any single commercial insurer exceed--

(A) 10 percent of the capital surplus of such commercial insurer (as such term is defined by the Secretary); and

(B) 10 percent of the net premium written by such commercial insurer that is in force at the time the insured losses occurred;

except that this paragraph shall not apply to any commercial insurer that was not providing commercial property and casualty insurance coverage prior to September 11, 2001, unless such insurer incurs such losses under commercial property and casualty insurance providing coverage for acts of terrorism through a pool of reserves for terrorism risks that is not under the control of any commercial insurer.

(b) DETERMINATIONS REGARDING OCCURRENCES- The Secretary, after consultation with the Attorney General of the United States and the Secretary of State, shall have the sole authority which may not be delegated or designated to any other officer, employee, or position, for determining whether--

(1) an occurrence was caused by an act of terrorism; and

(2) an act of terrorism occurred during the covered period.

SEC. 6. FEDERAL COST-SHARING FOR COMMERCIAL INSURERS.

(a) IN GENERAL- Pursuant to a triggering determination, the Secretary shall provide financial assistance to commercial insurers in accordance with this section to cover insured losses resulting from acts of terrorism, which shall be repaid in accordance with subsection (e).

(b) AMOUNT-

(1) INDUSTRY-WIDE TRIGGER- Subject to subsections (c) and (d), with respect to a triggering determination under section 5(a)(1), financial assistance shall be made available under this section to each commercial insurer in an amount equal to the difference between--

(A) 90 percent of the amount of the insured losses of the insurer as a result of the triggering event involved; and

(B) $5,000,000.< /span>

(2) INDIVIDUAL INSURER TRIGGER- Subject to subsections (c) and (d), with respect to a triggering determination under section 5(a)(2), financial assistance shall be made available under this section, to each commercial insurer incurring insured losses as a result of the triggering event involved that exceed the amounts under subparagraphs (A) and (B) of such section, in an amount equal to the difference between--

(A) 90 percent of the amount of the insured losses of the insurer as a result of such triggering event; and

(B) the amount under subparagraph (B) of section 5(a)(2).

(3) ADDITIONAL AMOUNTS- Subject to subsection (c), if the Secretary has provided financial assistance to a commercial insurer pursuant to paragraph (2) of this subsection and subsequently makes a triggering determination pursuant to section 5(a)(1), the Secretary shall provide financial assistance to such insurer in connection with such subsequent triggering determination (in addition to the amount of financial assistance provided to such insurer pursuant to paragraph (1) of this subsection) in the amount under section 5(a)(2)(B).

(c) AGGREGATE LIMITATION-

(1) IN GENERAL- The aggregate amount of financial assistance provided pursuant to this section may not exceed $100,000,000,000.

(2) SENSE OF CONGRESS REGARDING SEVERE LOSSES- It is the sense of the Congress that acts of terrorism resulting in insured losses greater than $100,000,000,000 would necessitate further action by the Congress to address such additional losses.

(d) LIMITATIONS- The Secretary may establish such limitations as may be necessary to ensure that payments under this section in connection with a triggering determination are made only to commercial insurers that are not in default of any obligation under section 7 to pay assessments or under section 8 to collect surcharges.

(e) REPAYMENT- Financial assistance made available under this section shall be repaid through assessments under section 7 collected by the Secretary and surcharges remitted to the Secretary under section 8. Any such amounts collected or remitted shall be deposited into the general fund of the Treasury.

(f) EMERGENCY DESIGNATION- Congress designates the amount of new budget authority and outlays in all fiscal years resulting from this section as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(e)). Such amount shall be available only to the extent that a request, that includes designation of such amount as an emergency requirement as defined in such Act, is transmitted by the President to Congress.

SEC. 7. ASSESSMENTS.

(a) IN GENERAL- In the case of a triggering determination, each commercial insurer shall be subject to assessments under this section for the purpose of repaying a portion of the financial assistance made available under section 6 in connection with such determination.

(b) AGGREGATE ASSESSMENT- Pursuant to a triggering determination, the Secretary shall determine the aggregate amount to be assessed under this section among all commercial insurers, which shall be equal to the lesser of--

(1) $20,000,000,000; and

(2) the amount of financial assistance paid under section 6 in connection with the triggering determination.

The aggregate assessment amount under this subsection shall be assessed to commercial insurers through an industry obligation assessment under subsection (c) and, if necessary, the remainder shall be assessed through one or more financing assessments under subsection (d).

(c) INDUSTRY OBLIGATION ASSESSMENTS-

(1) IN GENERAL- Immediately upon the occurrence of a triggering determination, the Secretary shall impose an industry obligation assessment under this subsection on all commercial insurers, subject to paragraph (3).

(2) AMOUNT- The aggregate amount of an industry obligation assessment in connection with a triggering determinat ion shall be equal to--

(A) in the case of a triggering determination occurring during the covered period specified in section 20(a), the lesser of--

(i) the difference between (I) $5,000,000,000, and (II) the aggregate amount of any assessments made by the Secretary pursuant to this section during the portion of such covered period preceding the triggering determination; and

(ii) the amount of financial assistance made available under section 6 in connection with the triggering determination; or

(B) such other aggregate industry obligation amount as may apply pursuant to subsection (g).

(3) TIMING OF MULTIPLE ASSESSMENTS-

(A) DELAYED IMPOSITION AND AGGREGATION OF ASSESSMENTS- In the case of any triggering determination occurring within 12 months of the occurrence of a previous triggering determination, any industry obligation assessments under this subsection resulting from such subsequent determination shall be imposed upon the conclusion of the quarterly assessment period under subparagraph (B) during which such determination occurs.

(B) QUARTERLY ASSESSMENT PERIOD- With respect to a subsequent triggering determination referred to in subparagraph (A), the quarterly assessment periods under this subparagraph are--

(i) the 3-month period that begins upon the imposition of the industry obligation assessment resulting from the triggering determination that--

(I) occurred most recently before such subsequent triggering determination; and

(II) did not occur within 12 months of the occurrence of any previous triggering determination; and

(ii) each successive 3-month period thereafter that begins during the covered period.

(d) FINANCING ASSESSMENTS-

(1) IN GENERAL- If the aggregate assessment amount in connection with a triggering determination exceeds the aggregate amount of the industry obligation assessment under subsection (c) in connection with the determination, the remaining amount shall be assessed through one or more, as may be necessary pursuant to paragraph (3), financing assessments under this subsection.

(2) TIMING- A financing assessment under this subsection in connection with a triggering determination shall be imposed only upon the expiration of any 12-month period beginning after such determination during which no assessments under this section have been imposed.

(3) LIMITATION- The aggregate amount of any financing assessments imposed under this subsection on any single commercial insurer during any 12-month period shall not exceed the amount that is equal to 3 percent of the net premium for such insurer for such period.

(e) ALLOCATION OF ASSESSMENT- The portion of the aggregate amount of any industry obligation assessment or financing assessment under this section that is allocated to each commercial insurer shall be based on the ratio that the net premium written by such commercial insurer during the year during which the assessment is imposed bears to the aggregate written premium for such year, subject to section 9 and the limitation under subsection (d)(3) of this section.

(f) NOTICE AND OBLIGATION TO PAY-

(1) NOTICE- As soon as practicable after any triggering determination, the Secretary shall notify each commercial insurer in writing of an assessment under this section, which notice shall include the amount of the assessment allocated to such insurer.

(2) EFFECT OF NOTICE- Upon notice to a commercial insurer, the commercial insurer shall be obligated to pay to the Secretary, not later than 60 days after receipt of such notice, the amount of the assessment on such commercial insurer.

(3) FAILURE TO MAKE TIMELY PAYMENT- If any commercial insurer fails to pay an assessment under this section before the deadline established under paragraph (2) for the assessment, the Secretary may take either or both of the following actions:

(A) CIVIL MONETARY PENALTY- Assess a civil monetary penalty pursuant to section 9(d) upon such insurer.

(B) INTEREST- Require such insurer to pay interest, at such rate as the Secretary considers appropriate, on the amount of the assessment that was not paid before the deadline established under paragraph (2).

(g) AGGREGATE INDUSTRY OBLIGATION AMOUNT FOR PROGRAM EXTENSION YEARS- If the Secretary exercises the authority under section 20(b) to extend the covered period, the aggregate industry obligation amount for purposes of subsection (c)(2)(B) shall, in the case of a triggering determination occurring during the portion of the covered period beginning on the date referred to in section 20(a), be equal to the lesser of--

(1) the difference between (A) $10,000,000,000, and (B) the aggregate amount of any assessments made by the Secretary pursuant to this section during the 12-month period preceding the triggering determination; and

(2) the amount of financial assistance made available under section 6 in connection with the triggering determination.

(h) ADMINISTRATIVE FLEXIBILITY-

(1) ADJUSTMENT OF ASSESSMENTS- The Secretary may provide for or require estimations of amounts under this section and may provide for subsequent refunds or require ad ditional payments to correct such estimations, as appropriate.

(2) DEFERRAL OF CONTRIBUTIONS- The Secretary may defer the payment of part or all of an assessment required under this section to be paid by a commercial insurer, but only to the extent that

the Secretary determines that such deferral is necessary to avoid the likely insolvency of the commercial insurer.

(3) TIMING OF ASSESSMENTS- The Secretary shall make adjustments regarding the timing and imposition of assessments (including the calculation of net premiums and aggregate written premium) as appropriate for commercial insurers that provide commercial property and casualty insurance on a non-calendar year basis.

SEC. 8. TERRORISM LOSS REPAYMENT SURCHARGE.

(a) DETERMINATION OF IMPOSITION AND COLLECTION-

(1) IN GENERAL- If, pursuant to a triggering determination, the Secretary determines that the aggregate amount of financial assistance provided pursuant to section 6 exceeds $20,000,000,000, the Secretary shall consider and weigh the factors under paragraph (2) to determine the extent to which a surcharge under this section should be established.

(2) FACTORS- The factors under this paragraph are--

(A) the ultimate costs to taxpayers if a surcharge under this section is not established;

(B) the economic conditions in the commercial marketplace;

(C) the affordability of commercial insurance for small- and medium-sized business; and

(D) such other factors as the Secretary considers appropriate.

(3) POLICYHOLDER PREMIUM- The amount established by the Secretary as a surcharge under this section shall be established and imposed as a policyholder premium surcharge on commercial property and casualty insurance written after such determination, for the purpose of repaying financial assistance made available under section 6 in connection with such triggering determination.

(4) COLLECTION- The Secretary shall provide for commercial insurers to collect surcharge amounts established under this section and remit such amounts collected to the Secretary.

(b) AMOUNT AND DURATION- Subject to subsection (c), the surcharge under this section shall be established in such amount, and shall apply to commercial property and casualty insurance written during such period, as the Secretary determines is necessary to recover the aggregate amount of financial assistance provided under section 6 in connection with the triggering determination that exceeds $20,000,000,000.

(c) PERCENTAGE LIMITATION- The surcharge under this section applicable to commercial property and casualty insurance coverage may not exceed, on an annual basis, the amount equal to 3 percent of the premium charged for such coverage.

(d) OTHER TERMS- The surcharge under this section shall--

(1) be based on a percentage of the premium amount charged for commercial property and casualty insurance coverage that a policy provides; and

(2) be imposed with respect to all commercial property and casualty insurance coverage written during the period referred to in subsection (b).

(e) EXCLUSIONS- For purposes of thi s section, commercial property and casualty insurance does not include any reinsurance provided to primary insurance companies.

SEC. 9. ADMINISTRATION OF ASSESSMENTS AND SURCHARGES.

(a) MANNER AND METHOD-

(1) IN GENERAL- Except to the extent specified in such sections, the Secretary shall provide for the manner and method of carrying out assessments under section 7 and surcharges under section 8, including the timing and procedures of making assessments and surcharges, notifying commercial insurers of assessments and surcharge requirements, collecting payments from and surcharges through commercial insurers, and refunding of any excess amounts paid or crediting such amounts against future assessments.

(2) EFFECT OF ASSESSMENTS AND SURCHARGES ON URBAN AND SMALLER COMMERCIAL AND RURAL AREAS AND DIFFERENT LINES OF INSURANCE- In determining the method and manner of imposing assessments under section 7 and surcharges under section 8, including the amount of such assessments and surcharges, the Secretary shall take into consideration--

(A) the economic impact of any such assessments and surcharges on commercial centers of urban areas, including the effect on commercial rents and commercial insurance premiums, particularly rents and premiums charged to small businesses, and the availability of lease space and commercial insurance within urban areas;

(B) the risk factors related to rural areas and smaller commercial centers, including the potential exposure to loss and the likely magnitude of such loss, as well as any resulting cross-subsidization that might result; and

(C) the various exposures to terrorism risk for different lines of commercial property and casualty insurance.

(b) TIMING OF COVERAGES AND ASSESSMENTS- The Secretary may adjust the timing of coverages and assessments provided under this Act to provide for equivalent application of the provisions of this Act to commercial insurers and policies that are not based on a calendar year.

(c) ADJUSTMENT- The Secretary may adjust the assessments charged under section 7 or the percentage imposed under the surcharge under section 8 at any time, as the Secretary considers appropriate to protect the national

interest, which may include avoiding unreasonable economic disruption or excessive market instability and avoiding undue burdens on small businesses.

(d) CIVIL MONETARY PENALTY-

(1) IN GENERAL- The Secretary may assess a civil monetary penalty in an amount not exceeding the amount under paragraph (2) against any commercial insurer that the Secretary determines, on the record after opportunity for a hearing--

(A) has failed to pay an assessment under section 7 in accordance with the requirements of, or regulations issued, under this Act;

(B) has failed to charge, collect, or remit surcharges under section 8 in accordance with the requirements of, or regulations issued under, this Act;

(C) has intentionally provided to the Secretary erroneous information regarding premium or loss amounts; or

(D) has otherwise failed to comply with the provisions of, or the regulations issued under, this Act.

(2) AMOUNT- The amount under this paragraph is the greater of $1,000,000 and, in the case of any failure to pay, charge, collect, or remit amounts in accordance with this Act or the regulations issued under this Act, such amount in dispute.

SEC. 10. APPLICATION TO SELF-INSURANCE ARRANGEMENTS AND OFFSHORE INSURERS AND REINSURERS.

(a) SELF-INSURANCE ARRANGEMENTS- The Secretary may, in consultation with the NAIC, apply the provisions of this Act, as appropriate, to self-insurance arrangements by municipalities and other entities, but only if such application is determined before the occurrence of a triggering event and all of the provisions of this Act are applied uniformly to such entities.

(b) OFFSHORE INSURERS AND REINSURERS- The Secretary shall ensure that the provisions of this Act are applied as appropriate to any offshore or non-admitted entities that provide commercial property and casualty insurance.

SEC. 11. STUDY OF RESERVES FOR PROPERTY AND CASUALTY INSURANCE FOR TERRORIST OR OTHER CATASTROPHIC EVENTS.

(a) IN GENERAL- The Secretary of the Treasury shall conduct a study of issues relating to permitting property and casualty insurance companies to establish deductible reserves against losses for future acts of terrorism, including--

(1) whether such tax-favored reserves would promote (A) insurance coverage of risks of terrorism, and (B) the accumulation of additional resources needed to satisfy potential claims resulting from such risks,

(2) the lines of business for whic h such reserves would be appropriate, including whether such reserves should be applied to personal or commercial lines of business,
(3) how the amount of such reserves would be determined,
(4) how such reserves would be administered,
(5) a comparison of the Federal tax treatment of such reserves with other insurance reserves permitted under Federal tax laws,
(6) an analysis of the use of tax-favored reserves for catastrophic events, including acts of terrorism, under the tax laws of foreign countries, and
(7) whether it would be appropriate to permit similar reserves for other future catastrophic events, such as natural disasters, taking into account the factors under the preceding paragraphs.

(b) REPORT- Not later than 4 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit a report to Congress on the results of the study under subsection (a), together with recommendations for amending the Internal Revenue Code of 1986 or other appropriate action.

SEC. 12. STATE PREEMPTION.

(a) COVERED PERILS- A commercial insurer shall be considered to have complied with any State law that requires or regulates the provision of insurance coverage for acts of terrorism if the insurer provides coverage in accordance with the definitions regarding acts of terrorism under this Act or under any regulations issued by the Secretary.

(b) RATE LAWS- If any provision of any State law prevents an insurer from increasing its premium rates in an amount necessary to recover any assessments pursuant to section 7, such provision is preempted only to the extent necessary to provide for such insurer to recover such losses.

(c) FILE AND USE-

(1) IN GENERAL- With respect only to commercial property and casualty insurance covering acts of terrorism, any provision of State law that requires, as a condition precedent to the effectiveness of rates or policies for such insurance that is made available by an insurer licensed to transact such business in the State, any action (including prior approval by the State insurance regulator for such State) other than filing of such rates and policies and related information with such State insurance regulator is preempted to the extent such law requires such additional actions for such insurance coverage.

(2) SUBSEQUENT REVIEW AUTHORITY- Paragraph (1) shall not be considered to preempt a provision of State law solely because the law provides that rates and policies for such insurance coverage are, upon such filing, subject to subsequent review and action, which may include actions to disapprove or discontinue use of such rates or policies, by the State insurance regulator.

(3) TREATMENT OF PRIOR REVIEW PROVISIONS- Any authority for prior review and action by a State regulator preempted under paragraph (1) shall be deemed to be authority to conduct a subsequent review and action on such filings.

SEC. 13. CONSISTENT STATE GUIDELINES FOR COVERAGE FOR ACTS OF TERRORISM.

(a) SENSE OF CONGRESS REGARDING COVERED PERILS- It is the sense of the Congress that--

(1) the NAIC, in consultation with the Secretary, should develop appropriate definitions for acts of terrorism that are consistent with this Act and appropriate standards for making determinations regarding occurrences of acts of terrorism;

(2) each State should adopt the definitions and standards developed by the NAIC for purposes of regulating insurance coverage made available in that State;

(3) in consulting with the NAIC, the Secretary should advocate and promote the development of definitions and standards that are appropriate for purposes of this Act; and

(4) after consultation with the NAIC, the Secretary should adopt further definitions for acts of terrorism and standards for determinations that are appropriate for this Act.

(b) INSURANCE RESERVE GUIDELINES-

(1) SENSE OF CONGRESS REGARDING ADOPTION BY STATES- It is the sense of the Congress that--

(A) the NAIC should develop appropriate guidelines for commercial insurers and pools regarding maintenance of reserves against the risks of acts of terrorism; and

(B) each State should adopt such guidelines for purposes of regulating commercial insurers doing business in that State.

(2) CONSIDERATION OF ADOPTION OF NATIONAL GUIDELINES- Upon the expiration of the 6-month period beginning on the date of the enactment of this Act, the Secretary shall make a determination of whether the guidelines referred to in paragraph (1) have, by such time, been developed and adopted by nearly all States in a uniform manner. If the Secretary determines that such guidelines have not been so developed and adopted, the Secretary shall consider adopting, and may adopt, such guidelines on a national basis in a manner that supersedes any State law regarding maintenance of reserves against such risks.

(c) GUIDELINES REGARDING DISCLOSURE OF PRICING AND TERMS OF COVERAGE-

(1) SENSE OF CONGRESS- It is the sense of the Congress that the States should require, by laws or regulations governing the provision of commercial property and casualty insurance that includes coverage

for acts of terrorism, that the price of any such terrorism coverage, including the costs of any terrorism related assessments or surcharges under this Act, be separately disclosed.

(2) ADOPTION OF NATIONAL GUIDELINES- If the Secretary determines that the States have not enacted laws or adopted regulations adequately providing for the disclosures described in paragraph (1) within a reasonable period of time after the date of the enactment of this Act, the Secretary shall, after consultation with the NAIC, adopt guidelines on a national basis requiring such disclosure in a manner that supersedes any State law regarding such disclosure.

SEC. 14. CONSULTATION WITH STATE INSURANCE REGULATORS AND NAIC.

(a) IN GENERAL- The Secretary shall consult with the State insurance regulators and the NAIC in carrying out this Act.

(b) FINANCIAL ASSISTANCE, ASSESSMENTS, AND SURCHARGES- The Secretary may take such actions, including entering into such agreements and providing such technical and organizational assistance to insurers and State insurance regulators, as may be necessary to provide for the distribution of financial assistance under section 6 and the collection of assessments under section 7 and surcharges under section 8.

(c) INVESTIGATING AND AUDITING CLAIMS- The Secretary may, in consultation with the State insurance regulators and the NAIC, investigate and audit claims of insured losses by commercial insurers and otherwise require verification of amounts of premiums or losses, as appropriate.

SEC. 15. LITIGATION MANAGEMENT.< /span>

(a) FEDERAL CAUSE OF ACTION-

(1) IN GENERAL- There shall exist a Federal cause of action for property damage, personal injury, or death arising out of or resulting from an act of terrorism, which shall be the exclusive cause of action and remedy for claims for such property damage, personal injury, or death, except as provided in subsection (d).

(2) PREEMPTION OF STATE ACTIONS- All State causes of action of any kind for property damage, personal injury, or death arising out of or resulting from an act of terrorism that are otherwise available under State law, are hereby preempted, except as provided in subsection (d).

(3) SUBSTANTIVE LAW- The substantive law for decision in any such action shall be derived from the law, including choice of law principles, of the State in which such acts of terrorism occurred, unless such law is inconsistent with or preempted by Federal law.

(4) JURISDICTION- For each determination under paragraph (1), the Judicial Panel on Multidistrict Litigation shall designate one or

more district courts of the United States which shall have original and exclusive jurisdiction over all actions for any claim (including any claim for loss of property, personal injury, or death) brought pursuant to this subsection. The Judicial Panel on Multidistrict Litigation shall select and assign the district court or courts based on the convenience of the parties and the just and efficient conduct of the proceedings. For purposes of personal jurisdiction, the district court or courts designated by the Judicial Panel on Multidistrict Litigation shall be deemed to sit in all judicial districts in the U nited States.

(5) LIMITS ON DAMAGES- In an action brought under this subsection for damages:

(A) No punitive damages intended to punish or deter, exemplary damages, or other damages not intended to compensate a plaintiff for actual losses may be awarded, nor shall any party be liable for interest prior to the judgment.

(B)(i) Each defendant in such an action shall be liable only for the amount of noneconomic damages allocated to the defendant in direct proportion to the percentage of responsibility of the defendant for the harm to the plaintiff, and no plaintiff may recover noneconomic damages unless the plaintiff suffered physical harm.

(ii) For purposes of clause (i), the term `noneconomic damages' means damages for losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium, hedonic damages, injury to reputation, and any other nonpecu niary losses.

(6) COLLATERAL SOURCES- Any recovery by a plaintiff in an action under this subsection shall be reduced by the amount of collateral source compensation, if any, that the plaintiff has received or is entitled to receive as a result of the acts of terrorism with respect to which the determination under paragraph (1) was made.

(7) ATTORNEY FEES- Reasonable attorneys fees for work performed shall be subject to the discretion of the court, but in no event shall any attorney charge, demand, receive, or collect for services rendered, fees or compensation in an amount in excess of 20 percent of the damages ordered by the court to be paid pursuant to this section, or in excess of 20 percent of any court-approved settlement made of any claim cognizable under this section. Any attorney who charges, demands, receives, or collects for services rendered in connection with such claim any amount in excess of that allowed under this section, if recovery be had, shall be fined not more than $2,000 or imprisoned not more than 1 year, or both.

(b) EXCLUSION- Nothing in this section shall in any way limit the liability of any person who--

(1) attempts to commit, knowingly participates in, aids and abets, or commits any act of terrorism with respect to which a determination under subsection (a)(1) was made, or any criminal act related to or resulting from such act of terrorism; or

(2) participates in a conspiracy to commit any such act of terrorism or any such criminal act.

(c) RIGHT OF SUBROGATION- The United States shall have the right of subrogation with resp ect to any claim paid by the United States under this Act.

(d) RELATIONSHIP TO OTHER LAW- Nothing in this section shall be construed to affect--

(1) any party's contractual right to arbitrate a dispute; or

(2) any provision of the Air Transportation Safety and System Stabilization Act (Public Law 107-42; 49 U.S.C. 40101 note).

(e) EFFECTIVE PERIOD- This section shall apply only to actions described in subsection (a)(1) arising out of or resulting from acts of terrorism that occur during the effective period of the Program, including, if applicable, any extension period provided for under section 6.

(f) SATISFACTION OF JUDGMENTS FROM FROZEN ASSETS OF TERRORISTS, TERRORIST ORGANIZATIONS, AND STATE SPONSORS OF TERRORISM-

(1) IN GENERAL- Except as provided in paragraph (2), in every case in which a person obtains a judgment against a terrorist party on a claim for compensatory damages for an act of terrorism, or a claim for money damages brought pursuant to section 1605(a)(7) of title 28, United States Code, the frozen assets of that terrorist party, or any agency or instrumentality of that terrorist party, shall be available for satisfaction of the judgment, to the extent of any compensatory damages awarded in the judgment for which the terrorist party is liable.

(2) PRESIDENTIAL WAIVER-

(A) Subject to subparagraph (B), upon determining on an asset-by-asset basis that a waiver is necessary in the national security interest, the President may waive the requirements of this subsection in connection with (and prior to the enforcement of) any judicial order directing attachment in aid of execution or execution against any property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations.

(B) A waiver under this paragraph shall not apply to--

(i) property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations that has been used for any nondiplomatic purpose (including use as rental property), the proceeds of such use; or

(ii) any asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations that is sold or otherwise transferred for value to a third party, the proceeds of such sale or transfer.

(3) DEFINITIONS- In this subsection:

(A) The term `terrorist party' means a terrorist, a terrorist organization, or a foreign state designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

(B) The term `frozen assets' means assets seized or frozen by the United States in accordance with law.

(C) The term `property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations' and the term `asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations' mean any property or asset, respectively, the attachment in aid of execution or execution of which would result in a violation of an obligation of the United States under the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations, as the case may be.

SEC. 16. STUDY OF POTENTIAL EFFECTS OF TERRORISM ON LIFE INSURANCE INDUSTRY.

(a) ESTABLISHMENT- Not later than 30 days after the date of enactment of this Act, the President shall establish a commission (in this section referred to as the `Commission') to study and report on the potential effects of an act or acts of terrorism on the life insurance industry in the United States and the markets served by such industry.

(b) MEMBERSHIP AND OPERATIONS-

(1) APPOINTMENT- The Commission shall consist of 7 members, as follows:

(A) The Secretary of the Treasury or the designee of the Secretary.

(B) The Chairman of the Board of Governors of the Federal Reserve System or the designee of the Chairman.

(C) The Assistant to the President for Homeland Security.

(D) 4 members appointed by the President, who shall be--

(i) a representative of direct underwriters of life insurance within the United States;

(ii) a representative of reinsurers of life insurance within the United States;

(iii) an officer of the NAIC; and

(iv) a representative of insurance agents for life underwriters.

(2) OPERATIONS- The chairperson of the Commission shall determine the manner in which the Commission shall operate, including funding, staffing, and coordination with other governmental entities.

(c) STUDY- The Commission shall conduct a study of the life insurance industry in the United States, which shall identify and make recommendations regarding--

(1) possible actions to encourage, facilitate, and sustain the provision, by the life insurance industry in the United States, of coverage for losses due to death or disability resulting from an act or acts of terrorism, including in the face of threats of such acts; and

(2) possible actions or mechanisms to sustain or supplement the ability of the life insurance industry in the United States to cover losses due to death or disability resulting from an act or acts of terrorism in the event that--

(A) such acts significantly affect mortality experience of the population of the United States over any period of time;

(B) such losses jeopardize the capital and surplus of the life insurance industry in the United States as a whole; or

(C) other consequences from such acts occur, as determined by the Commission, that may significantly affect the ability of the life insurance industry in the United States to independently cover such losses.

(d) RECOMMENDATIONS- The Commission may make a recommendation pursuant to subsection (c) only upon the concurrence of a majority of the members of the Commission.

(e) REPORT- Not later than 120 days after the date of enactment of this Act, the Commission shall submit to the House of Representatives and the Senate a report describing the results of the study and any recommendations developed under subsection (c).

(f) TERMINATION- The Commission shall terminate 60 days after submission of the report pursuant to subsection (e).

SEC. 17. RAILROAD AND TRUCKING INSURANCE STUDY.

The Secretary of the Treasury shall conduct a study to determine how the Federal Government can address a possible crisis in the availability and affordability of railroad and trucking insurance by making such insurance for acts of terrorism available on commercially reasonable terms. Not later than 120 days after the date of the enactment of this Act the Secretary shall submit to the Congress a report regarding the results and conclusions of the study.

SEC. 18. STUDY OF REINSURANCE POOL SYSTEM FOR FUTURE ACTS OF TERRORISM.

(a) STUDY- The Secretary, the Board of Governors of the Federal Reserve System, and the Comptroller General of the United States shall jointly conduct a study on the advisability and effectiveness of establishing a reinsurance pool system relating to future acts of terrorism to replace the program provided for under this Act.
(b) CONSULTATION- In conducting the study under subsection (a), the Secretary, the Board of Governors of the Federal Reserve System, and the Comptroller General shall consult with (1) academic experts, (2) the United Nations Secretariat for Trade and Development, (3) representatives from the property and casualty insurance industry, (4) representatives from the reinsurance industry, (5) the NAIC, and (6) such consumer organizations as the Secretary considers appropriate.
(c) REPORT- Not later than 6 months after the date of the enactment of this Act, the Secretary, the Board of Governors of the Federal Reserve System, and the Comptroller General shall jointly submit a report to the Congress on the results of the study under subsection (a).

SEC. 19. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:
(1) ACT OF TERRORISM-
(A) IN GENERAL- The term `act of terrorism' means any act that the Secretary determines meets the requirements under subparagraph (B), as such requirements are further defined and specified by the Secretary in consultation with the NAIC.
(B) REQUIREMENTS- An act meets the requirements of this subparagraph if the act--
(i) is unlawful;
(ii) causes harm to a person, property, or entity, in the United States, or in the case of a domestic United States air carrier or a United States flag vessel (or a vessel based principally in the United States on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), in or outside the United States;
(iii) is committed by a person or group of persons or associations who are recognized, either before or after such act, by the Department of State or the Secretary as an international terrorist group or have conspired with such a group or the group's agents or surrogates;
(iv) has as its purpose to overthrow or destabilize the government of any country, or to influence the policy or affect the conduct of the government of the United

States or any segment of the economy of United States, by coercion; and

(v) is not considered an act of war, except that this clause shall not apply with respect to any coverage for workers compensation.

(2) AFFILIATE- The term `affiliate' means, with respect to an insurer, any company that controls, is controlled by, or is under common control with the insurer.

(3) AGGREGATE WRITTEN PREMIUM- The term `aggregate written premium' means, with respect to a year, the aggregate premium amount of all commercial property and casualty insurance coverage written during such year under all lines of commercial property and casualty insurance.

(4) COMMERCIAL INSURER- The term `commercial insurer' means any corporation, association, society, order, firm, company, mutual, partnership, individual, aggregation of individuals, or any other legal entity that provides commercial property and casualty insurance. Such term includes any affiliates of a commercial insurer.

(5) COMMERCIAL PROPERTY AND CASUALTY INSURANCE-

(A) IN GENERAL- The term `commercial property and casualty insurance' means insurance or reinsurance, or retrocessional reinsurance, for persons or properties in the United States against--

(i) loss of or damage to property;

(ii) loss of income or extra expense incurred because of loss of or damage to property;

(iii) third party liability claims caused by negligence or imposed by statute or contract, including workers compensation; or

(iv) loss resulting from debt or default of another.

(B) EXCLUSIONS- Such term does not include--

(i) insurance for homeowners, tenants, private passenger nonfleet automobiles, mobile homes, or other insurance for personal, family, or household needs;

(ii) insurance for professional liability, including medical malpractice, errors and omissions, or directors' and officers' liability; or

(iii) health or life insurance.

(6) CONTROL- A company has control over another company if--

(A) the company directly or indirectly or acting through one or more other persons owns, controls, or has power to vote 25 percent or more of any class of voting securities of the other company;

(B) the company controls in any manner the election of a majority of the directors or trustees of the other company; or

(C) the Secretary determines, after notice and opportunity for hearing, that the company directly or indirectly exercises a controlling influence over the manag ement or policies of the other company.

(7) COVERED PERIOD- The term `covered period' has the meaning given such term in section 20.

(8) INDUSTRY-WIDE LOSSES- The term `industry-wide losses' means the aggregate insured losses sustained by all insurers from coverage written under all lines of commercial property and casualty insurance.

(9) INSURED LOSS- The term `insured loss' means any loss, net of reinsurance and retroc essional reinsurance, covered by commercial property and casualty insurance.

(10) NAIC- The term `NAIC' means the National Association of Insurance Commissioners.

(11) NET PREMIUM- The term `net premium' means, with respect a commercial insurer and a year, the aggregate premium amount collected by such commercial insurer for all commercial property and casualty insurance coverage written during such year under all lines of commercial property and casualty insurance by such commercial insurer, less any premium paid by such commercial insurer to other commercial insurers to insure or reinsure those risks.

(12) SECRETARY- The term `Secretary' means the Secretary of the Treasury.

(13) STATE- The term `State' means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa , and any other territory or possession of the Uni ted States.

(14) STATE INSURANCE REGULATOR- The term `State insurance regulator' means, with respect to a State, the principal insurance regulatory authority of the State.

(15) TRIGGERING DETERMINATION- The term `triggering determination' has the meaning given such term in section 5(a).

(16) TRIGGERING EVENT- The term `triggering event' means, with respect to a triggering determination, the occurrence of an act of terrorism, or the occurrence of such acts, that caused the insured losses resulting in such triggering determination.

(17) UNITED STATES- The term `United States' means, collectively, the States (as such term is defined in this section).

SEC. 20. COVERED PERIOD AND EXTENSION OF PROGRAM.

(a) COVERED PERIOD- Except to the extent provided otherwise under subsection (b), for purposes of this Act, the term `covered period' means the

period beginning on the date of the enactment of this Act and ending on January 1, 2003.
(b) EXTENSION OF PROGRAM- If the Secretary determines that extending the covered period is necessary to ensure the adequate availability in the United States of commercial property and casualty insurance coverage for acts of terrorism, the Secretary may, subject to subsection (c), extend the covered period by not more than two years.
(c) REPORT- The Secretary may exercise the authority under subsection (b) to extend the covered period only if the Secretary submits a report to the Congress providing notice of and setting forth the reasons for such extension.

SEC. 21. REGULATIONS.

The Secretary shall issue any regulations necessary to carry out this Act.

Passed the House of Representatives November 29, 2001.

Attest:

Clerk.

107th CONGRESS
1st Session
H. R. 3210
AN ACT< /b>

To ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

END

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Timothy E. Flanigan/WHO/EOP@EOP [WHO] <Timothy E. Flanigan>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>
Sent: 9/19/2002 2:57:13 PM
Subject: : From ABCnews.com re Missouri scenario

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:19-SEP-2002 18:57:13.00
SUBJECT:: From ABCnews.com re Missouri scenario
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Timothy E. Flanigan ( CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

"Democrats have already mapped out a strategy to defend against a quick
takeover by the GOP during a lame duck if former Rep. Jim Talent (R-Mo.)
defeats Carnahan in the midterm elections, several sources said."
"Republicans said they would move for Talent's immediate swearing-in if he
wins and the Senate is still in session mopping up the unfinished business
of the 107th Congress. His victory would give Republicans 50 votes and the
majority, while Democrats could have no more than 49 votes."
"Even if Independent Senator Jim Jeffords (Vt.), who caucuses with
Democrats, officially joined the party, Vice President Cheney * in his
role as President of the Senate * would cast the tie-breaking vote for
Senator Trent Lott (R-Miss.) to be Majority Leader."
"But Republicans would not have full operating control of the chamber
under such a scenario. Democrats plan to prevent the GOP from passing a
new organizing resolution to give Republicans control of the committees if
they seize power in a lame duck."
"While Lott would be recognized as the Majority Leader on the floor, his
committee chairmen would consist of liberal Democrats such as Sens. Edward
Kennedy (Mass.), Patrick Leahy (Vt.) and Jay Rockefeller (W.Va.), who
would still retain their one-seat majorities on the panels."
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Collister W. Johnson/WHO/EOP@EOP [WHO] <Collister W. Johnson>
Sent: 9/19/2002 5:42:32 PM
Subject: : Re: Fw: KS GOP Approval
Attachments: P_2LQAA003_WHO.TXT_1.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:19-SEP-2002 21:42:32.00
SUBJECT:: Re: Fw: KS GOP Approval
TO:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

let's talk first

Collister W. Johnson
09/19/2002 08:22:24 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Fw: KS GOP Approval

hm... we have used that picture before for pieces like this... do you mind
if I run past Ken/Karl as well for their thoughts?
c

Brett M. Kavanaugh
09/19/2002 08:05:23 PM
Record Type: Record

To: Collister W. Johnson/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Fw: KS GOP Approval

I do not like the use of the picture giving his address to
Congress on September 20. Use another picture of the President.
Otherwise, it is ok.

Collister W. Johnson
09/19/2002 11:38:15 AM
Record Type: Record

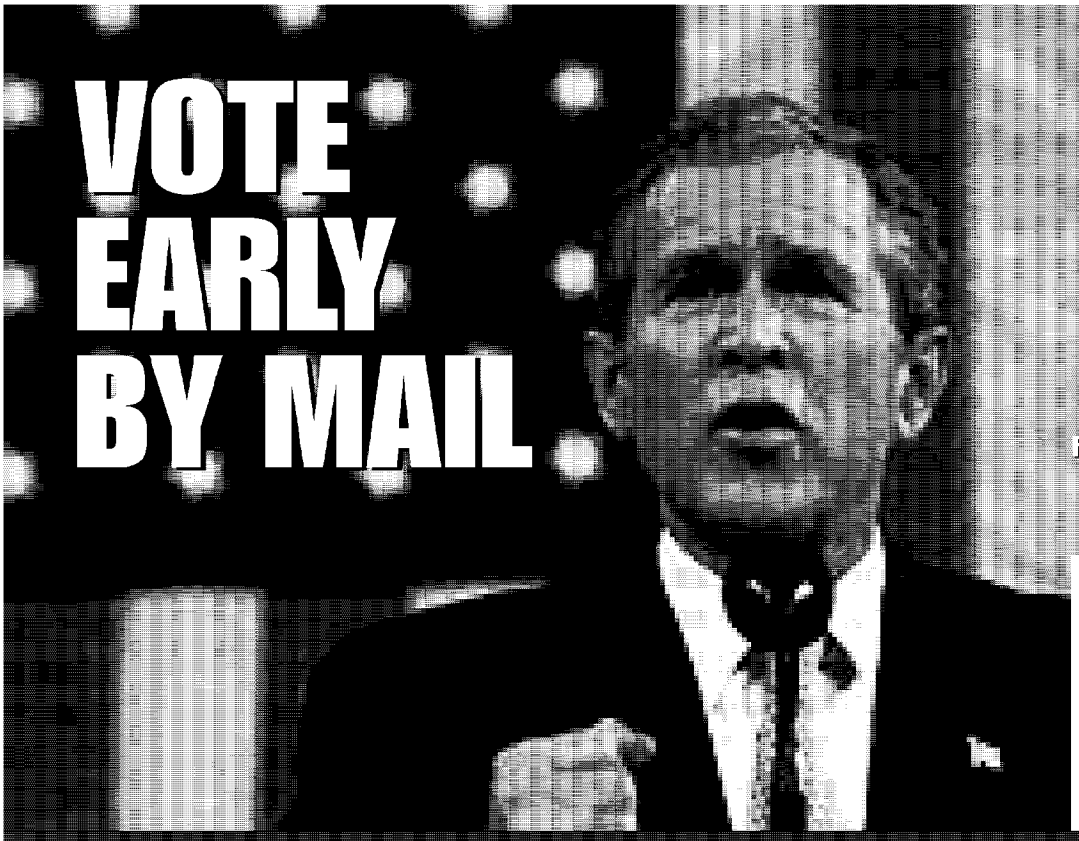
To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Fw: KS GOP Approval

brett:
this langauge has already been approved in an iowa mailer -
thoughts?
c

---------- Forwarded by Collister W. Johnson/WHO/EOP on
09/19/2002 11:41 AM ----------

- KSGOP2.pdf

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_2LQAA003_WHO.TXT_1>



Republican Party of Kansas
2025 SW Gage Blvd.
Topeka, KS 66604

NONPROFIT ORG.
U.S. POSTAGE
PAID
Republican
Party of Kansas

Mr. and Mrs. John Doe
123 Main Street
Topeka, KS 66600

Request your ADVANCE VOTING BALLOT Today.

All registered Kansas voters may now vote by mail and in advance of the general election.

Fill out, sign and mail the attached application card today.
Look for your official Advanced Voting Ballot to arrive at your home by mail from your County Elections Office shortly after October 18th.
Fill out your Ballot in the comfort of your home and return it by mail – no waiting in line on election day!

If you have questions, visit our website **www.ksgop.org** or call your local County Election Commissioner.

Application for Advance Voting Ballot

Affirmation of an Elector of the County of MERGE FIELD, and State of Kansas Desiring to Vote an Advance Voting Ballot.
State of Kansas
County of MERGE FIELD

I do solemnly affirm that I am a qualified elector of the precinct listed below, residing at the address listed below in the county stated above, and the State of Kansas. I am entitled to vote an advance voting ballot and I have not voted and will not otherwise vote at the election to be held on November 5, 2002.

Mr. and Mrs. John Doe
123 Main Street
Topeka, KS 66600
Ward/Pct/Twp

***Mail ballot to:** _____
(Complete if mailing address is different) _____
_____

Signature of Voter _____

For Office Use:
Date App. Rec'd _____
Ballot Mailed _____
Voted in Office _____
Transmitted by _____

Place 37¢ Stamp Here

**NOTE: The ballot may be mailed only to the voter's residential or mailing address as indicated on the county voter registration list, to the voter's temporary residential address, or to a medical care facility where the voter resides. These restrictions do not apply to sick, disabled or illiterate voters.*

County Election Commissioner
123 First Street
Topeka, KS 66600

Application for Advance Voting Ballot

Affirmation of an Elector of the County of MERGE FIELD, and State of Kansas Desiring to Vote an Advance Voting Ballot.
State of Kansas
County of MERGE FIELD

I do solemnly affirm that I am a qualified elector of the precinct listed below, residing at the address listed below in the county stated above, and the State of Kansas. I am entitled to vote an advance voting ballot and I have not voted and will not otherwise vote at the election to be held on November 5, 2002.

Mr. and Mrs. John Doe
123 Main Street
Topeka, KS 66600
Ward/Pct/Twp

***Mail ballot to:** _____
(Complete if mailing address is different) _____
_____

Signature of Voter _____

For Office Use:
Date App. Rec'd _____
Ballot Mailed _____
Voted in Office _____
Transmitted by _____

Place 37¢ Stamp Here

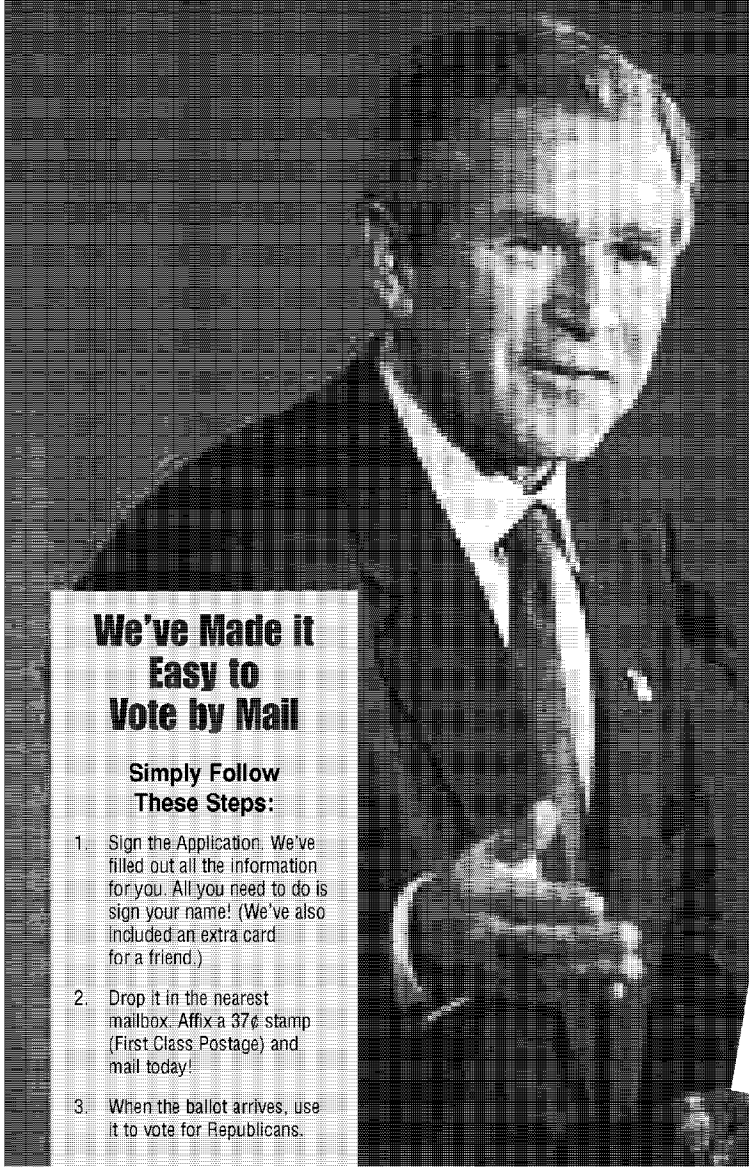
**NOTE: The ballot may be mailed only to the voter's residential or mailing address as indicated on the county voter registration list, to the voter's temporary residential address, or to a medical care facility where the voter resides. These restrictions do not apply to sick, disabled or illiterate voters.*

County Election Commissioner
123 First Street
Topeka, KS 66600

REV_00151192

REV_0015193

Your Vote will make a Difference!



We've Made it Easy to Vote by Mail

Simply Follow These Steps:

1. Sign the Application. We've filled out all the information for you. All you need to do is sign your name! (We've also included an extra card for a friend.)
2. Drop it in the nearest mailbox. Affix a 37¢ stamp (First Class Postage) and mail today!
3. When the ballot arrives, use it to vote for Republicans.

PRESIDENT GEORGE W. BUSH

Dear Friend,

Thank you for taking the time to vote Republican this election year. The Republican Party has a strong record of achievement over the last two years, and by participating in the election process and voting Republican – you can help our progress.

Despite our successes, much work remains. Our Republican Team is fighting to:

- Strengthen Medicare and Social Security for future generations
- Teach every child to read
- Lower taxes and control the growth of government
- Reform welfare to end dependency on government
- Secure our nation's borders
- Win the war on terrorism

That is why your support is so critical to our success – EVERY VOTE COUNTS! To keep building on our success we must elect more Republicans to all levels of government. Please complete and mail the enclosed Absentee Ballot Application to ensure that your vote is counted on Election Day!

Sincerely,

George W. Bush

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Andrew W. McGarrity/WHO/EOP@EOP [WHO] <Andrew W. McGarrity>
Sent: 9/20/2002 10:49:14 AM
Subject: : Re: Invite
Attachments: P_4ZEBA003_WHO.TXT_1.doc; P_4ZEBA003_WHO.TXT_2.doc; P_4ZEBA003_WHO.TXT_3.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:20-SEP-2002 14:49:14.00
SUBJECT:: Re: Invite
TO:Andrew W. McGarrity (CN=Andrew W. McGarrity/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Approved except that the reply card should not say "honoring"
POTUS but should say something like "with special guest"

Andrew W. McGarrity
09/20/2002 10:38:39 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: Collister_W._Johnson@who.eop.gov
Subject: Invite

Brett -- Attached is a quote, invite and reply card for the President's trip 10/8. They are pushing hard to get this to the printer by 1:00pm our time. Hope that's doable on your end. Sorry for the rush.

-Andrew
---------- Forwarded by Andrew W. McGarrity/WHO/EOP on 09/20/2002 10:33 AM ----------

Jeff Haithcoat <jhaithcoat@vanhilleary.com>
09/20/2002 10:08:49 AM
Record Type: Record

To: Andrew W. McGarrity/WHO/EOP@EOP
cc:
Subject: Invite

Andrew,
Attached is the final invite, insert w/committee names, and reply device.
Let me know.

Jeff Haithcoat
Finance Director
Van Hilleary for Governor
P.O. Box 680127
Franklin, TN 37068-0127
615-771-4VAN (4826)

- BushInviteFinal.doc

- BushInsert.doc
- BushReplyDevice.doc

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_4ZEBA003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_4ZEBA003_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_4ZEBA003_WHO.TXT_3>

"The real test of leadership is having the courage and character to stand by your convictions, even in the face of adversity. That's exactly the kind of man we have in Van Hilleary."

- George W. Bush

The Event Leadership

cordially invites you to a luncheon with special guest

President George W. Bush

in support of

Van Hilleary

Republican Nominee for Governor

Tuesday, October 8, 2002
12:00 p.m.

Knoxville Convention Center
701 Henley Street
Knoxville, Tennessee

RSVP card enclosed or
call Jeff Haithcoat @ 615-771-4826
jhaithcoat@vanhilleary.com

$1000 per person
Business Attire

Honorary Chairs

Senator Fred Thompson Senator Bill Frist
Cong. Jimmy Duncan Cong. Ed Bryant Cong. Zach Wamp Cong. Bill Jenkins

Luncheon Chairman

Mike Ragsdale

Victory 2002 Chairman

James A. Haslam, II

Co-Chairs

D. Lynn Johnson Sherri Lee Susan Richardson Williams

Luncheon Committee

Beth & Charlie Anderson
Debbie & Darrell Akins
Kim & Mike Arms
Ann Ayers
Pat Beasley
Bettye Anne & Kent Bewley
Bill Breeding
Karen & Leonard Brown
Kathy & Tom Burnette
Lisa & Mike Carroll
Kay & Jim Clayton
Donna & Bill Cobble
Jeff Hagood
Kim & Marshall Hart
Dee & Jimmy Haslam
Natalie & Jim Haslam
Sharon & David Hayes
Jan & Tim Hutchison
Michelle & Raja Jubran
Jennifer & Frank Little
Peggy & Keith McCord
Jana & Del Morgan
Alicia & Jason Mumpower
Regina & Jim Murray
Diane & Tim Neal
Mindy & David Ogle
Tina & Kurt Oschman
K. Ray Pinkstaff
Claudia & Mike Ragsdale
Michael Ross
Elizabeth & Bill Sansom
Libby & Earl Sharp
Nikol & Heath Shuler
Liz & Wes Stowers
Larry Trettenero
Kathy & Burke Wallace
Ruth & Steve West
Mary Beth & Charles West
Susan & Dick Williams
Tammy & Joey Williams

***Committee Listing as of 9.20.02**

A Salute to George W. Bush
President of the United States
October 8, 2002

- ❑ Yes, I/we will attend the luncheon honoring President Bush in support of the Van Hilleary for Governor campaign. Enclosed is my contribution for _____ tickets at $1,000 per person.

- ❑ Yes, I/we will serve as a table host and will attend the photo reception with President Bush. Enclosed is a contribution(s) totaling $10,000 for 10 tickets.
  Please list attendees on reverse.

- ❑ Regrets. I/we cannot attend the breakfast, but we support Van Hilleary's campaign for Governor. Enclosed is my/our contribution of $_____.

State law requires the name and address of all contributors:
Name_____
Address_____
City_____State_____Zip_____
Home phone_____Office phone_____
Fax_____Email_____
Employer_____Occupation_____

Please make checks payable to *Van Hilleary for Governor*. Corporate contributions are prohibited. Contributions are not deductible for federal income tax purposes.
Please RSVP no later than October 4, 2002.

If you wish to make your donation by credit card, please complete the information below.

Please charge my ❑MasterCard ❑Visa ❑Discover

Card Number ___ ___ ___ ___ ___ ___ ___ ___ ___ ___ ___ ___ ___ ___ ___ ___

_____/_____/_____$_____
Expiration date Amount of gift

_____
Name as it appears on card

_____
Signature

The maximum an individual may contribute is $5,000 per campaign - $2,500 for the primary election and $2,500 for the general election (a couple may contribute up to $10,000). If a couple has a joint account, they can write one check as long a both individuals sign the check.
PACs registered with the state can contribute up to $15,000 - $7,500 for the primary and $7,500 for the general.

Table Host:_____

1._____ 2._____ 3._____
4._____ 5._____ 6._____
7._____ 8._____ 9._____

From: Burgess, Gregg <Gregg.Burgess@hq.doe.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 9/20/2002 4:12:58 PM
Subject: : RE: Approval of use of corporate aircraft
Attachments: P_7FTBA003_WHO.TXT_1.html

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Burgess, Gregg" <Gregg.Burgess@hq.doe.gov> ("Burgess, Gregg"
<Gregg.Burgess@hq.doe.gov> [UNKNOWN])
CREATION DATE/TIME:20-SEP-2002 20:12:58.00
SUBJECT:: RE: Approval of use of corporate aircraft
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Yes, Brett. I'm sorry, but I didn't even realize that you had been copied
on this message. Mr. Knox is not a Presidential appointee, therefore,
there
is no reason for you to worry about this one. We've already approved this
trip. Thanks and sorry to bother you with this one.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
To: Walters, Logan
Cc: burgess, gregg
Sent: 9/20/02 2:45 PM
Subject: RE: Approval of use of corporate aircraft

Gregg, This sounds sensible, but I will wait to hear from you.

(Embedded
image moved "Walters, Logan" <Logan.Walters@hq.doe.gov>
to file: 09/20/2002 09:48:49 AM
pic21116.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, "Burgess, Gregg"
<Gregg.Burgess@hq.doe.gov>

cc:
Subject: RE: Approval of use of corporate aircraft

Gregg and Brett - Because of the limited number of flights and limited
space
on the flights leaving Sakhalin, Eric Knox may have to take an
additional
charter flight from Yuzhno-Sakahlin, Russia to Hakodate, Japan.

Currently,
Eric is flying standby for the same commercial flight that Bob Card is
taking to Seoul, Korea then Japan then DC. However, we have no
guarantee
that there will be room for him on this flight.

ExxonMobil runs a charter plane on a regular schedule to several points
in
Japan and Russia. The cost of the flight to Hakodate, which DOE would
pay,
is $275 per person. This would allow Eric to get to Hakodate, Japan and
catch a flight to Tokyo, then DC. The other option is to have Eric stay
in
Sakahlin until the next commercial flight leaves, approximately 1 week
later.

Please let me know if you need further information for approval of Eric
Knox
flying on an ExxonMobil chartered aircraft.

Thanks-
Logan
-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Tuesday, September 17, 2002 1:21 PM
To: Burgess, Gregg
Cc: walters, logan
Subject: Re: Approval of use of corporate aircraft

Approved.

(Embedded
image moved "Burgess, Gregg" <Gregg.Burgess@hq.doe.gov>
to file: 09/17/2002 12:37:51 PM
pic32253.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc: "Walters, Logan" <Logan.Walters@hq.doe.gov>
Subject: Approval of use of corporate aircraft

This is to request approval from the White House for the Under
Secretary of Energy, Robert G. Card, to travel on aircraft chartered by
ExxonNeftegas Ltd., a subsidiary of ExxonMobil, on September 24-26,
2002, in
relation to his official travel to Sakhalin Island, Russia. The Under
Secretary is interested in meeting with Larry Smith of Exxon Sakhalin
Neftegas, Sakhalin Governor Igor Farkhundinov, Dinty Miller of BP, Steve
McVeigh of Sakhalin Energy, Kent Hill of USAID and Dr. Galina Pavlova of

the
Sakhalin Oil and Gas Complex and conducting a site visit of the oil and
gas
projects at the extended reach drilling site.

Sakhalin is a remote location with infrequent and unreliable
commercial air service that would accommodate the schedule. I have been
advised that, after attempting to work out commercial flights that would
accommodate the Under Secretary's schedule and objectives of the trip,
the
only viable option is to travel via ExxonNeftegas Limited air transport,
a
charter service managed by ExxonMobil. The DOE Moscow office also
recommends this as the best means of transport for this trip. Further,
a
helicopter is necessary to visit the remote drilling site.

The Department of Energy will reimburse ExxonMobil for our share of
the charter costs, which I am told will be $675 per person for the
charter
flights and $540 per person for the use of the helicopter.

White House policy requires that Cabinet members may not travel on
aircraft owned, chartered, or maintained by a company primarily for
company
use rather than commercial use if the company is regulated by or doing
business with their employing agency. Because ExxonMobil has a lease
agreement for pipeline facilities in Alaska, it is our understanding
that
White House approval is necessary for the Under Secretary to travel on
this
aircraft chartered by ExxonMobil, even though the Department will
reimburse
ExxonMobil for its share of the flight costs.

Thank you for your assistance in this matter, and please let me
know
if you have any questions or require anything further.

<<Internet HTML>> <<Internet HTML>>
- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_7FTBA003_WHO.TXT_1>

Yes, Brett. I'm sorry, but I didn't even realize that you had been copied on this message. Mr. Knox is not a Presidential appointe e, therefore, there is no reason for you to worry about this one. We've a lready approved this trip. Thanks and sorry to bother you with this one.< /FONT>

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
To: Walters, Logan
Cc: burgess, gregg
Sent: 9/20/02 2:45 PM
Subject: RE: Approval of use of corporate aircraft

Gregg, This sounds sensible, but I will wait to hear from you.< /FONT>

&nb sp; &nbs p; ; & nbsp;
(Embedded ; & nbsp; &n bsp;
image moved "Walters, Logan" <L ogan.Walters@hq.doe.gov>
to file: 09/20/2002 09:48: 49 AM &n bsp; &nb sp;
pic21116.pcx) & nbsp; &n bsp; &nb sp; &nbs p;
&n bsp; &nb sp; &nbs p; ;

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, "Burgess, Gregg"
<Gregg.Burgess@hq.doe.gov> ;

cc:
Subject: RE: Approval of use of corporate aircraft

Gregg and Brett - Because of the limited number of flights and limited space
on the flights leaving Sakhalin, Eric Knox may have to take an additional
charter flight from Yuzhno-Sakahlin, Russia to Hakodate, Japan . Currently,
Eric is flying standby for the same commercial flight that Bob Card is
taking to Seoul, Korea then Japan then DC. However, we h ave no guarantee
that there will be room for him on this flight.

ExxonMobil runs a charter plane on a regular schedule to severa l points in
Japan and Russia. The cost of the flight to Hakodate, wh ich DOE would pay,
is $275 per person. This would allow Eric to get to Hako date, Japan and
catch a flight to Tokyo, then DC. The other option is to have Eric stay in

Sakahlin until the next commercial flight leaves, approximatel y 1 week later.

Please let me know if you need further information for approval of Eric Knox
flying on an ExxonMobil chartered aircraft.

Thanks-
Logan
-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Tuesday, September 17, 2002 1:21 PM
To: Burgess, Gregg
Cc: walters, logan
Subject: Re: Approval of use of corporate aircraft

Approved.

(Embedded
image moved "Burgess, Gregg" <G regg.Burgess@hq.doe.gov>
to file: 09/17/2002 12:37: 51 PM
pic32253.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc: "Walters, Logan" <Logan.Walters@hq .doe.gov>
Subject: Approval of use of corporate aircraft

This is to request approval from the W hite House for the Under Secretary of Energy, Robert G. Card, to travel on aircraft cha rtered by ExxonNeftegas Ltd., a subsidiary of ExxonMobil, on September 2 4-26, 2002, in
relation to his official travel to Sakhalin Island, Russia.&nb sp; The Under Secretary is interested in meeting with Larry Smith of Exxon S akhalin Neftegas, Sakhalin Governor Igor Farkhundinov, Dinty Miller of BP, Steve McVeigh of Sakhalin Energy, Kent Hill of USAID and Dr. Galina Pavlova of the
Sakhalin Oil and Gas Complex and conducting a site visit of th e oil and gas
projects at the extended reach drilling site.

Sakhalin is a remote location with inf requent and unreliable commercial air service that would accommodate the schedule.&nb sp; I have been advised that, after attempting to work out commercial flights that would accommodate the Under Secretary's schedule and objectives of t he trip, the only viable option is to travel via ExxonNeftegas Limited air transport, a charter service managed by ExxonMobil. The DOE Moscow of fice also recommends this as the best means of transport for this trip.& nbsp; Further, a helicopter is necessary to visit the remote drilling site.

The Department of Energy will reimburs e ExxonMobil for our share of the charter costs, which I am told will be $675 per person for the charter flights and $540 per person for the use of the helicopter.

White House policy requires that Cabin et members may not travel on aircraft owned, chartered, or maintained by a company primaril y for company use rather than commercial use if the company is regulated by or doing business with their employing agency. Because ExxonMobil has a lease agreement for pipeline facilities in Alaska, it is our underst anding that White House approval is necessary for the Under Secretary to t ravel on this aircraft chartered by ExxonMobil, even though the Department w ill reimburse ExxonMobil for its share of the flight costs.

Thank you for your assistance in this matter, and please let me know if you have any questions or require anything further.

<<Internet HTML>> <<Internet HTML>>

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 9/21/2002 11:46:20 AM
Subject: : Terry good

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:21-SEP-2002 15:46:20.00
SUBJECT:: Terry good
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>
Sent: 9/23/2002 12:33:17 PM
Subject: : need to talk to you ASAP

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:23-SEP-2002 16:33:17.00
SUBJECT:: need to talk to you ASAP
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Irene Kho/OMB/EOP [OMB] <Irene Kho>
Sent: 9/23/2002 1:07:20 PM
Subject: RECEIVED: REVISED LRM IKK261 - - TREASURY Report on the Administration's Attempt to Resolve the World Trade Organization's (WTO) Decision on Extraterritorial Income Exclusion (ETI) Provisions

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:23-SEP-2002 17:07:20.00
SUBJECT:RECEIVED: REVISED LRM IKK261 - - TREASURY Report on the Administration's Attempt to Resolve the World Trade Organization's (WTO) Decision on Extraterritorial Income Exclusion (ETI) Provisions
TO:Irene Kho (CN=Irene Kho/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
End Original ARMS Header

RETURN RECEIPT

Your Document:
REVISED LRM IKK261 - - TREASURY Report on the Administration's Attempt to Resolve the World Trade Organization's (WTO) Decision on Extraterritorial Income Exclusion (ETI) Provisions
was successfully received by:
CN=Brett M. Kavanaugh/OU=WHO/O=EOP
at:
09/23/2002 05:09:04 PM

From: CN=Scott Stanzel/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 9/23/2002 12:33:25 PM
Subject: : Ganske Tape stories

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Scott Stanzel (CN=Scott Stanzel/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:23-SEP-2002 16:33:25.00
SUBJECT:: Ganske Tape stories
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Scott Stanzel/WHO/EOP on 09/23/2002 04:31 PM ----------

Scott Stanzel

09/23/2002 11:41:33 AM

Record Type: Record

To: Ken Mehlman/WHO/EOP@EOP, Sara M. Taylor/WHO/EOP@EOP, Nicolle Devenish/WHO/EOP@EOP, Jeanie S. Mamo/WHO/EOP@EOP
cc:
Subject: Ganske Tape stories

I assume maybe you've seen these, but here three stories that came out of the suspiciously recorded Ganske strategy meeting.

Des Moines Register

Ganske camp says rivals taped strategy session
It's not true, Sen. Tom Harkin's campaign chief says. The GOP challenger's campaign wants a probe.
By THOMAS BEAUMONT
Register Staff Writer
09/23/2002 There's a new controversy in Iowa's U.S. Senate race involving what one campaign is calling a secretly taped strategy session.
U.S. Rep. Greg Ganske is accusing U.S. Sen. Tom Harkin's campaign of taping a meeting involving Ganske, some strategists and supporters in a Hotel Savery conference room in Des Moines on Sept. 3.
Ken Mehlman, director of political affairs for the White House, also participated in the conversation, according to a transcript of the meeting.
The Harkin campaign said it had no knowledge of the taped conversation or the source of the transcript. The Ganske campaign distributed copies of the transcript to reporters over the weekend.
The transcript reveals a discussion of media strategy and quotes Republican Ganske repeating a theme he's brought up frequently on the campaign trail: that he wants to campaign hard against Harkin without becoming mean-spirited.
"You've never seen a campaign where anyone will attack him like we're going to," Ganske said, according to the transcript. "With a smile on our face, not angry, not growling or scowling."
Harkin, a Democrat, and Ganske have been locked in a bitter campaign that

has included attack ads from both sides.
Ganske campaign manager Bill Armistead said the campaign received the 11-page transcript from Kathie Obradovich, a political and state government reporter for Lee Enterprises, which publishes the Quad-City Times.
Obradovich could not be reached for comment Sunday.
Armistead said he could not vouch for the word-by-word authenticity of the transcript, but he said its existence breached campaign ethics at a minimum.
"This is way, way over the line of any kind of campaigning," Armistead said.
Armistead said the Ganske campaign planned to seek an outside investigation.
Harkin campaign manager Jeff Link described the allegations as a tactic to distract voters from real issues. He said neither the recording nor the transcript was the work of a Harkin operative.
"I don't know where (Obradovich) got it," Link said of the transcript. He suggested that the Ganske campaign had taped the meeting and leaked the tape and transcript, or that it was the work of a former Ganske supporter who had turned against the Republican's campaign.
Armistead said he did not suspect that a Ganske supporter had turned against the campaign. He said the notion that the campaign had manufactured the story to taint Harkin was "laughable."
State GOP Chairman Charles Larson Jr. said the party was reviewing its options in regard to the incident.

New York Times

http://www.nytimes.com/2002/09/19/politics/19FLOR.html

A Tale of a Tape in Iowa's Senate Race
Three weeks ago, Greg Ganske, the Republican who is challenging Senator Tom Harkin, the Iowa Democrat, held a private meeting with financial supporters at a Des Moines hotel. The gathering featured a briefing and pep talk, by telephone, from Ken Mehlman, the White House political director, and a somewhat bellicose speech by Mr. Ganske. Somehow, a tape and transcript of that meeting turned up in Iowa political and journalistic circles yesterday and Republicans were yelling "Watergate."
"The candidate is shocked that this would occur in Iowa: that someone would record a private meeting for political purposes," Mr. Ganske's campaign manager, William S. Armistead, said. "We definitely need to get to the bottom of this."
Mr. Ganske's campaign issued a statement referring to "Tom Harkin's revelation that he has secretly taped a Ganske for Senate meeting and phone call." Mr. Harkin's press secretary, Sarah Leonard, denied that. Mr. Armistead said the notion that Mr. Harkin was the source of the tape had been suggested to him by Iowa reporters who came to him looking for comment.
There really was not too much to the tape itself, in the smoking-gun department, other than some pretty tough words from Mr. Ganske about the attacks he planned on Mr. Harkin. "It will be mind-blowing," he said, according to the transcript. "You're never seen a campaign where anyone will attack him like we're going to. With a smile on our face."
ABC News "The Note"

Iowa
For about 27 people in the media and politics, this weekend had a serious subplot involving allegations of political trickery in one of the nation's biggest Senate races.

On September 3 of this year, a group of GOP Senate nominee Greg Ganske's supporters gathered in the legendary Hotel Savory in Des Moines to hear a speakerphone briefing from White House Political Director Ken Mehlman on Ganske's run against Senator Tom Harkin (D).

Ganske was at the event (although he arrived late) and briefed his supporters as well.

This was a typical meeting in which financial supporters are given an "insider" briefing to encourage them to continue to help raise money and build political support.

Somehow, a recording of the meeting, and then a transcript, were made.

This transcript has been floating around in Iowa since Friday, and anyone who is anyone now has a copy.

The Ganske campaign and the Iowa Republican Party are claiming that they know from reporters that the Harkin campaign is responsible for this, and they are calling for an investigation into how the transcript was made.

At 11:30 am ET this morning, the Iowa Republican Party chairman is planning to bring his lawyer with him to call for state and federal investigations.

Whoever produced the transcript seemed to put it out for one main reason: at the top of the 12-page document is a pull quote from Ganske in which he says "You've never seen a campaign where anyone will attack him (Harkin) like we're going to."

Pretty thin gruel, in terms of a "smoking gun," but the point seems to be: Ganske plans to run a negative campaign.

For political junkies, probably most interesting is the reminder that these secret, private, donor-only briefings tend to have almost nothing secret or interesting in them.

That having been said, there IS some stuff that junkies will like:

1. A little bit from Mehlman (akin to his famous slipped-disk slide show) about which Senate races he thinks are in play, although there are no big surprises here. No sign yet that any of this has made a splash in the states with Senate races that Mehlman chooses to include or leave out.

2. Mehlman's formula for analyzing states Republican-trending by looking at how 41 did in '88 compared to 43 in the two-party popular vote. Can someone send us those numbers?

3. Mehlman comparing Iowa '02 to Florida '00, as kind of the "ground zero" of American politics

4. A Ganske hard shot at Iowa's longtime lead political reporter for the AP, Mike Glover, whose daughter used to work for Harkin. Ganske's accusation of bias just might be reverberating around the state's political and media circles as we type this.

The New York Times had a brief item about all this on Sunday, and the Des Moines Register finally today has a "he said, he said" version. LINK

"Ganske campaign manager Bill Armistead said the campaign received the 11-page transcript from Kathie Obradovich, a political and state government reporter for Lee Enterprises, which publishes the Quad-City Times."

"Obradovich could not be reached for comment Sunday ("

"Harkin campaign manager Jeff Link described the allegations as a tactic to distract voters from real issues. He said neither the recording nor the transcript was the work of a Harkin operative."

"'I don't know where [Obradovich] got it,' Link said of the transcript. He suggested that the Ganske campaign had taped the meeting and leaked the tape and transcript, or that it was the work of a former Ganske supporter who had turned against the Republican's campaign."

"Armistead said he did not suspect that a Ganske supporter had turned against the campaign. He said the notion that the campaign had manufactured the story to taint Harkin was 'laughable.'"

Sounds to us like Chicago Tribune ace and ex DMR reporter Jeff Zeleny should parachute back in to solve the caper (

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 9/23/2002 12:47:14 PM
Subject: : new fed judges

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:23-SEP-2002 16:47:14.00
SUBJECT:: new fed judges
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Did you get a chance to review that LRM? DOJ is pressing OMB for a
response.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Irene Kho/OMB/EOP [OMB] <Irene Kho>
Sent: 9/23/2002 2:30:41 PM
Subject: RECEIVED: Re: LRM IKK261 - - TREASURY Report on the Administration's Attempt to Resolve the World Trade Organization's (WTO) Decision on Extraterritorial Income Exclusion (ETI) Provisions

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:23-SEP-2002 18:30:41.00
SUBJECT:RECEIVED: Re: LRM IKK261 - - TREASURY Report on the Administration's Attempt to Resolve the World Trade Organization's (WTO) Decision on Extraterritorial Income Exclusion (ETI) Provisions
TO:Irene Kho (CN=Irene Kho/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
End Original ARMS Header

RETURN RECEIPT

Your Document:
Re: LRM IKK261 - - TREASURY Report on the Administration's Attempt to Resolve the World Trade Organization's (WTO) Decision on Extraterritorial Income Exclusion (ETI) Provisions
was successfully received by:
CN=Brett M. Kavanaugh/OU=WHO/O=EOP
at:
09/23/2002 06:33:32 PM

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>
Sent: 9/23/2002 2:32:46 PM
Subject: : Re: Terrorism Insurance

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:23-SEP-2002 18:32:46.00
SUBJECT:: Re: Terrorism Insurance
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

yes, handling those through separate channels.

Patrick J. Bumatay
09/23/2002 06:12:58 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Terrorism Insurance

Just a reminder, the 2 terrorism insurance LRMs from Transportation and Interior are due today.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Mercedes M. Viana/WHO/EOP@EOP [WHO] <Mercedes M. Viana>
CC: anne womack/who/eop@eop [WHO] <anne womack>;scastillo@rnchq.org @ inet [UNKNOWN] <scastillo@rnchq.org @ inet>
Sent: 9/23/2002 7:33:01 PM
Subject: : Re: La Opinion

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:23-SEP-2002 23:33:01.00
SUBJECT:: Re: La Opinion
TO:Mercedes M. Viana ( CN=Mercedes M. Viana/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:anne womack ( CN=anne womack/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:scastillo@rnchq.org @ inet ( scastillo@rnchq.org @ inet [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

In the op-ed you have, please change "Assistant Attorney General
Bob Litt" to "Deputy Assistant Attorney General Bob Litt." Or if already
with them, can you call in that change to them? Thanks.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Katherine M. Walters/WHO/EOP@EOP [WHO] <Katherine M. Walters>
Sent: 9/23/2002 8:23:46 PM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:24-SEP-2002 00:23:46.00
SUBJECT::
TO:Katherine M. Walters ( CN=Katherine M. Walters/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I believe all outstanding political invites, letters, and questions have
been returned as of tonight. Thanks.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Mercedes M. Viana/WHO/EOP@EOP [WHO] <Mercedes M. Viana>;Heather Wingate/WHO /EOP@EOP [WHO] <Heather Wingate>;Abel Guerra/WHO/EOP@EOP [WHO] <Abel Guerra>;Leonard B. Rodriguez/WHO/EOP@EOP [WHO] <Leonard B. Rodriguez>;Anne Womack/WHO/EOP@EOP [WHO] <Anne Womack>
Sent: 9/23/2002 9:03:47 PM
Subject: : NY Times story on Estrada

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:24-SEP-2002 01:03:47.00
SUBJECT:: NY Times story on Estrada
TO:Mercedes M. Viana (CN=Mercedes M. Viana/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Abel Guerra (CN=Abel Guerra/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Leonard B. Rodriguez (CN=Leonard B. Rodriguez/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Anne Womack (CN=Anne Womack/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Battle Brews Over a Hispanic Nominee to Appeals Court
By NEIL A. LEWIS

ASHINGTON, Sept. 23 * The nomination of Miguel Estrada to a federal appeals court, which the Senate Judiciary Committee takes up this week, may produce the most contentious judicial fight yet in the Bush administration.

President Bush has nominated Mr. Estrada, a young conservative lawyer of undisputed intellectual prowess, to a seat on the United States Court of Appeals for the District of Columbia Circuit, widely viewed as second in importance to the Supreme Court. The circuit court has served as a bullpen for the Supreme Court, and its alumni include three of the nine current justices. If confirmed, Mr. Estrada would be a strong candidate to become the first Hispanic on the Supreme Court.

The questioning by Democrats at a hearing on Thursday will be intended to demonstrate their contention that Mr. Estrada is the latest example of an effort to pack the courts with right-wing ideologues.

But a less visible element will be the White House's political calculation in putting forward a Hispanic candidate for an appeals court post. Supporters and opponents of the nomination agree that Mr. Bush's selection of a Hispanic candidate is a master stroke, putting a greater burden on any Democrat opposed to the nomination.

At the same time, administration officials had hoped that the Estrada nomination would cause consternation among some liberal Hispanic groups that would like to see a Hispanic lawyer appointed to the court but are uncomfortable with Mr. Estrada's conservative philosophy. This predicament could be reminiscent of the way the 1991 nomination of Clarence Thomas to the Supreme Court by President Bush's father delayed and splintered opposition from black groups that applauded the notion of a black justice but did not agree with Mr. Thomas's views.

The president has promoted Mr. Estrada, citing not only his heritage but also his personal story, as a model of self-reliance and hard work.

When Mr. Estrada came to the United States from his native Honduras at 17, he spoke little English. But he soon graduated with honors from Columbia

University and Harvard Law School, became a law clerk to Justice Anthony M. Kennedy and later argued 15 cases before the Supreme Court.

At the White House last month, Mr. Bush told Hispanic community leaders: "Here's a kid who comes to our country, works hard, learns the language. He's a brilliant jurist. I want this man to serve as a bright example of what is possible in America."

But Democrats said they were deeply concerned about Mr. Estrada's views. "This is an important and momentous nomination," said Senator Charles E. Schumer, a New York Democrat who is on the Judiciary Committee. "This court serves as a feeder to the Supreme Court and the administration has made no secret Estrada would be a prime candidate if there's a Supreme Court vacancy."

Alberto R. Gonzales, the White House counsel, said Mr. Estrada would be an excellent judge because "he's exceptionally bright" and "has outstanding judgment."

Mr. Gonzales, who has himself been mentioned for the Supreme Court, added that "the president was delighted at the opportunity to name someone who happens to be Hispanic."

The Congressional Hispanic Caucus, composed mostly of liberal Democrats, met with Mr. Estrada in June and most members came away troubled by his responses to their questions.

Officials at the Mexican American Legal Defense Fund said they had misgivings about his candidacy, and the Puerto Rican Legal Defense and Education Fund has said it will oppose the nomination, asserting that Mr. Estrada does not have the experience or temperament to be a judge.

The Hispanic Bar Association endorsed the nomination last year, but several former presidents of that group have disagreed with the action.

The White House has distributed letters of support for Mr. Estrada from several groups including the Hispanic Chamber of Commerce and the Mexican-American Growers Association.

Mr. Estrada's conservative views are largely presumed rather than known because there is no paper trail of his stands. He even worked in the Clinton administration, and his supporters are quick to note that he handled a case involving the death penalty and a poor defendant before the Supreme Court.

Ralph Neas, the president of People for the American Way, a liberal advocacy group that opposes the Estrada nomination, said, "We certainly have heard from many different sources that he is the favored candidate of the right wing, that he would be a jurist in the mold of Clarence Thomas and Antonin Scalia."

Mr. Neas acknowledged, however, that few writings or statements demonstrated Mr. Estrada's ideology.

The one signpost has been criticism by a colleague in the Clinton administration that Mr. Estrada has a narrow view of the law.

Paul Bender, who supervised Mr. Estrada as the deputy solicitor general in the Clinton administration, made critical comments after the nomination months ago.

"Miguel is too much of an ideologue to be an appellate judge," Mr. Bender said. "You could not count on him to be fair or neutral."

In a recent interview, Mr. Bender, now a professor at Arizona State University law school, said that while he would not withdraw his criticisms, he would not repeat them, saying he did not wish to be seen as campaigning against the nomination.

Seth P. Waxman, solicitor general in the Clinton administration who worked with Mr. Estrada, said in a letter to the committee that he disagreed with Mr. Bender's comments.

"I do not share those criticisms at all," Mr. Waxman wrote. "During the time Mr. Estrada and I worked together he was a model of professionalism and competence." Mr. Estrada's analyses were never colored by his views, Mr. Waxman said.

Still, Senate Democrats have requested copies of Mr. Estrada's internal memorandums when he was an assistant solicitor general, from 1992 to 1997. The White House has refused to supply them and has pointed to a letter from several former solicitors general, Democrats and Republicans, saying that complying with the request would inhibit lawyers from giving candid advice.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Lisa J. Macecevic/OMB/EOP@EOP [OMB] <Lisa J. Macecevic>
CC: Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>
Sent: 9/23/2002 6:41:55 PM
Subject: : LRM LJM168 - - TRANSPORTATION Report on HR3210 Terrorism Risk Protection Act
Attachments: P_AJGDA003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:23-SEP-2002 22:41:55.00
SUBJECT:: LRM LJM168 - - TRANSPORTATION Report on HR3210 Terrorism Risk Protection Act
TO:Lisa J. Macecevic (CN=Lisa J. Macecevic/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Defer to NEC and Treasury, who are the policy team for the
Administration on this issue.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on
09/23/2002 10:42 PM ----------

Patrick J. Bumatay
09/20/2002 02:09:34 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: Helgard C. Walker/WHO/EOP@EOP
Subject: LRM LJM168 - - TRANSPORTATION Report on HR3210 Terrorism
Risk Protection Act

Brett - More terrorism insurance. If you can't get to it, let me know and
I'll ask someone else to do it.

Helgi- FYI b/c its Transportation.
---------- Forwarded by Patrick J. Bumatay/WHO/EOP on
09/20/2002 02:09 PM ----------

From: Lisa J. Macecevic on 09/20/2002 02:02:37 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: LRM LJM168 - - TRANSPORTATION Report on HR3210 Terrorism
Risk Protection Act

Please respond with any comments on the attached Transportation draft
letter to conferees on H.R. 3210 by 5:00 P.M., Monday, September 23rd.
Thank you.
- TerrorismInsuranceBills2002.doc

LRM ID: LJM168
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Friday, September 20, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: Lisa J. Macecevic
PHONE: (202)395-1092 FAX: (202)395-3109
SUBJECT: TRANSPORTATION Report on HR3210 Terrorism Risk Protection Act

DEADLINE: 5:00 P.M. Monday, September 23, 2002
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Please respond with any comments on the attached Transportation draft letter to conferees on H.R. 3210 by 5:00 P.M., Monday, September 23rd. Thank you.

DISTRIBUTION LIST

AGENCIES:
059-INTERIOR - Jane Lyder - (202) 208-4371
025-COMMERCE - Michael A. Levitt - (202) 482-3151
061-JUSTICE - Daniel Bryant - (202) 514-2141
114-STATE - Nicole Petrosino - (202) 647-1794
062-LABOR - Robert A. Shapiro - (202) 693-5500
118-TREASURY - Thomas M. McGivern - (202) 622-2317
032-ENERGY - Ted Pulliam - (202) 586-3397
007-AGRICULTURE - Jacquelyn Chandler - (202) 720-1272
006-AGRICULTURE (CR) - Wanda Worsham - (202) 720-7095

EOP:
WHGC LRM
OVP LRM
NEC LRM
CEA LRM
OHS LRM
NSC LRM
Kevin Warsh
Kristen Silverberg
Brett M. Kavanaugh
Jack Howard
Augustine T. Smythe
Nancy Dorn
Andrew Abrams
David J. Haun
James Boden
Alan B. Rhinesmith
Hester C. Grippando
Stephen S. McMillin
Philip J. Perry

Matthew J. Schneider
John F. Wood
Steven D. Aitken
Sarah S. Lee
Attia Little
Pamula L. Simms
Alexander T. Hunt
Jefferson B. Hill
Paul R. Noe
Veronica Vargas
Robert F. Mahaffie
Andrew D. Hire
Mark J. Schwartz
James D. Foster
Richard A. Mertens
Philip T. Calbos
Lori A. Krauss
Justine F. Rodriguez
Danielle M. Simonetta
Christine M. Burgeson
Eric C. Pelletier
Lauren C. Lobrano
Matthew Kirk
Brian C. Conklin
Albert Hawkins
Edward Ingle
Richard M. Russell
Heather Wingate
Kenneth L. Schwartz
Randolph M. Lyon
Michael C. Falkenheim
Julie L. Haas
Lauren E. Bloomquist
Jay P. Lefkowitz
Garry Malphrus
Maureen Walsh
Steven M. Mertens
Janet E. Irwin
Robert S. Fairweather
Marcus Peacock
James B. Kazel
Jennifer S. Kron
Adrienne C. Erbach
Mark A. Weatherly
Richard E. Green
James J. Jukes
James A. Brown
John D. Burnim
Carlos E. Bonilla
Timothy A. Rosado
Stephen Suh
Ronald E. Jones
LRM ID: LJM168 SUBJECT: TRANSPORTATION Report on HR3210 Terrorism Risk Protection Act
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Lisa J. Macecevic Phone: 395-1092 Fax: 395-3109
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-3454

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Sent
To:_____
ocl@ios.doi.gov @ inet
CLRM@doc.gov @ inet
justice.lrm@usdoj.gov @ inet
statelrm@state.gov @ inet
dol-sol-leg@dol.gov @ inet
llr@do.treas.gov @ inet
energy.gc71@hq.doe.gov @ inet
usdaobpaleg@obpa.usda.gov @ inet
usdaocrleg@obpa.usda.gov @ inet

Message Copied
To:_____
WHGC LRM
OVP LRM
NEC LRM
CEA LRM
OHS LRM
NSC LRM
Kevin Warsh/OPD/EOP@EOP
Kristen Silverberg/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Jack Howard/WHO/EOP@EOP

Augustine T. Smythe/OMB/EOP@EOP
Nancy Dorn/OMB/EOP@EOP
Andrew Abrams/OMB/EOP@EOP
David J. Haun/OMB/EOP@EOP
James Boden/OMB/EOP@EOP
Alan B. Rhinesmith/OMB/EOP@EOP
Hester C. Grippando/OMB/EOP@EOP
Stephen S. McMillin/OMB/EOP@EOP
Philip J. Perry/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Steven D. Aitken/OMB/EOP@EOP
Sarah S. Lee/OMB/EOP@EOP
Attia Little/OMB/EOP@EOP
Pamula L. Simms/OMB/EOP@EOP
Alexander T. Hunt/OMB/EOP@EOP
Jefferson B. Hill/OMB/EOP@EOP
Paul R. Noe/OMB/EOP@EOP
Veronica Vargas/OMB/EOP@EOP
Robert F. Mahaffie/OMB/EOP@EOP
Andrew D. Hire/OMB/EOP@EOP
Mark J. Schwartz/OMB/EOP@EOP
James D. Foster/OMB/EOP@EOP
Richard A. Mertens/OMB/EOP@EOP
Philip T. Calbos/OMB/EOP@EOP
Lori A. Krauss/OMB/EOP@EOP
Justine F. Rodriguez/OMB/EOP@EOP
Danielle M. Simonetta/OMB/EOP@EOP
Christine M. Burgeson/OMB/EOP@EOP
Eric C. Pelletier/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
Matthew Kirk/WHO/EOP@EOP
Brian C. Conklin/WHO/EOP@EOP
Albert Hawkins/WHO/EOP@EOP
Edward Ingle/WHO/EOP@EOP
Richard M. Russell/OSTP/EOP@EOP
Heather Wingate/WHO/EOP@EOP
Kenneth L. Schwartz/OMB/EOP@EOP
Randolph M. Lyon/OMB/EOP@EOP
Michael C. Falkenheim/OMB/EOP@EOP
Julie L. Haas/OMB/EOP@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
Jay P. Lefkowitz/OPD/EOP@EOP
Garry Malphrus/OPD/EOP@EOP
Maureen Walsh/OMB/EOP@EOP
Steven M. Mertens/OMB/EOP@EOP
Janet E. Irwin/OMB/EOP@EOP
Robert S. Fairweather/OMB/EOP@EOP
Marcus Peacock/OMB/EOP@EOP
James B. Kazel/OMB/EOP@EOP
Jennifer S. Kron/OMB/EOP@EOP
Adrienne C. Erbach/OMB/EOP@EOP
Mark A. Weatherly/OMB/EOP@EOP
Richard E. Green/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
James A. Brown/OMB/EOP@EOP
John D. Burnim/OMB/EOP@EOP
Carlos E. Bonilla/OPD/EOP@EOP
Timothy A. Rosado/OMB/EOP@EOP
Stephen Suh/OMB/EOP@EOP
Ronald E. Jones/OMB/EOP@EOP

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_AJGDA003_WHO.TXT_1>

The Honorable
Chairman
Committee on
United States House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

This letter provides the views of the Department of Transportation concerning H.R. 3210, the Terrorism Protection Act, as passed by the House of Representatives on November 29, 2001, and S. 2600, the Terrorism Risk Insurance Act of 2002, as passed by the U. S. Senate on June 18, 2002. The Department commends the Committees for their leadership in addressing the vital issue of commercial terrorism insurance, and looks forward to working with the conferees as differences between the House and Senate bills are resolved.

The Department supports the goals of H.R. 3210 and S. 2600. Catastrophic losses were incurred by commercial insurance underwriters as a result of the events of September 11th, and there has been an across-the-board reduction/elimination of terrorism insurance coverage. The Departments comments and recommendations regarding marine insurance industry matters are intended to assist the conferees in developing final legislation to provide the Department of Transportation and the Federal Government with the a comprehensive terrorism insurance program to respond to the new, post-September 11th threat environment.

Participating insurer

S. 2600 includes within its definition of "participating insurers" only insurers that are state-licensed and foreign surplus lines insurers listed by the National Association of Insurance Commissioners (NAIC). However, insurance for most maritime (and offshore energy production units) is exempt from state regulation, and therefore a state license or a NAIC listing is neither available or necessary for many of the insurers of these activities. The same is true for commercial aviation, yet the acceptability of insurers of these activities is often subject to active oversight by federal agencies regulating the underlying maritime, energy or aviation activity. MARAD, for example, has a formal approval process to qualify foreign underwriters to insure vessels receiving loan guarantees under Title XI of the Merchant Marine Act, 1936, which takes into account a number of factors, including their financial condition. While insurer eligibility rules or practices vary with each federal agency, the Department believes that federal agency approval should be accorded equivalent status to State agency approval or NAIC listing. Therefore, if the S. 2600 structure is adopted in conference, a provision should be made to incorporate federal agency approval of insurers as a basis for eligibility.

H.R. 3210 includes a broad definition of "commercial insurer" and also expressly directs the Secretary of the Treasury to ensure that the act is applied "as appropriate to any offshore or non-admitted entities that provide commercial property and casualty insurance." This definition

presumably makes certain that the insurers who cover activities in the United States territorial waters (and continental shelf) are eligible. If the conferees structure the final bill in a manner similar to H.R. 3210, they should retain the provision directing the Secretary of the Treasury to apply the act to offshore and non-admitted insurers, as appropriate.

Geographic Scope of Coverage

In S. 2600, the definitions of "act of terrorism" and "insured losses" are primarily limited to acts and harm occurring "within the United States." In H.R. 3210, the definition of "act of terrorism" refers to acts or harm occurring "in the United States." How these definitions would apply to activities conducted in the jurisdictional waters of the United States is unclear. Such activities include both coastwise and international shipping, bound to or from the United States, which carries the preponderance of U.S. exports and imports. Another critical activity is energy production on the United States continental shelf, which is an increasing share of the country's hydrocarbon production.

Congress specifically foresaw the possibility of terrorist acts against shipping in the U.S. territorial sea (the 12-mile limit) and against fixed platforms on the U.S. continental shelf when it passed the Violent Crime Control and Law Enforcement Act of 1994 (Pub. L. 103-322). Section 60019 of that Act ("Offenses of Violence against Maritime Navigation or Fixed Platforms") made such terrorist acts a federal crime and confirmed U.S. territorial jurisdiction over such criminal activities. These provisions, codified at 18 U.S.C. Sec. 2280-2281, define U.S. jurisdiction with respect to "acts to compel the United States to do or abstain from doing any act" to include the "territorial sea of the United States" meaning all waters seaward to 12 nautical miles from the baseline on the United States (generally the shoreline); and the "continental shelf of the United States," meaning the seabed or subsoil of the submarine areas that extend beyond the territorial sea to the limits provided by the customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea.

Shipping and other maritime activity proximate to U.S. ports, including deepwater ports, and U.S. offshore energy facilities are potential targets of foreign terrorists. The conferees should ensure that such key economic activities are protected by the program. S. 2600 addresses this by including the territorial sea in its definition of "United States." However, the conferees should further clarify the definition of the United States by incorporating the jurisdictional lines set forth in 18 U.S.C. Sec. 2280 and 2281 respectively for the "territorial sea of the United States" (12-mile nautical limit) and the "continental shelf of the United States." This will ensure that all shipping in U.S. waters, and all oil and gas activities on the United States continental shelf, fall within the geographic scope of the bill since these activities are equally as vital to the U.S. economy as other domestic activities covered under the bill.

Coverage of Title XI Guaranteed Vessels

Section 19 of H.R. 3210, which delineates the property eligible for terrorism insurance, includes United States flag vessels or vessels based prnicipally in the United states on which United States income tax is paid and who insurance coverage is subject to regulation in the United States. If the H.R. 3210 structure is adopted by the conferees, Subsection (1)(B)(ii)

should be amended to also include foreign-flag vessels which are subject to a Title XI ship financing mortgage. MARAD has financed a number of vessels under the export provisions of Title XI of the 1936 Merchant Marine Act. Although those vessels are registered under non-U.S. flags, they carry a mortgage in favor of the United States. These vessels should be included under the provisions of this insurance to protect the government's security interest.

Railroad and Trucking Insurance Study

Section 17 of H.R. 3210 requires the Secretary of Treasury to conduct a study to determine how the Federal government should address a possible crisis in the availability and affordability of railroad and trucking insurance, by making such insurance for acts of terrorism available on commercially reasonable terms. The study would also address the advisability and effectiveness of establishing a reinsurance pool system relating to future acts of terrorism to replace the program provided for under H.R. 3210.

If such a study is included in final legislation, the Department believes that it should be expanded to include all critical transportation systems and infrastructure, and not just the trucking and railroad industries. Therefore, Section 17 should be amended to also include ports, intermodal terminals, airports and pipelines. In addition, since most of the expertise on these transportation industry segments rests with DOT, the study should be co-chaired by the Secretary of Transportation.

Thank you for the opportunity to comment on this legislation.

The Office of Management and Budget has advised that there is no objection, from the standpoint of the Administration's program, to the submission of this letter to Congress.

Sincerely,

Kirk K. Van Tine

REV_00151365

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: noel j. francisco/who/eop@eop [WHO] <noel j. francisco>;h. christopher bartolomucci/who /eop@eop [WHO] <h. christopher bartolomucci>;helgard c. walker/who/eop@eop [WHO] <helgard c. walker>;timothy e. flanigan/who/eop@eop [WHO] <timothy e. flanigan>;benjamin a. powell/who/eop@eop [WHO] <benjamin a. powell>;kyle sampson/who/eop@eop [WHO] <kyle sampson>;jennifer g. newstead/who/eop@eop [WHO] <jennifer g. newstead>;bradford a. berenson/who/eop@eop [WHO] <bradford a. berenson>;alberto r. gonzales/who/eop@eop [WHO] <alberto r. gonzales>
Sent: 9/23/2002 9:05:36 PM
Subject: : Wash Post article on Estrada

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:24-SEP-2002 01:05:36.00
SUBJECT:: Wash Post article on Estrada
TO:noel j. francisco ( CN=noel j. francisco/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
TO:h. christopher bartolomucci ( CN=h. christopher bartolomucci/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
TO:helgard c. walker ( CN=helgard c. walker/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
TO:timothy e. flanigan ( CN=timothy e. flanigan/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
TO:benjamin a. powell ( CN=benjamin a. powell/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
TO:kyle sampson ( CN=kyle sampson/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
TO:jennifer g. newstead ( CN=jennifer g. newstead/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
TO:bradford a. berenson ( CN=bradford a. berenson/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
TO:alberto r. gonzales ( CN=alberto r. gonzales/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Nominee for Court Faces Two Battles
Senate Panel to Focus on Ideology, Immigrant Past

advertisement
```

ÿ
Some Hispanic groups urged senators to delay Miguel Estrada's confirmation hearing so they could investigate his background. (Lucian Perkins - The Washington Post)

_____Recently in Congress_____
Bush Plan to Speed Up Logging Bogs Down in Senate Dispute (The Washington Post, Sep 24, 2002)
Lawmakers Hear Pleas Against War (The Washington Post, Sep 23, 2002)
U.S. Response to Israeli Siege Is Muted (The Washington Post, Sep 23, 2002)
Obscure Labor Issues Block Homeland Security Agency (The Washington Post, Sep 23, 2002)
McCain Needles House GOP About Drug Plan for Seniors (The Washington Post, Sep 23, 2002)
More on Congress

_____Federal Page_____
In the Loop by Al Kamen
Federal Diary by Stephen Barr
Special Interests by Judy Sarasohn
Ideas Industry by Richard Morin and Claudia Deane
More Stories

_____OnPolitics_____
Today's Political News
Elections 2002 Coverage
Daily E-mail Updates

E-Mail This Article

Printer-Friendly Version

Subscribe to The Post

By Charles Lane
Washington Post Staff Writer
Tuesday, September 24, 2002; Page A01

When the Senate Judiciary Committee convenes Thursday for a hearing on President Bush's choice to sit on the powerful U.S. Court of Appeals for the D.C. Circuit, the nominee will bring with him not only a glittering legal r?sum? but also a story of immigrant success.

Forty-year-old Washington lawyer Miguel Estrada earned academic honors at Columbia and Harvard and served as a law clerk to Supreme Court Justice Anthony M. Kennedy. He has worked both as a federal prosecutor and as an assistant solicitor general of the United States. He has won two-thirds of the 15 cases he has argued before the Supreme Court, and he played a key supporting role on Bush's team of conservative legal all-stars who won the 2000 presidential election case. Supporters say these achievements are especially remarkable for someone who, at 17, arrived in the United States from his native Honduras speaking limited English.

If confirmed for the D.C. Circuit, Estrada would become the first Hispanic judge in the court's history, and, as such, perhaps the most influential Hispanic jurist of his generation.

Yet far from looking like a triumphal moment for Estrada, Thursday's hearing is shaping up as possibly the most contentious public event yet in a long, tense struggle over his nomination.

To veterans of the increasingly rancorous judicial nomination process, the fight over Estrada's appointment has a familiar ring. Senate Democrats and liberal interest groups say Estrada represents the latest Bush administration attempt to "pack the courts with people who will roll back critical rights and protections," in the words of Nan Aron, president of the liberal Alliance for Justice. Republicans accuse Estrada's opponents

of trying to block a well-qualified lawyer because he does not conform to their ideology.

But the added element of ethnic politics makes the Estrada nomination more than just another skirmish in the battle for control of the lower courts: If confirmed, Estrada would immediately become a leading candidate to be named the first Hispanic on the Supreme Court. Such a historic appointment could help Bush not only tilt the high court to the right, but also make political gains among the fast-growing ranks of Hispanic voters.

Leading Republicans are blunt about their view of the political stakes. Democrats "are afraid Bush will nominate him to the Supreme Court where he won't toe their left-of-center line," said Sen. Orrin G. Hatch (R-Utah), the ranking Republican member of the Judiciary Committee.

The nomination has divided not only the Senate but also leading Hispanic organizations. Some hail the appointment as a breakthrough for a group that is underrepresented on the federal bench. Others portray Estrada as an acid-tongued conservative who is out of touch with the major concerns of Hispanics and other minorities.

In a real sense, the argument is a dispute over the meaning of Estrada's life story.

Privilege and Obstacles

Just as the first Bush administration praised Clarence Thomas for his rise from humble origins in Pin Point, Ga., the current Bush administration presents Estrada as the epitome of the self-made Latino immigrant.

"Miguel Estrada is an extremely bright person of strong convictions, and he has a great story," White House counsel Alberto Gonzales said. "He shows what is possible in this great country."

But to Estrada's critics, especially some of those in Hispanic civil rights organizations, his is the career of a successful minority who has put down only shallow roots in his ethnic community; he belongs to no Latino organizations.

In a blistering six-page statement opposing the Estrada nomination, the Puerto Rican Legal Defense and Education Fund (PRLDEF) said recently that Estrada "has lived a very different life from that of most Latinos -- a life isolated from their experience and concerns."

Neither side's case is free of overstatement.

Estrada's success in the United States could be seen as the extension of his upbringing amid relative comfort and high academic expectations in Honduras, one of the poorest countries in Latin America. His father, Jesus Maria Estrada, who died in 1997, was a prominent and politically conservative lawyer who helped found the country's first private university. Estrada's mother, Clara Argentina Castaneda Batres, a successful accountant, is the daughter of a teacher-diplomat.

Estrada could read and write by the age of 5. He used to stand by the window of a school near his home, shouting out answers to the first-grade teacher's questions until she relented and asked Estrada's father to enroll him, according to a profile of Estrada published recently in the Honduran newspaper El Heraldo.

Later, at the San Francisco Institute, an elite Catholic academy in a residential area of Tegucigalpa known as Country Club, Estrada was an academic standout remembered by friends and teachers for winning a poetry reading contest and the 1976 Honduran national science fair -- his project was a homemade seismograph.

Arturo Corrales, a high school friend of Estrada's who later became the presidential candidate of Honduras's small left-of-center Christian Democratic Party, said Estrada's conservative views were already evident in their teenage debates. Estrada would praise the United States for its strong local government and free market system, and needle his friend when he defended the idea of a more European-style "social market economy," Corrales said.

Their only point of agreement, was abortion: He and Estrada agreed that it was morally "wrong," Corrales recalled. But the two Catholic school students never talked about whether abortion should be illegal, Corrales said.

Yet if Estrada was relatively privileged economically and socially, he faced personal obstacles. Estrada's mother left for the United States in 1969 amid a bitter divorce and child custody battle with his father -- she took Estrada's sister; Estrada, then only 8, stayed with his father.

Estrada would not see his mother and sister again until 1974, when he visited her for the first time in the United States. He saw her only two more times before he immigrated to the United States in 1978 against his father's wishes.

Though some backers have suggested Estrada spoke no English when he came to the United States, he actually possessed a rudimentary grasp of the language. Upon his arrival, Estrada's mother and sister conducted a crash course for him, and soon, his skills were adequate to earn a B- in English composition at the State University of New York at Old Westbury, where he spent his freshman year before transferring to Columbia.

He has attained excellent oral advocacy abilities in his second language despite a lifelong struggle with a speech impediment.

Friends say the experience of adjusting to life in the United States reinforced the conservative tendencies Estrada brought with him. In discussing such issues as affirmative action, they say, Estrada appeared influenced by the feeling that he and, before him, his mother had succeeded on their own in the United States, and that others should be able to follow suit.

In a 1998 remark quoted in a USA Today article about the lack of minority Supreme Court clerks, Estrada said, "If there were some reason for the underrepresentation, it would be something to look into . . . but I don't have any reason to think it's anything other than a reflection of trends in society."

An irony of the Bush administration's use of Estrada's appointment to score points with Hispanic voters, Estrada's friends and former colleagues say, is that the Estrada they know would be uncomfortable with the idea. "He's an extremely proud person who would be offended by any of us thinking of him in a certain category," says Paul Capuccio, a Harvard Law School classmate who is now executive vice president and general counsel of AOL Time Warner.

No Paper Trail

Unlike previous Bush nominees who have had to answer tough questions about their writings as legal scholars or lower-court judges, Estrada's career binds him to no particular paper trail. Most of his work consisted of helping to formulate or advocate the legal positions of others: judges, the federal executive branch or private clients.

Those who have known him during his decade and a half in the law offer conflicting views of his open-mindedness, temperament and other more intangible qualifications for the federal appellate bench. They agree that Estrada is politically conservative but are divided over just what kind of conservative he would be on the court: an activist who infuses rulings with his ideology or a restrained jurist who heeds the role of precedent.

The American Bar Association has pronounced Estrada "well-qualified," and several distinguished lawyers, including a number of Democrats, have written letters of endorsement.

One of his most avid supporters is Ron Klain, former chief of staff to Vice President Al Gore, who knew Estrada when both were Supreme Court law clerks.

"I think Miguel Estrada takes the law very seriously. He's a very independent thinker and confident enough to come to his own conclusions, and won't just follow along with the Republican herd," Klain said.

As evidence of Estrada's flexibility, supporters note that, despite his career on the government's side of criminal cases, he took on a Virginia death row inmate's case pro bono in 1999, arguing unsuccessfully before the Supreme Court that the man should get a new trial because he had been denied access to information that would have cast doubt on key evidence against him.

However, privately, many of those who have known Estrada over the years, describe him as an acerbic ideologue who likes to pick fights at the office over political issues and does not suffer fools gladly.

"He has a very intellectual kind of snideness of the kind you see on the Wall Street Journal editorial page," a former colleague says. "I don't think I ever heard him utter a compassionate phrase about someone he was prosecuting."

As evidence of Estrada's reflexive pro-prosecution views, they cite his membership on the board of the Center for the Community Interest, a New York-based nonprofit that advocates tough anti-crime measures, such as

anti-loitering ordinances, that Latino civil rights groups have opposed as unfair to minorities.

At the solicitor general's office, Estrada clashed with Paul Bender, a liberal Clinton administration political appointee who served as principal deputy solicitor general.

"I think he lacks the judgment and is too much of an ideologue to be an appeals court judge," Bender told The Washington Post last year. Bender declined to comment for this article.

Meanwhile, though, other former Clinton administration officials, including the respected former solicitor general Seth A. Waxman have stepped forward to say they disagreed with Bender's assessment of Estrada. Last week the White House released excerpts from performance reviews of Estrada's work at the solicitor general's office, signed by Bender, that described Estrada as "outstanding."

Political Crossfire

Estrada was originally nominated in May 2001. But after control of the Senate switched to the Democrats, some Hispanic organizations skeptical of the nomination prevailed upon Senate Judiciary Committee Chairman Patrick J. Leahy (D-Vt.) to delay Estrada's hearing to permit interest groups and Democratic staffers more time to comb his background.

Some of those involved in the effort say their concerns about Estrada's temperament and ideology have been confirmed, but concede that they have turned up no bombshells.

Democrats on the Judiciary Committee are still seething over what they regard as the Republicans' unfair blocking of President Bill Clinton's nominees for the D.C. Circuit -- as well as several of his Hispanic nominees for other courts -- when the GOP controlled the Senate.

"If the White House had looked a little harder and were not so focused on packing the circuit court bench with a narrow ideology, it could have found many qualified nominees," Leahy said, citing the names of three Clinton appointees whose nominations died in the GOP-controlled Senate.

With Republicans gearing up to use the hearing to emphasize Estrada's immigrant success story, Democrats are expected to turn the session into an examination of his ideology and temperament.

But Democrats must proceed gingerly with Estrada to avoid the risk of offending Hispanic voters themselves. For the Democrats to vote him down on ideological grounds, absent solid evidence he is unfit for the court, "would be a huge mistake -- it'll backfire on them," says Brent Wilkes, executive director of the League of United Latin American Citizens (LULAC), which has endorsed Estrada.

LULAC is one of several Hispanic groups, including the Hispanic National Bar Association and the Cuban-American National Foundation, to argue that Estrada is a qualified Latino and that he can serve as a role model for others.

"I definitely think he's not supportive of affirmative action, but I don't think any Bush nominee would be," Wilkes said. "We don't want to shoot down their only Hispanic nominee, just to get a white conservative in his place."

© 2002 The Washington Post Company

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Anne Womack/WHO/EOP@EOP [WHO] <Anne Womack>
Sent: 9/24/2002 7:24:44 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:24-SEP-2002 11:24:44.00
SUBJECT::
TO:Anne Womack ( CN=Anne Womack/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Op ed? Need to get it moving.

.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Anne Womack/WHO/EOP@EOP [WHO] <Anne Womack>
Sent: 9/24/2002 7:55:40 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:24-SEP-2002 11:55:40.00
SUBJECT::
TO:Anne Womack ( CN=Anne Womack/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Fact that schumer denied hnba witness from testifying today needs to be
publicly known. Lots of good folks in room.

.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>
Sent: 9/24/2002 6:56:29 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:24-SEP-2002 10:56:29.00
SUBJECT::
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

On my way -- finally -- now. How is it going?

.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Anne Womack/WHO/EOP@EOP [WHO] <Anne Womack>
Sent: 9/24/2002 7:56:32 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:24-SEP-2002 11:56:32.00
SUBJECT::
TO:Anne Womack ( CN=Anne Womack/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Fact that schumer denied hnba witness from testifying today needs to be
publicly known. Lots of good folks in room.

.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>;Tim Goeglein/WHO/EOP@EOP [WHO] <Tim Goeglein>;Anne Womack/WHO/EOP@EOP [WHO] <Anne Womack>
Sent: 9/24/2002 3:25:20 PM
Subject: : Judge who struck down death penalty statute today was . . .

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:24-SEP-2002 19:25:20.00
SUBJECT:: Judge who struck down death penalty statute today was . . .
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tim Goeglein ( CN=Tim Goeglein/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Anne Womack ( CN=Anne Womack/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Campaign manager, Leahy for U.S. Senate Campaign, 1992
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Timothy E. Flanigan/WHO/EOP@EOP [WHO] <Timothy E. Flanigan>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>
Sent: 9/25/2002 3:57:05 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:25-SEP-2002 07:57:05.00
SUBJECT::
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Timothy E. Flanigan ( CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

The Vermont Judge's ruling yesterday on the federal death penalty
was far narrower than the earlier ruling in SDNY. This ruling yesterday
essentially was about the procedures at the sentencing hearings, not the
broad-based assault on the death penalty found in the earlier case.
```

From:	CN=Philip J. Perry/OU=OMB/O=EOP [OMB]
To:	Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC:	bradford a. berenson/who/eop@eop [WHO] <bradford a. berenson>;brett m. kavanaugh/who /eop@eop [WHO] <brett m. kavanaugh>;lucy g. clark/who/eop@eop [WHO] <lucy g. clark>
Sent:	9/25/2002 3:59:44 AM
Subject:	: Re: Fw: Warner Amendment on Contractor Indemnification -- Talking Points
Attachments:	P_C5XEA003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP [OMB])
CREATION DATE/TIME:25-SEP-2002 07:59:44.00
SUBJECT:: Re: Fw: Warner Amendment on Contractor Indemnification -- Talking Points
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:bradford a. berenson (CN=bradford a. berenson/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:lucy g. clark (CN=lucy g. clark/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

agree

Brett M. Kavanaugh
09/25/2002 07:50:41 AM
Record Type: Record

To: Philip J. Perry/OMB/EOP@EOP
cc: lucy g. clark/who/eop@eop, bradford a. berenson/who/eop@eop,
brett m. kavanaugh/who/eop@eop
bcc:
Subject: Re: Fw: Warner Amendment on Contractor Indemnification --
Talking Points

I would add a point that appropriate litigation management
procedures are necessary for tort cases arising out of terrorism
incidents, including consolidation of cases and appropriate limits on
punitive and non-economic damages so as both to ensure fair and equitable
compensation for victims and to maintain economic stability in the
aftermath of a terrorism incident. I realize that is not necessarily on
point, but important for the target audience.

Philip J. Perry
09/25/2002 07:05:01 AM
Record Type: Record

To: Lucy G. Clark/WHO/EOP@EOP
cc: bradford a. berenson/who/eop@eop, brett m.
kavanaugh/who/eop@eop
bcc:
Subject: Re: Fw: Warner Amendment on Contractor Indemnification --
Talking Points

haven't seen this yet. to what use would it be put?

Lucy G. Clark
09/25/2002 05:31:40 AM
Record Type: Record

To: Bradford A. Berenson/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP, Philip J. Perry/OMB/EOP@EOP
cc:
Subject: Fw: Warner Amendment on Contractor Indemnification -- Talking Points

Following are the tps OMB drafted. I've not yet reviewed. I hope to get them to Julie by noon.

.

----- Original Message -----
From:Mathew C. Blum/OMB/EOP
To:Lucy G. Clark/WHO/EOP@EOP
Cc:Robert A. Burton/OMB/EOP@EOP, Angela B. Styles/OMB/EOP@EOP
Date: 09/24/2002 07:24:49 PM
Subject: Warner Amendment on Contractor Indemnification -- Talking Points

Lucy --

Attached are talking points on the Warner amendment on contractor indemnification. They have been reviewed by Angela and Rob.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_C5XEA003_WHO.TXT_1>

Warner Amendment on Contractor Indemnification

Talking Points

The Warner amendment on risk sharing clarifies the ability of federal agencies to indemnify providers of anti-terrorism technologies and services under Public Law 85-804.

The amendment is crafted to avoid interfering with the President's broad discretion to ensure agencies act in a fiscally responsible manner when considering and negotiating indemnification. Preservation of this discretion will enable the Executive Branch to apply the principles of indemnification and tort reform in harmony to effectively address the liabilities associated with deploying anti-terrorism products and services.

- The provisions preserve the President's ability to bound liability and avoid excessive costs that cannot otherwise be reasonably estimated or controlled.

- Agencies would be required to notify Congress within 30 days after they execute a contract clause to provide indemnification.

In contrast to the Warner amendment, the Turner/Davis provisions on risk sharing would create a new and expansive framework for contractor indemnification that significantly increases the potential for excessive liability.

- By authorizing indemnification for acquisitions that arguably go beyond those that are clearly needed to prevent mass disasters, the Turner/Davis provisions encourage contractors to withhold needed anti-terrorism technologies from agencies until they are given broad indemnification.

- The Turner/Davis provisions could also encourage contractors to withhold anti-terrorism technologies from states and localities until broad indemnification is provided, thereby making the federal government the underwriter of Homeland initiatives going well beyond the federal mission. The Warner amendment recognizes the need for state and local access to anti-terrorism technologies and services but also recognizes that this access can be accomplished with a more limited authorization where the government fully controls both the acquisition and the terms of indemnification.

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO]
To: Allison L. Riepenhoff/WHO/EOP@EOP [WHO] <Allison L. Riepenhoff>;Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>;Helgard C. Walker/WHO /EOP@EOP [WHO] <Helgard C. Walker>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;Elizabeth N. Camp/WHO /EOP@EOP [WHO] <Elizabeth N. Camp>;Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;H. Christopher Bartolomucci/WHO /EOP@EOP [WHO] <H. Christopher Bartolomucci>
Sent: 9/25/2002 4:33:40 AM
Subject: : FL Judge

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:25-SEP-2002 08:33:40.00
SUBJECT:: FL Judge
TO:Allison L. Riepenhoff ( CN=Allison L. Riepenhoff/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

Copyright 2002 NLP IP Company - American Lawyer Media
All Rights Reserved. ÿ
Miami Daily Business Review

September 24, 2002

SECTION: NOD; Vol. 77; No. 74; Pg. A1

LENGTH: 510 words

HEADLINE: Judge Altonaga getting Bush nod

BYLINE: by Dan Christensen

BODY:
Fulfilling predictions made even before a citizens panel forwarded her name to Washington in May, the White House has tapped Miami-Dade Circuit Judge Cecilia Maria Altonaga to be the newest U.S. District Court judge in Miami.

A public announcement from the White House finalizing the nomination won't be made until Altonaga passes an FBI background check.

Several sources familiar with the nomination said they were recently notified that Altonaga would be nominated. Attorney Michael Hanzman, whose name was submitted to the White House along with Altonaga's and four others, said he was informed of her selection about 10 days ago in a phone call from an aide to White House Counsel Alberto R. Gonzales. News of Altonaga's selection comes days after two new judges finally took their places on South Florida's federal bench. By an 82-0 vote, the Senate confirmed Kenneth A. Marra as a U.S. district judge in Fort Lauderdale. Marra had been a Palm Beach Circuit judge. And in a voice vote, it confirmed Miami attorney Jose E. Martinez to a federal judgeship in Miami.

Timothy J. Corrigan was confirmed to a federal district court seat in Jacksonville that same week. Corrigan had been a U.S. magistrate there.

Altonaga, however, appears to face a political fight in the Senate. Through aides, Florida's two senators, Democrats Bob Graham and Bill Nelson, previously have expressed concern about the process that led to the White House's selection of Altonaga. The seat she's up for became vacant when Judge Shelby Highsmith took senior status in March. Neither senator's office returned calls for comment.

Altonaga was not among the original three finalists forwarded to the White House by the Republican-dominated Florida Federal Judicial Nominating Commission. The JNC's recommendations were then-U.S. Attorney Guy Lewis, Miami-Dade Circuit Judge Jerald Bagley and Broward Circuit Judge James I. Cohn.

But the White House rebuffed them all in April and asked the JNC for three new names.

The move stunned the South Florida legal community. It quickly sparked speculation that the White House wanted a Cuban-American candidate to help the president's brother, Gov. Jeb Bush, strengthen his support for re-election in the powerful Cuban-American community.

The JNC then sent three more names to the White House - Altonaga, Broward Circuit Judge Robert A. Rosenberg and Hanzman, a partner at Hanzman & Criden in Miami.

Yet even before that, observers predicted that Altonaga, would be the White House's ultimate choice. That was so even though she wasn't the only Hispanic - or even the only Hispanic woman - on the JNC's list of a dozen finalists for the job.

Altonaga did not return a phone message before deadline on Monday. Of the other potential nominees, only Hanzman and Lewis could be reached. Lewis declined comment.

"Of course, I'm disappointed," Hanzman said. "But I have no doubt that Cecilia is well-qualified and will make an outstanding district judge."

Dan Christensen can be reached at [n] or at (954) 468-2616.

From: NR Advance <advance@nationalreview.com>
To: NR Advance <advance@nationalreview.com>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 9/25/2002 9:55:30 AM
Subject: : Advance e-copy of National Review's October 14, 2002 Issue
Attachments: P_E8JFA003_WHO.TXT_1.html

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:NR Advance <advance@nationalreview.com> ( NR Advance <advance@nationalreview.com> [
UNKNOWN ] )
CREATION DATE/TIME:25-SEP-2002 13:55:30.00
SUBJECT:: Advance e-copy of National Review's October 14, 2002 Issue
TO:NR Advance <advance@nationalreview.com> ( NR Advance <advance@nationalreview.com> [
UNKNOWN ] )
READ:UNKNOWN
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

As you may already know, National Review is now e-mailing to a selected
list
an advance e-copy of highlights from the magazine. Here is how it works:
You
will get an e-mail from us once every two weeks that highlights various
pieces in NR. If you want to read more, you can click a link to an
exclusive
web page with the full text of the pieces. You will receive this e-mail a
few days before copies of the print magazine are distributed. If you wish
to
be taken off this list, please let us know. The link follows the excerpts:

NR Preview
October 14, 2002 issue

Bill Simon: En Route to Sacramento
By William F. Buckley Jr.
Last weekend there was much brightness in the Simon camp. The lead by
Democrat Davis is usually reported at 7 percent. There are Simon sources
who
say it is reduced to 4 percent. And Bill will remind you, driving back from
the fundraiser, that at the equivalent point in Reagan's campaign for
governor, His Greatness was behind even further, and ended by winning with
1
million votes. It is late, after a full day, but he talks with enthusiasm,
and his finance chairman, Frank Baxter, in the back seat, echoes it, but
acknowledges that a great deal depends on cranking up the fundraising.

Leviathan to the Rescue
By Paul Johnson
Imagine a world in which the United States was stricken by a successful
series of nuclear, biological, and chemical attacks. Putting aside the
appalling loss of American lives this would involve, the global
consequences
would be horrifying. The world would be plunged into the deepest depression
in its history. There would be no power-of-last-resort to uphold
international order. Wolf and jackal states would quickly emerge to prey on
their neighbors. It would be a world as described by Thomas Hobbes in his
Leviathan (1651), in which, deprived of a giant authority figure "to keep
them all in awe," civilization would break down, and life, for most of
mankind, would be "nasty, brutish and short."

Going with a Winner
By David Pryce-Jones
Arabs are in a bind. Like everybody else, they know that Saddam is
```

indefensible, and puts the whole Arab world to shame. But to say so out loud
seems to be another equally painful way of shaming the whole Arab world. They'd like to be rid of Saddam without anyone noticing. So the press is full of anonymous "senior Arab diplomats" maintaining, "There's no support for regime change," while colleagues are furtively preparing for that very eventuality. Double standards are the order of the day. Jordanian parliamentary deputies, for example, have called on "all Arab countries to move collectively and seriously, and to adopt a united stand to confront any
aggression against Iraq and to find ways to bring it out of the ordeal." At the same time, Jordan has allowed American military preparations at the base
at Mafraq, and is arranging for cheap American-supplied oil to replace subsidized Iraqi oil.

A Duty of Government?
By Ramesh Ponnuru
The libertarians are thinking about foreign policy anew. Libertarians have generally been hostile to intervention abroad; the dominant position has been that military action is permissible only when the United States itself is physically attacked. All sensible people would like to avoid war when possible, of course, but libertarians had additional reasons to oppose it. War is both a vast and horrible government enterprise and a catalyst for expansions of government that, in many cases, outlast the war that occasioned them. Many libertarians therefore defined themselves in opposition to what they styled the "welfare-warfare state."

Worse Than a Farce
By Kate O'Beirne
Having spent years in Iraq at precisely such an endless task, Dr. David A. Kay says that it would take "tremendous resources, actually . . . resources
beyond anything I can imagine," to prevent Saddam from thwarting inspections. The totalitarian Iraqi regime did a far better job of keeping track of the inspectors than the inspectors were able to do of keeping track
of weapons. A recent analysis of the 280 inspections of facilities and sites
that UNSCOM conducted from 1991 to 1998 found that fewer than a half dozen were surprise visits, catching the Iraqi minders off guard. Kay points out that Saddam has spent 20 years and an estimated $40 billion on a weapons-of-mass-destruction program that involves 40,000 Iraqis. To counter these enormous resources, any effective inspection force would be, in Kay's words, "very much like an occupation."

Blix-krieg
By Byron York
Hans Blix, a 74-year-old former Swedish diplomat, is preparing to take on perhaps the most important arms inspections ever. His critics point to the Iraqi nuclear fiasco and ask why a man who missed one of the most extensive illegal arms programs in recent years has been selected to conduct inspections in Iraq today. "He has a history of not being terribly aggressive," says Gary Milhollin, of the Wisconsin Project on Nuclear Arms Control. "The Iraqis were given stars for good behavior, when in fact they were making bombs in the rooms next door to the ones the inspectors were going into." Two other nuclear-arms experts, Paul Leventhal and Steven Dolley of the Nuclear Control Institute, have written that while the best arms inspectors are "confrontational, refusing to accept Iraqi obfuscations and demanding evidence of destroyed weapons . . . IAEA was more accommodating, giving Iraqi nuclear officials the benefit of the doubt when they failed to provide evidence that all nuclear weapons components had been
destroyed and all prohibited activities terminated."

The Hispanic Republic of Texas
By John J. Miller
No Democrat running for a major statewide office in Texas has won a

majority
of Anglo votes in 20 years-the last was Sen. Lloyd Bentsen, in 1982. "Back then, everybody was talking about 'Republican realignment,'" says David Hill, Cornyn's pollster. "We did a study looking at the birthrates and migration patterns of different groups. Our conclusion was that the realignment would be undone by the first decade of the 21st century, and now
we're here."

Making the World Safe-Period
By John O'Sullivan
Common sense suggests that an Iraqi democracy would therefore need to undergo a longish period of Western tutelage as its various ethnic groups, religions, and social elites learned to cooperate with one another in running a constitutional-democratic government. But the emphasis would be on
the "constitutional" rather than the "democratic." In this, it would resemble the Western protectorates in Kosovo and Bosnia, where NATO or the U.N. simply removes from office those elected politicians who affront their liberal sensibilities by running nationalist radio stations or refusing to cooperate in multi-ethnic institutions.

European Communities
By Jay Nordlinger
Albania is struggling to rejoin the world, and the country is as good a friend as America has in Europe, if an unfortunately powerless one. Albanian
fondness for America is longstanding, going back to at least 1913, when Woodrow Wilson declared that the country should go its own way, have its independence, instead of being carved up by its neighbors. Albanians speak of Wilson as if he had been president yesterday.

Being Lee Bollinger
By Matthew Continetti
Columbia University's new president, the 56-year-old Lee Bollinger, has a history of associating the good of his students with whatever leftish cause is currently garnering national attention. The typical result of this campus
crusade for political correctness is a diminution of the idea of liberal education. Nicholas Lemann has it wrong: By any traditional standard, Lee Bollinger is the worst college president in America.

Stop, Thief!
By Melissa Seckora
In recent times, conservative publications on campus have suffered an unprecedented amount of what might be called censorship by theft. And hardly
anyone appears to be bothered. Most irritating is the lack of response from college administrators who apparently care more about political correctness than about the freedom and dignity of students. All over the country, an ugly illiberalism is showing its face.

Plucking on My Mbira
By Jason Steorts
Imagine a college music department and all the familiar images come to mind:
practice rooms containing Steinway pianos, orchestras playing Mozart and Beethoven, harmonic analyses of Bach chorales scrawled across chalkboards. What will not come to mind, unless you spend time in such places, is students discussing topics like "Music and Globalization," "Cultural Studies, Feminist Theory, and the 'New Musicology,'" "Performance and Popular Culture in South Africa," or "The Music of Bebop."

Leagues of Their Own
By Kathryn Jean Lopez
That lesbians play softball is a terribly old stereotype, but few outside of

college athletics have heard what it's like for a non-gay girl who wants to play the sport. If you're not crazy about your daughter showering in a very-far-away-from-don't-ask-don't-tell gym shower, high-school and college softball might not be for her.

http://www.nationalreview.com/advance/advance101402.asp
<http://www.nationalreview.com/advance/advance101402.asp>

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_E8JFA003_WHO.TXT_1>

As you may already know, National Review is now e-mailing to a selected list an advance e-copy of highlights from the magazine. Here is how it works: You will get an e-mail from us once every two weeks that highlights various pieces in NR. If you want to read more, you can click a link to an exclusive web page with the full text of the pieces. You will receive this e-mail a few days before copies of the print magazine are distributed. If you wish to be taken off this list, please let us know. The link follows the excerpts:

NR Preview
October 14, 2002 issue

Bill Simon: En Route to Sacramento
By William F. Buckley Jr.
Last weekend there was much brightness in the Simon camp. The lead by Democrat Davis is usually reported at 7 percent. There are Simon sources who say it is reduced to 4 percent. And Bill will remind you, driving back from the fundraiser, that at the equivalent point in Reagan's campaign for governor, His Greatness was behind even further, and ended by winning with 1 million votes. It is late, after a full day, but he talks with enthusiasm, and his finance chairman, Frank Baxter, in the back seat, echoes it, but acknowledges that a great deal depends on cranking up the fundraising.

Leviathan to the Rescue
By Paul Johnson
Imagine a world in which the United States was stricken by a successful series of nuclear, biological, and chemical attacks. Putting aside the appalling loss of American lives this would involve, the global consequences would be horrifying. The world would be plunged into the deepest depression in its history. There would be no power-of-last-resort to uphold international order. Wolf and jackal states would quickly emerge to prey on their neighbors. It would be a world as described by Thomas Hobbes in his *Leviathan* (1651), in which, deprived of a giant authority figure "to keep them all in awe," civilization would break down, and life, for most of mankind, would be "nasty, brutish and short."

Going with a Winner
By David Pryce-Jones
Arabs are in a bind. Like everybody else, they know that Saddam is indefensible, and puts the whole Arab world to shame. But to say so out loud seems to be another equally painful way of shaming the whole Arab world. They'd like to be rid of Saddam without anyone noticing. So the press is full of anonymous "senior Arab diplomats" maintaining, "There's no support for regime change," while colleagues are furtively preparing for that very eventuality. Double standards are the order of the day. Jordanian parliamentary deputies, for example, have called on "all Arab countries to move collectively and seriously, and to adopt a united stand to confront any aggression against Iraq and to find ways to bring it out of the ordeal." At the same time, Jordan has allowed American military preparations at the base at Ma fraq, and is arranging for cheap American-supplied oil to replace subsidized Iraqi oil.

A Duty of Government?
By Ramesh Ponnuru
The libertarians are thinking about foreign policy anew. Libertarians have generally been hostile to intervention abroad; the dominant position has been that military action is permissible only when the United States itself is physically attacked. All sensible people would like to avoid war when possible, of course, but libertarians had additional reasons to oppose it. War is both a vast and horrible government enterprise and a catalyst for expansions of government that, in many cases, outlast the war that occasioned them. Many libertarians therefore defined themselves in opposition to what they styled the "welfare-warfare state."

Worse Than a Farce
By Kate O'Beirne
Having spent years in Iraq at precisely such an endless task, Dr. David A. Kay says that it would take "tremendous resources, actually . . . resources beyond anything I can imagine," to prevent Saddam from thwarting inspections. The totalitarian Iraqi regime did a far better job of keeping track of the inspectors than the inspectors were able to do of keeping track of weapons. A recent analysis of the 280 inspections of facilities and sites that UNSCOM conducted from 1991 to 1998 found that fewer than a half dozen were surprise visits, catching the Iraqi minders off guard. Kay points out that Saddam has spent 20 years and an estimated $40 billion on a weapons-of-mass-destruction program that involves 40,000 Iraqis. To counter these enormous resources, any effective inspection force would be, in Kay's words, "very much like an occupation."

Blix-krieg
By Byron York
Hans Blix, a 74-year-old former Swedish diplomat, is preparing to take on perhaps the most important arms inspections ever. His critics point to the Iraqi nuclear fiasco and ask why a man who missed one of the most extensive illegal arms programs in recent years has been selected to conduct inspections in Iraq today. "He has a history of not being terribly aggressive," says Gary Milhollin, of the Wisconsin Project on Nuclear Arms Control. "The Iraqis were given stars for good behavior, when in fact they were making bombs in the rooms next door to the ones the inspectors were going into." Two other nuclear-arms experts, Paul Leventhal and Steven Dolley of the Nuclear Control Institute, have written that while the best arms inspectors are "confrontational, refusing to accept Iraqi obfuscations and demanding evidence of destroyed weapons . . . IAEA was more accommodating, giving Iraqi nuclear officials the benefit of the doubt when they failed to provide evidence that all nuclear weapons components had been destroyed and all prohibited activities terminated."

The Hispanic Republic of Texas
By John J. Miller
No Democrat running for a major statewide office in Texas has won a majority of Anglo votes in 20 years-the last was Sen. Lloyd Bentsen, in 1982. "Back then, everybody was talking about

'Republican realignment,'" says David Hill, Cornyn's pollster. "We did a study looking at the birthrates and migration patterns of different groups. Our conclusion was that the realignment would be undone by the first decade of the 21st century, and now we're here."

Making the World Safe-Period
By John O'Sullivan
Common sense suggests that an Iraqi democracy would therefore need to undergo a longish period of Western tutelage as its various ethnic groups, religions, and social elites learned to cooperate with one another in running a constitutional-democratic government. But the emphasis would be on the "constitutional" rather than the "democratic." In this, it would resemble the Western protectorates in Kosovo and Bosnia, where NATO or the U.N. simply removes from office those elected politicians who affront their liberal sensibilities by running nationalist radio stations or refusing to cooperate in multi-ethnic institutions.

European Communities
By Jay Nordlinger
Albania is struggling to rejoin the world, and the country is as good a friend as America has in Europe , if an unfortunately powerless one. Albanian fondness for America is longstanding, going back to at least 1913, when Woodrow Wilson declared that the country should go its own way, have its independence, instead of being carved up by its neighbors. Albanians speak of Wilson as if he had been president yesterday.

Being Lee Bollinger
By Matthew Continetti
Columbia University's new president, the 56-year-old Lee Bollinger, has a history of associating the good of his students with whatever leftish cause is currently garnering national attention. The typical result of this campus crusade for political correctness is a diminution of the idea of liberal education. Nicholas Lemann has it wrong: By any traditional standard, Lee Bollinger is the worst college president in America.

Stop, Thief!
By Melissa Seckora
In recent times, conservative publications on campus have suffered an unprecedented amount of what might be called censorship by theft. And hardly anyone appears to be bothered. Most irritating is the lack of response from college administrators who apparently care more about political correctness than about the freedom and dignity of students. All over the country, an ugly illiberalism is showing its face.</p>

Plucking on My Mbira
By Jason Steorts
Imagine a college music department and all the familiar images come to mind: practice rooms containing Steinway pianos, orchestras playing Mozart and Beethoven, harmonic analyses of Bach

chorales scrawled across chalkboards. What will not come to mind, unless you spend time in such places, is students discussing topics like "Music and Globalization," "Cultural Studies, Feminist Theory, and the 'New Musicology,'" "Performance and Popular Culture in South Africa," or "The Music of Bebop."

& nbsp; &n bsp; &nb sp; &nbs p; ; & nbsp;

Leagues of Their Own

By Kathryn Jean Lopez

That lesbians play softball is a terribly old stereotype, but few outside of college athletics have heard what it's like for a *non-gay* girl who wants to play the sport. If you're not crazy about your daughter showering in a very-far-away-from-don't-ask-don't-tell gym shower, high-school and college softball might not be for her.

http://www.natio nalreview.com/advance/advance101402.asp

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>
Sent: 9/26/2002 3:46:19 PM
Subject: : Re: Do you have updates for ARG, et al?

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:26-SEP-2002 19:46:19.00
SUBJECT:: Re: Do you have updates for ARG, et al?
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Sorry, our blackberries were out all day.

Elizabeth N. Camp
09/26/2002 12:19:37 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Do you have updates for ARG, et al?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Timothy E. Flanigan/WHO/EOP@EOP [WHO] <Timothy E. Flanigan>
Sent: 9/27/2002 7:54:29 AM
Subject: : Re: Bridgeland question

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:27-SEP-2002 11:54:29.00
SUBJECT:: Re: Bridgeland question
TO:Timothy E. Flanigan (CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

That's correct.

Timothy E. Flanigan
09/27/2002 10:35:42 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP
cc:
Subject: Bridgeland question

Bridge called with a question re the appropriatness of speaking at a Lincoln Day event (which will be a fund raiser). Bridge's role will be limited to speaking on the Freedom Corp initiative and he will not be making any pitch for funds. I think that as long as he does not permit his official title to be used in the invitations, this should be OK. Let me know if you see it differently.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>
Sent: 9/27/2002 9:00:30 AM
Subject: : excerpts of q's and a's on law clerk issue

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:27-SEP-2002 13:00:30.00
SUBJECT:: excerpts of q's and a's on law clerk issue
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Irene Kho/OMB/EOP@EOP [OMB] <Irene Kho>;Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>
Sent: 9/27/2002 7:55:59 AM
Subject: : Re: Possible Suspesnions - H.R. 2357 Houses of Worship Political Speech Protection Act

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:27-SEP-2002 11:55:59.00
SUBJECT:: Re: Possible Suspesnions - H.R. 2357 Houses of Worship Political Speech Protection Act
TO:Irene Kho (CN=Irene Kho/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I think we should express support unless there are compelling reasons not to do so.

Patrick J. Bumatay
09/27/2002 10:45:09 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Possible Suspesnions - H.R. 2357 Houses of Worship Political Speech Protection Act

any comments on this?
---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 09/27/2002 10:45 AM ----------

Irene Kho
09/27/2002 10:45:23 AM
Record Type: Record

To: Patrick J. Bumatay/WHO/EOP@EOP, Matthew J. Schneider/OMB/EOP@EOP, James D. Foster/OMB/EOP@EOP
cc:
Subject: Possible Suspesnions - H.R. 2357 Houses of Worship Political Speech Protection Act

Good morning,

H.R. 2357 could be on the Suspensions list for next week. Please advise whether a SAP should be recommend, if so, what is the Administration position on this bill. Your response would greatly be appreciate it.
A bill text is below.

H.R. 2357 would amend the Internal Revenue Code to permit churches to participate or intervene in a political campaign and maintain its tax-exempt status as long as such participation is not a substantial part of its activities. H.R. 2357 - Houses of Worship Political Speech Protection Act (Introduced in House)
SECTION 1. SHORT TITLE.
This Act may be cited as the `Houses of Worship Political Speech

Protection Act'.
SEC. 2. HOUSES OF WORSHIP PERMITTED TO ENGAGE IN POLITICAL CAMPAIGNS, ETC.
(a) IN GENERAL- Paragraph (3) of section 501(c) of the Internal Revenue Code of 1986 is amended--
(1) by striking `and which does not' and inserting `except in the case of an organization described in section 508(c)(1)(A) (relating to churches), which does not', and
(2) by inserting before the period `and, in the case of an organization described in section 508(c)(1)(A), no substantial part of the activities of which is participating in, or intervening in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office'.
(b) EFFECTIVE DATE- The amendments made by this section shall apply to expenditures made after the date of the enactment of this Act.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Whelan, M Edward III <M.Edward.Whelan@usdoj.gov>
Sent: 9/27/2002 12:17:41 PM
Subject: : quick question

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:27-SEP-2002 16:17:41.00
SUBJECT:: quick question
TO:"Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov> ( "Whelan, M Edward III"
<M.Edward.Whelan@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I should know this but can punitive damages be determined by a
judge instead of jury consistent with Seventh Amendment?
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Leslie A. Mooney/OPD/EOP@EOP [OPD] <Leslie A. Mooney>
Sent: 9/27/2002 12:29:01 PM
Subject: : what is number and code

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:27-SEP-2002 16:29:01.00
SUBJECT:: what is number and code
TO:Leslie A. Mooney ( CN=Leslie A. Mooney/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Leslie A. Mooney/OPD/EOP@EOP [OPD] <Leslie A. Mooney>
Sent: 9/27/2002 12:29:01 PM
Subject: : what is number and code

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:27-SEP-2002 16:29:01.00
SUBJECT:: what is number and code
TO:Leslie A. Mooney ( CN=Leslie A. Mooney/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>
Sent: 9/27/2002 3:17:27 PM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:27-SEP-2002 19:17:27.00
SUBJECT::
TO:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######

one more point: note that Senate bill does not have consolidation
procedures.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Timothy E. Flanigan/WHO/EOP@EOP [WHO] <Timothy E. Flanigan>
Sent: 9/30/2002 5:02:27 AM
Subject: : Re: Meeting with Feinstein

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:30-SEP-2002 09:02:27.00
SUBJECT:: Re: Meeting with Feinstein
TO:Timothy E. Flanigan (CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

fyi
---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on
09/30/2002 09:05 AM ----------

Heather Wingate
09/30/2002 08:57:44 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Elizabeth N. Camp/WHO/EOP@EOP
cc: Heather Wingate/WHO/EOP@EOP, Alberto R. Gonzales/WHO/EOP@EOP
Subject: Re: Meeting with Feinstein

I agree, as per our discussion last week.

.

----- Original Message -----
From:Brett M. Kavanaugh/WHO/EOP
To:Elizabeth N. Camp/WHO/EOP@EOP
Cc:Heather Wingate/WHO/EOP@EOP,
Alberto R. Gonzales/WHO/EOP@EOP
Date: 09/30/2002 08:48:01 AM
Subject: Meeting with Feinstein

Unless Heather thinks otherwise, I think we should call this
morning to try to set up a meeting between Judge and Senator Feinstein for
Tuesday or Wednesday.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Jonathan R. Scharfen/NSC/EOP@EOP [NSC] <Jonathan R. Scharfen>
Sent: 9/30/2002 6:34:30 AM
Subject: : quick question

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:30-SEP-2002 10:34:30.00
SUBJECT:: quick question
TO:Jonathan R. Scharfen ( CN=Jonathan R. Scharfen/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Did the Armitage letter make clear opposition to use of blocked
assets?
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Anne Womack/WHO/EOP@EOP [WHO] <Anne Womack>
Sent: 9/30/2002 7:07:06 AM
Subject: :

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:30-SEP-2002 11:07:06.00
SUBJECT::
TO:Anne Womack (CN=Anne Womack/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

HEADLINE: Judging Michael McConnell

BODY:
When the president and Congress select federal judges, they are deciding, in a sense, what kind of nation this will be. With lifetime tenure and sweeping powers, federal judges are in a unique position to determine the rules by which we live. At their worst, the federal courts have endorsed separate-but-equal racial classifications and the wartime internment of Japanese-Americans. At their best, they dismantled the Jim Crow regime in the South and ended back-alley abortions.

Senators should keep in mind the critical role federal judges play when they consider Michael McConnell, whose nomination for a seat on the United States Court of Appeals for the 10th Circuit is now pending, with other Bush administration nominees to come. The Bush administration has ceded its Justice Department to the extreme conservative wing of the Republican Party and has made ideology the primary consideration in picking judges. Its goal is simple: to turn the federal courts into a force for a reactionary shift in society. Senators are no doubt getting weary of asking tough questions at confirmation hearings and of voting "no" on nominees. But they are shirking their responsibility if they vote for nominees who have not demonstrated two things: that they have the personal qualifications necessary to be good judges, and that their judicial philosophies will take the country in the right direction.

On the first point, Mr. McConnell, a law professor at the University of Utah, is clearly qualified.

The second inquiry the Senate must make, however, is whether the nominee's views on substantive legal matters are consistent with the nation's needs. There is no single litmus test to apply, but a constellation of positions to consider on key issues: racial and other kinds of equality, a woman's right to a safe and legal abortion, civil liberties, and federalism.

No judicial nominee could be confirmed today if he or she attacked Brown v. Board of Education, the 1954 ruling striking down racial segregation in schools. But segregation and discrimination can be more oblique. Mr. McConnell disapproves of the Supreme Court's decision in the 1983 Bob Jones University case in which the justices rightly decided that banning interracial dating among the college's students was racial discrimination. He would require the government to subsidize, through tax deductions, schools like Bob Jones. He has also spoken out against the Supreme Court's one-person, one-vote decisions, which overhauled the nation's discriminatory legislative districting.

The Senate must also be highly skeptical of nominees who do not acknowledge a woman's right to abortion. Mr. McConnell has not merely expressed abstract reservations about the Roe v. Wade ruling, but has also actively crusaded against it. He signed a statement arguing that fetuses deserved constitutional protection. Mr. McConnell has promised to follow established precedents in the area, and that is worth something. But that

will not help in the many cases appellate courts decide in which there is no binding authority and a judge must seek his own counsel.

Mr. McConnell is no friend of civil liberties. He would tear down the long-established wall separating church and state by allowing direct subsidies to religious schools. He also has an extremely narrow view of the constitutional right to privacy, an important basis for resisting government incursions on the rights of individuals.

On the critical issue of federalism, Mr. McConnell wants to cut back the power of Congress to protect people from things like discrimination, pollution and unsafe working conditions and to insulate state government from lawsuits when they engage in wrongs of that kind.

Professors must be free to take controversial stands. But Mr. McConnell's musings nearly all point in one direction, and that is the reason the administration nominated him. It is the reason the Senate should reject him. ÿhttp://www.nytimes.com

LOAD-DATE: September 29, 2002

From: Joy, Sheila <Sheila.Joy@usdoj.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 9/30/2002 12:07:52 PM
Subject: : RE: FW: Questions for Michael McConnell

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Joy, Sheila" <Sheila.Joy@usdoj.gov> ("Joy, Sheila" <Sheila.Joy@usdoj.gov> [
UNKNOWN])
CREATION DATE/TIME:30-SEP-2002 16:07:52.00
SUBJECT:: RE: FW: Questions for Michael McConnell
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

we received them around 3:00 and they were e-mailed to him around 3:15
today

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Monday, September 30, 2002 3:34 PM
To: Joy, Sheila
Subject: Re: FW: Questions for Michael McConnell

When were they e-mailed to him?

(Embedded
image moved "Joy, Sheila" <Sheila.Joy@usdoj.gov>
to file: 09/30/2002 03:21:50 PM
pic01846.pcx)

Record Type: Record

To: H. Christopher Bartolomucci/WHO/EOP@EOP, Bradford A.
Berenson/WHO/EOP@EOP,
Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: FW: Questions for Michael McConnell

FYI - questions have been e-mailed to Prof. McConnell---

Attached are written questions for Prof. McConnell from the Chairman.
Thanks,
H

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Rebecca A. Beynon/WHO/EOP@EOP [WHO] <Rebecca A. Beynon>
Sent: 9/30/2002 1:59:58 PM
Subject: : Re: FW: No Change in Our Position on H.R. 2357 Houses of Worship Pol itical Speech Protection Act

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:30-SEP-2002 17:59:58.00
SUBJECT:: Re: FW: No Change in Our Position on H.R. 2357 Houses of Worship Pol itical Speech Protection Act
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

sorry i thought you would have gotten this, which i thought answered your question. but call if you have questions still. thanks.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 09/30/2002 06:02 PM ----------

Brett M. Kavanaugh
09/30/2002 10:13:31 AM
Record Type: Record

To: Irene Kho/OMB/EOP@EOP
cc: james d. foster/omb/eop@eop, richard e. green/omb/eop@eop, patrick j. bumatay/who/eop@eop
bcc: Records Management@EOP
Subject: Re: FW: No Change in Our Position on H.R. 2357 Houses of Worship Pol itical Speech Protection Act

If Faith-Based and Treasury agree on no SAP, I defer to that position.

Irene Kho
09/30/2002 09:25:16 AM
Record Type: Record

To: James D. Foster/OMB/EOP@EOP
cc: Richard E. Green/OMB/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP, Patrick J. Bumatay/WHO/EOP@EOP
Subject: FW: No Change in Our Position on H.R. 2357 Houses of Worship Pol itical Speech Protection Act

Good morning,
Treasury does not recommend a SAP on H.R. 2357.
---------- Forwarded by Irene Kho/OMB/EOP on 09/30/2002 09:20 AM ----------

Karen.Dorsey@do.treas.gov
09/27/2002 03:14:52 PM
Record Type: Record

To: Irene Kho/OMB/EOP@EOP
cc:
Subject: FW: No Change in Our Position on H.R. 2357 Houses of Worship Pol
itical Speech Protection Act

Irene: In response to your telephone message, there is no change in our
recommendation that a SAP not be issued.

-----Original Message-----
From: Dorsey, Karen
Sent: Friday, September 27, 2002 10:53 AM
To: 'Irene_Kho@omb.eop.gov'
Subject: RE: Possible Suspesnions - H.R. 2357 Houses of Worship
Political Speech Protection Act

I haven't heard back from everyone, but I think the consensus at this point
is to remain neutral on the bill. Therefore, no SAP. I'll let you know if
I hear differently.

-----Original Message-----
From: Irene_Kho@omb.eop.gov [mailto:Irene_Kho@omb.eop.gov]
Sent: Friday, September 27, 2002 10:46 AM
To: karen.dorsey@do.treas.gov
Subject: Possible Suspesnions - H.R. 2357 Houses of Worship Political
Speech Protection Act

Karen
Any news on this? We would like to know by today.
---------- Forwarded by Irene Kho/OMB/EOP on 09/27/2002 10:41
AM

Irene Kho
09/26/2002 03:46:39 PM

Record Type: Record

To: James D. Foster/OMB/EOP@EOP, karen.dorsey@do.treas.gov @ inet

cc: Richard E. Green/OMB/EOP@EOP, Robert F. Mahaffie/OMB/EOP@EOP, Mark J.
Schwartz/OMB/EOP@EOP
Subject: Possible Suspesnions - H.R. 2357 Houses of Worship Political
Speech
Protection Act

Good afternoon,
H.R. 2357 could be on the Suspensions list for next week. Please advise
whether
a SAP should be recommend, if so, what is the Administration position on
this

bill. Thank you.

A bill text is below.

H.R. 2357 would amend the Internal Revenue Code to permit churches to participate or intervene in a political campaign and maintain its tax-exempt
status as long as such participation is not a substantial part of its activities. H.R. 2357 - Houses of Worship Political Speech Protection Act (Introduced in House)

SECTION 1. SHORT TITLE.

This Act may be cited as the `Houses of Worship Political Speech Protection
Act'.

SEC. 2. HOUSES OF WORSHIP PERMITTED TO ENGAGE IN POLITICAL CAMPAIGNS, ETC.

(a) IN GENERAL- Paragraph (3) of section 501(c) of the Internal Revenue
Code of 1986 is amended--

(1) by striking `and which does not' and inserting `except in the case
of an organization described in section 508(c)(1)(A) (relating to churches), which does not', and

(2) by inserting before the period `and, in the case of an organization described in section 508(c)(1)(A), no substantial part of
the activities of which is participating in, or intervening in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate
for public office'.

(b) EFFECTIVE DATE- The amendments made by this section shall apply to expenditures made after the date of the enactment of this Act.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jonathan R. Scharfen/NSC/EOP@EOP [NSC] <Jonathan R. Scharfen>
Sent: 9/30/2002 6:47:56 PM
Subject: : Re: quick question

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:30-SEP-2002 22:47:56.00
SUBJECT:: Re: quick question
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jonathan R. Scharfen (CN=Jonathan R. Scharfen/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
End Original ARMS Header

President's message today included this point as I am sure you know.

.

----- Original Message -----
From:Jonathan R. Scharfen/NSC/EOP
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 09/30/2002 11:02:48 AM
Subject: Re: quick question

Brett,
Yes. The June 12 Armitage letter closed with the following:

"Importantly, this approach would preserve the President's ability
to conduct foreign policy. The Administration opposes the use of blocked
assets to fund victim compensation or to satisfy judgments. Using blocked
assets would preclude their use to pressure regimes to improve their
policies on terroism, risk taxpayer liability for third-party claims
against the assets, eliminate their availibility to satisfy current U.S.
Government cliams (currntly more than $2billion), and put at risk
diplomatic property." (emphasis added)

We have since learned that we substantially understated the
taxpayer liability concerns.
Jock

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
Sent: 10/1/2002 4:10:26 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 1-OCT-2002 08:10:26.00
SUBJECT::
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Is there anything to do this morning or is it under control?

.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
Sent: 10/1/2002 9:01:36 AM
Subject: :

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 1-OCT-2002 13:01:36.00
SUBJECT::
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

A. VAGUENESS OF STANDARDS

One source of tort law's enduring vitality and resilience is the use of terminology possessing great elasticity. Ineffably vague terms such as negligence, duty, and the reasonable person, serve to minimize or at least to mask the inevitable tension between the often conflicting objectives the law seeks to further. The punitive damages area, as a number of commentators have observed, 149 exhibits this characteristic to a heightened degree. Malice, for example, not only carries the meaning attributed to it in the preceding Section (a meaning that at least is close to the lay understanding), sometimes distinguished as "express" or "actual" malice, 150 but also carries the Pickwickian meaning of "implied" or "legal" malice. 151 Implied malice may be either "implied in fact" or "implied in law." The former is similar to express or actual malice. Malice "implied in fact" assumes that "the devil himself knoweth not the thought of man," 152 and hence, allows inferences drawn from the ÿ[*35]ÿ actor's conduct as proof of a requisite state of mind. 153 Malice "implied in law," on the other hand, has nothing to do with the actor's mental state. It is synonymous with "legal malice" and is simply a legal characterization of the conduct itself. 154 That the defendant's thoughts may have been as innocent as those of the aboriginal parents before the fall provides no defense to the doctrine of legal malice.

Terms such as "willful," "wanton," "conscious indifference," "reckless disregard," and "recklessness" are overlapping and to a substantial extent redundant. Accordingly, they will be referred to collectively as the recklessness group. They may denote a mental state accompanying a defendant's act, but that mental state is different from that of actual malice. They do not suggest that the actor was motivated by a desire to harm anyone; in the usual case falling within the recklessness group, it is not the actor's objective that is questioned, but the means of achieving it. Moreover, in contrast with most cases involving express malice, the identity of the actual victim often will have been unknown to the defendant in advance of the injury. At times the notion conveyed by the recklessness group is similar to that attributed to reckless conduct in Section III: the actor knew or should have known that the contemplated conduct endangered a class of persons that included the actual victim and the burden of avoiding the harm was slight in comparison to the expected loss. On the other hand, some of the terms in the recklessness group may carry subtly different connotations regarding the actor's state of mind. For example, "conscious indifference" suggests actual knowledge of the risk at the time the act was committed. "Reckless disregard" connotes the existence of facts that should have alerted the actor to the risks the act entailed, whether or not the actor was consciously aware of the risks. It suggests that an act was committed by a person who was oblivious to the risks. "Recklessness" subsumes both reckless disregard and conscious indifference, while "wantonness" seems to connote extreme recklessness. 155 To compound ÿ[*36]ÿ the confusion further, the combination of "willful and wanton" in a single category is not uncommon, and the terms "malice" or "aggravated circumstances" frequently are used to encompass this entire set of connotations. 156

Conventionally, courts have viewed negligence, or "mere negligence," as an insufficient basis for awarding punitive damages. 157 But in some states, if a defendant's conduct can be characterized as "gross negligence," punitive damages may be assessed. 158 If this "unhappy term of ill-defined content" 159 represents something other than negligence "with the addition of a vituperative epithet," 160 it suggests that the foreseeable risk of harm exceeded the cost of avoidance by a greater margin than that which defines negligence, but by less than that which defines recklessness. 161 Alternatively, some courts use gross negligence, at least in the context of punitive damages, as a synonym for terms in the recklessness group. 162 Gross negligence thus embodies two sources ÿ[*37]ÿ of uncertainty: whether it is synonomous with other terms in the recklessness group; and, if not, whether it can be distinguished from ordinary negligence.

Finally, the recklessness group also may be used to denote only the actor's state of mind or awareness, without regard to any disproportion-ality that may exist between the expected harm and the cost of avoidance. Conduct that otherwise might be negligent at worst, may be characterized as reckless, grossly negligent, or as accompanied by malice, based solely upon a finding that the actor was or ought to have been aware of the resulting risk of harm. 163 "Recklessness," defined as an awareness that there is some risk of harm, appears with increasing frequency as a standard for punitive damage liability in cases where the defendant would not necessarily have been found negligent in the absence of such awareness. This is particularly true of products liability cases 164 where liability for compensatory damages is based on a theory of strict liability for defective products. 165 This single-dimension interpretation of the recklessness group may be encompassed within the terms "legal malice" 166 or "aggravated circumstances."

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/1/2002 5:06:22 AM
Subject: : LRM PTM159 - - HOUSING & URBAN DEVELOPMENT Testimony on Real Estate Settlement and Procedures Act
Attachments: P_AL1KA003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 1-OCT-2002 09:06:22.00
SUBJECT:: LRM PTM159 - - HOUSING & URBAN DEVELOPMENT Testimony on Real Estate Settlement and Procedures Act
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/01/2002 09:05 AM ----------

From: P. Thaddeus Messenger on 10/01/2002 09:04:44 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: LRM PTM159 - - HOUSING & URBAN DEVELOPMENT Testimony on Real Estate Settlement and Procedures Act

LRM ID: PTM159
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, October 1, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: P. Thaddeus Messenger
PHONE: (202)395-7754 FAX: (202)395-6148
SUBJECT: HOUSING & URBAN DEVELOPMENT Testimony on Real Estate Settlement and Procedures Act

DEADLINE: 5:00 p.m. Tuesday, October 1, 2002
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Attached for your review, please find a draft copy of HUD (Martinez) testimony regarding RESPA for an October 3rd hearing before the House Committee on Financial Services.

Please provide your comments by 5:00 p.m., TODAY, October 1, 2002. If we do not receive your comments by that time, we will assume you have no objection to the document as drafted.

If you experience difficulty with this LRM, or its attachment, please contact us immediately. To ensure receipt by Agency addressees, the electronic copy of this LRM will be followed by a duplicate copy via facsimile.

Thank you.

DISTRIBUTION LIST

AGENCIES:
061-JUSTICE - Daniel Bryant - (202) 514-2141
118-TREASURY - Thomas M. McGivern - (202) 622-2317
006-AGRICULTURE (CR) - Wanda Worsham - (202) 720-7095
129-VETERANS AFFAIRS - John H. Thompson - (202) 273-6666
107-Small Business Administration - Richard Spence - (202) 205-6700
049-Federal Trade Commission - Ted Cruz - (202) 326-3683
047-Federal Reserve Board - Donald J. Winn - (202) 452-3456

EOP:
Stephen S. McMillin
Alan B. Rhinesmith
Francis S. Redburn
Andrea E. Jacobson
David J. Haun
Lauren E. Bloomquist
Mark J. Schwartz
Robert F. Mahaffie
Adrienne C. Erbach
Jennifer Wagner Bell
Toni S. Hustead
Arecia A. Grayton
Yvette M. Dennis
Karyn Richman
Arthur W. Stigile
James D. Foster
John F. Morrall III
Stuart Shapiro
Lauren Wittenberg
Edward Ingle
Albert Hawkins
Aquiles F. Suarez
NEC LRM
CEA LRM
OVP LRM
WHGC LRM
Philip J. Perry
Matthew J. Schneider
John F. Wood
Brian C. Conklin
Danielle M. Simonetta
Lauren C. Lobrano
James J. Jukes
Ingrid M. Schroeder
P. Thaddeus Messenger
LRM ID: PTM159 SUBJECT: HOUSING & URBAN DEVELOPMENT Testimony on Real Estate Settlement and Procedures Act
RESPONSE TO
LEGISLATIVE REFERRAL

MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: P. Thaddeus Messenger Phone: 395-7754 Fax:
395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-7362

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Sent
To:_____
justice.lrm@usdoj.gov
llr@do.treas.gov
usdaocrleg@obpa.usda.gov
valrm@mail.va.gov
cla@sba.gov @ inet
FTC-LRM@ftc.gov
frbcongressional@frb.gov

Message Copied
To:_____
Stephen S. McMillin/OMB/EOP@EOP
Alan B. Rhinesmith/OMB/EOP@EOP
Francis S. Redburn/OMB/EOP@EOP
Andrea E. Jacobson/OMB/EOP@EOP

David J. Haun/OMB/EOP@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
Mark J. Schwartz/OMB/EOP@EOP
Robert F. Mahaffie/OMB/EOP@EOP
Adrienne C. Erbach/OMB/EOP@EOP
Jennifer Wagner Bell/OMB/EOP@EOP
Toni S. Hustead/OMB/EOP@EOP
Arecia A. Grayton/OMB/EOP@EOP
Yvette M. Dennis/OMB/EOP@EOP
Karyn Richman/OMB/EOP@EOP
Arthur W. Stigile/OMB/EOP@EOP
James D. Foster/OMB/EOP@EOP
John F. Morrall III/OMB/EOP@EOP
Stuart Shapiro/OMB/EOP@EOP
Lauren Wittenberg/OMB/EOP@EOP
Edward Ingle/WHO/EOP@EOP
Albert Hawkins/WHO/EOP@EOP
Aquiles F. Suarez/OPD/EOP@EOP
NEC LRM
CEA LRM
OVP LRM
WHGC LRM
Philip J. Perry/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Brian C. Conklin/WHO/EOP@EOP
Danielle M. Simonetta/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Ingrid M. Schroeder/OMB/EOP@EOP
P. Thaddeus Messenger/OMB/EOP@EOP
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_AL1KA003_WHO.TXT_1>

DRAFT

STATEMENT OF MEL MARTINEZ
SECRETARY
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

BEFORE THE
UNITED STATES HOUSE
COMMITTEE ON FINANCIAL SERVICES

OCTOBER 3, 2002

Chairman Oxley, Ranking Member LaFalce, Distinguished Members of the Committee:

Thank you for the opportunity to join you this morning to discuss a major initiative of the Bush Administration: our unprecedented effort to increase homeownership by making the home financing process more transparent, simpler, and less costly.

We are committed to eliminating the homeownership gap that exists today between the minority population and the rest of the country. The President has set a national goal of creating 5.5 million new minority homeowners by the end of this decade. Our comprehensive plan for achieving this combines new initiatives and expanded programs with public/private partnerships focused on making affordable homeownership an option for more families.

The mortgage finance process and the costs of closing are major impediments to homeownership. Every day, Americans enter into mortgage loans – the largest financial obligation most families will undertake – without the clear and useful information they receive with most any other major purchase.

After agreeing to the price of a house, too many families sit down at the settlement table and discover unexpected fees that can add hundreds, if not thousands, of dollars to the cost of their loan. And at that point, they have no viable options. On the spot, the borrower is forced to make an impossible choice: either hand over the extra cash and sign, or lose the house.

Americans spend approximately $50 billion each year on settlement costs. I would guess that most of them do not know precisely how much their mortgage loan will cost them until the eleventh hour, and have little or no opportunity to shop for settlement services. As a result, many homebuyers find the settlement process to be filled with mystery and frustration.

It is time to take the uncertainty out of mortgage financing. This Administration is committed to streamlining the process, so consumers can shop for mortgages and better understand what will happen at the closing table. It is for these reasons that HUD has proposed a major overhaul of the regulations governing the Real Estate Settlement and Procedures Act (RESPA).

RESPA REFORM

RESPA has been a priority of mine since I came to HUD. Shortly after taking office, I was faced with a major RESPA issue: the legality of yield spread premiums, the rate-based lender payments to mortgage brokers. This issue came to a head following an Eleventh Circuit U.S. Court of Appeals decision in *Culpepper v. Irwin Mortgage* that called into question the legality of these payments under RESPA.

Because the decision potentially jeopardized the legitimate use of these payments to lower upfront settlement costs, HUD issued a further clarification. What became RESPA Policy Statement 2001-1 reiterated our view that as long as the broker's compensation is for goods, facilities, or services, and the total compensation is reasonable, yield spread premiums to the mortgage broker are legal under RESPA.

REV_00151753

At the same time, the Department recognized that there were serious disclosure problems involving yield spread premiums. We noted that less-scrupulous brokers often used yield spread premiums to generate additional profits, placing unsuspecting borrowers in higher-rate loans without their knowledge.

In the process of issuing the policy statement, I committed HUD to establishing clearer disclosure rules for mortgage broker fees, and to simplifying and improving the mortgage origination process for everyone involved.

BASIS OF THE REFORM EFFORT

While RESPA, as adopted in 1974, was appropriate for the time, it has not evolved and has not accounted for the many dramatic changes in the lending and housing industries in the past 28 years. The disclosure requirements under RESPA have not been substantially revised in a decade.

And RESPA's promise of reduced settlement costs has yet to be fulfilled.

Reforming RESPA now is the right thing to do. Too many Americans seeking to buy or refinance a home are not as well informed as they need to be. The mortgage origination process is too complicated, too costly, and too much of a mystery for many borrowers. The experts told me that fixing this would be too difficult and too controversial, and our efforts would probably not succeed. But this problem is too important to ignore.

In June, the Administration unveiled a set of principles called the Homebuyer Bill of Rights that will from now on guide the home settlement process. These principles are consumer driven and rooted in the homebuyer's right to know. They stand as the centerpiece of our efforts to empower would-be homeowners – and existing homeowners looking to refinance – through access to mortgage finance information.

The Homebuyer Bill of Rights specifies that:

- Homebuyers have the right to receive settlement cost information early in the process, allowing them to shop for the mortgage product and settlement services that best meet their needs;

- Homebuyers have the right to have the disclosed costs be as firm as possible, to avoid surprises at settlement;

- Homebuyers have the right to benefit from new products, competition, and technological innovations that could lower settlement costs;

- Homebuyers have the right to simplified disclosure and access to better borrower education;

- Homebuyers have the right to know they are protected through vigorous RESPA enforcement and a level playing field for all industry providers.

REV_00151754

With these principles to guide us, we undertook a major reform of the regulatory requirements under RESPA.

After months of consultations with industry groups, consumer advocates, and federal agencies, including an initial review by the Office of Management and Budget (OMB), HUD published its reform proposal for public comment on July 29. The comment period is open until October 28, 2002. After a second review by OMB, the final rule will be published.

We believe that this proposal can reduce closing costs by an average of $700 per closing. That kind of savings will allow many more Americans currently priced out of the homebuying market to buy a home. The aggregate could result in a savings to consumers of as much as $8 billion. We also expect our proposal to promote innovation in the marketplace and inspire greater public confidence in the mortgage lending industry.

ELEMENTS OF THE PROPOSED RULE

The Proposed Rule addresses the inadequacies of the existing regulatory scheme by:

- Fundamentally changing the way in which compensation to mortgage brokers is disclosed to borrowers;
- Significantly improving HUD's Good Faith Estimate (GFE) settlement cost disclosure; and
- Removing regulatory barriers to allow the industry the option of offering guaranteed packages of settlement services and mortgage loans to borrowers.

Broker Fees

Specifically, the Proposed Rule significantly improves the disclosure of mortgage broker fees from lenders.

Under current rules, such a payment is frequently reported on the GFE – and later at closing on the HUD-1 – with abbreviations that most consumers are not well informed enough to understand. In addition, the payment is not included in the calculation of broker compensation, nor is it listed as an expense to the borrower. As a result, many borrowers have no idea that they are paying for this in the form of a higher interest rate.

The Proposed Rule would require that all such payments be reported on both the GFE and the HUD-1 as a credit to the borrower toward his or her closing costs.

This means that, when a broker intends to receive any compensation from a lender payment based on the borrower's interest rate, the broker must report it as part of the total origination charge. This preserves the use of rate-based lender payments as a means of paying closing costs while ensuring that brokers cannot use these payments to increase their income without the borrower's knowledge.

REV_00151755

The Good Faith Estimate

The Proposed Rule would revise the GFE to better achieve the law's basic purposes. Current GFE requirements arguably lessen consumer understanding and increase costs by requiring that every charge, however creative, be itemized on the form.

The new GFE would require that the charges of settlement service providers – the lender, broker, title agent/insurer, and other third parties – be combined and disclosed as a single dollar figure for each major category. The Rule would also establish limits or tolerances to provide clearer standards for good faith estimates of most of these charges. Specifically, the Rule establishes a zero tolerance for the loan origination fee and other services provided by the loan originator, and a 10 percent tolerance for services provided by third parties. Some costs are not subject to a tolerance – such items as per diem interest, hazard insurance, and buyer's title insurance, which are outside the control of the loan originator.

These changes to the GFE and the regulatory scheme hold great promise for eliminating duplicative or unnecessary charges, or "junk fees," and will lead to lower settlement costs. We also believe that the new GFE requirements will empower consumers to shop for the best loan to meet their needs; consumers will get the GFE before they have to make a commitment to the lender, giving them time to shop, and the GFE will emphasize the *total* cost of the loan – the bottom line for the consumer.

Packaging

The Rule permits loan providers to offer guaranteed mortgage packages. This might provide an even better means of encouraging shopping and lowering costs.

Under our packaging proposal, the settlement costs cannot vary for 30 days from the time the offer is made, and the rate can only vary in accordance with an observable index or yardstick. The fact that these packages will consist of two or three numbers at most will permit true price comparison.

Any entity offering such a package may qualify for a safe harbor from RESPA Section 8 scrutiny if it offers the following – at no charge – to a borrower who submits an application:

- A guaranteed package price for all lender-required settlement services;
- A mortgage loan with an interest rate guarantee; and
- A contract for the transaction in the form of a Guaranteed Mortgage Package Agreement.

The key point with our packaging proposal is that the Rule in no way mandates packaging; it simply makes it available as an option. It is not our

REV_00151756

intention to pick winners or losers in the industry but rather to unleash the creativity of the marketplace.

Injecting greater competition into the mortgage lending process and among settlement services is an important reason for reforming RESPA. When consumers are empowered to shop for the best loan to meet their needs, the market will respond to the competition by lowering closing costs. When closing costs are reduced, home loans will become less expensive and more families will become homeowners.

RESPONSE TO THE RULE

Since publication of the Proposed Rule, we have been heartened by the strong support it has received from numerous industry and consumer groups, and governmental agencies. But, some criticisms about the Rule and its possible impacts have been brought to our attention. Some of these criticisms are based on misconceptions that we are attempting to correct. Others are differences that I think can be bridged. In some cases, we may simply have to agree to disagree.

RESPA ENFORCEMENT

Another feature of the Department's reform effort is stepped-up enforcement.

I have committed new resources toward enforcing RESPA – to address current violations and to make certain that the benefits of the proposed reforms are achieved.

This summer, the Department announced five major settlement agreements with mortgage lenders and service providers, with payments of nearly $2.3 million. HUD has budgeted $1.5 million that is available to investigate RESPA violations. And we are beefing up our investigative staff to further strengthen our RESPA enforcement efforts.

HUD continues to work with other federal and state regulatory agencies, as we did recently with the Federal Trade Commission in the Mercantile Mortgage Case, to complement and leverage our enforcement efforts.

You should also know that the Department will continue to defend its position that one settlement service provider's markup of another provider's fee is a RESPA violation. The Department of Justice has recently filed *amicus* briefs in three federal circuit courts of appeal taking this position. Markups add to settlement costs and are inconsistent with our goal of assuring transparency in disclosures to consumers.

PREDATORY LENDING

Finally, I would like to say a few words about predatory lending, an issue this Administration – and the Committee Members as well – are deeply concerned about.

REV_00151757

Elderly and minority homeowners are particularly vulnerable to predatory lending practices. These practices include loan "flipping," home improvement scams, unaffordable mortgage loans, repeated refinancings with no borrower benefit, and "packing" life insurance and other products into the loan amount.

We believe that our proposed reforms, and the greater transparency they ensure, will make it more difficult for unscrupulous lenders to abuse borrowers. But I want to be very clear that we do not consider RESPA reform to be a "silver bullet" solution to predatory lending. More must be done to address predatory lending while preserving a source of credit for those with less-than-perfect credit histories.

Consumer education and enhanced financial literacy are potent weapons in combating predatory lending. For this reason, the Department is currently providing $20 million for consumer education and housing counseling, and has requested an additional $15 million for this fiscal year, which we hope you will include in our appropriation this fall.

In addition, HUD has undertaken a number of other initiatives to fight predatory lending. These include:

- Strengthening oversight of FHA-approved mortgage lenders through the "Credit Watch" program, with the goal of identifying problem loans and lenders earlier on;

- Expanding protection of homeowners by proposing performance standards for appraisers of FHA single-family homes under the Department's "Appraiser Watch Initiative"; and

- Developing a rule to stop "flipping" of FHA-insured properties.

HUD has played a key role in the Baltimore predatory lending task force. The combined efforts of federal, state, and local authorities, as well as profit and nonprofit organizations, has led to increased consumer education, restructured loans, and a large number of indictments. We believe that this approach can *and will* serve as a model for other areas targeted by predatory lenders.

CONCLUSION

We believe that the Department has developed a well-crafted Rule. We look forward to reviewing the comments offered by the mortgage lending industry, consumers, and others that might provide the basis for further changes. To be truly effective, the final Rule will require the full participation of each of these interests; therefore, we need to know whether the approaches we have proposed are the right ones – and if not, what alternatives may work better.

I am committed to creating a homebuying and mortgage finance process grounded in transparency and simplicity. By reforming the rules governing the purchase and financing of a home, we will create new opportunities for first-time

REV_00151758

homebuyers, keep the American dream of homeownership alive for more families, and inspire greater public confidence in the mortgage lending industry.

I would again like to thank the Committee for the opportunity to meet with you today. I appreciate your continued support of the Department's efforts, and I welcome your continued counsel as we work together on behalf of the American people.

REV_00151759

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Nicolle Devenish/WHO/EOP@EOP [WHO] <Nicolle Devenish>
Sent: 10/1/2002 1:17:53 PM
Subject: : Commerce job

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 1-OCT-2002 17:17:53.00
SUBJECT:: Commerce job
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

call me.
---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on
10/01/2002 05:20 PM ----------

Colleen Litkenhaus
10/01/2002 04:47:36 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Commerce job

---------- Forwarded by Colleen Litkenhaus/WHO/EOP on
10/01/2002 04:38 PM ----------

10/01/2002 04:37:14 PM
Record Type: Record

To: Colleen Litkenhaus/WHO/EOP@EOP
cc:
Subject: in case you know someone

Margaret Wilson, our Deputy General Counsel to the Secretary, who worked for then Gov. Bush for a number of years, is heading back to Texas.

We need a Sr. level person to replace her... Probably 15-20 years experience....

Message Sent
To:_____
Elizabeth N. Camp/WHO/EOP@EOP
Allison L. Riepenhoff/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Carl Buchholz/WHO/EOP@EOP

Kristen Silverberg/WHO/EOP@EOP
Joel D. Kaplan/WHO/EOP@EOP
Carol J. Thompson/WHO/EOP@EOP

From: CN=Collister W. Johnson/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Katherine M. Walters/WHO/EOP@EOP [WHO] <Katherine M. Walters>
Sent: 10/1/2002 1:18:26 PM
Subject: : Fw: Dole letter
Attachments: P_6DYKA003_WHO.TXT_1.htm; P_6DYKA003_WHO.TXT_2.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 1-OCT-2002 17:18:26.00
SUBJECT:: Fw: Dole letter
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Katherine M. Walters (CN=Katherine M. Walters/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Hey man - pretty straightforward - the artwork for POTUS's letter for Mrs. Dole -
thanks!
c

---------- Forwarded by Collister W. Johnson/WHO/EOP on 10/01/2002 05:20 PM ----------

Coddy Johnson <cjohnson@georgewbush.com>
10/01/2002 05:24:16 PM
Record Type: Record

To: Collister W. Johnson/WHO/EOP@EOP
cc:
Subject: Fw: Dole letter

Re: Dole letter
----- Original Message -----
From: Heather Shuvalov
To: Coddy Johnson
Sent: Tuesday, October 01, 2002 4:52 PM
Subject: Re: Dole letter

Here is the Dole/Bush artwork for approval.
--
Heather Shuvalov
Olsen, Delisi & Shuvalov
1609 Shoal Creek Blvd., #203
Austin, TX 78701
512/479-6602 x114

From: "Coddy Johnson" <cjohnson@georgewbush.com>
Date: Tue, 1 Oct 2002 16:54:49 -0400
To: "Heather Shuvalov" <heather@od-s.com>
Subject: Re: Dole letter

yes - absolutely -
are we also sending a bush letter out nationwide?

c

----- Original Message -----
From: Heather Shuvalov <mailto:heather@od-s.com>
To: Coddy Johnson <mailto:cjohnson@georgewbush.com>
Sent: Tuesday, October 01, 2002 4:19 PM
Subject: Dole letter

Here are the states where we have Bush letters:

Texas
Minnesota
South Dakota
Georgia
Iowa
Missouri
Arkansas
Colorado

Do you agree these are the states we should suppress?
--
Heather Shuvalov
Olsen, Delisi & Shuvalov
1609 Shoal Creek Blvd., #203
Austin, TX 78701
512/479-6602 x114

- att1.htm
- dole.pdf

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_6DYKA003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_6DYKA003_WHO.TXT_2>

----- Original Message -----
From: Heather Shuvalov
To: Coddy Johnson
Sent: Tuesday, October 01, 2002 4:52 PM
Subject: Re: Dole letter

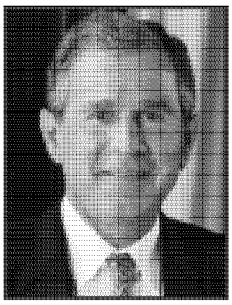
Here is the Dole/Bush artwork for approval.
--
Heather Shuvalov
Olsen, Delisi & Shuvalov
1609 Shoal Creek Blvd., #203
Austin, TX 78701
512/479-6602 x114

> **From:** "Coddy Johnson" <cjohnson@georgewbush.com>
> **Date:** Tue, 1 Oct 2002 16:54:49 -0400
> **To:** "Heather Shuvalov" <heather@od-s.com>
> **Subject:** Re : Dole letter
>
> yes - absolutely -
> are we also sending a bush letter out nationwide?
> c
>
> > ----- Original Message -----
> > **From:** Heather Shuvalov <mailto:heather@od-s.com>
> > **To:** Coddy Johnson <mailto:cjohnson@georgewbush.com>
> > **Sent:** Tuesday, October 01, 2002 4:19 PM
> > **Subject:** Dole letter
> >
> > Here are the states where we have Bush letters:
> >
> > Texas
> > Minnesota
> > Sout h Dakota
> > Georgia
> > Iowa
> > Missouri
> > Arkansas
> > Colorado
> >
> > Do you agree these are the states we should suppress?
> > --
> > Heather Shuvalov
> > Olsen, Delisi & Shuvalov
> > 1609 Shoal Creek Blvd., #203

Austin, TX 78701
512/479-6602 x114

Because of Elizabeth's leadership, energy, unparalleled accomplishments and record of success, I need her working with me, standing up for North Carolina's families, farmers and small business owners in the U.S. Senate. Please help her today.





Yes, President Bush I agree!

We need Elizabeth Dole in the U.S. Senate.
Here's my contribution of:

Contributions to Dole 2002 Committee, Inc. are not deductible as charitable contributions for federal income tax purposes. Corporate contributions and contributions from foreign nationals or federal contractors are prohibited.

Mr. and Mrs. Member
0000 Any Street
Any City, US 00000

Please see reverse for important information.

REV_00151777

Credit Card Payment Option:

You may make your contribution to the Dole 2002 Committee by credit card if you choose by completing the required information below:

Type of Credit Card: ❑ Visa ❑ MasterCard ❑ American Express ❑ Discover

Credit Card Number_____Expiration Date _____

Name as it appears on card_____

Signature_____

Amount of gift: $_____Please verify that this is a personal credit card: ❑ Yes ❑ No

Federal election law requires we request the following:

Occupation_____Employer_____

Check if self-employed _____

Home Phone_____Business Phone_____

Fax_____County_____

I certify that the following statements are true and correct:

- ❑ This contribution is made from my own funds and not those of another.
- ❑ This contribution is not made from the general treasury funds of a corporation, labor organization or national bank.
- ❑ I am not a federal government contractor, nor am I a foreign national who lacks permanent resident status in the United States.
- ❑ This contribution is made on my personal credit or debit card for which I have the legal obligation to pay and is not made on a corporate credit card.

Please make checks payable to "Dole 2002 Committee, Inc."

Get involved on the Web! Visit ***www.ElizabethDole.org***

PRESIDENT

GEORGE W. BUSH

Paid for by Dole 2002 Committee, Inc.

REV_00151779

PRESIDENT
GEORGE W. BUSH

P.O. Box 2109
Salisbury, North Carolina 28145

REV_00151781

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Collister W. Johnson/WHO/EOP@EOP [WHO] <Collister W. Johnson>
Sent: 10/1/2002 1:19:22 PM
Subject: : Re: Fw: Dole letter
Attachments: P_2GYKA003_WHO.TXT_1.htm; P_2GYKA003_WHO.TXT_2.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 1-OCT-2002 17:19:22.00
SUBJECT:: Re: Fw: Dole letter
TO:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Approved. Thanks.

Collister W. Johnson
10/01/2002 05:16:27 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: Katherine M. Walters/WHO/EOP@EOP
Subject: Fw: Dole letter

Hey man - pretty straightforward - the artwork for POTUS's letter for Mrs. Dole -
thanks!
c

---------- Forwarded by Collister W. Johnson/WHO/EOP on 10/01/2002 05:20 PM ----------

Coddy Johnson <cjohnson@georgewbush.com>
10/01/2002 05:24:16 PM
Record Type: Record

To: Collister W. Johnson/WHO/EOP@EOP
cc:
Subject: Fw: Dole letter

Re: Dole letter
----- Original Message -----
From: Heather Shuvalov
To: Coddy Johnson
Sent: Tuesday, October 01, 2002 4:52 PM
Subject: Re: Dole letter

Here is the Dole/Bush artwork for approval.
--
Heather Shuvalov
Olsen, Delisi & Shuvalov
1609 Shoal Creek Blvd., #203
Austin, TX 78701
512/479-6602 x114

From: "Coddy Johnson" <cjohnson@georgewbush.com>
Date: Tue, 1 Oct 2002 16:54:49 -0400
To: "Heather Shuvalov" <heather@od-s.com>
Subject: Re: Dole letter

yes - absolutely -
are we also sending a bush letter out nationwide?
c

----- Original Message -----
From: Heather Shuvalov <mailto:heather@od-s.com>
To: Coddy Johnson <mailto:cjohnson@georgewbush.com>
Sent: Tuesday, October 01, 2002 4:19 PM
Subject: Dole letter

Here are the states where we have Bush letters:

Texas
Minnesota
South Dakota
Georgia
Iowa
Missouri
Arkansas
Colorado

Do you agree these are the states we should suppress?
--
Heather Shuvalov
Olsen, Delisi & Shuvalov
1609 Shoal Creek Blvd., #203
Austin, TX 78701
512/479-6602 x114

- att1.htm
- dole.pdf

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_2GYKA003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_2GYKA003_WHO.TXT_2>

----- Original Message -----
From: Heather Shuvalov
To: Coddy Johnson
Sent: Tuesday, October 01, 2002 4:52 PM
Subject: Re: Dole letter

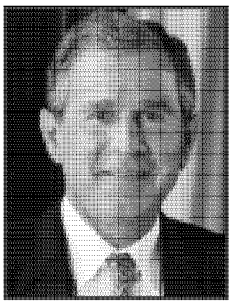
Here is the Dole/Bush artwork for approval.
--
Heather Shuvalov
Olsen, Delisi & Shuvalov
1609 Shoal Creek Blvd., #203
Austin, TX 78701
512/479-6602 x114

> **From:** "Coddy Johnson" <cjohnson@georgewbush.com>
> **Date:** Tue, 1 Oct 2002 16:54:49 -0400
> **To:** "Heather Shuvalov" <heather@od-s.com>
> **Subject:** Re : Dole letter
>
> yes - absolutely -
> are we also sending a bush letter out nationwide?
> c
>
> > ----- Original Message -----
> > **From:** Heather Shuvalov <mailto:heather@od-s.com>
> > **To:** Coddy Johnson <mailto:cjohnson@georgewbush.com>
> > **Sent:** Tuesday, October 01, 2002 4:19 PM
> > **Subject:** Dole letter
> >
> > Here are the states where we have Bush letters:
> >
> > Texas
> > Minnesota
> > Sout h Dakota
> > Georgia
> > Iowa
> > Missouri
> > Arkansas
> > Colorado
> >
> > Do you agree these are the states we should suppress?
> > --
> > Heather Shuvalov
> > Olsen, Delisi & Shuvalov
> > 1609 Shoal Creek Blvd., #203

Austin, TX 78701
512/479-6602 x114

Because of Elizabeth's leadership, energy, unparalleled accomplishments and record of success, I need her working with me, standing up for North Carolina's families, farmers and small business owners in the U.S. Senate. Please help her today.





Yes, President Bush I agree!

We need Elizabeth Dole in the U.S. Senate.
Here's my contribution of:

Contributions to Dole 2002 Committee, Inc. are not deductible as charitable contributions for federal income tax purposes. Corporate contributions and contributions from foreign nationals or federal contractors are prohibited.

Mr. and Mrs. Member
0000 Any Street
Any City, US 00000

Please see reverse for important information.

REV_00151786

Credit Card Payment Option:

You may make your contribution to the Dole 2002 Committee by credit card if you choose by completing the required information below:

Type of Credit Card: ❑ Visa ❑ MasterCard ❑ American Express ❑ Discover

Credit Card Number_____Expiration Date _____

Name as it appears on card_____

Signature_____

Amount of gift: $_____Please verify that this is a personal credit card: ❑ Yes ❑ No

Federal election law requires we request the following:

Occupation_____Employer_____

Check if self-employed _____

Home Phone_____Business Phone_____

Fax_____County_____

I certify that the following statements are true and correct:

- ❑ This contribution is made from my own funds and not those of another.
- ❑ This contribution is not made from the general treasury funds of a corporation, labor organization or national bank.
- ❑ I am not a federal government contractor, nor am I a foreign national who lacks permanent resident status in the United States.
- ❑ This contribution is made on my personal credit or debit card for which I have the legal obligation to pay and is not made on a corporate credit card.

Please make checks payable to "Dole 2002 Committee, Inc."

Get involved on the Web! Visit ***www.ElizabethDole.org***

PRESIDENT

GEORGE W. BUSH

Paid for by Dole 2002 Committee, Inc.

REV_00151788

PRESIDENT

GEORGE W. BUSH

P.O. Box 2109
Salisbury, North Carolina 28145

REV_00151790

From: CN=Kirk Blalock/OU=WHO/O=EOP [WHO]
To: Edmund A. Walsh/WHO/EOP@EOP [WHO] <Edmund A. Walsh>;Keith Hennessey/OPD /EOP@EOP [OPD] <Keith Hennessey>;Lezlee J. Westine/WHO/EOP@EOP [WHO] <Lezlee J. Westine>;Daniel J. Bartlett/WHO/EOP@EOP [WHO] <Daniel J. Bartlett>;Randall S. Kroszner/CEA/EOP@EOP [CEA] <Randall S. Kroszner>;peter.fisher@do.treas.gov @ inet [UNKNOWN] <peter.fisher@do.treas.gov @ inet>;Matthew Kirk/WHO/EOP@EOP [WHO] <Matthew Kirk>;Douglas J. Holtz-Eakin/CEA/EOP@EOP [CEA] <Douglas J. Holtz-Eakin>;Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Ken Mehlman/WHO/EOP@EOP [WHO] <Ken Mehlman>;Brian C. Conklin/WHO/EOP@EOP [WHO] <Brian C. Conklin>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Kristen Silverberg/WHO /EOP@EOP [WHO] <Kristen Silverberg>;Karl C. Rove/WHO/EOP@EOP [WHO] <Karl C. Rove>
Sent: 10/1/2002 11:25:49 AM
Subject: : Congress Daily PM Today - Terrorism Insurance

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kirk Blalock ( CN=Kirk Blalock/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 1-OCT-2002 15:25:49.00
SUBJECT:: Congress Daily PM Today - Terrorism Insurance
TO:Edmund A. Walsh ( CN=Edmund A. Walsh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Keith Hennessey ( CN=Keith Hennessey/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Lezlee J. Westine ( CN=Lezlee J. Westine/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Daniel J. Bartlett ( CN=Daniel J. Bartlett/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Randall S. Kroszner ( CN=Randall S. Kroszner/OU=CEA/O=EOP@EOP [ CEA ] )
READ:UNKNOWN
TO:peter.fisher@do.treas.gov @ inet ( peter.fisher@do.treas.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:Matthew Kirk ( CN=Matthew Kirk/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Douglas J. Holtz-Eakin ( CN=Douglas J. Holtz-Eakin/OU=CEA/O=EOP@EOP [ CEA ] )
READ:UNKNOWN
TO:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Ken Mehlman ( CN=Ken Mehlman/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brian C. Conklin ( CN=Brian C. Conklin/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Karl C. Rove ( CN=Karl C. Rove/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

FINANCE
Bush Asks Terrorism Insurance Conferees To Finish Fri.
President Bush today asked conferees working on terrorism
reinsurance legislation to conclude a
deal by Friday. Several participants at today's meeting, which included
key conferees such as Senate
Banking Chairman Sarbanes, Banking ranking member Phil Gramm,R-Texas, Sen.
Christopher Dodd,
D-Conn., and House Financial Services Chairman Oxley, indicated the
conference might be energized
by the prodding from Bush. Sarbanes reported after the session that White
House officials appeared
more committed to working with conferees, and Dodd said he was optimistic
a deal could be reached
```

as early as Thursday. The senior conferees will meet again later today with senior White House staff to try to build momentum. "We had a very good discussion," Bush said afterward. He asserted there are "over $15.5 billion worth of construction projects" held up because of a lack of insurance and "300,000 people whose jobs aren't going forward." Nevertheless, participants indicated today's meeting featured lots of good will but little substantive progress. And Gramm, while saying he thought agreement could be reached by Friday, nevertheless insisted that the course for action was limited. He said conferees must accept previous language on legal liability * the thorniest outstanding issue * agreed to last year by Gramm, Sarbanes and Dodd. The draft measure containing that language was never introduced, because Senate Majority Leader Daschle objected to it. The language would have insulated companies and businesses from having to pay punitive damages associated with future terrorist acts. After concurrence on that, other areas of discord could be bridged, Gramm suggested. Although conferees have never officially met, the lawmakers suggested they could close in on a deal this week without a formal session. White House Press Secretary Ari Fleischer said a deal is "within reach, and the president want to make it happen." * by Keith Koffler

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Collister W. Johnson/WHO/EOP@EOP [WHO] <Collister W. Johnson>
Sent: 10/1/2002 1:19:22 PM
Subject: : Re: Fw: Dole letter
Attachments: P_2GYKA003_WHO.TXT_1.htm; P_2GYKA003_WHO.TXT_2.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 1-OCT-2002 17:19:22.00
SUBJECT:: Re: Fw: Dole letter
TO:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Approved. Thanks.

Collister W. Johnson
10/01/2002 05:16:27 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: Katherine M. Walters/WHO/EOP@EOP
Subject: Fw: Dole letter

Hey man - pretty straightforward - the artwork for POTUS's letter for Mrs. Dole -
thanks!
c

---------- Forwarded by Collister W. Johnson/WHO/EOP on 10/01/2002 05:20 PM ----------

Coddy Johnson <cjohnson@georgewbush.com>
10/01/2002 05:24:16 PM
Record Type: Record

To: Collister W. Johnson/WHO/EOP@EOP
cc:
Subject: Fw: Dole letter

Re: Dole letter
----- Original Message -----
From: Heather Shuvalov
To: Coddy Johnson
Sent: Tuesday, October 01, 2002 4:52 PM
Subject: Re: Dole letter

Here is the Dole/Bush artwork for approval.
--
Heather Shuvalov
Olsen, Delisi & Shuvalov
1609 Shoal Creek Blvd., #203
Austin, TX 78701
512/479-6602 x114

From: "Coddy Johnson" <cjohnson@georgewbush.com>
Date: Tue, 1 Oct 2002 16:54:49 -0400
To: "Heather Shuvalov" <heather@od-s.com>
Subject: Re: Dole letter

yes - absolutely -
are we also sending a bush letter out nationwide?
c

----- Original Message -----
From: Heather Shuvalov <mailto:heather@od-s.com>
To: Coddy Johnson <mailto:cjohnson@georgewbush.com>
Sent: Tuesday, October 01, 2002 4:19 PM
Subject: Dole letter

Here are the states where we have Bush letters:

Texas
Minnesota
South Dakota
Georgia
Iowa
Missouri
Arkansas
Colorado

Do you agree these are the states we should suppress?
--
Heather Shuvalov
Olsen, Delisi & Shuvalov
1609 Shoal Creek Blvd., #203
Austin, TX 78701
512/479-6602 x114

- att1.htm
- dole.pdf

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_2GYKA003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_2GYKA003_WHO.TXT_2>

----- Original Message -----
From: Heather Shuvalov
To: Coddy Johnson
Sent: Tuesday, October 01, 2002 4:52 PM
Subject: Re: Dole letter

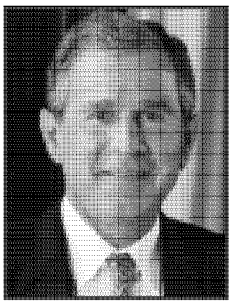
Here is the Dole/Bush artwork for approval.
--
Heather Shuvalov
Olsen, Delisi & Shuvalov
1609 Shoal Creek Blvd., #203
Austin, TX 78701
512/479-6602 x114

> **From:** "Coddy Johnson" <cjohnson@georgewbush.com>
> **Date:** Tue, 1 Oct 2002 16:54:49 -0400
> **To:** "Heather Shuvalov" <heather@od-s.com>
> **Subject:** Re : Dole letter
>
> yes - absolutely -
> are we also sending a bush letter out nationwide?
> c
>
> > ----- Original Message -----
> > **From:** Heather Shuvalov <mailto:heather@od-s.com>
> > **To:** Coddy Johnson <mailto:cjohnson@georgewbush.com>
> > **Sent:** Tuesday, October 01, 2002 4:19 PM
> > **Subject:** Dole letter
> >
> > Here are the states where we have Bush letters:
> >
> > Texas
> > Minnesota
> > Sout h Dakota
> > Georgia
> > Iowa
> > Missouri
> > Arkansas
> > Colorado
> >
> > Do you agree these are the states we should suppress?
> > --
> > Heather Shuvalov
> > Olsen, Delisi & Shuvalov
> > 1609 Shoal Creek Blvd., #203

Austin, TX 78701
512/479-6602 x114

Because of Elizabeth's leadership, energy, unparalleled accomplishments and record of success, I need her working with me, standing up for North Carolina's families, farmers and small business owners in the U.S. Senate. Please help her today.





Yes, President Bush I agree!

We need Elizabeth Dole in the U.S. Senate.
Here's my contribution of:

Contributions to Dole 2002 Committee, Inc. are not deductible as charitable contributions for federal income tax purposes. Corporate contributions and contributions from foreign nationals or federal contractors are prohibited.

Mr. and Mrs. Member
0000 Any Street
Any City, US 00000

Please see reverse for important information.

REV_00151804

Credit Card Payment Option:

You may make your contribution to the Dole 2002 Committee by credit card if you choose by completing the required information below:

Type of Credit Card: ❑ Visa ❑ MasterCard ❑ American Express ❑ Discover

Credit Card Number_____Expiration Date _____

Name as it appears on card_____

Signature_____

Amount of gift: $_____Please verify that this is a personal credit card: ❑ Yes ❑ No

Federal election law requires we request the following:

Occupation_____Employer_____

Check if self-employed _____

Home Phone_____Business Phone_____

Fax_____County_____

I certify that the following statements are true and correct:

- ❑ This contribution is made from my own funds and not those of another.
- ❑ This contribution is not made from the general treasury funds of a corporation, labor organization or national bank.
- ❑ I am not a federal government contractor, nor am I a foreign national who lacks permanent resident status in the United States.
- ❑ This contribution is made on my personal credit or debit card for which I have the legal obligation to pay and is not made on a corporate credit card.

Please make checks payable to "Dole 2002 Committee, Inc."

Get involved on the Web! Visit ***www.ElizabethDole.org***

PRESIDENT

GEORGE W. BUSH

Paid for by Dole 2002 Committee, Inc.

REV_00151806

PRESIDENT

GEORGE W. BUSH

P.O. Box 2109
Salisbury, North Carolina 28145

REV_00151808

From: CN=Collister W. Johnson/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/1/2002 1:20:28 PM
Subject: : Re: Fw: Dole letter
Attachments: P_7JYKA003_WHO.TXT_1.htm; P_7JYKA003_WHO.TXT_2.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 1-OCT-2002 17:20:28.00
SUBJECT:: Re: Fw: Dole letter
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

wow... that was a World Record.
thank you!
c

Brett M. Kavanaugh
10/01/2002 05:17:23 PM
Record Type: Record

To: Collister W. Johnson/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Fw: Dole letter

Approved. Thanks.

Collister W. Johnson
10/01/2002 05:16:27 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: Katherine M. Walters/WHO/EOP@EOP
Subject: Fw: Dole letter

Hey man - pretty straightforward - the artwork for POTUS's letter for Mrs.
Dole -
thanks!
c

---------- Forwarded by Collister W. Johnson/WHO/EOP on
10/01/2002 05:20 PM ----------

Coddy Johnson <cjohnson@georgewbush.com>
10/01/2002 05:24:16 PM
Record Type: Record

To: Collister W. Johnson/WHO/EOP@EOP
cc:
Subject: Fw: Dole letter

Re: Dole letter
----- Original Message -----
From: Heather Shuvalov
To: Coddy Johnson
Sent: Tuesday, October 01, 2002 4:52 PM
Subject: Re: Dole letter

Here is the Dole/Bush artwork for approval.
--
Heather Shuvalov
Olsen, Delisi & Shuvalov
1609 Shoal Creek Blvd., #203
Austin, TX 78701
512/479-6602 x114

From: "Coddy Johnson" <cjohnson@georgewbush.com>
Date: Tue, 1 Oct 2002 16:54:49 -0400
To: "Heather Shuvalov" <heather@od-s.com>
Subject: Re: Dole letter

yes - absolutely -
are we also sending a bush letter out nationwide?
c

----- Original Message -----
From: Heather Shuvalov <mailto:heather@od-s.com>
To: Coddy Johnson <mailto:cjohnson@georgewbush.com>
Sent: Tuesday, October 01, 2002 4:19 PM
Subject: Dole letter

Here are the states where we have Bush letters:

Texas
Minnesota
South Dakota
Georgia
Iowa
Missouri
Arkansas
Colorado

Do you agree these are the states we should suppress?
--
Heather Shuvalov
Olsen, Delisi & Shuvalov
1609 Shoal Creek Blvd., #203
Austin, TX 78701
512/479-6602 x114

- att1.htm
- dole.pdf

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_7JYKA003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_7JYKA003_WHO.TXT_2>

----- Original Message -----
From: Heather Shuvalov
To: Coddy Johnson
Sent: Tuesday, October 01, 2002 4:52 PM
Subject: Re: Dole letter

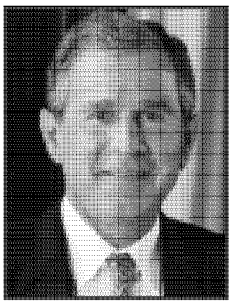
Here is the Dole/Bush artwork for approval.
--
Heather Shuvalov
Olsen, Delisi & Shuvalov
1609 Shoal Creek Blvd., #203
Austin, TX 78701
512/479-6602 x114

> **From:** "Coddy Johnson" <cjohnson@georgewbush.com>
> **Date:** Tue, 1 Oct 2002 16:54:49 -0400
> **To:** "Heather Shuvalov" <heather@od-s.com>
> **Subject:** Re : Dole letter
>
> yes - absolutely -
> are we also sending a bush letter out nationwide?
> c
>
> > ----- Original Message -----
> > **From:** Heather Shuvalov <mailto:heather@od-s.com>
> > **To:** Coddy Johnson <mailto:cjohnson@georgewbush.com>
> > **Sent:** Tuesday, October 01, 2002 4:19 PM
> > **Subject:** Dole letter
> >
> > Here are the states where we have Bush letters:
> >
> > Texas
> > Minnesota
> > Sout h Dakota
> > Georgia
> > Iowa
> > Missouri
> > Arkansas
> > Colorado
> >
> > Do you agree these are the states we should suppress?
> > --
> > Heather Shuvalov
> > Olsen, Delisi & Shuvalov
> > 1609 Shoal Creek Blvd., #203

Austin, TX 78701
512/479-6602 x114

Because of Elizabeth's leadership, energy, unparalleled accomplishments and record of success, I need her working with me, standing up for North Carolina's families, farmers and small business owners in the U.S. Senate. Please help her today.





Yes, President Bush I agree!

We need Elizabeth Dole in the U.S. Senate.
Here's my contribution of:

Contributions to Dole 2002 Committee, Inc. are not deductible as charitable contributions for federal income tax purposes. Corporate contributions and contributions from foreign nationals or federal contractors are prohibited.

Mr. and Mrs. Member
0000 Any Street
Any City, US 00000

Please see reverse for important information.

REV_00151814

Credit Card Payment Option:

You may make your contribution to the Dole 2002 Committee by credit card if you choose by completing the required information below:

Type of Credit Card: ❑ Visa ❑ MasterCard ❑ American Express ❑ Discover

Credit Card Number_____Expiration Date _____

Name as it appears on card_____

Signature_____

Amount of gift: $_____Please verify that this is a personal credit card: ❑ Yes ❑ No

Federal election law requires we request the following:

Occupation_____Employer_____

Check if self-employed _____

Home Phone_____Business Phone_____

Fax_____County_____

I certify that the following statements are true and correct:

- ❑ This contribution is made from my own funds and not those of another.
- ❑ This contribution is not made from the general treasury funds of a corporation, labor organization or national bank.
- ❑ I am not a federal government contractor, nor am I a foreign national who lacks permanent resident status in the United States.
- ❑ This contribution is made on my personal credit or debit card for which I have the legal obligation to pay and is not made on a corporate credit card.

Please make checks payable to "Dole 2002 Committee, Inc."

Get involved on the Web! Visit ***www.ElizabethDole.org***

PRESIDENT

GEORGE W. BUSH

Paid for by Dole 2002 Committee, Inc.

REV_00151816

PRESIDENT

GEORGE W. BUSH

P.O. Box 2109
Salisbury, North Carolina 28145

REV_00151818

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Nicolle Devenish/WHO /EOP@EOP [WHO] <Nicolle Devenish>
Sent: 10/1/2002 2:57:15 PM
Subject: : Re: Commerce job

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 1-OCT-2002 18:57:15.00
SUBJECT:: Re: Commerce job
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Yes in meeting. What is your cell?

.

----- Original Message -----
From:Nicolle Devenish/WHO/EOP
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 10/01/2002 06:45:47 PM
Subject: Re: Commerce job

are you still here?

Brett M. Kavanaugh
10/01/2002 05:16:01 PM
Record Type: Record

To: Nicolle Devenish/WHO/EOP@EOP
cc:
Subject: Commerce job

call me.
---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 10/01/2002 05:20 PM ----------

Colleen Litkenhaus
10/01/2002 04:47:36 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Commerce job

---------- Forwarded by Colleen Litkenhaus/WHO/EOP on 10/01/2002 04:38 PM ----------

10/01/2002 04:37:14 PM
Record Type: Record

To: Colleen Litkenhaus/WHO/EOP@EOP
cc:
Subject: in case you know someone

Margaret Wilson, our Deputy General Counsel to the Secretary, who worked for then Gov. Bush for a number of years, is heading back to Texas.

We need a Sr. level person to replace her... Probably 15-20 years experience....

Message Sent
To:_____
Elizabeth N. Camp/WHO/EOP@EOP
Allison L. Riepenhoff/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Carl Buchholz/WHO/EOP@EOP
Kristen Silverberg/WHO/EOP@EOP
Joel D. Kaplan/WHO/EOP@EOP
Carol J. Thompson/WHO/EOP@EOP

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/2/2002 6:48:14 AM
Subject: : Re: LRM EPH192 - - HOUSING & URBAN DEVELOPMENT Oversight Testimony on Improper Payment Reduction

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 2-OCT-2002 10:48:14.00
SUBJECT:: Re: LRM EPH192 - - HOUSING & URBAN DEVELOPMENT Oversight Testimony on Improper Payment Reduction
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/02/2002 10:12 AM ----------

Erin P. Hassing
10/02/2002 10:07:38 AM
Record Type: Record

To: Patrick J. Bumatay/WHO/EOP@EOP
cc:
Subject: Re: LRM EPH192 - - HOUSING & URBAN DEVELOPMENT Oversight Testimony on Improper Payment Reduction

I'm giving some agencies an extra hour. (till 11)

When i give the passback to Robert Shea, I'll ask when he plans to send it to the hill and will get back to you.

Drop dead is probably 11:30-12.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Patrick J. Bumatay/WHO /EOP@EOP [WHO] <Patrick J. Bumatay>
Sent: 10/2/2002 6:05:04 AM
Subject: : Re: LRM EPH192 - - HOUSING & URBAN DEVELOPMENT Oversight Testimony on Improper Payment Reduction

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 2-OCT-2002 10:05:04.00
SUBJECT:: Re: LRM EPH192 - - HOUSING & URBAN DEVELOPMENT Oversight Testimony on Improper Payment Reduction
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I am up on hill. Can you check with them to see what the hard deadline is.

.

----- Original Message -----
From:Patrick J. Bumatay/WHO/EOP
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 10/02/2002 09:58:10 AM
Subject: LRM EPH192 - - HOUSING & URBAN DEVELOPMENT Oversight Testimony on Improper Payment Reduction

Just a reminder, this is due at 10 am today.
---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/02/2002 09:58 AM ----------

From: Erin P. Hassing on 10/01/2002 11:33:29 AM
Record Type: Record

To: ogc_legislation@ed.gov, ODCLCA.LRM.SSA@ssa.gov, llr@do.treas.gov, ca.legislation@gsa.gov
cc: See the distribution list at the bottom of this message
Subject: LRM EPH192 - - HOUSING & URBAN DEVELOPMENT Oversight Testimony on Improper Payment Reduction

Attached for your review is HUD testimony on Improper Payment Reductions for an October 3rd hearing before the House Government Reform Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations.

Please submit all comments by 10AM TOMORROW, October 2nd.

- ImproperPaymentTestimony.doc

LRM ID: EPH192
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, October 1, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: Erin P. Hassing
PHONE: (202)395-3459 FAX: (202)395-6148
SUBJECT: HOUSING & URBAN DEVELOPMENT Oversight Testimony on Improper Payment Reduction

DEADLINE: 10AM Wednesday, October 2, 2002
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Attached for your review is HUD testimony on Improper Payment Reductions for an October 3rd hearing before the House Government Reform Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations.

Please submit all comments by 10AM TOMORROW, October 2nd.

DISTRIBUTION LIST

AGENCIES:
030-EDUCATION - Jack Kristy - (202) 401-8313
110-Social Security Administration - Diane B. Garro - (202) 358-6030
118-TREASURY - Thomas M. McGivern - (202) 622-2317
051-General Services Administration - Shawn McBurney - (202) 501-0563

EOP:
WHGC LRM
OVP LRM
CEA LRM
Alan B. Rhinesmith
Francis S. Redburn
Dustin S. Brown
Adam Hoffberg
Andrea E. Jacobson
Lauren Larson
Larry R. Matlack
Kathryn B. Stack
Mary I. Cassell
Jennifer S. Kron
Craig Wacker
Daniel I. Werfel
David Rowe
Lin Liu
Mark Schwartz
Robert F. Mahaffie
Jack A. Smalligan
Diana L. Meredith
Julie L. Haas
Meredith G. Benson
Robert J. Shea
Joseph L. Kull
Sheila Conley
Karen M. Shaffer
Joseph Crilley
Betty I. Bradshaw
Shelly A. McAllister
Courtney B. Timberlake
Adriel M. Harvey
Elizabeth A. Bernhard
Mathew C. Blum
Eva Kleederman

Rosalyn J. Rettman
Matthew J. Schneider
John Wood
Laurence R. Jacobson
Justine F. Rodriguez
Lauren C. Lobrano
Danielle M. Simonetta
David Dunn
Holly A. Kuzmich
Constance J. Bowers
Lisa J. Macecevic
Ingrid M. Schroeder
James J. Jukes
LRM ID: EPH192 SUBJECT: HOUSING & URBAN DEVELOPMENT Oversight Testimony on Improper Payment Reduction
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Erin P. Hassing Phone: 395-3459 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-7362

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Copied
To:_____
WHGC LRM
OVP LRM
CEA LRM
Alan B. Rhinesmith/OMB/EOP@EOP

Francis S. Redburn/OMB/EOP@EOP
Dustin S. Brown/OMB/EOP@EOP
Adam Hoffberg/OMB/EOP@EOP
Andrea E. Jacobson/OMB/EOP@EOP
Lauren Larson/OMB/EOP@EOP
Larry R. Matlack/OMB/EOP@EOP
Kathryn B. Stack/OMB/EOP@EOP
Mary I. Cassell/OMB/EOP@EOP
Jennifer S. Kron/OMB/EOP@EOP
Craig Wacker/OMB/EOP@EOP
Daniel I. Werfel/OMB/EOP@EOP
David Rowe/OMB/EOP@EOP
Lin Liu/OMB/EOP@EOP
Mark_ J._Schwartz@omb.eop.gov
Robert F. Mahaffie/OMB/EOP@EOP
Jack A. Smalligan/OMB/EOP@EOP
Diana L. Meredith/OMB/EOP@EOP
Julie L. Haas/OMB/EOP@EOP
Meredith G. Benson/OMB/EOP@EOP
Robert J. Shea/OMB/EOP@EOP
Joseph L. Kull/OMB/EOP@EOP
Sheila Conley/OMB/EOP@EOP
Karen M. Shaffer/OMB/EOP@EOP
Joseph Crilley/OMB/EOP@EOP
Betty I. Bradshaw/OMB/EOP@EOP
Shelly A. McAllister/OMB/EOP@EOP
Courtney B. Timberlake/OMB/EOP@EOP
Adriel M. Harvey/OMB/EOP@EOP
Elizabeth A. Bernhard/OMB/EOP@EOP
Mathew C. Blum/OMB/EOP@EOP
Eva Kleederman/OMB/EOP@EOP
Rosalyn J. Rettman/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
John_F._Wood@omb.eop.gov
Laurence R. Jacobson/OMB/EOP@EOP
Justine F. Rodriguez/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
Danielle M. Simonetta/OMB/EOP@EOP
David Dunn/OPD/EOP@EOP
Holly A. Kuzmich/OPD/EOP@EOP
Constance J. Bowers/OMB/EOP@EOP
Lisa J. Macecevic/OMB/EOP@EOP
Ingrid M. Schroeder/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Stephen S. McMillin/OMB/EOP@EOP

From: CN=Kimberly A. Douglass/OU=WHO/O=EOP [WHO]
To: Jacque J. Hightower/OA/EOP@EOP [OA] <Jacque J. Hightower>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/2/2002 10:39:14 AM
Subject: : Waco, TX 6/14-6/17

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Kimberly A. Douglass ( CN=Kimberly A. Douglass/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 2-OCT-2002 14:39:14.00
SUBJECT:: Waco, TX 6/14-6/17
TO:Jacque J. Hightower ( CN=Jacque J. Hightower/OU=OA/O=EOP@EOP [ OA ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Jacque,

Regarding the status of the President's stay in Waco, TX during the
weekend of June 14-17, 2002, that trip had been designated official.

Thanks!

Kim
```

From: CN=Keith Hennessey/OU=OPD/O=EOP [OPD]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Kevin Warsh/OPD /EOP@EOP [OPD] <Kevin Warsh>;Kirk Blalock/WHO/EOP@EOP [WHO] <Kirk Blalock>;Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
Sent: 10/2/2002 8:58:50 AM
Subject: : Re: terrorism insurance pre-brief time tomorrow +5?

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP [OPD])
CREATION DATE/TIME: 2-OCT-2002 12:58:50.00
SUBJECT:: Re: terrorism insurance pre-brief time tomorrow +5?
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Kirk Blalock (CN=Kirk Blalock/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

+5 minutes to pre-brief is done. See below.

-kbh

---------- Forwarded by Keith Hennessey/OPD/EOP on 10/02/2002 12:58 PM ----------

Kara G. Figg
10/02/2002 12:36:43 PM
Record Type: Record

To: Keith Hennessey/OPD/EOP@EOP
cc: susan b. ralston/who/eop@eop
bcc:
Subject: Re: terrorism insurance pre-brief time tomorrow +5?

no problem. we will add it on and start the pre brief at 10:55.

Keith Hennessey
10/02/2002 12:29:26 PM
Record Type: Record

To: Kara G. Figg/WHO/EOP@EOP
cc: Susan B. Ralston/WHO/EOP@EOP
Subject: terrorism insurance pre-brief time tomorrow +5?

Hey. In an NEC principals' meeting this morning, we decided it made sense to ask for an additional 5 minutes of pre-brief time for tomorrow before the terrorism insurance event. Karl, Josh, and Larry were all involved in the decision to ask for it. So I guess we're asking for pre-brief to start at 10:55 AM, rather than 11 AM.

Is there anything more you need from me for this request?

-kbh

From: CN=Noel J. Francisco/OU=WHO/O=EOP [WHO]
To: Jay P. Lefkowitz/OPD/EOP@EOP [OPD] <Jay P. Lefkowitz>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/2/2002 10:50:53 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 2-OCT-2002 14:50:53.00
SUBJECT::
TO:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

From the pool report: "During the telling of this tale, Jay Lefkowitz
could be seen off to the side, on his knees, making goofy faces to amuse
the infant Nancy, who was crying; eventually this failed and another aide
carried Nancy from the room."

Good work.
```

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/2/2002 12:45:57 PM
Subject: : LRM PTM160 - - VETERANS AFFAIRS Qs and As on HR4939 - Veterans Medicare Payment Act of 2002
Attachments: P_8N7MA003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 2-OCT-2002 16:45:57.00
SUBJECT:: LRM PTM160 - - VETERANS AFFAIRS Qs and As on HR4939 - Veterans Medicare Payment Act of 2002
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/02/2002 04:44 PM ----------

From: P. Thaddeus Messenger on 10/02/2002 04:43:52 PM
Record Type: Record

To: Toni S. Hustead/OMB/EOP@EOP, WHGC LRM, Matthew J. Schneider/OMB/EOP@EOP, Sarah S. Lee/OMB/EOP@EOP
cc: P. Thaddeus Messenger/OMB/EOP@EOP, Ingrid M. Schroeder/OMB/EOP@EOP
Subject: LRM PTM160 - - VETERANS AFFAIRS Qs and As on HR4939 - Veterans Medicare Payment Act of 2002

Good afternoon,

Could you please consider Question 8 (reprinted below) today or Thursday, and let me know (a) if you agree it's not really mandatory, and (b) the prospects for this moving this year.

Thanks,
Thad

Question 8. What would be the effect of a mandatory funding formula on the VA health care system?

Response: Depending upon its construction and methodology, a mandatory funding formula would provide predictable, but not necessarily adequate, funding for VA health care. The specific formula proposed in H.R. 5250 might have little impact on the VA health care system. We question whether the proposed formula would be considered an appropriation from the Treasury. Section 1301(d) of title 31, United States Code, provides that a law may be construed to make an appropriation out of the Treasury only if the law specifically states that an appropriation is made. Even if it were considered an appropriation, the next appropriation for VA medical care would probably supersede it.
---------- Forwarded by P. Thaddeus Messenger/OMB/EOP on 10/02/2002 04:35 PM ----------

From: P. Thaddeus Messenger on 10/02/2002 12:21:11 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: LRM PTM160 - - VETERANS AFFAIRS Qs and As on HR4939 - Veterans Medicare Payment Act of 2002

LRM ID: PTM160
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Wednesday, October 2, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: P. Thaddeus Messenger
PHONE: (202)395-7754 FAX: (202)395-6148
SUBJECT: VETERANS AFFAIRS Qs and As on HR4939 - Veterans Medicare Payment Act of 2002

DEADLINE: 12:00 Noon Wednesday, October 9, 2002
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Attached for your review, please find a copy of VA's draft answers to questions posed by Representative Christopher Smith (R-NJ) relating to VA (Dr. Roswell) testimony on July 16th. Dr. Roswell's testimony was previously circulated under LRM PTM132. VA's answers to a previous set of related questions was circulated under LRM PTM148.

Please provide your comments by 12:00 Noon, Wednesday, October 9, 2002. If we do not receive your comments by that time, we will assume you have no objection to the document as drafted.

If you experience difficulty with this LRM, or its attachment, please contact us immediately. To ensure receipt by Agency addressees, the electronic copy of this LRM will be followed by a duplicate copy via facsimile.

Thank you.

DISTRIBUTION LIST

AGENCIES:
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773
029-DEFENSE - Samuel T. Brick Jr. - (703) 697-1305
061-JUSTICE - Daniel Bryant - (202) 514-2141
118-TREASURY - Thomas M. McGivern - (202) 622-2317
117 & 340-TRANSPORTATION - Tom Herlihy - (202) 366-4687

EOP:
James C. Capretta
Karen S. Dooley
Barry T. Clendenin
Wanda J. Foster
Keith J. Fontenot
Mark Vinkenes
Thomas Reilly
Charles M. Montgomery
Robin Cleveland
Karyn T. Carson
Kathleen Peroff
Mary Jo Siclari

Cameron M. Leuthy
Wendell H. Waites
Eugene J. Devine
Toni S. Hustead
Arecia A. Grayton
Narahari Sastry
Danny A. Ermann
John J. Bartrum
Julie L. Haas
Lauren E. Bloomquist
Mark J. Schwartz
Robert F. Mahaffie
Jennifer S. Kron
Andrew D. Hire
Sarah S. Lee
Aquiles F. Suarez
Alan Gilbert
Philo D. Hall
Mark McClellan
OVP LRM
WHGC LRM
Philip J. Perry
Matthew J. Schneider
John F. Wood
Robert Marsh
Elizabeth L. Rossman
Danielle M. Simonetta
Lauren C. Lobrano
James J. Jukes
Ingrid M. Schroeder
P. Thaddeus Messenger
LRM ID: PTM160 SUBJECT: VETERANS AFFAIRS Qs and As on HR4939 -
Veterans Medicare Payment Act of 2002
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: P. Thaddeus Messenger Phone: 395-7754 Fax:
395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-7362

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Sent
To:_____
lrm@hhs.gov
dodlrs@osdgc.osd.mil
justice.lrm@usdoj.gov
llr@do.treas.gov
dot.legislation@ost.dot.gov

Message Copied
To:_____
James C. Capretta/OMB/EOP@EOP
Karen S. Dooley/OMB/EOP@EOP
Barry T. Clendenin/OMB/EOP@EOP
Wanda J. Foster/OMB/EOP
Keith J. Fontenot/OMB/EOP@EOP
Mark Vinkenes/OMB/EOP@EOP
Thomas Reilly/OMB/EOP@EOP
Charles M. Montgomery/OMB/EOP@EOP
Robin Cleveland/OMB/EOP@EOP
Karyn T. Carson/OMB/EOP@EOP
Kathleen Peroff/OMB/EOP@EOP
Mary Jo Siclari/OMB/EOP@EOP
Cameron M. Leuthy/OMB/EOP@EOP
Wendell H. Waites/OMB/EOP@EOP
Eugene J. Devine/OMB/EOP@EOP
Toni S. Hustead/OMB/EOP@EOP
Arecia A. Grayton/OMB/EOP@EOP
Narahari Sastry/OMB/EOP@EOP
Danny A. Ermann/OMB/EOP@EOP
John J. Bartrum/OMB/EOP@EOP
Julie L. Haas/OMB/EOP@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
Mark J. Schwartz/OMB/EOP@EOP
Robert F. Mahaffie/OMB/EOP@EOP
Jennifer S. Kron/OMB/EOP@EOP
Andrew D. Hire/OMB/EOP@EOP
Sarah S. Lee/OMB/EOP@EOP
Aquiles F. Suarez/OPD/EOP@EOP
Alan Gilbert/OPD/EOP@EOP
Philo D. Hall/OPD/EOP@EOP
Mark McClellan/CEA/EOP@EOP
OVP LRM
WHGC LRM
Philip J. Perry/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Robert Marsh/WHO/EOP@EOP
Elizabeth L. Rossman/OMB/EOP@EOP
Danielle M. Simonetta/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Ingrid M. Schroeder/OMB/EOP@EOP
P. Thaddeus Messenger/OMB/EOP@EOP

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_8N7MA003_WHO.TXT_1>

DRAFT

Post-Hearing Questions for
Robert H. Roswell, M.D.
From the Honorable Christopher H. Smith
Regarding the July 16, 2002, Hearing
On H.R. 4939

Question 1. The Committee received a report dated July 12, 2002, from Secretary Principi revealing that about 300,000 veterans are now waiting for VA primary care appointments for six months or more. If H.R. 4939 were to become law and begin to move funds into VA care, to what extent would these funds enable VA to reduce the current backlog of veterans waiting for VA health care services?

Response: The Administration feels that H.R. 4939 may not actually increase VA resources or veterans' access to care. When the Department acquires new funding streams, those increased funds are typically offset against the appropriations that VA would otherwise receive. In that event, VA would not gain permanent increased funding from the measure. In addition, if more veterans were encouraged to use VA as a result of this bill, the cost to VA would possibly be significantly more than the transfer from the Medicare Trust Funds, since the Part B premium finances only a portion of Part B costs.

Question 2. We understand that one of the options for the Priority 7 Medicare eligible veteran might be for VA to cease providing pharmaceutical services, but continue providing other necessary care. What would be the policy basis for this view, and what would its intended result be in your estimation?

Response: VHA is not currently considering this option. Presumably, the policy basis to support a change in law to allow this would be cost savings and to place these veterans on an equal footing with other Medicare-eligible individuals who are not veterans.

Question 3. Last year, our Health Subcommittee Chairman introduced H.R. 2792, a bill that would have established a pilot program to coordinate benefits involving veterans who are eligible for both VA and Medicare benefits. With that pilot, participating veterans would have received inpatient care under Medicare, with coordination by VA for continuing and follow-up services. VA opposed this idea at that time. Now, considering that VA is nearly overwhelmed with Medicare-eligible veterans, has the VA's view of this proposal changed?

Response: VA still opposes this proposal. The proposal would create a disparate eligibility status based on a veteran's third party coverage and priority group. We remain concerned that the program would undermine our ability to

maintain existing services, especially specialized medical services and programs for veterans. Limiting care to VA general medical and surgical services would mean that veterans needing specialty health services would still need to come to VA for such care, but they would not have access to VA's comprehensive continuum of care, needed for their complex care needs. The health care covered by this proposal would be inpatient care for non-service-connected conditions. A veteran currently receiving care for a service-connected condition, for which VA does not or cannot contract locally, would also be forced to receive care in multiple locations. These types of disparities are not consistent with our goals and strategies of improving access, convenience, and timeliness of VA health care to all eligible veterans.

Question 4. Please give the Committee a general description of the pilot plan that was authorized by a prior Appropriations Acts and implemented in the Viera clinic in Representative Dave Weldon's district? How did that pilot project differ from the proposal made in H.R. 2792?

Response: Please see the Attachment to this set of responses.

Question 5. With all the pressure now on VA, with thousands of veterans waiting for outpatient appointments in Florida, and with nearly 300,000 nationwide who are waiting, according to your own report, have VA's views on this coordination idea changed any in the last year, and if so, what do you support?

Response: We have not changed our view with respect to the coordination idea proposed in H.R. 2792. We do not believe that improvements to coordination of care can be achieved by the approach presented within the bill.

Question 6. If the bill, H.R. 4939, were enacted, and Part B eligible veterans enrolled in VA became more aware that their personal funds were supporting the system they had chosen to deliver their care, do you believe that these veterans might stay with VA and reduce their joint reliance on VA and private providers under Medicare, or would their joint use of both public and private systems continue as under the current system?

Response: H.R. 4939 would require a transfer to VA from Medicare of twelve times the monthly Medicare Part B premium for each veteran enrolled in Medicare Part B who receives any outpatient care from VA. These veterans do not lose eligibility to receive care under Part B from any non-VA private-sector provider. This bill would simply establish a mechanism whereby VA would receive from Medicare limited reimbursement for care provided to Medicare-eligible veterans. We do not believe that H.R. 4939 would provide sufficient incentive for veterans to change their current arrangements for receiving health care, whether from VA or from non-VA providers, which would be based on numerous other factors in addition to third-party reimbursement considerations.

Question 7. The Disabled American Veterans (DAV) has recommended to the Committee that, for Congress to more fully address VA's funding problems, the VA should shift VA health care from a discretionary funding program to a mandatory program. The Ranking Member and I introduced H.R. 5250 on July 26, 2002, that would achieve this goal (bill attached).

Response: Not a question, but rather a lead-in to question 8.

Question 8. What would be the effect of a mandatory funding formula on the VA health care system?

Response: Depending upon its construction and methodology, a mandatory funding formula would provide predictable, but not necessarily adequate, funding for VA health care. The specific formula proposed in H.R. 5250 might have little impact on the VA health care system. We question whether the proposed formula would be considered an appropriation from the Treasury. Section 1301(d) of title 31, United States Code, provides that a law may be construed to make an appropriation out of the Treasury only if the law specifically states that an appropriation is made. Even if it were considered an appropriation, the next appropriation for VA medical care would probably supersede it.

Question 9. DAV testified that Medicare eligible veterans should retain the option under H.R. 4939 to choose VA health care and continue their private sector Medicare coverage as well. What, if any, problems might occur from an open-choice option such as this?

Response: The largest problem that may occur from an open-choice option would be negative outcomes from a lack of coordinated care. If veterans choose to receive some of their care from non-VA providers and the rest from VA providers, the current problems of duplicated care and the provision of unnecessary services may be exacerbated.

Question 10. In order to decrease the likelihood of appropriations offsets for H.R. 4939, DAV suggested that only Priority Group 7 veterans be subjected to any Medicare participation plan with VA. Do you generally agree with this view, and why or why not?

Response: We do not believe that subjecting only priority group 7 veterans to a Medicare participation plan with VA would decrease the likelihood of appropriations offsets for H.R. 4939. Medical care appropriations are available for the care of priority group 7 veterans. So, should Medicare funds become available for their care, we would expect Congress to propose an appropriation offset.

Question 11. The American Legion suggested that VA use the Indian Health Service (IHS) as a model for becoming a Medicare provider. IHS does not receive a transfer of the monthly Part B premium, but instead bills Medicare directly on a case-by-case basis for services rendered, or works within current Medicare managed-care plan. Would the IHS model work better for VA than my proposal under H.R. 4939, and why?

Response: The IHS Medicare reimbursement model would allow for a higher level of reimbursement for covered services, and, for that reason, we believe it is preferable to the system of reimbursement proposed in H.R. 4939.

Question 12. How many veterans enrolled in VA health care are currently Medicare eligible? If these veterans received all of their care from Medicare, what would the cost be to the Medicare program to provide the same level of health care to them?

Response: For FY 2002, VA is projecting approximately 3 million Medicare-eligible veteran enrollees (proxy = age 65 and over). Assuming VA service utilization rates and applying Medicare allowable charges, we estimate VA expenditures of $7 billion for Medicare covered services. By 2012, this group is estimated to increase to 4.35 million enrollees with estimated VA expenditures of $12.7 billion for Medicare covered services. We are unable to estimate costs to Medicare if these veterans were to receive all their health care under Medicare rather than receiving some or all through the VA health care system.

Question 13. Given the aging of the veteran population, within another few years, a likely majority of VA's patients will be eligible for Medicare. As time goes by, do you believe that VA-Medicare coordination will be seen as a more realistic possibility, or do you see VA and CMS maintaining separate programs for the foreseeable future?

Response: The mission of the Veterans Health Administration is to provide high quality, accessible healthcare to eligible veterans. In order to maximize the medical care benefits and services provided to veterans, VA strongly supports coordination of benefits with other federal programs, including Medicare. The reality is, however, that Medicare is not sufficient by itself to meet all veterans' needs. A substantial number of veterans are under 65 years old or have service-connected and special disabilities requiring services not readily available outside VHA. Moreover, VA's pharmacy benefits program has played a crucial role in driving the recent increased demand for access to VA health care. Medicare, of course, has no prescription benefit coverage, and this makes the VA health care system particularly attractive to veterans over age 65. Therefore, there will be a continued need for a separate veterans healthcare system in the foreseeable future. Over time, I believe that opportunities for health care coordination with the Department of Health and Human Services will emerge. To this end, VA has

established the position of Deputy Under Secretary for Health Policy Coordination, who will explore and oversee such opportunities for coordination.

Question 14. Have you consulted with the President's Task Force on Veterans Health Care on Medicare-VA relationships? What was the nature of any consultations?

Response: In informal talks between the co-chairs of the President's Task Force (PTF) and myself, we preliminarily discussed the concept of a Medicare collaboration project along the lines of a capitation program. Under such a program as discussed, VA would receive a fixed rate of reimbursement in return for providing an eligible veteran's health care. This would allow veterans to use their earned Medicare eligibility in receiving care from VA. Payment by Medicare of a fixed, capitated rate would limit liability against the Medicare trust fund. Chapter 4 of the PTF's interim report contains discussion of possible Medicare reimbursement programs.

Question 15. VA has been working on various planning scenarios this year to deal with the burgeoning demands on the system. Can you review for the Committee some of the options VA may be considering in respect to dealing with this growth in demand, including their expected advantages to the system?

Response: VA is currently reviewing several different scenarios as we develop the FY 2004 budget and the FY 2003 VERA allocation methodology. However, all of these scenarios are pre-decisional and it would be premature to release them at this time.

Question 16. The VFW alluded to several primary factors in its testimony that the VHA believes may have undermined the success of DoD's Medicare Subvention pilot program, authorized under the Balanced Budget Act of 1997. VFW proposes that there be no annual cap on Medicare payments to VA; that the level of effort requirement be eliminated; and that VA in effect be treated no differently than any other Medicare health care provider. Should we consider some of these points as we develop future legislation to authorize a Medicare subvention pilot program?

Response:

In their testimony, the VFW mentioned several points that were crucial to a successful Medicare subvention program.

- Subvention must be implemented uniformly nation-wide.
- There must be no annual cap on Medicare payments to VA.
- The Level of Effort (LOE) requirement must be eliminated.
- The CMS capitation or payment formula must be adjusted to accommodate medical services actually provided by VA as opposed to only those currently covered under Medicare.

- Full appropriation support must be maintained with absolutely no reduction in funding as a consequence of subvention funding.

These points, as well as all lessons learned from the DoD Medicare subvention demonstration, must be considered in considering a VA Medicare initiative. There are significant differences between the VA and DoD health care delivery systems and the populations they serve that could mitigate against some of the problems reported by DoD. Therefore, it is not clear that some of the problems DoD encountered would affect VA to the same degree.

Question 17. Beyond the specifics of H.R. 4939 or of other Medicare subvention measures now before Congress, should a relationship between VA and CMS regarding dual eligible veterans be stimulated between these institutions, and why or why not?

Response: Coordination of the federal health care benefits provided by VA, DoD and HHS programs should be aggressively pursued. Coordination of benefits will allow maximal delivery of healthcare services with the minimum federal budget appropriations. Furthermore, coordination of benefits for dual eligible beneficiaries could potentially maximize efficiency and reduce duplication of services, and improve healthcare quality and safety.

Question 18. Title 38, United States Code, Section 111 authorizes some veterans to be reimbursed for travel costs, but the mileage allowance is inadequate at only 11 cents per mile. What are your views on the role of VA's beneficiary travel program as a means of promoting access to VA health care?

Response: The Beneficiary travel program serves as a means to assist in defraying the cost of travel expenses for veterans with special eligibility or those with low incomes when the travel is in conjunction with scheduled appointments. Currently, demand for VA health care is at an all time high. The number of veterans enrolled in the VA health care system currently exceeds the Department's available resources to provide timely access to quality health care. Due to the current demand for VA health care benefits, the Department cannot endorse any proposal that would divert funding away from medical care for veterans. Therefore, utilizing the beneficiary travel program as a means of promoting access to VA health care would create a false impression of system capacity and further compound VA's access problem.

Question 19. Would VA support increased beneficiary travel mileage allowance for service-disabled veterans in rural areas, or for those who are poor?

Response: The current VA beneficiary travel policy provides travel reimbursement benefits for service-disabled veterans and those with low incomes, regardless of geographic residence. The increase in demand for VA health care benefits and subsequent pressures on the medical care appropriation

preclude the Department from endorsing any additional health care benefit expenditures at this time.

Attachment: Response to Question 4

Issue: Question #4 from the subject post hearing questions asks for a general description of the East Central Florida contracting pilot program and for a comparison of that pilot to the one in current legislation.

Discussion: In the VA's 2000 Appropriations Act, Congress directed VA to continue an inpatient hospitalization program (ECF Pilot Program), which had been piloted between June 1998 and September 1998. The pilot program participants consisted of a small group of veterans determined not to have specialty needs who were enrolled and actively receiving their primary care from the VA interim clinic in Palm Bay (Brevard County), Florida. Findings from the pilot program concluded that contracting with the private sector could be cost-effective under appropriate conditions.

On August 1, 2000, the ECF Hospitalization Program, Phase II was initiated. A large multi-specialty outpatient clinic (Viera OPC) was activated in July 1999 to replace the small interim Palm Bay primary care clinic. The Viera OPC activation significantly increased clinic capacity and, therefore, the number of veterans accessing VA outpatient health care services in ECF, as well as those potentially eligible for hospitalization. During the pilot program veterans who were enrolled to receive primary care at the Palm Bay clinic were eligible to receive inpatient services in the community via contract. When Phase II was initiated, veterans enrolled and actively receiving care at the Viera OPC were given options of where they could receive needed hospitalization (as determined by their VA primary care physician) as part of the ECF Hospitalization Program, Phase II.

Veterans seeking care for their service-connected conditions could elect inpatient hospitalization either at a VA hospital or through VA contracts with local non-VA hospitals at VA expense. In addition, veterans with no other form of health coverage (Medicare, Insurance, HMO) were eligible to receive care with VA contract hospitals in the community. Veterans with other inpatient hospitalization options (Medicare, Insurance, HMO) could select care at a VA facility, or could elect to use their other health coverage and self refer to hospitals in the community.

For both the original ECF Pilot and the Phase II Hospitalization Programs, patient demographics, unit costs, patient satisfaction, and program utilization were compared with patients receiving equivalent care at the parent VA facility at Tampa.

Results: Costs to operate the ECF Phase II Hospitalization Program were significantly higher than the costs reported for the ECF Pilot Program. While contracted hospital costs in the ECF Pilot Program were only approximately 85.5 percent of what might have been expended for hospitalization at existing VA facilities, contract costs during the Phase II program were approximately 33

percent higher than the cost of equivalent VA care. A number of factors are believed to have contributed to these differences.

Demographics and the health status between the two eligible populations were significantly different. During the Pilot Program, only primary care patients treated at the interim Palm Bay Clinic were included in the pilot. This likely excluded the more complex patients with multiple diagnoses. With the opening of the Viera multi-specialty clinic, access to a range of specialty care services greatly expanded. This increased the total of number of veterans seeking care in the ECF area as well as the complexity of the patient care base. A 'case mix' comparison was performed to evaluate the complexity/ degree of sickness between those admitted under the Pilot Program and those that were admitted as part of the Phase II Program. The patients admitted during the Pilot Program had a case mix of 1.10. Those admitted during the Phase II Program had a case mix of 1.29, i.e., were more complex. Another very significant difference was age. During the Pilot Program, the average patient admitted was 65 years. In contrast, during the Phase II Program, the age of the veterans admitted to a private sector contract hospital was 57 years of age. This leads us to conclude that the patients that were admitted during the Phase II program, although younger, represented a sicker/ more complex population.

Other factors contributing to the increase in contracted costs in the Phase II program might be attributed to private sector billing practices as well as methods used to determine VA inpatient costs for comparable care. Lessons learned from the ECF Pilot Program (phase I) resulted in an improved cost accounting methodology for the Phase II program. For instance, it was not unusual to receive bills from private sector hospitals six (6) months to one year after the results of the pilot program report had been published. For costing purposes during the ECF Phase II reporting period, we elected to include only the costs of patients that had been admitted through June 2001 and that we felt represented a 'completed' bill. In this way, we hoped to represent a truer cost than during the pilot.

In addition, the methodology used to calculate VA inpatients costs changed between the Pilot program and the Phase II Program. During the pilot program, we had no VA method for comparing VA inpatient costs with private sector costs using Diagnostic Related Grouping (DRG). DRG costs were approximated using a detailed mathematical formula based on Medicare Costs. Between the Pilot Program and the Phase II Program, VA implemented the Decisions Support System (DSS). This enabled us to extract the specific VA costs of treating patients by DRG category.

SUMMARY OF KEY FINDINGS: Results of the ECF Phase II Program did not support the premise that contracting with hospitals in the private sector was more cost-effective than admitting the veteran to an available VA facility. While the ECF Pilot Program experienced private sector costs that were 85.5 percent of VA

costs, the cost of an inpatient admission during the ECF Phase II Program was approximately 33 percent higher than admission to an existing VA facility. While this conclusion is inconsistent with previous findings of the ECF Pilot Program, we believe there are specific instances where contracting for private sector care would be a more cost-effective alternative. For example, this would be the case when the capital investment costs to renovate existing facilities or to build new facilities are factored into the equation. VHA has been cited by GAO studies and others for expending millions of dollars maintaining old, under-used facilities that do not meet basic life safety requirements. In making decisions about whether to continue to maintain these facilities and invest the capital required to bring them up to current standards, the cost-effectiveness of contracting should be thoroughly analyzed especially in light of an overall declining veteran population. The cost of contracting out the inpatient portion of care may well be more cost-effective in instances when VA construction or a major renovation is required to accommodate inpatient care.

NEXT STEPS: Effective December 1, 2001, modifications were made to the inpatient hospitalization program, ECF Phase III due to budget constraints. Changes will help offset the increasing total costs of operating the program. Contracts were awarded to one medical/surgical provider and one mental health care provider in Brevard County for non-emergent inpatient care only. Veterans without alternate health care coverage (i.e., Medicare, Insurance, HMO) will be referred by primary care providers at the Viera OPC to these facilities for non-emergent hospitalization. Emergency admissions for service connected conditions will be covered by the existing fee basis program, or through emergency care provisions as outlined in the Millennium Bill for veterans with no other form of health care. Although the Phase III Program was only recently initiated, we believe the number of veterans using this program will be significantly reduced and, therefore, the total cost of operating the program will be manageable.

Comparison of the ECF Pilot to H.R. 2792.

Comparisons with the ECF pilot are noted in bold.

SEC. 5. PILOT PROGRAM FOR COORDINATION OF AMBULATORY COMMUNITY HOSPITAL CARE.

(a) IN GENERAL- Chapter 17 of title 38, United States Code, is amended by inserting after section 1725 the following new section:

`Sec. 1725A. Coordination of hospital benefits: pilot program

`(a) PILOT PROGRAM- Subject to the availability of funds specified in subsection (g), the Secretary shall carry out a pilot program in not more than four geographic areas of the United States to improve access to, and coordination of, inpatient care of eligible veterans. Under the pilot program, the Secretary, subject to subsection (b), shall pay certain costs described in subsection (b) for which an eligible veteran would otherwise be personally liable. The authority to carry out the pilot program shall expire on September 30, 2006.

`(b) PAYMENT OF COSTS- In carrying out the program described in subsection (a), the Secretary may pay the costs authorized under this section for hospital care and medical services furnished on an inpatient basis in a non-Department hospital to an eligible veteran participating in the program. Such payment may cover the costs for applicable plan deductibles and coinsurance and the reasonable costs of such inpatient care and medical services not covered by any applicable health-care plan of the veteran, but only to the extent such care and services are of the kind authorized under this chapter.

East Central Florida Hospitalization Program (ECF) pays cost of care for eligible patients at contract facilities. Contract is based on discounted Medicare rate. VA does not pay any patient co-payments or deductibles. Non service connected and service connected veterans treated for non-service connected conditions who have health plans (i.e. HMO , Medicare and/or private insurance) are not eligible under the program.

***Eligible patients*: those veterans enrolled and receiving care at the Brevard/Viera OPC during the past 24 months who**

- **are not covered by a health care plan and need admission for a *non*-emergent condition or**
- **service -connected veterans being treated for a *non*-emergent service connected conditions**

The Secretary shall limit the care and services for which payment may be made under the program to general medical and surgical services and shall require that such services may be provided only upon preauthorization by the Secretary.

ECF covers medical, surgical and psychiatric *non-emergent* admissions. Emergent admissions are covered under provisions of Millenium Bill or fee basis authority

`(c) ELIGIBLE VETERANS- (1) A veteran described in paragraph (1) or (2) of section 1710(a) of this title is eligible to participate in the pilot program if the veteran--

`(A) is enrolled to receive medical services from an outpatient clinic operated by the Secretary which is (i) within reasonable proximity to the principal residence of the veteran, and (ii) located within the geographic area in which the Secretary is carrying out the program described in subsection (a);

`(B) has received care under this chapter within the 24-month period preceding the veteran's application for enrollment in the pilot program;

ECF same

`(C) as determined by the Secretary before the hospitalization of the veteran (i) requires such hospital care and services for a non-service-connected condition, and (ii) could not receive such services from a clinic operated by the Secretary; and

`(D) elects to receive such care under a health-care plan (other than under this title) under which the veteran is entitled to receive such care.

`(2) Nothing in this section shall be construed to reduce the authority of the Secretary to contract with non-Department facilities for care of a service-connected disability of a veteran.

ECF –Service Connected veterans are included in ECF program and can elect hospitalization at either a VA hospital or contract non-VA facility for a *non*-emergent service connected condition

`(3) Notwithstanding subparagraph (D) of paragraph (1), the Secretary shall ensure that not less than 15 percent of the veterans participating in the program are veterans who do not have a health-care plan.

ECF- approximately 80 % of veterans currently participating in program have no health plan.

`(d) CASE MANAGEMENT- As part of the program under this section, the Secretary shall, through provision of case-management, coordinate the care being furnished directly by the Secretary and care furnished under the program in non-Department hospitals to veterans participating in the program.

ECF – has a full time RN who case manages every patient approved for hospitalization at a contract non-VA facility

`(e) DESIGNATION OF PARTICIPATING SITES- (1) In designating geographic areas in which to establish the program under subsection (a), the Secretary shall ensure that--

`(A) the areas designated are geographically dispersed;

`(B) at least 70 percent of the veterans who reside in a designated area reside at least two hours driving distance from the closest

medical center operated by the Secretary which provides medical and surgical hospital care; and

ECF – Brevard/Viera Clinic is located 115 miles (2.25 hours) from West Palm Beach VA, 131 miles (2.5 hours) from Tampa VA and 169 miles (3 hours) from Gainesville VA. At least 70% of current patients reside 2 or more hours from a VA inpatient facility

`(C) the establishment of the program in any such area would not result in jeopardizing the critical mass of patients needed to maintain a Department medical center that serves that area.

`(2) Notwithstanding paragraph (1)(B), the Secretary may designate for participation in the program at least one area which is in proximity to a Department medical center which, as a result of a change in mission of that center, does not provide hospital care.

`(f) REPORTS- (1) Not later than September 30, 2003, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience in implementing the pilot program under subsection (a).

`(2) Not later than September 30, 2005, the Secretary shall submit to those committees a report on the experience in operating the pilot program during the first two full fiscal years during which the pilot program is conducted. That report shall include--

`(A) a comparison of the costs incurred by the Secretary under the program and the cost experience for the calendar year preceding establishment of the program at each site at which the program is operated;

The methodology for this should be determined well before the pilot programs begin. This process is much more complex than it may seem. <u>ECF</u> admissions for FY 2001 reflected inpatient costs at contract facilities to be approximately 33% higher than at a VA facility.

`(B) an assessment of the satisfaction of the participants in the program; and

<u>ECF</u>-92% of participants rate overall satisfaction with ECF program as good or excellent .

`(C) an analysis of the effect of the program on access and quality of care for veterans.

`(g) FUNDING LIMITATIONS- (1) The total amount expended for the pilot program in any fiscal year (including amounts for administrative costs) may not exceed $50,000,000.

`(2) Any expenditure of funds for the pilot program shall be made from amounts in the Medical Care Collections Fund attributable to collections under section 1729 of this title. No funds may be expended to support the purposes of this section from any other funds available to the Secretary for the delivery of health care services to veterans, including funds appropriated or

otherwise available for the care and treatment of veterans who require specialized care and resources.

`(h) HEALTH-CARE PLAN DEFINED- For purposes of this section, the term `health-care plan' has the meaning given that term in section 1725(f)(3) of this title.'.

(b) CLERICAL AMENDMENT- The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1725 the following new item:

`1725A. Coordination of hospital benefits: pilot program.'.

From: Azar, Alex (HHS/OS) <Alex.Azar@hhs.gov>
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Jay P. Lefkowitz/OPD/EOP@EOP [OPD] <Jay P. Lefkowitz>
Sent: 10/2/2002 3:48:08 PM
Subject: : Federalism tort reform article
Attachments: P_J3GMA003_WHO.TXT_1.htm; P_J3GMA003_WHO.TXT_2.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Azar, Alex (HHS/OS)" <Alex.Azar@hhs.gov> ("Azar, Alex (HHS/OS)" <Alex.Azar@hhs.gov> [UNKNOWN])
CREATION DATE/TIME: 2-OCT-2002 19:48:08.00
SUBJECT:: Federalism tort reform article
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
End Original ARMS Header

Here's a piece that has been submitted by a professor friend of mine (and perhaps some of yours) defending our approach to federalism in the Health Act. She will be countered by one from the right (Michael Greve at AEI) and
one from the left (Prof. Erwin Chemerinsky) attacking us on "disregarding" federalism. It's still in draft, so if you have any thoughts for it, please
let me know and I'll forward them to her.

Allison H. Eid
Associate Professor
University of Colorado School of Law
Boulder, CO 80309
ph: 303-735-0187/fax: 303-492-1200
allison.eid@colorado.edu <mailto:allison.eid@colorado.edu>

- att1.htm - Human Rights.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_J3GMA003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_J3GMA003_WHO.TXT_2>

Here's a piece that has been submitted by a professor friend of mine (and perhaps some of yours) defending our approach to federalism in the Health Act. She will be countered by one from the right (Michael Greve at AEI) and one from the left (Prof. Erwin Chemerinsky) attacking us on "disregarding" federalism. It's still in draft, so if you have any thoughts for it, please let me know and I'll forward them to her.

Allison H. Eid
Associate Professor
Universit y of Colorado School of Law
Boulder, CO 80309
ph: 303-735-0187/fax: 303-492-1200
allison.eid@colorado.edu
< /DIV>

9/30/02 DRAFT

Tort Reform and Federalism: the Supreme Court Talks, Bush Listens
By Allison H. Eid

After a six-decade hiatus, the U.S. Supreme Court has reentered the federalism debate with a bang. The Court's "New Federalism" decisions have reinvigorated federalism norms in constitutional jurisprudence across a broad array of doctrinal categories, including the Tenth Amendment, the Eleventh Amendment, and the Interstate Commerce Clause. Where this movement will end is anyone's guess, but its beginnings are clear. The Court's message appears to be that the federal government should think twice before it injects federal regulations into a state's business.

While the Court's audience appears primarily to be Congress, there is no question that the Bush Administration is listening as well. As it should. The President is not constitutionally empowered to pass legislation, of course, so his authority is not directly implicated by the New Federalism decisions. But in many ways he is the legislator-in-chief. His position at the national bully pulpit, coupled with his power of the veto, make him a major player in federal policymaking. His legislative agenda needs to be sensitive to the Court's "New Federalism" jurisprudence. Otherwise, he risks sacrificing some of his key legislative priorities on the New Federalism alter.

Take the President's position on tort reform. This issue has the President in something of a bind. On the one had, tort reform at the federal level is an important issue to Republicans; in fact, it is one of the few unfinished pieces of business left in the 1994 Contract With America. The President used his support for federal tort reform measures to distinguish himself from Al Gore during the 2000 campaign. On the other hand, the President is a former governor who says he is committed to principles of federalism, and tort law is an area of regulation that has traditionally been left to the states. The critical question is whether the President can deliver on his campaign commitments on federal tort reform while remaining loyal to his federalism principles – principles that seem to mirror the Court's recent New Federalism decisions.

The President has not shied away from this balancing act. Last summer, he delivered a major speech in North Carolina in which he outlined his plan to reform medical malpractice law – a plan essentially identical to the Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2002, which passed by a 217-203 vote in the Republican-controlled U.S. House of Representatives in late September (the legislation faces a much stiffer hurdle in the Democratic-controlled Senate). The HEALTH Act would, among other things, 1) limit non-economic damages to $250,000 while leaving economic damages unlimited (section 4(a) & (b)); 2) abolish joint and several liability (section 4(d)); 3) place a variable cap on contingency fees (section 5); 4) limit punitive damages to twice economic damages or $250,000, whichever is greater (section 7(b)(2)); and 5) require a suit to be brought within three years of the date of

REV_00151876

injury or one year after the claimant discovers or should have discovered the injury, which comes first (section 3).

The HEALTH Act would apply to any "health care lawsuit" – defined as "any health care liability claim concerning the provision of health care goods or serves affecting interstate commerce" filed against a health care provider or other health organization – filed in state or federal court (section 9(7)). It would largely preempt state law on the subject (section 11), but – in an obvious bow to federalism concerns – it would preserve any state statute that caps the amount of compensatory or punitive damages, regardless of the amount of the cap (section 11(c)(1)).

What is significant about the President's support of the HEALTH Act is not the fact that he gave it but *how* he gave it. In his North Carolina speech, the President clearly anticipated that there would be objections to his plan based on federalism concerns. He stated: "People say, well, is [medical malpractice] a federal responsibility?" Not surprisingly, the President answered "yes." "It's a national problem," he declared, "that requires a national solution. The federal government ought to set a minimum federal standard to reform the medical liability system."

He then went on to lay out the case for such federal intervention, essentially summarizing a report issued that same day by the U.S. Department of Health and Human Services entitled "Confronting the New Health Care Crisis: Improving Health Care Quality and Lowering Costs by Fixing Our Medical Liability System" (http://aspe.hhs.gov/daltcp/reports/litrefm.htm). The HHS report could easily be mistaken for a brief in support of the legislation filed with the U.S. Supreme Court, with President Bush taking the lead at oral argument.

The Administration's strategy in defense of federal intervention is two-fold. First, it argues that the federal limitations on medical malpractice suits are justified by the expenditure of federal funds on health care. The Administration points to the fact that the federal government provides direct care to members of the armed forces, veterans, and patients served by the Indian Health Service, in addition to funding Medicare and Medicaid. It also points to the fact that the federal government provides tax breaks to workers who obtain health insurance through their employers. The Administration estimates that the federal government would save at least $25 billion a year in taxpayers' money if its proposed medical malpractice reforms were put in place. "[A]ny time a malpractice lawsuit drives up the cost of health care, it affects taxpayers. It is a federal issue," the President declared.

In essence, the Administration is making a Spending Clause argument – i.e., since we put up the funds, we can put some strings on how those funds are spent. The Court has already said such strings, if reasonably related to the aim of the expenditure, are just fine (*South Dakota v. Dole*, 483 U.S. 203 (1987)).

Secondly, the Administration makes an Interstate Commerce Clause argument. The HHS report and the President's speech are chalked full of examples of physicians

REV_00151877

who have been forced to move to other states – or to close up shop altogether – due to hikes in malpractice premiums, forcing patients to drive hundreds of miles across state lines to find health care. The Administration is making the argument, in essence, that excessive malpractice litigation increases in malpractice premiums, which in turn force physicians and patients to cross state lines. The Administration hopes that all of this adds up to a "substantial effect" on interstate commerce – the test expounded upon by the Court in *United States v. Lopez* (514 U.S. 549 (1995)) and *United v. Morrison,* 529 U.S. 598 (2002)).

There are several rejoinders to the Administration's case. The Spending Clause argument would appear to go only so far as federal funds are spent. The scope of the HEALTH Act, however, extends to all "health care lawsuits" – not just those brought by or against recipients of federal funds, either direct or indirect.

Along these same lines, the Court made it clear in the *Lopez* and *Morrison* cases that the regulated activity must be "economic" in nature to qualify for regulation under the Interstate Commerce Clause – a test that gun possession near a school (*Lopez*) and violence directed toward women (*Morrison*) both flunked. The success or failure of the Administration's argument depends on how one defines the regulated activity in the HEALTH Act. If the regulated activity is characterized as the infliction of personal injury, that activity would not seem particularly "economic" in nature. On the other hand, the physician is receiving compensation for his or her services – a characterization much closer to the "economic" realm.

The significance of the Administration's approach is not that it is presenting a bullet-proof legal defense of the legislation, because it is not. Any time the federal government regulates in an area traditionally governed by the states, a significant federalism challenge can and will almost certainly be mounted. The point is that the Administration is crafting a legal strategy that it hopes will bear fruit if the legislation is eventually passed and challenged. It is listening to the Court and thinking twice before diving into the federal tort reform debate.

Moreover, the President's respect for federalism concerns runs contrary to all of the institutional pressures of his job. Indeed, prior to the New Federalism decisions, the prevailing wisdom in the legal academy (and echoed in the Court's opinions at the time) was that there was no need for judicial intervention in federalism matters because the Constitution's "procedural safeguards of federalism" would protect states' interests. For example, the procedural safeguards theory pointed to the fact that Congress was composed of individual members elected from states. Naturally, the theory went, members of Congress would look out for their own states' best interests and block any legislation that would unduly interfere with those interests.

The "political safeguards" theory came under criticism for putting the fox in charge of the henhouse. In other words, the critique claimed that – contrary to the political safeguards theory -- it is actually in the inherent nature of Congress to "eat" the states. The cycle of federal regulation starts when an issue rises to national prominence,

REV_00151878

and the clarion call for federal action – "Congress has to do something about this problem" -- inevitably follows. It is just too difficult, the critique concluded, for Congress to pass up an opportunity to regulate, even when the "problem" has traditionally been (and perhaps should be) left to states to fix. When an opponent runs a television ad attacking an incumbent for failing to regulate, the incumbent doesn't win many votes by responding "I did it all in the name of federalism." The New Federalism decisions implicitly reject the political safeguards theory on these grounds.

To continue the analogy, the President is even a hungrier "fox" than Congress. He is, after all, the President *of the United States*. He is the only politician in the country who is elected by the entire United States. His position is inherently nationalistic, even more so than membership in Congress. Governor Bush is now President Bush. When an issue like health care reform garners the national spotlight – and when survey after survey shows that it is at the top of many voters' list – the President is expected to do something, and that usually means pushing for federal regulation on the subject. The important difference is that President Bush appears to be taking legitimate state interests, as articulated by the Court's New Federalism decisions, into account. The fact that he issued what amounts to a "Federalism Impact Statement" in connection with his endorsement of the HEALTH Act shows that the Court's "think twice" message is coming through loud and clear.

Allison H. Eid is an associate professor of law at the University of Colorado School of Law and specializes in tort law, the legislative process, and federalism issues. Prior to joining the Colorado faculty, she served as a law clerk to U.S. Supreme Court Justice Clarence Thomas.

REV_00151879

From: Azar, Alex (HHS/OS) <Alex.Azar@hhs.gov>
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Jay P. Lefkowitz/OPD/EOP@EOP [OPD] <Jay P. Lefkowitz>
Sent: 10/2/2002 3:48:18 PM
Subject: : Federalism tort reform article
Attachments: P_O3GMA003_OPD.TXT_1.htm; P_O3GMA003_OPD.TXT_2.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Azar, Alex (HHS/OS)" <Alex.Azar@hhs.gov> ( "Azar, Alex (HHS/OS)"
<Alex.Azar@hhs.gov> [ UNKNOWN ] )
CREATION DATE/TIME: 2-OCT-2002 19:48:18.00
SUBJECT:: Federalism tort reform article
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Here's a piece that has been submitted by a professor friend of mine (and
perhaps some of yours) defending our approach to federalism in the Health
Act. She will be countered by one from the right (Michael Greve at AEI)
and
one from the left (Prof. Erwin Chemerinsky) attacking us on "disregarding"
federalism. It's still in draft, so if you have any thoughts for it,
please
let me know and I'll forward them to her.

Allison H. Eid
Associate Professor
University of Colorado School of Law
Boulder, CO 80309
ph: 303-735-0187/fax: 303-492-1200
allison.eid@colorado.edu <mailto:allison.eid@colorado.edu>

- att1.htm - Human Rights.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_O3GMA003_OPD.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_O3GMA003_OPD.TXT_2>
```

Here's a piece that has been submitted by a professor friend of mine (and perhaps some of yours) defending our approach to federalism in the Health Act. She will be countered by one from the right (Michael Greve at AEI) and one from the left (Prof. Erwin Chemerinsky) attacking us on "disregarding" federalism. It's still in draft, so if you have any thoughts for it, please let me know and I'll forward them to her.

Allison H. Eid
Associate Professor
Universit y of Colorado School of Law
Boulder, CO 80309
ph: 303-735-0187/fax: 303-492-1200
allison.eid@colorado.edu
< /DIV>

9/30/02 DRAFT

Tort Reform and Federalism: the Supreme Court Talks, Bush Listens
By Allison H. Eid

After a six-decade hiatus, the U.S. Supreme Court has reentered the federalism debate with a bang. The Court's "New Federalism" decisions have reinvigorated federalism norms in constitutional jurisprudence across a broad array of doctrinal categories, including the Tenth Amendment, the Eleventh Amendment, and the Interstate Commerce Clause. Where this movement will end is anyone's guess, but its beginnings are clear. The Court's message appears to be that the federal government should think twice before it injects federal regulations into a state's business.

While the Court's audience appears primarily to be Congress, there is no question that the Bush Administration is listening as well. As it should. The President is not constitutionally empowered to pass legislation, of course, so his authority is not directly implicated by the New Federalism decisions. But in many ways he is the legislator-in-chief. His position at the national bully pulpit, coupled with his power of the veto, make him a major player in federal policymaking. His legislative agenda needs to be sensitive to the Court's "New Federalism" jurisprudence. Otherwise, he risks sacrificing some of his key legislative priorities on the New Federalism alter.

Take the President's position on tort reform. This issue has the President in something of a bind. On the one had, tort reform at the federal level is an important issue to Republicans; in fact, it is one of the few unfinished pieces of business left in the 1994 Contract With America. The President used his support for federal tort reform measures to distinguish himself from Al Gore during the 2000 campaign. On the other hand, the President is a former governor who says he is committed to principles of federalism, and tort law is an area of regulation that has traditionally been left to the states. The critical question is whether the President can deliver on his campaign commitments on federal tort reform while remaining loyal to his federalism principles – principles that seem to mirror the Court's recent New Federalism decisions.

The President has not shied away from this balancing act. Last summer, he delivered a major speech in North Carolina in which he outlined his plan to reform medical malpractice law – a plan essentially identical to the Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2002, which passed by a 217-203 vote in the Republican-controlled U.S. House of Representatives in late September (the legislation faces a much stiffer hurdle in the Democratic-controlled Senate). The HEALTH Act would, among other things, 1) limit non-economic damages to $250,000 while leaving economic damages unlimited (section 4(a) & (b)); 2) abolish joint and several liability (section 4(d)); 3) place a variable cap on contingency fees (section 5); 4) limit punitive damages to twice economic damages or $250,000, whichever is greater (section 7(b)(2)); and 5) require a suit to be brought within three years of the date of

REV_00151882

injury or one year after the claimant discovers or should have discovered the injury, which comes first (section 3).

The HEALTH Act would apply to any "health care lawsuit" – defined as "any health care liability claim concerning the provision of health care goods or serves affecting interstate commerce" filed against a health care provider or other health organization – filed in state or federal court (section 9(7)). It would largely preempt state law on the subject (section 11), but – in an obvious bow to federalism concerns – it would preserve any state statute that caps the amount of compensatory or punitive damages, regardless of the amount of the cap (section 11(c)(1)).

What is significant about the President's support of the HEALTH Act is not the fact that he gave it but *how* he gave it. In his North Carolina speech, the President clearly anticipated that there would be objections to his plan based on federalism concerns. He stated: "People say, well, is [medical malpractice] a federal responsibility?" Not surprisingly, the President answered "yes." "It's a national problem," he declared, "that requires a national solution. The federal government ought to set a minimum federal standard to reform the medical liability system."

He then went on to lay out the case for such federal intervention, essentially summarizing a report issued that same day by the U.S. Department of Health and Human Services entitled "Confronting the New Health Care Crisis: Improving Health Care Quality and Lowering Costs by Fixing Our Medical Liability System" (http://aspe.hhs.gov/daltcp/reports/litrefm.htm). The HHS report could easily be mistaken for a brief in support of the legislation filed with the U.S. Supreme Court, with President Bush taking the lead at oral argument.

The Administration's strategy in defense of federal intervention is two-fold. First, it argues that the federal limitations on medical malpractice suits are justified by the expenditure of federal funds on health care. The Administration points to the fact that the federal government provides direct care to members of the armed forces, veterans, and patients served by the Indian Health Service, in addition to funding Medicare and Medicaid. It also points to the fact that the federal government provides tax breaks to workers who obtain health insurance through their employers. The Administration estimates that the federal government would save at least $25 billion a year in taxpayers' money if its proposed medical malpractice reforms were put in place. "[A]ny time a malpractice lawsuit drives up the cost of health care, it affects taxpayers. It is a federal issue," the President declared.

In essence, the Administration is making a Spending Clause argument – i.e., since we put up the funds, we can put some strings on how those funds are spent. The Court has already said such strings, if reasonably related to the aim of the expenditure, are just fine (*South Dakota v. Dole*, 483 U.S. 203 (1987)).

Secondly, the Administration makes an Interstate Commerce Clause argument. The HHS report and the President's speech are chalked full of examples of physicians

REV_00151883

who have been forced to move to other states – or to close up shop altogether – due to hikes in malpractice premiums, forcing patients to drive hundreds of miles across state lines to find health care. The Administration is making the argument, in essence, that excessive malpractice litigation increases in malpractice premiums, which in turn force physicians and patients to cross state lines. The Administration hopes that all of this adds up to a "substantial effect" on interstate commerce – the test expounded upon by the Court in *United States v. Lopez* (514 U.S. 549 (1995)) and *United v. Morrison,* 529 U.S. 598 (2002)).

There are several rejoinders to the Administration's case. The Spending Clause argument would appear to go only so far as federal funds are spent. The scope of the HEALTH Act, however, extends to all "health care lawsuits" – not just those brought by or against recipients of federal funds, either direct or indirect.

Along these same lines, the Court made it clear in the *Lopez* and *Morrison* cases that the regulated activity must be "economic" in nature to qualify for regulation under the Interstate Commerce Clause – a test that gun possession near a school (*Lopez*) and violence directed toward women (*Morrison*) both flunked. The success or failure of the Administration's argument depends on how one defines the regulated activity in the HEALTH Act. If the regulated activity is characterized as the infliction of personal injury, that activity would not seem particularly "economic" in nature. On the other hand, the physician is receiving compensation for his or her services – a characterization much closer to the "economic" realm.

The significance of the Administration's approach is not that it is presenting a bullet-proof legal defense of the legislation, because it is not. Any time the federal government regulates in an area traditionally governed by the states, a significant federalism challenge can and will almost certainly be mounted. The point is that the Administration is crafting a legal strategy that it hopes will bear fruit if the legislation is eventually passed and challenged. It is listening to the Court and thinking twice before diving into the federal tort reform debate.

Moreover, the President's respect for federalism concerns runs contrary to all of the institutional pressures of his job. Indeed, prior to the New Federalism decisions, the prevailing wisdom in the legal academy (and echoed in the Court's opinions at the time) was that there was no need for judicial intervention in federalism matters because the Constitution's "procedural safeguards of federalism" would protect states' interests. For example, the procedural safeguards theory pointed to the fact that Congress was composed of individual members elected from states. Naturally, the theory went, members of Congress would look out for their own states' best interests and block any legislation that would unduly interfere with those interests.

The "political safeguards" theory came under criticism for putting the fox in charge of the henhouse. In other words, the critique claimed that – contrary to the political safeguards theory -- it is actually in the inherent nature of Congress to "eat" the states. The cycle of federal regulation starts when an issue rises to national prominence,

REV_00151884

and the clarion call for federal action – "Congress has to do something about this problem" -- inevitably follows. It is just too difficult, the critique concluded, for Congress to pass up an opportunity to regulate, even when the "problem" has traditionally been (and perhaps should be) left to states to fix. When an opponent runs a television ad attacking an incumbent for failing to regulate, the incumbent doesn't win many votes by responding "I did it all in the name of federalism." The New Federalism decisions implicitly reject the political safeguards theory on these grounds.

To continue the analogy, the President is even a hungrier "fox" than Congress. He is, after all, the President *of the United States*. He is the only politician in the country who is elected by the entire United States. His position is inherently nationalistic, even more so than membership in Congress. Governor Bush is now President Bush. When an issue like health care reform garners the national spotlight – and when survey after survey shows that it is at the top of many voters' list – the President is expected to do something, and that usually means pushing for federal regulation on the subject. The important difference is that President Bush appears to be taking legitimate state interests, as articulated by the Court's New Federalism decisions, into account. The fact that he issued what amounts to a "Federalism Impact Statement" in connection with his endorsement of the HEALTH Act shows that the Court's "think twice" message is coming through loud and clear.

Allison H. Eid is an associate professor of law at the University of Colorado School of Law and specializes in tort law, the legislative process, and federalism issues. Prior to joining the Colorado faculty, she served as a law clerk to U.S. Supreme Court Justice Clarence Thomas.

REV_00151885

From: CN=Matthew Kirk/OU=WHO/O=EOP [WHO]
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
CC: brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;kevin warsh/opd/eop@eop [OPD] <kevin warsh>;randall s. kroszner/cea/eop@eop [CEA] <randall s. kroszner>;keith hennessey/opd/eop@eop [OPD] <keith hennessey>
Sent: 10/3/2002 3:04:30 AM
Subject: : Re: LIFE INSURANCE

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Matthew Kirk ( CN=Matthew Kirk/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 3-OCT-2002 07:04:30.00
SUBJECT:: Re: LIFE INSURANCE
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:brett m. kavanaugh ( CN=brett m. kavanaugh/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:kevin warsh ( CN=kevin warsh/OU=opd/O=eop@eop [ OPD ] )
READ:UNKNOWN
CC:randall s. kroszner ( CN=randall s. kroszner/OU=cea/O=eop@eop [ CEA ] )
READ:UNKNOWN
CC:keith hennessey ( CN=keith hennessey/OU=opd/O=eop@eop [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######

My understanding of our position, and what I have been advocating, is
exactly as you lay out. If that is not our position, I will need to let
the hill know fairly quickly.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>
CC: Jose Mallea/WHO/EOP@EOP [WHO] <Jose Mallea>
Sent: 10/3/2002 3:49:00 AM
Subject: : Gift question

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 3-OCT-2002 07:49:00.00
SUBJECT:: Gift question
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Jose Mallea ( CN=Jose Mallea/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Nanette: Jose in the Chief of Staff's office has a gift question
for Secretary Card. Can you call him quickly at 6-3624. It is for an
event that I believe is this weekend. Thanks!
```

From:	CN=G. Timothy Saunders/OU=WHO/O=EOP [WHO]
To:	Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>
CC:	Harriet Miers/WHO/EOP@EOP [WHO] <Harriet Miers>;Carolyn E. Cleveland/WHO/EOP@EOP [WHO] <Carolyn E. Cleveland>;David E. Kalbaugh/WHO/EOP@EOP [WHO] <David E. Kalbaugh>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
BCC:	G. Timothy Saunders (G. Timothy Saunders/WHO/EOP [WHO])
Sent:	10/3/2002 7:40:46 AM
Subject:	: Re Approval of Use of the President's Signature on Crime Victims Award Plaques

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:G. Timothy Saunders ( CN=G. Timothy Saunders/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 3-OCT-2002 11:40:46.00
SUBJECT:: Re Approval of Use of the President's Signature on Crime Victims Award Plaques
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Harriet Miers ( CN=Harriet Miers/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Carolyn E. Cleveland ( CN=Carolyn E. Cleveland/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:David E. Kalbaugh ( CN=David E. Kalbaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
BCC:G. Timothy Saunders ( CN=G. Timothy Saunders/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Patrick,

do you all have record of Counsel providing approval for a request to use
the President's signature on Award plaques for nominees for Crime Victims
Awards. The program is run by Justice and they have contracted w/ "Trophy
Mart" to prepare the plaques.

We now have received copy of correspondence dated 9/13/2002, from the
Office of Victims of Crime at Justice to Secretary Card again requesting
authorization -- let us know if you need copies of this correspondence.

many thanks for any help you can provide,
TIM/CLERK
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>
CC: brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;hana f. brilliant/who/eop@eop [WHO] <hana f. brilliant>;patrick j. bumatay/who/eop@eop [WHO] <patrick j. bumatay>
Sent: 10/3/2002 7:59:48 AM
Subject: : Re: Re Approval of Use of the President's Signature on Crime Victims Award Plaques

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 3-OCT-2002 11:59:48.00
SUBJECT:: Re: Re Approval of Use of the President's Signature on Crime Victims Award Plaques
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:hana f. brilliant (CN=hana f. brilliant/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:patrick j. bumatay (CN=patrick j. bumatay/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

I did this and approved it and have a record. It was related to Victims Rights Amendment event as I recall.

Noel J. Francisco
10/03/2002 11:52:20 AM
Record Type: Record

To: Patrick J. Bumatay/WHO/EOP@EOP
cc: brett m. kavanaugh/who/eop@eop, hana f. brilliant/who/eop@eop
bcc:
Subject: Re: Re Approval of Use of the President's Signature on Crime Victims Award Plaques

I do not recall seeing this. Hana?

Patrick J. Bumatay
10/03/2002 11:50:13 AM
Record Type: Record

To: Noel J. Francisco/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc: Hana F. Brilliant/WHO/EOP@EOP
Subject: Re Approval of Use of the President's Signature on Crime Victims Award Plaques

Did this come to either of you?
---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/03/2002 11:50 AM ----------

G. Timothy Saunders

10/03/2002 11:41:26 AM

Record Type: Record

To: Patrick J. Bumatay/WHO/EOP@EOP
cc: Brett M. Kavanaugh/WHO/EOP@EOP, Carolyn E. Cleveland/WHO/EOP@EOP, David E. Kalbaugh/WHO/EOP@EOP, Harriet Miers/WHO/EOP@EOP
Subject: Re Approval of Use of the President's Signature on Crime Victims Award Plaques

Patrick,

do you all have record of Counsel providing approval for a request to use the President's signature on Award plaques for nominees for Crime Victims Awards. The program is run by Justice and they have contracted w/ "Trophy Mart" to prepare the plaques.

We now have received copy of correspondence dated 9/13/2002, from the Office of Victims of Crime at Justice to Secretary Card again requesting authorization -- let us know if you need copies of this correspondence.

many thanks for any help you can provide,
TIM/CLERK

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Adam F. Greenstone/OA/EOP [OA] <Adam F. Greenstone>
Sent: 10/3/2002 8:34:49 AM
Subject: RECEIVED: Non-Record Function

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES READ RECEIPT)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 3-OCT-2002 12:34:49.00
SUBJECT:RECEIVED: Non-Record Function
TO:Adam F. Greenstone ( CN=Adam F. Greenstone/OU=OA/O=EOP [ OA ] )
READ:UNKNOWN
###### End Original ARMS Header ######

RETURN RECEIPT

Your Document:
Non-Record Function
was successfully received by:
CN=Brett M. Kavanaugh/OU=WHO/O=EOP
at:
10/03/2002 12:37:41 PM
```

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/3/2002 4:45:17 AM
Subject: : LRM EPH194 - - OMB Request for Views on HR163 Mortgage Servicing Clarificaiton Act
Attachments: P_C5NMA003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 3-OCT-2002 08:45:17.00
SUBJECT:: LRM EPH194 - - OMB Request for Views on HR163 Mortgage Servicing Clarificaiton Act
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/03/2002 08:44 AM ----------

From: Erin P. Hassing on 10/02/2002 06:33:52 PM
Record Type: Record

To: llr@do.treas.gov, HUD_LRM@hud.gov, justice.lrm@usdoj.gov
cc: See the distribution list at the bottom of this message
Subject: LRM EPH194 - - OMB Request for Views on HR163 Mortgage Servicing Clarificaiton Act

HR 163 - Morgage Servicing Clarification Act is scheduled for consideration in the House next week under suspension of the rules. Please review the legislation and advise of any concerns or objections and provide possible SAP language if appropriate.

Please submit all comments by 2PM tomorrow, Thursday Oct. 3rd.

LRM ID: EPH194
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Wednesday, October 2, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: Erin P. Hassing
PHONE: (202)395-3459 FAX: (202)395-6148
SUBJECT: OMB Request for Views on HR163 Mortgage Servicing Clarificaiton Act

DEADLINE: 2PM Thursday, October 3, 2002
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: HR 163 - Morgage Servicing Clarification Act is scheduled for consideration in the House next week under suspension of the rules.

Please review the legislation and advise of any concerns or objections and provide possible SAP language if appropriate.

Please submit all comments by 2PM tomorrow, Thursday Oct. 3rd.

DISTRIBUTION LIST

AGENCIES:
118-TREASURY - Thomas M. McGivern - (202) 622-2317
054-HOUSING & URBAN DEVELOPMENT - Mike Moran - (202) 708-1793
061-JUSTICE - Daniel Bryant - (202) 514-2141

EOP:
WHGC LRM
OVP LRM
CEA LRM
NEC LRM
Joseph L. Kull
Robert Shea
Sheila Conley
Karen M. Shaffer
Stephen S. McMillin
Mark J. Schwartz
Andrew D. Hire
Alan B. Rhinesmith
Francis S. Redburn
James F. Jordan
Adam Hoffberg
Andrea E. Jacobson
Julie L. Haas
Lauren E. Bloomquist
Steven D. Aitken
Matthew J. Schneider
John Wood
Ellen J. Balis
Adriel M. Harvey
Elizabeth A. Bernhard
Courtney B. Timberlake
James Boden
Hester C. Grippando
Aquiles F. Suarez
Brian C. Conklin
Danielle M. Simonetta
Lauren C. Lobrano
Ingrid M. Schroeder
Richard E. Green
James J. Jukes
LRM ID: EPH194 SUBJECT: OMB Request for Views on HR163 Mortgage Servicing Clarificaiton Act
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Erin P. Hassing Phone: 395-3459 Fax: 395-6148

Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-7362

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Copied
To:_____
WHGC LRM
OVP LRM
CEA LRM
NEC LRM
Joseph L. Kull/OMB/EOP@EOP
Robert_J._Shea@omb.eop.gov
Sheila Conley/OMB/EOP@EOP
Karen M. Shaffer/OMB/EOP@EOP
Stephen S. McMillin/OMB/EOP@EOP
Mark J. Schwartz/OMB/EOP@EOP
Andrew D. Hire/OMB/EOP@EOP
Alan B. Rhinesmith/OMB/EOP@EOP
Francis S. Redburn/OMB/EOP@EOP
James F. Jordan/OMB/EOP@EOP
Adam Hoffberg/OMB/EOP@EOP
Andrea E. Jacobson/OMB/EOP@EOP
Julie L. Haas/OMB/EOP@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
Steven D. Aitken/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
John_F._Wood@omb.eop.gov
Ellen J. Balis/OMB/EOP@EOP
Adriel M. Harvey/OMB/EOP@EOP
Elizabeth A. Bernhard/OMB/EOP@EOP
Courtney B. Timberlake/OMB/EOP@EOP
James Boden/OMB/EOP@EOP
Hester C. Grippando/OMB/EOP@EOP
Aquiles F. Suarez/OPD/EOP@EOP
Brian C. Conklin/WHO/EOP@EOP
Danielle M. Simonetta/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
Ingrid M. Schroeder/OMB/EOP@EOP
Richard E. Green/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_C5NMA003_WHO.TXT_1>

HR 163 IH

107th CONGRESS
1st Session
H. R. 163

To amend the Fair Debt Collection Practices Act to exempt mortgage servicers from certain requirements of the Act with respect to federally related mortgage loans secured by a first lien, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

January 3, 2001

Mr. ROYCE (for himself, Mr. BENTSEN, Mr. MALONEY of Connecticut, Mr. JONES of North Carolina, Mr. SESSIONS, Mr. MEEKS of New York, Mr. SHERMAN, Mr. KANJORSKI, and Mrs. JONES of Ohio) introduced the following bill; which was referred to the Committee on Financial Services

---

A BILL

To amend the Fair Debt Collection Practices Act to exempt mortgage servicers from certain requirements of the Act with respect to federally related mortgage loans secured by a first lien, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Mortgage Servicing Clarification Act'.

SEC. 2. MORTGAGE SERVICING CLARIFICATION.

(a) IN GENERAL- The Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) is amended--

(1) by redesignating section 818 as section 819; and

(2) by inserting after section 817 the following new section:

`Sec. 818. Mortgage servicer exemption

`(a) EXEMPTION- Any servicer of federally related mortgage loans secured by first liens--

`(1) who is a debt collector; and

`(2) for whom the collection of delinquent debts is incidental to the servicer's primary function of servicing current federally related mortgage loans,

shall be exempt from the requirements of section 807(11) in connection with the collection of any debt which is a federally related mortgage loan secured by a first lien.

`(b) DEFINITIONS- For purposes of this section, the following definitions shall apply:

`(1) FEDERALLY RELATED MORTGAGE LOAN- The term `federally related mortgage loan' has the meaning given to such term in section 3(1) of the Real Estate Settlement Procedures Act of 1974.

`(2) SERVICER; SERVICING- The terms `servicer' and `servicing' have the meanings given to such terms in section 6(i) of the Real Estate Settlement Procedures Act of 1974.'.

(b) CLERICAL AMENDMENT- The table of sections for the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) is amended--

(1) by redesignating the item relating to section 818 as section 819; and

(2) by inserting after the item relating to section 817 the following new item:

`818. Mortgage servicer exemption.'.

END

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>;Joel D. Kaplan/WHO /EOP@EOP [WHO] <Joel D. Kaplan>
Sent: 10/3/2002 9:27:41 AM
Subject: : ABC The Note

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 3-OCT-2002 13:27:41.00
SUBJECT:: ABC The Note
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Joel D. Kaplan ( CN=Joel D. Kaplan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

http://abcnews.go.com/sections/politics/dailynews/thenote.html
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
Sent: 10/3/2002 5:31:49 AM
Subject: : SLIGHTLY REVISED
Attachments: P_DWPMA003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 3-OCT-2002 09:31:49.00
SUBJECT:: SLIGHTLY REVISED
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_DWPMA003_WHO.TXT_1>
```

Critical Provisions

- Federal cause of action
- Consolidation of both pre-trial and trial proceedings
- Judge determines punitive damages
- No multiple imposition of punitive damages

Standard for Punitive Damages

- **Intent Standard**

Punitive damages, exemplary damages, or other damages not intended to compensate a plaintiff for actual losses may be awarded if the plaintiff proves by clear and convincing evidence that the harm to the plaintiff was proximately caused by an act for which the defendant was convicted under Federal or State criminal law or an act that was intended by the defendant to cause physical injury to the plaintiff [or an act that the defendant believed was substantially certain to result in physical injury to the plaintiff].

- **Recklessness Standard**

Punitive damages may be awarded if the claimant establishes by clear and convincing evidence that the harm was proximately caused either by an act for which the defendant was convicted under Federal or State criminal law or by an act that constituted intentional, flagrant indifference to [disregard for] the safety of the individual harmed [under circumstances manifesting the defendant's extreme callousness to the value of human life].

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Matthew Kirk/WHO/EOP@EOP [WHO] <Matthew Kirk>
Sent: 10/3/2002 10:33:02 AM
Subject: : Re: McConnell's office

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 3-OCT-2002 14:33:02.00
SUBJECT:: Re: McConnell's office
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Steve Pinkos just left me a message.

Matthew Kirk
10/03/2002 02:15:38 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Re: McConnell's office

Please call 224 2424

.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Matthew Kirk/WHO/EOP@EOP [WHO] <Matthew Kirk>
Sent: 10/3/2002 11:52:47 AM
Subject: : Charles' reaction

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 3-OCT-2002 15:52:47.00
SUBJECT:: Charles' reaction
TO:Matthew Kirk ( CN=Matthew Kirk/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

If we are going to follow No Child Left Behind standard on
punitives (which apparently did not strike him as crazy, somewhat to my
surprise), we should try to follow it on non-economic damages as well.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>
CC: brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;hana f. brilliant/who/eop@eop [WHO] <hana f. brilliant>;patrick j. bumatay/who/eop@eop [WHO] <patrick j. bumatay>
Sent: 10/3/2002 7:59:48 AM
Subject: : Re: Re Approval of Use of the President's Signature on Crime Victims Award Plaques

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 3-OCT-2002 11:59:48.00
SUBJECT:: Re: Re Approval of Use of the President's Signature on Crime Victims Award Plaques
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:hana f. brilliant (CN=hana f. brilliant/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:patrick j. bumatay (CN=patrick j. bumatay/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

I did this and approved it and have a record. It was related to Victims Rights Amendment event as I recall.

Noel J. Francisco
10/03/2002 11:52:20 AM
Record Type: Record

To: Patrick J. Bumatay/WHO/EOP@EOP
cc: brett m. kavanaugh/who/eop@eop, hana f. brilliant/who/eop@eop
bcc:
Subject: Re: Re Approval of Use of the President's Signature on Crime Victims Award Plaques

I do not recall seeing this. Hana?

Patrick J. Bumatay
10/03/2002 11:50:13 AM
Record Type: Record

To: Noel J. Francisco/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc: Hana F. Brilliant/WHO/EOP@EOP
Subject: Re Approval of Use of the President's Signature on Crime Victims Award Plaques

Did this come to either of you?
---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/03/2002 11:50 AM ----------

G. Timothy Saunders

10/03/2002 11:41:26 AM

Record Type: Record

To: Patrick J. Bumatay/WHO/EOP@EOP
cc: Brett M. Kavanaugh/WHO/EOP@EOP, Carolyn E. Cleveland/WHO/EOP@EOP, David E. Kalbaugh/WHO/EOP@EOP, Harriet Miers/WHO/EOP@EOP
Subject: Re Approval of Use of the President's Signature on Crime Victims Award Plaques

Patrick,

do you all have record of Counsel providing approval for a request to use the President's signature on Award plaques for nominees for Crime Victims Awards. The program is run by Justice and they have contracted w/ "Trophy Mart" to prepare the plaques.

We now have received copy of correspondence dated 9/13/2002, from the Office of Victims of Crime at Justice to Secretary Card again requesting authorization -- let us know if you need copies of this correspondence.

many thanks for any help you can provide,
TIM/CLERK

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Adam F. Greenstone/OA/EOP [OA] <Adam F. Greenstone>
Sent: 10/3/2002 8:34:49 AM
Subject: RECEIVED: Non-Record Function

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 3-OCT-2002 12:34:49.00
SUBJECT:RECEIVED: Non-Record Function
TO:Adam F. Greenstone ( CN=Adam F. Greenstone/OU=OA/O=EOP [ OA ] )
READ:UNKNOWN
###### End Original ARMS Header ######

RETURN RECEIPT

Your Document:
Non-Record Function
was successfully received by:
CN=Brett M. Kavanaugh/OU=WHO/O=EOP
at:
10/03/2002 12:37:41 PM
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
Sent: 10/3/2002 8:39:43 AM
Subject: : Air Transportation Act
Attachments: P_I73NA003_OPD.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 3-OCT-2002 12:39:43.00
SUBJECT:: Air Transportation Act
TO:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

FYI: This is a brief summary of the liability provisions of the Air
Transportation Act.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_I73NA003_OPD.TXT_1>
```

Procedures for Civil Actions in Air Transportation Safety and System Stabilization Act

No-Fault Victims Compensation Process

- The Act establishes a no-fault claims process as an alternative to litigation. This Victims Compensation Fund provides economic and non-economic damages to the victim (with a deduction for collateral source payments), and does not require the plaintiff to prove negligence. The government pays the amounts awarded to the victims from the fund. (Note: This is a very expensive program.)

Tort Suits

- **Federal Cause of Action and Consolidation**
  - For those who choose to file tort suits instead of proceeding through the claims process, the Act establishes an exclusive federal cause of action and consolidates all cases arising out of the September 11 attacks in a single federal court in New York.

- **Limits on Recovery Against Air Carriers and Others**
  - The original Act limited recovery against *air carriers* to the limits of their liability policies (and provided protection against punitive damages awards against air carriers for events occurring for 180 days after enactment). The provision limiting liability to the extent of insurance coverage was later extended to the World Trade Center, aircraft manufacturers and sponsors, and the City of New York.
  - The Act does not otherwise limit damages available in tort suits.

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/3/2002 9:07:13 AM
Subject: : Re: Re Approval of Use of the President's Signature on Crime Victims Award Plaques
Attachments: P_KO4NA003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 3-OCT-2002 13:07:13.00
SUBJECT:: Re: Re Approval of Use of the President's Signature on Crime Victims Award Plaques
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Below is verbage that we can use for this purpose. Do you want to draft the letter or shall I ask Noel to do it?

Patrick
---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/03/2002 01:04 PM ----------

Noel J. Francisco
10/03/2002 12:58:49 PM
Record Type: Record

To: Patrick J. Bumatay/WHO/EOP@EOP
cc: hana f. brilliant/who/eop@eop
bcc:
Subject: Re: Re Approval of Use of the President's Signature on Crime Victims Award Plaques

Attached is the latest one that I prepared, which can be modified to fit the specific situation.

Patrick J. Bumatay
10/03/2002 12:48:41 PM
Record Type: Record

To: Noel J. Francisco/WHO/EOP@EOP
cc: Hana F. Brilliant/WHO/EOP@EOP
Subject: Re: Re Approval of Use of the President's Signature on Crime Victims Award Plaques

Noel,

Do you have the wording for giving Third Parties' permission to use POTUS signature for a limited purpose?
---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/03/2002 12:48 PM ----------

Harriet Miers
10/03/2002 12:46:35 PM
Record Type: Record

To: Patrick J. Bumatay/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc: G. Timothy Saunders/WHO/EOP@EOP
Subject: Re: Re Approval of Use of the President's Signature on
Crime Victims Award Plaques

---------- Forwarded by Harriet Miers/WHO/EOP on 10/03/2002
12:50 PM ----------

Harriet Miers
10/03/2002 12:45:40 PM
Record Type: Record

To: G. Timothy Saunders/WHO/EOP@EOP
cc:
Subject: Re: Re Approval of Use of the President's Signature on
Crime Victims Award Plaques

Then our practice has been for the signature to be released pursuant to a counsel-drafted letter that specifically and limitedly authorizes the use of the signature. By copy of this email, I will ask Brett and Patrick if we could get one from counsel's office. Brett, I assume Libby or someone has the last of these we did and can provide the text for which we can insert the new vendor. I will copy Patrick also. Thanks to everyone.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_KO4NA003_WHO.TXT_1>

September 6, 2002

Mr. Chip Forbes
President
C. Forbes, Inc.
420 North Ridge Road, Suite 200
Richmond, VA 23229

Dear Mr. Forbes:

As you know, the White House has commissioned you to manufacture a bronze plaque to be used by President George W. Bush for September 11 memorial activities in New York City on September 11, 2002 (hereinafter referred to as the "bronze plaque"). The purpose of this letter is to memorialize the terms and conditions pursuant to which the White House is retaining your services and providing you with a copy of the signature of the President and pursuant to which the White House will permit you to reproduce this copy solely upon the bronze plaque. These terms and conditions are as follows:

1. You may use this copy or any other copy of President Bush's signature solely to reproduce a copy of President Bush's signature on the bronze plaque and for no other purpose whatsoever.

2. The Staff Secretary for President Bush shall approve the form of the bronze plaque prior to the printing of President Bush's signature on it. The bronze plaque shall be produced in appropriate fashion with a professional appearance.

3. You will stop using this and any other copy of President Bush's signature, and destroy any and all remaining copies thereof, whether in electronic, written, or other format, immediately upon either the request of the Staff Secretary or completion of the bronze plaque, whichever occurs first.

4. You agree that the plaque, and all materials produced in the process of producing the plaque, including but not limited to written drafts, models, castings (used or not used), mock-ups, drawings, and any other related materials, belong to the White House and the President, and all such items and materials shall be delivered to the White House upon the completion of your efforts, but in no event later than September 10, 2002, 6:00 p.m.

Your signature below will confirm that you are properly authorized to enter into this agreement on behalf of C. Forbes, Inc. and that you agree to abide by the terms and conditions set out herein. Please do not hesitate to contact me with any questions.

Sincerely,

Harriet Miers

Assistant to the President and Staff Secretary

I, and C. Forbes, Inc., agree to abide by the terms and conditions set forth in this letter.

_____ Date:_____
Chip Forbes

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Leslie A. Mooney/OPD/EOP@EOP [OPD] <Leslie A. Mooney>
Sent: 10/3/2002 1:31:23 PM
Subject: : Re: can kevin and keith get on call; thanks

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 3-OCT-2002 17:31:23.00
SUBJECT:: Re: can kevin and keith get on call; thanks
TO:Leslie A. Mooney (CN=Leslie A. Mooney/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
End Original ARMS Header

they are; thanks

From: Leslie A. Mooney on 10/03/2002 05:30:35 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: can kevin and keith get on call; thanks

they should be on

Brett M. Kavanaugh
10/03/2002 05:28:17 PM
Record Type: Record

To: Leslie A. Mooney/OPD/EOP@EOP
cc:
Subject: can kevin and keith get on call; thanks

From: CN=Kristen Silverberg/OU=WHO/O=EOP [WHO]
To: Matthew Kirk/WHO/EOP@EOP [WHO] <Matthew Kirk>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/3/2002 2:17:30 PM
Subject: : 11:30 works for me

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 3-OCT-2002 18:17:30.00
SUBJECT:: 11:30 works for me
TO:Matthew Kirk ( CN=Matthew Kirk/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
Sent: 10/3/2002 2:46:22 PM
Subject: : Re: 11:30 works for me

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 3-OCT-2002 18:46:22.00
SUBJECT:: Re: 11:30 works for me
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

What is this?

Kristen Silverberg
10/03/2002 06:09:29 PM
Record Type: Record

To: Matthew Kirk/WHO/EOP@EOP
cc: Brett M. Kavanaugh/WHO/EOP@EOP
Subject: 11:30 works for me

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: William H. Leary/NSC/EOP@EOP [NSC] <William H. Leary>
Sent: 10/3/2002 2:57:40 PM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 3-OCT-2002 18:57:40.00
SUBJECT::
TO:William H. Leary ( CN=William H. Leary/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
###### End Original ARMS Header ######

can you call me about 12958. thanks.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>
Sent: 10/3/2002 12:41:38 PM
Subject: : teacher liability limits
Attachments: P_G3INA003_OPD.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 3-OCT-2002 16:41:38.00
SUBJECT:: teacher liability limits
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 10/03/2002 04:43 PM ----------

Kristen Silverberg
09/17/2002 08:03:18 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Matthew Kirk/WHO/EOP@EOP, Brian C. Conklin/WHO/EOP@EOP, Kevin Warsh/OPD/EOP@EOP
cc:
Subject: teacher liability limits

FYI. The liability limits from HR 1, which the House guys cited last week, are attached.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_G3INA003_OPD.TXT_1>

HR 1 LIABILITY LIMITS

`SEC. 2363. DEFINITIONS.

`For purposes of this subpart:

`(1) ECONOMIC LOSS- The term `economic loss' means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

`(2) HARM- The term `harm' includes physical, nonphysical, economic, and noneconomic losses.

`(3) NONECONOMIC LOSS- The term `noneconomic loss' means loss for physical or emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society or companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, or any other nonpecuniary loss of any kind or nature.

`(4) SCHOOL- The term `school' means a public or private kindergarten, a public or private elementary school or secondary school, or a home school.

`(5) STATE- The term `State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

`(6) TEACHER- The term `teacher' means--

`(A) a teacher, instructor, principal, or administrator;

`(B) another educational professional who works in a school;

`(C) a professional or nonprofessional employee who--

`(i) works in a school; and

`(ii)(I) in the employee's job, maintains discipline or ensures safety; or

`(II) in an emergency, is called on to maintain discipline or ensure safety; or

`(D) an individual member of a school board (as distinct from the board).

`SEC. 2364. APPLICABILITY.

`This subpart shall only apply to States that receive funds under this Act, and shall apply to such a State as a condition of receiving such funds.

`SEC. 2365. PREEMPTION AND ELECTION OF STATE NONAPPLICABILITY.

`(a) PREEMPTION- This subpart preempts the laws of any State to the extent that such laws are inconsistent with this subpart, except that this subpart shall not preempt any State law that provides additional protection from liability relating to teachers.

`(b) ELECTION OF STATE REGARDING NONAPPLICABILITY- This subpart shall not apply to any civil action in a State court against a teacher with respect to claims arising within that State if such State enacts a statute in accordance with State requirements for enacting legislation--

`(1) citing the authority of this subsection;

`(2) declaring the election of such State that this subpart shall not apply, as of a date certain, to such civil action in the State; and

`(3) containing no other provisions.

`SEC. 2366. LIMITATION ON LIABILITY FOR TEACHERS.

`(a) LIABILITY PROTECTION FOR TEACHERS- Except as provided in subsection (b), no teacher in a school shall be liable for harm caused by an act or omission of the teacher on behalf of the school if--

`(1) the teacher was acting within the scope of the teacher's employment or responsibilities to a school or governmental entity;

`(2) the actions of the teacher were carried out in conformity with Federal, State, and local laws (including rules and regulations) in furtherance of efforts to control, discipline, expel, or suspend a student or maintain order or control in the classroom or school;

`(3) if appropriate or required, the teacher was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice involved in the State in which the harm occurred, where the activities were or practice was undertaken within the scope of the teacher's responsibilities;

`(4) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the teacher; and

`(5) the harm was not caused by the teacher operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or the owner of the vehicle, craft, or vessel to--

`(A) possess an operator's license; or

`(B) maintain insurance.

`(b) EXCEPTIONS TO TEACHER LIABILITY PROTECTION- If the laws of a State limit teacher liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

`(1) A State law that requires a school or governmental entity to adhere to risk management procedures, including mandatory training of teachers.

`(2) A State law that makes the school or governmental entity liable for the acts or omissions of its teachers to the same extent as an employer is liable for the acts or omissions of its employees.

ate law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

`(c) LIMITATION ON PUNITIVE DAMAGES BASED ON THE ACTIONS OF TEACHERS-

`(1) GENERAL RULE- Punitive damages may not be awarded against a teacher in an action brought for harm based on the act or omission of a teacher acting within the scope of the teacher's employment or responsibilities to a school or governmental entity unless the claimant establishes by clear and convincing

evidence that the harm was proximately caused by an act or omission of such teacher that constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

`(2) CONSTRUCTION- Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

`(d) EXCEPTIONS TO LIMITATIONS ON LIABILITY-

`(1) IN GENERAL- The limitations on the liability of a teacher under this subpart shall not apply to any misconduct that--

`(A) constitutes a crime of violence (as that term is defined in section 16 of title 18, United States Code) or act of international terrorism (as that term is defined in section 2331 of title 18, United States Code) for which the defendant has been convicted in any court;

`(B) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court;

`(C) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law; or

`(D) where the defendant was under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug at the time of the misconduct.

`(2) HIRING- The limitations on the liability of a teacher under this subpart shall not apply to misconduct during background investigations, or during other actions, involved in the hiring of a teacher.

`(e) RULES OF CONSTRUCTION-

`(1) CONCERNING RESPONSIBILITY OF TEACHERS TO SCHOOLS AND GOVERNMENTAL ENTITIES- Nothing in this section shall be construed to affect any civil action brought by any school or any governmental entity against any teacher of such school.

`(2) CONCERNING CORPORAL PUNISHMENT- Nothing in this subpart shall be construed to affect any State or local law (including a rule or regulation) or policy pertaining to the use of corporal punishment.

`SEC. 2367. ALLOCATION OF RESPONSIBILITY FOR NONECONOMIC LOSS.

`(a) GENERAL RULE- In any civil action against a teacher, based on an act or omission of a teacher acting within the scope of the teacher's employment or responsibilities to a school or governmental entity, the liability of the teacher for noneconomic loss shall be determined in accordance with subsection (b).

`(b) AMOUNT OF LIABILITY-

`(1) IN GENERAL-

`(A) LIABILITY- Each defendant who is a teacher shall be liable only for the amount of noneconomic loss allocated to that defendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which that defendant is liable.

`(B) SEPARATE JUDGMENT- The court shall render a separate judgment against each defendant in an amount determined pursuant to subparagraph (A).

`(2) PERCENTAGE OF RESPONSIBILITY- For purposes of determining the amount of noneconomic loss allocated to a defendant who is a teacher under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant's harm, whether or not such person is a party to the action.

`(c) RULE OF CONSTRUCTION- Nothing in this section shall be construed to preempt or supersede any Federal or State law that further limits the application of joint liability in a civil action described in subsection (a), beyond the limitations established in this section.

`SEC. 2368. EFFECTIVE DATE.

`(a) IN GENERAL- This subpart shall take effect 90 days after the date of enactment of the No Child Left Behind Act of 2001.

`(b) APPLICATION- This subpart applies to any claim for harm caused by an act or omission of a teacher if that claim is filed on or after the effective date of the No Child Left Behind Act of 2001 without regard to whether the harm that is the subject of the claim or the conduct that caused the harm occurred before such effective date.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Blake Gottesman/WHO /EOP@EOP [WHO] <Blake Gottesman>
Sent: 10/3/2002 6:25:30 PM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 3-OCT-2002 22:25:30.00
SUBJECT:: Re:
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I know. Anyway, he would not have asked if he were not panicked about being late. But ae and I stll got a laugh.

.

----- Original Message -----
From:Blake Gottesman/WHO/EOP
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 10/03/2002 07:43:06 PM
Subject: Re:

nice. (i didn't mind, though).

Brett M. Kavanaugh
10/03/2002 05:51:54 PM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc:
Subject:

can you make me 50 copies of that memo. thanks.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Katharine Balls/WHO/EOP@EOP [WHO] <Katharine Balls>;Blake Gottesman/WHO /EOP@EOP [WHO] <Blake Gottesman>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/4/2002 3:25:56 AM
Subject: : Re: Political Trips -- To thank or not to thank...

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 4-OCT-2002 07:25:56.00
SUBJECT:: Re: Political Trips -- To thank or not to thank...
TO:Katharine Balls (CN=Katharine Balls/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I can get that to you all before monday. Thanks.

.

----- Original Message -----
From:Blake Gottesman/WHO/EOP
To:Katharine Balls/WHO/EOP@EOP
Cc:Brett M. Kavanaugh/WHO/EOP@EOP
Date: 10/04/2002 07:00:58 AM
Subject: Re: Political Trips -- To thank or not to thank...

i think it's important that we get an official memo from counsel's ofc w/ guidelines, specific to event-related thank you's. these questions are going to keep coming up - and i don't want to have to bother brett each time. (i know you don't either.)

would this work for you?

KATHARINE BALLS
09/30/2002 03:11:42 PM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc:
Subject: Political Trips -- To thank or not to thank...

do you know? do you want me to call brett? i'm holding off on houston, denver, and phoenix stuff b/c of this question...
i'll send flagstaff shortly.

---------- Forwarded by Katharine Balls/WHO/EOP on 09/30/2002 03:13 PM ----------

KATHARINE BALLS
09/27/2002 10:49:07 AM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc:
Subject: Political Trips -- To thank or not to thank...

Hey -- So if the trip is entirely political, are any of the notes ok on official stationery or do all need to be generated on political stationery?
IE: yesterday's visit to Houston -- can we do the FreedomCorps greeter on official stationery? What about the Airport Greeters and motorcade drivers? The event greeters clearly need political stationery IF they receive notes, but generally the motorcade drivers are ok on official stationery b/c they're driving for the entire visit...

I can call Brett Kavanaugh, but thought I'd check with you first. Pls advise.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Mercedes M. Viana/WHO /EOP@EOP [WHO] <Mercedes M. Viana>
CC: Taylor S. Gross/WHO/EOP@EOP [WHO] <Taylor S. Gross>
Sent: 10/4/2002 6:05:51 AM
Subject: : Re: Radio Interview in New Mexico

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 4-OCT-2002 10:05:51.00
SUBJECT:: Re: Radio Interview in New Mexico
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Mercedes M. Viana (CN=Mercedes M. Viana/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Taylor S. Gross (CN=Taylor S. Gross/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Thanks for setting this up.

.

----- Original Message -----
From:Mercedes M. Viana/WHO/EOP
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:Taylor S. Gross/WHO/EOP@EOP
Date: 10/03/2002 04:09:53 PM
Subject: Radio Interview in New Mexico

Friday, October 4
KTSM AM - Las Cruces, New Mexico
Host: Greg Freyermuth
Phone: 915-351-5440
Time: 9:30 a.m.
Format: Live
Topic: Miguel Estrada

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/4/2002 6:46:06 AM
Subject: : Re: LRM PTM160 - - VETERANS AFFAIRS Qs and As on HR4939 - Veterans Medicare Payment Act of 2002
Attachments: P_XF2OA003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 4-OCT-2002 10:46:06.00
SUBJECT:: Re: LRM PTM160 - - VETERANS AFFAIRS Qs and As on HR4939 - Veterans Medicare Payment Act of 2002
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/04/2002 10:44 AM ----------

Sarah S. Lee
10/04/2002 10:44:35 AM
Record Type: Record

To: P. Thaddeus Messenger/OMB/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: LRM PTM160 - - VETERANS AFFAIRS Qs and As on HR4939 - Veterans Medicare Payment Act of 2002

Regarding your first question, we believe HR5250 does provide mandatory funding for veterans health care, because mandatory funding has been provided in the past without specifically stating that an appropriation is made.

From: P. Thaddeus Messenger on 10/02/2002 04:43:52 PM
Record Type: Record

To: Toni S. Hustead/OMB/EOP@EOP, WHGC LRM, Matthew J. Schneider/OMB/EOP@EOP, Sarah S. Lee/OMB/EOP@EOP
cc: P. Thaddeus Messenger/OMB/EOP@EOP, Ingrid M. Schroeder/OMB/EOP@EOP
Subject: LRM PTM160 - - VETERANS AFFAIRS Qs and As on HR4939 - Veterans Medicare Payment Act of 2002

Good afternoon,

Could you please consider Question 8 (reprinted below) today or Thursday, and let me know (a) if you agree it's not really mandatory, and (b) the prospects for this moving this year.

Thanks,
Thad

Question 8. What would be the effect of a mandatory funding formula on the VA health care system?

Response: Depending upon its construction and methodology, a mandatory funding formula would provide predictable, but not necessarily adequate, funding for VA health care. The specific formula proposed in H.R. 5250 might have little impact on the VA health care system. We question whether the proposed formula would be considered an appropriation from the Treasury. Section 1301(d) of title 31, United States Code, provides that a law may be construed to make an appropriation out of the Treasury only if the law specifically states that an appropriation is made. Even if it were considered an appropriation, the next appropriation for VA medical care would probably supersede it.
---------- Forwarded by P. Thaddeus Messenger/OMB/EOP on 10/02/2002 04:35 PM ----------

From: P. Thaddeus Messenger on 10/02/2002 12:21:11 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: LRM PTM160 - - VETERANS AFFAIRS Qs and As on HR4939 - Veterans Medicare Payment Act of 2002

LRM ID: PTM160
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Wednesday, October 2, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: P. Thaddeus Messenger
PHONE: (202)395-7754 FAX: (202)395-6148
SUBJECT: VETERANS AFFAIRS Qs and As on HR4939 - Veterans Medicare Payment Act of 2002

DEADLINE: 12:00 Noon Wednesday, October 9, 2002
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Attached for your review, please find a copy of VA's draft answers to questions posed by Representative Christopher Smith (R-NJ) relating to VA (Dr. Roswell) testimony on July 16th. Dr. Roswell's testimony was previously circulated under LRM PTM132. VA's answers to a previous set of related questions was circulated under LRM PTM148.

Please provide your comments by 12:00 Noon, Wednesday, October 9, 2002. If we do not receive your comments by that time, we will assume you have no objection to the document as drafted.

If you experience difficulty with this LRM, or its attachment, please contact us immediately. To ensure receipt by Agency addressees, the electronic copy of this LRM will be followed by a duplicate copy via facsimile.

Thank you.

DISTRIBUTION LIST

AGENCIES:
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773
029-DEFENSE - Samuel T. Brick Jr. - (703) 697-1305
061-JUSTICE - Daniel Bryant - (202) 514-2141
118-TREASURY - Thomas M. McGivern - (202) 622-2317
117 & 340-TRANSPORTATION - Tom Herlihy - (202) 366-4687

EOP:
James C. Capretta
Karen S. Dooley
Barry T. Clendenin
Wanda J. Foster
Keith J. Fontenot
Mark Vinkenes
Thomas Reilly
Charles M. Montgomery
Robin Cleveland
Karyn T. Carson
Kathleen Peroff
Mary Jo Siclari
Cameron M. Leuthy
Wendell H. Waites
Eugene J. Devine
Toni S. Hustead
Arecia A. Grayton
Narahari Sastry
Danny A. Ermann
John J. Bartrum
Julie L. Haas
Lauren E. Bloomquist
Mark J. Schwartz
Robert F. Mahaffie
Jennifer S. Kron
Andrew D. Hire
Sarah S. Lee
Aquiles F. Suarez
Alan Gilbert
Philo D. Hall
Mark McClellan
OVP LRM
WHGC LRM
Philip J. Perry
Matthew J. Schneider
John F. Wood
Robert Marsh
Elizabeth L. Rossman
Danielle M. Simonetta
Lauren C. Lobrano
James J. Jukes
Ingrid M. Schroeder
P. Thaddeus Messenger
LRM ID: PTM160 SUBJECT: VETERANS AFFAIRS Qs and As on HR4939 -
Veterans Medicare Payment Act of 2002
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: P. Thaddeus Messenger Phone: 395-7754 Fax:
395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-7362

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Sent
To:_____
lrm@hhs.gov
dodlrs@osdgc.osd.mil
justice.lrm@usdoj.gov
llr@do.treas.gov
dot.legislation@ost.dot.gov

Message Copied
To:_____
James C. Capretta/OMB/EOP@EOP
Karen S. Dooley/OMB/EOP@EOP
Barry T. Clendenin/OMB/EOP@EOP
Wanda J. Foster/OMB/EOP
Keith J. Fontenot/OMB/EOP@EOP
Mark Vinkenes/OMB/EOP@EOP
Thomas Reilly/OMB/EOP@EOP
Charles M. Montgomery/OMB/EOP@EOP
Robin Cleveland/OMB/EOP@EOP
Karyn T. Carson/OMB/EOP@EOP
Kathleen Peroff/OMB/EOP@EOP
Mary Jo Siclari/OMB/EOP@EOP
Cameron M. Leuthy/OMB/EOP@EOP
Wendell H. Waites/OMB/EOP@EOP
Eugene J. Devine/OMB/EOP@EOP
Toni S. Hustead/OMB/EOP@EOP
Arecia A. Grayton/OMB/EOP@EOP
Narahari Sastry/OMB/EOP@EOP
Danny A. Ermann/OMB/EOP@EOP
John J. Bartrum/OMB/EOP@EOP
Julie L. Haas/OMB/EOP@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
Mark J. Schwartz/OMB/EOP@EOP

Robert F. Mahaffie/OMB/EOP@EOP
Jennifer S. Kron/OMB/EOP@EOP
Andrew D. Hire/OMB/EOP@EOP
Sarah S. Lee/OMB/EOP@EOP
Aquiles F. Suarez/OPD/EOP@EOP
Alan Gilbert/OPD/EOP@EOP
Philo D. Hall/OPD/EOP@EOP
Mark McClellan/CEA/EOP@EOP
OVP LRM
WHGC LRM
Philip J. Perry/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Robert Marsh/WHO/EOP@EOP
Elizabeth L. Rossman/OMB/EOP@EOP
Danielle M. Simonetta/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Ingrid M. Schroeder/OMB/EOP@EOP
P. Thaddeus Messenger/OMB/EOP@EOP

Message Copied
To:_____
toni s. hustead/omb/eop@eop
WHGC LRM
matthew j. schneider/omb/eop@eop
p. thaddeus messenger/omb/eop@eop
ingrid m. schroeder/omb/eop@eop
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_XF2OA003_WHO.TXT_1>

DRAFT

Post-Hearing Questions for
Robert H. Roswell, M.D.
From the Honorable Christopher H. Smith
Regarding the July 16, 2002, Hearing
On H.R. 4939

Question 1. The Committee received a report dated July 12, 2002, from Secretary Principi revealing that about 300,000 veterans are now waiting for VA primary care appointments for six months or more. If H.R. 4939 were to become law and begin to move funds into VA care, to what extent would these funds enable VA to reduce the current backlog of veterans waiting for VA health care services?

Response: The Administration feels that H.R. 4939 may not actually increase VA resources or veterans' access to care. When the Department acquires new funding streams, those increased funds are typically offset against the appropriations that VA would otherwise receive. In that event, VA would not gain permanent increased funding from the measure. In addition, if more veterans were encouraged to use VA as a result of this bill, the cost to VA would possibly be significantly more than the transfer from the Medicare Trust Funds, since the Part B premium finances only a portion of Part B costs.

Question 2. We understand that one of the options for the Priority 7 Medicare eligible veteran might be for VA to cease providing pharmaceutical services, but continue providing other necessary care. What would be the policy basis for this view, and what would its intended result be in your estimation?

Response: VHA is not currently considering this option. Presumably, the policy basis to support a change in law to allow this would be cost savings and to place these veterans on an equal footing with other Medicare-eligible individuals who are not veterans.

Question 3. Last year, our Health Subcommittee Chairman introduced H.R. 2792, a bill that would have established a pilot program to coordinate benefits involving veterans who are eligible for both VA and Medicare benefits. With that pilot, participating veterans would have received inpatient care under Medicare, with coordination by VA for continuing and follow-up services. VA opposed this idea at that time. Now, considering that VA is nearly overwhelmed with Medicare-eligible veterans, has the VA's view of this proposal changed?

Response: VA still opposes this proposal. The proposal would create a disparate eligibility status based on a veteran's third party coverage and priority group. We remain concerned that the program would undermine our ability to

maintain existing services, especially specialized medical services and programs for veterans. Limiting care to VA general medical and surgical services would mean that veterans needing specialty health services would still need to come to VA for such care, but they would not have access to VA's comprehensive continuum of care, needed for their complex care needs. The health care covered by this proposal would be inpatient care for non-service-connected conditions. A veteran currently receiving care for a service-connected condition, for which VA does not or cannot contract locally, would also be forced to receive care in multiple locations. These types of disparities are not consistent with our goals and strategies of improving access, convenience, and timeliness of VA health care to all eligible veterans.

Question 4. Please give the Committee a general description of the pilot plan that was authorized by a prior Appropriations Acts and implemented in the Viera clinic in Representative Dave Weldon's district? How did that pilot project differ from the proposal made in H.R. 2792?

Response: Please see the Attachment to this set of responses.

Question 5. With all the pressure now on VA, with thousands of veterans waiting for outpatient appointments in Florida, and with nearly 300,000 nationwide who are waiting, according to your own report, have VA's views on this coordination idea changed any in the last year, and if so, what do you support?

Response: We have not changed our view with respect to the coordination idea proposed in H.R. 2792. We do not believe that improvements to coordination of care can be achieved by the approach presented within the bill.

Question 6. If the bill, H.R. 4939, were enacted, and Part B eligible veterans enrolled in VA became more aware that their personal funds were supporting the system they had chosen to deliver their care, do you believe that these veterans might stay with VA and reduce their joint reliance on VA and private providers under Medicare, or would their joint use of both public and private systems continue as under the current system?

Response: H.R. 4939 would require a transfer to VA from Medicare of twelve times the monthly Medicare Part B premium for each veteran enrolled in Medicare Part B who receives any outpatient care from VA. These veterans do not lose eligibility to receive care under Part B from any non-VA private-sector provider. This bill would simply establish a mechanism whereby VA would receive from Medicare limited reimbursement for care provided to Medicare-eligible veterans. We do not believe that H.R. 4939 would provide sufficient incentive for veterans to change their current arrangements for receiving health care, whether from VA or from non-VA providers, which would be based on numerous other factors in addition to third-party reimbursement considerations.

Question 7. The Disabled American Veterans (DAV) has recommended to the Committee that, for Congress to more fully address VA's funding problems, the VA should shift VA health care from a discretionary funding program to a mandatory program. The Ranking Member and I introduced H.R. 5250 on July 26, 2002, that would achieve this goal (bill attached).

Response: Not a question, but rather a lead-in to question 8.

Question 8. What would be the effect of a mandatory funding formula on the VA health care system?

Response: Depending upon its construction and methodology, a mandatory funding formula would provide predictable, but not necessarily adequate, funding for VA health care. The specific formula proposed in H.R. 5250 might have little impact on the VA health care system. We question whether the proposed formula would be considered an appropriation from the Treasury. Section 1301(d) of title 31, United States Code, provides that a law may be construed to make an appropriation out of the Treasury only if the law specifically states that an appropriation is made. Even if it were considered an appropriation, the next appropriation for VA medical care would probably supersede it.

Question 9. DAV testified that Medicare eligible veterans should retain the option under H.R. 4939 to choose VA health care and continue their private sector Medicare coverage as well. What, if any, problems might occur from an open-choice option such as this?

Response: The largest problem that may occur from an open-choice option would be negative outcomes from a lack of coordinated care. If veterans choose to receive some of their care from non-VA providers and the rest from VA providers, the current problems of duplicated care and the provision of unnecessary services may be exacerbated.

Question 10. In order to decrease the likelihood of appropriations offsets for H.R. 4939, DAV suggested that only Priority Group 7 veterans be subjected to any Medicare participation plan with VA. Do you generally agree with this view, and why or why not?

Response: We do not believe that subjecting only priority group 7 veterans to a Medicare participation plan with VA would decrease the likelihood of appropriations offsets for H.R. 4939. Medical care appropriations are available for the care of priority group 7 veterans. So, should Medicare funds become available for their care, we would expect Congress to propose an appropriation offset.

Question 11. The American Legion suggested that VA use the Indian Health Service (IHS) as a model for becoming a Medicare provider. IHS does not receive a transfer of the monthly Part B premium, but instead bills Medicare directly on a case-by-case basis for services rendered, or works within current Medicare managed-care plan. Would the IHS model work better for VA than my proposal under H.R. 4939, and why?

Response: The IHS Medicare reimbursement model would allow for a higher level of reimbursement for covered services, and, for that reason, we believe it is preferable to the system of reimbursement proposed in H.R. 4939.

Question 12. How many veterans enrolled in VA health care are currently Medicare eligible? If these veterans received all of their care from Medicare, what would the cost be to the Medicare program to provide the same level of health care to them?

Response: For FY 2002, VA is projecting approximately 3 million Medicare-eligible veteran enrollees (proxy = age 65 and over). Assuming VA service utilization rates and applying Medicare allowable charges, we estimate VA expenditures of $7 billion for Medicare covered services. By 2012, this group is estimated to increase to 4.35 million enrollees with estimated VA expenditures of $12.7 billion for Medicare covered services. We are unable to estimate costs to Medicare if these veterans were to receive all their health care under Medicare rather than receiving some or all through the VA health care system.

Question 13. Given the aging of the veteran population, within another few years, a likely majority of VA's patients will be eligible for Medicare. As time goes by, do you believe that VA-Medicare coordination will be seen as a more realistic possibility, or do you see VA and CMS maintaining separate programs for the foreseeable future?

Response: The mission of the Veterans Health Administration is to provide high quality, accessible healthcare to eligible veterans. In order to maximize the medical care benefits and services provided to veterans, VA strongly supports coordination of benefits with other federal programs, including Medicare. The reality is, however, that Medicare is not sufficient by itself to meet all veterans' needs. A substantial number of veterans are under 65 years old or have service-connected and special disabilities requiring services not readily available outside VHA. Moreover, VA's pharmacy benefits program has played a crucial role in driving the recent increased demand for access to VA health care. Medicare, of course, has no prescription benefit coverage, and this makes the VA health care system particularly attractive to veterans over age 65. Therefore, there will be a continued need for a separate veterans healthcare system in the foreseeable future. Over time, I believe that opportunities for health care coordination with the Department of Health and Human Services will emerge. To this end, VA has

established the position of Deputy Under Secretary for Health Policy Coordination, who will explore and oversee such opportunities for coordination.

Question 14. Have you consulted with the President's Task Force on Veterans Health Care on Medicare-VA relationships? What was the nature of any consultations?

Response: In informal talks between the co-chairs of the President's Task Force (PTF) and myself, we preliminarily discussed the concept of a Medicare collaboration project along the lines of a capitation program. Under such a program as discussed, VA would receive a fixed rate of reimbursement in return for providing an eligible veteran's health care. This would allow veterans to use their earned Medicare eligibility in receiving care from VA. Payment by Medicare of a fixed, capitated rate would limit liability against the Medicare trust fund. Chapter 4 of the PTF's interim report contains discussion of possible Medicare reimbursement programs.

Question 15. VA has been working on various planning scenarios this year to deal with the burgeoning demands on the system. Can you review for the Committee some of the options VA may be considering in respect to dealing with this growth in demand, including their expected advantages to the system?

Response: VA is currently reviewing several different scenarios as we develop the FY 2004 budget and the FY 2003 VERA allocation methodology. However, all of these scenarios are pre-decisional and it would be premature to release them at this time.

Question 16. The VFW alluded to several primary factors in its testimony that the VHA believes may have undermined the success of DoD's Medicare Subvention pilot program, authorized under the Balanced Budget Act of 1997. VFW proposes that there be no annual cap on Medicare payments to VA; that the level of effort requirement be eliminated; and that VA in effect be treated no differently than any other Medicare health care provider. Should we consider some of these points as we develop future legislation to authorize a Medicare subvention pilot program?

Response:

In their testimony, the VFW mentioned several points that were crucial to a successful Medicare subvention program.

- Subvention must be implemented uniformly nation-wide.
- There must be no annual cap on Medicare payments to VA.
- The Level of Effort (LOE) requirement must be eliminated.
- The CMS capitation or payment formula must be adjusted to accommodate medical services actually provided by VA as opposed to only those currently covered under Medicare.

- Full appropriation support must be maintained with absolutely no reduction in funding as a consequence of subvention funding.

These points, as well as all lessons learned from the DoD Medicare subvention demonstration, must be considered in considering a VA Medicare initiative. There are significant differences between the VA and DoD health care delivery systems and the populations they serve that could mitigate against some of the problems reported by DoD. Therefore, it is not clear that some of the problems DoD encountered would affect VA to the same degree.

Question 17. Beyond the specifics of H.R. 4939 or of other Medicare subvention measures now before Congress, should a relationship between VA and CMS regarding dual eligible veterans be stimulated between these institutions, and why or why not?

Response: Coordination of the federal health care benefits provided by VA, DoD and HHS programs should be aggressively pursued. Coordination of benefits will allow maximal delivery of healthcare services with the minimum federal budget appropriations. Furthermore, coordination of benefits for dual eligible beneficiaries could potentially maximize efficiency and reduce duplication of services, and improve healthcare quality and safety.

Question 18. Title 38, United States Code, Section 111 authorizes some veterans to be reimbursed for travel costs, but the mileage allowance is inadequate at only 11 cents per mile. What are your views on the role of VA's beneficiary travel program as a means of promoting access to VA health care?

Response: The Beneficiary travel program serves as a means to assist in defraying the cost of travel expenses for veterans with special eligibility or those with low incomes when the travel is in conjunction with scheduled appointments. Currently, demand for VA health care is at an all time high. The number of veterans enrolled in the VA health care system currently exceeds the Department's available resources to provide timely access to quality health care. Due to the current demand for VA health care benefits, the Department cannot endorse any proposal that would divert funding away from medical care for veterans. Therefore, utilizing the beneficiary travel program as a means of promoting access to VA health care would create a false impression of system capacity and further compound VA's access problem.

Question 19. Would VA support increased beneficiary travel mileage allowance for service-disabled veterans in rural areas, or for those who are poor?

Response: The current VA beneficiary travel policy provides travel reimbursement benefits for service-disabled veterans and those with low incomes, regardless of geographic residence. The increase in demand for VA health care benefits and subsequent pressures on the medical care appropriation

preclude the Department from endorsing any additional health care benefit expenditures at this time.

Attachment: Response to Question 4

Issue: Question #4 from the subject post hearing questions asks for a general description of the East Central Florida contracting pilot program and for a comparison of that pilot to the one in current legislation.

Discussion: In the VA's 2000 Appropriations Act, Congress directed VA to continue an inpatient hospitalization program (ECF Pilot Program), which had been piloted between June 1998 and September 1998. The pilot program participants consisted of a small group of veterans determined not to have specialty needs who were enrolled and actively receiving their primary care from the VA interim clinic in Palm Bay (Brevard County), Florida. Findings from the pilot program concluded that contracting with the private sector could be cost-effective under appropriate conditions.

On August 1, 2000, the ECF Hospitalization Program, Phase II was initiated. A large multi-specialty outpatient clinic (Viera OPC) was activated in July 1999 to replace the small interim Palm Bay primary care clinic. The Viera OPC activation significantly increased clinic capacity and, therefore, the number of veterans accessing VA outpatient health care services in ECF, as well as those potentially eligible for hospitalization. During the pilot program veterans who were enrolled to receive primary care at the Palm Bay clinic were eligible to receive inpatient services in the community via contract. When Phase II was initiated, veterans enrolled and actively receiving care at the Viera OPC were given options of where they could receive needed hospitalization (as determined by their VA primary care physician) as part of the ECF Hospitalization Program, Phase II.

Veterans seeking care for their service-connected conditions could elect inpatient hospitalization either at a VA hospital or through VA contracts with local non-VA hospitals at VA expense. In addition, veterans with no other form of health coverage (Medicare, Insurance, HMO) were eligible to receive care with VA contract hospitals in the community. Veterans with other inpatient hospitalization options (Medicare, Insurance, HMO) could select care at a VA facility, or could elect to use their other health coverage and self refer to hospitals in the community.

For both the original ECF Pilot and the Phase II Hospitalization Programs, patient demographics, unit costs, patient satisfaction, and program utilization were compared with patients receiving equivalent care at the parent VA facility at Tampa.

Results: Costs to operate the ECF Phase II Hospitalization Program were significantly higher than the costs reported for the ECF Pilot Program. While contracted hospital costs in the ECF Pilot Program were only approximately 85.5 percent of what might have been expended for hospitalization at existing VA facilities, contract costs during the Phase II program were approximately 33

percent higher than the cost of equivalent VA care. A number of factors are believed to have contributed to these differences.

Demographics and the health status between the two eligible populations were significantly different. During the Pilot Program, only primary care patients treated at the interim Palm Bay Clinic were included in the pilot. This likely excluded the more complex patients with multiple diagnoses. With the opening of the Viera multi-specialty clinic, access to a range of specialty care services greatly expanded. This increased the total of number of veterans seeking care in the ECF area as well as the complexity of the patient care base. A 'case mix' comparison was performed to evaluate the complexity/ degree of sickness between those admitted under the Pilot Program and those that were admitted as part of the Phase II Program. The patients admitted during the Pilot Program had a case mix of 1.10. Those admitted during the Phase II Program had a case mix of 1.29, i.e., were more complex. Another very significant difference was age. During the Pilot Program, the average patient admitted was 65 years. In contrast, during the Phase II Program, the age of the veterans admitted to a private sector contract hospital was 57 years of age. This leads us to conclude that the patients that were admitted during the Phase II program, although younger, represented a sicker/ more complex population.

Other factors contributing to the increase in contracted costs in the Phase II program might be attributed to private sector billing practices as well as methods used to determine VA inpatient costs for comparable care. Lessons learned from the ECF Pilot Program (phase I) resulted in an improved cost accounting methodology for the Phase II program. For instance, it was not unusual to receive bills from private sector hospitals six (6) months to one year after the results of the pilot program report had been published. For costing purposes during the ECF Phase II reporting period, we elected to include only the costs of patients that had been admitted through June 2001 and that we felt represented a 'completed' bill. In this way, we hoped to represent a truer cost than during the pilot.

In addition, the methodology used to calculate VA inpatients costs changed between the Pilot program and the Phase II Program. During the pilot program, we had no VA method for comparing VA inpatient costs with private sector costs using Diagnostic Related Grouping (DRG). DRG costs were approximated using a detailed mathematical formula based on Medicare Costs. Between the Pilot Program and the Phase II Program, VA implemented the Decisions Support System (DSS). This enabled us to extract the specific VA costs of treating patients by DRG category.

SUMMARY OF KEY FINDINGS: Results of the ECF Phase II Program did not support the premise that contracting with hospitals in the private sector was more cost-effective than admitting the veteran to an available VA facility. While the ECF Pilot Program experienced private sector costs that were 85.5 percent of VA

costs, the cost of an inpatient admission during the ECF Phase II Program was approximately 33 percent higher than admission to an existing VA facility. While this conclusion is inconsistent with previous findings of the ECF Pilot Program, we believe there are specific instances where contracting for private sector care would be a more cost-effective alternative. For example, this would be the case when the capital investment costs to renovate existing facilities or to build new facilities are factored into the equation. VHA has been cited by GAO studies and others for expending millions of dollars maintaining old, under-used facilities that do not meet basic life safety requirements. In making decisions about whether to continue to maintain these facilities and invest the capital required to bring them up to current standards, the cost-effectiveness of contracting should be thoroughly analyzed especially in light of an overall declining veteran population. The cost of contracting out the inpatient portion of care may well be more cost-effective in instances when VA construction or a major renovation is required to accommodate inpatient care.

NEXT STEPS: Effective December 1, 2001, modifications were made to the inpatient hospitalization program, ECF Phase III due to budget constraints. Changes will help offset the increasing total costs of operating the program. Contracts were awarded to one medical/surgical provider and one mental health care provider in Brevard County for non-emergent inpatient care only. Veterans without alternate health care coverage (i.e., Medicare, Insurance, HMO) will be referred by primary care providers at the Viera OPC to these facilities for non-emergent hospitalization. Emergency admissions for service connected conditions will be covered by the existing fee basis program, or through emergency care provisions as outlined in the Millennium Bill for veterans with no other form of health care. Although the Phase III Program was only recently initiated, we believe the number of veterans using this program will be significantly reduced and, therefore, the total cost of operating the program will be manageable.

Comparison of the ECF Pilot to H.R. 2792.

Comparisons with the ECF pilot are noted in bold.

SEC. 5. PILOT PROGRAM FOR COORDINATION OF AMBULATORY COMMUNITY HOSPITAL CARE.

(a) IN GENERAL- Chapter 17 of title 38, United States Code, is amended by inserting after section 1725 the following new section:

`Sec. 1725A. Coordination of hospital benefits: pilot program

`(a) PILOT PROGRAM- Subject to the availability of funds specified in subsection (g), the Secretary shall carry out a pilot program in not more than four geographic areas of the United States to improve access to, and coordination of, inpatient care of eligible veterans. Under the pilot program, the Secretary, subject to subsection (b), shall pay certain costs described in subsection (b) for which an eligible veteran would otherwise be personally liable. The authority to carry out the pilot program shall expire on September 30, 2006.

`(b) PAYMENT OF COSTS- In carrying out the program described in subsection (a), the Secretary may pay the costs authorized under this section for hospital care and medical services furnished on an inpatient basis in a non-Department hospital to an eligible veteran participating in the program. Such payment may cover the costs for applicable plan deductibles and coinsurance and the reasonable costs of such inpatient care and medical services not covered by any applicable health-care plan of the veteran, but only to the extent such care and services are of the kind authorized under this chapter.

East Central Florida Hospitalization Program (ECF) pays cost of care for eligible patients at contract facilities. Contract is based on discounted Medicare rate. VA does not pay any patient co-payments or deductibles. Non service connected and service connected veterans treated for non-service connected conditions who have health plans (i.e. HMO , Medicare and/or private insurance) are not eligible under the program.

***Eligible patients*: those veterans enrolled and receiving care at the Brevard/Viera OPC during the past 24 months who**

- **are not covered by a health care plan and need admission for a *non*-emergent condition or**
- **service -connected veterans being treated for a *non*-emergent service connected conditions**

The Secretary shall limit the care and services for which payment may be made under the program to general medical and surgical services and shall require that such services may be provided only upon preauthorization by the Secretary.

ECF covers medical, surgical and psychiatric *non-emergent* admissions. Emergent admissions are covered under provisions of Millenium Bill or fee basis authority

`(c) ELIGIBLE VETERANS- (1) A veteran described in paragraph (1) or (2) of section 1710(a) of this title is eligible to participate in the pilot program if the veteran--

`(A) is enrolled to receive medical services from an outpatient clinic operated by the Secretary which is (i) within reasonable proximity to the principal residence of the veteran, and (ii) located within the geographic area in which the Secretary is carrying out the program described in subsection (a);

`(B) has received care under this chapter within the 24-month period preceding the veteran's application for enrollment in the pilot program;

ECF same

`(C) as determined by the Secretary before the hospitalization of the veteran (i) requires such hospital care and services for a non-service-connected condition, and (ii) could not receive such services from a clinic operated by the Secretary; and

`(D) elects to receive such care under a health-care plan (other than under this title) under which the veteran is entitled to receive such care.

`(2) Nothing in this section shall be construed to reduce the authority of the Secretary to contract with non-Department facilities for care of a service-connected disability of a veteran.

ECF –Service Connected veterans are included in ECF program and can elect hospitalization at either a VA hospital or contract non-VA facility for a *non*-emergent service connected condition

`(3) Notwithstanding subparagraph (D) of paragraph (1), the Secretary shall ensure that not less than 15 percent of the veterans participating in the program are veterans who do not have a health-care plan.

ECF- approximately 80 % of veterans currently participating in program have no health plan.

`(d) CASE MANAGEMENT- As part of the program under this section, the Secretary shall, through provision of case-management, coordinate the care being furnished directly by the Secretary and care furnished under the program in non-Department hospitals to veterans participating in the program.

ECF – has a full time RN who case manages every patient approved for hospitalization at a contract non-VA facility

`(e) DESIGNATION OF PARTICIPATING SITES- (1) In designating geographic areas in which to establish the program under subsection (a), the Secretary shall ensure that--

`(A) the areas designated are geographically dispersed;

`(B) at least 70 percent of the veterans who reside in a designated area reside at least two hours driving distance from the closest

medical center operated by the Secretary which provides medical and surgical hospital care; and

ECF – Brevard/Viera Clinic is located 115 miles (2.25 hours) from West Palm Beach VA, 131 miles (2.5 hours) from Tampa VA and 169 miles (3 hours) from Gainesville VA. At least 70% of current patients reside 2 or more hours from a VA inpatient facility

`(C) the establishment of the program in any such area would not result in jeopardizing the critical mass of patients needed to maintain a Department medical center that serves that area.

`(2) Notwithstanding paragraph (1)(B), the Secretary may designate for participation in the program at least one area which is in proximity to a Department medical center which, as a result of a change in mission of that center, does not provide hospital care.

`(f) REPORTS- (1) Not later than September 30, 2003, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience in implementing the pilot program under subsection (a).

`(2) Not later than September 30, 2005, the Secretary shall submit to those committees a report on the experience in operating the pilot program during the first two full fiscal years during which the pilot program is conducted. That report shall include--

`(A) a comparison of the costs incurred by the Secretary under the program and the cost experience for the calendar year preceding establishment of the program at each site at which the program is operated;

The methodology for this should be determined well before the pilot programs begin. This process is much more complex than it may seem. <u>ECF</u> admissions for FY 2001 reflected inpatient costs at contract facilities to be approximately 33% higher than at a VA facility.

`(B) an assessment of the satisfaction of the participants in the program; and

<u>ECF</u>-92% of participants rate overall satisfaction with ECF program as good or excellent .

`(C) an analysis of the effect of the program on access and quality of care for veterans.

`(g) FUNDING LIMITATIONS- (1) The total amount expended for the pilot program in any fiscal year (including amounts for administrative costs) may not exceed $50,000,000.

`(2) Any expenditure of funds for the pilot program shall be made from amounts in the Medical Care Collections Fund attributable to collections under section 1729 of this title. No funds may be expended to support the purposes of this section from any other funds available to the Secretary for the delivery of health care services to veterans, including funds appropriated or

otherwise available for the care and treatment of veterans who require specialized care and resources.

`(h) HEALTH-CARE PLAN DEFINED- For purposes of this section, the term `health-care plan' has the meaning given that term in section 1725(f)(3) of this title.'.

(b) CLERICAL AMENDMENT- The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1725 the following new item:

`1725A. Coordination of hospital benefits: pilot program.'.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Katharine Balls/WHO/EOP@EOP [WHO] <Katharine Balls>;Blake Gottesman/WHO /EOP@EOP [WHO] <Blake Gottesman>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/4/2002 3:25:56 AM
Subject: : Re: Political Trips -- To thank or not to thank...

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 4-OCT-2002 07:25:56.00
SUBJECT:: Re: Political Trips -- To thank or not to thank...
TO:Katharine Balls (CN=Katharine Balls/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I can get that to you all before monday. Thanks.

.

----- Original Message -----
From:Blake Gottesman/WHO/EOP
To:Katharine Balls/WHO/EOP@EOP
Cc:Brett M. Kavanaugh/WHO/EOP@EOP
Date: 10/04/2002 07:00:58 AM
Subject: Re: Political Trips -- To thank or not to thank...

i think it's important that we get an official memo from counsel's ofc w/ guidelines, specific to event-related thank you's. these questions are going to keep coming up - and i don't want to have to bother brett each time. (i know you don't either.)

would this work for you?

KATHARINE BALLS
09/30/2002 03:11:42 PM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc:
Subject: Political Trips -- To thank or not to thank...

do you know? do you want me to call brett? i'm holding off on houston, denver, and phoenix stuff b/c of this question...
i'll send flagstaff shortly.

---------- Forwarded by Katharine Balls/WHO/EOP on 09/30/2002 03:13 PM ----------

KATHARINE BALLS
09/27/2002 10:49:07 AM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP

cc:
Subject: Political Trips -- To thank or not to thank...

Hey -- So if the trip is entirely political, are any of the notes ok on official stationery or do all need to be generated on political stationery?
IE: yesterday's visit to Houston -- can we do the FreedomCorps greeter on official stationery? What about the Airport Greeters and motorcade drivers? The event greeters clearly need political stationery IF they receive notes, but generally the motorcade drivers are ok on official stationery b/c they're driving for the entire visit...

I can call Brett Kavanaugh, but thought I'd check with you first. Pls advise.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Dinh, Viet <Viet.Dinh@usdoj.gov>
Sent: 10/4/2002 4:46:49 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 4-OCT-2002 08:46:49.00
SUBJECT::
TO:"Dinh, Viet" <Viet.Dinh@usdoj.gov> ( "Dinh, Viet" <Viet.Dinh@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Is the AG giving that speech on judges? Draft available?
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Collister W. Johnson/WHO/EOP@EOP [WHO] <Collister W. Johnson>
Sent: 10/4/2002 5:00:26 AM
Subject: : Re: Fw: Lit Pieces
Attachments: P_OVVNA003_WHO.TXT_1.pdf; P_OVVNA003_WHO.TXT_2.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 4-OCT-2002 09:00:26.00
SUBJECT:: Re: Fw: Lit Pieces
TO:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

ok on both.

Collister W. Johnson
10/02/2002 01:36:04 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Fw: Lit Pieces

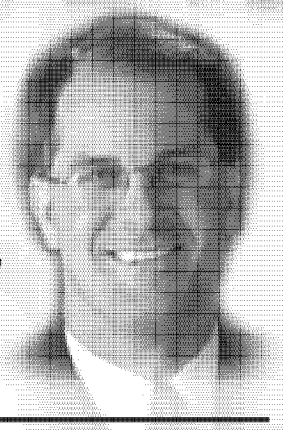
another 2 please - thanks sir!
c

- kline push card II.pdf
- gen elect lit drop.pdf

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_OVVNA003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_OVVNA003_WHO.TXT_2>





Standing Up
For Justice. . .
Standing Up
For You!!!

Phill

KLINE

ATTORNEY GENERAL

I am running for Attorney General because I believe that justice is standing up for what is right and true.

Justice must not be defined by those who write the largest checks, make the most noise, or wield the most political power. Justice should defend the helpless, the weak, and the vulnerable.

We must ensure that justice is available to all Kansans. We must fight for victims, respect and support law enforcement, keep violent criminals behind bars, and strengthen the security of our homes, neighborhoods, schools, and state.

Phill Kline

Post Office Box 3009 • Shawnee, KS 66203 • (913) 631-4650
www.KlineForAG.com • volunteer@KlineForAG.com

A leader in the **fight against crime.**
A husband and father.
A respected **Republican** lawmaker.
*An **experienced** attorney.*



"America is the land of opportunity because hard working people made it so. Prosperity with a purpose can happen with good men like Phill Kline serving in government."

President George W. Bush

As a state legislator. . .

- Wrote legislation to expand the death penalty.
- Author of six new victim's rights laws.
- Led the fight to double sentences and keep criminals behind bars.

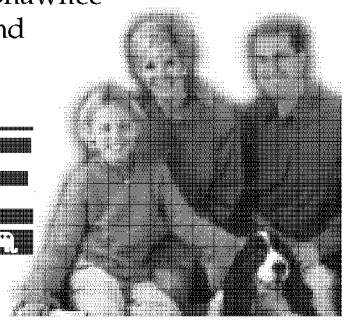


As an attorney. . .

- Represented the state of California in its prison expansion projects.
- Defended corrections officials from frivolous inmate lawsuits.

Phill Kline is a fifth generation Kansan who was born in Kansas City, Kansas and elected to represent Shawnee in the Kansas House in 1992.

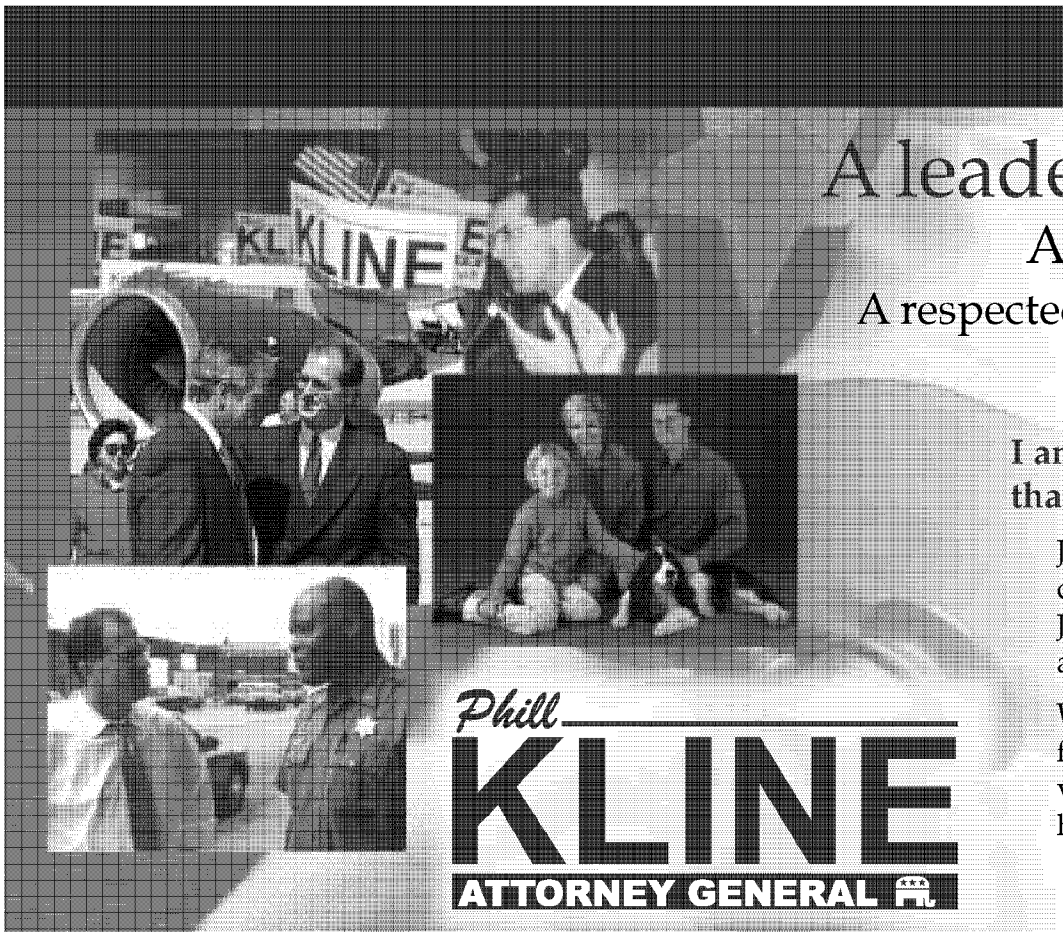
- Phill earned his law degree from the University of Kansas.
- Served as associate editor of the Kansas Law Review and an editor of the Kansas Criminal Justice Review.
- An attorney in solo practice, Phill is also a small business owner.
- Phill Kline resides in Shawnee with his wife Deborah and daughter Hillary.



Phill KLINE
ATTORNEY GENERAL

Paid for by Kline for Attorney General,
Bob Thomas, Treasurer.

REV_00152034



A leader in the **fight against crime.**

A husband and father.

A respected **Republican** lawmaker.

*An **experienced** attorney.*

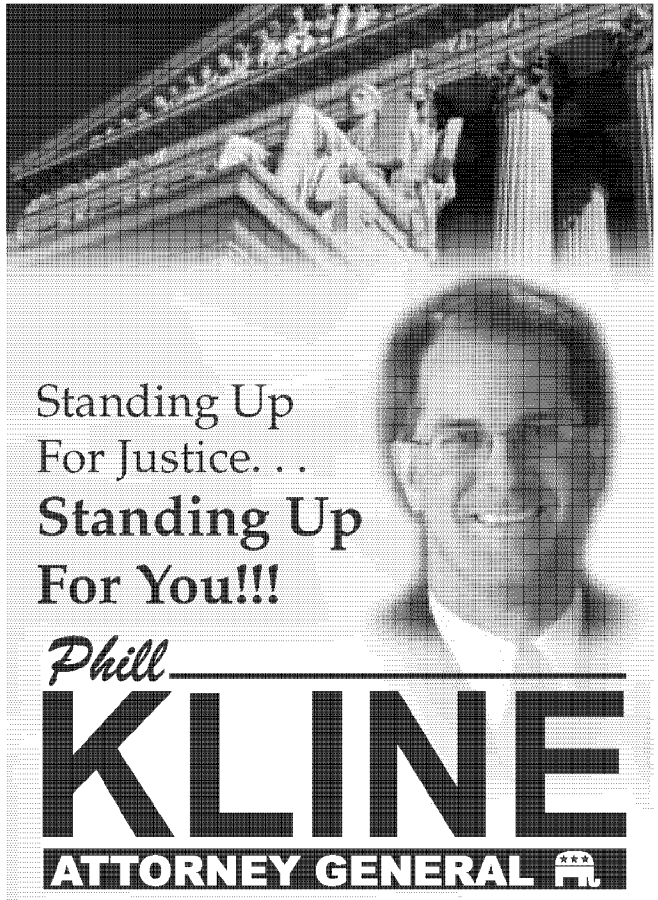
I am running for Attorney General because I believe that justice is standing up for what is right and true.

Justice must not be defined by those who write the largest checks, make the most noise, or wield the most political power. Justice should defend the helpless, the weak, and the vulnerable.

We must ensure that justice is available to all Kansans. We must fight for victims, respect and support law enforcement, keep violent criminals behind bars, and strengthen the security of our homes, neighborhoods, schools, and state.

Phill Kline

REV_00152035



"America is the land of opportunity because hard working people made it so. Prosperity with a purpose can happen with good men like Phill Kline serving in government."

President George W. Bush

Endorsed by:

Senator Sam Brownback
Congressman Jim Ryun
Senator Pat Roberts
Congressman Jerry Moran

As a state legislator. . .

- Wrote legislation to expand the death penalty.
- Author of six new victim's rights laws.
- Led the fight to double sentences and keep criminals behind bars.
- Named ***"Legislator of the Year"*** by advocates for developmentally disabled children.
- Was recognized as a ***"Hero of the Taxpayer"*** by the Kansas Taxpayer's Network.

As an attorney. . .

- Represented the state of California in its prison expansion projects.
- Defended corrections officials from frivolous inmate lawsuits.

Phill Kline is a fifth generation Kansan who was born in Kansas City, Kansas and elected to represent Shawnee in the Kansas House in 1992.

- Phill earned his law degree from theUniversity of Kansas.
- Served as associate editor of the Kansas Law Review and an editor of the Kansas Criminal Justice Review.
- Phill worked for eight years as a litigator with the Overland Park firm of Blackwell Sanders an is now in solo practice and a small business owner.
- Phill Kline resides in Shawnee with his wife Deborah and daughter Hillary.

Post Office Box 3009 • Shawnee, KS 66203 • www.KlineForAG.com • volunteer@KlineForAG.com • (913) 631-4650 • Paid for by Kline for Attorney General, Bob Thomas, Treasurer.

REV_00152036

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/4/2002 5:20:28 AM
Subject: : Re: Re Approval of Use of the President's Signature on Crime Victims Award Plaques

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 4-OCT-2002 09:20:28.00
SUBJECT:: Re: Re Approval of Use of the President's Signature on Crime Victims Award Plaques
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett,

I have the letter from John Gillis from DOJ requesting that a memo of approval for use of POTUS' signature. Let me know if you want it.

Brett M. Kavanaugh
10/03/2002 11:57:49 AM
Record Type: Record

To: Noel J. Francisco/WHO/EOP@EOP
cc: patrick j. bumatay/who/eop@eop, brett m. kavanaugh/who/eop@eop, hana f. brilliant/who/eop@eop
bcc:
Subject: Re: Re Approval of Use of the President's Signature on Crime Victims Award Plaques

I did this and approved it and have a record. It was related to Victims Rights Amendment event as I recall.

Noel J. Francisco
10/03/2002 11:52:20 AM
Record Type: Record

To: Patrick J. Bumatay/WHO/EOP@EOP
cc: brett m. kavanaugh/who/eop@eop, hana f. brilliant/who/eop@eop
bcc:
Subject: Re: Re Approval of Use of the President's Signature on Crime Victims Award Plaques

I do not recall seeing this. Hana?

Patrick J. Bumatay
10/03/2002 11:50:13 AM
Record Type: Record

To: Noel J. Francisco/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc: Hana F. Brilliant/WHO/EOP@EOP

Subject: Re Approval of Use of the President's Signature on Crime Victims Award Plaques

Did this come to either of you?
---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/03/2002 11:50 AM ----------

G. Timothy Saunders

10/03/2002 11:41:26 AM

Record Type: Record

To: Patrick J. Bumatay/WHO/EOP@EOP
cc: Brett M. Kavanaugh/WHO/EOP@EOP, Carolyn E. Cleveland/WHO/EOP@EOP, David E. Kalbaugh/WHO/EOP@EOP, Harriet Miers/WHO/EOP@EOP
Subject: Re Approval of Use of the President's Signature on Crime Victims Award Plaques

Patrick,

do you all have record of Counsel providing approval for a request to use the President's signature on Award plaques for nominees for Crime Victims Awards. The program is run by Justice and they have contracted w/ "Trophy Mart" to prepare the plaques.

We now have received copy of correspondence dated 9/13/2002, from the Office of Victims of Crime at Justice to Secretary Card again requesting authorization -- let us know if you need copies of this correspondence.

many thanks for any help you can provide,
TIM/CLERK

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Taylor, Paul <Paul.Taylor@mail.house.gov>
Sent: 10/4/2002 10:00:21 AM
Subject: : RE: Terrorism Insurance Press Release

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 4-OCT-2002 14:00:21.00
SUBJECT:: RE: Terrorism Insurance Press Release
TO:"Taylor, Paul" <Paul.Taylor@mail.house.gov> ("Taylor, Paul"
<Paul.Taylor@mail.house.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

I will have some in a munute. Thanks.

"Taylor, Paul" <Paul.Taylor@mail.house.gov>
10/04/2002 01:51:10 PM
Record Type: Record

To: "'Rebecca_Seidel@judiciary.senate.gov'"
<Rebecca_Seidel@judiciary.senate.gov>, Brett M. Kavanaugh/WHO/EOP@EOP,
"'Wayne_Abernathy@banking.senate.gov'"
<Wayne_Abernathy@banking.senate.gov>, "Pinkos, Steve"
<Steve.Pinkos@mail.house.gov>
cc:
Subject: RE: Terrorism Insurance Press Release

If anyone has any suggested changes to the draft press release, could you
please relay them to both myself and Steve Pinkos, preferably via e-mail?
Thanks much.

-----Original Message-----
From: Taylor, Paul
Sent: Friday, October 04, 2002 1:20 PM
To: 'Rebecca_Seidel@judiciary.senate.gov';
'Brett_M._Kavanaugh@who.eop.gov'; 'Wayne_Abernathy@banking.senate.gov';
Pinkos, Steve
Subject: Terrorism Insurance Press Release

In the interests of time, attached please find a draft for discussion. One
issue it does not address is the issue of Department of the Treasury
involvement in settlement approval. I'm less familiar with that aspect, so
at this point I will leave it to other to add material in that regard.
(I've flagged that issued in brackets in the file attached here.)

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]
To: Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>
CC: brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>
Sent: 10/4/2002 10:37:18 AM
Subject: : Re: Fed'l Retirement Thrift Investment bd.

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 4-OCT-2002 14:37:18.00
SUBJECT:: Re: Fed'l Retirement Thrift Investment bd.
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

Brad Berenson handles this.

Heather Wingate
10/04/2002 02:34:08 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Elizabeth N. Camp/WHO/EOP@EOP
cc:
Subject: Fed'l Retirement Thrift Investment bd.

hey, Brett/Libby, do you know who in Counsel's office might deal w/issues at the Fed'l Retirement Thrift Investment Bd?
---------- Forwarded by Heather Wingate/WHO/EOP on 10/04/2002 02:33 PM ----------

Heather Wingate
10/04/2002 02:01:45 PM
Record Type: Record

To: Rebecca Contreras/WHO/EOP@EOP
cc:
Subject: Fed'l Retirement Thrift Investment bd.

Hi, Rebecca. I spoke w/Andrew Saul today. I also have a call into Sanchez. I need your guidance on something: It appears that at least Saul and Whiting don't know how to answer their policy questions that the Committee has sent to them. Saul told me that PPO told him not to talk to anyone at the Board b/c there's some litigation going on or something. The bottom line is that this guy needs to talk with someone who knows something about the board and the issues it deals with. These are policy questions that we are not equipped here in Leg affairs to give him guidance on. So, should we connect him with someone in WH Counsel's office or is there a political appointee person at the Thrift Bd that we could connect him with?

Please let me know. Thanks!

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Elizabeth N. Camp/WHO /EOP@EOP [WHO] <Elizabeth N. Camp>
Sent: 10/4/2002 8:33:29 AM
Subject: : Re: FYI re: Red Mass

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 4-OCT-2002 12:33:29.00
SUBJECT:: Re: FYI re: Red Mass
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Yes.

.

----- Original Message -----
From:Elizabeth N. Camp/WHO/EOP
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 10/04/2002 11:55:12 AM
Subject: Re: FYI re: Red Mass

FYI. Shall I tell the Judge that you are attending so our office is represented?

---------- Forwarded by Elizabeth N. Camp/WHO/EOP on 10/04/2002 11:52 AM ----------

Matthew E. Smith

10/04/2002 11:51:00 AM

Record Type: Record

To: Elizabeth N. Camp/WHO/EOP@EOP
cc:
bcc:
Subject: Re: FYI re: Red Mass

Totally understand the need for the family time and would never ask him to make additional sacrifices.

Brett and I will show the colors.

Elizabeth N. Camp
10/04/2002 11:52:09 AM
Record Type: Record

To: Matthew E. Smith/WHO/EOP@EOP
cc:
bcc:
Subject: Re: FYI re: Red Mass

Everything is fine - they probably just don't want to have to drag their kids out of bed and into town at 8:30 am on a Sunday morning. Family time is hard to come by so weekends are precious.

Is his not attending a problem? We could ask one of the lawyers to attend if we need to. Brett and Noel are both Catholic I think.

Matthew E. Smith

10/04/2002 11:47:13 AM

Record Type: Record

To: Elizabeth N. Camp/WHO/EOP@EOP
cc:
bcc:
Subject: Re: FYI re: Red Mass

Is everything ok?

Elizabeth N. Camp
10/04/2002 11:35:06 AM
Record Type: Record

To: Matthew E. Smith/WHO/EOP@EOP
cc: Abel Guerra/WHO/EOP@EOP
Subject: FYI re: Red Mass

I called to let the organizers know that ARG and his family will not be attending the Red Mass on Sunday morning afterall.

Thanks!

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kirk Blalock/WHO/EOP@EOP [WHO] <Kirk Blalock>;kevin warsh/opd/eop@eop [OPD] <kevin warsh>;matthew kirk/who/eop@eop [WHO] <matthew kirk>;claire e. buchan/who/eop@eop [WHO] <claire e. buchan>;keith hennessey/opd/eop@eop [OPD] <keith hennessey>;kristen silverberg/who/eop@eop [WHO] <kristen silverberg>
Sent: 10/4/2002 1:43:47 PM
Subject: : AP Story on Terrorism Insurance Negotiations

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 4-OCT-2002 17:43:47.00
SUBJECT:: AP Story on Terrorism Insurance Negotiations
TO:Kirk Blalock ( CN=Kirk Blalock/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:kevin warsh ( CN=kevin warsh/OU=opd/O=eop@eop [ OPD ] )
READ:UNKNOWN
TO:matthew kirk ( CN=matthew kirk/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
TO:claire e. buchan ( CN=claire e. buchan/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
TO:keith hennessey ( CN=keith hennessey/OU=opd/O=eop@eop [ OPD ] )
READ:UNKNOWN
TO:kristen silverberg ( CN=kristen silverberg/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Lawmakers say there's still hope on getting terrorism insurance

despite impasse

By JESSE J. HOLLAND=
Associated Press Writer=
WASHINGTON (AP) _ Lawmakers are not giving up hope that Congress
can pass a terrorism insurance bill this year despite a four-month
impasse over whether the government should pay for punitive damages
in the lawsuits that follow terrorist attacks.
``It's not over,'' said Sen. Christopher Dodd, D-Conn., one day
after President Bush urged the Senate again to pass the legislation
before going home for the year.
Bush several times has criticized Congress for failing to enact
the bill lawmakers say will help stimulate the economy. But
Thursday marked the second day this week that the White House
organized an event dedicated solely to the issue. On Tuesday, Bush
met with deadlocked House-Senate negotiators and issued a Friday
deadline for agreement.
The president and the GOP say as much as $15 billion in
construction and real estate transactions and 300,000 jobs are on
hold because Congress has not passed a bill.
In addition, the downgrading of bond ratings of commercial
mortgage-backed securities due to insufficient coverage for
terrorist attacks can cause an overall drop in bond prices that
harm investors.
Dodd said lawmakers were meeting Friday trying to get something
done. ``I've already had meetings this morning,'' he said. ``I
don't quit until we quit.''
Dodd refused to discuss the negotiations. White House spokesman
Ari Fleischer said the parties are close but there is no deal yet.
``I do think there is a glimmer of hope on terrorism insurance,
to a large degree because the president will not give up on this,''
```

Senate Minority Leader Trent Lott, R-Miss., said. ``He has continued to push the Congress. Since they wouldn't meet on their own, the president brought down the conferees to meet with him. And so maybe there is some hope there.''

The GOP-controlled House and the Democrat-controlled Senate have passed different versions of legislation, which would protect the insurance industry from calamitous losses in the event of another terrorist attack by requiring the government to pick up some of the losses.

After Sept. 11, many insurers limited or dropped coverage for casualty and property losses due to terrorism because insurance companies faced record payouts. But with most lenders requiring insurance to finance real estate, plant expansion and other construction projects, industry representatives have warned of damage to the economy.

The search for a compromise is hung up primarily over the Senate's opposition to a House provision that would ban punitive damage awards in civil lawsuits.

The Senate-passed version of the bill, which passed in June, does not shield companies from punitive damages. The House passed legislation last November that limits lawsuits and bans punitive damages.

Republicans in Congress accused Democrats of trying to protect trial lawyers, while Democrats charged Republicans were looking out for businesses that are major GOP donors.

Dodd and Sen. Charles Schumer of New York said they gave the White House a proposal on Wednesday that would make punitive damage awards difficult to win and impossible against governments and insurers.

Republicans said Friday it wasn't enough.

``I hope we can all agree that it is outrageous, unwise, and unfair to hold American businesses financially responsible for damages caused by terrorists,'' said House Judiciary Chairman James Sensenbrenner, R-Wis., in a joint statement with Sen. Phil Gramm, R-Texas.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
Sent: 10/4/2002 10:17:38 AM
Subject: : Re: Terrorism Insurance Press Release
Attachments: P_0AEOA003_WHO.TXT_1.wpd

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 4-OCT-2002 14:17:38.00
SUBJECT:: Re: Terrorism Insurance Press Release
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

We hope and believe that the offer made yesterday by Senator Dodd and Senator Schumer on the liability provisions of terrorism insurance legislation will bring us closer to an agreement on this important issue and help us quickly pass legislation that will solve the problem of potentially unlimited liability exposure and unmanageable risks in the context of terrorist attacks. American businesses cannot make reasonable decisions to move forward on new projects that will create jobs when the risks ahead B including the liability risks B are unknown and potentially infinite. The interests of a single interest group, including trial lawyers, should never trump the well-being of all Americans, including American victims of terrorism.

With respect to the issue of punitive damages, the proposal of Senator Dodd and Senator Schumer draws on standards for the award of punitive damages against teachers in H.R. 1, the No Child Left Behind Act. However, the Senators, proposal fails to incorporate the related and important provision of H.R. 1 on non-economic damages, which provides that defendants will pay only their fair share of non-economic damages and will not be jointly and severally liable for such damages. The Senate, in agreeing to H.R. 1, agreed that any noneconomic damages such as pain and suffering should be allocated against a teacher only in proportion to the teacher=s percentage of fault. This provision in H.R. 1 mirrors the House-passed terrorism risk insurance bill,s provision for noneconomic damages. That commonsense provision would ensure that American businesses who are victims of terrorist attacks pay no more than their fair share of liability for non-economic damages. In short, if H.R. 1 is to be the model here, as the two Senators have suggested, it is an appropriate model for both the punitive damages and non-economic damages issues. We also believe that any settlement of cases under the program should be subject to approval by the Secretary of Treasury so as to place a reasonable check on settlement costs borne by the taxpayers.

The Senators= proposal does not include other provisions the House of Representatives passed as part of its terrorism risk insurance legislation, including a limit on attorneys fees and a deduction of collateral source payments.

Senator Dodd and Senator Schumer have acknowledged that we must work to make sure that Americans and American businesses do not become victims of terrorists twice: first during the initial wave of death and destruction caused by terrorists, and second by legal aftershocks caused by the threat of unquantifiable, unpredictable, and potentially infinite damage claims for damage caused by terrorists. For that reason, Democratic Senator conferees, in the recent past, supported a complete ban on punitive damages in lawsuits caused by terrorists. Further, in the Air Transportation Safety and System Stabilization Act, the Senate agreed on a bipartisan basis to temporarily ban punitive damages against air carriers in cases arising out of terrorism events so as to stabilize the aviation industry.

We look forward to continuing to work with the Senate and hope to pass legislation that will solve the problem of potentially unlimited exposure and unmanageable risks in the context of terrorist attacks.

Kristen Silverberg
10/04/2002 02:06:53 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Terrorism Insurance Press Release

will you send your revisions when you have them?

Brett M. Kavanaugh
10/04/2002 01:36:28 PM
Record Type: Record

To: Kristen Silverberg/WHO/EOP@EOP, Matthew Kirk/WHO/EOP@EOP
cc:
Subject: Terrorism Insurance Press Release

I am making edits to this.

We are hopeful that the offer made yesterday by Senator Schumer and Senator Dodd will get us closer to solving the many problems the terrorism risk insurance legislation seeks to address: namely the problem of potentially unlimited liability exposure and unmanageable risks in the context of terrorist attacks. Both American businesses and the federal government, with taxpayer funds, cannot make reasonable decisions to move forward when the risks ahead B including the liability risks B are unknown and potentially infinite. No single interest group, including trial lawyers, should trump the well-being of all Americans, including American victims of terrorism.

However, Senators Schumer and Senator Dodd=s proposal B which draws on the model of standards for the award of punitive damages against teachers in H.R. 1, the No Child Left Behind Act B fails to incorporate the other essential provisions of H.R. 1, including its joint and several liability reforms. Indeed, the House-passed terrorism risk insurance bill apportions inherently unquantifiable awards for noneconomic damages in direct proportion to fault. This allows American businesses who are victims of terrorist attacks to rely, at the very least, on their own innocence to protect them from liability. It also avoids a race to the bottom of the deepest pockets B including those of the American taxpayer B regardless of fault. The Senate, in agreeing to subpart 5 of the Conference Report for H.R. 1 has already agreed that any noneconomic damages such as pain and suffering should be allocated against a teacher only in proportion to the teacher=s percentage of fault. The same protections should apply to victims of terrorist attacks.

The Senators= proposal also fails to address the many other provisions the House of Representatives passed as part of its terrorism risk insurance legislation. These include reasonable limits on attorneys fees, which is simply a continuation of long-standing federal policy behind the Federal Tort Claims Act: namely, that lawyers should not profit excessively when they are paid by the American taxpayer, and lawyers

should get less and victims should get more when taxpayer funds are used. Especially today, in a time of war, excessive lawyer fees drawn from the U.S. Treasury could result in egregious war profiteering at the expense of American jobs and businesses. The House-passed bill also provides that in a lawsuit caused by a terrorist attack, any recovery must be reduced by the amount of collateral source compensation, if any, that the plaintiff has received or is entitled to receive as a result of acts of terrorism. That provision is designed to make sure as much of our Nation=s limited resources as possible go to those who are most in need. [ADD PIECE ABOUT NEED FOR DEPT. OF TREASURY INVOLVEMENT IN SETTLEMENT APPROVAL.]

We are hopeful now that Senator Schumer and Senator Dodd have acknowledged that we must work to make sure that Americans and American businesses do not become victims of terrorists twice: first during the initial wave of death and destruction caused by terrorists, and second by legal aftershocks caused by the triple threat of unquantifiable, unpredictable, and potentially infinite damage claims B brought by trial lawyers against readily available American targets B that related to damages caused by terrorists. Democratic Senator conferees, in the recent past, have supported a complete ban on punitive damages in lawsuits caused by terrorists. Further, in the Air Transportation Safety and System Stabilization Act, the Senate agreed on a bipartisan basis to ban punitive damages against air carriers and the federal government under causes of action arising out of future acts of terrorism in situations precisely analogous to those presented here, namely legislation involving a federal indemnification component.

With all these concerns in mind, we look forward to continuing to work with the Senate toward solutions to the many and varied threats terrorists pose to our Nation, its citizens, and its economy

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 10/04/2002 01:40 PM ----------

"Taylor, Paul" <Paul.Taylor@mail.house.gov>
10/04/2002 01:19:50 PM
Record Type: Record

To: "'Rebecca_Seidel@judiciary.senate.gov'" <Rebecca_Seidel@judiciary.senate.gov>, Brett M. Kavanaugh/WHO/EOP@EOP, "'Wayne_Abernathy@banking.senate.gov'" <Wayne_Abernathy@banking.senate.gov>, "Pinkos, Steve" <Steve.Pinkos@mail.house.gov>
cc:
Subject: Terrorism Insurance Press Release

In the interests of time, attached please find a draft for discussion. One issue it does not address is the issue of Department of the Treasury involvement in settlement approval. I'm less familiar with that aspect, so at this point I will leave it to other to add material in that regard. (I've flagged that issued in brackets in the file attached here.)

- Press Release on Terrorism Insurance.wpd

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_0AEOA003_WHO.TXT_1>

We are hopeful that the offer made yesterday by Senator Schumer and Senator Dodd will get us closer to solving the many problems the terrorism risk insurance legislation seeks to address: namely the problem of potentially unlimited liability exposure and unmanageable risks in the context of terrorist attacks. Both American businesses and the federal government, with taxpayer funds, cannot make reasonable decisions to move forward when the risks ahead – including the liability risks – are unknown and potentially infinite. No single interest group, including trial lawyers, should trump the well-being of all Americans, including American victims of terrorism.

However, Senators Schumer and Senator Dodd's proposal – which draws on the model of standards for the award of punitive damages against teachers in H.R. 1, the No Child Left Behind Act – fails to incorporate the other essential provisions of H.R. 1, including its joint and several liability reforms. Indeed, the House-passed terrorism risk insurance bill apportions inherently unquantifiable awards for noneconomic damages in direct proportion to fault. This allows American businesses who are victims of terrorist attacks to rely, at the very least, on their own innocence to protect them from liability. It also avoids a race to the bottom of the deepest pockets – including those of the American taxpayer – regardless of fault. The Senate, in agreeing to subpart 5 of the Conference Report for H.R. 1 has already agreed that any noneconomic damages such as pain and suffering should be allocated against a teacher only in proportion to the teacher's percentage of fault. The same protections should apply to victims of terrorist attacks.

The Senators' proposal also fails to address the many other provisions the House of Representatives passed as part of its terrorism risk insurance legislation. These include reasonable limits on attorneys fees, which is simply a continuation of long-standing federal policy behind the Federal Tort Claims Act: namely, that lawyers should not profit excessively when they are paid by the American taxpayer, and lawyers should get less and victims should get more when taxpayer funds are used. Especially today, in a time of war, excessive lawyer fees drawn from the U.S. Treasury could result in egregious war profiteering at the expense of American jobs and businesses. The House-passed bill also provides that in a lawsuit caused by a terrorist attack, any recovery must be reduced by the amount of collateral source compensation, if any, that the plaintiff has received or is entitled to receive as a result of acts of terrorism. That provision is designed to make sure as much of our Nation's limited resources as possible go to those who are most in need. [ADD PIECE ABOUT NEED FOR DEPT. OF TREASURY INVOLVEMENT IN SETTLEMENT APPROVAL.]

We are hopeful now that Senator Schumer and Senator Dodd have acknowledged that we must work to make sure that Americans and American businesses do not become victims of terrorists twice: first during the initial wave of death and destruction caused by terrorists, and second by legal aftershocks caused by the triple threat of unquantifiable, unpredictable, and potentially infinite damage claims – brought by trial lawyers against readily available American targets – that related to damages caused by terrorists. Democratic Senator conferees, in the recent past, have supported a complete ban on punitive damages in lawsuits caused by terrorists. Further, in the Air Transportation Safety and System Stabilization Act, the Senate agreed on a bipartisan basis to ban punitive damages against air carriers and the federal government under causes of action arising out of future acts of terrorism in situations precisely analogous to those presented here, namely legislation involving a federal indemnification component.

With all these concerns in mind, we look forward to continuing to work with the Senate toward solutions to the many and varied threats terrorists pose to our Nation, its citizens, and its economy.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
Sent: 10/4/2002 10:23:19 AM
Subject: : answer to your last question is no

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 4-OCT-2002 14:23:19.00
SUBJECT:: answer to your last question is no
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kirk Blalock/WHO/EOP@EOP [WHO] <Kirk Blalock>
CC: kevin warsh/opd/eop@eop [OPD] <kevin warsh>;kristen silverberg/who/eop@eop [WHO] <kristen silverberg>
Sent: 10/4/2002 2:32:30 PM
Subject: : Re: Fw: Sensenbrenner/Gramm Statement on Terrorism Insurance Negotiat ions
Attachments: P_G9SOA003_OPD.TXT_1.html

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 4-OCT-2002 18:32:30.00
SUBJECT:: Re: Fw: Sensenbrenner/Gramm Statement on Terrorism Insurance Negotiat ions
TO:Kirk Blalock (CN=Kirk Blalock/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:kevin warsh (CN=kevin warsh/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
CC:kristen silverberg (CN=kristen silverberg/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

I assume you will/have relayed this info to Matt as well?

Kirk Blalock
10/04/2002 06:06:42 PM
Record Type: Record

To: Kristen Silverberg/WHO/EOP@EOP, Kevin Warsh/OPD/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Fw: Sensenbrenner/Gramm Statement on Terrorism Insurance Negotiat ions

React

.

----- Original Message -----
From:<BJosten@USChamber.com>
To:Kirk Blalock/WHO/EOP@EOP
Cc:
Date: 10/04/2002 06:00:01 PM
Subject: FW: Sensenbrenner/Gramm Statement on Terrorism Insurance Negotiat ions

Kirk: From one om lobbyists---FYI---------Bruce

Subject: Re: Sensenbrenner/Gramm Statement on Terrorism Insurance Negotiations
Importance: High

I just got off the phone with Dodd's staff, and they weree very DIScouraged

by the Sensenbrenner "offer," caling it a "joke" among other choice words. They believe thst they already took proportionate liability off of the table,and they used all of their political capital with the Democratic caucus to get them to accept in effect a ban on punitive damages. My contact
said that this offer indicates that the Republicans are not "serious," and that they are ready to walk away from getting a bill.

I explained that we viewed this as a POSITIVE development, and to our reading this looks like the WH is willing to accept H R 1 as the compromise
on punitives, and that it is hard to believe that if the Dem's raise H R 1 as a compromise position that the Republicans would not seek to incorporate
other provisions of that bill into the compromise.

He reiterated that the Senate Dems would not accept proportionate liability,
and that he thinks they are near the end, but that they would keep working.

I continue to think that Dodd wants a bill, and that he will keep trying to
work it, and that the "walk away" threat is still bluff. I also think that
this is a POSITIVE step, and that that message needs to be reiterated to Dodd
---
Sent from my BlackBerry Wireless Handheld
- att1.htm

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_G9SOA003_OPD.TXT_1>

From: Rebecca Seidel) (Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) [UNKNOWN]
To: Pinkos; Steve <Steve.Pinkos@mail.house.gov>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Makan Delrahim) (Makan_Delrahim@judiciary.senate.gov (Makan Delrahim) [UNKNOWN] <Makan_Delrahim@judiciary.senate.gov>;'Wayne_Abernathy@banking.senate.gov' <Wayne_Abernathy@banking.senate.gov>;Taylor; Paul <Paul.Taylor@mail.house.gov>
Sent: 10/4/2002 10:43:35 AM
Subject: : Re:Terrorism Insurance Press Release
Attachments: P_I2GOA003_WHO.TXT_1.wpd

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) (
Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) [ UNKNOWN ] )
CREATION DATE/TIME: 4-OCT-2002 14:43:35.00
SUBJECT:: Re:Terrorism Insurance Press Release
TO:"Pinkos; Steve" <Steve.Pinkos@mail.house.gov> ( "Pinkos; Steve"
<Steve.Pinkos@mail.house.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Makan_Delrahim@judiciary.senate.gov (Makan Delrahim) (
Makan_Delrahim@judiciary.senate.gov (Makan Delrahim) [ UNKNOWN ] )
READ:UNKNOWN
TO:"'Wayne_Abernathy@banking.senate.gov'" <Wayne_Abernathy@banking.senate.gov> (
"'Wayne_Abernathy@banking.senate.gov'" <Wayne_Abernathy@banking.senate.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Taylor; Paul" <Paul.Taylor@mail.house.gov> ( "Taylor; Paul"
<Paul.Taylor@mail.house.gov> [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I would suggest that the opening we not shy away from making the point
that the
Dems need to give on their position and have not before this. What do you
think
about opening this way?:

The offer made by Senators Schumer and Dodd appears to finally acknowledge
that
in order to [negotiate an agreement / reach a compromise] on a piece of
legislation intended to ensure that insurance against terrorist attacks
continues to remain available, so that the jobs and construction projects
that
are currently in limbo can go forward, both sides of the negotiation have
to
give. Consequently, inherent in any compromise is an arrival at middle
ground.
The Schumer /Dodd proposal falls far short of the middle on the issues in
dispute.

Potentially unlimited liability exposure and unmanageable risks from the
mass
litigation that would likely result in the [context / aftermath] of
terrorist
attacks are untenable in a legislative scheme that [exposes/ makes
unreasonably
vulnerable] both the American taxpayer, and the businesses who are
themselves
also victims of the terrorist attack. No single interest group should
dictate
policy to the detriment of the well being of all Americans, including
taxpayers
and businesses whose viability is essential to the provision of jobs and
economic stability.
```

* and then go into the education effort laid out by Paul - not to detract
from
Paul's great (as always) effort, but maybe we can make the rest shorter.
I will
forward additional suggestion on the rest if I have them - just wanted to
toss
my suggestion for the opening salvo out there for you all to consider and
provide input.

_____Reply Separator_____
Subject: Terrorism Insurance Press Release
Author: "Taylor; Paul" <Paul.Taylor@mail.house.gov>
Date: 10/4/2002 1:19 PM

In the interests of time, attached please find a draft for discussion. One
issue it does not address is the issue of Department of the Treasury
involvement in settlement approval. I'm less familiar with that aspect, so
at this point I will leave it to other to add material in that regard.
(I've flagged that issued in brackets in the file attached here.)

Received: from mailsims1.senate.gov ([156.33.203.10]) by
mailexch.senate.gov
with SMTP
(IMA Internet Exchange 3.13) id 006920D6; Fri, 4 Oct 2002 13:21:10 -0400
Received: from libra.house.gov by mailsims1.senate.gov
(Sun Internet Mail Server sims.3.5.2000.03.23.18.03.p10)
with SMTP id <0H3G008VMW8HSP@mailsims1.senate.gov> for
Rebecca_Seidel@judiciary.senate.gov; Fri, 4 Oct 2002 13:21:56 -0400 (EDT)
Received: from ims06.House.gov (ims06.house.gov [143.231.32.158])
by libra.house.gov (Switch-2.1.4/Switch-2.1.0) with ESMTP id g94HJrD17752;
Fri, 04 Oct 2002 13:19:53 -0400
Received: by ims06.house.gov with Internet Mail Service (5.5.2653.19)
id <TCMKTXNZ>; Fri, 04 Oct 2002 13:19:52 -0400
Date: Fri, 04 Oct 2002 13:19:50 -0400
From: "Taylor, Paul" <Paul.Taylor@mail.house.gov>
Subject: Terrorism Insurance Press Release
To: "'Rebecca_Seidel@judiciary.senate.gov'"
<Rebecca_Seidel@judiciary.senate.gov>,
"'Brett_M._Kavanaugh@who.eop.gov'" <Brett_M._Kavanaugh@who.eop.gov>,
"'Wayne_Abernathy@banking.senate.gov'"
<Wayne_Abernathy@banking.senate.gov>,
"Pinkos, Steve" <Steve.Pinkos@mail.house.gov>
Message-id: <9B9D3BF97E9AD211AB690008C75D486F0E59B895@hrm02.house.gov>
MIME-version: 1.0
X-Mailer: Internet Mail Service (5.5.2653.19)
Content-type: MULTIPART/MIXED;
BOUNDARY="Boundary_(ID_rACjcmE7aMU+iSAAj8kq0A)"
- Press Release on Terrorism Insurance.wpd
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_I2GOA003_WHO.TXT_1>

We are hopeful that the offer made yesterday by Senator Schumer and Senator Dodd will get us closer to solving the many problems the terrorism risk insurance legislation seeks to address: namely the problem of potentially unlimited liability exposure and unmanageable risks in the context of terrorist attacks. Both American businesses and the federal government, with taxpayer funds, cannot make reasonable decisions to move forward when the risks ahead – including the liability risks – are unknown and potentially infinite. No single interest group, including trial lawyers, should trump the well-being of all Americans, including American victims of terrorism.

However, Senators Schumer and Senator Dodd's proposal – which draws on the model of standards for the award of punitive damages against teachers in H.R. 1, the No Child Left Behind Act – fails to incorporate the other essential provisions of H.R. 1, including its joint and several liability reforms. Indeed, the House-passed terrorism risk insurance bill apportions inherently unquantifiable awards for noneconomic damages in direct proportion to fault. This allows American businesses who are victims of terrorist attacks to rely, at the very least, on their own innocence to protect them from liability. It also avoids a race to the bottom of the deepest pockets – including those of the American taxpayer – regardless of fault. The Senate, in agreeing to subpart 5 of the Conference Report for H.R. 1 has already agreed that any noneconomic damages such as pain and suffering should be allocated against a teacher only in proportion to the teacher's percentage of fault. The same protections should apply to victims of terrorist attacks.

The Senators' proposal also fails to address the many other provisions the House of Representatives passed as part of its terrorism risk insurance legislation. These include reasonable limits on attorneys fees, which is simply a continuation of long-standing federal policy behind the Federal Tort Claims Act: namely, that lawyers should not profit excessively when they are paid by the American taxpayer, and lawyers should get less and victims should get more when taxpayer funds are used. Especially today, in a time of war, excessive lawyer fees drawn from the U.S. Treasury could result in egregious war profiteering at the expense of American jobs and businesses. The House-passed bill also provides that in a lawsuit caused by a terrorist attack, any recovery must be reduced by the amount of collateral source compensation, if any, that the plaintiff has received or is entitled to receive as a result of acts of terrorism. That provision is designed to make sure as much of our Nation's limited resources as possible go to those who are most in need. [ADD PIECE ABOUT NEED FOR DEPT. OF TREASURY INVOLVEMENT IN SETTLEMENT APPROVAL.]

We are hopeful now that Senator Schumer and Senator Dodd have acknowledged that we must work to make sure that Americans and American businesses do not become victims of terrorists twice: first during the initial wave of death and destruction caused by terrorists, and second by legal aftershocks caused by the triple threat of unquantifiable, unpredictable, and potentially infinite damage claims – brought by trial lawyers against readily available American targets – that related to damages caused by terrorists. Democratic Senator conferees, in the recent past, have supported a complete ban on punitive damages in lawsuits caused by terrorists. Further, in the Air Transportation Safety and System Stabilization Act, the Senate agreed on a bipartisan basis to ban punitive damages against air carriers and the federal government under causes of action arising out of future acts of terrorism in situations precisely analogous to those presented here, namely legislation involving a federal indemnification component.

With all these concerns in mind, we look forward to continuing to work with the Senate toward solutions to the many and varied threats terrorists pose to our Nation, its citizens, and its economy.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>;Matthew Kirk/WHO /EOP@EOP [WHO] <Matthew Kirk>
Sent: 10/4/2002 10:44:16 AM
Subject: : URGENT
Attachments: P_04GOA003_WHO.TXT_1.wpd

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 4-OCT-2002 14:44:16.00
SUBJECT:: URGENT
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Matt: We need to call Pinkos et al asap. We need to get this squared away. Wayne has now sent a rewrite as well, but it does not hit the main point quickly enough. We should go with the rewrite we just sent which is short and sweet.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 10/04/2002 02:44 PM ----------

Wayne_Abernathy@banking.senate.gov (Wayne Abernathy)
10/04/2002 02:43:44 PM
Record Type: Record

To: "Taylor; Paul" <Paul.Taylor@mail.house.gov>,
"'Rebecca_Seidel@judiciary.senate.gov'"
<Rebecca_Seidel@judiciary.senate.gov>, Brett M. Kavanaugh/WHO/EOP@EOP,
"Pinkos; Steve" <Steve.Pinkos@mail.house.gov>
cc:
Subject: Re:RE: Terrorism Insurance Press Release

- press release.wpd

Here is the statement with our recommended changes:

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_04GOA003_WHO.TXT_1>

Taxpayers and Victims of Terrorism Still Vulnerable

We appreciate the offer made yesterday by Senator Schumer and Senator Dodd and hope that agreement can be reached that will get us closer to enacting this needed legislation. Both American businesses and the federal government, with taxpayer funds, cannot make reasonable decisions to move forward when the risks ahead – including the liability risks – are unknown. No single interest group, including trial lawyers, should take first place ahead of the well-being of all Americans, including American taxpayers and the victims of terrorism.

However, the proposal from Senators Dodd and Schumer – which includes some of the elements from the model of standards for the award of punitive damages against teachers in H.R. 1, the No Child Left Behind Act – fails to incorporate several other essential provisions of H.R. 1. One of these key provisions from H.R. 1 involves joint and several liability reforms. The House-passed terrorism risk insurance bill apportions inherently unquantifiable awards for noneconomic damages in direct proportion to fault. This provision means that American businesses who are victims of terrorist attacks will not be victimized yet again by having to pay for the damages caused by the terrorists. It also avoids a race to the bottom of the deepest pockets – including those of the American taxpayer – regardless of fault. When the Senate agreed to subpart 5 of the Conference Report for H.R. 1, it already agreed that any noneconomic damages such as pain and suffering should be allocated against a teacher only in proportion to the teacher's percentage of fault. If Senators Dodd and Schumer want to follow this model, then the same protections should apply to victims of terrorist attacks.

The Dodd-Schumer proposal also fails to address the many other provisions the House of Representatives passed as part of its terrorism risk insurance legislation. These include a reasonable limit on attorneys fees, which is simply a continuation of long-standing federal policy behind the Federal Tort Claims Act: namely, that lawyers should not profit excessively when

they are paid by the American taxpayer, and lawyers should get less and victims should get more when taxpayer funds are used. Especially today, in a time of war, excessive lawyer fees drawn from the U.S. Treasury could result in egregious war profiteering at the expense of American jobs and businesses. The House-passed bill also provides that in a lawsuit caused by a terrorist attack, any recovery must be reduced by the amount of collateral source compensation, if any, that the plaintiff has received or is entitled to receive as a result of acts of terrorism. That provision is designed to make sure as much of our Nation's limited resources as possible go to those who are most in need.

In fact, the Dodd-Schumer proposal does not even come up to the standard proposed by Senator Sarbanes and agreed to by Senators Gramm, Dodd, and Enzi and announced to the public on November 1 last year. There is no provision for consolidation of cases in one court, and there is no requirement that the party writing the biggest check to compensate for damages under this program – the U.S. Treasury – be at the table to sign off on any out of court settlement. It is easy to settle any dispute – meritorious or not – if someone else is picking up the tab. The taxpayer must not be left holding the bag.

With all these concerns in mind, we look forward to continuing to work with all conferees to enact solutions to the many and varied threats terrorists pose to our Nation, its citizens, and its economy. The Dodd-Schumer proposal we hope opens the door to resolving these important issues, but in its current form, it still leaves the taxpayer and the victims of terrorism vulnerable to predatory lawsuits.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>;Matthew Kirk/WHO /EOP@EOP [WHO] <Matthew Kirk>
Sent: 10/4/2002 10:44:53 AM
Subject: : MORE URGENT
Attachments: P_C5GOA003_WHO.TXT_1.wpd

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 4-OCT-2002 14:44:53.00
SUBJECT:: MORE URGENT
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Now Rebecca has sent something.
---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 10/04/2002 02:47 PM ----------

Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel)
10/04/2002 02:37:52 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Re:Terrorism Insurance Press Release

I would suggest that the opening we not shy away from making the point that the
Dems need to give on their position and have not before this. What do you think
about opening this way?:

The offer made by Senators Schumer and Dodd appears to finally acknowledge that
in order to [negotiate an agreement / reach a compromise] on a piece of
legislation intended to ensure that insurance against terrorist attacks
continues to remain available, so that the jobs and construction projects that
are currently in limbo can go forward, both sides of the negotiation have to
give. Consequently, inherent in any compromise is an arrival at middle ground.
The Schumer /Dodd proposal falls far short of the middle on the issues in
dispute.

Potentially unlimited liability exposure and unmanageable risks from the mass
litigation that would likely result in the [context / aftermath] of terrorist
attacks are untenable in a legislative scheme that [exposes/ makes unreasonably
vulnerable] both the American taxpayer, and the businesses who are themselves
also victims of the terrorist attack. No single interest group should dictate
policy to the detriment of the well being of all Americans, including taxpayers

and businesses whose viability is essential to the provision of jobs and economic stability.

* and then go into the education effort laid out by Paul - not to detract from
Paul's great (as always) effort, but maybe we can make the rest shorter. I will
forward additional suggestion on the rest if I have them - just wanted to toss
my suggestion for the opening salvo out there for you all to consider and provide input.

_____Reply Separator_____
Subject: Terrorism Insurance Press Release
Author: "Taylor; Paul" <Paul.Taylor@mail.house.gov>
Date: 10/4/2002 1:19 PM

In the interests of time, attached please find a draft for discussion. One issue it does not address is the issue of Department of the Treasury involvement in settlement approval. I'm less familiar with that aspect, so at this point I will leave it to other to add material in that regard. (I've flagged that issued in brackets in the file attached here.)

Received: from mailsims1.senate.gov ([156.33.203.10]) by mailexch.senate.gov
with SMTP
(IMA Internet Exchange 3.13) id 006920D6; Fri, 4 Oct 2002 13:21:10 -0400
Received: from libra.house.gov by mailsims1.senate.gov
(Sun Internet Mail Server sims.3.5.2000.03.23.18.03.p10)
with SMTP id <0H3G008VMW8HSP@mailsims1.senate.gov> for
Rebecca_Seidel@judiciary.senate.gov; Fri, 4 Oct 2002 13:21:56 -0400 (EDT)
Received: from ims06.House.gov (ims06.house.gov [143.231.32.158])
by libra.house.gov (Switch-2.1.4/Switch-2.1.0) with ESMTP id g94HJrD17752;
Fri, 04 Oct 2002 13:19:53 -0400
Received: by ims06.house.gov with Internet Mail Service (5.5.2653.19)
id <TCMKTXNZ>; Fri, 04 Oct 2002 13:19:52 -0400
Date: Fri, 04 Oct 2002 13:19:50 -0400
From: "Taylor, Paul" <Paul.Taylor@mail.house.gov>
Subject: Terrorism Insurance Press Release
To: "'Rebecca_Seidel@judiciary.senate.gov'"
<Rebecca_Seidel@judiciary.senate.gov>,
"'Brett_M._Kavanaugh@who.eop.gov'" <Brett_M._Kavanaugh@who.eop.gov>,
"'Wayne_Abernathy@banking.senate.gov'"
<Wayne_Abernathy@banking.senate.gov>,
"Pinkos, Steve" <Steve.Pinkos@mail.house.gov>
Message-id: <9B9D3BF97E9AD211AB690008C75D486F0E59B895@hrm02.house.gov>
MIME-version: 1.0
X-Mailer: Internet Mail Service (5.5.2653.19)
Content-type: MULTIPART/MIXED;
BOUNDARY="Boundary_(ID_rACjcmE7aMU+iSAAj8kq0A)"

- Press Release on Terrorism Insurance.wpd

Message Sent
To:_____
"Taylor; Paul" <Paul.Taylor@mail.house.gov>
Brett M. Kavanaugh/WHO/EOP@EOP
"'Wayne_Abernathy@banking.senate.gov'" <Wayne_Abernathy@banking.senate.gov>
"Pinkos; Steve" <Steve.Pinkos@mail.house.gov>
Makan_Delrahim@judiciary.senate.gov (Makan Delrahim)

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_C5GOA003_WHO.TXT_1>

From: Makan Delrahim) (Makan_Delrahim@judiciary.senate.gov (Makan Delrahim) [UNKNOWN]
To: 'Wayne_Abernathy@banking.senate.gov' <Wayne_Abernathy@banking.senate.gov>;Taylor; Paul <Paul.Taylor@mail.house.gov>;Pinkos; Steve <Steve.Pinkos@mail.house.gov>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Rebecca Seidel) (Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) [UNKNOWN] <Rebecca_Seidel@judiciary.senate.gov>
Sent: 10/4/2002 11:29:48 AM
Subject: : Re[2]:Terrorism Insurance Press Release
Attachments: P_1NIOA003_WHO.TXT_1.wpd

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Makan_Delrahim@judiciary.senate.gov (Makan Delrahim) (
Makan_Delrahim@judiciary.senate.gov (Makan Delrahim) [ UNKNOWN ] )
CREATION DATE/TIME: 4-OCT-2002 15:29:48.00
SUBJECT:: Re[2]:Terrorism Insurance Press Release
TO:"'Wayne_Abernathy@banking.senate.gov'" <Wayne_Abernathy@banking.senate.gov> (
"'Wayne_Abernathy@banking.senate.gov'" <Wayne_Abernathy@banking.senate.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Taylor; Paul" <Paul.Taylor@mail.house.gov> ( "Taylor; Paul"
<Paul.Taylor@mail.house.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Pinkos; Steve" <Steve.Pinkos@mail.house.gov> ( "Pinkos; Steve"
<Steve.Pinkos@mail.house.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) (
Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

you might also consider sending it as a letter to Schumer/Dodd, so it does
not
look like we are playing it in the Press and not seriously negotiating.
obviously, can do a press release on the "letter" and release the letter,
but it
would take away a possible attack on Rs from the Dems.


_____Reply Separator_____
Subject: Re:Terrorism Insurance Press Release
Author: Rebecca Seidel
Date: 10/4/2002 2:37 PM

I would suggest that the opening we not shy away from making the point
that the
Dems need to give on their position and have not before this. What do you
think
about opening this way?:

The offer made by Senators Schumer and Dodd appears to finally acknowledge
that
in order to [negotiate an agreement / reach a compromise] on a piece of
legislation intended to ensure that insurance against terrorist attacks
continues to remain available, so that the jobs and construction projects
that
are currently in limbo can go forward, both sides of the negotiation have
to
give. Consequently, inherent in any compromise is an arrival at middle
```

ground.
The Schumer /Dodd proposal falls far short of the middle on the issues in dispute.

Potentially unlimited liability exposure and unmanageable risks from the mass
litigation that would likely result in the [context / aftermath] of terrorist
attacks are untenable in a legislative scheme that [exposes/ makes unreasonably
vulnerable] both the American taxpayer, and the businesses who are themselves
also victims of the terrorist attack. No single interest group should dictate
policy to the detriment of the well being of all Americans, including taxpayers
and businesses whose viability is essential to the provision of jobs and economic stability.

* and then go into the education effort laid out by Paul - not to detract from
Paul's great (as always) effort, but maybe we can make the rest shorter. I will
forward additional suggestion on the rest if I have them - just wanted to toss
my suggestion for the opening salvo out there for you all to consider and provide input.

_____Reply Separator_____
Subject: Terrorism Insurance Press Release
Author: "Taylor; Paul" <Paul.Taylor@mail.house.gov>
Date: 10/4/2002 1:19 PM

In the interests of time, attached please find a draft for discussion. One issue it does not address is the issue of Department of the Treasury involvement in settlement approval. I'm less familiar with that aspect, so at this point I will leave it to other to add material in that regard. (I've flagged that issued in brackets in the file attached here.)

Received: from mailsims1.senate.gov ([156.33.203.10]) by mailexch.senate.gov
with SMTP
(IMA Internet Exchange 3.13) id 006920D6; Fri, 4 Oct 2002 13:21:10 -0400
Received: from libra.house.gov by mailsims1.senate.gov
(Sun Internet Mail Server sims.3.5.2000.03.23.18.03.p10)
with SMTP id <0H3G008VMW8HSP@mailsims1.senate.gov> for
Rebecca_Seidel@judiciary.senate.gov; Fri, 4 Oct 2002 13:21:56 -0400 (EDT)
Received: from ims06.House.gov (ims06.house.gov [143.231.32.158])
by libra.house.gov (Switch-2.1.4/Switch-2.1.0) with ESMTP id g94HJrD17752;
Fri, 04 Oct 2002 13:19:53 -0400
Received: by ims06.house.gov with Internet Mail Service (5.5.2653.19)
id <TCMKTXNZ>; Fri, 04 Oct 2002 13:19:52 -0400
Date: Fri, 04 Oct 2002 13:19:50 -0400
From: "Taylor, Paul" <Paul.Taylor@mail.house.gov>
Subject: Terrorism Insurance Press Release
To: "'Rebecca_Seidel@judiciary.senate.gov'"
<Rebecca_Seidel@judiciary.senate.gov>,
"'Brett_M._Kavanaugh@who.eop.gov'" <Brett_M._Kavanaugh@who.eop.gov>,
"'Wayne_Abernathy@banking.senate.gov'"
<Wayne_Abernathy@banking.senate.gov>,
"Pinkos, Steve" <Steve.Pinkos@mail.house.gov>

Message-id: <9B9D3BF97E9AD211AB690008C75D486F0E59B895@hrm02.house.gov>
MIME-version: 1.0
X-Mailer: Internet Mail Service (5.5.2653.19)
Content-type: MULTIPART/MIXED;
BOUNDARY="Boundary_(ID_rACjcmE7aMU+iSAAj8kq0A)"
- Press Release on Terrorism Insurance.wpd
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_1NIOA003_WHO.TXT_1>

We are hopeful that the offer made yesterday by Senator Schumer and Senator Dodd will get us closer to solving the many problems the terrorism risk insurance legislation seeks to address: namely the problem of potentially unlimited liability exposure and unmanageable risks in the context of terrorist attacks. Both American businesses and the federal government, with taxpayer funds, cannot make reasonable decisions to move forward when the risks ahead – including the liability risks – are unknown and potentially infinite. No single interest group, including trial lawyers, should trump the well-being of all Americans, including American victims of terrorism.

However, Senators Schumer and Senator Dodd's proposal – which draws on the model of standards for the award of punitive damages against teachers in H.R. 1, the No Child Left Behind Act – fails to incorporate the other essential provisions of H.R. 1, including its joint and several liability reforms. Indeed, the House-passed terrorism risk insurance bill apportions inherently unquantifiable awards for noneconomic damages in direct proportion to fault. This allows American businesses who are victims of terrorist attacks to rely, at the very least, on their own innocence to protect them from liability. It also avoids a race to the bottom of the deepest pockets – including those of the American taxpayer – regardless of fault. The Senate, in agreeing to subpart 5 of the Conference Report for H.R. 1 has already agreed that any noneconomic damages such as pain and suffering should be allocated against a teacher only in proportion to the teacher's percentage of fault. The same protections should apply to victims of terrorist attacks.

The Senators' proposal also fails to address the many other provisions the House of Representatives passed as part of its terrorism risk insurance legislation. These include reasonable limits on attorneys fees, which is simply a continuation of long-standing federal policy behind the Federal Tort Claims Act: namely, that lawyers should not profit excessively when they are paid by the American taxpayer, and lawyers should get less and victims should get more when taxpayer funds are used. Especially today, in a time of war, excessive lawyer fees drawn from the U.S. Treasury could result in egregious war profiteering at the expense of American jobs and businesses. The House-passed bill also provides that in a lawsuit caused by a terrorist attack, any recovery must be reduced by the amount of collateral source compensation, if any, that the plaintiff has received or is entitled to receive as a result of acts of terrorism. That provision is designed to make sure as much of our Nation's limited resources as possible go to those who are most in need. [ADD PIECE ABOUT NEED FOR DEPT. OF TREASURY INVOLVEMENT IN SETTLEMENT APPROVAL.]

We are hopeful now that Senator Schumer and Senator Dodd have acknowledged that we must work to make sure that Americans and American businesses do not become victims of terrorists twice: first during the initial wave of death and destruction caused by terrorists, and second by legal aftershocks caused by the triple threat of unquantifiable, unpredictable, and potentially infinite damage claims – brought by trial lawyers against readily available American targets – that related to damages caused by terrorists. Democratic Senator conferees, in the recent past, have supported a complete ban on punitive damages in lawsuits caused by terrorists. Further, in the Air Transportation Safety and System Stabilization Act, the Senate agreed on a bipartisan basis to ban punitive damages against air carriers and the federal government under causes of action arising out of future acts of terrorism in situations precisely analogous to those presented here, namely legislation involving a federal indemnification component.

With all these concerns in mind, we look forward to continuing to work with the Senate toward solutions to the many and varied threats terrorists pose to our Nation, its citizens, and its economy.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Paul.Taylor@mail.house.gov [UNKNOWN]
<Paul.Taylor@mail.house.gov>;Jeff.Lungren@mail.house.gov [UNKNOWN]
<Jeff.Lungren@mail.house.gov>
Sent: 10/4/2002 12:32:54 PM
Subject: : Request for final version when ready

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 4-OCT-2002 16:32:54.00
SUBJECT:: Request for final version when ready
TO:Paul.Taylor@mail.house.gov ( Paul.Taylor@mail.house.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Jeff.Lungren@mail.house.gov ( Jeff.Lungren@mail.house.gov [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Please send final version when it is released. Looks great.
Thanks very much.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
Sent: 10/4/2002 1:41:58 PM
Subject: : AP story
Attachments: P_EKQOA003_WHO.TXT_1.html

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 4-OCT-2002 17:41:58.00
SUBJECT:: AP story
End Original ARMS Header

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 10/04/2002 05:44 PM ----------

"Lungren, Jeff" <Jeff.Lungren@mail.house.gov>
10/04/2002 05:35:40 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: AP story

Lawmakers say there's still hope on getting terrorism insurance

despite impasse

By JESSE J. HOLLAND=
Associated Press Writer=
WASHINGTON (AP) _ Lawmakers are not giving up hope that Congress can pass a terrorism insurance bill this year despite a four-month impasse over whether the government should pay for punitive damages in the lawsuits that follow terrorist attacks.
``It's not over,'' said Sen. Christopher Dodd, D-Conn., one day after President Bush urged the Senate again to pass the legislation before going home for the year.
Bush several times has criticized Congress for failing to enact the bill lawmakers say will help stimulate the economy. But Thursday marked the second day this week that the White House organized an event dedicated solely to the issue. On Tuesday, Bush met with deadlocked House-Senate negotiators and issued a Friday deadline for agreement.
The president and the GOP say as much as $15 billion in construction and real estate transactions and 300,000 jobs are on hold because Congress has not passed a bill.
In addition, the downgrading of bond ratings of commercial mortgage-backed securities due to insufficient coverage for terrorist attacks can cause an overall drop in bond prices that harm investors.
Dodd said lawmakers were meeting Friday trying to get something done. ``I've already had meetings this morning,'' he said. ``I don't quit until we quit.''
Dodd refused to discuss the negotiations. White House spokesman Ari Fleischer said the parties are close but there is no deal yet.
``I do think there is a glimmer of hope on terrorism insurance, to a large degree because the president will not give up on this,'' Senate Minority Leader Trent Lott, R-Miss., said. ``He has continued to push the Congress. Since they wouldn't meet on their own, the president brought down the conferees to meet with him. And so maybe there is some hope there.''
The GOP-controlled House and the Democrat-controlled Senate have

passed different versions of legislation, which would protect the insurance industry from calamitous losses in the event of another terrorist attack by requiring the government to pick up some of the losses.
After Sept. 11, many insurers limited or dropped coverage for casualty and property losses due to terrorism because insurance companies faced record payouts. But with most lenders requiring insurance to finance real estate, plant expansion and other construction projects, industry representatives have warned of damage to the economy.
The search for a compromise is hung up primarily over the Senate's opposition to a House provision that would ban punitive damage awards in civil lawsuits.
The Senate-passed version of the bill, which passed in June, does not shield companies from punitive damages. The House passed legislation last November that limits lawsuits and bans punitive damages.
Republicans in Congress accused Democrats of trying to protect trial lawyers, while Democrats charged Republicans were looking out for businesses that are major GOP donors.
Dodd and Sen. Charles Schumer of New York said they gave the White House a proposal on Wednesday that would make punitive damage awards difficult to win and impossible against governments and insurers.
Republicans said Friday it wasn't enough.
``I hope we can all agree that it is outrageous, unwise, and unfair to hold American businesses financially responsible for damages caused by terrorists,'' said House Judiciary Chairman James Sensenbrenner, R-Wis., in a joint statement with Sen. Phil Gramm, R-Texas.
___=

- att1.htm

Message Sent
To:_____
"Pinkos, Steve" <Steve.Pinkos@mail.house.gov>
"Taylor, Paul" <Paul.Taylor@mail.house.gov>
"'wayne_abernathy@banking.senate.gov'" <wayne_abernathy@banking.senate.gov>
"'john_mashburn@lott.senate.gov'" <john_mashburn@lott.senate.gov>
Brett M. Kavanaugh/WHO/EOP@EOP
Matthew Kirk/WHO/EOP@EOP

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_EKQOA003_WHO.TXT_1>

Lawmakers say there's sti ll hope on getting terrorism insurance

despite impasse

By JESSE J. HOLLAND=
Associated Press Writer=

WASHINGTON (AP) _ Lawmakers are not giving up hope that Congress can pass a terrorism insurance bill this year despite a four-month impasse over whether the gover nment should pay for punitive damages in the lawsuits that follow te rrorist attacks.

``It's not o ver,'' said Sen. Christopher Dodd, D-Conn., one day after President Bush urged the Senate again to pass the legislation before going home for the year .

Bush several times has criticized Congress for failing to enact the bill lawmakers say will he lp stimulate the economy. But Thursday marked the second day this week that the White House organized an event dedicated s olely to the issue. On Tuesday, Bush met with deadlocked House-Sena te negotiators and issued a Friday deadline for agreement.

The presiden t and the GOP say as much as $15 billion in construction and real estate t ransactions and 300,000 jobs are on hold because Congress has not passed a bill.

In addition, the downgrading of bond ratings of commercial mortgage-backed securities due to insufficient coverage for terrorist attacks can cause an overall drop in bond prices that harm investors.

Dodd said la wmakers were meeting Friday trying to get something done. ``I've already had meeti ngs this morning,'' he said. ``I don't quit until we quit.''

Dodd refused to discuss the negotiations. White House spokesman Ari Fleischer said the parties are close but there is no deal yet.

``I do think there is a glimmer of hope on terrorism insurance, to a large degree because the president will not give up on this,'' Senate Minority Leader Trent L ott, R-Miss., said. ``He has continued to push the Congress . Since they wouldn't meet on their own, the president brought dow n the conferees to meet with him. And so maybe there is some hope th ere.''

The GOP-cont rolled House and the Democrat-controlled Senate have passed different versions of l egislation, which would protect the insurance industry from calami tous losses in the event of another terrorist attack by requiring the government to pick up some of the losses.

After Sept. 11, many insurers limited or dropped coverage for casualty and property losses d ue to terrorism because insurance companies faced record payouts . But with most lenders requiring insurance to finance real esta te, plant expansion and other construction projects, industr y representatives have warned of damage to the economy.

The search f or a compromise is hung up primarily over the Senate's opposition to a House provision that would ban punitive damage awards in civil lawsuit s.

The Senate-p assed version of the bill, which passed in June, does not shield companies from punitive damages. The House passed legislation last November that limits lawsuits and bans punitive damages.

Republicans in Congress accused Democrats of trying to protect trial lawyers, while Democrats charged Republicans were looking out for businesses that are major GOP donors.

Dodd and Sen . Charles Schumer of New York said they gave the White House a proposal on Wedn esday that would make punitive damage awards difficult to win and im possible against governments and insurers.

Republicans said Friday it wasn't enough.

``I hope we can all agree that it is outrageous, unwise, and unfair to hold American busine sses financially responsible for damages caused by terrorists,'' said House Judiciary Chairman James Sensenbrenner, R-Wis., in a jo int statement with Sen. Phil Gramm, R-Texas.

___=

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>;Matthew Kirk/WHO /EOP@EOP [WHO] <Matthew Kirk>
Sent: 10/4/2002 1:57:25 PM
Subject: : Potential Letter
Attachments: P_C6ROA003_WHO.TXT_1.wpd

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 4-OCT-2002 17:57:25.00
SUBJECT:: Potential Letter
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I want to tell them that the letter seems unnecessary given that the press release was expanded to include all of their objections. Thoughts?

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 10/04/2002 05:58 PM ----------

"Taylor, Paul" <Paul.Taylor@mail.house.gov>
10/04/2002 05:51:31 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: Kristen Silverberg/WHO/EOP@EOP, Matthew Kirk/WHO/EOP@EOP, Makan Delrahim at JUDICIARY <"IMCEACCMAIL-Makan+20Delrahim+20at+20JUDICIARY"@routing.senate.gov>
Subject: Potential Letter

If the letter tack is agreed to, FYI, the attached might be used as a base draft text. It's essentially the longer piece I sent around earlier today, with Wayne's additions.

We are hopeful that House and Senate conferees can work together and get us closer to solving the many problems the terrorism risk insurance legislation seeks to address: namely the problem of potentially unlimited liability exposure and unmanageable risks in the context of terrorist attacks. Both American businesses and the federal government, with taxpayer funds, cannot make reasonable decisions to move forward when the risks ahead B including the liability risks B are unknown and potentially infinite. No single interest group, including trial lawyers, should trump the well-being of all Americans, including American victims of terrorism.

However, Senators Schumer and Senator Dodd=s most recent proposal B which draws on the standards for the award of punitive damages against teachers in H.R. 1, the No Child Left Behind Act B fails to incorporate the other essential provisions of H.R. 1, including its liability reforms regarding noneconomic damages. The Senate, in passing subpart 5 of the Conference Report for H.R. 1, has already agreed that any noneconomic damages such as pain and suffering should be allocated against a teacher only in proportion to the teacher=s percentage of fault. The same protections should apply to victims of terrorist attacks, and in fact the House-passed terrorism risk insurance bill apportions inherently unquantifiable awards

for noneconomic damages in direct proportion to fault. This allows American businesses who are victims of terrorist attacks to rely, at the very least, on their own innocence to protect them from liability. It also avoids a race to the bottom of the deepest pockets B including those of the American taxpayer B regardless of fault.

The Senators= proposal also fails to address the many other provisions the House of Representatives passed as part of its terrorism risk insurance legislation. These include reasonable limits on attorneys fees, which is simply a continuation of long-standing federal policy behind the Federal Tort Claims Act: namely, that lawyers should not profit excessively when they are paid by the American taxpayer, and lawyers should get less and victims should get more when taxpayer funds are used. Especially today, in a time of war, excessive lawyer fees drawn from the U.S. Treasury could result in egregious war profiteering at the expense of American jobs and businesses. The House-passed bill also provides that in a lawsuit caused by a terrorist attack, any recovery must be reduced by the amount of collateral source compensation, if any, that the plaintiff has received or is entitled to receive as a result of acts of terrorism. That provision is designed to make sure as much of our Nation=s limited resources as possible go to those who are most in need.

Also, the most recent proposal of Senators Schumer and Dodd does not even come up to the standard proposed by Senator Sarbanes and agreed to by Senators Gramm, Dodd, and Enzi and announced to the public on November 1 of last year because it does not provide that settlement of cases under the program should be subject to approval by the Secretary of Treasury in order to place a reasonable check on settlement costs borne by the taxpayers. It is easy to settle any dispute B meritorious or not B if someone else is picking up the tab. The taxpayer must not be left holding the bag.

We are hopeful now that Senator Schumer and Senator Dodd have acknowledged that we must work to make sure that Americans and American businesses do not become victims of terrorists twice: first during the initial wave of death and destruction caused by terrorists, and second by legal aftershocks caused by the triple threat of unquantifiable, unpredictable, and potentially infinite damages claims -- including claims for punitive damages -- that are brought by trial lawyers against readily available American targets and that relate to damages caused by terrorists . Indeed, in the Air Transportation Safety and System Stabilization Act, the Senate agreed on a bipartisan basis to ban punitive damages against air carriers and the federal government under causes of action arising out of future acts of terrorism in situations precisely analogous to those presented here, namely legislation involving a federal indemnification component.

With all these concerns in mind, we look forward to continuing to work with the Senate toward solutions to the many and varied threats terro

- Letter on Terrorism Insurance.wpd

Message Sent
To:_____
"'Mashburn, John (Lott)'" <John_Mashburn@lott.senate.gov>
Brett M. Kavanaugh/WHO/EOP@EOP
Rebecca Seidel at JUDICIARY
<"IMCEACCMAIL-Rebecca+20Seidel+20at+20JUDICIARY"@routing.senate.gov>
"Pinkos, Steve" <Steve.Pinkos@mail.house.gov>
wayne_abernathy@banking.senate.gov

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_C6ROA003_WHO.TXT_1>

We are hopeful that House and Senate conferees can work together and get us closer to solving the many problems the terrorism risk insurance legislation seeks to address: namely the problem of potentially unlimited liability exposure and unmanageable risks in the context of terrorist attacks. Both American businesses and the federal government, with taxpayer funds, cannot make reasonable decisions to move forward when the risks ahead – including the liability risks – are unknown and potentially infinite. No single interest group, including trial lawyers, should trump the well-being of all Americans, including American victims of terrorism.

However, Senators Schumer and Senator Dodd's most recent proposal – which draws on the standards for the award of punitive damages against teachers in H.R. 1, the No Child Left Behind Act – fails to incorporate the other essential provisions of H.R. 1, including its liability reforms regarding noneconomic damages. The Senate, in passing subpart 5 of the Conference Report for H.R. 1, has already agreed that any noneconomic damages such as pain and suffering should be allocated against a teacher only in proportion to the teacher's percentage of fault. The same protections should apply to victims of terrorist attacks, and in fact the House-passed terrorism risk insurance bill apportions inherently unquantifiable awards for noneconomic damages in direct proportion to fault. This allows American businesses who are victims of terrorist attacks to rely, at the very least, on their own innocence to protect them from liability. It also avoids a race to the bottom of the deepest pockets – including those of the American taxpayer – regardless of fault.

The Senators' proposal also fails to address the many other provisions the House of Representatives passed as part of its terrorism risk insurance legislation. These include reasonable limits on attorneys fees, which is simply a continuation of long-standing federal policy behind the Federal Tort Claims Act: namely, that lawyers should not profit excessively when they are paid by the American taxpayer, and lawyers should get less and victims should get more when taxpayer funds are used. Especially today, in a time of war, excessive lawyer fees drawn from the U.S. Treasury could result in egregious war profiteering at the expense of American jobs and businesses. The House-passed bill also provides that in a lawsuit caused by a terrorist attack, any recovery must be reduced by the amount of collateral source compensation, if any, that the plaintiff has received or is entitled to receive as a result of acts of terrorism. That provision is designed to make sure as much of our Nation's limited resources as possible go to those who are most in need.

Also, the most recent proposal of Senators Schumer and Dodd does not even come up to the standard proposed by Senator Sarbanes and agreed to by Senators Gramm, Dodd, and Enzi and announced to the public on November 1 of last year because it does not provide that settlement of cases under the program should be subject to approval by the Secretary of Treasury in order to place a reasonable check on settlement costs borne by the taxpayers. It is easy to settle any dispute – meritorious or not – if someone else is picking up the tab. The taxpayer must not be left holding the bag.

We are hopeful now that Senator Schumer and Senator Dodd have acknowledged that we must work to make sure that Americans and American businesses do not become victims of terrorists twice: first during the initial wave of death and destruction caused by terrorists, and second by legal aftershocks caused by the triple threat of unquantifiable, unpredictable, and

potentially infinite damages claims -- including claims for punitive damages -- that are brought by trial lawyers against readily available American targets and that relate to damages caused by terrorists. Indeed, in the Air Transportation Safety and System Stabilization Act, the Senate agreed on a bipartisan basis to ban punitive damages against air carriers and the federal government under causes of action arising out of future acts of terrorism in situations precisely analogous to those presented here, namely legislation involving a federal indemnification component.

With all these concerns in mind, we look forward to continuing to work with the Senate toward solutions to the many and varied threats terrorists pose to our Nation, its citizens, and its economy.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Diana L. Schacht/OPD /EOP@EOP [OPD] <Diana L. Schacht>
Sent: 10/4/2002 3:07:11 PM
Subject: : Re: terrorism insurance

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 4-OCT-2002 19:07:11.00
SUBJECT:: Re: terrorism insurance
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
End Original ARMS Header

I assume they have no credibility with dems? So not much to do now except support whatever final deal (if any) that we cut next week, which will be better than legal status quo even if not everything we want.

.

----- Original Message -----
From:Diana L. Schacht/OPD/EOP
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 10/04/2002 06:42:28 PM
Subject: terrorism insurance

I have some tort reform minded groups asking what if anything they can do to help us on terrorism insurance. What would you suggest? what is our position on the dem's proposal to use the teacher protection act language?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Michael J. Napolitano/WHO/EOP@EOP [WHO] <Michael J. Napolitano>
Sent: 10/6/2002 9:15:48 AM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 6-OCT-2002 13:15:48.00
SUBJECT:: Re:
TO:Michael J. Napolitano (CN=Michael J. Napolitano/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Not that I know of. Gather you got this covered though.

Michael J. Napolitano
10/04/2002 11:23:25 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject:

Is someone in your office a notery?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Matthew E. Smith/WHO/EOP@EOP [WHO] <Matthew E. Smith>;Anne Womack/WHO /EOP@EOP [WHO] <Anne Womack>;Tim Goeglein/WHO/EOP@EOP [WHO] <Tim Goeglein>;Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>
Sent: 10/6/2002 9:28:21 AM
Subject: : President's remarks on judges on 10/5 at New Hampshire event

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 6-OCT-2002 13:28:21.00
SUBJECT:: President's remarks on judges on 10/5 at New Hampshire event
TO:Matthew E. Smith ( CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Anne Womack ( CN=Anne Womack/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tim Goeglein ( CN=Tim Goeglein/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

President's remarks on judges on October 5, 2002, at New Hampshire event

. . . Another way to make sure we've got a strong country is to make sure that our federal bench is a bench full of judges that don't use their position from which to legislate. We've got plenty of legislators. We don't need our judges legislating, we need them strictly interpreting the Constitution. (Applause.)

That's an issue in this campaign -- the bench is an issue in this campaign. I named a fabulous lady from Texas, named Priscilla Owen. She'd been running statewide in our state several times, got elected overwhelmingly, had strong Republican support, strong Democrat support. Number one in her law school class, or tops of her law school class. She's ranked the highest rating possible by the American Bar Association. She is a -- you know, she'll interpret the Constitution, she's not going to try to rewrite it.

And I sent her name up there and they -- they weren't fair with her record. They totally politicized the issue. They made this a huge political deal. For the sake of a solid judiciary, I need John Sununu in the United States Senate. (Applause.)

I named a new man, named Michael Estrada, to one of our higher benches. It's a great American success story. He couldn't speak English when he came here -- he's now being nominated by the President to one of the highest benches because he's a brilliant lawyer. He's got fantastic support from Democrats and Republicans. John Sununu will cast his vote with Michael. Judd Gregg would. I wonder if the other candidate in this race will stand up and support the judicial nominees of a President George W. Bush. For the sake of a strong judiciary, we need John Sununu in the United States Senate. (Applause.) . . .

From: CN=P. Thaddeus Messenger/OU=OMB/O=EOP [OMB]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Ingrid M. Schroeder/OMB/EOP@EOP [OMB] <Ingrid M. Schroeder>;P. Thaddeus Messenger/OMB/EOP@EOP [OMB] <P. Thaddeus Messenger>;patrick j. bumatay/who /eop@eop [WHO] <patrick j. bumatay>
Sent: 10/7/2002 6:32:17 AM
Subject: : Re: LRM PTM160 - - VETERANS AFFAIRS Qs and As on HR4939 - Veterans Medicare Payment Act of 2002
Attachments: P_ORIPA003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:P. Thaddeus Messenger (CN=P. Thaddeus Messenger/OU=OMB/O=EOP [OMB])
CREATION DATE/TIME: 7-OCT-2002 10:32:17.00
SUBJECT:: Re: LRM PTM160 - - VETERANS AFFAIRS Qs and As on HR4939 - Veterans Medicare Payment Act of 2002
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Ingrid M. Schroeder (CN=Ingrid M. Schroeder/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:P. Thaddeus Messenger (CN=P. Thaddeus Messenger/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:patrick j. bumatay (CN=patrick j. bumatay/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

Hi Brett,

This LRM is still in circulation and nothing has been cleared yet.

Thad

Brett M. Kavanaugh
10/06/2002 01:10:19 PM
Record Type: Record

To: P. Thaddeus Messenger/OMB/EOP@EOP, Patrick J. Bumatay/WHO/EOP@EOP
cc:
Subject: Re: LRM PTM160 - - VETERANS AFFAIRS Qs and As on HR4939 - Veterans Medicare Payment Act of 2002

Where does this stand?

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 10/06/2002 01:15 PM ----------

Patrick J. Bumatay
10/04/2002 10:44:04 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Re: LRM PTM160 - - VETERANS AFFAIRS Qs and As on HR4939 - Veterans Medicare Payment Act of 2002

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/04/2002 10:44 AM ----------

Sarah S. Lee
10/04/2002 10:44:35 AM
Record Type: Record

To: P. Thaddeus Messenger/OMB/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: LRM PTM160 - - VETERANS AFFAIRS Qs and As on HR4939 - Veterans Medicare Payment Act of 2002

Regarding your first question, we believe HR5250 does provide mandatory funding for veterans health care, because mandatory funding has been provided in the past without specifically stating that an appropriation is made.

From: P. Thaddeus Messenger on 10/02/2002 04:43:52 PM
Record Type: Record

To: Toni S. Hustead/OMB/EOP@EOP, WHGC LRM, Matthew J. Schneider/OMB/EOP@EOP, Sarah S. Lee/OMB/EOP@EOP
cc: P. Thaddeus Messenger/OMB/EOP@EOP, Ingrid M. Schroeder/OMB/EOP@EOP
Subject: LRM PTM160 - - VETERANS AFFAIRS Qs and As on HR4939 - Veterans Medicare Payment Act of 2002

Good afternoon,

Could you please consider Question 8 (reprinted below) today or Thursday, and let me know (a) if you agree it's not really mandatory, and (b) the prospects for this moving this year.

Thanks,
Thad

Question 8. What would be the effect of a mandatory funding formula on the VA health care system?

Response: Depending upon its construction and methodology, a mandatory funding formula would provide predictable, but not necessarily adequate, funding for VA health care. The specific formula proposed in H.R. 5250 might have little impact on the VA health care system. We question whether the proposed formula would be considered an appropriation from the Treasury. Section 1301(d) of title 31, United States Code, provides that a law may be construed to make an appropriation out of the Treasury only if the law specifically states that an appropriation is made. Even if it were considered an appropriation, the next appropriation for VA medical care would probably supersede it.
---------- Forwarded by P. Thaddeus Messenger/OMB/EOP on 10/02/2002 04:35 PM ----------

From: P. Thaddeus Messenger on 10/02/2002 12:21:11 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: LRM PTM160 - - VETERANS AFFAIRS Qs and As on HR4939 - Veterans Medicare Payment Act of 2002

LRM ID: PTM160
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Wednesday, October 2, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: P. Thaddeus Messenger
PHONE: (202)395-7754 FAX: (202)395-6148
SUBJECT: VETERANS AFFAIRS Qs and As on HR4939 - Veterans Medicare Payment Act of 2002

DEADLINE: 12:00 Noon Wednesday, October 9, 2002
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Attached for your review, please find a copy of VA's draft answers to questions posed by Representative Christopher Smith (R-NJ) relating to VA (Dr. Roswell) testimony on July 16th. Dr. Roswell's testimony was previously circulated under LRM PTM132. VA's answers to a previous set of related questions was circulated under LRM PTM148.

Please provide your comments by 12:00 Noon, Wednesday, October 9, 2002. If we do not receive your comments by that time, we will assume you have no objection to the document as drafted.

If you experience difficulty with this LRM, or its attachment, please contact us immediately. To ensure receipt by Agency addressees, the electronic copy of this LRM will be followed by a duplicate copy via facsimile.

Thank you.

DISTRIBUTION LIST

AGENCIES:
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773
029-DEFENSE - Samuel T. Brick Jr. - (703) 697-1305
061-JUSTICE - Daniel Bryant - (202) 514-2141
118-TREASURY - Thomas M. McGivern - (202) 622-2317
117 & 340-TRANSPORTATION - Tom Herlihy - (202) 366-4687

EOP:
James C. Capretta
Karen S. Dooley
Barry T. Clendenin
Wanda J. Foster
Keith J. Fontenot
Mark Vinkenes
Thomas Reilly
Charles M. Montgomery
Robin Cleveland
Karyn T. Carson
Kathleen Peroff
Mary Jo Siclari

Cameron M. Leuthy
Wendell H. Waites
Eugene J. Devine
Toni S. Hustead
Arecia A. Grayton
Narahari Sastry
Danny A. Ermann
John J. Bartrum
Julie L. Haas
Lauren E. Bloomquist
Mark J. Schwartz
Robert F. Mahaffie
Jennifer S. Kron
Andrew D. Hire
Sarah S. Lee
Aquiles F. Suarez
Alan Gilbert
Philo D. Hall
Mark McClellan
OVP LRM
WHGC LRM
Philip J. Perry
Matthew J. Schneider
John F. Wood
Robert Marsh
Elizabeth L. Rossman
Danielle M. Simonetta
Lauren C. Lobrano
James J. Jukes
Ingrid M. Schroeder
P. Thaddeus Messenger
LRM ID: PTM160 SUBJECT: VETERANS AFFAIRS Qs and As on HR4939 -
Veterans Medicare Payment Act of 2002
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: P. Thaddeus Messenger Phone: 395-7754 Fax:
395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-7362

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Sent
To:_____
lrm@hhs.gov
dodlrs@osdgc.osd.mil
justice.lrm@usdoj.gov
llr@do.treas.gov
dot.legislation@ost.dot.gov

Message Copied
To:_____
James C. Capretta/OMB/EOP@EOP
Karen S. Dooley/OMB/EOP@EOP
Barry T. Clendenin/OMB/EOP@EOP
Wanda J. Foster/OMB/EOP
Keith J. Fontenot/OMB/EOP@EOP
Mark Vinkenes/OMB/EOP@EOP
Thomas Reilly/OMB/EOP@EOP
Charles M. Montgomery/OMB/EOP@EOP
Robin Cleveland/OMB/EOP@EOP
Karyn T. Carson/OMB/EOP@EOP
Kathleen Peroff/OMB/EOP@EOP
Mary Jo Siclari/OMB/EOP@EOP
Cameron M. Leuthy/OMB/EOP@EOP
Wendell H. Waites/OMB/EOP@EOP
Eugene J. Devine/OMB/EOP@EOP
Toni S. Hustead/OMB/EOP@EOP
Arecia A. Grayton/OMB/EOP@EOP
Narahari Sastry/OMB/EOP@EOP
Danny A. Ermann/OMB/EOP@EOP
John J. Bartrum/OMB/EOP@EOP
Julie L. Haas/OMB/EOP@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
Mark J. Schwartz/OMB/EOP@EOP
Robert F. Mahaffie/OMB/EOP@EOP
Jennifer S. Kron/OMB/EOP@EOP
Andrew D. Hire/OMB/EOP@EOP
Sarah S. Lee/OMB/EOP@EOP
Aquiles F. Suarez/OPD/EOP@EOP
Alan Gilbert/OPD/EOP@EOP
Philo D. Hall/OPD/EOP@EOP
Mark McClellan/CEA/EOP@EOP
OVP LRM
WHGC LRM
Philip J. Perry/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Robert Marsh/WHO/EOP@EOP
Elizabeth L. Rossman/OMB/EOP@EOP
Danielle M. Simonetta/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Ingrid M. Schroeder/OMB/EOP@EOP
P. Thaddeus Messenger/OMB/EOP@EOP

Message Copied
To:_____
toni s. hustead/omb/eop@eop
WHGC LRM
matthew j. schneider/omb/eop@eop
p. thaddeus messenger/omb/eop@eop
ingrid m. schroeder/omb/eop@eop

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ORIPA003_WHO.TXT_1>

DRAFT

Post-Hearing Questions for
Robert H. Roswell, M.D.
From the Honorable Christopher H. Smith
Regarding the July 16, 2002, Hearing
On H.R. 4939

Question 1. The Committee received a report dated July 12, 2002, from Secretary Principi revealing that about 300,000 veterans are now waiting for VA primary care appointments for six months or more. If H.R. 4939 were to become law and begin to move funds into VA care, to what extent would these funds enable VA to reduce the current backlog of veterans waiting for VA health care services?

Response: The Administration feels that H.R. 4939 may not actually increase VA resources or veterans' access to care. When the Department acquires new funding streams, those increased funds are typically offset against the appropriations that VA would otherwise receive. In that event, VA would not gain permanent increased funding from the measure. In addition, if more veterans were encouraged to use VA as a result of this bill, the cost to VA would possibly be significantly more than the transfer from the Medicare Trust Funds, since the Part B premium finances only a portion of Part B costs.

Question 2. We understand that one of the options for the Priority 7 Medicare eligible veteran might be for VA to cease providing pharmaceutical services, but continue providing other necessary care. What would be the policy basis for this view, and what would its intended result be in your estimation?

Response: VHA is not currently considering this option. Presumably, the policy basis to support a change in law to allow this would be cost savings and to place these veterans on an equal footing with other Medicare-eligible individuals who are not veterans.

Question 3. Last year, our Health Subcommittee Chairman introduced H.R. 2792, a bill that would have established a pilot program to coordinate benefits involving veterans who are eligible for both VA and Medicare benefits. With that pilot, participating veterans would have received inpatient care under Medicare, with coordination by VA for continuing and follow-up services. VA opposed this idea at that time. Now, considering that VA is nearly overwhelmed with Medicare-eligible veterans, has the VA's view of this proposal changed?

Response: VA still opposes this proposal. The proposal would create a disparate eligibility status based on a veteran's third party coverage and priority group. We remain concerned that the program would undermine our ability to

maintain existing services, especially specialized medical services and programs for veterans. Limiting care to VA general medical and surgical services would mean that veterans needing specialty health services would still need to come to VA for such care, but they would not have access to VA's comprehensive continuum of care, needed for their complex care needs. The health care covered by this proposal would be inpatient care for non-service-connected conditions. A veteran currently receiving care for a service-connected condition, for which VA does not or cannot contract locally, would also be forced to receive care in multiple locations. These types of disparities are not consistent with our goals and strategies of improving access, convenience, and timeliness of VA health care to all eligible veterans.

Question 4. Please give the Committee a general description of the pilot plan that was authorized by a prior Appropriations Acts and implemented in the Viera clinic in Representative Dave Weldon's district? How did that pilot project differ from the proposal made in H.R. 2792?

Response: Please see the Attachment to this set of responses.

Question 5. With all the pressure now on VA, with thousands of veterans waiting for outpatient appointments in Florida, and with nearly 300,000 nationwide who are waiting, according to your own report, have VA's views on this coordination idea changed any in the last year, and if so, what do you support?

Response: We have not changed our view with respect to the coordination idea proposed in H.R. 2792. We do not believe that improvements to coordination of care can be achieved by the approach presented within the bill.

Question 6. If the bill, H.R. 4939, were enacted, and Part B eligible veterans enrolled in VA became more aware that their personal funds were supporting the system they had chosen to deliver their care, do you believe that these veterans might stay with VA and reduce their joint reliance on VA and private providers under Medicare, or would their joint use of both public and private systems continue as under the current system?

Response: H.R. 4939 would require a transfer to VA from Medicare of twelve times the monthly Medicare Part B premium for each veteran enrolled in Medicare Part B who receives any outpatient care from VA. These veterans do not lose eligibility to receive care under Part B from any non-VA private-sector provider. This bill would simply establish a mechanism whereby VA would receive from Medicare limited reimbursement for care provided to Medicare-eligible veterans. We do not believe that H.R. 4939 would provide sufficient incentive for veterans to change their current arrangements for receiving health care, whether from VA or from non-VA providers, which would be based on numerous other factors in addition to third-party reimbursement considerations.

Question 7. The Disabled American Veterans (DAV) has recommended to the Committee that, for Congress to more fully address VA's funding problems, the VA should shift VA health care from a discretionary funding program to a mandatory program. The Ranking Member and I introduced H.R. 5250 on July 26, 2002, that would achieve this goal (bill attached).

Response: Not a question, but rather a lead-in to question 8.

Question 8. What would be the effect of a mandatory funding formula on the VA health care system?

Response: Depending upon its construction and methodology, a mandatory funding formula would provide predictable, but not necessarily adequate, funding for VA health care. The specific formula proposed in H.R. 5250 might have little impact on the VA health care system. We question whether the proposed formula would be considered an appropriation from the Treasury. Section 1301(d) of title 31, United States Code, provides that a law may be construed to make an appropriation out of the Treasury only if the law specifically states that an appropriation is made. Even if it were considered an appropriation, the next appropriation for VA medical care would probably supersede it.

Question 9. DAV testified that Medicare eligible veterans should retain the option under H.R. 4939 to choose VA health care and continue their private sector Medicare coverage as well. What, if any, problems might occur from an open-choice option such as this?

Response: The largest problem that may occur from an open-choice option would be negative outcomes from a lack of coordinated care. If veterans choose to receive some of their care from non-VA providers and the rest from VA providers, the current problems of duplicated care and the provision of unnecessary services may be exacerbated.

Question 10. In order to decrease the likelihood of appropriations offsets for H.R. 4939, DAV suggested that only Priority Group 7 veterans be subjected to any Medicare participation plan with VA. Do you generally agree with this view, and why or why not?

Response: We do not believe that subjecting only priority group 7 veterans to a Medicare participation plan with VA would decrease the likelihood of appropriations offsets for H.R. 4939. Medical care appropriations are available for the care of priority group 7 veterans. So, should Medicare funds become available for their care, we would expect Congress to propose an appropriation offset.

Question 11. The American Legion suggested that VA use the Indian Health Service (IHS) as a model for becoming a Medicare provider. IHS does not receive a transfer of the monthly Part B premium, but instead bills Medicare directly on a case-by-case basis for services rendered, or works within current Medicare managed-care plan. Would the IHS model work better for VA than my proposal under H.R. 4939, and why?

Response: The IHS Medicare reimbursement model would allow for a higher level of reimbursement for covered services, and, for that reason, we believe it is preferable to the system of reimbursement proposed in H.R. 4939.

Question 12. How many veterans enrolled in VA health care are currently Medicare eligible? If these veterans received all of their care from Medicare, what would the cost be to the Medicare program to provide the same level of health care to them?

Response: For FY 2002, VA is projecting approximately 3 million Medicare-eligible veteran enrollees (proxy = age 65 and over). Assuming VA service utilization rates and applying Medicare allowable charges, we estimate VA expenditures of $7 billion for Medicare covered services. By 2012, this group is estimated to increase to 4.35 million enrollees with estimated VA expenditures of $12.7 billion for Medicare covered services. We are unable to estimate costs to Medicare if these veterans were to receive all their health care under Medicare rather than receiving some or all through the VA health care system.

Question 13. Given the aging of the veteran population, within another few years, a likely majority of VA's patients will be eligible for Medicare. As time goes by, do you believe that VA-Medicare coordination will be seen as a more realistic possibility, or do you see VA and CMS maintaining separate programs for the foreseeable future?

Response: The mission of the Veterans Health Administration is to provide high quality, accessible healthcare to eligible veterans. In order to maximize the medical care benefits and services provided to veterans, VA strongly supports coordination of benefits with other federal programs, including Medicare. The reality is, however, that Medicare is not sufficient by itself to meet all veterans' needs. A substantial number of veterans are under 65 years old or have service-connected and special disabilities requiring services not readily available outside VHA. Moreover, VA's pharmacy benefits program has played a crucial role in driving the recent increased demand for access to VA health care. Medicare, of course, has no prescription benefit coverage, and this makes the VA health care system particularly attractive to veterans over age 65. Therefore, there will be a continued need for a separate veterans healthcare system in the foreseeable future. Over time, I believe that opportunities for health care coordination with the Department of Health and Human Services will emerge. To this end, VA has

established the position of Deputy Under Secretary for Health Policy Coordination, who will explore and oversee such opportunities for coordination.

Question 14. Have you consulted with the President's Task Force on Veterans Health Care on Medicare-VA relationships? What was the nature of any consultations?

Response: In informal talks between the co-chairs of the President's Task Force (PTF) and myself, we preliminarily discussed the concept of a Medicare collaboration project along the lines of a capitation program. Under such a program as discussed, VA would receive a fixed rate of reimbursement in return for providing an eligible veteran's health care. This would allow veterans to use their earned Medicare eligibility in receiving care from VA. Payment by Medicare of a fixed, capitated rate would limit liability against the Medicare trust fund. Chapter 4 of the PTF's interim report contains discussion of possible Medicare reimbursement programs.

Question 15. VA has been working on various planning scenarios this year to deal with the burgeoning demands on the system. Can you review for the Committee some of the options VA may be considering in respect to dealing with this growth in demand, including their expected advantages to the system?

Response: VA is currently reviewing several different scenarios as we develop the FY 2004 budget and the FY 2003 VERA allocation methodology. However, all of these scenarios are pre-decisional and it would be premature to release them at this time.

Question 16. The VFW alluded to several primary factors in its testimony that the VHA believes may have undermined the success of DoD's Medicare Subvention pilot program, authorized under the Balanced Budget Act of 1997. VFW proposes that there be no annual cap on Medicare payments to VA; that the level of effort requirement be eliminated; and that VA in effect be treated no differently than any other Medicare health care provider. Should we consider some of these points as we develop future legislation to authorize a Medicare subvention pilot program?

Response:

In their testimony, the VFW mentioned several points that were crucial to a successful Medicare subvention program.

- Subvention must be implemented uniformly nation-wide.
- There must be no annual cap on Medicare payments to VA.
- The Level of Effort (LOE) requirement must be eliminated.
- The CMS capitation or payment formula must be adjusted to accommodate medical services actually provided by VA as opposed to only those currently covered under Medicare.

- Full appropriation support must be maintained with absolutely no reduction in funding as a consequence of subvention funding.

These points, as well as all lessons learned from the DoD Medicare subvention demonstration, must be considered in considering a VA Medicare initiative. There are significant differences between the VA and DoD health care delivery systems and the populations they serve that could mitigate against some of the problems reported by DoD. Therefore, it is not clear that some of the problems DoD encountered would affect VA to the same degree.

Question 17. Beyond the specifics of H.R. 4939 or of other Medicare subvention measures now before Congress, should a relationship between VA and CMS regarding dual eligible veterans be stimulated between these institutions, and why or why not?

Response: Coordination of the federal health care benefits provided by VA, DoD and HHS programs should be aggressively pursued. Coordination of benefits will allow maximal delivery of healthcare services with the minimum federal budget appropriations. Furthermore, coordination of benefits for dual eligible beneficiaries could potentially maximize efficiency and reduce duplication of services, and improve healthcare quality and safety.

Question 18. Title 38, United States Code, Section 111 authorizes some veterans to be reimbursed for travel costs, but the mileage allowance is inadequate at only 11 cents per mile. What are your views on the role of VA's beneficiary travel program as a means of promoting access to VA health care?

Response: The Beneficiary travel program serves as a means to assist in defraying the cost of travel expenses for veterans with special eligibility or those with low incomes when the travel is in conjunction with scheduled appointments. Currently, demand for VA health care is at an all time high. The number of veterans enrolled in the VA health care system currently exceeds the Department's available resources to provide timely access to quality health care. Due to the current demand for VA health care benefits, the Department cannot endorse any proposal that would divert funding away from medical care for veterans. Therefore, utilizing the beneficiary travel program as a means of promoting access to VA health care would create a false impression of system capacity and further compound VA's access problem.

Question 19. Would VA support increased beneficiary travel mileage allowance for service-disabled veterans in rural areas, or for those who are poor?

Response: The current VA beneficiary travel policy provides travel reimbursement benefits for service-disabled veterans and those with low incomes, regardless of geographic residence. The increase in demand for VA health care benefits and subsequent pressures on the medical care appropriation

preclude the Department from endorsing any additional health care benefit expenditures at this time.

Attachment: Response to Question 4

Issue: Question #4 from the subject post hearing questions asks for a general description of the East Central Florida contracting pilot program and for a comparison of that pilot to the one in current legislation.

Discussion: In the VA's 2000 Appropriations Act, Congress directed VA to continue an inpatient hospitalization program (ECF Pilot Program), which had been piloted between June 1998 and September 1998. The pilot program participants consisted of a small group of veterans determined not to have specialty needs who were enrolled and actively receiving their primary care from the VA interim clinic in Palm Bay (Brevard County), Florida. Findings from the pilot program concluded that contracting with the private sector could be cost-effective under appropriate conditions.

On August 1, 2000, the ECF Hospitalization Program, Phase II was initiated. A large multi-specialty outpatient clinic (Viera OPC) was activated in July 1999 to replace the small interim Palm Bay primary care clinic. The Viera OPC activation significantly increased clinic capacity and, therefore, the number of veterans accessing VA outpatient health care services in ECF, as well as those potentially eligible for hospitalization. During the pilot program veterans who were enrolled to receive primary care at the Palm Bay clinic were eligible to receive inpatient services in the community via contract. When Phase II was initiated, veterans enrolled and actively receiving care at the Viera OPC were given options of where they could receive needed hospitalization (as determined by their VA primary care physician) as part of the ECF Hospitalization Program, Phase II.

Veterans seeking care for their service-connected conditions could elect inpatient hospitalization either at a VA hospital or through VA contracts with local non-VA hospitals at VA expense. In addition, veterans with no other form of health coverage (Medicare, Insurance, HMO) were eligible to receive care with VA contract hospitals in the community. Veterans with other inpatient hospitalization options (Medicare, Insurance, HMO) could select care at a VA facility, or could elect to use their other health coverage and self refer to hospitals in the community.

For both the original ECF Pilot and the Phase II Hospitalization Programs, patient demographics, unit costs, patient satisfaction, and program utilization were compared with patients receiving equivalent care at the parent VA facility at Tampa.

Results: Costs to operate the ECF Phase II Hospitalization Program were significantly higher than the costs reported for the ECF Pilot Program. While contracted hospital costs in the ECF Pilot Program were only approximately 85.5 percent of what might have been expended for hospitalization at existing VA facilities, contract costs during the Phase II program were approximately 33

percent higher than the cost of equivalent VA care. A number of factors are believed to have contributed to these differences.

Demographics and the health status between the two eligible populations were significantly different. During the Pilot Program, only primary care patients treated at the interim Palm Bay Clinic were included in the pilot. This likely excluded the more complex patients with multiple diagnoses. With the opening of the Viera multi-specialty clinic, access to a range of specialty care services greatly expanded. This increased the total of number of veterans seeking care in the ECF area as well as the complexity of the patient care base. A 'case mix' comparison was performed to evaluate the complexity/ degree of sickness between those admitted under the Pilot Program and those that were admitted as part of the Phase II Program. The patients admitted during the Pilot Program had a case mix of 1.10. Those admitted during the Phase II Program had a case mix of 1.29, i.e., were more complex. Another very significant difference was age. During the Pilot Program, the average patient admitted was 65 years. In contrast, during the Phase II Program, the age of the veterans admitted to a private sector contract hospital was 57 years of age. This leads us to conclude that the patients that were admitted during the Phase II program, although younger, represented a sicker/ more complex population.

Other factors contributing to the increase in contracted costs in the Phase II program might be attributed to private sector billing practices as well as methods used to determine VA inpatient costs for comparable care. Lessons learned from the ECF Pilot Program (phase I) resulted in an improved cost accounting methodology for the Phase II program. For instance, it was not unusual to receive bills from private sector hospitals six (6) months to one year after the results of the pilot program report had been published. For costing purposes during the ECF Phase II reporting period, we elected to include only the costs of patients that had been admitted through June 2001 and that we felt represented a 'completed' bill. In this way, we hoped to represent a truer cost than during the pilot.

In addition, the methodology used to calculate VA inpatients costs changed between the Pilot program and the Phase II Program. During the pilot program, we had no VA method for comparing VA inpatient costs with private sector costs using Diagnostic Related Grouping (DRG). DRG costs were approximated using a detailed mathematical formula based on Medicare Costs. Between the Pilot Program and the Phase II Program, VA implemented the Decisions Support System (DSS). This enabled us to extract the specific VA costs of treating patients by DRG category.

SUMMARY OF KEY FINDINGS: Results of the ECF Phase II Program did not support the premise that contracting with hospitals in the private sector was more cost-effective than admitting the veteran to an available VA facility. While the ECF Pilot Program experienced private sector costs that were 85.5 percent of VA

costs, the cost of an inpatient admission during the ECF Phase II Program was approximately 33 percent higher than admission to an existing VA facility. While this conclusion is inconsistent with previous findings of the ECF Pilot Program, we believe there are specific instances where contracting for private sector care would be a more cost-effective alternative. For example, this would be the case when the capital investment costs to renovate existing facilities or to build new facilities are factored into the equation. VHA has been cited by GAO studies and others for expending millions of dollars maintaining old, under-used facilities that do not meet basic life safety requirements. In making decisions about whether to continue to maintain these facilities and invest the capital required to bring them up to current standards, the cost-effectiveness of contracting should be thoroughly analyzed especially in light of an overall declining veteran population. The cost of contracting out the inpatient portion of care may well be more cost-effective in instances when VA construction or a major renovation is required to accommodate inpatient care.

NEXT STEPS: Effective December 1, 2001, modifications were made to the inpatient hospitalization program, ECF Phase III due to budget constraints. Changes will help offset the increasing total costs of operating the program. Contracts were awarded to one medical/surgical provider and one mental health care provider in Brevard County for non-emergent inpatient care only. Veterans without alternate health care coverage (i.e., Medicare, Insurance, HMO) will be referred by primary care providers at the Viera OPC to these facilities for non-emergent hospitalization. Emergency admissions for service connected conditions will be covered by the existing fee basis program, or through emergency care provisions as outlined in the Millennium Bill for veterans with no other form of health care. Although the Phase III Program was only recently initiated, we believe the number of veterans using this program will be significantly reduced and, therefore, the total cost of operating the program will be manageable.

Comparison of the ECF Pilot to H.R. 2792.

Comparisons with the ECF pilot are noted in bold.

SEC. 5. PILOT PROGRAM FOR COORDINATION OF AMBULATORY COMMUNITY HOSPITAL CARE.

(a) IN GENERAL- Chapter 17 of title 38, United States Code, is amended by inserting after section 1725 the following new section:

`Sec. 1725A. Coordination of hospital benefits: pilot program

`(a) PILOT PROGRAM- Subject to the availability of funds specified in subsection (g), the Secretary shall carry out a pilot program in not more than four geographic areas of the United States to improve access to, and coordination of, inpatient care of eligible veterans. Under the pilot program, the Secretary, subject to subsection (b), shall pay certain costs described in subsection (b) for which an eligible veteran would otherwise be personally liable. The authority to carry out the pilot program shall expire on September 30, 2006.

`(b) PAYMENT OF COSTS- In carrying out the program described in subsection (a), the Secretary may pay the costs authorized under this section for hospital care and medical services furnished on an inpatient basis in a non-Department hospital to an eligible veteran participating in the program. Such payment may cover the costs for applicable plan deductibles and coinsurance and the reasonable costs of such inpatient care and medical services not covered by any applicable health-care plan of the veteran, but only to the extent such care and services are of the kind authorized under this chapter.

East Central Florida Hospitalization Program (ECF) pays cost of care for eligible patients at contract facilities. Contract is based on discounted Medicare rate. VA does not pay any patient co-payments or deductibles. Non service connected and service connected veterans treated for non-service connected conditions who have health plans (i.e. HMO , Medicare and/or private insurance) are not eligible under the program.

***Eligible patients*: those veterans enrolled and receiving care at the Brevard/Viera OPC during the past 24 months who**

- **are not covered by a health care plan and need admission for a *non*-emergent condition or**
- **service -connected veterans being treated for a *non*-emergent service connected conditions**

The Secretary shall limit the care and services for which payment may be made under the program to general medical and surgical services and shall require that such services may be provided only upon preauthorization by the Secretary.

ECF covers medical, surgical and psychiatric *non-emergent* admissions. Emergent admissions are covered under provisions of Millenium Bill or fee basis authority

`(c) ELIGIBLE VETERANS- (1) A veteran described in paragraph (1) or (2) of section 1710(a) of this title is eligible to participate in the pilot program if the veteran--

`(A) is enrolled to receive medical services from an outpatient clinic operated by the Secretary which is (i) within reasonable proximity to the principal residence of the veteran, and (ii) located within the geographic area in which the Secretary is carrying out the program described in subsection (a);

`(B) has received care under this chapter within the 24-month period preceding the veteran's application for enrollment in the pilot program;

ECF same

`(C) as determined by the Secretary before the hospitalization of the veteran (i) requires such hospital care and services for a non-service-connected condition, and (ii) could not receive such services from a clinic operated by the Secretary; and

`(D) elects to receive such care under a health-care plan (other than under this title) under which the veteran is entitled to receive such care.

`(2) Nothing in this section shall be construed to reduce the authority of the Secretary to contract with non-Department facilities for care of a service-connected disability of a veteran.

ECF –Service Connected veterans are included in ECF program and can elect hospitalization at either a VA hospital or contract non-VA facility for a *non*-emergent service connected condition

`(3) Notwithstanding subparagraph (D) of paragraph (1), the Secretary shall ensure that not less than 15 percent of the veterans participating in the program are veterans who do not have a health-care plan.

ECF- approximately 80 % of veterans currently participating in program have no health plan.

`(d) CASE MANAGEMENT- As part of the program under this section, the Secretary shall, through provision of case-management, coordinate the care being furnished directly by the Secretary and care furnished under the program in non-Department hospitals to veterans participating in the program.

ECF – has a full time RN who case manages every patient approved for hospitalization at a contract non-VA facility

`(e) DESIGNATION OF PARTICIPATING SITES- (1) In designating geographic areas in which to establish the program under subsection (a), the Secretary shall ensure that--

`(A) the areas designated are geographically dispersed;

`(B) at least 70 percent of the veterans who reside in a designated area reside at least two hours driving distance from the closest

medical center operated by the Secretary which provides medical and surgical hospital care; and

ECF – Brevard/Viera Clinic is located 115 miles (2.25 hours) from West Palm Beach VA, 131 miles (2.5 hours) from Tampa VA and 169 miles (3 hours) from Gainesville VA. At least 70% of current patients reside 2 or more hours from a VA inpatient facility

`(C) the establishment of the program in any such area would not result in jeopardizing the critical mass of patients needed to maintain a Department medical center that serves that area.

`(2) Notwithstanding paragraph (1)(B), the Secretary may designate for participation in the program at least one area which is in proximity to a Department medical center which, as a result of a change in mission of that center, does not provide hospital care.

`(f) REPORTS- (1) Not later than September 30, 2003, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience in implementing the pilot program under subsection (a).

`(2) Not later than September 30, 2005, the Secretary shall submit to those committees a report on the experience in operating the pilot program during the first two full fiscal years during which the pilot program is conducted. That report shall include--

`(A) a comparison of the costs incurred by the Secretary under the program and the cost experience for the calendar year preceding establishment of the program at each site at which the program is operated;

The methodology for this should be determined well before the pilot programs begin. This process is much more complex than it may seem. <u>ECF</u> admissions for FY 2001 reflected inpatient costs at contract facilities to be approximately 33% higher than at a VA facility.

`(B) an assessment of the satisfaction of the participants in the program; and

<u>ECF</u>-92% of participants rate overall satisfaction with ECF program as good or excellent .

`(C) an analysis of the effect of the program on access and quality of care for veterans.

`(g) FUNDING LIMITATIONS- (1) The total amount expended for the pilot program in any fiscal year (including amounts for administrative costs) may not exceed $50,000,000.

`(2) Any expenditure of funds for the pilot program shall be made from amounts in the Medical Care Collections Fund attributable to collections under section 1729 of this title. No funds may be expended to support the purposes of this section from any other funds available to the Secretary for the delivery of health care services to veterans, including funds appropriated or

otherwise available for the care and treatment of veterans who require specialized care and resources.

`(h) HEALTH-CARE PLAN DEFINED- For purposes of this section, the term `health-care plan' has the meaning given that term in section 1725(f)(3) of this title.'.

(b) CLERICAL AMENDMENT- The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1725 the following new item:

`1725A. Coordination of hospital benefits: pilot program.'.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>
Sent: 10/7/2002 10:45:17 AM
Subject: : Letter from Oxley and Sensenbrenner to Dem Conferees
Attachments: P_GF0QA003_OPD.TXT_1.wpd

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 7-OCT-2002 14:45:17.00
SUBJECT:: Letter from Oxley and Sensenbrenner to Dem Conferees
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
End Original ARMS Header

fyi that this should be released some time this afternoon.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on
10/07/2002 02:47 PM ----------

"Taylor, Paul" <Paul.Taylor@mail.house.gov>
10/07/2002 01:32:36 PM
Record Type: Record

To: "Haines, Terry" <Terry.Haines@mail.house.gov>, "Pinkos, Steve"
<Steve.Pinkos@mail.house.gov>, Brett M. Kavanaugh/WHO/EOP@EOP,
"'Wayne_Abernathy@banking.senate.gov'"
<Wayne_Abernathy@banking.senate.gov>
cc:
Subject: Letter from Oxley and Sensenbrenner to Dem Conferees

Attached please find the final version of a letter from Reps. Oxley and
Sensenbrenner to Senators Sarbanes, Dodd, Schumer, and Reed re: liability
provisions in the terrorism insurance bill. Please let me know ASAP if
everyone's signed on so I can have the Judiciary Committee offices
formalize
the letter and send it out.

Wayne, please let me know ASAP if Senator Gramm wants to sign on to the
letter. We'd like to get this out by 2:15 or so.

- Offer Letter to Senate Democrat Conferees.wpd

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_GF0QA003_OPD.TXT_1>

To: Senators Sarbanes, Dodd, Reed, and Schumer
From: Reps. Oxley and Sensenbrenner [and Senator Gramm?]

Thank you for your proposal of last Thursday regarding the liability provisions of terrorism insurance legislation. We understand your proposal to include a federal cause of action and consolidation of all cases in federal court, both at pre-trial and trial proceedings, arising out of a terrorist event, and to include the standard for award of punitive damages contained in H.R. 1, the No Child Left Behind Act.

In response to that offer, we propose the following:

Federal Cause of Action and Consolidation of Cases. We agree with you on the need for a federal cause of action and consolidation of cases at the pre-trial and trial stages.

Punitive Damages. The standard for award of punitive damages would be as set out in H.R. 1, as you have proposed.

Non-economic Damages. The standard for award of non-economic damages also would be as set out in H.R. 1.

Attorneys' Fees. We propose a compromise on this issue. We would narrow the limit on attorneys fees contained in the House bill to apply only to damages drawn from the United States Treasury. This narrowed provision would simply continue the long-standing rule with respect to attorneys' fees contained in the Federal Tort Claims Act, 28 U.S.C. § 2678.

Procedures. We propose the following procedural protections: (i) settlement of cases under the program would be subject to approval by the Secretary of the Treasury; and (ii) the federal district judge would determine whether punitive damages were warranted and, if so, the amount of the award. Any final bill also should address secondary issues such as subrogation and arbitration as to which we would not anticipate any disagreement.

We are hopeful that our proposal will bring us closer to an agreement on this important issue. We look forward to your prompt response to this proposal.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>
Sent: 10/7/2002 10:45:17 AM
Subject: : Letter from Oxley and Sensenbrenner to Dem Conferees
Attachments: P_GF0QA003_WHO.TXT_1.wpd

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 7-OCT-2002 14:45:17.00
SUBJECT:: Letter from Oxley and Sensenbrenner to Dem Conferees
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
End Original ARMS Header

fyi that this should be released some time this afternoon.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on
10/07/2002 02:47 PM ----------

"Taylor, Paul" <Paul.Taylor@mail.house.gov>
10/07/2002 01:32:36 PM
Record Type: Record

To: "Haines, Terry" <Terry.Haines@mail.house.gov>, "Pinkos, Steve"
<Steve.Pinkos@mail.house.gov>, Brett M. Kavanaugh/WHO/EOP@EOP,
"'Wayne_Abernathy@banking.senate.gov'"
<Wayne_Abernathy@banking.senate.gov>
cc:
Subject: Letter from Oxley and Sensenbrenner to Dem Conferees

Attached please find the final version of a letter from Reps. Oxley and
Sensenbrenner to Senators Sarbanes, Dodd, Schumer, and Reed re: liability
provisions in the terrorism insurance bill. Please let me know ASAP if
everyone's signed on so I can have the Judiciary Committee offices
formalize
the letter and send it out.

Wayne, please let me know ASAP if Senator Gramm wants to sign on to the
letter. We'd like to get this out by 2:15 or so.

- Offer Letter to Senate Democrat Conferees.wpd

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_GF0QA003_WHO.TXT_1>

To: Senators Sarbanes, Dodd, Reed, and Schumer
From: Reps. Oxley and Sensenbrenner [and Senator Gramm?]

Thank you for your proposal of last Thursday regarding the liability provisions of terrorism insurance legislation. We understand your proposal to include a federal cause of action and consolidation of all cases in federal court, both at pre-trial and trial proceedings, arising out of a terrorist event, and to include the standard for award of punitive damages contained in H.R. 1, the No Child Left Behind Act.

In response to that offer, we propose the following:

Federal Cause of Action and Consolidation of Cases. We agree with you on the need for a federal cause of action and consolidation of cases at the pre-trial and trial stages.

Punitive Damages. The standard for award of punitive damages would be as set out in H.R. 1, as you have proposed.

Non-economic Damages. The standard for award of non-economic damages also would be as set out in H.R. 1.

Attorneys' Fees. We propose a compromise on this issue. We would narrow the limit on attorneys fees contained in the House bill to apply only to damages drawn from the United States Treasury. This narrowed provision would simply continue the long-standing rule with respect to attorneys' fees contained in the Federal Tort Claims Act, 28 U.S.C. § 2678.

Procedures. We propose the following procedural protections: (i) settlement of cases under the program would be subject to approval by the Secretary of the Treasury; and (ii) the federal district judge would determine whether punitive damages were warranted and, if so, the amount of the award. Any final bill also should address secondary issues such as subrogation and arbitration as to which we would not anticipate any disagreement.

We are hopeful that our proposal will bring us closer to an agreement on this important issue. We look forward to your prompt response to this proposal.

From: Charnes, Adam <Adam.Charnes@usdoj.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/7/2002 9:51:49 AM
Subject: : FW: Study on compensation losses from terrorist events
Attachments: P_1XWPA003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Charnes, Adam" <Adam.Charnes@usdoj.gov> ("Charnes, Adam" <Adam.Charnes@usdoj.gov>
[UNKNOWN])
CREATION DATE/TIME: 7-OCT-2002 13:51:49.00
SUBJECT:: FW: Study on compensation losses from terrorist events
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett, FYI. Do you want to meet with this guy?

-----Original Message-----
From: Dixon, Lloyd [mailto:dixon@rand.org]
Sent: Friday, October 04, 2002 4:22 PM
To: Charnes, Adam
Subject: Study on compensation losses from terrorist events

Dear Mr. Charnes:

We at the RAND Institute for Civil Justice are examining policy options for compensating individual and business losses from terrorist attacks (see attached project description). As part of the study, we are interviewing people who are thinking about this issue from different perspectives. We would like to talk to Mr. Dinh or someone in your office about perspectives of the DoJ. We will be talking directly with Mr. Feinberg, so will not need
to discuss the details of the Victim Compensation Fund. Rather, we would like to have a more general disucssion of what has worked well, what has worked poorly, in the response to 9/11 and the advantages and disadvantages of differnt approaches moving forward (e.g. liability limitations, a federal
insurance backstop, etc.).

We will be in Washington DC October 9, 10, and 11. Would you or someone in your office be able to meet with us then? The discussion will be confidential and should last one hour or so. The results of our investigation will be written up in a publicly available report.

Good times for us would be
Wed Oct 9 at 11:15
Wed Oct 9 at 4:00 (or later)
Friday Oct 11 at 11:00

Sincerely,

Lloyd Dixon, PhD
Senior Economist
RAND
1700 Main St.
Santa Monica, CA 90407
310-393-0411 x7480

<<INTERVEW PROJ-DESC.doc>>

- INTERVEW PROJ-DESC.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_1XWPA003_WHO.TXT_1>

Designing Systems for Compensating Losses from Terrorist Attacks

A Study Conducted by the Institute for Civil Justice at RAND

The terrorist attacks on September 11 caused staggering losses to life and property. Early estimates are that the insurance industry will pay out between $35 billion and $75 billion, by far the largest single-event insurance loss in U.S. history. Congress has stepped in with the September 11th Compensation Act of 2001 to limit liability and provide assistance to airlines and individuals injured in the attacks.

How we as a society compensate the individuals and businesses harmed by terrorist attacks has significant implications both for the individuals injured as well as the economy as a whole. It not only determines the amount and speed of payments to individuals and businesses, but it also creates important incentives for risk-avoiding behavior and economic activity.

The purpose of this study is to assess the strengths and weaknesses of the current set of programs for compensating losses due to the terrorist attacks and the advantages and disadvantages of possible modifications. The study will assess policy responses to the September 11 attacks and examine precedents for government intervention both at home and abroad. This research will inform debates by discussing the advantages and disadvantages of various government responses including government involvement in insurance markets, limitations on liability, and government-run compensation programs.

This research is being conducting by the Institute for Civil Justice (ICJ) at the RAND Corporation. RAND is a non-profit organization headquartered in Santa Monica, CA. For over 20 years, the ICJ has informed the policy debate on compensation, liability, and legal process issues through independent, objective analysis. This research is part of a larger effort at RAND to develop responses to the terrorism threat. The project is funded both by RAND and the Institute for Civil Justice. The results will be released in a publicly available report in the first part of 2003.

August 2002

REV_00152193

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Matthew Kirk/WHO/EOP@EOP [WHO] <Matthew Kirk>;Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
Sent: 10/7/2002 2:43:56 PM
Subject: : fees

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 7-OCT-2002 18:43:56.00
SUBJECT:: fees
TO:Matthew Kirk ( CN=Matthew Kirk/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Just to make sure we are on same page, the attorneys' fee
provision in the House offer would, if actually written into law, require
some kind of additional formula to apply it in a sensible way given
overall financial structure of bill. My understanding is that House
phrased this in these general terms in the offer today so that it would be
a good talker/negotiating point, but that it will not be part of final
package (and again, if it miraculously became part of the final package,
would require further explication in bill language).
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Oscar Gonzalez/OMB/EOP@EOP [OMB] <Oscar Gonzalez>;Patrick J. Bumatay/WHO /EOP@EOP [WHO] <Patrick J. Bumatay>
Sent: 10/7/2002 1:11:37 PM
Subject: : Re: TIME SENSITIVE REMINDER on -- LRM OGG359 - - TREASURY Report on S2798 Employee Abuse Prevention Act of 2002
Attachments: P_OEAQA003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 7-OCT-2002 17:11:37.00
SUBJECT:: Re: TIME SENSITIVE REMINDER on -- LRM OGG359 - - TREASURY Report on S2798 Employee Abuse Prevention Act of 2002
TO:Oscar Gonzalez (CN=Oscar Gonzalez/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

No objection.

Patrick J. Bumatay
10/07/2002 05:05:24 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: TIME SENSITIVE REMINDER on -- LRM OGG359 - - TREASURY Report on S2798 Employee Abuse Prevention Act of 2002

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/07/2002 05:05 PM ----------

From: Oscar Gonzalez on 10/07/2002 05:05:28 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: TIME SENSITIVE REMINDER on -- LRM OGG359 - - TREASURY Report on S2798 Employee Abuse Prevention Act of 2002

This is a reminder that comments on this item were due at 5:00 P.M. TODAY. Please submit comments as soon as possible.

If you have already responded to this request, please disregard this message.

Thanks
---------- Forwarded by Oscar Gonzalez/OMB/EOP on 10/07/2002 05:01 PM ----------

From: Oscar Gonzalez on 10/07/2002 03:31:28 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: TIME SENSITIVE -- LRM OGG359 - - TREASURY Report on S2798 Employee Abuse Prevention Act of 2002

We are seeking your review of a draft Treasury letter to the Senate Judiciary Committee asking the Committee to postpone a mark-up of this bill scheduled for tomorrow, Tuesday, October 8th and instead hold hearings on the bill. Please submit comments by no later than 5:00 P.M. TODAY, October 7th.

LRM ID: OGG359
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Monday, October 7, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: Oscar Gonzalez
PHONE: (202)395-3923 FAX: (202)395-3109
SUBJECT: TREASURY Report on S2798 Employee Abuse Prevention Act of 2002

DEADLINE: 5:00 P.M. Monday, October 7, 2002
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: We are seeking your review of a draft Treasury letter to the Senate Judiciary Committee asking the Committee to postpone a mark-up of this bill scheduled for tomorrow, Tuesday, October 8th and instead hold hearings on the bill. Please submit comments by no later than 5:00 P.M. TODAY, October 7th.

DISTRIBUTION LIST

AGENCIES:
061-JUSTICE - Daniel Bryant - (202) 514-2141
062-LABOR - Robert A. Shapiro - (202) 693-5500
025-COMMERCE - Michael A. Levitt - (202) 482-3151

EOP:
Stephen S. McMillin
Alan B. Rhinesmith
Mark J. Schwartz
Andrew D. Hire
James Boden
Hester C. Grippando
Kenneth L. Schwartz
Julie L. Haas
Lauren E. Bloomquist
Stuart Shapiro
Larry R. Matlack
Maureen Walsh
Katrina A. McDonald
Mark D. Menchik
James D. Foster
Lauren C. Lobrano
Christine M. Burgeson

Philip J. Perry
Matthew J. Schneider
John F. Wood
Heather Wingate
Diana L. Schacht
Garry Malphrus
Elizabeth S. Dougherty
Jess Sharp
WHGC LRM
NEC LRM
Carlos E. Bonilla
James J. Jukes
Richard E. Green
Ingrid M. Schroeder
LRM ID: OGG359 SUBJECT: TREASURY Report on S2798 Employee Abuse Prevention Act of 2002
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Oscar Gonzalez Phone: 395-3923 Fax: 395-3109
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-4607

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

- s2798c2.doc

Message Sent
To:_____

Stephen S. McMillin/OMB/EOP@EOP
Alan B. Rhinesmith/OMB/EOP@EOP
Mark J. Schwartz/OMB/EOP@EOP
Andrew D. Hire/OMB/EOP@EOP
James Boden/OMB/EOP@EOP
Hester C. Grippando/OMB/EOP@EOP
Kenneth L. Schwartz/OMB/EOP@EOP
Julie L. Haas/OMB/EOP@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
Stuart Shapiro/OMB/EOP@EOP
Larry R. Matlack/OMB/EOP@EOP
Maureen Walsh/OMB/EOP@EOP
Katrina A. McDonald/OMB/EOP@EOP
Mark D. Menchik/OMB/EOP@EOP
James D. Foster/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
Christine M. Burgeson/OMB/EOP@EOP
Philip J. Perry/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Heather Wingate/WHO/EOP@EOP
Diana L. Schacht/OPD/EOP@EOP
Garry Malphrus/OPD/EOP@EOP
Elizabeth S. Dougherty/OPD/EOP@EOP
Jess Sharp/OPD/EOP@EOP
WHGC LRM
NEC LRM
Carlos E. Bonilla/OPD/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Richard E. Green/OMB/EOP@EOP
Ingrid M. Schroeder/OMB/EOP@EOP

Message Sent
To:_____
Stephen S. McMillin/OMB/EOP@EOP
Alan B. Rhinesmith/OMB/EOP@EOP
Mark J. Schwartz/OMB/EOP@EOP
Andrew D. Hire/OMB/EOP@EOP
James Boden/OMB/EOP@EOP
Hester C. Grippando/OMB/EOP@EOP
Kenneth L. Schwartz/OMB/EOP@EOP
Julie L. Haas/OMB/EOP@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
Stuart Shapiro/OMB/EOP@EOP
Larry R. Matlack/OMB/EOP@EOP
Maureen Walsh/OMB/EOP@EOP
Katrina A. McDonald/OMB/EOP@EOP
Mark D. Menchik/OMB/EOP@EOP
James D. Foster/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
Christine M. Burgeson/OMB/EOP@EOP
Philip J. Perry/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Heather Wingate/WHO/EOP@EOP
Diana L. Schacht/OPD/EOP@EOP
Garry Malphrus/OPD/EOP@EOP
Elizabeth S. Dougherty/OPD/EOP@EOP
Jess Sharp/OPD/EOP@EOP
WHGC LRM
NEC LRM
Carlos E. Bonilla/OPD/EOP@EOP

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_OEAQA003_WHO.TXT_1>

DRAFT

Dear X:

I am writing regarding S. 2798, in particular the amendment in the nature of a complete substitute intended to be proposed by Senator Durbin.

The bill would make significant revisions to the complex bankruptcy statute. Changes of this magnitude deserve careful study to ensure that they do not create unintended, even potentially destructive incentives for corporate debtors. Such incentives would hurt workers and creditors, and help no one. Given the sweep of the changes contemplated in S. 2798, the Senate Judiciary Committee should hold hearings before concluding consideration of the bill.

These are several of the questions a hearing could address:

(a) Section 2 would create a new "excess benefit test," requiring business leaders to hand back benefits beyond a statutory ceiling received up to four years before. While this provision is grouped with fraudulent transfers, the "excess benefit test" would not make fraud a requirement. Should it be, given the potentially massive liability that this provision would impose unexpectedly on a business leader, when his or her business failed? And should the business leader have to hand back the whole benefit – including the non-excess portion below the "excess" ceiling?

(b) Section 3 would create new restrictions on a debtor's ability to retain key employees and hire advisors. The provision seeks to protect the debtor's assets. Yet the bankruptcy statute must also give a debtor the means to hire talented leaders and professionals when the company's survival is at stake. Does this provision properly balance these two goals?

(c) Section 4 would take the apparently unprecedented step of converting equity interests in the firm in employees' pension plans into high-priority claims, even higher than Federal tax claims. In addition, the provision would value the equity interest as of the time of grant, which amounts to a quasi-guarantee on equity. Is privileging this type of compensation over wages and creditors' claims good policy? Part of the provision's goal seems to be to encourage diversification in employees' pension plans; is the bankruptcy code the right place to do so? And would the provision chill employers' willingness to grant matching stock?

(d) The bill would apply effective immediately, at the risk of throwing existing bankruptcy cases into disarray and re-ordering legal rights without notice to any claimants. Should the bill be prospective?

Hearings with bankruptcy experts would help resolve fundamental questions of this type. In light of the importance of the efficient workings of bankruptcy to our economy, I urge you to take such expertise into your deliberations.

Yours sincerely,

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Anne Womack/WHO/EOP@EOP [WHO] <Anne Womack>
Sent: 10/7/2002 1:12:05 PM
Subject: : Nice!

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 7-OCT-2002 17:12:05.00
SUBJECT:: Nice!
TO:Anne Womack ( CN=Anne Womack/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: Charnes, Adam <Adam.Charnes@usdoj.gov>
To: Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>
CC: Brown, Jamie E (OLA) <Jamie.E.Brown@usdoj.gov>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Benczkowski, Brian A <Brian.A.Benczkowski@usdoj.gov>
Sent: 10/8/2002 6:06:18 AM
Subject: : RE: Final letter

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Charnes, Adam" <Adam.Charnes@usdoj.gov> ("Charnes, Adam" <Adam.Charnes@usdoj.gov> [UNKNOWN])
CREATION DATE/TIME: 8-OCT-2002 10:06:18.00
SUBJECT:: RE: Final letter
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:"Brown, Jamie E (OLA)" <Jamie.E.Brown@usdoj.gov> ("Brown, Jamie E (OLA)" <Jamie.E.Brown@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:"Benczkowski, Brian A" <Brian.A.Benczkowski@usdoj.gov> ("Benczkowski, Brian A" <Brian.A.Benczkowski@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

not yet, still tinkering.

-----Original Message-----
From: Heather_Wingate@who.eop.gov [mailto:Heather_Wingate@who.eop.gov]
Sent: Tuesday, October 08, 2002 9:58 AM
To: Charnes, Adam
Cc: Benczkowski, Brian A; Brown, Jamie E (OLA);
Brett_M._Kavanaugh@who.eop.gov
Subject: Re: Final letter

could you guys make sure someone faxes me a signed copy of this? Also, has
this
gone out yet this morning?
my fax is 456-6468
Thanks!

(Embedded
image moved "Charnes, Adam" <Adam.Charnes@usdoj.gov>
to file: 10/07/2002 06:05:39 PM
pic22607.pcx)

Record Type: Record

To: "Brown, Jamie E (OLA)" <Jamie.E.Brown@usdoj.gov>, Brett M. Kavanaugh/WHO/EOP@EOP, Heather Wingate/WHO/EOP@EOP

cc: "Benczkowski, Brian A" <Brian.A.Benczkowski@usdoj.gov>
Subject: Final letter

Attached is the final version of the letter plus the attachments. The new Trott-related discussion is in footnotes 1 and 3. The number of days the nomination has been pending still needs to be added to the final paragraph, as
of tomorrow.

-----Original Message-----
From: Charnes, Adam
Sent: Monday, October 07, 2002 5:55 PM
To: Brown, Jamie E (OLA); 'Brett M. Kavanaugh (E-mail)'; 'Heather Wingate (E-mail)'
Cc: Benczkowski, Brian A
Subject: RE: New Footnote to Estrada letter

No. I was going to add it at the top of page two. I will also add something to
page 5 to take this info into account. Other changes to the letter have been
made, and I will circulate a new version along with the charts to be attached
shortly.

-----Original Message-----
From: Brown, Jamie E (OLA)
Sent: Monday, October 07, 2002 5:47 PM
To: Charnes, Adam; 'Brett M. Kavanaugh (E-mail)'; 'Heather Wingate (E-mail)'
Cc: Benczkowski, Brian A
Subject: RE: New Footnote to Estrada letter

I assume this footnote is inserted after "Judge Steven Trott to the Ninth Circuit" on page 4.

The most recent version of the letter and attachments that I have is from Brett's e-mail of last Friday, sent at 3:28 pm. Unless I hear otherwise, and
after people have had a chance to sign off on this footnote, this is the version
to which we will add the footnote and prepare for Dan's signature.

-----Original Message-----
From: Charnes, Adam
Sent: Monday, October 07, 2002 5:41 PM
To: Brett M. Kavanaugh (E-mail); Heather Wingate (E-mail); Brown, Jamie E (OLA)
Cc: Benczkowski, Brian A
Subject: New Footnote to Estrada letter

The last remaining item in the letter is the insertion of the following footnote:

"The nomination of Stephen S. Trott to the Ninth Circuit was delayed by a dispute between the Committee and the Deparment with respect to access to internal documents wholly unrelated to Judge Trott. See Ruth Marcus, "Impasse
Over Justice Documents Ends; Papers Turned Over; Senate Confirms Trott to Court
of Appeals," Wash. Post., Mar. 25, 1998, at A23. The Committee never requested
that the Department provide it with documents created by Judge Trott as a Department lawyer."

Please advise asap whether this looks OK to you. If so, the letter is ready to
go.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>
Sent: 10/8/2002 4:33:44 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 8-OCT-2002 08:33:44.00
SUBJECT::
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I would make sure to tee up narrow tailoring point with judge.

.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Paul.P.Colborn@usdoj.gov [UNKNOWN] <Paul.P.Colborn@usdoj.gov>
CC: faith.burton@usdoj.gov [UNKNOWN] <faith.burton@usdoj.gov>
Sent: 10/8/2002 1:16:22 PM
Subject: : IMPORTANT re RE: H.R. 4187
Attachments: P_DBJRA003_WHO.TXT_1.wpd

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 8-OCT-2002 17:16:22.00
SUBJECT:: IMPORTANT re RE: H.R. 4187
TO:Paul.P.Colborn@usdoj.gov (Paul.P.Colborn@usdoj.gov [UNKNOWN])
READ:UNKNOWN
CC:faith.burton@usdoj.gov (faith.burton@usdoj.gov [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

The letter can go up tonight. Please FAX and e-mail me final
letter as soon as possible.

"Colborn, Paul P" <Paul.P.Colborn@usdoj.gov>
10/08/2002 04:29:51 PM
Record Type: Record

To: "Burton, Faith" <Faith.Burton@usdoj.gov> (Receipt Notification
Requested) (IPM Return Requested)
cc:
Subject: RE: H.R. 4187

Faith, the attached letter has been cleared by WHC (per Brett Kavanaugh).
Brett says that you need to talk to Kirsten Chadwick in White House
Legislative Affairs about the question of whether the letter should go up
today or tomorrow morning. Call her at 456-6620 and ask to be connected
to her cell phone because she is on the Hill.

-----Original Message-----
From: Burton, Faith
Sent: Tuesday, October 08, 2002 4:04 PM
To: Colborn, Paul P
Subject: FW: H.R. 4187

Please let me know how you want to proceed.

-----Original Message-----
From: Wray, Henry [mailto:Henry.Wray@mail.house.gov]
Sent: Tuesday, October 08, 2002 3:30 PM
To: Burton, Faith
Subject: H.R. 4187

Manager's amendment attached.

<<HR4187amendment.PDF>>

Henry R. Wray
Senior Counsel
Subcommittee on Government Efficiency
House Committee on Government Reform
Phone: (202) 225-5147
Fax: (202) 225-2373

- pra.bill.wpd

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_DBJRA003_WHO.TXT_1>

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

October 8, 2002

The Honorable Dan Burton
Chairman
Committee on Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This letter sets forth the Administration's views concerning the manager's amendment version of H.R. 4187, the "Presidential Records Act Amendments of 2002." We believe that enactment of this bill is unnecessary and inappropriate and, more importantly, the bill is unconstitutional.

I.

The motivation underlying introduction of H.R. 4187 appears to be some concern in Congress with respect to Executive Order 13233, 66 Fed. Reg. 56025 (Nov. 5, 2001). President Bush issued the Order last November in order to establish polices and procedures governing consideration of the assertion of constitutionally based privileges in connection with the release of presidential records of prior administrations by the National Archives and Records Administration ("NARA") under the Presidential Records Act ("PRA"), 44 U.S.C. §§ 2201-2207. H.R. 4187 would purport to supersede President Bush's Order and put in its place congressionally prescribed procedures.

We respectfully suggest that much of the congressional concern underlying H.R. 4187 is based on a misunderstanding of the purpose and effect of the Executive Order. The Order does *not* operate to preclude the release of any presidential records. In fact, its most significant policy innovation is a provision establishing that the incumbent President ordinarily will not object to the release of records authorized for release by the former President. The Order merely establishes reasonable and appropriate procedures for review of documents and for privilege determinations to be made. The Order expressly refrains from indicating whether and under what circumstances privileges should be asserted.

Indeed, the Executive Order has operated to facilitate the release of records. Pursuant to the terms of the Order, representatives of former President Ronald Reagan -- the only President whose presidential records are ready for release by NARA after expiration of the PRA's 12-year restricted access period -- reviewed the 68,000 pages of records for which notice was provided

REV_00152228

in 2001, and on November 29, 2001, former President Reagan, through his representative, stated that he was not asserting constitutional privilege over any of the 68,000 pages. Since that time, representatives of President Bush have reviewed the records, and all of those 68,000 pages have been released. The procedures of the Order are working well, and presidential records are being released to the public consistent with the review that the Constitution requires be available to the former and incumbent Presidents in order that they can determine whether to exercise their constitutional authority.

Much criticism directed at the Order has apparently been premised on the view that a *former* President should have no right to assert privileges over his presidential records. That criticism is unfounded because the Supreme Court has definitively held, in an opinion by Justice William Brennan, that both incumbent *and* former Presidents retain the right to assert constitutionally based privileges with respect to the presidential records of the former President. *See Nixon v. Administrator of General Services*, 433 U.S. 425 (1977). And the PRA expressly preserved the authority of former Presidents in this regard. *See* 44 U.S.C. § 2204(c)(2). We are disappointed that much of the commentary on the Order never confronts the Supreme Court's ruling or this provision of the PRA.

It bears emphasis that, as under the Freedom of Information Act ("FOIA), a denied requester can bring suit to challenge a privilege assertion any time that a former or incumbent President asserts a privilege. In other words, the courts will have the final word on the validity of any assertion of privilege. Neither the former nor the incumbent President will possess unreviewable authority to withhold records.

Other criticism of the Executive Order has suggested that the Order threatens Congress's exercise of its authority to seek presidential records in order to discharge its legislative responsibilities. This is incorrect. The only provision in the Order that is pertinent to congressional requests and subpoenas is section 6. That section is not intended to change the law in any way with respect to the legal effectiveness of congressional subpoena return dates, the practice of the executive and legislative branches of engaging in an accommodation process regarding congressional requests for privileged executive branch information, or the period of time that the Constitution requires a former or incumbent President be afforded in order to consider whether to assert a constitutionally based privilege. Section 6 merely sets forth the time periods that will generally apply to the reviews undertaken by former and incumbent Presidents in response to congressional requests for presidential records.

There also have been some questions raised about the fact that under the Executive Order a denied requester must initiate litigation against a former President who asserts a privilege, rather than requiring the former President who asserts a privilege to sue the incumbent President's Administration to block release. The Supreme Court has held that former Presidents have the constitutional right to assert privileges over their records. If such a privilege is asserted, we believe it most appropriate for the requester who disagrees with the privilege assertion to proceed to court -- just as the requester would do in ordinary FOIA litigation -- rather than requiring the former President to take the extraordinary step of suing the incumbent President's Administration. As a practical matter, it is no more difficult for a requester to file suit when a

REV_00152229

former President asserts a privilege than for an unsuccessful requester to file an ordinary FOIA suit. Because this procedure is so common in the FOIA context, we think it is an entirely appropriate model for these purposes.

In short, Executive Order 13233 is faithful to the PRA and to the Supreme Court's case law; it sets out appropriate procedures that satisfy both the congressional purposes underlying the PRA and the constitutional prerogatives and interests of former and incumbent Presidents; and implementation of the Order is going well. There is no need for legislation concerning the Order.

II.

In any event, H.R. 4187 is unconstitutional. The PRA, which H.R. 4187 would amend, provides for the release of presidential records of prior administrations, but it expressly recognizes that any such release is subject to assertion of constitutionally based privileges: "Nothing in this Act shall be construed to confirm, limit, or expand any constitutionally-based privilege which may be available to an incumbent or former President." 44 U.S.C. § 2204(c)(2). And the PRA makes no effort to establish policies or procedures for asserting constitutionally based privileges under the PRA, but instead leaves that to the executive branch. *See* 124 Cong. Rec. 34,895 (1978) (statement of Rep. Preyer) (legislation not "designed to prejudge" issues "involving the manner of assertion of the constitutional privilege"); 44 U.S.C. § 2206 ("The Archivist shall promulgate . . . regulations necessary to carry out the provisions of this [Act]. Such regulations shall include . . . provisions for notice by the Archivist to the former President when the disclosure of particular documents may adversely affect any rights and privileges which the former President may have.").

Consistent with the Constitution and Congress's recognition of the constitutional requirements applicable to privilege claims, the executive branch has been responsible for the establishment of procedures for assertion of constitutionally based privileges under the PRA. The preamble to H.R. 4187, however, states that its purpose is to end that by "establish[ing] procedures for the consideration of claims of constitutionally based privilege against disclosure of Presidential records." That purpose, however, is beyond Congress's legislative authority. The presidential privileges are constitutionally based. Thus, Congress lacks the authority to regulate by legislation the procedures for exercising this constitutional power, which belongs exclusively to the President. This has long been recognized, as reflected in testimony in 1975 by then-Assistant Attorney General for the Office of Legal Counsel Antonin Scalia. *See* Statement of Antonin Scalia, Assistant Attorney General, Office of Legal Counsel, on S. 2170, the Congressional Right to Information Act, before the Subcommittee on Intergovernmental Relations, Committee on Government Operations, United States Senate, Oct. 23, 1975.

Objecting to legislation setting out requirements governing the manner in which the President's constitutionally based privileges may be asserted, Assistant Attorney General Scalia testified that "[t]he Constitutional basis of Executive privilege means that the President may exercise it without Congressional leave and in spite of Congressional disapproval. In other words, the privilege does not fall within that group of powers which the President may exercise

REV_00152230

in the silence of Congress but not in derogation of legislation." *Id.* at 14. To support this position, the Assistant Attorney General quoted several passages from the Supreme Court decision in *United States v. Nixon*, 418 U.S. 683 (1974). *Id.*, quoting from 418 U.S. at 705 (executive privilege is derived from "the supremacy of each branch within its own assigned area of constitutional duties"), 708 ("The privilege is fundamental to the operation of government and inextricably rooted in the separation of powers under the Constitution."), and 711 ("Nowhere in the Constitution . . . is there any explicit reference to a privilege of confidentiality, yet to the extent this interest relates to the effective discharge of a President's powers, it is constitutionally based.").

Assistant Attorney General Scalia went on in his testimony to object to a provision "requir[ing] that Executive privilege be claimed only by the President himself in writing, setting forth the grounds on which it is based." Statement at 14. That provision was substantially the same as section 2208(a)(4) of H.R. 4187 as introduced, a portion of which remains in the substitute bill under section 2208(b)(1). The Assistant Attorney General stated "that Congress lacks the power to preclude the President from adopting . . . reasonable alternative methods of claiming privilege, which he feels to be justified in the circumstances." *Id.* at 15.

The constitutional principle that is applicable here is that, given "the supremacy of each branch within its own assigned area of constitutional duties," *Nixon*, 418 U.S. at 705, it is for the President, not the Congress, to set forth the procedural requirements for exercising the constitutionally based privileges available to former and incumbent Presidents. Although Assistant Attorney General Scalia's testimony focused on a particular provision that is comparable to a particular provision in H.R. 4187, the same analysis applies to the remaining provisions in H.R. 4187 because they also seek to regulate the exercise of the constitutionally based presidential privileges, a process that must remain within the discretion of the President.

Other provisions of H.R. 4187 raise specific constitutional concerns beyond the overarching problem of lack of legislative authority (which renders the bill unconstitutional in its entirety). Section 2208(a)(3) would purport to limit the incumbent and former Presidents to a 20-day period, with the possibility of a 20-day extension, to review records and determine whether to assert privilege. Given the volume of records that are involved in the PRA process, that brief period almost always will be unreasonable and therefore constitute an impermissible burden on the Presidents' exercise of their constitutional authority. A similar constitutional concern is raised by section 2208(c), which directs the Archivist to release records subject to a privilege claim by a former President after expiration of a 20-day period unless otherwise directed by a court in an action brought by the former President. Providing that a former President's claim of privilege is effective for only 20 days, and thereafter only with the approval of an officer of another branch of government, would significantly undercut the effect of the claim of privilege and may well also constitute an unconstitutional burden on the former President's exercise of

REV_00152231

his constitutional authority, as recognized by the Supreme Court in *Nixon v. Administrator of General Services*.

Section 2208(d)(2) would raise a constitutional concern if it were somehow read to direct the Archivist not to follow an incumbent President's directive to him to withhold records on the basis of privilege if the records have been requested by a congressional committee or the courts. If read in this way, the provision would turn the executive branch hierarchy on its head, making the Archivist superior to the President – in contravention of the settled principle that the President has the constitutional authority to supervise and direct executive branch officials in the discharge of their responsibilities. *See Myers v. United States*, 272 U.S. 52 (1926).

Finally, to return to the overarching constitutional problem identified earlier in this letter, the attempt in section 3 of the bill to declare that Executive Order 13233 "shall have no force or effect" would itself have no force or effect because Congress lacks the authority to override the President's exercise of his constitutional authority in this area.

In sum, H.R. 4187 constitutes an unconstitutional encroachment on presidential constitutional authority.

III.

Thank you for considering our views. If we can be of further assistance in this matter, please feel free to contact this office. The Office of Management and Budget has advised that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

Daniel J. Bryant
Assistant Attorney General

cc: The Honorable Henry Waxman
Ranking Minority Member

REV_00152232

From: CN=Collister W. Johnson/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/8/2002 2:17:31 PM
Subject: : Fw: FW: Direct Mail
Attachments: P_23MRA003_WHO.TXT_1.htm; P_23MRA003_WHO.TXT_2.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 8-OCT-2002 18:17:31.00
SUBJECT:: Fw: FW: Direct Mail
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

BK - another one for you (!) - thanks man -
c

---------- Forwarded by Collister W. Johnson/WHO/EOP on 10/08/2002 06:15 PM ----------

Coddy Johnson <cjohnson@georgewbush.com>
10/08/2002 05:40:28 PM
Record Type: Record

To: Collister W. Johnson/WHO/EOP@EOP
cc:
Subject: Fw: FW: Possible Direct Mail

FW: FW: Possible Direct Mail
----- Original Message -----
From: KC Jones - Political
To: Coddy Johnson ; Tom Josefiak - Legal
Cc: Kevin Shuvalov - Political ; John Parker - Legal
Sent: Tuesday, October 08, 2002 1:59 PM
Subject: FW: FW: Possible Direct Mail

-----Original Message-----
From: Kari Austin [mailto:kaustin@ksgop.org]
Sent: Tue 10/8/2002 12:18 PM
To: KC Jones - Political
Cc: Kevin Shuvalov
Subject: FW: FW: Possible Direct Mail

Here's a slate card we're sending to permanent advance voters. The back obviously needs text editing, but I just wanted to run it by you guys because we have the POTUS on it. All five candidates are state candidates,
and we plan to pay for it 100% state.

-----Original Message-----
From: hvincent@kcstar.com [SMTP:hvincent@kcstar.com]
Sent: Monday, October 07, 2002 4:47 PM
To: kaustin@ksgop.org
Subject: FW: FW: Possible Direct Mail

That is weird. It says you got it, but here it is again. Thanks!

Hilary P. Vincent
Direct Marketing Consultant
Star Direct, 816-234-4235
hvincent@kcstar.com

-----Original Message-----
From: Kim Cook [mailto:kcook@kcstar.com]
Sent: Monday, October 07, 2002 4:45 PM
To: kaustin@ksgop.org
Cc: Vincent, Hilary (Kansas City)
Subject: Re: FW: Possible Direct Mail

Kari, here's the first draft of the slate card. Lynn and Phill's copy is a little long, can you let me or Hilary know what to cut. Let us know what you think!

Thanks!
Kim

Kari Austin wrote:

>
>
>

- att1.htm
- slate.pdf

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_23MRA003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_23MRA003_WHO.TXT_2>

----- Original Message -----
From: KC Jones - Political
To: Coddy Johnson ; Tom Josefiak - Legal
Cc: Kevin Shuvalov - Political ; John Parker - Legal
Sent: Tuesday, October 08, 2002 1:59 PM
Subject: FW: FW: Possible Direct Mail

-----Original Message-----
From: Kari Austin [mailto:kaustin@ksgop.org]
Sent: Tue 10/8/2002 12:18 PM
To: KC Jones - Political
Cc: Kevin Shuvalov
Subject: FW: FW: Possible Direct Mail

Here's a slate card we're sending to permanent advance voters . The back obviously needs text editing, but I just wanted to run it by you guys because we have the POTU S on it. All five candidates are state candidates, and we plan to pay for it 100% state.

-----Original Message-----
From: hvincent@kcstar.com [SMTP:hvincent@kcstar.com]
Sent: Monday, October 07, 2002 4:47 PM
To: kaustin@ksgop.org
Subject: FW: FW: Possible Direct Mail

That is weird. It says you got it, but here it is again. Thanks!

Hilary P. Vincent
Direct Marketing Consultant
Star Direct, 816-234-4235
hvincent@kcstar.com

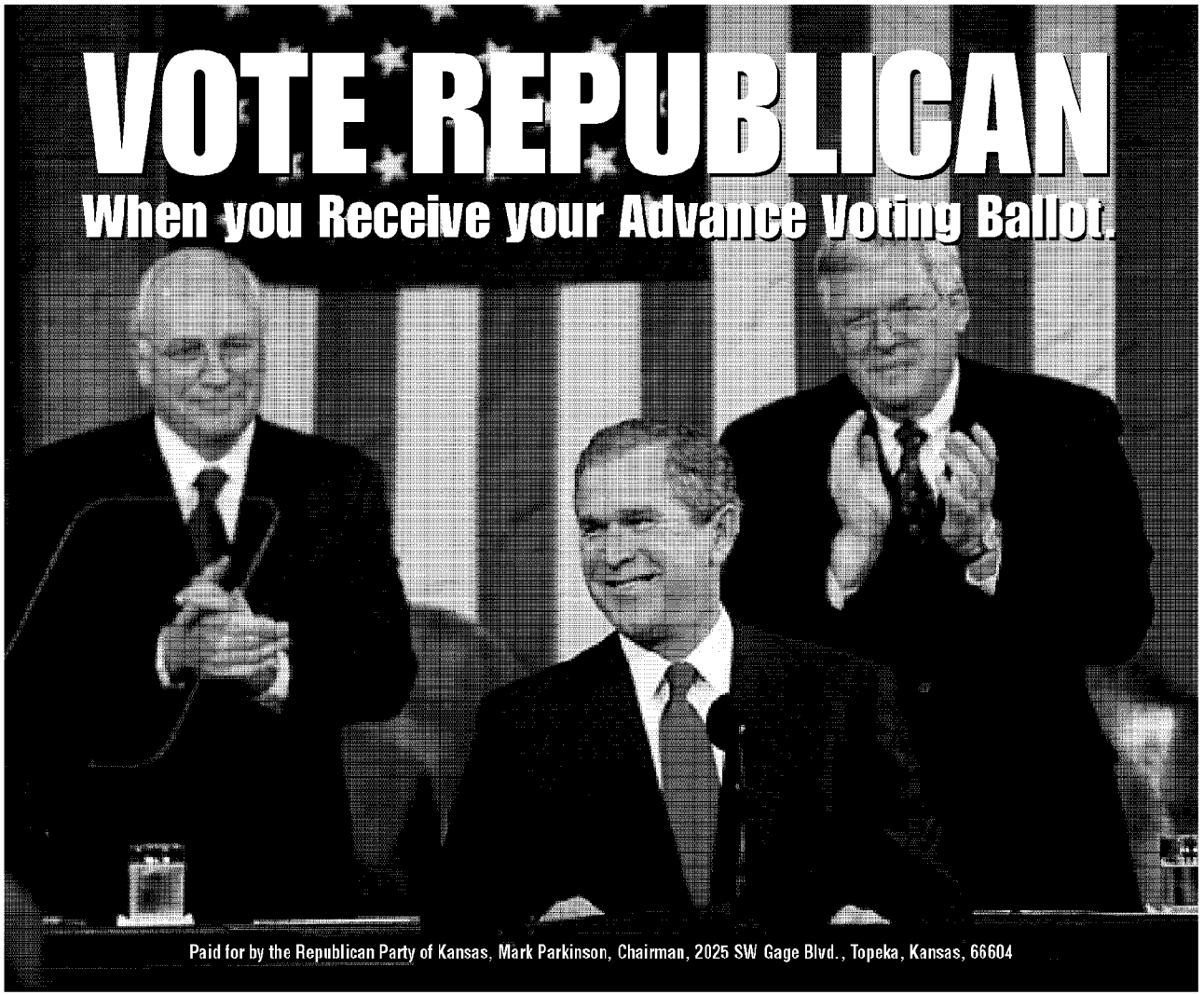
-----Original Message-----
From: Kim Cook [mailto:kcook@kcstar.com]
Sent: Monday, October 07, 2002 4:45 PM
To: kaustin@ksgop.org
Cc: Vincent, Hilary (Kansas City)
Subject: Re: FW: Possible Direct Mail

Kari, here's the first draft of the slate card. Lynn and Phill's copy is a little long, can you let me or Hilary know what to cut. Let us know what you think!

Thanks!
Kim

Kari Austin wrote:

>
>
>



Republican Party of Kansas
2025 SW Gage Blvd.
Topeka, KS 66604

NONPROFIT ORG.
U.S. POSTAGE
PAID
Republican
Party of Kansas

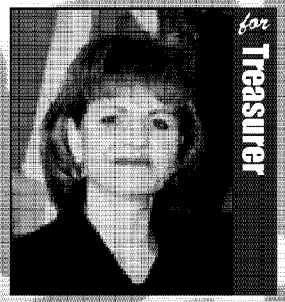
REV_00152237



for Governor

Tim Shallenburger

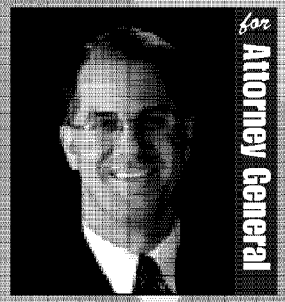
- Born and raised in Baxter Springs, Kansas
- Elect to the Kansas House of Representatives in 1986; Elect Speaker in1994 and 1996
- Widely respected for his even-handedness and faitness by both Republican and Democrats in the House
- Elected State Treasurer in 1998
- Has returned record amounts of unclaimed property to Kansans and has launched the college savings plan, Learning Quest
- Tim and his wife, Linda, reside in Topeka and have a daughter, Candice



for Treasurer

Lynn Jenkins

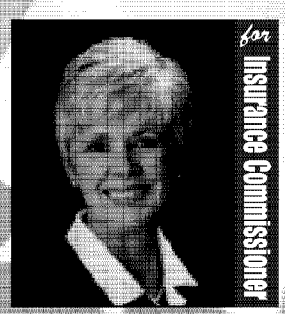
- Lynn is a sixth generation Kansan who was born in Topeka, and was raised on a dairy farm near Holton
- A graduate of Holton High School, Lynn attended Kansas State Univ. and Weber State Univ. Lynn has a degree in accounting with a minor in economics
- Lynn is a Certified Public Accountant
- Elected to the Kansas House of Representatives in 1998
- Elected to the Kansas Senate in 2000 where she is currently chair of the Legislative Post Aucit Committee
- Lynn is a member of the Susanna Wesley United Methodist Church in Topeka
- Lynn and her husband, Scott are the proud parents of Hayley and Hayden



for Attorney General

Phill Kline

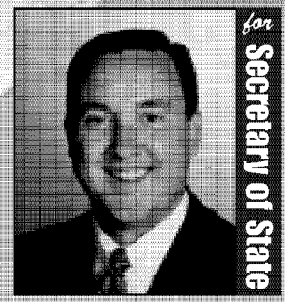
- Phill was born in Kansas City, Kansas, and is one of five children raised by a single parent
- A graduate of Shawnee Mission Northwest High School, Phill also earned a degree from Central Missouri State University before obtaining his law degree from the University of Kansas School of Law
- Elected to the Kansas House of Representatives in 1992 and served until 2000 representing the city of Shawnee in Johnson County
- Chairman of the House Taxation Committee for four years and Chairman of the House Appropriations Committee for one year
- Phill and his wife, Deborah have a daughter, Hillary



for Insurance Commissioner

Sandy Praeger

- Raised in Paola, Kansas, where she graduated from Paola High School
- Earned a bachelor's degree in education from the University of Kansas
- Former Mayor of Lawrence, Kansas
- Elected to the Kansas House of Representatives in 1990
- Elected to the Kansas Senate in 1992. Currently serving as Vice-president of the Senate
- Chairman of the Senate Financial Institutions and Insurance Committee
- Sandy and her husband, Mark, have two children, J.D. and Gretchen, and reside in Lawrence



for Secretary of State

Ron Thornburgh

- Ron grew up in Burlingame, Kansas
- Graduated from University in Topeka where he earned a degree in criminal justice
- Elected Kansas Secretary of State in 1994; re-elected in 1998
- Ron has actively sought to increase voter participation in Kansas
- Ron and his wife, Annette, have two sons, Grey and Tanner, and reside in Topeka

VOTE REPUBLICAN

REV_00152238

From: GaryM Stern <garym.stern@nara.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Paul.P.Colborn@usdoj.gov [UNKNOWN] <Paul.P.Colborn@usdoj.gov>
Sent: 10/8/2002 11:58:24 AM
Subject: : Open in the Public Domain Since EO 13233
Attachments: P_ZCFRA003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:GaryM Stern <garym.stern@nara.gov> (GaryM Stern <garym.stern@nara.gov> [UNKNOWN])
CREATION DATE/TIME: 8-OCT-2002 15:58:24.00
SUBJECT:: Open in the Public Domain Since EO 13233
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Paul.P.Colborn@usdoj.gov (Paul.P.Colborn@usdoj.gov [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

** High Priority **

This time with attachment, here is the table PRA processing that we intend to give to the Committee. They would like this asap, so please get back to me as soon as you can.

We have aggregated all of the requests pending review, and distinguished between what has already been cleared by the reps. Brett, let us know if you can clear the 57,779 today, which we could then move into no. 1.

Thanks.

- 13233pro.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ZCFRA003_WHO.TXT_1>

1. Open in the Public Domain Since EO 13233

Reagan

1/3/2002	8,000	1st segment of 68,000
3/15/2002	59,850	2nd segment of 68,000
6/17/2002	23,653 + 43 minutes of audio tape	non P5/non classified
7/19/2002	150	3rd segment of 68,000

Total at Reagan = 91,653 pages of textual and 43 minutes of audio tape

George H.W. Bush

7/19/2002	884	Vice Presidential P5 and P2

Total at Bush = 884 pages of textual

Grand Total Opened at Reagan and Bush = 92,537

2. Currently Pending Review by Incumbent President

57,779 + 12 audio tapes and an additional 90 minutes of audio tape

3. Currently Pending Review by Representatives of the former President/Vice President and the incumbent President

26,867 + 3 photos

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Philip J. Perry/OMB/EOP@EOP [OMB] <Philip J. Perry>
Sent: 10/8/2002 4:25:50 PM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 8-OCT-2002 20:25:50.00
SUBJECT::
TO:Philip J. Perry ( CN=Philip J. Perry/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
###### End Original ARMS Header ######

talked to Joseffer. I strongly encouraged him to pursue the OMB
option if it becomes available to him. I am pretty confident he would do
so.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: GaryM Stern <garym.stern@nara.gov>
Sent: 10/8/2002 1:08:28 PM
Subject: : Re: Open in the Public Domain Since EO 13233
Attachments: P_NZIRA003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 8-OCT-2002 17:08:28.00
SUBJECT:: Re: Open in the Public Domain Since EO 13233
TO:GaryM Stern <garym.stern@nara.gov> (GaryM Stern <garym.stern@nara.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

please send me revised when you get a chance. thanks.

GaryM Stern <garym.stern@nara.gov>
10/08/2002 03:48:30 PM
Record Type: Record

To: Paul.P.Colborn@usdoj.gov, Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Open in the Public Domain Since EO 13233

** High Priority **

This time with attachment, here is the table PRA processing that we intend to give to the Committee. They would like this asap, so please get back to me as soon as you can.

We have aggregated all of the requests pending review, and distinguished between what has already been cleared by the reps. Brett, let us know if you can clear the 57,779 today, which we could then move into no. 1.

Thanks.

- 13233pro.doc

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_NZIRA003_WHO.TXT_1>

1. Open in the Public Domain Since EO 13233

Reagan

1/3/2002	8,000	1st segment of 68,000
3/15/2002	59,850	2nd segment of 68,000
6/17/2002	23,653 + 43 minutes of audio tape	non P5/non classified
7/19/2002	150	3rd segment of 68,000

Total at Reagan = 91,653 pages of textual and 43 minutes of audio tape

George H.W. Bush

7/19/2002	884	Vice Presidential P5 and P2

Total at Bush = 884 pages of textual

Grand Total Opened at Reagan and Bush = 92,537

2. Currently Pending Review by Incumbent President

57,779 + 12 audio tapes and an additional 90 minutes of audio tape

3. Currently Pending Review by Representatives of the former President/Vice President and the incumbent President

26,867 + 3 photos

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kimberly A. Douglass/WHO/EOP@EOP [WHO] <Kimberly A. Douglass>
Sent: 10/8/2002 5:42:15 PM
Subject: : Re: Sarah Garrison

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 8-OCT-2002 21:42:15.00
SUBJECT:: Re: Sarah Garrison
TO:Kimberly A. Douglass (CN=Kimberly A. Douglass/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Please confirm.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 10/08/2002 09:45 PM ----------

Adam F. Greenstone
10/08/2002 09:32:50 PM

Record Type: Record

To: Guhan Kalambur/OA/EOP@EOP
cc:
bcc: Brett M. Kavanaugh/WHO/EOP
Subject: Re: Sarah Garrison

White House Counsel has communicated to me that like the Personal Aide to the President, the Personal Aide to the First Lady is considered an official passenger regardless of the nature of the trip. Ms. Garrison should speak to Brett Kavanaugh of White House Counsel if she has further questions in this area.

GUHAN
KALAMBUR
10/08/2002 09:28:27 PM

Record Type: Record

To: Adam F. Greenstone/OA/EOP@EOP
cc:
Subject: Sarah Garrison

Based on my understanding of the conversation -

You have worked with White House Counsel's Office to arrive at the determination that the position of the
Personal Aide to the First Lady is similar in stature to the that of the Personal Aide to the President and therefore is always serving in an official capacity while traveling in support of the respective principal.

Please respond if this is correct.

--Guhan

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Lauren J. Vestewig/OPD/EOP@EOP [OPD] <Lauren J. Vestewig>
Sent: 10/8/2002 6:18:30 PM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 8-OCT-2002 22:18:30.00
SUBJECT::
TO:Lauren J. Vestewig ( CN=Lauren J. Vestewig/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######

when is jay's party. just want to block date out. thx.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Estrada, Miguel A. <MEstrada@gibsondunn.com>
Sent: 10/8/2002 6:45:10 PM
Subject: : Re: tomorrow

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 8-OCT-2002 22:45:10.00
SUBJECT:: Re: tomorrow
TO:"Estrada, Miguel A." <MEstrada@gibsondunn.com> ("Estrada, Miguel A."
<MEstrada@gibsondunn.com> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

not in time, I assume?

"Estrada, Miguel A." <MEstrada@gibsondunn.com>
10/08/2002 10:43:14 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Re: tomorrow

I am still in Miami. I will fly back tomorrow.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov <Brett_M._Kavanaugh@who.eop.gov>
To: Estrada, Miguel A. <MEstrada@gibsondunn.com>
Sent: Tue Oct 08 18:50:15 2002
Subject: tomorrow

Are you back? Do you want to come to Hispanic Heritage event tomorrow
at
1:00?

==========
===

This message may contain confidential and privileged information. If it
has been sent to you in error, please reply to advise the sender of the
error and then immediately delete this message.

==========
===

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Collister W. Johnson/WHO/EOP@EOP [WHO] <Collister W. Johnson>
Sent: 10/8/2002 7:47:36 PM
Subject: : Re: Fw: FW: Direct Mail
Attachments: P_JVSRA003_WHO.TXT_1.htm; P_JVSRA003_WHO.TXT_2.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 8-OCT-2002 23:47:36.00
SUBJECT:: Re: Fw: FW: Direct Mail
TO:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Approved. Thanks.

Collister W. Johnson
10/08/2002 06:12:12 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Fw: FW: Direct Mail

BK - another one for you (!) - thanks man -
c

---------- Forwarded by Collister W. Johnson/WHO/EOP on 10/08/2002 06:15 PM ----------

Coddy Johnson <cjohnson@georgewbush.com>
10/08/2002 05:40:28 PM
Record Type: Record

To: Collister W. Johnson/WHO/EOP@EOP
cc:
Subject: Fw: FW: Possible Direct Mail

FW: FW: Possible Direct Mail
----- Original Message -----
From: KC Jones - Political
To: Coddy Johnson ; Tom Josefiak - Legal
Cc: Kevin Shuvalov - Political ; John Parker - Legal
Sent: Tuesday, October 08, 2002 1:59 PM
Subject: FW: FW: Possible Direct Mail

-----Original Message-----
From: Kari Austin [mailto:kaustin@ksgop.org]
Sent: Tue 10/8/2002 12:18 PM
To: KC Jones - Political
Cc: Kevin Shuvalov
Subject: FW: FW: Possible Direct Mail

Here's a slate card we're sending to permanent advance voters. The back obviously needs text editing, but I just wanted to run it by you guys because we have the POTUS on it. All five candidates are state candidates,
and we plan to pay for it 100% state.

-----Original Message-----
From: hvincent@kcstar.com [SMTP:hvincent@kcstar.com]
Sent: Monday, October 07, 2002 4:47 PM
To: kaustin@ksgop.org
Subject: FW: FW: Possible Direct Mail

That is weird. It says you got it, but here it is again. Thanks!

Hilary P. Vincent
Direct Marketing Consultant
Star Direct, 816-234-4235
hvincent@kcstar.com

-----Original Message-----
From: Kim Cook [mailto:kcook@kcstar.com]
Sent: Monday, October 07, 2002 4:45 PM
To: kaustin@ksgop.org
Cc: Vincent, Hilary (Kansas City)
Subject: Re: FW: Possible Direct Mail

Kari, here's the first draft of the slate card. Lynn and Phill's copy is a little long, can you let me or Hilary know what to cut. Let us know what you think!

Thanks!
Kim

Kari Austin wrote:

>
>
>

- att1.htm
- slate.pdf

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_JVSRA003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_JVSRA003_WHO.TXT_2>

----- Original Message -----
From: KC Jones - Political
To: Coddy Johnson ; Tom Josefiak - Legal
Cc: Kevin Shuvalov - Political ; John Parker - Legal
Sent: Tuesday, October 08, 2002 1:59 PM
Subject: FW: FW: Possible Direct Mail

-----Original Message-----
From: Kari Austin [mailto:kaustin@ksgop.org]
Sent: Tue 10/8/2002 12:18 PM
To: KC Jones - Political
Cc: Kevin Shuvalov
Subject: FW: FW: Possible Direct Mail

Here's a slate card we're sending to permanent advance voters . The back obviously needs text editing, but I just wanted to run it by you guys because we have the POTU S on it. All five candidates are state candidates, and we plan to pay for it 100% state.

-----Original Message-----
From: hvincent@kcstar.com [SMTP:hvincent@kcstar.com]
Sent: Monday, October 07, 2002 4:47 PM
To: kaustin@ksgop.org
Subject: FW: FW: Possible Direct Mail

That is weird. It says you got it, but here it is again. Thanks!

Hilary P. Vincent
Direct Marketing Consultant
Star Direct, 816-234-4235
hvincent@kcstar.com

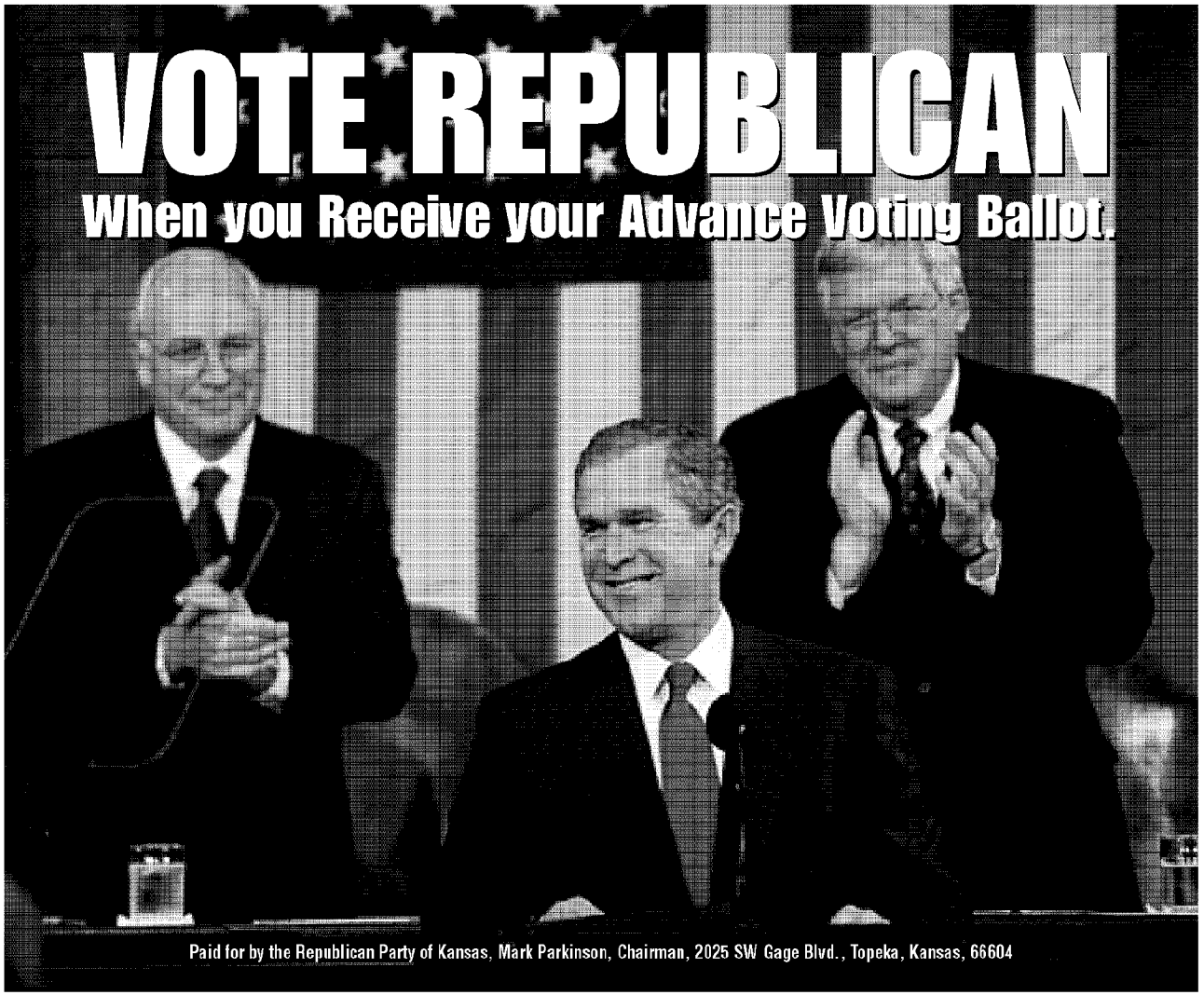
-----Original Message-----
From: Kim Cook [mailto:kcook@kcstar.com]
Sent: Monday, October 07, 2002 4:45 PM
To: kaustin@ksgop.org
Cc: Vincent, Hilary (Kansas City)
Subject: Re: FW: Possible Direct Mail

Kari, here's the first draft of the slate card. Lynn and Phill's copy is a little long, can you let me or Hilary know what to cut. Let us know what you think!

Thanks!
Kim

Kari Austin wrote:

>
>
>



Republican Party of Kansas
2025 SW Gage Blvd.
Topeka, KS 66604

NONPROFIT ORG.
U.S. POSTAGE
PAID
Republican
Party of Kansas

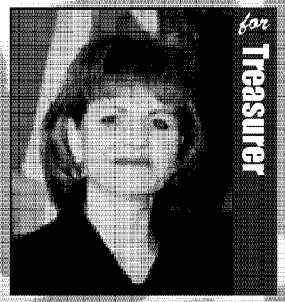
REV_00152283



for Governor

Tim Shallenburger

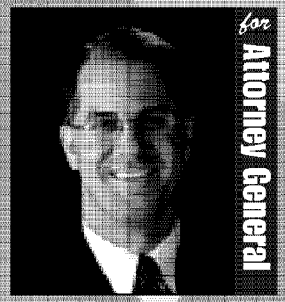
- Born and raised in Baxter Springs, Kansas
- Elect to the Kansas House of Representatives in 1986; Elect Speaker in1994 and 1996
- Widely respected for his even-handedness and faitness by both Republican and Democrats in the House
- Elected State Treasurer in 1998
- Has returned record amounts of unclaimed property to Kansans and has launched the college savings plan, Learning Quest
- Tim and his wife, Linda, reside in Topeka and have a daughter, Candice



for Treasurer

Lynn Jenkins

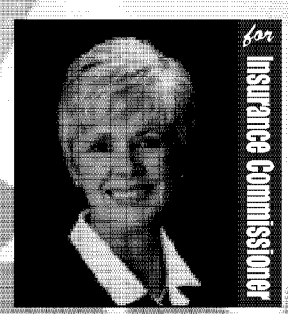
- Lynn is a sixth generation Kansan who was born in Topeka, and was raised on a dairy farm near Holton
- A graduate of Holton High School, Lynn attended Kansas State Univ. and Weber State Univ. Lynn has a degree in accounting with a minor in economics
- Lynn is a Certified Public Accountant
- Elected to the Kansas House of Representatives in 1998
- Elected to the Kansas Senate in 2000 where she is currently chair of the Legislative Post Aucit Committee
- Lynn is a member of the Susanna Wesley United Methodist Church in Topeka
- Lynn and her husband, Scott are the proud parents of Hayley and Hayden



for Attorney General

Phill Kline

- Phill was born in Kansas City, Kansas, and is one of five children raised by a single parent
- A graduate of Shawnee Mission Northwest High School, Phill also earned a degree from Central Missouri State University before obtaining his law degree from the University of Kansas School of Law
- Elected to the Kansas House of Representatives in 1992 and served until 2000 representing the city of Shawnee in Johnson County
- Chairman of the House Taxation Committee for four years and Chairman of the House Appropriations Committee for one year
- Phill and his wife, Deborah have a daughter, Hillary



for Insurance Commissioner

Sandy Praeger

- Raised in Paola, Kansas, where she graduated from Paola High School
- Earned a bachelor's degree in education from the University of Kansas
- Former Mayor of Lawrence, Kansas
- Elected to the Kansas House of Representatives in 1990
- Elected to the Kansas Senate in 1992. Currently serving as Vice-president of the Senate
- Chairman of the Senate Financial Institutions and Insurance Committee
- Sandy and her husband, Mark, have two children, J.D. and Gretchen, and reside in Lawrence



for Secretary of State

Ron Thornburgh

- Ron grew up in Burlingame, Kansas
- Graduated from University in Topeka where he earned a degree in criminal justice
- Elected Kansas Secretary of State in 1994; re-elected in 1998
- Ron has actively sought to increase voter participation in Kansas
- Ron and his wife, Annette, have two sons, Grey and Tanner, and reside in Topeka

VOTE REPUBLICAN

REV_00152284

From: Brown, Jamie E (OLA) <Jamie.E.Brown@usdoj.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Goodling, Monica <Monica.Goodling@usdoj.gov>;Charnes, Adam <Adam.Charnes@usdoj.gov>;Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>;Benczkowski, Brian A <Brian.A.Benczkowski@usdoj.gov>;Dinh, Viet <Viet.Dinh@usdoj.gov>
CC: O'Brien, Pat <Pat.O'Brien@usdoj.gov>;Scottfinan, Nancy <Nancy.Scottfinan@usdoj.gov>;Bryant, Dan <Dan.Bryant@usdoj.gov>
Sent: 10/8/2002 3:57:26 PM
Subject: : Estrada SG memos letter
Attachments: P_PKQRA003_WHO.TXT_1.pdf

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Brown, Jamie E (OLA)" <Jamie.E.Brown@usdoj.gov> ( "Brown, Jamie E (OLA)"
<Jamie.E.Brown@usdoj.gov> [ UNKNOWN ] )
CREATION DATE/TIME: 8-OCT-2002 19:57:26.00
SUBJECT:: Estrada SG memos letter
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:"Goodling, Monica" <Monica.Goodling@usdoj.gov> (Receipt Notification Requested) (IPM
Return Requested) ( "Goodling, Monica" <Monica.Goodling@usdoj.gov> (Receipt Notification
Requested) (IPM Return Requested) [ UNKNOWN ] )
READ:UNKNOWN
TO:"Charnes, Adam" <Adam.Charnes@usdoj.gov> (Receipt Notification Requested) (IPM Return
Requested) ( "Charnes, Adam" <Adam.Charnes@usdoj.gov> (Receipt Notification Requested) (IPM
Return Requested) [ UNKNOWN ] )
READ:UNKNOWN
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:"Benczkowski, Brian A" <Brian.A.Benczkowski@usdoj.gov> (Receipt Notification Requested)
(IPM Return Requested) ( "Benczkowski, Brian A" <Brian.A.Benczkowski@usdoj.gov> (Receipt
Notification Requested) (IPM Return Requested) [ UNKNOWN ] )
READ:UNKNOWN
TO:"Dinh, Viet" <Viet.Dinh@usdoj.gov> (Receipt Notification Requested) (IPM Return
Requested) ( "Dinh, Viet" <Viet.Dinh@usdoj.gov> (Receipt Notification Requested) (IPM
Return Requested) [ UNKNOWN ] )
READ:UNKNOWN
CC:"O'Brien, Pat" <Pat.O'Brien@usdoj.gov> (Receipt Notification Requested) (IPM Return
Requested) ( "O'Brien, Pat" <Pat.O'Brien@usdoj.gov> (Receipt Notification Requested) (IPM
Return Requested) [ UNKNOWN ] )
READ:UNKNOWN
CC:"Scottfinan, Nancy" <Nancy.Scottfinan@usdoj.gov> (Receipt Notification Requested) (IPM
Return Requested) ( "Scottfinan, Nancy" <Nancy.Scottfinan@usdoj.gov> (Receipt Notification
Requested) (IPM Return Requested) [ UNKNOWN ] )
READ:UNKNOWN
CC:"Bryant, Dan" <Dan.Bryant@usdoj.gov> (Receipt Notification Requested) (IPM Return
Requested) ( "Bryant, Dan" <Dan.Bryant@usdoj.gov> (Receipt Notification Requested) (IPM
Return Requested) [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

The attached letter was sent this evening.
- 10.08.02 Estrada Letterpdf.pdf
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_PKQRA003_WHO.TXT_1>
```

U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

October 8, 2002

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

During the hearing on September 26, 2002, on the nomination of Miguel A. Estrada to the United States Court of Appeals for the District of Columbia Circuit, you and Senator Schumer restated your request that the Department of Justice disclose certain confidential and privileged appeal, certiorari, and amicus memoranda that Mr. Estrada authored when he was a career lawyer in the Office of the Solicitor General.

As we indicated in our letter of June 5, 2002, we must respectfully decline your request. The relevant historical, policy, and legal considerations implicated by your request demonstrate that disclosure of these memoranda from the Office of the Solicitor General would undermine the integrity of the decisionmaking process in that Office.

The Committee's request threatens the proper functioning of the Office of the Solicitor General. Indeed, all seven living former Solicitors General—from Archibald Cox to Seth P. Waxman—have written to the Committee and explained that the Committee's broad and unprecedented request would have a debilitating effect on the ability of the United States to represent itself in litigation. Their letter explained that, as Solicitors General, their "decisionmaking process required the unbridled, open exchange of ideas—an exchange that simply cannot take place if attorneys have reason to fear that their private recommendations are not private at all, but vulnerable to public disclosure." Thus, "[a]ny attempt to intrude into the Office's highly privileged deliberations would come at the cost of the Solicitor General's ability to defend vigorously the United States' litigation interests—a cost that also would be borne by Congress itself."

Longstanding historical Senate practice reinforces the position of the former Solicitors General that confidential, deliberative documents from the Office of Solicitor General have been, and should remain, confidential during confirmation hearings. As the attached charts demonstrate, since the beginning of the Carter Administration in 1977, the Senate has approved 67 United States Court of Appeals nominees who previously had worked in the Department of Justice. Those 67 nominees—of whom 38 had no prior

REV_00152286

judicial experience—include eight former lawyers with the Office of the Solicitor General. Our review of each of these 67 nominees' hearing records establishes that in *none* of these cases did the Department of Justice produce internal deliberative materials created by the nominee while a Department lawyer. In fact, we could find no nominee for whom the Senate Judiciary Committee even *requested* that the Department produce such materials.[1] The Committee's request with respect to Mr. Estrada therefore is unprecedented.

Of particular relevance are the appellate-court nominees who previously had been Assistants to the Solicitor General or Deputy Solicitors General, and had not served as judges at the time of their nomination—the same position Mr. Estrada occupies now. The nominees, nominated by Presidents of both political parties and confirmed by Senates controlled by both political parties, are:

- Samuel A. Alito Jr. (Assistant to the Solicitor General, 1981-85; confirmed to the Third Circuit, 1990);
- Danny J. Boggs (Assistant to the Solicitor General, 1973-75; confirmed to the Sixth Circuit, 1986);
- William C. Bryson (Assistant to the Solicitor General, 1978-79; Deputy Solicitor General, 1986-94; confirmed to the Federal Circuit, 1994);
- Frank H. Easterbrook (Assistant to the Solicitor General, 1974-77; Deputy Solicitor General, 1978-79; confirmed to the Seventh Circuit, 1985);
- Daniel M. Friedman (Assistant to the Solicitor General, 1959-68; Deputy Solicitor General, 1968-78; confirmed to the appellate division of the Court of Claims (later the Federal Circuit), 1982);
- Richard A. Posner (Assistant to the Solicitor General, 1965-67; confirmed to the Seventh Circuit, 1981); and
- A. Raymond Randolph (Deputy Solicitor General, 1975-77; confirmed to the D.C. Circuit, 1990).

In none of these cases did the Department of Justice provide to the Committee the nominees' appeal, certiorari, or amicus recommendations. And in none of these cases did the Committee request that the Department do so.

The policy considerations implicated by the Committee's request underscore the strength of the Department's position and demonstrate that previous Senate Judiciary Committees have recognized the essential, long-term interest of the United States in protecting the integrity of such memoranda. The need to ensure the integrity of the process by which the Solicitor General makes litigation decisions for the United States is extraordinarily important. As the former Solicitors General explained, the interest in receiving honest, candid assessments of possible litigation positions, agency interests,

---

[1] The nomination of Stephen S. Trott to the Ninth Circuit was delayed by a dispute between the Committee and the Department with respect to access to internal documents wholly unrelated to Judge Trott. *See* Ruth Marcus, "Impasse Over Justice Documents Ends; Papers Turned Over; Senate Confirms Trott to Court of Appeals," Wash. Post., Mar. 25, 1998, at A23. The Committee never requested that the Department provide it with documents created by Judge Trott as a Department lawyer.

REV_00152287

and Supreme Court opinions would be severely compromised by disclosure in this context. It is important to add, furthermore, that memoranda written by Assistants to the Solicitor General present legal arguments supporting the litigation position of the United States, not their personal views. These memoranda seek to determine the legal arguments that are appropriate in government briefs, not the legal or policy preferences of their author.

Furthermore, the Committee's need to assess a nominee's performance, intellect, and integrity can be accommodated in ways other than intruding into the deliberative process of the Office of the Solicitor General. For example, the Committee can review the nominee's written briefs and oral arguments, consider the opinions of others who served in the Office at the same time, and examine the nominee's written performance reviews. In Mr. Estrada's case, for example, there is a substantial body of information about his tenure in the Office of the Solicitor General. Former Solicitor General Seth Waxman, who supervised Mr. Estrada, has written to the Committee in support of his nomination. Mr. Waxman wrote:

> During the time Mr. Estrada and I worked together, he was a model of professionalism and competence. In no way did I ever discern that the recommendations Mr. Estrada made or the analyses he propounded were colored in any way by his personal views—or indeed that they reflected anything other than the long-term interests of the United States.

Moreover, 14 of Mr. Estrada's former colleagues in the Office of the Solicitor General have written the Committee to emphasize his ability, collegiality, and integrity:

> We also know Miguel to be a delightful and charming colleague, someone who can engage in open, honest, and respectful discussion of legal issues with others, regardless of their ideological perspectives. Based on our experience as his colleagues in the Solicitor General's office, we are confident that he possesses the temperament, character, and qualities of fairness and respect necessary to be an exemplary judge. In combination, Miguel's exceptional legal ability and talent, his character and integrity, and his deep and varied experience as a public servant and in private practice make him an excellent candidate for service on the federal bench.

Finally, Mr. Estrada has sent the Judiciary Committee copies of his performance evaluations from his tenure in the Office. These documents indicate that Mr. Estrada's supervisors gave him ratings of "outstanding"—the highest possible score—in every category for every evaluation period.

It bears emphasis that the long-standing historical practice, policy considerations, and views of the former Solicitors General are fully supported by applicable legal principles. At the outset, it is important to note that the memoranda sought by the Committee are indisputably within the scope of the deliberative process, attorney-client, and attorney work-product privileges. The Supreme Court has recognized "the valid

REV_00152288

need for protection of communications between high Government officials and those who advise and assist them in the performance of their manifold duties." *Houchins v. KQED*, 438 U.S. 1, 35 n.27 (1978). Indeed, the Court has explained that "the importance of this confidentiality is too plain to require further discussion. Human experience teaches that those who expect public dissemination of their remarks may well temper candor with a concern for appearances and for their own interests to the detriment of the decisionmaking process." *Id.* (internal quotation omitted). The deliberative process privilege's ultimate purpose is to prevent injury to the quality of agency decisions by allowing government officials freedom to debate alternative approaches in private. *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 151 (1975). Based on these principles, courts have long recognized the Executive Branch's authority to protect the integrity of documents and other materials which would reveal advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are formulated.[2] *See In re Sealed Case*, 121 F.3d 729, 737 (D.C. Cir. 1997).

As a matter of law and tradition, these privileges can be overcome only when Congress establishes a "demonstrably critical" need for the requested information. *Senate Select Committee on Presidential Campaign Activities v. Nixon*, 498 F.2d 725, 731 (D.C. Cir. 1974) (*en banc*). It is insufficient for the requested material merely to "have some arguable relevance" to appropriate Congressional function. *Id.* at 733. In assessing whether Congress' possesses a "demonstrably critical" need for the material in question, one crucial consideration is whether Congress can obtain reasonably equivalent information from alternative sources that would satisfy its legitimate needs. In this instance, we again note that the Committee has full access to Mr. Estrada's briefs and oral arguments, to the information provided by Mr. Waxman, to the letter from former colleagues in the Solicitor General's office, and to his performance reviews. The Committee also is free to contact any of Mr. Estrada's former supervisors and colleagues in the Office of the Solicitor General to seek further information about Mr. Estrada's temperament, fairness, analytical skills and abilities or any other matters the Committee appropriately deems relevant to its inquiry. Because the Committee has adequate sources of information about Mr. Estrada, among other reasons, it cannot establish the "demonstrably critical" need for the deliberative materials in question.

None of the seven examples cited during Mr. Estrada's hearing as precedent for the Committee's request—the nominations of Judge Frank Easterbrook to the Seventh Circuit, Judge Robert Bork and Chief Justice William Rehnquist to the Supreme Court, Benjamin Civiletti to be Attorney General and Deputy Attorney General, William Bradford Reynolds to be Associate Attorney General, Judge Stephen Trott to the Ninth Circuit, and Jeffrey Holmstead to be Assistant Administrator at the Environmental Protection Agency—supports the Committee's request in this matter.

---

[2] For discussion of the history of assertions of the deliberative process privilege, see *History of Refusals by Executive Branch Officials to Provide Information Demanded by Congress: Part I--Presidential Invocations of Executive Privilege vis-à-vis Congress*, 6 Op. Off. Legal Counsel 751 (1982); *History of Refusals by Executive Branch Officials to Provide Information Demanded by Congress: Part II--Invocations of Executive Privilege by Executive Officials*, 6 Op. Off. Legal Counsel 782 (1982).

REV_00152289

Of the seven cited nominees, the hearings of only two—Judge Bork and Judge Easterbrook—involved documents from their service in the Office of the Solicitor General. Senator Schumer placed into Mr. Estrada's hearing record a single, two-page amicus recommendation memorandum that Judge Easterbrook authored as an Assistant to the Solicitor General. The official record of Judge Easterbrook's confirmation hearing contains no references to this document, and based on a comprehensive review of the Department's files, we do not believe that the Department authorized its release in connection with Judge Easterbrook's nomination. Senator Schumer's possession of this memorandum does not suggest that the Department waived applicable privileges and authorized its disclosure in connection with Judge Easterbrook's or any other nomination.

The hearing record of Judge Bork's nomination to the Supreme Court demonstrates that the Committee received access to a limited number of documents related to three specific subjects of heightened interest to the Committee, two of which were related to Judge Bork's involvement in Watergate-related issues and triggered specific concerns by the Committee. The vast majority of memoranda authored or received by Judge Bork when he served as Solicitor General were neither sought nor produced. And the limited category of documents that were produced to the Committee did not reveal the internal deliberative recommendations or analysis of Assistants to the Solicitor General regarding appeal, certiorari, or amicus recommendations in pending cases.

The remaining five nominations cited at the hearing similarly do not justify the disclosure of deliberative material authored by Mr. Estrada. None of the limited documents disclosed in the hearings for those five nominations involved deliberative memoranda from the Office of the Solicitor General. The Committee with respect to those five nominations requested specific documents primarily related to allegations of misconduct or malfeasance identified by the Committee. Moreover, as noted above, with respect to the nomination of Judge Trott, the Committee requested documents wholly unrelated to Judge Trott's service with the Department. Again, the vast majority of deliberative memoranda authored or received by these nominees were never sought or received by the Committee. In sum, the existence of a few isolated examples where the Executive Branch on occasion accommodated a Committee's targeted requests for very specific information does not in any way alter the fundamental and long-standing principle that memoranda from Office of Solicitor General—and deliberative Department of Justice materials more broadly—must remain protected in the confirmation context so as to maintain the integrity of the Executive Branch's decisionmaking process.

In conclusion, we emphasize that the Department of Justice appreciates and profoundly respects the Judiciary Committee's legitimate need to evaluate Mr. Estrada's qualifications for the federal bench. We again suggest, however, that the information currently available is more than adequate to allow the Committee to determine whether Mr. Estrada is qualified to be a federal judge.

Thank you for considering the Department's views on this matter. Mr. Estrada's nomination for a position on an important federal court of appeals has now been pending

REV_00152290

for 518 days. There is no disagreement about the fact that he is a talented, experienced and exceptionally well-qualified nominee with strong and widespread bipartisan support. In fact, after an intensive investigation, the American Bar Association found Mr. Estrada to be unanimously well-qualified for a judgeship on the District of Columbia Circuit. We sincerely hope that the Committee and the Senate will approve Mr. Estrada's nomination before the close of the 107th Congress.

Sincerely,

Daniel J. Bryant
Assistant Attorney General

Enclosures

cc: The Honorable Orrin G. Hatch,
Ranking Member
The Honorable Charles E. Schumer
The Honorable Alberto Gonzales

REV_00152291

FORMER EMPLOYEES OF THE SOLICITOR GENERAL'S OFFICE NOMINATED AND CONFIRMED TO THE FEDERAL COURTS OF APPEALS

Name of Nominee	Circuit	Year of Confirmation	Department of Justice Position(s) Held
Alito, Samuel A. Jr.	3rd	1990	Assistant U.S. Attorney, District of New Jersey, 1977-81; Assistant to the Solicitor General, 1981-85; Deputy Assistant Attorney General, 1985-87; U.S. Attorney, District of New Jersey, 1987-90
Boggs, Danny J.	6th	1986	Assistant to Solicitor General, 1973-75
Bork, Robert H.	D.C.	1981	Solicitor General, 1973-77; Acting Attorney General, 1973-74
Bryson, William C.	Federal	1994	Assistant to Solicitor General 1978-79; Chief, Appellate Section, Criminal Division, 1979-82; Special Counsel, Organized Crime and Racketeering Section, Criminal Division, 1982-86; Deputy Solicitor General, 1986-94; Deputy Associate Attorney General (Acting Associate Attorney General), 1994
Easterbrook, Frank H.	7th	1985	Assistant to Solicitor General, 1974-77; Deputy Solicitor General, 1978-79
Friedman, Daniel M.	Federal	1978	Assistant Chief, Appellate Section, Antitrust Division, 1951-59; Assistant to Solicitor General, 1959-62; Second Assistant to Solicitor General, 1962-68; First Deputy Solicitor General, 1968-78; Acting Solicitor General, 1977
Posner, Richard A.	7th	1981	Assistant to Solicitor General, 1965-67
Randolph, A. Raymond	D.C.	1990	Assistant to Solicitor General, 1970-73; Deputy Solicitor General, 1975-77

REV_00152292

FORMER DEPARTMENT OF JUSTICE EMPLOYEES WITH NO PRIOR JUDICIAL EXPERIENCE NOMINATED AND CONFIRMED TO THE FEDERAL COURTS OF APPEALS

Name of Nominee	Circuit	Year of Confirmation	Department of Justice Position(s) Held
Alito, Samuel A. Jr.	3rd	1990	Assistant U.S. Attorney, District of New Jersey, 1977-81; Assistant to the Solicitor General, 1981-85; Deputy Assistant Attorney General, 1985-87; U.S. Attorney, District of New Jersey, 1987-90
Anderson, Stephen H.	10th	1985	Trial Attorney, Tax Division, 1960-64
Archer, Glenn L.	Federal	1985	Assistant Attorney General, Tax Division, 1981-85
Boggs, Danny J.	6th	1986	Assistant to Solicitor General, 1973-75
Bork, Robert H.	D.C.	1981	Solicitor General, 1973-77; Acting Attorney General, 1973-74
Breyer, Stephen G.	1st	1980	Special Assistant to Assistant Attorney General, Antitrust Division, 1965-67
Bryson, William C.	Federal	1994	Assistant to Solicitor General 1978-79; Chief, Appellate Section, Criminal Division, 1979-82; Special Counsel, Organized Crime and Racketeering Section, Criminal Division, 1982-86; Deputy Solicitor General, 1986-94; Deputy Associate Attorney General (Acting Associate Attorney General), 1994
Bye, Kermit E.	8th	1999	Assistant U.S. Attorney, District of North Dakota, 1966-68
Dyk, Timothy	Federal	1999	Special Assistant to Assistant Attorney General, Tax Division, 1963-64
Easterbrook, Frank H.	7th	1985	Assistant to Solicitor General, 1974-77; Deputy Solicitor General, 1978-79
Fisher, Raymond C.	9th	1999	Associate Attorney General, 1997-99

Name of Nominee	Circuit	Year of Confirmation	Department of Justice Position(s) Held
Friedman, Daniel M.	Federal	1978	Assistant Chief, Appellate Section, Antitrust Division, 1951-59; Assistant to Solicitor General, 1959-62; Second Assistant to Solicitor General, 1962-68; First Deputy Solicitor General, 1968-78; Acting Solicitor General, 1977
Garland, Merrick B.	D.C.	1997	Special Assistant Attorney General, 1979-81; Assistant U.S. Attorney, District of Columbia, 1989-92; Deputy Assistant Attorney General, Criminal Division, 1993-94; Principal Associate Deputy Attorney General, 1994-97
Ginsburg, Douglas H.	D.C.	1986	Deputy Assistant Attorney General, Antitrust Division, 1983-84; Assistant Attorney General, Antitrust Division, 1985-86
Howard, Jeffrey R.	1st	2002	U.S. Attorney, District of New Hampshire, 1989-93
Johnson, Frank M., Jr.	11th	1979	U.S. Attorney, Northern District of Alabama, 1953-55
Jolly, E. Grady	5th	1982	Assistant U.S. Attorney, Northern District of Mississippi, 1964-67; Trial Attorney, Tax Division, 1967-69
Jones, Nathaniel R.	6th	1979	Assistant U.S. Attorney, Northern District of Ohio, 1961-67
King, Robert B.	4th	1998	Assistant U.S. Attorney, Southern District of West Virginia, 1970-74; U.S. Attorney, Southern District of West Virginia, 1977-81
Luttig, J. Michael	4th	1991	Principal Deputy Assistant Attorney General, Office of Legal Counsel, 1989-90; Assistant Attorney General, Office of Legal Counsel, 1990-91; Counselor to Attorney General, 1990-91
Merritt, Gilbert Stroud, Jr.	6th	1977	U.S. Attorney, Middle District of Tennessee, 1966-69

REV_00152294

Name of Nominee	Circuit	Year of Confirmation	Department of Justice Position(s) Held
Michael, M. Blane	4th	1993	Assistant U.S. Attorney, Southern District of New York, 1971-72; Special Assistant U.S. Attorney, Northern District of West Virginia, 1972
Posner, Richard A.	7th	1981	Assistant to Solicitor General, 1965-67
Randolph, A. Raymond	D.C.	1990	Assistant to Solicitor General, 1970-73; Deputy Solicitor General, 1975-77
Rovner, Ilana D.	7th	1992	Assistant U.S. Attorney, Northern District of Illinois, 1973-77
Scalia, Antonin	D.C.	1982	Assistant Attorney General, Office of Legal Counsel, 1974-77
Schall, Alvin A.	Federal	1992	Assistant U.S. Attorney, Eastern District of New York, 1973-78; Trial Attorney, Civil Division, 1978-87; Assistant to Attorney General, 1988-92
Silberman, Laurence H.	D.C.	1985	Deputy Attorney General, 1974-75
Smith, Edward S.	Federal	1978	Chief of Trial Section, Tax Division, 1961; Deputy Assistant Attorney General for Trials, Tax Division, 1962-63
Starr, Kenneth W.	D.C.	1983	Counselor to Attorney General, 1981-1983; Solicitor General 1989-93
Tallman, Richard	9th	2000	Trial Attorney, Criminal Division, 1979-80; Assistant U.S. Attorney, Western District of Washington, 1980-83
Trott, Stephen	9th	1988	U.S. Attorney, Central District of California, 1981-83; Assistant Attorney General, Criminal Division, 1983-86; Associate Attorney General, 1986-88
Wald, Patricia M.	D.C.	1979	Attorney, Office of Criminal Justice, 1967-68; Assistant Attorney General, Office of Legislative Affairs, 1977-79
Walker, John M.	2nd	1989	Assistant U.S. Attorney, Southern District of New York, 1970-75
Wilkinson, James H.	4th	1984	Deputy Assistant Attorney General, Civil Rights Division, 1982-83

REV_00152295

Name of Nominee	Circuit	Year of Confirmation	Department of Justice Position(s) Held
Williams, Stephen F.	D.C.	1986	Assistant U.S. Attorney, Southern District of New York, 1966-69
Wood, Diane P.	7th	1995	Special Assistant to Assistant Attorney General, Antitrust Division, Foreign Commerce Section, 1985-87; Deputy Assistant Attorney General, International, Appellate, and Policy, Antitrust Division, 1993-95

REV_00152296

FORMER DEPARTMENT OF JUSTICE EMPLOYEES
NOMINATED AND CONFIRMED TO THE FEDERAL COURTS OF APPEALS

Name of Nominee	Circuit	Year of Confirmation	Department of Justice Position(s) Held	Prior Judicial Experience at the Time of Circuit Court Nomination?	Employment in the Solicitor General's Office?
Alito, Samuel A. Jr.	3rd	1990	Assistant U.S. Attorney, District of New Jersey, 1977-81; Assistant to the Solicitor General, 1981-85; Deputy Assistant Attorney General, 1985-87; U.S. Attorney, District of New Jersey, 1987-90	No	Yes
Anderson, Stephen H.	10th	1985	Trial Attorney, Tax Division, 1960-64	No	No
Archer, Glenn L.	Federal	1985	Assistant Attorney General, Tax Division, 1981-85	No	No
Barry, Maryanne	3rd	1999	Assistant U.S. Attorney, District of New Jersey, Civil Division, 1974-75; Deputy Chief, Appeals Division, 1976-1977; Chief, Appeals Division, 1977-1982; Executive Assistant U.S. Attorney, District of New Jersey 1981-82; First Assistant U.S. Attorney, District of New Jersey, 1981-83	Yes	No
Boggs, Danny J.	6th	1986	Assistant to Solicitor General, 1973-75	No	Yes
Boochever, Robert	9th	1980	Assistant U.S. Attorney, District of Arkansas, 1946-47	Yes	No
Bork, Robert H.	D.C.	1981	Solicitor General, 1973-77; Acting Attorney General, 1973-74	No	Yes
Boudin, Michael	1st	1992	Deputy Assistant Attorney General for Regulatory Affairs, Antitrust Division, 1987-90	Yes	No
Breyer, Stephen G.	1st	1980	Special Assistant to Assistant Attorney General, Antitrust Division, 1965-67	No	No

REV_00152297

Name of Nominee	Circuit	Year of Confirmation	Department of Justice Position(s) Held	Prior Judicial Experience at the Time of Circuit Court Nomination?	Employment in the Solicitor General's Office?
Briscoe, Mary B.	10th	1995	Assistant U.S. Attorney, District of Kansas, 1974-84	Yes	No
Bryson, William C.	Federal	1994	Assistant to Solicitor General 1978-79; Chief, Appellate Section, Criminal Division, 1979-82; Special Counsel, Organized Crime and Racketeering Section, Criminal Division, 1982-86; Deputy Solicitor General, 1986-94; Deputy Associate Attorney General (Acting Associate Attorney General), 1994	No	Yes
Bye, Kermit E.	8th	1999	Assistant U.S. Attorney, District of North Dakota, 1966-68	No	No
Cole, R. Guy	6th	1995	Trial Attorney, Civil Division, 1978-80	Yes	No
Cyr, Conrad	1st	1989	Assistant U.S. Attorney, District of Maine, 1959-61	Yes	No
Daughtrey, Martha C.	6th	1993	Assistant U.S. Attorney, Middle District of Tennessee, 1968-69	Yes	No
Dyk, Timothy	Federal	1999	Special Assistant to Assistant Attorney General, Tax Division, 1963-64	No	No
Easterbrook, Frank H.	7th	1985	Assistant to Solicitor General, 1974-77; Deputy Solicitor General, 1978-79	No	Yes
Fisher, Raymond C.	9th	1999	Associate Attorney General, 1997-99	No	No
Flaum, Joel M.	7th	1983	First Assistant U.S. Attorney, Northern District of Illinois, 1972-75	Yes	No
Friedman, Daniel M.	Federal	1978	Assistant Chief, Appellate Section, Antitrust Division, 1951-59; Assistant to Solicitor General, 1959-62; Second Assistant to Solicitor General, 1962-68; First Deputy Solicitor General, 1968-78; Acting Solicitor General, 1977	No	Yes

REV_00152298

Name of Nominee	Circuit	Year of Confirmation	Department of Justice Position(s) Held	Prior Judicial Experience at the Time of Circuit Court Nomination?	Employment in the Solicitor General's Office?
Garland, Merrick B.	D.C.	1997	Special Assistant Attorney General, 1979-81; Assistant U.S. Attorney, District of Columbia, 1989-92; Deputy Assistant Attorney General, Criminal Division, 1993-94; Principal Associate Deputy Attorney General, 1994-97	No	No
Ginsburg, Douglas H.	D.C.	1986	Deputy Assistant Attorney General, Antitrust Division, 1983-84; Assistant Attorney General, Antitrust Division, 1985-86	No	No
Guy, Ralph B., Jr.	6th	1985	Chief Assistant U.S. Attorney, Eastern District of Michigan, 1968-70; U.S. Attorney, Eastern District of Michigan, 1970-76	Yes	No
Hall, Cynthia H.	9th	1984	Trial Attorney, Tax Division, 1960-64	Yes	No
Hartz, Harris L.	10th	2001	Assistant U.S. Attorney, District of New Mexico, 1972-75	Yes	No
Hatchett, Joseph W.	11th	1979	Assistant U.S. Attorney, Middle District of Florida, 1966; First Assistant U.S. Attorney, Middle District of Florida, 1967-71	Yes	No
Hawkins, Michael D.	9th	1994	U.S. Attorney, District of Arizona, 1977-80	Yes	No
Howard, Jeffrey R.	1st	2002	U.S. Attorney, District of New Hampshire, 1989-93	No	No
Johnson, Frank M., Jr.	11th	1979	U.S. Attorney, Northern District of Alabama, 1953-55	No	No
Jolly, E. Grady	5th	1982	Assistant U.S. Attorney, Northern District of Mississippi, 1964-67; Trial Attorney, Tax Division, 1967-69	No	No
Jones, Nathaniel R.	6th	1979	Assistant U.S. Attorney, Northern District of Ohio, 1961-67	No	No

Name of Nominee	Circuit	Year of Confirmation	Department of Justice Position(s) Held	Prior Judicial Experience at the Time of Circuit Court Nomination?	Employment in the Solicitor General's Office?
King, Robert B.	4th	1998	Assistant U.S. Attorney, Southern District of West Virginia, 1970-74; U.S. Attorney, Southern District of West Virginia, 1977-81	No	No
Krupansky, Robert B.	6th	1982	U.S. Attorney, Northern District of Ohio, 1969-1970	Yes	No
Leval, Pierre N.	2nd	1993	Assistant U.S. Attorney, Southern District of New York, 1964-68	Yes	No
Lewis, Timothy K.	3rd	1992	Assistant U.S. Attorney, Western District of Pennsylvania, 1983-1991	Yes	No
Lipez, Kermit	1st	1998	Staff Attorney, Civil Rights Division, 1967-1968	Yes	No
Luttig, J. Michael	4th	1991	Principal Deputy Assistant Attorney General, Office of Legal Counsel, 1989-90; Assistant Attorney General, Office of Legal Counsel, 1990-91; Counselor to Attorney General, 1990-91	No	No
Marcus, Stanley	11th	1997	Assistant U.S. Attorney, Eastern District of New York, 1975-78; Deputy Chief Organized Crime Strike Force, 1978-79; Chief Organized Crime Strike Force, 1980-82; U.S. Attorney, Southern District of Florida, 1982-85	Yes	No
Martin, Boyce F., Jr.	6th	1979	Assistant U.S. Attorney, Western District of Kentucky, 1964; U.S. Attorney, Western District of Kentucky, 1965	Yes	No
McKee, Theodore A.	3rd	1994	Assistant U.S. Attorney, Eastern District of Pennsylvania, 1977-80	Yes	No
Merritt, Gilbert Stroud, Jr.	6th	1977	U.S. Attorney, Middle District of Tennessee, 1966-69	No	No

Name of Nominee	Circuit	Year of Confirmation	Department of Justice Position(s) Held	Prior Judicial Experience at the Time of Circuit Court Nomination?	Employment in the Solicitor General's Office?
Michael, M. Blane	4th	1993	Assistant U.S. Attorney, Southern District of New York, 1971-72; Special Assistant U.S. Attorney, Northern District of West Virginia, 1972	No	No
Michel, Paul R.	Federal	1988	Deputy Chief Public Integrity Section, Criminal Division, 1976-78; Associate Deputy Attorney General, 1978-81	Yes	No
Newman, Jon O.	2nd	1979	U.S. Attorney, District of Connecticut, 1964-69	Yes	No
Poole, Cecil F.	9th	1979	U.S. Attorney, Northern District of California, 1961-70	Yes	No
Posner, Richard A.	7th	1981	Assistant to Solicitor General, 1965-67	No	Yes
Randolph, A. Raymond	D.C.	1990	Assistant to Solicitor General, 1970-73; Deputy Solicitor General, 1975-77	No	Yes
Rogers, Judith Ann W.	D.C.	1993	Assistant U.S. Attorney, District of Columbia, 1965-68; Trial Attorney, Criminal Division, 1969-71	Yes	No
Rovner, Ilana D.	7th	1992	Assistant U.S. Attorney, Northern District of Illinois, 1973-77	No	No
Scalia, Antonin	D.C.	1982	Assistant Attorney General, Office of Legal Counsel, 1974-77	No	No
Schall, Alvin A.	Federal	1992	Assistant U.S. Attorney, Eastern District of New York, 1973-78; Trial Attorney, Civil Division, 1978-87; Assistant to Attorney General, 1988-92	No	No
Schroeder, Mary M.	9th	1979	Trial Attorney, Civil Division, 1965-69	Yes	No
Sentelle, David B.	D.C.	1987	Assistant U.S. Attorney, Western District of North Carolina, 1970-74	Yes	No

Name of Nominee	Circuit	Year of Confirmation	Department of Justice Position(s) Held	Prior Judicial Experience at the Time of Circuit Court Nomination?	Employment in the Solicitor General's Office?
Silberman, Laurence H.	D.C.	1985	Deputy Attorney General, 1974-75	No	No
Siler, Eugene E.	6th	1991	U.S. Attorney, Eastern District of Kentucky, 1970-75	Yes	No
Smith, Edward S.	Federal	1978	Chief of Trial Section, Tax Division, 1961; Deputy Assistant Attorney General for Trials, Tax Division, 1962-63	No	No
Starr, Kenneth W.	D.C.	1983	Counselor to Attorney General, 1981-1983; Solicitor General 1989-93	No	No*
Stewart, Carl E.	5th	1994	Assistant U.S. Attorney, Western District of Louisiana, 1979-1983	Yes	No
Tallman, Richard	9th	2000	Trial Attorney, Criminal Division, 1979-80; Assistant U.S. Attorney, Western District of Washington, 1980-83	No	No
Trott, Stephen	9th	1988	U.S. Attorney, Central District of California, 1981-83; Assistant Attorney General, Criminal Division, 1983-86; Associate Attorney General, 1986-88	No	No
Wald, Patricia M.	D.C.	1979	Attorney, Office of Criminal Justice, 1967-68; Assistant Attorney General, Office of Legislative Affairs, 1977-79	No	No
Walker, John M.	2nd	1989	Assistant U.S. Attorney, Southern District of New York, 1970-75	No	No
Wilkinson, James H.	4th	1984	Deputy Assistant Attorney General, Civil Rights Division, 1982-83	No	No
Williams, Ann C.	7th	1999	Assistant U.S. Attorney, Northern District of Illinois, 1976-85	Yes	No

* Judge Starr was confirmed as a Circuit Judge on the District of Columbia Circuit *before* serving as Solicitor General.

REV_00152302

Name of Nominee	Circuit	Year of Confirmation	Department of Justice Position(s) Held	Prior Judicial Experience at the Time of Circuit Court Nomination?	Employment in the Solicitor General's Office?
Williams, Stephen F.	D.C.	1986	Assistant U.S. Attorney, Southern District of New York, 1966-69	No	No
Wilson, Charles R.	11th	1999	U.S. Attorney, Middle District of Florida, 1994-99	Yes	No
Wood, Diane P.	7th	1995	Special Assistant to Assistant Attorney General, Antitrust Division, Foreign Commerce Section, 1985-87; Deputy Assistant Attorney General, International, Appellate, and Policy, Antitrust Division, 1993-95	No	No

REV_00152303

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>
Sent: 10/8/2002 7:58:30 PM
Subject: : Re: Crime Victims Plaques
Attachments: P_GXSRA003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 8-OCT-2002 23:58:30.00
SUBJECT:: Re: Crime Victims Plaques
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Agreement language is fine, but I thought we executed this and
sent it MONTHS ago under my signature??

Patrick J. Bumatay
10/07/2002 10:11:23 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Crime Victims Plaques

Brett,

Attached is the draft of the letter and agreement for Trophy
Mart. Please make any changes/comments and then I will forward to Staff
Secretary. Please note - it is for Harriet's signature b/c she is the
keeper of the signature and has to include three copies of the POTUS
signature.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_GXSRA003_WHO.TXT_1>

October 8, 2002

Dear Mr. Perelman:

As you know, the Office for Victims of Crime of the United States Department of Justice had commissioned you to manufacture awards plaques used by President George W. Bush for an April 16, 2002 event honoring individuals and organizations who have performed outstanding service on behalf of crime victims.

Enclosed are three three by five inch index cards on which a copy of the President's signature is affixed solely for the purpose of inscribing the signature upon the award plaque.

Attached is also an agreement to memorialize the terms and conditions pursuant to which the White House is providing you with a copy of the signature of the President and pursuant to which the White House will permit you to reproduce this copy solely upon the award plaque.

Your signature below will confirm that you are properly authorized to enter into this agreement on half of Trophy Mart and that you agree to abide by the terms and conditions set out therein. Please do not hesitate to contact me with any questions.

Sincerely

Harriet Miers
Assistant to the President and Staff Secretary

Mr. Josh Perelman
President
Trophy Mart
7221 Little River Turnpike
Annandale, VA 22003

AGREEMENT

By this agreement, the White House Office authorizes Trophy Mart to use the Presidential template and inscription for Crime Victims Awards plaques ordered by the Office for Victims of Crime of the United States Department of Justice. Trophy Mart agrees that this authorization applies only to the plaques requested by the Office for Victims of Crime. Trophy Mart also agrees that it may not alter the signature or use it in any other manner whatsoever without the written approval of the White House Office.

_____ DATE: _____

Harriet Miers
Assistant to the President and Staff Secretary

_____ DATE: _____

for Trophy Mart

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Elizabeth Pitts/WHO/EOP@EOP [WHO] <Elizabeth Pitts>
Sent: 10/8/2002 8:12:00 PM
Subject: : Re: Return Check--Personal Contribution

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 9-OCT-2002 00:12:00.00
SUBJECT:: Re: Return Check--Personal Contribution
TO:Elizabeth Pitts (CN=Elizabeth Pitts/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I think Jen is getting back to you on this. Thanks.

Elizabeth Pitts

10/07/2002 04:22:18 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: Jennifer G. Newstead/WHO/EOP@EOP, Heidi K. Marquez/WHO/EOP@EOP
Subject: Re: Return Check--Personal Contribution

Hi Brett, per Jennifer's instructions, I'm holding the money mail described below pending your suggestion as to why the President can't accept personal donations, ie, "have a cup of coffee on me." We'd like to get these letters our ASAP, especially because OA has already mailed checks returning their contributions. Thanks for your help with this, & please call me at x6-2716 if you have any questions. Elizabeth

---------- Forwarded by Elizabeth Pitts/WHO/EOP on 10/07/2002 04:23 PM ----------

Jennifer G. Newstead
09/30/2002 10:05:16 AM
Record Type: Record

To: Elizabeth Pitts/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Return Check--Personal Contribution

Not yet. I'll check with him. Did you think my changes were OK?

Elizabeth Pitts

09/30/2002 10:03:37 AM

Record Type: Record

To: Jennifer G. Newstead/WHO/EOP@EOP
cc: heidi k. marquez/who/eop@eop
bcc:
Subject: Re: Return Check--Personal Contribution

Hi Jennifer, have you heard from Brett about the personal contribution letters? We'd like to mail these out ASAP.

Thanks.

Jennifer G. Newstead
09/26/2002 07:25:59 PM
Record Type: Record

To: Elizabeth Pitts/WHO/EOP@EOP
cc: heidi k. marquez/who/eop@eop
bcc:
Subject: Re: Return Check--Personal Contribution

Let's wait until Brett responds to send the letters out, if you don't mind.

Thanks

Elizabeth Pitts

09/26/2002 07:16:41 PM

Record Type: Record

To: Jennifer G. Newstead/WHO/EOP@EOP
cc: Heidi K. Marquez/WHO/EOP@EOP
Subject: Return Check--Personal Contribution

Hi Jennifer, per our conversation, the following is a draft of our letter returning personal contributions to the President. The 2 letters this will answer express overall support for the President, and then finish with "PS, here is $2 for a donut and a cup of coffee," and "PS, lunch is on me." Call me at 6-2716 if you have any questions. Thanks, Elizabeth

Dear XXX,

You will or may have already received a check under separate cover.

President Bush is unable to accept personal contributions. Accordingly, a check has been issued.

Thank you for your kind words. The President sends his best wishes.

Sincerely,

Desiree Thompson
Special Assistant to the President and Director of Presidential Correspondence

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: John B. Wiegmann/NSC/EOP@EOP [NSC] <John B. Wiegmann>
Sent: 10/8/2002 5:31:52 PM
Subject: : Illinois inquiry

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 8-OCT-2002 21:31:52.00
SUBJECT:: Illinois inquiry
TO:John B. Wiegmann ( CN=John B. Wiegmann/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
###### End Original ARMS Header ######

The AUSA would like to interview Dick Clarke on the afternoon of
the 16th. Can you set up time that is agreeable to both you and Dick and
let me know, and I will return call to them. Thanks much.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Jonathan R. Scharfen/NSC/EOP@EOP [NSC] <Jonathan R. Scharfen>
Sent: 10/8/2002 6:49:11 PM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 8-OCT-2002 22:49:11.00
SUBJECT::
TO:Jonathan R. Scharfen ( CN=Jonathan R. Scharfen/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
###### End Original ARMS Header ######

You should devise a backup proposal that would amend the language if our
attempt to remove fails.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Collister W. Johnson/WHO/EOP@EOP [WHO] <Collister W. Johnson>
Sent: 10/8/2002 7:47:36 PM
Subject: : Re: Fw: FW: Direct Mail
Attachments: P_JVSRA003_WHO.TXT_1.htm; P_JVSRA003_WHO.TXT_2.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 8-OCT-2002 23:47:36.00
SUBJECT:: Re: Fw: FW: Direct Mail
TO:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Approved. Thanks.

Collister W. Johnson
10/08/2002 06:12:12 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Fw: FW: Direct Mail

BK - another one for you (!) - thanks man -
c

---------- Forwarded by Collister W. Johnson/WHO/EOP on 10/08/2002 06:15 PM ----------

Coddy Johnson <cjohnson@georgewbush.com>
10/08/2002 05:40:28 PM
Record Type: Record

To: Collister W. Johnson/WHO/EOP@EOP
cc:
Subject: Fw: FW: Possible Direct Mail

FW: FW: Possible Direct Mail
----- Original Message -----
From: KC Jones - Political
To: Coddy Johnson ; Tom Josefiak - Legal
Cc: Kevin Shuvalov - Political ; John Parker - Legal
Sent: Tuesday, October 08, 2002 1:59 PM
Subject: FW: FW: Possible Direct Mail

-----Original Message-----
From: Kari Austin [mailto:kaustin@ksgop.org]
Sent: Tue 10/8/2002 12:18 PM
To: KC Jones - Political
Cc: Kevin Shuvalov
Subject: FW: FW: Possible Direct Mail

Here's a slate card we're sending to permanent advance voters. The back obviously needs text editing, but I just wanted to run it by you guys because we have the POTUS on it. All five candidates are state candidates,
and we plan to pay for it 100% state.

-----Original Message-----
From: hvincent@kcstar.com [SMTP:hvincent@kcstar.com]
Sent: Monday, October 07, 2002 4:47 PM
To: kaustin@ksgop.org
Subject: FW: FW: Possible Direct Mail

That is weird. It says you got it, but here it is again. Thanks!

Hilary P. Vincent
Direct Marketing Consultant
Star Direct, 816-234-4235
hvincent@kcstar.com

-----Original Message-----
From: Kim Cook [mailto:kcook@kcstar.com]
Sent: Monday, October 07, 2002 4:45 PM
To: kaustin@ksgop.org
Cc: Vincent, Hilary (Kansas City)
Subject: Re: FW: Possible Direct Mail

Kari, here's the first draft of the slate card. Lynn and Phill's copy is a little long, can you let me or Hilary know what to cut. Let us know what you think!

Thanks!
Kim

Kari Austin wrote:

>
>
>

- att1.htm
- slate.pdf

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_JVSRA003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_JVSRA003_WHO.TXT_2>

----- Original Message -----
From: KC Jones - Political
To: Coddy Johnson ; Tom Josefiak - Legal
Cc: Kevin Shuvalov - Political ; John Parker - Legal
Sent: Tuesday, October 08, 2002 1:59 PM
Subject: FW: FW: Possible Direct Mail

-----Original Message-----
From: Kari Austin [mailto:kaustin@ksgop.org]
Sent: Tue 10/8/2002 12:18 PM
To: KC Jones - Political
Cc: Kevin Shuvalov
Subject: FW: FW: Possible Direct Mail

Here's a slate card we're sending to permanent advance voters . The back obviously needs text editing, but I just wanted to run it by you guys because we have the POTU S on it. All five candidates are state candidates, and we plan to pay for it 100% state.

-----Original Message-----
From: hvincent@kcstar.com [SMTP:hvincent@kcstar.com]
Sent: Monday, October 07, 2002 4:47 PM
To: kaustin@ksgop.org
Subject: FW: FW: Possible Direct Mail

That is weird. It says you got it, but here it is again. Thanks!

Hilary P. Vincent
Direct Marketing Consultant
Star Direct, 816-234-4235
hvincent@kcstar.com

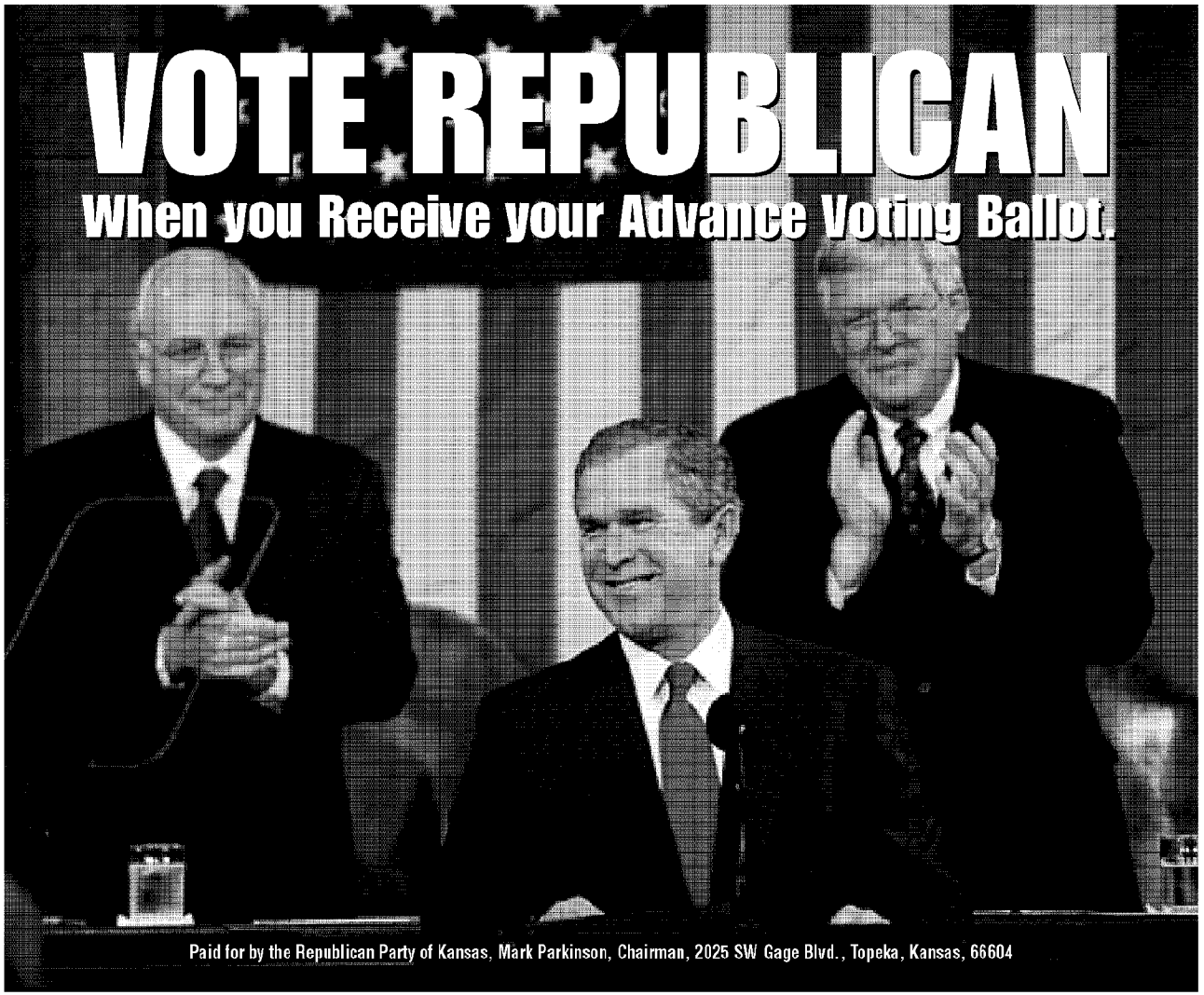
-----Original Message-----
From: Kim Cook [mailto:kcook@kcstar.com]
Sent: Monday, October 07, 2002 4:45 PM
To: kaustin@ksgop.org
Cc: Vincent, Hilary (Kansas City)
Subject: Re: FW: Possible Direct Mail

Kari, here's the first draft of the slate card. Lynn and Phill's copy is a little long, can you let me or Hilary know what to cut. Let us know what you think!

Thanks!
Kim

Kari Austin wrote:

>
>
>



Republican Party of Kansas
2025 SW Gage Blvd.
Topeka, KS 66604

NONPROFIT ORG.
U.S. POSTAGE
PAID
Republican
Party of Kansas

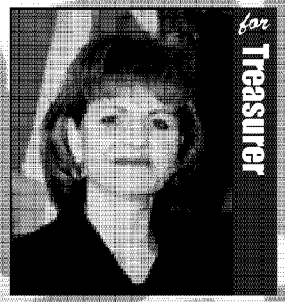
REV_00152355



for Governor

Tim Shallenburger

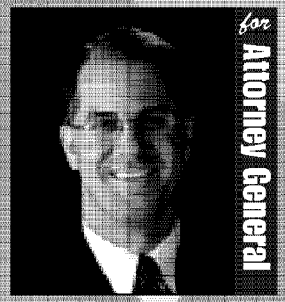
- Born and raised in Baxter Springs, Kansas
- Elect to the Kansas House of Representatives in 1986; Elect Speaker in1994 and 1996
- Widely respected for his even-handedness and faitness by both Republican and Democrats in the House
- Elected State Treasurer in 1998
- Has returned record amounts of unclaimed property to Kansans and has launched the college savings plan, Learning Quest
- Tim and his wife, Linda, reside in Topeka and have a daughter, Candice



for Treasurer

Lynn Jenkins

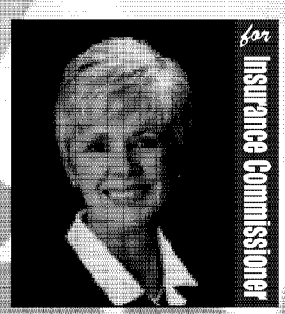
- Lynn is a sixth generation Kansan who was born in Topeka, and was raised on a dairy farm near Holton
- A graduate of Holton High School, Lynn attended Kansas State Univ. and Weber State Univ. Lynn has a degree in accounting with a minor in economics
- Lynn is a Certified Public Accountant
- Elected to the Kansas House of Representatives in 1998
- Elected to the Kansas Senate in 2000 where she is currently chair of the Legislative Post Aucit Committee
- Lynn is a member of the Susanna Wesley United Methodist Church in Topeka
- Lynn and her husband, Scott are the proud parents of Hayley and Hayden



for Attorney General

Phill Kline

- Phill was born in Kansas City, Kansas, and is one of five children raised by a single parent
- A graduate of Shawnee Mission Northwest High School, Phill also earned a degree from Central Missouri State University before obtaining his law degree from the University of Kansas School of Law
- Elected to the Kansas House of Representatives in 1992 and served until 2000 representing the city of Shawnee in Johnson County
- Chairman of the House Taxation Committee for four years and Chairman of the House Appropriations Committee for one year
- Phill and his wife, Deborah have a daughter, Hillary



for Insurance Commissioner

Sandy Praeger

- Raised in Paola, Kansas, where she graduated from Paola High School
- Earned a bachelor's degree in education from the University of Kansas
- Former Mayor of Lawrence, Kansas
- Elected to the Kansas House of Representatives in 1990
- Elected to the Kansas Senate in 1992. Currently serving as Vice-president of the Senate
- Chairman of the Senate Financial Institutions and Insurance Committee
- Sandy and her husband, Mark, have two children, J.D. and Gretchen, and reside in Lawrence



for Secretary of State

Ron Thornburgh

- Ron grew up in Burlingame, Kansas
- Graduated from University in Topeka where he earned a degree in criminal justice
- Elected Kansas Secretary of State in 1994; re-elected in 1998
- Ron has actively sought to increase voter participation in Kansas
- Ron and his wife, Annette, have two sons, Grey and Tanner, and reside in Topeka

VOTE REPUBLICAN

REV_00152356

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: P. Thaddeus Messenger/OMB/EOP@EOP [OMB] <P. Thaddeus Messenger>;Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>
Sent: 10/8/2002 7:51:35 PM
Subject: : LRM PTM161 - - HUD Oversight Testimony on Preservation of Affordable Housing
Attachments: P_3WSRA003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 8-OCT-2002 23:51:35.00
SUBJECT:: LRM PTM161 - - HUD Oversight Testimony on Preservation of Affordable Housing
TO:P. Thaddeus Messenger (CN=P. Thaddeus Messenger/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

WHC has no objections.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 10/08/2002 11:52 PM ----------

Patrick J. Bumatay
10/08/2002 03:32:51 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: LRM PTM161 - - HUD Oversight Testimony on Preservation of Affordable Housing

Just a reminder, this is due at 3.

thanks
---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/08/2002 03:33 PM ----------

From: P. Thaddeus Messenger on 10/08/2002 10:38:27 AM
Record Type: Record

To: llr@do.treas.gov, justice.lrm@usdoj.gov, usdaocrleg@obpa.usda.gov, valrm@mail.va.gov
cc: See the distribution list at the bottom of this message
Subject: LRM PTM161 - - HUD Oversight Testimony on Preservation of Affordable Housing

LRM ID: PTM161
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, October 8, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference

OMB CONTACT: P. Thaddeus Messenger
PHONE: (202)395-7754 FAX: (202)395-6148
SUBJECT: HUD Oversight Testimony on Preservation of Affordable Housing

DEADLINE: 3:00 p.m. Tuesday, October 8, 2002
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Attached for your review, please find a draft copy of HUD (Weicher)oversight testimony on preservation of affordable housing, for an October 9th hearing before the Housing and Transportation subcommittee of the Senate Banking, Housing and Urban Affairs committee.

Please provide your comments by 3:00 p.m. TODAY, October 8th. This deadline is firm. If we do not receive your comments by that time, we will assume you have no objection to the document as drafted.

If you experience difficulty with this LRM, or its attachment, please contact us immediately. To ensure receipt by Agency addressees, the electronic copy of this LRM will be followed by a duplicate copy via facsimile.

Thank you.

DISTRIBUTION LIST

AGENCIES:
118-TREASURY - Thomas M. McGivern - (202) 622-2317
061-JUSTICE - Daniel Bryant - (202) 514-2141
006-AGRICULTURE (CR) - Wanda Worsham - (202) 720-7095
129-VETERANS AFFAIRS - John H. Thompson - (202) 273-6666

EOP:
Stephen S. McMillin
Alan B. Rhinesmith
Housing Branch
Mark J. Schwartz
Robert F. Mahaffie
Julie L. Haas
Lauren E. Bloomquist
Adrienne C. Erbach
Jennifer Wagner Bell
VAB
Elizabeth A. Bernhard
Adriel M. Harvey
Courtney B. Timberlake
James D. Foster
Justine F. Rodriguez
Stuart Shapiro
Lauren Wittenberg
Sheila Conley
Hai M. Tran
Mathew C. Blum
Jay P. Lefkowitz
Aquiles F. Suarez
NEC LRM
CEA LRM
OVP LRM
WHGC LRM
Philip J. Perry
Matthew J. Schneider

John F. Wood
Rosalyn J. Rettman
Brian C. Conklin
Elizabeth L. Rossman
Danielle M. Simonetta
Lauren C. Lobrano
James J. Jukes
Ingrid M. Schroeder
P. Thaddeus Messenger
LRM ID: PTM161 SUBJECT: HUD Oversight Testimony on Preservation of Affordable Housing
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: P. Thaddeus Messenger Phone: 395-7754 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Copied
To:_____
Stephen S. McMillin/OMB/EOP@EOP
Alan B. Rhinesmith/OMB/EOP@EOP
Francis S. Redburn/OMB/EOP@EOP
Virginia Kennamer/OMB/EOP@EOP
Lauren Larson/OMB/EOP@EOP
Andrea E. Jacobson/OMB/EOP@EOP
James F. Jordan/OMB/EOP@EOP

Adam Hoffberg/OMB/EOP@EOP
Dustin S. Brown/OMB/EOP@EOP
Francisco M. Balicao/OMB/EOP@EOP
Sharon L. Price/OMB/EOP@EOP
Peter S. Lee/OMB/EOP@EOP
Mark J. Schwartz/OMB/EOP@EOP
Robert F. Mahaffie/OMB/EOP@EOP
Julie L. Haas/OMB/EOP@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
Adrienne C. Erbach/OMB/EOP@EOP
Jennifer Wagner Bell/OMB/EOP@EOP
Toni S. Hustead/OMB/EOP@EOP
Arecia A. Grayton/OMB/EOP@EOP
Winifred Y. Chang/OMB/EOP@EOP
Kelli A. Hagen/OMB/EOP@EOP
Lourdes M. Lamela/OMB/EOP@EOP
Shalini M. Benson/OMB/EOP@EOP
Danny A. Ermann/OMB/EOP@EOP
Narahari Sastry/OMB/EOP@EOP
John J. Bartrum/OMB/EOP@EOP
Mark R. Seastrom/OMB/EOP@EOP
Elizabeth A. Bernhard/OMB/EOP@EOP
Adriel M. Harvey/OMB/EOP@EOP
Courtney B. Timberlake/OMB/EOP@EOP
James D. Foster/OMB/EOP@EOP
Justine F. Rodriguez/OMB/EOP@EOP
Stuart Shapiro/OMB/EOP@EOP
Lauren Wittenberg/OMB/EOP@EOP
Sheila Conley/OMB/EOP@EOP
Hai M. Tran/OMB/EOP@EOP
Mathew C. Blum/OMB/EOP@EOP
Jay P. Lefkowitz/OPD/EOP@EOP
Aquiles F. Suarez/OPD/EOP@EOP
NEC LRM
CEA LRM
OVP LRM
WHGC LRM
Philip J. Perry/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Rosalyn J. Rettman/OMB/EOP@EOP
Brian C. Conklin/WHO/EOP@EOP
Elizabeth L. Rossman/OMB/EOP@EOP
Danielle M. Simonetta/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Ingrid M. Schroeder/OMB/EOP@EOP
P. Thaddeus Messenger/OMB/EOP@EOP

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_3WSRA003_WHO.TXT_1>

DRAFT

October 9, 2002

Chairman Reed, Ranking Member Allard, distinguished members of the Subcommittee, thank you for inviting me to testify on the subject of affordable housing preservation.

You have asked me to discuss specifically several matters that concern the preservation of the existing stock of affordable housing. I am happy to do that, but before doing so I would like to describe several of the Department's initiatives to increase the available inventory of affordable housing.

In the fiscal year just completed, the Federal Housing Administration's basic multifamily housing insurance program, Section 221(d)(4), experienced a very substantial increase in activity. Overall, FHA made commitments for 198 new construction or substantially rehabilitated projects, with over 38,000 units and totaling $2.8 billion worth of mortgage loans. That total dollar figure is easily the biggest number for the program in the last 10 years, and could well be a record. It is almost double our activity in FY 2001. Last year FHA made commitments for 139 projects, with over 21,000 units, totaling $1.5 billion. That amounts to a 42 percent increase in the number of projects, a 79 percent increase in apartment units and an 85 percent increase in the dollar value of commitments.

One major reason for this dramatic increase is that, in FY 2002, HUD was able to operate Section 221 (d)(4) on a self-sustaining basis. By raising the mortgage insurance premium to 80 basis points, we were able to end the program's dependence on credit subsidy and terminate the need for appropriations. There is no longer any need for the industry to be concerned about program delays and stoppages because of credit subsidy issues. During the last eight years – from 1994 through 2001 - FHA's credit subsidy programs had to discontinue operations three times.

I know that many people in the industry were concerned that raising the premium would cripple the program. Clearly, that did not happen.

Having put Section 221(d)(4) on a self-sustaining basis, FHA is now in a position to reduce the insurance premium to 57 basis points, which will make the financing of new or rehabilitated apartments more affordable. The reduction is a result of a comprehensive review of the credit subsidy calculations for all FHA multifamily programs, the first such analysis in a decade. You may recall from my confirmation hearing that I made a commitment to conduct this study. FHA began work on the study in June of last year, and we completed it in time for the new credit subsidy calculations and premiums to be included in the President's Budget for FY 2003 and to go into effect at the beginning of this fiscal year. We have lowered the premium on several self-sustaining programs, and lowered the credit subsidy rate on almost all of those that still require credit subsidy. The proposed notice for the premium reduction was published in the Federal Register for comment in August with comments due by September 30. We expect the final notice to

be published within a matter of days and FHA will permit Section 221(d)(4) commitments that have not closed to be reprocessed at the 57 basis point premium.

There are other reasons for the sharp rise in commitments. Shortly after he came to HUD, Secretary Martinez announced his support for a 25 percent increase in the statutory per unit limits for the FHA multifamily mortgage insurance programs. This was the first increase since 1992. The increase helps to make the FHA programs more feasible in high cost areas where the programs had not been used for several years. Philadelphia, for instance, has seen its first FHA-insured multifamily projects in more than 5 years. Mortgage insurance applications have been submitted to finance developments in Washington D.C., Baltimore, St Louis and suburban Minneapolis that would not have been submitted without the increase in the limits.

The Multifamily Accelerated Processing (MAP) program is another contributing factor. Having now completed two full years of this program, we have done more to standardize the process, and we have demonstrated to the development industry that FHA field staff can and will provide an expedited review of the mortgage insurance application packages.

I also want to briefly touch upon some of this Administration's FY 2003 budget proposals that will increase access to or add to the current inventory of affordable housing.

The Administration's budget for this fiscal year includes an additional $200 million in funding for 34,000 rental housing vouchers, in addition to the 1.5 million vouchers currently being utilized by low-income families. The Senate Appropriations Committee only provided funding for 17,000 new vouchers. The Administration strongly urges Congress to fully fund our request, either by the full Senate or in conference.

Although the national vacancy rate is close to an all-time high – 8.5% in the second quarter this year – there are still areas of the country with a low vacancy rate. To address this problem, the Administration also supports the development of affordable housing through programs such as the Low-Income Housing Tax Credit, which supports about 100,000 new or rehabilitated rental units each year. Two years ago, Congress enacted a 40 percent increase in the volume limits for the LIHTC, and caps for tax-exempt housing bond financing were also raised last year. States can direct these resources to the local markets where supply is constrained or rents are highest.

In addition, the Administration has asked for increased funding this fiscal year for the HOME block grant program. At the proposed $1.8 billion funding level, HOME will produce 23,000 new affordable units and a similar number of rehabilitated units. Provision of these units will be made through decisions by local governments concerning their own affordable housing needs. Families with extremely low incomes will occupy over one-half of these units. By law, voucher holders have access to all units developed

with HOME and/or LIHTC support.

HUD's Section 202 elderly housing, Section 811 disabled housing and Housing Opportunities for Persons with AIDS programs also produce thousands of new units a year for special populations.

I would also like to report progress on one of the first initiatives I undertook after becoming FHA Commissioner, and that was to take a look at the large number of projects in the development pipeline in the Section 202 and Section 811 programs. A report prepared for GAO had indicated that there were over 100 Section 202 projects from the years 1992 to 1997 that had not reached initial closing. I directed our Office of Multifamily Housing to determine the status of these projects. We learned that the pipeline data was badly out of date. Of the 100 projects listed as being in the pipeline, 25 had cancelled - some years ago - and 18 had already closed. I then directed our staff to bring as many of these old project commitments as possible to closing, and I am pleased to report that we closed 30 of them.

At the end of FY 2002, the combined total of Section 202 and Section 811 projects funded between 1992 and 1997 that had not reached initial closing is now down to 26. That number represents only 1.3% of 2058 projects funded during that six-year period. This fiscal year, I expect those 26 will be closed or cancelled, unless they are in litigation.

We will continue to try and make improvements to ensure the timely development of affordable housing under these programs and are working with our field staff to help accomplish this. We recently completed two training sessions for our field staff, the first such training in 11 years. In addition, we changed the awards process so that it does not reward sponsors that previously have unable to demonstrate that they can develop affordable housing in a timely manner. Finally, the Department expects to hire a consultant to help us determine if we are providing sufficient funds to develop our Section 202 and 811 projects.

I would now like to address some of the issues this Subcommittee has raised concerning the preservation of the existing stock of affordable housing.

Preservation of the Existing Section 8 and Section 202 Affordable Housing Stock

The Department is committed to preserving the existing stock of affordable rental housing. Over the last few years, Congress through legislation has provided for financial tools to provide incentives and assist project owners to preserve the affordable housing stock. Working with Congress, the Department has been successful in a number of areas in its efforts to preserve the affordable housing stock as well provide incentives to the owners.

The Department implemented Mark-to Market and Mark-Up-to-Market to provide opportunities for owners to make capital improvements and the necessary repairs to ensure the units are decent, safe and sanitary for the residents and to ensure the units remain affordable.

Since the inception of the Mark-to-Market program, HUD's Office of Multifamily Housing Assistance Restructuring (OMHAR) has successfully closed debt restructurings on 571 properties. These properties include over 46,000 units and are now subject to 30-year Use Agreements. They were provided with over $62 million in escrows to repair properties, and an infusion of approximately $40 million in immediate Reserve for Replacement deposits, increasing the long-term physical stability of the properties. In addition, OHMAR has processed Section 8 contract renewals and reduced rents on over 120,000 units, resulting in annual Section 8 savings of over $105 million.

The Mark-Up-to-Market program, created in FY 1999, has been similarly successful. In its first four years, through FY 2002, 632 Section 8 contracts have been renewed and 58,000 affordable housing units were preserved under this program. To be eligible for Mark-Up-to-Market, a property must: 1) not have a low and moderate income use restriction that cannot be eliminated by unilateral action of the owner, 2) be decent, safe, and sanitary, 3) not be owned by a nonprofit entity, 4) not be a Section 8 Moderate Rehabilitation project, and 5) have rents exceeding 100% of Fair Market Rents.

Additionally, the Department uses its statutory authority to enter into multiple-year Section 8 contracts for those owners choosing the Mark-up-to-Market rent increase option. Owners must enter into a contract at a minimum of five years, but not to exceed 20 years. Payments under the contracts are subject to the availability of appropriations. To limit the possible cost to the Government for implementing the MU2M option, the Department capped the rent increase at the comparable market rent or 150% of Fair Market Rents, whichever is lower.

The Department also recognizes the important contribution that has been made by nonprofit owners in the development and the preservation of affordable housing. This is particularly true for those nonprofit sponsors who have developed Section 202 affordable housing for the elderly and persons with disabilities. Many of the older Section 202 projects have Section 8 rental assistance. The owners of these projects are eligible to apply for an increase in their rents to cover the cost of capital repairs. The program requirements and process for obtaining the rental increase is described in chapter 15 of the Section 8 contract renewal guide. From FY 1999 through FY 2002, 1,092 Section 8 contracts in the Section 202 program have been renewed, with more than 80,000 affordable elderly and disabled housing units preserved.

For all Section 8 programs combined, during the last four fiscal years, a total of 10,695 Section 8 contracts were renewed and over 778,000 affordable housing units have been preserved.

HUD's Interpretation of Section 8 Contractual Provisions for State Finance Agency-Financed Multifamily Projects

The Department's Office of General Counsel recently issued a legal opinion regarding the contractual provisions governing the term of Section 8 Housing Assistance Payment Contract (HAP) between a State Housing Finance Agency and an owner for a State Housing Finance Agency-financed project executed prior to 1980. It is HUD's position that this is neither a new policy nor a reinterpretation. The Section 8 contracts in question provide that the term of the Contract terminates "on the date of the last payment of principal due on the permanent financing." It is my understanding that up until the recent OGC opinion, Housing Finance Agencies have interpreted the HAP contract language to mean that new financing is included as "permanent financing," and that the contract does not terminate when an owner refinances the original mortgage.

The Department has identified approximately 1400 Section 8 HAP contracts at most that potentially could be impacted by this recent OGC opinion. This maximum number could be further reduced by the dozen or so states that have strong prepayment restrictions. In an effort to lessen the impact of this opinion on the existing assisted tenancies, minimize the loss of affordable housing units, and to assure the availability of continued rental assistance for project residents, HUD has proposed to the State Housing Finance Agencies two alternatives for the affected project owners:

1) The owner may elect to extend the maximum term of the HAP contract from the date of the prepayment to terminate at the originally scheduled maturity date of the permanent financing, or
2) The owner may elect to renew the project-based Section 8 contract in accordance with the Multifamily Assisted Housing Reform and Affordability Act (MAHRA).

However, an affected owner could choose neither option and exercise the right to opt out of the Section 8 contract. Regardless of the chosen option, the owner must provide HUD and the tenants with the proper one-year notice of HAP contract termination.

We recognize the concerns of project owners, state agencies, and members of Congress about the potential consequences for the affordable housing stock, and we have been discussing the situation and possible options with the Council of State Housing Finance Agencies, among others.

Status of Regulations That Will Allow Nonprofit Organizations to Create For-profit Limited Partnerships For The Section 202 Program

The original law that allowed for-profit participation in the Section 202 program was included in the American Homeownership and Economic Opportunity Act of 2000. It was the Department's position that rule making was required to implement the provisions of the law related to the Section 202 program. Language was added to the fiscal year 2002 Departments of Labor, Health and Human Services, and Education Appropriations Act earlier this year to clarify that Congress wanted the Department to implement the

provisions related to refinancing of existing Section 202 projects without rule making. On August 23, 2002, the Department issued Notice H 2002-16 to implement this provision of the law.

However, the law does not direct HUD to implement without rulemaking the part of the statute that allows a for-profit partnership to receive a capital advance under the Section 202 program. I am pleased to report to you that we have completed drafting the required regulation and expect to have it in Departmental clearance by the end of the week. The Department is anxious to complete the rule making process and will be proceeding with an interim rule to expedite implementation. We know that the nonprofit organizations are eager to use the capital advance to leverage additional funds to develop more additional affordable housing or services for the elderly. HUD funded eight Section 202 projects in fiscal year 2001 where the sponsors indicated that they anticipated developing a mixed-finance project.

HUD's Enforcement of Regulations When Owners Opt Out of Section 8 Contracts

We have been pleased to work with the members of this Subcommittee to ensure that owners with developments that have project-based Section 8 assistance provide proper notice when opting-out of the Section 8 program. It was never the intent of the Department to reward owners who do not comply with the required Federal notice requirements. The forthcoming revisions to the Section 8 Contract Renewal guide will clarify this point. We have worked with our Offices of General Counsel and Public and Indian Housing to develop a consistent policy that does not reward owners yet protects the tenants at the projects where the owner chooses to opt-out.

Any owner who fails to provide proper one-year opt-out notification must permit the tenants to remain in their units without increasing their portion of the rent for whatever period of time is necessary to meet all of the notification requirements. Eligible families residing in the property will be issued vouchers when the contract expires. The family may use the voucher to remain in their current unit or elect to use the voucher to move to another property. Should the family elect to remain in their current unit, the voucher housing assistance payments contract does not commence until the full one-year notice requirement has been met. The effect of this action is that the owner will not receive any voucher assistance payments until proper notice has been provided to the tenants.

In instances where project owners need additional time to meet the one-year notice requirement, they are encouraged to enter into a short-term contract renewal with a term long enough to ensure that the tenants receive a full one-year notice of contract expiration. Otherwise, the owner will only receive the tenant portion of the rent the families were paying under the expired contract until the full one-year notice period has been met.

Status of the Utilization of Interest Reduction Payments Funds to Rehabilitate Existing Affordable Housing

The Department will continue to consider the implementation of Section 236(s) depending on the availability of future year Section 236 recaptures. HUD had not been given authority to use the funds from the Office of Management and Budget until the spring of 2002. This was due to questions regarding the availability of funds derived from old contract authority converted to budget authority.

As Members know, the Emergency Supplemental Appropriations Act included a $300 million rescission of recaptured IRP funds from mortgages insured by Section 236 that have been prepaid. At this time, it does not appear that there are adequate funds beyond the rescission to implement a program.

Estimates of future prepayments, which provide the recaptured funds available for rehabilitation, are uncertain. Two initiatives by the Department that help to preserve the affordable stock have reduced the amount of future IRP funds available for recapture. HUD allows Section 236 owners to decouple the IRP from the mortgage at prepayment in return for extended affordability restrictions. Those IRP funds are not available for recapture.

In addition, Section 236 owners with Section 8 subsidies may apply to have their Section 8 rents marked up to market. Approximately $40 million in IRP funds have been used to capitalize project reserves for replacement for projects that have been marked-to-market by OMHAR.

.

This concludes my statement, Mr. Chairman. Thank you for the opportunity to appear before this Subcommittee.

.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>
Sent: 10/8/2002 7:57:01 PM
Subject: : Re: Crime Victims Plaques
Attachments: P_8XSRA003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 8-OCT-2002 23:57:01.00
SUBJECT:: Re: Crime Victims Plaques
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

LETTER

October 8, 2002

Dear Mr. Perelman:

As you know, the Office for Victims of Crime of the United States Department of Justice commissioned you to manufacture awards plaques for an April 16, 2002, event honoring individuals and organizations who have performed outstanding service on behalf of crime victims.

Enclosed are index cards on which a copy of the President,s signature is affixed solely for the purpose of inscribing his signature upon the award plaque. Also enclosed is an agreement governing your use of the President,s signature.

Please do not hesitate to contact me with any questions.

Sincerely,

Harriet Miers
Assistant to the President and Staff Secretary

Mr. Josh Perelman
President
Trophy Mart
7221 Little River Turnpike
Annandale, VA 22003

Patrick J. Bumatay
10/07/2002 10:11:23 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Crime Victims Plaques

Brett,

Attached is the draft of the letter and agreement for Trophy Mart. Please make any changes/comments and then I will forward to Staff

Secretary. Please note - it is for Harriet's signature b/c she is the keeper of the signature and has to include three copies of the POTUS signature.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_8XSRA003_WHO.TXT_1>

October 8, 2002

Dear Mr. Perelman:

As you know, the Office for Victims of Crime of the United States Department of Justice had commissioned you to manufacture awards plaques used by President George W. Bush for an April 16, 2002 event honoring individuals and organizations who have performed outstanding service on behalf of crime victims.

Enclosed are three three by five inch index cards on which a copy of the President's signature is affixed solely for the purpose of inscribing the signature upon the award plaque.

Attached is also an agreement to memorialize the terms and conditions pursuant to which the White House is providing you with a copy of the signature of the President and pursuant to which the White House will permit you to reproduce this copy solely upon the award plaque.

Your signature below will confirm that you are properly authorized to enter into this agreement on half of Trophy Mart and that you agree to abide by the terms and conditions set out therein. Please do not hesitate to contact me with any questions.

Sincerely

Harriet Miers
Assistant to the President and Staff Secretary

Mr. Josh Perelman
President
Trophy Mart
7221 Little River Turnpike
Annandale, VA 22003

AGREEMENT

By this agreement, the White House Office authorizes Trophy Mart to use the Presidential template and inscription for Crime Victims Awards plaques ordered by the Office for Victims of Crime of the United States Department of Justice. Trophy Mart agrees that this authorization applies only to the plaques requested by the Office for Victims of Crime. Trophy Mart also agrees that it may not alter the signature or use it in any other manner whatsoever without the written approval of the White House Office.

_____ DATE: _____

Harriet Miers
Assistant to the President and Staff Secretary

_____ DATE: _____

for Trophy Mart

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Elizabeth Pitts/WHO/EOP@EOP [WHO] <Elizabeth Pitts>
Sent: 10/8/2002 8:12:00 PM
Subject: : Re: Return Check--Personal Contribution

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 9-OCT-2002 00:12:00.00
SUBJECT:: Re: Return Check--Personal Contribution
TO:Elizabeth Pitts (CN=Elizabeth Pitts/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I think Jen is getting back to you on this. Thanks.

Elizabeth Pitts

10/07/2002 04:22:18 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: Jennifer G. Newstead/WHO/EOP@EOP, Heidi K. Marquez/WHO/EOP@EOP
Subject: Re: Return Check--Personal Contribution

Hi Brett, per Jennifer's instructions, I'm holding the money mail described below pending your suggestion as to why the President can't accept personal donations, ie, "have a cup of coffee on me." We'd like to get these letters our ASAP, especially because OA has already mailed checks returning their contributions. Thanks for your help with this, & please call me at x6-2716 if you have any questions. Elizabeth

---------- Forwarded by Elizabeth Pitts/WHO/EOP on 10/07/2002 04:23 PM ----------

Jennifer G. Newstead
09/30/2002 10:05:16 AM
Record Type: Record

To: Elizabeth Pitts/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Return Check--Personal Contribution

Not yet. I'll check with him. Did you think my changes were OK?

Elizabeth Pitts

09/30/2002 10:03:37 AM

Record Type: Record

To: Jennifer G. Newstead/WHO/EOP@EOP
cc: heidi k. marquez/who/eop@eop
bcc:
Subject: Re: Return Check--Personal Contribution

Hi Jennifer, have you heard from Brett about the personal contribution letters? We'd like to mail these out ASAP.

Thanks.

Jennifer G. Newstead
09/26/2002 07:25:59 PM
Record Type: Record

To: Elizabeth Pitts/WHO/EOP@EOP
cc: heidi k. marquez/who/eop@eop
bcc:
Subject: Re: Return Check--Personal Contribution

Let's wait until Brett responds to send the letters out, if you don't mind.

Thanks

Elizabeth Pitts

09/26/2002 07:16:41 PM

Record Type: Record

To: Jennifer G. Newstead/WHO/EOP@EOP
cc: Heidi K. Marquez/WHO/EOP@EOP
Subject: Return Check--Personal Contribution

Hi Jennifer, per our conversation, the following is a draft of our letter returning personal contributions to the President. The 2 letters this will answer express overall support for the President, and then finish with "PS, here is $2 for a donut and a cup of coffee," and "PS, lunch is on me." Call me at 6-2716 if you have any questions. Thanks, Elizabeth

Dear XXX,

You will or may have already received a check under separate cover.

President Bush is unable to accept personal contributions. Accordingly, a check has been issued.

Thank you for your kind words. The President sends his best wishes.

Sincerely,

Desiree Thompson
Special Assistant to the President and Director of Presidential Correspondence

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: jmarcus@bm.net [UNKNOWN] <jmarcus@bm.net>
Sent: 10/8/2002 8:12:27 PM
Subject: : Re: rotundafinal.wpd
Attachments: P_U0TRA003_WHO.TXT_1.wpd

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 9-OCT-2002 00:12:27.00
SUBJECT:: Re: rotundafinal.wpd
TO:jmarcus@bm.net (jmarcus@bm.net [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

heard nothing, but think it is highly doubtful.

jmarcus@bm.net
10/07/2002 03:54:35 PM
Please respond to jmarcus@bm.net
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: rotundafinal.wpd

Brett -- Here you go.
Let me know what they say, so I can tell RR.

Jerome

rotundafinal.wpd

- rotundafinal.wpd

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_U0TRA003_WHO.TXT_1>

The Miguel Estrada Confirmation Hearing

by

Ronald D. Rotunda
The George Mason University Foundation Professor of Law
George Mason University School of Law

A few days ago, during the judicial confirmation for Miguel Estrada, Senator Patrick Leahy invoked my name and writings to support his claim the attorney-client privilege is not "binding on the Congress." As much as I respect Senator Leahy, on this issue we could not disagree more.

It is true that, as Senator Leahy states: "No statute or Senate or House rule applies the attorney-client privilege to Congress. In fact, both the Senate and the House have explicitly refused to formally include the privilege in their rules." But surely it is incorrect to conclude that this evidentiary privilege (along with the related attorney work product privilege) has no applicability within the walls of the Senate. Could the Senate call David Kendall, the lawyer for former President Clinton, and rummage through all of his memoranda? Could the Senate successfully subpoena all documents and drafts of documents generated by the lawyers for John Walker Lindh? The also privilege applies to the Government, because, several years ago, Congress enacted a statute that requires government lawyers to follow state ethics rules. And these rules require lawyers to follow a *broader* of confidentiality than that encompassed by the more narrow evidentiary privilege.

It is also true, as the Senator stated, that "the government's employer is not a single person but the United States of America." He then adds, "the government obviously includes the United States Senate." But his apparent conclusion — that the attorney-client privilege does not exist when the Senate wants documents — is incorrect. Several federal courts have ruled that the privilege is inapplicable when government lawyers working for President Clinton tried to prevent Government prosecutors from subpoenaing them in a criminal investigation. But that does not mean the Senate has complete access to all Executive Branch files. If the Senate does not really recognize the attorney-privilege, does any Executive Branch attorney have carte blanche power to examine the drafts of notes between a Senator and the Senate Committee counsel?

The Senator argued that the Senate has the right to consider Mr. Estrada's attorney work product created during his career government lawyer in the Solicitor General's office for five years during the Clinton administration. This demand is part of a larger campaign, which I have consistently opposed, for the Senate to predict how a nominee will vote on legal issues in deciding whether to consent to his appointment as a federal judge.

The basic the premise is that Senators are entitled to consider Estrada's – or any

nominee's – views; therefore, they are entitled to question the nominee about how he would rule on specific legal issues and they can gather private memoranda to help them predict how the nominee will rule. This premise is simply wrong. If a nominee made any such promises (to the Senate or the President) that would violate judicial ethics and litigants' rights to a fair hearing and due process. Releasing the files of a career government lawyer so that the Senate can pick through them during a confirmation hearing would also seriously hamstring the work of such lawyers. It is no surprise all living former Solicitors General — from both parties — have opposed this.

Granted, whether it's a good idea or not, the Senate is indeed legally free to vote against a nominee for any reason or no reason, because nothing in the Constitution says they can't. That doesn't mean it's a good idea for Senators to do this; it just means that no court will stop them. It also does not by any means follow that the Senate is entitled to question a nominee under oath about what his views are on specific legal issues, or to pick through his work as a career government lawyer.

Questioning candidates about how they think specific legal questions should be answered once they are on the bench forces them to take positions without any of the groundwork that properly forms the basis for judicial decisionmaking. It presents legal issues as abstract intellectual questions rather than as the flesh-and-blood disputes, involving real people and real facts, with legal briefs that argue for legal rules in light of these specific facts. (It is somewhat ironic that some of the advocates of antiseptic legal decisionmaking also cast themselves as the advocates for the disenfranchised, whose real-life problems are said to be ignored by those who are better off.).

These kind of questions may encourage some nominees to trim their sails in various directions when they answer, publicly allying themselves with one legal view or another (based on the politics of the moment), in order to maximize the chances of their being confirmed. Both this risk and the inflexibility created by sworn answers without a record in a real case will deprive litigants of something they are clearly entitled to by the Constitution: an unbiased judge who is not bound by anything other than precedent and his or her best effort to determine what the law is.

Perhaps most frightening, just where will we go with the kind of questioning? The witnesses are under oath, after all. What happens if a judge later decides a case in a manner that appears inconsistent with the way the nominee answered a Senator's question about that issue? How long will we wait before someone demands that the Judge be impeached – either for lying under oath at the confirmation hearing or for "breaching his trust" with the Senate?

Advocates of Senate questioning are likely to respond to these problems with the argument that, if Senators are in fact entitled to consider a nominee's legal views, then they must be entitled to gather the data upon which to base judgments on that issue. And how can they do that, the argument will conclude – particularly for a candidate without a long paper trail – if they cannot ask the nominee his or her views on legal issues?

The answer is that the ban on questioning of a judicial candidate on how she or she will vote on particular legal questioning does indeed restrict the scope of the Senate's power, as it restricts the President's power.

The President, like the Senators, should not ask nominees how they will vote on particular issues. The Senators should ask the nominee if he or she has made any promises to the President and reject them if they have. Second, history should teach us to be more modest in our ability to predict. Some Democrats now say the President should nominate judges like Justice Souter. They forget that many Democrats opposed him when he was nominated. Justices Douglas and Frankfurter are about as different as one could imagine, yet the same President nominated both of them.

Executive-congressional disputes over confidential information are as old as the Republic, and Mr. Estrada finds himself in the middle of one. The Department of Justice is resisting turning over these old memoranda because it is following the advice of all the former living Solicitors General. The Department has its institutional concerns, and the Senate has not seen fit to issue a subpoena or to test this issue in the courts. Is profoundly unfair to engage in this institutional dispute in the judicial confirmation context by holding a nominee, a court, and the judiciary hostage.

From: CN=John F. Wood/OU=OMB/O=EOP [OMB]
To: Jay P. Lefkowitz/OPD/EOP@EOP [OPD] <Jay P. Lefkowitz>
CC: Philip J. Perry/OMB/EOP@EOP [OMB] <Philip J. Perry>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Lauren J. Vestewig/OPD/EOP@EOP [OPD] <Lauren J. Vestewig>
Sent: 10/9/2002 6:32:58 AM
Subject: : Draft Sec. Card letter
Attachments: P_RM5SA003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:John F. Wood ( CN=John F. Wood/OU=OMB/O=EOP [ OMB ] )
CREATION DATE/TIME: 9-OCT-2002 10:32:58.00
SUBJECT:: Draft Sec. Card letter
TO:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
CC:Philip J. Perry ( CN=Philip J. Perry/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Lauren J. Vestewig ( CN=Lauren J. Vestewig/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Jay -- Per your request, attached is a draft letter in response to Charles
Wolf's letter to Sec. Card re the 9/11 Fund.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_RM5SA003_WHO.TXT_1>
```

October 9, 2002

Charles G. Wolf
Fix the Fund
184 Thompson St., Apt. 2-O
New York, NY 10012-2531

Dear Mr. Wolf,

Thank you for your recent letter regarding the September 11th Victim Compensation Fund, as well as all of your work on behalf of victims' families through the *Fix the Fund* organization.

The September 11th Victim Compensation Fund is an unprecedented program that reflects the compassion of the President, the Congress, and the American taxpayers. As you know, some aspects of the program, such as the collateral offset requirement, were mandated by Congress in the legislation that created the Fund. In many other respects, the legislation provides little guidance for the Special Master. The President's directive to Special Master Feinberg has been to ensure that each and every claimant receives the fairest possible compensation, consistent with the statute. While there are many different views regarding the best way to achieve that goal, I can assure you that the Fund is being administered with that sole purpose in mind. It is not being used to promote tort reform or any other policy goal.

There are many difficult issues that the Special Master faces in administering the Fund. I am forwarding your briefing paper to Mr. Feinberg and asking that he take your views into consideration as he continues to administer the Fund.

Finally, I wish to convey the President's sympathy for the loss of your wife, Katherine, as well as the President's gratitude for your dedication to your country and to the victims' families.

Sincerely,

Andrew H. Card, Jr.

cc: Kenneth Feinberg

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>
Sent: 10/9/2002 6:55:56 AM
Subject: : Re: leighton
Attachments: P_CF7SA003_WHO.TXT_1.html

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 9-OCT-2002 10:55:56.00
SUBJECT:: Re: leighton
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Please make sure it is the right one. It's from last week.

Patrick J. Bumatay
10/09/2002 10:46:20 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: leighton

will do. It is in the EEOB with Victor, the intern, who is organizing them. I'll track it down and fax over to Badger.

Brett M. Kavanaugh
10/09/2002 10:30:52 AM
Record Type: Record

To: Patrick J. Bumatay/WHO/EOP@EOP
cc:
Subject: leighton

Please FAX the letter from Murray and Cantwell to Doug Badger in Rep. Dunn's office. Please call Dunn's office to get FAX number.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 10/09/2002 10:35 AM ----------

"Badger, Doug" <Doug.Badger@mail.house.gov>
10/09/2002 10:22:50 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: leighton

Ron dropped by on Monday to say that he had his hearing and it was widely expected that his nomination will move along with a batch of others. I understand that Judge Gonzales received a letter from our two senators on 9/30. Anything you can share?

- att1.htm

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_CF7SA003_WHO.TXT_1>

Ron dropped by on Monday to say that he had his he aring and it was widely expected that his nomination will move along with a bat ch of others. I understand that Judge Gonzales received a letter from our two senators on 9/30. Anything you can share?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Matthew A. Schlapp/WHO/EOP@EOP [WHO] <Matthew A. Schlapp>;Ken Mehlman/WHO /EOP@EOP [WHO] <Ken Mehlman>
CC: Katherine M. Walters/WHO/EOP@EOP [WHO] <Katherine M. Walters>
Sent: 10/9/2002 10:17:25 AM
Subject: : Judges proposal -- message meeting

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 9-OCT-2002 14:17:25.00
SUBJECT:: Judges proposal -- message meeting
TO:Matthew A. Schlapp ( CN=Matthew A. Schlapp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Ken Mehlman ( CN=Ken Mehlman/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Katherine M. Walters ( CN=Katherine M. Walters/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Need to talk to you at some point re judges proposal that Anne and
I did and that was apparently discussed at message meeting today. Thx.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>
Sent: 10/9/2002 8:15:31 AM
Subject: : Bryant/Viet request

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 9-OCT-2002 12:15:31.00
SUBJECT:: Bryant/Viet request
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Dan Bryant and Viet want to be invited to the POTUS meeting with
Senators. I leave this request with you.
```

From: CN=Matthew E. Smith/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/9/2002 12:49:26 PM
Subject: : Re: AP - Bush summons GOP senators to move judicial nominees ahead

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Matthew E. Smith (CN=Matthew E. Smith/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 9-OCT-2002 16:49:26.00
SUBJECT:: Re: AP - Bush summons GOP senators to move judicial nominees ahead
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Which are out.

Brett M. Kavanaugh
10/09/2002 04:43:54 PM
Record Type: Record

To: Matthew E. Smith/WHO/EOP@EOP
cc:
bcc:
Subject: Re: AP - Bush summons GOP senators to move judicial
nominees ahead

Note also that the President made no public comments at the
meeting with the Senators, but only at the Hispanic Heritage event.

Matthew E. Smith

10/09/2002 04:31:34 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: AP - Bush summons GOP senators to move judicial nominees
ahead

This story is out everywhere. When did the meeting happen? We could have
alerted the coalition folks.
---------------------- Forwarded by Matthew E. Smith/WHO/EOP on 10/09/2002
04:33 PM ---------------------------

Matthew E. Smith

10/09/2002 04:28:06 PM

Record Type: Record

To: Matthew E. Smith/WHO/EOP@EOP
cc:

Subject: AP - Bush summons GOP senators to move judicial nominees ahead

Bush summons GOP senators to move judicial nominees ahead
JESSE J. HOLLAND
Associated Press Writer
WASHINGTON (AP) _ The White House sharply criticized Senate Democrats on Wednesday for blocking an appeals court nominee, as President Bush summoned Republican senators to discuss how to break the logjam.
Sen. Strom Thurmond, R-S.C., is trying to get a federal appeals court seat for a former aide, U.S. District Judge Dennis Shedd. It hit a serious bump Tuesday when the Democratic-controlled Senate Judiciary Committee delayed a vote in what might have been its last meeting of the year.
``I took you at your word,'' an angry Thurmond told the committee's chairman, Sen. Patrick Leahy, D-Vt., who GOP senators said had promised to let the Shedd nomination come before the committee.
``In 48 years in the Senate,'' he said, ``I have never been treated in such a manner.''
Leahy ``failed to uphold his commitment to Senator Strom Thurmond, the longest-serving member of the United States Senate, for a vote on Dennis Shedd before the end of the year,'' White House spokesman Ari Fleischer said. ``This promise had been made to Senator Thurmond on several occasions.''
Bush invited GOP members of the Senate Judiciary Committee to the White House for a chat on how to move the nomination forward. No Democrats were invited.
Fleischer sidestepped a question on why Bush didn't invite Leahy, whom he blames for the problem.
``I don't think this is a question of the president talking to the chairman of the committee. This is a question of the chairman of the committee doing what he told Senator Thurmond he would do.''
Leahy delayed the Shedd vote, saying it was too contentious to get done quickly. Had the committee begun debating Shedd's nomination to the 4th U.S. Circuit Court of Appeals in Richmond, Va., Leahy said, nominations of 17 district court judges that were cleared and sent to the Senate would not have moved.
Thurmond's anger over the delay was echoed by other Senate Republicans, who fear that Tuesday's voting session was the last of the legislative year. If it was, the rest of President Bush's nominees will be stuck in legislative limbo until a new Congress convenes next year.
Besides Shedd, one of those stranded would be Miguel Estrada, Bush's choice for the U.S. Appeals Court in the District of Columbia and a rumored choice for a Supreme Court seat if a vacancy should open.
Bush also blasted the Senate over Estrada.
``There are senators who are playing politics with this good man's nomination,'' Bush said, receiving a standing ovation at a White House celebration of Hispanic Heritage Month. ``There are senators who would rather not give him the benefit of the doubt, senators looking for a reason to defeat him as opposed to looking for a reason to herald his intelligence, his capabilities his talent. I strongly object to the way this man is going to be treated in the United States Senate.''
``I hope that the Senate will change hands next year so we can correct some of these terrible injustices,'' Senate Minority Leader Trent Lott, R-Miss., fumed.
Senate Majority Leader Tom Daschle, D-S.D., defended the work of the Democratic-led committee. ``I defy anyone to come up with a better record,'' Daschle said.
Bush has nominated 126 U.S. Appeals Court and U.S. District Court nominees, and the Senate has confirmed 80: 14 judges to appeals courts and 66 to district courts.
The committee also has rejected two nominees, Texas Supreme Court Judge Priscilla Owen and U.S. District Judge Charles Pickering of Mississippi, denying them votes in the full Senate, and has not voted on Estrada and other controversial nominees.
Republicans say they consider the refusal to vote on Shedd an insult to Thurmond, the oldest person ever to serve in Congress. Thurmond ends his 48-year career in the Senate in January, and Shedd's nomination is among the last outstanding pieces of business South Carolina's senior senator

has left.
``It's his last request in the Senate,'' Sen. Orrin Hatch, R-Utah, said. ``I don't believe we should treat Senator Thurmond this way, and I don't believe we should treat this eminent judge this way.''
Thurmond, along with Sens. Hatch and Charles Grassley, R-Iowa, want to force Leahy to hold one more voting session to consider Shedd's nomination and that of University of Utah professor Michael McConnell to the Denver-based 10th U.S. Circuit Court of Appeals. The senators insist Leahy promised votes this year on both judges.
When asked later whether he would consider having another voting session this year, Leahy said he didn't know.
Shedd, supported by both Thurmond and Sen. Ernest ``Fritz'' Hollings, D-S.C., has stirred up controversy in South Carolina with his rulings as a judge. Officials from the National Association for the Advancement of Colored People say Shedd has shown a pattern of ruling against plaintiffs in civil rights cases. The Dale City, Va.-based Disabled Action Committee also has objected to Shedd's nomination, contending his opinions show a ``disregard for laws protecting the disabled'' and ``a high level of insensitivity on issues of race.''

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kirsten A. Chadwick/WHO/EOP@EOP [WHO] <Kirsten A. Chadwick>
Sent: 10/9/2002 1:17:51 PM
Subject: : URGENT; did it pass by voice vote or roll call vote?

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 9-OCT-2002 17:17:51.00
SUBJECT:: URGENT; did it pass by voice vote or roll call vote?
TO:Kirsten A. Chadwick ( CN=Kirsten A. Chadwick/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Anne Womack/WHO/EOP@EOP [WHO] <Anne Womack>
Sent: 10/9/2002 1:24:04 PM
Subject: : Re: URGENT; did it pass by voice vote or roll call vote?

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 9-OCT-2002 17:24:04.00
SUBJECT:: Re: URGENT; did it pass by voice vote or roll call vote?
TO:Anne Womack (CN=Anne Womack/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Voice vote, so that is good.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 10/09/2002 05:25 PM ----------

Kirsten A. Chadwick
10/09/2002 05:21:23 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Re: URGENT; did it pass by voice vote or roll call vote?

Voice vote

.

----- Original Message -----
From:Brett M. Kavanaugh/WHO/EOP
To:Kirsten A. Chadwick/WHO/EOP@EOP
Cc:
Date: 10/09/2002 05:15:47 PM
Subject: URGENT; did it pass by voice vote or roll call vote?

From: Rebecca Seidel) (Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) [UNKNOWN]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/9/2002 2:21:50 PM
Subject: : Fwd:FYI: Florida tort-reform law reinstated.

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) (
Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) [UNKNOWN])
CREATION DATE/TIME: 9-OCT-2002 18:21:50.00
SUBJECT:: Fwd:FYI: Florida tort-reform law reinstated.
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

go Florida!

Oct 9, 2002
Appeals Court Revives Florida Law Limiting Damage Lawsuits
The Associated Press

TALLAHASSEE, Fla. (AP) - A 1999 law shielding Florida businesses from some lawsuits and limiting awards in court cases was revived Wednesday by an appeals court.
The 1st District Court of Appeal said a lower-court judge erred in ruling the law unconstitutional because the plaintiffs failed to say how the law would directly hurt them.
Businesses hailed the 1999 law as a major victory in their fight against liability lawsuits. It puts a 12-year deadline on lawsuits against most products, and a 20-year limit for lawsuits against airplane manufacturers over design flaws.
Other highlights include a formula to determine when a business must pay for damages in a case that isn't entirely its fault and caps on punitive damages unless a victim can prove the wrongdoing was intentional.
Consumer groups, trial lawyers, labor groups and the National Association for the Advancement of Colored People had challenged the law. They argued it denied citizens access to the courts, undercut the independence of the courts and treated people differently under the law.
AP-ES-10-09-02 1715EDT

This story can be found at: http://ap.tbo.com/ap/breaking/MGABIDVQ37D.html

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Erin P. Hassing/OMB/EOP@EOP [OMB] <Erin P. Hassing>;Patrick J. Bumatay/WHO /EOP@EOP [WHO] <Patrick J. Bumatay>
Sent: 10/9/2002 11:21:38 AM
Subject: : Re: LRM EPH198 - - Report on S2466 Small Business Federal Contractor Safeguard Act
Attachments: P_JENSA003_WHO.TXT_1.wpd

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 9-OCT-2002 15:21:38.00
SUBJECT:: Re: LRM EPH198 - - Report on S2466 Small Business Federal Contractor Safeguard Act
TO:Erin P. Hassing (CN=Erin P. Hassing/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

No objection, but I would think we would want to say something
more substantive if we want to stop this.

Patrick J. Bumatay
10/09/2002 02:56:31 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: LRM EPH198 - - Report on S2466 Small Business Federal Contractor Safeguard Act

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/09/2002 02:57 PM ----------

From: Erin P. Hassing on 10/09/2002 02:46:33 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: LRM EPH198 - - Report on S2466 Small Business Federal Contractor Safeguard Act

Please review the attached letter on S 2466. OMB has been advised that this legislation may be 'hotlined' in the Senate this week. Also note that this bill has been amended and reported from the Senate Small Business Committee. The amended bill text is not yet available, however the report number is 107-306.

PLEASE PROVIDE ALL COMMENTS NO LATER 10AM THURSDAY, OCTOBER 10TH. This office will assume you have not comment if we have received no response by this time.

LRM ID: EPH198
EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Monday, October 7, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: Erin P. Hassing
PHONE: (202)395-3459 FAX: (202)395-6148
SUBJECT: Report on S2466 Small Business Federal Contractor Safeguard Act

DEADLINE: 10AM Thursday, October 10, 2002
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Please review the attached letter on S 2466. OMB has been advised that this legislation may be 'hotlined' in the Senate this week. Also note that this bill has been amended and reported from the Senate Small Business Committee. The amended bill text is not yet available, however the report number is 107-306.

PLEASE PROVIDE ALL COMMENTS BY 10AM THURSDAY, OCTOBER 10TH.

DISTRIBUTION LIST

AGENCIES:
007-AGRICULTURE - Jacquelyn Chandler - (202) 720-1272
025-COMMERCE - Michael A. Levitt - (202) 482-3151
029-DEFENSE - Samuel T. Brick Jr. - (703) 697-1305
030-EDUCATION - Jack Kristy - (202) 401-8313
032-ENERGY - Ted Pulliam - (202) 586-3397
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773
054-HOUSING & URBAN DEVELOPMENT - Mike Moran - (202) 708-1793
059-INTERIOR - Jane Lyder - (202) 208-4371
061-JUSTICE - Daniel Bryant - (202) 514-2141
062-LABOR - Robert A. Shapiro - (202) 693-5500
114-STATE - VACANT - (202) 647-4463
117 & 340-TRANSPORTATION - Tom Herlihy - (202) 366-4687
118-TREASURY - Thomas M. McGivern - (202) 622-2317
129-VETERANS AFFAIRS - John H. Thompson - (202) 273-6666
107-Small Business Administration - Richard Spence - (202) 205-6700
088-Office of Government Ethics - Jane Ley - (202) 208-8022
092-Office of Personnel Management - Harry Wolf - (202) 606-1424
051-General Services Administration - Shawn McBurney - (202) 501-0563
039-Federal Emergency Management Agency - Mark D. Wallace - (202) 646-4105
069-National Aeronautics and Space Administration - Charles T. Horner III - (202) 358-1948
033-Environmental Protection Agency - Edward Krenik - (202) 564-5200
008-US Agency for International Development - Jan W. Miller - (202) 712-4174
084-National Science Foundation - Lawrence Rudolph - (703) 292-8060
110-Social Security Administration - Diane B. Garro -

EOP:
WHGC LRM
OVP LRM
NEC LRM
Angela B. Styles
Michael D. Gerich

Stephen S. McMillin
Alan B. Rhinesmith
James Boden
Yvette M. Dennis
Lorenzo Rasetti
Joseph Crilley
Pamula L. Simms
John Graham
Paul R. Noe
Veronica Vargas
Jefferson B. Hill
Philip J. Perry
Matthew J. Schneider
John Wood
Rosalyn J. Rettman
Dirksen Lehman
Lauren C. Lobrano
Christine M. Burgeson
Ingrid M. Schroeder
James J. Jukes
Julie L. Haas
Meredith G. Benson
John W. Kelly
Richard E. Green
James A. Brown
Mathew C. Blum
Robin Cleveland
Kathleen Peroff
Cameron M. Leuthy
Richard M. Allen
Mary Jo Siclari
Karyn T. Carson
Ellen J. Balis
Toni S. Hustead
Winifred Y. Chang
Arecia A. Grayton
LRM ID: EPH198 SUBJECT: Report on S2466 Small Business Federal Contractor Safeguard Act
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Erin P. Hassing Phone: 395-3459 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-7362

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

REV_00152485

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Sent
To:_____
usdaobpaleg@obpa.usda.gov
CLRM@doc.gov
dodlrs@osdgc.osd.mil
ogc_legislation@ed.gov
energy.gc71@hq.doe.gov
lrm@hhs.gov
HUD_LRM@hud.gov
ocl@ios.doi.gov
justice.lrm@usdoj.gov
dol-sol-leg@dol.gov
statelrm@state.gov
dot.legislation@ost.dot.gov
llr@do.treas.gov
valrm@mail.va.gov
cla@sba.gov @ inet
legteam@oge.gov
ola@opm.gov
ca.legislation@gsa.gov
legis@fema.gov
NASA_LRM@hq.nasa.gov
epalrm@epamail.epa.gov
GC.OMB@usaid.gov
lrm@nsf.gov
ODCLCA.LRM.SSA@ssa.gov

Message Copied
To:_____
WHGC LRM
OVP LRM
NEC LRM
Angela B. Styles/OMB/EOP@EOP
Michael D. Gerich/OMB/EOP@EOP
Stephen S. McMillin/OMB/EOP@EOP
Alan B. Rhinesmith/OMB/EOP@EOP
James Boden/OMB/EOP@EOP
Yvette M. Dennis/OMB/EOP@EOP
Lorenzo Rasetti/OMB/EOP@EOP
Joseph Crilley/OMB/EOP@EOP
Pamula L. Simms/OMB/EOP@EOP
John Graham/OMB/EOP@EOP
Paul R. Noe/OMB/EOP@EOP
Veronica Vargas/OMB/EOP@EOP
Jefferson B. Hill/OMB/EOP@EOP
Philip J. Perry/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
John_F._Wood@omb.eop.gov
Rosalyn J. Rettman/OMB/EOP@EOP
Dirksen Lehman/WHO/EOP@EOP

Lauren C. Lobrano/OMB/EOP@EOP
Christine M. Burgeson/OMB/EOP@EOP
Ingrid M. Schroeder/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Julie L. Haas/OMB/EOP@EOP
Meredith G. Benson/OMB/EOP@EOP
John W. Kelly/OMB/EOP@EOP
Richard E. Green/OMB/EOP@EOP
James A. Brown/OMB/EOP@EOP
Mathew C. Blum/OMB/EOP@EOP
Robin Cleveland/OMB/EOP@EOP
Kathleen Peroff/OMB/EOP@EOP
Cameron M. Leuthy/OMB/EOP@EOP
Richard M. Allen/OMB/EOP@EOP
Mary Jo Siclari/OMB/EOP@EOP
Karyn T. Carson/OMB/EOP@EOP
Ellen J. Balis/OMB/EOP@EOP
Toni S. Hustead/OMB/EOP@EOP
Winifred Y. Chang/OMB/EOP@EOP
Arecia A. Grayton/OMB/EOP@EOP

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_JENSA003_WHO.TXT_1>

DRAFT 10/08/02

The Honorable John F. Kerry
Chairman
Committee on Small Business and Entrepreneurship
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

As you know, through several ongoing initiatives, the Administration is committed to improving the access of small businesses to government procurement opportunities. In particular, we share your concern about the detrimental effects of contract bundling. However, we are concerned that S. 2466, the Small Business Federal Contractor Safeguard Act, would impede our ability to effectively address contract bundling.

On March 19, 2002, the President announced his Small Business Agenda, a plan to help create an environment where small businesses can flourish. The President's plan calls for the Director of the Office of Management and Budget to prepare a strategy for unbundling contracts, where practicable, and to review Department and agency contracting practices to determine whether these practices reflect a strong commitment to full and open competition. To help carry out the President=s Agenda, my office formed two inter-agency working groups, one focusing on competition and the other focusing on contract bundling issues. The working groups have been considering comments received from the public as they prepare strategies and recommendations that would implement the President's Agenda.

At this point, we are on the verge of presenting to the President an aggressive strategy on contract bundling that will include recommendations for actions to be taken under the existing statutory framework. Considering where we are in this process, it would be an unfortunate time for statutory changes. If enacted now, S. 2466 would add a significant layer of confusion for the contracting community and delay our ability to address real and significant concerns about contract bundling.

As we proceed, we look forward to sharing our views with the Congress, the small business community, and all interested parties.

Sincerely,

Angela B. Styles
Administrator

[Identical Letter to Representative Manzullo, Chairman, House Small Business Committee]

From: CN=Matthew E. Smith/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/9/2002 12:49:05 PM
Subject: : Re: AP - Bush summons GOP senators to move judicial nominees ahead

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Matthew E. Smith (CN=Matthew E. Smith/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 9-OCT-2002 16:49:05.00
SUBJECT:: Re: AP - Bush summons GOP senators to move judicial nominees ahead
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Wouldn't have wanted any of the folks there....just wanted to advertise.

Brett M. Kavanaugh
10/09/2002 04:42:29 PM
Record Type: Record

To: Matthew E. Smith/WHO/EOP@EOP
cc:
bcc:
Subject: Re: AP - Bush summons GOP senators to move judicial
nominees ahead

Meeting was requested by Nick and scheduled just before noon
(prompted by Shedd issue yesterday) for 2:00 today. No other advance
notice at all and, in any event, no opportunity for coalition
participation. Sorry about that. But let's get word around now to extent
we can. Thanks.

Matthew E. Smith

10/09/2002 04:31:34 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: AP - Bush summons GOP senators to move judicial nominees
ahead

This story is out everywhere. When did the meeting happen? We could have
alerted the coalition folks.
---------------------- Forwarded by Matthew E. Smith/WHO/EOP on 10/09/2002
04:33 PM ---------------------------

Matthew E. Smith

10/09/2002 04:28:06 PM

Record Type: Record

To: Matthew E. Smith/WHO/EOP@EOP
cc:
Subject: AP - Bush summons GOP senators to move judicial nominees ahead

Bush summons GOP senators to move judicial nominees ahead
JESSE J. HOLLAND
Associated Press Writer
WASHINGTON (AP) _ The White House sharply criticized Senate Democrats on Wednesday for blocking an appeals court nominee, as President Bush summoned Republican senators to discuss how to break the logjam.
Sen. Strom Thurmond, R-S.C., is trying to get a federal appeals court seat for a former aide, U.S. District Judge Dennis Shedd. It hit a serious bump Tuesday when the Democratic-controlled Senate Judiciary Committee delayed a vote in what might have been its last meeting of the year.
``I took you at your word,'' an angry Thurmond told the committee's chairman, Sen. Patrick Leahy, D-Vt., who GOP senators said had promised to let the Shedd nomination come before the committee.
``In 48 years in the Senate,'' he said, ``I have never been treated in such a manner.''
Leahy ``failed to uphold his commitment to Senator Strom Thurmond, the longest-serving member of the United States Senate, for a vote on Dennis Shedd before the end of the year,'' White House spokesman Ari Fleischer said. ``This promise had been made to Senator Thurmond on several occasions.''
Bush invited GOP members of the Senate Judiciary Committee to the White House for a chat on how to move the nomination forward. No Democrats were invited.
Fleischer sidestepped a question on why Bush didn't invite Leahy, whom he blames for the problem.
``I don't think this is a question of the president talking to the chairman of the committee. This is a question of the chairman of the committee doing what he told Senator Thurmond he would do.''
Leahy delayed the Shedd vote, saying it was too contentious to get done quickly. Had the committee begun debating Shedd's nomination to the 4th U.S. Circuit Court of Appeals in Richmond, Va., Leahy said, nominations of 17 district court judges that were cleared and sent to the Senate would not have moved.
Thurmond's anger over the delay was echoed by other Senate Republicans, who fear that Tuesday's voting session was the last of the legislative year. If it was, the rest of President Bush's nominees will be stuck in legislative limbo until a new Congress convenes next year.
Besides Shedd, one of those stranded would be Miguel Estrada, Bush's choice for the U.S. Appeals Court in the District of Columbia and a rumored choice for a Supreme Court seat if a vacancy should open.
Bush also blasted the Senate over Estrada.
``There are senators who are playing politics with this good man's nomination,'' Bush said, receiving a standing ovation at a White House celebration of Hispanic Heritage Month. ``There are senators who would rather not give him the benefit of the doubt, senators looking for a reason to defeat him as opposed to looking for a reason to herald his intelligence, his capabilities his talent. I strongly object to the way this man is going to be treated in the United States Senate.''
``I hope that the Senate will change hands next year so we can correct some of these terrible injustices,'' Senate Minority Leader Trent Lott, R-Miss., fumed.

Senate Majority Leader Tom Daschle, D-S.D., defended the work of the Democratic-led committee. ``I defy anyone to come up with a better record,'' Daschle said.

Bush has nominated 126 U.S. Appeals Court and U.S. District Court nominees, and the Senate has confirmed 80: 14 judges to appeals courts and 66 to district courts.

The committee also has rejected two nominees, Texas Supreme Court Judge Priscilla Owen and U.S. District Judge Charles Pickering of Mississippi, denying them votes in the full Senate, and has not voted on Estrada and other controversial nominees.

Republicans say they consider the refusal to vote on Shedd an insult to Thurmond, the oldest person ever to serve in Congress. Thurmond ends his 48-year career in the Senate in January, and Shedd's nomination is among the last outstanding pieces of business South Carolina's senior senator has left.

``It's his last request in the Senate,'' Sen. Orrin Hatch, R-Utah, said. ``I don't believe we should treat Senator Thurmond this way, and I don't believe we should treat this eminent judge this way.''

Thurmond, along with Sens. Hatch and Charles Grassley, R-Iowa, want to force Leahy to hold one more voting session to consider Shedd's nomination and that of University of Utah professor Michael McConnell to the Denver-based 10th U.S. Circuit Court of Appeals. The senators insist Leahy promised votes this year on both judges.

When asked later whether he would consider having another voting session this year, Leahy said he didn't know.

Shedd, supported by both Thurmond and Sen. Ernest ``Fritz'' Hollings, D-S.C., has stirred up controversy in South Carolina with his rulings as a judge. Officials from the National Association for the Advancement of Colored People say Shedd has shown a pattern of ruling against plaintiffs in civil rights cases. The Dale City, Va.-based Disabled Action Committee also has objected to Shedd's nomination, contending his opinions show a ``disregard for laws protecting the disabled'' and ``a high level of insensitivity on issues of race.''

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kirsten A. Chadwick/WHO/EOP@EOP [WHO] <Kirsten A. Chadwick>
Sent: 10/9/2002 1:17:51 PM
Subject: : URGENT; did it pass by voice vote or roll call vote?

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 9-OCT-2002 17:17:51.00
SUBJECT:: URGENT; did it pass by voice vote or roll call vote?
TO:Kirsten A. Chadwick ( CN=Kirsten A. Chadwick/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Anne Womack/WHO/EOP@EOP [WHO] <Anne Womack>
Sent: 10/9/2002 1:31:04 PM
Subject: : CALL ME RE PRA asap

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 9-OCT-2002 17:31:04.00
SUBJECT:: CALL ME RE PRA asap
TO:Anne Womack ( CN=Anne Womack/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>
Sent: 10/10/2002 7:41:42 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:10-OCT-2002 11:41:42.00
SUBJECT::
TO:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Can you e-mail me a sample scheduling request?
```

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/10/2002 4:22:47 AM
Subject: : PRA article

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-OCT-2002 08:22:47.00
SUBJECT:: PRA article
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Copyright 2002 The New York Times Company ÿ
The New York Times

October 10, 2002, Thursday, Late Edition - Final

SECTION: Section A; Page 32; Column 1; National Desk

LENGTH: 558 words

HEADLINE: House Panel Seeks Release of Presidential Papers

BYLINE: ÿBy ADAM CLYMER

DATELINE: WASHINGTON, Oct. 9

BODY:
A House committee voted without dissent today to overturn President Bush's executive order that delayed release of President Ronald Reagan's papers and allowed relatives of future presidents to keep papers secret.

Representative Dan Burton, the Indiana Republican who is chairman of the Government Reform Committee, said: "I have great respect for President Bush. He's doing a superb job in these very difficult times. However, on this issue, I think he's gotten some advice that wasn't very good." Other members were blunter. For example, Representative Doug Ose, Republican of California, said the executive order "violates not only the spirit but also the letter of the Presidential Records Act."

Mr. Ose added, "It undercuts the public's right to be fully informed about how its government operated in the past. It is an affront to the citizens of this country."

The executive order, which Mr. Bush issued last Nov. 1, changed the rules for release of presidential papers under the 1978 records act, which provided for the automatic release of papers, with exceptions for matters like national security and law enforcement, 12 years after a president's term. Before the order was issued, the Bush administration obtained temporary delays on releasing the Reagan papers.

Historians and journalists sued to overturn the order, saying it violated the 1978 law. The administration says the case, pending in federal district court here, should be dismissed because almost all the papers were released this year.

Besides voiding the executive order, the bill the House panel adopted on a voice vote today said that presidents and former presidents -- but not

relatives or vice presidents, as the order allowed -- could invoke executive privilege to keep specific papers secret. Former presidents would have to go to court to establish their claims. But people seeking the release of records would have to sue to obtain access to records an incumbent president wanted to withhold.

It was not clear whether the full House -- let alone the Senate -- would act on the bill in this session.

Still, after today's committee backing, the bill would probably have support in the next Congress.

The Bush administration, in a letter from Assistant Attorney General Daniel J. Bryant to Mr. Burton, attacked the bill as "unnecessary and inappropriate and, more importantly, unconstitutional." Mr. Bryant wrote that 68,000 pages of Reagan records had been released, showing the bill was not needed. As to the Constitution, Mr. Bryant wrote that "Congress lacks the authority to regulate by legislation the procedures for exercising" executive privilege.

The order has been defended by Alberto R. Gonzales, the White House counsel, who contended that it concerned only mechanical changes in procedures for releasing records. Mr. Gonzales wrote in The Washington Post that "the president's order was crafted to provide as much information as possible to the public while also respecting the constitutional rights of former presidents."

Representative Steve Horn, a California Republican who leads the subcommittee on government efficiency and helped devise the bill, said the order allowed presidents and former presidents "to prevent records from being released whether they claim executive privilege or not." ÿ
http://www.nytimes.com

From: CN=Kimberly A. Douglass/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/10/2002 4:40:54 AM
Subject: : Re: points to bring up with Brett

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kimberly A. Douglass (CN=Kimberly A. Douglass/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-OCT-2002 08:40:54.00
SUBJECT:: Re: points to bring up with Brett
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Julie Thomas is the FLOTUS "Brian Montgomery." And, when he travels on AF1 with the President, he is designated "Trip Director" and therefore, official.

Brett M. Kavanaugh
10/09/2002 09:58:48 PM
Record Type: Record

To: Kimberly A. Douglass/WHO/EOP@EOP
cc:
bcc:
Subject: Re: points to bring up with Brett

Kate has it right. Ari and Scott always should be presumed to be there for official purposes absent contrary evidence.
Who is the POTUS analogue of Julie Thomas and how is he/she treated?

Kimberly A. Douglass 10/09/2002 01:32:54 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: points to bring up with Brett

Kate and I have been trying to work our way through these manifests for political trips. See below for some info she found out regarding staff involvement in the political portion of the mixed trips. Does it seem reasonable to you that I could use this as a guideline for future trips?

That said, in the interest of consistency, I have some questions about how this should be applied to other bills. For instance, if Ari does not directly participate in the political portion of the trip and therefore we do not include him in the political bills for AirOps, do I apply this same logic to his hotel bill if it was an overnight. Or, do I err on the side of safety and just always mark him political on airfare and other bills? I'm having trouble trying to determine how to handle some of the senior staff that were not addressed in the "Official Travelers" memo...well, mostly just Ari and Scott McClellan. Am I just making this too complicated?

Also, for FLOTUS travel, do the same "official travelers" rules apply? I got your message on Sarah Garrison. But, does Julie Thomas (as Trip Director) get marked as official?

I feel like I am trapped in a 5th Grade Word Problem class and I can't get out.....

---------- Forwarded by Kimberly A. Douglass/WHO/EOP on 10/09/2002 01:21 PM ----------

Katherine M. Walters
10/04/2002 12:22:28 PM
Record Type: Record

To: Kimberly A. Douglass/WHO/EOP@EOP
cc:
Subject: points to bring up with Brett

ok, I think I am done. I will bring it to you soon.

-Reed Dickens said that he takes the press into the fundraisers and works at the event because they are all pool press. I marked him political. Josh Deckard does the same thing.

-Kelly Gannon sets up the press risers for these events. I marked her political.

-Reed said Ari and other senior staff usually watch it on tv either in the staff holding room or in the back. I did not mark Ari or Scott McClellan as political. However, I marked Scott Stanzel who is in Media Affairs. He might stand with the pool and answer questions from local reporters.

-The ADs or Reed told me that the policy guys who are on the trip for the purpose of the official event, (i.e. homeland security, etc.) usually just watch, but not necessarily in the holding room. I did not mark these as political.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Diana E. Furchtgott-Roth/CEA/EOP@EOP [CEA] <Diana E. Furchtgott-Roth>
Sent: 10/10/2002 10:20:18 AM
Subject: : Re: FHLBank Regulator's Role In Fundraiser Sparks Inquiry

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-OCT-2002 14:20:18.00
SUBJECT:: Re: FHLBank Regulator's Role In Fundraiser Sparks Inquiry
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Diana E. Furchtgott-Roth (CN=Diana E. Furchtgott-Roth/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
End Original ARMS Header

Thanks for update. Please keep me posted.

.

----- Original Message -----
From:Diana E. Furchtgott-Roth/CEA/EOP
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 10/10/2002 02:10:34 PM
Subject: FHLBank Regulator's Role In Fundraiser Sparks Inquiry

See article below--Senator Sarbanes is seeking Federal investigations of Chairman Korsmo's (legal) appearance at the Clayburgh fundraiser last week. He still hasn't sent over questions for me, and says he won't vote me out of Committee until I've answered them.

October 10, 2002 12:45 p.m. EDT
FHLBank Regulator's Role In Fundraiser Sparks Inquiry

By DAWN KOPECKI

Of DOW JONES NEWSWIRES

WASHINGTON -- House and Senate lawmakers have asked for a federal investigation into Federal Housing Finance Board Chairman John Korsmo's involvement in a fundraiser held last week for a North Dakota Republican.

Korsmo has come under fire for lending his name as a "special guest" to a Washington fundraiser that solicited $500 apiece from invitees, including executives at some of the banks Korsmo regulates.

Korsmo heads the federal agency charged with overseeing the 12 Federal Home
Loan Banks, which lend money to their 8,000 member institutions at below-market rates. Korsmo, who once chaired the North Dakota Republican Party, was an active GOP fundraiser in the state before the Bush administration tapped him to chair the Finance Board last autumn.

Korsmo said the candidate, Rick Clayburgh, is a close personal friend who Korsmo helped get elected as the North Dakota tax commissioner in 1996.

Friend or not, Korsmo's appearance at the event and the role he or the agency had in soliciting donations are now under scrutiny.

"Mr. Korsmo's appearance at this event raises questions that Mr. Clayburgh used Mr. Korsmo's position in government to help solicit contributions from

banking executives subject to his regulation," California Rep. Henry Waxman, the ranking Democrat on the House Committee on Government Reform, wrote in a letter sent this week to Chairman Dan Burton, R-Ind.

Senate Banking Chairman Paul Sarbanes, D-Md., also sent letters this week to the General Accounting Office, the Finance Board's Inspector General and
Korsmo himself, requesting a federal investigation.

He was particularly critical of Korsmo considering the new ethics guidelines recently adopted by the agency at Korsmo's urging.

"In my view, your conduct in the matter of the Clayburgh for Congress fundraiser raises serious questions as to whether you have lived up to the standard you set for yourself," Sarbanes wrote Korsmo in a letter sent Wednesday.

Sarbanes also asked Comptroller General David Walker on Wednesday to investigate the matter, seeking to find out to what extent Korsmo or his staff were involved in soliciting donations or identifying contributors. Sarbanes also asked Walker to find out whether any of the Home Loan Bank executives invited to the event, or any other involving Korsmo, have been the subject of any recent or ongoing supervisory matters before the Finance
Board.

"The willing and high-profile involvement of an independent, federal financial regulator in a political fundraiser to which senior executives of
the regulated institutions are invited raises a serious question as to whether Mr. Korsmo is meeting the standard he and the ethics attorney hired
by the board set at the September 12 meeting," Sarbanes wrote.

Korsmo said he consulted his in-house counsel as well as an outside ethics officer before agreeing to participate in the fundraiser, which was hosted by House Financial Services Chairman Michael Oxley, R-Ohio.

"I don't know who they invited, I wasn't involved in the planning," Korsmo told Dow Jones Newswires. "Most of the people who were there I didn't know."

Korsmo said he was told more than 500 people were invited to the fundraiser, though fewer than two dozen actually attended.

He also said his relationship with the candidate and his family made this particular fundraiser unique.

In addition to helping Clayburgh with his 1996 campaign, Korsmo chaired the
state Republican party when the candidate's father ran for the U.S. Senate.
He also said he served on the North Dakota Board of Higher Education with Clayburgh's mother, Bev.

"Those are perhaps the unique circumstances that lead to me being asked to be involved," he said. "I can't perceive of another situation where anyone's going to ask me again, so it's a moot point in my mind as to what will happen in the future."

Several calls to Rick Clayburgh's campaign office in North Dakota were not returned. A spokeswoman for Rep. Oxley declined to comment.

Clayburgh is vying for the at-large seat held by Rep. Earl Pomeroy, a Democrat.

-By Dawn Kopecki, Dow Jones Newswires; 202-862-6637;
Dawn.Kopecki@dowjones.com

URL for this article:
http://online.wsj.com/article/0,,BT_CO_20021010_006197.djm,00.html

Updated October 10, 2002 12:45 p.m. EDT

From: CN=Adrian G. Gray/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/10/2002 7:21:00 AM
Subject: : Re: From ABC Note this morning

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Adrian G. Gray (CN=Adrian G. Gray/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-OCT-2002 11:21:00.00
SUBJECT:: Re: From ABC Note this morning
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

where did you see this? ABC news?

Brett M. Kavanaugh
10/09/2002 08:35:55 PM
Record Type: Record

To: Ken Mehlman/WHO/EOP@EOP, Adrian G. Gray/WHO/EOP@EOP
cc:
Subject: From ABC Note this morning

The piece features another cameo * from Hector Barreto, head of the Bush Small Business Administration * which reminds us to remind you yet again of two things:
-- The 2000 Bush campaign, with clever forethought, didn't challenge the business-as-usual Clinton/Gore use of government personnel and resources on presidential politics in 1996 and 2000, knowing full well that Roveian practice involves leveraging the machinery of the executive branch for political gain, with the envelope fully pushed.
No news organization seems to be systematically tracking all of the travel by Bush Administration officials (including by the minority members thereof) on behalf of GOP candidates in targeted races for political and official events. Such tracking could be investigative, but it also is a great political story, showing insight into resource deployment beyond the attention-grabbing POTUS.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Adrian G. Gray/WHO/EOP@EOP [WHO] <Adrian G. Gray>
Sent: 10/10/2002 7:25:01 AM
Subject: : Re: From ABC Note this morning

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-OCT-2002 11:25:01.00
SUBJECT:: Re: From ABC Note this morning
TO:Adrian G. Gray (CN=Adrian G. Gray/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

This link had it yesterday.

http://abcnews.go.com/sections/politics/dailynews/thenote.html

From: Adrian G. Gray on 10/10/2002 11:18:53 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: From ABC Note this morning

where did you see this? ABC news?

Brett M. Kavanaugh
10/09/2002 08:35:55 PM
Record Type: Record

To: Ken Mehlman/WHO/EOP@EOP, Adrian G. Gray/WHO/EOP@EOP
cc:
Subject: From ABC Note this morning

The piece features another cameo * from Hector Barreto, head of the Bush Small Business Administration * which reminds us to remind you yet again of two things:
-- The 2000 Bush campaign, with clever forethought, didn't challenge the business-as-usual Clinton/Gore use of government personnel and resources on presidential politics in 1996 and 2000, knowing full well that Roveian practice involves leveraging the machinery of the executive branch for political gain, with the envelope fully pushed.
No news organization seems to be systematically tracking all of the travel by Bush Administration officials (including by the minority members thereof) on behalf of GOP candidates in targeted races for political and official events. Such tracking could be investigative, but it also is a great political story, showing insight into resource deployment beyond the attention-grabbing POTUS.

From: Taylor, Paul <Paul.Taylor@mail.house.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Pinkos, Steve <Steve.Pinkos@mail.house.gov>
Sent: 10/10/2002 7:28:00 AM
Subject: : RE: regulatory authority

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Taylor, Paul" <Paul.Taylor@mail.house.gov> ("Taylor, Paul" <Paul.Taylor@mail.house.gov> [UNKNOWN])
CREATION DATE/TIME:10-OCT-2002 11:28:00.00
SUBJECT:: RE: regulatory authority
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:"Pinkos, Steve" <Steve.Pinkos@mail.house.gov> ("Pinkos, Steve" <Steve.Pinkos@mail.house.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Who knows what a court would eventually determine, but the description of the "program" the Secty. can administer in the House language seems quite broad: "The Secretary of the Treasury shall be responsible for carrying out A PROGRAM FOR FINANCIAL ASSISTANCE for commercial property and casualty insurers,as provided in this Act." Even so, I suppose using the "provisions of this Act" language wouldn't hurt.

-----Original Message-----
From: Pinkos, Steve
Sent: Thursday, October 10, 2002 10:55 AM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Cc: Taylor, Paul
Subject: RE: regulatory authority

should I try to add the "provisions of this Act" language? do we really think it could make a difference?

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov [mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Thursday, October 10, 2002 10:24 AM
To: Pinkos, Steve
Cc: Taylor, Paul
Subject: regulatory authority

On review of S. 2600, it seems to us that the "Program" set forth in section 4, over which the Secretary has regulatory authority pursuant to section 5, does not encompass the federal cause of action under section 10. Therefore, if the question is whether the Secretary's section 5 authority would enable him to assert the right to approve settlements of federal causes of action under section 10, courts may very dubious. One way to get past this hurdle would be to rewrite section 5(a) by substituting something like "the provisions of this Act" for "the Program." (There may, of course, still be other obstacles to the Secretary's assertion of settlement-approval authority; we are further looking at this question.)

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/10/2002 8:20:44 AM
Subject: : LRM OGG368 - - TREASURY Testimony on Corporate Inversion Transactions
Attachments: P_YUMTA003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-OCT-2002 12:20:44.00
SUBJECT:: LRM OGG368 - - TREASURY Testimony on Corporate Inversion Transactions
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/10/2002 12:19 PM ----------

From: Oscar Gonzalez on 10/10/2002 12:14:03 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: LRM OGG368 - - TREASURY Testimony on Corporate Inversion Transactions

We are seeking your review of draft Treasury testimony for an October 16 hearing before the Senate Appropriations Committee's Subcommittee on Treasury and General Government on U.S. companies reincorporating outside the United States to reduce their tax liability. Please provide comments by 12:00 P.M. tomorrow, Friday, October 11th.

LRM ID: OGG368
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Thursday, October 10, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: Oscar Gonzalez
PHONE: (202)395-3923 FAX: (202)395-3109
SUBJECT: TREASURY Testimony on Corporate Inversion Transactions

DEADLINE: 12:00 P.M. Friday, October 11, 2002
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: We are seeking your review of draft Treasury testimony for an October 16 hearing before the Senate Appropriations Committee's Subcommittee on Treasury and General Government on U.S. companies reincorporating outside the United States to reduce their tax liability. Please provide comments by 12:00 P.M. tomorrow, Friday, October 11th.

DISTRIBUTION LIST

AGENCIES:
114-STATE - Nicole Petrosino - (202) 647-1794
061-JUSTICE - Daniel Bryant - (202) 514-2141
128-US Trade Representative - Carmen Suro-Bredie - (202) 395-4755
025-COMMERCE - Michael A. Levitt - (202) 482-3151
107-Small Business Administration - Richard Spence - (202) 205-6700

EOP:
Stephen S. McMillin
Alan B. Rhinesmith
Mark J. Schwartz
Robert F. Mahaffie
Andrew D. Hire
James Boden
Hester C. Grippando
Robin Cleveland
Rodney G. Bent
James M. Kulikowski
Alexandra Gianinno
Ronald L. Silberman
Kenneth L. Schwartz
Julie L. Haas
Lauren E. Bloomquist
Randolph M. Lyon
David R. Goldberg
Hai M. Tran
Karen M. Shaffer
Sheila Conley
Mary C. Barth
Ellen J. Balis
Neil Lobron
Attia Little
John F. Wood
Matthew J. Schneider
James D. Foster
Laurence R. Jacobson
Justine F. Rodriguez
Christine M. Burgeson
Lauren C. Lobrano
David W. Hobbs
Christine Ciccone
NEC LRM
OVP LRM
CEA LRM
WHGC LRM
Richard E. Green
James J. Jukes
LRM ID: OGG368 SUBJECT: TREASURY Testimony on Corporate Inversion Transactions
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Oscar Gonzalez Phone: 395-3923 Fax: 395-3109

Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-4607

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

- tt0192a.doc

Message Sent
To:_____
Stephen S. McMillin/OMB/EOP@EOP
Alan B. Rhinesmith/OMB/EOP@EOP
Mark J. Schwartz/OMB/EOP@EOP
Robert F. Mahaffie/OMB/EOP@EOP
Andrew D. Hire/OMB/EOP@EOP
James Boden/OMB/EOP@EOP
Hester C. Grippando/OMB/EOP@EOP
Robin Cleveland/OMB/EOP@EOP
Rodney G. Bent/OMB/EOP@EOP
James M. Kulikowski/OMB/EOP@EOP
Alexandra Gianinno/OMB/EOP@EOP
Ronald L. Silberman/OMB/EOP@EOP
Kenneth L. Schwartz/OMB/EOP@EOP
Julie L. Haas/OMB/EOP@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
Randolph M. Lyon/OMB/EOP@EOP
David R. Goldberg/OMB/EOP@EOP
Hai M. Tran/OMB/EOP@EOP
Karen M. Shaffer/OMB/EOP@EOP
Sheila Conley/OMB/EOP@EOP
Mary C. Barth/OMB/EOP@EOP
Ellen J. Balis/OMB/EOP@EOP
Neil Lobron/OMB/EOP@EOP
Attia Little/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
James D. Foster/OMB/EOP@EOP
Laurence R. Jacobson/OMB/EOP@EOP
Justine F. Rodriguez/OMB/EOP@EOP
Christine M. Burgeson/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
David W. Hobbs/WHO/EOP@EOP
Christine Ciccone/WHO/EOP@EOP
NEC LRM

OVP LRM
CEA LRM
WHGC LRM
Richard E. Green/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_YUMTA003_WHO.TXT_1>

TESTIMONY OF
PAMELA OLSON, ASSISTANT SECRETARY (TAX POLICY),
UNITED STATES DEPARTMENT OF THE TREASURY
BEFORE THE SENATE APPROPRIATIONS SUBCOMMITTEE ON
TREASURY AND GENERAL GOVERNMENT
ON CORPORATE INVERSION TRANSACTIONS

Mr. Chairman, Senator _____, and distinguished Members of the Subcommittee, I appreciate the opportunity to appear today at this hearing relating to corporate inversion transactions.

In recent months, several high-profile U.S. companies have announced plans to reincorporate outside the United States. The documents prepared for shareholder approval and filed with the Securities and Exchange Commission cite substantial reductions in overall corporate taxes as a key reason for the transactions. While these so-called corporate inversion transactions are not new, there has been a marked increase recently in the frequency, size, and profile of the transactions.

On February 28, 2002, the Treasury Department announced that it was studying the issues arising in connection with these corporate inversion transactions and the implications of these transactions for the U.S. tax system and the U.S. economy. On May 17, 2002, the Treasury Department released its report on the tax policy implications of corporate inversion transactions. (A copy of the Treasury report is attached.) The Treasury report describes the mechanics of the transactions, the current tax treatment of the transactions, the current tax treatment of the companies post-inversion, the features of our tax laws that facilitate the transactions or that may be exploited through such transactions, and the features of our tax laws that drive companies to consider these transactions.

Inversion transactions implicate fundamental issues of tax policy. The U.S. tax system can operate to provide a cost advantage to foreign-based multinational companies over U.S.-based multinational companies. The Treasury report identifies two distinct classes of tax reduction that are available to foreign-based companies and that can be achieved through an inversion transaction. First, an inversion transaction may be used by a U.S.-based company to achieve a reduction in the U.S. corporate-level tax on income from U.S. operations. In addition, through an inversion transaction, a U.S.-based multinational group can substantially reduce or eliminate the U.S. corporate-level tax on income from its foreign operations.

An inversion is a transaction through which the corporate structure of a U.S.-based multinational group is altered so that a new foreign corporation, typically located in a low- or no-tax country, replaces the existing U.S. parent corporation as the parent of the corporate group. In order to provide context for consideration of the policy issues that arise, the Treasury report includes a technical description of the forms of the inversion

transaction and the potential tax treatment of the various elements of the transaction under current law. The transactional forms through which the basic reincorporation outside the United States can be accomplished vary as a technical matter, but all involve little or no immediate operational change and all are transactions in which either the shareholders of the company or the company itself are subject to tax. This reincorporation step may be accompanied by other restructuring steps designed to shift the ownership of the group's foreign operations outside the United States. The restructuring steps involving movement of foreign subsidiaries are complex and varied, but, like the reincorporation itself, are transactions that are subject to tax. When all the transactions are complete, the foreign operations of the company will be outside of the U.S. taxing jurisdiction and the corporate structure also may provide opportunities to reduce the U.S. tax on U.S. operations.

Market conditions have been a factor in the recent increase in inversion activity. Although the reincorporation step triggers potential tax at the shareholder level or the corporate level, depending on the transactional form, that tax liability may be less significant because of current economic and market factors. The company's shareholders may have little or no gain inherent in their stock and the company may have net operating losses that reduce any gain at the company level. While these market conditions may help facilitate the transactions, they are not, however, what motivates a company to undertake an inversion. U.S.-based companies and their shareholders are making the decision to reincorporate outside the United States largely because of the tax savings available. It is that underlying motivation that we must address.

The ability to achieve a substantial reduction in taxes through a transaction that is complicated technically but virtually transparent operationally is a cause for concern as a policy matter. As we formulate a response, however, we must not lose sight of the fact that an inversion is not the only route to accomplishing the same type of reduction in taxes. A U.S.-based start-up venture that contemplates both U.S. and foreign operations may incorporate overseas at the outset. An existing U.S. group may be the subject of a takeover, either friendly or hostile, by a foreign-based company. In either case, the structure that results provides tax-savings opportunities similar to those provided by an inversion transaction. A narrow policy response to the inversion phenomenon may inadvertently result in a tax code favoring the acquisition of U.S. operations by foreign corporations and the expansion of foreign controlled operations in the United States at the expense of domestically managed corporations. In turn, other decisions affecting the location of new investment, choice of suppliers, and employment opportunities may be adversely affected. While the openness of the U.S. economy has always made -- and will continue to make -- the United States one of the most attractive and hospitable locations for foreign investment in the world, there is no merit in policies biased *against* domestic control and domestic management of U.S. operations.

The policy response to the recent corporate inversion activity should be broad enough to address the underlying differences in the U.S. tax treatment of U.S.-based companies and foreign-based companies, without regard to how foreign-based status is achieved. Measures designed simply to halt inversion activity only address these

transactions at the surface level and in the short run. Measures that are targeted too narrowly would have the unintended effect of encouraging a shift to other forms of transactions and structures to the detriment of the U.S. economy in the long run.

An immediate response is needed to address the U.S. tax advantages that are available to foreign-based companies through the ability to reduce the U.S. corporate-level tax on income from U.S. operations. Inappropriate shifting of income from the U.S. companies in the corporate group to the foreign parent or its foreign subsidiaries represents an erosion of the U.S. corporate tax base. It provides a competitive advantage to companies that have undergone an inversion or otherwise operate in a foreign-based group. It creates a corresponding disadvantage for their U.S. competitors that operate in a U.S.-based group. Moreover, exploitation of inappropriate income-shifting opportunities erodes confidence in the fairness of the tax system.

The Treasury Department has made specific proposals relating to legislative and regulatory changes that are needed to address these transactions and the opportunities available through such transactions. Both the Senate Finance Committee and the House Ways and Means Committee have held hearings on this subject and members of both committees have crafted legislation in response to these transactions. We are working closely with these committees to ensure the enactment of appropriate legislation.

We also must continue our work to address the U.S. tax disadvantages for U.S.-based companies that do business abroad relative to their counterparts in our major trading partners. The U.S. international tax rules can operate to impose a burden on U.S.-based companies with foreign operations that is disproportionate to the tax burden imposed by our trading partners on the foreign operations of their companies. The U.S. rules for the taxation of foreign-source income are unique in their breadth of reach and degree of complexity. Both the recent inversion activity and the increase in foreign acquisitions of U.S. multinationals are evidence that the competitive disadvantage caused by our international tax rules is a serious issue with significant consequences for U.S. businesses and the U.S. economy. A comprehensive reexamination of the U.S. international tax rules and the economic assumptions underlying them is needed. As we consider appropriate reformulation of these rules we should not underestimate the benefits to be gained from reducing the complexity of the current rules. Our system of international tax rules should not disadvantage U.S.-based companies competing in the global marketplace.

As we work to address these important issues, we must keep our focus on the overarching goal of maintaining the attractiveness of the United States as the most desirable location in the world for incorporation, headquartering, foreign investment, business operations, and employment opportunities, in order to achieve an ever higher standard of living for all Americans.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Oscar Gonzalez/OMB/EOP@EOP [OMB] <Oscar Gonzalez>;Patrick J. Bumatay/WHO /EOP@EOP [WHO] <Patrick J. Bumatay>
Sent: 10/10/2002 8:23:40 AM
Subject: : Re: LRM OGG368 - - TREASURY Testimony on Corporate Inversion Transactions
Attachments: P_N1NTA003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-OCT-2002 12:23:40.00
SUBJECT:: Re: LRM OGG368 - - TREASURY Testimony on Corporate Inversion Transactions
TO:Oscar Gonzalez (CN=Oscar Gonzalez/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

WHC has no objection.

Patrick J. Bumatay
10/10/2002 12:18:36 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: LRM OGG368 - - TREASURY Testimony on Corporate Inversion Transactions

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/10/2002 12:19 PM ----------

From: Oscar Gonzalez on 10/10/2002 12:14:03 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: LRM OGG368 - - TREASURY Testimony on Corporate Inversion Transactions

We are seeking your review of draft Treasury testimony for an October 16 hearing before the Senate Appropriations Committee's Subcommittee on Treasury and General Government on U.S. companies reincorporating outside the United States to reduce their tax liability. Please provide comments by 12:00 P.M. tomorrow, Friday, October 11th.

LRM ID: OGG368
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Thursday, October 10, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Richard E. Green (for) Assistant Director for
Legislative Reference
OMB CONTACT: Oscar Gonzalez
PHONE: (202)395-3923 FAX: (202)395-3109
SUBJECT: TREASURY Testimony on Corporate Inversion Transactions

DEADLINE: 12:00 P.M. Friday, October 11, 2002
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: We are seeking your review of draft Treasury testimony for an October 16 hearing before the Senate Appropriations Committee's Subcommittee on Treasury and General Government on U.S. companies reincorporating outside the United States to reduce their tax liability. Please provide comments by 12:00 P.M. tomorrow, Friday, October 11th.

DISTRIBUTION LIST

AGENCIES:
114-STATE - Nicole Petrosino - (202) 647-1794
061-JUSTICE - Daniel Bryant - (202) 514-2141
128-US Trade Representative - Carmen Suro-Bredie - (202) 395-4755
025-COMMERCE - Michael A. Levitt - (202) 482-3151
107-Small Business Administration - Richard Spence - (202) 205-6700

EOP:
Stephen S. McMillin
Alan B. Rhinesmith
Mark J. Schwartz
Robert F. Mahaffie
Andrew D. Hire
James Boden
Hester C. Grippando
Robin Cleveland
Rodney G. Bent
James M. Kulikowski
Alexandra Gianinno
Ronald L. Silberman
Kenneth L. Schwartz
Julie L. Haas
Lauren E. Bloomquist
Randolph M. Lyon
David R. Goldberg
Hai M. Tran
Karen M. Shaffer
Sheila Conley
Mary C. Barth
Ellen J. Balis
Neil Lobron
Attia Little
John F. Wood
Matthew J. Schneider
James D. Foster
Laurence R. Jacobson
Justine F. Rodriguez
Christine M. Burgeson
Lauren C. Lobrano
David W. Hobbs
Christine Ciccone
NEC LRM
OVP LRM
CEA LRM
WHGC LRM
Richard E. Green

James J. Jukes
LRM ID: OGG368 SUBJECT: TREASURY Testimony on Corporate Inversion Transactions
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Oscar Gonzalez Phone: 395-3923 Fax: 395-3109
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-4607

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

- tt0192a.doc

Message Sent
To:_____
Stephen S. McMillin/OMB/EOP@EOP
Alan B. Rhinesmith/OMB/EOP@EOP
Mark J. Schwartz/OMB/EOP@EOP
Robert F. Mahaffie/OMB/EOP@EOP
Andrew D. Hire/OMB/EOP@EOP
James Boden/OMB/EOP@EOP
Hester C. Grippando/OMB/EOP@EOP
Robin Cleveland/OMB/EOP@EOP
Rodney G. Bent/OMB/EOP@EOP
James M. Kulikowski/OMB/EOP@EOP
Alexandra Gianinno/OMB/EOP@EOP
Ronald L. Silberman/OMB/EOP@EOP
Kenneth L. Schwartz/OMB/EOP@EOP

Julie L. Haas/OMB/EOP@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
Randolph M. Lyon/OMB/EOP@EOP
David R. Goldberg/OMB/EOP@EOP
Hai M. Tran/OMB/EOP@EOP
Karen M. Shaffer/OMB/EOP@EOP
Sheila Conley/OMB/EOP@EOP
Mary C. Barth/OMB/EOP@EOP
Ellen J. Balis/OMB/EOP@EOP
Neil Lobron/OMB/EOP@EOP
Attia Little/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
James D. Foster/OMB/EOP@EOP
Laurence R. Jacobson/OMB/EOP@EOP
Justine F. Rodriguez/OMB/EOP@EOP
Christine M. Burgeson/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
David W. Hobbs/WHO/EOP@EOP
Christine Ciccone/WHO/EOP@EOP
NEC LRM
OVP LRM
CEA LRM
WHGC LRM
Richard E. Green/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_N1NTA003_WHO.TXT_1>

TESTIMONY OF
PAMELA OLSON, ASSISTANT SECRETARY (TAX POLICY),
UNITED STATES DEPARTMENT OF THE TREASURY
BEFORE THE SENATE APPROPRIATIONS SUBCOMMITTEE ON
TREASURY AND GENERAL GOVERNMENT
ON CORPORATE INVERSION TRANSACTIONS

Mr. Chairman, Senator _____, and distinguished Members of the Subcommittee, I appreciate the opportunity to appear today at this hearing relating to corporate inversion transactions.

In recent months, several high-profile U.S. companies have announced plans to reincorporate outside the United States. The documents prepared for shareholder approval and filed with the Securities and Exchange Commission cite substantial reductions in overall corporate taxes as a key reason for the transactions. While these so-called corporate inversion transactions are not new, there has been a marked increase recently in the frequency, size, and profile of the transactions.

On February 28, 2002, the Treasury Department announced that it was studying the issues arising in connection with these corporate inversion transactions and the implications of these transactions for the U.S. tax system and the U.S. economy. On May 17, 2002, the Treasury Department released its report on the tax policy implications of corporate inversion transactions. (A copy of the Treasury report is attached.) The Treasury report describes the mechanics of the transactions, the current tax treatment of the transactions, the current tax treatment of the companies post-inversion, the features of our tax laws that facilitate the transactions or that may be exploited through such transactions, and the features of our tax laws that drive companies to consider these transactions.

Inversion transactions implicate fundamental issues of tax policy. The U.S. tax system can operate to provide a cost advantage to foreign-based multinational companies over U.S.-based multinational companies. The Treasury report identifies two distinct classes of tax reduction that are available to foreign-based companies and that can be achieved through an inversion transaction. First, an inversion transaction may be used by a U.S.-based company to achieve a reduction in the U.S. corporate-level tax on income from U.S. operations. In addition, through an inversion transaction, a U.S.-based multinational group can substantially reduce or eliminate the U.S. corporate-level tax on income from its foreign operations.

An inversion is a transaction through which the corporate structure of a U.S.-based multinational group is altered so that a new foreign corporation, typically located in a low- or no-tax country, replaces the existing U.S. parent corporation as the parent of the corporate group. In order to provide context for consideration of the policy issues that arise, the Treasury report includes a technical description of the forms of the inversion

transaction and the potential tax treatment of the various elements of the transaction under current law. The transactional forms through which the basic reincorporation outside the United States can be accomplished vary as a technical matter, but all involve little or no immediate operational change and all are transactions in which either the shareholders of the company or the company itself are subject to tax. This reincorporation step may be accompanied by other restructuring steps designed to shift the ownership of the group's foreign operations outside the United States. The restructuring steps involving movement of foreign subsidiaries are complex and varied, but, like the reincorporation itself, are transactions that are subject to tax. When all the transactions are complete, the foreign operations of the company will be outside of the U.S. taxing jurisdiction and the corporate structure also may provide opportunities to reduce the U.S. tax on U.S. operations.

Market conditions have been a factor in the recent increase in inversion activity. Although the reincorporation step triggers potential tax at the shareholder level or the corporate level, depending on the transactional form, that tax liability may be less significant because of current economic and market factors. The company's shareholders may have little or no gain inherent in their stock and the company may have net operating losses that reduce any gain at the company level. While these market conditions may help facilitate the transactions, they are not, however, what motivates a company to undertake an inversion. U.S.-based companies and their shareholders are making the decision to reincorporate outside the United States largely because of the tax savings available. It is that underlying motivation that we must address.

The ability to achieve a substantial reduction in taxes through a transaction that is complicated technically but virtually transparent operationally is a cause for concern as a policy matter. As we formulate a response, however, we must not lose sight of the fact that an inversion is not the only route to accomplishing the same type of reduction in taxes. A U.S.-based start-up venture that contemplates both U.S. and foreign operations may incorporate overseas at the outset. An existing U.S. group may be the subject of a takeover, either friendly or hostile, by a foreign-based company. In either case, the structure that results provides tax-savings opportunities similar to those provided by an inversion transaction. A narrow policy response to the inversion phenomenon may inadvertently result in a tax code favoring the acquisition of U.S. operations by foreign corporations and the expansion of foreign controlled operations in the United States at the expense of domestically managed corporations. In turn, other decisions affecting the location of new investment, choice of suppliers, and employment opportunities may be adversely affected. While the openness of the U.S. economy has always made -- and will continue to make -- the United States one of the most attractive and hospitable locations for foreign investment in the world, there is no merit in policies biased *against* domestic control and domestic management of U.S. operations.

The policy response to the recent corporate inversion activity should be broad enough to address the underlying differences in the U.S. tax treatment of U.S.-based companies and foreign-based companies, without regard to how foreign-based status is achieved. Measures designed simply to halt inversion activity only address these

transactions at the surface level and in the short run. Measures that are targeted too narrowly would have the unintended effect of encouraging a shift to other forms of transactions and structures to the detriment of the U.S. economy in the long run.

An immediate response is needed to address the U.S. tax advantages that are available to foreign-based companies through the ability to reduce the U.S. corporate-level tax on income from U.S. operations. Inappropriate shifting of income from the U.S. companies in the corporate group to the foreign parent or its foreign subsidiaries represents an erosion of the U.S. corporate tax base. It provides a competitive advantage to companies that have undergone an inversion or otherwise operate in a foreign-based group. It creates a corresponding disadvantage for their U.S. competitors that operate in a U.S.-based group. Moreover, exploitation of inappropriate income-shifting opportunities erodes confidence in the fairness of the tax system.

The Treasury Department has made specific proposals relating to legislative and regulatory changes that are needed to address these transactions and the opportunities available through such transactions. Both the Senate Finance Committee and the House Ways and Means Committee have held hearings on this subject and members of both committees have crafted legislation in response to these transactions. We are working closely with these committees to ensure the enactment of appropriate legislation.

We also must continue our work to address the U.S. tax disadvantages for U.S.-based companies that do business abroad relative to their counterparts in our major trading partners. The U.S. international tax rules can operate to impose a burden on U.S.-based companies with foreign operations that is disproportionate to the tax burden imposed by our trading partners on the foreign operations of their companies. The U.S. rules for the taxation of foreign-source income are unique in their breadth of reach and degree of complexity. Both the recent inversion activity and the increase in foreign acquisitions of U.S. multinationals are evidence that the competitive disadvantage caused by our international tax rules is a serious issue with significant consequences for U.S. businesses and the U.S. economy. A comprehensive reexamination of the U.S. international tax rules and the economic assumptions underlying them is needed. As we consider appropriate reformulation of these rules we should not underestimate the benefits to be gained from reducing the complexity of the current rules. Our system of international tax rules should not disadvantage U.S.-based companies competing in the global marketplace.

As we work to address these important issues, we must keep our focus on the overarching goal of maintaining the attractiveness of the United States as the most desirable location in the world for incorporation, headquartering, foreign investment, business operations, and employment opportunities, in order to achieve an ever higher standard of living for all Americans.

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/10/2002 12:41:15 PM
Subject: : LRM PTM162 - - OMB Request for Views on HR3731 Increase in Annual Limit on Funds Available to Compensate State Approving Agencies For Work Undertaken on Behalf of VA
Attachments: P_HU2UA003_WHO.TXT_1

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-OCT-2002 16:41:15.00
SUBJECT:: LRM PTM162 - - OMB Request for Views on HR3731 Increase in Annual Limit on Funds Available to Compensate State Approving Agencies For Work Undertaken on Behalf of VA
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/10/2002 04:40 PM ----------

From: P. Thaddeus Messenger on 10/10/2002 04:40:52 PM
Record Type: Record

To: dodlrs@osdgc.osd.mil, ogc_legislation@ed.gov, dot.legislation@ost.dot.gov
cc: See the distribution list at the bottom of this message
Subject: LRM PTM162 - - OMB Request for Views on HR3731 Increase in Annual Limit on Funds Available to Compensate State Approving Agencies For Work Undertaken on Behalf of VA

LRM ID: PTM162
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Thursday, October 10, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: P. Thaddeus Messenger
PHONE: (202)395-7754 FAX: (202)395-6148
SUBJECT: OMB Request for Views on HR3731 Increase in Annual Limit on Funds Available to Compensate State Approving Agencies For Work Undertaken on Behalf of VA

DEADLINE: 5:00 p.m. Friday, October 11, 2002
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: On October 7th, the House passed H.R. 3731 by voice vote under suspension of the rules. Attached for your comments, please find a copy of H.R. 3731, as amended.

(3 pp.)

The bill that would increase funding for angencies that review and evaluate education programs offered under four veteran educational

assistance programs, and specifies the percentage to be used to calculate fees for loan assumption.

DISTRIBUTION LIST

AGENCIES:
029-DEFENSE - Samuel T. Brick Jr. - (703) 697-1305
030-EDUCATION - Paul Riddle - (202) 401-8313
117 & 340-TRANSPORTATION - Tom Herlihy - (202) 366-4687

EOP:
NSP
VAB
Cameron M. Leuthy
Wendell H. Waites
Eugene J. Devine
Kathryn B. Stack
David Rowe
Jennifer S. Kron
Steven M. Mertens
Sarah S. Lee
Elizabeth A. Bernhard
Adriel M. Harvey
Courtney B. Timberlake
Aquiles F. Suarez
OVP LRM
WHGC LRM
Philip J. Perry
Matthew J. Schneider
John F. Wood
Danielle M. Simonetta
Lauren C. Lobrano
James J. Jukes
Ingrid M. Schroeder
P. Thaddeus Messenger
LRM ID: PTM162 SUBJECT: OMB Request for Views on HR3731 Increase in Annual Limit on Funds Available to Compensate State Approving Agencies For Work Undertaken on Behalf of VA
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: P. Thaddeus Messenger Phone: 395-7754 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Copied
To:_____
Robin Cleveland/OMB/EOP@EOP
Karyn T. Carson/OMB/EOP@EOP
Kathleen Peroff/OMB/EOP@EOP
Mary Jo Siclari/OMB/EOP@EOP
Toni S. Hustead/OMB/EOP@EOP
Arecia A. Grayton/OMB/EOP@EOP
Winifred Y. Chang/OMB/EOP@EOP
Kelli A. Hagen/OMB/EOP@EOP
Lourdes M. Lamela/OMB/EOP@EOP
Shalini M. Benson/OMB/EOP@EOP
Danny A. Ermann/OMB/EOP@EOP
Narahari Sastry/OMB/EOP@EOP
John J. Bartrum/OMB/EOP@EOP
Mark R. Seastrom/OMB/EOP@EOP
Cameron M. Leuthy/OMB/EOP@EOP
Wendell H. Waites/OMB/EOP@EOP
Eugene J. Devine/OMB/EOP@EOP
Kathryn B. Stack/OMB/EOP@EOP
David Rowe/OMB/EOP@EOP
Jennifer S. Kron/OMB/EOP@EOP
Steven M. Mertens/OMB/EOP@EOP
Sarah S. Lee/OMB/EOP@EOP
Elizabeth A. Bernhard/OMB/EOP@EOP
Adriel M. Harvey/OMB/EOP@EOP
Courtney B. Timberlake/OMB/EOP@EOP
Aquiles F. Suarez/OPD/EOP@EOP
OVP LRM
WHGC LRM
Philip J. Perry/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Danielle M. Simonetta/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Ingrid M. Schroeder/OMB/EOP@EOP
P. Thaddeus Messenger/OMB/EOP@EOP
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_HU2UA003_WHO.TXT_1>

107TH CONGRESS
2D SESSION

H. R. 3731

AN ACT

To amend title 38, United States Code, to increase amounts available to State approving agencies to ascertain the qualifications of educational institutions for furnishing courses of education to veterans and eligible persons under the Montgomery GI Bill and under other programs of education administered by the Department of Veterans Affairs, and for other purposes.

REV_00152588

107TH CONGRESS
2D SESSION

H. R. 3731

AN ACT

To amend title 38, United States Code, to increase amounts available to State approving agencies to ascertain the qualifications of educational institutions for furnishing courses of education to veterans and eligible persons under the Montgomery GI Bill and under other programs of education administered by the Department of Veterans Affairs, and for other purposes.

REV_00152590

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN AGGREGATE ANNUAL AMOUNT AVAILABLE FOR STATE APPROVING AGENCIES FOR ADMINISTRATIVE EXPENSES FOR FISCAL YEAR 2003.

(a) IN GENERAL.—Section 3674(a)(4) of title 38, United States Code, is amended by inserting before the period at the end of the first sentence the following: ", and for fiscal year 2003, $14,000,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2002.

SEC. 2. FEE FOR LOAN ASSUMPTION.

(a) IN GENERAL.—(1) For the period described in paragraph (2), the Secretary of Veterans Affairs shall apply section 3729(b)(2)(I) of title 38, United States Code, by substituting "1.00" for "0.50" each place it appears.

(2) The period referred to in paragraph (1) is the period that begins on the date of the enactment of this Act and ends on September 30, 2003.

(b) TECHNICAL AMENDMENT.—(1) Section 3703(e)(2)(A) of such title is amended by striking "3729(b)" and inserting "3729(b)(2)(I)".

REV_00152591

(2) The amendment made by paragraph (1) shall take effect as if included in the enactment of section 402 of the Veterans Benefits and Health Care Improvement Act of 2000 (Public Law 106–419, 114 Stat. 1861).

Passed the House of Representatives October 7, 2002.

Attest:

Clerk.

REV_00152592

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Diana E. Furchtgott-Roth/CEA/EOP@EOP [CEA] <Diana E. Furchtgott-Roth>
Sent: 10/10/2002 10:20:18 AM
Subject: : Re: FHLBank Regulator's Role In Fundraiser Sparks Inquiry

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-OCT-2002 14:20:18.00
SUBJECT:: Re: FHLBank Regulator's Role In Fundraiser Sparks Inquiry
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Diana E. Furchtgott-Roth (CN=Diana E. Furchtgott-Roth/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
End Original ARMS Header

Thanks for update. Please keep me posted.

.

----- Original Message -----
From:Diana E. Furchtgott-Roth/CEA/EOP
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 10/10/2002 02:10:34 PM
Subject: FHLBank Regulator's Role In Fundraiser Sparks Inquiry

See article below--Senator Sarbanes is seeking Federal investigations of Chairman Korsmo's (legal) appearance at the Clayburgh fundraiser last week. He still hasn't sent over questions for me, and says he won't vote me out of Committee until I've answered them.

October 10, 2002 12:45 p.m. EDT
FHLBank Regulator's Role In Fundraiser Sparks Inquiry

By DAWN KOPECKI

Of DOW JONES NEWSWIRES

WASHINGTON -- House and Senate lawmakers have asked for a federal investigation into Federal Housing Finance Board Chairman John Korsmo's involvement in a fundraiser held last week for a North Dakota Republican.

Korsmo has come under fire for lending his name as a "special guest" to a Washington fundraiser that solicited $500 apiece from invitees, including executives at some of the banks Korsmo regulates.

Korsmo heads the federal agency charged with overseeing the 12 Federal Home
Loan Banks, which lend money to their 8,000 member institutions at below-market rates. Korsmo, who once chaired the North Dakota Republican Party, was an active GOP fundraiser in the state before the Bush administration tapped him to chair the Finance Board last autumn.

Korsmo said the candidate, Rick Clayburgh, is a close personal friend who Korsmo helped get elected as the North Dakota tax commissioner in 1996.

Friend or not, Korsmo's appearance at the event and the role he or the agency had in soliciting donations are now under scrutiny.

"Mr. Korsmo's appearance at this event raises questions that Mr. Clayburgh used Mr. Korsmo's position in government to help solicit contributions from

banking executives subject to his regulation," California Rep. Henry Waxman, the ranking Democrat on the House Committee on Government Reform, wrote in a letter sent this week to Chairman Dan Burton, R-Ind.

Senate Banking Chairman Paul Sarbanes, D-Md., also sent letters this week to the General Accounting Office, the Finance Board's Inspector General and
Korsmo himself, requesting a federal investigation.

He was particularly critical of Korsmo considering the new ethics guidelines recently adopted by the agency at Korsmo's urging.

"In my view, your conduct in the matter of the Clayburgh for Congress fundraiser raises serious questions as to whether you have lived up to the standard you set for yourself," Sarbanes wrote Korsmo in a letter sent Wednesday.

Sarbanes also asked Comptroller General David Walker on Wednesday to investigate the matter, seeking to find out to what extent Korsmo or his staff were involved in soliciting donations or identifying contributors. Sarbanes also asked Walker to find out whether any of the Home Loan Bank executives invited to the event, or any other involving Korsmo, have been the subject of any recent or ongoing supervisory matters before the Finance
Board.

"The willing and high-profile involvement of an independent, federal financial regulator in a political fundraiser to which senior executives of
the regulated institutions are invited raises a serious question as to whether Mr. Korsmo is meeting the standard he and the ethics attorney hired
by the board set at the September 12 meeting," Sarbanes wrote.

Korsmo said he consulted his in-house counsel as well as an outside ethics officer before agreeing to participate in the fundraiser, which was hosted by House Financial Services Chairman Michael Oxley, R-Ohio.

"I don't know who they invited, I wasn't involved in the planning," Korsmo told Dow Jones Newswires. "Most of the people who were there I didn't know."

Korsmo said he was told more than 500 people were invited to the fundraiser, though fewer than two dozen actually attended.

He also said his relationship with the candidate and his family made this particular fundraiser unique.

In addition to helping Clayburgh with his 1996 campaign, Korsmo chaired the
state Republican party when the candidate's father ran for the U.S. Senate.
He also said he served on the North Dakota Board of Higher Education with Clayburgh's mother, Bev.

"Those are perhaps the unique circumstances that lead to me being asked to be involved," he said. "I can't perceive of another situation where anyone's going to ask me again, so it's a moot point in my mind as to what will happen in the future."

Several calls to Rick Clayburgh's campaign office in North Dakota were not returned. A spokeswoman for Rep. Oxley declined to comment.

Clayburgh is vying for the at-large seat held by Rep. Earl Pomeroy, a Democrat.

-By Dawn Kopecki, Dow Jones Newswires; 202-862-6637;
Dawn.Kopecki@dowjones.com

URL for this article:
http://online.wsj.com/article/0,,BT_CO_20021010_006197.djm,00.html

Updated October 10, 2002 12:45 p.m. EDT

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Matthew Kirk/WHO/EOP@EOP [WHO] <Matthew Kirk>;Brian C. Conklin/WHO/EOP@EOP [WHO] <Brian C. Conklin>
Sent: 10/10/2002 2:38:01 PM
Subject: :

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-OCT-2002 18:38:01.00
SUBJECT::
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 10/10/2002 06:40 PM ----------

Brett M. Kavanaugh
10/10/2002 06:35:37 PM
Record Type: Record

To: Kristen Silverberg/WHO/EOP@EOP
cc:
Subject:

(5) PUNITIVE AND EXEMPLARY DAMAGES.

(A) GENERAL RULE. Punitive damages, exemplary damages, and other damages not intended to compensate a plaintiff for actual losses may be awarded only if the claimant establishes by clear and convincing evidence that the harm was proximately caused by an act that constituted intentional, flagrant disregard for the safety of the individual harmed.

(B) INSURED LOSSES. Any amounts awarded in a civil action brought under subsection (a)(1) that are attributable to punitive damages, exemplary damages, and other damages not intended to compensate a plaintiff for actual losses shall not count as insured losses for purposes of this Act.

(C) CONSTRUCTION. Punitive damages, exemplary damages, and other damages not intended to compensate a plaintiff for actual losses shall be available only if, and to the extent that, such damages are available under the State law from which the Federal district court derives the substantive law for decision.

(D) PROCEDURE. The question whether to award punitive, exemplary, or other damages not intended to compensate a plaintiff for actual losses, and the amount of any such award, shall be determined by the district court judge, and not the jury, in a separate proceeding

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>
Sent: 10/10/2002 11:00:52 AM
Subject: : Re: Radio Address

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:10-OCT-2002 15:00:52.00
SUBJECT:: Re: Radio Address
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Fax to vp,s office on hill

.

----- Original Message -----
From:Patrick J. Bumatay/WHO/EOP
To:Helgard C. Walker/WHO/EOP@EOP,
Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 10/10/2002 02:19:17 PM
Subject: Radio Address

I sent you two a radio address that was due at 12 pm re: both West Coast
Ports and Terrorism Insurance. did you get it and have you had a chance
to review it?
```

From: CN=PostMaster/O=EOP [OA]

To: Candida P. Wolff/OVP/EOP [OVP] <Candida P. Wolff>;Heather Wingate/WHO/EOP [WHO] <Heather Wingate>;Daniel K. Wilmot/OVP/EOP [OVP] <Daniel K. Wilmot>;James R. Wilkinson/WHO/EOP [WHO] <James R. Wilkinson>;Jocelyn White/WHF/EOP [OPM] <Jocelyn White>;Lezlee J. Westine/WHO/EOP [WHO] <Lezlee J. Westine>;Peter H. Wehner/WHO/EOP [WHO] <Peter H. Wehner>;Paul A. Wedderien/NSC/EOP [NSC] <Paul A. Wedderien>;John P. Walters/ONDCP/EOP [ONDCP] <John P. Walters>;Helgard C. Walker/WHO/EOP [WHO] <Helgard C. Walker>;Jim Towey/WHO/EOP [WHO] <Jim Towey>;Catherine W. Tobias/OVP/EOP [OVP] <Catherine W. Tobias>;Jose G. Suarez/WHO/EOP [WHO] <Jose G. Suarez>;Aquiles F. Suarez/OPD/EOP [OPD] <Aquiles F. Suarez>;Angela B. Styles/OMB/EOP [OMB] <Angela B. Styles>;Mary K. Sturtevant/NSC/EOP [NSC] <Mary K. Sturtevant>;Margaret M. Spellings/OPD/EOP [OPD] <Margaret M. Spellings>;Deborah A. Spagnoli/WHO/EOP [WHO] <Deborah A. Spagnoli>;Mary A. Solberg/ONDCP/EOP [ONDCP] <Mary A. Solberg>;Augustine T. Smythe/OMB/EOP [OMB] <Augustine T. Smythe>;Kristen Silverberg/WHO/EOP [WHO] <Kristen Silverberg>;Joseph J. Shattan/WHO/EOP [WHO] <Joseph J. Shattan>;Thomas J. Sharpy/OVP/EOP [OVP] <Thomas J. Sharpy>;Scott N. Sforza/WHO/EOP [WHO] <Scott N. Sforza>;Howard A. Schmidt/NSC/EOP [NSC] <Howard A. Schmidt>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Daniel Schecter/ONDCP/EOP [ONDCP] <Daniel Schecter>;Diana L. Schacht/OPD/EOP [OPD] <Diana L. Schacht>;Desiree T. Sayle/WHO/EOP [WHO] <Desiree T. Sayle>;Kyle Sampson/WHO/EOP [WHO] <Kyle Sampson>;Richard M. Russell/OSTP/EOP [OSTP] <Richard M. Russell>;Stephen S. Ruhlen/OVP/EOP [OVP] <Stephen S. Ruhlen>;Karl C. Rove/WHO/EOP [WHO] <Karl C. Rove>;Mark V. Rosenker/WHO/EOP [WHO] <Mark V. Rosenker>;Thomas J. Ridge/WHO/EOP [WHO] <Thomas J. Ridge>;Condoleezza Rice/NSC/EOP [NSC] <Condoleezza Rice>;Nina Rees/OVP/EOP [OVP] <Nina Rees>;Craig Ray/WHO/EOP [WHO] <Craig Ray>;Dina Powell/WHO/EOP [WHO] <Dina Powell>;Anne E. Phelps/OPD/EOP [OPD] <Anne E. Phelps>;Philip J. Perry/OMB/EOP [OMB] <Philip J. Perry>;Anna M. Perez/NSC/EOP [NSC] <Anna M. Perez>;Eric C. Pelletier/OMB/EOP [OMB] <Eric C. Pelletier>;Marcus Peacock/OMB/EOP [OMB] <Marcus Peacock>;Neil S. Patel/OVP/EOP [OVP] <Neil S. Patel>;Sean C. O'Keefe/OMB/EOP [OMB] <Sean C. O'Keefe>;Ziad S. Ojakli/WHO/EOP [WHO] <Ziad S. Ojakli>;Claire M. O'Donnell/OVP/EOP [OVP] <Claire M. O'Donnell>;Jennifer G. Newstead/WHO/EOP [WHO] <Jennifer G. Newstead>;Susan K. Neely/WHO/EOP [WHO] <Susan K. Neely>;Edmund C. Moy/WHO/EOP [WHO] <Edmund C. Moy>;James F. Moriarty/NSC/EOP [NSC] <James F. Moriarty>;Brian D. Montgomery/WHO/EOP [WHO] <Brian D. Montgomery>;Michael H. Miller/WHO/EOP [WHO] <Michael H. Miller>;Franklin C. Miller/NSC/EOP [NSC] <Franklin C. Miller>;Harriet Miers/WHO/EOP [WHO] <Harriet Miers>;Ken Mehlman/WHO/EOP [WHO] <Ken Mehlman>;Edward McNally/WHO/EOP [WHO] <Edward McNally>;Robert C. McNally/OPD/EOP [OPD] <Robert C. McNally>;Stephen S. McMillin/OMB/EOP [OMB] <Stephen S. McMillin>;Brian V. McCormack/OVP/EOP [OVP] <Brian V. McCormack>;John P. McConnell/OVP/EOP [OVP] <John P. McConnell>;Scott McClellan/WHO/EOP [WHO] <Scott McClellan>;Mark McClellan/CEA/EOP [CEA] <Mark McClellan>;Mary J. Matalin/OVP/EOP [OVP] <Mary J. Matalin>;Catherine J. Martin/OVP/EOP [OVP] <Catherine J. Martin>;Robert Marsh/WHO/EOP [WHO] <Robert Marsh>;John H. Marburger/OSTP/EOP [OSTP] <John H. Marburger>;K. Philippa Malmgren/OPD/EOP [OPD] <K. Philippa Malmgren>;John F. Maisto/NSC/EOP [NSC] <John F. Maisto>;Robin A. MacLean/WHO/EOP [WHO] <Robin A. MacLean>;Ado A. Machida/OVP/EOP [OVP] <Ado A. Machida>;Deborah A. Loewer/NSC/EOP [NSC] <Deborah A. Loewer>;Roland N. Litterst/WHO/EOP [WHO] <Roland N. Litterst>;Lawrence B. Lindsey/OPD/EOP [OPD] <Lawrence B. Lindsey>;Lewis Libby/OVP/EOP [OVP] <Lewis Libby>;Dirksen Lehman/WHO/EOP [WHO] <Dirksen Lehman>;Jay P. Lefkowitz/OPD/EOP [OPD] <Jay P. Lefkowitz>;Laura S. Lawlor/WHO/EOP [WHO] <Laura S. Lawlor>;Bruce M. Lawlor/WHO/EOP [WHO] <Bruce M. Lawlor>;Paul B. Kurtz/NSC/EOP [NSC] <Paul B. Kurtz>;David Kuo/WHO/EOP [WHO] <David Kuo>;Randall S. Kroszner/CEA/EOP [CEA] <Randall S. Kroszner>;Karen Y. Knutson/OVP/EOP [OVP] <Karen Y. Knutson>;Frank G. Klotz/NSC/EOP [NSC] <Frank G. Klotz>;Elizabeth W. Kleppe/OVP/EOP [OVP] <Elizabeth W. Kleppe>;Ellis Kitchen/OA/EOP [OA] <Ellis Kitchen>;Matthew Kirk/WHO/EOP [WHO] <Matthew Kirk>;Zalmay M. Khalilzad/NSC/EOP [NSC] <Zalmay M. Khalilzad>;Daniel J. Keniry/WHO/EOP [WHO] <Daniel J. Keniry>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Joel D. Kaplan/WHO/EOP [WHO] <Joel D. Kaplan>;Charles D. McGrath

Jr/OVP/EOP [OVP] <Charles D. McGrath Jr>;Robert G. Joseph/NSC/EOP [NSC] <Robert G. Joseph>;Reuben Jeffery/OPD/EOP [OPD] <Reuben Jeffery>;Barry S. Jackson/WHO/EOP [WHO] <Barry S. Jackson>;Hector F. Irastorza/WHO/EOP [WHO] <Hector F. Irastorza>;Edward Ingle/WHO/EOP [WHO] <Edward Ingle>;Clay Johnson III/WHO/EOP [WHO] <Clay Johnson III>;Glenn Hubbard/CEA/EOP [CEA] <Glenn Hubbard>;Jack Howard/WHO/EOP [WHO] <Jack Howard>;Mark Holman/WHO/EOP [WHO] <Mark Holman>;David W. Hobbs/WHO/EOP [WHO] <David W. Hobbs>;Israel Hernandez/WHO/EOP [WHO] <Israel Hernandez>;Chris Henick/WHO/EOP [WHO] <Chris Henick>;Debra Heiden/OVP/EOP [OVP] <Debra Heiden>;Albert Hawkins/WHO/EOP [WHO] <Albert Hawkins>;Ronald Haskins/OPD/EOP [OPD] <Ronald Haskins>;John P. Hannah/OVP/EOP [OVP] <John P. Hannah>;John F. Haley/OVP/EOP [OVP] <John F. Haley>;Joseph W. Hagin/WHO/EOP [WHO] <Joseph W. Hagin>;Stephen J. Hadley/NSC/EOP [NSC] <Stephen J. Hadley>;Ann Gray/WHO/EOP [WHO] <Ann Gray>;John Graham/OMB/EOP [OMB] <John Graham>;John A. Gordon/NSC/EOP [NSC] <John A. Gordon>;Alberto R. Gonzales/WHO/EOP [WHO] <Alberto R. Gonzales>;Stephen Goldsmith/WHO/EOP [WHO] <Stephen Goldsmith>;Tim Goeglein/WHO/EOP [WHO] <Tim Goeglein>;Dylan C. Glenn/OPD/EOP [OPD] <Dylan C. Glenn>;Alan Gilbert/OPD/EOP [OPD] <Alan Gilbert>;Michael J. Gerson/WHO/EOP [WHO] <Michael J. Gerson>;Stephen M. Garrison/WHO/EOP [WHO] <Stephen M. Garrison>;Kelley Gannon/WHO/EOP [WHO] <Kelley Gannon>;Linda M. Gambatesa/WHO/EOP [WHO] <Linda M. Gambatesa>;Diana E. Furchtgott-Roth/CEA/EOP [CEA] <Diana E. Furchtgott-Roth>;Daniel Fried/NSC/EOP [NSC] <Daniel Fried>;Jendayi E. Frazer/NSC/EOP [NSC] <Jendayi E. Frazer>;Noel J. Francisco/WHO/EOP [WHO] <Noel J. Francisco>;Lawrence A. Fleischer/WHO/EOP [WHO] <Lawrence A. Fleischer>;Timothy E. Flanigan/WHO/EOP [WHO] <Timothy E. Flanigan>;Catherine S. Fenton/WHO/EOP [WHO] <Catherine S. Fenton>;Richard Falkenrath/WHO/EOP [WHO] <Richard Falkenrath>;Nanette Everson/WHO/EOP [WHO] <Nanette Everson>;Mark Everson/OMB/EOP [OMB] <Mark Everson>;Ashley Estes/WHO/EOP [WHO] <Ashley Estes>;Tucker A. Eskew/WHO/EOP [WHO] <Tucker A. Eskew>;Gary R. Edson/NSC/EOP [NSC] <Gary R. Edson>;Eric S. Edelman/OVP/EOP [OVP] <Eric S. Edelman>;Wayne A. Downing/NSC/EOP [UNKNOWN] <Wayne A. Downing>;Elizabeth S. Dougherty/OPD/EOP [OPD] <Elizabeth S. Dougherty>;Nancy P. Dorn/WHO/EOP [UNKNOWN] <Nancy P. Dorn>;Diana C. Donnelly/WHO/EOP [WHO] <Diana C. Donnelly>;Nicolle Devenish/WHO/EOP [WHO] <Nicolle Devenish>;Mitchell Daniels/OMB/EOP [OMB] <Mitchell Daniels>;James F. Daniel/OA/EOP [OA] <James F. Daniel>;Stacia L. Cropper/OA/EOP [UNKNOWN] <Stacia L. Cropper>;Barry Crane/ONDCP/EOP [ONDCP] <Barry Crane>;John B. Craig/NSC/EOP [UNKNOWN] <John B. Craig>;Steven Cooper/WHO/EOP [WHO] <Steven Cooper>;Phil Cooney/CEQ/EOP [CEQ] <Phil Cooney>;Rebecca Contreras/WHO/EOP [WHO] <Rebecca Contreras>;Charles Conner/OPD/EOP [OPD] <Charles Conner>;James Connaughton/CEQ/EOP [CEQ] <James Connaughton>;Brian C. Conklin/WHO/EOP [WHO] <Brian C. Conklin>;Cesar Conda/OVP/EOP [OVP] <Cesar Conda>;Douglas F. Cochrane/OVP/EOP [OVP] <Douglas F. Cochrane>;Robert W. Cobb/WHO/EOP [UNKNOWN] <Robert W. Cobb>;John A. Cloud/NSC/EOP [NSC] <John A. Cloud>;Robin Cleveland/OMB/EOP [OMB] <Robin Cleveland>;Richard A. Clarke/NSC/EOP [NSC] <Richard A. Clarke>;Alicia P. Clark/WHO/EOP [WHO] <Alicia P. Clark>;Frank Cilluffo/WHO/EOP [WHO] <Frank Cilluffo>;Christine Ciccone/WHO/EOP [WHO] <Christine Ciccone>;Ronald I. Christie/OVP/EOP [UNKNOWN] <Ronald I. Christie>;Barbara C. Chaffee/WHO/EOP [WHO] <Barbara C. Chaffee>;Kirsten A. Chadwick/WHO/EOP [WHO] <Kirsten A. Chadwick>;Andrew H. Card/WHO/EOP [WHO] <Andrew H. Card>;James C. Capretta/OMB/EOP [OMB] <James C. Capretta>;Tim Campen/EOPEXCH [OA] <Tim Campen>;Nicholas E. Calio/WHO/EOP [WHO] <Nicholas E. Calio>;Scott Burns/ONDCP/EOP [ONDCP] <Scott Burns>;Katja Bullock/WHO/EOP [WHO] <Katja Bullock>;Carl Buchholz/WHO/EOP [WHO] <Carl Buchholz>;Claire E. Buchan/WHO/EOP [WHO] <Claire E. Buchan>;John M. Bridgeland/OPD/EOP [OPD] <John M. Bridgeland>;Stuart W. Bowen/WHO/EOP [WHO] <Stuart W. Bowen>;Carlos E. Bonilla/OPD/EOP [OPD] <Carlos E. Bonilla>;Joshua B. Bolten/WHO/EOP [WHO] <Joshua B. Bolten>;Lloyd A. Blanchard/OMB/EOP [UNKNOWN] <Lloyd A. Blanchard>;Kirk Blalock/WHO/EOP [WHO] <Kirk Blalock>;Bradley A. Blakeman/WHO/EOP [WHO] <Bradley A. Blakeman>;Charles P. Blahous/OPD/EOP [OPD] <Charles P. Blahous>;Stephen E. Biegun/NSC/EOP [NSC] <Stephen E. Biegun>;Rebecca A. Beynon/WHO/EOP [WHO] <Rebecca A. Beynon>;Janet L. Berman/OVP/EOP [OVP] <Janet L. Berman>;Bradford A. Berenson/WHO/EOP [WHO] <Bradford A. Berenson>;John B. Bellinger/NSC/EOP [NSC] <John B. Bellinger>;H. Christopher Bartolomucci/WHO/EOP [WHO]

<H. Christopher Bartolomucci>;Daniel J. Bartlett/WHO/EOP [WHO] <Daniel J. Bartlett>;Andrea G. Barthwell/ONDCP/EOP [ONDCP] <Andrea G. Barthwell>;Ruben S. Barrales/WHO/EOP [WHO] <Ruben S. Barrales>;Andrea G. Ball/WHO/EOP [WHO] <Andrea G. Ball>;Jackie Arends/WHO/EOP [WHO] <Jackie Arends>;George M. Andricos/NSC/EOP [NSC] <George M. Andricos>;Cathy Alix/WHO/EOP [WHO] <Cathy Alix>;Penrose C. Albright/OSTP/EOP [OSTP] <Penrose C. Albright>;David S. Addington/OVP/EOP [OVP] <David S. Addington>;Elliott Abrams/NSC/EOP [NSC] <Elliott Abrams>;Charles S. Abbot/OVP/EOP [OVP] <Charles S. Abbot>;Christina H. Yarmchuk/NSC/EOP [NSC] <Christina H. Yarmchuk>;Anne Womack/WHO/EOP [WHO] <Anne Womack>;Gina M. Wolford/NSC/EOP [NSC] <Gina M. Wolford>;Harry W. Wolff/WHO/EOP [WHO] <Harry W. Wolff>;Alexian T. Wines/NSC/EOP [NSC] <Alexian T. Wines>;Patricia Williams/WHO/EOP [WHO] <Patricia Williams>;Jared B. Weinstein/WHO/EOP [WHO] <Jared B. Weinstein>;Matthew C. Waxman/NSC/EOP [NSC] <Matthew C. Waxman>;Lauren J. Vestewig/OPD/EOP [OPD] <Lauren J. Vestewig>;Sibyl M. Turner/WHO/EOP [WHO] <Sibyl M. Turner>;Terrill G. Tucker/NSC/EOP [NSC] <Terrill G. Tucker>;Tevi Troy/OPD/EOP [OPD] <Tevi Troy>;Anne Trenolone/WHO/EOP [WHO] <Anne Trenolone>;Carol J. Thompson/WHO/EOP [WHO] <Carol J. Thompson>;Julieanne H. Thomas/WHO/EOP [WHO] <Julieanne H. Thomas>;Rachael L. Sunbarger/WHO/EOP [WHO] <Rachael L. Sunbarger>;Susan L. Sterner/WHO/EOP [WHO] <Susan L. Sterner>;Ashley Snee/WHO/EOP [WHO] <Ashley Snee>;Robert E. Schubert/NSC/EOP [NSC] <Robert E. Schubert>;Deborah Sandler/NSC/EOP [NSC] <Deborah Sandler>;Jean M. Russell/OPD/EOP [OPD] <Jean M. Russell>;Peter M. Rowan/WHO/EOP [UNKNOWN] <Peter M. Rowan>;Noelia Rodriguez/WHO/EOP [WHO] <Noelia Rodriguez>;Josephine B. Robinson/WHO/EOP [WHO] <Josephine B. Robinson>;Maurice C. Robinson/NSC/EOP [NSC] <Maurice C. Robinson>;Christina D. Roberts/WHO/EOP [UNKNOWN] <Christina D. Roberts>;Krista L. Ritacco/WHO/EOP [WHO] <Krista L. Ritacco>;Robert J. Riley/NSC/EOP [NSC] <Robert J. Riley>;Allison L. Riepenhoff/WHO/EOP [WHO] <Allison L. Riepenhoff>;January M. Riecke/WHO/EOP [WHO] <January M. Riecke>;Katherine A. Rhodes/WHO/EOP [WHO] <Katherine A. Rhodes>;Tim Reynolds/WHO/EOP [WHO] <Tim Reynolds>;David Reyes/NSC/EOP [NSC] <David Reyes>;Susan B. Ralston/WHO/EOP [WHO] <Susan B. Ralston>;Leslie E. Radcliff/NSC/EOP [NSC] <Leslie E. Radcliff>;Clare Pritchett/WHO/EOP [WHO] <Clare Pritchett>;Suzanne Primoff/WHO/EOP [WHO] <Suzanne Primoff>;John I. Pray/NSC/EOP [NSC] <John I. Pray>;Susan D. Phillips/NSC/EOP [NSC] <Susan D. Phillips>;Sarah Penny/WHO/EOP [WHO] <Sarah Penny>;Raymond H. Payne/NSC/EOP [NSC] <Raymond H. Payne>;Richard S. Paulus/WHO/EOP [WHO] <Richard S. Paulus>;Edward J. Padinske/NSC/EOP [NSC] <Edward J. Padinske>;Eric H. Otto/OPD/EOP [OPD] <Eric H. Otto>;Lee B. Mynatt/NSC/EOP [NSC] <Lee B. Mynatt>;Steven Myers/NSC/EOP [NSC] <Steven Myers>;Sarah M. Garrison/WHO/EOP [WHO] <Sarah M. Garrison>;Paul L. Morse/WHO/EOP [WHO] <Paul L. Morse>;Leslie A. Mooney/OPD/EOP [OPD] <Leslie A. Mooney>;Cathy L. Millison/NSC/EOP [NSC] <Cathy L. Millison>;Holly M. Miller/WHO/EOP [WHO] <Holly M. Miller>;Cynthia R. Mendl/WHO/EOP [WHO] <Cynthia R. Mendl>;Sonya E. Medina/WHO/EOP [WHO] <Sonya E. Medina>;Vickie A. McQuade/WHO/EOP [WHO] <Vickie A. McQuade>;Sara B. McIntosh/WHO/EOP [WHO] <Sara B. McIntosh>;Peter A. McCauley/NSC/EOP [NSC] <Peter A. McCauley>;Daniel M. McCarthy/WHO/EOP [WHO] <Daniel M. McCarthy>;William D. Mathews/NSC/EOP [NSC] <William D. Mathews>;Thomas S. Marsh/NSC/EOP [NSC] <Thomas S. Marsh>;Colleen Litkenhaus/WHO/EOP [WHO] <Colleen Litkenhaus>;Lindsey M. Lineweaver/WHO/EOP [WHO] <Lindsey M. Lineweaver>;Laura E. Lineberry/NSC/EOP [NSC] <Laura E. Lineberry>;Adam L. Levine/WHO/EOP [WHO] <Adam L. Levine>;Christopher S. Legrand/NSC/EOP [NSC] <Christopher S. Legrand>;Sang W. Lee/NSC/EOP [NSC] <Sang W. Lee>;Jennie M. Koch/NSC/EOP [NSC] <Jennie M. Koch>;Andrew M. Kaver/NSC/EOP [UNKNOWN] <Andrew M. Kaver>;Dora Kale/NSC/EOP [NSC] <Dora Kale>;Alexander S. Joves/NSC/EOP [NSC] <Alexander S. Joves>;M. Kay Joshi/NSC/EOP [NSC] <M. Kay Joshi>;Alison Jones/WHO/EOP [WHO] <Alison Jones>;Megan R. Johnston/WHO/EOP [WHO] <Megan R. Johnston>;Sydney R. Johnson/WHO/EOP [WHO] <Sydney R. Johnson>;Clarence C. Johnson/NSC/EOP [NSC] <Clarence C. Johnson>;Gordon D. Johndroe/WHO/EOP [WHO] <Gordon D. Johndroe>;Melanie A. Jackson/WHO/EOP [WHO] <Melanie A. Jackson>;Marilyn R. Jacanin/WHO/EOP [WHO] <Marilyn R. Jacanin>;Theresa M. Hunter/NSC/EOP [NSC] <Theresa M. Hunter>;A. Merrill Hughes/WHO/EOP [UNKNOWN] <A. Merrill Hughes>;Lamont S. Hoyer/NSC/EOP [NSC] <Lamont S. Hoyer>;Jeffrey P. Houle/NSC/EOP [NSC] <Jeffrey P. Houle>;Ashley Holbrook/WHO/EOP [WHO] <Ashley Holbrook>;Josephine L. Hirsch/WHO/EOP [WHO] <Josephine L. Hirsch>;Jane C.

Heishman/NSC/EOP [NSC] <Jane C. Heishman>;Anne Heiligenstein/WHO/EOP [WHO] <Anne Heiligenstein>;Robert C. Hargis/NSC/EOP [NSC] <Robert C. Hargis>;Alison M. Harden/WHO/EOP [WHO] <Alison M. Harden>;Mary Ann Hanusa/WHO/EOP [WHO] <Mary Ann Hanusa>;Thomas A. Hall/NSC/EOP [NSC] <Thomas A. Hall>;Mary A. Haines/NSC/EOP [NSC] <Mary A. Haines>;Katharina M. Hager/WHO/EOP [WHO] <Katharina M. Hager>;Henry C. Hager/WHO/EOP [WHO] <Henry C. Hager>;Albert J. Guarnieri/NSC/EOP [NSC] <Albert J. Guarnieri>;Ginger G. Loper/WHO/EOP [WHO] <Ginger G. Loper>;Andrew W. Green/NSC/EOP [NSC] <Andrew W. Green>;Emily S. Gray/WHO/EOP [WHO] <Emily S. Gray>;Wendy E. Gray/NSC/EOP [NSC] <Wendy E. Gray>;Britt Grant/OPD/EOP [OPD] <Britt Grant>;Blake Gottesman/WHO/EOP [WHO] <Blake Gottesman>;Travis C. Good/NSC/EOP [UNKNOWN] <Travis C. Good>;Georgia D. Godfrey/WHO/EOP [WHO] <Georgia D. Godfrey>;Eleanor L. Gillmor/OPD/EOP [OPD] <Eleanor L. Gillmor>;Dorothy C. Garvin/WHO/EOP [WHO] <Dorothy C. Garvin>;Joachim D. Fuchs/NSC/EOP [NSC] <Joachim D. Fuchs>;Barbara J. Finn/OA/EOP [OA] <Barbara J. Finn>;Kara G. Figg/WHO/EOP [WHO] <Kara G. Figg>;Jeanie L. Figg/WHO/EOP [WHO] <Jeanie L. Figg>;Jennifer D. Field/OVP/EOP [OVP] <Jennifer D. Field>;Charlene E. Fern/WHO/EOP [WHO] <Charlene E. Fern>;Douglas M. Erdahl/NSC/EOP [NSC] <Douglas M. Erdahl>;Ruth E. Elliott/NSC/EOP [NSC] <Ruth E. Elliott>;Kady Dunlap/WHO/EOP [WHO] <Kady Dunlap>;Eric A. Draper/WHO/EOP [WHO] <Eric A. Draper>;Joan R. Doty/WHO/EOP [WHO] <Joan R. Doty>;Katherine L. Disston/WHO/EOP [WHO] <Katherine L. Disston>;Reed Dickens/WHO/EOP [WHO] <Reed Dickens>;Josh Deckard/WHO/EOP [WHO] <Josh Deckard>;Ashley E. Davis/WHO/EOP [WHO] <Ashley E. Davis>;Jill Davie/WHO/EOP [WHO] <Jill Davie>;Karen D. Cruson/WHO/EOP [WHO] <Karen D. Cruson>;Colin Crosby/NSC/EOP [NSC] <Colin Crosby>;Lynn A. Crable/WHO/EOP [WHO] <Lynn A. Crable>;Colby J. Cooper/NSC/EOP [NSC] <Colby J. Cooper>;Michael J. Conway/WHO/EOP [WHO] <Michael J. Conway>;Carolyn E. Cleveland/WHO/EOP [WHO] <Carolyn E. Cleveland>;Shane P. Chambers/WHO/EOP [WHO] <Shane P. Chambers>;Lois A. Cassano/WHO/EOP [WHO] <Lois A. Cassano>;Pamela R. Casey/WHO/EOP [WHO] <Pamela R. Casey>;Anne E. Campbell/WHO/EOP [WHO] <Anne E. Campbell>;Elizabeth N. Camp/WHO/EOP [WHO] <Elizabeth N. Camp>;Marcia J. Caler/NSC/EOP [UNKNOWN] <Marcia J. Caler>;Johnathan C. Bunting/NSC/EOP [NSC] <Johnathan C. Bunting>;Patrick J. Bumatay/WHO/EOP [WHO] <Patrick J. Bumatay>;Marko R. Broz/NSC/EOP [NSC] <Marko R. Broz>;Bonnie S. Broadwick/NSC/EOP [NSC] <Bonnie S. Broadwick>;Gary E. Bresnahan/NSC/EOP [NSC] <Gary E. Bresnahan>;Brian Bravo/WHO/EOP [WHO] <Brian Bravo>;David R. Bohrer/OVP/EOP [OVP] <David R. Bohrer>;Debra D. Bird/WHO/EOP [WHO] <Debra D. Bird>;Melissa S. Bennett/WHO/EOP [WHO] <Melissa S. Bennett>;Cheryl E. Barnett/NSC/EOP [NSC] <Cheryl E. Barnett>;Tiffany L. Barfield/WHO/EOP [WHO] <Tiffany L. Barfield>;Mitchell P. Backfield/NSC/EOP [NSC] <Mitchell P. Backfield>;Jill L. Angelo/WHO/EOP [UNKNOWN] <Jill L. Angelo>;Ashleigh A. Adams/WHO/EOP [UNKNOWN] <Ashleigh A. Adams>

Sent: 10/10/2002 12:32:42 PM

Subject: : Postmaster: Federal Holiday Schedule for White House Mess

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME:10-OCT-2002 16:32:42.00
SUBJECT:: Postmaster: Federal Holiday Schedule for White House Mess
TO:Candida P. Wolff ( CN=Candida P. Wolff/OU=OVP/O=EOP [ OVP ] )
READ:UNKNOWN
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Daniel K. Wilmot ( CN=Daniel K. Wilmot/OU=OVP/O=EOP [ OVP ] )
READ:UNKNOWN
TO:James R. Wilkinson ( CN=James R. Wilkinson/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Jocelyn White ( CN=Jocelyn White/OU=WHF/O=EOP [ OPM ] )
READ:UNKNOWN
TO:Lezlee J. Westine ( CN=Lezlee J. Westine/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
```

TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul A. Wedderien (CN=Paul A. Wedderien/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John P. Walters (CN=John P. Walters/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine W. Tobias (CN=Catherine W. Tobias/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jose G. Suarez (CN=Jose G. Suarez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Aquiles F. Suarez (CN=Aquiles F. Suarez/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Angela B. Styles (CN=Angela B. Styles/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary A. Solberg (CN=Mary A. Solberg/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Augustine T. Smythe (CN=Augustine T. Smythe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joseph J. Shattan (CN=Joseph J. Shattan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Sharpy (CN=Thomas J. Sharpy/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Howard A. Schmidt (CN=Howard A. Schmidt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel Schecter (CN=Daniel Schecter/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard M. Russell (CN=Richard M. Russell/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Stephen S. Ruhlen (CN=Stephen S. Ruhlen/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark V. Rosenker (CN=Mark V. Rosenker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Ridge (CN=Thomas J. Ridge/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Nina Rees (CN=Nina Rees/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Craig Ray (CN=Craig Ray/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne E. Phelps (CN=Anne E. Phelps/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric C. Pelletier (CN=Eric C. Pelletier/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Marcus Peacock (CN=Marcus Peacock/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Neil S. Patel (CN=Neil S. Patel/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Sean C. O'Keefe (CN=Sean C. O'Keefe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire M. O'Donnell (CN=Claire M. O'Donnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan K. Neely (CN=Susan K. Neely/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen S. McMillin (CN=Stephen S. McMillin/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark McClellan (CN=Mark McClellan/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Mary J. Matalin (CN=Mary J. Matalin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Catherine J. Martin (CN=Catherine J. Martin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John H. Marburger (CN=John H. Marburger/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:K. Philippa Malmgren (CN=K. Philippa Malmgren/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

TO:John F. Maisto (CN=John F. Maisto/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin A. MacLean (CN=Robin A. MacLean/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ado A. Machida (CN=Ado A. Machida/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Deborah A. Loewer (CN=Deborah A. Loewer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence B. Lindsey (CN=Lawrence B. Lindsey/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Dirksen Lehman (CN=Dirksen Lehman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Laura S. Lawlor (CN=Laura S. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bruce M. Lawlor (CN=Bruce M. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Randall S. Kroszner (CN=Randall S. Kroszner/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Karen Y. Knutson (CN=Karen Y. Knutson/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Frank G. Klotz (CN=Frank G. Klotz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Ellis Kitchen (CN=Ellis Kitchen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles D. McGrath Jr (CN=Charles D. McGrath Jr/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Reuben Jeffery (CN=Reuben Jeffery/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hector F. Irastorza (CN=Hector F. Irastorza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Glenn Hubbard (CN=Glenn Hubbard/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Jack Howard (CN=Jack Howard/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Mark Holman (CN=Mark Holman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Chris Henick (CN=Chris Henick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Debra Heiden (CN=Debra Heiden/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Albert Hawkins (CN=Albert Hawkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald Haskins (CN=Ronald Haskins/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:John P. Hannah (CN=John P. Hannah/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John F. Haley (CN=John F. Haley/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John Graham (CN=John Graham/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:John A. Gordon (CN=John A. Gordon/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen Goldsmith (CN=Stephen Goldsmith/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen M. Garrison (CN=Stephen M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Diana E. Furchtgott-Roth (CN=Diana E. Furchtgott-Roth/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Timothy E. Flanigan (CN=Timothy E. Flanigan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Everson (CN=Mark Everson/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric S. Edelman (CN=Eric S. Edelman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Wayne A. Downing (CN=Wayne A. Downing/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Nancy P. Dorn (CN=Nancy P. Dorn/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Diana C. Donnelly (CN=Diana C. Donnelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:James F. Daniel (CN=James F. Daniel/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Stacia L. Cropper (CN=Stacia L. Cropper/OU=OA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Barry Crane (CN=Barry Crane/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:John B. Craig (CN=John B. Craig/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Steven Cooper (CN=Steven Cooper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:James Connaughton (CN=James Connaughton/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cesar Conda (CN=Cesar Conda/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Douglas F. Cochrane (CN=Douglas F. Cochrane/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert W. Cobb (CN=Robert W. Cobb/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:John A. Cloud (CN=John A. Cloud/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin Cleveland (CN=Robin Cleveland/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Richard A. Clarke (CN=Richard A. Clarke/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Frank Cilluffo (CN=Frank Cilluffo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christine Ciccone (CN=Christine Ciccone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OVP/O=EOP [UNKNOWN])

READ:UNKNOWN
TO:Barbara C. Chaffee (CN=Barbara C. Chaffee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James C. Capretta (CN=James C. Capretta/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Tim Campen (CN=Tim Campen/O=EOPEXCH [OA])
READ:UNKNOWN
TO:Nicholas E. Calio (CN=Nicholas E. Calio/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott Burns (CN=Scott Burns/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carl Buchholz (CN=Carl Buchholz/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stuart W. Bowen (CN=Stuart W. Bowen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carlos E. Bonilla (CN=Carlos E. Bonilla/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lloyd A. Blanchard (CN=Lloyd A. Blanchard/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Kirk Blalock (CN=Kirk Blalock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen E. Biegun (CN=Stephen E. Biegun/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Janet L. Berman (CN=Janet L. Berman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Barthwell (CN=Andrea G. Barthwell/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Cathy Alix (CN=Cathy Alix/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Penrose C. Albright (CN=Penrose C. Albright/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Christina H. Yarmchuk (CN=Christina H. Yarmchuk/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anne Womack (CN=Anne Womack/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gina M. Wolford (CN=Gina M. Wolford/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harry W. Wolff (CN=Harry W. Wolff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Alexian T. Wines (CN=Alexian T. Wines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patricia Williams (CN=Patricia Williams/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jared B. Weinstein (CN=Jared B. Weinstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Matthew C. Waxman (CN=Matthew C. Waxman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lauren J. Vestewig (CN=Lauren J. Vestewig/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Sibyl M. Turner (CN=Sibyl M. Turner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Terrill G. Tucker (CN=Terrill G. Tucker/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tevi Troy (CN=Tevi Troy/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Anne Trenolone (CN=Anne Trenolone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carol J. Thompson (CN=Carol J. Thompson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Julieanne H. Thomas (CN=Julieanne H. Thomas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Rachael L. Sunbarger (CN=Rachael L. Sunbarger/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan L. Sterner (CN=Susan L. Sterner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert E. Schubert (CN=Robert E. Schubert/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Deborah Sandler (CN=Deborah Sandler/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jean M. Russell (CN=Jean M. Russell/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Peter M. Rowan (CN=Peter M. Rowan/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Noelia Rodriguez (CN=Noelia Rodriguez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine B. Robinson (CN=Josephine B. Robinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Maurice C. Robinson (CN=Maurice C. Robinson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Christina D. Roberts (CN=Christina D. Roberts/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert J. Riley (CN=Robert J. Riley/OU=NSC/O=EOP [NSC])

READ:UNKNOWN
TO:Allison L. Riepenhoff (CN=Allison L. Riepenhoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:January M. Riecke (CN=January M. Riecke/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Rhodes (CN=Katherine A. Rhodes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Reynolds (CN=Tim Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David Reyes (CN=David Reyes/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie E. Radcliff (CN=Leslie E. Radcliff/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Clare Pritchett (CN=Clare Pritchett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Suzanne Primoff (CN=Suzanne Primoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John I. Pray (CN=John I. Pray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan D. Phillips (CN=Susan D. Phillips/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah Penny (CN=Sarah Penny/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Raymond H. Payne (CN=Raymond H. Payne/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Richard S. Paulus (CN=Richard S. Paulus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward J. Padinske (CN=Edward J. Padinske/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric H. Otto (CN=Eric H. Otto/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Lee B. Mynatt (CN=Lee B. Mynatt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Steven Myers (CN=Steven Myers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah M. Garrison (CN=Sarah M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul L. Morse (CN=Paul L. Morse/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie A. Mooney (CN=Leslie A. Mooney/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Cathy L. Millison (CN=Cathy L. Millison/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Holly M. Miller (CN=Holly M. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cynthia R. Mendl (CN=Cynthia R. Mendl/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sonya E. Medina (CN=Sonya E. Medina/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Vickie A. McQuade (CN=Vickie A. McQuade/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sara B. McIntosh (CN=Sara B. McIntosh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter A. McCauley (CN=Peter A. McCauley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel M. McCarthy (CN=Daniel M. McCarthy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:William D. Mathews (CN=William D. Mathews/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Thomas S. Marsh (CN=Thomas S. Marsh/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lindsey M. Lineweaver (CN=Lindsey M. Lineweaver/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Laura E. Lineberry (CN=Laura E. Lineberry/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Adam L. Levine (CN=Adam L. Levine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christopher S. Legrand (CN=Christopher S. Legrand/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sang W. Lee (CN=Sang W. Lee/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jennie M. Koch (CN=Jennie M. Koch/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Andrew M. Kaver (CN=Andrew M. Kaver/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Dora Kale (CN=Dora Kale/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexander S. Joves (CN=Alexander S. Joves/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:M. Kay Joshi (CN=M. Kay Joshi/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Megan R. Johnston (CN=Megan R. Johnston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sydney R. Johnson (CN=Sydney R. Johnson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clarence C. Johnson (CN=Clarence C. Johnson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gordon D. Johndroe (CN=Gordon D. Johndroe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melanie A. Jackson (CN=Melanie A. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marilyn R. Jacanin (CN=Marilyn R. Jacanin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Theresa M. Hunter (CN=Theresa M. Hunter/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:A. Merrill Hughes (CN=A. Merrill Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Lamont S. Hoyer (CN=Lamont S. Hoyer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jeffrey P. Houle (CN=Jeffrey P. Houle/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ashley Holbrook (CN=Ashley Holbrook/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine L. Hirsch (CN=Josephine L. Hirsch/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jane C. Heishman (CN=Jane C. Heishman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anne Heiligenstein (CN=Anne Heiligenstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. Hargis (CN=Robert C. Hargis/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison M. Harden (CN=Alison M. Harden/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary Ann Hanusa (CN=Mary Ann Hanusa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas A. Hall (CN=Thomas A. Hall/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary A. Haines (CN=Mary A. Haines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Katharina M. Hager (CN=Katharina M. Hager/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Henry C. Hager (CN=Henry C. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Albert J. Guarnieri (CN=Albert J. Guarnieri/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew W. Green (CN=Andrew W. Green/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Emily S. Gray (CN=Emily S. Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wendy E. Gray (CN=Wendy E. Gray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Britt Grant (CN=Britt Grant/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Travis C. Good (CN=Travis C. Good/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Georgia D. Godfrey (CN=Georgia D. Godfrey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Dorothy C. Garvin (CN=Dorothy C. Garvin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joachim D. Fuchs (CN=Joachim D. Fuchs/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Barbara J. Finn (CN=Barbara J. Finn/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jeanie L. Figg (CN=Jeanie L. Figg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jennifer D. Field (CN=Jennifer D. Field/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Charlene E. Fern (CN=Charlene E. Fern/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Douglas M. Erdahl (CN=Douglas M. Erdahl/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ruth E. Elliott (CN=Ruth E. Elliott/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kady Dunlap (CN=Kady Dunlap/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eric A. Draper (CN=Eric A. Draper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joan R. Doty (CN=Joan R. Doty/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine L. Disston (CN=Katherine L. Disston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Reed Dickens (CN=Reed Dickens/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josh Deckard (CN=Josh Deckard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley E. Davis (CN=Ashley E. Davis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jill Davie (CN=Jill Davie/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Karen D. Cruson (CN=Karen D. Cruson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colin Crosby (CN=Colin Crosby/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lynn A. Crable (CN=Lynn A. Crable/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Colby J. Cooper (CN=Colby J. Cooper/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Shane P. Chambers (CN=Shane P. Chambers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lois A. Cassano (CN=Lois A. Cassano/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Pamela R. Casey (CN=Pamela R. Casey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne E. Campbell (CN=Anne E. Campbell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marcia J. Caler (CN=Marcia J. Caler/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Johnathan C. Bunting (CN=Johnathan C. Bunting/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marko R. Broz (CN=Marko R. Broz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Bonnie S. Broadwick (CN=Bonnie S. Broadwick/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gary E. Bresnahan (CN=Gary E. Bresnahan/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David R. Bohrer (CN=David R. Bohrer/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cheryl E. Barnett (CN=Cheryl E. Barnett/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell P. Backfield (CN=Mitchell P. Backfield/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jill L. Angelo (CN=Jill L. Angelo/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Ashleigh A. Adams (CN=Ashleigh A. Adams/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

We want to inform you that the White House Mess will be closed for business Monday, October 14th, in observance of Columbus Day. If the need arises, necessary arrangements will be made to meet any unforeseen demands. We apologize for any inconvenience.

Thank you.

MANAGEMENT AND ADMINISTRATION

From: CN=Katherine M. Walters/OU=WHO/O=EOP [WHO]

To: Katherine M. Walters/WHO/EOP [WHO] <Katherine M. Walters>;Adrian G. Gray/WHO/EOP [WHO] <Adrian G. Gray>;Darren W. Bearson/WHO/EOP [WHO] <Darren W. Bearson>;David McMaster/WHO/EOP [WHO] <David McMaster>;Douglas L. Hoelscher/WHO/EOP [WHO] <Douglas L. Hoelscher>;Alicia W. Davis/WHO/EOP [WHO] <Alicia W. Davis>;Israel Hernandez/WHO/EOP [WHO] <Israel Hernandez>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Sara M. Taylor/WHO/EOP [WHO] <Sara M. Taylor>;David M. Thomas/WHO/EOP [WHO] <David M. Thomas>;Paul B. Dyck/WHO/EOP [WHO] <Paul B. Dyck>;Michael J. Napolitano/WHO/EOP [WHO] <Michael J. Napolitano>;Collister W. Johnson/WHO/EOP [WHO] <Collister W. Johnson>;Leonard B. Rodriguez/WHO/EOP [WHO] <Leonard B. Rodriguez>;Kenneth B. Mehlman/WHO/EOP [UNKNOWN] <Kenneth B. Mehlman>

CC: agray@georgewbush.com [WHO] <agray@georgewbush.com>;kate@georgewbush.com [OMB] <kate@georgewbush.com>;lrodriguez@georgewbush.com [UNKNOWN] <lrodriguez@georgewbush.com>;dthomas@georgewbush.com [WHO] <dthomas@georgewbush.com>;kmccullough@georgewbush.com [UNKNOWN] <kmccullough@georgewbush.com>;staylor@georgewbush.com [WHO] <staylor@georgewbush.com>;kmehlman@georgewbush.com [WHO] <kmehlman@georgewbush.com>;dbearson@georgewbush.com [WHO] <dbearson@georgewbush.com>;mnapolitano@georgewbush.com [UNKNOWN] <mnapolitano@georgewbush.com>;dhoelscher@georgewbush.com [UNKNOWN] <dhoelscher@georgewbush.com>;pdyck@georgewbush.com [WHO] <pdyck@georgewbush.com>;cjohnson@georgewbush.com [NSC] <cjohnson@georgewbush.com>;adavis@georgewbush.com [WHO] <adavis@georgewbush.com>;mschlapp@georgewbush.com [WHO] <mschlapp@georgewbush.com>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>

Sent: 10/10/2002 5:05:57 PM

Subject: : Staff meeting tomorrow

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Katherine M. Walters ( CN=Katherine M. Walters/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:10-OCT-2002 21:05:57.00
SUBJECT:: Staff meeting tomorrow
TO:Katherine M. Walters ( CN=Katherine M. Walters/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Adrian G. Gray ( CN=Adrian G. Gray/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Darren W. Bearson ( CN=Darren W. Bearson/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:David McMaster ( CN=David McMaster/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Douglas L. Hoelscher ( CN=Douglas L. Hoelscher/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Alicia W. Davis ( CN=Alicia W. Davis/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Israel Hernandez ( CN=Israel Hernandez/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Matthew A. Schlapp ( CN=Matthew A. Schlapp/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Sara M. Taylor ( CN=Sara M. Taylor/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:David M. Thomas ( CN=David M. Thomas/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Paul B. Dyck ( CN=Paul B. Dyck/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Michael J. Napolitano ( CN=Michael J. Napolitano/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Collister W. Johnson ( CN=Collister W. Johnson/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Leonard B. Rodriguez ( CN=Leonard B. Rodriguez/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Kenneth B. Mehlman ( CN=Kenneth B. Mehlman/OU=WHO/O=EOP [ UNKNOWN ] )
```

READ:UNKNOWN
CC:agray@georgewbush.com (agray@georgewbush.com [WHO])
READ:UNKNOWN
CC:kate@georgewbush.com (kate@georgewbush.com [OMB])
READ:UNKNOWN
CC:lrodriguez@georgewbush.com (lrodriguez@georgewbush.com [UNKNOWN])
READ:UNKNOWN
CC:dthomas@georgewbush.com (dthomas@georgewbush.com [WHO])
READ:UNKNOWN
CC:kmccullough@georgewbush.com (kmccullough@georgewbush.com [UNKNOWN])
READ:UNKNOWN
CC:staylor@georgewbush.com (staylor@georgewbush.com [WHO])
READ:UNKNOWN
CC:kmehlman@georgewbush.com (kmehlman@georgewbush.com [WHO])
READ:UNKNOWN
CC:dbearson@georgewbush.com (dbearson@georgewbush.com [WHO])
READ:UNKNOWN
CC:mnapolitano@georgewbush.com (mnapolitano@georgewbush.com [UNKNOWN])
READ:UNKNOWN
CC:dhoelscher@georgewbush.com (dhoelscher@georgewbush.com [UNKNOWN])
READ:UNKNOWN
CC:pdyck@georgewbush.com (pdyck@georgewbush.com [WHO])
READ:UNKNOWN
CC:cjohnson@georgewbush.com (cjohnson@georgewbush.com [NSC])
READ:UNKNOWN
CC:adavis@georgewbush.com (adavis@georgewbush.com [WHO])
READ:UNKNOWN
CC:mschlapp@georgewbush.com (mschlapp@georgewbush.com [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

OPA staff meeting will be at 9 am after Ken and matt's meeting with Karl.
We will have to find another time for Brett and Tom Josefiak to come.

From: CN=Collister W. Johnson/OU=WHO/O=EOP [WHO]
To: Keith Hennessey/OPD/EOP@EOP [OPD] <Keith Hennessey>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Ken Mehlman/WHO /EOP@EOP [WHO] <Ken Mehlman>
Sent: 10/11/2002 3:33:57 AM
Subject: : Your giudance this morning?

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:11-OCT-2002 07:33:57.00
SUBJECT:: Your giudance this morning?
TO:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Keith:

Senator Bond called us yesterday evening - he wants Ken to accompany him to a proposed new IRS tax facility in Kansas City (Ken will be there today raising money for Talent). We wanted your guidance - from your point of view, is it ok for the Director of Political Affairs to be at a prospective place like this when pending legislation is involved?

Here is the background:
The 1998 IRS Restructuring and Reform Act initiated a study of how to improve services to taxpayers and increase productivity. The study indicated that the Kansas City Service Center is a priority for receiving a replacement facility. Senator Bond plans to write legislation converting an old downtown post office into a revitalized IRS facility, thereby meeting those recommendations. Bond will today tour the old post office facility and wants Ken to accompany him.

From: CN=Collister W. Johnson/OU=WHO/O=EOP [WHO]
To: Keith Hennessey/OPD/EOP@EOP [OPD] <Keith Hennessey>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Ken Mehlman/WHO /EOP@EOP [WHO] <Ken Mehlman>
Sent: 10/11/2002 3:33:57 AM
Subject: : Your giudance this morning?

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Collister W. Johnson ( CN=Collister W. Johnson/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:11-OCT-2002 07:33:57.00
SUBJECT:: Your giudance this morning?
TO:Keith Hennessey ( CN=Keith Hennessey/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Ken Mehlman ( CN=Ken Mehlman/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Keith:

Senator Bond called us yesterday evening - he wants Ken to accompany him
to a proposed new IRS tax facility in Kansas City (Ken will be there today
raising money for Talent). We wanted your guidance - from your point of
view, is it ok for the Director of Political Affairs to be at a
prospective place like this when pending legislation is involved?

Here is the background:
The 1998 IRS Restructuring and Reform Act initiated a study of how to
improve services to taxpayers and increase productivity. The study
indicated that the Kansas City Service Center is a priority for receiving
a replacement facility. Senator Bond plans to write legislation
converting an old downtown post office into a revitalized IRS facility,
thereby meeting those recommendations. Bond will today tour the old post
office facility and wants Ken to accompany him.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brian C. Conklin/WHO/EOP@EOP [WHO] <Brian C. Conklin>;Kristen Silverberg/WHO /EOP@EOP [WHO] <Kristen Silverberg>;Matthew Kirk/WHO/EOP@EOP [WHO] <Matthew Kirk>
Sent: 10/11/2002 7:37:28 AM
Subject: : "conscious flagrant"
Attachments: P_RGTUA003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:11-OCT-2002 11:37:28.00
SUBJECT:: "conscious flagrant"
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

FYI in case we need to know. Examples of "conscious flagrant" in fed law.

Federal Analogues: &Conscious, Flagrant Disregard for the Safety of Others8

?? H.R. 956 (Common Sense Legal Standards Reform Act of 1995, vetoed by President Clinton)

&Punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant if the claimant establishes by clear and convincing evidence that conduct carried out by the defendant with a conscious, flagrant indifference to the rights or safety of others was the proximate cause of the harm that is the subject of the action in any product liability action.8

?? 49 U.S.C. 28103 -- Railroads

&[I]n a claim for personal injury to a passenger, death of a passenger, or damage to property of a passenger arising from or in connection with the provision of rail passenger transportation, . . ., punitive damages, to the extent permitted by applicable State law, may be awarded in connection with any such claim only if the plaintiff establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct carried out by the defendant with a conscious, flagrant indifference to the rights or safety of others.8

?? 42 U.S.C. 14503 -- Volunteers

&General rule. Punitive damages may not be awarded against a volunteer in an action brought for harm based on the action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of such volunteer which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.8

?? 20 U.S.C. 6736 -- Teachers

&Punitive damages may not be awarded against a teacher in an action brought for harm based on the act or omission of a teacher acting within

the scope of the teacher's employment or responsibilities to a school or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an act or omission of such teacher that constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.8
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_RGTUA003_WHO.TXT_1>

Federal Analogues: "Conscious, Flagrant Disregard for the Safety of Others"

- **H.R. 956 (Common Sense Legal Standards Reform Act of 1995, vetoed by President Clinton)**

  "Punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant if the claimant establishes by clear and convincing evidence that conduct carried out by the defendant with a **conscious, flagrant** indifference to the rights or safety of others was the proximate cause of the harm that is the subject of the action in any product liability action."

- **49 U.S.C. 28103 -- Railroads**

  "[I]n a claim for personal injury to a passenger, death of a passenger, or damage to property of a passenger arising from or in connection with the provision of rail passenger transportation, . . ., punitive damages, to the extent permitted by applicable State law, may be awarded in connection with any such claim only if the plaintiff establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct carried out by the defendant with a **conscious, flagrant** indifference to the rights or safety of others."

- **42 U.S.C. 14503 -- Volunteers**

  "General rule. Punitive damages may not be awarded against a volunteer in an action brought for harm based on the action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of such volunteer which constitutes willful or criminal misconduct, or a **conscious, flagrant** indifference to the rights or safety of the individual harmed."

- **20 U.S.C. 6736 -- Teachers**

  "Punitive damages may not be awarded against a teacher in an action brought for harm based on the act or omission of a teacher acting within the scope of the teacher's employment or responsibilities to a school or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an act or omission of such teacher that constitutes willful or criminal misconduct, or a **conscious, flagrant** indifference to the rights or safety of the individual harmed."

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/11/2002 7:53:16 AM
Subject: : LRM PTM164 - - Interagency Council on Homelessness (ICH) Qs and As on Homeless Veterans Assistance Programs
Attachments: P_HKUUA003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:11-OCT-2002 11:53:16.00
SUBJECT:: LRM PTM164 - - Interagency Council on Homelessness (ICH) Qs and As on Homeless Veterans Assistance Programs
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/11/2002 11:52 AM ----------

From: P. Thaddeus Messenger on 10/11/2002 11:52:01 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: LRM PTM164 - - Interagency Council on Homelessness (ICH) Qs and As on Homeless Veterans Assistance Programs

LRM ID: PTM164
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Friday, October 11, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: P. Thaddeus Messenger
PHONE: (202)395-7754 FAX: (202)395-6148
SUBJECT: Interagency Council on Homelessness (ICH) Qs and As on Homeless Veterans Assistance Programs

DEADLINE: 5:00 p.m. Tuesday, October 15, 2002
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Attached for your review, please find a draft copy of ICH (Mangano) Qs and As regarding assistance programs for homeless veterans.

These Qs and As follow up on Mr. Mangano's 12 September testimony before

the House Veterans Affairs Committee, which was circulated previously under LRM PTM150.

Please provide your comments by 5:00 p.m. Tuesday, October 15th. If we do not receive your comments by that time, we will assume you have no objection to the document as drafted.

If you experience difficulty with this LRM, or its attachment, please contact us immediately. To ensure receipt by Agency addressees, the electronic copy of this LRM will be followed by a duplicate copy via facsimile.

Thank you.

DISTRIBUTION LIST

AGENCIES:
054-HOUSING & URBAN DEVELOPMENT - Mike Moran - (202) 708-1793
007-AGRICULTURE - Jacquelyn Chandler - (202) 720-1272
006-AGRICULTURE (CR) - Wanda Worsham - (202) 720-7095
030-EDUCATION - Jack Kristy - (202) 401-8313
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773
129-VETERANS AFFAIRS - John H. Thompson - (202) 273-6666
029-DEFENSE - Samuel T. Brick Jr. - (703) 697-1305
061-JUSTICE - Daniel Bryant - (202) 514-2141
062-LABOR - Robert A. Shapiro - (202) 693-5500

EOP:
Stephen S. McMillin
Alan B. Rhinesmith
Francis S. Redburn
Dustin S. Brown
Jennifer Wagner Bell
Jack A. Smalligan
Joanne Cianci Hoff
Kathryn B. Stack
Thomas Reilly
Keith J. Fontenot
Kathleen Peroff
Mary Jo Siclari
Toni S. Hustead
Narahari Sastry
Arecia A. Grayton
Cameron M. Leuthy
Wendell H. Waites
Julie L. Haas
Lauren E. Bloomquist
Maureen Walsh
Katrina A. McDonald
Carole Kitti
Sarah S. Lee
Arthur W. Stigile
Courtney B. Timberlake
Adriel M. Harvey
Elizabeth A. Bernhard
Sheila Conley
Stuart Shapiro
Joseph F. Lackey Jr.
Aquiles F. Suarez
NEC LRM
OVP LRM
WHGC LRM

Philip J. Perry
Matthew J. Schneider
John F. Wood
Marisa K. Medrano
Robert Marsh
Danielle M. Simonetta
Lauren C. Lobrano
James J. Jukes
Ingrid M. Schroeder
P. Thaddeus Messenger
LRM ID: PTM164 SUBJECT: Interagency Council on Homelessness (ICH)
Qs and As on Homeless Veterans Assistance Programs
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: P. Thaddeus Messenger Phone: 395-7754 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Sent
To:_____

HUD_LRM@hud.gov
usdaobpaleg@obpa.usda.gov
usdaocrleg@obpa.usda.gov
ogc_legislation@ed.gov
lrm@hhs.gov
valrm@mail.va.gov
dodlrs@osdgc.osd.mil
justice.lrm@usdoj.gov
dol-sol-leg@dol.gov

Message Copied
To:_____
Stephen S. McMillin/OMB/EOP@EOP
Alan B. Rhinesmith/OMB/EOP@EOP
Francis S. Redburn/OMB/EOP@EOP
Dustin S. Brown/OMB/EOP@EOP
Jennifer Wagner Bell/OMB/EOP@EOP
Jack A. Smalligan/OMB/EOP@EOP
Joanne Cianci Hoff/OMB/EOP@EOP
Kathryn B. Stack/OMB/EOP@EOP
Thomas Reilly/OMB/EOP@EOP
Keith J. Fontenot/OMB/EOP@EOP
Kathleen Peroff/OMB/EOP@EOP
Mary Jo Siclari/OMB/EOP@EOP
Toni S. Hustead/OMB/EOP@EOP
Narahari Sastry/OMB/EOP@EOP
Arecia A. Grayton/OMB/EOP@EOP
Cameron M. Leuthy/OMB/EOP@EOP
Wendell H. Waites/OMB/EOP@EOP
Julie L. Haas/OMB/EOP@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
Maureen Walsh/OMB/EOP@EOP
Katrina A. McDonald/OMB/EOP@EOP
Carole Kitti/OMB/EOP@EOP
Sarah S. Lee/OMB/EOP@EOP
Arthur W. Stigile/OMB/EOP@EOP
Courtney B. Timberlake/OMB/EOP@EOP
Adriel M. Harvey/OMB/EOP@EOP
Elizabeth A. Bernhard/OMB/EOP@EOP
Sheila Conley/OMB/EOP@EOP
Stuart Shapiro/OMB/EOP@EOP
Joseph F. Lackey Jr./OMB/EOP@EOP
Aquiles F. Suarez/OPD/EOP@EOP
NEC LRM
OVP LRM
WHGC LRM
Philip J. Perry/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Robert Marsh/WHO/EOP@EOP
Danielle M. Simonetta/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Ingrid M. Schroeder/OMB/EOP@EOP
P. Thaddeus Messenger/OMB/EOP@EOP
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_HKUUA003_WHO.TXT_1>

1. **Mr. Mangano, I would like to know more about your statement that more people are homeless today than 10 years ago, despite the creation of 40,000 programs to deal with it. That is a stunning revelation and very depressing. Please expand on your statement.**

   In a study completed by the Urban Institute here in Washington D.C., the prime researcher, Dr. Martha Burt, concluded that programs for homeless people now numbered 40,000. In reports from around the country, the increase in homelessness has averaged between 3% and 5% annually for the past ten years. These reports from jurisdictions are supplemented by the Annual Report of the U.S. Conference of Mayors On Hunger and Homelessness. Requests for emergency shelters in their survey of 27-29 cities indicate that demand rose 5% in 1996, 3% in 1997, 11% in 1998, 12% in 1999, 15% in 2000, and 13% in 2001.

   Tonight, across the country more families will be sheltered, more people will be on the streets, and more shelters overflowing than in the past ten years.

   While these numbers are indeed disheartening after two decades of response, there are hopeful signs. New research and technologies are available to create innovative and entrepreneurial responses to homelessness. The positive by-product of the proliferation of programs is that new innovative and performance-based programs have been generated and have demonstrated the ability to end homelessness. The "housing first" approach is especially efficacious for those experiencing chronic homelessness.

2. **By the nature of your compliments to the Committee on the logic of PL 107-95, there is a suggestion that its logic should be a model for larger efforts in this country. Is that true?**

   There is no question that Public Law 107-95 offers a variety of initiatives that model appropriate activities in our goal of reducing and ending homelessness. For example, the attention that the law offers to **prevention** as an appropriate response to homelessness parallels the Council's attention on this overlooked issue. As indicated in my testimony before the Committee, the themes of accountability, self-sufficiency, and the emphasis on a housing response in PL 107-95 are indeed themes of the larger effort now engaged in by the Council and its Chairman.

3. **You referenced Dr. Dennis Culhane from Pennsylvania, who has testified before this Committee on these matters. Dr. Culhane has suggested we look hard at trying to avoid sending chronically homeless people-- single individuals with very serious, recurring problems- to emergency shelters - that the nature and severity of their problems do not lend themselves to the kinds of services available at emergency shelters and that the use of emergency shelters by chronically homeless people simply clogs the emergency shelter system - - that chronically homeless people need something different, principally mental health, substance abuse, and transitional residential services and shelter. Do you agree or disagree with Dr. Culhane and why?**

Dr. Culhane's research and testimony and intuition serve him well in his suggestions that emergency shelters are inappropriate responses to the needs of those experiencing chronic homelessness. "Housing first" efforts in various parts of our country, especially New York and San Francisco, indicate that rather than offering emergency shelters to those who are disabled and long term homeless, permanent housing with clinically-based supportive services is an appropriate and efficacious response. The combination of assertive community treatment teams that provide clinically oriented case management, outreach and tenancy stabilization with scattered site and master leased housing units is working. His acknowledgement that people experiencing chronic homelessness need "mental health, substance abuse services" is recognized, and innovative programs across the country are providing such services in conjunction with permanent housing.

4. **Is providing temporary shelter to a chronically homeless person doing that person any good?**

   If the sheltering is "temporary" in the sense of less than a week or so, offering a time to come in off the streets while next step options are being constellated, that stay may not be detrimental. Longer stays, however, often lead to a spiraling down into a subculture of homelessness that "institutionalizes" the person in the shelter environment. People experiencing chronic homelessness most often require treatment, whether mental health or substance abuse or both. Appropriate medications monitored over time and/or detoxification are readily needed. Neither is available generally in emergency shelters.

5. **Does the interagency committee enjoy a relationship with VA's advisory committee? If so, please describe it.**

   The Advisory Committee has offered its forum for dialogue with the Executive Director of the Interagency Council. Additionally, informal conversations between the Advisory Chair and the Council have taken place on several occasions as have conversations between other members of the Advisory Committee and the Council. However, no formal relationship exists between the Committee and the Council nor is the Council a member of the Committee in any capacity including ex officio.

6. **Do you think that your advisory committee will make any recommendations directly to VA in the future concerning VA's homeless assistance programs? Can you give me a possible scenario for the committee to make such recommendations?**

   There is an ongoing relationship between the Council and the Veterans Administration by virtue of the VA's membership on the Council. By statute, Secretary Principi is a member of the Council and did attend the Council's first meeting in six years on July 18 of this year. Further, the Council has re-developed its Senior Policy Group which has met twice with VA participation. We are instituting a Program Managers Working Group this month and anticipate VA

participation. In each of these forums, the opportunity to recommend policy and resource deployment is possible.

7. **I know you don't speak for HUD, but please ask Secretary Martinez the following: what plans does HUD have to coordinate homeless assistance activities for veterans in the spirit of PL 100-95?**

   In my work with Secretary Martinez, I have found him to be straight forward and open handed. That spirit has created the opportunity for the first ever joint application between three federal agencies, the Departments of Housing and Urban Development, Health and Human Services and the Veterans Administration. That work of coordination, key to PL 107-95, is central to the work of the Council and supported fully by Secretary Martinez. In his public statements, the Secretary has made plain his call for coordination of resources for any profile of homeless people.

8. **The HUD-VASH Section 8 voucher program is one of the topics in our homeless assistance act. Can you give me any idea of Secretary Martinez's plans to provide additional Section 8 vouchers for this program?**

   You are correct. The Council does not speak for HUD. I do know the efficacy of the HUD-VASH Program in creating units for homeless veterans. My hope would be that this vital program to create movement off the streets and out of shelters for homeless veterans would continue and expand. I would recommend that contact be made directly with Secretary Martinez concerning the Department's plans. I do know from conversations that I have had with him that he is very supportive of homeless veterans and is making the resources of HUD available to them through a variety of programs.

From: CN=Kristen Silverberg/OU=WHO/O=EOP [WHO]
To: Nicholas E. Calio/WHO/EOP@EOP [WHO] <Nicholas E. Calio>;Karl C. Rove/WHO/EOP@EOP [WHO] <Karl C. Rove>;Joshua B. Bolten/WHO/EOP@EOP [WHO] <Joshua B. Bolten>
CC: Brian C. Conklin/WHO/EOP@EOP [WHO] <Brian C. Conklin>;Matthew Kirk/WHO/EOP@EOP [WHO] <Matthew Kirk>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/11/2002 8:15:32 AM
Subject: : TERROR INSURANCE

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:11-OCT-2002 12:15:32.00
SUBJECT:: TERROR INSURANCE
TO:Nicholas E. Calio ( CN=Nicholas E. Calio/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Karl C. Rove ( CN=Karl C. Rove/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Joshua B. Bolten ( CN=Joshua B. Bolten/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Brian C. Conklin ( CN=Brian C. Conklin/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Matthew Kirk ( CN=Matthew Kirk/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Senator Dodd called Secretary Card and repeated the message he gave Nick
last night: "Daschle doesn't care if we get a bill. The President, Oxley
and I want a bill, but no one else cares. You have our bottom line."

Dodd said that they would NOT be willing to adopt the HR1 language
preserving state caps and stricter state standards. He made the point
quickly; it's possible that he didn't mean it.

Sec. Card asked for economic analysis of failure to get a bill vs. a bill
with only federal court and consolidation. Glenn is putting something
together.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
Sent: 10/11/2002 1:10:37 PM
Subject: : Caps and bans

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:11-OCT-2002 17:10:37.00
SUBJECT:: Caps and bans
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

at least the following have caps. Alabama,Colorado, Connecticut, Florida,
Georgia, Kansas, Nevada, North Dakota, Oklahoma, Texas, Virginia.
bans in Mass, Louisiana, Nebraska, Washington, and New Hampshire.
checking on some others.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>
Sent: 10/12/2002 8:30:01 AM
Subject: : Important points about punitive negotiations

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:12-OCT-2002 12:30:01.00
SUBJECT:: Important points about punitive negotiations
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

fyi
---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 10/12/2002 12:32 PM ----------

Brett M. Kavanaugh
10/12/2002 12:23:34 PM
Record Type: Record

To: Nicholas E. Calio/WHO/EOP@EOP, Matthew Kirk/WHO/EOP@EOP, Brian C. Conklin/WHO/EOP@EOP, Kristen Silverberg/WHO/EOP@EOP
cc: Michael J. Conway/WHO/EOP@EOP, Jill Davie/WHO/EOP@EOP
Subject: Important points about punitive negotiations

1. Under the Senate bill as it was passed, the federal court will apply the relevant state law determined to be applicable by the federal district court. That would include the relevant state-law standards on liability and damages, including punitive damages. Therefore, if the district court determined that Texas law applied to the tort suits arising out of an act of terrorism brought under this section, and Texas law caps punitive damages, then those caps would apply in the suits brought under this section.

2. There is some confusion about the meaning of the "federal cause of action." As in the 9/11 bill passed last year, that is simply a device to ensure federal jurisdiction over these cases. Without this provision and without geographic diversity among the parties in some cases, there would be no federal jurisdiction over many state tort suits arising out of acts of terrorism -- and thus no ability to consolidate the cases in a single federal court. The federal cause of action thereby allow all the tort cases arising out of an act of terrorism to be removed to and consolidated in a single federal court.

3. Importantly, however, as noted above, the actual substantive law on liability and damages that the federal court will apply is the state law determined to be applicable by the federal court.

4. Some state-law standards for awards of punitive damages are quite lax. In these negotiations, we are simply attempting to ensure a federal floor on the standard for awarding punitive damages so that any of these particularly loose state-law standards are not applied in tort cases arising out of acts of terrorism. Such loose state-law standards could be very unfair and economically destabilizing in the post-terrorism-attack context (and even today as businesses and insurers plan for the economic aftermath of terrorism attacks).

5. The "construction" language merely makes clear that any otherwise applicable state-law bans and caps on punitives that would apply in tort cases under this section continue to apply notwithstanding the

federal floor on the standard for punitives that we are proposing. Sen. Daschle et al appear to have cleverly exploited this opening. By objecting to the construction paragraph, they appear to be attempting to create a MAJOR loophole/ambiguity that would allow future plaintiffs to argue that our provision on punitives not only imposes a federal floor on the standard, but also actually trumps the applicable state-law bans and caps that otherwise would apply to claims for punitive damages. In other words, they apparently are trying to make punitive damages MORE readily available than it was even in the Senate bill as it was passed. That is a very neat trick on their part. But it is absurd -- and would result in us moving very far LEFT from the Senate bill if we accepted this loophole/ambiguity. And of course, if they are not silently trying to create such a loophole, they should not object to us making this point clear in the legislation.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Charnes, Adam <Adam.Charnes@usdoj.gov>
CC: bradford a. berenson/who/eop@eop [WHO] <bradford a. berenson>
Sent: 10/13/2002 11:26:53 AM
Subject: : Re: Contingency fee

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:13-OCT-2002 15:26:53.00
SUBJECT:: Re: Contingency fee
TO:"Charnes, Adam" <Adam.Charnes@usdoj.gov> ("Charnes, Adam" <Adam.Charnes@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
CC:bradford a. berenson (CN=bradford a. berenson/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

No.

"Charnes, Adam" <Adam.Charnes@usdoj.gov>
10/11/2002 11:48:03 AM
Record Type: Record

To: Bradford A. Berenson/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Contingency fee

Are you aware of any guidance by OMB or anyone else addressing the propriety of government agencies retaining outside lawyers on a contingency fee basis? Thanks.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Rebecca Seidel) (Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) [UNKNOWN] <Rebecca_Seidel@judiciary.senate.gov>
Sent: 10/13/2002 11:27:38 AM
Subject: : Re: question

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:13-OCT-2002 15:27:38.00
SUBJECT:: Re: question
TO:Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) (
Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

not sure what exactly this is referring to.

Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel)
10/11/2002 11:22:11 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: question

so what was the deal? congress Daily AM

According to sources, Daschle vetoed a new deal Thursday on liability that Dodd had brokered with the White House. Dodd, Gramm and the Bush administration had crafted a similar arrangement last November, but Daschle ruled it out because he viewed it as being too heavy on tort reform.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;milbankd@washpost.com [UNKNOWN] <milbankd@washpost.com>
Sent: 10/13/2002 5:32:28 PM
Subject: : Re: 10:15?

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:13-OCT-2002 21:32:28.00
SUBJECT:: Re: 10:15?
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:milbankd@washpost.com ( milbankd@washpost.com [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Sounds good.

.

----- Original Message -----
From:milbankd@washpost.com
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 10/13/2002 08:19:11 PM
Subject: 10:15?

brett--just realized i have a 9:15 appt in the morning. i'll give a ring
around 10:15 if that works for you. thanks.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Dana T Milbank <milbankd@washpost.com>
Sent: 10/14/2002 8:18:21 AM
Subject: : quotes as requested

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:14-OCT-2002 12:18:21.00
SUBJECT:: quotes as requested
TO:Dana T Milbank <milbankd@washpost.com> (Dana T Milbank <milbankd@washpost.com> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

CURRENT

Regarding the claim of executive privilege over certain Justice Department documents that included a number of prosecution and declination memos, including Clinton Administration memos re whether to seek an independent counsel in the Gore fundraising matter:
Ranking cmte member Henry Waxman (D-CA): "An imperial presidency or an imperial Justice Department conflicts with the democratic principles of our nation" (Chicago Tribune, 12/14).
House Gov't Reform chair Dan Burton (R-IN), "Your guy's acting like he's king." (Boston Globe, 12/14).

Russ Baker, The Nation, re Presidential Records Act executive order: "Kavanaugh, who once defended Starr's insatiable appetite for information as being not about politics but about the sanctity of the law, has apparently changed his tune."

Stanley Kutler, Chicago Tribune, re Presidential Records Act executive order: "Bush's action drips with irony. A few years ago, Kavanaugh worked with Kenneth Starr, and eagerly argued that President Clinton had no right to retain documents, no executive privilege, and must yield to every demand made by the Office of Independent Counsel."

STARR

Abner Mikva, Chicago Tribune, Aug. 5, 1998: "This [ruling] will materially affect the way public business is going to be done and to the detriment of public business."

Lloyd Cutler: Meanwhile, the inner workings of the White House have already been affected by years of investigative scrutiny. For example, White House lawyers are now careful not to take notes, Mr. [Lloyd] Cutler said. "When the attorney-client privilege with a Government lawyer is virtually destroyed, that means you don't dare take notes," he said. "You are going to be cautious about what you say and the President will be cautious about what he tells you. That's a serious blow to the Presidency ."

Judge David Tatel of D.C. Circuit, dissenting in Lindsey case on government attorney-client privilege: "As a result, Presidents may well shift their trust on all but the most routine legal matters from White House counsel, who undertake to serve the Presidency, to private counsel who represent its occupant. . . . I doubt that White House counsel can perform any of these functions without the candor made possible by the attorney-client privilege. As I said at the outset, weakening the privilege may well cause Presidents to shift their trust from White House lawyers who have undertaken to serve the Presidency, to private lawyers who have not."

From: Dana T Milbank <milbankd@washpost.com>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/14/2002 8:24:30 AM
Subject: : Re: quotes as requested

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Dana T Milbank <milbankd@washpost.com> (Dana T Milbank <milbankd@washpost.com> [UNKNOWN])
CREATION DATE/TIME:14-OCT-2002 12:24:30.00
SUBJECT:: Re: quotes as requested
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

this is the most thorough opposition research i've ever seen a guy do on himself.

lemme know on the photo. we can either send a courier or a photog. thnx.

Brett_M.
_Kavanaugh@who.eop. To: Dana T Milbank
<milbankd@washpost.com>
gov cc:
Subject: quotes as
requested
10/14/2002 12:08 PM

CURRENT

Regarding the claim of executive privilege over certain Justice Department
documents that included a number of prosecution and declination memos, including Clinton Administration memos re whether to seek an independent counsel in the Gore fundraising matter:
Ranking cmte member Henry Waxman (D-CA): "An imperial presidency or an imperial Justice Department conflicts with the democratic principles of our
nation" (Chicago Tribune, 12/14).
House Gov't Reform chair Dan Burton (R-IN), "Your guy's acting like he's
king." (Boston Globe, 12/14).

Russ Baker, The Nation, re Presidential Records Act executive order:
"Kavanaugh, who once defended Starr's insatiable appetite for information as
being not about politics but about the sanctity of the law, has apparently
changed his tune."

Stanley Kutler, Chicago Tribune, re Presidential Records Act executive order:
"Bush's action drips with irony. A few years ago, Kavanaugh worked with Kenneth Starr, and eagerly argued that President Clinton had no right to retain documents, no executive privilege, and must yield to every demand

made
by the Office of Independent Counsel."

STARR

Abner Mikva, Chicago Tribune, Aug. 5, 1998: "This [ruling] will
materially
affect the way public business is going to be done and to the detriment
of
public business."

Lloyd Cutler: Meanwhile, the inner workings of the White House have
already
been affected by years of investigative scrutiny. For example, White
House
lawyers are now careful not to take notes, Mr. [Lloyd] Cutler said.
"When the
attorney-client privilege with a Government lawyer is virtually
destroyed,
that means you don't dare take notes," he said. "You are going to be
cautious
about what you say and the President will be cautious about what he
tells
you. That's a serious blow to the Presidency."

Judge David Tatel of D.C. Circuit, dissenting in Lindsey case on
government
attorney-client privilege: "As a result, Presidents may well shift
their
trust on all but the most routine legal matters from White House
counsel, who
undertake to serve the Presidency, to private counsel who represent its
occupant. . . . I doubt that White House counsel can perform any of
these
functions without the candor made possible by the attorney-client
privilege.
As I said at the outset, weakening the privilege may well cause
Presidents to
shift their trust from White House lawyers who have undertaken to serve
the
Presidency, to private lawyers who have not."

From: CN=Collister W. Johnson/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: vmaldonado@rnchq.org [UNKNOWN] <vmaldonado@rnchq.org>;Katherine M. Walters/WHO /EOP@EOP [WHO] <Katherine M. Walters>;Andrew_w._Mcgarrity@who.eop.gov [UNKNOWN] <Andrew_w._Mcgarrity@who.eop.gov>;Ken Mehlman/WHO/EOP@EOP [WHO] <Ken Mehlman>
Sent: 10/14/2002 8:25:37 AM
Subject: : Fw: Draft phone Script for SW MO POTUS visit

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Collister W. Johnson ( CN=Collister W. Johnson/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:14-OCT-2002 12:25:37.00
SUBJECT:: Fw: Draft phone Script for SW MO POTUS visit
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:vmaldonado@rnchq.org ( vmaldonado@rnchq.org [ UNKNOWN ] )
READ:UNKNOWN
CC:Katherine M. Walters ( CN=Katherine M. Walters/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Andrew_w._Mcgarrity@who.eop.gov ( Andrew_w._Mcgarrity@who.eop.gov [ UNKNOWN ] )
READ:UNKNOWN
CC:Ken Mehlman ( CN=Ken Mehlman/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

POTUS will attend a political rally with 6,000 attendees in Springfield,
MO on 10/18.
The state party wants to make paid recorded phone calls to help turnout
the crowd. The calls will go to about 6,000 people that are confirmed
very strong republicans.
The text follows below - approval?

c




-----Original Message-----
From: Kelley Ogletree [mailto:KOgletree@fls-dci.com]
Sent: Friday, October 11, 2002 5:02 PM
To: Tony Feather
Subject: Draft Script for SW MO POTUS visit

Hi, I'm calling from the Missouri Republican Party. President George W.
Bush will be in Springfield on Friday, October 18th at SMSU's John Q.
Hammons Center. We are calling to offer you and your family the
opportunity to come welcome our President to Southwest Missouri.
Tickets are required, and they are limited. To reserve your tickets,
please call 417-XXX-XXXX in Springfield or XXX-XXX-XXXX in Joplin for
reservations and ticket pick up information. That number again is
417-XXX-XXXX in Springfield or XXX-XXX-XXXX in Joplin. Thank you for your
support of President Bush and we hope you can join us on Friday.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: milbankd@washpost.com @ inet [UNKNOWN] <milbankd@washpost.com @ inet>
Sent: 10/14/2002 12:33:25 PM
Subject: : Photo per your request...
Attachments: P_011WA003_WHO.TXT_1.jpeg

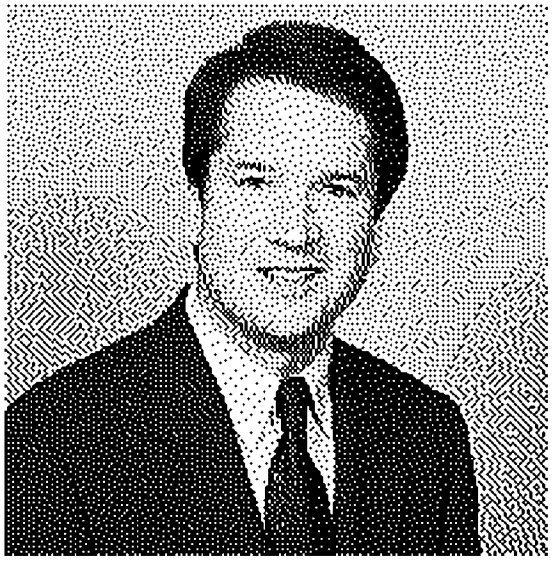
```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:14-OCT-2002 16:33:25.00
SUBJECT:: Photo per your request...
TO:milbankd@washpost.com @ inet ( milbankd@washpost.com @ inet [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

A computer version:


- Kavanaugh,Brett-26007-D6.jpg



ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_011WA003_WHO.TXT_1>
```



From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>
CC: Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>
Sent: 10/14/2002 12:33:28 PM
Subject: : Terrorism insurance -- letter from Nick to Dodd
Attachments: P_W21WA003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:14-OCT-2002 16:33:28.00
SUBJECT:: Terrorism insurance -- letter from Nick to Dodd
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Attached is letter sent from Nick to Sen. Dodd today, which addresses the new wrinkle that Daschle et al have raised.

CONFIDENTIAL

October 14, 2002

Dear Chris:

First, I want to thank you for your extraordinary personal efforts to get a terrorism insurance bill over the last year and, in particular, the last few weeks. My hope is that the effort comes to fruition, but the hurdles, frankly, seem to be increasing.

Per our conversation on Friday, I can understand why you would like to alter your role as full-time intermediary. However, I hope you will be willing to continue on at least a part-time basis. I can,t offer much in the way of pay, but I can probably assure significant grief. In that vein, the following is intended to inform your thinking as we go forward by reviewing a little past history and by setting a context for where we are.

Currently, our most significant hang-up revolves around the inclusion of subsection (c) (2), the &Construction8 clause, of H.R. 1, the &No Child Left Behind Act8; i.e., its inclusion is now labeled a & non-starter8 by Senator Daschle,s office. I find this odd for two reasons:

ú The &offer8 provided to me by Senator Daschle,s office some weeks ago was, literally, a page ripped from H.R. 1 (See Attachment A). Subsection (c), &Limitation on Punitive Damages(8 contains two subsections: &(1) General Rule8 and &(2) Construction.8 No one, publicly or privately, ever mentioned that this much ballyhooed offer was only intended to convey half of subsection (c) until 11:00 p.m. Thursday night. (I apologize for allowing my darker side to engage in this rather obvious game of &Who-struck-John8 so, now to the more important point.)

Far from being some sort of loophole, the &Construction8 clause from H.R. 1 is entirely consistent with the Senate-passed terrorism insurance bill.

ú Under S.2600, as it was passed, the federal court will apply the relevant state law determined to be applicable by the federal district court: &The substantive law for decision(shall be derived from the law,

including applicable choice of law principles, of the State in which the act of terrorism(occurred.8 That would include the relevant state-law standards on liability and damages, including punitive damages. Therefore, if the district court determined that Texas law applied to the tort suits arising out of an act of terrorism brought under this section, and Texas law caps punitive damages, then those caps would apply in the suits brought under this section. If, however, it determined that New York law applied, and New York law does not cap punitive damages, then caps would not apply.

There is obviously some confusion about the meaning of the "federal cause of action." As in P.L. 107-42, the Air Transportation Safety and System Stabilization Act, the bill passed last year to deal with suits arising out of the September 11 attacks, this provision is a device to ensure federal jurisdiction over these cases. Without this provision and without geographic diversity among the parties in some cases, no federal jurisdiction would exist over many state tort suits arising out of acts of terrorism -- and thus there would be no ability to consolidate the cases in a single federal court. The federal cause of action thereby allows all the tort cases arising out of an act of terrorism to be removed to and consolidated in a single federal court.

Importantly, however, as noted above, the actual substantive law on liability and damages that the federal court will apply is the state law determined to be applicable by the federal court. That is the case in H.R. 1, in P.L. 107-42, and in S.2600 the bill passed by the Senate, as well as in other legislation such as the Y2K statute.

In other words, the construction clause merely makes clear that otherwise applicable state-law limits on punitive damages continue to apply (as in the Senate bill as passed). Elimination of the construction clause would make punitive damages more readily available than they were even in the Senate bill as passed. It would also create a further anomaly) claims against terrorists are exempt from S.2600 as passed by the Senate and can be brought under state law in state court. Without the &construction8 clause of H.R. 1, terrorists could benefit from state caps and limits on punitive damages, but American businesses sued in federal court could not. The absurdity of such a policy is, I hope, apparent.

Forgive all the substantive detail, but it is necessary to make the point that the new position is a roll back on the punitive damages issue from even the Senate bill and, therefore, untenable. Without some agreement on this issue, which should not even be an issue, we cannot even get to a final resolution on the appropriate minimum standard for awards of punitive damages. I am open to any and all advice on how to proceed. I, ll call later today.

Thanks, Chris.

Sincerely,

Nicholas E. Calio
Assistant to the President
for Legislative Affairs

The Honorable Christopher J. Dodd
United States Senate
Russell Room 448
Washington, DC 20510

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_W21WA003_WHO.TXT_1>

CONFIDENTIAL

October 14, 2002

Dear Chris:

First, I want to thank you for your extraordinary personal efforts to get a terrorism insurance bill over the last year and, in particular, the last few weeks. My hope is that the effort comes to fruition, but the hurdles, frankly, seem to be increasing.

Per our conversation on Friday, I can understand why you would like to alter your role as full-time intermediary. However, I hope you will be willing to continue on at least a part-time basis. I can't offer much in the way of pay, but I can probably assure significant grief. In that vein, the following is intended to inform your thinking as we go forward by reviewing a little past history and by setting a context for where we are.

Currently, our most significant hang-up revolves around the inclusion of subsection (c)(2), the "Construction" clause, of H.R. 1, the "No Child Left Behind Act"; i.e., its inclusion is now labeled a "non-starter" by Senator Daschle's office. I find this odd for two reasons:

- The "offer" provided to me by Senator Daschle's office some weeks ago was, literally, a page ripped from H.R. 1 (See Attachment A). Subsection (c), "Limitation on Punitive Damages…" contains two subsections: "(1) General Rule" and "(2) Construction." No one, publicly or privately, ever mentioned that this much ballyhooed offer was only intended to convey half of subsection (c) until 11:00 p.m. Thursday night. (I apologize for allowing my darker side to engage in this rather obvious game of "Who-struck-John" so, now to the more important point.)

  Far from being some sort of loophole, the "Construction" clause from H.R. 1 is entirely consistent with the Senate-passed terrorism insurance bill.

- Under S.2600, **as it was passed**, the federal court will apply the relevant state law determined to be applicable by the federal district court: "The substantive law for decision…shall be derived from the law, including applicable choice of law principles, of the State in which the act of terrorism…occurred." That would include the relevant state-law standards on liability and damages, including punitive damages. Therefore, if the district court determined that Texas law applied to the tort suits arising out of an act of terrorism brought under this section, and Texas law caps punitive damages, then those caps would apply in the suits brought under this section. If, however, it determined that New York law

applied, and New York law does not cap punitive damages, then caps would not apply.

There is obviously some confusion about the meaning of the "federal cause of action." As in P.L. 107-42, the Air Transportation Safety and System Stabilization Act, the bill passed last year to deal with suits arising out of the September 11 attacks, this provision is a device to ensure federal jurisdiction over these cases. Without this provision and without geographic diversity among the parties in some cases, no federal jurisdiction would exist over many state tort suits arising out of acts of terrorism -- and thus there would be no ability to consolidate the cases in a single federal court. The federal cause of action thereby allows all the tort cases arising out of an act of terrorism to be removed to and consolidated in a single federal court.

Importantly, however, as noted above, the actual substantive law on liability and damages that the federal court will apply is the state law determined to be applicable by the federal court. That is the case in H.R. 1, in P.L. 107-42, and in S.2600 the bill passed by the Senate, as well as in other legislation such as the Y2K statute.

In other words, the construction clause merely makes clear that otherwise applicable state-law limits on punitive damages continue to apply (as in the Senate bill as passed). Elimination of the construction clause **would make punitive damages more readily available than they were even in the Senate bill as passed.** It would also create a further anomaly – claims against terrorists are exempt from S.2600 as passed by the Senate and can be brought under state law in state court. Without the "construction" clause of H.R. 1, **terrorists could benefit from state caps and limits on punitive damages, but American businesses sued in federal court could not.** The absurdity of such a policy is, I hope, apparent.

Forgive all the substantive detail, but it is necessary to make the point that the new position is a roll back on the punitive damages issue from even the Senate bill and, therefore, untenable. Without some agreement on this issue, which should not even be an issue, we cannot even get to a final resolution on the appropriate minimum standard for awards of punitive damages. I am open to any and all advice on how to proceed. I'll call later today.

Thanks, Chris.

Sincerely,

Nicholas E. Calio
Assistant to the President
for Legislative Affairs

The Honorable Christopher J. Dodd
United States Senate
Russell Room 448
Washington, DC 20510

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: milbankd@washpost.com [UNKNOWN] <milbankd@washpost.com>
Sent: 10/14/2002 12:33:24 PM
Subject: :

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:14-OCT-2002 16:33:24.00
SUBJECT::
TO:milbankd@washpost.com (milbankd@washpost.com [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

6 who worked in starr independent counsel office have senate confirmed positions. John Bates and Amy St. Eve are federal district judges, she in Chicago. Steve Colloton (Iowa) and Bill Duffey (Georgia) are US Attorneys. Kevin Martin is FCC Commissioner. Alex Azar is general counsel of HHS. All were confirmed without a dissenting vote. People who worked closely with Starr at Kirkland now in Admin include Paul Clement, Jay Lefkowitz, Patrick Philbin (Deputy AAG in OLC), and Adam Ciongoli (counselor to AG). None of those is a senate-confirmed position.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: milbankd@washpost.com @ inet [UNKNOWN] <milbankd@washpost.com @ inet>
Sent: 10/14/2002 12:33:25 PM
Subject: : Photo per your request...
Attachments: P_011WA003_WHO.TXT_1.jpeg

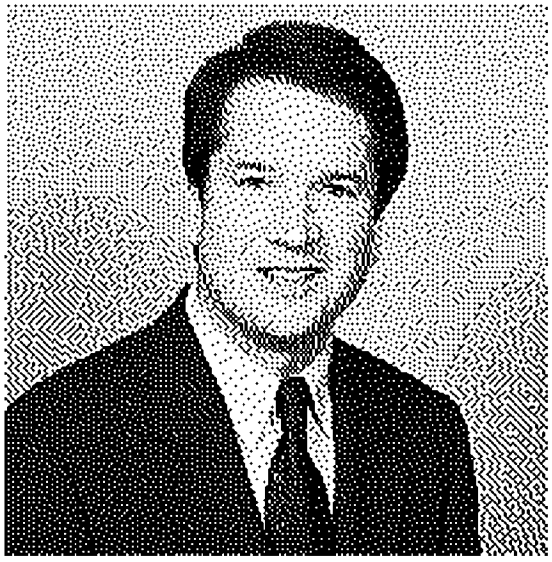
```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:14-OCT-2002 16:33:25.00
SUBJECT:: Photo per your request...
TO:milbankd@washpost.com @ inet ( milbankd@washpost.com @ inet [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

A computer version:


- Kavanaugh,Brett-26007-D6.jpg



ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_011WA003_WHO.TXT_1>
```



From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Collister W. Johnson/WHO/EOP@EOP [WHO] <Collister W. Johnson>
Sent: 10/15/2002 6:21:54 AM
Subject: : Re: Fw: Talent Self Mailer
Attachments: P_6UFWA003_WHO.TXT_1.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:15-OCT-2002 10:21:54.00
SUBJECT:: Re: Fw: Talent Self Mailer
TO:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Approved. Thanks.

Collister W. Johnson
10/15/2002 09:38:03 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Fw: Talent Self Mailer

BK - for you sir - thank you!
c

---------- Forwarded by Collister W. Johnson/WHO/EOP on 10/15/2002 09:41 AM ----------

Coddy Johnson <cjohnson@georgewbush.com>
10/15/2002 09:11:27 AM
Record Type: Record

To: Collister W. Johnson/WHO/EOP@EOP
cc:
Subject: Fw: Talent Self Mailer

Talent Self Mailer
----- Original Message -----
From: Heather Shuvalov
To: Coddy Johnson
Sent: Monday, October 14, 2002 7:15 PM
Subject: Talent Self Mailer

Here's a self mailer with the same photo of President Bush and Talent we used in the last piece. No quote from the President. Do you have to run it through the approval process up there or are we o.k.?
--
Heather Shuvalov
Olsen, Delisi & Shuvalov
1609 Shoal Creek Blvd., #203
Austin, TX 78701

512/479-6602 x114

- SM-CollarCty.pdf

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_6UFWA003_WHO.TXT_1>

Fighting For Missouri Jobs And Missouri Families



■ As Chairman of the Small Business Committee, Jim succeeded in building bipartisan support on legislation that resulted in job creation, tax relief and economic growth.

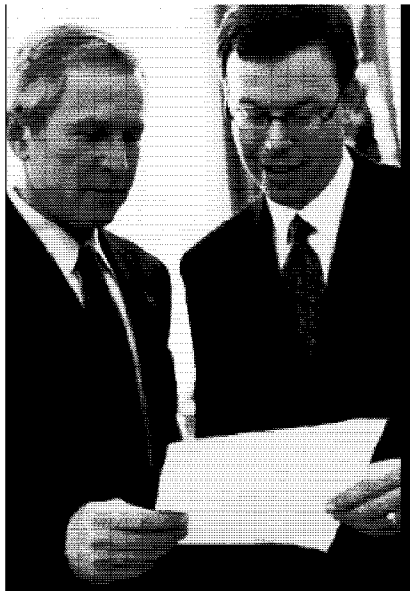
■ Jim is committed to helping create jobs and protecting our economic security by allowing workers and families to keep more of what they earn. He supports a permanent repeal of the death tax and marriage penalty.

Jim Talent Fights For Missouri First

■ Jim is an author of the historic, bipartisan Welfare Reform bill that became law in 1996. That law has helped millions of people move from government dependency into jobs and self-sufficiency.



Missouri Republican Party
P.O. box 73
Jefferson City, MO 65102



Jim Talent has a real plan that keeps government accountable. He focuses on shared accomplishment and real achievements.

Call Jim Talent at (314) 453-0344. Tell him you support real results that provide Missouri Families the security they need.

Non-profit Org.
U.S. Postage
PAID
Missouri
Republican Party

How Can We Give Missouri Families Economic Security And Keep Our Schools And Neighborhoods Safe?



REV_00152787

Jim Talent

Missouri Families First Plan



Jim Talent has a real plan for Missouri families.

His plan is built on the simple premise: everything government does or does not do today, gets passed on to our children and grandchildren.

Jim Talent's plan asks more from government. Safe schools and neighborhoods, affordable quality health care, jobs and economic security.



Jim's Plan: Restoring A Sense Of Security To Our Neighborhoods

■ Jim Talent has a plan to make help make our neighborhoods safe again. Jim's plan recognizes we need new ideas that come from parents, policy makers, community leaders and law enforcement to prevent the victimization of children.

■ Congressman Jim Talent co-sponsored Aimee's Law to make sure that those convicted of murder, rape or child molestation actually go to jail. And, he led the fight to increase the number of police officers on the street and fought for mandatory prison time for anyone who uses a gun in a crime.

■ He led efforts to stop domestic violence and he co-sponsored the Violence Against Women Act of 2000, which allocated $3.6 billion for shel ters and sexual assault prevention programs.

■ Jim voted for Project Exile providing $100 million to states to fight gun violence and would require mandatory prison time for violent offenders who use a gun in the commission of a crime.

A Compassionate Plan To Improve Education

■ Jim supports increased funding, restoring accountability and returning local control to Missouri's public schools. He understands parents and teachers know what's best for kids.

■ Jim believes every child deserves to learn in a safe environment. He continues to fight for legislation to protect students and teachers.

National Association of Police Organizations (NAPO) and the St. Louis Police Fraternal Organization (SLPFO) have endorsed Talent's plan to put more police on the street.

A Proven Record On Health Care

■ Jim Talent's mother lost her battle with breast cancer, so his plan is dedicated to initiatives increasing access to quality health care for women and children.

■ Over 40 million men, women and children go uninsured each year. Jim's plan expands health care access to millions of those currently uninsured – by giving them access to quality health care at no cost to the taxpayer.

■ Jim was an original co-sponsor of the Patients' Bill of Rights and led the bipartisan fight to provide access to quality, affordable health care and hold insurance companies accountable.

■ Jim's Missouri First Health Security Initiative provides affordable health care for Missouri's working families, improves health care for women and children and provides an immediate Medicare prescription drug benefit.



Paid for by the Missouri Republican Party, Harvey Tettlebaum, Treasurer.

REV_00152788

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>
Sent: 10/15/2002 6:41:51 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:15-OCT-2002 10:41:51.00
SUBJECT::
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
###### End Original ARMS Header ######

http://www.washingtonpost.com/wp-dyn/articles/A28047-2002Oct15.html
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: James A. Brown/OMB/EOP@EOP [OMB] <James A. Brown>;Patrick J. Bumatay/WHO /EOP@EOP [WHO] <Patrick J. Bumatay>
Sent: 10/15/2002 8:56:53 AM
Subject: : Re: UPDATE -- RE: LRM JAB363 - - OMB Request for Views on Bond Proposed Amendment to S2483 National Small Business Regulatory Assistance Act of 2002

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:15-OCT-2002 12:56:53.00
SUBJECT:: Re: UPDATE -- RE: LRM JAB363 - - OMB Request for Views on Bond Proposed Amendment to S2483 National Small Business Regulatory Assistance Act of 2002
TO:James A. Brown (CN=James A. Brown/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Our previous answer obviously included this lesser included version.

Patrick J. Bumatay
10/15/2002 12:53:25 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: UPDATE -- RE: LRM JAB363 - - OMB Request for Views on Bond Proposed Amendment to S2483 National Small Business Regulatory Assistance Act of 2002

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/15/2002 12:54 PM ----------

James A. Brown
10/15/2002 12:29:36 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: UPDATE -- RE: LRM JAB363 - - OMB Request for Views on Bond Proposed Amendment to S2483 National Small Business Regulatory Assistance Act of 2002

You may recall that the attachment circulated with this LRM had contained two amendments for your consideration -- the first, an amendment in the nature of a substitute, and the second, the other a less extensive 7page amendment. FYI, we now understand that S. 2483, as amended by the second (7 page) amendment will is the version of the bill that the Senate Small Business Committeee will seek to bring before the full Senate.

Message Sent
To:_____

CEQ LRM
epalrm@epamail.epa.gov @ inet
justice.lrm@usdoj.gov @ inet
dol-sol-leg@dol.gov @ inet
cla@sba.gov @ inet
llr@do.treas.gov @ inet

Message Copied
To:_____
Stephen S. McMillin/OMB/EOP@EOP
Alan B. Rhinesmith/OMB/EOP@EOP
James Boden/OMB/EOP@EOP
Yvette M. Dennis/OMB/EOP@EOP
Lorenzo Rasetti/OMB/EOP@EOP
David Rostker/OMB/EOP@EOP
Jefferson B. Hill/OMB/EOP@EOP
Paul R. Noe/OMB/EOP@EOP
Veronica Vargas/OMB/EOP@EOP
Philip J. Perry/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
David S. Addington/OVP/EOP@EOP
WHGC LRM
Mathew C. Blum/OMB/EOP@EOP
Michael D. Gerich/OMB/EOP@EOP
Donald R. Arbuckle/OMB/EOP@EOP
Aquiles F. Suarez/OPD/EOP@EOP
NEC LRM
Lauren C. Lobrano/OMB/EOP@EOP
Christine M. Burgeson/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Richard E. Green/OMB/EOP@EOP
John Graham/OMB/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Collister W. Johnson/WHO/EOP@EOP [WHO] <Collister W. Johnson>
Sent: 10/15/2002 6:21:54 AM
Subject: : Re: Fw: Talent Self Mailer
Attachments: P_6UFWA003_WHO.TXT_1.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:15-OCT-2002 10:21:54.00
SUBJECT:: Re: Fw: Talent Self Mailer
TO:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Approved. Thanks.

Collister W. Johnson
10/15/2002 09:38:03 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Fw: Talent Self Mailer

BK - for you sir - thank you!
c

---------- Forwarded by Collister W. Johnson/WHO/EOP on 10/15/2002 09:41 AM ----------

Coddy Johnson <cjohnson@georgewbush.com>
10/15/2002 09:11:27 AM
Record Type: Record

To: Collister W. Johnson/WHO/EOP@EOP
cc:
Subject: Fw: Talent Self Mailer

Talent Self Mailer
----- Original Message -----
From: Heather Shuvalov
To: Coddy Johnson
Sent: Monday, October 14, 2002 7:15 PM
Subject: Talent Self Mailer

Here's a self mailer with the same photo of President Bush and Talent we used in the last piece. No quote from the President. Do you have to run it through the approval process up there or are we o.k.?
--
Heather Shuvalov
Olsen, Delisi & Shuvalov
1609 Shoal Creek Blvd., #203
Austin, TX 78701

512/479-6602 x114

- SM-CollarCty.pdf

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_6UFWA003_WHO.TXT_1>

Fighting For Missouri Jobs And Missouri Families



■ As Chairman of the Small Business Committee, Jim succeeded in building bipartisan support on legislation that resulted in job creation, tax relief and economic growth.

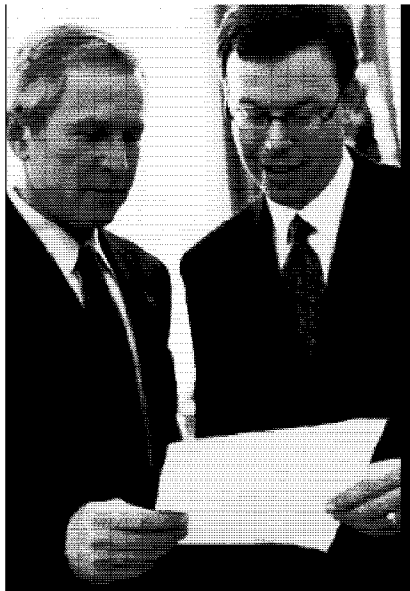
■ Jim is committed to helping create jobs and protecting our economic security by allowing workers and families to keep more of what they earn. He supports a permanent repeal of the death tax and marriage penalty.

Jim Talent Fights For Missouri First

■ Jim is an author of the historic, bipartisan Welfare Reform bill that became law in 1996. That law has helped millions of people move from government dependency into jobs and self-sufficiency.



Missouri Republican Party
P.O. box 73
Jefferson City, MO 65102



Jim Talent has a real plan that keeps government accountable. He focuses on shared accomplishment and real achievements.

Call Jim Talent at (314) 453-0344. Tell him you support real results that provide Missouri Families the security they need.

Non-profit Org.
U.S. Postage
PAID
Missouri
Republican Party

How Can We Give Missouri Families Economic Security And Keep Our Schools And Neighborhoods Safe?



REV_00152835

Jim Talent

Missouri Families First Plan



Jim Talent has a real plan for Missouri families.

His plan is built on the simple premise: everything government does or does not do today, gets passed on to our children and grandchildren.

Jim Talent's plan asks more from government. Safe schools and neighborhoods, affordable quality health care, jobs and economic security.



Jim's Plan: Restoring A Sense Of Security To Our Neighborhoods

■ Jim Talent has a plan to make help make our neighborhoods safe again. Jim's plan recognizes we need new ideas that come from parents, policy makers, community leaders and law enforcement to prevent the victimization of children.

■ Congressman Jim Talent co-sponsored Aimee's Law to make sure that those convicted of murder, rape or child molestation actually go to jail. And, he led the fight to increase the number of police officers on the street and fought for mandatory prison time for anyone who uses a gun in a crime.

■ He led efforts to stop domestic violence and he co-sponsored the Violence Against Women Act of 2000, which allocated $3.6 billion for shel ters and sexual assault prevention programs.

■ Jim voted for Project Exile providing $100 million to states to fight gun violence and would require mandatory prison time for violent offenders who use a gun in the commission of a crime.

A Compassionate Plan To Improve Education

■ Jim supports increased funding, restoring accountability and returning local control to Missouri's public schools. He understands parents and teachers know what's best for kids.

■ Jim believes every child deserves to learn in a safe environment. He continues to fight for legislation to protect students and teachers.

National Association of Police Organizations (NAPO) and the St. Louis Police Fraternal Organization (SLPFO) have endorsed Talent's plan to put more police on the street.

A Proven Record On Health Care

■ Jim Talent's mother lost her battle with breast cancer, so his plan is dedicated to initiatives increasing access to quality health care for women and children.

■ Over 40 million men, women and children go uninsured each year. Jim's plan expands health care access to millions of those currently uninsured – by giving them access to quality health care at no cost to the taxpayer.

■ Jim was an original co-sponsor of the Patients' Bill of Rights and led the bipartisan fight to provide access to quality, affordable health care and hold insurance companies accountable.

■ Jim's Missouri First Health Security Initiative provides affordable health care for Missouri's working families, improves health care for women and children and provides an immediate Medicare prescription drug benefit.



Paid for by the Missouri Republican Party, Harvey Tettlebaum, Treasurer.

REV_00152836

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Allison L. Riepenhoff/WHO/EOP@EOP [WHO] <Allison L. Riepenhoff>
CC: Patrick J. Bumatay/WHO/EOP [WHO] <Patrick J. Bumatay>;elizabeth n. camp/who/eop@eop [WHO] <elizabeth n. camp>;brett_m._kavanaugh@who.eop.gov [UNKNOWN] <brett_m._kavanaugh@who.eop.gov>
Sent: 10/15/2002 6:57:28 AM
Subject: : Re:
Attachments: P_SMIWA003_WHO.TXT_1.html

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:15-OCT-2002 10:57:28.00
SUBJECT:: Re:
TO:Allison L. Riepenhoff ( CN=Allison L. Riepenhoff/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
CC:elizabeth n. camp ( CN=elizabeth n. camp/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:brett_m._kavanaugh@who.eop.gov ( brett_m._kavanaugh@who.eop.gov [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

yes, fortunately, it appears he did not do a particularly thorough
survey (although he did track down some college friends of mine who
apparently showed some mercy)!




Allison L. Riepenhoff
10/15/2002 10:36:31 AM
Record Type: Record

To: Brett_M._Kavanaugh@who.eop.gov
cc: Patrick_J._Bumatay@who.eop.gov, Elizabeth N. Camp/WHO/EOP@EOP
Subject:

People find you charming? Really.... Good thing the didn't ask my
opinion.
---------------------- Forwarded by Allison L. Riepenhoff/WHO/EOP on
10/15/2002 10:31 AM ---------------------------



"Palmore, Jeff" <Jeff.Palmore@mail.house.gov>
10/15/2002 09:53:28 AM
Record Type: Record

To: Allison L. Riepenhoff/WHO/EOP@EOP
cc:
Subject:



Whitewater Lawyer Turns Proponent of Presidential Power
By Dana Milbank
Washington Post Staff Writer
Tuesday, October 15, 2002; Page A17
W here there is controversy, there is Brett Kavanaugh.
The legal fight after Vincent Foster's suicide? Kavanaugh led it.
```

The Starr report on Bill Clinton and Monica Lewinsky? Kavanaugh co-wrote it.
President Bush's order limiting the release of presidential papers? Kavanaugh drafted it.
The probe of Clinton's pardon of Marc Rich? Kavanaugh was in the thick of it.
The hotly contested judicial nominations of Priscilla Owens and Miguel Estrada? Kavanaugh coordinated them.
Indeed, for the past eight years, Kavanaugh, 37, has had a hand in virtually every high-profile legal battle involving presidential power. But for Bethesda native Kavanaugh, there's an intriguing twist: As a lawyer working for Kenneth Starr during the Whitewater investigation, he was devoted to restricting the powers of the president. Now, as a lawyer in the Bush White House, he is devoted to expanding the chief executive's powers.
Within a few years, Kavanaugh's work has gone from being described as "a serious blow to the presidency," as Clinton lawyer Lloyd Cutler put it, to promoting an "imperial presidency," as Rep. Henry A. Waxman (D-Calif.) put it.
The political opposition sees rank hypocrisy. "Kavanaugh, who once defended Starr's insatiable appetite for information on presidential doings as being not about politics but about the sanctity of the law, has apparently changed his tune," according to the liberal Nation magazine. "The ironies abound."
A cynical view of Kavanaugh's actions would be that he bases his legal reasoning on his conservative views -- that he supports broad powers for a Republican president and circumscribed powers for a Democratic president. A more charitable explanation is that Kavanaugh is merely a good lawyer, forcefully representing the best interests of his client at the moment.
Asked about Kavanaugh's ideology, Craig Lerner, a former colleague from the Whitewater investigation, replied: "He's a terrific lawyer."
Kavanaugh declined to be quoted in this article, but his administration colleagues say he has been consistent in the positions he took for Starr and now for Bush. Under Starr, they say, he was seeking to rein in presidential privileges in a criminal matter; as a counsel to Bush, he is seeking to defend presidential privileges in civil matters.
"The need for information in criminal proceedings is a trump card," said another former Starr lieutenant now in the Bush administration. "In civil litigation, a president gets the benefit of the doubt a lot more."
For the dozen former Starr underlings with high-level jobs in or appointments by the Bush administration -- including two in the White House and three in the Justice Department -- that explanation is something of a personal rationale. The real test will come if the Bush administration is facing a criminal probe. "You might have to reassess based on what Brett does at that point," the former Starr colleague said.
For a man with such a record of controversial cases, Kavanaugh has few enemies. Even legal opponents find him charming, and his friends say he has none of the hard edges of an ideologue. "I don't view him as a hard-core right-wing Republican, said Doug Gansler, a Democrat who is the Maryland state's attorney in Montgomery County. "He's seemingly much more moderate than his writings and words would suggest."
Mark Tuohey, who as a Starr deputy in 1994 and 1995 hired Kavanaugh, said he's "never viewed Brett as somebody of ideological purity. I always felt very comfortable that Brett looked at things through a legal prism, not a political prism." Still, said Tuohey, a Vinson & Elkins partner and self-described Democrat, it would be hard to say that the anti-Clinton work Kavanaugh did for Starr is ideologically consistent with the pro-Bush work he's now doing. "I think it's a stretch," Tuohey said.
After college and law school at Yale, Kavanaugh clerked for federal appellate judge Alex Kozinski and Supreme Court Justice Anthony M. Kennedy, and worked briefly at President George H.W. Bush's Justice Department.. In between and after stints on the Whitewater investigation, Kavanaugh spent about three years at Starr's firm, Kirkland & Ellis.
For Starr, Kavanaugh went to the Supreme Court in the Foster case, arguing, unsuccessfully, that the lawyer-client confidentiality expires at death. He

represented Starr in efforts to get Hillary Clinton's notes related to the Foster matter, to get lawyer Bruce Lindsey's notes in the Lewinsky affair, and to get testimony from Secret Service agents. His greatest fame, though, came as an author of the Starr report -- the legal piece, not the explicit narrative.

In the White House, Kavanaugh developed an executive order related to the Presidential Records Act, giving former presidents and their families more power to prevent the release of presidential papers. The order infuriated historians, and an effort to overturn it is underway in Congress.

Kavanaugh was also at the center of efforts to prevent Congress from getting
access to Clinton's pardon records and to documents related to the 1996 Clinton fundraising investigation. He's found himself at the center of Bush's judicial selections and a fight with the Senate Governmental Affairs committee over the administration's Enron documents. And he is involved in the liability provisions in the terrorism insurance legislation that have set off a fight on Capitol Hill.

Still, Kavanaugh finds time to speak at occasional gathering of the Federalist Society, a club of elite conservative lawyers. But for those who see that as evidence he's an ideologue, Kavanaugh also belongs to the American Bar Association -- the organization Kavanaugh's office has removed from the judicial selection process.

. 2002 The Washington Post Company

Jeff Palmore
Office of Congressman Ed Schrock (VA-02)
202-225-4215
http://schrock.house.gov

- att1.htm

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_SMIWA003_WHO.TXT_1>

Whitewater Lawyer Turns Proponent of Presidential Power

By Dana Milbank
Washington Post Staff Writer
Tuesday, October 15, 2002; Page A17

W here there is controversy, there is Brett Ka vanaugh.
The legal fight after Vincent Foster's suicide ? Kavanaugh led it.
The Starr report on Bill Clinton and Monica Le winsky? Kavanaugh co-wrote it.
President Bush's order limiting the release of presidential papers? Kavanaugh drafted it.
The probe of Clinton's pardon of Marc Rich? Ka vanaugh was in the thick of it.
The hotly contested judicial nominations of Pr iscilla Owens and Miguel Estrada? Kavanaugh coordinated them.
Indeed, for the past eight years, Kavanaugh, 3 7, has had a hand in virtually every high-profile legal battle involving presid ential power. But for Bethesda native Kavanaugh, there's an intriguing twist: A s a lawyer working for Kenneth Starr during the Whitewater investigation, he wa s devoted to restricting the powers of the president. Now, as a lawyer in the B ush White House, he is devoted to expanding the chief executive's powers.

Within a few years, Kavanaugh's work has gone f rom being described as "a serious blow to the presidency," as Clinton lawyer Lloyd Cutler put it, to promoting an "imperial presidency," a s Rep. Henry A. Waxman (D-Calif.) put it.

The political opposition sees rank hypocrisy. & quot;Kavanaugh, who once defended Starr's insatiable appetite for information o n presidential doings as being not about politics but about the sanctity of the law, has apparently changed his tune," according to the liberal Nation ma gazine. "The ironies abound." A cynical view of Kavanaugh's actions w ould be that he bases his legal reasoning on his conservative views -- that he supports broad powers for a Republican president and circumscribed powers for a Democratic president. A more charitable explanation is that Kavanaugh is merel y a good lawyer, forcefully representing the best interests of his client at th e moment. Asked about Kavanaugh's ideology, Craig Lerner, a former colleague fr om the Whitewater investigation, replied: "He's a terrific lawyer."

Kavanaugh declined to be quoted in this article , but his administration colleagues say he has been consistent in the positions he took for Starr and now for Bush. Under Starr, they say, he was seeking to r ein in presidential privileges in a criminal matter; as a counsel to Bush, he i s seeking to defend presidential privileges in civil matters.

"The need for information in criminal proc eedings is a trump card," said another former Starr lieutenant now in the Bush administration. "In civil litigation, a president gets the benefit of the doubt a lot more."

For the dozen former Starr underlings with high -level jobs in or appointments by the Bush administration -- including two in t he White House and three in the Justice Department -- that explanation is somet hing of a personal rationale. The real test will come if the Bush administratio n is

facing a criminal probe. "You might have to reassess based on what Br ett does at that point," the former Starr colleague said.

For a man with such a record of controversial c ases, Kavanaugh has few enemies. Even legal opponents find him charming, and hi s friends say he has none of the hard edges of an ideologue. "I don't view him as a hard-core right-wing Republican, said Doug Gansler, a Democrat who is the Maryland state's attorney in Montgomery County. "He's seemingly much more moderate than his writings and words would suggest."

Mark Tuohey, who as a Starr deputy in 1994 and 1995 hired Kavanaugh, said he's "never viewed Brett as somebody of ideolog ical purity. I always felt very comfortable that Brett looked at things through a legal prism, not a political prism." Still, said Tuohey, a Vinson & Elkins partner and self-described Democrat, it would be hard to say that the a nti-Clinton work Kavanaugh did for Starr is ideologically consistent with the p ro-Bush work he's now doing. "I think it's a stretch," Tuohey said.

After college and law school at Yale, Kavanaugh clerked for federal appellate judge Alex Kozinski and Supreme Court Justice An thony M. Kennedy, and worked briefly at President George H.W. Bush's Justice De partment. In between and after stints on the Whitewater investigation, Kavanaug h spent about three years at Starr's firm, Kirkland & Ellis.

For Starr, Kavanaugh went to the Supreme Court in the Foster case, arguing, unsuccessfully, that the lawyer-client confidentia lity expires at death. He represented Starr in efforts to get Hillary Clinton's notes related to the Foster matter, to get lawyer Bruce Lindsey's notes in the Lewinsky affair, and to get testimony from Secret Service agents. His greatest fame, though, came as an author of the Starr report -- the legal piece, not th e explicit narrative.

In the White House, Kavanaugh developed an exec utive order related to the Presidential Records Act, giving former presidents a nd their families more power to prevent the release of presidential papers. The order infuriated historians, and an effort to overturn it is underway in Congr ess.

Kavanaugh was also at the center of efforts to prevent Congress from getting access to Clinton's pardon records and to documen ts related to the 1996 Clinton fundraising investigation. He's found himself at the center of Bush's judicial selections and a fight with the Senate Governmen tal Affairs committee over the administration's Enron documents. And he is invo lved in the liability provisions in the terrorism insurance legislation that ha ve set off a fight on Capitol Hill.

Still, Kavanaugh finds time to speak at occasio nal gathering of the Federalist Society, a club of elite conservative lawyers. But for those who see that as evidence he's an ideologue, Kavanaugh also belong s to the American Bar Association -- the organization Kavanaugh's office has re moved from the judicial selection process.

2002 The Washington Post Company< /FONT>

Jeff Palmore

Office of Congressman Ed Schrock (VA- 02)

202-225-4215

http://schrock.house.gov

From: CN=Allison L. Riepenhoff/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/15/2002 7:21:18 AM
Subject: : Re:
Attachments: P_0CKWA003_WHO.TXT_1.html

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Allison L. Riepenhoff (CN=Allison L. Riepenhoff/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:15-OCT-2002 11:21:18.00
SUBJECT:: Re:
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Too bad. Maybe I will contact him and let him know what people really
think of you!

Brett M. Kavanaugh
10/15/2002 10:55:16 AM
Record Type: Record

To: Allison L. Riepenhoff/WHO/EOP@EOP
cc: brett_m._kavanaugh@who.eop.gov, patrick_j._bumatay@who.eop.gov,
elizabeth n. camp/who/eop@eop
bcc:
Subject: Re:

yes, fortunately, it appears he did not do a particularly thorough
survey (although he did track down some college friends of mine who
apparently showed some mercy)!

Allison L. Riepenhoff
10/15/2002 10:36:31 AM
Record Type: Record

To: Brett_M._Kavanaugh@who.eop.gov
cc: Patrick_J._Bumatay@who.eop.gov, Elizabeth N. Camp/WHO/EOP@EOP
Subject:

People find you charming? Really.... Good thing the didn't ask my
opinion.
---------------------- Forwarded by Allison L. Riepenhoff/WHO/EOP on
10/15/2002 10:31 AM ---------------------------

"Palmore, Jeff" <Jeff.Palmore@mail.house.gov>
10/15/2002 09:53:28 AM
Record Type: Record

To: Allison L. Riepenhoff/WHO/EOP@EOP
cc:
Subject:

Whitewater Lawyer Turns Proponent of Presidential Power

By Dana Milbank
Washington Post Staff Writer
Tuesday, October 15, 2002; Page A17

W here there is controversy, there is Brett Kavanaugh.

The legal fight after Vincent Foster's suicide? Kavanaugh led it.

The Starr report on Bill Clinton and Monica Lewinsky? Kavanaugh co-wrote it.

President Bush's order limiting the release of presidential papers? Kavanaugh drafted it.

The probe of Clinton's pardon of Marc Rich? Kavanaugh was in the thick of it.

The hotly contested judicial nominations of Priscilla Owens and Miguel Estrada? Kavanaugh coordinated them.

Indeed, for the past eight years, Kavanaugh, 37, has had a hand in virtually every high-profile legal battle involving presidential power. But for Bethesda native Kavanaugh, there's an intriguing twist: As a lawyer working for Kenneth Starr during the Whitewater investigation, he was devoted to restricting the powers of the president. Now, as a lawyer in the Bush White House, he is devoted to expanding the chief executive's powers.

Within a few years, Kavanaugh's work has gone from being described as "a serious blow to the presidency," as Clinton lawyer Lloyd Cutler put it, to promoting an "imperial presidency," as Rep. Henry A. Waxman (D-Calif.) put it.

The political opposition sees rank hypocrisy. "Kavanaugh, who once defended Starr's insatiable appetite for information on presidential doings as being not about politics but about the sanctity of the law, has apparently changed his tune," according to the liberal Nation magazine. "The ironies abound." A cynical view of Kavanaugh's actions would be that he bases his legal reasoning on his conservative views -- that he supports broad powers for a Republican president and circumscribed powers for a Democratic president. A more charitable explanation is that Kavanaugh is merely a good lawyer, forcefully representing the best interests of his client at the moment.

Asked about Kavanaugh's ideology, Craig Lerner, a former colleague from the Whitewater investigation, replied: "He's a terrific lawyer."

Kavanaugh declined to be quoted in this article, but his administration colleagues say he has been consistent in the positions he took for Starr and now for Bush. Under Starr, they say, he was seeking to rein in presidential privileges in a criminal matter; as a counsel to Bush, he is seeking to defend presidential privileges in civil matters.

"The need for information in criminal proceedings is a trump card," said another former Starr lieutenant now in the Bush administration. "In civil litigation, a president gets the benefit of the doubt a lot more."

For the dozen former Starr underlings with high-level jobs in or appointments by the Bush administration -- including two in the White House and three in the Justice Department -- that explanation is something of a personal rationale. The real test will come if the Bush administration is facing a criminal probe. "You might have to reassess based on what Brett does at that point," the former Starr colleague said.

For a man with such a record of controversial cases, Kavanaugh has few enemies. Even legal opponents find him charming, and his friends say he has none of the hard edges of an ideologue. "I don't view him as a hard-core right-wing Republican, said Doug Gansler, a Democrat who is the Maryland state's attorney in Montgomery County. "He's seemingly much more moderate than his writings and words would suggest."

Mark Tuohey, who as a Starr deputy in 1994 and 1995 hired Kavanaugh, said he's "never viewed Brett as somebody of ideological purity. I always felt very comfortable that Brett looked at things through a legal prism, not a political prism." Still, said Tuohey, a Vinson & Elkins partner and self-described Democrat, it would be hard to say that the anti-Clinton work

Kavanaugh did for Starr is ideologically consistent with the pro-Bush work he's now doing. "I think it's a stretch," Tuohey said.
After college and law school at Yale, Kavanaugh clerked for federal appellate judge Alex Kozinski and Supreme Court Justice Anthony M. Kennedy, and worked briefly at President George H.W. Bush's Justice Department.. In between and after stints on the Whitewater investigation, Kavanaugh spent about three years at Starr's firm, Kirkland & Ellis.
For Starr, Kavanaugh went to the Supreme Court in the Foster case, arguing, unsuccessfully, that the lawyer-client confidentiality expires at death. He represented Starr in efforts to get Hillary Clinton's notes related to the Foster matter, to get lawyer Bruce Lindsey's notes in the Lewinsky affair, and to get testimony from Secret Service agents. His greatest fame, though, came as an author of the Starr report -- the legal piece, not the explicit narrative.
In the White House, Kavanaugh developed an executive order related to the Presidential Records Act, giving former presidents and their families more power to prevent the release of presidential papers. The order infuriated historians, and an effort to overturn it is underway in Congress.
Kavanaugh was also at the center of efforts to prevent Congress from getting
access to Clinton's pardon records and to documents related to the 1996 Clinton fundraising investigation. He's found himself at the center of Bush's judicial selections and a fight with the Senate Governmental Affairs committee over the administration's Enron documents. And he is involved in the liability provisions in the terrorism insurance legislation that have set off a fight on Capitol Hill.
Still, Kavanaugh finds time to speak at occasional gathering of the Federalist Society, a club of elite conservative lawyers. But for those who see that as evidence he's an ideologue, Kavanaugh also belongs to the American Bar Association -- the organization Kavanaugh's office has removed from the judicial selection process.
¸ 2002 The Washington Post Company

Jeff Palmore
Office of Congressman Ed Schrock (VA-02)
202-225-4215
http://schrock.house.gov

- att1.htm

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_0CKWA003_WHO.TXT_1>

Whitewater Lawyer Turns Proponent of Presidential Power

By Dana Milbank
Washington Post Staff Writer
Tuesday, October 15, 2002; Page A17

W here there is controversy, there is Brett Ka vanaugh.
The legal fight after Vincent Foster's suicide ? Kavanaugh led it.
The Starr report on Bill Clinton and Monica Le winsky? Kavanaugh co-wrote it.
President Bush's order limiting the release of presidential papers? Kavanaugh drafted it.
The probe of Clinton's pardon of Marc Rich? Ka vanaugh was in the thick of it.
The hotly contested judicial nominations of Pr iscilla Owens and Miguel Estrada? Kavanaugh coordinated them.
Indeed, for the past eight years, Kavanaugh, 3 7, has had a hand in virtually every high-profile legal battle involving presid ential power. But for Bethesda native Kavanaugh, there's an intriguing twist: A s a lawyer working for Kenneth Starr during the Whitewater investigation, he wa s devoted to restricting the powers of the president. Now, as a lawyer in the B ush White House, he is devoted to expanding the chief executive's powers.

Within a few years, Kavanaugh's work has gone f rom being described as "a serious blow to the presidency," as Clinton lawyer Lloyd Cutler put it, to promoting an "imperial presidency," a s Rep. Henry A. Waxman (D-Calif.) put it.

The political opposition sees rank hypocrisy. & quot;Kavanaugh, who once defended Starr's insatiable appetite for information o n presidential doings as being not about politics but about the sanctity of the law, has apparently changed his tune," according to the liberal Nation ma gazine. "The ironies abound." A cynical view of Kavanaugh's actions w ould be that he bases his legal reasoning on his conservative views -- that he supports broad powers for a Republican president and circumscribed powers for a Democratic president. A more charitable explanation is that Kavanaugh is merel y a good lawyer, forcefully representing the best interests of his client at th e moment. Asked about Kavanaugh's ideology, Craig Lerner, a former colleague fr om the Whitewater investigation, replied: "He's a terrific lawyer."

Kavanaugh declined to be quoted in this article , but his administration colleagues say he has been consistent in the positions he took for Starr and now for Bush. Under Starr, they say, he was seeking to r ein in presidential privileges in a criminal matter; as a counsel to Bush, he i s seeking to defend presidential privileges in civil matters.

"The need for information in criminal proc eedings is a trump card," said another former Starr lieutenant now in the Bush administration. "In civil litigation, a president gets the benefit of the doubt a lot more."

For the dozen former Starr underlings with high -level jobs in or appointments by the Bush administration -- including two in t he White House and three in the Justice Department -- that explanation is somet hing of a personal rationale. The real test will come if the Bush administratio n is

facing a criminal probe. "You might have to reassess based on what Br ett does at that point," the former Starr colleague said.

For a man with such a record of controversial c ases, Kavanaugh has few enemies. Even legal opponents find him charming, and hi s friends say he has none of the hard edges of an ideologue. "I don't view him as a hard-core right-wing Republican, said Doug Gansler, a Democrat who is the Maryland state's attorney in Montgomery County. "He's seemingly much more moderate than his writings and words would suggest."

Mark Tuohey, who as a Starr deputy in 1994 and 1995 hired Kavanaugh, said he's "never viewed Brett as somebody of ideolog ical purity. I always felt very comfortable that Brett looked at things through a legal prism, not a political prism." Still, said Tuohey, a Vinson & Elkins partner and self-described Democrat, it would be hard to say that the a nti-Clinton work Kavanaugh did for Starr is ideologically consistent with the p ro-Bush work he's now doing. "I think it's a stretch," Tuohey said.

After college and law school at Yale, Kavanaugh clerked for federal appellate judge Alex Kozinski and Supreme Court Justice An thony M. Kennedy, and worked briefly at President George H.W. Bush's Justice De partment. In between and after stints on the Whitewater investigation, Kavanaug h spent about three years at Starr's firm, Kirkland & Ellis.

For Starr, Kavanaugh went to the Supreme Court in the Foster case, arguing, unsuccessfully, that the lawyer-client confidentia lity expires at death. He represented Starr in efforts to get Hillary Clinton's notes related to the Foster matter, to get lawyer Bruce Lindsey's notes in the Lewinsky affair, and to get testimony from Secret Service agents. His greatest fame, though, came as an author of the Starr report -- the legal piece, not th e explicit narrative.

In the White House, Kavanaugh developed an exec utive order related to the Presidential Records Act, giving former presidents a nd their families more power to prevent the release of presidential papers. The order infuriated historians, and an effort to overturn it is underway in Congr ess.

Kavanaugh was also at the center of efforts to prevent Congress from getting access to Clinton's pardon records and to documen ts related to the 1996 Clinton fundraising investigation. He's found himself at the center of Bush's judicial selections and a fight with the Senate Governmen tal Affairs committee over the administration's Enron documents. And he is invo lved in the liability provisions in the terrorism insurance legislation that ha ve set off a fight on Capitol Hill.

Still, Kavanaugh finds time to speak at occasio nal gathering of the Federalist Society, a club of elite conservative lawyers. But for those who see that as evidence he's an ideologue, Kavanaugh also belong s to the American Bar Association -- the organization Kavanaugh's office has re moved from the judicial selection process.

2002 The Washington Post Company< /FONT>

Jeff Palmore

Office of Congressman Ed Schrock (VA- 02)

202-225-4215

http://schrock.house.gov

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/15/2002 8:55:37 AM
Subject: : UPDATE -- RE: LRM JAB363 - - OMB Request for Views on Bond Proposed Amendment to S2483 National Small Business Regulatory Assistance Act of 2002

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:15-OCT-2002 12:55:37.00
SUBJECT:: UPDATE -- RE: LRM JAB363 - - OMB Request for Views on Bond Proposed Amendment to S2483 National Small Business Regulatory Assistance Act of 2002
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/15/2002 12:54 PM ----------

James A. Brown
10/15/2002 12:29:36 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: UPDATE -- RE: LRM JAB363 - - OMB Request for Views on Bond Proposed Amendment to S2483 National Small Business Regulatory Assistance Act of 2002

You may recall that the attachment circulated with this LRM had contained two amendments for your consideration -- the first, an amendment in the nature of a substitute, and the second, the other a less extensive 7page amendment. FYI, we now understand that S. 2483, as amended by the second (7 page) amendment will is the version of the bill that the Senate Small Business Committeee will seek to bring before the full Senate.

Message Sent
To:_____
CEQ LRM
epalrm@epamail.epa.gov @ inet
justice.lrm@usdoj.gov @ inet
dol-sol-leg@dol.gov @ inet
cla@sba.gov @ inet
llr@do.treas.gov @ inet

Message Copied
To:_____
Stephen S. McMillin/OMB/EOP@EOP
Alan B. Rhinesmith/OMB/EOP@EOP
James Boden/OMB/EOP@EOP
Yvette M. Dennis/OMB/EOP@EOP
Lorenzo Rasetti/OMB/EOP@EOP
David Rostker/OMB/EOP@EOP
Jefferson B. Hill/OMB/EOP@EOP
Paul R. Noe/OMB/EOP@EOP
Veronica Vargas/OMB/EOP@EOP
Philip J. Perry/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
David S. Addington/OVP/EOP@EOP

WHGC LRM
Mathew C. Blum/OMB/EOP@EOP
Michael D. Gerich/OMB/EOP@EOP
Donald R. Arbuckle/OMB/EOP@EOP
Aquiles F. Suarez/OPD/EOP@EOP
NEC LRM
Lauren C. Lobrano/OMB/EOP@EOP
Christine M. Burgeson/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Richard E. Green/OMB/EOP@EOP
John Graham/OMB/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: James A. Brown/OMB/EOP@EOP [OMB] <James A. Brown>;Patrick J. Bumatay/WHO /EOP@EOP [WHO] <Patrick J. Bumatay>
Sent: 10/15/2002 8:56:53 AM
Subject: : Re: UPDATE -- RE: LRM JAB363 - - OMB Request for Views on Bond Proposed Amendment to S2483 National Small Business Regulatory Assistance Act of 2002

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:15-OCT-2002 12:56:53.00
SUBJECT:: Re: UPDATE -- RE: LRM JAB363 - - OMB Request for Views on Bond Proposed Amendment to S2483 National Small Business Regulatory Assistance Act of 2002
TO:James A. Brown (CN=James A. Brown/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Our previous answer obviously included this lesser included version.

Patrick J. Bumatay
10/15/2002 12:53:25 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: UPDATE -- RE: LRM JAB363 - - OMB Request for Views on Bond Proposed Amendment to S2483 National Small Business Regulatory Assistance Act of 2002

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/15/2002 12:54 PM ----------

James A. Brown
10/15/2002 12:29:36 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: UPDATE -- RE: LRM JAB363 - - OMB Request for Views on Bond Proposed Amendment to S2483 National Small Business Regulatory Assistance Act of 2002

You may recall that the attachment circulated with this LRM had contained two amendments for your consideration -- the first, an amendment in the nature of a substitute, and the second, the other a less extensive 7page amendment. FYI, we now understand that S. 2483, as amended by the second (7 page) amendment will is the version of the bill that the Senate Small Business Committeee will seek to bring before the full Senate.

Message Sent
To:_____

CEQ LRM
epalrm@epamail.epa.gov @ inet
justice.lrm@usdoj.gov @ inet
dol-sol-leg@dol.gov @ inet
cla@sba.gov @ inet
llr@do.treas.gov @ inet

Message Copied
To:_____
Stephen S. McMillin/OMB/EOP@EOP
Alan B. Rhinesmith/OMB/EOP@EOP
James Boden/OMB/EOP@EOP
Yvette M. Dennis/OMB/EOP@EOP
Lorenzo Rasetti/OMB/EOP@EOP
David Rostker/OMB/EOP@EOP
Jefferson B. Hill/OMB/EOP@EOP
Paul R. Noe/OMB/EOP@EOP
Veronica Vargas/OMB/EOP@EOP
Philip J. Perry/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
David S. Addington/OVP/EOP@EOP
WHGC LRM
Mathew C. Blum/OMB/EOP@EOP
Michael D. Gerich/OMB/EOP@EOP
Donald R. Arbuckle/OMB/EOP@EOP
Aquiles F. Suarez/OPD/EOP@EOP
NEC LRM
Lauren C. Lobrano/OMB/EOP@EOP
Christine M. Burgeson/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Richard E. Green/OMB/EOP@EOP
John Graham/OMB/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Rebecca Seidel) (Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) [UNKNOWN] <Rebecca_Seidel@judiciary.senate.gov>
CC: paul.taylor@mail.house.gov [UNKNOWN] <paul.taylor@mail.house.gov>
Sent: 10/15/2002 11:42:37 AM
Subject: : Re: :WSJ.com - Irrational Legal Exuberance

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:15-OCT-2002 15:42:37.00
SUBJECT:: Re: :WSJ.com - Irrational Legal Exuberance
TO:Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) (
Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) [UNKNOWN])
READ:UNKNOWN
CC:paul.taylor@mail.house.gov (paul.taylor@mail.house.gov [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

excellent piece.

Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel)
10/15/2002 03:35:08 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, paul.taylor@mail.house.gov
cc:
Subject: :WSJ.com - Irrational Legal Exuberance

This from today's WSJ in case you hadn't seen it - on punitive damage awards -
makes the point somewhat re the dispute with terrorism insurance.

_____Forward Header_____

REVIEW & OUTLOOK
Irrational Legal Exuberance

Last week's Nobel Prize for economics was shared by Daniel Kahneman for work
exploring irrational decision-making. It will surprise no one that one of Mr.
Kahneman's current interests has been, to quote the second line of a recent
paper, "to investigate the sources of arbitrariness in punitive damage awards."

The academic community has pretty much come to a consensus that the system
produces crazy results. In a criminal case, the jury's job is limited to
deciding a single issue, guilt or innocence, and this works fine. Forcing the
same citizens to make open-ended, contextless decisions on punitive damages is a
recipe for capriciousness, and that's exactly what study after study has found.

Even liberal scholars like Cass Sunstein (one of Mr. Kahneman's co-authors) have
joined the chorus for reform, though chances remain thin as long as trial

lawyers -- er, Democrats -- control the U.S. Senate. Last week a long-awaited terrorism insurance bill was hung up once again over Democratic insistence that trial lawyers be allowed to seek punitive damages against building owners or airlines or other companies that are victims of terrorist attacks. Meanwhile, the courts are struggling to make sense of existing cases.

In the term just begun, the U.S. Supreme Court will hear an appeal of a Utah jury award in favor of a policyholder who caused a car crash and who sued State Farm for refusing to settle a case brought by the victim. State Farm eventually paid $186,000 to the man's victim, but a jury still awarded the policyholder $145 million in punitive damages for the aggravation of having to sue his insurance company.

Or take another case that provides a window into jury deliberations. It involves a rollover accident in a secondhand, 15-year-old Ford Bronco, driven by a teenager who had been driving all night and swerved to miss another vehicle. The Bronco's roof greatly exceeded federal safety standards for passenger cars (there was no standard for light trucks at the time), yet a jury found Ford was 78% at fault for the deaths of three passengers and awarded $290 million in punitive damages.

The trial judge immediately threw out the finding and ordered a new trial amid clear signs of juror misconduct. One juror had repeatedly cited evidence not presented in the trial, and a second juror admitted to making up her mind largely on the basis of a dream. Both jurors were crucial to reaching the necessary two-thirds majority to produce the tainted result. Even so, a California appeals court second-guessed the trial judge and upheld the original $290 million. Ford is now appealing to the California Supreme Court.

It's true that punitive damages constitute less than 5% of total awards, and some argue we'd be better off trying to bring order to pain-and-suffering awards, which exhibit nearly as much random variation but account for about half of all money awarded. The risk of unpredictable punitive awards, however, is what drives corporate defendants to settle even bogus cases. That's why the plaintiffs' bar loves punitive damages. The zenith of absurdity was last month's $28 billion award in the case of a smoker who, despite the urgings of her loved ones and doctor, persisted in a two-pack-a-day habit, saying she was an "adult."

Hardly anyone doesn't recognize the need for tort reform, with the exception of Ralph Nader, the trial lawyers and their Senate chattels. Punitive damages is an obvious place to start bringing rationality back into the legal system. Is anyone in the Bush Administration still interested?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>
Sent: 10/15/2002 6:36:12 PM
Subject: : Re: Sarah Taylor ACYPL

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:15-OCT-2002 22:36:12.00
SUBJECT:: Re: Sarah Taylor ACYPL
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I apologize for being unavailable. A true emergency arose. I will explain.

.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>
Sent: 10/15/2002 6:36:12 PM
Subject: : Re: Sarah Taylor ACYPL

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:15-OCT-2002 22:36:12.00
SUBJECT:: Re: Sarah Taylor ACYPL
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I apologize for being unavailable. A true emergency arose. I will explain.

.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Hana F. Brilliant/WHO /EOP@EOP [WHO] <Hana F. Brilliant>
Sent: 10/16/2002 5:06:04 AM
Subject: : Re: judicial selection binder

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:16-OCT-2002 09:06:04.00
SUBJECT:: Re: judicial selection binder
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Hana F. Brilliant (CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Just circulate it as is and

.

----- Original Message -----
From:Hana F. Brilliant/WHO/EOP
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 10/16/2002 07:35:45 AM
Subject: judicial selection binder

Morning Brett. Please give me your additions to the judicial selection binder as soon as you can.
Thank you,
-Hana

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: vschwartz@shb.com @ inet [UNKNOWN] <vschwartz@shb.com @ inet>
CC: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
Sent: 10/16/2002 6:01:53 AM
Subject: : test

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:16-OCT-2002 10:01:53.00
SUBJECT:: test
TO:vschwartz@shb.com @ inet ( vschwartz@shb.com @ inet [ UNKNOWN ] )
READ:UNKNOWN
CC:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
Sent: 10/16/2002 6:17:45 AM
Subject: : NUTS!!

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:16-OCT-2002 10:17:45.00
SUBJECT:: NUTS!!
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Hana F. Brilliant/WHO /EOP@EOP [WHO] <Hana F. Brilliant>
Sent: 10/16/2002 5:06:04 AM
Subject: : Re: judicial selection binder

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:16-OCT-2002 09:06:04.00
SUBJECT:: Re: judicial selection binder
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Hana F. Brilliant (CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Just circulate it as is and

.

----- Original Message -----
From:Hana F. Brilliant/WHO/EOP
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 10/16/2002 07:35:45 AM
Subject: judicial selection binder

Morning Brett. Please give me your additions to the judicial selection binder as soon as you can.
Thank you,
-Hana

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: vschwartz@shb.com @ inet [UNKNOWN] <vschwartz@shb.com @ inet>
CC: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
Sent: 10/16/2002 6:01:53 AM
Subject: : test

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:16-OCT-2002 10:01:53.00
SUBJECT:: test
TO:vschwartz@shb.com @ inet ( vschwartz@shb.com @ inet [ UNKNOWN ] )
READ:UNKNOWN
CC:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/16/2002 6:19:38 AM
Subject: : Re: Possible Unanimous Consents
Attachments: P_1AQXA003_WHO.TXT_1.wpd; P_1AQXA003_WHO.TXT_2.wpd

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:16-OCT-2002 10:19:38.00
SUBJECT:: Re: Possible Unanimous Consents
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/16/2002 10:17 AM ----------

Helgard C. Walker
10/16/2002 10:03:35 AM
Record Type: Record

To: Irene Kho/OMB/EOP@EOP, Patrick J. Bumatay/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Possible Unanimous Consents

Irene, I am not sure why you sent these to me. Matters of an LRM nature need to be routed to Patrick Bumatay of our office for internal distribution. Thanks.

Irene Kho
10/16/2002 09:55:00 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: Mark J. Schwartz/OMB/EOP@EOP, Richard E. Green/OMB/EOP@EOP
Subject: Possible Unanimous Consents

Good morning,
The following bills are scheduled for House floor vote today under unanimous consent. Please let us know if the Administration has any problems with these bills and also what position the Administration have on them. Your promptly response would greatly be appreciated it.

H.R. 5603 - To amend the Internal Revenue Code of 1986 to suspend the tax-exempt status of designated terrorist organizations, and for other purposes.

H.R. 5596 - To amend section 527 of the Internal Revenue Code of 1986 to eliminate notification and return requirements for State and local party committees and candidate committees and avoid duplicate reporting by certain State and local political committees of information

required to be reported and made publicly available under
State law, and for
other purposes.

Message Sent
To:_____
karen.dorsey@do.treas.gov @ inet
James D. Foster/OMB/EOP@EOP
Robert S. Bray/OMB/EOP@EOP
Diana L. Schacht/OPD/EOP@EOP
Helgard C. Walker/WHO/EOP@EOP
OHS LRM

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_1AQXA003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_1AQXA003_WHO.TXT_2>

To amend the Internal Revenue Code of 1986 to suspend the tax-exempt status of designated terrorist organizations, and for other purposes. (Introduced in House)

HR 5603 IH

107th CONGRESS

2d Session

H. R. 5603

To amend the Internal Revenue Code of 1986 to suspend the tax-exempt status of designated terrorist organizations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 10, 2002

Mr. THUNE (for himself, Mr. RAMSTAD, and Mrs. JOHNSON of Connecticut) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to suspend the tax-exempt status of designated terrorist organizations, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SUSPENSION OF TAX-EXEMPT STATUS OF DESIGNATED TERRORIST ORGANIZATIONS.

(a) IN GENERAL- Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

`(p) SUSPENSION OF TAX-EXEMPT STATUS OF DESIGNATED TERRORIST ORGANIZATIONS-

`(1) IN GENERAL- The exemption from tax under subsection (a) with respect to any organization shall be suspended during any period in which the organization is a designated terrorist organization.

`(2) DESIGNATED TERRORIST ORGANIZATION- For purposes of this subsection, the term `designated terrorist organization' means an organization which--

`(A) is designated as a terrorist organization by an Executive order under the authority of--

`(i) section 212(a)(3) or 219 of the Immigration and Nationality Act,

`(ii) the International Emergency Economic Powers Act, or

`(iii) section 5 of the United Nations Participation Act, or

`(B) is a person listed in or designated by an Executive order as supporting terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989).

`(3) DENIAL OF DEDUCTION- No deduction shall be allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for any contribution to an organization during the period such organization is a designated terrorist organization.

`(4) DENIAL OF ADMINISTRATIVE OR JUDICIAL CHALLENGE OF SUSPENSION OR DENIAL OF DEDUCTION- Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a determination or listing under paragraph (2), or a denial of a deduction under paragraph (3) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

`(5) ERRONEOUS DESIGNATION-

`(A) IN GENERAL- If a designation of an organization pursuant to 1 or more of the provisions of law described in paragraph (2) is determined to be erroneous pursuant to such law, such designation (and any suspension under paragraph (1) occurring pursuant thereto) shall be treated as having not been made for purposes of this title.

`(B) WAIVER OF LIMITATIONS- If credit or refund of any overpayment of tax which occurs by operation of subparagraph (A) is prevented at any time before the close of the 1-year period beginning on the date of the determination of such credit or refund by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.'.

(b) NOTICE OF SUSPENSIONS- If the tax exemption of any organization is suspended under section 501(p) of the Internal Revenue Code of 1986 (as added by subsection (a)), the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.

(c) EFFECTIVE DATE- The amendments made by this section shall take effect on the date of the enactment of this Act.

HR 5596 IH

107th CONGRESS

2d Session

H. R. 5596

To amend section 527 of the Internal Revenue Code of 1986 to eliminate notification and return requirements for State and local party committees and candidate committees and avoid duplicate reporting by certain State and local political committees of information required to be reported and made publicly available under State law, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 10, 2002

Mr. BRADY of Texas (for himself, Mr. DOGGETT, Mr. VITTER, Mr. POMEROY, Mr. SHAYS, and Mr. MEEHAN) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend section 527 of the Internal Revenue Code of 1986 to eliminate notification and return requirements for State and local party committees and candidate committees and avoid duplicate reporting by certain State and local political committees of information required to be reported and made publicly available under State law, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTION FOR CERTAIN STATE AND LOCAL POLITICAL COMMITTEES FROM NOTIFICATION REQUIREMENTS.

(a) EXEMPTION FROM NOTIFICATION REQUIREMENTS- Paragraph (5) of section 527(i) of the Internal Revenue Code of 1986 (relating to organizations must notify Secretary that they are section 527 organizations) is amended by striking `or' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting `, or', and by adding at the end the following:

`(C) which is a political committee of a State or local candidate or which is a State or local committee of a political party.'.

(b) EFFECTIVE DATE- The amendments made by subsection (a) shall take effect as if included in the amendments made by Public Law 106-230.

SEC. 2. EXEMPTION FOR CERTAIN STATE AND LOCAL POLITICAL COMMITTEES FROM REPORTING REQUIREMENTS.

(a) IN GENERAL- Section 527(j)(5) of the Internal Revenue Code of 1986 (relating to coordination with other requirements) is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

`(C) to any organization which is a qualified State or local political organization,'.

(b) QUALIFIED STATE OR LOCAL POLITICAL ORGANIZATION- Subsection (e) of section 527 of the Internal Revenue Code of 1986 (relating to other definitions) is amended by adding at the end the following new paragraph:

`(5) QUALIFIED STATE OR LOCAL POLITICAL ORGANIZATION-

`(A) IN GENERAL- The term `qualified State or local political organization' means a political organization--

`(i) all the exempt functions of which are solely for the purposes of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any State or local public office or office in a State or local political organization,

`(ii) which is subject to State law that requires the organization to report (and it so reports)--

`(I) information regarding each separate expenditure from and contribution to such organization, and

`(II) information regarding the person who makes such contribution or receives such expenditure,

which would otherwise be required to be reported under this section, and

`(iii) with respect to which the reports referred to in clause (ii) are (I) made public by the agency with which such reports are filed, and (II) made publicly available for inspection by the organization in the manner described in section 6104(d).

`(B) CERTAIN STATE LAW DIFFERENCES DISREGARDED- An organization shall not be treated as failing to meet the requirements of subparagraph (A)(ii) solely by reason of 1 or more of the following:

`(i) The minimum amount of any expenditure or contribution required to be reported under State law is not more than $300 greater than the minimum amount required to be reported under subsection (j).

`(ii) The State law does not require the organization to identify 1 or more of the following:

`(I) The employer of any person who makes contributions to the organization.

`(II) The occupation of any person who makes contributions to the organization.

`(III) The employer of any person who receives expenditures from the organization.

`(IV) The occupation of any person who receives expenditures from the organization.

`(V) The purpose of any expenditure of the organization.

`(VI) The date any contribution was made to the organization.

`(VII) The date of any expenditure of the organization.

`(C) DE MINIMIS ERRORS- An organization shall not fail to be treated as a qualified State or local political organization solely because such organization makes de minimis errors in complying with the State reporting requirements and the public inspection requirements described in subparagraph (A) as long as the organization corrects such errors within a reasonable period after the organization becomes aware of such errors.

`(D) PARTICIPATION OF FEDERAL CANDIDATE OR OFFICE HOLDER- The term `qualified State or local political organization' shall not include any organization otherwise described in subparagraph (A) if a candidate for nomination or election to Federal elective public office or an individual who holds such office--

`(i) controls or materially participates in the direction of the organization,

`(ii) solicits contributions to the organization (unless the Secretary determines that such solicitations resulted in de minimis contributions and were made without the prior knowledge and consent, whether explicit or implicit, of the organization or its officers, directors, agents, or employees), or

`(iii) directs, in whole or in part, disbursements by the organization.'.

(c) EFFECTIVE DATE- The amendments made by this section shall take effect as if included in the amendments made by Public Law 106-230.

SEC. 3. EXEMPTION FROM ANNUAL RETURN REQUIREMENTS.

(a) INCOME TAX RETURNS REQUIRED ONLY FOR POLITICAL ORGANIZATION TAXABLE INCOME- Paragraph (6) of section 6012(a) of the Internal Revenue Code of 1986 (relating to persons required to make returns of income) is amended by striking `or which has' and all that follows through `section)'.

(b) INCOME TAX RETURNS NOT SUBJECT TO DISCLOSURE-

(1) DISCLOSURE BY THE SECRETARY- Subsection (b) of section 6104 of such Code (relating to disclosure by the Secretary of annual information returns) is amended by striking `6012(a)(6),'.

(2) PUBLIC INSPECTION- Subsection (d) of section 6104 of such Code (relating to public inspection of certain annual returns) is amended--

(A) in paragraph (1)(A)(i) by striking `or section 6012(a)(6) (relating to returns by political organizations)', and

(B) in subparagraph (2) by striking `or section 6012(a)(6)'.

(c) INFORMATION RETURNS- Subsection (g) of section 6033 of such Code (relating to returns required by political organizations) is amended to read as follows:

`(g) RETURNS REQUIRED BY POLITICAL ORGANIZATIONS-

`(1) IN GENERAL- This section shall apply to a political organization (as defined by section 527(e)(1)) which has gross receipts of $25,000 or more for the taxable year. In the case of a political organization which is a qualified State or local political organization (as defined in section 527(e)(5)), the preceding sentence shall be applied by substituting `$100,000' for `$25,000'.

`(2) ANNUAL RETURNS- Political organizations described in paragraph (1) shall file an annual return--

`(A) containing the information required, and complying with the other requirements, under subsection (a)(1) for organizations exempt from taxation under section 501(a), with such modifications as the Secretary considers appropriate to require only information which is necessary for the purposes of carrying out section 527, and

`(B) containing such other information as the Secretary deems necessary to carry out the provisions of this subsection.

`(3) MANDATORY EXCEPTIONS FROM FILING- Paragraph (2) shall not apply to an organization--

`(A) which is a State or local committee of a political party, or political committee of a State or local candidate,

`(B) which is a caucus or association of State or local officials,

`(C) which is an authorized committee (as defined in section 301(6) of the Federal Election Campaign Act of 1971) of a candidate for Federal office,

`(D) which is a national committee (as defined in section 301(14) of the Federal Election Campaign Act of 1971) of a political party,

`(E) which is a United States House of Representatives or United States Senate campaign committee of a political party committee,

`(F) which is required to report under the Federal Election Campaign Act of 1971 as a political committee (as defined in section 301(4) of such Act), or

`(G) to which section 527 applies for the taxable year solely by reason of subsection (f)(1) of such section.

`(4) DISCRETIONARY EXCEPTION- The Secretary may relieve any organization required under paragraph (2) to file an information return from filing such a return if the Secretary determines that such filing is not necessary to the efficient administration of the internal revenue laws.'.

(d) EFFECTIVE DATE- The amendments made by this section shall take effect as if included in the amendments made by Public Law 106-230.

SEC. 4. NOTIFICATION OF INTERACTION OF REPORTING REQUIREMENTS.

(a) IN GENERAL- The Secretary of the Treasury, in consultation with the Federal Election Commission, shall publicize--

(1) the effect of the amendments made by this Act, and

(2) the interaction of requirements to file a notification or report under section 527 of the Internal Revenue Code of 1986 and reports under the Federal Election Campaign Act of 1971.

(b) INFORMATION- Information provided under subsection (a) shall be included in any appropriate form, instruction, notice, or other guidance issued to the public by the Secretary of the Treasury or the Federal Election Commission regarding reporting requirements of political organizations (as defined in section 527 of the Internal Revenue Code of 1986) or reporting requirements under the Federal Election Campaign Act of 1971.

SEC. 5. WAIVER OF FILING AMOUNTS.

(a) WAIVER OF FILING AMOUNTS- Section 527 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

`(k) AUTHORITY TO WAIVE- The Secretary may waive all or any portion of the--

`(1) tax assessed on an organization by reason of the failure of the organization to comply with the requirements of subsection (i), or

`(2) amount imposed under subsection (j) for a failure to comply with the requirements thereof,

on a showing that such failure was due to reasonable cause and not due to willful neglect.'.

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall apply to any tax assessed or amount imposed after June 30, 2000.

SEC. 6. MODIFICATIONS TO SECTION 527 ORGANIZATION DISCLOSURE PROVISIONS.

(a) UNSEGREGATED FUNDS NOT TO AVOID TAX- Paragraph (4) of section 527(i) of the Internal Revenue Code of 1986 (relating to failure to notify) is amended by adding at the end the following new sentence: `For purposes of the preceding sentence, the term `exempt function income' means any amount described in a subparagraph of subsection (c)(3), whether or not segregated for use for an exempt function.'.

(b) PROCEDURES FOR ASSESSMENT AND COLLECTION OF AMOUNTS- Paragraph (1) of section 527(j) of the Internal Revenue Code of 1986 (relating to required disclosure of expenditures and contributions) is amended by adding at the end the following new sentence: `For purposes of subtitle F, the amount imposed by this paragraph shall be assessed and collected in the same manner as penalties imposed by section 6652(c).'.

(c) DUPLICATE WRITTEN FILINGS NOT REQUIRED- Subparagraph (A) of section 527(i)(1) of the Internal Revenue Code of 1986 is amended by striking `, electronically and in writing,' and inserting `electronically'.

(d) APPLICATION OF FRAUD PENALTY- Section 7207 of the Internal Revenue Code of 1986 (relating to fraudulent returns, statements, and other documents) is amended by striking `pursuant to subsection (b) of section 6047 or pursuant to subsection (d) of section 6104' and inserting `pursuant to section 6047(b), section 6104(d), or subsection (i) or (j) of section 527'.

(e) CONTENTS AND FILING OF REPORT-

(1) CONTENTS- Section 527(j)(3) of the Internal Revenue Code of 1986 (relating to contents of report) is amended--

(A) by inserting `, date, and purpose' after `The amount' in subparagraph (A), and

(B) by inserting `and date' after `the amount' in subparagraph (B).

(2) ELECTRONIC FILING- Section 527(j) of such Code is amended by adding at the end the following new paragraph:

`(7) ELECTRONIC FILING- Any report required under paragraph (2) with respect to any calendar year shall be filed in electronic form if the organization has, or has reason to expect to have, contributions exceeding $50,000 or expenditures exceeding $50,000 in such calendar year.'.

(3) ELECTRONIC FILING AND ACCESS OF REQUIRED DISCLOSURES- Section 527 of

such Code, as amended by section 5(a), is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

`(k) PUBLIC AVAILABILITY OF NOTICES AND REPORTS-

`(1) IN GENERAL- The Secretary shall make any notice described in subsection (i)(1) or report described in subsection (j)(7) available for public inspection on the Internet not later than 48 hours after such notice or report has been filed (in addition to such public availability as may be made under section 6104(d)(7)).

`(2) ACCESS- The Secretary shall make the entire database of notices and reports which are made available to the public under paragraph (1) searchable by the following items (to the extent the items are required to be included in the notices and reports):

`(A) Names, States, zip codes, custodians of records, directors, and general purposes of the organizations.

`(B) Entities related to the organizations.

`(C) Contributors to the organizations.

`(D) Employers of such contributors.

`(E) Recipients of expenditures by the organizations.

`(F) Ranges of contributions and expenditures.

`(G) Time periods of the notices and reports.

Such database shall be downloadable.'.

(f) CONTENTS OF NOTICE- Section 527(i)(3) of the Internal Revenue Code of 1986 (relating to contents of notice) is amended by striking `and' at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

`(E) whether the organization intends to claim an exemption from the requirements of subsection (j) or section 6033, and'.

(g) TIMING OF NOTICE IN CASE OF MATERIAL CHANGE-

(1) IN GENERAL- Subparagraph (B) of section 527(i)(1) of the Internal Revenue Code of 1986 (relating to general notification requirement) is amended by inserting `or, in the case of any material change in the information required under paragraph (3), for the period beginning on the date on which the material change occurs and ending on the date on which such notice is given' after `given'.

(2) TIME TO GIVE NOTICE- Section 527(i)(2) of the Internal Revenue Code of 1986 (relating to time to give notice) is amended by inserting `or, in the case of any material change in the information required under paragraph (3), not later than 30 days after such material change' after `established'.

(3) EFFECT OF FAILURE- Paragraph (4) of section 527(i) of the Internal Revenue Code of 1986 (relating to effect of failure) is amended by inserting before the period at the end the following: `or, in the case of a failure relating to a material change, by taking into account such income and deductions only during the period beginning on the date on which the material change occurs and ending on the date on which notice is given under this subsection'.

(h) EFFECTIVE DATES-

(1) SUBSECTIONS (a) AND (b)- The amendments made by subsections (a) and (b) shall apply to failures occurring on or after the date of the enactment of this Act.

(2) SUBSECTION (c)- The amendments made by subsection (c) shall take effect as if included in the amendments made by Public Law 106-230.

(3) SUBSECTION (d)- The amendment made by subsection (d) shall apply to reports and notices required to be filed on or after the date of the enactment of this Act.

(4) SUBSECTIONS (e)(1) AND (f)- The amendments made by subsections (e)(1) and (f) shall apply to reports and notices required to be filed more than 30 days after the date of the enactment of this Act.

(5) SUBSECTIONS (e)(2) AND (e)(3)- The amendments made by subsections (e)(2) and (e)(3) shall apply to reports required to be filed on or after June 30, 2003.

(6) SUBSECTION (g)-

(A) IN GENERAL- The amendments made by subsection (g) shall apply to material changes on or after the date of the enactment of this Act.

(B) TRANSITION RULE- In the case of a material change occurring during the 30-day period beginning on the date of the enactment of this Act, a notice under section 527(i) of the Internal Revenue Code of 1986 (as amended by this Act) shall not be required to be filed under such section before the later of--

(i) 30 days after the date of such material change, or

(ii) 45 days after the date of the enactment of this Act.

SEC. 7. EFFECT OF AMENDMENTS ON EXISTING DISCLOSURES.

Notices, reports, or returns that were required to be filed with the Secretary of the Treasury

before the date of the enactment of the amendments made by this Act and that were disclosed by the Secretary of the Treasury consistent with the law in effect at the time of disclosure shall remain subject on and after such date to the disclosure provisions of section 6104 of the Internal Revenue Code of 1986.

END

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Dana T Milbank <milbankd@washpost.com>
Sent: 10/16/2002 8:15:47 AM
Subject: : Re: >Check_Subject

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:16-OCT-2002 12:15:47.00
SUBJECT:: Re: >Check_Subject
TO:Dana T Milbank <milbankd@washpost.com> (Dana T Milbank <milbankd@washpost.com> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Appreciate the effort you spent on this. No problem on the picture; I figured they would use that one. Thanks much.

Dana T Milbank <milbankd@washpost.com>
10/15/2002 09:44:14 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Re: >Check_Subject

hope you liked.

photo folks said they couldn't use the mag photo because of reproduction rights and headshot was too small or some such. i'll send them back to you at oeob.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Karen N. Blank/OMB/EOP@EOP [OMB] <Karen N. Blank>;Patrick J. Bumatay/WHO /EOP@EOP [WHO] <Patrick J. Bumatay>
Sent: 10/16/2002 10:17:53 AM
Subject: : Re: Review requested by 4pm today -- HR 5640 (to ensure the right of Federal employees to display the U.S. flag)

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:16-OCT-2002 14:17:53.00
SUBJECT:: Re: Review requested by 4pm today -- HR 5640 (to ensure the right of Federal employees to display the U.S. flag)
TO:Karen N. Blank (CN=Karen N. Blank/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

No objection

Patrick J. Bumatay
10/16/2002 02:12:24 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Review requested by 4pm today -- HR 5640 (to ensure the right of Federal employees to display the U.S. flag)

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/16/2002 02:13 PM ----------

From: Karen N. Blank on 10/16/2002 02:00:57 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: Ingrid M. Schroeder/OMB/EOP, Robert J. Pellicci/OMB/EOP@EOP
Subject: Review requested by 4pm today -- HR 5640 (to ensure the right of Federal employees to display the U.S. flag)

HR 5640 (Rep. Weldon), as introduced 10/10 (bill language is below), may be considered on the House floor under UC at any time. Please respond by 4:00 PM today (10/16) with any objections. Thanks.

FYI, this request also has been sent to: OPM, DoD, Justice, and GSA.

American Flag Pride Act (Introduced in House)
HR 5640 IH
107th CONGRESS
2d Session

H. R. 5640
To amend title 5, United States Code, to ensure that the right of Federal employees to display the flag of the United States not be abridged.
IN THE HOUSE OF REPRESENTATIVES
OCTOBER 10, 2002
Mr. WELDON of Florida (for himself and Mr. HALL of Texas) introduced the following bill; which was referred to the Committee on Government Reform

A BILL
To amend title 5, United States Code, to ensure that the right of Federal employees to display the flag of the United States not be abridged.
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.
This Act may be cited as the `American Flag Pride Act'.
SEC. 2. EMPLOYEES' RIGHT TO DISPLAY THE FLAG OF THE UNITED STATES.
(a) IN GENERAL- Chapter 72 of title 5, United States Code, is amended by adding at the end the following:
`SUBCHAPTER III--EMPLOYEES' RIGHT TO DISPLAY THE FLAG OF THE UNITED STATES
`Sec. 7221. Definitions
`For purposes of this subchapter--
`(1) the term `flag' has the same meaning as is given the term `flag, standard, colors, or ensign' under section 3 of title 4; and
`(2) the term `Federal employee' includes a person under a personal services contract with the United States (including an individual employed by such a person).
`Sec. 7222. Employees' right to display the flag of the United States
`No agency, officer, or other authority of the Government of the United States shall adopt or enforce any policy, or enter into any agreement, that would restrict or prevent a Federal employee from displaying the flag of the United States, or a pin of that flag, on his or her person, in his or her workplace, or on a Government vehicle operated by such employee.
`Sec. 7223. Limitations
`Nothing in this subchapter shall be considered to permit any display or use which would be inconsistent with--
`(1) any provision of chapter 1 of title 4 or any rule or custom pertaining to the proper display or use of the flag (as established in or under such chapter or otherwise applicable provisions of law); or
`(2) any reasonable restriction pertaining to the time, place, or manner of displaying the flag of the United States which is necessary--
`(A) for reasons of workplace safety; or
`(B) to prevent damage to public property.'.
(b) CLERICAL AMENDMENT- The analysis for chapter 72 of title 5, United States Code, is amended by adding at the end the following:
`SUBCHAPTER III--EMPLOYEES' RIGHT TO DISPLAY THE FLAG OF THE UNITED STATES
`7221. Definitions.
`7222. Employees' right to display the flag of the United States.
`7223. Limitations.'.

Message Sent
To:_____
WHGC LRM
Matthew J. Schneider/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Lisa B. Fairhall/OMB/EOP@EOP
Lauren Uher/OMB/EOP@EOP
S. A. Noe/OMB/EOP@EOP
David J. Haun/OMB/EOP@EOP
Cameron M. Leuthy/OMB/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>
Sent: 10/16/2002 11:17:48 AM
Subject: : Re: Calio travel

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:16-OCT-2002 15:17:48.00
SUBJECT:: Re: Calio travel
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

This sounds like definite official trip.

Benjamin A. Powell
10/16/2002 03:14:43 PM
Record Type: Record

To: Michael J. Conway/WHO/EOP@EOP
cc: Brett M. Kavanaugh/WHO/EOP@EOP, Brent D. Greenfield/WHO/EOP@EOP, Katherine M. Prendergast/WHO/EOP@EOP
Subject: Calio travel

Mike --

I wanted to follow up on our conversation concerning Nicholas Calio's travel to speak at the Business-Government Relations Council (BGRC). The TEFOS form as submitted stated the nature of the meeting was "political." However, in our discussion, you indicated that in fact it was not a partisan event and he was speaking in his official capacity to the attendees to give a legislative update. A review of the the draft agenda indicates that members from both parties are invited/attending and presenting on panels. The box for "political" was checked for no particular reason. There was no indication that the trip is in fact political as defined in the relevant regulations. See 5 CFR 2635.204(f) (political activity is taking active part in in political management or political campaigns); 41 CFR 304-1.8(a)(2) (exempting from official travel regulations travel performed for "partisan rather than an official purpose").

We did not find the "Business-Government Relations Council" listed as a "political organization," see http://eforms.irs.gov/search_result.asp , in IRS records of filings of political organizations. In our conversation you indicated that in fact you did not believe that the BGRC was a political organization.

Based on our conversation and further review of facts, I changed the nature of the trip from "political" to "official" with your agreement. Please confirm with Mr. Calio that the trip is in fact official and the facts stated above are correct. If in fact the trip is "political", please let me know immediately as we may have to address additional issues.

Please call me if you have any questions at 456-7909.

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/16/2002 12:55:22 PM
Subject: : LRM JAB365 - - Small Business Administration Report on S2483 National Small Business Regulatory Assistance Act of 2002
Attachments: P_W6GYA003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:16-OCT-2002 16:55:22.00
SUBJECT:: LRM JAB365 - - Small Business Administration Report on S2483 National Small Business Regulatory Assistance Act of 2002
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/16/2002 04:54 PM ----------

From: James A. Brown on 10/16/2002 04:54:52 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: LRM JAB365 - - Small Business Administration Report on S2483 National Small Business Regulatory Assistance Act of 2002

- OMB Letter on S.2483.doc
SBA letter

LRM ID: JAB365
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Wednesday, October 16, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: James A. Brown
PHONE: (202)395-3473 FAX: (202)395-3109
SUBJECT: Small Business Administration Report on S2483 National Small Business Regulatory Assistance Act of 2002

DEADLINE: 10:00 A.M. Friday, October 18, 2002
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: The Small Business Administration has previously expressed its concerns about this bill. This letter would make clear that amendments which have been proposed to the bill (see JAB 363) do not eliminate those concerns.

DISTRIBUTION LIST

AGENCIES:
019-Council on Environmental Quality - David Anderson - (202) 395-3113
033-Environmental Protection Agency - Edward Krenik - (202) 564-5200
061-JUSTICE - Daniel Bryant - (202) 514-2141
062-LABOR - Robert A. Shapiro - (202) 693-5500
107-Small Business Administration - Richard Spence - (202) 205-6700
118-TREASURY - Thomas M. McGivern - (202) 622-2317

EOP:
Stephen S. McMillin
Alan B. Rhinesmith
James Boden
Yvette M. Dennis
Lorenzo Rasetti
David Rostker
Jefferson B. Hill
Paul R. Noe
Veronica Vargas
Philip J. Perry
Matthew J. Schneider
John F. Wood
David S. Addington
WHGC LRM
Mathew C. Blum
Michael D. Gerich
Donald R. Arbuckle
Aquiles F. Suarez
NEC LRM
Lauren C. Lobrano
Christine M. Burgeson
James J. Jukes
Richard E. Green
John Graham
LRM ID: JAB365 SUBJECT: Small Business Administration Report on
S2483 National Small Business Regulatory Assistance Act of 2002

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: James A. Brown Phone: 395-3473 Fax: 395-3109
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-3454

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Sent
To:_____
CEQ LRM
epalrm@epamail.epa.gov
justice.lrm@usdoj.gov
dol-sol-leg@dol.gov
cla@sba.gov @ inet
llr@do.treas.gov

Message Copied
To:_____
Stephen S. McMillin/OMB/EOP@EOP
Alan B. Rhinesmith/OMB/EOP@EOP
James Boden/OMB/EOP@EOP
Yvette M. Dennis/OMB/EOP@EOP
Lorenzo Rasetti/OMB/EOP@EOP
David Rostker/OMB/EOP@EOP
Jefferson B. Hill/OMB/EOP@EOP
Paul R. Noe/OMB/EOP@EOP
Veronica Vargas/OMB/EOP@EOP
Philip J. Perry/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
David S. Addington/OVP/EOP@EOP
WHGC LRM
Mathew C. Blum/OMB/EOP@EOP
Michael D. Gerich/OMB/EOP@EOP
Donald R. Arbuckle/OMB/EOP@EOP
Aquiles F. Suarez/OPD/EOP@EOP
NEC LRM
Lauren C. Lobrano/OMB/EOP@EOP
Christine M. Burgeson/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Richard E. Green/OMB/EOP@EOP
John Graham/OMB/EOP@EOP
Marina.Laverdy@sba.gov
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_W6GYA003_WHO.TXT_1>

The Honorable John F. Kerry
Chairman
Committee on Small Business and Entrepreneurship
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

The purpose of this letter is to express the U. S. Small Business Administration's (SBA) concerns with S. 2483, the National Small Business Regulatory Assistance Act of 2002 as Senator Bond proposes to amend it.

As I previously stated in my letter of July 23, 2002, regarding S. 2483, the Small Business Development Centers (SBDCs) are already legislatively mandated to provide regulatory training and counseling, and a number of SBA's other functions to small businesses. The Office of Advocacy and the Ombudsman, also fulfill parts of the role envisioned by the proposed legislation. We remain concerned that the legislation, as amended, continues to appear to create for the SBDCs a role that is unnecessarily duplicative of their existing mandate and of other Federal functions. The proposal would authorize an additional $5 million annually for the SBDC program, and given current budget constraints, it is difficult for SBA to support additional appropriations for the SBDC program to fund activities most of which are already authorized to be conducted either by the SBDCs or by other entities.

S. 2483, as amended, also raises liability concerns, as I discussed in my previous letter. There are legal issues of potential liability for the grantees and SBA if an SBDC or affiliate gives wrong regulatory compliance advice to a small business resulting in loss, penalty, fine, or criminal indictment of the business. Furthermore, issues of confidentiality and privacy are also raised since provisions in the act would permit the grantees to withhold information on the substance of the counseling, as well as the businesses and entrepreneurs counseled using Federal funds appropriated to the SBA.

Thank you for the opportunity to express my concerns with S.2483 as amended.

Sincerely,

Hector V. Barretto
Administrator

Cc: The Honorable Christopher S. Bond

REV_00152943

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Matthew Kirk/WHO/EOP@EOP [WHO] <Matthew Kirk>
Sent: 10/16/2002 6:18:00 PM
Subject: : may have an easier solution on blocked assets; please call 456-7984 or 365-4120; thanks

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:16-OCT-2002 22:18:00.00
SUBJECT:: may have an easier solution on blocked assets; please call 456-7984 or 365-4120;
thanks
TO:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Matthew Kirk ( CN=Matthew Kirk/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Rebecca Seidel) (Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) [UNKNOWN] <Rebecca_Seidel@judiciary.senate.gov>
Sent: 10/16/2002 6:18:01 PM
Subject: : Re:question

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:16-OCT-2002 22:18:01.00
SUBJECT:: Re:question
TO:Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) (
Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

answer to that is definitely no.

Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel)
10/16/2002 08:03:37 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Re:question

question- so it is because I kept telling you not to fold that Hatch's
office
wasn't involved - you thought we wouldn't be compromising? really, just
curious.

_____Reply Separator_____
Subject: call me at 456-7984 or 202-365-4120
Author: Brett_M._Kavanaugh@who.eop.gov
Date: 10/16/2002 7:41 PM

Received: from mailsims1.senate.gov ([156.33.203.10]) by
mailexch.senate.gov
with SMTP
(IMA Internet Exchange 3.13) id 006F1B22; Wed, 16 Oct 2002 19:46:30 -0400
Received: from navgw2.senate.gov by mailsims1.senate.gov
(Sun Internet Mail Server sims.3.5.2000.03.23.18.03.p10)
with SMTP id <0H43000RNM1RD4@mailsims1.senate.gov> for
Rebecca_Seidel@judiciary.senate.gov; Wed, 16 Oct 2002 19:47:35 -0400 (EDT)
Received: from eop1.eop.gov ([198.137.241.51])
by navgw2.senate.gov (SAVSMTP 3.0.0.44) with SMTP id M2002101619465704060
for
<Rebecca_Seidel@judiciary.senate.gov>; Wed, 16 Oct 2002 19:46:57 -0400
Received: from CONVERSION-DAEMON by EOP.GOV (PMDF V5.2-33 #41062)
id <01KNQT7VZ4VK9X5RCK@EOP.GOV> for Rebecca_Seidel@judiciary.senate.gov;
Wed,
16 Oct 2002 19:44:46 -0400 (EDT)
Received: from mhub2.eop.gov ([198.137.241.10])
by EOP.GOV (PMDF V5.2-33 #41062) with ESMTP id
<01KNQT7OUKFK9UTGIW@EOP.GOV>
for Rebecca_Seidel@judiciary.senate.gov; Wed, 16 Oct 2002 19:44:36 -0400
(EDT)

Received: from sgeop03.eop.gov ([165.119.1.37])
by mhub.eop.gov (PMDF V6.1-1 #41014)
with SMTP id <01KNQT728QAI9GVS06@mhub.eop.gov> for
Rebecca_Seidel@judiciary.senate.gov; Wed, 16 Oct 2002 19:44:05 -0400 (EDT)
Received: by sgeop03.eop.gov(Lotus SMTP MTA v4.6.7 (934.1 12-30-1999))
id 85256C54.00825E24 ; Wed, 16 Oct 2002 19:43:57 -0400
Date: Wed, 16 Oct 2002 19:41:45 -0400
From: Brett_M._Kavanaugh@who.eop.gov
Subject: call me at 456-7984 or 202-365-4120
To: Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel)
Message-id: <85256C54.00825CF4.00@sgeop03.eop.gov>
MIME-version: 1.0
Content-type: TEXT/PLAIN; CHARSET=US-ASCII
X-Lotus-FromDomain: EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Matthew Kirk/WHO/EOP@EOP [WHO] <Matthew Kirk>
Sent: 10/16/2002 5:15:30 PM
Subject: : Re: blocked assets

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:16-OCT-2002 21:15:30.00
SUBJECT:: Re: blocked assets
TO:Matthew Kirk ( CN=Matthew Kirk/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

What's happening. I need to keep nsc posted.

.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Jonathan R. Scharfen/NSC/EOP@EOP [NSC] <Jonathan R. Scharfen>
Sent: 10/16/2002 6:18:00 PM
Subject: : solution?

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:16-OCT-2002 22:18:00.00
SUBJECT:: solution?
TO:Jonathan R. Scharfen ( CN=Jonathan R. Scharfen/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
###### End Original ARMS Header ######

One solution seems to be to take the House bill language and
delete "on an asset-by-asset basis." Is that correct?
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Matthew Kirk/WHO/EOP@EOP [WHO] <Matthew Kirk>
Sent: 10/16/2002 6:18:00 PM
Subject: : may have an easier solution on blocked assets; please call 456-7984 or 365-4120; thanks

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:16-OCT-2002 22:18:00.00
SUBJECT:: may have an easier solution on blocked assets; please call 456-7984 or 365-4120;
thanks
TO:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Matthew Kirk ( CN=Matthew Kirk/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Jonathan R. Scharfen/NSC/EOP@EOP [NSC] <Jonathan R. Scharfen>;John B. Bellinger/NSC /EOP@EOP [NSC] <John B. Bellinger>
CC: Matthew Kirk/WHO/EOP@EOP [WHO] <Matthew Kirk>
Sent: 10/16/2002 7:47:29 PM
Subject: : report from team on blocked assets

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:16-OCT-2002 23:47:29.00
SUBJECT:: report from team on blocked assets
TO:Jonathan R. Scharfen ( CN=Jonathan R. Scharfen/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
CC:Matthew Kirk ( CN=Matthew Kirk/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

It is highly unlikely that conference will delete the provisions
on blocked assets based on comments by Senator Dodd and Rep. Oxley
tonight. Therefore, Dr. Rice should be prepared to call them (and Sen.
Sarbanes) and make the case against the provisions -- but also then say
that, at a minimum, the President needs the ability to waive these
provisions in his appropriate, cabined discretion. She should be prepared
then to propose and discuss the compromise language that Jock has given to
me (and Matt). Matt, please let us know if you have any additional
insights.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>
Sent: 10/17/2002 4:35:50 AM
Subject: : Re: Where's Wald(o)man?

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:17-OCT-2002 08:35:50.00
SUBJECT:: Re: Where's Wald(o)man?
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Yes. Not great.

.

----- Original Message -----
From:H. Christopher Bartolomucci/WHO/EOP
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 10/17/2002 08:18:57 AM
Subject: Where's Wald(o)man?

Did the Judge say anything about the PA Senators meeting?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Collister W. Johnson/WHO/EOP@EOP [WHO] <Collister W. Johnson>
Sent: 10/17/2002 6:32:55 AM
Subject: : Re: Fw: Talent Self Mailer
Attachments: P_7G1ZA003_WHO.TXT_1.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:17-OCT-2002 10:32:55.00
SUBJECT:: Re: Fw: Talent Self Mailer
TO:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

This was approved. Thanks.

Collister W. Johnson
10/15/2002 09:38:03 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Fw: Talent Self Mailer

BK - for you sir - thank you!
c

---------- Forwarded by Collister W. Johnson/WHO/EOP on 10/15/2002 09:41 AM ----------

Coddy Johnson <cjohnson@georgewbush.com>
10/15/2002 09:11:27 AM
Record Type: Record

To: Collister W. Johnson/WHO/EOP@EOP
cc:
Subject: Fw: Talent Self Mailer

Talent Self Mailer
----- Original Message -----
From: Heather Shuvalov
To: Coddy Johnson
Sent: Monday, October 14, 2002 7:15 PM
Subject: Talent Self Mailer

Here's a self mailer with the same photo of President Bush and Talent we used in the last piece. No quote from the President. Do you have to run it through the approval process up there or are we o.k.?
--
Heather Shuvalov
Olsen, Delisi & Shuvalov
1609 Shoal Creek Blvd., #203
Austin, TX 78701

512/479-6602 x114

- SM-CollarCty.pdf

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_7G1ZA003_WHO.TXT_1>

Fighting For Missouri Jobs And Missouri Families



■ As Chairman of the Small Business Committee, Jim succeeded in building bipartisan support on legislation that resulted in job creation, tax relief and economic growth.

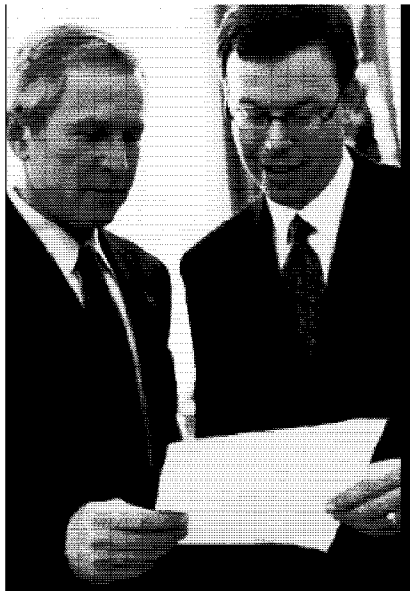
■ Jim is committed to helping create jobs and protecting our economic security by allowing workers and families to keep more of what they earn. He supports a permanent repeal of the death tax and marriage penalty.

Jim Talent Fights For Missouri First

■ Jim is an author of the historic, bipartisan Welfare Reform bill that became law in 1996. That law has helped millions of people move from government dependency into jobs and self-sufficiency.



Missouri Republican Party
P.O. box 73
Jefferson City, MO 65102



Jim Talent has a real plan that keeps government accountable. He focuses on shared accomplishment and real achievements.

Call Jim Talent at (314) 453-0344. Tell him you support real results that provide Missouri Families the security they need.

Non-profit Org.
U.S. Postage
PAID
Missouri
Republican Party

How Can We Give Missouri Families Economic Security And Keep Our Schools And Neighborhoods Safe?



REV_00152969

Jim Talent

Missouri Families First Plan



Jim Talent has a real plan for Missouri families.

His plan is built on the simple premise: everything government does or does not do today, gets passed on to our children and grandchildren.

Jim Talent's plan asks more from government. Safe schools and neighborhoods, affordable quality health care, jobs and economic security.



Jim's Plan: Restoring A Sense Of Security To Our Neighborhoods

■ Jim Talent has a plan to make help make our neighborhoods safe again. Jim's plan recognizes we need new ideas that come from parents, policy makers, community leaders and law enforcement to prevent the victimization of children.

■ Congressman Jim Talent co-sponsored Aimee's Law to make sure that those convicted of murder, rape or child molestation actually go to jail. And, he led the fight to increase the number of police officers on the street and fought for mandatory prison time for anyone who uses a gun in a crime.

■ He led efforts to stop domestic violence and he co-sponsored the Violence Against Women Act of 2000, which allocated $3.6 billion for shel ters and sexual assault prevention programs.

■ Jim voted for Project Exile providing $100 million to states to fight gun violence and would require mandatory prison time for violent offenders who use a gun in the commission of a crime.

A Compassionate Plan To Improve Education

■ Jim supports increased funding, restoring accountability and returning local control to Missouri's public schools. He understands parents and teachers know what's best for kids.

■ Jim believes every child deserves to learn in a safe environment. He continues to fight for legislation to protect students and teachers.

National Association of Police Organizations (NAPO) and the St. Louis Police Fraternal Organization (SLPFO) have endorsed Talent's plan to put more police on the street.

A Proven Record On Health Care

■ Jim Talent's mother lost her battle with breast cancer, so his plan is dedicated to initiatives increasing access to quality health care for women and children.

■ Over 40 million men, women and children go uninsured each year. Jim's plan expands health care access to millions of those currently uninsured – by giving them access to quality health care at no cost to the taxpayer.

■ Jim was an original co-sponsor of the Patients' Bill of Rights and led the bipartisan fight to provide access to quality, affordable health care and hold insurance companies accountable.

■ Jim's Missouri First Health Security Initiative provides affordable health care for Missouri's working families, improves health care for women and children and provides an immediate Medicare prescription drug benefit.



Paid for by the Missouri Republican Party, Harvey Tettlebaum, Treasurer.

REV_00152970

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Keefer, Wendy J <Wendy.J.Keefer@usdoj.gov>
Sent: 10/17/2002 6:33:06 AM
Subject: : RE: OLP Retreat

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:17-OCT-2002 10:33:06.00
SUBJECT:: RE: OLP Retreat
TO:"Keefer, Wendy J" <Wendy.J.Keefer@usdoj.gov> ("Keefer, Wendy J"
<Wendy.J.Keefer@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Let's do Thursday.

"Keefer, Wendy J" <Wendy.J.Keefer@usdoj.gov>
10/17/2002 10:24:00 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE: OLP Retreat

I can do Tuesday late (like 1:30 or 2). I am in Charleston Monday and
just realized I do not get back in on Tuesday until a little before 1. I
am also available any time Wed-Fri.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Thursday, October 17, 2002 10:18 AM
To: Keefer, Wendy J
Subject: RE: OLP Retreat

yes, how's Tuesday?

(Embedded
image moved "Keefer, Wendy J" <Wendy.J.Keefer@usdoj.gov>
to file: 10/16/2002 05:53:43 PM
pic02643.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: RE: OLP Retreat

I was wondering if you had any time next week that we could get together and
have lunch again? Viet is out of the country, so I thought it would be a good
time. Of course, you may not be available, but it would be great if we could
work it out.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Sunday, October 13, 2002 3:11 PM
To: Keefer, Wendy J
Subject: Re: OLP Retreat

yes, I would like to come, as I told Don. I will talk to Tim about this.
Thanks.

(Embedded
image moved "Keefer, Wendy J" <Wendy.J.Keefer@usdoj.gov>
to file: 10/10/2002 01:46:15 PM
pic24979.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: OLP Retreat

Brett:

OLP is having an office retreat Nov. 7-8. The retreat is being held at the Turf
Valley Resort in Ellicott City, Maryland (1 1/2 to 2 hours from D.C.). One of
our sessions is planned to be breakout sessions, one of which is to focus on
judicial nominations and confirmation; we would like to have you and one other
Associate White House Counsel participate in this session. The session is
scheduled for Nov. 8, Friday, 9:00-11:30. It would be great if you could come,
and your input on who else would be good to invite would be greatly appreciated.

Thanks.

Wendy J. Keefer
Senior Counsel and Chief of Staff
Office of Legal Policy

(202) 616-2643

From: CN=Irene Kho/OU=OMB/O=EOP [OMB]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/17/2002 6:45:38 AM
Subject: : Re: Possible Unanimous Consents
Attachments: P_8H2ZA003_WHO.TXT_1.wpd; P_8H2ZA003_WHO.TXT_2.wpd

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Irene Kho (CN=Irene Kho/OU=OMB/O=EOP [OMB])
CREATION DATE/TIME:17-OCT-2002 10:45:38.00
SUBJECT:: Re: Possible Unanimous Consents
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

No, Justice did not opine, but Treasury informally advises strong support for H.R. 5603 - To amend the Internal Revenue Code of 1986 to suspend the tax-exempt status of designated terrorist organizations, and for other purposes.

Treasury has some concerns with H.R. 5596 - To amend section 527 of the Internal Revenue
Code of 1986 to eliminate notification and return requirements for State and
local party committees and candidate committees and avoid duplicate reporting by certain State and local political committees of information required to be reported and made publicly available under State law, and for
other purposes. The concern is that the bill would impose administrative burden on the IRS.
However, the concerns would not raise to the level of a veto threat.

Brett M. Kavanaugh
10/17/2002 10:40:27 AM
Record Type: Record

To: Patrick J. Bumatay/WHO/EOP@EOP, Irene Kho/OMB/EOP@EOP
cc:
bcc:
Subject: Re: Possible Unanimous Consents

No problem on 5603. Have WH policy shop and DOJ opined on 5596?

Patrick J. Bumatay
10/16/2002 10:17:25 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Re: Possible Unanimous Consents

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/16/2002 10:17 AM ----------

Helgard C. Walker
10/16/2002 10:03:35 AM
Record Type: Record

To: Irene Kho/OMB/EOP@EOP, Patrick J. Bumatay/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Possible Unanimous Consents

Irene, I am not sure why you sent these to me. Matters of an LRM nature need to be routed to Patrick Bumatay of our office for internal distribution. Thanks.

Irene Kho
10/16/2002 09:55:00 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: Mark J. Schwartz/OMB/EOP@EOP, Richard E. Green/OMB/EOP@EOP
Subject: Possible Unanimous Consents

Good morning,
The following bills are scheduled for House floor vote today under unanimous consent. Please let us know if the Administration has any problems with these bills and also what position the Administration have on them. Your promptly response would greatly be appreciated it.

H.R. 5603 - To amend the Internal Revenue Code of 1986 to suspend the tax-exempt status of designated terrorist organizations, and for other purposes.

H.R. 5596 - To amend section 527 of the Internal Revenue Code of 1986 to eliminate notification and return requirements for State and local party committees and candidate committees and avoid duplicate reporting by certain State and local political committees of information required to be reported and made publicly available under State law, and for other purposes.

Message Sent
To:_____
karen.dorsey@do.treas.gov @ inet
James D. Foster/OMB/EOP@EOP
Robert S. Bray/OMB/EOP@EOP
Diana L. Schacht/OPD/EOP@EOP
Helgard C. Walker/WHO/EOP@EOP
OHS LRM

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_8H2ZA003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_8H2ZA003_WHO.TXT_2>

To amend the Internal Revenue Code of 1986 to suspend the tax-exempt status of designated terrorist organizations, and for other purposes. (Introduced in House)

HR 5603 IH

107th CONGRESS

2d Session

H. R. 5603

To amend the Internal Revenue Code of 1986 to suspend the tax-exempt status of designated terrorist organizations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 10, 2002

Mr. THUNE (for himself, Mr. RAMSTAD, and Mrs. JOHNSON of Connecticut) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to suspend the tax-exempt status of designated terrorist organizations, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SUSPENSION OF TAX-EXEMPT STATUS OF DESIGNATED TERRORIST ORGANIZATIONS.

(a) IN GENERAL- Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

`(p) SUSPENSION OF TAX-EXEMPT STATUS OF DESIGNATED TERRORIST ORGANIZATIONS-

`(1) IN GENERAL- The exemption from tax under subsection (a) with respect to any organization shall be suspended during any period in which the organization is a designated terrorist organization.

`(2) DESIGNATED TERRORIST ORGANIZATION- For purposes of this subsection, the term `designated terrorist organization' means an organization which--

`(A) is designated as a terrorist organization by an Executive order under the authority of--

`(i) section 212(a)(3) or 219 of the Immigration and Nationality Act,

`(ii) the International Emergency Economic Powers Act, or

`(iii) section 5 of the United Nations Participation Act, or

`(B) is a person listed in or designated by an Executive order as supporting terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989).

`(3) DENIAL OF DEDUCTION- No deduction shall be allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for any contribution to an organization during the period such organization is a designated terrorist organization.

`(4) DENIAL OF ADMINISTRATIVE OR JUDICIAL CHALLENGE OF SUSPENSION OR DENIAL OF DEDUCTION- Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a determination or listing under paragraph (2), or a denial of a deduction under paragraph (3) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

`(5) ERRONEOUS DESIGNATION-

`(A) IN GENERAL- If a designation of an organization pursuant to 1 or more of the provisions of law described in paragraph (2) is determined to be erroneous pursuant to such law, such designation (and any suspension under paragraph (1) occurring pursuant thereto) shall be treated as having not been made for purposes of this title.

`(B) WAIVER OF LIMITATIONS- If credit or refund of any overpayment of tax which occurs by operation of subparagraph (A) is prevented at any time before the close of the 1-year period beginning on the date of the determination of such credit or refund by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.'.

(b) NOTICE OF SUSPENSIONS- If the tax exemption of any organization is suspended under section 501(p) of the Internal Revenue Code of 1986 (as added by subsection (a)), the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.

(c) EFFECTIVE DATE- The amendments made by this section shall take effect on the date of the enactment of this Act.

HR 5596 IH

107th CONGRESS

2d Session

H. R. 5596

To amend section 527 of the Internal Revenue Code of 1986 to eliminate notification and return requirements for State and local party committees and candidate committees and avoid duplicate reporting by certain State and local political committees of information required to be reported and made publicly available under State law, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 10, 2002

Mr. BRADY of Texas (for himself, Mr. DOGGETT, Mr. VITTER, Mr. POMEROY, Mr. SHAYS, and Mr. MEEHAN) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend section 527 of the Internal Revenue Code of 1986 to eliminate notification and return requirements for State and local party committees and candidate committees and avoid duplicate reporting by certain State and local political committees of information required to be reported and made publicly available under State law, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTION FOR CERTAIN STATE AND LOCAL POLITICAL COMMITTEES FROM NOTIFICATION REQUIREMENTS.

(a) EXEMPTION FROM NOTIFICATION REQUIREMENTS- Paragraph (5) of section 527(i) of the Internal Revenue Code of 1986 (relating to organizations must notify Secretary that they are section 527 organizations) is amended by striking `or' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting `, or', and by adding at the end the following:

`(C) which is a political committee of a State or local candidate or which is a State or local committee of a political party.'.

(b) EFFECTIVE DATE- The amendments made by subsection (a) shall take effect as if included in the amendments made by Public Law 106-230.

SEC. 2. EXEMPTION FOR CERTAIN STATE AND LOCAL POLITICAL COMMITTEES FROM REPORTING REQUIREMENTS.

(a) IN GENERAL- Section 527(j)(5) of the Internal Revenue Code of 1986 (relating to coordination with other requirements) is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

`(C) to any organization which is a qualified State or local political organization,'.

(b) QUALIFIED STATE OR LOCAL POLITICAL ORGANIZATION- Subsection (e) of section 527 of the Internal Revenue Code of 1986 (relating to other definitions) is amended by adding at the end the following new paragraph:

`(5) QUALIFIED STATE OR LOCAL POLITICAL ORGANIZATION-

`(A) IN GENERAL- The term `qualified State or local political organization' means a political organization--

`(i) all the exempt functions of which are solely for the purposes of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any State or local public office or office in a State or local political organization,

`(ii) which is subject to State law that requires the organization to report (and it so reports)--

`(I) information regarding each separate expenditure from and contribution to such organization, and

`(II) information regarding the person who makes such contribution or receives such expenditure,

which would otherwise be required to be reported under this section, and

`(iii) with respect to which the reports referred to in clause (ii) are (I) made public by the agency with which such reports are filed, and (II) made publicly available for inspection by the organization in the manner described in section 6104(d).

`(B) CERTAIN STATE LAW DIFFERENCES DISREGARDED- An organization shall not be treated as failing to meet the requirements of subparagraph (A)(ii) solely by reason of 1 or more of the following:

`(i) The minimum amount of any expenditure or contribution required to be reported under State law is not more than $300 greater than the minimum amount required to be reported under subsection (j).

`(ii) The State law does not require the organization to identify 1 or more of the following:

`(I) The employer of any person who makes contributions to the organization.

`(II) The occupation of any person who makes contributions to the organization.

`(III) The employer of any person who receives expenditures from the organization.

`(IV) The occupation of any person who receives expenditures from the organization.

`(V) The purpose of any expenditure of the organization.

`(VI) The date any contribution was made to the organization.

`(VII) The date of any expenditure of the organization.

`(C) DE MINIMIS ERRORS- An organization shall not fail to be treated as a qualified State or local political organization solely because such organization makes de minimis errors in complying with the State reporting requirements and the public inspection requirements described in subparagraph (A) as long as the organization corrects such errors within a reasonable period after the organization becomes aware of such errors.

`(D) PARTICIPATION OF FEDERAL CANDIDATE OR OFFICE HOLDER- The term `qualified State or local political organization' shall not include any organization otherwise described in subparagraph (A) if a candidate for nomination or election to Federal elective public office or an individual who holds such office--

`(i) controls or materially participates in the direction of the organization,

`(ii) solicits contributions to the organization (unless the Secretary determines that such solicitations resulted in de minimis contributions and were made without the prior knowledge and consent, whether explicit or implicit, of the organization or its officers, directors, agents, or employees), or

`(iii) directs, in whole or in part, disbursements by the organization.'.

(c) EFFECTIVE DATE- The amendments made by this section shall take effect as if included in the amendments made by Public Law 106-230.

SEC. 3. EXEMPTION FROM ANNUAL RETURN REQUIREMENTS.

(a) INCOME TAX RETURNS REQUIRED ONLY FOR POLITICAL ORGANIZATION TAXABLE INCOME- Paragraph (6) of section 6012(a) of the Internal Revenue Code of 1986 (relating to persons required to make returns of income) is amended by striking `or which has' and all that follows through `section)'.

(b) INCOME TAX RETURNS NOT SUBJECT TO DISCLOSURE-

(1) DISCLOSURE BY THE SECRETARY- Subsection (b) of section 6104 of such Code (relating to disclosure by the Secretary of annual information returns) is amended by striking `6012(a)(6),'.

(2) PUBLIC INSPECTION- Subsection (d) of section 6104 of such Code (relating to public inspection of certain annual returns) is amended--

(A) in paragraph (1)(A)(i) by striking `or section 6012(a)(6) (relating to returns by political organizations)', and

(B) in subparagraph (2) by striking `or section 6012(a)(6)'.

(c) INFORMATION RETURNS- Subsection (g) of section 6033 of such Code (relating to returns required by political organizations) is amended to read as follows:

`(g) RETURNS REQUIRED BY POLITICAL ORGANIZATIONS-

`(1) IN GENERAL- This section shall apply to a political organization (as defined by section 527(e)(1)) which has gross receipts of $25,000 or more for the taxable year. In the case of a political organization which is a qualified State or local political organization (as defined in section 527(e)(5)), the preceding sentence shall be applied by substituting `$100,000' for `$25,000'.

`(2) ANNUAL RETURNS- Political organizations described in paragraph (1) shall file an annual return--

`(A) containing the information required, and complying with the other requirements, under subsection (a)(1) for organizations exempt from taxation under section 501(a), with such modifications as the Secretary considers appropriate to require only information which is necessary for the purposes of carrying out section 527, and

`(B) containing such other information as the Secretary deems necessary to carry out the provisions of this subsection.

`(3) MANDATORY EXCEPTIONS FROM FILING- Paragraph (2) shall not apply to an organization--

`(A) which is a State or local committee of a political party, or political committee of a State or local candidate,

`(B) which is a caucus or association of State or local officials,

`(C) which is an authorized committee (as defined in section 301(6) of the Federal Election Campaign Act of 1971) of a candidate for Federal office,

`(D) which is a national committee (as defined in section 301(14) of the Federal Election Campaign Act of 1971) of a political party,

`(E) which is a United States House of Representatives or United States Senate campaign committee of a political party committee,

`(F) which is required to report under the Federal Election Campaign Act of 1971 as a political committee (as defined in section 301(4) of such Act), or

`(G) to which section 527 applies for the taxable year solely by reason of subsection (f)(1) of such section.

`(4) DISCRETIONARY EXCEPTION- The Secretary may relieve any organization required under paragraph (2) to file an information return from filing such a return if the Secretary determines that such filing is not necessary to the efficient administration of the internal revenue laws.'.

(d) EFFECTIVE DATE- The amendments made by this section shall take effect as if included in the amendments made by Public Law 106-230.

SEC. 4. NOTIFICATION OF INTERACTION OF REPORTING REQUIREMENTS.

(a) IN GENERAL- The Secretary of the Treasury, in consultation with the Federal Election Commission, shall publicize--

(1) the effect of the amendments made by this Act, and

(2) the interaction of requirements to file a notification or report under section 527 of the Internal Revenue Code of 1986 and reports under the Federal Election Campaign Act of 1971.

(b) INFORMATION- Information provided under subsection (a) shall be included in any appropriate form, instruction, notice, or other guidance issued to the public by the Secretary of the Treasury or the Federal Election Commission regarding reporting requirements of political organizations (as defined in section 527 of the Internal Revenue Code of 1986) or reporting requirements under the Federal Election Campaign Act of 1971.

SEC. 5. WAIVER OF FILING AMOUNTS.

(a) WAIVER OF FILING AMOUNTS- Section 527 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

`(k) AUTHORITY TO WAIVE- The Secretary may waive all or any portion of the--

`(1) tax assessed on an organization by reason of the failure of the organization to comply with the requirements of subsection (i), or

`(2) amount imposed under subsection (j) for a failure to comply with the requirements thereof,

on a showing that such failure was due to reasonable cause and not due to willful neglect.'.

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall apply to any tax assessed or amount imposed after June 30, 2000.

SEC. 6. MODIFICATIONS TO SECTION 527 ORGANIZATION DISCLOSURE PROVISIONS.

(a) UNSEGREGATED FUNDS NOT TO AVOID TAX- Paragraph (4) of section 527(i) of the Internal Revenue Code of 1986 (relating to failure to notify) is amended by adding at the end the following new sentence: `For purposes of the preceding sentence, the term `exempt function income' means any amount described in a subparagraph of subsection (c)(3), whether or not segregated for use for an exempt function.'.

(b) PROCEDURES FOR ASSESSMENT AND COLLECTION OF AMOUNTS- Paragraph (1) of section 527(j) of the Internal Revenue Code of 1986 (relating to required disclosure of expenditures and contributions) is amended by adding at the end the following new sentence: `For purposes of subtitle F, the amount imposed by this paragraph shall be assessed and collected in the same manner as penalties imposed by section 6652(c).'.

(c) DUPLICATE WRITTEN FILINGS NOT REQUIRED- Subparagraph (A) of section 527(i)(1) of the Internal Revenue Code of 1986 is amended by striking `, electronically and in writing,' and inserting `electronically'.

(d) APPLICATION OF FRAUD PENALTY- Section 7207 of the Internal Revenue Code of 1986 (relating to fraudulent returns, statements, and other documents) is amended by striking `pursuant to subsection (b) of section 6047 or pursuant to subsection (d) of section 6104' and inserting `pursuant to section 6047(b), section 6104(d), or subsection (i) or (j) of section 527'.

(e) CONTENTS AND FILING OF REPORT-

(1) CONTENTS- Section 527(j)(3) of the Internal Revenue Code of 1986 (relating to contents of report) is amended--

(A) by inserting `, date, and purpose' after `The amount' in subparagraph (A), and

(B) by inserting `and date' after `the amount' in subparagraph (B).

(2) ELECTRONIC FILING- Section 527(j) of such Code is amended by adding at the end the following new paragraph:

`(7) ELECTRONIC FILING- Any report required under paragraph (2) with respect to any calendar year shall be filed in electronic form if the organization has, or has reason to expect to have, contributions exceeding $50,000 or expenditures exceeding $50,000 in such calendar year.'.

(3) ELECTRONIC FILING AND ACCESS OF REQUIRED DISCLOSURES- Section 527 of

such Code, as amended by section 5(a), is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

`(k) PUBLIC AVAILABILITY OF NOTICES AND REPORTS-

`(1) IN GENERAL- The Secretary shall make any notice described in subsection (i)(1) or report described in subsection (j)(7) available for public inspection on the Internet not later than 48 hours after such notice or report has been filed (in addition to such public availability as may be made under section 6104(d)(7)).

`(2) ACCESS- The Secretary shall make the entire database of notices and reports which are made available to the public under paragraph (1) searchable by the following items (to the extent the items are required to be included in the notices and reports):

`(A) Names, States, zip codes, custodians of records, directors, and general purposes of the organizations.

`(B) Entities related to the organizations.

`(C) Contributors to the organizations.

`(D) Employers of such contributors.

`(E) Recipients of expenditures by the organizations.

`(F) Ranges of contributions and expenditures.

`(G) Time periods of the notices and reports.

Such database shall be downloadable.'.

(f) CONTENTS OF NOTICE- Section 527(i)(3) of the Internal Revenue Code of 1986 (relating to contents of notice) is amended by striking `and' at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

`(E) whether the organization intends to claim an exemption from the requirements of subsection (j) or section 6033, and'.

(g) TIMING OF NOTICE IN CASE OF MATERIAL CHANGE-

(1) IN GENERAL- Subparagraph (B) of section 527(i)(1) of the Internal Revenue Code of 1986 (relating to general notification requirement) is amended by inserting `or, in the case of any material change in the information required under paragraph (3), for the period beginning on the date on which the material change occurs and ending on the date on which such notice is given' after `given'.

(2) TIME TO GIVE NOTICE- Section 527(i)(2) of the Internal Revenue Code of 1986 (relating to time to give notice) is amended by inserting `or, in the case of any material change in the information required under paragraph (3), not later than 30 days after such material change' after `established'.

(3) EFFECT OF FAILURE- Paragraph (4) of section 527(i) of the Internal Revenue Code of 1986 (relating to effect of failure) is amended by inserting before the period at the end the following: `or, in the case of a failure relating to a material change, by taking into account such income and deductions only during the period beginning on the date on which the material change occurs and ending on the date on which notice is given under this subsection'.

(h) EFFECTIVE DATES-

(1) SUBSECTIONS (a) AND (b)- The amendments made by subsections (a) and (b) shall apply to failures occurring on or after the date of the enactment of this Act.

(2) SUBSECTION (c)- The amendments made by subsection (c) shall take effect as if included in the amendments made by Public Law 106-230.

(3) SUBSECTION (d)- The amendment made by subsection (d) shall apply to reports and notices required to be filed on or after the date of the enactment of this Act.

(4) SUBSECTIONS (e)(1) AND (f)- The amendments made by subsections (e)(1) and (f) shall apply to reports and notices required to be filed more than 30 days after the date of the enactment of this Act.

(5) SUBSECTIONS (e)(2) AND (e)(3)- The amendments made by subsections (e)(2) and (e)(3) shall apply to reports required to be filed on or after June 30, 2003.

(6) SUBSECTION (g)-

(A) IN GENERAL- The amendments made by subsection (g) shall apply to material changes on or after the date of the enactment of this Act.

(B) TRANSITION RULE- In the case of a material change occurring during the 30-day period beginning on the date of the enactment of this Act, a notice under section 527(i) of the Internal Revenue Code of 1986 (as amended by this Act) shall not be required to be filed under such section before the later of--

(i) 30 days after the date of such material change, or

(ii) 45 days after the date of the enactment of this Act.

SEC. 7. EFFECT OF AMENDMENTS ON EXISTING DISCLOSURES.

Notices, reports, or returns that were required to be filed with the Secretary of the Treasury

before the date of the enactment of the amendments made by this Act and that were disclosed by the Secretary of the Treasury consistent with the law in effect at the time of disclosure shall remain subject on and after such date to the disclosure provisions of section 6104 of the Internal Revenue Code of 1986.

END

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>
Sent: 10/17/2002 6:45:42 AM
Subject: : Re: end of session message on judges

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:17-OCT-2002 10:45:42.00
SUBJECT:: Re: end of session message on judges
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Any word on this? If you want to convert prior stuff, I can look
at it in whatever stage. (My time is a little freer today.)

Ashley Snee
10/16/2002 07:58:06 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Re: end of session message on judges

I'm playing phone tag with Anne to get the latest from her on this. Do
you want to chat today about this? Let me know when you have time.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
Sent: 10/17/2002 7:09:05 AM
Subject: : Re: talking points for friends on why liability provisions are good

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:17-OCT-2002 11:09:05.00
SUBJECT:: Re: talking points for friends on why liability provisions are good
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

look these over for distrib to a few friends per Blalock . . .

Brett M. Kavanaugh
10/17/2002 11:03:01 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: Michael J. Conway/WHO/EOP@EOP
Subject: talking points for friends on why liability provisions are good

1. This bill will significantly improve the legal system. It gets all cases into a single federal court for pre-trial and trial proceedings. That important procedure will prevent the conflicting rulings, home cooking, forum shopping, and outrageous verdicts and judgments that the tort system produces every day in local courts around the country.

2. The final deal is an improvement from the Senate bill, which did NOT have consolidation (contrary to popular belief).

3. We would have preferred to improve the legal system even more, particularly with respect to existing state laws on punitive damages, but ultimately the choice was between no bill and accepting only the improvements described above. Given the importance of this bill to the economy, and given the indisputable fact that this bill will improve the legal system, the President decided to seek a bill, help American workers and the economy, and improve the legal system.

4. We sought a ban on punitive damages, as the President often stated, and we are disappointed that there is not such a ban. But the Senate leadership was willing to kill the bill rather than accept any positive provision on punitives. The President was not willing to kill the bill so long as the bill improved the legal system, which this bill clearly will do.

Background: Without the bill, state laws on liability, damages, and punitives would apply. With the bill, state laws on liability, damages, and punitives will apply, but in a single federal court that will hear all cases. No one can credibly say that the bill worsens existing law on liability, damages, or punitive damages.

Message Sent
To:_____
Kristen Silverberg/WHO/EOP@EOP
Matthew Kirk/WHO/EOP@EOP
Brian C. Conklin/WHO/EOP@EOP
Kirk Blalock/WHO/EOP@EOP
Kevin Warsh/OPD/EOP@EOP
Nicholas E. Calio/WHO/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: phoward@manhattan-institute.org @ inet [UNKNOWN] <phoward@manhattan-institute.org @ inet>
Sent: 10/17/2002 10:32:24 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:17-OCT-2002 14:32:24.00
SUBJECT::
TO:phoward@manhattan-institute.org @ inet ( phoward@manhattan-institute.org @ inet [
UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

thanks for call; lunch would be good.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Collister W. Johnson/WHO/EOP@EOP [WHO] <Collister W. Johnson>
Sent: 10/17/2002 6:32:55 AM
Subject: : Re: Fw: Talent Self Mailer
Attachments: P_7G1ZA003_WHO.TXT_1.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:17-OCT-2002 10:32:55.00
SUBJECT:: Re: Fw: Talent Self Mailer
TO:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

This was approved. Thanks.

Collister W. Johnson
10/15/2002 09:38:03 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Fw: Talent Self Mailer

BK - for you sir - thank you!
c

---------- Forwarded by Collister W. Johnson/WHO/EOP on 10/15/2002 09:41 AM ----------

Coddy Johnson <cjohnson@georgewbush.com>
10/15/2002 09:11:27 AM
Record Type: Record

To: Collister W. Johnson/WHO/EOP@EOP
cc:
Subject: Fw: Talent Self Mailer

Talent Self Mailer
----- Original Message -----
From: Heather Shuvalov
To: Coddy Johnson
Sent: Monday, October 14, 2002 7:15 PM
Subject: Talent Self Mailer

Here's a self mailer with the same photo of President Bush and Talent we used in the last piece. No quote from the President. Do you have to run it through the approval process up there or are we o.k.?
--
Heather Shuvalov
Olsen, Delisi & Shuvalov
1609 Shoal Creek Blvd., #203
Austin, TX 78701

512/479-6602 x114

- SM-CollarCty.pdf

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_7G1ZA003_WHO.TXT_1>

Fighting For Missouri Jobs And Missouri Families



■ As Chairman of the Small Business Committee, Jim succeeded in building bipartisan support on legislation that resulted in job creation, tax relief and economic growth.

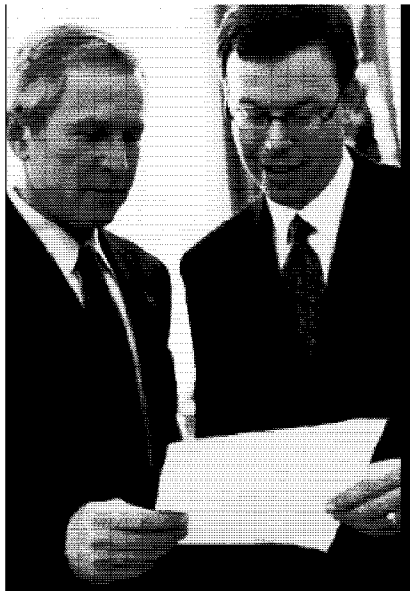
■ Jim is committed to helping create jobs and protecting our economic security by allowing workers and families to keep more of what they earn. He supports a permanent repeal of the death tax and marriage penalty.

Jim Talent Fights For Missouri First

■ Jim is an author of the historic, bipartisan Welfare Reform bill that became law in 1996. That law has helped millions of people move from government dependency into jobs and self-sufficiency.



Missouri Republican Party
P.O. box 73
Jefferson City, MO 65102



How Can We Give Missouri Families Economic Security And Keep Our Schools And Neighborhoods Safe?

Jim Talent has a real plan that keeps government accountable. He focuses on shared accomplishment and real achievements.

Call Jim Talent at (314) 453-0344. Tell him you support real results that provide Missouri Families the security they need.



Non-profit Org.
U.S. Postage
PAID
Missouri
Republican Party

REV_00153009

Jim Talent

Missouri Families First Plan



Jim Talent has a real plan for Missouri families.

His plan is built on the simple premise: everything government does or does not do today, gets passed on to our children and grandchildren.

Jim Talent's plan asks more from government. Safe schools and neighborhoods, affordable quality health care, jobs and economic security.



Jim's Plan: Restoring A Sense Of Security To Our Neighborhoods

■ Jim Talent has a plan to make help make our neighborhoods safe again. Jim's plan recognizes we need new ideas that come from parents, policy makers, community leaders and law enforcement to prevent the victimization of children.

■ Congressman Jim Talent co-sponsored Aimee's Law to make sure that those convicted of murder, rape or child molestation actually go to jail. And, he led the fight to increase the number of police officers on the street and fought for mandatory prison time for anyone who uses a gun in a crime.

■ He led efforts to stop domestic violence and he co-sponsored the Violence Against Women Act of 2000, which allocated $3.6 billion for shel ters and sexual assault prevention programs.

■ Jim voted for Project Exile providing $100 million to states to fight gun violence and would require mandatory prison time for violent offenders who use a gun in the commission of a crime.

A Compassionate Plan To Improve Education

■ Jim supports increased funding, restoring accountability and returning local control to Missouri's public schools. He understands parents and teachers know what's best for kids.

■ Jim believes every child deserves to learn in a safe environment. He continues to fight for legislation to protect students and teachers.

National Association of Police Organizations (NAPO) and the St. Louis Police Fraternal Organization (SLPFO) have endorsed Talent's plan to put more police on the street.

A Proven Record On Health Care

■ Jim Talent's mother lost her battle with breast cancer, so his plan is dedicated to initiatives increasing access to quality health care for women and children.

■ Over 40 million men, women and children go uninsured each year. Jim's plan expands health care access to millions of those currently uninsured – by giving them access to quality health care at no cost to the taxpayer.

■ Jim was an original co-sponsor of the Patients' Bill of Rights and led the bipartisan fight to provide access to quality, affordable health care and hold insurance companies accountable.

■ Jim's Missouri First Health Security Initiative provides affordable health care for Missouri's working families, improves health care for women and children and provides an immediate Medicare prescription drug benefit.



Paid for by the Missouri Republican Party, Harvey Tettlebaum, Treasurer.

REV_00153010

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Keefer, Wendy J <Wendy.J.Keefer@usdoj.gov>
Sent: 10/17/2002 6:33:06 AM
Subject: : RE: OLP Retreat

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:17-OCT-2002 10:33:06.00
SUBJECT:: RE: OLP Retreat
TO:"Keefer, Wendy J" <Wendy.J.Keefer@usdoj.gov> ("Keefer, Wendy J"
<Wendy.J.Keefer@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Let's do Thursday.

"Keefer, Wendy J" <Wendy.J.Keefer@usdoj.gov>
10/17/2002 10:24:00 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE: OLP Retreat

I can do Tuesday late (like 1:30 or 2). I am in Charleston Monday and
just realized I do not get back in on Tuesday until a little before 1. I
am also available any time Wed-Fri.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Thursday, October 17, 2002 10:18 AM
To: Keefer, Wendy J
Subject: RE: OLP Retreat

yes, how's Tuesday?

(Embedded
image moved "Keefer, Wendy J" <Wendy.J.Keefer@usdoj.gov>
to file: 10/16/2002 05:53:43 PM
pic02643.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: RE: OLP Retreat

I was wondering if you had any time next week that we could get together and
have lunch again? Viet is out of the country, so I thought it would be a good
time. Of course, you may not be available, but it would be great if we could
work it out.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Sunday, October 13, 2002 3:11 PM
To: Keefer, Wendy J
Subject: Re: OLP Retreat

yes, I would like to come, as I told Don. I will talk to Tim about this.
Thanks.

(Embedded
image moved "Keefer, Wendy J" <Wendy.J.Keefer@usdoj.gov>
to file: 10/10/2002 01:46:15 PM
pic24979.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: OLP Retreat

Brett:

OLP is having an office retreat Nov. 7-8. The retreat is being held at the Turf
Valley Resort in Ellicott City, Maryland (1 1/2 to 2 hours from D.C.). One of
our sessions is planned to be breakout sessions, one of which is to focus on
judicial nominations and confirmation; we would like to have you and one other
Associate White House Counsel participate in this session. The session is
scheduled for Nov. 8, Friday, 9:00-11:30. It would be great if you could come,
and your input on who else would be good to invite would be greatly appreciated.

Thanks.

Wendy J. Keefer
Senior Counsel and Chief of Staff
Office of Legal Policy

(202) 616-2643

From: CN=Kirk Blalock/OU=WHO/O=EOP [WHO]
To: Brian C. Conklin/WHO/EOP@EOP [WHO] <Brian C. Conklin>
CC: Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Keith Hennessey/OPD/EOP@EOP [OPD] <Keith Hennessey>;Matthew Kirk/WHO/EOP@EOP [WHO] <Matthew Kirk>
Sent: 10/17/2002 10:45:55 AM
Subject: : FYI - Hearing from downtown (spun by Dem Senate staffers) that Oxley has just left town without signing the Conference Report

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kirk Blalock ( CN=Kirk Blalock/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:17-OCT-2002 14:45:55.00
SUBJECT:: FYI - Hearing from downtown (spun by Dem Senate staffers) that Oxley has just
left town without signing the Conference Report
TO:Brian C. Conklin ( CN=Brian C. Conklin/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
CC:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Keith Hennessey ( CN=Keith Hennessey/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
CC:Matthew Kirk ( CN=Matthew Kirk/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/17/2002 7:11:08 AM
Subject: : LRM IKK275 - - JUSTICE Report on S. 783 Crime Victims Assistance Act of 2001 and on H.R. 1092 To Ensure that Amounts in the Victims of Crime Fund are Fully Obligated
Attachments: P_A94ZA003_WHO.TXT_1.wpd

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:17-OCT-2002 11:11:08.00
SUBJECT:: LRM IKK275 - - JUSTICE Report on S. 783 Crime Victims Assistance Act of 2001 and on H.R. 1092 To Ensure that Amounts in the Victims of Crime Fund are Fully Obligated
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/17/2002 11:09 AM ----------

Irene Kho
10/17/2002 10:23:32 AM
Record Type: Record

To: llr@do.treas.gov @ inet
cc: See the distribution list at the bottom of this message
Subject: LRM IKK275 - - JUSTICE Report on S. 783 Crime Victims Assistance Act of 2001 and on H.R. 1092 To Ensure that Amounts in the Victims of Crime Fund are Fully Obligated

Friendly Reminder: Comments are due today by 3:00 PM, Thursday, October 17th. Thank you.
---------- Forwarded by Irene Kho/OMB/EOP on 10/17/2002 10:17 AM ----------

From: Irene Kho on 10/15/2002 11:00:48 AM
Record Type: Record

To: llr@do.treas.gov @ inet
cc: See the distribution list at the bottom of this message
Subject: LRM IKK275 - - JUSTICE Report on S. 783 Crime Victims Assistance Act of 2001 and on H.R. 1092 To Ensure that Amounts in the Victims of Crime Fund are Fully Obligated

Attached is a Justice letter that includes Qs and As on the Crime Victims Fund and views on S. 783 and H.R. 1092 in respond to a letter from the Chairman of the House Judiciary Committee's Crime Subcommittee. Please review and provide comments by 3:00 PM, Thursday, Oct. 17th.

- victims02.let.wpd

LRM ID: IKK275
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, October 15, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: Irene Kho
PHONE: (202)395-5858 FAX: (202)395-3109
SUBJECT: JUSTICE Report on S. 783 Crime Victims Assistance Act of 2001 and on H.R. 1092 To Ensure that Amounts in the Victims of Crime Fund are Fully Obligated

DEADLINE: 3:00 PM Thursday, October 17, 2002
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Attached is a Justice letter that includes Qs and As on the Crime Victims Fund and views on S. 783 and H.R. 1092 in respond to a letter from the Chairman of the House Judiciary Committee's Crime Subcommittee. Please review and provide comments by 3:00 PM, Thursday, Oct. 17th.

We have e-mailed this Legislative Referral Memorandum (LRM) to you and have sent this fax transmission as an alert only. Please check your e-mail; if you have not received this LRM, please notify the OMB contact as soon as possible.

DISTRIBUTION LIST

AGENCIES:
118-TREASURY - Thomas M. McGivern - (202) 622-2317

EOP:
Douglas Pitkin
Lauren E. Bloomquist
Edward H. Chase
Julie L. Haas
Kenneth L. Schwartz
Stephen S. McMillin
Diana L. Schacht
Garry Malphrus
Steven D. Aitken
John F. Wood
Matthew J. Schneider
Philip J. Perry
Brian C. Conklin
OVP LRM
WHGC LRM
Danielle M. Simonetta
Lauren C. Lobrano
Ellen J. Balis
Ruben S. Barrales
Richard E. Green
James J. Jukes
LRM ID: IKK275 SUBJECT: JUSTICE Report on S. 783 Crime Victims Assistance Act of 2001 and on H.R. 1092 To Ensure that Amounts in the Victims of Crime Fund are Fully Obligated
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no

comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Irene Kho Phone: 395-5858 Fax: 395-3109
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-3454

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Copied
To:_____
Douglas Pitkin/OMB/EOP@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
Edward H. Chase/OMB/EOP@EOP
Julie L. Haas/OMB/EOP@EOP
Kenneth L. Schwartz/OMB/EOP@EOP
Stephen S. McMillin/OMB/EOP@EOP
Diana L. Schacht/OPD/EOP@EOP
Garry Malphrus/OPD/EOP@EOP
Steven D. Aitken/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
Philip J. Perry/OMB/EOP@EOP
Brian C. Conklin/WHO/EOP@EOP
OVP LRM
WHGC LRM
Danielle M. Simonetta/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
Ellen J. Balis/OMB/EOP@EOP
Ruben S. Barrales/WHO/EOP@EOP
Richard E. Green/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP

Message Copied
To:_____
Douglas Pitkin/OMB/EOP@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
Edward H. Chase/OMB/EOP@EOP
Julie L. Haas/OMB/EOP@EOP
Kenneth L. Schwartz/OMB/EOP@EOP
Stephen S. McMillin/OMB/EOP@EOP
Diana L. Schacht/OPD/EOP@EOP
Garry Malphrus/OPD/EOP@EOP
Steven D. Aitken/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
Philip J. Perry/OMB/EOP@EOP
Brian C. Conklin/WHO/EOP@EOP
OVP LRM
WHGC LRM
Danielle M. Simonetta/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
Ellen J. Balis/OMB/EOP@EOP
Ruben S. Barrales/WHO/EOP@EOP
Richard E. Green/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_A94ZA003_WHO.TXT_1>

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General *Washington, D.C. 20530*

The Honorable Lamar Smith
Chairman
Subcommittee on Crime, Terrorism,
and Homeland Security
Committee on the Judiciary
U. S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter regarding the creation of the Federal Crime Victims Fund under the Victims of Crime Act of 1984 ("VOCA") (42 U.S.C.§ 10601(b)). The first part of this letter responds to your request for an accounting of the monies in excess of the $535 million cap that are not distributed to State victims' assistance programs. In this part, we also respond to related questions concerning the Crime Victims Fund following our recent meetings. The second part of this letter responds to your request for the views of the Department of Justice on S. 783, the "Crime Victims Assistance Act of 2001," and H.R. 1092, a bill "[t]o ensure that amounts in the Victims of Crime Fund are fully obligated."

A. RESPONSES TO QUESTIONS CONCERNING THE CRIME VICTIMS FUND AND THE FEASIBILITY OF REMOVING THE CAP

1. What is the Crime Victims Fund and how does it support programs for crime victims?

The Crime Victims Fund (the Fund) collects fines from Federal criminal cases, bond forfeitures, and penalty assessments. The Department of Justice (DOJ) is responsible for prosecuting criminals and for collecting the payment of fines. The Administrative Office of the United States Courts (AOUSC) also is responsible for collecting money from offenders through the Clerks of Court, and for providing financial information on the Fund deposits, which are held by the United States Treasury. The Department's Debt Collection Management staff and Executive Office for United States Attorneys Financial Litigation track and report overall debt collection activities for the Fund.

The Office for Victims of Crime (OVC) administers deposits into the Fund. These collections are available for obligation and expenditure by OVC during the fiscal year following

REV_00153028

their collection. The Fund supports five program areas outlined in VOCA: crime victim compensation; crime victim assistance; Children's Justice Act program; national scope training and technical assistance; and, services to victims of Federal crimes. In addition, a small portion of the Fund supports an Antiterrorism Emergency Reserve fund administered by OVC to provide compensation to victims of international terrorism and to provide assistance to States and communities in the aftermath of a terrorist attack or incident involving mass violence.

Recent appropriation acts have established three earmarks on the Fund to: 1) support victim witness coordinator and advocate positions for the 93 United States Attorney Offices; 2) support victim specialist positions in the FBI; and 3) maintain a Federal victim notification system.

2. Why is there a cap on amounts that can be expended from the Crime Victims Fund?

An independent statutory limitation on Fund obligations first was imposed by the FY 2000 DOJ appropriations act, after deposits into the Fund increased by more than 200 percent in FY 1999, jumping from $324 million to $985 million in a single year. More than half of total deposits in FY 1999 were attributable to the payment of a fine in a single case, *United States* v. *F. Hoffman-La Roche, Ltd.* The $500M cap on expenditures from the Fund in FY 2000 left $485.1M for obligation in subsequent fiscal years. The FY 2000 limitation on obligations still allowed an increase of $176 million (or 54 percent) above the amount available for grants from the Fund in FY 1999. The FY 2001 appropriations act continued the practice of limiting obligations from the Fund in that year, setting the cap at $537.5 million.

In FY 2000, a second extraordinary year of collections, approximately $776.9M was deposited in the Fund to support OVC programs during FY 2000. The FY 2000 "cap" of $537.5M provided an increase of $37.5 million for Crime Victims programs and left the remaining $239.4 million for future year obligations. The amounts collected but not available for obligation as a result of these annual caps represent a "rainy day" fund intended to offset fluctuations in deposits into the Crime Victims Fund. Consequently, the capping of these disbursements from the Fund ensures a level of consistency of funding, without which services to victims could suffer.

Example:In FY 2001, $544.4M was deposited into the Crime Victims Fund. The DOJ FY 2002 appropriations act, however, established a $550M cap to provide an incremental increase in funding available to support authorized programs. To fully realize the increase in fund availability, $5.6M was taken from the "rainy day" account to make-up the shortfall in current year Fund deposits.

3. How much money has been collected for the Crime Victims Fund since its inception?

From 1985, the first year deposits were made into the Crime Victims Fund, through 2001, a total of $5,017,349,583 has been collected. The chart below illustrates yearly Fund collections since 1985:

REV_00153029

Historical Crime Victim Fund Collections
(in millions)

1985	$68 M	1994	$185 M	
1986	63 M	1995	234 M	
1987	77 M	1996	529 M	
1988	94 M	1997	363 M	
1989	133 M	1998	324 M	
1990	146 M	1999	985 M	
1991	128 M	2000	777 M	
1992	221 M	2001	544 M	
1993	145 M	2002	635 M	*(est)*

Actual collections for FY 2002 through the end of April totaled $450,803,962.

4. Where does the money come from? What are the biggest sources of money?

The major portion of the Crime Victims Fund is derived from significant fines levied against corporations. For example, in 1996, the Fund received more than $29 million from Caremark, Inc., a home health care provider whose principals pleaded guilty to criminal charges stemming from its improper payment to doctors and other professionals to induce them to refer patients to Caremark. Other large fines include a payment of $15.25 million from C.R. Bard, Inc., for billing the Government for defective heart catheters; a fine of $12.8 million from Lockheed in a Foreign Corrupt Practices Act case involving bribery and the Egyptian government; a $13.5 million fine from the Iroquois Pipeline Operating Company; and a $340 million fine paid by Daiwa Bank following the settlement of its illegal trading fraud case.

5. What happens to amounts collected above the cap on the Crime Victims Fund?

Amounts collected above the cap on the Crime Victims Fund are held in reserve for future use in supporting programs authorized by the Victims of Crime Act of 1984 (VOCA), 42.U.S.C. 10601 *et. seq.*.

6. Are amounts awarded to States from the Crime Victims Fund fully expended by the end of the grant period?

VOCA authorizes States to expend funds over a four year period of time. For the most part, States do fully expend funds within that period. At the end of the four year funding cycle, however, a small amount typically is deobligated and returned to the Crime Victims Fund, or used at the discretion of the Director to replenish the Anititerroism Emergency Reserve, pursuant to 42 U.S.C. § 10601(e).

7. What would be the impact of removing the cap on the Crime Victims Fund?

Initially, removal of the cap on the Crime Victims Fund would mean that amounts

REV_00153030

collected in the year of the removal would be augmented by amounts previously collected but not yet available for expenditure. Hence, based on the average collections for the past three years ($768.8M) and the amount previously collected but not hitherto available for expenditure, the total amount available for obligation could be as much as $1.5B in the first fiscal year. States would have four years to expend their portion (which is nearly 90%) of these funds. Undoubtedly, this would represent a one time windfall in funding. An unprecedented increase in collections in one fiscal year that is not sustained in a following fiscal year well may put States in the position of having to "retool" their infrastructures to handle a sudden influx of funds, only to find themselves having to wind down or eliminate these services the following year. States would fund programs under the victim assistance program that they could potentially have insufficient funds to continue beyond the grant cycle. For States, this is an expensive process that can result in erratic hiring and firing of victim services staff. Further, this can put States in an untenable position of leaving victims without recourse when services that were funded in the preceding year cannot be offered in a succeeding year. Additionally, the complete exhaustion of the reserve would mean that in future years, if Crime Victim Fund collections were to decline, as they have since 1999, there would be no means to supplement collections to ensure an even flow of funds to support victim services.

8. Is there a reason to reserve amounts collected above the cap on the Crime Victims Fund?

The statutory limitation on obligations provides a tool for Congress and the President to ensure stability in the Fund for years in which deposits to the Fund may decline. Bountiful years permit reasonable growth in Crime Victims Programs, while also providing a cushion in the Fund that can be drawn upon when collections decline. We believe this strategy to be desirable because, as shown in the chart above, deposits into the Fund have declined in 5 of the last 16 years. The capping of monies from the Fund ensures a level of consistency in the funding provided to States for victim services. Without some consistency, victim services could suffer.

9. What is a reasonable option for addressing the demand for increased funding for victim services and responding to the desire for more measured spending?

The Department believes that the current system of fines deposited into the Crime Victims Fund and a cap on the fund to ensure stability of victim services provided is adequate to meet current demand. However, Congress could consider the addition of discretionary funding on top of the available funds in the Crime Victims Fund if increased demand exists.

B. VIEWS ON S. 783 AND H.R. 1092

1. S. 783

a. TITLE I - AMENDMENTS AFFECTING VICTIMS RIGHTS IN FEDERAL SYSTEM

REV_00153031

Title I of S. 783 contains a number of provisions aimed at granting rights to victims of crime at various stages of prosecution and punishment. The Administration strongly supports victims' rights and has endorsed S.J. Res. 35, a proposed amendment to the Constitution aimed at protecting the rights of victims of violent crime in both Federal and State proceedings. We understand that S. 783 preceded the development of S.J. Res. 35, the latter of which reflected a collaborative effort to address the needs of victims. Thus, we reiterate support of the constitutional amendment proposed by S.J. Res. 35, which can serve as a framework for the development of any statutes that might be necessary to implement it.

b. TITLE II - CREATION OF THREE NEW GRANT PROGRAMS

Title II of S. 783 would create three new crime victim grant programs, discussed hereafter in turn:

i. Pilot Programs to Enforce Compliance with State Crime Victim Rights Laws

Section 201 of S. 783 would create a new grant program to fund pilot programs to enforce compliance with State crime victim rights laws. We note that the Administration strongly supports a victims rights amendment to the Constitution, which would become a vehicle by which compliance with victim rights laws could be enforced. We believe that this approach to enforcement ultimately would provide a more consistent enforcement approach than individual State-by-State enforcement efforts.

But, if this new grant program were to be enacted, then we propose several modifications. First, this particular program vests grant-making authority in the "Attorney General, acting through the Director" of OVC. In all other current grant programs funded by OVC, the grant-making authority is directly vested in the Director of OVC. Similarly, the other two grant programs proposed as a part of S. 783 vest the grant making authority directly in the Director of OVC. For consistency, we suggest deleting "the Attorney General, acting through" in section 201(b)(1) and (b)(2)(A). Additionally, we suggest that Congress replace "the Attorney General" found in section 201(e) with "the Director".

Second, if enactment of this grant program were pursued, then we also recommend deleting "and" at the end of section 201(d)(2)(B) and inserting a new subparagraph, to read: "(D) representatives of nonprofit, nongovernmental domestic violence or sexual assault services providers; and". The compliance authority well may find it desirable to have such expertise, because a significant proportion of crime victims are victims of domestic violence or sexual assault. Also, many States provide additional rights to victims of domestic violence or sexual assault.

ii. Victim Notification Grant Program

Section 202 of S. 783 would create a second new grant program in VOCA (Victim Notification Grants) as section 1404D. This grant program would be funded under

REV_00153032

1404(c)(1)(A) of VOCA and authorizes the OVC Director to make grants for demonstration projects, aid to victims of Federal crimes, and training and technical assistance services to eligible crime victim assistance programs. Because OVC already funds the Federal victim notification system, as a cost saving measure, any new grant program for this purpose should allow the States to tap into this Federal system, or replicate this existing system. Further, OVC would require compatibility of notification systems, where appropriate.

iii. Restorative Justice Grants Program

Section 203 of S. 783 would create the third new grant program (Restorative Justice Grants) by adding section 1404E to VOCA. The Restorative Justice grant programs would be funded under 1404(c)(1)(A) of VOCA, which authorizes the OVC Director to make grants for demonstration projects, aid to victims of Federal crimes, and training and technical assistance services to eligible crime victim assistance programs.

As an initial matter, we do not support the use of resources dedicated for victim services for the promulgation of restorative justice projects, if only because such projects are offender centered, rather than victim centered. It is our opinion that, at a minimum, in instances of violent crimes, the concept of restorative justice may be designed to make the offender feel better about his actions, at the expense of the victim's well-being. Therefore, this grant program runs contrary to OVC's overarching purpose and mission.

In the event that enactment of this grant program were pursued, however, then section 203, which includes the proposed section 1404E(a) amendment to VOCA, should be amended to insert ", except that community-based restorative justice programs are not appropriate in cases involving violent crimes or crimes against persons, such as domestic violence, child abuse, elder abuse, or sexual assault" after "juvenile justice systems". As noted above, we believe restorative justice to be generally inappropriate in cases of domestic violence, sexual assault, child abuse, or elder abuse, because in such cases one party often has controlled or intimidated the other, generally for a sustained period of time. Under such circumstances, even the most skilled mediator may be hard pressed to shift the balance of power, making restorative justice dangerous and highly questionable.

c. TITLE III - VOCA AMENDMENTS

Generally, these amendments already have been incorporated in the USA PATRIOT Act, which was enacted on October 26, 2001. We have examined the specific provisions of S. 783 that would amend VOCA, but currently are not enacted:

Section 301(b) of S. 783 would codify the existing cap on the amount of money available for obligation by the Director of OVC in any fiscal year.[1] Specifically, the bill would amend

---

[1]As background, we note that a similar provision to § 301(b) of S. 783 was previously enacted as § 621(b) of the USA PATRIOT Act, Pub. L. No. 107-56 on October 26, 2001. That

REV_00153033

Section 1402(c) of VOCA by requiring the Director to obligate at least 90%, but no more than 110%, of the total amount available from the preceding fiscal year. However, the formal codification of the cap under section 301(b) contrasts sharply with H.R. 1092's provisions removing the cap entirely.

Section 1 of H.R. 1092 would require the Director of OVC to obligate *all sums* collected into the Fund in a fiscal year during the subsequent fiscal year, and section 2 of the bill would mandate that any provision modifying this requirement specifically refer to new subsection 42 U.S.C. 10601(h)(1), and that the amending legislation specifically state that it supersedes that section. Thus, the effect of H.R. 1092 would be to remove the current cap on the amount of money that can be obligated in any fiscal year, a cap that traditionally has been set through the appropriations process.

Thus, the provisions in H.R. 1092 and S. 783 concerning capping the annual expenditures from the Crime Victims Fund contradict each other. We also strongly oppose provisions establishing a permanent floor and a ceiling for distribution of funds from the Crime Victims Fund. It is important that the Department have the flexibility to recommend this cap during the development of the budget each fiscal year, rather than having it established permanently in statute. This would allow the Department the flexibility to adjust the cap based on an annual review of actual collections and to minimize the effect of fluctuations in deposits on the availability of funds. Further, if both S. 783 and H.R. 1092 were enacted (on the grounds that they amend different sections of VOCA), OVC would be placed in the untenable position of being required to implement two contradictory legal mandates.

In addition, we recommend that existing limitations on the use of discretionary funds available for special projects at the discretion of the Director under section 1404(c) of VOCA be harmonized with the current limitations on obligations for the antiterrorism emergency reserve. This would allow greater flexibility for the OVC Director to direct limited funding to meet unexpected shifting priorities, should the need for prompt action to assist victims of Federal crimes arise. To accomplish this goal, we recommend insertion of the following new section into the bill:

"Sec. ___. Crime Victims Fund.

Section 1402(d)(5)(c) of the Victims of Crime Act of 1984 is amended by inserting 'and amounts available for grants pursuant to section 1404(c)' after "subparagraph (A)"."

This limitation on obligation periods would maintain a control over expenditures out of the fund, continue to provide for the necessary "rainy day fund," but would allow greater flexibility for OVC to respond to emerging best practices in the victim's field, while allowing

---

provision was specifically repealed less than one month later however, by section 111(b) of the FY 2002 DOJ appropriations act, Pub. L. No. 107-77.

REV_00153034

greatest flexibility to respond to changing priorities.

2. H.R. 1092

Sections A and B(1)(c) of this letter discuss the implications of H.R. 1092 upon the Fund.

Thank you for the opportunity to present our views. Please do not hesitate to call upon us if we may be of additional assistance. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to the submission of this letter.

Sincerely,

Daniel J. Bryant
Assistant Attorney General

cc: The Honorable Robert C. Scott
Ranking Minority Member
Subcommittee on Crime, Terrorism, and Homeland Security
Committee on the Judiciary
U. S. House of Representatives

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate

The Honorable Orrin G. Hatch
Ranking Minority Member
Committee on the Judiciary
United States Senate

REV_00153035

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Matthew A. Schlapp/WHO/EOP@EOP [WHO] <Matthew A. Schlapp>;Matthew E. Smith/WHO /EOP@EOP [WHO] <Matthew E. Smith>;Tim Goeglein/WHO/EOP@EOP [WHO] <Tim Goeglein>;Ken Mehlman/WHO/EOP@EOP [WHO] <Ken Mehlman>;Ashley Snee/WHO /EOP@EOP [WHO] <Ashley Snee>;Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>
Sent: 10/17/2002 11:50:52 AM
Subject: : President's remarks on judges 10/17/02

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:17-OCT-2002 15:50:52.00
SUBJECT:: President's remarks on judges 10/17/02
TO:Matthew A. Schlapp ( CN=Matthew A. Schlapp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Matthew E. Smith ( CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tim Goeglein ( CN=Tim Goeglein/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Ken Mehlman ( CN=Ken Mehlman/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

President's Remarks on Judges 10/17/02 in Georgia

I'm for Saxby because he will help me make sure that the judges I nominate get a fair hearing and get confirmed. (Applause.) My job is to -- my job is to put good, honorable, hardworking, intelligent, capable people on the federal bench; people who will not use the bench to serve as a legislator, but people who will sit on the bench to strictly interpret the United States Constitution.

And the record of this Senate is a lousy record. (Applause.) If you look -- if you look at the record, the percentage of my nominees who have been approved and look at the reason why they haven't, you'll find that they're playing too much politics in Washington, D.C. (Applause.) They're slow playing the process. And when some of my really good nominees got a hearing, they distorted their records. They listened to the small groups of special interests in Washington, D.C. For the sake of a good, sound federal judiciary, I need a United States senator who will stand strong for my nominees, and that is Saxby Chambliss. (Applause.)

From: CN=Keith Hennessey/OU=OPD/O=EOP [OPD]
To: Kirk Blalock/WHO/EOP@EOP [WHO] <Kirk Blalock>
CC: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>;Matthew Kirk/WHO /EOP@EOP [WHO] <Matthew Kirk>;claire e. buchan/who/eop@eop [WHO] <claire e. buchan>;Brian C. Conklin/WHO/EOP@EOP [WHO] <Brian C. Conklin>;Nicholas E. Calio/WHO /EOP@EOP [WHO] <Nicholas E. Calio>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>
Sent: 10/17/2002 2:37:57 PM
Subject: : Rick Holt to Larry: "It's dead."

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Keith Hennessey ( CN=Keith Hennessey/OU=OPD/O=EOP [ OPD ] )
CREATION DATE/TIME:17-OCT-2002 18:37:57.00
SUBJECT:: Rick Holt to Larry: "It's dead."
TO:Kirk Blalock ( CN=Kirk Blalock/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Matthew Kirk ( CN=Matthew Kirk/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:claire e. buchan ( CN=claire e. buchan/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:Brian C. Conklin ( CN=Brian C. Conklin/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Nicholas E. Calio ( CN=Nicholas E. Calio/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:brett m. kavanaugh ( CN=brett m. kavanaugh/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Larry left me a voicemail that Rick Holt called him to tell him that
terrorism insurance was "dead."

This is obviously tremendously unhelpful. Larry didn't respond.

Kirk -- I leave it to you (or someone else who knows Rick) to call him and
square him away.

-kbh
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Matthew Kirk/WHO/EOP@EOP [WHO] <Matthew Kirk>
CC: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
Sent: 10/17/2002 11:08:42 AM
Subject: : reminder on blocked assets waiver provision; thanks

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:17-OCT-2002 15:08:42.00
SUBJECT:: reminder on blocked assets waiver provision; thanks
TO:Matthew Kirk ( CN=Matthew Kirk/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From:	CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To:	James A. Brown/OMB/EOP@EOP [OMB] <James A. Brown>;Patrick J. Bumatay/WHO /EOP@EOP [WHO] <Patrick J. Bumatay>
Sent:	10/17/2002 12:00:57 PM
Subject:	: Re: LRM JAB365 - - Small Business Administration Report on S2483 National Small Business Regulatory Assistance Act of 2002
Attachments:	P_MCMZA003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:17-OCT-2002 16:00:57.00
SUBJECT:: Re: LRM JAB365 - - Small Business Administration Report on S2483 National Small Business Regulatory Assistance Act of 2002
TO:James A. Brown (CN=James A. Brown/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

No problems on substance.

Patrick J. Bumatay
10/16/2002 04:53:07 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: LRM JAB365 - - Small Business Administration Report on S2483 National Small Business Regulatory Assistance Act of 2002

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/16/2002 04:54 PM ----------

From: James A. Brown on 10/16/2002 04:54:52 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: LRM JAB365 - - Small Business Administration Report on S2483 National Small Business Regulatory Assistance Act of 2002

- OMB Letter on S.2483.doc
SBA letter

LRM ID: JAB365
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Wednesday, October 16, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution
below
FROM: Richard E. Green (for) Assistant Director for
Legislative Reference
OMB CONTACT: James A. Brown
PHONE: (202)395-3473 FAX: (202)395-3109
SUBJECT: Small Business Administration Report on S2483 National
Small Business Regulatory Assistance Act of 2002

DEADLINE: 10:00 A.M. Friday, October 18, 2002
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: The Small Business Administration has previously expressed its concerns about this bill. This letter would make clear that amendments which have been proposed to the bill (see JAB 363) do not eliminate those concerns.

DISTRIBUTION LIST

AGENCIES:
019-Council on Environmental Quality - David Anderson - (202) 395-3113
033-Environmental Protection Agency - Edward Krenik - (202) 564-5200
061-JUSTICE - Daniel Bryant - (202) 514-2141
062-LABOR - Robert A. Shapiro - (202) 693-5500
107-Small Business Administration - Richard Spence - (202) 205-6700
118-TREASURY - Thomas M. McGivern - (202) 622-2317

EOP:
Stephen S. McMillin
Alan B. Rhinesmith
James Boden
Yvette M. Dennis
Lorenzo Rasetti
David Rostker
Jefferson B. Hill
Paul R. Noe
Veronica Vargas
Philip J. Perry
Matthew J. Schneider
John F. Wood
David S. Addington
WHGC LRM
Mathew C. Blum
Michael D. Gerich
Donald R. Arbuckle
Aquiles F. Suarez
NEC LRM
Lauren C. Lobrano
Christine M. Burgeson
James J. Jukes
Richard E. Green
John Graham
LRM ID: JAB365 SUBJECT: Small Business Administration Report on S2483 National Small Business Regulatory Assistance Act of 2002

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a

message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: James A. Brown Phone: 395-3473 Fax: 395-3109
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-3454

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Sent
To:_____
CEQ LRM
epalrm@epamail.epa.gov
justice.lrm@usdoj.gov
dol-sol-leg@dol.gov
cla@sba.gov @ inet
llr@do.treas.gov

Message Copied
To:_____
Stephen S. McMillin/OMB/EOP@EOP
Alan B. Rhinesmith/OMB/EOP@EOP
James Boden/OMB/EOP@EOP
Yvette M. Dennis/OMB/EOP@EOP
Lorenzo Rasetti/OMB/EOP@EOP
David Rostker/OMB/EOP@EOP
Jefferson B. Hill/OMB/EOP@EOP
Paul R. Noe/OMB/EOP@EOP
Veronica Vargas/OMB/EOP@EOP
Philip J. Perry/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
David S. Addington/OVP/EOP@EOP
WHGC LRM
Mathew C. Blum/OMB/EOP@EOP
Michael D. Gerich/OMB/EOP@EOP
Donald R. Arbuckle/OMB/EOP@EOP

Aquiles F. Suarez/OPD/EOP@EOP
NEC LRM
Lauren C. Lobrano/OMB/EOP@EOP
Christine M. Burgeson/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Richard E. Green/OMB/EOP@EOP
John Graham/OMB/EOP@EOP
Marina.Laverdy@sba.gov

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_MCMZA003_WHO.TXT_1>

The Honorable John F. Kerry
Chairman
Committee on Small Business and Entrepreneurship
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

The purpose of this letter is to express the U. S. Small Business Administration's (SBA) concerns with S. 2483, the National Small Business Regulatory Assistance Act of 2002 as Senator Bond proposes to amend it.

As I previously stated in my letter of July 23, 2002, regarding S. 2483, the Small Business Development Centers (SBDCs) are already legislatively mandated to provide regulatory training and counseling, and a number of SBA's other functions to small businesses. The Office of Advocacy and the Ombudsman, also fulfill parts of the role envisioned by the proposed legislation. We remain concerned that the legislation, as amended, continues to appear to create for the SBDCs a role that is unnecessarily duplicative of their existing mandate and of other Federal functions. The proposal would authorize an additional $5 million annually for the SBDC program, and given current budget constraints, it is difficult for SBA to support additional appropriations for the SBDC program to fund activities most of which are already authorized to be conducted either by the SBDCs or by other entities.

S. 2483, as amended, also raises liability concerns, as I discussed in my previous letter. There are legal issues of potential liability for the grantees and SBA if an SBDC or affiliate gives wrong regulatory compliance advice to a small business resulting in loss, penalty, fine, or criminal indictment of the business. Furthermore, issues of confidentiality and privacy are also raised since provisions in the act would permit the grantees to withhold information on the substance of the counseling, as well as the businesses and entrepreneurs counseled using Federal funds appropriated to the SBA.

Thank you for the opportunity to express my concerns with S.2483 as amended.

Sincerely,

Hector V. Barretto
Administrator

Cc: The Honorable Christopher S. Bond

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Joel D. Kaplan/WHO/EOP@EOP [WHO] <Joel D. Kaplan>
Sent: 10/17/2002 12:59:06 PM
Subject: : web site for you

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:17-OCT-2002 16:59:06.00
SUBJECT:: web site for you
TO:Joel D. Kaplan ( CN=Joel D. Kaplan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

http://abcnews.go.com/sections/politics/dailynews/thenote.html
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
Sent: 10/17/2002 5:33:39 PM
Subject: : Fw: ANY WORD ON BLOCKED ASSETS; NSC guys need to report to Dr. Rice

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:17-OCT-2002 21:33:39.00
SUBJECT:: Fw: ANY WORD ON BLOCKED ASSETS; NSC guys need to report to Dr. Rice
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

??

.

----- Original Message -----
From:Matthew Kirk/WHO/EOP
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 10/17/2002 07:55:51 PM
Subject: Re: ANY WORD ON BLOCKED ASSETS; NSC guys need to report to Dr. Rice

no - all negotiations have been halted while the fallout from the deal is evaluated, also the Senate will likely go out in a few minutes until Nov 12 and the House is out. Therefore no conference report or bill for three weeks.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Jonathan R. Scharfen/NSC/EOP@EOP [NSC] <Jonathan R. Scharfen>
Sent: 10/17/2002 4:17:59 PM
Subject: : blocked assets

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:17-OCT-2002 20:17:59.00
SUBJECT:: blocked assets
TO:Jonathan R. Scharfen ( CN=Jonathan R. Scharfen/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
###### End Original ARMS Header ######

all negotiations have been halted while the fallout from the deal is
evaluated; also the Senate will likely go out in a few minutes until Nov
12 and the House is out. Therefore no conference report or bill for three
weeks.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
Sent: 10/17/2002 4:33:53 PM
Subject: : Re: will you review?

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:17-OCT-2002 20:33:53.00
SUBJECT:: Re: will you review?
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

This is too negative. Be upbeat that we got a deal that will help the economy, workers, and the legal system. Not as much as we would have liked, to be sure.

Kristen Silverberg
10/17/2002 06:01:11 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: will you review?

draft response from karl to hank greenberg:

Dear Hank:

Oakley passed on your views regarding liability provisions in the terrorism insurance bill. Thank you for the note) and for the strong show of support. As you know, we did not get everything we hoped for in terms of liability limits. We fought the good fight, but in the end we could not persuade the other side to accept a bill over the objection of the trial bar. We decided, ultimately, that the bill was too important to the economy, even in the scaled-back version. Perhaps, under better circumstances, we can revisit the issue.

Best wishes,

From: CN=Kirk Blalock/OU=WHO/O=EOP [WHO]
To: Keith Hennessey/OPD/EOP@EOP [OPD] <Keith Hennessey>
CC: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>;Matthew Kirk/WHO /EOP@EOP [WHO] <Matthew Kirk>;claire e. buchan/who/eop@eop [WHO] <claire e. buchan>;Brian C. Conklin/WHO/EOP@EOP [WHO] <Brian C. Conklin>;Nicholas E. Calio/WHO /EOP@EOP [WHO] <Nicholas E. Calio>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>
Sent: 10/18/2002 4:34:17 AM
Subject: : Re: Rick Holt to Larry: "It's dead."

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kirk Blalock (CN=Kirk Blalock/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-OCT-2002 08:34:17.00
SUBJECT:: Re: Rick Holt to Larry: "It's dead."
TO:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
CC:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:claire e. buchan (CN=claire e. buchan/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Nicholas E. Calio (CN=Nicholas E. Calio/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

He says he said its not happening before the election.

Keith Hennessey
10/17/2002 06:35:44 PM
Record Type: Record

To: Kirk Blalock/WHO/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Rick Holt to Larry: "It's dead."

Larry left me a voicemail that Rick Holt called him to tell him that terrorism insurance was "dead."

This is obviously tremendously unhelpful. Larry didn't respond.

Kirk -- I leave it to you (or someone else who knows Rick) to call him and square him away.

-kbh
Message Copied
To:_____
brett m. kavanaugh/who/eop@eop
claire e. buchan/who/eop@eop
Nicholas E. Calio/WHO/EOP@EOP
Matthew Kirk/WHO/EOP@EOP
Brian C. Conklin/WHO/EOP@EOP
Kristen Silverberg/WHO/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>
Sent: 10/18/2002 7:06:20 AM
Subject: : FW: Tulare County and Mountain States

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-OCT-2002 11:06:20.00
SUBJECT:: FW: Tulare County and Mountain States
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 10/18/2002 11:09 AM ----------

Edward A. Boling
10/18/2002 10:36:57 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: FW: Tulare County and Mountain States

The D.C. Circuit has affirmed the dismissal of challenges to the President's designation of National Monuments under authority of the Antiquities Act.

---------- Forwarded by Edward A. Boling/CEQ/EOP on 10/18/2002 10:33 AM ----------

"Pacholski, Susan" <Susan.Pacholski@usdoj.gov>
10/18/2002 10:28:39 AM
Record Type: Record

To: Edward A. Boling/CEQ/EOP@EOP
cc:
Subject: FW: Tulare County and Mountain States

Looks like we won Tulare County and Mountain States. Here are links to the opinions:

http://pacer.cadc.uscourts.gov/common/opinions/200210/01-5421a.txt

http://pacer.cadc.uscourts.gov/common/opinions/200210/01-5376a.txt

Message Sent
To:_____
Dinah Bear/CEQ/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP

Bradford A. Berenson/WHO/EOP@EOP
James Connaughton/CEQ/EOP@EOP
David R. Anderson/CEQ/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
Sent: 10/18/2002 3:26:52 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:18-OCT-2002 07:26:52.00
SUBJECT::
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Quote in wsj article about this being more about jobs than tort reform is
from someone other than me. Only nyt seemed to pick up point about senate
dems proposal to make punis more available.

.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Rebecca Seidel) (Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) [UNKNOWN] <Rebecca_Seidel@judiciary.senate.gov>
Sent: 10/18/2002 3:58:29 AM
Subject: : Re: UGH

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-OCT-2002 07:58:29.00
SUBJECT:: Re: UGH
TO:Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) (
Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Thanks for your voicemail!

Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel)
10/17/2002 05:24:47 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: UGH

I know this was not your preferred position - but below is exactly what I
was afraid of. It will undermine all future talks.
Lawmakers, White House Agree On Terrorism Insurance
After innumerable false starts and a year's worth of dickering,
negotiators on terrorism reinsurance reached a final legislative agreement
today that has been given the green light by leading House and Senate
conferees and the White House. Sources said that drafting had begun and
that the negotiators would scramble to coll
ect enough signatures on the conference report in time to have the measure
approved by unanimous consent in the Senate today. Leadership sources
confirmed that the deal was brokered after a marathon bargaining session
that stretched from Wednesday night to early this afternoon. Sources said
Sen. Christopher Dodd, D-Conn., House Financial Services Chairman Oxley,
their aides, and White House negotiators hammered out the final deal. Dodd
worked into the early morning hours alongside his staff, and Oxley was i
n attendance for a portion of the evening, sources said.. The negotiators
were expected to issue an official announcement about the terms of the
deal after presstime today.
The House and Senate negotiators and White House officials agreed
late Wednesday night that they would get rid of their dispute over what
evidentiary standard to apply to the awarding of punitive damages against
property owners implicated in terror-related lawsuits by simply
eliminating any reference to punitive damages in the con
ference report, sources said today. That agreement was reached several
hours after the House left town for the November election. The Senate bill
was silent on punitive damages associated with terror-related lawsuits
brought against businesses. The House bill contained a raft of changes,
including the barring of any collective punitive damages. Congressional
sources said negotiators in the room Wednesday night agreed to retain only
the language common to both the House and Senate bills consolidating
terror-
related cases in federal court. The economic side of the bill is expected

to be a melding of the House and Senate versions and White House perspectives.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>;Abel Guerra/WHO/EOP@EOP [WHO] <Abel Guerra>;Matthew E. Smith/WHO/EOP@EOP [WHO] <Matthew E. Smith>;Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>;Mercedes M. Viana/WHO/EOP@EOP [WHO] <Mercedes M. Viana>;Leonard B. Rodriguez/WHO/EOP@EOP [WHO] <Leonard B. Rodriguez>;Tim Goeglein/WHO/EOP@EOP [WHO] <Tim Goeglein>
Sent: 10/18/2002 4:40:13 AM
Subject: : Remarks by President on Estrada 10/17/02

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:18-OCT-2002 08:40:13.00
SUBJECT:: Remarks by President on Estrada 10/17/02
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Abel Guerra ( CN=Abel Guerra/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Matthew E. Smith ( CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Mercedes M. Viana ( CN=Mercedes M. Viana/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Leonard B. Rodriguez ( CN=Leonard B. Rodriguez/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tim Goeglein ( CN=Tim Goeglein/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Remarks by President on Miguel Estrada to United States Hispanic Chamber
of Commerce 10/17/02

. . . Rosario mentioned my appointments to my government. I am
proud to serve many, many exceptional Hispanic Americans. One of my jobs
is to put the best people in the right jobs in every branch of
government. I've done so in the Executive Branch, and I'll do so in the
Judiciary Branch, as well. Right now the Senate Judiciary Committee is
now considering a friend of mine, a guy named Mike -- Miguel Estrada.
He's my nominee for the D.C. Circuit Court of Appeals. If confirmed,
he'll be the first Hispanic ever to serve on this important court.

No one can deny that he's well-qualified. No one can deny he's a
great lawyer and that he's highly skilled. Yet, unfortunately, there are
senators who play politics with Miguel Estrada's nomination. There are
senators searching for any reason to defeat him.

I call upon the Senate leadership to treat Miguel Estrada with
dignity and respect, and to bring his nomination up for the full Senate to
confirm him before they adjourn.

He's an American success story. He's an inspiration to many
Americans. And he'll be an outstanding judge. . . .
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: thungar@gibsondunn.com @ inet [UNKNOWN] <thungar@gibsondunn.com @ inet>;mestrada@gibsondunn.com @ inet [UNKNOWN] <mestrada@gibsondunn.com @ inet>
Sent: 10/18/2002 4:41:40 AM
Subject: :

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-OCT-2002 08:41:40.00
SUBJECT::
TO:thungar@gibsondunn.com @ inet (thungar@gibsondunn.com @ inet [UNKNOWN])
READ:UNKNOWN
TO:mestrada@gibsondunn.com @ inet (mestrada@gibsondunn.com @ inet [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Remarks by President on Miguel Estrada to United States Hispanic Chamber of Commerce 10/17/02

. . . Rosario mentioned my appointments to my government. I am proud to serve many, many exceptional Hispanic Americans. One of my jobs is to put the best people in the right jobs in every branch of government. I've done so in the Executive Branch, and I'll do so in the Judiciary Branch, as well. Right now the Senate Judiciary Committee is now considering a friend of mine, a guy named Mike -- Miguel Estrada. He's my nominee for the D.C. Circuit Court of Appeals. If confirmed, he'll be the first Hispanic ever to serve on this important court.

No one can deny that he's well-qualified. No one can deny he's a great lawyer and that he's highly skilled. Yet, unfortunately, there are senators who play politics with Miguel Estrada's nomination. There are senators searching for any reason to defeat him.

I call upon the Senate leadership to treat Miguel Estrada with dignity and respect, and to bring his nomination up for the full Senate to confirm him before they adjourn.

He's an American success story. He's an inspiration to many Americans. And he'll be an outstanding judge. . . .

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kirk Blalock/WHO/EOP@EOP [WHO] <Kirk Blalock>
CC: brian c. conklin/who/eop@eop [WHO] <brian c. conklin>;kevin warsh/opd/eop@eop [OPD] <kevin warsh>;kristen silverberg/who/eop@eop [WHO] <kristen silverberg>;matthew kirk/who/eop@eop [WHO] <matthew kirk>;keith hennessey/opd/eop@eop [OPD] <keith hennessey>
Sent: 10/18/2002 5:26:47 AM
Subject: : Re: US Chamber Terrorism Insurance Letter to House Republican Leadership
Attachments: P_W580B003_OPD.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-OCT-2002 09:26:47.00
SUBJECT:: Re: US Chamber Terrorism Insurance Letter to House Republican Leadership
TO:Kirk Blalock (CN=Kirk Blalock/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:brian c. conklin (CN=brian c. conklin/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:kevin warsh (CN=kevin warsh/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
CC:kristen silverberg (CN=kristen silverberg/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:matthew kirk (CN=matthew kirk/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:keith hennessey (CN=keith hennessey/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
End Original ARMS Header

thanks. perhaps we should try to ensure wide circulation in R offices even beyond addressees?

Kirk Blalock
10/18/2002 08:16:35 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: US Chamber Terrorism Insurance Letter to House Republican Leadership

- terrorism insurance letter to house leadership12.doc

Message Sent
To:_____
Keith Hennessey/OPD/EOP@EOP
Kevin Warsh/OPD/EOP@EOP
Matthew Kirk/WHO/EOP@EOP
Brian C. Conklin/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Kristen Silverberg/WHO/EOP@EOP

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_W580B003_OPD.TXT_1>

October 17, 2002

~~Dear~~To Members of the House Republican Leadership:

~~I am writing on~~On behalf of the U.S. Chamber of Commerce, the world's largest business ~~federation,~~federation representing more than three million businesses and organizations of every size, sector and region, I write to urge you to support the proposed terrorism insurance compromise negotiated today and to explain why we strongly support the liability provisions of the proposed terrorism insurance compromise.

It is vital that the Congress pass this legislation before adjourning for the year. The economy has lost more than $15 billion and 300,000 jobs in the construction industry alone as a result of a lack of terrorism insurance coverage. ~~This~~We expect this legislation ~~would~~to provide a much needed ~~n almost instantaneous~~boost to the economy, providing jobs to hundreds of thousands of workers across the country.

Although the U.S. Chamber would have preferred more extensive litigation management provisions, ~~even simply~~ providing a federal cause of action and consolidation of claims has significant benefits:

- First, without this legislation, and the federal cause of action that it provides, businesses would have absolutely NO protection from predatory lawsuits that result from any future terrorist incident – they would still face forum shopping and multiple claims in state ~~courts, home cooking, and forum~~ courts; courts known for rendering outrageous awards.
- ~~shopping across the country;~~
- Second, having these trials in federal court will provide consistent rulings, fair procedures for both plaintiffs and defendants, and~~yet will still~~ provide for the use of ~~state law, so that if a state bans punitive damages, that ;~~ relevant state laws that ban or otherwise limit the availability of punitive damages;
- Third, this legislation will prevent a "rush to the court-house," which ~~gives~~would otherwise give early lawsuit filers an advantage over later claimants~~, and gives them the potential ability to bankrupt a defendant, leaving other claimants without any recourse to compensation~~; and
- ~~Finally,~~Fourth, the proposal represents an improvement over the Senate bill, which did not contain consolidation for trial purposes. This provision will

significantly reduce administrative and legal costs, reduce~~ing~~ redundant, repetitive and costly discovery, and will enable both plaintiffs and defendants to deal with only one trial, rather than multiple trials with potentially~~repetitive trials with~~ inconsistent outcomes~~, discouraging settlements and encouraging lawsuits~~.

~~Without this bill, state laws on liability, damages, including punitive damages, will apply, and state court judges would preside over decisions. With the legislation, state laws on liability, damages and punitive damages will apply, but in a single federal court with a federal judge presiding. There are 21 states with laws addressing punitive damages, from Virginia, which prohibits punitive damages, to other states that cap recoveries.~~

Of course, we would have preferred to improve the legal system even more, particularly with respect to punitive damages. However, these improvements are substantial, which will add some needed momentum to the economy and is far preferable to no improvements~~. and nobill.~~

~~Further, given the importance of this bill to the economy, and the fact~~bill. Ultimately we believe that this bill will improve the legal rights of both plaintiffs and ~~defendants, we believe that this legislation, which~~defendants and, importantly will help American workers and the economy~~, is preferable to no action~~.

Considering the negative impacts on the economy that doing nothing will entail, moving a bill that backstops ~~reinsures and provides for federal court proceedings is preferable to continued stalemate with Senate Democrats resulting in continued harm to the economy.~~

reinsurers and provides for exclusive federal court jurisdiction and consolidation is preferable to a continued stalemate. In short, it is the U.S. Chamber's view that this proposed solution is preferable to no action and that it should be enacted into law.

Sincerely,

R. Bruce Josten

~~cc: Chairman~~cc: Chairman James Sensenbrenner
Chairman Michael Oxley

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>
Sent: 10/18/2002 12:01:24 PM
Subject: : Re: Sensenbrenner/judges/pledge

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-OCT-2002 16:01:24.00
SUBJECT:: Re: Sensenbrenner/judges/pledge
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

do you have copy of pledge resolution?

Heather Wingate
10/18/2002 03:43:50 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: Sensenbrenner/judges/pledge

Not sure the DoJ Reauth bill is "bill signing ceremony material". Will called me on this as well. Keep in mind that we'd have to invite Leahy to that event if we were to do it (it was his bill).

The Pledge bill is a Tim Hutchinson bill, and would make for a great signing ceremony here or on the road. SC, AR, GA are all good locations to highlight the reasons why the Pledge bill was needed (left-wing activist judges) and the fact that the President is committed to making sure common sense judges are put on the bench... obviously, then highlighting the fact that the Dem controlled Senate has impeded his efforts.

I sent an email to Nick earlier today suggesting signing ceremony for the Pledge bill.

Brett M. Kavanaugh
10/18/2002 03:35:49 PM
Record Type: Record

To: Brian C. Conklin/WHO/EOP@EOP, Matthew Kirk/WHO/EOP@EOP, Israel Hernandez/WHO/EOP@EOP, Heather Wingate/WHO/EOP@EOP
cc: Kristen Silverberg/WHO/EOP@EOP
Subject: Sensenbrenner/judges/pledge

Will Maschella of Sensenbrenner's staff just called me with suggestion for signing ceremonies for pledge of allegiance bill and DOJ reauthorization (which has new dct judgeships in it).

On the judgeships, the President likely would mention these new

judgeships as part of the larger judges event now tentatively slated (which may not occur, however, until after election). On the Pledge resolution, not sure what we are doing, but I raise it for you all. In any event, on both, we should obviously include and praise Sensenbrenner.

Message Copied
To:_____
brian c. conklin/who/eop@eop
matthew kirk/who/eop@eop
israel hernandez/who/eop@eop
kristen silverberg/who/eop@eop
Robert Marsh/WHO/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Collister W. Johnson/WHO/EOP@EOP [WHO] <Collister W. Johnson>
Sent: 10/18/2002 1:01:21 PM
Subject: : Re: Fw: Slate #2
Attachments: P_PTZ0B003_WHO.TXT_1.htm; P_PTZ0B003_WHO.TXT_2.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-OCT-2002 17:01:21.00
SUBJECT:: Re: Fw: Slate #2
TO:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Approved. Thanks.

Collister W. Johnson
10/18/2002 04:51:52 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Fw: Slate #2

approval please?
thanks man!
c

---------- Forwarded by Collister W. Johnson/WHO/EOP on 10/18/2002 04:56 PM ----------

Coddy Johnson <cjohnson@georgewbush.com>
10/18/2002 04:55:01 PM
Record Type: Record

To: Collister W. Johnson/WHO/EOP@EOP
cc:
Subject: Fw: Slate #2

Slate #2
----- Original Message -----
From: Shane Ostrowski
To: Coddy Johnson
Sent: Friday, October 18, 2002 12:47 PM
Subject: Slate #2

Coddy,

Anything on our slate card yet?

On another matter, Franklin County (Columbus) would like to send out the attached slate. The photo of the POTUS on the cover was taken by the local Republican Party at a Franklin County event some time ago. Is this ok to print? Just thought we should check since this too will have our

disclaimer.

Thanks,
Shane

- att1.htm
- FranklinRepublicanSlatecard.pdf

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_PTZ0B003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_PTZ0B003_WHO.TXT_2>

----- Original Message -----
From: Shane Ostrowski
To: Coddy Johnson
Sent: Friday, October 18, 2002 12:47 PM
Subject: Slate #2

Coddy,

Anything on our slate card yet?

On another matter, Franklin County (Columbus) would like to sen d out the attached slate. The photo of the POTUS on the cover was taken by the local Republican Party at a Franklin County event some time ago. Is this ok to print? Just thought we should check since this too will have our disclaimer.

Thanks,
Shane

JUDGE BROWNE



- Domestic Relations Judge.
- Former Law Director, State Worker's Compen-sation Bureau.
- **"Highly Recommended"** by the Columbus Bar Association Judiciary Committee

JUDGE BELSKIS

- ***Rated BEST in America!***

Winner of 2001 American Bar Association Award as ***"the Outstanding Special Court Judge"***. Selected by judges across the United States as President elect for the National College of Probate Judges. Belskis is an Ohio leader working for families in estates, adoptions, guardianships & marriages.





Judge Richard Sheward



Judge Dan Hogan

Michael Holbrook for Judge

County Auditor Joe Testa

Franklin County Republican

TAKE TO THE POLLS!

For Governor	**Bob Taft**
Lt. Gov.	**Jennette Bradley**
For Attorney General	**Jim Petro**
For State Auditor	**Betty Montgomery**
Secretary of State	**Ken Blackwell**
State Treasurer	**Joseph Deters**
Members of **Congress**	**Dave Hobson** (7th) **Pat Tiberi** (12th) **Deborah Pryce** (15th)
For State **Senate**	**Sen. David Goodman** (3rd Dist.) **Lorena Lacey** (15th Dist.)
For **Ohio House** **Larry Flowers** (19th Dist.) **Jim McGregor** (20th Dist.)	**Linda Reidelbach** (21st Dist.) **Jim Hughes** (22nd Dist.) **Larry Wolpert** (23rd Dist.) **Geoffrey Smith** (24th Dist.) **David Dobos** (25th Dist.) **Lionel Jones** (26th Dist.) **Steve Reinhardt** (27th Dist.)
County Commissioner	**Dewey Stokes**
County Auditor	**Joe Testa**
County Treasurer	**Wade Steen**
For Ohio **Supreme Court** *(Vote for **BOTH**)*	**Maureen O'Connor** **Justice Evelyn Stratton**
For 10th District **Court of Appeals** *(Vote for **ALL three**)*	**Judge Charles Petree** **Judge Lisa Sadler** **Judge William Klatt**
For Common Pleas Court Judge *(Vote for **ALL four**)*	
Judge Dan Hogan	**Judge Richard Sheward**
Judge David Fais	**Michael Holbrook**
Domestic Relations	**Judge Kim Browne** **Judge Dana Preisse**
Probate Court	**Judge Lawrence Belskis**

State Issue One — Vote *NO* against *DRUGS*

NONPROFIT
ORGANIZATION
US POSTAGE
PAID
OHIO REP. PARTY
COLUMBUS, OH

Part of America

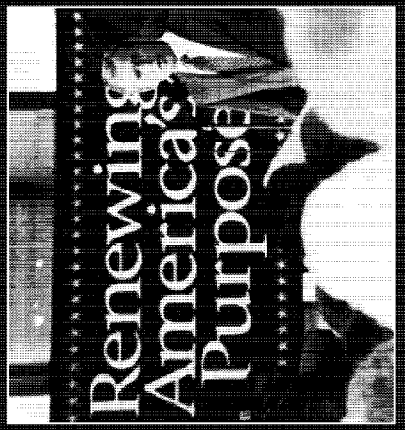
Ohio Republican Party
211 South Fifth St.
Columbus, Ohio 43215

VOTE TUESDAY!

Our democracy must be active and vigorous. President Bush, Bob Taft and other Republicans are providing excellent leadership. Now we need to vote Tuesday and support our great slate of court, legislative, county and state candidates.
THANKS!

Jo Ann Davidson
Cen. Comm. Chairman

Michael F. Colley
Ex. Comm. Chairman



VOTE TUESDAY NOVEMBER 5TH

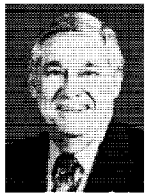
SUPPORT OUR PRESIDENT, GOVERNOR!



REV_00153259

County Commissioner
Dewey Stokes

- Franklin County is top-rated nationally, by Governing Magazine.
- AAA Bond Rating.
- 26-years, Columbus Police Officer.
- Former National President, Fraternal Order of Police.



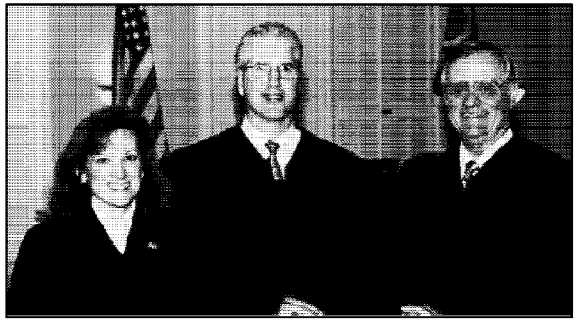


Dewey Stokes, Wade Steen

County Treasurer
Wade Steen

- *Ohio's Best!* Ranked first among seven largest counties.
- CPA financial professional.
- Award-winning for innovation, out-standing financial management.





Endorsed and Experienced! For Court of Appeals

Judges Sadler, Klatt, Petree *(Left to right)*

Common Pleas

Judge
Sadler

- **Only Judge Sadler has had years of experience as Prosecutor.**

Judge
Klatt

- **Worked with Attorney General Betty Montgomery helping write anti-crime laws.**

Judge
Petree

- **Award-winning trial judge.**
- **Opponent rated NOT recommended, by Col. Bar Jud. Comm.**



David Hobson



Pat Tiberi



Deborah Pryce

For U.S. Representatives

Ohio Supreme Court

For Justice

Maureen O'Connor



- **Ohio Lt. Governor** since 1999; **Director, Ohio Department of Public Safety**
- **Former Summit County Prosecutor and Judge,** earning reputation for being tough on murderers, violent felons, rapists and child molesters.
- **Endorsed** by Ohio Fraternal Order of Police, Columbus Dispatch and other newspapers throughout Ohio.

Re-Elect Justice Evelyn Straton



- **Ohio Supreme Court Justice** since 1996
- Seven years, **Franklin County Common Pleas Judge,** earning nickname as the "Velvet Hammer" for tough sentencing.
- **Endorsed** by Ohio Fraternal Order of Police, Columbus Dispatch and other newspapers throughout Ohio.

Franklin County Republican

Take to the Polls!

For Governor	**Bob Taft**
Lt. Gov.	**Jennette Bradley**
For Attorney General	**Jim Petro**
For State Auditor	**Betty Montgomery**
Secretary of State	**Ken Blackwell**
State Treasurer	**Joseph Deters**
Members of **Congress**	**Dave Hobson** (7th) **Pat Tiberi** (12th) **Deborah Pryce** (15th)
For State **Senate**	**Sen. David Goodman** (3rd Dist.) **Lorena Lacey** (15th Dist.)
For **Ohio House**	**Linda Reidelbach** (21st Dist.)
Larry Flowers (19th Dist.)	**Jim Hughes** (22nd Dist.)
Jim McGregor (20th Dist.)	**Larry Wolpert** (23rd Dist.)
	Geoffrey Smith (24th Dist.)
	David Dobos (25th Dist.)
	Lionel Jones (26th Dist.)
	Steve Reinhardt (27th Dist.)
County Commissioner	**Dewey Stokes**
County Auditor	**Joe Testa**
County Treasurer	**Wade Steen**
For Ohio **Supreme Court** *(Vote for **BOTH**)*	**Maureen O'Connor** **Justice Evelyn Stratton**
For 10th District **Court of Appeals** *(Vote for **ALL three**)*	**Judge Charles Petree** **Judge Lisa Sadler** **Judge William Klatt**
For Common Pleas Court Judge *(Vote for **ALL four**)*	
Judge Dan Hogan	**Judge Richard Sheward**
Judge David Fais	**Michael Holbrook**
Domestic Relations	**Judge Kim Browne** **Judge Dana Preisse**
Probate Court	**Judge Lawrence Belskis**

State Issue One — Vote *NO* against *DRUGS*

Paid for by the Ohio Republican Party, Robert T. Bennett, Chairman, 211 South Fifth Street, Columbus, OH 43215

REV_00153260

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>
Sent: 10/18/2002 11:39:51 AM
Subject: : H.R. 5596 - To amend section 527 of the Internal Revenue Code of 1986 to eliminate notification and return requirements for State and local party committees and candidate committees and avoid duplicate reporting by certain State and local political committees of information required to be reported and made publicly available under State law.

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-OCT-2002 15:39:51.00
SUBJECT:: H.R. 5596 - To amend section 527 of the Internal Revenue Code of 1986 to eliminate notification and return requirements for State and local party committees and candidate committees and avoid duplicate reporting by certain State and local political committees of information required to be reported and made publicly available under State law.
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 10/18/2002 03:42 PM ----------

Irene Kho
10/17/2002 11:54:19 AM
Record Type: Record

To: James D. Foster/OMB/EOP@EOP, karen.dorsey@do.treas.gov, gregory.m.jones@usdoj.gov
cc: See the distribution list at the bottom of this message
Subject: H.R. 5596 - To amend section 527 of the Internal Revenue Code of 1986 to eliminate notification and return requirements for State and local party committees and candidate committees and avoid duplicate reporting by certain State and local political committees of information required to be reported and made publicly available under State law.

CQ MONITOR NEWS
POLITICS & ELECTIONS
Section 527 PACs Can Avoid Some Disclosure Requirements
By Derek Willis, CQ Staff Writer
Oct. 16, 2002 - The House on Wednesday passed by voice vote a bill (HRÿ 5596) that eliminates some recordkeeping and filing requirements for political committees organized under Section 527 of the Internal Revenue Code.
ÿÿÿÿThe bill, introduced Oct. 10 by Rep. Kevin Brady , R-Texas, would permit state and local 527 organizations to avoid federal disclosure requirements if the same information is reported and publicly available under state law.
ÿÿÿÿThe measure was cosponsored by Rep. Lloyd Doggett, D-Texas, the author of a 2000 measure (PL 106-230) that set reporting requirements for 527 groups, which became known as "stealth PACs" during the 2000 presidential campaign.
ÿÿÿÿGroups formed under Section 527 previously had no disclosure requirements, and the legislation was intended to shed light on political groups that were spending money to influence federal elections, but not expressly advocating a candidate.
ÿÿÿÿBrady%s bill also had the support of Reps. Christopher Shays, R-Conn., and Martin T. Meehan, D-Mass., the cosponsors of a campaign finance overhaul law (HRÿ2356 - PLÿ107-155).
ÿÿÿÿBrady and David Vitter, R-La., had pressed for passage of the bill, saying that small political committees were being forced to disclose

information to the IRS even though most of them had no role in federal elections.
ÿÿÿÿÿAn earlier proposal by Brady was placed in a broader tax measure (HRÿ 3991) that failed to pass the House under suspension of the rules on April 10.
Source: CQ Monitor News
Round-the-clock coverage of news from Capitol Hill.
¸2002 Congressional Quarterly Inc. All Rights Reserved.

Message Copied
To:_____
Robert S. Bray/OMB/EOP@EOP
Diana L. Schacht/OPD/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Mary C. Barth/OMB/EOP@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
Mark J. Schwartz/OMB/EOP@EOP
Julie L. Haas/OMB/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>
BCC: Records Management@EOP (Records Management@EOP [UNKNOWN])
Sent: 10/18/2002 12:01:54 PM
Subject: : Re: Sensenbrenner/judges/pledge

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-OCT-2002 16:01:54.00
SUBJECT:: Re: Sensenbrenner/judges/pledge
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
BCC:Records Management@EOP (Records Management@EOP [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

do you have copy of pledge resolution?

Heather Wingate
10/18/2002 03:43:50 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: Sensenbrenner/judges/pledge

Not sure the DoJ Reauth bill is "bill signing ceremony material". Will called me on this as well. Keep in mind that we'd have to invite Leahy to that event if we were to do it (it was his bill).

The Pledge bill is a Tim Hutchinson bill, and would make for a great signing ceremony here or on the road. SC, AR, GA are all good locations to highlight the reasons why the Pledge bill was needed (left-wing activist judges) and the fact that the President is committed to making sure common sense judges are put on the bench... obviously, then highlighting the fact that the Dem controlled Senate has impeded his efforts.

I sent an email to Nick earlier today suggesting signing ceremony for the Pledge bill.

Brett M. Kavanaugh
10/18/2002 03:35:49 PM
Record Type: Record

To: Brian C. Conklin/WHO/EOP@EOP, Matthew Kirk/WHO/EOP@EOP, Israel Hernandez/WHO/EOP@EOP, Heather Wingate/WHO/EOP@EOP
cc: Kristen Silverberg/WHO/EOP@EOP
Subject: Sensenbrenner/judges/pledge

Will Maschella of Sensenbrenner's staff just called me with suggestion for signing ceremonies for pledge of allegiance bill and DOJ

reauthorization (which has new dct judgeships in it).

On the judgeships, the President likely would mention these new judgeships as part of the larger judges event now tentatively slated (which may not occur, however, until after election). On the Pledge resolution, not sure what we are doing, but I raise it for you all. In any event, on both, we should obviously include and praise Sensenbrenner.

Message Copied
To:_____
brian c. conklin/who/eop@eop
matthew kirk/who/eop@eop
israel hernandez/who/eop@eop
kristen silverberg/who/eop@eop
Robert Marsh/WHO/EOP@EOP

From: CN=Collister W. Johnson/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/18/2002 12:54:08 PM
Subject: : Fw: Slate #2
Attachments: P_KDZ0B003_WHO.TXT_1.htm; P_KDZ0B003_WHO.TXT_2.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-OCT-2002 16:54:08.00
SUBJECT:: Fw: Slate #2
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

approval please?
thanks man!
c

---------- Forwarded by Collister W. Johnson/WHO/EOP on 10/18/2002 04:56 PM ----------

Coddy Johnson <cjohnson@georgewbush.com>
10/18/2002 04:55:01 PM
Record Type: Record

To: Collister W. Johnson/WHO/EOP@EOP
cc:
Subject: Fw: Slate #2

Slate #2
----- Original Message -----
From: Shane Ostrowski
To: Coddy Johnson
Sent: Friday, October 18, 2002 12:47 PM
Subject: Slate #2

Coddy,

Anything on our slate card yet?

On another matter, Franklin County (Columbus) would like to send out the attached slate. The photo of the POTUS on the cover was taken by the local Republican Party at a Franklin County event some time ago. Is this ok to print? Just thought we should check since this too will have our disclaimer.

Thanks,
Shane

- att1.htm
- FranklinRepublicanSlatecard.pdf

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_KDZ0B003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_KDZ0B003_WHO.TXT_2>

----- Original Message -----
From: Shane Ostrowski
To: Coddy Johnson
Sent: Friday, October 18, 2002 12:47 PM
Subject: Slate #2

Coddy,

Anything on our slate card yet?

On another matter, Franklin County (Columbus) would like to sen d out the attached slate. The photo of the POTUS on the cover was taken by the local Republican Party at a Franklin County event some time ago. Is this ok to print? Just thought we should check since this too will have our disclaimer.

Thanks,
Shane

JUDGE BROWNE



- Domestic Relations Judge.
- Former Law Director, State Worker's Compen-sation Bureau.
- **"Highly Recommended"** by the Columbus Bar Association Judiciary Committee

JUDGE BELSKIS

- ***Rated BEST in America!***

Winner of 2001 American Bar Association Award as ***"the Outstanding Special Court Judge"***. Selected by judges across the United States as President elect for the National College of Probate Judges. Belskis is an Ohio leader working for families in estates, adoptions, guardianships & marriages.





Judge Richard Sheward



Judge Dan Hogan

Michael Holbrook for Judge

County Auditor Joe Testa

Franklin County Republican

TAKE TO THE POLLS!

For Governor	**Bob Taft**
Lt. Gov.	**Jennette Bradley**
For Attorney General	**Jim Petro**
For State Auditor	**Betty Montgomery**
Secretary of State	**Ken Blackwell**
State Treasurer	**Joseph Deters**
Members of **Congress**	**Dave Hobson** (7th) **Pat Tiberi** (12th) **Deborah Pryce** (15th)
For State **Senate**	**Sen. David Goodman** (3rd Dist.) **Lorena Lacey** (15th Dist.)
For **Ohio House** **Larry Flowers** (19th Dist.) **Jim McGregor** (20th Dist.)	**Linda Reidelbach** (21st Dist.) **Jim Hughes** (22nd Dist.) **Larry Wolpert** (23rd Dist.) **Geoffrey Smith** (24th Dist.) **David Dobos** (25th Dist.) **Lionel Jones** (26th Dist.) **Steve Reinhardt** (27th Dist.)
County Commissioner	**Dewey Stokes**
County Auditor	**Joe Testa**
County Treasurer	**Wade Steen**
For Ohio **Supreme Court** *(Vote for **BOTH**)*	**Maureen O'Connor** **Justice Evelyn Stratton**
For 10th District **Court of Appeals** *(Vote for **ALL three**)*	**Judge Charles Petree** **Judge Lisa Sadler** **Judge William Klatt**
For Common Pleas Court Judge *(Vote for **ALL four**)*	
Judge Dan Hogan	**Judge Richard Sheward**
Judge David Fais	**Michael Holbrook**
Domestic Relations	**Judge Kim Browne** **Judge Dana Preisse**
Probate Court	**Judge Lawrence Belskis**

State Issue One — Vote *NO* against *DRUGS*

NONPROFIT
ORGANIZATION
US POSTAGE
PAID
OHIO REP PARTY
COLUMBUS, OH

Part of America

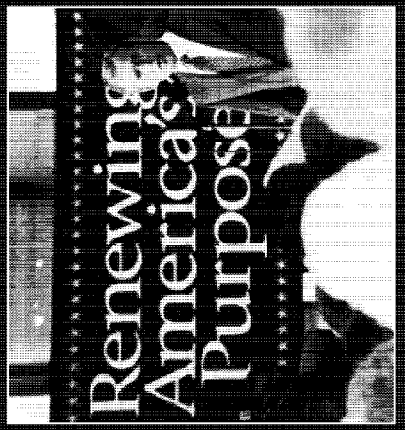
Ohio Republican Party
211 South Fifth St.
Columbus, Ohio 43215

VOTE TUESDAY!

Our democracy must be active and vigorous. President Bush, Bob Taft and other Republicans are providing excellent leadership. Now we need to vote Tuesday and support our great slate of court, legislative, county and state candidates.
THANKS!

Jo Ann Davidson
Cen. Comm. Chairman

Michael F. Colley
Ex. Comm. Chairman



VOTE TUESDAY NOVEMBER 5TH

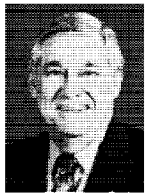
SUPPORT OUR PRESIDENT, GOVERNOR!



REV_00153275

County Commissioner
Dewey Stokes

- Franklin County is top-rated nationally, by Governing Magazine.
- AAA Bond Rating.
- 26-years, Columbus Police Officer.
- Former National President, Fraternal Order of Police.



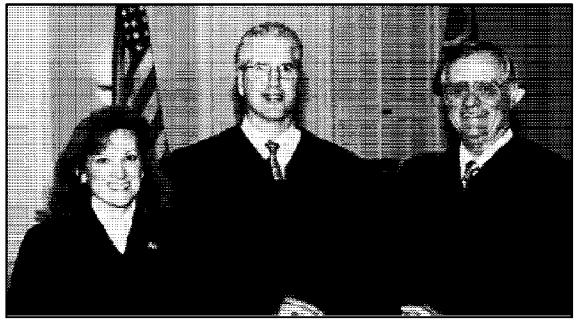


Dewey Stokes, Wade Steen

County Treasurer
Wade Steen

- *Ohio's Best!* Ranked first among seven largest counties.
- CPA financial professional.
- Award-winning for innovation, out-standing financial management.





Endorsed and Experienced! For Court of Appeals

Judges Sadler, Klatt, Petree *(Left to right)*

Common Pleas

Judge Sadler

- **Only Judge Sadler has had years of experience as Prosecutor.**

Judge Klatt

- **Worked with Attorney General Betty Montgomery helping write anti-crime laws.**

Judge Petree

- **Award-winning trial judge.**
- **Opponent rated <u>NOT</u> recommended, by Col. Bar Jud. Comm.**



David Hobson



Pat Tiberi



Deborah Pryce

For U.S. Representatives

Ohio Supreme Court

For Justice

Maureen O'Connor



- **Ohio Lt. Governor** since 1999; **Director, Ohio Department of Public Safety**
- **Former Summit County Prosecutor and Judge,** earning reputation for being tough on murderers, violent felons, rapists and child molesters.
- **Endorsed** by Ohio Fraternal Order of Police, Columbus Dispatch and other newspapers throughout Ohio.

Re-Elect Justice Evelyn Straton



- **Ohio Supreme Court Justice** since 1996
- Seven years, **Franklin County Common Pleas Judge,** earning nickname as the "Velvet Hammer" for tough sentencing.
- **Endorsed** by Ohio Fraternal Order of Police, Columbus Dispatch and other newspapers throughout Ohio.

Franklin County Republican

Take to the Polls!

For Governor	**Bob Taft**
Lt. Gov.	**Jennette Bradley**
For Attorney General	**Jim Petro**
For State Auditor	**Betty Montgomery**
Secretary of State	**Ken Blackwell**
State Treasurer	**Joseph Deters**
Members of **Congress**	**Dave Hobson** (7th) **Pat Tiberi** (12th) **Deborah Pryce** (15th)
For State **Senate**	**Sen. David Goodman** (3rd Dist.) **Lorena Lacey** (15th Dist.)
For **Ohio House**	**Linda Reidelbach** (21st Dist.)
Larry Flowers (19th Dist.)	**Jim Hughes** (22nd Dist.)
Jim McGregor (20th Dist.)	**Larry Wolpert** (23rd Dist.)
	Geoffrey Smith (24th Dist.)
	David Dobos (25th Dist.)
	Lionel Jones (26th Dist.)
	Steve Reinhardt (27th Dist.)
County Commissioner	**Dewey Stokes**
County Auditor	**Joe Testa**
County Treasurer	**Wade Steen**
For Ohio **Supreme Court** *(Vote for **BOTH**)*	**Maureen O'Connor** **Justice Evelyn Stratton**
For 10th District **Court of Appeals** *(Vote for **ALL three**)*	**Judge Charles Petree** **Judge Lisa Sadler** **Judge William Klatt**
For Common Pleas Court Judge *(Vote for **ALL four**)*	
Judge Dan Hogan	**Judge Richard Sheward**
Judge David Fais	**Michael Holbrook**
Domestic Relations	**Judge Kim Browne** **Judge Dana Preisse**
Probate Court	**Judge Lawrence Belskis**

State Issue One — Vote *NO* against *DRUGS*

Paid for by the Ohio Republican Party, Robert T. Bennett, Chairman, 211 South Fifth Street, Columbus, OH 43215

REV_00153276

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Collister W. Johnson/WHO/EOP@EOP [WHO] <Collister W. Johnson>
Sent: 10/18/2002 1:01:21 PM
Subject: : Re: Fw: Slate #2
Attachments: P_PTZ0B003_WHO.TXT_1.htm; P_PTZ0B003_WHO.TXT_2.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-OCT-2002 17:01:21.00
SUBJECT:: Re: Fw: Slate #2
TO:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Approved. Thanks.

Collister W. Johnson
10/18/2002 04:51:52 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Fw: Slate #2

approval please?
thanks man!
c

---------- Forwarded by Collister W. Johnson/WHO/EOP on 10/18/2002 04:56 PM ----------

Coddy Johnson <cjohnson@georgewbush.com>
10/18/2002 04:55:01 PM
Record Type: Record

To: Collister W. Johnson/WHO/EOP@EOP
cc:
Subject: Fw: Slate #2

Slate #2
----- Original Message -----
From: Shane Ostrowski
To: Coddy Johnson
Sent: Friday, October 18, 2002 12:47 PM
Subject: Slate #2

Coddy,

Anything on our slate card yet?

On another matter, Franklin County (Columbus) would like to send out the attached slate. The photo of the POTUS on the cover was taken by the local Republican Party at a Franklin County event some time ago. Is this ok to print? Just thought we should check since this too will have our

disclaimer.

Thanks,
Shane

- att1.htm
- FranklinRepublicanSlatecard.pdf

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_PTZ0B003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_PTZ0B003_WHO.TXT_2>

----- Original Message -----
From: Shane Ostrowski
To: Coddy Johnson
Sent: Friday, October 18, 2002 12:47 PM
Subject: Slate #2

Coddy,

Anything on our slate card yet?

On another matter, Franklin County (Columbus) would like to sen d out the attached slate. The photo of the POTUS on the cover was taken by the local Republican Party at a Franklin County event some time ago. Is this ok to print? Just thought we should check since this too will have our disclaimer.

Thanks,
Shane

JUDGE BROWNE



- Domestic Relations Judge.
- Former Law Director, State Worker's Compen-sation Bureau.
- **"Highly Recommended"** by the Columbus Bar Association Judiciary Committee

JUDGE BELSKIS

- ***Rated BEST in America!***

Winner of 2001 American Bar Association Award as ***"the Outstanding Special Court Judge"***. Selected by judges across the United States as President elect for the National College of Probate Judges. Belskis is an Ohio leader working for families in estates, adoptions, guardianships & marriages.





Judge Richard Sheward



Judge Dan Hogan

Michael Holbrook for Judge

County Auditor Joe Testa

Franklin County Republican

TAKE TO THE POLLS!

For Governor	**Bob Taft**
Lt. Gov.	**Jennette Bradley**
For Attorney General	**Jim Petro**
For State Auditor	**Betty Montgomery**
Secretary of State	**Ken Blackwell**
State Treasurer	**Joseph Deters**
Members of **Congress**	**Dave Hobson** (7th) **Pat Tiberi** (12th) **Deborah Pryce** (15th)
For State **Senate**	**Sen. David Goodman** (3rd Dist.) **Lorena Lacey** (15th Dist.)
For **Ohio House**	**Linda Reidelbach** (21st Dist.)
Larry Flowers (19th Dist.)	**Jim Hughes** (22nd Dist.)
Jim McGregor (20th Dist.)	**Larry Wolpert** (23rd Dist.)
	Geoffrey Smith (24th Dist.)
	David Dobos (25th Dist.)
	Lionel Jones (26th Dist.)
	Steve Reinhardt (27th Dist.)
County Commissioner	**Dewey Stokes**
County Auditor	**Joe Testa**
County Treasurer	**Wade Steen**
For Ohio **Supreme Court** *(Vote for **BOTH**)*	**Maureen O'Connor** **Justice Evelyn Stratton**
For 10th District **Court of Appeals** *(Vote for **ALL three**)*	**Judge Charles Petree** **Judge Lisa Sadler** **Judge William Klatt**
For Common Pleas Court Judge *(Vote for **ALL four**)*	
Judge Dan Hogan	**Judge Richard Sheward**
Judge David Fais	**Michael Holbrook**
Domestic Relations	**Judge Kim Browne** **Judge Dana Preisse**
Probate Court	**Judge Lawrence Belskis**

State Issue One — Vote *NO* against *DRUGS*

NONPROFIT ORGANIZATION US POSTAGE PAID OHIO REP PARTY COLUMBUS, OH

Part of America

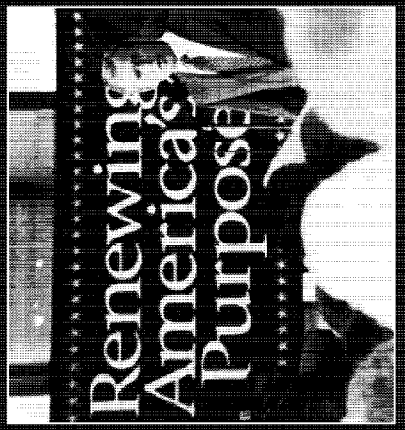
Ohio Republican Party
211 South Fifth St.
Columbus, Ohio 43215

VOTE TUESDAY!

Our democracy must be active and vigorous. President Bush, Bob Taft and other Republicans are providing excellent leadership. Now we need to vote Tuesday and support our great slate of court, legislative, county and state candidates.
THANKS!

Jo Ann Davidson
Cen. Comm. Chairman

Michael F. Colley
Ex. Comm. Chairman



VOTE TUESDAY NOVEMBER 5TH

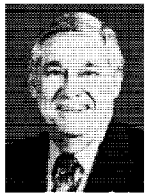
SUPPORT OUR PRESIDENT, GOVERNOR!



REV_00153281

County Commissioner
Dewey Stokes

- Franklin County is top-rated nationally, by Governing Magazine.
- AAA Bond Rating.
- 26-years, Columbus Police Officer.
- Former National President, Fraternal Order of Police.



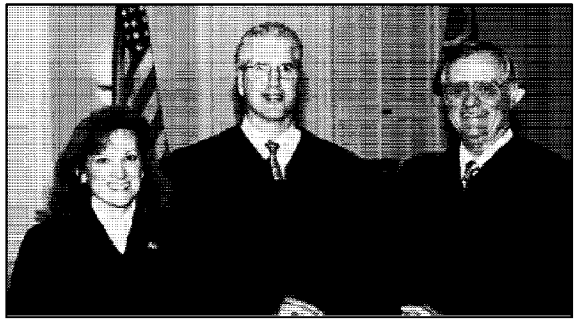


Dewey Stokes, Wade Steen

County Treasurer
Wade Steen

- *Ohio's Best!* Ranked first among seven largest counties.
- CPA financial professional.
- Award-winning for innovation, out-standing financial management.





Endorsed and Experienced! For Court of Appeals

Judges Sadler, Klatt, Petree *(Left to right)*

Common Pleas

Judge Sadler

- **Only Judge Sadler has had years of experience as Prosecutor.**

Judge Klatt

- **Worked with Attorney General Betty Montgomery helping write anti-crime laws.**

Judge Petree

- **Award-winning trial judge.**
- **Opponent rated <u>NOT</u> recommended, by Col. Bar Jud. Comm.**



David Hobson



Pat Tiberi



Deborah Pryce

For U.S. Representatives

Ohio Supreme Court

For Justice

Maureen O'Connor



- **Ohio Lt. Governor** since 1999; **Director, Ohio Department of Public Safety**
- **Former Summit County Prosecutor and Judge,** earning reputation for being tough on murderers, violent felons, rapists and child molesters.
- **Endorsed** by Ohio Fraternal Order of Police, Columbus Dispatch and other newspapers throughout Ohio.

Re-Elect Justice Evelyn Straton



- **Ohio Supreme Court Justice** since 1996
- Seven years, **Franklin County Common Pleas Judge,** earning nickname as the "Velvet Hammer" for tough sentencing.
- **Endorsed** by Ohio Fraternal Order of Police, Columbus Dispatch and other newspapers throughout Ohio.

Franklin County Republican

Take to the Polls!

For Governor	**Bob Taft**
Lt. Gov.	**Jennette Bradley**
For Attorney General	**Jim Petro**
For State Auditor	**Betty Montgomery**
Secretary of State	**Ken Blackwell**
State Treasurer	**Joseph Deters**
Members of **Congress**	**Dave Hobson** (7th) **Pat Tiberi** (12th) **Deborah Pryce** (15th)
For State **Senate**	**Sen. David Goodman** (3rd Dist.) **Lorena Lacey** (15th Dist.)
For **Ohio House**	**Linda Reidelbach** (21st Dist.)
Larry Flowers (19th Dist.)	**Jim Hughes** (22nd Dist.)
Jim McGregor (20th Dist.)	**Larry Wolpert** (23rd Dist.)
	Geoffrey Smith (24th Dist.)
	David Dobos (25th Dist.)
	Lionel Jones (26th Dist.)
	Steve Reinhardt (27th Dist.)
County Commissioner	**Dewey Stokes**
County Auditor	**Joe Testa**
County Treasurer	**Wade Steen**
For Ohio **Supreme Court** *(Vote for **BOTH**)*	**Maureen O'Connor** **Justice Evelyn Stratton**
For 10th District **Court of Appeals** *(Vote for **ALL three**)*	**Judge Charles Petree** **Judge Lisa Sadler** **Judge William Klatt**
For Common Pleas Court Judge *(Vote for **ALL four**)*	
Judge Dan Hogan	**Judge Richard Sheward**
Judge David Fais	**Michael Holbrook**
Domestic Relations	**Judge Kim Browne** **Judge Dana Preisse**
Probate Court	**Judge Lawrence Belskis**

State Issue One

Vote *NO* against *DRUGS*

Paid for by the Ohio Republican Party, Robert T. Bennett, Chairman, 211 South Fifth Street, Columbus, OH 43215

REV_00153282

From: CN=Collister W. Johnson/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/18/2002 1:12:05 PM
Subject: : Re: Fw: Slate #2
Attachments: P_MI01B003_WHO.TXT_1.htm; P_MI01B003_WHO.TXT_2.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-OCT-2002 17:12:05.00
SUBJECT:: Re: Fw: Slate #2
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

you are the Man -
c

Brett M. Kavanaugh
10/18/2002 04:59:06 PM
Record Type: Record

To: Collister W. Johnson/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Fw: Slate #2

Approved. Thanks.

Collister W. Johnson
10/18/2002 04:51:52 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Fw: Slate #2

approval please?
thanks man!
c

---------- Forwarded by Collister W. Johnson/WHO/EOP on 10/18/2002 04:56 PM ----------

Coddy Johnson <cjohnson@georgewbush.com>
10/18/2002 04:55:01 PM
Record Type: Record

To: Collister W. Johnson/WHO/EOP@EOP
cc:
Subject: Fw: Slate #2

Slate #2
----- Original Message -----
From: Shane Ostrowski
To: Coddy Johnson
Sent: Friday, October 18, 2002 12:47 PM
Subject: Slate #2

Coddy,

Anything on our slate card yet?

On another matter, Franklin County (Columbus) would like to send out the attached slate. The photo of the POTUS on the cover was taken by the local Republican Party at a Franklin County event some time ago. Is this ok to print? Just thought we should check since this too will have our disclaimer.

Thanks,
Shane

- att1.htm
- FranklinRepublicanSlatecard.pdf

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_MI01B003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_MI01B003_WHO.TXT_2>

----- Original Message -----
From: Shane Ostrowski
To: Coddy Johnson
Sent: Friday, October 18, 2002 12:47 PM
Subject: Slate #2

Coddy,

Anything on our slate card yet?

On another matter, Franklin County (Columbus) would like to sen d out the attached slate. The photo of the POTUS on the cover was taken by the local Republican Party at a Franklin County event some time ago. Is this ok to print? Just thought we should check since this too will have our disclaimer.

Thanks,
Shane

JUDGE BROWNE



- Domestic Relations Judge.
- Former Law Director, State Worker's Compen-sation Bureau.
- **"Highly Recommended"** by the Columbus Bar Association Judiciary Committee

JUDGE BELSKIS

- ***Rated BEST in America!***

Winner of 2001 American Bar Association Award as ***"the Outstanding Special Court Judge"***. Selected by judges across the United States as President elect for the National College of Probate Judges. Belskis is an Ohio leader working for families in estates, adoptions, guardianships & marriages.





Judge Richard Sheward



Judge Dan Hogan

Michael Holbrook for Judge

County Auditor Joe Testa

Franklin County Republican

TAKE TO THE POLLS!

For Governor	**Bob Taft**
Lt. Gov.	**Jennette Bradley**
For Attorney General	**Jim Petro**
For State Auditor	**Betty Montgomery**
Secretary of State	**Ken Blackwell**
State Treasurer	**Joseph Deters**
Members of **Congress**	**Dave Hobson** (7th) **Pat Tiberi** (12th) **Deborah Pryce** (15th)
For State **Senate**	**Sen. David Goodman** (3rd Dist.) **Lorena Lacey** (15th Dist.)
For **Ohio House** **Larry Flowers** (19th Dist.) **Jim McGregor** (20th Dist.)	**Linda Reidelbach** (21st Dist.) **Jim Hughes** (22nd Dist.) **Larry Wolpert** (23rd Dist.) **Geoffrey Smith** (24th Dist.) **David Dobos** (25th Dist.) **Lionel Jones** (26th Dist.) **Steve Reinhardt** (27th Dist.)
County Commissioner	**Dewey Stokes**
County Auditor	**Joe Testa**
County Treasurer	**Wade Steen**
For Ohio **Supreme Court** *(Vote for **BOTH**)*	**Maureen O'Connor** **Justice Evelyn Stratton**
For 10th District **Court of Appeals** *(Vote for **ALL three**)*	**Judge Charles Petree** **Judge Lisa Sadler** **Judge William Klatt**
For Common Pleas Court Judge *(Vote for **ALL four**)*	
Judge Dan Hogan	**Judge Richard Sheward**
Judge David Fais	**Michael Holbrook**
Domestic Relations	**Judge Kim Browne** **Judge Dana Preisse**
Probate Court	**Judge Lawrence Belskis**

State Issue One — Vote *NO* against *DRUGS*

NONPROFIT
ORGANIZATION
US POSTAGE
PAID
OHIO REP PARTY
COLUMBUS, OH

Renewing America's Purpose

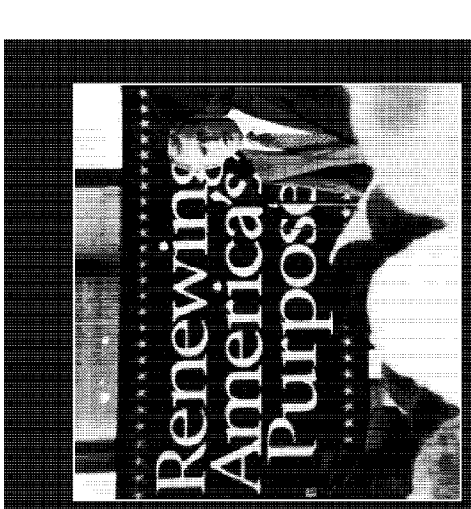
Ohio Republican Party
211 South Fifth St.
Columbus, Ohio 43215

VOTE TUESDAY!

Our democracy must be active and vigorous. President Bush, Bob Taft and other Republicans are providing excellent leadership. Now we need to vote Tuesday and support our great slate of court, legislative, county and state candidates.
THANKS!

Jo Ann Davidson
Cen. Comm. Chairman

Michael F. Colley
Ex. Comm. Chairman



VOTE TUESDAY NOVEMBER 5TH

SUPPORT OUR PRESIDENT, GOVERNOR!

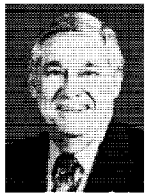


REV_00153286

County Commissioner

Dewey Stokes

- Franklin County is top-rated nationally, by Governing Magazine.
- AAA Bond Rating.
- 26-years, Columbus Police Officer.
- Former National President, Fraternal Order of Police.





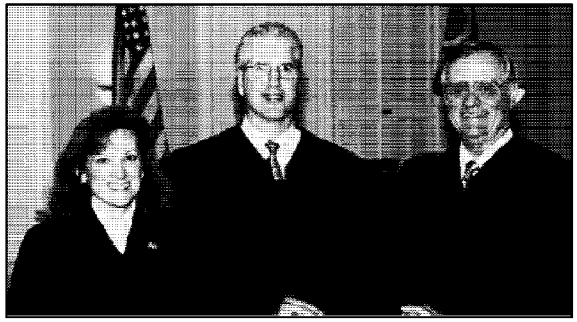
Dewey Stokes, Wade Steen

County Treasurer

Wade Steen

- *Ohio's Best!* Ranked first among seven largest counties.
- CPA financial professional.
- Award-winning for innovation, out-standing financial management.





Endorsed and Experienced! For Court of Appeals

Judges Sadler, Klatt, Petree *(Left to right)*

Common Pleas

Judge

Sadler

- **Only Judge Sadler has had years of experience as Prosecutor.**

Judge

Klatt

- **Worked with Attorney General Betty Montgomery helping write anti-crime laws.**

Judge

Petree

- **Award-winning trial judge.**
- **Opponent rated NOT recommended, by Col. Bar Jud. Comm.**



David Hobson



Pat Tiberi



Deborah Pryce

For U.S. Representatives

Ohio Supreme Court

For Justice

Maureen O'Connor



- **Ohio Lt. Governor** since 1999; **Director, Ohio Department of Public Safety**
- **Former Summit County Prosecutor and Judge,** earning reputation for being tough on murderers, violent felons, rapists and child molesters.
- **Endorsed** by Ohio Fraternal Order of Police, Columbus Dispatch and other newspapers throughout Ohio.

Re-Elect Justice Evelyn Straton



- **Ohio Supreme Court Justice** since 1996
- Seven years, **Franklin County Common Pleas Judge,** earning nickname as the "Velvet Hammer" for tough sentencing.
- **Endorsed** by Ohio Fraternal Order of Police, Columbus Dispatch and other newspapers throughout Ohio.

Franklin County Republican

Take to the Polls!

For Governor	**Bob Taft**
Lt. Gov.	**Jennette Bradley**
For Attorney General	**Jim Petro**
For State Auditor	**Betty Montgomery**
Secretary of State	**Ken Blackwell**
State Treasurer	**Joseph Deters**
Members of **Congress**	**Dave Hobson** (7th) **Pat Tiberi** (12th) **Deborah Pryce** (15th)
For State **Senate**	**Sen. David Goodman** (3rd Dist.) **Lorena Lacey** (15th Dist.)
For **Ohio House**	**Linda Reidelbach** (21st Dist.)
Larry Flowers (19th Dist.)	**Jim Hughes** (22nd Dist.)
Jim McGregor (20th Dist.)	**Larry Wolpert** (23rd Dist.)
	Geoffrey Smith (24th Dist.)
	David Dobos (25th Dist.)
	Lionel Jones (26th Dist.)
	Steve Reinhardt (27th Dist.)
County Commissioner	**Dewey Stokes**
County Auditor	**Joe Testa**
County Treasurer	**Wade Steen**
For Ohio **Supreme Court** *(Vote for **BOTH**)*	**Maureen O'Connor** **Justice Evelyn Stratton**
For 10th District **Court of Appeals** *(Vote for **ALL three**)*	**Judge Charles Petree** **Judge Lisa Sadler** **Judge William Klatt**
For Common Pleas Court Judge *(Vote for **ALL four**)*	
Judge Dan Hogan	**Judge Richard Sheward**
Judge David Fais	**Michael Holbrook**
Domestic Relations	**Judge Kim Browne** **Judge Dana Preisse**
Probate Court	**Judge Lawrence Belskis**

State Issue One — **Vote *NO* against *DRUGS***

Paid for by the Ohio Republican Party, Robert T. Bennett, Chairman, 211 South Fifth Street, Columbus, OH 43215

REV_00153287

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Julieanne H. Thomas/WHO/EOP@EOP [WHO] <Julieanne H. Thomas>
Sent: 10/18/2002 2:17:17 PM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:18-OCT-2002 18:17:17.00
SUBJECT::
TO:Julieanne H. Thomas ( CN=Julieanne H. Thomas/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I hope and trust that Advance answered your q on Tuesday; we were up on
Hill all night on terror insurance and I thus did not get your message in
time. Anyway, apologies about that.
```

From: CN=Collister W. Johnson/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/20/2002 11:57:00 AM
Subject: : Proposed Phone Script for NC POTUS visit

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:20-OCT-2002 15:57:00.00
SUBJECT:: Proposed Phone Script for NC POTUS visit
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett -
this script matches the one you recently approved for Missouri -
apoproval on this?

c

---------- Forwarded by Collister W. Johnson/WHO/EOP on
10/20/2002 03:58 PM ----------

Collister W. Johnson
10/20/2002 03:54:07 PM
Record Type: Record

To: rkammerd@rnchq.org @ inet
cc: See the distribution list at the bottom of this message
Subject: Proposed Phone Script for NC POTUS visit

Randy Kammerdiener will work with the NC State Party to finalize this
script and then send out to hard, hard Republicans in the Charlotte area.
Note that the number they call will likely be the local Victory
headquarters.

NC: Recorded Script for 10/24 POTUS visit
==========
Hi, I'm calling from the North Carolina Republican Party. President
George W.
Bush will be in Charlotte on Thursday, October 24th at the Charlotte
Coliseum.
We are calling to offer you and your family the opportunity to come
welcome our
President to Charlotte. The event is free, but tickets are required, and
they are
limited. To reserve your tickets, please call XXX-XXX-XXXX for
reservations
and ticket pick up information. That number again is XXX-XXX-XXXX. We
hope
you can join us on Thursday.

==========

Message Copied
To:_____
spayne@swbell.net @ inet
Craig Ray/WHO/EOP@EOP
Todd W. Beyer/WHO/EOP@EOP
Stephanie E. Linder/WHO/EOP@EOP
Ken Mehlman/WHO/EOP@EOP
ennis@ncgop.org @ inet

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Collister W. Johnson/WHO/EOP@EOP [WHO] <Collister W. Johnson>
Sent: 10/21/2002 4:54:52 AM
Subject: : Re: Proposed Phone Script for NC POTUS visit

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-OCT-2002 08:54:52.00
SUBJECT:: Re: Proposed Phone Script for NC POTUS visit
TO:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Approved.

Collister W. Johnson
10/20/2002 03:54:46 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Proposed Phone Script for NC POTUS visit

Brett -
this script matches the one you recently approved for Missouri -
apoproval on this?

c

---------- Forwarded by Collister W. Johnson/WHO/EOP on
10/20/2002 03:58 PM ----------

Collister W. Johnson
10/20/2002 03:54:07 PM
Record Type: Record

To: rkammerd@rnchq.org @ inet
cc: See the distribution list at the bottom of this message
Subject: Proposed Phone Script for NC POTUS visit

Randy Kammerdiener will work with the NC State Party to finalize this
script and then send out to hard, hard Republicans in the Charlotte area.
Note that the number they call will likely be the local Victory
headquarters.

NC: Recorded Script for 10/24 POTUS visit
==========
Hi, I'm calling from the North Carolina Republican Party. President
George W.
Bush will be in Charlotte on Thursday, October 24th at the Charlotte
Coliseum.
We are calling to offer you and your family the opportunity to come
welcome our
President to Charlotte. The event is free, but tickets are required, and
they are
limited. To reserve your tickets, please call XXX-XXX-XXXX for

reservations
and ticket pick up information. That number again is XXX-XXX-XXXX. We
hope
you can join us on Thursday.

==========

Message Copied
To:_____
spayne@swbell.net @ inet
Craig Ray/WHO/EOP@EOP
Todd W. Beyer/WHO/EOP@EOP
Stephanie E. Linder/WHO/EOP@EOP
Ken Mehlman/WHO/EOP@EOP
ennis@ncgop.org @ inet

From: CN=Hana F. Brilliant/OU=WHO/O=EOP [WHO]

To: Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>

Sent: 10/21/2002 5:05:54 AM

Subject: : 10-23-02 WHJSC meeting Please let me know if you have anything for this week's meeting by noon on Tuesday, October 24th.. Thanks! -Hana

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Hana F. Brilliant ( CN=Hana F. Brilliant/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:21-OCT-2002 09:05:54.00
SUBJECT:: 10-23-02 WHJSC meeting
Please let me know if you have anything for this week's meeting by noon on Tuesday, October
24th..
Thanks!
-Hana
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Collister W. Johnson/WHO/EOP@EOP [WHO] <Collister W. Johnson>
Sent: 10/21/2002 2:23:22 PM
Subject: : Re: Fw: Quote for Approval
Attachments: P_YYL2B003_WHO.TXT_1.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-OCT-2002 18:23:22.00
SUBJECT:: Re: Fw: Quote for Approval
TO:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Approved.

Collister W. Johnson
10/21/2002 05:58:43 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Fw: Quote for Approval

The last few are coming through - thanks man!
c

----- Original Message -----
From: Joel Raupe (Sen. Ballantine)
To: Coddy Johnson
Sent: Monday, October 21, 2002 11:42 AM
Subject: RE: Quote for Approval

Coddy: I'm given to understand that the attached pdf file is Patrick's final draft of a campaign brochure that is standing by at the printers awaiting approval by the White House. It includes the quote approved earlier this month.

It is hereby submitted for approval.

Let me know when you get this note and please let me know if you can estimate a timeframe.

Respectfully,

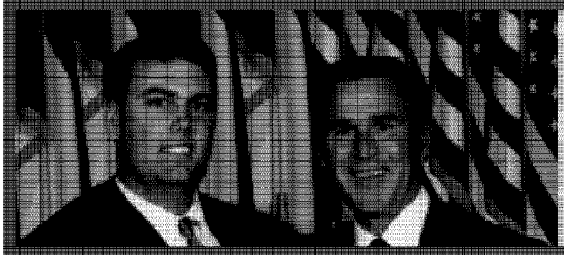
Joel Raupe (Sen. Ballantine)
ballantinela2@ncleg.net
(252) 944-8894

- ballantine.pdf

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_YYL2B003_WHO.TXT_1>

PATRICK BALLANTINE

NC SENATE MINORITY LEADER



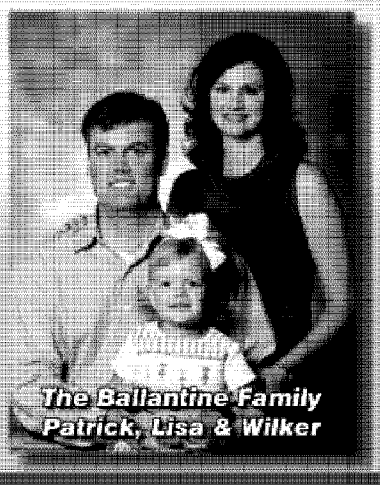
"Patrick Ballantine is precisely the kind of leader North Carolina needs. He shares my values on the enviroment, education and securing the future of North Carolina."

POSITIVE LEADERSHIP

FOR ALL OF NEW HANOVER COUNTY

- Sponsored legislation that makes it a felony to possess the date rape drug GHB
- Repealed post-production tax for the film industry
- Fought to establish fair and competitive legislative districts
- Proposed property tax deferral for senior citizens
- Sponsored the clean water trust fund
- Worked to bring Communities In Schools program to area
- Secured funding for North Carolina Ports
- Proposed insurance pool for high risk and hard to insure individuals
- Funded programs for the mentally ill and handicapped
- Strong advocate for stay in school programs
- Sponsored Care for School Children with Diabetes Act
- Coastal property insurance accessibility
- Obtained funding for Cape Fear Community College
- Repealed prison cap
- Sponsored bill funding the Fort Fisher Aquarium
- Secured monies for UNCW Marine Sciences and School of Education
- Repealed state wide food tax

- Only legislator in the region to score a "perfect 100" Citizens for Sound Economy
- "The taxpayers best friend" North Carolina Taxpayers United
- "One of the most effective leaders in the NC Senate" NCFREE
- Received the highest grade of any legislator Democracy South
- Recipient of the Onslow County Environmental Award
- Proponent of beach re-nourishment
- Signed no new tax pledge
- Delivered higher teacher salaries
- Championed the I-74 "Prosperity Project" to promote jobs, economic development and tourism



REV_00153322

NON-PROFIT ORG
US POSTAL
SERVICE
RALEIGH, NC
PERMIT # 541

Paid for by the North Carolina Republican Party
Authorized by Patrick Ballantine

North Carolina Republican Party
1410 Hillsborough St.
Raleigh, NC 27605

BALLANTINE ★
NC SENATE

BALLANTINE ★
NC SENATE

As North Carolina Senate Minority Leader, I have worked to keep your taxes low, protect our wonderful natural resources and support common sense education reform that really works. With your vote, I will continue to fight for a better future for all of our families.

On Nov. 5th Vote to Re-Elect Senator Patrick Ballantine

REV_00153323

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/21/2002 12:35:16 PM
Subject: : LRM PTM165 - - OMB Request for Views on S2239 FHA Downpayment Simplification Act of 2002
Attachments: P_L0G2B003_WHO.TXT_1

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-OCT-2002 16:35:16.00
SUBJECT:: LRM PTM165 - - OMB Request for Views on S2239 FHA Downpayment Simplification Act of 2002
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 10/21/2002 04:33 PM ----------

From: P. Thaddeus Messenger on 10/21/2002 04:34:01 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: LRM PTM165 - - OMB Request for Views on S2239 FHA Downpayment Simplification Act of 2002

LRM ID: PTM165
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Monday, October 21, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: P. Thaddeus Messenger
PHONE: (202)395-7754 FAX: (202)395-6148
SUBJECT: OMB Request for Views on S2239 FHA Downpayment Simplification Act of 2002

DEADLINE: 5:00 p.m. Friday, October 25, 2002
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: On October 17th, the Senate amended and passed S. 2239, a bill that would simplify the downpayment requirements for FHA mortgage insurance for single family homebuyers. A copy of the bill, as engrossed in Senate, is attached for your comments.

Please provide your views by 5:00 p.m., on Friday, October 25th. If we do not receive your comments by that time, we will assume you have no objection to the bill as passed by the Senate.

If you experience difficulty with this LRM, or its attachment, please contact us immediately. To ensure receipt by Agency addressees, the electronic copy of this LRM will be followed by a duplicate copy via facsimile.

Thank you.

DISTRIBUTION LIST

AGENCIES:
054-HOUSING & URBAN DEVELOPMENT - Mike Moran - (202) 708-1793
061-JUSTICE - Daniel Bryant - (202) 514-2141
118-TREASURY - Thomas M. McGivern - (202) 622-2317
007-AGRICULTURE - Jacquelyn Chandler - (202) 720-1272
006-AGRICULTURE (CR) - Wanda Worsham - (202) 720-7095
129-VETERANS AFFAIRS - John H. Thompson - (202) 273-6666

EOP:
Stephen S. McMillin
Alan B. Rhinesmith
Francis S. Redburn
Andrea E. Jacobson
Virginia Kennamer
Julie L. Haas
Lauren E. Bloomquist
Mark J. Schwartz
Robert F. Mahaffie
Adrienne C. Erbach
Jennifer Wagner Bell
VAB
Aquiles F. Suarez
Stuart Shapiro
Joseph F. Lackey Jr.
James Boden
Karyn Richman
Ellen J. Balis
Elizabeth A. Bernhard
Adriel M. Harvey
Courtney B. Timberlake
NEC LRM
OVP LRM
WHGC LRM
Philip J. Perry
Matthew J. Schneider
John F. Wood
Brian C. Conklin
Matthew Kirk
Christine M. Burgeson
Danielle M. Simonetta
Lauren C. Lobrano
James J. Jukes
Ingrid M. Schroeder
P. Thaddeus Messenger
LRM ID: PTM165 SUBJECT: OMB Request for Views on S2239 FHA Downpayment Simplification Act of 2002
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be

connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: P. Thaddeus Messenger Phone: 395-7754 Fax:
395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-7362

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on
the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Sent
To:_____
HUD_LRM@hud.gov
justice.lrm@usdoj.gov
llr@do.treas.gov
usdaobpaleg@obpa.usda.gov
usdaocrleg@obpa.usda.gov
valrm@mail.va.gov

Message Copied
To:_____
Stephen S. McMillin/OMB/EOP@EOP
Alan B. Rhinesmith/OMB/EOP@EOP
Francis S. Redburn/OMB/EOP@EOP
Andrea E. Jacobson/OMB/EOP@EOP
Virginia Kennamer/OMB/EOP@EOP
Julie L. Haas/OMB/EOP@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
Mark J. Schwartz/OMB/EOP@EOP
Robert F. Mahaffie/OMB/EOP@EOP
Adrienne C. Erbach/OMB/EOP@EOP
Jennifer Wagner Bell/OMB/EOP@EOP
Toni S. Hustead/OMB/EOP@EOP
Arecia A. Grayton/OMB/EOP@EOP
Winifred Y. Chang/OMB/EOP@EOP
Kelli A. Hagen/OMB/EOP@EOP
Lourdes M. Lamela/OMB/EOP@EOP
Shalini M. Benson/OMB/EOP@EOP
Danny A. Ermann/OMB/EOP@EOP
Narahari Sastry/OMB/EOP@EOP
John J. Bartrum/OMB/EOP@EOP

Mark R. Seastrom/OMB/EOP@EOP
Aquiles F. Suarez/OPD/EOP@EOP
Stuart Shapiro/OMB/EOP@EOP
Joseph F. Lackey Jr./OMB/EOP@EOP
James Boden/OMB/EOP@EOP
Karyn Richman/OMB/EOP@EOP
Ellen J. Balis/OMB/EOP@EOP
Elizabeth A. Bernhard/OMB/EOP@EOP
Adriel M. Harvey/OMB/EOP@EOP
Courtney B. Timberlake/OMB/EOP@EOP
NEC LRM
OVP LRM
WHGC LRM
Philip J. Perry/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Brian C. Conklin/WHO/EOP@EOP
Matthew Kirk/WHO/EOP@EOP
Christine M. Burgeson/OMB/EOP@EOP
Danielle M. Simonetta/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Ingrid M. Schroeder/OMB/EOP@EOP
P. Thaddeus Messenger/OMB/EOP@EOP
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_L0G2B003_WHO.TXT_1>

107TH CONGRESS
2D SESSION

S. 2239

AN ACT

To amend the National Housing Act to simplify the downpayment requirements for FHA mortgage insurance for single family homebuyers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "FHA Downpayment Simplification Act of 2002".

REV_00153336

SEC. 2. DOWNPAYMENT SIMPLIFICATION.

Section 203 of the National Housing Act (12 U.S.C. 1709) is amended—

(1) in subsection (b)—

(A) by striking "shall—" and inserting "shall comply with the following:";

(B) in paragraph (2)—

(i) in subparagraph (A), in the matter that precedes clause (ii), by moving the margin 2 ems to the right;

(ii) in the undesignated matter immediately following subparagraph (B)(iii)—

(I) by striking the second and third sentences of such matter;

(II) by striking the seventh sentence (relating to principal obligation) and all that follows through the end of the ninth sentence (relating to charges and fees); and

(III) by striking the eleventh sentence (relating to disclosure notice) and all that follows through the end of the last undesignated paragraph (relating to disclosure notice requirements); and

REV_00153337

(iii) by striking subparagraph (B) and inserting the following:

"(B) not to exceed an amount equal to the sum of—

"(i) the amount of the mortgage insurance premium paid at the time the mortgage is insured; and

"(ii) in the case of—

"(I) a mortgage for a property with an appraised value equal to or less than $50,000, 98.75 percent of the appraised value of the property;

"(II) a mortgage for a property with an appraised value in excess of $50,000 but not in excess of $125,000, 97.65 percent of the appraised value of the property;

"(III) a mortgage for a property with an appraised value in excess of $125,000, 97.15 percent of the appraised value of the property; or

"(IV) notwithstanding subclauses (II) and (III), a mortgage for a property with an appraised value in excess of $50,000 that is located in an area

REV_00153338

of the State for which the average closing cost exceeds 2.10 percent of the average, for the State, of the sale price of properties located in the State for which mortgages have been executed, 97.75 percent of the appraised value of the property.";

(C) by transferring and inserting the text of paragraph (10)(B) after the period at the end of the first sentence of the undesignated paragraph that immediately follows paragraph (2)(B) (relating to the definition of "area"); and

(D) by striking paragraph (10); and

(2) by inserting after subsection (e), the following:

"(f) DISCLOSURE OF OTHER MORTGAGE PRODUCTS.—

"(1) IN GENERAL.—In conjunction with any loan insured under this section, an original lender shall provide to each prospective borrower a disclosure notice that provides a 1-page analysis of mortgage products offered by that lender and for which the borrower would qualify.

REV_00153339

"(2) NOTICE.—The notice required under paragraph (1) shall include—

"(A) a generic analysis comparing the note rate (and associated interest payments), insurance premiums, and other costs and fees that would be due over the life of the loan for a loan insured by the Secretary under subsection (b) with the note rates, insurance premiums (if applicable), and other costs and fees that would be expected to be due if the mortgagor obtained instead other mortgage products offered by the lender and for which the borrower would qualify with a similar loan-to-value ratio in connection with a conventional mortgage (as that term is used in section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) or section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)), as applicable), assuming prevailing interest rates; and

"(B) a statement regarding when the requirement of the mortgagor to pay the mortgage insurance premiums for a mortgage insured under this section would terminate, or a statement that the requirement shall terminate

REV_00153340

only if the mortgage is refinanced, paid off, or otherwise terminated.".

SEC. 3. CONFORMING AMENDMENTS.

Section 245 of the National Housing Act (12 U.S.C. 1715z–10) is amended—

(1) in subsection (a), by striking ", or if the mortgagor" and all that follows through "case of veterans"; and

(2) in subsection (b)(3), by striking ", or, if the" and all that follows through "for veterans,".

SEC. 4. REPEAL OF GNMA GUARANTEE FEE INCREASE.

Section 972 of the Higher Education Amendments of 1998 (Public Law 105–244; 112 Stat. 1837) is hereby repealed.

SEC. 5. INDEXING OF FHA MULTIFAMILY HOUSING LOAN LIMITS.

(a) The National Housing Act (12 U.S.C. 1701 et seq.) is amended by inserting after section 206 the following new section 206A (12 U.S.C. 1712A):

"SEC. 206A. INDEXING OF FHA MULTIFAMILY HOUSING LOAN LIMITS.

"(a) METHOD OF INDEXING.—The dollar amounts set forth in—

"(1) section 207(c)(3)(A) (12 U.S.C. 1713(c)(3)(A));

REV_00153341

"(2) section 213(b)(2)(A) (12 U.S.C. 1715e(b)(2)(A));

"(3) section 220(d)(3)(B)(iii)(I) (12 U.S.C. 1715k(d)(3)(B)(iii)(I));

"(4) section 221(d)(3)(ii)(I) (12 U.S.C. 1715l(d)(3)(ii)(I));

"(5) section 221(d)(4)(ii)(I) (12 U.S.C. 1715l(d)(4)(ii)(I));

"(6) section 231(c)(2)(A) (12 U.S.C. 1715v(c)(2)(A)); and

"(7) section 234(e)(3)(A) (12 U.S.C. 1715y(e)(3)(A));

(collectively hereinafter referred to as the "Dollar Amounts") shall be adjusted annually (commencing in 2004) on the effective date of the Federal Reserve Board's adjustment of the $400 figure in the Home Ownership and Equity Protection Act of 1994 (HOEPA). The adjustment of the Dollar Amounts shall be calculated using the percentage change in the Consumer Price Index for All Urban Consumers (CPI–U) as applied by the Federal Reserve Board for purposes of the above-described HOEPA adjustment.

"(b) NOTIFICATION.—The Federal Reserve Board on a timely basis shall notify the Secretary, or his designee, in writing of the adjustment described in subsection (a)

REV_00153342

and of the effective date of such adjustment in order to permit the Secretary to undertake publication in the Federal Register of corresponding adjustments to the Dollar Amounts. The dollar amount of any adjustment shall be rounded to the next lower dollar.''.

(b) TECHNICAL AND CONFORMING CHANGES.—(1) Section 207(c)(3) of the National Housing Act (12 U.S.C. 1713(c)(3)) is amended—

(A) by inserting ''(A)'' after ''(3)'';

(B) by striking ''and accept that the Secretary'' through and including ''in this paragraph'' and inserting in lieu thereof:

''(B) the Secretary may, by regulation, increase any of the dollar amount limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 206A of this Act)''.

(2) Section 213(b)(2) of the National Housing Act (12 U.S.C. 1715e(b)(2)) is amended—

(A) by inserting ''(A)'' following ''(2)'';

(B) by striking '': *Provided further,* That'' the first time that it occurs, through and including ''contained in this paragraph'' and inserting in lieu thereof: ''; (B)(i) the Secretary may, by regulation, increase any of the dollar amount limitations in sub-

REV_00153343

paragraph (A) (as such limitations may have been adjusted in accordance with section 206A of this Act)";

(C) by striking ": *Provided further,* That" the second time it occurs and inserting in lieu thereof: "; and (ii)";

(D) by striking ": *And provided further,* That" and inserting in lieu thereof" "; and (iii)";

(E) by striking "with this subsection without regard to the preceding proviso" at the end of that subsection and inserting in lieu thereof: "with this subparagraph (B)(i).".

(3) Section 220(d)(3)(B)(iii) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(iii)) is amended—

(A) by inserting "(I)" following "(iii)";

(B) by striking "design; and except that" and inserting in lieu thereof: "design; and (II)";

(C) by striking "any of the foregoing dollar amount limitations contained in this clause" and inserting in lieu thereof: "any of the dollar amount limitations in subparagraph (B)(iii)(I) (as such limitations may have been adjusted in accordance with section 206A of this Act)";

(D) by striking ": *Provided,* That" through and including "proviso" and inserting in lieu thereof:

REV_00153344

"with respect to dollar amount limitations applicable to rehabilitation projects described in subclause (II), the Secretary may, by regulation, increase the dollar amount limitations contained in subparagraph (B)(iii)(I) (as such limitations may have been adjusted in accordance with section 206A of this Act)";

(E) by striking ": *Provided further,*" and inserting in lieu thereof: "; (III)";

(F) by striking "subparagraph" in the second proviso and inserting in lieu thereof "subparagraph (B)(iii)(I)";

(G) in the last proviso, by striking ": *And provided further,* That" and all that follows through and including "this clause" and inserting in lieu thereof: "; (IV) with respect to rehabilitation projects involving not more than five family units, the Secretary may further increase any of the dollar limitations which would otherwise apply to such projects".

(4) Section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 1715l(d)(3)(ii)) is amended—

(A) by inserting "(I)" following "(ii)";

(B) by striking "; and except that" and all that follows through and including "in this clause" and inserting in lieu thereof: "; (II) the Secretary may,

REV_00153345

by regulation, increase any of the dollar amount limitations in subclause (I) (as such limitations may have been adjusted in accordance with section 206A of this Act)".

(5) Section 221(d)(4)(ii) of the National Housing Act (12 U.S.C. 1715l(d)(4)(ii)) is amended—

(A) by inserting "(I)" following "(ii)";

(B) by striking "; and except that" and all that follows through and including "in this clause" and inserting in lieu thereof: "; (II) the Secretary may, by regulation, increase any of the dollar limitations in subclause (I) (as such limitations may have been adjusted in accordance with section 206A of this Act)".

(6) Section 231(c)(2) of the National Housing Act (12 U.S.C. 1715v(c)(2)) is amended—

(A) by inserting "(A)" following "(2)";

(B) by striking "; and except that" and all that follows through and including "in this paragraph" and inserting in lieu thereof: "; (B) the Secretary may, by regulation, increase any of the dollar limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 206A of this Act)";

REV_00153346

(C) by striking ": *Provided,* That" and all that follows through and including "of this section" and inserting in lieu thereof: "; (C) the Secretary may, by regulation, increase any of the dollar limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 206A of this Act)".

(7) Section 234(e)(3) of the National Housing Act (12 U.S.C. 1715y(e)(3)) is amended—

(A) by inserting "(A)" following "(3)";

(B) by replacing "$38,025" with "$42,048"; "$42,120" with "$48,481"; "$50,310" with "$58,469"; "$62,010" with "$74,840"; "$70,200" with "$83,375"; "$43,875" with "$44,250"; "$49,140" with "$50,724"; "$60,255" with "$61,680"; "$75,465" with "$79,793"; and "$85,328" with "$87,588";

(C) by striking "; except that each" and all that follows through and including "contained in this paragraph" and inserting in lieu thereof: "; (B) the Secretary may, by regulation, increase any of the dollar limitations in subparagraph (A) (as such limi-

REV_00153347

tations may have been adjusted in accordance with section 206A of this Act)''.

Passed the Senate October 17, 2002.

Attest:

Secretary.

REV_00153348

107TH CONGRESS
2D SESSION

S. 2239

AN ACT

To amend the National Housing Act to simplify the downpayment requirements for FHA mortgage insurance for single family homebuyers.

REV_00153350

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Mark Filip <MFILIP@skadden.com>
Sent: 10/21/2002 5:24:53 PM
Subject: : Re: Hope all is well. Are you around today? Any time good to call for 5 mins?

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-OCT-2002 21:24:53.00
SUBJECT:: Re: Hope all is well. Are you around today? Any time good to call for 5 mins?
TO:Mark Filip <MFILIP@skadden.com> (Mark Filip <MFILIP@skadden.com> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

That proved to be a very ugly day, as we were on Hill negotiating terrorism insurance bill all night. How are you? What were you in town for? Pat P. is now 35 in case you did not know. And he is feeling the heat!!

Mark Filip <MFILIP@skadden.com>
10/15/2002 09:39:24 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Hope all is well. Are you around today? Any time good to call for 5 mins?

****
This e-mail and any attachments thereto, is intended only for use by the addressee(s) named herein and may contain legally privileged and/or confidential information. If you are not the intended recipient of this e-mail, you are hereby notified any dissemination, distribution or copying of this email, and any attachments thereto, is strictly prohibited. If you receive this email in error please immediately notify me at (212) 735-3000 and permanently delete the original copy and any copy of any e-mail, and any printout thereof.

Further information about the firm, a list of the Partners and their professional qualifications will be provided upon request.
****

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Collister W. Johnson/WHO/EOP@EOP [WHO] <Collister W. Johnson>
Sent: 10/21/2002 2:23:22 PM
Subject: : Re: Fw: Quote for Approval
Attachments: P_YYL2B003_WHO.TXT_1.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-OCT-2002 18:23:22.00
SUBJECT:: Re: Fw: Quote for Approval
TO:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Approved.

Collister W. Johnson
10/21/2002 05:58:43 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Fw: Quote for Approval

The last few are coming through - thanks man!
c

----- Original Message -----
From: Joel Raupe (Sen. Ballantine)
To: Coddy Johnson
Sent: Monday, October 21, 2002 11:42 AM
Subject: RE: Quote for Approval

Coddy: I'm given to understand that the attached pdf file is Patrick's final draft of a campaign brochure that is standing by at the printers awaiting approval by the White House. It includes the quote approved earlier this month.

It is hereby submitted for approval.

Let me know when you get this note and please let me know if you can estimate a timeframe.

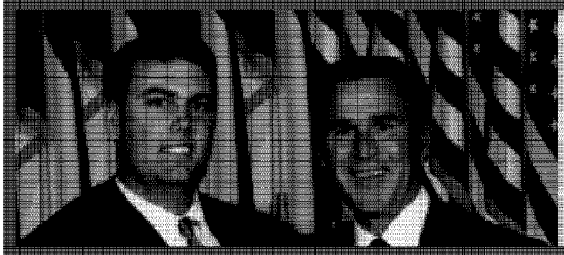
Respectfully,

Joel Raupe (Sen. Ballantine)
ballantinela2@ncleg.net
(252) 944-8894

- ballantine.pdf

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_YYL2B003_WHO.TXT_1>

PATRICK BALLANTINE
NC SENATE MINORITY LEADER

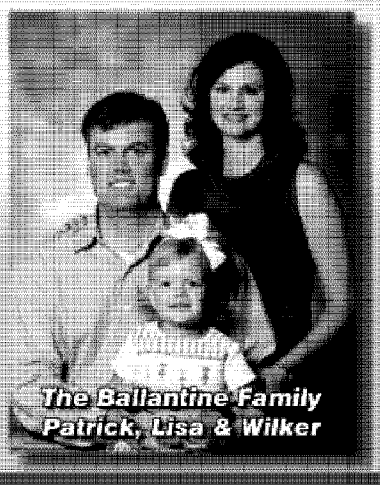


"Patrick Ballantine is precisely the kind of leader North Carolina needs. He shares my values on the enviroment, education and securing the future of North Carolina."

POSITIVE LEADERSHIP
FOR ALL OF NEW HANOVER COUNTY

- Sponsored legislation that makes it a felony to possess the date rape drug GHB
- Repealed post-production tax for the film industry
- Fought to establish fair and competitive legislative districts
- Proposed property tax deferral for senior citizens
- Sponsored the clean water trust fund
- Worked to bring Communities In Schools program to area
- Secured funding for North Carolina Ports
- Proposed insurance pool for high risk and hard to insure individuals
- Funded programs for the mentally ill and handicapped
- Strong advocate for stay in school programs
- Sponsored Care for School Children with Diabetes Act
- Coastal property insurance accessibility
- Obtained funding for Cape Fear Community College
- Repealed prison cap
- Sponsored bill funding the Fort Fisher Aquarium
- Secured monies for UNCW Marine Sciences and School of Education
- Repealed state wide food tax

- Only legislator in the region to score a "perfect 100" Citizens for Sound Economy
- "The taxpayers best friend" North Carolina Taxpayers United
- "One of the most effective leaders in the NC Senate" NCFREE
- Received the highest grade of any legislator Democracy South
- Recipient of the Onslow County Environmental Award
- Proponent of beach re-nourishment
- Signed no new tax pledge
- Delivered higher teacher salaries
- Championed the I-74 "Prosperity Project" to promote jobs, economic development and tourism



REV_00153366

NON-PROFIT ORG
US POSTAL
SERVICE
RALEIGH, NC
PERMIT # 541

North Carolina Republican Party
1410 Hillsborough St.
Raleigh, NC 27605

Paid for by the North Carolina Republican Party
Authorized by Patrick Ballantine

BALLANTINE ★
NC SENATE

BALLANTINE ★
NC SENATE

As North Carolina Senate Minority Leader, I have worked to keep your taxes low, protect our wonderful natural resources and support common sense education reform that really works. With your vote, I will continue to fight for a better future for all of our families.

On Nov. 5th Vote to Re-Elect Senator Patrick Ballantine

From: CN=Claire E. Buchan/OU=WHO/O=EOP [WHO]
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
CC: keith hennessey/opd/eop@eop [OPD] <keith hennessey>;matthew kirk/who/eop@eop [WHO] <matthew kirk>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;kevin warsh/opd/eop@eop [OPD] <kevin warsh>;brian c. conklin/who/eop@eop [WHO] <brian c. conklin>
Sent: 10/21/2002 2:38:07 PM
Subject: : Re: question

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Claire E. Buchan ( CN=Claire E. Buchan/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:21-OCT-2002 18:38:07.00
SUBJECT:: Re: question
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:keith hennessey ( CN=keith hennessey/OU=opd/O=eop@eop [ OPD ] )
READ:UNKNOWN
CC:matthew kirk ( CN=matthew kirk/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:brett m. kavanaugh ( CN=brett m. kavanaugh/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:kevin warsh ( CN=kevin warsh/OU=opd/O=eop@eop [ OPD ] )
READ:UNKNOWN
CC:brian c. conklin ( CN=brian c. conklin/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

that's good. does leg think it would be helpful for the secretary to put
our line in his speech? i.e. we're pleased with the progress that's been
made to pass terrorism insurance, confident that there we'll have broad
bipartisan support for the agreeemnt, important that congress act quickly
on this when they return because it's so important to jobs.....

cb
```

From: CN=Brian C. Conklin/OU=WHO/O=EOP [WHO]
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>;Claire E. Buchan/WHO /EOP@EOP [WHO] <Claire E. Buchan>
CC: keith hennessey/opd/eop@eop [OPD] <keith hennessey>;matthew kirk/who/eop@eop [WHO] <matthew kirk>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;kevin warsh/opd/eop@eop [OPD] <kevin warsh>;brian c. conklin/who/eop@eop [WHO] <brian c. conklin>
Sent: 10/21/2002 3:05:23 PM
Subject: : Re: question

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-OCT-2002 19:05:23.00
SUBJECT:: Re: question
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:keith hennessey (CN=keith hennessey/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
CC:matthew kirk (CN=matthew kirk/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:kevin warsh (CN=kevin warsh/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
CC:brian c. conklin (CN=brian c. conklin/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

Yes, even though it will make a few waves, it should be added.

----- Original Message -----
From:Claire E. Buchan/WHO/EOP
To:Kristen Silverberg/WHO/EOP@EOP
Cc:brian c. conklin/who/eop@eop,
matthew kirk/who/eop@eop,
kevin warsh/opd/eop@eop,
keith hennessey/opd/eop@eop,
brett m. kavanaugh/who/eop@eop
Date: 10/21/2002 06:35:50 PM
Subject: Re: question

that's good. does leg think it would be helpful for the secretary to put our line in his speech? i.e. we're pleased with the progress that's been made to pass terrorism insurance, confident that there we'll have broad bipartisan support for the agreeemnt, important that congress act quickly on this when they return because it's so important to jobs.....

cb

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Adam F. Greenstone/OA/EOP@EOP [OA] <Adam F. Greenstone>
Sent: 10/22/2002 7:52:57 AM
Subject: : Judicial Watch Anthrax Case

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:22-OCT-2002 11:52:57.00
SUBJECT:: Judicial Watch Anthrax Case
TO:Adam F. Greenstone (CN=Adam F. Greenstone/OU=OA/O=EOP@EOP [OA])
READ:UNKNOWN
End Original ARMS Header

can you respond to me on this? thanks.
---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 10/22/2002 11:55 AM ----------

"Keisler, Peter D" <Peter.D.Keisler@usdoj.gov>
10/22/2002 10:47:08 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Judicial Watch Anthrax Case

Brett:

You may recall that in late July/early August, we answered a complaint by Judicial Watch seeking under FOIA documents relating to the anthrax attacks from the Secret Service, CDC, and the Office of Administration. We anticipate that the Court will soon issue a scheduling order. Secret Service has now released its responsive documents, and CDC has searched for and located its responsive documents. Would you be able to check with OA to find out the status and likely completion date of its search?

Peter

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Adam F. Greenstone/OA/EOP@EOP [OA] <Adam F. Greenstone>
Sent: 10/22/2002 7:52:57 AM
Subject: : Judicial Watch Anthrax Case

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:22-OCT-2002 11:52:57.00
SUBJECT:: Judicial Watch Anthrax Case
TO:Adam F. Greenstone (CN=Adam F. Greenstone/OU=OA/O=EOP@EOP [OA])
READ:UNKNOWN
End Original ARMS Header

can you respond to me on this? thanks.
---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 10/22/2002 11:55 AM ----------

"Keisler, Peter D" <Peter.D.Keisler@usdoj.gov>
10/22/2002 10:47:08 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Judicial Watch Anthrax Case

Brett:

You may recall that in late July/early August, we answered a complaint by Judicial Watch seeking under FOIA documents relating to the anthrax attacks from the Secret Service, CDC, and the Office of Administration. We anticipate that the Court will soon issue a scheduling order. Secret Service has now released its responsive documents, and CDC has searched for and located its responsive documents. Would you be able to check with OA to find out the status and likely completion date of its search?

Peter

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Joseph J. Shattan/WHO/EOP@EOP [WHO] <Joseph J. Shattan>
Sent: 10/22/2002 8:37:49 AM
Subject: : can we meet at 3:00 in Room 156? thanks

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:22-OCT-2002 12:37:49.00
SUBJECT:: can we meet at 3:00 in Room 156? thanks
TO:Joseph J. Shattan ( CN=Joseph J. Shattan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>;Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>
Sent: 10/22/2002 5:46:12 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:22-OCT-2002 09:46:12.00
SUBJECT::
TO:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

think we should keep this confidential from both Hill (as
discussed) and DOJ for now, although DOJ will be included either late this
week or early next week.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Adam F. Greenstone/OA/EOP@EOP [OA] <Adam F. Greenstone>
Sent: 10/22/2002 7:52:57 AM
Subject: : Judicial Watch Anthrax Case

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:22-OCT-2002 11:52:57.00
SUBJECT:: Judicial Watch Anthrax Case
TO:Adam F. Greenstone (CN=Adam F. Greenstone/OU=OA/O=EOP@EOP [OA])
READ:UNKNOWN
End Original ARMS Header

can you respond to me on this? thanks.
---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 10/22/2002 11:55 AM ----------

"Keisler, Peter D" <Peter.D.Keisler@usdoj.gov>
10/22/2002 10:47:08 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Judicial Watch Anthrax Case

Brett:

You may recall that in late July/early August, we answered a complaint by Judicial Watch seeking under FOIA documents relating to the anthrax attacks from the Secret Service, CDC, and the Office of Administration. We anticipate that the Court will soon issue a scheduling order. Secret Service has now released its responsive documents, and CDC has searched for and located its responsive documents. Would you be able to check with OA to find out the status and likely completion date of its search?

Peter

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Scott Stanzel/WHO/EOP@EOP [WHO] <Scott Stanzel>
Sent: 10/22/2002 2:18:09 PM
Subject: :

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:22-OCT-2002 18:18:09.00
SUBJECT::
TO:Scott Stanzel (CN=Scott Stanzel/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

5 CFR 734.502(a) provides that individuals employed in the Executive Office of the President (such as Ken) and Senate-confirmed officials may engage in political activity while on duty and in their offices. The specific example given in that section is as follows: an official within these 2 categories may hold a partisan political meeting or reception in a government office. (Note that no fundraisers may be held in government office buildings.)

Moreover, as a general matter, it is perfectly appropriate for Ken to participate in policy/political briefings with people around the country who support the President's agenda.

From: CN=Andrew D. Ciafardini/OU=WHO/O=EOP [WHO]
To: Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>
CC: brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>
Sent: 10/22/2002 10:39:34 AM
Subject: : Re: Names included in Jud Nom remarks for vetting

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Andrew D. Ciafardini (CN=Andrew D. Ciafardini/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:22-OCT-2002 14:39:34.00
SUBJECT:: Re: Names included in Jud Nom remarks for vetting
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

awesome.....sounds good.

Elizabeth N. Camp
10/22/2002 01:05:17 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: Andrew D. Ciafardini/WHO/EOP@EOP
Subject: Names included in Jud Nom remarks for vetting

Brett-

Once you identify names that will be included would you mind sending them to me and/or Andrew? I would imagine that the names you suggest to be included in remarks are the President's judicial nominees and may not really need to be vetted. If that is indeed the case please let Andrew know so he doesn't go to the trouble of researching them.

Thanks!

---------- Forwarded by Elizabeth N. Camp/WHO/EOP on 10/22/2002 11:49 AM ----------

Andrew D. Ciafardini
10/22/2002 11:37 AM
Record Type: Record

To: Elizabeth N. Camp/WHO/EOP@EOP
cc: John R. Tuttle/WHO/EOP@EOP
Subject:

just checking in to see if your office has any names that need to be vetted for the Remarks on Judicial Nominations event next Tuesday?

thanks,

Andrew Ciafardini

From: CN=Adrian G. Gray/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/22/2002 11:34:12 AM
Subject: : FW: Principi trips

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Adrian G. Gray (CN=Adrian G. Gray/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:22-OCT-2002 15:34:12.00
SUBJECT:: FW: Principi trips
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Adrian G. Gray/WHO/EOP on 10/22/2002 03:30 PM ----------

"Phillips, Jeffrey E." <jeff.phillips@mail.va.gov>
10/22/2002 12:10:24 PM
Record Type: Record

To: Adrian G. Gray/WHO/EOP@EOP
cc:
Subject: FW: Principi trips

Adrian: these are the queries from AP's Theimer. She has left msg that she's on deadline.

One of these (Togus) was military air.

Thanks,

Jeff

-----Original Message-----
From: Sharon Theimer [mailto:stheimer@ap.org]
Sent: Monday, October 21, 2002 11:55 AM
To: Phillips, Jeffrey E.
Subject: Principi trips

Dear Jeff,

Here are the Principi trips I'm checking on ... I'm wondering whether they were official policy trips paid for by taxpayers, political trips covered by campaigns/political parties, or a mix.

Thanks in advance, and cheers,
Sharon Theimer, Associated Press
202-776-9466

Oct. 3, 2002: Togus, Maine _ Visited VA hospital. Were any candidates/officeholders appearing w/him, such as Sen. Susan Collins?

Aug. 28, 2002: NASHVILLE _ Principi joined gubernatorial nominee Van

Hilleary to announce the formation of a Veterans Coalition to support Hilleary's candidacy and advise him on veterans' issues.

May 14, 2002: Albuquerque, N.M. _ Veterans town hall-style meeting with Rep. Heather Wilson.

May 6, 2002: Newington, Conn. _ Toured VA hospital with Reps. Nancy Johnson and Rob Simmons.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Matthew Kirk/WHO/EOP@EOP [WHO] <Matthew Kirk>
Sent: 10/22/2002 5:10:27 PM
Subject: : They did change blocked assets from Senate bill; State thinks Gramm will be with us on this issue

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:22-OCT-2002 21:10:27.00
SUBJECT:: They did change blocked assets from Senate bill; State thinks Gramm will be with
us on this issue
TO:Matthew Kirk ( CN=Matthew Kirk/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Melissa S. Bennett/WHO/EOP@EOP [WHO] <Melissa S. Bennett>
CC: kristen silverberg/who/eop@eop [WHO] <kristen silverberg>
Sent: 10/22/2002 3:40:02 PM
Subject: : Re: Judicial confirmation

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:22-OCT-2002 19:40:02.00
SUBJECT:: Re: Judicial confirmation
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:kristen silverberg (CN=kristen silverberg/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

6-5104 is FAX number.

Melissa S. Bennett
10/22/2002 07:39:52 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: Kristen Silverberg/WHO/EOP@EOP
Subject: Judicial confirmation

Sec. Card made some comments. I'm going to fax them to you.

MB

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Matthew Kirk/WHO/EOP@EOP [WHO] <Matthew Kirk>
Sent: 10/22/2002 5:10:27 PM
Subject: : They did change blocked assets from Senate bill; State thinks Gramm will be with us on this issue

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:22-OCT-2002 21:10:27.00
SUBJECT:: They did change blocked assets from Senate bill; State thinks Gramm will be with
us on this issue
TO:Matthew Kirk ( CN=Matthew Kirk/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Collister W. Johnson/WHO/EOP@EOP [WHO] <Collister W. Johnson>
Sent: 10/23/2002 5:09:45 AM
Subject: : Re: Mrs. Bush fundraising invite
Attachments: P_ZOJ6B003_WHO.TXT_1.doc; P_ZOJ6B003_WHO.TXT_2.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:23-OCT-2002 09:09:45.00
SUBJECT:: Re: Mrs. Bush fundraising invite
TO:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

yes, just approved. thanks.

Collister W. Johnson
10/23/2002 09:05:14 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Mrs. Bush fundraising invite

Brett - any luck on this one?
c

---------- Forwarded by Collister W. Johnson/WHO/EOP on 10/23/2002 09:09 AM ----------

Collister W. Johnson
10/22/2002 09:52:01 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Mrs. Bush fundraising invite

Attached -
need your guidance asap - thanks man!

c

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ZOJ6B003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00

File attachment <P_ZOJ6B003_WHO.TXT_2>

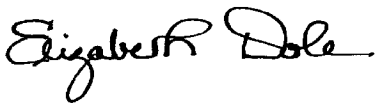
Dear Friend,

During my more than 35 years of public service, I have sought to increase the involvement of women in the workplace and the political process. I am so proud that while Secretary of Transportation, 62% of my workforce was comprised of women and minorities. Again, bringing people just like you into leadership positions and promoting greater participation of women in government has been at the center of my career.

Throughout my travels across North Carolina, I have had an opportunity to meet with many wonderful teachers. Teachers undertake a noble calling to prepare our youth for the future. I have listened to their concerns about education and the concerns of parents as well. If elected to serve as your US Senator, education will be one of my top priorities.

First Lady Laura Bush also has a passion for education. Mrs. Bush serves as a comforting force to our country, a role model, and an advocate for women and children. I am truly honored that the First Lady is coming to our great state to address us. It is my hope that you will be able to join me and Laura for what promises to be a memorable evening.

I know that the power of women helping women should never be underestimated. Looking forward to seeing you and with heartfelt thanks for your support,



You are cordially invited to dinner with

Laura Bush
First Lady of the United States

Elizabeth Dole
Candidate for US Senate

Friday, November 1, 2002
X:XX – X:XX pm

<<Location>>
<<Address>>
<<City, North Carolina>>

Sponsor:	$1,000
Hosts:	$ 500
Attendees:	$ 35

Reply Card enclosed

Space is limited - please reply as soon as possible, no later than October 29
For additional information, call Allison at 704-630-4686

Paid for by the Dole North Carolina Victory Committee, Inc.

RSVP

❒ **Yes!** I would like to attend the November 1st Evening with Laura Bush and Elizabeth Dole at the _____ as a:

- ❒ Sponsor ($1,000 per individual)*
- ❒ Host ($500 per individual)**
- ❒ Attendee ($35 per individual)

Amount enclosed: $_____ .

* *Sponsor level includes: Head Table seating and participation in the ____ p.m. private photo reception prior to the dinner.*

** *Host level includes: participation in the ____ p.m. private photo reception prior to the dinner.*

❒ I will not be able to attend, but Elizabeth can count on my support. Enclosed is a contribution of $_____ .

Please make personal checks payable to the "Dole North Carolina Victory Committee, Inc."

Credit Card payment option and contribution details available on back.

Federal Election Law requires political committees to report the name, mailing address, occupation and employer for each individual whose contributions aggregate in excess of $200 in a calendar year.

Sponsor/Host/Attendee (Please print first and last names for nametags):

Note: To comply with Secret Service clearance requirements, please provide S.S.# and Date of Birth for each individual attending.

Name 1: _____

S.S.#:_____Date of Birth: _____

Name 2: _____

S.S.#:_____Date of Birth: _____

Name of Contributor: _____

Address of Contributor: _____

_____

Employer of Contributer: _____

Occupation of Contributor: _____

Raleigh110102

REV_00153429

Credit Card Payment (By Phone, call Allison at 704-630-4686)

Please charge my credit card # _____

❒ Visa ❒ MasterCard ❒ American Express

Name as it appears on card: _____

Exp. Date_____Signature: _____

Joint Fundraising Notice and Contribution Guidelines

The Dole North Carolina Victory Committee, Inc. ("Dole NC Victory Committee") is a joint fundraising committee to benefit Dole 2002 Committee, Inc. and the North Carolina Republican Party / North Carolina Republican Victory 2002 Committee. Contributions from individuals to the Dole NC Victory Committee will be allocated as follows:

- The first $1,000 to Dole 2002 Committee, designated for the general election
- Any remaining funds to the North Carolina Republican Victory 2002 Committee in accordance with applicable federal and state law.

Notwithstanding the allocation formula described above, contributions may be designated by the contributor for a specific committee. All earmarked contributions will be allocated to the specified committee(s) as directed by the contributor, in accordance with applicable individual and aggregate contribution limits under the Federal Election Campaign Act of 1971, as amended.

❒ I wish to allocate my contribution as follows:

Dole 2002 Committee general election
$_____ (self) $_____ (spouse)

North Carolina Republican Victory 2002 Committee
$_____ (self) $_____ (spouse)

Signature of Contributor _____

Signature of Spouse _____

Corporate contributions may not be accepted by the Dole NC Victory Committee or any of the participating committees.
Contributions are not tax deductible as charitable contributions for federal income tax purposes.

Paid for by the Dole North Carolina Victory Committee, Inc.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Matthew E. Smith/WHO/EOP@EOP [WHO] <Matthew E. Smith>;Jeanie L. Figg/WHO /EOP@EOP [WHO] <Jeanie L. Figg>;Tim Goeglein/WHO/EOP@EOP [WHO] <Tim Goeglein>
Sent: 10/23/2002 5:56:36 AM
Subject: : confirmed: meeting at 3:00 today in EEOB 189 to discuss 10/30 judges event

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:23-OCT-2002 09:56:36.00
SUBJECT:: confirmed: meeting at 3:00 today in EEOB 189 to discuss 10/30 judges event
TO:Matthew E. Smith ( CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jeanie L. Figg ( CN=Jeanie L. Figg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tim Goeglein ( CN=Tim Goeglein/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>
Sent: 10/23/2002 6:52:33 AM
Subject: : Patrick Elwood

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:23-OCT-2002 10:52:33.00
SUBJECT:: Patrick Elwood
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 10/23/2002 10:55 AM ----------

Elizabeth N. Camp
10/23/2002 10:36:46 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Patrick Elwood

FYI that Courtney is coming by the office on Thursday morning at 10:00 am so we can finally meet Patrick.

Hope you can come by.

Lib

Message Sent
To:_____
David S. Addington/OVP/EOP@EOP
H. Christopher Bartolomucci/WHO/EOP@EOP
John B. Bellinger/NSC/EOP@EOP
Bradford A. Berenson/WHO/EOP@EOP
Kyle Sampson/WHO/EOP@EOP
Timothy E. Flanigan/WHO/EOP@EOP
Edward McNally/WHO/EOP@EOP
Noel J. Francisco/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Helgard C. Walker/WHO/EOP@EOP
Brent D. Greenfield/WHO/EOP@EOP
Patrick J. Bumatay/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
Hana F. Brilliant/WHO/EOP@EOP
Nanette Everson/WHO/EOP@EOP
James W. Carroll/WHO/EOP@EOP
Charlotte L. Montiel/WHO/EOP@EOP
Benjamin A. Powell/WHO/EOP@EOP
Alberto R. Gonzales/WHO/EOP@EOP
Carolyn Nelson/WHO/EOP@EOP
Raquel Cabral/WHO/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>
Sent: 10/23/2002 6:52:33 AM
Subject: : Patrick Elwood

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:23-OCT-2002 10:52:33.00
SUBJECT:: Patrick Elwood
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 10/23/2002 10:55 AM ----------

Elizabeth N. Camp
10/23/2002 10:36:46 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Patrick Elwood

FYI that Courtney is coming by the office on Thursday morning at 10:00 am so we can finally meet Patrick.

Hope you can come by.

Lib

Message Sent
To:_____
David S. Addington/OVP/EOP@EOP
H. Christopher Bartolomucci/WHO/EOP@EOP
John B. Bellinger/NSC/EOP@EOP
Bradford A. Berenson/WHO/EOP@EOP
Kyle Sampson/WHO/EOP@EOP
Timothy E. Flanigan/WHO/EOP@EOP
Edward McNally/WHO/EOP@EOP
Noel J. Francisco/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Helgard C. Walker/WHO/EOP@EOP
Brent D. Greenfield/WHO/EOP@EOP
Patrick J. Bumatay/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
Hana F. Brilliant/WHO/EOP@EOP
Nanette Everson/WHO/EOP@EOP
James W. Carroll/WHO/EOP@EOP
Charlotte L. Montiel/WHO/EOP@EOP
Benjamin A. Powell/WHO/EOP@EOP
Alberto R. Gonzales/WHO/EOP@EOP
Carolyn Nelson/WHO/EOP@EOP
Raquel Cabral/WHO/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Lauren J. Vestewig/OPD/EOP@EOP [OPD] <Lauren J. Vestewig>
Sent: 10/23/2002 1:45:15 PM
Subject: : Re: Meeting re. tort reform

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:23-OCT-2002 17:45:15.00
SUBJECT:: Re: Meeting re. tort reform
TO:Lauren J. Vestewig (CN=Lauren J. Vestewig/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
End Original ARMS Header

will be there

Lauren J. Vestewig
10/23/2002 05:09:05 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Meeting re. tort reform

Newt Gingrich is coming to talk about tort reform on Monday 10/28 at 10:45 in Jay's office. Please let me know if you can make it. Thanks.

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/23/2002 10:25:14 AM
Subject: : LRM PTM166 - - OMB Request for Views on HR3100 Expansion of Renewal Communities
Attachments: P_AKF4B003_WHO.TXT_1

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:23-OCT-2002 14:25:14.00
SUBJECT:: LRM PTM166 - - OMB Request for Views on HR3100 Expansion of Renewal Communities
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on
10/23/2002 01:35 PM ----------

From: P. Thaddeus Messenger on 10/23/2002 01:34:22 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: LRM PTM166 - - OMB Request for Views on HR3100 Expansion
of Renewal Communities

LRM ID: PTM166
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Wednesday, October 23, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution
below
FROM: Ingrid M. Schroeder (for) Assistant Director for
Legislative Reference
OMB CONTACT: P. Thaddeus Messenger
PHONE: (202)395-7754 FAX: (202)395-6148
SUBJECT: OMB Request for Views on HR3100 Expansion of Renewal
Communities

DEADLINE: 5:00 p.m. Wednesday, October 30, 2002
In accordance with OMB Circular A-19, OMB requests the views of your
agency on the above subject before advising on its relationship to the
program of the President. Please advise us if this item will affect
direct spending or receipts for purposes of the "Pay-As-You-Go" provisions
of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Attached for your comments is a copy of H.R. 3100, a bill to
allow for the expansion of areas designated as renewal communities based
on 2000 Census data. On October 7th, the House passed H.R. 3100 by voice
vote.

Please provide your comments by 5:00 p.m. Wednesday October 30, 2002. If

we do not receive your comments by that time, we will assume you have no objection to the bill as engrossed in the House.

If you experience difficulty with this LRM, or its attachment, please contact us immediately. To ensure receipt by Agency addressees, the electronic copy of this LRM will be followed by a duplicate copy via facsimile.

Thank you.

DISTRIBUTION LIST

AGENCIES:
054-HOUSING & URBAN DEVELOPMENT - Mike Moran - (202) 708-1793
007-AGRICULTURE - Jacquelyn Chandler - (202) 720-1272
006-AGRICULTURE (CR) - Wanda Worsham - (202) 720-7095
118-TREASURY - Thomas M. McGivern - (202) 622-2317
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773
025-COMMERCE - Michael A. Levitt - (202) 482-3151

EOP:
Stephen S. McMillin
Alan B. Rhinesmith
Francis S. Redburn
Dustin S. Brown
Adrienne C. Erbach
Jennifer Wagner Bell
Mark J. Schwartz
Robert F. Mahaffie
Randolph M. Lyon
Jack A. Smalligan
Andrea M. Petro
Katherine K. Wallman
Arthur W. Stigile
Aquiles F. Suarez
NEC LRM
CEA LRM
OVP LRM
WHGC LRM
Philip J. Perry
Matthew J. Schneider
John F. Wood
Christine M. Burgeson
Danielle M. Simonetta
Lauren C. Lobrano
James J. Jukes
Ingrid M. Schroeder
P. Thaddeus Messenger
Richard E. Green
Lisa J. Macecevic
LRM ID: PTM166 SUBJECT: OMB Request for Views on HR3100 Expansion of Renewal Communities
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: P. Thaddeus Messenger Phone: 395-7754 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Sent
To:_____
HUD_LRM@hud.gov
usdaobpaleg@obpa.usda.gov
usdaocrleg@obpa.usda.gov
llr@do.treas.gov
lrm@hhs.gov
CLRM@doc.gov

Message Copied
To:_____
Stephen S. McMillin/OMB/EOP@EOP
Alan B. Rhinesmith/OMB/EOP@EOP
Francis S. Redburn/OMB/EOP@EOP
Dustin S. Brown/OMB/EOP@EOP
Adrienne C. Erbach/OMB/EOP@EOP
Jennifer Wagner Bell/OMB/EOP@EOP
Mark J. Schwartz/OMB/EOP@EOP
Robert F. Mahaffie/OMB/EOP@EOP
Randolph M. Lyon/OMB/EOP@EOP
Jack A. Smalligan/OMB/EOP@EOP
Andrea M. Petro/OMB/EOP@EOP
Katherine K. Wallman/OMB/EOP@EOP
Arthur W. Stigile/OMB/EOP@EOP

Aquiles F. Suarez/OPD/EOP@EOP
NEC LRM
CEA LRM
OVP LRM
WHGC LRM
Philip J. Perry/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Christine M. Burgeson/OMB/EOP@EOP
Danielle M. Simonetta/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Ingrid M. Schroeder/OMB/EOP@EOP
P. Thaddeus Messenger/OMB/EOP@EOP
Richard E. Green/OMB/EOP@EOP
Lisa J. Macecevic/OMB/EOP@EOP
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_AKF4B003_WHO.TXT_1>

107TH CONGRESS
2D SESSION

H. R. 3100

AN ACT

To amend the Internal Revenue Code of 1986 to allow for the expansion of areas designated as renewal communities based on 2000 census data.

REV_00153467

107TH CONGRESS
2D SESSION

H. R. 3100

AN ACT

To amend the Internal Revenue Code of 1986 to allow for the expansion of areas designated as renewal communities based on 2000 census data.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

REV_00153469

SECTION 1. EXPANSION OF DESIGNATED RENEWAL COMMUNITY AREA BASED ON 2000 CENSUS DATA.

(a) IN GENERAL.—Section 1400E of the Internal Revenue Code of 1986 (relating to designation of renewal communities) is amended by adding at the end the following new subsection:

"(g) EXPANSION OF DESIGNATED AREA BASED ON 2000 CENSUS.—At the request of the nominating entity with respect to a renewal community, the Secretary of Housing and Urban Development may expand the area of such community to include any census tract—

"(1) which, at the time such community was nominated, met the requirements of this section for inclusion in such community but for the failure of such tract to meet 1 or more of the population and poverty rate requirements of this section using 1990 census data, and

"(2) which meets all failed population and poverty rate requirements of this section using 2000 census data.

Any such expansion shall take effect as provided in subsection (b)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the

REV_00153470

amendments made by section 101 of the Community Renewal Tax Relief Act of 2000.

Passed the House of Representatives October 7, 2002.

Attest:

Clerk.

REV_00153471

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>
Sent: 10/23/2002 1:58:19 PM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:23-OCT-2002 17:58:19.00
SUBJECT::
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

what's latest on Pledge signing? At a minimum, we should have a
written signing statement?
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Matthew E. Smith/WHO/EOP@EOP [WHO] <Matthew E. Smith>
Sent: 10/24/2002 5:48:27 AM
Subject: : additional names for list

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:24-OCT-2002 09:48:27.00
SUBJECT:: additional names for list
TO:Matthew E. Smith ( CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Mayor Giuliani
Gerry Parsky
Jim Wootten - Chamber Litigation Center
Bruce Josten - US Chamber
Victor Schwartz - Shook, Hardy and Bacon
Tiger Joyce - ATRA
John Castellani - Business Roundtable
Jerry Jasinowski - NAM
Bob Vagley - American Insurance Association
```

From: CN=Heather Wingate/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/24/2002 5:57:22 AM
Subject: : Re: question

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:24-OCT-2002 09:57:22.00
SUBJECT:: Re: question
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Great!

.

----- Original Message -----
From:Brett M. Kavanaugh/WHO/EOP
To:Heather Wingate/WHO/EOP@EOP
Cc:
Date: 10/24/2002 09:15:20 AM
Subject: Re: question

They will be told it is an East Room event regarding the
appropriate treatment of judicial nominees.

Heather Wingate
10/24/2002 09:11:31 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: question

my only concern would be that inviting them could let the cat out of the bag w/current Members on the Hill, who would then want to be invited or informed about the event earlier than we want to inform them. I suppose if the invitation didn't specify the content of the President's speech, it might be okay. If they are only told that it's a event to call for the fair treatment of judicial nominees no matter who's in control in the Sen. and WH, we would be okay.

HW

Brett M. Kavanaugh
10/24/2002 09:08:28 AM
Record Type: Record

To: Heather Wingate/WHO/EOP@EOP
cc:
Subject: question

PL was thinking of inviting some former Senators (Dole, Nunn, Simpson). Any reaction?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Melissa S. Bennett/WHO/EOP@EOP [WHO] <Melissa S. Bennett>
CC: linda m. gambatesa/who/eop@eop [WHO] <linda m. gambatesa>;paul b. dyck/who/eop@eop [WHO] <paul b. dyck>;jose_mallea@who.eop.gov [UNKNOWN] <jose_mallea@who.eop.gov>;jeanie s. mamo/who/eop@eop [WHO] <jeanie s. mamo>
Sent: 10/24/2002 7:28:41 AM
Subject: : Re: The State (10/24/02) re: Card comes back to SC to stump for Graham

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:24-OCT-2002 11:28:41.00
SUBJECT:: Re: The State (10/24/02) re: Card comes back to SC to stump for Graham
TO:Melissa S. Bennett ( CN=Melissa S. Bennett/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:linda m. gambatesa ( CN=linda m. gambatesa/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:paul b. dyck ( CN=paul b. dyck/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:jose_mallea@who.eop.gov ( jose_mallea@who.eop.gov [ UNKNOWN ] )
READ:UNKNOWN
CC:jeanie s. mamo ( CN=jeanie s. mamo/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Yes, I think that would be useful.




Melissa S. Bennett
10/24/2002 11:21:40 AM
Record Type: Record

To: Jeanie S. Mamo/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP,
Paul B. Dyck/WHO/EOP@EOP
cc: Jose_Mallea@who.eop.gov, Linda M. Gambatesa/WHO/EOP@EOP
Subject: The State (10/24/02) re: Card comes back to SC to stump
for Graham

The plane did NOT have a presidential seal on it. I don't want anyone
to think he was using official funds for political fundraising. Does it
make sense for you to call them the State?
---------------------- Forwarded by Melissa S. Bennett/WHO/EOP on
10/24/2002 11:21 AM ---------------------------



Jeanie S. Mamo
10/24/2002 11:13:09 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: The State (10/24/02) re: Card comes back to SC to stump
for Graham
```

Posted on Thu, Oct. 24, 2002

Card comes back to S.C. to stump for Graham

The White House chief of staff, a USC grad, was honored by the university at homecoming

By VALERIE BAUERLEIN
Staff Writer

When Andrew Card arrived in Columbia as a freshman at USC, he came on the train from Massachusetts, carrying a trunk and a duffel bag in the August heat.

"By the time I got up to the Horseshoe, I was a sweaty young man," Card said.

A lot has changed in 30 years.

When Card arrived in Columbia on Wednesday, he came on a chartered plane, carrying the presidential seal. Card is the White House chief of staff and one of President Bush's closest advisers.

He was in town to raise money and build momentum for Lindsey Graham, the Republican nominee for U.S. Senate.

"I am here because I care about South Carolina and the values that the people of South Carolina have," Card said.

Graham has conservative credentials that match the state, Card said, and a voice that Bush needs in Congress. The U.S. Senate is narrowly divided, with 50 Democrats, 49 Republicans and one independent. Bush needs help pushing his agenda through Congress, Card said.

But Card also said he came to visit because he relished his time here.

Card graduated from USC with a degree in engineering in 1971. He got married while he was a student, and had two of his three children here. He worked throughout college, delivering newspapers and managing the McDonald's near Fort Jackson.

During USC's homecoming festivities this month, the Carolina Alumni Association honored him as one its most distinguished graduates.

"I'm living proof that you can be not the most distinguished student and still be a distinguished alumnus," Card said.

After graduation, Card returned to Massachusetts where he was elected to the state legislature. He got to know the Bush family and worked in both the Reagan and the first Bush administrations, including a stint as transportation secretary. He was a lobbyist through most of the Clinton administration in the 1990s before going to work for George W. Bush.

Card, 55, said that while his life has changed since he was a student, so has Columbia and so have South Carolina politics.

When Card started school in the late 1960s, Democrat Fritz Hollings had just been elected to the U.S. Senate, Strom Thurmond had just switched to

the Republican Party and the late U.S. Rep. Floyd Spence was about the only other Republican in the state.
Joked Graham, a spry 47: "God, you are old."
Graham faces Democrat Alex Sanders in the Nov. 5 election.
"It's very unusual the way (Graham) so consistently hides behind his Washington, D.C., surrogates," said Sanders' campaign spokesman Chad Clanton. "Why doesn't he step out on his own and tell people why he wants to be their senator?"

Message Sent
To:_____
Nicolle Devenish/WHO/EOP@EOP
Paul B. Dyck/WHO/EOP@EOP
Melissa S. Bennett/WHO/EOP@EOP
Jose Mallea/WHO/EOP@EOP
pdyck@georgewbush.com @ inet

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: John F. Wood/OMB/EOP@EOP [OMB] <John F. Wood>;Christine M. Burgeson/OMB /EOP@EOP [OMB] <Christine M. Burgeson>
Sent: 10/24/2002 11:35:22 AM
Subject: : Re: Blocked assets / terrorism insurance

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:24-OCT-2002 15:35:22.00
SUBJECT:: Re: Blocked assets / terrorism insurance
TO:John F. Wood (CN=John F. Wood/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Christine M. Burgeson (CN=Christine M. Burgeson/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
End Original ARMS Header

yes, sorry, meant to reply to all.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 10/24/2002 03:10 PM ----------

Brett M. Kavanaugh
10/24/2002 11:00:25 AM
Record Type: Record

To: John F. Wood/OMB/EOP@EOP
cc:
bcc: Records Management@EOP
Subject: Re: Blocked assets / terrorism insurance

We are negotiating still on that provision. As to the overall status, we have reached agreement with all of the Dem conferees, but some House Republicans are upset and are being worked on by Matt Kirk and Brian Conklin in Leg Affairs. We still expect passage when Congress returns, but that is not a sure thing because of some House R anger and the fact that some Members in both Houses all along thought the bill unnecessary.

John F. Wood
10/24/2002 10:47:53 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Christine M. Burgeson/OMB/EOP@EOP
cc:
Subject: Blocked assets / terrorism insurance

What is the status of section 11 (the Harkin-Allen proposal to allow use of blocked assets to satisfy judgments) of the terrorism insurance bill? What is the status of the bill in general?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Charlotte L. Montiel/WHO/EOP@EOP [WHO] <Charlotte L. Montiel>
Sent: 10/24/2002 7:44:38 AM
Subject: : Re: DOJ retreat

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:24-OCT-2002 11:44:38.00
SUBJECT:: Re: DOJ retreat
TO:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

correct

Charlotte L. Montiel
10/24/2002 11:41:41 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: DOJ retreat

I just wanted to make sure that everything was clear on the DOJ retreat.
Are you definitely going to the morning session on judges? If so, then
Tim is going to do the one on commission that afternoon.

charlotte

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Megan R. Johnston/WHO/EOP@EOP [WHO] <Megan R. Johnston>
CC: matthew e. smith/who/eop@eop [WHO] <matthew e. smith>;lindsey m. lineweaver/who /eop@eop [WHO] <lindsey m. lineweaver>
Sent: 10/24/2002 8:15:37 AM
Subject: : Re: script for invites on judges

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:24-OCT-2002 12:15:37.00
SUBJECT:: Re: script for invites on judges
TO:Megan R. Johnston (CN=Megan R. Johnston/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:matthew e. smith (CN=matthew e. smith/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:lindsey m. lineweaver (CN=lindsey m. lineweaver/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

I think Matt is working on the master.

Megan R. Johnston
10/24/2002 11:58:42 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Lindsey M. Lineweaver/WHO/EOP@EOP
cc: matthew e. smith/who/eop@eop
bcc:
Subject: Re: script for invites on judges

where is the list to make calls from?

Brett M. Kavanaugh
10/24/2002 11:58:04 AM
Record Type: Record

To: Megan R. Johnston/WHO/EOP@EOP
cc: Matthew E. Smith/WHO/EOP@EOP
bcc:
Subject: Re: script for invites on judges

-- I think Jeanie wanted them here at 1:00, but please double-check check with her
-- Not sure on the second question, but the event is in the East Room
-- 25-30 minute event
-- I would say no guests for now
-- Yes on subs, but we need to clear names, of course.
-- Business attire

Megan R. Johnston
10/24/2002 10:27:52 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: script for invites on judges

actually, we need more info than that. What time do they arrive? Where do they go? When is it over? Can they bring a guest? What about a sub if they cannot come? Attire?

Brett M. Kavanaugh
10/24/2002 10:10:44 AM
Record Type: Record

To: Megan R. Johnston/WHO/EOP@EOP, Lindsey M. Lineweaver/WHO/EOP@EOP
cc: Matthew E. Smith/WHO/EOP@EOP
Subject: script for invites on judges

We would propose that you say something like (using the proper etiquette, of course):
"East Room event where the President will give remarks on the judicial confirmation process and fair treatment for judicial nominees."
Thanks!

From: Charnes, Adam <Adam.Charnes@usdoj.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/24/2002 10:33:17 AM
Subject: : FW: Heads up re POTUS invitation

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Charnes, Adam" <Adam.Charnes@usdoj.gov> ("Charnes, Adam" <Adam.Charnes@usdoj.gov>
[UNKNOWN])
CREATION DATE/TIME:24-OCT-2002 14:33:17.00
SUBJECT:: FW: Heads up re POTUS invitation
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett, can you share any of the details requested below?

-----Original Message-----
From: Bass, Amy
Sent: Thursday, October 24, 2002 12:22 PM
To: Charnes, Adam
Cc: Willett, Don; Keefer, Wendy J
Subject: RE: Heads up re POTUS invitation

Thanks, for the heads up. Are you talking about Tuesday, October 29? How long are they expecting it to last? Any idea who else will be in attendance other than the POTUS?

-----Original Message-----
From: Charnes, Adam
Sent: Thursday, October 24, 2002 12:17 PM
To: Bass, Amy
Cc: Willett, Don; Keefer, Wendy J
Subject: Heads up re POTUS invitation

Amy, the WH counsel's office asked me to alert OAG that the WH has tentatively scheduled an East Room presidential event for Tuesday at 1:40 to highlight the Senate's failure to confirm judges. If it continues to be scheduled, the AG (in addition to the DAG and Viet, among others) should receive an oral invitation tomorrow for the event.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>;Matthew A. Schlapp/WHO/EOP@EOP [WHO] <Matthew A. Schlapp>;Tim Goeglein/WHO/EOP@EOP [WHO] <Tim Goeglein>;Matthew E. Smith/WHO/EOP@EOP [WHO] <Matthew E. Smith>;Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>
Sent: 10/24/2002 3:37:26 PM
Subject: : President's Remarks on Judges in North Carolina 10/24/02

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:24-OCT-2002 19:37:26.00
SUBJECT:: President's Remarks on Judges in North Carolina 10/24/02
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Matthew E. Smith (CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

These also were 10/24/02:

President's Remarks on Judges in North Carolina 10/24/02

And speaking about benches, another reason we need Elizabeth Dole in the Senate, besides the fact that she's going to do a great job for North Carolina, is I've got to have United States senators who will work with me to make sure our federal judiciary is strong. The record -- (applause.) I'm picking good people to be judges, good, solid, honorable people to be the judges on the federal judiciary; people who will strictly interpret the Constitution of the United States. Not people who will use the bench to write new legislation. (Applause.)

And the record of this United States Senate is a lousy record. (Applause.) They have politicized the process. They have distorted the records of many of our good candidates we put forward. They're playing petty politics with the candidates that I put up there. We're not getting a hearing fast enough. The percentage of judges is the worst in modern history, percentage of judges approved. And that's not right.

Let me tell you about one, Terry Boyle from North Carolina, I nominated for the 4th Circuit Court. I nominated him a long while ago. He can't even get a hearing. For the sake of a good, sound judiciary, we need to change the United States Senate, and you can start by electing Elizabeth Dole to the Senate. (Applause.)

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>
Sent: 10/25/2002 6:38:34 AM
Subject: : change "avoid" to "allow" at bottom of page and move that word outside the quote

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:25-OCT-2002 10:38:34.00
SUBJECT:: change "avoid" to "allow" at bottom of page and move that word outside the quote
TO:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>
Sent: 10/25/2002 7:25:16 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:25-OCT-2002 11:25:16.00
SUBJECT::
TO:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Heather Wingate/OU=WHO/O=EOP [WHO]
To: Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>
CC: brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>
Sent: 10/25/2002 5:45:35 AM
Subject: : Re: meet at 11:30?

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:25-OCT-2002 09:45:35.00
SUBJECT:: Re: meet at 11:30?
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

works for me. 156 EEOB, right?

Ashley Snee
10/25/2002 09:25:06 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: heather wingate/who/eop@eop
bcc:
Subject: Re: meet at 11:30?

good for me. your office?

Brett M. Kavanaugh
10/25/2002 08:51:48 AM
Record Type: Record

To: Ashley Snee/WHO/EOP@EOP, Heather Wingate/WHO/EOP@EOP
cc:
Subject: meet at 11:30?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>
Sent: 10/25/2002 6:38:34 AM
Subject: : change "avoid" to "allow" at bottom of page and move that word outside the quote

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:25-OCT-2002 10:38:34.00
SUBJECT:: change "avoid" to "allow" at bottom of page and move that word outside the quote
TO:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ashley Estes/WHO/EOP@EOP [WHO] <Ashley Estes>
Sent: 10/25/2002 7:21:42 AM
Subject: : Re: ADMINISTRATIVE ALERT: Emergency Response Make-up Briefings

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:25-OCT-2002 11:21:42.00
SUBJECT:: Re: ADMINISTRATIVE ALERT: Emergency Response Make-up Briefings
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

1:00

Ashley Estes
10/25/2002 11:19:00 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP
cc:
Subject: ADMINISTRATIVE ALERT: Emergency Response Make-up Briefings

reminder. i can go to either if you will let me know. YOU need to go.
---------------------- Forwarded by Ashley Estes/WHO/EOP on 10/25/2002
11:15 AM ---------------------------

PostMaster
10/22/2002 08:24:34 AM
Record Type: Record

To: All EOP Users
cc:
Subject: ADMINISTRATIVE ALERT: Emergency Response Make-up Briefings

Emergency Response Briefing Make-up Sessions

Please note: There will be two Emergency Response make-up briefings held
Friday, October 25, 2002, for employees who did not attend previously
scheduled briefings.

1:00 PM
Room 450

2:00 PM
Room 450

If you have any questions regarding the Emergency Response Briefings,
please call the EOP Security Office at x5-6206.

Thank
you.
#000260

MANAGEMENT AND ADMINISTRATION

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
Sent: 10/25/2002 8:47:35 AM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:25-OCT-2002 12:47:35.00
SUBJECT:: Re:
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

We have worked with Communications (Snee) on it. I assume it will go in staffing soon. I will check with her.

Kristen Silverberg
10/25/2002 11:43:33 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Re:

When will factsheet go to communications and when will u put in staffing?

.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Scott McClellan/WHO/EOP@EOP [WHO] <Scott McClellan>
CC: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
Sent: 10/25/2002 1:29:05 PM
Subject: : IMPORTANT: Terrorism Insurance op-ed for WSJ
Attachments: P_1AD7B003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:25-OCT-2002 17:29:05.00
SUBJECT:: IMPORTANT: Terrorism Insurance op-ed for WSJ
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

any help on this? Melanie Kirkpatrick?

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 10/25/2002 05:31 PM ----------

Brett M. Kavanaugh
10/25/2002 03:34:43 PM
Record Type: Record

To: Claire E. Buchan/WHO/EOP@EOP
cc: Kristen Silverberg/WHO/EOP@EOP
Subject: IMPORTANT: Terrorism Insurance op-ed for WSJ

See question below.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 10/25/2002 03:28 PM ----------

"Cartoon, June" <JCARTOON@shb.com>
10/25/2002 03:23:29 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Terrorism Insurance op-ed for WSJ

Hi Brett:

Victor Schwartz drafted the attached op-ed for consideration by the Wall Street Journal. Do you have any contacts on their Editorial Board to whom this should be directed? Please advise. Thanks, June

June M. Cartoon
Legislative Analyst
Shook, Hardy & Bacon L.L.P.
600 14th Street, N.W., Suite 800
Washington, D.C. 20005-2004
Telephone 202-639-5642

Fax 202-783-4211
jcartoon@shb.com

"MMS <shb.com>" made the following
annotations on 10/25/2002 02:23:29 PM

CONFIDENTIALITY NOTICE: This e-mail message including attachments, if any, is intended only for the person or entity to which it is addressed and may contain confidential and /or privileged material. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message. If you are the intended recipient but do not wish to receive communications through this medium, please so advise the sender immediately.

IN THE U.S., please contact:
Shook, Hardy & Bacon LLP
1200 Main Street
Kansas City, MO 64105-2118
816-474-6550

IN EUROPE, please contact:
Shook, Hardy & Bacon, MNP
25 Cannon Street
London EC4M 5SE
44-020-7332-4500

- WSJ op-ed.doc

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_1AD7B003_WHO.TXT_1>

TERRORISM INSURANCE:
THE HOBSON'S CHOICE FOR THE ADMINISTRATION
By Victor E. Schwartz*

People use the term "Hobson's Choice," but many do not know its origin. In England, a man named Hobson provided horse carriage service from one town to another. Customers were required to take the next horse in line, regardless of how unsuitable it appeared for travel; that was the only way passengers could move between towns.

Unfortunately, the Bush Administration recently faced such a "Hobson's Choice" with terrorism insurance legislation. If Administration officials were to have a bill that would help the economy and create jobs to help assure that there was full insurance against terrorism for business and property owners, they had to accede, at least in part, to the Senate Democratic leadership and the wealthy personal injury lobby.

As *The Wall Street Journal* has indicated, terrorism insurance legislation is necessary to assure that lenders can confidently loan money to businesses and property owners and start new projects. These projects would create meaningful jobs for hard-hat workers and help our economy when it needs it most.

Federal money is a prop for federal terrorism insurance. In light of that fact, reasonable liability limits should be placed on anyone's right to sue. Moreover, both common sense and the national interest suggest that if there is another tragedy, liability lawsuits should be limited to people's needs, not wealthy personal injury lawyer greed.

As the terrorism insurance legislation developed in the House of Representatives, meaningful liability reforms accompanied the proposal. Punitive damages were limited; joint

---

* Victor Schwartz is chairman of the Public Policy Group in the Washington office of the Kansas City-based law firm of Shook, Hardy & Bacon L.L.P.

and several liability limits were also imposed, so that a relatively innocent business did not pay for harm caused by terrorisms; and curbs were placed on contingency fees.

When it comes to limits on our liability system, the Senate is a very different body than the House. A wealthy personal injury lawyer, Fred Baron, has stated that the personal injury bar, in effect, "own the Senate." For that reason, the much-needed terrorism insurance bill has been held captive by both the Democratic leadership and the wealthy personal injury lawyers since December 2001.

The nation's economy has had greater needs in 2002, and the need for terrorism insurance and putting people back to work has become more urgent. Whether one was to have any liability limits in the Senate bill came down to choices. One choice was to fight for limits on punitive damages. While some Democrats, such as Senator Dodd (D-CT), supported sound reform in this area, the punitive damage proposals put forth by the Democratic leadership would have made a bad situation worse. What few people know is that some of those proposals, which set forth a standard for when punitive damages could be awarded, would have simultaneously created a right to bring punitive damage lawsuits in a number of states that presently do not have them.

In October 2002, it was clear that only one civil justice reform provision could be obtained in the terrorism bill. In light of this "devil's choice," created by the Democratic leadership in the Senate and their wealthy personal injury friends, the White House was faced with a difficult choice. It could have either a weak punitive damage standard or have all cases consolidated before a single federal judge in a single federal court. The White House chose the second option, and that was the wiser choice. This is why.

REV_00153584

The single federal court provision awards one of the most serious problems in our civil justice system today – forum shopping by wealthy personal injury lawyers seeking to bring their cases in what personal injury lawyers themselves call "magic" jurisdictions. Others, such as the American Tort Reform Association, call the same jurisdictions "judicial hellholes." These include courts in certain jurisdictions which foster claims made by plaintiffs, however that might be obtained. In that regard, even if clear standards on punitive damages had existed in the terrorism bill, these courts would have likely ignored these federally mandated provisions, but stretch them to the edge to allow claims. In light of the Administration's "Hobson's Choice," these courts cannot be reached.

Again, this does not suggest that all Democrats block liability reform. Unless there is a change in the Senate leadership, this Administration will continue to be faced with "Hobson's Choices" when it comes to societal goals versus the desires of the wealthy personal injury bar. The Administration chose to put a jolt in the economy this time, and chose to create jobs. They also will confine claims brought by wealthy personal injury lawyers to a federal court. More was needed, but the choice for more was not attainable now.

REV_00153585

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Cheryl A. Oldham/WHO/EOP@EOP [WHO] <Cheryl A. Oldham>
CC: Matthew E. Smith/WHO/EOP@EOP [WHO] <Matthew E. Smith>
Sent: 10/25/2002 2:37:38 PM
Subject: : further invites

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:25-OCT-2002 18:37:38.00
SUBJECT:: further invites
TO:Cheryl A. Oldham ( CN=Cheryl A. Oldham/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Matthew E. Smith ( CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

We want to make sure the following DOJ people are included and
invited (if they were not already). We have room. Also, what is status
of the US Attorneys?

Adam Ciongoli
David Ayres
David Israelite
Ted Olson
Paul Clement
Michael Chertoff
Robert McCallum
Dan Bryant
Viet Dinh
Don Willett
Adam Charnes
Wendy Keefer
Jay Bybee
Ed Whelan
Patrick Philbin
John Yoo
Sheldon Bradshaw
Joan Larsen
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Joseph J. Shattan/WHO/EOP@EOP [WHO] <Joseph J. Shattan>
Sent: 10/25/2002 1:23:36 PM
Subject: : Re: Tuesday's speech

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:25-OCT-2002 17:23:36.00
SUBJECT:: Re: Tuesday's speech
TO:Joseph J. Shattan (CN=Joseph J. Shattan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

our numbers are correct.

Joseph J. Shattan
10/25/2002 04:57:18 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Tuesday's speech

The following comment came from Al Hawkins:
"Please verify the vacancy rates reflected on p.2. Fata we receoved from DOJ this week indicate a 15% vacancy for Circuit Courts and a 9% overall vacany rate."
Brett, can you check the numbers? Thanks!

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Cheryl A. Oldham/WHO/EOP@EOP [WHO] <Cheryl A. Oldham>
CC: Matthew E. Smith/WHO/EOP@EOP [WHO] <Matthew E. Smith>
Sent: 10/25/2002 2:37:38 PM
Subject: : further invites

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:25-OCT-2002 18:37:38.00
SUBJECT:: further invites
TO:Cheryl A. Oldham ( CN=Cheryl A. Oldham/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Matthew E. Smith ( CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

We want to make sure the following DOJ people are included and
invited (if they were not already). We have room. Also, what is status
of the US Attorneys?

Adam Ciongoli
David Ayres
David Israelite
Ted Olson
Paul Clement
Michael Chertoff
Robert McCallum
Dan Bryant
Viet Dinh
Don Willett
Adam Charnes
Wendy Keefer
Jay Bybee
Ed Whelan
Patrick Philbin
John Yoo
Sheldon Bradshaw
Joan Larsen
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Philip J. Perry/OMB/EOP@EOP [OMB] <Philip J. Perry>
CC: Jonathan R. Scharfen/NSC/EOP@EOP [NSC] <Jonathan R. Scharfen>;john f. wood/omb /eop@eop [OMB] <john f. wood>
Sent: 10/25/2002 3:02:04 PM
Subject: : Re: Emailing: 25SAUD

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:25-OCT-2002 19:02:04.00
SUBJECT:: Re: Emailing: 25SAUD
TO:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Jonathan R. Scharfen (CN=Jonathan R. Scharfen/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
CC:john f. wood (CN=john f. wood/OU=omb/O=eop@eop [OMB])
READ:UNKNOWN
End Original ARMS Header

Not I. NSC should know. Jock??

Philip J. Perry
10/25/2002 02:32:52 PM
Record Type: Record

To: John F. Wood/OMB/EOP@EOP
cc: Brett M. Kavanaugh/WHO/EOP@EOP
bcc:
Subject: Re: Emailing: 25SAUD

i meant "do you know anything about" the diplomatic plea for us to intervene

John F. Wood
10/25/2002 02:32:00 PM
Record Type: Record

To: Philip J. Perry/OMB/EOP@EOP
cc:
bcc:
Subject: Re: Emailing: 25SAUD

It appears to be the Burnett suit, but I have not heard anything about the case lately.

Philip J. Perry
10/25/2002 02:27:54 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: John F. Wood/OMB/EOP@EOP
Subject: Emailing: 25SAUD

do you know anything about this?

October 25, 2002

International

-
Africa

-
Americas

-
Asia Pacific

-
Europe

-
Middle East

National

Washington

Campaigns

Business

Technology

Science

Health

Sports

New York Region

Education

Weather

Obituaries

NYT Front Page

Corrections

Editorials/Op-Ed

Readers' Opinions

Arts

Books

Movies

Travel

Dining & Wine

Home & Garden

Fashion & Style

New York Today

Crossword/Games

Cartoons

Magazine

Week in Review

Multimedia/Photos

College

Learning Network

Archive

Classifieds

Book a Trip

Personals

Theater Tickets

Premium Products

NYT Store

NYT MobileE-Cards & More

About NYTDigital

Jobs at NYTDigital

Online Media Kit

Our Advertisers

Your Profile

E-Mail Preferences

News Tracker

Premium Account

Site Help

Privacy Policy

Home Delivery

Customer Service

Electronic Edition

Media Kit

Community Affairs

Text Version

Discover New Topics in Depth

Find More Low Fares! Experience Orbitz!

$7 Online Market Orders, 165 offices

Small Business Center: OPEN NetworkSM tools

Welcome, kateperry

U.S. May Ask Court to Dismiss a $1 Trillion Suit Linking Saudis to Al Qaeda and 9/11
By PHILIP SHENON

ASHINGTON, Oct. 24 ? The Bush administration is closely monitoring a private lawsuit accusing members of the Saudi royal family of ties to Al Qaeda, and may move in a federal court here to dismiss or delay the suit, which was brought by relatives of Sept. 11 victims, according to administration officials.

Advertisement

Government laywers, the officials said, are trying to determine whether the case threatens to damage Saudi-American relations, which would give them reason to block the suit. The suit seeks $1 trillion in damages and is being pursued here by nearly 3,000 of the relatives.

A State Department official, speaking on condition of anonymity, said he knew of no plans by the United States to take action in court, but he said the issue of the lawsuit had been raised in recent meetings of top American and Saudi officials.

"The Saudis have made their concerns known at a senior level," he said.

The legal team representing the families is led by one of the nation's leading plaintiff's lawyers, Ron Motley, of Charleston, S.C., who is best known for obtaining a landmark $350 billion settlement from the tobacco industry in the late 1990's.

"This has become a true mission for me," said Mr. Motley, whose folksy, country-lawyer style masks what adversaries have described as his ferociousness in pretrial maneuvering. "The individuals that we've sued faciliated the events of Sept. 11."

Bush administration officials say senior Saudi officials have complained to their American counterparts that the suit could damage the already strained relationship between the two countries.

The Saudis have been especially alarmed, the Americans say, because the list of defendants includes two of the most prominent members of the Saudi royal family: Prince Sultan bin Abdelaziz al-Saud, the defense minister, and Prince Turki bin Faisal, the former spy chief and the new Saudi ambassador to Britain.

The Saudi Embassy in Washington said it had no comment on the lawsuit, and did not respond to requests for comment from Prince Sultan or Prince Turki.

But Americans close to the royal family say the suit has so alarmed Prince Turki's lawyers that he has been advised to avoid all travel to the United States, and that other wealthy Saudis defendants are threatening to move billions of dollars out of the United States for fear that their assets here could be seized.

Mr. Motley's legal team includes many of the other lawyers involved in the huge tobacco settlement, as well as Allan Gerson, a Washington lawyer who brought suit against Libya on behalf of families of victims of the bombing of Pan Am Flight 103 over Lockerbie, Scotland, in 1988.

Mr. Gerson, an international law specialist, said he was not surprised

that the government would consider intervening to derail the lawsuit.
"There will probably be an effort by the government to seek dismissal or deferral of the case on the grounds that at this particularly sensitive juncture in U.S.-Saudi relations, a suit like this would put the interests of private claimaints ahead of the interests of state," he said.
He is optimistic that the courts would reject such a move.
The lawsuit repeats accusations that have been widely circulated since Sept. 11 about Saudi financial support for Al Qaeda, mostly through Islamic charity groups and Saudi banks.
Liz Alderman, of Armonk, N.Y., whose son Peter died in the World Trade Center, said she had joined in the suit becuase "there is no other way for the truth to come out."
"I've learned and I believe that an awful lot of the funding that enabled the terrorists to attack America was provided by Saudi Arabia," she said.
American officials insist they know of no evidence to support the suit's principle accusations, including its charge that Prince Sultan "publicly supported and funded several Islamic charities that were sponsoring Osama bin Laden."
Nor, the Americans say, do they know of any support for the suit's charge that Prince Turki negotiated a deal with Al Qaeda in 1998 in which the terror network agreed to end its efforts to subvert the Saudi monarchy in exchange for a Saudi promise not to demand the extradition of Qaeda leaders.
Wyche Fowler, American ambassador to Saudi Arabia from 1996 until last year, said that in his years in the embassy, he had never seen any evidence to suggest that members of the royal family had given money to Islamic charities with the intent of aiding Al Qaeda.
"Saudis are not in the business of funding terrorists against their friend, the United States," he said, adding that he had been impressed by the Saudi government's recent commitment to tighten scrutiny on charities.
Mr. Motley has vowed to pursue members of the Saudi royal family and other prominent Saudis even more aggressively than he pursued tobacco executives a decade ago. He said he is eager to seize Saudi assets in the United States if the defendants refuse to submit to court orders for depositions and the presentation of written evidence.
"The tobacco people were bad guys in that they had knowledge about the dangers of cigarettes," Mr. Motley said. "But they never intentionally launched an attack against the United States."

Forum: Join a Discussion on A Nation Challenged

TRACES OF TERROR: TRAVEL; Armed Pilots? Many Travelers Are Gun-Shy (July 12, 2002) $

A Few Saudis Defy a Rigid Islam To Debate Their Own Intolerance (July 12, 2002) $

The World: Out Front; A Desert Kingdom Takes the Spotlight (March 3, 2002) $

A NATION CHALLENGED: THE MILITARY; Pentagon Tries To Avoid Using Pakistan Bases (October 3, 2001) $

Doing research? Search the archive for more than 500,000 articles:

Wake up to the world with home delivery of The New York Times newspaper.
Click Here for 50% off.

Copyright The New York Times Company | Permissions | Privacy Policy

Getty Images
Accompanied by relatives of victims of Sept. 11, their lead lawyer, Ron Motley, announced their suit against Saudi Arabia in August. The Bush administration fears the case could undermine diplomatic relations.

Blood Money: A Special Report from NOW with Bill Moyers and The Times
Tonight on PBS, NOW with Bill Moyers and The New York Times take a look at how a new lawsuit targeting Saudi money by relatives of the Sept. 11 victims may affect Saudi/American relations. Check local listings.

The Money Trail: Report Says Saudis Fail to Crack Down on Charities That Finance Terrorists (October 17, 2002)

Al Qaeda Money Trail Runs From Saudi Arabia to Spain (September 21, 2002)

A Professor's Activism Leads Investigators to Look Into Possible Terrorism Links (July 23, 2002)

Topics

Alerts

Saudi Arabia

Terrorism

Suits and Litigation

International Relations

Create Your Own | Manage Alerts
Take a Tour

Sign Up for Newsletters

You can now track properties that interest you, with our Real Estate Tracker. Click here to sign up for the e-mail and start receiving information on the latest properties on the market.

From: Willett, Don <Don.Willett@usdoj.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/27/2002 9:00:32 AM
Subject: : Re: Tues. WH/POTUS event on vacancy crisis

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Willett, Don" <Don.Willett@usdoj.gov> ("Willett, Don" <Don.Willett@usdoj.gov> [UNKNOWN])
CREATION DATE/TIME:27-OCT-2002 14:00:32.00
SUBJECT:: Re: Tues. WH/POTUS event on vacancy crisis
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Sounds good. Thanks.

Can you e-mail me an embargoed copy of the President's remarks?

How do you feel today? I'm big-time stiff and sore.

DRW
--- Sent from my BlackBerry.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov <Brett_M._Kavanaugh@who.eop.gov>
To: Willett, Don <Don.Willett@USDOJ.gov>
Sent: Sun Oct 27 13:46:34 2002
Subject: Re: Tues. WH/POTUS event on vacancy crisis

No speaking or stage role for AG. Judge Gonzales may briefly
introduce, or
perhaps just a WHCA introduction of the President.

(Embedded
image moved "Willett, Don" <Don.Willett@usdoj.gov>
to file: 10/27/2002 01:23:50 PM
pic03505.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: Re: Tues. WH/POTUS event on vacancy crisis

Ok -- thanks. Any speaking role for the AG or anyone else besides the
President?

DRW
--- Sent from my BlackBerry.

-----Original Message-----

From: Brett_M._Kavanaugh@who.eop.gov <Brett_M._Kavanaugh@who.eop.gov>
To: Willett, Don <Don.Willett@USDOJ.gov>
Sent: Sun Oct 27 12:50:07 2002
Subject: Re: Tues. WH/POTUS event on vacancy crisis

It is on, as of now. I told Adam on Thursday to tell everyone, and
Cabinet
Affairs has called over as well. Speech on judges and the confirmation
process.

(Embedded
image moved "Willett, Don" <Don.Willett@usdoj.gov>
to file: 10/27/2002 12:45:17 PM
pic07790.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: Tues. WH/POTUS event on vacancy crisis

Is this on? Any details?

You've been working with Adam on this, right? (I was out on Thurs. when
the
initial word came in re. this possible event.)

DRW
--- Sent from my BlackBerry.

From: CN=Matthew E. Smith/OU=WHO/O=EOP [WHO]
To: Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>
CC: Jeanie L. Figg/WHO/EOP@EOP [WHO] <Jeanie L. Figg>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/28/2002 5:01:35 AM
Subject: : Re: Announcing of President into East Room on Tuesday

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Matthew E. Smith (CN=Matthew E. Smith/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:28-OCT-2002 10:01:35.00
SUBJECT:: Re: Announcing of President into East Room on Tuesday
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Jeanie L. Figg (CN=Jeanie L. Figg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Hadn't we already decided on a WHCA announce with the President and the Judge?

Elizabeth N. Camp
10/28/2002 09:25:47 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: Brett M. Kavanaugh/WHO/EOP@EOP, Israel Hernandez/WHO/EOP@EOP, Matthew E. Smith/WHO/EOP@EOP
Subject: Announcing of President into East Room on Tuesday

Everyone -

Brett and the Judge spoke this morning and decided it would be best to have WHCA announce the President into the East Room at Tuesday afternoon's judicial confirmation event.

Jeanie-Do I need to get w/ WHCA on this or is this something your shop handles? If I need to talk to WHCA who should I call?

Thanks!

Libby

Message Sent
To:_____
Jeanie L. Figg/WHO/EOP@EOP
Kara G. Figg/WHO/EOP@EOP
Debra D. Bird/WHO/EOP@EOP
Barbara A. Barclay/WHO/EOP@EOP
Carolyn E. Cleveland/WHO/EOP@EOP
Harriet Miers/WHO/EOP@EOP
Stuart W. Bowen/WHO/EOP@EOP
Karen D. Cruson/WHO/EOP@EOP

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]
To: Karen D. Cruson/WHO/EOP@EOP [UNKNOWN] <Karen D. Cruson>;Harriet Miers/WHO /EOP@EOP [WHO] <Harriet Miers>;Barbara A. Barclay/WHO/EOP@EOP [WHO] <Barbara A. Barclay>;Kara G. Figg/WHO/EOP@EOP [WHO] <Kara G. Figg>;Stuart W. Bowen/WHO /EOP@EOP [WHO] <Stuart W. Bowen>;Carolyn E. Cleveland/WHO/EOP@EOP [WHO] <Carolyn E. Cleveland>;Debra D. Bird/WHO/EOP@EOP [WHO] <Debra D. Bird>;Jeanie L. Figg/WHO/EOP@EOP [WHO] <Jeanie L. Figg>
CC: Israel Hernandez/WHO/EOP@EOP [WHO] <Israel Hernandez>;Matthew E. Smith/WHO /EOP@EOP [WHO] <Matthew E. Smith>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/28/2002 4:24:54 AM
Subject: : Announcing of President into East Room on Tuesday

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:28-OCT-2002 09:24:54.00
SUBJECT:: Announcing of President into East Room on Tuesday
TO:Karen D. Cruson ( CN=Karen D. Cruson/OU=WHO/O=EOP@EOP [ UNKNOWN ] )
READ:UNKNOWN
TO:Harriet Miers ( CN=Harriet Miers/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Barbara A. Barclay ( CN=Barbara A. Barclay/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kara G. Figg ( CN=Kara G. Figg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Stuart W. Bowen ( CN=Stuart W. Bowen/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Carolyn E. Cleveland ( CN=Carolyn E. Cleveland/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Debra D. Bird ( CN=Debra D. Bird/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jeanie L. Figg ( CN=Jeanie L. Figg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Israel Hernandez ( CN=Israel Hernandez/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Matthew E. Smith ( CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Everyone -

Brett and the Judge spoke this morning and decided it would be best to
have WHCA announce the President into the East Room at Tuesday afternoon's
judicial confirmation event.

Jeanie-Do I need to get w/ WHCA on this or is this something your shop
handles? If I need to talk to WHCA who should I call?

Thanks!

Libby
```

From: CN=Collister W. Johnson/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/28/2002 4:25:05 AM
Subject: : Fw: Bush Email for WV POTUS event
Attachments: P_LMY7B003_WHO.TXT_1.htm

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:28-OCT-2002 09:25:05.00
SUBJECT:: Fw: Bush Email for WV POTUS event
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

look okay to you?

c

----- Original Message -----
From: Amy McKinley
To: Coddy Johnson
Sent: Monday, October 28, 2002 8:41 AM
Subject: Bush Email

Hi Coddy - can we send this out today in our email newsletter?

==========

Bush to Stump for WV Republicans
President George W. Bush has accepted yet another invitation from Congresswoman Shelley Moore Capito to visit her hometown! Bush will be here on Thursday evening to campaign on behalf of all Republican candidates throughout West Virginia. The rally will be held at the Charleston Civic Center and the public is invited. All attendees MUST have a ticket.

For a ticket, please visit the "Rally Office", located at 602 Virginia Street East, Suite 301.

Amy McKinley
Capito for Congress
www.capito2002.com
phone: 304-342-1094
fax: 304-342-7284
P.O. Box 11519
Charleston, WV 25339

- att1.htm

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_LMY7B003_WHO.TXT_1>

----- Original Message -----
From: Amy McKinley
To: Coddy Johnson
Sent: Monday, October 28, 2002 8:41 AM
Subject: Bush Email

Hi Coddy - can we send this out toda y in our email newsletter?
Bush to Stump for WV Republicans
President George W. Bush has accepte d yet another invitation from Congresswoman Shelley Moore Capito to visit her hometown! Bush will be here on Thursday evening to campaign on behal f of all Republican candidates throughout West Virginia. The rally will be held at the Charleston Civic Center and the public is invited. All attendees MUST have a ticket.

For a ticket, please visit the "Rall y Office", located at 602 Virginia Street East, Suite 301.

Amy McKinley
Capito for Congress
www.capito2002.com
phone : 304-342-1094
fax: 304-342-7284
P.O. Box 11519
Charleston, WV 25339

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Collister W. Johnson/WHO/EOP@EOP [WHO] <Collister W. Johnson>
Sent: 10/28/2002 4:31:59 AM
Subject: : Re: Fw: Bush Email for WV POTUS event
Attachments: P_H3Z7B003_WHO.TXT_1.htm

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:28-OCT-2002 09:31:59.00
SUBJECT:: Re: Fw: Bush Email for WV POTUS event
TO:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

yes, ok

Collister W. Johnson
10/28/2002 09:22:42 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Fw: Bush Email for WV POTUS event

look okay to you?

c

----- Original Message -----
From: Amy McKinley
To: Coddy Johnson
Sent: Monday, October 28, 2002 8:41 AM
Subject: Bush Email

Hi Coddy - can we send this out today in our email newsletter?

==========

Bush to Stump for WV Republicans
President George W. Bush has accepted yet another invitation from Congresswoman Shelley Moore Capito to visit her hometown! Bush will be here on Thursday evening to campaign on behalf of all Republican candidates throughout West Virginia. The rally will be held at the Charleston Civic Center and the public is invited. All attendees MUST have a ticket.

For a ticket, please visit the "Rally Office", located at 602 Virginia Street East, Suite 301.

Amy McKinley
Capito for Congress
www.capito2002.com
phone: 304-342-1094
fax: 304-342-7284

P.O. Box 11519
Charleston, WV 25339

- att1.htm

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_H3Z7B003_WHO.TXT_1>

----- Original Message -----
From: Amy McKinley
To: Coddy Johnson
Sent: Monday, October 28, 2002 8:41 AM
Subject: Bush Email

Hi Coddy - can we send this out toda y in our email newsletter?
Bush to Stump for WV Republicans
President George W. Bush has accepte d yet another invitation from Congresswoman Shelley Moore Capito to visit her hometown! Bush will be here on Thursday evening to campaign on behal f of all Republican candidates throughout West Virginia. The rally will be held at the Charleston Civic Center and the public is invited. All attendees MUST have a ticket.

For a ticket, please visit the "Rall y Office", located at 602 Virginia Street East, Suite 301.

Amy McKinley
Capito for Congress
www.capito2002.com
phone : 304-342-1094
fax: 304-342-7284
P.O. Box 11519
Charleston, WV 25339

From: CN=Matthew E. Smith/OU=WHO/O=EOP [WHO]
To: Ashley Holbrook/WHO/EOP@EOP [WHO] <Ashley Holbrook>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/28/2002 5:32:08 AM
Subject: : Re: DoJ invites to Judges event

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Matthew E. Smith (CN=Matthew E. Smith/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:28-OCT-2002 10:32:08.00
SUBJECT:: Re: DoJ invites to Judges event
TO:Ashley Holbrook (CN=Ashley Holbrook/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Either Cabinet Affairs or Counsels office was supposed to call them
I had budgetted to include them so we're fine on numbers.

Ashley Holbrook
10/28/2002 09:58:39 AM
Record Type: Record

To: Matthew E. Smith/WHO/EOP@EOP
cc:
bcc:
Subject: Re: DoJ invites to Judges event

Have all of these people received calls? Heather talked to Dan Bryant
this am and he hadn't heard from anybody yet. Do you need me to do the
invites? Heather is adamant that all of these 6 people be included,
receive calls, etc...

Matthew E. Smith

10/28/2002 09:53:11 AM

Record Type: Record

To: Ashley Holbrook/WHO/EOP@EOP
cc:
bcc:
Subject: Re: DoJ invites to Judges event

Kavanaugh already took care of the DOJ folks.

Ashley Holbrook
10/28/2002 09:52:33 AM
Record Type: Record

To: Matthew E. Smith/WHO/EOP@EOP

cc:
Subject: DoJ invites to Judges event

What are the numbers looking like? Heather wants me to invite these people ASAP... (but I'm nervous about doing that before you fit them in). Just call when you can. Thanks.
ah
---------- Forwarded by Ashley Holbrook/WHO/EOP on 10/28/2002 09:44 AM ----------

Heather Wingate
10/28/2002 09:30:34 AM
Record Type: Record

To: Ashley Holbrook/WHO/EOP@EOP
cc: Brett M. Kavanaugh/WHO/EOP@EOP
Subject: DoJ invites to Judges event

Ashley, would you make sure the following DoJ leg folks are invited to the judges event tomorrow:

Leg Affairs:
Dan Bryant
Pat O'Brien
Jamie Brown

Office of Legal Policy:
Viet Dinh
Adam Charnes
Don Willett

Brett, are we missing anyone here from OLP who you think should be included?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>;Ashley Holbrook/WHO /EOP@EOP [WHO] <Ashley Holbrook>
Sent: 10/28/2002 5:32:47 AM
Subject: : further invites

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:28-OCT-2002 10:32:47.00
SUBJECT:: further invites
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ashley Holbrook (CN=Ashley Holbrook/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Ashley: Per our conversation, can you please coordinate with Cheryl.
Thanks.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 10/28/2002 10:11 AM ----------

Brett M. Kavanaugh
10/25/2002 06:35:21 PM
Record Type: Record

To: Cheryl A. Oldham/WHO/EOP@EOP
cc: Matthew E. Smith/WHO/EOP@EOP
Subject: further invites

We want to make sure the following DOJ people are included and invited (if they were not already). We have room. Also, what is status of the US Attorneys?

Adam Ciongoli
David Ayres
David Israelite
Ted Olson
Paul Clement
Michael Chertoff
Robert McCallum
Dan Bryant
Viet Dinh
Don Willett
Adam Charnes
Wendy Keefer
Jay Bybee
Ed Whelan
Patrick Philbin
John Yoo
Sheldon Bradshaw
Joan Larsen

From: CN=Ashley Snee/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/28/2002 6:18:28 AM
Subject: : fact sheet
Attachments: P_IE88B003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:28-OCT-2002 11:18:28.00
SUBJECT:: fact sheet
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

here is the latest version, with changes. see what you think. I think
the last piece is how to qualify the Rehnquist stat and if you have any
other concerns..



ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_IE88B003_WHO.TXT_1>
```

PRESIDENT BUSH ANNOUNCES HIS PLAN TO ENSURE TIMELY CONSIDERATION OF JUDICIAL NOMINEES

Today the President outlined his plan to ensure timely consideration of judicial nominees. The President calls for it to apply both now and in the future, no matter who is President or which party controls the Senate. The objective is to fix, on a permanent and bipartisan basis, a judicial confirmation process that is clearly broken.

THE CURRENT CRISIS:

- There is a vacancy crisis in the federal judiciary. Today, there are 79 vacancies out of the 849 authorized federal judgeships, a 9% vacancy rate. The 12 regional federal appeals courts face a particularly serious crisis, with 28 vacancies out of 167 judgeships, a 17% vacancy rate.

    - ✓ In 1998, at a time when there were 50 judicial vacancies, Chairman Leahy stated that the number of vacancies represented a "judicial vacancy crisis."
    - ✓ Chief Justice Rehnquist's 2001 Year-End Report on the Federal Judiciary noted the "alarming number of judicial vacancies."
    - ✓ The American Bar Association report in August 2002 described the current status of the federal judiciary as an "emergency situation."
    - ✓ The Executive Secretary of the Judicial Conference of the United States, which is the federal judiciary's governing body, stated in May 2002 that the shortage of federal judges is "staggering."
    - ✓ Caseloads in the federal courts continue to grow dramatically. Filings in the federal appeals courts reached an all-time high last year.

- The Senate has not lived up to its responsibility to hold fair hearings and prompt votes on judicial nominees.

    - ✓ The Senate has voted on only 80 of the President's 131 nominees overall and, even more problematic, has voted on only 14 of the President's 32 appeals court nominees. By contrast, in the first two years of the past three Administrations, 60 of the 65 appeals court nominees were confirmed.
    - ✓ Fifteen appeals court nominees have had to wait more than a year just for a hearing (many are still waiting). That number is more than the number of appeals court nominees who had to wait a year for a hearing in the last 50 years combined.
    - ✓ The American Bar Association report in August 2002 stated that as a result of current delays in the judicial confirmation process, "the federal courts suffer, and so does the rule of law." The report stated that the Senate Judiciary Committee's refusal to allow "confirmation proceedings in the full Senate is simply unacceptable to our notion of an appropriate and constitutional nomination process" and added: "Vote them up or down. Don't hang them out to dry."

- ✓ The Chief Justice of the United States, speaking on behalf of the Judiciary in his 2001 Year-End Report, "ask[ed] the Senate to schedule up or down votes on judicial nominees within a reasonable time after receiving the nomination."
- ✓ The 2000 report of the bipartisan Citizens for Independent Courts stated that "the views of individual Senators, while vital, should not be allowed to undermine collective decision-making in an open, deliberative process" and stated that "the Senate process should proceed expeditiously to a committee hearing, committee review and voting, and floor consideration and voting."

THE PRESIDENT'S PROPOSAL

This plan requires specific commitments from everyone involved in the nomination and confirmation of federal judges:

- First, the plan encourages federal appeals and district court judges to notify the President of their intended retirement dates at least a year in advance whenever possible. Because the nomination and confirmation of a federal judge can be a lengthy process even under the best of circumstances, advance notice is necessary to prevent extended unnecessary judicial vacancies. The President's call to the Judiciary builds on existing Judicial Conference recommendations and is intended to create a seamless process whereby a new federal judge is ready to take the bench at or near the time a sitting federal judge retires.

- Second, Presidents should submit a nomination to the Senate within 180 days of receiving notice of a federal court vacancy or intended retirement. This would ensure that nominees are promptly submitted to the Senate and would help expedite the process by which home-State Senators, Representatives, bar leaders, and others provide their recommendations and assessments of possible judicial candidates to the President.

- Third, it calls on the Senate Judiciary Committee to commit to hold a hearing within 90 days of receiving a nomination. The Committee has engaged in too many delays of too many nominees for too many years. A strict deadline, which will apply no matter who is President and which party controls the Senate, is the best way to ensure that judicial nominees are promptly and fairly considered. Ninety days is more than enough time for the Committee to conduct any necessary research before holding a hearing.

- Fourth, it calls on the full Senate to commit to hold an up-or-down floor vote within 180 days of receiving a judicial nomination. That is a generous period designed to give both the Committee and the full Senate ample time to evaluate nominees and answer any questions they may have.

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]
To: Timothy E. Flanigan/WHO/EOP@EOP [WHO] <Timothy E. Flanigan>;Karen D. Cruson/WHO /EOP@EOP [UNKNOWN] <Karen D. Cruson>;Harriet Miers/WHO/EOP@EOP [WHO] <Harriet Miers>;Barbara A. Barclay/WHO/EOP@EOP [WHO] <Barbara A. Barclay>;Jeanie L. Figg/WHO/EOP@EOP [WHO] <Jeanie L. Figg>;Matthew E. Smith/WHO/EOP@EOP [WHO] <Matthew E. Smith>;AGonzale@who.eop.gov [WHO] <AGonzale@who.eop.gov>;Stuart W. Bowen/WHO/EOP@EOP [WHO] <Stuart W. Bowen>;Carolyn E. Cleveland/WHO/EOP@EOP [WHO] <Carolyn E. Cleveland>;Debra D. Bird/WHO/EOP@EOP [WHO] <Debra D. Bird>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/28/2002 6:23:36 AM
Subject: : REVISED briefing paper for Tuesday 1:40 pm event
Attachments: P_ET88B003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:28-OCT-2002 11:23:36.00
SUBJECT:: REVISED briefing paper for Tuesday 1:40 pm event
TO:Timothy E. Flanigan (CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Karen D. Cruson (CN=Karen D. Cruson/OU=WHO/O=EOP@EOP [UNKNOWN])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Barbara A. Barclay (CN=Barbara A. Barclay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jeanie L. Figg (CN=Jeanie L. Figg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Matthew E. Smith (CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:AGonzale@who.eop.gov (AGonzale@who.eop.gov [WHO])
READ:UNKNOWN
TO:Stuart W. Bowen (CN=Stuart W. Bowen/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Below is the revised briefing paper for the 1:40 pm event on Tuesday.
The only change that was made in the "sequence of events" section - per
Izzy's request.

Thanks!

Lib

---------- Forwarded by Elizabeth N. Camp/WHO/EOP on
10/28/2002 11:17 AM ----------

Israel Hernandez
10/28/2002 11:14:54 AM
Record Type: Record

To: Elizabeth N. Camp/WHO/EOP@EOP
cc:

bcc:
Subject: Re: judge

How's that?

SEQUENCE OF EVENTS
You arrive State Floor and proceed to Blue Room
You and Judge Gonzales are introduced into East Room by WHCA and proceed to stage.
Judge Gonzles proceeds to podium and you stand to the side of the podium as he delivers brief remarks and intorduces you.
Note: Judge Gonzles will take his seat on the front row after his remarks.
You deliver remarks.
You conclude remarks and depart.

Elizabeth N. Camp
10/28/2002 11:12:45 AM
Record Type: Record

To: Israel Hernandez/WHO/EOP@EOP
cc:
bcc:
Subject: Re: judge

Is this okay?

I. SEQUENCE OF EVENTS
You arrive State Floor where you and Judge Gonzales are announced into East Room by WHCA.
Judge Gonzales will deliver brief remarks with you by his side.
Judge Gonzales will introduce you then take his seat in the audience.
You step to podium and deliver remarks.
You conclude remarks and depart.

Israel Hernandez
10/28/2002 10:52:06 AM
Record Type: Record

To: Elizabeth N. Camp/WHO/EOP@EOP
cc:
Subject: judge

can you make the follwing edits to the briefing paper

we'll have WHCA announce both judge and potus into the room. then the judge can give his quick remarks while potus stands to the side. after intro the judge can take his seat in the audience and potus can give remarks.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ET88B003_WHO.TXT_1>

REVISED BRIEFING PAPER

REMARKS ON JUDICIAL CONFIRMATIONS
Tuesday, October, 29, 2002
1:40 p.m. – 2:10 p.m.
East Room
Alberto R. Gonzales

I. PURPOSE

To speak about the judicial vacancy crisis and Senate confirmation process and to propose a specific plan for the timely consideration of judicial nominees.

II. BACKGROUND

The process for Senate confirmation of judges remains broken, exacerbating a judicial vacancy crisis that the Chief Justice of the United States has termed "alarming." The Senate's delay in holding hearings and up-or-down floor votes on judges has been a problem for many years, but is now worse than ever.

Many observers, including the Chief Justice and most recently the American Bar Association, have called for the Senate to give every judicial nominee a timely hearing and up-or-down vote. At your initial announcement of judicial nominees on May 9, 2001, you called for the Senate to ensure a timely hearing and vote for all judicial nominees, no matter who is President or which party controls the Senate.

III. PARTICIPANTS

Attorney General John Ashcroft
Deputy Attorney General Larry Thompson
Solicitor General Ted Olson
Judge Alberto Gonzales
Bar leaders, Justice Department officials, lawyers, and others to be determined

IV. PRESS PLAN

Open

V. SEQUENCE OF EVENTS
You arrive State Floor and proceed to Blue Room
You and Judge Gonzales are introduced into East Room by WHCA and proceed to stage.
Judge Gonzales proceeds to podium and you stand to the side of the podium as he delivers brief remarks and introduces you.
Note: Judge Gonzales will take his seat on the front row after his remarks.
You deliver remarks.
You conclude remarks and depart.

VI. REMARKS

Provided by speechwriting.

VII. ATTACHMENTS

Remarks attached.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>;Jeannette B. Reilly/WHO/EOP@EOP [WHO] <Jeannette B. Reilly>
Sent: 10/28/2002 6:53:47 AM
Subject: : Re: Judicial Nominations Fact Sheet

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:28-OCT-2002 11:53:47.00
SUBJECT:: Re: Judicial Nominations Fact Sheet
TO:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jeannette B. Reilly ( CN=Jeannette B. Reilly/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Ashley has it.




Jeannette B. Reilly
10/28/2002 11:05:07 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Judicial Nominations Fact Sheet

Would you happen to have the most recent fact sheet on the policy
proposals for judicial nominees? Thanks! -J
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Adam F. Greenstone/OA/EOP [OA] <Adam F. Greenstone>
Sent: 10/28/2002 6:54:27 AM
Subject: RECEIVED: Re: OLC memo re GPO

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES READ RECEIPT)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:28-OCT-2002 11:54:27.00
SUBJECT:RECEIVED: Re: OLC memo re GPO
TO:Adam F. Greenstone ( CN=Adam F. Greenstone/OU=OA/O=EOP [ OA ] )
READ:UNKNOWN
###### End Original ARMS Header ######

RETURN RECEIPT

Your Document:
Re: OLC memo re GPO
was successfully received by:
CN=Brett M. Kavanaugh/OU=WHO/O=EOP
at:
10/28/2002 11:57:30 AM
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Kyle Sampson/WHO /EOP@EOP [WHO] <Kyle Sampson>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Bradford A. Berenson/WHO /EOP@EOP [WHO] <Bradford A. Berenson>
Sent: 10/28/2002 11:33:02 AM
Subject: : change in date: President's remarks on judges now WEDNESDAY at 1:40

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:28-OCT-2002 16:33:02.00
SUBJECT:: change in date: President's remarks on judges now WEDNESDAY at 1:40
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: don.willett@usdoj.gov @ inet [UNKNOWN] <don.willett@usdoj.gov @ inet>
Sent: 10/28/2002 11:42:42 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:28-OCT-2002 16:42:42.00
SUBJECT::
TO:don.willett@usdoj.gov @ inet ( don.willett@usdoj.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Don: Who else is appropriate to invite from OLP? Kristi (since she is
doing this work)? Anyone else?
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Jean M. Russell/OPD/EOP@EOP [OPD] <Jean M. Russell>
Sent: 10/28/2002 3:17:21 PM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:28-OCT-2002 20:17:21.00
SUBJECT::
TO:Jean M. Russell ( CN=Jean M. Russell/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I need to talk to Larry Tuesday morning about a litigation matter.
Thanks.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>
Sent: 10/28/2002 4:10:02 PM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:28-OCT-2002 21:10:02.00
SUBJECT::
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

per your question, the ABA decision to adopt a more generic
resolution rather than one with specific time frames was done, according
to its report, because it would be "presumptuous" for the ABA to offer a
specific time frame to a Senate committee. So I do not think that hurts.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>
Sent: 10/28/2002 2:10:44 PM
Subject: : can you e-mail me current fact sheet; want to match up to speech draft language; thanks

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:28-OCT-2002 19:10:44.00
SUBJECT:: can you e-mail me current fact sheet; want to match up to speech draft language;
thanks
TO:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Ashley Snee/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/28/2002 2:26:07 PM
Subject: : Fw: Fact Sheet
Attachments: P_BTZ8B003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:28-OCT-2002 19:26:07.00
SUBJECT:: Fw: Fact Sheet
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I can do that tomorrow if you want, but here it is.

----- Original Message -----
From:Jeannette B. Reilly/WHO/EOP
To:Ashley Snee/WHO/EOP@EOP
Cc:
Date: 10/28/2002 04:12:56 PM
Subject: Re: Fact Sheet

Thanks

Ashley Snee
10/28/2002 04:11:57 PM
Record Type: Record

To: Jeannette B. Reilly/WHO/EOP@EOP
cc:
Subject: Re: Fact Sheet

Here is the latest draft. It is not final.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_BTZ8B003_WHO.TXT_1>

PRESIDENT BUSH ANNOUNCES HIS PLAN TO ENSURE TIMELY CONSIDERATION OF JUDICIAL NOMINEES

Today the President outlined his plan to ensure timely consideration of judicial nominees. The President calls on the Senate and the Judiciary to adopt his plan and apply it both now and in the future, no matter who is President or which party controls the Senate. The objective is to fix, on a permanent and bipartisan basis, a judicial confirmation process that is clearly broken.

THE CURRENT CRISIS

- There is a vacancy crisis in the federal judiciary. As of this week, there are 79 vacancies out of the 849 authorized federal judgeships, a 9% vacancy rate. The 12 regional federal appeals courts face a particularly serious crisis, with 28 vacancies out of 167 judgeships, a 17% vacancy rate.

    - ✓ In 1998, at a time when there were 50 judicial vacancies, Chairman Leahy stated that the number of vacancies represented a "judicial vacancy crisis."
    - ✓ Chief Justice Rehnquist's 2001 Year-End Report on the Federal Judiciary, issued when there were 94 vacancies, called the situation "alarming."
    - ✓ The Secretary of the Judicial Conference of the United States, which is the federal judiciary's governing body, stated in May 2002 that the overall shortage of federal judges is "staggering."
    - ✓ The American Bar Association report in August 2002 described the status of the federal judiciary as an "emergency situation."
    - ✓ Caseloads in the federal courts continue to grow dramatically. Filings in the regional federal appeals courts reached an all-time high last year.

- The Senate has not lived up to its responsibility to hold fair hearings and prompt votes on judicial nominees.

    - ✓ The Senate has voted on only 80 of the President's 131 nominees overall and, even more problematic, has voted on only 14 of the President's 32 appeals court nominees. By contrast, in the first two years of the past three Administrations, 60 of the 65 appeals court nominees were confirmed.
    - ✓ Fifteen appeals court nominees have had to wait more than a year just for a hearing (many are still waiting). That number is more than the number of appeals court nominees who had to wait a year for a hearing in the last 50 years combined.
    - ✓ The Chief Justice of the United States, speaking on behalf of the Judiciary in his 2001 Year-End Report, "ask[ed] the Senate to schedule up or down votes on judicial nominees within a reasonable time after receiving the nomination."
    - ✓ The American Bar Association report in August 2002 stated that as a result of delays in the judicial confirmation process, "the federal courts suffer, and so does the rule of law." The report stated that the Senate Judiciary Committee's refusal to allow "confirmation proceedings in the full Senate is simply unacceptable to our notion of an appropriate and

constitutional nomination process" and added: "Vote them up or down. Don't hang them out to dry."

- ✓ The 2000 report of the bipartisan Citizens for Independent Courts stated that "the views of individual Senators, while vital, should not be allowed to undermine collective decision-making in an open, deliberative process" and stated that "the Senate process should proceed expeditiously to a committee hearing, committee review and voting, and floor consideration and voting."

THE PRESIDENT'S PROPOSAL

This President's plan requires specific commitments from everyone involved in the nomination and confirmation of federal judges:

- First, the plan calls on federal appeals and district court judges to notify the President of their intended retirement dates at least a year in advance whenever possible. Because the nomination and confirmation of a federal judge can be a lengthy process even under the best of circumstances, advance notice is necessary to prevent extended unnecessary judicial vacancies. The President's call to the Judiciary builds on existing Judicial Conference recommendations and is intended to create a seamless process whereby a new federal judge is ready to take the bench at or near the time a sitting federal judge retires.

- Second, Presidents should submit a nomination to the Senate within 180 days of receiving notice of a federal court vacancy or intended retirement. This would ensure that nominees are promptly submitted to the Senate and would help expedite the process by which home-State Senators, Representatives, bar leaders, and others provide their recommendations and assessments of possible judicial candidates to the President.

- Third, the plan calls on the Senate Judiciary Committee to hold a hearing within 90 days of receiving a nomination. The Committee has engaged in too many delays of too many nominees for too many years. A strict deadline, which will apply no matter who is President and which party controls the Senate, is the best way to ensure that judicial nominees are promptly and fairly considered. Ninety days is more than enough time for the Committee to conduct any necessary research before holding a hearing.

- Fourth, it calls on the full Senate to hold an up-or-down floor vote within 180 days of receiving a judicial nomination. That is a generous period designed to give both the Committee and the full Senate ample time to evaluate nominees and answer any questions they may have.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>;Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>
Sent: 10/29/2002 3:08:07 AM
Subject: : Re: Post

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:29-OCT-2002 08:08:07.00
SUBJECT:: Re: Post
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

We compare apples to apples. First 2 years of past administrations versus president bush's first 2 years.

.

----- Original Message -----
From:Ashley Snee/WHO/EOP
To:Brett M. Kavanaugh/WHO/EOP@EOP,
Heather Wingate/WHO/EOP@EOP
Cc:
Date: 10/29/2002 07:31:54 AM
Subject: Post

From the WA Post Today: (excerpt from an unrelated story about POTUS travel by Milbank)

President Bush says the percentage of judges confirmed by the Senate this term is "way below those confirmed under President Clinton or President Bush or President Reagan." Democrats, who control the Senate, say they have confirmed "a record number of judges."
Who's correct?
According to a Brookings Institution analysis, the confirmation rate for the 107th Congress, 61 percent, is lower than the 90 percent Clinton enjoyed in his first two years -- when his own party controlled the Senate. Democrats prefer to point out they have confirmed more judges -- 79 -- than the 69 the GOP Congress confirmed in Clinton's last two years, the 106th Congress. In that Congress, the Senate confirmed 62 percent of Clinton's choices, virtually identical to the current rate.

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]
To: Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>
CC: jeanie s. mamo/who/eop@eop [WHO] <jeanie s. mamo>;mercedes m. viana/who/eop@eop [WHO] <mercedes m. viana>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;taylor s. gross/who/eop@eop [WHO] <taylor s. gross>;william t. griffin/who /eop@eop [WHO] <william t. griffin>
Sent: 10/29/2002 3:53:55 AM
Subject: : Re: Radio Day and Judge Gonzales

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:29-OCT-2002 08:53:55.00
SUBJECT:: Re: Radio Day and Judge Gonzales
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:jeanie s. mamo (CN=jeanie s. mamo/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:mercedes m. viana (CN=mercedes m. viana/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:taylor s. gross (CN=taylor s. gross/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:william t. griffin (CN=william t. griffin/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

Taylor just called - we are holding 4:00-6:00 pm on Wed for ARG.

If you don't use all the time that is fine - if so great.

Ashley Snee
10/29/2002 08:50:21 AM
Record Type: Record

To: William T. Griffin/WHO/EOP@EOP, Mercedes M. Viana/WHO/EOP@EOP, Taylor S. Gross/WHO/EOP@EOP
cc: Elizabeth N. Camp/WHO/EOP@EOP, Jeanie S. Mamo/WHO/EOP@EOP
Subject: Radio Day and Judge Gonzales

Per our conversation, drive time is great, or whenever after the 1:40 event he could be fit in. Thanks!
---------- Forwarded by Ashley Snee/WHO/EOP on 10/29/2002 08:51 AM ----------

Ashley Snee
10/28/2002 01:35:42 PM
Record Type: Record

To: Nicolle Devenish/WHO/EOP@EOP, Taylor S. Gross/WHO/EOP@EOP, William T. Griffin/WHO/EOP@EOP
cc: Elizabeth N. Camp/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
Subject: Radio Day and Judge Gonzales

Since the Judicial event has moved to Wednesday at 1:40pm, can we move the Judge's radio time to later in the afternoon to talk through what the

President will have just proposed. (previously, the speech was going to be Tuesday.) With the change, it seems we should move it to later in the day.

Libby - How does this work with his schedule?
Taylors - Let me know if there is anything I can do to help expedite.

Thanks

From: CN=Ashley Snee/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/29/2002 10:33:54 AM
Subject: :
Attachments: P_A8X9B003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:29-OCT-2002 15:33:54.00
SUBJECT::
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_A8X9B003_WHO.TXT_1>
```

PRESIDENT BUSH ANNOUNCES HIS PLAN TO ENSURE TIMELY CONSIDERATION OF JUDICIAL NOMINEES

Today the President outlined his plan to ensure timely consideration of judicial nominees. The President calls on the Senate and the Judiciary to join him in adopting this plan and to apply it both now and in the future, no matter who is President or which party controls the Senate. The objective is to fix, on a permanent and bipartisan basis, a judicial confirmation process that is clearly broken.

THE CURRENT CRISIS

- There is a vacancy crisis in the federal judiciary. As of this week, there are 79 vacancies out of the 849 authorized federal judgeships, a 9% vacancy rate. The 12 regional federal appeals courts face a particularly serious crisis, with 28 vacancies out of 167 judgeships, a 17% vacancy rate.

    - ✓ In 1998, at a time when there were 50 judicial vacancies, Chairman Leahy stated that the number of vacancies represented a "judicial vacancy crisis."
    - ✓ Chief Justice Rehnquist's 2001 Year-End Report on the Federal Judiciary, issued when there were 94 vacancies, called the situation "alarming."
    - ✓ The Secretary of the Judicial Conference of the United States, which is the federal judiciary's governing body, stated in May 2002 that the overall shortage of federal judges is "staggering."
    - ✓ The American Bar Association report in August 2002 described the status of the federal judiciary as an "emergency situation."
    - ✓ Caseloads in the federal courts continue to grow dramatically. Filings in the federal appeals courts reached an all-time high last year.

- The Senate has not lived up to its responsibility to hold fair hearings and prompt votes on judicial nominees.

    - ✓ The Senate has voted on only 80 of the President's 131 nominees overall and, even more problematic, has voted on only 14 of the President's 32 appeals court nominees. By contrast, in the first two years of the past three Administrations, 60 of the 65 appeals court nominees were confirmed.
    - ✓ As of November, 15 of President Bush's appeals court nominees will have been forced to wait more than a year just for a hearing (many are still waiting). That number is more than the number of appeals court nominees who had to wait a year for a hearing in the last 50 years combined.
    - ✓ The Chief Justice of the United States, speaking on behalf of the Judiciary in his 2001 Year-End Report, "ask[ed] the Senate to schedule up or down votes on judicial nominees within a reasonable time after receiving the nomination."
    - ✓ The American Bar Association report in August 2002 stated that as a result of delays in the judicial confirmation process, "the federal courts suffer, and so does the rule of law." The report stated that the Senate Judiciary Committee's refusal to allow "confirmation proceedings in the full Senate is simply unacceptable to our notion of an appropriate and constitutional nomination process" and added: "Vote them up or down. Don't hang them out to dry."
    - ✓ The 2000 report of the bipartisan Citizens for Independent Courts stated that "the views of individual Senators, while vital, should not be allowed to undermine collective decision-making in an open, deliberative process" and stated that "the Senate process should proceed expeditiously to a committee hearing, committee review and voting, and floor consideration and voting."

THE PRESIDENT'S PROPOSAL

This President's plan requires specific commitments from everyone involved in the nomination and confirmation of federal judges:

- First, the President calls on federal court of appeals and district court judges to notify the President of their intended retirement dates at least a year in advance whenever possible. Because the nomination and confirmation of a federal judge

can be a lengthy process even under the best of circumstances, advance notice is necessary to prevent extended unnecessary judicial vacancies. The President's call to the Judiciary builds on existing Judicial Conference recommendations and is intended to create a seamless process whereby a new federal judge is ready to take the bench at or near the time a sitting federal judge retires.

- Second, Presidents should submit a nomination to the Senate within 180 days of receiving notice of a federal court vacancy or intended retirement. This would ensure that nominees are promptly submitted to the Senate and would help expedite the process by which home-State Senators, Representatives, bar leaders, and others provide their recommendations and evaluations of possible judicial candidates to the President.

- Third, the President calls on the Senate Judiciary Committee to hold a hearing within 90 days of receiving a nomination. The Committee has engaged in too many delays of too many nominees for too many years. A strict deadline, which will apply no matter who is President and which party controls the Senate, is the best way to ensure that judicial nominees are promptly and fairly considered. Ninety days is more than enough time for the Committee to conduct any necessary research before holding a hearing.

- Fourth, the President calls on the full Senate to hold an up-or-down floor vote within 180 days of receiving a judicial nomination. That is a generous period designed to give both the Committee and the full Senate ample time to evaluate nominees and answer any questions they may have.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Anne E. Campbell/WHO/EOP@EOP [WHO] <Anne E. Campbell>;Harriet Miers/WHO /EOP@EOP [WHO] <Harriet Miers>;Blake Gottesman/WHO/EOP@EOP [WHO] <Blake Gottesman>
CC: Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>
Sent: 10/30/2002 3:01:05 AM
Subject: : Re: Today's acknowledgments

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:30-OCT-2002 08:01:05.00
SUBJECT:: Re: Today's acknowledgments
TO:Anne E. Campbell (CN=Anne E. Campbell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

We may have one addition: Boyden Gray, who was Counsel to President George H.W. Bush. Shortly, we will know for sure whether he can make it. Thank you.

Anne E. Campbell 10/30/2002 07:52:55 AM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: Brett M. Kavanaugh/WHO/EOP@EOP, Elizabeth N. Camp/WHO/EOP@EOP
Subject: Today's acknowledgments

Please review today'sacknowledgments. If you are aware of any changes or additions, please let Blake, Harriet and me as soon as possible.
Thank you!

Please remember as you are reviewing the acknowledgments, have we included:
- Mrs. Bush (if present and always at a fund-raiser) [will not be present]
- Guests on Stage [listed]
- Members of the Cabinet, Congress and other VIPs [Do we have all the Members of Congress?]
- Wives of VIP's (**new category) [None present]
- Guests Significant to the Event (i.e. Hosts, Tour Guides, etc...) [we are the hosts at today's event]
- Audience Members Significant to the Event (Welfare-to- Work Families, Union Members, etc...) [Members of Congress]
- USAFreedom Corp Greeters (if they are present at the event) [there will not be a greeter today]

Acknowledgments
ú Judge Alberto Gonzales (will introduce the president)
ú Attorney General John Ashcroft, Department of Justice
ú Solicitor General Ted Olson
ú Dick Thornburgh, former Attorney General of the United States and former Governor of Pennsylvania

ú Fred Fielding, former Counsel to the President under President Reagan
ú Dennis Archer, President-elect of the American Bar Association and former Mayor of Detroit (The ABA has highlighted the problems in the judicial confirmation process and advocated reform)
ú Thomas Hayward, Chair, Committee on Federal Judicial Improvements, American Bar Association

Message Sent
To:_____
Harriet Miers/WHO/EOP@EOP
Blake Gottesman/WHO/EOP@EOP
Ginger G. Loper/WHO/EOP@EOP
Michael J. Conway/WHO/EOP@EOP
Jill Davie/WHO/EOP@EOP
Albert Hawkins/WHO/EOP@EOP
Britt Grant/OPD/EOP@EOP
Lindsey C. Kozberg/WHO/EOP@EOP
Brian R. Besanceney/OPD/EOP@EOP
Jeannette B. Reilly/WHO/EOP@EOP
Brian C. Jones/WHO/EOP@EOP
Israel Hernandez/WHO/EOP@EOP
Erin A. Vargo/WHO/EOP@EOP
Krista L. Ritacco/WHO/EOP@EOP
Henry C. Hager/WHO/EOP@EOP
Carrie B. Loy/WHO/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Cabell R. Hobbs/WHO/EOP@EOP [WHO] <Cabell R. Hobbs>
Sent: 10/30/2002 4:11:24 AM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:30-OCT-2002 09:11:24.00
SUBJECT:: Re:
TO:Cabell R. Hobbs (CN=Cabell R. Hobbs/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

fine if they allow it.

Cabell R. Hobbs
10/30/2002 09:07:42 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re:

The RNC or Chambliss's Campaign.

Brett M. Kavanaugh
10/29/2002 09:41:14 PM
Record Type: Record

To: Cabell R. Hobbs/WHO/EOP@EOP
cc: adrian g. gray/who/eop@eop
bcc:
Subject: Re:

RNC would pay for this or who?

Cabell R. Hobbs
10/29/2002 01:56:33 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: Adrian G. Gray/WHO/EOP@EOP
Subject:

Brett,
Is it legal to give the commerical portion of a flight to Larry Gatlin and for them to put it towards the cost of a charter and Larry pays the rest? The cost would be put toward flying him from TX-AR for a POTUS Rally.

Thanks
Cabell

From: CN=Cheryl A. Oldham/OU=WHO/O=EOP [WHO]
To: Matthew E. Smith/WHO/EOP@EOP [WHO] <Matthew E. Smith>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 10/30/2002 5:41:01 AM
Subject: : Ashcroft - today's event

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Cheryl A. Oldham ( CN=Cheryl A. Oldham/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:30-OCT-2002 10:41:01.00
SUBJECT:: Ashcroft - today's event
TO:Matthew E. Smith ( CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

The AG will also be accompanied by his wife and her sister to the event
this afternoon (I just was made aware of this - they will be seeing the
President prior to the event for a quick photo). Would it be possible to
get seats reserved for both (Mrs. Janet Ashcroft and Mrs. Anne Giddings)?
Let me know if this is possible? Thanks.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Jeanie L. Figg/WHO/EOP@EOP [WHO] <Jeanie L. Figg>
CC: brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;matthew e. smith/who /eop@eop [WHO] <matthew e. smith>
Sent: 10/30/2002 5:57:25 AM
Subject: : Re: today's event - DOJ staff

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:30-OCT-2002 10:57:25.00
SUBJECT:: Re: today's event - DOJ staff
TO:Jeanie L. Figg (CN=Jeanie L. Figg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:matthew e. smith (CN=matthew e. smith/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

Please delete Deputy AG Thompson and add Mr. Boyden Gray. Thank you.

Jeanie L. Figg
10/30/2002 10:43:50 AM
Record Type: Record

To: Matthew E. Smith/WHO/EOP@EOP
cc: brett m. kavanaugh/who/eop@eop
bcc:
Subject: Re: today's event - DOJ staff

So far I have seat cards for the following:

The Attorney General & Mrs. Ashcroft
AG's sister, Mrs. Giddings
Solicitor General Olson
Judge Gonzales
Deputy AG Thompson
Mr. Card
Mr. Calio
Mr. Flanigan
Mr. Fielding
Mr. Archer
Mr. Thornburgh
Mr. Hayward

Please send me any additions.

Matthew E. Smith

10/30/2002 10:37:14 AM

Record Type: Record

To: Jeanie L. Figg/WHO/EOP@EOP
cc: Brett M. Kavanaugh/WHO/EOP@EOP
Subject: today's event - DOJ staff

What do you think? Reserved cards?
---------- Forwarded by Matthew E. Smith/WHO/EOP on 10/30/2002
10:39 AM ----------

Cheryl A. Oldham
10/30/2002 10:22:36 AM
Record Type: Record

To: Matthew E. Smith/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: today's event - DOJ staff

Will there be reserved seating for any of the higher level DOJ staff...obviously, the AG, the Solicitor General?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Anne E. Campbell/WHO/EOP@EOP [WHO] <Anne E. Campbell>;Harriet Miers/WHO /EOP@EOP [WHO] <Harriet Miers>;Blake Gottesman/WHO/EOP@EOP [WHO] <Blake Gottesman>
CC: Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>
Sent: 10/30/2002 3:01:05 AM
Subject: : Re: Today's acknowledgments

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:30-OCT-2002 08:01:05.00
SUBJECT:: Re: Today's acknowledgments
TO:Anne E. Campbell (CN=Anne E. Campbell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

We may have one addition: Boyden Gray, who was Counsel to President George H.W. Bush. Shortly, we will know for sure whether he can make it. Thank you.

Anne E. Campbell 10/30/2002 07:52:55 AM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: Brett M. Kavanaugh/WHO/EOP@EOP, Elizabeth N. Camp/WHO/EOP@EOP
Subject: Today's acknowledgments

Please review today'sacknowledgments. If you are aware of any changes or additions, please let Blake, Harriet and me as soon as possible.
Thank you!

Please remember as you are reviewing the acknowledgments, have we included:
- Mrs. Bush (if present and always at a fund-raiser) [will not be present]
- Guests on Stage [listed]
- Members of the Cabinet, Congress and other VIPs [Do we have all the Members of Congress?]
- Wives of VIP's (**new category) [None present]
- Guests Significant to the Event (i.e. Hosts, Tour Guides, etc...) [we are the hosts at today's event]
- Audience Members Significant to the Event (Welfare-to- Work Families, Union Members, etc...) [Members of Congress]
- USAFreedom Corp Greeters (if they are present at the event) [there will not be a greeter today]

Acknowledgments

ú Judge Alberto Gonzales (will introduce the president)
ú Attorney General John Ashcroft, Department of Justice
ú Solicitor General Ted Olson
ú Dick Thornburgh, former Attorney General of the United States and former Governor of Pennsylvania
ú Fred Fielding, former Counsel to the President under President Reagan
ú Dennis Archer, President-elect of the American Bar Association and former Mayor of Detroit (The ABA has highlighted the problems in the judicial confirmation process and advocated reform)
ú Thomas Hayward, Chair, Committee on Federal Judicial Improvements, American Bar Association

Message Sent
To:_____
Harriet Miers/WHO/EOP@EOP
Blake Gottesman/WHO/EOP@EOP
Ginger G. Loper/WHO/EOP@EOP
Michael J. Conway/WHO/EOP@EOP
Jill Davie/WHO/EOP@EOP
Albert Hawkins/WHO/EOP@EOP
Britt Grant/OPD/EOP@EOP
Lindsey C. Kozberg/WHO/EOP@EOP
Brian R. Besanceney/OPD/EOP@EOP
Jeannette B. Reilly/WHO/EOP@EOP
Brian C. Jones/WHO/EOP@EOP
Israel Hernandez/WHO/EOP@EOP
Erin A. Vargo/WHO/EOP@EOP
Krista L. Ritacco/WHO/EOP@EOP
Henry C. Hager/WHO/EOP@EOP
Carrie B. Loy/WHO/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>
Sent: 10/30/2002 4:04:34 AM
Subject: : Re: reporters who generally cover this stuff

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:30-OCT-2002 09:04:34.00
SUBJECT:: Re: reporters who generally cover this stuff
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

What do you think about the WSJ ed board and local ed boards idea? Are you taking care of that, or do we need to do that (or is it a bad idea)?

Ashley Snee
10/30/2002 07:37:16 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Re: reporters who generally cover this stuff

Thank you

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Matthew E. Smith/WHO/EOP@EOP [WHO] <Matthew E. Smith>
Sent: 10/30/2002 4:10:59 AM
Subject: : Re: need to be 100% sure following are coming for acknowledgments

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:30-OCT-2002 09:10:59.00
SUBJECT:: Re: need to be 100% sure following are coming for acknowledgments
TO:Matthew E. Smith (CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Does that mean 100% for Boyden as well? I'll take care of AG and Ted, but can you quickly follow up with the other people being acknowledged so that we can be 100% sure when we pre-brief President. Last thing we want, of course, is for him to acknowledge someone not there or not to acknowledge someone there. Thanks!!

Matthew E. Smith

10/30/2002 09:05:57 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: need to be 100% sure following are coming for acknowledgments

His office RSVPd late yesterday that he wanted to come

Brett M. Kavanaugh
10/30/2002 07:53:16 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: matthew e. smith/who/eop@eop
bcc:
Subject: Re: need to be 100% sure following are coming for acknowledgments

Also, if Boyden Gray is coming (he is listed), as he will be acknowledged as well.

Brett M. Kavanaugh
10/30/2002 07:39:21 AM
Record Type: Record

To: Matthew E. Smith/WHO/EOP@EOP

cc:
Subject: need to be 100% sure following are coming for acknowledgments

General Ashcroft
Ted Olson
Dennis Archer
Thomas Hayward
Dick Thornburgh
Boyden Gray
Fred Fielding

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Rosenzweig, Paul <Paul.Rosenzweig@heritage.org>
CC: gaziano, todd <todd.gaziano@heritage.org>
Sent: 10/30/2002 5:32:21 AM
Subject: : RE: Legal Strategy Forum -- Oct. 30

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:30-OCT-2002 10:32:21.00
SUBJECT:: RE: Legal Strategy Forum -- Oct. 30
TO:"Rosenzweig, Paul" <Paul.Rosenzweig@heritage.org> ("Rosenzweig, Paul"
<Paul.Rosenzweig@heritage.org> [UNKNOWN])
READ:UNKNOWN
CC:"gaziano, todd" <todd.gaziano@heritage.org> ("gaziano, todd"
<todd.gaziano@heritage.org> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

now cannot do it even at 4:30. I have requests in to Yoo, Whelan, Charnes, Willett, and Philbin to sub. I'll keep you posted.

"Rosenzweig, Paul" <Paul.Rosenzweig@heritage.org>
10/28/2002 08:45:19 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: "Gaziano, Todd" <todd.gaziano@heritage.org>
Subject: RE: Legal Strategy Forum -- Oct. 30

Bret

Per my voicemail: We end at lunch on Thursday so there isn't an afternoon schedule to change to. And the morning is already booked w/ people who can't change.

We really do hope you can come -- the panel will be interesting and the dinner afterwards lots of fun. If you can't make it though, we'd like to know as soon as possible. It will leave us with a hole to fill and we'll need as much time as possible to scramble and fill it. [Any suggestions?]. So . . . please email or call (608-6190) as soon as you can to let me know whether you can make it or not.

Take care,
Paul

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Sunday, October 27, 2002 4:46 PM
To: Rosenzweig, Paul
Subject: Re: Legal Strategy Forum -- Oct. 30

Paul: Hate to do this, but is there any way I can switch to Thursday. Have a
major work conflict now on Wednesday afternoon?

(Embedded
image moved "Rosenzweig, Paul" <Paul.Rosenzweig@heritage.org>
to file: 10/15/2002 09:49:52 AM
pic23671.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc: "Gaziano, Todd" <todd.gaziano@heritage.org>
Subject: Legal Strategy Forum -- Oct. 30

Brett

Thanks for agreeing to speak at the LSF on October 30. We have scheduled you for a panel at 4:30 PM along with Keith Ausbrook and (we hope) Alex Azar. The subject is basically a "mid year" review of the Bush Administration -- it's success and failures -- and how the Bush administration and the conservative movement can work together in the send half of the 1st term.

The event is at Lansdowne Resort -- directions are at www.lansdowneresort.com. Your panel will run to approx. 5:45. After a short break the group will reconvene at approx. 6:15 for cocktails, followed by dinner and a dinner speaker [we believe it will be Judge Loren Smith -- though he needs to clear a conflict] at which we hope you will be our guest.

On another note -- nice piece in the Post today.

See you then,
Paul

cc: Todd G.

This message (and any associated files) is intended only for the use of Brett_M._Kavanaugh@who.eop.gov, todd.gaziano@heritage.org and may contain information that is confidential. If you are not the named addressee you should not disseminate , distribute or copy this email. Any views or opinions presented in this email are solely those of PaulRosenzweig and do not necessarily represent those of The Heritage Foundation.

This message (and any associated files) is intended only for the use of Brett_M._Kavanaugh@who.eop.gov, todd.gaziano@heritage.org and may contain information that is confidential. If you are not the named addressee you should not disseminate , distribute or copy this email. Any views or opinions presented in this email are solely those of PaulRosenzweig and do not necessarily represent those of The Heritage Foundation.

From: CN=Collister W. Johnson/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Ken Mehlman/WHO/EOP@EOP [WHO] <Ken Mehlman>
Sent: 10/30/2002 6:40:42 AM
Subject: : coal article as a word doc
Attachments: P_QTRAB003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:30-OCT-2002 11:40:42.00
SUBJECT:: coal article as a word doc
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett -
we will need to deal with the attached the day after the election -
apparently, if DOJ/Interior/Corps continue on their current path in regard
to the recent District Court ruling by Judge Haden, the majority of coal
operations on the east coast will lose thier permits and cease operations
starting February -
your thoughts and review on how to handle -
thanks man -
c

---------- Forwarded by Collister W. Johnson/WHO/EOP on
10/30/2002 11:35 AM ----------

David J. Patterson
10/30/2002 11:12:44 AM
Record Type: Record

To: Collister W. Johnson/WHO/EOP@EOP
cc:
Subject: coal article as a word doc

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_QTRAB003_WHO.TXT_1>

Coal operators face February deadline on existing 404s

Unless the **Dept. of Justice** issues a clarification by February of a federal judge's May ruling banning new Section 404 permits for coal mines, almost all existing 404s issued out of the Huntington, W.Va., office of the **Corps of Engineers** will lapse.

If those 404s do expire, it would mean the sudden and extensive shutdown of — or at least production cutbacks at — surface coal mines in most of southern West Virginia and much of eastern Kentucky. That's because they won't be able to add any overburden to valley fills covered by those 404 permits. Deep mines often need 404s, but that's usually for something like putting a culvert in a stream to carry an access road. That's the kind of work that's only done during initial mine development, so a lapse of the 404 probably won't affect those operations.

Almost all 404s are actually sub-permits under a master permit, called Nationwide 21. And, like mining permits, the Nationwide 21 permit has to be renewed every five years. The last one actually expired in February 2002, but coal companies with existing permits covered by it were given a grace

year until February 2003 before the permits will lapse. The problem for the Corps and DOJ is that it isn't clear whether a May 8 injunction from U.S. District Judge Charles Haden that banned most new valley fill permits applies to renewal of the permits issued under the last Nationwide 21.

Basically, the only permits not affected by the February deadline are the handful that the Huntington office issued between February of this year and May 8, when the Haden decision stopped all 404 work. Permits issued during that period are part of a new Nationwide 21 permit with a five-year life.

Another problem is that since May, the Corps has been sitting on a number of 404 applications while it waits for clarification from DOJ on whether the post-mining land uses meet Haden's criteria that fills only be permitted if they are later put to a "constructive use." For example, **Premium Energy** has a pending 404 related to a change at one of its strip operations that would involve putting a connector road for the planned King Coal Highway over part of the reclaimed area.

The Corps is gathering material for DOJ on what should be the definition of "constructive use" and whether Nationwide 21 renewal is subject to the Haden

order. Hopefully, DOJ can clarify things in the next few weeks, a Corps official said.

To make matters more unclear, there is the possibility any clarification might get appealed by **Kentuckians for the Commonwealth** back to Haden as a violation of his order.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>;Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>
Sent: 10/30/2002 11:09:37 AM
Subject: : Re: letter to Daschle and Lott re: Judges Plan

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:30-OCT-2002 16:09:37.00
SUBJECT:: Re: letter to Daschle and Lott re: Judges Plan
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Will do in a minute.

.

----- Original Message -----
From:Heather Wingate/WHO/EOP
To:Brett M. Kavanaugh/WHO/EOP@EOP,
Elizabeth N. Camp/WHO/EOP@EOP
Cc:
Date: 10/30/2002 03:59:52 PM
Subject: letter to Daschle and Lott re: Judges Plan

do either of you have a signed copy of the letter? I'm trying to track one down so I can fax to Leahy and Hatch. If you do, can you fax to me at 6-6468? Thanks!

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Joseph J. Shattan/WHO/EOP@EOP [WHO] <Joseph J. Shattan>
Sent: 10/30/2002 2:42:49 PM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:30-OCT-2002 19:42:49.00
SUBJECT::
TO:Joseph J. Shattan ( CN=Joseph J. Shattan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Joe: Thanks again for all your great work on the speech today.
```

From: CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO]
To: Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Benjamin A. Powell/WHO /EOP@EOP [WHO] <Benjamin A. Powell>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Timothy E. Flanigan/WHO/EOP@EOP [WHO] <Timothy E. Flanigan>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;Alberto R. Gonzales/WHO /EOP@EOP [WHO] <Alberto R. Gonzales>
Sent: 10/30/2002 1:24:17 PM
Subject: : NYT.com article on President's speech today on judges

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:30-OCT-2002 18:24:17.00
SUBJECT:: NYT.com article on President's speech today on judges
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Timothy E. Flanigan ( CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

October 30, 2002
President Offers Plan to Expedite Judicial Confirmations
By DAVID STOUT

ASHINGTON, Oct. 30 * President Bush, who has been frustrated by Democrats in his efforts to shape the federal judiciary, suggested a new method today for handling judicial appointments and ending a situation that he said "endangers the quality of justice in America."

"Today, I'm proposing a clean start for the process of nominating and confirming federal judges," Mr. Bush told an audience that included officials of the American Bar Association. "We must have an even-handed, predictable procedure from the day a vacancy is announced to the day a new judge is sworn in."

Under Mr. Bush's proposal, district and appeals court judges would notify the president of their intended retirement at least a year in advance. The president would submit a nomination to the Senate within 180 days of receiving notice of a vacancy. The Senate Judiciary Committee would hold a hearing within 90 days of receiving a nomination, and the full Senate would vote on each nominee no later than 180 days after the submission of a nomination.

"This procedure should apply now and in the future," Mr. Bush said, "no matter who lives in this house or who controls the Senate. We must return fairness and dignity to the judicial confirmation process."

Senator Patrick J. Leahy, the Vermont Democrat who heads the Senate Judiciary Committee, did not immediately respond to Mr. Bush's proposal.

But on Monday, he complained in a letter to the president that the White House appeared to want to "politicize" the judicial selection process to "create a partisan campaign issue."

"Meaningful consultation, ideological balance and a depoliticizing of the judicial nomination process are all matters I remain willing to discuss," Mr. Leahy said. "We have accomplished a good deal already. We could accomplish much more working more closely together."

That was the precisely the tone the White House sought to set in a statement preceding Mr. Bush's announcement. "The objective is to fix, on a permanent and bipartisan basis, a judicial confirmation process that is clearly broken," the White House statement said.

Mr. Bush, addressing the gathering in the East Room this afternoon, picked up the same theme. "Whatever the explanation, we clearly have a poisoned and polarized atmosphere in which well-qualified nominees are neither voted up or down," the president said. "They are just left in limbo." He said the situation was unfair to nominees and their families and discouraged good people from wanting to be judges.

Whether the confirmation process is "clearly broken" is a matter of debate. Mr. Bush said there was a 9 percent vacancy rate in federal district courts and a 17 percent vacancy rate on appeals courts.

Mr. Bush has accused the Democrat-controlled Senate of doing "a lousy job" on his nominations, as he phrased it in a recent campaign stop in Michigan. He has repeatedly said that the slow confirmation process is just another reason that the country would be better off if the Senate were controlled by Republicans again, after the Nov. 5 elections.

Democrats have complained that some of Mr. Bush's nominees are overly conservative, and opponents have blocked several of them, though more than 80 have been confirmed, including 14 for federal appeals courts. Democrats have said that most mainstream Bush nominees have been confirmed easily.

The Democrats have also accused Republicans of conveniently overlooking their own past recalcitrance on judicial nominees when the Senate was controlled by Republicans.

Appeals court judgeships have become increasingly important, since nominees for the United States Supreme Court often come from those benches. The present line-up of the Supreme Court has been intact since 1994, and while no current justice has hinted at retirement, Justice John Paul Stevens is 82 and two other justices are in their 70's.

Holding out an olive branch to senators, Mr. Bush said, "The Constitution has given us a shared duty, and we must meet that duty together."

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Collister W. Johnson/WHO/EOP@EOP [WHO] <Collister W. Johnson>
CC: ken mehlman/who/eop@eop [WHO] <ken mehlman>
Sent: 10/30/2002 2:08:59 PM
Subject: : Re: coal article as a word doc
Attachments: P_PYGBB003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:30-OCT-2002 19:08:59.00
SUBJECT:: Re: coal article as a word doc
TO:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:ken mehlman (CN=ken mehlman/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

I will review. Thanks.

Collister W. Johnson
10/30/2002 11:38:17 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: Ken Mehlman/WHO/EOP@EOP
Subject: coal article as a word doc

Brett -
we will need to deal with the attached the day after the election -
apparently, if DOJ/Interior/Corps continue on their current path in regard
to the recent District Court ruling by Judge Haden, the majority of coal
operations on the east coast will lose thier permits and cease operations
starting February -
your thoughts and review on how to handle -
thanks man -
c

---------- Forwarded by Collister W. Johnson/WHO/EOP on
10/30/2002 11:35 AM ----------

David J. Patterson
10/30/2002 11:12:44 AM
Record Type: Record

To: Collister W. Johnson/WHO/EOP@EOP
cc:
Subject: coal article as a word doc

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_PYGBB003_WHO.TXT_1>

Coal operators face February deadline on existing 404s

Unless the **Dept. of Justice** issues a clarification by February of a federal judge's May ruling banning new Section 404 permits for coal mines, almost all existing 404s issued out of the Huntington, W.Va., office of the **Corps of Engineers** will lapse.

If those 404s do expire, it would mean the sudden and extensive shutdown of — or at least production cutbacks at — surface coal mines in most of southern West Virginia and much of eastern Kentucky. That's because they won't be able to add any overburden to valley fills covered by those 404 permits. Deep mines often need 404s, but that's usually for something like putting a culvert in a stream to carry an access road. That's the kind of work that's only done during initial mine development, so a lapse of the 404 probably won't affect those operations.

Almost all 404s are actually sub-permits under a master permit, called Nationwide 21. And, like mining permits, the Nationwide 21 permit has to be renewed every five years. The last one actually expired in February 2002, but coal companies with existing permits covered by it were given a grace

year until February 2003 before the permits will lapse. The problem for the Corps and DOJ is that it isn't clear whether a May 8 injunction from U.S. District Judge Charles Haden that banned most new valley fill permits applies to renewal of the permits issued under the last Nationwide 21.

Basically, the only permits not affected by the February deadline are the handful that the Huntington office issued between February of this year and May 8, when the Haden decision stopped all 404 work. Permits issued during that period are part of a new Nationwide 21 permit with a five-year life.

Another problem is that since May, the Corps has been sitting on a number of 404 applications while it waits for clarification from DOJ on whether the post-mining land uses meet Haden's criteria that fills only be permitted if they are later put to a "constructive use." For example, **Premium Energy** has a pending 404 related to a change at one of its strip operations that would involve putting a connector road for the planned King Coal Highway over part of the reclaimed area.

The Corps is gathering material for DOJ on what should be the definition of "constructive use" and whether Nationwide 21 renewal is subject to the Haden

order. Hopefully, DOJ can clarify things in the next few weeks, a Corps official said.

To make matters more unclear, there is the possibility any clarification might get appealed by **Kentuckians for the Commonwealth** back to Haden as a violation of his order.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ashley Estes/WHO/EOP@EOP [WHO] <Ashley Estes>
Sent: 10/30/2002 6:24:35 PM
Subject: : R

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:30-OCT-2002 23:24:35.00
SUBJECT:: R
TO:Ashley Estes ( CN=Ashley Estes/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

CIA for fri
Ken cohen
5th dinner
Kirbyjon

.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Timothy E. Flanigan/WHO/EOP@EOP [WHO] <Timothy E. Flanigan>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>
Sent: 10/31/2002 8:09:39 AM
Subject: : remarks on judges in South Dakota

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:31-OCT-2002 13:09:39.00
SUBJECT:: remarks on judges in South Dakota
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Timothy E. Flanigan ( CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Remarks by President in South Dakota 10/31/02

I need somebody I can work with in the Senate to make sure that the crisis
of our -- in our judiciary gets solved. (Applause.) There's too many
vacancies in our -- on our federal benches, which means the dockets are
crowded. It means Americans aren't getting the justice they deserve. The
Senate has done a lousy job with my nominees. I need a senator with whom
I can work to make sure -- (applause) -- to make sure that we stop
playing petty partisan politics with the judicial nominations I've sent
up; to make sure people's records aren't distorted; and to make sure we
have a bench that is full of judges who aren't there to write the law,
they're there to strictly interpret the United States Constitution.
(Applause.) And make no mistake about it; that senator is John Thune.
(Applause.)
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Claire E. Buchan/WHO/EOP@EOP [WHO] <Claire E. Buchan>
CC: Jonathan R. Scharfen/NSC/EOP@EOP [NSC] <Jonathan R. Scharfen>;Philip J. Perry/OMB /EOP@EOP [OMB] <Philip J. Perry>;Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>;John F. Wood/OMB/EOP@EOP [OMB] <John F. Wood>;Jay P. Lefkowitz/OPD /EOP@EOP [OPD] <Jay P. Lefkowitz>;Alicia P. Clark/WHO/EOP@EOP [WHO] <Alicia P. Clark>
Sent: 10/31/2002 12:55:51 PM
Subject: : letter from 9/11 families possibly to be published in newspaper

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:31-OCT-2002 17:55:51.00
SUBJECT:: letter from 9/11 families possibly to be published in newspaper
TO:Claire E. Buchan ( CN=Claire E. Buchan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Jonathan R. Scharfen ( CN=Jonathan R. Scharfen/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
CC:Philip J. Perry ( CN=Philip J. Perry/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
CC:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:John F. Wood ( CN=John F. Wood/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
CC:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
CC:Alicia P. Clark ( CN=Alicia P. Clark/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

A letter from some 9/11 families may be published in the paper
tomorrow. The letter will urge the President, in essence, not to
intervene against the plaintiff-families in the suits they have filed
against some foreign governments and foreign entities and individuals.
All press questions are probably best referred to State if possible.
State's public position remains that the United States is aware of these
suits, is not a party to them, and has no present intention to intervene.
Note, however, that some government departments may be (and likely will
be) served with discovery requests, in which case the US would respond
appropriately. Also, the United States may be called upon by a court at
some point to provide its legal interpretation of the Foreign Sovereign
Immunities Act or the Airline Stabilization Act, in which case the United
States would provide its interpretation of the law.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>
Sent: 11/1/2002 2:55:20 AM
Subject: : Re: Post editorial

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 1-NOV-2002 07:55:20.00
SUBJECT:: Re: Post editorial
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Of course, the New York Times is another matter altogether as we saw this morning.

Heather Wingate
10/31/2002 09:49:13 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Re: Post editorial

Sounds pretty positive overall!

.

----- Original Message -----
From:Brett M. Kavanaugh/WHO/EOP
To:Heather Wingate/WHO/EOP@EOP,
Ashley Snee/WHO/EOP@EOP,
Alberto R. Gonzales/WHO/EOP@EOP,
Timothy E. Flanigan/WHO/EOP@EOP
Cc:
Date: 10/31/2002 06:11:13 PM
Subject: Post editorial

A Post editorial will run soon, although exactly when is uncertain. I think it will be very positive about the substance of the President's proposal, both on the time frames and the right to timely hearings and timely votes. The one tweak is that they may think a negative Committee vote perhaps should suffice to block a nomination. They do agree, however, that the blue slip process is an "abomination." In the usual on-the-one-hand, on-the-other style, it probably also will say something to the effect that the President needs to make amends for the Clinton nominees who were blocked.

From: Coffin, Shannen <Shannen.Coffin@usdoj.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 11/1/2002 7:27:48 AM
Subject: : FW: NEPDG Order 11-01-02
Attachments: P_9Q6DB003_WHO.TXT_1.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Coffin, Shannen" <Shannen.Coffin@usdoj.gov> ("Coffin, Shannen"
<Shannen.Coffin@usdoj.gov> [UNKNOWN])
CREATION DATE/TIME: 1-NOV-2002 12:27:48.00
SUBJECT:: FW: NEPDG Order 11-01-02
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Shannen W. Coffin
Civil Division
U.S. Department of Justice
(202) 514-3310 (phone)
(202) 514-8071 (fax)
shannen.coffin@usdoj.gov

-----Original Message-----
From: Coffin, Shannen
Sent: Friday, November 01, 2002 12:01 PM
To: Miller, Charles S; Goodling, Monica
Cc: Jordan, Bill
Subject: FW: NEPDG Order 11-01-02

Shannen W. Coffin
Civil Division
U.S. Department of Justice
(202) 514-3310 (phone)
(202) 514-8071 (fax)
shannen.coffin@usdoj.gov

-----Original Message-----
From: Calvert, Chris
Sent: Friday, November 01, 2002 11:39 AM
To: Coffin, Shannen
Subject: NEPDG Order 11-01-02

Chris Calvert
OAAG
Federal Programs
Civil Division, Room 3141
U.S. Department of Justice
Direct Dial: 202.514.5713
E-mail: chris.calvert@usdoj.gov

- NEPDG Order 11-01-02.pdf
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_9Q6DB003_WHO.TXT_1>

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JUDICIAL WATCH, INC., Plaintiff, v. NATIONAL ENERGY POLICY DEVELOPMENT GROUP, Defendant.	Civ. Action. 01-1530 (EGS)
SIERRA CLUB, Plaintiff, v. VICE PRESIDENT RICHARD CHENEY, *et al.* Defendants,	Civ. Action 02-631 (EGS)

ORDER

Pending before the Court is non-agency defendants' motion for a stay of proceedings pending appeal of this Court's October 17, 2002, September 9, 2002, and July 11, 2002 Orders authorizing limited discovery from defendants on threshold issues, and ordering defendants to produce non-privileged documents responsive to plaintiffs' discovery requests, along with a privilege log identifying those documents for which defendants believe there is a valid basis for the assertion of a privilege. Upon careful consideration of defendants' motion, the response

and reply thereto, and the relevant legal authority, and for the following reasons, it is by the Court hereby

ORDERED that defendants' motion for a stay is **DENIED.**

I. BACKGROUND

Non-agency defendants move for a stay of, *inter alia*, this Court's October 17, 2002 Order, which requires them, consistent with this Court's August 2, 2002 Order and July 11, 2002 Memorandum Opinion and Order, to respond to plaintiffs' First Set of Interrogatories and to produce by no later than November 5, 2002, non-privileged documents responsive to plaintiffs' First Request for Document Production, along with a log identifying specific documents or particularized categories of documents for which they assert that a privilege precludes production, and. Defendants seek a stay to pursue an appeal to the Court of Appeals for the D.C. Circuit, on the grounds that this Court's Orders implicate important constitutional and statutory questions that are best resolved by the Court of Appeals before litigation proceeds any further in this case.

II. LEGAL STANDARD

The following factors are to be considered when determining whether a stay pending appeal is warranted:

> (1) the likelihood that the party seeking the stay will prevail on the merits of the appeal; (2) the likelihood that the moving party will be irreparably harmed absent a stay; (3) the prospect that others will be harmed if the court grants the stay; and (4) the public interest in granting the stay. To justify the granting of a stay, a movant need not

REV_00154031

> always establish a high probability of success on the merits. Probability of success is inversely proportional to the degree of irreparable injury evidenced. A stay may be granted with either a high probability of success and some injury, or *vice versa*.

Cuomo v. United States Nuclear Regulatory Commission, 772 F.2d 972, 974 (D.C. Cir. 1985); *Washington Metropolitan Area Transit Comm'n v. Holiday Tours, Inc.*, 559 F.2d 841, 842, 843 (D.C. Cir. 1977). It is "the movant's obligation to justify the court's exercise of such an extraordinary remedy." *Cuomo*, 772 F.2d at 978. This Circuit has recently reiterated that a moving party must satisfy "stringent standards required for a stay pending appeal." *Summers v. Howard University*, 2002 WL 31269623 (D.C. Cir., Oct. 10, 2002). Where a moving party fails to establish a substantial case on the merits, and further fails to "demonstrate that the balance of equities or the public interest strongly favors the granting of a stay," a motion for stay is properly denied. *Cuomo*, 772 F.2d at 972.

A. *Likelihood of Success on the Merits*

Recognizing that this Court has, on numerous occasions, rejected their arguments to this effect, defendants nevertheless continue to assert that court orders requiring them to respond in *any* fashion to plaintiffs' discovery requests creates an "unconstitutional burden" on the Executive Branch unless plaintiffs are first required to demonstrate "compelling need" for the discovery sought. Defendants have cited no authority, and

REV_00154032

indeed this Court knows of none, which supports this proposition. To the contrary, every case cited by the defendants in support of their position involved precisely the same procedure adopted by this Court in this case. Moreover, the U.S. Supreme Court has recently confirmed the continued validity of the precedent of long-standing relied upon by this Court in the Orders and Opinions contested by defendants. As recently as 1997, the nation's highest court held

> In sum, "[i]t is settled law that the separation-of-powers doctrine does not bar every exercise of jurisdiction over the President of the United States." . . . the Judiciary may ***severely*** burden the Executive Branch by reviewing the legality of the President's official conduct....[emphasis added]

Clinton v. Jones, 520 U.S. 681, 705, 117 S.Ct. 1636, 1650 (1997). Here, as in *Jones*, this Court is of the opinion that defendants "err[ ] by presuming that interactions between the Judicial Branch and the Executive, even quite burdensome interactions, necessarily rise to the level of constitutionally forbidden impairment of the Executive's ability to perform its constitutionally mandated functions." *See Clinton v. Jones*, 520 U.S. at 702, 117 S.Ct. at 1648.

Notwithstanding this U.S. Supreme Court precedent, and the absolute dearth of authority supporting their arguments, defendants nevertheless contend that requiring them to review documents responsive to plaintiffs' discovery requests, disclose

REV_00154033

those for which no viable claim of privilege exists, and assert any applicable privileges with respect to specific documents, impermissibly interferes with "core Article II" functions and imposes an unconstitutional burden on the Executive Branch. The Court rejects these arguments and is not persuaded by defendants' assertion that they have demonstrated a likelihood of success on the merits of their appeal of this Court's Orders.

B. *Irreparable Harm*

Under this Circuit's precedent, the harms to each party are tested for "substantiality, likelihood of occurrence, and adequacy of proof." *Cuomo* 772 F.2d at 976, 977. The Court must consider the significance of the change from the *status quo* which would arise in the absence of a stay, as well as likelihood of occurrence of the claimed injury, when determining whether defendants have truly met their burden of demonstrating irreparable harm justifying imposition of a stay. *See id.*

The fact of the matter is that the offices of the President and Vice President currently respond to discovery requests on a regular basis, asserting executive privilege with respect to specific requests for particular items when necessary. *See, e.g. Clinton v. Jones*, 520 U.S. at 704, 117 S. Ct. at 1649. Plaintiffs correctly point out that, in the cases cited by the defendants, stays of court orders authorizing discovery against officers of the Executive Branch have been granted only in cases

REV_00154034

where a court ordered production of a particular document *after* a viable claim of privilege had been made. *See e.g.*, *Nixon v. Sirica*, 487 F.2d at 721 (approving stay of District Court orders either allowing or refusing disclosure of specific documents for which President has made a particularlized claim of privilege).

Moreover, it is in fact defendants who seek to change the *status quo* by asking this Court to relieve them of their responsibility to respond to plaintiffs' discovery requests and assert executive privilege where appropriate. Defendants' argument that any "discovery directed at" them imposes an unconstitutional burden on them absent a showing by plaintiffs of "compelling need" represents a dramatic new argument with respect to invocation of executive privilege, and contemplates the wholesale elimination of an entire step in the established discovery processes in this context. Furthermore, defendants themselves concede that, at least in some respects, they are seeking to *expand* the executive privilege, not simply rely on its settled contours. *See* Def.'s Mot. for Stay at 8 (claiming that requiring disclosure of documents which "may not be technically privileged" would nonetheless impose unconstitutional burdens on the Executive Branch).

There is no doubt that, if defendants' premise is accepted that compliance with this Court's discovery order imposes an unconstitutional burden, defendants would suffer irreparable harm

REV_00154035

if the proceedings before this Court were not stayed to enable them to seek appellate review of such an order. However, this Court has consistently rejected, and continues to reject, in reliance upon established precedent of long-standing, defendants' central argument, namely that requiring the Vice President and members of the Executive Branch to merely review documents requested by the plaintiffs and assert executive privilege where appropriate, is unconstitutional. Defendants cannot be permitted to manufacture irreparable harm by simply stating a legal principle with no precedential support whatsoever, and then claiming irreparable harm if they believe a court order violates that principle.

Accordingly, there is insufficient likelihood of "irreparable harm" to the defendants to justify a stay. Both the Circuit and the U.S. Supreme Court have approved the very "harm" defendants point to: discovery procedures in which a request for documents from a member of the Executive is made in the context of judicially supervised discovery, the document is either produced *or* a privilege is asserted with respect to the document, and, in the latter case, the party seeking the document must demonstrate that the public need for the document outweighs the interests underlying the privilege in order to obtain production of the document. *See, e.g., Clinton v. Jones*, 520 U.S. at 704-05; *In re Executive Office of the President*, 215 F.3d 20, 22, 24;

REV_00154036

Dellums v. Powell, 561 F.2d 242, 247, 248 (D.C. Cir. 1977); *see also Nixon v. Administrator of General Services*, 433 U.S. 425, 439-455 (1977).

C. *Public Interest*

Conversely, the harm to both the plaintiffs and the public of granting the stay is substantial, likely, and adequately proven. As plaintiffs point out, Congress, Executive agencies, and the public have been debating the energy policy developed by defendants without the benefit of the information sought by plaintiffs in this case. In some instances, final actions have already been taken. As time proceeds, the value of the information sought by plaintiffs and the public declines substantially, thereby effectively denying plaintiffs the relief to which they contend they are entitled. Additionally, both Congress and the Judicial Branch have recognized the public interest in avoiding "piecemeal " litigation occasioned by stays and interlocutory appeals. *See, e.g., United States v. Nixon*, 418 U.S. 683, 690 (1974).

Therefore, upon balancing of relevant factors, this Court concludes that there exists no factual or legal predicate for granting defendants a stay pending appeal. Accordingly, defendants' motion for stay pending appeal is hereby **DENIED**; and it is

REV_00154037

FURTHER ORDERED that defendants' alternative motion for an extension of time in which to respond to plaintiffs' first request for document production is **GRANTED**; and it is

FURTHER ORDERED that defendants shall fully comply with this Court's outstanding Orders by no later than **November 29, 2002.**

Additionally, pursuant to the hearing held on defendant's motion for stay on October 31, 2002, and for the reasons given in open court, it is by the Court hereby

FURTHER ORDERED that plaintiffs shall file their response to defendants' motion for certification pursuant to 28 U.S.C. § 1292(b) by no later than **November 6, 2002** and defendants shall file their reply by no later than **November 8, 2002**; and it is

FURTHER ORDERED that defendants' motion for certification pursuant to 28 U.S.C. § 1292(b) shall be considered at the currently scheduled **November 13, 2002** hearing on all pending motions; and it is

FURTHER ORDERED that plaintiffs shall file a reply in support of their motions to compel by no later than **November 7, 2002.**

Signed: EMMET G. SULLIVAN
UNITED STATES DISTRICT JUDGE
November 1, 2002

REV_00154038

Notice to:

Larry Klayman, Esq.
Paul J. Orfanedes, Esq.
JUDICIAL WATCH, INC.
501 School Street, S.W.
Suite 725
Washington, DC 20024
Counsel for plaintiff Judicial Watch

Roger M. Adelman, Esq.
1100 Connecticut Avenue, N.W.
Suite 730
Washington, DC 20036
Counsel for plaintiff Sierra Club

David G. Bookbinder, Esq.
408 C Street, NE
Washington, DC 20002
Counsel for plaintiff Sierra Club

Patrick Gallagher, Esq.
Alex Levinson, Esq.
Sierra Club
85 Second Street
San Francisco, CA 94104
Counsel for plaintiff Sierra Club

Daniel Edward Bensing, Esq.
David O. Buchholz, Esq.
Anne L. Weismann, Esq.
Thomas Millet, Esq.
Jennifer Paisner, Esq.
U.S. Department of Justice
Civil Division, Federal Programs Branch
P.O. Box 883
Washington, DC 20044
Counsel for federal defendants

Howard M. Crystal, Esq.
MEYER & GLITZENSTEIN
1601 Connecticut Avenue, NW
Suite 700
Washington, DC 20009
Counsel for amicus NRDC

Robert S. Litt, Esq.
ARNOLD & PORTER
555 12th St NW
Washington, DC 20004-1206

REV_00154039

Counsel for defendant Thomas Kuhn

Paul Christian Rauser, Esq.
WILLIAMS & CONNOLLY
725 12th Street, NW
Washington, DC 20005
Counsel for defendant Haley Barbour

Richard D. Horn, Esq.
BRACEWELL & PATTERSON LLP
2000 K St NW
Suite 500
Washington, DC 20006-1872
Counsel for defendant Mark Racicot

REV_00154040

From: MailRouter [SYS]
To: Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>
Sent: 11/1/2002 7:29:51 AM
Subject: DELIVERY FAILURE: Address Service: address error

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES NONDELIVERY RECEIPT )
CREATOR:MailRouter ( MailRouter [ SYS ] )
CREATION DATE/TIME: 1-NOV-2002 12:29:51.00
SUBJECT:DELIVERY FAILURE: Address Service: address error
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

DELIVERY FAILURE REPORT

Your Document:
RE: Letter re POTUS proposal
could not be delivered to:
adam.charnes@usdoj.gov/
because:
Address Service: address error
Routing Path:
CN=Mail2/O=EOP;CN=SGEOP03/O=EOP;CN=SGEOP03/O=EOP%sgeop03.eop.gov(SMTP/MIME
MTA);CN=SGEOP03/O=EOP;CN=Mail2/O=EOP
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: wittesb@washpost.com @ inet [UNKNOWN] <wittesb@washpost.com @ inet>
Sent: 11/3/2002 1:15:29 PM
Subject: : check your work voice-mail if you can

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 3-NOV-2002 18:15:29.00
SUBJECT:: check your work voice-mail if you can
TO:wittesb@washpost.com @ inet ( wittesb@washpost.com @ inet [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: Kate Walters <kate@georgewbush.com>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 11/4/2002 1:40:14 PM
Subject: : FW: FROM JACK OLIVER
Attachments: P_YXBFB003_WHO.TXT_1.htm

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kate Walters <kate@georgewbush.com> (Kate Walters <kate@georgewbush.com> [UNKNOWN])
CREATION DATE/TIME: 4-NOV-2002 18:40:14.00
SUBJECT:: FW: FROM JACK OLIVER
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

FROM JACK OLIVERCan Ken do these from the WH tomorrow? I think I heard that
there should be no press done in the WH tomorrow.
-----Original Message-----
From: Tracey Schmitt - Communications [mailto:TSchmitt@rnchq.org]
Sent: Monday, November 04, 2002 6:12 PM
Subject: FROM JACK OLIVER
Importance: High

In order to keep you abreast of our latest information/message on the elections and hear from you, we will be having several conference calls on Tuesday. There will be two during the day and one every hour starting at 6:15 in the evening. It is our hope that this will help those of you who are regularly contacted by the media or who have scheduled media appearances to know the latest information. Governor Racicot, Ken Mehlman, Matthew Dowd, Terry Nelson, myself and others will be available on these conference calls throughout the day/night as is appropriate. This will be a secure conference call where you will sign on under your name and no one else will be able to sign on under that name.

The time and information for the calls is as follows:

12:00 Noon, 3:30 PM, 6:15 PM, 7:15 PM, 8:15 PM, 9:15 PM, 10: 15 PM, 11:15 PM, 12:15 AM, 1:15 AM

1-877-601-1344

Passcode: election night update

Thank you.

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_YXBFB003_WHO.TXT_1>

Can Ken do these from the WH tomorrow? I think I heard that there should be n o press done in the WH tomorrow.
-----Original Message-----
From: Tracey Schmitt - Communications [mailto:TSchmitt@rnchq.org]
Sent: Monday, November 04, 2002 6:12 PM
Subject: FROM JACK OLIVER
Importance: High

In order to keep you abreast of our latest information/message on the elections and hear from you, we will be having several conference calls on Tuesday. There will be two during the day and one every hour starting at 6:15 in the evening. It is our hope that this will help those of you who are regularly contacted by the media or who have scheduled media appearances to know the latest information. Governor Racicot, Ken Mehlman, Matthew Dowd, Terry Nelson, myself and others will be available on these conference calls throughout the day/night as is appropriate. This will be a secure conference call where you will sign on under your name and no one else will be able to sign on under that name.

The time and information for the calls is as follows:

12:00 Noon, 3:30 PM, 6:15 PM, 7:15 PM, 8:15 PM , 9:15 PM, 10: 15 PM, 11:15 PM, 12:15 AM, 1:15 AM

1-877-601-1344

Passcode: election night update

Thank you.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: don.willett@usdoj.gov @ inet [UNKNOWN] <don.willett@usdoj.gov @ inet>;adam.charnes@usdoj.gov @ inet [UNKNOWN] <adam.charnes@usdoj.gov @ inet>
Sent: 11/5/2002 6:04:49 AM
Subject: : Callahan

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 5-NOV-2002 11:04:49.00
SUBJECT:: Callahan
TO:don.willett@usdoj.gov @ inet ( don.willett@usdoj.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:adam.charnes@usdoj.gov @ inet ( adam.charnes@usdoj.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I have re-read the opinion in Catholic Charities case. I view the
decision as consistent with Smith and I believe the Cal Const analysis is
consistent with state constitutional law. Please let me know your
thoughts.
```

From: CN=PostMaster/O=EOP [OA]

To: Kevin Warsh/OPD/EOP [OPD] <Kevin Warsh>;Richard J. Tubb/WHO/EOP [WHO] <Richard J. Tubb>;Paul J. Severs/WHO/EOP [WHO] <Paul J. Severs>;Joseph D. Rozek/OVP/EOP [OVP] <Joseph D. Rozek>;Steven J. Reynolds/WHO/EOP [WHO] <Steven J. Reynolds>;Candida P. Wolff/OVP/EOP [OVP] <Candida P. Wolff>;Heather Wingate/WHO/EOP [WHO] <Heather Wingate>;Daniel K. Wilmot/OVP/EOP [OVP] <Daniel K. Wilmot>;James R. Wilkinson/WHO/EOP [WHO] <James R. Wilkinson>;Jocelyn White/WHF/EOP [OPM] <Jocelyn White>;Lezlee J. Westine/WHO/EOP [WHO] <Lezlee J. Westine>;Peter H. Wehner/WHO/EOP [WHO] <Peter H. Wehner>;Paul A. Wedderien/NSC/EOP [NSC] <Paul A. Wedderien>;John P. Walters/ONDCP/EOP [ONDCP] <John P. Walters>;Helgard C. Walker/WHO/EOP [WHO] <Helgard C. Walker>;Jim Towey/WHO/EOP [WHO] <Jim Towey>;Catherine W. Tobias/OVP/EOP [OVP] <Catherine W. Tobias>;Jose G. Suarez/WHO/EOP [WHO] <Jose G. Suarez>;Aquiles F. Suarez/OPD/EOP [OPD] <Aquiles F. Suarez>;Angela B. Styles/OMB/EOP [OMB] <Angela B. Styles>;Mary K. Sturtevant/NSC/EOP [NSC] <Mary K. Sturtevant>;Margaret M. Spellings/OPD/EOP [OPD] <Margaret M. Spellings>;Deborah A. Spagnoli/WHO/EOP [WHO] <Deborah A. Spagnoli>;Mary A. Solberg/ONDCP/EOP [ONDCP] <Mary A. Solberg>;Augustine T. Smythe/OMB/EOP [OMB] <Augustine T. Smythe>;Kristen Silverberg/WHO/EOP [WHO] <Kristen Silverberg>;Joseph J. Shattan/WHO/EOP [WHO] <Joseph J. Shattan>;Thomas J. Sharpy/OVP/EOP [OVP] <Thomas J. Sharpy>;Scott N. Sforza/WHO/EOP [WHO] <Scott N. Sforza>;Howard A. Schmidt/NSC/EOP [NSC] <Howard A. Schmidt>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Daniel Schecter/ONDCP/EOP [ONDCP] <Daniel Schecter>;Diana L. Schacht/OPD/EOP [OPD] <Diana L. Schacht>;Desiree T. Sayle/WHO/EOP [WHO] <Desiree T. Sayle>;Kyle Sampson/WHO/EOP [WHO] <Kyle Sampson>;Richard M. Russell/OSTP/EOP [OSTP] <Richard M. Russell>;Stephen S. Ruhlen/OVP/EOP [OVP] <Stephen S. Ruhlen>;Karl C. Rove/WHO/EOP [WHO] <Karl C. Rove>;Mark V. Rosenker/WHO/EOP [WHO] <Mark V. Rosenker>;Thomas J. Ridge/WHO/EOP [WHO] <Thomas J. Ridge>;Condoleezza Rice/NSC/EOP [NSC] <Condoleezza Rice>;Nina Rees/OVP/EOP [OVP] <Nina Rees>;Craig Ray/WHO/EOP [WHO] <Craig Ray>;Benjamin A. Powell/WHO/EOP [WHO] <Benjamin A. Powell>;Kathie L. Olsen/OSTP/EOP [OSTP] <Kathie L. Olsen>;John F. Newell/WHO/EOP [WHO] <John F. Newell>;Manson O. Morris/OVP/EOP [OVP] <Manson O. Morris>;Paul D. Montanus/WHO/EOP [WHO] <Paul D. Montanus>;James M. McAllister/WHO/EOP [WHO] <James M. McAllister>;James M. Kelly/WHO/EOP [WHO] <James M. Kelly>;Dina Powell/WHO/EOP [WHO] <Dina Powell>;Philip J. Perry/OMB/EOP [OMB] <Philip J. Perry>;Anna M. Perez/NSC/EOP [NSC] <Anna M. Perez>;Eric C. Pelletier/OMB/EOP [OMB] <Eric C. Pelletier>;Marcus Peacock/OMB/EOP [OMB] <Marcus Peacock>;Neil S. Patel/OVP/EOP [OVP] <Neil S. Patel>;Sean C. O'Keefe/OMB/EOP [OMB] <Sean C. O'Keefe>;Ziad S. Ojakli/WHO/EOP [WHO] <Ziad S. Ojakli>;Claire M. O'Donnell/OVP/EOP [OVP] <Claire M. O'Donnell>;Jennifer G. Newstead/WHO/EOP [WHO] <Jennifer G. Newstead>;Susan K. Neely/WHO/EOP [WHO] <Susan K. Neely>;Edmund C. Moy/WHO/EOP [WHO] <Edmund C. Moy>;James F. Moriarty/NSC/EOP [NSC] <James F. Moriarty>;Brian D. Montgomery/WHO/EOP [WHO] <Brian D. Montgomery>;Michael H. Miller/WHO/EOP [WHO] <Michael H. Miller>;Franklin C. Miller/NSC/EOP [NSC] <Franklin C. Miller>;Harriet Miers/WHO/EOP [WHO] <Harriet Miers>;Ken Mehlman/WHO/EOP [WHO] <Ken Mehlman>;Edward McNally/WHO/EOP [WHO] <Edward McNally>;Robert C. McNally/OPD/EOP [OPD] <Robert C. McNally>;Stephen S. McMillin/OMB/EOP [OMB] <Stephen S. McMillin>;Brian V. McCormack/OVP/EOP [OVP] <Brian V. McCormack>;John P. McConnell/OVP/EOP [OVP] <John P. McConnell>;Scott McClellan/WHO/EOP [WHO] <Scott McClellan>;Mark McClellan/CEA/EOP [CEA] <Mark McClellan>;Mary J. Matalin/OVP/EOP [OVP] <Mary J. Matalin>;Catherine J. Martin/OVP/EOP [OVP] <Catherine J. Martin>;Robert Marsh/WHO/EOP [WHO] <Robert Marsh>;John H. Marburger/OSTP/EOP [OSTP] <John H. Marburger>;John F. Maisto/NSC/EOP [NSC] <John F. Maisto>;Robin A. MacLean/WHO/EOP [WHO] <Robin A. MacLean>;Ado A. Machida/OVP/EOP [OVP] <Ado A. Machida>;Deborah A. Loewer/NSC/EOP [NSC] <Deborah A. Loewer>;Roland N. Litterst/WHO/EOP [WHO] <Roland N. Litterst>;Lawrence B. Lindsey/OPD/EOP [OPD] <Lawrence B. Lindsey>;Lewis Libby/OVP/EOP [OVP] <Lewis Libby>;Dirksen Lehman/WHO/EOP [WHO] <Dirksen Lehman>;Jay P. Lefkowitz/OPD/EOP [OPD] <Jay P. Lefkowitz>;Laura S. Lawlor/WHO/EOP [WHO] <Laura S. Lawlor>;Bruce M. Lawlor/WHO/EOP [WHO] <Bruce M. Lawlor>;Paul B. Kurtz/NSC/EOP [NSC] <Paul B. Kurtz>;David Kuo/WHO/EOP [WHO] <David Kuo>;Randall S. Kroszner/CEA/EOP [CEA] <Randall S. Kroszner>;Karen Y. Knutson/OVP/EOP [OVP] <Karen Y. Knutson>;Frank G. Klotz/NSC/EOP [NSC] <Frank G. Klotz>;Elizabeth W. Kleppe/OVP/EOP [

OVP] <Elizabeth W. Kleppe>;Ellis Kitchen/OA/EOP [OA] <Ellis Kitchen>;Matthew Kirk/WHO/EOP [WHO] <Matthew Kirk>;Zalmay M. Khalilzad/NSC/EOP [NSC] <Zalmay M. Khalilzad>;Daniel J. Keniry/WHO/EOP [WHO] <Daniel J. Keniry>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Joel D. Kaplan/WHO/EOP [WHO] <Joel D. Kaplan>;Charles D. McGrath Jr/OVP/EOP [OVP] <Charles D. McGrath Jr>;Robert G. Joseph/NSC/EOP [NSC] <Robert G. Joseph>;Reuben Jeffery/OPD/EOP [OPD] <Reuben Jeffery>;Barry S. Jackson/WHO/EOP [WHO] <Barry S. Jackson>;Hector F. Irastorza/WHO/EOP [WHO] <Hector F. Irastorza>;Edward Ingle/WHO/EOP [WHO] <Edward Ingle>;Clay Johnson III/WHO/EOP [WHO] <Clay Johnson III>;Keith Hennessey/OPD/EOP [OPD] <Keith Hennessey>;Julian M. Flannery/WHO/EOP [WHO] <Julian M. Flannery>;Duncan Campbell/WHO/EOP [WHO] <Duncan Campbell>;R. Rand Beers/NSC/EOP [NSC] <R. Rand Beers>;Glenn Hubbard/CEA/EOP [CEA] <Glenn Hubbard>;Jack Howard/WHO/EOP [WHO] <Jack Howard>;Mark Holman/WHO/EOP [WHO] <Mark Holman>;David W. Hobbs/WHO/EOP [WHO] <David W. Hobbs>;Israel Hernandez/WHO/EOP [WHO] <Israel Hernandez>;Chris Henick/WHO/EOP [WHO] <Chris Henick>;Debra Heiden/OVP/EOP [OVP] <Debra Heiden>;Albert Hawkins/WHO/EOP [WHO] <Albert Hawkins>;Ronald Haskins/OPD/EOP [OPD] <Ronald Haskins>;John P. Hannah/OVP/EOP [OVP] <John P. Hannah>;John F. Haley/OVP/EOP [OVP] <John F. Haley>;Joseph W. Hagin/WHO/EOP [WHO] <Joseph W. Hagin>;Stephen J. Hadley/NSC/EOP [NSC] <Stephen J. Hadley>;Ann Gray/WHO/EOP [WHO] <Ann Gray>;John Graham/OMB/EOP [OMB] <John Graham>;John A. Gordon/NSC/EOP [NSC] <John A. Gordon>;Alberto R. Gonzales/WHO/EOP [WHO] <Alberto R. Gonzales>;Stephen Goldsmith/WHO/EOP [WHO] <Stephen Goldsmith>;Tim Goeglein/WHO/EOP [WHO] <Tim Goeglein>;Dylan C. Glenn/OPD/EOP [OPD] <Dylan C. Glenn>;Alan Gilbert/OPD/EOP [OPD] <Alan Gilbert>;Michael J. Gerson/WHO/EOP [WHO] <Michael J. Gerson>;Stephen M. Garrison/WHO/EOP [WHO] <Stephen M. Garrison>;Kelley Gannon/WHO/EOP [WHO] <Kelley Gannon>;Linda M. Gambatesa/WHO/EOP [WHO] <Linda M. Gambatesa>;Diana E. Furchtgott-Roth/CEA/EOP [CEA] <Diana E. Furchtgott-Roth>;Daniel Fried/NSC/EOP [NSC] <Daniel Fried>;Jendayi E. Frazer/NSC/EOP [NSC] <Jendayi E. Frazer>;Noel J. Francisco/WHO/EOP [WHO] <Noel J. Francisco>;Lawrence A. Fleischer/WHO/EOP [WHO] <Lawrence A. Fleischer>;Timothy E. Flanigan/WHO/EOP [WHO] <Timothy E. Flanigan>;Catherine S. Fenton/WHO/EOP [WHO] <Catherine S. Fenton>;Richard Falkenrath/WHO/EOP [WHO] <Richard Falkenrath>;Nanette Everson/WHO/EOP [WHO] <Nanette Everson>;Mark Everson/OMB/EOP [OMB] <Mark Everson>;Ashley Estes/WHO/EOP [WHO] <Ashley Estes>;Tucker A. Eskew/WHO/EOP [WHO] <Tucker A. Eskew>;Gary R. Edson/NSC/EOP [NSC] <Gary R. Edson>;Eric S. Edelman/OVP/EOP [OVP] <Eric S. Edelman>;Wayne A. Downing/NSC/EOP [UNKNOWN] <Wayne A. Downing>;Elizabeth S. Dougherty/OPD/EOP [OPD] <Elizabeth S. Dougherty>;Nancy P. Dorn/WHO/EOP [UNKNOWN] <Nancy P. Dorn>;Diana C. Donnelly/WHO/EOP [WHO] <Diana C. Donnelly>;Nicolle Devenish/WHO/EOP [WHO] <Nicolle Devenish>;Mitchell Daniels/OMB/EOP [OMB] <Mitchell Daniels>;James F. Daniel/OA/EOP [OA] <James F. Daniel>;Stacia L. Cropper/OA/EOP [OA] <Stacia L. Cropper>;Barry Crane/ONDCP/EOP [ONDCP] <Barry Crane>;John B. Craig/NSC/EOP [UNKNOWN] <John B. Craig>;Steven Cooper/WHO/EOP [WHO] <Steven Cooper>;Phil Cooney/CEQ/EOP [CEQ] <Phil Cooney>;Rebecca Contreras/WHO/EOP [WHO] <Rebecca Contreras>;Charles Conner/OPD/EOP [OPD] <Charles Conner>;James Connaughton/CEQ/EOP [CEQ] <James Connaughton>;Brian C. Conklin/WHO/EOP [WHO] <Brian C. Conklin>;Cesar Conda/OVP/EOP [OVP] <Cesar Conda>;Douglas F. Cochrane/OVP/EOP [OVP] <Douglas F. Cochrane>;Robert W. Cobb/WHO/EOP [UNKNOWN] <Robert W. Cobb>;John A. Cloud/NSC/EOP [NSC] <John A. Cloud>;Robin Cleveland/OMB/EOP [OMB] <Robin Cleveland>;Richard A. Clarke/NSC/EOP [NSC] <Richard A. Clarke>;Alicia P. Clark/WHO/EOP [WHO] <Alicia P. Clark>;Frank Cilluffo/WHO/EOP [WHO] <Frank Cilluffo>;Christine Ciccone/WHO/EOP [WHO] <Christine Ciccone>;Ronald I. Christie/OVP/EOP [UNKNOWN] <Ronald I. Christie>;Barbara C. Chaffee/WHO/EOP [WHO] <Barbara C. Chaffee>;Kirsten A. Chadwick/WHO/EOP [WHO] <Kirsten A. Chadwick>;Andrew H. Card/WHO/EOP [WHO] <Andrew H. Card>;James C. Capretta/OMB/EOP [OMB] <James C. Capretta>;Tim Campen/EOPEXCH [UNKNOWN] <Tim Campen>;Nicholas E. Calio/WHO/EOP [WHO] <Nicholas E. Calio>;Scott Burns/ONDCP/EOP [ONDCP] <Scott Burns>;Katja Bullock/WHO/EOP [WHO] <Katja Bullock>;Carl Buchholz/WHO/EOP [WHO] <Carl Buchholz>;Claire E. Buchan/WHO/EOP [WHO] <Claire E. Buchan>;John M. Bridgeland/OPD/EOP [OPD] <John M. Bridgeland>;Stuart W. Bowen/WHO/EOP [WHO] <Stuart W. Bowen>;Carlos E. Bonilla/OPD/EOP [OPD] <Carlos E. Bonilla>;Joshua B. Bolten/WHO/EOP [WHO] <Joshua B. Bolten>;Lloyd A. Blanchard/OMB/EOP [UNKNOWN] <Lloyd A. Blanchard>;Kirk Blalock/WHO/EOP [WHO] <Kirk Blalock>;Bradley A. Blakeman/WHO/EOP [WHO] <Bradley A. Blakeman>;Charles P. Blahous/OPD/EOP [OPD]

<Charles P. Blahous>;Stephen E. Biegun/NSC/EOP [NSC] <Stephen E. Biegun>;Rebecca A. Beynon/WHO/EOP [WHO] <Rebecca A. Beynon>;Janet L. Berman/OVP/EOP [OVP] <Janet L. Berman>;Bradford A. Berenson/WHO/EOP [WHO] <Bradford A. Berenson>;John B. Bellinger/NSC/EOP [NSC] <John B. Bellinger>;H. Christopher Bartolomucci/WHO/EOP [WHO] <H. Christopher Bartolomucci>;Daniel J. Bartlett/WHO/EOP [WHO] <Daniel J. Bartlett>;Andrea G. Barthwell/ONDCP/EOP [ONDCP] <Andrea G. Barthwell>;Ruben S. Barrales/WHO/EOP [WHO] <Ruben S. Barrales>;Andrea G. Ball/WHO/EOP [WHO] <Andrea G. Ball>;Jackie Arends/WHO/EOP [WHO] <Jackie Arends>;George M. Andricos/NSC/EOP [NSC] <George M. Andricos>;Cathy Alix/WHO/EOP [WHO] <Cathy Alix>;Penrose C. Albright/OSTP/EOP [OSTP] <Penrose C. Albright>;David S. Addington/OVP/EOP [OVP] <David S. Addington>;Elliott Abrams/NSC/EOP [NSC] <Elliott Abrams>;Charles S. Abbot/OVP/EOP [OVP] <Charles S. Abbot>;Gina M. Wolford/NSC/EOP [NSC] <Gina M. Wolford>;David L. Travers/NSC/EOP [NSC] <David L. Travers>;Harry W. Wolff/WHO/EOP [WHO] <Harry W. Wolff>;Alexian T. Wines/NSC/EOP [NSC] <Alexian T. Wines>;Patricia Williams/WHO/EOP [WHO] <Patricia Williams>;Jared B. Weinstein/WHO/EOP [WHO] <Jared B. Weinstein>;Matthew C. Waxman/NSC/EOP [NSC] <Matthew C. Waxman>;Lauren J. Vestewig/OPD/EOP [OPD] <Lauren J. Vestewig>;Terrill G. Tucker/NSC/EOP [NSC] <Terrill G. Tucker>;Tevi Troy/OPD/EOP [OPD] <Tevi Troy>;Anne Trenolone/WHO/EOP [WHO] <Anne Trenolone>;Carol J. Thompson/WHO/EOP [WHO] <Carol J. Thompson>;Julieanne H. Thomas/WHO/EOP [WHO] <Julieanne H. Thomas>;Rachael L. Sunbarger/WHO/EOP [WHO] <Rachael L. Sunbarger>;Susan L. Sterner/WHO/EOP [WHO] <Susan L. Sterner>;Ashley Snee/WHO/EOP [WHO] <Ashley Snee>;Robert E. Schubert/NSC/EOP [NSC] <Robert E. Schubert>;Deborah Sandler/NSC/EOP [NSC] <Deborah Sandler>;Jean M. Russell/OPD/EOP [OPD] <Jean M. Russell>;Peter M. Rowan/WHO/EOP [UNKNOWN] <Peter M. Rowan>;Noelia Rodriguez/WHO/EOP [WHO] <Noelia Rodriguez>;Josephine B. Robinson/WHO/EOP [WHO] <Josephine B. Robinson>;Maurice C. Robinson/NSC/EOP [NSC] <Maurice C. Robinson>;Christina D. Roberts/WHO/EOP [UNKNOWN] <Christina D. Roberts>;Krista L. Ritacco/WHO/EOP [WHO] <Krista L. Ritacco>;Allison L. Riepenhoff/WHO/EOP [WHO] <Allison L. Riepenhoff>;January M. Riecke/WHO/EOP [WHO] <January M. Riecke>;Katherine A. Rhodes/WHO/EOP [WHO] <Katherine A. Rhodes>;Tim Reynolds/WHO/EOP [WHO] <Tim Reynolds>;David Reyes/NSC/EOP [NSC] <David Reyes>;Susan B. Ralston/WHO/EOP [WHO] <Susan B. Ralston>;Leslie E. Radcliff/NSC/EOP [NSC] <Leslie E. Radcliff>;Alexia Poe/WHO/EOP [WHO] <Alexia Poe>;Charlotte L. Montiel/WHO/EOP [WHO] <Charlotte L. Montiel>;Elliott M. Langer/NSC/EOP [NSC] <Elliott M. Langer>;Clare Pritchett/WHO/EOP [WHO] <Clare Pritchett>;Suzanne Primoff/WHO/EOP [WHO] <Suzanne Primoff>;John I. Pray/NSC/EOP [NSC] <John I. Pray>;Susan D. Phillips/NSC/EOP [NSC] <Susan D. Phillips>;Sarah Penny/WHO/EOP [WHO] <Sarah Penny>;Raymond H. Payne/NSC/EOP [NSC] <Raymond H. Payne>;Richard S. Paulus/WHO/EOP [WHO] <Richard S. Paulus>;Edward J. Padinske/NSC/EOP [NSC] <Edward J. Padinske>;Eric H. Otto/OPD/EOP [OPD] <Eric H. Otto>;Lee B. Mynatt/NSC/EOP [NSC] <Lee B. Mynatt>;Steven Myers/NSC/EOP [NSC] <Steven Myers>;Sarah M. Garrison/WHO/EOP [WHO] <Sarah M. Garrison>;Paul L. Morse/WHO/EOP [WHO] <Paul L. Morse>;Leslie A. Mooney/OPD/EOP [OPD] <Leslie A. Mooney>;Cathy L. Millison/NSC/EOP [NSC] <Cathy L. Millison>;Holly M. Miller/WHO/EOP [WHO] <Holly M. Miller>;Sonya E. Medina/WHO/EOP [WHO] <Sonya E. Medina>;Vickie A. McQuade/WHO/EOP [WHO] <Vickie A. McQuade>;Sara B. McIntosh/WHO/EOP [WHO] <Sara B. McIntosh>;Peter A. McCauley/NSC/EOP [NSC] <Peter A. McCauley>;Daniel M. McCarthy/WHO/EOP [WHO] <Daniel M. McCarthy>;Thomas S. Marsh/NSC/EOP [NSC] <Thomas S. Marsh>;Colleen Litkenhaus/WHO/EOP [WHO] <Colleen Litkenhaus>;Lindsey M. Lineweaver/WHO/EOP [WHO] <Lindsey M. Lineweaver>;Laura E. Lineberry/NSC/EOP [NSC] <Laura E. Lineberry>;Adam L. Levine/WHO/EOP [WHO] <Adam L. Levine>;Christopher S. Legrand/NSC/EOP [NSC] <Christopher S. Legrand>;Sang W. Lee/NSC/EOP [NSC] <Sang W. Lee>;Jennie M. Koch/NSC/EOP [NSC] <Jennie M. Koch>;Andrew M. Kaver/NSC/EOP [UNKNOWN] <Andrew M. Kaver>;Dora Kale/NSC/EOP [NSC] <Dora Kale>;Alexander S. Joves/NSC/EOP [NSC] <Alexander S. Joves>;M. Kay Joshi/NSC/EOP [NSC] <M. Kay Joshi>;Alison Jones/WHO/EOP [WHO] <Alison Jones>;Megan R. Johnston/WHO/EOP [WHO] <Megan R. Johnston>;Sydney R. Johnson/WHO/EOP [WHO] <Sydney R. Johnson>;Clarence C. Johnson/NSC/EOP [NSC] <Clarence C. Johnson>;Gordon D. Johndroe/WHO/EOP [WHO] <Gordon D. Johndroe>;Melanie A. Jackson/WHO/EOP [WHO] <Melanie A. Jackson>;Marilyn R. Jacanin/WHO/EOP [WHO] <Marilyn R. Jacanin>;Restituto M. Francisco/OA/EOP [OA] <Restituto M. Francisco>;Sandra K. Evans/WHO/EOP [WHO] <Sandra K. Evans>;Regina L. Cain/WHO/EOP [WHO] <Regina L. Cain>;Katherine A. Brown/NSC/EOP [NSC] <Katherine A. Brown>;Bonnie S. Broadwick/NSC/EOP [NSC] <Bonnie S. Broadwick>;Theresa M. Hunter/NSC/EOP [NSC] <Theresa M. Hunter>;A. Merrill Hughes/WHO/EOP [UNKNOWN] <A.

Merrill Hughes>;Lamont S. Hoyer/NSC/EOP [NSC] <Lamont S. Hoyer>;Jeffrey P. Houle/NSC/EOP [NSC] <Jeffrey P. Houle>;Ashley Holbrook/WHO/EOP [WHO] <Ashley Holbrook>;Josephine L. Hirsch/WHO/EOP [WHO] <Josephine L. Hirsch>;Jane C. Heishman/NSC/EOP [NSC] <Jane C. Heishman>;Anne Heiligenstein/WHO/EOP [WHO] <Anne Heiligenstein>;Robert C. Hargis/NSC/EOP [NSC] <Robert C. Hargis>;Alison M. Harden/WHO/EOP [WHO] <Alison M. Harden>;Mary Ann Hanusa/WHO/EOP [WHO] <Mary Ann Hanusa>;Thomas A. Hall/NSC/EOP [NSC] <Thomas A. Hall>;Mary A. Haines/NSC/EOP [NSC] <Mary A. Haines>;Katharina M. Hager/WHO/EOP [WHO] <Katharina M. Hager>;Henry C. Hager/WHO/EOP [WHO] <Henry C. Hager>;Albert J. Guarnieri/NSC/EOP [NSC] <Albert J. Guarnieri>;Ginger G. Loper/WHO/EOP [WHO] <Ginger G. Loper>;Andrew W. Green/NSC/EOP [NSC] <Andrew W. Green>;Emily S. Gray/WHO/EOP [WHO] <Emily S. Gray>;Wendy E. Gray/NSC/EOP [NSC] <Wendy E. Gray>;Britt Grant/OPD/EOP [OPD] <Britt Grant>;Blake Gottesman/WHO/EOP [WHO] <Blake Gottesman>;Travis C. Good/NSC/EOP [UNKNOWN] <Travis C. Good>;Georgia D. Godfrey/WHO/EOP [WHO] <Georgia D. Godfrey>;Eleanor L. Gillmor/OPD/EOP [OPD] <Eleanor L. Gillmor>;Dorothy C. Garvin/WHO/EOP [WHO] <Dorothy C. Garvin>;Joachim D. Fuchs/NSC/EOP [NSC] <Joachim D. Fuchs>;Barbara J. Finn/OA/EOP [OA] <Barbara J. Finn>;Kara G. Figg/WHO/EOP [WHO] <Kara G. Figg>;Jeanie L. Figg/WHO/EOP [WHO] <Jeanie L. Figg>;Jennifer D. Field/OVP/EOP [OVP] <Jennifer D. Field>;Douglas M. Erdahl/NSC/EOP [NSC] <Douglas M. Erdahl>;Ruth E. Elliott/NSC/EOP [NSC] <Ruth E. Elliott>;Kady Dunlap/WHO/EOP [WHO] <Kady Dunlap>;Eric A. Draper/WHO/EOP [WHO] <Eric A. Draper>;Joan R. Doty/WHO/EOP [WHO] <Joan R. Doty>;Katherine L. Disston/WHO/EOP [WHO] <Katherine L. Disston>;Reed Dickens/WHO/EOP [WHO] <Reed Dickens>;Josh Deckard/WHO/EOP [WHO] <Josh Deckard>;Ashley E. Davis/WHO/EOP [WHO] <Ashley E. Davis>;Jill Davie/WHO/EOP [WHO] <Jill Davie>;Colin Crosby/NSC/EOP [NSC] <Colin Crosby>;Lynn A. Crable/WHO/EOP [WHO] <Lynn A. Crable>;Colby J. Cooper/NSC/EOP [NSC] <Colby J. Cooper>;Michael J. Conway/WHO/EOP [WHO] <Michael J. Conway>;Carolyn E. Cleveland/WHO/EOP [WHO] <Carolyn E. Cleveland>;Shane P. Chambers/WHO/EOP [WHO] <Shane P. Chambers>;Lois A. Cassano/WHO/EOP [WHO] <Lois A. Cassano>;Pamela R. Casey/WHO/EOP [WHO] <Pamela R. Casey>;Anne E. Campbell/WHO/EOP [WHO] <Anne E. Campbell>;Elizabeth N. Camp/WHO/EOP [WHO] <Elizabeth N. Camp>;Marcia J. Caler/NSC/EOP [UNKNOWN] <Marcia J. Caler>;Johnathan C. Bunting/NSC/EOP [NSC] <Johnathan C. Bunting>;Patrick J. Bumatay/WHO/EOP [WHO] <Patrick J. Bumatay>;Marko R. Broz/NSC/EOP [NSC] <Marko R. Broz>;Gary E. Bresnahan/NSC/EOP [NSC] <Gary E. Bresnahan>;Brian Bravo/WHO/EOP [WHO] <Brian Bravo>;David R. Bohrer/OVP/EOP [OVP] <David R. Bohrer>;Debra D. Bird/WHO/EOP [WHO] <Debra D. Bird>;Melissa S. Bennett/WHO/EOP [WHO] <Melissa S. Bennett>;Cheryl E. Barnett/NSC/EOP [NSC] <Cheryl E. Barnett>;Tiffany L. Barfield/WHO/EOP [WHO] <Tiffany L. Barfield>;Mitchell P. Backfield/NSC/EOP [NSC] <Mitchell P. Backfield>;Jill L. Angelo/WHO/EOP [UNKNOWN] <Jill L. Angelo>;Ashleigh A. Adams/WHO/EOP [UNKNOWN] <Ashleigh A. Adams>

Sent: 11/5/2002 9:18:49 AM

Subject: : POSTMASTER: Mess Holiday Hours

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME: 5-NOV-2002 14:18:49.00
SUBJECT:: POSTMASTER: Mess Holiday Hours
TO:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
TO:Richard J. Tubb ( CN=Richard J. Tubb/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Paul J. Severs ( CN=Paul J. Severs/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Joseph D. Rozek ( CN=Joseph D. Rozek/OU=OVP/O=EOP [ OVP ] )
READ:UNKNOWN
TO:Steven J. Reynolds ( CN=Steven J. Reynolds/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Candida P. Wolff ( CN=Candida P. Wolff/OU=OVP/O=EOP [ OVP ] )
READ:UNKNOWN
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Daniel K. Wilmot ( CN=Daniel K. Wilmot/OU=OVP/O=EOP [ OVP ] )
```

READ:UNKNOWN
TO:James R. Wilkinson (CN=James R. Wilkinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jocelyn White (CN=Jocelyn White/OU=WHF/O=EOP [OPM])
READ:UNKNOWN
TO:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul A. Wedderien (CN=Paul A. Wedderien/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John P. Walters (CN=John P. Walters/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine W. Tobias (CN=Catherine W. Tobias/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jose G. Suarez (CN=Jose G. Suarez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Aquiles F. Suarez (CN=Aquiles F. Suarez/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Angela B. Styles (CN=Angela B. Styles/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary A. Solberg (CN=Mary A. Solberg/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Augustine T. Smythe (CN=Augustine T. Smythe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joseph J. Shattan (CN=Joseph J. Shattan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Sharpy (CN=Thomas J. Sharpy/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Howard A. Schmidt (CN=Howard A. Schmidt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel Schecter (CN=Daniel Schecter/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard M. Russell (CN=Richard M. Russell/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Stephen S. Ruhlen (CN=Stephen S. Ruhlen/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark V. Rosenker (CN=Mark V. Rosenker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Ridge (CN=Thomas J. Ridge/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Nina Rees (CN=Nina Rees/OU=OVP/O=EOP [OVP])

READ:UNKNOWN
TO:Craig Ray (CN=Craig Ray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kathie L. Olsen (CN=Kathie L. Olsen/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Newell (CN=John F. Newell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Manson O. Morris (CN=Manson O. Morris/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Paul D. Montanus (CN=Paul D. Montanus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. McAllister (CN=James M. McAllister/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric C. Pelletier (CN=Eric C. Pelletier/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Marcus Peacock (CN=Marcus Peacock/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Neil S. Patel (CN=Neil S. Patel/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Sean C. O'Keefe (CN=Sean C. O'Keefe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire M. O'Donnell (CN=Claire M. O'Donnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan K. Neely (CN=Susan K. Neely/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen S. McMillin (CN=Stephen S. McMillin/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark McClellan (CN=Mark McClellan/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Mary J. Matalin (CN=Mary J. Matalin/OU=OVP/O=EOP [OVP])

READ:UNKNOWN
TO:Catherine J. Martin (CN=Catherine J. Martin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John H. Marburger (CN=John H. Marburger/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Maisto (CN=John F. Maisto/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin A. MacLean (CN=Robin A. MacLean/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ado A. Machida (CN=Ado A. Machida/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Deborah A. Loewer (CN=Deborah A. Loewer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence B. Lindsey (CN=Lawrence B. Lindsey/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Dirksen Lehman (CN=Dirksen Lehman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Laura S. Lawlor (CN=Laura S. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bruce M. Lawlor (CN=Bruce M. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Randall S. Kroszner (CN=Randall S. Kroszner/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Karen Y. Knutson (CN=Karen Y. Knutson/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Frank G. Klotz (CN=Frank G. Klotz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Ellis Kitchen (CN=Ellis Kitchen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles D. McGrath Jr (CN=Charles D. McGrath Jr/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Reuben Jeffery (CN=Reuben Jeffery/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hector F. Irastorza (CN=Hector F. Irastorza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP [OPD])

READ:UNKNOWN
TO:Julian M. Flannery (CN=Julian M. Flannery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Duncan Campbell (CN=Duncan Campbell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:R. Rand Beers (CN=R. Rand Beers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Glenn Hubbard (CN=Glenn Hubbard/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Jack Howard (CN=Jack Howard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Holman (CN=Mark Holman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Chris Henick (CN=Chris Henick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Debra Heiden (CN=Debra Heiden/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Albert Hawkins (CN=Albert Hawkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald Haskins (CN=Ronald Haskins/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:John P. Hannah (CN=John P. Hannah/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John F. Haley (CN=John F. Haley/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John Graham (CN=John Graham/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:John A. Gordon (CN=John A. Gordon/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen Goldsmith (CN=Stephen Goldsmith/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen M. Garrison (CN=Stephen M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Diana E. Furchtgott-Roth (CN=Diana E. Furchtgott-Roth/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Timothy E. Flanigan (CN=Timothy E. Flanigan/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Everson (CN=Mark Everson/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric S. Edelman (CN=Eric S. Edelman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Wayne A. Downing (CN=Wayne A. Downing/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Nancy P. Dorn (CN=Nancy P. Dorn/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Diana C. Donnelly (CN=Diana C. Donnelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:James F. Daniel (CN=James F. Daniel/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Stacia L. Cropper (CN=Stacia L. Cropper/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Barry Crane (CN=Barry Crane/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:John B. Craig (CN=John B. Craig/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Steven Cooper (CN=Steven Cooper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:James Connaughton (CN=James Connaughton/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cesar Conda (CN=Cesar Conda/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Douglas F. Cochrane (CN=Douglas F. Cochrane/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert W. Cobb (CN=Robert W. Cobb/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:John A. Cloud (CN=John A. Cloud/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin Cleveland (CN=Robin Cleveland/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Richard A. Clarke (CN=Richard A. Clarke/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Frank Cilluffo (CN=Frank Cilluffo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christine Ciccone (CN=Christine Ciccone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OVP/O=EOP [UNKNOWN])

READ:UNKNOWN
TO:Barbara C. Chaffee (CN=Barbara C. Chaffee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James C. Capretta (CN=James C. Capretta/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Tim Campen (CN=Tim Campen/O=EOPEXCH [UNKNOWN])
READ:UNKNOWN
TO:Nicholas E. Calio (CN=Nicholas E. Calio/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott Burns (CN=Scott Burns/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carl Buchholz (CN=Carl Buchholz/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stuart W. Bowen (CN=Stuart W. Bowen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carlos E. Bonilla (CN=Carlos E. Bonilla/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lloyd A. Blanchard (CN=Lloyd A. Blanchard/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Kirk Blalock (CN=Kirk Blalock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen E. Biegun (CN=Stephen E. Biegun/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Janet L. Berman (CN=Janet L. Berman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Barthwell (CN=Andrea G. Barthwell/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Cathy Alix (CN=Cathy Alix/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Penrose C. Albright (CN=Penrose C. Albright/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])

READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Gina M. Wolford (CN=Gina M. Wolford/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David L. Travers (CN=David L. Travers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harry W. Wolff (CN=Harry W. Wolff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Alexian T. Wines (CN=Alexian T. Wines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patricia Williams (CN=Patricia Williams/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jared B. Weinstein (CN=Jared B. Weinstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Matthew C. Waxman (CN=Matthew C. Waxman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lauren J. Vestewig (CN=Lauren J. Vestewig/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Terrill G. Tucker (CN=Terrill G. Tucker/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tevi Troy (CN=Tevi Troy/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Anne Trenolone (CN=Anne Trenolone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carol J. Thompson (CN=Carol J. Thompson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Julieanne H. Thomas (CN=Julieanne H. Thomas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Rachael L. Sunbarger (CN=Rachael L. Sunbarger/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan L. Sterner (CN=Susan L. Sterner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert E. Schubert (CN=Robert E. Schubert/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Deborah Sandler (CN=Deborah Sandler/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jean M. Russell (CN=Jean M. Russell/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Peter M. Rowan (CN=Peter M. Rowan/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Noelia Rodriguez (CN=Noelia Rodriguez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine B. Robinson (CN=Josephine B. Robinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Maurice C. Robinson (CN=Maurice C. Robinson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Christina D. Roberts (CN=Christina D. Roberts/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Allison L. Riepenhoff (CN=Allison L. Riepenhoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:January M. Riecke (CN=January M. Riecke/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Rhodes (CN=Katherine A. Rhodes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Reynolds (CN=Tim Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David Reyes (CN=David Reyes/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie E. Radcliff (CN=Leslie E. Radcliff/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexia Poe (CN=Alexia Poe/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elliott M. Langer (CN=Elliott M. Langer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Clare Pritchett (CN=Clare Pritchett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Suzanne Primoff (CN=Suzanne Primoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John I. Pray (CN=John I. Pray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan D. Phillips (CN=Susan D. Phillips/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah Penny (CN=Sarah Penny/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Raymond H. Payne (CN=Raymond H. Payne/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Richard S. Paulus (CN=Richard S. Paulus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward J. Padinske (CN=Edward J. Padinske/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric H. Otto (CN=Eric H. Otto/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Lee B. Mynatt (CN=Lee B. Mynatt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Steven Myers (CN=Steven Myers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah M. Garrison (CN=Sarah M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul L. Morse (CN=Paul L. Morse/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie A. Mooney (CN=Leslie A. Mooney/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Cathy L. Millison (CN=Cathy L. Millison/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Holly M. Miller (CN=Holly M. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sonya E. Medina (CN=Sonya E. Medina/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Vickie A. McQuade (CN=Vickie A. McQuade/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sara B. McIntosh (CN=Sara B. McIntosh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter A. McCauley (CN=Peter A. McCauley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel M. McCarthy (CN=Daniel M. McCarthy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas S. Marsh (CN=Thomas S. Marsh/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lindsey M. Lineweaver (CN=Lindsey M. Lineweaver/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Laura E. Lineberry (CN=Laura E. Lineberry/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Adam L. Levine (CN=Adam L. Levine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christopher S. Legrand (CN=Christopher S. Legrand/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sang W. Lee (CN=Sang W. Lee/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jennie M. Koch (CN=Jennie M. Koch/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Andrew M. Kaver (CN=Andrew M. Kaver/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Dora Kale (CN=Dora Kale/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexander S. Joves (CN=Alexander S. Joves/OU=NSC/O=EOP [NSC])

READ:UNKNOWN
TO:M. Kay Joshi (CN=M. Kay Joshi/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Megan R. Johnston (CN=Megan R. Johnston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sydney R. Johnson (CN=Sydney R. Johnson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clarence C. Johnson (CN=Clarence C. Johnson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gordon D. Johndroe (CN=Gordon D. Johndroe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melanie A. Jackson (CN=Melanie A. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marilyn R. Jacanin (CN=Marilyn R. Jacanin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Restituto M. Francisco (CN=Restituto M. Francisco/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Sandra K. Evans (CN=Sandra K. Evans/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Regina L. Cain (CN=Regina L. Cain/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Brown (CN=Katherine A. Brown/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Bonnie S. Broadwick (CN=Bonnie S. Broadwick/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Theresa M. Hunter (CN=Theresa M. Hunter/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:A. Merrill Hughes (CN=A. Merrill Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Lamont S. Hoyer (CN=Lamont S. Hoyer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jeffrey P. Houle (CN=Jeffrey P. Houle/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ashley Holbrook (CN=Ashley Holbrook/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine L. Hirsch (CN=Josephine L. Hirsch/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jane C. Heishman (CN=Jane C. Heishman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anne Heiligenstein (CN=Anne Heiligenstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. Hargis (CN=Robert C. Hargis/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison M. Harden (CN=Alison M. Harden/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary Ann Hanusa (CN=Mary Ann Hanusa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas A. Hall (CN=Thomas A. Hall/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary A. Haines (CN=Mary A. Haines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Katharina M. Hager (CN=Katharina M. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Henry C. Hager (CN=Henry C. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Albert J. Guarnieri (CN=Albert J. Guarnieri/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew W. Green (CN=Andrew W. Green/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Emily S. Gray (CN=Emily S. Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wendy E. Gray (CN=Wendy E. Gray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Britt Grant (CN=Britt Grant/OU=OPD/O=EOP [OPD])

READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Travis C. Good (CN=Travis C. Good/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Georgia D. Godfrey (CN=Georgia D. Godfrey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Dorothy C. Garvin (CN=Dorothy C. Garvin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joachim D. Fuchs (CN=Joachim D. Fuchs/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Barbara J. Finn (CN=Barbara J. Finn/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jeanie L. Figg (CN=Jeanie L. Figg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jennifer D. Field (CN=Jennifer D. Field/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Douglas M. Erdahl (CN=Douglas M. Erdahl/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ruth E. Elliott (CN=Ruth E. Elliott/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kady Dunlap (CN=Kady Dunlap/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eric A. Draper (CN=Eric A. Draper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joan R. Doty (CN=Joan R. Doty/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine L. Disston (CN=Katherine L. Disston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Reed Dickens (CN=Reed Dickens/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josh Deckard (CN=Josh Deckard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley E. Davis (CN=Ashley E. Davis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jill Davie (CN=Jill Davie/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colin Crosby (CN=Colin Crosby/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lynn A. Crable (CN=Lynn A. Crable/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colby J. Cooper (CN=Colby J. Cooper/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Shane P. Chambers (CN=Shane P. Chambers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lois A. Cassano (CN=Lois A. Cassano/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Pamela R. Casey (CN=Pamela R. Casey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne E. Campbell (CN=Anne E. Campbell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marcia J. Caler (CN=Marcia J. Caler/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Johnathan C. Bunting (CN=Johnathan C. Bunting/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marko R. Broz (CN=Marko R. Broz/OU=NSC/O=EOP [NSC])

READ:UNKNOWN
TO:Gary E. Bresnahan (CN=Gary E. Bresnahan/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David R. Bohrer (CN=David R. Bohrer/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cheryl E. Barnett (CN=Cheryl E. Barnett/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell P. Backfield (CN=Mitchell P. Backfield/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jill L. Angelo (CN=Jill L. Angelo/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Ashleigh A. Adams (CN=Ashleigh A. Adams/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Mess Holiday Hours

Please note that the White House Mess will be closed for business Saturday, November 9 through Monday November 11 in observance of Veteran's Day. If the need arises, necessary arrangements will be made to meet any unforeseen demands. We apologize for any inconvenience.

Thank you.

MANAGEMENT & ADMINISTRATION

From: CN=PostMaster/O=EOP [OA]

To: Kevin Warsh/OPD/EOP [OPD] <Kevin Warsh>;Richard J. Tubb/WHO/EOP [WHO] <Richard J. Tubb>;Paul J. Severs/WHO/EOP [WHO] <Paul J. Severs>;Joseph D. Rozek/OVP/EOP [OVP] <Joseph D. Rozek>;Steven J. Reynolds/WHO/EOP [WHO] <Steven J. Reynolds>;Candida P. Wolff/OVP/EOP [OVP] <Candida P. Wolff>;Heather Wingate/WHO/EOP [WHO] <Heather Wingate>;Daniel K. Wilmot/OVP/EOP [OVP] <Daniel K. Wilmot>;James R. Wilkinson/WHO/EOP [WHO] <James R. Wilkinson>;Jocelyn White/WHF/EOP [OPM] <Jocelyn White>;Lezlee J. Westine/WHO/EOP [WHO] <Lezlee J. Westine>;Peter H. Wehner/WHO/EOP [WHO] <Peter H. Wehner>;Paul A. Wedderien/NSC/EOP [NSC] <Paul A. Wedderien>;John P. Walters/ONDCP/EOP [ONDCP] <John P. Walters>;Helgard C. Walker/WHO/EOP [WHO] <Helgard C. Walker>;Jim Towey/WHO/EOP [WHO] <Jim Towey>;Catherine W. Tobias/OVP/EOP [OVP] <Catherine W. Tobias>;Jose G. Suarez/WHO/EOP [WHO] <Jose G. Suarez>;Aquiles F. Suarez/OPD/EOP [OPD] <Aquiles F. Suarez>;Angela B. Styles/OMB/EOP [OMB] <Angela B. Styles>;Mary K. Sturtevant/NSC/EOP [NSC] <Mary K. Sturtevant>;Margaret M. Spellings/OPD/EOP [OPD] <Margaret M. Spellings>;Deborah A. Spagnoli/WHO/EOP [WHO] <Deborah A. Spagnoli>;Mary A. Solberg/ONDCP/EOP [ONDCP] <Mary A. Solberg>;Augustine T. Smythe/OMB/EOP [OMB] <Augustine T. Smythe>;Kristen Silverberg/WHO/EOP [WHO] <Kristen Silverberg>;Joseph J. Shattan/WHO/EOP [WHO] <Joseph J. Shattan>;Thomas J. Sharpy/OVP/EOP [OVP] <Thomas J. Sharpy>;Scott N. Sforza/WHO/EOP [WHO] <Scott N. Sforza>;Howard A. Schmidt/NSC/EOP [NSC] <Howard A. Schmidt>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Daniel Schecter/ONDCP/EOP [ONDCP] <Daniel Schecter>;Diana L. Schacht/OPD/EOP [OPD] <Diana L. Schacht>;Desiree T. Sayle/WHO/EOP [WHO] <Desiree T. Sayle>;Kyle Sampson/WHO/EOP [WHO] <Kyle Sampson>;Richard M. Russell/OSTP/EOP [OSTP] <Richard M. Russell>;Stephen S. Ruhlen/OVP/EOP [OVP] <Stephen S. Ruhlen>;Karl C. Rove/WHO/EOP [WHO] <Karl C. Rove>;Mark V. Rosenker/WHO/EOP [WHO] <Mark V. Rosenker>;Thomas J. Ridge/WHO/EOP [WHO] <Thomas J. Ridge>;Condoleezza Rice/NSC/EOP [NSC] <Condoleezza Rice>;Nina Rees/OVP/EOP [OVP] <Nina Rees>;Craig Ray/WHO/EOP [WHO] <Craig Ray>;Benjamin A. Powell/WHO/EOP [WHO] <Benjamin A. Powell>;Kathie L. Olsen/OSTP/EOP [OSTP] <Kathie L. Olsen>;John F. Newell/WHO/EOP [WHO] <John F. Newell>;Manson O. Morris/OVP/EOP [OVP] <Manson O. Morris>;Paul D. Montanus/WHO/EOP [WHO] <Paul D. Montanus>;James M. McAllister/WHO/EOP [WHO] <James M. McAllister>;James M. Kelly/WHO/EOP [WHO] <James M. Kelly>;Dina Powell/WHO/EOP [WHO] <Dina Powell>;Philip J. Perry/OMB/EOP [OMB] <Philip J. Perry>;Anna M. Perez/NSC/EOP [NSC] <Anna M. Perez>;Eric C. Pelletier/OMB/EOP [OMB] <Eric C. Pelletier>;Marcus Peacock/OMB/EOP [OMB] <Marcus Peacock>;Neil S. Patel/OVP/EOP [OVP] <Neil S. Patel>;Sean C. O'Keefe/OMB/EOP [OMB] <Sean C. O'Keefe>;Ziad S. Ojakli/WHO/EOP [WHO] <Ziad S. Ojakli>;Claire M. O'Donnell/OVP/EOP [OVP] <Claire M. O'Donnell>;Jennifer G. Newstead/WHO/EOP [WHO] <Jennifer G. Newstead>;Susan K. Neely/WHO/EOP [WHO] <Susan K. Neely>;Edmund C. Moy/WHO/EOP [WHO] <Edmund C. Moy>;James F. Moriarty/NSC/EOP [NSC] <James F. Moriarty>;Brian D. Montgomery/WHO/EOP [WHO] <Brian D. Montgomery>;Michael H. Miller/WHO/EOP [WHO] <Michael H. Miller>;Franklin C. Miller/NSC/EOP [NSC] <Franklin C. Miller>;Harriet Miers/WHO/EOP [WHO] <Harriet Miers>;Ken Mehlman/WHO/EOP [WHO] <Ken Mehlman>;Edward McNally/WHO/EOP [WHO] <Edward McNally>;Robert C. McNally/OPD/EOP [OPD] <Robert C. McNally>;Stephen S. McMillin/OMB/EOP [OMB] <Stephen S. McMillin>;Brian V. McCormack/OVP/EOP [OVP] <Brian V. McCormack>;John P. McConnell/OVP/EOP [OVP] <John P. McConnell>;Scott McClellan/WHO/EOP [WHO] <Scott McClellan>;Mark McClellan/CEA/EOP [CEA] <Mark McClellan>;Mary J. Matalin/OVP/EOP [OVP] <Mary J. Matalin>;Catherine J. Martin/OVP/EOP [OVP] <Catherine J. Martin>;Robert Marsh/WHO/EOP [WHO] <Robert Marsh>;John H. Marburger/OSTP/EOP [OSTP] <John H. Marburger>;John F. Maisto/NSC/EOP [NSC] <John F. Maisto>;Robin A. MacLean/WHO/EOP [WHO] <Robin A. MacLean>;Ado A. Machida/OVP/EOP [OVP] <Ado A. Machida>;Deborah A. Loewer/NSC/EOP [NSC] <Deborah A. Loewer>;Roland N. Litterst/WHO/EOP [WHO] <Roland N. Litterst>;Lawrence B. Lindsey/OPD/EOP [OPD] <Lawrence B. Lindsey>;Lewis Libby/OVP/EOP [OVP] <Lewis Libby>;Dirksen Lehman/WHO/EOP [WHO] <Dirksen Lehman>;Jay P. Lefkowitz/OPD/EOP [OPD] <Jay P. Lefkowitz>;Laura S. Lawlor/WHO/EOP [WHO] <Laura S. Lawlor>;Bruce M. Lawlor/WHO/EOP [WHO] <Bruce M. Lawlor>;Paul B. Kurtz/NSC/EOP [NSC] <Paul B. Kurtz>;David Kuo/WHO/EOP [WHO] <David Kuo>;Randall S. Kroszner/CEA/EOP [CEA] <Randall S. Kroszner>;Karen Y. Knutson/OVP/EOP [OVP] <Karen Y. Knutson>;Frank G. Klotz/NSC/EOP [NSC] <Frank G. Klotz>;Elizabeth W. Kleppe/OVP/EOP [

OVP] <Elizabeth W. Kleppe>;Ellis Kitchen/OA/EOP [OA] <Ellis Kitchen>;Matthew Kirk/WHO/EOP [WHO] <Matthew Kirk>;Zalmay M. Khalilzad/NSC/EOP [NSC] <Zalmay M. Khalilzad>;Daniel J. Keniry/WHO/EOP [WHO] <Daniel J. Keniry>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Joel D. Kaplan/WHO/EOP [WHO] <Joel D. Kaplan>;Charles D. McGrath Jr/OVP/EOP [OVP] <Charles D. McGrath Jr>;Robert G. Joseph/NSC/EOP [NSC] <Robert G. Joseph>;Reuben Jeffery/OPD/EOP [OPD] <Reuben Jeffery>;Barry S. Jackson/WHO/EOP [WHO] <Barry S. Jackson>;Hector F. Irastorza/WHO/EOP [WHO] <Hector F. Irastorza>;Edward Ingle/WHO/EOP [WHO] <Edward Ingle>;Clay Johnson III/WHO/EOP [WHO] <Clay Johnson III>;Keith Hennessey/OPD/EOP [OPD] <Keith Hennessey>;Julian M. Flannery/WHO/EOP [WHO] <Julian M. Flannery>;Duncan Campbell/WHO/EOP [WHO] <Duncan Campbell>;R. Rand Beers/NSC/EOP [NSC] <R. Rand Beers>;Glenn Hubbard/CEA/EOP [CEA] <Glenn Hubbard>;Jack Howard/WHO/EOP [WHO] <Jack Howard>;Mark Holman/WHO/EOP [WHO] <Mark Holman>;David W. Hobbs/WHO/EOP [WHO] <David W. Hobbs>;Israel Hernandez/WHO/EOP [WHO] <Israel Hernandez>;Chris Henick/WHO/EOP [WHO] <Chris Henick>;Debra Heiden/OVP/EOP [OVP] <Debra Heiden>;Albert Hawkins/WHO/EOP [WHO] <Albert Hawkins>;Ronald Haskins/OPD/EOP [OPD] <Ronald Haskins>;John P. Hannah/OVP/EOP [OVP] <John P. Hannah>;John F. Haley/OVP/EOP [OVP] <John F. Haley>;Joseph W. Hagin/WHO/EOP [WHO] <Joseph W. Hagin>;Stephen J. Hadley/NSC/EOP [NSC] <Stephen J. Hadley>;Ann Gray/WHO/EOP [WHO] <Ann Gray>;John Graham/OMB/EOP [OMB] <John Graham>;John A. Gordon/NSC/EOP [NSC] <John A. Gordon>;Alberto R. Gonzales/WHO/EOP [WHO] <Alberto R. Gonzales>;Stephen Goldsmith/WHO/EOP [WHO] <Stephen Goldsmith>;Tim Goeglein/WHO/EOP [WHO] <Tim Goeglein>;Dylan C. Glenn/OPD/EOP [OPD] <Dylan C. Glenn>;Alan Gilbert/OPD/EOP [OPD] <Alan Gilbert>;Michael J. Gerson/WHO/EOP [WHO] <Michael J. Gerson>;Stephen M. Garrison/WHO/EOP [WHO] <Stephen M. Garrison>;Kelley Gannon/WHO/EOP [WHO] <Kelley Gannon>;Linda M. Gambatesa/WHO/EOP [WHO] <Linda M. Gambatesa>;Diana E. Furchtgott-Roth/CEA/EOP [CEA] <Diana E. Furchtgott-Roth>;Daniel Fried/NSC/EOP [NSC] <Daniel Fried>;Jendayi E. Frazer/NSC/EOP [NSC] <Jendayi E. Frazer>;Noel J. Francisco/WHO/EOP [WHO] <Noel J. Francisco>;Lawrence A. Fleischer/WHO/EOP [WHO] <Lawrence A. Fleischer>;Timothy E. Flanigan/WHO/EOP [WHO] <Timothy E. Flanigan>;Catherine S. Fenton/WHO/EOP [WHO] <Catherine S. Fenton>;Richard Falkenrath/WHO/EOP [WHO] <Richard Falkenrath>;Nanette Everson/WHO/EOP [WHO] <Nanette Everson>;Mark Everson/OMB/EOP [OMB] <Mark Everson>;Ashley Estes/WHO/EOP [WHO] <Ashley Estes>;Tucker A. Eskew/WHO/EOP [WHO] <Tucker A. Eskew>;Gary R. Edson/NSC/EOP [NSC] <Gary R. Edson>;Eric S. Edelman/OVP/EOP [OVP] <Eric S. Edelman>;Wayne A. Downing/NSC/EOP [UNKNOWN] <Wayne A. Downing>;Elizabeth S. Dougherty/OPD/EOP [OPD] <Elizabeth S. Dougherty>;Nancy P. Dorn/WHO/EOP [UNKNOWN] <Nancy P. Dorn>;Diana C. Donnelly/WHO/EOP [WHO] <Diana C. Donnelly>;Nicolle Devenish/WHO/EOP [WHO] <Nicolle Devenish>;Mitchell Daniels/OMB/EOP [OMB] <Mitchell Daniels>;James F. Daniel/OA/EOP [OA] <James F. Daniel>;Stacia L. Cropper/OA/EOP [OA] <Stacia L. Cropper>;Barry Crane/ONDCP/EOP [ONDCP] <Barry Crane>;John B. Craig/NSC/EOP [UNKNOWN] <John B. Craig>;Steven Cooper/WHO/EOP [WHO] <Steven Cooper>;Phil Cooney/CEQ/EOP [CEQ] <Phil Cooney>;Rebecca Contreras/WHO/EOP [WHO] <Rebecca Contreras>;Charles Conner/OPD/EOP [OPD] <Charles Conner>;James Connaughton/CEQ/EOP [CEQ] <James Connaughton>;Brian C. Conklin/WHO/EOP [WHO] <Brian C. Conklin>;Cesar Conda/OVP/EOP [OVP] <Cesar Conda>;Douglas F. Cochrane/OVP/EOP [OVP] <Douglas F. Cochrane>;Robert W. Cobb/WHO/EOP [UNKNOWN] <Robert W. Cobb>;John A. Cloud/NSC/EOP [NSC] <John A. Cloud>;Robin Cleveland/OMB/EOP [OMB] <Robin Cleveland>;Richard A. Clarke/NSC/EOP [NSC] <Richard A. Clarke>;Alicia P. Clark/WHO/EOP [WHO] <Alicia P. Clark>;Frank Cilluffo/WHO/EOP [WHO] <Frank Cilluffo>;Christine Ciccone/WHO/EOP [WHO] <Christine Ciccone>;Ronald I. Christie/OVP/EOP [UNKNOWN] <Ronald I. Christie>;Barbara C. Chaffee/WHO/EOP [WHO] <Barbara C. Chaffee>;Kirsten A. Chadwick/WHO/EOP [WHO] <Kirsten A. Chadwick>;Andrew H. Card/WHO/EOP [WHO] <Andrew H. Card>;James C. Capretta/OMB/EOP [OMB] <James C. Capretta>;Tim Campen/EOPEXCH [UNKNOWN] <Tim Campen>;Nicholas E. Calio/WHO/EOP [WHO] <Nicholas E. Calio>;Scott Burns/ONDCP/EOP [ONDCP] <Scott Burns>;Katja Bullock/WHO/EOP [WHO] <Katja Bullock>;Carl Buchholz/WHO/EOP [WHO] <Carl Buchholz>;Claire E. Buchan/WHO/EOP [WHO] <Claire E. Buchan>;John M. Bridgeland/OPD/EOP [OPD] <John M. Bridgeland>;Stuart W. Bowen/WHO/EOP [WHO] <Stuart W. Bowen>;Carlos E. Bonilla/OPD/EOP [OPD] <Carlos E. Bonilla>;Joshua B. Bolten/WHO/EOP [WHO] <Joshua B. Bolten>;Lloyd A. Blanchard/OMB/EOP [UNKNOWN] <Lloyd A. Blanchard>;Kirk Blalock/WHO/EOP [WHO] <Kirk Blalock>;Bradley A. Blakeman/WHO/EOP [WHO] <Bradley A. Blakeman>;Charles P. Blahous/OPD/EOP [OPD]

<Charles P. Blahous>;Stephen E. Biegun/NSC/EOP [NSC] <Stephen E. Biegun>;Rebecca A. Beynon/WHO/EOP [WHO] <Rebecca A. Beynon>;Janet L. Berman/OVP/EOP [OVP] <Janet L. Berman>;Bradford A. Berenson/WHO/EOP [WHO] <Bradford A. Berenson>;John B. Bellinger/NSC/EOP [NSC] <John B. Bellinger>;H. Christopher Bartolomucci/WHO/EOP [WHO] <H. Christopher Bartolomucci>;Daniel J. Bartlett/WHO/EOP [WHO] <Daniel J. Bartlett>;Andrea G. Barthwell/ONDCP/EOP [ONDCP] <Andrea G. Barthwell>;Ruben S. Barrales/WHO/EOP [WHO] <Ruben S. Barrales>;Andrea G. Ball/WHO/EOP [WHO] <Andrea G. Ball>;Jackie Arends/WHO/EOP [WHO] <Jackie Arends>;George M. Andricos/NSC/EOP [NSC] <George M. Andricos>;Cathy Alix/WHO/EOP [WHO] <Cathy Alix>;Penrose C. Albright/OSTP/EOP [OSTP] <Penrose C. Albright>;David S. Addington/OVP/EOP [OVP] <David S. Addington>;Elliott Abrams/NSC/EOP [NSC] <Elliott Abrams>;Charles S. Abbot/OVP/EOP [OVP] <Charles S. Abbot>;Gina M. Wolford/NSC/EOP [NSC] <Gina M. Wolford>;David L. Travers/NSC/EOP [NSC] <David L. Travers>;Harry W. Wolff/WHO/EOP [WHO] <Harry W. Wolff>;Alexian T. Wines/NSC/EOP [NSC] <Alexian T. Wines>;Patricia Williams/WHO/EOP [WHO] <Patricia Williams>;Jared B. Weinstein/WHO/EOP [WHO] <Jared B. Weinstein>;Matthew C. Waxman/NSC/EOP [NSC] <Matthew C. Waxman>;Lauren J. Vestewig/OPD/EOP [OPD] <Lauren J. Vestewig>;Terrill G. Tucker/NSC/EOP [NSC] <Terrill G. Tucker>;Tevi Troy/OPD/EOP [OPD] <Tevi Troy>;Anne Trenolone/WHO/EOP [WHO] <Anne Trenolone>;Carol J. Thompson/WHO/EOP [WHO] <Carol J. Thompson>;Julieanne H. Thomas/WHO/EOP [WHO] <Julieanne H. Thomas>;Rachael L. Sunbarger/WHO/EOP [WHO] <Rachael L. Sunbarger>;Susan L. Sterner/WHO/EOP [WHO] <Susan L. Sterner>;Ashley Snee/WHO/EOP [WHO] <Ashley Snee>;Robert E. Schubert/NSC/EOP [NSC] <Robert E. Schubert>;Deborah Sandler/NSC/EOP [NSC] <Deborah Sandler>;Jean M. Russell/OPD/EOP [OPD] <Jean M. Russell>;Peter M. Rowan/WHO/EOP [UNKNOWN] <Peter M. Rowan>;Noelia Rodriguez/WHO/EOP [WHO] <Noelia Rodriguez>;Josephine B. Robinson/WHO/EOP [WHO] <Josephine B. Robinson>;Maurice C. Robinson/NSC/EOP [NSC] <Maurice C. Robinson>;Christina D. Roberts/WHO/EOP [UNKNOWN] <Christina D. Roberts>;Krista L. Ritacco/WHO/EOP [WHO] <Krista L. Ritacco>;Allison L. Riepenhoff/WHO/EOP [WHO] <Allison L. Riepenhoff>;January M. Riecke/WHO/EOP [WHO] <January M. Riecke>;Katherine A. Rhodes/WHO/EOP [WHO] <Katherine A. Rhodes>;Tim Reynolds/WHO/EOP [WHO] <Tim Reynolds>;David Reyes/NSC/EOP [NSC] <David Reyes>;Susan B. Ralston/WHO/EOP [WHO] <Susan B. Ralston>;Leslie E. Radcliff/NSC/EOP [NSC] <Leslie E. Radcliff>;Alexia Poe/WHO/EOP [WHO] <Alexia Poe>;Charlotte L. Montiel/WHO/EOP [WHO] <Charlotte L. Montiel>;Elliott M. Langer/NSC/EOP [NSC] <Elliott M. Langer>;Clare Pritchett/WHO/EOP [WHO] <Clare Pritchett>;Suzanne Primoff/WHO/EOP [WHO] <Suzanne Primoff>;John I. Pray/NSC/EOP [NSC] <John I. Pray>;Susan D. Phillips/NSC/EOP [NSC] <Susan D. Phillips>;Sarah Penny/WHO/EOP [WHO] <Sarah Penny>;Raymond H. Payne/NSC/EOP [NSC] <Raymond H. Payne>;Richard S. Paulus/WHO/EOP [WHO] <Richard S. Paulus>;Edward J. Padinske/NSC/EOP [NSC] <Edward J. Padinske>;Eric H. Otto/OPD/EOP [OPD] <Eric H. Otto>;Lee B. Mynatt/NSC/EOP [NSC] <Lee B. Mynatt>;Steven Myers/NSC/EOP [NSC] <Steven Myers>;Sarah M. Garrison/WHO/EOP [WHO] <Sarah M. Garrison>;Paul L. Morse/WHO/EOP [WHO] <Paul L. Morse>;Leslie A. Mooney/OPD/EOP [OPD] <Leslie A. Mooney>;Cathy L. Millison/NSC/EOP [NSC] <Cathy L. Millison>;Holly M. Miller/WHO/EOP [WHO] <Holly M. Miller>;Sonya E. Medina/WHO/EOP [WHO] <Sonya E. Medina>;Vickie A. McQuade/WHO/EOP [WHO] <Vickie A. McQuade>;Sara B. McIntosh/WHO/EOP [WHO] <Sara B. McIntosh>;Peter A. McCauley/NSC/EOP [NSC] <Peter A. McCauley>;Daniel M. McCarthy/WHO/EOP [WHO] <Daniel M. McCarthy>;Thomas S. Marsh/NSC/EOP [NSC] <Thomas S. Marsh>;Colleen Litkenhaus/WHO/EOP [WHO] <Colleen Litkenhaus>;Lindsey M. Lineweaver/WHO/EOP [WHO] <Lindsey M. Lineweaver>;Laura E. Lineberry/NSC/EOP [NSC] <Laura E. Lineberry>;Adam L. Levine/WHO/EOP [WHO] <Adam L. Levine>;Christopher S. Legrand/NSC/EOP [NSC] <Christopher S. Legrand>;Sang W. Lee/NSC/EOP [NSC] <Sang W. Lee>;Jennie M. Koch/NSC/EOP [NSC] <Jennie M. Koch>;Andrew M. Kaver/NSC/EOP [UNKNOWN] <Andrew M. Kaver>;Dora Kale/NSC/EOP [NSC] <Dora Kale>;Alexander S. Joves/NSC/EOP [NSC] <Alexander S. Joves>;M. Kay Joshi/NSC/EOP [NSC] <M. Kay Joshi>;Alison Jones/WHO/EOP [WHO] <Alison Jones>;Megan R. Johnston/WHO/EOP [WHO] <Megan R. Johnston>;Sydney R. Johnson/WHO/EOP [WHO] <Sydney R. Johnson>;Clarence C. Johnson/NSC/EOP [NSC] <Clarence C. Johnson>;Gordon D. Johndroe/WHO/EOP [WHO] <Gordon D. Johndroe>;Melanie A. Jackson/WHO/EOP [WHO] <Melanie A. Jackson>;Marilyn R. Jacanin/WHO/EOP [WHO] <Marilyn R. Jacanin>;Restituto M. Francisco/OA/EOP [OA] <Restituto M. Francisco>;Sandra K. Evans/WHO/EOP [WHO] <Sandra K. Evans>;Regina L. Cain/WHO/EOP [WHO] <Regina L. Cain>;Katherine A. Brown/NSC/EOP [NSC] <Katherine A. Brown>;Bonnie S. Broadwick/NSC/EOP [NSC] <Bonnie S. Broadwick>;Theresa M. Hunter/NSC/EOP [NSC] <Theresa M. Hunter>;A. Merrill Hughes/WHO/EOP [UNKNOWN] <A.

Merrill Hughes>;Lamont S. Hoyer/NSC/EOP [NSC] <Lamont S. Hoyer>;Jeffrey P. Houle/NSC/EOP [NSC] <Jeffrey P. Houle>;Ashley Holbrook/WHO/EOP [WHO] <Ashley Holbrook>;Josephine L. Hirsch/WHO/EOP [WHO] <Josephine L. Hirsch>;Jane C. Heishman/NSC/EOP [NSC] <Jane C. Heishman>;Anne Heiligenstein/WHO/EOP [WHO] <Anne Heiligenstein>;Robert C. Hargis/NSC/EOP [NSC] <Robert C. Hargis>;Alison M. Harden/WHO/EOP [WHO] <Alison M. Harden>;Mary Ann Hanusa/WHO/EOP [WHO] <Mary Ann Hanusa>;Thomas A. Hall/NSC/EOP [NSC] <Thomas A. Hall>;Mary A. Haines/NSC/EOP [NSC] <Mary A. Haines>;Katharina M. Hager/WHO/EOP [WHO] <Katharina M. Hager>;Henry C. Hager/WHO/EOP [WHO] <Henry C. Hager>;Albert J. Guarnieri/NSC/EOP [NSC] <Albert J. Guarnieri>;Ginger G. Loper/WHO/EOP [WHO] <Ginger G. Loper>;Andrew W. Green/NSC/EOP [NSC] <Andrew W. Green>;Emily S. Gray/WHO/EOP [WHO] <Emily S. Gray>;Wendy E. Gray/NSC/EOP [NSC] <Wendy E. Gray>;Britt Grant/OPD/EOP [OPD] <Britt Grant>;Blake Gottesman/WHO/EOP [WHO] <Blake Gottesman>;Travis C. Good/NSC/EOP [UNKNOWN] <Travis C. Good>;Georgia D. Godfrey/WHO/EOP [WHO] <Georgia D. Godfrey>;Eleanor L. Gillmor/OPD/EOP [OPD] <Eleanor L. Gillmor>;Dorothy C. Garvin/WHO/EOP [WHO] <Dorothy C. Garvin>;Joachim D. Fuchs/NSC/EOP [NSC] <Joachim D. Fuchs>;Barbara J. Finn/OA/EOP [OA] <Barbara J. Finn>;Kara G. Figg/WHO/EOP [WHO] <Kara G. Figg>;Jeanie L. Figg/WHO/EOP [WHO] <Jeanie L. Figg>;Jennifer D. Field/OVP/EOP [OVP] <Jennifer D. Field>;Douglas M. Erdahl/NSC/EOP [NSC] <Douglas M. Erdahl>;Ruth E. Elliott/NSC/EOP [NSC] <Ruth E. Elliott>;Kady Dunlap/WHO/EOP [WHO] <Kady Dunlap>;Eric A. Draper/WHO/EOP [WHO] <Eric A. Draper>;Joan R. Doty/WHO/EOP [WHO] <Joan R. Doty>;Katherine L. Disston/WHO/EOP [WHO] <Katherine L. Disston>;Reed Dickens/WHO/EOP [WHO] <Reed Dickens>;Josh Deckard/WHO/EOP [WHO] <Josh Deckard>;Ashley E. Davis/WHO/EOP [WHO] <Ashley E. Davis>;Jill Davie/WHO/EOP [WHO] <Jill Davie>;Colin Crosby/NSC/EOP [NSC] <Colin Crosby>;Lynn A. Crable/WHO/EOP [WHO] <Lynn A. Crable>;Colby J. Cooper/NSC/EOP [NSC] <Colby J. Cooper>;Michael J. Conway/WHO/EOP [WHO] <Michael J. Conway>;Carolyn E. Cleveland/WHO/EOP [WHO] <Carolyn E. Cleveland>;Shane P. Chambers/WHO/EOP [WHO] <Shane P. Chambers>;Lois A. Cassano/WHO/EOP [WHO] <Lois A. Cassano>;Pamela R. Casey/WHO/EOP [WHO] <Pamela R. Casey>;Anne E. Campbell/WHO/EOP [WHO] <Anne E. Campbell>;Elizabeth N. Camp/WHO/EOP [WHO] <Elizabeth N. Camp>;Marcia J. Caler/NSC/EOP [UNKNOWN] <Marcia J. Caler>;Johnathan C. Bunting/NSC/EOP [NSC] <Johnathan C. Bunting>;Patrick J. Bumatay/WHO/EOP [WHO] <Patrick J. Bumatay>;Marko R. Broz/NSC/EOP [NSC] <Marko R. Broz>;Gary E. Bresnahan/NSC/EOP [NSC] <Gary E. Bresnahan>;Brian Bravo/WHO/EOP [WHO] <Brian Bravo>;David R. Bohrer/OVP/EOP [OVP] <David R. Bohrer>;Debra D. Bird/WHO/EOP [WHO] <Debra D. Bird>;Melissa S. Bennett/WHO/EOP [WHO] <Melissa S. Bennett>;Cheryl E. Barnett/NSC/EOP [NSC] <Cheryl E. Barnett>;Tiffany L. Barfield/WHO/EOP [WHO] <Tiffany L. Barfield>;Mitchell P. Backfield/NSC/EOP [NSC] <Mitchell P. Backfield>;Jill L. Angelo/WHO/EOP [UNKNOWN] <Jill L. Angelo>;Ashleigh A. Adams/WHO/EOP [UNKNOWN] <Ashleigh A. Adams>

Sent: 11/5/2002 9:18:49 AM

Subject: : POSTMASTER: Mess Holiday Hours

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME: 5-NOV-2002 14:18:49.00
SUBJECT:: POSTMASTER: Mess Holiday Hours
TO:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
TO:Richard J. Tubb ( CN=Richard J. Tubb/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Paul J. Severs ( CN=Paul J. Severs/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Joseph D. Rozek ( CN=Joseph D. Rozek/OU=OVP/O=EOP [ OVP ] )
READ:UNKNOWN
TO:Steven J. Reynolds ( CN=Steven J. Reynolds/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Candida P. Wolff ( CN=Candida P. Wolff/OU=OVP/O=EOP [ OVP ] )
READ:UNKNOWN
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Daniel K. Wilmot ( CN=Daniel K. Wilmot/OU=OVP/O=EOP [ OVP ] )
```

READ:UNKNOWN
TO:James R. Wilkinson (CN=James R. Wilkinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jocelyn White (CN=Jocelyn White/OU=WHF/O=EOP [OPM])
READ:UNKNOWN
TO:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul A. Wedderien (CN=Paul A. Wedderien/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John P. Walters (CN=John P. Walters/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine W. Tobias (CN=Catherine W. Tobias/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jose G. Suarez (CN=Jose G. Suarez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Aquiles F. Suarez (CN=Aquiles F. Suarez/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Angela B. Styles (CN=Angela B. Styles/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary A. Solberg (CN=Mary A. Solberg/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Augustine T. Smythe (CN=Augustine T. Smythe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joseph J. Shattan (CN=Joseph J. Shattan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Sharpy (CN=Thomas J. Sharpy/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Howard A. Schmidt (CN=Howard A. Schmidt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel Schecter (CN=Daniel Schecter/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard M. Russell (CN=Richard M. Russell/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Stephen S. Ruhlen (CN=Stephen S. Ruhlen/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark V. Rosenker (CN=Mark V. Rosenker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Ridge (CN=Thomas J. Ridge/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Nina Rees (CN=Nina Rees/OU=OVP/O=EOP [OVP])

READ:UNKNOWN
TO:Craig Ray (CN=Craig Ray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kathie L. Olsen (CN=Kathie L. Olsen/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Newell (CN=John F. Newell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Manson O. Morris (CN=Manson O. Morris/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Paul D. Montanus (CN=Paul D. Montanus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. McAllister (CN=James M. McAllister/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric C. Pelletier (CN=Eric C. Pelletier/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Marcus Peacock (CN=Marcus Peacock/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Neil S. Patel (CN=Neil S. Patel/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Sean C. O'Keefe (CN=Sean C. O'Keefe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire M. O'Donnell (CN=Claire M. O'Donnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan K. Neely (CN=Susan K. Neely/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen S. McMillin (CN=Stephen S. McMillin/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark McClellan (CN=Mark McClellan/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Mary J. Matalin (CN=Mary J. Matalin/OU=OVP/O=EOP [OVP])

READ:UNKNOWN
TO:Catherine J. Martin (CN=Catherine J. Martin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John H. Marburger (CN=John H. Marburger/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Maisto (CN=John F. Maisto/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin A. MacLean (CN=Robin A. MacLean/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ado A. Machida (CN=Ado A. Machida/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Deborah A. Loewer (CN=Deborah A. Loewer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence B. Lindsey (CN=Lawrence B. Lindsey/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Dirksen Lehman (CN=Dirksen Lehman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Laura S. Lawlor (CN=Laura S. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bruce M. Lawlor (CN=Bruce M. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Randall S. Kroszner (CN=Randall S. Kroszner/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Karen Y. Knutson (CN=Karen Y. Knutson/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Frank G. Klotz (CN=Frank G. Klotz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Ellis Kitchen (CN=Ellis Kitchen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles D. McGrath Jr (CN=Charles D. McGrath Jr/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Reuben Jeffery (CN=Reuben Jeffery/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hector F. Irastorza (CN=Hector F. Irastorza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP [OPD])

READ:UNKNOWN
TO:Julian M. Flannery (CN=Julian M. Flannery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Duncan Campbell (CN=Duncan Campbell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:R. Rand Beers (CN=R. Rand Beers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Glenn Hubbard (CN=Glenn Hubbard/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Jack Howard (CN=Jack Howard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Holman (CN=Mark Holman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Chris Henick (CN=Chris Henick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Debra Heiden (CN=Debra Heiden/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Albert Hawkins (CN=Albert Hawkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald Haskins (CN=Ronald Haskins/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:John P. Hannah (CN=John P. Hannah/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John F. Haley (CN=John F. Haley/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John Graham (CN=John Graham/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:John A. Gordon (CN=John A. Gordon/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen Goldsmith (CN=Stephen Goldsmith/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen M. Garrison (CN=Stephen M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Diana E. Furchtgott-Roth (CN=Diana E. Furchtgott-Roth/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Timothy E. Flanigan (CN=Timothy E. Flanigan/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Everson (CN=Mark Everson/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric S. Edelman (CN=Eric S. Edelman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Wayne A. Downing (CN=Wayne A. Downing/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Nancy P. Dorn (CN=Nancy P. Dorn/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Diana C. Donnelly (CN=Diana C. Donnelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:James F. Daniel (CN=James F. Daniel/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Stacia L. Cropper (CN=Stacia L. Cropper/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Barry Crane (CN=Barry Crane/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:John B. Craig (CN=John B. Craig/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Steven Cooper (CN=Steven Cooper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:James Connaughton (CN=James Connaughton/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cesar Conda (CN=Cesar Conda/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Douglas F. Cochrane (CN=Douglas F. Cochrane/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert W. Cobb (CN=Robert W. Cobb/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:John A. Cloud (CN=John A. Cloud/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin Cleveland (CN=Robin Cleveland/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Richard A. Clarke (CN=Richard A. Clarke/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Frank Cilluffo (CN=Frank Cilluffo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christine Ciccone (CN=Christine Ciccone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OVP/O=EOP [UNKNOWN])

READ:UNKNOWN
TO:Barbara C. Chaffee (CN=Barbara C. Chaffee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James C. Capretta (CN=James C. Capretta/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Tim Campen (CN=Tim Campen/O=EOPEXCH [UNKNOWN])
READ:UNKNOWN
TO:Nicholas E. Calio (CN=Nicholas E. Calio/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott Burns (CN=Scott Burns/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carl Buchholz (CN=Carl Buchholz/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stuart W. Bowen (CN=Stuart W. Bowen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carlos E. Bonilla (CN=Carlos E. Bonilla/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lloyd A. Blanchard (CN=Lloyd A. Blanchard/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Kirk Blalock (CN=Kirk Blalock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen E. Biegun (CN=Stephen E. Biegun/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Janet L. Berman (CN=Janet L. Berman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Barthwell (CN=Andrea G. Barthwell/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Cathy Alix (CN=Cathy Alix/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Penrose C. Albright (CN=Penrose C. Albright/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])

READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Gina M. Wolford (CN=Gina M. Wolford/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David L. Travers (CN=David L. Travers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harry W. Wolff (CN=Harry W. Wolff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Alexian T. Wines (CN=Alexian T. Wines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patricia Williams (CN=Patricia Williams/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jared B. Weinstein (CN=Jared B. Weinstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Matthew C. Waxman (CN=Matthew C. Waxman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lauren J. Vestewig (CN=Lauren J. Vestewig/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Terrill G. Tucker (CN=Terrill G. Tucker/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tevi Troy (CN=Tevi Troy/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Anne Trenolone (CN=Anne Trenolone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carol J. Thompson (CN=Carol J. Thompson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Julieanne H. Thomas (CN=Julieanne H. Thomas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Rachael L. Sunbarger (CN=Rachael L. Sunbarger/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan L. Sterner (CN=Susan L. Sterner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert E. Schubert (CN=Robert E. Schubert/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Deborah Sandler (CN=Deborah Sandler/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jean M. Russell (CN=Jean M. Russell/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Peter M. Rowan (CN=Peter M. Rowan/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Noelia Rodriguez (CN=Noelia Rodriguez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine B. Robinson (CN=Josephine B. Robinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Maurice C. Robinson (CN=Maurice C. Robinson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Christina D. Roberts (CN=Christina D. Roberts/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Allison L. Riepenhoff (CN=Allison L. Riepenhoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:January M. Riecke (CN=January M. Riecke/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Rhodes (CN=Katherine A. Rhodes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Reynolds (CN=Tim Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David Reyes (CN=David Reyes/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie E. Radcliff (CN=Leslie E. Radcliff/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexia Poe (CN=Alexia Poe/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elliott M. Langer (CN=Elliott M. Langer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Clare Pritchett (CN=Clare Pritchett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Suzanne Primoff (CN=Suzanne Primoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John I. Pray (CN=John I. Pray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan D. Phillips (CN=Susan D. Phillips/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah Penny (CN=Sarah Penny/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Raymond H. Payne (CN=Raymond H. Payne/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Richard S. Paulus (CN=Richard S. Paulus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward J. Padinske (CN=Edward J. Padinske/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric H. Otto (CN=Eric H. Otto/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Lee B. Mynatt (CN=Lee B. Mynatt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Steven Myers (CN=Steven Myers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah M. Garrison (CN=Sarah M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul L. Morse (CN=Paul L. Morse/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie A. Mooney (CN=Leslie A. Mooney/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Cathy L. Millison (CN=Cathy L. Millison/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Holly M. Miller (CN=Holly M. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sonya E. Medina (CN=Sonya E. Medina/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Vickie A. McQuade (CN=Vickie A. McQuade/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sara B. McIntosh (CN=Sara B. McIntosh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter A. McCauley (CN=Peter A. McCauley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel M. McCarthy (CN=Daniel M. McCarthy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas S. Marsh (CN=Thomas S. Marsh/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lindsey M. Lineweaver (CN=Lindsey M. Lineweaver/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Laura E. Lineberry (CN=Laura E. Lineberry/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Adam L. Levine (CN=Adam L. Levine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christopher S. Legrand (CN=Christopher S. Legrand/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sang W. Lee (CN=Sang W. Lee/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jennie M. Koch (CN=Jennie M. Koch/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Andrew M. Kaver (CN=Andrew M. Kaver/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Dora Kale (CN=Dora Kale/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexander S. Joves (CN=Alexander S. Joves/OU=NSC/O=EOP [NSC])

READ:UNKNOWN
TO:M. Kay Joshi (CN=M. Kay Joshi/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Megan R. Johnston (CN=Megan R. Johnston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sydney R. Johnson (CN=Sydney R. Johnson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clarence C. Johnson (CN=Clarence C. Johnson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gordon D. Johndroe (CN=Gordon D. Johndroe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melanie A. Jackson (CN=Melanie A. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marilyn R. Jacanin (CN=Marilyn R. Jacanin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Restituto M. Francisco (CN=Restituto M. Francisco/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Sandra K. Evans (CN=Sandra K. Evans/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Regina L. Cain (CN=Regina L. Cain/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Brown (CN=Katherine A. Brown/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Bonnie S. Broadwick (CN=Bonnie S. Broadwick/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Theresa M. Hunter (CN=Theresa M. Hunter/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:A. Merrill Hughes (CN=A. Merrill Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Lamont S. Hoyer (CN=Lamont S. Hoyer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jeffrey P. Houle (CN=Jeffrey P. Houle/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ashley Holbrook (CN=Ashley Holbrook/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine L. Hirsch (CN=Josephine L. Hirsch/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jane C. Heishman (CN=Jane C. Heishman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anne Heiligenstein (CN=Anne Heiligenstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. Hargis (CN=Robert C. Hargis/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison M. Harden (CN=Alison M. Harden/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary Ann Hanusa (CN=Mary Ann Hanusa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas A. Hall (CN=Thomas A. Hall/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary A. Haines (CN=Mary A. Haines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Katharina M. Hager (CN=Katharina M. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Henry C. Hager (CN=Henry C. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Albert J. Guarnieri (CN=Albert J. Guarnieri/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew W. Green (CN=Andrew W. Green/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Emily S. Gray (CN=Emily S. Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wendy E. Gray (CN=Wendy E. Gray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Britt Grant (CN=Britt Grant/OU=OPD/O=EOP [OPD])

READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Travis C. Good (CN=Travis C. Good/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Georgia D. Godfrey (CN=Georgia D. Godfrey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Dorothy C. Garvin (CN=Dorothy C. Garvin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joachim D. Fuchs (CN=Joachim D. Fuchs/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Barbara J. Finn (CN=Barbara J. Finn/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jeanie L. Figg (CN=Jeanie L. Figg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jennifer D. Field (CN=Jennifer D. Field/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Douglas M. Erdahl (CN=Douglas M. Erdahl/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ruth E. Elliott (CN=Ruth E. Elliott/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kady Dunlap (CN=Kady Dunlap/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eric A. Draper (CN=Eric A. Draper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joan R. Doty (CN=Joan R. Doty/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine L. Disston (CN=Katherine L. Disston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Reed Dickens (CN=Reed Dickens/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josh Deckard (CN=Josh Deckard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley E. Davis (CN=Ashley E. Davis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jill Davie (CN=Jill Davie/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colin Crosby (CN=Colin Crosby/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lynn A. Crable (CN=Lynn A. Crable/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colby J. Cooper (CN=Colby J. Cooper/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Shane P. Chambers (CN=Shane P. Chambers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lois A. Cassano (CN=Lois A. Cassano/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Pamela R. Casey (CN=Pamela R. Casey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne E. Campbell (CN=Anne E. Campbell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marcia J. Caler (CN=Marcia J. Caler/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Johnathan C. Bunting (CN=Johnathan C. Bunting/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marko R. Broz (CN=Marko R. Broz/OU=NSC/O=EOP [NSC])

READ:UNKNOWN
TO:Gary E. Bresnahan (CN=Gary E. Bresnahan/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David R. Bohrer (CN=David R. Bohrer/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cheryl E. Barnett (CN=Cheryl E. Barnett/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell P. Backfield (CN=Mitchell P. Backfield/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jill L. Angelo (CN=Jill L. Angelo/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Ashleigh A. Adams (CN=Ashleigh A. Adams/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Mess Holiday Hours

Please note that the White House Mess will be closed for business Saturday, November 9 through Monday November 11 in observance of Veteran's Day. If the need arises, necessary arrangements will be made to meet any unforeseen demands. We apologize for any inconvenience.

Thank you.

MANAGEMENT & ADMINISTRATION

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: noel j. francisco/who/eop@eop [WHO] <noel j. francisco>;h. christopher bartolomucci/who /eop@eop [WHO] <h. christopher bartolomucci>;helgard c. walker/who/eop@eop [WHO] <helgard c. walker>;timothy e. flanigan/who/eop@eop [WHO] <timothy e. flanigan>;benjamin a. powell/who/eop@eop [WHO] <benjamin a. powell>;kyle sampson/who/eop@eop [WHO] <kyle sampson>;jennifer g. newstead/who/eop@eop [WHO] <jennifer g. newstead>;bradford a. berenson/who/eop@eop [WHO] <bradford a. berenson>;alberto r. gonzales/who/eop@eop [WHO] <alberto r. gonzales>
Sent: 11/5/2002 11:26:15 AM
Subject: : Update

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 5-NOV-2002 16:26:15.00
SUBJECT:: Update
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:noel j. francisco ( CN=noel j. francisco/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:h. christopher bartolomucci ( CN=h. christopher bartolomucci/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:helgard c. walker ( CN=helgard c. walker/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:timothy e. flanigan ( CN=timothy e. flanigan/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:benjamin a. powell ( CN=benjamin a. powell/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:kyle sampson ( CN=kyle sampson/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:jennifer g. newstead ( CN=jennifer g. newstead/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:bradford a. berenson ( CN=bradford a. berenson/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:alberto r. gonzales ( CN=alberto r. gonzales/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Drudge now has Rep. Thune up 3 as well, which would mean R's net
+1 seat with Louisiana still to come. All VERY early, of course.




Brett M. Kavanaugh
11/05/2002 04:18:09 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Drudge

From Drudge:
[Based on early exit polls, GOP is set to gain Missouri, Minnesota and
Georgia; DEMS set to gain North Carolina, Colorado, and Arkansas]

If these held, it would net-0 thus far with South Dakota (and then
Louisiana) still to be decided.
```

Message Sent
To:_____
Alberto R. Gonzales/WHO/EOP@EOP
Timothy E. Flanigan/WHO/EOP@EOP
Bradford A. Berenson/WHO/EOP@EOP
Helgard C. Walker/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
H. Christopher Bartolomucci/WHO/EOP@EOP
Kyle Sampson/WHO/EOP@EOP
Noel J. Francisco/WHO/EOP@EOP
Benjamin A. Powell/WHO/EOP@EOP

From: CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: noel j. francisco/who/eop@eop [WHO] <noel j. francisco>;jennifer g. newstead/who/eop@eop [WHO] <jennifer g. newstead>;bradford a. berenson/who/eop@eop [WHO] <bradford a. berenson>;alberto r. gonzales/who/eop@eop [WHO] <alberto r. gonzales>;benjamin a. powell/who/eop@eop [WHO] <benjamin a. powell>;kyle sampson/who/eop@eop [WHO] <kyle sampson>;helgard c. walker/who/eop@eop [WHO] <helgard c. walker>;timothy e. flanigan/who/eop@eop [WHO] <timothy e. flanigan>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>
Sent: 11/5/2002 12:11:09 PM
Subject: : Re: Update

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 5-NOV-2002 17:11:09.00
SUBJECT:: Re: Update
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:noel j. francisco ( CN=noel j. francisco/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:jennifer g. newstead ( CN=jennifer g. newstead/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:bradford a. berenson ( CN=bradford a. berenson/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:alberto r. gonzales ( CN=alberto r. gonzales/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:benjamin a. powell ( CN=benjamin a. powell/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:kyle sampson ( CN=kyle sampson/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:helgard c. walker ( CN=helgard c. walker/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:timothy e. flanigan ( CN=timothy e. flanigan/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:brett m. kavanaugh ( CN=brett m. kavanaugh/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Messr. Drudge now has Pryor ahead by only 2 points...




Brett M. Kavanaugh
11/05/2002 04:40:27 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: Update

. . . with both New Hampshire and Louisiana to come, I should have said .
. .
```

Brett M. Kavanaugh
11/05/2002 04:23:45 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc: Records Management@EOP
Subject: Update

Drudge now has Rep. Thune up 3 as well, which would mean R's net +1 seat with Louisiana still to come. All VERY early, of course.

Brett M. Kavanaugh
11/05/2002 04:18:09 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Drudge

From Drudge:
[Based on early exit polls, GOP is set to gain Missouri, Minnesota and Georgia; DEMS set to gain North Carolina, Colorado, and Arkansas]

If these held, it would net-0 thus far with South Dakota (and then Louisiana) still to be decided.

Message Sent
To:_____
Alberto R. Gonzales/WHO/EOP@EOP
Timothy E. Flanigan/WHO/EOP@EOP
Bradford A. Berenson/WHO/EOP@EOP
Helgard C. Walker/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
H. Christopher Bartolomucci/WHO/EOP@EOP
Kyle Sampson/WHO/EOP@EOP
Noel J. Francisco/WHO/EOP@EOP
Benjamin A. Powell/WHO/EOP@EOP

Message Copied
To:_____
alberto r. gonzales/who/eop@eop
timothy e. flanigan/who/eop@eop
bradford a. berenson/who/eop@eop
helgard c. walker/who/eop@eop
jennifer g. newstead/who/eop@eop
h. christopher bartolomucci/who/eop@eop
kyle sampson/who/eop@eop
noel j. francisco/who/eop@eop
benjamin a. powell/who/eop@eop

Message Copied
To:_____
alberto r. gonzales/who/eop@eop
timothy e. flanigan/who/eop@eop
bradford a. berenson/who/eop@eop
helgard c. walker/who/eop@eop
jennifer g. newstead/who/eop@eop

h. christopher bartolomucci/who/eop@eop
kyle sampson/who/eop@eop
noel j. francisco/who/eop@eop
benjamin a. powell/who/eop@eop

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>;Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>
Sent: 11/6/2002 3:41:08 AM
Subject: :

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 6-NOV-2002 08:41:08.00
SUBJECT::
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

We did NOT send the letter yesterday and are re-tooling it some. I will circulate re-draft shortly.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>
Sent: 11/6/2002 6:03:13 PM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 6-NOV-2002 23:03:13.00
SUBJECT::
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Did you get a chance to review new letter.

.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>
Sent: 11/6/2002 6:03:26 PM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 6-NOV-2002 23:03:26.00
SUBJECT::
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Did you get a chance to review new letter.

.
```

From: Harris, Paul (SMO) <Paul.Harris@usdoj.gov>
To: John F. Wood/OMB/EOP@EOP [OMB] <John F. Wood>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Keisler, Peter D <Peter.D.Keisler@usdoj.gov>;Philip J. Perry/OMB/EOP@EOP [OMB] <Philip J. Perry>;McCallum, Robert <Robert.McCallum@usdoj.gov>;Boudreaux, Chad <Chad.Boudreaux@usdoj.gov>
CC: Carla B. Stone/OMB/EOP@EOP [OMB] <Carla B. Stone>;McKenzie, Peggy <Peggy.McKenzie2@usdoj.gov>;Davis, Deborah J <Deborah.J.Davis@usdoj.gov>;Gunn, Currie <Currie.C.Gunn@usdoj.gov>
Sent: 11/7/2002 5:37:23 AM
Subject: : RE: VCF Meeting

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Harris, Paul (SMO)" <Paul.Harris@usdoj.gov> ("Harris, Paul (SMO)" <Paul.Harris@usdoj.gov> [UNKNOWN])
CREATION DATE/TIME: 7-NOV-2002 10:37:23.00
SUBJECT:: RE: VCF Meeting
TO:John F. Wood (CN=John F. Wood/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:"Keisler, Peter D" <Peter.D.Keisler@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) ("Keisler, Peter D" <Peter.D.Keisler@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN])
READ:UNKNOWN
TO:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:"McCallum, Robert" <Robert.McCallum@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) ("McCallum, Robert" <Robert.McCallum@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN])
READ:UNKNOWN
TO:"Boudreaux, Chad" <Chad.Boudreaux@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) ("Boudreaux, Chad" <Chad.Boudreaux@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN])
READ:UNKNOWN
CC:Carla B. Stone (CN=Carla B. Stone/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:"McKenzie, Peggy" <Peggy.McKenzie2@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) ("McKenzie, Peggy" <Peggy.McKenzie2@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN])
READ:UNKNOWN
CC:"Davis, Deborah J" <Deborah.J.Davis@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) ("Davis, Deborah J" <Deborah.J.Davis@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN])
READ:UNKNOWN
CC:"Gunn, Currie" <Currie.C.Gunn@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) ("Gunn, Currie" <Currie.C.Gunn@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

I will be out tomorrow but will participate by phone.

Paul Clinton Harris, Sr.
Deputy Associate Attorney General
U.S. Department of Justice
(202) 514-1968
(202) 307-3904 fax
E-mail: paul.harris@usdoj.gov

-----Original Message-----
From: Boudreaux, Chad
Sent: Thursday, November 07, 2002 10:26 AM
To: Keisler, Peter D; McCallum, Robert; Harris, Paul (SMO); 'John

Wood (E-mail)'; 'Phil Perry (E-mail)'; 'Brett_M._Kavanaugh@who.eop.gov'
Cc: Gunn, Currie; McKenzie, Peggy; 'cstone@omb.eop.gov'
Subject: RE: VCF Meeting

I heard no objections and, therefore, set up the Victim Compensation meeting for Friday 2:30 to 3:30pm at Main Justice in Civil Conference Room 3143.

-----Original Message-----
From: Boudreaux, Chad
Sent: Tuesday, November 05, 2002 2:17 PM
To: Keisler, Peter D; McCallum, Robert; Harris, Paul (SMO); 'John Wood (E-mail)'; 'Phil Perry (E-mail)'; 'Brett_M._Kavanaugh@who.eop.gov'
Cc: Gunn, Currie; McKenzie, Peggy; 'cstone@omb.eop.gov'
Subject: RE: VCF Meeting

I believe we have a date and time that will work for the VCF meeting. This Friday from 2:30pm to 3:30pm in the Civil Conference Room 3143.

Peter's meeting with Phil and John would follow. Paul hopefully would be available by phone. The weekly meeting with the Special Master would be pushed to next week.

Let me know if this meets with everyone's approval.

-----Original Message-----
From: McKenzie, Peggy
Sent: Tuesday, November 05, 2002 12:26 PM
To: Boudreaux, Chad; Keisler, Peter D; McCallum, Robert; Harris, Paul (SMO); 'John Wood (E-mail)'; 'Phil Perry (E-mail)'
Cc: Gunn, Currie
Subject: RE: VCF Meeting

In checking Peter Keisler's calendar for this Friday, Peter could meet 8:30-9:30. The other possibility is 1:30-2:30, as Phil and John have a 2:30 meeting with Peter.

Peggy McKenzie
OASG

-----Original Message-----
From: Boudreaux, Chad
Sent: Tuesday, November 05, 2002 11:56 AM
To: Keisler, Peter D; McCallum, Robert; Harris, Paul (SMO); John Wood (E-mail); Phil Perry (E-mail)
Cc: McKenzie, Peggy; Gunn, Currie
Subject: VCF Meeting

The meeting on VCF issues -- tentatively scheduled for this Thursday at 8:30am -- has been cancelled. In speaking with all the proposed participants, it appears as if there is no workable time for everyone (including Brett Kavanaugh, who is not copied on this email) to meet on Thursday.

In light of what needs to get accomplished in the coming days, and the importance of the issues that need to be resolved during that time, I recommend we try to reschedule for this Friday. Those of us at DOJ can push our weekly meeting with the Special Master back to Monday morning.

Let me know your thoughts and availability.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Matthew E. Smith/WHO/EOP@EOP [WHO] <Matthew E. Smith>;Heather Wingate/WHO /EOP@EOP [WHO] <Heather Wingate>;Tim Goeglein/WHO/EOP@EOP [WHO] <Tim Goeglein>;Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>
Sent: 11/10/2002 9:42:47 AM
Subject: : Noemie Emery column in Weekly Standard

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:10-NOV-2002 14:42:47.00
SUBJECT:: Noemie Emery column in Weekly Standard
TO:Matthew E. Smith ( CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tim Goeglein ( CN=Tim Goeglein/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

CHALK UP A BIG ONE for Priscilla Owen, an unsung winner of last Tuesday's election, and a partial architect of the Republican victory. Owen is the Texas judge who was a Bush nominee for the U.S. Court of Appeals for the Fifth Circuit. She was described by the American Bar Association as "highly qualified," but her nomination never made it to the Senate floor. The ten Democrats on the Senate Judiciary Committee who served as the gatekeepers objected that she was much too "extreme." What made her "extreme" was her support for parental notification in the case of abortion for minors, a position that over 80 percent of Americans support. Liberal interest groups prevailed on liberal senators, themselves to the left of their party. Two of these senators, Dianne Feinstein and Charles Schumer, announced their intention to make unquestioning support for unrestricted abortion a litmus test for approving judges. Owen went down.

George W. Bush did not forget Owen. In every speech he made in his whirlwind tour just before the election, he was careful to include in his brief against Democrats that they were refusing to let his judges even be voted on. He said this in New Hampshire, in Colorado, in the Carolinas, in Missouri and in Minnesota, in Georgia and Texas. All of these states will now have Republican senators. Feinstein and Schumer are still in the Senate, but in the minority, where their power to block nominees will be vastly reduced. They will be able to vote against Bush nominees on the floor of the Senate, but they will no longer be able to keep them from getting there. Owen will come up again.

What fired up Republican voters? Things just like this. Owen would almost certainly have won on the floor of the Senate, as would Charles Pickering, another ill-fated nominee. But the Democrats used their majority on the committee to keep these Bush picks from reaching the floor. Committee chairman Patrick Leahy also broke his word on a long-standing matter of senatorial courtesy, refusing to let the last nominee of Strom Thurmond

(retiring now at the age of 100) come to a vote in committee. As reporter Byron York explained, "Leahy lied."

Then came New Jersey. What do you do in a key Senate race with a clod of a candidate who is rapidly sinking under the combined weight of multiple scandals? You yank him out and replace him with...Frank Lautenberg, who is ancient and graceless but not actually under indictment. New Jersey had rules for changing steeds in midstream, meant to be used in cases of the illness or death of the candidate (not his moral impairment), and then not to be used any later than 51 days before the election. When Torricelli was yanked, there were 36 days to go. But what are a few laws among friends? They found a state supreme court packed with donors to Democrats. Legalists screamed, but the justices paid no attention. Lautenberg replaced Torricelli on the ballot, and he won.

Or did he? The 2000 Florida recount is often described as a red flag to Democrats--sure to enrage and inspire their fervent supporters. What is said less often (but is no less true) is that Florida is also a red flag to conservatives, who remember with loathing the legal contortions of Al Gore and the law-bending, deadline-extending antics of the Florida courts. Of what did the Supreme Court of New Jersey remind all these people? The Florida supreme court. The Lautenberg switch was everything that they detested: It was opportunistic. It was extra-legal. It was Gorean. And it was Clintonesque. At the time, it was hailed as the masterstroke that would save the Senate for Democrats, but that failed to work out as expected. What does it profit a party if it wins in New Jersey but loses in New Hampshire, Georgia, and Missouri? Lautenberg, like Schumer and Leahy, is now in the Senate, but in the minority. Which will not be all that much fun.

And then came the crash that killed Senator Wellstone. Democrats tried to use this as a means to silence Norm Coleman, suggesting that it was indecent for him to criticize Wellstone's replacement, meanwhile using the feelings stirred up by the death of the senator to whip up their own base. They whipped it up too much, at a memorial service that turned into a foot-stomping rally, repelling voters all over the country who thought that booing and jeering at some of the mourners was not the best way to honor the dead. The service didn't just help to elect Coleman, by dissipating the aura of reverence. Consultants believe there was a spillover, affecting many other tight races. Too many people found the event all too distasteful. And they made the Democrats pay.

DIFFERENT AS THEY ARE, these three things all have something in common, at least for conservatives. They raise what we can describe as the seemliness issue, the issue of decency. They are all cases where the Democrats tried to play smashmouth, blithely bent the law, took too much advantage of loopholes. They were too clever by half, too greedy by half, too eager to dispense with all courtesies. Most Americans don't like to see their judges vetted and vetoed by NARAL; they don't like to see judges trashed at the bidding of NARAL; and they don't like to see people trolling for votes at a funeral. The word for it all is Clintonian.

Clinton himself took a huge hit on Tuesday, sinking his reputation as a political rock star and mastermind. Everywhere he campaigned he left a trail of defeated candidates. He went to Florida to get revenge on Jeb Bush, who seemed to be in a squeaker. After he left, Bush opened a large lead. Clinton's beaming face at Paul Wellstone's memorial also went a long way toward sinking Walter Mondale, and helped feed the backlash. (This also should put an end to the great debate stemming out of the 2000 election, namely: Could Clinton have won it for Gore if Gore had used him? The answer is in now: It's no.)

The blowback from the rally appeared overnight, but other effects were long term and more subtle. Bush could make few direct hits at the people who shot down his judges, who were from safe states, or near the start of their tenure. But he could use them against vulnerable candidates running in key races in other parts of the country, saying that the Democrats there would be part of the system that gave the Leahys and Schumers their power. Did this work as an issue? Ask Ron Kirk, who was regarded as a bright rising star in the Texas Democratic party. Kirk suffered when he failed to stand up for Owen, who is also a native of Texas. Kirk is now history, having lost his race for the Senate by 12 points.

Kirk, of course, never got to vote against Owen, but he paid the price anyhow. So did some others. When the Judiciary Committee took down Mississippi's Judge Pickering, Georgia Democrat Zell Miller took to the floor of the Senate to warn that this vote would cost his party the statehouse in Mississippi. He didn't know the half of it. Last Tuesday, the issue helped bring down Miller's fellow Georgia Democrats Governor Roy Barnes and Senator Max Cleland. Like Kirk, Cleland didn't vote on the judges, but his place in the Senate's Democratic majority had helped make it possible. Bush could not hurt Leahy in Vermont, Schumer in New York, or Feinstein in California, but by taking down Cleland and fending off Kirk, he could push them all back into minority status, where they now have less power. Cleland took the hit for the work of the Leahys and Feinsteins. Nobody said life is fair.

Midterm elections can turn on turnout, and on turnout Republicans won. By all accounts, they were raring to get to the voting booths. According to a Gallup poll on Monday, November 4, 64 percent of Republicans said they were "very eager" to vote, while only about half of Democrats did. And what had them so worked up? Judges and arrogance; New Jersey and Wellstone; a long, long parade of in-your-face crassness, going back in time to the Clinton era, and threatening to continue in the future. For the moment, at least, this tide has been halted. Call it nemesis, call it comeuppance, call it sweet beyond measure. And call it Judge Owen's revenge.

From: CN=Lucy G. Clark/OU=WHO/O=EOP [WHO]
To: Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 11/10/2002 6:32:05 AM
Subject: : Re: Chem site leg

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Lucy G. Clark (CN=Lucy G. Clark/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-NOV-2002 11:32:05.00
SUBJECT:: Re: Chem site leg
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

fyi--re: indemnification/SAFETY Act
---------- Forwarded by Lucy G. Clark/WHO/EOP on 11/10/2002 11:35 AM ----------

Lucy G. Clark
11/10/2002 10:44:11 AM
Record Type: Record

To: Philip J. Perry/OMB/EOP@EOP
cc: John F. Wood/OMB/EOP@EOP
bcc: Records Management@EOP
Subject: Re: Chem site leg

Here's the deal on SAFETY Act/Indemnification.

It's all being driven by the House. Their idea is to push the SAFETY Act -- it is very important to Armey -- and drop the Warner indemnification language. Senate side recognizes that they will have a Warner/Allen problem if they drop the 85-804 language, but believes that is a problem with which they can live.

We have some other big issues. We are going to let them run with this and see where they end up.

On chem site security, it's a dead end. Not going to go anywhere. Sorry.

Philip J. Perry
11/10/2002 10:23:44 AM
Record Type: Record

To: Lucy G. Clark/WHO/EOP@EOP
cc:
Subject: Re: Chem site leg

What happened yesterday?

.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Timothy E. Flanigan/WHO/EOP@EOP [WHO] <Timothy E. Flanigan>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>
Sent: 11/10/2002 9:41:47 AM
Subject: : Noemie Emery column in Weekly Standard


```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:10-NOV-2002 14:41:47.00
SUBJECT:: Noemie Emery column in Weekly Standard
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Timothy E. Flanigan ( CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```


CHALK UP A BIG ONE for Priscilla Owen, an unsung winner of last Tuesday's election, and a partial architect of the Republican victory. Owen is the Texas judge who was a Bush nominee for the U.S. Court of Appeals for the Fifth Circuit. She was described by the American Bar Association as "highly qualified," but her nomination never made it to the Senate floor. The ten Democrats on the Senate Judiciary Committee who served as the gatekeepers objected that she was much too "extreme." What made her "extreme" was her support for parental notification in the case of abortion for minors, a position that over 80 percent of Americans support. Liberal interest groups prevailed on liberal senators, themselves to the left of their party. Two of these senators, Dianne Feinstein and Charles Schumer, announced their intention to make unquestioning support for unrestricted abortion a litmus test for approving judges. Owen went down.

George W. Bush did not forget Owen. In every speech he made in his whirlwind tour just before the election, he was careful to include in his brief against Democrats that they were refusing to let his judges even be voted on. He said this in New Hampshire, in Colorado, in the Carolinas, in Missouri and in Minnesota, in Georgia and Texas. All of these states will now have Republican senators. Feinstein and Schumer are still in the Senate, but in the minority, where their power to block nominees will be

vastly reduced. They will be able to vote against Bush nominees on the floor of the Senate, but they will no longer be able to keep them from getting there. Owen will come up again.

What fired up Republican voters? Things just like this. Owen would almost certainly have won on the floor of the Senate, as would Charles Pickering, another ill-fated nominee. But the Democrats used their majority on the committee to keep these Bush picks from reaching the floor. Committee chairman Patrick Leahy also broke his word on a long-standing matter of senatorial courtesy, refusing to let the last nominee of Strom Thurmond (retiring now at the age of 100) come to a vote in committee. As reporter Byron York explained, "Leahy lied."

Then came New Jersey. What do you do in a key Senate race with a clod of a candidate who is rapidly sinking under the combined weight of multiple scandals? You yank him out and replace him with...Frank Lautenberg, who is ancient and graceless but not actually under indictment. New Jersey had rules for changing steeds in midstream, meant to be used in cases of the illness or death of the candidate (not his moral impairment), and then not to be used any later than 51 days before the election. When Torricelli was yanked, there were 36 days to go. But what are a few laws among friends? They found a state supreme court packed with donors to Democrats. Legalists screamed, but the justices paid no attention. Lautenberg replaced Torricelli on the ballot, and he won.

Or did he? The 2000 Florida recount is often described as a red flag to Democrats--sure to enrage and inspire their fervent supporters. What is said less often (but is no less true) is that Florida is also a red flag to conservatives, who remember with loathing the legal contortions of Al Gore and the law-bending, deadline-extending antics of the Florida courts. Of what did the Supreme Court of New Jersey remind all these people? The Florida supreme court. The Lautenberg switch was everything that they detested: It was opportunistic. It was extra-legal. It was Gorean. And it was Clintonesque. At the time, it was hailed as the masterstroke that would save the Senate for Democrats, but that failed to work out as expected. What does it profit a party if it wins in New Jersey but loses in New Hampshire, Georgia, and Missouri? Lautenberg, like Schumer and Leahy, is now in the Senate, but in the minority. Which will not be all that much fun.

And then came the crash that killed Senator Wellstone. Democrats tried to use this as a means to silence Norm Coleman, suggesting that it was indecent for him to criticize Wellstone's replacement, meanwhile using the feelings stirred up by the death of the senator to whip up their own base. They whipped it up too much, at a memorial service that turned into a foot-stomping rally, repelling voters all over the country who thought that booing and jeering at some of the mourners was not the best way to honor the dead. The service didn't just help to elect Coleman, by dissipating the aura of reverence. Consultants believe there was a spillover, affecting many other tight races. Too many people found the event all too distasteful. And they made the Democrats pay.

DIFFERENT AS THEY ARE, these three things all have something in common, at least for conservatives. They raise what we can describe as the seemliness issue, the issue of decency. They are all cases where the Democrats tried to play smashmouth, blithely bent the law, took too much advantage of loopholes. They were too clever by half, too greedy by half, too eager to dispense with all courtesies. Most Americans don't like to see their judges vetted and vetoed by NARAL; they don't like to see judges trashed at the bidding of NARAL; and they don't like to see people trolling for votes at a funeral. The word for it all is Clintonian.

Clinton himself took a huge hit on Tuesday, sinking his reputation as a political rock star and mastermind. Everywhere he campaigned he left a trail of defeated candidates. He went to Florida to get revenge on Jeb Bush, who seemed to be in a squeaker. After he left, Bush opened a large

lead. Clinton's beaming face at Paul Wellstone's memorial also went a long way toward sinking Walter Mondale, and helped feed the backlash. (This also should put an end to the great debate stemming out of the 2000 election, namely: Could Clinton have won it for Gore if Gore had used him? The answer is in now: It's no.)

The blowback from the rally appeared overnight, but other effects were long term and more subtle. Bush could make few direct hits at the people who shot down his judges, who were from safe states, or near the start of their tenure. But he could use them against vulnerable candidates running in key races in other parts of the country, saying that the Democrats there would be part of the system that gave the Leahys and Schumers their power. Did this work as an issue? Ask Ron Kirk, who was regarded as a bright rising star in the Texas Democratic party. Kirk suffered when he failed to stand up for Owen, who is also a native of Texas. Kirk is now history, having lost his race for the Senate by 12 points.

Kirk, of course, never got to vote against Owen, but he paid the price anyhow. So did some others. When the Judiciary Committee took down Mississippi's Judge Pickering, Georgia Democrat Zell Miller took to the floor of the Senate to warn that this vote would cost his party the statehouse in Mississippi. He didn't know the half of it. Last Tuesday, the issue helped bring down Miller's fellow Georgia Democrats Governor Roy Barnes and Senator Max Cleland. Like Kirk, Cleland didn't vote on the judges, but his place in the Senate's Democratic majority had helped make it possible. Bush could not hurt Leahy in Vermont, Schumer in New York, or Feinstein in California, but by taking down Cleland and fending off Kirk, he could push them all back into minority status, where they now have less power. Cleland took the hit for the work of the Leahys and Feinsteins. Nobody said life is fair.

Midterm elections can turn on turnout, and on turnout Republicans won. By all accounts, they were raring to get to the voting booths. According to a Gallup poll on Monday, November 4, 64 percent of Republicans said they were "very eager" to vote, while only about half of Democrats did. And what had them so worked up? Judges and arrogance; New Jersey and Wellstone; a long, long parade of in-your-face crassness, going back in time to the Clinton era, and threatening to continue in the future. For the moment, at least, this tide has been halted. Call it nemesis, call it comeuppance, call it sweet beyond measure. And call it Judge Owen's revenge.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Matthew E. Smith/WHO/EOP@EOP [WHO] <Matthew E. Smith>;Heather Wingate/WHO /EOP@EOP [WHO] <Heather Wingate>;Tim Goeglein/WHO/EOP@EOP [WHO] <Tim Goeglein>;Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>
Sent: 11/10/2002 9:42:47 AM
Subject: : Noemie Emery column in Weekly Standard

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:10-NOV-2002 14:42:47.00
SUBJECT:: Noemie Emery column in Weekly Standard
TO:Matthew E. Smith ( CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tim Goeglein ( CN=Tim Goeglein/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

CHALK UP A BIG ONE for Priscilla Owen, an unsung winner of last Tuesday's election, and a partial architect of the Republican victory. Owen is the Texas judge who was a Bush nominee for the U.S. Court of Appeals for the Fifth Circuit. She was described by the American Bar Association as "highly qualified," but her nomination never made it to the Senate floor. The ten Democrats on the Senate Judiciary Committee who served as the gatekeepers objected that she was much too "extreme." What made her "extreme" was her support for parental notification in the case of abortion for minors, a position that over 80 percent of Americans support. Liberal interest groups prevailed on liberal senators, themselves to the left of their party. Two of these senators, Dianne Feinstein and Charles Schumer, announced their intention to make unquestioning support for unrestricted abortion a litmus test for approving judges. Owen went down.

George W. Bush did not forget Owen. In every speech he made in his whirlwind tour just before the election, he was careful to include in his brief against Democrats that they were refusing to let his judges even be voted on. He said this in New Hampshire, in Colorado, in the Carolinas, in Missouri and in Minnesota, in Georgia and Texas. All of these states will now have Republican senators. Feinstein and Schumer are still in the Senate, but in the minority, where their power to block nominees will be vastly reduced. They will be able to vote against Bush nominees on the floor of the Senate, but they will no longer be able to keep them from getting there. Owen will come up again.

What fired up Republican voters? Things just like this. Owen would almost certainly have won on the floor of the Senate, as would Charles Pickering, another ill-fated nominee. But the Democrats used their majority on the committee to keep these Bush picks from reaching the floor. Committee chairman Patrick Leahy also broke his word on a long-standing matter of senatorial courtesy, refusing to let the last nominee of Strom Thurmond (retiring now at the age of 100) come to a vote in committee. As reporter Byron York explained, "Leahy lied."

Then came New Jersey. What do you do in a key Senate race with a clod of a candidate who is rapidly sinking under the combined weight of multiple

scandals? You yank him out and replace him with...Frank Lautenberg, who is ancient and graceless but not actually under indictment. New Jersey had rules for changing steeds in midstream, meant to be used in cases of the illness or death of the candidate (not his moral impairment), and then not to be used any later than 51 days before the election. When Torricelli was yanked, there were 36 days to go. But what are a few laws among friends? They found a state supreme court packed with donors to Democrats. Legalists screamed, but the justices paid no attention. Lautenberg replaced Torricelli on the ballot, and he won.

Or did he? The 2000 Florida recount is often described as a red flag to Democrats--sure to enrage and inspire their fervent supporters. What is said less often (but is no less true) is that Florida is also a red flag to conservatives, who remember with loathing the legal contortions of Al Gore and the law-bending, deadline-extending antics of the Florida courts. Of what did the Supreme Court of New Jersey remind all these people? The Florida supreme court. The Lautenberg switch was everything that they detested: It was opportunistic. It was extra-legal. It was Gorean. And it was Clintonesque. At the time, it was hailed as the masterstroke that would save the Senate for Democrats, but that failed to work out as expected. What does it profit a party if it wins in New Jersey but loses in New Hampshire, Georgia, and Missouri? Lautenberg, like Schumer and Leahy, is now in the Senate, but in the minority. Which will not be all that much fun.

And then came the crash that killed Senator Wellstone. Democrats tried to use this as a means to silence Norm Coleman, suggesting that it was indecent for him to criticize Wellstone's replacement, meanwhile using the feelings stirred up by the death of the senator to whip up their own base. They whipped it up too much, at a memorial service that turned into a foot-stomping rally, repelling voters all over the country who thought that booing and jeering at some of the mourners was not the best way to honor the dead. The service didn't just help to elect Coleman, by dissipating the aura of reverence. Consultants believe there was a spillover, affecting many other tight races. Too many people found the event all too distasteful. And they made the Democrats pay.

DIFFERENT AS THEY ARE, these three things all have something in common, at least for conservatives. They raise what we can describe as the seemliness issue, the issue of decency. They are all cases where the Democrats tried to play smashmouth, blithely bent the law, took too much advantage of loopholes. They were too clever by half, too greedy by half, too eager to dispense with all courtesies. Most Americans don't like to see their judges vetted and vetoed by NARAL; they don't like to see judges trashed at the bidding of NARAL; and they don't like to see people trolling for votes at a funeral. The word for it all is Clintonian.

Clinton himself took a huge hit on Tuesday, sinking his reputation as a political rock star and mastermind. Everywhere he campaigned he left a trail of defeated candidates. He went to Florida to get revenge on Jeb Bush, who seemed to be in a squeaker. After he left, Bush opened a large lead. Clinton's beaming face at Paul Wellstone's memorial also went a long way toward sinking Walter Mondale, and helped feed the backlash. (This also should put an end to the great debate stemming out of the 2000 election, namely: Could Clinton have won it for Gore if Gore had used him? The answer is in now: It's no.)

The blowback from the rally appeared overnight, but other effects were long term and more subtle. Bush could make few direct hits at the people who shot down his judges, who were from safe states, or near the start of their tenure. But he could use them against vulnerable candidates running in key races in other parts of the country, saying that the Democrats there would be part of the system that gave the Leahys and Schumers their power. Did this work as an issue? Ask Ron Kirk, who was regarded as a bright rising star in the Texas Democratic party. Kirk suffered when he failed to stand up for Owen, who is also a native of Texas. Kirk is now

history, having lost his race for the Senate by 12 points.

Kirk, of course, never got to vote against Owen, but he paid the price anyhow. So did some others. When the Judiciary Committee took down Mississippi's Judge Pickering, Georgia Democrat Zell Miller took to the floor of the Senate to warn that this vote would cost his party the statehouse in Mississippi. He didn't know the half of it. Last Tuesday, the issue helped bring down Miller's fellow Georgia Democrats Governor Roy Barnes and Senator Max Cleland. Like Kirk, Cleland didn't vote on the judges, but his place in the Senate's Democratic majority had helped make it possible. Bush could not hurt Leahy in Vermont, Schumer in New York, or Feinstein in California, but by taking down Cleland and fending off Kirk, he could push them all back into minority status, where they now have less power. Cleland took the hit for the work of the Leahys and Feinsteins. Nobody said life is fair.

Midterm elections can turn on turnout, and on turnout Republicans won. By all accounts, they were raring to get to the voting booths. According to a Gallup poll on Monday, November 4, 64 percent of Republicans said they were "very eager" to vote, while only about half of Democrats did. And what had them so worked up? Judges and arrogance; New Jersey and Wellstone; a long, long parade of in-your-face crassness, going back in time to the Clinton era, and threatening to continue in the future. For the moment, at least, this tide has been halted. Call it nemesis, call it comeuppance, call it sweet beyond measure. And call it Judge Owen's revenge.

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]
To: Timothy E. Flanigan/WHO/EOP@EOP [WHO] <Timothy E. Flanigan>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: matthew e. smith/who/eop@eop [WHO] <matthew e. smith>
Sent: 11/11/2002 10:42:46 AM
Subject: : Re: Federalist Society event Wednesday at 5:00

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:11-NOV-2002 15:42:46.00
SUBJECT:: Re: Federalist Society event Wednesday at 5:00
TO:Timothy E. Flanigan (CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:matthew e. smith (CN=matthew e. smith/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

I have the Judge down for 5:00 pm in the Indian Treaty Room on Wed., Nov. 13th.

Brett - let me know if you need some time w/ him to discuss. He is wide open all day Tuesday.

Brett M. Kavanaugh
11/11/2002 02:02:29 PM
Record Type: Record

To: Matthew E. Smith/WHO/EOP@EOP
cc: Elizabeth N. Camp/WHO/EOP@EOP
Subject: Federalist Society event Wednesday at 5:00

Judge Gonzales said he would do this.

Matt: I think it would be great if Karl also popped in for a few minutes. Also, can we get the Indian Treaty Room instead of Room 180 since Leonard tells me that about 65 people want to come?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brian C. Conklin/WHO/EOP@EOP [WHO] <Brian C. Conklin>;Matthew Kirk/WHO/EOP@EOP [WHO] <Matthew Kirk>
CC: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
Sent: 11/11/2002 7:17:14 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:11-NOV-2002 12:17:14.00
SUBJECT::
TO:Brian C. Conklin ( CN=Brian C. Conklin/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Matthew Kirk ( CN=Matthew Kirk/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Are House guys going to hold out on liability for something like HR 1
(both sections) or McConnell amendment? What is the plan?
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Erin P. Hassing/OMB/EOP@EOP [OMB] <Erin P. Hassing>;Patrick J. Bumatay/WHO /EOP@EOP [WHO] <Patrick J. Bumatay>
Sent: 11/11/2002 8:20:19 AM
Subject: : Re: LRM EPH203 - - TREASURY Oversight Testimony on Federal Debt Collection
Attachments: P_SCXKB003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:11-NOV-2002 13:20:19.00
SUBJECT:: Re: LRM EPH203 - - TREASURY Oversight Testimony on Federal Debt Collection
TO:Erin P. Hassing (CN=Erin P. Hassing/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

No objection.

Patrick J. Bumatay
11/06/2002 03:20:14 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: LRM EPH203 - - TREASURY Oversight Testimony on Federal Debt Collection

Sorry this is late, for some reason OMB did not read my read my auto response and send it to Libby.
---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 11/06/2002 03:18 PM ----------

From: Erin P. Hassing on 10/31/2002 03:00:55 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: LRM EPH203 - - TREASURY Oversight Testimony on Federal Debt Collection

LRM ID: EPH203
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Thursday, October 31, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: Erin P. Hassing
PHONE: (202)395-3459 FAX: (202)395-6148
SUBJECT: TREASURY Oversight Testimony on Federal Debt Collection

DEADLINE: COB Wednesday, November 6, 2002
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Please review the attached testimony for a November 12th hearing for the House Government Reform Subcommittee on Government Efficiency, Financial Management, and Intergovernmental Relations. Agriculture and GAO are also testifying at this hearing.
Please provide all comments by COB, Wednesday November 6th.

- tt0195a.doc

DISTRIBUTION LIST

AGENCIES:
006-AGRICULTURE (CR) - Wanda Worsham - (202) 720-7095
029-DEFENSE - Vic Bernson - (703) 697-1305
059-INTERIOR - Jane Lyder - (202) 208-4371
054-HOUSING & URBAN DEVELOPMENT - Mike Moran - (202) 708-1793
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773
129-VETERANS AFFAIRS - John H. Thompson - (202) 273-6666
061-JUSTICE - Daniel Bryant - (202) 514-2141
092-Office of Personnel Management - Harry Wolf - (202) 606-1424
107-Small Business Administration - Richard Spence - (202) 205-6700

EOP:
WHGC LRM
OVP LRM
Stephen S. McMillin
Halley M. Roberson
Alan B. Rhinesmith
Mark J. Schwartz
Andrew D. Hire
Joseph L. Kull
Sheila Conley
Jerry E. Williams
Robert J. Shea
Adrienne C. Erbach
Ruth D. Saunders
James Boden
Yvette M. Dennis
Lorenzo Rasetti
Francis S. Redburn
Jack A. Smalligan
Diana L. Meredith
Toni S. Hustead
Cameron M. Leuthy
Wendell H. Waites
Lisa B. Fairhall
Daniel LaPlaca
S. A. Noe
Lauren C. Lobrano
Danielle M. Simonetta
Keith J. Fontenot
Kirsten A. Chadwick
Elizabeth S. Dougherty
Jennifer Wagner Bell
Adam Hoffberg
Joanne Cianci Hoff
Ronald Haskins
Robert F. Mahaffie
Anne Gable
Stuart Shapiro

Arecia A. Grayton
Winifred Y. Chang
Janet E. Irwin
J C. Crutchfield
Daniel J. Chenok
Eva Kleederman
Brooke Dickson
Philip J. Perry
John Wood
Matthew J. Schneider
Steven D. Aitken
Ingrid M. Schroeder
James J. Jukes
LRM ID: EPH203 SUBJECT: TREASURY Oversight Testimony on Federal Debt Collection
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Erin P. Hassing Phone: 395-3459 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-7362

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Sent
To:_____
usdaocrleg@obpa.usda.gov
dodlrs@osdgc.osd.mil
ocl@ios.doi.gov

HUD_LRM@hud.gov
lrm@hhs.gov
valrm@mail.va.gov
justice.lrm@usdoj.gov
ola@opm.gov
cla@sba.gov @ inet

Message Copied
To:_____
WHGC LRM
OVP LRM
Stephen S. McMillin/OMB/EOP@EOP
Halley M. Roberson/OMB/EOP@EOP
Alan B. Rhinesmith/OMB/EOP@EOP
Mark J. Schwartz/OMB/EOP@EOP
Andrew D. Hire/OMB/EOP@EOP
Joseph L. Kull/OMB/EOP@EOP
Sheila Conley/OMB/EOP@EOP
Jerry E. Williams/OMB/EOP@EOP
Robert J. Shea/OMB/EOP@EOP
Adrienne C. Erbach/OMB/EOP@EOP
Ruth D. Saunders/OMB/EOP@EOP
James Boden/OMB/EOP@EOP
Yvette M. Dennis/OMB/EOP@EOP
Lorenzo Rasetti/OMB/EOP@EOP
Francis S. Redburn/OMB/EOP@EOP
Jack A. Smalligan/OMB/EOP@EOP
Diana L. Meredith/OMB/EOP@EOP
Toni S. Hustead/OMB/EOP@EOP
Cameron M. Leuthy/OMB/EOP@EOP
Wendell H. Waites/OMB/EOP@EOP
Lisa B. Fairhall/OMB/EOP@EOP
Daniel LaPlaca/OMB/EOP@EOP
S. A. Noe/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
Danielle M. Simonetta/OMB/EOP@EOP
Keith J. Fontenot/OMB/EOP@EOP
Kirsten A. Chadwick/WHO/EOP@EOP
Elizabeth S. Dougherty/OPD/EOP@EOP
Jennifer Wagner Bell/OMB/EOP@EOP
Adam Hoffberg/OMB/EOP@EOP
Joanne Cianci Hoff/OMB/EOP@EOP
Ronald Haskins/OPD/EOP@EOP
Robert F. Mahaffie/OMB/EOP@EOP
Anne Gable/OMB/EOP@EOP
Stuart Shapiro/OMB/EOP@EOP
Arecia A. Grayton/OMB/EOP@EOP
Winifred Y. Chang/OMB/EOP@EOP
Janet E. Irwin/OMB/EOP@EOP
J C. Crutchfield/OMB/EOP@EOP
Daniel J. Chenok/OMB/EOP@EOP
Eva Kleederman/OMB/EOP@EOP
Brooke Dickson/OMB/EOP@EOP
Philip J. Perry/OMB/EOP@EOP
John_F._Wood@omb.eop.gov
Matthew J. Schneider/OMB/EOP@EOP
Steven D. Aitken/OMB/EOP@EOP
Ingrid M. Schroeder/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_SCXKB003_WHO.TXT_1>

Testimony of
Commissioner Richard L. Gregg
Financial Management Service – U.S. Department of the Treasury
before the
Subcommittee on Government Efficiency, Financial Management
and Intergovernmental Relations
House Committee on Government Reform
November 12, 2002
"Federal Debt Collection: What Progress Have We Made During the Past Year?"

Mr. Chairman and Members of the Subcommittee:

Thank you for inviting me to testify this afternoon to provide an update on the Financial Management Service's (FMS) implementation of the Debt Collection Improvement Act of 1996 (DCIA). As always, the Subcommittee's and your strong personal support has helped the Treasury Department in implementing a remarkably successful government-wide debt collection program that provides exceptional leadership across government, has significantly increased the collection of delinquent debt, and has greatly improved the government's ability to accurately report outstanding delinquent debt.

Mr. Chairman, I understand you are retiring at the end of this Congress. I would like to take this opportunity to state that it has truly been a pleasure to work with you and your staff. I believe you leave behind an important legacy in greatly improving the government's debt collection. I would like to wish you all the best in the coming years.

It is now apparent that Treasury's debt collection program is a fully mature one, and it has developed into an integral component of federal financial management. You may be interested to know that the Treasury program has become a benchmark model. The United Kingdom and an Australian state government are both studying our policies and procedures as they develop their centralized debt collection programs.

Today, Mr. Chairman, I will discuss our future/near-term program plans as well as update you on our overall progress. Before I discuss these two issues, I would like to begin by giving you a brief program report on the U.S. Department of Agriculture's (USDA) participation in the program, as well as share my views on the initiative commonly referred to as "gainsharing".

I am pleased to report a substantial increase in the number of delinquent debt referrals from the USDA. Specifically I would single out the Rural Housing Service, from which we received approximately $231 million in cross-servicing referrals in FY02. Through FY01, we had received only $8.5 million. The Farm Service Agency has also taken some recent positive steps in transferring debts to FMS. The Food and Nutrition Service, I would add, continued to excel in its participation. You may be assured that Treasury remains committed to working with USDA to eliminate any barriers to program participation.

As you know, Mr. Chairman, the DCIA also includes a provision designed to provide an incentive known as gainsharing for agencies to increase collections of delinquent debt by reimbursing them for certain expenses related to collection. Although no funds have actually been appropriated for gainsharing accounts for reimbursement purposes, we have implemented procedures that would enable us to activate the program if and when funds do become available.

Program Accomplishments

Since enactment of the DCIA, FMS has collected about $15 billion in delinquent debt. Since FMS was given responsibility for centralized collection of debt, we have sharply increased collections through program changes, adding numerous payment streams and categories of debt, and have actively worked with agencies to overcome

REV_00154179

obstacles. In FY02 alone, Treasury collected about $2.8 billion in delinquent debt, including $1.4 billion in past due child support; $1.2 billion in federal non-tax debt; and almost $180 million in state and federal tax debt.

Treasury has also worked hard to have agencies refer eligible debt in a timely manner. Last fall, at your suggestion, Secretary O'Neill wrote to the heads of all departments and agencies on the importance of debt referral. In the last year, FMS made important enhancements to the Treasury Report on Receivables Due from the Public (TROR) which enables us to more thoroughly monitor and evaluate agency referral and collection performance by generating computerized five-year trend analysis reports. Also, in the last year, more than 1,100 agency participants attended FMS workshops, conferences, symposia, and seminars on debt collection throughout the country. FMS also conducts meetings with agency Chief Financial Officers (CFO) and finance offices on debt referral and other debt collection developments.

These actions have produced outstanding results. For both the Treasury Offset Program and cross-servicing, currently 93 percent of debt identified as eligible has been referred. To put this in perspective, at the end of FY99, agencies had referred to Treasury only 43 percent of their delinquent cross-servicing debt identified as eligible. During the first four years of the program – 1997 through 2000 – agencies referred roughly $4.3 billion for cross-servicing. In the two years since then, agencies have referred an additional $6 billion.

Mr. Chairman, I would like at this time to give the Subcommittee a progress report on some of Treasury's collection initiatives.

REV_00154180

Benefit Payment Offset

With the cooperation of the Social Security Administration (SSA), the offset of benefit payments, an extraordinarily complex undertaking, continues to go smoothly. In fact, for FY02, FMS collected approximately $55 million in federal non-tax debts through this program.

And as you know, Mr. Chairman, the House version of the welfare reform legislation includes a provision to authorize offset of federal payments including SSA payments to improve collection of delinquent child support debt. FMS and the Department of Health and Human Services (HHS) are working with the Senate in an effort to include a similar provision in the Senate version of the bill. An estimated $50 to $100 million annually in lost child support collections are at stake. This provision would enable us to aggressively target the collection of these funds.

Continuous Federal Tax Levy

With the good support of the IRS, implementation of the continuous federal tax levy initiative continues to go smoothly. Of all the payments being levied, Social Security benefit payments account for most of the levies. For FY02, approximately $60 million was collected, primarily as a result of the SSA benefit levy, which accounts for $43 million of the total.

State Income Tax Debt Collection

FMS implemented the program to collect delinquent state tax debt in 2000. For FY02, $119 million was collected. Currently, 26 of 41 states that collect state income tax and the District of Columbia are participating. Next year, six additional states are expected to begin. FMS is actively encouraging the remaining states to participate. For

REV_00154181

example, FMS has entered into discussions with the State of California, and as a result, FMS intends to visit with state officials shortly to discuss the program.

Administrative Wage Garnishment

FMS issued the regulations to enable federal program agencies to garnish private sector wages in 1998. FMS views Administrative Wage Garnishment (AWG) as a useful collection tool with enormous potential. So that agencies can take full advantage of FMS' centralized processes and established safeguards, we strongly encourage them to use administrative wage garnishment through Treasury's cross-servicing program.

Some agencies are currently using this debt collection tool through FMS, including the Department of Housing and Urban Development. Another agency, HHS, has recently published regulations and several others are preparing to publish regulations which will allow them to participate. FMS is also working closely with the Department of Veterans Affairs and the Department of Defense to help facilitate their participation.

Contract for the Services of Private Collection Agencies

As you are aware, Mr. Chairman, the present contract with private collection agencies went into effect October 1, 2001. We reduced the number of collectors from eleven to five, and have seen solid improvements in performance and service. Since the inception of this program in early 1998, PCAs have collected $109 million. For FY02, PCAs collected $43 million, up from $34 million for FY01.

Future/Near-Term Plans

Centralized Federal Salary Offset

In 2001, FMS began phasing in federal salary payment offsets. Of the five major salary paying agencies, USDA's National Finance Center and the Department of the Interior, both of which process payroll for numerous federal agencies, now participate.

REV_00154182

The U.S. Postal Service and the Department of Defense have committed to participate by the end of this calendar year. In addition to collecting federal non-tax debt, we have also begun to collect tax debt by levying federal salaries. We collected $1.9 million for FY02.

Offset of Non-Treasury Disbursed Vendor Payments

I am pleased to tell you that another new element of our debt collection program is close to fruition. FMS has completed systems testing of the new offset of non-Treasury disbursed payments. We are currently working with the Department of Defense and the U.S. Postal Service to test the transfer of data files between our respective systems. Debts in the FMS debtor database will be compared to Department of Defense and U.S. Postal Service vendor payments. When there is a match, DOD and USPS will offset the payment. This will also be done for debts under continuous tax levy. We believe this initiative holds great promise and will significantly enhance debt collection, and we plan to implement the program later this calendar year.

Delinquent Debtor Database Information Sharing

Barring delinquent debtors from obtaining federal loans and loan guarantees is a high priority for both FMS and for those federal agencies with loan authority. FMS has been developing a system we call "Debt Check" that will allow lending agencies to access information from the FMS delinquent debtor database so that government loans are not made to previously identified delinquent debtors. The database is designed to complement existing sources of information available to agencies – to provide an additional tool to bar delinquent debtors from obtaining federal loan assistance. Debt Check is scheduled to be implemented as a Web-based initiative with the Small Business Administration next month, and other agencies will be phased in gradually.

REV_00154183

Conclusion

Mr. Chairman, in summary, Treasury's debt program is one that is both robust and effective, one that has consistently met or exceeded its performance measures. This concludes my remarks. I would be happy to answer any questions you or the members of the Subcommittee might have.

REV_00154184

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>
Sent: 11/11/2002 8:24:11 AM
Subject: : LRM PTM173 - - OMB Request for Views on SJR44 To consent to amendments to the Hawaii Homes Commission Act, 1920
Attachments: P_2GXKB003_WHO.TXT_1

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:11-NOV-2002 13:24:11.00
SUBJECT:: LRM PTM173 - - OMB Request for Views on SJR44 To consent to amendments to the Hawaii Homes Commission Act, 1920
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 11/11/2002 01:27 PM ----------

Patrick J. Bumatay
11/06/2002 03:34:32 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: LRM PTM173 - - OMB Request for Views on SJR44 To consent to amendments to the Hawaii Homes Commission Act, 1920

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 11/06/2002 03:35 PM ----------

From: P. Thaddeus Messenger on 11/05/2002 11:08:25 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: LRM PTM173 - - OMB Request for Views on SJR44 To consent to amendments to the Hawaii Homes Commission Act, 1920

LRM ID: PTM173
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, November 5, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: P. Thaddeus Messenger
PHONE: (202)395-7754 FAX: (202)395-6148
SUBJECT: OMB Request for Views on SJR44 To consent to amendments to the Hawaii Homes Commission Act, 1920

DEADLINE: 5:00 p.m. Tuesday, November 12, 2002
In accordance with OMB Circular A-19, OMB requests the views of your

agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Attached for your review, please find a copy of the bill text for S. J. Res. 44, as reported by the Senate Energy and Natural Resources Committee on October 8th.

Please provide your comments by 5:00 p.m. Tuesday, November 12, 2002. If we do not receive your comments by that time, we will assume you have no objection to the document as drafted.

If you experience difficulty with this LRM, or its attachment, please contact us immediately. To ensure receipt by Agency addressees, the electronic copy of this LRM will be followed by a duplicate copy via facsimile.

Thank you.

DISTRIBUTION LIST

AGENCIES:
054-HOUSING & URBAN DEVELOPMENT - Mike Moran - (202) 708-1793
007-AGRICULTURE - Jacquelyn Chandler - (202) 720-1272
059-INTERIOR - Jane Lyder - (202) 208-4371
129-VETERANS AFFAIRS - John H. Thompson - (202) 273-6666
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773
061-JUSTICE - Daniel Bryant - (202) 514-2141

EOP:
Stephen S. McMillin
Alan B. Rhinesmith
Francis S. Redburn
Andrea E. Jacobson
Adrienne C. Erbach
Jennifer Wagner Bell
Janet E. Irwin
Gary Ceccucci
Ann Kendrall
VAB
Thomas Reilly
Charles M. Montgomery
Julie L. Haas
Lauren E. Bloomquist
Ellen J. Balis
Elizabeth A. Bernhard
Adriel M. Harvey
Courtney B. Timberlake
Aquiles F. Suarez
NEC LRM
Albert Hawkins
Edward Ingle
OVP LRM
WHGC LRM
Philip J. Perry
Matthew J. Schneider
John F. Wood
Rosalyn J. Rettman
Brian C. Conklin
Matthew Kirk
Christine M. Burgeson
Danielle M. Simonetta
Lauren C. Lobrano
Elizabeth L. Rossman

James J. Jukes
Ingrid M. Schroeder
P. Thaddeus Messenger
John D. Burnim
Robert Weisberg
LRM ID: PTM173 SUBJECT: OMB Request for Views on SJR44 To consent to amendments to the Hawaii Homes Commission Act, 1920
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: P. Thaddeus Messenger Phone: 395-7754 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Sent
To:_____
HUD_LRM@hud.gov
usdaobpaleg@obpa.usda.gov
ocl@ios.doi.gov
valrm@mail.va.gov
lrm@hhs.gov
justice.lrm@usdoj.gov

Message Copied
To:_____
Stephen S. McMillin/OMB/EOP@EOP

Alan B. Rhinesmith/OMB/EOP@EOP
Francis S. Redburn/OMB/EOP@EOP
Andrea E. Jacobson/OMB/EOP@EOP
Adrienne C. Erbach/OMB/EOP@EOP
Jennifer Wagner Bell/OMB/EOP@EOP
Janet E. Irwin/OMB/EOP@EOP
Gary Ceccucci/OMB/EOP@EOP
Ann Kendrall/OMB/EOP@EOP
Toni S. Hustead/OMB/EOP@EOP
Arecia A. Grayton/OMB/EOP@EOP
Winifred Y. Chang/OMB/EOP@EOP
Kelli A. Hagen/OMB/EOP@EOP
Lourdes M. Lamela/OMB/EOP@EOP
Shalini M. Benson/OMB/EOP@EOP
Danny A. Ermann/OMB/EOP@EOP
Narahari Sastry/OMB/EOP@EOP
John J. Bartrum/OMB/EOP@EOP
Mark R. Seastrom/OMB/EOP@EOP
Thomas Reilly/OMB/EOP@EOP
Charles M. Montgomery/OMB/EOP@EOP
Julie L. Haas/OMB/EOP@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
Ellen J. Balis/OMB/EOP@EOP
Elizabeth A. Bernhard/OMB/EOP@EOP
Adriel M. Harvey/OMB/EOP@EOP
Courtney B. Timberlake/OMB/EOP@EOP
Aquiles F. Suarez/OPD/EOP@EOP
NEC LRM
Albert Hawkins/WHO/EOP@EOP
Edward Ingle/WHO/EOP@EOP
OVP LRM
WHGC LRM
Philip J. Perry/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Rosalyn J. Rettman/OMB/EOP@EOP
Brian C. Conklin/WHO/EOP@EOP
Matthew Kirk/WHO/EOP@EOP
Christine M. Burgeson/OMB/EOP@EOP
Danielle M. Simonetta/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
Elizabeth L. Rossman/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Ingrid M. Schroeder/OMB/EOP@EOP
P. Thaddeus Messenger/OMB/EOP@EOP
John D. Burnim/OMB/EOP@EOP
Robert Weisberg/OMB/EOP@EOP

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_2GXKB003_WHO.TXT_1>

Calendar No. 672

107TH CONGRESS
2D SESSION

S. J. RES. 44

To consent to amendments to the Hawaii Homes Commission Act, 1920.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 17, 2002

Mr. AKAKA (for himself and Mr. INOUYE) introduced the following joint resolution; which was read twice and referred to the Committee on Energy and Natural Resources

OCTOBER 8, 2002

Reported by Mr. BINGAMAN, with amendments

[Omit the part struck through and insert the part printed in italic]

JOINT RESOLUTION

To consent to amendments to the Hawaii Homes Commission Act, 1920.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSENT TO AMENDMENTS TO HAWAII HOMES COMMISSION ACT, 1920.

(a) IN GENERAL.—In accordance with section 4 of Public Law 86–3 (73 Stat. 4), the United States consents

REV_00154191

to the following ~~amendments~~ *amendment* to the Hawaii Homes Commission Act, 1920:

(1) Act 107 of the Session Laws of Hawaii, 2001.

~~(2) Act 302 of the Session Laws of Hawaii, 2002.~~

REV_00154192

Calendar No. 672

107TH CONGRESS
2D SESSION

S. J. RES. 44

JOINT RESOLUTION

To consent to amendments to the Hawaii Homes Commission Act, 1920.

OCTOBER 8, 2002

Reported with amendments

REV_00154194

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Whelan, M Edward III <M.Edward.Whelan@usdoj.gov>
Sent: 11/11/2002 11:47:45 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:11-NOV-2002 16:47:45.00
SUBJECT::
TO:"Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov> ( "Whelan, M Edward III"
<M.Edward.Whelan@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

what is your FAX
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: m.edward.whelan@usdoj.gov @ inet [UNKNOWN] <m.edward.whelan@usdoj.gov @ inet>
Sent: 11/12/2002 3:41:31 AM
Subject: : final text
Attachments: P_UU8LB003_WHO.TXT_1.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:12-NOV-2002 08:41:31.00
SUBJECT:: final text
TO:m.edward.whelan@usdoj.gov @ inet (m.edward.whelan@usdoj.gov @ inet [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Your opinion should reference the sections in the final text.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 11/12/2002 08:44 AM ----------

Matthew Kirk
11/12/2002 07:06:46 AM
Record Type: Record

To: Brian C. Conklin/WHO/EOP@EOP
cc: Brett M. Kavanaugh/WHO/EOP@EOP, Kristen Silverberg
Subject: Per your request:

---------- Forwarded by Matthew Kirk/WHO/EOP on 11/12/2002 07:12 AM ----------

Laura_Ayoud@slc.senate.gov (Laura Ayoud)
11/11/2002 06:57:08 PM
Record Type: Record

To: Matthew Kirk/WHO/EOP@EOP
cc:
Subject: Per your request:

Hi Matt:
The attached is the 'final' version of the legislative text, for your review.
The actual conference report will be reprinted without a date at the bottom, but
I'll do that once all of the other pieces are finished. I also did another document comparing the Oct. 17 draft (AYO02.921) to this one , so please call
if you'd like me to fax over a copy of that.

Laura Ayoud
(202-224-6461)

- AYO02_952.pdf

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_UU8LB003_WHO.TXT_1>

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Terrorism Risk Insurance Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—TERRORISM INSURANCE PROGRAM

Sec. 101. Congressional findings and purpose.
Sec. 102. Definitions.
Sec. 103. Terrorism Insurance Program.
Sec. 104. General authority and administration of claims.
Sec. 105. Preemption and nullification of pre-existing terrorism exclusions.
Sec. 106. Preservation provisions.
Sec. 107. Litigation management.
Sec. 108. Termination of Program.

TITLE II—TREATMENT OF TERRORIST ASSETS

Sec. 201. Satisfaction of judgments from blocked assets of terrorists, terrorist organizations, and State sponsors of terrorism.

TITLE III—FEDERAL RESERVE BOARD PROVISIONS

Sec. 301. Certain authority of the Board of Governors of the Federal Reserve System.

TITLE I—TERRORISM INSURANCE PROGRAM

SEC. 101. CONGRESSIONAL FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the ability of businesses and individuals to obtain property and casualty insurance at reasonable and predictable prices, in order to spread the risk of both routine and catastrophic loss, is critical to economic growth, urban development, and the construction and maintenance of public and private housing, as well as to the promotion of United States exports

REV_00154253

and foreign trade in an increasingly interconnected world;

(2) property and casualty insurance firms are important financial institutions, the products of which allow mutualization of risk and the efficient use of financial resources and enhance the ability of the economy to maintain stability, while responding to a variety of economic, political, environmental, and other risks with a minimum of disruption;

(3) the ability of the insurance industry to cover the unprecedented financial risks presented by potential acts of terrorism in the United States can be a major factor in the recovery from terrorist attacks, while maintaining the stability of the economy;

(4) widespread financial market uncertainties have arisen following the terrorist attacks of September 11, 2001, including the absence of information from which financial institutions can make statistically valid estimates of the probability and cost of future terrorist events, and therefore the size, funding, and allocation of the risk of loss caused by such acts of terrorism;

(5) a decision by property and casualty insurers to deal with such uncertainties, either by termi-

REV_00154254

nating property and casualty coverage for losses arising from terrorist events, or by radically escalating premium coverage to compensate for risks of loss that are not readily predictable, could seriously hamper ongoing and planned construction, property acquisition, and other business projects, generate a dramatic increase in rents, and otherwise suppress economic activity; and

(6) the United States Government should provide temporary financial compensation to insured parties, contributing to the stabilization of the United States economy in a time of national crisis, while the financial services industry develops the systems, mechanisms, products, and programs necessary to create a viable financial services market for private terrorism risk insurance.

(b) PURPOSE.—The purpose of this title is to establish a temporary Federal program that provides for a transparent system of shared public and private compensation for insured losses resulting from acts of terrorism, in order to—

(1) protect consumers by addressing market disruptions and ensure the continued widespread availability and affordability of property and casualty insurance for terrorism risk; and

REV_00154255

(2) allow for a transitional period for the private markets to stabilize, resume pricing of such insurance, and build capacity to absorb any future losses, while preserving State insurance regulation and consumer protections.

SEC. 102. DEFINITIONS.

In this title, the following definitions shall apply:

(1) ACT OF TERRORISM.—

(A) CERTIFICATION.—The term ''act of terrorism'' means any act that is certified by the Secretary, in concurrence with the Secretary of State, and the Attorney General of the United States—

(i) to be an act of terrorism;

(ii) to be a violent act or an act that is dangerous to—

(I) human life;

(II) property; or

(III) infrastructure;

(iii) to have resulted in damage within the United States, or outside of the United States in the case of—

(I) an air carrier or vessel described in paragraph (5)(B); or

REV_00154256

(II) the premises of a United States mission; and

(iv) to have been committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

(B) LIMITATION.—No act shall be certified by the Secretary as an act of terrorism if—

(i) the act is committed as part of the course of a war declared by the Congress, except that this clause shall not apply with respect to any coverage for workers' compensation; or

(ii) property and casualty insurance losses resulting from the act, in the aggregate, do not exceed $5,000,000.

(C) DETERMINATIONS FINAL.—Any certification of, or determination not to certify, an act as an act of terrorism under this paragraph shall be final, and shall not be subject to judicial review.

REV_00154257

(D) NONDELEGATION.—The Secretary may not delegate or designate to any other officer, employee, or person, any determination under this paragraph of whether, during the effective period of the Program, an act of terrorism has occurred.

(2) AFFILIATE.—The term ''affiliate'' means, with respect to an insurer, any entity that controls, is controlled by, or is under common control with the insurer.

(3) CONTROL.—An entity has ''control'' over another entity, if—

(A) the entity directly or indirectly or acting through 1 or more other persons owns, controls, or has power to vote 25 percent or more of any class of voting securities of the other entity;

(B) the entity controls in any manner the election of a majority of the directors or trustees of the other entity; or

(C) the Secretary determines, after notice and opportunity for hearing, that the entity directly or indirectly exercises a controlling influence over the management or policies of the other entity.

REV_00154258

(4) DIRECT EARNED PREMIUM.—The term "direct earned premium" means a direct earned premium for property and casualty insurance issued by any insurer for insurance against losses occurring at the locations described in subparagraphs (A) and (B) of paragraph (5).

(5) INSURED LOSS.—The term "insured loss" means any loss resulting from an act of terrorism (including an act of war, in the case of workers' compensation) that is covered by primary or excess property and casualty insurance issued by an insurer if such loss—

(A) occurs within the United States; or

(B) occurs to an air carrier (as defined in section 40102 of title 49, United States Code), to a United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), regardless of where the loss occurs, or at the premises of any United States mission.

(6) INSURER.—The term "insurer" means any entity, including any affiliate thereof—

(A) that is—

REV_00154259

(i) licensed or admitted to engage in the business of providing primary or excess insurance in any State;

(ii) not licensed or admitted as described in clause (i), if it is an eligible surplus line carrier listed on the Quarterly Listing of Alien Insurers of the NAIC, or any successor thereto;

(iii) approved for the purpose of offering property and casualty insurance by a Federal agency in connection with maritime, energy, or aviation activity;

(iv) a State residual market insurance entity or State workers' compensation fund; or

(v) any other entity described in section 103(f), to the extent provided in the rules of the Secretary issued under section 103(f);

(B) that receives direct earned premiums for any type of commercial property and casualty insurance coverage, other than in the case of entities described in sections 103(d) and 103(f); and

REV_00154260

(C) that meets any other criteria that the Secretary may reasonably prescribe.

(7) INSURER DEDUCTIBLE.—The term ''insurer deductible'' means—

(A) for the Transition Period, the value of an insurer's direct earned premiums over the calendar year immediately preceding the date of enactment of this Act, multiplied by 1 percent;

(B) for Program Year 1, the value of an insurer's direct earned premiums over the calendar year immediately preceding Program Year 1, multiplied by 7 percent;

(C) for Program Year 2, the value of an insurer's direct earned premiums over the calendar year immediately preceding Program Year 2, multiplied by 10 percent;

(D) for Program Year 3, the value of an insurer's direct earned premiums over the calendar year immediately preceding Program Year 3, multiplied by 15 percent; and

(E) notwithstanding subparagraphs (A) through (D), for the Transition Period, Program Year 1, Program Year 2, or Program Year 3, if an insurer has not had a full year of operations during the calendar year imme-

REV_00154261

diately preceding such Period or Program Year, such portion of the direct earned premiums of the insurer as the Secretary determines appropriate, subject to appropriate methodologies established by the Secretary for measuring such direct earned premiums.

(8) NAIC.—The term "NAIC" means the National Association of Insurance Commissioners.

(9) PERSON.—The term "person" means any individual, business or nonprofit entity (including those organized in the form of a partnership, limited liability company, corporation, or association), trust or estate, or a State or political subdivision of a State or other governmental unit.

(10) PROGRAM.—The term "Program" means the Terrorism Insurance Program established by this title.

(11) PROGRAM YEARS.—

(A) TRANSITION PERIOD.—The term "Transition Period" means the period beginning on the date of enactment of this Act and ending on December 31, 2002.

(B) PROGRAM YEAR 1.—The term "Program Year 1" means the period beginning on

REV_00154262

January 1, 2003 and ending on December 31, 2003.

(C) PROGRAM YEAR 2.—The term "Program Year 2" means the period beginning on January 1, 2004 and ending on December 31, 2004.

(D) PROGRAM YEAR 3.—The term "Program Year 3" means the period beginning on January 1, 2005 and ending on December 31, 2005.

(12) PROPERTY AND CASUALTY INSURANCE.—The term "property and casualty insurance"—

(A) means commercial lines of property and casualty insurance, including excess insurance, workers' compensation insurance, and surety insurance; and

(B) does not include—

(i) Federal crop insurance issued or reinsured under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), or any other type of crop or livestock insurance that is privately issued or reinsured;

(ii) private mortgage insurance (as that term is defined in section 2 of the

REV_00154263

Homeowners Protection Act of 1998 (12 U.S.C. 4901)) or title insurance;

(iii) financial guaranty insurance issued by monoline financial guaranty insurance corporations;

(iv) insurance for medical malpractice;

(v) health or life insurance, including group life insurance;

(vi) flood insurance provided under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.); or

(vii) reinsurance or retrocessional reinsurance.

(13) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(14) STATE.—The term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, each of the United States Virgin Islands, and any territory or possession of the United States.

(15) UNITED STATES.—The term ''United States'' means the several States, and includes the territorial sea and the continental shelf of the

REV_00154264

United States, as those terms are defined in the Violent Crime Control and Law Enforcement Act of 1994 (18 U.S.C. 2280, 2281).

(16) RULE OF CONSTRUCTION FOR DATES.—With respect to any reference to a date in this title, such day shall be construed—

(A) to begin at 12:01 a.m. on that date; and

(B) to end at midnight on that date.

SEC. 103. TERRORISM INSURANCE PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—There is established in the Department of the Treasury the Terrorism Insurance Program.

(2) AUTHORITY OF THE SECRETARY.—Notwithstanding any other provision of State or Federal law, the Secretary shall administer the Program, and shall pay the Federal share of compensation for insured losses in accordance with subsection (e).

(3) MANDATORY PARTICIPATION.—Each entity that meets the definition of an insurer under this title shall participate in the Program.

(b) CONDITIONS FOR FEDERAL PAYMENTS.—No payment may be made by the Secretary under this section

REV_00154265

with respect to an insured loss that is covered by an insurer, unless—

(1) the person that suffers the insured loss, or a person acting on behalf of that person, files a claim with the insurer;

(2) the insurer provides clear and conspicuous disclosure to the policyholder of the premium charged for insured losses covered by the Program and the Federal share of compensation for insured losses under the Program—

(A) in the case of any policy that is issued before the date of enactment of this Act, not later than 90 days after that date of enactment;

(B) in the case of any policy that is issued within 90 days of the date of enactment of this Act, at the time of offer, purchase, and renewal of the policy; and

(C) in the case of any policy that is issued more than 90 days after the date of enactment of this Act, on a separate line item in the policy, at the time of offer, purchase, and renewal of the policy;

(3) the insurer processes the claim for the insured loss in accordance with appropriate business

REV_00154266

practices, and any reasonable procedures that the Secretary may prescribe; and

(4) the insurer submits to the Secretary, in accordance with such reasonable procedures as the Secretary may establish—

(A) a claim for payment of the Federal share of compensation for insured losses under the Program;

(B) written certification—

(i) of the underlying claim; and

(ii) of all payments made for insured losses; and

(C) certification of its compliance with the provisions of this subsection.

(c) MANDATORY AVAILABILITY.—

(1) INITIAL PROGRAM PERIODS.—During the period beginning on the first day of the Transition Period and ending on the last day of Program Year 2, each entity that meets the definition of an insurer under section 102—

(A) shall make available, in all of its property and casualty insurance policies, coverage for insured losses; and

(B) shall make available property and casualty insurance coverage for insured losses that

REV_00154267

does not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism.

(2) PROGRAM YEAR 3.—Not later than September 1, 2004, the Secretary shall, based on the factors referred to in section 108(d)(1), determine whether the provisions of subparagraphs (A) and (B) of paragraph (1) should be extended through Program Year 3.

(d) STATE RESIDUAL MARKET INSURANCE ENTITIES.—

(1) IN GENERAL.—The Secretary shall issue regulations, as soon as practicable after the date of enactment of this Act, that apply the provisions of this title to State residual market insurance entities and State workers' compensation funds.

(2) TREATMENT OF CERTAIN ENTITIES.—For purposes of the regulations issued pursuant to paragraph (1)—

(A) a State residual market insurance entity that does not share its profits and losses with private sector insurers shall be treated as a separate insurer; and

REV_00154268

(B) a State residual market insurance entity that shares its profits and losses with private sector insurers shall not be treated as a separate insurer, and shall report to each private sector insurance participant its share of the insured losses of the entity, which shall be included in each private sector insurer's insured losses.

(3) TREATMENT OF PARTICIPATION IN CERTAIN ENTITIES.—Any insurer that participates in sharing profits and losses of a State residual market insurance entity shall include in its calculations of premiums any premiums distributed to the insurer by the State residual market insurance entity.

(e) INSURED LOSS SHARED COMPENSATION.—

(1) FEDERAL SHARE.—

(A) IN GENERAL.—The Federal share of compensation under the Program to be paid by the Secretary for insured losses of an insurer during the Transition Period and each Program Year shall be equal to 90 percent of that portion of the amount of such insured losses that exceeds the applicable insurer deductible required to be paid during such Transition Period or such Program Year.

REV_00154269

(B) PROHIBITION ON DUPLICATIVE COMPENSATION.—The Federal share of compensation for insured losses under the Program shall be reduced by the amount of compensation provided by the Federal Government to any person under any other Federal program for those insured losses.

(2) CAP ON ANNUAL LIABILITY.—

(A) IN GENERAL.—Notwithstanding paragraph (1) or any other provision of Federal or State law, if the aggregate insured losses exceed $100,000,000,000, during the period beginning on the first day of the Transition Period and ending on the last day of Program Year 1, or during Program Year 2 or Program Year 3 (until such time as the Congress may act otherwise with respect to such losses)—

(i) the Secretary shall not make any payment under this title for any portion of the amount of such losses that exceeds $100,000,000,000; and

(ii) no insurer that has met its insurer deductible shall be liable for the payment of any portion of that amount that exceeds $100,000,000,000.

REV_00154270

(B) INSURER SHARE.—For purposes of subparagraph (A), the Secretary shall determine the pro rata share of insured losses to be paid by each insurer that incurs insured losses under the Program.

(3) NOTICE TO CONGRESS.—The Secretary shall notify the Congress if estimated or actual aggregate insured losses exceed $100,000,000,000 during the period beginning on the first day of the Transition Period and ending on the last day of Program Year 1, or during Program Year 2 or Program Year 3, and the Congress shall determine the procedures for and the source of any payments for such excess insured losses.

(4) FINAL NETTING.—The Secretary shall have sole discretion to determine the time at which claims relating to any insured loss or act of terrorism shall become final.

(5) DETERMINATIONS FINAL.—Any determination of the Secretary under this subsection shall be final, unless expressly provided, and shall not be subject to judicial review.

(6) INSURANCE MARKETPLACE AGGREGATE RETENTION AMOUNT.—For purposes of paragraph (7),

REV_00154271

the insurance marketplace aggregate retention amount shall be—

(A) for the period beginning on the first day of the Transition Period and ending on the last day of Program Year 1, the lesser of—

(i) $10,000,000,000; and

(ii) the aggregate amount, for all insurers, of insured losses during such period;

(B) for Program Year 2, the lesser of—

(i) $12,500,000,000; and

(ii) the aggregate amount, for all insurers, of insured losses during such Program Year; and

(C) for Program Year 3, the lesser of—

(i) $15,000,000,000; and

(ii) the aggregate amount, for all insurers, of insured losses during such Program Year.

(7) RECOUPMENT OF FEDERAL SHARE.—

(A) MANDATORY RECOUPMENT AMOUNT.—For purposes of this paragraph, the mandatory recoupment amount for each of the periods referred to in subparagraphs (A), (B), and (C) of paragraph (6) shall be the difference between—

REV_00154272

(i) the insurance marketplace aggregate retention amount under paragraph (6) for such period; and

(ii) the aggregate amount, for all insurers, of insured losses during such period that are not compensated by the Federal Government because such losses—

(I) are within the insurer deductible for the insurer subject to the losses; or

(II) are within the portion of losses of the insurer that exceed the insurer deductible, but are not compensated pursuant to paragraph (1).

(B) NO MANDATORY RECOUPMENT IF UNCOMPENSATED LOSSES EXCEED INSURANCE MARKETPLACE RETENTION.—Notwithstanding subparagraph (A), if the aggregate amount of uncompensated insured losses referred to in clause (ii) of such subparagraph for any period referred to in subparagraph (A), (B), or (C) of paragraph (6) is greater than the insurance marketplace aggregate retention amount under paragraph (6) for such period, the mandatory recoupment amount shall be $0.

REV_00154273

(C) MANDATORY ESTABLISHMENT OF SURCHARGES TO RECOUP MANDATORY RECOUPMENT AMOUNT.—The Secretary shall collect, for repayment of the Federal financial assistance provided in connection with all acts of terrorism (or acts of war, in the case of workers compensation) occurring during any of the periods referred to in subparagraph (A), (B), or (C) of paragraph (6), terrorism loss risk-spreading premiums in an amount equal to any mandatory recoupment amount for such period.

(D) DISCRETIONARY RECOUPMENT OF REMAINDER OF FINANCIAL ASSISTANCE.—To the extent that the amount of Federal financial assistance provided exceeds any mandatory recoupment amount, the Secretary may recoup, through terrorism loss risk-spreading premiums, such additional amounts that the Secretary believes can be recouped, based on—

(i) the ultimate costs to taxpayers of no additional recoupment;

(ii) the economic conditions in the commercial marketplace, including the capitalization, profitability, and investment re-

REV_00154274

turns of the insurance industry and the current cycle of the insurance markets;

(iii) the affordability of commercial insurance for small- and medium-sized businesses; and

(iv) such other factors as the Secretary considers appropriate.

(8) POLICY SURCHARGE FOR TERRORISM LOSS RISK-SPREADING PREMIUMS.—

(A) POLICYHOLDER PREMIUM.—Any amount established by the Secretary as a terrorism loss risk-spreading premium shall—

(i) be imposed as a policyholder premium surcharge on property and casualty insurance policies in force after the date of such establishment;

(ii) begin with such period of coverage during the year as the Secretary determines appropriate; and

(iii) be based on a percentage of the premium amount charged for property and casualty insurance coverage under the policy.

(B) COLLECTION.—The Secretary shall provide for insurers to collect terrorism loss

REV_00154275

risk-spreading premiums and remit such amounts collected to the Secretary.

(C) PERCENTAGE LIMITATION.—A terrorism loss risk-spreading premium (including any additional amount included in such premium on a discretionary basis pursuant to paragraph (7)(D)) may not exceed, on an annual basis, the amount equal to 3 percent of the premium charged for property and casualty insurance coverage under the policy.

(D) ADJUSTMENT FOR URBAN AND SMALLER COMMERCIAL AND RURAL AREAS AND DIFFERENT LINES OF INSURANCE.—

(i) ADJUSTMENTS.—In determining the method and manner of imposing terrorism loss risk-spreading premiums, including the amount of such premiums, the Secretary shall take into consideration—

(I) the economic impact on commercial centers of urban areas, including the effect on commercial rents and commercial insurance premiums, particularly rents and premiums charged to small businesses, and the avail-

REV_00154276

ability of lease space and commercial insurance within urban areas;

(II) the risk factors related to rural areas and smaller commercial centers, including the potential exposure to loss and the likely magnitude of such loss, as well as any resulting cross-subsidization that might result; and

(III) the various exposures to terrorism risk for different lines of insurance.

(ii) RECOUPMENT OF ADJUSTMENTS.—Any mandatory recoupment amounts not collected by the Secretary because of adjustments under this subparagraph shall be recouped through additional terrorism loss risk-spreading premiums.

(E) TIMING OF PREMIUMS.—The Secretary may adjust the timing of terrorism loss risk-spreading premiums to provide for equivalent application of the provisions of this title to policies that are not based on a calendar year, or to apply such provisions on a daily, monthly, or quarterly basis, as appropriate.

REV_00154277

(f) CAPTIVE INSURERS AND OTHER SELF-INSURANCE ARRANGEMENTS.—The Secretary may, in consultation with the NAIC or the appropriate State regulatory authority, apply the provisions of this title, as appropriate, to other classes or types of captive insurers and other self-insurance arrangements by municipalities and other entities (such as workers' compensation self-insurance programs and State workers' compensation reinsurance pools), but only if such application is determined before the occurrence of an act of terrorism in which such an entity incurs an insured loss and all of the provisions of this title are applied comparably to such entities.

(g) REINSURANCE TO COVER EXPOSURE.—

(1) OBTAINING COVERAGE.—This title may not be construed to limit or prevent insurers from obtaining reinsurance coverage for insurer deductibles or insured losses retained by insurers pursuant to this section, nor shall the obtaining of such coverage affect the calculation of such deductibles or retentions.

(2) LIMITATION ON FINANCIAL ASSISTANCE.—The amount of financial assistance provided pursuant to this section shall not be reduced by reinsurance paid or payable to an insurer from other sources, except that recoveries from such other

REV_00154278

sources, taken together with financial assistance for the Transition Period or a Program Year provided pursuant to this section, may not exceed the aggregate amount of the insurer's insured losses for such period. If such recoveries and financial assistance for the Transition Period or a Program Year exceed such aggregate amount of insured losses for that period and there is no agreement between the insurer and any reinsurer to the contrary, an amount in excess of such aggregate insured losses shall be returned to the Secretary.

(h) GROUP LIFE INSURANCE STUDY.—

(1) STUDY.—The Secretary shall study, on an expedited basis, whether adequate and affordable catastrophe reinsurance for acts of terrorism is available to life insurers in the United States that issue group life insurance, and the extent to which the threat of terrorism is reducing the availability of group life insurance coverage for consumers in the United States.

(2) CONDITIONAL COVERAGE.—To the extent that the Secretary determines that such coverage is not or will not be reasonably available to both such insurers and consumers, the Secretary shall, in consultation with the NAIC—

REV_00154279

(A) apply the provisions of this title, as appropriate, to providers of group life insurance; and

(B) provide such restrictions, limitations, or conditions with respect to any financial assistance provided that the Secretary deems appropriate, based on the study under paragraph (1).

(i) STUDY AND REPORT.—

(1) STUDY.—The Secretary, after consultation with the NAIC, representatives of the insurance industry, and other experts in the insurance field, shall conduct a study of the potential effects of acts of terrorism on the availability of life insurance and other lines of insurance coverage, including personal lines.

(2) REPORT.—Not later than 9 months after the date of enactment of this Act, the Secretary shall submit a report to the Congress on the results of the study conducted under paragraph (1).

SEC. 104. GENERAL AUTHORITY AND ADMINISTRATION OF CLAIMS.

(a) GENERAL AUTHORITY.—The Secretary shall have the powers and authorities necessary to carry out the Program, including authority—

REV_00154280

(1) to investigate and audit all claims under the Program; and

(2) to prescribe regulations and procedures to effectively administer and implement the Program, and to ensure that all insurers and self-insured entities that participate in the Program are treated comparably under the Program.

(b) INTERIM RULES AND PROCEDURES.—The Secretary may issue interim final rules or procedures specifying the manner in which—

(1) insurers may file and certify claims under the Program;

(2) the Federal share of compensation for insured losses will be paid under the Program, including payments based on estimates of or actual insured losses;

(3) the Secretary may, at any time, seek repayment from or reimburse any insurer, based on estimates of insured losses under the Program, to effectuate the insured loss sharing provisions in section 103; and

(4) the Secretary will determine any final netting of payments under the Program, including payments owed to the Federal Government from any insurer and any Federal share of compensation for in-

REV_00154281

sured losses owed to any insurer, to effectuate the insured loss sharing provisions in section 103.

(c) CONSULTATION.—The Secretary shall consult with the NAIC, as the Secretary determines appropriate, concerning the Program.

(d) CONTRACTS FOR SERVICES.—The Secretary may employ persons or contract for services as may be necessary to implement the Program.

(e) CIVIL PENALTIES.—

(1) IN GENERAL.—The Secretary may assess a civil monetary penalty in an amount not exceeding the amount under paragraph (2) against any insurer that the Secretary determines, on the record after opportunity for a hearing—

(A) has failed to charge, collect, or remit terrorism loss risk-spreading premiums under section 103(e) in accordance with the requirements of, or regulations issued under, this title;

(B) has intentionally provided to the Secretary erroneous information regarding premium or loss amounts;

(C) submits to the Secretary fraudulent claims under the Program for insured losses;

(D) has failed to provide the disclosures required under subsection (f); or

REV_00154282

(E) has otherwise failed to comply with the provisions of, or the regulations issued under, this title.

(2) AMOUNT.—The amount under this paragraph is the greater of $1,000,000 and, in the case of any failure to pay, charge, collect, or remit amounts in accordance with this title or the regulations issued under this title, such amount in dispute.

(3) RECOVERY OF AMOUNT IN DISPUTE.—A penalty under this subsection for any failure to pay, charge, collect, or remit amounts in accordance with this title or the regulations under this title shall be in addition to any such amounts recovered by the Secretary.

(f) SUBMISSION OF PREMIUM INFORMATION.—

(1) IN GENERAL.—The Secretary shall annually compile information on the terrorism risk insurance premium rates of insurers for the preceding year.

(2) ACCESS TO INFORMATION.—To the extent that such information is not otherwise available to the Secretary, the Secretary may require each insurer to submit to the NAIC terrorism risk insurance premium rates, as necessary to carry out paragraph (1), and the NAIC shall make such information available to the Secretary.

REV_00154283

(3) AVAILABILITY TO CONGRESS.—The Secretary shall make information compiled under this subsection available to the Congress, upon request.

(g) FUNDING.—

(1) FEDERAL PAYMENTS.—There are hereby appropriated, out of funds in the Treasury not otherwise appropriated, such sums as may be necessary to pay the Federal share of compensation for insured losses under the Program.

(2) ADMINISTRATIVE EXPENSES.—There are hereby appropriated, out of funds in the Treasury not otherwise appropriated, such sums as may be necessary to pay reasonable costs of administering the Program.

SEC. 105. PREEMPTION AND NULLIFICATION OF PRE-EXISTING TERRORISM EXCLUSIONS.

(a) GENERAL NULLIFICATION.—Any terrorism exclusion in a contract for property and casualty insurance that is in force on the date of enactment of this Act shall be void to the extent that it excludes losses that would otherwise be insured losses.

(b) GENERAL PREEMPTION.—Any State approval of any terrorism exclusion from a contract for property and casualty insurance that is in force on the date of enact-

REV_00154284

ment of this Act, shall be void to the extent that it excludes losses that would otherwise be insured losses.

(c) REINSTATEMENT OF TERRORISM EXCLUSIONS.—Notwithstanding subsections (a) and (b) or any provision of State law, an insurer may reinstate a preexisting provision in a contract for property and casualty insurance that is in force on the date of enactment of this Act and that excludes coverage for an act of terrorism only—

(1) if the insurer has received a written statement from the insured that affirmatively authorizes such reinstatement; or

(2) if—

(A) the insured fails to pay any increased premium charged by the insurer for providing such terrorism coverage; and

(B) the insurer provided notice, at least 30 days before any such reinstatement, of—

(i) the increased premium for such terrorism coverage; and

(ii) the rights of the insured with respect to such coverage, including any date upon which the exclusion would be reinstated if no payment is received.

REV_00154285

SEC. 106. PRESERVATION PROVISIONS.

(a) STATE LAW.—Nothing in this title shall affect the jurisdiction or regulatory authority of the insurance commissioner (or any agency or office performing like functions) of any State over any insurer or other person—

(1) except as specifically provided in this title; and

(2) except that—

(A) the definition of the term ''act of terrorism'' in section 102 shall be the exclusive definition of that term for purposes of compensation for insured losses under this title, and shall preempt any provision of State law that is inconsistent with that definition, to the extent that such provision of law would otherwise apply to any type of insurance covered by this title;

(B) during the period beginning on the date of enactment of this Act and ending on December 31, 2003, rates and forms for terrorism risk insurance covered by this title and filed with any State shall not be subject to prior approval or a waiting period under any law of a State that would otherwise be applicable, except that nothing in this title affects the ability of any State to invalidate a rate as excessive,

REV_00154286

inadequate, or unfairly discriminatory, and, with respect to forms, where a State has prior approval authority, it shall apply to allow subsequent review of such forms; and

(C) during the period beginning on the date of enactment of this Act and for so long as the Program is in effect, as provided in section 108, including authority in subsection 108(b), books and records of any insurer that are relevant to the Program shall be provided, or caused to be provided, to the Secretary, upon request by the Secretary, notwithstanding any provision of the laws of any State prohibiting or limiting such access.

(b) EXISTING REINSURANCE AGREEMENTS.—Nothing in this title shall be construed to alter, amend, or expand the terms of coverage under any reinsurance agreement in effect on the date of enactment of this Act. The terms and conditions of such an agreement shall be determined by the language of that agreement.

SEC. 107. LITIGATION MANAGEMENT.

(a) PROCEDURES AND DAMAGES.—

(1) IN GENERAL.—If the Secretary makes a determination pursuant to section 102 that an act of terrorism has occurred, there shall exist a Federal

REV_00154287

cause of action for property damage, personal injury, or death arising out of or resulting from such act of terrorism, which shall be the exclusive cause of action and remedy for claims for property damage, personal injury, or death arising out of or relating to such act of terrorism, except as provided in subsection (b).

(2) PREEMPTION OF STATE ACTIONS.—All State causes of action of any kind for property damage, personal injury, or death arising out of or resulting from an act of terrorism that are otherwise available under State law are hereby preempted, except as provided in subsection (b).

(3) SUBSTANTIVE LAW.—The substantive law for decision in any such action described in paragraph (1) shall be derived from the law, including choice of law principles, of the State in which such act of terrorism occurred, unless such law is otherwise inconsistent with or preempted by Federal law.

(4) JURISDICTION.—For each determination described in paragraph (1), not later than 90 days after the occurrence of an act of terrorism, the Judicial Panel on Multidistrict Litigation shall designate 1 district court or, if necessary, multiple district courts of the United States that shall have original

REV_00154288

and exclusive jurisdiction over all actions for any claim (including any claim for loss of property, personal injury, or death) relating to or arising out of an act of terrorism subject to this section. The Judicial Panel on Multidistrict Litigation shall select and assign the district court or courts based on the convenience of the parties and the just and efficient conduct of the proceedings. For purposes of personal jurisdiction, the district court or courts designated by the Judicial Panel on Multidistrict Litigation shall be deemed to sit in all judicial districts in the United States.

(5) PUNITIVE DAMAGES.—Any amounts awarded in an action under paragraph (1) that are attributable to punitive damages shall not count as insured losses for purposes of this title.

(b) EXCLUSION.—Nothing in this section shall in any way limit the liability of any government, an organization, or person who knowingly participates in, conspires to commit, aids and abets, or commits any act of terrorism with respect to which a determination described in subsection (a)(1) was made.

(c) RIGHT OF SUBROGATION.—The United States shall have the right of subrogation with respect to any

REV_00154289

payment or claim paid by the United States under this title.

(d) RELATIONSHIP TO OTHER LAW.—Nothing in this section shall be construed to affect—

(1) any party's contractual right to arbitrate a dispute; or

(2) any provision of the Air Transportation Safety and System Stabilization Act (Public Law 107–42; 49 U.S.C. 40101 note.).

(e) EFFECTIVE PERIOD.—This section shall apply only to actions described in subsection (a)(1) that arise out of or result from acts of terrorism that occur or occurred during the effective period of the Program.

SEC. 108. TERMINATION OF PROGRAM.

(a) TERMINATION OF PROGRAM.—The Program shall terminate on December 31, 2005.

(b) CONTINUING AUTHORITY TO PAY OR ADJUST COMPENSATION.—Following the termination of the Program, the Secretary may take such actions as may be necessary to ensure payment, recoupment, reimbursement, or adjustment of compensation for insured losses arising out of any act of terrorism occurring during the period in which the Program was in effect under this title, in accordance with the provisions of section 103 and regulations promulgated thereunder.

REV_00154290

(c) REPEAL; SAVINGS CLAUSE.—This title is repealed on the final termination date of the Program under subsection (a), except that such repeal shall not be construed—

(1) to prevent the Secretary from taking, or causing to be taken, such actions under subsection (b) of this section, paragraph (4), (5), (6), (7), or (8) of section 103(e), or subsection (a)(1), (c), (d), or (e) of section 104, as in effect on the day before the date of such repeal, or applicable regulations promulgated thereunder, during any period in which the authority of the Secretary under subsection (b) of this section is in effect; or

(2) to prevent the availability of funding under section 104(g) during any period in which the authority of the Secretary under subsection (b) of this section is in effect.

(d) STUDY AND REPORT ON THE PROGRAM.—

(1) STUDY.—The Secretary, in consultation with the NAIC, representatives of the insurance industry and of policy holders, other experts in the insurance field, and other experts as needed, shall assess the effectiveness of the Program and the likely capacity of the property and casualty insurance industry to offer insurance for terrorism risk after ter-

REV_00154291

mination of the Program, and the availability and affordability of such insurance for various policyholders, including railroads, trucking, and public transit.

(2) REPORT.—The Secretary shall submit a report to the Congress on the results of the study conducted under paragraph (1) not later than June 30, 2005.

TITLE II—TREATMENT OF TERRORIST ASSETS

SEC. 201. SATISFACTION OF JUDGMENTS FROM BLOCKED ASSETS OF TERRORISTS, TERRORIST ORGANIZATIONS, AND STATE SPONSORS OF TERRORISM.

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (b), in every case in which a person has obtained a judgment against a terrorist party on a claim based upon an act of terrorism, or for which a terrorist party is not immune under section 1605(a)(7) of title 28, United States Code, the blocked assets of that terrorist party (including the blocked assets of any agency or instrumentality of that terrorist party) shall be subject to execution or attachment in aid of execution in order to satisfy such judgment to

REV_00154292

the extent of any compensatory damages for which such terrorist party has been adjudged liable.

(b) PRESIDENTIAL WAIVER.—

(1) IN GENERAL.—Subject to paragraph (2), upon determining on an asset-by-asset basis that a waiver is necessary in the national security interest, the President may waive the requirements of subsection (a) in connection with (and prior to the enforcement of) any judicial order directing attachment in aid of execution or execution against any property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations.

(2) EXCEPTION.—A waiver under this subsection shall not apply to—

(A) property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations that has been used by the United States for any nondiplomatic purpose (including use as rental property), or the proceeds of such use; or

(B) the proceeds of any sale or transfer for value to a third party of any asset subject to the Vienna Convention on Diplomatic Relations

REV_00154293

or the Vienna Convention on Consular Relations.

(c) SPECIAL RULE FOR CASES AGAINST IRAN.—Section 2002 of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386; 114 Stat. 1542), as amended by section 686 of Public Law 107–228, is further amended—

(1) in subsection (a)(2)(A)(ii), by striking "July 27, 2000, or January 16, 2002" and inserting "July 27, 2000, any other date before October 28, 2000, or January 16, 2002";

(2) in subsection (b)(2)(B), by inserting after "the date of enactment of this Act" the following: "(less amounts therein as to which the United States has an interest in subrogation pursuant to subsection (c) arising prior to the date of entry of the judgment or judgments to be satisfied in whole or in part hereunder)";

(3) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(4) by inserting after subsection (c) the following new subsection (d):

"(d) DISTRIBUTION OF ACCOUNT BALANCES AND PROCEEDS INADEQUATE TO SATISFY FULL AMOUNT OF COMPENSATORY AWARDS AGAINST IRAN.—

REV_00154294

"(1) PRIOR JUDGMENTS.—

"(A) IN GENERAL.—In the event that the Secretary determines that 90 percent of the amounts available to be paid under subsection (b)(2) are inadequate to pay the total amount of compensatory damages awarded in judgments issued as of the date of the enactment of this subsection in cases identified in subsection (a)(2)(A) with respect to Iran, the Secretary shall, not later than 60 days after such date, make payment from such amounts available to be paid under subsection (b)(2) to each party to which such a judgment has been issued in an amount equal to a share, calculated under subparagraph (B), of 90 percent of the amounts available to be paid under subsection (b)(2) that have not been subrogated to the United States under this Act as of the date of enactment of this subsection.

"(B) CALCULATION OF PAYMENTS.—The share that is payable to a person under subparagraph (A), including any person issued a final judgment as of the date of enactment of this subsection in a suit filed on a date added by the amendment made by section 686 of Pub-

REV_00154295

lic Law 107–228, shall be equal to the proportion that the amount of unpaid compensatory damages awarded in a final judgment issued to that person bears to the total amount of all unpaid compensatory damages awarded to all persons to whom such judgments have been issued as of the date of enactment of this subsection in cases identified in subsection (a)(2)(A) with respect to Iran.

"(2) SUBSEQUENT JUDGMENT.—

"(A) IN GENERAL.—The Secretary shall pay to any person awarded a final judgment after the date of enactment of this subsection, in the case filed on January 16, 2002, and identified in subsection (a)(2)(A) with respect to Iran, an amount equal to a share, calculated under subparagraph (B), of the balance of the amounts available to be paid under subsection (b)(2) that remain following the disbursement of all payments as provided by paragraph (1). The Secretary shall make such payment not later than 30 days after such judgment is awarded.

"(B) CALCULATION OF PAYMENTS.—To the extent that funds are available, the amount

REV_00154296

paid under subparagraph (A) to such person shall be the amount the person would have been paid under paragraph (1) if the person had been awarded the judgment prior to the date of enactment of this subsection.

"(3) ADDITIONAL PAYMENTS.—

"(A) IN GENERAL.—Not later than 30 days after the disbursement of all payments under paragraphs (1) and (2), the Secretary shall make an additional payment to each person who received a payment under paragraph (1) or (2) in an amount equal to a share, calculated under subparagraph (B), of the balance of the amounts available to be paid under subsection (b)(2) that remain following the disbursement of all payments as provided by paragraphs (1) and (2).

"(B) CALCULATION OF PAYMENTS.—The share payable under subparagraph (A) to each such person shall be equal to the proportion that the amount of compensatory damages awarded that person bears to the total amount of all compensatory damages awarded to all persons who received a payment under paragraph (1) or (2).

REV_00154297

"(4) STATUTORY CONSTRUCTION.—Nothing in this subsection shall bar, or require delay in, enforcement of any judgment to which this subsection applies under any procedure or against assets otherwise available under this section or under any other provision of law.

"(5) CERTAIN RIGHTS AND CLAIMS NOT RELINQUISHED.—Any person receiving less than the full amount of compensatory damages awarded to that party in a judgment to which this subsection applies shall not be required to make the election set forth in subsection (a)(2)(B) or, with respect to subsection (a)(2)(D), the election relating to relinquishment of any right to execute or attach property that is subject to section 1610(f)(1)(A) of title 28, United States Code, except that such person shall be required to relinquish rights set forth—

"(A) in subsection (a)(2)(C); and

"(B) in subsection (a)(2)(D) with respect to enforcement against property that is at issue in claims against the United States before an international tribunal or that is the subject of awards by such tribunal.

"(6) GUIDELINES FOR ESTABLISHING CLAIMS OF A RIGHT TO PAYMENT.—The Secretary may pro-

REV_00154298

mulgate reasonable guidelines through which any person claiming a right to payment under this section may inform the Secretary of the basis for such claim, including by submitting a certified copy of the final judgment under which such right is claimed and by providing commercially reasonable payment instructions. The Secretary shall take all reasonable steps necessary to ensure, to the maximum extent practicable, that such guidelines shall not operate to delay or interfere with payment under this section.''.

(d) DEFINITIONS.—In this section, the following definitions shall apply:

(1) ACT OF TERRORISM.—The term ''act of terrorism'' means—

(A) any act or event certified under section 102(1); or

(B) to the extent not covered by subparagraph (A), any terrorist activity (as defined in section 212(a)(3)(B)(iii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iii))).

(2) BLOCKED ASSET.—The term ''blocked asset'' means—

(A) any asset seized or frozen by the United States under section 5(b) of the Trading

REV_00154299

With the Enemy Act (50 U.S.C. App. 5(b)) or under sections 202 and 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701; 1702); and

(B) does not include property that—

(i) is subject to a license issued by the United States Government for final payment, transfer, or disposition by or to a person subject to the jurisdiction of the United States in connection with a transaction for which the issuance of such license has been specifically required by statute other than the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) or the United Nations Participation Act of 1945 (22 U.S.C. 287 et seq.); or

(ii) in the case of property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations, or that enjoys equivalent privileges and immunities under the law of the United States, is being used exclusively for diplomatic or consular purposes.

REV_00154300

(3) CERTAIN PROPERTY.—The term "property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations" and the term "asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations" mean any property or asset, respectively, the attachment in aid of execution or execution of which would result in a violation of an obligation of the United States under the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations, as the case may be.

(4) TERRORIST PARTY.—The term "terrorist party" means a terrorist, a terrorist organization (as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi))), or a foreign state designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

REV_00154301

TITLE III—FEDERAL RESERVE BOARD PROVISIONS

SEC. 301. CERTAIN AUTHORITY OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by adding at the end the following new subsection:

"(r)(1) Any action that this Act provides may be taken only upon the affirmative vote of 5 members of the Board may be taken upon the unanimous vote of all members then in office if there are fewer than 5 members in office at the time of the action.

"(2)(A) Any action that the Board is otherwise authorized to take under section 13(3) may be taken upon the unanimous vote of all available members then in office, if—

"(i) at least 2 members are available and all available members participate in the action;

"(ii) the available members unanimously determine that—

"(I) unusual and exigent circumstances exist and the borrower is unable to secure adequate credit accommodations from other sources;

REV_00154302

"(II) action on the matter is necessary to prevent, correct, or mitigate serious harm to the economy or the stability of the financial system of the United States;

"(III) despite the use of all means available (including all available telephonic, telegraphic, and other electronic means), the other members of the Board have not been able to be contacted on the matter; and

"(IV) action on the matter is required before the number of Board members otherwise required to vote on the matter can be contacted through any available means (including all available telephonic, telegraphic, and other electronic means); and

"(iii) any credit extended by a Federal reserve bank pursuant to such action is payable upon demand of the Board.

"(B) The available members of the Board shall document in writing the determinations required by subparagraph (A)(ii), and such written findings shall be included in the record of the action and in the official minutes of the Board, and copies of such record shall be provided as soon as practicable to the members of the Board who were not available to participate in the action and to the Chair-

REV_00154303

man of the Committee on Banking, Housing, and Urban Affairs of the Senate and to the Chairman of the Committee on Financial Services of the House of Representatives.''.

REV_00154304

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>
Sent: 11/12/2002 6:29:49 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:12-NOV-2002 11:29:49.00
SUBJECT::
TO:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Can you book Friday December 6 at 3:00 for Judge and I to talk to
historians and scholars re Presidential Records Act. Can you also book
Roosevelt Room? If that time does not work, let me know. Thanks!
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Hana F. Brilliant/WHO/EOP@EOP [WHO] <Hana F. Brilliant>
Sent: 11/12/2002 6:54:16 AM
Subject: : Re: JSC Meeting

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:12-NOV-2002 11:54:16.00
SUBJECT:: Re: JSC Meeting
TO:Hana F. Brilliant (CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

our bios??

Hana F. Brilliant
11/12/2002 11:43:40 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: JSC Meeting

Please get me your names and bios as soon as possible if you have any.
Thanks,
-Hana

Message Sent
To:_____
Helgard C. Walker/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Benjamin A. Powell/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
H. Christopher Bartolomucci/WHO/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Hana F. Brilliant/WHO/EOP@EOP [WHO] <Hana F. Brilliant>
Sent: 11/12/2002 7:17:29 AM
Subject: : Re: JSC Meeting

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:12-NOV-2002 12:17:29.00
SUBJECT:: Re: JSC Meeting
TO:Hana F. Brilliant (CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I do not have any.

Hana F. Brilliant
11/12/2002 11:43:40 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: JSC Meeting

Please get me your names and bios as soon as possible if you have any.
Thanks,
-Hana

Message Sent
To:_____
Helgard C. Walker/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Benjamin A. Powell/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
H. Christopher Bartolomucci/WHO/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
Sent: 11/12/2002 4:22:26 AM
Subject: :
Attachments: P_8CBLB003_WHO.TXT_1.doc; P_8CBLB003_WHO.TXT_2.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:12-NOV-2002 09:22:26.00
SUBJECT::
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 11/12/2002 09:25 AM ----------

"Schwartz, Victor" <VSCHWARTZ@shb.com>
11/12/2002 09:20:27 AM
Record Type: Record

To: letters@washingtontimes.com
cc:
Subject: Op-ed for your consideration

> Attached is an op-ed I am submitting to The Washington Times for consideration in an upcoming edition. Please let me know what you think of it.
> Sincerely, Victor Schwartz
>
> Victor E. Schwartz
> Shook, Hardy & Bacon L.L.P.
> 600 14th Street, N.W.
> Suite 800
> Washington, D.C. 20005-2004
> Telephone 202-662-4886
> Fax 202-783-4211
> vschwartz@shb.com
>
> > <<WT op-ed.doc>> > > <<VES-bio.doc>>

"MMS <shb.com>" made the following annotations on 11/12/2002 08:20:29 AM

CONFIDENTIALITY NOTICE: This e-mail message including attachments, if any, is intended only for the person or entity to which it is addressed and may contain confidential and /or privileged material. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message. If you are the intended recipient but do not wish to receive communications through this medium, please so advise the sender immediately.

IN THE U.S., please contact:
Shook, Hardy & Bacon LLP
1200 Main Street
Kansas City, MO 64105-2118
816-474-6550

IN EUROPE, please contact:
Shook, Hardy & Bacon, MNP
25 Cannon Street
London EC4M 5SE
44-020-7332-4500

- WT op-ed.doc
- VES-bio.doc

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_8CBLB003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_8CBLB003_WHO.TXT_2>

TERRORISM INSURANCE:
THE HOBSON'S CHOICE FOR THE ADMINISTRATION
By Victor E. Schwartz*

People use the term "Hobson's Choice," but many do not know its origin. In England, a man named Hobson provided horse carriage service from one town to another. Customers were required to take the next horse in line, regardless of how unsuitable it appeared for travel; that was the only way passengers could move between towns.

Unfortunately, the Bush Administration recently faced such a "Hobson's Choice" with terrorism insurance legislation. If Administration officials were to have a bill that would help the economy and create jobs to help assure that there was full insurance against terrorism for business and property owners, they had to accede, at least in part, to the Senate Democratic leadership and the wealthy personal injury lobby.

As *The Wall Street Journal* has indicated, terrorism insurance legislation is necessary to assure that lenders can confidently loan money to businesses and property owners and start new projects. These projects would create meaningful jobs for hard-hat workers and help our economy when it needs it most.

Federal money is a prop for federal terrorism insurance. In light of that fact, reasonable liability limits should be placed on anyone's right to sue. Moreover, both common sense and the national interest suggest that if there is another tragedy, liability lawsuits should be limited to people's needs, not wealthy personal injury lawyer greed.

As the terrorism insurance legislation developed in the House of Representatives, meaningful liability reforms accompanied the proposal. Punitive damages were limited; joint

---

* Victor Schwartz is chairman of the Public Policy Group in the Washington office of the Kansas City-based law firm of Shook, Hardy & Bacon L.L.P.

and several liability limits were also imposed, so that a relatively innocent business did not pay for harm caused by terrorisms; and curbs were placed on contingency fees.

When it comes to limits on our liability system, the Senate is a very different body than the House. A wealthy personal injury lawyer, Fred Baron, has stated that the personal injury bar, in effect, "own the Senate." For that reason, the much-needed terrorism insurance bill has been held captive by both the Democratic leadership and the wealthy personal injury lawyers since December 2001.

The nation's economy has had greater needs in 2002, and the need for terrorism insurance and putting people back to work has become more urgent. Whether one was to have any liability limits in the Senate bill came down to choices. One choice was to fight for limits on punitive damages. While some Democrats, such as Senator Dodd (D-CT), supported sound reform in this area, the punitive damage proposals put forth by the Democratic leadership would have made a bad situation worse. What few people know is that some of those proposals, which set forth a standard for when punitive damages could be awarded, would have simultaneously created a right to bring punitive damage lawsuits in a number of states that presently do not have them.

In October 2002, it was clear that only one civil justice reform provision could be obtained in the terrorism bill. In light of this "devil's choice," created by the Democratic leadership in the Senate and their wealthy personal injury friends, the White House was faced with a difficult choice. It could have either a weak punitive damage standard or have all cases consolidated before a single federal judge in a single federal court. The White House chose the second option, and that was the wiser choice. This is why.

REV_00154379

The single federal court provision awards one of the most serious problems in our civil justice system today – forum shopping by wealthy personal injury lawyers seeking to bring their cases in what personal injury lawyers themselves call "magic" jurisdictions. Others, such as the American Tort Reform Association, call the same jurisdictions "judicial hellholes." These include courts in certain jurisdictions which foster claims made by plaintiffs, however that might be obtained. In that regard, even if clear standards on punitive damages had existed in the terrorism bill, these courts would have likely ignored these federally mandated provisions, but stretch them to the edge to allow claims. In light of the Administration's "Hobson's Choice," these courts cannot be reached.

Again, this does not suggest that all Democrats block liability reform. Unless there is a change in the Senate leadership, this Administration will continue to be faced with "Hobson's Choices" when it comes to societal goals versus the desires of the wealthy personal injury bar. The Administration chose to put a jolt in the economy this time, and chose to create jobs. They also will confine claims brought by wealthy personal injury lawyers to a federal court. More was needed, but the choice for more was not attainable now.

REV_00154380

Victor Schwartz is a partner in the Washington office of the Kansas City-based law firm of Shook, Hardy & Bacon LLP, and chairs its Public Policy Group. The focus of the group is to integrate litigation, government affairs and public relations. Mr. Schwartz has an active appellate practice, and advises product manufacturers on liability issues.

Mr. Schwartz served as a professor and dean at the University of Cincinnati College of Law prior to entering the full time practice of law. He currently sits on the College's Board of Visitors.

As Chairman of the Federal Inter-Agency Task Force on Product Liability, he received the Department of Commerce Secretary's Award for Professional Excellence for his government service. He helped draft the Uniform Product Liability Act and the Risk Retention Act.

For over two decades, Mr. Schwartz has been co-author of the most widely used torts casebook in the United States, *Prosser, Wade and Schwartz's Torts* (10th ed. 2000). He also is author of the leading text, *Comparative Negligence*, and co-authored *Guide to Multistate Litigation*.

Mr. Schwartz is a member of the American Law Institute (ALI) and served on the Advisory Committee to the Restatement (Third) of Torts: Products Liability, and Apportionment of Liability Projects. He currently serves on the Advisory Committee to the Restatement (Third) of Torts: General Principles. He was inducted as a Life Member of the ALI in 1997.

He serves as General Counsel to the American Tort Reform Association. He co-chairs the Civil Justice Reform Committee of the American Legislative Exchange Council and chairs the American Bar Association's Legislative Subcommittee of the Product Liability Committee.

Sought by print and broadcast media, Mr. Schwartz is frequently quoted in *The Wall Street Journal, Washington Post* and *The New York Times* and has appeared on *Oprah*, *60 Minutes,* and network news programs. He and his colleagues, Mark Behrens and Leah Lorber, were the recipients of the 2001 Phillip Burton Award for Outstanding Legal Scholarship for a law review article in the *Harvard Journal on Legislation* entitled, "Federal Forums Should Decide Multistate Class Actions: A Call For Federal Class Action Diversity Jurisdiction Reform."

In light of his accomplishments, the *National Law Journal* has twice named Mr. Schwartz one of the 100 most influential attorneys in the United States, and the *Washingtonian* magazine has twice named him one of the top 50 lobbyists in the Nation's capital.

Mr. Schwartz obtained his A.B. *summa magna laude* from Boston University and J.D. *magna cum laude* from Columbia Law School. He is a member of the bars of the States of New York, Ohio and the District of Columbia.

60401

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Schwartz, Victor <VSCHWARTZ@shb.com>
Sent: 11/12/2002 4:58:53 AM
Subject: : Re: Op-ed for your consideration
Attachments: P_E3ELB003_WHO.TXT_1.doc; P_E3ELB003_WHO.TXT_2.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:12-NOV-2002 09:58:53.00
SUBJECT:: Re: Op-ed for your consideration
TO:"Schwartz, Victor" <VSCHWARTZ@shb.com> ("Schwartz, Victor" <VSCHWARTZ@shb.com> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Thank you, Victor.

"Schwartz, Victor" <VSCHWARTZ@shb.com>
11/12/2002 09:20:27 AM
Record Type: Record

To: letters@washingtontimes.com
cc:
Subject: Op-ed for your consideration

> Attached is an op-ed I am submitting to The Washington Times for consideration in an upcoming edition. Please let me know what you think of it.
> Sincerely, Victor Schwartz
>
> Victor E. Schwartz
> Shook, Hardy & Bacon L.L.P.
> 600 14th Street, N.W.
> Suite 800
> Washington, D.C. 20005-2004
> Telephone 202-662-4886
> Fax 202-783-4211
> vschwartz@shb.com
>
> > <<WT op-ed.doc>> > > <<VES-bio.doc>>

"MMS <shb.com>" made the following annotations on 11/12/2002 08:20:29 AM

CONFIDENTIALITY NOTICE: This e-mail message including attachments, if any, is intended only for the person or entity to which it is addressed and may contain confidential and /or privileged material. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message. If you are the intended recipient but do not wish to receive communications through this medium, please so advise the sender immediately.

IN THE U.S., please contact:
Shook, Hardy & Bacon LLP
1200 Main Street
Kansas City, MO 64105-2118

816-474-6550

IN EUROPE, please contact:
Shook, Hardy & Bacon, MNP
25 Cannon Street
London EC4M 5SE
44-020-7332-4500

- WT op-ed.doc
- VES-bio.doc

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_E3ELB003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_E3ELB003_WHO.TXT_2>

TERRORISM INSURANCE:
THE HOBSON'S CHOICE FOR THE ADMINISTRATION
By Victor E. Schwartz*

People use the term "Hobson's Choice," but many do not know its origin. In England, a man named Hobson provided horse carriage service from one town to another. Customers were required to take the next horse in line, regardless of how unsuitable it appeared for travel; that was the only way passengers could move between towns.

Unfortunately, the Bush Administration recently faced such a "Hobson's Choice" with terrorism insurance legislation. If Administration officials were to have a bill that would help the economy and create jobs to help assure that there was full insurance against terrorism for business and property owners, they had to accede, at least in part, to the Senate Democratic leadership and the wealthy personal injury lobby.

As *The Wall Street Journal* has indicated, terrorism insurance legislation is necessary to assure that lenders can confidently loan money to businesses and property owners and start new projects. These projects would create meaningful jobs for hard-hat workers and help our economy when it needs it most.

Federal money is a prop for federal terrorism insurance. In light of that fact, reasonable liability limits should be placed on anyone's right to sue. Moreover, both common sense and the national interest suggest that if there is another tragedy, liability lawsuits should be limited to people's needs, not wealthy personal injury lawyer greed.

As the terrorism insurance legislation developed in the House of Representatives, meaningful liability reforms accompanied the proposal. Punitive damages were limited; joint

---

* Victor Schwartz is chairman of the Public Policy Group in the Washington office of the Kansas City-based law firm of Shook, Hardy & Bacon L.L.P.

and several liability limits were also imposed, so that a relatively innocent business did not pay for harm caused by terrorisms; and curbs were placed on contingency fees.

When it comes to limits on our liability system, the Senate is a very different body than the House. A wealthy personal injury lawyer, Fred Baron, has stated that the personal injury bar, in effect, "own the Senate." For that reason, the much-needed terrorism insurance bill has been held captive by both the Democratic leadership and the wealthy personal injury lawyers since December 2001.

The nation's economy has had greater needs in 2002, and the need for terrorism insurance and putting people back to work has become more urgent. Whether one was to have any liability limits in the Senate bill came down to choices. One choice was to fight for limits on punitive damages. While some Democrats, such as Senator Dodd (D-CT), supported sound reform in this area, the punitive damage proposals put forth by the Democratic leadership would have made a bad situation worse. What few people know is that some of those proposals, which set forth a standard for when punitive damages could be awarded, would have simultaneously created a right to bring punitive damage lawsuits in a number of states that presently do not have them.

In October 2002, it was clear that only one civil justice reform provision could be obtained in the terrorism bill. In light of this "devil's choice," created by the Democratic leadership in the Senate and their wealthy personal injury friends, the White House was faced with a difficult choice. It could have either a weak punitive damage standard or have all cases consolidated before a single federal judge in a single federal court. The White House chose the second option, and that was the wiser choice. This is why.

REV_00154385

The single federal court provision awards one of the most serious problems in our civil justice system today – forum shopping by wealthy personal injury lawyers seeking to bring their cases in what personal injury lawyers themselves call "magic" jurisdictions. Others, such as the American Tort Reform Association, call the same jurisdictions "judicial hellholes." These include courts in certain jurisdictions which foster claims made by plaintiffs, however that might be obtained. In that regard, even if clear standards on punitive damages had existed in the terrorism bill, these courts would have likely ignored these federally mandated provisions, but stretch them to the edge to allow claims. In light of the Administration's "Hobson's Choice," these courts cannot be reached.

Again, this does not suggest that all Democrats block liability reform. Unless there is a change in the Senate leadership, this Administration will continue to be faced with "Hobson's Choices" when it comes to societal goals versus the desires of the wealthy personal injury bar. The Administration chose to put a jolt in the economy this time, and chose to create jobs. They also will confine claims brought by wealthy personal injury lawyers to a federal court. More was needed, but the choice for more was not attainable now.

REV_00154386

Victor Schwartz is a partner in the Washington office of the Kansas City-based law firm of Shook, Hardy & Bacon LLP, and chairs its Public Policy Group. The focus of the group is to integrate litigation, government affairs and public relations. Mr. Schwartz has an active appellate practice, and advises product manufacturers on liability issues.

Mr. Schwartz served as a professor and dean at the University of Cincinnati College of Law prior to entering the full time practice of law. He currently sits on the College's Board of Visitors.

As Chairman of the Federal Inter-Agency Task Force on Product Liability, he received the Department of Commerce Secretary's Award for Professional Excellence for his government service. He helped draft the Uniform Product Liability Act and the Risk Retention Act.

For over two decades, Mr. Schwartz has been co-author of the most widely used torts casebook in the United States, *Prosser, Wade and Schwartz's Torts* (10th ed. 2000). He also is author of the leading text, *Comparative Negligence*, and co-authored *Guide to Multistate Litigation*.

Mr. Schwartz is a member of the American Law Institute (ALI) and served on the Advisory Committee to the Restatement (Third) of Torts: Products Liability, and Apportionment of Liability Projects. He currently serves on the Advisory Committee to the Restatement (Third) of Torts: General Principles. He was inducted as a Life Member of the ALI in 1997.

He serves as General Counsel to the American Tort Reform Association. He co-chairs the Civil Justice Reform Committee of the American Legislative Exchange Council and chairs the American Bar Association's Legislative Subcommittee of the Product Liability Committee.

Sought by print and broadcast media, Mr. Schwartz is frequently quoted in *The Wall Street Journal, Washington Post* and *The New York Times* and has appeared on *Oprah*, *60 Minutes,* and network news programs. He and his colleagues, Mark Behrens and Leah Lorber, were the recipients of the 2001 Phillip Burton Award for Outstanding Legal Scholarship for a law review article in the *Harvard Journal on Legislation* entitled, "Federal Forums Should Decide Multistate Class Actions: A Call For Federal Class Action Diversity Jurisdiction Reform."

In light of his accomplishments, the *National Law Journal* has twice named Mr. Schwartz one of the 100 most influential attorneys in the United States, and the *Washingtonian* magazine has twice named him one of the top 50 lobbyists in the Nation's capital.

Mr. Schwartz obtained his A.B. *summa magna laude* from Boston University and J.D. *magna cum laude* from Columbia Law School. He is a member of the bars of the States of New York, Ohio and the District of Columbia.

60401

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Kyle Sampson/WHO /EOP@EOP [WHO] <Kyle Sampson>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Bradford A. Berenson/WHO /EOP@EOP [WHO] <Bradford A. Berenson>
CC: Raquel Cabral/WHO/EOP@EOP [WHO] <Raquel Cabral>
Sent: 11/12/2002 6:12:28 AM
Subject: : DOJ request

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:12-NOV-2002 11:12:28.00
SUBJECT:: DOJ request
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Raquel Cabral ( CN=Raquel Cabral/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I am just the messenger on this one: Very important that we give DOJ
notice as soon as we are aware of a scheduled judicial interview. Raquel
can be the central point person for communication with DOJ on interviews,
but we need to be sure to give Raquel early notice, and she then needs to
notify OLP immediately.
```

From: CN=Hana F. Brilliant/OU=WHO/O=EOP [WHO]
To: Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>
Sent: 11/12/2002 6:43:43 AM
Subject: : JSC Meeting

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Hana F. Brilliant ( CN=Hana F. Brilliant/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:12-NOV-2002 11:43:43.00
SUBJECT:: JSC Meeting
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Please get me your names and bios as soon as possible if you have any.
Thanks,
-Hana
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Hana F. Brilliant/WHO/EOP@EOP [WHO] <Hana F. Brilliant>
Sent: 11/12/2002 6:54:16 AM
Subject: : Re: JSC Meeting

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:12-NOV-2002 11:54:16.00
SUBJECT:: Re: JSC Meeting
TO:Hana F. Brilliant (CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

our bios??

Hana F. Brilliant
11/12/2002 11:43:40 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: JSC Meeting

Please get me your names and bios as soon as possible if you have any.
Thanks,
-Hana

Message Sent
To:_____
Helgard C. Walker/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Benjamin A. Powell/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
H. Christopher Bartolomucci/WHO/EOP@EOP

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 11/12/2002 6:58:23 AM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:12-NOV-2002 11:58:23.00
SUBJECT:: Re:
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

ARG may not be here that day.

Brett M. Kavanaugh
11/12/2002 11:27:13 AM
Record Type: Record

To: Elizabeth N. Camp/WHO/EOP@EOP
cc:
Subject:

Can you book Friday December 6 at 3:00 for Judge and I to talk to historians and scholars re Presidential Records Act. Can you also book Roosevelt Room? If that time does not work, let me know. Thanks!

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Hana F. Brilliant/WHO/EOP@EOP [WHO] <Hana F. Brilliant>
Sent: 11/12/2002 7:17:29 AM
Subject: : Re: JSC Meeting

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:12-NOV-2002 12:17:29.00
SUBJECT:: Re: JSC Meeting
TO:Hana F. Brilliant (CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I do not have any.

Hana F. Brilliant
11/12/2002 11:43:40 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: JSC Meeting

Please get me your names and bios as soon as possible if you have any.
Thanks,
-Hana

Message Sent
To:_____
Helgard C. Walker/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Benjamin A. Powell/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
H. Christopher Bartolomucci/WHO/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>
Sent: 11/12/2002 9:17:57 AM
Subject: : change the historians meeting to Thursday the 12th at 5:00 instead of Tuesday the 10th; thanks

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:12-NOV-2002 14:17:57.00
SUBJECT:: change the historians meeting to Thursday the 12th at 5:00 instead of Tuesday the
10th; thanks
TO:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=David S. Addington/OU=OVP/O=EOP [OVP]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 11/12/2002 10:48:34 AM
Subject: : Re: Supreme Court grants cert in FOIA 7(A) and 7(C) case

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP [ OVP ] )
CREATION DATE/TIME:12-NOV-2002 15:48:34.00
SUBJECT:: Re: Supreme Court grants cert in FOIA 7(A) and 7(C) case
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Brett: I think we have a pretty good chance of winning this, don't you?
```

From: CN=Adam F. Greenstone/OU=OA/O=EOP [OA]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 11/13/2002 6:03:07 AM
Subject: : NARA Paper V2
Attachments: P_7YUMB003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Adam F. Greenstone (CN=Adam F. Greenstone/OU=OA/O=EOP [OA])
CREATION DATE/TIME:13-NOV-2002 11:03:07.00
SUBJECT:: NARA Paper V2
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Fyi, this is a draft that NARA and our technical people came up with by themselves last week. I advised our people that it did not address the issues that were important to your office and for that reason I did not send to you.
---------- Forwarded by Adam F. Greenstone/OA/EOP on 11/13/2002 11:00 AM ----------

From: Carlos Solari/OA/EOP@Exchange on 11/12/2002 08:36:17 AM
Record Type: Record

To: Tim Campen/OA/EOP@Exchange
cc: Adam F. Greenstone/OA/EOP@EOP
Subject: NARA Paper V2

;;;Tim, Pls see attached new write-up for NARA signature. It is intended as a simple statement that says we will not be in violation of records keeping provisions by removing the Non-Record feature. Adam is going to run it by WH Counsel to make sure that this statement will be sufficient and then propose it anew to NARA. I am coordinating with Adam to meet with NARA Counsel as a way of bringing this front and center on their agenda.
Carlos

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_7YUMB003_WHO.TXT_1>

MEMORANDUM

The Executive Office of the President (EOP), Office of Administration (OA) has been in discussion with the National Archives and Records Administration (NARA) regarding planned changes to the EOP E-mail system from the Lotus Notes to the Microsoft (MS) Exchange-Outlook software suite. This change is being made as part of a strategic EOP-wide systems migration. The transition from Lotus to Exchange-Outlook will not carry over the "Non-Record" feature that existed in the Lotus application insofar as this feature is not supported in the MS Exchange product suite and there is no practical technical solution to engineer this feature. Effective with this change, the OCIO will capture all EOP E-mail for records management consistent with established EOP and NARA provisions. There will be no provision for system users to predefine E-mail that would not be records managed. This memorandum establishes NARA's acknowledgement of EOP's plans as stated here and that EOP's not carrying over the "Non-Record" feature does not in any way impede compliance with the NARA records management provisions.

From: CN=Carolyn Nelson/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 11/13/2002 9:43:57 AM
Subject: : Temporary Judges

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:13-NOV-2002 14:43:57.00
SUBJECT:: Temporary Judges
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Brett-
I placed a fax on your chair that contains a list of names of the newly
Permanent Judges per your request.

-CN
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brian C. Conklin/WHO/EOP@EOP [WHO] <Brian C. Conklin>
CC: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
Sent: 11/13/2002 10:01:19 AM
Subject: : please e-mail me with any meeting times because I will be in a meeting here starting at 3:15 (or call 456-2632 main counsel #)

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:13-NOV-2002 15:01:19.00
SUBJECT:: please e-mail me with any meeting times because I will be in a meeting here
starting at 3:15 (or call 456-2632 main counsel #)
TO:Brian C. Conklin ( CN=Brian C. Conklin/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>
Sent: 11/14/2002 8:47:05 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:14-NOV-2002 13:47:05.00
SUBJECT::
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

you were fan of moving MD seat to VA, correct? starting to think that may
be right call.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Claire E. Buchan/WHO/EOP@EOP [WHO] <Claire E. Buchan>
Sent: 11/14/2002 5:25:53 AM
Subject: : called you back; I'm at 6-7984

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:14-NOV-2002 10:25:53.00
SUBJECT:: called you back; I'm at 6-7984
TO:Claire E. Buchan ( CN=Claire E. Buchan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Rebecca Seidel) (Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) [UNKNOWN] <Rebecca_Seidel@judiciary.senate.gov>
Sent: 11/14/2002 6:56:38 AM
Subject: : Re: Homeland Sec and Liability

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:14-NOV-2002 11:56:38.00
SUBJECT:: Re: Homeland Sec and Liability
TO:Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) (
Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

I do not know anything about that (homeland is not my bailiwick), but will inquire.

Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel)
11/14/2002 11:28:42 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, John_Mashburn@lott.senate.gov (John Mashburn)
cc:
Subject: Homeland Sec and Liability

All I was aware would be in the Homeland Security bill was the House's Safety Act and possibly the Warner/Thompson amendment (that Brett worked out) that doesn't mandate indemnification but directs the President to examine it and include certain critera. Both are good. I am hearing that there may actually be legislative indemnity, that Lockheed got even more than they were asking for. Is this true or is it just someone misunderstanding the Warner/Thompson language? Please let me know asap.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Rebecca Seidel) (Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) [UNKNOWN] <Rebecca_Seidel@judiciary.senate.gov>
Sent: 11/14/2002 7:17:15 AM
Subject: : Re: Homeland Sec and Liability

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:14-NOV-2002 12:17:15.00
SUBJECT:: Re: Homeland Sec and Liability
TO:Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) (
Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel) [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

think you have a misunderstanding, acc to our people.

Rebecca_Seidel@judiciary.senate.gov (Rebecca Seidel)
11/14/2002 11:28:42 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, John_Mashburn@lott.senate.gov (John Mashburn)
cc:
Subject: Homeland Sec and Liability

All I was aware would be in the Homeland Security bill was the House's Safety Act and possibly the Warner/Thompson amendment (that Brett worked out) that doesn't mandate indemnification but directs the President to examine it and include certain critera. Both are good. I am hearing that there may actually be legislative indemnity, that Lockheed got even more than they were asking for. Is this true or is it just someone misunderstanding the Warner/Thompson language? Please let me know asap.

From:	[UNKNOWN] <Greenstone, Adam F.>
To:	<Kalnins>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/F870D8AC-37AC6B6-852565D8-4EDC17 [UNKNOWN] <Andris>;<Daniel>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C8F2B9E0-409C89E5-85256907-54A8E5 [UNKNOWN] <James F.>;<Muhlbauer>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C9E08D0C-E6A6FFB3-85256C33-6AEA68 [UNKNOWN] <Albert A.>;<Terrell>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/DE933171-692F4ADC-85256A54-545E48 [UNKNOWN] <Eric W.>
CC:	<Campen>;tcampen@oa.eop.gov [OA] <Tim>;<Kavanaugh>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6246020-C20FEE19-852569DA-7648DC [UNKNOWN] <Brett M.>;<Alix>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /68A3DCF2-69658983-852569D9-6F1946 [UNKNOWN] <Cathy>
Sent:	11/14/2002 9:21:57 AM
Subject:	Re: Federal Excise Tax (FET)
Attachments:	F_TI37000674POERS_OA.TXT_1.html

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (MS Mail)
CREATOR:Greenstone, Adam F. ( [ UNKNOWN ] )
CREATION DATE/TIME:14-NOV-2002 14:21:57.00
SUBJECT:Re: Federal Excise Tax (FET)
TO:Kalnins, Andris ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=F870D8AC-
37AC6B6-852565D8-4EDC17 [ UNKNOWN ] )
READ:UNKNOWN
TO:Daniel, James F. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=C8F2B9E0-409C89E5-85256907-54A8E5 [ UNKNOWN ] )
READ:UNKNOWN
TO:Muhlbauer, Albert A. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=C9E08D0C-
E6A6FFB3-85256C33-6AEA68 [ UNKNOWN ] )
READ:UNKNOWN
TO:Terrell, Eric W. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=DE933171-692F4ADC-85256A54-545E48 [ UNKNOWN ] )
READ:UNKNOWN
CC:Campen, Tim ( tcampen@oa.eop.gov [ OA ] )
READ:UNKNOWN
CC:Kavanaugh, Brett M. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6246020-
C20FEE19-852569DA-7648DC [ UNKNOWN ] )
READ:UNKNOWN
CC:Alix, Cathy ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=68A3DCF2-69658983-852569D9-6F1946 [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

We have located a copy of the IRS correspondence holding that the White House
Travel Office is required to collect and deposit the Federal Excise Tax and
will fax it to Eric.



I recommend that we cease any activity predicated on Airpartner's declaration
below, and request that Airpartner retract this statement pending consideration
of whether changes in the chartering and billing arrangements affect
obligations under the IRS rulings.



Please do not forward this e-mail outside to non-Government personnel as it
is a privileged attorney communication.
```

Andris Kalnins
11/14/2002 11:14:32 AM

Record Type: Record

To: Adam F. Greenstone/OA/EOP@EOP

cc: James F. Daniel/OA/EOP@EOP, Albert A. Muhlbauer/OA/EOP@EOP
Subject: Federal Excise Tax (FET)

FYI . . . . . .

---------- Forwarded by Andris Kalnins/OA/EOP on 11/14/2002 11:14 AM ----------

Eric W. Terrell

11/14/2002 10:03:24 AM
Record Type: Record

To: Andris Kalnins/OA/EOP@EOP, James F. Daniel/OA/EOP@EOP
cc:

Subject: Federal Excise Tax (FET)

---------- Forwarded by Eric W. Terrell/WHO/EOP on 11/14/2002 10:07 AM ----------

Susan Hazard <susan.hazard@airpartnerusa.com>

11/13/2002 03:38:24 PM

Record Type: Record

To: Ron.Blaszcyk@ual.com

cc: See the distribution list at the bottom of this message
Subject: Federal Excise Tax (FET)

Effective immediately, please include the FET taxes in each of your

bids, contracts, and final invoices for White House trips. The White

House will not longer be responsible for reporting and payment of this

tax and the responsibility reverts back to the press charter carrier (in
this case United).

The White House Travel Office press billing has been outsourced to

American Express and their press charter program to Air Partner, Inc.

If you have any questions, please don't hesitate to call me at
202-625-6600.

Thank you.

Sue Hazard

Director

Air Partner,
Inc.

202-625-6600

202-625-6155-Fax

www.airpartnerusa.com <http://www.airpartnerusa.com/>

- att1.htm <<att1.htm>>

Message Copied
To:_____

Marisa Zitoune <marisa.zitoune@airpartnerusa.com>

'Lisa Langley'
<lisa.langley@airpartnerusa.com>
miranda.carland@airpartnerusa.com

Eric W. Terrell/WHO/EOP@EOP

"'Guina, Mike'"
<Mike.Guina@airpartner.com>
Linda.d.radazo@aexp.com

Marisa Zitoune <marisa.zitoune@airpartnerusa.com>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <F_TI37000674POERS_OA.TXT_1>

Effective immediately, please include the FET t axes in each of your bids, contracts, and final invoices for White House trips. ; The White House will not longer be responsible for reporting and payment of this tax and the responsibility reverts back to the press charte r carrier (in this case United).

The White House Travel Office press billing has been outsourced to American Express and their press charter program to Air Partner, Inc.

If you have any questions, please don't hesitate to call me at 202-625-6600.

Thank you.

Sue Hazard
Director
Air Partner, Inc.
202-625-6600
202-625-6155-Fax

www.airpartnerusa.co m

From: Greenstone, Adam F.
To: <Kalnins, Andris>;<Daniel, James F.>;<Muhlbauer, Albert A.>;<Terrell, Eric W.>
CC: <Campen, Tim>;<Kavanaugh, Brett M.>;<Alix, Cathy>
Sent: 11/14/2002 2:21:57 PM
Subject: Re: Federal Excise Tax (FET)
Attachments: att1.htm

We have located a copy of the IRS correspondence holding that the White House Travel Office is required to collect and deposit the Federal Excise Tax and will fax it to Eric.

I recommend that we cease any activity predicated on Airpartner's declaration below, and request that Airpartner retract this statement pending consideration of whether changes in the chartering and billing arrangements affect obligations under the IRS rulings.

Please do not forward this e-mail outside to non-Government personnel as it is a privileged attorney communication.

Andris Kalnins

11/14/2002 11:14:32 AM

Record Type: Record

To: Adam F. Greenstone/OA/EOP@EOP

cc: James F. Daniel/OA/EOP@EOP, Albert A. Muhlbauer/OA/EOP@EOP

Subject: Federal Excise Tax (FET)

FYI . . . . . .

---------- Forwarded by Andris Kalnins/OA/EOP on 11/14/2002 11:14 AM ----------

Eric W. Terrell

11/14/2002 10:03:24 AM

Record Type: Record

To: Andris Kalnins/OA/EOP@EOP, James F. Daniel/OA/EOP@EOP

cc:

Subject: Federal Excise Tax (FET)

---------- Forwarded by Eric W. Terrell/WHO/EOP on 11/14/2002 10:07 AM ----------

Susan Hazard

11/13/2002 03:38:24 PM

Record Type: Record

To: Ron.Blaszcyk@ual.com

cc: See the distribution list at the bottom of this message

Subject: Federal Excise Tax (FET)

Effective immediately, please include the FET taxes in each of your bids, contracts, and final invoices for White House trips. The White House will not longer be responsible for reporting and payment of this tax and the responsibility reverts back to the press charter carrier (in this case United).

The White House Travel Office press billing has been outsourced to American Express and their press charter program to Air Partner, Inc.

If you have any questions, please don't hesitate to call me at 202-625-6600.

Thank you.

Sue Hazard

Director

Air Partner, Inc.

202-625-6600

202-625-6155-Fax

www.airpartnerusa.com <http://www.airpartnerusa.com/>

- att1.htm << att1.htm >>

Message Copied To:

Marisa Zitoune

'Lisa Langley'

miranda.carland@airpartnerusa.com

Eric W. Terrell/WHO/EOP@EOP

"'Guina, Mike'"

Linda.d.radazo@aexp.com

Marisa Zitoune

Effective immediately, please include the FET taxes in each of your bids, contracts, and final invoices for White House trips. The White House will not longer be responsible for reporting and payment of this tax and the responsibility reverts back to the press charter carrier (in this case United).

The White House Travel Office press billing has been outsourced to American Express and their press charter program to Air Partner, Inc.

If you have any questions, please don't hesitate to call me at 202-625-6600.

Thank you.

Sue Hazard
Director
Air Partner, Inc.
202-625-6600
202-625-6155-Fax

www.airpartnerusa.com

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]
To: Ann Gray/WHO/EOP@EOP [WHO] <Ann Gray>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 11/14/2002 1:56:47 PM
Subject: : Req for Roosevelt Room

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:14-NOV-2002 18:56:47.00
SUBJECT:: Req for Roosevelt Room
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Ann-

We got the OK via Colleen to use the Roosevelt but wanted to remind/confirm with you that we had a date change.

Can you put us down for Thursday, Dec. 12, 5:00-6:00 pm, please? Description can be "Counsel office mtg. w/ historians".

Many thanks!

Lib
---------- Forwarded by Elizabeth N. Camp/WHO/EOP on 11/14/2002 06:52 PM ----------

Colleen Litkenhaus
11/14/2002 05:12:12 PM
Record Type: Record

To: Elizabeth N. Camp/WHO/EOP@EOP
cc: ann gray/who/eop@eop
bcc:
Subject: Re: Req for Roosevelt Room on Tuesday, Dec. 10

approved

Elizabeth N. Camp
11/12/2002 01:19:16 PM
Record Type: Record

To: Colleen Litkenhaus/WHO/EOP@EOP
cc: Ann Gray/WHO/EOP@EOP
Subject: Req for Roosevelt Room on Tuesday, Dec. 10

Purpose: ARG to talk to historians and scholars re Presidential Records Act.

Can we reserve the Roosevelt from 5-6 pm that day?

From: CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO]
To: Charnes, Adam <Adam.Charnes@usdoj.gov>
CC: brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>
Sent: 11/15/2002 4:02:47 AM
Subject: : Re: Noel's email address

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:15-NOV-2002 09:02:47.00
SUBJECT:: Re: Noel's email address
TO:"Charnes, Adam" <Adam.Charnes@usdoj.gov> ("Charnes, Adam" <Adam.Charnes@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

try: nfrancisco@who.eop.gov. this short-cut is supposed to work. if it doesn't, tell me, and I'll get you the full one.

"Charnes, Adam" <Adam.Charnes@usdoj.gov>
11/15/2002 07:59:45 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Bradford A. Berenson/WHO/EOP@EOP
cc:
Subject: Noel's email address

Can one of you please email this to me? Thanks.

From: CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Mary Ann Hanusa/WHO /EOP@EOP [WHO] <Mary Ann Hanusa>;Harriet Miers/WHO/EOP@EOP [WHO] <Harriet Miers>
CC: Blake Gottesman/WHO/EOP@EOP [WHO] <Blake Gottesman>;Cathy Alix/WHO/EOP@EOP [WHO] <Cathy Alix>
Sent: 11/15/2002 5:17:32 AM
Subject: : Future Library

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Linda M. Gambatesa ( CN=Linda M. Gambatesa/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:15-NOV-2002 10:17:32.00
SUBJECT:: Future Library
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Mary Ann Hanusa ( CN=Mary Ann Hanusa/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Harriet Miers ( CN=Harriet Miers/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Blake Gottesman ( CN=Blake Gottesman/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Cathy Alix ( CN=Cathy Alix/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

FYI - WHMO has provided a list of items from Offutt AFB that the President
used on 9/11 (still waiting to hear back from Barksdale AFB). The items
identified so far are:

- Command Center Swivel Chair w/old US Strategic Command Seal
-Secure Telephone
- Plastic Water Pitcher
- Plate under Pitcher
- Goblet
- Paper coasters w/old US Strategic Command Seal
- Video Tele-Conference Center Chair

I recommend we advise we would like all these items to recreate the image
down the road (even though we may not use all). Do you agree?

Issues to address:
1. Who should pay to ship these items to DC ?
2. Is it okay to store them in 501 EEOB?
```

From: Charnes, Adam <Adam.Charnes@usdoj.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 11/15/2002 5:47:08 AM
Subject: : Can you fax me asap...

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Charnes, Adam" <Adam.Charnes@usdoj.gov> ( "Charnes, Adam" <Adam.Charnes@usdoj.gov>
[ UNKNOWN ] )
CREATION DATE/TIME:15-NOV-2002 10:47:08.00
SUBJECT:: Can you fax me asap...
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

A copy of the Judge's letter to the Chief on the POTUS judge's proposal?
my fax is 353-9163.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>
Sent: 11/15/2002 6:43:35 AM
Subject: : Can you fax me asap...

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:15-NOV-2002 11:43:35.00
SUBJECT:: Can you fax me asap...
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

can you do this asap: send Adam both the letter to Chief and the letter to the Senators from POTUS

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 11/15/2002 11:46 AM ----------

"Charnes, Adam" <Adam.Charnes@usdoj.gov>
11/15/2002 09:45:51 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Can you fax me asap...

A copy of the Judge's letter to the Chief on the POTUS judge's proposal?
my fax is 353-9163.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>
Sent: 11/15/2002 7:41:12 AM
Subject: : Re: Shedd and McConnell

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:15-NOV-2002 12:41:12.00
SUBJECT:: Re: Shedd and McConnell
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

fyi
---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 11/15/2002 12:44 PM ----------

Heather Wingate
11/15/2002 12:37:21 PM
Record Type: Record

To: Bradford A. Berenson/WHO/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: Shedd and McConnell

I don't disagree, but let me have a few conversations (Lott, Hatch) before you dial 911 on this. There may be some other leverage points that we won't need to get directly involved in. I will let you know.

From: Mike Allen <allenm@washpost.com>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 11/15/2002 12:04:11 PM
Subject: : Influential Federalist Society celebrates 20th anniversary

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Mike Allen <allenm@washpost.com> (Mike Allen <allenm@washpost.com> [UNKNOWN])
CREATION DATE/TIME:15-NOV-2002 17:04:11.00
SUBJECT:: Influential Federalist Society celebrates 20th anniversary
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

BC-Federalist Society, 1st Ld-Writethru,610
Influential Federalist Society celebrates 20th anniversary
Eds: INSERTS new 11th graf, Also at, to UPDATE with names of society
founders
With BC-Federalist Society-Glance
By GINA HOLLAND
Associated Press Writer
WASHINGTON (AP) ? Now 20 years old, the Federalist Society has grown from a tiny group of conservative college students to an influential power in Washington, though most people still don't recognize its name.
President Bush turns to the lawyers' group for judicial candidates. Attorney General John Ashcroft fills his staff with its members. Two other Bush Cabinet members, the president's top Supreme Court lawyer and Supreme Court Justice Antonin Scalia were involved in the group's founding.
"Who would have thought 20 years ago that that little organization of students at a couple of law schools would have evolved today to a power of such proportions?" Scalia said this week at the group's convention. "It could have been a grand flop."
The society is celebrating its anniversary this week in Washington, though the gathering also has turned into a post-election party over Republican victories in the midterm election.
While the society has no party affiliation, many of the 30,000 lawyers involved in the organization are Republicans.
Most seem amused by the group's mystique.
Solicitor General Theodore Olson, the president's Supreme Court lawyer, said they've been accused of secretly building power behind a seductive facade of intellectual debate. Events are open to the public and membership is open to anyone, he said.
"What a disguise. From that small secret beginning 20 years ago, hiding in plain sight," he said during a gala Thursday night.
Ashcroft joked at that same dinner that the stereotypes can make it uncomfortable to associate with the group.
"There are some who would paint the Federalist Society as a nefarious, underground cabal with secret handshakes and blood oaths. I called all of you here tonight because I want to know who squealed," he said.
Also at the event were Energy Secretary Spencer Abraham, who was a founder of the Harvard Law School chapter, and Interior Secretary Gale Norton, who advised student founders.
The Federalist Society does not lobby Congress, instead using public forums on subjects like lawsuit limits to influence opinion. The group's name comes from the Federalist Papers, written by the founding fathers. Its mission is backing individual liberties and traditional values.
Liberals have no group as large, although the American Constitution Society and the Equal Justice Society act in a similar way to advance their causes.
Erwin Chemerinsky, a liberal University of Southern California law professor, said Federalist Society members claim it's an open organization but at many events "there's not a black face in the room" and there's an atmosphere of partisanship.
At Thursday's dinner, the crowd ? including Scalia ? was entertained by a series of Bill Clinton jokes and jabs at liberals.

Olson told of a critic who complained that the group represented a serious threat to minorities, women, workers, the poor, the elderly, the disabled and environmentalists. "He didn't mention ? I think an oversight ? the multi-gendered," Olson said.
Olson got more laughs when he said that Clinton had a hard time keeping White House attorneys, describing him as "a man who went through counsels to the president as if they were breath mints ? I thought of better ways to express it, but I thought I'd better leave it at that."
???
On the Net:
Federalist Society: http://www.fed-soc.org/
American Constitution Society:
http://www.americanconstitutionsociety.org/
Equal Justice Society: http://www.equaljusticesociety.org/
AP-ES-11-15-02 1649EST

BC-Federalist Society-Glance,190
The Federalist Society
With BC-Federalist Society
By The Associated Press
NAME: The Federalist Society for Law and Public Policy Studies.
FOUNDED: In 1982 by students who believed professors at the top law schools were too liberal. Energy Secretary Spencer Abraham was a founder of the Harvard Law School chapter. Interior Secretary Gale Norton advised the founders. Justice Antonin Scalia, then a law professor, agreed to be an adviser to students.
MEMBERSHIP: Conservatives and libertarians. About 30,000 involved in society activities.
COLLEGES: With chapters on about 150 law school campuses, the society recruits members early with the chance to meet prominent public officials and judges.
BUDGET: $3.2 million, funded mainly by donations from conservative groups.
FORUMS: The group uses public forums ? with liberal and conservative experts ? to explore legal subjects.
QUOTE: "Most Americans don't know who they are. Some of the Americans who do think of them as a secret club, which they aren't. They're not like a cult. They're very open and engaged." ? Cass Sunstein, a liberal law professor at the University of Chicago.
AP-ES-11-15-02 1619EST

From: CN=David S. Addington/OU=OVP/O=EOP [OVP]
To: Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>
CC: elizabeth n. camp/who/eop@eop [WHO] <elizabeth n. camp>;timothy e. flanigan/who/eop@eop [WHO] <timothy e. flanigan>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;alberto r. gonzales/who/eop@eop [WHO] <alberto r. gonzales>
Sent: 11/16/2002 5:45:10 AM
Subject: : Re: Seeking vacatur in Waxman case

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP [ OVP ] )
CREATION DATE/TIME:16-NOV-2002 10:45:10.00
SUBJECT:: Re: Seeking vacatur in Waxman case
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:elizabeth n. camp ( CN=elizabeth n. camp/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:timothy e. flanigan ( CN=timothy e. flanigan/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:brett m. kavanaugh ( CN=brett m. kavanaugh/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:alberto r. gonzales ( CN=alberto r. gonzales/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I'd sure like to get a vacatur of Waxman. But I think the Office of the
Solicitor General should make the final call on whether we try to do so,
as they are in the best position to assess the risk/gain tradeoff in the
courts involved.
```

From: CN=Joel D. Kaplan/OU=WHO/O=EOP [WHO]
To: Richard Falkenrath/WHO/EOP@EOP [WHO] <Richard Falkenrath>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 11/18/2002 9:32:34 AM
Subject: : call to Chris Cox re: homeland bill

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-NOV-2002 14:32:34.00
SUBJECT:: call to Chris Cox re: homeland bill
TO:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Rich is probably the best person to talk to him about this.
---------- Forwarded by Joel D. Kaplan/WHO/EOP on 11/18/2002 02:24 PM ----------

Brett M. Kavanaugh
11/18/2002 02:18:41 PM
Record Type: Record

To: Bradford A. Berenson/WHO/EOP@EOP, Joel D. Kaplan/WHO/EOP@EOP
cc:
Subject: call to Chris Cox re: homeland bill

Can whoever knows the most about the aspect of homeland security bill dealing with internal surveillance/privacy act (per Safire column) call Congressman Chris Cox at 225-5611. Keep in mind that Rep. Cox may be the Chair of the House Government Reform committee with oversight over this issue. He told me he has been asked about this by press quite a bit.

From: CN=Nanette Everson/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 11/18/2002 12:15:56 PM
Subject: : Re: White House Gift Policy

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-NOV-2002 17:15:56.00
SUBJECT:: Re: White House Gift Policy
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Jen does POTUS gifts.

Brett M. Kavanaugh
11/18/2002 04:23:54 PM
Record Type: Record

To: Nanette Everson/WHO/EOP@EOP
cc:
Subject: White House Gift Policy

Is this you (or Jen)?

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 11/18/2002 04:29 PM ----------

Israel Hernandez
11/18/2002 04:21:27 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: White House Gift Policy

What say you?
---------- Forwarded by Israel Hernandez/WHO/EOP on 11/18/2002 04:25 PM ----------

Mark McKinnon <mmckinnon@pstrategies.com>
11/18/2002 04:13:00 PM
Record Type: Record

To: Israel Hernandez/WHO/EOP@EOP
cc:
Subject: White House Gift Policy

Izzy. Can you tell me someone in counsel's office who can articulate WH gift policy (as in gifts to POTUS). Don't want to bother Al or any high ups.

Do you know the policy?
mckinnon

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>
Sent: 11/18/2002 12:18:55 PM
Subject: : White House Gift Policy

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-NOV-2002 17:18:55.00
SUBJECT:: White House Gift Policy
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

this is yours, correct? do you want to call Israel on this?

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 11/18/2002 05:21 PM ----------

Israel Hernandez
11/18/2002 04:21:27 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: White House Gift Policy

What say you?
---------- Forwarded by Israel Hernandez/WHO/EOP on 11/18/2002 04:25 PM ----------

Mark McKinnon <mmckinnon@pstrategies.com>
11/18/2002 04:13:00 PM
Record Type: Record

To: Israel Hernandez/WHO/EOP@EOP
cc:
Subject: White House Gift Policy

Izzy. Can you tell me someone in counsel's office who can articulate WH gift policy (as in gifts to POTUS). Don't want to bother Al or any high ups.
Do you know the policy?
mckinnon

From: CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 11/18/2002 1:32:31 PM
Subject: : Re: White House Gift Policy

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-NOV-2002 18:32:31.00
SUBJECT:: Re: White House Gift Policy
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

sure, will do

Brett M. Kavanaugh
11/18/2002 05:16:13 PM
Record Type: Record

To: Jennifer G. Newstead/WHO/EOP@EOP
cc:
Subject: White House Gift Policy

this is yours, correct? do you want to call Israel on this?

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 11/18/2002 05:21 PM ----------

Israel Hernandez
11/18/2002 04:21:27 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: White House Gift Policy

What say you?
---------- Forwarded by Israel Hernandez/WHO/EOP on 11/18/2002 04:25 PM ----------

Mark McKinnon <mmckinnon@pstrategies.com>
11/18/2002 04:13:00 PM
Record Type: Record

To: Israel Hernandez/WHO/EOP@EOP
cc:
Subject: White House Gift Policy

Izzy. Can you tell me someone in counsel's office who can articulate WH gift policy (as in gifts to POTUS). Don't want to bother Al or any high ups.

Do you know the policy?
mckinnon

From: CN=Adam F. Greenstone/OU=OA/O=EOP [OA]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Carlos Solari/OA/EOP@Exchange [OA] <Carlos Solari>;Tim Campen/OA/EOP@Exchange [OA] <Tim Campen>
Sent: 11/19/2002 5:22:53 AM
Subject: : Re: Non-Record Issue
Attachments: P_F35SB003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Adam F. Greenstone (CN=Adam F. Greenstone/OU=OA/O=EOP [OA])
CREATION DATE/TIME:19-NOV-2002 10:22:53.00
SUBJECT:: Re: Non-Record Issue
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Carlos Solari (CN=Carlos Solari/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
CC:Tim Campen (CN=Tim Campen/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
End Original ARMS Header

Brett--Here's a draft of a letter to the Archives. It would be great if you can give us your comments and advice on proceeding.

Brett M. Kavanaugh
11/13/2002 01:51:21 PM
Record Type: Record

To: Adam F. Greenstone/OA/EOP@EOP
cc:
bcc:
Subject: Re: Non-Record Issue

Can you convert the MOU into a letter to the Archives. We can then discuss who should sign.

Adam F. Greenstone
11/13/2002 01:49:25 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Non-Record Issue

Any luck with the Archives?

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_F35SB003_WHO.TXT_1>

Dear Mr./Ms. _____:

As you know from recent discussions between our organizations, the Office of Administration (OA), Executive Office of the President (EOP) is engaged in a time-sensitive and critical effort to update the EOP's information technology infrastructure to support the needs of OA's customer offices. Part of this effort involves converting to a standard office management suite of software centered on the Microsoft Office line of products that includes Exchange, Outlook, Word, Excel and PowerPoint. Despite our significant efforts to convert the "record/non-record" function currently in place with the legacy system (designed around Lotus Notes), we have concluded that this feature is not supportable in the new Microsoft environment. The absence of this feature will cause all e-mail sent henceforth within, to, or from offices served by the EOP's information technology infrastructure to be records managed in the Automated Records Management System (ARMS).

Because it will no longer be possible for e-mail sent by EOP system account holders to be designated as "non-record" at the time of creation, all EOP system e-mail--including non-record materials--will eventually be sent to the National Archives and Records Administration (NARA). For Presidential records, this will occur during a Presidential transition. For Federal records generated by components of the EOP that generate Federal records, this will take place as part of the records accession process. At present, approximately 1.5% of the e-mail handled by the system is designated as "non-record."

I want to emphasize that the reasons for this change are purely technical. We realize that NARA is encouraging the development of information systems that will prevent unnecessary record keeping by allowing senders to classify messages as "non-records," or "temporary records," or otherwise allow senders to identify an item as something other than a permanent record. In this light, we acknowledge that the step we need to take at this time is a step back, and we are taking it in order to maintain and protect our infrastructure in accordance with industry standards. As we develop long-term plans for the EOP network, we will continue to examine and pursue options that would allow us to preserve only those records that we are required to keep.

We note that the fact that a particular message is not a record under Federal law does not necessarily change because it is, contrary to its true status, retained. Already, there is a large quantity of non-record messages labeled as "records" simply because the sender used the default setting. We understand that the Archives has properly treated these materials as non-records for purposes of applicable information disclosure processes despite their default identification as records. These materials fall into two broad categories. For offices covered by the Presidential Records Act, 44 U.S.C. § 2201, et. seq.,"Personal records," as defined at 44 U.S.C. § 2201(3), are not presidential records, and are not subject to disclosure under 44 U.S.C. § 2204(c). For

offices that generate Federal records pursuant to 44 U.S.C. § 3101, et. seq., documents that do not meet the definition of an agency record under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, are not subject to disclosure under the FOIA. Such items, which will likely be no more than marginally greater in number due to the technical change discussed in this letter, should continue to be withheld from disclosure under these processes. Accordingly, we trust and understand that the National Archives will, to the best of its ability, identify such personal records and non-records, and segregate them from records identified for disclosure in response to a request under one of the above-cited laws.

Thank you for consulting with us concerning this development. If you have any questions or would like to further discuss this matter, please call me at _____, or _____ or my office at _____.

Sincerely,

[Signature]

From: CN=Carolyn Nelson/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 11/19/2002 5:42:29 AM
Subject: : JSC Meeting

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carolyn Nelson (CN=Carolyn Nelson/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:19-NOV-2002 10:42:29.00
SUBJECT:: JSC Meeting
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett-

Do you have items to add to the agenda for the JSC mtg.? If so, I'll run over and pick them up.

Thanks,
Carrie
---------- Forwarded by Carolyn Nelson/WHO/EOP on 11/19/2002 10:41 AM ----------

Elizabeth N. Camp
11/19/2002 09:45:18 AM
Record Type: Record

To: Carolyn Nelson/WHO/EOP@EOP
cc: Hana F. Brilliant/WHO/EOP@EOP
Subject: JSC Meeting

Brett said we do need to have the JSC Mtg. this week for strategery discussions. Please check w/ him and see if he wants to put any materials in the binder for this discussion.

Thanks!
---------- Forwarded by Elizabeth N. Camp/WHO/EOP on 11/19/2002 09:39 AM ----------

Carolyn Nelson
11/19/2002 09:23:43 AM

Record Type: Record

To: Elizabeth N. Camp/WHO/EOP@EOP
cc:
Subject: JSC Meeting

Thus Far:

New Business:

U.S. District Court for the Eastern District of Arkansas-Chris
Federal Claims Court-Noel
TBD-Helgi

and that's it!

I'll send you an update if I get more info.

Carrie

From: Greenstone, Adam F.
To: <Kavanaugh, Brett M.>
CC: <Campen, Tim>;<Solari, Carlos>
Sent: 11/19/2002 10:19:57 AM
Subject: Re: Non-Record Issue
Attachments: ~~DLNK0.RTF; Non-Record Letter.doc

Brett--Here's a draft of a letter to the Archives. It would be great if you can give us your comments and advice on proceeding.

<< Non-Record Letter.doc >>

Brett M. Kavanaugh

11/13/2002 01:51:21 PM

Record Type: Record

To: Adam F. Greenstone/OA/EOP@EOP

cc:

bcc:

Subject: Re: Non-Record Issue << Adam F. Greenstone >>

Can you convert the MOU into a letter to the Archives. We can then discuss who should sign.

Adam F. Greenstone

11/13/2002 01:49:25 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: Non-Record Issue

Any luck with the Archives?

Dear Mr./Ms. _____:

As you know from recent discussions between our organizations, the Office of Administration (OA), Executive Office of the President (EOP) is engaged in a time-sensitive and critical effort to update the EOP's information technology infrastructure to support the needs of OA's customer offices. Part of this effort involves converting to a standard office management suite of software centered on the Microsoft Office line of products that includes Exchange, Outlook, Word, Excel and PowerPoint. Despite our significant efforts to convert the "record/non-record" function currently in place with the legacy system (designed around Lotus Notes), we have concluded that this feature is not supportable in the new Microsoft environment. The absence of this feature will cause all e-mail sent henceforth within, to, or from offices served by the EOP's information technology infrastructure to be records managed in the Automated Records Management System (ARMS).

Because it will no longer be possible for e-mail sent by EOP system account holders to be designated as "non-record" at the time of creation, all EOP system e-mail--including non-record materials--will eventually be sent to the National Archives and Records Administration (NARA). For Presidential records, this will occur during a Presidential transition. For Federal records generated by components of the EOP that generate Federal records, this will take place as part of the records accession process. At present, approximately 1.5% of the e-mail handled by the system is designated as "non-record."

I want to emphasize that the reasons for this change are purely technical. We realize that NARA is encouraging the development of information systems that will prevent unnecessary record keeping by allowing senders to classify messages as "non-records," or "temporary records," or otherwise allow senders to identify an item as something other than a permanent record. In this light, we acknowledge that the step we need to take at this time is a step back, and we are taking it in order to maintain and protect our infrastructure in accordance with industry standards. As we develop long-term plans for the EOP network, we will continue to examine and pursue options that would allow us to preserve only those records that we are required to keep.

We note that the fact that a particular message is not a record under Federal law does not necessarily change because it is, contrary to its true status, retained. Already, there is a large quantity of non-record messages labeled as "records" simply because the sender used the default setting. We understand that the Archives has properly treated these materials as non-records for purposes of applicable information disclosure processes despite their default identification as records. These materials fall into two broad categories. For offices covered by the Presidential Records Act, 44 U.S.C. § 2201, et. seq.,"Personal records," as defined at 44 U.S.C. § 2201(3), are not presidential records, and are not subject to disclosure under 44 U.S.C. § 2204(c). For

offices that generate Federal records pursuant to 44 U.S.C. § 3101, et. seq., documents that do not meet the definition of an agency record under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, are not subject to disclosure under the FOIA. Such items, which will likely be no more than marginally greater in number due to the technical change discussed in this letter, should continue to be withheld from disclosure under these processes. Accordingly, we trust and understand that the National Archives will, to the best of its ability, identify such personal records and non-records, and segregate them from records identified for disclosure in response to a request under one of the above-cited laws.

Thank you for consulting with us concerning this development. If you have any questions or would like to further discuss this matter, please call me at _____, or _____ or my office at _____.

Sincerely,

[Signature]

Notes Link Description:
Adam F. Greenstone
Notes Server:
CN=MAIL5/O=EOP
Notes Document Link was not accessible at processing time. Contact sender or message source to obtain document link information.

From: CN=Lisa J. Macecevic/OU=OMB/O=EOP [OMB]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 11/19/2002 9:54:19 AM
Subject: : Re: For your review - proposed signing statement on HR3210 (Terrorism Insurance)

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Lisa J. Macecevic ( CN=Lisa J. Macecevic/OU=OMB/O=EOP [ OMB ] )
CREATION DATE/TIME:19-NOV-2002 14:54:19.00
SUBJECT:: Re: For your review - proposed signing statement on HR3210 (Terrorism Insurance)
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

thanks very much.
```

From: FindLaw.com <listadmin@LEGALMINDS.ORG>
To: TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN] <TOPHEADLINES@LEGALMINDS.ORG>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 11/19/2002 2:19:40 PM
Subject: : [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Tue., Nov. 19, 2002

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"FindLaw.com" <listadmin@LEGALMINDS.ORG> ("FindLaw.com" <listadmin@LEGALMINDS.ORG> [UNKNOWN])
CREATION DATE/TIME:19-NOV-2002 19:19:40.00
SUBJECT:: [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Tue., Nov. 19, 2002
TO:TOPHEADLINES@LEGALMINDS.ORG (TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

FINDLAW Tue, Nov 19, 2002

TOP LEGAL NEWS HEADLINES

For all of the day's legal news go to: http://news.findlaw.com

****

Trying to make a full-featured Practice Management System out of Outlook(TM), ACT!(TM), GoldMine(TM), etc? Get your FREE Trial of Time Matters(R), the most widely used, most award-winning practice management system. Your existing data is easily transferred to Time Matters. Use with Outlook or replace Outlook. Get FREE Trial at http://rd.findlaw.com/scripts/nl.pl?url=10154880003_nl

****

POLITICS

GOP Wins Senate Homeland Bill Fight
http://news.findlaw.com/ap/a/w/1153/11-19-2002/20021119083004_23.html

Bush Takes Iraq, Terrorism Campaign To NATO Summit
http://news.findlaw.com/politics/s/20021119/natobushdc.html

LEGAL COMMENTARY

"Disparate Impact" Discrimination: When Does A "Business Necessity" Requirement Discriminate Against A Particular Group?
http://writ.news.findlaw.com/grossman/20021119.html

A "Defense Of Others" Theory: Killing To Protect One's Unborn Children
http://writ.news.findlaw.com/commentary/20021119_jeffries.html

CIVIL RIGHTS

Justice To Appeal Commandments Ruling
http://news.findlaw.com/ap/o/1110/11-19-2002/20021119033001_10.html

Court Rejects Guantanamo Detainees Challenge
http://news.findlaw.com/news/s/20021119/attackcourtdc.html

TORT

NTSB: Sleep Caused Mich. Train Wreck

http://news.findlaw.com/ap/a/w/1155/11-19-2002/20021119093004_57.html

LABOR AND EMPLOYMENT
Slow Growth For Women In Top Jobs
http://news.findlaw.com/business/s/20021119/usawomenjobsdc.html

Bank Of America To Cut 900 Jobs
http://news.findlaw.com/ap/f/1310/11-19-2002/20021119080006_22.html

ENVIRONMENT
Tanker Sinks Off Spain, Threatening Eco-Disaster
http://news.findlaw.com/news/s/20021119/transportspainshipdc.html

French Farmer Bove Gets Jail For GM Crop Attacks
http://news.findlaw.com/international/s/20021119/francebovedc.html

CYBERSPACE LAW
GAO Criticizes Computer Security
http://news.findlaw.com/ap/ht/1700/11-19-2002/20021119074502_34.html

Security Bill Has Internet Provisions
http://news.findlaw.com/ap/ht/1700/11-19-2002/20021119024500_01.html

BUSINESS
SEC Proposing New Auditor Rules
http://news.findlaw.com/ap/f/1310/11-19-2002/20021119001502_22.html

H&R Block Settles Texas Suit
http://news.findlaw.com/business/s/20021119/financialhrblockdc.html

INTERNATIONAL LAW
Annan Says Iraqi No-Fly Zone Firing No Violation
http://news.findlaw.com/news/s/20021119/iraqzoneannandc.html

Executed Pakistani's Funeral Stirs Anti-US Feeling

http://news.findlaw.com/international/s/20021119/pakistankansifuneraldc.htm
l

WAR ON TERRORISM
Court OKs Government Surveillance
http://news.findlaw.com/ap/a/w/1152/11-19-2002/20021119050002_79.html

Australia: 'Credible' Threat Received
http://news.findlaw.com/ap/i/1106/11-19-2002/20021119031501_29.html

CRIME & TRIALS
Judge Admits Criticizing Prosecutor
http://news.findlaw.com/ap/o/1110/11-19-2002/20021119080005_09.html

Escapee Linked To Abductions Caught
http://news.findlaw.com/ap/o/1110/11-19-2002/20021119080006_29.html

ENTERTAINMENT
Radio Deregulation No Hit for Listeners-Report

http://news.findlaw.com/entertainment/s/20021119/mediaradioderegulationdc.h
tml

Singer D'Angelo Resists Arrest

http://news.findlaw.com/ap/e/1403/11-19-2002/20021119104504_082.html

SPORTS
Woods Chips To Win But Sidesteps Augusta Flap
http://news.findlaw.com/sports/s/20021119/pgawoodsdc.html

Iverson: Scared To Live In Philly
http://news.findlaw.com/ap/s/2030/11-19-2002/20021119120015_098.html

****

Founded in 1983, Rimkus Consulting Group, Inc. has provided
engineering, technical, business, and environmental consulting services
to law firms, insurance carriers, and corporations in 50 states and
over 40 countries. Rimkus Consulting Group, Inc. is dedicated to
providing a service of uncompromising quality and integrity to its
clients. http://rd.findlaw.com/scripts/nl.pl?url=10269756000_nl

** West LegalEdcenter *******

Receive updates about NEW ONLINE CLE PROGRAMS

Register with West LegalEdcenter for monthly email updates about new
online CLE programs in your practice areas and jurisdictions. West
LegalEdcenter currently has more than 400 courses, with more added
daily!

http://rd.findlaw.com/scripts/nl.pl?url=gen_cle_010402

=- westgroup.com -=-=-=-=-=\

Make ZERO payments for 90 days!
Buy now and make no payments for 90 days. Check the box in the yellow
banner when selecting your billing options to take advantage of this
offer. http://rd.findlaw.com/scripts/nl.pl?url=10337148000_nl

****

FEEDBACK

We value your comments! Please take a moment to tell us what you think
by sending an e-mail to:
mailto:newsletters@findlaw.com?subject=TopHeadlines. Please include
"Top Headlines" in the subject line.

SUBSCRIPTION INFORMATION

To subscribe to a FindLaw Newsletter, visit the FindLaw Newsletter
Subscription Center at http://newsletters.findlaw.com

To unsubscribe, go to http://newsletters.findlaw.com/unsubscribe.html
---
ADVERTISING INFORMATION

For more information about advertising in FindLaw Newsletters, please
contact us at:

mailto:sales@findlaw.com

FindLaw Top Headlines http://news.findlaw.com
Copyright (c) 2002 FindLaw, Inc.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Adam F. Greenstone/OA/EOP@EOP [OA] <Adam F. Greenstone>
CC: carlos solari/oa/eop@exchange [OA] <carlos solari>;tim campen/oa/eop@exchange [OA] <tim campen>
Sent: 11/20/2002 2:52:33 AM
Subject: : Re: Non-Record Issue
Attachments: P_1O5TB003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:20-NOV-2002 07:52:33.00
SUBJECT:: Re: Non-Record Issue
TO:Adam F. Greenstone (CN=Adam F. Greenstone/OU=OA/O=EOP@EOP [OA])
READ:UNKNOWN
CC:carlos solari (CN=carlos solari/OU=oa/O=eop@exchange [OA])
READ:UNKNOWN
CC:tim campen (CN=tim campen/OU=oa/O=eop@exchange [OA])
READ:UNKNOWN
End Original ARMS Header

How about this instead:

Dear Mr. Stern:

The Office of Administration (OA) in the Executive Office of the President (EOP) is updating the EOP,s information technology infrastructure. Part of this effort involves converting to a standard office management suite of software centered on the Microsoft Office line of products that includes Exchange, Outlook, Word, Excel and PowerPoint. We are informed that the &record/non-record8 function currently in place with the legacy system (designed around Lotus Notes) is not feasible in the new Microsoft environment. Therefore, all EOP system e-mail--including non-record materials--will eventually be sent to the National Archives and Records Administration (NARA). For Presidential records, this will occur during a Presidential transition. For Federal records generated by components of the EOP that generate Federal records, this will take place as part of the records accession process. We write to make clear our continued understanding that NARA has no legal authority to unilaterally release non-records to the public under either the Presidential Records Act, 44 U.S.C. õ 2201, et. seq., or the Freedom of Information Act (FOIA), 5 U.S.C. õ 552.

Thank you for your work on this matter.

Sincerely,

[Signature]

Adam F. Greenstone
11/19/2002 10:19:57 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: Tim Campen/OA/EOP@Exchange, Carlos Solari/OA/EOP@Exchange
bcc:
Subject: Re: Non-Record Issue

Brett--Here's a draft of a letter to the Archives. It would be great if you can give us your comments and advice on proceeding.

Brett M. Kavanaugh
11/13/2002 01:51:21 PM
Record Type: Record

To: Adam F. Greenstone/OA/EOP@EOP
cc:
bcc:
Subject: Re: Non-Record Issue

Can you convert the MOU into a letter to the Archives. We can then discuss who should sign.

Adam F. Greenstone
11/13/2002 01:49:25 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Non-Record Issue

Any luck with the Archives?

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_1O5TB003_WHO.TXT_1>

Dear Mr./Ms. _____:

As you know from recent discussions between our organizations, the Office of Administration (OA), Executive Office of the President (EOP) is engaged in a time-sensitive and critical effort to update the EOP's information technology infrastructure to support the needs of OA's customer offices. Part of this effort involves converting to a standard office management suite of software centered on the Microsoft Office line of products that includes Exchange, Outlook, Word, Excel and PowerPoint. Despite our significant efforts to convert the "record/non-record" function currently in place with the legacy system (designed around Lotus Notes), we have concluded that this feature is not supportable in the new Microsoft environment. The absence of this feature will cause all e-mail sent henceforth within, to, or from offices served by the EOP's information technology infrastructure to be records managed in the Automated Records Management System (ARMS).

Because it will no longer be possible for e-mail sent by EOP system account holders to be designated as "non-record" at the time of creation, all EOP system e-mail--including non-record materials--will eventually be sent to the National Archives and Records Administration (NARA). For Presidential records, this will occur during a Presidential transition. For Federal records generated by components of the EOP that generate Federal records, this will take place as part of the records accession process. At present, approximately 1.5% of the e-mail handled by the system is designated as "non-record."

I want to emphasize that the reasons for this change are purely technical. We realize that NARA is encouraging the development of information systems that will prevent unnecessary record keeping by allowing senders to classify messages as "non-records," or "temporary records," or otherwise allow senders to identify an item as something other than a permanent record. In this light, we acknowledge that the step we need to take at this time is a step back, and we are taking it in order to maintain and protect our infrastructure in accordance with industry standards. As we develop long-term plans for the EOP network, we will continue to examine and pursue options that would allow us to preserve only those records that we are required to keep.

We note that the fact that a particular message is not a record under Federal law does not necessarily change because it is, contrary to its true status, retained. Already, there is a large quantity of non-record messages labeled as "records" simply because the sender used the default setting. We understand that the Archives has properly treated these materials as non-records for purposes of applicable information disclosure processes despite their default identification as records. These materials fall into two broad categories. For offices covered by the Presidential Records Act, 44 U.S.C. § 2201, et. seq.,"Personal records," as defined at 44 U.S.C. § 2201(3), are not presidential records, and are not subject to disclosure under 44 U.S.C. § 2204(c). For

offices that generate Federal records pursuant to 44 U.S.C. § 3101, et. seq., documents that do not meet the definition of an agency record under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, are not subject to disclosure under the FOIA. Such items, which will likely be no more than marginally greater in number due to the technical change discussed in this letter, should continue to be withheld from disclosure under these processes. Accordingly, we trust and understand that the National Archives will, to the best of its ability, identify such personal records and non-records, and segregate them from records identified for disclosure in response to a request under one of the above-cited laws.

Thank you for consulting with us concerning this development. If you have any questions or would like to further discuss this matter, please call me at _____, or _____ or my office at _____.

Sincerely,

[Signature]

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Robert J. Pellicci/OMB/EOP@EOP [OMB] <Robert J. Pellicci>;Patrick J. Bumatay/WHO /EOP@EOP [WHO] <Patrick J. Bumatay>
Sent: 11/20/2002 2:43:31 AM
Subject: : Re: LRM RJP244 - - TREASURY Report on Trade Adjustment Assistance Reform Act of 2002
Attachments: P_AH5TB003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:20-NOV-2002 07:43:31.00
SUBJECT:: Re: LRM RJP244 - - TREASURY Report on Trade Adjustment Assistance Reform Act of 2002
TO:Robert J. Pellicci (CN=Robert J. Pellicci/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

No objection.

---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 11/19/2002 05:41 PM ----------

From: Robert J. Pellicci on 11/18/2002 04:49:21 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: Ingrid M. Schroeder/OMB/EOP@EOP, James J. Jukes/OMB/EOP@EOP
Subject: LRM RJP244 - - TREASURY Report on Trade Adjustment Assistance Reform Act of 2002

COMMENTS ARE DUE NO LATER THAN 11:00 A.M. TOMORROW - NOVEMBER 19TH. THE TREASURY LETTER TO SEN. BAUCUS FOLLOWS--

---------- Forwarded by Robert J. Pellicci/OMB/EOP on 11/18/2002 04:40 PM ----------
LRM ID: RJP244
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Monday, November 18, 2002

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: Robert J. Pellicci
PHONE: (202)395-4871 FAX: (202)395-6148
SUBJECT: TREASURY Report on Trade Adjustment Assistance Reform Act of 2002

DEADLINE: 11:00 A.M. Tuesday, November 19, 2002
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS:

DISTRIBUTION LIST

AGENCIES:
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773
062-LABOR - Robert A. Shapiro - (202) 693-5500
061-JUSTICE - Daniel Bryant - (202) 514-2141
128-US Trade Representative - Carmen Suro-Bredie - (202) 395-4755

EOP:
James C. Capretta
William D. Badger
Gary R. Edson
Alan Gilbert
Elizabeth S. Dougherty
Jay P. Lefkowitz
Philo D. Hall
Lauren C. Lobrano
Christine M. Burgeson
WHGC LRM
OVP LRM
Philip J. Perry
Matthew J. Schneider
John F. Wood
Larry R. Matlack
Maureen Walsh
Carole Kitti
James D. Foster
Ronald L. Silberman
Alan B. Rhinesmith
Robert F. Mahaffie
Kenneth L. Schwartz
Barry T. Clendenin
Thomas Reilly
Keith J. Fontenot
Ingrid M. Schroeder
James J. Jukes
LRM ID: RJP244 SUBJECT: TREASURY Report on Trade Adjustment Assistance Reform Act of 2002
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Robert J. Pellicci Phone: 395-4871 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-7362

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

REV_00154638

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Sent
To:_____
James C. Capretta/OMB/EOP@EOP
William D. Badger/OPD/EOP@EOP
Gary R. Edson/NSC/EOP@EOP
Alan Gilbert/OPD/EOP@EOP
Elizabeth S. Dougherty/OPD/EOP@EOP
Jay P. Lefkowitz/OPD/EOP@EOP
Philo D. Hall/OPD/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
Christine M. Burgeson/OMB/EOP@EOP
WHGC LRM
OVP LRM
Philip J. Perry/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Larry R. Matlack/OMB/EOP@EOP
Maureen Walsh/OMB/EOP@EOP
Carole Kitti/OMB/EOP@EOP
James D. Foster/OMB/EOP@EOP
Ronald L. Silberman/OMB/EOP@EOP
Alan B. Rhinesmith/OMB/EOP@EOP
Kenneth L. Schwartz/OMB/EOP@EOP
Robert F. Mahaffie/OMB/EOP@EOP
Barry T. Clendenin/OMB/EOP@EOP
Thomas Reilly/OMB/EOP@EOP
Keith J. Fontenot/OMB/EOP@EOP

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_AH5TB003_WHO.TXT_1>

11/01/2002
DRAFT – FOR DISCUSSION PURPOSES ONLY
NOT FOR DISTRIBUTION

The Honorable Max Baucus
United States Senate
511 Hart Senate Office Building
Washington, DC 20510

Dear Senator Baucus:

Thank you for your recent letter to me regarding the health insurance provisions of the recently enacted Trade Adjustment Assistance Reform Act of 2002.

I share your view that the direct assistance to states and the new health insurance tax credit in the new law can make a difference in preventing additional workers and their families from losing health coverage. This assistance is provided without the states having to assume any costs of the coverage. With the new credit, the federal government will be paying 65 percent of the premiums, with the worker paying the remaining 35 percent. The total amount of assistance under the credit program is not capped.

You raised three issues in your letter. First, you indicated your view that states should not be able to enter into arrangements with individual insurers through state-based coverage options. One of the types of "qualified health insurance" under the act, however, is coverage through an arrangement entered into by a State and an issuer of health insurance coverage. Nothing in the statute prevents state-elected coverage from being individual coverage, as long as it meets the four requirements for state-elected coverage (guaranteed issue, no imposition of preexisting condition exclusions, nondiscriminatory premiums, and same benefits). Preventing a state from electing to arrange for individual coverage would limit the flexibility of a state to fashion a program of qualified coverage that best fits its needs.

Second, you addressed in your letter the meaning of the term "similarly situated" for purposes of the application of the nondiscriminatory-premium and same-benefit requirements for state-elected coverage. The clause "similarly situated" in the statute is contained in the clause "similarly situated individual who is not a qualifying individual." If a plan charges the same premium, and provides the same benefit, to all individuals who have the same health risk factors, the nondiscriminatory-premium and same-benefit requirements are satisfied. Thus, the "similarly-situated" rule prevents states from using the credit to indirectly subsidize coverage of individuals who are not eligible for the credit.

Each qualified health insurance plan must ensure access to each qualifying individual. Thus, we agree with your statement that a state-elected program would not be qualified health insurance if it accepted some but not all qualifying individuals while other state-elected alternatives accepted the denied individuals.

Third, your letter addressed the interpretation of the three-month rule as it pertains to health insurance coverage provided by the states under the new tax credit. It is important to note that the three-month rule is not an eligibility rule for the credit. An individual who does not have three months of "creditable coverage" would not be denied the credit. The three-month rule is the way that the statute defines the group of people for whom the four special requirements identified in your letter (guaranteed issue, no pre-existing condition exclusions, nondiscriminatory premiums, and same benefits) must apply in order for state-elected coverage options to be qualified health insurance for purposes of the tax credit.

Under the law, the four state-elected coverage requirements must apply only with respect to an individual whose aggregate of the periods of "creditable coverage" is three months as of the date on which the individual seeks to enroll in the state-elected coverage. The statute defines "creditable coverage" by reference to another Internal Revenue Code section, which in turn provides that a period of coverage prior to a 63-day break in coverage is not counted. Thus, for example, if someone is covered under an employer-sponsored group health plan and then loses that coverage and remains without creditable coverage for 63 days, then the coverage prior to the 63-day break would not be counted in determining whether the individual has three months of coverage.

It is equally important to be aware that a state may offer coverage options that extend the four special requirements of guaranteed issue, no pre-existing condition exclusions, nondiscriminatory premiums, and same benefits to individuals without three months of creditable coverage. Likewise, a state could apply one or more of the four standards to individuals who have met a lesser coverage requirement (such as three months of coverage counting periods before a 63-day break in coverage). Such insurance would be eligible for the credit. The law simply permits a state to offer a plan that charges a person without three months of coverage a different premium than someone who is not eligible for the credit, to impose a preexisting condition limitation, to provide that person different benefits than someone who is not eligible for the credit, or to deny access to coverage. This permissive rule provides needed flexibility to states in arranging coverage for people who have been out of the insurance market for a significant period of time.

Thank you very much for the opportunity to discuss this important provision and, hopefully, clarify its impact on the individuals it will assist. Please feel free to contact me if I can be of further assistance on the credit.

Sincerely,

Paul H. O'Neill

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Adam F. Greenstone/OA/EOP@EOP [OA] <Adam F. Greenstone>
CC: carlos solari/oa/eop@exchange [OA] <carlos solari>;tim campen/oa/eop@exchange [OA] <tim campen>
Sent: 11/20/2002 2:52:33 AM
Subject: : Re: Non-Record Issue
Attachments: P_1O5TB003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:20-NOV-2002 07:52:33.00
SUBJECT:: Re: Non-Record Issue
TO:Adam F. Greenstone (CN=Adam F. Greenstone/OU=OA/O=EOP@EOP [OA])
READ:UNKNOWN
CC:carlos solari (CN=carlos solari/OU=oa/O=eop@exchange [OA])
READ:UNKNOWN
CC:tim campen (CN=tim campen/OU=oa/O=eop@exchange [OA])
READ:UNKNOWN
End Original ARMS Header

How about this instead:

Dear Mr. Stern:

The Office of Administration (OA) in the Executive Office of the President (EOP) is updating the EOP,s information technology infrastructure. Part of this effort involves converting to a standard office management suite of software centered on the Microsoft Office line of products that includes Exchange, Outlook, Word, Excel and PowerPoint. We are informed that the &record/non-record8 function currently in place with the legacy system (designed around Lotus Notes) is not feasible in the new Microsoft environment. Therefore, all EOP system e-mail--including non-record materials--will eventually be sent to the National Archives and Records Administration (NARA). For Presidential records, this will occur during a Presidential transition. For Federal records generated by components of the EOP that generate Federal records, this will take place as part of the records accession process. We write to make clear our continued understanding that NARA has no legal authority to unilaterally release non-records to the public under either the Presidential Records Act, 44 U.S.C. õ 2201, et. seq., or the Freedom of Information Act (FOIA), 5 U.S.C. õ 552.

Thank you for your work on this matter.

Sincerely,

[Signature]

Adam F. Greenstone
11/19/2002 10:19:57 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: Tim Campen/OA/EOP@Exchange, Carlos Solari/OA/EOP@Exchange
bcc:
Subject: Re: Non-Record Issue

Brett--Here's a draft of a letter to the Archives. It would be great if you can give us your comments and advice on proceeding.

Brett M. Kavanaugh
11/13/2002 01:51:21 PM
Record Type: Record

To: Adam F. Greenstone/OA/EOP@EOP
cc:
bcc:
Subject: Re: Non-Record Issue

Can you convert the MOU into a letter to the Archives. We can then discuss who should sign.

Adam F. Greenstone
11/13/2002 01:49:25 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Non-Record Issue

Any luck with the Archives?

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_105TB003_WHO.TXT_1>

Dear Mr./Ms. _____:

As you know from recent discussions between our organizations, the Office of Administration (OA), Executive Office of the President (EOP) is engaged in a time-sensitive and critical effort to update the EOP's information technology infrastructure to support the needs of OA's customer offices. Part of this effort involves converting to a standard office management suite of software centered on the Microsoft Office line of products that includes Exchange, Outlook, Word, Excel and PowerPoint. Despite our significant efforts to convert the "record/non-record" function currently in place with the legacy system (designed around Lotus Notes), we have concluded that this feature is not supportable in the new Microsoft environment. The absence of this feature will cause all e-mail sent henceforth within, to, or from offices served by the EOP's information technology infrastructure to be records managed in the Automated Records Management System (ARMS).

Because it will no longer be possible for e-mail sent by EOP system account holders to be designated as "non-record" at the time of creation, all EOP system e-mail--including non-record materials--will eventually be sent to the National Archives and Records Administration (NARA). For Presidential records, this will occur during a Presidential transition. For Federal records generated by components of the EOP that generate Federal records, this will take place as part of the records accession process. At present, approximately 1.5% of the e-mail handled by the system is designated as "non-record."

I want to emphasize that the reasons for this change are purely technical. We realize that NARA is encouraging the development of information systems that will prevent unnecessary record keeping by allowing senders to classify messages as "non-records," or "temporary records," or otherwise allow senders to identify an item as something other than a permanent record. In this light, we acknowledge that the step we need to take at this time is a step back, and we are taking it in order to maintain and protect our infrastructure in accordance with industry standards. As we develop long-term plans for the EOP network, we will continue to examine and pursue options that would allow us to preserve only those records that we are required to keep.

We note that the fact that a particular message is not a record under Federal law does not necessarily change because it is, contrary to its true status, retained. Already, there is a large quantity of non-record messages labeled as "records" simply because the sender used the default setting. We understand that the Archives has properly treated these materials as non-records for purposes of applicable information disclosure processes despite their default identification as records. These materials fall into two broad categories. For offices covered by the Presidential Records Act, 44 U.S.C. § 2201, et. seq.,"Personal records," as defined at 44 U.S.C. § 2201(3), are not presidential records, and are not subject to disclosure under 44 U.S.C. § 2204(c). For

offices that generate Federal records pursuant to 44 U.S.C. § 3101, et. seq., documents that do not meet the definition of an agency record under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, are not subject to disclosure under the FOIA. Such items, which will likely be no more than marginally greater in number due to the technical change discussed in this letter, should continue to be withheld from disclosure under these processes. Accordingly, we trust and understand that the National Archives will, to the best of its ability, identify such personal records and non-records, and segregate them from records identified for disclosure in response to a request under one of the above-cited laws.

Thank you for consulting with us concerning this development. If you have any questions or would like to further discuss this matter, please call me at _____, or _____ or my office at _____.

Sincerely,

[Signature]

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: AGonzale@who.eop.gov [WHO] <AGonzale@who.eop.gov>;Elizabeth N. Camp/WHO /EOP@EOP [WHO] <Elizabeth N. Camp>;Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>
Sent: 11/20/2002 7:07:42 AM
Subject: : Signing ceremonies

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:20-NOV-2002 12:07:42.00
SUBJECT:: Signing ceremonies
TO:AGonzale@who.eop.gov ( AGonzale@who.eop.gov [ WHO ] )
READ:UNKNOWN
TO:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Homeland signing ceremony is monday 25th and terrorism insurance signing
ceremony is tuesday 26th.

.
```

From: CN=Eleanor Stone/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 11/20/2002 4:59:34 AM
Subject: : Re: draft memo
Attachments: P_KCCTB003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Eleanor Stone (CN=Eleanor Stone/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:20-NOV-2002 09:59:34.00
SUBJECT:: Re: draft memo
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Manny Gonzales was a greeter at the event (a political/welcome event) and James Tobin was listed a host organization however his notes indicate he helped out on several aspects of the trip. I don't believe he actually met POTUS. Thanks for your help.
Eleanor

Brett M. Kavanaugh
11/20/2002 07:57:47 AM
Record Type: Record

To: Eleanor Stone/WHO/EOP@EOP
cc:
bcc:
Subject: Re: draft memo

Greeters at the airport?

Eleanor Stone
11/19/2002 06:51:20 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: draft memo

Brett -

I'm the new Katye Balls over in Presidential Correspondence.

I have a question regarding the below Memo. I just want to clarify the perameter "performing an official duty at an otherwise political event." My understanding is this would include Motorcade, volunteers or other assistance which would have been performed regardless of the nature of the trip.

Where do greeters stand on this list? I have James Tobin - Regional Political Director for the RNC and Manny Gonzales - Chairman for the Otero County GOP. They greeted POTUS. Please confirm if they should receive a

letter on official stationary.

Thank you for your help. I appreciate your assistance.

Eleanor

Blake Gottesman
11/18/2002 07:07:07 PM
Record Type: Record

To: Eleanor Stone/WHO/EOP@EOP, Heidi K. Marquez/WHO/EOP@EOP
cc: Linda M. Gambatesa/WHO/EOP@EOP
Subject: Re: draft memo

i don't think the issue i raised below has been resolved yet. obviously, the big chunk of political travel for the midterms is over - but, it would still be wise to get the issue resolved.

thanks
blake
---------- Forwarded by Blake Gottesman/WHO/EOP on 11/18/2002 07:03 PM ----------

Blake Gottesman
10/21/2002 09:35:19 AM
Record Type: Record

To: Katharine Balls/WHO/EOP@EOP
cc:
bcc: Records Management@EOP
Subject: Re: draft memo

if it answers your questions, then i'm comfortable with it. one conern: it addresses the logistical and volunteer personnel, but not the actual participants (the ones that would typically be for HS) in the events - the candidate, his family, other event hosts, etc.

for example, which stationery should the president use to thank the kennedy's, who hosted a finance event for gov. jeb bush at their residence on friday?

KATHARINE BALLS
10/10/2002 09:40:40 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: blake gottesman/who/eop@eop
bcc:
Subject: Re: draft memo

Brett -
Thank you for doing this. I feel like this answers most of the questions, but I don't know if Blake has any other concerns. Otherwise, this is great.

Thanks again,
Katye Balls

Brett M. Kavanaugh
10/08/2002 09:58:20 PM
Record Type: Record

To: Katharine Balls/WHO/EOP@EOP
cc: Blake Gottesman/WHO/EOP@EOP
Subject: draft memo

Please advise whether this gives sufficient guidance. I will finalize after I get your thoughts. Thanks.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_KCCTB003_WHO.TXT_1>

October 8, 2002

MEMORANDUM FOR KATHARINE BALLS

FROM: BRETT KAVANAUGH

SUBJECT: THANK YOU NOTES

You asked about use of stationery for thank-you notes to people who may have assisted the President on a political trip or the mixed portion of an official-political trip. As a general matter, you should use political stationery only for those who assisted directly and solely with political events. You should use official stationery for notes to those who assisted with official events, who assisted on both aspects of a mixed trip, who assisted with official functions on an otherwise political trip, and for whom a clear determination cannot be made. As a general matter, for example, notes to airport greeters and motorcade drivers can be on official stationery regardless of the nature of the trip.

We will revisit these guidelines if and when the President becomes a candidate for re-election to the Presidency.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>
Sent: 11/20/2002 5:32:26 AM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:20-NOV-2002 10:32:26.00
SUBJECT:: Re:
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

best times are Thursday morning, Thursday afternoon except between 2:45 and 3:45; Friday morning after 10:30, Friday afternoon except between 2:45 and 4:00, and any time Monday. Just so you know, Judge asks me about this every day at staff meeting and no doubt will bring up with you at JSC. He's not being pushy, just anxious.

Heather Wingate
11/20/2002 10:11:26 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re:

I'll set up these meetings today. I'm shooting for tomorrow, Friday or Monday of next week. Let me know if any of those days don't work for you.
HW

Brett M. Kavanaugh
11/20/2002 09:11:40 AM
Record Type: Record

To: Heather Wingate/WHO/EOP@EOP
cc:
Subject:

was on a panel last night with Jeff Berman. A few interesting things to report when we talk. Also, when do we meet with Lott/McConnell/Santorum/Hatch on blue slip policy, etc.? I tend to think we should start with Hatch's folks, but let me know.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>
Sent: 11/20/2002 6:02:19 AM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:20-NOV-2002 11:02:19.00
SUBJECT:: Re:
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I should add that he particularly has asked me about what the
Hatch blue slip policy will end up being, to which I have responded that
that issue is part and parcel of overall proposal about which you are
scheduling meetings for us to meet with leadership staff.

Heather Wingate
11/20/2002 10:22:01 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re:

got it.

Brett M. Kavanaugh
11/20/2002 10:18:29 AM
Record Type: Record

To: Heather Wingate/WHO/EOP@EOP
cc:
bcc:
Subject: Re:

best times are Thursday morning, Thursday afternoon except between 2:45
and 3:45; Friday morning after 10:30, Friday afternoon except between 2:45
and 4:00, and any time Monday. Just so you know, Judge asks me about this
every day at staff meeting and no doubt will bring up with you at JSC.
He's not being pushy, just anxious.

Heather Wingate
11/20/2002 10:11:26 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:

bcc:
Subject: Re:

I'll set up these meetings today. I'm shooting for tomorrow, Friday or Monday of next week. Let me know if any of those days don't work for you.
HW

Brett M. Kavanaugh
11/20/2002 09:11:40 AM
Record Type: Record

To: Heather Wingate/WHO/EOP@EOP
cc:
Subject:

was on a panel last night with Jeff Berman. A few interesting things to report when we talk. Also, when do we meet with Lott/McConnell/Santorum/Hatch on blue slip policy, etc.? I tend to think we should start with Hatch's folks, but let me know.

From: CN=Kimberly A. Douglass/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 11/20/2002 9:53:38 AM
Subject: : press secretary

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kimberly A. Douglass (CN=Kimberly A. Douglass/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:20-NOV-2002 14:53:38.00
SUBJECT:: press secretary
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Yes, you were correct. We did discuss this issue previously.

Just to confirm, going forward, the Press Secretary (Ari, Scott, or designated respresentative) on POTUS trips will be considered official regardless of nature of trip.

With regards to FLOTUS trips, your previous email below states that the Press Secretary on FLOTUS trips could be considered mixed on mixed trips. Based on today's conversation, have we decided to apply the same rules as POTUS trips (as stated above) or does your email below apply? Or are they both the same thing and I am just missing the point? It's very possible...

Brett M. Kavanaugh
10/10/2002 09:22:51 AM
Record Type: Record

To: Kimberly A. Douglass/WHO/EOP@EOP
cc:
bcc:
Subject: Re: points to bring up with Brett

I think we should generally have consistency between POTUS and FL travel rules as to staff, recognizing that there can be exceptions. That said, I would think Noelia could be considered mixed on mixed trips.

Kimberly A. Douglass 10/10/2002 08:49:33 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: points to bring up with Brett

thanks

would her press person (Noelia Rodriguez) be considered political, though? I would think that she would likely take on mulitple roles during a mixed trip since theirs is a much smaller press shop.

sorry to keep bugging you with this. I just want to be sure that I separate these bills properly.

Brett M. Kavanaugh
10/10/2002 08:43:03 AM
Record Type: Record

To: Kimberly A. Douglass/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Re: points to bring up with Brett

Same analysis applies to Julie.

.

----- Original Message -----
From:Kimberly A. Douglass/WHO/EOP
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 10/10/2002 08:38:47 AM
Subject: Re: points to bring up with Brett

Julie Thomas is the FLOTUS "Brian Montgomery." And, when he travels on AF1 with the President, he is designated "Trip Director" and therefore, official.

Brett M. Kavanaugh
10/09/2002 09:58:48 PM
Record Type: Record

To: Kimberly A. Douglass/WHO/EOP@EOP
cc:
bcc:
Subject: Re: points to bring up with Brett

Kate has it right. Ari and Scott always should be presumed to be there for official purposes absent contrary evidence.
Who is the POTUS analogue of Julie Thomas and how is he/she treated?

Kimberly A. Douglass 10/09/2002 01:32:54 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: points to bring up with Brett

Kate and I have been trying to work our way through these manifests for political trips. See below for some info she found out regarding staff involvement in the political portion of the mixed trips. Does it seem reasonable to you that I could use this as a guideline for future trips?

That said, in the interest of consistency, I have some questions about how this should be applied to other bills. For instance, if Ari does not directly participate in the political portion of the trip and therefore we do not include him in the political bills for AirOps, do I apply this same logic to his hotel bill if it was an overnight. Or, do I err on the side of safety and just always mark him political on airfare and other bills? I'm having trouble trying to determine how to handle some of the senior staff that were not addressed in the "Official Travelers" memo...well, mostly just Ari and Scott McClellan. Am I just making this too complicated?

Also, for FLOTUS travel, do the same "official travelers" rules apply? I got your message on Sarah Garrison. But, does Julie Thomas (as Trip Director) get marked as official?

I feel like I am trapped in a 5th Grade Word Problem class and I can't get out.....

---------- Forwarded by Kimberly A. Douglass/WHO/EOP on 10/09/2002 01:21 PM ----------

Katherine M. Walters
10/04/2002 12:22:28 PM
Record Type: Record

To: Kimberly A. Douglass/WHO/EOP@EOP
cc:
Subject: points to bring up with Brett

ok, I think I am done. I will bring it to you soon.

-Reed Dickens said that he takes the press into the fundraisers and works at the event because they are all pool press. I marked him political. Josh Deckard does the same thing.

-Kelly Gannon sets up the press risers for these events. I marked her political.

-Reed said Ari and other senior staff usually watch it on tv either in the staff holding room or in the back. I did not mark Ari or Scott McClellan as political. However, I marked Scott Stanzel who is in Media Affairs. He might stand with the pool and answer questions from local reporters.

-The ADs or Reed told me that the policy guys who are on the trip for the purpose of the official event, (i.e. homeland security, etc.) usually just watch, but not necessarily in the holding room. I did not mark these as political.

From: Katsas, Gregory <Gregory.Katsas@usdoj.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 11/20/2002 11:59:56 AM
Subject: : FW: copies of today's NEPDG filings
Attachments: P_0Y2UB003_WHO.TXT_1.wpd; P_0Y2UB003_WHO.TXT_2.wpd; P_0Y2UB003_WHO.TXT_3.wpd

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Katsas, Gregory" <Gregory.Katsas@usdoj.gov> ("Katsas, Gregory" <Gregory.Katsas@usdoj.gov> [UNKNOWN])
CREATION DATE/TIME:20-NOV-2002 16:59:56.00
SUBJECT:: FW: copies of today's NEPDG filings
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett: Shannen said you were interested in looking at today's D.C. Circuit filings in the NEPDG case. We have already sent final electronic copies to David Addington.

-----Original Message-----
From: Stern, Mark
Sent: Wednesday, November 20, 2002 4:32 PM
To: Kneedler, Edwin S; Clement, Paul D; Katsas, Gregory; Coffin, Shannen
Cc: Hallward-Driemeier, Douglas; Bondy, Thomas; Raab, Michael; Millet, Thomas; Blackwell, Craig
Subject: copies of today's NEPDG filings

- mandamus.reply.final.wpd - Reply to stay motion.final.wpd - Opposition to motion to dismiss.final.wpd
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_0Y2UB003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_0Y2UB003_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_0Y2UB003_WHO.TXT_3>

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

In re RICHARD B. CHENEY, Vice President of the United States, et al.,	
Petitioners.	No. 02-5354
	[Civil Action Nos. 01-1530, 02-631 (EGS)]

REPLY TO APPELLEES' RESPONSE TO EMERGENCY PETITION FOR WRIT OF MANDAMUS

This case involves far more than an ordinary discovery dispute. Plaintiffs seek and the district court ordered extensive disclosure of communications between senior executive branch officials and those with information relevant to advice that was being formulated for the President. The district court ordered this extensive discovery and disclosure based on a mistaken interpretation of the APA and a failure to heed important separation of powers principles. Moreover, in the context of a statute, i.e., the FACA, that is primarily about disclosure, there is little practical difference between unconstitutionally overbroad discovery and constitutionally problematic interpretations of the statute. Both this Court and the Supreme Court have struggled to interpret the FACA to keep its disclosure obligations and other provisions within constitutional bounds. The district court undermined those efforts by allowing extensive and intrusive discovery based on the mere allegation that the membership of the NEPDG deviated from the President's plan. That was a clear error that can and should be corrected via mandamus.

1. The Vice President And Other Petitioners May Obtain Effective Appellate Review Of The District Court's Orders Without Incurring Criminal Contempt Sanctions.

Plaintiffs urge that the Vice President cannot obtain review of discovery orders raising significant statutory and constitutional questions without going into criminal contempt. That contention is flatly at odds with In re Kessler, 100 F.3d 1015 (D.C. Cir. 1996), on which plaintiffs seek to rely. Opp. 8. The Court in that case concluded that mandamus would not be available to review discovery of the Commissioner of the Food and Drug Administration. Citing

REV_00154678

United States v. Nixon, 418 U.S. 683 (1974), and Franklin v. Massachusetts, 505 U.S. 788, 800-01 (1992), the Court drew a distinction between the President and subordinate officers, and expressed concern that if the Court permitted immediate review by an agency official "three levels down from that of the Secretary of HHS," all executive branch officials might claim an immediate right of review. Id. at 1017. As the Court's reasoning makes clear, whatever the limits on immediate review of discovery orders, they do not encompass the President or the Vice President, who, with an independent constitutional role, is not simply a subordinate officer. See also Vice President's Opposition to Motion to Dismiss Appeal (explaining that the Vice President's appeal is clearly proper under Nixon).

Indeed, the Court has subsequently questioned its decision to deny mandamus relief to the FDA Commissioner in In re Kessler. The Court explained that its ruling rested on the mistaken view that the Commissioner could have obtained review by incurring civil contempt sanctions, and recognized that review of a discovery order by a party can, in fact, only be obtained by going into criminal contempt. In re Sealed Case, 151 F.3d 1051, 1064 (D.C. Cir. 2000). The Court concluded "that the disobedience and contempt route to appeal cannot be labeled an adequate means of relief for a party-litigant." Id. at 1065. Accordingly, in light of the important separation of powers issues raised in the petition, this Court should exercise jurisdiction to review the claims of all petitioners.

Contrary to plaintiffs' assertion, the Court in In re Executive Office of the President, 215 F.3d 20 (D.C. Cir. 2000), did not "establish[] that a writ is unavailable 'absent a specific and well-

substantiated claim that some important privilege will be infringed if discovery is allowed to proceed.'" Opp. at 8 (quoting In re Executive Office of the President, 215 F.3d at 24). To be sure, the Court recognized that "[i]n the normal course * * * mandamus is not available to review a discovery order," id. at 23, and found that in the circumstances of the orders on review, which involved the rejection of various privileges, the government had not established an entitlement to

REV_00154679

mandamus review. However, the Court did not hold that a claim of privilege was a necessary prerequisite to mandamus review, and did not purport to set out a general rule.

Indeed, in In re Sealed Case, the Court rejected the assertion that the Independent Counsel "would not be irreparably harmed by the orders because the orders allowed him to redact any Rule 6(e) material and thus he would not be required to provide any confidential investigative material to the movants." 151 F.3d at 1062. The Court explained that the Independent Counsel "is not troubled solely by the possibility that Rule 6(e) material might be disclosed, but also by the prospect of disclosing even the identities of members of the press with whom the IC and his staff have spoken." Id. at 392. The Court also observed that the limitation on disclosing protected material would not "assuage petitioner's fear that discovery and an adversarial hearing will divert petitoner's focus * * *." Ibid.

As we explained in our petition, principles of comity preclude intrusive requests for testimony even from high-ranking subordinate officials. See, e.g., In re United States, 197 F.3d 310, 313 (8th Cir. 1999) ("[h]igh-ranking government officials * * * should not, absent extraordinary circumstances, be called to testify regarding their reasons for taking official actions'") (quoting In re United States, 985 F.2d 510, 512 (11th Cir. 1993) (quoting Simplex Time Recorder Co. v. Secretary of Labor, 766 F.2d 575, 586 (D.C. Cir. 1985))); In re Office of Inspector General, 933 F.2d 276, 278 (5th Cir. 1991) (same). As the Eighth Circuit concluded in In re United States, "[i]f other persons can provide the information sought, discovery will not be permitted against such an official." 197 F.3d at 313.

Those principles apply with even greater force here where the intrusive discovery requests are directed to the Vice President in a case in which the Vice President is not properly a party and the review should be limited to the administrative record. Plaintiffs' intrusive request, approved by the district court, requires the Vice President to review, and absent a claim of privilege, disclose, all of his communications with other NEPDG group members outside the context of group meetings, as well as his communications with agency personnel and with

REV_00154680

outside individuals. See App. 246, Requests for Production; App. 251, 253, Plaintiffs' First Set of Interrogatories, ¶ B and Interrogatories Nos. 3-6. Plainly, the Vice President should not be subjected to this burden absent extraordinary circumstances. Fundamental principles of comity require that discovery to the President or the Vice President be an avenue of last resort, not an enterprise to be undertaken without any showing of need.

The absence of any legitimate need for discovery of the Vice President is underscored by the extensive discovery already obtained by plaintiffs. Although, as we have demonstrated, the court erred in permitting any discovery, the government did not seek a protective order with respect to the agency defendants. The government to date has released approximately 36,000 documents (including documents redacted to safeguard privileged material). The district court at no point explained why it should not, in the first instance, require plaintiffs to produce support from these documents for their wholly unsubstantiated claims of irregularity before authorizing discovery to the Vice President. Indeed, plaintiffs have, at no time, even attempted to argue that some information from those documents demonstrates a possible violation of the FACA. Even apart from the other constitutional and statutory concerns raised by the district court's discovery orders, mandamus relief would be warranted on this basis alone.

In sum, as the district court itself recognized, the Vice President's claims will escape effective review by this Court on an appeal from final judgment. By their nature, the Vice President's claims, and the harm resulting from the district court's orders can only be meaningfully reviewed now. This Court's decisions leave no doubt that the Vice President and other petitioners need not go into criminal contempt to obtain review of those orders. Indeed, as we have explained elsewhere, see Opposition to Motion to Dismiss the Appeal, the Court has appellate jurisdiction under Nixon. By granting mandamus review in the extraordinary context of this case, however, the Court can avoid definitively resolving the contours of Nixon's appellate jurisdiction holding.

2. The FACA Does Not Reverse Presumptions Of Regularity And Permit Discovery

REV_00154681

Based On Allegations That Members of A Government Group Met With Private Persons.

The mistaken premise of plaintiffs' argument, which they never squarely confront, is that Congress, by enacting the FACA, authorized far-reaching discovery based on the mere allegation that a group composed entirely of government officers and employees had contacts with private persons.

As an initial matter, plaintiffs' opposition leaves no doubt that they regard the mere fact of contacts between committee members and private persons as a sufficient basis to permit discovery. Plaintiffs believe that they have established an entitlement to discovery based on a statement in a House committee staff report that energy company and trade association representatives "met with Vice President Cheney or members or staff of the White House energy task force during the development of the White House energy plan." Ex. 1 to Opp. at 1. Private persons meet with government officials regarding most major economic policy initiatives. Such contacts are entirely proper and do not, as the case law makes abundantly clear, trigger the applicability of FACA's requirements. See, e.g., Public Citizen v. Department of Justice, 491 U.S. 440, 452 (1989) (cautioning against construction that "would extend FACA's requirements to any group of two or more persons, or at least any formal organization, from which the President or an executive agency seeks advice"); Association of American Physicians and Surgeons, Inc. v. Clinton, 997 F.2d 898, 915 (D.C. Cir. 1993) ("AAPS") ("Congress did not intend FACA to extend to episodic meetings between government officials and a consultant" and "[t]o do so would achieve the absurd result Public Citizen warned against: reading FACA to cover every instance when the President (or an agency) informally seeks advice from two or more private citizens"); cf. Nader v. Barody, 396 F. Supp. 1231 (D.D.C. 1975) (bi-weekly White House meetings with major business organizations and private sector groups do not create FACA committees) . If discovery is permitted on the basis of the allegations here, it would (improperly) follow that discovery should be permitted in every case in which a plaintiff asserts that members

REV_00154682

of a purely intragovernmental group had contacts with private persons or were influenced by their views.

Congress could not have intended that the allegation of such contacts -- which, in any event, would not establish the existence of a FACA committee -- would authorize plaintiffs to discover the inner workings of intragovernmental groups. Congress itself exempted intragovernmental groups from the FACA's reach, and certainly did not intend to convert such groups into FACA committees because a committee member had contact with a private citizen. Such a statute would be flatly unconstitutional. It is no answer to argue that the Petition raises only a discovery issue and not a question about the FACA's ultimate coverage. In the context of a statute that is primarily about disclosure and which raises serious separation of powers problems if not properly cabined, ordering massive discovery against the Vice President raises concerns no less profound than those at issue in Public Citizen and AAPS.

Plaintiffs misconceive the problem when they urge that "The Administrative Procedure Act * * * does not forbid discovery of Petitioners." Opp. 10. As we have shown, the APA does make clear that judicial review is to be made on the basis of the administrative record. But the more immediate question here is whether Congress, in enacting the FACA, intended to permit discovery based on statements of the kind on which plaintiffs rely. The FACA itself contains no provision for judicial enforcement and does not suggest that Congress wished to sanction this type of intrusion. To the contrary, routine discovery into the contacts between the members of an intragovernmental group and private persons would be flatly at odds with Congress's express exclusion of intragovernmental groups from FACA requirements. By omitting any express right of private enforcement, Congress intended that the statute be enforced only as consistent with the APA. The APA itself permits discovery only in very limited circumstances, and Congress could not have believed that the availability of APA review would provide a warrant for the kind of discovery rarely available under that statute.[1] Still less could the availability of APA review

REV_00154683

authorize party discovery to the Vice President, who, as plaintiffs concede, is not an agency within the meaning of that statute. And such a result would be inconsistent with Congress's decision to exclude the President and Vice President from the disclosure requirements of the FOIA. Nor is there any reason to believe that Congress wished to allow a plaintiff to circumvent APA limitations by seeking a writ of mandamus against the Vice President. Indeed, even where mandamus review is available, it is also generally limited to an administrative record, see Texas Rural Legal Aid, Inc. v. Legal Services Corp., 940 F.2d 685, 698 (D.C. Cir. 1991).

Congress enacted the FACA against the background presumption of regularity repeatedly emphasized by the Supreme Court and this Court. See United States v. Chemical Foundation, 272 U.S. 1, 14-15 (1926) ("in the absence of clear evidence to the contrary, courts presume that [public officers] have properly discharged their official duties."); Morris v. Sullivan, 897 F.2d 553, 560 (D.C. Cir. 1990) (same). As plaintiffs concede, that "presumption can shield an agency from discovery based upon unsupported allegations that it has acted in bad faith." Opp. 12 n.7 (citing National Nutritional Foods Ass'n v. FDA, 491 F.2d 1141, 1145 (2d Cir. 1974)). Apparently recognizing that there is no basis for overcoming that presumption here, plaintiffs observe that "[t]his is not the only basis for discovery in an APA case, however, and was not the grounds cited by the District Court in permitting discovery." Opp. 12 n.7.

---

[1] Walter O. Boswell Memorial Hospital v. Heckler, 749 F.2d 788 (D.C. Cir. 1984), cited by plaintiffs, admonishes that the APA requires review of "the *full* administrative record," id. at 792 (quoting Citizens to Preserve Overton Park, Inc. v. Volpe, 401 U.S. 402, 420 (1971)), but simultaneously directed the district court to "prevent any improper supplementation" of the administrative record, ibid., which is what plaintiffs seek here. In Natural Resources Defense Council, Inc. v. Train, 519 F.2d 287 (D.C. Cir. 1975), plaintiffs provided specific evidence that the agency had failed to provide the court with the full administrative record. Id. at 289 (plaintiff's affidavit "listed several documents which had been relied upon by the Administrator * * * but which were not included among those filed with the court"). In contrast, plaintiffs here merely point to the unremarkable fact that members of the NEPDG "met with" individual members or staff of the committee.

REV_00154684

The difficulty with plaintiffs' argument is that their entire suit is premised on the assumption that petitioners departed from the President's instructions and included as members of the NEPDG persons who were not government officers or employees, and then misrepresented the group's composition in the final report. Indeed, the district court believed that discovery was warranted precisely because "the government doesn't always comply with the law." App. 217. The court's decision to authorize broad discovery thus turns directly on its mistaken reversal of the governing presumption of regularity. Under that presumption, a plaintiff could not obtain broad discovery even from an agency official based on a mere allegation that he had misrepresented the composition of an agency group. It follows, a fortiori, that the presumption of regularity precludes discovery when the consequences of ordering discovery are to permit far-reaching discovery into the means by which the Vice President receives advice in order to make recommendations to the President in carrying out his core constitutional prerogatives.

3. Plaintiffs' Reading Of The FACA Would Render Its Application Unconstitutional.

Plaintiffs similarly misunderstand the constitutional concerns raised by the district court's orders. The issue is not whether the Constitution categorically prohibits discovery of the Executive. Opp. 12. The key statutory issue is that Congress manifestly did not intend to create a means by which plaintiffs can reverse normal presumptions of regularity and seek discovery into the communications of the President or Vice President merely by alleging that members of a governmental group had contacts with outside persons.

If Congress had done so, however, it would have created an unconstitutional interference with the Executive's discharge of Article II functions. It would have created constitutional problems of the same sort – albeit in some respects even more serious – as would be created by applying FACA's substantive requirements so as to restrict the means by which the President and Vice President communicate with private citizens, and the means by which the Vice President gathers views in the course of preparing his recommendations to the President. As the Supreme Court and this Court have made clear, such restrictions present "formidable constitutional difficulties." Public Citizen, 491 U.S. at 466. Courts have been willing to adopt "extremely strained construction[s]" to minimize these problems, see AAPS, 997 F.2d at 906. The reading of the statute accepted by the district court generates the type of infringement that the courts have sought to avoid by permitting discovery into all contacts of a governmental group with each other, government personnel, and private persons, based on the allegation that one or more members of the group met with private persons. That reading – which is wholly without anchor

REV_00154685

in the statute – would improperly burden the President's ability to employ groups of high-level government officials as a means of obtaining advice. Indeed, in some respects, the constitutional intrusion here is even more significant than that at issue in Public Citizen or AAPS. Those cases threatened to restrict the President's means of obtaining advice from private persons. Plaintiffs' argument would restrict not only contacts with private persons but would even cause the President to hesitate before creating any working group consisting wholly of Cabinet Officers.

As plaintiffs do not dispute, the Courts in Public Citizen and AAPS recognized serious constitutional concerns although no claims of Executive Privilege were at issue. Their unexplained assertion that these cases involved "entirely different concerns," Opp. 14, cannot mask the constitutional problems created by the district court's application of the statute.

Plaintiffs urge that the "Vice President Is Not the President," Opp. 16, thereby suggesting that the orders at issue here raises no greater concerns than if they were directed to any other federal official. Plaintiffs fail to recognize that the reading of the statute that they advocate burdens the President's ability to gather advice from groups of his most trusted government advisors, as well as his ability to use these groups to receive wholly proper input from private persons.

In any event, plaintiffs' assertion that the constitutional status of the Vice President is "no different from any other cabinet officer," Opp. at 17, seriously misconstrues the role of the Vice President in the constitutional scheme. Like the President, the Vice President has a "unique constitutional position." Franklin, 505 U.S. at 800. He alone, among senior executive-branch officials, is "totally protected from the President's removal power." Meyer v. Bush, 981 F.2d 1288, 1295 (D.C. Cir. 1993). He alone is designated by the Constitution to serve as Acting President (see U.S. CONST. amend. XXV), or to "become President" upon the death of the President elect (id., amend. XX, § 3), or upon the removal, death, or resignation of the President (see id., amend. XXV, § 1). Indeed, he and the President are the only two public officials in the United States who are elected through a process involving every State, see id., art. II, § 1 & amend. XII., and are thus "the only elected officials who represent all the voters in the Nation." Anderson v. Celebrezze, 460 U.S. 780, 795 (1983). Similarly, the Presidency and Vice Presidency are the only two offices that are defined in Article II of the Constitution, rather than by statute. Finally, the Vice President alone has legislative functions as the President of the Senate. See U.S. CONST. art. I, § 3, cl. 4. Plaintiffs' suggestion that the Vice President's stature is no different than that of "every member of the Electoral College," Opp. at 17, illustrates the extent to which their contention is wholly without basis. And here, the Vice President was acting, in his constitutionally-based capacity, recognized by Congress in 3 U.S.C. § 106, of assisting the President in a matter "specially assigned to the Vice President by the President in the discharge of executive duties and responsibilities."

4. Plaintiffs Cannot Properly Subject the Vice President To Discovery As A Party.

Plaintiffs' discovery requests are premised on the Vice President's party status. In their opposition, plaintiffs make no serious effort to explain why the Vice President is properly named as a defendant. As plaintiffs do not dispute, the Vice President cannot properly be named a defendant under the APA. Plaintiffs urge that the President or Vice President may properly be named as defendants as long as the order of relief is directed to subordinates. That is not the case, as Swan v. Clinton, 100 F.3d 973 (D.C. Cir. 1996), the case on which they place primary

REV_00154686

reliance, makes clear. That case does not hold, as plaintiffs contend, that "a court may claim jurisdiction over the President under section 1361, but ultimately issue injunctive relief against lower-level executive officers." Appellees' Response at 18. To the contrary, in Swan, the Court added numerous additional governmental defendants to the case specifically in order to avoid deciding the serious constitutional question whether plaintiff had standing to sue the President for injunctive or declaratory relief. 100 F.3d at 980-81. This had the effect of mooting the plaintiff's claim against the President directly.

The plaintiffs in Chamber of Commerce v. Reich, 74 F.3d 1322, 1325 (D.C. Cir. 1996), also relied on by plaintiffs, did not name the President as a defendant, limiting their suit to the actions of a Head of an Executive agency in implementing an Executive Order. Moreover, Reich involved a person whose office was created by statute, and he was sued in connection with carrying out a substantive policy that had immediate impact on private parties. The Vice President is a constitutional officer and he is sued solely in connection with his giving of advice. In any event, plaintiffs make no attempt to explain how this case would fall into the limited doctrine of Leedom v. Kyne, 358 U.S. 184, 188-91 (1958), that was the basis of the ruling in Chamber of Commerce. Nor do plaintiffs address the Supreme Court's recent decisions admonishing against the use of judicially implied rights of action and efforts to use broad writs to circumvent particular limits on jurisdiction. See Pet. 20.

Finally, plaintiffs suggest that mandamus relief should be unavailable because the Vice President did not immediately appeal the order denying his motion to dismiss. This gets matters backwards. The Vice President sought review by this Court only after the government responded to other discovery requests, sought a protective order, and attempted to resolve the dispute on summary judgment. He invoked this Court's mandamus jurisdiction only when it became clear that no means were available in district court to halt the discovery process at issue here. This Court cannot properly sanction party discovery to the Vice President without recognizing that he is, in fact, not properly a party to the case at all.

CONCLUSION

For the foregoing reasons and those stated in our Petition, this Court should exercise its jurisdiction under 28 U.S.C. § 1651, vacate the discovery orders issued by the district court, direct the court to decide the case on the basis of the administrative record and such supplemental affidavits as it may require, and direct that the Vice President be dismissed as a defendant.

Respectfully submitted,
THEODORE B. OLSON
Solicitor General

ROBERT D. McCALLUM, JR.
Assistant Attorney General

PAUL D. CLEMENT
Deputy Solicitor General

GREGORY G. KATSAS
SHANNEN W. COFFIN
Deputy Assistant Attorneys General

REV_00154687

MARK B. STERN
MICHAEL S. RAAB
DOUGLAS HALLWARD-DRIEMEIER
ERIC D. MILLER
(202) 514-5089
Attorneys, Appellate Staff
Civil Division
U.S. Department of Justice
601 D Street, N.W., Room 9108
Washington, D.C. 20530-0001

REV_00154688

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of November 2002, I am causing the foregoing Reply to Response to Petition for Writ of Mandamus to be served on the following in the manner specified:

By Hand delivery:

Honorable Emmet G. Sullivan
United States District Court
for the District of Columbia
Third & Constitution Avenue, N.W.
Washington, D.C. 20001

Larry Klayman, Esq.
Paul Orfanedes, Esq.
Judicial Watch, Inc.
501 School Street, S.W.
Suite 725
Washington, D.C. 20024

David Bookbinder, Esq.
Sierra Club
408 C Street, N.E.
Washington, D.C. 20002

Roger Adelman
Law Offices of Roger Adelman
1100 Connecticut Avenue, N.W.
Washington, D.C. 20036

Howard M. Crystal
Meyer & Glitzenstein
1601 Connecticut Ave., N.W. Suite 700
Washington, D.C. 20009-1035

By Federal Express:

Patrick Gallagher
Alex Levinson
Sanjay Narayan
Sierra Club
85 Second Street
San Francisco, California 94104

Mark B. Stern

REV_00154690

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

In re RICHARD B. CHENEY, Vice President of the United States, et al.,	)	
Petitioners.	)	No. 02-5354
	)	[Civil Action Nos. 01-1530, 02-631 (EGS)]

REPLY TO APPELLEES' RESPONSE TO EMERGENCY MOTION FOR STAY PENDING APPELLATE REVIEW

1. A Stay Is Required To Preserve The Status Quo.

Plaintiffs contend that a stay is not required to provide meaningful review of the arguments set out in our Petition for Writ of Mandamus. That argument is without basis and merely restates plaintiffs' position on the merits of the petition, which we have fully addressed in the Petition and Reply. Indeed, even the district court recognized that if the government's arguments are correct, "defendants would suffer irreparable harm if the proceedings before this Court were not stayed to enable them to seek appellate review of such an order." App. 370.

As we explained in our petition, principles of comity preclude intrusive requests for testimony even from high-ranking subordinate officials, and the violation of those principles cannot be remedied on a later appeal. See, e.g., In re United States, 197 F.3d 310, 313 (8th Cir. 1999) ("[h]igh-ranking government officials * * * should not, absent extraordinary circumstances, be called to testify regarding their reasons for taking official actions'") (quoting In re United States, 985 F.2d 510, 512 (11th Cir. 1993) (quoting Simplex Time Recorder Co. v. Secretary of Labor, 766 F.2d 575, 586 (D.C. Cir. 1985))).

Those principles apply with even greater force here where the intrusive discovery requests are directed to the Vice President in a case in which the Vice President is not properly a party and the review should be limited to the administrative record. Indeed, here, the Vice President, who has an independent constitutional role and is not merely a subordinate officer,

REV_00154691

was acting at the specific request of the President. Plaintiffs' intrusive request, approved by the district court, requires the Vice President to review, and absent a claim of privilege, disclose, all of his communications with other NEPDG group members outside the context of group meetings, as well as his communications with agency personnel and with outside individuals. See App. 246, Requests for Production; App. 251, 253, Plaintiffs' First Set of Interrogatories, ¶ B and Interrogatories Nos. 3-6. Requiring such disclosure would surely have a chilling effect on the President's ability in the future to rely upon the Vice President as he has done here. Plainly, the Vice President should not be subjected to this burden absent extraordinary circumstances. And equally plainly, the orders directing that discovery cannot be meaningfully reviewed on appeal from final judgment.

As our petition and reply also make clear, such orders can be subject to review even when they do not result in disclosure of "highly privileged" material. Cf. Opp. 7 (quoting In re Executive Office of the President, 215 F.3d 20, 23 (D.C. Cir. 2000)). To be sure, in that case, the Court observed that "[i]n the normal course * * * mandamus is not available to review a discovery order," id. at 23, and found that in the circumstances of the orders on review, which involved the rejection of various privileges, the government had not established an entitlement to mandamus review. However, the Court did not hold that a claim of privilege was a prerequisite for mandamus review and did not purport to set out a general rule.

Indeed, in In re Sealed Case, 151 F.3d 1051, 1064 (D.C. Cir. 2000), the Court rejected the assertion that the Independent Counsel "would not be irreparably harmed by the orders because the orders allowed him to redact any Rule 6(e) material and thus he would not be required to provide any confidential investigative material to the movants." 151 F.3d at 1062. The Court explained that the Independent Counsel "is not troubled solely by the possibility that Rule 6(e) material might be disclosed, but also by the prospect of disclosing even the identities of members of the press with whom the IC and his staff have spoken." Id. at 392. The Court also observed that the limitation on disclosing protected material would not "assuage petitioner's

REV_00154692

fear that discovery an adversarial hearing will divert petitioner's focus * * *." Ibid. More generally, the Court has recognized that context, not a mechanical rule, matters in exercising mandamus jurisdiction. See In re Papandreou, 139 F.3d 247, 251 (D.C. Cir. 1998) (foreign government's opposition to jurisdictional discovery under the FSIA, which raised concerns even "beyond those of ordinary privilege," warranted "immediate review").

Moreover, In re Kessler, 100 F.3d 1015 (D.C. Cir. 1996), on which plaintiffs seek to rely, Opp. 6, is flatly at odds with their position here. In that case, the Court declined to issue a writ to preclude discovery of the Commissioner of the Food and Drug Administration. Citing United States v. Nixon, 418 U.S. 683 (1974), and Franklin v. Massachusetts, 505 U.S. 788, 800-01 (1992), the Court drew a distinction between the President and subordinate officers, and expressed concern that if the Court permitted immediate review by an agency official "three levels down from that of the Secretary of HHS," all executive branch officials might claim an immediate right of review. Id. at 1017. As the Court's reasoning makes clear, whatever the limits on immediate review of discovery orders, they do not encompass the President and the Vice President. See also Vice President's Opposition to Motion to Dismiss Appeal (explaining that, under Nixon, the President may appeal from discovery orders that would generally only be reviewed after litigant incurs contempt sanctions); Reply to Appellees' Response to Emergency Petition for Writ of Mandamus at 8-9 (explaining that constitutional concerns applicable to President apply as well to Vice President).[1]

Petitioners assert, without basis, that the reading of the FACA adopted by the district

---

[1] Indeed, the Court has subsequently questioned its decision to deny mandamus relief to the FDA Commissioner in In re Kessler. The Court explained that it had acted on the mistaken view that the Commissioner could have obtained review by incurring civil contempt sanctions, and recognized that review of a discovery order by a party could only be obtained by going into criminal contempt. In re Sealed Case, 151 F.3d at 1064. The Court concluded "that the disobedience and contempt route to appeal cannot be labeled an adequate means of relief for a party-litigant." Id. at 1065.

REV_00154693

court will not chill the way in which the President obtains advice. As the Supreme Court and this Court have made clear, restrictions on the ways in which the President gathers advice and receives communications from private persons present "formidable constitutional difficulties." Public Citizen, 491 U.S. at 466. Courts have been willing to adopt "extremely strained construction[s]" to minimize these problems, see Association of American Physicians and Surgeons, Inc. v. Clinton, 997 F.2d 898, 906 (D.C. Cir. 1993). Moreover, FACA, by its own terms, does not apply to groups made up of exclusively government employees, a limit that is critical to its constitutionality. Despite all this, plaintiffs here propose a reading of the statute, accepted by the district court, that effectively reads this limitation out of the statute and generates the type of infringement that the courts have sought to avoid. Their reading of the FACA, which permits discovery into all contacts of a governmental group with each other, government personnel, and private persons, can burden the means by which the President seeks advice just as surely as imposition of the FACA's open-meeting and notice requirements. If discovery of the kind permitted here is routinely available, the President may well hesitate before using such groups at all, and group members will hesitate before having entirely proper contacts with private persons. Plaintiffs ignore the teachings of the Supreme Court and this Court when they urge that such a chill on the President's means of obtaining advice presents no significant constitutional concern.

Moreover, these same concerns make clear that this is no ordinary discovery dispute. In the context of a statute that is primarily about disclosure, and must be carefully interpreted to avoid unconstitutional interference with Article II powers, an improper discovery order directed to the Vice President raises the same kind of separation of powers problems as an improper interpretation of the FACA. The resulting unconstitutional interference with the Vice President cannot be fully remedied at the end of the case, nor should the Vice President have to go into criminal contempt to have his constitutional interests vindicated. In short, a stay and immediate

REV_00154694

review will promote interbranch comity and avoid chilling effects on executive deliberations.

B. Plaintiffs Will Experience No Harm From The Granting Of A Stay.

While the harm to petitioners in the absence of a stay is significant and irreparable, plaintiffs can identify no credible harm that would result from the granting of a stay. The delay resulting from granting the stay will not be significant: the merits of the mandamus petition are now fully briefed. If the Court wishes additional briefing on the Vice President's appeal, we will proceed on whatever highly expedited schedule the Court deems appropriate.

Plaintiffs' claims of obstruction and delay on the part of the government, Opp. 11-12, are baseless. The numerous department heads who are defendants in this litigation have been participating in discovery for some time and have already produced thousands of pages of documents, including all requested documents that were received from or sent to individuals outside the government and summaries of communications with outsiders contained in internal government documents otherwise protected by executive privilege. Moreover, this discovery continues and will be unaffected by the requested stay with respect to petitioners. In light of the significant discovery plaintiffs have already received and continue to obtain, the delay caused by a stay cannot credibly be advanced as a harm.

CONCLUSION

For the foregoing reasons, this Court should grant a stay of discovery against the movants pending review by this Court of the petition and appeal.

Respectfully submitted,
THEODORE B. OLSON
Solicitor General

ROBERT D. McCALLUM, JR.
Assistant Attorney General

PAUL D. CLEMENT
Deputy Solicitor General

GREGORY G. KATSAS

REV_00154695

SHANNEN W. COFFIN
Deputy Assistant Attorneys General

MARK B. STERN
MICHAEL S. RAAB
DOUGLAS HALLWARD-DRIEMEIER
ERIC D. MILLER
(202) 514-5089
Attorneys, Appellate Staff
Civil Division
U.S. Department of Justice
601 D Street, N.W., Room 9108
Washington, D.C. 20530-0001

REV_00154696

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of November 2002, I am causing the foregoing Reply to Appellees' Response to Emergency Motion for Stay Pending Appeal to be served on the following in the manner specified:

By Hand delivery:

Honorable Emmet G. Sullivan
United States District Court
for the District of Columbia
Third & Constitution Avenue, N.W.
Washington, D.C. 20001

Larry Klayman, Esq.
Paul Orfanedes, Esq.
Judicial Watch, Inc.
501 School Street, S.W., Suite 725
Washington, D.C. 20024

David Bookbinder, Esq.
Sierra Club
408 C Street, N.E.
Washington, D.C. 20002

Roger Adelman
Law Offices of Roger Adelman
1100 Connecticut Avenue, N.W.
Washington, D.C. 20036

Howard M. Crystal
Meyer & Glitzenstein
1601 Connecticut Ave., N.W. Suite 700
Washington, D.C. 20009-1035

By Federal Express:

Patrick Gallagher
Alex Levinson
Sanjay Narayan
Sierra Club
85 Second Street
San Francisco, California 94104

_____
Mark B. Stern

REV_00154697

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

JUDICIAL WATCH, INC. and SIERRA CLUB, Plaintiffs-Appellees v. RICHARD B. CHENEY, VICE PRESIDENT OF THE UNITED STATES Defendant-Appellant	No. 02–5355 [District Court C.A. Nos. 01-1530, 02-631]

OPPOSITION TO APPELLEES' MOTIONS TO DISMISS THE APPEAL OF THE VICE PRESIDENT

INTRODUCTION AND SUMMARY

The Vice President of the United States respectfully responds to the Motion to Dismiss Appeal filed by plaintiff Sierra Club and joined in by plaintiff Judicial Watch, Inc.

A. Plaintiffs in these actions allege that the National Energy Policy Development Group ("NEPDG") – an intragovernmental Presidential advisory group established by President Bush, composed of the Heads of Departments and close Presidential advisors, including the Vice President – operated in violation of procedures established by the Federal Advisory Committee Act ("FACA"), 5 U.S.C. App. 2. Plaintiffs named as defendants the Vice President, the NEPDG, and various federal officials and private individuals.

The government moved to dismiss on statutory and constitutional grounds. As the government emphasized in that motion to dismiss, plaintiffs' suits are, on their face, devoid of merit: the FACA has no application to committees that are "composed wholly of full-time, or permanent part-time, officers or employees of the Federal Government." Id. § 3(2). The President's memorandum established the NEPDG as an entity composed exclusively of federal officers and employees. App. 117-18.[1] The NEPDG's final report confirms that it operated as

[1] "App." refers to the Appendix filed on November 12, 2002, in connection with the motion to stay discovery pending appeal and petition for mandamus.

REV_00154698

such. See Reliable, Affordable, and Environmentally Sound Energy For America's Future: Report of the National Energy Policy Development Group ("Report") (available at www.whitehouse.gov/energy). As the government also urged in its motion to dismiss, application of the FACA to a group of close Presidential advisors led by the Vice President would interfere with the President's discharge of his Article II functions and therefore be unconstitutional. See Association of American Physicians and Surgeons, Inc. v. Clinton, 997 F.2d 898, 909-10 (D.C. Cir. 1993) ("AAPS"). The government also asked that the Vice President, who is not an "agency" within the meaning of the Administrative Procedure Act, be dismissed as a defendant.

The court denied the motion to dismiss, refused to dismiss the Vice President as a defendant and precluded the government from filing a motion for summary judgment. Instead, the court ordered broad-

ranging discovery, including discovery into the inner workings of and communications within the Office of the Vice President. The documents covered by the discovery order include communications between the Vice President and other NEPDG members outside the context of group meetings, between the Vice President and agency personnel, and between the Vice President and outside individuals. See, e.g., App. 246, Requests for Production; App. 251, 253, Plaintiffs' First Set of Interrogatories, ¶ B and Interrogatories Nos. 3-6. Indeed, that discovery calls for disclosure that is, in significant respects, greater than would be triggered by a finding of a FACA violation.

B. The Vice President has appealed from the orders authorizing discovery into his office and has also joined in the Petition for Writ of Mandamus filed on November 12, 2002. Plaintiffs' contentions notwithstanding, the present appeal falls squarely within the principles recognized in United States v. Nixon, 418 U.S. 683 (1974). The district court recognized, consistent with the teachings of the Supreme Court and this Court, that application of the FACA to the NEPDG would raise substantial constitutional concerns. App. 171. In seeking to avoid

REV_00154699

that constitutional question, however, the court has authorized discovery that itself offends the separation of powers and interbranch comity. Especially absent a special showing of need, courts may not properly require the Vice President to produce to private persons the details of the process by which he obtains information, particularly when, as here, that information is being gathered in order to advise the President in the performance of his core constitutional prerogatives.

As we urged in our petition, the Court may address the propriety of the discovery orders and the Vice President's status in the exercise of its mandamus jurisdiction. If it does so, it can avoid deciding the precise contours of Nixon's appellate jurisdiction holding. If the Court declines to exercise mandamus jurisdiction, plaintiffs take the view that the Vice President could only test the validity of the court's orders by going into criminal contempt. Plaintiffs' extraordinary assertion that the Vice President must suffer criminal sanctions in order to obtain effective appellate review of important constitutional and statutory claims is flatly at odds with Nixon and broader principles of interbranch comity. Indeed, the Court in Nixon refused to countenance such a suggestion where, because of the President's third-party status, review would have been available by civil contempt.

Plaintiffs' grounds for dismissal are largely challenges to the merits of the Vice President's appeal. Plaintiffs contend that no reviewable question is presented in the absence of a specific claim of privilege. That argument fundamentally misunderstands the separation-of-powers problems that flow from the district court's view that the FACA permits intrusive discovery into the Office of the Vice President based on the mere allegation that an intragovernmental group established by the President and led by the Vice President may have included outside members. If the FACA were thought to allow private litigants to delve into the Vice President's office merely by raising unfounded questions regarding the President's good faith, the statute would plainly raise constitutional concerns of the first magnitude. Indeed, the

REV_00154700

district court's discovery orders – which extend to communications outside the context of FACA meetings - envisions disclosures of the internal workings of the Vice President's office that are in significant respects greater than would be required if the FACA actually applied to the NEPDG.

Plaintiffs further argue that this case is distinguishable from Nixon because the Vice President has been named as a party and may seek review following final judgment. This argument is doubly flawed.

First, the Vice President was not properly made a party to the suit. The Vice President is not an "agency" within the meaning of the APA, and the scope of non-statutory review recognized by this Court does not extend either to actions directly against the Vice President or to the type of error alleged in this case. Thus, any discovery requests to the Vice President in this case should properly have taken the form of a third-party subpoena. The Vice President is not precluded from seeking review of improper discovery orders because the district court also erred in refusing to dismiss him as a party.

Second, plaintiffs' suggestion that review of the Vice President's contentions is available after final judgment blinks reality. Once the improper discovery is concluded, no meaningful review of the issues presented here would be possible. A later appeal on the merits (if the district court were to issue judgment against the government) would have no impact on the issues now presented for review. Thus, short of contempt, the Vice President would have no meaningful opportunity to obtain review of the district court's order, the very circumstance addressed by the Supreme Court's decision in Nixon.

ARGUMENT

A. As set out in our mandamus petition, the district court erred in ordering an extensive intrusion into the internal workings of the Office of the Vice President for three related reasons.

First, the FACA contains no provision for judicial review, and its provisions are enforceable pursuant to the Administrative Procedure Act and its limitations. See Claybrook v.

REV_00154701

Slater, 111 F.3d 904, 908-09 (D.C. Cir. 1997). Absent extraordinary circumstances, where the public record makes clear that a government working group consists entirely of government officers and employees, there is no basis for overcoming established principles of judicial review of Executive action and ordinary presumptions of regularity, and permitting discovery based on mere allegations that the group may have included outside members. Review is limited to the administrative record and supplemental declarations filed by the government. See, e.g., Florida Power & Light Co. v. Lorion, 470 U.S. 729, 744 (1985).

Second, where discovery in a FACA suit is sought against the Vice President, constitutional concerns compound the importance of deciding the case in accordance with settled principles of judicial review. As the Supreme Court and this Court have recognized, application of the FACA in ways that could compromise the manner in which the President gathers advice raise extremely serious constitutional questions. The Supreme Court and this Court have thus sought to ensure that the statute is interpreted to avoid constitutional infirmities. See Public Citizen v. Department of Justice, 491 U.S. 440, 445-46 (1989); AAPS, 997 F.2d at 909-10. The district court in this case recognized that application of the FACA here might implicate precisely the types of concerns identified in those cases, but nonetheless ordered far-reaching discovery. App. 171.

The district court's discovery orders create constitutional problems similar to those it, this Court, and the Supreme Court have sought to avoid. Plaintiffs seek to subject the Vice President to intrusive discovery based on a simple allegation that the Presidential memorandum establishing the NEPDG, and the group's own final report, misstate the group's de facto membership. An interpretation of the FACA that would permit such discovery based on a simple assertion of irregularity would seriously impair the President's and the Vice President's interest in receiving confidential advice that this Court emphasized in AAPS.

Indeed, the discovery approved by the district court would allow plaintiffs to delve into

REV_00154702

the Vice President's communications to an extent that would not be available even if they prevailed on the merits of their suit. Plaintiffs seek not only information about NEPDG meetings, but discovery as to communications between the Vice President and other group members outside the context of group meetings, between the Vice President and agency personnel, and between the Vice President and outside individuals -- none of which would be available under the FACA or the FOIA. See, e.g., App. 246, Requests for Production; App. 251, 253, Plaintiffs' First Set of Interrogatories, ¶ B and Interrogatories Nos. 3-6. Moreover, it does so in the context of an advisory group that the President has limited to federal officials. The FACA expressly excludes such intragovernment groups from is scope, 5 U.S.C. App. 2, § 3(2), and that limitation is critical to avoiding unconstitutional interference with the executive branch's discharge of the President's Article II functions. By permitting, upon a mere allegation of "unofficial membership," discovery beyond even the disclosures that would be available upon a finding that the FACA applied, the district court severely undermined, if not eliminated, this critical limitation in the statute.

Third, there is no basis for subjecting the Vice President to discovery as a party. As plaintiffs conceded, App. 148, the President and Vice President are not "agencies" subject to the APA, see Franklin v. Massachusetts, 505 U.S. 788, 800-01 (1992). The district court erred in believing it could nevertheless retain jurisdiction over the Vice President as a defendant on the theory that his actions might be subject to review by way of mandamus. App. 169. It was the President who established the NEPDG, prescribed its mission, and specified its membership, and the Vice President and members of the NEPDG acted on his behalf in preparing the group's recommendations and gathering the information and producing the documents necessary to do so. The powers of the President are involved in this case as well. As discussed in our mandamus petition, because of established restrictions on suits directly against the President – even in the case of constitutional challenges to Presidential action – the traditional means for obtaining

REV_00154703

judicial review is to sue the Head of the Executive Department who is charged with their implementation. See, e.g., Dalton v. Specter, 511 U.S. 462, 464 (1994). Plaintiffs may not evade restrictions on suing the President by suing the Vice President, who is not the Head of an Executive Department who could be subject to suit on such a theory, who has a distinct constitutional stature in his own right, and who acted here in the performance of his constitutionally-based role, recognized by Congress, of "providing assistance to the President in the performance of functions specifically assigned to the Vice President by the President in the discharge of executive duties and responsibilities." 3 U.S.C. § 106.

Moreover, this Court's cases permitting nonstatutory review of Presidential action (in a suit against a Head of a Department) are limited to cases in which the President is alleged to have acted outside his authority, see Chamber of Commerce v. Reich, 74 F.3d 1322, 1327-28 (D.C. Cir. 1996), and, as explained in our Petition, any suggestion in this Court's cases that nonstatutory review is freely available to enforce a federal statute must be read in light of the Supreme Court's recent decisions addressing judicially implied rights of action and efforts to use broad writs to circumvent particular limits on jurisdiction. See Petition at 18. Plaintiffs' allegations that some NEPDG members may have had discussions with nongovernment employees cannot plausibly be construed to fall within that narrow category of nonstatutory review.

B. As discussed in our petition, because the district court has committed clear and significant error with immediate and irreparable consequences, the Court can, and should, exercise its supervisory mandamus authority.

Exercising that mandamus authority would eliminate the need for the Court to resolve the scope of the Court's appellate jurisdiction under United States v. Nixon, 418 U.S. 683 (1974). However, if the Court reaches the issue, the Vice President's appeal may properly proceed under 28 U.S.C. § 1291. In Nixon, the Supreme Court permitted the President to seek immediate

REV_00154704

review of an order refusing to quash a subpoena without going into civil contempt, holding that the order was final and appealable under 28 U.S.C. § 1291. See 418 U.S. at 690-92. The Court concluded that "[t]o require a President of the United States to place himself in the posture of disobeying an order of a court merely to trigger the procedural mechanism for review of the ruling would be unseemly, and would present an unnecessary occasion for constitutional confrontation between two branches of the Government." Id. at 691-92.

It would be similarly unseemly to compel the Vice President -- the only Article II officer other than the President named in the Constitution, see U.S. Const., Art. II, § 1 – to go into contempt in order to obtain appellate review of an order authorizing discovery into his conduct in advising the President on matters of the highest significance. Indeed, if this Court were to conclude that appellate and mandamus review were unavailable, the Vice President, who has (improperly) been made a defendant in this suit, could obtain effective appellate review only by subjecting himself to criminal contempt sanctions. See Byrd v. Reno, 180 F.3d 298, 300-02 (D.C. Cir. 1999) (while civil contempt cannot serve as the basis for a party to appeal a discovery order, criminal contempt could). It would be more than "unseemly" to require the Vice President to take such steps in order to secure timely review of orders that implicate serious separation of powers issues and directly affect the conduct of his office and his ability to gather confidential advice in carrying out functions assigned him by the President. That is especially so here, because plaintiffs seek to obtain documents that represent the working papers of a group of top-level government officials who were constituted as a group by the President to give advice to the President, and in which the President himself therefore has a direct interest deriving from the Opinions and Recommendations Clauses of the Constitution.

C. Plaintiffs urge that the district court's orders do not fall within the principles set out in Nixon, stressing that President Nixon had presented a claim of executive privilege and that review of his claim would have been unavailable on appeal because he was not a party to the

REV_00154705

underlying proceeding. The decision in Nixon did not announce a principle limited to claims of executive privilege. It turned, instead, on the "unseeml[iness]" of requiring the President to incur a contempt citation. See 418 U.S. at 691-92. As plaintiffss recognize, Nixon addressed the question of whether the President is required to submit to contempt to obtain review of an order denying a motion to quash that would otherwise be unappealable under the collateral order doctrine. The Court made clear that the President need not incur contempt sanctions to seek review of significant claims that would otherwise escape appellate review. That holding resolves the question whether the Vice President must incur criminal contempt sanctions to obtain review of the significant claims at issue on this appeal, and makes clear that the denial of a motion for a protective order (the party equivalent of the motion denied in Nixon) is reviewable here.[2]

That question is distinct from the underlying merits of this case and cannot be meaningfully reviewed after final judgment. The issue now before this Court is whether the Vice President can properly be made subject to sweeping discovery requests despite the constitutional and statutory objections outlined above. An appeal from a later adverse judgment, if one issues, could not remedy the intrusion sanctioned by the district court. Moreover, in the likely event that the government prevails in the underlying litigation, it is altogether possible that this Court would have no opportunity to address even prospectively the propriety of the type of discovery authorized here. Whether the government can ultimately prove there were no "unofficial members" of the NEPDG (which is decidedly not its burden under the FACA), it will

---

[2] Plaintiffs place heavy reliance on In re Executive Office of the President, 215 F.3d 20 (D.C. Cir. 2000), in which the Court declined to exercise its mandamus authority to review a discovery order. The Court observed that "[i]n the normal course * * * mandamus is not available to review a discovery order." Id. at 23. Contrary to plaintiffs' suggestion, however, the Court did not hold that such review of a discovery order would be unavailable "absent a specific and well-substantiated 'claim that some important privilege will be infringed if discovery is allowed to proceed.'" Motion at 7 (quoting In re Executive Office of the President, 215 F.3d at 24). The Court, in the passage quoted, addressed the particular claims at issue and did not purport to set out a general rule.

REV_00154706

have been forced to disclose a great deal of information that would not be disclosed even if the FACA applied. In particular, when discovery demonstrates that the NEPDG's membership conformed to the President's memorandum, and so the FACA is altogether inapplicable, it will be impossible (and far too late) to remedy the separation of powers problems created by the district court's orders.

Plaintiffs' emphasis on the Vice President's party status only underscores the error of their contentions. As noted, the district court erred in failing to dismiss the Vice President as a defendant. That error cannot properly be used to foreclose the Vice President's ability to seek effective review of the court's discovery plan. Moreover, as discussed, because the Vice President is a party, he can only obtain appellate review, under plaintiffs' theory, by subjecting himself to criminal contempt sanctions. The Vice President is not required to flout a court order in order to obtain meaningful review of substantial constitutional and statutory claims.

In sum, because of the special concerns that obtain when the President or Vice President seek review of significant rulings that cannot be adequately addressed on appeal from final judgment, jurisdiction is proper under 28 U.S.C. § 1291 as well as 28 U.S.C. § 1651(a).

REV_00154707

CONCLUSION

For the foregoing reasons, this Court should deny plaintiffs' motion to dismiss the appeal.

Respectfully submitted,
THEODORE B. OLSON
Solicitor General

ROBERT D. McCALLUM, JR.
Assistant Attorney General

PAUL D. CLEMENT
Deputy Solicitor General

GREGORY G. KATSAS
SHANNEN W. COFFIN
Deputy Assistant Attorneys General

MARK B. STERN
MICHAEL S. RAAB
DOUGLAS HALLWARD-DRIEMEIER
ERIC D. MILLER
(202) 514-5089
Attorneys, Appellate Staff
Civil Division
U.S. Department of Justice
601 D Street, N.W., Room 9108
Washington, D.C. 20530-0001

REV_00154708

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of November 2002, I am causing the foregoing Brief in Opposition to Appellees' Motions to Dismiss Appeal to be served on the following in the manner specified:

By Hand delivery:

Honorable Emmet G. Sullivan
United States District Court
for the District of Columbia
Third & Constitution Avenue, N.W.
Washington, D.C. 20001

Larry Klayman, Esq.
Paul Orfanedes, Esq.
Judicial Watch, Inc.
501 School Street, S.W., Suite 725
Washington, D.C. 20024

David Bookbinder, Esq.
Sierra Club
408 C Street, N.E.
Washington, D.C. 20002

Roger Adelman
Law Offices of Roger Adelman
1100 Connecticut Avenue, N.W.
Washington, D.C. 20036

Howard M. Crystal
Meyer & Glitzenstein
1601 Connecticut Ave., N.W. Suite 700
Washington, D.C. 20009-1035

By Federal Express:

Patrick Gallagher
Alex Levinson
Sanjay Narayan
Sierra Club
85 Second Street
San Francisco, California 94104

_____
Mark B. Stern

REV_00154709

From: CN=David S. Addington/OU=OVP/O=EOP [OVP]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 11/20/2002 2:44:00 PM
Subject: : FW: copies of today's NEPDG filings
Attachments: P_Z79UB003_WHO.TXT_1.wpd; P_Z79UB003_WHO.TXT_2.wpd; P_Z79UB003_WHO.TXT_3.wpd

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP [OVP])
CREATION DATE/TIME:20-NOV-2002 19:44:00.00
SUBJECT:: FW: copies of today's NEPDG filings
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett -- FYI
---------- Forwarded by David S. Addington/OVP/EOP on 11/20/2002 07:58 PM ----------

"Coffin, Shannen" <Shannen.Coffin@usdoj.gov>
11/20/2002 04:33:23 PM
Record Type: Record

To: David S. Addington/OVP/EOP@EOP
cc:
Subject: FW: copies of today's NEPDG filings

Shannen W. Coffin
Civil Division
U.S. Department of Justice
(202) 514-3310 (phone)
(202) 514-8071 (fax)
shannen.coffin@usdoj.gov

-----Original Message-----
From: Stern, Mark
Sent: Wednesday, November 20, 2002 4:32 PM
To: Kneedler, Edwin S; Clement, Paul D; Katsas, Gregory; Coffin, Shannen
Cc: Hallward-Driemeier, Douglas; Bondy, Thomas; Raab, Michael; Millet, Thomas; Blackwell, Craig
Subject: copies of today's NEPDG filings

- mandamus.reply.final.wpd
- Reply to stay motion.final.wpd
- Opposition to motion to dismiss.final.wpd

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_Z79UB003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_Z79UB003_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_Z79UB003_WHO.TXT_3>

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

In re RICHARD B. CHENEY, Vice President of the United States, et al.,	
Petitioners.	No. 02-5354
	[Civil Action Nos. 01-1530, 02-631 (EGS)]

REPLY TO APPELLEES' RESPONSE TO EMERGENCY PETITION FOR WRIT OF MANDAMUS

This case involves far more than an ordinary discovery dispute. Plaintiffs seek and the district court ordered extensive disclosure of communications between senior executive branch officials and those with information relevant to advice that was being formulated for the President. The district court ordered this extensive discovery and disclosure based on a mistaken interpretation of the APA and a failure to heed important separation of powers principles. Moreover, in the context of a statute, i.e., the FACA, that is primarily about disclosure, there is little practical difference between unconstitutionally overbroad discovery and constitutionally problematic interpretations of the statute. Both this Court and the Supreme Court have struggled to interpret the FACA to keep its disclosure obligations and other provisions within constitutional bounds. The district court undermined those efforts by allowing extensive and intrusive discovery based on the mere allegation that the membership of the NEPDG deviated from the President's plan. That was a clear error that can and should be corrected via mandamus.

1. The Vice President And Other Petitioners May Obtain Effective Appellate Review Of The District Court's Orders Without Incurring Criminal Contempt Sanctions.

Plaintiffs urge that the Vice President cannot obtain review of discovery orders raising significant statutory and constitutional questions without going into criminal contempt. That contention is flatly at odds with In re Kessler, 100 F.3d 1015 (D.C. Cir. 1996), on which plaintiffs seek to rely. Opp. 8. The Court in that case concluded that mandamus would not be available to review discovery of the Commissioner of the Food and Drug Administration. Citing

REV_00154728

United States v. Nixon, 418 U.S. 683 (1974), and Franklin v. Massachusetts, 505 U.S. 788, 800-01 (1992), the Court drew a distinction between the President and subordinate officers, and expressed concern that if the Court permitted immediate review by an agency official "three levels down from that of the Secretary of HHS," all executive branch officials might claim an immediate right of review. Id. at 1017. As the Court's reasoning makes clear, whatever the limits on immediate review of discovery orders, they do not encompass the President or the Vice President, who, with an independent constitutional role, is not simply a subordinate officer. See also Vice President's Opposition to Motion to Dismiss Appeal (explaining that the Vice President's appeal is clearly proper under Nixon).

Indeed, the Court has subsequently questioned its decision to deny mandamus relief to the FDA Commissioner in In re Kessler. The Court explained that its ruling rested on the mistaken view that the Commissioner could have obtained review by incurring civil contempt sanctions, and recognized that review of a discovery order by a party can, in fact, only be obtained by going into criminal contempt. In re Sealed Case, 151 F.3d 1051, 1064 (D.C. Cir. 2000). The Court concluded "that the disobedience and contempt route to appeal cannot be labeled an adequate means of relief for a party-litigant." Id. at 1065. Accordingly, in light of the important separation of powers issues raised in the petition, this Court should exercise jurisdiction to review the claims of all petitioners.

Contrary to plaintiffs' assertion, the Court in In re Executive Office of the President, 215 F.3d 20 (D.C. Cir. 2000), did not "establish[] that a writ is unavailable 'absent a specific and well-

substantiated claim that some important privilege will be infringed if discovery is allowed to proceed.'" Opp. at 8 (quoting In re Executive Office of the President, 215 F.3d at 24). To be sure, the Court recognized that "[i]n the normal course * * * mandamus is not available to review a discovery order," id. at 23, and found that in the circumstances of the orders on review, which involved the rejection of various privileges, the government had not established an entitlement to

REV_00154729

mandamus review. However, the Court did not hold that a claim of privilege was a necessary prerequisite to mandamus review, and did not purport to set out a general rule.

Indeed, in In re Sealed Case, the Court rejected the assertion that the Independent Counsel "would not be irreparably harmed by the orders because the orders allowed him to redact any Rule 6(e) material and thus he would not be required to provide any confidential investigative material to the movants." 151 F.3d at 1062. The Court explained that the Independent Counsel "is not troubled solely by the possibility that Rule 6(e) material might be disclosed, but also by the prospect of disclosing even the identities of members of the press with whom the IC and his staff have spoken." Id. at 392. The Court also observed that the limitation on disclosing protected material would not "assuage petitioner's fear that discovery and an adversarial hearing will divert petitoner's focus * * *." Ibid.

As we explained in our petition, principles of comity preclude intrusive requests for testimony even from high-ranking subordinate officials. See, e.g., In re United States, 197 F.3d 310, 313 (8th Cir. 1999) ("[h]igh-ranking government officials * * * should not, absent extraordinary circumstances, be called to testify regarding their reasons for taking official actions'") (quoting In re United States, 985 F.2d 510, 512 (11th Cir. 1993) (quoting Simplex Time Recorder Co. v. Secretary of Labor, 766 F.2d 575, 586 (D.C. Cir. 1985))); In re Office of Inspector General, 933 F.2d 276, 278 (5th Cir. 1991) (same). As the Eighth Circuit concluded in In re United States, "[i]f other persons can provide the information sought, discovery will not be permitted against such an official." 197 F.3d at 313.

Those principles apply with even greater force here where the intrusive discovery requests are directed to the Vice President in a case in which the Vice President is not properly a party and the review should be limited to the administrative record. Plaintiffs' intrusive request, approved by the district court, requires the Vice President to review, and absent a claim of privilege, disclose, all of his communications with other NEPDG group members outside the context of group meetings, as well as his communications with agency personnel and with

REV_00154730

outside individuals. See App. 246, Requests for Production; App. 251, 253, Plaintiffs' First Set of Interrogatories, ¶ B and Interrogatories Nos. 3-6. Plainly, the Vice President should not be subjected to this burden absent extraordinary circumstances. Fundamental principles of comity require that discovery to the President or the Vice President be an avenue of last resort, not an enterprise to be undertaken without any showing of need.

The absence of any legitimate need for discovery of the Vice President is underscored by the extensive discovery already obtained by plaintiffs. Although, as we have demonstrated, the court erred in permitting any discovery, the government did not seek a protective order with respect to the agency defendants. The government to date has released approximately 36,000 documents (including documents redacted to safeguard privileged material). The district court at no point explained why it should not, in the first instance, require plaintiffs to produce support from these documents for their wholly unsubstantiated claims of irregularity before authorizing discovery to the Vice President. Indeed, plaintiffs have, at no time, even attempted to argue that some information from those documents demonstrates a possible violation of the FACA. Even apart from the other constitutional and statutory concerns raised by the district court's discovery orders, mandamus relief would be warranted on this basis alone.

In sum, as the district court itself recognized, the Vice President's claims will escape effective review by this Court on an appeal from final judgment. By their nature, the Vice President's claims, and the harm resulting from the district court's orders can only be meaningfully reviewed now. This Court's decisions leave no doubt that the Vice President and other petitioners need not go into criminal contempt to obtain review of those orders. Indeed, as we have explained elsewhere, see Opposition to Motion to Dismiss the Appeal, the Court has appellate jurisdiction under Nixon. By granting mandamus review in the extraordinary context of this case, however, the Court can avoid definitively resolving the contours of Nixon's appellate jurisdiction holding.

2. The FACA Does Not Reverse Presumptions Of Regularity And Permit Discovery

REV_00154731

Based On Allegations That Members of A Government Group Met With Private Persons.

The mistaken premise of plaintiffs' argument, which they never squarely confront, is that Congress, by enacting the FACA, authorized far-reaching discovery based on the mere allegation that a group composed entirely of government officers and employees had contacts with private persons.

As an initial matter, plaintiffs' opposition leaves no doubt that they regard the mere fact of contacts between committee members and private persons as a sufficient basis to permit discovery. Plaintiffs believe that they have established an entitlement to discovery based on a statement in a House committee staff report that energy company and trade association representatives "met with Vice President Cheney or members or staff of the White House energy task force during the development of the White House energy plan." Ex. 1 to Opp. at 1. Private persons meet with government officials regarding most major economic policy initiatives. Such contacts are entirely proper and do not, as the case law makes abundantly clear, trigger the applicability of FACA's requirements. See, e.g., Public Citizen v. Department of Justice, 491 U.S. 440, 452 (1989) (cautioning against construction that "would extend FACA's requirements to any group of two or more persons, or at least any formal organization, from which the President or an executive agency seeks advice"); Association of American Physicians and Surgeons, Inc. v. Clinton, 997 F.2d 898, 915 (D.C. Cir. 1993) ("AAPS") ("Congress did not intend FACA to extend to episodic meetings between government officials and a consultant" and "[t]o do so would achieve the absurd result Public Citizen warned against: reading FACA to cover every instance when the President (or an agency) informally seeks advice from two or more private citizens"); cf. Nader v. Barody, 396 F. Supp. 1231 (D.D.C. 1975) (bi-weekly White House meetings with major business organizations and private sector groups do not create FACA committees) . If discovery is permitted on the basis of the allegations here, it would (improperly) follow that discovery should be permitted in every case in which a plaintiff asserts that members

REV_00154732

of a purely intragovernmental group had contacts with private persons or were influenced by their views.

Congress could not have intended that the allegation of such contacts -- which, in any event, would not establish the existence of a FACA committee -- would authorize plaintiffs to discover the inner workings of intragovernmental groups. Congress itself exempted intragovernmental groups from the FACA's reach, and certainly did not intend to convert such groups into FACA committees because a committee member had contact with a private citizen. Such a statute would be flatly unconstitutional. It is no answer to argue that the Petition raises only a discovery issue and not a question about the FACA's ultimate coverage. In the context of a statute that is primarily about disclosure and which raises serious separation of powers problems if not properly cabined, ordering massive discovery against the Vice President raises concerns no less profound than those at issue in Public Citizen and AAPS.

Plaintiffs misconceive the problem when they urge that "The Administrative Procedure Act * * * does not forbid discovery of Petitioners." Opp. 10. As we have shown, the APA does make clear that judicial review is to be made on the basis of the administrative record. But the more immediate question here is whether Congress, in enacting the FACA, intended to permit discovery based on statements of the kind on which plaintiffs rely. The FACA itself contains no provision for judicial enforcement and does not suggest that Congress wished to sanction this type of intrusion. To the contrary, routine discovery into the contacts between the members of an intragovernmental group and private persons would be flatly at odds with Congress's express exclusion of intragovernmental groups from FACA requirements. By omitting any express right of private enforcement, Congress intended that the statute be enforced only as consistent with the APA. The APA itself permits discovery only in very limited circumstances, and Congress could not have believed that the availability of APA review would provide a warrant for the kind of discovery rarely available under that statute.[1] Still less could the availability of APA review

REV_00154733

authorize party discovery to the Vice President, who, as plaintiffs concede, is not an agency within the meaning of that statute. And such a result would be inconsistent with Congress's decision to exclude the President and Vice President from the disclosure requirements of the FOIA. Nor is there any reason to believe that Congress wished to allow a plaintiff to circumvent APA limitations by seeking a writ of mandamus against the Vice President. Indeed, even where mandamus review is available, it is also generally limited to an administrative record, see Texas Rural Legal Aid, Inc. v. Legal Services Corp., 940 F.2d 685, 698 (D.C. Cir. 1991).

Congress enacted the FACA against the background presumption of regularity repeatedly emphasized by the Supreme Court and this Court. See United States v. Chemical Foundation, 272 U.S. 1, 14-15 (1926) ("in the absence of clear evidence to the contrary, courts presume that [public officers] have properly discharged their official duties."); Morris v. Sullivan, 897 F.2d 553, 560 (D.C. Cir. 1990) (same). As plaintiffs concede, that "presumption can shield an agency from discovery based upon unsupported allegations that it has acted in bad faith." Opp. 12 n.7 (citing National Nutritional Foods Ass'n v. FDA, 491 F.2d 1141, 1145 (2d Cir. 1974)). Apparently recognizing that there is no basis for overcoming that presumption here, plaintiffs observe that "[t]his is not the only basis for discovery in an APA case, however, and was not the grounds cited by the District Court in permitting discovery." Opp. 12 n.7.

---

[1] Walter O. Boswell Memorial Hospital v. Heckler, 749 F.2d 788 (D.C. Cir. 1984), cited by plaintiffs, admonishes that the APA requires review of "the *full* administrative record," id. at 792 (quoting Citizens to Preserve Overton Park, Inc. v. Volpe, 401 U.S. 402, 420 (1971)), but simultaneously directed the district court to "prevent any improper supplementation" of the administrative record, ibid., which is what plaintiffs seek here. In Natural Resources Defense Council, Inc. v. Train, 519 F.2d 287 (D.C. Cir. 1975), plaintiffs provided specific evidence that the agency had failed to provide the court with the full administrative record. Id. at 289 (plaintiff's affidavit "listed several documents which had been relied upon by the Administrator * * * but which were not included among those filed with the court"). In contrast, plaintiffs here merely point to the unremarkable fact that members of the NEPDG "met with" individual members or staff of the committee.

REV_00154734

The difficulty with plaintiffs' argument is that their entire suit is premised on the assumption that petitioners departed from the President's instructions and included as members of the NEPDG persons who were not government officers or employees, and then misrepresented the group's composition in the final report. Indeed, the district court believed that discovery was warranted precisely because "the government doesn't always comply with the law." App. 217. The court's decision to authorize broad discovery thus turns directly on its mistaken reversal of the governing presumption of regularity. Under that presumption, a plaintiff could not obtain broad discovery even from an agency official based on a mere allegation that he had misrepresented the composition of an agency group. It follows, a fortiori, that the presumption of regularity precludes discovery when the consequences of ordering discovery are to permit far-reaching discovery into the means by which the Vice President receives advice in order to make recommendations to the President in carrying out his core constitutional prerogatives.

3. Plaintiffs' Reading Of The FACA Would Render Its Application Unconstitutional.

Plaintiffs similarly misunderstand the constitutional concerns raised by the district court's orders. The issue is not whether the Constitution categorically prohibits discovery of the Executive. Opp. 12. The key statutory issue is that Congress manifestly did not intend to create a means by which plaintiffs can reverse normal presumptions of regularity and seek discovery into the communications of the President or Vice President merely by alleging that members of a governmental group had contacts with outside persons.

If Congress had done so, however, it would have created an unconstitutional interference with the Executive's discharge of Article II functions. It would have created constitutional problems of the same sort – albeit in some respects even more serious – as would be created by applying FACA's substantive requirements so as to restrict the means by which the President and Vice President communicate with private citizens, and the means by which the Vice President gathers views in the course of preparing his recommendations to the President. As the Supreme Court and this Court have made clear, such restrictions present "formidable constitutional difficulties." Public Citizen, 491 U.S. at 466. Courts have been willing to adopt "extremely strained construction[s]" to minimize these problems, see AAPS, 997 F.2d at 906. The reading of the statute accepted by the district court generates the type of infringement that the courts have sought to avoid by permitting discovery into all contacts of a governmental group with each other, government personnel, and private persons, based on the allegation that one or more members of the group met with private persons. That reading – which is wholly without anchor

REV_00154735

in the statute – would improperly burden the President's ability to employ groups of high-level government officials as a means of obtaining advice. Indeed, in some respects, the constitutional intrusion here is even more significant than that at issue in Public Citizen or AAPS. Those cases threatened to restrict the President's means of obtaining advice from private persons. Plaintiffs' argument would restrict not only contacts with private persons but would even cause the President to hesitate before creating any working group consisting wholly of Cabinet Officers.

As plaintiffs do not dispute, the Courts in Public Citizen and AAPS recognized serious constitutional concerns although no claims of Executive Privilege were at issue. Their unexplained assertion that these cases involved "entirely different concerns," Opp. 14, cannot mask the constitutional problems created by the district court's application of the statute.

Plaintiffs urge that the "Vice President Is Not the President," Opp. 16, thereby suggesting that the orders at issue here raises no greater concerns than if they were directed to any other federal official. Plaintiffs fail to recognize that the reading of the statute that they advocate burdens the President's ability to gather advice from groups of his most trusted government advisors, as well as his ability to use these groups to receive wholly proper input from private persons.

In any event, plaintiffs' assertion that the constitutional status of the Vice President is "no different from any other cabinet officer," Opp. at 17, seriously misconstrues the role of the Vice President in the constitutional scheme. Like the President, the Vice President has a "unique constitutional position." Franklin, 505 U.S. at 800. He alone, among senior executive-branch officials, is "totally protected from the President's removal power." Meyer v. Bush, 981 F.2d 1288, 1295 (D.C. Cir. 1993). He alone is designated by the Constitution to serve as Acting President (see U.S. CONST. amend. XXV), or to "become President" upon the death of the President elect (id., amend. XX, § 3), or upon the removal, death, or resignation of the President (see id., amend. XXV, § 1). Indeed, he and the President are the only two public officials in the United States who are elected through a process involving every State, see id., art. II, § 1 & amend. XII., and are thus "the only elected officials who represent all the voters in the Nation." Anderson v. Celebrezze, 460 U.S. 780, 795 (1983). Similarly, the Presidency and Vice Presidency are the only two offices that are defined in Article II of the Constitution, rather than by statute. Finally, the Vice President alone has legislative functions as the President of the Senate. See U.S. CONST. art. I, § 3, cl. 4. Plaintiffs' suggestion that the Vice President's stature is no different than that of "every member of the Electoral College," Opp. at 17, illustrates the extent to which their contention is wholly without basis. And here, the Vice President was acting, in his constitutionally-based capacity, recognized by Congress in 3 U.S.C. § 106, of assisting the President in a matter "specially assigned to the Vice President by the President in the discharge of executive duties and responsibilities."

4. Plaintiffs Cannot Properly Subject the Vice President To Discovery As A Party.

Plaintiffs' discovery requests are premised on the Vice President's party status. In their opposition, plaintiffs make no serious effort to explain why the Vice President is properly named as a defendant. As plaintiffs do not dispute, the Vice President cannot properly be named a defendant under the APA. Plaintiffs urge that the President or Vice President may properly be named as defendants as long as the order of relief is directed to subordinates. That is not the case, as Swan v. Clinton, 100 F.3d 973 (D.C. Cir. 1996), the case on which they place primary

REV_00154736

reliance, makes clear. That case does not hold, as plaintiffs contend, that "a court may claim jurisdiction over the President under section 1361, but ultimately issue injunctive relief against lower-level executive officers." Appellees' Response at 18. To the contrary, in Swan, the Court added numerous additional governmental defendants to the case specifically in order to avoid deciding the serious constitutional question whether plaintiff had standing to sue the President for injunctive or declaratory relief. 100 F.3d at 980-81. This had the effect of mooting the plaintiff's claim against the President directly.

The plaintiffs in Chamber of Commerce v. Reich, 74 F.3d 1322, 1325 (D.C. Cir. 1996), also relied on by plaintiffs, did not name the President as a defendant, limiting their suit to the actions of a Head of an Executive agency in implementing an Executive Order. Moreover, Reich involved a person whose office was created by statute, and he was sued in connection with carrying out a substantive policy that had immediate impact on private parties. The Vice President is a constitutional officer and he is sued solely in connection with his giving of advice. In any event, plaintiffs make no attempt to explain how this case would fall into the limited doctrine of Leedom v. Kyne, 358 U.S. 184, 188-91 (1958), that was the basis of the ruling in Chamber of Commerce. Nor do plaintiffs address the Supreme Court's recent decisions admonishing against the use of judicially implied rights of action and efforts to use broad writs to circumvent particular limits on jurisdiction. See Pet. 20.

Finally, plaintiffs suggest that mandamus relief should be unavailable because the Vice President did not immediately appeal the order denying his motion to dismiss. This gets matters backwards. The Vice President sought review by this Court only after the government responded to other discovery requests, sought a protective order, and attempted to resolve the dispute on summary judgment. He invoked this Court's mandamus jurisdiction only when it became clear that no means were available in district court to halt the discovery process at issue here. This Court cannot properly sanction party discovery to the Vice President without recognizing that he is, in fact, not properly a party to the case at all.

CONCLUSION

For the foregoing reasons and those stated in our Petition, this Court should exercise its jurisdiction under 28 U.S.C. § 1651, vacate the discovery orders issued by the district court, direct the court to decide the case on the basis of the administrative record and such supplemental affidavits as it may require, and direct that the Vice President be dismissed as a defendant.

Respectfully submitted,
THEODORE B. OLSON
Solicitor General

ROBERT D. McCALLUM, JR.
Assistant Attorney General

PAUL D. CLEMENT
Deputy Solicitor General

GREGORY G. KATSAS
SHANNEN W. COFFIN
Deputy Assistant Attorneys General

REV_00154737

MARK B. STERN
MICHAEL S. RAAB
DOUGLAS HALLWARD-DRIEMEIER
ERIC D. MILLER
(202) 514-5089
Attorneys, Appellate Staff
Civil Division
U.S. Department of Justice
601 D Street, N.W., Room 9108
Washington, D.C. 20530-0001

REV_00154738

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of November 2002, I am causing the foregoing Reply to Response to Petition for Writ of Mandamus to be served on the following in the manner specified:

By Hand delivery:

Honorable Emmet G. Sullivan
United States District Court
for the District of Columbia
Third & Constitution Avenue, N.W.
Washington, D.C. 20001

Larry Klayman, Esq.
Paul Orfanedes, Esq.
Judicial Watch, Inc.
501 School Street, S.W.
Suite 725
Washington, D.C. 20024

David Bookbinder, Esq.
Sierra Club
408 C Street, N.E.
Washington, D.C. 20002

Roger Adelman
Law Offices of Roger Adelman
1100 Connecticut Avenue, N.W.
Washington, D.C. 20036

Howard M. Crystal
Meyer & Glitzenstein
1601 Connecticut Ave., N.W. Suite 700
Washington, D.C. 20009-1035

By Federal Express:

Patrick Gallagher
Alex Levinson
Sanjay Narayan
Sierra Club
85 Second Street
San Francisco, California 94104

Mark B. Stern

REV_00154740

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

In re RICHARD B. CHENEY, Vice President of the United States, et al., Petitioners.	)	No. 02-5354 [Civil Action Nos. 01-1530, 02-631 (EGS)]

REPLY TO APPELLEES' RESPONSE TO EMERGENCY MOTION FOR STAY PENDING APPELLATE REVIEW

1. A Stay Is Required To Preserve The Status Quo.

Plaintiffs contend that a stay is not required to provide meaningful review of the arguments set out in our Petition for Writ of Mandamus. That argument is without basis and merely restates plaintiffs' position on the merits of the petition, which we have fully addressed in the Petition and Reply. Indeed, even the district court recognized that if the government's arguments are correct, "defendants would suffer irreparable harm if the proceedings before this Court were not stayed to enable them to seek appellate review of such an order." App. 370.

As we explained in our petition, principles of comity preclude intrusive requests for testimony even from high-ranking subordinate officials, and the violation of those principles cannot be remedied on a later appeal. See, e.g., In re United States, 197 F.3d 310, 313 (8th Cir. 1999) ("[h]igh-ranking government officials * * * should not, absent extraordinary circumstances, be called to testify regarding their reasons for taking official actions'") (quoting In re United States, 985 F.2d 510, 512 (11th Cir. 1993) (quoting Simplex Time Recorder Co. v. Secretary of Labor, 766 F.2d 575, 586 (D.C. Cir. 1985))).

Those principles apply with even greater force here where the intrusive discovery requests are directed to the Vice President in a case in which the Vice President is not properly a party and the review should be limited to the administrative record. Indeed, here, the Vice President, who has an independent constitutional role and is not merely a subordinate officer,

REV_00154741

was acting at the specific request of the President. Plaintiffs' intrusive request, approved by the district court, requires the Vice President to review, and absent a claim of privilege, disclose, all of his communications with other NEPDG group members outside the context of group meetings, as well as his communications with agency personnel and with outside individuals. See App. 246, Requests for Production; App. 251, 253, Plaintiffs' First Set of Interrogatories, ¶ B and Interrogatories Nos. 3-6. Requiring such disclosure would surely have a chilling effect on the President's ability in the future to rely upon the Vice President as he has done here. Plainly, the Vice President should not be subjected to this burden absent extraordinary circumstances. And equally plainly, the orders directing that discovery cannot be meaningfully reviewed on appeal from final judgment.

As our petition and reply also make clear, such orders can be subject to review even when they do not result in disclosure of "highly privileged" material. Cf. Opp. 7 (quoting In re Executive Office of the President, 215 F.3d 20, 23 (D.C. Cir. 2000)). To be sure, in that case, the Court observed that "[i]n the normal course * * * mandamus is not available to review a discovery order," id. at 23, and found that in the circumstances of the orders on review, which involved the rejection of various privileges, the government had not established an entitlement to mandamus review. However, the Court did not hold that a claim of privilege was a prerequisite for mandamus review and did not purport to set out a general rule.

Indeed, in In re Sealed Case, 151 F.3d 1051, 1064 (D.C. Cir. 2000), the Court rejected the assertion that the Independent Counsel "would not be irreparably harmed by the orders because the orders allowed him to redact any Rule 6(e) material and thus he would not be required to provide any confidential investigative material to the movants." 151 F.3d at 1062. The Court explained that the Independent Counsel "is not troubled solely by the possibility that Rule 6(e) material might be disclosed, but also by the prospect of disclosing even the identities of members of the press with whom the IC and his staff have spoken." Id. at 392. The Court also observed that the limitation on disclosing protected material would not "assuage petitioner's

REV_00154742

fear that discovery an adversarial hearing will divert petitioner's focus * * *." Ibid. More generally, the Court has recognized that context, not a mechanical rule, matters in exercising mandamus jurisdiction. See In re Papandreou, 139 F.3d 247, 251 (D.C. Cir. 1998) (foreign government's opposition to jurisdictional discovery under the FSIA, which raised concerns even "beyond those of ordinary privilege," warranted "immediate review").

Moreover, In re Kessler, 100 F.3d 1015 (D.C. Cir. 1996), on which plaintiffs seek to rely, Opp. 6, is flatly at odds with their position here. In that case, the Court declined to issue a writ to preclude discovery of the Commissioner of the Food and Drug Administration. Citing United States v. Nixon, 418 U.S. 683 (1974), and Franklin v. Massachusetts, 505 U.S. 788, 800-01 (1992), the Court drew a distinction between the President and subordinate officers, and expressed concern that if the Court permitted immediate review by an agency official "three levels down from that of the Secretary of HHS," all executive branch officials might claim an immediate right of review. Id. at 1017. As the Court's reasoning makes clear, whatever the limits on immediate review of discovery orders, they do not encompass the President and the Vice President. See also Vice President's Opposition to Motion to Dismiss Appeal (explaining that, under Nixon, the President may appeal from discovery orders that would generally only be reviewed after litigant incurs contempt sanctions); Reply to Appellees' Response to Emergency Petition for Writ of Mandamus at 8-9 (explaining that constitutional concerns applicable to President apply as well to Vice President).[1]

Petitioners assert, without basis, that the reading of the FACA adopted by the district

---

[1] Indeed, the Court has subsequently questioned its decision to deny mandamus relief to the FDA Commissioner in In re Kessler. The Court explained that it had acted on the mistaken view that the Commissioner could have obtained review by incurring civil contempt sanctions, and recognized that review of a discovery order by a party could only be obtained by going into criminal contempt. In re Sealed Case, 151 F.3d at 1064. The Court concluded "that the disobedience and contempt route to appeal cannot be labeled an adequate means of relief for a party-litigant." Id. at 1065.

REV_00154743

court will not chill the way in which the President obtains advice. As the Supreme Court and this Court have made clear, restrictions on the ways in which the President gathers advice and receives communications from private persons present "formidable constitutional difficulties." Public Citizen, 491 U.S. at 466. Courts have been willing to adopt "extremely strained construction[s]" to minimize these problems, see Association of American Physicians and Surgeons, Inc. v. Clinton, 997 F.2d 898, 906 (D.C. Cir. 1993). Moreover, FACA, by its own terms, does not apply to groups made up of exclusively government employees, a limit that is critical to its constitutionality. Despite all this, plaintiffs here propose a reading of the statute, accepted by the district court, that effectively reads this limitation out of the statute and generates the type of infringement that the courts have sought to avoid. Their reading of the FACA, which permits discovery into all contacts of a governmental group with each other, government personnel, and private persons, can burden the means by which the President seeks advice just as surely as imposition of the FACA's open-meeting and notice requirements. If discovery of the kind permitted here is routinely available, the President may well hesitate before using such groups at all, and group members will hesitate before having entirely proper contacts with private persons. Plaintiffs ignore the teachings of the Supreme Court and this Court when they urge that such a chill on the President's means of obtaining advice presents no significant constitutional concern.

Moreover, these same concerns make clear that this is no ordinary discovery dispute. In the context of a statute that is primarily about disclosure, and must be carefully interpreted to avoid unconstitutional interference with Article II powers, an improper discovery order directed to the Vice President raises the same kind of separation of powers problems as an improper interpretation of the FACA. The resulting unconstitutional interference with the Vice President cannot be fully remedied at the end of the case, nor should the Vice President have to go into criminal contempt to have his constitutional interests vindicated. In short, a stay and immediate

REV_00154744

review will promote interbranch comity and avoid chilling effects on executive deliberations.

B. Plaintiffs Will Experience No Harm From The Granting Of A Stay.

While the harm to petitioners in the absence of a stay is significant and irreparable, plaintiffs can identify no credible harm that would result from the granting of a stay. The delay resulting from granting the stay will not be significant: the merits of the mandamus petition are now fully briefed. If the Court wishes additional briefing on the Vice President's appeal, we will proceed on whatever highly expedited schedule the Court deems appropriate.

Plaintiffs' claims of obstruction and delay on the part of the government, Opp. 11-12, are baseless. The numerous department heads who are defendants in this litigation have been participating in discovery for some time and have already produced thousands of pages of documents, including all requested documents that were received from or sent to individuals outside the government and summaries of communications with outsiders contained in internal government documents otherwise protected by executive privilege. Moreover, this discovery continues and will be unaffected by the requested stay with respect to petitioners. In light of the significant discovery plaintiffs have already received and continue to obtain, the delay caused by a stay cannot credibly be advanced as a harm.

CONCLUSION

For the foregoing reasons, this Court should grant a stay of discovery against the movants pending review by this Court of the petition and appeal.

Respectfully submitted,
THEODORE B. OLSON
Solicitor General

ROBERT D. McCALLUM, JR.
Assistant Attorney General

PAUL D. CLEMENT
Deputy Solicitor General

GREGORY G. KATSAS

REV_00154745

SHANNEN W. COFFIN
Deputy Assistant Attorneys General

MARK B. STERN
MICHAEL S. RAAB
DOUGLAS HALLWARD-DRIEMEIER
ERIC D. MILLER
(202) 514-5089
Attorneys, Appellate Staff
Civil Division
U.S. Department of Justice
601 D Street, N.W., Room 9108
Washington, D.C. 20530-0001

REV_00154746

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of November 2002, I am causing the foregoing Reply to Appellees' Response to Emergency Motion for Stay Pending Appeal to be served on the following in the manner specified:

By Hand delivery:

Honorable Emmet G. Sullivan
United States District Court
for the District of Columbia
Third & Constitution Avenue, N.W.
Washington, D.C. 20001

Larry Klayman, Esq.
Paul Orfanedes, Esq.
Judicial Watch, Inc.
501 School Street, S.W., Suite 725
Washington, D.C. 20024

David Bookbinder, Esq.
Sierra Club
408 C Street, N.E.
Washington, D.C. 20002

Roger Adelman
Law Offices of Roger Adelman
1100 Connecticut Avenue, N.W.
Washington, D.C. 20036

Howard M. Crystal
Meyer & Glitzenstein
1601 Connecticut Ave., N.W. Suite 700
Washington, D.C. 20009-1035

By Federal Express:

Patrick Gallagher
Alex Levinson
Sanjay Narayan
Sierra Club
85 Second Street
San Francisco, California 94104

_____
Mark B. Stern

REV_00154747

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

JUDICIAL WATCH, INC. and SIERRA CLUB, Plaintiffs-Appellees v. RICHARD B. CHENEY, VICE PRESIDENT OF THE UNITED STATES Defendant-Appellant	No. 02–5355 [District Court C.A. Nos. 01-1530, 02-631]

OPPOSITION TO APPELLEES' MOTIONS TO DISMISS THE APPEAL OF THE VICE PRESIDENT

INTRODUCTION AND SUMMARY

The Vice President of the United States respectfully responds to the Motion to Dismiss Appeal filed by plaintiff Sierra Club and joined in by plaintiff Judicial Watch, Inc.

A. Plaintiffs in these actions allege that the National Energy Policy Development Group ("NEPDG") – an intragovernmental Presidential advisory group established by President Bush, composed of the Heads of Departments and close Presidential advisors, including the Vice President – operated in violation of procedures established by the Federal Advisory Committee Act ("FACA"), 5 U.S.C. App. 2. Plaintiffs named as defendants the Vice President, the NEPDG, and various federal officials and private individuals.

The government moved to dismiss on statutory and constitutional grounds. As the government emphasized in that motion to dismiss, plaintiffs' suits are, on their face, devoid of merit: the FACA has no application to committees that are "composed wholly of full-time, or permanent part-time, officers or employees of the Federal Government." Id. § 3(2). The President's memorandum established the NEPDG as an entity composed exclusively of federal officers and employees. App. 117-18.[1] The NEPDG's final report confirms that it operated as

[1] "App." refers to the Appendix filed on November 12, 2002, in connection with the motion to stay discovery pending appeal and petition for mandamus.

REV_00154748

such. See Reliable, Affordable, and Environmentally Sound Energy For America's Future: Report of the National Energy Policy Development Group ("Report") (available at www.whitehouse.gov/energy). As the government also urged in its motion to dismiss, application of the FACA to a group of close Presidential advisors led by the Vice President would interfere with the President's discharge of his Article II functions and therefore be unconstitutional. See Association of American Physicians and Surgeons, Inc. v. Clinton, 997 F.2d 898, 909-10 (D.C. Cir. 1993) ("AAPS"). The government also asked that the Vice President, who is not an "agency" within the meaning of the Administrative Procedure Act, be dismissed as a defendant.

The court denied the motion to dismiss, refused to dismiss the Vice President as a defendant and precluded the government from filing a motion for summary judgment. Instead, the court ordered broad-

ranging discovery, including discovery into the inner workings of and communications within the Office of the Vice President. The documents covered by the discovery order include communications between the Vice President and other NEPDG members outside the context of group meetings, between the Vice President and agency personnel, and between the Vice President and outside individuals. See, e.g., App. 246, Requests for Production; App. 251, 253, Plaintiffs' First Set of Interrogatories, ¶ B and Interrogatories Nos. 3-6. Indeed, that discovery calls for disclosure that is, in significant respects, greater than would be triggered by a finding of a FACA violation.

B. The Vice President has appealed from the orders authorizing discovery into his office and has also joined in the Petition for Writ of Mandamus filed on November 12, 2002. Plaintiffs' contentions notwithstanding, the present appeal falls squarely within the principles recognized in United States v. Nixon, 418 U.S. 683 (1974). The district court recognized, consistent with the teachings of the Supreme Court and this Court, that application of the FACA to the NEPDG would raise substantial constitutional concerns. App. 171. In seeking to avoid

REV_00154749

that constitutional question, however, the court has authorized discovery that itself offends the separation of powers and interbranch comity. Especially absent a special showing of need, courts may not properly require the Vice President to produce to private persons the details of the process by which he obtains information, particularly when, as here, that information is being gathered in order to advise the President in the performance of his core constitutional prerogatives.

As we urged in our petition, the Court may address the propriety of the discovery orders and the Vice President's status in the exercise of its mandamus jurisdiction. If it does so, it can avoid deciding the precise contours of Nixon's appellate jurisdiction holding. If the Court declines to exercise mandamus jurisdiction, plaintiffs take the view that the Vice President could only test the validity of the court's orders by going into criminal contempt. Plaintiffs' extraordinary assertion that the Vice President must suffer criminal sanctions in order to obtain effective appellate review of important constitutional and statutory claims is flatly at odds with Nixon and broader principles of interbranch comity. Indeed, the Court in Nixon refused to countenance such a suggestion where, because of the President's third-party status, review would have been available by civil contempt.

Plaintiffs' grounds for dismissal are largely challenges to the merits of the Vice President's appeal. Plaintiffs contend that no reviewable question is presented in the absence of a specific claim of privilege. That argument fundamentally misunderstands the separation-of-powers problems that flow from the district court's view that the FACA permits intrusive discovery into the Office of the Vice President based on the mere allegation that an intragovernmental group established by the President and led by the Vice President may have included outside members. If the FACA were thought to allow private litigants to delve into the Vice President's office merely by raising unfounded questions regarding the President's good faith, the statute would plainly raise constitutional concerns of the first magnitude. Indeed, the

REV_00154750

district court's discovery orders – which extend to communications outside the context of FACA meetings - envisions disclosures of the internal workings of the Vice President's office that are in significant respects greater than would be required if the FACA actually applied to the NEPDG.

Plaintiffs further argue that this case is distinguishable from Nixon because the Vice President has been named as a party and may seek review following final judgment. This argument is doubly flawed.

First, the Vice President was not properly made a party to the suit. The Vice President is not an "agency" within the meaning of the APA, and the scope of non-statutory review recognized by this Court does not extend either to actions directly against the Vice President or to the type of error alleged in this case. Thus, any discovery requests to the Vice President in this case should properly have taken the form of a third-party subpoena. The Vice President is not precluded from seeking review of improper discovery orders because the district court also erred in refusing to dismiss him as a party.

Second, plaintiffs' suggestion that review of the Vice President's contentions is available after final judgment blinks reality. Once the improper discovery is concluded, no meaningful review of the issues presented here would be possible. A later appeal on the merits (if the district court were to issue judgment against the government) would have no impact on the issues now presented for review. Thus, short of contempt, the Vice President would have no meaningful opportunity to obtain review of the district court's order, the very circumstance addressed by the Supreme Court's decision in Nixon.

ARGUMENT

A. As set out in our mandamus petition, the district court erred in ordering an extensive intrusion into the internal workings of the Office of the Vice President for three related reasons.

First, the FACA contains no provision for judicial review, and its provisions are enforceable pursuant to the Administrative Procedure Act and its limitations. See Claybrook v.

REV_00154751

Slater, 111 F.3d 904, 908-09 (D.C. Cir. 1997). Absent extraordinary circumstances, where the public record makes clear that a government working group consists entirely of government officers and employees, there is no basis for overcoming established principles of judicial review of Executive action and ordinary presumptions of regularity, and permitting discovery based on mere allegations that the group may have included outside members. Review is limited to the administrative record and supplemental declarations filed by the government. See, e.g., Florida Power & Light Co. v. Lorion, 470 U.S. 729, 744 (1985).

Second, where discovery in a FACA suit is sought against the Vice President, constitutional concerns compound the importance of deciding the case in accordance with settled principles of judicial review. As the Supreme Court and this Court have recognized, application of the FACA in ways that could compromise the manner in which the President gathers advice raise extremely serious constitutional questions. The Supreme Court and this Court have thus sought to ensure that the statute is interpreted to avoid constitutional infirmities. See Public Citizen v. Department of Justice, 491 U.S. 440, 445-46 (1989); AAPS, 997 F.2d at 909-10. The district court in this case recognized that application of the FACA here might implicate precisely the types of concerns identified in those cases, but nonetheless ordered far-reaching discovery. App. 171.

The district court's discovery orders create constitutional problems similar to those it, this Court, and the Supreme Court have sought to avoid. Plaintiffs seek to subject the Vice President to intrusive discovery based on a simple allegation that the Presidential memorandum establishing the NEPDG, and the group's own final report, misstate the group's de facto membership. An interpretation of the FACA that would permit such discovery based on a simple assertion of irregularity would seriously impair the President's and the Vice President's interest in receiving confidential advice that this Court emphasized in AAPS.

Indeed, the discovery approved by the district court would allow plaintiffs to delve into

REV_00154752

the Vice President's communications to an extent that would not be available even if they prevailed on the merits of their suit. Plaintiffs seek not only information about NEPDG meetings, but discovery as to communications between the Vice President and other group members outside the context of group meetings, between the Vice President and agency personnel, and between the Vice President and outside individuals -- none of which would be available under the FACA or the FOIA. See, e.g., App. 246, Requests for Production; App. 251, 253, Plaintiffs' First Set of Interrogatories, ¶ B and Interrogatories Nos. 3-6. Moreover, it does so in the context of an advisory group that the President has limited to federal officials. The FACA expressly excludes such intragovernment groups from is scope, 5 U.S.C. App. 2, § 3(2), and that limitation is critical to avoiding unconstitutional interference with the executive branch's discharge of the President's Article II functions. By permitting, upon a mere allegation of "unofficial membership," discovery beyond even the disclosures that would be available upon a finding that the FACA applied, the district court severely undermined, if not eliminated, this critical limitation in the statute.

Third, there is no basis for subjecting the Vice President to discovery as a party. As plaintiffs conceded, App. 148, the President and Vice President are not "agencies" subject to the APA, see Franklin v. Massachusetts, 505 U.S. 788, 800-01 (1992). The district court erred in believing it could nevertheless retain jurisdiction over the Vice President as a defendant on the theory that his actions might be subject to review by way of mandamus. App. 169. It was the President who established the NEPDG, prescribed its mission, and specified its membership, and the Vice President and members of the NEPDG acted on his behalf in preparing the group's recommendations and gathering the information and producing the documents necessary to do so. The powers of the President are involved in this case as well. As discussed in our mandamus petition, because of established restrictions on suits directly against the President – even in the case of constitutional challenges to Presidential action – the traditional means for obtaining

REV_00154753

judicial review is to sue the Head of the Executive Department who is charged with their implementation. See, e.g., Dalton v. Specter, 511 U.S. 462, 464 (1994). Plaintiffs may not evade restrictions on suing the President by suing the Vice President, who is not the Head of an Executive Department who could be subject to suit on such a theory, who has a distinct constitutional stature in his own right, and who acted here in the performance of his constitutionally-based role, recognized by Congress, of "providing assistance to the President in the performance of functions specifically assigned to the Vice President by the President in the discharge of executive duties and responsibilities." 3 U.S.C. § 106.

Moreover, this Court's cases permitting nonstatutory review of Presidential action (in a suit against a Head of a Department) are limited to cases in which the President is alleged to have acted outside his authority, see Chamber of Commerce v. Reich, 74 F.3d 1322, 1327-28 (D.C. Cir. 1996), and, as explained in our Petition, any suggestion in this Court's cases that nonstatutory review is freely available to enforce a federal statute must be read in light of the Supreme Court's recent decisions addressing judicially implied rights of action and efforts to use broad writs to circumvent particular limits on jurisdiction. See Petition at 18. Plaintiffs' allegations that some NEPDG members may have had discussions with nongovernment employees cannot plausibly be construed to fall within that narrow category of nonstatutory review.

B. As discussed in our petition, because the district court has committed clear and significant error with immediate and irreparable consequences, the Court can, and should, exercise its supervisory mandamus authority.

Exercising that mandamus authority would eliminate the need for the Court to resolve the scope of the Court's appellate jurisdiction under United States v. Nixon, 418 U.S. 683 (1974). However, if the Court reaches the issue, the Vice President's appeal may properly proceed under 28 U.S.C. § 1291. In Nixon, the Supreme Court permitted the President to seek immediate

REV_00154754

review of an order refusing to quash a subpoena without going into civil contempt, holding that the order was final and appealable under 28 U.S.C. § 1291. See 418 U.S. at 690-92. The Court concluded that "[t]o require a President of the United States to place himself in the posture of disobeying an order of a court merely to trigger the procedural mechanism for review of the ruling would be unseemly, and would present an unnecessary occasion for constitutional confrontation between two branches of the Government." Id. at 691-92.

It would be similarly unseemly to compel the Vice President -- the only Article II officer other than the President named in the Constitution, see U.S. Const., Art. II, § 1 – to go into contempt in order to obtain appellate review of an order authorizing discovery into his conduct in advising the President on matters of the highest significance. Indeed, if this Court were to conclude that appellate and mandamus review were unavailable, the Vice President, who has (improperly) been made a defendant in this suit, could obtain effective appellate review only by subjecting himself to criminal contempt sanctions. See Byrd v. Reno, 180 F.3d 298, 300-02 (D.C. Cir. 1999) (while civil contempt cannot serve as the basis for a party to appeal a discovery order, criminal contempt could). It would be more than "unseemly" to require the Vice President to take such steps in order to secure timely review of orders that implicate serious separation of powers issues and directly affect the conduct of his office and his ability to gather confidential advice in carrying out functions assigned him by the President. That is especially so here, because plaintiffs seek to obtain documents that represent the working papers of a group of top-level government officials who were constituted as a group by the President to give advice to the President, and in which the President himself therefore has a direct interest deriving from the Opinions and Recommendations Clauses of the Constitution.

C. Plaintiffs urge that the district court's orders do not fall within the principles set out in Nixon, stressing that President Nixon had presented a claim of executive privilege and that review of his claim would have been unavailable on appeal because he was not a party to the

REV_00154755

underlying proceeding. The decision in Nixon did not announce a principle limited to claims of executive privilege. It turned, instead, on the "unseeml[iness]" of requiring the President to incur a contempt citation. See 418 U.S. at 691-92. As plaintiffss recognize, Nixon addressed the question of whether the President is required to submit to contempt to obtain review of an order denying a motion to quash that would otherwise be unappealable under the collateral order doctrine. The Court made clear that the President need not incur contempt sanctions to seek review of significant claims that would otherwise escape appellate review. That holding resolves the question whether the Vice President must incur criminal contempt sanctions to obtain review of the significant claims at issue on this appeal, and makes clear that the denial of a motion for a protective order (the party equivalent of the motion denied in Nixon) is reviewable here.[2]

That question is distinct from the underlying merits of this case and cannot be meaningfully reviewed after final judgment. The issue now before this Court is whether the Vice President can properly be made subject to sweeping discovery requests despite the constitutional and statutory objections outlined above. An appeal from a later adverse judgment, if one issues, could not remedy the intrusion sanctioned by the district court. Moreover, in the likely event that the government prevails in the underlying litigation, it is altogether possible that this Court would have no opportunity to address even prospectively the propriety of the type of discovery authorized here. Whether the government can ultimately prove there were no "unofficial members" of the NEPDG (which is decidedly not its burden under the FACA), it will

---

[2] Plaintiffs place heavy reliance on In re Executive Office of the President, 215 F.3d 20 (D.C. Cir. 2000), in which the Court declined to exercise its mandamus authority to review a discovery order. The Court observed that "[i]n the normal course * * * mandamus is not available to review a discovery order." Id. at 23. Contrary to plaintiffs' suggestion, however, the Court did not hold that such review of a discovery order would be unavailable "absent a specific and well-substantiated 'claim that some important privilege will be infringed if discovery is allowed to proceed.'" Motion at 7 (quoting In re Executive Office of the President, 215 F.3d at 24). The Court, in the passage quoted, addressed the particular claims at issue and did not purport to set out a general rule.

REV_00154756

have been forced to disclose a great deal of information that would not be disclosed even if the FACA applied. In particular, when discovery demonstrates that the NEPDG's membership conformed to the President's memorandum, and so the FACA is altogether inapplicable, it will be impossible (and far too late) to remedy the separation of powers problems created by the district court's orders.

Plaintiffs' emphasis on the Vice President's party status only underscores the error of their contentions. As noted, the district court erred in failing to dismiss the Vice President as a defendant. That error cannot properly be used to foreclose the Vice President's ability to seek effective review of the court's discovery plan. Moreover, as discussed, because the Vice President is a party, he can only obtain appellate review, under plaintiffs' theory, by subjecting himself to criminal contempt sanctions. The Vice President is not required to flout a court order in order to obtain meaningful review of substantial constitutional and statutory claims.

In sum, because of the special concerns that obtain when the President or Vice President seek review of significant rulings that cannot be adequately addressed on appeal from final judgment, jurisdiction is proper under 28 U.S.C. § 1291 as well as 28 U.S.C. § 1651(a).

REV_00154757

CONCLUSION

For the foregoing reasons, this Court should deny plaintiffs' motion to dismiss the appeal.

Respectfully submitted,

THEODORE B. OLSON
Solicitor General

ROBERT D. McCALLUM, JR.
Assistant Attorney General

PAUL D. CLEMENT
Deputy Solicitor General

GREGORY G. KATSAS
SHANNEN W. COFFIN
Deputy Assistant Attorneys General

MARK B. STERN
MICHAEL S. RAAB
DOUGLAS HALLWARD-DRIEMEIER
ERIC D. MILLER
(202) 514-5089
Attorneys, Appellate Staff
Civil Division
U.S. Department of Justice
601 D Street, N.W., Room 9108
Washington, D.C. 20530-0001

REV_00154758

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of November 2002, I am causing the foregoing Brief in Opposition to Appellees' Motions to Dismiss Appeal to be served on the following in the manner specified:

By Hand delivery:

Honorable Emmet G. Sullivan
United States District Court
for the District of Columbia
Third & Constitution Avenue, N.W.
Washington, D.C. 20001

Larry Klayman, Esq.
Paul Orfanedes, Esq.
Judicial Watch, Inc.
501 School Street, S.W., Suite 725
Washington, D.C. 20024

David Bookbinder, Esq.
Sierra Club
408 C Street, N.E.
Washington, D.C. 20002

Roger Adelman
Law Offices of Roger Adelman
1100 Connecticut Avenue, N.W.
Washington, D.C. 20036

Howard M. Crystal
Meyer & Glitzenstein
1601 Connecticut Ave., N.W. Suite 700
Washington, D.C. 20009-1035

By Federal Express:

Patrick Gallagher
Alex Levinson
Sanjay Narayan
Sierra Club
85 Second Street
San Francisco, California 94104

_____
Mark B. Stern

REV_00154759

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Timothy E. Flanigan/WHO/EOP@EOP [WHO] <Timothy E. Flanigan>;Alberto R. Gonzales/WHO /EOP@EOP [WHO] <Alberto R. Gonzales>
Sent: 11/21/2002 6:31:55 AM
Subject: : question

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-NOV-2002 11:31:55.00
SUBJECT:: question
TO:Timothy E. Flanigan (CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

More from Milbank. My reaction is not to respond to this and to have Ashley Snee call him back and indicate that the matter is in litigation so we will not be commenting on the judge handling the case. Thoughts?

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 11/21/2002 11:31 AM ----------

Dana T Milbank <milbankd@washpost.com>
11/21/2002 09:56:37 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: this one isn't about you

Brett:

In my continuing obsessive/compulsive series on ex-Starrs, I'm planning to do next week's notebook on John Bates. Decision is due soon on the GAO case and I wanted to note its similarities (or lack thereof) to the Hillary notes case he argued. Could we have one of those background talks and perhaps produce a nice puffy quote? Anybody else (preferably outside of govt) who could give me the fill?

Thanks much, Mr. Deputy.

DM
334 7570

From: CN=Eleanor Stone/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 11/21/2002 11:54:43 AM
Subject: : Re: draft memo
Attachments: P_SOAVB003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Eleanor Stone (CN=Eleanor Stone/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-NOV-2002 16:54:43.00
SUBJECT:: Re: draft memo
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Another example - The Chairman of the GOP for NH was listed as Chairman and Event assistance. He should then receive a standard thank you for his help, but no recognition as his role as chairman? Thanks for your help clarifying these concerns. Eleanor
---------- Forwarded by Eleanor Stone/WHO/EOP on 11/21/2002 04:52 PM ----------

Eleanor Stone
11/20/2002 09:56:48 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc: Records Management@EOP
Subject: Re: draft memo

Manny Gonzales was a greeter at the event (a political/welcome event) and James Tobin was listed a host organization however his notes indicate he helped out on several aspects of the trip. I don't believe he actually met POTUS. Thanks for your help.
Eleanor

Brett M. Kavanaugh
11/20/2002 07:57:47 AM
Record Type: Record

To: Eleanor Stone/WHO/EOP@EOP
cc:
bcc:
Subject: Re: draft memo

Greeters at the airport?

Eleanor Stone
11/19/2002 06:51:20 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:
bcc:
Subject: Re: draft memo

Brett -

I'm the new Katye Balls over in Presidential Correspondence.

I have a question regarding the below Memo. I just want to clarify the perameter "performing an official duty at an otherwise political event." My understanding is this would include Motorcade, volunteers or other assistance which would have been performed regardless of the nature of the trip.

Where do greeters stand on this list? I have James Tobin - Regional Political Director for the RNC and Manny Gonzales - Chairman for the Otero County GOP. They greeted POTUS. Please confirm if they should receive a letter on official stationary.

Thank you for your help. I appreciate your assistance.

Eleanor

Blake Gottesman
11/18/2002 07:07:07 PM
Record Type: Record

To: Eleanor Stone/WHO/EOP@EOP, Heidi K. Marquez/WHO/EOP@EOP
cc: Linda M. Gambatesa/WHO/EOP@EOP
Subject: Re: draft memo

i don't think the issue i raised below has been resolved yet. obviously, the big chunk of political travel for the midterms is over - but, it would still be wise to get the issue resolved.

thanks
blake
---------- Forwarded by Blake Gottesman/WHO/EOP on 11/18/2002 07:03 PM ----------

Blake Gottesman
10/21/2002 09:35:19 AM
Record Type: Record

To: Katharine Balls/WHO/EOP@EOP
cc:
bcc: Records Management@EOP
Subject: Re: draft memo

if it answers your questions, then i'm comfortable with it. one conern: it addresses the logistical and volunteer personnel, but not the actual participants (the ones that would typically be for HS) in the events - the candidate, his family, other event hosts, etc.

for example, which stationery should the president use to thank the kennedy's, who hosted a finance event for gov. jeb bush at their residence on friday?

KATHARINE BALLS
10/10/2002 09:40:40 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: blake gottesman/who/eop@eop
bcc:
Subject: Re: draft memo

Brett -
Thank you for doing this. I feel like this answers most of the questions, but I don't know if Blake has any other concerns. Otherwise, this is great.

Thanks again,
Katye Balls

Brett M. Kavanaugh
10/08/2002 09:58:20 PM
Record Type: Record

To: Katharine Balls/WHO/EOP@EOP
cc: Blake Gottesman/WHO/EOP@EOP
Subject: draft memo

Please advise whether this gives sufficient guidance. I will finalize after I get your thoughts. Thanks.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_SOAVB003_WHO.TXT_1>

October 8, 2002

MEMORANDUM FOR KATHARINE BALLS

FROM: BRETT KAVANAUGH

SUBJECT: THANK YOU NOTES

You asked about use of stationery for thank-you notes to people who may have assisted the President on a political trip or the mixed portion of an official-political trip. As a general matter, you should use political stationery only for those who assisted directly and solely with political events. You should use official stationery for notes to those who assisted with official events, who assisted on both aspects of a mixed trip, who assisted with official functions on an otherwise political trip, and for whom a clear determination cannot be made. As a general matter, for example, notes to airport greeters and motorcade drivers can be on official stationery regardless of the nature of the trip.

We will revisit these guidelines if and when the President becomes a candidate for re-election to the Presidency.

From: FindLaw.com <listadmin@LEGALMINDS.ORG>
To: TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN] <TOPHEADLINES@LEGALMINDS.ORG>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 11/21/2002 1:30:47 PM
Subject: : [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Thu., Nov. 21, 2002

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"FindLaw.com" <listadmin@LEGALMINDS.ORG> ("FindLaw.com" <listadmin@LEGALMINDS.ORG> [UNKNOWN])
CREATION DATE/TIME:21-NOV-2002 18:30:47.00
SUBJECT:: [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Thu., Nov. 21, 2002
TO:TOPHEADLINES@LEGALMINDS.ORG (TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

FINDLAW Thu, Nov 21, 2002

TOP LEGAL NEWS HEADLINES

For all of the day's legal news go to: http://news.findlaw.com

****

Stay on top of your practice and stop missing deadlines with Amicus Attorney practice management software. Organize your files, contacts and appointments in one integrated system. Automatic time entries for your daily actions - including phone calls and e-mails - remind you to bill for everything you should. Stay organized, reduce risk and increase billable time. FREE TRIAL

http://rd.findlaw.com/scripts/nl.pl?url=10373472000_nl

****

POLITICS

Bush, Blair Condemn Israel Bombing
http://news.findlaw.com/ap/i/1107/11-21-2002/20021121023003_03.html

Retiring Sen. Gramm To Step Down Next Week
http://news.findlaw.com/politics/s/20021121/congressgrammdc.html

LEGAL COMMENTARY

Clergy Child Abuse: The Vatican, The Bishop & The State Religious Freedom Restoration Acts
http://writ.news.findlaw.com/hamilton/20021121.html

Sentencing Repeat Offenders: The "Three Strikes" Laws
http://writ.news.findlaw.com/aronson/20021121.html

CIVIL RIGHTS

Court Gives Ultimatum To Ark. Schools
http://news.findlaw.com/ap/o/1110/11-21-2002/20021121083003_23.html

Harvard Reinvites Controversial Poet
http://news.findlaw.com/ap/o/1110/11-21-2002/20021121034500_15.html

TORT
Lawyers Claim Big Macs Make Kids Fat
http://news.findlaw.com/ap/o/1110/11-21-2002/20021121050000_01.html

LABOR AND EMPLOYMENT
United Airlines, Machinists Reach Deal

http://news.findlaw.com/business/s/20021121/airlinesunitedmachinistsdc.html

Morgan Stanley Axes 2,200 Jobs - Sources

http://news.findlaw.com/business/s/20021121/financialmorganstanleyjobsdc.ht
ml

ENVIRONMENT
Environmentalist Sue Over Gold Mines
http://news.findlaw.com/ap/o/1110/11-21-2002/20021121040001_18.html

With Mahogany, Bush Goes A shade greener
http://news.findlaw.com/csmonitor/s/20021121/21nov2002092222.html

TOBACCO
Elderly Anti-Smoking Study Begins
http://news.findlaw.com/ap/o/1500/11-21-2002/20021121083003_01.html

CYBERSPACE LAW
Robbers Targeting CD Counterfeiters
http://news.findlaw.com/ap/ht/1700/11-21-2002/20021121001501_27.html

INTELLECTUAL PROPERTY
Disney Loses Appeal Over Destroyed Pooh Documents

http://news.findlaw.com/entertainment/s/20021121/industrydisneypoohdc.html

BUSINESS
Tyco Hires Ex-Bush Deputy Counsel

http://news.findlaw.com/business/s/20021121/manufacturingtycocounseldc.html

SEC Seen Weighing New Rules For Raters
http://news.findlaw.com/business/s/20021121/financialseccreditdc.html

WORLDCOM
Giuliani to Try to Revive WorldCom
http://news.findlaw.com/ap/f/1310/11-21-2002/20021121110001_01.html

INTERNATIONAL LAW
NATO Vows To Help U.N. Disarm Iraq
http://news.findlaw.com/ap/a/w/1151/11-21-2002/20021121041500_16.html

Kuwaiti Officer Shoots U.S. Soldiers
http://news.findlaw.com/ap/i/1107/11-21-2002/20021121060002_16.html

WAR ON TERRORISM
Prisoner Names Moussaoui As Backup
http://news.findlaw.com/ap/o/1110/11-21-2002/20021121061500_19.html

Bomber Kills 11 On Israeli Bus
http://news.findlaw.com/ap/i/1107/11-21-2002/20021121041501_31.html

CRIME & TRIALS
Jury Considers Death For N.J. Rabbi
http://news.findlaw.com/ap/o/1110/11-21-2002/20021121071502_30.html

Texas Executes Man Who Murdered Witnesses In 1988
http://news.findlaw.com/news/s/20021121/executiontexasdc.html

ENTERTAINMENT
Calif. Orders N'Sync Fan Death Trial
http://news.findlaw.com/ap/o/1110/11-21-2002/20021121043002_10.html

BMG To Revamp Its Royalty Accounting

http://news.findlaw.com/entertainment/s/20021121/mediabmgroyaltiesdc.html

SPORTS
Losing Football Team Goes To Court
http://news.findlaw.com/ap/s/2020/11-21-2002/20021121101502_04.html

Union Calls For Change On NFL Drugs
http://news.findlaw.com/ap/s/2020/11-21-2002/20021121033001_08.html

****

Don't worry about missing an estimated tax payment. Use EFTPS-OnLine.
Electronic Federal Tax Payment System (EFTPS) is a service offered
free by the U.S. Department of the Treasury to give taxpayers a
convenient way to make tax payments 24 hours a day, 7 days a week.

Visit eftps.gov at:
http://rd.findlaw.com/scripts/nl.pl?url=10361376000_nl

** West LegalEdcenter *******

Receive updates about NEW ONLINE CLE PROGRAMS

Register with West LegalEdcenter for monthly email updates about new
online CLE programs in your practice areas and jurisdictions. West
LegalEdcenter currently has more than 400 courses, with more added
daily!

http://rd.findlaw.com/scripts/nl.pl?url=gen_cle_010402

=- westgroup.com -=-=-=-=-=\

Make ZERO payments for 90 days!
Buy now and make no payments for 90 days. Check the box in the yellow
banner when selecting your billing options to take advantage of this
offer. http://rd.findlaw.com/scripts/nl.pl?url=10337148000_nl

****

FEEDBACK

We value your comments! Please take a moment to tell us what you think
by sending an e-mail to:
mailto:newsletters@findlaw.com?subject=TopHeadlines. Please include
"Top Headlines" in the subject line.

SUBSCRIPTION INFORMATION

To subscribe to a FindLaw Newsletter, visit the FindLaw Newsletter Subscription Center at http://newsletters.findlaw.com

To unsubscribe, go to http://newsletters.findlaw.com/unsubscribe.html

---

ADVERTISING INFORMATION

For more information about advertising in FindLaw Newsletters, please contact us at:

mailto:sales@findlaw.com

FindLaw Top Headlines http://news.findlaw.com

Copyright (c) 2002 FindLaw, Inc.

From: CN=Kevin Warsh/OU=OPD/O=EOP [OPD]
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
CC: Edmund A. Walsh/WHO/EOP@EOP [WHO] <Edmund A. Walsh>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 11/22/2002 9:23:25 AM
Subject: : Re: Edited (rough) draft paragraph

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP [ OPD ] )
CREATION DATE/TIME:22-NOV-2002 14:23:25.00
SUBJECT:: Re: Edited (rough) draft paragraph
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Edmund A. Walsh ( CN=Edmund A. Walsh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

kristen rocks.
```

From: CN=Kevin Warsh/OU=OPD/O=EOP [OPD]
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 11/22/2002 9:47:11 AM
Subject: : Re: Edited (rough) draft paragraph

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP [ OPD ] )
CREATION DATE/TIME:22-NOV-2002 14:47:11.00
SUBJECT:: Re: Edited (rough) draft paragraph
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

that's kind of catchy; i like it
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Adam F. Greenstone/OA/EOP@EOP [OA] <Adam F. Greenstone>
CC: faisal m. gill/who/eop@eop [WHO] <faisal m. gill>;bradford a. berenson/who/eop@eop [WHO] <bradford a. berenson>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;edward mcnally/who/eop@eop [WHO] <edward mcnally>
Sent: 11/23/2002 10:45:44 AM
Subject: : Re: Revised EOP e-mail disclaimer
Attachments: F_WPPWB003_OA.TXT_1.doc; F_WPPWB003_OA.TXT_2.doc

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:23-NOV-2002 15:45:44.00
SUBJECT:: Re: Revised EOP e-mail disclaimer
TO:Adam F. Greenstone (CN=Adam F. Greenstone/OU=OA/O=EOP@EOP [OA])
READ:UNKNOWN
CC:faisal m. gill (CN=faisal m. gill/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:bradford a. berenson (CN=bradford a. berenson/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:edward mcnally (CN=edward mcnally/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

I like the Postmaster notice to all staff and the logon disclaimer rather than the disclaimer in every e-mail.

Adam F. Greenstone
11/21/2002 02:49:28 PM

Record Type: Record

To: Edward McNally/WHO/EOP@EOP
cc: bradford a. berenson/who/eop@eop, brett m. kavanaugh/who/eop@eop, faisal m. gill/who/eop@eop
bcc:
Subject: Re: Revised EOP e-mail disclaimer

There are some technical issues regarding the disclaimer you should be aware of that may affect the length and type of the waiver we would want on the system.

If we program the system to attach a waiver to each e-mail, the waiver will appear each time you send an e-mail. In other words, if Ed sent an E-mail to me, and I replied and Ed replied back, the disclaimer would appear 3 times on the e-mail chain.

There is a way we can implement the disclaimer and set people's default settings so the waiver would not appear again if the sender used the reply, reply with history, or forward functions. It would, however, appear if the person used "send." In order to do this, the disclaimer would need to be embedded in the signature line.

However, if somebody sent a message from an outside e-mail address and the EOP account holder responded by "reply," the disclaimer would not appear anywhere in the e-mail.

If we use the "signature line" method for installing the waiver, we can put the standard disclaimer in each account, but people could change it. They could also change the default settings for when it appears.

There is another method we could use that would ensure the disclaimer would appear in each e-mail and could not be changed with the user. Using this method, a program could be inserted that would insert the disclaimer only when sent to the outside. It then would not appear in e-mails sent within the EOP. (In other words, it would not appear, for example, in an e-mail sent from the White House Office to OMB.)

In addition to the waiver, there are other ways we can educate users:

1. We can add a paragraph to the standard OA-62 form that people sign when they are given a computer account.

2. We can make an additional disclaimer appear on logon next to or after the security statement.

3. Management can send a Postmaster notice to all staff.

It would be great if you can pass on your thoughts so I can give the technical staff a sense of where they should prepare to go.

From: Edward McNally on 11/14/2002 08:59:32 PM
Record Type: Record

To: Bradford A. Berenson/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc: faisal m. gill/who/eop@eop, adam f. greenstone/oa/eop@eop
bcc:
Subject: Revised EOP e-mail disclaimer

Brad -- I think you basically got it nailed -- your first draft is better than advertised, and I wouldn't call it a rough-cut. And I agree w/ you that this is all pretty standard stuff. All these fax cover sheets and e-mail footers out there have only minor variations in what has become standard text for standard disclaimers. None of which have been read in years.

In fact, it's b/c the standard clauses about "intended only for the recipient(s)" and the "please delete if you've rec'd this in error" have become so ROUTINE that I would propose that we lead with a line up front about what is DIFFERENT about WH e-mail: Unlike virtually any other organization, it is automatically and (in effect) permanently preserved, whether the sender or the recipient like it or not.

In other words, I'm not very confident that including these new footers is likely to convince a lot of random unintended recipients out there to dutifully delete WH e-mails and notify the EOP. And though labelling never hurts, I have no great confidence that these footers, in and of themselves, will persuade the courts to regard them as confidential (still, it's better than to be arguing about un-labelled documents).

No, I see the problem with e-mail continues to be a recurring and apparently commonplace lack of judgment about what WH staff (and Wall St. brokers and law firms and everyone else in the country) opt to put into their e-mails. What they attach to them. What they decide to forward. According to some of our colleagues who've rev'd WH e-mail in order to comply with document subpoenas, this problem (about judgment) is very real here.

So the proposed first line in the att'd revised footer is designed to do two things:
In terms of having even a prayer of influencing behavior, it's a shot at reminding WH staff and their correspondents that THIS STUFF IS NEVER GONNA BE DELETED. And also, it serves as a kind of basic NOTICE -- especially to citizens, politicians, campaign staff, state & local officials, corporate America, lobbyists and others OUTSIDE the WH -- that unlike what may be the case with any number of their own private or even business e-mail accounts, there is very little in the way of privacy or control over anything they transmit into the EOP.

The text I've suggested comes direct from the current WH Staff Manual, p. A-11, the first sentence under the sub-heading "E-Mail", and is thus also derived from Brett's memo on the PRA that was issued by the Judge on Feb. 26, 2001.

Please let me know what you think. Thanks -- E.

Bradford A. Berenson
11/14/2002 02:08:15 PM
Record Type: Record

To: Edward McNally/WHO/EOP@EOP, Faisal M. Gill/WHO/EOP@EOP
cc: Adam F. Greenstone/OA/EOP@EOP
Subject: Rough-cut footer

Here is a very rough first cut at an EOP-wide e-mail footer that might be built into the new system. This was pulled together based on a few models Faisal dug up and may not take account of issues that we need to think about. But it should be a starting point for further thought and discussion. It's pretty standard stuff. Let me know what you think.

Brad

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <F_WPPWB003_OA.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <F_WPPWB003_OA.TXT_2>

WARNING: In accordance with Federal law, all e-mail and attachments sent or received by staff of the Executive Office of the President of the United States are automatically preserved and may be subject to public disclosure. ~~T~~Nevertheless, this e-mail ~~has been sent from the Executive Office of the President of the United States and~~ is intended only for the personal and confidential use of the recipient(s) named above. Thus the information it contains may also be subject to one or more constitutional or common law privileges or other legal protections, or may otherwise be exempt from disclosure under applicable law. Please do not forward or disseminate without explicit White House permission. If you are not the intended recipient ~~or an agent responsible for delivering it to the intended recipient~~, you are hereby notified that you have received this message in error and that any review, dissemination, duplication, distribution, or copying of this message is strictly prohibited. If you any reason to believe that you may have received this message in error, please delete the e-mail and any attachments and notify [sender? WH postmaster or webmaster?]~~us~~ immediately.

Formatted
Formatted
Formatted

This e-mail has been sent from the Executive Office of the President of the United States and is intended only for the personal and confidential use of the recipient(s) named above. The information it contains may subject to one or more constitutional or common law privileges or other legal protections, or may otherwise be exempt from disclosure under applicable law. If you are not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this message in error and that any review, dissemination, duplication, distribution, or copying of this message is strictly prohibited. If you any reason to believe that you may have received this message in error, please delete the e-mail and any attachments and notify us immediately.

This e-mail has been sent from the Executive Office of the President of the United States and is intended only for the personal and confidential use of the recipient(s) named above. The information it contains may subject to one or more constitutional or common law privileges or other legal protections, or may otherwise be exempt from disclosure under applicable law. If you are not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this message in error and that any review, dissemination, duplication, distribution, or copying of this message is strictly prohibited. If you any reason to believe that you may have received this message in error, please delete the e-mail and any attachments and notify us immediately.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Adam F. Greenstone/OA/EOP@EOP [OA] <Adam F. Greenstone>
CC: carlos solari/oa/eop@exchange [OA] <carlos solari>;tim campen/oa/eop@exchange [OA] <tim campen>
Sent: 11/23/2002 11:50:06 AM
Subject: : Re: Non-Record Issue
Attachments: F_40QWB003_OA.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:23-NOV-2002 16:50:06.00
SUBJECT:: Re: Non-Record Issue
TO:Adam F. Greenstone (CN=Adam F. Greenstone/OU=OA/O=EOP@EOP [OA])
READ:UNKNOWN
CC:carlos solari (CN=carlos solari/OU=oa/O=eop@exchange [OA])
READ:UNKNOWN
CC:tim campen (CN=tim campen/OU=oa/O=eop@exchange [OA])
READ:UNKNOWN
End Original ARMS Header

I think you should (i) run this by Gary Stern and (ii) sign yourself and send with a cc to Judge Gonzales and me.

Adam F. Greenstone
11/20/2002 05:00:43 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: tim campen/oa/eop@exchange, carlos solari/oa/eop@exchange
bcc:
Subject: Re: Non-Record Issue

Looks great. Any thoughts or preferences on who should sign? If the letter is to Gary, I'm inclined to think that the sender should be a lawyer. I would be glad to sign, though it would be fine with me if you prefer that it originate from your office.

Brett M. Kavanaugh
11/20/2002 07:49:49 AM
Record Type: Record

To: Adam F. Greenstone/OA/EOP@EOP
cc: tim campen/oa/eop@exchange, carlos solari/oa/eop@exchange
bcc:
Subject: Re: Non-Record Issue

How about this instead:

Dear Mr. Stern:

The Office of Administration (OA) in the Executive Office of the President (EOP) is updating the EOP,s information technology infrastructure. Part

of this effort involves converting to a standard office management suite of software centered on the Microsoft Office line of products that includes Exchange, Outlook, Word, Excel and PowerPoint. We are informed that the &record/non-record8 function currently in place with the legacy system (designed around Lotus Notes) is not feasible in the new Microsoft environment. Therefore, all EOP system e-mail--including non-record materials--will eventually be sent to the National Archives and Records Administration (NARA). For Presidential records, this will occur during a Presidential transition. For Federal records generated by components of the EOP that generate Federal records, this will take place as part of the records accession process. We write to make clear our continued understanding that NARA has no legal authority to unilaterally release non-records to the public under either the Presidential Records Act, 44 U.S.C. õ 2201, et. seq., or the Freedom of Information Act (FOIA), 5 U.S.C. õ 552.

Thank you for your work on this matter.

Sincerely,

[Signature]

Adam F. Greenstone
11/19/2002 10:19:57 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: Tim Campen/OA/EOP@Exchange, Carlos Solari/OA/EOP@Exchange
bcc:
Subject: Re: Non-Record Issue

Brett--Here's a draft of a letter to the Archives. It would be great if you can give us your comments and advice on proceeding.

Brett M. Kavanaugh
11/13/2002 01:51:21 PM
Record Type: Record

To: Adam F. Greenstone/OA/EOP@EOP
cc:
bcc:
Subject: Re: Non-Record Issue

Can you convert the MOU into a letter to the Archives. We can then discuss who should sign.

Adam F. Greenstone
11/13/2002 01:49:25 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Non-Record Issue

Any luck with the Archives?

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <F_40QWB003_OA.TXT_1>

Dear Mr./Ms. _____:

As you know from recent discussions between our organizations, the Office of Administration (OA), Executive Office of the President (EOP) is engaged in a time-sensitive and critical effort to update the EOP's information technology infrastructure to support the needs of OA's customer offices. Part of this effort involves converting to a standard office management suite of software centered on the Microsoft Office line of products that includes Exchange, Outlook, Word, Excel and PowerPoint. Despite our significant efforts to convert the "record/non-record" function currently in place with the legacy system (designed around Lotus Notes), we have concluded that this feature is not supportable in the new Microsoft environment. The absence of this feature will cause all e-mail sent henceforth within, to, or from offices served by the EOP's information technology infrastructure to be records managed in the Automated Records Management System (ARMS).

Because it will no longer be possible for e-mail sent by EOP system account holders to be designated as "non-record" at the time of creation, all EOP system e-mail--including non-record materials--will eventually be sent to the National Archives and Records Administration (NARA). For Presidential records, this will occur during a Presidential transition. For Federal records generated by components of the EOP that generate Federal records, this will take place as part of the records accession process. At present, approximately 1.5% of the e-mail handled by the system is designated as "non-record."

I want to emphasize that the reasons for this change are purely technical. We realize that NARA is encouraging the development of information systems that will prevent unnecessary record keeping by allowing senders to classify messages as "non-records," or "temporary records," or otherwise allow senders to identify an item as something other than a permanent record. In this light, we acknowledge that the step we need to take at this time is a step back, and we are taking it in order to maintain and protect our infrastructure in accordance with industry standards. As we develop long-term plans for the EOP network, we will continue to examine and pursue options that would allow us to preserve only those records that we are required to keep.

We note that the fact that a particular message is not a record under Federal law does not necessarily change because it is, contrary to its true status, retained. Already, there is a large quantity of non-record messages labeled as "records" simply because the sender used the default setting. We understand that the Archives has properly treated these materials as non-records for purposes of applicable information disclosure processes despite their default identification as records. These materials fall into two broad categories. For offices covered by the Presidential Records Act, 44 U.S.C. § 2201, et. seq.,"Personal records," as defined at 44 U.S.C. § 2201(3), are not presidential records, and are not subject to disclosure under 44 U.S.C. § 2204(c). For

offices that generate Federal records pursuant to 44 U.S.C. § 3101, et. seq., documents that do not meet the definition of an agency record under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, are not subject to disclosure under the FOIA. Such items, which will likely be no more than marginally greater in number due to the technical change discussed in this letter, should continue to be withheld from disclosure under these processes. Accordingly, we trust and understand that the National Archives will, to the best of its ability, identify such personal records and non-records, and segregate them from records identified for disclosure in response to a request under one of the above-cited laws.

Thank you for consulting with us concerning this development. If you have any questions or would like to further discuss this matter, please call me at _____, or _____ or my office at _____.

Sincerely,

[Signature]

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>
Sent: 11/25/2002 4:55:32 AM
Subject: : Re: Another postponement of the footer meeting

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:25-NOV-2002 09:55:32.00
SUBJECT:: Re: Another postponement of the footer meeting
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I will be at terrorism insurance signing at that time.

Bradford A. Berenson
11/25/2002 09:41:13 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Faisal M. Gill/WHO/EOP@EOP,
Edward McNally/WHO/EOP@EOP
cc: Gayle S. Worthy/WHO/EOP@EOP
Subject: Another postponement of the footer meeting

Because of Ed's scheduling conflict, we are moving the meeting to finally resolve the footer issue to tomorrow morning at 9:00 a.m. in my office, 167 OEOB. We really can't move it again, because OA needs closure on this to allow the Outlook rollout to move forward.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>
Sent: 11/25/2002 4:59:10 AM
Subject: : Re: Another postponement of the footer meeting

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:25-NOV-2002 09:59:10.00
SUBJECT:: Re: Another postponement of the footer meeting
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

yes and I have nothing on schedule

Bradford A. Berenson
11/25/2002 09:55:58 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Another postponement of the footer meeting

OK. Make a liar out of me immediately. We'll push to Wednesday morning.
Are you around?

Brett M. Kavanaugh
11/25/2002 09:52:41 AM
Record Type: Record

To: Bradford A. Berenson/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Another postponement of the footer meeting

I will be at terrorism insurance signing at that time.

Bradford A. Berenson
11/25/2002 09:41:13 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Faisal M. Gill/WHO/EOP@EOP,
Edward McNally/WHO/EOP@EOP
cc: Gayle S. Worthy/WHO/EOP@EOP
Subject: Another postponement of the footer meeting

Because of Ed's scheduling conflict, we are moving the meeting to finally
resolve the footer issue to tomorrow morning at 9:00 a.m. in my office,
167 OEOB. We really can't move it again, because OA needs closure on this

to allow the Outlook rollout to move forward.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>
Sent: 11/25/2002 5:33:51 AM
Subject: : Re: Graham

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:25-NOV-2002 10:33:51.00
SUBJECT:: Re: Graham
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

He voted yes in Committee and did not vote on House floor (so NOT
a no vote on floor).

Heather Wingate
11/25/2002 10:23:21 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Graham

Lindsay Graham that is? so yes in House Judiciary Comm and no on the House
floor?

Brett M. Kavanaugh
11/25/2002 09:34:46 AM
Record Type: Record

To: Heather Wingate/WHO/EOP@EOP
cc:
Subject: Graham

Graham voted for class action bill in Committee. He did not vote on floor
for some reason.

From: Sheila Bair <sbair@pubpol.umass.edu>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 11/25/2002 5:57:58 AM
Subject: : RE: Congrats!!!

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Sheila Bair <sbair@pubpol.umass.edu> (Sheila Bair <sbair@pubpol.umass.edu> [UNKNOWN])
CREATION DATE/TIME:25-NOV-2002 10:57:58.00
SUBJECT:: RE: Congrats!!!
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Yes, very well, though I miss my old colleagues. Put some Vitamin E on those
scars and keep up the great work.

Sheila

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Saturday, November 23, 2002 4:52 PM
To: Sheila Bair
Subject: Re: Congrats!!!

Many scars, but a good result. Thanks and hope you are well.

(Embedded
image moved Sheila Bair <sbair@pubpol.umass.edu>
to file: 11/20/2002 10:28:28 AM
pic27807.pcx)

Record Type: Record

To: See the distribution list at the bottom of this message

cc:
Subject: Congrats!!!

At last.

Not that you don't already know this, but you have scored big points in this
neck of the woods with the insurers, real estate investors, and construction
trades. People are particularly impressed with the way the POTUS become
personally involved to get this done.

It's so nice when good politics and good policy coincide.

Congrats again. Gee, I sure wish I could have been with you in the final debate on the tort litigation procedures. (Good work Matt and Brian. I'm sure you have the scars to show it.)

Sheila

Message Sent
To:_____

Karl C. Rove/WHO/EOP@EOP
peter.fisher@do.treas.gov
Kristen Silverberg/WHO/EOP@EOP
Brian C. Conklin/WHO/EOP@EOP
Matthew Kirk/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Randall S. Kroszner/CEA/EOP@EOP
pat.cave@do.treas.gov
edward.demarco@do.treas.gov
Daniel J. Bartlett/WHO/EOP@EOP

From: CN=Eleanor Stone/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 11/25/2002 9:39:12 AM
Subject: : Re: draft memo
Attachments: P_DZOXB003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Eleanor Stone (CN=Eleanor Stone/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:25-NOV-2002 14:39:12.00
SUBJECT:: Re: draft memo
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett -

I'm sorry to keep pestering you with questions. What about Donors and other assistance provided by GOP personnel? Thank you once again for your assistance.

Eleanor

Brett M. Kavanaugh
11/23/2002 04:00:50 PM
Record Type: Record

To: Eleanor Stone/WHO/EOP@EOP
cc: Heidi K. Marquez/WHO/EOP@EOP
bcc:
Subject: Re: draft memo

Letters to greeters are probably best done on political paper, although we have discretion to do them either way based on the circumstances of a particular trip. (Also, apologies for the delay on this.)

Eleanor Stone
11/21/2002 04:51:57 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Re: draft memo

Another example - The Chairman of the GOP for NH was listed as Chairman and Event assistance. He should then receive a standard thank you for his help, but no recognition as his role as chairman? Thanks for your help clarifying these concerns. Eleanor
---------- Forwarded by Eleanor Stone/WHO/EOP on 11/21/2002 04:52 PM ----------

Eleanor Stone
11/20/2002 09:56:48 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc: Records Management@EOP
Subject: Re: draft memo

Manny Gonzales was a greeter at the event (a political/welcome event) and James Tobin was listed a host organization however his notes indicate he helped out on several aspects of the trip. I don't believe he actually met POTUS. Thanks for your help.
Eleanor

Brett M. Kavanaugh
11/20/2002 07:57:47 AM
Record Type: Record

To: Eleanor Stone/WHO/EOP@EOP
cc:
bcc:
Subject: Re: draft memo

Greeters at the airport?

Eleanor Stone
11/19/2002 06:51:20 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: draft memo

Brett -

I'm the new Katye Balls over in Presidential Correspondence.

I have a question regarding the below Memo. I just want to clarify the perameter "performing an official duty at an otherwise political event." My understanding is this would include Motorcade, volunteers or other assistance which would have been performed regardless of the nature of the trip.

Where do greeters stand on this list? I have James Tobin - Regional Political Director for the RNC and Manny Gonzales - Chairman for the Otero County GOP. They greeted POTUS. Please confirm if they should receive a letter on official stationary.

Thank you for your help. I appreciate your assistance.

Eleanor

Blake Gottesman
11/18/2002 07:07:07 PM
Record Type: Record

To: Eleanor Stone/WHO/EOP@EOP, Heidi K. Marquez/WHO/EOP@EOP

cc: Linda M. Gambatesa/WHO/EOP@EOP
Subject: Re: draft memo

i don't think the issue i raised below has been resolved yet. obviously, the big chunk of political travel for the midterms is over - but, it would still be wise to get the issue resolved.

thanks
blake
---------- Forwarded by Blake Gottesman/WHO/EOP on 11/18/2002 07:03 PM ----------

Blake Gottesman
10/21/2002 09:35:19 AM
Record Type: Record

To: Katharine Balls/WHO/EOP@EOP
cc:
bcc: Records Management@EOP
Subject: Re: draft memo

if it answers your questions, then i'm comfortable with it. one conern: it addresses the logistical and volunteer personnel, but not the actual participants (the ones that would typically be for HS) in the events - the candidate, his family, other event hosts, etc.

for example, which stationery should the president use to thank the kennedy's, who hosted a finance event for gov. jeb bush at their residence on friday?

KATHARINE BALLS
10/10/2002 09:40:40 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: blake gottesman/who/eop@eop
bcc:
Subject: Re: draft memo

Brett -
Thank you for doing this. I feel like this answers most of the questions, but I don't know if Blake has any other concerns. Otherwise, this is great.

Thanks again,
Katye Balls

Brett M. Kavanaugh
10/08/2002 09:58:20 PM
Record Type: Record

To: Katharine Balls/WHO/EOP@EOP
cc: Blake Gottesman/WHO/EOP@EOP
Subject: draft memo

Please advise whether this gives sufficient guidance. I will finalize after I get your thoughts. Thanks.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_DZOXB003_WHO.TXT_1>

October 8, 2002

MEMORANDUM FOR KATHARINE BALLS

FROM: BRETT KAVANAUGH

SUBJECT: THANK YOU NOTES

You asked about use of stationery for thank-you notes to people who may have assisted the President on a political trip or the mixed portion of an official-political trip. As a general matter, you should use political stationery only for those who assisted directly and solely with political events. You should use official stationery for notes to those who assisted with official events, who assisted on both aspects of a mixed trip, who assisted with official functions on an otherwise political trip, and for whom a clear determination cannot be made. As a general matter, for example, notes to airport greeters and motorcade drivers can be on official stationery regardless of the nature of the trip.

We will revisit these guidelines if and when the President becomes a candidate for re-election to the Presidency.

From: CN=PostMaster/O=EOP [OA]

To: Gina M. Wolford/NSC/EOP [NSC] <Gina M. Wolford>;David L. Travers/NSC/EOP [NSC] <David L. Travers>;Harry W. Wolff/WHO/EOP [WHO] <Harry W. Wolff>;Alexian T. Wines/NSC/EOP [NSC] <Alexian T. Wines>;Patricia Williams/WHO/EOP [WHO] <Patricia Williams>;Jared B. Weinstein/WHO/EOP [WHO] <Jared B. Weinstein>;Matthew C. Waxman/NSC/EOP [NSC] <Matthew C. Waxman>;Lauren J. Vestewig/OPD/EOP [OPD] <Lauren J. Vestewig>;Terrill G. Tucker/NSC/EOP [NSC] <Terrill G. Tucker>;Tevi Troy/OPD/EOP [OPD] <Tevi Troy>;Anne Trenolone/WHO/EOP [WHO] <Anne Trenolone>;Carol J. Thompson/WHO/EOP [WHO] <Carol J. Thompson>;Julieanne H. Thomas/WHO/EOP [WHO] <Julieanne H. Thomas>;Rachael L. Sunbarger/WHO/EOP [WHO] <Rachael L. Sunbarger>;Susan L. Sterner/WHO/EOP [WHO] <Susan L. Sterner>;Ashley Snee/WHO/EOP [WHO] <Ashley Snee>;Robert E. Schubert/NSC/EOP [NSC] <Robert E. Schubert>;Deborah Sandler/NSC/EOP [NSC] <Deborah Sandler>;Jean M. Russell/OPD/EOP [OPD] <Jean M. Russell>;Peter M. Rowan/WHO/EOP [UNKNOWN] <Peter M. Rowan>;Noelia Rodriguez/WHO/EOP [WHO] <Noelia Rodriguez>;Josephine B. Robinson/WHO/EOP [WHO] <Josephine B. Robinson>;Maurice C. Robinson/NSC/EOP [NSC] <Maurice C. Robinson>;Christina D. Roberts/WHO/EOP [UNKNOWN] <Christina D. Roberts>;Krista L. Ritacco/WHO/EOP [WHO] <Krista L. Ritacco>;Allison L. Riepenhoff/WHO/EOP [WHO] <Allison L. Riepenhoff>;January M. Riecke/WHO/EOP [WHO] <January M. Riecke>;Katherine A. Rhodes/WHO/EOP [WHO] <Katherine A. Rhodes>;Tim Reynolds/WHO/EOP [WHO] <Tim Reynolds>;David Reyes/NSC/EOP [NSC] <David Reyes>;Susan B. Ralston/WHO/EOP [WHO] <Susan B. Ralston>;Leslie E. Radcliff/NSC/EOP [NSC] <Leslie E. Radcliff>;Alexia Poe/WHO/EOP [WHO] <Alexia Poe>;Charlotte L. Montiel/WHO/EOP [WHO] <Charlotte L. Montiel>;Elliott M. Langer/NSC/EOP [NSC] <Elliott M. Langer>;Clare Pritchett/WHO/EOP [WHO] <Clare Pritchett>;Suzanne Primoff/WHO/EOP [WHO] <Suzanne Primoff>;John I. Pray/NSC/EOP [NSC] <John I. Pray>;Susan D. Phillips/NSC/EOP [NSC] <Susan D. Phillips>;Sarah Penny/WHO/EOP [WHO] <Sarah Penny>;Raymond H. Payne/NSC/EOP [NSC] <Raymond H. Payne>;Richard S. Paulus/WHO/EOP [WHO] <Richard S. Paulus>;Edward J. Padinske/NSC/EOP [NSC] <Edward J. Padinske>;Eric H. Otto/OPD/EOP [OPD] <Eric H. Otto>;Lee B. Mynatt/NSC/EOP [NSC] <Lee B. Mynatt>;Steven Myers/NSC/EOP [NSC] <Steven Myers>;Sarah M. Garrison/WHO/EOP [WHO] <Sarah M. Garrison>;Paul L. Morse/WHO/EOP [WHO] <Paul L. Morse>;Leslie A. Mooney/OPD/EOP [OPD] <Leslie A. Mooney>;Cathy L. Millison/NSC/EOP [NSC] <Cathy L. Millison>;Holly M. Miller/WHO/EOP [WHO] <Holly M. Miller>;Sonya E. Medina/WHO/EOP [WHO] <Sonya E. Medina>;Vickie A. McQuade/WHO/EOP [WHO] <Vickie A. McQuade>;Sara B. McIntosh/WHO/EOP [WHO] <Sara B. McIntosh>;Peter A. McCauley/NSC/EOP [NSC] <Peter A. McCauley>;Daniel M. McCarthy/WHO/EOP [WHO] <Daniel M. McCarthy>;Thomas S. Marsh/NSC/EOP [NSC] <Thomas S. Marsh>;Colleen Litkenhaus/WHO/EOP [WHO] <Colleen Litkenhaus>;Lindsey M. Lineweaver/WHO/EOP [WHO] <Lindsey M. Lineweaver>;Laura E. Lineberry/NSC/EOP [NSC] <Laura E. Lineberry>;Adam L. Levine/WHO/EOP [WHO] <Adam L. Levine>;Christopher S. Legrand/NSC/EOP [NSC] <Christopher S. Legrand>;Sang W. Lee/NSC/EOP [NSC] <Sang W. Lee>;Jennie M. Koch/NSC/EOP [NSC] <Jennie M. Koch>;Andrew M. Kaver/NSC/EOP [UNKNOWN] <Andrew M. Kaver>;Dora Kale/NSC/EOP [NSC] <Dora Kale>;Alexander S. Joves/NSC/EOP [NSC] <Alexander S. Joves>;M. Kay Joshi/NSC/EOP [NSC] <M. Kay Joshi>;Alison Jones/WHO/EOP [WHO] <Alison Jones>;Megan R. Johnston/WHO/EOP [WHO] <Megan R. Johnston>;Sydney R. Johnson/WHO/EOP [WHO] <Sydney R. Johnson>;Clarence C. Johnson/NSC/EOP [NSC] <Clarence C. Johnson>;Gordon D. Johndroe/WHO/EOP [WHO] <Gordon D. Johndroe>;Melanie A. Jackson/WHO/EOP [WHO] <Melanie A. Jackson>;Marilyn R. Jacanin/WHO/EOP [WHO] <Marilyn R. Jacanin>;Restituto M. Francisco/OA/EOP [OA] <Restituto M. Francisco>;Sandra K. Evans/WHO/EOP [WHO] <Sandra K. Evans>;Regina L. Cain/WHO/EOP [WHO] <Regina L. Cain>;Katherine A. Brown/NSC/EOP [NSC] <Katherine A. Brown>;Bonnie S. Broadwick/NSC/EOP [NSC] <Bonnie S. Broadwick>;Theresa M. Hunter/NSC/EOP [NSC] <Theresa M. Hunter>;A. Merrill Hughes/WHO/EOP [UNKNOWN] <A. Merrill Hughes>;Jeffrey P. Houle/NSC/EOP [NSC] <Jeffrey P. Houle>;Ashley Holbrook/WHO/EOP [WHO] <Ashley Holbrook>;Josephine L. Hirsch/WHO/EOP [WHO] <Josephine L. Hirsch>;Jane C. Heishman/NSC/EOP [NSC] <Jane C. Heishman>;Anne Heiligenstein/WHO/EOP [WHO] <Anne Heiligenstein>;Robert C. Hargis/NSC/EOP [NSC] <Robert C. Hargis>;Alison M. Harden/WHO/EOP [WHO] <Alison M. Harden>;Mary Ann Hanusa/WHO/EOP [WHO] <Mary Ann Hanusa>;Thomas A. Hall/NSC/EOP [NSC] <Thomas A. Hall>;Mary A. Haines/NSC/EOP [NSC] <Mary A. Haines>;Katharina M. Hager/WHO/EOP [WHO] <Katharina M. Hager>;Henry C. Hager/WHO/EOP [WHO] <Henry C. Hager>;Albert J.

Guarnieri/NSC/EOP [NSC] <Albert J. Guarnieri>;Ginger G. Loper/WHO/EOP [WHO] <Ginger G. Loper>;Andrew W. Green/NSC/EOP [NSC] <Andrew W. Green>;Emily S. Gray/WHO/EOP [WHO] <Emily S. Gray>;Wendy E. Gray/NSC/EOP [NSC] <Wendy E. Gray>;Britt Grant/OPD/EOP [OPD] <Britt Grant>;Blake Gottesman/WHO/EOP [WHO] <Blake Gottesman>;Travis C. Good/NSC/EOP [UNKNOWN] <Travis C. Good>;Georgia D. Godfrey/WHO/EOP [WHO] <Georgia D. Godfrey>;Eleanor L. Gillmor/OPD/EOP [OPD] <Eleanor L. Gillmor>;Dorothy C. Garvin/WHO/EOP [WHO] <Dorothy C. Garvin>;Joachim D. Fuchs/NSC/EOP [NSC] <Joachim D. Fuchs>;Barbara J. Finn/OA/EOP [OA] <Barbara J. Finn>;Kara G. Figg/WHO/EOP [WHO] <Kara G. Figg>;Jeanie L. Figg/WHO/EOP [WHO] <Jeanie L. Figg>;Jennifer D. Field/OVP/EOP [OVP] <Jennifer D. Field>;Douglas M. Erdahl/NSC/EOP [NSC] <Douglas M. Erdahl>;Ruth E. Elliott/NSC/EOP [NSC] <Ruth E. Elliott>;Kady Dunlap/WHO/EOP [WHO] <Kady Dunlap>;Eric A. Draper/WHO/EOP [WHO] <Eric A. Draper>;Joan R. Doty/WHO/EOP [WHO] <Joan R. Doty>;Katherine L. Disston/WHO/EOP [WHO] <Katherine L. Disston>;Reed Dickens/WHO/EOP [WHO] <Reed Dickens>;Josh Deckard/WHO/EOP [WHO] <Josh Deckard>;Ashley E. Davis/WHO/EOP [WHO] <Ashley E. Davis>;Jill Davie/WHO/EOP [WHO] <Jill Davie>;Colin Crosby/NSC/EOP [NSC] <Colin Crosby>;Lynn A. Crable/WHO/EOP [WHO] <Lynn A. Crable>;Colby J. Cooper/NSC/EOP [NSC] <Colby J. Cooper>;Michael J. Conway/WHO/EOP [WHO] <Michael J. Conway>;Carolyn E. Cleveland/WHO/EOP [WHO] <Carolyn E. Cleveland>;Shane P. Chambers/WHO/EOP [WHO] <Shane P. Chambers>;Lois A. Cassano/WHO/EOP [WHO] <Lois A. Cassano>;Pamela R. Casey/WHO/EOP [WHO] <Pamela R. Casey>;Anne E. Campbell/WHO/EOP [WHO] <Anne E. Campbell>;Elizabeth N. Camp/WHO/EOP [WHO] <Elizabeth N. Camp>;Marcia J. Caler/NSC/EOP [UNKNOWN] <Marcia J. Caler>;Johnathan C. Bunting/NSC/EOP [NSC] <Johnathan C. Bunting>;Patrick J. Bumatay/WHO/EOP [WHO] <Patrick J. Bumatay>;Marko R. Broz/NSC/EOP [NSC] <Marko R. Broz>;Gary E. Bresnahan/NSC/EOP [NSC] <Gary E. Bresnahan>;Brian Bravo/WHO/EOP [WHO] <Brian Bravo>;David R. Bohrer/OVP/EOP [OVP] <David R. Bohrer>;Debra D. Bird/WHO/EOP [WHO] <Debra D. Bird>;Melissa S. Bennett/WHO/EOP [WHO] <Melissa S. Bennett>;Cheryl E. Barnett/NSC/EOP [NSC] <Cheryl E. Barnett>;Tiffany L. Barfield/WHO/EOP [WHO] <Tiffany L. Barfield>;Mitchell P. Backfield/NSC/EOP [NSC] <Mitchell P. Backfield>;Jill L. Angelo/WHO/EOP [UNKNOWN] <Jill L. Angelo>;Ashleigh A. Adams/WHO/EOP [UNKNOWN] <Ashleigh A. Adams>;Joseph J. Shattan/OVP/EOP [OVP] <Joseph J. Shattan>;Kevin Warsh/OPD/EOP [OPD] <Kevin Warsh>;Richard J. Tubb/WHO/EOP [WHO] <Richard J. Tubb>;Paul J. Severs/WHO/EOP [WHO] <Paul J. Severs>;Joseph D. Rozek/OVP/EOP [OVP] <Joseph D. Rozek>;Steven J. Reynolds/WHO/EOP [WHO] <Steven J. Reynolds>;Candida P. Wolff/OVP/EOP [OVP] <Candida P. Wolff>;Heather Wingate/WHO/EOP [WHO] <Heather Wingate>;Daniel K. Wilmot/OVP/EOP [OVP] <Daniel K. Wilmot>;James R. Wilkinson/WHO/EOP [WHO] <James R. Wilkinson>;Jocelyn White/WHF/EOP [OPM] <Jocelyn White>;Lezlee J. Westine/WHO/EOP [WHO] <Lezlee J. Westine>;Peter H. Wehner/WHO/EOP [WHO] <Peter H. Wehner>;Paul A. Wedderien/NSC/EOP [NSC] <Paul A. Wedderien>;John P. Walters/ONDCP/EOP [ONDCP] <John P. Walters>;Helgard C. Walker/WHO/EOP [WHO] <Helgard C. Walker>;Jim Towey/WHO/EOP [WHO] <Jim Towey>;Catherine W. Tobias/OVP/EOP [OVP] <Catherine W. Tobias>;Jose G. Suarez/WHO/EOP [WHO] <Jose G. Suarez>;Aquiles F. Suarez/OPD/EOP [OPD] <Aquiles F. Suarez>;Angela B. Styles/OMB/EOP [OMB] <Angela B. Styles>;Mary K. Sturtevant/NSC/EOP [NSC] <Mary K. Sturtevant>;Margaret M. Spellings/OPD/EOP [OPD] <Margaret M. Spellings>;Deborah A. Spagnoli/WHO/EOP [WHO] <Deborah A. Spagnoli>;Mary A. Solberg/ONDCP/EOP [ONDCP] <Mary A. Solberg>;Augustine T. Smythe/OMB/EOP [OMB] <Augustine T. Smythe>;Kristen Silverberg/WHO/EOP [WHO] <Kristen Silverberg>;Thomas J. Sharpy/OVP/EOP [OVP] <Thomas J. Sharpy>;Scott N. Sforza/WHO/EOP [WHO] <Scott N. Sforza>;Howard A. Schmidt/NSC/EOP [NSC] <Howard A. Schmidt>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Daniel Schecter/ONDCP/EOP [ONDCP] <Daniel Schecter>;Diana L. Schacht/OPD/EOP [OPD] <Diana L. Schacht>;Desiree T. Sayle/WHO/EOP [WHO] <Desiree T. Sayle>;Kyle Sampson/WHO/EOP [WHO] <Kyle Sampson>;Richard M. Russell/OSTP/EOP [OSTP] <Richard M. Russell>;Stephen S. Ruhlen/OVP/EOP [OVP] <Stephen S. Ruhlen>;Karl C. Rove/WHO/EOP [WHO] <Karl C. Rove>;Mark V. Rosenker/WHO/EOP [WHO] <Mark V. Rosenker>;Thomas J. Ridge/WHO/EOP [WHO] <Thomas J. Ridge>;Condoleezza Rice/NSC/EOP [NSC] <Condoleezza Rice>;Nina Rees/OVP/EOP [OVP] <Nina Rees>;Craig Ray/WHO/EOP [WHO] <Craig Ray>;Benjamin A. Powell/WHO/EOP [WHO] <Benjamin A. Powell>;Kathie L. Olsen/OSTP/EOP [OSTP] <Kathie L. Olsen>;John F. Newell/WHO/EOP [WHO] <John F. Newell>;Manson O. Morris/OVP/EOP [OVP] <Manson O. Morris>;Paul D. Montanus/WHO/EOP [WHO] <Paul D. Montanus>;James M. McAllister/WHO/EOP [WHO] <James M. McAllister>;James M. Kelly/WHO/EOP [WHO] <James M. Kelly>;Dina

Powell/WHO/EOP [WHO] <Dina Powell>;Philip J. Perry/OMB/EOP [OMB] <Philip J. Perry>;Anna M. Perez/NSC/EOP [NSC] <Anna M. Perez>;Eric C. Pelletier/OMB/EOP [OMB] <Eric C. Pelletier>;Marcus Peacock/OMB/EOP [OMB] <Marcus Peacock>;Neil S. Patel/OVP/EOP [OVP] <Neil S. Patel>;Sean C. O'Keefe/OMB/EOP [OMB] <Sean C. O'Keefe>;Ziad S. Ojakli/WHO/EOP [WHO] <Ziad S. Ojakli>;Claire M. O'Donnell/OVP/EOP [OVP] <Claire M. O'Donnell>;Jennifer G. Newstead/WHO/EOP [WHO] <Jennifer G. Newstead>;Susan K. Neely/WHO/EOP [WHO] <Susan K. Neely>;Edmund C. Moy/WHO/EOP [WHO] <Edmund C. Moy>;James F. Moriarty/NSC/EOP [NSC] <James F. Moriarty>;Brian D. Montgomery/WHO/EOP [WHO] <Brian D. Montgomery>;Michael H. Miller/WHO/EOP [WHO] <Michael H. Miller>;Franklin C. Miller/NSC/EOP [NSC] <Franklin C. Miller>;Harriet Miers/WHO/EOP [WHO] <Harriet Miers>;Ken Mehlman/WHO/EOP [WHO] <Ken Mehlman>;Edward McNally/WHO/EOP [WHO] <Edward McNally>;Robert C. McNally/OPD/EOP [OPD] <Robert C. McNally>;Stephen S. McMillin/OMB/EOP [OMB] <Stephen S. McMillin>;Brian V. McCormack/OVP/EOP [OVP] <Brian V. McCormack>;John P. McConnell/OVP/EOP [OVP] <John P. McConnell>;Scott McClellan/WHO/EOP [WHO] <Scott McClellan>;Mark McClellan/CEA/EOP [CEA] <Mark McClellan>;Mary J. Matalin/OVP/EOP [OVP] <Mary J. Matalin>;Catherine J. Martin/OVP/EOP [OVP] <Catherine J. Martin>;Robert Marsh/WHO/EOP [WHO] <Robert Marsh>;John H. Marburger/OSTP/EOP [OSTP] <John H. Marburger>;John F. Maisto/NSC/EOP [NSC] <John F. Maisto>;Robin A. MacLean/WHO/EOP [WHO] <Robin A. MacLean>;Ado A. Machida/OVP/EOP [OVP] <Ado A. Machida>;Deborah A. Loewer/NSC/EOP [NSC] <Deborah A. Loewer>;Roland N. Litterst/WHO/EOP [WHO] <Roland N. Litterst>;Lawrence B. Lindsey/OPD/EOP [OPD] <Lawrence B. Lindsey>;Lewis Libby/OVP/EOP [OVP] <Lewis Libby>;Dirksen Lehman/WHO/EOP [WHO] <Dirksen Lehman>;Jay P. Lefkowitz/OPD/EOP [OPD] <Jay P. Lefkowitz>;Laura S. Lawlor/WHO/EOP [WHO] <Laura S. Lawlor>;Bruce M. Lawlor/WHO/EOP [WHO] <Bruce M. Lawlor>;Paul B. Kurtz/NSC/EOP [NSC] <Paul B. Kurtz>;David Kuo/WHO/EOP [WHO] <David Kuo>;Randall S. Kroszner/CEA/EOP [CEA] <Randall S. Kroszner>;Karen Y. Knutson/OVP/EOP [OVP] <Karen Y. Knutson>;Frank G. Klotz/NSC/EOP [NSC] <Frank G. Klotz>;Elizabeth W. Kleppe/OVP/EOP [OVP] <Elizabeth W. Kleppe>;Ellis Kitchen/OA/EOP [OA] <Ellis Kitchen>;Matthew Kirk/WHO/EOP [WHO] <Matthew Kirk>;Zalmay M. Khalilzad/NSC/EOP [NSC] <Zalmay M. Khalilzad>;Daniel J. Keniry/WHO/EOP [WHO] <Daniel J. Keniry>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Joel D. Kaplan/WHO/EOP [WHO] <Joel D. Kaplan>;Charles D. McGrath Jr/OVP/EOP [OVP] <Charles D. McGrath Jr>;Robert G. Joseph/NSC/EOP [NSC] <Robert G. Joseph>;Reuben Jeffery/OPD/EOP [OPD] <Reuben Jeffery>;Barry S. Jackson/WHO/EOP [WHO] <Barry S. Jackson>;Hector F. Irastorza/WHO/EOP [WHO] <Hector F. Irastorza>;Edward Ingle/WHO/EOP [WHO] <Edward Ingle>;Clay Johnson III/WHO/EOP [WHO] <Clay Johnson III>;Tim Campen/OA/EOP [OA] <Tim Campen>;Penrose C. Albright TPO/TPO/OMB/EOP [OMB] <Penrose C. Albright TPO>;Steven I. Cooper TPO/TPO/OMB/EOP [OMB] <Steven I. Cooper TPO>;Keith Hennessey/OPD/EOP [OPD] <Keith Hennessey>;Julian M. Flannery/WHO/EOP [WHO] <Julian M. Flannery>;Duncan Campbell/WHO/EOP [WHO] <Duncan Campbell>;R. Rand Beers/NSC/EOP [NSC] <R. Rand Beers>;Glenn Hubbard/CEA/EOP [CEA] <Glenn Hubbard>;Jack Howard/WHO/EOP [WHO] <Jack Howard>;Mark Holman/WHO/EOP [WHO] <Mark Holman>;David W. Hobbs/WHO/EOP [WHO] <David W. Hobbs>;Israel Hernandez/WHO/EOP [WHO] <Israel Hernandez>;Chris Henick/WHO/EOP [WHO] <Chris Henick>;Debra Heiden/OVP/EOP [OVP] <Debra Heiden>;Albert Hawkins/WHO/EOP [WHO] <Albert Hawkins>;Ronald Haskins/OPD/EOP [OPD] <Ronald Haskins>;John P. Hannah/OVP/EOP [OVP] <John P. Hannah>;John F. Haley/OVP/EOP [OVP] <John F. Haley>;Joseph W. Hagin/WHO/EOP [WHO] <Joseph W. Hagin>;Stephen J. Hadley/NSC/EOP [NSC] <Stephen J. Hadley>;Ann Gray/WHO/EOP [WHO] <Ann Gray>;John Graham/OMB/EOP [OMB] <John Graham>;John A. Gordon/NSC/EOP [NSC] <John A. Gordon>;Alberto R. Gonzales/WHO/EOP [WHO] <Alberto R. Gonzales>;Tim Goeglein/WHO/EOP [WHO] <Tim Goeglein>;Dylan C. Glenn/OPD/EOP [OPD] <Dylan C. Glenn>;Alan Gilbert/OPD/EOP [OPD] <Alan Gilbert>;Michael J. Gerson/WHO/EOP [WHO] <Michael J. Gerson>;Stephen M. Garrison/WHO/EOP [WHO] <Stephen M. Garrison>;Kelley Gannon/WHO/EOP [WHO] <Kelley Gannon>;Linda M. Gambatesa/WHO/EOP [WHO] <Linda M. Gambatesa>;Diana E. Furchtgott-Roth/CEA/EOP [CEA] <Diana E. Furchtgott-Roth>;Daniel Fried/NSC/EOP [NSC] <Daniel Fried>;Jendayi E. Frazer/NSC/EOP [NSC] <Jendayi E. Frazer>;Noel J. Francisco/WHO/EOP [WHO] <Noel J. Francisco>;Lawrence A. Fleischer/WHO/EOP [WHO] <Lawrence A. Fleischer>;Timothy E. Flanigan/WHO/EOP [WHO] <Timothy E. Flanigan>;Catherine S. Fenton/WHO/EOP [WHO] <Catherine S. Fenton>;Richard Falkenrath/WHO/EOP [WHO] <Richard Falkenrath>;Nanette Everson/WHO/EOP [WHO] <Nanette Everson>;Mark Everson/OMB/EOP [OMB] <Mark Everson>;Ashley Estes/WHO/EOP [WHO] <Ashley

Estes>;Tucker A. Eskew/WHO/EOP [WHO] <Tucker A. Eskew>;Gary R. Edson/NSC/EOP [NSC] <Gary R. Edson>;Eric S. Edelman/OVP/EOP [OVP] <Eric S. Edelman>;Wayne A. Downing/NSC/EOP [UNKNOWN] <Wayne A. Downing>;Elizabeth S. Dougherty/OPD/EOP [OPD] <Elizabeth S. Dougherty>;Nancy P. Dorn/WHO/EOP [UNKNOWN] <Nancy P. Dorn>;Diana C. Donnelly/WHO/EOP [WHO] <Diana C. Donnelly>;Nicolle Devenish/WHO/EOP [WHO] <Nicolle Devenish>;Mitchell Daniels/OMB/EOP [OMB] <Mitchell Daniels>;James F. Daniel/OA/EOP [OA] <James F. Daniel>;Stacia L. Cropper/OA/EOP [OA] <Stacia L. Cropper>;Barry Crane/ONDCP/EOP [ONDCP] <Barry Crane>;John B. Craig/NSC/EOP [UNKNOWN] <John B. Craig>;Phil Cooney/CEQ/EOP [CEQ] <Phil Cooney>;Rebecca Contreras/WHO/EOP [WHO] <Rebecca Contreras>;Charles Conner/OPD/EOP [OPD] <Charles Conner>;James Connaughton/CEQ/EOP [CEQ] <James Connaughton>;Brian C. Conklin/WHO/EOP [WHO] <Brian C. Conklin>;Cesar Conda/OVP/EOP [OVP] <Cesar Conda>;Douglas F. Cochrane/OVP/EOP [OVP] <Douglas F. Cochrane>;Robert W. Cobb/WHO/EOP [UNKNOWN] <Robert W. Cobb>;John A. Cloud/NSC/EOP [NSC] <John A. Cloud>;Robin Cleveland/OMB/EOP [OMB] <Robin Cleveland>;Richard A. Clarke/NSC/EOP [NSC] <Richard A. Clarke>;Alicia P. Clark/WHO/EOP [WHO] <Alicia P. Clark>;Frank Cilluffo/WHO/EOP [WHO] <Frank Cilluffo>;Christine Ciccone/WHO/EOP [WHO] <Christine Ciccone>;Ronald I. Christie/OVP/EOP [UNKNOWN] <Ronald I. Christie>;Barbara C. Chaffee/WHO/EOP [WHO] <Barbara C. Chaffee>;Kirsten A. Chadwick/WHO/EOP [WHO] <Kirsten A. Chadwick>;Andrew H. Card/WHO/EOP [WHO] <Andrew H. Card>;James C. Capretta/OMB/EOP [OMB] <James C. Capretta>;Nicholas E. Calio/WHO/EOP [WHO] <Nicholas E. Calio>;Scott Burns/ONDCP/EOP [ONDCP] <Scott Burns>;Katja Bullock/WHO/EOP [WHO] <Katja Bullock>;Carl Buchholz/WHO/EOP [WHO] <Carl Buchholz>;Claire E. Buchan/WHO/EOP [WHO] <Claire E. Buchan>;John M. Bridgeland/OPD/EOP [OPD] <John M. Bridgeland>;Stuart W. Bowen/WHO/EOP [WHO] <Stuart W. Bowen>;Carlos E. Bonilla/OPD/EOP [OPD] <Carlos E. Bonilla>;Joshua B. Bolten/WHO/EOP [WHO] <Joshua B. Bolten>;Lloyd A. Blanchard/OMB/EOP [UNKNOWN] <Lloyd A. Blanchard>;Bradley A. Blakeman/WHO/EOP [WHO] <Bradley A. Blakeman>;Charles P. Blahous/OPD/EOP [OPD] <Charles P. Blahous>;Stephen E. Biegun/NSC/EOP [NSC] <Stephen E. Biegun>;Rebecca A. Beynon/WHO/EOP [WHO] <Rebecca A. Beynon>;Janet L. Berman/OVP/EOP [OVP] <Janet L. Berman>;Bradford A. Berenson/WHO/EOP [WHO] <Bradford A. Berenson>;John B. Bellinger/NSC/EOP [NSC] <John B. Bellinger>;H. Christopher Bartolomucci/WHO/EOP [WHO] <H. Christopher Bartolomucci>;Daniel J. Bartlett/WHO/EOP [WHO] <Daniel J. Bartlett>;Andrea G. Barthwell/ONDCP/EOP [ONDCP] <Andrea G. Barthwell>;Ruben S. Barrales/WHO/EOP [WHO] <Ruben S. Barrales>;Andrea G. Ball/WHO/EOP [WHO] <Andrea G. Ball>;Jackie Arends/WHO/EOP [WHO] <Jackie Arends>;George M. Andricos/NSC/EOP [NSC] <George M. Andricos>;Cathy Alix/WHO/EOP [WHO] <Cathy Alix>;David S. Addington/OVP/EOP [OVP] <David S. Addington>;Elliott Abrams/NSC/EOP [NSC] <Elliott Abrams>;Charles S. Abbot/OVP/EOP [OVP] <Charles S. Abbot>

Sent: 11/25/2002 9:48:31 AM

Subject: : POSTMASTER: Mess Holiday Hours

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME:25-NOV-2002 14:48:31.00
SUBJECT:: POSTMASTER: Mess Holiday Hours
TO:Gina M. Wolford ( CN=Gina M. Wolford/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:David L. Travers ( CN=David L. Travers/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Harry W. Wolff ( CN=Harry W. Wolff/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Alexian T. Wines ( CN=Alexian T. Wines/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Patricia Williams ( CN=Patricia Williams/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Jared B. Weinstein ( CN=Jared B. Weinstein/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Matthew C. Waxman ( CN=Matthew C. Waxman/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Lauren J. Vestewig ( CN=Lauren J. Vestewig/OU=OPD/O=EOP [ OPD ] )
```

READ:UNKNOWN
TO:Terrill G. Tucker (CN=Terrill G. Tucker/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tevi Troy (CN=Tevi Troy/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Anne Trenolone (CN=Anne Trenolone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carol J. Thompson (CN=Carol J. Thompson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Julieanne H. Thomas (CN=Julieanne H. Thomas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Rachael L. Sunbarger (CN=Rachael L. Sunbarger/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan L. Sterner (CN=Susan L. Sterner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert E. Schubert (CN=Robert E. Schubert/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Deborah Sandler (CN=Deborah Sandler/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jean M. Russell (CN=Jean M. Russell/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Peter M. Rowan (CN=Peter M. Rowan/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Noelia Rodriguez (CN=Noelia Rodriguez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine B. Robinson (CN=Josephine B. Robinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Maurice C. Robinson (CN=Maurice C. Robinson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Christina D. Roberts (CN=Christina D. Roberts/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Allison L. Riepenhoff (CN=Allison L. Riepenhoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:January M. Riecke (CN=January M. Riecke/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Rhodes (CN=Katherine A. Rhodes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Reynolds (CN=Tim Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David Reyes (CN=David Reyes/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie E. Radcliff (CN=Leslie E. Radcliff/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexia Poe (CN=Alexia Poe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elliott M. Langer (CN=Elliott M. Langer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Clare Pritchett (CN=Clare Pritchett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Suzanne Primoff (CN=Suzanne Primoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John I. Pray (CN=John I. Pray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan D. Phillips (CN=Susan D. Phillips/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah Penny (CN=Sarah Penny/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Raymond H. Payne (CN=Raymond H. Payne/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Richard S. Paulus (CN=Richard S. Paulus/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Edward J. Padinske (CN=Edward J. Padinske/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric H. Otto (CN=Eric H. Otto/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Lee B. Mynatt (CN=Lee B. Mynatt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Steven Myers (CN=Steven Myers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah M. Garrison (CN=Sarah M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul L. Morse (CN=Paul L. Morse/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie A. Mooney (CN=Leslie A. Mooney/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Cathy L. Millison (CN=Cathy L. Millison/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Holly M. Miller (CN=Holly M. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sonya E. Medina (CN=Sonya E. Medina/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Vickie A. McQuade (CN=Vickie A. McQuade/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sara B. McIntosh (CN=Sara B. McIntosh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter A. McCauley (CN=Peter A. McCauley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel M. McCarthy (CN=Daniel M. McCarthy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas S. Marsh (CN=Thomas S. Marsh/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lindsey M. Lineweaver (CN=Lindsey M. Lineweaver/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Laura E. Lineberry (CN=Laura E. Lineberry/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Adam L. Levine (CN=Adam L. Levine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christopher S. Legrand (CN=Christopher S. Legrand/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sang W. Lee (CN=Sang W. Lee/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jennie M. Koch (CN=Jennie M. Koch/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Andrew M. Kaver (CN=Andrew M. Kaver/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Dora Kale (CN=Dora Kale/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexander S. Joves (CN=Alexander S. Joves/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:M. Kay Joshi (CN=M. Kay Joshi/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Megan R. Johnston (CN=Megan R. Johnston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sydney R. Johnson (CN=Sydney R. Johnson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clarence C. Johnson (CN=Clarence C. Johnson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gordon D. Johndroe (CN=Gordon D. Johndroe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melanie A. Jackson (CN=Melanie A. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marilyn R. Jacanin (CN=Marilyn R. Jacanin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Restituto M. Francisco (CN=Restituto M. Francisco/OU=OA/O=EOP [OA])

READ:UNKNOWN
TO:Sandra K. Evans (CN=Sandra K. Evans/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Regina L. Cain (CN=Regina L. Cain/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Brown (CN=Katherine A. Brown/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Bonnie S. Broadwick (CN=Bonnie S. Broadwick/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Theresa M. Hunter (CN=Theresa M. Hunter/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:A. Merrill Hughes (CN=A. Merrill Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jeffrey P. Houle (CN=Jeffrey P. Houle/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ashley Holbrook (CN=Ashley Holbrook/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine L. Hirsch (CN=Josephine L. Hirsch/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jane C. Heishman (CN=Jane C. Heishman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anne Heiligenstein (CN=Anne Heiligenstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. Hargis (CN=Robert C. Hargis/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison M. Harden (CN=Alison M. Harden/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary Ann Hanusa (CN=Mary Ann Hanusa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas A. Hall (CN=Thomas A. Hall/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary A. Haines (CN=Mary A. Haines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Katharina M. Hager (CN=Katharina M. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Henry C. Hager (CN=Henry C. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Albert J. Guarnieri (CN=Albert J. Guarnieri/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew W. Green (CN=Andrew W. Green/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Emily S. Gray (CN=Emily S. Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wendy E. Gray (CN=Wendy E. Gray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Britt Grant (CN=Britt Grant/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Travis C. Good (CN=Travis C. Good/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Georgia D. Godfrey (CN=Georgia D. Godfrey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Dorothy C. Garvin (CN=Dorothy C. Garvin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joachim D. Fuchs (CN=Joachim D. Fuchs/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Barbara J. Finn (CN=Barbara J. Finn/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jeanie L. Figg (CN=Jeanie L. Figg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jennifer D. Field (CN=Jennifer D. Field/OU=OVP/O=EOP [OVP])

READ:UNKNOWN
TO:Douglas M. Erdahl (CN=Douglas M. Erdahl/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ruth E. Elliott (CN=Ruth E. Elliott/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kady Dunlap (CN=Kady Dunlap/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eric A. Draper (CN=Eric A. Draper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joan R. Doty (CN=Joan R. Doty/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine L. Disston (CN=Katherine L. Disston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Reed Dickens (CN=Reed Dickens/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josh Deckard (CN=Josh Deckard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley E. Davis (CN=Ashley E. Davis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jill Davie (CN=Jill Davie/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colin Crosby (CN=Colin Crosby/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lynn A. Crable (CN=Lynn A. Crable/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colby J. Cooper (CN=Colby J. Cooper/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Shane P. Chambers (CN=Shane P. Chambers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lois A. Cassano (CN=Lois A. Cassano/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Pamela R. Casey (CN=Pamela R. Casey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne E. Campbell (CN=Anne E. Campbell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marcia J. Caler (CN=Marcia J. Caler/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Johnathan C. Bunting (CN=Johnathan C. Bunting/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marko R. Broz (CN=Marko R. Broz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gary E. Bresnahan (CN=Gary E. Bresnahan/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David R. Bohrer (CN=David R. Bohrer/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cheryl E. Barnett (CN=Cheryl E. Barnett/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell P. Backfield (CN=Mitchell P. Backfield/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jill L. Angelo (CN=Jill L. Angelo/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Ashleigh A. Adams (CN=Ashleigh A. Adams/OU=WHO/O=EOP [UNKNOWN])

READ:UNKNOWN
TO:Joseph J. Shattan (CN=Joseph J. Shattan/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Richard J. Tubb (CN=Richard J. Tubb/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul J. Severs (CN=Paul J. Severs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joseph D. Rozek (CN=Joseph D. Rozek/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Steven J. Reynolds (CN=Steven J. Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Candida P. Wolff (CN=Candida P. Wolff/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel K. Wilmot (CN=Daniel K. Wilmot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:James R. Wilkinson (CN=James R. Wilkinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jocelyn White (CN=Jocelyn White/OU=WHF/O=EOP [OPM])
READ:UNKNOWN
TO:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul A. Wedderien (CN=Paul A. Wedderien/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John P. Walters (CN=John P. Walters/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine W. Tobias (CN=Catherine W. Tobias/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jose G. Suarez (CN=Jose G. Suarez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Aquiles F. Suarez (CN=Aquiles F. Suarez/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Angela B. Styles (CN=Angela B. Styles/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary A. Solberg (CN=Mary A. Solberg/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Augustine T. Smythe (CN=Augustine T. Smythe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Sharpy (CN=Thomas J. Sharpy/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Howard A. Schmidt (CN=Howard A. Schmidt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel Schecter (CN=Daniel Schecter/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard M. Russell (CN=Richard M. Russell/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Stephen S. Ruhlen (CN=Stephen S. Ruhlen/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark V. Rosenker (CN=Mark V. Rosenker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Ridge (CN=Thomas J. Ridge/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Nina Rees (CN=Nina Rees/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Craig Ray (CN=Craig Ray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kathie L. Olsen (CN=Kathie L. Olsen/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Newell (CN=John F. Newell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Manson O. Morris (CN=Manson O. Morris/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Paul D. Montanus (CN=Paul D. Montanus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. McAllister (CN=James M. McAllister/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric C. Pelletier (CN=Eric C. Pelletier/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Marcus Peacock (CN=Marcus Peacock/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Neil S. Patel (CN=Neil S. Patel/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Sean C. O'Keefe (CN=Sean C. O'Keefe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire M. O'Donnell (CN=Claire M. O'Donnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan K. Neely (CN=Susan K. Neely/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen S. McMillin (CN=Stephen S. McMillin/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark McClellan (CN=Mark McClellan/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Mary J. Matalin (CN=Mary J. Matalin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Catherine J. Martin (CN=Catherine J. Martin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John H. Marburger (CN=John H. Marburger/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Maisto (CN=John F. Maisto/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin A. MacLean (CN=Robin A. MacLean/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ado A. Machida (CN=Ado A. Machida/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Deborah A. Loewer (CN=Deborah A. Loewer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence B. Lindsey (CN=Lawrence B. Lindsey/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Dirksen Lehman (CN=Dirksen Lehman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Laura S. Lawlor (CN=Laura S. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bruce M. Lawlor (CN=Bruce M. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Randall S. Kroszner (CN=Randall S. Kroszner/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Karen Y. Knutson (CN=Karen Y. Knutson/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Frank G. Klotz (CN=Frank G. Klotz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Ellis Kitchen (CN=Ellis Kitchen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Charles D. McGrath Jr (CN=Charles D. McGrath Jr/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Reuben Jeffery (CN=Reuben Jeffery/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hector F. Irastorza (CN=Hector F. Irastorza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Campen (CN=Tim Campen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Penrose C. Albright TPO (CN=Penrose C. Albright TPO/OU=TPO/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Steven I. Cooper TPO (CN=Steven I. Cooper TPO/OU=TPO/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Julian M. Flannery (CN=Julian M. Flannery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Duncan Campbell (CN=Duncan Campbell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:R. Rand Beers (CN=R. Rand Beers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Glenn Hubbard (CN=Glenn Hubbard/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Jack Howard (CN=Jack Howard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Holman (CN=Mark Holman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Chris Henick (CN=Chris Henick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Debra Heiden (CN=Debra Heiden/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Albert Hawkins (CN=Albert Hawkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald Haskins (CN=Ronald Haskins/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:John P. Hannah (CN=John P. Hannah/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John F. Haley (CN=John F. Haley/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John Graham (CN=John Graham/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:John A. Gordon (CN=John A. Gordon/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP [OPD])

READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen M. Garrison (CN=Stephen M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Diana E. Furchtgott-Roth (CN=Diana E. Furchtgott-Roth/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Timothy E. Flanigan (CN=Timothy E. Flanigan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Everson (CN=Mark Everson/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric S. Edelman (CN=Eric S. Edelman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Wayne A. Downing (CN=Wayne A. Downing/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Nancy P. Dorn (CN=Nancy P. Dorn/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Diana C. Donnelly (CN=Diana C. Donnelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:James F. Daniel (CN=James F. Daniel/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Stacia L. Cropper (CN=Stacia L. Cropper/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Barry Crane (CN=Barry Crane/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:John B. Craig (CN=John B. Craig/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:James Connaughton (CN=James Connaughton/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cesar Conda (CN=Cesar Conda/OU=OVP/O=EOP [OVP])

READ:UNKNOWN
TO:Douglas F. Cochrane (CN=Douglas F. Cochrane/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert W. Cobb (CN=Robert W. Cobb/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:John A. Cloud (CN=John A. Cloud/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin Cleveland (CN=Robin Cleveland/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Richard A. Clarke (CN=Richard A. Clarke/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Frank Cilluffo (CN=Frank Cilluffo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christine Ciccone (CN=Christine Ciccone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Barbara C. Chaffee (CN=Barbara C. Chaffee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James C. Capretta (CN=James C. Capretta/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Nicholas E. Calio (CN=Nicholas E. Calio/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott Burns (CN=Scott Burns/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carl Buchholz (CN=Carl Buchholz/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stuart W. Bowen (CN=Stuart W. Bowen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carlos E. Bonilla (CN=Carlos E. Bonilla/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lloyd A. Blanchard (CN=Lloyd A. Blanchard/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen E. Biegun (CN=Stephen E. Biegun/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Janet L. Berman (CN=Janet L. Berman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Barthwell (CN=Andrea G. Barthwell/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Cathy Alix (CN=Cathy Alix/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
End Original ARMS Header

Mess Holiday Hours

Please note that the White House Mess will be closed for business beginning Wednesday, November 27 at 3:00 p.m. through Sunday, December 1, 2002, for Thanksgiving. If the need arises, necessary arrangements will be made to meet any unforeseen demands. We apologize for any inconvenience.

Thank you.

MANAGEMENT & ADMINISTRATION

From: CN=PostMaster/O=EOP [OA]

To: Gina M. Wolford/NSC/EOP [NSC] <Gina M. Wolford>;David L. Travers/NSC/EOP [NSC] <David L. Travers>;Harry W. Wolff/WHO/EOP [WHO] <Harry W. Wolff>;Alexian T. Wines/NSC/EOP [NSC] <Alexian T. Wines>;Patricia Williams/WHO/EOP [WHO] <Patricia Williams>;Jared B. Weinstein/WHO/EOP [WHO] <Jared B. Weinstein>;Matthew C. Waxman/NSC/EOP [NSC] <Matthew C. Waxman>;Lauren J. Vestewig/OPD/EOP [OPD] <Lauren J. Vestewig>;Terrill G. Tucker/NSC/EOP [NSC] <Terrill G. Tucker>;Tevi Troy/OPD/EOP [OPD] <Tevi Troy>;Anne Trenolone/WHO/EOP [WHO] <Anne Trenolone>;Carol J. Thompson/WHO/EOP [WHO] <Carol J. Thompson>;Julieanne H. Thomas/WHO/EOP [WHO] <Julieanne H. Thomas>;Rachael L. Sunbarger/WHO/EOP [WHO] <Rachael L. Sunbarger>;Susan L. Sterner/WHO/EOP [WHO] <Susan L. Sterner>;Ashley Snee/WHO/EOP [WHO] <Ashley Snee>;Robert E. Schubert/NSC/EOP [NSC] <Robert E. Schubert>;Deborah Sandler/NSC/EOP [NSC] <Deborah Sandler>;Jean M. Russell/OPD/EOP [OPD] <Jean M. Russell>;Peter M. Rowan/WHO/EOP [UNKNOWN] <Peter M. Rowan>;Noelia Rodriguez/WHO/EOP [WHO] <Noelia Rodriguez>;Josephine B. Robinson/WHO/EOP [WHO] <Josephine B. Robinson>;Maurice C. Robinson/NSC/EOP [NSC] <Maurice C. Robinson>;Christina D. Roberts/WHO/EOP [UNKNOWN] <Christina D. Roberts>;Krista L. Ritacco/WHO/EOP [WHO] <Krista L. Ritacco>;Allison L. Riepenhoff/WHO/EOP [WHO] <Allison L. Riepenhoff>;January M. Riecke/WHO/EOP [WHO] <January M. Riecke>;Katherine A. Rhodes/WHO/EOP [WHO] <Katherine A. Rhodes>;Tim Reynolds/WHO/EOP [WHO] <Tim Reynolds>;David Reyes/NSC/EOP [NSC] <David Reyes>;Susan B. Ralston/WHO/EOP [WHO] <Susan B. Ralston>;Leslie E. Radcliff/NSC/EOP [NSC] <Leslie E. Radcliff>;Alexia Poe/WHO/EOP [WHO] <Alexia Poe>;Charlotte L. Montiel/WHO/EOP [WHO] <Charlotte L. Montiel>;Elliott M. Langer/NSC/EOP [NSC] <Elliott M. Langer>;Clare Pritchett/WHO/EOP [WHO] <Clare Pritchett>;Suzanne Primoff/WHO/EOP [WHO] <Suzanne Primoff>;John I. Pray/NSC/EOP [NSC] <John I. Pray>;Susan D. Phillips/NSC/EOP [NSC] <Susan D. Phillips>;Sarah Penny/WHO/EOP [WHO] <Sarah Penny>;Raymond H. Payne/NSC/EOP [NSC] <Raymond H. Payne>;Richard S. Paulus/WHO/EOP [WHO] <Richard S. Paulus>;Edward J. Padinske/NSC/EOP [NSC] <Edward J. Padinske>;Eric H. Otto/OPD/EOP [OPD] <Eric H. Otto>;Lee B. Mynatt/NSC/EOP [NSC] <Lee B. Mynatt>;Steven Myers/NSC/EOP [NSC] <Steven Myers>;Sarah M. Garrison/WHO/EOP [WHO] <Sarah M. Garrison>;Paul L. Morse/WHO/EOP [WHO] <Paul L. Morse>;Leslie A. Mooney/OPD/EOP [OPD] <Leslie A. Mooney>;Cathy L. Millison/NSC/EOP [NSC] <Cathy L. Millison>;Holly M. Miller/WHO/EOP [WHO] <Holly M. Miller>;Sonya E. Medina/WHO/EOP [WHO] <Sonya E. Medina>;Vickie A. McQuade/WHO/EOP [WHO] <Vickie A. McQuade>;Sara B. McIntosh/WHO/EOP [WHO] <Sara B. McIntosh>;Peter A. McCauley/NSC/EOP [NSC] <Peter A. McCauley>;Daniel M. McCarthy/WHO/EOP [WHO] <Daniel M. McCarthy>;Thomas S. Marsh/NSC/EOP [NSC] <Thomas S. Marsh>;Colleen Litkenhaus/WHO/EOP [WHO] <Colleen Litkenhaus>;Lindsey M. Lineweaver/WHO/EOP [WHO] <Lindsey M. Lineweaver>;Laura E. Lineberry/NSC/EOP [NSC] <Laura E. Lineberry>;Adam L. Levine/WHO/EOP [WHO] <Adam L. Levine>;Christopher S. Legrand/NSC/EOP [NSC] <Christopher S. Legrand>;Sang W. Lee/NSC/EOP [NSC] <Sang W. Lee>;Jennie M. Koch/NSC/EOP [NSC] <Jennie M. Koch>;Andrew M. Kaver/NSC/EOP [UNKNOWN] <Andrew M. Kaver>;Dora Kale/NSC/EOP [NSC] <Dora Kale>;Alexander S. Joves/NSC/EOP [NSC] <Alexander S. Joves>;M. Kay Joshi/NSC/EOP [NSC] <M. Kay Joshi>;Alison Jones/WHO/EOP [WHO] <Alison Jones>;Megan R. Johnston/WHO/EOP [WHO] <Megan R. Johnston>;Sydney R. Johnson/WHO/EOP [WHO] <Sydney R. Johnson>;Clarence C. Johnson/NSC/EOP [NSC] <Clarence C. Johnson>;Gordon D. Johndroe/WHO/EOP [WHO] <Gordon D. Johndroe>;Melanie A. Jackson/WHO/EOP [WHO] <Melanie A. Jackson>;Marilyn R. Jacanin/WHO/EOP [WHO] <Marilyn R. Jacanin>;Restituto M. Francisco/OA/EOP [OA] <Restituto M. Francisco>;Sandra K. Evans/WHO/EOP [WHO] <Sandra K. Evans>;Regina L. Cain/WHO/EOP [WHO] <Regina L. Cain>;Katherine A. Brown/NSC/EOP [NSC] <Katherine A. Brown>;Bonnie S. Broadwick/NSC/EOP [NSC] <Bonnie S. Broadwick>;Theresa M. Hunter/NSC/EOP [NSC] <Theresa M. Hunter>;A. Merrill Hughes/WHO/EOP [UNKNOWN] <A. Merrill Hughes>;Jeffrey P. Houle/NSC/EOP [NSC] <Jeffrey P. Houle>;Ashley Holbrook/WHO/EOP [WHO] <Ashley Holbrook>;Josephine L. Hirsch/WHO/EOP [WHO] <Josephine L. Hirsch>;Jane C. Heishman/NSC/EOP [NSC] <Jane C. Heishman>;Anne Heiligenstein/WHO/EOP [WHO] <Anne Heiligenstein>;Robert C. Hargis/NSC/EOP [NSC] <Robert C. Hargis>;Alison M. Harden/WHO/EOP [WHO] <Alison M. Harden>;Mary Ann Hanusa/WHO/EOP [WHO] <Mary Ann Hanusa>;Thomas A. Hall/NSC/EOP [NSC] <Thomas A. Hall>;Mary A. Haines/NSC/EOP [NSC] <Mary A. Haines>;Katharina M. Hager/WHO/EOP [WHO] <Katharina M. Hager>;Henry C. Hager/WHO/EOP [WHO] <Henry C. Hager>;Albert J.

Guarnieri/NSC/EOP [NSC] <Albert J. Guarnieri>;Ginger G. Loper/WHO/EOP [WHO] <Ginger G. Loper>;Andrew W. Green/NSC/EOP [NSC] <Andrew W. Green>;Emily S. Gray/WHO/EOP [WHO] <Emily S. Gray>;Wendy E. Gray/NSC/EOP [NSC] <Wendy E. Gray>;Britt Grant/OPD/EOP [OPD] <Britt Grant>;Blake Gottesman/WHO/EOP [WHO] <Blake Gottesman>;Travis C. Good/NSC/EOP [UNKNOWN] <Travis C. Good>;Georgia D. Godfrey/WHO/EOP [WHO] <Georgia D. Godfrey>;Eleanor L. Gillmor/OPD/EOP [OPD] <Eleanor L. Gillmor>;Dorothy C. Garvin/WHO/EOP [WHO] <Dorothy C. Garvin>;Joachim D. Fuchs/NSC/EOP [NSC] <Joachim D. Fuchs>;Barbara J. Finn/OA/EOP [OA] <Barbara J. Finn>;Kara G. Figg/WHO/EOP [WHO] <Kara G. Figg>;Jeanie L. Figg/WHO/EOP [WHO] <Jeanie L. Figg>;Jennifer D. Field/OVP/EOP [OVP] <Jennifer D. Field>;Douglas M. Erdahl/NSC/EOP [NSC] <Douglas M. Erdahl>;Ruth E. Elliott/NSC/EOP [NSC] <Ruth E. Elliott>;Kady Dunlap/WHO/EOP [WHO] <Kady Dunlap>;Eric A. Draper/WHO/EOP [WHO] <Eric A. Draper>;Joan R. Doty/WHO/EOP [WHO] <Joan R. Doty>;Katherine L. Disston/WHO/EOP [WHO] <Katherine L. Disston>;Reed Dickens/WHO/EOP [WHO] <Reed Dickens>;Josh Deckard/WHO/EOP [WHO] <Josh Deckard>;Ashley E. Davis/WHO/EOP [WHO] <Ashley E. Davis>;Jill Davie/WHO/EOP [WHO] <Jill Davie>;Colin Crosby/NSC/EOP [NSC] <Colin Crosby>;Lynn A. Crable/WHO/EOP [WHO] <Lynn A. Crable>;Colby J. Cooper/NSC/EOP [NSC] <Colby J. Cooper>;Michael J. Conway/WHO/EOP [WHO] <Michael J. Conway>;Carolyn E. Cleveland/WHO/EOP [WHO] <Carolyn E. Cleveland>;Shane P. Chambers/WHO/EOP [WHO] <Shane P. Chambers>;Lois A. Cassano/WHO/EOP [WHO] <Lois A. Cassano>;Pamela R. Casey/WHO/EOP [WHO] <Pamela R. Casey>;Anne E. Campbell/WHO/EOP [WHO] <Anne E. Campbell>;Elizabeth N. Camp/WHO/EOP [WHO] <Elizabeth N. Camp>;Marcia J. Caler/NSC/EOP [UNKNOWN] <Marcia J. Caler>;Johnathan C. Bunting/NSC/EOP [NSC] <Johnathan C. Bunting>;Patrick J. Bumatay/WHO/EOP [WHO] <Patrick J. Bumatay>;Marko R. Broz/NSC/EOP [NSC] <Marko R. Broz>;Gary E. Bresnahan/NSC/EOP [NSC] <Gary E. Bresnahan>;Brian Bravo/WHO/EOP [WHO] <Brian Bravo>;David R. Bohrer/OVP/EOP [OVP] <David R. Bohrer>;Debra D. Bird/WHO/EOP [WHO] <Debra D. Bird>;Melissa S. Bennett/WHO/EOP [WHO] <Melissa S. Bennett>;Cheryl E. Barnett/NSC/EOP [NSC] <Cheryl E. Barnett>;Tiffany L. Barfield/WHO/EOP [WHO] <Tiffany L. Barfield>;Mitchell P. Backfield/NSC/EOP [NSC] <Mitchell P. Backfield>;Jill L. Angelo/WHO/EOP [UNKNOWN] <Jill L. Angelo>;Ashleigh A. Adams/WHO/EOP [UNKNOWN] <Ashleigh A. Adams>;Joseph J. Shattan/OVP/EOP [OVP] <Joseph J. Shattan>;Kevin Warsh/OPD/EOP [OPD] <Kevin Warsh>;Richard J. Tubb/WHO/EOP [WHO] <Richard J. Tubb>;Paul J. Severs/WHO/EOP [WHO] <Paul J. Severs>;Joseph D. Rozek/OVP/EOP [OVP] <Joseph D. Rozek>;Steven J. Reynolds/WHO/EOP [WHO] <Steven J. Reynolds>;Candida P. Wolff/OVP/EOP [OVP] <Candida P. Wolff>;Heather Wingate/WHO/EOP [WHO] <Heather Wingate>;Daniel K. Wilmot/OVP/EOP [OVP] <Daniel K. Wilmot>;James R. Wilkinson/WHO/EOP [WHO] <James R. Wilkinson>;Jocelyn White/WHF/EOP [OPM] <Jocelyn White>;Lezlee J. Westine/WHO/EOP [WHO] <Lezlee J. Westine>;Peter H. Wehner/WHO/EOP [WHO] <Peter H. Wehner>;Paul A. Wedderien/NSC/EOP [NSC] <Paul A. Wedderien>;John P. Walters/ONDCP/EOP [ONDCP] <John P. Walters>;Helgard C. Walker/WHO/EOP [WHO] <Helgard C. Walker>;Jim Towey/WHO/EOP [WHO] <Jim Towey>;Catherine W. Tobias/OVP/EOP [OVP] <Catherine W. Tobias>;Jose G. Suarez/WHO/EOP [WHO] <Jose G. Suarez>;Aquiles F. Suarez/OPD/EOP [OPD] <Aquiles F. Suarez>;Angela B. Styles/OMB/EOP [OMB] <Angela B. Styles>;Mary K. Sturtevant/NSC/EOP [NSC] <Mary K. Sturtevant>;Margaret M. Spellings/OPD/EOP [OPD] <Margaret M. Spellings>;Deborah A. Spagnoli/WHO/EOP [WHO] <Deborah A. Spagnoli>;Mary A. Solberg/ONDCP/EOP [ONDCP] <Mary A. Solberg>;Augustine T. Smythe/OMB/EOP [OMB] <Augustine T. Smythe>;Kristen Silverberg/WHO/EOP [WHO] <Kristen Silverberg>;Thomas J. Sharpy/OVP/EOP [OVP] <Thomas J. Sharpy>;Scott N. Sforza/WHO/EOP [WHO] <Scott N. Sforza>;Howard A. Schmidt/NSC/EOP [NSC] <Howard A. Schmidt>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Daniel Schecter/ONDCP/EOP [ONDCP] <Daniel Schecter>;Diana L. Schacht/OPD/EOP [OPD] <Diana L. Schacht>;Desiree T. Sayle/WHO/EOP [WHO] <Desiree T. Sayle>;Kyle Sampson/WHO/EOP [WHO] <Kyle Sampson>;Richard M. Russell/OSTP/EOP [OSTP] <Richard M. Russell>;Stephen S. Ruhlen/OVP/EOP [OVP] <Stephen S. Ruhlen>;Karl C. Rove/WHO/EOP [WHO] <Karl C. Rove>;Mark V. Rosenker/WHO/EOP [WHO] <Mark V. Rosenker>;Thomas J. Ridge/WHO/EOP [WHO] <Thomas J. Ridge>;Condoleezza Rice/NSC/EOP [NSC] <Condoleezza Rice>;Nina Rees/OVP/EOP [OVP] <Nina Rees>;Craig Ray/WHO/EOP [WHO] <Craig Ray>;Benjamin A. Powell/WHO/EOP [WHO] <Benjamin A. Powell>;Kathie L. Olsen/OSTP/EOP [OSTP] <Kathie L. Olsen>;John F. Newell/WHO/EOP [WHO] <John F. Newell>;Manson O. Morris/OVP/EOP [OVP] <Manson O. Morris>;Paul D. Montanus/WHO/EOP [WHO] <Paul D. Montanus>;James M. McAllister/WHO/EOP [WHO] <James M. McAllister>;James M. Kelly/WHO/EOP [WHO] <James M. Kelly>;Dina

Powell/WHO/EOP [WHO] <Dina Powell>;Philip J. Perry/OMB/EOP [OMB] <Philip J. Perry>;Anna M. Perez/NSC/EOP [NSC] <Anna M. Perez>;Eric C. Pelletier/OMB/EOP [OMB] <Eric C. Pelletier>;Marcus Peacock/OMB/EOP [OMB] <Marcus Peacock>;Neil S. Patel/OVP/EOP [OVP] <Neil S. Patel>;Sean C. O'Keefe/OMB/EOP [OMB] <Sean C. O'Keefe>;Ziad S. Ojakli/WHO/EOP [WHO] <Ziad S. Ojakli>;Claire M. O'Donnell/OVP/EOP [OVP] <Claire M. O'Donnell>;Jennifer G. Newstead/WHO/EOP [WHO] <Jennifer G. Newstead>;Susan K. Neely/WHO/EOP [WHO] <Susan K. Neely>;Edmund C. Moy/WHO/EOP [WHO] <Edmund C. Moy>;James F. Moriarty/NSC/EOP [NSC] <James F. Moriarty>;Brian D. Montgomery/WHO/EOP [WHO] <Brian D. Montgomery>;Michael H. Miller/WHO/EOP [WHO] <Michael H. Miller>;Franklin C. Miller/NSC/EOP [NSC] <Franklin C. Miller>;Harriet Miers/WHO/EOP [WHO] <Harriet Miers>;Ken Mehlman/WHO/EOP [WHO] <Ken Mehlman>;Edward McNally/WHO/EOP [WHO] <Edward McNally>;Robert C. McNally/OPD/EOP [OPD] <Robert C. McNally>;Stephen S. McMillin/OMB/EOP [OMB] <Stephen S. McMillin>;Brian V. McCormack/OVP/EOP [OVP] <Brian V. McCormack>;John P. McConnell/OVP/EOP [OVP] <John P. McConnell>;Scott McClellan/WHO/EOP [WHO] <Scott McClellan>;Mark McClellan/CEA/EOP [CEA] <Mark McClellan>;Mary J. Matalin/OVP/EOP [OVP] <Mary J. Matalin>;Catherine J. Martin/OVP/EOP [OVP] <Catherine J. Martin>;Robert Marsh/WHO/EOP [WHO] <Robert Marsh>;John H. Marburger/OSTP/EOP [OSTP] <John H. Marburger>;John F. Maisto/NSC/EOP [NSC] <John F. Maisto>;Robin A. MacLean/WHO/EOP [WHO] <Robin A. MacLean>;Ado A. Machida/OVP/EOP [OVP] <Ado A. Machida>;Deborah A. Loewer/NSC/EOP [NSC] <Deborah A. Loewer>;Roland N. Litterst/WHO/EOP [WHO] <Roland N. Litterst>;Lawrence B. Lindsey/OPD/EOP [OPD] <Lawrence B. Lindsey>;Lewis Libby/OVP/EOP [OVP] <Lewis Libby>;Dirksen Lehman/WHO/EOP [WHO] <Dirksen Lehman>;Jay P. Lefkowitz/OPD/EOP [OPD] <Jay P. Lefkowitz>;Laura S. Lawlor/WHO/EOP [WHO] <Laura S. Lawlor>;Bruce M. Lawlor/WHO/EOP [WHO] <Bruce M. Lawlor>;Paul B. Kurtz/NSC/EOP [NSC] <Paul B. Kurtz>;David Kuo/WHO/EOP [WHO] <David Kuo>;Randall S. Kroszner/CEA/EOP [CEA] <Randall S. Kroszner>;Karen Y. Knutson/OVP/EOP [OVP] <Karen Y. Knutson>;Frank G. Klotz/NSC/EOP [NSC] <Frank G. Klotz>;Elizabeth W. Kleppe/OVP/EOP [OVP] <Elizabeth W. Kleppe>;Ellis Kitchen/OA/EOP [OA] <Ellis Kitchen>;Matthew Kirk/WHO/EOP [WHO] <Matthew Kirk>;Zalmay M. Khalilzad/NSC/EOP [NSC] <Zalmay M. Khalilzad>;Daniel J. Keniry/WHO/EOP [WHO] <Daniel J. Keniry>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Joel D. Kaplan/WHO/EOP [WHO] <Joel D. Kaplan>;Charles D. McGrath Jr/OVP/EOP [OVP] <Charles D. McGrath Jr>;Robert G. Joseph/NSC/EOP [NSC] <Robert G. Joseph>;Reuben Jeffery/OPD/EOP [OPD] <Reuben Jeffery>;Barry S. Jackson/WHO/EOP [WHO] <Barry S. Jackson>;Hector F. Irastorza/WHO/EOP [WHO] <Hector F. Irastorza>;Edward Ingle/WHO/EOP [WHO] <Edward Ingle>;Clay Johnson III/WHO/EOP [WHO] <Clay Johnson III>;Tim Campen/OA/EOP [OA] <Tim Campen>;Penrose C. Albright TPO/TPO/OMB/EOP [OMB] <Penrose C. Albright TPO>;Steven I. Cooper TPO/TPO/OMB/EOP [OMB] <Steven I. Cooper TPO>;Keith Hennessey/OPD/EOP [OPD] <Keith Hennessey>;Julian M. Flannery/WHO/EOP [WHO] <Julian M. Flannery>;Duncan Campbell/WHO/EOP [WHO] <Duncan Campbell>;R. Rand Beers/NSC/EOP [NSC] <R. Rand Beers>;Glenn Hubbard/CEA/EOP [CEA] <Glenn Hubbard>;Jack Howard/WHO/EOP [WHO] <Jack Howard>;Mark Holman/WHO/EOP [WHO] <Mark Holman>;David W. Hobbs/WHO/EOP [WHO] <David W. Hobbs>;Israel Hernandez/WHO/EOP [WHO] <Israel Hernandez>;Chris Henick/WHO/EOP [WHO] <Chris Henick>;Debra Heiden/OVP/EOP [OVP] <Debra Heiden>;Albert Hawkins/WHO/EOP [WHO] <Albert Hawkins>;Ronald Haskins/OPD/EOP [OPD] <Ronald Haskins>;John P. Hannah/OVP/EOP [OVP] <John P. Hannah>;John F. Haley/OVP/EOP [OVP] <John F. Haley>;Joseph W. Hagin/WHO/EOP [WHO] <Joseph W. Hagin>;Stephen J. Hadley/NSC/EOP [NSC] <Stephen J. Hadley>;Ann Gray/WHO/EOP [WHO] <Ann Gray>;John Graham/OMB/EOP [OMB] <John Graham>;John A. Gordon/NSC/EOP [NSC] <John A. Gordon>;Alberto R. Gonzales/WHO/EOP [WHO] <Alberto R. Gonzales>;Tim Goeglein/WHO/EOP [WHO] <Tim Goeglein>;Dylan C. Glenn/OPD/EOP [OPD] <Dylan C. Glenn>;Alan Gilbert/OPD/EOP [OPD] <Alan Gilbert>;Michael J. Gerson/WHO/EOP [WHO] <Michael J. Gerson>;Stephen M. Garrison/WHO/EOP [WHO] <Stephen M. Garrison>;Kelley Gannon/WHO/EOP [WHO] <Kelley Gannon>;Linda M. Gambatesa/WHO/EOP [WHO] <Linda M. Gambatesa>;Diana E. Furchtgott-Roth/CEA/EOP [CEA] <Diana E. Furchtgott-Roth>;Daniel Fried/NSC/EOP [NSC] <Daniel Fried>;Jendayi E. Frazer/NSC/EOP [NSC] <Jendayi E. Frazer>;Noel J. Francisco/WHO/EOP [WHO] <Noel J. Francisco>;Lawrence A. Fleischer/WHO/EOP [WHO] <Lawrence A. Fleischer>;Timothy E. Flanigan/WHO/EOP [WHO] <Timothy E. Flanigan>;Catherine S. Fenton/WHO/EOP [WHO] <Catherine S. Fenton>;Richard Falkenrath/WHO/EOP [WHO] <Richard Falkenrath>;Nanette Everson/WHO/EOP [WHO] <Nanette Everson>;Mark Everson/OMB/EOP [OMB] <Mark Everson>;Ashley Estes/WHO/EOP [WHO] <Ashley

Estes>;Tucker A. Eskew/WHO/EOP [WHO] <Tucker A. Eskew>;Gary R. Edson/NSC/EOP [NSC] <Gary R. Edson>;Eric S. Edelman/OVP/EOP [OVP] <Eric S. Edelman>;Wayne A. Downing/NSC/EOP [UNKNOWN] <Wayne A. Downing>;Elizabeth S. Dougherty/OPD/EOP [OPD] <Elizabeth S. Dougherty>;Nancy P. Dorn/WHO/EOP [UNKNOWN] <Nancy P. Dorn>;Diana C. Donnelly/WHO/EOP [WHO] <Diana C. Donnelly>;Nicolle Devenish/WHO/EOP [WHO] <Nicolle Devenish>;Mitchell Daniels/OMB/EOP [OMB] <Mitchell Daniels>;James F. Daniel/OA/EOP [OA] <James F. Daniel>;Stacia L. Cropper/OA/EOP [OA] <Stacia L. Cropper>;Barry Crane/ONDCP/EOP [ONDCP] <Barry Crane>;John B. Craig/NSC/EOP [UNKNOWN] <John B. Craig>;Phil Cooney/CEQ/EOP [CEQ] <Phil Cooney>;Rebecca Contreras/WHO/EOP [WHO] <Rebecca Contreras>;Charles Conner/OPD/EOP [OPD] <Charles Conner>;James Connaughton/CEQ/EOP [CEQ] <James Connaughton>;Brian C. Conklin/WHO/EOP [WHO] <Brian C. Conklin>;Cesar Conda/OVP/EOP [OVP] <Cesar Conda>;Douglas F. Cochrane/OVP/EOP [OVP] <Douglas F. Cochrane>;Robert W. Cobb/WHO/EOP [UNKNOWN] <Robert W. Cobb>;John A. Cloud/NSC/EOP [NSC] <John A. Cloud>;Robin Cleveland/OMB/EOP [OMB] <Robin Cleveland>;Richard A. Clarke/NSC/EOP [NSC] <Richard A. Clarke>;Alicia P. Clark/WHO/EOP [WHO] <Alicia P. Clark>;Frank Cilluffo/WHO/EOP [WHO] <Frank Cilluffo>;Christine Ciccone/WHO/EOP [WHO] <Christine Ciccone>;Ronald I. Christie/OVP/EOP [UNKNOWN] <Ronald I. Christie>;Barbara C. Chaffee/WHO/EOP [WHO] <Barbara C. Chaffee>;Kirsten A. Chadwick/WHO/EOP [WHO] <Kirsten A. Chadwick>;Andrew H. Card/WHO/EOP [WHO] <Andrew H. Card>;James C. Capretta/OMB/EOP [OMB] <James C. Capretta>;Nicholas E. Calio/WHO/EOP [WHO] <Nicholas E. Calio>;Scott Burns/ONDCP/EOP [ONDCP] <Scott Burns>;Katja Bullock/WHO/EOP [WHO] <Katja Bullock>;Carl Buchholz/WHO/EOP [WHO] <Carl Buchholz>;Claire E. Buchan/WHO/EOP [WHO] <Claire E. Buchan>;John M. Bridgeland/OPD/EOP [OPD] <John M. Bridgeland>;Stuart W. Bowen/WHO/EOP [WHO] <Stuart W. Bowen>;Carlos E. Bonilla/OPD/EOP [OPD] <Carlos E. Bonilla>;Joshua B. Bolten/WHO/EOP [WHO] <Joshua B. Bolten>;Lloyd A. Blanchard/OMB/EOP [UNKNOWN] <Lloyd A. Blanchard>;Bradley A. Blakeman/WHO/EOP [WHO] <Bradley A. Blakeman>;Charles P. Blahous/OPD/EOP [OPD] <Charles P. Blahous>;Stephen E. Biegun/NSC/EOP [NSC] <Stephen E. Biegun>;Rebecca A. Beynon/WHO/EOP [WHO] <Rebecca A. Beynon>;Janet L. Berman/OVP/EOP [OVP] <Janet L. Berman>;Bradford A. Berenson/WHO/EOP [WHO] <Bradford A. Berenson>;John B. Bellinger/NSC/EOP [NSC] <John B. Bellinger>;H. Christopher Bartolomucci/WHO/EOP [WHO] <H. Christopher Bartolomucci>;Daniel J. Bartlett/WHO/EOP [WHO] <Daniel J. Bartlett>;Andrea G. Barthwell/ONDCP/EOP [ONDCP] <Andrea G. Barthwell>;Ruben S. Barrales/WHO/EOP [WHO] <Ruben S. Barrales>;Andrea G. Ball/WHO/EOP [WHO] <Andrea G. Ball>;Jackie Arends/WHO/EOP [WHO] <Jackie Arends>;George M. Andricos/NSC/EOP [NSC] <George M. Andricos>;Cathy Alix/WHO/EOP [WHO] <Cathy Alix>;David S. Addington/OVP/EOP [OVP] <David S. Addington>;Elliott Abrams/NSC/EOP [NSC] <Elliott Abrams>;Charles S. Abbot/OVP/EOP [OVP] <Charles S. Abbot>

Sent: 11/25/2002 9:48:31 AM

Subject: : POSTMASTER: Mess Holiday Hours

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME:25-NOV-2002 14:48:31.00
SUBJECT:: POSTMASTER: Mess Holiday Hours
TO:Gina M. Wolford ( CN=Gina M. Wolford/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:David L. Travers ( CN=David L. Travers/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Harry W. Wolff ( CN=Harry W. Wolff/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Alexian T. Wines ( CN=Alexian T. Wines/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Patricia Williams ( CN=Patricia Williams/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Jared B. Weinstein ( CN=Jared B. Weinstein/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Matthew C. Waxman ( CN=Matthew C. Waxman/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Lauren J. Vestewig ( CN=Lauren J. Vestewig/OU=OPD/O=EOP [ OPD ] )
```

READ:UNKNOWN
TO:Terrill G. Tucker (CN=Terrill G. Tucker/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tevi Troy (CN=Tevi Troy/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Anne Trenolone (CN=Anne Trenolone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carol J. Thompson (CN=Carol J. Thompson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Julieanne H. Thomas (CN=Julieanne H. Thomas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Rachael L. Sunbarger (CN=Rachael L. Sunbarger/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan L. Sterner (CN=Susan L. Sterner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert E. Schubert (CN=Robert E. Schubert/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Deborah Sandler (CN=Deborah Sandler/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jean M. Russell (CN=Jean M. Russell/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Peter M. Rowan (CN=Peter M. Rowan/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Noelia Rodriguez (CN=Noelia Rodriguez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine B. Robinson (CN=Josephine B. Robinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Maurice C. Robinson (CN=Maurice C. Robinson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Christina D. Roberts (CN=Christina D. Roberts/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Allison L. Riepenhoff (CN=Allison L. Riepenhoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:January M. Riecke (CN=January M. Riecke/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Rhodes (CN=Katherine A. Rhodes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Reynolds (CN=Tim Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David Reyes (CN=David Reyes/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie E. Radcliff (CN=Leslie E. Radcliff/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexia Poe (CN=Alexia Poe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elliott M. Langer (CN=Elliott M. Langer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Clare Pritchett (CN=Clare Pritchett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Suzanne Primoff (CN=Suzanne Primoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John I. Pray (CN=John I. Pray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan D. Phillips (CN=Susan D. Phillips/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah Penny (CN=Sarah Penny/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Raymond H. Payne (CN=Raymond H. Payne/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Richard S. Paulus (CN=Richard S. Paulus/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Edward J. Padinske (CN=Edward J. Padinske/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric H. Otto (CN=Eric H. Otto/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Lee B. Mynatt (CN=Lee B. Mynatt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Steven Myers (CN=Steven Myers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah M. Garrison (CN=Sarah M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul L. Morse (CN=Paul L. Morse/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie A. Mooney (CN=Leslie A. Mooney/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Cathy L. Millison (CN=Cathy L. Millison/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Holly M. Miller (CN=Holly M. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sonya E. Medina (CN=Sonya E. Medina/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Vickie A. McQuade (CN=Vickie A. McQuade/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sara B. McIntosh (CN=Sara B. McIntosh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter A. McCauley (CN=Peter A. McCauley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel M. McCarthy (CN=Daniel M. McCarthy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas S. Marsh (CN=Thomas S. Marsh/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lindsey M. Lineweaver (CN=Lindsey M. Lineweaver/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Laura E. Lineberry (CN=Laura E. Lineberry/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Adam L. Levine (CN=Adam L. Levine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christopher S. Legrand (CN=Christopher S. Legrand/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sang W. Lee (CN=Sang W. Lee/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jennie M. Koch (CN=Jennie M. Koch/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Andrew M. Kaver (CN=Andrew M. Kaver/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Dora Kale (CN=Dora Kale/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexander S. Joves (CN=Alexander S. Joves/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:M. Kay Joshi (CN=M. Kay Joshi/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Megan R. Johnston (CN=Megan R. Johnston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sydney R. Johnson (CN=Sydney R. Johnson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clarence C. Johnson (CN=Clarence C. Johnson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gordon D. Johndroe (CN=Gordon D. Johndroe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melanie A. Jackson (CN=Melanie A. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marilyn R. Jacanin (CN=Marilyn R. Jacanin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Restituto M. Francisco (CN=Restituto M. Francisco/OU=OA/O=EOP [OA])

READ:UNKNOWN
TO:Sandra K. Evans (CN=Sandra K. Evans/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Regina L. Cain (CN=Regina L. Cain/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Brown (CN=Katherine A. Brown/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Bonnie S. Broadwick (CN=Bonnie S. Broadwick/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Theresa M. Hunter (CN=Theresa M. Hunter/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:A. Merrill Hughes (CN=A. Merrill Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jeffrey P. Houle (CN=Jeffrey P. Houle/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ashley Holbrook (CN=Ashley Holbrook/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine L. Hirsch (CN=Josephine L. Hirsch/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jane C. Heishman (CN=Jane C. Heishman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anne Heiligenstein (CN=Anne Heiligenstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. Hargis (CN=Robert C. Hargis/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison M. Harden (CN=Alison M. Harden/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary Ann Hanusa (CN=Mary Ann Hanusa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas A. Hall (CN=Thomas A. Hall/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary A. Haines (CN=Mary A. Haines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Katharina M. Hager (CN=Katharina M. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Henry C. Hager (CN=Henry C. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Albert J. Guarnieri (CN=Albert J. Guarnieri/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew W. Green (CN=Andrew W. Green/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Emily S. Gray (CN=Emily S. Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wendy E. Gray (CN=Wendy E. Gray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Britt Grant (CN=Britt Grant/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Travis C. Good (CN=Travis C. Good/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Georgia D. Godfrey (CN=Georgia D. Godfrey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Dorothy C. Garvin (CN=Dorothy C. Garvin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joachim D. Fuchs (CN=Joachim D. Fuchs/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Barbara J. Finn (CN=Barbara J. Finn/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jeanie L. Figg (CN=Jeanie L. Figg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jennifer D. Field (CN=Jennifer D. Field/OU=OVP/O=EOP [OVP])

READ:UNKNOWN
TO:Douglas M. Erdahl (CN=Douglas M. Erdahl/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ruth E. Elliott (CN=Ruth E. Elliott/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kady Dunlap (CN=Kady Dunlap/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eric A. Draper (CN=Eric A. Draper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joan R. Doty (CN=Joan R. Doty/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine L. Disston (CN=Katherine L. Disston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Reed Dickens (CN=Reed Dickens/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josh Deckard (CN=Josh Deckard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley E. Davis (CN=Ashley E. Davis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jill Davie (CN=Jill Davie/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colin Crosby (CN=Colin Crosby/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lynn A. Crable (CN=Lynn A. Crable/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colby J. Cooper (CN=Colby J. Cooper/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Shane P. Chambers (CN=Shane P. Chambers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lois A. Cassano (CN=Lois A. Cassano/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Pamela R. Casey (CN=Pamela R. Casey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne E. Campbell (CN=Anne E. Campbell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marcia J. Caler (CN=Marcia J. Caler/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Johnathan C. Bunting (CN=Johnathan C. Bunting/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marko R. Broz (CN=Marko R. Broz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gary E. Bresnahan (CN=Gary E. Bresnahan/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David R. Bohrer (CN=David R. Bohrer/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cheryl E. Barnett (CN=Cheryl E. Barnett/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell P. Backfield (CN=Mitchell P. Backfield/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jill L. Angelo (CN=Jill L. Angelo/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Ashleigh A. Adams (CN=Ashleigh A. Adams/OU=WHO/O=EOP [UNKNOWN])

READ:UNKNOWN
TO:Joseph J. Shattan (CN=Joseph J. Shattan/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Richard J. Tubb (CN=Richard J. Tubb/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul J. Severs (CN=Paul J. Severs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joseph D. Rozek (CN=Joseph D. Rozek/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Steven J. Reynolds (CN=Steven J. Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Candida P. Wolff (CN=Candida P. Wolff/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel K. Wilmot (CN=Daniel K. Wilmot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:James R. Wilkinson (CN=James R. Wilkinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jocelyn White (CN=Jocelyn White/OU=WHF/O=EOP [OPM])
READ:UNKNOWN
TO:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul A. Wedderien (CN=Paul A. Wedderien/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John P. Walters (CN=John P. Walters/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine W. Tobias (CN=Catherine W. Tobias/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jose G. Suarez (CN=Jose G. Suarez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Aquiles F. Suarez (CN=Aquiles F. Suarez/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Angela B. Styles (CN=Angela B. Styles/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary A. Solberg (CN=Mary A. Solberg/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Augustine T. Smythe (CN=Augustine T. Smythe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Sharpy (CN=Thomas J. Sharpy/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Howard A. Schmidt (CN=Howard A. Schmidt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel Schecter (CN=Daniel Schecter/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard M. Russell (CN=Richard M. Russell/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Stephen S. Ruhlen (CN=Stephen S. Ruhlen/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark V. Rosenker (CN=Mark V. Rosenker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Ridge (CN=Thomas J. Ridge/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Nina Rees (CN=Nina Rees/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Craig Ray (CN=Craig Ray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kathie L. Olsen (CN=Kathie L. Olsen/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Newell (CN=John F. Newell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Manson O. Morris (CN=Manson O. Morris/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Paul D. Montanus (CN=Paul D. Montanus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. McAllister (CN=James M. McAllister/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric C. Pelletier (CN=Eric C. Pelletier/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Marcus Peacock (CN=Marcus Peacock/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Neil S. Patel (CN=Neil S. Patel/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Sean C. O'Keefe (CN=Sean C. O'Keefe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire M. O'Donnell (CN=Claire M. O'Donnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan K. Neely (CN=Susan K. Neely/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen S. McMillin (CN=Stephen S. McMillin/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark McClellan (CN=Mark McClellan/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Mary J. Matalin (CN=Mary J. Matalin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Catherine J. Martin (CN=Catherine J. Martin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John H. Marburger (CN=John H. Marburger/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Maisto (CN=John F. Maisto/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin A. MacLean (CN=Robin A. MacLean/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ado A. Machida (CN=Ado A. Machida/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Deborah A. Loewer (CN=Deborah A. Loewer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence B. Lindsey (CN=Lawrence B. Lindsey/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Dirksen Lehman (CN=Dirksen Lehman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Laura S. Lawlor (CN=Laura S. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bruce M. Lawlor (CN=Bruce M. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Randall S. Kroszner (CN=Randall S. Kroszner/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Karen Y. Knutson (CN=Karen Y. Knutson/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Frank G. Klotz (CN=Frank G. Klotz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Ellis Kitchen (CN=Ellis Kitchen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Charles D. McGrath Jr (CN=Charles D. McGrath Jr/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Reuben Jeffery (CN=Reuben Jeffery/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hector F. Irastorza (CN=Hector F. Irastorza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Campen (CN=Tim Campen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Penrose C. Albright TPO (CN=Penrose C. Albright TPO/OU=TPO/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Steven I. Cooper TPO (CN=Steven I. Cooper TPO/OU=TPO/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Julian M. Flannery (CN=Julian M. Flannery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Duncan Campbell (CN=Duncan Campbell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:R. Rand Beers (CN=R. Rand Beers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Glenn Hubbard (CN=Glenn Hubbard/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Jack Howard (CN=Jack Howard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Holman (CN=Mark Holman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Chris Henick (CN=Chris Henick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Debra Heiden (CN=Debra Heiden/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Albert Hawkins (CN=Albert Hawkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald Haskins (CN=Ronald Haskins/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:John P. Hannah (CN=John P. Hannah/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John F. Haley (CN=John F. Haley/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John Graham (CN=John Graham/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:John A. Gordon (CN=John A. Gordon/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP [OPD])

READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen M. Garrison (CN=Stephen M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Diana E. Furchtgott-Roth (CN=Diana E. Furchtgott-Roth/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Timothy E. Flanigan (CN=Timothy E. Flanigan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Everson (CN=Mark Everson/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric S. Edelman (CN=Eric S. Edelman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Wayne A. Downing (CN=Wayne A. Downing/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Nancy P. Dorn (CN=Nancy P. Dorn/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Diana C. Donnelly (CN=Diana C. Donnelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:James F. Daniel (CN=James F. Daniel/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Stacia L. Cropper (CN=Stacia L. Cropper/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Barry Crane (CN=Barry Crane/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:John B. Craig (CN=John B. Craig/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:James Connaughton (CN=James Connaughton/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cesar Conda (CN=Cesar Conda/OU=OVP/O=EOP [OVP])

READ:UNKNOWN
TO:Douglas F. Cochrane (CN=Douglas F. Cochrane/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert W. Cobb (CN=Robert W. Cobb/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:John A. Cloud (CN=John A. Cloud/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin Cleveland (CN=Robin Cleveland/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Richard A. Clarke (CN=Richard A. Clarke/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Frank Cilluffo (CN=Frank Cilluffo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christine Ciccone (CN=Christine Ciccone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Barbara C. Chaffee (CN=Barbara C. Chaffee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James C. Capretta (CN=James C. Capretta/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Nicholas E. Calio (CN=Nicholas E. Calio/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott Burns (CN=Scott Burns/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carl Buchholz (CN=Carl Buchholz/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stuart W. Bowen (CN=Stuart W. Bowen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carlos E. Bonilla (CN=Carlos E. Bonilla/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lloyd A. Blanchard (CN=Lloyd A. Blanchard/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen E. Biegun (CN=Stephen E. Biegun/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Janet L. Berman (CN=Janet L. Berman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Barthwell (CN=Andrea G. Barthwell/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Cathy Alix (CN=Cathy Alix/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
End Original ARMS Header

Mess Holiday Hours

Please note that the White House Mess will be closed for business beginning Wednesday, November 27 at 3:00 p.m. through Sunday, December 1, 2002, for Thanksgiving. If the need arises, necessary arrangements will be made to meet any unforeseen demands. We apologize for any inconvenience.

Thank you.

MANAGEMENT & ADMINISTRATION

From: Thomas, Ginni <ginni.thomas@heritage.org>
To: Government Relations <GovernmentRelations@heritage.org>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 11/25/2002 10:14:19 AM
Subject: : Heritage - Events and Publications - Nov. 25

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Thomas, Ginni" <ginni.thomas@heritage.org> ("Thomas, Ginni"
<ginni.thomas@heritage.org> [UNKNOWN])
CREATION DATE/TIME:25-NOV-2002 15:14:19.00
SUBJECT:: Heritage - Events and Publications - Nov. 25
TO:Government Relations <GovernmentRelations@heritage.org> (Government Relations
<GovernmentRelations@heritage.org> [UNKNOWN])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

At 9 pm tonight on the History Channel, there is a documentary on Reagan's legacy. Please note below the new Family database we have launched, as well as the Index for Economic Freedom on line. Happy Thanksgiving.
Ginni

Recent Publications:

Foreign/Defense Policy:

No Orwellian Scheme Behind DARPA's Total Information Awareness System by Mike Scardaville
http://www.heritage.org/Research/HomelandDefense/wm175.cfm

TIA Targets Terrorists, Not Privacy by Mike Scardaville
http://www.heritage.org/Press/Commentary/ED112202.cfm

A New Agenda for U.S.-Brazilian Relations by Steve Johnson
http://www.heritage.org/Research/LatinAmerica/em841.cfm

2003 Index of Economic Freedom, a practical reference guide to the world's economies
http://www.heritage.org/research/features/index/
http://www.heritage.org/Research/TradeandForeignAid/wm174.cfm

Domestic Policy:

Making the Tax Cuts Permanent and Fully Effective Now by Lawrence Whitman
http://www.heritage.org/Research/Taxes/BG1614.cfm

Expanding Competition for Federal Grants by Chris Yablonski
http://www.heritage.org/Research/GovernmentReform/BG1615.cfm

Answering the Top 10 Myths About Social Security Reform by David John
http://www.heritage.org/Research/SocialSecurity/bg1613.cfm

Good Riddance, Rossotti by Dan Mitchell
http://www.heritage.org/Press/Commentary/ED112002.cfm

NEW! - The Heritage Foundation's Family & Society Database
The Database catalogs social science findings on the family gleaned from peer-reviewed journals, books, and government surveys. Currently containing nearly 1,100 empirical findings drawn from the past 15 years, the Database highlights what the social sciences reveal about the family. The Database explores relationships between the family and

civil society, good government, and a vibrant economy. Users can search the Database by keywords and author.
http://www.heritage.org/research/features/familydatabase/

NEW! - Request a Briefing from The Heritage Foundation
Heritage has developed a special service for government officials who would like more information on specific policy topics from Heritage analysts. Request more information using the link below and our government relations staff will work with you to customize a briefing if possible or invite you to an upcoming briefing on an issue of interest. Choose from 30 domestic, defense, and foreign policy topics.
http://www.heritage.org/research/RequestBriefing.cfm

The October Insider is now online. Read the latest monthly compilation of publication abstracts, events, and news at
http://www.heritage.org/about/community/insider

Upcoming Events:
For event details and RSVP, link to:
http://www.heritage.org/Press/Events/index.cfm

The Battle for Education Reform Continues: What Are The Next Battles And Where Will They Be Fought?
Featuring: Dick DeVos, Chairman, Education Freedom Fund of Michigan and former member of the Michigan State Board of Education;
and Ed Feulner, The Heritage Foundation
Tuesday, December 3, 11 a.m. - 12:30 p.m.

The Last Jihad
Featuring: author Joel Rosenberg and Bridgett Wagner, The Heritage Foundation
Wednesday, December 4, 5:30 p.m.

Using 21st Century Information Technology as a Homeland Security Force Multiplier
Thursday, December 5, 11 a.m.
Please check www.heritage.org as this event is developed.

Virginia (Ginni) Thomas, Director
Executive Branch Relations
The Heritage Foundation
214 Mass. Ave., NE
Washington, D.C. 20002
(202) 608-6240 and (202) 608-6068 (fax)
ginni.thomas@heritage.org
www.heritage.org

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO]
To: Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Hana F. Brilliant/WHO /EOP@EOP [WHO] <Hana F. Brilliant>
Sent: 11/26/2002 7:49:44 AM
Subject: : Non-Presidential White House events and photographs

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:26-NOV-2002 12:49:44.00
SUBJECT:: Non-Presidential White House events and photographs
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Hana F. Brilliant (CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Noel,
Any comments on this project?
Brett - just a FYI on what those crazy political folks are up to.

Patrick
---------- Forwarded by Patrick J. Bumatay/WHO/EOP on 11/26/2002 12:46 PM ----------

Douglas L. Hoelscher
11/26/2002 12:47:24 PM
Record Type: Record

To: Patrick J. Bumatay/WHO/EOP@EOP
cc: Leonard B. Rodriguez/WHO/EOP@EOP, Alicia P. Clark/WHO/EOP@EOP, Josephine B. Robinson/WHO/EOP@EOP
Subject: Non-Presidential White House events and photographs

Patrick,
One idea that came out of the brainstorming session of a recent meeting between OSI, OPL, and OPA, was to have Karl purchase a digital camera that could be used by his staff to photograph events where the President is not in attendance (i.e. events with staff that are held here at the White House) and perhaps supplement the White House Photographers photos at events he does attend. The question came up as to whether there would be any legal restrictions on the use of this camera and the distribution (via e-mail) of the photographs that would be taken.

Would you be willing to run by the correct Associate Counsel (ethics??) to get an opinion on this matter.

Thanks,
Doug

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: John F. Wood/OMB/EOP@EOP [OMB] <John F. Wood>;Jonathan R. Scharfen/NSC /EOP@EOP [NSC] <Jonathan R. Scharfen>;Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>;Philip J. Perry/OMB/EOP@EOP [OMB] <Philip J. Perry>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>
Sent: 11/26/2002 9:46:38 AM
Subject: : Blocked assets/Victims comp

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:26-NOV-2002 14:46:38.00
SUBJECT:: Blocked assets/Victims comp
TO:John F. Wood ( CN=John F. Wood/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Jonathan R. Scharfen ( CN=Jonathan R. Scharfen/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Philip J. Perry ( CN=Philip J. Perry/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I think that in December we should re-convene some kind of
meeting/working group to strategize about victims compensation and blocked
assets issues on a going-forward basis. Main issues I see are:

(i) administrative action w/r/t blocked assets (what can be done,
what should be done?)
(ii) legislative fix/delay w/r/t blocked assets (any hope?)
(iii) affirmative push on comprehensive victims compensation
legislation (Armitage letter approach: how to propose, how to get done?)
```

From: tcampen@oa.eop.gov [OA] <Campen, Tim>
To: <Powell>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C457024B-B3447231-85256C00-44CFA6 [UNKNOWN] <Benjamin A.>
CC: <Kavanaugh>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6246020-C20FEE19-852569DA-7648DC [UNKNOWN] <Brett M.>;<Howard>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/A023DB37-90023F00-85256AE6-4C8EE5 [UNKNOWN] <Jack>
Sent: 11/26/2002 10:07:56 AM
Subject: RE: email to Hill

Begin Original ARMS Header
RECORD TYPE: FEDERAL (MS Mail)
CREATOR:Campen, Tim (tcampen@oa.eop.gov [OA])
CREATION DATE/TIME:26-NOV-2002 15:07:56.00
SUBJECT:RE: email to Hill
TO:Powell, Benjamin A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=C457024B-B3447231-85256C00-44CFA6 [UNKNOWN])
READ:UNKNOWN
CC:Kavanaugh, Brett M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6246020-C20FEE19-852569DA-7648DC [UNKNOWN])
READ:UNKNOWN
CC:Howard, Jack (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=A023DB37-90023F00-85256AE6-4C8EE5 [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Sure could use some help in getting the status of the letter to the T&P committee regarding stopping the process of emailing questions to OA. I understand that Ben has drafted the response we'd send back to them when they send us email questions. But we still need the first letter that informs them of the discontinuance of the practice? who's got the ball on this?

-----Original Message-----
From: Powell, Benjamin A.

Sent: Tuesday, November 19, 2002 3:43 PM
To: Campen, Tim

Subject: email to Hill

Tim C. -- After hearing from David, David and I need to talk with Tim F. about this approach and whether it is best. Please don't send the response I drafted to anyone on the Hill until you hear from me it is okay.

thanks,

Ben

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Tim Goeglein/WHO/EOP@EOP [WHO] <Tim Goeglein>
Sent: 11/26/2002 2:09:30 PM
Subject: :

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:26-NOV-2002 19:09:30.00
SUBJECT::
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I am sure you saw the latest weyrich piece praising the President, but just in case:

Right after Republicans won their unexpected victory in the off-year elections, an article appeared in the front section of The Washington Post that suggested prominent Bush aides were concerned that the Republicans were going to push those dreadful social issues.

Soon to be Senate Majority Leader Trent Lott (R- MS) said he intended to bring up the partial birth
abortion bill which had passed the House by a near-two to one margin this year, but which then-Senate Majority Leader Tom Daschle (D-SD) failed to call up in the Senate.

The Post piece said that Bush aides expressed dismay over this development and suggested that Bush dealing with partial birth abortion at the beginning of the 108th Congress was equivalent to Bill Clinton's calling up gays in the military as soon as he took office. Never mind that the partial birth abortion measure is favored by over 70 percent of the public, whereas Clinton's initiative on gays in the military was opposed by a similar majority.

Anyway, a senior White House aide told me that the morning that piece appeared in the Post, Bush staff members, at their regular early-morning meeting, looked at each other and said, "Who could have said that?" Later, they concluded that the piece was concocted by the Post. That paper HATES the social issues and it may be that this was their way of whistling past the graveyard.

The article had its impact, however. Social conservatives, who are used to being betrayed by Republicans, mostly believed the Post piece and were downhearted. "Once again we've been had," the leader of a national Christian group told me. "They want our work at the grass roots level. Then as soon as they get in, they kick us in the face."

The problem is that there is no truth to the Post story. If someone did indeed give those anonymous quotes to the Post, they were not in a position to know or influence Bush's mindset on the issue. Look at the record of the Bush Administration during its first two years, just on the issue of the sanctity of life.

The administration, through the Department of Justice, formally supported the Ohio law on partial birth abortion in the courts.

The President has supported the banning of all human cloning. He urged

passage of the bill to ban cloning which then passed the House but which never saw the light of day in the Senate.

Bush opposed taxpayer financed embryonic stem cell research. And he signed the Born Alive Infant Protection Act at a public ceremony.

The administration supported the child custody protection act, as well as the Abortion Non-Discrimination Act.

The administration took a highly controversial position on euthanasia as reflected in the Justice Department's work on the Oregon case.

In another controversial move, the Department of HHS issued a new regulation allowing states to use the State Children's Health Insurance Program (SCHIP) to provide health coverage for prenatal care and delivery to mothers and their unborn children-helping to ensure that low income mothers have healthy pregnancies and that their babies are born healthy.

Bush cut off funding for the United Nations Population Fund (UNFPA) and at the same time, on the morning after his inauguration, reaffirmed the Mexico City policy, which had been established by President Ronald Reagan, but rescinded by Bill Clinton as his first official act in office. The Mexico City policy says that taxpayer funds should not be used to pay for abortions either here or abroad or to advocate or actively promote abortion.

The administration promoted adoption throughout the nation with Public Service Announcements (PSAs).

And of course the President made remarks in a call to participants at the annual March for Life and issued a proclamation on the National Sanctity of Human Life Day in 2002.

All of this just as the administration was getting itself organized and on top of many, many other pro-family initiatives.

While it is understandable that conservatives, who have been betrayed many times, would believe the Post, it is surprising in view of the record of this administration, which has done more for life than either the administrations of Ronald Reagan or Bush's father.

Of course, there is more to be done. All late-term abortions - not just partial birth abortions - should be outlawed. The Abortion Non-Discrimination Act and the Child Custody Protection Act didn't see action in the Senate so they should be passed again by the House and this time by the Senate and signed into law by the President. The same for the cloning ban, as well as the Unborn Victims of Violence Act. And there is the Vitter amendment that deals with Planned Parenthood.

And, of course, there is the issue of confirming the President's outstanding nominees for the federal judiciary. Senator Daschle has made it clear that his Democrats will filibuster any judicial nominee in whom they can find any trace of pro-life sentiment. That was why he went to the trouble of getting 45 votes against Sen. Strom Thurmond's nominee for the court of appeals, Dennis Shedd. It takes 41 votes to sustain a filibuster and Daschle wanted Bush to understand he can stop any judge he wishes.

Having won back control of the Senate with strongly pro-life candidates, it is highly unlikely that the Bush Administration will cut and run on the life issues now. On the contrary, the impressive record of the administration suggests that it will continue on the path it started on the day after Bush's inauguration when he re-instated the Mexico City policy.

From:	CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To:	Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>
CC:	jay p. lefkowitz/opd/eop@eop [OPD] <jay p. lefkowitz>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;harold b. cunningham/nsc/eop@eop [NSC] <harold b. cunningham>
Sent:	11/26/2002 1:27:51 PM
Subject:	: Re: Talking points for Ari on Commission signing

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:26-NOV-2002 18:27:51.00
SUBJECT:: Re: Talking points for Ari on Commission signing
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:jay p. lefkowitz (CN=jay p. lefkowitz/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:harold b. cunningham (CN=harold b. cunningham/OU=nsc/O=eop@eop [NSC])
READ:UNKNOWN
End Original ARMS Header

Agreed.

Jennifer G. Newstead
11/26/2002 06:05:43 PM
Record Type: Record

To: Harold B. Cunningham/NSC/EOP@EOP
cc: jay p. lefkowitz/opd/eop@eop, brett m. kavanaugh/who/eop@eop
bcc:
Subject: Re: Talking points for Ari on Commission signing

Agree with all the changes other than those to the first bullet point in the second section (under "if asked"). I would not point to the language as we will not want this to be misconstrued as saying that the language doesn't apply to the Commission. Prefer my prior formulation on the fact that this is "standard language."

JN

Harold B. Cunningham
11/26/2002 05:59:41 PM
Record Type: Record

To: Jennifer G. Newstead/WHO/EOP@EOP
cc: jay p. lefkowitz/opd/eop@eop, brett m. kavanaugh/who/eop@eop
bcc:
Subject: Re: Talking points for Ari on Commission signing

Jennifer G. Newstead
11/26/2002 05:41:57 PM
Record Type: Record

To: Jay P. Lefkowitz/OPD/EOP@EOP, Harold B. Cunningham/NSC/EOP@EOP, bellinger
cc: Brett M. Kavanaugh/WHO/EOP@EOP
Subject: Talking points for Ari on Commission signing

Here are suggested talking points for Ari. Any comments? I wasn't sure about references to the joint inquiry given that we've had disputes with them, but on balance I think its a helpful analogy.

The President expects that the Comission will conduct a bipartisan, careful review of the facts concerning the September 11 attacks. The President strongly supports the Commission in its effort to examine all the evidence, get the facts and learn the lessons of the September 11 tragedy.

The Commission will have access to a great deal of highly sensitive information concerning the September 11 attacks. As soon as the Commission members are granted security clearances, and the Congress is ready to share the materials, they will immediately be given access to the extensive records already compiled by the congressional joint inquiry into the terrorist attacks. This information includes hundreds of thousands of pages of documents and testimony from hundreds of executive branch witnesses vital to the inquiry.

In addition, the statute provides that the Commission may seek additional information from the federal and state governments to further the work of the Commission. Just as the Administration has worked with the congressional joint inquiry on its requests for information from the executive branch, we will work with the Commission.

If Asked Only:

As the signing statement language relating to disclosures of information to the legislative branch makes clear, it refers specifically to provisions other than the Commission. Presidents frequently make clear in signing statements that they are not abrogating their constitutional responsibilities and authorities, including with regard to disclosures. We expect to work with the Commission on a case-by-case basis to resolve any issues that should arise regarding particular information requests.

I'm not going to speculate about what information the Commission may request or how those issues would be resolved in the future. The Commission has not even begun its work, so these questions are premature. The President is committed to the success of the Commission and looks forward to working with them to get the facts and take steps to improve our ability to prevent future attacks.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Matthew A. Schlapp/WHO/EOP@EOP [WHO] <Matthew A. Schlapp>;Katherine M. Walters/WHO/EOP@EOP [WHO] <Katherine M. Walters>;Ken Mehlman/WHO/EOP@EOP [WHO] <Ken Mehlman>
Sent: 11/27/2002 10:06:33 AM
Subject: : request for Ken to brief Senate Judiciary Committee counsels

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:27-NOV-2002 15:06:33.00
SUBJECT:: request for Ken to brief Senate Judiciary Committee counsels
TO:Matthew A. Schlapp ( CN=Matthew A. Schlapp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Katherine M. Walters ( CN=Katherine M. Walters/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Ken Mehlman ( CN=Ken Mehlman/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Ken: Senator Hatch's staff has made a request for you to speak to all of
the Republican Judiciary Committee counsel on the results of the election,
particularly if you can extrapolate any conclusions regarding their
issues, especially judges. They would prefer Thursday Dec. 5 in the
afternoon. Are you available?
```

From: CN=Noel J. Francisco/OU=WHO/O=EOP [WHO]

To: Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Timothy E. Flanigan/WHO /EOP@EOP [WHO] <Timothy E. Flanigan>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;Jay P. Lefkowitz/OPD/EOP@EOP [OPD] <Jay P. Lefkowitz>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>;Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>

Sent: 12/2/2002 5:17:30 AM

Subject: : Grutter v. Bollinger -- Cert. Granted

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 2-DEC-2002 10:17:30.00
SUBJECT:: Grutter v. Bollinger -- Cert. Granted
TO:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Timothy E. Flanigan ( CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=William T. Griffin/OU=WHO/O=EOP [WHO]
To: Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>
CC: william t. griffin/who/eop@eop [WHO] <william t. griffin>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>
Sent: 12/2/2002 4:25:37 AM
Subject: : Re: reprinting president's remarks

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:William T. Griffin (CN=William T. Griffin/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 2-DEC-2002 09:25:37.00
SUBJECT:: Re: reprinting president's remarks
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:william t. griffin (CN=william t. griffin/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

THanks.

Noel J. Francisco
12/02/2002 09:14:11 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: william t. griffin/who/eop@eop
bcc:
Subject: Re: reprinting president's remarks

As a matter of practice, we ask authors/publishers to send a letter describing what they wish to do. We then respond in writing. The author/publisher can direct the request to me, and I recommend having them fax it (202-456-7931). Thanks.

Brett M. Kavanaugh
12/02/2002 09:04:43 AM
Record Type: Record

To: William T. Griffin/WHO/EOP@EOP
cc: Noel J. Francisco/WHO/EOP@EOP
bcc:
Subject: Re: reprinting president's remarks

I believe this is correct. I am cc'ing Noel to make sure he agrees as he is our IP/copyright guru.

William T. Griffin
11/25/2002 02:37:46 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: reprinting president's remarks

Just double checking -- reprinting of a Presidential speech (ie 9/20/01 speech) in a book is ok because it is public domain, correct? They don't need permission, right?

From: CN=Carolyn Nelson/OU=WHO/O=EOP [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Bradford A. Berenson/WHO /EOP@EOP [WHO] <Bradford A. Berenson>
CC: H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>
Sent: 12/2/2002 4:46:09 AM
Subject: : 10/4 WHJSC Meeting

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 2-DEC-2002 09:46:09.00
SUBJECT:: 10/4 WHJSC Meeting
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

All,

Please let me know by COB today if you will have materials for Wednesday's
WHJSC binder. We're hoping to print the JSC binder tomorrow morning to
allow time to prepare the POTUS binder for Thursday's meeting. Any head
start you can provide as to candidates that may be included in the POTUS
binder would be much appreciated, as we can begin the data sheet/memo
process today.

Thanks,
Carrie
```

From: CN=Charlotte L. Montiel/OU=WHO/O=EOP [WHO]

To: Marcus Peacock/OMB/EOP@EOP [OMB] <Marcus Peacock>;James J. Jukes/OMB /EOP@EOP [OMB] <James J. Jukes>;Eric C. Pelletier/OMB/EOP@EOP [OMB] <Eric C. Pelletier>;Karen S. Dooley/OMB/EOP@EOP [OMB] <Karen S. Dooley>;Philip J. Perry/OMB /EOP@EOP [OMB] <Philip J. Perry>;Augustine T. Smythe/OMB/EOP@EOP [OMB] <Augustine T. Smythe>;Lois E. Altoft/OMB/EOP@EOP [OMB] <Lois E. Altoft>;Matthew R. Rees/NSC/EOP@EOP [NSC] <Matthew R. Rees>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;Adam R. Isles/NSC/EOP@EOP [NSC] <Adam R. Isles>;Mary C. Andrews/WHO/EOP@EOP [WHO] <Mary C. Andrews>;Franklin C. Miller/NSC/EOP@EOP [NSC] <Franklin C. Miller>;Jane C. Heishman/NSC/EOP@EOP [NSC] <Jane C. Heishman>;Bobby J. Pittman/NSC/EOP@EOP [NSC] <Bobby J. Pittman>;Alexian T. Wines/NSC /EOP@EOP [NSC] <Alexian T. Wines>;Cheryl E. Barnett/NSC/EOP@EOP [NSC] <Cheryl E. Barnett>;Matthew C. Waxman/NSC/EOP@EOP [NSC] <Matthew C. Waxman>;Elizabeth A. Stolpe/CEQ/EOP@EOP [CEQ] <Elizabeth A. Stolpe>;Phil Cooney/CEQ/EOP@EOP [CEQ] <Phil Cooney>;Randall S. Kroszner/CEA/EOP@EOP [CEA] <Randall S. Kroszner>;Mary K. Lang/OVP/EOP@EOP [OVP] <Mary K. Lang>;Cesar Conda/OVP/EOP@EOP [OVP] <Cesar Conda>;Candida P. Wolff/OVP/EOP@EOP [OVP] <Candida P. Wolff>;Lewis Libby/OVP /EOP@EOP [OVP] <Lewis Libby>;Terry W. Good/WHO/EOP@EOP [WHO] <Terry W. Good>;Jennifer A. Minton/WHO/EOP@EOP [WHO] <Jennifer A. Minton>;Jackie Arends/WHO /EOP@EOP [WHO] <Jackie Arends>;Michael Davis/WHO/EOP@EOP [WHO] <Michael Davis>;Paul L. Morse/WHO/EOP@EOP [WHO] <Paul L. Morse>;Bruce M. Lawlor/WHO /EOP@EOP [WHO] <Bruce M. Lawlor>;Julie L. Nichols/WHO/EOP@EOP [WHO] <Julie L. Nichols>;Charles S. Abbot/OVP/EOP@EOP [OVP] <Charles S. Abbot>;Jane M. Cook/WHO /EOP@EOP [WHO] <Jane M. Cook>;John D. Gibson/NSC/EOP@EOP [NSC] <John D. Gibson>;Michael J. Gerson/WHO/EOP@EOP [WHO] <Michael J. Gerson>;Stephanie E. Linder/WHO/EOP@EOP [WHO] <Stephanie E. Linder>;Kelley Gannon/WHO/EOP@EOP [WHO] <Kelley Gannon>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Timothy E. Flanigan/WHO/EOP@EOP [WHO] <Timothy E. Flanigan>;Shana L. Dale/OSTP/EOP@EOP [OSTP] <Shana L. Dale>;Kenneth A. Thomas/OPD/EOP@EOP [OPD] <Kenneth A. Thomas>;Roberta L. Conde/CEQ/EOP@EOP [CEQ] <Roberta L. Conde>;Alice H. Williams/CEA/EOP@EOP [CEA] <Alice H. Williams>;Jennifer D. Field/OVP/EOP@EOP [OVP] <Jennifer D. Field>;Melanie A. Jackson/WHO/EOP@EOP [WHO] <Melanie A. Jackson>;Angela R. Sailor/WHO/EOP@EOP [WHO] <Angela R. Sailor>;David M. Thomas/WHO/EOP@EOP [WHO] <David M. Thomas>;Katherine M. Walters/WHO/EOP@EOP [WHO] <Katherine M. Walters>;Adam B. Ingols/WHO/EOP@EOP [WHO] <Adam B. Ingols>;Christal R. West/WHO/EOP@EOP [WHO] <Christal R. West>;Jack Howard/WHO/EOP@EOP [WHO] <Jack Howard>;Heather W. Musser/WHO/EOP@EOP [WHO] <Heather W. Musser>;Carrie B. Loy/WHO/EOP@EOP [WHO] <Carrie B. Loy>;Katherine L. Disston/WHO/EOP@EOP [WHO] <Katherine L. Disston>;Tracy Young/WHO/EOP@EOP [WHO] <Tracy Young>;Lezlee J. Westine/WHO /EOP@EOP [WHO] <Lezlee J. Westine>;Jared B. Weinstein/WHO/EOP@EOP [WHO] <Jared B. Weinstein>;Lauren J. Vestewig/OPD/EOP@EOP [OPD] <Lauren J. Vestewig>;Ali H. Tulbah/WHO/EOP@EOP [WHO] <Ali H. Tulbah>;Anne Trenolone/WHO/EOP@EOP [WHO] <Anne Trenolone>;Julieanne H. Thomas/WHO/EOP@EOP [WHO] <Julieanne H. Thomas>;Meredith A. Terpeluk/WHO/EOP@EOP [WHO] <Meredith A. Terpeluk>;Timothy C. Stout/WHO/EOP@EOP [WHO] <Timothy C. Stout>;Scott Stanzel/WHO/EOP@EOP [WHO] <Scott Stanzel>;Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>;Scott N. Sforza/WHO /EOP@EOP [WHO] <Scott N. Sforza>;Matthew A. Schlapp/WHO/EOP@EOP [WHO] <Matthew A. Schlapp>;Catharine A. Ryun/WHO/EOP@EOP [WHO] <Catharine A. Ryun>;Edwina C. Rogers/OPD/EOP@EOP [OPD] <Edwina C. Rogers>;Krista L. Ritacco/WHO /EOP@EOP [WHO] <Krista L. Ritacco>;Tim Reynolds/WHO/EOP@EOP [WHO] <Tim Reynolds>;Susan B. Ralston/WHO/EOP@EOP [WHO] <Susan B. Ralston>;Dina Powell/WHO /EOP@EOP [WHO] <Dina Powell>;Eric H. Otto/OPD/EOP@EOP [OPD] <Eric H. Otto>;Cheryl A. Oldham/WHO/EOP@EOP [WHO] <Cheryl A. Oldham>;Joseph F. O'Neill/OPD /EOP@EOP [OPD] <Joseph F. O'Neill>;Wendy L. Nipper/WHO/EOP@EOP [WHO] <Wendy L. Nipper>;Michael J. Napolitano/WHO/EOP@EOP [WHO] <Michael J. Napolitano>;Charlotte L. Montiel/WHO/EOP@EOP [WHO] <Charlotte L. Montiel>;Cathy L. Millison/NSC/EOP@EOP [NSC] <Cathy L. Millison>;Michael H. Miller/WHO/EOP@EOP [WHO] <Michael H. Miller>;A. Morgan Middlemas/WHO/EOP@EOP [WHO] <A. Morgan Middlemas>;Ken Mehlman/WHO /EOP@EOP [WHO] <Ken Mehlman>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;John P. McConnell/OVP/EOP@EOP [OVP] <John P. McConnell>;Mark

McClellan/CEA/EOP@EOP [CEA] <Mark McClellan>;Jennifer H. Mayfield/OVP/EOP@EOP [OVP] <Jennifer H. Mayfield>;Robert Marsh/WHO/EOP@EOP [WHO] <Robert Marsh>;Jeanie S. Mamo/WHO/EOP@EOP [WHO] <Jeanie S. Mamo>;Ginger G. Loper/WHO/EOP@EOP [WHO] <Ginger G. Loper>;Stephen M. Lineberry/CEA/EOP@EOP [CEA] <Stephen M. Lineberry>;Adam L. Levine/WHO/EOP@EOP [WHO] <Adam L. Levine>;Dirksen Lehman/WHO /EOP@EOP [WHO] <Dirksen Lehman>;Laura S. Lawlor/WHO/EOP@EOP [WHO] <Laura S. Lawlor>;David Kuo/WHO/EOP@EOP [WHO] <David Kuo>;Matthew Koch/WHO/EOP@EOP [WHO] <Matthew Koch>;Elizabeth W. Kleppe/OVP/EOP@EOP [OVP] <Elizabeth W. Kleppe>;Matthew Kirk/WHO/EOP@EOP [WHO] <Matthew Kirk>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;M. Kay Joshi/NSC/EOP@EOP [NSC] <M. Kay Joshi>;Collister W. Johnson/WHO/EOP@EOP [WHO] <Collister W. Johnson>;Gregory J. Jenkins/WHO/EOP@EOP [WHO] <Gregory J. Jenkins>;Marilyn R. Jacanin/WHO/EOP@EOP [WHO] <Marilyn R. Jacanin>;Hector F. Irastorza/WHO/EOP@EOP [WHO] <Hector F. Irastorza>;A. Merrill Hughes/OVP/EOP@EOP [OVP] <A. Merrill Hughes>;Mark Holman/WHO /EOP@EOP [WHO] <Mark Holman>;Elizabeth Hogan/WHO/EOP@EOP [WHO] <Elizabeth Hogan>;Israel Hernandez/WHO/EOP@EOP [WHO] <Israel Hernandez>;Chris Henick/WHO /EOP@EOP [WHO] <Chris Henick>;Erin E. Healy/WHO/EOP@EOP [WHO] <Erin E. Healy>;Albert Hawkins/WHO/EOP@EOP [WHO] <Albert Hawkins>;Mary Ann Hanusa/WHO /EOP@EOP [WHO] <Mary Ann Hanusa>;Abel Guerra/WHO/EOP@EOP [WHO] <Abel Guerra>;Wendy E. Gray/NSC/EOP@EOP [NSC] <Wendy E. Gray>;Ann Gray/WHO /EOP@EOP [WHO] <Ann Gray>;Britt Grant/OPD/EOP@EOP [OPD] <Britt Grant>;Adam B. Goldman/WHO/EOP@EOP [WHO] <Adam B. Goldman>;Tim Goeglein/WHO/EOP@EOP [WHO] <Tim Goeglein>;Signe L. Girgus/OA/EOP@EOP [OA] <Signe L. Girgus>;Joseph H. Gerdes/WHO/EOP@EOP [WHO] <Joseph H. Gerdes>;Lavin Gartland/ONDCP/EOP@EOP [ONDCP] <Lavin Gartland>;Sarah M. Garrison/WHO/EOP@EOP [WHO] <Sarah M. Garrison>;Linda M. Gambatesa/WHO/EOP@EOP [WHO] <Linda M. Gambatesa>;Laura F. Fullerton/WHO/EOP@EOP [WHO] <Laura F. Fullerton>;Lawrence A. Fleischer/WHO /EOP@EOP [WHO] <Lawrence A. Fleischer>;Jeanie L. Figg/WHO/EOP@EOP [WHO] <Jeanie L. Figg>;Mary Elizabeth Farr/WHO/EOP@EOP [WHO] <Mary Elizabeth Farr>;Daniel D. Faoro/OA/EOP@EOP [OA] <Daniel D. Faoro>;Sandra K. Evans/WHO/EOP@EOP [WHO] <Sandra K. Evans>;Ashley Estes/WHO/EOP@EOP [WHO] <Ashley Estes>;Ruth E. Elliott/NSC /EOP@EOP [NSC] <Ruth E. Elliott>;Ashley J. Dyer/WHO/EOP@EOP [WHO] <Ashley J. Dyer>;Trent D. Duffy/OMB/EOP@EOP [OMB] <Trent D. Duffy>;Eric A. Draper/WHO /EOP@EOP [WHO] <Eric A. Draper>;Nicolle Devenish/WHO/EOP@EOP [WHO] <Nicolle Devenish>;Alicia W. Davis/WHO/EOP@EOP [WHO] <Alicia W. Davis>;Karen D. Cruson/WHF /EOP@EOP [OPM] <Karen D. Cruson>;Colby J. Cooper/NSC/EOP@EOP [NSC] <Colby J. Cooper>;Brian C. Conklin/WHO/EOP@EOP [WHO] <Brian C. Conklin>;Christine Ciccone/WHO /EOP@EOP [WHO] <Christine Ciccone>;Barbara C. Chaffee/WHO/EOP@EOP [WHO] <Barbara C. Chaffee>;Sally Canfield/WHO/EOP@EOP [WHO] <Sally Canfield>;Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>;Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>;Carl Buchholz/WHO/EOP@EOP [WHO] <Carl Buchholz>;John M. Bridgeland/OPD/EOP@EOP [OPD] <John M. Bridgeland>;Stuart W. Bowen/WHO/EOP@EOP [WHO] <Stuart W. Bowen>;Michael J. Boisvenue/WHO/EOP@EOP [WHO] <Michael J. Boisvenue>;Debra D. Bird/WHO/EOP@EOP [WHO] <Debra D. Bird>;Brian R. Besanceney/OPD/EOP@EOP [OPD] <Brian R. Besanceney>;Dee Dee Benkie/WHO /EOP@EOP [WHO] <Dee Dee Benkie>;Daniel J. Bartlett/WHO/EOP@EOP [WHO] <Daniel J. Bartlett>;Tiffany L. Barfield/WHO/EOP@EOP [WHO] <Tiffany L. Barfield>;Andrea G. Ball/WHO /EOP@EOP [WHO] <Andrea G. Ball>;Magda E. Angulo/WHO/EOP@EOP [WHO] <Magda E. Angulo>;Cathy Alix/WHO/EOP@EOP [WHO] <Cathy Alix>;Carolyn Nelson/WHO/EOP@EOP [WHO] <Carolyn Nelson>;Raquel Cabral/WHO/EOP@EOP [WHO] <Raquel Cabral>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Melissa S. Bennett/WHO/EOP@EOP [WHO] <Melissa S. Bennett>;Richard M. Russell/OSTP/EOP@EOP [OSTP] <Richard M. Russell>;Robin Cleveland/OMB/EOP@EOP [OMB] <Robin Cleveland>;Danielle M. Simonetta/OMB/EOP@EOP [OMB] <Danielle M. Simonetta>;James C. Capretta/OMB/EOP@EOP [OMB] <James C. Capretta>;Stephen S. McMillin/OMB/EOP@EOP [OMB] <Stephen S. McMillin>;Rebecca E. Davis/OMB/EOP@EOP [OMB] <Rebecca E. Davis>;Nancy Dorn/OMB/EOP@EOP [OMB] <Nancy Dorn>;Karen E. Keller/OMB/EOP@EOP [OMB] <Karen E. Keller>;Sean I. McCormack/NSC/EOP@EOP [NSC] <Sean I. McCormack>;Gregory A. Manuel/NSC /EOP@EOP [NSC] <Gregory A. Manuel>;John A. Cloud/NSC/EOP@EOP [NSC] <John A. Cloud>;Elliott Abrams/NSC/EOP@EOP [NSC] <Elliott Abrams>;Lisa Gordon-Hagerty/NSC /EOP@EOP [NSC] <Lisa Gordon-Hagerty>;Cindy L. Courville/NSC/EOP@EOP [NSC] <Cindy L. Courville>;Jendayi E. Frazer/NSC/EOP@EOP [NSC] <Jendayi E. Frazer>;Mary A.

Haines/NSC/EOP@EOP [NSC] <Mary A. Haines>;Jennie M. Koch/NSC/EOP@EOP [NSC] <Jennie M. Koch>;Virginia Stephens/CEQ/EOP@EOP [CEQ] <Virginia Stephens>;Samuel A. Thernstrom/CEQ/EOP@EOP [CEQ] <Samuel A. Thernstrom>;Douglas J. Holtz-Eakin/CEA /EOP@EOP [CEA] <Douglas J. Holtz-Eakin>;Diana E. Furchtgott-Roth/CEA/EOP@EOP [CEA] <Diana E. Furchtgott-Roth>;Marie K. Fishpaw/OVP/EOP@EOP [OVP] <Marie K. Fishpaw>;Lindley Kratovil/OVP/EOP@EOP [OVP] <Lindley Kratovil>;Charles D. McGrath Jr/OVP/EOP@EOP [OVP] <Charles D. McGrath Jr>;Philip C. Droege/WHO/EOP@EOP [WHO] <Philip C. Droege>;Desiree T. Sayle/WHO/EOP@EOP [WHO] <Desiree T. Sayle>;Katharina M. Hager/WHO/EOP@EOP [WHO] <Katharina M. Hager>;Michael A. Sanders/WHO /EOP@EOP [WHO] <Michael A. Sanders>;Paul B. Kurtz/NSC/EOP@EOP [NSC] <Paul B. Kurtz>;Wendy J. Grubbs/WHO/EOP@EOP [WHO] <Wendy J. Grubbs>;Marie Vachon/WHO /EOP@EOP [WHO] <Marie Vachon>;Peter H. Wehner/WHO/EOP@EOP [WHO] <Peter H. Wehner>;Kristopher N. Purcell/WHO/EOP@EOP [WHO] <Kristopher N. Purcell>;Todd W. Beyer/WHO/EOP@EOP [WHO] <Todd W. Beyer>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>;Patricia F. Ware/OPD/EOP@EOP [OPD] <Patricia F. Ware>;Tracy L. Carson/OPD/EOP@EOP [OPD] <Tracy L. Carson>;Lisa D. Branch/CEA/EOP@EOP [CEA] <Lisa D. Branch>;Catherine J. Martin/OVP/EOP@EOP [OVP] <Catherine J. Martin>;Debra Heiden/OVP/EOP@EOP [OVP] <Debra Heiden>;Ronald I. Christie/OPD/EOP@EOP [OPD] <Ronald I. Christie>;Leonard B. Rodriguez/WHO/EOP@EOP [WHO] <Leonard B. Rodriguez>;Sara M. Taylor/WHO/EOP@EOP [WHO] <Sara M. Taylor>;Carolyn E. Cleveland/WHO/EOP@EOP [WHO] <Carolyn E. Cleveland>;Roland N. Litterst/WHO/EOP@EOP [WHO] <Roland N. Litterst>;Michael J. Conway/WHO/EOP@EOP [WHO] <Michael J. Conway>;Jill Davie/WHO/EOP@EOP [WHO] <Jill Davie>;William T. Griffin/WHO/EOP@EOP [WHO] <William T. Griffin>;Lindsay J. Bourns/WHO/EOP@EOP [WHO] <Lindsay J. Bourns>;Neil H. Zimmerman/WHO/EOP@EOP [WHO] <Neil H. Zimmerman>;Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>;L. Camille Welborn/WHO/EOP@EOP [WHO] <L. Camille Welborn>;Mercedes M. Viana/WHO/EOP@EOP [WHO] <Mercedes M. Viana>;Erin A. Vargo/WHO/EOP@EOP [WHO] <Erin A. Vargo>;Richard J. Tubb/WHO/EOP@EOP [WHO] <Richard J. Tubb>;Jim Towey/WHO /EOP@EOP [WHO] <Jim Towey>;Eric W. Terrell/WHO/EOP@EOP [WHO] <Eric W. Terrell>;Angela B. Styles/OMB/EOP@EOP [OMB] <Angela B. Styles>;Gretchen P. Steen/WHO /EOP@EOP [WHO] <Gretchen P. Steen>;Deborah A. Spagnoli/WHO/EOP@EOP [WHO] <Deborah A. Spagnoli>;Matthew E. Smith/WHO/EOP@EOP [WHO] <Matthew E. Smith>;Scott Sechser/WHO/EOP@EOP [WHO] <Scott Sechser>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Stephen S. Ruhlen/OVP/EOP@EOP [OVP] <Stephen S. Ruhlen>;Josephine B. Robinson/WHO/EOP@EOP [WHO] <Josephine B. Robinson>;Allison L. Riepenhoff/WHO/EOP@EOP [WHO] <Allison L. Riepenhoff>;Craig Ray/WHO/EOP@EOP [WHO] <Craig Ray>;Clare Pritchett/WHO/EOP@EOP [WHO] <Clare Pritchett>;Kasey S. Pipes/WHO/EOP@EOP [WHO] <Kasey S. Pipes>;Christopher J. Orr/WHO/EOP@EOP [WHO] <Christopher J. Orr>;Ziad S. Ojakli/WHO/EOP@EOP [WHO] <Ziad S. Ojakli>;Claire M. O'Donnell/OVP/EOP@EOP [OVP] <Claire M. O'Donnell>;Susan K. Neely/WHO/EOP@EOP [WHO] <Susan K. Neely>;Leslie A. Mooney/OPD/EOP@EOP [OPD] <Leslie A. Mooney>;Brian D. Montgomery/WHO/EOP@EOP [WHO] <Brian D. Montgomery>;Jennifer Millerwise/OVP /EOP@EOP [OVP] <Jennifer Millerwise>;Harriet Miers/WHO/EOP@EOP [WHO] <Harriet Miers>;Sonya E. Medina/WHO/EOP@EOP [WHO] <Sonya E. Medina>;Vickie A. McQuade/WHO/EOP@EOP [WHO] <Vickie A. McQuade>;Brian V. McCormack/OVP /EOP@EOP [OVP] <Brian V. McCormack>;Scott McClellan/WHO/EOP@EOP [WHO] <Scott McClellan>;Daniel M. McCarthy/WHO/EOP@EOP [WHO] <Daniel M. McCarthy>;Mary J. Matalin/OVP/EOP@EOP [OVP] <Mary J. Matalin>;Heidi K. Marquez/WHO/EOP@EOP [WHO] <Heidi K. Marquez>;Jose Mallea/WHO/EOP@EOP [WHO] <Jose Mallea>;Kenneth A. Lisaius/WHO/EOP@EOP [WHO] <Kenneth A. Lisaius>;Laura E. Lineberry/NSC/EOP@EOP [NSC] <Laura E. Lineberry>;Sarah M. Lenti/NSC/EOP@EOP [NSC] <Sarah M. Lenti>;Jay P. Lefkowitz/OPD/EOP@EOP [OPD] <Jay P. Lefkowitz>;Ross M. Kyle/WHO/EOP@EOP [WHO] <Ross M. Kyle>;Lindsey C. Kozberg/WHO/EOP@EOP [WHO] <Lindsey C. Kozberg>;Karen Y. Knutson/OVP/EOP@EOP [OVP] <Karen Y. Knutson>;Ellis Kitchen/OA/EOP@EOP [OA] <Ellis Kitchen>;Daniel J. Keniry/WHO/EOP@EOP [WHO] <Daniel J. Keniry>;Joel D. Kaplan/WHO /EOP@EOP [WHO] <Joel D. Kaplan>;Alison Jones/WHO/EOP@EOP [WHO] <Alison Jones>;Gordon D. Johndroe/WHO/EOP@EOP [WHO] <Gordon D. Johndroe>;Reuben Jeffery/OPD/EOP@EOP [OPD] <Reuben Jeffery>;Barry S. Jackson/WHO/EOP@EOP [WHO] <Barry S. Jackson>;Edward Ingle/WHO/EOP@EOP [WHO] <Edward Ingle>;Glenn Hubbard/CEA/EOP@EOP [CEA] <Glenn Hubbard>;Stuart Holliday/WHO/EOP@EOP [WHO]

<Stuart Holliday>;Douglas L. Hoelscher/WHO/EOP@EOP [WHO] <Douglas L. Hoelscher>;Keith Hennessey/OPD/EOP@EOP [OPD] <Keith Hennessey>;Anne Heiligenstein/WHO/EOP@EOP [WHO] <Anne Heiligenstein>;Kathryn J. Hayes/WHO/EOP@EOP [WHO] <Kathryn J. Hayes>;Alison M. Harden/WHO/EOP@EOP [WHO] <Alison M. Harden>;Henry C. Hager/WHO /EOP@EOP [WHO] <Henry C. Hager>;Darren D. Grubb/WHO/EOP@EOP [WHO] <Darren D. Grubb>;Emily S. Gray/WHO/EOP@EOP [WHO] <Emily S. Gray>;Adrian G. Gray/WHO /EOP@EOP [WHO] <Adrian G. Gray>;Blake Gottesman/WHO/EOP@EOP [WHO] <Blake Gottesman>;Barbara Jo Goergen/WHO/EOP@EOP [WHO] <Barbara Jo Goergen>;Dylan C. Glenn/OPD/EOP@EOP [OPD] <Dylan C. Glenn>;Eleanor L. Gillmor/OPD/EOP@EOP [OPD] <Eleanor L. Gillmor>;Dorothy C. Garvin/WHO/EOP@EOP [WHO] <Dorothy C. Garvin>;Stephen M. Garrison/WHO/EOP@EOP [WHO] <Stephen M. Garrison>;Reed H. Galen/WHO /EOP@EOP [WHO] <Reed H. Galen>;Christopher Furlow/WHO/EOP@EOP [WHO] <Christopher Furlow>;Jennifer Foley/WHO/EOP@EOP [WHO] <Jennifer Foley>;Julian M. Flannery/WHO/EOP@EOP [WHO] <Julian M. Flannery>;Kara G. Figg/WHO/EOP@EOP [WHO] <Kara G. Figg>;Catherine S. Fenton/WHO/EOP@EOP [WHO] <Catherine S. Fenton>;Jennifer M. Farley/WHO/EOP@EOP [WHO] <Jennifer M. Farley>;Richard Falkenrath/WHO/EOP@EOP [WHO] <Richard Falkenrath>;John D. Estes/WHO/EOP@EOP [WHO] <John D. Estes>;Tucker A. Eskew/WHO/EOP@EOP [WHO] <Tucker A. Eskew>;Gary R. Edson/NSC/EOP@EOP [NSC] <Gary R. Edson>;Paul B. Dyck/WHO/EOP@EOP [WHO] <Paul B. Dyck>;Ashley D. Drummond/WHO/EOP@EOP [WHO] <Ashley D. Drummond>;Reed Dickens/WHO/EOP@EOP [WHO] <Reed Dickens>;Josh Deckard/WHO/EOP@EOP [WHO] <Josh Deckard>;Ashley E. Davis/WHO/EOP@EOP [WHO] <Ashley E. Davis>;Mitchell Daniels/OMB/EOP@EOP [OMB] <Mitchell Daniels>;Stacia L. Cropper/OA/EOP@Exchange [OA] <Stacia L. Cropper>;James Connaughton/CEQ/EOP@EOP [CEQ] <James Connaughton>;Alicia P. Clark/WHO/EOP@EOP [WHO] <Alicia P. Clark>;Shane P. Chambers/WHO/EOP@EOP [WHO] <Shane P. Chambers>;Kirsten A. Chadwick/WHO /EOP@EOP [WHO] <Kirsten A. Chadwick>;Anne E. Campbell/WHO/EOP@EOP [WHO] <Anne E. Campbell>;Nicholas E. Calio/WHO/EOP@EOP [WHO] <Nicholas E. Calio>;Katja Bullock/WHO/EOP@EOP [WHO] <Katja Bullock>;Claire E. Buchan/WHO/EOP@EOP [WHO] <Claire E. Buchan>;Brian Bravo/WHO/EOP@EOP [WHO] <Brian Bravo>;Bradley A. Blakeman/WHO/EOP@EOP [WHO] <Bradley A. Blakeman>;Stephen E. Biegun/NSC /EOP@EOP [NSC] <Stephen E. Biegun>;Darren W. Bearson/WHO/EOP@EOP [WHO] <Darren W. Bearson>;Ruben S. Barrales/WHO/EOP@EOP [WHO] <Ruben S. Barrales>;Barbara A. Barclay/WHO/EOP@EOP [WHO] <Barbara A. Barclay>;Chad Babin/WHO/EOP@EOP [WHO] <Chad Babin>;Lauren K. Allgood/OMB/EOP@EOP [OMB] <Lauren K. Allgood>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Hana F. Brilliant/WHO/EOP@EOP [WHO] <Hana F. Brilliant>;H. Christopher Bartolomucci/WHO /EOP@EOP [WHO] <H. Christopher Bartolomucci>;James W. Carroll/WHO/EOP@EOP [WHO] <James W. Carroll>;Carol J. Thompson/WHO/EOP@EOP [WHO] <Carol J. Thompson>;Joshua B. Bolten/WHO/EOP@EOP [WHO] <Joshua B. Bolten>

Sent: 12/2/2002 8:46:44 AM

Subject: : Reminder: Tim's Going Away Party Today!

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 2-DEC-2002 13:46:44.00
SUBJECT:: Reminder: Tim's Going Away Party Today!
TO:Marcus Peacock ( CN=Marcus Peacock/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:James J. Jukes ( CN=James J. Jukes/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Eric C. Pelletier ( CN=Eric C. Pelletier/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Karen S. Dooley ( CN=Karen S. Dooley/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Philip J. Perry ( CN=Philip J. Perry/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Augustine T. Smythe ( CN=Augustine T. Smythe/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Lois E. Altoft ( CN=Lois E. Altoft/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Matthew R. Rees ( CN=Matthew R. Rees/OU=NSC/O=EOP@EOP [ NSC ] )
```

READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Adam R. Isles (CN=Adam R. Isles/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Mary C. Andrews (CN=Mary C. Andrews/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Jane C. Heishman (CN=Jane C. Heishman/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Bobby J. Pittman (CN=Bobby J. Pittman/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Alexian T. Wines (CN=Alexian T. Wines/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Cheryl E. Barnett (CN=Cheryl E. Barnett/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Matthew C. Waxman (CN=Matthew C. Waxman/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Elizabeth A. Stolpe (CN=Elizabeth A. Stolpe/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN
TO:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN
TO:Randall S. Kroszner (CN=Randall S. Kroszner/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
TO:Mary K. Lang (CN=Mary K. Lang/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Cesar Conda (CN=Cesar Conda/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Candida P. Wolff (CN=Candida P. Wolff/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Terry W. Good (CN=Terry W. Good/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jennifer A. Minton (CN=Jennifer A. Minton/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Michael Davis (CN=Michael Davis/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Paul L. Morse (CN=Paul L. Morse/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Bruce M. Lawlor (CN=Bruce M. Lawlor/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Julie L. Nichols (CN=Julie L. Nichols/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Jane M. Cook (CN=Jane M. Cook/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:John D. Gibson (CN=John D. Gibson/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Stephanie E. Linder (CN=Stephanie E. Linder/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Timothy E. Flanigan (CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Shana L. Dale (CN=Shana L. Dale/OU=OSTP/O=EOP@EOP [OSTP])
READ:UNKNOWN
TO:Kenneth A. Thomas (CN=Kenneth A. Thomas/OU=OPD/O=EOP@EOP [OPD])

READ:UNKNOWN
TO:Roberta L. Conde (CN=Roberta L. Conde/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN
TO:Alice H. Williams (CN=Alice H. Williams/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
TO:Jennifer D. Field (CN=Jennifer D. Field/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Melanie A. Jackson (CN=Melanie A. Jackson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Angela R. Sailor (CN=Angela R. Sailor/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:David M. Thomas (CN=David M. Thomas/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Katherine M. Walters (CN=Katherine M. Walters/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Adam B. Ingols (CN=Adam B. Ingols/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Christal R. West (CN=Christal R. West/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jack Howard (CN=Jack Howard/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Heather W. Musser (CN=Heather W. Musser/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Carrie B. Loy (CN=Carrie B. Loy/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Katherine L. Disston (CN=Katherine L. Disston/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Tracy Young (CN=Tracy Young/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jared B. Weinstein (CN=Jared B. Weinstein/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Lauren J. Vestewig (CN=Lauren J. Vestewig/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Ali H. Tulbah (CN=Ali H. Tulbah/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Anne Trenolone (CN=Anne Trenolone/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Julieanne H. Thomas (CN=Julieanne H. Thomas/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Meredith A. Terpeluk (CN=Meredith A. Terpeluk/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Timothy C. Stout (CN=Timothy C. Stout/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Scott Stanzel (CN=Scott Stanzel/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Catharine A. Ryun (CN=Catharine A. Ryun/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Edwina C. Rogers (CN=Edwina C. Rogers/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Tim Reynolds (CN=Tim Reynolds/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Eric H. Otto (CN=Eric H. Otto/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Cheryl A. Oldham (CN=Cheryl A. Oldham/OU=WHO/O=EOP@EOP [WHO])

READ:UNKNOWN
TO:Joseph F. O'Neill (CN=Joseph F. O'Neill/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Wendy L. Nipper (CN=Wendy L. Nipper/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Michael J. Napolitano (CN=Michael J. Napolitano/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Cathy L. Millison (CN=Cathy L. Millison/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:A. Morgan Middlemas (CN=A. Morgan Middlemas/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Mark McClellan (CN=Mark McClellan/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
TO:Jennifer H. Mayfield (CN=Jennifer H. Mayfield/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jeanie S. Mamo (CN=Jeanie S. Mamo/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Stephen M. Lineberry (CN=Stephen M. Lineberry/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
TO:Adam L. Levine (CN=Adam L. Levine/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Dirksen Lehman (CN=Dirksen Lehman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Laura S. Lawlor (CN=Laura S. Lawlor/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Matthew Koch (CN=Matthew Koch/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:M. Kay Joshi (CN=M. Kay Joshi/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Gregory J. Jenkins (CN=Gregory J. Jenkins/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Marilyn R. Jacanin (CN=Marilyn R. Jacanin/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Hector F. Irastorza (CN=Hector F. Irastorza/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:A. Merrill Hughes (CN=A. Merrill Hughes/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Mark Holman (CN=Mark Holman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Elizabeth Hogan (CN=Elizabeth Hogan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Chris Henick (CN=Chris Henick/OU=WHO/O=EOP@EOP [WHO])

READ:UNKNOWN
TO:Erin E. Healy (CN=Erin E. Healy/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Albert Hawkins (CN=Albert Hawkins/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Mary Ann Hanusa (CN=Mary Ann Hanusa/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Abel Guerra (CN=Abel Guerra/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Wendy E. Gray (CN=Wendy E. Gray/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Britt Grant (CN=Britt Grant/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Adam B. Goldman (CN=Adam B. Goldman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Signe L. Girgus (CN=Signe L. Girgus/OU=OA/O=EOP@EOP [OA])
READ:UNKNOWN
TO:Joseph H. Gerdes (CN=Joseph H. Gerdes/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Lavin Gartland (CN=Lavin Gartland/OU=ONDCP/O=EOP@EOP [ONDCP])
READ:UNKNOWN
TO:Sarah M. Garrison (CN=Sarah M. Garrison/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Laura F. Fullerton (CN=Laura F. Fullerton/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jeanie L. Figg (CN=Jeanie L. Figg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Mary Elizabeth Farr (CN=Mary Elizabeth Farr/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Daniel D. Faoro (CN=Daniel D. Faoro/OU=OA/O=EOP@EOP [OA])
READ:UNKNOWN
TO:Sandra K. Evans (CN=Sandra K. Evans/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ruth E. Elliott (CN=Ruth E. Elliott/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Ashley J. Dyer (CN=Ashley J. Dyer/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Trent D. Duffy (CN=Trent D. Duffy/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Eric A. Draper (CN=Eric A. Draper/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Alicia W. Davis (CN=Alicia W. Davis/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Karen D. Cruson (CN=Karen D. Cruson/OU=WHF/O=EOP@EOP [OPM])
READ:UNKNOWN
TO:Colby J. Cooper (CN=Colby J. Cooper/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Christine Ciccone (CN=Christine Ciccone/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Barbara C. Chaffee (CN=Barbara C. Chaffee/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Sally Canfield (CN=Sally Canfield/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [WHO])

READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Carl Buchholz (CN=Carl Buchholz/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Stuart W. Bowen (CN=Stuart W. Bowen/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Michael J. Boisvenue (CN=Michael J. Boisvenue/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brian R. Besanceney (CN=Brian R. Besanceney/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Dee Dee Benkie (CN=Dee Dee Benkie/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Magda E. Angulo (CN=Magda E. Angulo/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Cathy Alix (CN=Cathy Alix/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Carolyn Nelson (CN=Carolyn Nelson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Raquel Cabral (CN=Raquel Cabral/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Richard M. Russell (CN=Richard M. Russell/OU=OSTP/O=EOP@EOP [OSTP])
READ:UNKNOWN
TO:Robin Cleveland (CN=Robin Cleveland/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Danielle M. Simonetta (CN=Danielle M. Simonetta/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:James C. Capretta (CN=James C. Capretta/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Stephen S. McMillin (CN=Stephen S. McMillin/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Rebecca E. Davis (CN=Rebecca E. Davis/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Nancy Dorn (CN=Nancy Dorn/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Karen E. Keller (CN=Karen E. Keller/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Sean I. McCormack (CN=Sean I. McCormack/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Gregory A. Manuel (CN=Gregory A. Manuel/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:John A. Cloud (CN=John A. Cloud/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Lisa Gordon-Hagerty (CN=Lisa Gordon-Hagerty/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Cindy L. Courville (CN=Cindy L. Courville/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Mary A. Haines (CN=Mary A. Haines/OU=NSC/O=EOP@EOP [NSC])

READ:UNKNOWN
TO:Jennie M. Koch (CN=Jennie M. Koch/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Virginia Stephens (CN=Virginia Stephens/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN
TO:Samuel A. Thernstrom (CN=Samuel A. Thernstrom/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN
TO:Douglas J. Holtz-Eakin (CN=Douglas J. Holtz-Eakin/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
TO:Diana E. Furchtgott-Roth (CN=Diana E. Furchtgott-Roth/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
TO:Marie K. Fishpaw (CN=Marie K. Fishpaw/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Lindley Kratovil (CN=Lindley Kratovil/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Charles D. McGrath Jr (CN=Charles D. McGrath Jr/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Philip C. Droege (CN=Philip C. Droege/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Katharina M. Hager (CN=Katharina M. Hager/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Michael A. Sanders (CN=Michael A. Sanders/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Marie Vachon (CN=Marie Vachon/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kristopher N. Purcell (CN=Kristopher N. Purcell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Todd W. Beyer (CN=Todd W. Beyer/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Patricia F. Ware (CN=Patricia F. Ware/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Tracy L. Carson (CN=Tracy L. Carson/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Lisa D. Branch (CN=Lisa D. Branch/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
TO:Catherine J. Martin (CN=Catherine J. Martin/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Debra Heiden (CN=Debra Heiden/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Leonard B. Rodriguez (CN=Leonard B. Rodriguez/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Sara M. Taylor (CN=Sara M. Taylor/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jill Davie (CN=Jill Davie/OU=WHO/O=EOP@EOP [WHO])

READ:UNKNOWN
TO:William T. Griffin (CN=William T. Griffin/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Lindsay J. Bourns (CN=Lindsay J. Bourns/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Neil H. Zimmerman (CN=Neil H. Zimmerman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:L. Camille Welborn (CN=L. Camille Welborn/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Mercedes M. Viana (CN=Mercedes M. Viana/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Erin A. Vargo (CN=Erin A. Vargo/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Richard J. Tubb (CN=Richard J. Tubb/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Eric W. Terrell (CN=Eric W. Terrell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Angela B. Styles (CN=Angela B. Styles/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Gretchen P. Steen (CN=Gretchen P. Steen/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Matthew E. Smith (CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Scott Sechser (CN=Scott Sechser/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Stephen S. Ruhlen (CN=Stephen S. Ruhlen/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Josephine B. Robinson (CN=Josephine B. Robinson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Allison L. Riepenhoff (CN=Allison L. Riepenhoff/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Craig Ray (CN=Craig Ray/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Clare Pritchett (CN=Clare Pritchett/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kasey S. Pipes (CN=Kasey S. Pipes/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Christopher J. Orr (CN=Christopher J. Orr/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Claire M. O'Donnell (CN=Claire M. O'Donnell/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Susan K. Neely (CN=Susan K. Neely/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Leslie A. Mooney (CN=Leslie A. Mooney/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jennifer Millerwise (CN=Jennifer Millerwise/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Sonya E. Medina (CN=Sonya E. Medina/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Vickie A. McQuade (CN=Vickie A. McQuade/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP@EOP [WHO])

READ:UNKNOWN
TO:Daniel M. McCarthy (CN=Daniel M. McCarthy/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Mary J. Matalin (CN=Mary J. Matalin/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Heidi K. Marquez (CN=Heidi K. Marquez/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jose Mallea (CN=Jose Mallea/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kenneth A. Lisaius (CN=Kenneth A. Lisaius/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Laura E. Lineberry (CN=Laura E. Lineberry/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Sarah M. Lenti (CN=Sarah M. Lenti/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Ross M. Kyle (CN=Ross M. Kyle/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Lindsey C. Kozberg (CN=Lindsey C. Kozberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Karen Y. Knutson (CN=Karen Y. Knutson/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Ellis Kitchen (CN=Ellis Kitchen/OU=OA/O=EOP@EOP [OA])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Gordon D. Johndroe (CN=Gordon D. Johndroe/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Reuben Jeffery (CN=Reuben Jeffery/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Glenn Hubbard (CN=Glenn Hubbard/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
TO:Stuart Holliday (CN=Stuart Holliday/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Douglas L. Hoelscher (CN=Douglas L. Hoelscher/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Anne Heiligenstein (CN=Anne Heiligenstein/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kathryn J. Hayes (CN=Kathryn J. Hayes/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Alison M. Harden (CN=Alison M. Harden/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Henry C. Hager (CN=Henry C. Hager/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Darren D. Grubb (CN=Darren D. Grubb/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Emily S. Gray (CN=Emily S. Gray/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Adrian G. Gray (CN=Adrian G. Gray/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Barbara Jo Goergen (CN=Barbara Jo Goergen/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP@EOP [OPD])

READ:UNKNOWN
TO:Dorothy C. Garvin (CN=Dorothy C. Garvin/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Stephen M. Garrison (CN=Stephen M. Garrison/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Reed H. Galen (CN=Reed H. Galen/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Christopher Furlow (CN=Christopher Furlow/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jennifer Foley (CN=Jennifer Foley/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Julian M. Flannery (CN=Julian M. Flannery/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jennifer M. Farley (CN=Jennifer M. Farley/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:John D. Estes (CN=John D. Estes/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Paul B. Dyck (CN=Paul B. Dyck/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ashley D. Drummond (CN=Ashley D. Drummond/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Reed Dickens (CN=Reed Dickens/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Josh Deckard (CN=Josh Deckard/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ashley E. Davis (CN=Ashley E. Davis/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Stacia L. Cropper (CN=Stacia L. Cropper/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
TO:James Connaughton (CN=James Connaughton/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Shane P. Chambers (CN=Shane P. Chambers/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Anne E. Campbell (CN=Anne E. Campbell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Nicholas E. Calio (CN=Nicholas E. Calio/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Stephen E. Biegun (CN=Stephen E. Biegun/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Darren W. Bearson (CN=Darren W. Bearson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Barbara A. Barclay (CN=Barbara A. Barclay/OU=WHO/O=EOP@EOP [WHO])

READ:UNKNOWN
TO:Chad Babin (CN=Chad Babin/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Lauren K. Allgood (CN=Lauren K. Allgood/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Hana F. Brilliant (CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:James W. Carroll (CN=James W. Carroll/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Carol J. Thompson (CN=Carol J. Thompson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Please join us this Monday, December 2,
to bid farewell to Tim Flanigan on his last day here as Deputy Counsel.

Feel free to share this invite with any coworkers that would like to
attend. Everyone is invited.

Monday, December 2, 2002 (TODAY)
4:00 p.m
Counsel's
Office, 2nd Fl WW

Message Sent to:

To: Joshua B. Bolten/WHO/EOP, Melissa S. Bennett/WHO/EOP, Carol J. Thompson/WHO/EOP, Nanette Everson/WHO/EOP, James W. Carroll/WHO/EOP, David S. Addington/OVP/EOP, H. Christopher Bartolomucci/WHO/EOP, Raquel Cabral/WHO/EOP, Hana F. Brilliant/WHO/EOP, Carolyn Nelson/WHO/EOP, Benjamin A. Powell/WHO/EOP, Cathy Alix/WHO/EOP, Lauren K. Allgood/OMB/EOP, Magda E. Angulo/WHO/EOP, Chad Babin/WHO/EOP, Andrea G. Ball/WHO/EOP, Barbara A. Barclay/WHO/EOP, Tiffany L. Barfield/WHO/EOP, Ruben S. Barrales/WHO/EOP, Daniel J. Bartlett/WHO/EOP, Darren W. Bearson/WHO/EOP, Wendy Benestante TPO/TPO/OMB/EOP, Dee Dee Benkie/WHO/EOP, Bradford A. Berenson/WHO/EOP, Brian R. Besanceney/OPD/EOP, Stephen E. Biegun/NSC/EOP, Debra D. Bird/WHO/EOP, Bradley A. Blakeman/WHO/EOP, Kirk Blalock/WHO/EOP, Michael J. Boisvenue/WHO/EOP, Lindsay J. Bourns/WHO/EOP, Stuart W. Bowen/WHO/EOP, Brian Bravo/WHO/EOP, John M. Bridgeland/OPD/EOP, Claire E. Buchan/WHO/EOP, Carl Buchholz/WHO/EOP, Katja Bullock/WHO/EOP, Patrick J. Bumatay/WHO/EOP, Nicholas E. Calio/WHO/EOP, Elizabeth N. Camp/WHO/EOP, Anne E. Campbell/WHO/EOP, Sally Canfield/WHO/EOP, Kirsten A. Chadwick/WHO/EOP, Barbara C. Chaffee/WHO/EOP, Shane P. Chambers/WHO/EOP, Christine Ciccone/WHO/EOP, Alicia P. Clark/WHO/EOP, Brian C. Conklin/WHO/EOP, James Connaughton/CEQ/EOP, Colby J. Cooper/NSC/EOP, Stacia L. Cropper/OA/EOP, Karen D. Cruson/WHF/EOP, Mitchell Daniels/OMB/EOP, Alicia W. Davis/WHO/EOP, Ashley E. Davis/WHO/EOP, Michael Davis/WHO/EOP, Josh Deckard/WHO/EOP, Nicolle Devenish/WHO/EOP, Reed Dickens/WHO/EOP, Eric A. Draper/WHO/EOP, Ashley D. Drummond/WHO/EOP, Trent D. Duffy/OMB/EOP, Paul B. Dyck/WHO/EOP, Ashley J. Dyer/WHO/EOP, Gary R. Edson/NSC/EOP, Ruth E. Elliott/NSC/EOP, Tucker A. Eskew/WHO/EOP, Ashley Estes/WHO/EOP, John D. Estes/WHO/EOP, Sandra K. Evans/WHO/EOP, Richard Falkenrath/WHO/EOP, Daniel D. Faoro/OA/EOP, Jennifer M. Farley/WHO/EOP, Mary Elizabeth Farr/WHO/EOP, Catherine S. Fenton/WHO/EOP, Jeanie L. Figg/WHO/EOP, Kara G. Figg/WHO/EOP, Timothy E. Flanigan/WHO/EOP, Julian M. Flannery/WHO/EOP, Lawrence A. Fleischer/WHO/EOP, Jennifer Foley/WHO/EOP, Laura F. Fullerton/WHO/EOP, Christopher Furlow/WHO/EOP, Linda M.

Gambatesa/WHO/EOP, Reed H. Galen/WHO/EOP, Sarah M. Garrison/WHO/EOP, Stephen M. Garrison/WHO/EOP, Lavin Gartland/ONDCP/EOP, Dorothy C. Garvin/WHO/EOP, Joseph H. Gerdes/WHO/EOP, Eleanor L. Gillmor/OPD/EOP, Signe L. Girgus/OA/EOP, Dylan C. Glenn/OPD/EOP, Tim Goeglein/WHO/EOP, Barbara Jo Goergen/WHO/EOP, Adam B. Goldman/WHO/EOP, Blake Gottesman/WHO/EOP, Britt Grant/OPD/EOP, Adrian G. Gray/WHO/EOP, Ann Gray/WHO/EOP, Emily S. Gray/WHO/EOP, Wendy E. Gray/NSC/EOP, Brent D. Greenfield/WHO/EOP, Darren D. Grubb/WHO/EOP, Abel Guerra/WHO/EOP, Henry C. Hager/WHO/EOP, Mary Ann Hanusa/WHO/EOP, Alison M. Harden/WHO/EOP, Catherine M. Hargraves/WHO/EOP, Albert Hawkins/WHO/EOP, Kathryn J. Hayes/WHO/EOP, Erin E. Healy/WHO/EOP, Anne Heiligenstein/WHO/EOP, Chris Henick/WHO/EOP, Keith Hennessey/OPD/EOP, Israel Hernandez/WHO/EOP, Douglas L. Hoelscher/WHO/EOP, Elizabeth Hogan/WHO/EOP, Stuart Holliday/WHO/EOP, Mark Holman/WHO/EOP, Glenn Hubbard/CEA/EOP, A. Merrill Hughes/OVP/EOP, Edward Ingle/WHO/EOP, Hector F. Irastorza/WHO/EOP, Barry S. Jackson/WHO/EOP, Marilyn R. Jacanin/WHO/EOP, Reuben Jeffery/OPD/EOP, Gregory J. Jenkins/WHO/EOP, Gordon D. Johndroe/WHO/EOP, Collister W. Johnson/WHO/EOP, Alison Jones/WHO/EOP, M. Kay Joshi/NSC/EOP, Joel D. Kaplan/WHO/EOP, Brett M. Kavanaugh/WHO/EOP, Daniel J. Keniry/WHO/EOP, Matthew Kirk/WHO/EOP, Ellis Kitchen/OA/EOP, Elizabeth W. Kleppe/OVP/EOP, Karen Y. Knutson/OVP/EOP, Matthew Koch/WHO/EOP, Lindsey C. Kozberg/WHO/EOP, David Kuo/WHO/EOP, Ross M. Kyle/WHO/EOP, Laura S. Lawlor/WHO/EOP, Jay P. Lefkowitz/OPD/EOP, Dirksen Lehman/WHO/EOP, Sarah M. Lenti/NSC/EOP, Adam L. Levine/WHO/EOP, Laura E. Lineberry/NSC/EOP, Stephen M. Lineberry/CEA/EOP, Kenneth A. Lisaius/WHO/EOP, Ginger G. Loper/WHO/EOP, Jose Mallea/WHO/EOP, Jeanie S. Mamo/WHO/EOP, Heidi K. Marquez/WHO/EOP, Robert Marsh/WHO/EOP, Mary J. Matalin/OVP/EOP, Jennifer H. Mayfield/OVP/EOP, Daniel M. McCarthy/WHO/EOP, Mark McClellan/CEA/EOP, Scott McClellan/WHO/EOP, John P. McConnell/OVP/EOP, Brian V. McCormack/OVP/EOP, Edward McNally/WHO/EOP, Vickie A. McQuade/WHO/EOP, Ken Mehlman/WHO/EOP, Sonya E. Medina/WHO/EOP, A. Morgan Middlemas/WHO/EOP, Harriet Miers/WHO/EOP, Michael H. Miller/WHO/EOP, Jennifer Millerwise/OVP/EOP, Cathy L. Millison/NSC/EOP, Brian D. Montgomery/WHO/EOP, Charlotte L. Montiel/WHO/EOP, Leslie A. Mooney/OPD/EOP, Michael J. Napolitano/WHO/EOP, Susan K. Neely/WHO/EOP, Wendy L. Nipper/WHO/EOP, Claire M. O'Donnell/OVP/EOP, Joseph F. O'Neill/OPD/EOP, Ziad S. Ojakli/WHO/EOP, Cheryl A. Oldham/WHO/EOP, Christopher J. Orr/WHO/EOP, Eric H. Otto/OPD/EOP, Kasey S. Pipes/WHO/EOP, Dina Powell/WHO/EOP, Clare Pritchett/WHO/EOP, Susan B. Ralston/WHO/EOP, Craig Ray/WHO/EOP, Tim Reynolds/WHO/EOP, Allison L. Riepenhoff/WHO/EOP, Krista L. Ritacco/WHO/EOP, Josephine B. Robinson/WHO/EOP, Edwina C. Rogers/OPD/EOP, Stephen S. Ruhlen/OVP/EOP, Catharine A. Ryun/WHO/EOP, Diana L. Schacht/OPD/EOP, Matthew A. Schlapp/WHO/EOP, Scott Sechser/WHO/EOP, Scott N. Sforza/WHO/EOP, Matthew E. Smith/WHO/EOP, Ashley Snee/WHO/EOP, Deborah A. Spagnoli/WHO/EOP, Scott Stanzel/WHO/EOP, Gretchen P. Steen/WHO/EOP, Timothy C. Stout/WHO/EOP, Angela B. Styles/OMB/EOP, Meredith A. Terpeluk/WHO/EOP, Eric W. Terrell/WHO/EOP, Julieanne H. Thomas/WHO/EOP, Jim Towey/WHO/EOP, Anne Trenolone/WHO/EOP, Richard J. Tubb/WHO/EOP, Ali H. Tulbah/WHO/EOP, Erin A. Vargo/WHO/EOP, Lauren J. Vestewig/OPD/EOP, Mercedes M. Viana/WHO/EOP, Jared B. Weinstein/WHO/EOP, L. Camille Welborn/WHO/EOP, Lezlee J. Westine/WHO/EOP, Heather Wingate/WHO/EOP, Tracy Young/WHO/EOP, Neil H. Zimmerman/WHO/EOP, Katherine L. Disston/WHO/EOP, Lindsay J. Bourns/WHO/EOP, Carrie B. Loy/WHO/EOP, William T. Griffin/WHO/EOP, Heather W. Musser/WHO/EOP, Jill Davie/WHO/EOP, Jack Howard/WHO/EOP, Michael J. Conway/WHO/EOP, Christal R. West/WHO/EOP, Roland N. Litterst/WHO/EOP, Adam B. Ingols/WHO/EOP, Carolyn E. Cleveland/WHO/EOP, Katherine M. Walters/WHO/EOP, Sara M. Taylor/WHO/EOP, David M. Thomas/WHO/EOP, Leonard B. Rodriguez/WHO/EOP, Angela R. Sailor/WHO/EOP, Ronald I. Christie/OPD/EOP, Melanie A. Jackson/WHO/EOP, Debra Heiden/OVP/EOP, Jennifer D. Field/OVP/EOP, Catherine J. Martin/OVP/EOP, Alice H. Williams/CEA/EOP, Lisa D. Branch/CEA/EOP, Roberta L. Conde/CEQ/EOP, Tracy L. Carson/OPD/EOP, Kenneth A. Thomas/OPD/EOP, Patricia F. Ware/OPD/EOP, Shana L. Dale/OSTP/EOP, Alberto R. Gonzales/WHO/EOP, Timothy E. Flanigan/WHO/EOP, Bradford A. Berenson/WHO/EOP, Noel J. Francisco/WHO/EOP, Jennifer G. Newstead/WHO/EOP, Kyle Sampson/WHO/EOP, Helgard C. Walker/WHO/EOP, Kelley Gannon/WHO/EOP, Todd W. Beyer/WHO/EOP, Stephanie E. Linder/WHO/EOP, Kristopher N. Purcell/WHO/EOP, Michael J. Gerson/WHO/EOP, Peter H. Wehner/WHO/EOP, John

D. Gibson/NSC/EOP, Matthew R. Rees/NSC/EOP, Jane M. Cook/WHO/EOP, Marie Vachon/WHO/EOP, Charles S. Abbot/OVP/EOP, Wendy J. Grubbs/WHO/EOP, Julie L. Nichols/WHO/EOP, Timothy C. Stout/WHO/EOP, Bruce M. Lawlor/WHO/EOP, Paul B. Kurtz/NSC/EOP, Paul L. Morse/WHO/EOP, Michael A. Sanders/WHO/EOP, Michael Davis/WHO/EOP, Katharina M. Hager/WHO/EOP, Jackie Arends/WHO/EOP, Elizabeth Hogan/WHO/EOP, Jennifer A. Minton/WHO/EOP, Desiree T. Sayle/WHO/EOP, Terry W. Good/WHO/EOP, Philip C. Droege/WHO/EOP, Lewis Libby/OVP/EOP, Charles D. McGrath Jr/OVP/EOP, Candida P. Wolff/OVP/EOP, Lindley Kratovil/OVP/EOP, Cesar Conda/OVP/EOP, Marie K. Fishpaw/OVP/EOP, Mary K. Lang/OVP/EOP, Diana E. Furchtgott-Roth/CEA/EOP, Randall S. Kroszner/CEA/EOP, Douglas J. Holtz-Eakin/CEA/EOP, Phil Cooney/CEQ/EOP, Samuel A. Thernstrom/CEQ/EOP, Elizabeth A. Stolpe/CEQ/EOP, Virginia Stephens/CEQ/EOP, Matthew C. Waxman/NSC/EOP, Jennie M. Koch/NSC/EOP, Cheryl E. Barnett/NSC/EOP, Mary A. Haines/NSC/EOP, Alexian T. Wines/NSC/EOP, Jendayi E. Frazer/NSC/EOP, Bobby J. Pittman/NSC/EOP, Cindy L. Courville/NSC/EOP, Jane C. Heishman/NSC/EOP, Lisa Gordon-Hagerty/NSC/EOP, Franklin C. Miller/NSC/EOP, Elliott Abrams/NSC/EOP, Mary C. Andrews/WHO/EOP, John A. Cloud/NSC/EOP, Adam R. Isles/NSC/EOP, Gregory A. Manuel/NSC/EOP, John B. Bellinger/NSC/EOP, Sean I. McCormack/NSC/EOP, Matthew R. Rees/NSC/EOP, Karen E. Keller/OMB/EOP, Lois E. Altoft/OMB/EOP, Nancy Dorn/OMB/EOP, Augustine T. Smythe/OMB/EOP, Rebecca E. Davis/OMB/EOP, Philip J. Perry/OMB/EOP, Stephen S. McMillin/OMB/EOP, Karen S. Dooley/OMB/EOP, James C. Capretta/OMB/EOP, Eric C. Pelletier/OMB/EOP, Danielle M. Simonetta/OMB/EOP, James J. Jukes/OMB/EOP, Robin Cleveland/OMB/EOP, Marcus Peacock/OMB/EOP, Richard M. Russell/OSTP/EOP
cc:

From: CN=Noel J. Francisco/OU=WHO/O=EOP [WHO]

To: Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Timothy E. Flanigan/WHO /EOP@EOP [WHO] <Timothy E. Flanigan>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;Jay P. Lefkowitz/OPD/EOP@EOP [OPD] <Jay P. Lefkowitz>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>;Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>

Sent: 12/2/2002 5:17:30 AM

Subject: : Grutter v. Bollinger -- Cert. Granted

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 2-DEC-2002 10:17:30.00
SUBJECT:: Grutter v. Bollinger -- Cert. Granted
TO:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Timothy E. Flanigan ( CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: [UNKNOWN] <Montiel, Charlotte L.>

To: <Bolten>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /DCA7B994-2476ECB4-852569D9-623521 [UNKNOWN] <Joshua B.>;<Bennett>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/5D5F365B-3B5ACE36-852569DB-7B1446 [UNKNOWN] <Melissa S.>;<Thompson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /ECE0FA73-1B1E6E05-852569DB-5F65D3 [UNKNOWN] <Carol J.>;<Everson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/FF797A9B-218FE559-85256B99-4E9537 [UNKNOWN] <Nanette>;<Carroll>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/ABE8CAAB-B5943FBD-85256B4B-69C8CE [UNKNOWN] <James W.>;<Addington>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/FFAB5A7D-85B03435-852569DB-569229 [UNKNOWN] <David S.>;<Bartolomucci>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /1A4DAB1A-EBCD4DB1-852569DA-6039DB [UNKNOWN] <H. Christopher>;<Cabral>;/EOP /FIRST ADMINISTRATIVE GROUP/RECIPIENTS/3E9F71DA-51100FC2-85256AB7-60DFEA [UNKNOWN] <Raquel>;<Brilliant>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /59738820-F4C7B11F-85256B9F-47097A [UNKNOWN] <Hana F.>;<Nelson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/49A0DB8A-2A564F13-85256A2A-4E472E [UNKNOWN] <Carolyn>;<Powell>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /C457024B-B3447231-85256C00-44CFA6 [UNKNOWN] <Benjamin A.>;<Alix>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/68A3DCF2-69658983-852569D9-6F1946 [UNKNOWN] <Cathy>;<Allgood>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/803D647F-9A13DFA4-85256B65-563317 [UNKNOWN] <Lauren K.>;<Angulo>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/8F3E5B30-EF21BED-85256B53-582253 [UNKNOWN] <Magda E.>;<Babin>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/FBCAF507-C473DEE3-85256A9B-649260 [UNKNOWN] <Chad>;<Ball>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/4DB786B7-8746231E-852569DA-6A31C6 [UNKNOWN] <Andrea G.>;<Barclay>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/FF9FCC16-25F6514C-85256457-4A7D96 [UNKNOWN] <Barbara A.>;<Barfield>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/67394C19-5A09EB30-85256B72-48B742 [UNKNOWN] <Tiffany L.>;<Barrales>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/54B63ED1-BC678BBB-85256A00-70D9A7 [UNKNOWN] <Ruben S.>;<Bartlett>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/E1579152-C3E7739B-852569DC-53DCE9 [UNKNOWN] <Daniel J.>;<Bearson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /AA6E9736-5A0B5BF6-852569FA-7DE1CF [UNKNOWN] <Darren W.>;<Benkie>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/E868EA84-3D90D116-852569DF-5A8643 [UNKNOWN] <Dee Dee>;<Berenson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /A98FCBC9-26B1DA41-852569DB-58F64B [UNKNOWN] <Bradford A.>;<Besanceney>;/EOP /FIRST ADMINISTRATIVE GROUP/RECIPIENTS/685B62D7-302255D2-85256A16-4EBBAF [UNKNOWN] <Brian R.>;<Biegun>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /3D470BD1-923D8663-85256A6F-684CC6 [UNKNOWN] <Stephen E.>;<Bird>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/EF82DEE6-95F9C237-852563D5-3283E [UNKNOWN] <Debra D.>;<Blakeman>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/474989CF-A52D2D9C-852569D9-6DDBA3 [UNKNOWN] <Bradley A.>;<Boisvenue>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/929DD7B3-5A22A470-85256C64-4BE7A9 [UNKNOWN] <Michael J.>;<Bourns>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /315140D4-2A286C8B-85256A9C-5C242F [UNKNOWN] <Lindsay J.>;<Bowen>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/4A2C2EB-13942C40-852569DA-6125AE [UNKNOWN] <Stuart W.>;<Bravo>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /A534CE3-59EEF20-852569DE-C3F1C [UNKNOWN] <Brian>;<Bridgeland>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/F780D323-9CDBC5CC-852569DC-694D86 [UNKNOWN] <John M.>;<Buchan>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /6CDF751A-ED243CC-852569DB-8124CB [UNKNOWN] <Claire E.>;<Buchholz>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/641E5BA8-317A73F9-85256AE1-455C66 [UNKNOWN] <Carl>;<Bullock>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /E96FDD4E-4FC1496C-852569DC-517FB2 [UNKNOWN] <Katja>;<Bumatay>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/3465B0BF-DC4627C2-85256B30-52A689 [UNKNOWN] <Patrick J.>;<Calio>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /556C3548-6B8E203C-852569D9-6DA782 [UNKNOWN] <Nicholas E.>;<Camp>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/64A878B0-38CF6AFE-852569DA-643152 [UNKNOWN] <Elizabeth N.>;<Campbell>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /1EEDC809-4DE5B2E6-85256B66-46E195 [UNKNOWN] <Anne E.>;<Canfield>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/CFBC3B5D-90E6C1BD-85256B06-5C2A76 [

UNKNOWN] <Sally>;<Chadwick>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /12B85667-54D1E2D6-852569DB-5DDD53 [UNKNOWN] <Kirsten A.>;<Chaffee>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/303D313F-3CBAF3ED-85256AE4-454E0F [UNKNOWN] <Barbara C.>;<Chambers>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /3F869273-AAC2E6D0-85256A5E-47C2F0 [UNKNOWN] <Shane P.>;<Ciccone>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/F15B5F12-AE64B6BA-852569DC-4816DE [UNKNOWN] <Christine>;<Clark>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /3AA0C2F-59C51038-852569DA-689705 [UNKNOWN] <Alicia P.>;<Conklin>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/BE8D235-7E18AB8E-852569DC-482AEC [UNKNOWN] <Brian C.>;<Connaughton>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /17772EB2-3F9E90D2-85256A71-6E86D8 [UNKNOWN] <James>; <Cooper>;ccooper@NSC.eop.gov [NSC] <Colby J.>;<Cropper>;Stacia_L._Cropper@who.eop.gov [WHO] <Stacia L.>;<Cruson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/9B54B821-5FDE6714-85256C60-5BA05C [UNKNOWN] <Karen D.>;<Daniels>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /DD887072-71DA53E6-852569D6-4B724E [UNKNOWN] <Mitchell>;<Davis>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/5E936C0E-B2212C01-852569E5-72EE65 [UNKNOWN] <Alicia W.>;<Davis>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /F759F175-C3FC680E-852569D9-6EE299 [UNKNOWN] <Ashley E.>;<Davis>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/4ECEFC85-72431080-85256A32-73BC16 [UNKNOWN] <Michael>;<Deckard>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /F99FC38-59198000-85256A56-64F8DA [UNKNOWN] <Josh>;<Devenish>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/CFB096E3-6D4AFD76-852569E7-532780 [UNKNOWN] <Nicolle>;<Dickens>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /AA173D66-94F3A183-85256AA0-91CEF [UNKNOWN] <Reed>;<Draper>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/235BF9EA-99417A2C-852569DB-5E30CE [UNKNOWN] <Eric A.>;<Drummond>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /28CA41B2-5E15FFFB-852569DD-77A618 [UNKNOWN] <Ashley D.>;<Duffy>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/14D38623-6E0B5EF7-85256B2F-4A3F9C [UNKNOWN] <Trent D.>;<Dyck>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /A7F1F06E-6A4725E3-852569DA-7817F1 [UNKNOWN] <Paul B.>;<Dyer>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/37FFB539-A695C28E-85256B37-5E2CFE [UNKNOWN] <Ashley J.>;<Edson>;gedson@NSC.eop.gov [NSC] <Gary R.>;<Elliott>;relliott@NSC.eop.gov [NSC] <Ruth E.>;<Eskew>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/B0FBEC55-BB8D706B-852569DA-785785 [UNKNOWN] <Tucker A.>;<Estes>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/4C32A97D-998AE454-852569DB-5EAFD3 [UNKNOWN] <Ashley>;<Estes>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/62815163-B0F092AD-852569DE-CC01F [UNKNOWN] <John D.>;<Evans>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /ED27A000-6D0B70FA-85256AE6-48CE85 [UNKNOWN] <Sandra K.>;<Falkenrath>;/EOP /FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6F0F0D0E-F6542B48-85256B45-6B8324 [UNKNOWN] <Richard>;<Faoro>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /55BA1F04-DB140E9F-85256A0E-43DCFB [UNKNOWN] <Daniel D.>;<Farley>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/FECD43AB-836AAD2B-85256A95-641F1D [UNKNOWN] <Jennifer M.>;<Farr>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /1610FB10-23D65777-852569DD-73A79F [UNKNOWN] <Mary Elizabeth>;<Fenton>;/EOP /FIRST ADMINISTRATIVE GROUP/RECIPIENTS/D70C109D-3F997C9C-852569DB-5F0104 [UNKNOWN] <Catherine S.>;<Figg>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /D4DF7970-B0456D9C-852569DD-524A1C [UNKNOWN] <Jeanie L.>;<Figg>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/97ABF692-E2CD6D15-852569DB-751348 [UNKNOWN] <Kara G.>;<Flanigan>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /2E73982F-10434C26-852569DB-5EE7B7 [UNKNOWN] <Timothy E.>;<Flannery>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/2C12C46-1C4658C5-85256BF4-40EBE3 [UNKNOWN] <Julian M.>;<Fleischer>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C5F9765B-338C0224-852569D9-645801 [UNKNOWN] <Lawrence A.>;<Foley>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/7BA8EBF3-835A07B6-852569DB-5F4A4D [UNKNOWN] <Jennifer>;<Fullerton>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /7B4E05CF-55B2A18-85256C2C-42965E [UNKNOWN] <Laura F.>;<Furlow>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/42EDD79-B3E67BC6-85256C60-52F4A6 [UNKNOWN] <Christopher>;<Gambatesa>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /C6807646-48AB42F6-852569D9-6A202F [UNKNOWN] <Linda M.>;<Galen>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/81DFB998-74B4A292-85256B4B-5B9494 [UNKNOWN] <Reed H.>;<Garrison>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS

/6CF37D42-D0DDC078-85256BF1-679F92 [UNKNOWN] <Sarah M.>;<Garrison>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/1BD7473B-AC1F5200-85256BBC-5112BD [UNKNOWN] <Stephen M.>;<Gartland>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /932D4C89-41527FE7-85256AAE-657834 [UNKNOWN] <Lavin>;<Garvin>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/8D6BFF88-848CC4A7-85256A32-49509D [UNKNOWN] <Dorothy C.>;<Gerdes>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /4EDA512F-FB53401-85256B37-6BC7EC [UNKNOWN] <Joseph H.>;<Gillmor>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6CC880A6-A3397D87-852569F2-511054 [UNKNOWN] <Eleanor L.>;<Girgus>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/58FCAB87-D4A7EFFF-852565D1-5737FD [UNKNOWN] <Signe L.>;<Glenn>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/47365273-735D7E33-852569DE-5B5981 [UNKNOWN] <Dylan C.>;<Goeglein>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /45280CD0-28425E29-852569DC-58479D [UNKNOWN] <Tim>;<Goergen>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/163B65F9-D34CAF52-85256AB0-48405A [UNKNOWN] <Barbara Jo>;<Goldman>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /698AA900-27350BE5-852569DD-5F23FE [UNKNOWN] <Adam B.>;<Gottesman>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/E3CC9430-AD683D99-852569DB-51F012 [UNKNOWN] <Blake>;<Grant>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /D830905B-73BBD637-85256AB6-4A970B [UNKNOWN] <Britt>;<Gray>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/16B9D208-E1DF72C0-852569E7-5892E0 [UNKNOWN] <Adrian G.>;<Gray>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /40289C9F-87E5BBFB-85256B42-56D1F7 [UNKNOWN] <Ann>;<Gray>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/8A3F4B12-CD26EBB6-85256B73-6AD94D [UNKNOWN] <Emily S.>;<Gray>;wgray@NSC.eop.gov [NSC] <Wendy E.>;<Grubb>;/EOP /FIRST ADMINISTRATIVE GROUP/RECIPIENTS/85AB63CB-F2CFC941-85256C0C-5D7958 [UNKNOWN] <Darren D.>;<Guerra>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /A6B2E380-D5A4FADA-852569E4-4C97FA [UNKNOWN] <Abel>;<Hager>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/19127F32-8FD61FA5-85256BAC-472950 [UNKNOWN] <Henry C.>;<Hanusa>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/7FB4C1DC-8D352753-85256A1E-617467 [UNKNOWN] <Mary Ann>;<Harden>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/E88B8CAA-DAB0FFD2-852569DC-75A36E [UNKNOWN] <Alison M.>;<Hawkins>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /299B67B0-403E8A7E-852569D9-615150 [UNKNOWN] <Albert>;<Hayes>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/9A38B966-4A1E35A1-852569DE-4F7E0F [UNKNOWN] <Kathryn J.>;<Healy>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /5D94F21F-2AFC3E31-852569DD-602EF1 [UNKNOWN] <Erin E.>;<Heiligenstein>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/22B0629B-1C133903-852569DC-4722EE [UNKNOWN] <Anne>;<Henick>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /6F8D473A-98659B0E-852569E5-5B00E9 [UNKNOWN] <Chris>;<Hennessey>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/DA9871CB-CB14E918-85256C21-421685 [UNKNOWN] <Keith>;<Hernandez>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /9A92FB8D-28223EB3-852569DC-630DCD [UNKNOWN] <Israel>;<Hoelscher>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/D2C4E16B-89A27B37-85256A16-4C6C01 [UNKNOWN] <Douglas L.>;<Hogan>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /9B45FBB9-4A84C628-852569FB-4F0338 [UNKNOWN] <Elizabeth>; <Holliday>;shollida@WHO.eop.gov [WHO] <Stuart>;<Holman>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/89B51E58-DFF75C46-85256AE1-4518D9 [UNKNOWN] <Mark>; <Hubbard>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/689D1551-C67272B7-85256A45-4E26FC [UNKNOWN] <Glenn>;<Hughes>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/71E8F3EF-3096E3EE-85256B45-5AE26F [UNKNOWN] <A. Merrill>;<Ingle>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /53838B5A-90E78711-852569DC-53F24B [UNKNOWN] <Edward>;<Irastorza>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/FCC99A4E-57C3C3CB-852569D9-6A7A1D [UNKNOWN] <Hector F.>;<Jackson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /C5E6E146-9B752404-85256A15-5F0CA1 [UNKNOWN] <Barry S.>;<Jacanin>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/66695D5E-7D776AA8-8525645D-681DE2 [UNKNOWN] <Marilyn R.>;<Jeffery>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /E4E4FF2E-CAD2BBD1-85256B74-5A6DD4 [UNKNOWN] <Reuben>;<Jenkins>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C154D002-21913532-85256ABE-439F05 [UNKNOWN] <Gregory J.>;<Johndroe>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /A32F0426-6373DC74-852569DC-38E8C [UNKNOWN] <Gordon D.>;<Johnson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/A88FE60F-2208B0E2-852569DA-79D68E [UNKNOWN] <Collister W.>;<Jones>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS

/E3E25A09-213F23CD-852569DC-73F16D [UNKNOWN] <Alison>;
<Joshi>;mjoshi@NSC.eop.gov [NSC] <M. Kay>;<Kaplan>;/EOP/FIRST ADMINISTRATIVE
GROUP/RECIPIENTS/AB40E70D-1309FE17-852569DC-4D7D0B [UNKNOWN] <Joel
D.>;<Kavanaugh>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6246020-
C20FEE19-852569DA-7648DC [UNKNOWN] <Brett M.>;<Keniry>;/EOP/FIRST
ADMINISTRATIVE GROUP/RECIPIENTS/4AB8EDCC-335E78F7-852569DC-47DA7E [
UNKNOWN] <Daniel J.>;<Kirk>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS
/41CCE2F3-C445AE7F-85256A4D-41FB4B [UNKNOWN] <Matthew>;<Kitchen>;/EOP/FIRST
ADMINISTRATIVE GROUP/RECIPIENTS/3EF62647-9FFE492E-85256A7D-68EBDA [
UNKNOWN] <Ellis>;<Kleppe>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS
/D6FD4CB5-AE28179D-852569DB-568310 [UNKNOWN] <Elizabeth W.>;<Knutson>;/EOP
/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/E061AB26-B4347041-852569EE-5D9583 [
UNKNOWN] <Karen Y.>;<Koch>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS
/15A8FEA8-4AFA531F-85256BA5-66B0C5 [UNKNOWN] <Matthew>;<Kozberg>;/EOP/FIRST
ADMINISTRATIVE GROUP/RECIPIENTS/94A30D77-FE626189-85256BC7-4961FC [
UNKNOWN] <Lindsey C.>;<Kuo>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS
/EE787172-40C5EDCF-85256A9A-46BA73 [UNKNOWN] <David>;<Kyle>;/EOP/FIRST
ADMINISTRATIVE GROUP/RECIPIENTS/3A6C9F73-8873BD4-85256A15-72A62A [UNKNOWN
] <Ross M.>;<Lawlor>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/82E8E66A-
CF794F8E-852569DE-D70D4 [UNKNOWN] <Laura S.>;<Lefkowitz>;/EOP/FIRST
ADMINISTRATIVE GROUP/RECIPIENTS/4E3BA750-755061D8-85256B68-854C7 [UNKNOWN]
<Jay P.>;<Lehman>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/61329B03-
A607D8DF-852569E6-71A70E [UNKNOWN] <Dirksen>;<Lenti>;slenti@NSC.eop.gov [NSC]
<Sarah M.>;<Levine>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/E6A5046D-
3A29DA2D-85256B35-6D224A [UNKNOWN] <Adam L.>;<Lineberry>;llineber@NSC.eop.gov [
NSC] <Laura E.>;<Lineberry>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS
/646A28AA-5FD3662A-85256AF7-5FE5D2 [UNKNOWN] <Stephen M.>;<Lisaius>;/EOP/FIRST
ADMINISTRATIVE GROUP/RECIPIENTS/74702272-435C2977-852569DA-7A3723 [UNKNOWN
] <Kenneth A.>;<Loper>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/527B67DA-
80EA9637-85256BA4-4E24D0 [UNKNOWN] <Ginger G.>;<Mallea>;/EOP/FIRST
ADMINISTRATIVE GROUP/RECIPIENTS/4D155367-2D4F6A8D-85256B72-463C96 [
UNKNOWN] <Jose>;<Mamo>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS
/7DC6DC70-6F4D0E18-852569DB-5B674A [UNKNOWN] <Jeanie S.>;<Marquez>;/EOP/FIRST
ADMINISTRATIVE GROUP/RECIPIENTS/33308984-635336F5-852569DC-766A71 [UNKNOWN
] <Heidi K.>;<Marsh>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/DDD6CFFC-
D1AAA222-85256A42-613071 [UNKNOWN] <Robert>;<Matalin>;/EOP/FIRST
ADMINISTRATIVE GROUP/RECIPIENTS/95E98E87-B65483AE-852569D9-6E3A3E [
UNKNOWN] <Mary J.>;<Mayfield>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS
/EDF13E3B-4221C5BC-852569DB-5F8644 [UNKNOWN] <Jennifer H.>;<McCarthy>;/EOP
/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/969AD1E8-60902646-852569DC-477172 [
UNKNOWN] <Daniel M.>;<McClellan>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS
/19AD7057-2B6F1E96-85256A75-25CAF [UNKNOWN] <Mark>;<McClellan>;/EOP/FIRST
ADMINISTRATIVE GROUP/RECIPIENTS/572D144B-CE5C3BB1-852569DB-81547C [
UNKNOWN] <Scott>;<McConnell>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS
/DABB57E8-A8F460AF-852569DD-5566AA [UNKNOWN] <John P.>;<McCormack>;/EOP
/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/20A95DD5-4081D2A-852569DB-611062 [
UNKNOWN] <Brian V.>;<McNally>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS
/B23459EA-8A5AE3B-85256B04-6CAE82 [UNKNOWN] <Edward>;<McQuade>;/EOP/FIRST
ADMINISTRATIVE GROUP/RECIPIENTS/29B527E6-3CF27BF-852569DC-500D8B [UNKNOWN
] <Vickie A.>;<Mehlman>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS
/50BA7341-700F1B8A-85256B0A-6B34A8 [UNKNOWN] <Ken>;<Medina>;/EOP/FIRST
ADMINISTRATIVE GROUP/RECIPIENTS/4577BB8D-929F7125-852569DE-D8A0B [UNKNOWN
] <Sonya E.>;<Middlemas>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/DA96FDE-
E0EE4384-85256A53-54910A [UNKNOWN] <A. Morgan>;<Miers>;/EOP/FIRST
ADMINISTRATIVE GROUP/RECIPIENTS/B2E77F63-672509FB-852569D9-6D71FD [
UNKNOWN] <Harriet>;<Miller>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS
/7BFA32B2-BF201206-85256991-6BFE0B [UNKNOWN] <Michael H.>;<Millerwise>;/EOP
/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/48A0A40F-7C42EBDB-85256B43-47A9FA [
UNKNOWN] <Jennifer>;<Millison>;cmilliso@NSC.eop.gov [NSC] <Cathy
L.>;<Montgomery>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS
/933C8E39-53EE3F3D-852569DD-6009B2 [UNKNOWN] <Brian D.>;<Montiel>;/EOP/FIRST
ADMINISTRATIVE GROUP/RECIPIENTS/A4C69221-46D73A5F-85256BC1-64493F [
UNKNOWN] <Charlotte L.>;<Mooney>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS

/92A0CEA8-91246CAA-85256A15-70580C [UNKNOWN] <Leslie A.>;<Napolitano>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/E9953D33-E5716A31-852569DE-627AB9 [UNKNOWN] <Michael J.>;<Neely>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/8E5E69F1-A435E8D7-85256AED-71DBBF [UNKNOWN] <Susan K.>;<Nipper>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/68DD75F6-E0448FE6-852569DC-7F719C [UNKNOWN] <Wendy L.>;<O'Donnell>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/517750D2-74FA2FF-852569DB-6555B6 [UNKNOWN] <Claire M.>;<O'Neill>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C9CF0265-66557B55-85256C05-5A7E13 [UNKNOWN] <Joseph F.>;<Ojakli>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/1B7998B0-ABAAECA4-852569DB-5EAD8A [UNKNOWN] <Ziad S.>;<Oldham>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/33F1984D-D6746F24-852569DE-4EC94E [UNKNOWN] <Cheryl A.>;<Orr>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/67EBE90B-582728B9-852569DF-6CEC0D [UNKNOWN] <Christopher J.>;<Otto>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/B8F293AC-CB965EE7-852569E3-61C4E0 [UNKNOWN] <Eric H.>;<Pipes>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/D167B5CF-D56399E-852569DE-D9D25 [UNKNOWN] <Kasey S.>;<Powell>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/583FB9CE-AFBAD6FF-852569DD-44BBDA [UNKNOWN] <Dina>;<Pritchett>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/2B7DF64A-741CFFFA-852569DC-47BF9C [UNKNOWN] <Clare>;<Ralston>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/687DD249-C2840DC7-852569F3-6F5C28 [UNKNOWN] <Susan B.>;<Ray>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/B46C6C9D-BE8675BE-85256A65-60B680 [UNKNOWN] <Craig>;<Reynolds>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C3B08C44-9E191875-85256B4A-52EC25 [UNKNOWN] <Tim>;<Riepenhoff>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/E07714A6-FC8F86D9-852569FB-6AFACD [UNKNOWN] <Allison L.>;<Ritacco>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/485B63E8-18B851DE-852569DD-61845A [UNKNOWN] <Krista L.>;<Robinson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/8F879CC9-3863F1B8-852569DD-61EEFB [UNKNOWN] <Josephine B.>;<Rogers>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/5D04685F-6AAA3962-852569E3-66808D [UNKNOWN] <Edwina C.>;<Ruhlen>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/58A1504B-CB7A0791-852569E4-4CBD5B [UNKNOWN] <Stephen S.>;<Ryun>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/80254183-7F0856D-852569FF-51B55C [UNKNOWN] <Catharine A.>;<Schacht>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/3F815C7C-30F425B-85256A09-79EEF2 [UNKNOWN] <Diana L.>;<Schlapp>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/854C04E1-91EF30AD-852569DA-76E1F8 [UNKNOWN] <Matthew A.>;<Sechser>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/18B3FDC-E0BA9D61-85256A92-8393F4 [UNKNOWN] <Scott>;<Sforza>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/674F3DC-73331971-852569DC-53C05E [UNKNOWN] <Scott N.>;<Smith>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6BF4B26C-5CAAC856-852569DE-66F827 [UNKNOWN] <Matthew E.>;<Snee>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/2A49BED-5C9924C-85256B41-4CE8BA [UNKNOWN] <Ashley>;<Spagnoli>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/47CAFB76-37C8193E-85256A0F-57B847 [UNKNOWN] <Deborah A.>;<Stanzel>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/BA7A6719-776C2EBF-852569DB-4F8FA0 [UNKNOWN] <Scott>;<Steen>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/A4CE4CB1-F845CF46-852569DE-DF9D2 [UNKNOWN] <Gretchen P.>;<Stout>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/F605B16E-8B76AFC1-852569F5-48044A [UNKNOWN] <Timothy C.>;<Styles>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6CD1CDAF-44F4D44-85256A25-5624D4 [UNKNOWN] <Angela B.>;<Terpeluk>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/F1BFB9CA-9BA1FC8E-852569DA-7700F5 [UNKNOWN] <Meredith A.>;<Terrell>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/DE933171-692F4ADC-85256A54-545E48 [UNKNOWN] <Eric W.>;<Thomas>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/487E4C82-250BED85-852569DB-5F2B5E [UNKNOWN] <Julieanne H.>;<Towey>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/CDECD61B-AEEB12DC-85256B53-69AA2D [UNKNOWN] <Jim>;<Trenolone>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/DBB66344-2FD79A4-852569DD-48E05F [UNKNOWN] <Anne>;<Tubb>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/A2C55D93-148FB42D-85256C14-5AD41E [UNKNOWN] <Richard J.>;<Tulbah>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/F86D63FE-AE329084-852569DE-78D9F4 [UNKNOWN] <Ali H.>;<Vargo>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6F0FB7CF-A50D366A-85256BEB-545769 [UNKNOWN] <Erin A.>;<Vestewig>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/54654B73-3ED90D2F-85256B60-566CD0 [UNKNOWN] <Lauren J.>;<Viana>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/3DBB7217-8575999B-

852569FA-77CFE8 [UNKNOWN] <Mercedes M.>;<Weinstein>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/A277C3F8-CECFEAE1-85256BEB-585EEC [UNKNOWN] <Jared B.>;<Welborn>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/35166F2D-15E67398-85256A30-6F5B63 [UNKNOWN] <L. Camille>;<Westine>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/8B7BA508-5A8860A0-852569DD-622504 [UNKNOWN] <Lezlee J.>;<Wingate>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/1E380BD8-ADE0CE5F-85256A87-5063AD [UNKNOWN] <Heather>;<Young>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/B7027A63-5898A884-852569DE-E1D2C [UNKNOWN] <Tracy>;<Zimmerman>;Neil_H._Zimmerman@who.eop.gov [WHO] <Neil H.>;<Disston>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/8E999944-6283D4E-85256B75-4D4738 [UNKNOWN] <Katherine L.>;<Loy>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/A98EFE6D-5AE0DAD9-85256B74-467F4C [UNKNOWN] <Carrie B.>;<Griffin>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/AB50EC59-A86382E1-852569DA-7939A5 [UNKNOWN] <William T.>;<Musser>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/EBF39531-F5F71902-85256C62-454C3A [UNKNOWN] <Heather W.>;<Davie>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C1905CAF-33A32B3B-852569F1-6DF8BA [UNKNOWN] <Jill>;<Howard>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/A023DB37-90023F00-85256AE6-4C8EE5 [UNKNOWN] <Jack>;<Conway>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C63969DB-CC624FDB-85256A0D-75885C [UNKNOWN] <Michael J.>;<West>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6D09A0E9-4F65D4F4-852569DC-47EE2B [UNKNOWN] <Christal R.>;<Litterst>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/2CCB1282-436DE119-852569DA-766097 [UNKNOWN] <Roland N.>;<Ingols>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/CE3FE6DB-E0E3C157-85256B79-5B987D [UNKNOWN] <Adam B.>;<Cleveland>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/F03138B4-EF0DE20B-852563D9-64A164 [UNKNOWN] <Carolyn E.>;<Walters>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/67C0AB5-BC3A9691-85256C05-580D47 [UNKNOWN] <Katherine M.>;<Taylor>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/5A4EA165-695412B1-852569DB-50140F [UNKNOWN] <Sara M.>;<Thomas>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/825ECF7E-110DF90D-852569DD-71E864 [UNKNOWN] <David M.>;<Rodriguez>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/AED12750-ABC6F760-852569DC-5352FE [UNKNOWN] <Leonard B.>;<Sailor>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/67EC41E0-D229ECF0-85256A0D-77B573 [UNKNOWN] <Angela R.>;<Christie>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/D5A2EDAF-59ACEE7B-85256B6E-5882C8 [UNKNOWN] <Ronald I.>;<Jackson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/78AA1C43-9D936057-852569DD-70947C [UNKNOWN] <Melanie A.>;<Heiden>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/1BDB22AC-2C15B2BC-852569DB-6084F4 [UNKNOWN] <Debra>;<Field>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/EAEA2222-A138F2C2-85256A62-63BB36 [UNKNOWN] <Jennifer D.>;<Martin>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/827A53CC-80030BFA-85256A6A-57FAE6 [UNKNOWN] <Catherine J.>;<Williams>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/811E0514-B040B28A-85256478-1B84A5 [UNKNOWN] <Alice H.>;<Branch>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/D0BA1FB0-33A24A4E-8525647A-5282BF [UNKNOWN] <Lisa D.>;<Conde>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/7E99BB54-FAC43113-85256B1E-51570A [UNKNOWN] <Roberta L.>;<Carson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/E4F563F8-FF6E1F39-85256AA0-6CDFC2 [UNKNOWN] <Tracy L.>;<Thomas>;kthomas@OPD.eop.gov [OPD] <Kenneth A.>;<Ware>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/B506B37-D2D2BCDE-85256B60-5689E3 [UNKNOWN] <Patricia F.>;<Dale>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6C65D809-AA78FCF2-85256A30-64B489 [UNKNOWN] <Shana L.>;<Gonzales>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/DE19B3C6-77AB3823-852569D9-697F1E [UNKNOWN] <Alberto R.>;<Francisco>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/CEFFCE1D-3AA04CD4-852569DA-68EB00 [UNKNOWN] <Noel J.>;<Newstead>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/CC23D9BE-A5E0DBB1-85256BAE-52469A [UNKNOWN] <Jennifer G.>;<Sampson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/4E664A2B-51BB08D-852569DC-544EBE [UNKNOWN] <Kyle>;<Walker>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/75138057-DB233081-85256A02-46FCE4 [UNKNOWN] <Helgard C.>;<Gannon>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/3C32C06D-3EF0871-85256AA2-55BD5D [UNKNOWN] <Kelley>;<Beyer>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/531B0AB1-3F80F4ED-852569DE-C1B4A [UNKNOWN] <Todd W.>;<Linder>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/258FC99A-8E3696F7-85256A3A-3DC8D1 [UNKNOWN] <Stephanie E.>;<Purcell>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS

/75DDD3AC-77D6F867-85256A29-669B69 [UNKNOWN] <Kristopher N.>;<Gerson>;/EOP /FIRST ADMINISTRATIVE GROUP/RECIPIENTS/4226172-F28339FD-852569E3-5C338C [UNKNOWN] <Michael J.>;<Wehner>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /A520AC41-AECCBA1A-852569E4-4C4324 [UNKNOWN] <Peter H.>;<Gibson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/7078324D-E08D07B-85256970-477656 [UNKNOWN] <John D.>;<Rees>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /2E4A6632-68C7446A-85256B7B-4BA5E3 [UNKNOWN] <Matthew R.>;<Cook>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/E4BF28A0-DF7D2250-852569EE-537A7D [UNKNOWN] <Jane M.>;<Vachon>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /F7B3D4F7-260068D9-85256B13-69C4FE [UNKNOWN] <Marie>;<Abbot>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/4D401D98-D61136C0-85256AC4-3EA972 [UNKNOWN] <Charles S.>;<Grubbs>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /CB4CBFE1-555CE201-85256B0A-6C5633 [UNKNOWN] <Wendy J.>;<Nichols>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/D13F1CB8-4C2A5C3C-85256B37-6BB657 [UNKNOWN] <Julie L.>;<Lawlor>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /571B2A58-E6211D2B-85256B03-549003 [UNKNOWN] <Bruce M.>;<Kurtz>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/20A34C52-C6C15AD8-85256848-6F81E4 [UNKNOWN] <Paul B.>;<Morse>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /FDC29A1C-73DF3D6A-852569DD-6144AF [UNKNOWN] <Paul L.>;<Sanders>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/2AF5B66E-4E1C88D1-85256A38-6A1ECB [UNKNOWN] <Michael A.>;<Hager>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /AF227E73-3CDE7278-85256AA8-6D5464 [UNKNOWN] <Katharina M.>;<Arends>;/EOP /FIRST ADMINISTRATIVE GROUP/RECIPIENTS/DBF56EFF-A5CB443D-852569DC-752773 [UNKNOWN] <Jackie>;<Minton>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /62CA5875-90451560-85256AA2-525835 [UNKNOWN] <Jennifer A.>;<Sayle>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/B2A57BDD-1C82F4E5-852569DB-4D7FDE [UNKNOWN] <Desiree T.>;<Good>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /1D75F4C1-56347E70-852563CA-76D241 [UNKNOWN] <Terry W.>;<Droege>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/D57307A2-BA29FD4D-852563CE-1C194F [UNKNOWN] <Philip C.>;<Libby>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /CE20F91C-5FF22499-85256A02-764CBA [UNKNOWN] <Lewis>;<McGrath Jr>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/FAD638B6-DE001174-852569DB-61FFA8 [UNKNOWN] <Charles D.>;<Wolff>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /D55BBA04-5A282E31-852569DB-607283 [UNKNOWN] <Candida P.>;<Kratovil>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/60244D3E-AABBCE0E-85256B74-5C655A [UNKNOWN] <Lindley>;<Conda>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /44C99228-6B54E07D-852569DE-FA47D [UNKNOWN] <Cesar>;<Fishpaw>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/9A258890-8ECA9A45-85256A08-691DA9 [UNKNOWN] <Marie K.>;<Lang>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /7A0D25E9-90B22256-852569DB-57EDB1 [UNKNOWN] <Mary K.>;<Furchtgott-roth>;/EOP /FIRST ADMINISTRATIVE GROUP/RECIPIENTS/DB81B2C7-71287F80-85256A0D-7A7EB1 [UNKNOWN] <Diana E.>;<Kroszner>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /E5963BB3-F8E4B15A-85256A61-625D34 [UNKNOWN] <Randall S.>;<Holtz-eakin>;/EOP /FIRST ADMINISTRATIVE GROUP/RECIPIENTS/E7DC21E0-12BF3266-85256A47-609F9A [UNKNOWN] <Douglas J.>;<Cooney>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /A0C19770-53F957F8-85256A78-44E190 [UNKNOWN] <Phil>;<Thernstrom>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/454B1C9C-5D9C09A0-85256A9C-55531 [UNKNOWN] <Samuel A.>;<Stolpe>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/BFEDD7E4-F9E123DC-85256A84-6BA0E9 [UNKNOWN] <Elizabeth A.>;<Stephens>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/AA556F63-1BAF889-85256A8F-59EA1E [UNKNOWN] <Virginia>;<Waxman>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/4821A01-EF4FF80-85256AA1-64C9E6 [UNKNOWN] <Matthew C.>;<Koch>;jkoch@NSC.eop.gov [NSC] <Jennie M.>;<Barnett>;cbarnett@NSC.eop.gov [NSC] <Cheryl E.>;<Haines>;mhaines@NSC.eop.gov [NSC] <Mary A.>;<Wines>;awines@NSC.eop.gov [NSC] <Alexian T.>;<Frazer>;jfrazer@NSC.eop.gov [NSC] <Jendayi E.>;<Pittman>;bpittman@NSC.eop.gov [NSC] <Bobby J.>;<Courville>;ccourvil@NSC.eop.gov [NSC] <Cindy L.>;<Heishman>;jheishma@NSC.eop.gov [NSC] <Jane C.>;<Gordon-hagerty>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /6714F990-28D04E62-852566BA-622A10 [UNKNOWN] <Lisa>;<Miller>;fmiller@NSC.eop.gov [NSC] <Franklin C.>;<Abrams>;eabrams@NSC.eop.gov [NSC] <Elliott>;<Andrews>;/EOP /FIRST ADMINISTRATIVE GROUP/RECIPIENTS/D6878630-7D87AA1E-85256C31-4B8BC5 [UNKNOWN] <Mary C.>;<Cloud>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /42399449-28DD3D7B-85256A40-4BDC9F [UNKNOWN] <John A.>;<Isles>;/EOP/FIRST

ADMINISTRATIVE GROUP/RECIPIENTS/1BE2DB2D-DD0E9E75-85256B43-66DE92 [UNKNOWN] <Adam R.>;<Manuel>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /A3737AED-E8521CA9-85256A80-6EF95E [UNKNOWN] <Gregory A.>;<Bellinger>;/EOP /FIRST ADMINISTRATIVE GROUP/RECIPIENTS/FC4B795A-A3360AAA-852569F3-6FC037 [UNKNOWN] <John B.>;<McCormack>;smccorma@NSC.eop.gov [NSC] <Sean I.>;<Keller>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/67536FF7-A76B44E7-852569DE-5BC742 [UNKNOWN] <Karen E.>;<Altoft>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/FCED50ED-17FDB27B-85256387-50AD0 [UNKNOWN] <Lois E.>;<Dorn>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /3BBD4BEB-FFCFC535-85256B65-572211 [UNKNOWN] <Nancy>; <Smythe>;asmythe@OMB.eop.gov [OMB] <Augustine T.>;<Davis>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/115E25-3CF2D457-85256A11-4E161D [UNKNOWN] <Rebecca E.>;<Perry>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/22733D1C-B2EC2EF-85256B73-4DEB56 [UNKNOWN] <Philip J.>;<McMillin>;smcmilli@OMB.eop.gov [OMB] <Stephen S.>;<Dooley>;kdooley@OMB.eop.gov [OMB] <Karen S.>;<Capretta>;jcaprett@OMB.eop.gov [OMB] <James C.>;<Pelletier>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/B1AD36A3-B8A7E0F9-852569DE-60469C [UNKNOWN] <Eric C.>;<Simonetta>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /A769CAD-B266D72-85256A02-45E6A1 [UNKNOWN] <Danielle M.>;<Jukes>;jjukes@OMB.eop.gov [OMB] <James J.>;<Cleveland>;rclevela@OMB.eop.gov [OMB] <Robin>;<Peacock>;mpeacock@OMB.eop.gov [OMB] <Marcus>;<Russell>;/EOP /FIRST ADMINISTRATIVE GROUP/RECIPIENTS/134525C3-390EF0D7-85256A02-650A60 [UNKNOWN] <Richard M.>

Sent: 12/2/2002 8:42:10 AM

Subject: Reminder: Tim's Going Away Party Today!

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (MS Mail)
CREATOR:Montiel, Charlotte L. ( [ UNKNOWN ] )
CREATION DATE/TIME: 2-DEC-2002 13:42:10.00
SUBJECT:Reminder: Tim's Going Away Party Today!
TO:Bolten, Joshua B. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=DCA7B994-2476ECB4-852569D9-623521 [ UNKNOWN ] )
READ:UNKNOWN
TO:Bennett, Melissa S. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=5D5F365B-
3B5ACE36-852569DB-7B1446 [ UNKNOWN ] )
READ:UNKNOWN
TO:Thompson, Carol J. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=ECE0FA73-1B1E6E05-852569DB-5F65D3 [ UNKNOWN ] )
READ:UNKNOWN
TO:Everson, Nanette ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=FF797A9B-
218FE559-85256B99-4E9537 [ UNKNOWN ] )
READ:UNKNOWN
TO:Carroll, James W. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=ABE8CAAB-
B5943FBD-85256B4B-69C8CE [ UNKNOWN ] )
READ:UNKNOWN
TO:Addington, David S. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=FFAB5A7D-
85B03435-852569DB-569229 [ UNKNOWN ] )
READ:UNKNOWN
TO:Bartolomucci, H. Christopher ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=1A4DAB1A-EBCD4DB1-852569DA-6039DB [ UNKNOWN ] )
READ:UNKNOWN
TO:Cabral, Raquel ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=3E9F71DA-
51100FC2-85256AB7-60DFEA [ UNKNOWN ] )
READ:UNKNOWN
TO:Brilliant, Hana F. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=59738820-
F4C7B11F-85256B9F-47097A [ UNKNOWN ] )
READ:UNKNOWN
TO:Nelson, Carolyn ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=49A0DB8A-
2A564F13-85256A2A-4E472E [ UNKNOWN ] )
READ:UNKNOWN
TO:Powell, Benjamin A. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=C457024B-
B3447231-85256C00-44CFA6 [ UNKNOWN ] )
READ:UNKNOWN
```

TO:Alix, Cathy (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=68A3DCF2-69658983-852569D9-6F1946 [UNKNOWN])
READ:UNKNOWN
TO:Allgood, Lauren K. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=803D647F-
9A13DFA4-85256B65-563317 [UNKNOWN])
READ:UNKNOWN
TO:Angulo, Magda E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=8F3E5B30-
EF21BED-85256B53-582253 [UNKNOWN])
READ:UNKNOWN
TO:Babin, Chad (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=FBCAF507-
C473DEE3-85256A9B-649260 [UNKNOWN])
READ:UNKNOWN
TO:Ball, Andrea G. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=4DB786B7-8746231E-852569DA-6A31C6 [UNKNOWN])
READ:UNKNOWN
TO:Barclay, Barbara A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=FF9FCC16-25F6514C-85256457-4A7D96 [UNKNOWN])
READ:UNKNOWN
TO:Barfield, Tiffany L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=67394C19-5A09EB30-85256B72-48B742 [UNKNOWN])
READ:UNKNOWN
TO:Barrales, Ruben S. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=54B63ED1-
BC678BBB-85256A00-70D9A7 [UNKNOWN])
READ:UNKNOWN
TO:Bartlett, Daniel J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E1579152-
C3E7739B-852569DC-53DCE9 [UNKNOWN])
READ:UNKNOWN
TO:Bearson, Darren W. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=AA6E9736-5A0B5BF6-852569FA-7DE1CF [UNKNOWN])
READ:UNKNOWN
TO:Benkie, Dee Dee (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=E868EA84-3D90D116-852569DF-5A8643 [UNKNOWN])
READ:UNKNOWN
TO:Berenson, Bradford A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=A98FCBC9-26B1DA41-852569DB-58F64B [UNKNOWN])
READ:UNKNOWN
TO:Besanceney, Brian R. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=685B62D7-302255D2-85256A16-4EBBAF [UNKNOWN])
READ:UNKNOWN
TO:Biegun, Stephen E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=3D470BD1-923D8663-85256A6F-684CC6 [UNKNOWN])
READ:UNKNOWN
TO:Bird, Debra D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=EF82DEE6-95F9C237-852563D5-3283E [UNKNOWN])
READ:UNKNOWN
TO:Blakeman, Bradley A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=474989CF-
A52D2D9C-852569D9-6DDBA3 [UNKNOWN])
READ:UNKNOWN
TO:Boisvenue, Michael J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=929DD7B3-5A22A470-85256C64-4BE7A9 [UNKNOWN])
READ:UNKNOWN
TO:Bourns, Lindsay J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=315140D4-2A286C8B-85256A9C-5C242F [UNKNOWN])
READ:UNKNOWN
TO:Bowen, Stuart W. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4A2C2EB-
13942C40-852569DA-6125AE [UNKNOWN])
READ:UNKNOWN
TO:Bravo, Brian (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=A534CE3-59EEF20-852569DE-C3F1C [UNKNOWN])
READ:UNKNOWN
TO:Bridgeland, John M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=F780D323-9CDBC5CC-852569DC-694D86 [UNKNOWN])
READ:UNKNOWN
TO:Buchan, Claire E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6CDF751A-
ED243CC-852569DB-8124CB [UNKNOWN])
READ:UNKNOWN
TO:Buchholz, Carl (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=641E5BA8-317A73F9-85256AE1-455C66 [UNKNOWN])

READ:UNKNOWN
TO:Bullock, Katja (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E96FDD4E-4FC1496C-852569DC-517FB2 [UNKNOWN])
READ:UNKNOWN
TO:Bumatay, Patrick J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=3465B0BF-DC4627C2-85256B30-52A689 [UNKNOWN])
READ:UNKNOWN
TO:Calio, Nicholas E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=556C3548-6B8E203C-852569D9-6DA782 [UNKNOWN])
READ:UNKNOWN
TO:Camp, Elizabeth N. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=64A878B0-38CF6AFE-852569DA-643152 [UNKNOWN])
READ:UNKNOWN
TO:Campbell, Anne E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=1EEDC809-4DE5B2E6-85256B66-46E195 [UNKNOWN])
READ:UNKNOWN
TO:Canfield, Sally (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=CFBC3B5D-90E6C1BD-85256B06-5C2A76 [UNKNOWN])
READ:UNKNOWN
TO:Chadwick, Kirsten A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=12B85667-54D1E2D6-852569DB-5DDD53 [UNKNOWN])
READ:UNKNOWN
TO:Chaffee, Barbara C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=303D313F-3CBAF3ED-85256AE4-454E0F [UNKNOWN])
READ:UNKNOWN
TO:Chambers, Shane P. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=3F869273-AAC2E6D0-85256A5E-47C2F0 [UNKNOWN])
READ:UNKNOWN
TO:Ciccone, Christine (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=F15B5F12-AE64B6BA-852569DC-4816DE [UNKNOWN])
READ:UNKNOWN
TO:Clark, Alicia P. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=3AA0C2F-59C51038-852569DA-689705 [UNKNOWN])
READ:UNKNOWN
TO:Conklin, Brian C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=BE8D235-7E18AB8E-852569DC-482AEC [UNKNOWN])
READ:UNKNOWN
TO:Connaughton, James (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=17772EB2-3F9E90D2-85256A71-6E86D8 [UNKNOWN])
READ:UNKNOWN
TO:Cooper, Colby J. (ccooper@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Cropper, Stacia L. (Stacia_L._Cropper@who.eop.gov [WHO])
READ:UNKNOWN
TO:Cruson, Karen D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=9B54B821-5FDE6714-85256C60-5BA05C [UNKNOWN])
READ:UNKNOWN
TO:Daniels, Mitchell (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=DD887072-71DA53E6-852569D6-4B724E [UNKNOWN])
READ:UNKNOWN
TO:Davis, Alicia W. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=5E936C0E-B2212C01-852569E5-72EE65 [UNKNOWN])
READ:UNKNOWN
TO:Davis, Ashley E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=F759F175-C3FC680E-852569D9-6EE299 [UNKNOWN])
READ:UNKNOWN
TO:Davis, Michael (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4ECEFC85-72431080-85256A32-73BC16 [UNKNOWN])
READ:UNKNOWN
TO:Deckard, Josh (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=F99FC38-59198000-85256A56-64F8DA [UNKNOWN])
READ:UNKNOWN
TO:Devenish, Nicolle (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=CFB096E3-6D4AFD76-852569E7-532780 [UNKNOWN])
READ:UNKNOWN
TO:Dickens, Reed (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=AA173D66-94F3A183-85256AA0-91CEF [UNKNOWN])
READ:UNKNOWN

TO:Draper, Eric A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=235BF9EA-99417A2C-852569DB-5E30CE [UNKNOWN])
READ:UNKNOWN
TO:Drummond, Ashley D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=28CA41B2-5E15FFFB-852569DD-77A618 [UNKNOWN])
READ:UNKNOWN
TO:Duffy, Trent D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=14D38623-6E0B5EF7-85256B2F-4A3F9C [UNKNOWN])
READ:UNKNOWN
TO:Dyck, Paul B. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=A7F1F06E-6A4725E3-852569DA-7817F1 [UNKNOWN])
READ:UNKNOWN
TO:Dyer, Ashley J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=37FFB539-A695C28E-85256B37-5E2CFE [UNKNOWN])
READ:UNKNOWN
TO:Edson, Gary R. (gedson@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Elliott, Ruth E. (relliott@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Eskew, Tucker A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=B0FBEC55-BB8D706B-852569DA-785785 [UNKNOWN])
READ:UNKNOWN
TO:Estes, Ashley (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4C32A97D-998AE454-852569DB-5EAFD3 [UNKNOWN])
READ:UNKNOWN
TO:Estes, John D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=62815163-B0F092AD-852569DE-CC01F [UNKNOWN])
READ:UNKNOWN
TO:Evans, Sandra K. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=ED27A000-6D0B70FA-85256AE6-48CE85 [UNKNOWN])
READ:UNKNOWN
TO:Falkenrath, Richard (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6F0F0D0E-F6542B48-85256B45-6B8324 [UNKNOWN])
READ:UNKNOWN
TO:Faoro, Daniel D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=55BA1F04-DB140E9F-85256A0E-43DCFB [UNKNOWN])
READ:UNKNOWN
TO:Farley, Jennifer M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=FECD43AB-836AAD2B-85256A95-641F1D [UNKNOWN])
READ:UNKNOWN
TO:Farr, Mary Elizabeth (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=1610FB10-23D65777-852569DD-73A79F [UNKNOWN])
READ:UNKNOWN
TO:Fenton, Catherine S. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=D70C109D-3F997C9C-852569DB-5F0104 [UNKNOWN])
READ:UNKNOWN
TO:Figg, Jeanie L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=D4DF7970-B0456D9C-852569DD-524A1C [UNKNOWN])
READ:UNKNOWN
TO:Figg, Kara G. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=97ABF692-E2CD6D15-852569DB-751348 [UNKNOWN])
READ:UNKNOWN
TO:Flanigan, Timothy E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=2E73982F-10434C26-852569DB-5EE7B7 [UNKNOWN])
READ:UNKNOWN
TO:Flannery, Julian M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=2C12C46-1C4658C5-85256BF4-40EBE3 [UNKNOWN])
READ:UNKNOWN
TO:Fleischer, Lawrence A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=C5F9765B-338C0224-852569D9-645801 [UNKNOWN])
READ:UNKNOWN
TO:Foley, Jennifer (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=7BA8EBF3-835A07B6-852569DB-5F4A4D [UNKNOWN])
READ:UNKNOWN
TO:Fullerton, Laura F. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=7B4E05CF-55B2A18-85256C2C-42965E [UNKNOWN])
READ:UNKNOWN
TO:Furlow, Christopher (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=42EDD79-

B3E67BC6-85256C60-52F4A6 [UNKNOWN])
READ:UNKNOWN
TO:Gambatesa, Linda M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=C6807646-48AB42F6-852569D9-6A202F [UNKNOWN])
READ:UNKNOWN
TO:Galen, Reed H. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=81DFB998-74B4A292-85256B4B-5B9494 [UNKNOWN])
READ:UNKNOWN
TO:Garrison, Sarah M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6CF37D42-
D0DDC078-85256BF1-679F92 [UNKNOWN])
READ:UNKNOWN
TO:Garrison, Stephen M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=1BD7473B-
AC1F5200-85256BBC-5112BD [UNKNOWN])
READ:UNKNOWN
TO:Gartland, Lavin (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=932D4C89-41527FE7-85256AAE-657834 [UNKNOWN])
READ:UNKNOWN
TO:Garvin, Dorothy C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=8D6BFF88-848CC4A7-85256A32-49509D [UNKNOWN])
READ:UNKNOWN
TO:Gerdes, Joseph H. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4EDA512F-
FB53401-85256B37-6BC7EC [UNKNOWN])
READ:UNKNOWN
TO:Gillmor, Eleanor L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6CC880A6-
A3397D87-852569F2-511054 [UNKNOWN])
READ:UNKNOWN
TO:Girgus, Signe L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=58FCAB87-
D4A7EFFF-852565D1-5737FD [UNKNOWN])
READ:UNKNOWN
TO:Glenn, Dylan C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=47365273-735D7E33-852569DE-5B5981 [UNKNOWN])
READ:UNKNOWN
TO:Goeglein, Tim (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=45280CD0-28425E29-852569DC-58479D [UNKNOWN])
READ:UNKNOWN
TO:Goergen, Barbara Jo (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=163B65F9-
D34CAF52-85256AB0-48405A [UNKNOWN])
READ:UNKNOWN
TO:Goldman, Adam B. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=698AA900-27350BE5-852569DD-5F23FE [UNKNOWN])
READ:UNKNOWN
TO:Gottesman, Blake (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E3CC9430-
AD683D99-852569DB-51F012 [UNKNOWN])
READ:UNKNOWN
TO:Grant, Britt (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=D830905B-
73BBD637-85256AB6-4A970B [UNKNOWN])
READ:UNKNOWN
TO:Gray, Adrian G. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=16B9D208-
E1DF72C0-852569E7-5892E0 [UNKNOWN])
READ:UNKNOWN
TO:Gray, Ann (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=40289C9F-87E5BBFB-
85256B42-56D1F7 [UNKNOWN])
READ:UNKNOWN
TO:Gray, Emily S. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=8A3F4B12-
CD26EBB6-85256B73-6AD94D [UNKNOWN])
READ:UNKNOWN
TO:Gray, Wendy E. (wgray@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Grubb, Darren D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=85AB63CB-
F2CFC941-85256C0C-5D7958 [UNKNOWN])
READ:UNKNOWN
TO:Guerra, Abel (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=A6B2E380-D5A4FADA-
852569E4-4C97FA [UNKNOWN])
READ:UNKNOWN
TO:Hager, Henry C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=19127F32-8FD61FA5-85256BAC-472950 [UNKNOWN])
READ:UNKNOWN
TO:Hanusa, Mary Ann (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=7FB4C1DC-

8D352753-85256A1E-617467 [UNKNOWN])
READ:UNKNOWN
TO:Harden, Alison M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E88B8CAA-DAB0FFD2-852569DC-75A36E [UNKNOWN])
READ:UNKNOWN
TO:Hawkins, Albert (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=299B67B0-403E8A7E-852569D9-615150 [UNKNOWN])
READ:UNKNOWN
TO:Hayes, Kathryn J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=9A38B966-4A1E35A1-852569DE-4F7E0F [UNKNOWN])
READ:UNKNOWN
TO:Healy, Erin E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=5D94F21F-2AFC3E31-852569DD-602EF1 [UNKNOWN])
READ:UNKNOWN
TO:Heiligenstein, Anne (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=22B0629B-1C133903-852569DC-4722EE [UNKNOWN])
READ:UNKNOWN
TO:Henick, Chris (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6F8D473A-98659B0E-852569E5-5B00E9 [UNKNOWN])
READ:UNKNOWN
TO:Hennessey, Keith (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=DA9871CB-CB14E918-85256C21-421685 [UNKNOWN])
READ:UNKNOWN
TO:Hernandez, Israel (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=9A92FB8D-28223EB3-852569DC-630DCD [UNKNOWN])
READ:UNKNOWN
TO:Hoelscher, Douglas L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=D2C4E16B-89A27B37-85256A16-4C6C01 [UNKNOWN])
READ:UNKNOWN
TO:Hogan, Elizabeth (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=9B45FBB9-4A84C628-852569FB-4F0338 [UNKNOWN])
READ:UNKNOWN
TO:Holliday, Stuart (shollida@WHO.eop.gov [WHO])
READ:UNKNOWN
TO:Holman, Mark (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=89B51E58-DFF75C46-85256AE1-4518D9 [UNKNOWN])
READ:UNKNOWN
TO:Hubbard, Glenn (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=689D1551-C67272B7-85256A45-4E26FC [UNKNOWN])
READ:UNKNOWN
TO:Hughes, A. Merrill (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=71E8F3EF-3096E3EE-85256B45-5AE26F [UNKNOWN])
READ:UNKNOWN
TO:Ingle, Edward (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=53838B5A-90E78711-852569DC-53F24B [UNKNOWN])
READ:UNKNOWN
TO:Irastorza, Hector F. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=FCC99A4E-57C3C3CB-852569D9-6A7A1D [UNKNOWN])
READ:UNKNOWN
TO:Jackson, Barry S. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=C5E6E146-9B752404-85256A15-5F0CA1 [UNKNOWN])
READ:UNKNOWN
TO:Jacanin, Marilyn R. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=66695D5E-7D776AA8-8525645D-681DE2 [UNKNOWN])
READ:UNKNOWN
TO:Jeffery, Reuben (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E4E4FF2E-CAD2BBD1-85256B74-5A6DD4 [UNKNOWN])
READ:UNKNOWN
TO:Jenkins, Gregory J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=C154D002-21913532-85256ABE-439F05 [UNKNOWN])
READ:UNKNOWN
TO:Johndroe, Gordon D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=A32F0426-6373DC74-852569DC-38E8C [UNKNOWN])
READ:UNKNOWN
TO:Johnson, Collister W. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=A88FE60F-2208B0E2-852569DA-79D68E [UNKNOWN])
READ:UNKNOWN
TO:Jones, Alison (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E3E25A09-213F23CD-

852569DC-73F16D [UNKNOWN])
READ:UNKNOWN
TO:Joshi, M. Kay (mjoshi@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Kaplan, Joel D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=AB40E70D-1309FE17-852569DC-4D7D0B [UNKNOWN])
READ:UNKNOWN
TO:Kavanaugh, Brett M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6246020-C20FEE19-852569DA-7648DC [UNKNOWN])
READ:UNKNOWN
TO:Keniry, Daniel J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4AB8EDCC-335E78F7-852569DC-47DA7E [UNKNOWN])
READ:UNKNOWN
TO:Kirk, Matthew (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=41CCE2F3-C445AE7F-85256A4D-41FB4B [UNKNOWN])
READ:UNKNOWN
TO:Kitchen, Ellis (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=3EF62647-9FFE492E-85256A7D-68EBDA [UNKNOWN])
READ:UNKNOWN
TO:Kleppe, Elizabeth W. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=D6FD4CB5-AE28179D-852569DB-568310 [UNKNOWN])
READ:UNKNOWN
TO:Knutson, Karen Y. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E061AB26-B4347041-852569EE-5D9583 [UNKNOWN])
READ:UNKNOWN
TO:Koch, Matthew (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=15A8FEA8-4AFA531F-85256BA5-66B0C5 [UNKNOWN])
READ:UNKNOWN
TO:Kozberg, Lindsey C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=94A30D77-FE626189-85256BC7-4961FC [UNKNOWN])
READ:UNKNOWN
TO:Kuo, David (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=EE787172-40C5EDCF-85256A9A-46BA73 [UNKNOWN])
READ:UNKNOWN
TO:Kyle, Ross M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=3A6C9F73-8873BD4-85256A15-72A62A [UNKNOWN])
READ:UNKNOWN
TO:Lawlor, Laura S. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=82E8E66A-CF794F8E-852569DE-D70D4 [UNKNOWN])
READ:UNKNOWN
TO:Lefkowitz, Jay P. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4E3BA750-755061D8-85256B68-854C7 [UNKNOWN])
READ:UNKNOWN
TO:Lehman, Dirksen (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=61329B03-A607D8DF-852569E6-71A70E [UNKNOWN])
READ:UNKNOWN
TO:Lenti, Sarah M. (slenti@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Levine, Adam L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E6A5046D-3A29DA2D-85256B35-6D224A [UNKNOWN])
READ:UNKNOWN
TO:Lineberry, Laura E. (llineber@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Lineberry, Stephen M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=646A28AA-5FD3662A-85256AF7-5FE5D2 [UNKNOWN])
READ:UNKNOWN
TO:Lisaius, Kenneth A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=74702272-435C2977-852569DA-7A3723 [UNKNOWN])
READ:UNKNOWN
TO:Loper, Ginger G. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=527B67DA-80EA9637-85256BA4-4E24D0 [UNKNOWN])
READ:UNKNOWN
TO:Mallea, Jose (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4D155367-2D4F6A8D-85256B72-463C96 [UNKNOWN])
READ:UNKNOWN
TO:Mamo, Jeanie S. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=7DC6DC70-6F4D0E18-852569DB-5B674A [UNKNOWN])
READ:UNKNOWN

TO:Marquez, Heidi K. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=33308984-635336F5-852569DC-766A71 [UNKNOWN])
READ:UNKNOWN
TO:Marsh, Robert (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=DDD6CFFC-
D1AAA222-85256A42-613071 [UNKNOWN])
READ:UNKNOWN
TO:Matalin, Mary J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=95E98E87-
B65483AE-852569D9-6E3A3E [UNKNOWN])
READ:UNKNOWN
TO:Mayfield, Jennifer H. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=EDF13E3B-
4221C5BC-852569DB-5F8644 [UNKNOWN])
READ:UNKNOWN
TO:McCarthy, Daniel M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=969AD1E8-60902646-852569DC-477172 [UNKNOWN])
READ:UNKNOWN
TO:McClellan, Mark (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=19AD7057-2B6F1E96-85256A75-25CAF [UNKNOWN])
READ:UNKNOWN
TO:McClellan, Scott (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=572D144B-
CE5C3BB1-852569DB-81547C [UNKNOWN])
READ:UNKNOWN
TO:McConnell, John P. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=DABB57E8-
A8F460AF-852569DD-5566AA [UNKNOWN])
READ:UNKNOWN
TO:McCormack, Brian V. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=20A95DD5-4081D2A-852569DB-611062 [UNKNOWN])
READ:UNKNOWN
TO:McNally, Edward (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=B23459EA-
8A5AE3B-85256B04-6CAE82 [UNKNOWN])
READ:UNKNOWN
TO:McQuade, Vickie A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=29B527E6-3CF27BF-852569DC-500D8B [UNKNOWN])
READ:UNKNOWN
TO:Mehlman, Ken (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=50BA7341-700F1B8A-
85256B0A-6B34A8 [UNKNOWN])
READ:UNKNOWN
TO:Medina, Sonya E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4577BB8D-
929F7125-852569DE-D8A0B [UNKNOWN])
READ:UNKNOWN
TO:Middlemas, A. Morgan (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=DA96FDE-
E0EE4384-85256A53-54910A [UNKNOWN])
READ:UNKNOWN
TO:Miers, Harriet (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=B2E77F63-672509FB-852569D9-6D71FD [UNKNOWN])
READ:UNKNOWN
TO:Miller, Michael H. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=7BFA32B2-
BF201206-85256991-6BFE0B [UNKNOWN])
READ:UNKNOWN
TO:Millerwise, Jennifer (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=48A0A40F-
7C42EBDB-85256B43-47A9FA [UNKNOWN])
READ:UNKNOWN
TO:Millison, Cathy L. (cmilliso@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Montgomery, Brian D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=933C8E39-53EE3F3D-852569DD-6009B2 [UNKNOWN])
READ:UNKNOWN
TO:Montiel, Charlotte L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=A4C69221-46D73A5F-85256BC1-64493F [UNKNOWN])
READ:UNKNOWN
TO:Mooney, Leslie A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=92A0CEA8-91246CAA-85256A15-70580C [UNKNOWN])
READ:UNKNOWN
TO:Napolitano, Michael J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E9953D33-
E5716A31-852569DE-627AB9 [UNKNOWN])
READ:UNKNOWN
TO:Neely, Susan K. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=8E5E69F1-
A435E8D7-85256AED-71DBBF [UNKNOWN])
READ:UNKNOWN

TO:Nipper, Wendy L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=68DD75F6-E0448FE6-852569DC-7F719C [UNKNOWN])
READ:UNKNOWN
TO:O'Donnell, Claire M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=517750D2-74FA2FF-852569DB-6555B6 [UNKNOWN])
READ:UNKNOWN
TO:O'Neill, Joseph F. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=C9CF0265-66557B55-85256C05-5A7E13 [UNKNOWN])
READ:UNKNOWN
TO:Ojakli, Ziad S. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=1B7998B0-ABAAECA4-852569DB-5EAD8A [UNKNOWN])
READ:UNKNOWN
TO:Oldham, Cheryl A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=33F1984D-D6746F24-852569DE-4EC94E [UNKNOWN])
READ:UNKNOWN
TO:Orr, Christopher J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=67EBE90B-582728B9-852569DF-6CEC0D [UNKNOWN])
READ:UNKNOWN
TO:Otto, Eric H. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=B8F293AC-CB965EE7-852569E3-61C4E0 [UNKNOWN])
READ:UNKNOWN
TO:Pipes, Kasey S. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=D167B5CF-D56399E-852569DE-D9D25 [UNKNOWN])
READ:UNKNOWN
TO:Powell, Dina (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=583FB9CE-AFBAD6FF-852569DD-44BBDA [UNKNOWN])
READ:UNKNOWN
TO:Pritchett, Clare (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=2B7DF64A-741CFFFA-852569DC-47BF9C [UNKNOWN])
READ:UNKNOWN
TO:Ralston, Susan B. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=687DD249-C2840DC7-852569F3-6F5C28 [UNKNOWN])
READ:UNKNOWN
TO:Ray, Craig (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=B46C6C9D-BE8675BE-85256A65-60B680 [UNKNOWN])
READ:UNKNOWN
TO:Reynolds, Tim (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=C3B08C44-9E191875-85256B4A-52EC25 [UNKNOWN])
READ:UNKNOWN
TO:Riepenhoff, Allison L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E07714A6-FC8F86D9-852569FB-6AFACD [UNKNOWN])
READ:UNKNOWN
TO:Ritacco, Krista L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=485B63E8-18B851DE-852569DD-61845A [UNKNOWN])
READ:UNKNOWN
TO:Robinson, Josephine B. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=8F879CC9-3863F1B8-852569DD-61EEFB [UNKNOWN])
READ:UNKNOWN
TO:Rogers, Edwina C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=5D04685F-6AAA3962-852569E3-66808D [UNKNOWN])
READ:UNKNOWN
TO:Ruhlen, Stephen S. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=58A1504B-CB7A0791-852569E4-4CBD5B [UNKNOWN])
READ:UNKNOWN
TO:Ryun, Catharine A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=80254183-7F0856D-852569FF-51B55C [UNKNOWN])
READ:UNKNOWN
TO:Schacht, Diana L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=3F815C7C-30F425B-85256A09-79EEF2 [UNKNOWN])
READ:UNKNOWN
TO:Schlapp, Matthew A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=854C04E1-91EF30AD-852569DA-76E1F8 [UNKNOWN])
READ:UNKNOWN
TO:Sechser, Scott (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=18B3FDC-E0BA9D61-85256A92-8393F4 [UNKNOWN])
READ:UNKNOWN
TO:Sforza, Scott N. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=674F3DC-73331971-852569DC-53C05E [UNKNOWN])

READ:UNKNOWN
TO:Smith, Matthew E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6BF4B26C-5CAAC856-852569DE-66F827 [UNKNOWN])
READ:UNKNOWN
TO:Snee, Ashley (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=2A49BED-5C9924C-85256B41-4CE8BA [UNKNOWN])
READ:UNKNOWN
TO:Spagnoli, Deborah A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=47CAFB76-37C8193E-85256A0F-57B847 [UNKNOWN])
READ:UNKNOWN
TO:Stanzel, Scott (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=BA7A6719-776C2EBF-852569DB-4F8FA0 [UNKNOWN])
READ:UNKNOWN
TO:Steen, Gretchen P. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=A4CE4CB1-F845CF46-852569DE-DF9D2 [UNKNOWN])
READ:UNKNOWN
TO:Stout, Timothy C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=F605B16E-8B76AFC1-852569F5-48044A [UNKNOWN])
READ:UNKNOWN
TO:Styles, Angela B. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6CD1CDAF-44F4D44-85256A25-5624D4 [UNKNOWN])
READ:UNKNOWN
TO:Terpeluk, Meredith A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=F1BFB9CA-9BA1FC8E-852569DA-7700F5 [UNKNOWN])
READ:UNKNOWN
TO:Terrell, Eric W. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=DE933171-692F4ADC-85256A54-545E48 [UNKNOWN])
READ:UNKNOWN
TO:Thomas, Julieanne H. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=487E4C82-250BED85-852569DB-5F2B5E [UNKNOWN])
READ:UNKNOWN
TO:Towey, Jim (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=CDECD61B-AEEB12DC-85256B53-69AA2D [UNKNOWN])
READ:UNKNOWN
TO:Trenolone, Anne (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=DBB66344-2FD79A4-852569DD-48E05F [UNKNOWN])
READ:UNKNOWN
TO:Tubb, Richard J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=A2C55D93-148FB42D-85256C14-5AD41E [UNKNOWN])
READ:UNKNOWN
TO:Tulbah, Ali H. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=F86D63FE-AE329084-852569DE-78D9F4 [UNKNOWN])
READ:UNKNOWN
TO:Vargo, Erin A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6F0FB7CF-A50D366A-85256BEB-545769 [UNKNOWN])
READ:UNKNOWN
TO:Vestewig, Lauren J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=54654B73-3ED90D2F-85256B60-566CD0 [UNKNOWN])
READ:UNKNOWN
TO:Viana, Mercedes M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=3DBB7217-8575999B-852569FA-77CFE8 [UNKNOWN])
READ:UNKNOWN
TO:Weinstein, Jared B. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=A277C3F8-CECFEAE1-85256BEB-585EEC [UNKNOWN])
READ:UNKNOWN
TO:Welborn, L. Camille (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=35166F2D-15E67398-85256A30-6F5B63 [UNKNOWN])
READ:UNKNOWN
TO:Westine, Lezlee J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=8B7BA508-5A8860A0-852569DD-622504 [UNKNOWN])
READ:UNKNOWN
TO:Wingate, Heather (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=1E380BD8-ADE0CE5F-85256A87-5063AD [UNKNOWN])
READ:UNKNOWN
TO:Young, Tracy (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=B7027A63-5898A884-852569DE-E1D2C [UNKNOWN])
READ:UNKNOWN
TO:Zimmerman, Neil H. (Neil_H._Zimmerman@who.eop.gov [WHO])

READ:UNKNOWN
TO:Disston, Katherine L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=8E999944-6283D4E-85256B75-4D4738 [UNKNOWN])
READ:UNKNOWN
TO:Loy, Carrie B. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=A98EFE6D-
5AE0DAD9-85256B74-467F4C [UNKNOWN])
READ:UNKNOWN
TO:Griffin, William T. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=AB50EC59-
A86382E1-852569DA-7939A5 [UNKNOWN])
READ:UNKNOWN
TO:Musser, Heather W. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=EBF39531-
F5F71902-85256C62-454C3A [UNKNOWN])
READ:UNKNOWN
TO:Davie, Jill (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=C1905CAF-33A32B3B-
852569F1-6DF8BA [UNKNOWN])
READ:UNKNOWN
TO:Howard, Jack (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=A023DB37-90023F00-85256AE6-4C8EE5 [UNKNOWN])
READ:UNKNOWN
TO:Conway, Michael J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=C63969DB-
CC624FDB-85256A0D-75885C [UNKNOWN])
READ:UNKNOWN
TO:West, Christal R. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=6D09A0E9-4F65D4F4-852569DC-47EE2B [UNKNOWN])
READ:UNKNOWN
TO:Litterst, Roland N. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=2CCB1282-436DE119-852569DA-766097 [UNKNOWN])
READ:UNKNOWN
TO:Ingols, Adam B. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=CE3FE6DB-
E0E3C157-85256B79-5B987D [UNKNOWN])
READ:UNKNOWN
TO:Cleveland, Carolyn E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=F03138B4-
EF0DE20B-852563D9-64A164 [UNKNOWN])
READ:UNKNOWN
TO:Walters, Katherine M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=67C0AB5-
BC3A9691-85256C05-580D47 [UNKNOWN])
READ:UNKNOWN
TO:Taylor, Sara M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=5A4EA165-695412B1-852569DB-50140F [UNKNOWN])
READ:UNKNOWN
TO:Thomas, David M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=825ECF7E-
110DF90D-852569DD-71E864 [UNKNOWN])
READ:UNKNOWN
TO:Rodriguez, Leonard B. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=AED12750-
ABC6F760-852569DC-5352FE [UNKNOWN])
READ:UNKNOWN
TO:Sailor, Angela R. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=67EC41E0-
D229ECF0-85256A0D-77B573 [UNKNOWN])
READ:UNKNOWN
TO:Christie, Ronald I. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=D5A2EDAF-
59ACEE7B-85256B6E-5882C8 [UNKNOWN])
READ:UNKNOWN
TO:Jackson, Melanie A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=78AA1C43-9D936057-852569DD-70947C [UNKNOWN])
READ:UNKNOWN
TO:Heiden, Debra (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=1BDB22AC-2C15B2BC-
852569DB-6084F4 [UNKNOWN])
READ:UNKNOWN
TO:Field, Jennifer D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=EAEA2222-
A138F2C2-85256A62-63BB36 [UNKNOWN])
READ:UNKNOWN
TO:Martin, Catherine J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=827A53CC-
80030BFA-85256A6A-57FAE6 [UNKNOWN])
READ:UNKNOWN
TO:Williams, Alice H. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=811E0514-
B040B28A-85256478-1B84A5 [UNKNOWN])
READ:UNKNOWN
TO:Branch, Lisa D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS

/CN=D0BA1FB0-33A24A4E-8525647A-5282BF [UNKNOWN])
READ:UNKNOWN
TO:Conde, Roberta L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=7E99BB54-FAC43113-85256B1E-51570A [UNKNOWN])
READ:UNKNOWN
TO:Carson, Tracy L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E4F563F8-FF6E1F39-85256AA0-6CDFC2 [UNKNOWN])
READ:UNKNOWN
TO:Thomas, Kenneth A. (kthomas@OPD.eop.gov [OPD])
READ:UNKNOWN
TO:Ware, Patricia F. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=B506B37-D2D2BCDE-85256B60-5689E3 [UNKNOWN])
READ:UNKNOWN
TO:Dale, Shana L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6C65D809-AA78FCF2-85256A30-64B489 [UNKNOWN])
READ:UNKNOWN
TO:Gonzales, Alberto R. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS /CN=DE19B3C6-77AB3823-852569D9-697F1E [UNKNOWN])
READ:UNKNOWN
TO:Francisco, Noel J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=CEFFCE1D-3AA04CD4-852569DA-68EB00 [UNKNOWN])
READ:UNKNOWN
TO:Newstead, Jennifer G. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=CC23D9BE-A5E0DBB1-85256BAE-52469A [UNKNOWN])
READ:UNKNOWN
TO:Sampson, Kyle (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4E664A2B-51BB08D-852569DC-544EBE [UNKNOWN])
READ:UNKNOWN
TO:Walker, Helgard C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=75138057-DB233081-85256A02-46FCE4 [UNKNOWN])
READ:UNKNOWN
TO:Gannon, Kelley (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=3C32C06D-3EF0871-85256AA2-55BD5D [UNKNOWN])
READ:UNKNOWN
TO:Beyer, Todd W. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS /CN=531B0AB1-3F80F4ED-852569DE-C1B4A [UNKNOWN])
READ:UNKNOWN
TO:Linder, Stephanie E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=258FC99A-8E3696F7-85256A3A-3DC8D1 [UNKNOWN])
READ:UNKNOWN
TO:Purcell, Kristopher N. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=75DDD3AC-77D6F867-85256A29-669B69 [UNKNOWN])
READ:UNKNOWN
TO:Gerson, Michael J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4226172-F28339FD-852569E3-5C338C [UNKNOWN])
READ:UNKNOWN
TO:Wehner, Peter H. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=A520AC41-AECCBA1A-852569E4-4C4324 [UNKNOWN])
READ:UNKNOWN
TO:Gibson, John D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=7078324D-E08D07B-85256970-477656 [UNKNOWN])
READ:UNKNOWN
TO:Rees, Matthew R. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS /CN=2E4A6632-68C7446A-85256B7B-4BA5E3 [UNKNOWN])
READ:UNKNOWN
TO:Cook, Jane M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E4BF28A0-DF7D2250-852569EE-537A7D [UNKNOWN])
READ:UNKNOWN
TO:Vachon, Marie (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS /CN=F7B3D4F7-260068D9-85256B13-69C4FE [UNKNOWN])
READ:UNKNOWN
TO:Abbot, Charles S. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4D401D98-D61136C0-85256AC4-3EA972 [UNKNOWN])
READ:UNKNOWN
TO:Grubbs, Wendy J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS /CN=CB4CBFE1-555CE201-85256B0A-6C5633 [UNKNOWN])
READ:UNKNOWN
TO:Nichols, Julie L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS

/CN=D13F1CB8-4C2A5C3C-85256B37-6BB657 [UNKNOWN])
READ:UNKNOWN
TO:Lawlor, Bruce M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=571B2A58-
E6211D2B-85256B03-549003 [UNKNOWN])
READ:UNKNOWN
TO:Kurtz, Paul B. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=20A34C52-
C6C15AD8-85256848-6F81E4 [UNKNOWN])
READ:UNKNOWN
TO:Morse, Paul L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=FDC29A1C-
73DF3D6A-852569DD-6144AF [UNKNOWN])
READ:UNKNOWN
TO:Sanders, Michael A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=2AF5B66E-
4E1C88D1-85256A38-6A1ECB [UNKNOWN])
READ:UNKNOWN
TO:Hager, Katharina M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=AF227E73-3CDE7278-85256AA8-6D5464 [UNKNOWN])
READ:UNKNOWN
TO:Arends, Jackie (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=DBF56EFF-
A5CB443D-852569DC-752773 [UNKNOWN])
READ:UNKNOWN
TO:Minton, Jennifer A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=62CA5875-90451560-85256AA2-525835 [UNKNOWN])
READ:UNKNOWN
TO:Sayle, Desiree T. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=B2A57BDD-
1C82F4E5-852569DB-4D7FDE [UNKNOWN])
READ:UNKNOWN
TO:Good, Terry W. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=1D75F4C1-56347E70-852563CA-76D241 [UNKNOWN])
READ:UNKNOWN
TO:Droege, Philip C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=D57307A2-
BA29FD4D-852563CE-1C194F [UNKNOWN])
READ:UNKNOWN
TO:Libby, Lewis (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=CE20F91C-
5FF22499-85256A02-764CBA [UNKNOWN])
READ:UNKNOWN
TO:McGrath Jr, Charles D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=FAD638B6-
DE001174-852569DB-61FFA8 [UNKNOWN])
READ:UNKNOWN
TO:Wolff, Candida P. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=D55BBA04-5A282E31-852569DB-607283 [UNKNOWN])
READ:UNKNOWN
TO:Kratovil, Lindley (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=60244D3E-
AABBCE0E-85256B74-5C655A [UNKNOWN])
READ:UNKNOWN
TO:Conda, Cesar (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=44C99228-6B54E07D-
852569DE-FA47D [UNKNOWN])
READ:UNKNOWN
TO:Fishpaw, Marie K. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=9A258890-8ECA9A45-85256A08-691DA9 [UNKNOWN])
READ:UNKNOWN
TO:Lang, Mary K. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=7A0D25E9-90B22256-852569DB-57EDB1 [UNKNOWN])
READ:UNKNOWN
TO:Furchtgott-roth, Diana E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=DB81B2C7-71287F80-85256A0D-7A7EB1 [UNKNOWN])
READ:UNKNOWN
TO:Kroszner, Randall S. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E5963BB3-
F8E4B15A-85256A61-625D34 [UNKNOWN])
READ:UNKNOWN
TO:Holtz-eakin, Douglas J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=E7DC21E0-12BF3266-85256A47-609F9A [UNKNOWN])
READ:UNKNOWN
TO:Cooney, Phil (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=A0C19770-53F957F8-85256A78-44E190 [UNKNOWN])
READ:UNKNOWN
TO:Thernstrom, Samuel A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=454B1C9C-
5D9C09A0-85256A9C-55531 [UNKNOWN])
READ:UNKNOWN

TO:Stolpe, Elizabeth A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=BFEDD7E4-F9E123DC-85256A84-6BA0E9 [UNKNOWN])
READ:UNKNOWN
TO:Stephens, Virginia (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=AA556F63-1BAF889-85256A8F-59EA1E [UNKNOWN])
READ:UNKNOWN
TO:Waxman, Matthew C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4821A01-EF4FF80-85256AA1-64C9E6 [UNKNOWN])
READ:UNKNOWN
TO:Koch, Jennie M. (jkoch@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Barnett, Cheryl E. (cbarnett@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Haines, Mary A. (mhaines@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Wines, Alexian T. (awines@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Frazer, Jendayi E. (jfrazer@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Pittman, Bobby J. (bpittman@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Courville, Cindy L. (ccourvil@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Heishman, Jane C. (jheishma@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Gordon-hagerty, Lisa (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6714F990-28D04E62-852566BA-622A10 [UNKNOWN])
READ:UNKNOWN
TO:Miller, Franklin C. (fmiller@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Abrams, Elliott (eabrams@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Andrews, Mary C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=D6878630-7D87AA1E-85256C31-4B8BC5 [UNKNOWN])
READ:UNKNOWN
TO:Cloud, John A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=42399449-28DD3D7B-85256A40-4BDC9F [UNKNOWN])
READ:UNKNOWN
TO:Isles, Adam R. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=1BE2DB2D-DD0E9E75-85256B43-66DE92 [UNKNOWN])
READ:UNKNOWN
TO:Manuel, Gregory A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=A3737AED-E8521CA9-85256A80-6EF95E [UNKNOWN])
READ:UNKNOWN
TO:Bellinger, John B. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=FC4B795A-A3360AAA-852569F3-6FC037 [UNKNOWN])
READ:UNKNOWN
TO:McCormack, Sean I. (smccorma@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Keller, Karen E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=67536FF7-A76B44E7-852569DE-5BC742 [UNKNOWN])
READ:UNKNOWN
TO:Altoft, Lois E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=FCED50ED-17FDB27B-85256387-50AD0 [UNKNOWN])
READ:UNKNOWN
TO:Dorn, Nancy (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=3BBD4BEB-FFCFC535-85256B65-572211 [UNKNOWN])
READ:UNKNOWN
TO:Smythe, Augustine T. (asmythe@OMB.eop.gov [OMB])
READ:UNKNOWN
TO:Davis, Rebecca E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=115E25-3CF2D457-85256A11-4E161D [UNKNOWN])
READ:UNKNOWN
TO:Perry, Philip J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=22733D1C-B2EC2EF-85256B73-4DEB56 [UNKNOWN])
READ:UNKNOWN
TO:McMillin, Stephen S. (smcmilli@OMB.eop.gov [OMB])
READ:UNKNOWN

TO:Dooley, Karen S. (kdooley@OMB.eop.gov [OMB])
READ:UNKNOWN
TO:Capretta, James C. (jcaprett@OMB.eop.gov [OMB])
READ:UNKNOWN
TO:Pelletier, Eric C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=B1AD36A3-B8A7E0F9-852569DE-60469C [UNKNOWN])
READ:UNKNOWN
TO:Simonetta, Danielle M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=A769CAD-B266D72-85256A02-45E6A1 [UNKNOWN])
READ:UNKNOWN
TO:Jukes, James J. (jjukes@OMB.eop.gov [OMB])
READ:UNKNOWN
TO:Cleveland, Robin (rclevela@OMB.eop.gov [OMB])
READ:UNKNOWN
TO:Peacock, Marcus (mpeacock@OMB.eop.gov [OMB])
READ:UNKNOWN
TO:Russell, Richard M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=134525C3-390EF0D7-85256A02-650A60 [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Please join us this Monday, December 2,

to bid farewell to Tim Flanigan on his last day here as Deputy Counsel.

Feel free to share this invite with any coworkers that would like to attend.
Everyone is invited.

Monday, December 2, 2002 (TODAY)
4:00 p.m

Counsel's Office, 2nd Fl WW

Message Sent to:

To: Joshua B. Bolten/WHO/EOP, Melissa S. Bennett/WHO/EOP, Carol J. Thompson/WHO/EOP, Nanette Everson/WHO/EOP, James W. Carroll/WHO/EOP, David S. Addington/OVP/EOP, H. Christopher Bartolomucci/WHO/EOP, Raquel Cabral/WHO/EOP, Hana F. Brilliant/WHO/EOP, Carolyn Nelson/WHO/EOP, Benjamin A. Powell/WHO/EOP, Cathy Alix/WHO/EOP, Lauren K. Allgood/OMB/EOP, Magda E. Angulo/WHO/EOP, Chad Babin/WHO/EOP, Andrea G. Ball/WHO/EOP, Barbara A. Barclay/WHO/EOP, Tiffany L. Barfield/WHO/EOP, Ruben S. Barrales/WHO/EOP, Daniel J. Bartlett/WHO/EOP, Darren W. Bearson/WHO/EOP, Wendy Benestante TPO/TPO/OMB/EOP, Dee Dee Benkie/WHO/EOP, Bradford A. Berenson/WHO/EOP, Brian R. Besanceney/OPD/EOP, Stephen E. Biegun/NSC/EOP, Debra D. Bird/WHO/EOP, Bradley A. Blakeman/WHO/EOP, Kirk Blalock/WHO/EOP, Michael J. Boisvenue/WHO/EOP, Lindsay J. Bourns/WHO/EOP, Stuart W. Bowen/WHO/EOP, Brian Bravo/WHO/EOP, John M. Bridgeland/OPD/EOP, Claire E. Buchan/WHO/EOP, Carl Buchholz/WHO/EOP, Katja Bullock/WHO/EOP, Patrick J. Bumatay/WHO/EOP, Nicholas E. Calio/WHO/EOP, Elizabeth N. Camp/WHO/EOP, Anne E. Campbell/WHO/EOP, Sally Canfield/WHO/EOP, Kirsten A. Chadwick/WHO/EOP, Barbara C. Chaffee/WHO/EOP, Shane P. Chambers/WHO/EOP, Christine

Ciccone/WHO/EOP, Alicia P. Clark/WHO/EOP, Brian C. Conklin/WHO/EOP, James Connaughton/CEQ/EOP, Colby J. Cooper/NSC/EOP, Stacia L. Cropper/OA/EOP, Karen D. Cruson/WHF/EOP, Mitchell Daniels/OMB/EOP, Alicia W. Davis/WHO/EOP, Ashley E. Davis/WHO/EOP, Michael Davis/WHO/EOP, Josh Deckard/WHO/EOP, Nicolle Devenish/WHO/EOP, Reed Dickens/WHO/EOP, Eric A. Draper/WHO/EOP, Ashley D. Drummond/WHO/EOP, Trent D. Duffy/OMB/EOP, Paul B. Dyck/WHO/EOP, Ashley J. Dyer/WHO/EOP, Gary R. Edson/NSC/EOP, Ruth E. Elliott/NSC/EOP, Tucker A. Eskew/WHO/EOP, Ashley Estes/WHO/EOP, John D. Estes/WHO/EOP, Sandra K. Evans/WHO/EOP, Richard Falkenrath/WHO/EOP, Daniel D. Faoro/OA/EOP, Jennifer M. Farley/WHO/EOP, Mary Elizabeth Farr/WHO/EOP, Catherine S. Fenton/WHO/EOP, Jeanie L. Figg/WHO/EOP, Kara G. Figg/WHO/EOP, Timothy E. Flanigan/WHO/EOP, Julian M. Flannery/WHO/EOP, Lawrence A. Fleischer/WHO/EOP, Jennifer Foley/WHO/EOP, Laura F. Fullerton/WHO/EOP, Christopher Furlow/WHO/EOP, Linda M. Gambatesa/WHO/EOP, Reed H. Galen/WHO/EOP, Sarah M. Garrison/WHO/EOP, Stephen M. Garrison/WHO/EOP, Lavin Gartland/ONDCP/EOP, Dorothy C. Garvin/WHO/EOP, Joseph H. Gerdes/WHO/EOP, Eleanor L. Gillmor/OPD/EOP, Signe L. Girgus/OA/EOP, Dylan C. Glenn/OPD/EOP, Tim Goeglein/WHO/EOP, Barbara Jo Goergen/WHO/EOP, Adam B. Goldman/WHO/EOP, Blake Gottesman/WHO/EOP, Britt Grant/OPD/EOP, Adrian G. Gray/WHO/EOP, Ann Gray/WHO/EOP, Emily S. Gray/WHO/EOP, Wendy E. Gray/NSC/EOP, Brent D. Greenfield/WHO/EOP, Darren D. Grubb/WHO/EOP, Abel Guerra/WHO/EOP, Henry C. Hager/WHO/EOP, Mary Ann Hanusa/WHO/EOP, Alison M. Harden/WHO/EOP, Catherine M. Hargraves/WHO/EOP, Albert Hawkins/WHO/EOP, Kathryn J. Hayes/WHO/EOP, Erin E. Healy/WHO/EOP, Anne Heiligenstein/WHO/EOP, Chris Henick/WHO/EOP, Keith Hennessey/OPD/EOP, Israel Hernandez/WHO/EOP, Douglas L. Hoelscher/WHO/EOP, Elizabeth Hogan/WHO/EOP, Stuart Holliday/WHO/EOP, Mark Holman/WHO/EOP, Glenn Hubbard/CEA/EOP, A. Merrill Hughes/OVP/EOP, Edward Ingle/WHO/EOP, Hector F. Irastorza/WHO/EOP, Barry S. Jackson/WHO/EOP, Marilyn R. Jacanin/WHO/EOP, Reuben Jeffery/OPD/EOP, Gregory J. Jenkins/WHO/EOP, Gordon D. Johndroe/WHO/EOP, Collister W. Johnson/WHO/EOP, Alison Jones/WHO/EOP, M. Kay Joshi/NSC/EOP, Joel D. Kaplan/WHO/EOP, Brett M. Kavanaugh/WHO/EOP, Daniel J. Keniry/WHO/EOP, Matthew Kirk/WHO/EOP, Ellis Kitchen/OA/EOP, Elizabeth W. Kleppe/OVP/EOP, Karen Y. Knutson/OVP/EOP, Matthew Koch/WHO/EOP, Lindsey C. Kozberg/WHO/EOP, David Kuo/WHO/EOP, Ross M. Kyle/WHO/EOP, Laura S. Lawlor/WHO/EOP, Jay P. Lefkowitz/OPD/EOP, Dirksen Lehman/WHO/EOP, Sarah M. Lenti/NSC/EOP, Adam L. Levine/WHO/EOP, Laura E. Lineberry/NSC/EOP, Stephen M. Lineberry/CEA/EOP, Kenneth A. Lisaius/WHO/EOP, Ginger G. Loper/WHO/EOP, Jose Mallea/WHO/EOP, Jeanie S. Mamo/WHO/EOP, Heidi K. Marquez/WHO/EOP, Robert Marsh/WHO/EOP, Mary J. Matalin/OVP/EOP, Jennifer H. Mayfield/OVP/EOP, Daniel M. McCarthy/WHO/EOP, Mark McClellan/CEA/EOP, Scott McClellan/WHO/EOP, John P. McConnell/OVP/EOP, Brian V. McCormack/OVP/EOP, Edward McNally/WHO/EOP, Vickie A. McQuade/WHO/EOP, Ken Mehlman/WHO/EOP, Sonya E. Medina/WHO/EOP, A. Morgan Middlemas/WHO/EOP, Harriet Miers/WHO/EOP, Michael H. Miller/WHO/EOP, Jennifer Millerwise/OVP/EOP, Cathy L. Millison/NSC/EOP, Brian D. Montgomery/WHO/EOP, Charlotte L. Montiel/WHO/EOP, Leslie A. Mooney/OPD/EOP, Michael J. Napolitano/WHO/EOP, Susan K. Neely/WHO/EOP, Wendy L. Nipper/WHO/EOP, Claire M. O'Donnell/OVP/EOP, Joseph F. O'Neill/OPD/EOP, Ziad S. Ojakli/WHO/EOP, Cheryl A. Oldham/WHO/EOP, Christopher J. Orr/WHO/EOP, Eric H. Otto/OPD/EOP, Kasey S. Pipes/WHO/EOP, Dina Powell/WHO/EOP, Clare Pritchett/WHO/EOP, Susan B. Ralston/WHO/EOP, Craig Ray/WHO/EOP, Tim Reynolds/WHO/EOP, Allison L. Riepenhoff/WHO/EOP, Krista L. Ritacco/WHO/EOP, Josephine B. Robinson/WHO/EOP, Edwina C. Rogers/OPD/EOP, Stephen S. Ruhlen/OVP/EOP, Catharine A. Ryun/WHO/EOP, Diana L. Schacht/OPD/EOP, Matthew A. Schlapp/WHO/EOP, Scott Sechser/WHO/EOP, Scott N. Sforza/WHO/EOP, Matthew E. Smith/WHO/EOP, Ashley Snee/WHO/EOP, Deborah A. Spagnoli/WHO/EOP, Scott Stanzel/WHO/EOP, Gretchen P. Steen/WHO/EOP, Timothy C. Stout/WHO/EOP, Angela B. Styles/OMB/EOP, Meredith A. Terpeluk/WHO/EOP, Eric W. Terrell/WHO/EOP, Julieanne H. Thomas/WHO/EOP, Jim Towey/WHO/EOP, Anne Trenolone/WHO/EOP, Richard J. Tubb/WHO/EOP, Ali H. Tulbah/WHO/EOP, Erin A. Vargo/WHO/EOP, Lauren J. Vestewig/OPD/EOP, Mercedes M. Viana/WHO/EOP, Jared B. Weinstein/WHO/EOP, L. Camille Welborn/WHO/EOP, Lezlee J. Westine/WHO/EOP, Heather Wingate/WHO/EOP, Tracy Young/WHO/EOP, Neil H. Zimmerman/WHO/EOP, Katherine L. Disston/WHO/EOP, Lindsay J. Bourns/WHO/EOP, Carrie B. Loy/WHO/EOP, William T. Griffin/WHO/EOP, Heather W. Musser/WHO/EOP, Jill Davie/WHO/EOP, Jack Howard/WHO/EOP, Michael J. Conway/WHO/EOP, Christal R. West/WHO/EOP, Roland N. Litterst/WHO/EOP, Adam B. Ingols/WHO/EOP, Carolyn E. Cleveland/WHO/EOP, Katherine M. Walters/WHO/EOP, Sara M. Taylor/WHO/EOP, David M. Thomas/WHO/EOP, Leonard B. Rodriguez/WHO/EOP, Angela R. Sailor/WHO/EOP, Ronald I. Christie/OPD/EOP, Melanie A. Jackson/WHO/EOP, Debra Heiden/OVP/EOP, Jennifer D. Field/OVP/EOP, Catherine J. Martin/OVP/EOP, Alice H. Williams/CEA/EOP, Lisa D.

Branch/CEA/EOP, Roberta L. Conde/CEQ/EOP, Tracy L. Carson/OPD/EOP, Kenneth A. Thomas/OPD/EOP, Patricia F. Ware/OPD/EOP, Shana L. Dale/OSTP/EOP, Alberto R. Gonzales/WHO/EOP, Timothy E. Flanigan/WHO/EOP, Bradford A. Berenson/WHO/EOP, Noel J. Francisco/WHO/EOP, Jennifer G. Newstead/WHO/EOP, Kyle Sampson/WHO/EOP, Helgard C. Walker/WHO/EOP, Kelley Gannon/WHO/EOP, Todd W. Beyer/WHO/EOP, Stephanie E. Linder/WHO/EOP, Kristopher N. Purcell/WHO/EOP, Michael J. Gerson/WHO/EOP, Peter H. Wehner/WHO/EOP, John D. Gibson/NSC/EOP, Matthew R. Rees/NSC/EOP, Jane M. Cook/WHO/EOP, Marie Vachon/WHO/EOP, Charles S. Abbot/OVP/EOP, Wendy J. Grubbs/WHO/EOP, Julie L. Nichols/WHO/EOP, Timothy C. Stout/WHO/EOP, Bruce M. Lawlor/WHO/EOP, Paul B. Kurtz/NSC/EOP, Paul L. Morse/WHO/EOP, Michael A. Sanders/WHO/EOP, Michael Davis/WHO/EOP, Katharina M. Hager/WHO/EOP, Jackie Arends/WHO/EOP, Elizabeth Hogan/WHO/EOP, Jennifer A. Minton/WHO/EOP, Desiree T. Sayle/WHO/EOP, Terry W. Good/WHO/EOP, Philip C. Droege/WHO/EOP, Lewis Libby/OVP/EOP, Charles D. McGrath Jr/OVP/EOP, Candida P. Wolff/OVP/EOP, Lindley Kratovil/OVP/EOP, Cesar Conda/OVP/EOP, Marie K. Fishpaw/OVP/EOP, Mary K. Lang/OVP/EOP, Diana E. Furchtgott-Roth/CEA/EOP, Randall S. Kroszner/CEA/EOP, Douglas J. Holtz-Eakin/CEA/EOP, Phil Cooney/CEQ/EOP, Samuel A. Thernstrom/CEQ/EOP, Elizabeth A. Stolpe/CEQ/EOP, Virginia Stephens/CEQ/EOP, Matthew C. Waxman/NSC/EOP, Jennie M. Koch/NSC/EOP, Cheryl E. Barnett/NSC/EOP, Mary A. Haines/NSC/EOP, Alexian T. Wines/NSC/EOP, Jendayi E. Frazer/NSC/EOP, Bobby J. Pittman/NSC/EOP, Cindy L. Courville/NSC/EOP, Jane C. Heishman/NSC/EOP, Lisa Gordon-Hagerty/NSC/EOP, Franklin C. Miller/NSC/EOP, Elliott Abrams/NSC/EOP, Mary C. Andrews/WHO/EOP, John A. Cloud/NSC/EOP, Adam R. Isles/NSC/EOP, Gregory A. Manuel/NSC/EOP, John B. Bellinger/NSC/EOP, Sean I. McCormack/NSC/EOP, Matthew R. Rees/NSC/EOP, Karen E. Keller/OMB/EOP, Lois E. Altoft/OMB/EOP, Nancy Dorn/OMB/EOP, Augustine T. Smythe/OMB/EOP, Rebecca E. Davis/OMB/EOP, Philip J. Perry/OMB/EOP, Stephen S. McMillin/OMB/EOP, Karen S. Dooley/OMB/EOP, James C. Capretta/OMB/EOP, Eric C. Pelletier/OMB/EOP, Danielle M. Simonetta/OMB/EOP, James J. Jukes/OMB/EOP, Robin Cleveland/OMB/EOP, Marcus Peacock/OMB/EOP, Richard M. Russell/OSTP/EOP
cc:

From: [UNKNOWN] <Montiel, Charlotte L.>

To: <Bolten>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /DCA7B994-2476ECB4-852569D9-623521 [UNKNOWN] <Joshua B.>;<Bennett>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/5D5F365B-3B5ACE36-852569DB-7B1446 [UNKNOWN] <Melissa S.>;<Thompson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /ECE0FA73-1B1E6E05-852569DB-5F65D3 [UNKNOWN] <Carol J.>;<Everson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/FF797A9B-218FE559-85256B99-4E9537 [UNKNOWN] <Nanette>;<Carroll>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/ABE8CAAB-B5943FBD-85256B4B-69C8CE [UNKNOWN] <James W.>;<Addington>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/FFAB5A7D-85B03435-852569DB-569229 [UNKNOWN] <David S.>;<Bartolomucci>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /1A4DAB1A-EBCD4DB1-852569DA-6039DB [UNKNOWN] <H. Christopher>;<Cabral>;/EOP /FIRST ADMINISTRATIVE GROUP/RECIPIENTS/3E9F71DA-51100FC2-85256AB7-60DFEA [UNKNOWN] <Raquel>;<Brilliant>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /59738820-F4C7B11F-85256B9F-47097A [UNKNOWN] <Hana F.>;<Nelson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/49A0DB8A-2A564F13-85256A2A-4E472E [UNKNOWN] <Carolyn>;<Powell>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /C457024B-B3447231-85256C00-44CFA6 [UNKNOWN] <Benjamin A.>;<Alix>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/68A3DCF2-69658983-852569D9-6F1946 [UNKNOWN] <Cathy>;<Allgood>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/803D647F-9A13DFA4-85256B65-563317 [UNKNOWN] <Lauren K.>;<Angulo>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/8F3E5B30-EF21BED-85256B53-582253 [UNKNOWN] <Magda E.>;<Babin>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/FBCAF507-C473DEE3-85256A9B-649260 [UNKNOWN] <Chad>;<Ball>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/4DB786B7-8746231E-852569DA-6A31C6 [UNKNOWN] <Andrea G.>;<Barclay>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/FF9FCC16-25F6514C-85256457-4A7D96 [UNKNOWN] <Barbara A.>;<Barfield>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/67394C19-5A09EB30-85256B72-48B742 [UNKNOWN] <Tiffany L.>;<Barrales>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/54B63ED1-BC678BBB-85256A00-70D9A7 [UNKNOWN] <Ruben S.>;<Bartlett>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/E1579152-C3E7739B-852569DC-53DCE9 [UNKNOWN] <Daniel J.>;<Bearson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /AA6E9736-5A0B5BF6-852569FA-7DE1CF [UNKNOWN] <Darren W.>;<Benkie>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/E868EA84-3D90D116-852569DF-5A8643 [UNKNOWN] <Dee Dee>;<Berenson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /A98FCBC9-26B1DA41-852569DB-58F64B [UNKNOWN] <Bradford A.>;<Besanceney>;/EOP /FIRST ADMINISTRATIVE GROUP/RECIPIENTS/685B62D7-302255D2-85256A16-4EBBAF [UNKNOWN] <Brian R.>;<Biegun>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /3D470BD1-923D8663-85256A6F-684CC6 [UNKNOWN] <Stephen E.>;<Bird>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/EF82DEE6-95F9C237-852563D5-3283E [UNKNOWN] <Debra D.>;<Blakeman>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/474989CF-A52D2D9C-852569D9-6DDBA3 [UNKNOWN] <Bradley A.>;<Boisvenue>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/929DD7B3-5A22A470-85256C64-4BE7A9 [UNKNOWN] <Michael J.>;<Bourns>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /315140D4-2A286C8B-85256A9C-5C242F [UNKNOWN] <Lindsay J.>;<Bowen>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/4A2C2EB-13942C40-852569DA-6125AE [UNKNOWN] <Stuart W.>;<Bravo>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /A534CE3-59EEF20-852569DE-C3F1C [UNKNOWN] <Brian>;<Bridgeland>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/F780D323-9CDBC5CC-852569DC-694D86 [UNKNOWN] <John M.>;<Buchan>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /6CDF751A-ED243CC-852569DB-8124CB [UNKNOWN] <Claire E.>;<Buchholz>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/641E5BA8-317A73F9-85256AE1-455C66 [UNKNOWN] <Carl>;<Bullock>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /E96FDD4E-4FC1496C-852569DC-517FB2 [UNKNOWN] <Katja>;<Bumatay>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/3465B0BF-DC4627C2-85256B30-52A689 [UNKNOWN] <Patrick J.>;<Calio>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /556C3548-6B8E203C-852569D9-6DA782 [UNKNOWN] <Nicholas E.>;<Camp>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/64A878B0-38CF6AFE-852569DA-643152 [UNKNOWN] <Elizabeth N.>;<Campbell>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /1EEDC809-4DE5B2E6-85256B66-46E195 [UNKNOWN] <Anne E.>;<Canfield>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/CFBC3B5D-90E6C1BD-85256B06-5C2A76 [

UNKNOWN] <Sally>;<Chadwick>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /12B85667-54D1E2D6-852569DB-5DDD53 [UNKNOWN] <Kirsten A.>;<Chaffee>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/303D313F-3CBAF3ED-85256AE4-454E0F [UNKNOWN] <Barbara C.>;<Chambers>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /3F869273-AAC2E6D0-85256A5E-47C2F0 [UNKNOWN] <Shane P.>;<Ciccone>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/F15B5F12-AE64B6BA-852569DC-4816DE [UNKNOWN] <Christine>;<Clark>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /3AA0C2F-59C51038-852569DA-689705 [UNKNOWN] <Alicia P.>;<Conklin>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/BE8D235-7E18AB8E-852569DC-482AEC [UNKNOWN] <Brian C.>;<Connaughton>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /17772EB2-3F9E90D2-85256A71-6E86D8 [UNKNOWN] <James>; <Cooper>;ccooper@NSC.eop.gov [NSC] <Colby J.>;<Cropper>;Stacia_L._Cropper@who.eop.gov [WHO] <Stacia L.>;<Cruson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/9B54B821-5FDE6714-85256C60-5BA05C [UNKNOWN] <Karen D.>;<Daniels>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /DD887072-71DA53E6-852569D6-4B724E [UNKNOWN] <Mitchell>;<Davis>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/5E936C0E-B2212C01-852569E5-72EE65 [UNKNOWN] <Alicia W.>;<Davis>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /F759F175-C3FC680E-852569D9-6EE299 [UNKNOWN] <Ashley E.>;<Davis>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/4ECEFC85-72431080-85256A32-73BC16 [UNKNOWN] <Michael>;<Deckard>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /F99FC38-59198000-85256A56-64F8DA [UNKNOWN] <Josh>;<Devenish>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/CFB096E3-6D4AFD76-852569E7-532780 [UNKNOWN] <Nicolle>;<Dickens>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /AA173D66-94F3A183-85256AA0-91CEF [UNKNOWN] <Reed>;<Draper>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/235BF9EA-99417A2C-852569DB-5E30CE [UNKNOWN] <Eric A.>;<Drummond>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /28CA41B2-5E15FFFB-852569DD-77A618 [UNKNOWN] <Ashley D.>;<Duffy>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/14D38623-6E0B5EF7-85256B2F-4A3F9C [UNKNOWN] <Trent D.>;<Dyck>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /A7F1F06E-6A4725E3-852569DA-7817F1 [UNKNOWN] <Paul B.>;<Dyer>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/37FFB539-A695C28E-85256B37-5E2CFE [UNKNOWN] <Ashley J.>;<Edson>;gedson@NSC.eop.gov [NSC] <Gary R.>;<Elliott>;relliott@NSC.eop.gov [NSC] <Ruth E.>;<Eskew>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/B0FBEC55-BB8D706B-852569DA-785785 [UNKNOWN] <Tucker A.>;<Estes>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/4C32A97D-998AE454-852569DB-5EAFD3 [UNKNOWN] <Ashley>;<Estes>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/62815163-B0F092AD-852569DE-CC01F [UNKNOWN] <John D.>;<Evans>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /ED27A000-6D0B70FA-85256AE6-48CE85 [UNKNOWN] <Sandra K.>;<Falkenrath>;/EOP /FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6F0F0D0E-F6542B48-85256B45-6B8324 [UNKNOWN] <Richard>;<Faoro>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /55BA1F04-DB140E9F-85256A0E-43DCFB [UNKNOWN] <Daniel D.>;<Farley>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/FECD43AB-836AAD2B-85256A95-641F1D [UNKNOWN] <Jennifer M.>;<Farr>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /1610FB10-23D65777-852569DD-73A79F [UNKNOWN] <Mary Elizabeth>;<Fenton>;/EOP /FIRST ADMINISTRATIVE GROUP/RECIPIENTS/D70C109D-3F997C9C-852569DB-5F0104 [UNKNOWN] <Catherine S.>;<Figg>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /D4DF7970-B0456D9C-852569DD-524A1C [UNKNOWN] <Jeanie L.>;<Figg>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/97ABF692-E2CD6D15-852569DB-751348 [UNKNOWN] <Kara G.>;<Flanigan>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /2E73982F-10434C26-852569DB-5EE7B7 [UNKNOWN] <Timothy E.>;<Flannery>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/2C12C46-1C4658C5-85256BF4-40EBE3 [UNKNOWN] <Julian M.>;<Fleischer>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C5F9765B-338C0224-852569D9-645801 [UNKNOWN] <Lawrence A.>;<Foley>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/7BA8EBF3-835A07B6-852569DB-5F4A4D [UNKNOWN] <Jennifer>;<Fullerton>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /7B4E05CF-55B2A18-85256C2C-42965E [UNKNOWN] <Laura F.>;<Furlow>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/42EDD79-B3E67BC6-85256C60-52F4A6 [UNKNOWN] <Christopher>;<Gambatesa>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /C6807646-48AB42F6-852569D9-6A202F [UNKNOWN] <Linda M.>;<Galen>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/81DFB998-74B4A292-85256B4B-5B9494 [UNKNOWN] <Reed H.>;<Garrison>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS

/6CF37D42-D0DDC078-85256BF1-679F92 [UNKNOWN] <Sarah M.>;<Garrison>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/1BD7473B-AC1F5200-85256BBC-5112BD [UNKNOWN] <Stephen M.>;<Gartland>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /932D4C89-41527FE7-85256AAE-657834 [UNKNOWN] <Lavin>;<Garvin>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/8D6BFF88-848CC4A7-85256A32-49509D [UNKNOWN] <Dorothy C.>;<Gerdes>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /4EDA512F-FB53401-85256B37-6BC7EC [UNKNOWN] <Joseph H.>;<Gillmor>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6CC880A6-A3397D87-852569F2-511054 [UNKNOWN] <Eleanor L.>;<Girgus>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/58FCAB87-D4A7EFFF-852565D1-5737FD [UNKNOWN] <Signe L.>;<Glenn>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/47365273-735D7E33-852569DE-5B5981 [UNKNOWN] <Dylan C.>;<Goeglein>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /45280CD0-28425E29-852569DC-58479D [UNKNOWN] <Tim>;<Goergen>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/163B65F9-D34CAF52-85256AB0-48405A [UNKNOWN] <Barbara Jo>;<Goldman>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /698AA900-27350BE5-852569DD-5F23FE [UNKNOWN] <Adam B.>;<Gottesman>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/E3CC9430-AD683D99-852569DB-51F012 [UNKNOWN] <Blake>;<Grant>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /D830905B-73BBD637-85256AB6-4A970B [UNKNOWN] <Britt>;<Gray>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/16B9D208-E1DF72C0-852569E7-5892E0 [UNKNOWN] <Adrian G.>;<Gray>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /40289C9F-87E5BBFB-85256B42-56D1F7 [UNKNOWN] <Ann>;<Gray>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/8A3F4B12-CD26EBB6-85256B73-6AD94D [UNKNOWN] <Emily S.>;<Gray>;wgray@NSC.eop.gov [NSC] <Wendy E.>;<Grubb>;/EOP /FIRST ADMINISTRATIVE GROUP/RECIPIENTS/85AB63CB-F2CFC941-85256C0C-5D7958 [UNKNOWN] <Darren D.>;<Guerra>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /A6B2E380-D5A4FADA-852569E4-4C97FA [UNKNOWN] <Abel>;<Hager>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/19127F32-8FD61FA5-85256BAC-472950 [UNKNOWN] <Henry C.>;<Hanusa>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/7FB4C1DC-8D352753-85256A1E-617467 [UNKNOWN] <Mary Ann>;<Harden>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/E88B8CAA-DAB0FFD2-852569DC-75A36E [UNKNOWN] <Alison M.>;<Hawkins>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /299B67B0-403E8A7E-852569D9-615150 [UNKNOWN] <Albert>;<Hayes>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/9A38B966-4A1E35A1-852569DE-4F7E0F [UNKNOWN] <Kathryn J.>;<Healy>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /5D94F21F-2AFC3E31-852569DD-602EF1 [UNKNOWN] <Erin E.>;<Heiligenstein>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/22B0629B-1C133903-852569DC-4722EE [UNKNOWN] <Anne>;<Henick>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /6F8D473A-98659B0E-852569E5-5B00E9 [UNKNOWN] <Chris>;<Hennessey>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/DA9871CB-CB14E918-85256C21-421685 [UNKNOWN] <Keith>;<Hernandez>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /9A92FB8D-28223EB3-852569DC-630DCD [UNKNOWN] <Israel>;<Hoelscher>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/D2C4E16B-89A27B37-85256A16-4C6C01 [UNKNOWN] <Douglas L.>;<Hogan>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /9B45FBB9-4A84C628-852569FB-4F0338 [UNKNOWN] <Elizabeth>; <Holliday>;shollida@WHO.eop.gov [WHO] <Stuart>;<Holman>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/89B51E58-DFF75C46-85256AE1-4518D9 [UNKNOWN] <Mark>; <Hubbard>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/689D1551-C67272B7-85256A45-4E26FC [UNKNOWN] <Glenn>;<Hughes>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/71E8F3EF-3096E3EE-85256B45-5AE26F [UNKNOWN] <A. Merrill>;<Ingle>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /53838B5A-90E78711-852569DC-53F24B [UNKNOWN] <Edward>;<Irastorza>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/FCC99A4E-57C3C3CB-852569D9-6A7A1D [UNKNOWN] <Hector F.>;<Jackson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /C5E6E146-9B752404-85256A15-5F0CA1 [UNKNOWN] <Barry S.>;<Jacanin>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/66695D5E-7D776AA8-8525645D-681DE2 [UNKNOWN] <Marilyn R.>;<Jeffery>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /E4E4FF2E-CAD2BBD1-85256B74-5A6DD4 [UNKNOWN] <Reuben>;<Jenkins>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C154D002-21913532-85256ABE-439F05 [UNKNOWN] <Gregory J.>;<Johndroe>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /A32F0426-6373DC74-852569DC-38E8C [UNKNOWN] <Gordon D.>;<Johnson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/A88FE60F-2208B0E2-852569DA-79D68E [UNKNOWN] <Collister W.>;<Jones>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS

/E3E25A09-213F23CD-852569DC-73F16D [UNKNOWN] <Alison>;
<Joshi>;mjoshi@NSC.eop.gov [NSC] <M. Kay>;<Kaplan>;/EOP/FIRST ADMINISTRATIVE
GROUP/RECIPIENTS/AB40E70D-1309FE17-852569DC-4D7D0B [UNKNOWN] <Joel
D.>;<Kavanaugh>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6246020-
C20FEE19-852569DA-7648DC [UNKNOWN] <Brett M.>;<Keniry>;/EOP/FIRST
ADMINISTRATIVE GROUP/RECIPIENTS/4AB8EDCC-335E78F7-852569DC-47DA7E [
UNKNOWN] <Daniel J.>;<Kirk>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS
/41CCE2F3-C445AE7F-85256A4D-41FB4B [UNKNOWN] <Matthew>;<Kitchen>;/EOP/FIRST
ADMINISTRATIVE GROUP/RECIPIENTS/3EF62647-9FFE492E-85256A7D-68EBDA [
UNKNOWN] <Ellis>;<Kleppe>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS
/D6FD4CB5-AE28179D-852569DB-568310 [UNKNOWN] <Elizabeth W.>;<Knutson>;/EOP
/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/E061AB26-B4347041-852569EE-5D9583 [
UNKNOWN] <Karen Y.>;<Koch>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS
/15A8FEA8-4AFA531F-85256BA5-66B0C5 [UNKNOWN] <Matthew>;<Kozberg>;/EOP/FIRST
ADMINISTRATIVE GROUP/RECIPIENTS/94A30D77-FE626189-85256BC7-4961FC [
UNKNOWN] <Lindsey C.>;<Kuo>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS
/EE787172-40C5EDCF-85256A9A-46BA73 [UNKNOWN] <David>;<Kyle>;/EOP/FIRST
ADMINISTRATIVE GROUP/RECIPIENTS/3A6C9F73-8873BD4-85256A15-72A62A [UNKNOWN
] <Ross M.>;<Lawlor>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/82E8E66A-
CF794F8E-852569DE-D70D4 [UNKNOWN] <Laura S.>;<Lefkowitz>;/EOP/FIRST
ADMINISTRATIVE GROUP/RECIPIENTS/4E3BA750-755061D8-85256B68-854C7 [UNKNOWN]
<Jay P.>;<Lehman>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/61329B03-
A607D8DF-852569E6-71A70E [UNKNOWN] <Dirksen>;<Lenti>;slenti@NSC.eop.gov [NSC]
<Sarah M.>;<Levine>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/E6A5046D-
3A29DA2D-85256B35-6D224A [UNKNOWN] <Adam L.>;<Lineberry>;llineber@NSC.eop.gov [
NSC] <Laura E.>;<Lineberry>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS
/646A28AA-5FD3662A-85256AF7-5FE5D2 [UNKNOWN] <Stephen M.>;<Lisaius>;/EOP/FIRST
ADMINISTRATIVE GROUP/RECIPIENTS/74702272-435C2977-852569DA-7A3723 [UNKNOWN
] <Kenneth A.>;<Loper>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/527B67DA-
80EA9637-85256BA4-4E24D0 [UNKNOWN] <Ginger G.>;<Mallea>;/EOP/FIRST
ADMINISTRATIVE GROUP/RECIPIENTS/4D155367-2D4F6A8D-85256B72-463C96 [
UNKNOWN] <Jose>;<Mamo>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS
/7DC6DC70-6F4D0E18-852569DB-5B674A [UNKNOWN] <Jeanie S.>;<Marquez>;/EOP/FIRST
ADMINISTRATIVE GROUP/RECIPIENTS/33308984-635336F5-852569DC-766A71 [UNKNOWN
] <Heidi K.>;<Marsh>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/DDD6CFFC-
D1AAA222-85256A42-613071 [UNKNOWN] <Robert>;<Matalin>;/EOP/FIRST
ADMINISTRATIVE GROUP/RECIPIENTS/95E98E87-B65483AE-852569D9-6E3A3E [
UNKNOWN] <Mary J.>;<Mayfield>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS
/EDF13E3B-4221C5BC-852569DB-5F8644 [UNKNOWN] <Jennifer H.>;<McCarthy>;/EOP
/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/969AD1E8-60902646-852569DC-477172 [
UNKNOWN] <Daniel M.>;<McClellan>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS
/19AD7057-2B6F1E96-85256A75-25CAF [UNKNOWN] <Mark>;<McClellan>;/EOP/FIRST
ADMINISTRATIVE GROUP/RECIPIENTS/572D144B-CE5C3BB1-852569DB-81547C [
UNKNOWN] <Scott>;<McConnell>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS
/DABB57E8-A8F460AF-852569DD-5566AA [UNKNOWN] <John P.>;<McCormack>;/EOP
/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/20A95DD5-4081D2A-852569DB-611062 [
UNKNOWN] <Brian V.>;<McNally>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS
/B23459EA-8A5AE3B-85256B04-6CAE82 [UNKNOWN] <Edward>;<McQuade>;/EOP/FIRST
ADMINISTRATIVE GROUP/RECIPIENTS/29B527E6-3CF27BF-852569DC-500D8B [UNKNOWN
] <Vickie A.>;<Mehlman>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS
/50BA7341-700F1B8A-85256B0A-6B34A8 [UNKNOWN] <Ken>;<Medina>;/EOP/FIRST
ADMINISTRATIVE GROUP/RECIPIENTS/4577BB8D-929F7125-852569DE-D8A0B [UNKNOWN
] <Sonya E.>;<Middlemas>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/DA96FDE-
E0EE4384-85256A53-54910A [UNKNOWN] <A. Morgan>;<Miers>;/EOP/FIRST
ADMINISTRATIVE GROUP/RECIPIENTS/B2E77F63-672509FB-852569D9-6D71FD [
UNKNOWN] <Harriet>;<Miller>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS
/7BFA32B2-BF201206-85256991-6BFE0B [UNKNOWN] <Michael H.>;<Millerwise>;/EOP
/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/48A0A40F-7C42EBDB-85256B43-47A9FA [
UNKNOWN] <Jennifer>;<Millison>;cmilliso@NSC.eop.gov [NSC] <Cathy
L.>;<Montgomery>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS
/933C8E39-53EE3F3D-852569DD-6009B2 [UNKNOWN] <Brian D.>;<Montiel>;/EOP/FIRST
ADMINISTRATIVE GROUP/RECIPIENTS/A4C69221-46D73A5F-85256BC1-64493F [
UNKNOWN] <Charlotte L.>;<Mooney>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS

/92A0CEA8-91246CAA-85256A15-70580C [UNKNOWN] <Leslie A.>;<Napolitano>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/E9953D33-E5716A31-852569DE-627AB9 [UNKNOWN] <Michael J.>;<Neely>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/8E5E69F1-A435E8D7-85256AED-71DBBF [UNKNOWN] <Susan K.>;<Nipper>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/68DD75F6-E0448FE6-852569DC-7F719C [UNKNOWN] <Wendy L.>;<O'Donnell>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/517750D2-74FA2FF-852569DB-6555B6 [UNKNOWN] <Claire M.>;<O'Neill>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C9CF0265-66557B55-85256C05-5A7E13 [UNKNOWN] <Joseph F.>;<Ojakli>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/1B7998B0-ABAAECA4-852569DB-5EAD8A [UNKNOWN] <Ziad S.>;<Oldham>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/33F1984D-D6746F24-852569DE-4EC94E [UNKNOWN] <Cheryl A.>;<Orr>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/67EBE90B-582728B9-852569DF-6CEC0D [UNKNOWN] <Christopher J.>;<Otto>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/B8F293AC-CB965EE7-852569E3-61C4E0 [UNKNOWN] <Eric H.>;<Pipes>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/D167B5CF-D56399E-852569DE-D9D25 [UNKNOWN] <Kasey S.>;<Powell>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/583FB9CE-AFBAD6FF-852569DD-44BBDA [UNKNOWN] <Dina>;<Pritchett>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/2B7DF64A-741CFFFA-852569DC-47BF9C [UNKNOWN] <Clare>;<Ralston>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/687DD249-C2840DC7-852569F3-6F5C28 [UNKNOWN] <Susan B.>;<Ray>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/B46C6C9D-BE8675BE-85256A65-60B680 [UNKNOWN] <Craig>;<Reynolds>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C3B08C44-9E191875-85256B4A-52EC25 [UNKNOWN] <Tim>;<Riepenhoff>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/E07714A6-FC8F86D9-852569FB-6AFACD [UNKNOWN] <Allison L.>;<Ritacco>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/485B63E8-18B851DE-852569DD-61845A [UNKNOWN] <Krista L.>;<Robinson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/8F879CC9-3863F1B8-852569DD-61EEFB [UNKNOWN] <Josephine B.>;<Rogers>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/5D04685F-6AAA3962-852569E3-66808D [UNKNOWN] <Edwina C.>;<Ruhlen>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/58A1504B-CB7A0791-852569E4-4CBD5B [UNKNOWN] <Stephen S.>;<Ryun>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/80254183-7F0856D-852569FF-51B55C [UNKNOWN] <Catharine A.>;<Schacht>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/3F815C7C-30F425B-85256A09-79EEF2 [UNKNOWN] <Diana L.>;<Schlapp>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/854C04E1-91EF30AD-852569DA-76E1F8 [UNKNOWN] <Matthew A.>;<Sechser>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/18B3FDC-E0BA9D61-85256A92-8393F4 [UNKNOWN] <Scott>;<Sforza>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/674F3DC-73331971-852569DC-53C05E [UNKNOWN] <Scott N.>;<Smith>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6BF4B26C-5CAAC856-852569DE-66F827 [UNKNOWN] <Matthew E.>;<Snee>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/2A49BED-5C9924C-85256B41-4CE8BA [UNKNOWN] <Ashley>;<Spagnoli>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/47CAFB76-37C8193E-85256A0F-57B847 [UNKNOWN] <Deborah A.>;<Stanzel>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/BA7A6719-776C2EBF-852569DB-4F8FA0 [UNKNOWN] <Scott>;<Steen>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/A4CE4CB1-F845CF46-852569DE-DF9D2 [UNKNOWN] <Gretchen P.>;<Stout>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/F605B16E-8B76AFC1-852569F5-48044A [UNKNOWN] <Timothy C.>;<Styles>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6CD1CDAF-44F4D44-85256A25-5624D4 [UNKNOWN] <Angela B.>;<Terpeluk>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/F1BFB9CA-9BA1FC8E-852569DA-7700F5 [UNKNOWN] <Meredith A.>;<Terrell>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/DE933171-692F4ADC-85256A54-545E48 [UNKNOWN] <Eric W.>;<Thomas>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/487E4C82-250BED85-852569DB-5F2B5E [UNKNOWN] <Julieanne H.>;<Towey>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/CDECD61B-AEEB12DC-85256B53-69AA2D [UNKNOWN] <Jim>;<Trenolone>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/DBB66344-2FD79A4-852569DD-48E05F [UNKNOWN] <Anne>;<Tubb>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/A2C55D93-148FB42D-85256C14-5AD41E [UNKNOWN] <Richard J.>;<Tulbah>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/F86D63FE-AE329084-852569DE-78D9F4 [UNKNOWN] <Ali H.>;<Vargo>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6F0FB7CF-A50D366A-85256BEB-545769 [UNKNOWN] <Erin A.>;<Vestewig>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/54654B73-3ED90D2F-85256B60-566CD0 [UNKNOWN] <Lauren J.>;<Viana>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/3DBB7217-8575999B-

852569FA-77CFE8 [UNKNOWN] <Mercedes M.>;<Weinstein>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/A277C3F8-CECFEAE1-85256BEB-585EEC [UNKNOWN] <Jared B.>;<Welborn>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/35166F2D-15E67398-85256A30-6F5B63 [UNKNOWN] <L. Camille>;<Westine>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/8B7BA508-5A8860A0-852569DD-622504 [UNKNOWN] <Lezlee J.>;<Wingate>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/1E380BD8-ADE0CE5F-85256A87-5063AD [UNKNOWN] <Heather>;<Young>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/B7027A63-5898A884-852569DE-E1D2C [UNKNOWN] <Tracy>;<Zimmerman>;Neil_H._Zimmerman@who.eop.gov [WHO] <Neil H.>;<Disston>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/8E999944-6283D4E-85256B75-4D4738 [UNKNOWN] <Katherine L.>;<Loy>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/A98EFE6D-5AE0DAD9-85256B74-467F4C [UNKNOWN] <Carrie B.>;<Griffin>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/AB50EC59-A86382E1-852569DA-7939A5 [UNKNOWN] <William T.>;<Musser>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/EBF39531-F5F71902-85256C62-454C3A [UNKNOWN] <Heather W.>;<Davie>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C1905CAF-33A32B3B-852569F1-6DF8BA [UNKNOWN] <Jill>;<Howard>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/A023DB37-90023F00-85256AE6-4C8EE5 [UNKNOWN] <Jack>;<Conway>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C63969DB-CC624FDB-85256A0D-75885C [UNKNOWN] <Michael J.>;<West>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6D09A0E9-4F65D4F4-852569DC-47EE2B [UNKNOWN] <Christal R.>;<Litterst>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/2CCB1282-436DE119-852569DA-766097 [UNKNOWN] <Roland N.>;<Ingols>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/CE3FE6DB-E0E3C157-85256B79-5B987D [UNKNOWN] <Adam B.>;<Cleveland>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/F03138B4-EF0DE20B-852563D9-64A164 [UNKNOWN] <Carolyn E.>;<Walters>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/67C0AB5-BC3A9691-85256C05-580D47 [UNKNOWN] <Katherine M.>;<Taylor>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/5A4EA165-695412B1-852569DB-50140F [UNKNOWN] <Sara M.>;<Thomas>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/825ECF7E-110DF90D-852569DD-71E864 [UNKNOWN] <David M.>;<Rodriguez>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/AED12750-ABC6F760-852569DC-5352FE [UNKNOWN] <Leonard B.>;<Sailor>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/67EC41E0-D229ECF0-85256A0D-77B573 [UNKNOWN] <Angela R.>;<Christie>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/D5A2EDAF-59ACEE7B-85256B6E-5882C8 [UNKNOWN] <Ronald I.>;<Jackson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/78AA1C43-9D936057-852569DD-70947C [UNKNOWN] <Melanie A.>;<Heiden>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/1BDB22AC-2C15B2BC-852569DB-6084F4 [UNKNOWN] <Debra>;<Field>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/EAEA2222-A138F2C2-85256A62-63BB36 [UNKNOWN] <Jennifer D.>;<Martin>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/827A53CC-80030BFA-85256A6A-57FAE6 [UNKNOWN] <Catherine J.>;<Williams>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/811E0514-B040B28A-85256478-1B84A5 [UNKNOWN] <Alice H.>;<Branch>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/D0BA1FB0-33A24A4E-8525647A-5282BF [UNKNOWN] <Lisa D.>;<Conde>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/7E99BB54-FAC43113-85256B1E-51570A [UNKNOWN] <Roberta L.>;<Carson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/E4F563F8-FF6E1F39-85256AA0-6CDFC2 [UNKNOWN] <Tracy L.>;<Thomas>;kthomas@OPD.eop.gov [OPD] <Kenneth A.>;<Ware>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/B506B37-D2D2BCDE-85256B60-5689E3 [UNKNOWN] <Patricia F.>;<Dale>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6C65D809-AA78FCF2-85256A30-64B489 [UNKNOWN] <Shana L.>;<Gonzales>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/DE19B3C6-77AB3823-852569D9-697F1E [UNKNOWN] <Alberto R.>;<Francisco>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/CEFFCE1D-3AA04CD4-852569DA-68EB00 [UNKNOWN] <Noel J.>;<Newstead>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/CC23D9BE-A5E0DBB1-85256BAE-52469A [UNKNOWN] <Jennifer G.>;<Sampson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/4E664A2B-51BB08D-852569DC-544EBE [UNKNOWN] <Kyle>;<Walker>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/75138057-DB233081-85256A02-46FCE4 [UNKNOWN] <Helgard C.>;<Gannon>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/3C32C06D-3EF0871-85256AA2-55BD5D [UNKNOWN] <Kelley>;<Beyer>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/531B0AB1-3F80F4ED-852569DE-C1B4A [UNKNOWN] <Todd W.>;<Linder>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/258FC99A-8E3696F7-85256A3A-3DC8D1 [UNKNOWN] <Stephanie E.>;<Purcell>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS

/75DDD3AC-77D6F867-85256A29-669B69 [UNKNOWN] <Kristopher N.>;<Gerson>;/EOP /FIRST ADMINISTRATIVE GROUP/RECIPIENTS/4226172-F28339FD-852569E3-5C338C [UNKNOWN] <Michael J.>;<Wehner>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /A520AC41-AECCBA1A-852569E4-4C4324 [UNKNOWN] <Peter H.>;<Gibson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/7078324D-E08D07B-85256970-477656 [UNKNOWN] <John D.>;<Rees>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /2E4A6632-68C7446A-85256B7B-4BA5E3 [UNKNOWN] <Matthew R.>;<Cook>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/E4BF28A0-DF7D2250-852569EE-537A7D [UNKNOWN] <Jane M.>;<Vachon>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /F7B3D4F7-260068D9-85256B13-69C4FE [UNKNOWN] <Marie>;<Abbot>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/4D401D98-D61136C0-85256AC4-3EA972 [UNKNOWN] <Charles S.>;<Grubbs>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /CB4CBFE1-555CE201-85256B0A-6C5633 [UNKNOWN] <Wendy J.>;<Nichols>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/D13F1CB8-4C2A5C3C-85256B37-6BB657 [UNKNOWN] <Julie L.>;<Lawlor>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /571B2A58-E6211D2B-85256B03-549003 [UNKNOWN] <Bruce M.>;<Kurtz>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/20A34C52-C6C15AD8-85256848-6F81E4 [UNKNOWN] <Paul B.>;<Morse>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /FDC29A1C-73DF3D6A-852569DD-6144AF [UNKNOWN] <Paul L.>;<Sanders>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/2AF5B66E-4E1C88D1-85256A38-6A1ECB [UNKNOWN] <Michael A.>;<Hager>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /AF227E73-3CDE7278-85256AA8-6D5464 [UNKNOWN] <Katharina M.>;<Arends>;/EOP /FIRST ADMINISTRATIVE GROUP/RECIPIENTS/DBF56EFF-A5CB443D-852569DC-752773 [UNKNOWN] <Jackie>;<Minton>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /62CA5875-90451560-85256AA2-525835 [UNKNOWN] <Jennifer A.>;<Sayle>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/B2A57BDD-1C82F4E5-852569DB-4D7FDE [UNKNOWN] <Desiree T.>;<Good>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /1D75F4C1-56347E70-852563CA-76D241 [UNKNOWN] <Terry W.>;<Droege>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/D57307A2-BA29FD4D-852563CE-1C194F [UNKNOWN] <Philip C.>;<Libby>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /CE20F91C-5FF22499-85256A02-764CBA [UNKNOWN] <Lewis>;<McGrath Jr>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/FAD638B6-DE001174-852569DB-61FFA8 [UNKNOWN] <Charles D.>;<Wolff>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /D55BBA04-5A282E31-852569DB-607283 [UNKNOWN] <Candida P.>;<Kratovil>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/60244D3E-AABBCE0E-85256B74-5C655A [UNKNOWN] <Lindley>;<Conda>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /44C99228-6B54E07D-852569DE-FA47D [UNKNOWN] <Cesar>;<Fishpaw>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/9A258890-8ECA9A45-85256A08-691DA9 [UNKNOWN] <Marie K.>;<Lang>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /7A0D25E9-90B22256-852569DB-57EDB1 [UNKNOWN] <Mary K.>;<Furchtgott-roth>;/EOP /FIRST ADMINISTRATIVE GROUP/RECIPIENTS/DB81B2C7-71287F80-85256A0D-7A7EB1 [UNKNOWN] <Diana E.>;<Kroszner>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /E5963BB3-F8E4B15A-85256A61-625D34 [UNKNOWN] <Randall S.>;<Holtz-eakin>;/EOP /FIRST ADMINISTRATIVE GROUP/RECIPIENTS/E7DC21E0-12BF3266-85256A47-609F9A [UNKNOWN] <Douglas J.>;<Cooney>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /A0C19770-53F957F8-85256A78-44E190 [UNKNOWN] <Phil>;<Thernstrom>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/454B1C9C-5D9C09A0-85256A9C-55531 [UNKNOWN] <Samuel A.>;<Stolpe>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/BFEDD7E4-F9E123DC-85256A84-6BA0E9 [UNKNOWN] <Elizabeth A.>;<Stephens>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/AA556F63-1BAF889-85256A8F-59EA1E [UNKNOWN] <Virginia>;<Waxman>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/4821A01-EF4FF80-85256AA1-64C9E6 [UNKNOWN] <Matthew C.>;<Koch>;jkoch@NSC.eop.gov [NSC] <Jennie M.>;<Barnett>;cbarnett@NSC.eop.gov [NSC] <Cheryl E.>;<Haines>;mhaines@NSC.eop.gov [NSC] <Mary A.>;<Wines>;awines@NSC.eop.gov [NSC] <Alexian T.>;<Frazer>;jfrazer@NSC.eop.gov [NSC] <Jendayi E.>;<Pittman>;bpittman@NSC.eop.gov [NSC] <Bobby J.>;<Courville>;ccourvil@NSC.eop.gov [NSC] <Cindy L.>;<Heishman>;jheishma@NSC.eop.gov [NSC] <Jane C.>;<Gordon-hagerty>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /6714F990-28D04E62-852566BA-622A10 [UNKNOWN] <Lisa>;<Miller>;fmiller@NSC.eop.gov [NSC] <Franklin C.>;<Abrams>;eabrams@NSC.eop.gov [NSC] <Elliott>;<Andrews>;/EOP /FIRST ADMINISTRATIVE GROUP/RECIPIENTS/D6878630-7D87AA1E-85256C31-4B8BC5 [UNKNOWN] <Mary C.>;<Cloud>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /42399449-28DD3D7B-85256A40-4BDC9F [UNKNOWN] <John A.>;<Isles>;/EOP/FIRST

ADMINISTRATIVE GROUP/RECIPIENTS/1BE2DB2D-DD0E9E75-85256B43-66DE92 [UNKNOWN] <Adam R.>;<Manuel>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /A3737AED-E8521CA9-85256A80-6EF95E [UNKNOWN] <Gregory A.>;<Bellinger>;/EOP /FIRST ADMINISTRATIVE GROUP/RECIPIENTS/FC4B795A-A3360AAA-852569F3-6FC037 [UNKNOWN] <John B.>;<McCormack>;smccorma@NSC.eop.gov [NSC] <Sean I.>;<Keller>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/67536FF7-A76B44E7-852569DE-5BC742 [UNKNOWN] <Karen E.>;<Altoft>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/FCED50ED-17FDB27B-85256387-50AD0 [UNKNOWN] <Lois E.>;<Dorn>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /3BBD4BEB-FFCFC535-85256B65-572211 [UNKNOWN] <Nancy>; <Smythe>;asmythe@OMB.eop.gov [OMB] <Augustine T.>;<Davis>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/115E25-3CF2D457-85256A11-4E161D [UNKNOWN] <Rebecca E.>;<Perry>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/22733D1C-B2EC2EF-85256B73-4DEB56 [UNKNOWN] <Philip J.>;<McMillin>;smcmilli@OMB.eop.gov [OMB] <Stephen S.>;<Dooley>;kdooley@OMB.eop.gov [OMB] <Karen S.>;<Capretta>;jcaprett@OMB.eop.gov [OMB] <James C.>;<Pelletier>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/B1AD36A3-B8A7E0F9-852569DE-60469C [UNKNOWN] <Eric C.>;<Simonetta>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /A769CAD-B266D72-85256A02-45E6A1 [UNKNOWN] <Danielle M.>;<Jukes>;jjukes@OMB.eop.gov [OMB] <James J.>;<Cleveland>;rclevela@OMB.eop.gov [OMB] <Robin>;<Peacock>;mpeacock@OMB.eop.gov [OMB] <Marcus>;<Russell>;/EOP /FIRST ADMINISTRATIVE GROUP/RECIPIENTS/134525C3-390EF0D7-85256A02-650A60 [UNKNOWN] <Richard M.>

Sent: 12/2/2002 8:42:10 AM

Subject: Reminder: Tim's Going Away Party Today!

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (MS Mail)
CREATOR:Montiel, Charlotte L. ( [ UNKNOWN ] )
CREATION DATE/TIME: 2-DEC-2002 13:42:10.00
SUBJECT:Reminder: Tim's Going Away Party Today!
TO:Bolten, Joshua B. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=DCA7B994-2476ECB4-852569D9-623521 [ UNKNOWN ] )
READ:UNKNOWN
TO:Bennett, Melissa S. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=5D5F365B-
3B5ACE36-852569DB-7B1446 [ UNKNOWN ] )
READ:UNKNOWN
TO:Thompson, Carol J. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=ECE0FA73-1B1E6E05-852569DB-5F65D3 [ UNKNOWN ] )
READ:UNKNOWN
TO:Everson, Nanette ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=FF797A9B-
218FE559-85256B99-4E9537 [ UNKNOWN ] )
READ:UNKNOWN
TO:Carroll, James W. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=ABE8CAAB-
B5943FBD-85256B4B-69C8CE [ UNKNOWN ] )
READ:UNKNOWN
TO:Addington, David S. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=FFAB5A7D-
85B03435-852569DB-569229 [ UNKNOWN ] )
READ:UNKNOWN
TO:Bartolomucci, H. Christopher ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=1A4DAB1A-EBCD4DB1-852569DA-6039DB [ UNKNOWN ] )
READ:UNKNOWN
TO:Cabral, Raquel ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=3E9F71DA-
51100FC2-85256AB7-60DFEA [ UNKNOWN ] )
READ:UNKNOWN
TO:Brilliant, Hana F. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=59738820-
F4C7B11F-85256B9F-47097A [ UNKNOWN ] )
READ:UNKNOWN
TO:Nelson, Carolyn ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=49A0DB8A-
2A564F13-85256A2A-4E472E [ UNKNOWN ] )
READ:UNKNOWN
TO:Powell, Benjamin A. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=C457024B-
B3447231-85256C00-44CFA6 [ UNKNOWN ] )
READ:UNKNOWN
```

TO:Alix, Cathy (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=68A3DCF2-69658983-852569D9-6F1946 [UNKNOWN])
READ:UNKNOWN
TO:Allgood, Lauren K. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=803D647F-
9A13DFA4-85256B65-563317 [UNKNOWN])
READ:UNKNOWN
TO:Angulo, Magda E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=8F3E5B30-
EF21BED-85256B53-582253 [UNKNOWN])
READ:UNKNOWN
TO:Babin, Chad (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=FBCAF507-
C473DEE3-85256A9B-649260 [UNKNOWN])
READ:UNKNOWN
TO:Ball, Andrea G. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=4DB786B7-8746231E-852569DA-6A31C6 [UNKNOWN])
READ:UNKNOWN
TO:Barclay, Barbara A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=FF9FCC16-25F6514C-85256457-4A7D96 [UNKNOWN])
READ:UNKNOWN
TO:Barfield, Tiffany L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=67394C19-5A09EB30-85256B72-48B742 [UNKNOWN])
READ:UNKNOWN
TO:Barrales, Ruben S. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=54B63ED1-
BC678BBB-85256A00-70D9A7 [UNKNOWN])
READ:UNKNOWN
TO:Bartlett, Daniel J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E1579152-
C3E7739B-852569DC-53DCE9 [UNKNOWN])
READ:UNKNOWN
TO:Bearson, Darren W. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=AA6E9736-5A0B5BF6-852569FA-7DE1CF [UNKNOWN])
READ:UNKNOWN
TO:Benkie, Dee Dee (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=E868EA84-3D90D116-852569DF-5A8643 [UNKNOWN])
READ:UNKNOWN
TO:Berenson, Bradford A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=A98FCBC9-26B1DA41-852569DB-58F64B [UNKNOWN])
READ:UNKNOWN
TO:Besanceney, Brian R. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=685B62D7-302255D2-85256A16-4EBBAF [UNKNOWN])
READ:UNKNOWN
TO:Biegun, Stephen E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=3D470BD1-923D8663-85256A6F-684CC6 [UNKNOWN])
READ:UNKNOWN
TO:Bird, Debra D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=EF82DEE6-95F9C237-852563D5-3283E [UNKNOWN])
READ:UNKNOWN
TO:Blakeman, Bradley A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=474989CF-
A52D2D9C-852569D9-6DDBA3 [UNKNOWN])
READ:UNKNOWN
TO:Boisvenue, Michael J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=929DD7B3-5A22A470-85256C64-4BE7A9 [UNKNOWN])
READ:UNKNOWN
TO:Bourns, Lindsay J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=315140D4-2A286C8B-85256A9C-5C242F [UNKNOWN])
READ:UNKNOWN
TO:Bowen, Stuart W. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4A2C2EB-
13942C40-852569DA-6125AE [UNKNOWN])
READ:UNKNOWN
TO:Bravo, Brian (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=A534CE3-59EEF20-852569DE-C3F1C [UNKNOWN])
READ:UNKNOWN
TO:Bridgeland, John M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=F780D323-9CDBC5CC-852569DC-694D86 [UNKNOWN])
READ:UNKNOWN
TO:Buchan, Claire E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6CDF751A-
ED243CC-852569DB-8124CB [UNKNOWN])
READ:UNKNOWN
TO:Buchholz, Carl (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=641E5BA8-317A73F9-85256AE1-455C66 [UNKNOWN])

READ:UNKNOWN
TO:Bullock, Katja (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E96FDD4E-4FC1496C-852569DC-517FB2 [UNKNOWN])
READ:UNKNOWN
TO:Bumatay, Patrick J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=3465B0BF-DC4627C2-85256B30-52A689 [UNKNOWN])
READ:UNKNOWN
TO:Calio, Nicholas E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=556C3548-6B8E203C-852569D9-6DA782 [UNKNOWN])
READ:UNKNOWN
TO:Camp, Elizabeth N. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=64A878B0-38CF6AFE-852569DA-643152 [UNKNOWN])
READ:UNKNOWN
TO:Campbell, Anne E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=1EEDC809-4DE5B2E6-85256B66-46E195 [UNKNOWN])
READ:UNKNOWN
TO:Canfield, Sally (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=CFBC3B5D-90E6C1BD-85256B06-5C2A76 [UNKNOWN])
READ:UNKNOWN
TO:Chadwick, Kirsten A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=12B85667-54D1E2D6-852569DB-5DDD53 [UNKNOWN])
READ:UNKNOWN
TO:Chaffee, Barbara C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=303D313F-3CBAF3ED-85256AE4-454E0F [UNKNOWN])
READ:UNKNOWN
TO:Chambers, Shane P. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=3F869273-AAC2E6D0-85256A5E-47C2F0 [UNKNOWN])
READ:UNKNOWN
TO:Ciccone, Christine (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=F15B5F12-AE64B6BA-852569DC-4816DE [UNKNOWN])
READ:UNKNOWN
TO:Clark, Alicia P. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=3AA0C2F-59C51038-852569DA-689705 [UNKNOWN])
READ:UNKNOWN
TO:Conklin, Brian C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=BE8D235-7E18AB8E-852569DC-482AEC [UNKNOWN])
READ:UNKNOWN
TO:Connaughton, James (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=17772EB2-3F9E90D2-85256A71-6E86D8 [UNKNOWN])
READ:UNKNOWN
TO:Cooper, Colby J. (ccooper@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Cropper, Stacia L. (Stacia_L._Cropper@who.eop.gov [WHO])
READ:UNKNOWN
TO:Cruson, Karen D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=9B54B821-5FDE6714-85256C60-5BA05C [UNKNOWN])
READ:UNKNOWN
TO:Daniels, Mitchell (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=DD887072-71DA53E6-852569D6-4B724E [UNKNOWN])
READ:UNKNOWN
TO:Davis, Alicia W. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=5E936C0E-B2212C01-852569E5-72EE65 [UNKNOWN])
READ:UNKNOWN
TO:Davis, Ashley E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=F759F175-C3FC680E-852569D9-6EE299 [UNKNOWN])
READ:UNKNOWN
TO:Davis, Michael (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4ECEFC85-72431080-85256A32-73BC16 [UNKNOWN])
READ:UNKNOWN
TO:Deckard, Josh (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=F99FC38-59198000-85256A56-64F8DA [UNKNOWN])
READ:UNKNOWN
TO:Devenish, Nicolle (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=CFB096E3-6D4AFD76-852569E7-532780 [UNKNOWN])
READ:UNKNOWN
TO:Dickens, Reed (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=AA173D66-94F3A183-85256AA0-91CEF [UNKNOWN])
READ:UNKNOWN

TO:Draper, Eric A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=235BF9EA-99417A2C-852569DB-5E30CE [UNKNOWN])
READ:UNKNOWN
TO:Drummond, Ashley D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=28CA41B2-5E15FFFB-852569DD-77A618 [UNKNOWN])
READ:UNKNOWN
TO:Duffy, Trent D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=14D38623-6E0B5EF7-85256B2F-4A3F9C [UNKNOWN])
READ:UNKNOWN
TO:Dyck, Paul B. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=A7F1F06E-6A4725E3-852569DA-7817F1 [UNKNOWN])
READ:UNKNOWN
TO:Dyer, Ashley J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=37FFB539-A695C28E-85256B37-5E2CFE [UNKNOWN])
READ:UNKNOWN
TO:Edson, Gary R. (gedson@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Elliott, Ruth E. (relliott@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Eskew, Tucker A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=B0FBEC55-BB8D706B-852569DA-785785 [UNKNOWN])
READ:UNKNOWN
TO:Estes, Ashley (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4C32A97D-998AE454-852569DB-5EAFD3 [UNKNOWN])
READ:UNKNOWN
TO:Estes, John D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=62815163-B0F092AD-852569DE-CC01F [UNKNOWN])
READ:UNKNOWN
TO:Evans, Sandra K. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=ED27A000-6D0B70FA-85256AE6-48CE85 [UNKNOWN])
READ:UNKNOWN
TO:Falkenrath, Richard (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6F0F0D0E-F6542B48-85256B45-6B8324 [UNKNOWN])
READ:UNKNOWN
TO:Faoro, Daniel D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=55BA1F04-DB140E9F-85256A0E-43DCFB [UNKNOWN])
READ:UNKNOWN
TO:Farley, Jennifer M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=FECD43AB-836AAD2B-85256A95-641F1D [UNKNOWN])
READ:UNKNOWN
TO:Farr, Mary Elizabeth (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=1610FB10-23D65777-852569DD-73A79F [UNKNOWN])
READ:UNKNOWN
TO:Fenton, Catherine S. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=D70C109D-3F997C9C-852569DB-5F0104 [UNKNOWN])
READ:UNKNOWN
TO:Figg, Jeanie L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=D4DF7970-B0456D9C-852569DD-524A1C [UNKNOWN])
READ:UNKNOWN
TO:Figg, Kara G. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=97ABF692-E2CD6D15-852569DB-751348 [UNKNOWN])
READ:UNKNOWN
TO:Flanigan, Timothy E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=2E73982F-10434C26-852569DB-5EE7B7 [UNKNOWN])
READ:UNKNOWN
TO:Flannery, Julian M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=2C12C46-1C4658C5-85256BF4-40EBE3 [UNKNOWN])
READ:UNKNOWN
TO:Fleischer, Lawrence A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=C5F9765B-338C0224-852569D9-645801 [UNKNOWN])
READ:UNKNOWN
TO:Foley, Jennifer (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=7BA8EBF3-835A07B6-852569DB-5F4A4D [UNKNOWN])
READ:UNKNOWN
TO:Fullerton, Laura F. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=7B4E05CF-55B2A18-85256C2C-42965E [UNKNOWN])
READ:UNKNOWN
TO:Furlow, Christopher (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=42EDD79-

B3E67BC6-85256C60-52F4A6 [UNKNOWN])
READ:UNKNOWN
TO:Gambatesa, Linda M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=C6807646-48AB42F6-852569D9-6A202F [UNKNOWN])
READ:UNKNOWN
TO:Galen, Reed H. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=81DFB998-74B4A292-85256B4B-5B9494 [UNKNOWN])
READ:UNKNOWN
TO:Garrison, Sarah M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6CF37D42-
D0DDC078-85256BF1-679F92 [UNKNOWN])
READ:UNKNOWN
TO:Garrison, Stephen M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=1BD7473B-
AC1F5200-85256BBC-5112BD [UNKNOWN])
READ:UNKNOWN
TO:Gartland, Lavin (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=932D4C89-41527FE7-85256AAE-657834 [UNKNOWN])
READ:UNKNOWN
TO:Garvin, Dorothy C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=8D6BFF88-848CC4A7-85256A32-49509D [UNKNOWN])
READ:UNKNOWN
TO:Gerdes, Joseph H. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4EDA512F-
FB53401-85256B37-6BC7EC [UNKNOWN])
READ:UNKNOWN
TO:Gillmor, Eleanor L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6CC880A6-
A3397D87-852569F2-511054 [UNKNOWN])
READ:UNKNOWN
TO:Girgus, Signe L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=58FCAB87-
D4A7EFFF-852565D1-5737FD [UNKNOWN])
READ:UNKNOWN
TO:Glenn, Dylan C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=47365273-735D7E33-852569DE-5B5981 [UNKNOWN])
READ:UNKNOWN
TO:Goeglein, Tim (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=45280CD0-28425E29-852569DC-58479D [UNKNOWN])
READ:UNKNOWN
TO:Goergen, Barbara Jo (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=163B65F9-
D34CAF52-85256AB0-48405A [UNKNOWN])
READ:UNKNOWN
TO:Goldman, Adam B. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=698AA900-27350BE5-852569DD-5F23FE [UNKNOWN])
READ:UNKNOWN
TO:Gottesman, Blake (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E3CC9430-
AD683D99-852569DB-51F012 [UNKNOWN])
READ:UNKNOWN
TO:Grant, Britt (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=D830905B-
73BBD637-85256AB6-4A970B [UNKNOWN])
READ:UNKNOWN
TO:Gray, Adrian G. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=16B9D208-
E1DF72C0-852569E7-5892E0 [UNKNOWN])
READ:UNKNOWN
TO:Gray, Ann (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=40289C9F-87E5BBFB-
85256B42-56D1F7 [UNKNOWN])
READ:UNKNOWN
TO:Gray, Emily S. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=8A3F4B12-
CD26EBB6-85256B73-6AD94D [UNKNOWN])
READ:UNKNOWN
TO:Gray, Wendy E. (wgray@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Grubb, Darren D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=85AB63CB-
F2CFC941-85256C0C-5D7958 [UNKNOWN])
READ:UNKNOWN
TO:Guerra, Abel (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=A6B2E380-D5A4FADA-
852569E4-4C97FA [UNKNOWN])
READ:UNKNOWN
TO:Hager, Henry C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=19127F32-8FD61FA5-85256BAC-472950 [UNKNOWN])
READ:UNKNOWN
TO:Hanusa, Mary Ann (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=7FB4C1DC-

8D352753-85256A1E-617467 [UNKNOWN])
READ:UNKNOWN
TO:Harden, Alison M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E88B8CAA-DAB0FFD2-852569DC-75A36E [UNKNOWN])
READ:UNKNOWN
TO:Hawkins, Albert (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=299B67B0-403E8A7E-852569D9-615150 [UNKNOWN])
READ:UNKNOWN
TO:Hayes, Kathryn J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=9A38B966-4A1E35A1-852569DE-4F7E0F [UNKNOWN])
READ:UNKNOWN
TO:Healy, Erin E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=5D94F21F-2AFC3E31-852569DD-602EF1 [UNKNOWN])
READ:UNKNOWN
TO:Heiligenstein, Anne (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=22B0629B-1C133903-852569DC-4722EE [UNKNOWN])
READ:UNKNOWN
TO:Henick, Chris (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6F8D473A-98659B0E-852569E5-5B00E9 [UNKNOWN])
READ:UNKNOWN
TO:Hennessey, Keith (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=DA9871CB-CB14E918-85256C21-421685 [UNKNOWN])
READ:UNKNOWN
TO:Hernandez, Israel (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=9A92FB8D-28223EB3-852569DC-630DCD [UNKNOWN])
READ:UNKNOWN
TO:Hoelscher, Douglas L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=D2C4E16B-89A27B37-85256A16-4C6C01 [UNKNOWN])
READ:UNKNOWN
TO:Hogan, Elizabeth (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=9B45FBB9-4A84C628-852569FB-4F0338 [UNKNOWN])
READ:UNKNOWN
TO:Holliday, Stuart (shollida@WHO.eop.gov [WHO])
READ:UNKNOWN
TO:Holman, Mark (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=89B51E58-DFF75C46-85256AE1-4518D9 [UNKNOWN])
READ:UNKNOWN
TO:Hubbard, Glenn (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=689D1551-C67272B7-85256A45-4E26FC [UNKNOWN])
READ:UNKNOWN
TO:Hughes, A. Merrill (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=71E8F3EF-3096E3EE-85256B45-5AE26F [UNKNOWN])
READ:UNKNOWN
TO:Ingle, Edward (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=53838B5A-90E78711-852569DC-53F24B [UNKNOWN])
READ:UNKNOWN
TO:Irastorza, Hector F. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=FCC99A4E-57C3C3CB-852569D9-6A7A1D [UNKNOWN])
READ:UNKNOWN
TO:Jackson, Barry S. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=C5E6E146-9B752404-85256A15-5F0CA1 [UNKNOWN])
READ:UNKNOWN
TO:Jacanin, Marilyn R. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=66695D5E-7D776AA8-8525645D-681DE2 [UNKNOWN])
READ:UNKNOWN
TO:Jeffery, Reuben (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E4E4FF2E-CAD2BBD1-85256B74-5A6DD4 [UNKNOWN])
READ:UNKNOWN
TO:Jenkins, Gregory J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=C154D002-21913532-85256ABE-439F05 [UNKNOWN])
READ:UNKNOWN
TO:Johndroe, Gordon D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=A32F0426-6373DC74-852569DC-38E8C [UNKNOWN])
READ:UNKNOWN
TO:Johnson, Collister W. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=A88FE60F-2208B0E2-852569DA-79D68E [UNKNOWN])
READ:UNKNOWN
TO:Jones, Alison (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E3E25A09-213F23CD-

852569DC-73F16D [UNKNOWN])
READ:UNKNOWN
TO:Joshi, M. Kay (mjoshi@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Kaplan, Joel D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=AB40E70D-1309FE17-852569DC-4D7D0B [UNKNOWN])
READ:UNKNOWN
TO:Kavanaugh, Brett M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6246020-C20FEE19-852569DA-7648DC [UNKNOWN])
READ:UNKNOWN
TO:Keniry, Daniel J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4AB8EDCC-335E78F7-852569DC-47DA7E [UNKNOWN])
READ:UNKNOWN
TO:Kirk, Matthew (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=41CCE2F3-C445AE7F-85256A4D-41FB4B [UNKNOWN])
READ:UNKNOWN
TO:Kitchen, Ellis (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=3EF62647-9FFE492E-85256A7D-68EBDA [UNKNOWN])
READ:UNKNOWN
TO:Kleppe, Elizabeth W. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=D6FD4CB5-AE28179D-852569DB-568310 [UNKNOWN])
READ:UNKNOWN
TO:Knutson, Karen Y. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E061AB26-B4347041-852569EE-5D9583 [UNKNOWN])
READ:UNKNOWN
TO:Koch, Matthew (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=15A8FEA8-4AFA531F-85256BA5-66B0C5 [UNKNOWN])
READ:UNKNOWN
TO:Kozberg, Lindsey C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=94A30D77-FE626189-85256BC7-4961FC [UNKNOWN])
READ:UNKNOWN
TO:Kuo, David (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=EE787172-40C5EDCF-85256A9A-46BA73 [UNKNOWN])
READ:UNKNOWN
TO:Kyle, Ross M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=3A6C9F73-8873BD4-85256A15-72A62A [UNKNOWN])
READ:UNKNOWN
TO:Lawlor, Laura S. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=82E8E66A-CF794F8E-852569DE-D70D4 [UNKNOWN])
READ:UNKNOWN
TO:Lefkowitz, Jay P. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4E3BA750-755061D8-85256B68-854C7 [UNKNOWN])
READ:UNKNOWN
TO:Lehman, Dirksen (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=61329B03-A607D8DF-852569E6-71A70E [UNKNOWN])
READ:UNKNOWN
TO:Lenti, Sarah M. (slenti@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Levine, Adam L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E6A5046D-3A29DA2D-85256B35-6D224A [UNKNOWN])
READ:UNKNOWN
TO:Lineberry, Laura E. (llineber@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Lineberry, Stephen M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=646A28AA-5FD3662A-85256AF7-5FE5D2 [UNKNOWN])
READ:UNKNOWN
TO:Lisaius, Kenneth A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=74702272-435C2977-852569DA-7A3723 [UNKNOWN])
READ:UNKNOWN
TO:Loper, Ginger G. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=527B67DA-80EA9637-85256BA4-4E24D0 [UNKNOWN])
READ:UNKNOWN
TO:Mallea, Jose (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4D155367-2D4F6A8D-85256B72-463C96 [UNKNOWN])
READ:UNKNOWN
TO:Mamo, Jeanie S. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=7DC6DC70-6F4D0E18-852569DB-5B674A [UNKNOWN])
READ:UNKNOWN

TO:Marquez, Heidi K. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=33308984-635336F5-852569DC-766A71 [UNKNOWN])
READ:UNKNOWN
TO:Marsh, Robert (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=DDD6CFFC-
D1AAA222-85256A42-613071 [UNKNOWN])
READ:UNKNOWN
TO:Matalin, Mary J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=95E98E87-
B65483AE-852569D9-6E3A3E [UNKNOWN])
READ:UNKNOWN
TO:Mayfield, Jennifer H. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=EDF13E3B-
4221C5BC-852569DB-5F8644 [UNKNOWN])
READ:UNKNOWN
TO:McCarthy, Daniel M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=969AD1E8-60902646-852569DC-477172 [UNKNOWN])
READ:UNKNOWN
TO:McClellan, Mark (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=19AD7057-2B6F1E96-85256A75-25CAF [UNKNOWN])
READ:UNKNOWN
TO:McClellan, Scott (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=572D144B-
CE5C3BB1-852569DB-81547C [UNKNOWN])
READ:UNKNOWN
TO:McConnell, John P. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=DABB57E8-
A8F460AF-852569DD-5566AA [UNKNOWN])
READ:UNKNOWN
TO:McCormack, Brian V. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=20A95DD5-4081D2A-852569DB-611062 [UNKNOWN])
READ:UNKNOWN
TO:McNally, Edward (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=B23459EA-
8A5AE3B-85256B04-6CAE82 [UNKNOWN])
READ:UNKNOWN
TO:McQuade, Vickie A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=29B527E6-3CF27BF-852569DC-500D8B [UNKNOWN])
READ:UNKNOWN
TO:Mehlman, Ken (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=50BA7341-700F1B8A-
85256B0A-6B34A8 [UNKNOWN])
READ:UNKNOWN
TO:Medina, Sonya E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4577BB8D-
929F7125-852569DE-D8A0B [UNKNOWN])
READ:UNKNOWN
TO:Middlemas, A. Morgan (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=DA96FDE-
E0EE4384-85256A53-54910A [UNKNOWN])
READ:UNKNOWN
TO:Miers, Harriet (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=B2E77F63-672509FB-852569D9-6D71FD [UNKNOWN])
READ:UNKNOWN
TO:Miller, Michael H. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=7BFA32B2-
BF201206-85256991-6BFE0B [UNKNOWN])
READ:UNKNOWN
TO:Millerwise, Jennifer (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=48A0A40F-
7C42EBDB-85256B43-47A9FA [UNKNOWN])
READ:UNKNOWN
TO:Millison, Cathy L. (cmilliso@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Montgomery, Brian D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=933C8E39-53EE3F3D-852569DD-6009B2 [UNKNOWN])
READ:UNKNOWN
TO:Montiel, Charlotte L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=A4C69221-46D73A5F-85256BC1-64493F [UNKNOWN])
READ:UNKNOWN
TO:Mooney, Leslie A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=92A0CEA8-91246CAA-85256A15-70580C [UNKNOWN])
READ:UNKNOWN
TO:Napolitano, Michael J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E9953D33-
E5716A31-852569DE-627AB9 [UNKNOWN])
READ:UNKNOWN
TO:Neely, Susan K. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=8E5E69F1-
A435E8D7-85256AED-71DBBF [UNKNOWN])
READ:UNKNOWN

TO:Nipper, Wendy L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=68DD75F6-E0448FE6-852569DC-7F719C [UNKNOWN])
READ:UNKNOWN
TO:O'Donnell, Claire M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=517750D2-74FA2FF-852569DB-6555B6 [UNKNOWN])
READ:UNKNOWN
TO:O'Neill, Joseph F. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=C9CF0265-66557B55-85256C05-5A7E13 [UNKNOWN])
READ:UNKNOWN
TO:Ojakli, Ziad S. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=1B7998B0-ABAAECA4-852569DB-5EAD8A [UNKNOWN])
READ:UNKNOWN
TO:Oldham, Cheryl A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=33F1984D-D6746F24-852569DE-4EC94E [UNKNOWN])
READ:UNKNOWN
TO:Orr, Christopher J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=67EBE90B-582728B9-852569DF-6CEC0D [UNKNOWN])
READ:UNKNOWN
TO:Otto, Eric H. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=B8F293AC-CB965EE7-852569E3-61C4E0 [UNKNOWN])
READ:UNKNOWN
TO:Pipes, Kasey S. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=D167B5CF-D56399E-852569DE-D9D25 [UNKNOWN])
READ:UNKNOWN
TO:Powell, Dina (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=583FB9CE-AFBAD6FF-852569DD-44BBDA [UNKNOWN])
READ:UNKNOWN
TO:Pritchett, Clare (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=2B7DF64A-741CFFFA-852569DC-47BF9C [UNKNOWN])
READ:UNKNOWN
TO:Ralston, Susan B. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=687DD249-C2840DC7-852569F3-6F5C28 [UNKNOWN])
READ:UNKNOWN
TO:Ray, Craig (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=B46C6C9D-BE8675BE-85256A65-60B680 [UNKNOWN])
READ:UNKNOWN
TO:Reynolds, Tim (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=C3B08C44-9E191875-85256B4A-52EC25 [UNKNOWN])
READ:UNKNOWN
TO:Riepenhoff, Allison L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E07714A6-FC8F86D9-852569FB-6AFACD [UNKNOWN])
READ:UNKNOWN
TO:Ritacco, Krista L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=485B63E8-18B851DE-852569DD-61845A [UNKNOWN])
READ:UNKNOWN
TO:Robinson, Josephine B. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=8F879CC9-3863F1B8-852569DD-61EEFB [UNKNOWN])
READ:UNKNOWN
TO:Rogers, Edwina C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=5D04685F-6AAA3962-852569E3-66808D [UNKNOWN])
READ:UNKNOWN
TO:Ruhlen, Stephen S. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=58A1504B-CB7A0791-852569E4-4CBD5B [UNKNOWN])
READ:UNKNOWN
TO:Ryun, Catharine A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=80254183-7F0856D-852569FF-51B55C [UNKNOWN])
READ:UNKNOWN
TO:Schacht, Diana L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=3F815C7C-30F425B-85256A09-79EEF2 [UNKNOWN])
READ:UNKNOWN
TO:Schlapp, Matthew A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=854C04E1-91EF30AD-852569DA-76E1F8 [UNKNOWN])
READ:UNKNOWN
TO:Sechser, Scott (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=18B3FDC-E0BA9D61-85256A92-8393F4 [UNKNOWN])
READ:UNKNOWN
TO:Sforza, Scott N. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=674F3DC-73331971-852569DC-53C05E [UNKNOWN])

READ:UNKNOWN
TO:Smith, Matthew E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6BF4B26C-5CAAC856-852569DE-66F827 [UNKNOWN])
READ:UNKNOWN
TO:Snee, Ashley (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=2A49BED-5C9924C-85256B41-4CE8BA [UNKNOWN])
READ:UNKNOWN
TO:Spagnoli, Deborah A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=47CAFB76-37C8193E-85256A0F-57B847 [UNKNOWN])
READ:UNKNOWN
TO:Stanzel, Scott (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=BA7A6719-776C2EBF-852569DB-4F8FA0 [UNKNOWN])
READ:UNKNOWN
TO:Steen, Gretchen P. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=A4CE4CB1-F845CF46-852569DE-DF9D2 [UNKNOWN])
READ:UNKNOWN
TO:Stout, Timothy C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=F605B16E-8B76AFC1-852569F5-48044A [UNKNOWN])
READ:UNKNOWN
TO:Styles, Angela B. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6CD1CDAF-44F4D44-85256A25-5624D4 [UNKNOWN])
READ:UNKNOWN
TO:Terpeluk, Meredith A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=F1BFB9CA-9BA1FC8E-852569DA-7700F5 [UNKNOWN])
READ:UNKNOWN
TO:Terrell, Eric W. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=DE933171-692F4ADC-85256A54-545E48 [UNKNOWN])
READ:UNKNOWN
TO:Thomas, Julieanne H. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=487E4C82-250BED85-852569DB-5F2B5E [UNKNOWN])
READ:UNKNOWN
TO:Towey, Jim (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=CDECD61B-AEEB12DC-85256B53-69AA2D [UNKNOWN])
READ:UNKNOWN
TO:Trenolone, Anne (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=DBB66344-2FD79A4-852569DD-48E05F [UNKNOWN])
READ:UNKNOWN
TO:Tubb, Richard J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=A2C55D93-148FB42D-85256C14-5AD41E [UNKNOWN])
READ:UNKNOWN
TO:Tulbah, Ali H. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=F86D63FE-AE329084-852569DE-78D9F4 [UNKNOWN])
READ:UNKNOWN
TO:Vargo, Erin A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6F0FB7CF-A50D366A-85256BEB-545769 [UNKNOWN])
READ:UNKNOWN
TO:Vestewig, Lauren J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=54654B73-3ED90D2F-85256B60-566CD0 [UNKNOWN])
READ:UNKNOWN
TO:Viana, Mercedes M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=3DBB7217-8575999B-852569FA-77CFE8 [UNKNOWN])
READ:UNKNOWN
TO:Weinstein, Jared B. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=A277C3F8-CECFEAE1-85256BEB-585EEC [UNKNOWN])
READ:UNKNOWN
TO:Welborn, L. Camille (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=35166F2D-15E67398-85256A30-6F5B63 [UNKNOWN])
READ:UNKNOWN
TO:Westine, Lezlee J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=8B7BA508-5A8860A0-852569DD-622504 [UNKNOWN])
READ:UNKNOWN
TO:Wingate, Heather (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=1E380BD8-ADE0CE5F-85256A87-5063AD [UNKNOWN])
READ:UNKNOWN
TO:Young, Tracy (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=B7027A63-5898A884-852569DE-E1D2C [UNKNOWN])
READ:UNKNOWN
TO:Zimmerman, Neil H. (Neil_H._Zimmerman@who.eop.gov [WHO])

READ:UNKNOWN
TO:Disston, Katherine L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=8E999944-6283D4E-85256B75-4D4738 [UNKNOWN])
READ:UNKNOWN
TO:Loy, Carrie B. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=A98EFE6D-
5AE0DAD9-85256B74-467F4C [UNKNOWN])
READ:UNKNOWN
TO:Griffin, William T. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=AB50EC59-
A86382E1-852569DA-7939A5 [UNKNOWN])
READ:UNKNOWN
TO:Musser, Heather W. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=EBF39531-
F5F71902-85256C62-454C3A [UNKNOWN])
READ:UNKNOWN
TO:Davie, Jill (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=C1905CAF-33A32B3B-
852569F1-6DF8BA [UNKNOWN])
READ:UNKNOWN
TO:Howard, Jack (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=A023DB37-90023F00-85256AE6-4C8EE5 [UNKNOWN])
READ:UNKNOWN
TO:Conway, Michael J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=C63969DB-
CC624FDB-85256A0D-75885C [UNKNOWN])
READ:UNKNOWN
TO:West, Christal R. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=6D09A0E9-4F65D4F4-852569DC-47EE2B [UNKNOWN])
READ:UNKNOWN
TO:Litterst, Roland N. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=2CCB1282-436DE119-852569DA-766097 [UNKNOWN])
READ:UNKNOWN
TO:Ingols, Adam B. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=CE3FE6DB-
E0E3C157-85256B79-5B987D [UNKNOWN])
READ:UNKNOWN
TO:Cleveland, Carolyn E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=F03138B4-
EF0DE20B-852563D9-64A164 [UNKNOWN])
READ:UNKNOWN
TO:Walters, Katherine M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=67C0AB5-
BC3A9691-85256C05-580D47 [UNKNOWN])
READ:UNKNOWN
TO:Taylor, Sara M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=5A4EA165-695412B1-852569DB-50140F [UNKNOWN])
READ:UNKNOWN
TO:Thomas, David M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=825ECF7E-
110DF90D-852569DD-71E864 [UNKNOWN])
READ:UNKNOWN
TO:Rodriguez, Leonard B. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=AED12750-
ABC6F760-852569DC-5352FE [UNKNOWN])
READ:UNKNOWN
TO:Sailor, Angela R. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=67EC41E0-
D229ECF0-85256A0D-77B573 [UNKNOWN])
READ:UNKNOWN
TO:Christie, Ronald I. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=D5A2EDAF-
59ACEE7B-85256B6E-5882C8 [UNKNOWN])
READ:UNKNOWN
TO:Jackson, Melanie A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=78AA1C43-9D936057-852569DD-70947C [UNKNOWN])
READ:UNKNOWN
TO:Heiden, Debra (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=1BDB22AC-2C15B2BC-
852569DB-6084F4 [UNKNOWN])
READ:UNKNOWN
TO:Field, Jennifer D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=EAEA2222-
A138F2C2-85256A62-63BB36 [UNKNOWN])
READ:UNKNOWN
TO:Martin, Catherine J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=827A53CC-
80030BFA-85256A6A-57FAE6 [UNKNOWN])
READ:UNKNOWN
TO:Williams, Alice H. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=811E0514-
B040B28A-85256478-1B84A5 [UNKNOWN])
READ:UNKNOWN
TO:Branch, Lisa D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS

/CN=D0BA1FB0-33A24A4E-8525647A-5282BF [UNKNOWN])
READ:UNKNOWN
TO:Conde, Roberta L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=7E99BB54-FAC43113-85256B1E-51570A [UNKNOWN])
READ:UNKNOWN
TO:Carson, Tracy L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E4F563F8-FF6E1F39-85256AA0-6CDFC2 [UNKNOWN])
READ:UNKNOWN
TO:Thomas, Kenneth A. (kthomas@OPD.eop.gov [OPD])
READ:UNKNOWN
TO:Ware, Patricia F. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=B506B37-D2D2BCDE-85256B60-5689E3 [UNKNOWN])
READ:UNKNOWN
TO:Dale, Shana L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6C65D809-AA78FCF2-85256A30-64B489 [UNKNOWN])
READ:UNKNOWN
TO:Gonzales, Alberto R. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS /CN=DE19B3C6-77AB3823-852569D9-697F1E [UNKNOWN])
READ:UNKNOWN
TO:Francisco, Noel J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=CEFFCE1D-3AA04CD4-852569DA-68EB00 [UNKNOWN])
READ:UNKNOWN
TO:Newstead, Jennifer G. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=CC23D9BE-A5E0DBB1-85256BAE-52469A [UNKNOWN])
READ:UNKNOWN
TO:Sampson, Kyle (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4E664A2B-51BB08D-852569DC-544EBE [UNKNOWN])
READ:UNKNOWN
TO:Walker, Helgard C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=75138057-DB233081-85256A02-46FCE4 [UNKNOWN])
READ:UNKNOWN
TO:Gannon, Kelley (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=3C32C06D-3EF0871-85256AA2-55BD5D [UNKNOWN])
READ:UNKNOWN
TO:Beyer, Todd W. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS /CN=531B0AB1-3F80F4ED-852569DE-C1B4A [UNKNOWN])
READ:UNKNOWN
TO:Linder, Stephanie E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=258FC99A-8E3696F7-85256A3A-3DC8D1 [UNKNOWN])
READ:UNKNOWN
TO:Purcell, Kristopher N. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=75DDD3AC-77D6F867-85256A29-669B69 [UNKNOWN])
READ:UNKNOWN
TO:Gerson, Michael J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4226172-F28339FD-852569E3-5C338C [UNKNOWN])
READ:UNKNOWN
TO:Wehner, Peter H. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=A520AC41-AECCBA1A-852569E4-4C4324 [UNKNOWN])
READ:UNKNOWN
TO:Gibson, John D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=7078324D-E08D07B-85256970-477656 [UNKNOWN])
READ:UNKNOWN
TO:Rees, Matthew R. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS /CN=2E4A6632-68C7446A-85256B7B-4BA5E3 [UNKNOWN])
READ:UNKNOWN
TO:Cook, Jane M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E4BF28A0-DF7D2250-852569EE-537A7D [UNKNOWN])
READ:UNKNOWN
TO:Vachon, Marie (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS /CN=F7B3D4F7-260068D9-85256B13-69C4FE [UNKNOWN])
READ:UNKNOWN
TO:Abbot, Charles S. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4D401D98-D61136C0-85256AC4-3EA972 [UNKNOWN])
READ:UNKNOWN
TO:Grubbs, Wendy J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS /CN=CB4CBFE1-555CE201-85256B0A-6C5633 [UNKNOWN])
READ:UNKNOWN
TO:Nichols, Julie L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS

/CN=D13F1CB8-4C2A5C3C-85256B37-6BB657 [UNKNOWN])
READ:UNKNOWN
TO:Lawlor, Bruce M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=571B2A58-
E6211D2B-85256B03-549003 [UNKNOWN])
READ:UNKNOWN
TO:Kurtz, Paul B. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=20A34C52-
C6C15AD8-85256848-6F81E4 [UNKNOWN])
READ:UNKNOWN
TO:Morse, Paul L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=FDC29A1C-
73DF3D6A-852569DD-6144AF [UNKNOWN])
READ:UNKNOWN
TO:Sanders, Michael A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=2AF5B66E-
4E1C88D1-85256A38-6A1ECB [UNKNOWN])
READ:UNKNOWN
TO:Hager, Katharina M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=AF227E73-3CDE7278-85256AA8-6D5464 [UNKNOWN])
READ:UNKNOWN
TO:Arends, Jackie (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=DBF56EFF-
A5CB443D-852569DC-752773 [UNKNOWN])
READ:UNKNOWN
TO:Minton, Jennifer A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=62CA5875-90451560-85256AA2-525835 [UNKNOWN])
READ:UNKNOWN
TO:Sayle, Desiree T. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=B2A57BDD-
1C82F4E5-852569DB-4D7FDE [UNKNOWN])
READ:UNKNOWN
TO:Good, Terry W. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=1D75F4C1-56347E70-852563CA-76D241 [UNKNOWN])
READ:UNKNOWN
TO:Droege, Philip C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=D57307A2-
BA29FD4D-852563CE-1C194F [UNKNOWN])
READ:UNKNOWN
TO:Libby, Lewis (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=CE20F91C-
5FF22499-85256A02-764CBA [UNKNOWN])
READ:UNKNOWN
TO:McGrath Jr, Charles D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=FAD638B6-
DE001174-852569DB-61FFA8 [UNKNOWN])
READ:UNKNOWN
TO:Wolff, Candida P. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=D55BBA04-5A282E31-852569DB-607283 [UNKNOWN])
READ:UNKNOWN
TO:Kratovil, Lindley (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=60244D3E-
AABBCE0E-85256B74-5C655A [UNKNOWN])
READ:UNKNOWN
TO:Conda, Cesar (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=44C99228-6B54E07D-
852569DE-FA47D [UNKNOWN])
READ:UNKNOWN
TO:Fishpaw, Marie K. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=9A258890-8ECA9A45-85256A08-691DA9 [UNKNOWN])
READ:UNKNOWN
TO:Lang, Mary K. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=7A0D25E9-90B22256-852569DB-57EDB1 [UNKNOWN])
READ:UNKNOWN
TO:Furchtgott-roth, Diana E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=DB81B2C7-71287F80-85256A0D-7A7EB1 [UNKNOWN])
READ:UNKNOWN
TO:Kroszner, Randall S. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E5963BB3-
F8E4B15A-85256A61-625D34 [UNKNOWN])
READ:UNKNOWN
TO:Holtz-eakin, Douglas J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=E7DC21E0-12BF3266-85256A47-609F9A [UNKNOWN])
READ:UNKNOWN
TO:Cooney, Phil (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=A0C19770-53F957F8-85256A78-44E190 [UNKNOWN])
READ:UNKNOWN
TO:Thernstrom, Samuel A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=454B1C9C-
5D9C09A0-85256A9C-55531 [UNKNOWN])
READ:UNKNOWN

TO:Stolpe, Elizabeth A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=BFEDD7E4-F9E123DC-85256A84-6BA0E9 [UNKNOWN])
READ:UNKNOWN
TO:Stephens, Virginia (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=AA556F63-1BAF889-85256A8F-59EA1E [UNKNOWN])
READ:UNKNOWN
TO:Waxman, Matthew C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4821A01-EF4FF80-85256AA1-64C9E6 [UNKNOWN])
READ:UNKNOWN
TO:Koch, Jennie M. (jkoch@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Barnett, Cheryl E. (cbarnett@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Haines, Mary A. (mhaines@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Wines, Alexian T. (awines@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Frazer, Jendayi E. (jfrazer@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Pittman, Bobby J. (bpittman@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Courville, Cindy L. (ccourvil@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Heishman, Jane C. (jheishma@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Gordon-hagerty, Lisa (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6714F990-28D04E62-852566BA-622A10 [UNKNOWN])
READ:UNKNOWN
TO:Miller, Franklin C. (fmiller@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Abrams, Elliott (eabrams@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Andrews, Mary C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=D6878630-7D87AA1E-85256C31-4B8BC5 [UNKNOWN])
READ:UNKNOWN
TO:Cloud, John A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=42399449-28DD3D7B-85256A40-4BDC9F [UNKNOWN])
READ:UNKNOWN
TO:Isles, Adam R. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=1BE2DB2D-DD0E9E75-85256B43-66DE92 [UNKNOWN])
READ:UNKNOWN
TO:Manuel, Gregory A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=A3737AED-E8521CA9-85256A80-6EF95E [UNKNOWN])
READ:UNKNOWN
TO:Bellinger, John B. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=FC4B795A-A3360AAA-852569F3-6FC037 [UNKNOWN])
READ:UNKNOWN
TO:McCormack, Sean I. (smccorma@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Keller, Karen E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=67536FF7-A76B44E7-852569DE-5BC742 [UNKNOWN])
READ:UNKNOWN
TO:Altoft, Lois E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=FCED50ED-17FDB27B-85256387-50AD0 [UNKNOWN])
READ:UNKNOWN
TO:Dorn, Nancy (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=3BBD4BEB-FFCFC535-85256B65-572211 [UNKNOWN])
READ:UNKNOWN
TO:Smythe, Augustine T. (asmythe@OMB.eop.gov [OMB])
READ:UNKNOWN
TO:Davis, Rebecca E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=115E25-3CF2D457-85256A11-4E161D [UNKNOWN])
READ:UNKNOWN
TO:Perry, Philip J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=22733D1C-B2EC2EF-85256B73-4DEB56 [UNKNOWN])
READ:UNKNOWN
TO:McMillin, Stephen S. (smcmilli@OMB.eop.gov [OMB])
READ:UNKNOWN

TO:Dooley, Karen S. (kdooley@OMB.eop.gov [OMB])
READ:UNKNOWN
TO:Capretta, James C. (jcaprett@OMB.eop.gov [OMB])
READ:UNKNOWN
TO:Pelletier, Eric C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=B1AD36A3-B8A7E0F9-852569DE-60469C [UNKNOWN])
READ:UNKNOWN
TO:Simonetta, Danielle M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=A769CAD-B266D72-85256A02-45E6A1 [UNKNOWN])
READ:UNKNOWN
TO:Jukes, James J. (jjukes@OMB.eop.gov [OMB])
READ:UNKNOWN
TO:Cleveland, Robin (rclevela@OMB.eop.gov [OMB])
READ:UNKNOWN
TO:Peacock, Marcus (mpeacock@OMB.eop.gov [OMB])
READ:UNKNOWN
TO:Russell, Richard M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=134525C3-390EF0D7-85256A02-650A60 [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Please join us this Monday, December 2,

to bid farewell to Tim Flanigan on his last day here as Deputy Counsel.

Feel free to share this invite with any coworkers that would like to attend.
Everyone is invited.

Monday, December 2, 2002 (TODAY)
4:00 p.m

Counsel's Office, 2nd Fl WW

Message Sent to:

To: Joshua B. Bolten/WHO/EOP, Melissa S. Bennett/WHO/EOP, Carol J. Thompson/WHO/EOP, Nanette Everson/WHO/EOP, James W. Carroll/WHO/EOP, David S. Addington/OVP/EOP, H. Christopher Bartolomucci/WHO/EOP, Raquel Cabral/WHO/EOP, Hana F. Brilliant/WHO/EOP, Carolyn Nelson/WHO/EOP, Benjamin A. Powell/WHO/EOP, Cathy Alix/WHO/EOP, Lauren K. Allgood/OMB/EOP, Magda E. Angulo/WHO/EOP, Chad Babin/WHO/EOP, Andrea G. Ball/WHO/EOP, Barbara A. Barclay/WHO/EOP, Tiffany L. Barfield/WHO/EOP, Ruben S. Barrales/WHO/EOP, Daniel J. Bartlett/WHO/EOP, Darren W. Bearson/WHO/EOP, Wendy Benestante TPO/TPO/OMB/EOP, Dee Dee Benkie/WHO/EOP, Bradford A. Berenson/WHO/EOP, Brian R. Besanceney/OPD/EOP, Stephen E. Biegun/NSC/EOP, Debra D. Bird/WHO/EOP, Bradley A. Blakeman/WHO/EOP, Kirk Blalock/WHO/EOP, Michael J. Boisvenue/WHO/EOP, Lindsay J. Bourns/WHO/EOP, Stuart W. Bowen/WHO/EOP, Brian Bravo/WHO/EOP, John M. Bridgeland/OPD/EOP, Claire E. Buchan/WHO/EOP, Carl Buchholz/WHO/EOP, Katja Bullock/WHO/EOP, Patrick J. Bumatay/WHO/EOP, Nicholas E. Calio/WHO/EOP, Elizabeth N. Camp/WHO/EOP, Anne E. Campbell/WHO/EOP, Sally Canfield/WHO/EOP, Kirsten A. Chadwick/WHO/EOP, Barbara C. Chaffee/WHO/EOP, Shane P. Chambers/WHO/EOP, Christine

Ciccone/WHO/EOP, Alicia P. Clark/WHO/EOP, Brian C. Conklin/WHO/EOP, James Connaughton/CEQ/EOP, Colby J. Cooper/NSC/EOP, Stacia L. Cropper/OA/EOP, Karen D. Cruson/WHF/EOP, Mitchell Daniels/OMB/EOP, Alicia W. Davis/WHO/EOP, Ashley E. Davis/WHO/EOP, Michael Davis/WHO/EOP, Josh Deckard/WHO/EOP, Nicolle Devenish/WHO/EOP, Reed Dickens/WHO/EOP, Eric A. Draper/WHO/EOP, Ashley D. Drummond/WHO/EOP, Trent D. Duffy/OMB/EOP, Paul B. Dyck/WHO/EOP, Ashley J. Dyer/WHO/EOP, Gary R. Edson/NSC/EOP, Ruth E. Elliott/NSC/EOP, Tucker A. Eskew/WHO/EOP, Ashley Estes/WHO/EOP, John D. Estes/WHO/EOP, Sandra K. Evans/WHO/EOP, Richard Falkenrath/WHO/EOP, Daniel D. Faoro/OA/EOP, Jennifer M. Farley/WHO/EOP, Mary Elizabeth Farr/WHO/EOP, Catherine S. Fenton/WHO/EOP, Jeanie L. Figg/WHO/EOP, Kara G. Figg/WHO/EOP, Timothy E. Flanigan/WHO/EOP, Julian M. Flannery/WHO/EOP, Lawrence A. Fleischer/WHO/EOP, Jennifer Foley/WHO/EOP, Laura F. Fullerton/WHO/EOP, Christopher Furlow/WHO/EOP, Linda M. Gambatesa/WHO/EOP, Reed H. Galen/WHO/EOP, Sarah M. Garrison/WHO/EOP, Stephen M. Garrison/WHO/EOP, Lavin Gartland/ONDCP/EOP, Dorothy C. Garvin/WHO/EOP, Joseph H. Gerdes/WHO/EOP, Eleanor L. Gillmor/OPD/EOP, Signe L. Girgus/OA/EOP, Dylan C. Glenn/OPD/EOP, Tim Goeglein/WHO/EOP, Barbara Jo Goergen/WHO/EOP, Adam B. Goldman/WHO/EOP, Blake Gottesman/WHO/EOP, Britt Grant/OPD/EOP, Adrian G. Gray/WHO/EOP, Ann Gray/WHO/EOP, Emily S. Gray/WHO/EOP, Wendy E. Gray/NSC/EOP, Brent D. Greenfield/WHO/EOP, Darren D. Grubb/WHO/EOP, Abel Guerra/WHO/EOP, Henry C. Hager/WHO/EOP, Mary Ann Hanusa/WHO/EOP, Alison M. Harden/WHO/EOP, Catherine M. Hargraves/WHO/EOP, Albert Hawkins/WHO/EOP, Kathryn J. Hayes/WHO/EOP, Erin E. Healy/WHO/EOP, Anne Heiligenstein/WHO/EOP, Chris Henick/WHO/EOP, Keith Hennessey/OPD/EOP, Israel Hernandez/WHO/EOP, Douglas L. Hoelscher/WHO/EOP, Elizabeth Hogan/WHO/EOP, Stuart Holliday/WHO/EOP, Mark Holman/WHO/EOP, Glenn Hubbard/CEA/EOP, A. Merrill Hughes/OVP/EOP, Edward Ingle/WHO/EOP, Hector F. Irastorza/WHO/EOP, Barry S. Jackson/WHO/EOP, Marilyn R. Jacanin/WHO/EOP, Reuben Jeffery/OPD/EOP, Gregory J. Jenkins/WHO/EOP, Gordon D. Johndroe/WHO/EOP, Collister W. Johnson/WHO/EOP, Alison Jones/WHO/EOP, M. Kay Joshi/NSC/EOP, Joel D. Kaplan/WHO/EOP, Brett M. Kavanaugh/WHO/EOP, Daniel J. Keniry/WHO/EOP, Matthew Kirk/WHO/EOP, Ellis Kitchen/OA/EOP, Elizabeth W. Kleppe/OVP/EOP, Karen Y. Knutson/OVP/EOP, Matthew Koch/WHO/EOP, Lindsey C. Kozberg/WHO/EOP, David Kuo/WHO/EOP, Ross M. Kyle/WHO/EOP, Laura S. Lawlor/WHO/EOP, Jay P. Lefkowitz/OPD/EOP, Dirksen Lehman/WHO/EOP, Sarah M. Lenti/NSC/EOP, Adam L. Levine/WHO/EOP, Laura E. Lineberry/NSC/EOP, Stephen M. Lineberry/CEA/EOP, Kenneth A. Lisaius/WHO/EOP, Ginger G. Loper/WHO/EOP, Jose Mallea/WHO/EOP, Jeanie S. Mamo/WHO/EOP, Heidi K. Marquez/WHO/EOP, Robert Marsh/WHO/EOP, Mary J. Matalin/OVP/EOP, Jennifer H. Mayfield/OVP/EOP, Daniel M. McCarthy/WHO/EOP, Mark McClellan/CEA/EOP, Scott McClellan/WHO/EOP, John P. McConnell/OVP/EOP, Brian V. McCormack/OVP/EOP, Edward McNally/WHO/EOP, Vickie A. McQuade/WHO/EOP, Ken Mehlman/WHO/EOP, Sonya E. Medina/WHO/EOP, A. Morgan Middlemas/WHO/EOP, Harriet Miers/WHO/EOP, Michael H. Miller/WHO/EOP, Jennifer Millerwise/OVP/EOP, Cathy L. Millison/NSC/EOP, Brian D. Montgomery/WHO/EOP, Charlotte L. Montiel/WHO/EOP, Leslie A. Mooney/OPD/EOP, Michael J. Napolitano/WHO/EOP, Susan K. Neely/WHO/EOP, Wendy L. Nipper/WHO/EOP, Claire M. O'Donnell/OVP/EOP, Joseph F. O'Neill/OPD/EOP, Ziad S. Ojakli/WHO/EOP, Cheryl A. Oldham/WHO/EOP, Christopher J. Orr/WHO/EOP, Eric H. Otto/OPD/EOP, Kasey S. Pipes/WHO/EOP, Dina Powell/WHO/EOP, Clare Pritchett/WHO/EOP, Susan B. Ralston/WHO/EOP, Craig Ray/WHO/EOP, Tim Reynolds/WHO/EOP, Allison L. Riepenhoff/WHO/EOP, Krista L. Ritacco/WHO/EOP, Josephine B. Robinson/WHO/EOP, Edwina C. Rogers/OPD/EOP, Stephen S. Ruhlen/OVP/EOP, Catharine A. Ryun/WHO/EOP, Diana L. Schacht/OPD/EOP, Matthew A. Schlapp/WHO/EOP, Scott Sechser/WHO/EOP, Scott N. Sforza/WHO/EOP, Matthew E. Smith/WHO/EOP, Ashley Snee/WHO/EOP, Deborah A. Spagnoli/WHO/EOP, Scott Stanzel/WHO/EOP, Gretchen P. Steen/WHO/EOP, Timothy C. Stout/WHO/EOP, Angela B. Styles/OMB/EOP, Meredith A. Terpeluk/WHO/EOP, Eric W. Terrell/WHO/EOP, Julieanne H. Thomas/WHO/EOP, Jim Towey/WHO/EOP, Anne Trenolone/WHO/EOP, Richard J. Tubb/WHO/EOP, Ali H. Tulbah/WHO/EOP, Erin A. Vargo/WHO/EOP, Lauren J. Vestewig/OPD/EOP, Mercedes M. Viana/WHO/EOP, Jared B. Weinstein/WHO/EOP, L. Camille Welborn/WHO/EOP, Lezlee J. Westine/WHO/EOP, Heather Wingate/WHO/EOP, Tracy Young/WHO/EOP, Neil H. Zimmerman/WHO/EOP, Katherine L. Disston/WHO/EOP, Lindsay J. Bourns/WHO/EOP, Carrie B. Loy/WHO/EOP, William T. Griffin/WHO/EOP, Heather W. Musser/WHO/EOP, Jill Davie/WHO/EOP, Jack Howard/WHO/EOP, Michael J. Conway/WHO/EOP, Christal R. West/WHO/EOP, Roland N. Litterst/WHO/EOP, Adam B. Ingols/WHO/EOP, Carolyn E. Cleveland/WHO/EOP, Katherine M. Walters/WHO/EOP, Sara M. Taylor/WHO/EOP, David M. Thomas/WHO/EOP, Leonard B. Rodriguez/WHO/EOP, Angela R. Sailor/WHO/EOP, Ronald I. Christie/OPD/EOP, Melanie A. Jackson/WHO/EOP, Debra Heiden/OVP/EOP, Jennifer D. Field/OVP/EOP, Catherine J. Martin/OVP/EOP, Alice H. Williams/CEA/EOP, Lisa D.

Branch/CEA/EOP, Roberta L. Conde/CEQ/EOP, Tracy L. Carson/OPD/EOP, Kenneth A. Thomas/OPD/EOP, Patricia F. Ware/OPD/EOP, Shana L. Dale/OSTP/EOP, Alberto R. Gonzales/WHO/EOP, Timothy E. Flanigan/WHO/EOP, Bradford A. Berenson/WHO/EOP, Noel J. Francisco/WHO/EOP, Jennifer G. Newstead/WHO/EOP, Kyle Sampson/WHO/EOP, Helgard C. Walker/WHO/EOP, Kelley Gannon/WHO/EOP, Todd W. Beyer/WHO/EOP, Stephanie E. Linder/WHO/EOP, Kristopher N. Purcell/WHO/EOP, Michael J. Gerson/WHO/EOP, Peter H. Wehner/WHO/EOP, John D. Gibson/NSC/EOP, Matthew R. Rees/NSC/EOP, Jane M. Cook/WHO/EOP, Marie Vachon/WHO/EOP, Charles S. Abbot/OVP/EOP, Wendy J. Grubbs/WHO/EOP, Julie L. Nichols/WHO/EOP, Timothy C. Stout/WHO/EOP, Bruce M. Lawlor/WHO/EOP, Paul B. Kurtz/NSC/EOP, Paul L. Morse/WHO/EOP, Michael A. Sanders/WHO/EOP, Michael Davis/WHO/EOP, Katharina M. Hager/WHO/EOP, Jackie Arends/WHO/EOP, Elizabeth Hogan/WHO/EOP, Jennifer A. Minton/WHO/EOP, Desiree T. Sayle/WHO/EOP, Terry W. Good/WHO/EOP, Philip C. Droege/WHO/EOP, Lewis Libby/OVP/EOP, Charles D. McGrath Jr/OVP/EOP, Candida P. Wolff/OVP/EOP, Lindley Kratovil/OVP/EOP, Cesar Conda/OVP/EOP, Marie K. Fishpaw/OVP/EOP, Mary K. Lang/OVP/EOP, Diana E. Furchtgott-Roth/CEA/EOP, Randall S. Kroszner/CEA/EOP, Douglas J. Holtz-Eakin/CEA/EOP, Phil Cooney/CEQ/EOP, Samuel A. Thernstrom/CEQ/EOP, Elizabeth A. Stolpe/CEQ/EOP, Virginia Stephens/CEQ/EOP, Matthew C. Waxman/NSC/EOP, Jennie M. Koch/NSC/EOP, Cheryl E. Barnett/NSC/EOP, Mary A. Haines/NSC/EOP, Alexian T. Wines/NSC/EOP, Jendayi E. Frazer/NSC/EOP, Bobby J. Pittman/NSC/EOP, Cindy L. Courville/NSC/EOP, Jane C. Heishman/NSC/EOP, Lisa Gordon-Hagerty/NSC/EOP, Franklin C. Miller/NSC/EOP, Elliott Abrams/NSC/EOP, Mary C. Andrews/WHO/EOP, John A. Cloud/NSC/EOP, Adam R. Isles/NSC/EOP, Gregory A. Manuel/NSC/EOP, John B. Bellinger/NSC/EOP, Sean I. McCormack/NSC/EOP, Matthew R. Rees/NSC/EOP, Karen E. Keller/OMB/EOP, Lois E. Altoft/OMB/EOP, Nancy Dorn/OMB/EOP, Augustine T. Smythe/OMB/EOP, Rebecca E. Davis/OMB/EOP, Philip J. Perry/OMB/EOP, Stephen S. McMillin/OMB/EOP, Karen S. Dooley/OMB/EOP, James C. Capretta/OMB/EOP, Eric C. Pelletier/OMB/EOP, Danielle M. Simonetta/OMB/EOP, James J. Jukes/OMB/EOP, Robin Cleveland/OMB/EOP, Marcus Peacock/OMB/EOP, Richard M. Russell/OSTP/EOP
cc:

From: Montiel, Charlotte L.

To: <Bolten, Joshua B.>;<Bennett, Melissa S.>;<Thompson, Carol J.>;<Everson, Nanette>;<Carroll, James W.>;<Addington, David S.>;<Bartolomucci, H. Christopher>;<Cabral, Raquel>;<Brilliant, Hana F.>;<Nelson, Carolyn>;<Powell, Benjamin A.>;<Alix, Cathy>;<Allgood, Lauren K.>;<Angulo, Magda E.>;<Babin, Chad>;<Ball, Andrea G.>;<Barclay, Barbara A.>;<Barfield, Tiffany L.>;<Barrales, Ruben S.>;<Bartlett, Daniel J.>;<Bearson, Darren W.>;<Benkie, Dee Dee>;<Berenson, Bradford A.>;<Besanceney, Brian R.>;<Biegun, Stephen E.>;<Bird, Debra D.>;<Blakeman, Bradley A.>;<Boisvenue, Michael J.>;<Bourns, Lindsay J.>;<Bowen, Stuart W.>;<Bravo, Brian>;<Bridgeland, John M.>;<Buchan, Claire E.>;<Buchholz, Carl>;<Bullock, Katja>;<Bumatay, Patrick J.>;<Calio, Nicholas E.>;<Camp, Elizabeth N.>;<Campbell, Anne E.>;<Canfield, Sally>;<Chadwick, Kirsten A.>;<Chaffee, Barbara C.>;<Chambers, Shane P.>;<Ciccone, Christine>;<Clark, Alicia P.>;<Conklin, Brian C.>;<Connaughton, James>;<Cooper, Colby J.>;<Cropper, Stacia L.>;<Cruson, Karen D.>;<Daniels, Mitchell>;<Davis, Alicia W.>;<Davis, Ashley E.>;<Davis, Michael>;<Deckard, Josh>;<Devenish, Nicolle>;<Dickens, Reed>;<Draper, Eric A.>;<Drummond, Ashley D.>;<Duffy, Trent D.>;<Dyck, Paul B.>;<Dyer, Ashley J.>;<Edson, Gary R.>;<Elliott, Ruth E.>;<Eskew, Tucker A.>;<Estes, Ashley>;<Estes, John D.>;<Evans, Sandra K.>;<Falkenrath, Richard>;<Faoro, Daniel D.>;<Farley, Jennifer M.>;<Farr, Mary Elizabeth>;<Fenton, Catherine S.>;<Figg, Jeanie L.>;<Figg, Kara G.>;<Flanigan, Timothy E.>;<Flannery, Julian M.>;<Fleischer, Lawrence A.>;<Foley, Jennifer>; <Fullerton, Laura F.>;<Furlow, Christopher>;<Gambatesa, Linda M.>;<Galen, Reed H.>;<Garrison, Sarah M.>;<Garrison, Stephen M.>;<Gartland, Lavin>;<Garvin, Dorothy C.>;<Gerdes, Joseph H.>;<Gillmor, Eleanor L.>;<Girgus, Signe L.>;<Glenn, Dylan C.>;<Goeglein, Tim>;<Goergen, Barbara Jo>;<Goldman, Adam B.>;<Gottesman, Blake>; <Grant, Britt>;<Gray, Adrian G.>;<Gray, Ann>;<Gray, Emily S.>;<Gray, Wendy E.>;<Grubb, Darren D.>;<Guerra, Abel>;<Hager, Henry C.>;<Hanusa, Mary Ann>;<Harden, Alison M.>;<Hawkins, Albert>;<Hayes, Kathryn J.>;<Healy, Erin E.>;<Heiligenstein, Anne>;<Henick, Chris>;<Hennessey, Keith>;<Hernandez, Israel>;<Hoelscher, Douglas L.>;<Hogan, Elizabeth>; <Holliday, Stuart>;<Holman, Mark>;<Hubbard, Glenn>;<Hughes, A. Merrill>;<Ingle, Edward>; <Irastorza, Hector F.>;<Jackson, Barry S.>;<Jacanin, Marilyn R.>;<Jeffery, Reuben>;<Jenkins, Gregory J.>;<Johndroe, Gordon D.>;<Johnson, Collister W.>;<Jones, Alison>;<Joshi, M. Kay>;<Kaplan, Joel D.>;<Kavanaugh, Brett M.>;<Keniry, Daniel J.>;<Kirk, Matthew>;<Kitchen, Ellis>;<Kleppe, Elizabeth W.>;<Knutson, Karen Y.>;<Koch, Matthew>;<Kozberg, Lindsey C.>;<Kuo, David>;<Kyle, Ross M.>;<Lawlor, Laura S.>;<Lefkowitz, Jay P.>;<Lehman, Dirksen>; <Lenti, Sarah M.>;<Levine, Adam L.>;<Lineberry, Laura E.>;<Lineberry, Stephen M.>;<Lisaius, Kenneth A.>;<Loper, Ginger G.>;<Mallea, Jose>;<Mamo, Jeanie S.>;<Marquez, Heidi K.>;<Marsh, Robert>;<Matalin, Mary J.>;<Mayfield, Jennifer H.>;<McCarthy, Daniel M.>;<McClellan, Mark>;<McClellan, Scott>;<McConnell, John P.>;<McCormack, Brian V.>;<McNally, Edward>;<McQuade, Vickie A.>;<Mehlman, Ken>;<Medina, Sonya E.>;<Middlemas, A. Morgan>;<Miers, Harriet>;<Miller, Michael H.>;<Millerwise, Jennifer>; <Millison, Cathy L.>;<Montgomery, Brian D.>;<Montiel, Charlotte L.>;<Mooney, Leslie A.>;<Napolitano, Michael J.>;<Neely, Susan K.>;<Nipper, Wendy L.>;<O'Donnell, Claire M.>;<O'Neill, Joseph F.>;<Ojakli, Ziad S.>;<Oldham, Cheryl A.>;<Orr, Christopher J.>;<Otto, Eric H.>;<Pipes, Kasey S.>;<Powell, Dina>;<Pritchett, Clare>;<Ralston, Susan B.>;<Ray, Craig>;<Reynolds, Tim>;<Riepenhoff, Allison L.>;<Ritacco, Krista L.>;<Robinson, Josephine B.>;<Rogers, Edwina C.>;<Ruhlen, Stephen S.>;<Ryun, Catharine A.>;<Schacht, Diana L.>;<Schlapp, Matthew A.>;<Sechser, Scott>;<Sforza, Scott N.>;<Smith, Matthew E.>;<Snee, Ashley>;<Spagnoli, Deborah A.>;<Stanzel, Scott>;<Steen, Gretchen P.>;<Stout, Timothy C.>;<Styles, Angela B.>;<Terpeluk, Meredith A.>;<Terrell, Eric W.>;<Thomas, Julieanne H.>;<Towey, Jim>;<Trenolone, Anne>;<Tubb, Richard J.>;<Tulbah, Ali H.>;<Vargo, Erin A.>;<Vestewig, Lauren J.>;<Viana, Mercedes M.>;<Weinstein, Jared B.>;<Welborn, L. Camille>; <Westine, Lezlee J.>;<Wingate, Heather>;<Young, Tracy>;Zimmerman, Neil H. <nzimmerm@WHO.eop.gov>;<Disston, Katherine L.>;<Bourns, Lindsay J.>;<Loy, Carrie B.>;<Griffin, William T.>;<Musser, Heather W.>;<Davie, Jill>;<Howard, Jack>;<Conway, Michael J.>;<West, Christal R.>;<Litterst, Roland N.>;<Ingols, Adam B.>;<Cleveland, Carolyn E.>;<Walters, Katherine M.>;<Taylor, Sara M.>;<Thomas, David M.>;<Rodriguez, Leonard B.>;<Sailor, Angela R.>;<Christie, Ronald I.>;<Jackson, Melanie A.>;<Heiden, Debra>;<Field, Jennifer D.>;<Martin, Catherine J.>;<Williams, Alice H.>;<Branch, Lisa D.>;<Conde, Roberta L.>;<Carson, Tracy L.>;<Thomas, Kenneth A.>;<Ware, Patricia F.>;<Dale, Shana L.>;<Gonzales, Alberto R.>;<Flanigan, Timothy E.>;<Berenson, Bradford A.>;<Francisco, Noel J.>;<Newstead, Jennifer G.>;<Sampson, Kyle>;<Walker, Helgard C.>;<Gannon, Kelley>;<Beyer, Todd W.>;<Linder, Stephanie E.>;<Purcell, Kristopher N.>;<Gerson, Michael J.>;<Wehner, Peter

H.>;<Gibson, John D.>;<Rees, Matthew R.>;<Cook, Jane M.>;<Vachon, Marie>;<Abbot, Charles S.>;<Grubbs, Wendy J.>;<Nichols, Julie L.>;<Stout, Timothy C.>;<Lawlor, Bruce M.>;<Kurtz, Paul B.>;<Morse, Paul L.>;<Sanders, Michael A.>;<Davis, Michael>;<Hager, Katharina M.>;<Arends, Jackie>;<Hogan, Elizabeth>;<Minton, Jennifer A.>;<Sayle, Desiree T.>;<Good, Terry W.>;<Droege, Philip C.>;<Libby, Lewis>;<McGrath Jr, Charles D.>;<Wolff, Candida P.>;<Kratovil, Lindley>;<Conda, Cesar>;<Fishpaw, Marie K.>;<Lang, Mary K.>;<Furchtgott-roth, Diana E.>;<Kroszner, Randall S.>;<Holtz-eakin, Douglas J.>;<Cooney, Phil>;<Thernstrom, Samuel A.>;<Stolpe, Elizabeth A.>;<Stephens, Virginia>;<Waxman, Matthew C.>;<Koch, Jennie M.>;<Barnett, Cheryl E.>;<Haines, Mary A.>;<Wines, Alexian T.>;<Frazer, Jendayi E.>;<Pittman, Bobby J.>;<Courville, Cindy L.>;<Heishman, Jane C.>;<Gordon-hagerty, Lisa>;<Miller, Franklin C.>;<Abrams, Elliott>;<Andrews, Mary C.>;<Cloud, John A.>;<Isles, Adam R.>;<Manuel, Gregory A.>;<Bellinger, John B.>;<McCormack, Sean I.>;<Rees, Matthew R.>;<Keller, Karen E.>;<Altoft, Lois E.>;<Dorn, Nancy>;<Smythe, Augustine T.>;<Davis, Rebecca E.>;<Perry, Philip J.>;<McMillin, Stephen S.>;<Dooley, Karen S.>;<Capretta, James C.>;<Pelletier, Eric C.>;<Simonetta, Danielle M.>;<Jukes, James J.>;<Cleveland, Robin>; <Peacock, Marcus>;<Russell, Richard M.>

Sent: 12/2/2002 1:42:09 PM

Subject: Reminder: Tim's Going Away Party Today!

Please join us this Monday, December 2,

to bid farewell to Tim Flanigan on his last day here as Deputy Counsel.

Feel free to share this invite with any coworkers that would like to attend. Everyone is invited.

Monday, December 2, 2002 (TODAY)

4:00 p.m

Counsel's Office, 2nd Fl WW

Message Sent to:

To: Joshua B. Bolten/WHO/EOP, Melissa S. Bennett/WHO/EOP, Carol J. Thompson/WHO/EOP, Nanette Everson/WHO/EOP, James W. Carroll/WHO/EOP, David S. Addington/OVP/EOP, H. Christopher Bartolomucci/WHO/EOP, Raquel Cabral/WHO/EOP, Hana F. Brilliant/WHO/EOP, Carolyn Nelson/WHO/EOP, Benjamin A. Powell/WHO/EOP, Cathy Alix/WHO/EOP, Lauren K. Allgood/OMB/EOP, Magda E. Angulo/WHO/EOP, Chad Babin/WHO/EOP, Andrea G. Ball/WHO/EOP, Barbara A. Barclay/WHO/EOP, Tiffany L. Barfield/WHO/EOP, Ruben S. Barrales/WHO/EOP, Daniel J. Bartlett/WHO/EOP, Darren W. Bearson/WHO/EOP, Wendy Benestante TPO/TPO/OMB/EOP, Dee Dee Benkie/WHO/EOP, Bradford A. Berenson/WHO/EOP, Brian R. Besanceney/OPD/EOP, Stephen E. Biegun/NSC/EOP, Debra D. Bird/WHO/EOP, Bradley A. Blakeman/WHO/EOP, Kirk Blalock/WHO/EOP, Michael J. Boisvenue/WHO/EOP, Lindsay J. Bourns/WHO/EOP, Stuart W. Bowen/WHO/EOP, Brian Bravo/WHO/EOP, John M. Bridgeland/OPD/EOP, Claire E. Buchan/WHO/EOP, Carl Buchholz/WHO/EOP, Katja Bullock/WHO/EOP, Patrick J. Bumatay/WHO/EOP, Nicholas E. Calio/WHO/EOP, Elizabeth N. Camp/WHO/EOP, Anne E. Campbell/WHO/EOP, Sally Canfield/WHO/EOP, Kirsten A. Chadwick/WHO/EOP, Barbara C. Chaffee/WHO/EOP, Shane P. Chambers/WHO/EOP, Christine Ciccone/WHO/EOP, Alicia P. Clark/WHO/EOP, Brian C. Conklin/WHO/EOP, James Connaughton/CEQ/EOP, Colby J. Cooper/NSC/EOP, Stacia L. Cropper/OA/EOP, Karen D. Cruson/WHF/EOP, Mitchell Daniels/OMB/EOP, Alicia W. Davis/WHO/EOP, Ashley E. Davis/WHO/EOP, Michael Davis/WHO/EOP, Josh Deckard/WHO/EOP, Nicolle Devenish/WHO/EOP, Reed Dickens/WHO/EOP, Eric A. Draper/WHO/EOP, Ashley D. Drummond/WHO/EOP, Trent D. Duffy/OMB/EOP, Paul B. Dyck/WHO/EOP, Ashley J. Dyer/WHO/EOP, Gary R. Edson/NSC/EOP, Ruth E. Elliott/NSC/EOP, Tucker A. Eskew/WHO/EOP, Ashley Estes/WHO/EOP, John D. Estes/WHO/EOP, Sandra K. Evans/WHO/EOP, Richard Falkenrath/WHO/EOP, Daniel D. Faoro/OA/EOP, Jennifer M. Farley/WHO/EOP, Mary Elizabeth Farr/WHO/EOP, Catherine S. Fenton/WHO/EOP, Jeanie L. Figg/WHO/EOP, Kara G.

Figg/WHO/EOP, Timothy E. Flanigan/WHO/EOP, Julian M. Flannery/WHO/EOP, Lawrence A. Fleischer/WHO/EOP, Jennifer Foley/WHO/EOP, Laura F. Fullerton/WHO/EOP, Christopher Furlow/WHO/EOP, Linda M. Gambatesa/WHO/EOP, Reed H. Galen/WHO/EOP, Sarah M. Garrison/WHO/EOP, Stephen M. Garrison/WHO/EOP, Lavin Gartland/ONDCP/EOP, Dorothy C. Garvin/WHO/EOP, Joseph H. Gerdes/WHO/EOP, Eleanor L. Gillmor/OPD/EOP, Signe L. Girgus/OA/EOP, Dylan C. Glenn/OPD/EOP, Tim Goeglein/WHO/EOP, Barbara Jo Goergen/WHO/EOP, Adam B. Goldman/WHO/EOP, Blake Gottesman/WHO/EOP, Britt Grant/OPD/EOP, Adrian G. Gray/WHO/EOP, Ann Gray/WHO/EOP, Emily S. Gray/WHO/EOP, Wendy E. Gray/NSC/EOP, Brent D. Greenfield/WHO/EOP, Darren D. Grubb/WHO/EOP, Abel Guerra/WHO/EOP, Henry C. Hager/WHO/EOP, Mary Ann Hanusa/WHO/EOP, Alison M. Harden/WHO/EOP, Catherine M. Hargraves/WHO/EOP, Albert Hawkins/WHO/EOP, Kathryn J. Hayes/WHO/EOP, Erin E. Healy/WHO/EOP, Anne Heiligenstein/WHO/EOP, Chris Henick/WHO/EOP, Keith Hennessey/OPD/EOP, Israel Hernandez/WHO/EOP, Douglas L. Hoelscher/WHO/EOP, Elizabeth Hogan/WHO/EOP, Stuart Holliday/WHO/EOP, Mark Holman/WHO/EOP, Glenn Hubbard/CEA/EOP, A. Merrill Hughes/OVP/EOP, Edward Ingle/WHO/EOP, Hector F. Irastorza/WHO/EOP, Barry S. Jackson/WHO/EOP, Marilyn R. Jacanin/WHO/EOP, Reuben Jeffery/OPD/EOP, Gregory J. Jenkins/WHO/EOP, Gordon D. Johndroe/WHO/EOP, Collister W. Johnson/WHO/EOP, Alison Jones/WHO/EOP, M. Kay Joshi/NSC/EOP, Joel D. Kaplan/WHO/EOP, Brett M. Kavanaugh/WHO/EOP, Daniel J. Keniry/WHO/EOP, Matthew Kirk/WHO/EOP, Ellis Kitchen/OA/EOP, Elizabeth W. Kleppe/OVP/EOP, Karen Y. Knutson/OVP/EOP, Matthew Koch/WHO/EOP, Lindsey C. Kozberg/WHO/EOP, David Kuo/WHO/EOP, Ross M. Kyle/WHO/EOP, Laura S. Lawlor/WHO/EOP, Jay P. Lefkowitz/OPD/EOP, Dirksen Lehman/WHO/EOP, Sarah M. Lenti/NSC/EOP, Adam L. Levine/WHO/EOP, Laura E. Lineberry/NSC/EOP, Stephen M. Lineberry/CEA/EOP, Kenneth A. Lisaius/WHO/EOP, Ginger G. Loper/WHO/EOP, Jose Mallea/WHO/EOP, Jeanie S. Mamo/WHO/EOP, Heidi K. Marquez/WHO/EOP, Robert Marsh/WHO/EOP, Mary J. Matalin/OVP/EOP, Jennifer H. Mayfield/OVP/EOP, Daniel M. McCarthy/WHO/EOP, Mark McClellan/CEA/EOP, Scott McClellan/WHO/EOP, John P. McConnell/OVP/EOP, Brian V. McCormack/OVP/EOP, Edward McNally/WHO/EOP, Vickie A. McQuade/WHO/EOP, Ken Mehlman/WHO/EOP, Sonya E. Medina/WHO/EOP, A. Morgan Middlemas/WHO/EOP, Harriet Miers/WHO/EOP, Michael H. Miller/WHO/EOP, Jennifer Millerwise/OVP/EOP, Cathy L. Millison/NSC/EOP, Brian D. Montgomery/WHO/EOP, Charlotte L. Montiel/WHO/EOP, Leslie A. Mooney/OPD/EOP, Michael J. Napolitano/WHO/EOP, Susan K. Neely/WHO/EOP, Wendy L. Nipper/WHO/EOP, Claire M. O'Donnell/OVP/EOP, Joseph F. O'Neill/OPD/EOP, Ziad S. Ojakli/WHO/EOP, Cheryl A. Oldham/WHO/EOP, Christopher J. Orr/WHO/EOP, Eric H. Otto/OPD/EOP, Kasey S. Pipes/WHO/EOP, Dina Powell/WHO/EOP, Clare Pritchett/WHO/EOP, Susan B. Ralston/WHO/EOP, Craig Ray/WHO/EOP, Tim Reynolds/WHO/EOP, Allison L. Riepenhoff/WHO/EOP, Krista L. Ritacco/WHO/EOP, Josephine B. Robinson/WHO/EOP, Edwina C. Rogers/OPD/EOP, Stephen S. Ruhlen/OVP/EOP, Catharine A. Ryun/WHO/EOP, Diana L. Schacht/OPD/EOP, Matthew A. Schlapp/WHO/EOP, Scott Sechser/WHO/EOP, Scott N. Sforza/WHO/EOP, Matthew E. Smith/WHO/EOP, Ashley Snee/WHO/EOP, Deborah A. Spagnoli/WHO/EOP, Scott Stanzel/WHO/EOP, Gretchen P. Steen/WHO/EOP, Timothy C. Stout/WHO/EOP, Angela B. Styles/OMB/EOP, Meredith A. Terpeluk/WHO/EOP, Eric W. Terrell/WHO/EOP, Julieanne H. Thomas/WHO/EOP, Jim Towey/WHO/EOP, Anne Trenolone/WHO/EOP, Richard J. Tubb/WHO/EOP, Ali H. Tulbah/WHO/EOP, Erin A. Vargo/WHO/EOP, Lauren J. Vestewig/OPD/EOP, Mercedes M. Viana/WHO/EOP, Jared B. Weinstein/WHO/EOP, L. Camille Welborn/WHO/EOP, Lezlee J. Westine/WHO/EOP, Heather Wingate/WHO/EOP, Tracy Young/WHO/EOP, Neil H. Zimmerman/WHO/EOP, Katherine L. Disston/WHO/EOP, Lindsay J. Bourns/WHO/EOP, Carrie B. Loy/WHO/EOP, William T. Griffin/WHO/EOP, Heather W. Musser/WHO/EOP, Jill Davie/WHO/EOP, Jack Howard/WHO/EOP, Michael J. Conway/WHO/EOP, Christal R. West/WHO/EOP, Roland N. Litterst/WHO/EOP, Adam B. Ingols/WHO/EOP, Carolyn E. Cleveland/WHO/EOP, Katherine M. Walters/WHO/EOP, Sara M. Taylor/WHO/EOP, David M. Thomas/WHO/EOP, Leonard B. Rodriguez/WHO/EOP, Angela R. Sailor/WHO/EOP, Ronald I. Christie/OPD/EOP, Melanie A. Jackson/WHO/EOP, Debra Heiden/OVP/EOP, Jennifer D. Field/OVP/EOP, Catherine J. Martin/OVP/EOP, Alice H. Williams/CEA/EOP, Lisa D. Branch/CEA/EOP, Roberta L. Conde/CEQ/EOP, Tracy L. Carson/OPD/EOP, Kenneth A. Thomas/OPD/EOP, Patricia F. Ware/OPD/EOP, Shana L. Dale/OSTP/EOP, Alberto R. Gonzales/WHO/EOP, Timothy E. Flanigan/WHO/EOP, Bradford A. Berenson/WHO/EOP, Noel J. Francisco/WHO/EOP, Jennifer G. Newstead/WHO/EOP, Kyle Sampson/WHO/EOP, Helgard C. Walker/WHO/EOP, Kelley Gannon/WHO/EOP, Todd W. Beyer/WHO/EOP, Stephanie E. Linder/WHO/EOP, Kristopher N. Purcell/WHO/EOP, Michael J. Gerson/WHO/EOP, Peter H. Wehner/WHO/EOP, John D. Gibson/NSC/EOP, Matthew R. Rees/NSC/EOP, Jane M. Cook/WHO/EOP, Marie Vachon/WHO/EOP, Charles S. Abbot/OVP/EOP, Wendy J. Grubbs/WHO/EOP, Julie L. Nichols/WHO/EOP, Timothy C. Stout/WHO/EOP, Bruce M. Lawlor/WHO/EOP, Paul B. Kurtz/NSC/EOP, Paul L. Morse/WHO/EOP, Michael A. Sanders/WHO/EOP, Michael Davis/WHO/EOP, Katharina M. Hager/WHO/EOP, Jackie Arends/WHO/EOP, Elizabeth Hogan/WHO/EOP, Jennifer A. Minton/WHO/EOP, Desiree T. Sayle/WHO/EOP, Terry W. Good/WHO/EOP, Philip C. Droege/WHO/EOP, Lewis Libby/OVP/EOP, Charles D. McGrath Jr/OVP/EOP, Candida P. Wolff/OVP/EOP, Lindley Kratovil/OVP/EOP, Cesar Conda/OVP/EOP, Marie K. Fishpaw/OVP/EOP, Mary K. Lang/OVP/EOP, Diana E. Furchtgott-Roth/CEA/EOP, Randall S. Kroszner/CEA/EOP, Douglas J. Holtz-Eakin/CEA/EOP, Phil Cooney/CEQ/EOP, Samuel A. Thernstrom/CEQ/EOP, Elizabeth A. Stolpe/CEQ/EOP, Virginia Stephens/CEQ/EOP, Matthew C. Waxman/NSC/EOP, Jennie M. Koch/NSC/EOP, Cheryl E. Barnett/NSC/EOP, Mary A. Haines/NSC/EOP, Alexian T. Wines/NSC/EOP, Jendayi E. Frazer/NSC/EOP, Bobby J. Pittman/NSC/EOP, Cindy L. Courville/NSC/EOP, Jane C. Heishman/NSC/EOP, Lisa Gordon-Hagerty/NSC/EOP, Franklin C. Miller/NSC/EOP, Elliott Abrams/NSC/EOP, Mary C. Andrews/WHO/EOP, John A. Cloud/NSC/EOP, Adam R. Isles/NSC/EOP, Gregory A. Manuel/NSC/EOP, John B. Bellinger/NSC/EOP, Sean I. McCormack/NSC/EOP, Matthew R. Rees/NSC/EOP, Karen E. Keller/OMB/EOP, Lois E. Altoft/OMB/EOP, Nancy Dorn/OMB/EOP, Augustine T. Smythe/OMB/EOP, Rebecca E. Davis/OMB/EOP, Philip J. Perry/OMB/EOP, Stephen S. McMillin/OMB/EOP, Karen S. Dooley/OMB/EOP, James C. Capretta/OMB/EOP, Eric C. Pelletier/OMB/EOP, Danielle M. Simonetta/OMB/EOP, James J. Jukes/OMB/EOP, Robin

Cleveland/OMB/EOP, Marcus Peacock/OMB/EOP, Richard M. Russell/OSTP/EOP

cc:

From: CN=Alberto R. Gonzales/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 12/2/2002 3:19:55 PM
Subject: : Re: question for senior staff meeting

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 2-DEC-2002 20:19:55.00
SUBJECT:: Re: question for senior staff meeting
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I am scheduled to meet with ted later this week to discuss the SGs take on
this case, and and I have talked to POTUS and Karl for their initial
thoughts, we will be working with policy regarding an administration
position on this. I think your comments are right.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>
Sent: 12/3/2002 3:58:23 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 3-DEC-2002 08:58:23.00
SUBJECT::
TO:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

We need at least a half hour for pre-JSC on Wednesday at 3:30.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>
Sent: 12/3/2002 3:58:23 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 3-DEC-2002 08:58:23.00
SUBJECT::
TO:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

We need at least a half hour for pre-JSC on Wednesday at 3:30.
```

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]

To: Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Adam.Charnes@usdoj.gov [UNKNOWN] <Adam.Charnes@usdoj.gov>;Sarah K. Lockart@who.eop.gov [WHO] <Sarah K. Lockart@who.eop.gov>;Albert.Brewster@usdoj.gov [UNKNOWN] <Albert.Brewster@usdoj.gov>;Ann Gray/WHO/EOP@EOP [WHO] <Ann Gray>;Douglas L. Hoelscher/WHO/EOP@EOP [WHO] <Douglas L. Hoelscher>;Jason.J.Sutton@usdoj.gov [UNKNOWN] <Jason.J.Sutton@usdoj.gov>;Viet.Dinh@usdoj.gov [UNKNOWN] <Viet.Dinh@usdoj.gov>;adam.Ciongoli@usdoj.gov [UNKNOWN] <adam.Ciongoli@usdoj.gov>;andrew.beach@usdoj.gov [UNKNOWN] <andrew.beach@usdoj.gov>;Allison L. Riepenhoff/WHO/EOP@EOP [WHO] <Allison L. Riepenhoff>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Timothy E. Flanigan/WHO/EOP@EOP [WHO] <Timothy E. Flanigan>;H. Christopher Bartolomucci/WHO /EOP@EOP [WHO] <H. Christopher Bartolomucci>;Alison Jones/WHO/EOP@EOP [WHO] <Alison Jones>;Carol J. Thompson/WHO/EOP@EOP [WHO] <Carol J. Thompson>;Wendy.J.Keefer@usdoj.gov [UNKNOWN] <Wendy.J.Keefer@usdoj.gov>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Tracy.T.Washington@usdoj.gov [UNKNOWN] <Tracy.T.Washington@usdoj.gov>;don.willett@usdoj.gov [UNKNOWN] <don.willett@usdoj.gov>;David McMaster/WHO/EOP@EOP [WHO] <David McMaster>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>;evelyn.v.long@usdoj.gov [UNKNOWN] <evelyn.v.long@usdoj.gov>;amy.bass@usdoj.gov [UNKNOWN] <amy.bass@usdoj.gov>;Dee Dee Benkie/WHO/EOP@EOP [WHO] <Dee Dee Benkie>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;Michael J. Conway/WHO/EOP@EOP [WHO] <Michael J. Conway>;Susan B. Ralston/WHO/EOP@EOP [WHO] <Susan B. Ralston>;Melissa S. Bennett/WHO/EOP@EOP [WHO] <Melissa S. Bennett>

Sent: 12/3/2002 4:04:14 AM

Subject: : Reminder-JSC tomorrow

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 3-DEC-2002 09:04:14.00
SUBJECT:: Reminder-JSC tomorrow
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Adam.Charnes@usdoj.gov ( Adam.Charnes@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Sarah K. Lockart@who.eop.gov ( Sarah K. Lockart@who.eop.gov [ WHO ] )
READ:UNKNOWN
TO:Albert.Brewster@usdoj.gov ( Albert.Brewster@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Ann Gray ( CN=Ann Gray/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Douglas L. Hoelscher ( CN=Douglas L. Hoelscher/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jason.J.Sutton@usdoj.gov ( Jason.J.Sutton@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Viet.Dinh@usdoj.gov ( Viet.Dinh@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:adam.Ciongoli@usdoj.gov ( adam.Ciongoli@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:andrew.beach@usdoj.gov ( andrew.beach@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Allison L. Riepenhoff ( CN=Allison L. Riepenhoff/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Timothy E. Flanigan ( CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
```

TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Carol J. Thompson (CN=Carol J. Thompson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Wendy.J.Keefer@usdoj.gov (Wendy.J.Keefer@usdoj.gov [UNKNOWN])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Tracy.T.Washington@usdoj.gov (Tracy.T.Washington@usdoj.gov [UNKNOWN])
READ:UNKNOWN
TO:don.willett@usdoj.gov (don.willett@usdoj.gov [UNKNOWN])
READ:UNKNOWN
TO:David McMaster (CN=David McMaster/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:evelyn.v.long@usdoj.gov (evelyn.v.long@usdoj.gov [UNKNOWN])
READ:UNKNOWN
TO:amy.bass@usdoj.gov (amy.bass@usdoj.gov [UNKNOWN])
READ:UNKNOWN
TO:Dee Dee Benkie (CN=Dee Dee Benkie/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

JSC will be held at 4:00 pm on Wednesday, Dec. 4th in the Roosevelt Room.

Please call Raquel or Hana at 456-7900 if you need to be cleared into the
WH complex.

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]
To: James W. Carroll/WHO/EOP@EOP [WHO] <James W. Carroll>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Bradford A. Berenson/WHO /EOP@EOP [WHO] <Bradford A. Berenson>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Allison L. Riepenhoff/WHO/EOP@EOP [WHO] <Allison L. Riepenhoff>;Helgard C. Walker/WHO /EOP@EOP [WHO] <Helgard C. Walker>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Timothy E. Flanigan/WHO/EOP@EOP [WHO] <Timothy E. Flanigan>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>
Sent: 12/3/2002 4:24:27 AM
Subject: : Wed am staff mtg/JSC prep

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 3-DEC-2002 09:24:27.00
SUBJECT:: Wed am staff mtg/JSC prep
TO:James W. Carroll ( CN=James W. Carroll/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Allison L. Riepenhoff ( CN=Allison L. Riepenhoff/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Timothy E. Flanigan ( CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
###### End Original ARMS Header ######

JSC Gang-When you come over for our 8:15 am staff meeting tomorrow
(Wednesday), please bring your JSC meeting materials with you and plan on
sticking around to have JSC Prep immediately after staff meeting. The
Judge has a 8:55 am meeting downstairs so you should be done by then.

Everyone - This means we'll need to move through staff meeting quickly and
let the non JSC people depart when we're done. Because of his 8:55 mtg
downstairs there will not be time for post staff meeting chats w/ ARG on
other topics. If you need to get some time with him please call me and
we'll get it scheduled.
```

Thanks!

Lib

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]
To: James W. Carroll/WHO/EOP@EOP [WHO] <James W. Carroll>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Bradford A. Berenson/WHO /EOP@EOP [WHO] <Bradford A. Berenson>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Allison L. Riepenhoff/WHO/EOP@EOP [WHO] <Allison L. Riepenhoff>;Helgard C. Walker/WHO /EOP@EOP [WHO] <Helgard C. Walker>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Timothy E. Flanigan/WHO/EOP@EOP [WHO] <Timothy E. Flanigan>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>
Sent: 12/3/2002 4:24:27 AM
Subject: : Wed am staff mtg/JSC prep

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 3-DEC-2002 09:24:27.00
SUBJECT:: Wed am staff mtg/JSC prep
TO:James W. Carroll ( CN=James W. Carroll/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Allison L. Riepenhoff ( CN=Allison L. Riepenhoff/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Timothy E. Flanigan ( CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
###### End Original ARMS Header ######

JSC Gang-When you come over for our 8:15 am staff meeting tomorrow
(Wednesday), please bring your JSC meeting materials with you and plan on
sticking around to have JSC Prep immediately after staff meeting. The
Judge has a 8:55 am meeting downstairs so you should be done by then.

Everyone - This means we'll need to move through staff meeting quickly and
let the non JSC people depart when we're done. Because of his 8:55 mtg
downstairs there will not be time for post staff meeting chats w/ ARG on
other topics. If you need to get some time with him please call me and
we'll get it scheduled.
```

Thanks!

Lib

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 12/3/2002 6:51:46 AM
Subject: : Call to Grassley

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 3-DEC-2002 11:51:46.00
SUBJECT:: Call to Grassley
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

We are trying to set this up for 8:15 am on Thursday morning (mtg. w/ POTUS is at 9:15 am).

Grassley's scheduler said Wednesday isn't an option for them b/c the Senator is travelling that day.

Let me know if this works for you or not.

Lib

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 12/3/2002 7:17:36 AM
Subject: : Re: Call to Grassley

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 3-DEC-2002 12:17:36.00
SUBJECT:: Re: Call to Grassley
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Understood - will do my best.

Brett M. Kavanaugh
12/03/2002 12:09:40 PM
Record Type: Record

To: Elizabeth N. Camp/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Call to Grassley

This works but it is fairly important that the call occur before the meeting with POTUS.

Elizabeth N. Camp
12/03/2002 11:52:53 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Call to Grassley

We are trying to set this up for 8:15 am on Thursday morning (mtg. w/ POTUS is at 9:15 am).

Grassley's scheduler said Wednesday isn't an option for them b/c the Senator is travelling that day.

Let me know if this works for you or not.

Lib

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>;Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>;Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>
Sent: 12/3/2002 2:06:19 PM
Subject: : Omaha World-Herald on President's judges proposal

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 3-DEC-2002 19:06:19.00
SUBJECT:: Omaha World-Herald on President's judges proposal
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Senate oversight of judicial nominees should rest on statesmanship, not partisanship.

Republicans did it when Bill Clinton was president. Democrats, most recently, have done it under George W. Bush. Their common activity: partisan manipulation of how federal judicial nominations are handled.

The Washington Post recently found similar patterns when it looked at how Clinton's judicial nominees had fared under a GOP-controlled Senate compared to Bush's nominees before a Democratic-controlled one. The key finding: Neither major party has been simon-pure in handling the nominations.

Concluded the Post: "For all the rhetoric, the performance of the Republican Senate in that 105th Congress was essentially identical to the Democratic Senate's performance in the Congress just past." In both cases, the party in charge let a certain number move forward for final consideration while, as the Post put it, a "relatively large number of nominees" weren't acted on "at a time when individual courts were hurting."

Soon, Bush will have the advantage of sending nominations to a Senate controlled by his own party. Some Democrats have expressed concern that the Senate majority will merely rubber-stamp Bush's nominees, allowing the administration to pack the judiciary with radical right-wingers.

Making judgments on the soundness of nominees' judicial philosophies, of course, can be a matter of perspective. What some of Bush's critics might label as radicalism (wariness, for example, about expanding Congress's regulatory powers under the Constitution's Commercial Clause) could be legitimately regarded as judicial prudence.

Bush has proposed a sound idea to set time limits on how long nominations can be held up in the Senate. As a practical matter, however, the administration will have great difficulty convincing the Senate (traditionally obsessive about its legislative prerogatives) to agree to the change, even with Republicans in control of the chamber.

Since the GOP will have only a slim majority in the Senate, moderate lawmakers, as the normal swing voters, will likely have the power to make or break Bush's judicial nominations. Centrists within both parties (such as Nebraska's Ben Nelson on the Democratic side) can serve the public interest well by avoiding blind, partisan-driven voting. They should exercise independent judgment.

If enough senators place civic-mindedness above narrow partisanship, there is no reason the Senate's "advise and consent" process can't produce a positive outcome for the nation.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>;Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>;Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>
Sent: 12/3/2002 2:06:19 PM
Subject: : Omaha World-Herald on President's judges proposal

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 3-DEC-2002 19:06:19.00
SUBJECT:: Omaha World-Herald on President's judges proposal
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

Senate oversight of judicial nominees should rest on statesmanship, not partisanship.

Republicans did it when Bill Clinton was president. Democrats, most recently, have done it under George W. Bush. Their common activity: partisan manipulation of how federal judicial nominations are handled.

The Washington Post recently found similar patterns when it looked at how Clinton's judicial nominees had fared under a GOP-controlled Senate compared to Bush's nominees before a Democratic-controlled one. The key finding: Neither major party has been simon-pure in handling the nominations.

Concluded the Post: "For all the rhetoric, the performance of the Republican Senate in that 105th Congress was essentially identical to the Democratic Senate's performance in the Congress just past." In both cases, the party in charge let a certain number move forward for final consideration while, as the Post put it, a "relatively large number of nominees" weren't acted on "at a time when individual courts were hurting."

Soon, Bush will have the advantage of sending nominations to a Senate controlled by his own party. Some Democrats have expressed concern that the Senate majority will merely rubber-stamp Bush's nominees, allowing the administration to pack the judiciary with radical right-wingers.

Making judgments on the soundness of nominees' judicial philosophies, of course, can be a matter of perspective. What some of Bush's critics might label as radicalism (wariness, for example, about expanding Congress's regulatory powers under the Constitution's Commercial Clause) could be legitimately regarded as judicial prudence.

Bush has proposed a sound idea to set time limits on how long nominations can be held up in the Senate. As a practical matter, however, the administration will have great difficulty convincing the Senate (traditionally obsessive about its legislative prerogatives) to agree to the change, even with Republicans in control of the chamber.

Since the GOP will have only a slim majority in the Senate, moderate lawmakers, as the normal swing voters, will likely have the power to make or break Bush's judicial nominations. Centrists within both parties (such as Nebraska's Ben Nelson on the Democratic side) can serve the public interest well by avoiding blind, partisan-driven voting. They should exercise independent judgment.

If enough senators place civic-mindedness above narrow partisanship, there is no reason the Senate's "advise and consent" process can't produce a positive outcome for the nation.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>
Sent: 12/4/2002 5:32:05 AM
Subject: : Re: MESSAGE MEETING REMINDER

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 4-DEC-2002 10:32:05.00
SUBJECT:: Re: MESSAGE MEETING REMINDER
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I can go today (I think either Tim or nobody went Monday).

Bradford A. Berenson
12/04/2002 09:43:21 AM
Record Type: Record

To: Elizabeth N. Camp/WHO/EOP@EOP
cc: brett m. kavanaugh/who/eop@eop
bcc:
Subject: Re: MESSAGE MEETING REMINDER

Yes. I generally do Mondays, and Brett generally does Wednesdays. Since I was out Monday, I'm happy to cover today if Brett took Monday. Just let me know.

Elizabeth N. Camp
12/04/2002 09:46:01 AM
Record Type: Record

To: Bradford A. Berenson/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: MESSAGE MEETING REMINDER

You two cover these - right?
---------- Forwarded by Elizabeth N. Camp/WHO/EOP on 12/04/2002 09:42 AM ----------

Krista L. Ritacco
12/04/2002 09:38:05 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: MESSAGE MEETING REMINDER

There will be a message meeting today at noon in the Roosevelt Room.

Message Sent
To:_____
Jean M. Russell/OPD/EOP@EOP
Ruben S. Barrales/WHO/EOP@EOP
Kathryn E. Rust/WHO/EOP@EOP
Susan K. Neely/WHO/EOP@EOP
Blake Gottesman/WHO/EOP@EOP
Linda M. Gambatesa/WHO/EOP@EOP
Wendy L. Nipper/WHO/EOP@EOP
Natalie S. Wozniak/NSC/EOP@EOP
Barry S. Jackson/WHO/EOP@EOP
Lezlee J. Westine/WHO/EOP@EOP
Ken Mehlman/WHO/EOP@EOP
Katherine M. Walters/WHO/EOP@EOP
Colleen Litkenhaus/WHO/EOP@EOP
Britt Grant/OPD/EOP@EOP
Jack Howard/WHO/EOP@EOP
Kara G. Figg/WHO/EOP@EOP
Carolyn E. Cleveland/WHO/EOP@EOP
Elizabeth N. Camp/WHO/EOP@EOP
Scott N. Sforza/WHO/EOP@EOP
Susan B. Ralston/WHO/EOP@EOP
Vickie A. McQuade/WHO/EOP@EOP
Israel Hernandez/WHO/EOP@EOP
Anna M. Perez/NSC/EOP@EOP
Melissa S. Bennett/WHO/EOP@EOP
Leslie A. Mooney/OPD/EOP@EOP
Jay P. Lefkowitz/OMB/EOP@EOP
Nicolle Devenish/WHO/EOP@EOP
Debra D. Bird/WHO/EOP@EOP
Harriet Miers/WHO/EOP@EOP
Stuart W. Bowen/WHO/EOP@EOP
Barbara A. Barclay/WHO/EOP@EOP
A. Merrill Hughes/OVP/EOP@EOP
Eleanor L. Gillmor/OPD/EOP@EOP
Lauren J. Vestewig/OPD/EOP@EOP
Shannon Burkhart/WHO/EOP@EOP
Adrian G. Gray/WHO/EOP@EOP
Roberta L. Conde/CEQ/EOP@EOP
Anne E. Campbell/WHO/EOP@EOP
A. Morgan Middlemas/WHO/EOP@EOP
Kimberly Ellison/WHO/EOP@EOP
Ann Gray/WHO/EOP@EOP
Noelia Rodriguez/WHO/EOP@EOP
Trent D. Duffy/OMB/EOP@EOP
Catharine A. Ryun/WHO/EOP@EOP
Jenica Baldwin/WHO/EOP@EOP
Brian R. Besanceney/OPD/EOP@EOP
Gordon D. Johndroe/WHO/EOP@EOP
Katherine L. Disston/WHO/EOP@EOP
January M. Riecke/WHO/EOP@EOP
Catherine J. Martin/OVP/EOP@EOP
Alison M. Harden/WHO/EOP@EOP
Stephen M. Lineberry/CEA/EOP@EOP
Jennifer Millerwise/OVP/EOP@EOP
Lindsey C. Kozberg/WHO/EOP@EOP
Jim Towey/WHO/EOP@EOP
Parker B. Hamilton/WHO/EOP@EOP
Mary C. Williams/NSC/EOP@EOP
Andrew D. Ciafardini/WHO/EOP@EOP
Tucker A. Eskew/WHO/EOP@EOP
Deborah A. Spagnoli/WHO/EOP@EOP
Keith Hennessey/OPD/EOP@EOP
Sally Canfield/WHO/EOP@EOP
Joel D. Kaplan/WHO/EOP@EOP
Kristen Silverberg/WHO/EOP@EOP
Charlotte L. Montiel/WHO/EOP@EOP
Edward Ingle/WHO/EOP@EOP

Michael J. Taylor/WHO/EOP@EOP
Suzy DeFrancis/WHO/EOP@EOP
Jose Mallea/WHO/EOP@EOP
Christie Parell/WHO/EOP@EOP
Sue H. Gerdelman/OPD/EOP@EOP
Edwina C. Rogers/OPD/EOP@EOP
Heidi K. Marquez/WHO/EOP@EOP
Ross M. Kyle/WHO/EOP@EOP

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO]
To: Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Noel J. Francisco/WHO /EOP@EOP [WHO] <Noel J. Francisco>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>
Sent: 12/4/2002 3:58:36 AM
Subject: : Remaining NJ USDJs Appointed Today

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 4-DEC-2002 08:58:36.00
SUBJECT:: Remaining NJ USDJs Appointed Today
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

All the Judges from the last session of Congress have now been appointed.
---------------------- Forwarded by Patrick J. Bumatay/WHO/EOP on
12/04/2002 08:56 AM ---------------------------



William W. McCathran

12/04/2002 08:51:46 AM
Record Type: Record

To: Patrick J. Bumatay/WHO/EOP@EOP, Jennifer G.
Newstead/WHO/EOP@EOP
cc: G. Timothy Saunders/WHO/EOP@EOP, David E. Kalbaugh/WHO/EOP@EOP,
Carrie B. Cabelka/WHO/EOP@EOP, Hana F. Brilliant/WHO/EOP@EOP
Subject: Remaining NJ USDJs Appointed Today

Chesler, Kugler, & Wolfson were appointed today, 12/4/03.

tks,
Bill
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>
CC: bradford a. berenson/who/eop@eop [WHO] <bradford a. berenson>
Sent: 12/4/2002 4:46:28 AM
Subject: : Re: MESSAGE MEETING REMINDER

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 4-DEC-2002 09:46:28.00
SUBJECT:: Re: MESSAGE MEETING REMINDER
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:bradford a. berenson (CN=bradford a. berenson/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

Brad does Monday and I do Wednesday, I believe.

Elizabeth N. Camp
12/04/2002 09:46:01 AM
Record Type: Record

To: Bradford A. Berenson/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: MESSAGE MEETING REMINDER

You two cover these - right?
---------- Forwarded by Elizabeth N. Camp/WHO/EOP on 12/04/2002 09:42 AM ----------

Krista L. Ritacco
12/04/2002 09:38:05 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: MESSAGE MEETING REMINDER

There will be a message meeting today at noon in the Roosevelt Room.

Message Sent
To:_____
Jean M. Russell/OPD/EOP@EOP
Ruben S. Barrales/WHO/EOP@EOP
Kathryn E. Rust/WHO/EOP@EOP
Susan K. Neely/WHO/EOP@EOP
Blake Gottesman/WHO/EOP@EOP
Linda M. Gambatesa/WHO/EOP@EOP
Wendy L. Nipper/WHO/EOP@EOP
Natalie S. Wozniak/NSC/EOP@EOP
Barry S. Jackson/WHO/EOP@EOP
Lezlee J. Westine/WHO/EOP@EOP
Ken Mehlman/WHO/EOP@EOP

Katherine M. Walters/WHO/EOP@EOP
Colleen Litkenhaus/WHO/EOP@EOP
Britt Grant/OPD/EOP@EOP
Jack Howard/WHO/EOP@EOP
Kara G. Figg/WHO/EOP@EOP
Carolyn E. Cleveland/WHO/EOP@EOP
Elizabeth N. Camp/WHO/EOP@EOP
Scott N. Sforza/WHO/EOP@EOP
Susan B. Ralston/WHO/EOP@EOP
Vickie A. McQuade/WHO/EOP@EOP
Israel Hernandez/WHO/EOP@EOP
Anna M. Perez/NSC/EOP@EOP
Melissa S. Bennett/WHO/EOP@EOP
Leslie A. Mooney/OPD/EOP@EOP
Jay P. Lefkowitz/OMB/EOP@EOP
Nicolle Devenish/WHO/EOP@EOP
Debra D. Bird/WHO/EOP@EOP
Harriet Miers/WHO/EOP@EOP
Stuart W. Bowen/WHO/EOP@EOP
Barbara A. Barclay/WHO/EOP@EOP
A. Merrill Hughes/OVP/EOP@EOP
Eleanor L. Gillmor/OPD/EOP@EOP
Lauren J. Vestewig/OPD/EOP@EOP
Shannon Burkhart/WHO/EOP@EOP
Adrian G. Gray/WHO/EOP@EOP
Roberta L. Conde/CEQ/EOP@EOP
Anne E. Campbell/WHO/EOP@EOP
A. Morgan Middlemas/WHO/EOP@EOP
Kimberly Ellison/WHO/EOP@EOP
Ann Gray/WHO/EOP@EOP
Noelia Rodriguez/WHO/EOP@EOP
Trent D. Duffy/OMB/EOP@EOP
Catharine A. Ryun/WHO/EOP@EOP
Jenica Baldwin/WHO/EOP@EOP
Brian R. Besanceney/OPD/EOP@EOP
Gordon D. Johndroe/WHO/EOP@EOP
Katherine L. Disston/WHO/EOP@EOP
January M. Riecke/WHO/EOP@EOP
Catherine J. Martin/OVP/EOP@EOP
Alison M. Harden/WHO/EOP@EOP
Stephen M. Lineberry/CEA/EOP@EOP
Jennifer Millerwise/OVP/EOP@EOP
Lindsey C. Kozberg/WHO/EOP@EOP
Jim Towey/WHO/EOP@EOP
Parker B. Hamilton/WHO/EOP@EOP
Mary C. Williams/NSC/EOP@EOP
Andrew D. Ciafardini/WHO/EOP@EOP
Tucker A. Eskew/WHO/EOP@EOP
Deborah A. Spagnoli/WHO/EOP@EOP
Keith Hennessey/OPD/EOP@EOP
Sally Canfield/WHO/EOP@EOP
Joel D. Kaplan/WHO/EOP@EOP
Kristen Silverberg/WHO/EOP@EOP
Charlotte L. Montiel/WHO/EOP@EOP
Edward Ingle/WHO/EOP@EOP
Michael J. Taylor/WHO/EOP@EOP
Suzy DeFrancis/WHO/EOP@EOP
Jose Mallea/WHO/EOP@EOP
Christie Parell/WHO/EOP@EOP
Sue H. Gerdelman/OPD/EOP@EOP
Edwina C. Rogers/OPD/EOP@EOP
Heidi K. Marquez/WHO/EOP@EOP
Ross M. Kyle/WHO/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Tim Goeglein/WHO/EOP@EOP [WHO] <Tim Goeglein>
CC: don willett <don.willett@usdoj.gov>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;manny miranda <manuel_miranda@judiciary.senate.gov>;viet dinh <viet.dinh@usdoj.gov>;joschal@att.net [UNKNOWN] <joschal@att.net>
Sent: 12/4/2002 3:17:21 PM
Subject: : Re: Tony Feather meeting
Attachments: P_YAN4C003_WHO.TXT_1.htm

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 4-DEC-2002 20:17:21.00
SUBJECT:: Re: Tony Feather meeting
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:don willett <don.willett@usdoj.gov> (don willett <don.willett@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:manny miranda <manuel_miranda@judiciary.senate.gov> (manny miranda <manuel_miranda@judiciary.senate.gov> [UNKNOWN])
READ:UNKNOWN
CC:viet dinh <viet.dinh@usdoj.gov> (viet dinh <viet.dinh@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
CC:joschal@att.net (joschal@att.net [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

2-3:30 on the 11th is good for me.

Tim Goeglein
12/04/2002 04:00:14 PM
Record Type: Record

To: joschal@att.net
cc: brett m. kavanaugh/who/eop@eop, viet dinh <viet.dinh@usdoj.gov>, don willett <don.willett@usdoj.gov>, manny miranda <manuel_miranda@judiciary.senate.gov>
bcc:
Subject: Re: Tony Feather meeting

My friend

Sounds very good. Fyi: the 12th is very bad for me: two events with POTUS.

May we think about between 2-4 pm on the 11th?

I would be in your debt.

Warmly

tsg

Jennifer Oschal <joschal@att.net>
12/04/2002 03:40:19 PM
Please respond to joschal@att.net
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Tony Feather meeting

Tony is coming to town next week and I'd like to arrange a meeting for all of us if possible. While I've obviously been communicating regularly with him, I think it's time for him to sit down and talk with y'all about moving forward next year. He obviously has broader political knowledge than I do and will provide helpful insight, as well as gain insight from the meeting that he can take to others as PFA rolls out it's '03 plan. The main topic will be strategy for USSC, so we can plan accordingly, but there will be no set agenda - just an informal back & forth. He will be in town on the 11-12
and I'm still waiting to find his availability.

Please consider this email a heads up, and I'll get back to you by early next week with times and we'll see what we can work out for everyone. Thanks - I think this will be helpful and hope you'll be willing to join. Of course others are welcome if you think appropriate. JO

- att1.htm

Message Sent
To:_____
Brett M. Kavanaugh/WHO/EOP@EOP
Tim Goeglein/WHO/EOP@EOP
Viet Dinh <Viet.Dinh@usdoj.gov>
Don Willett <Don.Willett@usdoj.gov>
Manny Miranda <manuel_miranda@judiciary.senate.gov>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_YAN4C003_WHO.TXT_1>

Tony is coming to town next week and I'd like to arrange a meeting for all of us if possible. While I've obviously been communicating regularly with him, I think it's time for him to sit down and talk with y'all about moving forward next year. He obviously has broader political knowledge than I do and wil I provide helpful insight, as well as gain insight from the meeting that he can take to others as PFA rolls out it's '03 plan. The main topic will be strategy for USSC, so we can plan accordingly, but there will be no set agenda - just an informal back & forth. He will be in town on the 11-12 and I' m still waiting to find his availability.

Please consider thi s email a heads up, and I'll get back to you by early next week with times and we'll see what we can work out for everyone. Thanks - I think this will be helpful and hope you'll be willing to join. Of course others are welcome if you think appropriate. JO

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>
Sent: 12/6/2002 11:31:13 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 6-DEC-2002 16:31:13.00
SUBJECT::
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
###### End Original ARMS Header ######

talked to pc. he is 52-48 that case is assigned to a new panel but (as
those numbers suggest) obviously does not have a strong sense
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>
Sent: 12/8/2002 9:10:21 PM
Subject: : Re: Does anyone have the "privacy" portfolio?

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 9-DEC-2002 02:10:21.00
SUBJECT:: Re: Does anyone have the "privacy" portfolio?
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

These are all privacy?

.

----- Original Message -----
From:Jennifer G. Newstead/WHO/EOP
To:Bradford A. Berenson/WHO/EOP@EOP,
Brett M. Kavanaugh/WHO/EOP@EOP,
Helgard C. Walker/WHO/EOP@EOP,
Benjamin A. Powell/WHO/EOP@EOP,
H. Christopher Bartolomucci/WHO/EOP@EOP,
Noel J. Francisco/WHO/EOP@EOP,
Kyle Sampson/WHO/EOP@EOP
Cc:Patrick J. Bumatay/WHO/EOP@EOP
Date: 12/04/2002 02:52:24 PM
Subject: Does anyone have the "privacy" portfolio?

NEC has some issues that include financial, internet/technology and others
and is looking for a contact in our office. Patrick advises that we don't
have anyone currently assigned to this issue. If that's right, does
anyone want it?

From: CN=Carolyn Nelson/OU=WHO/O=EOP [WHO]
To: Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Benjamin A. Powell/WHO /EOP@EOP [WHO] <Benjamin A. Powell>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Noel J. Francisco/WHO /EOP@EOP [WHO] <Noel J. Francisco>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>
Sent: 12/9/2002 4:44:24 AM
Subject: : 12-11 JSC Materials

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 9-DEC-2002 09:44:24.00
SUBJECT:: 12-11 JSC Materials
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Good Morning,

Please let me know by close of business today if you will have materials
for Wednesday's JSC meeting.

Thanks,
Carrie
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>
Sent: 12/9/2002 7:17:19 AM
Subject: : NC

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 9-DEC-2002 12:17:19.00
SUBJECT:: NC
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

from Charlotte paper:

GOP leaders plan sequel to 2002 story

By ROB CHRISTENSEN, Staff Writer

RALEIGH -- State Republican Party leaders, in their first meeting since their sweeping victories in the midterm elections, began to turn their attention toward unseating North Carolina's two marquee Democratic incumbents in 2004 -- Gov. Mike Easley and Sen. John Edwards.
The state GOP Executive Committee met Saturday and exchanged congratulations on the election of Elizabeth Dole to the U.S. Senate, the capture of the state House, the domination of the statewide judicial races and the newly-won control of a record 45 of the state's 100 boards of county commissioners. But the Republicans have also begun laying plans for the next election cycle. "The 2004 campaign has already begun, and it's going to be a huge year," state GOP Chairman Bill Cobey told about 75 party leaders meeting at the Velvet Cloak Inn.
The White House has begun courting GOP Congressman Richard Burr of Winston-Salem to run for Edwards' seat in 2004, several GOP insiders said. The White House is offering to provide the same sort of assistance for Burr -- helping him with money, political expertise and the backing of the president -- that it did this year for Dole.
President Bush and in particular his chief political adviser, Karl Rove, were active in recruiting and supporting Republican Senate candidates across the country this year, even if it meant becoming involved in GOP primaries.
Burr was traveling as part of a House delegation in Europe on Saturday and could not be reached for comment.
But Burr has in the past expressed uncertainty over whether to run for higher office or seek re-election. Burr, who was elected to his fifth term in the House last month, is potentially in line to be House Commerce Committee chairman if he stays for a few more years.
Although not well-known across the state, Burr, 47, is regarded by party insiders as a rising star -- personable, photogenic and bright, with an ability to compete for swing suburban voters as Edwards does. He also has a campaign war chest of nearly $2 million.
Taking on Edwards
Edwards has not said whether he plans to run for a second term in 2004 or whether he will seek the Democratic nomination for president. He can legally do both, but most observers expect him to choose between the two.
Cobey said Edwards' hold on the Senate seat is "not secure at all -- especially with George W. Bush on the ticket."
"His [polling] numbers are down," Cobey said. "We are excited about taking

him on and winning. My analysis is that he understands the predicament he is in. If he runs for president he has to stay pretty far to the left, and that doesn't go down well in North Carolina."

Burr is not the only Republican looking at running for the Edwards seat. Jim Snyder, a Lexington lawyer who finished second to Dole during the GOP primary in September, is also considering seeking the Senate seat.

But who for governor?

While the White House is apparently hoping to clear the field for Burr in the Senate contest, the GOP gubernatorial primary appears wide open without a clear front-runner.

Among those looking at the governor's race is N.C. Supreme Court Chief Justice I. Beverly Lake Jr.

Lake, a former state senator who was the Republican nominee for governor in 1980, has discussed a possible challenge to Easley, GOP insiders said. "I'm flattered that people would suggest that," Lake said. "Certainly, I have taken that road once before. It's an office that I have been interested in the past. I certainly can't say at the moment I have given it any serious thought. I may have to soon. But I haven't at the moment."

Lake, who defeated Democratic Chief Justice Henry Frye in 2000, has one of the best-known names in Tar Heel politics. His father, I. Beverly Lake Sr., is a former state Supreme Court justice and was a Democratic candidate for governor in 1960 and 1964.

Field shaping up

Other Republicans looking at running against Easley include former Charlotte Mayor Richard Vinroot, state Senate Republican leader Patrick Ballantine of Wilmington, Raleigh lawyer and former Carolina Hurricanes president Jim Cain, Southern Pines insurance executive George Little and Charlotte Mayor Patrick McCrory.

Among the potential GOP gubernatorial candidates, Vinroot, who lost to Easley in 2000, has been the most active in soliciting support around the state.

Vinroot has the advantages and disadvantages of having twice run for governor. He is among the best-known of the potential candidates, but some GOP activists think the party needs a fresher face.

The two men Vinroot defeated in 2000 to win the GOP nomination -- state House GOP leader Leo Daughtry of Smithfield and former state Rep. Chuck Neely of Raleigh -- have said it is not likely that they will try again in 2004.

The Easley outlook

Easley has signaled that he plans to seek a second term. But with the state in a continuing budget crisis, Easley's approval ratings dropped from 49 percent to 44 percent between April and November, according to the Elon University Poll.

There are some worries in Republican circles that no GOP candidate has emerged who is strong enough to defeat a sitting governor.

Since the state constitution was amended in 1978 to allow governors to seek a second successive term, no sitting governor has been defeated.

And Cobey cautioned the Republican Party leaders Saturday that despite their midterm successes, there are no guarantees about 2004.

"Our opposition is not going to lay down and play dead," Cobey said.

From: CN=Helgard C. Walker/OU=WHO/O=EOP [WHO]
To: H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>
CC: kyle sampson/who/eop@eop [WHO] <kyle sampson>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>
Sent: 12/10/2002 4:03:26 AM
Subject: : Re: Off Site Update

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-DEC-2002 09:03:26.00
SUBJECT:: Re: Off Site Update
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:kyle sampson (CN=kyle sampson/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

Yippee

H. Christopher Bartolomucci
12/09/2002 09:27:45 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Kyle Sampson/WHO/EOP@EOP,
Helgard C. Walker/WHO/EOP@EOP
cc:
Subject: Off Site Update

Per Dab:

We are "on call" Dec. 21 through Jan. 2.

From: CN=Carolyn Nelson/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 12/10/2002 9:22:18 AM
Subject: : JSC packet

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:10-DEC-2002 14:22:18.00
SUBJECT:: JSC packet
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Would you like to look it over before I take drafts to the Judge/David?
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>;David G. Leitch/WHO/EOP@EOP [WHO] <David G. Leitch>;Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>;Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>
Sent: 12/10/2002 8:00:28 AM
Subject: : Amarillo Globe-News editorial (positive) on President's judges proposal

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:10-DEC-2002 13:00:28.00
SUBJECT:: Amarillo Globe-News editorial (positive) on President's judges proposal
TO:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

Editorial: Judicial nominations need bi-partisan standards

Look up "partisanship" in the dictionary and the only definition needed is the federal judicial appointment process.

Perhaps no other process is so packed with political poison as the president's responsibility to nominate federal judges.

President Bush, with 79 federal judicial vacancies to fill as of November, has found out the hard way that "reaching out" to U.S. Senate Democrats oftentimes leads to a bare-knuckle brawl when it comes to judicial nominations.

Unfortunately, his predecessor, Bill Clinton, discovered the same thing courtesy of Republicans.

Both parties are guilty of determining a judge's qualifications for office by party labels or simply nixing a candidate for political reasons.

This detestable practice has become an unwelcome tradition and does not serve the best interests of the public, which is more interested in swift and fair justice than political power plays.

Whether he is tired of fighting or simply punch-drunk, Bush has offered a meaningful proposal that could alleviate much of the politics from the judicial nomination process.

The president's proposal includes federal judges providing a year's notice before leaving office. The president would then have 180 days to nominate a replacement, with the Senate judicial committee having 90 days to consider the nomination. The full Senate would have another 90 days to vote for confirmation. Bush also wants to include the American Bar Association in the process.

The proposal has merit in that guidelines would prevent judicial nominees from languishing in the Senate for months on end, a much-used delaying tactic by both sides. The inclusion of the ABA helps reduce at least some of the partisan bickering and contrasts with earlier proposals to remove ABA participation.

Clearly, something has to be done for the federal justice system to be able to function properly without lawmakers creating political obstacles. The president's proposal will speed up the process and is a step in the right direction.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>;Benjamin A. Powell/WHO /EOP@EOP [WHO] <Benjamin A. Powell>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;David G. Leitch/WHO /EOP@EOP [WHO] <David G. Leitch>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>
Sent: 12/10/2002 8:02:46 AM
Subject: : CA2 upholds federal death penalty, reversing dct

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:10-DEC-2002 13:02:46.00
SUBJECT:: CA2 upholds federal death penalty, reversing dct
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Opinion by Cabranes joined by Winter and McLaughlin
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>
Sent: 12/10/2002 10:29:18 AM
Subject: : Re: letter to new Sens.

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-DEC-2002 15:29:18.00
SUBJECT:: Re: letter to new Sens.
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Would orally be more advantageous for us? Hard to know. There are only 7, I believe: Dole, Chambliss, Cornyn, Talent, Coleman, Alexander, Graham.

Kyle Sampson
12/10/2002 03:16:09 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: letter to new Sens.

Just spent about 30 minutes explaining to Sen.-elect Alexander's CoS the process by which we request candidates for judicial, U.S. Attorney, and U.S. Marshal positions. Do you think we should send our letter to the new guys? Esp. where they are the only GOP Senator (like Coleman and Chambliss)? Your thoughts?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Kyle Sampson/WHO /EOP@EOP [WHO] <Kyle Sampson>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Bradford A. Berenson/WHO /EOP@EOP [WHO] <Bradford A. Berenson>
Sent: 12/10/2002 10:33:16 AM
Subject: : anyone have car for OLC event

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:10-DEC-2002 15:33:16.00
SUBJECT:: anyone have car for OLC event
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 12/10/2002 12:58:21 PM
Subject: : JSC

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:10-DEC-2002 17:58:21.00
SUBJECT:: JSC
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Will this go the full hour or say - 30 minutes?
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Roger T. Stetson <RTStetson@belinlaw.com>
Sent: 12/11/2002 5:19:05 AM
Subject: : Iowa State Bar Association Federal Practice Seminar
Attachments: P_F6R9C003_WHO.TXT_1.doc; P_F6R9C003_WHO.TXT_2.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:11-DEC-2002 10:19:05.00
SUBJECT:: Iowa State Bar Association Federal Practice Seminar
TO:"Roger T. Stetson" <RTStetson@belinlaw.com> ("Roger T. Stetson"
<RTStetson@belinlaw.com> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Roger: My assistant Raquel is calling you about the flights and
to obtain a credit card from you, which is necessary under our rules. I
plan to arrive at 1:30 on Monday at Des Moines. If the weather looks bad,
I will switch that morning to an earlier flight to make sure there are no
problems.

Attached are the President's book-end speeches (May 9, 2001, and
October 30, 2002) on the judicial confirmation process, which I will
discuss during my remarks. I suggest that you include them in the CLE
materials.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_F6R9C003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_F6R9C003_WHO.TXT_2>

REMARKS BY THE PRESIDENT
DURING FEDERAL JUDICIAL APPOINTEES ANNOUNCEMENT

May 9, 2001
The East Room

THE PRESIDENT: Thank you all very much. Attorney General, it's good to see you, sir, and happy birthday. Today is his birthday. Also, Judge Al Gonzales. Judge Gonzales is a great friend of mine who, fortunately, is my lawyer and is a part of the process, judicial selection process. Thank you for being here, Judge.

I'm also honored to welcome members of the United States Senate who are here to welcome the nominees to Washington: of course, Senator Orrin Hatch, Chairman of the Judiciary; as well as Senator Patrick Leahy, ranking member on the Judiciary. It's good to see you men, thank you both for coming.

John Warner, George Allen, George Voinovich and last, but not least, Senator Strom Thurmond. Welcome. (Applause.) Thank you all for coming.

I'm pleased to welcome my judicial nominees to the White House. And I'm pleased to welcome their family and friends, as well.

This is a proud moment for all of you, and it's a proud moment for me, as well. A President has fewer greater responsibilities than that of nominating men and women to the courts of the United States. A federal judge holds a position of great influence and respect, and can hold it for a lifetime.

When a President chooses a judge, he is placing in human hands the authority and majesty of the law. He owes it to the Constitution and to the country to choose with care. I have done so.

With me this afternoon are my first 11 judicial nominees, individuals of experience and character. Four of them serve as United States district judges, all four confirmed by unanimous votes. Two others are sitting judges on state supreme courts. Four have served as law clerks in the Supreme Court of the United States. One has served here as an associate counsel to the President. One already holds the position for which I nominate him, by recess appointment of President Clinton.

These men and women have followed different paths to this nomination. They come from diverse backgrounds, and will bring a wide range of experience to the bench. All have sterling credentials and have met high standards of legal training, temperament and judgment.

As a group, they command broad, bipartisan support among those who know them and who have served with them. I submit their names to the Senate with full confidence that they will satisfy any test of judicial merit.

These first nominations are also an opportunity to outline the standards by which I will choose all federal judges. The American people expect judges of the highest caliber, and my nominees will meet that test. A judge, by the most basic measure, has an obligation shared by the President and members of Congress. All of us are constitutional officers, sworn to serve within the limits of our Constitution and laws. When we observe those limits, we exercise our rightful power. When we exceed those limits, we abuse our powers.

Every judge I appoint will be a person who clearly understands the role of a judge is to interpret the law, not to legislate from the bench. To paraphrase the third occupant of this house, James Madison, the courts exist to exercise not the will of men, but the judgment of law. My judicial nominees will know the difference. Understanding this will make them more effective in the defense of rights guaranteed under the Constitution, the enforcement of our laws, and more effective in assuming that justice is done to the guilty and for the innocent.

My standard is informed by the oath that each judge will take: to administer justice without respect to persons, and to do equal right to poor and to the rich. A good judge exercises these powers with discernment, courage and humility. These are commitments, not just to philosophy, but of character.

My nominees today and in the years to come will be notable for their distinction and accomplishments. And all will be exceptional for their humanity and their integrity. With today's 11 nominees, we continue a constitutional process that involves all three branches of government.

For many weeks now, we have sought and received advice from senators of both parties. I now submit these nominations in good faith, trusting that good faith will also be extended by

the United States Senate. Over the years, we have seen how the confirmation process can be turned to other ends. We have seen political battles played out in committee hearings -- battles that have little to do with the merits of the person sitting before the committee.

This is not good for the Senate, for our courts or for the country.

There are, today, over a hundred vacancies on the federal courts, causing backlogs, frustration and delay of justice. I urge senators of both parties to rise above the bitterness of the past, to provide a fair hearing and a prompt vote to every nominee. That should be the case for no matter who lives in this house, and no matter who controls the senate.

I ask for the return of civility and dignity to the confirmation process. And with this distinguished group of nominees awaiting confirmation, there is no better opportunity than right now. I congratulate all of you on your service past, and for your service to come.

God bless. (Applause.)

END

REMARKS BY THE PRESIDENT
ON JUDICIAL CONFIRMATIONS

October 30, 2002
The East Room

THE PRESIDENT: Thank you all very much. Thank you, Al. He's -- everybody must have a good lawyer, and I got one in Al Gonzales.

I want to welcome you all here to the White House. Thank you for coming.

The federal courts play a central role in American justice, protecting the innocent, punishing the guilty, resolving disputes and upholding the rule of law. Yet, today, our federal courts are in crisis.

The judicial confirmation process does not work as it should. Nominees are too often mistreated, votes are delayed, hearings are denied, and dozens of federal judgeships sit empty, and this endangers the quality of justice in America.

Everyone knows these facts. Everyone knows the system isn't working. These concerns are not new. And we will not find a solution in an endless cycle of blame and bitterness.

Today, I'm proposing a clean start for the process of nominating and confirming federal judges. We must have an even-handed, predictable procedure from the day a vacancy is announced to the day a new judge is sworn in. This procedure should apply now and in the future, no matter who lives in this house or who controls the Senate. We must return fairness and dignity to the judicial confirmation process.

I want to thank the Judge Al Gonzales for working on this initiative and I want to thank his team for working hard. I appreciate John Ashcroft's service to our country; he is a great Attorney General. (Applause.) And I'm not saying that just because his wife and her twin sister are here. (Laughter.)

I'm so pleased that Ted Olson, the Solicitor General, is with us. I thank Fred Fielding, the former counsel to President Ronald Reagan. Boyd Gray is with us, former counsel to Number 41. Dennis Archer is with us today, President-elect of the American Bar Association and, of course, the former mayor of

Detroit. Mr. Mayor, thank you for coming. Thomas Hayward, Chair of the Committee of Federal Judicial Improvements for the American Bar Association. And all of you, thank you for your interest in this subject.

Nearly 18 months ago, at an event right here in the East Room, I introduced my first 11 nominees to the Court of Appeals. I urged Senators of both parties to provide a fair hearing and a prompt vote to each nominee. Thus far, only three of these 11 nominations have been brought to a vote in the United States Senate.

The eight who are stalled in the Judiciary Committee include people such as John Roberts. John Roberts has argued 38 cases before the Supreme Court. He has served as Deputy Solicitor General of the United States. He's widely regarded as one of the best Supreme Court lawyers in America.

And they include Miguel Estrada, who has argued 15 cases before the U.S. Supreme Court, and has served in the Justice Department under Presidents of both political parties as a federal prosecutor and as the Assistant to the Solicitor General.

The Judiciary Committee has prevented full Senate action on people such as Priscilla Owen, who has served brilliantly on the Texas Supreme Court since 1995, and was overwhelmingly reelected by the people of Texas in the year 2000. Mr. Roberts, Mr. Estrada and Justice Owen have the highest ratings from the American Bar Association, which some Democrat Senators have called, "the gold standard." They have broad support among lawyers in both political parties. Both Mr. Roberts and Mr. Estrada have the support of former President Clinton's Solicitor General. Justice Owen is supported by three former Democrat justices of the Texas Supreme Court.

In all, I have sent to the Senate 32 nominees for the Court of Appeals. They are well qualified men and women with experience, intelligence, character and bipartisan home state support. They represent the mainstream of American law and American values. Yet the Senate has confirmed only 14 of these 32 nominees, which is far below the pace of past Senates at the start of an administration. It's a lousy record. Not one of my nine pending nominees to fill vacancies on the Sixth and D.C. Circuit Courts has received a Senate vote, not one. As of November, 15 of my Appeals Court nominees will have been forced

to wait over a year for a hearing. That's more in this Presidency than under the previous nine Presidents combined.

There's no good reason why any nominee should endure a year, a year-and-a-half, or more, without the courtesy of an up or down floor vote; there is not one good reason why. Whatever the explanation, we clearly have a poisoned and polarized atmosphere in which well qualified nominees are neither voted up or down; they are just left in limbo. This is unfair to the nominees and their families. This process discourages good people from serving as judges. It's also unfair to the courts themselves, which are forced to handle a growing caseload without the judges they need.

Nine percent of all federal judgeships in America are now vacant, nine percent. Of the 12 regional Courts of Appeals, the courts right below the Supreme Court, there is a 17 percent vacancy rate. The Court of Appeals for the D.C. Court, which rules on many significant Constitutional and regulatory issues, now operates with one-third of its judgeships empty. And the Sixth Court of Appeals which covers Kentucky and Ohio, Michigan and Tennessee, is nearly half empty, with nine active judges doing the work of 16.

Meanwhile, the number of federal appeal court filings reached an all-time high this year. Benches are empty, the number of court filings has increased to an all-time high. We can expect them to increase even further as a result of the war on terror, corporate fraud prosecutions, and issues arising out of the September the 11th attacks.

The judicial vacancies go unfulfilled, we will see more crowded dockets and longer delays. The federal courts will be unable to act in a timely manner to protect constitutional rights, to resolve civil disputes, and enforce the criminal laws, the environmental laws, and the civil rights laws that affects the lives and liberties of every single American. Chief Justice Rehnquist has called this situation alarming. The American Bar Association's report has described the current status of the federal judiciary as an emergency situation.

The judicial crisis is the result of a broken system, and we have a duty to repair it. I want to work with the Senate to fashion a new approach to filling federal court vacancies. We should leave behind the arguments and grievances of the past. We need to fix this problem together. That's why we've come to

Washington, to fix problems. And each branch of government can contribute and must contribute to a better system.

So today, I'm offering four specific proposals to break the logjam in Washington and bring the federal courts of appeals and district courts to full strength.

First, I call on federal judges on the courts of appeals and district courts to notify the President of their intention to retire at least a year in advance, whenever this is possible. Because the nomination and confirmation of a federal judge is a lengthy process under the best of circumstances, judges who retire without advance notice can unintentionally create a judicial vacancy that can last for many months. The request for one year advance notice builds on existing policy of the judiciary and will help us work toward a system in which a new federal judge is ready to take the bench on a day the sitting judge retires -- that's the goal.

Second, I propose that Presidents submit a nomination to the Senate within 180 days of receiving notice of a federal court vacancy or intended retirement. In other words, we have a responsibility as well to make sure the judiciary is sound and whole. This will speed up the sometimes time-consuming process of obtaining recommendations and evaluations from home-state senators and representatives and governors and bar leaders, while leaving ample time for Presidents to vet and choose nominees of the highest quality.

Third, I call on the Senate Judiciary -- Senate Judiciary Committee to commit to holding a hearing within 90 days of receiving a nomination. A strict deadline is the best way to ensure that judicial nominees are promptly and fairly considered. And 90 days is more than enough time for the committee to conduct necessary research before holding a hearing -- that's plenty of time.

Finally, I call on the full Senate to commit to an up or down floor vote on each nominee no later than 180 days after the nomination is submitted. This is a very generous period of time that will allow all the Senators to evaluate nominees and have their votes counted.

Our proposals would not favor Democrats or Republicans. The plan would be fair and would apply to -- regardless of who the President is. It doesn't matter who the President is. What matters is a system which works.

For the first time in years, the judicial confirmation process would work as it was intended to work. All Senators would have a chance to make their voices heard, and their views known, and that's important. All nominees would have the certainty of an up or down Senate floor vote within a reasonable period of time, and that is important. All Presidents would know that their judicial nominations would be addressed promptly. All Americans would see a more dignified process, and have their federal courts fully staffed to protect their rights and their liberties. And the vacancy crisis would be resolved once and for all.

I urge every member of the Senate, in particular those serving on the Judiciary Committee, to carefully consider this new beginning for the judicial nomination process, to weigh their responsibilities, to look at the vacancy problem we have, to act in a responsible fashion.

The failure of the judicial confirmation process is harming the administration of justice in America. That is a fact. The current state of affairs is not merely another round of political wrangling. It is a disturbing failure to meet our responsibilities under the Constitution. The Constitution has given us a shared duty and we must meet that duty together.

Thank you all for coming.

END

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]

To: Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Adam.Charnes@usdoj.gov [UNKNOWN] <Adam.Charnes@usdoj.gov>;Sarah K. Lockart@who.eop.gov [WHO] <Sarah K. Lockart@who.eop.gov>;Albert.Brewster@usdoj.gov [UNKNOWN] <Albert.Brewster@usdoj.gov>;Ann Gray/WHO/EOP@EOP [WHO] <Ann Gray>;Douglas L. Hoelscher/WHO/EOP@EOP [WHO] <Douglas L. Hoelscher>;Jason.J.Sutton@usdoj.gov [UNKNOWN] <Jason.J.Sutton@usdoj.gov>;Viet.Dinh@usdoj.gov [UNKNOWN] <Viet.Dinh@usdoj.gov>;adam.Ciongoli@usdoj.gov [UNKNOWN] <adam.Ciongoli@usdoj.gov>;andrew.beach@usdoj.gov [UNKNOWN] <andrew.beach@usdoj.gov>;Allison L. Riepenhoff/WHO/EOP@EOP [WHO] <Allison L. Riepenhoff>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Timothy E. Flanigan/WHO/EOP@EOP [UNKNOWN] <Timothy E. Flanigan>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Alison Jones/WHO /EOP@EOP [WHO] <Alison Jones>;Carol J. Thompson/WHO/EOP@EOP [UNKNOWN] <Carol J. Thompson>;Wendy.J.Keefer@usdoj.gov [UNKNOWN] <Wendy.J.Keefer@usdoj.gov>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Tracy.T.Washington@usdoj.gov [UNKNOWN] <Tracy.T.Washington@usdoj.gov>;don.willett@usdoj.gov [UNKNOWN] <don.willett@usdoj.gov>;David McMaster/WHO/EOP@EOP [WHO] <David McMaster>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>;evelyn.v.long@usdoj.gov [UNKNOWN] <evelyn.v.long@usdoj.gov>;amy.bass@usdoj.gov [UNKNOWN] <amy.bass@usdoj.gov>;Dee Dee Benkie/WHO/EOP@EOP [UNKNOWN] <Dee Dee Benkie>;Helgard C. Walker/WHO /EOP@EOP [WHO] <Helgard C. Walker>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;Michael J. Conway/WHO/EOP@EOP [WHO] <Michael J. Conway>;Susan B. Ralston/WHO/EOP@EOP [WHO] <Susan B. Ralston>;Melissa S. Bennett/WHO/EOP@EOP [WHO] <Melissa S. Bennett>

Sent: 12/11/2002 7:17:29 AM

Subject: : JSC reminder

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:11-DEC-2002 12:17:29.00
SUBJECT:: JSC reminder
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Adam.Charnes@usdoj.gov ( Adam.Charnes@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Sarah K. Lockart@who.eop.gov ( Sarah K. Lockart@who.eop.gov [ WHO ] )
READ:UNKNOWN
TO:Albert.Brewster@usdoj.gov ( Albert.Brewster@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Ann Gray ( CN=Ann Gray/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Douglas L. Hoelscher ( CN=Douglas L. Hoelscher/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jason.J.Sutton@usdoj.gov ( Jason.J.Sutton@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Viet.Dinh@usdoj.gov ( Viet.Dinh@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:adam.Ciongoli@usdoj.gov ( adam.Ciongoli@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:andrew.beach@usdoj.gov ( andrew.beach@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Allison L. Riepenhoff ( CN=Allison L. Riepenhoff/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Timothy E. Flanigan ( CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [ UNKNOWN ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
```

READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Carol J. Thompson (CN=Carol J. Thompson/OU=WHO/O=EOP@EOP [UNKNOWN])
READ:UNKNOWN
TO:Wendy.J.Keefer@usdoj.gov (Wendy.J.Keefer@usdoj.gov [UNKNOWN])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Tracy.T.Washington@usdoj.gov (Tracy.T.Washington@usdoj.gov [UNKNOWN])
READ:UNKNOWN
TO:don.willett@usdoj.gov (don.willett@usdoj.gov [UNKNOWN])
READ:UNKNOWN
TO:David McMaster (CN=David McMaster/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:evelyn.v.long@usdoj.gov (evelyn.v.long@usdoj.gov [UNKNOWN])
READ:UNKNOWN
TO:amy.bass@usdoj.gov (amy.bass@usdoj.gov [UNKNOWN])
READ:UNKNOWN
TO:Dee Dee Benkie (CN=Dee Dee Benkie/OU=WHO/O=EOP@EOP [UNKNOWN])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

JSC will be held today at 4:00 pm in the Judge's Office (WW-2nd fl.).

Thank you.

From: CN=Carolyn Nelson/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Elizabeth N. Camp/WHO /EOP@EOP [WHO] <Elizabeth N. Camp>
Sent: 12/11/2002 3:30:26 AM
Subject: : JSC Materials

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:11-DEC-2002 08:30:26.00
SUBJECT:: JSC Materials
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

David made several changes to the binder which I am quickly correcting.
The revised binders will be re-printed and distributed by 10:00am.
```

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]

To: David G. Leitch TPO/TPO/OMB/EOP [UNKNOWN] <David G. Leitch TPO>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Allison L. Riepenhoff/WHO/EOP@EOP [WHO] <Allison L. Riepenhoff>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Bradford A. Berenson/WHO /EOP@EOP [WHO] <Bradford A. Berenson>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;James W. Carroll/WHO/EOP@EOP [WHO] <James W. Carroll>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>

Sent: 12/11/2002 10:15:32 AM

Subject: : JSC Prep is CANCELLED

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:11-DEC-2002 15:15:32.00
SUBJECT:: JSC Prep is CANCELLED
TO:David G. Leitch TPO ( CN=David G. Leitch TPO/OU=TPO/OU=OMB/O=EOP [ UNKNOWN ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Allison L. Riepenhoff ( CN=Allison L. Riepenhoff/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:James W. Carroll ( CN=James W. Carroll/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]

To: David G. Leitch TPO/TPO/OMB/EOP [UNKNOWN] <David G. Leitch TPO>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Allison L. Riepenhoff/WHO/EOP@EOP [WHO] <Allison L. Riepenhoff>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Bradford A. Berenson/WHO /EOP@EOP [WHO] <Bradford A. Berenson>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;James W. Carroll/WHO/EOP@EOP [WHO] <James W. Carroll>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>

CC: Patrick J. Bumatay/WHO/EOP [WHO] <Patrick J. Bumatay>;Charlotte L. Montiel/WHO /EOP@EOP [WHO] <Charlotte L. Montiel>;Carolyn Nelson/WHO/EOP@EOP [WHO] <Carolyn Nelson>

Sent: 12/11/2002 7:17:25 AM

Subject: : Dec. 20th

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:11-DEC-2002 12:17:25.00
SUBJECT:: Dec. 20th
TO:David G. Leitch TPO ( CN=David G. Leitch TPO/OU=TPO/OU=OMB/O=EOP [ UNKNOWN ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Allison L. Riepenhoff ( CN=Allison L. Riepenhoff/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:James W. Carroll ( CN=James W. Carroll/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
CC:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
CC:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Carrie Nelson is doing the JSC and Presidential Decision Binders now.
If you even think a particular candidate will be in the Dec. 20th binder
```

please start providing to her the info for the binders sooner rather than later, please. Thanks!

1:30 pm Prep - Judge's Office
1:50pm Meeting with Judge Gonzales on US Attys & Fed Judges - Oval Office
(20 min)

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]

To: David G. Leitch TPO/TPO/OMB/EOP [UNKNOWN] <David G. Leitch TPO>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Allison L. Riepenhoff/WHO/EOP@EOP [WHO] <Allison L. Riepenhoff>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Bradford A. Berenson/WHO /EOP@EOP [WHO] <Bradford A. Berenson>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;James W. Carroll/WHO/EOP@EOP [WHO] <James W. Carroll>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>

Sent: 12/11/2002 7:17:29 AM

Subject: : JSC Prep

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:11-DEC-2002 12:17:29.00
SUBJECT:: JSC Prep
TO:David G. Leitch TPO ( CN=David G. Leitch TPO/OU=TPO/OU=OMB/O=EOP [ UNKNOWN ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Allison L. Riepenhoff ( CN=Allison L. Riepenhoff/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:James W. Carroll ( CN=James W. Carroll/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
###### End Original ARMS Header ######

JSC Prep will be at 3:30 pm today in the Judge's Office.
```

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 12/11/2002 12:16:53 PM
Subject: : Political Speech

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:11-DEC-2002 17:16:53.00
SUBJECT:: Political Speech
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

FYI - I just faxed over a political speech with an ASAP deadline.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>;Alberto R. Gonzales/WHO /EOP@EOP [WHO] <Alberto R. Gonzales>
Sent: 12/11/2002 2:04:50 PM
Subject: : draft e-mail invite for Starr visit next week

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:11-DEC-2002 19:04:50.00
SUBJECT:: draft e-mail invite for Starr visit next week
TO:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

wanted to run by you as Kasey has listed the Office as a sponsor in the
draft . . .



The Office of Strategic Initiatives and the Office of Counsel to the
President present...

Time Man of the Year in 1998, Judge on the D.C. Circuit Court of Appeals,
Solicitor General of the United States, Independent Counsel,
Counselor to the Attorney General, Law Clerk to the Chief
Justice

KEN STARR
Thursday, December 19, 1:00pm
450, EEOB
Call 6-2108 or respond to this e-mail to RSVP
```

From: CN=Benjamin A. Powell/OU=WHO/O=EOP [WHO]
To: Katherine M. Prendergast/WHO/EOP@EOP [WHO] <Katherine M. Prendergast>
CC: Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;carolyn nelson/who/eop@eop [WHO] <carolyn nelson>
Sent: 12/11/2002 10:11:29 AM
Subject: : Re: intern travel

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:11-DEC-2002 15:11:29.00
SUBJECT:: Re: intern travel
TO:Katherine M. Prendergast ( CN=Katherine M. Prendergast/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:carolyn nelson ( CN=carolyn nelson/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Kathy -- I do not know how we handle interns and official travel (I handle
the TEFOS forms). I am not sure that putting the intern on the same train
with a staff member makes a difference. I cc'd others in the Office who
have handled employee/detailee matters to see if they have advice. (the
case of political travel would be a different analysis I would
think--official funds/travel are not involved).

Nanette -- any guidance on this?




Katherine M. Prendergast
12/11/2002 02:58:37 PM
Record Type: Record

To: Benjamin A. Powell/WHO/EOP@EOP
cc: Carolyn Nelson/WHO/EOP@EOP
Subject: intern travel

Ben - Faith Based Initiatives has requested that an intern, Brian Goebel,
travel to Philadelphia for the Faith-Based regional conference. He wants
to leave tomorrow morning at 6:37 am and return tomorrow evening at 8:30
pm. No other staff member will be accompanying him on these specific
trains.

Can he go? I am assuming if he can go, we cannot pay him per diem. We
had an instance of an intern being approved for travel previously with
Andrew McGarrity, who accompanied Coddy Johnson to Nashville on political
travel.

I am just on the phone with Catharine Ryun, who says she thinks they can
arrange for him to travel together with her on the same trains. Does that
make a difference? Let me know.
Thanks.
Kathy Prendergast
65106
```

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO]
To: Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Noel J. Francisco/WHO /EOP@EOP [WHO] <Noel J. Francisco>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>
Sent: 12/11/2002 10:31:03 AM
Subject: : JSC Prep canceled

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:11-DEC-2002 15:31:03.00
SUBJECT:: JSC Prep canceled
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Please come to the Judge's office at 4 pm.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kasey S. Pipes/WHO/EOP@EOP [WHO] <Kasey S. Pipes>
Sent: 12/12/2002 4:12:58 AM
Subject: : Re: Draft invite for review...

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:12-DEC-2002 09:12:58.00
SUBJECT:: Re: Draft invite for review...
TO:Kasey S. Pipes (CN=Kasey S. Pipes/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I made some more edits. Our office should not be listed as a host, I do not believe.

The Office of Strategic Initiatives presents...

Time Magazine's Man of the Year in 1998, Judge on the D.C. Circuit Court of Appeals,
Solicitor General of the United States, Independent Counsel,
Counselor to the Attorney General, Law Clerk to the Chief Justice

KEN STARR
Thursday, December 19, 1:00pm
450, EEOB
Call 6-2108 or respond to this e-mail to RSVP

From: CN=PostMaster/O=EOP [OA]

To: Natalie S. Wozniak/NSC/EOP [NSC] <Natalie S. Wozniak>;Gene Whitney/OSTP/EOP [OSTP] <Gene Whitney>;Arnette C. White/OMB/EOP [OMB] <Arnette C. White>;Larry D. Walker/OVP/EOP [OVP] <Larry D. Walker>;Charles J. Vandenbossche/WHO/EOP [WHO] <Charles J. Vandenbossche>;Chris Underhill/WHO/EOP [WHO] <Chris Underhill>;Maureen E. Tucker/NSC/EOP [NSC] <Maureen E. Tucker>;Sandra J. Toomey/OSTP/EOP [OSTP] <Sandra J. Toomey>;Catherine W. Tobias/OVP/EOP [OVP] <Catherine W. Tobias>;David C. Thompson/WHO/EOP [UNKNOWN] <David C. Thompson>;Nancy A. Theis/WHO/EOP [WHO] <Nancy A. Theis>;Vigdor L. Teplitz/OSTP/EOP [OSTP] <Vigdor L. Teplitz>;Urbieta A. Swallow/OA/EOP [OA] <Urbieta A. Swallow>;Jose G. Suarez/WHO/EOP [WHO] <Jose G. Suarez>;Bruce L. Stewart/WHO/EOP [WHO] <Bruce L. Stewart>;Gretchen P. Steen/WHO/EOP [WHO] <Gretchen P. Steen>;Daniel W. Starratt/WHO/EOP [WHO] <Daniel W. Starratt>;Julia A. Stahl/CEA/EOP [UNKNOWN] <Julia A. Stahl>;Lewis G. Sorvillo/OVP/EOP [OVP] <Lewis G. Sorvillo>;Paul M. Slaton/WHO/EOP [WHO] <Paul M. Slaton>;Leslie A. Shockley/WHO/EOP [UNKNOWN] <Leslie A. Shockley>;Acquanetta D. Sheppard/OSTP/EOP [UNKNOWN] <Acquanetta D. Sheppard>;Thomas J. Sharpy/OVP/EOP [OVP] <Thomas J. Sharpy>;Praveen R. Shanbhag/OSTP/EOP [UNKNOWN] <Praveen R. Shanbhag>;Richard M. Russell/OSTP/EOP [OSTP] <Richard M. Russell>;Dexter L. Rountree/WHO/EOP [WHO] <Dexter L. Rountree>;Rosemary M. Rogers/CEA/EOP@Exchange [CEA] <Rosemary M. Rogers>;Cheryl A. Reynolds/OA/EOP [OA] <Cheryl A. Reynolds>;Michal M. Rehavi/CEA/EOP [UNKNOWN] <Michal M. Rehavi>;Gerald A. Powers/WHO/EOP [UNKNOWN] <Gerald A. Powers>;Patrick C. Porterfield/NSC/EOP [NSC] <Patrick C. Porterfield>;Ashley E. Plaxico/WHO/EOP [UNKNOWN] <Ashley E. Plaxico>;Tobi L. Pinsky/OSTP/EOP [UNKNOWN] <Tobi L. Pinsky>;Nicole Petrosino/WHO/EOP [UNKNOWN] <Nicole Petrosino>;Jack E. Pennington/OA/EOP [OA] <Jack E. Pennington>;Dennis C. Patterson/WHO/EOP [WHO] <Dennis C. Patterson>;Torkel L. Patterson/NSC/EOP [UNKNOWN] <Torkel L. Patterson>;Lindsy Parrott/OA/EOP [UNKNOWN] <Lindsy Parrott>;Scott N. Pace/OSTP/EOP [UNKNOWN] <Scott N. Pace>;Steve S. Nikes/OSTP/EOP [OSTP] <Steve S. Nikes>;Carolyn Nelson/WHO/EOP [WHO] <Carolyn Nelson>;Scott D. Munn/WHO/EOP [WHO] <Scott D. Munn>;Joseph Mukes/WHO/EOP [WHO] <Joseph Mukes>;Christa Moyle/OA/EOP [OA] <Christa Moyle>;Brian D. Montgomery/WHO/EOP [WHO] <Brian D. Montgomery>;Kevin M. Minne/WHO/EOP [WHO] <Kevin M. Minne>;Gwendolyn F. Mincey/WHO/EOP [WHO] <Gwendolyn F. Mincey>;Terry C. Miller/WHO/EOP [UNKNOWN] <Terry C. Miller>;Raymond D. Miller/WHO/EOP [WHO] <Raymond D. Miller>;Christopher T. Miller/WHO/EOP [WHO] <Christopher T. Miller>;William R. Melick/CEA/EOP [UNKNOWN] <William R. Melick>;Tyler N. McPherson/WHO/EOP [WHO] <Tyler N. McPherson>;Hugh A. McGovern/WHO/EOP [WHO] <Hugh A. McGovern>;Terri C. McCoy/OA/EOP [OA] <Terri C. McCoy>;Kelli R. McClure/OA/EOP [OA] <Kelli R. McClure>;Charles J. McCleary/CEA/EOP [UNKNOWN] <Charles J. McCleary>;James A. Mathews/CEA/EOP [UNKNOWN] <James A. Mathews>;Daniel W. Martin/OVP/EOP [OVP] <Daniel W. Martin>;Catherine J. Martin/OVP/EOP [OVP] <Catherine J. Martin>;Robert S. Marianelli/OSTP/EOP [OSTP] <Robert S. Marianelli>;Tracy Litton/WHO/EOP [WHO] <Tracy Litton>;Stephanie E. Linder/WHO/EOP [WHO] <Stephanie E. Linder>;Benitta D. Lewis/OVP/EOP [OVP] <Benitta D. Lewis>;Rachel E. Levinson/OSTP/EOP [OSTP] <Rachel E. Levinson>;Donni M. LeBoeuf/WHO/EOP [UNKNOWN] <Donni M. LeBoeuf>;Joshua T. Krupnick/OSTP/EOP [OSTP] <Joshua T. Krupnick>;Randall S. Kroszner/CEA/EOP [CEA] <Randall S. Kroszner>;Ellis Kitchen/OA/EOP [OA] <Ellis Kitchen>;Lana M. King/WHO/EOP [WHO] <Lana M. King>;Lawrence D. Kerr/OSTP/EOP [OSTP] <Lawrence D. Kerr>;Stephen A. Kemmer/WHO/EOP [WHO] <Stephen A. Kemmer>;Terrence K. Kelly/OSTP/EOP [UNKNOWN] <Terrence K. Kelly>;Joseph M. Kearney/WHO/EOP [WHO] <Joseph M. Kearney>;Namita Kalyan/CEA/EOP [UNKNOWN] <Namita Kalyan>;Deidra A. Jules/WHO/EOP [WHO] <Deidra A. Jules>;Richard P. Emery Jr./OMB/EOP [OMB] <Richard P. Emery Jr.>;Jacqueline D. Jones/WHO/EOP [WHO] <Jacqueline D. Jones>;Cyril Jones/WHO/EOP [WHO] <Cyril Jones>;Kaitlin S. Joerger/OSTP/EOP [UNKNOWN] <Kaitlin S. Joerger>;Kevin D. Jennings/WHO/EOP [UNKNOWN] <Kevin D. Jennings>;Jon Jefferson/WHO/EOP [WHO] <Jon Jefferson>;Theresa M. Hunter/OSTP/EOP [UNKNOWN] <Theresa M. Hunter>;Roger D. Huffstetler/OSTP/EOP [UNKNOWN] <Roger D. Huffstetler>;Charles H. Huettner/OSTP/EOP [UNKNOWN] <Charles H. Huettner>;Glenn Hubbard/CEA/EOP [CEA] <Glenn Hubbard>;Lonnie Hovey/OA/EOP [OA] <Lonnie Hovey>;Katie Hong/WHO/EOP [UNKNOWN] <Katie Hong>;Mark D. Hodge/OSTP /EOP@Exchange [OSTP] <Mark D. Hodge>;Carl E. Hildebrand/OSTP/EOP [OSTP] <Carl E. Hildebrand>;Amelia J. Hessheimer/OSTP/EOP [UNKNOWN] <Amelia J. Hessheimer>;Chris

Henick/WHO/EOP [WHO] <Chris Henick>;Michael Heath/WHO/EOP [WHO] <Michael Heath>;Tracy R. Hatfield/WHO/EOP [WHO] <Tracy R. Hatfield>;Dionne Hardy/OMB/EOP [OMB] <Dionne Hardy>;Henry G. Harbinson/WHO/EOP [UNKNOWN] <Henry G. Harbinson>;Larry E. Handeland/OA/EOP [OA] <Larry E. Handeland>;Robert J. Hall/WHO/EOP [WHO] <Robert J. Hall>;Wendy J. Hall/OSTP/EOP [OSTP] <Wendy J. Hall>;John F. Haley/OVP/EOP [OVP] <John F. Haley>;Jon A. Guest/WHO/EOP [WHO] <Jon A. Guest>;James A. Griffin/OSTP/EOP [OSTP] <James A. Griffin>;Michael J. Green/NSC/EOP [NSC] <Michael J. Green>;Signe L. Girgus/OA/EOP [OA] <Signe L. Girgus>;Anthony J. Gibson/OSTP/EOP [UNKNOWN] <Anthony J. Gibson>;Jeffery W. Garland/WHO/EOP [WHO] <Jeffery W. Garland>;Kelley Gannon/WHO/EOP [WHO] <Kelley Gannon>;Clifford J. Gabriel/OSTP/EOP [OSTP] <Clifford J. Gabriel>;Catherine H. Furlong/CEA/EOP [CEA] <Catherine H. Furlong>;Tommee S. Fullerton/WHO/EOP [UNKNOWN] <Tommee S. Fullerton>;William J. Fugo/WHO/EOP [WHO] <William J. Fugo>;Lana M. Frankensfield/WHO/EOP [WHO] <Lana M. Frankensfield>;Betty J. Fountain/OSTP/EOP [OSTP] <Betty J. Fountain>;Amy K. Flatten/OSTP/EOP [OSTP] <Amy K. Flatten>;Ruth A. Fisher/OSTP/EOP [OSTP] <Ruth A. Fisher>;Theodore W. Ferm/WHO/EOP [WHO] <Theodore W. Ferm>;Barbara A. Ferguson/OSTP/EOP [OSTP] <Barbara A. Ferguson>;Lino A. Feliciano/WHO/EOP [WHO] <Lino A. Feliciano>;Miriam R. Eubanks/OSTP/EOP [OSTP] <Miriam R. Eubanks>;Gary B. Ellis/OSTP/EOP [UNKNOWN] <Gary B. Ellis>;Don E. Eberly/WHO/EOP [UNKNOWN] <Don E. Eberly>;Nancy V. Dublin/ONDCP/EOP [ONDCP] <Nancy V. Dublin>;Drew T. Doolin/OVP/EOP [UNKNOWN] <Drew T. Doolin>;Paul D. Domich/OSTP/EOP [UNKNOWN] <Paul D. Domich>;Jose L. Delgado/OVP/EOP [OVP] <Jose L. Delgado>;Bradford D. Dayspring/WHO/EOP [WHO] <Bradford D. Dayspring>;Shana L. Dale/OSTP/EOP [OSTP] <Shana L. Dale>;George G. Cravaritis/OSTP/EOP@Exchange [OSTP] <George G. Cravaritis>;Timothy J. Cox/WHO/EOP [UNKNOWN] <Timothy J. Cox>;Christopher Coverdell/WHO/EOP [WHO] <Christopher Coverdell>;Jane M. Cook/WHO/EOP [WHO] <Jane M. Cook>;Susan G. Conard/OSTP/EOP [UNKNOWN] <Susan G. Conard>;Donna I. Coleman/OSTP/EOP [OSTP] <Donna I. Coleman>;Susan P. Clements/CEA/EOP [UNKNOWN] <Susan P. Clements>;Ralph J. Clemens/WHO/EOP [WHO] <Ralph J. Clemens>;Cynthia M. Chase/OSTP/EOP [OSTP] <Cynthia M. Chase>;Debra A. Carr/WHO/EOP [UNKNOWN] <Debra A. Carr>;Hugh D. Campbell/OA/EOP [OA] <Hugh D. Campbell>;Karen B. Brooks/NSC/EOP [NSC] <Karen B. Brooks>;Alexander M. Brill/CEA/EOP [UNKNOWN] <Alexander M. Brill>;David R. Bohrer/OVP/EOP [OVP] <David R. Bohrer>;Bradley A. Blakeman/WHO/EOP [WHO] <Bradley A. Blakeman>;Charles P. Blahous/OPD/EOP [OPD] <Charles P. Blahous>;Rosina M. Bierbaum/OSTP/EOP [UNKNOWN] <Rosina M. Bierbaum>;Todd W. Beyer/WHO/EOP [WHO] <Todd W. Beyer>;Stacey L. Benzel/OSTP/EOP [UNKNOWN] <Stacey L. Benzel>;Darrell K. Beals/WHO/EOP [UNKNOWN] <Darrell K. Beals>;Robert Bauer/WHO/EOP [WHO] <Robert Bauer>;Cheryl E. Barnett/NSC/EOP [NSC] <Cheryl E. Barnett>;Jeffrey Bader/NSC/EOP [NSC] <Jeffrey Bader>;Steven A. Atkiss/WHO/EOP [WHO] <Steven A. Atkiss>;Mark T. Anderson/OSTP/EOP [OSTP] <Mark T. Anderson>;Paul T. Anastas/OSTP/EOP [OSTP] <Paul T. Anastas>;Regina F. Amos/NSC/EOP [NSC] <Regina F. Amos>;L. Linus Amorsingh/WHO/EOP [WHO] <L. Linus Amorsingh>;Brooks D. Altshuler/WHO/EOP [UNKNOWN] <Brooks D. Altshuler>;Bretton S. Alexander/OSTP/EOP [OSTP] <Bretton S. Alexander>;Zalmay M. Khalilzad/NSC/EOP [NSC] <Zalmay M. Khalilzad>;William W. Mcilhenny/NSC/EOP [UNKNOWN] <William W. Mcilhenny>;William H. Leary/NSC/EOP [NSC] <William H. Leary>;Wendy A. Loehrs/NSC/EOP [NSC] <Wendy A. Loehrs>;Victoria J. Darnes/NSC/EOP [NSC] <Victoria J. Darnes>;Vicki M. Clark/NSC/EOP [NSC] <Vicki M. Clark>;Travis C. Good/NSC/EOP [UNKNOWN] <Travis C. Good>;Timothy L. Gladura/NSC/EOP [UNKNOWN] <Timothy L. Gladura>;Timothy J. Keeler/WHO/EOP [UNKNOWN] <Timothy J. Keeler>;Thomas S. Marsh/NSC/EOP [NSC] <Thomas S. Marsh>;Thomas C. Greenwood/NSC/EOP [NSC] <Thomas C. Greenwood>;Thomas B. Robertson/NSC/EOP [UNKNOWN] <Thomas B. Robertson>;Thomas A. Hall/NSC/EOP [NSC] <Thomas A. Hall>;Susan L. Posey/OVP/EOP [OVP] <Susan L. Posey>;Susan J. Koch/NSC/EOP [NSC] <Susan J. Koch>;Stuart H. McIntyre/NSC/EOP [NSC] <Stuart H. McIntyre>;Steven N. Braun/CEA/EOP [CEA] <Steven N. Braun>;Stephen S. Ruhlen/OVP/EOP [OVP] <Stephen S. Ruhlen>;Stephen L. Poizner/NSC/EOP [UNKNOWN] <Stephen L. Poizner>;Stephen J. Yates/OVP/EOP [OVP] <Stephen J. Yates>;Stacey D. Mulligan/NSC/EOP [NSC] <Stacey D. Mulligan>;Sonyia Matthews/NSC/EOP [NSC] <Sonyia Matthews>;Sean I. McCormack/NSC/EOP [NSC] <Sean I. McCormack>;Sarah M. Lenti/NSC/EOP [NSC] <Sarah M. Lenti>;Sang W. Lee/NSC/EOP [NSC] <Sang W. Lee>;Sandra F. Daigle/CEA/EOP [CEA] <Sandra F. Daigle>;Samantha F. Ravich/OVP/EOP [OVP] <Samantha F. Ravich>;Ronald L. Watson/OVP/EOP [UNKNOWN] <Ronald L. Watson>;Roger W. Cressey/NSC/EOP [NSC] <Roger W. Cressey>;Robin Cleveland/OMB/EOP [OMB] <Robin Cleveland>;Robert J.

Morton/NSC/EOP [NSC] <Robert J. Morton>;Robert G. Joseph/NSC/EOP [NSC] <Robert G. Joseph>;Richard R. Soubers/NSC/EOP [NSC] <Richard R. Soubers>;Richard J. Raftery/PFIAB/EOP [PFIAB] <Richard J. Raftery>;Richard C. Paschall/NSC/EOP [UNKNOWN] <Richard C. Paschall>;Richard A. Falkenrath/NSC/EOP [UNKNOWN] <Richard A. Falkenrath>;Richard A. Clarke/NSC/EOP [NSC] <Richard A. Clarke>;Rebecca J. Mitchell/NSC/EOP [UNKNOWN] <Rebecca J. Mitchell>;Randy W. Deitering/PFIAB/EOP [PFIAB] <Randy W. Deitering>;Ralph C. Bellamy/NSC/EOP [NSC] <Ralph C. Bellamy>;Peter Smith/NSC/EOP [UNKNOWN] <Peter Smith>;Peter M. Feather/CEA/EOP [UNKNOWN] <Peter M. Feather>;Paul B. Kurtz/NSC/EOP [NSC] <Paul B. Kurtz>;Patricia A. Battenfield/NSC/EOP [NSC] <Patricia A. Battenfield>;Pamela G. Quanrud/NSC/EOP [NSC] <Pamela G. Quanrud>;Nina Rees/OVP/EOP [OVP] <Nina Rees>;Nicholas J. Rasmussen/NSC/EOP [NSC] <Nicholas J. Rasmussen>;Neil S. Patel/OVP/EOP [OVP] <Neil S. Patel>;Nancy H. Maxfield/NSC/EOP [UNKNOWN] <Nancy H. Maxfield>;Myrtle Reddrick/NSC/EOP [NSC] <Myrtle Reddrick>;Millicent H. Schwenk/NSC/EOP [UNKNOWN] <Millicent H. Schwenk>;Michael R. Fenzel/NSC/EOP [UNKNOWN] <Michael R. Fenzel>;Michael P. Smith/NSC/EOP [NSC] <Michael P. Smith>;Melinda A. Garroway/OA/EOP [OA] <Melinda A. Garroway>;Megan D. Moran/OVP/EOP [UNKNOWN] <Megan D. Moran>;Matthew K. McLean/NSC/EOP [NSC] <Matthew K. McLean>;Matthew J. Bryza/NSC/EOP [NSC] <Matthew J. Bryza>;Mary P. Tighe/NSC/EOP [UNKNOWN] <Mary P. Tighe>;Mary K. Sturtevant/NSC/EOP [NSC] <Mary K. Sturtevant>;Mary J. Matalin/OVP/EOP [OVP] <Mary J. Matalin>;Mary Fibich/CEA/EOP [CEA] <Mary Fibich>;Mary E. Quinn/NSC/EOP [NSC] <Mary E. Quinn>;Mary E. Jones/CEA/EOP [CEA] <Mary E. Jones>;Mary C. Williams/NSC/EOP [NSC] <Mary C. Williams>;Mary A. Haines/NSC/EOP [NSC] <Mary A. Haines>;Martha B. Schiele/OA/EOP [OA] <Martha B. Schiele>;Marsha L. Dimel/NSC/EOP [NSC] <Marsha L. Dimel>;Mark McClellan/CEA/EOP [UNKNOWN] <Mark McClellan>;Mark J. Sullivan/OVP/EOP [UNKNOWN] <Mark J. Sullivan>;Marjorie J. Gilbert/NSC/EOP [NSC] <Marjorie J. Gilbert>;Marie K. Fishpaw/OVP/EOP [OVP] <Marie K. Fishpaw>;Lisa D. Branch/CEA/EOP [CEA] <Lisa D. Branch>;Lisa A. Johnson/NSC/EOP [UNKNOWN] <Lisa A. Johnson>;Linda A. Reilly/CEA/EOP [CEA] <Linda A. Reilly>;Leandro A. Aragoncillo/OVP/EOP [UNKNOWN] <Leandro A. Aragoncillo>;Lauren K. Allgood/OVP/EOP [UNKNOWN] <Lauren K. Allgood>;Larry Adkins/OVP/EOP [OVP] <Larry Adkins>;Kurt D. Volker/NSC/EOP [NSC] <Kurt D. Volker>;Kevin P. Sweeney/CEA/EOP [CEA] <Kevin P. Sweeney>;Katherine J. Fertakis/NSC/EOP [NSC] <Katherine J. Fertakis>;Katherine Baicker/CEA/EOP [CEA] <Katherine Baicker>;Karen Y. Knutson/OVP/EOP [OVP] <Karen Y. Knutson>;Karen Starr/OVP/EOP [OVP] <Karen Starr>;Karen E. Kaufmann/OA/EOP [OA] <Karen E. Kaufmann>;Kameran L. Bailey/CEQ/EOP [UNKNOWN] <Kameran L. Bailey>;Judson L. Bruns/NSC/EOP [NSC] <Judson L. Bruns>;Judith P. Russ/NSC/EOP [NSC] <Judith P. Russ>;Joseph R. Wood/OVP/EOP [OVP] <Joseph R. Wood>;Joseph M. Myers/NSC/EOP [NSC] <Joseph M. Myers>;Jose A. Fuentes/OVP/EOP [OVP] <Jose A. Fuentes>;Jonathan W. Burks/OVP/EOP@Exchange [OVP] <Jonathan W. Burks>;Jonathan R. Scharfen/NSC/EOP [NSC] <Jonathan R. Scharfen>;Johnathan C. Bunting/NSC/EOP [NSC] <Johnathan C. Bunting>;John W. Ficklin/NSC/EOP [NSC] <John W. Ficklin>;John Paliokas/NSC/EOP [UNKNOWN] <John Paliokas>;John P. Mudd/NSC/EOP [UNKNOWN] <John P. Mudd>;John P. McConnell/OVP/EOP [OVP] <John P. McConnell>;John P. Hannah/OVP/EOP [OVP] <John P. Hannah>;John Fenzel/OVP/EOP [UNKNOWN] <John Fenzel>;John F. Sammis/NSC/EOP [NSC] <John F. Sammis>;John F. Maisto/NSC/EOP [NSC] <John F. Maisto>;John D. Gibson/NSC/EOP [NSC] <John D. Gibson>;John C. Rood/NSC/EOP [NSC] <John C. Rood>;John C. Gossel/OVP/EOP@Exchange [OVP] <John C. Gossel>;John B. Wiegmann/NSC/EOP [NSC] <John B. Wiegmann>;John B. Bellinger/NSC/EOP [NSC] <John B. Bellinger>;Joanna B. Wallace/NSC/EOP [NSC] <Joanna B. Wallace>;Joan K. Edwards/NSC/EOP [NSC] <Joan K. Edwards>;Joan Hunerwadel/NSC/EOP [NSC] <Joan Hunerwadel>;Jennifer H. Mayfield/OVP/EOP [OVP] <Jennifer H. Mayfield>;Jennifer Abrahamsen/CEA/EOP [UNKNOWN] <Jennifer Abrahamsen>;Jennifer A. Wray/OVP/EOP [OVP] <Jennifer A. Wray>;Jendayi E. Frazer/NSC/EOP [NSC] <Jendayi E. Frazer>;Jeffrey A. Reed/OVP/EOP [OVP] <Jeffrey A. Reed>;Jane E. Baker/PFIAB/EOP [PFIAB] <Jane E. Baker>;Jane C. Heishman/NSC/EOP [NSC] <Jane C. Heishman>;James F. Moriarty/NSC/EOP [NSC] <James F. Moriarty>;James Babbitt/OVP/EOP [OVP] <James Babbitt>;James A. Smith/NSC/EOP [UNKNOWN] <James A. Smith>;Jaime E. Martinez/OVP/EOP [OVP] <Jaime E. Martinez>;Jacqueline C. Cragg/OA/EOP [OA] <Jacqueline C. Cragg>;Irena I. Asmundson/CEA/EOP [UNKNOWN] <Irena I. Asmundson>;Harry K. Thomas/NSC/EOP [UNKNOWN] <Harry K. Thomas>;Gregory A. Manuel/NSC/EOP [NSC] <Gregory A. Manuel>;George M. Andricos/NSC/EOP [NSC] <George M. Andricos>;Gay L. Joshlyn/NSC/EOP [NSC] <Gay L. Joshlyn>;Franklin C. Miller/NSC/EOP [NSC] <Franklin C.

Miller>;Frank G. Klotz/NSC/EOP [NSC] <Frank G. Klotz>;Francine P. Obermiller/CEA/EOP [UNKNOWN] <Francine P. Obermiller>;Frances E. Norris/OVP/EOP [OVP] <Frances E. Norris>;Eva A. Weigold/NSC/EOP [UNKNOWN] <Eva A. Weigold>;Ethan A. Hastert/OVP/EOP [UNKNOWN] <Ethan A. Hastert>;Elliott Abrams/NSC/EOP [NSC] <Elliott Abrams>;Edward L. Bolton/NSC/EOP [NSC] <Edward L. Bolton>;Douglas J. Holtz-Eakin/CEA/EOP [CEA] <Douglas J. Holtz-Eakin>;Doris J. Wingard/OMB/EOP [OMB] <Doris J. Wingard>;Dora Kale/NSC/EOP [NSC] <Dora Kale>;Donna G. Rowland-Gough/NSC/EOP [NSC] <Donna G. Rowland-Gough>;Diana E. Furchtgott-Roth/CEA/EOP [CEA] <Diana E. Furchtgott-Roth>;Debra L. Shelton/NSC/EOP [UNKNOWN] <Debra L. Shelton>;Deborah A. Loewer/NSC/EOP [NSC] <Deborah A. Loewer>;David S. Addington/OVP/EOP [OVP] <David S. Addington>;David R. Shedd/NSC/EOP [NSC] <David R. Shedd>;David M. Hess/NSC/EOP [NSC] <David M. Hess>;David J. Rodriguez/OVP/EOP [OVP] <David J. Rodriguez>;Daniel R. Sanborn/NSC/EOP [NSC] <Daniel R. Sanborn>;Daniel K. Wilmot/OVP/EOP [OVP] <Daniel K. Wilmot>;Daniel Fried/NSC/EOP [NSC] <Daniel Fried>;Courtney R. Nemroff/NSC/EOP [NSC] <Courtney R. Nemroff>;Claire M. O'Donnell/OVP/EOP [OVP] <Claire M. O'Donnell>;Cindy L. Courville/NSC/EOP [NSC] <Cindy L. Courville>;Christopher M. Fiorenza/NSC/EOP [NSC] <Christopher M. Fiorenza>;Christopher L. George/NSC/EOP [NSC] <Christopher L. George>;Christopher J. Bolan/OVP/EOP [OVP] <Christopher J. Bolan>;Christopher D. Gambill/WHO/EOP [WHO] <Christopher D. Gambill>;Christina L. Burrell/NSC/EOP [NSC] <Christina L. Burrell>;Charles M. Smith/OVP/EOP [UNKNOWN] <Charles M. Smith>;Charles D. McGrath Jr/OVP/EOP [OVP] <Charles D. McGrath Jr>;Charlene C. Bolinski/NSC/EOP [NSC] <Charlene C. Bolinski>;Cesar Conda/OVP/EOP [OVP] <Cesar Conda>;Catherine E. Byrne/NSC/EOP [UNKNOWN] <Catherine E. Byrne>;Carolyn L. Evans/CEA/EOP [UNKNOWN] <Carolyn L. Evans>;Candida P. Wolff/OVP/EOP [OVP] <Candida P. Wolff>;Cameron P. Munter/NSC/EOP [UNKNOWN] <Cameron P. Munter>;Bruce O. Riedel/NSC/EOP [UNKNOWN] <Bruce O. Riedel>;Bruce E. Miller/OVP/EOP [OVP] <Bruce E. Miller>;Brian T. Merchant/NSC/EOP [NSC] <Brian T. Merchant>;Brian H. Jenn/CEA/EOP [CEA] <Brian H. Jenn>;Brian A. Amorosi/CEA/EOP [CEA] <Brian A. Amorosi>;Brendan G. Melley/PFIAB/EOP [UNKNOWN] <Brendan G. Melley>;Beverly J. Roundtree/NSC/EOP [NSC] <Beverly J. Roundtree>;Bernard T. Crawford/NSC/EOP [NSC] <Bernard T. Crawford>;Benjamin A. Miller/OVP/EOP [OVP] <Benjamin A. Miller>;Barbara E. Howerton/NSC/EOP [NSC] <Barbara E. Howerton>;Augustine Peterson-Becker/NSC/EOP [NSC] <Augustine Peterson-Becker>;Ashley M. Snee/OVP/EOP [UNKNOWN] <Ashley M. Snee>;Anthony N. Banbury/NSC/EOP [NSC] <Anthony N. Banbury>;Anna M. Perez/NSC/EOP [NSC] <Anna M. Perez>;Angela B. Styles/OMB/EOP [OMB] <Angela B. Styles>;Andrew M. Kaver/NSC/EOP [UNKNOWN] <Andrew M. Kaver>;Andrew Lundquist/NSC/EOP [NSC] <Andrew Lundquist>;Andrew J. Filardo/CEA/EOP [UNKNOWN] <Andrew J. Filardo>;Alice H. Williams/CEA/EOP [CEA] <Alice H. Williams>;Alexian T. Wines/NSC/EOP [NSC] <Alexian T. Wines>;Admir Serifovic/OMB/EOP [OMB] <Admir Serifovic>;Adele C. Morris/OPD/EOP [OPD] <Adele C. Morris>;Adam R. Saunders/CEA/EOP [CEA] <Adam R. Saunders>;Mary K. Lang/OVP/EOP [OVP] <Mary K. Lang>;Carol R. Kuntz/OVP/EOP [OVP] <Carol R. Kuntz>;Elizabeth W. Kleppe/OVP/EOP [OVP] <Elizabeth W. Kleppe>;Terry L. Karow/OVP/EOP [OVP] <Terry L. Karow>;Michael A. Gould/OVP/EOP [OVP] <Michael A. Gould>;Michael A. Garcia/OVP/EOP [UNKNOWN] <Michael A. Garcia>;Jennifer D. Field/OVP/EOP [OVP] <Jennifer D. Field>;Eric S. Edelman/OVP/EOP [OVP] <Eric S. Edelman>;Debra R. Dunn/OVP/EOP [UNKNOWN] <Debra R. Dunn>;Nancy P. Dorn/WHO/EOP [UNKNOWN] <Nancy P. Dorn>;Elizabeth A. Denny/OVP/EOP [OVP] <Elizabeth A. Denny>;Ronald I. Christie/OVP/EOP [UNKNOWN] <Ronald I. Christie>;Cecelia Boyer/OVP/EOP [OVP] <Cecelia Boyer>;Rodney A. Angquico/OVP/EOP [UNKNOWN] <Rodney A. Angquico>;Charles S. Abbot/OVP/EOP [OVP] <Charles S. Abbot>;John Graham/OMB/EOP [OMB] <John Graham>;Mary M. Chuckerel/OMB/EOP [OMB] <Mary M. Chuckerel>;Cynthia A. Christian/OMB/EOP [OMB] <Cynthia A. Christian>;Lois E. Altoft/OMB/EOP [OMB] <Lois E. Altoft>;Augustine T. Smythe/OMB/EOP [OMB] <Augustine T. Smythe>;Rebecca E. Davis/OMB/EOP [OMB] <Rebecca E. Davis>;Yvonne T. Bowlding/OMB/EOP [UNKNOWN] <Yvonne T. Bowlding>;Jennifer J. Wood/OMB/EOP [UNKNOWN] <Jennifer J. Wood>;Amy L. Call/OMB/EOP [OMB] <Amy L. Call>;Sandra L. Via/OMB/EOP [UNKNOWN] <Sandra L. Via>;Retha M. Senke/OMB/EOP [UNKNOWN] <Retha M. Senke>;Sean C. O'Keefe/OMB/EOP [OMB] <Sean C. O'Keefe>;Karen E. Keller/OMB/EOP [OMB] <Karen E. Keller>;John W. Fielding/OMB/EOP [UNKNOWN] <John W. Fielding>;Mitchell Daniels/OMB/EOP [OMB] <Mitchell Daniels>;Jennifer Willis/OMB/EOP [UNKNOWN] <Jennifer Willis>;Susanna Reckord-Raymer/OMB/EOP [OMB] <Susanna Reckord-Raymer>;Manuel Briskin/OMB/EOP [OMB] <Manuel Briskin>;Christine C. McCarlie/OMB/EOP [UNKNOWN] <Christine C. McCarlie>;Brett S. Loper/OMB/EOP [UNKNOWN] <Brett S. Loper>;Marcus Peacock/OMB/EOP [OMB]

<Marcus Peacock>;Karen S. Dooley/OMB/EOP [OMB] <Karen S. Dooley>;James C. Capretta/OMB/EOP [OMB] <James C. Capretta>;Mark A. Wasserman/OMB/EOP [OMB] <Mark A. Wasserman>;Amy C. Smith/OMB/EOP [UNKNOWN] <Amy C. Smith>;Justine F. Rodriguez/OMB/EOP [OMB] <Justine F. Rodriguez>;Danielle M. Simonetta/OMB/EOP [OMB] <Danielle M. Simonetta>;Elizabeth L. Rossman/OMB/EOP [OMB] <Elizabeth L. Rossman>;Eric C. Pelletier/OMB/EOP [OMB] <Eric C. Pelletier>;Jennifer M. Guy/OMB/EOP [UNKNOWN] <Jennifer M. Guy>;Carlos E. Bonilla/OPD/EOP [OPD] <Carlos E. Bonilla>;Karyn T. Carson/OMB/EOP [OMB] <Karyn T. Carson>;Michael K. Berkholtz/OMB/EOP [UNKNOWN] <Michael K. Berkholtz>;Lawrence B. Lindsey/OPD/EOP [OPD] <Lawrence B. Lindsey>;Leslie A. Mooney/OPD/EOP [OPD] <Leslie A. Mooney>;Elaine M. Mitsler/NSC/EOP [NSC] <Elaine M. Mitsler>;John A. Cloud/NSC/EOP [NSC] <John A. Cloud>;Mary L. Adams/NSC/EOP [NSC] <Mary L. Adams>;Kristine Simmons/OPD/EOP [UNKNOWN] <Kristine Simmons>;John C. Dettleff/OPD/EOP [UNKNOWN] <John C. Dettleff>;Eric H. Otto/OPD/EOP [OPD] <Eric H. Otto>;Dylan C. Glenn/OPD/EOP [OPD] <Dylan C. Glenn>;Ansley C. Tillman/OPD/EOP [UNKNOWN] <Ansley C. Tillman>;Diana L. Schacht/OPD/EOP [OPD] <Diana L. Schacht>;Sarah Gesiriech/OPD/EOP [OPD] <Sarah Gesiriech>;Brian R. Besanceney/OPD/EOP [OPD] <Brian R. Besanceney>;Tiffany L. Barfield/OPD/EOP [UNKNOWN] <Tiffany L. Barfield>;Sarah E. Youssef/OPD/EOP [UNKNOWN] <Sarah E. Youssef>;Marisa K. Medrano/OPD/EOP [UNKNOWN] <Marisa K. Medrano>;Jona M. Turner/OVP/EOP [UNKNOWN] <Jona M. Turner>;Margita N. Thompson/OVP/EOP [UNKNOWN] <Margita N. Thompson>;Shanon M. Woodrum/NSC/EOP [NSC] <Shanon M. Woodrum>;Anthony D. Weber/NSC/EOP [NSC] <Anthony D. Weber>;Rafael Vila/NSC/EOP [NSC] <Rafael Vila>;Julie A. Snyder/NSC/EOP [NSC] <Julie A. Snyder>;Wendy L. Schreiber/NSC/EOP [NSC] <Wendy L. Schreiber>;Raymond H. Payne/NSC/EOP [NSC] <Raymond H. Payne>;Michael R. Lowden/NSC/EOP [NSC] <Michael R. Lowden>;Dwayne L. Locke/NSC/EOP [NSC] <Dwayne L. Locke>;Michael B. DePaepe/NSC/EOP [NSC] <Michael B. DePaepe>;Donald N. Clifford/NSC/EOP [NSC] <Donald N. Clifford>;Gary E. Bresnahan/NSC/EOP [NSC] <Gary E. Bresnahan>;James R. Wilkinson/WHO/EOP [WHO] <James R. Wilkinson>;Scott Stanzel/WHO/EOP [WHO] <Scott Stanzel>;Jeanie S. Mamo/WHO/EOP [WHO] <Jeanie S. Mamo>;Kenneth A. Lisaius/WHO/EOP [WHO] <Kenneth A. Lisaius>;Taylor S. Gross/WHO/EOP [WHO] <Taylor S. Gross>;William T. Griffin/WHO/EOP [WHO] <William T. Griffin>;Gail Randall/WHO/EOP [UNKNOWN] <Gail Randall>;Kristopher N. Purcell/WHO/EOP [WHO] <Kristopher N. Purcell>;Gregory Goss/WHO/EOP [UNKNOWN] <Gregory Goss>;Nicolle Devenish/WHO/EOP [WHO] <Nicolle Devenish>;Robert Deservi/WHO/EOP [WHO] <Robert Deservi>;Lois A. Cassano/WHO/EOP [WHO] <Lois A. Cassano>;Scott N. Sforza/WHO/EOP [WHO] <Scott N. Sforza>;Peter H. Wehner/WHO/EOP [WHO] <Peter H. Wehner>;Edmund A. Walsh/WHO/EOP [WHO] <Edmund A. Walsh>;Michelle N. Brawer/WHO/EOP [UNKNOWN] <Michelle N. Brawer>;Tracy Young/WHO/EOP [WHO] <Tracy Young>;Erin E. Healy/WHO/EOP [WHO] <Erin E. Healy>;Jeannette B. Reilly/WHO/EOP [WHO] <Jeannette B. Reilly>;Matthew O. Scully/WHO/EOP [UNKNOWN] <Matthew O. Scully>;David Frum/WHO/EOP [UNKNOWN] <David Frum>;Lorraine Nisbet/WHO/EOP [UNKNOWN] <Lorraine Nisbet>;Chad M. Kolton/WHO/EOP [UNKNOWN] <Chad M. Kolton>;Neil H. Zimmerman/WHO/EOP [WHO] <Neil H. Zimmerman>;Michael Shannon/WHO/EOP [UNKNOWN] <Michael Shannon>;Lynden R. Steele/WHO/EOP [WHO] <Lynden R. Steele>;Janet M. Philips/WHO/EOP [WHO] <Janet M. Philips>;Moreen E. Ishikawa/WHO/EOP [WHO] <Moreen E. Ishikawa>;Michael Davis/WHO/EOP [WHO] <Michael Davis>;Mercedes M. Viana/WHO/EOP [WHO] <Mercedes M. Viana>;Christopher J. Orr/WHO/EOP [WHO] <Christopher J. Orr>;Wendy L. Nipper/WHO/EOP [WHO] <Wendy L. Nipper>;Tucker A. Eskew/WHO/EOP [WHO] <Tucker A. Eskew>;L. Camille Welborn/WHO/EOP [WHO] <L. Camille Welborn>;Ali H. Tulbah/WHO/EOP [WHO] <Ali H. Tulbah>;Laura S. Lawlor/WHO/EOP [WHO] <Laura S. Lawlor>;Nicole E. Grodner/WHO/EOP [UNKNOWN] <Nicole E. Grodner>;Craig Felner/WHO/EOP [WHO] <Craig Felner>;Victoria Soberinsky/WHO/EOP [UNKNOWN] <Victoria Soberinsky>;Carrie C. Pauska/WHO/EOP [UNKNOWN] <Carrie C. Pauska>;Jennifer A. Minton/WHO/EOP [WHO] <Jennifer A. Minton>;Rory J. Diamond/WHO/EOP [WHO] <Rory J. Diamond>;Ashley Cannatti/WHO/EOP [UNKNOWN] <Ashley Cannatti>;Jeffrey W. Bloemker/WHO/EOP [WHO] <Jeffrey W. Bloemker>;Cynthia F. Williams/WHO/EOP [WHO] <Cynthia F. Williams>;Satya Vashisht/WHO/EOP [WHO] <Satya Vashisht>;Kenneth A. Thomas/OPD/EOP [OPD] <Kenneth A. Thomas>;Marty P. Smith/OPD/EOP [OPD] <Marty P. Smith>;Stacey B. Silva/WHO/EOP [UNKNOWN] <Stacey B. Silva>;Jennifer C. Sheehy/OPD/EOP [UNKNOWN] <Jennifer C. Sheehy>;Mayra N. Segovia/OA/EOP [OA] <Mayra N. Segovia>;Michael A. Sanders/WHO/EOP [WHO] <Michael A. Sanders>;Andrew D. Sacher/OPD/EOP [UNKNOWN] <Andrew D. Sacher>;Karl C. Rove/WHO/EOP [WHO] <Karl C. Rove>;Edwina C. Rogers/OPD/EOP [OPD] <Edwina C. Rogers>;Ari Patrinos/OPD/EOP [OPD] <Ari Patrinos>;Robert C.

McNally/OPD/EOP [OPD] <Robert C. McNally>;Sara B. McIntosh/WHO/EOP [WHO] <Sara B. McIntosh>;Anita B. McBride/WHO/EOP [UNKNOWN] <Anita B. McBride>;Gregory J. Jenkins/WHO/EOP [WHO] <Gregory J. Jenkins>;Karen Hughes/WHO/EOP [UNKNOWN] <Karen Hughes>;A. Merrill Hughes/WHO/EOP [UNKNOWN] <A. Merrill Hughes>;Anne Heiligenstein/WHO/EOP [WHO] <Anne Heiligenstein>;Philo D. Hall/OPD/EOP [OPD] <Philo D. Hall>;Eleanor L. Gillmor/OPD/EOP [OPD] <Eleanor L. Gillmor>;Luz Gelabert/WHO/EOP [WHO] <Luz Gelabert>;Elizabeth S. Dougherty/OPD/EOP [OPD] <Elizabeth S. Dougherty>;Daniel D. Faoro/OA/EOP [OA] <Daniel D. Faoro>;Tracy L. Carson/OPD/EOP [OPD] <Tracy L. Carson>;Daniel J. Bartlett/WHO/EOP [WHO] <Daniel J. Bartlett>;Bethany A. Ashworth/OPD/EOP [UNKNOWN] <Bethany A. Ashworth>;Jackie Arends/WHO/EOP [WHO] <Jackie Arends>;Courtney S. Elwood/WHO/EOP [UNKNOWN] <Courtney S. Elwood>;Katherine M. Walters/WHO/EOP [WHO] <Katherine M. Walters>;Bradford A. Berenson/WHO/EOP [WHO] <Bradford A. Berenson>;H. Christopher Bartolomucci/WHO/EOP [WHO] <H. Christopher Bartolomucci>;Patricia C. Zemple/WHO/EOP [UNKNOWN] <Patricia C. Zemple>;Helgard C. Walker/WHO/EOP [WHO] <Helgard C. Walker>;Julius Rothstein/WHO/EOP [WHO] <Julius Rothstein>;A. Morgan Middlemas/WHO/EOP [WHO] <A. Morgan Middlemas>;Ann L. Loughlin/WHO/EOP [UNKNOWN] <Ann L. Loughlin>;Lori L. Lorenzi/WHO/EOP [UNKNOWN] <Lori L. Lorenzi>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Hale W. Hawbecker/WHO/EOP [UNKNOWN] <Hale W. Hawbecker>;Alberto R. Gonzales/WHO/EOP [WHO] <Alberto R. Gonzales>;Noel J. Francisco/WHO/EOP [WHO] <Noel J. Francisco>;Laura L. Flippin/WHO/EOP [UNKNOWN] <Laura L. Flippin>;Robert W. Cobb/WHO/EOP [UNKNOWN] <Robert W. Cobb>;Jason B. Torchinsky/WHO/EOP [UNKNOWN] <Jason B. Torchinsky>;Lezlee J. Westine/WHO/EOP [WHO] <Lezlee J. Westine>;Matthew E. Smith/WHO/EOP [WHO] <Matthew E. Smith>;Angela R. Sailor/WHO/EOP [WHO] <Angela R. Sailor>;Kathryn J. Hayes/WHO/EOP [WHO] <Kathryn J. Hayes>;John D. Estes/WHO/EOP [WHO] <John D. Estes>;Meredith A. Terpeluk/WHO/EOP [WHO] <Meredith A. Terpeluk>;Tim Goeglein/WHO/EOP [WHO] <Tim Goeglein>;Adam B. Goldman/WHO/EOP [WHO] <Adam B. Goldman>;Gian-Carlo A. Peressutti/WHO/EOP [UNKNOWN] <Gian-Carlo A. Peressutti>;Abel Guerra/WHO/EOP [WHO] <Abel Guerra>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Leonard B. Rodriguez/WHO/EOP [WHO] <Leonard B. Rodriguez>;David Kuo/WHO/EOP [WHO] <David Kuo>;Karen L. Zent/WHO/EOP [UNKNOWN] <Karen L. Zent>;Deborah A. Spagnoli/WHO/EOP [WHO] <Deborah A. Spagnoli>;Jennifer M. Farley/WHO/EOP [WHO] <Jennifer M. Farley>;Traci R. Campbell/WHO/EOP [UNKNOWN] <Traci R. Campbell>;Ruben S. Barrales/WHO/EOP [WHO] <Ruben S. Barrales>;Douglas L. Hoelscher/WHO/EOP [WHO] <Douglas L. Hoelscher>;Paul B. Dyck/WHO/EOP [WHO] <Paul B. Dyck>;David M. Thomas/WHO/EOP [WHO] <David M. Thomas>;Sara M. Taylor/WHO/EOP [WHO] <Sara M. Taylor>;Noelia Rodriguez/WHO/EOP [WHO] <Noelia Rodriguez>;Michael J. Napolitano/WHO/EOP [WHO] <Michael J. Napolitano>;Kenneth B. Mehlman/WHO/EOP [UNKNOWN] <Kenneth B. Mehlman>;Kelley J. McCullough/WHO/EOP [UNKNOWN] <Kelley J. McCullough>;Collister W. Johnson/WHO/EOP [WHO] <Collister W. Johnson>;Melanie A. Jackson/WHO/EOP [WHO] <Melanie A. Jackson>;Alicia W. Davis/WHO/EOP [WHO] <Alicia W. Davis>;Andrea G. Ball/WHO/EOP [WHO] <Andrea G. Ball>;Ashleigh A. Adams/WHO/EOP [UNKNOWN] <Ashleigh A. Adams>;Jerry Yates/OA/EOP [OA] <Jerry Yates>;Steven E. Ackley/OA/EOP [OA] <Steven E. Ackley>;Edward W. Radgowski/OA/EOP [OA] <Edward W. Radgowski>;Patricia Parker/OA/EOP [OA] <Patricia Parker>;Diane F. Jamison/OA/EOP [OA] <Diane F. Jamison>;Paul A. Buccelli/OA/EOP [OA] <Paul A. Buccelli>;Alex G. Nagy/WHO/EOP [UNKNOWN] <Alex G. Nagy>;Thaddeus J. Hunt/OA/EOP [OA] <Thaddeus J. Hunt>;Chris B. Nagel/WHO/EOP [UNKNOWN] <Chris B. Nagel>;Kristen L. Hughes/WHO/EOP [UNKNOWN] <Kristen L. Hughes>;Althea T. Vanzego/WHO/EOP [UNKNOWN] <Althea T. Vanzego>;LaShawnda J. Swinson/WHO/EOP [WHO] <LaShawnda J. Swinson>;Nathaniel C. Ryun/WHO/EOP [UNKNOWN] <Nathaniel C. Ryun>;Holly M. Miller/WHO/EOP [WHO] <Holly M. Miller>;Kimberly L. Kuczynski/WHO/EOP [UNKNOWN] <Kimberly L. Kuczynski>;Linda S. DeHart/WHO/EOP [UNKNOWN] <Linda S. DeHart>;Cheryle E. Adams/WHO/EOP [WHO] <Cheryle E. Adams>;Jill C. Rowley/WHO/EOP [WHO] <Jill C. Rowley>;Misty C. Marshall/WHO/EOP [WHO] <Misty C. Marshall>;Lana Dickey/WHO/EOP [WHO] <Lana Dickey>;Eric W. Terrell/WHO/EOP [WHO] <Eric W. Terrell>;Michael J. Sullivan/WHO/EOP [WHO] <Michael J. Sullivan>;Morad Shayegan/WHO/EOP [WHO] <Morad Shayegan>;James J. Ross/WHO/EOP [WHO] <James J. Ross>;James M. Reynolds/WHO/EOP [UNKNOWN] <James M. Reynolds>;David M. Mark/WHO/EOP [WHO] <David M. Mark>;Curtis R. Jablonka/WHO/EOP [WHO] <Curtis R. Jablonka>;Manuela Hunt/WHO/EOP [WHO] <Manuela Hunt>;Matias Bobenrieth/WHO/EOP [WHO] <Matias Bobenrieth>;Kathy J. Becker/WHO/EOP [WHO] <Kathy J. Becker>;Robert T. Bailey/WHO/EOP [WHO] <Robert T. Bailey>;Elisabeth

Armstead/WHO/EOP [WHO] <Elisabeth Armstead>;Cynthia L. Shourds/WHO/EOP [WHO] <Cynthia L. Shourds>;Taeshonnda C. King/WHO/EOP [WHO] <Taeshonnda C. King>;Lee R. Johnson/WHO/EOP [UNKNOWN] <Lee R. Johnson>;Theodoric C. James Jr/WHO/EOP [WHO] <Theodoric C. James Jr>;Terry W. Good/WHO/EOP [WHO] <Terry W. Good>;Philip C. Droege/WHO/EOP [WHO] <Philip C. Droege>;Mary J. Brooke/WHO/EOP [WHO] <Mary J. Brooke>;Patricia L. Young/WHO/EOP [WHO] <Patricia L. Young>;Howard R. Westray/WHO/EOP [WHO] <Howard R. Westray>;Hugh T. Taggart Jr/WHO/EOP [WHO] <Hugh T. Taggart Jr>;Wandra E. Simpson/WHO/EOP [WHO] <Wandra E. Simpson>;Doris Parker/WHO/EOP [WHO] <Doris Parker>;Steven Myers/WHO/EOP [UNKNOWN] <Steven Myers>;Markus Most/WHO/EOP [UNKNOWN] <Markus Most>;Myra B. Freeman/WHO/EOP [WHO] <Myra B. Freeman>;Madalene E. Evans/WHO/EOP [WHO] <Madalene E. Evans>;Reginald D. Young Jr./WHO/EOP [WHO] <Reginald D. Young Jr.>;Deborah A. Jones/WHO/EOP [WHO] <Deborah A. Jones>;Crystal B. Jones/WHO/EOP [WHO] <Crystal B. Jones>;Willie C. Howell/WHO/EOP [UNKNOWN] <Willie C. Howell>;Frances L. Campbell/WHO/EOP [WHO] <Frances L. Campbell>;Phyllis J. Tucker/WHO/EOP [WHO] <Phyllis J. Tucker>;Charles B. Nash/WHO/EOP [WHO] <Charles B. Nash>;Patricia Williams/WHO/EOP [WHO] <Patricia Williams>;Eileen M. Upperman/WHO/EOP [UNKNOWN] <Eileen M. Upperman>;Bernice W. Smith/WHO/EOP [WHO] <Bernice W. Smith>;Wendy W. Showers/WHO/EOP [WHO] <Wendy W. Showers>;Jennifer E. Jumalon/WHO/EOP [UNKNOWN] <Jennifer E. Jumalon>;Danilo DeGuzman Jr./WHO/EOP [WHO] <Danilo DeGuzman Jr.>;Lynn A. Crable/WHO/EOP [WHO] <Lynn A. Crable>;Christine K. Baer/WHO/EOP [WHO] <Christine K. Baer>;Beatrice Watts/WHO/EOP [WHO] <Beatrice Watts>;James M. Reid/WHO/EOP [WHO] <James M. Reid>;James E. Clark/WHO/EOP [WHO] <James E. Clark>;Gregory T. Trainor/WHO/EOP [WHO] <Gregory T. Trainor>;Annie Stewart/WHO/EOP [WHO] <Annie Stewart>;Philip C. Mattson/WHO/EOP [WHO] <Philip C. Mattson>;Mark Lamb/OA/EOP [UNKNOWN] <Mark Lamb>;Agustin A. Labrador/WHO/EOP [UNKNOWN] <Agustin A. Labrador>;Barbara J. Garner/WHO/EOP [WHO] <Barbara J. Garner>;Mary U. Binns/WHO/EOP [WHO] <Mary U. Binns>;Elisabeth M. Schilling/WHO/EOP [WHO] <Elisabeth M. Schilling>;Gertrude A. Roddick/WHO/EOP [WHO] <Gertrude A. Roddick>;Guy R. Kirby/WHO/EOP [WHO] <Guy R. Kirby>;Shane P. Chambers/WHO/EOP [WHO] <Shane P. Chambers>;Meredith Anderson/WHO/EOP [WHO] <Meredith Anderson>;Sharon R. Lewis/WHO/EOP [WHO] <Sharon R. Lewis>;Vander Williams Jr./OA/EOP [OA] <Vander Williams Jr.>;Adrian Swann/OA/EOP [OA] <Adrian Swann>;Bobby Strickland/OA/EOP [OA] <Bobby Strickland>;Dewitt Ramsey/OA/EOP [OA] <Dewitt Ramsey>;Clifford G. Preston/OA/EOP [OA] <Clifford G. Preston>;John Y. Mcinnis/OA/EOP [OA] <John Y. Mcinnis>;Susana Gonzalez/OA/EOP [OA] <Susana Gonzalez>;Alejandro L. Deleyos/OA/EOP [OA] <Alejandro L. Deleyos>;Rolando S. DeCastro/OA/EOP [OA] <Rolando S. DeCastro>;Jeannetta P. Allen/OA/EOP [OA] <Jeannetta P. Allen>;James M. Reagan/WHO/EOP [WHO] <James M. Reagan>;Andre D. Norwood/WHO/EOP [WHO] <Andre D. Norwood>;Manuel A. Mendoza/WHO/EOP [WHO] <Manuel A. Mendoza>;Marilyn V. Herald/WHO/EOP [WHO] <Marilyn V. Herald>;Eileen M. Rowley/WHO/EOP [WHO] <Eileen M. Rowley>;Justin A. Grove/WHO/EOP [WHO] <Justin A. Grove>;Carolyn F. Atkinson/WHO/EOP [WHO] <Carolyn F. Atkinson>;Georgia D. Godfrey/WHO/EOP [WHO] <Georgia D. Godfrey>;Pamela R. Casey/WHO/EOP [WHO] <Pamela R. Casey>;Therese Burch/WHO/EOP [WHO] <Therese Burch>;Sydney R. Johnson/WHO/EOP [WHO] <Sydney R. Johnson>;Joan R. Doty/WHO/EOP [WHO] <Joan R. Doty>;Thais C. Conway/WHO/EOP [WHO] <Thais C. Conway>;Kathryn M. McKeown/WHO/EOP [WHO] <Kathryn M. McKeown>;Sherry J. Kuntz/WHO/EOP [UNKNOWN] <Sherry J. Kuntz>;David E. Kalbaugh/WHO/EOP [WHO] <David E. Kalbaugh>;Edwin R. Thomas III/WHO/EOP [WHO] <Edwin R. Thomas III>;G. Timothy Saunders/WHO/EOP [WHO] <G. Timothy Saunders>;William W. McCathran/WHO/EOP [WHO] <William W. McCathran>;Wanda M. Evans/WHO/EOP [WHO] <Wanda M. Evans>;Scott Sechser/WHO/EOP [WHO] <Scott Sechser>;Jacquelyn D Hayes-Byrd/WHO/EOP [UNKNOWN] <Jacquelyn D Hayes-Byrd>;Donna B. Gottshall/WHO/EOP [WHO] <Donna B. Gottshall>;Kimberly A. Douglass/WHO/EOP [WHO] <Kimberly A. Douglass>;Megan R. Johnston/WHO/EOP [WHO] <Megan R. Johnston>;Quincy Hicks/WHO/EOP [UNKNOWN] <Quincy Hicks>;Josephine L. Hirsch/WHO/EOP [WHO] <Josephine L. Hirsch>;Jeanie L. Figg/WHO/EOP [WHO] <Jeanie L. Figg>;Catherine S. Fenton/WHO/EOP [WHO] <Catherine S. Fenton>;Anne Trenolone/WHO/EOP [WHO] <Anne Trenolone>;Sonya E. Medina/WHO/EOP [WHO] <Sonya E. Medina>;Desiree T. Sayle/WHO/EOP [WHO] <Desiree T. Sayle>;Alison M. Harden/WHO/EOP [WHO] <Alison M. Harden>;Deanna R. Rodriguez/WHO/EOP [UNKNOWN] <Deanna R. Rodriguez>;Julieanne H. Thomas/WHO/EOP [WHO] <Julieanne H. Thomas>;Sarah M. Garrison/WHO/EOP [WHO] <Sarah M. Garrison>;Alison Jones/WHO/EOP [WHO] <Alison Jones>;Angela A. Jones/WHO/EOP [UNKNOWN] <Angela A. Jones>;Amy Barrera/WHO/EOP [

UNKNOWN] <Amy Barrera>;Clare Pritchett/WHO/EOP [WHO] <Clare Pritchett>;Daniel M. McCarthy/WHO/EOP [WHO] <Daniel M. McCarthy>;Scott Jeffcoat/WHO/EOP [UNKNOWN] <Scott Jeffcoat>;Matthew Kirk/WHO/EOP [WHO] <Matthew Kirk>;Dirksen Lehman/WHO/EOP [WHO] <Dirksen Lehman>;Heather Wingate/WHO/EOP [WHO] <Heather Wingate>;Christine Ciccone/WHO/EOP [WHO] <Christine Ciccone>;Ziad S. Ojakli/WHO/EOP [WHO] <Ziad S. Ojakli>;Mark A. Phelan/WHO/EOP [UNKNOWN] <Mark A. Phelan>;Peter M. Rowan/WHO/EOP [UNKNOWN] <Peter M. Rowan>;Robert Marsh/WHO/EOP [WHO] <Robert Marsh>;Brian C. Conklin/WHO/EOP [WHO] <Brian C. Conklin>;Daniel J. Keniry/WHO/EOP [WHO] <Daniel J. Keniry>;Kirsten A. Chadwick/WHO/EOP [WHO] <Kirsten A. Chadwick>;Roland N. Litterst/WHO/EOP [WHO] <Roland N. Litterst>;Christal R. West/WHO/EOP [WHO] <Christal R. West>;David W. Hobbs/WHO/EOP [WHO] <David W. Hobbs>;Emily Willeford/OPD/EOP [UNKNOWN] <Emily Willeford>;Jean M. Russell/OPD/EOP [OPD] <Jean M. Russell>;Stephen M. Garrison/WHO/EOP [WHO] <Stephen M. Garrison>;John M. Bridgeland/OPD/EOP [OPD] <John M. Bridgeland>;Sarah Pfeifer/OPD/EOP [UNKNOWN] <Sarah Pfeifer>;Margaret M. Spellings/OPD/EOP [OPD] <Margaret M. Spellings>;Lewis Libby/OVP/EOP [OVP] <Lewis Libby>;Brian V. McCormack/OVP/EOP [OVP] <Brian V. McCormack>;Debra Heiden/OVP/EOP [OVP] <Debra Heiden>;Israel Hernandez/WHO/EOP [WHO] <Israel Hernandez>;Susan B. Ralston/WHO/EOP [WHO] <Susan B. Ralston>;Mary Ann Hanusa/WHO/EOP [WHO] <Mary Ann Hanusa>;Debra D. Bird/WHO/EOP [WHO] <Debra D. Bird>;Barbara A. Barclay/WHO/EOP [WHO] <Barbara A. Barclay>;Carolyn E. Cleveland/WHO/EOP [WHO] <Carolyn E. Cleveland>;Stuart W. Bowen/WHO/EOP [WHO] <Stuart W. Bowen>;Harriet Miers/WHO/EOP [WHO] <Harriet Miers>;Kara G. Figg/WHO/EOP [WHO] <Kara G. Figg>;Reed Dickens/WHO/EOP [WHO] <Reed Dickens>;Rachael L. Sunbarger/WHO/EOP [WHO] <Rachael L. Sunbarger>;Gordon D. Johndroe/WHO/EOP [WHO] <Gordon D. Johndroe>;Claire E. Buchan/WHO/EOP [WHO] <Claire E. Buchan>;Scott McClellan/WHO/EOP [WHO] <Scott McClellan>;Harry W. Wolff/WHO/EOP [WHO] <Harry W. Wolff>;Brian Bravo/WHO/EOP [WHO] <Brian Bravo>;Jennifer K. Millerwise/WHO/EOP [UNKNOWN] <Jennifer K. Millerwise>;Vickie A. McQuade/WHO/EOP [WHO] <Vickie A. McQuade>;Lawrence A. Fleischer/WHO/EOP [WHO] <Lawrence A. Fleischer>;Clay Johnson III/WHO/EOP [WHO] <Clay Johnson III>;Marilyn R. Jacanin/WHO/EOP [WHO] <Marilyn R. Jacanin>;Eric A. Draper/WHO/EOP [WHO] <Eric A. Draper>;Ashley E. Davis/WHO/EOP [WHO] <Ashley E. Davis>;Cathy Alix/WHO/EOP [WHO] <Cathy Alix>;Hector F. Irastorza/WHO/EOP [WHO] <Hector F. Irastorza>;Michael J. Conway/WHO/EOP [WHO] <Michael J. Conway>;Jill Davie/WHO/EOP [WHO] <Jill Davie>;Ginger G. Loper/WHO/EOP [WHO] <Ginger G. Loper>;John W. Howard/WHO/EOP [UNKNOWN] <John W. Howard>;Nicholas E. Calio/WHO/EOP [WHO] <Nicholas E. Calio>;Krista L. Ritacco/WHO/EOP [WHO] <Krista L. Ritacco>;Michael J. Gerson/WHO/EOP [WHO] <Michael J. Gerson>;Christina D. Roberts/WHO/EOP [UNKNOWN] <Christina D. Roberts>;Jill L. Angelo/WHO/EOP [UNKNOWN] <Jill L. Angelo>;Albert Hawkins/WHO/EOP [WHO] <Albert Hawkins>;Allison L. Riepenhoff/WHO/EOP [WHO] <Allison L. Riepenhoff>;Elizabeth N. Camp/WHO/EOP [WHO] <Elizabeth N. Camp>;Logan M. Walters/WHO/EOP [UNKNOWN] <Logan M. Walters>;Ashley Estes/WHO/EOP [WHO] <Ashley Estes>;Linda M. Gambatesa/WHO/EOP [WHO] <Linda M. Gambatesa>;Blake Gottesman/WHO/EOP [WHO] <Blake Gottesman>;Marcus J. Mollmann/WHO/EOP [UNKNOWN] <Marcus J. Mollmann>;Colleen Litkenhaus/WHO/EOP [WHO] <Colleen Litkenhaus>;Joseph W. Hagin/WHO/EOP [WHO] <Joseph W. Hagin>;Joel D. Kaplan/WHO/EOP [WHO] <Joel D. Kaplan>;Kristen Silverberg/WHO/EOP [WHO] <Kristen Silverberg>;Joshua B. Bolten/WHO/EOP [WHO] <Joshua B. Bolten>;Melissa S. Bennett/WHO/EOP [WHO] <Melissa S. Bennett>;Josephine B. Robinson/WHO/EOP [WHO] <Josephine B. Robinson>;Andrew H. Card/WHO/EOP [WHO] <Andrew H. Card>

Sent: 12/12/2002 6:07:58 AM

Subject: : POSTMASTER: Salvation Army "Angels"

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME:12-DEC-2002 11:07:58.00
SUBJECT:: POSTMASTER: Salvation Army "Angels"
TO:Natalie S. Wozniak ( CN=Natalie S. Wozniak/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Gene Whitney ( CN=Gene Whitney/OU=OSTP/O=EOP [ OSTP ] )
READ:UNKNOWN
TO:Arnette C. White ( CN=Arnette C. White/OU=OMB/O=EOP [ OMB ] )
```

READ:UNKNOWN
TO:Larry D. Walker (CN=Larry D. Walker/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Charles J. Vandenbossche (CN=Charles J. Vandenbossche/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Chris Underhill (CN=Chris Underhill/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Maureen E. Tucker (CN=Maureen E. Tucker/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sandra J. Toomey (CN=Sandra J. Toomey/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Catherine W. Tobias (CN=Catherine W. Tobias/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:David C. Thompson (CN=David C. Thompson/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Nancy A. Theis (CN=Nancy A. Theis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Vigdor L. Teplitz (CN=Vigdor L. Teplitz/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Urbieta A. Swallow (CN=Urbieta A. Swallow/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Jose G. Suarez (CN=Jose G. Suarez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bruce L. Stewart (CN=Bruce L. Stewart/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gretchen P. Steen (CN=Gretchen P. Steen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel W. Starratt (CN=Daniel W. Starratt/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Julia A. Stahl (CN=Julia A. Stahl/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Lewis G. Sorvillo (CN=Lewis G. Sorvillo/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Paul M. Slaton (CN=Paul M. Slaton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie A. Shockley (CN=Leslie A. Shockley/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Acquanetta D. Sheppard (CN=Acquanetta D. Sheppard/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Thomas J. Sharpy (CN=Thomas J. Sharpy/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Praveen R. Shanbhag (CN=Praveen R. Shanbhag/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Richard M. Russell (CN=Richard M. Russell/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Dexter L. Rountree (CN=Dexter L. Rountree/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Rosemary M. Rogers (CN=Rosemary M. Rogers/OU=CEA/O=EOP@Exchange [CEA])
READ:UNKNOWN
TO:Cheryl A. Reynolds (CN=Cheryl A. Reynolds/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Michal M. Rehavi (CN=Michal M. Rehavi/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Gerald A. Powers (CN=Gerald A. Powers/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Patrick C. Porterfield (CN=Patrick C. Porterfield/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ashley E. Plaxico (CN=Ashley E. Plaxico/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Tobi L. Pinsky (CN=Tobi L. Pinsky/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Nicole Petrosino (CN=Nicole Petrosino/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jack E. Pennington (CN=Jack E. Pennington/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Dennis C. Patterson (CN=Dennis C. Patterson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Torkel L. Patterson (CN=Torkel L. Patterson/OU=NSC/O=EOP [UNKNOWN])

READ:UNKNOWN
TO:Lindsy Parrott (CN=Lindsy Parrott/OU=OA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Scott N. Pace (CN=Scott N. Pace/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Steve S. Nikes (CN=Steve S. Nikes/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Carolyn Nelson (CN=Carolyn Nelson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott D. Munn (CN=Scott D. Munn/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joseph Mukes (CN=Joseph Mukes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christa Moyle (CN=Christa Moyle/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kevin M. Minne (CN=Kevin M. Minne/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gwendolyn F. Mincey (CN=Gwendolyn F. Mincey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Terry C. Miller (CN=Terry C. Miller/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Raymond D. Miller (CN=Raymond D. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christopher T. Miller (CN=Christopher T. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:William R. Melick (CN=William R. Melick/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Tyler N. McPherson (CN=Tyler N. McPherson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hugh A. McGovern (CN=Hugh A. McGovern/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Terri C. McCoy (CN=Terri C. McCoy/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Kelli R. McClure (CN=Kelli R. McClure/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Charles J. McCleary (CN=Charles J. McCleary/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:James A. Mathews (CN=James A. Mathews/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Daniel W. Martin (CN=Daniel W. Martin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Catherine J. Martin (CN=Catherine J. Martin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert S. Marianelli (CN=Robert S. Marianelli/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Tracy Litton (CN=Tracy Litton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephanie E. Linder (CN=Stephanie E. Linder/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Benitta D. Lewis (CN=Benitta D. Lewis/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Rachel E. Levinson (CN=Rachel E. Levinson/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Donni M. LeBoeuf (CN=Donni M. LeBoeuf/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Joshua T. Krupnick (CN=Joshua T. Krupnick/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Randall S. Kroszner (CN=Randall S. Kroszner/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Ellis Kitchen (CN=Ellis Kitchen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Lana M. King (CN=Lana M. King/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence D. Kerr (CN=Lawrence D. Kerr/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Stephen A. Kemmer (CN=Stephen A. Kemmer/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Terrence K. Kelly (CN=Terrence K. Kelly/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Joseph M. Kearney (CN=Joseph M. Kearney/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Namita Kalyan (CN=Namita Kalyan/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Deidra A. Jules (CN=Deidra A. Jules/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard P. Emery Jr. (CN=Richard P. Emery Jr./OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Jacqueline D. Jones (CN=Jacqueline D. Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cyril Jones (CN=Cyril Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kaitlin S. Joerger (CN=Kaitlin S. Joerger/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Kevin D. Jennings (CN=Kevin D. Jennings/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jon Jefferson (CN=Jon Jefferson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Theresa M. Hunter (CN=Theresa M. Hunter/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Roger D. Huffstetler (CN=Roger D. Huffstetler/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Charles H. Huettner (CN=Charles H. Huettner/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Glenn Hubbard (CN=Glenn Hubbard/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Lonnie Hovey (CN=Lonnie Hovey/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Katie Hong (CN=Katie Hong/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Mark D. Hodge (CN=Mark D. Hodge/OU=OSTP/O=EOP@Exchange [OSTP])
READ:UNKNOWN
TO:Carl E. Hildebrand (CN=Carl E. Hildebrand/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Amelia J. Hessheimer (CN=Amelia J. Hessheimer/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Chris Henick (CN=Chris Henick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael Heath (CN=Michael Heath/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tracy R. Hatfield (CN=Tracy R. Hatfield/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dionne Hardy (CN=Dionne Hardy/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Henry G. Harbinson (CN=Henry G. Harbinson/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Larry E. Handeland (CN=Larry E. Handeland/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Robert J. Hall (CN=Robert J. Hall/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wendy J. Hall (CN=Wendy J. Hall/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Haley (CN=John F. Haley/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jon A. Guest (CN=Jon A. Guest/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James A. Griffin (CN=James A. Griffin/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Michael J. Green (CN=Michael J. Green/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Signe L. Girgus (CN=Signe L. Girgus/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Anthony J. Gibson (CN=Anthony J. Gibson/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jeffery W. Garland (CN=Jeffery W. Garland/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clifford J. Gabriel (CN=Clifford J. Gabriel/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Catherine H. Furlong (CN=Catherine H. Furlong/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Tommee S. Fullerton (CN=Tommee S. Fullerton/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:William J. Fugo (CN=William J. Fugo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lana M. Frankensfield (CN=Lana M. Frankensfield/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Betty J. Fountain (CN=Betty J. Fountain/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Amy K. Flatten (CN=Amy K. Flatten/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Ruth A. Fisher (CN=Ruth A. Fisher/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Theodore W. Ferm (CN=Theodore W. Ferm/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Barbara A. Ferguson (CN=Barbara A. Ferguson/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Lino A. Feliciano (CN=Lino A. Feliciano/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Miriam R. Eubanks (CN=Miriam R. Eubanks/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Gary B. Ellis (CN=Gary B. Ellis/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Don E. Eberly (CN=Don E. Eberly/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Nancy V. Dublin (CN=Nancy V. Dublin/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Drew T. Doolin (CN=Drew T. Doolin/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Paul D. Domich (CN=Paul D. Domich/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jose L. Delgado (CN=Jose L. Delgado/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Bradford D. Dayspring (CN=Bradford D. Dayspring/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Shana L. Dale (CN=Shana L. Dale/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:George G. Cravaritis (CN=George G. Cravaritis/OU=OSTP/O=EOP@Exchange [OSTP])
READ:UNKNOWN
TO:Timothy J. Cox (CN=Timothy J. Cox/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Christopher Coverdell (CN=Christopher Coverdell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jane M. Cook (CN=Jane M. Cook/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan G. Conard (CN=Susan G. Conard/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Donna I. Coleman (CN=Donna I. Coleman/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Susan P. Clements (CN=Susan P. Clements/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Ralph J. Clemens (CN=Ralph J. Clemens/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cynthia M. Chase (CN=Cynthia M. Chase/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Debra A. Carr (CN=Debra A. Carr/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Hugh D. Campbell (CN=Hugh D. Campbell/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Karen B. Brooks (CN=Karen B. Brooks/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexander M. Brill (CN=Alexander M. Brill/OU=CEA/O=EOP [UNKNOWN])

READ:UNKNOWN
TO:David R. Bohrer (CN=David R. Bohrer/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Rosina M. Bierbaum (CN=Rosina M. Bierbaum/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Todd W. Beyer (CN=Todd W. Beyer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stacey L. Benzel (CN=Stacey L. Benzel/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Darrell K. Beals (CN=Darrell K. Beals/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Robert Bauer (CN=Robert Bauer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cheryl E. Barnett (CN=Cheryl E. Barnett/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jeffrey Bader (CN=Jeffrey Bader/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Steven A. Atkiss (CN=Steven A. Atkiss/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark T. Anderson (CN=Mark T. Anderson/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Paul T. Anastas (CN=Paul T. Anastas/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Regina F. Amos (CN=Regina F. Amos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:L. Linus Amorsingh (CN=L. Linus Amorsingh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brooks D. Altshuler (CN=Brooks D. Altshuler/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Bretton S. Alexander (CN=Bretton S. Alexander/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:William W. Mcilhenny (CN=William W. Mcilhenny/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:William H. Leary (CN=William H. Leary/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Wendy A. Loehrs (CN=Wendy A. Loehrs/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Victoria J. Darnes (CN=Victoria J. Darnes/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Vicki M. Clark (CN=Vicki M. Clark/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Travis C. Good (CN=Travis C. Good/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Timothy L. Gladura (CN=Timothy L. Gladura/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Timothy J. Keeler (CN=Timothy J. Keeler/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Thomas S. Marsh (CN=Thomas S. Marsh/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Thomas C. Greenwood (CN=Thomas C. Greenwood/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Thomas B. Robertson (CN=Thomas B. Robertson/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Thomas A. Hall (CN=Thomas A. Hall/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan L. Posey (CN=Susan L. Posey/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Susan J. Koch (CN=Susan J. Koch/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Stuart H. McIntyre (CN=Stuart H. McIntyre/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Steven N. Braun (CN=Steven N. Braun/OU=CEA/O=EOP [CEA])

READ:UNKNOWN
TO:Stephen S. Ruhlen (CN=Stephen S. Ruhlen/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Stephen L. Poizner (CN=Stephen L. Poizner/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Stephen J. Yates (CN=Stephen J. Yates/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Stacey D. Mulligan (CN=Stacey D. Mulligan/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sonyia Matthews (CN=Sonyia Matthews/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sean I. McCormack (CN=Sean I. McCormack/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah M. Lenti (CN=Sarah M. Lenti/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sang W. Lee (CN=Sang W. Lee/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sandra F. Daigle (CN=Sandra F. Daigle/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Samantha F. Ravich (CN=Samantha F. Ravich/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Ronald L. Watson (CN=Ronald L. Watson/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Roger W. Cressey (CN=Roger W. Cressey/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin Cleveland (CN=Robin Cleveland/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Robert J. Morton (CN=Robert J. Morton/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Richard R. Soubers (CN=Richard R. Soubers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Richard J. Raftery (CN=Richard J. Raftery/OU=PFIAB/O=EOP [PFIAB])
READ:UNKNOWN
TO:Richard C. Paschall (CN=Richard C. Paschall/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Richard A. Falkenrath (CN=Richard A. Falkenrath/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Richard A. Clarke (CN=Richard A. Clarke/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Rebecca J. Mitchell (CN=Rebecca J. Mitchell/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Randy W. Deitering (CN=Randy W. Deitering/OU=PFIAB/O=EOP [PFIAB])
READ:UNKNOWN
TO:Ralph C. Bellamy (CN=Ralph C. Bellamy/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Peter Smith (CN=Peter Smith/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Peter M. Feather (CN=Peter M. Feather/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patricia A. Battenfield (CN=Patricia A. Battenfield/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Pamela G. Quanrud (CN=Pamela G. Quanrud/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Nina Rees (CN=Nina Rees/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Nicholas J. Rasmussen (CN=Nicholas J. Rasmussen/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Neil S. Patel (CN=Neil S. Patel/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Nancy H. Maxfield (CN=Nancy H. Maxfield/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Myrtle Reddrick (CN=Myrtle Reddrick/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Millicent H. Schwenk (CN=Millicent H. Schwenk/OU=NSC/O=EOP [UNKNOWN])

READ:UNKNOWN
TO:Michael R. Fenzel (CN=Michael R. Fenzel/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Michael P. Smith (CN=Michael P. Smith/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Melinda A. Garroway (CN=Melinda A. Garroway/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Megan D. Moran (CN=Megan D. Moran/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Matthew K. McLean (CN=Matthew K. McLean/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Matthew J. Bryza (CN=Matthew J. Bryza/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary P. Tighe (CN=Mary P. Tighe/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary J. Matalin (CN=Mary J. Matalin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Mary Fibich (CN=Mary Fibich/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Mary E. Quinn (CN=Mary E. Quinn/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary E. Jones (CN=Mary E. Jones/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Mary C. Williams (CN=Mary C. Williams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary A. Haines (CN=Mary A. Haines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Martha B. Schiele (CN=Martha B. Schiele/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Marsha L. Dimel (CN=Marsha L. Dimel/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mark McClellan (CN=Mark McClellan/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Mark J. Sullivan (CN=Mark J. Sullivan/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Marjorie J. Gilbert (CN=Marjorie J. Gilbert/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Marie K. Fishpaw (CN=Marie K. Fishpaw/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Lisa D. Branch (CN=Lisa D. Branch/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Lisa A. Johnson (CN=Lisa A. Johnson/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Linda A. Reilly (CN=Linda A. Reilly/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Leandro A. Aragoncillo (CN=Leandro A. Aragoncillo/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Lauren K. Allgood (CN=Lauren K. Allgood/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Larry Adkins (CN=Larry Adkins/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Kurt D. Volker (CN=Kurt D. Volker/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kevin P. Sweeney (CN=Kevin P. Sweeney/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Katherine J. Fertakis (CN=Katherine J. Fertakis/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Katherine Baicker (CN=Katherine Baicker/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Karen Y. Knutson (CN=Karen Y. Knutson/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Karen Starr (CN=Karen Starr/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Karen E. Kaufmann (CN=Karen E. Kaufmann/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Kameran L. Bailey (CN=Kameran L. Bailey/OU=CEQ/O=EOP [UNKNOWN])

READ:UNKNOWN
TO:Judson L. Bruns (CN=Judson L. Bruns/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Judith P. Russ (CN=Judith P. Russ/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Joseph R. Wood (CN=Joseph R. Wood/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Joseph M. Myers (CN=Joseph M. Myers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jose A. Fuentes (CN=Jose A. Fuentes/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jonathan W. Burks (CN=Jonathan W. Burks/OU=OVP/O=EOP@Exchange [OVP])
READ:UNKNOWN
TO:Jonathan R. Scharfen (CN=Jonathan R. Scharfen/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Johnathan C. Bunting (CN=Johnathan C. Bunting/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John W. Ficklin (CN=John W. Ficklin/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John Paliokas (CN=John Paliokas/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:John P. Mudd (CN=John P. Mudd/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John P. Hannah (CN=John P. Hannah/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John Fenzel (CN=John Fenzel/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:John F. Sammis (CN=John F. Sammis/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John F. Maisto (CN=John F. Maisto/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John D. Gibson (CN=John D. Gibson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John C. Rood (CN=John C. Rood/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John C. Gossel (CN=John C. Gossel/OU=OVP/O=EOP@Exchange [OVP])
READ:UNKNOWN
TO:John B. Wiegmann (CN=John B. Wiegmann/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Joanna B. Wallace (CN=Joanna B. Wallace/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Joan K. Edwards (CN=Joan K. Edwards/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Joan Hunerwadel (CN=Joan Hunerwadel/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jennifer H. Mayfield (CN=Jennifer H. Mayfield/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jennifer Abrahamsen (CN=Jennifer Abrahamsen/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jennifer A. Wray (CN=Jennifer A. Wray/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jeffrey A. Reed (CN=Jeffrey A. Reed/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jane E. Baker (CN=Jane E. Baker/OU=PFIAB/O=EOP [PFIAB])
READ:UNKNOWN
TO:Jane C. Heishman (CN=Jane C. Heishman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:James Babbitt (CN=James Babbitt/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:James A. Smith (CN=James A. Smith/OU=NSC/O=EOP [UNKNOWN])

READ:UNKNOWN
TO:Jaime E. Martinez (CN=Jaime E. Martinez/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jacqueline C. Cragg (CN=Jacqueline C. Cragg/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Irena I. Asmundson (CN=Irena I. Asmundson/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Harry K. Thomas (CN=Harry K. Thomas/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Gregory A. Manuel (CN=Gregory A. Manuel/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gay L. Joshlyn (CN=Gay L. Joshlyn/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Frank G. Klotz (CN=Frank G. Klotz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Francine P. Obermiller (CN=Francine P. Obermiller/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Frances E. Norris (CN=Frances E. Norris/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Eva A. Weigold (CN=Eva A. Weigold/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Ethan A. Hastert (CN=Ethan A. Hastert/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Edward L. Bolton (CN=Edward L. Bolton/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Douglas J. Holtz-Eakin (CN=Douglas J. Holtz-Eakin/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Doris J. Wingard (CN=Doris J. Wingard/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Dora Kale (CN=Dora Kale/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Donna G. Rowland-Gough (CN=Donna G. Rowland-Gough/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Diana E. Furchtgott-Roth (CN=Diana E. Furchtgott-Roth/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Debra L. Shelton (CN=Debra L. Shelton/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Deborah A. Loewer (CN=Deborah A. Loewer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:David R. Shedd (CN=David R. Shedd/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David M. Hess (CN=David M. Hess/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David J. Rodriguez (CN=David J. Rodriguez/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Daniel R. Sanborn (CN=Daniel R. Sanborn/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel K. Wilmot (CN=Daniel K. Wilmot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Courtney R. Nemroff (CN=Courtney R. Nemroff/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Claire M. O'Donnell (CN=Claire M. O'Donnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Cindy L. Courville (CN=Cindy L. Courville/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Christopher M. Fiorenza (CN=Christopher M. Fiorenza/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Christopher L. George (CN=Christopher L. George/OU=NSC/O=EOP [NSC])

READ:UNKNOWN
TO:Christopher J. Bolan (CN=Christopher J. Bolan/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Christopher D. Gambill (CN=Christopher D. Gambill/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christina L. Burrell (CN=Christina L. Burrell/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Charles M. Smith (CN=Charles M. Smith/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Charles D. McGrath Jr (CN=Charles D. McGrath Jr/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Charlene C. Bolinski (CN=Charlene C. Bolinski/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Cesar Conda (CN=Cesar Conda/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Catherine E. Byrne (CN=Catherine E. Byrne/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Carolyn L. Evans (CN=Carolyn L. Evans/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Candida P. Wolff (CN=Candida P. Wolff/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Cameron P. Munter (CN=Cameron P. Munter/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Bruce O. Riedel (CN=Bruce O. Riedel/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Bruce E. Miller (CN=Bruce E. Miller/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Brian T. Merchant (CN=Brian T. Merchant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian H. Jenn (CN=Brian H. Jenn/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Brian A. Amorosi (CN=Brian A. Amorosi/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Brendan G. Melley (CN=Brendan G. Melley/OU=PFIAB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Beverly J. Roundtree (CN=Beverly J. Roundtree/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Bernard T. Crawford (CN=Bernard T. Crawford/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Benjamin A. Miller (CN=Benjamin A. Miller/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Barbara E. Howerton (CN=Barbara E. Howerton/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Augustine Peterson-Becker (CN=Augustine Peterson-Becker/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ashley M. Snee (CN=Ashley M. Snee/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Anthony N. Banbury (CN=Anthony N. Banbury/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Angela B. Styles (CN=Angela B. Styles/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Andrew M. Kaver (CN=Andrew M. Kaver/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Andrew Lundquist (CN=Andrew Lundquist/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Andrew J. Filardo (CN=Andrew J. Filardo/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Alice H. Williams (CN=Alice H. Williams/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Alexian T. Wines (CN=Alexian T. Wines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Admir Serifovic (CN=Admir Serifovic/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Adele C. Morris (CN=Adele C. Morris/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Adam R. Saunders (CN=Adam R. Saunders/OU=CEA/O=EOP [CEA])

READ:UNKNOWN
TO:Mary K. Lang (CN=Mary K. Lang/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Carol R. Kuntz (CN=Carol R. Kuntz/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Terry L. Karow (CN=Terry L. Karow/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Michael A. Gould (CN=Michael A. Gould/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Michael A. Garcia (CN=Michael A. Garcia/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jennifer D. Field (CN=Jennifer D. Field/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Eric S. Edelman (CN=Eric S. Edelman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Debra R. Dunn (CN=Debra R. Dunn/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Nancy P. Dorn (CN=Nancy P. Dorn/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Elizabeth A. Denny (CN=Elizabeth A. Denny/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Cecelia Boyer (CN=Cecelia Boyer/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Rodney A. Angquico (CN=Rodney A. Angquico/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John Graham (CN=John Graham/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Mary M. Chuckerel (CN=Mary M. Chuckerel/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Cynthia A. Christian (CN=Cynthia A. Christian/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Lois E. Altoft (CN=Lois E. Altoft/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Augustine T. Smythe (CN=Augustine T. Smythe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Rebecca E. Davis (CN=Rebecca E. Davis/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Yvonne T. Bowlding (CN=Yvonne T. Bowlding/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jennifer J. Wood (CN=Jennifer J. Wood/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Amy L. Call (CN=Amy L. Call/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Sandra L. Via (CN=Sandra L. Via/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Retha M. Senke (CN=Retha M. Senke/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Sean C. O'Keefe (CN=Sean C. O'Keefe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Karen E. Keller (CN=Karen E. Keller/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:John W. Fielding (CN=John W. Fielding/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Jennifer Willis (CN=Jennifer Willis/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Susanna Reckord-Raymer (CN=Susanna Reckord-Raymer/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Manuel Briskin (CN=Manuel Briskin/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Christine C. McCarlie (CN=Christine C. McCarlie/OU=OMB/O=EOP [UNKNOWN])

READ:UNKNOWN
TO:Brett S. Loper (CN=Brett S. Loper/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Marcus Peacock (CN=Marcus Peacock/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Karen S. Dooley (CN=Karen S. Dooley/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:James C. Capretta (CN=James C. Capretta/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Mark A. Wasserman (CN=Mark A. Wasserman/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Amy C. Smith (CN=Amy C. Smith/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Justine F. Rodriguez (CN=Justine F. Rodriguez/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Danielle M. Simonetta (CN=Danielle M. Simonetta/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Elizabeth L. Rossman (CN=Elizabeth L. Rossman/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Eric C. Pelletier (CN=Eric C. Pelletier/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Jennifer M. Guy (CN=Jennifer M. Guy/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Carlos E. Bonilla (CN=Carlos E. Bonilla/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Karyn T. Carson (CN=Karyn T. Carson/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Michael K. Berkholtz (CN=Michael K. Berkholtz/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Lawrence B. Lindsey (CN=Lawrence B. Lindsey/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Leslie A. Mooney (CN=Leslie A. Mooney/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Elaine M. Mitsler (CN=Elaine M. Mitsler/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John A. Cloud (CN=John A. Cloud/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary L. Adams (CN=Mary L. Adams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kristine Simmons (CN=Kristine Simmons/OU=OPD/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:John C. Dettleff (CN=John C. Dettleff/OU=OPD/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Eric H. Otto (CN=Eric H. Otto/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Ansley C. Tillman (CN=Ansley C. Tillman/OU=OPD/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Sarah Gesiriech (CN=Sarah Gesiriech/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Brian R. Besanceney (CN=Brian R. Besanceney/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=OPD/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Sarah E. Youssef (CN=Sarah E. Youssef/OU=OPD/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Marisa K. Medrano (CN=Marisa K. Medrano/OU=OPD/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jona M. Turner (CN=Jona M. Turner/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Margita N. Thompson (CN=Margita N. Thompson/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Shanon M. Woodrum (CN=Shanon M. Woodrum/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anthony D. Weber (CN=Anthony D. Weber/OU=NSC/O=EOP [NSC])

READ:UNKNOWN
TO:Rafael Vila (CN=Rafael Vila/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Julie A. Snyder (CN=Julie A. Snyder/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Wendy L. Schreiber (CN=Wendy L. Schreiber/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Raymond H. Payne (CN=Raymond H. Payne/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Michael R. Lowden (CN=Michael R. Lowden/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Dwayne L. Locke (CN=Dwayne L. Locke/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Michael B. DePaepe (CN=Michael B. DePaepe/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Donald N. Clifford (CN=Donald N. Clifford/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gary E. Bresnahan (CN=Gary E. Bresnahan/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:James R. Wilkinson (CN=James R. Wilkinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott Stanzel (CN=Scott Stanzel/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jeanie S. Mamo (CN=Jeanie S. Mamo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kenneth A. Lisaius (CN=Kenneth A. Lisaius/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Taylor S. Gross (CN=Taylor S. Gross/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:William T. Griffin (CN=William T. Griffin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gail Randall (CN=Gail Randall/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Kristopher N. Purcell (CN=Kristopher N. Purcell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gregory Goss (CN=Gregory Goss/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert Deservi (CN=Robert Deservi/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lois A. Cassano (CN=Lois A. Cassano/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edmund A. Walsh (CN=Edmund A. Walsh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michelle N. Brawer (CN=Michelle N. Brawer/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Tracy Young (CN=Tracy Young/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Erin E. Healy (CN=Erin E. Healy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jeannette B. Reilly (CN=Jeannette B. Reilly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Matthew O. Scully (CN=Matthew O. Scully/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:David Frum (CN=David Frum/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Lorraine Nisbet (CN=Lorraine Nisbet/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Chad M. Kolton (CN=Chad M. Kolton/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Neil H. Zimmerman (CN=Neil H. Zimmerman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael Shannon (CN=Michael Shannon/OU=WHO/O=EOP [UNKNOWN])

READ:UNKNOWN
TO:Lynden R. Steele (CN=Lynden R. Steele/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Janet M. Philips (CN=Janet M. Philips/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Moreen E. Ishikawa (CN=Moreen E. Ishikawa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael Davis (CN=Michael Davis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mercedes M. Viana (CN=Mercedes M. Viana/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christopher J. Orr (CN=Christopher J. Orr/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wendy L. Nipper (CN=Wendy L. Nipper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:L. Camille Welborn (CN=L. Camille Welborn/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ali H. Tulbah (CN=Ali H. Tulbah/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Laura S. Lawlor (CN=Laura S. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nicole E. Grodner (CN=Nicole E. Grodner/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Craig Felner (CN=Craig Felner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Victoria Soberinsky (CN=Victoria Soberinsky/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Carrie C. Pauska (CN=Carrie C. Pauska/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jennifer A. Minton (CN=Jennifer A. Minton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Rory J. Diamond (CN=Rory J. Diamond/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley Cannatti (CN=Ashley Cannatti/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jeffrey W. Bloemker (CN=Jeffrey W. Bloemker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cynthia F. Williams (CN=Cynthia F. Williams/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Satya Vashisht (CN=Satya Vashisht/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kenneth A. Thomas (CN=Kenneth A. Thomas/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Marty P. Smith (CN=Marty P. Smith/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stacey B. Silva (CN=Stacey B. Silva/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jennifer C. Sheehy (CN=Jennifer C. Sheehy/OU=OPD/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Mayra N. Segovia (CN=Mayra N. Segovia/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Michael A. Sanders (CN=Michael A. Sanders/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew D. Sacher (CN=Andrew D. Sacher/OU=OPD/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edwina C. Rogers (CN=Edwina C. Rogers/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Ari Patrinos (CN=Ari Patrinos/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Sara B. McIntosh (CN=Sara B. McIntosh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anita B. McBride (CN=Anita B. McBride/OU=WHO/O=EOP [UNKNOWN])

READ:UNKNOWN
TO:Gregory J. Jenkins (CN=Gregory J. Jenkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Karen Hughes (CN=Karen Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:A. Merrill Hughes (CN=A. Merrill Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Anne Heiligenstein (CN=Anne Heiligenstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Philo D. Hall (CN=Philo D. Hall/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Luz Gelabert (CN=Luz Gelabert/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Daniel D. Faoro (CN=Daniel D. Faoro/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Tracy L. Carson (CN=Tracy L. Carson/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bethany A. Ashworth (CN=Bethany A. Ashworth/OU=OPD/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Courtney S. Elwood (CN=Courtney S. Elwood/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Katherine M. Walters (CN=Katherine M. Walters/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Patricia C. Zemple (CN=Patricia C. Zemple/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Julius Rothstein (CN=Julius Rothstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:A. Morgan Middlemas (CN=A. Morgan Middlemas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ann L. Loughlin (CN=Ann L. Loughlin/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Lori L. Lorenzi (CN=Lori L. Lorenzi/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hale W. Hawbecker (CN=Hale W. Hawbecker/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Laura L. Flippin (CN=Laura L. Flippin/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Robert W. Cobb (CN=Robert W. Cobb/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jason B. Torchinsky (CN=Jason B. Torchinsky/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Matthew E. Smith (CN=Matthew E. Smith/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Angela R. Sailor (CN=Angela R. Sailor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kathryn J. Hayes (CN=Kathryn J. Hayes/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:John D. Estes (CN=John D. Estes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Meredith A. Terpeluk (CN=Meredith A. Terpeluk/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Adam B. Goldman (CN=Adam B. Goldman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gian-Carlo A. Peressutti (CN=Gian-Carlo A. Peressutti/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Abel Guerra (CN=Abel Guerra/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leonard B. Rodriguez (CN=Leonard B. Rodriguez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Karen L. Zent (CN=Karen L. Zent/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jennifer M. Farley (CN=Jennifer M. Farley/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Traci R. Campbell (CN=Traci R. Campbell/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Douglas L. Hoelscher (CN=Douglas L. Hoelscher/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul B. Dyck (CN=Paul B. Dyck/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David M. Thomas (CN=David M. Thomas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sara M. Taylor (CN=Sara M. Taylor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Noelia Rodriguez (CN=Noelia Rodriguez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael J. Napolitano (CN=Michael J. Napolitano/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kenneth B. Mehlman (CN=Kenneth B. Mehlman/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Kelley J. McCullough (CN=Kelley J. McCullough/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melanie A. Jackson (CN=Melanie A. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Alicia W. Davis (CN=Alicia W. Davis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashleigh A. Adams (CN=Ashleigh A. Adams/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jerry Yates (CN=Jerry Yates/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Steven E. Ackley (CN=Steven E. Ackley/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Edward W. Radgowski (CN=Edward W. Radgowski/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Patricia Parker (CN=Patricia Parker/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Diane F. Jamison (CN=Diane F. Jamison/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Paul A. Buccelli (CN=Paul A. Buccelli/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Alex G. Nagy (CN=Alex G. Nagy/OU=WHO/O=EOP [UNKNOWN])

READ:UNKNOWN
TO:Thaddeus J. Hunt (CN=Thaddeus J. Hunt/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Chris B. Nagel (CN=Chris B. Nagel/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Kristen L. Hughes (CN=Kristen L. Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Althea T. Vanzego (CN=Althea T. Vanzego/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:LaShawnda J. Swinson (CN=LaShawnda J. Swinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nathaniel C. Ryun (CN=Nathaniel C. Ryun/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Holly M. Miller (CN=Holly M. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kimberly L. Kuczynski (CN=Kimberly L. Kuczynski/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Linda S. DeHart (CN=Linda S. DeHart/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Cheryle E. Adams (CN=Cheryle E. Adams/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jill C. Rowley (CN=Jill C. Rowley/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Misty C. Marshall (CN=Misty C. Marshall/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lana Dickey (CN=Lana Dickey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eric W. Terrell (CN=Eric W. Terrell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael J. Sullivan (CN=Michael J. Sullivan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Morad Shayegan (CN=Morad Shayegan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James J. Ross (CN=James J. Ross/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. Reynolds (CN=James M. Reynolds/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:David M. Mark (CN=David M. Mark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Curtis R. Jablonka (CN=Curtis R. Jablonka/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Manuela Hunt (CN=Manuela Hunt/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Matias Bobenrieth (CN=Matias Bobenrieth/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kathy J. Becker (CN=Kathy J. Becker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert T. Bailey (CN=Robert T. Bailey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elisabeth Armstead (CN=Elisabeth Armstead/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cynthia L. Shourds (CN=Cynthia L. Shourds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Taeshonnda C. King (CN=Taeshonnda C. King/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lee R. Johnson (CN=Lee R. Johnson/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Theodoric C. James Jr (CN=Theodoric C. James Jr/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Terry W. Good (CN=Terry W. Good/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Philip C. Droege (CN=Philip C. Droege/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary J. Brooke (CN=Mary J. Brooke/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Patricia L. Young (CN=Patricia L. Young/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Howard R. Westray (CN=Howard R. Westray/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Hugh T. Taggart Jr (CN=Hugh T. Taggart Jr/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wandra E. Simpson (CN=Wandra E. Simpson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Doris Parker (CN=Doris Parker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Steven Myers (CN=Steven Myers/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Markus Most (CN=Markus Most/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Myra B. Freeman (CN=Myra B. Freeman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Madalene E. Evans (CN=Madalene E. Evans/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Reginald D. Young Jr. (CN=Reginald D. Young Jr./OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Deborah A. Jones (CN=Deborah A. Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Crystal B. Jones (CN=Crystal B. Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Willie C. Howell (CN=Willie C. Howell/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Frances L. Campbell (CN=Frances L. Campbell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Phyllis J. Tucker (CN=Phyllis J. Tucker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles B. Nash (CN=Charles B. Nash/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Patricia Williams (CN=Patricia Williams/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eileen M. Upperman (CN=Eileen M. Upperman/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Bernice W. Smith (CN=Bernice W. Smith/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wendy W. Showers (CN=Wendy W. Showers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jennifer E. Jumalon (CN=Jennifer E. Jumalon/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Danilo DeGuzman Jr. (CN=Danilo DeGuzman Jr./OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lynn A. Crable (CN=Lynn A. Crable/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christine K. Baer (CN=Christine K. Baer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Beatrice Watts (CN=Beatrice Watts/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. Reid (CN=James M. Reid/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James E. Clark (CN=James E. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gregory T. Trainor (CN=Gregory T. Trainor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Annie Stewart (CN=Annie Stewart/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Philip C. Mattson (CN=Philip C. Mattson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Lamb (CN=Mark Lamb/OU=OA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Agustin A. Labrador (CN=Agustin A. Labrador/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Barbara J. Garner (CN=Barbara J. Garner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary U. Binns (CN=Mary U. Binns/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elisabeth M. Schilling (CN=Elisabeth M. Schilling/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gertrude A. Roddick (CN=Gertrude A. Roddick/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Guy R. Kirby (CN=Guy R. Kirby/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Shane P. Chambers (CN=Shane P. Chambers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Meredith Anderson (CN=Meredith Anderson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sharon R. Lewis (CN=Sharon R. Lewis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Vander Williams Jr. (CN=Vander Williams Jr./OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Adrian Swann (CN=Adrian Swann/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Bobby Strickland (CN=Bobby Strickland/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Dewitt Ramsey (CN=Dewitt Ramsey/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Clifford G. Preston (CN=Clifford G. Preston/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:John Y. Mcinnis (CN=John Y. Mcinnis/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Susana Gonzalez (CN=Susana Gonzalez/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Alejandro L. Deleyos (CN=Alejandro L. Deleyos/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Rolando S. DeCastro (CN=Rolando S. DeCastro/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Jeannetta P. Allen (CN=Jeannetta P. Allen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:James M. Reagan (CN=James M. Reagan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andre D. Norwood (CN=Andre D. Norwood/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Manuel A. Mendoza (CN=Manuel A. Mendoza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marilyn V. Herald (CN=Marilyn V. Herald/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eileen M. Rowley (CN=Eileen M. Rowley/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Justin A. Grove (CN=Justin A. Grove/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carolyn F. Atkinson (CN=Carolyn F. Atkinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Georgia D. Godfrey (CN=Georgia D. Godfrey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Pamela R. Casey (CN=Pamela R. Casey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Therese Burch (CN=Therese Burch/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sydney R. Johnson (CN=Sydney R. Johnson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joan R. Doty (CN=Joan R. Doty/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thais C. Conway (CN=Thais C. Conway/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kathryn M. McKeown (CN=Kathryn M. McKeown/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sherry J. Kuntz (CN=Sherry J. Kuntz/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:David E. Kalbaugh (CN=David E. Kalbaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edwin R. Thomas III (CN=Edwin R. Thomas III/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:G. Timothy Saunders (CN=G. Timothy Saunders/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:William W. McCathran (CN=William W. McCathran/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wanda M. Evans (CN=Wanda M. Evans/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Scott Sechser (CN=Scott Sechser/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jacquelyn D Hayes-Byrd (CN=Jacquelyn D Hayes-Byrd/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Donna B. Gottshall (CN=Donna B. Gottshall/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kimberly A. Douglass (CN=Kimberly A. Douglass/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Megan R. Johnston (CN=Megan R. Johnston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Quincy Hicks (CN=Quincy Hicks/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Josephine L. Hirsch (CN=Josephine L. Hirsch/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jeanie L. Figg (CN=Jeanie L. Figg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne Trenolone (CN=Anne Trenolone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sonya E. Medina (CN=Sonya E. Medina/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Alison M. Harden (CN=Alison M. Harden/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Deanna R. Rodriguez (CN=Deanna R. Rodriguez/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Julieanne H. Thomas (CN=Julieanne H. Thomas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sarah M. Garrison (CN=Sarah M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Angela A. Jones (CN=Angela A. Jones/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Amy Barrera (CN=Amy Barrera/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Clare Pritchett (CN=Clare Pritchett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel M. McCarthy (CN=Daniel M. McCarthy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott Jeffcoat (CN=Scott Jeffcoat/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dirksen Lehman (CN=Dirksen Lehman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christine Ciccone (CN=Christine Ciccone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark A. Phelan (CN=Mark A. Phelan/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Peter M. Rowan (CN=Peter M. Rowan/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Christal R. West (CN=Christal R. West/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Emily Willeford (CN=Emily Willeford/OU=OPD/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jean M. Russell (CN=Jean M. Russell/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen M. Garrison (CN=Stephen M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Sarah Pfeifer (CN=Sarah Pfeifer/OU=OPD/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Debra Heiden (CN=Debra Heiden/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary Ann Hanusa (CN=Mary Ann Hanusa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Barbara A. Barclay (CN=Barbara A. Barclay/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stuart W. Bowen (CN=Stuart W. Bowen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Reed Dickens (CN=Reed Dickens/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Rachael L. Sunbarger (CN=Rachael L. Sunbarger/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gordon D. Johndroe (CN=Gordon D. Johndroe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Harry W. Wolff (CN=Harry W. Wolff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jennifer K. Millerwise (CN=Jennifer K. Millerwise/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Vickie A. McQuade (CN=Vickie A. McQuade/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marilyn R. Jacanin (CN=Marilyn R. Jacanin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eric A. Draper (CN=Eric A. Draper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley E. Davis (CN=Ashley E. Davis/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Cathy Alix (CN=Cathy Alix/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hector F. Irastorza (CN=Hector F. Irastorza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jill Davie (CN=Jill Davie/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John W. Howard (CN=John W. Howard/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Nicholas E. Calio (CN=Nicholas E. Calio/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christina D. Roberts (CN=Christina D. Roberts/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jill L. Angelo (CN=Jill L. Angelo/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Albert Hawkins (CN=Albert Hawkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Allison L. Riepenhoff (CN=Allison L. Riepenhoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Logan M. Walters (CN=Logan M. Walters/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marcus J. Mollmann (CN=Marcus J. Mollmann/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine B. Robinson (CN=Josephine B. Robinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Salvation Army "Angels"

The Salvation Army "Angels" have arrived and are waiting for you to make
their Christmas wish come true. Angels
are hanging on the trees in the West Wing Lobby and the West Wing Ground
Floor Lobby. Please select an Angel
from one of the trees and let Ann Gray, the West Wing Receptionist,
(x6-2605) know which one you've
chosen.

You may return your wrapped gifts with the code attached to the outside no

later than December 19 to Ann Gray in the West Wing Lobby.

Help us make sure no "Angels" are forgotten!

Thank you.

From: Remington, Kristi L <Kristi.L.Remington@usdoj.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 12/12/2002 5:05:49 AM
Subject: : Thank you to Judge Nelson
Attachments: P_GP0BC003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Remington, Kristi L" <Kristi.L.Remington@usdoj.gov> ("Remington, Kristi L"
<Kristi.L.Remington@usdoj.gov> [UNKNOWN])
CREATION DATE/TIME:12-DEC-2002 10:05:49.00
SUBJECT:: Thank you to Judge Nelson
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett,

Viet asked me to draft a thank you letter to Judge Nelson for providing the President his notice of retirement in the one year time frame. Nelson specifically noted in his notice that he was complying with the President's request. Viet thought that Judge Gonzales should send the letter. It is attached.

Kristi L. Remington
Senior Counsel
Office Of Legal Policy
U.S. Department of Justice
(202) 514-8356

- Judge Thomas Nelson ltr.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_GP0BC003_WHO.TXT_1>

December 10, 2002

The Honorable Thomas G. Nelson
United States Circuit Judge
Court of Appeals for the Ninth Circuit
P.O. Box 1339
304 North 8th Street
Boise, ID 83701-1339

Dear Judge Nelson:

I write to thank you for your recent notification to the President of your intent to retire from regular active service as a United States Circuit Judge for the Ninth Circuit on November 14, 2003. As you noted in your letter, the President has requested that members of the Federal Judiciary provide one year's notice of their intent to retire. The process of nomination and confirmation can be lengthy under the best of circumstances. The notice you have provided allows the President to set the process in motion, so that a nominee will be ready to take the bench upon your retirement from active service.

Your letter indicates that you plan to continue to serve as a senior judge. The President greatly appreciates your continued service to this country.

Sincerely,

REV_00155263

From: CN=PostMaster/O=EOP [OA]

To: Natalie S. Wozniak/NSC/EOP [NSC] <Natalie S. Wozniak>;Gene Whitney/OSTP/EOP [OSTP] <Gene Whitney>;Arnette C. White/OMB/EOP [OMB] <Arnette C. White>;Larry D. Walker/OVP/EOP [OVP] <Larry D. Walker>;Charles J. Vandenbossche/WHO/EOP [WHO] <Charles J. Vandenbossche>;Chris Underhill/WHO/EOP [WHO] <Chris Underhill>;Maureen E. Tucker/NSC/EOP [NSC] <Maureen E. Tucker>;Sandra J. Toomey/OSTP/EOP [OSTP] <Sandra J. Toomey>;Catherine W. Tobias/OVP/EOP [OVP] <Catherine W. Tobias>;David C. Thompson/WHO/EOP [UNKNOWN] <David C. Thompson>;Nancy A. Theis/WHO/EOP [WHO] <Nancy A. Theis>;Vigdor L. Teplitz/OSTP/EOP [OSTP] <Vigdor L. Teplitz>;Urbieta A. Swallow/OA/EOP [OA] <Urbieta A. Swallow>;Jose G. Suarez/WHO/EOP [WHO] <Jose G. Suarez>;Bruce L. Stewart/WHO/EOP [WHO] <Bruce L. Stewart>;Gretchen P. Steen/WHO/EOP [WHO] <Gretchen P. Steen>;Daniel W. Starratt/WHO/EOP [WHO] <Daniel W. Starratt>;Julia A. Stahl/CEA/EOP [UNKNOWN] <Julia A. Stahl>;Lewis G. Sorvillo/OVP/EOP [OVP] <Lewis G. Sorvillo>;Paul M. Slaton/WHO/EOP [WHO] <Paul M. Slaton>;Leslie A. Shockley/WHO/EOP [UNKNOWN] <Leslie A. Shockley>;Acquanetta D. Sheppard/OSTP/EOP [UNKNOWN] <Acquanetta D. Sheppard>;Thomas J. Sharpy/OVP/EOP [OVP] <Thomas J. Sharpy>;Praveen R. Shanbhag/OSTP/EOP [UNKNOWN] <Praveen R. Shanbhag>;Richard M. Russell/OSTP/EOP [OSTP] <Richard M. Russell>;Dexter L. Rountree/WHO/EOP [WHO] <Dexter L. Rountree>;Rosemary M. Rogers/CEA/EOP@Exchange [CEA] <Rosemary M. Rogers>;Cheryl A. Reynolds/OA/EOP [OA] <Cheryl A. Reynolds>;Michal M. Rehavi/CEA/EOP [UNKNOWN] <Michal M. Rehavi>;Gerald A. Powers/WHO/EOP [UNKNOWN] <Gerald A. Powers>;Patrick C. Porterfield/NSC/EOP [NSC] <Patrick C. Porterfield>;Ashley E. Plaxico/WHO/EOP [UNKNOWN] <Ashley E. Plaxico>;Tobi L. Pinsky/OSTP/EOP [UNKNOWN] <Tobi L. Pinsky>;Nicole Petrosino/WHO/EOP [UNKNOWN] <Nicole Petrosino>;Jack E. Pennington/OA/EOP [OA] <Jack E. Pennington>;Dennis C. Patterson/WHO/EOP [WHO] <Dennis C. Patterson>;Torkel L. Patterson/NSC/EOP [UNKNOWN] <Torkel L. Patterson>;Lindsy Parrott/OA/EOP [UNKNOWN] <Lindsy Parrott>;Scott N. Pace/OSTP/EOP [UNKNOWN] <Scott N. Pace>;Steve S. Nikes/OSTP/EOP [OSTP] <Steve S. Nikes>;Carolyn Nelson/WHO/EOP [WHO] <Carolyn Nelson>;Scott D. Munn/WHO/EOP [WHO] <Scott D. Munn>;Joseph Mukes/WHO/EOP [WHO] <Joseph Mukes>;Christa Moyle/OA/EOP [OA] <Christa Moyle>;Brian D. Montgomery/WHO/EOP [WHO] <Brian D. Montgomery>;Kevin M. Minne/WHO/EOP [WHO] <Kevin M. Minne>;Gwendolyn F. Mincey/WHO/EOP [WHO] <Gwendolyn F. Mincey>;Terry C. Miller/WHO/EOP [UNKNOWN] <Terry C. Miller>;Raymond D. Miller/WHO/EOP [WHO] <Raymond D. Miller>;Christopher T. Miller/WHO/EOP [WHO] <Christopher T. Miller>;William R. Melick/CEA/EOP [UNKNOWN] <William R. Melick>;Tyler N. McPherson/WHO/EOP [WHO] <Tyler N. McPherson>;Hugh A. McGovern/WHO/EOP [WHO] <Hugh A. McGovern>;Terri C. McCoy/OA/EOP [OA] <Terri C. McCoy>;Kelli R. McClure/OA/EOP [OA] <Kelli R. McClure>;Charles J. McCleary/CEA/EOP [UNKNOWN] <Charles J. McCleary>;James A. Mathews/CEA/EOP [UNKNOWN] <James A. Mathews>;Daniel W. Martin/OVP/EOP [OVP] <Daniel W. Martin>;Catherine J. Martin/OVP/EOP [OVP] <Catherine J. Martin>;Robert S. Marianelli/OSTP/EOP [OSTP] <Robert S. Marianelli>;Tracy Litton/WHO/EOP [WHO] <Tracy Litton>;Stephanie E. Linder/WHO/EOP [WHO] <Stephanie E. Linder>;Benitta D. Lewis/OVP/EOP [OVP] <Benitta D. Lewis>;Rachel E. Levinson/OSTP/EOP [OSTP] <Rachel E. Levinson>;Donni M. LeBoeuf/WHO/EOP [UNKNOWN] <Donni M. LeBoeuf>;Joshua T. Krupnick/OSTP/EOP [OSTP] <Joshua T. Krupnick>;Randall S. Kroszner/CEA/EOP [CEA] <Randall S. Kroszner>;Ellis Kitchen/OA/EOP [OA] <Ellis Kitchen>;Lana M. King/WHO/EOP [WHO] <Lana M. King>;Lawrence D. Kerr/OSTP/EOP [OSTP] <Lawrence D. Kerr>;Stephen A. Kemmer/WHO/EOP [WHO] <Stephen A. Kemmer>;Terrence K. Kelly/OSTP/EOP [UNKNOWN] <Terrence K. Kelly>;Joseph M. Kearney/WHO/EOP [WHO] <Joseph M. Kearney>;Namita Kalyan/CEA/EOP [UNKNOWN] <Namita Kalyan>;Deidra A. Jules/WHO/EOP [WHO] <Deidra A. Jules>;Richard P. Emery Jr./OMB/EOP [OMB] <Richard P. Emery Jr.>;Jacqueline D. Jones/WHO/EOP [WHO] <Jacqueline D. Jones>;Cyril Jones/WHO/EOP [WHO] <Cyril Jones>;Kaitlin S. Joerger/OSTP/EOP [UNKNOWN] <Kaitlin S. Joerger>;Kevin D. Jennings/WHO/EOP [UNKNOWN] <Kevin D. Jennings>;Jon Jefferson/WHO/EOP [WHO] <Jon Jefferson>;Theresa M. Hunter/OSTP/EOP [UNKNOWN] <Theresa M. Hunter>;Roger D. Huffstetler/OSTP/EOP [UNKNOWN] <Roger D. Huffstetler>;Charles H. Huettner/OSTP/EOP [UNKNOWN] <Charles H. Huettner>;Glenn Hubbard/CEA/EOP [CEA] <Glenn Hubbard>;Lonnie Hovey/OA/EOP [OA] <Lonnie Hovey>;Katie Hong/WHO/EOP [UNKNOWN] <Katie Hong>;Mark D. Hodge/OSTP /EOP@Exchange [OSTP] <Mark D. Hodge>;Carl E. Hildebrand/OSTP/EOP [OSTP] <Carl E. Hildebrand>;Amelia J. Hessheimer/OSTP/EOP [UNKNOWN] <Amelia J. Hessheimer>;Chris

Henick/WHO/EOP [WHO] <Chris Henick>;Michael Heath/WHO/EOP [WHO] <Michael Heath>;Tracy R. Hatfield/WHO/EOP [WHO] <Tracy R. Hatfield>;Dionne Hardy/OMB/EOP [OMB] <Dionne Hardy>;Henry G. Harbinson/WHO/EOP [UNKNOWN] <Henry G. Harbinson>;Larry E. Handeland/OA/EOP [OA] <Larry E. Handeland>;Robert J. Hall/WHO/EOP [WHO] <Robert J. Hall>;Wendy J. Hall/OSTP/EOP [OSTP] <Wendy J. Hall>;John F. Haley/OVP/EOP [OVP] <John F. Haley>;Jon A. Guest/WHO/EOP [WHO] <Jon A. Guest>;James A. Griffin/OSTP/EOP [OSTP] <James A. Griffin>;Michael J. Green/NSC/EOP [NSC] <Michael J. Green>;Signe L. Girgus/OA/EOP [OA] <Signe L. Girgus>;Anthony J. Gibson/OSTP/EOP [UNKNOWN] <Anthony J. Gibson>;Jeffery W. Garland/WHO/EOP [WHO] <Jeffery W. Garland>;Kelley Gannon/WHO/EOP [WHO] <Kelley Gannon>;Clifford J. Gabriel/OSTP/EOP [OSTP] <Clifford J. Gabriel>;Catherine H. Furlong/CEA/EOP [CEA] <Catherine H. Furlong>;Tommee S. Fullerton/WHO/EOP [UNKNOWN] <Tommee S. Fullerton>;William J. Fugo/WHO/EOP [WHO] <William J. Fugo>;Lana M. Frankensfield/WHO/EOP [WHO] <Lana M. Frankensfield>;Betty J. Fountain/OSTP/EOP [OSTP] <Betty J. Fountain>;Amy K. Flatten/OSTP/EOP [OSTP] <Amy K. Flatten>;Ruth A. Fisher/OSTP/EOP [OSTP] <Ruth A. Fisher>;Theodore W. Ferm/WHO/EOP [WHO] <Theodore W. Ferm>;Barbara A. Ferguson/OSTP/EOP [OSTP] <Barbara A. Ferguson>;Lino A. Feliciano/WHO/EOP [WHO] <Lino A. Feliciano>;Miriam R. Eubanks/OSTP/EOP [OSTP] <Miriam R. Eubanks>;Gary B. Ellis/OSTP/EOP [UNKNOWN] <Gary B. Ellis>;Don E. Eberly/WHO/EOP [UNKNOWN] <Don E. Eberly>;Nancy V. Dublin/ONDCP/EOP [ONDCP] <Nancy V. Dublin>;Drew T. Doolin/OVP/EOP [UNKNOWN] <Drew T. Doolin>;Paul D. Domich/OSTP/EOP [UNKNOWN] <Paul D. Domich>;Jose L. Delgado/OVP/EOP [OVP] <Jose L. Delgado>;Bradford D. Dayspring/WHO/EOP [WHO] <Bradford D. Dayspring>;Shana L. Dale/OSTP/EOP [OSTP] <Shana L. Dale>;George G. Cravaritis/OSTP/EOP@Exchange [OSTP] <George G. Cravaritis>;Timothy J. Cox/WHO/EOP [UNKNOWN] <Timothy J. Cox>;Christopher Coverdell/WHO/EOP [WHO] <Christopher Coverdell>;Jane M. Cook/WHO/EOP [WHO] <Jane M. Cook>;Susan G. Conard/OSTP/EOP [UNKNOWN] <Susan G. Conard>;Donna I. Coleman/OSTP/EOP [OSTP] <Donna I. Coleman>;Susan P. Clements/CEA/EOP [UNKNOWN] <Susan P. Clements>;Ralph J. Clemens/WHO/EOP [WHO] <Ralph J. Clemens>;Cynthia M. Chase/OSTP/EOP [OSTP] <Cynthia M. Chase>;Debra A. Carr/WHO/EOP [UNKNOWN] <Debra A. Carr>;Hugh D. Campbell/OA/EOP [OA] <Hugh D. Campbell>;Karen B. Brooks/NSC/EOP [NSC] <Karen B. Brooks>;Alexander M. Brill/CEA/EOP [UNKNOWN] <Alexander M. Brill>;David R. Bohrer/OVP/EOP [OVP] <David R. Bohrer>;Bradley A. Blakeman/WHO/EOP [WHO] <Bradley A. Blakeman>;Charles P. Blahous/OPD/EOP [OPD] <Charles P. Blahous>;Rosina M. Bierbaum/OSTP/EOP [UNKNOWN] <Rosina M. Bierbaum>;Todd W. Beyer/WHO/EOP [WHO] <Todd W. Beyer>;Stacey L. Benzel/OSTP/EOP [UNKNOWN] <Stacey L. Benzel>;Darrell K. Beals/WHO/EOP [UNKNOWN] <Darrell K. Beals>;Robert Bauer/WHO/EOP [WHO] <Robert Bauer>;Cheryl E. Barnett/NSC/EOP [NSC] <Cheryl E. Barnett>;Jeffrey Bader/NSC/EOP [NSC] <Jeffrey Bader>;Steven A. Atkiss/WHO/EOP [WHO] <Steven A. Atkiss>;Mark T. Anderson/OSTP/EOP [OSTP] <Mark T. Anderson>;Paul T. Anastas/OSTP/EOP [OSTP] <Paul T. Anastas>;Regina F. Amos/NSC/EOP [NSC] <Regina F. Amos>;L. Linus Amorsingh/WHO/EOP [WHO] <L. Linus Amorsingh>;Brooks D. Altshuler/WHO/EOP [UNKNOWN] <Brooks D. Altshuler>;Bretton S. Alexander/OSTP/EOP [OSTP] <Bretton S. Alexander>;Zalmay M. Khalilzad/NSC/EOP [NSC] <Zalmay M. Khalilzad>;William W. Mcilhenny/NSC/EOP [UNKNOWN] <William W. Mcilhenny>;William H. Leary/NSC/EOP [NSC] <William H. Leary>;Wendy A. Loehrs/NSC/EOP [NSC] <Wendy A. Loehrs>;Victoria J. Darnes/NSC/EOP [NSC] <Victoria J. Darnes>;Vicki M. Clark/NSC/EOP [NSC] <Vicki M. Clark>;Travis C. Good/NSC/EOP [UNKNOWN] <Travis C. Good>;Timothy L. Gladura/NSC/EOP [UNKNOWN] <Timothy L. Gladura>;Timothy J. Keeler/WHO/EOP [UNKNOWN] <Timothy J. Keeler>;Thomas S. Marsh/NSC/EOP [NSC] <Thomas S. Marsh>;Thomas C. Greenwood/NSC/EOP [NSC] <Thomas C. Greenwood>;Thomas B. Robertson/NSC/EOP [UNKNOWN] <Thomas B. Robertson>;Thomas A. Hall/NSC/EOP [NSC] <Thomas A. Hall>;Susan L. Posey/OVP/EOP [OVP] <Susan L. Posey>;Susan J. Koch/NSC/EOP [NSC] <Susan J. Koch>;Stuart H. McIntyre/NSC/EOP [NSC] <Stuart H. McIntyre>;Steven N. Braun/CEA/EOP [CEA] <Steven N. Braun>;Stephen S. Ruhlen/OVP/EOP [OVP] <Stephen S. Ruhlen>;Stephen L. Poizner/NSC/EOP [UNKNOWN] <Stephen L. Poizner>;Stephen J. Yates/OVP/EOP [OVP] <Stephen J. Yates>;Stacey D. Mulligan/NSC/EOP [NSC] <Stacey D. Mulligan>;Sonyia Matthews/NSC/EOP [NSC] <Sonyia Matthews>;Sean I. McCormack/NSC/EOP [NSC] <Sean I. McCormack>;Sarah M. Lenti/NSC/EOP [NSC] <Sarah M. Lenti>;Sang W. Lee/NSC/EOP [NSC] <Sang W. Lee>;Sandra F. Daigle/CEA/EOP [CEA] <Sandra F. Daigle>;Samantha F. Ravich/OVP/EOP [OVP] <Samantha F. Ravich>;Ronald L. Watson/OVP/EOP [UNKNOWN] <Ronald L. Watson>;Roger W. Cressey/NSC/EOP [NSC] <Roger W. Cressey>;Robin Cleveland/OMB/EOP [OMB] <Robin Cleveland>;Robert J.

Morton/NSC/EOP [NSC] <Robert J. Morton>;Robert G. Joseph/NSC/EOP [NSC] <Robert G. Joseph>;Richard R. Soubers/NSC/EOP [NSC] <Richard R. Soubers>;Richard J. Raftery/PFIAB/EOP [PFIAB] <Richard J. Raftery>;Richard C. Paschall/NSC/EOP [UNKNOWN] <Richard C. Paschall>;Richard A. Falkenrath/NSC/EOP [UNKNOWN] <Richard A. Falkenrath>;Richard A. Clarke/NSC/EOP [NSC] <Richard A. Clarke>;Rebecca J. Mitchell/NSC/EOP [UNKNOWN] <Rebecca J. Mitchell>;Randy W. Deitering/PFIAB/EOP [PFIAB] <Randy W. Deitering>;Ralph C. Bellamy/NSC/EOP [NSC] <Ralph C. Bellamy>;Peter Smith/NSC/EOP [UNKNOWN] <Peter Smith>;Peter M. Feather/CEA/EOP [UNKNOWN] <Peter M. Feather>;Paul B. Kurtz/NSC/EOP [NSC] <Paul B. Kurtz>;Patricia A. Battenfield/NSC/EOP [NSC] <Patricia A. Battenfield>;Pamela G. Quanrud/NSC/EOP [NSC] <Pamela G. Quanrud>;Nina Rees/OVP/EOP [OVP] <Nina Rees>;Nicholas J. Rasmussen/NSC/EOP [NSC] <Nicholas J. Rasmussen>;Neil S. Patel/OVP/EOP [OVP] <Neil S. Patel>;Nancy H. Maxfield/NSC/EOP [UNKNOWN] <Nancy H. Maxfield>;Myrtle Reddrick/NSC/EOP [NSC] <Myrtle Reddrick>;Millicent H. Schwenk/NSC/EOP [UNKNOWN] <Millicent H. Schwenk>;Michael R. Fenzel/NSC/EOP [UNKNOWN] <Michael R. Fenzel>;Michael P. Smith/NSC/EOP [NSC] <Michael P. Smith>;Melinda A. Garroway/OA/EOP [OA] <Melinda A. Garroway>;Megan D. Moran/OVP/EOP [UNKNOWN] <Megan D. Moran>;Matthew K. McLean/NSC/EOP [NSC] <Matthew K. McLean>;Matthew J. Bryza/NSC/EOP [NSC] <Matthew J. Bryza>;Mary P. Tighe/NSC/EOP [UNKNOWN] <Mary P. Tighe>;Mary K. Sturtevant/NSC/EOP [NSC] <Mary K. Sturtevant>;Mary J. Matalin/OVP/EOP [OVP] <Mary J. Matalin>;Mary Fibich/CEA/EOP [CEA] <Mary Fibich>;Mary E. Quinn/NSC/EOP [NSC] <Mary E. Quinn>;Mary E. Jones/CEA/EOP [CEA] <Mary E. Jones>;Mary C. Williams/NSC/EOP [NSC] <Mary C. Williams>;Mary A. Haines/NSC/EOP [NSC] <Mary A. Haines>;Martha B. Schiele/OA/EOP [OA] <Martha B. Schiele>;Marsha L. Dimel/NSC/EOP [NSC] <Marsha L. Dimel>;Mark McClellan/CEA/EOP [UNKNOWN] <Mark McClellan>;Mark J. Sullivan/OVP/EOP [UNKNOWN] <Mark J. Sullivan>;Marjorie J. Gilbert/NSC/EOP [NSC] <Marjorie J. Gilbert>;Marie K. Fishpaw/OVP/EOP [OVP] <Marie K. Fishpaw>;Lisa D. Branch/CEA/EOP [CEA] <Lisa D. Branch>;Lisa A. Johnson/NSC/EOP [UNKNOWN] <Lisa A. Johnson>;Linda A. Reilly/CEA/EOP [CEA] <Linda A. Reilly>;Leandro A. Aragoncillo/OVP/EOP [UNKNOWN] <Leandro A. Aragoncillo>;Lauren K. Allgood/OVP/EOP [UNKNOWN] <Lauren K. Allgood>;Larry Adkins/OVP/EOP [OVP] <Larry Adkins>;Kurt D. Volker/NSC/EOP [NSC] <Kurt D. Volker>;Kevin P. Sweeney/CEA/EOP [CEA] <Kevin P. Sweeney>;Katherine J. Fertakis/NSC/EOP [NSC] <Katherine J. Fertakis>;Katherine Baicker/CEA/EOP [CEA] <Katherine Baicker>;Karen Y. Knutson/OVP/EOP [OVP] <Karen Y. Knutson>;Karen Starr/OVP/EOP [OVP] <Karen Starr>;Karen E. Kaufmann/OA/EOP [OA] <Karen E. Kaufmann>;Kameran L. Bailey/CEQ/EOP [UNKNOWN] <Kameran L. Bailey>;Judson L. Bruns/NSC/EOP [NSC] <Judson L. Bruns>;Judith P. Russ/NSC/EOP [NSC] <Judith P. Russ>;Joseph R. Wood/OVP/EOP [OVP] <Joseph R. Wood>;Joseph M. Myers/NSC/EOP [NSC] <Joseph M. Myers>;Jose A. Fuentes/OVP/EOP [OVP] <Jose A. Fuentes>;Jonathan W. Burks/OVP/EOP@Exchange [OVP] <Jonathan W. Burks>;Jonathan R. Scharfen/NSC/EOP [NSC] <Jonathan R. Scharfen>;Johnathan C. Bunting/NSC/EOP [NSC] <Johnathan C. Bunting>;John W. Ficklin/NSC/EOP [NSC] <John W. Ficklin>;John Paliokas/NSC/EOP [UNKNOWN] <John Paliokas>;John P. Mudd/NSC/EOP [UNKNOWN] <John P. Mudd>;John P. McConnell/OVP/EOP [OVP] <John P. McConnell>;John P. Hannah/OVP/EOP [OVP] <John P. Hannah>;John Fenzel/OVP/EOP [UNKNOWN] <John Fenzel>;John F. Sammis/NSC/EOP [NSC] <John F. Sammis>;John F. Maisto/NSC/EOP [NSC] <John F. Maisto>;John D. Gibson/NSC/EOP [NSC] <John D. Gibson>;John C. Rood/NSC/EOP [NSC] <John C. Rood>;John C. Gossel/OVP/EOP@Exchange [OVP] <John C. Gossel>;John B. Wiegmann/NSC/EOP [NSC] <John B. Wiegmann>;John B. Bellinger/NSC/EOP [NSC] <John B. Bellinger>;Joanna B. Wallace/NSC/EOP [NSC] <Joanna B. Wallace>;Joan K. Edwards/NSC/EOP [NSC] <Joan K. Edwards>;Joan Hunerwadel/NSC/EOP [NSC] <Joan Hunerwadel>;Jennifer H. Mayfield/OVP/EOP [OVP] <Jennifer H. Mayfield>;Jennifer Abrahamsen/CEA/EOP [UNKNOWN] <Jennifer Abrahamsen>;Jennifer A. Wray/OVP/EOP [OVP] <Jennifer A. Wray>;Jendayi E. Frazer/NSC/EOP [NSC] <Jendayi E. Frazer>;Jeffrey A. Reed/OVP/EOP [OVP] <Jeffrey A. Reed>;Jane E. Baker/PFIAB/EOP [PFIAB] <Jane E. Baker>;Jane C. Heishman/NSC/EOP [NSC] <Jane C. Heishman>;James F. Moriarty/NSC/EOP [NSC] <James F. Moriarty>;James Babbitt/OVP/EOP [OVP] <James Babbitt>;James A. Smith/NSC/EOP [UNKNOWN] <James A. Smith>;Jaime E. Martinez/OVP/EOP [OVP] <Jaime E. Martinez>;Jacqueline C. Cragg/OA/EOP [OA] <Jacqueline C. Cragg>;Irena I. Asmundson/CEA/EOP [UNKNOWN] <Irena I. Asmundson>;Harry K. Thomas/NSC/EOP [UNKNOWN] <Harry K. Thomas>;Gregory A. Manuel/NSC/EOP [NSC] <Gregory A. Manuel>;George M. Andricos/NSC/EOP [NSC] <George M. Andricos>;Gay L. Joshlyn/NSC/EOP [NSC] <Gay L. Joshlyn>;Franklin C. Miller/NSC/EOP [NSC] <Franklin C.

Miller>;Frank G. Klotz/NSC/EOP [NSC] <Frank G. Klotz>;Francine P. Obermiller/CEA/EOP [UNKNOWN] <Francine P. Obermiller>;Frances E. Norris/OVP/EOP [OVP] <Frances E. Norris>;Eva A. Weigold/NSC/EOP [UNKNOWN] <Eva A. Weigold>;Ethan A. Hastert/OVP/EOP [UNKNOWN] <Ethan A. Hastert>;Elliott Abrams/NSC/EOP [NSC] <Elliott Abrams>;Edward L. Bolton/NSC/EOP [NSC] <Edward L. Bolton>;Douglas J. Holtz-Eakin/CEA/EOP [CEA] <Douglas J. Holtz-Eakin>;Doris J. Wingard/OMB/EOP [OMB] <Doris J. Wingard>;Dora Kale/NSC/EOP [NSC] <Dora Kale>;Donna G. Rowland-Gough/NSC/EOP [NSC] <Donna G. Rowland-Gough>;Diana E. Furchtgott-Roth/CEA/EOP [CEA] <Diana E. Furchtgott-Roth>;Debra L. Shelton/NSC/EOP [UNKNOWN] <Debra L. Shelton>;Deborah A. Loewer/NSC/EOP [NSC] <Deborah A. Loewer>;David S. Addington/OVP/EOP [OVP] <David S. Addington>;David R. Shedd/NSC/EOP [NSC] <David R. Shedd>;David M. Hess/NSC/EOP [NSC] <David M. Hess>;David J. Rodriguez/OVP/EOP [OVP] <David J. Rodriguez>;Daniel R. Sanborn/NSC/EOP [NSC] <Daniel R. Sanborn>;Daniel K. Wilmot/OVP/EOP [OVP] <Daniel K. Wilmot>;Daniel Fried/NSC/EOP [NSC] <Daniel Fried>;Courtney R. Nemroff/NSC/EOP [NSC] <Courtney R. Nemroff>;Claire M. O'Donnell/OVP/EOP [OVP] <Claire M. O'Donnell>;Cindy L. Courville/NSC/EOP [NSC] <Cindy L. Courville>;Christopher M. Fiorenza/NSC/EOP [NSC] <Christopher M. Fiorenza>;Christopher L. George/NSC/EOP [NSC] <Christopher L. George>;Christopher J. Bolan/OVP/EOP [OVP] <Christopher J. Bolan>;Christopher D. Gambill/WHO/EOP [WHO] <Christopher D. Gambill>;Christina L. Burrell/NSC/EOP [NSC] <Christina L. Burrell>;Charles M. Smith/OVP/EOP [UNKNOWN] <Charles M. Smith>;Charles D. McGrath Jr/OVP/EOP [OVP] <Charles D. McGrath Jr>;Charlene C. Bolinski/NSC/EOP [NSC] <Charlene C. Bolinski>;Cesar Conda/OVP/EOP [OVP] <Cesar Conda>;Catherine E. Byrne/NSC/EOP [UNKNOWN] <Catherine E. Byrne>;Carolyn L. Evans/CEA/EOP [UNKNOWN] <Carolyn L. Evans>;Candida P. Wolff/OVP/EOP [OVP] <Candida P. Wolff>;Cameron P. Munter/NSC/EOP [UNKNOWN] <Cameron P. Munter>;Bruce O. Riedel/NSC/EOP [UNKNOWN] <Bruce O. Riedel>;Bruce E. Miller/OVP/EOP [OVP] <Bruce E. Miller>;Brian T. Merchant/NSC/EOP [NSC] <Brian T. Merchant>;Brian H. Jenn/CEA/EOP [CEA] <Brian H. Jenn>;Brian A. Amorosi/CEA/EOP [CEA] <Brian A. Amorosi>;Brendan G. Melley/PFIAB/EOP [UNKNOWN] <Brendan G. Melley>;Beverly J. Roundtree/NSC/EOP [NSC] <Beverly J. Roundtree>;Bernard T. Crawford/NSC/EOP [NSC] <Bernard T. Crawford>;Benjamin A. Miller/OVP/EOP [OVP] <Benjamin A. Miller>;Barbara E. Howerton/NSC/EOP [NSC] <Barbara E. Howerton>;Augustine Peterson-Becker/NSC/EOP [NSC] <Augustine Peterson-Becker>;Ashley M. Snee/OVP/EOP [UNKNOWN] <Ashley M. Snee>;Anthony N. Banbury/NSC/EOP [NSC] <Anthony N. Banbury>;Anna M. Perez/NSC/EOP [NSC] <Anna M. Perez>;Angela B. Styles/OMB/EOP [OMB] <Angela B. Styles>;Andrew M. Kaver/NSC/EOP [UNKNOWN] <Andrew M. Kaver>;Andrew Lundquist/NSC/EOP [NSC] <Andrew Lundquist>;Andrew J. Filardo/CEA/EOP [UNKNOWN] <Andrew J. Filardo>;Alice H. Williams/CEA/EOP [CEA] <Alice H. Williams>;Alexian T. Wines/NSC/EOP [NSC] <Alexian T. Wines>;Admir Serifovic/OMB/EOP [OMB] <Admir Serifovic>;Adele C. Morris/OPD/EOP [OPD] <Adele C. Morris>;Adam R. Saunders/CEA/EOP [CEA] <Adam R. Saunders>;Mary K. Lang/OVP/EOP [OVP] <Mary K. Lang>;Carol R. Kuntz/OVP/EOP [OVP] <Carol R. Kuntz>;Elizabeth W. Kleppe/OVP/EOP [OVP] <Elizabeth W. Kleppe>;Terry L. Karow/OVP/EOP [OVP] <Terry L. Karow>;Michael A. Gould/OVP/EOP [OVP] <Michael A. Gould>;Michael A. Garcia/OVP/EOP [UNKNOWN] <Michael A. Garcia>;Jennifer D. Field/OVP/EOP [OVP] <Jennifer D. Field>;Eric S. Edelman/OVP/EOP [OVP] <Eric S. Edelman>;Debra R. Dunn/OVP/EOP [UNKNOWN] <Debra R. Dunn>;Nancy P. Dorn/WHO/EOP [UNKNOWN] <Nancy P. Dorn>;Elizabeth A. Denny/OVP/EOP [OVP] <Elizabeth A. Denny>;Ronald I. Christie/OVP/EOP [UNKNOWN] <Ronald I. Christie>;Cecelia Boyer/OVP/EOP [OVP] <Cecelia Boyer>;Rodney A. Angquico/OVP/EOP [UNKNOWN] <Rodney A. Angquico>;Charles S. Abbot/OVP/EOP [OVP] <Charles S. Abbot>;John Graham/OMB/EOP [OMB] <John Graham>;Mary M. Chuckerel/OMB/EOP [OMB] <Mary M. Chuckerel>;Cynthia A. Christian/OMB/EOP [OMB] <Cynthia A. Christian>;Lois E. Altoft/OMB/EOP [OMB] <Lois E. Altoft>;Augustine T. Smythe/OMB/EOP [OMB] <Augustine T. Smythe>;Rebecca E. Davis/OMB/EOP [OMB] <Rebecca E. Davis>;Yvonne T. Bowlding/OMB/EOP [UNKNOWN] <Yvonne T. Bowlding>;Jennifer J. Wood/OMB/EOP [UNKNOWN] <Jennifer J. Wood>;Amy L. Call/OMB/EOP [OMB] <Amy L. Call>;Sandra L. Via/OMB/EOP [UNKNOWN] <Sandra L. Via>;Retha M. Senke/OMB/EOP [UNKNOWN] <Retha M. Senke>;Sean C. O'Keefe/OMB/EOP [OMB] <Sean C. O'Keefe>;Karen E. Keller/OMB/EOP [OMB] <Karen E. Keller>;John W. Fielding/OMB/EOP [UNKNOWN] <John W. Fielding>;Mitchell Daniels/OMB/EOP [OMB] <Mitchell Daniels>;Jennifer Willis/OMB/EOP [UNKNOWN] <Jennifer Willis>;Susanna Reckord-Raymer/OMB/EOP [OMB] <Susanna Reckord-Raymer>;Manuel Briskin/OMB/EOP [OMB] <Manuel Briskin>;Christine C. McCarlie/OMB/EOP [UNKNOWN] <Christine C. McCarlie>;Brett S. Loper/OMB/EOP [UNKNOWN] <Brett S. Loper>;Marcus Peacock/OMB/EOP [OMB]

<Marcus Peacock>;Karen S. Dooley/OMB/EOP [OMB] <Karen S. Dooley>;James C. Capretta/OMB/EOP [OMB] <James C. Capretta>;Mark A. Wasserman/OMB/EOP [OMB] <Mark A. Wasserman>;Amy C. Smith/OMB/EOP [UNKNOWN] <Amy C. Smith>;Justine F. Rodriguez/OMB/EOP [OMB] <Justine F. Rodriguez>;Danielle M. Simonetta/OMB/EOP [OMB] <Danielle M. Simonetta>;Elizabeth L. Rossman/OMB/EOP [OMB] <Elizabeth L. Rossman>;Eric C. Pelletier/OMB/EOP [OMB] <Eric C. Pelletier>;Jennifer M. Guy/OMB/EOP [UNKNOWN] <Jennifer M. Guy>;Carlos E. Bonilla/OPD/EOP [OPD] <Carlos E. Bonilla>;Karyn T. Carson/OMB/EOP [OMB] <Karyn T. Carson>;Michael K. Berkholtz/OMB/EOP [UNKNOWN] <Michael K. Berkholtz>;Lawrence B. Lindsey/OPD/EOP [OPD] <Lawrence B. Lindsey>;Leslie A. Mooney/OPD/EOP [OPD] <Leslie A. Mooney>;Elaine M. Mitsler/NSC/EOP [NSC] <Elaine M. Mitsler>;John A. Cloud/NSC/EOP [NSC] <John A. Cloud>;Mary L. Adams/NSC/EOP [NSC] <Mary L. Adams>;Kristine Simmons/OPD/EOP [UNKNOWN] <Kristine Simmons>;John C. Dettleff/OPD/EOP [UNKNOWN] <John C. Dettleff>;Eric H. Otto/OPD/EOP [OPD] <Eric H. Otto>;Dylan C. Glenn/OPD/EOP [OPD] <Dylan C. Glenn>;Ansley C. Tillman/OPD/EOP [UNKNOWN] <Ansley C. Tillman>;Diana L. Schacht/OPD/EOP [OPD] <Diana L. Schacht>;Sarah Gesiriech/OPD/EOP [OPD] <Sarah Gesiriech>;Brian R. Besanceney/OPD/EOP [OPD] <Brian R. Besanceney>;Tiffany L. Barfield/OPD/EOP [UNKNOWN] <Tiffany L. Barfield>;Sarah E. Youssef/OPD/EOP [UNKNOWN] <Sarah E. Youssef>;Marisa K. Medrano/OPD/EOP [UNKNOWN] <Marisa K. Medrano>;Jona M. Turner/OVP/EOP [UNKNOWN] <Jona M. Turner>;Margita N. Thompson/OVP/EOP [UNKNOWN] <Margita N. Thompson>;Shanon M. Woodrum/NSC/EOP [NSC] <Shanon M. Woodrum>;Anthony D. Weber/NSC/EOP [NSC] <Anthony D. Weber>;Rafael Vila/NSC/EOP [NSC] <Rafael Vila>;Julie A. Snyder/NSC/EOP [NSC] <Julie A. Snyder>;Wendy L. Schreiber/NSC/EOP [NSC] <Wendy L. Schreiber>;Raymond H. Payne/NSC/EOP [NSC] <Raymond H. Payne>;Michael R. Lowden/NSC/EOP [NSC] <Michael R. Lowden>;Dwayne L. Locke/NSC/EOP [NSC] <Dwayne L. Locke>;Michael B. DePaepe/NSC/EOP [NSC] <Michael B. DePaepe>;Donald N. Clifford/NSC/EOP [NSC] <Donald N. Clifford>;Gary E. Bresnahan/NSC/EOP [NSC] <Gary E. Bresnahan>;James R. Wilkinson/WHO/EOP [WHO] <James R. Wilkinson>;Scott Stanzel/WHO/EOP [WHO] <Scott Stanzel>;Jeanie S. Mamo/WHO/EOP [WHO] <Jeanie S. Mamo>;Kenneth A. Lisaius/WHO/EOP [WHO] <Kenneth A. Lisaius>;Taylor S. Gross/WHO/EOP [WHO] <Taylor S. Gross>;William T. Griffin/WHO/EOP [WHO] <William T. Griffin>;Gail Randall/WHO/EOP [UNKNOWN] <Gail Randall>;Kristopher N. Purcell/WHO/EOP [WHO] <Kristopher N. Purcell>;Gregory Goss/WHO/EOP [UNKNOWN] <Gregory Goss>;Nicolle Devenish/WHO/EOP [WHO] <Nicolle Devenish>;Robert Deservi/WHO/EOP [WHO] <Robert Deservi>;Lois A. Cassano/WHO/EOP [WHO] <Lois A. Cassano>;Scott N. Sforza/WHO/EOP [WHO] <Scott N. Sforza>;Peter H. Wehner/WHO/EOP [WHO] <Peter H. Wehner>;Edmund A. Walsh/WHO/EOP [WHO] <Edmund A. Walsh>;Michelle N. Brawer/WHO/EOP [UNKNOWN] <Michelle N. Brawer>;Tracy Young/WHO/EOP [WHO] <Tracy Young>;Erin E. Healy/WHO/EOP [WHO] <Erin E. Healy>;Jeannette B. Reilly/WHO/EOP [WHO] <Jeannette B. Reilly>;Matthew O. Scully/WHO/EOP [UNKNOWN] <Matthew O. Scully>;David Frum/WHO/EOP [UNKNOWN] <David Frum>;Lorraine Nisbet/WHO/EOP [UNKNOWN] <Lorraine Nisbet>;Chad M. Kolton/WHO/EOP [UNKNOWN] <Chad M. Kolton>;Neil H. Zimmerman/WHO/EOP [WHO] <Neil H. Zimmerman>;Michael Shannon/WHO/EOP [UNKNOWN] <Michael Shannon>;Lynden R. Steele/WHO/EOP [WHO] <Lynden R. Steele>;Janet M. Philips/WHO/EOP [WHO] <Janet M. Philips>;Moreen E. Ishikawa/WHO/EOP [WHO] <Moreen E. Ishikawa>;Michael Davis/WHO/EOP [WHO] <Michael Davis>;Mercedes M. Viana/WHO/EOP [WHO] <Mercedes M. Viana>;Christopher J. Orr/WHO/EOP [WHO] <Christopher J. Orr>;Wendy L. Nipper/WHO/EOP [WHO] <Wendy L. Nipper>;Tucker A. Eskew/WHO/EOP [WHO] <Tucker A. Eskew>;L. Camille Welborn/WHO/EOP [WHO] <L. Camille Welborn>;Ali H. Tulbah/WHO/EOP [WHO] <Ali H. Tulbah>;Laura S. Lawlor/WHO/EOP [WHO] <Laura S. Lawlor>;Nicole E. Grodner/WHO/EOP [UNKNOWN] <Nicole E. Grodner>;Craig Felner/WHO/EOP [WHO] <Craig Felner>;Victoria Soberinsky/WHO/EOP [UNKNOWN] <Victoria Soberinsky>;Carrie C. Pauska/WHO/EOP [UNKNOWN] <Carrie C. Pauska>;Jennifer A. Minton/WHO/EOP [WHO] <Jennifer A. Minton>;Rory J. Diamond/WHO/EOP [WHO] <Rory J. Diamond>;Ashley Cannatti/WHO/EOP [UNKNOWN] <Ashley Cannatti>;Jeffrey W. Bloemker/WHO/EOP [WHO] <Jeffrey W. Bloemker>;Cynthia F. Williams/WHO/EOP [WHO] <Cynthia F. Williams>;Satya Vashisht/WHO/EOP [WHO] <Satya Vashisht>;Kenneth A. Thomas/OPD/EOP [OPD] <Kenneth A. Thomas>;Marty P. Smith/OPD/EOP [OPD] <Marty P. Smith>;Stacey B. Silva/WHO/EOP [UNKNOWN] <Stacey B. Silva>;Jennifer C. Sheehy/OPD/EOP [UNKNOWN] <Jennifer C. Sheehy>;Mayra N. Segovia/OA/EOP [OA] <Mayra N. Segovia>;Michael A. Sanders/WHO/EOP [WHO] <Michael A. Sanders>;Andrew D. Sacher/OPD/EOP [UNKNOWN] <Andrew D. Sacher>;Karl C. Rove/WHO/EOP [WHO] <Karl C. Rove>;Edwina C. Rogers/OPD/EOP [OPD] <Edwina C. Rogers>;Ari Patrinos/OPD/EOP [OPD] <Ari Patrinos>;Robert C.

McNally/OPD/EOP [OPD] <Robert C. McNally>;Sara B. McIntosh/WHO/EOP [WHO] <Sara B. McIntosh>;Anita B. McBride/WHO/EOP [UNKNOWN] <Anita B. McBride>;Gregory J. Jenkins/WHO/EOP [WHO] <Gregory J. Jenkins>;Karen Hughes/WHO/EOP [UNKNOWN] <Karen Hughes>;A. Merrill Hughes/WHO/EOP [UNKNOWN] <A. Merrill Hughes>;Anne Heiligenstein/WHO/EOP [WHO] <Anne Heiligenstein>;Philo D. Hall/OPD/EOP [OPD] <Philo D. Hall>;Eleanor L. Gillmor/OPD/EOP [OPD] <Eleanor L. Gillmor>;Luz Gelabert/WHO/EOP [WHO] <Luz Gelabert>;Elizabeth S. Dougherty/OPD/EOP [OPD] <Elizabeth S. Dougherty>;Daniel D. Faoro/OA/EOP [OA] <Daniel D. Faoro>;Tracy L. Carson/OPD/EOP [OPD] <Tracy L. Carson>;Daniel J. Bartlett/WHO/EOP [WHO] <Daniel J. Bartlett>;Bethany A. Ashworth/OPD/EOP [UNKNOWN] <Bethany A. Ashworth>;Jackie Arends/WHO/EOP [WHO] <Jackie Arends>;Courtney S. Elwood/WHO/EOP [UNKNOWN] <Courtney S. Elwood>;Katherine M. Walters/WHO/EOP [WHO] <Katherine M. Walters>;Bradford A. Berenson/WHO/EOP [WHO] <Bradford A. Berenson>;H. Christopher Bartolomucci/WHO/EOP [WHO] <H. Christopher Bartolomucci>;Patricia C. Zemple/WHO/EOP [UNKNOWN] <Patricia C. Zemple>;Helgard C. Walker/WHO/EOP [WHO] <Helgard C. Walker>;Julius Rothstein/WHO/EOP [WHO] <Julius Rothstein>;A. Morgan Middlemas/WHO/EOP [WHO] <A. Morgan Middlemas>;Ann L. Loughlin/WHO/EOP [UNKNOWN] <Ann L. Loughlin>;Lori L. Lorenzi/WHO/EOP [UNKNOWN] <Lori L. Lorenzi>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Hale W. Hawbecker/WHO/EOP [UNKNOWN] <Hale W. Hawbecker>;Alberto R. Gonzales/WHO/EOP [WHO] <Alberto R. Gonzales>;Noel J. Francisco/WHO/EOP [WHO] <Noel J. Francisco>;Laura L. Flippin/WHO/EOP [UNKNOWN] <Laura L. Flippin>;Robert W. Cobb/WHO/EOP [UNKNOWN] <Robert W. Cobb>;Jason B. Torchinsky/WHO/EOP [UNKNOWN] <Jason B. Torchinsky>;Lezlee J. Westine/WHO/EOP [WHO] <Lezlee J. Westine>;Matthew E. Smith/WHO/EOP [WHO] <Matthew E. Smith>;Angela R. Sailor/WHO/EOP [WHO] <Angela R. Sailor>;Kathryn J. Hayes/WHO/EOP [WHO] <Kathryn J. Hayes>;John D. Estes/WHO/EOP [WHO] <John D. Estes>;Meredith A. Terpeluk/WHO/EOP [WHO] <Meredith A. Terpeluk>;Tim Goeglein/WHO/EOP [WHO] <Tim Goeglein>;Adam B. Goldman/WHO/EOP [WHO] <Adam B. Goldman>;Gian-Carlo A. Peressutti/WHO/EOP [UNKNOWN] <Gian-Carlo A. Peressutti>;Abel Guerra/WHO/EOP [WHO] <Abel Guerra>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Leonard B. Rodriguez/WHO/EOP [WHO] <Leonard B. Rodriguez>;David Kuo/WHO/EOP [WHO] <David Kuo>;Karen L. Zent/WHO/EOP [UNKNOWN] <Karen L. Zent>;Deborah A. Spagnoli/WHO/EOP [WHO] <Deborah A. Spagnoli>;Jennifer M. Farley/WHO/EOP [WHO] <Jennifer M. Farley>;Traci R. Campbell/WHO/EOP [UNKNOWN] <Traci R. Campbell>;Ruben S. Barrales/WHO/EOP [WHO] <Ruben S. Barrales>;Douglas L. Hoelscher/WHO/EOP [WHO] <Douglas L. Hoelscher>;Paul B. Dyck/WHO/EOP [WHO] <Paul B. Dyck>;David M. Thomas/WHO/EOP [WHO] <David M. Thomas>;Sara M. Taylor/WHO/EOP [WHO] <Sara M. Taylor>;Noelia Rodriguez/WHO/EOP [WHO] <Noelia Rodriguez>;Michael J. Napolitano/WHO/EOP [WHO] <Michael J. Napolitano>;Kenneth B. Mehlman/WHO/EOP [UNKNOWN] <Kenneth B. Mehlman>;Kelley J. McCullough/WHO/EOP [UNKNOWN] <Kelley J. McCullough>;Collister W. Johnson/WHO/EOP [WHO] <Collister W. Johnson>;Melanie A. Jackson/WHO/EOP [WHO] <Melanie A. Jackson>;Alicia W. Davis/WHO/EOP [WHO] <Alicia W. Davis>;Andrea G. Ball/WHO/EOP [WHO] <Andrea G. Ball>;Ashleigh A. Adams/WHO/EOP [UNKNOWN] <Ashleigh A. Adams>;Jerry Yates/OA/EOP [OA] <Jerry Yates>;Steven E. Ackley/OA/EOP [OA] <Steven E. Ackley>;Edward W. Radgowski/OA/EOP [OA] <Edward W. Radgowski>;Patricia Parker/OA/EOP [OA] <Patricia Parker>;Diane F. Jamison/OA/EOP [OA] <Diane F. Jamison>;Paul A. Buccelli/OA/EOP [OA] <Paul A. Buccelli>;Alex G. Nagy/WHO/EOP [UNKNOWN] <Alex G. Nagy>;Thaddeus J. Hunt/OA/EOP [OA] <Thaddeus J. Hunt>;Chris B. Nagel/WHO/EOP [UNKNOWN] <Chris B. Nagel>;Kristen L. Hughes/WHO/EOP [UNKNOWN] <Kristen L. Hughes>;Althea T. Vanzego/WHO/EOP [UNKNOWN] <Althea T. Vanzego>;LaShawnda J. Swinson/WHO/EOP [WHO] <LaShawnda J. Swinson>;Nathaniel C. Ryun/WHO/EOP [UNKNOWN] <Nathaniel C. Ryun>;Holly M. Miller/WHO/EOP [WHO] <Holly M. Miller>;Kimberly L. Kuczynski/WHO/EOP [UNKNOWN] <Kimberly L. Kuczynski>;Linda S. DeHart/WHO/EOP [UNKNOWN] <Linda S. DeHart>;Cheryle E. Adams/WHO/EOP [WHO] <Cheryle E. Adams>;Jill C. Rowley/WHO/EOP [WHO] <Jill C. Rowley>;Misty C. Marshall/WHO/EOP [WHO] <Misty C. Marshall>;Lana Dickey/WHO/EOP [WHO] <Lana Dickey>;Eric W. Terrell/WHO/EOP [WHO] <Eric W. Terrell>;Michael J. Sullivan/WHO/EOP [WHO] <Michael J. Sullivan>;Morad Shayegan/WHO/EOP [WHO] <Morad Shayegan>;James J. Ross/WHO/EOP [WHO] <James J. Ross>;James M. Reynolds/WHO/EOP [UNKNOWN] <James M. Reynolds>;David M. Mark/WHO/EOP [WHO] <David M. Mark>;Curtis R. Jablonka/WHO/EOP [WHO] <Curtis R. Jablonka>;Manuela Hunt/WHO/EOP [WHO] <Manuela Hunt>;Matias Bobenrieth/WHO/EOP [WHO] <Matias Bobenrieth>;Kathy J. Becker/WHO/EOP [WHO] <Kathy J. Becker>;Robert T. Bailey/WHO/EOP [WHO] <Robert T. Bailey>;Elisabeth

Armstead/WHO/EOP [WHO] <Elisabeth Armstead>;Cynthia L. Shourds/WHO/EOP [WHO] <Cynthia L. Shourds>;Taeshonnda C. King/WHO/EOP [WHO] <Taeshonnda C. King>;Lee R. Johnson/WHO/EOP [UNKNOWN] <Lee R. Johnson>;Theodoric C. James Jr/WHO/EOP [WHO] <Theodoric C. James Jr>;Terry W. Good/WHO/EOP [WHO] <Terry W. Good>;Philip C. Droege/WHO/EOP [WHO] <Philip C. Droege>;Mary J. Brooke/WHO/EOP [WHO] <Mary J. Brooke>;Patricia L. Young/WHO/EOP [WHO] <Patricia L. Young>;Howard R. Westray/WHO/EOP [WHO] <Howard R. Westray>;Hugh T. Taggart Jr/WHO/EOP [WHO] <Hugh T. Taggart Jr>;Wandra E. Simpson/WHO/EOP [WHO] <Wandra E. Simpson>;Doris Parker/WHO/EOP [WHO] <Doris Parker>;Steven Myers/WHO/EOP [UNKNOWN] <Steven Myers>;Markus Most/WHO/EOP [UNKNOWN] <Markus Most>;Myra B. Freeman/WHO/EOP [WHO] <Myra B. Freeman>;Madalene E. Evans/WHO/EOP [WHO] <Madalene E. Evans>;Reginald D. Young Jr./WHO/EOP [WHO] <Reginald D. Young Jr.>;Deborah A. Jones/WHO/EOP [WHO] <Deborah A. Jones>;Crystal B. Jones/WHO/EOP [WHO] <Crystal B. Jones>;Willie C. Howell/WHO/EOP [UNKNOWN] <Willie C. Howell>;Frances L. Campbell/WHO/EOP [WHO] <Frances L. Campbell>;Phyllis J. Tucker/WHO/EOP [WHO] <Phyllis J. Tucker>;Charles B. Nash/WHO/EOP [WHO] <Charles B. Nash>;Patricia Williams/WHO/EOP [WHO] <Patricia Williams>;Eileen M. Upperman/WHO/EOP [UNKNOWN] <Eileen M. Upperman>;Bernice W. Smith/WHO/EOP [WHO] <Bernice W. Smith>;Wendy W. Showers/WHO/EOP [WHO] <Wendy W. Showers>;Jennifer E. Jumalon/WHO/EOP [UNKNOWN] <Jennifer E. Jumalon>;Danilo DeGuzman Jr./WHO/EOP [WHO] <Danilo DeGuzman Jr.>;Lynn A. Crable/WHO/EOP [WHO] <Lynn A. Crable>;Christine K. Baer/WHO/EOP [WHO] <Christine K. Baer>;Beatrice Watts/WHO/EOP [WHO] <Beatrice Watts>;James M. Reid/WHO/EOP [WHO] <James M. Reid>;James E. Clark/WHO/EOP [WHO] <James E. Clark>;Gregory T. Trainor/WHO/EOP [WHO] <Gregory T. Trainor>;Annie Stewart/WHO/EOP [WHO] <Annie Stewart>;Philip C. Mattson/WHO/EOP [WHO] <Philip C. Mattson>;Mark Lamb/OA/EOP [UNKNOWN] <Mark Lamb>;Agustin A. Labrador/WHO/EOP [UNKNOWN] <Agustin A. Labrador>;Barbara J. Garner/WHO/EOP [WHO] <Barbara J. Garner>;Mary U. Binns/WHO/EOP [WHO] <Mary U. Binns>;Elisabeth M. Schilling/WHO/EOP [WHO] <Elisabeth M. Schilling>;Gertrude A. Roddick/WHO/EOP [WHO] <Gertrude A. Roddick>;Guy R. Kirby/WHO/EOP [WHO] <Guy R. Kirby>;Shane P. Chambers/WHO/EOP [WHO] <Shane P. Chambers>;Meredith Anderson/WHO/EOP [WHO] <Meredith Anderson>;Sharon R. Lewis/WHO/EOP [WHO] <Sharon R. Lewis>;Vander Williams Jr./OA/EOP [OA] <Vander Williams Jr.>;Adrian Swann/OA/EOP [OA] <Adrian Swann>;Bobby Strickland/OA/EOP [OA] <Bobby Strickland>;Dewitt Ramsey/OA/EOP [OA] <Dewitt Ramsey>;Clifford G. Preston/OA/EOP [OA] <Clifford G. Preston>;John Y. Mcinnis/OA/EOP [OA] <John Y. Mcinnis>;Susana Gonzalez/OA/EOP [OA] <Susana Gonzalez>;Alejandro L. Deleyos/OA/EOP [OA] <Alejandro L. Deleyos>;Rolando S. DeCastro/OA/EOP [OA] <Rolando S. DeCastro>;Jeannetta P. Allen/OA/EOP [OA] <Jeannetta P. Allen>;James M. Reagan/WHO/EOP [WHO] <James M. Reagan>;Andre D. Norwood/WHO/EOP [WHO] <Andre D. Norwood>;Manuel A. Mendoza/WHO/EOP [WHO] <Manuel A. Mendoza>;Marilyn V. Herald/WHO/EOP [WHO] <Marilyn V. Herald>;Eileen M. Rowley/WHO/EOP [WHO] <Eileen M. Rowley>;Justin A. Grove/WHO/EOP [WHO] <Justin A. Grove>;Carolyn F. Atkinson/WHO/EOP [WHO] <Carolyn F. Atkinson>;Georgia D. Godfrey/WHO/EOP [WHO] <Georgia D. Godfrey>;Pamela R. Casey/WHO/EOP [WHO] <Pamela R. Casey>;Therese Burch/WHO/EOP [WHO] <Therese Burch>;Sydney R. Johnson/WHO/EOP [WHO] <Sydney R. Johnson>;Joan R. Doty/WHO/EOP [WHO] <Joan R. Doty>;Thais C. Conway/WHO/EOP [WHO] <Thais C. Conway>;Kathryn M. McKeown/WHO/EOP [WHO] <Kathryn M. McKeown>;Sherry J. Kuntz/WHO/EOP [UNKNOWN] <Sherry J. Kuntz>;David E. Kalbaugh/WHO/EOP [WHO] <David E. Kalbaugh>;Edwin R. Thomas III/WHO/EOP [WHO] <Edwin R. Thomas III>;G. Timothy Saunders/WHO/EOP [WHO] <G. Timothy Saunders>;William W. McCathran/WHO/EOP [WHO] <William W. McCathran>;Wanda M. Evans/WHO/EOP [WHO] <Wanda M. Evans>;Scott Sechser/WHO/EOP [WHO] <Scott Sechser>;Jacquelyn D Hayes-Byrd/WHO/EOP [UNKNOWN] <Jacquelyn D Hayes-Byrd>;Donna B. Gottshall/WHO/EOP [WHO] <Donna B. Gottshall>;Kimberly A. Douglass/WHO/EOP [WHO] <Kimberly A. Douglass>;Megan R. Johnston/WHO/EOP [WHO] <Megan R. Johnston>;Quincy Hicks/WHO/EOP [UNKNOWN] <Quincy Hicks>;Josephine L. Hirsch/WHO/EOP [WHO] <Josephine L. Hirsch>;Jeanie L. Figg/WHO/EOP [WHO] <Jeanie L. Figg>;Catherine S. Fenton/WHO/EOP [WHO] <Catherine S. Fenton>;Anne Trenolone/WHO/EOP [WHO] <Anne Trenolone>;Sonya E. Medina/WHO/EOP [WHO] <Sonya E. Medina>;Desiree T. Sayle/WHO/EOP [WHO] <Desiree T. Sayle>;Alison M. Harden/WHO/EOP [WHO] <Alison M. Harden>;Deanna R. Rodriguez/WHO/EOP [UNKNOWN] <Deanna R. Rodriguez>;Julieanne H. Thomas/WHO/EOP [WHO] <Julieanne H. Thomas>;Sarah M. Garrison/WHO/EOP [WHO] <Sarah M. Garrison>;Alison Jones/WHO/EOP [WHO] <Alison Jones>;Angela A. Jones/WHO/EOP [UNKNOWN] <Angela A. Jones>;Amy Barrera/WHO/EOP [

UNKNOWN] <Amy Barrera>;Clare Pritchett/WHO/EOP [WHO] <Clare Pritchett>;Daniel M. McCarthy/WHO/EOP [WHO] <Daniel M. McCarthy>;Scott Jeffcoat/WHO/EOP [UNKNOWN] <Scott Jeffcoat>;Matthew Kirk/WHO/EOP [WHO] <Matthew Kirk>;Dirksen Lehman/WHO/EOP [WHO] <Dirksen Lehman>;Heather Wingate/WHO/EOP [WHO] <Heather Wingate>;Christine Ciccone/WHO/EOP [WHO] <Christine Ciccone>;Ziad S. Ojakli/WHO/EOP [WHO] <Ziad S. Ojakli>;Mark A. Phelan/WHO/EOP [UNKNOWN] <Mark A. Phelan>;Peter M. Rowan/WHO/EOP [UNKNOWN] <Peter M. Rowan>;Robert Marsh/WHO/EOP [WHO] <Robert Marsh>;Brian C. Conklin/WHO/EOP [WHO] <Brian C. Conklin>;Daniel J. Keniry/WHO/EOP [WHO] <Daniel J. Keniry>;Kirsten A. Chadwick/WHO/EOP [WHO] <Kirsten A. Chadwick>;Roland N. Litterst/WHO/EOP [WHO] <Roland N. Litterst>;Christal R. West/WHO/EOP [WHO] <Christal R. West>;David W. Hobbs/WHO/EOP [WHO] <David W. Hobbs>;Emily Willeford/OPD/EOP [UNKNOWN] <Emily Willeford>;Jean M. Russell/OPD/EOP [OPD] <Jean M. Russell>;Stephen M. Garrison/WHO/EOP [WHO] <Stephen M. Garrison>;John M. Bridgeland/OPD/EOP [OPD] <John M. Bridgeland>;Sarah Pfeifer/OPD/EOP [UNKNOWN] <Sarah Pfeifer>;Margaret M. Spellings/OPD/EOP [OPD] <Margaret M. Spellings>;Lewis Libby/OVP/EOP [OVP] <Lewis Libby>;Brian V. McCormack/OVP/EOP [OVP] <Brian V. McCormack>;Debra Heiden/OVP/EOP [OVP] <Debra Heiden>;Israel Hernandez/WHO/EOP [WHO] <Israel Hernandez>;Susan B. Ralston/WHO/EOP [WHO] <Susan B. Ralston>;Mary Ann Hanusa/WHO/EOP [WHO] <Mary Ann Hanusa>;Debra D. Bird/WHO/EOP [WHO] <Debra D. Bird>;Barbara A. Barclay/WHO/EOP [WHO] <Barbara A. Barclay>;Carolyn E. Cleveland/WHO/EOP [WHO] <Carolyn E. Cleveland>;Stuart W. Bowen/WHO/EOP [WHO] <Stuart W. Bowen>;Harriet Miers/WHO/EOP [WHO] <Harriet Miers>;Kara G. Figg/WHO/EOP [WHO] <Kara G. Figg>;Reed Dickens/WHO/EOP [WHO] <Reed Dickens>;Rachael L. Sunbarger/WHO/EOP [WHO] <Rachael L. Sunbarger>;Gordon D. Johndroe/WHO/EOP [WHO] <Gordon D. Johndroe>;Claire E. Buchan/WHO/EOP [WHO] <Claire E. Buchan>;Scott McClellan/WHO/EOP [WHO] <Scott McClellan>;Harry W. Wolff/WHO/EOP [WHO] <Harry W. Wolff>;Brian Bravo/WHO/EOP [WHO] <Brian Bravo>;Jennifer K. Millerwise/WHO/EOP [UNKNOWN] <Jennifer K. Millerwise>;Vickie A. McQuade/WHO/EOP [WHO] <Vickie A. McQuade>;Lawrence A. Fleischer/WHO/EOP [WHO] <Lawrence A. Fleischer>;Clay Johnson III/WHO/EOP [WHO] <Clay Johnson III>;Marilyn R. Jacanin/WHO/EOP [WHO] <Marilyn R. Jacanin>;Eric A. Draper/WHO/EOP [WHO] <Eric A. Draper>;Ashley E. Davis/WHO/EOP [WHO] <Ashley E. Davis>;Cathy Alix/WHO/EOP [WHO] <Cathy Alix>;Hector F. Irastorza/WHO/EOP [WHO] <Hector F. Irastorza>;Michael J. Conway/WHO/EOP [WHO] <Michael J. Conway>;Jill Davie/WHO/EOP [WHO] <Jill Davie>;Ginger G. Loper/WHO/EOP [WHO] <Ginger G. Loper>;John W. Howard/WHO/EOP [UNKNOWN] <John W. Howard>;Nicholas E. Calio/WHO/EOP [WHO] <Nicholas E. Calio>;Krista L. Ritacco/WHO/EOP [WHO] <Krista L. Ritacco>;Michael J. Gerson/WHO/EOP [WHO] <Michael J. Gerson>;Christina D. Roberts/WHO/EOP [UNKNOWN] <Christina D. Roberts>;Jill L. Angelo/WHO/EOP [UNKNOWN] <Jill L. Angelo>;Albert Hawkins/WHO/EOP [WHO] <Albert Hawkins>;Allison L. Riepenhoff/WHO/EOP [WHO] <Allison L. Riepenhoff>;Elizabeth N. Camp/WHO/EOP [WHO] <Elizabeth N. Camp>;Logan M. Walters/WHO/EOP [UNKNOWN] <Logan M. Walters>;Ashley Estes/WHO/EOP [WHO] <Ashley Estes>;Linda M. Gambatesa/WHO/EOP [WHO] <Linda M. Gambatesa>;Blake Gottesman/WHO/EOP [WHO] <Blake Gottesman>;Marcus J. Mollmann/WHO/EOP [UNKNOWN] <Marcus J. Mollmann>;Colleen Litkenhaus/WHO/EOP [WHO] <Colleen Litkenhaus>;Joseph W. Hagin/WHO/EOP [WHO] <Joseph W. Hagin>;Joel D. Kaplan/WHO/EOP [WHO] <Joel D. Kaplan>;Kristen Silverberg/WHO/EOP [WHO] <Kristen Silverberg>;Joshua B. Bolten/WHO/EOP [WHO] <Joshua B. Bolten>;Melissa S. Bennett/WHO/EOP [WHO] <Melissa S. Bennett>;Josephine B. Robinson/WHO/EOP [WHO] <Josephine B. Robinson>;Andrew H. Card/WHO/EOP [WHO] <Andrew H. Card>

Sent: 12/12/2002 6:07:58 AM

Subject: : POSTMASTER: Salvation Army "Angels"

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME:12-DEC-2002 11:07:58.00
SUBJECT:: POSTMASTER: Salvation Army "Angels"
TO:Natalie S. Wozniak ( CN=Natalie S. Wozniak/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Gene Whitney ( CN=Gene Whitney/OU=OSTP/O=EOP [ OSTP ] )
READ:UNKNOWN
TO:Arnette C. White ( CN=Arnette C. White/OU=OMB/O=EOP [ OMB ] )
```

READ:UNKNOWN
TO:Larry D. Walker (CN=Larry D. Walker/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Charles J. Vandenbossche (CN=Charles J. Vandenbossche/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Chris Underhill (CN=Chris Underhill/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Maureen E. Tucker (CN=Maureen E. Tucker/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sandra J. Toomey (CN=Sandra J. Toomey/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Catherine W. Tobias (CN=Catherine W. Tobias/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:David C. Thompson (CN=David C. Thompson/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Nancy A. Theis (CN=Nancy A. Theis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Vigdor L. Teplitz (CN=Vigdor L. Teplitz/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Urbieta A. Swallow (CN=Urbieta A. Swallow/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Jose G. Suarez (CN=Jose G. Suarez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bruce L. Stewart (CN=Bruce L. Stewart/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gretchen P. Steen (CN=Gretchen P. Steen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel W. Starratt (CN=Daniel W. Starratt/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Julia A. Stahl (CN=Julia A. Stahl/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Lewis G. Sorvillo (CN=Lewis G. Sorvillo/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Paul M. Slaton (CN=Paul M. Slaton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie A. Shockley (CN=Leslie A. Shockley/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Acquanetta D. Sheppard (CN=Acquanetta D. Sheppard/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Thomas J. Sharpy (CN=Thomas J. Sharpy/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Praveen R. Shanbhag (CN=Praveen R. Shanbhag/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Richard M. Russell (CN=Richard M. Russell/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Dexter L. Rountree (CN=Dexter L. Rountree/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Rosemary M. Rogers (CN=Rosemary M. Rogers/OU=CEA/O=EOP@Exchange [CEA])
READ:UNKNOWN
TO:Cheryl A. Reynolds (CN=Cheryl A. Reynolds/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Michal M. Rehavi (CN=Michal M. Rehavi/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Gerald A. Powers (CN=Gerald A. Powers/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Patrick C. Porterfield (CN=Patrick C. Porterfield/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ashley E. Plaxico (CN=Ashley E. Plaxico/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Tobi L. Pinsky (CN=Tobi L. Pinsky/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Nicole Petrosino (CN=Nicole Petrosino/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jack E. Pennington (CN=Jack E. Pennington/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Dennis C. Patterson (CN=Dennis C. Patterson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Torkel L. Patterson (CN=Torkel L. Patterson/OU=NSC/O=EOP [UNKNOWN])

READ:UNKNOWN
TO:Lindsy Parrott (CN=Lindsy Parrott/OU=OA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Scott N. Pace (CN=Scott N. Pace/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Steve S. Nikes (CN=Steve S. Nikes/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Carolyn Nelson (CN=Carolyn Nelson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott D. Munn (CN=Scott D. Munn/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joseph Mukes (CN=Joseph Mukes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christa Moyle (CN=Christa Moyle/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kevin M. Minne (CN=Kevin M. Minne/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gwendolyn F. Mincey (CN=Gwendolyn F. Mincey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Terry C. Miller (CN=Terry C. Miller/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Raymond D. Miller (CN=Raymond D. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christopher T. Miller (CN=Christopher T. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:William R. Melick (CN=William R. Melick/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Tyler N. McPherson (CN=Tyler N. McPherson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hugh A. McGovern (CN=Hugh A. McGovern/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Terri C. McCoy (CN=Terri C. McCoy/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Kelli R. McClure (CN=Kelli R. McClure/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Charles J. McCleary (CN=Charles J. McCleary/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:James A. Mathews (CN=James A. Mathews/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Daniel W. Martin (CN=Daniel W. Martin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Catherine J. Martin (CN=Catherine J. Martin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert S. Marianelli (CN=Robert S. Marianelli/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Tracy Litton (CN=Tracy Litton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephanie E. Linder (CN=Stephanie E. Linder/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Benitta D. Lewis (CN=Benitta D. Lewis/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Rachel E. Levinson (CN=Rachel E. Levinson/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Donni M. LeBoeuf (CN=Donni M. LeBoeuf/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Joshua T. Krupnick (CN=Joshua T. Krupnick/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Randall S. Kroszner (CN=Randall S. Kroszner/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Ellis Kitchen (CN=Ellis Kitchen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Lana M. King (CN=Lana M. King/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence D. Kerr (CN=Lawrence D. Kerr/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Stephen A. Kemmer (CN=Stephen A. Kemmer/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Terrence K. Kelly (CN=Terrence K. Kelly/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Joseph M. Kearney (CN=Joseph M. Kearney/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Namita Kalyan (CN=Namita Kalyan/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Deidra A. Jules (CN=Deidra A. Jules/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard P. Emery Jr. (CN=Richard P. Emery Jr./OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Jacqueline D. Jones (CN=Jacqueline D. Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cyril Jones (CN=Cyril Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kaitlin S. Joerger (CN=Kaitlin S. Joerger/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Kevin D. Jennings (CN=Kevin D. Jennings/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jon Jefferson (CN=Jon Jefferson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Theresa M. Hunter (CN=Theresa M. Hunter/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Roger D. Huffstetler (CN=Roger D. Huffstetler/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Charles H. Huettner (CN=Charles H. Huettner/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Glenn Hubbard (CN=Glenn Hubbard/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Lonnie Hovey (CN=Lonnie Hovey/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Katie Hong (CN=Katie Hong/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Mark D. Hodge (CN=Mark D. Hodge/OU=OSTP/O=EOP@Exchange [OSTP])
READ:UNKNOWN
TO:Carl E. Hildebrand (CN=Carl E. Hildebrand/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Amelia J. Hessheimer (CN=Amelia J. Hessheimer/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Chris Henick (CN=Chris Henick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael Heath (CN=Michael Heath/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tracy R. Hatfield (CN=Tracy R. Hatfield/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dionne Hardy (CN=Dionne Hardy/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Henry G. Harbinson (CN=Henry G. Harbinson/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Larry E. Handeland (CN=Larry E. Handeland/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Robert J. Hall (CN=Robert J. Hall/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wendy J. Hall (CN=Wendy J. Hall/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Haley (CN=John F. Haley/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jon A. Guest (CN=Jon A. Guest/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James A. Griffin (CN=James A. Griffin/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Michael J. Green (CN=Michael J. Green/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Signe L. Girgus (CN=Signe L. Girgus/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Anthony J. Gibson (CN=Anthony J. Gibson/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jeffery W. Garland (CN=Jeffery W. Garland/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clifford J. Gabriel (CN=Clifford J. Gabriel/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Catherine H. Furlong (CN=Catherine H. Furlong/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Tommee S. Fullerton (CN=Tommee S. Fullerton/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:William J. Fugo (CN=William J. Fugo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lana M. Frankensfield (CN=Lana M. Frankensfield/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Betty J. Fountain (CN=Betty J. Fountain/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Amy K. Flatten (CN=Amy K. Flatten/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Ruth A. Fisher (CN=Ruth A. Fisher/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Theodore W. Ferm (CN=Theodore W. Ferm/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Barbara A. Ferguson (CN=Barbara A. Ferguson/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Lino A. Feliciano (CN=Lino A. Feliciano/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Miriam R. Eubanks (CN=Miriam R. Eubanks/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Gary B. Ellis (CN=Gary B. Ellis/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Don E. Eberly (CN=Don E. Eberly/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Nancy V. Dublin (CN=Nancy V. Dublin/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Drew T. Doolin (CN=Drew T. Doolin/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Paul D. Domich (CN=Paul D. Domich/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jose L. Delgado (CN=Jose L. Delgado/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Bradford D. Dayspring (CN=Bradford D. Dayspring/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Shana L. Dale (CN=Shana L. Dale/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:George G. Cravaritis (CN=George G. Cravaritis/OU=OSTP/O=EOP@Exchange [OSTP])
READ:UNKNOWN
TO:Timothy J. Cox (CN=Timothy J. Cox/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Christopher Coverdell (CN=Christopher Coverdell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jane M. Cook (CN=Jane M. Cook/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan G. Conard (CN=Susan G. Conard/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Donna I. Coleman (CN=Donna I. Coleman/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Susan P. Clements (CN=Susan P. Clements/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Ralph J. Clemens (CN=Ralph J. Clemens/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cynthia M. Chase (CN=Cynthia M. Chase/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Debra A. Carr (CN=Debra A. Carr/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Hugh D. Campbell (CN=Hugh D. Campbell/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Karen B. Brooks (CN=Karen B. Brooks/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexander M. Brill (CN=Alexander M. Brill/OU=CEA/O=EOP [UNKNOWN])

READ:UNKNOWN
TO:David R. Bohrer (CN=David R. Bohrer/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Rosina M. Bierbaum (CN=Rosina M. Bierbaum/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Todd W. Beyer (CN=Todd W. Beyer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stacey L. Benzel (CN=Stacey L. Benzel/OU=OSTP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Darrell K. Beals (CN=Darrell K. Beals/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Robert Bauer (CN=Robert Bauer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cheryl E. Barnett (CN=Cheryl E. Barnett/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jeffrey Bader (CN=Jeffrey Bader/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Steven A. Atkiss (CN=Steven A. Atkiss/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark T. Anderson (CN=Mark T. Anderson/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Paul T. Anastas (CN=Paul T. Anastas/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Regina F. Amos (CN=Regina F. Amos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:L. Linus Amorsingh (CN=L. Linus Amorsingh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brooks D. Altshuler (CN=Brooks D. Altshuler/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Bretton S. Alexander (CN=Bretton S. Alexander/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:William W. Mcilhenny (CN=William W. Mcilhenny/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:William H. Leary (CN=William H. Leary/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Wendy A. Loehrs (CN=Wendy A. Loehrs/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Victoria J. Darnes (CN=Victoria J. Darnes/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Vicki M. Clark (CN=Vicki M. Clark/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Travis C. Good (CN=Travis C. Good/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Timothy L. Gladura (CN=Timothy L. Gladura/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Timothy J. Keeler (CN=Timothy J. Keeler/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Thomas S. Marsh (CN=Thomas S. Marsh/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Thomas C. Greenwood (CN=Thomas C. Greenwood/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Thomas B. Robertson (CN=Thomas B. Robertson/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Thomas A. Hall (CN=Thomas A. Hall/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan L. Posey (CN=Susan L. Posey/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Susan J. Koch (CN=Susan J. Koch/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Stuart H. McIntyre (CN=Stuart H. McIntyre/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Steven N. Braun (CN=Steven N. Braun/OU=CEA/O=EOP [CEA])

READ:UNKNOWN
TO:Stephen S. Ruhlen (CN=Stephen S. Ruhlen/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Stephen L. Poizner (CN=Stephen L. Poizner/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Stephen J. Yates (CN=Stephen J. Yates/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Stacey D. Mulligan (CN=Stacey D. Mulligan/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sonyia Matthews (CN=Sonyia Matthews/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sean I. McCormack (CN=Sean I. McCormack/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah M. Lenti (CN=Sarah M. Lenti/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sang W. Lee (CN=Sang W. Lee/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sandra F. Daigle (CN=Sandra F. Daigle/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Samantha F. Ravich (CN=Samantha F. Ravich/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Ronald L. Watson (CN=Ronald L. Watson/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Roger W. Cressey (CN=Roger W. Cressey/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin Cleveland (CN=Robin Cleveland/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Robert J. Morton (CN=Robert J. Morton/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Richard R. Soubers (CN=Richard R. Soubers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Richard J. Raftery (CN=Richard J. Raftery/OU=PFIAB/O=EOP [PFIAB])
READ:UNKNOWN
TO:Richard C. Paschall (CN=Richard C. Paschall/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Richard A. Falkenrath (CN=Richard A. Falkenrath/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Richard A. Clarke (CN=Richard A. Clarke/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Rebecca J. Mitchell (CN=Rebecca J. Mitchell/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Randy W. Deitering (CN=Randy W. Deitering/OU=PFIAB/O=EOP [PFIAB])
READ:UNKNOWN
TO:Ralph C. Bellamy (CN=Ralph C. Bellamy/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Peter Smith (CN=Peter Smith/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Peter M. Feather (CN=Peter M. Feather/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patricia A. Battenfield (CN=Patricia A. Battenfield/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Pamela G. Quanrud (CN=Pamela G. Quanrud/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Nina Rees (CN=Nina Rees/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Nicholas J. Rasmussen (CN=Nicholas J. Rasmussen/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Neil S. Patel (CN=Neil S. Patel/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Nancy H. Maxfield (CN=Nancy H. Maxfield/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Myrtle Reddrick (CN=Myrtle Reddrick/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Millicent H. Schwenk (CN=Millicent H. Schwenk/OU=NSC/O=EOP [UNKNOWN])

READ:UNKNOWN
TO:Michael R. Fenzel (CN=Michael R. Fenzel/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Michael P. Smith (CN=Michael P. Smith/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Melinda A. Garroway (CN=Melinda A. Garroway/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Megan D. Moran (CN=Megan D. Moran/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Matthew K. McLean (CN=Matthew K. McLean/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Matthew J. Bryza (CN=Matthew J. Bryza/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary P. Tighe (CN=Mary P. Tighe/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary J. Matalin (CN=Mary J. Matalin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Mary Fibich (CN=Mary Fibich/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Mary E. Quinn (CN=Mary E. Quinn/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary E. Jones (CN=Mary E. Jones/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Mary C. Williams (CN=Mary C. Williams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary A. Haines (CN=Mary A. Haines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Martha B. Schiele (CN=Martha B. Schiele/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Marsha L. Dimel (CN=Marsha L. Dimel/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mark McClellan (CN=Mark McClellan/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Mark J. Sullivan (CN=Mark J. Sullivan/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Marjorie J. Gilbert (CN=Marjorie J. Gilbert/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Marie K. Fishpaw (CN=Marie K. Fishpaw/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Lisa D. Branch (CN=Lisa D. Branch/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Lisa A. Johnson (CN=Lisa A. Johnson/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Linda A. Reilly (CN=Linda A. Reilly/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Leandro A. Aragoncillo (CN=Leandro A. Aragoncillo/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Lauren K. Allgood (CN=Lauren K. Allgood/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Larry Adkins (CN=Larry Adkins/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Kurt D. Volker (CN=Kurt D. Volker/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kevin P. Sweeney (CN=Kevin P. Sweeney/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Katherine J. Fertakis (CN=Katherine J. Fertakis/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Katherine Baicker (CN=Katherine Baicker/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Karen Y. Knutson (CN=Karen Y. Knutson/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Karen Starr (CN=Karen Starr/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Karen E. Kaufmann (CN=Karen E. Kaufmann/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Kameran L. Bailey (CN=Kameran L. Bailey/OU=CEQ/O=EOP [UNKNOWN])

READ:UNKNOWN
TO:Judson L. Bruns (CN=Judson L. Bruns/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Judith P. Russ (CN=Judith P. Russ/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Joseph R. Wood (CN=Joseph R. Wood/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Joseph M. Myers (CN=Joseph M. Myers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jose A. Fuentes (CN=Jose A. Fuentes/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jonathan W. Burks (CN=Jonathan W. Burks/OU=OVP/O=EOP@Exchange [OVP])
READ:UNKNOWN
TO:Jonathan R. Scharfen (CN=Jonathan R. Scharfen/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Johnathan C. Bunting (CN=Johnathan C. Bunting/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John W. Ficklin (CN=John W. Ficklin/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John Paliokas (CN=John Paliokas/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:John P. Mudd (CN=John P. Mudd/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John P. Hannah (CN=John P. Hannah/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John Fenzel (CN=John Fenzel/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:John F. Sammis (CN=John F. Sammis/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John F. Maisto (CN=John F. Maisto/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John D. Gibson (CN=John D. Gibson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John C. Rood (CN=John C. Rood/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John C. Gossel (CN=John C. Gossel/OU=OVP/O=EOP@Exchange [OVP])
READ:UNKNOWN
TO:John B. Wiegmann (CN=John B. Wiegmann/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Joanna B. Wallace (CN=Joanna B. Wallace/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Joan K. Edwards (CN=Joan K. Edwards/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Joan Hunerwadel (CN=Joan Hunerwadel/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jennifer H. Mayfield (CN=Jennifer H. Mayfield/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jennifer Abrahamsen (CN=Jennifer Abrahamsen/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jennifer A. Wray (CN=Jennifer A. Wray/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jeffrey A. Reed (CN=Jeffrey A. Reed/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jane E. Baker (CN=Jane E. Baker/OU=PFIAB/O=EOP [PFIAB])
READ:UNKNOWN
TO:Jane C. Heishman (CN=Jane C. Heishman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:James Babbitt (CN=James Babbitt/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:James A. Smith (CN=James A. Smith/OU=NSC/O=EOP [UNKNOWN])

READ:UNKNOWN
TO:Jaime E. Martinez (CN=Jaime E. Martinez/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jacqueline C. Cragg (CN=Jacqueline C. Cragg/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Irena I. Asmundson (CN=Irena I. Asmundson/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Harry K. Thomas (CN=Harry K. Thomas/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Gregory A. Manuel (CN=Gregory A. Manuel/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gay L. Joshlyn (CN=Gay L. Joshlyn/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Frank G. Klotz (CN=Frank G. Klotz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Francine P. Obermiller (CN=Francine P. Obermiller/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Frances E. Norris (CN=Frances E. Norris/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Eva A. Weigold (CN=Eva A. Weigold/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Ethan A. Hastert (CN=Ethan A. Hastert/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Edward L. Bolton (CN=Edward L. Bolton/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Douglas J. Holtz-Eakin (CN=Douglas J. Holtz-Eakin/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Doris J. Wingard (CN=Doris J. Wingard/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Dora Kale (CN=Dora Kale/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Donna G. Rowland-Gough (CN=Donna G. Rowland-Gough/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Diana E. Furchtgott-Roth (CN=Diana E. Furchtgott-Roth/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Debra L. Shelton (CN=Debra L. Shelton/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Deborah A. Loewer (CN=Deborah A. Loewer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:David R. Shedd (CN=David R. Shedd/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David M. Hess (CN=David M. Hess/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David J. Rodriguez (CN=David J. Rodriguez/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Daniel R. Sanborn (CN=Daniel R. Sanborn/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel K. Wilmot (CN=Daniel K. Wilmot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Courtney R. Nemroff (CN=Courtney R. Nemroff/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Claire M. O'Donnell (CN=Claire M. O'Donnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Cindy L. Courville (CN=Cindy L. Courville/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Christopher M. Fiorenza (CN=Christopher M. Fiorenza/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Christopher L. George (CN=Christopher L. George/OU=NSC/O=EOP [NSC])

READ:UNKNOWN
TO:Christopher J. Bolan (CN=Christopher J. Bolan/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Christopher D. Gambill (CN=Christopher D. Gambill/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christina L. Burrell (CN=Christina L. Burrell/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Charles M. Smith (CN=Charles M. Smith/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Charles D. McGrath Jr (CN=Charles D. McGrath Jr/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Charlene C. Bolinski (CN=Charlene C. Bolinski/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Cesar Conda (CN=Cesar Conda/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Catherine E. Byrne (CN=Catherine E. Byrne/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Carolyn L. Evans (CN=Carolyn L. Evans/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Candida P. Wolff (CN=Candida P. Wolff/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Cameron P. Munter (CN=Cameron P. Munter/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Bruce O. Riedel (CN=Bruce O. Riedel/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Bruce E. Miller (CN=Bruce E. Miller/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Brian T. Merchant (CN=Brian T. Merchant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian H. Jenn (CN=Brian H. Jenn/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Brian A. Amorosi (CN=Brian A. Amorosi/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Brendan G. Melley (CN=Brendan G. Melley/OU=PFIAB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Beverly J. Roundtree (CN=Beverly J. Roundtree/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Bernard T. Crawford (CN=Bernard T. Crawford/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Benjamin A. Miller (CN=Benjamin A. Miller/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Barbara E. Howerton (CN=Barbara E. Howerton/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Augustine Peterson-Becker (CN=Augustine Peterson-Becker/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ashley M. Snee (CN=Ashley M. Snee/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Anthony N. Banbury (CN=Anthony N. Banbury/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Angela B. Styles (CN=Angela B. Styles/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Andrew M. Kaver (CN=Andrew M. Kaver/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Andrew Lundquist (CN=Andrew Lundquist/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Andrew J. Filardo (CN=Andrew J. Filardo/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Alice H. Williams (CN=Alice H. Williams/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Alexian T. Wines (CN=Alexian T. Wines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Admir Serifovic (CN=Admir Serifovic/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Adele C. Morris (CN=Adele C. Morris/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Adam R. Saunders (CN=Adam R. Saunders/OU=CEA/O=EOP [CEA])

READ:UNKNOWN
TO:Mary K. Lang (CN=Mary K. Lang/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Carol R. Kuntz (CN=Carol R. Kuntz/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Terry L. Karow (CN=Terry L. Karow/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Michael A. Gould (CN=Michael A. Gould/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Michael A. Garcia (CN=Michael A. Garcia/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jennifer D. Field (CN=Jennifer D. Field/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Eric S. Edelman (CN=Eric S. Edelman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Debra R. Dunn (CN=Debra R. Dunn/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Nancy P. Dorn (CN=Nancy P. Dorn/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Elizabeth A. Denny (CN=Elizabeth A. Denny/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Cecelia Boyer (CN=Cecelia Boyer/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Rodney A. Angquico (CN=Rodney A. Angquico/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John Graham (CN=John Graham/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Mary M. Chuckerel (CN=Mary M. Chuckerel/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Cynthia A. Christian (CN=Cynthia A. Christian/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Lois E. Altoft (CN=Lois E. Altoft/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Augustine T. Smythe (CN=Augustine T. Smythe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Rebecca E. Davis (CN=Rebecca E. Davis/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Yvonne T. Bowlding (CN=Yvonne T. Bowlding/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jennifer J. Wood (CN=Jennifer J. Wood/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Amy L. Call (CN=Amy L. Call/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Sandra L. Via (CN=Sandra L. Via/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Retha M. Senke (CN=Retha M. Senke/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Sean C. O'Keefe (CN=Sean C. O'Keefe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Karen E. Keller (CN=Karen E. Keller/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:John W. Fielding (CN=John W. Fielding/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Jennifer Willis (CN=Jennifer Willis/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Susanna Reckord-Raymer (CN=Susanna Reckord-Raymer/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Manuel Briskin (CN=Manuel Briskin/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Christine C. McCarlie (CN=Christine C. McCarlie/OU=OMB/O=EOP [UNKNOWN])

READ:UNKNOWN
TO:Brett S. Loper (CN=Brett S. Loper/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Marcus Peacock (CN=Marcus Peacock/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Karen S. Dooley (CN=Karen S. Dooley/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:James C. Capretta (CN=James C. Capretta/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Mark A. Wasserman (CN=Mark A. Wasserman/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Amy C. Smith (CN=Amy C. Smith/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Justine F. Rodriguez (CN=Justine F. Rodriguez/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Danielle M. Simonetta (CN=Danielle M. Simonetta/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Elizabeth L. Rossman (CN=Elizabeth L. Rossman/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Eric C. Pelletier (CN=Eric C. Pelletier/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Jennifer M. Guy (CN=Jennifer M. Guy/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Carlos E. Bonilla (CN=Carlos E. Bonilla/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Karyn T. Carson (CN=Karyn T. Carson/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Michael K. Berkholtz (CN=Michael K. Berkholtz/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Lawrence B. Lindsey (CN=Lawrence B. Lindsey/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Leslie A. Mooney (CN=Leslie A. Mooney/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Elaine M. Mitsler (CN=Elaine M. Mitsler/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John A. Cloud (CN=John A. Cloud/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary L. Adams (CN=Mary L. Adams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kristine Simmons (CN=Kristine Simmons/OU=OPD/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:John C. Dettleff (CN=John C. Dettleff/OU=OPD/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Eric H. Otto (CN=Eric H. Otto/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Ansley C. Tillman (CN=Ansley C. Tillman/OU=OPD/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Sarah Gesiriech (CN=Sarah Gesiriech/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Brian R. Besanceney (CN=Brian R. Besanceney/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=OPD/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Sarah E. Youssef (CN=Sarah E. Youssef/OU=OPD/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Marisa K. Medrano (CN=Marisa K. Medrano/OU=OPD/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jona M. Turner (CN=Jona M. Turner/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Margita N. Thompson (CN=Margita N. Thompson/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Shanon M. Woodrum (CN=Shanon M. Woodrum/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anthony D. Weber (CN=Anthony D. Weber/OU=NSC/O=EOP [NSC])

READ:UNKNOWN
TO:Rafael Vila (CN=Rafael Vila/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Julie A. Snyder (CN=Julie A. Snyder/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Wendy L. Schreiber (CN=Wendy L. Schreiber/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Raymond H. Payne (CN=Raymond H. Payne/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Michael R. Lowden (CN=Michael R. Lowden/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Dwayne L. Locke (CN=Dwayne L. Locke/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Michael B. DePaepe (CN=Michael B. DePaepe/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Donald N. Clifford (CN=Donald N. Clifford/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gary E. Bresnahan (CN=Gary E. Bresnahan/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:James R. Wilkinson (CN=James R. Wilkinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott Stanzel (CN=Scott Stanzel/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jeanie S. Mamo (CN=Jeanie S. Mamo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kenneth A. Lisaius (CN=Kenneth A. Lisaius/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Taylor S. Gross (CN=Taylor S. Gross/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:William T. Griffin (CN=William T. Griffin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gail Randall (CN=Gail Randall/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Kristopher N. Purcell (CN=Kristopher N. Purcell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gregory Goss (CN=Gregory Goss/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert Deservi (CN=Robert Deservi/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lois A. Cassano (CN=Lois A. Cassano/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edmund A. Walsh (CN=Edmund A. Walsh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michelle N. Brawer (CN=Michelle N. Brawer/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Tracy Young (CN=Tracy Young/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Erin E. Healy (CN=Erin E. Healy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jeannette B. Reilly (CN=Jeannette B. Reilly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Matthew O. Scully (CN=Matthew O. Scully/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:David Frum (CN=David Frum/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Lorraine Nisbet (CN=Lorraine Nisbet/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Chad M. Kolton (CN=Chad M. Kolton/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Neil H. Zimmerman (CN=Neil H. Zimmerman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael Shannon (CN=Michael Shannon/OU=WHO/O=EOP [UNKNOWN])

READ:UNKNOWN
TO:Lynden R. Steele (CN=Lynden R. Steele/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Janet M. Philips (CN=Janet M. Philips/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Moreen E. Ishikawa (CN=Moreen E. Ishikawa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael Davis (CN=Michael Davis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mercedes M. Viana (CN=Mercedes M. Viana/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christopher J. Orr (CN=Christopher J. Orr/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wendy L. Nipper (CN=Wendy L. Nipper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:L. Camille Welborn (CN=L. Camille Welborn/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ali H. Tulbah (CN=Ali H. Tulbah/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Laura S. Lawlor (CN=Laura S. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nicole E. Grodner (CN=Nicole E. Grodner/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Craig Felner (CN=Craig Felner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Victoria Soberinsky (CN=Victoria Soberinsky/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Carrie C. Pauska (CN=Carrie C. Pauska/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jennifer A. Minton (CN=Jennifer A. Minton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Rory J. Diamond (CN=Rory J. Diamond/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley Cannatti (CN=Ashley Cannatti/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jeffrey W. Bloemker (CN=Jeffrey W. Bloemker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cynthia F. Williams (CN=Cynthia F. Williams/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Satya Vashisht (CN=Satya Vashisht/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kenneth A. Thomas (CN=Kenneth A. Thomas/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Marty P. Smith (CN=Marty P. Smith/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stacey B. Silva (CN=Stacey B. Silva/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jennifer C. Sheehy (CN=Jennifer C. Sheehy/OU=OPD/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Mayra N. Segovia (CN=Mayra N. Segovia/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Michael A. Sanders (CN=Michael A. Sanders/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew D. Sacher (CN=Andrew D. Sacher/OU=OPD/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edwina C. Rogers (CN=Edwina C. Rogers/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Ari Patrinos (CN=Ari Patrinos/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Sara B. McIntosh (CN=Sara B. McIntosh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anita B. McBride (CN=Anita B. McBride/OU=WHO/O=EOP [UNKNOWN])

READ:UNKNOWN
TO:Gregory J. Jenkins (CN=Gregory J. Jenkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Karen Hughes (CN=Karen Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:A. Merrill Hughes (CN=A. Merrill Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Anne Heiligenstein (CN=Anne Heiligenstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Philo D. Hall (CN=Philo D. Hall/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Luz Gelabert (CN=Luz Gelabert/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Daniel D. Faoro (CN=Daniel D. Faoro/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Tracy L. Carson (CN=Tracy L. Carson/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bethany A. Ashworth (CN=Bethany A. Ashworth/OU=OPD/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Courtney S. Elwood (CN=Courtney S. Elwood/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Katherine M. Walters (CN=Katherine M. Walters/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Patricia C. Zemple (CN=Patricia C. Zemple/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Julius Rothstein (CN=Julius Rothstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:A. Morgan Middlemas (CN=A. Morgan Middlemas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ann L. Loughlin (CN=Ann L. Loughlin/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Lori L. Lorenzi (CN=Lori L. Lorenzi/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hale W. Hawbecker (CN=Hale W. Hawbecker/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Laura L. Flippin (CN=Laura L. Flippin/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Robert W. Cobb (CN=Robert W. Cobb/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jason B. Torchinsky (CN=Jason B. Torchinsky/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Matthew E. Smith (CN=Matthew E. Smith/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Angela R. Sailor (CN=Angela R. Sailor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kathryn J. Hayes (CN=Kathryn J. Hayes/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:John D. Estes (CN=John D. Estes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Meredith A. Terpeluk (CN=Meredith A. Terpeluk/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Adam B. Goldman (CN=Adam B. Goldman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gian-Carlo A. Peressutti (CN=Gian-Carlo A. Peressutti/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Abel Guerra (CN=Abel Guerra/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leonard B. Rodriguez (CN=Leonard B. Rodriguez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Karen L. Zent (CN=Karen L. Zent/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jennifer M. Farley (CN=Jennifer M. Farley/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Traci R. Campbell (CN=Traci R. Campbell/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Douglas L. Hoelscher (CN=Douglas L. Hoelscher/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul B. Dyck (CN=Paul B. Dyck/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David M. Thomas (CN=David M. Thomas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sara M. Taylor (CN=Sara M. Taylor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Noelia Rodriguez (CN=Noelia Rodriguez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael J. Napolitano (CN=Michael J. Napolitano/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kenneth B. Mehlman (CN=Kenneth B. Mehlman/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Kelley J. McCullough (CN=Kelley J. McCullough/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melanie A. Jackson (CN=Melanie A. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Alicia W. Davis (CN=Alicia W. Davis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashleigh A. Adams (CN=Ashleigh A. Adams/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jerry Yates (CN=Jerry Yates/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Steven E. Ackley (CN=Steven E. Ackley/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Edward W. Radgowski (CN=Edward W. Radgowski/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Patricia Parker (CN=Patricia Parker/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Diane F. Jamison (CN=Diane F. Jamison/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Paul A. Buccelli (CN=Paul A. Buccelli/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Alex G. Nagy (CN=Alex G. Nagy/OU=WHO/O=EOP [UNKNOWN])

READ:UNKNOWN
TO:Thaddeus J. Hunt (CN=Thaddeus J. Hunt/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Chris B. Nagel (CN=Chris B. Nagel/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Kristen L. Hughes (CN=Kristen L. Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Althea T. Vanzego (CN=Althea T. Vanzego/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:LaShawnda J. Swinson (CN=LaShawnda J. Swinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nathaniel C. Ryun (CN=Nathaniel C. Ryun/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Holly M. Miller (CN=Holly M. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kimberly L. Kuczynski (CN=Kimberly L. Kuczynski/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Linda S. DeHart (CN=Linda S. DeHart/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Cheryle E. Adams (CN=Cheryle E. Adams/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jill C. Rowley (CN=Jill C. Rowley/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Misty C. Marshall (CN=Misty C. Marshall/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lana Dickey (CN=Lana Dickey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eric W. Terrell (CN=Eric W. Terrell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael J. Sullivan (CN=Michael J. Sullivan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Morad Shayegan (CN=Morad Shayegan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James J. Ross (CN=James J. Ross/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. Reynolds (CN=James M. Reynolds/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:David M. Mark (CN=David M. Mark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Curtis R. Jablonka (CN=Curtis R. Jablonka/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Manuela Hunt (CN=Manuela Hunt/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Matias Bobenrieth (CN=Matias Bobenrieth/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kathy J. Becker (CN=Kathy J. Becker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert T. Bailey (CN=Robert T. Bailey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elisabeth Armstead (CN=Elisabeth Armstead/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cynthia L. Shourds (CN=Cynthia L. Shourds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Taeshonnda C. King (CN=Taeshonnda C. King/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lee R. Johnson (CN=Lee R. Johnson/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Theodoric C. James Jr (CN=Theodoric C. James Jr/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Terry W. Good (CN=Terry W. Good/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Philip C. Droege (CN=Philip C. Droege/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary J. Brooke (CN=Mary J. Brooke/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Patricia L. Young (CN=Patricia L. Young/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Howard R. Westray (CN=Howard R. Westray/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Hugh T. Taggart Jr (CN=Hugh T. Taggart Jr/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wandra E. Simpson (CN=Wandra E. Simpson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Doris Parker (CN=Doris Parker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Steven Myers (CN=Steven Myers/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Markus Most (CN=Markus Most/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Myra B. Freeman (CN=Myra B. Freeman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Madalene E. Evans (CN=Madalene E. Evans/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Reginald D. Young Jr. (CN=Reginald D. Young Jr./OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Deborah A. Jones (CN=Deborah A. Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Crystal B. Jones (CN=Crystal B. Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Willie C. Howell (CN=Willie C. Howell/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Frances L. Campbell (CN=Frances L. Campbell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Phyllis J. Tucker (CN=Phyllis J. Tucker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles B. Nash (CN=Charles B. Nash/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Patricia Williams (CN=Patricia Williams/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eileen M. Upperman (CN=Eileen M. Upperman/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Bernice W. Smith (CN=Bernice W. Smith/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wendy W. Showers (CN=Wendy W. Showers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jennifer E. Jumalon (CN=Jennifer E. Jumalon/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Danilo DeGuzman Jr. (CN=Danilo DeGuzman Jr./OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lynn A. Crable (CN=Lynn A. Crable/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christine K. Baer (CN=Christine K. Baer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Beatrice Watts (CN=Beatrice Watts/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. Reid (CN=James M. Reid/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James E. Clark (CN=James E. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gregory T. Trainor (CN=Gregory T. Trainor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Annie Stewart (CN=Annie Stewart/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Philip C. Mattson (CN=Philip C. Mattson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Lamb (CN=Mark Lamb/OU=OA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Agustin A. Labrador (CN=Agustin A. Labrador/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Barbara J. Garner (CN=Barbara J. Garner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary U. Binns (CN=Mary U. Binns/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elisabeth M. Schilling (CN=Elisabeth M. Schilling/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gertrude A. Roddick (CN=Gertrude A. Roddick/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Guy R. Kirby (CN=Guy R. Kirby/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Shane P. Chambers (CN=Shane P. Chambers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Meredith Anderson (CN=Meredith Anderson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sharon R. Lewis (CN=Sharon R. Lewis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Vander Williams Jr. (CN=Vander Williams Jr./OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Adrian Swann (CN=Adrian Swann/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Bobby Strickland (CN=Bobby Strickland/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Dewitt Ramsey (CN=Dewitt Ramsey/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Clifford G. Preston (CN=Clifford G. Preston/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:John Y. Mcinnis (CN=John Y. Mcinnis/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Susana Gonzalez (CN=Susana Gonzalez/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Alejandro L. Deleyos (CN=Alejandro L. Deleyos/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Rolando S. DeCastro (CN=Rolando S. DeCastro/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Jeannetta P. Allen (CN=Jeannetta P. Allen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:James M. Reagan (CN=James M. Reagan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andre D. Norwood (CN=Andre D. Norwood/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Manuel A. Mendoza (CN=Manuel A. Mendoza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marilyn V. Herald (CN=Marilyn V. Herald/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eileen M. Rowley (CN=Eileen M. Rowley/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Justin A. Grove (CN=Justin A. Grove/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carolyn F. Atkinson (CN=Carolyn F. Atkinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Georgia D. Godfrey (CN=Georgia D. Godfrey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Pamela R. Casey (CN=Pamela R. Casey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Therese Burch (CN=Therese Burch/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sydney R. Johnson (CN=Sydney R. Johnson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joan R. Doty (CN=Joan R. Doty/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thais C. Conway (CN=Thais C. Conway/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kathryn M. McKeown (CN=Kathryn M. McKeown/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sherry J. Kuntz (CN=Sherry J. Kuntz/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:David E. Kalbaugh (CN=David E. Kalbaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edwin R. Thomas III (CN=Edwin R. Thomas III/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:G. Timothy Saunders (CN=G. Timothy Saunders/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:William W. McCathran (CN=William W. McCathran/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wanda M. Evans (CN=Wanda M. Evans/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Scott Sechser (CN=Scott Sechser/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jacquelyn D Hayes-Byrd (CN=Jacquelyn D Hayes-Byrd/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Donna B. Gottshall (CN=Donna B. Gottshall/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kimberly A. Douglass (CN=Kimberly A. Douglass/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Megan R. Johnston (CN=Megan R. Johnston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Quincy Hicks (CN=Quincy Hicks/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Josephine L. Hirsch (CN=Josephine L. Hirsch/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jeanie L. Figg (CN=Jeanie L. Figg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne Trenolone (CN=Anne Trenolone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sonya E. Medina (CN=Sonya E. Medina/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Alison M. Harden (CN=Alison M. Harden/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Deanna R. Rodriguez (CN=Deanna R. Rodriguez/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Julieanne H. Thomas (CN=Julieanne H. Thomas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sarah M. Garrison (CN=Sarah M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Angela A. Jones (CN=Angela A. Jones/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Amy Barrera (CN=Amy Barrera/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Clare Pritchett (CN=Clare Pritchett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel M. McCarthy (CN=Daniel M. McCarthy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott Jeffcoat (CN=Scott Jeffcoat/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dirksen Lehman (CN=Dirksen Lehman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christine Ciccone (CN=Christine Ciccone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark A. Phelan (CN=Mark A. Phelan/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Peter M. Rowan (CN=Peter M. Rowan/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Christal R. West (CN=Christal R. West/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Emily Willeford (CN=Emily Willeford/OU=OPD/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jean M. Russell (CN=Jean M. Russell/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen M. Garrison (CN=Stephen M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Sarah Pfeifer (CN=Sarah Pfeifer/OU=OPD/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Debra Heiden (CN=Debra Heiden/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary Ann Hanusa (CN=Mary Ann Hanusa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Barbara A. Barclay (CN=Barbara A. Barclay/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stuart W. Bowen (CN=Stuart W. Bowen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Reed Dickens (CN=Reed Dickens/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Rachael L. Sunbarger (CN=Rachael L. Sunbarger/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gordon D. Johndroe (CN=Gordon D. Johndroe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Harry W. Wolff (CN=Harry W. Wolff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jennifer K. Millerwise (CN=Jennifer K. Millerwise/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Vickie A. McQuade (CN=Vickie A. McQuade/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marilyn R. Jacanin (CN=Marilyn R. Jacanin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eric A. Draper (CN=Eric A. Draper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley E. Davis (CN=Ashley E. Davis/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Cathy Alix (CN=Cathy Alix/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hector F. Irastorza (CN=Hector F. Irastorza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jill Davie (CN=Jill Davie/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John W. Howard (CN=John W. Howard/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Nicholas E. Calio (CN=Nicholas E. Calio/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christina D. Roberts (CN=Christina D. Roberts/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jill L. Angelo (CN=Jill L. Angelo/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Albert Hawkins (CN=Albert Hawkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Allison L. Riepenhoff (CN=Allison L. Riepenhoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Logan M. Walters (CN=Logan M. Walters/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marcus J. Mollmann (CN=Marcus J. Mollmann/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine B. Robinson (CN=Josephine B. Robinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Salvation Army "Angels"

The Salvation Army "Angels" have arrived and are waiting for you to make
their Christmas wish come true. Angels
are hanging on the trees in the West Wing Lobby and the West Wing Ground
Floor Lobby. Please select an Angel
from one of the trees and let Ann Gray, the West Wing Receptionist,
(x6-2605) know which one you've
chosen.

You may return your wrapped gifts with the code attached to the outside no

later than December 19 to Ann Gray in the West Wing Lobby.

Help us make sure no "Angels" are forgotten!

Thank you.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Colloton, Steve <Steve.Colloton@usdoj.gov>
Sent: 12/12/2002 10:16:09 AM
Subject: : Re: DM Airport

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:12-DEC-2002 15:16:09.00
SUBJECT:: Re: DM Airport
TO:"Colloton, Steve" <Steve.Colloton@usdoj.gov> ("Colloton, Steve"
<Steve.Colloton@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Thanks. See you there.

"Colloton, Steve" <Steve.Colloton@usdoj.gov>
12/12/2002 02:18:18 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: DM Airport

Just talked to Roger Stetson. I will plan to pick you up at 1:30 p.m. and deliver you to Stetson at the Marriott. If I have a conflict, then Roger will pick you up.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kasey S. Pipes/WHO/EOP@EOP [WHO] <Kasey S. Pipes>
Sent: 12/13/2002 4:09:13 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:13-DEC-2002 09:09:13.00
SUBJECT::
TO:Kasey S. Pipes ( CN=Kasey S. Pipes/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I think we should invite political appointees at Justice in the AG's
office, OLC, OLP, and SG's office. I also think we should invite general
counsels of the cabinet departments.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>;Elizabeth N. Camp/WHO /EOP@EOP [WHO] <Elizabeth N. Camp>;Raquel Cabral/WHO/EOP@EOP [WHO] <Raquel Cabral>;Charlotte L. Montiel/WHO/EOP@EOP [WHO] <Charlotte L. Montiel>;David G. Leitch/WHO/EOP@EOP [WHO] <David G. Leitch>
Sent: 12/13/2002 3:21:16 AM
Subject: : travel this afternoon

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:13-DEC-2002 08:21:16.00
SUBJECT:: travel this afternoon
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Raquel Cabral ( CN=Raquel Cabral/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I will be out of office after about 11:00 this morning traveling to the
very exciting Iowa state bar association annual meeting to talk re
judges. Will be available on cell and blackberry.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Elizabeth N. Camp/WHO /EOP@EOP [WHO] <Elizabeth N. Camp>;Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>
Sent: 12/13/2002 9:32:13 AM
Subject: : Re: disregard email

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:13-DEC-2002 14:32:13.00
SUBJECT:: Re: disregard email
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

That is why I sent the email this morning -- to avoid dropped balls.

.

----- Original Message -----
From:Patrick J. Bumatay/WHO/EOP
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 12/13/2002 01:50:33 PM
Subject: disregard email

I forgot you letft. I'll see if David Leitch can attend. It's on Snow.

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]

To: Dylan C. Glenn/OPD/EOP@EOP [OPD] <Dylan C. Glenn>;Angela B. Styles/OMB/EOP@EOP [OMB] <Angela B. Styles>;Catherine J. Martin/OVP/EOP@EOP [OVP] <Catherine J. Martin>;Julieanne H. Thomas/WHO/EOP@EOP [WHO] <Julieanne H. Thomas>;Stephen M. Garrison/WHO/EOP@EOP [WHO] <Stephen M. Garrison>;Adam B. Goldman/WHO /EOP@EOP [WHO] <Adam B. Goldman>;Sara M. Taylor/WHO/EOP@EOP [WHO] <Sara M. Taylor>;Mercedes M. Viana/WHO/EOP@EOP [WHO] <Mercedes M. Viana>;Ken Mehlman/WHO/EOP@EOP [WHO] <Ken Mehlman>;Israel Hernandez/WHO/EOP@EOP [WHO] <Israel Hernandez>;Kara G. Figg/WHO/EOP@EOP [WHO] <Kara G. Figg>;Jennifer Cervantes/WHO/EOP@EOP [WHO] <Jennifer Cervantes>;Tiffany L. Barfield/WHO/EOP@EOP [WHO] <Tiffany L. Barfield>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Ashley E. Davis/WHO/EOP@EOP [WHO] <Ashley E. Davis>;Kenneth A. Lisaius/WHO /EOP@EOP [WHO] <Kenneth A. Lisaius>;Kelley Gannon/WHO/EOP@EOP [WHO] <Kelley Gannon>;Brian D. Montgomery/WHO/EOP@EOP [WHO] <Brian D. Montgomery>;elizabeth_hogan@who.eop.gov @ inet [UNKNOWN] <elizabeth_hogan@who.eop.gov @ inet>;aameece@quinngillespie.com @ inet [UNKNOWN] <aameece@quinngillespie.com @ inet>;emilybkertz@yahoo.com @ inet [UNKNOWN] <emilybkertz@yahoo.com @ inet>;ashley_estes@who.eop.gov @ inet [UNKNOWN] <ashley_estes@who.eop.gov @ inet>;cthompso@opd.eop.gov [OPD] <cthompso@opd.eop.gov>;christicowden@earthlink.net @ inet [UNKNOWN] <christicowden@earthlink.net @ inet>;wbenestante@fema.gov @ inet [UNKNOWN] <wbenestante@fema.gov @ inet>;sstyles@bbchb.com @ inet [UNKNOWN] <sstyles@bbchb.com @ inet>;sherman@post.harvard.edu @ inet [OA] <sherman@post.harvard.edu @ inet>;aquaye@msn.com @ inet [UNKNOWN] <aquaye@msn.com @ inet>;rrromero@sbinfra.com @ inet [UNKNOWN] <rrromero@sbinfra.com @ inet>;bhester@doc.gov @ inet [UNKNOWN] <bhester@doc.gov @ inet>;glotfelty@comcast.net @ inet [UNKNOWN] <glotfelty@comcast.net @ inet>;WGaynor@doc.gov @ inet [UNKNOWN] <WGaynor@doc.gov @ inet>;eubankjh@state.gov @ inet [UNKNOWN] <eubankjh@state.gov @ inet>;michele.lieber@zurichna.com @ inet [UNKNOWN] <michele.lieber@zurichna.com @ inet>;RCoffee@oconnorhannan.com @ inet [UNKNOWN] <RCoffee@oconnorhannan.com @ inet>;CainC@ojp.usdoj.gov @ inet [UNKNOWN] <CainC@ojp.usdoj.gov @ inet>;Keith Hennessey/OPD/EOP@EOP [OPD] <Keith Hennessey>;Virginia Stephens/CEQ/EOP@EOP [CEQ] <Virginia Stephens>;Brian V. McCormack/OVP/EOP@EOP [OVP] <Brian V. McCormack>;Andrea G. Ball/WHO/EOP@EOP [WHO] <Andrea G. Ball>;Sarah M. Garrison/WHO/EOP@EOP [WHO] <Sarah M. Garrison>;Abel Guerra/WHO/EOP@EOP [WHO] <Abel Guerra>;Paul B. Dyck/WHO/EOP@EOP [WHO] <Paul B. Dyck>;Matthew A. Schlapp/WHO/EOP@EOP [WHO] <Matthew A. Schlapp>;Barry S. Jackson/WHO/EOP@EOP [WHO] <Barry S. Jackson>;Ashley D. Drummond/WHO/EOP@EOP [WHO] <Ashley D. Drummond>;Gordon D. Johndroe/WHO/EOP@EOP [WHO] <Gordon D. Johndroe>;Elizabeth Hogan/WHO/EOP@EOP [WHO] <Elizabeth Hogan>;Cathy Alix/WHO/EOP@EOP [WHO] <Cathy Alix>;Heather W. Musser/WHO/EOP@EOP [WHO] <Heather W. Musser>;Taylor S. Gross/WHO/EOP@EOP [WHO] <Taylor S. Gross>;Daniel J. Bartlett/WHO/EOP@EOP [WHO] <Daniel J. Bartlett>;Denise A. Dunckel/WHO/EOP@EOP [WHO] <Denise A. Dunckel>;Colleen Litkenhaus/WHO/EOP@EOP [WHO] <Colleen Litkenhaus>;stacey.silva@sba.gov @ inet [UNKNOWN] <stacey.silva@sba.gov @ inet>;caroline.mccall@mail.doc.gov @ inet [UNKNOWN] <caroline.mccall@mail.doc.gov @ inet>;dhenry@aga.org @ inet [UNKNOWN] <dhenry@aga.org @ inet>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;karl.doenges@mail.doc.gov @ inet [UNKNOWN] <karl.doenges@mail.doc.gov @ inet>;maria.cino@mail.doc.gov @ inet [UNKNOWN] <maria.cino@mail.doc.gov @ inet>;kpwood3@yahoo.com @ inet [UNKNOWN] <kpwood3@yahoo.com @ inet>;alansobba@aol.com @ inet [UNKNOWN] <alansobba@aol.com @ inet>;rustyr@gallerywatch.com @ inet [UNKNOWN] <rustyr@gallerywatch.com @ inet>;HRMobley@pd.state.gov @ inet [UNKNOWN] <HRMobley@pd.state.gov @ inet>;Hollen.Johnson@osd.mil @ inet [UNKNOWN] <Hollen.Johnson@osd.mil @ inet>;henry-tina@dol.gov @ inet [UNKNOWN] <henry-tina@dol.gov @ inet>;Karin.Glasgow@ost.dot.gov <Karin.Glasgow@ost.dot.gov>;sflukinger@winstead.com @ inet [UNKNOWN] <sflukinger@winstead.com @ inet>;williamdeggers@aol.com @ inet [UNKNOWN] <williamdeggers@aol.com @ inet>;jenniferecrooks@hotmail.com @ inet [UNKNOWN] <jenniferecrooks@hotmail.com @ inet>;LCampbell@usaid.gov @ inet [UNKNOWN] <LCampbell@usaid.gov @ inet>;amy-barrera@dol.gov @ inet [UNKNOWN]

	<amy-barrera@dol.gov @ inet>
CC:	AFleischer@DOC.GOV @ inet [UNKNOWN] <AFleischer@DOC.GOV @ inet>
BCC:	Lawrence A. Fleischer (Lawrence A. Fleischer/WHO/EOP [WHO])
Sent:	12/13/2002 9:38:47 AM
Subject:	: Holiday Party - Saturday, Dec. 21

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:13-DEC-2002 14:38:47.00
SUBJECT:: Holiday Party - Saturday, Dec. 21
TO:Dylan C. Glenn ( CN=Dylan C. Glenn/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Angela B. Styles ( CN=Angela B. Styles/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Catherine J. Martin ( CN=Catherine J. Martin/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Julieanne H. Thomas ( CN=Julieanne H. Thomas/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Stephen M. Garrison ( CN=Stephen M. Garrison/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Adam B. Goldman ( CN=Adam B. Goldman/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Sara M. Taylor ( CN=Sara M. Taylor/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Mercedes M. Viana ( CN=Mercedes M. Viana/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Ken Mehlman ( CN=Ken Mehlman/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Israel Hernandez ( CN=Israel Hernandez/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kara G. Figg ( CN=Kara G. Figg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer Cervantes ( CN=Jennifer Cervantes/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tiffany L. Barfield ( CN=Tiffany L. Barfield/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Ashley E. Davis ( CN=Ashley E. Davis/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kenneth A. Lisaius ( CN=Kenneth A. Lisaius/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kelley Gannon ( CN=Kelley Gannon/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brian D. Montgomery ( CN=Brian D. Montgomery/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:elizabeth_hogan@who.eop.gov @ inet ( elizabeth_hogan@who.eop.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:aameece@quinngillespie.com @ inet ( aameece@quinngillespie.com @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:emilybkertz@yahoo.com @ inet ( emilybkertz@yahoo.com @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:ashley_estes@who.eop.gov @ inet ( ashley_estes@who.eop.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:cthompso@opd.eop.gov ( cthompso@opd.eop.gov [ OPD ] )
READ:UNKNOWN
TO:christicowden@earthlink.net @ inet ( christicowden@earthlink.net @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:wbenestante@fema.gov @ inet ( wbenestante@fema.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:sstyles@bbchb.com @ inet ( sstyles@bbchb.com @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:sherman@post.harvard.edu @ inet ( sherman@post.harvard.edu @ inet [ OA ] )
READ:UNKNOWN
TO:aquaye@msn.com @ inet ( aquaye@msn.com @ inet [ UNKNOWN ] )
```

READ:UNKNOWN
TO:rrromero@sbinfra.com @ inet (rrromero@sbinfra.com @ inet [UNKNOWN])
READ:UNKNOWN
TO:bhester@doc.gov @ inet (bhester@doc.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:glotfelty@comcast.net @ inet (glotfelty@comcast.net @ inet [UNKNOWN])
READ:UNKNOWN
TO:WGaynor@doc.gov @ inet (WGaynor@doc.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:eubankjh@state.gov @ inet (eubankjh@state.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:michele.lieber@zurichna.com @ inet (michele.lieber@zurichna.com @ inet [UNKNOWN])
READ:UNKNOWN
TO:RCoffee@oconnorhannan.com @ inet (RCoffee@oconnorhannan.com @ inet [UNKNOWN])
READ:UNKNOWN
TO:CainC@ojp.usdoj.gov @ inet (CainC@ojp.usdoj.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Virginia Stephens (CN=Virginia Stephens/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN
TO:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Sarah M. Garrison (CN=Sarah M. Garrison/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Abel Guerra (CN=Abel Guerra/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Paul B. Dyck (CN=Paul B. Dyck/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ashley D. Drummond (CN=Ashley D. Drummond/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Gordon D. Johndroe (CN=Gordon D. Johndroe/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Elizabeth Hogan (CN=Elizabeth Hogan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Cathy Alix (CN=Cathy Alix/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Heather W. Musser (CN=Heather W. Musser/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Taylor S. Gross (CN=Taylor S. Gross/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Denise A. Dunckel (CN=Denise A. Dunckel/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:stacey.silva@sba.gov @ inet (stacey.silva@sba.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:caroline.mccall@mail.doc.gov @ inet (caroline.mccall@mail.doc.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:dhenry@aga.org @ inet (dhenry@aga.org @ inet [UNKNOWN])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:karl.doenges@mail.doc.gov @ inet (karl.doenges@mail.doc.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:maria.cino@mail.doc.gov @ inet (maria.cino@mail.doc.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:kpwood3@yahoo.com @ inet (kpwood3@yahoo.com @ inet [UNKNOWN])
READ:UNKNOWN
TO:alansobba@aol.com @ inet (alansobba@aol.com @ inet [UNKNOWN])

READ:UNKNOWN
TO:rustyr@gallerywatch.com @ inet (rustyr@gallerywatch.com @ inet [UNKNOWN])
READ:UNKNOWN
TO:HRMobley@pd.state.gov @ inet (HRMobley@pd.state.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:Hollen.Johnson@osd.mil @ inet (Hollen.Johnson@osd.mil @ inet [UNKNOWN])
READ:UNKNOWN
TO:henry-tina@dol.gov @ inet (henry-tina@dol.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:<Karin.Glasgow@ost.dot.gov> @ inet (<Karin.Glasgow@ost.dot.gov> @ inet [UNKNOWN])
READ:UNKNOWN
TO:sflukinger@winstead.com @ inet (sflukinger@winstead.com @ inet [UNKNOWN])
READ:UNKNOWN
TO:williamdeggers@aol.com @ inet (williamdeggers@aol.com @ inet [UNKNOWN])
READ:UNKNOWN
TO:jenniferecrooks@hotmail.com @ inet (jenniferecrooks@hotmail.com @ inet [UNKNOWN])
READ:UNKNOWN
TO:LCampbell@usaid.gov @ inet (LCampbell@usaid.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:amy-barrera@dol.gov @ inet (amy-barrera@dol.gov @ inet [UNKNOWN])
READ:UNKNOWN
CC:AFleischer@DOC.GOV @ inet (AFleischer@DOC.GOV @ inet [UNKNOWN])
READ:UNKNOWN
BCC:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

An invite from Aimee and Michael Fleischer - hope you can join us!

Everyone is leaving Washington-- but not you...

No, it's soon going to be Saturday, the 21st of December and you'll still
be here, wondering how things can possibly have become so quiet.

Well, wonder no more. The Fleischer's have solved the problem of what to
do on the Saturday before Christmas, and solved it in fine style, indeed.

So do something that night. Meet up with the other people who didn't know
enough to get out when the getting was good.

Join us for a Holiday Buffet (and drinks, too) at 7:30 p.m.

Aimee and Michael's
1654 35th Street NW
RSVP 202-944-9640

From: Elizabeth_N._Camp@who.eop.gov [UNKNOWN]

To: Keith Hennessey/OPD/EOP@EOP [OPD] <Keith Hennessey>;Virginia Stephens/CEQ /EOP@EOP [CEQ] <Virginia Stephens>;Andrea G. Ball/WHO/EOP@EOP [WHO] <Andrea G. Ball>;Sarah M. Garrison/WHO/EOP@EOP [WHO] <Sarah M. Garrison>;Abel Guerra/WHO /EOP@EOP [WHO] <Abel Guerra>;Paul B. Dyck/WHO/EOP@EOP [WHO] <Paul B. Dyck>;Matthew A. Schlapp/WHO/EOP@EOP [WHO] <Matthew A. Schlapp>;Barry S. Jackson/WHO/EOP@EOP [WHO] <Barry S. Jackson>;Kara G. Figg/WHO/EOP@EOP [WHO] <Kara G. Figg>;Jennifer Cervantes/WHO/EOP@EOP [WHO] <Jennifer Cervantes>;Tiffany L. Barfield/WHO/EOP@EOP [WHO] <Tiffany L. Barfield>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Ashley E. Davis/WHO/EOP@EOP [WHO] <Ashley E. Davis>;Kenneth A. Lisaius/WHO/EOP@EOP [WHO] <Kenneth A. Lisaius>;Kelley Gannon/WHO /EOP@EOP [WHO] <Kelley Gannon>;Brian D. Montgomery/WHO/EOP@EOP [WHO] <Brian D. Montgomery>;Elizabeth Hogan/WHO/EOP@EOP [WHO] <Elizabeth Hogan>;aameece@quinngillespie.com [UNKNOWN] <aameece@quinngillespie.com>;emilybkertz@yahoo.com [UNKNOWN] <emilybkertz@yahoo.com>;Ashley Estes/WHO/EOP@EOP [WHO] <Ashley Estes>;Carol J. Thompson/OPD/EOP@EOP [OPD] <Carol J. Thompson>;christicowden@earthlink.net [UNKNOWN] <christicowden@earthlink.net>;wbenestante@fema.gov [UNKNOWN] <wbenestante@fema.gov>;sstyles@bbchb.com [UNKNOWN] <sstyles@bbchb.com>;sherman@post.harvard.edu [OA] <sherman@post.harvard.edu>;aquaye@msn.com [UNKNOWN] <aquaye@msn.com>;rrromero@sbinfra.com [UNKNOWN] <rrromero@sbinfra.com>;bhester@doc.gov [UNKNOWN] <bhester@doc.gov>;glotfelty@comcast.net [UNKNOWN] <glotfelty@comcast.net>;WGaynor@doc.gov [UNKNOWN] <WGaynor@doc.gov>;eubankjh@state.gov [UNKNOWN] <eubankjh@state.gov>;michele.lieber@zurichna.com [UNKNOWN] <michele.lieber@zurichna.com>;RCoffee@oconnorhannan.com [UNKNOWN] <RCoffee@oconnorhannan.com>;CainC@ojp.usdoj.gov [UNKNOWN] <CainC@ojp.usdoj.gov>;Dylan C. Glenn/OPD/EOP@EOP [OPD] <Dylan C. Glenn>;Angela B. Styles/OMB/EOP@EOP [OMB] <Angela B. Styles>;Brian V. McCormack/OVP/EOP@EOP [OVP] <Brian V. McCormack>;Stephen M. Garrison/WHO/EOP@EOP [WHO] <Stephen M. Garrison>;Adam B. Goldman/WHO/EOP@EOP [WHO] <Adam B. Goldman>;Sara M. Taylor/WHO/EOP@EOP [WHO] <Sara M. Taylor>;Mercedes M. Viana/WHO/EOP@EOP [WHO] <Mercedes M. Viana>;Ken Mehlman/WHO/EOP@EOP [WHO] <Ken Mehlman>;Ashley D. Drummond/WHO/EOP@EOP [WHO] <Ashley D. Drummond>;Gordon D. Johndroe/WHO /EOP@EOP [WHO] <Gordon D. Johndroe>;Cathy Alix/WHO/EOP@EOP [WHO] <Cathy Alix>;Heather W. Musser/WHO/EOP@EOP [WHO] <Heather W. Musser>;Taylor S. Gross/WHO/EOP@EOP [WHO] <Taylor S. Gross>;Daniel J. Bartlett/WHO/EOP@EOP [WHO] <Daniel J. Bartlett>;Denise A. Dunckel/WHO/EOP@EOP [WHO] <Denise A. Dunckel>;Colleen Litkenhaus/WHO/EOP@EOP [WHO] <Colleen Litkenhaus>;stacey.silva@sba.gov [UNKNOWN] <stacey.silva@sba.gov>;caroline.mccall@mail.doc.gov [UNKNOWN] <caroline.mccall@mail.doc.gov>;dhenry@aga.org [UNKNOWN] <dhenry@aga.org>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;karl.doenges@mail.doc.gov [UNKNOWN] <karl.doenges@mail.doc.gov>;maria.cino@mail.doc.gov [UNKNOWN] <maria.cino@mail.doc.gov>;kpwood3@yahoo.com [UNKNOWN] <kpwood3@yahoo.com>;alansobba@aol.com [UNKNOWN] <alansobba@aol.com>;rustyr@gallerywatch.com [UNKNOWN] <rustyr@gallerywatch.com>;HRMobley@pd.state.gov [UNKNOWN] <HRMobley@pd.state.gov>;Hollen.Johnson@osd.mil [UNKNOWN] <Hollen.Johnson@osd.mil>;henry-tina@dol.gov [UNKNOWN] <henry-tina@dol.gov>;Karin.Glasgow@ost.dot.gov [UNKNOWN] <Karin.Glasgow@ost.dot.gov>;sflukinger@winstead.com [UNKNOWN] <sflukinger@winstead.com>;williamdeggers@aol.com [UNKNOWN] <williamdeggers@aol.com>;jenniferecrooks@hotmail.com [UNKNOWN] <jenniferecrooks@hotmail.com>;LCampbell@usaid.gov [UNKNOWN] <LCampbell@usaid.gov>;amy-barrera@dol.gov [UNKNOWN] <amy-barrera@dol.gov>

CC: AFleischer@DOC.GOV [UNKNOWN] <AFleischer@DOC.GOV>

Sent: 12/13/2002 9:48:00 AM

Subject: : Holiday Party - Saturday, Dec. 21

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Elizabeth_N._Camp@who.eop.gov (Elizabeth_N._Camp@who.eop.gov [UNKNOWN])
CREATION DATE/TIME:13-DEC-2002 14:48:00.00
SUBJECT:: Holiday Party - Saturday, Dec. 21
TO:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Virginia Stephens (CN=Virginia Stephens/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Sarah M. Garrison (CN=Sarah M. Garrison/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Abel Guerra (CN=Abel Guerra/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Paul B. Dyck (CN=Paul B. Dyck/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jennifer Cervantes (CN=Jennifer Cervantes/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ashley E. Davis (CN=Ashley E. Davis/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kenneth A. Lisaius (CN=Kenneth A. Lisaius/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Elizabeth Hogan (CN=Elizabeth Hogan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:aameece@quinngillespie.com (aameece@quinngillespie.com [UNKNOWN])
READ:UNKNOWN
TO:emilybkertz@yahoo.com (emilybkertz@yahoo.com [UNKNOWN])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Carol J. Thompson (CN=Carol J. Thompson/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:christicowden@earthlink.net (christicowden@earthlink.net [UNKNOWN])
READ:UNKNOWN
TO:wbenestante@fema.gov (wbenestante@fema.gov [UNKNOWN])
READ:UNKNOWN
TO:sstyles@bbchb.com (sstyles@bbchb.com [UNKNOWN])
READ:UNKNOWN
TO:sherman@post.harvard.edu (sherman@post.harvard.edu [OA])
READ:UNKNOWN
TO:aquaye@msn.com (aquaye@msn.com [UNKNOWN])
READ:UNKNOWN
TO:rrromero@sbinfra.com (rrromero@sbinfra.com [UNKNOWN])
READ:UNKNOWN
TO:bhester@doc.gov (bhester@doc.gov [UNKNOWN])
READ:UNKNOWN
TO:glotfelty@comcast.net (glotfelty@comcast.net [UNKNOWN])
READ:UNKNOWN
TO:WGaynor@doc.gov (WGaynor@doc.gov [UNKNOWN])
READ:UNKNOWN
TO:eubankjh@state.gov (eubankjh@state.gov [UNKNOWN])
READ:UNKNOWN

TO:michele.lieber@zurichna.com (michele.lieber@zurichna.com [UNKNOWN])
READ:UNKNOWN
TO:RCoffee@oconnorhannan.com (RCoffee@oconnorhannan.com [UNKNOWN])
READ:UNKNOWN
TO:CainC@ojp.usdoj.gov (CainC@ojp.usdoj.gov [UNKNOWN])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Angela B. Styles (CN=Angela B. Styles/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Stephen M. Garrison (CN=Stephen M. Garrison/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Adam B. Goldman (CN=Adam B. Goldman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Sara M. Taylor (CN=Sara M. Taylor/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Mercedes M. Viana (CN=Mercedes M. Viana/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ashley D. Drummond (CN=Ashley D. Drummond/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Gordon D. Johndroe (CN=Gordon D. Johndroe/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Cathy Alix (CN=Cathy Alix/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Heather W. Musser (CN=Heather W. Musser/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Taylor S. Gross (CN=Taylor S. Gross/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Denise A. Dunckel (CN=Denise A. Dunckel/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:stacey.silva@sba.gov (stacey.silva@sba.gov [UNKNOWN])
READ:UNKNOWN
TO:caroline.mccall@mail.doc.gov (caroline.mccall@mail.doc.gov [UNKNOWN])
READ:UNKNOWN
TO:dhenry@aga.org (dhenry@aga.org [UNKNOWN])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:karl.doenges@mail.doc.gov (karl.doenges@mail.doc.gov [UNKNOWN])
READ:UNKNOWN
TO:maria.cino@mail.doc.gov (maria.cino@mail.doc.gov [UNKNOWN])
READ:UNKNOWN
TO:kpwood3@yahoo.com (kpwood3@yahoo.com [UNKNOWN])
READ:UNKNOWN
TO:alansobba@aol.com (alansobba@aol.com [UNKNOWN])
READ:UNKNOWN
TO:rustyr@gallerywatch.com (rustyr@gallerywatch.com [UNKNOWN])
READ:UNKNOWN
TO:HRMobley@pd.state.gov (HRMobley@pd.state.gov [UNKNOWN])
READ:UNKNOWN
TO:Hollen.Johnson@osd.mil (Hollen.Johnson@osd.mil [UNKNOWN])
READ:UNKNOWN
TO:henry-tina@dol.gov (henry-tina@dol.gov [UNKNOWN])
READ:UNKNOWN
TO:Karin.Glasgow@ost.dot.gov (Karin.Glasgow@ost.dot.gov [UNKNOWN])
READ:UNKNOWN
TO:sflukinger@winstead.com (sflukinger@winstead.com [UNKNOWN])
READ:UNKNOWN
TO:williamdeggers@aol.com (williamdeggers@aol.com [UNKNOWN])
READ:UNKNOWN

TO:jenniferecrooks@hotmail.com (jenniferecrooks@hotmail.com [UNKNOWN])
READ:UNKNOWN
TO:LCampbell@usaid.gov (LCampbell@usaid.gov [UNKNOWN])
READ:UNKNOWN
TO:amy-barrera@dol.gov (amy-barrera@dol.gov [UNKNOWN])
READ:UNKNOWN
CC:AFleischer@DOC.GOV (AFleischer@DOC.GOV [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

An invite from Aimee and Michael Fleischer - hope you can join us!

Everyone is leaving Washington-- but not you...

No, it's soon going to be Saturday, the 21st of December and you'll still be here, wondering how things can possibly have become so quiet.

Well, wonder no more. The Fleischer's have solved the problem of what to do on the Saturday before Christmas, and solved it in fine style, indeed.

So do something that night. Meet up with the other people who didn't know enough to get out when the getting was good.

Join us for a Holiday Buffet (and drinks, too) at 7:30 p.m.

Aimee and Michael's
1654 35th Street NW
RSVP 202-944-9640

From: CN=Nanette Everson/OU=WHO/O=EOP [WHO]
To: Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>
CC: bradford a. berenson/who/eop@eop [WHO] <bradford a. berenson>;carolyn nelson/who /eop@eop [WHO] <carolyn nelson>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;katherine m. prendergast/who/eop@eop [WHO] <katherine m. prendergast>
Sent: 12/15/2002 12:34:36 PM
Subject: : Re: intern travel

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:15-DEC-2002 17:34:36.00
SUBJECT:: Re: intern travel
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:bradford a. berenson (CN=bradford a. berenson/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:carolyn nelson (CN=carolyn nelson/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:katherine m. prendergast (CN=katherine m. prendergast/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

invitational travel orders work as long as the intern actively
participates in the work mission

Benjamin A. Powell
12/11/2002 03:08:25 PM
Record Type: Record

To: Katherine M. Prendergast/WHO/EOP@EOP
cc: carolyn nelson/who/eop@eop, Brett M. Kavanaugh/WHO/EOP@EOP,
Bradford A. Berenson/WHO/EOP@EOP, Nanette Everson/WHO/EOP@EOP
bcc:
Subject: Re: intern travel

Kathy -- I do not know how we handle interns and official travel (I handle
the TEFOS forms). I am not sure that putting the intern on the same train
with a staff member makes a difference. I cc'd others in the Office who
have handled employee/detailee matters to see if they have advice. (the
case of political travel would be a different analysis I would
think--official funds/travel are not involved).

Nanette -- any guidance on this?

Katherine M. Prendergast
12/11/2002 02:58:37 PM
Record Type: Record

To: Benjamin A. Powell/WHO/EOP@EOP
cc: Carolyn Nelson/WHO/EOP@EOP
Subject: intern travel

Ben - Faith Based Initiatives has requested that an intern, Brian Goebel,

travel to Philadelphia for the Faith-Based regional conference. He wants to leave tomorrow morning at 6:37 am and return tomorrow evening at 8:30 pm. No other staff member will be accompanying him on these specific trains.

Can he go? I am assuming if he can go, we cannot pay him per diem. We had an instance of an intern being approved for travel previously with Andrew McGarrity, who accompanied Coddy Johnson to Nashville on political travel.

I am just on the phone with Catharine Ryun, who says she thinks they can arrange for him to travel together with her on the same trains. Does that make a difference? Let me know.
Thanks.
Kathy Prendergast
65106

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>
Sent: 12/16/2002 4:21:54 AM
Subject: : Re: pls call me 62115

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:16-DEC-2002 09:21:54.00
SUBJECT:: Re: pls call me 62115
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

The Judicial Conference (through its Judicial Resources Committee) surveys the judgeship needs of the courts every other year. A threshold for the number of weighted filings per judgeship is the key factor in determining when an additional judgeship will be requested. Other factors may include geography, number of senior judges, and mix of cases. The Judicial Conference presents its judgeship recommendations to Congress.

Ashley Snee
12/16/2002 08:56:34 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: pls call me 62115

From: CN=PostMaster/O=EOP [OA]

To: Joseph J. Shattan/OVP/EOP [OVP] <Joseph J. Shattan>;TRHLS/WHO/EOP [WHO] <TRHLS>;Kristen Silverberg/WHO/EOP [WHO] <Kristen Silverberg>;Desiree T. Sayle/WHO/EOP [WHO] <Desiree T. Sayle>;Susan K. Neely/WHO/EOP [WHO] <Susan K. Neely>;Edward McNally/WHO/EOP [WHO] <Edward McNally>;Laura S. Lawlor/WHO/EOP [WHO] <Laura S. Lawlor>;Joel D. Kaplan/WHO/EOP [WHO] <Joel D. Kaplan>;Stephen M. Garrison/WHO/EOP [WHO] <Stephen M. Garrison>;Nanette Everson/WHO/EOP [WHO] <Nanette Everson>;John B. Craig/NSC/EOP [UNKNOWN] <John B. Craig>;Steven Cooper/WHO/EOP [WHO] <Steven Cooper>;Rebecca Contreras/WHO/EOP [WHO] <Rebecca Contreras>;Charles Conner/OPD/EOP [OPD] <Charles Conner>;Frank Cilluffo/WHO/EOP [WHO] <Frank Cilluffo>;Ronald I. Christie/OPD/EOP [OPD] <Ronald I. Christie>;Barbara C. Chaffee/WHO/EOP [WHO] <Barbara C. Chaffee>;Katja Bullock/WHO/EOP [WHO] <Katja Bullock>;Carl Buchholz/WHO/EOP [WHO] <Carl Buchholz>;Stephen E. Biegun/NSC/EOP [NSC] <Stephen E. Biegun>;Rebecca A. Beynon/WHO/EOP [WHO] <Rebecca A. Beynon>;Jackie Arends/WHO/EOP [WHO] <Jackie Arends>;Cathy Alix/WHO/EOP [WHO] <Cathy Alix>;Jim Towey/WHO/EOP [WHO] <Jim Towey>;Jay P. Lefkowitz/OPD/EOP [OPD] <Jay P. Lefkowitz>;Mark Holman/WHO/EOP [WHO] <Mark Holman>;Charles S. Abbot/OVP/EOP [OVP] <Charles S. Abbot>;Heather Wingate/WHO/EOP [WHO] <Heather Wingate>;James R. Wilkinson/WHO/EOP [WHO] <James R. Wilkinson>;Lezlee J. Westine/WHO/EOP [WHO] <Lezlee J. Westine>;Peter H. Wehner/WHO/EOP [WHO] <Peter H. Wehner>;Helgard C. Walker/WHO/EOP [WHO] <Helgard C. Walker>;Aquiles F. Suarez/OPD/EOP [OPD] <Aquiles F. Suarez>;Mary K. Sturtevant/NSC/EOP [NSC] <Mary K. Sturtevant>;Margaret M. Spellings/OPD/EOP [OPD] <Margaret M. Spellings>;Deborah A. Spagnoli/WHO/EOP [WHO] <Deborah A. Spagnoli>;Scott N. Sforza/WHO/EOP [WHO] <Scott N. Sforza>;Matthew O. Scully/WHO/EOP [UNKNOWN] <Matthew O. Scully>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Diana L. Schacht/OPD/EOP [OPD] <Diana L. Schacht>;Kyle Sampson/WHO/EOP [WHO] <Kyle Sampson>;Karl C. Rove/WHO/EOP [WHO] <Karl C. Rove>;Mark V. Rosenker/WHO/EOP [WHO] <Mark V. Rosenker>;Condoleezza Rice/NSC/EOP [NSC] <Condoleezza Rice>;Craig Ray/WHO/EOP [WHO] <Craig Ray>;Dina Powell/WHO/EOP [WHO] <Dina Powell>;Anna M. Perez/NSC/EOP [NSC] <Anna M. Perez>;Ziad S. Ojakli/WHO/EOP [WHO] <Ziad S. Ojakli>;Edmund C. Moy/WHO/EOP [WHO] <Edmund C. Moy>;Brian D. Montgomery/WHO/EOP [WHO] <Brian D. Montgomery>;Franklin C. Miller/NSC/EOP [NSC] <Franklin C. Miller>;Harriet Miers/WHO/EOP [WHO] <Harriet Miers>;Kenneth B. Mehlman/WHO/EOP [UNKNOWN] <Kenneth B. Mehlman>;Robert C. McNally/OPD/EOP [OPD] <Robert C. McNally>;Scott McClellan/WHO/EOP [WHO] <Scott McClellan>;Mary J. Matalin/OVP/EOP [OVP] <Mary J. Matalin>;Robert Marsh/WHO/EOP [WHO] <Robert Marsh>;John F. Maisto/NSC/EOP [NSC] <John F. Maisto>;Roland N. Litterst/WHO/EOP [WHO] <Roland N. Litterst>;Lawrence B. Lindsey/OPD/EOP@Exchange [OPD] <Lawrence B. Lindsey>;Lewis Libby/OVP/EOP [OVP] <Lewis Libby>;Dirksen Lehman/WHO/EOP [WHO] <Dirksen Lehman>;David Kuo/WHO/EOP [WHO] <David Kuo>;Matthew Kirk/WHO/EOP [WHO] <Matthew Kirk>;Zalmay M. Khalilzad/NSC/EOP [NSC] <Zalmay M. Khalilzad>;Daniel J. Keniry/WHO/EOP [WHO] <Daniel J. Keniry>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Robert G. Joseph/NSC/EOP [NSC] <Robert G. Joseph>;Barry S. Jackson/WHO/EOP [WHO] <Barry S. Jackson>;Hector F. Irastorza/WHO/EOP [WHO] <Hector F. Irastorza>;Edward Ingle/WHO/EOP [WHO] <Edward Ingle>;Clay Johnson III/WHO/EOP [WHO] <Clay Johnson III>;Karen Hughes/WHO/EOP [UNKNOWN] <Karen Hughes>;Jack Howard/WHO/EOP [WHO] <Jack Howard>;David W. Hobbs/WHO/EOP [WHO] <David W. Hobbs>;Israel Hernandez/WHO/EOP [WHO] <Israel Hernandez>;Chris Henick/WHO/EOP [WHO] <Chris Henick>;Albert Hawkins/WHO/EOP [WHO] <Albert Hawkins>;Joseph W. Hagin/WHO/EOP [WHO] <Joseph W. Hagin>;Stephen J. Hadley/NSC/EOP [NSC] <Stephen J. Hadley>;Alberto R. Gonzales/WHO/EOP [WHO] <Alberto R. Gonzales>;Tim Goeglein/WHO/EOP [WHO] <Tim Goeglein>;Dylan C. Glenn/OPD/EOP [OPD] <Dylan C. Glenn>;Michael J. Gerson/WHO/EOP [WHO] <Michael J. Gerson>;Kelley Gannon/WHO/EOP [WHO] <Kelley Gannon>;Linda M. Gambatesa/WHO/EOP [WHO] <Linda M. Gambatesa>;Daniel Fried/NSC/EOP [NSC] <Daniel Fried>;Jendayi E. Frazer/NSC/EOP [NSC] <Jendayi E. Frazer>;Noel J. Francisco/WHO/EOP [WHO] <Noel J. Francisco>;Lawrence A. Fleischer/WHO/EOP [WHO] <Lawrence A. Fleischer>;Catherine S. Fenton/WHO/EOP [WHO] <Catherine S. Fenton>;Tucker A. Eskew/WHO/EOP [WHO] <Tucker A. Eskew>;Courtney S. Elwood/WHO/EOP [UNKNOWN] <Courtney S. Elwood>;Gary R. Edson/NSC/EOP [NSC] <Gary R. Edson>;Wayne A. Downing/NSC/EOP [UNKNOWN] <Wayne A. Downing>;Elizabeth S. Dougherty/OPD/EOP [

OPD] <Elizabeth S. Dougherty>;Nicolle Devenish/WHO/EOP [WHO] <Nicolle Devenish>;Brian C. Conklin/WHO/EOP [WHO] <Brian C. Conklin>;John A. Cloud/NSC/EOP [NSC] <John A. Cloud>;Richard A. Clarke/NSC/EOP [NSC] <Richard A. Clarke>;Alicia P. Clark/WHO/EOP [WHO] <Alicia P. Clark>;Christine Ciccone/WHO/EOP [WHO] <Christine Ciccone>;Kirsten A. Chadwick/WHO/EOP [WHO] <Kirsten A. Chadwick>;Andrew H. Card/WHO/EOP [WHO] <Andrew H. Card>;Nicholas E. Calio/WHO/EOP [WHO] <Nicholas E. Calio>;Claire E. Buchan/WHO/EOP [WHO] <Claire E. Buchan>;John M. Bridgeland/OPD/EOP [OPD] <John M. Bridgeland>;Stuart W. Bowen/WHO/EOP [WHO] <Stuart W. Bowen>;Carlos E. Bonilla/OPD/EOP [OPD] <Carlos E. Bonilla>;Joshua B. Bolten/WHO/EOP [WHO] <Joshua B. Bolten>;Bradley A. Blakeman/WHO/EOP@Exchange [WHO] <Bradley A. Blakeman>;Charles P. Blahous/OPD/EOP [OPD] <Charles P. Blahous>;Bradford A. Berenson/WHO/EOP [WHO] <Bradford A. Berenson>;John B. Bellinger/NSC/EOP [NSC] <John B. Bellinger>;H. Christopher Bartolomucci/WHO/EOP [WHO] <H. Christopher Bartolomucci>;Daniel J. Bartlett/WHO/EOP [WHO] <Daniel J. Bartlett>;Ruben S. Barrales/WHO/EOP [WHO] <Ruben S. Barrales>;Andrea G. Ball/WHO/EOP [WHO] <Andrea G. Ball>;George M. Andricos/NSC/EOP [NSC] <George M. Andricos>;Elliott Abrams/NSC/EOP [NSC] <Elliott Abrams>

Sent: 12/16/2002 5:08:49 AM

Subject: : POSTMASTER: President's Remarks

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME:16-DEC-2002 10:08:49.00
SUBJECT:: POSTMASTER: President's Remarks
TO:Joseph J. Shattan ( CN=Joseph J. Shattan/OU=OVP/O=EOP [ OVP ] )
READ:UNKNOWN
TO:TRHLS ( CN=TRHLS/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Desiree T. Sayle ( CN=Desiree T. Sayle/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Susan K. Neely ( CN=Susan K. Neely/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Laura S. Lawlor ( CN=Laura S. Lawlor/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Joel D. Kaplan ( CN=Joel D. Kaplan/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Stephen M. Garrison ( CN=Stephen M. Garrison/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:John B. Craig ( CN=John B. Craig/OU=NSC/O=EOP [ UNKNOWN ] )
READ:UNKNOWN
TO:Steven Cooper ( CN=Steven Cooper/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Rebecca Contreras ( CN=Rebecca Contreras/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Charles Conner ( CN=Charles Conner/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
TO:Frank Cilluffo ( CN=Frank Cilluffo/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Ronald I. Christie ( CN=Ronald I. Christie/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
TO:Barbara C. Chaffee ( CN=Barbara C. Chaffee/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Katja Bullock ( CN=Katja Bullock/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Carl Buchholz ( CN=Carl Buchholz/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Stephen E. Biegun ( CN=Stephen E. Biegun/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Rebecca A. Beynon ( CN=Rebecca A. Beynon/OU=WHO/O=EOP [ WHO ] )
```

READ:UNKNOWN
TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cathy Alix (CN=Cathy Alix/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Mark Holman (CN=Mark Holman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James R. Wilkinson (CN=James R. Wilkinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Aquiles F. Suarez (CN=Aquiles F. Suarez/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Matthew O. Scully (CN=Matthew O. Scully/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark V. Rosenker (CN=Mark V. Rosenker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Craig Ray (CN=Craig Ray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kenneth B. Mehlman (CN=Kenneth B. Mehlman/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Mary J. Matalin (CN=Mary J. Matalin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John F. Maisto (CN=John F. Maisto/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence B. Lindsey (CN=Lawrence B. Lindsey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Dirksen Lehman (CN=Dirksen Lehman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hector F. Irastorza (CN=Hector F. Irastorza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Karen Hughes (CN=Karen Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jack Howard (CN=Jack Howard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Chris Henick (CN=Chris Henick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Albert Hawkins (CN=Albert Hawkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Courtney S. Elwood (CN=Courtney S. Elwood/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Wayne A. Downing (CN=Wayne A. Downing/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John A. Cloud (CN=John A. Cloud/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Richard A. Clarke (CN=Richard A. Clarke/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christine Ciccone (CN=Christine Ciccone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nicholas E. Calio (CN=Nicholas E. Calio/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stuart W. Bowen (CN=Stuart W. Bowen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carlos E. Bonilla (CN=Carlos E. Bonilla/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
End Original ARMS Header

For those attending the President,s remarks at the Ronald Reagan building
today, transportation will be provided on a limited basis. Vehicles will
depart at 1:00PM from West Executive Avenue and will be departing from the

same drop off location at the Ronald Reagan Building.

If you have any questions, please call White House Management at x6-2500.

Thank you.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@EOP [WHO] <David G. Leitch>;Alberto R. Gonzales/WHO /EOP@EOP [WHO] <Alberto R. Gonzales>
Sent: 12/17/2002 6:56:57 AM
Subject: : have received no response on affirmative action question

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:17-DEC-2002 11:56:57.00
SUBJECT:: have received no response on affirmative action question
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

more from Milbank.
---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 12/17/2002 11:59 AM ----------

Dana T Milbank <milbankd@washpost.com>
12/17/2002 11:49:59 AM
Record Type: Record

To: Scott McClellan/WHO/EOP@EOP, Ashley Snee/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: have received no response on affirmative action question

Folks--

Should I mark that down as a no comment?

Thanks much.

DM

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@EOP [WHO] <David G. Leitch>;Alberto R. Gonzales/WHO /EOP@EOP [WHO] <Alberto R. Gonzales>
Sent: 12/17/2002 7:02:48 AM
Subject: : Re: have received no response on affirmative action question

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:17-DEC-2002 12:02:48.00
SUBJECT:: Re: have received no response on affirmative action question
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Scott's reply to Milbank.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 12/17/2002 12:05 PM ----------

Scott McClellan
12/17/2002 12:01:50 PM
Record Type: Record

To: Dana T Milbank <milbankd@washpost.com>
cc: ashley snee/who/eop@eop, brett m. kavanaugh/who/eop@eop
bcc:
Subject: Re: have received no response on affirmative action question

Absolutely not. If you are pressed for a deadline, I think it is always best to contact us directly as opposed to relying on emails. I have been out of the office since Thursday. I will get you a response after I look into it.

Dana T Milbank <milbankd@washpost.com>
12/17/2002 11:49:59 AM
Record Type: Record

To: Scott McClellan/WHO/EOP@EOP, Ashley Snee/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: have received no response on affirmative action question

Folks--

Should I mark that down as a no comment?

Thanks much.

DM

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@EOP [WHO] <David G. Leitch>;Alberto R. Gonzales/WHO /EOP@EOP [WHO] <Alberto R. Gonzales>
Sent: 12/17/2002 7:02:48 AM
Subject: : Re: have received no response on affirmative action question

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:17-DEC-2002 12:02:48.00
SUBJECT:: Re: have received no response on affirmative action question
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Scott's reply to Milbank.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 12/17/2002 12:05 PM ----------

Scott McClellan
12/17/2002 12:01:50 PM
Record Type: Record

To: Dana T Milbank <milbankd@washpost.com>
cc: ashley snee/who/eop@eop, brett m. kavanaugh/who/eop@eop
bcc:
Subject: Re: have received no response on affirmative action question

Absolutely not. If you are pressed for a deadline, I think it is always best to contact us directly as opposed to relying on emails. I have been out of the office since Thursday. I will get you a response after I look into it.

Dana T Milbank <milbankd@washpost.com>
12/17/2002 11:49:59 AM
Record Type: Record

To: Scott McClellan/WHO/EOP@EOP, Ashley Snee/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: have received no response on affirmative action question

Folks--

Should I mark that down as a no comment?

Thanks much.

DM

From: CN=Kristen Silverberg/OU=WHO/O=EOP [WHO]
To: Robert Marsh/WHO/EOP@EOP [WHO] <Robert Marsh>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jay P. Lefkowitz/OPD /EOP@EOP [OPD] <Jay P. Lefkowitz>
Sent: 12/17/2002 7:52:39 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:17-DEC-2002 12:52:39.00
SUBJECT::
TO:Robert Marsh ( CN=Robert Marsh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Sorry to ask, but can we move the mtg with Margaret to either 10:00 or
12:00?
```

From: Comisac, RenaJohnson (Judiciary) <Rena_Johnson_Comisac@Judiciary.senate.gov>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 12/17/2002 10:42:04 AM
Subject: : Judiciary has e-mail again
Attachments: P_WNOFC003_WHO.TXT_1.html

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Comisac, RenaJohnson (Judiciary)" <Rena_Johnson_Comisac@Judiciary.senate.gov> (
"Comisac, RenaJohnson (Judiciary)" <Rena_Johnson_Comisac@Judiciary.senate.gov> [ UNKNOWN ]
)
CREATION DATE/TIME:17-DEC-2002 15:42:04.00
SUBJECT:: Judiciary has e-mail again
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WNOFC003_WHO.TXT_1>
```

From: [UNKNOWN] <Mallea, Jose>

To: <Bennett>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/5D5F365B-3B5ACE36-852569DB-7B1446 [UNKNOWN] <Melissa S.>;<Kyle>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/3A6C9F73-8873BD4-85256A15-72A62A [UNKNOWN] <Ross M.>;<Kaplan>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/AB40E70D-1309FE17-852569DC-4D7D0B [UNKNOWN] <Joel D.>;<Silverberg>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/537D2975-BF79804E-852569DB-5F147C [UNKNOWN] <Kristen>;<Flannery>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/2C12C46-1C4658C5-85256BF4-40EBE3 [UNKNOWN] <Julian M.>;<Bolten>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/DCA7B994-2476ECB4-852569D9-623521 [UNKNOWN] <Joshua B.>;<Estes>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/4C32A97D-998AE454-852569DB-5EAFD3 [UNKNOWN] <Ashley>;<Gottesman>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/E3CC9430-AD683D99-852569DB-51F012 [UNKNOWN] <Blake>;<Deckard>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/F99FC38-59198000-85256A56-64F8DA [UNKNOWN] <Josh>;<McCormack>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/20A95DD5-4081D2A-852569DB-611062 [UNKNOWN] <Brian V.>;<Field>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/EAEA2222-A138F2C2-85256A62-63BB36 [UNKNOWN] <Jennifer D.>;<Heiden>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/1BDB22AC-2C15B2BC-852569DB-6084F4 [UNKNOWN] <Debra>;<Lineberry>;llineber@NSC.eop.gov [NSC] <Laura E.>;<Brown>;kbrown@NSC.eop.gov [NSC] <Katherine A.>;<Barnett>;cbarnett@NSC.eop.gov [NSC] <Cheryl E.>;<Gray>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/40289C9F-87E5BBFB-85256B42-56D1F7 [UNKNOWN] <Ann>;<Ralston>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/687DD249-C2840DC7-852569F3-6F5C28 [UNKNOWN] <Susan B.>;<Hernandez>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/9A92FB8D-28223EB3-852569DC-630DCD [UNKNOWN] <Israel>;<Hager>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/19127F32-8FD61FA5-85256BAC-472950 [UNKNOWN] <Henry C.>;<Camp>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/64A878B0-38CF6AFE-852569DA-643152 [UNKNOWN] <Elizabeth N.>;<Bumatay>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/3465B0BF-DC4627C2-85256B30-52A689 [UNKNOWN] <Patrick J.>;<Montiel>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/A4C69221-46D73A5F-85256BC1-64493F [UNKNOWN] <Charlotte L.>;<Mooney>;Leslie_A._Mooney@opd.eop.gov [OPD] <Leslie A.>;<Vestewig>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/54654B73-3ED90D2F-85256B60-566CD0 [UNKNOWN] <Lauren J.>;<Otto>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/ERIC_H._OTTO [UNKNOWN] <Eric H.>;<Russell>;Jean_M._Russell@opd.eop.gov [OPD] <Jeannie>;<Gillmor>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6CC880A6-A3397D87-852569F2-511054 [UNKNOWN] <Eleanor L.>;<Lefkowitz>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/4E3BA750-755061D8-85256B68-854C7 [UNKNOWN] <Jay P.>;<Spellings>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/F0B716C1-4D6B517D-85256AD3-7E7D37 [UNKNOWN] <Margaret M.>;<O'Neill>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C9CF0265-66557B55-85256C05-5A7E13 [UNKNOWN] <Joseph F.>;<Kavanaugh>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6246020-C20FEE19-852569DA-7648DC [UNKNOWN] <Brett M.>;<Hanusa>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/7FB4C1DC-8D352753-85256A1E-617467 [UNKNOWN] <Mary Ann>;<Garvin>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/8D6BFF88-848CC4A7-85256A32-49509D [UNKNOWN] <Dorothy C.>;<Conway>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C63969DB-CC624FDB-85256A0D-75885C [UNKNOWN] <Michael J.>;<Davie>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C1905CAF-33A32B3B-852569F1-6DF8BA [UNKNOWN] <Jill>;<Loper>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/527B67DA-80EA9637-85256BA4-4E24D0 [UNKNOWN] <Ginger G.>;<Blakeman>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/BRADLEY_A._BLAKEMAN [UNKNOWN] <Bradley A.>;<Weinstein>;Jared_B._Weinstein@who.eop.gov [WHO] <Jared B.>;<Figg>;Kara_G._Figg@who.eop.gov [WHO] <Kara G.>;<Miers>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/B2E77F63-672509FB-852569D9-6D71FD [UNKNOWN] <Harriet>;<Bowen>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/4A2C2EB-13942C40-852569DA-6125AE [UNKNOWN] <Stuart W.>;<Alix>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/68A3DCF2-69658983-852569D9-6F1946 [UNKNOWN] <Cathy>;<Irastorza>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/FCC99A4E-57C3C3CB-852569D9-6A7A1D [UNKNOWN] <Hector F.>;<Evans>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/ED27A000-6D0B70FA-85256AE6-48CE85 [

UNKNOWN] <Sandra K.>;<Hawkins>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /299B67B0-403E8A7E-852569D9-615150 [UNKNOWN] <Albert>;<Campbell>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/1EEDC809-4DE5B2E6-85256B66-46E195 [UNKNOWN] <Anne E.>;<Davis>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /5E936C0E-B2212C01-852569E5-72EE65 [UNKNOWN] <Alicia W.>;<Davis>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/F759F175-C3FC680E-852569D9-6EE299 [UNKNOWN] <Ashley E.>;<Dickens>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /AA173D66-94F3A183-85256AA0-91CEF [UNKNOWN] <Reed>;<Marsh>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/DDD6CFFC-D1AAA222-85256A42-613071 [UNKNOWN] <Robert>;<Babin>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /CHAD_BABIN [UNKNOWN] <Chad>;<Sechser>;Scott_Sechser@who.eop.gov [WHO] <Scott D.>;<Montgomery>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /933C8E39-53EE3F3D-852569DD-6009B2 [UNKNOWN] <Brian D.>;<Ray>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/B46C6C9D-BE8675BE-85256A65-60B680 [UNKNOWN] <Craig>;<Beyer>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /531B0AB1-3F80F4ED-852569DE-C1B4A [UNKNOWN] <Todd W.>;<Miller>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/7BFA32B2-BF201206-85256991-6BFE0B [UNKNOWN] <Michael H.>;<McCord>;Lauren_McCord@who.eop.gov [WHO] <Lauren>; <Becker>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/BED1D0F3-6C964CAC-852569ED-67C54F [UNKNOWN] <Kathy J.>;<MacLean>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/3FC96F5E-AD28D2A8-85256AB0-42EC4D [UNKNOWN] <Robin A.>;<Cropper>;Stacia_L._Cropper@who.eop.gov [WHO] <Stacia L.>;<Marquez>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/33308984-635336F5-852569DC-766A71 [UNKNOWN] <Heidi K.>;<Sayle>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/B2A57BDD-1C82F4E5-852569DB-4D7FDE [UNKNOWN] <Desiree T.>;<Chambers>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/3F869273-AAC2E6D0-85256A5E-47C2F0 [UNKNOWN] <Shane P.>;<Walters>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /67C0AB5-BC3A9691-85256C05-580D47 [UNKNOWN] <Katherine M.>;<Figg>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/D4DF7970-B0456D9C-852569DD-524A1C [UNKNOWN] <Jeanie L.>

Sent: 12/17/2002 11:54:42 AM

Subject: DECEMBER BIRTHDAY PARTY TOMORROW!

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (MS Mail)
CREATOR:Mallea, Jose ( [ UNKNOWN ] )
CREATION DATE/TIME:17-DEC-2002 16:54:42.00
SUBJECT:DECEMBER BIRTHDAY PARTY TOMORROW!
TO:Bennett, Melissa S. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=5D5F365B-
3B5ACE36-852569DB-7B1446 [ UNKNOWN ] )
READ:UNKNOWN
TO:Kyle, Ross M. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=3A6C9F73-8873BD4-85256A15-72A62A [ UNKNOWN ] )
READ:UNKNOWN
TO:Kaplan, Joel D. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=AB40E70D-
1309FE17-852569DC-4D7D0B [ UNKNOWN ] )
READ:UNKNOWN
TO:Silverberg, Kristen ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=537D2975-
BF79804E-852569DB-5F147C [ UNKNOWN ] )
READ:UNKNOWN
TO:Flannery, Julian M. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=2C12C46-1C4658C5-85256BF4-40EBE3 [ UNKNOWN ] )
READ:UNKNOWN
TO:Bolten, Joshua B. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=DCA7B994-2476ECB4-852569D9-623521 [ UNKNOWN ] )
READ:UNKNOWN
TO:Estes, Ashley ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4C32A97D-
998AE454-852569DB-5EAFD3 [ UNKNOWN ] )
READ:UNKNOWN
TO:Gottesman, Blake ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E3CC9430-
AD683D99-852569DB-51F012 [ UNKNOWN ] )
READ:UNKNOWN
TO:Deckard, Josh ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=F99FC38-59198000-85256A56-64F8DA [ UNKNOWN ] )
```

READ:UNKNOWN
TO:McCormack, Brian V. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=20A95DD5-4081D2A-852569DB-611062 [UNKNOWN])
READ:UNKNOWN
TO:Field, Jennifer D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=EAEA2222-
A138F2C2-85256A62-63BB36 [UNKNOWN])
READ:UNKNOWN
TO:Heiden, Debra (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=1BDB22AC-2C15B2BC-
852569DB-6084F4 [UNKNOWN])
READ:UNKNOWN
TO:Lineberry, Laura E. (llineber@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Brown, Katherine A. (kbrown@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Barnett, Cheryl E. (cbarnett@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Gray, Ann (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=40289C9F-87E5BBFB-
85256B42-56D1F7 [UNKNOWN])
READ:UNKNOWN
TO:Ralston, Susan B. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=687DD249-
C2840DC7-852569F3-6F5C28 [UNKNOWN])
READ:UNKNOWN
TO:Hernandez, Israel (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=9A92FB8D-
28223EB3-852569DC-630DCD [UNKNOWN])
READ:UNKNOWN
TO:Hager, Henry C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=19127F32-8FD61FA5-85256BAC-472950 [UNKNOWN])
READ:UNKNOWN
TO:Camp, Elizabeth N. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=64A878B0-38CF6AFE-852569DA-643152 [UNKNOWN])
READ:UNKNOWN
TO:Bumatay, Patrick J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=3465B0BF-
DC4627C2-85256B30-52A689 [UNKNOWN])
READ:UNKNOWN
TO:Montiel, Charlotte L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=A4C69221-46D73A5F-85256BC1-64493F [UNKNOWN])
READ:UNKNOWN
TO:Mooney, Leslie A. (Leslie_A._Mooney@opd.eop.gov [OPD])
READ:UNKNOWN
TO:Vestewig, Lauren J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=54654B73-3ED90D2F-85256B60-566CD0 [UNKNOWN])
READ:UNKNOWN
TO:Otto, Eric H. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=ERIC_H._OTTO [
UNKNOWN])
READ:UNKNOWN
TO:Russell, Jeannie (Jean_M._Russell@opd.eop.gov [OPD])
READ:UNKNOWN
TO:Gillmor, Eleanor L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6CC880A6-
A3397D87-852569F2-511054 [UNKNOWN])
READ:UNKNOWN
TO:Lefkowitz, Jay P. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=4E3BA750-755061D8-85256B68-854C7 [UNKNOWN])
READ:UNKNOWN
TO:Spellings, Margaret M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=F0B716C1-4D6B517D-85256AD3-7E7D37 [UNKNOWN])
READ:UNKNOWN
TO:O'Neill, Joseph F. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=C9CF0265-66557B55-85256C05-5A7E13 [UNKNOWN])
READ:UNKNOWN
TO:Kavanaugh, Brett M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6246020-
C20FEE19-852569DA-7648DC [UNKNOWN])
READ:UNKNOWN
TO:Hanusa, Mary Ann (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=7FB4C1DC-
8D352753-85256A1E-617467 [UNKNOWN])
READ:UNKNOWN
TO:Garvin, Dorothy C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=8D6BFF88-848CC4A7-85256A32-49509D [UNKNOWN])
READ:UNKNOWN

TO:Conway, Michael J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=C63969DB-CC624FDB-85256A0D-75885C [UNKNOWN])
READ:UNKNOWN
TO:Davie, Jill (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=C1905CAF-33A32B3B-852569F1-6DF8BA [UNKNOWN])
READ:UNKNOWN
TO:Loper, Ginger G. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=527B67DA-80EA9637-85256BA4-4E24D0 [UNKNOWN])
READ:UNKNOWN
TO:Blakeman, Bradley A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=BRADLEY_A._BLAKEMAN [UNKNOWN])
READ:UNKNOWN
TO:Weinstein, Jared B. (Jared_B._Weinstein@who.eop.gov [WHO])
READ:UNKNOWN
TO:Figg, Kara G. (Kara_G._Figg@who.eop.gov [WHO])
READ:UNKNOWN
TO:Miers, Harriet (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=B2E77F63-672509FB-852569D9-6D71FD [UNKNOWN])
READ:UNKNOWN
TO:Bowen, Stuart W. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4A2C2EB-13942C40-852569DA-6125AE [UNKNOWN])
READ:UNKNOWN
TO:Alix, Cathy (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=68A3DCF2-69658983-852569D9-6F1946 [UNKNOWN])
READ:UNKNOWN
TO:Irastorza, Hector F. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=FCC99A4E-57C3C3CB-852569D9-6A7A1D [UNKNOWN])
READ:UNKNOWN
TO:Evans, Sandra K. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=ED27A000-6D0B70FA-85256AE6-48CE85 [UNKNOWN])
READ:UNKNOWN
TO:Hawkins, Albert (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=299B67B0-403E8A7E-852569D9-615150 [UNKNOWN])
READ:UNKNOWN
TO:Campbell, Anne E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=1EEDC809-4DE5B2E6-85256B66-46E195 [UNKNOWN])
READ:UNKNOWN
TO:Davis, Alicia W. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=5E936C0E-B2212C01-852569E5-72EE65 [UNKNOWN])
READ:UNKNOWN
TO:Davis, Ashley E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=F759F175-C3FC680E-852569D9-6EE299 [UNKNOWN])
READ:UNKNOWN
TO:Dickens, Reed (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=AA173D66-94F3A183-85256AA0-91CEF [UNKNOWN])
READ:UNKNOWN
TO:Marsh, Robert (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=DDD6CFFC-D1AAA222-85256A42-613071 [UNKNOWN])
READ:UNKNOWN
TO:Babin, Chad (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=CHAD_BABIN [UNKNOWN])
READ:UNKNOWN
TO:Sechser, Scott D. (Scott_Sechser@who.eop.gov [WHO])
READ:UNKNOWN
TO:Montgomery, Brian D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=933C8E39-53EE3F3D-852569DD-6009B2 [UNKNOWN])
READ:UNKNOWN
TO:Ray, Craig (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=B46C6C9D-BE8675BE-85256A65-60B680 [UNKNOWN])
READ:UNKNOWN
TO:Beyer, Todd W. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=531B0AB1-3F80F4ED-852569DE-C1B4A [UNKNOWN])
READ:UNKNOWN
TO:Miller, Michael H. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=7BFA32B2-BF201206-85256991-6BFE0B [UNKNOWN])
READ:UNKNOWN
TO:McCord, Lauren (Lauren_McCord@who.eop.gov [WHO])
READ:UNKNOWN

TO:Becker, Kathy J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=BED1D0F3-6C964CAC-852569ED-67C54F [UNKNOWN])
READ:UNKNOWN
TO:MacLean, Robin A. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=3FC96F5E-
AD28D2A8-85256AB0-42EC4D [UNKNOWN])
READ:UNKNOWN
TO:Cropper, Stacia L. (Stacia_L._Cropper@who.eop.gov [WHO])
READ:UNKNOWN
TO:Marquez, Heidi K. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=33308984-635336F5-852569DC-766A71 [UNKNOWN])
READ:UNKNOWN
TO:Sayle, Desiree T. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=B2A57BDD-
1C82F4E5-852569DB-4D7FDE [UNKNOWN])
READ:UNKNOWN
TO:Chambers, Shane P. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=3F869273-
AAC2E6D0-85256A5E-47C2F0 [UNKNOWN])
READ:UNKNOWN
TO:Walters, Katherine M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=67C0AB5-
BC3A9691-85256C05-580D47 [UNKNOWN])
READ:UNKNOWN
TO:Figg, Jeanie L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=D4DF7970-
B0456D9C-852569DD-524A1C [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Please join us to celebrate THREE December Birthdays!

On Wednesday, December 18th @5PM in the Chief of Staff's office we will
cebrate Linda's, Colleen's and Carol's Birthdays. This means three times the
fun and three times the cake!!!

We look forward to seeing you @5PM in the COS office.

Because our three guests are so popular - please pass on to anyone I might
have left off.

From: CN=PostMaster/O=EOP [OA]

To: Gina M. Wolford/NSC/EOP [NSC] <Gina M. Wolford>;David L. Travers/NSC/EOP [NSC] <David L. Travers>;Harry W. Wolff/WHO/EOP [WHO] <Harry W. Wolff>;Alexian T. Wines/NSC/EOP [NSC] <Alexian T. Wines>;Patricia Williams/WHO/EOP [WHO] <Patricia Williams>;Jared B. Weinstein/WHO/EOP@Exchange [WHO] <Jared B. Weinstein>;Matthew C. Waxman/NSC/EOP [NSC] <Matthew C. Waxman>;Lauren J. Vestewig/OPD/EOP [OPD] <Lauren J. Vestewig>;Terrill G. Tucker/NSC/EOP [NSC] <Terrill G. Tucker>;Tevi Troy/OPD/EOP [OPD] <Tevi Troy>;Anne Trenolone/WHO/EOP [WHO] <Anne Trenolone>;Julieanne H. Thomas/WHO/EOP [WHO] <Julieanne H. Thomas>;Rachael L. Sunbarger/WHO/EOP [WHO] <Rachael L. Sunbarger>;Susan L. Sterner/WHO/EOP [WHO] <Susan L. Sterner>;Ashley Snee/WHO/EOP [WHO] <Ashley Snee>;Robert E. Schubert/NSC/EOP [NSC] <Robert E. Schubert>;Deborah Sandler/NSC/EOP [NSC] <Deborah Sandler>;Jean M. Russell/OPD /EOP@Exchange [OPD] <Jean M. Russell>;Peter M. Rowan/WHO/EOP [UNKNOWN] <Peter M. Rowan>;Noelia Rodriguez/WHO/EOP [WHO] <Noelia Rodriguez>;Josephine B. Robinson/WHO/EOP [WHO] <Josephine B. Robinson>;Maurice C. Robinson/NSC/EOP [NSC] <Maurice C. Robinson>;Christina D. Roberts/WHO/EOP [UNKNOWN] <Christina D. Roberts>;Krista L. Ritacco/WHO/EOP@Exchange [WHO] <Krista L. Ritacco>;Allison L. Riepenhoff/WHO/EOP [WHO] <Allison L. Riepenhoff>;January M. Riecke/WHO/EOP [WHO] <January M. Riecke>;Katherine A. Rhodes/WHO/EOP [WHO] <Katherine A. Rhodes>;Tim Reynolds/WHO/EOP [WHO] <Tim Reynolds>;David Reyes/NSC/EOP [NSC] <David Reyes>;Susan B. Ralston/WHO/EOP [WHO] <Susan B. Ralston>;Leslie E. Radcliff/NSC/EOP [NSC] <Leslie E. Radcliff>;Alexia Poe/WHO/EOP [WHO] <Alexia Poe>;Charlotte L. Montiel/WHO/EOP [WHO] <Charlotte L. Montiel>;Elliott M. Langer/NSC/EOP [NSC] <Elliott M. Langer>;Clare Pritchett/WHO/EOP [WHO] <Clare Pritchett>;Suzanne Primoff/WHO/EOP [WHO] <Suzanne Primoff>;John I. Pray/NSC/EOP [NSC] <John I. Pray>;Susan D. Phillips/NSC/EOP [NSC] <Susan D. Phillips>;Sarah Penny/WHO/EOP [WHO] <Sarah Penny>;Raymond H. Payne/NSC/EOP [NSC] <Raymond H. Payne>;Richard S. Paulus/WHO/EOP [WHO] <Richard S. Paulus>;Edward J. Padinske/NSC/EOP [NSC] <Edward J. Padinske>;Eric H. Otto/OPD/EOP@Exchange [OPD] <Eric H. Otto>;Lee B. Mynatt/NSC/EOP [NSC] <Lee B. Mynatt>;Steven Myers/NSC/EOP [NSC] <Steven Myers>;Sarah M. Garrison/WHO/EOP [WHO] <Sarah M. Garrison>;Paul L. Morse/WHO/EOP [WHO] <Paul L. Morse>;Leslie A. Mooney/OPD/EOP@Exchange [OPD] <Leslie A. Mooney>;Cathy L. Millison/NSC/EOP [NSC] <Cathy L. Millison>;Holly M. Miller/WHO/EOP [WHO] <Holly M. Miller>;Sonya E. Medina/WHO/EOP [WHO] <Sonya E. Medina>;Vickie A. McQuade/WHO/EOP [WHO] <Vickie A. McQuade>;Sara B. McIntosh/WHO/EOP [WHO] <Sara B. McIntosh>;Peter A. McCauley/NSC/EOP [NSC] <Peter A. McCauley>;Daniel M. McCarthy/WHO/EOP [WHO] <Daniel M. McCarthy>;Thomas S. Marsh/NSC/EOP [NSC] <Thomas S. Marsh>;Colleen Litkenhaus/WHO/EOP [WHO] <Colleen Litkenhaus>;Lindsey M. Lineweaver/WHO/EOP [WHO] <Lindsey M. Lineweaver>;Laura E. Lineberry/NSC/EOP [NSC] <Laura E. Lineberry>;Adam L. Levine/WHO/EOP [WHO] <Adam L. Levine>;Christopher S. Legrand/NSC/EOP [NSC] <Christopher S. Legrand>;Sang W. Lee/NSC/EOP [NSC] <Sang W. Lee>;Jennie M. Koch/NSC/EOP [NSC] <Jennie M. Koch>;Andrew M. Kaver/NSC/EOP [UNKNOWN] <Andrew M. Kaver>;Dora Kale/NSC/EOP [NSC] <Dora Kale>;Alexander S. Joves/NSC/EOP [NSC] <Alexander S. Joves>;M. Kay Joshi/NSC/EOP [NSC] <M. Kay Joshi>;Alison Jones/WHO/EOP [WHO] <Alison Jones>;Megan R. Johnston/WHO/EOP [WHO] <Megan R. Johnston>;Sydney R. Johnson/WHO/EOP [WHO] <Sydney R. Johnson>;Clarence C. Johnson/NSC/EOP [NSC] <Clarence C. Johnson>;Gordon D. Johndroe/WHO/EOP [WHO] <Gordon D. Johndroe>;Melanie A. Jackson/WHO/EOP [WHO] <Melanie A. Jackson>;Marilyn R. Jacanin/WHO/EOP [WHO] <Marilyn R. Jacanin>;Restituto M. Francisco/OA/EOP [OA] <Restituto M. Francisco>;Sandra K. Evans/WHO/EOP [WHO] <Sandra K. Evans>;Regina L. Cain/WHO/EOP [WHO] <Regina L. Cain>;Katherine A. Brown/NSC/EOP [NSC] <Katherine A. Brown>;Bonnie S. Broadwick/NSC/EOP [NSC] <Bonnie S. Broadwick>;Theresa M. Hunter/NSC/EOP [NSC] <Theresa M. Hunter>;A. Merrill Hughes/WHO/EOP [UNKNOWN] <A. Merrill Hughes>;Jeffrey P. Houle/NSC/EOP [NSC] <Jeffrey P. Houle>;Ashley Holbrook/WHO/EOP [WHO] <Ashley Holbrook>;Josephine L. Hirsch/WHO/EOP [WHO] <Josephine L. Hirsch>;Jane C. Heishman/NSC/EOP [NSC] <Jane C. Heishman>;Anne Heiligenstein/WHO/EOP [WHO] <Anne Heiligenstein>;Robert C. Hargis/NSC/EOP [NSC] <Robert C. Hargis>;Alison M. Harden/WHO/EOP [WHO] <Alison M. Harden>;Mary Ann Hanusa/WHO/EOP [WHO] <Mary Ann Hanusa>;Thomas A. Hall/NSC/EOP [NSC] <Thomas A. Hall>;Mary A. Haines/NSC/EOP [NSC] <Mary A. Haines>;Katharina M. Hager/WHO/EOP [WHO] <Katharina M. Hager>;Henry C. Hager/WHO/EOP [WHO] <Henry C. Hager>;Albert J.

Guarnieri/NSC/EOP [NSC] <Albert J. Guarnieri>;Ginger G. Loper/WHO/EOP [WHO] <Ginger G. Loper>;Andrew W. Green/NSC/EOP [NSC] <Andrew W. Green>;Emily S. Gray/WHO/EOP [WHO] <Emily S. Gray>;Wendy E. Gray/NSC/EOP [NSC] <Wendy E. Gray>;Britt Grant/OPD/EOP [OPD] <Britt Grant>;Blake Gottesman/WHO/EOP [WHO] <Blake Gottesman>;Travis C. Good/NSC/EOP [UNKNOWN] <Travis C. Good>;Georgia D. Godfrey/WHO/EOP [WHO] <Georgia D. Godfrey>;Eleanor L. Gillmor/OPD/EOP [OPD] <Eleanor L. Gillmor>;Dorothy C. Garvin/WHO/EOP [WHO] <Dorothy C. Garvin>;Joachim D. Fuchs/NSC/EOP [NSC] <Joachim D. Fuchs>;Barbara J. Finn/OA/EOP [OA] <Barbara J. Finn>;Kara G. Figg/WHO/EOP@Exchange [WHO] <Kara G. Figg>;Jeanie L. Figg/WHO/EOP [WHO] <Jeanie L. Figg>;Jennifer D. Field/OVP/EOP [OVP] <Jennifer D. Field>;Douglas M. Erdahl/NSC/EOP [NSC] <Douglas M. Erdahl>;Ruth E. Elliott/NSC/EOP [NSC] <Ruth E. Elliott>;Kady Dunlap/WHO/EOP [WHO] <Kady Dunlap>;Eric A. Draper/WHO/EOP [WHO] <Eric A. Draper>;Joan R. Doty/WHO/EOP [WHO] <Joan R. Doty>;Katherine L. Disston/WHO /EOP@Exchange [WHO] <Katherine L. Disston>;Reed Dickens/WHO/EOP [WHO] <Reed Dickens>;Josh Deckard/WHO/EOP [WHO] <Josh Deckard>;Ashley E. Davis/WHO/EOP [WHO] <Ashley E. Davis>;Jill Davie/WHO/EOP [WHO] <Jill Davie>;Colin Crosby/NSC/EOP [NSC] <Colin Crosby>;Lynn A. Crable/WHO/EOP [WHO] <Lynn A. Crable>;Colby J. Cooper/NSC/EOP [NSC] <Colby J. Cooper>;Michael J. Conway/WHO/EOP [WHO] <Michael J. Conway>;Carolyn E. Cleveland/WHO/EOP [WHO] <Carolyn E. Cleveland>;Shane P. Chambers/WHO/EOP [WHO] <Shane P. Chambers>;Lois A. Cassano/WHO/EOP [WHO] <Lois A. Cassano>;Pamela R. Casey/WHO/EOP [WHO] <Pamela R. Casey>;Anne E. Campbell/WHO/EOP@Exchange [WHO] <Anne E. Campbell>;Elizabeth N. Camp/WHO/EOP [WHO] <Elizabeth N. Camp>;Marcia J. Caler/NSC/EOP [UNKNOWN] <Marcia J. Caler>;Johnathan C. Bunting/NSC/EOP [NSC] <Johnathan C. Bunting>;Patrick J. Bumatay/WHO/EOP [WHO] <Patrick J. Bumatay>;Marko R. Broz/NSC/EOP [NSC] <Marko R. Broz>;Gary E. Bresnahan/NSC/EOP [NSC] <Gary E. Bresnahan>;Brian Bravo/WHO/EOP [WHO] <Brian Bravo>;David R. Bohrer/OVP/EOP [OVP] <David R. Bohrer>;Debra D. Bird/WHO/EOP [WHO] <Debra D. Bird>;Melissa S. Bennett/WHO/EOP [WHO] <Melissa S. Bennett>;Cheryl E. Barnett/NSC/EOP [NSC] <Cheryl E. Barnett>;Tiffany L. Barfield/WHO/EOP [WHO] <Tiffany L. Barfield>;Mitchell P. Backfield/NSC/EOP [NSC] <Mitchell P. Backfield>;Jill L. Angelo/WHO/EOP [UNKNOWN] <Jill L. Angelo>;Ashleigh A. Adams/WHO/EOP [UNKNOWN] <Ashleigh A. Adams>;Joseph J. Shattan/OVP/EOP [OVP] <Joseph J. Shattan>;Kevin Warsh/OPD/EOP [OPD] <Kevin Warsh>;Richard J. Tubb/WHO/EOP [WHO] <Richard J. Tubb>;Paul J. Severs/WHO/EOP [WHO] <Paul J. Severs>;Joseph D. Rozek/OVP/EOP [OVP] <Joseph D. Rozek>;Steven J. Reynolds/WHO/EOP [WHO] <Steven J. Reynolds>;Candida P. Wolff/OVP/EOP [OVP] <Candida P. Wolff>;Heather Wingate/WHO/EOP [WHO] <Heather Wingate>;Daniel K. Wilmot/OVP/EOP [OVP] <Daniel K. Wilmot>;James R. Wilkinson/WHO/EOP [WHO] <James R. Wilkinson>;Jocelyn White/WHF/EOP [OPM] <Jocelyn White>;Lezlee J. Westine/WHO/EOP [WHO] <Lezlee J. Westine>;Peter H. Wehner/WHO/EOP [WHO] <Peter H. Wehner>;Paul A. Wedderien/NSC/EOP [NSC] <Paul A. Wedderien>;John P. Walters/ONDCP/EOP [ONDCP] <John P. Walters>;Helgard C. Walker/WHO/EOP [WHO] <Helgard C. Walker>;Jim Towey/WHO/EOP [WHO] <Jim Towey>;Catherine W. Tobias/OVP/EOP [OVP] <Catherine W. Tobias>;Jose G. Suarez/WHO/EOP [WHO] <Jose G. Suarez>;Aquiles F. Suarez/OPD/EOP [OPD] <Aquiles F. Suarez>;Angela B. Styles/OMB/EOP [OMB] <Angela B. Styles>;Mary K. Sturtevant/NSC/EOP [NSC] <Mary K. Sturtevant>;Margaret M. Spellings/OPD/EOP [OPD] <Margaret M. Spellings>;Deborah A. Spagnoli/WHO/EOP [WHO] <Deborah A. Spagnoli>;Mary A. Solberg/ONDCP/EOP [ONDCP] <Mary A. Solberg>;Augustine T. Smythe/OMB/EOP [OMB] <Augustine T. Smythe>;Kristen Silverberg/WHO/EOP [WHO] <Kristen Silverberg>;Thomas J. Sharpy/OVP/EOP [OVP] <Thomas J. Sharpy>;Scott N. Sforza/WHO/EOP [WHO] <Scott N. Sforza>;Howard A. Schmidt/NSC/EOP [NSC] <Howard A. Schmidt>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Daniel Schecter/ONDCP/EOP [ONDCP] <Daniel Schecter>;Diana L. Schacht/OPD/EOP [OPD] <Diana L. Schacht>;Desiree T. Sayle/WHO/EOP [WHO] <Desiree T. Sayle>;Kyle Sampson/WHO/EOP [WHO] <Kyle Sampson>;Richard M. Russell/OSTP/EOP [OSTP] <Richard M. Russell>;Stephen S. Ruhlen/OVP/EOP [OVP] <Stephen S. Ruhlen>;Karl C. Rove/WHO/EOP [WHO] <Karl C. Rove>;Mark V. Rosenker/WHO/EOP [WHO] <Mark V. Rosenker>;Thomas J. Ridge/WHO/EOP [WHO] <Thomas J. Ridge>;Condoleezza Rice/NSC/EOP [NSC] <Condoleezza Rice>;Nina Rees/OVP/EOP [OVP] <Nina Rees>;Craig Ray/WHO/EOP [WHO] <Craig Ray>;Benjamin A. Powell/WHO/EOP [WHO] <Benjamin A. Powell>;Kathie L. Olsen/OSTP/EOP [OSTP] <Kathie L. Olsen>;John F. Newell/WHO/EOP [WHO] <John F. Newell>;Manson O. Morris/OVP/EOP [OVP] <Manson O. Morris>;Paul D. Montanus/WHO/EOP [WHO] <Paul D. Montanus>;James M. McAllister/WHO/EOP [WHO] <James M. McAllister>;James M. Kelly/WHO/EOP [WHO] <James M. Kelly>;Dina

Powell/WHO/EOP [WHO] <Dina Powell>;Philip J. Perry/OMB/EOP [OMB] <Philip J. Perry>;Anna M. Perez/NSC/EOP [NSC] <Anna M. Perez>;Eric C. Pelletier/OMB/EOP [OMB] <Eric C. Pelletier>;Marcus Peacock/OMB/EOP [OMB] <Marcus Peacock>;Neil S. Patel/OVP/EOP [OVP] <Neil S. Patel>;Sean C. O'Keefe/OMB/EOP [OMB] <Sean C. O'Keefe>;Ziad S. Ojakli/WHO/EOP [WHO] <Ziad S. Ojakli>;Claire M. O'Donnell/OVP/EOP [OVP] <Claire M. O'Donnell>;Jennifer G. Newstead/WHO/EOP [WHO] <Jennifer G. Newstead>;Susan K. Neely/WHO/EOP [WHO] <Susan K. Neely>;Edmund C. Moy/WHO/EOP [WHO] <Edmund C. Moy>;James F. Moriarty/NSC/EOP [NSC] <James F. Moriarty>;Brian D. Montgomery/WHO/EOP [WHO] <Brian D. Montgomery>;Michael H. Miller/WHO/EOP [WHO] <Michael H. Miller>;Franklin C. Miller/NSC/EOP [NSC] <Franklin C. Miller>;Harriet Miers/WHO/EOP [WHO] <Harriet Miers>;Ken Mehlman/WHO/EOP [WHO] <Ken Mehlman>;Edward McNally/WHO/EOP [WHO] <Edward McNally>;Robert C. McNally/OPD/EOP [OPD] <Robert C. McNally>;Stephen S. McMillin/OMB/EOP [OMB] <Stephen S. McMillin>;Brian V. McCormack/OVP/EOP [OVP] <Brian V. McCormack>;John P. McConnell/OVP/EOP [OVP] <John P. McConnell>;Scott McClellan/WHO/EOP [WHO] <Scott McClellan>;Mark McClellan/CEA/EOP [UNKNOWN] <Mark McClellan>;Mary J. Matalin/OVP/EOP [OVP] <Mary J. Matalin>;Catherine J. Martin/OVP/EOP [OVP] <Catherine J. Martin>;Robert Marsh/WHO/EOP [WHO] <Robert Marsh>;John H. Marburger/OSTP/EOP [OSTP] <John H. Marburger>;John F. Maisto/NSC/EOP [NSC] <John F. Maisto>;Robin A. MacLean/WHO/EOP [WHO] <Robin A. MacLean>;Ado A. Machida/OVP/EOP [OVP] <Ado A. Machida>;Deborah A. Loewer/NSC/EOP [NSC] <Deborah A. Loewer>;Roland N. Litterst/WHO/EOP [WHO] <Roland N. Litterst>;Lawrence B. Lindsey/OPD/EOP@Exchange [OPD] <Lawrence B. Lindsey>;Lewis Libby/OVP/EOP [OVP] <Lewis Libby>;Dirksen Lehman/WHO/EOP [WHO] <Dirksen Lehman>;Jay P. Lefkowitz/OPD/EOP [OPD] <Jay P. Lefkowitz>;Laura S. Lawlor/WHO/EOP [WHO] <Laura S. Lawlor>;Bruce M. Lawlor/WHO/EOP [WHO] <Bruce M. Lawlor>;Paul B. Kurtz/NSC/EOP [NSC] <Paul B. Kurtz>;David Kuo/WHO/EOP [WHO] <David Kuo>;Randall S. Kroszner/CEA/EOP [CEA] <Randall S. Kroszner>;Karen Y. Knutson/OVP/EOP [OVP] <Karen Y. Knutson>;Frank G. Klotz/NSC/EOP [NSC] <Frank G. Klotz>;Elizabeth W. Kleppe/OVP/EOP [OVP] <Elizabeth W. Kleppe>;Ellis Kitchen/OA/EOP [OA] <Ellis Kitchen>;Matthew Kirk/WHO/EOP [WHO] <Matthew Kirk>;Zalmay M. Khalilzad/NSC/EOP [NSC] <Zalmay M. Khalilzad>;Daniel J. Keniry/WHO/EOP [WHO] <Daniel J. Keniry>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Joel D. Kaplan/WHO/EOP [WHO] <Joel D. Kaplan>;Charles D. McGrath Jr/OVP/EOP [OVP] <Charles D. McGrath Jr>;Robert G. Joseph/NSC/EOP [NSC] <Robert G. Joseph>;Reuben Jeffery/OPD/EOP [OPD] <Reuben Jeffery>;Barry S. Jackson/WHO/EOP [WHO] <Barry S. Jackson>;Hector F. Irastorza/WHO/EOP [WHO] <Hector F. Irastorza>;Edward Ingle/WHO/EOP [WHO] <Edward Ingle>;Clay Johnson III/WHO/EOP [WHO] <Clay Johnson III>;Tim Campen/OA/EOP [OA] <Tim Campen>;Penrose C. Albright TPO/TPO/OMB/EOP [OMB] <Penrose C. Albright TPO>;Steven I. Cooper TPO/TPO/OMB/EOP [OMB] <Steven I. Cooper TPO>;Keith Hennessey/OPD/EOP@Exchange [OPD] <Keith Hennessey>;Julian M. Flannery/WHO/EOP [WHO] <Julian M. Flannery>;Duncan Campbell/WHO/EOP [WHO] <Duncan Campbell>;R. Rand Beers/NSC/EOP [NSC] <R. Rand Beers>;Glenn Hubbard/CEA/EOP [CEA] <Glenn Hubbard>;Jack Howard/WHO/EOP [WHO] <Jack Howard>;Mark Holman/WHO/EOP [WHO] <Mark Holman>;David W. Hobbs/WHO/EOP [WHO] <David W. Hobbs>;Israel Hernandez/WHO/EOP [WHO] <Israel Hernandez>;Chris Henick/WHO/EOP [WHO] <Chris Henick>;Debra Heiden/OVP/EOP [OVP] <Debra Heiden>;Albert Hawkins/WHO/EOP [WHO] <Albert Hawkins>;John P. Hannah/OVP/EOP [OVP] <John P. Hannah>;John F. Haley/OVP/EOP [OVP] <John F. Haley>;Joseph W. Hagin/WHO/EOP [WHO] <Joseph W. Hagin>;Stephen J. Hadley/NSC/EOP [NSC] <Stephen J. Hadley>;Ann Gray/WHO/EOP [WHO] <Ann Gray>;John Graham/OMB/EOP [OMB] <John Graham>;John A. Gordon/NSC/EOP [NSC] <John A. Gordon>;Alberto R. Gonzales/WHO/EOP [WHO] <Alberto R. Gonzales>;Tim Goeglein/WHO/EOP [WHO] <Tim Goeglein>;Dylan C. Glenn/OPD/EOP [OPD] <Dylan C. Glenn>;Alan Gilbert/OPD/EOP [OPD] <Alan Gilbert>;Michael J. Gerson/WHO/EOP@Exchange [WHO] <Michael J. Gerson>;Stephen M. Garrison/WHO/EOP [WHO] <Stephen M. Garrison>;Kelley Gannon/WHO/EOP [WHO] <Kelley Gannon>;Linda M. Gambatesa/WHO/EOP [WHO] <Linda M. Gambatesa>;Diana E. Furchtgott-Roth/CEA/EOP [CEA] <Diana E. Furchtgott-Roth>;Daniel Fried/NSC/EOP [NSC] <Daniel Fried>;Jendayi E. Frazer/NSC/EOP [NSC] <Jendayi E. Frazer>;Noel J. Francisco/WHO/EOP [WHO] <Noel J. Francisco>;Lawrence A. Fleischer/WHO/EOP [WHO] <Lawrence A. Fleischer>;Catherine S. Fenton/WHO/EOP [WHO] <Catherine S. Fenton>;Richard Falkenrath/WHO/EOP [WHO] <Richard Falkenrath>;Nanette Everson/WHO/EOP [WHO] <Nanette Everson>;Mark Everson/OMB/EOP [OMB] <Mark Everson>;Ashley Estes/WHO/EOP [WHO] <Ashley Estes>;Tucker A. Eskew/WHO/EOP [WHO] <Tucker A. Eskew>;Gary R.

Edson/NSC/EOP [NSC] <Gary R. Edson>;Eric S. Edelman/OVP/EOP [OVP] <Eric S. Edelman>;Wayne A. Downing/NSC/EOP [UNKNOWN] <Wayne A. Downing>;Elizabeth S. Dougherty/OPD/EOP [OPD] <Elizabeth S. Dougherty>;Nancy P. Dorn/WHO/EOP [UNKNOWN] <Nancy P. Dorn>;Diana C. Donnelly/WHO/EOP [WHO] <Diana C. Donnelly>;Nicolle Devenish/WHO/EOP [WHO] <Nicolle Devenish>;Mitchell Daniels/OMB/EOP [OMB] <Mitchell Daniels>;James F. Daniel/OA/EOP [OA] <James F. Daniel>;Stacia L. Cropper/OA/EOP [OA] <Stacia L. Cropper>;Barry Crane/ONDCP/EOP [ONDCP] <Barry Crane>;John B. Craig/NSC/EOP [UNKNOWN] <John B. Craig>;Phil Cooney/CEQ/EOP [CEQ] <Phil Cooney>;Rebecca Contreras/WHO/EOP [WHO] <Rebecca Contreras>;Charles Conner/OPD/EOP [OPD] <Charles Conner>;James Connaughton/CEQ/EOP [CEQ] <James Connaughton>;Brian C. Conklin/WHO/EOP [WHO] <Brian C. Conklin>;Cesar Conda/OVP/EOP [OVP] <Cesar Conda>;Douglas F. Cochrane/OVP/EOP [OVP] <Douglas F. Cochrane>;Robert W. Cobb/WHO/EOP [UNKNOWN] <Robert W. Cobb>;John A. Cloud/NSC/EOP [NSC] <John A. Cloud>;Robin Cleveland/OMB/EOP [OMB] <Robin Cleveland>;Richard A. Clarke/NSC/EOP [NSC] <Richard A. Clarke>;Alicia P. Clark/WHO/EOP [WHO] <Alicia P. Clark>;Frank Cilluffo/WHO/EOP [WHO] <Frank Cilluffo>;Christine Ciccone/WHO/EOP [WHO] <Christine Ciccone>;Ronald I. Christie/OVP/EOP [UNKNOWN] <Ronald I. Christie>;Barbara C. Chaffee/WHO/EOP [WHO] <Barbara C. Chaffee>;Kirsten A. Chadwick/WHO/EOP [WHO] <Kirsten A. Chadwick>;Andrew H. Card/WHO/EOP [WHO] <Andrew H. Card>;James C. Capretta/OMB/EOP [OMB] <James C. Capretta>;Nicholas E. Calio/WHO/EOP [WHO] <Nicholas E. Calio>;Scott Burns/ONDCP/EOP [ONDCP] <Scott Burns>;Katja Bullock/WHO/EOP [WHO] <Katja Bullock>;Carl Buchholz/WHO/EOP [WHO] <Carl Buchholz>;Claire E. Buchan/WHO/EOP [WHO] <Claire E. Buchan>;John M. Bridgeland/OPD/EOP [OPD] <John M. Bridgeland>;Stuart W. Bowen/WHO/EOP [WHO] <Stuart W. Bowen>;Carlos E. Bonilla/OPD/EOP [OPD] <Carlos E. Bonilla>;Joshua B. Bolten/WHO/EOP [WHO] <Joshua B. Bolten>;Lloyd A. Blanchard/OMB/EOP [UNKNOWN] <Lloyd A. Blanchard>;Bradley A. Blakeman/WHO/EOP@Exchange [WHO] <Bradley A. Blakeman>;Charles P. Blahous/OPD/EOP [OPD] <Charles P. Blahous>;Stephen E. Biegun/NSC/EOP [NSC] <Stephen E. Biegun>;Rebecca A. Beynon/WHO/EOP [WHO] <Rebecca A. Beynon>;Janet L. Berman/OVP/EOP [OVP] <Janet L. Berman>;Bradford A. Berenson/WHO/EOP [WHO] <Bradford A. Berenson>;John B. Bellinger/NSC/EOP [NSC] <John B. Bellinger>;H. Christopher Bartolomucci/WHO/EOP [WHO] <H. Christopher Bartolomucci>;Daniel J. Bartlett/WHO/EOP@Exchange [WHO] <Daniel J. Bartlett>;Andrea G. Barthwell/ONDCP/EOP [ONDCP] <Andrea G. Barthwell>;Ruben S. Barrales/WHO/EOP [WHO] <Ruben S. Barrales>;Andrea G. Ball/WHO/EOP [WHO] <Andrea G. Ball>;Jackie Arends/WHO/EOP [WHO] <Jackie Arends>;George M. Andricos/NSC/EOP [NSC] <George M. Andricos>;Cathy Alix/WHO/EOP [WHO] <Cathy Alix>;David S. Addington/OVP/EOP [OVP] <David S. Addington>;Elliott Abrams/NSC/EOP [NSC] <Elliott Abrams>;Charles S. Abbot/OVP/EOP [OVP] <Charles S. Abbot>

Sent: 12/18/2002 4:13:37 AM

Subject: : POSTMASTER: Cancelation of the WH Mess Award Presentation

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME:18-DEC-2002 09:13:37.00
SUBJECT:: POSTMASTER: Cancelation of the WH Mess Award Presentation
TO:Gina M. Wolford ( CN=Gina M. Wolford/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:David L. Travers ( CN=David L. Travers/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Harry W. Wolff ( CN=Harry W. Wolff/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Alexian T. Wines ( CN=Alexian T. Wines/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Patricia Williams ( CN=Patricia Williams/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Jared B. Weinstein ( CN=Jared B. Weinstein/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Matthew C. Waxman ( CN=Matthew C. Waxman/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Lauren J. Vestewig ( CN=Lauren J. Vestewig/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
```

TO:Terrill G. Tucker (CN=Terrill G. Tucker/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tevi Troy (CN=Tevi Troy/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Anne Trenolone (CN=Anne Trenolone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Julieanne H. Thomas (CN=Julieanne H. Thomas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Rachael L. Sunbarger (CN=Rachael L. Sunbarger/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan L. Sterner (CN=Susan L. Sterner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert E. Schubert (CN=Robert E. Schubert/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Deborah Sandler (CN=Deborah Sandler/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jean M. Russell (CN=Jean M. Russell/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Peter M. Rowan (CN=Peter M. Rowan/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Noelia Rodriguez (CN=Noelia Rodriguez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine B. Robinson (CN=Josephine B. Robinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Maurice C. Robinson (CN=Maurice C. Robinson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Christina D. Roberts (CN=Christina D. Roberts/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Allison L. Riepenhoff (CN=Allison L. Riepenhoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:January M. Riecke (CN=January M. Riecke/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Rhodes (CN=Katherine A. Rhodes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Reynolds (CN=Tim Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David Reyes (CN=David Reyes/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie E. Radcliff (CN=Leslie E. Radcliff/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexia Poe (CN=Alexia Poe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elliott M. Langer (CN=Elliott M. Langer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Clare Pritchett (CN=Clare Pritchett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Suzanne Primoff (CN=Suzanne Primoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John I. Pray (CN=John I. Pray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan D. Phillips (CN=Susan D. Phillips/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah Penny (CN=Sarah Penny/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Raymond H. Payne (CN=Raymond H. Payne/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Richard S. Paulus (CN=Richard S. Paulus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward J. Padinske (CN=Edward J. Padinske/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Eric H. Otto (CN=Eric H. Otto/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Lee B. Mynatt (CN=Lee B. Mynatt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Steven Myers (CN=Steven Myers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah M. Garrison (CN=Sarah M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul L. Morse (CN=Paul L. Morse/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie A. Mooney (CN=Leslie A. Mooney/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Cathy L. Millison (CN=Cathy L. Millison/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Holly M. Miller (CN=Holly M. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sonya E. Medina (CN=Sonya E. Medina/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Vickie A. McQuade (CN=Vickie A. McQuade/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sara B. McIntosh (CN=Sara B. McIntosh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter A. McCauley (CN=Peter A. McCauley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel M. McCarthy (CN=Daniel M. McCarthy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas S. Marsh (CN=Thomas S. Marsh/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lindsey M. Lineweaver (CN=Lindsey M. Lineweaver/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Laura E. Lineberry (CN=Laura E. Lineberry/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Adam L. Levine (CN=Adam L. Levine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christopher S. Legrand (CN=Christopher S. Legrand/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sang W. Lee (CN=Sang W. Lee/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jennie M. Koch (CN=Jennie M. Koch/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Andrew M. Kaver (CN=Andrew M. Kaver/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Dora Kale (CN=Dora Kale/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexander S. Joves (CN=Alexander S. Joves/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:M. Kay Joshi (CN=M. Kay Joshi/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Megan R. Johnston (CN=Megan R. Johnston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sydney R. Johnson (CN=Sydney R. Johnson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clarence C. Johnson (CN=Clarence C. Johnson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gordon D. Johndroe (CN=Gordon D. Johndroe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melanie A. Jackson (CN=Melanie A. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marilyn R. Jacanin (CN=Marilyn R. Jacanin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Restituto M. Francisco (CN=Restituto M. Francisco/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Sandra K. Evans (CN=Sandra K. Evans/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Regina L. Cain (CN=Regina L. Cain/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Brown (CN=Katherine A. Brown/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Bonnie S. Broadwick (CN=Bonnie S. Broadwick/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Theresa M. Hunter (CN=Theresa M. Hunter/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:A. Merrill Hughes (CN=A. Merrill Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jeffrey P. Houle (CN=Jeffrey P. Houle/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ashley Holbrook (CN=Ashley Holbrook/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine L. Hirsch (CN=Josephine L. Hirsch/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jane C. Heishman (CN=Jane C. Heishman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anne Heiligenstein (CN=Anne Heiligenstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. Hargis (CN=Robert C. Hargis/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison M. Harden (CN=Alison M. Harden/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary Ann Hanusa (CN=Mary Ann Hanusa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas A. Hall (CN=Thomas A. Hall/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary A. Haines (CN=Mary A. Haines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Katharina M. Hager (CN=Katharina M. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Henry C. Hager (CN=Henry C. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Albert J. Guarnieri (CN=Albert J. Guarnieri/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew W. Green (CN=Andrew W. Green/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Emily S. Gray (CN=Emily S. Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wendy E. Gray (CN=Wendy E. Gray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Britt Grant (CN=Britt Grant/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Travis C. Good (CN=Travis C. Good/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Georgia D. Godfrey (CN=Georgia D. Godfrey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Dorothy C. Garvin (CN=Dorothy C. Garvin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joachim D. Fuchs (CN=Joachim D. Fuchs/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Barbara J. Finn (CN=Barbara J. Finn/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jeanie L. Figg (CN=Jeanie L. Figg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jennifer D. Field (CN=Jennifer D. Field/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Douglas M. Erdahl (CN=Douglas M. Erdahl/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Ruth E. Elliott (CN=Ruth E. Elliott/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kady Dunlap (CN=Kady Dunlap/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eric A. Draper (CN=Eric A. Draper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joan R. Doty (CN=Joan R. Doty/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine L. Disston (CN=Katherine L. Disston/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Reed Dickens (CN=Reed Dickens/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josh Deckard (CN=Josh Deckard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley E. Davis (CN=Ashley E. Davis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jill Davie (CN=Jill Davie/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colin Crosby (CN=Colin Crosby/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lynn A. Crable (CN=Lynn A. Crable/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colby J. Cooper (CN=Colby J. Cooper/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Shane P. Chambers (CN=Shane P. Chambers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lois A. Cassano (CN=Lois A. Cassano/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Pamela R. Casey (CN=Pamela R. Casey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne E. Campbell (CN=Anne E. Campbell/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marcia J. Caler (CN=Marcia J. Caler/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Johnathan C. Bunting (CN=Johnathan C. Bunting/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marko R. Broz (CN=Marko R. Broz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gary E. Bresnahan (CN=Gary E. Bresnahan/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David R. Bohrer (CN=David R. Bohrer/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cheryl E. Barnett (CN=Cheryl E. Barnett/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell P. Backfield (CN=Mitchell P. Backfield/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jill L. Angelo (CN=Jill L. Angelo/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Ashleigh A. Adams (CN=Ashleigh A. Adams/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Joseph J. Shattan (CN=Joseph J. Shattan/OU=OVP/O=EOP [OVP])
READ:UNKNOWN

TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Richard J. Tubb (CN=Richard J. Tubb/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul J. Severs (CN=Paul J. Severs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joseph D. Rozek (CN=Joseph D. Rozek/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Steven J. Reynolds (CN=Steven J. Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Candida P. Wolff (CN=Candida P. Wolff/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel K. Wilmot (CN=Daniel K. Wilmot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:James R. Wilkinson (CN=James R. Wilkinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jocelyn White (CN=Jocelyn White/OU=WHF/O=EOP [OPM])
READ:UNKNOWN
TO:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul A. Wedderien (CN=Paul A. Wedderien/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John P. Walters (CN=John P. Walters/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine W. Tobias (CN=Catherine W. Tobias/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jose G. Suarez (CN=Jose G. Suarez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Aquiles F. Suarez (CN=Aquiles F. Suarez/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Angela B. Styles (CN=Angela B. Styles/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary A. Solberg (CN=Mary A. Solberg/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Augustine T. Smythe (CN=Augustine T. Smythe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Sharpy (CN=Thomas J. Sharpy/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Howard A. Schmidt (CN=Howard A. Schmidt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel Schecter (CN=Daniel Schecter/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Richard M. Russell (CN=Richard M. Russell/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Stephen S. Ruhlen (CN=Stephen S. Ruhlen/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark V. Rosenker (CN=Mark V. Rosenker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Ridge (CN=Thomas J. Ridge/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Nina Rees (CN=Nina Rees/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Craig Ray (CN=Craig Ray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kathie L. Olsen (CN=Kathie L. Olsen/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Newell (CN=John F. Newell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Manson O. Morris (CN=Manson O. Morris/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Paul D. Montanus (CN=Paul D. Montanus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. McAllister (CN=James M. McAllister/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric C. Pelletier (CN=Eric C. Pelletier/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Marcus Peacock (CN=Marcus Peacock/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Neil S. Patel (CN=Neil S. Patel/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Sean C. O'Keefe (CN=Sean C. O'Keefe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire M. O'Donnell (CN=Claire M. O'Donnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan K. Neely (CN=Susan K. Neely/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen S. McMillin (CN=Stephen S. McMillin/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark McClellan (CN=Mark McClellan/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Mary J. Matalin (CN=Mary J. Matalin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Catherine J. Martin (CN=Catherine J. Martin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John H. Marburger (CN=John H. Marburger/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Maisto (CN=John F. Maisto/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin A. MacLean (CN=Robin A. MacLean/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ado A. Machida (CN=Ado A. Machida/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Deborah A. Loewer (CN=Deborah A. Loewer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence B. Lindsey (CN=Lawrence B. Lindsey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Dirksen Lehman (CN=Dirksen Lehman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Laura S. Lawlor (CN=Laura S. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bruce M. Lawlor (CN=Bruce M. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Randall S. Kroszner (CN=Randall S. Kroszner/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Karen Y. Knutson (CN=Karen Y. Knutson/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Frank G. Klotz (CN=Frank G. Klotz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Ellis Kitchen (CN=Ellis Kitchen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles D. McGrath Jr (CN=Charles D. McGrath Jr/OU=OVP/O=EOP [OVP])
READ:UNKNOWN

TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Reuben Jeffery (CN=Reuben Jeffery/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hector F. Irastorza (CN=Hector F. Irastorza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Campen (CN=Tim Campen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Penrose C. Albright TPO (CN=Penrose C. Albright TPO/OU=TPO/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Steven I. Cooper TPO (CN=Steven I. Cooper TPO/OU=TPO/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Julian M. Flannery (CN=Julian M. Flannery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Duncan Campbell (CN=Duncan Campbell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:R. Rand Beers (CN=R. Rand Beers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Glenn Hubbard (CN=Glenn Hubbard/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Jack Howard (CN=Jack Howard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Holman (CN=Mark Holman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Chris Henick (CN=Chris Henick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Debra Heiden (CN=Debra Heiden/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Albert Hawkins (CN=Albert Hawkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John P. Hannah (CN=John P. Hannah/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John F. Haley (CN=John F. Haley/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John Graham (CN=John Graham/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:John A. Gordon (CN=John A. Gordon/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Stephen M. Garrison (CN=Stephen M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Diana E. Furchtgott-Roth (CN=Diana E. Furchtgott-Roth/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Everson (CN=Mark Everson/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric S. Edelman (CN=Eric S. Edelman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Wayne A. Downing (CN=Wayne A. Downing/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Nancy P. Dorn (CN=Nancy P. Dorn/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Diana C. Donnelly (CN=Diana C. Donnelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:James F. Daniel (CN=James F. Daniel/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Stacia L. Cropper (CN=Stacia L. Cropper/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Barry Crane (CN=Barry Crane/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:John B. Craig (CN=John B. Craig/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:James Connaughton (CN=James Connaughton/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cesar Conda (CN=Cesar Conda/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Douglas F. Cochrane (CN=Douglas F. Cochrane/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert W. Cobb (CN=Robert W. Cobb/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:John A. Cloud (CN=John A. Cloud/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Robin Cleveland (CN=Robin Cleveland/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Richard A. Clarke (CN=Richard A. Clarke/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Frank Cilluffo (CN=Frank Cilluffo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christine Ciccone (CN=Christine Ciccone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Barbara C. Chaffee (CN=Barbara C. Chaffee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James C. Capretta (CN=James C. Capretta/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Nicholas E. Calio (CN=Nicholas E. Calio/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott Burns (CN=Scott Burns/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carl Buchholz (CN=Carl Buchholz/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stuart W. Bowen (CN=Stuart W. Bowen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carlos E. Bonilla (CN=Carlos E. Bonilla/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lloyd A. Blanchard (CN=Lloyd A. Blanchard/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen E. Biegun (CN=Stephen E. Biegun/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Janet L. Berman (CN=Janet L. Berman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Andrea G. Barthwell (CN=Andrea G. Barthwell/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Cathy Alix (CN=Cathy Alix/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
End Original ARMS Header

Today's presentation of the American Academy of Hospitality Sciences 2002/03 Star Diamond Award to the White House Mess has been canceled and will be rescheduled in the near future.

Thank you.

From: CN=PostMaster/O=EOP [OA]

To: Gina M. Wolford/NSC/EOP [NSC] <Gina M. Wolford>;David L. Travers/NSC/EOP [NSC] <David L. Travers>;Harry W. Wolff/WHO/EOP [WHO] <Harry W. Wolff>;Alexian T. Wines/NSC/EOP [NSC] <Alexian T. Wines>;Patricia Williams/WHO/EOP [WHO] <Patricia Williams>;Jared B. Weinstein/WHO/EOP@Exchange [WHO] <Jared B. Weinstein>;Matthew C. Waxman/NSC/EOP [NSC] <Matthew C. Waxman>;Lauren J. Vestewig/OPD/EOP [OPD] <Lauren J. Vestewig>;Terrill G. Tucker/NSC/EOP [NSC] <Terrill G. Tucker>;Tevi Troy/OPD/EOP [OPD] <Tevi Troy>;Anne Trenolone/WHO/EOP [WHO] <Anne Trenolone>;Julieanne H. Thomas/WHO/EOP [WHO] <Julieanne H. Thomas>;Rachael L. Sunbarger/WHO/EOP [WHO] <Rachael L. Sunbarger>;Susan L. Sterner/WHO/EOP [WHO] <Susan L. Sterner>;Ashley Snee/WHO/EOP [WHO] <Ashley Snee>;Robert E. Schubert/NSC/EOP [NSC] <Robert E. Schubert>;Deborah Sandler/NSC/EOP [NSC] <Deborah Sandler>;Jean M. Russell/OPD /EOP@Exchange [OPD] <Jean M. Russell>;Peter M. Rowan/WHO/EOP [UNKNOWN] <Peter M. Rowan>;Noelia Rodriguez/WHO/EOP [WHO] <Noelia Rodriguez>;Josephine B. Robinson/WHO/EOP [WHO] <Josephine B. Robinson>;Maurice C. Robinson/NSC/EOP [NSC] <Maurice C. Robinson>;Christina D. Roberts/WHO/EOP [UNKNOWN] <Christina D. Roberts>;Krista L. Ritacco/WHO/EOP@Exchange [WHO] <Krista L. Ritacco>;Allison L. Riepenhoff/WHO/EOP [WHO] <Allison L. Riepenhoff>;January M. Riecke/WHO/EOP [WHO] <January M. Riecke>;Katherine A. Rhodes/WHO/EOP [WHO] <Katherine A. Rhodes>;Tim Reynolds/WHO/EOP [WHO] <Tim Reynolds>;David Reyes/NSC/EOP [NSC] <David Reyes>;Susan B. Ralston/WHO/EOP [WHO] <Susan B. Ralston>;Leslie E. Radcliff/NSC/EOP [NSC] <Leslie E. Radcliff>;Alexia Poe/WHO/EOP [WHO] <Alexia Poe>;Charlotte L. Montiel/WHO/EOP [WHO] <Charlotte L. Montiel>;Elliott M. Langer/NSC/EOP [NSC] <Elliott M. Langer>;Clare Pritchett/WHO/EOP [WHO] <Clare Pritchett>;Suzanne Primoff/WHO/EOP [WHO] <Suzanne Primoff>;John I. Pray/NSC/EOP [NSC] <John I. Pray>;Susan D. Phillips/NSC/EOP [NSC] <Susan D. Phillips>;Sarah Penny/WHO/EOP [WHO] <Sarah Penny>;Raymond H. Payne/NSC/EOP [NSC] <Raymond H. Payne>;Richard S. Paulus/WHO/EOP [WHO] <Richard S. Paulus>;Edward J. Padinske/NSC/EOP [NSC] <Edward J. Padinske>;Eric H. Otto/OPD/EOP@Exchange [OPD] <Eric H. Otto>;Lee B. Mynatt/NSC/EOP [NSC] <Lee B. Mynatt>;Steven Myers/NSC/EOP [NSC] <Steven Myers>;Sarah M. Garrison/WHO/EOP [WHO] <Sarah M. Garrison>;Paul L. Morse/WHO/EOP [WHO] <Paul L. Morse>;Leslie A. Mooney/OPD/EOP@Exchange [OPD] <Leslie A. Mooney>;Cathy L. Millison/NSC/EOP [NSC] <Cathy L. Millison>;Holly M. Miller/WHO/EOP [WHO] <Holly M. Miller>;Sonya E. Medina/WHO/EOP [WHO] <Sonya E. Medina>;Vickie A. McQuade/WHO/EOP [WHO] <Vickie A. McQuade>;Sara B. McIntosh/WHO/EOP [WHO] <Sara B. McIntosh>;Peter A. McCauley/NSC/EOP [NSC] <Peter A. McCauley>;Daniel M. McCarthy/WHO/EOP [WHO] <Daniel M. McCarthy>;Thomas S. Marsh/NSC/EOP [NSC] <Thomas S. Marsh>;Colleen Litkenhaus/WHO/EOP [WHO] <Colleen Litkenhaus>;Lindsey M. Lineweaver/WHO/EOP [WHO] <Lindsey M. Lineweaver>;Laura E. Lineberry/NSC/EOP [NSC] <Laura E. Lineberry>;Adam L. Levine/WHO/EOP [WHO] <Adam L. Levine>;Christopher S. Legrand/NSC/EOP [NSC] <Christopher S. Legrand>;Sang W. Lee/NSC/EOP [NSC] <Sang W. Lee>;Jennie M. Koch/NSC/EOP [NSC] <Jennie M. Koch>;Andrew M. Kaver/NSC/EOP [UNKNOWN] <Andrew M. Kaver>;Dora Kale/NSC/EOP [NSC] <Dora Kale>;Alexander S. Joves/NSC/EOP [NSC] <Alexander S. Joves>;M. Kay Joshi/NSC/EOP [NSC] <M. Kay Joshi>;Alison Jones/WHO/EOP [WHO] <Alison Jones>;Megan R. Johnston/WHO/EOP [WHO] <Megan R. Johnston>;Sydney R. Johnson/WHO/EOP [WHO] <Sydney R. Johnson>;Clarence C. Johnson/NSC/EOP [NSC] <Clarence C. Johnson>;Gordon D. Johndroe/WHO/EOP [WHO] <Gordon D. Johndroe>;Melanie A. Jackson/WHO/EOP [WHO] <Melanie A. Jackson>;Marilyn R. Jacanin/WHO/EOP [WHO] <Marilyn R. Jacanin>;Restituto M. Francisco/OA/EOP [OA] <Restituto M. Francisco>;Sandra K. Evans/WHO/EOP [WHO] <Sandra K. Evans>;Regina L. Cain/WHO/EOP [WHO] <Regina L. Cain>;Katherine A. Brown/NSC/EOP [NSC] <Katherine A. Brown>;Bonnie S. Broadwick/NSC/EOP [NSC] <Bonnie S. Broadwick>;Theresa M. Hunter/NSC/EOP [NSC] <Theresa M. Hunter>;A. Merrill Hughes/WHO/EOP [UNKNOWN] <A. Merrill Hughes>;Jeffrey P. Houle/NSC/EOP [NSC] <Jeffrey P. Houle>;Ashley Holbrook/WHO/EOP [WHO] <Ashley Holbrook>;Josephine L. Hirsch/WHO/EOP [WHO] <Josephine L. Hirsch>;Jane C. Heishman/NSC/EOP [NSC] <Jane C. Heishman>;Anne Heiligenstein/WHO/EOP [WHO] <Anne Heiligenstein>;Robert C. Hargis/NSC/EOP [NSC] <Robert C. Hargis>;Alison M. Harden/WHO/EOP [WHO] <Alison M. Harden>;Mary Ann Hanusa/WHO/EOP [WHO] <Mary Ann Hanusa>;Thomas A. Hall/NSC/EOP [NSC] <Thomas A. Hall>;Mary A. Haines/NSC/EOP [NSC] <Mary A. Haines>;Katharina M. Hager/WHO/EOP [WHO] <Katharina M. Hager>;Henry C. Hager/WHO/EOP [WHO] <Henry C. Hager>;Albert J.

Guarnieri/NSC/EOP [NSC] <Albert J. Guarnieri>;Ginger G. Loper/WHO/EOP [WHO] <Ginger G. Loper>;Andrew W. Green/NSC/EOP [NSC] <Andrew W. Green>;Emily S. Gray/WHO/EOP [WHO] <Emily S. Gray>;Wendy E. Gray/NSC/EOP [NSC] <Wendy E. Gray>;Britt Grant/OPD/EOP [OPD] <Britt Grant>;Blake Gottesman/WHO/EOP [WHO] <Blake Gottesman>;Travis C. Good/NSC/EOP [UNKNOWN] <Travis C. Good>;Georgia D. Godfrey/WHO/EOP [WHO] <Georgia D. Godfrey>;Eleanor L. Gillmor/OPD/EOP [OPD] <Eleanor L. Gillmor>;Dorothy C. Garvin/WHO/EOP [WHO] <Dorothy C. Garvin>;Joachim D. Fuchs/NSC/EOP [NSC] <Joachim D. Fuchs>;Barbara J. Finn/OA/EOP [OA] <Barbara J. Finn>;Kara G. Figg/WHO/EOP@Exchange [WHO] <Kara G. Figg>;Jeanie L. Figg/WHO/EOP [WHO] <Jeanie L. Figg>;Jennifer D. Field/OVP/EOP [OVP] <Jennifer D. Field>;Douglas M. Erdahl/NSC/EOP [NSC] <Douglas M. Erdahl>;Ruth E. Elliott/NSC/EOP [NSC] <Ruth E. Elliott>;Kady Dunlap/WHO/EOP [WHO] <Kady Dunlap>;Eric A. Draper/WHO/EOP [WHO] <Eric A. Draper>;Joan R. Doty/WHO/EOP [WHO] <Joan R. Doty>;Katherine L. Disston/WHO /EOP@Exchange [WHO] <Katherine L. Disston>;Reed Dickens/WHO/EOP [WHO] <Reed Dickens>;Josh Deckard/WHO/EOP [WHO] <Josh Deckard>;Ashley E. Davis/WHO/EOP [WHO] <Ashley E. Davis>;Jill Davie/WHO/EOP [WHO] <Jill Davie>;Colin Crosby/NSC/EOP [NSC] <Colin Crosby>;Lynn A. Crable/WHO/EOP [WHO] <Lynn A. Crable>;Colby J. Cooper/NSC/EOP [NSC] <Colby J. Cooper>;Michael J. Conway/WHO/EOP [WHO] <Michael J. Conway>;Carolyn E. Cleveland/WHO/EOP [WHO] <Carolyn E. Cleveland>;Shane P. Chambers/WHO/EOP [WHO] <Shane P. Chambers>;Lois A. Cassano/WHO/EOP [WHO] <Lois A. Cassano>;Pamela R. Casey/WHO/EOP [WHO] <Pamela R. Casey>;Anne E. Campbell/WHO/EOP@Exchange [WHO] <Anne E. Campbell>;Elizabeth N. Camp/WHO/EOP [WHO] <Elizabeth N. Camp>;Marcia J. Caler/NSC/EOP [UNKNOWN] <Marcia J. Caler>;Johnathan C. Bunting/NSC/EOP [NSC] <Johnathan C. Bunting>;Patrick J. Bumatay/WHO/EOP [WHO] <Patrick J. Bumatay>;Marko R. Broz/NSC/EOP [NSC] <Marko R. Broz>;Gary E. Bresnahan/NSC/EOP [NSC] <Gary E. Bresnahan>;Brian Bravo/WHO/EOP [WHO] <Brian Bravo>;David R. Bohrer/OVP/EOP [OVP] <David R. Bohrer>;Debra D. Bird/WHO/EOP [WHO] <Debra D. Bird>;Melissa S. Bennett/WHO/EOP [WHO] <Melissa S. Bennett>;Cheryl E. Barnett/NSC/EOP [NSC] <Cheryl E. Barnett>;Tiffany L. Barfield/WHO/EOP [WHO] <Tiffany L. Barfield>;Mitchell P. Backfield/NSC/EOP [NSC] <Mitchell P. Backfield>;Jill L. Angelo/WHO/EOP [UNKNOWN] <Jill L. Angelo>;Ashleigh A. Adams/WHO/EOP [UNKNOWN] <Ashleigh A. Adams>;Joseph J. Shattan/OVP/EOP [OVP] <Joseph J. Shattan>;Kevin Warsh/OPD/EOP [OPD] <Kevin Warsh>;Richard J. Tubb/WHO/EOP [WHO] <Richard J. Tubb>;Paul J. Severs/WHO/EOP [WHO] <Paul J. Severs>;Joseph D. Rozek/OVP/EOP [OVP] <Joseph D. Rozek>;Steven J. Reynolds/WHO/EOP [WHO] <Steven J. Reynolds>;Candida P. Wolff/OVP/EOP [OVP] <Candida P. Wolff>;Heather Wingate/WHO/EOP [WHO] <Heather Wingate>;Daniel K. Wilmot/OVP/EOP [OVP] <Daniel K. Wilmot>;James R. Wilkinson/WHO/EOP [WHO] <James R. Wilkinson>;Jocelyn White/WHF/EOP [OPM] <Jocelyn White>;Lezlee J. Westine/WHO/EOP [WHO] <Lezlee J. Westine>;Peter H. Wehner/WHO/EOP [WHO] <Peter H. Wehner>;Paul A. Wedderien/NSC/EOP [NSC] <Paul A. Wedderien>;John P. Walters/ONDCP/EOP [ONDCP] <John P. Walters>;Helgard C. Walker/WHO/EOP [WHO] <Helgard C. Walker>;Jim Towey/WHO/EOP [WHO] <Jim Towey>;Catherine W. Tobias/OVP/EOP [OVP] <Catherine W. Tobias>;Jose G. Suarez/WHO/EOP [WHO] <Jose G. Suarez>;Aquiles F. Suarez/OPD/EOP [OPD] <Aquiles F. Suarez>;Angela B. Styles/OMB/EOP [OMB] <Angela B. Styles>;Mary K. Sturtevant/NSC/EOP [NSC] <Mary K. Sturtevant>;Margaret M. Spellings/OPD/EOP [OPD] <Margaret M. Spellings>;Deborah A. Spagnoli/WHO/EOP [WHO] <Deborah A. Spagnoli>;Mary A. Solberg/ONDCP/EOP [ONDCP] <Mary A. Solberg>;Augustine T. Smythe/OMB/EOP [OMB] <Augustine T. Smythe>;Kristen Silverberg/WHO/EOP [WHO] <Kristen Silverberg>;Thomas J. Sharpy/OVP/EOP [OVP] <Thomas J. Sharpy>;Scott N. Sforza/WHO/EOP [WHO] <Scott N. Sforza>;Howard A. Schmidt/NSC/EOP [NSC] <Howard A. Schmidt>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Daniel Schecter/ONDCP/EOP [ONDCP] <Daniel Schecter>;Diana L. Schacht/OPD/EOP [OPD] <Diana L. Schacht>;Desiree T. Sayle/WHO/EOP [WHO] <Desiree T. Sayle>;Kyle Sampson/WHO/EOP [WHO] <Kyle Sampson>;Richard M. Russell/OSTP/EOP [OSTP] <Richard M. Russell>;Stephen S. Ruhlen/OVP/EOP [OVP] <Stephen S. Ruhlen>;Karl C. Rove/WHO/EOP [WHO] <Karl C. Rove>;Mark V. Rosenker/WHO/EOP [WHO] <Mark V. Rosenker>;Thomas J. Ridge/WHO/EOP [WHO] <Thomas J. Ridge>;Condoleezza Rice/NSC/EOP [NSC] <Condoleezza Rice>;Nina Rees/OVP/EOP [OVP] <Nina Rees>;Craig Ray/WHO/EOP [WHO] <Craig Ray>;Benjamin A. Powell/WHO/EOP [WHO] <Benjamin A. Powell>;Kathie L. Olsen/OSTP/EOP [OSTP] <Kathie L. Olsen>;John F. Newell/WHO/EOP [WHO] <John F. Newell>;Manson O. Morris/OVP/EOP [OVP] <Manson O. Morris>;Paul D. Montanus/WHO/EOP [WHO] <Paul D. Montanus>;James M. McAllister/WHO/EOP [WHO] <James M. McAllister>;James M. Kelly/WHO/EOP [WHO] <James M. Kelly>;Dina

Powell/WHO/EOP [WHO] <Dina Powell>;Philip J. Perry/OMB/EOP [OMB] <Philip J. Perry>;Anna M. Perez/NSC/EOP [NSC] <Anna M. Perez>;Eric C. Pelletier/OMB/EOP [OMB] <Eric C. Pelletier>;Marcus Peacock/OMB/EOP [OMB] <Marcus Peacock>;Neil S. Patel/OVP/EOP [OVP] <Neil S. Patel>;Sean C. O'Keefe/OMB/EOP [OMB] <Sean C. O'Keefe>;Ziad S. Ojakli/WHO/EOP [WHO] <Ziad S. Ojakli>;Claire M. O'Donnell/OVP/EOP [OVP] <Claire M. O'Donnell>;Jennifer G. Newstead/WHO/EOP [WHO] <Jennifer G. Newstead>;Susan K. Neely/WHO/EOP [WHO] <Susan K. Neely>;Edmund C. Moy/WHO/EOP [WHO] <Edmund C. Moy>;James F. Moriarty/NSC/EOP [NSC] <James F. Moriarty>;Brian D. Montgomery/WHO/EOP [WHO] <Brian D. Montgomery>;Michael H. Miller/WHO/EOP [WHO] <Michael H. Miller>;Franklin C. Miller/NSC/EOP [NSC] <Franklin C. Miller>;Harriet Miers/WHO/EOP [WHO] <Harriet Miers>;Ken Mehlman/WHO/EOP [WHO] <Ken Mehlman>;Edward McNally/WHO/EOP [WHO] <Edward McNally>;Robert C. McNally/OPD/EOP [OPD] <Robert C. McNally>;Stephen S. McMillin/OMB/EOP [OMB] <Stephen S. McMillin>;Brian V. McCormack/OVP/EOP [OVP] <Brian V. McCormack>;John P. McConnell/OVP/EOP [OVP] <John P. McConnell>;Scott McClellan/WHO/EOP [WHO] <Scott McClellan>;Mark McClellan/CEA/EOP [UNKNOWN] <Mark McClellan>;Mary J. Matalin/OVP/EOP [OVP] <Mary J. Matalin>;Catherine J. Martin/OVP/EOP [OVP] <Catherine J. Martin>;Robert Marsh/WHO/EOP [WHO] <Robert Marsh>;John H. Marburger/OSTP/EOP [OSTP] <John H. Marburger>;John F. Maisto/NSC/EOP [NSC] <John F. Maisto>;Robin A. MacLean/WHO/EOP [WHO] <Robin A. MacLean>;Ado A. Machida/OVP/EOP [OVP] <Ado A. Machida>;Deborah A. Loewer/NSC/EOP [NSC] <Deborah A. Loewer>;Roland N. Litterst/WHO/EOP [WHO] <Roland N. Litterst>;Lawrence B. Lindsey/OPD/EOP@Exchange [OPD] <Lawrence B. Lindsey>;Lewis Libby/OVP/EOP [OVP] <Lewis Libby>;Dirksen Lehman/WHO/EOP [WHO] <Dirksen Lehman>;Jay P. Lefkowitz/OPD/EOP [OPD] <Jay P. Lefkowitz>;Laura S. Lawlor/WHO/EOP [WHO] <Laura S. Lawlor>;Bruce M. Lawlor/WHO/EOP [WHO] <Bruce M. Lawlor>;Paul B. Kurtz/NSC/EOP [NSC] <Paul B. Kurtz>;David Kuo/WHO/EOP [WHO] <David Kuo>;Randall S. Kroszner/CEA/EOP [CEA] <Randall S. Kroszner>;Karen Y. Knutson/OVP/EOP [OVP] <Karen Y. Knutson>;Frank G. Klotz/NSC/EOP [NSC] <Frank G. Klotz>;Elizabeth W. Kleppe/OVP/EOP [OVP] <Elizabeth W. Kleppe>;Ellis Kitchen/OA/EOP [OA] <Ellis Kitchen>;Matthew Kirk/WHO/EOP [WHO] <Matthew Kirk>;Zalmay M. Khalilzad/NSC/EOP [NSC] <Zalmay M. Khalilzad>;Daniel J. Keniry/WHO/EOP [WHO] <Daniel J. Keniry>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Joel D. Kaplan/WHO/EOP [WHO] <Joel D. Kaplan>;Charles D. McGrath Jr/OVP/EOP [OVP] <Charles D. McGrath Jr>;Robert G. Joseph/NSC/EOP [NSC] <Robert G. Joseph>;Reuben Jeffery/OPD/EOP [OPD] <Reuben Jeffery>;Barry S. Jackson/WHO/EOP [WHO] <Barry S. Jackson>;Hector F. Irastorza/WHO/EOP [WHO] <Hector F. Irastorza>;Edward Ingle/WHO/EOP [WHO] <Edward Ingle>;Clay Johnson III/WHO/EOP [WHO] <Clay Johnson III>;Tim Campen/OA/EOP [OA] <Tim Campen>;Penrose C. Albright TPO/TPO/OMB/EOP [OMB] <Penrose C. Albright TPO>;Steven I. Cooper TPO/TPO/OMB/EOP [OMB] <Steven I. Cooper TPO>;Keith Hennessey/OPD/EOP@Exchange [OPD] <Keith Hennessey>;Julian M. Flannery/WHO/EOP [WHO] <Julian M. Flannery>;Duncan Campbell/WHO/EOP [WHO] <Duncan Campbell>;R. Rand Beers/NSC/EOP [NSC] <R. Rand Beers>;Glenn Hubbard/CEA/EOP [CEA] <Glenn Hubbard>;Jack Howard/WHO/EOP [WHO] <Jack Howard>;Mark Holman/WHO/EOP [WHO] <Mark Holman>;David W. Hobbs/WHO/EOP [WHO] <David W. Hobbs>;Israel Hernandez/WHO/EOP [WHO] <Israel Hernandez>;Chris Henick/WHO/EOP [WHO] <Chris Henick>;Debra Heiden/OVP/EOP [OVP] <Debra Heiden>;Albert Hawkins/WHO/EOP [WHO] <Albert Hawkins>;John P. Hannah/OVP/EOP [OVP] <John P. Hannah>;John F. Haley/OVP/EOP [OVP] <John F. Haley>;Joseph W. Hagin/WHO/EOP [WHO] <Joseph W. Hagin>;Stephen J. Hadley/NSC/EOP [NSC] <Stephen J. Hadley>;Ann Gray/WHO/EOP [WHO] <Ann Gray>;John Graham/OMB/EOP [OMB] <John Graham>;John A. Gordon/NSC/EOP [NSC] <John A. Gordon>;Alberto R. Gonzales/WHO/EOP [WHO] <Alberto R. Gonzales>;Tim Goeglein/WHO/EOP [WHO] <Tim Goeglein>;Dylan C. Glenn/OPD/EOP [OPD] <Dylan C. Glenn>;Alan Gilbert/OPD/EOP [OPD] <Alan Gilbert>;Michael J. Gerson/WHO/EOP@Exchange [WHO] <Michael J. Gerson>;Stephen M. Garrison/WHO/EOP [WHO] <Stephen M. Garrison>;Kelley Gannon/WHO/EOP [WHO] <Kelley Gannon>;Linda M. Gambatesa/WHO/EOP [WHO] <Linda M. Gambatesa>;Diana E. Furchtgott-Roth/CEA/EOP [CEA] <Diana E. Furchtgott-Roth>;Daniel Fried/NSC/EOP [NSC] <Daniel Fried>;Jendayi E. Frazer/NSC/EOP [NSC] <Jendayi E. Frazer>;Noel J. Francisco/WHO/EOP [WHO] <Noel J. Francisco>;Lawrence A. Fleischer/WHO/EOP [WHO] <Lawrence A. Fleischer>;Catherine S. Fenton/WHO/EOP [WHO] <Catherine S. Fenton>;Richard Falkenrath/WHO/EOP [WHO] <Richard Falkenrath>;Nanette Everson/WHO/EOP [WHO] <Nanette Everson>;Mark Everson/OMB/EOP [OMB] <Mark Everson>;Ashley Estes/WHO/EOP [WHO] <Ashley Estes>;Tucker A. Eskew/WHO/EOP [WHO] <Tucker A. Eskew>;Gary R.

Edson/NSC/EOP [NSC] <Gary R. Edson>;Eric S. Edelman/OVP/EOP [OVP] <Eric S. Edelman>;Wayne A. Downing/NSC/EOP [UNKNOWN] <Wayne A. Downing>;Elizabeth S. Dougherty/OPD/EOP [OPD] <Elizabeth S. Dougherty>;Nancy P. Dorn/WHO/EOP [UNKNOWN] <Nancy P. Dorn>;Diana C. Donnelly/WHO/EOP [WHO] <Diana C. Donnelly>;Nicolle Devenish/WHO/EOP [WHO] <Nicolle Devenish>;Mitchell Daniels/OMB/EOP [OMB] <Mitchell Daniels>;James F. Daniel/OA/EOP [OA] <James F. Daniel>;Stacia L. Cropper/OA/EOP [OA] <Stacia L. Cropper>;Barry Crane/ONDCP/EOP [ONDCP] <Barry Crane>;John B. Craig/NSC/EOP [UNKNOWN] <John B. Craig>;Phil Cooney/CEQ/EOP [CEQ] <Phil Cooney>;Rebecca Contreras/WHO/EOP [WHO] <Rebecca Contreras>;Charles Conner/OPD/EOP [OPD] <Charles Conner>;James Connaughton/CEQ/EOP [CEQ] <James Connaughton>;Brian C. Conklin/WHO/EOP [WHO] <Brian C. Conklin>;Cesar Conda/OVP/EOP [OVP] <Cesar Conda>;Douglas F. Cochrane/OVP/EOP [OVP] <Douglas F. Cochrane>;Robert W. Cobb/WHO/EOP [UNKNOWN] <Robert W. Cobb>;John A. Cloud/NSC/EOP [NSC] <John A. Cloud>;Robin Cleveland/OMB/EOP [OMB] <Robin Cleveland>;Richard A. Clarke/NSC/EOP [NSC] <Richard A. Clarke>;Alicia P. Clark/WHO/EOP [WHO] <Alicia P. Clark>;Frank Cilluffo/WHO/EOP [WHO] <Frank Cilluffo>;Christine Ciccone/WHO/EOP [WHO] <Christine Ciccone>;Ronald I. Christie/OVP/EOP [UNKNOWN] <Ronald I. Christie>;Barbara C. Chaffee/WHO/EOP [WHO] <Barbara C. Chaffee>;Kirsten A. Chadwick/WHO/EOP [WHO] <Kirsten A. Chadwick>;Andrew H. Card/WHO/EOP [WHO] <Andrew H. Card>;James C. Capretta/OMB/EOP [OMB] <James C. Capretta>;Nicholas E. Calio/WHO/EOP [WHO] <Nicholas E. Calio>;Scott Burns/ONDCP/EOP [ONDCP] <Scott Burns>;Katja Bullock/WHO/EOP [WHO] <Katja Bullock>;Carl Buchholz/WHO/EOP [WHO] <Carl Buchholz>;Claire E. Buchan/WHO/EOP [WHO] <Claire E. Buchan>;John M. Bridgeland/OPD/EOP [OPD] <John M. Bridgeland>;Stuart W. Bowen/WHO/EOP [WHO] <Stuart W. Bowen>;Carlos E. Bonilla/OPD/EOP [OPD] <Carlos E. Bonilla>;Joshua B. Bolten/WHO/EOP [WHO] <Joshua B. Bolten>;Lloyd A. Blanchard/OMB/EOP [UNKNOWN] <Lloyd A. Blanchard>;Bradley A. Blakeman/WHO/EOP@Exchange [WHO] <Bradley A. Blakeman>;Charles P. Blahous/OPD/EOP [OPD] <Charles P. Blahous>;Stephen E. Biegun/NSC/EOP [NSC] <Stephen E. Biegun>;Rebecca A. Beynon/WHO/EOP [WHO] <Rebecca A. Beynon>;Janet L. Berman/OVP/EOP [OVP] <Janet L. Berman>;Bradford A. Berenson/WHO/EOP [WHO] <Bradford A. Berenson>;John B. Bellinger/NSC/EOP [NSC] <John B. Bellinger>;H. Christopher Bartolomucci/WHO/EOP [WHO] <H. Christopher Bartolomucci>;Daniel J. Bartlett/WHO/EOP@Exchange [WHO] <Daniel J. Bartlett>;Andrea G. Barthwell/ONDCP/EOP [ONDCP] <Andrea G. Barthwell>;Ruben S. Barrales/WHO/EOP [WHO] <Ruben S. Barrales>;Andrea G. Ball/WHO/EOP [WHO] <Andrea G. Ball>;Jackie Arends/WHO/EOP [WHO] <Jackie Arends>;George M. Andricos/NSC/EOP [NSC] <George M. Andricos>;Cathy Alix/WHO/EOP [WHO] <Cathy Alix>;David S. Addington/OVP/EOP [OVP] <David S. Addington>;Elliott Abrams/NSC/EOP [NSC] <Elliott Abrams>;Charles S. Abbot/OVP/EOP [OVP] <Charles S. Abbot>

Sent: 12/18/2002 4:13:37 AM

Subject: : POSTMASTER: Cancelation of the WH Mess Award Presentation

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME:18-DEC-2002 09:13:37.00
SUBJECT:: POSTMASTER: Cancelation of the WH Mess Award Presentation
TO:Gina M. Wolford ( CN=Gina M. Wolford/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:David L. Travers ( CN=David L. Travers/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Harry W. Wolff ( CN=Harry W. Wolff/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Alexian T. Wines ( CN=Alexian T. Wines/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Patricia Williams ( CN=Patricia Williams/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Jared B. Weinstein ( CN=Jared B. Weinstein/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Matthew C. Waxman ( CN=Matthew C. Waxman/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Lauren J. Vestewig ( CN=Lauren J. Vestewig/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
```

TO:Terrill G. Tucker (CN=Terrill G. Tucker/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tevi Troy (CN=Tevi Troy/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Anne Trenolone (CN=Anne Trenolone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Julieanne H. Thomas (CN=Julieanne H. Thomas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Rachael L. Sunbarger (CN=Rachael L. Sunbarger/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan L. Sterner (CN=Susan L. Sterner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert E. Schubert (CN=Robert E. Schubert/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Deborah Sandler (CN=Deborah Sandler/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jean M. Russell (CN=Jean M. Russell/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Peter M. Rowan (CN=Peter M. Rowan/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Noelia Rodriguez (CN=Noelia Rodriguez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine B. Robinson (CN=Josephine B. Robinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Maurice C. Robinson (CN=Maurice C. Robinson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Christina D. Roberts (CN=Christina D. Roberts/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Allison L. Riepenhoff (CN=Allison L. Riepenhoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:January M. Riecke (CN=January M. Riecke/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Rhodes (CN=Katherine A. Rhodes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Reynolds (CN=Tim Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David Reyes (CN=David Reyes/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie E. Radcliff (CN=Leslie E. Radcliff/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexia Poe (CN=Alexia Poe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elliott M. Langer (CN=Elliott M. Langer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Clare Pritchett (CN=Clare Pritchett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Suzanne Primoff (CN=Suzanne Primoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John I. Pray (CN=John I. Pray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan D. Phillips (CN=Susan D. Phillips/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah Penny (CN=Sarah Penny/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Raymond H. Payne (CN=Raymond H. Payne/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Richard S. Paulus (CN=Richard S. Paulus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward J. Padinske (CN=Edward J. Padinske/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Eric H. Otto (CN=Eric H. Otto/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Lee B. Mynatt (CN=Lee B. Mynatt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Steven Myers (CN=Steven Myers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah M. Garrison (CN=Sarah M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul L. Morse (CN=Paul L. Morse/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie A. Mooney (CN=Leslie A. Mooney/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Cathy L. Millison (CN=Cathy L. Millison/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Holly M. Miller (CN=Holly M. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sonya E. Medina (CN=Sonya E. Medina/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Vickie A. McQuade (CN=Vickie A. McQuade/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sara B. McIntosh (CN=Sara B. McIntosh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter A. McCauley (CN=Peter A. McCauley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel M. McCarthy (CN=Daniel M. McCarthy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas S. Marsh (CN=Thomas S. Marsh/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lindsey M. Lineweaver (CN=Lindsey M. Lineweaver/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Laura E. Lineberry (CN=Laura E. Lineberry/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Adam L. Levine (CN=Adam L. Levine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christopher S. Legrand (CN=Christopher S. Legrand/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sang W. Lee (CN=Sang W. Lee/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jennie M. Koch (CN=Jennie M. Koch/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Andrew M. Kaver (CN=Andrew M. Kaver/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Dora Kale (CN=Dora Kale/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexander S. Joves (CN=Alexander S. Joves/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:M. Kay Joshi (CN=M. Kay Joshi/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Megan R. Johnston (CN=Megan R. Johnston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sydney R. Johnson (CN=Sydney R. Johnson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clarence C. Johnson (CN=Clarence C. Johnson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gordon D. Johndroe (CN=Gordon D. Johndroe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melanie A. Jackson (CN=Melanie A. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marilyn R. Jacanin (CN=Marilyn R. Jacanin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Restituto M. Francisco (CN=Restituto M. Francisco/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Sandra K. Evans (CN=Sandra K. Evans/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Regina L. Cain (CN=Regina L. Cain/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Brown (CN=Katherine A. Brown/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Bonnie S. Broadwick (CN=Bonnie S. Broadwick/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Theresa M. Hunter (CN=Theresa M. Hunter/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:A. Merrill Hughes (CN=A. Merrill Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jeffrey P. Houle (CN=Jeffrey P. Houle/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ashley Holbrook (CN=Ashley Holbrook/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine L. Hirsch (CN=Josephine L. Hirsch/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jane C. Heishman (CN=Jane C. Heishman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anne Heiligenstein (CN=Anne Heiligenstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. Hargis (CN=Robert C. Hargis/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison M. Harden (CN=Alison M. Harden/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary Ann Hanusa (CN=Mary Ann Hanusa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas A. Hall (CN=Thomas A. Hall/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary A. Haines (CN=Mary A. Haines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Katharina M. Hager (CN=Katharina M. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Henry C. Hager (CN=Henry C. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Albert J. Guarnieri (CN=Albert J. Guarnieri/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew W. Green (CN=Andrew W. Green/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Emily S. Gray (CN=Emily S. Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wendy E. Gray (CN=Wendy E. Gray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Britt Grant (CN=Britt Grant/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Travis C. Good (CN=Travis C. Good/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Georgia D. Godfrey (CN=Georgia D. Godfrey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Dorothy C. Garvin (CN=Dorothy C. Garvin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joachim D. Fuchs (CN=Joachim D. Fuchs/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Barbara J. Finn (CN=Barbara J. Finn/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jeanie L. Figg (CN=Jeanie L. Figg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jennifer D. Field (CN=Jennifer D. Field/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Douglas M. Erdahl (CN=Douglas M. Erdahl/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Ruth E. Elliott (CN=Ruth E. Elliott/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kady Dunlap (CN=Kady Dunlap/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eric A. Draper (CN=Eric A. Draper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joan R. Doty (CN=Joan R. Doty/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine L. Disston (CN=Katherine L. Disston/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Reed Dickens (CN=Reed Dickens/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josh Deckard (CN=Josh Deckard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley E. Davis (CN=Ashley E. Davis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jill Davie (CN=Jill Davie/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colin Crosby (CN=Colin Crosby/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lynn A. Crable (CN=Lynn A. Crable/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colby J. Cooper (CN=Colby J. Cooper/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Shane P. Chambers (CN=Shane P. Chambers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lois A. Cassano (CN=Lois A. Cassano/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Pamela R. Casey (CN=Pamela R. Casey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne E. Campbell (CN=Anne E. Campbell/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marcia J. Caler (CN=Marcia J. Caler/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Johnathan C. Bunting (CN=Johnathan C. Bunting/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marko R. Broz (CN=Marko R. Broz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gary E. Bresnahan (CN=Gary E. Bresnahan/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David R. Bohrer (CN=David R. Bohrer/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cheryl E. Barnett (CN=Cheryl E. Barnett/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell P. Backfield (CN=Mitchell P. Backfield/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jill L. Angelo (CN=Jill L. Angelo/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Ashleigh A. Adams (CN=Ashleigh A. Adams/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Joseph J. Shattan (CN=Joseph J. Shattan/OU=OVP/O=EOP [OVP])
READ:UNKNOWN

TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Richard J. Tubb (CN=Richard J. Tubb/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul J. Severs (CN=Paul J. Severs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joseph D. Rozek (CN=Joseph D. Rozek/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Steven J. Reynolds (CN=Steven J. Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Candida P. Wolff (CN=Candida P. Wolff/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel K. Wilmot (CN=Daniel K. Wilmot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:James R. Wilkinson (CN=James R. Wilkinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jocelyn White (CN=Jocelyn White/OU=WHF/O=EOP [OPM])
READ:UNKNOWN
TO:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul A. Wedderien (CN=Paul A. Wedderien/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John P. Walters (CN=John P. Walters/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine W. Tobias (CN=Catherine W. Tobias/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jose G. Suarez (CN=Jose G. Suarez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Aquiles F. Suarez (CN=Aquiles F. Suarez/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Angela B. Styles (CN=Angela B. Styles/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary A. Solberg (CN=Mary A. Solberg/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Augustine T. Smythe (CN=Augustine T. Smythe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Sharpy (CN=Thomas J. Sharpy/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Howard A. Schmidt (CN=Howard A. Schmidt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel Schecter (CN=Daniel Schecter/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Richard M. Russell (CN=Richard M. Russell/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Stephen S. Ruhlen (CN=Stephen S. Ruhlen/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark V. Rosenker (CN=Mark V. Rosenker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Ridge (CN=Thomas J. Ridge/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Nina Rees (CN=Nina Rees/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Craig Ray (CN=Craig Ray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kathie L. Olsen (CN=Kathie L. Olsen/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Newell (CN=John F. Newell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Manson O. Morris (CN=Manson O. Morris/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Paul D. Montanus (CN=Paul D. Montanus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. McAllister (CN=James M. McAllister/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric C. Pelletier (CN=Eric C. Pelletier/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Marcus Peacock (CN=Marcus Peacock/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Neil S. Patel (CN=Neil S. Patel/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Sean C. O'Keefe (CN=Sean C. O'Keefe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire M. O'Donnell (CN=Claire M. O'Donnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan K. Neely (CN=Susan K. Neely/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen S. McMillin (CN=Stephen S. McMillin/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark McClellan (CN=Mark McClellan/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Mary J. Matalin (CN=Mary J. Matalin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Catherine J. Martin (CN=Catherine J. Martin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John H. Marburger (CN=John H. Marburger/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Maisto (CN=John F. Maisto/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin A. MacLean (CN=Robin A. MacLean/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ado A. Machida (CN=Ado A. Machida/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Deborah A. Loewer (CN=Deborah A. Loewer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence B. Lindsey (CN=Lawrence B. Lindsey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Dirksen Lehman (CN=Dirksen Lehman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Laura S. Lawlor (CN=Laura S. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bruce M. Lawlor (CN=Bruce M. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Randall S. Kroszner (CN=Randall S. Kroszner/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Karen Y. Knutson (CN=Karen Y. Knutson/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Frank G. Klotz (CN=Frank G. Klotz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Ellis Kitchen (CN=Ellis Kitchen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles D. McGrath Jr (CN=Charles D. McGrath Jr/OU=OVP/O=EOP [OVP])
READ:UNKNOWN

TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Reuben Jeffery (CN=Reuben Jeffery/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hector F. Irastorza (CN=Hector F. Irastorza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Campen (CN=Tim Campen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Penrose C. Albright TPO (CN=Penrose C. Albright TPO/OU=TPO/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Steven I. Cooper TPO (CN=Steven I. Cooper TPO/OU=TPO/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Julian M. Flannery (CN=Julian M. Flannery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Duncan Campbell (CN=Duncan Campbell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:R. Rand Beers (CN=R. Rand Beers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Glenn Hubbard (CN=Glenn Hubbard/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Jack Howard (CN=Jack Howard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Holman (CN=Mark Holman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Chris Henick (CN=Chris Henick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Debra Heiden (CN=Debra Heiden/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Albert Hawkins (CN=Albert Hawkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John P. Hannah (CN=John P. Hannah/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John F. Haley (CN=John F. Haley/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John Graham (CN=John Graham/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:John A. Gordon (CN=John A. Gordon/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Stephen M. Garrison (CN=Stephen M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Diana E. Furchtgott-Roth (CN=Diana E. Furchtgott-Roth/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Everson (CN=Mark Everson/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric S. Edelman (CN=Eric S. Edelman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Wayne A. Downing (CN=Wayne A. Downing/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Nancy P. Dorn (CN=Nancy P. Dorn/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Diana C. Donnelly (CN=Diana C. Donnelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:James F. Daniel (CN=James F. Daniel/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Stacia L. Cropper (CN=Stacia L. Cropper/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Barry Crane (CN=Barry Crane/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:John B. Craig (CN=John B. Craig/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:James Connaughton (CN=James Connaughton/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cesar Conda (CN=Cesar Conda/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Douglas F. Cochrane (CN=Douglas F. Cochrane/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert W. Cobb (CN=Robert W. Cobb/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:John A. Cloud (CN=John A. Cloud/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Robin Cleveland (CN=Robin Cleveland/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Richard A. Clarke (CN=Richard A. Clarke/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Frank Cilluffo (CN=Frank Cilluffo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christine Ciccone (CN=Christine Ciccone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Barbara C. Chaffee (CN=Barbara C. Chaffee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James C. Capretta (CN=James C. Capretta/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Nicholas E. Calio (CN=Nicholas E. Calio/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott Burns (CN=Scott Burns/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carl Buchholz (CN=Carl Buchholz/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stuart W. Bowen (CN=Stuart W. Bowen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carlos E. Bonilla (CN=Carlos E. Bonilla/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lloyd A. Blanchard (CN=Lloyd A. Blanchard/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen E. Biegun (CN=Stephen E. Biegun/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Janet L. Berman (CN=Janet L. Berman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Andrea G. Barthwell (CN=Andrea G. Barthwell/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Cathy Alix (CN=Cathy Alix/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
End Original ARMS Header

Today's presentation of the American Academy of Hospitality Sciences 2002/03 Star Diamond Award to the White House Mess has been canceled and will be rescheduled in the near future.

Thank you.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>;Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>
Sent: 12/18/2002 5:50:41 AM
Subject: : letter to editor in Philly paper by Third Circuit Judge McKee

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-DEC-2002 10:50:41.00
SUBJECT:: letter to editor in Philly paper by Third Circuit Judge McKee
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I am writing in the hope that the nation's newspapers will raise their collective editorial voice in condemnation of Sen. Trent Lott's praise of Strom Thurmond's racist presidential candidacy in 1948.

Not since the days of Govs. Orval Faubus, George Wallace and Ross Barnett could I have imagined a U.S. senator declaring publicly that the nation would be better off under a regime of enforced segregation, as Sen. Lott apparently did while speaking at Sen. Thurmond's 100th birthday party earlier this month.

Sen. Lott is clearly lucid enough to recall that segregation was enforced through a de jure system of official and unofficial terrorism, coercion and violence that included (indeed featured) lynching, firebombings, and hooded night riders. It was a regime under which Americans residing in some regions of the United States risked death if they dared to register to vote or educate their fellow citizens about voter registration.

Perhaps the names of Andrew Goodman, James Chaney, Mickey Schwerner, Medgar Evers and countless other brave Americans (whose murders received less publicity) mean nothing to Sen. Lott. However, given the reign of terror required to enforce segregation, such murders were the predictable result of the attitudes and policies that Sen. Lott praised in nostalgic remembrance of Strom Thurmond's segregationist presidential bid in 1948.

Although Sen. Lott publicly stated that the country would have been better off had Sen. Thurmond won, a majority of the voters apparently disagreed as they elected Harry Truman.

Is it not ironic in this day when the nation's elected leaders are rallying the country against terrorism, that the majority leader of the U.S. Senate would publicly endorse the terrorism that once governed a significant region of this country and greatly influenced politics at the national level?

One need only recall John F. Kennedy's negotiations with the governors of Mississippi and Alabama, and Lyndon Johnson's political maneuvering to ensure passage of the 1964 Civil Rights Act to appreciate the extent to which the politics of the Deep South influenced the politics of the nation. Many of us are outraged by Sen. Lott's declaration that "we wouldn't have had all these problems over all these years" if Sen. Thurmond had been elected president.

Fortunately, many Americans vehemently disagree. Many of us believe the country would be far better off if America's leaders dedicate themselves to eradicating the continuing effects of the attitudes that Sen. Thurmond's presidential candidacy sought to exploit.

Although America's democracy continues to grow and evolve, it appears that rumors of the demise of Jim Crow were premature. Let us hope that Sen. Lott's wistful praise of Sen. Thurmond's candidacy and all it symbolizes motivates each of us to work toward ennobling the human spirit and combating terrorism in all its insidious and murderous forms, rather than fondly remembering the subjugation and terror that was all too common in 1948.

Theodore A. McKee
Philadelphia

The writer is a judge on the U.S. Third Circuit Court of Appeals.

From: CN=PostMaster/O=EOP [OA]

To: Gina M. Wolford/NSC/EOP [NSC] <Gina M. Wolford>;David L. Travers/NSC/EOP [NSC] <David L. Travers>;Harry W. Wolff/WHO/EOP [WHO] <Harry W. Wolff>;Alexian T. Wines/NSC/EOP [NSC] <Alexian T. Wines>;Patricia Williams/WHO/EOP [WHO] <Patricia Williams>;Jared B. Weinstein/WHO/EOP@Exchange [WHO] <Jared B. Weinstein>;Matthew C. Waxman/NSC/EOP [NSC] <Matthew C. Waxman>;Lauren J. Vestewig/OPD/EOP [OPD] <Lauren J. Vestewig>;Terrill G. Tucker/NSC/EOP [NSC] <Terrill G. Tucker>;Tevi Troy/OPD/EOP [OPD] <Tevi Troy>;Anne Trenolone/WHO/EOP [WHO] <Anne Trenolone>;Julieanne H. Thomas/WHO/EOP [WHO] <Julieanne H. Thomas>;Rachael L. Sunbarger/WHO/EOP [WHO] <Rachael L. Sunbarger>;Susan L. Sterner/WHO/EOP [WHO] <Susan L. Sterner>;Ashley Snee/WHO/EOP [WHO] <Ashley Snee>;Robert E. Schubert/NSC/EOP [NSC] <Robert E. Schubert>;Deborah Sandler/NSC/EOP [NSC] <Deborah Sandler>;Jean M. Russell/OPD /EOP@Exchange [OPD] <Jean M. Russell>;Peter M. Rowan/WHO/EOP [UNKNOWN] <Peter M. Rowan>;Noelia Rodriguez/WHO/EOP [WHO] <Noelia Rodriguez>;Josephine B. Robinson/WHO/EOP [WHO] <Josephine B. Robinson>;Maurice C. Robinson/NSC/EOP [NSC] <Maurice C. Robinson>;Christina D. Roberts/WHO/EOP [UNKNOWN] <Christina D. Roberts>;Krista L. Ritacco/WHO/EOP [WHO] <Krista L. Ritacco>;Allison L. Riepenhoff/WHO/EOP [WHO] <Allison L. Riepenhoff>;January M. Riecke/WHO/EOP [WHO] <January M. Riecke>;Katherine A. Rhodes/WHO/EOP [WHO] <Katherine A. Rhodes>;Tim Reynolds/WHO/EOP [WHO] <Tim Reynolds>;David Reyes/NSC/EOP [NSC] <David Reyes>;Susan B. Ralston/WHO/EOP [WHO] <Susan B. Ralston>;Leslie E. Radcliff/NSC/EOP [NSC] <Leslie E. Radcliff>;Alexia Poe/WHO/EOP [WHO] <Alexia Poe>;Charlotte L. Montiel/WHO/EOP [WHO] <Charlotte L. Montiel>;Elliott M. Langer/NSC/EOP [NSC] <Elliott M. Langer>;Clare Pritchett/WHO/EOP [WHO] <Clare Pritchett>;Suzanne Primoff/WHO/EOP [WHO] <Suzanne Primoff>;John I. Pray/NSC/EOP [NSC] <John I. Pray>;Susan D. Phillips/NSC/EOP [NSC] <Susan D. Phillips>;Sarah Penny/WHO/EOP [WHO] <Sarah Penny>;Raymond H. Payne/NSC/EOP [NSC] <Raymond H. Payne>;Richard S. Paulus/WHO/EOP [WHO] <Richard S. Paulus>;Edward J. Padinske/NSC/EOP [NSC] <Edward J. Padinske>;Eric H. Otto/OPD/EOP@Exchange [OPD] <Eric H. Otto>;Lee B. Mynatt/NSC/EOP [NSC] <Lee B. Mynatt>;Steven Myers/NSC/EOP [NSC] <Steven Myers>;Sarah M. Garrison/WHO/EOP [WHO] <Sarah M. Garrison>;Paul L. Morse/WHO/EOP [WHO] <Paul L. Morse>;Leslie A. Mooney/OPD/EOP@Exchange [OPD] <Leslie A. Mooney>;Cathy L. Millison/NSC/EOP [NSC] <Cathy L. Millison>;Holly M. Miller/WHO/EOP [WHO] <Holly M. Miller>;Sonya E. Medina/WHO/EOP [WHO] <Sonya E. Medina>;Vickie A. McQuade/WHO/EOP [WHO] <Vickie A. McQuade>;Sara B. McIntosh/WHO/EOP [WHO] <Sara B. McIntosh>;Peter A. McCauley/NSC/EOP [NSC] <Peter A. McCauley>;Daniel M. McCarthy/WHO/EOP [WHO] <Daniel M. McCarthy>;Thomas S. Marsh/NSC/EOP [NSC] <Thomas S. Marsh>;Colleen Litkenhaus/WHO/EOP [WHO] <Colleen Litkenhaus>;Lindsey M. Lineweaver/WHO/EOP [WHO] <Lindsey M. Lineweaver>;Laura E. Lineberry/NSC/EOP [NSC] <Laura E. Lineberry>;Adam L. Levine/WHO/EOP [WHO] <Adam L. Levine>;Christopher S. Legrand/NSC/EOP [NSC] <Christopher S. Legrand>;Sang W. Lee/NSC/EOP [NSC] <Sang W. Lee>;Jennie M. Koch/NSC/EOP [NSC] <Jennie M. Koch>;Andrew M. Kaver/NSC/EOP [UNKNOWN] <Andrew M. Kaver>;Dora Kale/NSC/EOP [NSC] <Dora Kale>;Alexander S. Joves/NSC/EOP [NSC] <Alexander S. Joves>;M. Kay Joshi/NSC/EOP [NSC] <M. Kay Joshi>;Alison Jones/WHO/EOP [WHO] <Alison Jones>;Megan R. Johnston/WHO/EOP [WHO] <Megan R. Johnston>;Sydney R. Johnson/WHO/EOP [WHO] <Sydney R. Johnson>;Clarence C. Johnson/NSC/EOP [NSC] <Clarence C. Johnson>;Gordon D. Johndroe/WHO/EOP [WHO] <Gordon D. Johndroe>;Melanie A. Jackson/WHO/EOP [WHO] <Melanie A. Jackson>;Marilyn R. Jacanin/WHO/EOP [WHO] <Marilyn R. Jacanin>;Restituto M. Francisco/OA/EOP [OA] <Restituto M. Francisco>;Sandra K. Evans/WHO/EOP [WHO] <Sandra K. Evans>;Regina L. Cain/WHO/EOP [WHO] <Regina L. Cain>;Katherine A. Brown/NSC/EOP [NSC] <Katherine A. Brown>;Bonnie S. Broadwick/NSC/EOP [NSC] <Bonnie S. Broadwick>;Theresa M. Hunter/NSC/EOP [NSC] <Theresa M. Hunter>;A. Merrill Hughes/WHO/EOP [UNKNOWN] <A. Merrill Hughes>;Jeffrey P. Houle/NSC/EOP [NSC] <Jeffrey P. Houle>;Ashley Holbrook/WHO/EOP [WHO] <Ashley Holbrook>;Josephine L. Hirsch/WHO/EOP [WHO] <Josephine L. Hirsch>;Jane C. Heishman/NSC/EOP [NSC] <Jane C. Heishman>;Anne Heiligenstein/WHO/EOP [WHO] <Anne Heiligenstein>;Robert C. Hargis/NSC/EOP [NSC] <Robert C. Hargis>;Alison M. Harden/WHO/EOP [WHO] <Alison M. Harden>;Mary Ann Hanusa/WHO/EOP [WHO] <Mary Ann Hanusa>;Thomas A. Hall/NSC/EOP [NSC] <Thomas A. Hall>;Mary A. Haines/NSC/EOP [NSC] <Mary A. Haines>;Katharina M. Hager/WHO/EOP [WHO] <Katharina M. Hager>;Henry C. Hager/WHO/EOP [WHO] <Henry C. Hager>;Albert J.

Guarnieri/NSC/EOP [NSC] <Albert J. Guarnieri>;Ginger G. Loper/WHO/EOP [WHO] <Ginger G. Loper>;Andrew W. Green/NSC/EOP [NSC] <Andrew W. Green>;Emily S. Gray/WHO/EOP [WHO] <Emily S. Gray>;Wendy E. Gray/NSC/EOP [NSC] <Wendy E. Gray>;Britt Grant/OPD/EOP [OPD] <Britt Grant>;Blake Gottesman/WHO/EOP [WHO] <Blake Gottesman>;Travis C. Good/NSC/EOP [UNKNOWN] <Travis C. Good>;Georgia D. Godfrey/WHO/EOP [WHO] <Georgia D. Godfrey>;Eleanor L. Gillmor/OPD/EOP [OPD] <Eleanor L. Gillmor>;Dorothy C. Garvin/WHO/EOP [WHO] <Dorothy C. Garvin>;Joachim D. Fuchs/NSC/EOP [NSC] <Joachim D. Fuchs>;Barbara J. Finn/OA/EOP [OA] <Barbara J. Finn>;Kara G. Figg/WHO/EOP@Exchange [WHO] <Kara G. Figg>;Jeanie L. Figg/WHO/EOP [WHO] <Jeanie L. Figg>;Jennifer D. Field/OVP/EOP [OVP] <Jennifer D. Field>;Douglas M. Erdahl/NSC/EOP [NSC] <Douglas M. Erdahl>;Ruth E. Elliott/NSC/EOP [NSC] <Ruth E. Elliott>;Kady Dunlap/WHO/EOP [WHO] <Kady Dunlap>;Eric A. Draper/WHO/EOP [WHO] <Eric A. Draper>;Joan R. Doty/WHO/EOP [WHO] <Joan R. Doty>;Katherine L. Disston/WHO/EOP [WHO] <Katherine L. Disston>;Reed Dickens/WHO/EOP [WHO] <Reed Dickens>;Josh Deckard/WHO/EOP [WHO] <Josh Deckard>;Ashley E. Davis/WHO/EOP [WHO] <Ashley E. Davis>;Jill Davie/WHO/EOP [WHO] <Jill Davie>;Colin Crosby/NSC/EOP [NSC] <Colin Crosby>;Lynn A. Crable/WHO/EOP [WHO] <Lynn A. Crable>;Colby J. Cooper/NSC/EOP [NSC] <Colby J. Cooper>;Michael J. Conway/WHO/EOP [WHO] <Michael J. Conway>;Carolyn E. Cleveland/WHO/EOP [WHO] <Carolyn E. Cleveland>;Shane P. Chambers/WHO/EOP [WHO] <Shane P. Chambers>;Lois A. Cassano/WHO/EOP [WHO] <Lois A. Cassano>;Pamela R. Casey/WHO/EOP [WHO] <Pamela R. Casey>;Anne E. Campbell/WHO/EOP [WHO] <Anne E. Campbell>;Elizabeth N. Camp/WHO/EOP [WHO] <Elizabeth N. Camp>;Marcia J. Caler/NSC/EOP [UNKNOWN] <Marcia J. Caler>;Johnathan C. Bunting/NSC/EOP [NSC] <Johnathan C. Bunting>;Patrick J. Bumatay/WHO/EOP [WHO] <Patrick J. Bumatay>;Marko R. Broz/NSC/EOP [NSC] <Marko R. Broz>;Gary E. Bresnahan/NSC/EOP [NSC] <Gary E. Bresnahan>;Brian Bravo/WHO/EOP [WHO] <Brian Bravo>;David R. Bohrer/OVP/EOP [OVP] <David R. Bohrer>;Debra D. Bird/WHO/EOP [WHO] <Debra D. Bird>;Melissa S. Bennett/WHO/EOP [WHO] <Melissa S. Bennett>;Cheryl E. Barnett/NSC/EOP [NSC] <Cheryl E. Barnett>;Tiffany L. Barfield/WHO/EOP [WHO] <Tiffany L. Barfield>;Mitchell P. Backfield/NSC/EOP [NSC] <Mitchell P. Backfield>;Jill L. Angelo/WHO/EOP [UNKNOWN] <Jill L. Angelo>;Ashleigh A. Adams/WHO/EOP [UNKNOWN] <Ashleigh A. Adams>;Joseph J. Shattan/OVP/EOP [OVP] <Joseph J. Shattan>;Kevin Warsh/OPD/EOP [OPD] <Kevin Warsh>;Richard J. Tubb/WHO/EOP [WHO] <Richard J. Tubb>;Paul J. Severs/WHO/EOP [WHO] <Paul J. Severs>;Joseph D. Rozek/OVP/EOP [OVP] <Joseph D. Rozek>;Steven J. Reynolds/WHO/EOP [WHO] <Steven J. Reynolds>;Candida P. Wolff/OVP/EOP [OVP] <Candida P. Wolff>;Heather Wingate/WHO/EOP [WHO] <Heather Wingate>;Daniel K. Wilmot/OVP/EOP [OVP] <Daniel K. Wilmot>;James R. Wilkinson/WHO/EOP [WHO] <James R. Wilkinson>;Jocelyn White/WHF/EOP [OPM] <Jocelyn White>;Lezlee J. Westine/WHO/EOP [WHO] <Lezlee J. Westine>;Peter H. Wehner/WHO/EOP [WHO] <Peter H. Wehner>;Paul A. Wedderien/NSC/EOP [NSC] <Paul A. Wedderien>;John P. Walters/ONDCP/EOP [ONDCP] <John P. Walters>;Helgard C. Walker/WHO/EOP [WHO] <Helgard C. Walker>;Jim Towey/WHO/EOP [WHO] <Jim Towey>;Catherine W. Tobias/OVP/EOP [OVP] <Catherine W. Tobias>;Jose G. Suarez/WHO/EOP [WHO] <Jose G. Suarez>;Aquiles F. Suarez/OPD/EOP [OPD] <Aquiles F. Suarez>;Angela B. Styles/OMB/EOP [OMB] <Angela B. Styles>;Mary K. Sturtevant/NSC/EOP [NSC] <Mary K. Sturtevant>;Margaret M. Spellings/OPD/EOP [OPD] <Margaret M. Spellings>;Deborah A. Spagnoli/WHO/EOP [WHO] <Deborah A. Spagnoli>;Mary A. Solberg/ONDCP/EOP [ONDCP] <Mary A. Solberg>;Augustine T. Smythe/OMB/EOP [OMB] <Augustine T. Smythe>;Kristen Silverberg/WHO/EOP [WHO] <Kristen Silverberg>;Thomas J. Sharpy/OVP/EOP [OVP] <Thomas J. Sharpy>;Scott N. Sforza/WHO/EOP [WHO] <Scott N. Sforza>;Howard A. Schmidt/NSC/EOP [NSC] <Howard A. Schmidt>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Daniel Schecter/ONDCP/EOP [ONDCP] <Daniel Schecter>;Diana L. Schacht/OPD/EOP [OPD] <Diana L. Schacht>;Desiree T. Sayle/WHO/EOP [WHO] <Desiree T. Sayle>;Kyle Sampson/WHO/EOP [WHO] <Kyle Sampson>;Richard M. Russell/OSTP/EOP [OSTP] <Richard M. Russell>;Stephen S. Ruhlen/OVP/EOP [OVP] <Stephen S. Ruhlen>;Karl C. Rove/WHO/EOP [WHO] <Karl C. Rove>;Mark V. Rosenker/WHO/EOP [WHO] <Mark V. Rosenker>;Thomas J. Ridge/WHO/EOP [WHO] <Thomas J. Ridge>;Condoleezza Rice/NSC/EOP [NSC] <Condoleezza Rice>;Nina Rees/OVP/EOP [OVP] <Nina Rees>;Craig Ray/WHO/EOP [WHO] <Craig Ray>;Benjamin A. Powell/WHO/EOP [WHO] <Benjamin A. Powell>;Kathie L. Olsen/OSTP/EOP [OSTP] <Kathie L. Olsen>;John F. Newell/WHO/EOP [WHO] <John F. Newell>;Manson O. Morris/OVP/EOP [OVP] <Manson O. Morris>;Paul D. Montanus/WHO/EOP [WHO] <Paul D. Montanus>;James M. McAllister/WHO/EOP [WHO] <James M. McAllister>;James M. Kelly/WHO/EOP [WHO] <James M. Kelly>;Dina

Powell/WHO/EOP [WHO] <Dina Powell>;Philip J. Perry/OMB/EOP [OMB] <Philip J. Perry>;Anna M. Perez/NSC/EOP [NSC] <Anna M. Perez>;Eric C. Pelletier/OMB/EOP [OMB] <Eric C. Pelletier>;Marcus Peacock/OMB/EOP [OMB] <Marcus Peacock>;Neil S. Patel/OVP/EOP [OVP] <Neil S. Patel>;Sean C. O'Keefe/OMB/EOP [OMB] <Sean C. O'Keefe>;Ziad S. Ojakli/WHO/EOP [WHO] <Ziad S. Ojakli>;Claire M. O'Donnell/OVP/EOP [OVP] <Claire M. O'Donnell>;Jennifer G. Newstead/WHO/EOP [WHO] <Jennifer G. Newstead>;Susan K. Neely/WHO/EOP [WHO] <Susan K. Neely>;Edmund C. Moy/WHO/EOP [WHO] <Edmund C. Moy>;James F. Moriarty/NSC/EOP [NSC] <James F. Moriarty>;Brian D. Montgomery/WHO/EOP [WHO] <Brian D. Montgomery>;Michael H. Miller/WHO/EOP [WHO] <Michael H. Miller>;Franklin C. Miller/NSC/EOP [NSC] <Franklin C. Miller>;Harriet Miers/WHO/EOP [WHO] <Harriet Miers>;Ken Mehlman/WHO/EOP [WHO] <Ken Mehlman>;Edward McNally/WHO/EOP [WHO] <Edward McNally>;Robert C. McNally/OPD/EOP [OPD] <Robert C. McNally>;Stephen S. McMillin/OMB/EOP [OMB] <Stephen S. McMillin>;Brian V. McCormack/OVP/EOP [OVP] <Brian V. McCormack>;John P. McConnell/OVP/EOP [OVP] <John P. McConnell>;Scott McClellan/WHO/EOP [WHO] <Scott McClellan>;Mark McClellan/CEA/EOP [UNKNOWN] <Mark McClellan>;Mary J. Matalin/OVP/EOP [OVP] <Mary J. Matalin>;Catherine J. Martin/OVP/EOP [OVP] <Catherine J. Martin>;Robert Marsh/WHO/EOP [WHO] <Robert Marsh>;John H. Marburger/OSTP/EOP [OSTP] <John H. Marburger>;John F. Maisto/NSC/EOP [NSC] <John F. Maisto>;Robin A. MacLean/WHO/EOP [WHO] <Robin A. MacLean>;Ado A. Machida/OVP/EOP [OVP] <Ado A. Machida>;Deborah A. Loewer/NSC/EOP [NSC] <Deborah A. Loewer>;Roland N. Litterst/WHO/EOP [WHO] <Roland N. Litterst>;Lawrence B. Lindsey/OPD/EOP@Exchange [OPD] <Lawrence B. Lindsey>;Lewis Libby/OVP/EOP [OVP] <Lewis Libby>;Dirksen Lehman/WHO/EOP [WHO] <Dirksen Lehman>;Jay P. Lefkowitz/OPD/EOP [OPD] <Jay P. Lefkowitz>;Laura S. Lawlor/WHO/EOP [WHO] <Laura S. Lawlor>;Bruce M. Lawlor/WHO/EOP [WHO] <Bruce M. Lawlor>;Paul B. Kurtz/NSC/EOP [NSC] <Paul B. Kurtz>;David Kuo/WHO/EOP [WHO] <David Kuo>;Randall S. Kroszner/CEA/EOP [CEA] <Randall S. Kroszner>;Karen Y. Knutson/OVP/EOP [OVP] <Karen Y. Knutson>;Frank G. Klotz/NSC/EOP [NSC] <Frank G. Klotz>;Elizabeth W. Kleppe/OVP/EOP [OVP] <Elizabeth W. Kleppe>;Ellis Kitchen/OA/EOP [OA] <Ellis Kitchen>;Matthew Kirk/WHO/EOP [WHO] <Matthew Kirk>;Zalmay M. Khalilzad/NSC/EOP [NSC] <Zalmay M. Khalilzad>;Daniel J. Keniry/WHO/EOP [WHO] <Daniel J. Keniry>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Joel D. Kaplan/WHO/EOP [WHO] <Joel D. Kaplan>;Charles D. McGrath Jr/OVP/EOP [OVP] <Charles D. McGrath Jr>;Robert G. Joseph/NSC/EOP [NSC] <Robert G. Joseph>;Reuben Jeffery/OPD/EOP [OPD] <Reuben Jeffery>;Barry S. Jackson/WHO/EOP [WHO] <Barry S. Jackson>;Hector F. Irastorza/WHO/EOP [WHO] <Hector F. Irastorza>;Edward Ingle/WHO/EOP [WHO] <Edward Ingle>;Clay Johnson III/WHO/EOP [WHO] <Clay Johnson III>;Tim Campen/OA/EOP [OA] <Tim Campen>;Penrose C. Albright TPO/TPO/OMB/EOP [OMB] <Penrose C. Albright TPO>;Steven I. Cooper TPO/TPO/OMB/EOP [OMB] <Steven I. Cooper TPO>;Keith Hennessey/OPD/EOP@Exchange [OPD] <Keith Hennessey>;Julian M. Flannery/WHO/EOP [WHO] <Julian M. Flannery>;Duncan Campbell/WHO/EOP [WHO] <Duncan Campbell>;R. Rand Beers/NSC/EOP [NSC] <R. Rand Beers>;Glenn Hubbard/CEA/EOP [CEA] <Glenn Hubbard>;Jack Howard/WHO/EOP [WHO] <Jack Howard>;Mark Holman/WHO/EOP [WHO] <Mark Holman>;David W. Hobbs/WHO/EOP [WHO] <David W. Hobbs>;Israel Hernandez/WHO/EOP [WHO] <Israel Hernandez>;Chris Henick/WHO/EOP [WHO] <Chris Henick>;Debra Heiden/OVP/EOP [OVP] <Debra Heiden>;Albert Hawkins/WHO/EOP [WHO] <Albert Hawkins>;John P. Hannah/OVP/EOP [OVP] <John P. Hannah>;John F. Haley/OVP/EOP [OVP] <John F. Haley>;Joseph W. Hagin/WHO/EOP [WHO] <Joseph W. Hagin>;Stephen J. Hadley/NSC/EOP [NSC] <Stephen J. Hadley>;Ann Gray/WHO/EOP [WHO] <Ann Gray>;John Graham/OMB/EOP [OMB] <John Graham>;John A. Gordon/NSC/EOP [NSC] <John A. Gordon>;Alberto R. Gonzales/WHO/EOP [WHO] <Alberto R. Gonzales>;Tim Goeglein/WHO/EOP [WHO] <Tim Goeglein>;Dylan C. Glenn/OPD/EOP [OPD] <Dylan C. Glenn>;Alan Gilbert/OPD/EOP [OPD] <Alan Gilbert>;Michael J. Gerson/WHO/EOP [WHO] <Michael J. Gerson>;Stephen M. Garrison/WHO/EOP [WHO] <Stephen M. Garrison>;Kelley Gannon/WHO/EOP [WHO] <Kelley Gannon>;Linda M. Gambatesa/WHO/EOP [WHO] <Linda M. Gambatesa>;Diana E. Furchtgott-Roth/CEA/EOP [CEA] <Diana E. Furchtgott-Roth>;Daniel Fried/NSC/EOP [NSC] <Daniel Fried>;Jendayi E. Frazer/NSC/EOP [NSC] <Jendayi E. Frazer>;Noel J. Francisco/WHO/EOP [WHO] <Noel J. Francisco>;Lawrence A. Fleischer/WHO/EOP [WHO] <Lawrence A. Fleischer>;Catherine S. Fenton/WHO/EOP [WHO] <Catherine S. Fenton>;Richard Falkenrath/WHO/EOP [WHO] <Richard Falkenrath>;Nanette Everson/WHO/EOP [WHO] <Nanette Everson>;Mark Everson/OMB/EOP [OMB] <Mark Everson>;Ashley Estes/WHO/EOP [WHO] <Ashley Estes>;Tucker A. Eskew/WHO/EOP [WHO] <Tucker A. Eskew>;Gary R.

Edson/NSC/EOP [NSC] <Gary R. Edson>;Eric S. Edelman/OVP/EOP [OVP] <Eric S. Edelman>;Wayne A. Downing/NSC/EOP [UNKNOWN] <Wayne A. Downing>;Elizabeth S. Dougherty/OPD/EOP [OPD] <Elizabeth S. Dougherty>;Nancy P. Dorn/WHO/EOP [UNKNOWN] <Nancy P. Dorn>;Diana C. Donnelly/WHO/EOP [WHO] <Diana C. Donnelly>;Nicolle Devenish/WHO/EOP [WHO] <Nicolle Devenish>;Mitchell Daniels/OMB/EOP [OMB] <Mitchell Daniels>;James F. Daniel/OA/EOP [OA] <James F. Daniel>;Stacia L. Cropper/OA/EOP [OA] <Stacia L. Cropper>;Barry Crane/ONDCP/EOP [ONDCP] <Barry Crane>;John B. Craig/NSC/EOP [UNKNOWN] <John B. Craig>;Phil Cooney/CEQ/EOP [CEQ] <Phil Cooney>;Rebecca Contreras/WHO/EOP [WHO] <Rebecca Contreras>;Charles Conner/OPD/EOP [OPD] <Charles Conner>;James Connaughton/CEQ/EOP [CEQ] <James Connaughton>;Brian C. Conklin/WHO/EOP [WHO] <Brian C. Conklin>;Cesar Conda/OVP/EOP [OVP] <Cesar Conda>;Douglas F. Cochrane/OVP/EOP [OVP] <Douglas F. Cochrane>;Robert W. Cobb/WHO/EOP [UNKNOWN] <Robert W. Cobb>;John A. Cloud/NSC/EOP [NSC] <John A. Cloud>;Robin Cleveland/OMB/EOP [OMB] <Robin Cleveland>;Richard A. Clarke/NSC/EOP [NSC] <Richard A. Clarke>;Alicia P. Clark/WHO/EOP [WHO] <Alicia P. Clark>;Frank Cilluffo/WHO/EOP [WHO] <Frank Cilluffo>;Christine Ciccone/WHO/EOP [WHO] <Christine Ciccone>;Ronald I. Christie/OVP/EOP [UNKNOWN] <Ronald I. Christie>;Barbara C. Chaffee/WHO/EOP [WHO] <Barbara C. Chaffee>;Kirsten A. Chadwick/WHO/EOP [WHO] <Kirsten A. Chadwick>;Andrew H. Card/WHO/EOP [WHO] <Andrew H. Card>;James C. Capretta/OMB/EOP [OMB] <James C. Capretta>;Nicholas E. Calio/WHO/EOP [WHO] <Nicholas E. Calio>;Scott Burns/ONDCP/EOP [ONDCP] <Scott Burns>;Katja Bullock/WHO/EOP [WHO] <Katja Bullock>;Carl Buchholz/WHO/EOP [WHO] <Carl Buchholz>;Claire E. Buchan/WHO/EOP [WHO] <Claire E. Buchan>;John M. Bridgeland/OPD/EOP [OPD] <John M. Bridgeland>;Stuart W. Bowen/WHO/EOP [WHO] <Stuart W. Bowen>;Carlos E. Bonilla/OPD/EOP [OPD] <Carlos E. Bonilla>;Joshua B. Bolten/WHO/EOP [WHO] <Joshua B. Bolten>;Lloyd A. Blanchard/OMB/EOP [UNKNOWN] <Lloyd A. Blanchard>;Bradley A. Blakeman/WHO/EOP@Exchange [WHO] <Bradley A. Blakeman>;Charles P. Blahous/OPD/EOP [OPD] <Charles P. Blahous>;Stephen E. Biegun/NSC/EOP [NSC] <Stephen E. Biegun>;Rebecca A. Beynon/WHO/EOP [WHO] <Rebecca A. Beynon>;Janet L. Berman/OVP/EOP [OVP] <Janet L. Berman>;Bradford A. Berenson/WHO/EOP [WHO] <Bradford A. Berenson>;John B. Bellinger/NSC/EOP [NSC] <John B. Bellinger>;H. Christopher Bartolomucci/WHO/EOP [WHO] <H. Christopher Bartolomucci>;Daniel J. Bartlett/WHO/EOP [WHO] <Daniel J. Bartlett>;Andrea G. Barthwell/ONDCP/EOP [ONDCP] <Andrea G. Barthwell>;Ruben S. Barrales/WHO/EOP [WHO] <Ruben S. Barrales>;Andrea G. Ball/WHO/EOP [WHO] <Andrea G. Ball>;Jackie Arends/WHO/EOP [WHO] <Jackie Arends>;George M. Andricos/NSC/EOP [NSC] <George M. Andricos>;Cathy Alix/WHO/EOP [WHO] <Cathy Alix>;David S. Addington/OVP/EOP [OVP] <David S. Addington>;Elliott Abrams/NSC/EOP [NSC] <Elliott Abrams>;Charles S. Abbot/OVP/EOP [OVP] <Charles S. Abbot>

Sent: 12/18/2002 6:27:24 AM

Subject: : POSTMASTER: White House Mess Holiday Hours

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME:18-DEC-2002 11:27:24.00
SUBJECT:: POSTMASTER: White House Mess Holiday Hours
TO:Gina M. Wolford ( CN=Gina M. Wolford/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:David L. Travers ( CN=David L. Travers/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Harry W. Wolff ( CN=Harry W. Wolff/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Alexian T. Wines ( CN=Alexian T. Wines/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Patricia Williams ( CN=Patricia Williams/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Jared B. Weinstein ( CN=Jared B. Weinstein/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Matthew C. Waxman ( CN=Matthew C. Waxman/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Lauren J. Vestewig ( CN=Lauren J. Vestewig/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
```

TO:Terrill G. Tucker (CN=Terrill G. Tucker/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tevi Troy (CN=Tevi Troy/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Anne Trenolone (CN=Anne Trenolone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Julieanne H. Thomas (CN=Julieanne H. Thomas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Rachael L. Sunbarger (CN=Rachael L. Sunbarger/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan L. Sterner (CN=Susan L. Sterner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert E. Schubert (CN=Robert E. Schubert/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Deborah Sandler (CN=Deborah Sandler/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jean M. Russell (CN=Jean M. Russell/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Peter M. Rowan (CN=Peter M. Rowan/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Noelia Rodriguez (CN=Noelia Rodriguez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine B. Robinson (CN=Josephine B. Robinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Maurice C. Robinson (CN=Maurice C. Robinson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Christina D. Roberts (CN=Christina D. Roberts/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Allison L. Riepenhoff (CN=Allison L. Riepenhoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:January M. Riecke (CN=January M. Riecke/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Rhodes (CN=Katherine A. Rhodes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Reynolds (CN=Tim Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David Reyes (CN=David Reyes/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie E. Radcliff (CN=Leslie E. Radcliff/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexia Poe (CN=Alexia Poe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elliott M. Langer (CN=Elliott M. Langer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Clare Pritchett (CN=Clare Pritchett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Suzanne Primoff (CN=Suzanne Primoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John I. Pray (CN=John I. Pray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan D. Phillips (CN=Susan D. Phillips/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah Penny (CN=Sarah Penny/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Raymond H. Payne (CN=Raymond H. Payne/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Richard S. Paulus (CN=Richard S. Paulus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward J. Padinske (CN=Edward J. Padinske/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Eric H. Otto (CN=Eric H. Otto/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Lee B. Mynatt (CN=Lee B. Mynatt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Steven Myers (CN=Steven Myers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah M. Garrison (CN=Sarah M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul L. Morse (CN=Paul L. Morse/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie A. Mooney (CN=Leslie A. Mooney/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Cathy L. Millison (CN=Cathy L. Millison/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Holly M. Miller (CN=Holly M. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sonya E. Medina (CN=Sonya E. Medina/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Vickie A. McQuade (CN=Vickie A. McQuade/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sara B. McIntosh (CN=Sara B. McIntosh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter A. McCauley (CN=Peter A. McCauley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel M. McCarthy (CN=Daniel M. McCarthy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas S. Marsh (CN=Thomas S. Marsh/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lindsey M. Lineweaver (CN=Lindsey M. Lineweaver/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Laura E. Lineberry (CN=Laura E. Lineberry/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Adam L. Levine (CN=Adam L. Levine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christopher S. Legrand (CN=Christopher S. Legrand/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sang W. Lee (CN=Sang W. Lee/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jennie M. Koch (CN=Jennie M. Koch/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Andrew M. Kaver (CN=Andrew M. Kaver/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Dora Kale (CN=Dora Kale/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexander S. Joves (CN=Alexander S. Joves/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:M. Kay Joshi (CN=M. Kay Joshi/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Megan R. Johnston (CN=Megan R. Johnston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sydney R. Johnson (CN=Sydney R. Johnson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clarence C. Johnson (CN=Clarence C. Johnson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gordon D. Johndroe (CN=Gordon D. Johndroe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melanie A. Jackson (CN=Melanie A. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marilyn R. Jacanin (CN=Marilyn R. Jacanin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Restituto M. Francisco (CN=Restituto M. Francisco/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Sandra K. Evans (CN=Sandra K. Evans/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Regina L. Cain (CN=Regina L. Cain/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Brown (CN=Katherine A. Brown/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Bonnie S. Broadwick (CN=Bonnie S. Broadwick/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Theresa M. Hunter (CN=Theresa M. Hunter/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:A. Merrill Hughes (CN=A. Merrill Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jeffrey P. Houle (CN=Jeffrey P. Houle/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ashley Holbrook (CN=Ashley Holbrook/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine L. Hirsch (CN=Josephine L. Hirsch/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jane C. Heishman (CN=Jane C. Heishman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anne Heiligenstein (CN=Anne Heiligenstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. Hargis (CN=Robert C. Hargis/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison M. Harden (CN=Alison M. Harden/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary Ann Hanusa (CN=Mary Ann Hanusa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas A. Hall (CN=Thomas A. Hall/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary A. Haines (CN=Mary A. Haines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Katharina M. Hager (CN=Katharina M. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Henry C. Hager (CN=Henry C. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Albert J. Guarnieri (CN=Albert J. Guarnieri/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew W. Green (CN=Andrew W. Green/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Emily S. Gray (CN=Emily S. Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wendy E. Gray (CN=Wendy E. Gray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Britt Grant (CN=Britt Grant/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Travis C. Good (CN=Travis C. Good/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Georgia D. Godfrey (CN=Georgia D. Godfrey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Dorothy C. Garvin (CN=Dorothy C. Garvin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joachim D. Fuchs (CN=Joachim D. Fuchs/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Barbara J. Finn (CN=Barbara J. Finn/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jeanie L. Figg (CN=Jeanie L. Figg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jennifer D. Field (CN=Jennifer D. Field/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Douglas M. Erdahl (CN=Douglas M. Erdahl/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Ruth E. Elliott (CN=Ruth E. Elliott/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kady Dunlap (CN=Kady Dunlap/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eric A. Draper (CN=Eric A. Draper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joan R. Doty (CN=Joan R. Doty/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine L. Disston (CN=Katherine L. Disston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Reed Dickens (CN=Reed Dickens/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josh Deckard (CN=Josh Deckard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley E. Davis (CN=Ashley E. Davis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jill Davie (CN=Jill Davie/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colin Crosby (CN=Colin Crosby/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lynn A. Crable (CN=Lynn A. Crable/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colby J. Cooper (CN=Colby J. Cooper/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Shane P. Chambers (CN=Shane P. Chambers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lois A. Cassano (CN=Lois A. Cassano/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Pamela R. Casey (CN=Pamela R. Casey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne E. Campbell (CN=Anne E. Campbell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marcia J. Caler (CN=Marcia J. Caler/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Johnathan C. Bunting (CN=Johnathan C. Bunting/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marko R. Broz (CN=Marko R. Broz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gary E. Bresnahan (CN=Gary E. Bresnahan/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David R. Bohrer (CN=David R. Bohrer/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cheryl E. Barnett (CN=Cheryl E. Barnett/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell P. Backfield (CN=Mitchell P. Backfield/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jill L. Angelo (CN=Jill L. Angelo/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Ashleigh A. Adams (CN=Ashleigh A. Adams/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Joseph J. Shattan (CN=Joseph J. Shattan/OU=OVP/O=EOP [OVP])
READ:UNKNOWN

TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Richard J. Tubb (CN=Richard J. Tubb/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul J. Severs (CN=Paul J. Severs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joseph D. Rozek (CN=Joseph D. Rozek/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Steven J. Reynolds (CN=Steven J. Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Candida P. Wolff (CN=Candida P. Wolff/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel K. Wilmot (CN=Daniel K. Wilmot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:James R. Wilkinson (CN=James R. Wilkinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jocelyn White (CN=Jocelyn White/OU=WHF/O=EOP [OPM])
READ:UNKNOWN
TO:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul A. Wedderien (CN=Paul A. Wedderien/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John P. Walters (CN=John P. Walters/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine W. Tobias (CN=Catherine W. Tobias/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jose G. Suarez (CN=Jose G. Suarez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Aquiles F. Suarez (CN=Aquiles F. Suarez/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Angela B. Styles (CN=Angela B. Styles/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary A. Solberg (CN=Mary A. Solberg/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Augustine T. Smythe (CN=Augustine T. Smythe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Sharpy (CN=Thomas J. Sharpy/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Howard A. Schmidt (CN=Howard A. Schmidt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel Schecter (CN=Daniel Schecter/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Richard M. Russell (CN=Richard M. Russell/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Stephen S. Ruhlen (CN=Stephen S. Ruhlen/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark V. Rosenker (CN=Mark V. Rosenker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Ridge (CN=Thomas J. Ridge/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Nina Rees (CN=Nina Rees/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Craig Ray (CN=Craig Ray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kathie L. Olsen (CN=Kathie L. Olsen/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Newell (CN=John F. Newell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Manson O. Morris (CN=Manson O. Morris/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Paul D. Montanus (CN=Paul D. Montanus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. McAllister (CN=James M. McAllister/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric C. Pelletier (CN=Eric C. Pelletier/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Marcus Peacock (CN=Marcus Peacock/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Neil S. Patel (CN=Neil S. Patel/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Sean C. O'Keefe (CN=Sean C. O'Keefe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire M. O'Donnell (CN=Claire M. O'Donnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan K. Neely (CN=Susan K. Neely/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen S. McMillin (CN=Stephen S. McMillin/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark McClellan (CN=Mark McClellan/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Mary J. Matalin (CN=Mary J. Matalin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Catherine J. Martin (CN=Catherine J. Martin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John H. Marburger (CN=John H. Marburger/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Maisto (CN=John F. Maisto/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin A. MacLean (CN=Robin A. MacLean/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ado A. Machida (CN=Ado A. Machida/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Deborah A. Loewer (CN=Deborah A. Loewer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence B. Lindsey (CN=Lawrence B. Lindsey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Dirksen Lehman (CN=Dirksen Lehman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Laura S. Lawlor (CN=Laura S. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bruce M. Lawlor (CN=Bruce M. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Randall S. Kroszner (CN=Randall S. Kroszner/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Karen Y. Knutson (CN=Karen Y. Knutson/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Frank G. Klotz (CN=Frank G. Klotz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Ellis Kitchen (CN=Ellis Kitchen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles D. McGrath Jr (CN=Charles D. McGrath Jr/OU=OVP/O=EOP [OVP])
READ:UNKNOWN

TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Reuben Jeffery (CN=Reuben Jeffery/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hector F. Irastorza (CN=Hector F. Irastorza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Campen (CN=Tim Campen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Penrose C. Albright TPO (CN=Penrose C. Albright TPO/OU=TPO/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Steven I. Cooper TPO (CN=Steven I. Cooper TPO/OU=TPO/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Julian M. Flannery (CN=Julian M. Flannery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Duncan Campbell (CN=Duncan Campbell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:R. Rand Beers (CN=R. Rand Beers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Glenn Hubbard (CN=Glenn Hubbard/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Jack Howard (CN=Jack Howard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Holman (CN=Mark Holman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Chris Henick (CN=Chris Henick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Debra Heiden (CN=Debra Heiden/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Albert Hawkins (CN=Albert Hawkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John P. Hannah (CN=John P. Hannah/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John F. Haley (CN=John F. Haley/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John Graham (CN=John Graham/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:John A. Gordon (CN=John A. Gordon/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen M. Garrison (CN=Stephen M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Diana E. Furchtgott-Roth (CN=Diana E. Furchtgott-Roth/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Everson (CN=Mark Everson/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric S. Edelman (CN=Eric S. Edelman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Wayne A. Downing (CN=Wayne A. Downing/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Nancy P. Dorn (CN=Nancy P. Dorn/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Diana C. Donnelly (CN=Diana C. Donnelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:James F. Daniel (CN=James F. Daniel/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Stacia L. Cropper (CN=Stacia L. Cropper/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Barry Crane (CN=Barry Crane/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:John B. Craig (CN=John B. Craig/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:James Connaughton (CN=James Connaughton/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cesar Conda (CN=Cesar Conda/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Douglas F. Cochrane (CN=Douglas F. Cochrane/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert W. Cobb (CN=Robert W. Cobb/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:John A. Cloud (CN=John A. Cloud/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Robin Cleveland (CN=Robin Cleveland/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Richard A. Clarke (CN=Richard A. Clarke/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Frank Cilluffo (CN=Frank Cilluffo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christine Ciccone (CN=Christine Ciccone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Barbara C. Chaffee (CN=Barbara C. Chaffee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James C. Capretta (CN=James C. Capretta/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Nicholas E. Calio (CN=Nicholas E. Calio/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott Burns (CN=Scott Burns/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carl Buchholz (CN=Carl Buchholz/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stuart W. Bowen (CN=Stuart W. Bowen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carlos E. Bonilla (CN=Carlos E. Bonilla/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lloyd A. Blanchard (CN=Lloyd A. Blanchard/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen E. Biegun (CN=Stephen E. Biegun/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Janet L. Berman (CN=Janet L. Berman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Barthwell (CN=Andrea G. Barthwell/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Cathy Alix (CN=Cathy Alix/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
End Original ARMS Header

In observance of the Holiday Season, the White House Mess will close on Tuesday, December 24, 2002 at 3:00pm and will reopen on regular schedule on Thursday, December 26, 2002. It will be closed during the weekend of December 28-29, 2002 reopening Monday, December 30, 2002. On Tuesday, December 31, 2002, the Mess will close at 3:00pm until January 2, 2003. If the need arises, we will change this schedule to accommodate staff members.

Thank you.

From: Ted Cruz <TCRUZ@ftc.gov>
To: bginsberg@pattonboggs.com [UNKNOWN] <bginsberg@pattonboggs.com>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 12/18/2002 7:20:30 AM
Subject: : December 12th

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Ted Cruz <TCRUZ@ftc.gov> ( Ted Cruz <TCRUZ@ftc.gov> [ UNKNOWN ] )
CREATION DATE/TIME:18-DEC-2002 12:20:30.00
SUBJECT:: December 12th
TO:bginsberg@pattonboggs.com ( bginsberg@pattonboggs.com [ UNKNOWN ] )
READ:UNKNOWN
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Thanks to all who attended what was all around a terrific dinner. It
was really great seeing everybody again; hard to believe two years have
passed. On the book-keeping side, for those who had dinner, the cost
was $135 / person. If you didn't have a chance to cover it on Thursday,
pls respond to this e-mail (in the interim, Ben and I covered the
difference.) Thanks again, and have a wonderful Holiday and New Year.

Ted.
```

From: CN=PostMaster/O=EOP [OA]

To: Gina M. Wolford/NSC/EOP [NSC] <Gina M. Wolford>;David L. Travers/NSC/EOP [NSC] <David L. Travers>;Harry W. Wolff/WHO/EOP [WHO] <Harry W. Wolff>;Alexian T. Wines/NSC/EOP [NSC] <Alexian T. Wines>;Patricia Williams/WHO/EOP [WHO] <Patricia Williams>;Jared B. Weinstein/WHO/EOP@Exchange [WHO] <Jared B. Weinstein>;Matthew C. Waxman/NSC/EOP [NSC] <Matthew C. Waxman>;Lauren J. Vestewig/OPD/EOP [OPD] <Lauren J. Vestewig>;Terrill G. Tucker/NSC/EOP [NSC] <Terrill G. Tucker>;Tevi Troy/OPD/EOP [OPD] <Tevi Troy>;Anne Trenolone/WHO/EOP [WHO] <Anne Trenolone>;Julieanne H. Thomas/WHO/EOP [WHO] <Julieanne H. Thomas>;Rachael L. Sunbarger/WHO/EOP [WHO] <Rachael L. Sunbarger>;Susan L. Sterner/WHO/EOP [WHO] <Susan L. Sterner>;Ashley Snee/WHO/EOP [WHO] <Ashley Snee>;Robert E. Schubert/NSC/EOP [NSC] <Robert E. Schubert>;Deborah Sandler/NSC/EOP [NSC] <Deborah Sandler>;Jean M. Russell/OPD /EOP@Exchange [OPD] <Jean M. Russell>;Peter M. Rowan/WHO/EOP [UNKNOWN] <Peter M. Rowan>;Noelia Rodriguez/WHO/EOP [WHO] <Noelia Rodriguez>;Josephine B. Robinson/WHO/EOP [WHO] <Josephine B. Robinson>;Maurice C. Robinson/NSC/EOP [NSC] <Maurice C. Robinson>;Christina D. Roberts/WHO/EOP [UNKNOWN] <Christina D. Roberts>;Krista L. Ritacco/WHO/EOP@Exchange [WHO] <Krista L. Ritacco>;Allison L. Riepenhoff/WHO/EOP [WHO] <Allison L. Riepenhoff>;January M. Riecke/WHO/EOP [WHO] <January M. Riecke>;Katherine A. Rhodes/WHO/EOP [WHO] <Katherine A. Rhodes>;Tim Reynolds/WHO/EOP [WHO] <Tim Reynolds>;David Reyes/NSC/EOP [NSC] <David Reyes>;Susan B. Ralston/WHO/EOP [WHO] <Susan B. Ralston>;Leslie E. Radcliff/NSC/EOP [NSC] <Leslie E. Radcliff>;Alexia Poe/WHO/EOP [WHO] <Alexia Poe>;Charlotte L. Montiel/WHO/EOP [WHO] <Charlotte L. Montiel>;Elliott M. Langer/NSC/EOP [NSC] <Elliott M. Langer>;Clare Pritchett/WHO/EOP [WHO] <Clare Pritchett>;Suzanne Primoff/WHO/EOP [WHO] <Suzanne Primoff>;John I. Pray/NSC/EOP [NSC] <John I. Pray>;Susan D. Phillips/NSC/EOP [NSC] <Susan D. Phillips>;Sarah Penny/WHO/EOP [WHO] <Sarah Penny>;Raymond H. Payne/NSC/EOP [NSC] <Raymond H. Payne>;Richard S. Paulus/WHO/EOP [WHO] <Richard S. Paulus>;Edward J. Padinske/NSC/EOP [NSC] <Edward J. Padinske>;Eric H. Otto/OPD/EOP@Exchange [OPD] <Eric H. Otto>;Lee B. Mynatt/NSC/EOP [NSC] <Lee B. Mynatt>;Steven Myers/NSC/EOP [NSC] <Steven Myers>;Sarah M. Garrison/WHO/EOP [WHO] <Sarah M. Garrison>;Paul L. Morse/WHO/EOP [WHO] <Paul L. Morse>;Leslie A. Mooney/OPD/EOP@Exchange [OPD] <Leslie A. Mooney>;Cathy L. Millison/NSC/EOP [NSC] <Cathy L. Millison>;Holly M. Miller/WHO/EOP [WHO] <Holly M. Miller>;Sonya E. Medina/WHO/EOP [WHO] <Sonya E. Medina>;Vickie A. McQuade/WHO/EOP [WHO] <Vickie A. McQuade>;Sara B. McIntosh/WHO/EOP [WHO] <Sara B. McIntosh>;Peter A. McCauley/NSC/EOP [NSC] <Peter A. McCauley>;Daniel M. McCarthy/WHO/EOP [WHO] <Daniel M. McCarthy>;Thomas S. Marsh/NSC/EOP [NSC] <Thomas S. Marsh>;Colleen Litkenhaus/WHO/EOP [WHO] <Colleen Litkenhaus>;Lindsey M. Lineweaver/WHO/EOP [WHO] <Lindsey M. Lineweaver>;Laura E. Lineberry/NSC/EOP [NSC] <Laura E. Lineberry>;Adam L. Levine/WHO/EOP [WHO] <Adam L. Levine>;Christopher S. Legrand/NSC/EOP [NSC] <Christopher S. Legrand>;Sang W. Lee/NSC/EOP [NSC] <Sang W. Lee>;Jennie M. Koch/NSC/EOP [NSC] <Jennie M. Koch>;Andrew M. Kaver/NSC/EOP [UNKNOWN] <Andrew M. Kaver>;Dora Kale/NSC/EOP [NSC] <Dora Kale>;Alexander S. Joves/NSC/EOP [NSC] <Alexander S. Joves>;M. Kay Joshi/NSC/EOP [NSC] <M. Kay Joshi>;Alison Jones/WHO/EOP [WHO] <Alison Jones>;Megan R. Johnston/WHO/EOP [WHO] <Megan R. Johnston>;Sydney R. Johnson/WHO/EOP [WHO] <Sydney R. Johnson>;Clarence C. Johnson/NSC/EOP [NSC] <Clarence C. Johnson>;Gordon D. Johndroe/WHO/EOP [WHO] <Gordon D. Johndroe>;Melanie A. Jackson/WHO/EOP [WHO] <Melanie A. Jackson>;Marilyn R. Jacanin/WHO/EOP [WHO] <Marilyn R. Jacanin>;Restituto M. Francisco/OA/EOP [OA] <Restituto M. Francisco>;Sandra K. Evans/WHO/EOP [WHO] <Sandra K. Evans>;Regina L. Cain/WHO/EOP [WHO] <Regina L. Cain>;Katherine A. Brown/NSC/EOP [NSC] <Katherine A. Brown>;Bonnie S. Broadwick/NSC/EOP [NSC] <Bonnie S. Broadwick>;Theresa M. Hunter/NSC/EOP [NSC] <Theresa M. Hunter>;A. Merrill Hughes/WHO/EOP [UNKNOWN] <A. Merrill Hughes>;Jeffrey P. Houle/NSC/EOP [NSC] <Jeffrey P. Houle>;Ashley Holbrook/WHO/EOP [WHO] <Ashley Holbrook>;Josephine L. Hirsch/WHO/EOP [WHO] <Josephine L. Hirsch>;Jane C. Heishman/NSC/EOP [NSC] <Jane C. Heishman>;Anne Heiligenstein/WHO/EOP [WHO] <Anne Heiligenstein>;Robert C. Hargis/NSC/EOP [NSC] <Robert C. Hargis>;Alison M. Harden/WHO/EOP [WHO] <Alison M. Harden>;Mary Ann Hanusa/WHO/EOP [WHO] <Mary Ann Hanusa>;Thomas A. Hall/NSC/EOP [NSC] <Thomas A. Hall>;Mary A. Haines/NSC/EOP [NSC] <Mary A. Haines>;Katharina M. Hager/WHO/EOP [WHO] <Katharina M. Hager>;Henry C. Hager/WHO/EOP [WHO] <Henry C. Hager>;Albert J.

Guarnieri/NSC/EOP [NSC] <Albert J. Guarnieri>;Ginger G. Loper/WHO/EOP [WHO] <Ginger G. Loper>;Andrew W. Green/NSC/EOP [NSC] <Andrew W. Green>;Emily S. Gray/WHO/EOP [WHO] <Emily S. Gray>;Wendy E. Gray/NSC/EOP [NSC] <Wendy E. Gray>;Britt Grant/OPD/EOP [OPD] <Britt Grant>;Blake Gottesman/WHO/EOP [WHO] <Blake Gottesman>;Travis C. Good/NSC/EOP [UNKNOWN] <Travis C. Good>;Georgia D. Godfrey/WHO/EOP [WHO] <Georgia D. Godfrey>;Eleanor L. Gillmor/OPD/EOP [OPD] <Eleanor L. Gillmor>;Dorothy C. Garvin/WHO/EOP [WHO] <Dorothy C. Garvin>;Joachim D. Fuchs/NSC/EOP [NSC] <Joachim D. Fuchs>;Barbara J. Finn/OA/EOP [OA] <Barbara J. Finn>;Kara G. Figg/WHO/EOP@Exchange [WHO] <Kara G. Figg>;Jeanie L. Figg/WHO/EOP [WHO] <Jeanie L. Figg>;Jennifer D. Field/OVP/EOP [OVP] <Jennifer D. Field>;Douglas M. Erdahl/NSC/EOP [NSC] <Douglas M. Erdahl>;Ruth E. Elliott/NSC/EOP [NSC] <Ruth E. Elliott>;Kady Dunlap/WHO/EOP [WHO] <Kady Dunlap>;Eric A. Draper/WHO/EOP [WHO] <Eric A. Draper>;Joan R. Doty/WHO/EOP [WHO] <Joan R. Doty>;Katherine L. Disston/WHO /EOP@Exchange [WHO] <Katherine L. Disston>;Reed Dickens/WHO/EOP [WHO] <Reed Dickens>;Josh Deckard/WHO/EOP [WHO] <Josh Deckard>;Ashley E. Davis/WHO/EOP [WHO] <Ashley E. Davis>;Jill Davie/WHO/EOP [WHO] <Jill Davie>;Colin Crosby/NSC/EOP [NSC] <Colin Crosby>;Lynn A. Crable/WHO/EOP [WHO] <Lynn A. Crable>;Colby J. Cooper/NSC/EOP [NSC] <Colby J. Cooper>;Michael J. Conway/WHO/EOP [WHO] <Michael J. Conway>;Carolyn E. Cleveland/WHO/EOP [WHO] <Carolyn E. Cleveland>;Shane P. Chambers/WHO/EOP [WHO] <Shane P. Chambers>;Lois A. Cassano/WHO/EOP [WHO] <Lois A. Cassano>;Pamela R. Casey/WHO/EOP [WHO] <Pamela R. Casey>;Anne E. Campbell/WHO/EOP@Exchange [WHO] <Anne E. Campbell>;Elizabeth N. Camp/WHO/EOP [WHO] <Elizabeth N. Camp>;Marcia J. Caler/NSC/EOP [UNKNOWN] <Marcia J. Caler>;Johnathan C. Bunting/NSC/EOP [NSC] <Johnathan C. Bunting>;Patrick J. Bumatay/WHO/EOP [WHO] <Patrick J. Bumatay>;Marko R. Broz/NSC/EOP [NSC] <Marko R. Broz>;Gary E. Bresnahan/NSC/EOP [NSC] <Gary E. Bresnahan>;Brian Bravo/WHO/EOP [WHO] <Brian Bravo>;David R. Bohrer/OVP/EOP [OVP] <David R. Bohrer>;Debra D. Bird/WHO/EOP [WHO] <Debra D. Bird>;Melissa S. Bennett/WHO/EOP [WHO] <Melissa S. Bennett>;Cheryl E. Barnett/NSC/EOP [NSC] <Cheryl E. Barnett>;Tiffany L. Barfield/WHO/EOP [WHO] <Tiffany L. Barfield>;Mitchell P. Backfield/NSC/EOP [NSC] <Mitchell P. Backfield>;Jill L. Angelo/WHO/EOP [UNKNOWN] <Jill L. Angelo>;Ashleigh A. Adams/WHO/EOP [UNKNOWN] <Ashleigh A. Adams>;Joseph J. Shattan/OVP/EOP [OVP] <Joseph J. Shattan>;Kevin Warsh/OPD/EOP [OPD] <Kevin Warsh>;Richard J. Tubb/WHO/EOP [WHO] <Richard J. Tubb>;Paul J. Severs/WHO/EOP [WHO] <Paul J. Severs>;Joseph D. Rozek/OVP/EOP [OVP] <Joseph D. Rozek>;Steven J. Reynolds/WHO/EOP [WHO] <Steven J. Reynolds>;Candida P. Wolff/OVP/EOP [OVP] <Candida P. Wolff>;Heather Wingate/WHO/EOP [WHO] <Heather Wingate>;Daniel K. Wilmot/OVP/EOP [OVP] <Daniel K. Wilmot>;James R. Wilkinson/WHO/EOP [WHO] <James R. Wilkinson>;Jocelyn White/WHF/EOP [OPM] <Jocelyn White>;Lezlee J. Westine/WHO/EOP [WHO] <Lezlee J. Westine>;Peter H. Wehner/WHO/EOP [WHO] <Peter H. Wehner>;Paul A. Wedderien/NSC/EOP [NSC] <Paul A. Wedderien>;John P. Walters/ONDCP/EOP [ONDCP] <John P. Walters>;Helgard C. Walker/WHO/EOP [WHO] <Helgard C. Walker>;Jim Towey/WHO/EOP [WHO] <Jim Towey>;Catherine W. Tobias/OVP/EOP [OVP] <Catherine W. Tobias>;Jose G. Suarez/WHO/EOP [WHO] <Jose G. Suarez>;Aquiles F. Suarez/OPD/EOP [OPD] <Aquiles F. Suarez>;Angela B. Styles/OMB/EOP [OMB] <Angela B. Styles>;Mary K. Sturtevant/NSC/EOP [NSC] <Mary K. Sturtevant>;Margaret M. Spellings/OPD/EOP [OPD] <Margaret M. Spellings>;Deborah A. Spagnoli/WHO/EOP [WHO] <Deborah A. Spagnoli>;Mary A. Solberg/ONDCP/EOP [ONDCP] <Mary A. Solberg>;Augustine T. Smythe/OMB/EOP [OMB] <Augustine T. Smythe>;Kristen Silverberg/WHO/EOP [WHO] <Kristen Silverberg>;Thomas J. Sharpy/OVP/EOP [OVP] <Thomas J. Sharpy>;Scott N. Sforza/WHO/EOP [WHO] <Scott N. Sforza>;Howard A. Schmidt/NSC/EOP [NSC] <Howard A. Schmidt>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Daniel Schecter/ONDCP/EOP [ONDCP] <Daniel Schecter>;Diana L. Schacht/OPD/EOP [OPD] <Diana L. Schacht>;Desiree T. Sayle/WHO/EOP [WHO] <Desiree T. Sayle>;Kyle Sampson/WHO/EOP [WHO] <Kyle Sampson>;Richard M. Russell/OSTP/EOP [OSTP] <Richard M. Russell>;Stephen S. Ruhlen/OVP/EOP [OVP] <Stephen S. Ruhlen>;Karl C. Rove/WHO/EOP [WHO] <Karl C. Rove>;Mark V. Rosenker/WHO/EOP [WHO] <Mark V. Rosenker>;Thomas J. Ridge/WHO/EOP [WHO] <Thomas J. Ridge>;Condoleezza Rice/NSC/EOP [NSC] <Condoleezza Rice>;Nina Rees/OVP/EOP [OVP] <Nina Rees>;Craig Ray/WHO/EOP [WHO] <Craig Ray>;Benjamin A. Powell/WHO/EOP [WHO] <Benjamin A. Powell>;Kathie L. Olsen/OSTP/EOP [OSTP] <Kathie L. Olsen>;John F. Newell/WHO/EOP [WHO] <John F. Newell>;Manson O. Morris/OVP/EOP [OVP] <Manson O. Morris>;Paul D. Montanus/WHO/EOP [WHO] <Paul D. Montanus>;James M. McAllister/WHO/EOP [WHO] <James M. McAllister>;James M. Kelly/WHO/EOP [WHO] <James M. Kelly>;Dina

Powell/WHO/EOP [WHO] <Dina Powell>;Philip J. Perry/OMB/EOP [OMB] <Philip J. Perry>;Anna M. Perez/NSC/EOP [NSC] <Anna M. Perez>;Eric C. Pelletier/OMB/EOP [OMB] <Eric C. Pelletier>;Marcus Peacock/OMB/EOP [OMB] <Marcus Peacock>;Neil S. Patel/OVP/EOP [OVP] <Neil S. Patel>;Sean C. O'Keefe/OMB/EOP [OMB] <Sean C. O'Keefe>;Ziad S. Ojakli/WHO/EOP [WHO] <Ziad S. Ojakli>;Claire M. O'Donnell/OVP/EOP [OVP] <Claire M. O'Donnell>;Jennifer G. Newstead/WHO/EOP [WHO] <Jennifer G. Newstead>;Susan K. Neely/WHO/EOP [WHO] <Susan K. Neely>;Edmund C. Moy/WHO/EOP [WHO] <Edmund C. Moy>;James F. Moriarty/NSC/EOP [NSC] <James F. Moriarty>;Brian D. Montgomery/WHO/EOP [WHO] <Brian D. Montgomery>;Michael H. Miller/WHO/EOP [WHO] <Michael H. Miller>;Franklin C. Miller/NSC/EOP [NSC] <Franklin C. Miller>;Harriet Miers/WHO/EOP [WHO] <Harriet Miers>;Ken Mehlman/WHO/EOP [WHO] <Ken Mehlman>;Edward McNally/WHO/EOP [WHO] <Edward McNally>;Robert C. McNally/OPD/EOP [OPD] <Robert C. McNally>;Stephen S. McMillin/OMB/EOP [OMB] <Stephen S. McMillin>;Brian V. McCormack/OVP/EOP [OVP] <Brian V. McCormack>;John P. McConnell/OVP/EOP [OVP] <John P. McConnell>;Scott McClellan/WHO/EOP [WHO] <Scott McClellan>;Mark McClellan/CEA/EOP [UNKNOWN] <Mark McClellan>;Mary J. Matalin/OVP/EOP [OVP] <Mary J. Matalin>;Catherine J. Martin/OVP/EOP [OVP] <Catherine J. Martin>;Robert Marsh/WHO/EOP [WHO] <Robert Marsh>;John H. Marburger/OSTP/EOP [OSTP] <John H. Marburger>;John F. Maisto/NSC/EOP [NSC] <John F. Maisto>;Robin A. MacLean/WHO/EOP [WHO] <Robin A. MacLean>;Ado A. Machida/OVP/EOP [OVP] <Ado A. Machida>;Deborah A. Loewer/NSC/EOP [NSC] <Deborah A. Loewer>;Roland N. Litterst/WHO/EOP [WHO] <Roland N. Litterst>;Lawrence B. Lindsey/OPD/EOP@Exchange [OPD] <Lawrence B. Lindsey>;Lewis Libby/OVP/EOP [OVP] <Lewis Libby>;Dirksen Lehman/WHO/EOP [WHO] <Dirksen Lehman>;Jay P. Lefkowitz/OPD/EOP [OPD] <Jay P. Lefkowitz>;Laura S. Lawlor/WHO/EOP [WHO] <Laura S. Lawlor>;Bruce M. Lawlor/WHO/EOP [WHO] <Bruce M. Lawlor>;Paul B. Kurtz/NSC/EOP [NSC] <Paul B. Kurtz>;David Kuo/WHO/EOP [WHO] <David Kuo>;Randall S. Kroszner/CEA/EOP [CEA] <Randall S. Kroszner>;Karen Y. Knutson/OVP/EOP [OVP] <Karen Y. Knutson>;Frank G. Klotz/NSC/EOP [NSC] <Frank G. Klotz>;Elizabeth W. Kleppe/OVP/EOP [OVP] <Elizabeth W. Kleppe>;Ellis Kitchen/OA/EOP [OA] <Ellis Kitchen>;Matthew Kirk/WHO/EOP [WHO] <Matthew Kirk>;Zalmay M. Khalilzad/NSC/EOP [NSC] <Zalmay M. Khalilzad>;Daniel J. Keniry/WHO/EOP [WHO] <Daniel J. Keniry>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Joel D. Kaplan/WHO/EOP [WHO] <Joel D. Kaplan>;Charles D. McGrath Jr/OVP/EOP [OVP] <Charles D. McGrath Jr>;Robert G. Joseph/NSC/EOP [NSC] <Robert G. Joseph>;Reuben Jeffery/OPD/EOP [OPD] <Reuben Jeffery>;Barry S. Jackson/WHO/EOP [WHO] <Barry S. Jackson>;Hector F. Irastorza/WHO/EOP [WHO] <Hector F. Irastorza>;Edward Ingle/WHO/EOP [WHO] <Edward Ingle>;Clay Johnson III/WHO/EOP [WHO] <Clay Johnson III>;Tim Campen/OA/EOP [OA] <Tim Campen>;Penrose C. Albright TPO/TPO/OMB/EOP [OMB] <Penrose C. Albright TPO>;Steven I. Cooper TPO/TPO/OMB/EOP [OMB] <Steven I. Cooper TPO>;Keith Hennessey/OPD/EOP@Exchange [OPD] <Keith Hennessey>;Julian M. Flannery/WHO/EOP [WHO] <Julian M. Flannery>;Duncan Campbell/WHO/EOP [WHO] <Duncan Campbell>;R. Rand Beers/NSC/EOP [NSC] <R. Rand Beers>;Glenn Hubbard/CEA/EOP [CEA] <Glenn Hubbard>;Jack Howard/WHO/EOP [WHO] <Jack Howard>;Mark Holman/WHO/EOP [WHO] <Mark Holman>;David W. Hobbs/WHO/EOP [WHO] <David W. Hobbs>;Israel Hernandez/WHO/EOP [WHO] <Israel Hernandez>;Chris Henick/WHO/EOP [WHO] <Chris Henick>;Debra Heiden/OVP/EOP [OVP] <Debra Heiden>;Albert Hawkins/WHO/EOP [WHO] <Albert Hawkins>;John P. Hannah/OVP/EOP [OVP] <John P. Hannah>;John F. Haley/OVP/EOP [OVP] <John F. Haley>;Joseph W. Hagin/WHO/EOP [WHO] <Joseph W. Hagin>;Stephen J. Hadley/NSC/EOP [NSC] <Stephen J. Hadley>;Ann Gray/WHO/EOP [WHO] <Ann Gray>;John Graham/OMB/EOP [OMB] <John Graham>;John A. Gordon/NSC/EOP [NSC] <John A. Gordon>;Alberto R. Gonzales/WHO/EOP [WHO] <Alberto R. Gonzales>;Tim Goeglein/WHO/EOP [WHO] <Tim Goeglein>;Dylan C. Glenn/OPD/EOP [OPD] <Dylan C. Glenn>;Alan Gilbert/OPD/EOP [OPD] <Alan Gilbert>;Michael J. Gerson/WHO/EOP@Exchange [WHO] <Michael J. Gerson>;Stephen M. Garrison/WHO/EOP [WHO] <Stephen M. Garrison>;Kelley Gannon/WHO/EOP [WHO] <Kelley Gannon>;Linda M. Gambatesa/WHO/EOP [WHO] <Linda M. Gambatesa>;Diana E. Furchtgott-Roth/CEA/EOP [CEA] <Diana E. Furchtgott-Roth>;Daniel Fried/NSC/EOP [NSC] <Daniel Fried>;Jendayi E. Frazer/NSC/EOP [NSC] <Jendayi E. Frazer>;Noel J. Francisco/WHO/EOP [WHO] <Noel J. Francisco>;Lawrence A. Fleischer/WHO/EOP [WHO] <Lawrence A. Fleischer>;Catherine S. Fenton/WHO/EOP [WHO] <Catherine S. Fenton>;Richard Falkenrath/WHO/EOP [WHO] <Richard Falkenrath>;Nanette Everson/WHO/EOP [WHO] <Nanette Everson>;Mark Everson/OMB/EOP [OMB] <Mark Everson>;Ashley Estes/WHO/EOP [WHO] <Ashley Estes>;Tucker A. Eskew/WHO/EOP [WHO] <Tucker A. Eskew>;Gary R.

Edson/NSC/EOP [NSC] <Gary R. Edson>;Eric S. Edelman/OVP/EOP [OVP] <Eric S. Edelman>;Wayne A. Downing/NSC/EOP [UNKNOWN] <Wayne A. Downing>;Elizabeth S. Dougherty/OPD/EOP [OPD] <Elizabeth S. Dougherty>;Nancy P. Dorn/WHO/EOP [UNKNOWN] <Nancy P. Dorn>;Diana C. Donnelly/WHO/EOP [WHO] <Diana C. Donnelly>;Nicolle Devenish/WHO/EOP [WHO] <Nicolle Devenish>;Mitchell Daniels/OMB/EOP [OMB] <Mitchell Daniels>;James F. Daniel/OA/EOP [OA] <James F. Daniel>;Stacia L. Cropper/OA/EOP [OA] <Stacia L. Cropper>;Barry Crane/ONDCP/EOP [ONDCP] <Barry Crane>;John B. Craig/NSC/EOP [UNKNOWN] <John B. Craig>;Phil Cooney/CEQ/EOP [CEQ] <Phil Cooney>;Rebecca Contreras/WHO/EOP [WHO] <Rebecca Contreras>;Charles Conner/OPD/EOP [OPD] <Charles Conner>;James Connaughton/CEQ/EOP [CEQ] <James Connaughton>;Brian C. Conklin/WHO/EOP [WHO] <Brian C. Conklin>;Cesar Conda/OVP/EOP [OVP] <Cesar Conda>;Douglas F. Cochrane/OVP/EOP [OVP] <Douglas F. Cochrane>;Robert W. Cobb/WHO/EOP [UNKNOWN] <Robert W. Cobb>;John A. Cloud/NSC/EOP [NSC] <John A. Cloud>;Robin Cleveland/OMB/EOP [OMB] <Robin Cleveland>;Richard A. Clarke/NSC/EOP [NSC] <Richard A. Clarke>;Alicia P. Clark/WHO/EOP [WHO] <Alicia P. Clark>;Frank Cilluffo/WHO/EOP [WHO] <Frank Cilluffo>;Christine Ciccone/WHO/EOP [WHO] <Christine Ciccone>;Ronald I. Christie/OVP/EOP [UNKNOWN] <Ronald I. Christie>;Barbara C. Chaffee/WHO/EOP [WHO] <Barbara C. Chaffee>;Kirsten A. Chadwick/WHO/EOP [WHO] <Kirsten A. Chadwick>;Andrew H. Card/WHO/EOP [WHO] <Andrew H. Card>;James C. Capretta/OMB/EOP [OMB] <James C. Capretta>;Nicholas E. Calio/WHO/EOP [WHO] <Nicholas E. Calio>;Scott Burns/ONDCP/EOP [ONDCP] <Scott Burns>;Katja Bullock/WHO/EOP [WHO] <Katja Bullock>;Carl Buchholz/WHO/EOP [WHO] <Carl Buchholz>;Claire E. Buchan/WHO/EOP [WHO] <Claire E. Buchan>;John M. Bridgeland/OPD/EOP [OPD] <John M. Bridgeland>;Stuart W. Bowen/WHO/EOP [WHO] <Stuart W. Bowen>;Carlos E. Bonilla/OPD/EOP [OPD] <Carlos E. Bonilla>;Joshua B. Bolten/WHO/EOP [WHO] <Joshua B. Bolten>;Lloyd A. Blanchard/OMB/EOP [UNKNOWN] <Lloyd A. Blanchard>;Bradley A. Blakeman/WHO/EOP@Exchange [WHO] <Bradley A. Blakeman>;Charles P. Blahous/OPD/EOP [OPD] <Charles P. Blahous>;Stephen E. Biegun/NSC/EOP [NSC] <Stephen E. Biegun>;Rebecca A. Beynon/WHO/EOP [WHO] <Rebecca A. Beynon>;Janet L. Berman/OVP/EOP [OVP] <Janet L. Berman>;Bradford A. Berenson/WHO/EOP [WHO] <Bradford A. Berenson>;John B. Bellinger/NSC/EOP [NSC] <John B. Bellinger>;H. Christopher Bartolomucci/WHO/EOP [WHO] <H. Christopher Bartolomucci>;Daniel J. Bartlett/WHO/EOP@Exchange [WHO] <Daniel J. Bartlett>;Andrea G. Barthwell/ONDCP/EOP [ONDCP] <Andrea G. Barthwell>;Ruben S. Barrales/WHO/EOP [WHO] <Ruben S. Barrales>;Andrea G. Ball/WHO/EOP [WHO] <Andrea G. Ball>;Jackie Arends/WHO/EOP [WHO] <Jackie Arends>;George M. Andricos/NSC/EOP [NSC] <George M. Andricos>;Cathy Alix/WHO/EOP [WHO] <Cathy Alix>;David S. Addington/OVP/EOP [OVP] <David S. Addington>;Elliott Abrams/NSC/EOP [NSC] <Elliott Abrams>;Charles S. Abbot/OVP/EOP [OVP] <Charles S. Abbot>

Sent: 12/18/2002 4:13:37 AM

Subject: : POSTMASTER: Cancelation of the WH Mess Award Presentation

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME:18-DEC-2002 09:13:37.00
SUBJECT:: POSTMASTER: Cancelation of the WH Mess Award Presentation
TO:Gina M. Wolford ( CN=Gina M. Wolford/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:David L. Travers ( CN=David L. Travers/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Harry W. Wolff ( CN=Harry W. Wolff/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Alexian T. Wines ( CN=Alexian T. Wines/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Patricia Williams ( CN=Patricia Williams/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Jared B. Weinstein ( CN=Jared B. Weinstein/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Matthew C. Waxman ( CN=Matthew C. Waxman/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Lauren J. Vestewig ( CN=Lauren J. Vestewig/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
```

TO:Terrill G. Tucker (CN=Terrill G. Tucker/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tevi Troy (CN=Tevi Troy/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Anne Trenolone (CN=Anne Trenolone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Julieanne H. Thomas (CN=Julieanne H. Thomas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Rachael L. Sunbarger (CN=Rachael L. Sunbarger/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan L. Sterner (CN=Susan L. Sterner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert E. Schubert (CN=Robert E. Schubert/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Deborah Sandler (CN=Deborah Sandler/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jean M. Russell (CN=Jean M. Russell/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Peter M. Rowan (CN=Peter M. Rowan/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Noelia Rodriguez (CN=Noelia Rodriguez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine B. Robinson (CN=Josephine B. Robinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Maurice C. Robinson (CN=Maurice C. Robinson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Christina D. Roberts (CN=Christina D. Roberts/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Allison L. Riepenhoff (CN=Allison L. Riepenhoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:January M. Riecke (CN=January M. Riecke/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Rhodes (CN=Katherine A. Rhodes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Reynolds (CN=Tim Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David Reyes (CN=David Reyes/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie E. Radcliff (CN=Leslie E. Radcliff/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexia Poe (CN=Alexia Poe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elliott M. Langer (CN=Elliott M. Langer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Clare Pritchett (CN=Clare Pritchett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Suzanne Primoff (CN=Suzanne Primoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John I. Pray (CN=John I. Pray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan D. Phillips (CN=Susan D. Phillips/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah Penny (CN=Sarah Penny/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Raymond H. Payne (CN=Raymond H. Payne/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Richard S. Paulus (CN=Richard S. Paulus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward J. Padinske (CN=Edward J. Padinske/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Eric H. Otto (CN=Eric H. Otto/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Lee B. Mynatt (CN=Lee B. Mynatt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Steven Myers (CN=Steven Myers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah M. Garrison (CN=Sarah M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul L. Morse (CN=Paul L. Morse/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie A. Mooney (CN=Leslie A. Mooney/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Cathy L. Millison (CN=Cathy L. Millison/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Holly M. Miller (CN=Holly M. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sonya E. Medina (CN=Sonya E. Medina/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Vickie A. McQuade (CN=Vickie A. McQuade/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sara B. McIntosh (CN=Sara B. McIntosh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter A. McCauley (CN=Peter A. McCauley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel M. McCarthy (CN=Daniel M. McCarthy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas S. Marsh (CN=Thomas S. Marsh/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lindsey M. Lineweaver (CN=Lindsey M. Lineweaver/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Laura E. Lineberry (CN=Laura E. Lineberry/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Adam L. Levine (CN=Adam L. Levine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christopher S. Legrand (CN=Christopher S. Legrand/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sang W. Lee (CN=Sang W. Lee/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jennie M. Koch (CN=Jennie M. Koch/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Andrew M. Kaver (CN=Andrew M. Kaver/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Dora Kale (CN=Dora Kale/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexander S. Joves (CN=Alexander S. Joves/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:M. Kay Joshi (CN=M. Kay Joshi/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Megan R. Johnston (CN=Megan R. Johnston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sydney R. Johnson (CN=Sydney R. Johnson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clarence C. Johnson (CN=Clarence C. Johnson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gordon D. Johndroe (CN=Gordon D. Johndroe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melanie A. Jackson (CN=Melanie A. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marilyn R. Jacanin (CN=Marilyn R. Jacanin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Restituto M. Francisco (CN=Restituto M. Francisco/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Sandra K. Evans (CN=Sandra K. Evans/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Regina L. Cain (CN=Regina L. Cain/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Brown (CN=Katherine A. Brown/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Bonnie S. Broadwick (CN=Bonnie S. Broadwick/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Theresa M. Hunter (CN=Theresa M. Hunter/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:A. Merrill Hughes (CN=A. Merrill Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jeffrey P. Houle (CN=Jeffrey P. Houle/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ashley Holbrook (CN=Ashley Holbrook/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine L. Hirsch (CN=Josephine L. Hirsch/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jane C. Heishman (CN=Jane C. Heishman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anne Heiligenstein (CN=Anne Heiligenstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. Hargis (CN=Robert C. Hargis/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison M. Harden (CN=Alison M. Harden/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary Ann Hanusa (CN=Mary Ann Hanusa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas A. Hall (CN=Thomas A. Hall/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary A. Haines (CN=Mary A. Haines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Katharina M. Hager (CN=Katharina M. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Henry C. Hager (CN=Henry C. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Albert J. Guarnieri (CN=Albert J. Guarnieri/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew W. Green (CN=Andrew W. Green/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Emily S. Gray (CN=Emily S. Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wendy E. Gray (CN=Wendy E. Gray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Britt Grant (CN=Britt Grant/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Travis C. Good (CN=Travis C. Good/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Georgia D. Godfrey (CN=Georgia D. Godfrey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Dorothy C. Garvin (CN=Dorothy C. Garvin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joachim D. Fuchs (CN=Joachim D. Fuchs/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Barbara J. Finn (CN=Barbara J. Finn/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jeanie L. Figg (CN=Jeanie L. Figg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jennifer D. Field (CN=Jennifer D. Field/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Douglas M. Erdahl (CN=Douglas M. Erdahl/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Ruth E. Elliott (CN=Ruth E. Elliott/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kady Dunlap (CN=Kady Dunlap/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eric A. Draper (CN=Eric A. Draper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joan R. Doty (CN=Joan R. Doty/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine L. Disston (CN=Katherine L. Disston/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Reed Dickens (CN=Reed Dickens/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josh Deckard (CN=Josh Deckard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley E. Davis (CN=Ashley E. Davis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jill Davie (CN=Jill Davie/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colin Crosby (CN=Colin Crosby/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lynn A. Crable (CN=Lynn A. Crable/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colby J. Cooper (CN=Colby J. Cooper/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Shane P. Chambers (CN=Shane P. Chambers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lois A. Cassano (CN=Lois A. Cassano/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Pamela R. Casey (CN=Pamela R. Casey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne E. Campbell (CN=Anne E. Campbell/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marcia J. Caler (CN=Marcia J. Caler/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Johnathan C. Bunting (CN=Johnathan C. Bunting/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marko R. Broz (CN=Marko R. Broz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gary E. Bresnahan (CN=Gary E. Bresnahan/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David R. Bohrer (CN=David R. Bohrer/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cheryl E. Barnett (CN=Cheryl E. Barnett/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell P. Backfield (CN=Mitchell P. Backfield/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jill L. Angelo (CN=Jill L. Angelo/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Ashleigh A. Adams (CN=Ashleigh A. Adams/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Joseph J. Shattan (CN=Joseph J. Shattan/OU=OVP/O=EOP [OVP])
READ:UNKNOWN

TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Richard J. Tubb (CN=Richard J. Tubb/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul J. Severs (CN=Paul J. Severs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joseph D. Rozek (CN=Joseph D. Rozek/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Steven J. Reynolds (CN=Steven J. Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Candida P. Wolff (CN=Candida P. Wolff/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel K. Wilmot (CN=Daniel K. Wilmot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:James R. Wilkinson (CN=James R. Wilkinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jocelyn White (CN=Jocelyn White/OU=WHF/O=EOP [OPM])
READ:UNKNOWN
TO:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul A. Wedderien (CN=Paul A. Wedderien/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John P. Walters (CN=John P. Walters/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine W. Tobias (CN=Catherine W. Tobias/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jose G. Suarez (CN=Jose G. Suarez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Aquiles F. Suarez (CN=Aquiles F. Suarez/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Angela B. Styles (CN=Angela B. Styles/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary A. Solberg (CN=Mary A. Solberg/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Augustine T. Smythe (CN=Augustine T. Smythe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Sharpy (CN=Thomas J. Sharpy/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Howard A. Schmidt (CN=Howard A. Schmidt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel Schecter (CN=Daniel Schecter/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Richard M. Russell (CN=Richard M. Russell/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Stephen S. Ruhlen (CN=Stephen S. Ruhlen/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark V. Rosenker (CN=Mark V. Rosenker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Ridge (CN=Thomas J. Ridge/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Nina Rees (CN=Nina Rees/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Craig Ray (CN=Craig Ray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kathie L. Olsen (CN=Kathie L. Olsen/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Newell (CN=John F. Newell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Manson O. Morris (CN=Manson O. Morris/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Paul D. Montanus (CN=Paul D. Montanus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. McAllister (CN=James M. McAllister/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric C. Pelletier (CN=Eric C. Pelletier/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Marcus Peacock (CN=Marcus Peacock/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Neil S. Patel (CN=Neil S. Patel/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Sean C. O'Keefe (CN=Sean C. O'Keefe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire M. O'Donnell (CN=Claire M. O'Donnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan K. Neely (CN=Susan K. Neely/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen S. McMillin (CN=Stephen S. McMillin/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark McClellan (CN=Mark McClellan/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Mary J. Matalin (CN=Mary J. Matalin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Catherine J. Martin (CN=Catherine J. Martin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John H. Marburger (CN=John H. Marburger/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Maisto (CN=John F. Maisto/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin A. MacLean (CN=Robin A. MacLean/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ado A. Machida (CN=Ado A. Machida/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Deborah A. Loewer (CN=Deborah A. Loewer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence B. Lindsey (CN=Lawrence B. Lindsey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Dirksen Lehman (CN=Dirksen Lehman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Laura S. Lawlor (CN=Laura S. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bruce M. Lawlor (CN=Bruce M. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Randall S. Kroszner (CN=Randall S. Kroszner/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Karen Y. Knutson (CN=Karen Y. Knutson/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Frank G. Klotz (CN=Frank G. Klotz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Ellis Kitchen (CN=Ellis Kitchen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles D. McGrath Jr (CN=Charles D. McGrath Jr/OU=OVP/O=EOP [OVP])
READ:UNKNOWN

TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Reuben Jeffery (CN=Reuben Jeffery/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hector F. Irastorza (CN=Hector F. Irastorza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Campen (CN=Tim Campen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Penrose C. Albright TPO (CN=Penrose C. Albright TPO/OU=TPO/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Steven I. Cooper TPO (CN=Steven I. Cooper TPO/OU=TPO/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Julian M. Flannery (CN=Julian M. Flannery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Duncan Campbell (CN=Duncan Campbell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:R. Rand Beers (CN=R. Rand Beers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Glenn Hubbard (CN=Glenn Hubbard/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Jack Howard (CN=Jack Howard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Holman (CN=Mark Holman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Chris Henick (CN=Chris Henick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Debra Heiden (CN=Debra Heiden/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Albert Hawkins (CN=Albert Hawkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John P. Hannah (CN=John P. Hannah/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John F. Haley (CN=John F. Haley/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John Graham (CN=John Graham/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:John A. Gordon (CN=John A. Gordon/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Stephen M. Garrison (CN=Stephen M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Diana E. Furchtgott-Roth (CN=Diana E. Furchtgott-Roth/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Everson (CN=Mark Everson/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric S. Edelman (CN=Eric S. Edelman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Wayne A. Downing (CN=Wayne A. Downing/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Nancy P. Dorn (CN=Nancy P. Dorn/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Diana C. Donnelly (CN=Diana C. Donnelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:James F. Daniel (CN=James F. Daniel/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Stacia L. Cropper (CN=Stacia L. Cropper/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Barry Crane (CN=Barry Crane/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:John B. Craig (CN=John B. Craig/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:James Connaughton (CN=James Connaughton/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cesar Conda (CN=Cesar Conda/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Douglas F. Cochrane (CN=Douglas F. Cochrane/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert W. Cobb (CN=Robert W. Cobb/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:John A. Cloud (CN=John A. Cloud/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Robin Cleveland (CN=Robin Cleveland/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Richard A. Clarke (CN=Richard A. Clarke/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Frank Cilluffo (CN=Frank Cilluffo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christine Ciccone (CN=Christine Ciccone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Barbara C. Chaffee (CN=Barbara C. Chaffee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James C. Capretta (CN=James C. Capretta/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Nicholas E. Calio (CN=Nicholas E. Calio/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott Burns (CN=Scott Burns/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carl Buchholz (CN=Carl Buchholz/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stuart W. Bowen (CN=Stuart W. Bowen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carlos E. Bonilla (CN=Carlos E. Bonilla/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lloyd A. Blanchard (CN=Lloyd A. Blanchard/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen E. Biegun (CN=Stephen E. Biegun/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Janet L. Berman (CN=Janet L. Berman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Andrea G. Barthwell (CN=Andrea G. Barthwell/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Cathy Alix (CN=Cathy Alix/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
End Original ARMS Header

Today's presentation of the American Academy of Hospitality Sciences 2002/03 Star Diamond Award to the White House Mess has been canceled and will be rescheduled in the near future.

Thank you.

From: CN=PostMaster/O=EOP [OA]

To: Gina M. Wolford/NSC/EOP [NSC] <Gina M. Wolford>;David L. Travers/NSC/EOP [NSC] <David L. Travers>;Harry W. Wolff/WHO/EOP [WHO] <Harry W. Wolff>;Alexian T. Wines/NSC/EOP [NSC] <Alexian T. Wines>;Patricia Williams/WHO/EOP [WHO] <Patricia Williams>;Jared B. Weinstein/WHO/EOP@Exchange [WHO] <Jared B. Weinstein>;Matthew C. Waxman/NSC/EOP [NSC] <Matthew C. Waxman>;Lauren J. Vestewig/OPD/EOP [OPD] <Lauren J. Vestewig>;Terrill G. Tucker/NSC/EOP [NSC] <Terrill G. Tucker>;Tevi Troy/OPD/EOP [OPD] <Tevi Troy>;Anne Trenolone/WHO/EOP [WHO] <Anne Trenolone>;Julieanne H. Thomas/WHO/EOP [WHO] <Julieanne H. Thomas>;Rachael L. Sunbarger/WHO/EOP [WHO] <Rachael L. Sunbarger>;Susan L. Sterner/WHO/EOP [WHO] <Susan L. Sterner>;Ashley Snee/WHO/EOP [WHO] <Ashley Snee>;Robert E. Schubert/NSC/EOP [NSC] <Robert E. Schubert>;Deborah Sandler/NSC/EOP [NSC] <Deborah Sandler>;Jean M. Russell/OPD /EOP@Exchange [OPD] <Jean M. Russell>;Peter M. Rowan/WHO/EOP [UNKNOWN] <Peter M. Rowan>;Noelia Rodriguez/WHO/EOP [WHO] <Noelia Rodriguez>;Josephine B. Robinson/WHO/EOP [WHO] <Josephine B. Robinson>;Maurice C. Robinson/NSC/EOP [NSC] <Maurice C. Robinson>;Christina D. Roberts/WHO/EOP [UNKNOWN] <Christina D. Roberts>;Krista L. Ritacco/WHO/EOP@Exchange [WHO] <Krista L. Ritacco>;Allison L. Riepenhoff/WHO/EOP [WHO] <Allison L. Riepenhoff>;January M. Riecke/WHO/EOP [WHO] <January M. Riecke>;Katherine A. Rhodes/WHO/EOP [WHO] <Katherine A. Rhodes>;Tim Reynolds/WHO/EOP [WHO] <Tim Reynolds>;David Reyes/NSC/EOP [NSC] <David Reyes>;Susan B. Ralston/WHO/EOP [WHO] <Susan B. Ralston>;Leslie E. Radcliff/NSC/EOP [NSC] <Leslie E. Radcliff>;Alexia Poe/WHO/EOP [WHO] <Alexia Poe>;Charlotte L. Montiel/WHO/EOP [WHO] <Charlotte L. Montiel>;Elliott M. Langer/NSC/EOP [NSC] <Elliott M. Langer>;Clare Pritchett/WHO/EOP [WHO] <Clare Pritchett>;Suzanne Primoff/WHO/EOP [WHO] <Suzanne Primoff>;John I. Pray/NSC/EOP [NSC] <John I. Pray>;Susan D. Phillips/NSC/EOP [NSC] <Susan D. Phillips>;Sarah Penny/WHO/EOP [WHO] <Sarah Penny>;Raymond H. Payne/NSC/EOP [NSC] <Raymond H. Payne>;Richard S. Paulus/WHO/EOP [WHO] <Richard S. Paulus>;Edward J. Padinske/NSC/EOP [NSC] <Edward J. Padinske>;Eric H. Otto/OPD/EOP@Exchange [OPD] <Eric H. Otto>;Lee B. Mynatt/NSC/EOP [NSC] <Lee B. Mynatt>;Steven Myers/NSC/EOP [NSC] <Steven Myers>;Sarah M. Garrison/WHO/EOP [WHO] <Sarah M. Garrison>;Paul L. Morse/WHO/EOP [WHO] <Paul L. Morse>;Leslie A. Mooney/OPD/EOP@Exchange [OPD] <Leslie A. Mooney>;Cathy L. Millison/NSC/EOP [NSC] <Cathy L. Millison>;Holly M. Miller/WHO/EOP [WHO] <Holly M. Miller>;Sonya E. Medina/WHO/EOP [WHO] <Sonya E. Medina>;Vickie A. McQuade/WHO/EOP [WHO] <Vickie A. McQuade>;Sara B. McIntosh/WHO/EOP [WHO] <Sara B. McIntosh>;Peter A. McCauley/NSC/EOP [NSC] <Peter A. McCauley>;Daniel M. McCarthy/WHO/EOP [WHO] <Daniel M. McCarthy>;Thomas S. Marsh/NSC/EOP [NSC] <Thomas S. Marsh>;Colleen Litkenhaus/WHO/EOP [WHO] <Colleen Litkenhaus>;Lindsey M. Lineweaver/WHO/EOP [WHO] <Lindsey M. Lineweaver>;Laura E. Lineberry/NSC/EOP [NSC] <Laura E. Lineberry>;Adam L. Levine/WHO/EOP [WHO] <Adam L. Levine>;Christopher S. Legrand/NSC/EOP [NSC] <Christopher S. Legrand>;Sang W. Lee/NSC/EOP [NSC] <Sang W. Lee>;Jennie M. Koch/NSC/EOP [NSC] <Jennie M. Koch>;Andrew M. Kaver/NSC/EOP [UNKNOWN] <Andrew M. Kaver>;Dora Kale/NSC/EOP [NSC] <Dora Kale>;Alexander S. Joves/NSC/EOP [NSC] <Alexander S. Joves>;M. Kay Joshi/NSC/EOP [NSC] <M. Kay Joshi>;Alison Jones/WHO/EOP [WHO] <Alison Jones>;Megan R. Johnston/WHO/EOP [WHO] <Megan R. Johnston>;Sydney R. Johnson/WHO/EOP [WHO] <Sydney R. Johnson>;Clarence C. Johnson/NSC/EOP [NSC] <Clarence C. Johnson>;Gordon D. Johndroe/WHO/EOP [WHO] <Gordon D. Johndroe>;Melanie A. Jackson/WHO/EOP [WHO] <Melanie A. Jackson>;Marilyn R. Jacanin/WHO/EOP [WHO] <Marilyn R. Jacanin>;Restituto M. Francisco/OA/EOP [OA] <Restituto M. Francisco>;Sandra K. Evans/WHO/EOP [WHO] <Sandra K. Evans>;Regina L. Cain/WHO/EOP [WHO] <Regina L. Cain>;Katherine A. Brown/NSC/EOP [NSC] <Katherine A. Brown>;Bonnie S. Broadwick/NSC/EOP [NSC] <Bonnie S. Broadwick>;Theresa M. Hunter/NSC/EOP [NSC] <Theresa M. Hunter>;A. Merrill Hughes/WHO/EOP [UNKNOWN] <A. Merrill Hughes>;Jeffrey P. Houle/NSC/EOP [NSC] <Jeffrey P. Houle>;Ashley Holbrook/WHO/EOP [WHO] <Ashley Holbrook>;Josephine L. Hirsch/WHO/EOP [WHO] <Josephine L. Hirsch>;Jane C. Heishman/NSC/EOP [NSC] <Jane C. Heishman>;Anne Heiligenstein/WHO/EOP [WHO] <Anne Heiligenstein>;Robert C. Hargis/NSC/EOP [NSC] <Robert C. Hargis>;Alison M. Harden/WHO/EOP [WHO] <Alison M. Harden>;Mary Ann Hanusa/WHO/EOP [WHO] <Mary Ann Hanusa>;Thomas A. Hall/NSC/EOP [NSC] <Thomas A. Hall>;Mary A. Haines/NSC/EOP [NSC] <Mary A. Haines>;Katharina M. Hager/WHO/EOP [WHO] <Katharina M. Hager>;Henry C. Hager/WHO/EOP [WHO] <Henry C. Hager>;Albert J.

Guarnieri/NSC/EOP [NSC] <Albert J. Guarnieri>;Ginger G. Loper/WHO/EOP [WHO] <Ginger G. Loper>;Andrew W. Green/NSC/EOP [NSC] <Andrew W. Green>;Emily S. Gray/WHO/EOP [WHO] <Emily S. Gray>;Wendy E. Gray/NSC/EOP [NSC] <Wendy E. Gray>;Britt Grant/OPD/EOP [OPD] <Britt Grant>;Blake Gottesman/WHO/EOP [WHO] <Blake Gottesman>;Travis C. Good/NSC/EOP [UNKNOWN] <Travis C. Good>;Georgia D. Godfrey/WHO/EOP [WHO] <Georgia D. Godfrey>;Eleanor L. Gillmor/OPD/EOP [OPD] <Eleanor L. Gillmor>;Dorothy C. Garvin/WHO/EOP [WHO] <Dorothy C. Garvin>;Joachim D. Fuchs/NSC/EOP [NSC] <Joachim D. Fuchs>;Barbara J. Finn/OA/EOP [OA] <Barbara J. Finn>;Kara G. Figg/WHO/EOP@Exchange [WHO] <Kara G. Figg>;Jeanie L. Figg/WHO/EOP [WHO] <Jeanie L. Figg>;Jennifer D. Field/OVP/EOP [OVP] <Jennifer D. Field>;Douglas M. Erdahl/NSC/EOP [NSC] <Douglas M. Erdahl>;Ruth E. Elliott/NSC/EOP [NSC] <Ruth E. Elliott>;Kady Dunlap/WHO/EOP [WHO] <Kady Dunlap>;Eric A. Draper/WHO/EOP [WHO] <Eric A. Draper>;Joan R. Doty/WHO/EOP [WHO] <Joan R. Doty>;Katherine L. Disston/WHO /EOP@Exchange [WHO] <Katherine L. Disston>;Reed Dickens/WHO/EOP [WHO] <Reed Dickens>;Josh Deckard/WHO/EOP [WHO] <Josh Deckard>;Ashley E. Davis/WHO/EOP [WHO] <Ashley E. Davis>;Jill Davie/WHO/EOP [WHO] <Jill Davie>;Colin Crosby/NSC/EOP [NSC] <Colin Crosby>;Lynn A. Crable/WHO/EOP [WHO] <Lynn A. Crable>;Colby J. Cooper/NSC/EOP [NSC] <Colby J. Cooper>;Michael J. Conway/WHO/EOP [WHO] <Michael J. Conway>;Carolyn E. Cleveland/WHO/EOP [WHO] <Carolyn E. Cleveland>;Shane P. Chambers/WHO/EOP [WHO] <Shane P. Chambers>;Lois A. Cassano/WHO/EOP [WHO] <Lois A. Cassano>;Pamela R. Casey/WHO/EOP [WHO] <Pamela R. Casey>;Anne E. Campbell/WHO/EOP@Exchange [WHO] <Anne E. Campbell>;Elizabeth N. Camp/WHO/EOP [WHO] <Elizabeth N. Camp>;Marcia J. Caler/NSC/EOP [UNKNOWN] <Marcia J. Caler>;Johnathan C. Bunting/NSC/EOP [NSC] <Johnathan C. Bunting>;Patrick J. Bumatay/WHO/EOP [WHO] <Patrick J. Bumatay>;Marko R. Broz/NSC/EOP [NSC] <Marko R. Broz>;Gary E. Bresnahan/NSC/EOP [NSC] <Gary E. Bresnahan>;Brian Bravo/WHO/EOP [WHO] <Brian Bravo>;David R. Bohrer/OVP/EOP [OVP] <David R. Bohrer>;Debra D. Bird/WHO/EOP [WHO] <Debra D. Bird>;Melissa S. Bennett/WHO/EOP [WHO] <Melissa S. Bennett>;Cheryl E. Barnett/NSC/EOP [NSC] <Cheryl E. Barnett>;Tiffany L. Barfield/WHO/EOP [WHO] <Tiffany L. Barfield>;Mitchell P. Backfield/NSC/EOP [NSC] <Mitchell P. Backfield>;Jill L. Angelo/WHO/EOP [UNKNOWN] <Jill L. Angelo>;Ashleigh A. Adams/WHO/EOP [UNKNOWN] <Ashleigh A. Adams>;Joseph J. Shattan/OVP/EOP [OVP] <Joseph J. Shattan>;Kevin Warsh/OPD/EOP [OPD] <Kevin Warsh>;Richard J. Tubb/WHO/EOP [WHO] <Richard J. Tubb>;Paul J. Severs/WHO/EOP [WHO] <Paul J. Severs>;Joseph D. Rozek/OVP/EOP [OVP] <Joseph D. Rozek>;Steven J. Reynolds/WHO/EOP [WHO] <Steven J. Reynolds>;Candida P. Wolff/OVP/EOP [OVP] <Candida P. Wolff>;Heather Wingate/WHO/EOP [WHO] <Heather Wingate>;Daniel K. Wilmot/OVP/EOP [OVP] <Daniel K. Wilmot>;James R. Wilkinson/WHO/EOP [WHO] <James R. Wilkinson>;Jocelyn White/WHF/EOP [OPM] <Jocelyn White>;Lezlee J. Westine/WHO/EOP [WHO] <Lezlee J. Westine>;Peter H. Wehner/WHO/EOP [WHO] <Peter H. Wehner>;Paul A. Wedderien/NSC/EOP [NSC] <Paul A. Wedderien>;John P. Walters/ONDCP/EOP [ONDCP] <John P. Walters>;Helgard C. Walker/WHO/EOP [WHO] <Helgard C. Walker>;Jim Towey/WHO/EOP [WHO] <Jim Towey>;Catherine W. Tobias/OVP/EOP [OVP] <Catherine W. Tobias>;Jose G. Suarez/WHO/EOP [WHO] <Jose G. Suarez>;Aquiles F. Suarez/OPD/EOP [OPD] <Aquiles F. Suarez>;Angela B. Styles/OMB/EOP [OMB] <Angela B. Styles>;Mary K. Sturtevant/NSC/EOP [NSC] <Mary K. Sturtevant>;Margaret M. Spellings/OPD/EOP [OPD] <Margaret M. Spellings>;Deborah A. Spagnoli/WHO/EOP [WHO] <Deborah A. Spagnoli>;Mary A. Solberg/ONDCP/EOP [ONDCP] <Mary A. Solberg>;Augustine T. Smythe/OMB/EOP [OMB] <Augustine T. Smythe>;Kristen Silverberg/WHO/EOP [WHO] <Kristen Silverberg>;Thomas J. Sharpy/OVP/EOP [OVP] <Thomas J. Sharpy>;Scott N. Sforza/WHO/EOP [WHO] <Scott N. Sforza>;Howard A. Schmidt/NSC/EOP [NSC] <Howard A. Schmidt>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Daniel Schecter/ONDCP/EOP [ONDCP] <Daniel Schecter>;Diana L. Schacht/OPD/EOP [OPD] <Diana L. Schacht>;Desiree T. Sayle/WHO/EOP [WHO] <Desiree T. Sayle>;Kyle Sampson/WHO/EOP [WHO] <Kyle Sampson>;Richard M. Russell/OSTP/EOP [OSTP] <Richard M. Russell>;Stephen S. Ruhlen/OVP/EOP [OVP] <Stephen S. Ruhlen>;Karl C. Rove/WHO/EOP [WHO] <Karl C. Rove>;Mark V. Rosenker/WHO/EOP [WHO] <Mark V. Rosenker>;Thomas J. Ridge/WHO/EOP [WHO] <Thomas J. Ridge>;Condoleezza Rice/NSC/EOP [NSC] <Condoleezza Rice>;Nina Rees/OVP/EOP [OVP] <Nina Rees>;Craig Ray/WHO/EOP [WHO] <Craig Ray>;Benjamin A. Powell/WHO/EOP [WHO] <Benjamin A. Powell>;Kathie L. Olsen/OSTP/EOP [OSTP] <Kathie L. Olsen>;John F. Newell/WHO/EOP [WHO] <John F. Newell>;Manson O. Morris/OVP/EOP [OVP] <Manson O. Morris>;Paul D. Montanus/WHO/EOP [WHO] <Paul D. Montanus>;James M. McAllister/WHO/EOP [WHO] <James M. McAllister>;James M. Kelly/WHO/EOP [WHO] <James M. Kelly>;Dina

Powell/WHO/EOP [WHO] <Dina Powell>;Philip J. Perry/OMB/EOP [OMB] <Philip J. Perry>;Anna M. Perez/NSC/EOP [NSC] <Anna M. Perez>;Eric C. Pelletier/OMB/EOP [OMB] <Eric C. Pelletier>;Marcus Peacock/OMB/EOP [OMB] <Marcus Peacock>;Neil S. Patel/OVP/EOP [OVP] <Neil S. Patel>;Sean C. O'Keefe/OMB/EOP [OMB] <Sean C. O'Keefe>;Ziad S. Ojakli/WHO/EOP [WHO] <Ziad S. Ojakli>;Claire M. O'Donnell/OVP/EOP [OVP] <Claire M. O'Donnell>;Jennifer G. Newstead/WHO/EOP [WHO] <Jennifer G. Newstead>;Susan K. Neely/WHO/EOP [WHO] <Susan K. Neely>;Edmund C. Moy/WHO/EOP [WHO] <Edmund C. Moy>;James F. Moriarty/NSC/EOP [NSC] <James F. Moriarty>;Brian D. Montgomery/WHO/EOP [WHO] <Brian D. Montgomery>;Michael H. Miller/WHO/EOP [WHO] <Michael H. Miller>;Franklin C. Miller/NSC/EOP [NSC] <Franklin C. Miller>;Harriet Miers/WHO/EOP [WHO] <Harriet Miers>;Ken Mehlman/WHO/EOP [WHO] <Ken Mehlman>;Edward McNally/WHO/EOP [WHO] <Edward McNally>;Robert C. McNally/OPD/EOP [OPD] <Robert C. McNally>;Stephen S. McMillin/OMB/EOP [OMB] <Stephen S. McMillin>;Brian V. McCormack/OVP/EOP [OVP] <Brian V. McCormack>;John P. McConnell/OVP/EOP [OVP] <John P. McConnell>;Scott McClellan/WHO/EOP [WHO] <Scott McClellan>;Mark McClellan/CEA/EOP [UNKNOWN] <Mark McClellan>;Mary J. Matalin/OVP/EOP [OVP] <Mary J. Matalin>;Catherine J. Martin/OVP/EOP [OVP] <Catherine J. Martin>;Robert Marsh/WHO/EOP [WHO] <Robert Marsh>;John H. Marburger/OSTP/EOP [OSTP] <John H. Marburger>;John F. Maisto/NSC/EOP [NSC] <John F. Maisto>;Robin A. MacLean/WHO/EOP [WHO] <Robin A. MacLean>;Ado A. Machida/OVP/EOP [OVP] <Ado A. Machida>;Deborah A. Loewer/NSC/EOP [NSC] <Deborah A. Loewer>;Roland N. Litterst/WHO/EOP [WHO] <Roland N. Litterst>;Lawrence B. Lindsey/OPD/EOP@Exchange [OPD] <Lawrence B. Lindsey>;Lewis Libby/OVP/EOP [OVP] <Lewis Libby>;Dirksen Lehman/WHO/EOP [WHO] <Dirksen Lehman>;Jay P. Lefkowitz/OPD/EOP [OPD] <Jay P. Lefkowitz>;Laura S. Lawlor/WHO/EOP [WHO] <Laura S. Lawlor>;Bruce M. Lawlor/WHO/EOP [WHO] <Bruce M. Lawlor>;Paul B. Kurtz/NSC/EOP [NSC] <Paul B. Kurtz>;David Kuo/WHO/EOP [WHO] <David Kuo>;Randall S. Kroszner/CEA/EOP [CEA] <Randall S. Kroszner>;Karen Y. Knutson/OVP/EOP [OVP] <Karen Y. Knutson>;Frank G. Klotz/NSC/EOP [NSC] <Frank G. Klotz>;Elizabeth W. Kleppe/OVP/EOP [OVP] <Elizabeth W. Kleppe>;Ellis Kitchen/OA/EOP [OA] <Ellis Kitchen>;Matthew Kirk/WHO/EOP [WHO] <Matthew Kirk>;Zalmay M. Khalilzad/NSC/EOP [NSC] <Zalmay M. Khalilzad>;Daniel J. Keniry/WHO/EOP [WHO] <Daniel J. Keniry>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Joel D. Kaplan/WHO/EOP [WHO] <Joel D. Kaplan>;Charles D. McGrath Jr/OVP/EOP [OVP] <Charles D. McGrath Jr>;Robert G. Joseph/NSC/EOP [NSC] <Robert G. Joseph>;Reuben Jeffery/OPD/EOP [OPD] <Reuben Jeffery>;Barry S. Jackson/WHO/EOP [WHO] <Barry S. Jackson>;Hector F. Irastorza/WHO/EOP [WHO] <Hector F. Irastorza>;Edward Ingle/WHO/EOP [WHO] <Edward Ingle>;Clay Johnson III/WHO/EOP [WHO] <Clay Johnson III>;Tim Campen/OA/EOP [OA] <Tim Campen>;Penrose C. Albright TPO/TPO/OMB/EOP [OMB] <Penrose C. Albright TPO>;Steven I. Cooper TPO/TPO/OMB/EOP [OMB] <Steven I. Cooper TPO>;Keith Hennessey/OPD/EOP@Exchange [OPD] <Keith Hennessey>;Julian M. Flannery/WHO/EOP [WHO] <Julian M. Flannery>;Duncan Campbell/WHO/EOP [WHO] <Duncan Campbell>;R. Rand Beers/NSC/EOP [NSC] <R. Rand Beers>;Glenn Hubbard/CEA/EOP [CEA] <Glenn Hubbard>;Jack Howard/WHO/EOP [WHO] <Jack Howard>;Mark Holman/WHO/EOP [WHO] <Mark Holman>;David W. Hobbs/WHO/EOP [WHO] <David W. Hobbs>;Israel Hernandez/WHO/EOP [WHO] <Israel Hernandez>;Chris Henick/WHO/EOP [WHO] <Chris Henick>;Debra Heiden/OVP/EOP [OVP] <Debra Heiden>;Albert Hawkins/WHO/EOP [WHO] <Albert Hawkins>;John P. Hannah/OVP/EOP [OVP] <John P. Hannah>;John F. Haley/OVP/EOP [OVP] <John F. Haley>;Joseph W. Hagin/WHO/EOP [WHO] <Joseph W. Hagin>;Stephen J. Hadley/NSC/EOP [NSC] <Stephen J. Hadley>;Ann Gray/WHO/EOP [WHO] <Ann Gray>;John Graham/OMB/EOP [OMB] <John Graham>;John A. Gordon/NSC/EOP [NSC] <John A. Gordon>;Alberto R. Gonzales/WHO/EOP [WHO] <Alberto R. Gonzales>;Tim Goeglein/WHO/EOP [WHO] <Tim Goeglein>;Dylan C. Glenn/OPD/EOP [OPD] <Dylan C. Glenn>;Alan Gilbert/OPD/EOP [OPD] <Alan Gilbert>;Michael J. Gerson/WHO/EOP@Exchange [WHO] <Michael J. Gerson>;Stephen M. Garrison/WHO/EOP [WHO] <Stephen M. Garrison>;Kelley Gannon/WHO/EOP [WHO] <Kelley Gannon>;Linda M. Gambatesa/WHO/EOP [WHO] <Linda M. Gambatesa>;Diana E. Furchtgott-Roth/CEA/EOP [CEA] <Diana E. Furchtgott-Roth>;Daniel Fried/NSC/EOP [NSC] <Daniel Fried>;Jendayi E. Frazer/NSC/EOP [NSC] <Jendayi E. Frazer>;Noel J. Francisco/WHO/EOP [WHO] <Noel J. Francisco>;Lawrence A. Fleischer/WHO/EOP [WHO] <Lawrence A. Fleischer>;Catherine S. Fenton/WHO/EOP [WHO] <Catherine S. Fenton>;Richard Falkenrath/WHO/EOP [WHO] <Richard Falkenrath>;Nanette Everson/WHO/EOP [WHO] <Nanette Everson>;Mark Everson/OMB/EOP [OMB] <Mark Everson>;Ashley Estes/WHO/EOP [WHO] <Ashley Estes>;Tucker A. Eskew/WHO/EOP [WHO] <Tucker A. Eskew>;Gary R.

Edson/NSC/EOP [NSC] <Gary R. Edson>;Eric S. Edelman/OVP/EOP [OVP] <Eric S. Edelman>;Wayne A. Downing/NSC/EOP [UNKNOWN] <Wayne A. Downing>;Elizabeth S. Dougherty/OPD/EOP [OPD] <Elizabeth S. Dougherty>;Nancy P. Dorn/WHO/EOP [UNKNOWN] <Nancy P. Dorn>;Diana C. Donnelly/WHO/EOP [WHO] <Diana C. Donnelly>;Nicolle Devenish/WHO/EOP [WHO] <Nicolle Devenish>;Mitchell Daniels/OMB/EOP [OMB] <Mitchell Daniels>;James F. Daniel/OA/EOP [OA] <James F. Daniel>;Stacia L. Cropper/OA/EOP [OA] <Stacia L. Cropper>;Barry Crane/ONDCP/EOP [ONDCP] <Barry Crane>;John B. Craig/NSC/EOP [UNKNOWN] <John B. Craig>;Phil Cooney/CEQ/EOP [CEQ] <Phil Cooney>;Rebecca Contreras/WHO/EOP [WHO] <Rebecca Contreras>;Charles Conner/OPD/EOP [OPD] <Charles Conner>;James Connaughton/CEQ/EOP [CEQ] <James Connaughton>;Brian C. Conklin/WHO/EOP [WHO] <Brian C. Conklin>;Cesar Conda/OVP/EOP [OVP] <Cesar Conda>;Douglas F. Cochrane/OVP/EOP [OVP] <Douglas F. Cochrane>;Robert W. Cobb/WHO/EOP [UNKNOWN] <Robert W. Cobb>;John A. Cloud/NSC/EOP [NSC] <John A. Cloud>;Robin Cleveland/OMB/EOP [OMB] <Robin Cleveland>;Richard A. Clarke/NSC/EOP [NSC] <Richard A. Clarke>;Alicia P. Clark/WHO/EOP [WHO] <Alicia P. Clark>;Frank Cilluffo/WHO/EOP [WHO] <Frank Cilluffo>;Christine Ciccone/WHO/EOP [WHO] <Christine Ciccone>;Ronald I. Christie/OVP/EOP [UNKNOWN] <Ronald I. Christie>;Barbara C. Chaffee/WHO/EOP [WHO] <Barbara C. Chaffee>;Kirsten A. Chadwick/WHO/EOP [WHO] <Kirsten A. Chadwick>;Andrew H. Card/WHO/EOP [WHO] <Andrew H. Card>;James C. Capretta/OMB/EOP [OMB] <James C. Capretta>;Nicholas E. Calio/WHO/EOP [WHO] <Nicholas E. Calio>;Scott Burns/ONDCP/EOP [ONDCP] <Scott Burns>;Katja Bullock/WHO/EOP [WHO] <Katja Bullock>;Carl Buchholz/WHO/EOP [WHO] <Carl Buchholz>;Claire E. Buchan/WHO/EOP [WHO] <Claire E. Buchan>;John M. Bridgeland/OPD/EOP [OPD] <John M. Bridgeland>;Stuart W. Bowen/WHO/EOP [WHO] <Stuart W. Bowen>;Carlos E. Bonilla/OPD/EOP [OPD] <Carlos E. Bonilla>;Joshua B. Bolten/WHO/EOP [WHO] <Joshua B. Bolten>;Lloyd A. Blanchard/OMB/EOP [UNKNOWN] <Lloyd A. Blanchard>;Bradley A. Blakeman/WHO/EOP@Exchange [WHO] <Bradley A. Blakeman>;Charles P. Blahous/OPD/EOP [OPD] <Charles P. Blahous>;Stephen E. Biegun/NSC/EOP [NSC] <Stephen E. Biegun>;Rebecca A. Beynon/WHO/EOP [WHO] <Rebecca A. Beynon>;Janet L. Berman/OVP/EOP [OVP] <Janet L. Berman>;Bradford A. Berenson/WHO/EOP [WHO] <Bradford A. Berenson>;John B. Bellinger/NSC/EOP [NSC] <John B. Bellinger>;H. Christopher Bartolomucci/WHO/EOP [WHO] <H. Christopher Bartolomucci>;Daniel J. Bartlett/WHO/EOP@Exchange [WHO] <Daniel J. Bartlett>;Andrea G. Barthwell/ONDCP/EOP [ONDCP] <Andrea G. Barthwell>;Ruben S. Barrales/WHO/EOP [WHO] <Ruben S. Barrales>;Andrea G. Ball/WHO/EOP [WHO] <Andrea G. Ball>;Jackie Arends/WHO/EOP [WHO] <Jackie Arends>;George M. Andricos/NSC/EOP [NSC] <George M. Andricos>;Cathy Alix/WHO/EOP [WHO] <Cathy Alix>;David S. Addington/OVP/EOP [OVP] <David S. Addington>;Elliott Abrams/NSC/EOP [NSC] <Elliott Abrams>;Charles S. Abbot/OVP/EOP [OVP] <Charles S. Abbot>

Sent: 12/18/2002 4:13:37 AM

Subject: : POSTMASTER: Cancelation of the WH Mess Award Presentation

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME:18-DEC-2002 09:13:37.00
SUBJECT:: POSTMASTER: Cancelation of the WH Mess Award Presentation
TO:Gina M. Wolford ( CN=Gina M. Wolford/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:David L. Travers ( CN=David L. Travers/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Harry W. Wolff ( CN=Harry W. Wolff/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Alexian T. Wines ( CN=Alexian T. Wines/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Patricia Williams ( CN=Patricia Williams/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Jared B. Weinstein ( CN=Jared B. Weinstein/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Matthew C. Waxman ( CN=Matthew C. Waxman/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Lauren J. Vestewig ( CN=Lauren J. Vestewig/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
```

TO:Terrill G. Tucker (CN=Terrill G. Tucker/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tevi Troy (CN=Tevi Troy/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Anne Trenolone (CN=Anne Trenolone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Julieanne H. Thomas (CN=Julieanne H. Thomas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Rachael L. Sunbarger (CN=Rachael L. Sunbarger/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan L. Sterner (CN=Susan L. Sterner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert E. Schubert (CN=Robert E. Schubert/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Deborah Sandler (CN=Deborah Sandler/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jean M. Russell (CN=Jean M. Russell/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Peter M. Rowan (CN=Peter M. Rowan/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Noelia Rodriguez (CN=Noelia Rodriguez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine B. Robinson (CN=Josephine B. Robinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Maurice C. Robinson (CN=Maurice C. Robinson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Christina D. Roberts (CN=Christina D. Roberts/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Allison L. Riepenhoff (CN=Allison L. Riepenhoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:January M. Riecke (CN=January M. Riecke/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Rhodes (CN=Katherine A. Rhodes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Reynolds (CN=Tim Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David Reyes (CN=David Reyes/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie E. Radcliff (CN=Leslie E. Radcliff/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexia Poe (CN=Alexia Poe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elliott M. Langer (CN=Elliott M. Langer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Clare Pritchett (CN=Clare Pritchett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Suzanne Primoff (CN=Suzanne Primoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John I. Pray (CN=John I. Pray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan D. Phillips (CN=Susan D. Phillips/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah Penny (CN=Sarah Penny/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Raymond H. Payne (CN=Raymond H. Payne/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Richard S. Paulus (CN=Richard S. Paulus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward J. Padinske (CN=Edward J. Padinske/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Eric H. Otto (CN=Eric H. Otto/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Lee B. Mynatt (CN=Lee B. Mynatt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Steven Myers (CN=Steven Myers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah M. Garrison (CN=Sarah M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul L. Morse (CN=Paul L. Morse/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie A. Mooney (CN=Leslie A. Mooney/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Cathy L. Millison (CN=Cathy L. Millison/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Holly M. Miller (CN=Holly M. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sonya E. Medina (CN=Sonya E. Medina/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Vickie A. McQuade (CN=Vickie A. McQuade/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sara B. McIntosh (CN=Sara B. McIntosh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter A. McCauley (CN=Peter A. McCauley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel M. McCarthy (CN=Daniel M. McCarthy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas S. Marsh (CN=Thomas S. Marsh/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lindsey M. Lineweaver (CN=Lindsey M. Lineweaver/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Laura E. Lineberry (CN=Laura E. Lineberry/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Adam L. Levine (CN=Adam L. Levine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christopher S. Legrand (CN=Christopher S. Legrand/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sang W. Lee (CN=Sang W. Lee/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jennie M. Koch (CN=Jennie M. Koch/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Andrew M. Kaver (CN=Andrew M. Kaver/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Dora Kale (CN=Dora Kale/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexander S. Joves (CN=Alexander S. Joves/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:M. Kay Joshi (CN=M. Kay Joshi/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Megan R. Johnston (CN=Megan R. Johnston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sydney R. Johnson (CN=Sydney R. Johnson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clarence C. Johnson (CN=Clarence C. Johnson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gordon D. Johndroe (CN=Gordon D. Johndroe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melanie A. Jackson (CN=Melanie A. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marilyn R. Jacanin (CN=Marilyn R. Jacanin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Restituto M. Francisco (CN=Restituto M. Francisco/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Sandra K. Evans (CN=Sandra K. Evans/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Regina L. Cain (CN=Regina L. Cain/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Brown (CN=Katherine A. Brown/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Bonnie S. Broadwick (CN=Bonnie S. Broadwick/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Theresa M. Hunter (CN=Theresa M. Hunter/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:A. Merrill Hughes (CN=A. Merrill Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jeffrey P. Houle (CN=Jeffrey P. Houle/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ashley Holbrook (CN=Ashley Holbrook/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine L. Hirsch (CN=Josephine L. Hirsch/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jane C. Heishman (CN=Jane C. Heishman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anne Heiligenstein (CN=Anne Heiligenstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. Hargis (CN=Robert C. Hargis/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison M. Harden (CN=Alison M. Harden/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary Ann Hanusa (CN=Mary Ann Hanusa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas A. Hall (CN=Thomas A. Hall/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary A. Haines (CN=Mary A. Haines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Katharina M. Hager (CN=Katharina M. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Henry C. Hager (CN=Henry C. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Albert J. Guarnieri (CN=Albert J. Guarnieri/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew W. Green (CN=Andrew W. Green/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Emily S. Gray (CN=Emily S. Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wendy E. Gray (CN=Wendy E. Gray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Britt Grant (CN=Britt Grant/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Travis C. Good (CN=Travis C. Good/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Georgia D. Godfrey (CN=Georgia D. Godfrey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Dorothy C. Garvin (CN=Dorothy C. Garvin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joachim D. Fuchs (CN=Joachim D. Fuchs/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Barbara J. Finn (CN=Barbara J. Finn/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jeanie L. Figg (CN=Jeanie L. Figg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jennifer D. Field (CN=Jennifer D. Field/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Douglas M. Erdahl (CN=Douglas M. Erdahl/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Ruth E. Elliott (CN=Ruth E. Elliott/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kady Dunlap (CN=Kady Dunlap/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eric A. Draper (CN=Eric A. Draper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joan R. Doty (CN=Joan R. Doty/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine L. Disston (CN=Katherine L. Disston/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Reed Dickens (CN=Reed Dickens/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josh Deckard (CN=Josh Deckard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley E. Davis (CN=Ashley E. Davis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jill Davie (CN=Jill Davie/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colin Crosby (CN=Colin Crosby/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lynn A. Crable (CN=Lynn A. Crable/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colby J. Cooper (CN=Colby J. Cooper/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Shane P. Chambers (CN=Shane P. Chambers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lois A. Cassano (CN=Lois A. Cassano/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Pamela R. Casey (CN=Pamela R. Casey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne E. Campbell (CN=Anne E. Campbell/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marcia J. Caler (CN=Marcia J. Caler/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Johnathan C. Bunting (CN=Johnathan C. Bunting/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marko R. Broz (CN=Marko R. Broz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gary E. Bresnahan (CN=Gary E. Bresnahan/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David R. Bohrer (CN=David R. Bohrer/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cheryl E. Barnett (CN=Cheryl E. Barnett/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell P. Backfield (CN=Mitchell P. Backfield/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jill L. Angelo (CN=Jill L. Angelo/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Ashleigh A. Adams (CN=Ashleigh A. Adams/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Joseph J. Shattan (CN=Joseph J. Shattan/OU=OVP/O=EOP [OVP])
READ:UNKNOWN

TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Richard J. Tubb (CN=Richard J. Tubb/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul J. Severs (CN=Paul J. Severs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joseph D. Rozek (CN=Joseph D. Rozek/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Steven J. Reynolds (CN=Steven J. Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Candida P. Wolff (CN=Candida P. Wolff/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel K. Wilmot (CN=Daniel K. Wilmot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:James R. Wilkinson (CN=James R. Wilkinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jocelyn White (CN=Jocelyn White/OU=WHF/O=EOP [OPM])
READ:UNKNOWN
TO:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul A. Wedderien (CN=Paul A. Wedderien/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John P. Walters (CN=John P. Walters/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine W. Tobias (CN=Catherine W. Tobias/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jose G. Suarez (CN=Jose G. Suarez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Aquiles F. Suarez (CN=Aquiles F. Suarez/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Angela B. Styles (CN=Angela B. Styles/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary A. Solberg (CN=Mary A. Solberg/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Augustine T. Smythe (CN=Augustine T. Smythe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Sharpy (CN=Thomas J. Sharpy/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Howard A. Schmidt (CN=Howard A. Schmidt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel Schecter (CN=Daniel Schecter/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Richard M. Russell (CN=Richard M. Russell/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Stephen S. Ruhlen (CN=Stephen S. Ruhlen/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark V. Rosenker (CN=Mark V. Rosenker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Ridge (CN=Thomas J. Ridge/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Nina Rees (CN=Nina Rees/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Craig Ray (CN=Craig Ray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kathie L. Olsen (CN=Kathie L. Olsen/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Newell (CN=John F. Newell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Manson O. Morris (CN=Manson O. Morris/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Paul D. Montanus (CN=Paul D. Montanus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. McAllister (CN=James M. McAllister/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric C. Pelletier (CN=Eric C. Pelletier/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Marcus Peacock (CN=Marcus Peacock/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Neil S. Patel (CN=Neil S. Patel/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Sean C. O'Keefe (CN=Sean C. O'Keefe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire M. O'Donnell (CN=Claire M. O'Donnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan K. Neely (CN=Susan K. Neely/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen S. McMillin (CN=Stephen S. McMillin/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark McClellan (CN=Mark McClellan/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Mary J. Matalin (CN=Mary J. Matalin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Catherine J. Martin (CN=Catherine J. Martin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John H. Marburger (CN=John H. Marburger/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Maisto (CN=John F. Maisto/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin A. MacLean (CN=Robin A. MacLean/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ado A. Machida (CN=Ado A. Machida/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Deborah A. Loewer (CN=Deborah A. Loewer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence B. Lindsey (CN=Lawrence B. Lindsey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Dirksen Lehman (CN=Dirksen Lehman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Laura S. Lawlor (CN=Laura S. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bruce M. Lawlor (CN=Bruce M. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Randall S. Kroszner (CN=Randall S. Kroszner/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Karen Y. Knutson (CN=Karen Y. Knutson/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Frank G. Klotz (CN=Frank G. Klotz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Ellis Kitchen (CN=Ellis Kitchen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles D. McGrath Jr (CN=Charles D. McGrath Jr/OU=OVP/O=EOP [OVP])
READ:UNKNOWN

TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Reuben Jeffery (CN=Reuben Jeffery/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hector F. Irastorza (CN=Hector F. Irastorza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Campen (CN=Tim Campen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Penrose C. Albright TPO (CN=Penrose C. Albright TPO/OU=TPO/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Steven I. Cooper TPO (CN=Steven I. Cooper TPO/OU=TPO/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Julian M. Flannery (CN=Julian M. Flannery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Duncan Campbell (CN=Duncan Campbell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:R. Rand Beers (CN=R. Rand Beers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Glenn Hubbard (CN=Glenn Hubbard/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Jack Howard (CN=Jack Howard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Holman (CN=Mark Holman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Chris Henick (CN=Chris Henick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Debra Heiden (CN=Debra Heiden/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Albert Hawkins (CN=Albert Hawkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John P. Hannah (CN=John P. Hannah/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John F. Haley (CN=John F. Haley/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John Graham (CN=John Graham/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:John A. Gordon (CN=John A. Gordon/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Stephen M. Garrison (CN=Stephen M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Diana E. Furchtgott-Roth (CN=Diana E. Furchtgott-Roth/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Everson (CN=Mark Everson/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric S. Edelman (CN=Eric S. Edelman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Wayne A. Downing (CN=Wayne A. Downing/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Nancy P. Dorn (CN=Nancy P. Dorn/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Diana C. Donnelly (CN=Diana C. Donnelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:James F. Daniel (CN=James F. Daniel/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Stacia L. Cropper (CN=Stacia L. Cropper/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Barry Crane (CN=Barry Crane/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:John B. Craig (CN=John B. Craig/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:James Connaughton (CN=James Connaughton/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cesar Conda (CN=Cesar Conda/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Douglas F. Cochrane (CN=Douglas F. Cochrane/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert W. Cobb (CN=Robert W. Cobb/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:John A. Cloud (CN=John A. Cloud/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Robin Cleveland (CN=Robin Cleveland/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Richard A. Clarke (CN=Richard A. Clarke/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Frank Cilluffo (CN=Frank Cilluffo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christine Ciccone (CN=Christine Ciccone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Barbara C. Chaffee (CN=Barbara C. Chaffee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James C. Capretta (CN=James C. Capretta/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Nicholas E. Calio (CN=Nicholas E. Calio/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott Burns (CN=Scott Burns/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carl Buchholz (CN=Carl Buchholz/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stuart W. Bowen (CN=Stuart W. Bowen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carlos E. Bonilla (CN=Carlos E. Bonilla/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lloyd A. Blanchard (CN=Lloyd A. Blanchard/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen E. Biegun (CN=Stephen E. Biegun/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Janet L. Berman (CN=Janet L. Berman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Andrea G. Barthwell (CN=Andrea G. Barthwell/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Cathy Alix (CN=Cathy Alix/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
End Original ARMS Header

Today's presentation of the American Academy of Hospitality Sciences 2002/03 Star Diamond Award to the White House Mess has been canceled and will be rescheduled in the near future.

Thank you.

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: h. christopher bartolomucci/who/eop@eop [WHO] <h. christopher bartolomucci>
Sent: 12/18/2002 5:43:59 AM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-DEC-2002 10:43:59.00
SUBJECT:: Re:
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:h. christopher bartolomucci (CN=h. christopher bartolomucci/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

Let's do 2:20 - need to have him in Specter's office by 2:50 pm so they can try to start the meeting early and get him back here in time for JSC prep.

We do need a JSC prep - right? If not the full 30 min let me know so I can send an email.

Brett M. Kavanaugh
12/18/2002 10:36:32 AM
Record Type: Record

To: Elizabeth N. Camp/WHO/EOP@EOP
cc: H. Christopher Bartolomucci/WHO/EOP@EOP
Subject:

can we get time with Judge at 2:35 for 10 minutes before he heads up to Specter meeting.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>
Sent: 12/18/2002 5:45:27 AM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-DEC-2002 10:45:27.00
SUBJECT:: Re:
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

We can do 15 minutes of JSC prep

Elizabeth N. Camp
12/18/2002 10:45:01 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: h. christopher bartolomucci/who/eop@eop
bcc:
Subject: Re:

Let's do 2:20 - need to have him in Specter's office by 2:50 pm so they can try to start the meeting early and get him back here in time for JSC prep.

We do need a JSC prep - right? If not the full 30 min let me know so I can send an email.

Brett M. Kavanaugh
12/18/2002 10:36:32 AM
Record Type: Record

To: Elizabeth N. Camp/WHO/EOP@EOP
cc: H. Christopher Bartolomucci/WHO/EOP@EOP
Subject:

can we get time with Judge at 2:35 for 10 minutes before he heads up to Specter meeting.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;David G. Leitch/WHO/EOP@EOP [WHO] <David G. Leitch>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>
Sent: 12/18/2002 5:48:37 AM
Subject: : letter to editor in Philly paper by Third Circuit Judge McKee

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:18-DEC-2002 10:48:37.00
SUBJECT:: letter to editor in Philly paper by Third Circuit Judge McKee
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

I am writing in the hope that the nation's newspapers will raise their collective editorial voice in condemnation of Sen. Trent Lott's praise of Strom Thurmond's racist presidential candidacy in 1948.

Not since the days of Govs. Orval Faubus, George Wallace and Ross Barnett could I have imagined a U.S. senator declaring publicly that the nation would be better off under a regime of enforced segregation, as Sen. Lott apparently did while speaking at Sen. Thurmond's 100th birthday party earlier this month.

Sen. Lott is clearly lucid enough to recall that segregation was enforced through a de jure system of official and unofficial terrorism, coercion and violence that included (indeed featured) lynching, firebombings, and hooded night riders. It was a regime under which Americans residing in some regions of the United States risked death if they dared to register to vote or educate their fellow citizens about voter registration.

Perhaps the names of Andrew Goodman, James Chaney, Mickey Schwerner, Medgar Evers and countless other brave Americans (whose murders received less publicity) mean nothing to Sen. Lott. However, given the reign of terror required to enforce segregation, such murders were the predictable result of the attitudes and policies that Sen. Lott praised in nostalgic remembrance of Strom Thurmond's segregationist presidential bid in 1948.

Although Sen. Lott publicly stated that the country would have been better off had Sen. Thurmond won, a majority of the voters apparently disagreed as they elected Harry Truman.

Is it not ironic in this day when the nation's elected leaders are rallying the country against terrorism, that the majority leader of the U.S. Senate would publicly endorse the terrorism that once governed a significant region of this country and greatly influenced politics at the national level?

One need only recall John F. Kennedy's negotiations with the governors of Mississippi and Alabama, and Lyndon Johnson's political maneuvering to ensure passage of the 1964 Civil Rights Act to appreciate the extent to which the politics of the Deep South influenced the politics of the nation. Many of us are outraged by Sen. Lott's declaration that "we wouldn't have had all these problems over all these years" if Sen. Thurmond had been elected president.

Fortunately, many Americans vehemently disagree. Many of us believe the country would be far better off if America's leaders dedicate themselves to eradicating the continuing effects of the attitudes that Sen. Thurmond's presidential candidacy sought to exploit.

Although America's democracy continues to grow and evolve, it appears that rumors of the demise of Jim Crow were premature. Let us hope that Sen. Lott's wistful praise of Sen. Thurmond's candidacy and all it symbolizes motivates each of us to work toward ennobling the human spirit and combating terrorism in all its insidious and murderous forms, rather than fondly remembering the subjugation and terror that was all too common in 1948.

Theodore A. McKee

Philadelphia

The writer is a judge on the U.S. Third Circuit Court of Appeals.

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]

To: Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Nanette Everson/WHO /EOP@EOP [WHO] <Nanette Everson>;Allison L. Riepenhoff/WHO/EOP@EOP [WHO] <Allison L. Riepenhoff>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Bradford A. Berenson/WHO /EOP@EOP [WHO] <Bradford A. Berenson>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;David G. Leitch/WHO/EOP@EOP [WHO] <David G. Leitch>;James W. Carroll/WHO/EOP@EOP [WHO] <James W. Carroll>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Edward McNally/WHO /EOP@EOP [WHO] <Edward McNally>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>

Sent: 12/18/2002 10:06:37 AM

Subject: : JSC Prep will start at 3:45 pm.

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:18-DEC-2002 15:06:37.00
SUBJECT:: JSC Prep will start at 3:45 pm.
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Allison L. Riepenhoff ( CN=Allison L. Riepenhoff/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:James W. Carroll ( CN=James W. Carroll/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]

To: Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Nanette Everson/WHO /EOP@EOP [WHO] <Nanette Everson>;Allison L. Riepenhoff/WHO/EOP@EOP [WHO] <Allison L. Riepenhoff>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Bradford A. Berenson/WHO /EOP@EOP [WHO] <Bradford A. Berenson>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;David G. Leitch/WHO/EOP@EOP [WHO] <David G. Leitch>;James W. Carroll/WHO/EOP@EOP [WHO] <James W. Carroll>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Edward McNally/WHO /EOP@EOP [WHO] <Edward McNally>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>

Sent: 12/18/2002 10:06:37 AM

Subject: : JSC Prep will start at 3:45 pm.

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:18-DEC-2002 15:06:37.00
SUBJECT:: JSC Prep will start at 3:45 pm.
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Allison L. Riepenhoff ( CN=Allison L. Riepenhoff/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:James W. Carroll ( CN=James W. Carroll/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=PostMaster/O=EOP [OA]

To: Gina M. Wolford/NSC/EOP [NSC] <Gina M. Wolford>;David L. Travers/NSC/EOP [NSC] <David L. Travers>;Harry W. Wolff/WHO/EOP [WHO] <Harry W. Wolff>;Alexian T. Wines/NSC/EOP [NSC] <Alexian T. Wines>;Patricia Williams/WHO/EOP [WHO] <Patricia Williams>;Jared B. Weinstein/WHO/EOP@Exchange [WHO] <Jared B. Weinstein>;Matthew C. Waxman/NSC/EOP [NSC] <Matthew C. Waxman>;Lauren J. Vestewig/OPD/EOP [OPD] <Lauren J. Vestewig>;Terrill G. Tucker/NSC/EOP [NSC] <Terrill G. Tucker>;Tevi Troy/OPD/EOP [OPD] <Tevi Troy>;Anne Trenolone/WHO/EOP [WHO] <Anne Trenolone>;Julieanne H. Thomas/WHO/EOP [WHO] <Julieanne H. Thomas>;Rachael L. Sunbarger/WHO/EOP [WHO] <Rachael L. Sunbarger>;Susan L. Sterner/WHO/EOP [WHO] <Susan L. Sterner>;Ashley Snee/WHO/EOP [WHO] <Ashley Snee>;Robert E. Schubert/NSC/EOP [NSC] <Robert E. Schubert>;Deborah Sandler/NSC/EOP [NSC] <Deborah Sandler>;Jean M. Russell/OPD /EOP@Exchange [OPD] <Jean M. Russell>;Peter M. Rowan/WHO/EOP [UNKNOWN] <Peter M. Rowan>;Noelia Rodriguez/WHO/EOP [WHO] <Noelia Rodriguez>;Josephine B. Robinson/WHO/EOP [WHO] <Josephine B. Robinson>;Maurice C. Robinson/NSC/EOP [NSC] <Maurice C. Robinson>;Christina D. Roberts/WHO/EOP [UNKNOWN] <Christina D. Roberts>;Krista L. Ritacco/WHO/EOP@Exchange [WHO] <Krista L. Ritacco>;Allison L. Riepenhoff/WHO/EOP [WHO] <Allison L. Riepenhoff>;January M. Riecke/WHO/EOP [WHO] <January M. Riecke>;Katherine A. Rhodes/WHO/EOP [WHO] <Katherine A. Rhodes>;Tim Reynolds/WHO/EOP [WHO] <Tim Reynolds>;David Reyes/NSC/EOP [NSC] <David Reyes>;Susan B. Ralston/WHO/EOP [WHO] <Susan B. Ralston>;Leslie E. Radcliff/NSC/EOP [NSC] <Leslie E. Radcliff>;Alexia Poe/WHO/EOP [WHO] <Alexia Poe>;Charlotte L. Montiel/WHO/EOP [WHO] <Charlotte L. Montiel>;Elliott M. Langer/NSC/EOP [NSC] <Elliott M. Langer>;Clare Pritchett/WHO/EOP [WHO] <Clare Pritchett>;Suzanne Primoff/WHO/EOP [WHO] <Suzanne Primoff>;John I. Pray/NSC/EOP [NSC] <John I. Pray>;Susan D. Phillips/NSC/EOP [NSC] <Susan D. Phillips>;Sarah Penny/WHO/EOP [WHO] <Sarah Penny>;Raymond H. Payne/NSC/EOP [NSC] <Raymond H. Payne>;Richard S. Paulus/WHO/EOP [WHO] <Richard S. Paulus>;Edward J. Padinske/NSC/EOP [NSC] <Edward J. Padinske>;Eric H. Otto/OPD/EOP@Exchange [OPD] <Eric H. Otto>;Lee B. Mynatt/NSC/EOP [NSC] <Lee B. Mynatt>;Steven Myers/NSC/EOP [NSC] <Steven Myers>;Sarah M. Garrison/WHO/EOP [WHO] <Sarah M. Garrison>;Paul L. Morse/WHO/EOP [WHO] <Paul L. Morse>;Leslie A. Mooney/OPD/EOP@Exchange [OPD] <Leslie A. Mooney>;Cathy L. Millison/NSC/EOP [NSC] <Cathy L. Millison>;Holly M. Miller/WHO/EOP [WHO] <Holly M. Miller>;Sonya E. Medina/WHO/EOP [WHO] <Sonya E. Medina>;Vickie A. McQuade/WHO/EOP [WHO] <Vickie A. McQuade>;Sara B. McIntosh/WHO/EOP [WHO] <Sara B. McIntosh>;Peter A. McCauley/NSC/EOP [NSC] <Peter A. McCauley>;Daniel M. McCarthy/WHO/EOP [WHO] <Daniel M. McCarthy>;Thomas S. Marsh/NSC/EOP [NSC] <Thomas S. Marsh>;Colleen Litkenhaus/WHO/EOP [WHO] <Colleen Litkenhaus>;Lindsey M. Lineweaver/WHO/EOP [WHO] <Lindsey M. Lineweaver>;Laura E. Lineberry/NSC/EOP [NSC] <Laura E. Lineberry>;Adam L. Levine/WHO/EOP [WHO] <Adam L. Levine>;Christopher S. Legrand/NSC/EOP [NSC] <Christopher S. Legrand>;Sang W. Lee/NSC/EOP [NSC] <Sang W. Lee>;Jennie M. Koch/NSC/EOP [NSC] <Jennie M. Koch>;Andrew M. Kaver/NSC/EOP [UNKNOWN] <Andrew M. Kaver>;Dora Kale/NSC/EOP [NSC] <Dora Kale>;Alexander S. Joves/NSC/EOP [NSC] <Alexander S. Joves>;M. Kay Joshi/NSC/EOP [NSC] <M. Kay Joshi>;Alison Jones/WHO/EOP [WHO] <Alison Jones>;Megan R. Johnston/WHO/EOP [WHO] <Megan R. Johnston>;Sydney R. Johnson/WHO/EOP [WHO] <Sydney R. Johnson>;Clarence C. Johnson/NSC/EOP [NSC] <Clarence C. Johnson>;Gordon D. Johndroe/WHO/EOP [WHO] <Gordon D. Johndroe>;Melanie A. Jackson/WHO/EOP [WHO] <Melanie A. Jackson>;Marilyn R. Jacanin/WHO/EOP [WHO] <Marilyn R. Jacanin>;Restituto M. Francisco/OA/EOP [OA] <Restituto M. Francisco>;Sandra K. Evans/WHO/EOP [WHO] <Sandra K. Evans>;Regina L. Cain/WHO/EOP [WHO] <Regina L. Cain>;Katherine A. Brown/NSC/EOP [NSC] <Katherine A. Brown>;Bonnie S. Broadwick/NSC/EOP [NSC] <Bonnie S. Broadwick>;Theresa M. Hunter/NSC/EOP [NSC] <Theresa M. Hunter>;A. Merrill Hughes/WHO/EOP [UNKNOWN] <A. Merrill Hughes>;Jeffrey P. Houle/NSC/EOP [NSC] <Jeffrey P. Houle>;Ashley Holbrook/WHO/EOP [WHO] <Ashley Holbrook>;Josephine L. Hirsch/WHO/EOP [WHO] <Josephine L. Hirsch>;Jane C. Heishman/NSC/EOP [NSC] <Jane C. Heishman>;Anne Heiligenstein/WHO/EOP [WHO] <Anne Heiligenstein>;Robert C. Hargis/NSC/EOP [NSC] <Robert C. Hargis>;Alison M. Harden/WHO/EOP [WHO] <Alison M. Harden>;Mary Ann Hanusa/WHO/EOP [WHO] <Mary Ann Hanusa>;Thomas A. Hall/NSC/EOP [NSC] <Thomas A. Hall>;Mary A. Haines/NSC/EOP [NSC] <Mary A. Haines>;Katharina M. Hager/WHO/EOP [WHO] <Katharina M. Hager>;Henry C. Hager/WHO/EOP [WHO] <Henry C. Hager>;Albert J.

Guarnieri/NSC/EOP [NSC] <Albert J. Guarnieri>;Ginger G. Loper/WHO/EOP [WHO] <Ginger G. Loper>;Andrew W. Green/NSC/EOP [NSC] <Andrew W. Green>;Emily S. Gray/WHO/EOP [WHO] <Emily S. Gray>;Wendy E. Gray/NSC/EOP [NSC] <Wendy E. Gray>;Britt Grant/OPD/EOP [OPD] <Britt Grant>;Blake Gottesman/WHO/EOP [WHO] <Blake Gottesman>;Travis C. Good/NSC/EOP [UNKNOWN] <Travis C. Good>;Georgia D. Godfrey/WHO/EOP [WHO] <Georgia D. Godfrey>;Eleanor L. Gillmor/OPD/EOP [OPD] <Eleanor L. Gillmor>;Dorothy C. Garvin/WHO/EOP [WHO] <Dorothy C. Garvin>;Joachim D. Fuchs/NSC/EOP [NSC] <Joachim D. Fuchs>;Barbara J. Finn/OA/EOP [OA] <Barbara J. Finn>;Kara G. Figg/WHO/EOP@Exchange [WHO] <Kara G. Figg>;Jeanie L. Figg/WHO/EOP [WHO] <Jeanie L. Figg>;Jennifer D. Field/OVP/EOP [OVP] <Jennifer D. Field>;Douglas M. Erdahl/NSC/EOP [NSC] <Douglas M. Erdahl>;Ruth E. Elliott/NSC/EOP [NSC] <Ruth E. Elliott>;Kady Dunlap/WHO/EOP [WHO] <Kady Dunlap>;Eric A. Draper/WHO/EOP [WHO] <Eric A. Draper>;Joan R. Doty/WHO/EOP [WHO] <Joan R. Doty>;Katherine L. Disston/WHO /EOP@Exchange [WHO] <Katherine L. Disston>;Reed Dickens/WHO/EOP [WHO] <Reed Dickens>;Josh Deckard/WHO/EOP [WHO] <Josh Deckard>;Ashley E. Davis/WHO/EOP [WHO] <Ashley E. Davis>;Jill Davie/WHO/EOP [WHO] <Jill Davie>;Colin Crosby/NSC/EOP [NSC] <Colin Crosby>;Lynn A. Crable/WHO/EOP [WHO] <Lynn A. Crable>;Colby J. Cooper/NSC/EOP [NSC] <Colby J. Cooper>;Michael J. Conway/WHO/EOP [WHO] <Michael J. Conway>;Carolyn E. Cleveland/WHO/EOP [WHO] <Carolyn E. Cleveland>;Shane P. Chambers/WHO/EOP [WHO] <Shane P. Chambers>;Lois A. Cassano/WHO/EOP [WHO] <Lois A. Cassano>;Pamela R. Casey/WHO/EOP [WHO] <Pamela R. Casey>;Anne E. Campbell/WHO/EOP@Exchange [WHO] <Anne E. Campbell>;Elizabeth N. Camp/WHO/EOP [WHO] <Elizabeth N. Camp>;Marcia J. Caler/NSC/EOP [UNKNOWN] <Marcia J. Caler>;Johnathan C. Bunting/NSC/EOP [NSC] <Johnathan C. Bunting>;Patrick J. Bumatay/WHO/EOP [WHO] <Patrick J. Bumatay>;Marko R. Broz/NSC/EOP [NSC] <Marko R. Broz>;Gary E. Bresnahan/NSC/EOP [NSC] <Gary E. Bresnahan>;Brian Bravo/WHO/EOP [WHO] <Brian Bravo>;David R. Bohrer/OVP/EOP [OVP] <David R. Bohrer>;Debra D. Bird/WHO/EOP [WHO] <Debra D. Bird>;Melissa S. Bennett/WHO/EOP [WHO] <Melissa S. Bennett>;Cheryl E. Barnett/NSC/EOP [NSC] <Cheryl E. Barnett>;Tiffany L. Barfield/WHO/EOP [WHO] <Tiffany L. Barfield>;Mitchell P. Backfield/NSC/EOP [NSC] <Mitchell P. Backfield>;Jill L. Angelo/WHO/EOP [UNKNOWN] <Jill L. Angelo>;Ashleigh A. Adams/WHO/EOP [UNKNOWN] <Ashleigh A. Adams>;Joseph J. Shattan/OVP/EOP [OVP] <Joseph J. Shattan>;Kevin Warsh/OPD/EOP [OPD] <Kevin Warsh>;Richard J. Tubb/WHO/EOP [WHO] <Richard J. Tubb>;Paul J. Severs/WHO/EOP [WHO] <Paul J. Severs>;Joseph D. Rozek/OVP/EOP [OVP] <Joseph D. Rozek>;Steven J. Reynolds/WHO/EOP [WHO] <Steven J. Reynolds>;Candida P. Wolff/OVP/EOP [OVP] <Candida P. Wolff>;Heather Wingate/WHO/EOP [WHO] <Heather Wingate>;Daniel K. Wilmot/OVP/EOP [OVP] <Daniel K. Wilmot>;James R. Wilkinson/WHO/EOP [WHO] <James R. Wilkinson>;Jocelyn White/WHF/EOP [OPM] <Jocelyn White>;Lezlee J. Westine/WHO/EOP [WHO] <Lezlee J. Westine>;Peter H. Wehner/WHO/EOP [WHO] <Peter H. Wehner>;Paul A. Wedderien/NSC/EOP [NSC] <Paul A. Wedderien>;John P. Walters/ONDCP/EOP [ONDCP] <John P. Walters>;Helgard C. Walker/WHO/EOP [WHO] <Helgard C. Walker>;Jim Towey/WHO/EOP [WHO] <Jim Towey>;Catherine W. Tobias/OVP/EOP [OVP] <Catherine W. Tobias>;Jose G. Suarez/WHO/EOP [WHO] <Jose G. Suarez>;Aquiles F. Suarez/OPD/EOP [OPD] <Aquiles F. Suarez>;Angela B. Styles/OMB/EOP [OMB] <Angela B. Styles>;Mary K. Sturtevant/NSC/EOP [NSC] <Mary K. Sturtevant>;Margaret M. Spellings/OPD/EOP [OPD] <Margaret M. Spellings>;Deborah A. Spagnoli/WHO/EOP [WHO] <Deborah A. Spagnoli>;Mary A. Solberg/ONDCP/EOP [ONDCP] <Mary A. Solberg>;Augustine T. Smythe/OMB/EOP [OMB] <Augustine T. Smythe>;Kristen Silverberg/WHO/EOP [WHO] <Kristen Silverberg>;Thomas J. Sharpy/OVP/EOP [OVP] <Thomas J. Sharpy>;Scott N. Sforza/WHO/EOP [WHO] <Scott N. Sforza>;Howard A. Schmidt/NSC/EOP [NSC] <Howard A. Schmidt>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Daniel Schecter/ONDCP/EOP [ONDCP] <Daniel Schecter>;Diana L. Schacht/OPD/EOP [OPD] <Diana L. Schacht>;Desiree T. Sayle/WHO/EOP [WHO] <Desiree T. Sayle>;Kyle Sampson/WHO/EOP [WHO] <Kyle Sampson>;Richard M. Russell/OSTP/EOP [OSTP] <Richard M. Russell>;Stephen S. Ruhlen/OVP/EOP [OVP] <Stephen S. Ruhlen>;Karl C. Rove/WHO/EOP [WHO] <Karl C. Rove>;Mark V. Rosenker/WHO/EOP [WHO] <Mark V. Rosenker>;Thomas J. Ridge/WHO/EOP [WHO] <Thomas J. Ridge>;Condoleezza Rice/NSC/EOP [NSC] <Condoleezza Rice>;Nina Rees/OVP/EOP [OVP] <Nina Rees>;Craig Ray/WHO/EOP [WHO] <Craig Ray>;Benjamin A. Powell/WHO/EOP [WHO] <Benjamin A. Powell>;Kathie L. Olsen/OSTP/EOP [OSTP] <Kathie L. Olsen>;John F. Newell/WHO/EOP [WHO] <John F. Newell>;Manson O. Morris/OVP/EOP [OVP] <Manson O. Morris>;Paul D. Montanus/WHO/EOP [WHO] <Paul D. Montanus>;James M. McAllister/WHO/EOP [WHO] <James M. McAllister>;James M. Kelly/WHO/EOP [WHO] <James M. Kelly>;Dina

Powell/WHO/EOP [WHO] <Dina Powell>;Philip J. Perry/OMB/EOP [OMB] <Philip J. Perry>;Anna M. Perez/NSC/EOP [NSC] <Anna M. Perez>;Eric C. Pelletier/OMB/EOP [OMB] <Eric C. Pelletier>;Marcus Peacock/OMB/EOP [OMB] <Marcus Peacock>;Neil S. Patel/OVP/EOP [OVP] <Neil S. Patel>;Sean C. O'Keefe/OMB/EOP [OMB] <Sean C. O'Keefe>;Ziad S. Ojakli/WHO/EOP [WHO] <Ziad S. Ojakli>;Claire M. O'Donnell/OVP/EOP [OVP] <Claire M. O'Donnell>;Jennifer G. Newstead/WHO/EOP [WHO] <Jennifer G. Newstead>;Susan K. Neely/WHO/EOP [WHO] <Susan K. Neely>;Edmund C. Moy/WHO/EOP [WHO] <Edmund C. Moy>;James F. Moriarty/NSC/EOP [NSC] <James F. Moriarty>;Brian D. Montgomery/WHO/EOP [WHO] <Brian D. Montgomery>;Michael H. Miller/WHO/EOP [WHO] <Michael H. Miller>;Franklin C. Miller/NSC/EOP [NSC] <Franklin C. Miller>;Harriet Miers/WHO/EOP [WHO] <Harriet Miers>;Ken Mehlman/WHO/EOP [WHO] <Ken Mehlman>;Edward McNally/WHO/EOP [WHO] <Edward McNally>;Robert C. McNally/OPD/EOP [OPD] <Robert C. McNally>;Stephen S. McMillin/OMB/EOP [OMB] <Stephen S. McMillin>;Brian V. McCormack/OVP/EOP [OVP] <Brian V. McCormack>;John P. McConnell/OVP/EOP [OVP] <John P. McConnell>;Scott McClellan/WHO/EOP [WHO] <Scott McClellan>;Mark McClellan/CEA/EOP [UNKNOWN] <Mark McClellan>;Mary J. Matalin/OVP/EOP [OVP] <Mary J. Matalin>;Catherine J. Martin/OVP/EOP [OVP] <Catherine J. Martin>;Robert Marsh/WHO/EOP [WHO] <Robert Marsh>;John H. Marburger/OSTP/EOP [OSTP] <John H. Marburger>;John F. Maisto/NSC/EOP [NSC] <John F. Maisto>;Robin A. MacLean/WHO/EOP [WHO] <Robin A. MacLean>;Ado A. Machida/OVP/EOP [OVP] <Ado A. Machida>;Deborah A. Loewer/NSC/EOP [NSC] <Deborah A. Loewer>;Roland N. Litterst/WHO/EOP [WHO] <Roland N. Litterst>;Lawrence B. Lindsey/OPD/EOP@Exchange [OPD] <Lawrence B. Lindsey>;Lewis Libby/OVP/EOP [OVP] <Lewis Libby>;Dirksen Lehman/WHO/EOP [WHO] <Dirksen Lehman>;Jay P. Lefkowitz/OPD/EOP [OPD] <Jay P. Lefkowitz>;Laura S. Lawlor/WHO/EOP [WHO] <Laura S. Lawlor>;Bruce M. Lawlor/WHO/EOP [WHO] <Bruce M. Lawlor>;Paul B. Kurtz/NSC/EOP [NSC] <Paul B. Kurtz>;David Kuo/WHO/EOP [WHO] <David Kuo>;Randall S. Kroszner/CEA/EOP [CEA] <Randall S. Kroszner>;Karen Y. Knutson/OVP/EOP [OVP] <Karen Y. Knutson>;Frank G. Klotz/NSC/EOP [NSC] <Frank G. Klotz>;Elizabeth W. Kleppe/OVP/EOP [OVP] <Elizabeth W. Kleppe>;Ellis Kitchen/OA/EOP [OA] <Ellis Kitchen>;Matthew Kirk/WHO/EOP [WHO] <Matthew Kirk>;Zalmay M. Khalilzad/NSC/EOP [NSC] <Zalmay M. Khalilzad>;Daniel J. Keniry/WHO/EOP [WHO] <Daniel J. Keniry>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Joel D. Kaplan/WHO/EOP [WHO] <Joel D. Kaplan>;Charles D. McGrath Jr/OVP/EOP [OVP] <Charles D. McGrath Jr>;Robert G. Joseph/NSC/EOP [NSC] <Robert G. Joseph>;Reuben Jeffery/OPD/EOP [OPD] <Reuben Jeffery>;Barry S. Jackson/WHO/EOP [WHO] <Barry S. Jackson>;Hector F. Irastorza/WHO/EOP [WHO] <Hector F. Irastorza>;Edward Ingle/WHO/EOP [WHO] <Edward Ingle>;Clay Johnson III/WHO/EOP [WHO] <Clay Johnson III>;Tim Campen/OA/EOP [OA] <Tim Campen>;Penrose C. Albright TPO/TPO/OMB/EOP [OMB] <Penrose C. Albright TPO>;Steven I. Cooper TPO/TPO/OMB/EOP [OMB] <Steven I. Cooper TPO>;Keith Hennessey/OPD/EOP@Exchange [OPD] <Keith Hennessey>;Julian M. Flannery/WHO/EOP [WHO] <Julian M. Flannery>;Duncan Campbell/WHO/EOP [WHO] <Duncan Campbell>;R. Rand Beers/NSC/EOP [NSC] <R. Rand Beers>;Glenn Hubbard/CEA/EOP [CEA] <Glenn Hubbard>;Jack Howard/WHO/EOP [WHO] <Jack Howard>;Mark Holman/WHO/EOP [WHO] <Mark Holman>;David W. Hobbs/WHO/EOP [WHO] <David W. Hobbs>;Israel Hernandez/WHO/EOP [WHO] <Israel Hernandez>;Chris Henick/WHO/EOP [WHO] <Chris Henick>;Debra Heiden/OVP/EOP [OVP] <Debra Heiden>;Albert Hawkins/WHO/EOP [WHO] <Albert Hawkins>;John P. Hannah/OVP/EOP [OVP] <John P. Hannah>;John F. Haley/OVP/EOP [OVP] <John F. Haley>;Joseph W. Hagin/WHO/EOP [WHO] <Joseph W. Hagin>;Stephen J. Hadley/NSC/EOP [NSC] <Stephen J. Hadley>;Ann Gray/WHO/EOP [WHO] <Ann Gray>;John Graham/OMB/EOP [OMB] <John Graham>;John A. Gordon/NSC/EOP [NSC] <John A. Gordon>;Alberto R. Gonzales/WHO/EOP [WHO] <Alberto R. Gonzales>;Tim Goeglein/WHO/EOP [WHO] <Tim Goeglein>;Dylan C. Glenn/OPD/EOP [OPD] <Dylan C. Glenn>;Alan Gilbert/OPD/EOP [OPD] <Alan Gilbert>;Michael J. Gerson/WHO/EOP@Exchange [WHO] <Michael J. Gerson>;Stephen M. Garrison/WHO/EOP [WHO] <Stephen M. Garrison>;Kelley Gannon/WHO/EOP [WHO] <Kelley Gannon>;Linda M. Gambatesa/WHO/EOP [WHO] <Linda M. Gambatesa>;Diana E. Furchtgott-Roth/CEA/EOP [CEA] <Diana E. Furchtgott-Roth>;Daniel Fried/NSC/EOP [NSC] <Daniel Fried>;Jendayi E. Frazer/NSC/EOP [NSC] <Jendayi E. Frazer>;Noel J. Francisco/WHO/EOP [WHO] <Noel J. Francisco>;Lawrence A. Fleischer/WHO/EOP [WHO] <Lawrence A. Fleischer>;Catherine S. Fenton/WHO/EOP [WHO] <Catherine S. Fenton>;Richard Falkenrath/WHO/EOP [WHO] <Richard Falkenrath>;Nanette Everson/WHO/EOP [WHO] <Nanette Everson>;Mark Everson/OMB/EOP [OMB] <Mark Everson>;Ashley Estes/WHO/EOP [WHO] <Ashley Estes>;Tucker A. Eskew/WHO/EOP [WHO] <Tucker A. Eskew>;Gary R.

Edson/NSC/EOP [NSC] <Gary R. Edson>;Eric S. Edelman/OVP/EOP [OVP] <Eric S. Edelman>;Wayne A. Downing/NSC/EOP [UNKNOWN] <Wayne A. Downing>;Elizabeth S. Dougherty/OPD/EOP [OPD] <Elizabeth S. Dougherty>;Nancy P. Dorn/WHO/EOP [UNKNOWN] <Nancy P. Dorn>;Diana C. Donnelly/WHO/EOP [WHO] <Diana C. Donnelly>;Nicolle Devenish/WHO/EOP [WHO] <Nicolle Devenish>;Mitchell Daniels/OMB/EOP [OMB] <Mitchell Daniels>;James F. Daniel/OA/EOP [OA] <James F. Daniel>;Stacia L. Cropper/OA/EOP [OA] <Stacia L. Cropper>;Barry Crane/ONDCP/EOP [ONDCP] <Barry Crane>;John B. Craig/NSC/EOP [UNKNOWN] <John B. Craig>;Phil Cooney/CEQ/EOP [CEQ] <Phil Cooney>;Rebecca Contreras/WHO/EOP [WHO] <Rebecca Contreras>;Charles Conner/OPD/EOP [OPD] <Charles Conner>;James Connaughton/CEQ/EOP [CEQ] <James Connaughton>;Brian C. Conklin/WHO/EOP [WHO] <Brian C. Conklin>;Cesar Conda/OVP/EOP [OVP] <Cesar Conda>;Douglas F. Cochrane/OVP/EOP [OVP] <Douglas F. Cochrane>;Robert W. Cobb/WHO/EOP [UNKNOWN] <Robert W. Cobb>;John A. Cloud/NSC/EOP [NSC] <John A. Cloud>;Robin Cleveland/OMB/EOP [OMB] <Robin Cleveland>;Richard A. Clarke/NSC/EOP [NSC] <Richard A. Clarke>;Alicia P. Clark/WHO/EOP [WHO] <Alicia P. Clark>;Frank Cilluffo/WHO/EOP [WHO] <Frank Cilluffo>;Christine Ciccone/WHO/EOP [WHO] <Christine Ciccone>;Ronald I. Christie/OVP/EOP [UNKNOWN] <Ronald I. Christie>;Barbara C. Chaffee/WHO/EOP [WHO] <Barbara C. Chaffee>;Kirsten A. Chadwick/WHO/EOP [WHO] <Kirsten A. Chadwick>;Andrew H. Card/WHO/EOP [WHO] <Andrew H. Card>;James C. Capretta/OMB/EOP [OMB] <James C. Capretta>;Nicholas E. Calio/WHO/EOP [WHO] <Nicholas E. Calio>;Scott Burns/ONDCP/EOP [ONDCP] <Scott Burns>;Katja Bullock/WHO/EOP [WHO] <Katja Bullock>;Carl Buchholz/WHO/EOP [WHO] <Carl Buchholz>;Claire E. Buchan/WHO/EOP [WHO] <Claire E. Buchan>;John M. Bridgeland/OPD/EOP [OPD] <John M. Bridgeland>;Stuart W. Bowen/WHO/EOP [WHO] <Stuart W. Bowen>;Carlos E. Bonilla/OPD/EOP [OPD] <Carlos E. Bonilla>;Joshua B. Bolten/WHO/EOP [WHO] <Joshua B. Bolten>;Lloyd A. Blanchard/OMB/EOP [UNKNOWN] <Lloyd A. Blanchard>;Bradley A. Blakeman/WHO/EOP@Exchange [WHO] <Bradley A. Blakeman>;Charles P. Blahous/OPD/EOP [OPD] <Charles P. Blahous>;Stephen E. Biegun/NSC/EOP [NSC] <Stephen E. Biegun>;Rebecca A. Beynon/WHO/EOP [WHO] <Rebecca A. Beynon>;Janet L. Berman/OVP/EOP [OVP] <Janet L. Berman>;Bradford A. Berenson/WHO/EOP [WHO] <Bradford A. Berenson>;John B. Bellinger/NSC/EOP [NSC] <John B. Bellinger>;H. Christopher Bartolomucci/WHO/EOP [WHO] <H. Christopher Bartolomucci>;Daniel J. Bartlett/WHO/EOP@Exchange [WHO] <Daniel J. Bartlett>;Andrea G. Barthwell/ONDCP/EOP [ONDCP] <Andrea G. Barthwell>;Ruben S. Barrales/WHO/EOP [WHO] <Ruben S. Barrales>;Andrea G. Ball/WHO/EOP [WHO] <Andrea G. Ball>;Jackie Arends/WHO/EOP [WHO] <Jackie Arends>;George M. Andricos/NSC/EOP [NSC] <George M. Andricos>;Cathy Alix/WHO/EOP [WHO] <Cathy Alix>;David S. Addington/OVP/EOP [OVP] <David S. Addington>;Elliott Abrams/NSC/EOP [NSC] <Elliott Abrams>;Charles S. Abbot/OVP/EOP [OVP] <Charles S. Abbot>

Sent: 12/18/2002 6:27:24 AM

Subject: : POSTMASTER: White House Mess Holiday Hours

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME:18-DEC-2002 11:27:24.00
SUBJECT:: POSTMASTER: White House Mess Holiday Hours
TO:Gina M. Wolford ( CN=Gina M. Wolford/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:David L. Travers ( CN=David L. Travers/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Harry W. Wolff ( CN=Harry W. Wolff/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Alexian T. Wines ( CN=Alexian T. Wines/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Patricia Williams ( CN=Patricia Williams/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Jared B. Weinstein ( CN=Jared B. Weinstein/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Matthew C. Waxman ( CN=Matthew C. Waxman/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Lauren J. Vestewig ( CN=Lauren J. Vestewig/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
```

TO:Terrill G. Tucker (CN=Terrill G. Tucker/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tevi Troy (CN=Tevi Troy/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Anne Trenolone (CN=Anne Trenolone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Julieanne H. Thomas (CN=Julieanne H. Thomas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Rachael L. Sunbarger (CN=Rachael L. Sunbarger/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan L. Sterner (CN=Susan L. Sterner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert E. Schubert (CN=Robert E. Schubert/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Deborah Sandler (CN=Deborah Sandler/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jean M. Russell (CN=Jean M. Russell/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Peter M. Rowan (CN=Peter M. Rowan/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Noelia Rodriguez (CN=Noelia Rodriguez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine B. Robinson (CN=Josephine B. Robinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Maurice C. Robinson (CN=Maurice C. Robinson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Christina D. Roberts (CN=Christina D. Roberts/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Allison L. Riepenhoff (CN=Allison L. Riepenhoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:January M. Riecke (CN=January M. Riecke/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Rhodes (CN=Katherine A. Rhodes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Reynolds (CN=Tim Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David Reyes (CN=David Reyes/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie E. Radcliff (CN=Leslie E. Radcliff/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexia Poe (CN=Alexia Poe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elliott M. Langer (CN=Elliott M. Langer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Clare Pritchett (CN=Clare Pritchett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Suzanne Primoff (CN=Suzanne Primoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John I. Pray (CN=John I. Pray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan D. Phillips (CN=Susan D. Phillips/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah Penny (CN=Sarah Penny/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Raymond H. Payne (CN=Raymond H. Payne/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Richard S. Paulus (CN=Richard S. Paulus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward J. Padinske (CN=Edward J. Padinske/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Eric H. Otto (CN=Eric H. Otto/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Lee B. Mynatt (CN=Lee B. Mynatt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Steven Myers (CN=Steven Myers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah M. Garrison (CN=Sarah M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul L. Morse (CN=Paul L. Morse/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie A. Mooney (CN=Leslie A. Mooney/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Cathy L. Millison (CN=Cathy L. Millison/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Holly M. Miller (CN=Holly M. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sonya E. Medina (CN=Sonya E. Medina/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Vickie A. McQuade (CN=Vickie A. McQuade/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sara B. McIntosh (CN=Sara B. McIntosh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter A. McCauley (CN=Peter A. McCauley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel M. McCarthy (CN=Daniel M. McCarthy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas S. Marsh (CN=Thomas S. Marsh/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lindsey M. Lineweaver (CN=Lindsey M. Lineweaver/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Laura E. Lineberry (CN=Laura E. Lineberry/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Adam L. Levine (CN=Adam L. Levine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christopher S. Legrand (CN=Christopher S. Legrand/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sang W. Lee (CN=Sang W. Lee/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jennie M. Koch (CN=Jennie M. Koch/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Andrew M. Kaver (CN=Andrew M. Kaver/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Dora Kale (CN=Dora Kale/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexander S. Joves (CN=Alexander S. Joves/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:M. Kay Joshi (CN=M. Kay Joshi/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Megan R. Johnston (CN=Megan R. Johnston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sydney R. Johnson (CN=Sydney R. Johnson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clarence C. Johnson (CN=Clarence C. Johnson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gordon D. Johndroe (CN=Gordon D. Johndroe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melanie A. Jackson (CN=Melanie A. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marilyn R. Jacanin (CN=Marilyn R. Jacanin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Restituto M. Francisco (CN=Restituto M. Francisco/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Sandra K. Evans (CN=Sandra K. Evans/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Regina L. Cain (CN=Regina L. Cain/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Brown (CN=Katherine A. Brown/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Bonnie S. Broadwick (CN=Bonnie S. Broadwick/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Theresa M. Hunter (CN=Theresa M. Hunter/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:A. Merrill Hughes (CN=A. Merrill Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jeffrey P. Houle (CN=Jeffrey P. Houle/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ashley Holbrook (CN=Ashley Holbrook/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine L. Hirsch (CN=Josephine L. Hirsch/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jane C. Heishman (CN=Jane C. Heishman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anne Heiligenstein (CN=Anne Heiligenstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. Hargis (CN=Robert C. Hargis/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison M. Harden (CN=Alison M. Harden/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary Ann Hanusa (CN=Mary Ann Hanusa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas A. Hall (CN=Thomas A. Hall/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary A. Haines (CN=Mary A. Haines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Katharina M. Hager (CN=Katharina M. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Henry C. Hager (CN=Henry C. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Albert J. Guarnieri (CN=Albert J. Guarnieri/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew W. Green (CN=Andrew W. Green/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Emily S. Gray (CN=Emily S. Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wendy E. Gray (CN=Wendy E. Gray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Britt Grant (CN=Britt Grant/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Travis C. Good (CN=Travis C. Good/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Georgia D. Godfrey (CN=Georgia D. Godfrey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Dorothy C. Garvin (CN=Dorothy C. Garvin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joachim D. Fuchs (CN=Joachim D. Fuchs/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Barbara J. Finn (CN=Barbara J. Finn/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jeanie L. Figg (CN=Jeanie L. Figg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jennifer D. Field (CN=Jennifer D. Field/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Douglas M. Erdahl (CN=Douglas M. Erdahl/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Ruth E. Elliott (CN=Ruth E. Elliott/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kady Dunlap (CN=Kady Dunlap/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eric A. Draper (CN=Eric A. Draper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joan R. Doty (CN=Joan R. Doty/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine L. Disston (CN=Katherine L. Disston/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Reed Dickens (CN=Reed Dickens/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josh Deckard (CN=Josh Deckard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley E. Davis (CN=Ashley E. Davis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jill Davie (CN=Jill Davie/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colin Crosby (CN=Colin Crosby/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lynn A. Crable (CN=Lynn A. Crable/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colby J. Cooper (CN=Colby J. Cooper/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Shane P. Chambers (CN=Shane P. Chambers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lois A. Cassano (CN=Lois A. Cassano/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Pamela R. Casey (CN=Pamela R. Casey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne E. Campbell (CN=Anne E. Campbell/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marcia J. Caler (CN=Marcia J. Caler/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Johnathan C. Bunting (CN=Johnathan C. Bunting/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marko R. Broz (CN=Marko R. Broz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gary E. Bresnahan (CN=Gary E. Bresnahan/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David R. Bohrer (CN=David R. Bohrer/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cheryl E. Barnett (CN=Cheryl E. Barnett/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell P. Backfield (CN=Mitchell P. Backfield/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jill L. Angelo (CN=Jill L. Angelo/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Ashleigh A. Adams (CN=Ashleigh A. Adams/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Joseph J. Shattan (CN=Joseph J. Shattan/OU=OVP/O=EOP [OVP])
READ:UNKNOWN

TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Richard J. Tubb (CN=Richard J. Tubb/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul J. Severs (CN=Paul J. Severs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joseph D. Rozek (CN=Joseph D. Rozek/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Steven J. Reynolds (CN=Steven J. Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Candida P. Wolff (CN=Candida P. Wolff/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel K. Wilmot (CN=Daniel K. Wilmot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:James R. Wilkinson (CN=James R. Wilkinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jocelyn White (CN=Jocelyn White/OU=WHF/O=EOP [OPM])
READ:UNKNOWN
TO:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul A. Wedderien (CN=Paul A. Wedderien/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John P. Walters (CN=John P. Walters/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine W. Tobias (CN=Catherine W. Tobias/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jose G. Suarez (CN=Jose G. Suarez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Aquiles F. Suarez (CN=Aquiles F. Suarez/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Angela B. Styles (CN=Angela B. Styles/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary A. Solberg (CN=Mary A. Solberg/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Augustine T. Smythe (CN=Augustine T. Smythe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Sharpy (CN=Thomas J. Sharpy/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Howard A. Schmidt (CN=Howard A. Schmidt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel Schecter (CN=Daniel Schecter/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Richard M. Russell (CN=Richard M. Russell/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Stephen S. Ruhlen (CN=Stephen S. Ruhlen/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark V. Rosenker (CN=Mark V. Rosenker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Ridge (CN=Thomas J. Ridge/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Nina Rees (CN=Nina Rees/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Craig Ray (CN=Craig Ray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kathie L. Olsen (CN=Kathie L. Olsen/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Newell (CN=John F. Newell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Manson O. Morris (CN=Manson O. Morris/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Paul D. Montanus (CN=Paul D. Montanus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. McAllister (CN=James M. McAllister/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric C. Pelletier (CN=Eric C. Pelletier/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Marcus Peacock (CN=Marcus Peacock/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Neil S. Patel (CN=Neil S. Patel/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Sean C. O'Keefe (CN=Sean C. O'Keefe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire M. O'Donnell (CN=Claire M. O'Donnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan K. Neely (CN=Susan K. Neely/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen S. McMillin (CN=Stephen S. McMillin/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark McClellan (CN=Mark McClellan/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Mary J. Matalin (CN=Mary J. Matalin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Catherine J. Martin (CN=Catherine J. Martin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John H. Marburger (CN=John H. Marburger/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Maisto (CN=John F. Maisto/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin A. MacLean (CN=Robin A. MacLean/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ado A. Machida (CN=Ado A. Machida/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Deborah A. Loewer (CN=Deborah A. Loewer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence B. Lindsey (CN=Lawrence B. Lindsey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Dirksen Lehman (CN=Dirksen Lehman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Laura S. Lawlor (CN=Laura S. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bruce M. Lawlor (CN=Bruce M. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Randall S. Kroszner (CN=Randall S. Kroszner/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Karen Y. Knutson (CN=Karen Y. Knutson/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Frank G. Klotz (CN=Frank G. Klotz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Ellis Kitchen (CN=Ellis Kitchen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles D. McGrath Jr (CN=Charles D. McGrath Jr/OU=OVP/O=EOP [OVP])
READ:UNKNOWN

TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Reuben Jeffery (CN=Reuben Jeffery/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hector F. Irastorza (CN=Hector F. Irastorza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Campen (CN=Tim Campen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Penrose C. Albright TPO (CN=Penrose C. Albright TPO/OU=TPO/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Steven I. Cooper TPO (CN=Steven I. Cooper TPO/OU=TPO/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Julian M. Flannery (CN=Julian M. Flannery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Duncan Campbell (CN=Duncan Campbell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:R. Rand Beers (CN=R. Rand Beers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Glenn Hubbard (CN=Glenn Hubbard/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Jack Howard (CN=Jack Howard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Holman (CN=Mark Holman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Chris Henick (CN=Chris Henick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Debra Heiden (CN=Debra Heiden/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Albert Hawkins (CN=Albert Hawkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John P. Hannah (CN=John P. Hannah/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John F. Haley (CN=John F. Haley/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John Graham (CN=John Graham/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:John A. Gordon (CN=John A. Gordon/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Stephen M. Garrison (CN=Stephen M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Diana E. Furchtgott-Roth (CN=Diana E. Furchtgott-Roth/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Everson (CN=Mark Everson/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric S. Edelman (CN=Eric S. Edelman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Wayne A. Downing (CN=Wayne A. Downing/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Nancy P. Dorn (CN=Nancy P. Dorn/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Diana C. Donnelly (CN=Diana C. Donnelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:James F. Daniel (CN=James F. Daniel/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Stacia L. Cropper (CN=Stacia L. Cropper/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Barry Crane (CN=Barry Crane/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:John B. Craig (CN=John B. Craig/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:James Connaughton (CN=James Connaughton/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cesar Conda (CN=Cesar Conda/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Douglas F. Cochrane (CN=Douglas F. Cochrane/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert W. Cobb (CN=Robert W. Cobb/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:John A. Cloud (CN=John A. Cloud/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Robin Cleveland (CN=Robin Cleveland/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Richard A. Clarke (CN=Richard A. Clarke/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Frank Cilluffo (CN=Frank Cilluffo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christine Ciccone (CN=Christine Ciccone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Barbara C. Chaffee (CN=Barbara C. Chaffee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James C. Capretta (CN=James C. Capretta/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Nicholas E. Calio (CN=Nicholas E. Calio/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott Burns (CN=Scott Burns/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carl Buchholz (CN=Carl Buchholz/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stuart W. Bowen (CN=Stuart W. Bowen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carlos E. Bonilla (CN=Carlos E. Bonilla/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lloyd A. Blanchard (CN=Lloyd A. Blanchard/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen E. Biegun (CN=Stephen E. Biegun/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Janet L. Berman (CN=Janet L. Berman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Andrea G. Barthwell (CN=Andrea G. Barthwell/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Cathy Alix (CN=Cathy Alix/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
End Original ARMS Header

In observance of the Holiday Season, the White House Mess will close on Tuesday, December 24, 2002 at 3:00pm and will reopen on regular schedule on Thursday, December 26, 2002. It will be closed during the weekend of December 28-29, 2002 reopening Monday, December 30, 2002. On Tuesday, December 31, 2002, the Mess will close at 3:00pm until January 2, 2003. If the need arises, we will change this schedule to accommodate staff members.

Thank you.

From: CN=PostMaster/O=EOP [OA]

To: Gina M. Wolford/NSC/EOP [NSC] <Gina M. Wolford>;David L. Travers/NSC/EOP [NSC] <David L. Travers>;Harry W. Wolff/WHO/EOP [WHO] <Harry W. Wolff>;Alexian T. Wines/NSC/EOP [NSC] <Alexian T. Wines>;Patricia Williams/WHO/EOP [WHO] <Patricia Williams>;Jared B. Weinstein/WHO/EOP@Exchange [WHO] <Jared B. Weinstein>;Matthew C. Waxman/NSC/EOP [NSC] <Matthew C. Waxman>;Lauren J. Vestewig/OPD/EOP [OPD] <Lauren J. Vestewig>;Terrill G. Tucker/NSC/EOP [NSC] <Terrill G. Tucker>;Tevi Troy/OPD/EOP [OPD] <Tevi Troy>;Anne Trenolone/WHO/EOP [WHO] <Anne Trenolone>;Julieanne H. Thomas/WHO/EOP [WHO] <Julieanne H. Thomas>;Rachael L. Sunbarger/WHO/EOP [WHO] <Rachael L. Sunbarger>;Susan L. Sterner/WHO/EOP [WHO] <Susan L. Sterner>;Ashley Snee/WHO/EOP [WHO] <Ashley Snee>;Robert E. Schubert/NSC/EOP [NSC] <Robert E. Schubert>;Deborah Sandler/NSC/EOP [NSC] <Deborah Sandler>;Jean M. Russell/OPD /EOP@Exchange [OPD] <Jean M. Russell>;Peter M. Rowan/WHO/EOP [UNKNOWN] <Peter M. Rowan>;Noelia Rodriguez/WHO/EOP [WHO] <Noelia Rodriguez>;Josephine B. Robinson/WHO/EOP [WHO] <Josephine B. Robinson>;Maurice C. Robinson/NSC/EOP [NSC] <Maurice C. Robinson>;Christina D. Roberts/WHO/EOP [UNKNOWN] <Christina D. Roberts>;Krista L. Ritacco/WHO/EOP@Exchange [WHO] <Krista L. Ritacco>;Allison L. Riepenhoff/WHO/EOP [WHO] <Allison L. Riepenhoff>;January M. Riecke/WHO/EOP [WHO] <January M. Riecke>;Katherine A. Rhodes/WHO/EOP [WHO] <Katherine A. Rhodes>;Tim Reynolds/WHO/EOP [WHO] <Tim Reynolds>;David Reyes/NSC/EOP [NSC] <David Reyes>;Susan B. Ralston/WHO/EOP [WHO] <Susan B. Ralston>;Leslie E. Radcliff/NSC/EOP [NSC] <Leslie E. Radcliff>;Alexia Poe/WHO/EOP [WHO] <Alexia Poe>;Charlotte L. Montiel/WHO/EOP [WHO] <Charlotte L. Montiel>;Elliott M. Langer/NSC/EOP [NSC] <Elliott M. Langer>;Clare Pritchett/WHO/EOP [WHO] <Clare Pritchett>;Suzanne Primoff/WHO/EOP [WHO] <Suzanne Primoff>;John I. Pray/NSC/EOP [NSC] <John I. Pray>;Susan D. Phillips/NSC/EOP [NSC] <Susan D. Phillips>;Sarah Penny/WHO/EOP [WHO] <Sarah Penny>;Raymond H. Payne/NSC/EOP [NSC] <Raymond H. Payne>;Richard S. Paulus/WHO/EOP [WHO] <Richard S. Paulus>;Edward J. Padinske/NSC/EOP [NSC] <Edward J. Padinske>;Eric H. Otto/OPD/EOP@Exchange [OPD] <Eric H. Otto>;Lee B. Mynatt/NSC/EOP [NSC] <Lee B. Mynatt>;Steven Myers/NSC/EOP [NSC] <Steven Myers>;Sarah M. Garrison/WHO/EOP [WHO] <Sarah M. Garrison>;Paul L. Morse/WHO/EOP [WHO] <Paul L. Morse>;Leslie A. Mooney/OPD/EOP@Exchange [OPD] <Leslie A. Mooney>;Cathy L. Millison/NSC/EOP [NSC] <Cathy L. Millison>;Holly M. Miller/WHO/EOP [WHO] <Holly M. Miller>;Sonya E. Medina/WHO/EOP [WHO] <Sonya E. Medina>;Vickie A. McQuade/WHO/EOP [WHO] <Vickie A. McQuade>;Sara B. McIntosh/WHO/EOP [WHO] <Sara B. McIntosh>;Peter A. McCauley/NSC/EOP [NSC] <Peter A. McCauley>;Daniel M. McCarthy/WHO/EOP [WHO] <Daniel M. McCarthy>;Thomas S. Marsh/NSC/EOP [NSC] <Thomas S. Marsh>;Colleen Litkenhaus/WHO/EOP [WHO] <Colleen Litkenhaus>;Lindsey M. Lineweaver/WHO/EOP [WHO] <Lindsey M. Lineweaver>;Laura E. Lineberry/NSC/EOP [NSC] <Laura E. Lineberry>;Adam L. Levine/WHO/EOP [WHO] <Adam L. Levine>;Christopher S. Legrand/NSC/EOP [NSC] <Christopher S. Legrand>;Sang W. Lee/NSC/EOP [NSC] <Sang W. Lee>;Jennie M. Koch/NSC/EOP [NSC] <Jennie M. Koch>;Andrew M. Kaver/NSC/EOP [UNKNOWN] <Andrew M. Kaver>;Dora Kale/NSC/EOP [NSC] <Dora Kale>;Alexander S. Joves/NSC/EOP [NSC] <Alexander S. Joves>;M. Kay Joshi/NSC/EOP [NSC] <M. Kay Joshi>;Alison Jones/WHO/EOP [WHO] <Alison Jones>;Megan R. Johnston/WHO/EOP [WHO] <Megan R. Johnston>;Sydney R. Johnson/WHO/EOP [WHO] <Sydney R. Johnson>;Clarence C. Johnson/NSC/EOP [NSC] <Clarence C. Johnson>;Gordon D. Johndroe/WHO/EOP [WHO] <Gordon D. Johndroe>;Melanie A. Jackson/WHO/EOP [WHO] <Melanie A. Jackson>;Marilyn R. Jacanin/WHO/EOP [WHO] <Marilyn R. Jacanin>;Restituto M. Francisco/OA/EOP [OA] <Restituto M. Francisco>;Sandra K. Evans/WHO/EOP [WHO] <Sandra K. Evans>;Regina L. Cain/WHO/EOP [WHO] <Regina L. Cain>;Katherine A. Brown/NSC/EOP [NSC] <Katherine A. Brown>;Bonnie S. Broadwick/NSC/EOP [NSC] <Bonnie S. Broadwick>;Theresa M. Hunter/NSC/EOP [NSC] <Theresa M. Hunter>;A. Merrill Hughes/WHO/EOP [UNKNOWN] <A. Merrill Hughes>;Jeffrey P. Houle/NSC/EOP [NSC] <Jeffrey P. Houle>;Ashley Holbrook/WHO/EOP [WHO] <Ashley Holbrook>;Josephine L. Hirsch/WHO/EOP [WHO] <Josephine L. Hirsch>;Jane C. Heishman/NSC/EOP [NSC] <Jane C. Heishman>;Anne Heiligenstein/WHO/EOP [WHO] <Anne Heiligenstein>;Robert C. Hargis/NSC/EOP [NSC] <Robert C. Hargis>;Alison M. Harden/WHO/EOP [WHO] <Alison M. Harden>;Mary Ann Hanusa/WHO/EOP [WHO] <Mary Ann Hanusa>;Thomas A. Hall/NSC/EOP [NSC] <Thomas A. Hall>;Mary A. Haines/NSC/EOP [NSC] <Mary A. Haines>;Katharina M. Hager/WHO/EOP [WHO] <Katharina M. Hager>;Henry C. Hager/WHO/EOP [WHO] <Henry C. Hager>;Albert J.

Guarnieri/NSC/EOP [NSC] <Albert J. Guarnieri>;Ginger G. Loper/WHO/EOP [WHO] <Ginger G. Loper>;Andrew W. Green/NSC/EOP [NSC] <Andrew W. Green>;Emily S. Gray/WHO/EOP [WHO] <Emily S. Gray>;Wendy E. Gray/NSC/EOP [NSC] <Wendy E. Gray>;Britt Grant/OPD/EOP [OPD] <Britt Grant>;Blake Gottesman/WHO/EOP [WHO] <Blake Gottesman>;Travis C. Good/NSC/EOP [UNKNOWN] <Travis C. Good>;Georgia D. Godfrey/WHO/EOP [WHO] <Georgia D. Godfrey>;Eleanor L. Gillmor/OPD/EOP [OPD] <Eleanor L. Gillmor>;Dorothy C. Garvin/WHO/EOP [WHO] <Dorothy C. Garvin>;Joachim D. Fuchs/NSC/EOP [NSC] <Joachim D. Fuchs>;Barbara J. Finn/OA/EOP [OA] <Barbara J. Finn>;Kara G. Figg/WHO/EOP@Exchange [WHO] <Kara G. Figg>;Jeanie L. Figg/WHO/EOP [WHO] <Jeanie L. Figg>;Jennifer D. Field/OVP/EOP [OVP] <Jennifer D. Field>;Douglas M. Erdahl/NSC/EOP [NSC] <Douglas M. Erdahl>;Ruth E. Elliott/NSC/EOP [NSC] <Ruth E. Elliott>;Kady Dunlap/WHO/EOP [WHO] <Kady Dunlap>;Eric A. Draper/WHO/EOP [WHO] <Eric A. Draper>;Joan R. Doty/WHO/EOP [WHO] <Joan R. Doty>;Katherine L. Disston/WHO /EOP@Exchange [WHO] <Katherine L. Disston>;Reed Dickens/WHO/EOP [WHO] <Reed Dickens>;Josh Deckard/WHO/EOP [WHO] <Josh Deckard>;Ashley E. Davis/WHO/EOP [WHO] <Ashley E. Davis>;Jill Davie/WHO/EOP [WHO] <Jill Davie>;Colin Crosby/NSC/EOP [NSC] <Colin Crosby>;Lynn A. Crable/WHO/EOP [WHO] <Lynn A. Crable>;Colby J. Cooper/NSC/EOP [NSC] <Colby J. Cooper>;Michael J. Conway/WHO/EOP [WHO] <Michael J. Conway>;Carolyn E. Cleveland/WHO/EOP [WHO] <Carolyn E. Cleveland>;Shane P. Chambers/WHO/EOP [WHO] <Shane P. Chambers>;Lois A. Cassano/WHO/EOP [WHO] <Lois A. Cassano>;Pamela R. Casey/WHO/EOP [WHO] <Pamela R. Casey>;Anne E. Campbell/WHO/EOP@Exchange [WHO] <Anne E. Campbell>;Elizabeth N. Camp/WHO/EOP [WHO] <Elizabeth N. Camp>;Marcia J. Caler/NSC/EOP [UNKNOWN] <Marcia J. Caler>;Johnathan C. Bunting/NSC/EOP [NSC] <Johnathan C. Bunting>;Patrick J. Bumatay/WHO/EOP [WHO] <Patrick J. Bumatay>;Marko R. Broz/NSC/EOP [NSC] <Marko R. Broz>;Gary E. Bresnahan/NSC/EOP [NSC] <Gary E. Bresnahan>;Brian Bravo/WHO/EOP [WHO] <Brian Bravo>;David R. Bohrer/OVP/EOP [OVP] <David R. Bohrer>;Debra D. Bird/WHO/EOP [WHO] <Debra D. Bird>;Melissa S. Bennett/WHO/EOP [WHO] <Melissa S. Bennett>;Cheryl E. Barnett/NSC/EOP [NSC] <Cheryl E. Barnett>;Tiffany L. Barfield/WHO/EOP [WHO] <Tiffany L. Barfield>;Mitchell P. Backfield/NSC/EOP [NSC] <Mitchell P. Backfield>;Jill L. Angelo/WHO/EOP [UNKNOWN] <Jill L. Angelo>;Ashleigh A. Adams/WHO/EOP [UNKNOWN] <Ashleigh A. Adams>;Joseph J. Shattan/OVP/EOP [OVP] <Joseph J. Shattan>;Kevin Warsh/OPD/EOP [OPD] <Kevin Warsh>;Richard J. Tubb/WHO/EOP [WHO] <Richard J. Tubb>;Paul J. Severs/WHO/EOP [WHO] <Paul J. Severs>;Joseph D. Rozek/OVP/EOP [OVP] <Joseph D. Rozek>;Steven J. Reynolds/WHO/EOP [WHO] <Steven J. Reynolds>;Candida P. Wolff/OVP/EOP [OVP] <Candida P. Wolff>;Heather Wingate/WHO/EOP [WHO] <Heather Wingate>;Daniel K. Wilmot/OVP/EOP [OVP] <Daniel K. Wilmot>;James R. Wilkinson/WHO/EOP [WHO] <James R. Wilkinson>;Jocelyn White/WHF/EOP [OPM] <Jocelyn White>;Lezlee J. Westine/WHO/EOP [WHO] <Lezlee J. Westine>;Peter H. Wehner/WHO/EOP [WHO] <Peter H. Wehner>;Paul A. Wedderien/NSC/EOP [NSC] <Paul A. Wedderien>;John P. Walters/ONDCP/EOP [ONDCP] <John P. Walters>;Helgard C. Walker/WHO/EOP [WHO] <Helgard C. Walker>;Jim Towey/WHO/EOP [WHO] <Jim Towey>;Catherine W. Tobias/OVP/EOP [OVP] <Catherine W. Tobias>;Jose G. Suarez/WHO/EOP [WHO] <Jose G. Suarez>;Aquiles F. Suarez/OPD/EOP [OPD] <Aquiles F. Suarez>;Angela B. Styles/OMB/EOP [OMB] <Angela B. Styles>;Mary K. Sturtevant/NSC/EOP [NSC] <Mary K. Sturtevant>;Margaret M. Spellings/OPD/EOP [OPD] <Margaret M. Spellings>;Deborah A. Spagnoli/WHO/EOP [WHO] <Deborah A. Spagnoli>;Mary A. Solberg/ONDCP/EOP [ONDCP] <Mary A. Solberg>;Augustine T. Smythe/OMB/EOP [OMB] <Augustine T. Smythe>;Kristen Silverberg/WHO/EOP [WHO] <Kristen Silverberg>;Thomas J. Sharpy/OVP/EOP [OVP] <Thomas J. Sharpy>;Scott N. Sforza/WHO/EOP [WHO] <Scott N. Sforza>;Howard A. Schmidt/NSC/EOP [NSC] <Howard A. Schmidt>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Daniel Schecter/ONDCP/EOP [ONDCP] <Daniel Schecter>;Diana L. Schacht/OPD/EOP [OPD] <Diana L. Schacht>;Desiree T. Sayle/WHO/EOP [WHO] <Desiree T. Sayle>;Kyle Sampson/WHO/EOP [WHO] <Kyle Sampson>;Richard M. Russell/OSTP/EOP [OSTP] <Richard M. Russell>;Stephen S. Ruhlen/OVP/EOP [OVP] <Stephen S. Ruhlen>;Karl C. Rove/WHO/EOP [WHO] <Karl C. Rove>;Mark V. Rosenker/WHO/EOP [WHO] <Mark V. Rosenker>;Thomas J. Ridge/WHO/EOP [WHO] <Thomas J. Ridge>;Condoleezza Rice/NSC/EOP [NSC] <Condoleezza Rice>;Nina Rees/OVP/EOP [OVP] <Nina Rees>;Craig Ray/WHO/EOP [WHO] <Craig Ray>;Benjamin A. Powell/WHO/EOP [WHO] <Benjamin A. Powell>;Kathie L. Olsen/OSTP/EOP [OSTP] <Kathie L. Olsen>;John F. Newell/WHO/EOP [WHO] <John F. Newell>;Manson O. Morris/OVP/EOP [OVP] <Manson O. Morris>;Paul D. Montanus/WHO/EOP [WHO] <Paul D. Montanus>;James M. McAllister/WHO/EOP [WHO] <James M. McAllister>;James M. Kelly/WHO/EOP [WHO] <James M. Kelly>;Dina

Powell/WHO/EOP [WHO] <Dina Powell>;Philip J. Perry/OMB/EOP [OMB] <Philip J. Perry>;Anna M. Perez/NSC/EOP [NSC] <Anna M. Perez>;Eric C. Pelletier/OMB/EOP [OMB] <Eric C. Pelletier>;Marcus Peacock/OMB/EOP [OMB] <Marcus Peacock>;Neil S. Patel/OVP/EOP [OVP] <Neil S. Patel>;Sean C. O'Keefe/OMB/EOP [OMB] <Sean C. O'Keefe>;Ziad S. Ojakli/WHO/EOP [WHO] <Ziad S. Ojakli>;Claire M. O'Donnell/OVP/EOP [OVP] <Claire M. O'Donnell>;Jennifer G. Newstead/WHO/EOP [WHO] <Jennifer G. Newstead>;Susan K. Neely/WHO/EOP [WHO] <Susan K. Neely>;Edmund C. Moy/WHO/EOP [WHO] <Edmund C. Moy>;James F. Moriarty/NSC/EOP [NSC] <James F. Moriarty>;Brian D. Montgomery/WHO/EOP [WHO] <Brian D. Montgomery>;Michael H. Miller/WHO/EOP [WHO] <Michael H. Miller>;Franklin C. Miller/NSC/EOP [NSC] <Franklin C. Miller>;Harriet Miers/WHO/EOP [WHO] <Harriet Miers>;Ken Mehlman/WHO/EOP [WHO] <Ken Mehlman>;Edward McNally/WHO/EOP [WHO] <Edward McNally>;Robert C. McNally/OPD/EOP [OPD] <Robert C. McNally>;Stephen S. McMillin/OMB/EOP [OMB] <Stephen S. McMillin>;Brian V. McCormack/OVP/EOP [OVP] <Brian V. McCormack>;John P. McConnell/OVP/EOP [OVP] <John P. McConnell>;Scott McClellan/WHO/EOP [WHO] <Scott McClellan>;Mark McClellan/CEA/EOP [UNKNOWN] <Mark McClellan>;Mary J. Matalin/OVP/EOP [OVP] <Mary J. Matalin>;Catherine J. Martin/OVP/EOP [OVP] <Catherine J. Martin>;Robert Marsh/WHO/EOP [WHO] <Robert Marsh>;John H. Marburger/OSTP/EOP [OSTP] <John H. Marburger>;John F. Maisto/NSC/EOP [NSC] <John F. Maisto>;Robin A. MacLean/WHO/EOP [WHO] <Robin A. MacLean>;Ado A. Machida/OVP/EOP [OVP] <Ado A. Machida>;Deborah A. Loewer/NSC/EOP [NSC] <Deborah A. Loewer>;Roland N. Litterst/WHO/EOP [WHO] <Roland N. Litterst>;Lawrence B. Lindsey/OPD/EOP@Exchange [OPD] <Lawrence B. Lindsey>;Lewis Libby/OVP/EOP [OVP] <Lewis Libby>;Dirksen Lehman/WHO/EOP [WHO] <Dirksen Lehman>;Jay P. Lefkowitz/OPD/EOP [OPD] <Jay P. Lefkowitz>;Laura S. Lawlor/WHO/EOP [WHO] <Laura S. Lawlor>;Bruce M. Lawlor/WHO/EOP [WHO] <Bruce M. Lawlor>;Paul B. Kurtz/NSC/EOP [NSC] <Paul B. Kurtz>;David Kuo/WHO/EOP [WHO] <David Kuo>;Randall S. Kroszner/CEA/EOP [CEA] <Randall S. Kroszner>;Karen Y. Knutson/OVP/EOP [OVP] <Karen Y. Knutson>;Frank G. Klotz/NSC/EOP [NSC] <Frank G. Klotz>;Elizabeth W. Kleppe/OVP/EOP [OVP] <Elizabeth W. Kleppe>;Ellis Kitchen/OA/EOP [OA] <Ellis Kitchen>;Matthew Kirk/WHO/EOP [WHO] <Matthew Kirk>;Zalmay M. Khalilzad/NSC/EOP [NSC] <Zalmay M. Khalilzad>;Daniel J. Keniry/WHO/EOP [WHO] <Daniel J. Keniry>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Joel D. Kaplan/WHO/EOP [WHO] <Joel D. Kaplan>;Charles D. McGrath Jr/OVP/EOP [OVP] <Charles D. McGrath Jr>;Robert G. Joseph/NSC/EOP [NSC] <Robert G. Joseph>;Reuben Jeffery/OPD/EOP [OPD] <Reuben Jeffery>;Barry S. Jackson/WHO/EOP [WHO] <Barry S. Jackson>;Hector F. Irastorza/WHO/EOP [WHO] <Hector F. Irastorza>;Edward Ingle/WHO/EOP [WHO] <Edward Ingle>;Clay Johnson III/WHO/EOP [WHO] <Clay Johnson III>;Tim Campen/OA/EOP [OA] <Tim Campen>;Penrose C. Albright TPO/TPO/OMB/EOP [OMB] <Penrose C. Albright TPO>;Steven I. Cooper TPO/TPO/OMB/EOP [OMB] <Steven I. Cooper TPO>;Keith Hennessey/OPD/EOP@Exchange [OPD] <Keith Hennessey>;Julian M. Flannery/WHO/EOP [WHO] <Julian M. Flannery>;Duncan Campbell/WHO/EOP [WHO] <Duncan Campbell>;R. Rand Beers/NSC/EOP [NSC] <R. Rand Beers>;Glenn Hubbard/CEA/EOP [CEA] <Glenn Hubbard>;Jack Howard/WHO/EOP [WHO] <Jack Howard>;Mark Holman/WHO/EOP [WHO] <Mark Holman>;David W. Hobbs/WHO/EOP [WHO] <David W. Hobbs>;Israel Hernandez/WHO/EOP [WHO] <Israel Hernandez>;Chris Henick/WHO/EOP [WHO] <Chris Henick>;Debra Heiden/OVP/EOP [OVP] <Debra Heiden>;Albert Hawkins/WHO/EOP [WHO] <Albert Hawkins>;John P. Hannah/OVP/EOP [OVP] <John P. Hannah>;John F. Haley/OVP/EOP [OVP] <John F. Haley>;Joseph W. Hagin/WHO/EOP [WHO] <Joseph W. Hagin>;Stephen J. Hadley/NSC/EOP [NSC] <Stephen J. Hadley>;Ann Gray/WHO/EOP [WHO] <Ann Gray>;John Graham/OMB/EOP [OMB] <John Graham>;John A. Gordon/NSC/EOP [NSC] <John A. Gordon>;Alberto R. Gonzales/WHO/EOP [WHO] <Alberto R. Gonzales>;Tim Goeglein/WHO/EOP [WHO] <Tim Goeglein>;Dylan C. Glenn/OPD/EOP [OPD] <Dylan C. Glenn>;Alan Gilbert/OPD/EOP [OPD] <Alan Gilbert>;Michael J. Gerson/WHO/EOP@Exchange [WHO] <Michael J. Gerson>;Stephen M. Garrison/WHO/EOP [WHO] <Stephen M. Garrison>;Kelley Gannon/WHO/EOP [WHO] <Kelley Gannon>;Linda M. Gambatesa/WHO/EOP [WHO] <Linda M. Gambatesa>;Diana E. Furchtgott-Roth/CEA/EOP [CEA] <Diana E. Furchtgott-Roth>;Daniel Fried/NSC/EOP [NSC] <Daniel Fried>;Jendayi E. Frazer/NSC/EOP [NSC] <Jendayi E. Frazer>;Noel J. Francisco/WHO/EOP [WHO] <Noel J. Francisco>;Lawrence A. Fleischer/WHO/EOP [WHO] <Lawrence A. Fleischer>;Catherine S. Fenton/WHO/EOP [WHO] <Catherine S. Fenton>;Richard Falkenrath/WHO/EOP [WHO] <Richard Falkenrath>;Nanette Everson/WHO/EOP [WHO] <Nanette Everson>;Mark Everson/OMB/EOP [OMB] <Mark Everson>;Ashley Estes/WHO/EOP [WHO] <Ashley Estes>;Tucker A. Eskew/WHO/EOP [WHO] <Tucker A. Eskew>;Gary R.

Edson/NSC/EOP [NSC] <Gary R. Edson>;Eric S. Edelman/OVP/EOP [OVP] <Eric S. Edelman>;Wayne A. Downing/NSC/EOP [UNKNOWN] <Wayne A. Downing>;Elizabeth S. Dougherty/OPD/EOP [OPD] <Elizabeth S. Dougherty>;Nancy P. Dorn/WHO/EOP [UNKNOWN] <Nancy P. Dorn>;Diana C. Donnelly/WHO/EOP [WHO] <Diana C. Donnelly>;Nicolle Devenish/WHO/EOP [WHO] <Nicolle Devenish>;Mitchell Daniels/OMB/EOP [OMB] <Mitchell Daniels>;James F. Daniel/OA/EOP [OA] <James F. Daniel>;Stacia L. Cropper/OA/EOP [OA] <Stacia L. Cropper>;Barry Crane/ONDCP/EOP [ONDCP] <Barry Crane>;John B. Craig/NSC/EOP [UNKNOWN] <John B. Craig>;Phil Cooney/CEQ/EOP [CEQ] <Phil Cooney>;Rebecca Contreras/WHO/EOP [WHO] <Rebecca Contreras>;Charles Conner/OPD/EOP [OPD] <Charles Conner>;James Connaughton/CEQ/EOP [CEQ] <James Connaughton>;Brian C. Conklin/WHO/EOP [WHO] <Brian C. Conklin>;Cesar Conda/OVP/EOP [OVP] <Cesar Conda>;Douglas F. Cochrane/OVP/EOP [OVP] <Douglas F. Cochrane>;Robert W. Cobb/WHO/EOP [UNKNOWN] <Robert W. Cobb>;John A. Cloud/NSC/EOP [NSC] <John A. Cloud>;Robin Cleveland/OMB/EOP [OMB] <Robin Cleveland>;Richard A. Clarke/NSC/EOP [NSC] <Richard A. Clarke>;Alicia P. Clark/WHO/EOP [WHO] <Alicia P. Clark>;Frank Cilluffo/WHO/EOP [WHO] <Frank Cilluffo>;Christine Ciccone/WHO/EOP [WHO] <Christine Ciccone>;Ronald I. Christie/OVP/EOP [UNKNOWN] <Ronald I. Christie>;Barbara C. Chaffee/WHO/EOP [WHO] <Barbara C. Chaffee>;Kirsten A. Chadwick/WHO/EOP [WHO] <Kirsten A. Chadwick>;Andrew H. Card/WHO/EOP [WHO] <Andrew H. Card>;James C. Capretta/OMB/EOP [OMB] <James C. Capretta>;Nicholas E. Calio/WHO/EOP [WHO] <Nicholas E. Calio>;Scott Burns/ONDCP/EOP [ONDCP] <Scott Burns>;Katja Bullock/WHO/EOP [WHO] <Katja Bullock>;Carl Buchholz/WHO/EOP [WHO] <Carl Buchholz>;Claire E. Buchan/WHO/EOP [WHO] <Claire E. Buchan>;John M. Bridgeland/OPD/EOP [OPD] <John M. Bridgeland>;Stuart W. Bowen/WHO/EOP [WHO] <Stuart W. Bowen>;Carlos E. Bonilla/OPD/EOP [OPD] <Carlos E. Bonilla>;Joshua B. Bolten/WHO/EOP [WHO] <Joshua B. Bolten>;Lloyd A. Blanchard/OMB/EOP [UNKNOWN] <Lloyd A. Blanchard>;Bradley A. Blakeman/WHO/EOP@Exchange [WHO] <Bradley A. Blakeman>;Charles P. Blahous/OPD/EOP [OPD] <Charles P. Blahous>;Stephen E. Biegun/NSC/EOP [NSC] <Stephen E. Biegun>;Rebecca A. Beynon/WHO/EOP [WHO] <Rebecca A. Beynon>;Janet L. Berman/OVP/EOP [OVP] <Janet L. Berman>;Bradford A. Berenson/WHO/EOP [WHO] <Bradford A. Berenson>;John B. Bellinger/NSC/EOP [NSC] <John B. Bellinger>;H. Christopher Bartolomucci/WHO/EOP [WHO] <H. Christopher Bartolomucci>;Daniel J. Bartlett/WHO/EOP@Exchange [WHO] <Daniel J. Bartlett>;Andrea G. Barthwell/ONDCP/EOP [ONDCP] <Andrea G. Barthwell>;Ruben S. Barrales/WHO/EOP [WHO] <Ruben S. Barrales>;Andrea G. Ball/WHO/EOP [WHO] <Andrea G. Ball>;Jackie Arends/WHO/EOP [WHO] <Jackie Arends>;George M. Andricos/NSC/EOP [NSC] <George M. Andricos>;Cathy Alix/WHO/EOP [WHO] <Cathy Alix>;David S. Addington/OVP/EOP [OVP] <David S. Addington>;Elliott Abrams/NSC/EOP [NSC] <Elliott Abrams>;Charles S. Abbot/OVP/EOP [OVP] <Charles S. Abbot>

Sent: 12/18/2002 6:27:24 AM

Subject: : POSTMASTER: White House Mess Holiday Hours

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME:18-DEC-2002 11:27:24.00
SUBJECT:: POSTMASTER: White House Mess Holiday Hours
TO:Gina M. Wolford ( CN=Gina M. Wolford/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:David L. Travers ( CN=David L. Travers/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Harry W. Wolff ( CN=Harry W. Wolff/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Alexian T. Wines ( CN=Alexian T. Wines/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Patricia Williams ( CN=Patricia Williams/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Jared B. Weinstein ( CN=Jared B. Weinstein/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Matthew C. Waxman ( CN=Matthew C. Waxman/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Lauren J. Vestewig ( CN=Lauren J. Vestewig/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
```

TO:Terrill G. Tucker (CN=Terrill G. Tucker/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tevi Troy (CN=Tevi Troy/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Anne Trenolone (CN=Anne Trenolone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Julieanne H. Thomas (CN=Julieanne H. Thomas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Rachael L. Sunbarger (CN=Rachael L. Sunbarger/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan L. Sterner (CN=Susan L. Sterner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert E. Schubert (CN=Robert E. Schubert/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Deborah Sandler (CN=Deborah Sandler/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jean M. Russell (CN=Jean M. Russell/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Peter M. Rowan (CN=Peter M. Rowan/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Noelia Rodriguez (CN=Noelia Rodriguez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine B. Robinson (CN=Josephine B. Robinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Maurice C. Robinson (CN=Maurice C. Robinson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Christina D. Roberts (CN=Christina D. Roberts/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Allison L. Riepenhoff (CN=Allison L. Riepenhoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:January M. Riecke (CN=January M. Riecke/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Rhodes (CN=Katherine A. Rhodes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Reynolds (CN=Tim Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David Reyes (CN=David Reyes/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie E. Radcliff (CN=Leslie E. Radcliff/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexia Poe (CN=Alexia Poe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elliott M. Langer (CN=Elliott M. Langer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Clare Pritchett (CN=Clare Pritchett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Suzanne Primoff (CN=Suzanne Primoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John I. Pray (CN=John I. Pray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan D. Phillips (CN=Susan D. Phillips/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah Penny (CN=Sarah Penny/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Raymond H. Payne (CN=Raymond H. Payne/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Richard S. Paulus (CN=Richard S. Paulus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward J. Padinske (CN=Edward J. Padinske/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Eric H. Otto (CN=Eric H. Otto/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Lee B. Mynatt (CN=Lee B. Mynatt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Steven Myers (CN=Steven Myers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah M. Garrison (CN=Sarah M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul L. Morse (CN=Paul L. Morse/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie A. Mooney (CN=Leslie A. Mooney/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Cathy L. Millison (CN=Cathy L. Millison/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Holly M. Miller (CN=Holly M. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sonya E. Medina (CN=Sonya E. Medina/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Vickie A. McQuade (CN=Vickie A. McQuade/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sara B. McIntosh (CN=Sara B. McIntosh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter A. McCauley (CN=Peter A. McCauley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel M. McCarthy (CN=Daniel M. McCarthy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas S. Marsh (CN=Thomas S. Marsh/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lindsey M. Lineweaver (CN=Lindsey M. Lineweaver/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Laura E. Lineberry (CN=Laura E. Lineberry/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Adam L. Levine (CN=Adam L. Levine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christopher S. Legrand (CN=Christopher S. Legrand/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sang W. Lee (CN=Sang W. Lee/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jennie M. Koch (CN=Jennie M. Koch/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Andrew M. Kaver (CN=Andrew M. Kaver/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Dora Kale (CN=Dora Kale/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexander S. Joves (CN=Alexander S. Joves/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:M. Kay Joshi (CN=M. Kay Joshi/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Megan R. Johnston (CN=Megan R. Johnston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sydney R. Johnson (CN=Sydney R. Johnson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clarence C. Johnson (CN=Clarence C. Johnson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gordon D. Johndroe (CN=Gordon D. Johndroe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melanie A. Jackson (CN=Melanie A. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marilyn R. Jacanin (CN=Marilyn R. Jacanin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Restituto M. Francisco (CN=Restituto M. Francisco/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Sandra K. Evans (CN=Sandra K. Evans/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Regina L. Cain (CN=Regina L. Cain/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Brown (CN=Katherine A. Brown/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Bonnie S. Broadwick (CN=Bonnie S. Broadwick/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Theresa M. Hunter (CN=Theresa M. Hunter/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:A. Merrill Hughes (CN=A. Merrill Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jeffrey P. Houle (CN=Jeffrey P. Houle/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ashley Holbrook (CN=Ashley Holbrook/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine L. Hirsch (CN=Josephine L. Hirsch/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jane C. Heishman (CN=Jane C. Heishman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anne Heiligenstein (CN=Anne Heiligenstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. Hargis (CN=Robert C. Hargis/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison M. Harden (CN=Alison M. Harden/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary Ann Hanusa (CN=Mary Ann Hanusa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas A. Hall (CN=Thomas A. Hall/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary A. Haines (CN=Mary A. Haines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Katharina M. Hager (CN=Katharina M. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Henry C. Hager (CN=Henry C. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Albert J. Guarnieri (CN=Albert J. Guarnieri/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew W. Green (CN=Andrew W. Green/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Emily S. Gray (CN=Emily S. Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wendy E. Gray (CN=Wendy E. Gray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Britt Grant (CN=Britt Grant/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Travis C. Good (CN=Travis C. Good/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Georgia D. Godfrey (CN=Georgia D. Godfrey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Dorothy C. Garvin (CN=Dorothy C. Garvin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joachim D. Fuchs (CN=Joachim D. Fuchs/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Barbara J. Finn (CN=Barbara J. Finn/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jeanie L. Figg (CN=Jeanie L. Figg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jennifer D. Field (CN=Jennifer D. Field/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Douglas M. Erdahl (CN=Douglas M. Erdahl/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Ruth E. Elliott (CN=Ruth E. Elliott/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kady Dunlap (CN=Kady Dunlap/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eric A. Draper (CN=Eric A. Draper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joan R. Doty (CN=Joan R. Doty/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine L. Disston (CN=Katherine L. Disston/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Reed Dickens (CN=Reed Dickens/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josh Deckard (CN=Josh Deckard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley E. Davis (CN=Ashley E. Davis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jill Davie (CN=Jill Davie/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colin Crosby (CN=Colin Crosby/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lynn A. Crable (CN=Lynn A. Crable/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colby J. Cooper (CN=Colby J. Cooper/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Shane P. Chambers (CN=Shane P. Chambers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lois A. Cassano (CN=Lois A. Cassano/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Pamela R. Casey (CN=Pamela R. Casey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne E. Campbell (CN=Anne E. Campbell/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marcia J. Caler (CN=Marcia J. Caler/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Johnathan C. Bunting (CN=Johnathan C. Bunting/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marko R. Broz (CN=Marko R. Broz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gary E. Bresnahan (CN=Gary E. Bresnahan/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David R. Bohrer (CN=David R. Bohrer/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cheryl E. Barnett (CN=Cheryl E. Barnett/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell P. Backfield (CN=Mitchell P. Backfield/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jill L. Angelo (CN=Jill L. Angelo/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Ashleigh A. Adams (CN=Ashleigh A. Adams/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Joseph J. Shattan (CN=Joseph J. Shattan/OU=OVP/O=EOP [OVP])
READ:UNKNOWN

TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Richard J. Tubb (CN=Richard J. Tubb/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul J. Severs (CN=Paul J. Severs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joseph D. Rozek (CN=Joseph D. Rozek/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Steven J. Reynolds (CN=Steven J. Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Candida P. Wolff (CN=Candida P. Wolff/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel K. Wilmot (CN=Daniel K. Wilmot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:James R. Wilkinson (CN=James R. Wilkinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jocelyn White (CN=Jocelyn White/OU=WHF/O=EOP [OPM])
READ:UNKNOWN
TO:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul A. Wedderien (CN=Paul A. Wedderien/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John P. Walters (CN=John P. Walters/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine W. Tobias (CN=Catherine W. Tobias/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jose G. Suarez (CN=Jose G. Suarez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Aquiles F. Suarez (CN=Aquiles F. Suarez/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Angela B. Styles (CN=Angela B. Styles/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary A. Solberg (CN=Mary A. Solberg/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Augustine T. Smythe (CN=Augustine T. Smythe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Sharpy (CN=Thomas J. Sharpy/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Howard A. Schmidt (CN=Howard A. Schmidt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel Schecter (CN=Daniel Schecter/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Richard M. Russell (CN=Richard M. Russell/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Stephen S. Ruhlen (CN=Stephen S. Ruhlen/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark V. Rosenker (CN=Mark V. Rosenker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Ridge (CN=Thomas J. Ridge/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Nina Rees (CN=Nina Rees/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Craig Ray (CN=Craig Ray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kathie L. Olsen (CN=Kathie L. Olsen/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Newell (CN=John F. Newell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Manson O. Morris (CN=Manson O. Morris/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Paul D. Montanus (CN=Paul D. Montanus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. McAllister (CN=James M. McAllister/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric C. Pelletier (CN=Eric C. Pelletier/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Marcus Peacock (CN=Marcus Peacock/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Neil S. Patel (CN=Neil S. Patel/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Sean C. O'Keefe (CN=Sean C. O'Keefe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire M. O'Donnell (CN=Claire M. O'Donnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan K. Neely (CN=Susan K. Neely/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen S. McMillin (CN=Stephen S. McMillin/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark McClellan (CN=Mark McClellan/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Mary J. Matalin (CN=Mary J. Matalin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Catherine J. Martin (CN=Catherine J. Martin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John H. Marburger (CN=John H. Marburger/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Maisto (CN=John F. Maisto/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin A. MacLean (CN=Robin A. MacLean/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ado A. Machida (CN=Ado A. Machida/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Deborah A. Loewer (CN=Deborah A. Loewer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence B. Lindsey (CN=Lawrence B. Lindsey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Dirksen Lehman (CN=Dirksen Lehman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Laura S. Lawlor (CN=Laura S. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bruce M. Lawlor (CN=Bruce M. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Randall S. Kroszner (CN=Randall S. Kroszner/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Karen Y. Knutson (CN=Karen Y. Knutson/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Frank G. Klotz (CN=Frank G. Klotz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Ellis Kitchen (CN=Ellis Kitchen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles D. McGrath Jr (CN=Charles D. McGrath Jr/OU=OVP/O=EOP [OVP])
READ:UNKNOWN

TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Reuben Jeffery (CN=Reuben Jeffery/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hector F. Irastorza (CN=Hector F. Irastorza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Campen (CN=Tim Campen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Penrose C. Albright TPO (CN=Penrose C. Albright TPO/OU=TPO/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Steven I. Cooper TPO (CN=Steven I. Cooper TPO/OU=TPO/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Julian M. Flannery (CN=Julian M. Flannery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Duncan Campbell (CN=Duncan Campbell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:R. Rand Beers (CN=R. Rand Beers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Glenn Hubbard (CN=Glenn Hubbard/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Jack Howard (CN=Jack Howard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Holman (CN=Mark Holman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Chris Henick (CN=Chris Henick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Debra Heiden (CN=Debra Heiden/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Albert Hawkins (CN=Albert Hawkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John P. Hannah (CN=John P. Hannah/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John F. Haley (CN=John F. Haley/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John Graham (CN=John Graham/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:John A. Gordon (CN=John A. Gordon/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Stephen M. Garrison (CN=Stephen M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Diana E. Furchtgott-Roth (CN=Diana E. Furchtgott-Roth/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Everson (CN=Mark Everson/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric S. Edelman (CN=Eric S. Edelman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Wayne A. Downing (CN=Wayne A. Downing/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Nancy P. Dorn (CN=Nancy P. Dorn/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Diana C. Donnelly (CN=Diana C. Donnelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:James F. Daniel (CN=James F. Daniel/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Stacia L. Cropper (CN=Stacia L. Cropper/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Barry Crane (CN=Barry Crane/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:John B. Craig (CN=John B. Craig/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:James Connaughton (CN=James Connaughton/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cesar Conda (CN=Cesar Conda/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Douglas F. Cochrane (CN=Douglas F. Cochrane/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert W. Cobb (CN=Robert W. Cobb/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:John A. Cloud (CN=John A. Cloud/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Robin Cleveland (CN=Robin Cleveland/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Richard A. Clarke (CN=Richard A. Clarke/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Frank Cilluffo (CN=Frank Cilluffo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christine Ciccone (CN=Christine Ciccone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Barbara C. Chaffee (CN=Barbara C. Chaffee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James C. Capretta (CN=James C. Capretta/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Nicholas E. Calio (CN=Nicholas E. Calio/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott Burns (CN=Scott Burns/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carl Buchholz (CN=Carl Buchholz/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stuart W. Bowen (CN=Stuart W. Bowen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carlos E. Bonilla (CN=Carlos E. Bonilla/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lloyd A. Blanchard (CN=Lloyd A. Blanchard/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen E. Biegun (CN=Stephen E. Biegun/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Janet L. Berman (CN=Janet L. Berman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Andrea G. Barthwell (CN=Andrea G. Barthwell/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Cathy Alix (CN=Cathy Alix/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
End Original ARMS Header

In observance of the Holiday Season, the White House Mess will close on Tuesday, December 24, 2002 at 3:00pm and will reopen on regular schedule on Thursday, December 26, 2002. It will be closed during the weekend of December 28-29, 2002 reopening Monday, December 30, 2002. On Tuesday, December 31, 2002, the Mess will close at 3:00pm until January 2, 2003. If the need arises, we will change this schedule to accommodate staff members.

Thank you.

From: CN=PostMaster/O=EOP [OA]

To: Gina M. Wolford/NSC/EOP [NSC] <Gina M. Wolford>;David L. Travers/NSC/EOP [NSC] <David L. Travers>;Harry W. Wolff/WHO/EOP [WHO] <Harry W. Wolff>;Alexian T. Wines/NSC/EOP [NSC] <Alexian T. Wines>;Patricia Williams/WHO/EOP [WHO] <Patricia Williams>;Jared B. Weinstein/WHO/EOP@Exchange [WHO] <Jared B. Weinstein>;Matthew C. Waxman/NSC/EOP [NSC] <Matthew C. Waxman>;Lauren J. Vestewig/OPD/EOP [OPD] <Lauren J. Vestewig>;Terrill G. Tucker/NSC/EOP [NSC] <Terrill G. Tucker>;Tevi Troy/OPD/EOP [OPD] <Tevi Troy>;Anne Trenolone/WHO/EOP [WHO] <Anne Trenolone>;Julieanne H. Thomas/WHO/EOP [WHO] <Julieanne H. Thomas>;Rachael L. Sunbarger/WHO/EOP [WHO] <Rachael L. Sunbarger>;Susan L. Sterner/WHO/EOP [WHO] <Susan L. Sterner>;Ashley Snee/WHO/EOP [WHO] <Ashley Snee>;Robert E. Schubert/NSC/EOP [NSC] <Robert E. Schubert>;Deborah Sandler/NSC/EOP [NSC] <Deborah Sandler>;Jean M. Russell/OPD /EOP@Exchange [OPD] <Jean M. Russell>;Peter M. Rowan/WHO/EOP [UNKNOWN] <Peter M. Rowan>;Noelia Rodriguez/WHO/EOP [WHO] <Noelia Rodriguez>;Josephine B. Robinson/WHO/EOP [WHO] <Josephine B. Robinson>;Maurice C. Robinson/NSC/EOP [NSC] <Maurice C. Robinson>;Christina D. Roberts/WHO/EOP [UNKNOWN] <Christina D. Roberts>;Krista L. Ritacco/WHO/EOP [WHO] <Krista L. Ritacco>;Allison L. Riepenhoff/WHO/EOP [WHO] <Allison L. Riepenhoff>;January M. Riecke/WHO/EOP [WHO] <January M. Riecke>;Katherine A. Rhodes/WHO/EOP [WHO] <Katherine A. Rhodes>;Tim Reynolds/WHO/EOP [WHO] <Tim Reynolds>;David Reyes/NSC/EOP [NSC] <David Reyes>;Susan B. Ralston/WHO/EOP [WHO] <Susan B. Ralston>;Leslie E. Radcliff/NSC/EOP [NSC] <Leslie E. Radcliff>;Alexia Poe/WHO/EOP [WHO] <Alexia Poe>;Charlotte L. Montiel/WHO/EOP [WHO] <Charlotte L. Montiel>;Elliott M. Langer/NSC/EOP [NSC] <Elliott M. Langer>;Clare Pritchett/WHO/EOP [WHO] <Clare Pritchett>;Suzanne Primoff/WHO/EOP [WHO] <Suzanne Primoff>;John I. Pray/NSC/EOP [NSC] <John I. Pray>;Susan D. Phillips/NSC/EOP [NSC] <Susan D. Phillips>;Sarah Penny/WHO/EOP [WHO] <Sarah Penny>;Raymond H. Payne/NSC/EOP [NSC] <Raymond H. Payne>;Richard S. Paulus/WHO/EOP [WHO] <Richard S. Paulus>;Edward J. Padinske/NSC/EOP [NSC] <Edward J. Padinske>;Eric H. Otto/OPD/EOP@Exchange [OPD] <Eric H. Otto>;Lee B. Mynatt/NSC/EOP [NSC] <Lee B. Mynatt>;Steven Myers/NSC/EOP [NSC] <Steven Myers>;Sarah M. Garrison/WHO/EOP [WHO] <Sarah M. Garrison>;Paul L. Morse/WHO/EOP [WHO] <Paul L. Morse>;Leslie A. Mooney/OPD/EOP@Exchange [OPD] <Leslie A. Mooney>;Cathy L. Millison/NSC/EOP [NSC] <Cathy L. Millison>;Holly M. Miller/WHO/EOP [WHO] <Holly M. Miller>;Sonya E. Medina/WHO/EOP [WHO] <Sonya E. Medina>;Vickie A. McQuade/WHO/EOP [WHO] <Vickie A. McQuade>;Sara B. McIntosh/WHO/EOP [WHO] <Sara B. McIntosh>;Peter A. McCauley/NSC/EOP [NSC] <Peter A. McCauley>;Daniel M. McCarthy/WHO/EOP [WHO] <Daniel M. McCarthy>;Thomas S. Marsh/NSC/EOP [NSC] <Thomas S. Marsh>;Colleen Litkenhaus/WHO/EOP [WHO] <Colleen Litkenhaus>;Lindsey M. Lineweaver/WHO/EOP [WHO] <Lindsey M. Lineweaver>;Laura E. Lineberry/NSC/EOP [NSC] <Laura E. Lineberry>;Adam L. Levine/WHO/EOP [WHO] <Adam L. Levine>;Christopher S. Legrand/NSC/EOP [NSC] <Christopher S. Legrand>;Sang W. Lee/NSC/EOP [NSC] <Sang W. Lee>;Jennie M. Koch/NSC/EOP [NSC] <Jennie M. Koch>;Andrew M. Kaver/NSC/EOP [UNKNOWN] <Andrew M. Kaver>;Dora Kale/NSC/EOP [NSC] <Dora Kale>;Alexander S. Joves/NSC/EOP [NSC] <Alexander S. Joves>;M. Kay Joshi/NSC/EOP [NSC] <M. Kay Joshi>;Alison Jones/WHO/EOP [WHO] <Alison Jones>;Megan R. Johnston/WHO/EOP [WHO] <Megan R. Johnston>;Sydney R. Johnson/WHO/EOP [WHO] <Sydney R. Johnson>;Clarence C. Johnson/NSC/EOP [NSC] <Clarence C. Johnson>;Gordon D. Johndroe/WHO/EOP [WHO] <Gordon D. Johndroe>;Melanie A. Jackson/WHO/EOP [WHO] <Melanie A. Jackson>;Marilyn R. Jacanin/WHO/EOP [WHO] <Marilyn R. Jacanin>;Restituto M. Francisco/OA/EOP [OA] <Restituto M. Francisco>;Sandra K. Evans/WHO/EOP [WHO] <Sandra K. Evans>;Regina L. Cain/WHO/EOP [WHO] <Regina L. Cain>;Katherine A. Brown/NSC/EOP [NSC] <Katherine A. Brown>;Bonnie S. Broadwick/NSC/EOP [NSC] <Bonnie S. Broadwick>;Theresa M. Hunter/NSC/EOP [NSC] <Theresa M. Hunter>;A. Merrill Hughes/WHO/EOP [UNKNOWN] <A. Merrill Hughes>;Jeffrey P. Houle/NSC/EOP [NSC] <Jeffrey P. Houle>;Ashley Holbrook/WHO/EOP [WHO] <Ashley Holbrook>;Josephine L. Hirsch/WHO/EOP [WHO] <Josephine L. Hirsch>;Jane C. Heishman/NSC/EOP [NSC] <Jane C. Heishman>;Anne Heiligenstein/WHO/EOP [WHO] <Anne Heiligenstein>;Robert C. Hargis/NSC/EOP [NSC] <Robert C. Hargis>;Alison M. Harden/WHO/EOP [WHO] <Alison M. Harden>;Mary Ann Hanusa/WHO/EOP [WHO] <Mary Ann Hanusa>;Thomas A. Hall/NSC/EOP [NSC] <Thomas A. Hall>;Mary A. Haines/NSC/EOP [NSC] <Mary A. Haines>;Katharina M. Hager/WHO/EOP [WHO] <Katharina M. Hager>;Henry C. Hager/WHO/EOP [WHO] <Henry C. Hager>;Albert J.

Guarnieri/NSC/EOP [NSC] <Albert J. Guarnieri>;Ginger G. Loper/WHO/EOP [WHO] <Ginger G. Loper>;Andrew W. Green/NSC/EOP [NSC] <Andrew W. Green>;Emily S. Gray/WHO/EOP [WHO] <Emily S. Gray>;Wendy E. Gray/NSC/EOP [NSC] <Wendy E. Gray>;Britt Grant/OPD/EOP [OPD] <Britt Grant>;Blake Gottesman/WHO/EOP [WHO] <Blake Gottesman>;Travis C. Good/NSC/EOP [UNKNOWN] <Travis C. Good>;Georgia D. Godfrey/WHO/EOP [WHO] <Georgia D. Godfrey>;Eleanor L. Gillmor/OPD/EOP [OPD] <Eleanor L. Gillmor>;Dorothy C. Garvin/WHO/EOP [WHO] <Dorothy C. Garvin>;Joachim D. Fuchs/NSC/EOP [NSC] <Joachim D. Fuchs>;Barbara J. Finn/OA/EOP [OA] <Barbara J. Finn>;Kara G. Figg/WHO/EOP@Exchange [WHO] <Kara G. Figg>;Jeanie L. Figg/WHO/EOP [WHO] <Jeanie L. Figg>;Jennifer D. Field/OVP/EOP [OVP] <Jennifer D. Field>;Douglas M. Erdahl/NSC/EOP [NSC] <Douglas M. Erdahl>;Ruth E. Elliott/NSC/EOP [NSC] <Ruth E. Elliott>;Kady Dunlap/WHO/EOP [WHO] <Kady Dunlap>;Eric A. Draper/WHO/EOP [WHO] <Eric A. Draper>;Joan R. Doty/WHO/EOP [WHO] <Joan R. Doty>;Katherine L. Disston/WHO/EOP [WHO] <Katherine L. Disston>;Reed Dickens/WHO/EOP [WHO] <Reed Dickens>;Josh Deckard/WHO/EOP [WHO] <Josh Deckard>;Ashley E. Davis/WHO/EOP [WHO] <Ashley E. Davis>;Jill Davie/WHO/EOP [WHO] <Jill Davie>;Colin Crosby/NSC/EOP [NSC] <Colin Crosby>;Lynn A. Crable/WHO/EOP [WHO] <Lynn A. Crable>;Colby J. Cooper/NSC/EOP [NSC] <Colby J. Cooper>;Michael J. Conway/WHO/EOP [WHO] <Michael J. Conway>;Carolyn E. Cleveland/WHO/EOP [WHO] <Carolyn E. Cleveland>;Shane P. Chambers/WHO/EOP [WHO] <Shane P. Chambers>;Lois A. Cassano/WHO/EOP [WHO] <Lois A. Cassano>;Pamela R. Casey/WHO/EOP [WHO] <Pamela R. Casey>;Anne E. Campbell/WHO/EOP [WHO] <Anne E. Campbell>;Elizabeth N. Camp/WHO/EOP [WHO] <Elizabeth N. Camp>;Marcia J. Caler/NSC/EOP [UNKNOWN] <Marcia J. Caler>;Johnathan C. Bunting/NSC/EOP [NSC] <Johnathan C. Bunting>;Patrick J. Bumatay/WHO/EOP [WHO] <Patrick J. Bumatay>;Marko R. Broz/NSC/EOP [NSC] <Marko R. Broz>;Gary E. Bresnahan/NSC/EOP [NSC] <Gary E. Bresnahan>;Brian Bravo/WHO/EOP [WHO] <Brian Bravo>;David R. Bohrer/OVP/EOP [OVP] <David R. Bohrer>;Debra D. Bird/WHO/EOP [WHO] <Debra D. Bird>;Melissa S. Bennett/WHO/EOP [WHO] <Melissa S. Bennett>;Cheryl E. Barnett/NSC/EOP [NSC] <Cheryl E. Barnett>;Tiffany L. Barfield/WHO/EOP [WHO] <Tiffany L. Barfield>;Mitchell P. Backfield/NSC/EOP [NSC] <Mitchell P. Backfield>;Jill L. Angelo/WHO/EOP [UNKNOWN] <Jill L. Angelo>;Ashleigh A. Adams/WHO/EOP [UNKNOWN] <Ashleigh A. Adams>;Joseph J. Shattan/OVP/EOP [OVP] <Joseph J. Shattan>;Kevin Warsh/OPD/EOP [OPD] <Kevin Warsh>;Richard J. Tubb/WHO/EOP [WHO] <Richard J. Tubb>;Paul J. Severs/WHO/EOP [WHO] <Paul J. Severs>;Joseph D. Rozek/OVP/EOP [OVP] <Joseph D. Rozek>;Steven J. Reynolds/WHO/EOP [WHO] <Steven J. Reynolds>;Candida P. Wolff/OVP/EOP [OVP] <Candida P. Wolff>;Heather Wingate/WHO/EOP [WHO] <Heather Wingate>;Daniel K. Wilmot/OVP/EOP [OVP] <Daniel K. Wilmot>;James R. Wilkinson/WHO/EOP [WHO] <James R. Wilkinson>;Jocelyn White/WHF/EOP [OPM] <Jocelyn White>;Lezlee J. Westine/WHO/EOP [WHO] <Lezlee J. Westine>;Peter H. Wehner/WHO/EOP [WHO] <Peter H. Wehner>;Paul A. Wedderien/NSC/EOP [NSC] <Paul A. Wedderien>;John P. Walters/ONDCP/EOP [ONDCP] <John P. Walters>;Helgard C. Walker/WHO/EOP [WHO] <Helgard C. Walker>;Jim Towey/WHO/EOP [WHO] <Jim Towey>;Catherine W. Tobias/OVP/EOP [OVP] <Catherine W. Tobias>;Jose G. Suarez/WHO/EOP [WHO] <Jose G. Suarez>;Aquiles F. Suarez/OPD/EOP [OPD] <Aquiles F. Suarez>;Angela B. Styles/OMB/EOP [OMB] <Angela B. Styles>;Mary K. Sturtevant/NSC/EOP [NSC] <Mary K. Sturtevant>;Margaret M. Spellings/OPD/EOP [OPD] <Margaret M. Spellings>;Deborah A. Spagnoli/WHO/EOP [WHO] <Deborah A. Spagnoli>;Mary A. Solberg/ONDCP/EOP [ONDCP] <Mary A. Solberg>;Augustine T. Smythe/OMB/EOP [OMB] <Augustine T. Smythe>;Kristen Silverberg/WHO/EOP [WHO] <Kristen Silverberg>;Thomas J. Sharpy/OVP/EOP [OVP] <Thomas J. Sharpy>;Scott N. Sforza/WHO/EOP [WHO] <Scott N. Sforza>;Howard A. Schmidt/NSC/EOP [NSC] <Howard A. Schmidt>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Daniel Schecter/ONDCP/EOP [ONDCP] <Daniel Schecter>;Diana L. Schacht/OPD/EOP [OPD] <Diana L. Schacht>;Desiree T. Sayle/WHO/EOP [WHO] <Desiree T. Sayle>;Kyle Sampson/WHO/EOP [WHO] <Kyle Sampson>;Richard M. Russell/OSTP/EOP [OSTP] <Richard M. Russell>;Stephen S. Ruhlen/OVP/EOP [OVP] <Stephen S. Ruhlen>;Karl C. Rove/WHO/EOP [WHO] <Karl C. Rove>;Mark V. Rosenker/WHO/EOP [WHO] <Mark V. Rosenker>;Thomas J. Ridge/WHO/EOP [WHO] <Thomas J. Ridge>;Condoleezza Rice/NSC/EOP [NSC] <Condoleezza Rice>;Nina Rees/OVP/EOP [OVP] <Nina Rees>;Craig Ray/WHO/EOP [WHO] <Craig Ray>;Benjamin A. Powell/WHO/EOP [WHO] <Benjamin A. Powell>;Kathie L. Olsen/OSTP/EOP [OSTP] <Kathie L. Olsen>;John F. Newell/WHO/EOP [WHO] <John F. Newell>;Manson O. Morris/OVP/EOP [OVP] <Manson O. Morris>;Paul D. Montanus/WHO/EOP [WHO] <Paul D. Montanus>;James M. McAllister/WHO/EOP [WHO] <James M. McAllister>;James M. Kelly/WHO/EOP [WHO] <James M. Kelly>;Dina

Powell/WHO/EOP [WHO] <Dina Powell>;Philip J. Perry/OMB/EOP [OMB] <Philip J. Perry>;Anna M. Perez/NSC/EOP [NSC] <Anna M. Perez>;Eric C. Pelletier/OMB/EOP [OMB] <Eric C. Pelletier>;Marcus Peacock/OMB/EOP [OMB] <Marcus Peacock>;Neil S. Patel/OVP/EOP [OVP] <Neil S. Patel>;Sean C. O'Keefe/OMB/EOP [OMB] <Sean C. O'Keefe>;Ziad S. Ojakli/WHO/EOP [WHO] <Ziad S. Ojakli>;Claire M. O'Donnell/OVP/EOP [OVP] <Claire M. O'Donnell>;Jennifer G. Newstead/WHO/EOP [WHO] <Jennifer G. Newstead>;Susan K. Neely/WHO/EOP [WHO] <Susan K. Neely>;Edmund C. Moy/WHO/EOP [WHO] <Edmund C. Moy>;James F. Moriarty/NSC/EOP [NSC] <James F. Moriarty>;Brian D. Montgomery/WHO/EOP [WHO] <Brian D. Montgomery>;Michael H. Miller/WHO/EOP [WHO] <Michael H. Miller>;Franklin C. Miller/NSC/EOP [NSC] <Franklin C. Miller>;Harriet Miers/WHO/EOP [WHO] <Harriet Miers>;Ken Mehlman/WHO/EOP [WHO] <Ken Mehlman>;Edward McNally/WHO/EOP [WHO] <Edward McNally>;Robert C. McNally/OPD/EOP [OPD] <Robert C. McNally>;Stephen S. McMillin/OMB/EOP [OMB] <Stephen S. McMillin>;Brian V. McCormack/OVP/EOP [OVP] <Brian V. McCormack>;John P. McConnell/OVP/EOP [OVP] <John P. McConnell>;Scott McClellan/WHO/EOP [WHO] <Scott McClellan>;Mark McClellan/CEA/EOP [UNKNOWN] <Mark McClellan>;Mary J. Matalin/OVP/EOP [OVP] <Mary J. Matalin>;Catherine J. Martin/OVP/EOP [OVP] <Catherine J. Martin>;Robert Marsh/WHO/EOP [WHO] <Robert Marsh>;John H. Marburger/OSTP/EOP [OSTP] <John H. Marburger>;John F. Maisto/NSC/EOP [NSC] <John F. Maisto>;Robin A. MacLean/WHO/EOP [WHO] <Robin A. MacLean>;Ado A. Machida/OVP/EOP [OVP] <Ado A. Machida>;Deborah A. Loewer/NSC/EOP [NSC] <Deborah A. Loewer>;Roland N. Litterst/WHO/EOP [WHO] <Roland N. Litterst>;Lawrence B. Lindsey/OPD/EOP@Exchange [OPD] <Lawrence B. Lindsey>;Lewis Libby/OVP/EOP [OVP] <Lewis Libby>;Dirksen Lehman/WHO/EOP [WHO] <Dirksen Lehman>;Jay P. Lefkowitz/OPD/EOP [OPD] <Jay P. Lefkowitz>;Laura S. Lawlor/WHO/EOP [WHO] <Laura S. Lawlor>;Bruce M. Lawlor/WHO/EOP [WHO] <Bruce M. Lawlor>;Paul B. Kurtz/NSC/EOP [NSC] <Paul B. Kurtz>;David Kuo/WHO/EOP [WHO] <David Kuo>;Randall S. Kroszner/CEA/EOP [CEA] <Randall S. Kroszner>;Karen Y. Knutson/OVP/EOP [OVP] <Karen Y. Knutson>;Frank G. Klotz/NSC/EOP [NSC] <Frank G. Klotz>;Elizabeth W. Kleppe/OVP/EOP [OVP] <Elizabeth W. Kleppe>;Ellis Kitchen/OA/EOP [OA] <Ellis Kitchen>;Matthew Kirk/WHO/EOP [WHO] <Matthew Kirk>;Zalmay M. Khalilzad/NSC/EOP [NSC] <Zalmay M. Khalilzad>;Daniel J. Keniry/WHO/EOP [WHO] <Daniel J. Keniry>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Joel D. Kaplan/WHO/EOP [WHO] <Joel D. Kaplan>;Charles D. McGrath Jr/OVP/EOP [OVP] <Charles D. McGrath Jr>;Robert G. Joseph/NSC/EOP [NSC] <Robert G. Joseph>;Reuben Jeffery/OPD/EOP [OPD] <Reuben Jeffery>;Barry S. Jackson/WHO/EOP [WHO] <Barry S. Jackson>;Hector F. Irastorza/WHO/EOP [WHO] <Hector F. Irastorza>;Edward Ingle/WHO/EOP [WHO] <Edward Ingle>;Clay Johnson III/WHO/EOP [WHO] <Clay Johnson III>;Tim Campen/OA/EOP [OA] <Tim Campen>;Penrose C. Albright TPO/TPO/OMB/EOP [OMB] <Penrose C. Albright TPO>;Steven I. Cooper TPO/TPO/OMB/EOP [OMB] <Steven I. Cooper TPO>;Keith Hennessey/OPD/EOP@Exchange [OPD] <Keith Hennessey>;Julian M. Flannery/WHO/EOP [WHO] <Julian M. Flannery>;Duncan Campbell/WHO/EOP [WHO] <Duncan Campbell>;R. Rand Beers/NSC/EOP [NSC] <R. Rand Beers>;Glenn Hubbard/CEA/EOP [CEA] <Glenn Hubbard>;Jack Howard/WHO/EOP [WHO] <Jack Howard>;Mark Holman/WHO/EOP [WHO] <Mark Holman>;David W. Hobbs/WHO/EOP [WHO] <David W. Hobbs>;Israel Hernandez/WHO/EOP [WHO] <Israel Hernandez>;Chris Henick/WHO/EOP [WHO] <Chris Henick>;Debra Heiden/OVP/EOP [OVP] <Debra Heiden>;Albert Hawkins/WHO/EOP [WHO] <Albert Hawkins>;John P. Hannah/OVP/EOP [OVP] <John P. Hannah>;John F. Haley/OVP/EOP [OVP] <John F. Haley>;Joseph W. Hagin/WHO/EOP [WHO] <Joseph W. Hagin>;Stephen J. Hadley/NSC/EOP [NSC] <Stephen J. Hadley>;Ann Gray/WHO/EOP [WHO] <Ann Gray>;John Graham/OMB/EOP [OMB] <John Graham>;John A. Gordon/NSC/EOP [NSC] <John A. Gordon>;Alberto R. Gonzales/WHO/EOP [WHO] <Alberto R. Gonzales>;Tim Goeglein/WHO/EOP [WHO] <Tim Goeglein>;Dylan C. Glenn/OPD/EOP [OPD] <Dylan C. Glenn>;Alan Gilbert/OPD/EOP [OPD] <Alan Gilbert>;Michael J. Gerson/WHO/EOP [WHO] <Michael J. Gerson>;Stephen M. Garrison/WHO/EOP [WHO] <Stephen M. Garrison>;Kelley Gannon/WHO/EOP [WHO] <Kelley Gannon>;Linda M. Gambatesa/WHO/EOP [WHO] <Linda M. Gambatesa>;Diana E. Furchtgott-Roth/CEA/EOP [CEA] <Diana E. Furchtgott-Roth>;Daniel Fried/NSC/EOP [NSC] <Daniel Fried>;Jendayi E. Frazer/NSC/EOP [NSC] <Jendayi E. Frazer>;Noel J. Francisco/WHO/EOP [WHO] <Noel J. Francisco>;Lawrence A. Fleischer/WHO/EOP [WHO] <Lawrence A. Fleischer>;Catherine S. Fenton/WHO/EOP [WHO] <Catherine S. Fenton>;Richard Falkenrath/WHO/EOP [WHO] <Richard Falkenrath>;Nanette Everson/WHO/EOP [WHO] <Nanette Everson>;Mark Everson/OMB/EOP [OMB] <Mark Everson>;Ashley Estes/WHO/EOP [WHO] <Ashley Estes>;Tucker A. Eskew/WHO/EOP [WHO] <Tucker A. Eskew>;Gary R.

Edson/NSC/EOP [NSC] <Gary R. Edson>;Eric S. Edelman/OVP/EOP [OVP] <Eric S. Edelman>;Wayne A. Downing/NSC/EOP [UNKNOWN] <Wayne A. Downing>;Elizabeth S. Dougherty/OPD/EOP [OPD] <Elizabeth S. Dougherty>;Nancy P. Dorn/WHO/EOP [UNKNOWN] <Nancy P. Dorn>;Diana C. Donnelly/WHO/EOP [WHO] <Diana C. Donnelly>;Nicolle Devenish/WHO/EOP [WHO] <Nicolle Devenish>;Mitchell Daniels/OMB/EOP [OMB] <Mitchell Daniels>;James F. Daniel/OA/EOP [OA] <James F. Daniel>;Stacia L. Cropper/OA/EOP [OA] <Stacia L. Cropper>;Barry Crane/ONDCP/EOP [ONDCP] <Barry Crane>;John B. Craig/NSC/EOP [UNKNOWN] <John B. Craig>;Phil Cooney/CEQ/EOP [CEQ] <Phil Cooney>;Rebecca Contreras/WHO/EOP [WHO] <Rebecca Contreras>;Charles Conner/OPD/EOP [OPD] <Charles Conner>;James Connaughton/CEQ/EOP [CEQ] <James Connaughton>;Brian C. Conklin/WHO/EOP [WHO] <Brian C. Conklin>;Cesar Conda/OVP/EOP [OVP] <Cesar Conda>;Douglas F. Cochrane/OVP/EOP [OVP] <Douglas F. Cochrane>;Robert W. Cobb/WHO/EOP [UNKNOWN] <Robert W. Cobb>;John A. Cloud/NSC/EOP [NSC] <John A. Cloud>;Robin Cleveland/OMB/EOP [OMB] <Robin Cleveland>;Richard A. Clarke/NSC/EOP [NSC] <Richard A. Clarke>;Alicia P. Clark/WHO/EOP [WHO] <Alicia P. Clark>;Frank Cilluffo/WHO/EOP [WHO] <Frank Cilluffo>;Christine Ciccone/WHO/EOP [WHO] <Christine Ciccone>;Ronald I. Christie/OVP/EOP [UNKNOWN] <Ronald I. Christie>;Barbara C. Chaffee/WHO/EOP [WHO] <Barbara C. Chaffee>;Kirsten A. Chadwick/WHO/EOP [WHO] <Kirsten A. Chadwick>;Andrew H. Card/WHO/EOP [WHO] <Andrew H. Card>;James C. Capretta/OMB/EOP [OMB] <James C. Capretta>;Nicholas E. Calio/WHO/EOP [WHO] <Nicholas E. Calio>;Scott Burns/ONDCP/EOP [ONDCP] <Scott Burns>;Katja Bullock/WHO/EOP [WHO] <Katja Bullock>;Carl Buchholz/WHO/EOP [WHO] <Carl Buchholz>;Claire E. Buchan/WHO/EOP [WHO] <Claire E. Buchan>;John M. Bridgeland/OPD/EOP [OPD] <John M. Bridgeland>;Stuart W. Bowen/WHO/EOP [WHO] <Stuart W. Bowen>;Carlos E. Bonilla/OPD/EOP [OPD] <Carlos E. Bonilla>;Joshua B. Bolten/WHO/EOP [WHO] <Joshua B. Bolten>;Lloyd A. Blanchard/OMB/EOP [UNKNOWN] <Lloyd A. Blanchard>;Bradley A. Blakeman/WHO/EOP@Exchange [WHO] <Bradley A. Blakeman>;Charles P. Blahous/OPD/EOP [OPD] <Charles P. Blahous>;Stephen E. Biegun/NSC/EOP [NSC] <Stephen E. Biegun>;Rebecca A. Beynon/WHO/EOP [WHO] <Rebecca A. Beynon>;Janet L. Berman/OVP/EOP [OVP] <Janet L. Berman>;Bradford A. Berenson/WHO/EOP [WHO] <Bradford A. Berenson>;John B. Bellinger/NSC/EOP [NSC] <John B. Bellinger>;H. Christopher Bartolomucci/WHO/EOP [WHO] <H. Christopher Bartolomucci>;Daniel J. Bartlett/WHO/EOP [WHO] <Daniel J. Bartlett>;Andrea G. Barthwell/ONDCP/EOP [ONDCP] <Andrea G. Barthwell>;Ruben S. Barrales/WHO/EOP [WHO] <Ruben S. Barrales>;Andrea G. Ball/WHO/EOP [WHO] <Andrea G. Ball>;Jackie Arends/WHO/EOP [WHO] <Jackie Arends>;George M. Andricos/NSC/EOP [NSC] <George M. Andricos>;Cathy Alix/WHO/EOP [WHO] <Cathy Alix>;David S. Addington/OVP/EOP [OVP] <David S. Addington>;Elliott Abrams/NSC/EOP [NSC] <Elliott Abrams>;Charles S. Abbot/OVP/EOP [OVP] <Charles S. Abbot>

Sent: 12/18/2002 6:27:24 AM

Subject: : POSTMASTER: White House Mess Holiday Hours

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME:18-DEC-2002 11:27:24.00
SUBJECT:: POSTMASTER: White House Mess Holiday Hours
TO:Gina M. Wolford ( CN=Gina M. Wolford/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:David L. Travers ( CN=David L. Travers/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Harry W. Wolff ( CN=Harry W. Wolff/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Alexian T. Wines ( CN=Alexian T. Wines/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Patricia Williams ( CN=Patricia Williams/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Jared B. Weinstein ( CN=Jared B. Weinstein/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Matthew C. Waxman ( CN=Matthew C. Waxman/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
TO:Lauren J. Vestewig ( CN=Lauren J. Vestewig/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
```

TO:Terrill G. Tucker (CN=Terrill G. Tucker/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tevi Troy (CN=Tevi Troy/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Anne Trenolone (CN=Anne Trenolone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Julieanne H. Thomas (CN=Julieanne H. Thomas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Rachael L. Sunbarger (CN=Rachael L. Sunbarger/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan L. Sterner (CN=Susan L. Sterner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert E. Schubert (CN=Robert E. Schubert/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Deborah Sandler (CN=Deborah Sandler/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jean M. Russell (CN=Jean M. Russell/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Peter M. Rowan (CN=Peter M. Rowan/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Noelia Rodriguez (CN=Noelia Rodriguez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine B. Robinson (CN=Josephine B. Robinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Maurice C. Robinson (CN=Maurice C. Robinson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Christina D. Roberts (CN=Christina D. Roberts/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Allison L. Riepenhoff (CN=Allison L. Riepenhoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:January M. Riecke (CN=January M. Riecke/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Rhodes (CN=Katherine A. Rhodes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Reynolds (CN=Tim Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David Reyes (CN=David Reyes/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie E. Radcliff (CN=Leslie E. Radcliff/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexia Poe (CN=Alexia Poe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elliott M. Langer (CN=Elliott M. Langer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Clare Pritchett (CN=Clare Pritchett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Suzanne Primoff (CN=Suzanne Primoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John I. Pray (CN=John I. Pray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan D. Phillips (CN=Susan D. Phillips/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah Penny (CN=Sarah Penny/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Raymond H. Payne (CN=Raymond H. Payne/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Richard S. Paulus (CN=Richard S. Paulus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward J. Padinske (CN=Edward J. Padinske/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Eric H. Otto (CN=Eric H. Otto/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Lee B. Mynatt (CN=Lee B. Mynatt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Steven Myers (CN=Steven Myers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah M. Garrison (CN=Sarah M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul L. Morse (CN=Paul L. Morse/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie A. Mooney (CN=Leslie A. Mooney/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Cathy L. Millison (CN=Cathy L. Millison/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Holly M. Miller (CN=Holly M. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sonya E. Medina (CN=Sonya E. Medina/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Vickie A. McQuade (CN=Vickie A. McQuade/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sara B. McIntosh (CN=Sara B. McIntosh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter A. McCauley (CN=Peter A. McCauley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel M. McCarthy (CN=Daniel M. McCarthy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas S. Marsh (CN=Thomas S. Marsh/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lindsey M. Lineweaver (CN=Lindsey M. Lineweaver/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Laura E. Lineberry (CN=Laura E. Lineberry/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Adam L. Levine (CN=Adam L. Levine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christopher S. Legrand (CN=Christopher S. Legrand/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sang W. Lee (CN=Sang W. Lee/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jennie M. Koch (CN=Jennie M. Koch/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Andrew M. Kaver (CN=Andrew M. Kaver/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Dora Kale (CN=Dora Kale/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexander S. Joves (CN=Alexander S. Joves/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:M. Kay Joshi (CN=M. Kay Joshi/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Megan R. Johnston (CN=Megan R. Johnston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sydney R. Johnson (CN=Sydney R. Johnson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clarence C. Johnson (CN=Clarence C. Johnson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gordon D. Johndroe (CN=Gordon D. Johndroe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melanie A. Jackson (CN=Melanie A. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marilyn R. Jacanin (CN=Marilyn R. Jacanin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Restituto M. Francisco (CN=Restituto M. Francisco/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Sandra K. Evans (CN=Sandra K. Evans/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Regina L. Cain (CN=Regina L. Cain/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Brown (CN=Katherine A. Brown/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Bonnie S. Broadwick (CN=Bonnie S. Broadwick/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Theresa M. Hunter (CN=Theresa M. Hunter/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:A. Merrill Hughes (CN=A. Merrill Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jeffrey P. Houle (CN=Jeffrey P. Houle/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ashley Holbrook (CN=Ashley Holbrook/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine L. Hirsch (CN=Josephine L. Hirsch/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jane C. Heishman (CN=Jane C. Heishman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anne Heiligenstein (CN=Anne Heiligenstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. Hargis (CN=Robert C. Hargis/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison M. Harden (CN=Alison M. Harden/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary Ann Hanusa (CN=Mary Ann Hanusa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas A. Hall (CN=Thomas A. Hall/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary A. Haines (CN=Mary A. Haines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Katharina M. Hager (CN=Katharina M. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Henry C. Hager (CN=Henry C. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Albert J. Guarnieri (CN=Albert J. Guarnieri/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew W. Green (CN=Andrew W. Green/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Emily S. Gray (CN=Emily S. Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wendy E. Gray (CN=Wendy E. Gray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Britt Grant (CN=Britt Grant/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Travis C. Good (CN=Travis C. Good/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Georgia D. Godfrey (CN=Georgia D. Godfrey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Dorothy C. Garvin (CN=Dorothy C. Garvin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joachim D. Fuchs (CN=Joachim D. Fuchs/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Barbara J. Finn (CN=Barbara J. Finn/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jeanie L. Figg (CN=Jeanie L. Figg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jennifer D. Field (CN=Jennifer D. Field/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Douglas M. Erdahl (CN=Douglas M. Erdahl/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Ruth E. Elliott (CN=Ruth E. Elliott/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kady Dunlap (CN=Kady Dunlap/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eric A. Draper (CN=Eric A. Draper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joan R. Doty (CN=Joan R. Doty/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine L. Disston (CN=Katherine L. Disston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Reed Dickens (CN=Reed Dickens/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josh Deckard (CN=Josh Deckard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley E. Davis (CN=Ashley E. Davis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jill Davie (CN=Jill Davie/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colin Crosby (CN=Colin Crosby/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lynn A. Crable (CN=Lynn A. Crable/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colby J. Cooper (CN=Colby J. Cooper/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Shane P. Chambers (CN=Shane P. Chambers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lois A. Cassano (CN=Lois A. Cassano/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Pamela R. Casey (CN=Pamela R. Casey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne E. Campbell (CN=Anne E. Campbell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marcia J. Caler (CN=Marcia J. Caler/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Johnathan C. Bunting (CN=Johnathan C. Bunting/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marko R. Broz (CN=Marko R. Broz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gary E. Bresnahan (CN=Gary E. Bresnahan/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David R. Bohrer (CN=David R. Bohrer/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cheryl E. Barnett (CN=Cheryl E. Barnett/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell P. Backfield (CN=Mitchell P. Backfield/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jill L. Angelo (CN=Jill L. Angelo/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Ashleigh A. Adams (CN=Ashleigh A. Adams/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Joseph J. Shattan (CN=Joseph J. Shattan/OU=OVP/O=EOP [OVP])
READ:UNKNOWN

TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Richard J. Tubb (CN=Richard J. Tubb/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul J. Severs (CN=Paul J. Severs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joseph D. Rozek (CN=Joseph D. Rozek/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Steven J. Reynolds (CN=Steven J. Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Candida P. Wolff (CN=Candida P. Wolff/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel K. Wilmot (CN=Daniel K. Wilmot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:James R. Wilkinson (CN=James R. Wilkinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jocelyn White (CN=Jocelyn White/OU=WHF/O=EOP [OPM])
READ:UNKNOWN
TO:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul A. Wedderien (CN=Paul A. Wedderien/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John P. Walters (CN=John P. Walters/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine W. Tobias (CN=Catherine W. Tobias/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jose G. Suarez (CN=Jose G. Suarez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Aquiles F. Suarez (CN=Aquiles F. Suarez/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Angela B. Styles (CN=Angela B. Styles/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary A. Solberg (CN=Mary A. Solberg/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Augustine T. Smythe (CN=Augustine T. Smythe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Sharpy (CN=Thomas J. Sharpy/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Howard A. Schmidt (CN=Howard A. Schmidt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel Schecter (CN=Daniel Schecter/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Richard M. Russell (CN=Richard M. Russell/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Stephen S. Ruhlen (CN=Stephen S. Ruhlen/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark V. Rosenker (CN=Mark V. Rosenker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Ridge (CN=Thomas J. Ridge/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Nina Rees (CN=Nina Rees/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Craig Ray (CN=Craig Ray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kathie L. Olsen (CN=Kathie L. Olsen/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Newell (CN=John F. Newell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Manson O. Morris (CN=Manson O. Morris/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Paul D. Montanus (CN=Paul D. Montanus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. McAllister (CN=James M. McAllister/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric C. Pelletier (CN=Eric C. Pelletier/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Marcus Peacock (CN=Marcus Peacock/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Neil S. Patel (CN=Neil S. Patel/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Sean C. O'Keefe (CN=Sean C. O'Keefe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire M. O'Donnell (CN=Claire M. O'Donnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan K. Neely (CN=Susan K. Neely/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen S. McMillin (CN=Stephen S. McMillin/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark McClellan (CN=Mark McClellan/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Mary J. Matalin (CN=Mary J. Matalin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Catherine J. Martin (CN=Catherine J. Martin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John H. Marburger (CN=John H. Marburger/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Maisto (CN=John F. Maisto/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin A. MacLean (CN=Robin A. MacLean/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ado A. Machida (CN=Ado A. Machida/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Deborah A. Loewer (CN=Deborah A. Loewer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence B. Lindsey (CN=Lawrence B. Lindsey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Dirksen Lehman (CN=Dirksen Lehman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Laura S. Lawlor (CN=Laura S. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bruce M. Lawlor (CN=Bruce M. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Randall S. Kroszner (CN=Randall S. Kroszner/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Karen Y. Knutson (CN=Karen Y. Knutson/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Frank G. Klotz (CN=Frank G. Klotz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Ellis Kitchen (CN=Ellis Kitchen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles D. McGrath Jr (CN=Charles D. McGrath Jr/OU=OVP/O=EOP [OVP])
READ:UNKNOWN

TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Reuben Jeffery (CN=Reuben Jeffery/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hector F. Irastorza (CN=Hector F. Irastorza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Campen (CN=Tim Campen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Penrose C. Albright TPO (CN=Penrose C. Albright TPO/OU=TPO/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Steven I. Cooper TPO (CN=Steven I. Cooper TPO/OU=TPO/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Julian M. Flannery (CN=Julian M. Flannery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Duncan Campbell (CN=Duncan Campbell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:R. Rand Beers (CN=R. Rand Beers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Glenn Hubbard (CN=Glenn Hubbard/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Jack Howard (CN=Jack Howard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Holman (CN=Mark Holman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Chris Henick (CN=Chris Henick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Debra Heiden (CN=Debra Heiden/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Albert Hawkins (CN=Albert Hawkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John P. Hannah (CN=John P. Hannah/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John F. Haley (CN=John F. Haley/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John Graham (CN=John Graham/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:John A. Gordon (CN=John A. Gordon/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen M. Garrison (CN=Stephen M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Diana E. Furchtgott-Roth (CN=Diana E. Furchtgott-Roth/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Everson (CN=Mark Everson/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric S. Edelman (CN=Eric S. Edelman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Wayne A. Downing (CN=Wayne A. Downing/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Nancy P. Dorn (CN=Nancy P. Dorn/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Diana C. Donnelly (CN=Diana C. Donnelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:James F. Daniel (CN=James F. Daniel/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Stacia L. Cropper (CN=Stacia L. Cropper/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Barry Crane (CN=Barry Crane/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:John B. Craig (CN=John B. Craig/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:James Connaughton (CN=James Connaughton/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cesar Conda (CN=Cesar Conda/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Douglas F. Cochrane (CN=Douglas F. Cochrane/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert W. Cobb (CN=Robert W. Cobb/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:John A. Cloud (CN=John A. Cloud/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Robin Cleveland (CN=Robin Cleveland/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Richard A. Clarke (CN=Richard A. Clarke/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Frank Cilluffo (CN=Frank Cilluffo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christine Ciccone (CN=Christine Ciccone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Barbara C. Chaffee (CN=Barbara C. Chaffee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James C. Capretta (CN=James C. Capretta/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Nicholas E. Calio (CN=Nicholas E. Calio/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott Burns (CN=Scott Burns/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carl Buchholz (CN=Carl Buchholz/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stuart W. Bowen (CN=Stuart W. Bowen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carlos E. Bonilla (CN=Carlos E. Bonilla/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lloyd A. Blanchard (CN=Lloyd A. Blanchard/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen E. Biegun (CN=Stephen E. Biegun/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Janet L. Berman (CN=Janet L. Berman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Barthwell (CN=Andrea G. Barthwell/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Cathy Alix (CN=Cathy Alix/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
End Original ARMS Header

In observance of the Holiday Season, the White House Mess will close on Tuesday, December 24, 2002 at 3:00pm and will reopen on regular schedule on Thursday, December 26, 2002. It will be closed during the weekend of December 28-29, 2002 reopening Monday, December 30, 2002. On Tuesday, December 31, 2002, the Mess will close at 3:00pm until January 2, 2003. If the need arises, we will change this schedule to accommodate staff members.

Thank you.

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]

To: Barry S. Jackson/WHO/EOP@EOP [WHO] <Barry S. Jackson>;Ross M. Kyle/WHO /EOP@EOP [WHO] <Ross M. Kyle>;Wendy.J.Keefer@usdoj.gov [UNKNOWN] <Wendy.J.Keefer@usdoj.gov>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Tracy.T.Washington@usdoj.gov [UNKNOWN] <Tracy.T.Washington@usdoj.gov>;don.willett@usdoj.gov [UNKNOWN] <don.willett@usdoj.gov>;David McMaster/WHO/EOP@EOP [WHO] <David McMaster>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>;evelyn.v.long@usdoj.gov [UNKNOWN] <evelyn.v.long@usdoj.gov>;amy.bass@usdoj.gov [UNKNOWN] <amy.bass@usdoj.gov>;Allison L. Riepenhoff/WHO/EOP@EOP [WHO] <Allison L. Riepenhoff>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;Michael J. Conway/WHO/EOP@EOP [WHO] <Michael J. Conway>;Susan B. Ralston/WHO/EOP@EOP [WHO] <Susan B. Ralston>;Kimberly Ellison/WHO/EOP@EOP [WHO] <Kimberly Ellison>;David G. Leitch/WHO/EOP@EOP [WHO] <David G. Leitch>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Adam.Charnes@usdoj.gov [UNKNOWN] <Adam.Charnes@usdoj.gov>;Sarah K. Lockart@who.eop.gov [WHO] <Sarah K. Lockart@who.eop.gov>;Albert.Brewster@usdoj.gov [UNKNOWN] <Albert.Brewster@usdoj.gov>;Ann Gray/WHO/EOP@EOP [WHO] <Ann Gray>;Douglas L. Hoelscher/WHO/EOP@EOP [WHO] <Douglas L. Hoelscher>;Jason.J.Sutton@usdoj.gov [UNKNOWN] <Jason.J.Sutton@usdoj.gov>;Viet.Dinh@usdoj.gov [UNKNOWN] <Viet.Dinh@usdoj.gov>;adam.Ciongoli@usdoj.gov [UNKNOWN] <adam.Ciongoli@usdoj.gov>;andrew.beach@usdoj.gov [UNKNOWN] <andrew.beach@usdoj.gov>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Alison Jones/WHO /EOP@EOP [WHO] <Alison Jones>;Melissa S. Bennett/WHO/EOP@EOP [WHO] <Melissa S. Bennett>

Sent: 12/18/2002 10:06:29 AM

Subject: : Room change

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:18-DEC-2002 15:06:29.00
SUBJECT:: Room change
TO:Barry S. Jackson ( CN=Barry S. Jackson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Ross M. Kyle ( CN=Ross M. Kyle/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Wendy.J.Keefer@usdoj.gov ( Wendy.J.Keefer@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tracy.T.Washington@usdoj.gov ( Tracy.T.Washington@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:don.willett@usdoj.gov ( don.willett@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:David McMaster ( CN=David McMaster/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:evelyn.v.long@usdoj.gov ( evelyn.v.long@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:amy.bass@usdoj.gov ( amy.bass@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Allison L. Riepenhoff ( CN=Allison L. Riepenhoff/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
```

TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kimberly Ellison (CN=Kimberly Ellison/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Adam.Charnes@usdoj.gov (Adam.Charnes@usdoj.gov [UNKNOWN])
READ:UNKNOWN
TO:Sarah K. Lockart@who.eop.gov (Sarah K. Lockart@who.eop.gov [WHO])
READ:UNKNOWN
TO:Albert.Brewster@usdoj.gov (Albert.Brewster@usdoj.gov [UNKNOWN])
READ:UNKNOWN
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Douglas L. Hoelscher (CN=Douglas L. Hoelscher/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jason.J.Sutton@usdoj.gov (Jason.J.Sutton@usdoj.gov [UNKNOWN])
READ:UNKNOWN
TO:Viet.Dinh@usdoj.gov (Viet.Dinh@usdoj.gov [UNKNOWN])
READ:UNKNOWN
TO:adam.Ciongoli@usdoj.gov (adam.Ciongoli@usdoj.gov [UNKNOWN])
READ:UNKNOWN
TO:andrew.beach@usdoj.gov (andrew.beach@usdoj.gov [UNKNOWN])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

JSC will be held at 4pm today in the Judge's office.

Thanks!

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Carolyn Nelson/WHO/EOP@EOP [WHO] <Carolyn Nelson>
Sent: 12/18/2002 10:09:12 AM
Subject: : how is POTUS book coming?

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:18-DEC-2002 15:09:12.00
SUBJECT:: how is POTUS book coming?
TO:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Carolyn Nelson/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 12/18/2002 10:15:44 AM
Subject: : Re: how is POTUS book coming?

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carolyn Nelson (CN=Carolyn Nelson/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-DEC-2002 15:15:44.00
SUBJECT:: Re: how is POTUS book coming?
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

very well. I'm finishing up the memos from the Judge, and am waiting on final selection from Helgi, but other than that I'm just about finished. Do you want to look at the draft before I take it over to the Judge?

Brett M. Kavanaugh
12/18/2002 03:06:02 PM
Record Type: Record

To: Carolyn Nelson/WHO/EOP@EOP
cc:
Subject: how is POTUS book coming?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Virginia Stephens/CEQ/EOP@EOP [CEQ] <Virginia Stephens>
CC: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>
Sent: 12/19/2002 3:52:15 AM
Subject: : Re: can we discuss tomorrow please?
Attachments: P_1O3HC003_WHO.TXT_1.doc; P_1O3HC003_WHO.TXT_2.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:19-DEC-2002 08:52:15.00
SUBJECT:: Re: can we discuss tomorrow please?
TO:Virginia Stephens (CN=Virginia Stephens/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN
CC:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

V.A.: Kyle is your guy on this.

Virginia Stephens
12/18/2002 04:36:31 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: va.stephens@hq.doe.gov
Subject: can we discuss tomorrow please?

i'll try to call you tomorrow morning if that's ok.

also, need help from your office on the pipeline safety bill. see attached.. what action does the POTUS need to take to establish the committee and then is it OK for CEQ to delegate officically or not?? as always, thanks.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_1O3HC003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_1O3HC003_WHO.TXT_2>

MEMORANDUM

TO: NORMAN Y. MINETA
CHRISTINE TODD WHITMAN
STEVEN A. WILLIAMS
WILLIAM HOGARTH
KATHLEEN B. CLARKE
R.M. "JOHNIE" BURTON
R.L. BROWNLEE
PATRICK WOOD

FROM: JAMES L. CONNAUGHTON

DATE: December 7, 2002

SUBJECT: DELEGATION OF RESPONSIBILITIES PURSUANT TO THE PIPELINE SAFETY IMPROVEMENTACT TO THE WHITE HOUSE TASK FORCE ON ENERGY PROJECT STREAMLINING

Please be advised that I am delegating to the White House Task Force on Energy Project Streamlining (the "Task Force") responsibility for implementing Section 16 of the Pipeline Safety Improvement Act (the "Act"). The Act directs the President to establish an Interagency Interagency Committee to implement a coordinated environmental review and permitting process to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs during time periods specified by rule by the Secretary of Transportation.

The Act establishes the Chairman of the Council on Environmental Quality (or a designee of the Chairman) as the chair of the Interagency Committee. It also names to the Interagency Committee representatives of Federal agencies with responsibilities relating to pipeline repair projects, including each of the following persons (or a designee thereof): the Secretary of Transportation, the Administrator of the Environmental Protection Agency, the Director of the United States Fish and Wildlife Service, the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration, the Director of the Bureau of Land Management, the Director of the Minerals Management Service, the Assistant Secretary of the Army for Civil Works, and the Chairman of the Federal Energy Regulatory Commission.

The Act directs the Interagency Committee to evaluate Federal permitting requirements for access, excavation, and restoration activities in connection with pipeline repairs and to make recommendations for improvements, including the development of a compendium of best practices used by the industry. The Act also directs the members of the Interagency Committee to enter into a memorandum of understanding to provide for a coordinated and expedited pipeline repair permit review process.

A copy of section 16 of the Act is attached.

The Task Force will be developing draft strategy guidelines to satisfy responsibilities pursuant to Act and will be in touch with your offices soon. If you have any comments, questions, or suggestions prior to that, please contact Veronica Angulo at (202) 586-3316 or Veronica.Angulo@hq.doe.gov.

Enclosures

cc: [Secretaries/Deps of Departments named?]

SEC. 16. COORDINATION OF ENVIRONMENTAL REVIEWS.

(a) IN GENERAL.--Chapter 601 is further amended by adding at the end the following:``?60133. Coordination of environmental reviews

``(a) INTERAGENCY COMMITTEE.--

``(1) ESTABLISHMENT AND PURPOSE.--Not later than 30 days after the date of enactment of this section, the President shall establish an Interagency Committee to develop and ensure implementation of a coordinated environmental review and permitting process in order to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary.

``(2) MEMBERSHIP.--The Chairman of the Council on Environmental Quality (or a designee of the Chairman) shall chair the Interagency Committee, which shall consist of representatives of Federal agencies with responsibilities relating to pipeline repair projects, including each of the following persons (or a designee thereof):

``(A) The Secretary of Transportation.

``(B) The Administrator of the Environmental Protection Agency.

``(C) The Director of the United States Fish and Wildlife Service.

``(D) The Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration.

``(E) The Director of the Bureau of Land Management.

``(F) The Director of the Minerals Management Service.

``(G) The Assistant Secretary of the Army for Civil Works.

``(H) The Chairman of the Federal Energy Regulatory Commission.

``(3) EVALUATION.--The Interagency Committee shall evaluate Federal permitting requirements to which access, excavation, and restoration activities in connection with pipeline repairs described in paragraph (1) may be subject. As part of its evaluation, the Interagency Committee shall examine the access, excavation, and restoration practices of the pipeline industry in connection with such pipeline repairs, and may develop a compendium of best practices used by the industry to access, excavate, and restore the site of a pipeline repair.

``(4) MEMORANDUM OF UNDERSTANDING.--Based upon the evaluation required under paragraph (3) and not later than 1 year after the date of enactment of this section, the members of the Interagency Committee shall enter into a memorandum of understanding to provide for a coordinated and expedited pipeline repair permit review process to carry out the purpose set forth in paragraph (1). The Interagency Committee shall include provisions in the memorandum of understanding identifying those repairs or categories of repairs described in paragraph (1) for which the best practices identified under paragraph (3), when properly employed by a pipeline operator, would result in no more than minimal adverse effects on the environment and for which discretionary administrative reviews may therefore be minimized or eliminated. With respect to pipeline repairs described in paragraph (1) to which the preceding sentence would not be applicable, the Interagency Committee shall include provisions to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary. The Interagency Committee shall include in the memorandum of understanding criteria under which permits required for such pipeline repair activities should be prioritized over other less urgent agency permit application reviews. The Interagency Committee shall not enter into a memorandum of understanding under this paragraph except by unanimous agreement of the members of the Interagency Committee.

``(5) STATE AND LOCAL CONSULTATION.--In carrying out this subsection, the Interagency Committee shall consult with appropriate State and local environmental, pipeline safety, and emergency response officials, and such other officials as the Interagency Committee considers appropriate.

``(b) IMPLEMENTATION.--Not later than 180 days after the completion of the memorandum of understanding required under subsection (a)(4), each agency represented on the Interagency Committee

shall revise its regulations as necessary to implement the provisions of the memorandum of understanding.

``(c) SAVINGS PROVISIONS; NO PREEMPTION.--Nothing in this section shall be construed--

``(1) to require a pipeline operator to obtain a Federal permit, if no Federal permit would otherwise have been required under Federal law; or

``(2) to preempt applicable Federal, State, or local environmental law.

``(d) INTERIM OPERATIONAL ALTERNATIVES.--

``(1) IN GENERAL.--Not later than 30 days after the date of enactment of this section, and subject to the limitations in paragraph (2), the Secretary of Transportation shall revise the regulations of the Department, to the extent necessary, to permit a pipeline operator subject to time periods for repair specified by rule by the Secretary to implement alternative mitigation measures until all applicable permits have been granted.

``(2) LIMITATIONS.--The regulations issued by the Secretary pursuant to this subsection shall not allow an operator to implement alternative mitigation measures pursuant to paragraph (1) unless--

``(A) allowing the operator to implement such measures would be consistent with the protection of human health, public safety, and the environment;

``(B) the operator, with respect to a particular repair project, has applied for and is pursuing diligently and in good faith all required Federal, State, and local permits to carry out the project; and

``(C) the proposed alternative mitigation measures are not incompatible with pipeline safety.

``(e) OMBUDSMAN.--The Secretary shall designate an ombudsman to assist in expediting pipeline repairs and resolving disagreements between Federal, State, and local permitting agencies and the pipeline operator during agency review of any pipeline repair activity, consistent with protection of human health, public safety, and the environment.

``(f) STATE AND LOCAL PERMITTING PROCESSES.--The Secretary shall encourage States and local governments to consolidate their respective permitting processes for pipeline repair projects subject to any time periods for repair specified by rule by the Secretary. The Secretary may request other relevant Federal agencies to provide technical assistance to States and local governments for the purpose of encouraging such consolidation.".

(b) CONFORMING AMENDMENT.--The analysis for chapter 601 is amended by adding at the end the following:

``60133. Coordination of environmental reviews.".

FROM: James L. Connaughton

DATE: December 17, 2002

RE: Pipeline Safety Improvement Act of 2002 (signed by the President on December 17, 2002)

The "Pipeline Safety Act" Section 16 (a) (1) calls for the President, not later than 30 days after the enactment date, to establish an Interagency Committee "to develop and ensure implementation of a coordinated environmental review and permitting process in order to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary." Section 16 (a) (2) names the Chairman of the Council on Environmental Quality (or a designee of the Chairman) as the chair of the Interagency Committee and lists the representatives of Federal agencies who shall serve on the committee.

Attached is a memo that I propose to send to the representatives named in the bill that would establish the committee and delegate implementing responsibilities to the White House Task Force on Energy Project Streamlining. This Task Force already has successfully negotiated an interagency agreement on natural gas permitting which should effectively dovetail with the new "Pipeline Safety Act" requirements.

PROMPT FOR ACTION: Please provide comment on this by 5:00 pm on December 20th. Comment should be sent to V.A. Stephens at CEQ.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>;Charlotte L. Montiel/WHO /EOP@EOP [WHO] <Charlotte L. Montiel>
CC: David G. Leitch/WHO/EOP@EOP [WHO] <David G. Leitch>;Alberto R. Gonzales/WHO /EOP@EOP [WHO] <Alberto R. Gonzales>
Sent: 12/19/2002 4:32:08 AM
Subject: : scheduling

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:19-DEC-2002 09:32:08.00
SUBJECT:: scheduling
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

If Judge and David agree, can you please reserve 20 minutes for Judge and David at 2:00 on Thursday, January 9, to talk briefly on judges to some outside groups that Tim Goeglein will bring in. The point would be to thank the groups for their work and to explain what's coming on judges. I regularly speak to the routinely scheduled coalition meetings (and get deep into the weeds with them on specific issues, questions, and nominees), but Tim Goeglein and I both think it would be useful that they hear an overview from Judge as we start the new year and new Congress, and also that they meet and hear from David. Thanks.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>;Patrick J. Bumatay/WHO /EOP@EOP [WHO] <Patrick J. Bumatay>;Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>
Sent: 12/19/2002 5:40:28 AM
Subject: : draft introduction of Judge Starr
Attachments: P_8KAHC003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:19-DEC-2002 10:40:28.00
SUBJECT:: draft introduction of Judge Starr
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_8KAHC003_WHO.TXT_1>
```

Introduction of Judge Kenneth W. Starr
(December 19, 2002)

Welcome to the White House. I am privileged to introduce Judge Ken Starr, who will speak about his recent book on the Supreme Court and answer some questions about the Court -- and maybe a few about some other interesting issues Judge Starr has been involved in during his extraordinary legal career.

Ken Starr is a native Texan . . . Judge Starr, that is a good thing around here . . . born in Vernon, Texas in 1946. He graduated from George Washington University and then Duke University Law School. After law school, he served for two years as a law clerk for Chief Justice Warren Burger. At the start of the Reagan Administration, Ken Starr was named Counselor to Attorney General William French Smith and played a key role in the judicial nomination process, including the nomination of Justice Sandra Day O'Connor in 1981.

In 1983, at age 37, Judge Starr himself was nominated by President Reagan and confirmed to the U.S. Court of Appeals for the D.C. Circuit, often considered America's second most important court. On that court, Judge Starr quickly earned a superb reputation -- a standout on a court that included judicial luminaries such as Scalia and Bork and Ruth Bader Ginsburg. In 1989, President George Bush asked Judge Starr to serve as Solicitor General of the United States, a role he ably performed for four years. He then returned to private practice in 1993.

In 1994, Judge Starr was called to his most famous public role, that of independent counsel in the Whitewater matter. As independent counsel, Judge Starr led many important investigations and prosecutions – earning the convictions of the sitting Arkansas Governor, a former Associate Attorney General, and the co-owners of the original Whitewater project. And of course, Judge Starr also led the investigation that ultimately resulted in the second impeachment of a President in American history. Through all the controversy that surrounded his tenure as independent counsel, Judge Starr maintained his dignity and devotion to the rule of law.

Judge Starr has now returned to private practice and continues to be a leader in the legal profession. He is counsel to Senator Mitch McConnell in the landmark campaign finance litigation, and he has written an excellent book about the Supreme Court. Stuart Taylor described Judge Starr's book as a "captivating, perceptive, fair-minded portrait of the world's most powerful court, its justices, and its history . . . accessible to lay readers and brimming with insights for experienced Court-watchers." Having read the book myself, I can say that I agree completely.

Judge Starr, I am not sure you heard the following when you served as independent counsel, but . . . welcome to the White House.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>
Sent: 12/19/2002 3:41:23 AM
Subject: :
Attachments: P_G03HC003_WHO.TXT_1.doc; P_G03HC003_WHO.TXT_2.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:19-DEC-2002 08:41:23.00
SUBJECT::
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

this is yours, isn't it?
---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 12/19/2002 08:44 AM ----------

Virginia Stephens
12/18/2002 04:36:31 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: va.stephens@hq.doe.gov
Subject: can we discuss tomorrow please?

i'll try to call you tomorrow morning if that's ok.

also, need help from your office on the pipeline safety bill. see attached.. what action does the POTUS need to take to establish the committee and then is it OK for CEQ to delegate officically or not?? as always, thanks.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_G03HC003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_G03HC003_WHO.TXT_2>

MEMORANDUM

TO: NORMAN Y. MINETA
CHRISTINE TODD WHITMAN
STEVEN A. WILLIAMS
WILLIAM HOGARTH
KATHLEEN B. CLARKE
R.M. "JOHNIE" BURTON
R.L. BROWNLEE
PATRICK WOOD

FROM: JAMES L. CONNAUGHTON

DATE: December 7, 2002

SUBJECT: DELEGATION OF RESPONSIBILITIES PURSUANT TO THE PIPELINE SAFETY IMPROVEMENTACT TO THE WHITE HOUSE TASK FORCE ON ENERGY PROJECT STREAMLINING

Please be advised that I am delegating to the White House Task Force on Energy Project Streamlining (the "Task Force") responsibility for implementing Section 16 of the Pipeline Safety Improvement Act (the "Act"). The Act directs the President to establish an Interagency Interagency Committee to implement a coordinated environmental review and permitting process to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs during time periods specified by rule by the Secretary of Transportation.

The Act establishes the Chairman of the Council on Environmental Quality (or a designee of the Chairman) as the chair of the Interagency Committee. It also names to the Interagency Committee representatives of Federal agencies with responsibilities relating to pipeline repair projects, including each of the following persons (or a designee thereof): the Secretary of Transportation, the Administrator of the Environmental Protection Agency, the Director of the United States Fish and Wildlife Service, the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration, the Director of the Bureau of Land Management, the Director of the Minerals Management Service, the Assistant Secretary of the Army for Civil Works, and the Chairman of the Federal Energy Regulatory Commission.

The Act directs the Interagency Committee to evaluate Federal permitting requirements for access, excavation, and restoration activities in connection with pipeline repairs and to make recommendations for improvements, including the development of a compendium of best practices used by the industry. The Act also directs the members of the Interagency Committee to enter into a memorandum of understanding to provide for a coordinated and expedited pipeline repair permit review process.

A copy of section 16 of the Act is attached.

The Task Force will be developing draft strategy guidelines to satisfy responsibilities pursuant to Act and will be in touch with your offices soon. If you have any comments, questions, or suggestions prior to that, please contact Veronica Angulo at (202) 586-3316 or Veronica.Angulo@hq.doe.gov.

Enclosures

cc: [Secretaries/Deps of Departments named?]

SEC. 16. COORDINATION OF ENVIRONMENTAL REVIEWS.

(a) IN GENERAL.--Chapter 601 is further amended by adding at the end the following:``?60133. Coordination of environmental reviews

``(a) INTERAGENCY COMMITTEE.--

``(1) ESTABLISHMENT AND PURPOSE.--Not later than 30 days after the date of enactment of this section, the President shall establish an Interagency Committee to develop and ensure implementation of a coordinated environmental review and permitting process in order to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary.

``(2) MEMBERSHIP.--The Chairman of the Council on Environmental Quality (or a designee of the Chairman) shall chair the Interagency Committee, which shall consist of representatives of Federal agencies with responsibilities relating to pipeline repair projects, including each of the following persons (or a designee thereof):

``(A) The Secretary of Transportation.

``(B) The Administrator of the Environmental Protection Agency.

``(C) The Director of the United States Fish and Wildlife Service.

``(D) The Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration.

``(E) The Director of the Bureau of Land Management.

``(F) The Director of the Minerals Management Service.

``(G) The Assistant Secretary of the Army for Civil Works.

``(H) The Chairman of the Federal Energy Regulatory Commission.

``(3) EVALUATION.--The Interagency Committee shall evaluate Federal permitting requirements to which access, excavation, and restoration activities in connection with pipeline repairs described in paragraph (1) may be subject. As part of its evaluation, the Interagency Committee shall examine the access, excavation, and restoration practices of the pipeline industry in connection with such pipeline repairs, and may develop a compendium of best practices used by the industry to access, excavate, and restore the site of a pipeline repair.

``(4) MEMORANDUM OF UNDERSTANDING.--Based upon the evaluation required under paragraph (3) and not later than 1 year after the date of enactment of this section, the members of the Interagency Committee shall enter into a memorandum of understanding to provide for a coordinated and expedited pipeline repair permit review process to carry out the purpose set forth in paragraph (1). The Interagency Committee shall include provisions in the memorandum of understanding identifying those repairs or categories of repairs described in paragraph (1) for which the best practices identified under paragraph (3), when properly employed by a pipeline operator, would result in no more than minimal adverse effects on the environment and for which discretionary administrative reviews may therefore be minimized or eliminated. With respect to pipeline repairs described in paragraph (1) to which the preceding sentence would not be applicable, the Interagency Committee shall include provisions to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary. The Interagency Committee shall include in the memorandum of understanding criteria under which permits required for such pipeline repair activities should be prioritized over other less urgent agency permit application reviews. The Interagency Committee shall not enter into a memorandum of understanding under this paragraph except by unanimous agreement of the members of the Interagency Committee.

``(5) STATE AND LOCAL CONSULTATION.--In carrying out this subsection, the Interagency Committee shall consult with appropriate State and local environmental, pipeline safety, and emergency response officials, and such other officials as the Interagency Committee considers appropriate.

``(b) IMPLEMENTATION.--Not later than 180 days after the completion of the memorandum of understanding required under subsection (a)(4), each agency represented on the Interagency Committee

shall revise its regulations as necessary to implement the provisions of the memorandum of understanding.

``(c) SAVINGS PROVISIONS; NO PREEMPTION.--Nothing in this section shall be construed--

``(1) to require a pipeline operator to obtain a Federal permit, if no Federal permit would otherwise have been required under Federal law; or

``(2) to preempt applicable Federal, State, or local environmental law.

``(d) INTERIM OPERATIONAL ALTERNATIVES.--

``(1) IN GENERAL.--Not later than 30 days after the date of enactment of this section, and subject to the limitations in paragraph (2), the Secretary of Transportation shall revise the regulations of the Department, to the extent necessary, to permit a pipeline operator subject to time periods for repair specified by rule by the Secretary to implement alternative mitigation measures until all applicable permits have been granted.

``(2) LIMITATIONS.--The regulations issued by the Secretary pursuant to this subsection shall not allow an operator to implement alternative mitigation measures pursuant to paragraph (1) unless--

``(A) allowing the operator to implement such measures would be consistent with the protection of human health, public safety, and the environment;

``(B) the operator, with respect to a particular repair project, has applied for and is pursuing diligently and in good faith all required Federal, State, and local permits to carry out the project; and

``(C) the proposed alternative mitigation measures are not incompatible with pipeline safety.

``(e) OMBUDSMAN.--The Secretary shall designate an ombudsman to assist in expediting pipeline repairs and resolving disagreements between Federal, State, and local permitting agencies and the pipeline operator during agency review of any pipeline repair activity, consistent with protection of human health, public safety, and the environment.

``(f) STATE AND LOCAL PERMITTING PROCESSES.--The Secretary shall encourage States and local governments to consolidate their respective permitting processes for pipeline repair projects subject to any time periods for repair specified by rule by the Secretary. The Secretary may request other relevant Federal agencies to provide technical assistance to States and local governments for the purpose of encouraging such consolidation.".

(b) CONFORMING AMENDMENT.--The analysis for chapter 601 is amended by adding at the end the following:

``60133. Coordination of environmental reviews.".

FROM: James L. Connaughton

DATE: December 17, 2002

RE: Pipeline Safety Improvement Act of 2002 (signed by the President on December 17, 2002)

The "Pipeline Safety Act" Section 16 (a) (1) calls for the President, not later than 30 days after the enactment date, to establish an Interagency Committee "to develop and ensure implementation of a coordinated environmental review and permitting process in order to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary." Section 16 (a) (2) names the Chairman of the Council on Environmental Quality (or a designee of the Chairman) as the chair of the Interagency Committee and lists the representatives of Federal agencies who shall serve on the committee.

Attached is a memo that I propose to send to the representatives named in the bill that would establish the committee and delegate implementing responsibilities to the White House Task Force on Energy Project Streamlining. This Task Force already has successfully negotiated an interagency agreement on natural gas permitting which should effectively dovetail with the new "Pipeline Safety Act" requirements.

PROMPT FOR ACTION: Please provide comment on this by 5:00 pm on December 20th. Comment should be sent to V.A. Stephens at CEQ.

FROM: James L. Connaughton

DATE: December 17, 2002

RE: Pipeline Safety Improvement Act of 2002 (signed by the President on December 17, 2002)

The "Pipeline Safety Act" Section 16 (a) (1) calls for the President, not later than 30 days after the enactment date, to establish an Interagency Committee "to develop and ensure implementation of a coordinated environmental review and permitting process in order to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary." Section 16 (a) (2) names the Chairman of the Council on Environmental Quality (or a designee of the Chairman) as the chair of the Interagency Committee and lists the representatives of Federal agencies who shall serve on the committee.

Attached is a memo that I propose to send to the representatives named in the bill that would establish the committee and delegate implementing responsibilities to the White House Task Force on Energy Project Streamlining. This Task Force already has successfully negotiated an interagency agreement on natural gas permitting which should effectively dovetail with the new "Pipeline Safety Act" requirements.

PROMPT FOR ACTION: Please provide comment on this by 5:00 pm on December 20th. Comment should be sent to V.A. Stephens at CEQ.

From: Thomas, Ginni <ginni.thomas@heritage.org>
To: Government Relations <GovernmentRelations@heritage.org>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 12/20/2002 4:39:36 AM
Subject: : Heritage - Publications (Dec. 20, 2002)

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Thomas, Ginni" <ginni.thomas@heritage.org> ( "Thomas, Ginni"
<ginni.thomas@heritage.org> [ UNKNOWN ] )
CREATION DATE/TIME:20-DEC-2002 09:39:36.00
SUBJECT:: Heritage - Publications (Dec. 20, 2002)
TO:Government Relations <GovernmentRelations@heritage.org> ( Government Relations
<GovernmentRelations@heritage.org> [ UNKNOWN ] )
READ:UNKNOWN
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

If you are getting away (isn't everybody?), have a great vacation and
holiday(s)! Our Agenda 2003 is NOW AVAILABLE on the web - see below. You
can download issues/chapters of interest! In addition, we sent out many
Heritage calendars for 2003 too -- if you didn't get one and want one,
please write me in early January (as they JUST went out) and we will get
you one! Warmly, Ginni Thomas
>
>
> Agenda 2003: Shaping America's Future is now available online in Adobe
PDF format.
> http://www.heritage.org/agenda
>
>
> Recent Publications:
>
> Foreign/Defense Policy:
>
> The U.S.-Middle East Partnership Initiative: Building Hope for the Years
Ahead by The Honorable Colin L. Powell
> http://www.heritage.org/Research/MiddleEast/hl772.cfm
>
> Trade Promotes Prosperity and Security by Gerald P. O'Driscoll, Jr., and
Sara Fitzgerald
> http://www.heritage.org/Research/TradeandForeignAid/BG1617.cfm
>
> Giving Missile Defense a Chance by Baker Spring
> http://www.heritage.org/Press/Commentary/ed121902a.cfm
>
> 2003 Index of Economic Freedom, a practical reference guide to the
world's economies
> http://www.heritage.org/research/features/index/
> http://www.heritage.org/Research/TradeandForeignAid/wm174.cfm
>
>
> Domestic Policy:
>
> The Case for Faith-Friendly Government by Joe Loconte
> http://www.heritage.org/Press/Commentary/ed121902b.cfm
>
> The Heritage Foundation> '> s Family & Society Database
> The Database catalogs social science findings on the family gleaned from
```

peer-reviewed journals, books, and government surveys. Currently containing nearly 1,100 empirical findings drawn from the past 15 years, the Database highlights what the social sciences reveal about the family. The Database explores relationships between the family and civil society, good government, and a vibrant economy. Users can search the Database by keywords and author.
> http://www.heritage.org/research/features/familydatabase/
>
> Request a Briefing from The Heritage Foundation
> Heritage has developed a special service for government officials who would like more information on specific policy topics from Heritage analysts. Request more information using the link below and our government relations staff will work with you to customize a briefing if possible or invite you to an upcoming briefing on an issue of interest. Choose from 30 domestic, defense, and foreign policy topics.
> http://www.heritage.org/research/RequestBriefing.cfm
>

From: Jean_M._Russell@opd.eop.gov [OPD] <Russell, Jeannie>

To: <Gillmor>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6CC880A6-A3397D87-852569F2-511054 [UNKNOWN] <Eleanor L.>;<Spellings>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/F0B716C1-4D6B517D-85256AD3-7E7D37 [UNKNOWN] <Margaret M.>;<Vestewig>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/54654B73-3ED90D2F-85256B60-566CD0 [UNKNOWN] <Lauren J.>;<Ralston>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/687DD249-C2840DC7-852569F3-6F5C28 [UNKNOWN] <Susan B.>;<Hernandez>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/9A92FB8D-28223EB3-852569DC-630DCD [UNKNOWN] <Israel>;<Hager>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/19127F32-8FD61FA5-85256BAC-472950 [UNKNOWN] <Henry C.>;<Camp>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/64A878B0-38CF6AFE-852569DA-643152 [UNKNOWN] <Elizabeth N.>;<Bumatay>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/3465B0BF-DC4627C2-85256B30-52A689 [UNKNOWN] <Patrick J.>;<Garvin>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/8D6BFF88-848CC4A7-85256A32-49509D [UNKNOWN] <Dorothy C.>;<Conway>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C63969DB-CC624FDB-85256A0D-75885C [UNKNOWN] <Michael J.>;<Loper>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/527B67DA-80EA9637-85256BA4-4E24D0 [UNKNOWN] <Ginger G.>;<Davie>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C1905CAF-33A32B3B-852569F1-6DF8BA [UNKNOWN] <Jill>;<Ritacco>;Krista_L._Ritacco@who.eop.gov [WHO] <Krista L.>;<Bartlett>;Daniel_J._Bartlett@who.eop.gov [WHO] <Daniel J.>;<Lefkowitz>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/4E3BA750-755061D8-85256B68-854C7 [UNKNOWN] <Jay P.>;<Lineberry>;llineber@NSC.eop.gov [NSC] <Laura E.>;<Gray>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/40289C9F-87E5BBFB-85256B42-56D1F7 [UNKNOWN] <Ann>;<Gray>;wgray@NSC.eop.gov [NSC] <Wendy E.>;<Joshi>;mjoshi@NSC.eop.gov [NSC] <M. Kay>;<Mallea>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/4D155367-2D4F6A8D-85256B72-463C96 [UNKNOWN] <Jose>;<Kyle>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/3A6C9F73-8873BD4-85256A15-72A62A [UNKNOWN] <Ross M.>;<Bennett>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/5D5F365B-3B5ACE36-852569DB-7B1446 [UNKNOWN] <Melissa S.>;<Bolten>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/DCA7B994-2476ECB4-852569D9-623521 [UNKNOWN] <Joshua B.>;<Thompson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/2B4AA44-B780A313-85256C8A-5343FD [UNKNOWN] <Carol J.>;<Litkenhaus>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/110E00D2-8F44449B-852569DC-4DE3 [UNKNOWN] <Colleen>;<Estes>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/4C32A97D-998AE454-852569DB-5EAFD3 [UNKNOWN] <Ashley>;<Gottesman>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/E3CC9430-AD683D99-852569DB-51F012 [UNKNOWN] <Blake>;<Miers>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/B2E77F63-672509FB-852569D9-6D71FD [UNKNOWN] <Harriet>;<Cleveland>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/F03138B4-EF0DE20B-852563D9-64A164 [UNKNOWN] <Carolyn E.>;<Bird>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/EF82DEE6-95F9C237-852563D5-3283E [UNKNOWN] <Debra D.>;<Figg>;Kara_G._Figg@who.eop.gov [WHO] <Kara G.>;<Reynolds>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C3B08C44-9E191875-85256B4A-52EC25 [UNKNOWN] <Tim>;<Kaplan>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/AB40E70D-1309FE17-852569DC-4D7D0B [UNKNOWN] <Joel D.>;<Silverberg>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/537D2975-BF79804E-852569DB-5F147C [UNKNOWN] <Kristen>;<Davis>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/F759F175-C3FC680E-852569D9-6EE299 [UNKNOWN] <Ashley E.>;<Wolff>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C06EB469-AB0DCC3F-852569DC-5ECD7C [UNKNOWN] <Harry W.>;<Buchan>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6CDF751A-ED243CC-852569DB-8124CB [UNKNOWN] <Claire E.>;<Disston>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/KATHERINE_L._DISSTON [UNKNOWN] <Katherine L.>;<Mooney>;Leslie_A._Mooney@opd.eop.gov [OPD] <Leslie A.>;<Otto>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/ERIC_H._OTTO [UNKNOWN] <Eric H.>;<Lineberry>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/646A28AA-5FD3662A-85256AF7-5FE5D2 [UNKNOWN] <Stephen M.>;<Holtz-eakin>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/E7DC21E0-12BF3266-85256A47-609F9A [UNKNOWN] <Douglas J.>;<Williams>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/811E0514-B040B28A-

85256478-1B84A5 [UNKNOWN] <Alice H.>;<Daigle>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/84B55D9F-8FB176AF-85256478-1AF011 [UNKNOWN] <Sandra F.>;<Branch>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/D0BA1FB0-33A24A4E-8525647A-5282BF [UNKNOWN] <Lisa D.>;<Hubbard>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/689D1551-C67272B7-85256A45-4E26FC [UNKNOWN] <Glenn>;<Keller>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/67536FF7-A76B44E7-852569DE-5BC742 [UNKNOWN] <Karen E.>;<Altoft>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/FCED50ED-17FDB27B-85256387-50AD0 [UNKNOWN] <Lois E.>;<Daniels>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/DD887072-71DA53E6-852569D6-4B724E [UNKNOWN] <Mitchell>;<Mayfield>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/EDF13E3B-4221C5BC-852569DB-5F8644 [UNKNOWN] <Jennifer H.>;<Lang>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/7A0D25E9-90B22256-852569DB-57EDB1 [UNKNOWN] <Mary K.>;<Sechser>;Scott_Sechser@who.eop.gov [WHO] <Scott D.>;<Prendergast>;Katherine_M._Prendergast@who.eop.gov [WHO] <Katherine M.>;<Loy>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/A98EFE6D-5AE0DAD9-85256B74-467F4C [UNKNOWN] <Carrie B.>;<Parell>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/3FF1750E-D8041D22-85256C46-489B23 [UNKNOWN] <Christie>;<Adams>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/15D7B4C4-7FC0E1E5-85256A61-60E740 [UNKNOWN] <Mary L.>;<Mitsler>;emitsler@NSC.eop.gov [NSC] <Elaine M.>;<Heath>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C74032B2-703C38F1-85256B3E-2A489 [UNKNOWN] <Daniel D.>;<Badger>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/726249FA-64F59406-85256C5D-4D6E30 [UNKNOWN] <William D.>;<Riepenhoff>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/E07714A6-FC8F86D9-852569FB-6AFACD [UNKNOWN] <Allison L.>;<Teague>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/87525F53-890A6C8-85256BAD-62EFD8 [UNKNOWN] <Randal C.>;<Grant>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/D830905B-73BBD637-85256AB6-4A970B [UNKNOWN] <Britt>;<Christie>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/D5A2EDAF-59ACEE7B-85256B6E-5882C8 [UNKNOWN] <Ronald I.>;<Garrison>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/1BD7473B-AC1F5200-85256BBC-5112BD [UNKNOWN] <Stephen M.>;<Kavanaugh>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6246020-C20FEE19-852569DA-7648DC [UNKNOWN] <Brett M.>;<Stout>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/F605B16E-8B76AFC1-852569F5-48044A [UNKNOWN] <Timothy C.>;<Litterst>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/2CCB1282-436DE119-852569DA-766097 [UNKNOWN] <Roland N.>;<Kirk>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/41CCE2F3-C445AE7F-85256A4D-41FB4B [UNKNOWN] <Matthew>;<Conklin>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/BE8D235-7E18AB8E-852569DC-482AEC [UNKNOWN] <Brian C.>;<Holbrook>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/12A98D85-FA37DE9A-85256AD3-63A6D3 [UNKNOWN] <Ashley>;<Barfield>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/67394C19-5A09EB30-85256B72-48B742 [UNKNOWN] <Tiffany L.>;<Powell>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/583FB9CE-AFBAD6FF-852569DD-44BBDA [UNKNOWN] <Dina>;<Cruson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/9B54B821-5FDE6714-85256C60-5BA05C [UNKNOWN] <Karen D.>;<Dickens>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/AA173D66-94F3A183-85256AA0-91CEF [UNKNOWN] <Reed>;<Deckard>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/F99FC38-59198000-85256A56-64F8DA [UNKNOWN] <Josh>;<Bowen>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/4A2C2EB-13942C40-852569DA-6125AE [UNKNOWN] <Stuart W.>;<Jackson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C5E6E146-9B752404-85256A15-5F0CA1 [UNKNOWN] <Barry S.>;<Ellison>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/BB027C86-BD6FA36D-85256B73-676281 [UNKNOWN] <Kimberly>;<Goldman>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/698AA900-27350BE5-852569DD-5F23FE [UNKNOWN] <Adam B.>;<Blahous>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/45FAC930-88185E97-85256A00-74EBFC [UNKNOWN] <Charles P.>;<Bonilla>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/83D6DBA-FE1C4CAE-852569DE-51ED72 [UNKNOWN] <Carlos E.>;<McNally>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/1D08D778-A151A12B-852569DD-48B7D4 [UNKNOWN] <Robert C.>;<Warsh>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/30FE7FCE-D1703678-85256B59-6CFEFC [

UNKNOWN] <Kevin>;<Conner>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /EC0006FB-901F59D9-85256AFC-4D5FD0 [UNKNOWN] <Charles>;<Glenn>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/47365273-735D7E33-852569DE-5B5981 [UNKNOWN] <Dylan C.>;<Hennessey>;Keith_Hennessey@opd.eop.gov [OPD] <Keith>;<Gerdelman>;/EOP /FIRST ADMINISTRATIVE GROUP/RECIPIENTS/30202E6B-BF9BB827-85256A09-54758E [UNKNOWN] <Sue H.>;<Boeckel>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /D9F59A10-EAF126D8-85256AF4-678DB4 [UNKNOWN] <Caroline>;<Smith>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/F04AC38B-61413986-85256ABA-87320 [UNKNOWN] <Marty P.>;<Russell>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /134525C3-390EF0D7-85256A02-650A60 [UNKNOWN] <Richard M.>;<Weinberg>;jweinber@OMB.eop.gov [OMB] <Jeffrey A.>;<Weinstein>;Jared_B._Weinstein@who.eop.gov [WHO] <Jared B.>;<Kleppe>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/D6FD4CB5-AE28179D-852569DB-568310 [UNKNOWN] <Elizabeth W.>

Sent: 12/20/2002 8:25:43 AM

Subject: Jeannie's Last Day...

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (MS Mail)
CREATOR:Russell, Jeannie ( Jean_M._Russell@opd.eop.gov [ OPD ] )
CREATION DATE/TIME:20-DEC-2002 13:25:43.00
SUBJECT:Jeannie's Last Day...
TO:Gillmor, Eleanor L. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6CC880A6-
A3397D87-852569F2-511054 [ UNKNOWN ] )
READ:UNKNOWN
TO:Spellings, Margaret M. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=F0B716C1-4D6B517D-85256AD3-7E7D37 [ UNKNOWN ] )
READ:UNKNOWN
TO:Vestewig, Lauren J. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=54654B73-3ED90D2F-85256B60-566CD0 [ UNKNOWN ] )
READ:UNKNOWN
TO:Ralston, Susan B. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=687DD249-
C2840DC7-852569F3-6F5C28 [ UNKNOWN ] )
READ:UNKNOWN
TO:Hernandez, Israel ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=9A92FB8D-
28223EB3-852569DC-630DCD [ UNKNOWN ] )
READ:UNKNOWN
TO:Hager, Henry C. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=19127F32-8FD61FA5-85256BAC-472950 [ UNKNOWN ] )
READ:UNKNOWN
TO:Camp, Elizabeth N. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=64A878B0-38CF6AFE-852569DA-643152 [ UNKNOWN ] )
READ:UNKNOWN
TO:Bumatay, Patrick J. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=3465B0BF-
DC4627C2-85256B30-52A689 [ UNKNOWN ] )
READ:UNKNOWN
TO:Garvin, Dorothy C. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=8D6BFF88-848CC4A7-85256A32-49509D [ UNKNOWN ] )
READ:UNKNOWN
TO:Conway, Michael J. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=C63969DB-
CC624FDB-85256A0D-75885C [ UNKNOWN ] )
READ:UNKNOWN
TO:Loper, Ginger G. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=527B67DA-
80EA9637-85256BA4-4E24D0 [ UNKNOWN ] )
READ:UNKNOWN
TO:Davie, Jill ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=C1905CAF-33A32B3B-
852569F1-6DF8BA [ UNKNOWN ] )
READ:UNKNOWN
TO:Ritacco, Krista L. ( Krista_L._Ritacco@who.eop.gov [ WHO ] )
READ:UNKNOWN
```

TO:Bartlett, Daniel J. (Daniel_J._Bartlett@who.eop.gov [WHO])
READ:UNKNOWN
TO:Lefkowitz, Jay P. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=4E3BA750-755061D8-85256B68-854C7 [UNKNOWN])
READ:UNKNOWN
TO:Lineberry, Laura E. (llineber@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Gray, Ann (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=40289C9F-87E5BBFB-
85256B42-56D1F7 [UNKNOWN])
READ:UNKNOWN
TO:Gray, Wendy E. (wgray@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Joshi, M. Kay (mjoshi@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Mallea, Jose (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4D155367-2D4F6A8D-
85256B72-463C96 [UNKNOWN])
READ:UNKNOWN
TO:Kyle, Ross M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=3A6C9F73-8873BD4-85256A15-72A62A [UNKNOWN])
READ:UNKNOWN
TO:Bennett, Melissa S. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=5D5F365B-
3B5ACE36-852569DB-7B1446 [UNKNOWN])
READ:UNKNOWN
TO:Bolten, Joshua B. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=DCA7B994-2476ECB4-852569D9-623521 [UNKNOWN])
READ:UNKNOWN
TO:Thompson, Carol J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=2B4AA44-
B780A313-85256C8A-5343FD [UNKNOWN])
READ:UNKNOWN
TO:Litkenhaus, Colleen (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=110E00D2-8F44449B-852569DC-4DE3 [UNKNOWN])
READ:UNKNOWN
TO:Estes, Ashley (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4C32A97D-
998AE454-852569DB-5EAFD3 [UNKNOWN])
READ:UNKNOWN
TO:Gottesman, Blake (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E3CC9430-
AD683D99-852569DB-51F012 [UNKNOWN])
READ:UNKNOWN
TO:Miers, Harriet (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=B2E77F63-672509FB-852569D9-6D71FD [UNKNOWN])
READ:UNKNOWN
TO:Cleveland, Carolyn E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=F03138B4-
EF0DE20B-852563D9-64A164 [UNKNOWN])
READ:UNKNOWN
TO:Bird, Debra D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=EF82DEE6-95F9C237-852563D5-3283E [UNKNOWN])
READ:UNKNOWN
TO:Figg, Kara G. (Kara_G._Figg@who.eop.gov [WHO])
READ:UNKNOWN
TO:Reynolds, Tim (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=C3B08C44-9E191875-85256B4A-52EC25 [UNKNOWN])
READ:UNKNOWN
TO:Kaplan, Joel D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=AB40E70D-
1309FE17-852569DC-4D7D0B [UNKNOWN])
READ:UNKNOWN
TO:Silverberg, Kristen (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=537D2975-
BF79804E-852569DB-5F147C [UNKNOWN])
READ:UNKNOWN
TO:Davis, Ashley E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=F759F175-
C3FC680E-852569D9-6EE299 [UNKNOWN])
READ:UNKNOWN
TO:Wolff, Harry W. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=C06EB469-
AB0DCC3F-852569DC-5ECD7C [UNKNOWN])

READ:UNKNOWN
TO:Buchan, Claire E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6CDF751A-ED243CC-852569DB-8124CB [UNKNOWN])
READ:UNKNOWN
TO:Disston, Katherine L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=KATHERINE_L._DISSTON [UNKNOWN])
READ:UNKNOWN
TO:Mooney, Leslie A. (Leslie_A._Mooney@opd.eop.gov [OPD])
READ:UNKNOWN
TO:Otto, Eric H. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=ERIC_H._OTTO [UNKNOWN])
READ:UNKNOWN
TO:Lineberry, Stephen M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=646A28AA-5FD3662A-85256AF7-5FE5D2 [UNKNOWN])
READ:UNKNOWN
TO:Holtz-eakin, Douglas J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E7DC21E0-12BF3266-85256A47-609F9A [UNKNOWN])
READ:UNKNOWN
TO:Williams, Alice H. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=811E0514-B040B28A-85256478-1B84A5 [UNKNOWN])
READ:UNKNOWN
TO:Daigle, Sandra F. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=84B55D9F-8FB176AF-85256478-1AF011 [UNKNOWN])
READ:UNKNOWN
TO:Branch, Lisa D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=D0BA1FB0-33A24A4E-8525647A-5282BF [UNKNOWN])
READ:UNKNOWN
TO:Hubbard, Glenn (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=689D1551-C67272B7-85256A45-4E26FC [UNKNOWN])
READ:UNKNOWN
TO:Keller, Karen E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=67536FF7-A76B44E7-852569DE-5BC742 [UNKNOWN])
READ:UNKNOWN
TO:Altoft, Lois E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=FCED50ED-17FDB27B-85256387-50AD0 [UNKNOWN])
READ:UNKNOWN
TO:Daniels, Mitchell (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=DD887072-71DA53E6-852569D6-4B724E [UNKNOWN])
READ:UNKNOWN
TO:Mayfield, Jennifer H. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=EDF13E3B-4221C5BC-852569DB-5F8644 [UNKNOWN])
READ:UNKNOWN
TO:Lang, Mary K. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=7A0D25E9-90B22256-852569DB-57EDB1 [UNKNOWN])
READ:UNKNOWN
TO:Sechser, Scott D. (Scott_Sechser@who.eop.gov [WHO])
READ:UNKNOWN
TO:Prendergast, Katherine M. (Katherine_M._Prendergast@who.eop.gov [WHO])
READ:UNKNOWN
TO:Loy, Carrie B. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=A98EFE6D-5AE0DAD9-85256B74-467F4C [UNKNOWN])
READ:UNKNOWN
TO:Parell, Christie (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=3FF1750E-D8041D22-85256C46-489B23 [UNKNOWN])
READ:UNKNOWN
TO:Adams, Mary L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=15D7B4C4-7FC0E1E5-85256A61-60E740 [UNKNOWN])
READ:UNKNOWN
TO:Mitsler, Elaine M. (emitsler@NSC.eop.gov [NSC])
READ:UNKNOWN
TO:Heath, Daniel D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=C74032B2-703C38F1-85256B3E-2A489 [UNKNOWN])
READ:UNKNOWN

TO:Badger, William D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=726249FA-64F59406-85256C5D-4D6E30 [UNKNOWN])
READ:UNKNOWN
TO:Riepenhoff, Allison L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E07714A6-FC8F86D9-852569FB-6AFACD [UNKNOWN])
READ:UNKNOWN
TO:Teague, Randal C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=87525F53-890A6C8-85256BAD-62EFD8 [UNKNOWN])
READ:UNKNOWN
TO:Grant, Britt (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=D830905B-73BBD637-85256AB6-4A970B [UNKNOWN])
READ:UNKNOWN
TO:Christie, Ronald I. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=D5A2EDAF-59ACEE7B-85256B6E-5882C8 [UNKNOWN])
READ:UNKNOWN
TO:Garrison, Stephen M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=1BD7473B-AC1F5200-85256BBC-5112BD [UNKNOWN])
READ:UNKNOWN
TO:Kavanaugh, Brett M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6246020-C20FEE19-852569DA-7648DC [UNKNOWN])
READ:UNKNOWN
TO:Stout, Timothy C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=F605B16E-8B76AFC1-852569F5-48044A [UNKNOWN])
READ:UNKNOWN
TO:Litterst, Roland N. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=2CCB1282-436DE119-852569DA-766097 [UNKNOWN])
READ:UNKNOWN
TO:Kirk, Matthew (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=41CCE2F3-C445AE7F-85256A4D-41FB4B [UNKNOWN])
READ:UNKNOWN
TO:Conklin, Brian C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=BE8D235-7E18AB8E-852569DC-482AEC [UNKNOWN])
READ:UNKNOWN
TO:Holbrook, Ashley (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=12A98D85-FA37DE9A-85256AD3-63A6D3 [UNKNOWN])
READ:UNKNOWN
TO:Barfield, Tiffany L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=67394C19-5A09EB30-85256B72-48B742 [UNKNOWN])
READ:UNKNOWN
TO:Powell, Dina (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=583FB9CE-AFBAD6FF-852569DD-44BBDA [UNKNOWN])
READ:UNKNOWN
TO:Cruson, Karen D. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=9B54B821-5FDE6714-85256C60-5BA05C [UNKNOWN])
READ:UNKNOWN
TO:Dickens, Reed (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=AA173D66-94F3A183-85256AA0-91CEF [UNKNOWN])
READ:UNKNOWN
TO:Deckard, Josh (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=F99FC38-59198000-85256A56-64F8DA [UNKNOWN])
READ:UNKNOWN
TO:Bowen, Stuart W. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4A2C2EB-13942C40-852569DA-6125AE [UNKNOWN])
READ:UNKNOWN
TO:Jackson, Barry S. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=C5E6E146-9B752404-85256A15-5F0CA1 [UNKNOWN])
READ:UNKNOWN
TO:Ellison, Kimberly (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=BB027C86-BD6FA36D-85256B73-676281 [UNKNOWN])
READ:UNKNOWN
TO:Goldman, Adam B. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=698AA900-27350BE5-852569DD-5F23FE [UNKNOWN])
READ:UNKNOWN

TO:Blahous, Charles P. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=45FAC930-88185E97-85256A00-74EBFC [UNKNOWN])
READ:UNKNOWN
TO:Bonilla, Carlos E. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=83D6DBA-
FE1C4CAE-852569DE-51ED72 [UNKNOWN])
READ:UNKNOWN
TO:McNally, Robert C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=1D08D778-
A151A12B-852569DD-48B7D4 [UNKNOWN])
READ:UNKNOWN
TO:Warsh, Kevin (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=30FE7FCE-
D1703678-85256B59-6CFEFC [UNKNOWN])
READ:UNKNOWN
TO:Conner, Charles (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=EC0006FB-
901F59D9-85256AFC-4D5FD0 [UNKNOWN])
READ:UNKNOWN
TO:Glenn, Dylan C. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=47365273-735D7E33-852569DE-5B5981 [UNKNOWN])
READ:UNKNOWN
TO:Hennessey, Keith (Keith_Hennessey@opd.eop.gov [OPD])
READ:UNKNOWN
TO:Gerdelman, Sue H. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=30202E6B-
BF9BB827-85256A09-54758E [UNKNOWN])
READ:UNKNOWN
TO:Boeckel, Caroline (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=D9F59A10-
EAF126D8-85256AF4-678DB4 [UNKNOWN])
READ:UNKNOWN
TO:Smith, Marty P. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=F04AC38B-
61413986-85256ABA-87320 [UNKNOWN])
READ:UNKNOWN
TO:Russell, Richard M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=134525C3-390EF0D7-85256A02-650A60 [UNKNOWN])
READ:UNKNOWN
TO:Weinberg, Jeffrey A. (jweinber@OMB.eop.gov [OMB])
READ:UNKNOWN
TO:Weinstein, Jared B. (Jared_B._Weinstein@who.eop.gov [WHO])
READ:UNKNOWN
TO:Kleppe, Elizabeth W. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=D6FD4CB5-
AE28179D-852569DB-568310 [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Exciting news! My last day here at the White House will be on Tuesday, January 7, 2003 (that's not the good part). I will be off to start my new position as Executive Assistant to the Secretary at the Department of Energy (good part!) I am very excited for this new opportunity but sad to leave all of you wonderful people at the White House. It has been so much fun here in the West Wing and I look forward for our paths to cross again.

Happy Holidays!

and please keep in touch,
jeannie

From: CN=Jean M. Russell/OU=OPD/O=EOP@Exchange [OPD]

To: Jared B. Weinstein/WHO/EOP@Exchange [WHO] <Jared B. Weinstein>;Richard M. Russell/OSTP/EOP@EOP [OSTP] <Richard M. Russell>;Caroline Boeckel/OPD/EOP@EOP [OPD] <Caroline Boeckel>;Keith Hennessey/OPD/EOP@Exchange [OPD] <Keith Hennessey>;Charles Conner/OPD/EOP@EOP [OPD] <Charles Conner>;Robert C. McNally/OPD/EOP@EOP [OPD] <Robert C. McNally>;Charles P. Blahous/OPD/EOP@EOP [OPD] <Charles P. Blahous>;Kimberly Ellison/WHO/EOP@EOP [WHO] <Kimberly Ellison>;Stuart W. Bowen/WHO/EOP@EOP [WHO] <Stuart W. Bowen>;Reed Dickens/WHO /EOP@EOP [WHO] <Reed Dickens>;Dina Powell/WHO/EOP@EOP [WHO] <Dina Powell>;Ashley Holbrook/WHO/EOP@EOP [WHO] <Ashley Holbrook>;Matthew Kirk/WHO /EOP@EOP [WHO] <Matthew Kirk>;Timothy C. Stout/WHO/EOP@EOP [WHO] <Timothy C. Stout>;Stephen M. Garrison/WHO/EOP@EOP [WHO] <Stephen M. Garrison>;Britt Grant/OPD /EOP@EOP [OPD] <Britt Grant>;Allison L. Riepenhoff/WHO/EOP@EOP [WHO] <Allison L. Riepenhoff>;Daniel D. Heath/OPD/EOP@EOP [OPD] <Daniel D. Heath>;Mary L. Adams/NSC /EOP@EOP [NSC] <Mary L. Adams>;Carrie B. Loy/WHO/EOP@EOP [WHO] <Carrie B. Loy>;Scott Sechser/WHO/EOP@Exchange [WHO] <Scott Sechser>;Jennifer H. Mayfield/OVP /EOP@EOP [OVP] <Jennifer H. Mayfield>;Lois E. Altoft/OMB/EOP@EOP [OMB] <Lois E. Altoft>;Glenn Hubbard/CEA/EOP@EOP [CEA] <Glenn Hubbard>;Sandra F. Daigle/CEA /EOP@EOP [CEA] <Sandra F. Daigle>;Douglas J. Holtz-Eakin/CEA/EOP@EOP [CEA] <Douglas J. Holtz-Eakin>;Eric H. Otto/OPD/EOP@Exchange [OPD] <Eric H. Otto>;Katherine L. Disston/WHO/EOP@Exchange [WHO] <Katherine L. Disston>;Harry W. Wolff/WHO /EOP@EOP [WHO] <Harry W. Wolff>;Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>;Tim Reynolds/WHO/EOP@EOP [WHO] <Tim Reynolds>;Debra D. Bird/WHO /EOP@EOP [WHO] <Debra D. Bird>;Harriet Miers/WHO/EOP@EOP [WHO] <Harriet Miers>;Ashley Estes/WHO/EOP@EOP [WHO] <Ashley Estes>;Carol J. Thompson/OPD /EOP@EOP [OPD] <Carol J. Thompson>;Melissa S. Bennett/WHO/EOP@EOP [WHO] <Melissa S. Bennett>;Jose Mallea/WHO/EOP@EOP [WHO] <Jose Mallea>;Wendy E. Gray/NSC/EOP@EOP [NSC] <Wendy E. Gray>;Laura E. Lineberry/NSC/EOP@EOP [NSC] <Laura E. Lineberry>;Daniel J. Bartlett/WHO/EOP@Exchange [WHO] <Daniel J. Bartlett>;Jill Davie/WHO/EOP@EOP [WHO] <Jill Davie>;Michael J. Conway/WHO/EOP@EOP [WHO] <Michael J. Conway>;Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>;Henry C. Hager/WHO/EOP@EOP [WHO] <Henry C. Hager>;Susan B. Ralston/WHO /EOP@EOP [WHO] <Susan B. Ralston>;Margaret M. Spellings/OPD/EOP@EOP [OPD] <Margaret M. Spellings>;Elizabeth W. Kleppe/OVP/EOP@EOP [OVP] <Elizabeth W. Kleppe>;Jeffrey A. Weinberg/OMB/EOP@EOP [OMB] <Jeffrey A. Weinberg>;Marty P. Smith/OPD/EOP@EOP [OPD] <Marty P. Smith>;Sue H. Gerdelman/OPD/EOP@EOP [OPD] <Sue H. Gerdelman>;Dylan C. Glenn/OPD/EOP@EOP [OPD] <Dylan C. Glenn>;Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Carlos E. Bonilla/OPD/EOP@EOP [OPD] <Carlos E. Bonilla>;Adam B. Goldman/WHO/EOP@EOP [WHO] <Adam B. Goldman>;Barry S. Jackson/WHO/EOP@EOP [WHO] <Barry S. Jackson>;Josh Deckard/WHO/EOP@EOP [WHO] <Josh Deckard>;Karen D. Cruson/WHF/EOP@EOP [OPM] <Karen D. Cruson>;Tiffany L. Barfield/WHO/EOP@EOP [WHO] <Tiffany L. Barfield>;Brian C. Conklin/WHO/EOP@EOP [WHO] <Brian C. Conklin>;Roland N. Litterst/WHO/EOP@EOP [WHO] <Roland N. Litterst>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Ronald I. Christie/OPD/EOP@EOP [OPD] <Ronald I. Christie>;Randal C. Teague/WHO/EOP@EOP [WHO] <Randal C. Teague>;William D. Badger/OPD/EOP@EOP [OPD] <William D. Badger>;Elaine M. Mitsler/NSC/EOP@EOP [NSC] <Elaine M. Mitsler>;Christie Parell/WHO /EOP@EOP [WHO] <Christie Parell>;Katherine M. Prendergast/WHO/EOP@Exchange [WHO] <Katherine M. Prendergast>;Mary K. Lang/OVP/EOP@EOP [OVP] <Mary K. Lang>;Mitchell Daniels/OMB/EOP@EOP [OMB] <Mitchell Daniels>;Karen E. Keller/OMB/EOP@EOP [OMB] <Karen E. Keller>;Lisa D. Branch/CEA/EOP@EOP [CEA] <Lisa D. Branch>;Alice H. Williams/CEA/EOP@EOP [CEA] <Alice H. Williams>;Stephen M. Lineberry/CEA/EOP@EOP [CEA] <Stephen M. Lineberry>;Leslie A. Mooney/OPD/EOP@Exchange [OPD] <Leslie A. Mooney>;Claire E. Buchan/WHO/EOP@EOP [WHO] <Claire E. Buchan>;Ashley E. Davis/WHO /EOP@EOP [WHO] <Ashley E. Davis>;Joel D. Kaplan/WHO/EOP@EOP [WHO] <Joel D. Kaplan>;Kara G. Figg/WHO/EOP@Exchange [WHO] <Kara G. Figg>;Carolyn E. Cleveland/WHO/EOP@EOP [WHO] <Carolyn E. Cleveland>;Blake Gottesman/WHO /EOP@EOP [WHO] <Blake Gottesman>;Colleen Litkenhaus/WHO/EOP@EOP [WHO] <Colleen Litkenhaus>;Joshua B. Bolten/WHO/EOP@EOP [WHO] <Joshua B. Bolten>;Ross M. Kyle/WHO/EOP@EOP [WHO] <Ross M. Kyle>;M. Kay Joshi/NSC/EOP@EOP [NSC] <M. Kay Joshi>;Ann Gray/WHO/EOP@EOP [WHO] <Ann Gray>;Jay P. Lefkowitz/OPD/EOP@EOP [

OPD] <Jay P. Lefkowitz>;Krista L. Ritacco/WHO/EOP@Exchange [WHO] <Krista L. Ritacco>;Ginger G. Loper/WHO/EOP@EOP [WHO] <Ginger G. Loper>;Dorothy C. Garvin/WHO/EOP@EOP [WHO] <Dorothy C. Garvin>;Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>;Israel Hernandez/WHO/EOP@EOP [WHO] <Israel Hernandez>;Lauren J. Vestewig/OPD/EOP@EOP [OPD] <Lauren J. Vestewig>;Eleanor L. Gillmor/OPD/EOP@EOP [OPD] <Eleanor L. Gillmor>

Sent: 12/20/2002 8:26:06 AM

Subject: : Jeannie's Last Day...

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jean M. Russell ( CN=Jean M. Russell/OU=OPD/O=EOP@Exchange [ OPD ] )
CREATION DATE/TIME:20-DEC-2002 13:26:06.00
SUBJECT:: Jeannie's Last Day...
TO:Jared B. Weinstein ( CN=Jared B. Weinstein/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Richard M. Russell ( CN=Richard M. Russell/OU=OSTP/O=EOP@EOP [ OSTP ] )
READ:UNKNOWN
TO:Caroline Boeckel ( CN=Caroline Boeckel/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Keith Hennessey ( CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [ OPD ] )
READ:UNKNOWN
TO:Charles Conner ( CN=Charles Conner/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Robert C. McNally ( CN=Robert C. McNally/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Charles P. Blahous ( CN=Charles P. Blahous/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Kimberly Ellison ( CN=Kimberly Ellison/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Stuart W. Bowen ( CN=Stuart W. Bowen/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Reed Dickens ( CN=Reed Dickens/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Dina Powell ( CN=Dina Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Ashley Holbrook ( CN=Ashley Holbrook/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Matthew Kirk ( CN=Matthew Kirk/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Timothy C. Stout ( CN=Timothy C. Stout/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Stephen M. Garrison ( CN=Stephen M. Garrison/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Britt Grant ( CN=Britt Grant/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Allison L. Riepenhoff ( CN=Allison L. Riepenhoff/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Daniel D. Heath ( CN=Daniel D. Heath/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Mary L. Adams ( CN=Mary L. Adams/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:Carrie B. Loy ( CN=Carrie B. Loy/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Scott Sechser ( CN=Scott Sechser/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Jennifer H. Mayfield ( CN=Jennifer H. Mayfield/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Lois E. Altoft ( CN=Lois E. Altoft/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Glenn Hubbard ( CN=Glenn Hubbard/OU=CEA/O=EOP@EOP [ CEA ] )
READ:UNKNOWN
TO:Sandra F. Daigle ( CN=Sandra F. Daigle/OU=CEA/O=EOP@EOP [ CEA ] )
READ:UNKNOWN
TO:Douglas J. Holtz-Eakin ( CN=Douglas J. Holtz-Eakin/OU=CEA/O=EOP@EOP [ CEA ] )
READ:UNKNOWN
```

TO:Eric H. Otto (CN=Eric H. Otto/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Katherine L. Disston (CN=Katherine L. Disston/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Harry W. Wolff (CN=Harry W. Wolff/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Tim Reynolds (CN=Tim Reynolds/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Carol J. Thompson (CN=Carol J. Thompson/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jose Mallea (CN=Jose Mallea/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Wendy E. Gray (CN=Wendy E. Gray/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Laura E. Lineberry (CN=Laura E. Lineberry/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jill Davie (CN=Jill Davie/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Henry C. Hager (CN=Henry C. Hager/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Jeffrey A. Weinberg (CN=Jeffrey A. Weinberg/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Marty P. Smith (CN=Marty P. Smith/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Sue H. Gerdelman (CN=Sue H. Gerdelman/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Carlos E. Bonilla (CN=Carlos E. Bonilla/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Adam B. Goldman (CN=Adam B. Goldman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Josh Deckard (CN=Josh Deckard/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Karen D. Cruson (CN=Karen D. Cruson/OU=WHF/O=EOP@EOP [OPM])
READ:UNKNOWN
TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Randal C. Teague (CN=Randal C. Teague/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:William D. Badger (CN=William D. Badger/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Elaine M. Mitsler (CN=Elaine M. Mitsler/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Christie Parell (CN=Christie Parell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Katherine M. Prendergast (CN=Katherine M. Prendergast/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Mary K. Lang (CN=Mary K. Lang/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Karen E. Keller (CN=Karen E. Keller/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Lisa D. Branch (CN=Lisa D. Branch/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
TO:Alice H. Williams (CN=Alice H. Williams/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
TO:Stephen M. Lineberry (CN=Stephen M. Lineberry/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
TO:Leslie A. Mooney (CN=Leslie A. Mooney/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ashley E. Davis (CN=Ashley E. Davis/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ross M. Kyle (CN=Ross M. Kyle/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:M. Kay Joshi (CN=M. Kay Joshi/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Dorothy C. Garvin (CN=Dorothy C. Garvin/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Lauren J. Vestewig (CN=Lauren J. Vestewig/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
End Original ARMS Header

Exciting news! My last day here at the White House will be on Tuesday, January 7, 2003 (that's not the good part).; I will be off to start my new position as Executive Assistant to the Secretary at the Department of Energy (good part!); I am very excited for this new opportunity but sad to leave all of you wonderful people at the White House.; It has been so much fun here in the West Wing and I look forward for;our paths;to cross again.;
;
Happy Holidays!
;and please keep in touch,
jeannie

From: CN=Jean M. Russell/OU=OPD/O=EOP@Exchange [OPD]

To: Jared B. Weinstein/WHO/EOP@Exchange [WHO] <Jared B. Weinstein>;Richard M. Russell/OSTP/EOP@EOP [OSTP] <Richard M. Russell>;Caroline Boeckel/OPD/EOP@EOP [OPD] <Caroline Boeckel>;Keith Hennessey/OPD/EOP@Exchange [OPD] <Keith Hennessey>;Charles Conner/OPD/EOP@EOP [OPD] <Charles Conner>;Robert C. McNally/OPD/EOP@EOP [OPD] <Robert C. McNally>;Charles P. Blahous/OPD/EOP@EOP [OPD] <Charles P. Blahous>;Kimberly Ellison/WHO/EOP@EOP [WHO] <Kimberly Ellison>;Stuart W. Bowen/WHO/EOP@EOP [WHO] <Stuart W. Bowen>;Reed Dickens/WHO /EOP@EOP [WHO] <Reed Dickens>;Dina Powell/WHO/EOP@EOP [WHO] <Dina Powell>;Ashley Holbrook/WHO/EOP@EOP [WHO] <Ashley Holbrook>;Matthew Kirk/WHO /EOP@EOP [WHO] <Matthew Kirk>;Timothy C. Stout/WHO/EOP@EOP [WHO] <Timothy C. Stout>;Stephen M. Garrison/WHO/EOP@EOP [WHO] <Stephen M. Garrison>;Britt Grant/OPD /EOP@EOP [OPD] <Britt Grant>;Allison L. Riepenhoff/WHO/EOP@EOP [WHO] <Allison L. Riepenhoff>;Daniel D. Heath/OPD/EOP@EOP [OPD] <Daniel D. Heath>;Mary L. Adams/NSC /EOP@EOP [NSC] <Mary L. Adams>;Carrie B. Loy/WHO/EOP@EOP [WHO] <Carrie B. Loy>;Scott Sechser/WHO/EOP@Exchange [WHO] <Scott Sechser>;Jennifer H. Mayfield/OVP /EOP@EOP [OVP] <Jennifer H. Mayfield>;Lois E. Altoft/OMB/EOP@EOP [OMB] <Lois E. Altoft>;Glenn Hubbard/CEA/EOP@EOP [CEA] <Glenn Hubbard>;Sandra F. Daigle/CEA /EOP@EOP [CEA] <Sandra F. Daigle>;Douglas J. Holtz-Eakin/CEA/EOP@EOP [CEA] <Douglas J. Holtz-Eakin>;Eric H. Otto/OPD/EOP@Exchange [OPD] <Eric H. Otto>;Katherine L. Disston/WHO/EOP@Exchange [WHO] <Katherine L. Disston>;Harry W. Wolff/WHO /EOP@EOP [WHO] <Harry W. Wolff>;Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>;Tim Reynolds/WHO/EOP@EOP [WHO] <Tim Reynolds>;Debra D. Bird/WHO /EOP@EOP [WHO] <Debra D. Bird>;Harriet Miers/WHO/EOP@EOP [WHO] <Harriet Miers>;Ashley Estes/WHO/EOP@EOP [WHO] <Ashley Estes>;Carol J. Thompson/OPD /EOP@EOP [OPD] <Carol J. Thompson>;Melissa S. Bennett/WHO/EOP@EOP [WHO] <Melissa S. Bennett>;Jose Mallea/WHO/EOP@EOP [WHO] <Jose Mallea>;Wendy E. Gray/NSC/EOP@EOP [NSC] <Wendy E. Gray>;Laura E. Lineberry/NSC/EOP@EOP [NSC] <Laura E. Lineberry>;Daniel J. Bartlett/WHO/EOP@Exchange [WHO] <Daniel J. Bartlett>;Jill Davie/WHO/EOP@EOP [WHO] <Jill Davie>;Michael J. Conway/WHO/EOP@EOP [WHO] <Michael J. Conway>;Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>;Henry C. Hager/WHO/EOP@EOP [WHO] <Henry C. Hager>;Susan B. Ralston/WHO /EOP@EOP [WHO] <Susan B. Ralston>;Margaret M. Spellings/OPD/EOP@EOP [OPD] <Margaret M. Spellings>;Elizabeth W. Kleppe/OVP/EOP@EOP [OVP] <Elizabeth W. Kleppe>;Jeffrey A. Weinberg/OMB/EOP@EOP [OMB] <Jeffrey A. Weinberg>;Marty P. Smith/OPD/EOP@EOP [OPD] <Marty P. Smith>;Sue H. Gerdelman/OPD/EOP@EOP [OPD] <Sue H. Gerdelman>;Dylan C. Glenn/OPD/EOP@EOP [OPD] <Dylan C. Glenn>;Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Carlos E. Bonilla/OPD/EOP@EOP [OPD] <Carlos E. Bonilla>;Adam B. Goldman/WHO/EOP@EOP [WHO] <Adam B. Goldman>;Barry S. Jackson/WHO/EOP@EOP [WHO] <Barry S. Jackson>;Josh Deckard/WHO/EOP@EOP [WHO] <Josh Deckard>;Karen D. Cruson/WHF/EOP@EOP [OPM] <Karen D. Cruson>;Tiffany L. Barfield/WHO/EOP@EOP [WHO] <Tiffany L. Barfield>;Brian C. Conklin/WHO/EOP@EOP [WHO] <Brian C. Conklin>;Roland N. Litterst/WHO/EOP@EOP [WHO] <Roland N. Litterst>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Ronald I. Christie/OPD/EOP@EOP [OPD] <Ronald I. Christie>;Randal C. Teague/WHO/EOP@EOP [WHO] <Randal C. Teague>;William D. Badger/OPD/EOP@EOP [OPD] <William D. Badger>;Elaine M. Mitsler/NSC/EOP@EOP [NSC] <Elaine M. Mitsler>;Christie Parell/WHO /EOP@EOP [WHO] <Christie Parell>;Katherine M. Prendergast/WHO/EOP@Exchange [WHO] <Katherine M. Prendergast>;Mary K. Lang/OVP/EOP@EOP [OVP] <Mary K. Lang>;Mitchell Daniels/OMB/EOP@EOP [OMB] <Mitchell Daniels>;Karen E. Keller/OMB/EOP@EOP [OMB] <Karen E. Keller>;Lisa D. Branch/CEA/EOP@EOP [CEA] <Lisa D. Branch>;Alice H. Williams/CEA/EOP@EOP [CEA] <Alice H. Williams>;Stephen M. Lineberry/CEA/EOP@EOP [CEA] <Stephen M. Lineberry>;Leslie A. Mooney/OPD/EOP@Exchange [OPD] <Leslie A. Mooney>;Claire E. Buchan/WHO/EOP@EOP [WHO] <Claire E. Buchan>;Ashley E. Davis/WHO /EOP@EOP [WHO] <Ashley E. Davis>;Joel D. Kaplan/WHO/EOP@EOP [WHO] <Joel D. Kaplan>;Kara G. Figg/WHO/EOP@Exchange [WHO] <Kara G. Figg>;Carolyn E. Cleveland/WHO/EOP@EOP [WHO] <Carolyn E. Cleveland>;Blake Gottesman/WHO /EOP@EOP [WHO] <Blake Gottesman>;Colleen Litkenhaus/WHO/EOP@EOP [WHO] <Colleen Litkenhaus>;Joshua B. Bolten/WHO/EOP@EOP [WHO] <Joshua B. Bolten>;Ross M. Kyle/WHO/EOP@EOP [WHO] <Ross M. Kyle>;M. Kay Joshi/NSC/EOP@EOP [NSC] <M. Kay Joshi>;Ann Gray/WHO/EOP@EOP [WHO] <Ann Gray>;Jay P. Lefkowitz/OPD/EOP@EOP [

OPD] <Jay P. Lefkowitz>;Krista L. Ritacco/WHO/EOP@Exchange [WHO] <Krista L. Ritacco>;Ginger G. Loper/WHO/EOP@EOP [WHO] <Ginger G. Loper>;Dorothy C. Garvin/WHO/EOP@EOP [WHO] <Dorothy C. Garvin>;Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>;Israel Hernandez/WHO/EOP@EOP [WHO] <Israel Hernandez>;Lauren J. Vestewig/OPD/EOP@EOP [OPD] <Lauren J. Vestewig>;Eleanor L. Gillmor/OPD/EOP@EOP [OPD] <Eleanor L. Gillmor>

Sent: 12/20/2002 8:27:14 AM

Subject: : Jeannie's Last Day...

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jean M. Russell ( CN=Jean M. Russell/OU=OPD/O=EOP@Exchange [ OPD ] )
CREATION DATE/TIME:20-DEC-2002 13:27:14.00
SUBJECT:: Jeannie's Last Day...
TO:Jared B. Weinstein ( CN=Jared B. Weinstein/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Richard M. Russell ( CN=Richard M. Russell/OU=OSTP/O=EOP@EOP [ OSTP ] )
READ:UNKNOWN
TO:Caroline Boeckel ( CN=Caroline Boeckel/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Keith Hennessey ( CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [ OPD ] )
READ:UNKNOWN
TO:Charles Conner ( CN=Charles Conner/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Robert C. McNally ( CN=Robert C. McNally/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Charles P. Blahous ( CN=Charles P. Blahous/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Kimberly Ellison ( CN=Kimberly Ellison/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Stuart W. Bowen ( CN=Stuart W. Bowen/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Reed Dickens ( CN=Reed Dickens/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Dina Powell ( CN=Dina Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Ashley Holbrook ( CN=Ashley Holbrook/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Matthew Kirk ( CN=Matthew Kirk/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Timothy C. Stout ( CN=Timothy C. Stout/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Stephen M. Garrison ( CN=Stephen M. Garrison/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Britt Grant ( CN=Britt Grant/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Allison L. Riepenhoff ( CN=Allison L. Riepenhoff/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Daniel D. Heath ( CN=Daniel D. Heath/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Mary L. Adams ( CN=Mary L. Adams/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:Carrie B. Loy ( CN=Carrie B. Loy/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Scott Sechser ( CN=Scott Sechser/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Jennifer H. Mayfield ( CN=Jennifer H. Mayfield/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Lois E. Altoft ( CN=Lois E. Altoft/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Glenn Hubbard ( CN=Glenn Hubbard/OU=CEA/O=EOP@EOP [ CEA ] )
READ:UNKNOWN
TO:Sandra F. Daigle ( CN=Sandra F. Daigle/OU=CEA/O=EOP@EOP [ CEA ] )
READ:UNKNOWN
TO:Douglas J. Holtz-Eakin ( CN=Douglas J. Holtz-Eakin/OU=CEA/O=EOP@EOP [ CEA ] )
READ:UNKNOWN
```

TO:Eric H. Otto (CN=Eric H. Otto/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Katherine L. Disston (CN=Katherine L. Disston/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Harry W. Wolff (CN=Harry W. Wolff/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Tim Reynolds (CN=Tim Reynolds/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Carol J. Thompson (CN=Carol J. Thompson/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jose Mallea (CN=Jose Mallea/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Wendy E. Gray (CN=Wendy E. Gray/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Laura E. Lineberry (CN=Laura E. Lineberry/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jill Davie (CN=Jill Davie/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Henry C. Hager (CN=Henry C. Hager/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Jeffrey A. Weinberg (CN=Jeffrey A. Weinberg/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Marty P. Smith (CN=Marty P. Smith/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Sue H. Gerdelman (CN=Sue H. Gerdelman/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Carlos E. Bonilla (CN=Carlos E. Bonilla/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Adam B. Goldman (CN=Adam B. Goldman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Josh Deckard (CN=Josh Deckard/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Karen D. Cruson (CN=Karen D. Cruson/OU=WHF/O=EOP@EOP [OPM])
READ:UNKNOWN
TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Randal C. Teague (CN=Randal C. Teague/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:William D. Badger (CN=William D. Badger/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Elaine M. Mitsler (CN=Elaine M. Mitsler/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Christie Parell (CN=Christie Parell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Katherine M. Prendergast (CN=Katherine M. Prendergast/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Mary K. Lang (CN=Mary K. Lang/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Karen E. Keller (CN=Karen E. Keller/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Lisa D. Branch (CN=Lisa D. Branch/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
TO:Alice H. Williams (CN=Alice H. Williams/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
TO:Stephen M. Lineberry (CN=Stephen M. Lineberry/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
TO:Leslie A. Mooney (CN=Leslie A. Mooney/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ashley E. Davis (CN=Ashley E. Davis/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ross M. Kyle (CN=Ross M. Kyle/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:M. Kay Joshi (CN=M. Kay Joshi/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Dorothy C. Garvin (CN=Dorothy C. Garvin/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Lauren J. Vestewig (CN=Lauren J. Vestewig/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
End Original ARMS Header

Exciting news! My last day here at the White House will be on Tuesday, January 7, 2003 (that's not the good part).; I will be off to start my new position as Executive Assistant to the Secretary at the Department of Energy (good part!); I am very excited for this new opportunity but sad to leave all of you wonderful people at the White House.; It has been so much fun here in the West Wing and I look forward for;our paths;to cross again.;
;
Happy Holidays!
;and please keep in touch,
jeannie

From: CN=Jean M. Russell/OU=OPD/O=EOP@Exchange [OPD]

To: Jared B. Weinstein/WHO/EOP@Exchange [WHO] <Jared B. Weinstein>;Richard M. Russell/OSTP/EOP@EOP [OSTP] <Richard M. Russell>;Caroline Boeckel/OPD/EOP@EOP [OPD] <Caroline Boeckel>;Keith Hennessey/OPD/EOP@Exchange [OPD] <Keith Hennessey>;Charles Conner/OPD/EOP@EOP [OPD] <Charles Conner>;Robert C. McNally/OPD/EOP@EOP [OPD] <Robert C. McNally>;Charles P. Blahous/OPD/EOP@EOP [OPD] <Charles P. Blahous>;Kimberly Ellison/WHO/EOP@EOP [WHO] <Kimberly Ellison>;Stuart W. Bowen/WHO/EOP@EOP [WHO] <Stuart W. Bowen>;Reed Dickens/WHO /EOP@EOP [WHO] <Reed Dickens>;Dina Powell/WHO/EOP@EOP [WHO] <Dina Powell>;Ashley Holbrook/WHO/EOP@EOP [WHO] <Ashley Holbrook>;Matthew Kirk/WHO /EOP@EOP [WHO] <Matthew Kirk>;Timothy C. Stout/WHO/EOP@EOP [WHO] <Timothy C. Stout>;Stephen M. Garrison/WHO/EOP@EOP [WHO] <Stephen M. Garrison>;Britt Grant/OPD /EOP@EOP [OPD] <Britt Grant>;Allison L. Riepenhoff/WHO/EOP@EOP [WHO] <Allison L. Riepenhoff>;Daniel D. Heath/OPD/EOP@EOP [OPD] <Daniel D. Heath>;Mary L. Adams/NSC /EOP@EOP [NSC] <Mary L. Adams>;Carrie B. Loy/WHO/EOP@EOP [WHO] <Carrie B. Loy>;Scott Sechser/WHO/EOP@Exchange [WHO] <Scott Sechser>;Jennifer H. Mayfield/OVP /EOP@EOP [OVP] <Jennifer H. Mayfield>;Lois E. Altoft/OMB/EOP@EOP [OMB] <Lois E. Altoft>;Glenn Hubbard/CEA/EOP@EOP [CEA] <Glenn Hubbard>;Sandra F. Daigle/CEA /EOP@EOP [CEA] <Sandra F. Daigle>;Douglas J. Holtz-Eakin/CEA/EOP@EOP [CEA] <Douglas J. Holtz-Eakin>;Eric H. Otto/OPD/EOP@Exchange [OPD] <Eric H. Otto>;Katherine L. Disston/WHO/EOP@Exchange [WHO] <Katherine L. Disston>;Harry W. Wolff/WHO /EOP@EOP [WHO] <Harry W. Wolff>;Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>;Tim Reynolds/WHO/EOP@EOP [WHO] <Tim Reynolds>;Debra D. Bird/WHO /EOP@EOP [WHO] <Debra D. Bird>;Harriet Miers/WHO/EOP@EOP [WHO] <Harriet Miers>;Ashley Estes/WHO/EOP@EOP [WHO] <Ashley Estes>;Carol J. Thompson/OPD /EOP@EOP [OPD] <Carol J. Thompson>;Melissa S. Bennett/WHO/EOP@EOP [WHO] <Melissa S. Bennett>;Jose Mallea/WHO/EOP@EOP [WHO] <Jose Mallea>;Wendy E. Gray/NSC/EOP@EOP [NSC] <Wendy E. Gray>;Laura E. Lineberry/NSC/EOP@EOP [NSC] <Laura E. Lineberry>;Daniel J. Bartlett/WHO/EOP@Exchange [WHO] <Daniel J. Bartlett>;Jill Davie/WHO/EOP@EOP [WHO] <Jill Davie>;Michael J. Conway/WHO/EOP@EOP [WHO] <Michael J. Conway>;Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>;Henry C. Hager/WHO/EOP@EOP [WHO] <Henry C. Hager>;Susan B. Ralston/WHO /EOP@EOP [WHO] <Susan B. Ralston>;Margaret M. Spellings/OPD/EOP@EOP [OPD] <Margaret M. Spellings>;Elizabeth W. Kleppe/OVP/EOP@EOP [OVP] <Elizabeth W. Kleppe>;Jeffrey A. Weinberg/OMB/EOP@EOP [OMB] <Jeffrey A. Weinberg>;Marty P. Smith/OPD/EOP@EOP [OPD] <Marty P. Smith>;Sue H. Gerdelman/OPD/EOP@EOP [OPD] <Sue H. Gerdelman>;Dylan C. Glenn/OPD/EOP@EOP [OPD] <Dylan C. Glenn>;Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Carlos E. Bonilla/OPD/EOP@EOP [OPD] <Carlos E. Bonilla>;Adam B. Goldman/WHO/EOP@EOP [WHO] <Adam B. Goldman>;Barry S. Jackson/WHO/EOP@EOP [WHO] <Barry S. Jackson>;Josh Deckard/WHO/EOP@EOP [WHO] <Josh Deckard>;Karen D. Cruson/WHF/EOP@EOP [OPM] <Karen D. Cruson>;Tiffany L. Barfield/WHO/EOP@EOP [WHO] <Tiffany L. Barfield>;Brian C. Conklin/WHO/EOP@EOP [WHO] <Brian C. Conklin>;Roland N. Litterst/WHO/EOP@EOP [WHO] <Roland N. Litterst>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Ronald I. Christie/OPD/EOP@EOP [OPD] <Ronald I. Christie>;Randal C. Teague/WHO/EOP@EOP [WHO] <Randal C. Teague>;William D. Badger/OPD/EOP@EOP [OPD] <William D. Badger>;Elaine M. Mitsler/NSC/EOP@EOP [NSC] <Elaine M. Mitsler>;Christie Parell/WHO /EOP@EOP [WHO] <Christie Parell>;Katherine M. Prendergast/WHO/EOP@Exchange [WHO] <Katherine M. Prendergast>;Mary K. Lang/OVP/EOP@EOP [OVP] <Mary K. Lang>;Mitchell Daniels/OMB/EOP@EOP [OMB] <Mitchell Daniels>;Karen E. Keller/OMB/EOP@EOP [OMB] <Karen E. Keller>;Lisa D. Branch/CEA/EOP@EOP [CEA] <Lisa D. Branch>;Alice H. Williams/CEA/EOP@EOP [CEA] <Alice H. Williams>;Stephen M. Lineberry/CEA/EOP@EOP [CEA] <Stephen M. Lineberry>;Leslie A. Mooney/OPD/EOP@Exchange [OPD] <Leslie A. Mooney>;Claire E. Buchan/WHO/EOP@EOP [WHO] <Claire E. Buchan>;Ashley E. Davis/WHO /EOP@EOP [WHO] <Ashley E. Davis>;Joel D. Kaplan/WHO/EOP@EOP [WHO] <Joel D. Kaplan>;Kara G. Figg/WHO/EOP@Exchange [WHO] <Kara G. Figg>;Carolyn E. Cleveland/WHO/EOP@EOP [WHO] <Carolyn E. Cleveland>;Blake Gottesman/WHO /EOP@EOP [WHO] <Blake Gottesman>;Colleen Litkenhaus/WHO/EOP@EOP [WHO] <Colleen Litkenhaus>;Joshua B. Bolten/WHO/EOP@EOP [WHO] <Joshua B. Bolten>;Ross M. Kyle/WHO/EOP@EOP [WHO] <Ross M. Kyle>;M. Kay Joshi/NSC/EOP@EOP [NSC] <M. Kay Joshi>;Ann Gray/WHO/EOP@EOP [WHO] <Ann Gray>;Jay P. Lefkowitz/OPD/EOP@EOP [

OPD] <Jay P. Lefkowitz>;Krista L. Ritacco/WHO/EOP@Exchange [WHO] <Krista L. Ritacco>;Ginger G. Loper/WHO/EOP@EOP [WHO] <Ginger G. Loper>;Dorothy C. Garvin/WHO/EOP@EOP [WHO] <Dorothy C. Garvin>;Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>;Israel Hernandez/WHO/EOP@EOP [WHO] <Israel Hernandez>;Lauren J. Vestewig/OPD/EOP@EOP [OPD] <Lauren J. Vestewig>;Eleanor L. Gillmor/OPD/EOP@EOP [OPD] <Eleanor L. Gillmor>

Sent: 12/20/2002 8:27:21 AM

Subject: : Jeannie's Last Day...

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Jean M. Russell ( CN=Jean M. Russell/OU=OPD/O=EOP@Exchange [ OPD ] )
CREATION DATE/TIME:20-DEC-2002 13:27:21.00
SUBJECT:: Jeannie's Last Day...
TO:Jared B. Weinstein ( CN=Jared B. Weinstein/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Richard M. Russell ( CN=Richard M. Russell/OU=OSTP/O=EOP@EOP [ OSTP ] )
READ:UNKNOWN
TO:Caroline Boeckel ( CN=Caroline Boeckel/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Keith Hennessey ( CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [ OPD ] )
READ:UNKNOWN
TO:Charles Conner ( CN=Charles Conner/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Robert C. McNally ( CN=Robert C. McNally/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Charles P. Blahous ( CN=Charles P. Blahous/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Kimberly Ellison ( CN=Kimberly Ellison/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Stuart W. Bowen ( CN=Stuart W. Bowen/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Reed Dickens ( CN=Reed Dickens/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Dina Powell ( CN=Dina Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Ashley Holbrook ( CN=Ashley Holbrook/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Matthew Kirk ( CN=Matthew Kirk/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Timothy C. Stout ( CN=Timothy C. Stout/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Stephen M. Garrison ( CN=Stephen M. Garrison/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Britt Grant ( CN=Britt Grant/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Allison L. Riepenhoff ( CN=Allison L. Riepenhoff/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Daniel D. Heath ( CN=Daniel D. Heath/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Mary L. Adams ( CN=Mary L. Adams/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:Carrie B. Loy ( CN=Carrie B. Loy/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Scott Sechser ( CN=Scott Sechser/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Jennifer H. Mayfield ( CN=Jennifer H. Mayfield/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Lois E. Altoft ( CN=Lois E. Altoft/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Glenn Hubbard ( CN=Glenn Hubbard/OU=CEA/O=EOP@EOP [ CEA ] )
READ:UNKNOWN
TO:Sandra F. Daigle ( CN=Sandra F. Daigle/OU=CEA/O=EOP@EOP [ CEA ] )
READ:UNKNOWN
TO:Douglas J. Holtz-Eakin ( CN=Douglas J. Holtz-Eakin/OU=CEA/O=EOP@EOP [ CEA ] )
READ:UNKNOWN
```

TO:Eric H. Otto (CN=Eric H. Otto/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Katherine L. Disston (CN=Katherine L. Disston/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Harry W. Wolff (CN=Harry W. Wolff/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Tim Reynolds (CN=Tim Reynolds/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Carol J. Thompson (CN=Carol J. Thompson/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jose Mallea (CN=Jose Mallea/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Wendy E. Gray (CN=Wendy E. Gray/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Laura E. Lineberry (CN=Laura E. Lineberry/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jill Davie (CN=Jill Davie/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Henry C. Hager (CN=Henry C. Hager/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Jeffrey A. Weinberg (CN=Jeffrey A. Weinberg/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Marty P. Smith (CN=Marty P. Smith/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Sue H. Gerdelman (CN=Sue H. Gerdelman/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Carlos E. Bonilla (CN=Carlos E. Bonilla/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Adam B. Goldman (CN=Adam B. Goldman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Josh Deckard (CN=Josh Deckard/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Karen D. Cruson (CN=Karen D. Cruson/OU=WHF/O=EOP@EOP [OPM])
READ:UNKNOWN
TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Randal C. Teague (CN=Randal C. Teague/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:William D. Badger (CN=William D. Badger/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Elaine M. Mitsler (CN=Elaine M. Mitsler/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Christie Parell (CN=Christie Parell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Katherine M. Prendergast (CN=Katherine M. Prendergast/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Mary K. Lang (CN=Mary K. Lang/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Karen E. Keller (CN=Karen E. Keller/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Lisa D. Branch (CN=Lisa D. Branch/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
TO:Alice H. Williams (CN=Alice H. Williams/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
TO:Stephen M. Lineberry (CN=Stephen M. Lineberry/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
TO:Leslie A. Mooney (CN=Leslie A. Mooney/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ashley E. Davis (CN=Ashley E. Davis/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ross M. Kyle (CN=Ross M. Kyle/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:M. Kay Joshi (CN=M. Kay Joshi/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Dorothy C. Garvin (CN=Dorothy C. Garvin/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Lauren J. Vestewig (CN=Lauren J. Vestewig/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
End Original ARMS Header

Exciting news! My last day here at the White House will be on Tuesday, January 7, 2003 (that's not the good part).; I will be off to start my new position as Executive Assistant to the Secretary at the Department of Energy (good part!); I am very excited for this new opportunity but sad to leave all of you wonderful people at the White House.; It has been so much fun here in the West Wing and I look forward for;our paths;to cross again.;
;
Happy Holidays!
;and please keep in touch,
jeannie

From: CN=Edward McNally/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@EOP [WHO] <David G. Leitch>;Alberto R. Gonzales/WHO /EOP@EOP [WHO] <Alberto R. Gonzales>
CC: nanette everson/who/eop@eop [WHO] <nanette everson>;helgard c. walker/who/eop@eop [WHO] <helgard c. walker>;noel j. francisco/who/eop@eop [WHO] <noel j. francisco>;bradford a. berenson/who/eop@eop [WHO] <bradford a. berenson>;h. christopher bartolomucci/who /eop@eop [WHO] <h. christopher bartolomucci>;benjamin a. powell/who/eop@eop [WHO] <benjamin a. powell>;jennifer g. newstead/who/eop@eop [WHO] <jennifer g. newstead>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;kyle sampson/who/eop@eop [WHO] <kyle sampson>;john b. bellinger/nsc/eop@eop [NSC] <john b. bellinger>;david s. addington/ovp/eop@eop [OVP] <david s. addington>
Sent: 12/20/2002 10:23:13 AM
Subject: : Lisa Murkowski picked to be Alaska's U.S. Senator -- Governor selects daughter to take over his seat in Congress

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:20-DEC-2002 15:23:13.00
SUBJECT:: Lisa Murkowski picked to be Alaska's U.S. Senator -- Governor selects daughter to
take over his seat in Congress
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:nanette everson ( CN=nanette everson/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:helgard c. walker ( CN=helgard c. walker/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:noel j. francisco ( CN=noel j. francisco/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:bradford a. berenson ( CN=bradford a. berenson/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:h. christopher bartolomucci ( CN=h. christopher bartolomucci/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:benjamin a. powell ( CN=benjamin a. powell/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:jennifer g. newstead ( CN=jennifer g. newstead/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:brett m. kavanaugh ( CN=brett m. kavanaugh/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:kyle sampson ( CN=kyle sampson/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:john b. bellinger ( CN=john b. bellinger/OU=nsc/O=eop@eop [ NSC ] )
READ:UNKNOWN
CC:david s. addington ( CN=david s. addington/OU=ovp/O=eop@eop [ OVP ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Lisa Murkowski picked to be Alaska's newest senator
Governor selects daughter to take over his seat in
Congress


The Associated Press

(Published: December 20, 2002)

Saying it was time for the next generation of
Alaskans to start building seniority in Congress, Gov.
Frank Murkowski Friday appointed his daughter to
succeed him in the U.S. Senate.

"Above all, I felt the person I appoint to the
```

remaining two years of my term should be someone who shares my basic philosophy, my values, but particularly one who shares on the issues of Alaska matters that are before us. Someone whose judgment I trust in representing the state and all of its people," Murkowski said in naming his daughter, Lisa, to the seat he held for 22 years.

Lisa Murkowski, 45, is a Republican state representative who was reelected last month to a third term and was selected as House Majority leader.

Frank Murkowski resigned the Senate seat he held for more than two decades when he was sworn in as governor Dec. 2.

At a news conference Friday in Anchorage Gov. Murkowski said he whittled his list of potential candidates down from 26 to 11 and conducted interviews since he was sworn in Dec. 2.

"In some ways, this is probably one of the most important decisions I will make as your governor, recognizing this responsibility, I've reached out to Alaskans from all over the state," the governor said.

Murkowski said he wanted to choose someone with legislative experience who could get things done in Washington D.C. and establish their own identity in the U.S Senate.

Following her father's announcement, Lisa Murkowski called her appointment an incredible and awesome responsibility.

"We have a great deal in common besides sharing a name," she said of her father. "We share the same vision for the state. We share the same values."

Lisa Murkowsi is a lawyer and is married with two children. She lives in Anchorage. She received her bachelor's in economics from Georgetown University in 1980 and her law degree from Willamette College of Law in 1985. She worked as district attorney in Anchorage from 1987 to 1989 and has worked in private practice.

"I'm committed to filling the big shoes you've left behind and working closely with Ted (Sen. Ted Stevens) and Don (Rep. Don Young) as part of the Alaskan team. The Stevens, Murkowski, Young team -- I guess we don't need to change the name there -- has produced great results for our state for well over 20 years now."

During the legislative session, Lisa Murkowski was a key member of a bipartisan caucus proposing new taxes and revenue measures to close the state's chronic budget shortfall and she sponsored an increase in the state's alcohol tax.

Lisa Murkowski says she supports legal abortion only when a mother's life is in danger or in cases of rape or incest. She voted against a bill to limit state funding for abortions.

From: CN=Edward McNally/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@EOP [WHO] <David G. Leitch>;Alberto R. Gonzales/WHO /EOP@EOP [WHO] <Alberto R. Gonzales>
CC: nanette everson/who/eop@eop [WHO] <nanette everson>;helgard c. walker/who/eop@eop [WHO] <helgard c. walker>;noel j. francisco/who/eop@eop [WHO] <noel j. francisco>;bradford a. berenson/who/eop@eop [WHO] <bradford a. berenson>;h. christopher bartolomucci/who /eop@eop [WHO] <h. christopher bartolomucci>;benjamin a. powell/who/eop@eop [WHO] <benjamin a. powell>;jennifer g. newstead/who/eop@eop [WHO] <jennifer g. newstead>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;kyle sampson/who/eop@eop [WHO] <kyle sampson>;john b. bellinger/nsc/eop@eop [NSC] <john b. bellinger>;david s. addington/ovp/eop@eop [OVP] <david s. addington>
Sent: 12/20/2002 10:23:13 AM
Subject: : Lisa Murkowski picked to be Alaska's U.S. Senator -- Governor selects daughter to take over his seat in Congress

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:20-DEC-2002 15:23:13.00
SUBJECT:: Lisa Murkowski picked to be Alaska's U.S. Senator -- Governor selects daughter to
take over his seat in Congress
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:nanette everson ( CN=nanette everson/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:helgard c. walker ( CN=helgard c. walker/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:noel j. francisco ( CN=noel j. francisco/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:bradford a. berenson ( CN=bradford a. berenson/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:h. christopher bartolomucci ( CN=h. christopher bartolomucci/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:benjamin a. powell ( CN=benjamin a. powell/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:jennifer g. newstead ( CN=jennifer g. newstead/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:brett m. kavanaugh ( CN=brett m. kavanaugh/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:kyle sampson ( CN=kyle sampson/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:john b. bellinger ( CN=john b. bellinger/OU=nsc/O=eop@eop [ NSC ] )
READ:UNKNOWN
CC:david s. addington ( CN=david s. addington/OU=ovp/O=eop@eop [ OVP ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Lisa Murkowski picked to be Alaska's newest senator
Governor selects daughter to take over his seat in
Congress


The Associated Press

(Published: December 20, 2002)

Saying it was time for the next generation of
Alaskans to start building seniority in Congress, Gov.
Frank Murkowski Friday appointed his daughter to
succeed him in the U.S. Senate.

"Above all, I felt the person I appoint to the
```

remaining two years of my term should be someone who shares my basic philosophy, my values, but particularly one who shares on the issues of Alaska matters that are before us. Someone whose judgment I trust in representing the state and all of its people," Murkowski said in naming his daughter, Lisa, to the seat he held for 22 years.

Lisa Murkowski, 45, is a Republican state representative who was reelected last month to a third term and was selected as House Majority leader.

Frank Murkowski resigned the Senate seat he held for more than two decades when he was sworn in as governor Dec. 2.

At a news conference Friday in Anchorage Gov. Murkowski said he whittled his list of potential candidates down from 26 to 11 and conducted interviews since he was sworn in Dec. 2.

"In some ways, this is probably one of the most important decisions I will make as your governor, recognizing this responsibility, I've reached out to Alaskans from all over the state," the governor said.

Murkowski said he wanted to choose someone with legislative experience who could get things done in Washington D.C. and establish their own identity in the U.S Senate.

Following her father's announcement, Lisa Murkowski called her appointment an incredible and awesome responsibility.

"We have a great deal in common besides sharing a name," she said of her father. "We share the same vision for the state. We share the same values."

Lisa Murkowsi is a lawyer and is married with two children. She lives in Anchorage. She received her bachelor's in economics from Georgetown University in 1980 and her law degree from Willamette College of Law in 1985. She worked as district attorney in Anchorage from 1987 to 1989 and has worked in private practice.

"I'm committed to filling the big shoes you've left behind and working closely with Ted (Sen. Ted Stevens) and Don (Rep. Don Young) as part of the Alaskan team. The Stevens, Murkowski, Young team -- I guess we don't need to change the name there -- has produced great results for our state for well over 20 years now."

During the legislative session, Lisa Murkowski was a key member of a bipartisan caucus proposing new taxes and revenue measures to close the state's chronic budget shortfall and she sponsored an increase in the state's alcohol tax.

Lisa Murkowski says she supports legal abortion only when a mother's life is in danger or in cases of rape or incest. She voted against a bill to limit state funding for abortions.

From: Willett, Don <Don.Willett@usdoj.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 12/20/2002 10:57:31 AM
Subject: : POTUS box-checking

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Willett, Don" <Don.Willett@usdoj.gov> ( "Willett, Don" <Don.Willett@usdoj.gov> [
UNKNOWN ] )
CREATION DATE/TIME:20-DEC-2002 15:57:31.00
SUBJECT:: POTUS box-checking
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Brett, can you pls. tell me who got POTUS-approved today (and who, if
anyone, didn't)?

I'm updating some charts and such over here.

Thanks a lot.

DRW
```

From: CN=David G. Leitch/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>
Sent: 12/26/2002 2:26:14 AM
Subject: : Presidential Records

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:26-DEC-2002 07:26:14.00
SUBJECT:: Presidential Records
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Brett -- Do we have a practice of briefing incoming officials (e.g.,
Friedman) on the Presidential Records Act and other issues concerning
document handling?
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;WOMACKA@SEC.GOV [UNKNOWN] <WOMACKA@SEC.GOV>
Sent: 12/27/2002 6:56:47 AM
Subject: : Re: have you seen the NYT this morning?

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:27-DEC-2002 11:56:47.00
SUBJECT:: Re: have you seen the NYT this morning?
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:WOMACKA@SEC.GOV (WOMACKA@SEC.GOV [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Btw, Judge forwarded to dan an email I had sent to judge advocating the communications plan and referencing you.

.

----- Original Message -----
From:<WOMACKA@SEC.GOV>
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 12/27/2002 11:38:27 AM
Subject: RE: have you seen the NYT this morning?

"out west?" what, are you trying to fashion yourself as some sort of cowboy? If I recall, you are playing golf... in Vegas. somehow I don't see
the idea of a "golf cart cowboy" working for you.

Front page "Expecting a vacany, Bush Aides Weigh Supreme Court Contenders"

Talks about ARG and the political benefits his appointment would bring as well as "delicate ethnic balancing". has a sr. administration official quoted as saying "I don't think there's any question the president would turn to him."

Also talks about J. Harvey Wilkinson, Luttig, Janica Rogers Brown, Judge Alito and even Estrada.

Hatch is in there basically calling on any justice who plans to step down to
go ahead and say so.

Another thing on ARG, "One official noted that Mr. Gonzales had cultivated the notion that he was reluctant to be named to the court but that was untrue. The official noted that he still likes to be addressed as "Judge Gonzales."
I thought that was pretty cheap.

Anyway, I figured you hadn't been able to get your hands on it, and I knew you'd want to be aware of it.
have fun,
Anne

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Friday, December 27, 2002 11:19 AM
To: WOMACKA@SEC.GOV; Brett_M._Kavanaugh@who.eop.gov
Subject: Re: have you seen the NYT this morning?

No. What does it say. I am out west.

..

----- Original Message -----
From:<WOMACKA@SEC.GOV>
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 12/27/2002 10:38:50 AM
Subject: have you seen the NYT this morning?

From: CN=Joseph M. Myers/OU=NSC/O=EOP [NSC]
To: Jonathan R. Scharfen/NSC/EOP@EOP [NSC] <Jonathan R. Scharfen>
CC: john b. wiegmann/nsc/eop@eop [NSC] <john b. wiegmann>;kristen silverberg/who/eop@eop [WHO] <kristen silverberg>;john b. bellinger/nsc/eop@eop [NSC] <john b. bellinger>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;diana l. schacht/opd/eop@eop [OPD] <diana l. schacht>;jay p. lefkowitz/opd/eop@eop [OPD] <jay p. lefkowitz>
Sent: 12/30/2002 7:17:14 AM
Subject: : Re: Frazier v. JP Morgan Chase and O'Neill (SDNY)
Attachments: P_VK8MC003_WHO.TXT_1.wpd

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Joseph M. Myers (CN=Joseph M. Myers/OU=NSC/O=EOP [NSC])
CREATION DATE/TIME:30-DEC-2002 12:17:14.00
SUBJECT:: Re: Frazier v. JP Morgan Chase and O'Neill (SDNY)
TO:Jonathan R. Scharfen (CN=Jonathan R. Scharfen/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
CC:john b. wiegmann (CN=john b. wiegmann/OU=nsc/O=eop@eop [NSC])
READ:UNKNOWN
CC:kristen silverberg (CN=kristen silverberg/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:john b. bellinger (CN=john b. bellinger/OU=nsc/O=eop@eop [NSC])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:diana l. schacht (CN=diana l. schacht/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
CC:jay p. lefkowitz (CN=jay p. lefkowitz/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
End Original ARMS Header

clear for NSC/OCT.

Jonathan R. Scharfen
12/30/2002 11:41:43 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Frazier v. JP Morgan Chase and O'Neill (SDNY)

Please find attached the DOJ draft submission due today in the Frazier case. As previewed, the submission is short and concedes the Section 201 point:
It is the Government's position that, as a result of the passage of TRIA Section 201, certain blocked assets are eligible for attachment and execution notwithstanding 31 C.F.R. õ 575.202(e). The petitioners in all three actions must still prove, however, and the Court should determine, that the petitioners have met the requirements of TRIA Section 201 by establishing, for example, that the assets are blocked assets of the terrorist party (or of any agency or instrumentality) against whom judgment was entered, within the meaning of TRIA Section 201.
Please provide any comments/concurrence as soon as possible as DOJ must file today. Thank you. Jock
---------- Forwarded by Jonathan R. Scharfen/NSC/EOP on 12/30/2002 11:25 AM ----------

"Lawler, Judd" <Judd.Lawler@usdoj.gov>
12/30/2002 11:16:50 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: Frazier v. JP Morgan Chase and O'Neill (SDNY)

Draft submission attached must be filed today.

My phone number is 718.422.5637.

In this version, I have removed the reference to takings because, after further consideration, (i) I do not think the Government should be on the record as suggesting that these actions raise takings concerns, and (ii) the position the Government is taking is one of inaction, and, therefore, I do not understand how we could be construed as being involved in a taking.

- sprizzo.ltr.12.30.wpd

Message Sent
To:_____
"Hunt, Jody" <Jody.Hunt@usdoj.gov> (Receipt Notification Requested)
"Schwartz, Wendy" <Wendy.Schwartz@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
"'Timothy.Ott@do.treas.gov'" <Timothy.Ott@do.treas.gov> (Receipt Notification Requested) (IPM Return Requested)
"'David.Aufhauser@do.treas.gov'" <David.Aufhauser@do.treas.gov> (Receipt Notification Requested)
"'OFMProperty@state.gov'" <OFMProperty@state.gov> (Receipt Notification Requested)
"'cari.stinebower@do.treas.gov'" <cari.stinebower@do.treas.gov> (Receipt Notification Requested)
"'BETTAUERRJ@ms.state.gov'" <BETTAUERRJ@ms.state.gov> (Receipt Notification Requested)
"'groshlj@ms.state.gov'" <groshlj@ms.state.gov> (Receipt Notification Requested)
"'Matthew.Tuchband@do.treas.gov'" <Matthew.Tuchband@do.treas.gov> (Receipt Notification Requested)
"'Victoria.Rosenthal@do.treas.gov'" <Victoria.Rosenthal@do.treas.gov> (Receipt Notification Requested)
"'Sheryl.Cottrell@do.treas.gov'" <Sheryl.Cottrell@do.treas.gov> (Receipt Notification Requested)
"'Baruch.Weiss@do.treas.gov'" <Baruch.Weiss@do.treas.gov> (Receipt Notification Requested)
"'Russell.Munk@do.treas.gov'" <Russell.Munk@do.treas.gov> (Receipt Notification Requested)
"'Barbara.Hammerle@do.treas.gov'" <Barbara.Hammerle@do.treas.gov> (Receipt Notification Requested)
"'George.Wolfe@do.treas.gov'" <George.Wolfe@do.treas.gov> (Receipt Notification Requested)
"'Jamal.El-Hindi@do.treas.gov'" <Jamal.El-Hindi@do.treas.gov> (Receipt Notification Requested) (IPM Return Requested)

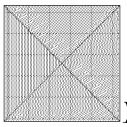
Message Copied
To:_____
"Jordan, Bill" <Bill.Jordan@usdoj.gov> (Receipt Notification Requested)
"Federighi, Carol" <Carol.Federighi@usdoj.gov> (Receipt Notification Requested)
"Gannon, Curtis" <Curtis.Gannon@usdoj.gov> (Receipt Notification Requested)
"Letter, Douglas" <Douglas.Letter@usdoj.gov> (Receipt Notification Requested)

"Byron, H. Thomas" <H.Thomas.Byron@usdoj.gov> (Receipt Notification Requested)
"Paisner, Jennifer" <Jennifer.Paisner@usdoj.gov> (Receipt Notification Requested)
"Knepper, John" <John.Knepper@usdoj.gov> (Receipt Notification Requested)
"New, Jonathan" <Jonathan.New@usdoj.gov> (Receipt Notification Requested)
"Mahboubi, Neysun" <Neysun.Mahboubi@usdoj.gov> (Receipt Notification Requested)
"Harris, Paul (SMO)" <Paul.Harris@usdoj.gov> (Receipt Notification Requested)
"Keisler, Peter D" <Peter.D.Keisler@usdoj.gov> (Receipt Notification Requested)
"McCallum, Robert" <Robert.McCallum@usdoj.gov> (Receipt Notification Requested)
"Coffin, Shannen" <Shannen.Coffin@usdoj.gov> (Receipt Notification Requested)
"Marcus, Stephanie" <Stephanie.Marcus@usdoj.gov> (Receipt Notification Requested)
"Garvey, Vincent" <Vincent.Garvey@usdoj.gov> (Receipt Notification Requested)
Jonathan R. Scharfen/NSC/EOP@EOP
John B. Bellinger/NSC/EOP@EOP
John B. Wiegmann/NSC/EOP@EOP

Message Sent
To:_____
Jay P. Lefkowitz/OPD/EOP@EOP
John B. Bellinger/NSC/EOP@EOP
Joseph M. Myers/NSC/EOP@EOP
Diana L. Schacht/OPD/EOP@EOP
Kristen Silverberg/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
John B. Wiegmann/NSC/EOP@EOP

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_VK8MC003_WHO.TXT_1>

U.S. Department of Justice



United States Attorney
Southern District of New York

33 Whitehall Street, 8th Floor
New York, New York 10004

December 30, 2002

BY HAND

Hon. John E. Sprizzo
United States District Judge
United States Courthouse
40 Centre Street, Room 2201
New York, New York 10007-1581

Re: Frazier, et al. v. O'Neill, et al., No. 02 Civ. 7642 (JES)
Daliberti, et al. v. J.P. Morgan Chase & Co., et al., No. 02 Civ. 9773 (JES)
Frazier, et al. v. Bank of New York, No. 02 Civ. 10157 (unassigned)

Dear Judge Sprizzo:

The Government makes this submission in response to the petitions filed in the above-referenced actions. As described herein, the petition in Frazier, et al. v. O'Neill, et al., No. 02 Civ. 7642 (JES) ("Frazier I") should be dismissed at the outset, as against the Government. The remainder of this submission constitutes the Government's statement of interest in all three actions and is made pursuant to 28 U.S.C. § 517.

In September 2002, the Frazier I petition was filed, seeking execution of certain judgments against the Republic of Iraq and Saddam Hussein. The Frazier I petitioners seek to execute those judgments against assets held by J.P. Morgan Chase & Co.[1] that are blocked by the Iraq sanctions regulations set forth at 31 C.F.R. Part 375. Secretary of the Treasury Paul H. O'Neill, in his official capacity, was named as an additional respondent in Frazier I, presumedly because the Office of Foreign Assets Control ("OFAC"), which is part of the Department of the

[1] The Government understands that JPMorgan Chase Bank is in fact the entity that maintains accounts on its books in the name of certain agencies and instrumentalities of the Republic of Iraq, and the Government has consented to the substitution of JPMorgan Chase Bank for J.P. Morgan Chase & Co. as a respondent in Frazier I.

REV_00155621

Treasury, is responsible for implementing the Iraq sanctions regulations. At the time Frazier I was filed, the Government intended to move to have the petition denied in its entirety.[2]

On November 26, 2002, the President signed into law the Terrorism Risk Insurance Act of 2002, Pub. L. No. 107-297 ("TRIA"). Section 201 of TRIA addresses "Satisfaction of Judgments from Blocked Assets of Terrorists, Terrorist Organizations, and State Sponsors of Terrorism."

Subsequent to TRIA's passage, the petitions in Daliberti, et al. v. J.P. Morgan Chase & Co., et al., No. 02 Civ. 9773 (JES) ("Daliberti") and Frazier, et al. v. Bank of New York, No. 02 Civ. 10157 (unassigned) ("Frazier II") were filed. Like the petition in Frazier I, the Daliberti and Frazier II petitions seek to execute judgments against assets that have been blocked pursuant to the Iraq sanctions regulations. The petitioners in Frazier I and Frazier II (the "Frazier Petitioners") are identical, and the Frazier Petitioners seek to execute the same judgments in both actions. The petitions in Frazier II and Daliberti, however, invoke TRIA Section 201 as the legal basis for execution and do not name any Government respondent.

The Government Should Be Dismissed From
Frazier I For Lack Of Subject Matter Jurisdiction

On a motion to dismiss for lack of subject matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure, a plaintiff has the burden of establishing that subject matter jurisdiction exists over his complaint. See Malik v. Meissner, 82 F.3d 560, 562 (2d Cir. 1996). The Frazier Petitioners cannot meet this burden.

The Frazier Petitioners do not seek any relief against the Government. See Frazier I Pet., Prayer for Relief. Even if the Frazier Petitioners sought relief against the Government, however, no subject matter jurisdiction would lie for such relief. The Government enjoys immunity from suit except where it expressly has consented to be sued. See FDIC v. Meyer, 510 U.S. 471, 475 (1994). The Government has not waived its sovereign immunity with respect to Frazier I. Therefore, the Government should be dismissed as a party from Frazier I for lack of subject matter jurisdiction.

The Frazier Petitioners assert that subject matter jurisdiction arises under the federal question statute, 28 U.S.C. § 1331, and the Tucker Act, 28 U.S.C. § 1346(a)(2). Frazier I, Pet. at ¶ 2. However, the mere fact that the Frazier Petitioners raise issues of federal law does not confer jurisdiction over the Government. See B.K. Instrument, Inc. v. United States, 715 F.2d 713, 724 (2d Cir. 1983); Can v. United States, 820 F. Supp. 106, 110 (S.D.N.Y. 1993), aff'd, 14 F.3d 160 (2d Cir. 1994). Because the Frazier Petitioners seek equitable relief instead of money damages, see Frazier I Pet., Prayer for Relief, the Tucker Act is not a basis for jurisdiction.

---

[2] An amended petition, dated November 22, 2002, was subsequently filed in Frazier I. The amended petition named additional petitioners.

REV_00155622

Polanco v. DEA, 158 F.3d 647, 652 (2d Cir. 1998).

In addition, this action is not brought pursuant to the Administrative Procedure Act, 5 U.S.C. § 201 et seq. (the "APA"). The APA provides for judicial review of final agency action. See 5 U.S.C. § 704; Top Choice Distributors, Inc. v. United States Postal Serv., 138 F.3d 463, 466 (2d Cir. 1998). Persons seeking the release of assets blocked by the Iraq sanctions regulations must apply to OFAC for a license authorizing release of the assets. See 31 C.F.R. §§ 575.202(e), 575.301, 575.801. Although OFAC decisions on license applications "constitute final agency action," 31 C.F.R. § 501.802, the Frazier Petitioners do not allege that they applied to OFAC for a license or that OFAC has made a decision on any such license application. Accordingly, any APA challenge would at this point be premature, and thus could not provide subject matter jurisdiction. See Can, 820 F. Supp. at 111-112 (APA waiver of sovereign immunity did not apply where party challenging OFAC blocking regulation did not first seek a license unblocking assets); Lary v. Republic of Cuba, 643 F. Supp. 194, 197-98 (S.D.N.Y. 1986) (U.S. national's complaint "dismissed for failure to obtain a Treasury Department license prior to . . . commencing an action"), aff'd, 814 F.2d 653 (2d Cir. 1987).

Finally, the decision by the Frazier Petitioners to decline to name the Government in the Frazier II petition indicates their recognition that the Government is not a necessary party to these actions.

Issues Relating To The President's Waiver Of 28 U.S.C. § 1610(f)(1) Are Moot

The Frazier I petition relies on 28 U.S.C. § 1610(f)(1) as a basis for execution of judgments against assets blocked by the Iraq sanctions regulations. The President waived 28 U.S.C. § 1610(f)(1) pursuant to the waiver authority clearly granted by Congress in 28 U.S.C. § 1610(f)(3). Moreover, the President's waiver falls squarely within his "'very delicate, plenary and exclusive power . . . as the sole organ of the federal government in the field of international relations — a power which does not require as a basis for its exercise an act of Congress.'" See Dames & Moore v. Regan, 453 U.S. 645, 661 (1981). The President's waiver, therefore, is not subject to judicial review. See generally id. The Frazier Petitioners attempted to avoid the President's waiver by arguing in Frazier I that the President's waiver authority violated the Presentment Clause of the U.S. Constitution. This issue, along with all other issues relating to the President's waiver under 28 U.S.C. 1610(f)(3), have been mooted by TRIA Section 201, which provides a new mechanism for petitioners to seek to attach the assets at issue.

The Frazier Petitioners appear to concede this, as the briefing schedule in Frazier I was repeatedly extended on consent due to the passage of TRIA, and the Frazier II petition relies exclusively on TRIA Section 201. Therefore, it is the Government's understanding that the Frazier I petition is now being brought pursuant to TRIA Section 201 and that the Frazier Petitioners are no longer relying on 28 U.S.C. § 1610(f)(1).

REV_00155623

TRIA Section 201

It is the Government's position that, as a result of the passage of TRIA Section 201, certain blocked assets are eligible for attachment and execution notwithstanding 31 C.F.R. § 575.202(e). The petitioners in all three actions must still prove, however, and the Court should determine, that the petitioners have met the requirements of TRIA Section 201 by establishing, for example, that the assets are blocked assets of the terrorist party (or of any agency or instrumentality) against whom judgment was entered, within the meaning of TRIA Section 201. In these actions, the terrorist party is the Republic of Iraq (and, in Frazier I and Frazier II, Saddam Hussein). The petitioners must also comply with any additional procedural requirements for obtaining a writ of execution, which may include, for example, identifying and providing third-party claimants with proper notice.

The Government intends to participate in these actions pursuant to 28 U.S.C. § 517 to the extent additional issues arise that implicate federal policy concerns. The Government also respectfully requests that the Court docket this submission in Frazier I, Daliberti, and Frazier II.

Respectfully submitted,

JAMES B. COMEY
United States Attorney

By: _____
JUDD C. LAWLER (JL-0679)
Assistant United States Attorney
Temp. Tel.: (718) 422-5637
Temp. Fax: (718) 422-1789

BY FAX AND FEDERAL EXPRESS

cc: James W. Perkins, Esq.
Greenberg Traurig, LLP
885 Third Avenue, 21st Floor
New York, New York 10022-4802
Tel.: (212) 801-3188
Fax: (212) 668-2449

Oliver Koppell, Esq.
Koppell, Leavitt, Kerson, Lefler & Duane, LLP
99 Park Avenue, Suite 800
New York, New York 10016

REV_00155624

Tel.: (212) 973-9339
Fax: (212) 973-9494

Daniel Wolf, Esq.
Sprenger & Lang, P.L.L.C.
1614 Twentieth Street, N.W.
Washington, D.C. 20009
Tel.: (202) 265-8010
Fax: (202) 332-6652

Steven E. Rosenfeld, Esq.
Law Offices of Steven E. Rosenfeld, P.C.
370 Lexington Avenue, Suite 505
New York, New York 10017
Tel.: (212) 953-1600
Fax: (212) 953-1801

James L. Kerr, Esq.
Davis Polk & Wardwell
450 Lexington Avenue
New York, New York 10017
Tel.: (212) 450-4552
Fax: (212) 450-3552

Leo T. Crowley, Esq.
Pillsbury Winthrop LLP
One Battery Park Plaza
New York, New York 10004
Tel.: (212) 858-1000
Fax: (212) 858-1500

REV_00155625

From: CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/2/2003 3:46:18 AM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 2-JAN-2003 08:46:18.00
SUBJECT:: Re:
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I think we're looking at 10:30 am on Monday, Jan. 6.

Brett M. Kavanaugh
01/02/2003 08:28:19 AM
Record Type: Record

To: Elizabeth N. Camp/WHO/EOP@EOP, Charlotte L. Montiel/WHO/EOP@EOP
cc: David G. Leitch/WHO/EOP@EOP
Subject:

Need to schedule a half hour on Monday in which Judge and David could do an interview of Ted Ullyot for Associate Counsel?

From: Kavanaugh, Brett M.
To: <McNally, Edward>
CC: <Greenstone, Adam F.>;<McNally, Edward>;<Leitch, David G.>
Sent: 1/2/2003 10:43:13 AM
Subject: Re: Homeland/TPO Electronic Records

Agreed. But note that we have generally authorized this in past when there has been a need. But we should be consulted on an individual basis as a check.

Edward McNally

01/02/2003 10:10:20 AM

Record Type: Record

To: Adam F. Greenstone/OA/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP, Edward McNally/WHO /EOP@EOP

cc: David G. Leitch/WHO/EOP@EOP

Subject: Re: Homeland/TPO Electronic Records

TPO is in OMB as you know under FRA. So you'll want to loop in Phil Perry's office re: any questions about OMB e-mail.

OHS and other WHO e-mail is under the PRA and basically should not be leaving WHO. So yes -- it's fine to tell the IT folks that the answer is no, unless there is specific and individual approval from counsel.

.

----- Original Message -----

From:Adam F. Greenstone/OA/EOP@Exchange

To:Brett M. Kavanaugh/WHO/EOP@EOP,

Edward McNally/WHO/EOP@EOP

Cc:David G. Leitch/WHO/EOP@EOP

Date: 01/02/2003 10:00:55 AM

Subject: Homeland/TPO Electronic Records

One of our IT branches raised a good issue this morning. As various Homeland Office and TPO folks prepare to leave for the Homeland Department, OA technical staff are anticipating requests to copy their e-mail, network drives and other electronic media to take to the new Department. My general guidance to technical staff is not to fulfill

requests to take records to another office or agency unless we receive approval by counsel for the office that owns the records. Are there any particular rules or a process that you would like us to follow when this comes up?

From: CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [OA]
To: Michael Murphy@EOP [UNKNOWN] <Michael Murphy@EOP>
CC: Charlotte L. Montiel/WHO/EOP@EOP [WHO] <Charlotte L. Montiel>;Noel J. Francisco/WHO /EOP@EOP [WHO] <Noel J. Francisco>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/2/2003 12:24:49 PM
Subject: : FW: Reagan Library Request (Sit Rm Conf Table)

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Adam F. Greenstone (CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [OA])
CREATION DATE/TIME: 2-JAN-2003 17:24:49.00
SUBJECT:: FW: Reagan Library Request (Sit Rm Conf Table)
TO:Michael Murphy@EOP (Michael Murphy@EOP [UNKNOWN])
READ:UNKNOWN
CC:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Mike--For your use. I would recommend calling Nancy Smith at the number below. Hope this is helpful.
Adam F. Greenstone
General Counsel
Office of Administration

-----Original Message-----
From: Roberts, Keith L.
Sent: Thursday, January 02, 2003 5:18 PM
To: Greenstone, Adam F.
Subject: RE: Reagan Library Request (Sit Rm Conf Table)

Adam,

There is a process in place to handle requests such as this. The "expert" is Nancy Smith, who works for the National Archives (202) 501-5705. Mike Murphy could contact her, and she will walk him through the process necessary to get the table transferred to the Reagan Library.

If I understood the process as Nancy described it, when the property falls under the control of the White House Curator, an agreement is done between the White House and the "borrower" of the property. Brett Kavanaugh has drafted these agreements and Nancy co-signs them.

If the property does not fall under the control of the White House Curator, there is a different process. Nancy can help Mike with that process as well.

Keith

-----Original Message-----
From: Greenstone, Adam F.
Sent: Thursday, January 02, 2003 10:09 AM
To: Francisco, Noel J.
Cc: Montiel, Charlotte L.; Roberts, Keith L.
Subject: RE: Reagan Library Request (Sit Rm Conf Table)

Noel--We'll be glad to help Mike square this away. Will let you know if anything of note comes up.

-----Original Message-----
From: Francisco, Noel J.

Sent: Thursday, January 02, 2003 9:12 AM
To: Greenstone, Adam F.
Subject: Reagan Library Request (Sit Rm Conf Table)

Adam -- Do you know anything about this? Does it seems like something that your office should handle? Thanks (and Happy New Year!). Noel

---------- Forwarded by Noel J. Francisco/WHO/EOP on 01/02/2003 09:16 AM ----------

<< OLE Object: Picture (Device Independent Bitmap) >>
Charlotte L. Montiel
12/23/2002 01:46:34 PM
Record Type: Record

To: Noel J. Francisco/WHO/EOP@EOP
cc: Patrick J. Bumatay/WHO/EOP@EOP
Subject: Reagan Library Request (Sit Rm Conf Table)

Would you mind looking at the legal issues regarding this? thank you!
---------- Forwarded by Charlotte L. Montiel/WHO/EOP on 12/23/2002 01:51 PM ----------

<< OLE Object: Picture (Device Independent Bitmap) >> "Murphy, Michael D." <MDMurphy@whmo.mil>
12/23/2002 08:04:37 AM

Record Type: Record

To: Charlotte L. Montiel/WHO/EOP@EOP, Elizabeth N. Camp/WHO/EOP@EOP
cc: See the distribution list at the bottom of this message
Subject: Reagan Library Request (Sit Rm Conf Table)

Charlotte/Libby:

A rep from the Reagan Library has called and would like to have the Sit Rm conference table from the Reagan Administration for a new display in the Reagan Library. Our Special Projects Office has the table in use as a conference room table. Consistent with our direction from M&A, we'd like to promptly accommodate their request.

Please forward this email to the Associate Counsel who customarily handles such matters. We're standing by to transfer the table, but want to ensure we've accomplished the necessary paperwork and that there are no limiting factors of which we're unaware.

Thanks.

Mike Murphy
Colonel, USAF
WHMO/GC
72450

Message Copied
To:
"Miller, Mike H." <MHMiller@whmo.mil>
Stephen E. Biegun/NSC/EOP@EOP
Deborah A. Loewer/NSC/EOP@EOP
Robert W. Cole/NSC/EOP@EOP
"Jackson, Paul J." <PJJackson@whmo.mil>
"Barnes, Anthony P." <APBarnes@whmo.mil>

"Boone, David" <DBoone@whmo.mil>

From: CN=Ken Mehlman/OU=WHO/O=EOP [WHO]
To: Keith R. Brancato/WHO/EOP@EOP [WHO] <Keith R. Brancato>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/2/2003 9:21:25 AM
Subject: : Re: Letter from NY Sen. Majority Leader Joseph Bruno

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 2-JAN-2003 14:21:25.00
SUBJECT:: Re: Letter from NY Sen. Majority Leader Joseph Bruno
TO:Keith R. Brancato (CN=Keith R. Brancato/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Thanks for your letter is sufficient. Also worth pointing out the decision is made by the RNC. Your thoughts, Brett?

Keith R. Brancato
01/02/2003 02:12:40 PM
Record Type: Record

To: Ken Mehlman/WHO/EOP@EOP
cc: Alicia W. Davis/WHO/EOP@EOP, Katherine M. Walters/WHO/EOP@EOP
Subject: Letter from NY Sen. Majority Leader Joseph Bruno

Ken-
Ruben wanted me to get your thoughts on a letter we received from NY Sen. Majority Leader Joseph Bruno. His letter is in support of NYC hosting the 2004 Republican National Convention. Is there any particular way you think we should handle this letter? Or would a general "Thank you for your letter" response be adequate? Thanks for your help.

Keith

From: Adam_F._Greenstone@oa.eop.gov [OA] <Greenstone, Adam F.>
To: <Murphy>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/F53797-94BA508B-85256BCF-64EB9C [UNKNOWN] <Michael>
CC: <Kavanaugh>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6246020-C20FEE19-852569DA-7648DC [UNKNOWN] <Brett M.>;<Montiel>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/A4C69221-46D73A5F-85256BC1-64493F [UNKNOWN] <Charlotte L.>;<Francisco>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/CEFFCE1D-3AA04CD4-852569DA-68EB00 [UNKNOWN] <Noel J.>
Sent: 1/2/2003 12:24:41 PM
Subject: FW: Reagan Library Request (Sit Rm Conf Table)

Begin Original ARMS Header
RECORD TYPE: FEDERAL (MS Mail)
CREATOR:Greenstone, Adam F. (Adam_F._Greenstone@oa.eop.gov [OA])
CREATION DATE/TIME: 2-JAN-2003 17:24:41.00
SUBJECT:FW: Reagan Library Request (Sit Rm Conf Table)
TO:Murphy, Michael (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=F53797-94BA508B-85256BCF-64EB9C [UNKNOWN])
READ:UNKNOWN
CC:Kavanaugh, Brett M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6246020-C20FEE19-852569DA-7648DC [UNKNOWN])
READ:UNKNOWN
CC:Montiel, Charlotte L. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=A4C69221-46D73A5F-85256BC1-64493F [UNKNOWN])
READ:UNKNOWN
CC:Francisco, Noel J. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=CEFFCE1D-3AA04CD4-852569DA-68EB00 [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Mike--For your use. I would recommend calling Nancy Smith at the number below. Hope this is helpful.
Adam F. Greenstone
General Counsel

Office of Administration

-----Original Message-----

From: Roberts, Keith L.

Sent: Thursday, January 02, 2003 5:18 PM

To: Greenstone, Adam F.

Subject: RE: Reagan Library Request (Sit Rm Conf Table)

Adam,

There is a process in place to handle requests such as this. The "expert" is Nancy Smith, who works for the National Archives (202) 501-5705. Mike Murphy could contact her, and she will walk him through the process necessary to get the table transferred to the Reagan Library.

If I understood the process as Nancy described it, when the property falls under the control of the White House Curator, an agreement is done between the White House and the "borrower" of the property. Brett Kavanaugh has drafted these agreements and Nancy co-signs them.

If the property does not fall under the control of the White House Curator, there is a different process. Nancy can help Mike with that process as well.

Keith

-----Original Message-----

From: Greenstone, Adam F.

Sent: Thursday, January 02, 2003 10:09 AM

To: Francisco, Noel J.

Cc: Montiel, Charlotte L.; Roberts, Keith L.

Subject: RE: Reagan Library Request (Sit Rm Conf Table)

Noel--We'll be glad to help Mike square this away. Will let you know if anything of note comes up.

-----Original Message-----

From: Francisco, Noel J.

Sent: Thursday, January 02, 2003 9:12 AM

To: Greenstone, Adam F.

Subject: Reagan Library Request (Sit Rm Conf Table)

Adam -- Do you know anything about this? Does it seems like something that your office should handle? Thanks (and Happy New Year!).
Noel

---------- Forwarded by Noel J. Francisco/WHO/EOP on 01/02/2003 09:16 AM ----------

<< OLE Object: Picture (Device Independent Bitmap) >>

Charlotte L. Montiel
12/23/2002 01:46:34 PM

Record Type: Record

To: Noel J. Francisco/WHO/EOP@EOP

cc: Patrick J. Bumatay/WHO/EOP@EOP

Subject: Reagan Library Request (Sit Rm Conf Table)

Would you mind looking at the legal issues regarding this? thank you!

---------- Forwarded by Charlotte L. Montiel/WHO/EOP on 12/23/2002 01:51 PM ----------

<< OLE Object: Picture (Device Independent Bitmap) >> "Murphy, Michael D." <MDMurphy@whmo.mil>
12/23/2002 08:04:37 AM

Record Type: Record

To: Charlotte L. Montiel/WHO/EOP@EOP, Elizabeth N. Camp/WHO/EOP@EOP

cc: See the distribution list at the bottom of this message

Subject: Reagan Library Request (Sit Rm Conf Table)

Charlotte/Libby:

A rep from the Reagan Library has called and would like to have the Sit

Rm conference table from the Reagan Administration for a new display in

the Reagan Library. Our Special Projects Office has the table in use as

a conference room table. Consistent with our direction from M&A,

we'd
like to promptly accommodate their request.

Please forward this email to the Associate Counsel who
customarily

handles such matters. We're standing by to transfer the table, but
want

to ensure we've accomplished the necessary paperwork and that there
are
no limiting factors of which we're unaware.

Thanks.

Mike Murphy
Colonel, USAF
WHMO/GC
72450

Message Copied
To:_____

"Miller, Mike H." <MHMiller@whmo.mil>

Stephen E. Biegun/NSC/EOP@EOP

Deborah A. Loewer/NSC/EOP@EOP

Robert W. Cole/NSC/EOP@EOP

"Jackson, Paul J." <PJJackson@whmo.mil>

"Barnes, Anthony P." <APBarnes@whmo.mil>

"Boone, David" <DBoone@whmo.mil>

From: CN=Colleen Litkenhaus/OU=WHO/O=EOP [WHO]
To: Katherine M. Walters/WHO/EOP@EOP [WHO] <Katherine M. Walters>
CC: brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>
Sent: 1/2/2003 2:50:16 PM
Subject: : Re: meeting re: Advance and Scheduling

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 2-JAN-2003 19:50:16.00
SUBJECT:: Re: meeting re: Advance and Scheduling
TO:Katherine M. Walters (CN=Katherine M. Walters/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

He is going to be in Cincinnati for Taft's inaugural. How about Tuesday
the 14th at 11am?

Katherine M. Walters
01/02/2003 04:49:19 PM
Record Type: Record

To: Colleen Litkenhaus/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: meeting re: Advance and Scheduling

Ken would like to set up a meeting with Joe and Brett re: advance and
scheduling. can we set something up for the week of the 13th?

We could try for Monday, Jan. 13th at 11 am.

From: CN=David G. Leitch/OU=WHO/O=EOP [WHO]
To: Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>
CC: bradford a. berenson/who/eop@eop [WHO] <bradford a. berenson>;h. christopher bartolomucci/who/eop@eop [WHO] <h. christopher bartolomucci>;brett m. kavanaugh/who /eop@eop [WHO] <brett m. kavanaugh>
Sent: 1/3/2003 2:42:36 AM
Subject: : Re: Ralph Neas' New Year's message to PFAW members

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 3-JAN-2003 07:42:36.00
SUBJECT:: Re: Ralph Neas' New Year's message to PFAW members
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:bradford a. berenson (CN=bradford a. berenson/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:h. christopher bartolomucci (CN=h. christopher bartolomucci/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

Must be part of the secrecy the NYT writes about on page 1 today.

Bradford A. Berenson
01/03/2003 07:37:46 AM
Record Type: Record

To: David G. Leitch/WHO/EOP@EOP
cc: brett m. kavanaugh/who/eop@eop, bradford a. berenson/who/eop@eop, h. christopher bartolomucci/who/eop@eop
bcc:
Subject: Re: Ralph Neas' New Year's message to PFAW members

We're not planning on letting it be discovered. We're just going to secretly take away everyone's freedom.

David G. Leitch

01/03/2003 07:31:03 AM

Record Type: Non-Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: bradford a. berenson/who/eop@eop, H. Christopher Bartolomucci/WHO/EOP@EOP
bcc:
Subject: Re: Ralph Neas' New Year's message to PFAW members

Can someone check to see if today is the day we've planned for "The American people to . . . wake up and discover that they have lost fundamental rights, liberties, and protections that they thought were theirs forever." I'm not quite sure when that's scheduled.

Brett M. Kavanaugh
01/02/2003 06:08:29 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Ralph Neas' New Year's message to PFAW members

As 2003 begins, I have two messages for PFAW members and activists: thanks for your support, and get ready to rumble! The next 12 to 24 months could determine the law of the land and the shape of our government for the next generation. The country needs us, and we need you!

It is likely that one or two vacancies will give President Bush the chance to put his stamp on the Supreme Court for decades to come. This will be a monumental struggle over the nation,s future. We must prevent ideologues who want to return our Constitution and country to the "states' rights" era from dominating our highest court.

The debate over the federal judiciary is part of an epic battle over the role of the federal government. The two-prong strategy of right-wing Republicans and the Bush administration is simple but breathtakingly radical. First, enact a permanent $6 trillion tax cut targeted primarily to the wealthiest Americans. That will in effect starve the federal government over the next 20 years so that it will be unable to fund many vital governmental functions performed since the New Deal.

The second prong is to pack the federal judiciary with states, rights ideologues whose judicial philosophy would turn back the clock on civil rights, environmental protections, religious liberty, reproductive rights and privacy and so much more.

Take away the money. And then take away legal rights that have been part of our constitutional framework for 65 years. The American people have a right to know what is at stake before they wake up one morning and discover that they have lost fundamental rights, liberties, and protections that they thought were theirs forever.

People For the American Way is going to make sure that we have that national debate) and that Americans understand what is at stake this year.

We,ll provide a clear voice for protecting the Constitution while we protect national security) an even more challenging task if the nation goes to war. We,ll fight to make sure that we invest in stronger public schools and real election reform. And we,ll continue to stand up to efforts by Religious Right activists both inside and outside the government to undermine separation of church and state and eliminate a woman,s right to choose.

That,s a lot to tackle. We can get our message to the American people through creative communications, effective coalition work, intensive grassroots and electronic organizing, and the generous support and activism of people who share our commitment to the best values of the American Way.

It is exciting to be right in the middle of the defining struggles of our time. We,re glad you,re here with us.

Message Sent
To:_____
Alberto R. Gonzales/WHO/EOP@EOP
David G. Leitch/WHO/EOP@EOP
Bradford A. Berenson/WHO/EOP@EOP
Helgard C. Walker/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
H. Christopher Bartolomucci/WHO/EOP@EOP
Kyle Sampson/WHO/EOP@EOP
Noel J. Francisco/WHO/EOP@EOP
Benjamin A. Powell/WHO/EOP@EOP

From: CN=PostMaster/O=EOP [OA]

To: Joseph J. Shattan/OVP/EOP [OVP] <Joseph J. Shattan>;Kevin Warsh/OPD/EOP [OPD] <Kevin Warsh>;Richard J. Tubb/WHO/EOP [WHO] <Richard J. Tubb>;Paul J. Severs/WHO/EOP [WHO] <Paul J. Severs>;Joseph D. Rozek/OVP/EOP [OVP] <Joseph D. Rozek>;Steven J. Reynolds/WHO/EOP [WHO] <Steven J. Reynolds>;Candida P. Wolff/OVP/EOP [OVP] <Candida P. Wolff>;Heather Wingate/WHO/EOP [WHO] <Heather Wingate>;Daniel K. Wilmot/OVP/EOP [OVP] <Daniel K. Wilmot>;James R. Wilkinson/WHO/EOP [WHO] <James R. Wilkinson>;Jocelyn White/WHF/EOP [OPM] <Jocelyn White>;Lezlee J. Westine/WHO/EOP [WHO] <Lezlee J. Westine>;Peter H. Wehner/WHO/EOP [WHO] <Peter H. Wehner>;Paul A. Wedderien/NSC/EOP [NSC] <Paul A. Wedderien>;John P. Walters/ONDCP/EOP [ONDCP] <John P. Walters>;Helgard C. Walker/WHO/EOP [WHO] <Helgard C. Walker>;Jim Towey/WHO/EOP [WHO] <Jim Towey>;Catherine W. Tobias/OVP/EOP [OVP] <Catherine W. Tobias>;Jose G. Suarez/WHO/EOP [WHO] <Jose G. Suarez>;Aquiles F. Suarez/OPD/EOP [OPD] <Aquiles F. Suarez>;Angela B. Styles/OMB/EOP [OMB] <Angela B. Styles>;Mary K. Sturtevant/NSC/EOP [NSC] <Mary K. Sturtevant>;Margaret M. Spellings/OPD/EOP [OPD] <Margaret M. Spellings>;Deborah A. Spagnoli/WHO/EOP [WHO] <Deborah A. Spagnoli>;Mary A. Solberg/ONDCP/EOP [ONDCP] <Mary A. Solberg>;Augustine T. Smythe/OMB/EOP [OMB] <Augustine T. Smythe>;Kristen Silverberg/WHO/EOP [WHO] <Kristen Silverberg>;Thomas J. Sharpy/OVP/EOP [OVP] <Thomas J. Sharpy>;Scott N. Sforza/WHO/EOP [WHO] <Scott N. Sforza>;Howard A. Schmidt/NSC/EOP [NSC] <Howard A. Schmidt>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Daniel Schecter/ONDCP/EOP [ONDCP] <Daniel Schecter>;Diana L. Schacht/OPD/EOP [OPD] <Diana L. Schacht>;Desiree T. Sayle/WHO/EOP [WHO] <Desiree T. Sayle>;Kyle Sampson/WHO/EOP [WHO] <Kyle Sampson>;Richard M. Russell/OSTP/EOP [OSTP] <Richard M. Russell>;Stephen S. Ruhlen/OVP/EOP [OVP] <Stephen S. Ruhlen>;Karl C. Rove/WHO/EOP [WHO] <Karl C. Rove>;Mark V. Rosenker/WHO/EOP [WHO] <Mark V. Rosenker>;Thomas J. Ridge/WHO/EOP [WHO] <Thomas J. Ridge>;Condoleezza Rice/NSC/EOP [NSC] <Condoleezza Rice>;Nina Rees/OVP/EOP [OVP] <Nina Rees>;Craig Ray/WHO/EOP [WHO] <Craig Ray>;Benjamin A. Powell/WHO/EOP [WHO] <Benjamin A. Powell>;Kathie L. Olsen/OSTP/EOP [OSTP] <Kathie L. Olsen>;John F. Newell/WHO/EOP [WHO] <John F. Newell>;Manson O. Morris/OVP/EOP [OVP] <Manson O. Morris>;Paul D. Montanus/WHO/EOP [WHO] <Paul D. Montanus>;James M. McAllister/WHO/EOP [WHO] <James M. McAllister>;James M. Kelly/WHO/EOP [WHO] <James M. Kelly>;Dina Powell/WHO/EOP [WHO] <Dina Powell>;Philip J. Perry/OMB/EOP [OMB] <Philip J. Perry>;Anna M. Perez/NSC/EOP [NSC] <Anna M. Perez>;Eric C. Pelletier/OMB/EOP [OMB] <Eric C. Pelletier>;Marcus Peacock/OMB/EOP [OMB] <Marcus Peacock>;Neil S. Patel/OVP/EOP [OVP] <Neil S. Patel>;Sean C. O'Keefe/OMB/EOP [OMB] <Sean C. O'Keefe>;Ziad S. Ojakli/WHO/EOP [WHO] <Ziad S. Ojakli>;Claire M. O'Donnell/OVP/EOP [OVP] <Claire M. O'Donnell>;Jennifer G. Newstead/WHO/EOP [WHO] <Jennifer G. Newstead>;Susan K. Neely/WHO/EOP [WHO] <Susan K. Neely>;Edmund C. Moy/WHO/EOP [WHO] <Edmund C. Moy>;James F. Moriarty/NSC/EOP [NSC] <James F. Moriarty>;Brian D. Montgomery/WHO/EOP [WHO] <Brian D. Montgomery>;Michael H. Miller/WHO/EOP [WHO] <Michael H. Miller>;Franklin C. Miller/NSC/EOP [NSC] <Franklin C. Miller>;Harriet Miers/WHO/EOP [WHO] <Harriet Miers>;Ken Mehlman/WHO/EOP [WHO] <Ken Mehlman>;Edward McNally/WHO/EOP [WHO] <Edward McNally>;Robert C. McNally/OPD/EOP [OPD] <Robert C. McNally>;Stephen S. McMillin/OMB/EOP [OMB] <Stephen S. McMillin>;Brian V. McCormack/OVP/EOP [OVP] <Brian V. McCormack>;John P. McConnell/OVP/EOP [OVP] <John P. McConnell>;Scott McClellan/WHO/EOP [WHO] <Scott McClellan>;Mark McClellan/CEA/EOP [UNKNOWN] <Mark McClellan>;Mary J. Matalin/OVP/EOP [OVP] <Mary J. Matalin>;Catherine J. Martin/OVP/EOP [OVP] <Catherine J. Martin>;Robert Marsh/WHO/EOP [WHO] <Robert Marsh>;John H. Marburger/OSTP/EOP [OSTP] <John H. Marburger>;John F. Maisto/NSC/EOP [NSC] <John F. Maisto>;Robin A. MacLean/WHO/EOP [WHO] <Robin A. MacLean>;Ado A. Machida/OVP/EOP [OVP] <Ado A. Machida>;Deborah A. Loewer/NSC/EOP [NSC] <Deborah A. Loewer>;Roland N. Litterst/WHO/EOP [WHO] <Roland N. Litterst>;Lawrence B. Lindsey/OPD/EOP@Exchange [OPD] <Lawrence B. Lindsey>;Lewis Libby/OVP/EOP [OVP] <Lewis Libby>;Dirksen Lehman/WHO/EOP [WHO] <Dirksen Lehman>;Jay P. Lefkowitz/OPD/EOP [OPD] <Jay P. Lefkowitz>;Laura S. Lawlor/WHO/EOP [WHO] <Laura S. Lawlor>;Bruce M. Lawlor/WHO/EOP [WHO] <Bruce M. Lawlor>;Paul B. Kurtz/NSC/EOP [NSC] <Paul B. Kurtz>;David Kuo/WHO/EOP [WHO] <David Kuo>;Randall S. Kroszner/CEA/EOP [CEA] <Randall S. Kroszner>;Karen Y. Knutson/OVP/EOP [OVP] <Karen Y. Knutson>;Frank G. Klotz/NSC/EOP [

NSC] <Frank G. Klotz>;Elizabeth W. Kleppe/OVP/EOP [OVP] <Elizabeth W. Kleppe>;Ellis Kitchen/OA/EOP [OA] <Ellis Kitchen>;Matthew Kirk/WHO/EOP [WHO] <Matthew Kirk>;Zalmay M. Khalilzad/NSC/EOP [NSC] <Zalmay M. Khalilzad>;Daniel J. Keniry/WHO/EOP [WHO] <Daniel J. Keniry>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Joel D. Kaplan/WHO/EOP [WHO] <Joel D. Kaplan>;Charles D. McGrath Jr/OVP/EOP [OVP] <Charles D. McGrath Jr>;Robert G. Joseph/NSC/EOP [NSC] <Robert G. Joseph>;Reuben Jeffery/OPD/EOP [OPD] <Reuben Jeffery>;Barry S. Jackson/WHO/EOP [WHO] <Barry S. Jackson>;Hector F. Irastorza/WHO/EOP [WHO] <Hector F. Irastorza>;Edward Ingle/WHO/EOP [WHO] <Edward Ingle>;Clay Johnson III/WHO/EOP [WHO] <Clay Johnson III>;Tim Campen/OA/EOP [UNKNOWN] <Tim Campen>;Penrose C. Albright TPO/TPO/OMB/EOP [OMB] <Penrose C. Albright TPO>;Steven I. Cooper TPO/TPO/OMB/EOP [OMB] <Steven I. Cooper TPO>;Keith Hennessey/OPD/EOP@Exchange [OPD] <Keith Hennessey>;Julian M. Flannery/WHO/EOP [WHO] <Julian M. Flannery>;Duncan Campbell/WHO/EOP [WHO] <Duncan Campbell>;R. Rand Beers/NSC/EOP [NSC] <R. Rand Beers>;Glenn Hubbard/CEA/EOP [CEA] <Glenn Hubbard>;Jack Howard/WHO/EOP [WHO] <Jack Howard>;Mark Holman/WHO/EOP [WHO] <Mark Holman>;David W. Hobbs/WHO/EOP [WHO] <David W. Hobbs>;Israel Hernandez/WHO/EOP [WHO] <Israel Hernandez>;Chris Henick/WHO/EOP [WHO] <Chris Henick>;Debra Heiden/OVP/EOP [OVP] <Debra Heiden>;Albert Hawkins/WHO/EOP [WHO] <Albert Hawkins>;John P. Hannah/OVP/EOP [OVP] <John P. Hannah>;John F. Haley/OVP/EOP [OVP] <John F. Haley>;Joseph W. Hagin/WHO/EOP [WHO] <Joseph W. Hagin>;Stephen J. Hadley/NSC/EOP [NSC] <Stephen J. Hadley>;Ann Gray/WHO/EOP [WHO] <Ann Gray>;John Graham/OMB/EOP [OMB] <John Graham>;John A. Gordon/NSC/EOP [NSC] <John A. Gordon>;Alberto R. Gonzales/WHO/EOP [WHO] <Alberto R. Gonzales>;Tim Goeglein/WHO/EOP [WHO] <Tim Goeglein>;Dylan C. Glenn/OPD/EOP [OPD] <Dylan C. Glenn>;Alan Gilbert/OPD/EOP [OPD] <Alan Gilbert>;Michael J. Gerson/WHO/EOP@Exchange [WHO] <Michael J. Gerson>;Stephen M. Garrison/WHO/EOP [WHO] <Stephen M. Garrison>;Kelley Gannon/WHO/EOP [WHO] <Kelley Gannon>;Linda M. Gambatesa/WHO/EOP [WHO] <Linda M. Gambatesa>;Diana E. Furchtgott-Roth/CEA/EOP [CEA] <Diana E. Furchtgott-Roth>;Daniel Fried/NSC/EOP [NSC] <Daniel Fried>;Jendayi E. Frazer/NSC/EOP [NSC] <Jendayi E. Frazer>;Noel J. Francisco/WHO/EOP [WHO] <Noel J. Francisco>;Lawrence A. Fleischer/WHO/EOP [WHO] <Lawrence A. Fleischer>;Catherine S. Fenton/WHO/EOP [WHO] <Catherine S. Fenton>;Richard Falkenrath/WHO/EOP [WHO] <Richard Falkenrath>;Nanette Everson/WHO/EOP [WHO] <Nanette Everson>;Mark Everson/OMB/EOP [OMB] <Mark Everson>;Ashley Estes/WHO/EOP [WHO] <Ashley Estes>;Tucker A. Eskew/WHO/EOP [WHO] <Tucker A. Eskew>;Gary R. Edson/NSC/EOP [NSC] <Gary R. Edson>;Eric S. Edelman/OVP/EOP [OVP] <Eric S. Edelman>;Wayne A. Downing/NSC/EOP [UNKNOWN] <Wayne A. Downing>;Elizabeth S. Dougherty/OPD/EOP [OPD] <Elizabeth S. Dougherty>;Nancy P. Dorn/WHO/EOP [UNKNOWN] <Nancy P. Dorn>;Diana C. Donnelly/WHO/EOP [WHO] <Diana C. Donnelly>;Nicolle Devenish/WHO/EOP [WHO] <Nicolle Devenish>;Mitchell Daniels/OMB/EOP [OMB] <Mitchell Daniels>;James F. Daniel/OA/EOP [OA] <James F. Daniel>;Stacia L. Cropper/OA /EOP@Exchange [OA] <Stacia L. Cropper>;Barry Crane/ONDCP/EOP [ONDCP] <Barry Crane>;John B. Craig/NSC/EOP [UNKNOWN] <John B. Craig>;Phil Cooney/CEQ/EOP [CEQ] <Phil Cooney>;Rebecca Contreras/WHO/EOP [WHO] <Rebecca Contreras>;Charles Conner/OPD/EOP [OPD] <Charles Conner>;James Connaughton/CEQ/EOP [CEQ] <James Connaughton>;Brian C. Conklin/WHO/EOP [WHO] <Brian C. Conklin>;Cesar Conda/OVP/EOP [OVP] <Cesar Conda>;Douglas F. Cochrane/OVP/EOP [OVP] <Douglas F. Cochrane>;Robert W. Cobb/WHO/EOP [UNKNOWN] <Robert W. Cobb>;John A. Cloud/NSC/EOP [NSC] <John A. Cloud>;Robin Cleveland/OMB/EOP [OMB] <Robin Cleveland>;Richard A. Clarke/NSC/EOP [NSC] <Richard A. Clarke>;Alicia P. Clark/WHO/EOP [WHO] <Alicia P. Clark>;Frank Cilluffo/WHO/EOP [WHO] <Frank Cilluffo>;Christine Ciccone/WHO/EOP [WHO] <Christine Ciccone>;Ronald I. Christie/OVP/EOP [UNKNOWN] <Ronald I. Christie>;Barbara C. Chaffee/WHO/EOP [WHO] <Barbara C. Chaffee>;Kirsten A. Chadwick/WHO/EOP [WHO] <Kirsten A. Chadwick>;Andrew H. Card/WHO/EOP [WHO] <Andrew H. Card>;James C. Capretta/OMB/EOP [OMB] <James C. Capretta>;Nicholas E. Calio/WHO/EOP [WHO] <Nicholas E. Calio>;Scott Burns/ONDCP/EOP [ONDCP] <Scott Burns>;Katja Bullock/WHO/EOP [WHO] <Katja Bullock>;Carl Buchholz/WHO/EOP [WHO] <Carl Buchholz>;Claire E. Buchan/WHO/EOP [WHO] <Claire E. Buchan>;John M. Bridgeland/OPD/EOP [OPD] <John M. Bridgeland>;Stuart W. Bowen/WHO/EOP [WHO] <Stuart W. Bowen>;Carlos E. Bonilla/OPD/EOP [OPD] <Carlos E. Bonilla>;Joshua B. Bolten/WHO/EOP [WHO] <Joshua B. Bolten>;Lloyd A. Blanchard/OMB/EOP [UNKNOWN] <Lloyd A. Blanchard>;Bradley A. Blakeman/WHO/EOP@Exchange [WHO] <Bradley A. Blakeman>;Charles P. Blahous/OPD/EOP [OPD] <Charles P. Blahous>;Stephen E.

Biegun/NSC/EOP [NSC] <Stephen E. Biegun>;Rebecca A. Beynon/WHO/EOP [WHO] <Rebecca A. Beynon>;Janet L. Berman/OVP/EOP [OVP] <Janet L. Berman>;Bradford A. Berenson/WHO/EOP [WHO] <Bradford A. Berenson>;John B. Bellinger/NSC/EOP [NSC] <John B. Bellinger>;H. Christopher Bartolomucci/WHO/EOP [WHO] <H. Christopher Bartolomucci>;Daniel J. Bartlett/WHO/EOP@Exchange [WHO] <Daniel J. Bartlett>;Andrea G. Barthwell/ONDCP/EOP [ONDCP] <Andrea G. Barthwell>;Ruben S. Barrales/WHO/EOP [WHO] <Ruben S. Barrales>;Andrea G. Ball/WHO/EOP [WHO] <Andrea G. Ball>;Jackie Arends/WHO/EOP [WHO] <Jackie Arends>;George M. Andricos/NSC/EOP [NSC] <George M. Andricos>;Cathy Alix/WHO/EOP [WHO] <Cathy Alix>;David S. Addington/OVP/EOP [OVP] <David S. Addington>;Elliott Abrams/NSC/EOP [NSC] <Elliott Abrams>;Charles S. Abbot/OVP/EOP [OVP] <Charles S. Abbot>;Gina M. Wolford/NSC/EOP [NSC] <Gina M. Wolford>;David L. Travers/NSC/EOP [NSC] <David L. Travers>;Harry W. Wolff/WHO/EOP [WHO] <Harry W. Wolff>;Alexian T. Wines/NSC/EOP [NSC] <Alexian T. Wines>;Patricia Williams/WHO/EOP [WHO] <Patricia Williams>;Jared B. Weinstein/WHO/EOP@Exchange [WHO] <Jared B. Weinstein>;Matthew C. Waxman/NSC/EOP [NSC] <Matthew C. Waxman>;Lauren J. Vestewig/OPD/EOP [OPD] <Lauren J. Vestewig>;Terrill G. Tucker/NSC/EOP [NSC] <Terrill G. Tucker>;Tevi Troy/OPD/EOP [OPD] <Tevi Troy>;Anne Trenolone/WHO/EOP [WHO] <Anne Trenolone>;Julieanne H. Thomas/WHO/EOP [WHO] <Julieanne H. Thomas>;Rachael L. Sunbarger/WHO/EOP [WHO] <Rachael L. Sunbarger>;Susan L. Sterner/WHO/EOP [WHO] <Susan L. Sterner>;Ashley Snee/WHO/EOP [WHO] <Ashley Snee>;Robert E. Schubert/NSC/EOP [NSC] <Robert E. Schubert>;Deborah Sandler/NSC/EOP [NSC] <Deborah Sandler>;Jean M. Russell/OPD/EOP@Exchange [OPD] <Jean M. Russell>;Peter M. Rowan/WHO/EOP [UNKNOWN] <Peter M. Rowan>;Noelia Rodriguez/WHO/EOP [WHO] <Noelia Rodriguez>;Josephine B. Robinson/WHO/EOP [WHO] <Josephine B. Robinson>;Maurice C. Robinson/NSC/EOP [NSC] <Maurice C. Robinson>;Christina D. Roberts/WHO/EOP [UNKNOWN] <Christina D. Roberts>;Krista L. Ritacco/WHO/EOP@Exchange [WHO] <Krista L. Ritacco>;Allison L. Riepenhoff/WHO/EOP [WHO] <Allison L. Riepenhoff>;January M. Riecke/WHO/EOP [WHO] <January M. Riecke>;Katherine A. Rhodes/WHO/EOP [WHO] <Katherine A. Rhodes>;Tim Reynolds/WHO/EOP [WHO] <Tim Reynolds>;David Reyes/NSC/EOP [NSC] <David Reyes>;Susan B. Ralston/WHO/EOP [WHO] <Susan B. Ralston>;Leslie E. Radcliff/NSC/EOP [NSC] <Leslie E. Radcliff>;Alexia Poe/WHO/EOP [WHO] <Alexia Poe>;Charlotte L. Montiel/WHO/EOP [WHO] <Charlotte L. Montiel>;Elliott M. Langer/NSC/EOP [NSC] <Elliott M. Langer>;Clare Pritchett/WHO/EOP [WHO] <Clare Pritchett>;Suzanne Primoff/WHO/EOP [WHO] <Suzanne Primoff>;John I. Pray/NSC/EOP [NSC] <John I. Pray>;Susan D. Phillips/NSC/EOP [NSC] <Susan D. Phillips>;Sarah Penny/WHO/EOP [WHO] <Sarah Penny>;Raymond H. Payne/NSC/EOP [NSC] <Raymond H. Payne>;Richard S. Paulus/WHO/EOP [WHO] <Richard S. Paulus>;Edward J. Padinske/NSC/EOP [NSC] <Edward J. Padinske>;Eric H. Otto/OPD/EOP@Exchange [OPD] <Eric H. Otto>;Lee B. Mynatt/NSC/EOP [NSC] <Lee B. Mynatt>;Steven Myers/NSC/EOP [NSC] <Steven Myers>;Sarah M. Garrison/WHO/EOP [WHO] <Sarah M. Garrison>;Paul L. Morse/WHO/EOP [WHO] <Paul L. Morse>;Leslie A. Mooney/OPD/EOP@Exchange [OPD] <Leslie A. Mooney>;Cathy L. Millison/NSC/EOP [NSC] <Cathy L. Millison>;Holly M. Miller/WHO/EOP [WHO] <Holly M. Miller>;Sonya E. Medina/WHO/EOP [WHO] <Sonya E. Medina>;Vickie A. McQuade/WHO/EOP [WHO] <Vickie A. McQuade>;Sara B. McIntosh/WHO/EOP [WHO] <Sara B. McIntosh>;Peter A. McCauley/NSC/EOP [NSC] <Peter A. McCauley>;Daniel M. McCarthy/WHO/EOP [WHO] <Daniel M. McCarthy>;Thomas S. Marsh/NSC/EOP [NSC] <Thomas S. Marsh>;Colleen Litkenhaus/WHO/EOP [WHO] <Colleen Litkenhaus>;Lindsey M. Lineweaver/WHO/EOP [WHO] <Lindsey M. Lineweaver>;Laura E. Lineberry/NSC/EOP [NSC] <Laura E. Lineberry>;Adam L. Levine/WHO/EOP [WHO] <Adam L. Levine>;Christopher S. Legrand/NSC/EOP [NSC] <Christopher S. Legrand>;Sang W. Lee/NSC/EOP [NSC] <Sang W. Lee>;Jennie M. Koch/NSC/EOP [NSC] <Jennie M. Koch>;Andrew M. Kaver/NSC/EOP [UNKNOWN] <Andrew M. Kaver>;Dora Kale/NSC/EOP [NSC] <Dora Kale>;Alexander S. Joves/NSC/EOP [NSC] <Alexander S. Joves>;M. Kay Joshi/NSC/EOP [NSC] <M. Kay Joshi>;Alison Jones/WHO/EOP [WHO] <Alison Jones>;Megan R. Johnston/WHO/EOP [WHO] <Megan R. Johnston>;Sydney R. Johnson/WHO/EOP [WHO] <Sydney R. Johnson>;Clarence C. Johnson/NSC/EOP [NSC] <Clarence C. Johnson>;Gordon D. Johndroe/WHO/EOP [WHO] <Gordon D. Johndroe>;Melanie A. Jackson/WHO/EOP [WHO] <Melanie A. Jackson>;Marilyn R. Jacanin/WHO/EOP [WHO] <Marilyn R. Jacanin>;Restituto M. Francisco/OA/EOP [OA] <Restituto M. Francisco>;Sandra K. Evans/WHO/EOP [WHO] <Sandra K. Evans>;Regina L. Cain/WHO/EOP [WHO] <Regina L. Cain>;Katherine A. Brown/NSC/EOP [NSC] <Katherine A. Brown>;Bonnie S. Broadwick/NSC/EOP [NSC] <Bonnie S. Broadwick>;Theresa M. Hunter/NSC/EOP [NSC] <Theresa M. Hunter>;A. Merrill Hughes/WHO/EOP [UNKNOWN] <A.

Merrill Hughes>;Jeffrey P. Houle/NSC/EOP [NSC] <Jeffrey P. Houle>;Ashley Holbrook/WHO/EOP [WHO] <Ashley Holbrook>;Josephine L. Hirsch/WHO/EOP [WHO] <Josephine L. Hirsch>;Jane C. Heishman/NSC/EOP [NSC] <Jane C. Heishman>;Anne Heiligenstein/WHO/EOP [WHO] <Anne Heiligenstein>;Robert C. Hargis/NSC/EOP [NSC] <Robert C. Hargis>;Alison M. Harden/WHO/EOP [WHO] <Alison M. Harden>;Mary Ann Hanusa/WHO/EOP [WHO] <Mary Ann Hanusa>;Thomas A. Hall/NSC/EOP [NSC] <Thomas A. Hall>;Mary A. Haines/NSC/EOP [NSC] <Mary A. Haines>;Katharina M. Hager/WHO/EOP [WHO] <Katharina M. Hager>;Henry C. Hager/WHO/EOP [WHO] <Henry C. Hager>;Albert J. Guarnieri/NSC/EOP [NSC] <Albert J. Guarnieri>;Ginger G. Loper/WHO/EOP [WHO] <Ginger G. Loper>;Andrew W. Green/NSC/EOP [NSC] <Andrew W. Green>;Emily S. Gray/WHO/EOP [WHO] <Emily S. Gray>;Wendy E. Gray/NSC/EOP [NSC] <Wendy E. Gray>;Britt Grant/OPD/EOP [OPD] <Britt Grant>;Blake Gottesman/WHO/EOP [WHO] <Blake Gottesman>;Travis C. Good/NSC/EOP [UNKNOWN] <Travis C. Good>;Georgia D. Godfrey/WHO/EOP [WHO] <Georgia D. Godfrey>;Eleanor L. Gillmor/OPD/EOP [OPD] <Eleanor L. Gillmor>;Dorothy C. Garvin/WHO/EOP [WHO] <Dorothy C. Garvin>;Joachim D. Fuchs/NSC/EOP [NSC] <Joachim D. Fuchs>;Barbara J. Finn/OA/EOP [OA] <Barbara J. Finn>;Kara G. Figg/WHO/EOP@Exchange [WHO] <Kara G. Figg>;Jeanie L. Figg/WHO/EOP [WHO] <Jeanie L. Figg>;Jennifer D. Field/OVP/EOP [OVP] <Jennifer D. Field>;Douglas M. Erdahl/NSC/EOP [NSC] <Douglas M. Erdahl>;Ruth E. Elliott/NSC/EOP [NSC] <Ruth E. Elliott>;Kady Dunlap/WHO/EOP [WHO] <Kady Dunlap>;Eric A. Draper/WHO/EOP [WHO] <Eric A. Draper>;Joan R. Doty/WHO/EOP [WHO] <Joan R. Doty>;Katherine L. Disston/WHO /EOP@Exchange [WHO] <Katherine L. Disston>;Reed Dickens/WHO/EOP [WHO] <Reed Dickens>;Josh Deckard/WHO/EOP [WHO] <Josh Deckard>;Ashley E. Davis/WHO/EOP [WHO] <Ashley E. Davis>;Jill Davie/WHO/EOP [WHO] <Jill Davie>;Colin Crosby/NSC/EOP [NSC] <Colin Crosby>;Lynn A. Crable/WHO/EOP [WHO] <Lynn A. Crable>;Colby J. Cooper/NSC/EOP [NSC] <Colby J. Cooper>;Michael J. Conway/WHO/EOP [WHO] <Michael J. Conway>;Carolyn E. Cleveland/WHO/EOP [WHO] <Carolyn E. Cleveland>;Shane P. Chambers/WHO/EOP [WHO] <Shane P. Chambers>;Lois A. Cassano/WHO/EOP [WHO] <Lois A. Cassano>;Pamela R. Casey/WHO/EOP [WHO] <Pamela R. Casey>;Anne E. Campbell/WHO/EOP@Exchange [WHO] <Anne E. Campbell>;Elizabeth N. Camp/WHO/EOP [WHO] <Elizabeth N. Camp>;Marcia J. Caler/NSC/EOP [UNKNOWN] <Marcia J. Caler>;Johnathan C. Bunting/NSC/EOP [NSC] <Johnathan C. Bunting>;Patrick J. Bumatay/WHO/EOP [WHO] <Patrick J. Bumatay>;Marko R. Broz/NSC/EOP [NSC] <Marko R. Broz>;Gary E. Bresnahan/NSC/EOP [NSC] <Gary E. Bresnahan>;Brian Bravo/WHO/EOP [WHO] <Brian Bravo>;David R. Bohrer/OVP/EOP [OVP] <David R. Bohrer>;Debra D. Bird/WHO/EOP [WHO] <Debra D. Bird>;Melissa S. Bennett/WHO/EOP [WHO] <Melissa S. Bennett>;Cheryl E. Barnett/NSC/EOP [NSC] <Cheryl E. Barnett>;Tiffany L. Barfield/WHO/EOP [WHO] <Tiffany L. Barfield>;Mitchell P. Backfield/NSC/EOP [NSC] <Mitchell P. Backfield>;Jill L. Angelo/WHO/EOP [UNKNOWN] <Jill L. Angelo>;Ashleigh A. Adams/WHO/EOP [UNKNOWN] <Ashleigh A. Adams>

Sent: 1/3/2003 4:49:50 AM

Subject: : POSTMASTER: White House Mess Hours

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME: 3-JAN-2003 09:49:50.00
SUBJECT:: POSTMASTER: White House Mess Hours
TO:Joseph J. Shattan ( CN=Joseph J. Shattan/OU=OVP/O=EOP [ OVP ] )
READ:UNKNOWN
TO:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
TO:Richard J. Tubb ( CN=Richard J. Tubb/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Paul J. Severs ( CN=Paul J. Severs/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Joseph D. Rozek ( CN=Joseph D. Rozek/OU=OVP/O=EOP [ OVP ] )
READ:UNKNOWN
TO:Steven J. Reynolds ( CN=Steven J. Reynolds/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Candida P. Wolff ( CN=Candida P. Wolff/OU=OVP/O=EOP [ OVP ] )
READ:UNKNOWN
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP [ WHO ] )
```

READ:UNKNOWN
TO:Daniel K. Wilmot (CN=Daniel K. Wilmot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:James R. Wilkinson (CN=James R. Wilkinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jocelyn White (CN=Jocelyn White/OU=WHF/O=EOP [OPM])
READ:UNKNOWN
TO:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul A. Wedderien (CN=Paul A. Wedderien/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John P. Walters (CN=John P. Walters/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine W. Tobias (CN=Catherine W. Tobias/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jose G. Suarez (CN=Jose G. Suarez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Aquiles F. Suarez (CN=Aquiles F. Suarez/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Angela B. Styles (CN=Angela B. Styles/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary A. Solberg (CN=Mary A. Solberg/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Augustine T. Smythe (CN=Augustine T. Smythe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Sharpy (CN=Thomas J. Sharpy/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Howard A. Schmidt (CN=Howard A. Schmidt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel Schecter (CN=Daniel Schecter/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard M. Russell (CN=Richard M. Russell/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Stephen S. Ruhlen (CN=Stephen S. Ruhlen/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark V. Rosenker (CN=Mark V. Rosenker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Ridge (CN=Thomas J. Ridge/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Nina Rees (CN=Nina Rees/OU=OVP/O=EOP [OVP])

READ:UNKNOWN
TO:Craig Ray (CN=Craig Ray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kathie L. Olsen (CN=Kathie L. Olsen/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Newell (CN=John F. Newell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Manson O. Morris (CN=Manson O. Morris/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Paul D. Montanus (CN=Paul D. Montanus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. McAllister (CN=James M. McAllister/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric C. Pelletier (CN=Eric C. Pelletier/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Marcus Peacock (CN=Marcus Peacock/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Neil S. Patel (CN=Neil S. Patel/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Sean C. O'Keefe (CN=Sean C. O'Keefe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire M. O'Donnell (CN=Claire M. O'Donnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan K. Neely (CN=Susan K. Neely/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen S. McMillin (CN=Stephen S. McMillin/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark McClellan (CN=Mark McClellan/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Mary J. Matalin (CN=Mary J. Matalin/OU=OVP/O=EOP [OVP])

READ:UNKNOWN
TO:Catherine J. Martin (CN=Catherine J. Martin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John H. Marburger (CN=John H. Marburger/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Maisto (CN=John F. Maisto/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin A. MacLean (CN=Robin A. MacLean/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ado A. Machida (CN=Ado A. Machida/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Deborah A. Loewer (CN=Deborah A. Loewer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence B. Lindsey (CN=Lawrence B. Lindsey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Dirksen Lehman (CN=Dirksen Lehman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Laura S. Lawlor (CN=Laura S. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bruce M. Lawlor (CN=Bruce M. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Randall S. Kroszner (CN=Randall S. Kroszner/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Karen Y. Knutson (CN=Karen Y. Knutson/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Frank G. Klotz (CN=Frank G. Klotz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Ellis Kitchen (CN=Ellis Kitchen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles D. McGrath Jr (CN=Charles D. McGrath Jr/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Reuben Jeffery (CN=Reuben Jeffery/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hector F. Irastorza (CN=Hector F. Irastorza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Campen (CN=Tim Campen/OU=OA/O=EOP [UNKNOWN])

READ:UNKNOWN
TO:Penrose C. Albright TPO (CN=Penrose C. Albright TPO/OU=TPO/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Steven I. Cooper TPO (CN=Steven I. Cooper TPO/OU=TPO/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Julian M. Flannery (CN=Julian M. Flannery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Duncan Campbell (CN=Duncan Campbell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:R. Rand Beers (CN=R. Rand Beers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Glenn Hubbard (CN=Glenn Hubbard/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Jack Howard (CN=Jack Howard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Holman (CN=Mark Holman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Chris Henick (CN=Chris Henick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Debra Heiden (CN=Debra Heiden/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Albert Hawkins (CN=Albert Hawkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John P. Hannah (CN=John P. Hannah/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John F. Haley (CN=John F. Haley/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John Graham (CN=John Graham/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:John A. Gordon (CN=John A. Gordon/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Stephen M. Garrison (CN=Stephen M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Diana E. Furchtgott-Roth (CN=Diana E. Furchtgott-Roth/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Everson (CN=Mark Everson/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric S. Edelman (CN=Eric S. Edelman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Wayne A. Downing (CN=Wayne A. Downing/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Nancy P. Dorn (CN=Nancy P. Dorn/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Diana C. Donnelly (CN=Diana C. Donnelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:James F. Daniel (CN=James F. Daniel/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Stacia L. Cropper (CN=Stacia L. Cropper/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
TO:Barry Crane (CN=Barry Crane/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:John B. Craig (CN=John B. Craig/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:James Connaughton (CN=James Connaughton/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cesar Conda (CN=Cesar Conda/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Douglas F. Cochrane (CN=Douglas F. Cochrane/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert W. Cobb (CN=Robert W. Cobb/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:John A. Cloud (CN=John A. Cloud/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin Cleveland (CN=Robin Cleveland/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Richard A. Clarke (CN=Richard A. Clarke/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Frank Cilluffo (CN=Frank Cilluffo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christine Ciccone (CN=Christine Ciccone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Barbara C. Chaffee (CN=Barbara C. Chaffee/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James C. Capretta (CN=James C. Capretta/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Nicholas E. Calio (CN=Nicholas E. Calio/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott Burns (CN=Scott Burns/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carl Buchholz (CN=Carl Buchholz/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stuart W. Bowen (CN=Stuart W. Bowen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carlos E. Bonilla (CN=Carlos E. Bonilla/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lloyd A. Blanchard (CN=Lloyd A. Blanchard/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen E. Biegun (CN=Stephen E. Biegun/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Janet L. Berman (CN=Janet L. Berman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Andrea G. Barthwell (CN=Andrea G. Barthwell/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Cathy Alix (CN=Cathy Alix/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Gina M. Wolford (CN=Gina M. Wolford/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David L. Travers (CN=David L. Travers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harry W. Wolff (CN=Harry W. Wolff/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Alexian T. Wines (CN=Alexian T. Wines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patricia Williams (CN=Patricia Williams/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jared B. Weinstein (CN=Jared B. Weinstein/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Matthew C. Waxman (CN=Matthew C. Waxman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lauren J. Vestewig (CN=Lauren J. Vestewig/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Terrill G. Tucker (CN=Terrill G. Tucker/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tevi Troy (CN=Tevi Troy/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Anne Trenolone (CN=Anne Trenolone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Julieanne H. Thomas (CN=Julieanne H. Thomas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Rachael L. Sunbarger (CN=Rachael L. Sunbarger/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan L. Sterner (CN=Susan L. Sterner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert E. Schubert (CN=Robert E. Schubert/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Deborah Sandler (CN=Deborah Sandler/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jean M. Russell (CN=Jean M. Russell/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Peter M. Rowan (CN=Peter M. Rowan/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Noelia Rodriguez (CN=Noelia Rodriguez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine B. Robinson (CN=Josephine B. Robinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Maurice C. Robinson (CN=Maurice C. Robinson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Christina D. Roberts (CN=Christina D. Roberts/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Allison L. Riepenhoff (CN=Allison L. Riepenhoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:January M. Riecke (CN=January M. Riecke/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Rhodes (CN=Katherine A. Rhodes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Reynolds (CN=Tim Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David Reyes (CN=David Reyes/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie E. Radcliff (CN=Leslie E. Radcliff/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexia Poe (CN=Alexia Poe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elliott M. Langer (CN=Elliott M. Langer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Clare Pritchett (CN=Clare Pritchett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Suzanne Primoff (CN=Suzanne Primoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John I. Pray (CN=John I. Pray/OU=NSC/O=EOP [NSC])

READ:UNKNOWN
TO:Susan D. Phillips (CN=Susan D. Phillips/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah Penny (CN=Sarah Penny/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Raymond H. Payne (CN=Raymond H. Payne/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Richard S. Paulus (CN=Richard S. Paulus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward J. Padinske (CN=Edward J. Padinske/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric H. Otto (CN=Eric H. Otto/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Lee B. Mynatt (CN=Lee B. Mynatt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Steven Myers (CN=Steven Myers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah M. Garrison (CN=Sarah M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul L. Morse (CN=Paul L. Morse/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie A. Mooney (CN=Leslie A. Mooney/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Cathy L. Millison (CN=Cathy L. Millison/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Holly M. Miller (CN=Holly M. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sonya E. Medina (CN=Sonya E. Medina/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Vickie A. McQuade (CN=Vickie A. McQuade/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sara B. McIntosh (CN=Sara B. McIntosh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter A. McCauley (CN=Peter A. McCauley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel M. McCarthy (CN=Daniel M. McCarthy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas S. Marsh (CN=Thomas S. Marsh/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lindsey M. Lineweaver (CN=Lindsey M. Lineweaver/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Laura E. Lineberry (CN=Laura E. Lineberry/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Adam L. Levine (CN=Adam L. Levine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christopher S. Legrand (CN=Christopher S. Legrand/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sang W. Lee (CN=Sang W. Lee/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jennie M. Koch (CN=Jennie M. Koch/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Andrew M. Kaver (CN=Andrew M. Kaver/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Dora Kale (CN=Dora Kale/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexander S. Joves (CN=Alexander S. Joves/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:M. Kay Joshi (CN=M. Kay Joshi/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Megan R. Johnston (CN=Megan R. Johnston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sydney R. Johnson (CN=Sydney R. Johnson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clarence C. Johnson (CN=Clarence C. Johnson/OU=NSC/O=EOP [NSC])

READ:UNKNOWN
TO:Gordon D. Johndroe (CN=Gordon D. Johndroe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melanie A. Jackson (CN=Melanie A. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marilyn R. Jacanin (CN=Marilyn R. Jacanin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Restituto M. Francisco (CN=Restituto M. Francisco/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Sandra K. Evans (CN=Sandra K. Evans/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Regina L. Cain (CN=Regina L. Cain/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Brown (CN=Katherine A. Brown/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Bonnie S. Broadwick (CN=Bonnie S. Broadwick/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Theresa M. Hunter (CN=Theresa M. Hunter/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:A. Merrill Hughes (CN=A. Merrill Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jeffrey P. Houle (CN=Jeffrey P. Houle/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ashley Holbrook (CN=Ashley Holbrook/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine L. Hirsch (CN=Josephine L. Hirsch/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jane C. Heishman (CN=Jane C. Heishman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anne Heiligenstein (CN=Anne Heiligenstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. Hargis (CN=Robert C. Hargis/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison M. Harden (CN=Alison M. Harden/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary Ann Hanusa (CN=Mary Ann Hanusa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas A. Hall (CN=Thomas A. Hall/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary A. Haines (CN=Mary A. Haines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Katharina M. Hager (CN=Katharina M. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Henry C. Hager (CN=Henry C. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Albert J. Guarnieri (CN=Albert J. Guarnieri/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew W. Green (CN=Andrew W. Green/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Emily S. Gray (CN=Emily S. Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wendy E. Gray (CN=Wendy E. Gray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Britt Grant (CN=Britt Grant/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Travis C. Good (CN=Travis C. Good/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Georgia D. Godfrey (CN=Georgia D. Godfrey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Dorothy C. Garvin (CN=Dorothy C. Garvin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joachim D. Fuchs (CN=Joachim D. Fuchs/OU=NSC/O=EOP [NSC])

READ:UNKNOWN
TO:Barbara J. Finn (CN=Barbara J. Finn/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jeanie L. Figg (CN=Jeanie L. Figg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jennifer D. Field (CN=Jennifer D. Field/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Douglas M. Erdahl (CN=Douglas M. Erdahl/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ruth E. Elliott (CN=Ruth E. Elliott/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kady Dunlap (CN=Kady Dunlap/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eric A. Draper (CN=Eric A. Draper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joan R. Doty (CN=Joan R. Doty/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine L. Disston (CN=Katherine L. Disston/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Reed Dickens (CN=Reed Dickens/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josh Deckard (CN=Josh Deckard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley E. Davis (CN=Ashley E. Davis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jill Davie (CN=Jill Davie/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colin Crosby (CN=Colin Crosby/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lynn A. Crable (CN=Lynn A. Crable/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colby J. Cooper (CN=Colby J. Cooper/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Shane P. Chambers (CN=Shane P. Chambers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lois A. Cassano (CN=Lois A. Cassano/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Pamela R. Casey (CN=Pamela R. Casey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne E. Campbell (CN=Anne E. Campbell/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marcia J. Caler (CN=Marcia J. Caler/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Johnathan C. Bunting (CN=Johnathan C. Bunting/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marko R. Broz (CN=Marko R. Broz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gary E. Bresnahan (CN=Gary E. Bresnahan/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David R. Bohrer (CN=David R. Bohrer/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cheryl E. Barnett (CN=Cheryl E. Barnett/OU=NSC/O=EOP [NSC])

READ:UNKNOWN
TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell P. Backfield (CN=Mitchell P. Backfield/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jill L. Angelo (CN=Jill L. Angelo/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Ashleigh A. Adams (CN=Ashleigh A. Adams/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

White House Mess Hours

The White House Mess will close at 3:00 PM today and will resume regular hours Saturday, January 4, 2003.

Thank you.

MANAGEMENT & ADMINISTRATION

From: CN=PostMaster/O=EOP [OA]

To: Joseph J. Shattan/OVP/EOP [OVP] <Joseph J. Shattan>;Kevin Warsh/OPD/EOP [OPD] <Kevin Warsh>;Richard J. Tubb/WHO/EOP [WHO] <Richard J. Tubb>;Paul J. Severs/WHO/EOP [WHO] <Paul J. Severs>;Joseph D. Rozek/OVP/EOP [OVP] <Joseph D. Rozek>;Steven J. Reynolds/WHO/EOP [WHO] <Steven J. Reynolds>;Candida P. Wolff/OVP/EOP [OVP] <Candida P. Wolff>;Heather Wingate/WHO/EOP [WHO] <Heather Wingate>;Daniel K. Wilmot/OVP/EOP [OVP] <Daniel K. Wilmot>;James R. Wilkinson/WHO/EOP [WHO] <James R. Wilkinson>;Jocelyn White/WHF/EOP [OPM] <Jocelyn White>;Lezlee J. Westine/WHO/EOP [WHO] <Lezlee J. Westine>;Peter H. Wehner/WHO/EOP [WHO] <Peter H. Wehner>;Paul A. Wedderien/NSC/EOP [NSC] <Paul A. Wedderien>;John P. Walters/ONDCP/EOP [ONDCP] <John P. Walters>;Helgard C. Walker/WHO/EOP [WHO] <Helgard C. Walker>;Jim Towey/WHO/EOP [WHO] <Jim Towey>;Catherine W. Tobias/OVP/EOP [OVP] <Catherine W. Tobias>;Jose G. Suarez/WHO/EOP [WHO] <Jose G. Suarez>;Aquiles F. Suarez/OPD/EOP [OPD] <Aquiles F. Suarez>;Angela B. Styles/OMB/EOP [OMB] <Angela B. Styles>;Mary K. Sturtevant/NSC/EOP [NSC] <Mary K. Sturtevant>;Margaret M. Spellings/OPD/EOP [OPD] <Margaret M. Spellings>;Deborah A. Spagnoli/WHO/EOP [WHO] <Deborah A. Spagnoli>;Mary A. Solberg/ONDCP/EOP [ONDCP] <Mary A. Solberg>;Augustine T. Smythe/OMB/EOP [OMB] <Augustine T. Smythe>;Kristen Silverberg/WHO/EOP [WHO] <Kristen Silverberg>;Thomas J. Sharpy/OVP/EOP [OVP] <Thomas J. Sharpy>;Scott N. Sforza/WHO/EOP [WHO] <Scott N. Sforza>;Howard A. Schmidt/NSC/EOP [NSC] <Howard A. Schmidt>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Daniel Schecter/ONDCP/EOP [ONDCP] <Daniel Schecter>;Diana L. Schacht/OPD/EOP [OPD] <Diana L. Schacht>;Desiree T. Sayle/WHO/EOP [WHO] <Desiree T. Sayle>;Kyle Sampson/WHO/EOP [WHO] <Kyle Sampson>;Richard M. Russell/OSTP/EOP [OSTP] <Richard M. Russell>;Stephen S. Ruhlen/OVP/EOP [OVP] <Stephen S. Ruhlen>;Karl C. Rove/WHO/EOP [WHO] <Karl C. Rove>;Mark V. Rosenker/WHO/EOP [WHO] <Mark V. Rosenker>;Thomas J. Ridge/WHO/EOP [WHO] <Thomas J. Ridge>;Condoleezza Rice/NSC/EOP [NSC] <Condoleezza Rice>;Nina Rees/OVP/EOP [OVP] <Nina Rees>;Craig Ray/WHO/EOP [WHO] <Craig Ray>;Benjamin A. Powell/WHO/EOP [WHO] <Benjamin A. Powell>;Kathie L. Olsen/OSTP/EOP [OSTP] <Kathie L. Olsen>;John F. Newell/WHO/EOP [WHO] <John F. Newell>;Manson O. Morris/OVP/EOP [OVP] <Manson O. Morris>;Paul D. Montanus/WHO/EOP [WHO] <Paul D. Montanus>;James M. McAllister/WHO/EOP [WHO] <James M. McAllister>;James M. Kelly/WHO/EOP [WHO] <James M. Kelly>;Dina Powell/WHO/EOP [WHO] <Dina Powell>;Philip J. Perry/OMB/EOP [OMB] <Philip J. Perry>;Anna M. Perez/NSC/EOP [NSC] <Anna M. Perez>;Eric C. Pelletier/OMB/EOP [OMB] <Eric C. Pelletier>;Marcus Peacock/OMB/EOP [OMB] <Marcus Peacock>;Neil S. Patel/OVP/EOP [OVP] <Neil S. Patel>;Sean C. O'Keefe/OMB/EOP [OMB] <Sean C. O'Keefe>;Ziad S. Ojakli/WHO/EOP [WHO] <Ziad S. Ojakli>;Claire M. O'Donnell/OVP/EOP [OVP] <Claire M. O'Donnell>;Jennifer G. Newstead/WHO/EOP [WHO] <Jennifer G. Newstead>;Susan K. Neely/WHO/EOP [WHO] <Susan K. Neely>;Edmund C. Moy/WHO/EOP [WHO] <Edmund C. Moy>;James F. Moriarty/NSC/EOP [NSC] <James F. Moriarty>;Brian D. Montgomery/WHO/EOP [WHO] <Brian D. Montgomery>;Michael H. Miller/WHO/EOP [WHO] <Michael H. Miller>;Franklin C. Miller/NSC/EOP [NSC] <Franklin C. Miller>;Harriet Miers/WHO/EOP [WHO] <Harriet Miers>;Ken Mehlman/WHO/EOP [WHO] <Ken Mehlman>;Edward McNally/WHO/EOP [WHO] <Edward McNally>;Robert C. McNally/OPD/EOP [OPD] <Robert C. McNally>;Stephen S. McMillin/OMB/EOP [OMB] <Stephen S. McMillin>;Brian V. McCormack/OVP/EOP [OVP] <Brian V. McCormack>;John P. McConnell/OVP/EOP [OVP] <John P. McConnell>;Scott McClellan/WHO/EOP [WHO] <Scott McClellan>;Mark McClellan/CEA/EOP [UNKNOWN] <Mark McClellan>;Mary J. Matalin/OVP/EOP [OVP] <Mary J. Matalin>;Catherine J. Martin/OVP/EOP [OVP] <Catherine J. Martin>;Robert Marsh/WHO/EOP [WHO] <Robert Marsh>;John H. Marburger/OSTP/EOP [OSTP] <John H. Marburger>;John F. Maisto/NSC/EOP [NSC] <John F. Maisto>;Robin A. MacLean/WHO/EOP [WHO] <Robin A. MacLean>;Ado A. Machida/OVP/EOP [OVP] <Ado A. Machida>;Deborah A. Loewer/NSC/EOP [NSC] <Deborah A. Loewer>;Roland N. Litterst/WHO/EOP [WHO] <Roland N. Litterst>;Lawrence B. Lindsey/OPD/EOP@Exchange [OPD] <Lawrence B. Lindsey>;Lewis Libby/OVP/EOP [OVP] <Lewis Libby>;Dirksen Lehman/WHO/EOP [WHO] <Dirksen Lehman>;Jay P. Lefkowitz/OPD/EOP [OPD] <Jay P. Lefkowitz>;Laura S. Lawlor/WHO/EOP [WHO] <Laura S. Lawlor>;Bruce M. Lawlor/WHO/EOP [WHO] <Bruce M. Lawlor>;Paul B. Kurtz/NSC/EOP [NSC] <Paul B. Kurtz>;David

Kuo/WHO/EOP [WHO] <David Kuo>;Randall S. Kroszner/CEA/EOP [CEA] <Randall S. Kroszner>;Karen Y. Knutson/OVP/EOP [OVP] <Karen Y. Knutson>;Frank G. Klotz/NSC/EOP [NSC] <Frank G. Klotz>;Elizabeth W. Kleppe/OVP/EOP [OVP] <Elizabeth W. Kleppe>;Ellis Kitchen/OA/EOP [OA] <Ellis Kitchen>;Matthew Kirk/WHO/EOP [WHO] <Matthew Kirk>;Zalmay M. Khalilzad/NSC/EOP [NSC] <Zalmay M. Khalilzad>;Daniel J. Keniry/WHO/EOP [WHO] <Daniel J. Keniry>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Joel D. Kaplan/WHO/EOP [WHO] <Joel D. Kaplan>;Charles D. McGrath Jr/OVP/EOP [OVP] <Charles D. McGrath Jr>;Robert G. Joseph/NSC/EOP [NSC] <Robert G. Joseph>;Reuben Jeffery/OPD/EOP [OPD] <Reuben Jeffery>;Barry S. Jackson/WHO/EOP [WHO] <Barry S. Jackson>;Hector F. Irastorza/WHO/EOP [WHO] <Hector F. Irastorza>;Edward Ingle/WHO/EOP [WHO] <Edward Ingle>;Clay Johnson III/WHO/EOP [WHO] <Clay Johnson III>;Tim Campen/OA/EOP [UNKNOWN] <Tim Campen>;Penrose C. Albright TPO/TPO/OMB/EOP [OMB] <Penrose C. Albright TPO>;Steven I. Cooper TPO/TPO/OMB/EOP [OMB] <Steven I. Cooper TPO>;Keith Hennessey/OPD/EOP@Exchange [OPD] <Keith Hennessey>;Julian M. Flannery/WHO/EOP [WHO] <Julian M. Flannery>;Duncan Campbell/WHO/EOP [WHO] <Duncan Campbell>;R. Rand Beers/NSC/EOP [NSC] <R. Rand Beers>;Glenn Hubbard/CEA/EOP [CEA] <Glenn Hubbard>;Jack Howard/WHO/EOP [WHO] <Jack Howard>;Mark Holman/WHO/EOP [WHO] <Mark Holman>;David W. Hobbs/WHO/EOP [WHO] <David W. Hobbs>;Israel Hernandez/WHO/EOP [WHO] <Israel Hernandez>;Chris Henick/WHO/EOP [WHO] <Chris Henick>;Debra Heiden/OVP/EOP [OVP] <Debra Heiden>;Albert Hawkins/WHO/EOP [WHO] <Albert Hawkins>;John P. Hannah/OVP/EOP [OVP] <John P. Hannah>;John F. Haley/OVP/EOP [OVP] <John F. Haley>;Joseph W. Hagin/WHO/EOP [WHO] <Joseph W. Hagin>;Stephen J. Hadley/NSC/EOP [NSC] <Stephen J. Hadley>;Ann Gray/WHO/EOP [WHO] <Ann Gray>;John Graham/OMB/EOP [OMB] <John Graham>;John A. Gordon/NSC/EOP [NSC] <John A. Gordon>;Alberto R. Gonzales/WHO/EOP [WHO] <Alberto R. Gonzales>;Tim Goeglein/WHO/EOP [WHO] <Tim Goeglein>;Dylan C. Glenn/OPD/EOP [OPD] <Dylan C. Glenn>;Alan Gilbert/OPD/EOP [OPD] <Alan Gilbert>;Michael J. Gerson/WHO/EOP@Exchange [WHO] <Michael J. Gerson>;Stephen M. Garrison/WHO/EOP [WHO] <Stephen M. Garrison>;Kelley Gannon/WHO/EOP [WHO] <Kelley Gannon>;Linda M. Gambatesa/WHO/EOP [WHO] <Linda M. Gambatesa>;Diana E. Furchtgott-Roth/CEA/EOP [CEA] <Diana E. Furchtgott-Roth>;Daniel Fried/NSC/EOP [NSC] <Daniel Fried>;Jendayi E. Frazer/NSC/EOP [NSC] <Jendayi E. Frazer>;Noel J. Francisco/WHO/EOP [WHO] <Noel J. Francisco>;Lawrence A. Fleischer/WHO/EOP [WHO] <Lawrence A. Fleischer>;Catherine S. Fenton/WHO/EOP [WHO] <Catherine S. Fenton>;Richard Falkenrath/WHO/EOP [WHO] <Richard Falkenrath>;Nanette Everson/WHO/EOP [WHO] <Nanette Everson>;Mark Everson/OMB/EOP [OMB] <Mark Everson>;Ashley Estes/WHO/EOP [WHO] <Ashley Estes>;Tucker A. Eskew/WHO/EOP [WHO] <Tucker A. Eskew>;Gary R. Edson/NSC/EOP [NSC] <Gary R. Edson>;Eric S. Edelman/OVP/EOP [OVP] <Eric S. Edelman>;Wayne A. Downing/NSC/EOP [UNKNOWN] <Wayne A. Downing>;Elizabeth S. Dougherty/OPD/EOP [OPD] <Elizabeth S. Dougherty>;Nancy P. Dorn/WHO/EOP [UNKNOWN] <Nancy P. Dorn>;Diana C. Donnelly/WHO/EOP [WHO] <Diana C. Donnelly>;Nicolle Devenish/WHO/EOP [WHO] <Nicolle Devenish>;Mitchell Daniels/OMB/EOP [OMB] <Mitchell Daniels>;James F. Daniel/OA/EOP [OA] <James F. Daniel>;Stacia L. Cropper/OA /EOP@Exchange [OA] <Stacia L. Cropper>;Barry Crane/ONDCP/EOP [ONDCP] <Barry Crane>;John B. Craig/NSC/EOP [UNKNOWN] <John B. Craig>;Phil Cooney/CEQ/EOP [CEQ] <Phil Cooney>;Rebecca Contreras/WHO/EOP [WHO] <Rebecca Contreras>;Charles Conner/OPD/EOP [OPD] <Charles Conner>;James Connaughton/CEQ/EOP [CEQ] <James Connaughton>;Brian C. Conklin/WHO/EOP [WHO] <Brian C. Conklin>;Cesar Conda/OVP/EOP [OVP] <Cesar Conda>;Douglas F. Cochrane/OVP/EOP [OVP] <Douglas F. Cochrane>;Robert W. Cobb/WHO/EOP [UNKNOWN] <Robert W. Cobb>;John A. Cloud/NSC/EOP [NSC] <John A. Cloud>;Robin Cleveland/OMB/EOP [OMB] <Robin Cleveland>;Richard A. Clarke/NSC/EOP [NSC] <Richard A. Clarke>;Alicia P. Clark/WHO/EOP [WHO] <Alicia P. Clark>;Frank Cilluffo/WHO/EOP [WHO] <Frank Cilluffo>;Christine Ciccone/WHO/EOP [WHO] <Christine Ciccone>;Ronald I. Christie/OVP/EOP [UNKNOWN] <Ronald I. Christie>;Barbara C. Chaffee/WHO/EOP [WHO] <Barbara C. Chaffee>;Kirsten A. Chadwick/WHO/EOP [WHO] <Kirsten A. Chadwick>;Andrew H. Card/WHO/EOP [WHO] <Andrew H. Card>;James C. Capretta/OMB/EOP [OMB] <James C. Capretta>;Nicholas E. Calio/WHO/EOP [WHO] <Nicholas E. Calio>;Scott Burns/ONDCP/EOP [ONDCP] <Scott Burns>;Katja Bullock/WHO/EOP [WHO] <Katja Bullock>;Carl Buchholz/WHO/EOP [WHO] <Carl Buchholz>;Claire E. Buchan/WHO/EOP [WHO] <Claire E. Buchan>;John M.

Bridgeland/OPD/EOP [OPD] <John M. Bridgeland>;Stuart W. Bowen/WHO/EOP [WHO] <Stuart W. Bowen>;Carlos E. Bonilla/OPD/EOP [OPD] <Carlos E. Bonilla>;Joshua B. Bolten/WHO/EOP [WHO] <Joshua B. Bolten>;Lloyd A. Blanchard/OMB/EOP [UNKNOWN] <Lloyd A. Blanchard>;Bradley A. Blakeman/WHO/EOP@Exchange [WHO] <Bradley A. Blakeman>;Charles P. Blahous/OPD/EOP [OPD] <Charles P. Blahous>;Stephen E. Biegun/NSC/EOP [NSC] <Stephen E. Biegun>;Rebecca A. Beynon/WHO/EOP [WHO] <Rebecca A. Beynon>;Janet L. Berman/OVP/EOP [OVP] <Janet L. Berman>;Bradford A. Berenson/WHO/EOP [WHO] <Bradford A. Berenson>;John B. Bellinger/NSC/EOP [NSC] <John B. Bellinger>;H. Christopher Bartolomucci/WHO/EOP [WHO] <H. Christopher Bartolomucci>;Daniel J. Bartlett/WHO/EOP@Exchange [WHO] <Daniel J. Bartlett>;Andrea G. Barthwell/ONDCP/EOP [ONDCP] <Andrea G. Barthwell>;Ruben S. Barrales/WHO/EOP [WHO] <Ruben S. Barrales>;Andrea G. Ball/WHO/EOP [WHO] <Andrea G. Ball>;Jackie Arends/WHO/EOP [WHO] <Jackie Arends>;George M. Andricos/NSC/EOP [NSC] <George M. Andricos>;Cathy Alix/WHO/EOP [WHO] <Cathy Alix>;David S. Addington/OVP/EOP [OVP] <David S. Addington>;Elliott Abrams/NSC/EOP [NSC] <Elliott Abrams>;Charles S. Abbot/OVP/EOP [OVP] <Charles S. Abbot>;Gina M. Wolford/NSC/EOP [NSC] <Gina M. Wolford>;David L. Travers/NSC/EOP [NSC] <David L. Travers>;Harry W. Wolff/WHO/EOP [WHO] <Harry W. Wolff>;Alexian T. Wines/NSC/EOP [NSC] <Alexian T. Wines>;Patricia Williams/WHO/EOP [WHO] <Patricia Williams>;Jared B. Weinstein/WHO/EOP@Exchange [WHO] <Jared B. Weinstein>;Matthew C. Waxman/NSC/EOP [NSC] <Matthew C. Waxman>;Lauren J. Vestewig/OPD/EOP [OPD] <Lauren J. Vestewig>;Terrill G. Tucker/NSC/EOP [NSC] <Terrill G. Tucker>;Tevi Troy/OPD/EOP [OPD] <Tevi Troy>;Anne Trenolone/WHO/EOP [WHO] <Anne Trenolone>;Julieanne H. Thomas/WHO/EOP [WHO] <Julieanne H. Thomas>;Rachael L. Sunbarger/WHO/EOP [WHO] <Rachael L. Sunbarger>;Susan L. Sterner/WHO/EOP [WHO] <Susan L. Sterner>;Ashley Snee/WHO/EOP [WHO] <Ashley Snee>;Robert E. Schubert/NSC/EOP [NSC] <Robert E. Schubert>;Deborah Sandler/NSC/EOP [NSC] <Deborah Sandler>;Jean M. Russell/OPD/EOP@Exchange [OPD] <Jean M. Russell>;Peter M. Rowan/WHO/EOP [UNKNOWN] <Peter M. Rowan>;Noelia Rodriguez/WHO/EOP [WHO] <Noelia Rodriguez>;Josephine B. Robinson/WHO/EOP [WHO] <Josephine B. Robinson>;Maurice C. Robinson/NSC/EOP [NSC] <Maurice C. Robinson>;Christina D. Roberts/WHO/EOP [UNKNOWN] <Christina D. Roberts>;Krista L. Ritacco/WHO/EOP@Exchange [WHO] <Krista L. Ritacco>;Allison L. Riepenhoff/WHO/EOP [WHO] <Allison L. Riepenhoff>;January M. Riecke/WHO/EOP [WHO] <January M. Riecke>;Katherine A. Rhodes/WHO/EOP [WHO] <Katherine A. Rhodes>;Tim Reynolds/WHO/EOP [WHO] <Tim Reynolds>;David Reyes/NSC/EOP [NSC] <David Reyes>;Susan B. Ralston/WHO/EOP [WHO] <Susan B. Ralston>;Leslie E. Radcliff/NSC/EOP [NSC] <Leslie E. Radcliff>;Alexia Poe/WHO/EOP [WHO] <Alexia Poe>;Charlotte L. Montiel/WHO/EOP [WHO] <Charlotte L. Montiel>;Elliott M. Langer/NSC/EOP [NSC] <Elliott M. Langer>;Clare Pritchett/WHO/EOP [WHO] <Clare Pritchett>;Suzanne Primoff/WHO/EOP [WHO] <Suzanne Primoff>;John I. Pray/NSC/EOP [NSC] <John I. Pray>;Susan D. Phillips/NSC/EOP [NSC] <Susan D. Phillips>;Sarah Penny/WHO/EOP [WHO] <Sarah Penny>;Raymond H. Payne/NSC/EOP [NSC] <Raymond H. Payne>;Richard S. Paulus/WHO/EOP [WHO] <Richard S. Paulus>;Edward J. Padinske/NSC/EOP [NSC] <Edward J. Padinske>;Eric H. Otto/OPD/EOP@Exchange [OPD] <Eric H. Otto>;Lee B. Mynatt/NSC/EOP [NSC] <Lee B. Mynatt>;Steven Myers/NSC/EOP [NSC] <Steven Myers>;Sarah M. Garrison/WHO/EOP [WHO] <Sarah M. Garrison>;Paul L. Morse/WHO/EOP [WHO] <Paul L. Morse>;Leslie A. Mooney/OPD/EOP@Exchange [OPD] <Leslie A. Mooney>;Cathy L. Millison/NSC/EOP [NSC] <Cathy L. Millison>;Holly M. Miller/WHO/EOP [WHO] <Holly M. Miller>;Sonya E. Medina/WHO/EOP [WHO] <Sonya E. Medina>;Vickie A. McQuade/WHO/EOP [WHO] <Vickie A. McQuade>;Sara B. McIntosh/WHO/EOP [WHO] <Sara B. McIntosh>;Peter A. McCauley/NSC/EOP [NSC] <Peter A. McCauley>;Daniel M. McCarthy/WHO/EOP [WHO] <Daniel M. McCarthy>;Thomas S. Marsh/NSC/EOP [NSC] <Thomas S. Marsh>;Colleen Litkenhaus/WHO/EOP [WHO] <Colleen Litkenhaus>;Lindsey M. Lineweaver/WHO/EOP [WHO] <Lindsey M. Lineweaver>;Laura E. Lineberry/NSC/EOP [NSC] <Laura E. Lineberry>;Adam L. Levine/WHO/EOP [WHO] <Adam L. Levine>;Christopher S. Legrand/NSC/EOP [NSC] <Christopher S. Legrand>;Sang W. Lee/NSC/EOP [NSC] <Sang W. Lee>;Jennie M. Koch/NSC/EOP [NSC] <Jennie M. Koch>;Andrew M. Kaver/NSC/EOP [UNKNOWN] <Andrew M. Kaver>;Dora Kale/NSC/EOP [NSC] <Dora Kale>;Alexander S. Joves/NSC/EOP [NSC] <Alexander S. Joves>;M. Kay Joshi/NSC/EOP [NSC] <M. Kay Joshi>;Alison Jones/WHO/EOP [WHO] <Alison Jones>;Megan R. Johnston/WHO/EOP [WHO]

<Megan R. Johnston>;Sydney R. Johnson/WHO/EOP [WHO] <Sydney R. Johnson>;Clarence C. Johnson/NSC/EOP [NSC] <Clarence C. Johnson>;Gordon D. Johndroe/WHO/EOP [WHO] <Gordon D. Johndroe>;Melanie A. Jackson/WHO/EOP [WHO] <Melanie A. Jackson>;Marilyn R. Jacanin/WHO/EOP [WHO] <Marilyn R. Jacanin>;Restituto M. Francisco/OA/EOP [OA] <Restituto M. Francisco>;Sandra K. Evans/WHO/EOP [WHO] <Sandra K. Evans>;Regina L. Cain/WHO/EOP [WHO] <Regina L. Cain>;Katherine A. Brown/NSC/EOP [NSC] <Katherine A. Brown>;Bonnie S. Broadwick/NSC/EOP [NSC] <Bonnie S. Broadwick>;Theresa M. Hunter/NSC/EOP [NSC] <Theresa M. Hunter>;A. Merrill Hughes/WHO/EOP [UNKNOWN] <A. Merrill Hughes>;Jeffrey P. Houle/NSC/EOP [NSC] <Jeffrey P. Houle>;Ashley Holbrook/WHO/EOP [WHO] <Ashley Holbrook>;Josephine L. Hirsch/WHO/EOP [WHO] <Josephine L. Hirsch>;Jane C. Heishman/NSC/EOP [NSC] <Jane C. Heishman>;Anne Heiligenstein/WHO/EOP [WHO] <Anne Heiligenstein>;Robert C. Hargis/NSC/EOP [NSC] <Robert C. Hargis>;Alison M. Harden/WHO/EOP [WHO] <Alison M. Harden>;Mary Ann Hanusa/WHO/EOP [WHO] <Mary Ann Hanusa>;Thomas A. Hall/NSC/EOP [NSC] <Thomas A. Hall>;Mary A. Haines/NSC/EOP [NSC] <Mary A. Haines>;Katharina M. Hager/WHO/EOP [WHO] <Katharina M. Hager>;Henry C. Hager/WHO/EOP [WHO] <Henry C. Hager>;Albert J. Guarnieri/NSC/EOP [NSC] <Albert J. Guarnieri>;Ginger G. Loper/WHO/EOP [WHO] <Ginger G. Loper>;Andrew W. Green/NSC/EOP [NSC] <Andrew W. Green>;Emily S. Gray/WHO/EOP [WHO] <Emily S. Gray>;Wendy E. Gray/NSC/EOP [NSC] <Wendy E. Gray>;Britt Grant/OPD/EOP [OPD] <Britt Grant>;Blake Gottesman/WHO/EOP [WHO] <Blake Gottesman>;Travis C. Good/NSC/EOP [UNKNOWN] <Travis C. Good>;Georgia D. Godfrey/WHO/EOP [WHO] <Georgia D. Godfrey>;Eleanor L. Gillmor/OPD/EOP [OPD] <Eleanor L. Gillmor>;Dorothy C. Garvin/WHO/EOP [WHO] <Dorothy C. Garvin>;Joachim D. Fuchs/NSC/EOP [NSC] <Joachim D. Fuchs>;Barbara J. Finn/OA/EOP [OA] <Barbara J. Finn>;Kara G. Figg/WHO/EOP@Exchange [WHO] <Kara G. Figg>;Jeanie L. Figg/WHO/EOP [WHO] <Jeanie L. Figg>;Jennifer D. Field/OVP/EOP [OVP] <Jennifer D. Field>;Douglas M. Erdahl/NSC/EOP [NSC] <Douglas M. Erdahl>;Ruth E. Elliott/NSC/EOP [NSC] <Ruth E. Elliott>;Kady Dunlap/WHO/EOP [WHO] <Kady Dunlap>;Eric A. Draper/WHO/EOP [WHO] <Eric A. Draper>;Joan R. Doty/WHO/EOP [WHO] <Joan R. Doty>;Katherine L. Disston/WHO /EOP@Exchange [WHO] <Katherine L. Disston>;Reed Dickens/WHO/EOP [WHO] <Reed Dickens>;Josh Deckard/WHO/EOP [WHO] <Josh Deckard>;Ashley E. Davis/WHO/EOP [WHO] <Ashley E. Davis>;Jill Davie/WHO/EOP [WHO] <Jill Davie>;Colin Crosby/NSC/EOP [NSC] <Colin Crosby>;Lynn A. Crable/WHO/EOP [WHO] <Lynn A. Crable>;Colby J. Cooper/NSC/EOP [NSC] <Colby J. Cooper>;Michael J. Conway/WHO/EOP [WHO] <Michael J. Conway>;Carolyn E. Cleveland/WHO/EOP [WHO] <Carolyn E. Cleveland>;Shane P. Chambers/WHO/EOP [WHO] <Shane P. Chambers>;Lois A. Cassano/WHO/EOP [WHO] <Lois A. Cassano>;Pamela R. Casey/WHO/EOP [WHO] <Pamela R. Casey>;Anne E. Campbell/WHO/EOP@Exchange [WHO] <Anne E. Campbell>;Elizabeth N. Camp/WHO/EOP [WHO] <Elizabeth N. Camp>;Marcia J. Caler/NSC/EOP [UNKNOWN] <Marcia J. Caler>;Johnathan C. Bunting/NSC/EOP [NSC] <Johnathan C. Bunting>;Patrick J. Bumatay/WHO/EOP [WHO] <Patrick J. Bumatay>;Marko R. Broz/NSC/EOP [NSC] <Marko R. Broz>;Gary E. Bresnahan/NSC/EOP [NSC] <Gary E. Bresnahan>;Brian Bravo/WHO/EOP [WHO] <Brian Bravo>;David R. Bohrer/OVP/EOP [OVP] <David R. Bohrer>;Debra D. Bird/WHO/EOP [WHO] <Debra D. Bird>;Melissa S. Bennett/WHO/EOP [WHO] <Melissa S. Bennett>;Cheryl E. Barnett/NSC/EOP [NSC] <Cheryl E. Barnett>;Tiffany L. Barfield/WHO/EOP [WHO] <Tiffany L. Barfield>;Mitchell P. Backfield/NSC/EOP [NSC] <Mitchell P. Backfield>;Jill L. Angelo/WHO/EOP [UNKNOWN] <Jill L. Angelo>;Ashleigh A. Adams/WHO/EOP [UNKNOWN] <Ashleigh A. Adams>

Sent: 1/3/2003 4:49:50 AM

Subject: : POSTMASTER: White House Mess Hours

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME: 3-JAN-2003 09:49:50.00
SUBJECT:: POSTMASTER: White House Mess Hours
TO:Joseph J. Shattan ( CN=Joseph J. Shattan/OU=OVP/O=EOP [ OVP ] )
READ:UNKNOWN
TO:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP [ OPD ] )
```

READ:UNKNOWN
TO:Richard J. Tubb (CN=Richard J. Tubb/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul J. Severs (CN=Paul J. Severs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joseph D. Rozek (CN=Joseph D. Rozek/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Steven J. Reynolds (CN=Steven J. Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Candida P. Wolff (CN=Candida P. Wolff/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel K. Wilmot (CN=Daniel K. Wilmot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:James R. Wilkinson (CN=James R. Wilkinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jocelyn White (CN=Jocelyn White/OU=WHF/O=EOP [OPM])
READ:UNKNOWN
TO:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul A. Wedderien (CN=Paul A. Wedderien/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John P. Walters (CN=John P. Walters/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine W. Tobias (CN=Catherine W. Tobias/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jose G. Suarez (CN=Jose G. Suarez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Aquiles F. Suarez (CN=Aquiles F. Suarez/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Angela B. Styles (CN=Angela B. Styles/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary A. Solberg (CN=Mary A. Solberg/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Augustine T. Smythe (CN=Augustine T. Smythe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Sharpy (CN=Thomas J. Sharpy/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Howard A. Schmidt (CN=Howard A. Schmidt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel Schecter (CN=Daniel Schecter/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

TO:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard M. Russell (CN=Richard M. Russell/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Stephen S. Ruhlen (CN=Stephen S. Ruhlen/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark V. Rosenker (CN=Mark V. Rosenker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Ridge (CN=Thomas J. Ridge/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Nina Rees (CN=Nina Rees/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Craig Ray (CN=Craig Ray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kathie L. Olsen (CN=Kathie L. Olsen/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Newell (CN=John F. Newell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Manson O. Morris (CN=Manson O. Morris/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Paul D. Montanus (CN=Paul D. Montanus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. McAllister (CN=James M. McAllister/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric C. Pelletier (CN=Eric C. Pelletier/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Marcus Peacock (CN=Marcus Peacock/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Neil S. Patel (CN=Neil S. Patel/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Sean C. O'Keefe (CN=Sean C. O'Keefe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire M. O'Donnell (CN=Claire M. O'Donnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan K. Neely (CN=Susan K. Neely/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen S. McMillin (CN=Stephen S. McMillin/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark McClellan (CN=Mark McClellan/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Mary J. Matalin (CN=Mary J. Matalin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Catherine J. Martin (CN=Catherine J. Martin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John H. Marburger (CN=John H. Marburger/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Maisto (CN=John F. Maisto/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin A. MacLean (CN=Robin A. MacLean/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ado A. Machida (CN=Ado A. Machida/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Deborah A. Loewer (CN=Deborah A. Loewer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence B. Lindsey (CN=Lawrence B. Lindsey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Dirksen Lehman (CN=Dirksen Lehman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Laura S. Lawlor (CN=Laura S. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bruce M. Lawlor (CN=Bruce M. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Randall S. Kroszner (CN=Randall S. Kroszner/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Karen Y. Knutson (CN=Karen Y. Knutson/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Frank G. Klotz (CN=Frank G. Klotz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP [OVP])
READ:UNKNOWN

TO:Ellis Kitchen (CN=Ellis Kitchen/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles D. McGrath Jr (CN=Charles D. McGrath Jr/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Reuben Jeffery (CN=Reuben Jeffery/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hector F. Irastorza (CN=Hector F. Irastorza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Campen (CN=Tim Campen/OU=OA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Penrose C. Albright TPO (CN=Penrose C. Albright TPO/OU=TPO/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Steven I. Cooper TPO (CN=Steven I. Cooper TPO/OU=TPO/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Julian M. Flannery (CN=Julian M. Flannery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Duncan Campbell (CN=Duncan Campbell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:R. Rand Beers (CN=R. Rand Beers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Glenn Hubbard (CN=Glenn Hubbard/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Jack Howard (CN=Jack Howard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Holman (CN=Mark Holman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Chris Henick (CN=Chris Henick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Debra Heiden (CN=Debra Heiden/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Albert Hawkins (CN=Albert Hawkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John P. Hannah (CN=John P. Hannah/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John F. Haley (CN=John F. Haley/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])

READ:UNKNOWN
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John Graham (CN=John Graham/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:John A. Gordon (CN=John A. Gordon/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Stephen M. Garrison (CN=Stephen M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Diana E. Furchtgott-Roth (CN=Diana E. Furchtgott-Roth/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Everson (CN=Mark Everson/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric S. Edelman (CN=Eric S. Edelman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Wayne A. Downing (CN=Wayne A. Downing/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Nancy P. Dorn (CN=Nancy P. Dorn/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Diana C. Donnelly (CN=Diana C. Donnelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:James F. Daniel (CN=James F. Daniel/OU=OA/O=EOP [OA])
READ:UNKNOWN

TO:Stacia L. Cropper (CN=Stacia L. Cropper/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
TO:Barry Crane (CN=Barry Crane/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:John B. Craig (CN=John B. Craig/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:James Connaughton (CN=James Connaughton/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cesar Conda (CN=Cesar Conda/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Douglas F. Cochrane (CN=Douglas F. Cochrane/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert W. Cobb (CN=Robert W. Cobb/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:John A. Cloud (CN=John A. Cloud/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin Cleveland (CN=Robin Cleveland/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Richard A. Clarke (CN=Richard A. Clarke/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Frank Cilluffo (CN=Frank Cilluffo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christine Ciccone (CN=Christine Ciccone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Barbara C. Chaffee (CN=Barbara C. Chaffee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James C. Capretta (CN=James C. Capretta/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Nicholas E. Calio (CN=Nicholas E. Calio/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott Burns (CN=Scott Burns/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carl Buchholz (CN=Carl Buchholz/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stuart W. Bowen (CN=Stuart W. Bowen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carlos E. Bonilla (CN=Carlos E. Bonilla/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lloyd A. Blanchard (CN=Lloyd A. Blanchard/OU=OMB/O=EOP [UNKNOWN])

READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen E. Biegun (CN=Stephen E. Biegun/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Janet L. Berman (CN=Janet L. Berman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Andrea G. Barthwell (CN=Andrea G. Barthwell/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Cathy Alix (CN=Cathy Alix/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Gina M. Wolford (CN=Gina M. Wolford/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David L. Travers (CN=David L. Travers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harry W. Wolff (CN=Harry W. Wolff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Alexian T. Wines (CN=Alexian T. Wines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patricia Williams (CN=Patricia Williams/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jared B. Weinstein (CN=Jared B. Weinstein/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Matthew C. Waxman (CN=Matthew C. Waxman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lauren J. Vestewig (CN=Lauren J. Vestewig/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Terrill G. Tucker (CN=Terrill G. Tucker/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tevi Troy (CN=Tevi Troy/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Anne Trenolone (CN=Anne Trenolone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Julieanne H. Thomas (CN=Julieanne H. Thomas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Rachael L. Sunbarger (CN=Rachael L. Sunbarger/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Susan L. Sterner (CN=Susan L. Sterner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert E. Schubert (CN=Robert E. Schubert/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Deborah Sandler (CN=Deborah Sandler/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jean M. Russell (CN=Jean M. Russell/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Peter M. Rowan (CN=Peter M. Rowan/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Noelia Rodriguez (CN=Noelia Rodriguez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine B. Robinson (CN=Josephine B. Robinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Maurice C. Robinson (CN=Maurice C. Robinson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Christina D. Roberts (CN=Christina D. Roberts/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Allison L. Riepenhoff (CN=Allison L. Riepenhoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:January M. Riecke (CN=January M. Riecke/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Rhodes (CN=Katherine A. Rhodes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Reynolds (CN=Tim Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David Reyes (CN=David Reyes/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie E. Radcliff (CN=Leslie E. Radcliff/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexia Poe (CN=Alexia Poe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elliott M. Langer (CN=Elliott M. Langer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Clare Pritchett (CN=Clare Pritchett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Suzanne Primoff (CN=Suzanne Primoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John I. Pray (CN=John I. Pray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan D. Phillips (CN=Susan D. Phillips/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah Penny (CN=Sarah Penny/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Raymond H. Payne (CN=Raymond H. Payne/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Richard S. Paulus (CN=Richard S. Paulus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward J. Padinske (CN=Edward J. Padinske/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric H. Otto (CN=Eric H. Otto/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Lee B. Mynatt (CN=Lee B. Mynatt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Steven Myers (CN=Steven Myers/OU=NSC/O=EOP [NSC])

READ:UNKNOWN
TO:Sarah M. Garrison (CN=Sarah M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul L. Morse (CN=Paul L. Morse/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Leslie A. Mooney (CN=Leslie A. Mooney/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Cathy L. Millison (CN=Cathy L. Millison/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Holly M. Miller (CN=Holly M. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sonya E. Medina (CN=Sonya E. Medina/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Vickie A. McQuade (CN=Vickie A. McQuade/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sara B. McIntosh (CN=Sara B. McIntosh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter A. McCauley (CN=Peter A. McCauley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel M. McCarthy (CN=Daniel M. McCarthy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas S. Marsh (CN=Thomas S. Marsh/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lindsey M. Lineweaver (CN=Lindsey M. Lineweaver/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Laura E. Lineberry (CN=Laura E. Lineberry/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Adam L. Levine (CN=Adam L. Levine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christopher S. Legrand (CN=Christopher S. Legrand/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sang W. Lee (CN=Sang W. Lee/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jennie M. Koch (CN=Jennie M. Koch/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Andrew M. Kaver (CN=Andrew M. Kaver/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Dora Kale (CN=Dora Kale/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexander S. Joves (CN=Alexander S. Joves/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:M. Kay Joshi (CN=M. Kay Joshi/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Megan R. Johnston (CN=Megan R. Johnston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sydney R. Johnson (CN=Sydney R. Johnson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clarence C. Johnson (CN=Clarence C. Johnson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gordon D. Johndroe (CN=Gordon D. Johndroe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melanie A. Jackson (CN=Melanie A. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marilyn R. Jacanin (CN=Marilyn R. Jacanin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Restituto M. Francisco (CN=Restituto M. Francisco/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Sandra K. Evans (CN=Sandra K. Evans/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Regina L. Cain (CN=Regina L. Cain/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Brown (CN=Katherine A. Brown/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Bonnie S. Broadwick (CN=Bonnie S. Broadwick/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Theresa M. Hunter (CN=Theresa M. Hunter/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:A. Merrill Hughes (CN=A. Merrill Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jeffrey P. Houle (CN=Jeffrey P. Houle/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ashley Holbrook (CN=Ashley Holbrook/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine L. Hirsch (CN=Josephine L. Hirsch/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jane C. Heishman (CN=Jane C. Heishman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anne Heiligenstein (CN=Anne Heiligenstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. Hargis (CN=Robert C. Hargis/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison M. Harden (CN=Alison M. Harden/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary Ann Hanusa (CN=Mary Ann Hanusa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas A. Hall (CN=Thomas A. Hall/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary A. Haines (CN=Mary A. Haines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Katharina M. Hager (CN=Katharina M. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Henry C. Hager (CN=Henry C. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Albert J. Guarnieri (CN=Albert J. Guarnieri/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew W. Green (CN=Andrew W. Green/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Emily S. Gray (CN=Emily S. Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wendy E. Gray (CN=Wendy E. Gray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Britt Grant (CN=Britt Grant/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Travis C. Good (CN=Travis C. Good/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Georgia D. Godfrey (CN=Georgia D. Godfrey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Dorothy C. Garvin (CN=Dorothy C. Garvin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joachim D. Fuchs (CN=Joachim D. Fuchs/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Barbara J. Finn (CN=Barbara J. Finn/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jeanie L. Figg (CN=Jeanie L. Figg/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Jennifer D. Field (CN=Jennifer D. Field/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Douglas M. Erdahl (CN=Douglas M. Erdahl/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ruth E. Elliott (CN=Ruth E. Elliott/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kady Dunlap (CN=Kady Dunlap/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eric A. Draper (CN=Eric A. Draper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joan R. Doty (CN=Joan R. Doty/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine L. Disston (CN=Katherine L. Disston/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Reed Dickens (CN=Reed Dickens/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josh Deckard (CN=Josh Deckard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley E. Davis (CN=Ashley E. Davis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jill Davie (CN=Jill Davie/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colin Crosby (CN=Colin Crosby/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lynn A. Crable (CN=Lynn A. Crable/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colby J. Cooper (CN=Colby J. Cooper/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Shane P. Chambers (CN=Shane P. Chambers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lois A. Cassano (CN=Lois A. Cassano/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Pamela R. Casey (CN=Pamela R. Casey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne E. Campbell (CN=Anne E. Campbell/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marcia J. Caler (CN=Marcia J. Caler/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Johnathan C. Bunting (CN=Johnathan C. Bunting/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marko R. Broz (CN=Marko R. Broz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gary E. Bresnahan (CN=Gary E. Bresnahan/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David R. Bohrer (CN=David R. Bohrer/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cheryl E. Barnett (CN=Cheryl E. Barnett/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell P. Backfield (CN=Mitchell P. Backfield/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jill L. Angelo (CN=Jill L. Angelo/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Ashleigh A. Adams (CN=Ashleigh A. Adams/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

White House Mess Hours

The White House Mess will close at 3:00 PM today and will resume regular hours Saturday, January 4, 2003.

Thank you.

MANAGEMENT & ADMINISTRATION

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>;David G. Leitch/WHO /EOP@EOP [WHO] <David G. Leitch>;Raquel Cabral/WHO/EOP@EOP [WHO] <Raquel Cabral>;Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>;Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>
Sent: 1/3/2003 6:00:26 AM
Subject: : my whereabouts this afternoon

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 3-JAN-2003 11:00:26.00
SUBJECT:: my whereabouts this afternoon
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Raquel Cabral ( CN=Raquel Cabral/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I am attending the investiture of Kent Jordan in Delaware at 2:00. I will
have cell.
```

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>
Sent: 1/3/2003 9:25:12 AM
Subject: : Budget Red Tags

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 3-JAN-2003 14:25:12.00
SUBJECT:: Budget Red Tags
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Just a friendly reminder, all Budget red tags need to be returned to me
before the due time so that I can input your changes into the OMB drive by
the deadline. All of your budgets are due at 4 pm.

Thanks,
Patrick
```

From: CN=Katherine M. Walters/OU=WHO/O=EOP [WHO]
To: Colleen Litkenhaus/WHO/EOP@EOP [WHO] <Colleen Litkenhaus>
CC: brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>
Sent: 1/6/2003 1:48:15 AM
Subject: : Re: meeting re: Advance and Scheduling

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Katherine M. Walters ( CN=Katherine M. Walters/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 6-JAN-2003 06:48:15.00
SUBJECT:: Re: meeting re: Advance and Scheduling
TO:Colleen Litkenhaus ( CN=Colleen Litkenhaus/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:brett m. kavanaugh ( CN=brett m. kavanaugh/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

this works for ken too. should we do it in Joe's office?




Colleen Litkenhaus
01/02/2003 07:51:33 PM
Record Type: Record

To: Katherine M. Walters/WHO/EOP@EOP
cc: brett m. kavanaugh/who/eop@eop
bcc:
Subject: Re: meeting re: Advance and Scheduling

He is going to be in Cincinnati for Taft's inaugural. How about Tuesday
the 14th at 11am?




Katherine M. Walters
01/02/2003 04:49:19 PM
Record Type: Record

To: Colleen Litkenhaus/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: meeting re: Advance and Scheduling

Ken would like to set up a meeting with Joe and Brett re: advance and
scheduling. can we set something up for the week of the 13th?

We could try for Monday, Jan. 13th at 11 am.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>
Sent: 1/6/2003 6:43:45 AM
Subject: : Re: Congratulations to Libby!

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 6-JAN-2003 11:43:45.00
SUBJECT:: Re: Congratulations to Libby!
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

why is this thursday instead of friday?

Patrick J. Bumatay
01/06/2003 10:17:22 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Congratulations to Libby!

Please join us to send off Libby Camp this Thursday as she moves on to serve as the first-ever White House Liaison for the Department of Homeland Security.

Who: All are welcome! Please pass along to everyone.

Where: Le Bar in the Hotel Sofitel
806 15th St NW (corner of 15th and H - just two blocks north of the White House)
202-737-8800

When: 6:00 pm - whenever
Thursday, January 9

Message Sent
To:_____
Cathy Alix/WHO/EOP@EOP
Lauren K. Allgood/OMB/EOP@EOP
Magda E. Angulo/WHO/EOP@EOP
Chad Babin/WHO/EOP@EOP
Andrea G. Ball/WHO/EOP@EOP
Barbara A. Barclay/WHO/EOP@EOP
Tiffany L. Barfield/WHO/EOP@EOP
Ruben S. Barrales/WHO/EOP@EOP
Daniel J. Bartlett/WHO/EOP@EOP
Darren W. Bearson/WHO/EOP@EOP
Dee Dee Benkie/WHO/EOP@EOP
Bradford A. Berenson/WHO/EOP@EOP
Brian R. Besanceney/OPD/EOP@EOP
Stephen E. Biegun/NSC/EOP@EOP
Debra D. Bird/WHO/EOP@EOP

Bradley A. Blakeman/WHO/EOP@EOP
Kirk Blalock/WHO/EOP@EOP
Michael J. Boisvenue/WHO/EOP@EOP
Lindsay J. Bourns/WHO/EOP@EOP
Stuart W. Bowen/WHO/EOP@EOP
Brian Bravo/WHO/EOP@EOP
John M. Bridgeland/OPD/EOP@EOP
Claire E. Buchan/WHO/EOP@EOP
Carl Buchholz/WHO/EOP@EOP
Katja Bullock/WHO/EOP@EOP
Patrick J. Bumatay/WHO/EOP@EOP
Nicholas E. Calio/WHO/EOP@EOP
Elizabeth N. Camp/WHO/EOP@EOP
Anne E. Campbell/WHO/EOP@EOP
Sally Canfield/WHO/EOP@EOP
Kirsten A. Chadwick/WHO/EOP@EOP
Barbara C. Chaffee/WHO/EOP@EOP
Shane P. Chambers/WHO/EOP@EOP
Christine Ciccone/WHO/EOP@EOP
Alicia P. Clark/WHO/EOP@EOP
Brian C. Conklin/WHO/EOP@EOP
James Connaughton/CEQ/EOP@EOP
Colby J. Cooper/NSC/EOP@EOP
Stacia L. Cropper/OA/EOP@Exchange
Karen D. Cruson/WHF/EOP@EOP
Mitchell Daniels/OMB/EOP@EOP
Alicia W. Davis/WHO/EOP@EOP
Ashley E. Davis/WHO/EOP@EOP
Michael Davis/WHO/EOP@EOP
Josh Deckard/WHO/EOP@EOP
Nicolle Devenish/WHO/EOP@EOP
Reed Dickens/WHO/EOP@EOP
Eric A. Draper/WHO/EOP@EOP
Ashley D. Drummond/WHO/EOP@EOP
Trent D. Duffy/OMB/EOP@EOP
Paul B. Dyck/WHO/EOP@EOP
Ashley J. Dyer/WHO/EOP@EOP
Gary R. Edson/NSC/EOP@EOP
Ruth E. Elliott/NSC/EOP@EOP
Tucker A. Eskew/WHO/EOP@EOP
Ashley Estes/WHO/EOP@EOP
John D. Estes/WHO/EOP@EOP
Sandra K. Evans/WHO/EOP@EOP
Richard Falkenrath/WHO/EOP@EOP
Daniel D. Faoro/OA/EOP@EOP
Jennifer M. Farley/WHO/EOP@EOP
Mary Elizabeth Farr/WHO/EOP@EOP
Catherine S. Fenton/WHO/EOP@EOP
Jeanie L. Figg/WHO/EOP@EOP
Kara G. Figg/WHO/EOP@EOP
Timothy E. Flanigan/WHO/EOP@EOP
Julian M. Flannery/WHO/EOP@EOP
Lawrence A. Fleischer/WHO/EOP@EOP
Jennifer Foley/WHO/EOP@EOP
Laura F. Fullerton/WHO/EOP@EOP
Christopher Furlow/WHO/EOP@EOP
Linda M. Gambatesa/WHO/EOP@EOP
Reed H. Galen/WHO/EOP@EOP
Sarah M. Garrison/WHO/EOP@EOP
Stephen M. Garrison/WHO/EOP@EOP
Lavin Gartland/ONDCP/EOP@EOP
Dorothy C. Garvin/WHO/EOP@EOP
Joseph H. Gerdes/WHO/EOP@EOP
Eleanor L. Gillmor/OPD/EOP@EOP
Signe L. Girgus/OA/EOP@EOP
Dylan C. Glenn/OPD/EOP@EOP
Tim Goeglein/WHO/EOP@EOP
Barbara Jo Goergen/WHO/EOP@EOP

Adam B. Goldman/WHO/EOP@EOP
Blake Gottesman/WHO/EOP@EOP
Britt Grant/OPD/EOP@EOP
Adrian G. Gray/WHO/EOP@EOP
Ann Gray/WHO/EOP@EOP
Emily S. Gray/WHO/EOP@EOP
Wendy E. Gray/NSC/EOP@EOP
Brent D. Greenfield/WHO/EOP@EOP
Darren D. Grubb/WHO/EOP@EOP
Abel Guerra/WHO/EOP@EOP
Henry C. Hager/WHO/EOP@EOP
Mary Ann Hanusa/WHO/EOP@EOP
Alison M. Harden/WHO/EOP@EOP
Catherine M. Hargraves/WHO/EOP@EOP
Albert Hawkins/WHO/EOP@EOP
Kathryn J. Hayes/WHO/EOP@EOP
Erin E. Healy/WHO/EOP@EOP
Anne Heiligenstein/WHO/EOP@EOP
Chris Henick/WHO/EOP@EOP
Keith Hennessey/OPD/EOP@EOP
Israel Hernandez/WHO/EOP@EOP
Douglas L. Hoelscher/WHO/EOP@EOP
Elizabeth Hogan/WHO/EOP@EOP
Stuart Holliday/WHO/EOP@EOP
Mark Holman/WHO/EOP@EOP
Glenn Hubbard/CEA/EOP@EOP
A. Merrill Hughes/OVP/EOP@EOP
Edward Ingle/WHO/EOP@EOP
Hector F. Irastorza/WHO/EOP@EOP
Barry S. Jackson/WHO/EOP@EOP
Marilyn R. Jacanin/WHO/EOP@EOP
Reuben Jeffery/OPD/EOP@EOP
Gregory J. Jenkins/WHO/EOP@EOP
Gordon D. Johndroe/WHO/EOP@EOP
Collister W. Johnson/WHO/EOP@EOP
Alison Jones/WHO/EOP@EOP
M. Kay Joshi/NSC/EOP@EOP
Joel D. Kaplan/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Daniel J. Keniry/WHO/EOP@EOP
Matthew Kirk/WHO/EOP@EOP
Ellis Kitchen/OA/EOP@EOP
Elizabeth W. Kleppe/OVP/EOP@EOP
Karen Y. Knutson/OVP/EOP@EOP
Matthew Koch/WHO/EOP@EOP
Lindsey C. Kozberg/WHO/EOP@EOP
David Kuo/WHO/EOP@EOP
Ross M. Kyle/WHO/EOP@EOP
Laura S. Lawlor/WHO/EOP@EOP
Jay P. Lefkowitz/OPD/EOP@EOP
Dirksen Lehman/WHO/EOP@EOP
Sarah M. Lenti/NSC/EOP@EOP
Adam L. Levine/WHO/EOP@EOP
Laura E. Lineberry/NSC/EOP@EOP
Stephen M. Lineberry/CEA/EOP@EOP
Kenneth A. Lisaius/WHO/EOP@EOP
Ginger G. Loper/WHO/EOP@EOP
Jose Mallea/WHO/EOP@EOP
Jeanie S. Mamo/WHO/EOP@EOP
Heidi K. Marquez/WHO/EOP@EOP
Robert Marsh/WHO/EOP@EOP
Mary J. Matalin/OVP/EOP@EOP
Jennifer H. Mayfield/OVP/EOP@EOP
Daniel M. McCarthy/WHO/EOP@EOP
Mark McClellan/CEA/EOP@EOP
Scott McClellan/WHO/EOP@EOP
John P. McConnell/OVP/EOP@EOP
Brian V. McCormack/OVP/EOP@EOP

Edward McNally/WHO/EOP@EOP
Vickie A. McQuade/WHO/EOP@EOP
Ken Mehlman/WHO/EOP@EOP
Sonya E. Medina/WHO/EOP@EOP
A. Morgan Middlemas/WHO/EOP@EOP
Harriet Miers/WHO/EOP@EOP
Michael H. Miller/WHO/EOP@EOP
Jennifer Millerwise/OVP/EOP@EOP
Cathy L. Millison/NSC/EOP@EOP
Brian D. Montgomery/WHO/EOP@EOP
Charlotte L. Montiel/WHO/EOP@EOP
Leslie A. Mooney/OPD/EOP@EOP
Michael J. Napolitano/WHO/EOP@EOP
Susan K. Neely/WHO/EOP@EOP
Wendy L. Nipper/WHO/EOP@EOP
Claire M. O'Donnell/OVP/EOP@EOP
Joseph F. O'Neill/OPD/EOP@EOP
Ziad S. Ojakli/WHO/EOP@EOP
Cheryl A. Oldham/WHO/EOP@EOP
Christopher J. Orr/WHO/EOP@EOP
Eric H. Otto/OPD/EOP@EOP
Kasey S. Pipes/WHO/EOP@EOP
Dina Powell/WHO/EOP@EOP
Clare Pritchett/WHO/EOP@EOP
Susan B. Ralston/WHO/EOP@EOP
Craig Ray/WHO/EOP@EOP
Tim Reynolds/WHO/EOP@EOP
Allison L. Riepenhoff/WHO/EOP@EOP
Krista L. Ritacco/WHO/EOP@EOP
Josephine B. Robinson/WHO/EOP@EOP
Edwina C. Rogers/OPD/EOP@EOP
Stephen S. Ruhlen/OVP/EOP@EOP
Catharine A. Ryun/WHO/EOP@EOP
Diana L. Schacht/OPD/EOP@EOP
Matthew A. Schlapp/WHO/EOP@EOP
Scott Sechser/WHO/EOP@EOP
Scott N. Sforza/WHO/EOP@EOP
Matthew E. Smith/WHO/EOP@EOP
Ashley Snee/WHO/EOP@EOP
Deborah A. Spagnoli/WHO/EOP@EOP
Scott Stanzel/WHO/EOP@EOP
Gretchen P. Steen/WHO/EOP@EOP
Timothy C. Stout/WHO/EOP@EOP
Angela B. Styles/OMB/EOP@EOP
Meredith A. Terpeluk/WHO/EOP@EOP
Eric W. Terrell/WHO/EOP@EOP
Julieanne H. Thomas/WHO/EOP@EOP
Jim Towey/WHO/EOP@EOP
Anne Trenolone/WHO/EOP@EOP
Richard J. Tubb/WHO/EOP@EOP
Ali H. Tulbah/WHO/EOP@EOP
Erin A. Vargo/WHO/EOP@EOP
Lauren J. Vestewig/OPD/EOP@EOP
Mercedes M. Viana/WHO/EOP@EOP
Jared B. Weinstein/WHO/EOP@EOP
L. Camille Welborn/WHO/EOP@EOP
Lezlee J. Westine/WHO/EOP@EOP
Heather Wingate/WHO/EOP@EOP
Tracy Young/WHO/EOP@EOP
Neil H. Zimmerman/WHO/EOP@EOP
Katherine L. Disston/WHO/EOP@EOP
Lindsay J. Bourns/WHO/EOP@EOP
Carrie B. Loy/WHO/EOP@EOP
William T. Griffin/WHO/EOP@EOP
Heather W. Musser/WHO/EOP@EOP
Jill Davie/WHO/EOP@EOP
Jack Howard/WHO/EOP@EOP
Michael J. Conway/WHO/EOP@EOP

Christal R. West/WHO/EOP@EOP
Roland N. Litterst/WHO/EOP@EOP
Adam B. Ingols/WHO/EOP@EOP
Carolyn E. Cleveland/WHO/EOP@EOP
Katherine M. Walters/WHO/EOP@EOP
Sara M. Taylor/WHO/EOP@EOP
David M. Thomas/WHO/EOP@EOP
Leonard B. Rodriguez/WHO/EOP@EOP
Angela R. Sailor/WHO/EOP@EOP
Ronald I. Christie/OPD/EOP@EOP
Melanie A. Jackson/WHO/EOP@EOP
Debra Heiden/OVP/EOP@EOP
Jennifer D. Field/OVP/EOP@EOP
Catherine J. Martin/OVP/EOP@EOP
Alice H. Williams/CEA/EOP@EOP
Lisa D. Branch/CEA/EOP@EOP
Roberta L. Conde/CEQ/EOP@EOP
Tracy L. Carson/OPD/EOP@EOP
Kenneth A. Thomas/OPD/EOP@EOP
Patricia F. Ware/OPD/EOP@EOP
Shana L. Dale/OSTP/EOP@EOP
Alberto R. Gonzales/WHO/EOP@EOP
Bradford A. Berenson/WHO/EOP@EOP
Noel J. Francisco/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
Kyle Sampson/WHO/EOP@EOP
Helgard C. Walker/WHO/EOP@EOP
Kelley Gannon/WHO/EOP@EOP
Todd W. Beyer/WHO/EOP@EOP
Stephanie E. Linder/WHO/EOP@EOP
Kristopher N. Purcell/WHO/EOP@EOP
Michael J. Gerson/WHO/EOP@EOP
Peter H. Wehner/WHO/EOP@EOP
John D. Gibson/NSC/EOP@EOP
Matthew R. Rees/NSC/EOP@EOP
Jane M. Cook/WHO/EOP@EOP
Marie Vachon/WHO/EOP@EOP
Charles S. Abbot/OVP/EOP@EOP
Wendy J. Grubbs/WHO/EOP@EOP
Julie L. Nichols/WHO/EOP@EOP
Timothy C. Stout/WHO/EOP@EOP
Bruce M. Lawlor/WHO/EOP@EOP
Paul B. Kurtz/NSC/EOP@EOP
Paul L. Morse/WHO/EOP@EOP
Michael A. Sanders/WHO/EOP@EOP
Michael Davis/WHO/EOP@EOP
Katharina M. Hager/WHO/EOP@EOP
Jackie Arends/WHO/EOP@EOP
Elizabeth Hogan/WHO/EOP@EOP
Jennifer A. Minton/WHO/EOP@EOP
Desiree T. Sayle/WHO/EOP@EOP
Terry W. Good/WHO/EOP@EOP
Philip C. Droege/WHO/EOP@EOP
Lewis Libby/OVP/EOP@EOP
Charles D. McGrath Jr/OVP/EOP@EOP
Candida P. Wolff/OVP/EOP@EOP
Lindley Kratovil/OVP/EOP@EOP
Cesar Conda/OVP/EOP@EOP
Marie K. Fishpaw/OVP/EOP@EOP
Mary K. Lang/OVP/EOP@EOP
Diana E. Furchtgott-Roth/CEA/EOP@EOP
Randall S. Kroszner/CEA/EOP@EOP
Douglas J. Holtz-Eakin/CEA/EOP@EOP
Phil Cooney/CEQ/EOP@EOP
Samuel A. Thernstrom/CEQ/EOP@EOP
Elizabeth A. Stolpe/CEQ/EOP@EOP
Virginia Stephens/CEQ/EOP@EOP
Matthew C. Waxman/NSC/EOP@EOP

Jennie M. Koch/NSC/EOP@EOP
Cheryl E. Barnett/NSC/EOP@EOP
Mary A. Haines/NSC/EOP@EOP
Alexian T. Wines/NSC/EOP@EOP
Jendayi E. Frazer/NSC/EOP@EOP
Bobby J. Pittman/NSC/EOP@EOP
Cindy L. Courville/NSC/EOP@EOP
Jane C. Heishman/NSC/EOP@EOP
Lisa Gordon-Hagerty/NSC/EOP@EOP
Franklin C. Miller/NSC/EOP@EOP
Elliott Abrams/NSC/EOP@EOP
Mary C. Andrews/WHO/EOP@EOP
John A. Cloud/NSC/EOP@EOP
Adam R. Isles/NSC/EOP@EOP
Gregory A. Manuel/NSC/EOP@EOP
John B. Bellinger/NSC/EOP@EOP
Sean I. McCormack/NSC/EOP@EOP
Matthew R. Rees/NSC/EOP@EOP
Karen E. Keller/OMB/EOP@EOP
Lois E. Altoft/OMB/EOP@EOP
Nancy Dorn/OMB/EOP@EOP
Augustine T. Smythe/OMB/EOP@EOP
Rebecca E. Davis/OMB/EOP@EOP
Philip J. Perry/OMB/EOP@EOP
Stephen S. McMillin/OMB/EOP@EOP
Karen S. Dooley/OMB/EOP@EOP
James C. Capretta/OMB/EOP@EOP
Eric C. Pelletier/OMB/EOP@EOP
Danielle M. Simonetta/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Robin Cleveland/OMB/EOP@EOP
Marcus Peacock/OMB/EOP@EOP
Richard M. Russell/OSTP/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>
Sent: 1/6/2003 3:17:41 AM
Subject: : Re: judicial re-nominations date -- new info

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 6-JAN-2003 08:17:41.00
SUBJECT:: Re: judicial re-nominations date -- new info
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

that is not finally decided yet.

Ashley Snee
01/06/2003 07:56:48 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: judicial re-nominations date -- new info

do we know yet exactly who is going up tomorrow is it all who were returned?

Brett M. Kavanaugh
01/03/2003 10:04:39 AM
Record Type: Record

To: Heather Wingate/WHO/EOP@EOP, adam.charnes@usdoj.gov, viet.dinh@usdoj.gov, Ashley Snee/WHO/EOP@EOP
cc:
Subject: judicial re-nominations date -- new info

We will plan to submit judicial re-nominations on Tuesday the 7th as we had originally planned (not Wednesday the 8th). Thanks.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>
Sent: 1/6/2003 3:47:45 AM
Subject: : Re: judicial re-nominations date -- new info

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 6-JAN-2003 08:47:45.00
SUBJECT:: Re: judicial re-nominations date -- new info
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

correct.

Ashley Snee
01/06/2003 08:06:30 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Re: judicial re-nominations date -- new info

but some are going up tomorrow still, right?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@EOP [WHO] <David G. Leitch>;Alberto R. Gonzales/WHO /EOP@EOP [WHO] <Alberto R. Gonzales>
Sent: 1/6/2003 3:55:04 AM
Subject: : Pickering story

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 6-JAN-2003 08:55:04.00
SUBJECT:: Pickering story
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

interesting tidbit from yesterday's paper. The MS prosecutor who prosecuted Klan leader Sam Bowers in 1998 has asked Judge Pickering to swear him in today.

Helfrich will be sworn in Monday by Pickering
Lea Crager
American Staff Writer A new judge will take his seat on the 12th Circuit Court District bench for the first time in 20 years Monday.
U.S. District Judge Charles Pickering will swear in Bob Helfrich at 11 a.m. in the Forrest County Courthouse's Circuit Courtroom.
Helfrich, 49, said he chose Pickering for the ceremony out of respect.
"It's very likely that he'll be going to the (U.S.) Court of Appeals," he said. "He ought to be going to the Court of Appeals. I've just got a lot of respect for Judge Pickering. You have to realize that in the '60s, Judge Pickering testified against Sam Bowers. He's a man from Jones County who testified against Sam Bowers and the Klan of Jones County. That took a lot of courage."
President Bush last year nominated Pickering for the U.S. 5th Circuit Court of Appeals, but Democratic senators blocked the appointment.
Bush has said he will renominate Pickering this year for the vacancy.
Helfrich, a former assistant district attorney, defeated five-term incumbent Dicky McKenzie in November.
As a prosecutor, Helfrich prosecuted Jones County Klan leader Sam Bowers in 1998 for the 1966 fire-bombing death of Vernon Dahmer.
Helfrich said he wants to establish a court docket to help clear the backlog of cases, which he estimates to be in the thousands. And he expects to begin work immediately.
"We're going to select a grand jury for this term at 9 a.m. before the ceremony," Helfrich said. "I've got to sit down and go over what's been pre-set and see what we can work around to get into. We're trying to get moved in and get this place organized now."

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Charnes, Adam <Adam.Charnes@usdoj.gov>
CC: goodling, monica <monica.goodling@usdoj.gov>
Sent: 1/6/2003 10:09:33 AM
Subject: : Re: Timing of renominations

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 6-JAN-2003 15:09:33.00
SUBJECT:: Re: Timing of renominations
TO:"Charnes, Adam" <Adam.Charnes@usdoj.gov> ("Charnes, Adam" <Adam.Charnes@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
CC:"goodling, monica" <monica.goodling@usdoj.gov> ("goodling, monica" <monica.goodling@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

afternoon

"Charnes, Adam" <Adam.Charnes@usdoj.gov>
01/06/2003 03:06:24 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: "Goodling, Monica" <Monica.Goodling@usdoj.gov>
Subject: Timing of renominations

Brett, any idea of when they will be sent up and released publicly tomorrow?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ashley Estes/WHO/EOP@EOP [WHO] <Ashley Estes>
Sent: 1/6/2003 6:43:23 AM
Subject: : Re: Congratulations to Libby!

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 6-JAN-2003 11:43:23.00
SUBJECT:: Re: Congratulations to Libby!
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

no idea

Ashley Estes
01/06/2003 11:36:15 AM
Record Type: Non-Record

To: Brett M. Kavanaugh/WHO/EOP
cc:
Subject: Congratulations to Libby!

just wondering. why is this on thurs. instead of friday?
---------- Forwarded by Ashley Estes/WHO/EOP on 01/06/2003
11:30 AM ----------

Patrick J. Bumatay
01/06/2003 10:17:22 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Congratulations to Libby!

Please join us to send off Libby Camp this Thursday as she moves on to serve as the first-ever White House Liaison for the Department of Homeland Security.

Who: All are welcome! Please pass along to everyone.

Where: Le Bar in the Hotel Sofitel
806 15th St NW (corner of 15th and H - just two blocks north of the White House)
202-737-8800

When: 6:00 pm - whenever
Thursday, January 9

Message Sent
To:_____
Cathy Alix/WHO/EOP@EOP
Lauren K. Allgood/OMB/EOP@EOP
Magda E. Angulo/WHO/EOP@EOP

Chad Babin/WHO/EOP@EOP
Andrea G. Ball/WHO/EOP@EOP
Barbara A. Barclay/WHO/EOP@EOP
Tiffany L. Barfield/WHO/EOP@EOP
Ruben S. Barrales/WHO/EOP@EOP
Daniel J. Bartlett/WHO/EOP@EOP
Darren W. Bearson/WHO/EOP@EOP
Dee Dee Benkie/WHO/EOP@EOP
Bradford A. Berenson/WHO/EOP@EOP
Brian R. Besanceney/OPD/EOP@EOP
Stephen E. Biegun/NSC/EOP@EOP
Debra D. Bird/WHO/EOP@EOP
Bradley A. Blakeman/WHO/EOP@EOP
Kirk Blalock/WHO/EOP@EOP
Michael J. Boisvenue/WHO/EOP@EOP
Lindsay J. Bourns/WHO/EOP@EOP
Stuart W. Bowen/WHO/EOP@EOP
Brian Bravo/WHO/EOP@EOP
John M. Bridgeland/OPD/EOP@EOP
Claire E. Buchan/WHO/EOP@EOP
Carl Buchholz/WHO/EOP@EOP
Katja Bullock/WHO/EOP@EOP
Patrick J. Bumatay/WHO/EOP@EOP
Nicholas E. Calio/WHO/EOP@EOP
Elizabeth N. Camp/WHO/EOP@EOP
Anne E. Campbell/WHO/EOP@EOP
Sally Canfield/WHO/EOP@EOP
Kirsten A. Chadwick/WHO/EOP@EOP
Barbara C. Chaffee/WHO/EOP@EOP
Shane P. Chambers/WHO/EOP@EOP
Christine Ciccone/WHO/EOP@EOP
Alicia P. Clark/WHO/EOP@EOP
Brian C. Conklin/WHO/EOP@EOP
James Connaughton/CEQ/EOP@EOP
Colby J. Cooper/NSC/EOP@EOP
Stacia L. Cropper/OA/EOP@Exchange
Karen D. Cruson/WHF/EOP@EOP
Mitchell Daniels/OMB/EOP@EOP
Alicia W. Davis/WHO/EOP@EOP
Ashley E. Davis/WHO/EOP@EOP
Michael Davis/WHO/EOP@EOP
Josh Deckard/WHO/EOP@EOP
Nicolle Devenish/WHO/EOP@EOP
Reed Dickens/WHO/EOP@EOP
Eric A. Draper/WHO/EOP@EOP
Ashley D. Drummond/WHO/EOP@EOP
Trent D. Duffy/OMB/EOP@EOP
Paul B. Dyck/WHO/EOP@EOP
Ashley J. Dyer/WHO/EOP@EOP
Gary R. Edson/NSC/EOP@EOP
Ruth E. Elliott/NSC/EOP@EOP
Tucker A. Eskew/WHO/EOP@EOP
Ashley Estes/WHO/EOP@EOP
John D. Estes/WHO/EOP@EOP
Sandra K. Evans/WHO/EOP@EOP
Richard Falkenrath/WHO/EOP@EOP
Daniel D. Faoro/OA/EOP@EOP
Jennifer M. Farley/WHO/EOP@EOP
Mary Elizabeth Farr/WHO/EOP@EOP
Catherine S. Fenton/WHO/EOP@EOP
Jeanie L. Figg/WHO/EOP@EOP
Kara G. Figg/WHO/EOP@EOP
Timothy E. Flanigan/WHO/EOP@EOP
Julian M. Flannery/WHO/EOP@EOP
Lawrence A. Fleischer/WHO/EOP@EOP
Jennifer Foley/WHO/EOP@EOP
Laura F. Fullerton/WHO/EOP@EOP
Christopher Furlow/WHO/EOP@EOP

Linda M. Gambatesa/WHO/EOP@EOP
Reed H. Galen/WHO/EOP@EOP
Sarah M. Garrison/WHO/EOP@EOP
Stephen M. Garrison/WHO/EOP@EOP
Lavin Gartland/ONDCP/EOP@EOP
Dorothy C. Garvin/WHO/EOP@EOP
Joseph H. Gerdes/WHO/EOP@EOP
Eleanor L. Gillmor/OPD/EOP@EOP
Signe L. Girgus/OA/EOP@EOP
Dylan C. Glenn/OPD/EOP@EOP
Tim Goeglein/WHO/EOP@EOP
Barbara Jo Goergen/WHO/EOP@EOP
Adam B. Goldman/WHO/EOP@EOP
Blake Gottesman/WHO/EOP@EOP
Britt Grant/OPD/EOP@EOP
Adrian G. Gray/WHO/EOP@EOP
Ann Gray/WHO/EOP@EOP
Emily S. Gray/WHO/EOP@EOP
Wendy E. Gray/NSC/EOP@EOP
Brent D. Greenfield/WHO/EOP@EOP
Darren D. Grubb/WHO/EOP@EOP
Abel Guerra/WHO/EOP@EOP
Henry C. Hager/WHO/EOP@EOP
Mary Ann Hanusa/WHO/EOP@EOP
Alison M. Harden/WHO/EOP@EOP
Catherine M. Hargraves/WHO/EOP@EOP
Albert Hawkins/WHO/EOP@EOP
Kathryn J. Hayes/WHO/EOP@EOP
Erin E. Healy/WHO/EOP@EOP
Anne Heiligenstein/WHO/EOP@EOP
Chris Henick/WHO/EOP@EOP
Keith Hennessey/OPD/EOP@EOP
Israel Hernandez/WHO/EOP@EOP
Douglas L. Hoelscher/WHO/EOP@EOP
Elizabeth Hogan/WHO/EOP@EOP
Stuart Holliday/WHO/EOP@EOP
Mark Holman/WHO/EOP@EOP
Glenn Hubbard/CEA/EOP@EOP
A. Merrill Hughes/OVP/EOP@EOP
Edward Ingle/WHO/EOP@EOP
Hector F. Irastorza/WHO/EOP@EOP
Barry S. Jackson/WHO/EOP@EOP
Marilyn R. Jacanin/WHO/EOP@EOP
Reuben Jeffery/OPD/EOP@EOP
Gregory J. Jenkins/WHO/EOP@EOP
Gordon D. Johndroe/WHO/EOP@EOP
Collister W. Johnson/WHO/EOP@EOP
Alison Jones/WHO/EOP@EOP
M. Kay Joshi/NSC/EOP@EOP
Joel D. Kaplan/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Daniel J. Keniry/WHO/EOP@EOP
Matthew Kirk/WHO/EOP@EOP
Ellis Kitchen/OA/EOP@EOP
Elizabeth W. Kleppe/OVP/EOP@EOP
Karen Y. Knutson/OVP/EOP@EOP
Matthew Koch/WHO/EOP@EOP
Lindsey C. Kozberg/WHO/EOP@EOP
David Kuo/WHO/EOP@EOP
Ross M. Kyle/WHO/EOP@EOP
Laura S. Lawlor/WHO/EOP@EOP
Jay P. Lefkowitz/OPD/EOP@EOP
Dirksen Lehman/WHO/EOP@EOP
Sarah M. Lenti/NSC/EOP@EOP
Adam L. Levine/WHO/EOP@EOP
Laura E. Lineberry/NSC/EOP@EOP
Stephen M. Lineberry/CEA/EOP@EOP
Kenneth A. Lisaius/WHO/EOP@EOP

Ginger G. Loper/WHO/EOP@EOP
Jose Mallea/WHO/EOP@EOP
Jeanie S. Mamo/WHO/EOP@EOP
Heidi K. Marquez/WHO/EOP@EOP
Robert Marsh/WHO/EOP@EOP
Mary J. Matalin/OVP/EOP@EOP
Jennifer H. Mayfield/OVP/EOP@EOP
Daniel M. McCarthy/WHO/EOP@EOP
Mark McClellan/CEA/EOP@EOP
Scott McClellan/WHO/EOP@EOP
John P. McConnell/OVP/EOP@EOP
Brian V. McCormack/OVP/EOP@EOP
Edward McNally/WHO/EOP@EOP
Vickie A. McQuade/WHO/EOP@EOP
Ken Mehlman/WHO/EOP@EOP
Sonya E. Medina/WHO/EOP@EOP
A. Morgan Middlemas/WHO/EOP@EOP
Harriet Miers/WHO/EOP@EOP
Michael H. Miller/WHO/EOP@EOP
Jennifer Millerwise/OVP/EOP@EOP
Cathy L. Millison/NSC/EOP@EOP
Brian D. Montgomery/WHO/EOP@EOP
Charlotte L. Montiel/WHO/EOP@EOP
Leslie A. Mooney/OPD/EOP@EOP
Michael J. Napolitano/WHO/EOP@EOP
Susan K. Neely/WHO/EOP@EOP
Wendy L. Nipper/WHO/EOP@EOP
Claire M. O'Donnell/OVP/EOP@EOP
Joseph F. O'Neill/OPD/EOP@EOP
Ziad S. Ojakli/WHO/EOP@EOP
Cheryl A. Oldham/WHO/EOP@EOP
Christopher J. Orr/WHO/EOP@EOP
Eric H. Otto/OPD/EOP@EOP
Kasey S. Pipes/WHO/EOP@EOP
Dina Powell/WHO/EOP@EOP
Clare Pritchett/WHO/EOP@EOP
Susan B. Ralston/WHO/EOP@EOP
Craig Ray/WHO/EOP@EOP
Tim Reynolds/WHO/EOP@EOP
Allison L. Riepenhoff/WHO/EOP@EOP
Krista L. Ritacco/WHO/EOP@EOP
Josephine B. Robinson/WHO/EOP@EOP
Edwina C. Rogers/OPD/EOP@EOP
Stephen S. Ruhlen/OVP/EOP@EOP
Catharine A. Ryun/WHO/EOP@EOP
Diana L. Schacht/OPD/EOP@EOP
Matthew A. Schlapp/WHO/EOP@EOP
Scott Sechser/WHO/EOP@EOP
Scott N. Sforza/WHO/EOP@EOP
Matthew E. Smith/WHO/EOP@EOP
Ashley Snee/WHO/EOP@EOP
Deborah A. Spagnoli/WHO/EOP@EOP
Scott Stanzel/WHO/EOP@EOP
Gretchen P. Steen/WHO/EOP@EOP
Timothy C. Stout/WHO/EOP@EOP
Angela B. Styles/OMB/EOP@EOP
Meredith A. Terpeluk/WHO/EOP@EOP
Eric W. Terrell/WHO/EOP@EOP
Julieanne H. Thomas/WHO/EOP@EOP
Jim Towey/WHO/EOP@EOP
Anne Trenolone/WHO/EOP@EOP
Richard J. Tubb/WHO/EOP@EOP
Ali H. Tulbah/WHO/EOP@EOP
Erin A. Vargo/WHO/EOP@EOP
Lauren J. Vestewig/OPD/EOP@EOP
Mercedes M. Viana/WHO/EOP@EOP
Jared B. Weinstein/WHO/EOP@EOP
L. Camille Welborn/WHO/EOP@EOP

Lezlee J. Westine/WHO/EOP@EOP
Heather Wingate/WHO/EOP@EOP
Tracy Young/WHO/EOP@EOP
Neil H. Zimmerman/WHO/EOP@EOP
Katherine L. Disston/WHO/EOP@EOP
Lindsay J. Bourns/WHO/EOP@EOP
Carrie B. Loy/WHO/EOP@EOP
William T. Griffin/WHO/EOP@EOP
Heather W. Musser/WHO/EOP@EOP
Jill Davie/WHO/EOP@EOP
Jack Howard/WHO/EOP@EOP
Michael J. Conway/WHO/EOP@EOP
Christal R. West/WHO/EOP@EOP
Roland N. Litterst/WHO/EOP@EOP
Adam B. Ingols/WHO/EOP@EOP
Carolyn E. Cleveland/WHO/EOP@EOP
Katherine M. Walters/WHO/EOP@EOP
Sara M. Taylor/WHO/EOP@EOP
David M. Thomas/WHO/EOP@EOP
Leonard B. Rodriguez/WHO/EOP@EOP
Angela R. Sailor/WHO/EOP@EOP
Ronald I. Christie/OPD/EOP@EOP
Melanie A. Jackson/WHO/EOP@EOP
Debra Heiden/OVP/EOP@EOP
Jennifer D. Field/OVP/EOP@EOP
Catherine J. Martin/OVP/EOP@EOP
Alice H. Williams/CEA/EOP@EOP
Lisa D. Branch/CEA/EOP@EOP
Roberta L. Conde/CEQ/EOP@EOP
Tracy L. Carson/OPD/EOP@EOP
Kenneth A. Thomas/OPD/EOP@EOP
Patricia F. Ware/OPD/EOP@EOP
Shana L. Dale/OSTP/EOP@EOP
Alberto R. Gonzales/WHO/EOP@EOP
Bradford A. Berenson/WHO/EOP@EOP
Noel J. Francisco/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
Kyle Sampson/WHO/EOP@EOP
Helgard C. Walker/WHO/EOP@EOP
Kelley Gannon/WHO/EOP@EOP
Todd W. Beyer/WHO/EOP@EOP
Stephanie E. Linder/WHO/EOP@EOP
Kristopher N. Purcell/WHO/EOP@EOP
Michael J. Gerson/WHO/EOP@EOP
Peter H. Wehner/WHO/EOP@EOP
John D. Gibson/NSC/EOP@EOP
Matthew R. Rees/NSC/EOP@EOP
Jane M. Cook/WHO/EOP@EOP
Marie Vachon/WHO/EOP@EOP
Charles S. Abbot/OVP/EOP@EOP
Wendy J. Grubbs/WHO/EOP@EOP
Julie L. Nichols/WHO/EOP@EOP
Timothy C. Stout/WHO/EOP@EOP
Bruce M. Lawlor/WHO/EOP@EOP
Paul B. Kurtz/NSC/EOP@EOP
Paul L. Morse/WHO/EOP@EOP
Michael A. Sanders/WHO/EOP@EOP
Michael Davis/WHO/EOP@EOP
Katharina M. Hager/WHO/EOP@EOP
Jackie Arends/WHO/EOP@EOP
Elizabeth Hogan/WHO/EOP@EOP
Jennifer A. Minton/WHO/EOP@EOP
Desiree T. Sayle/WHO/EOP@EOP
Terry W. Good/WHO/EOP@EOP
Philip C. Droege/WHO/EOP@EOP
Lewis Libby/OVP/EOP@EOP
Charles D. McGrath Jr/OVP/EOP@EOP
Candida P. Wolff/OVP/EOP@EOP

Lindley Kratovil/OVP/EOP@EOP
Cesar Conda/OVP/EOP@EOP
Marie K. Fishpaw/OVP/EOP@EOP
Mary K. Lang/OVP/EOP@EOP
Diana E. Furchtgott-Roth/CEA/EOP@EOP
Randall S. Kroszner/CEA/EOP@EOP
Douglas J. Holtz-Eakin/CEA/EOP@EOP
Phil Cooney/CEQ/EOP@EOP
Samuel A. Thernstrom/CEQ/EOP@EOP
Elizabeth A. Stolpe/CEQ/EOP@EOP
Virginia Stephens/CEQ/EOP@EOP
Matthew C. Waxman/NSC/EOP@EOP
Jennie M. Koch/NSC/EOP@EOP
Cheryl E. Barnett/NSC/EOP@EOP
Mary A. Haines/NSC/EOP@EOP
Alexian T. Wines/NSC/EOP@EOP
Jendayi E. Frazer/NSC/EOP@EOP
Bobby J. Pittman/NSC/EOP@EOP
Cindy L. Courville/NSC/EOP@EOP
Jane C. Heishman/NSC/EOP@EOP
Lisa Gordon-Hagerty/NSC/EOP@EOP
Franklin C. Miller/NSC/EOP@EOP
Elliott Abrams/NSC/EOP@EOP
Mary C. Andrews/WHO/EOP@EOP
John A. Cloud/NSC/EOP@EOP
Adam R. Isles/NSC/EOP@EOP
Gregory A. Manuel/NSC/EOP@EOP
John B. Bellinger/NSC/EOP@EOP
Sean I. McCormack/NSC/EOP@EOP
Matthew R. Rees/NSC/EOP@EOP
Karen E. Keller/OMB/EOP@EOP
Lois E. Altoft/OMB/EOP@EOP
Nancy Dorn/OMB/EOP@EOP
Augustine T. Smythe/OMB/EOP@EOP
Rebecca E. Davis/OMB/EOP@EOP
Philip J. Perry/OMB/EOP@EOP
Stephen S. McMillin/OMB/EOP@EOP
Karen S. Dooley/OMB/EOP@EOP
James C. Capretta/OMB/EOP@EOP
Eric C. Pelletier/OMB/EOP@EOP
Danielle M. Simonetta/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Robin Cleveland/OMB/EOP@EOP
Marcus Peacock/OMB/EOP@EOP
Richard M. Russell/OSTP/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>
Sent: 1/6/2003 6:43:45 AM
Subject: : Re: Congratulations to Libby!

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 6-JAN-2003 11:43:45.00
SUBJECT:: Re: Congratulations to Libby!
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

why is this thursday instead of friday?

Patrick J. Bumatay
01/06/2003 10:17:22 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Congratulations to Libby!

Please join us to send off Libby Camp this Thursday as she moves on to serve as the first-ever White House Liaison for the Department of Homeland Security.

Who: All are welcome! Please pass along to everyone.

Where: Le Bar in the Hotel Sofitel
806 15th St NW (corner of 15th and H - just two blocks north of the White House)
202-737-8800

When: 6:00 pm - whenever
Thursday, January 9

Message Sent
To:_____
Cathy Alix/WHO/EOP@EOP
Lauren K. Allgood/OMB/EOP@EOP
Magda E. Angulo/WHO/EOP@EOP
Chad Babin/WHO/EOP@EOP
Andrea G. Ball/WHO/EOP@EOP
Barbara A. Barclay/WHO/EOP@EOP
Tiffany L. Barfield/WHO/EOP@EOP
Ruben S. Barrales/WHO/EOP@EOP
Daniel J. Bartlett/WHO/EOP@EOP
Darren W. Bearson/WHO/EOP@EOP
Dee Dee Benkie/WHO/EOP@EOP
Bradford A. Berenson/WHO/EOP@EOP
Brian R. Besanceney/OPD/EOP@EOP
Stephen E. Biegun/NSC/EOP@EOP
Debra D. Bird/WHO/EOP@EOP

Bradley A. Blakeman/WHO/EOP@EOP
Kirk Blalock/WHO/EOP@EOP
Michael J. Boisvenue/WHO/EOP@EOP
Lindsay J. Bourns/WHO/EOP@EOP
Stuart W. Bowen/WHO/EOP@EOP
Brian Bravo/WHO/EOP@EOP
John M. Bridgeland/OPD/EOP@EOP
Claire E. Buchan/WHO/EOP@EOP
Carl Buchholz/WHO/EOP@EOP
Katja Bullock/WHO/EOP@EOP
Patrick J. Bumatay/WHO/EOP@EOP
Nicholas E. Calio/WHO/EOP@EOP
Elizabeth N. Camp/WHO/EOP@EOP
Anne E. Campbell/WHO/EOP@EOP
Sally Canfield/WHO/EOP@EOP
Kirsten A. Chadwick/WHO/EOP@EOP
Barbara C. Chaffee/WHO/EOP@EOP
Shane P. Chambers/WHO/EOP@EOP
Christine Ciccone/WHO/EOP@EOP
Alicia P. Clark/WHO/EOP@EOP
Brian C. Conklin/WHO/EOP@EOP
James Connaughton/CEQ/EOP@EOP
Colby J. Cooper/NSC/EOP@EOP
Stacia L. Cropper/OA/EOP@Exchange
Karen D. Cruson/WHF/EOP@EOP
Mitchell Daniels/OMB/EOP@EOP
Alicia W. Davis/WHO/EOP@EOP
Ashley E. Davis/WHO/EOP@EOP
Michael Davis/WHO/EOP@EOP
Josh Deckard/WHO/EOP@EOP
Nicolle Devenish/WHO/EOP@EOP
Reed Dickens/WHO/EOP@EOP
Eric A. Draper/WHO/EOP@EOP
Ashley D. Drummond/WHO/EOP@EOP
Trent D. Duffy/OMB/EOP@EOP
Paul B. Dyck/WHO/EOP@EOP
Ashley J. Dyer/WHO/EOP@EOP
Gary R. Edson/NSC/EOP@EOP
Ruth E. Elliott/NSC/EOP@EOP
Tucker A. Eskew/WHO/EOP@EOP
Ashley Estes/WHO/EOP@EOP
John D. Estes/WHO/EOP@EOP
Sandra K. Evans/WHO/EOP@EOP
Richard Falkenrath/WHO/EOP@EOP
Daniel D. Faoro/OA/EOP@EOP
Jennifer M. Farley/WHO/EOP@EOP
Mary Elizabeth Farr/WHO/EOP@EOP
Catherine S. Fenton/WHO/EOP@EOP
Jeanie L. Figg/WHO/EOP@EOP
Kara G. Figg/WHO/EOP@EOP
Timothy E. Flanigan/WHO/EOP@EOP
Julian M. Flannery/WHO/EOP@EOP
Lawrence A. Fleischer/WHO/EOP@EOP
Jennifer Foley/WHO/EOP@EOP
Laura F. Fullerton/WHO/EOP@EOP
Christopher Furlow/WHO/EOP@EOP
Linda M. Gambatesa/WHO/EOP@EOP
Reed H. Galen/WHO/EOP@EOP
Sarah M. Garrison/WHO/EOP@EOP
Stephen M. Garrison/WHO/EOP@EOP
Lavin Gartland/ONDCP/EOP@EOP
Dorothy C. Garvin/WHO/EOP@EOP
Joseph H. Gerdes/WHO/EOP@EOP
Eleanor L. Gillmor/OPD/EOP@EOP
Signe L. Girgus/OA/EOP@EOP
Dylan C. Glenn/OPD/EOP@EOP
Tim Goeglein/WHO/EOP@EOP
Barbara Jo Goergen/WHO/EOP@EOP

Adam B. Goldman/WHO/EOP@EOP
Blake Gottesman/WHO/EOP@EOP
Britt Grant/OPD/EOP@EOP
Adrian G. Gray/WHO/EOP@EOP
Ann Gray/WHO/EOP@EOP
Emily S. Gray/WHO/EOP@EOP
Wendy E. Gray/NSC/EOP@EOP
Brent D. Greenfield/WHO/EOP@EOP
Darren D. Grubb/WHO/EOP@EOP
Abel Guerra/WHO/EOP@EOP
Henry C. Hager/WHO/EOP@EOP
Mary Ann Hanusa/WHO/EOP@EOP
Alison M. Harden/WHO/EOP@EOP
Catherine M. Hargraves/WHO/EOP@EOP
Albert Hawkins/WHO/EOP@EOP
Kathryn J. Hayes/WHO/EOP@EOP
Erin E. Healy/WHO/EOP@EOP
Anne Heiligenstein/WHO/EOP@EOP
Chris Henick/WHO/EOP@EOP
Keith Hennessey/OPD/EOP@EOP
Israel Hernandez/WHO/EOP@EOP
Douglas L. Hoelscher/WHO/EOP@EOP
Elizabeth Hogan/WHO/EOP@EOP
Stuart Holliday/WHO/EOP@EOP
Mark Holman/WHO/EOP@EOP
Glenn Hubbard/CEA/EOP@EOP
A. Merrill Hughes/OVP/EOP@EOP
Edward Ingle/WHO/EOP@EOP
Hector F. Irastorza/WHO/EOP@EOP
Barry S. Jackson/WHO/EOP@EOP
Marilyn R. Jacanin/WHO/EOP@EOP
Reuben Jeffery/OPD/EOP@EOP
Gregory J. Jenkins/WHO/EOP@EOP
Gordon D. Johndroe/WHO/EOP@EOP
Collister W. Johnson/WHO/EOP@EOP
Alison Jones/WHO/EOP@EOP
M. Kay Joshi/NSC/EOP@EOP
Joel D. Kaplan/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Daniel J. Keniry/WHO/EOP@EOP
Matthew Kirk/WHO/EOP@EOP
Ellis Kitchen/OA/EOP@EOP
Elizabeth W. Kleppe/OVP/EOP@EOP
Karen Y. Knutson/OVP/EOP@EOP
Matthew Koch/WHO/EOP@EOP
Lindsey C. Kozberg/WHO/EOP@EOP
David Kuo/WHO/EOP@EOP
Ross M. Kyle/WHO/EOP@EOP
Laura S. Lawlor/WHO/EOP@EOP
Jay P. Lefkowitz/OPD/EOP@EOP
Dirksen Lehman/WHO/EOP@EOP
Sarah M. Lenti/NSC/EOP@EOP
Adam L. Levine/WHO/EOP@EOP
Laura E. Lineberry/NSC/EOP@EOP
Stephen M. Lineberry/CEA/EOP@EOP
Kenneth A. Lisaius/WHO/EOP@EOP
Ginger G. Loper/WHO/EOP@EOP
Jose Mallea/WHO/EOP@EOP
Jeanie S. Mamo/WHO/EOP@EOP
Heidi K. Marquez/WHO/EOP@EOP
Robert Marsh/WHO/EOP@EOP
Mary J. Matalin/OVP/EOP@EOP
Jennifer H. Mayfield/OVP/EOP@EOP
Daniel M. McCarthy/WHO/EOP@EOP
Mark McClellan/CEA/EOP@EOP
Scott McClellan/WHO/EOP@EOP
John P. McConnell/OVP/EOP@EOP
Brian V. McCormack/OVP/EOP@EOP

Edward McNally/WHO/EOP@EOP
Vickie A. McQuade/WHO/EOP@EOP
Ken Mehlman/WHO/EOP@EOP
Sonya E. Medina/WHO/EOP@EOP
A. Morgan Middlemas/WHO/EOP@EOP
Harriet Miers/WHO/EOP@EOP
Michael H. Miller/WHO/EOP@EOP
Jennifer Millerwise/OVP/EOP@EOP
Cathy L. Millison/NSC/EOP@EOP
Brian D. Montgomery/WHO/EOP@EOP
Charlotte L. Montiel/WHO/EOP@EOP
Leslie A. Mooney/OPD/EOP@EOP
Michael J. Napolitano/WHO/EOP@EOP
Susan K. Neely/WHO/EOP@EOP
Wendy L. Nipper/WHO/EOP@EOP
Claire M. O'Donnell/OVP/EOP@EOP
Joseph F. O'Neill/OPD/EOP@EOP
Ziad S. Ojakli/WHO/EOP@EOP
Cheryl A. Oldham/WHO/EOP@EOP
Christopher J. Orr/WHO/EOP@EOP
Eric H. Otto/OPD/EOP@EOP
Kasey S. Pipes/WHO/EOP@EOP
Dina Powell/WHO/EOP@EOP
Clare Pritchett/WHO/EOP@EOP
Susan B. Ralston/WHO/EOP@EOP
Craig Ray/WHO/EOP@EOP
Tim Reynolds/WHO/EOP@EOP
Allison L. Riepenhoff/WHO/EOP@EOP
Krista L. Ritacco/WHO/EOP@EOP
Josephine B. Robinson/WHO/EOP@EOP
Edwina C. Rogers/OPD/EOP@EOP
Stephen S. Ruhlen/OVP/EOP@EOP
Catharine A. Ryun/WHO/EOP@EOP
Diana L. Schacht/OPD/EOP@EOP
Matthew A. Schlapp/WHO/EOP@EOP
Scott Sechser/WHO/EOP@EOP
Scott N. Sforza/WHO/EOP@EOP
Matthew E. Smith/WHO/EOP@EOP
Ashley Snee/WHO/EOP@EOP
Deborah A. Spagnoli/WHO/EOP@EOP
Scott Stanzel/WHO/EOP@EOP
Gretchen P. Steen/WHO/EOP@EOP
Timothy C. Stout/WHO/EOP@EOP
Angela B. Styles/OMB/EOP@EOP
Meredith A. Terpeluk/WHO/EOP@EOP
Eric W. Terrell/WHO/EOP@EOP
Julieanne H. Thomas/WHO/EOP@EOP
Jim Towey/WHO/EOP@EOP
Anne Trenolone/WHO/EOP@EOP
Richard J. Tubb/WHO/EOP@EOP
Ali H. Tulbah/WHO/EOP@EOP
Erin A. Vargo/WHO/EOP@EOP
Lauren J. Vestewig/OPD/EOP@EOP
Mercedes M. Viana/WHO/EOP@EOP
Jared B. Weinstein/WHO/EOP@EOP
L. Camille Welborn/WHO/EOP@EOP
Lezlee J. Westine/WHO/EOP@EOP
Heather Wingate/WHO/EOP@EOP
Tracy Young/WHO/EOP@EOP
Neil H. Zimmerman/WHO/EOP@EOP
Katherine L. Disston/WHO/EOP@EOP
Lindsay J. Bourns/WHO/EOP@EOP
Carrie B. Loy/WHO/EOP@EOP
William T. Griffin/WHO/EOP@EOP
Heather W. Musser/WHO/EOP@EOP
Jill Davie/WHO/EOP@EOP
Jack Howard/WHO/EOP@EOP
Michael J. Conway/WHO/EOP@EOP

Christal R. West/WHO/EOP@EOP
Roland N. Litterst/WHO/EOP@EOP
Adam B. Ingols/WHO/EOP@EOP
Carolyn E. Cleveland/WHO/EOP@EOP
Katherine M. Walters/WHO/EOP@EOP
Sara M. Taylor/WHO/EOP@EOP
David M. Thomas/WHO/EOP@EOP
Leonard B. Rodriguez/WHO/EOP@EOP
Angela R. Sailor/WHO/EOP@EOP
Ronald I. Christie/OPD/EOP@EOP
Melanie A. Jackson/WHO/EOP@EOP
Debra Heiden/OVP/EOP@EOP
Jennifer D. Field/OVP/EOP@EOP
Catherine J. Martin/OVP/EOP@EOP
Alice H. Williams/CEA/EOP@EOP
Lisa D. Branch/CEA/EOP@EOP
Roberta L. Conde/CEQ/EOP@EOP
Tracy L. Carson/OPD/EOP@EOP
Kenneth A. Thomas/OPD/EOP@EOP
Patricia F. Ware/OPD/EOP@EOP
Shana L. Dale/OSTP/EOP@EOP
Alberto R. Gonzales/WHO/EOP@EOP
Bradford A. Berenson/WHO/EOP@EOP
Noel J. Francisco/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
Kyle Sampson/WHO/EOP@EOP
Helgard C. Walker/WHO/EOP@EOP
Kelley Gannon/WHO/EOP@EOP
Todd W. Beyer/WHO/EOP@EOP
Stephanie E. Linder/WHO/EOP@EOP
Kristopher N. Purcell/WHO/EOP@EOP
Michael J. Gerson/WHO/EOP@EOP
Peter H. Wehner/WHO/EOP@EOP
John D. Gibson/NSC/EOP@EOP
Matthew R. Rees/NSC/EOP@EOP
Jane M. Cook/WHO/EOP@EOP
Marie Vachon/WHO/EOP@EOP
Charles S. Abbot/OVP/EOP@EOP
Wendy J. Grubbs/WHO/EOP@EOP
Julie L. Nichols/WHO/EOP@EOP
Timothy C. Stout/WHO/EOP@EOP
Bruce M. Lawlor/WHO/EOP@EOP
Paul B. Kurtz/NSC/EOP@EOP
Paul L. Morse/WHO/EOP@EOP
Michael A. Sanders/WHO/EOP@EOP
Michael Davis/WHO/EOP@EOP
Katharina M. Hager/WHO/EOP@EOP
Jackie Arends/WHO/EOP@EOP
Elizabeth Hogan/WHO/EOP@EOP
Jennifer A. Minton/WHO/EOP@EOP
Desiree T. Sayle/WHO/EOP@EOP
Terry W. Good/WHO/EOP@EOP
Philip C. Droege/WHO/EOP@EOP
Lewis Libby/OVP/EOP@EOP
Charles D. McGrath Jr/OVP/EOP@EOP
Candida P. Wolff/OVP/EOP@EOP
Lindley Kratovil/OVP/EOP@EOP
Cesar Conda/OVP/EOP@EOP
Marie K. Fishpaw/OVP/EOP@EOP
Mary K. Lang/OVP/EOP@EOP
Diana E. Furchtgott-Roth/CEA/EOP@EOP
Randall S. Kroszner/CEA/EOP@EOP
Douglas J. Holtz-Eakin/CEA/EOP@EOP
Phil Cooney/CEQ/EOP@EOP
Samuel A. Thernstrom/CEQ/EOP@EOP
Elizabeth A. Stolpe/CEQ/EOP@EOP
Virginia Stephens/CEQ/EOP@EOP
Matthew C. Waxman/NSC/EOP@EOP

Jennie M. Koch/NSC/EOP@EOP
Cheryl E. Barnett/NSC/EOP@EOP
Mary A. Haines/NSC/EOP@EOP
Alexian T. Wines/NSC/EOP@EOP
Jendayi E. Frazer/NSC/EOP@EOP
Bobby J. Pittman/NSC/EOP@EOP
Cindy L. Courville/NSC/EOP@EOP
Jane C. Heishman/NSC/EOP@EOP
Lisa Gordon-Hagerty/NSC/EOP@EOP
Franklin C. Miller/NSC/EOP@EOP
Elliott Abrams/NSC/EOP@EOP
Mary C. Andrews/WHO/EOP@EOP
John A. Cloud/NSC/EOP@EOP
Adam R. Isles/NSC/EOP@EOP
Gregory A. Manuel/NSC/EOP@EOP
John B. Bellinger/NSC/EOP@EOP
Sean I. McCormack/NSC/EOP@EOP
Matthew R. Rees/NSC/EOP@EOP
Karen E. Keller/OMB/EOP@EOP
Lois E. Altoft/OMB/EOP@EOP
Nancy Dorn/OMB/EOP@EOP
Augustine T. Smythe/OMB/EOP@EOP
Rebecca E. Davis/OMB/EOP@EOP
Philip J. Perry/OMB/EOP@EOP
Stephen S. McMillin/OMB/EOP@EOP
Karen S. Dooley/OMB/EOP@EOP
James C. Capretta/OMB/EOP@EOP
Eric C. Pelletier/OMB/EOP@EOP
Danielle M. Simonetta/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Robin Cleveland/OMB/EOP@EOP
Marcus Peacock/OMB/EOP@EOP
Richard M. Russell/OSTP/EOP@EOP

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/6/2003 7:30:19 AM
Subject: : Re: Congratulations to Libby!

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 6-JAN-2003 12:30:19.00
SUBJECT:: Re: Congratulations to Libby!
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Well, I thought that Libby might be busy on Friday trying to get out of here. So I didn't want to rush her on that day. Plus, we are having our private Counsel's office breakfast then.

Patrick

Brett M. Kavanaugh
01/06/2003 11:40:21 AM
Record Type: Record

To: Patrick J. Bumatay/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Congratulations to Libby!

why is this thursday instead of friday?

Patrick J. Bumatay
01/06/2003 10:17:22 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Congratulations to Libby!

Please join us to send off Libby Camp this Thursday as she moves on to serve as the first-ever White House Liaison for the Department of Homeland Security.

Who: All are welcome! Please pass along to everyone.

Where: Le Bar in the Hotel Sofitel
806 15th St NW (corner of 15th and H - just two blocks north of the White House)
202-737-8800

When: 6:00 pm - whenever
Thursday, January 9

Message Sent
To:_____
Cathy Alix/WHO/EOP@EOP
Lauren K. Allgood/OMB/EOP@EOP
Magda E. Angulo/WHO/EOP@EOP
Chad Babin/WHO/EOP@EOP
Andrea G. Ball/WHO/EOP@EOP
Barbara A. Barclay/WHO/EOP@EOP
Tiffany L. Barfield/WHO/EOP@EOP
Ruben S. Barrales/WHO/EOP@EOP
Daniel J. Bartlett/WHO/EOP@EOP
Darren W. Bearson/WHO/EOP@EOP
Dee Dee Benkie/WHO/EOP@EOP
Bradford A. Berenson/WHO/EOP@EOP
Brian R. Besanceney/OPD/EOP@EOP
Stephen E. Biegun/NSC/EOP@EOP
Debra D. Bird/WHO/EOP@EOP
Bradley A. Blakeman/WHO/EOP@EOP
Kirk Blalock/WHO/EOP@EOP
Michael J. Boisvenue/WHO/EOP@EOP
Lindsay J. Bourns/WHO/EOP@EOP
Stuart W. Bowen/WHO/EOP@EOP
Brian Bravo/WHO/EOP@EOP
John M. Bridgeland/OPD/EOP@EOP
Claire E. Buchan/WHO/EOP@EOP
Carl Buchholz/WHO/EOP@EOP
Katja Bullock/WHO/EOP@EOP
Patrick J. Bumatay/WHO/EOP@EOP
Nicholas E. Calio/WHO/EOP@EOP
Elizabeth N. Camp/WHO/EOP@EOP
Anne E. Campbell/WHO/EOP@EOP
Sally Canfield/WHO/EOP@EOP
Kirsten A. Chadwick/WHO/EOP@EOP
Barbara C. Chaffee/WHO/EOP@EOP
Shane P. Chambers/WHO/EOP@EOP
Christine Ciccone/WHO/EOP@EOP
Alicia P. Clark/WHO/EOP@EOP
Brian C. Conklin/WHO/EOP@EOP
James Connaughton/CEQ/EOP@EOP
Colby J. Cooper/NSC/EOP@EOP
Stacia L. Cropper/OA/EOP@Exchange
Karen D. Cruson/WHF/EOP@EOP
Mitchell Daniels/OMB/EOP@EOP
Alicia W. Davis/WHO/EOP@EOP
Ashley E. Davis/WHO/EOP@EOP
Michael Davis/WHO/EOP@EOP
Josh Deckard/WHO/EOP@EOP
Nicolle Devenish/WHO/EOP@EOP
Reed Dickens/WHO/EOP@EOP
Eric A. Draper/WHO/EOP@EOP
Ashley D. Drummond/WHO/EOP@EOP
Trent D. Duffy/OMB/EOP@EOP
Paul B. Dyck/WHO/EOP@EOP
Ashley J. Dyer/WHO/EOP@EOP
Gary R. Edson/NSC/EOP@EOP
Ruth E. Elliott/NSC/EOP@EOP
Tucker A. Eskew/WHO/EOP@EOP
Ashley Estes/WHO/EOP@EOP
John D. Estes/WHO/EOP@EOP
Sandra K. Evans/WHO/EOP@EOP
Richard Falkenrath/WHO/EOP@EOP
Daniel D. Faoro/OA/EOP@EOP
Jennifer M. Farley/WHO/EOP@EOP
Mary Elizabeth Farr/WHO/EOP@EOP
Catherine S. Fenton/WHO/EOP@EOP
Jeanie L. Figg/WHO/EOP@EOP

Kara G. Figg/WHO/EOP@EOP
Timothy E. Flanigan/WHO/EOP@EOP
Julian M. Flannery/WHO/EOP@EOP
Lawrence A. Fleischer/WHO/EOP@EOP
Jennifer Foley/WHO/EOP@EOP
Laura F. Fullerton/WHO/EOP@EOP
Christopher Furlow/WHO/EOP@EOP
Linda M. Gambatesa/WHO/EOP@EOP
Reed H. Galen/WHO/EOP@EOP
Sarah M. Garrison/WHO/EOP@EOP
Stephen M. Garrison/WHO/EOP@EOP
Lavin Gartland/ONDCP/EOP@EOP
Dorothy C. Garvin/WHO/EOP@EOP
Joseph H. Gerdes/WHO/EOP@EOP
Eleanor L. Gillmor/OPD/EOP@EOP
Signe L. Girgus/OA/EOP@EOP
Dylan C. Glenn/OPD/EOP@EOP
Tim Goeglein/WHO/EOP@EOP
Barbara Jo Goergen/WHO/EOP@EOP
Adam B. Goldman/WHO/EOP@EOP
Blake Gottesman/WHO/EOP@EOP
Britt Grant/OPD/EOP@EOP
Adrian G. Gray/WHO/EOP@EOP
Ann Gray/WHO/EOP@EOP
Emily S. Gray/WHO/EOP@EOP
Wendy E. Gray/NSC/EOP@EOP
Brent D. Greenfield/WHO/EOP@EOP
Darren D. Grubb/WHO/EOP@EOP
Abel Guerra/WHO/EOP@EOP
Henry C. Hager/WHO/EOP@EOP
Mary Ann Hanusa/WHO/EOP@EOP
Alison M. Harden/WHO/EOP@EOP
Catherine M. Hargraves/WHO/EOP@EOP
Albert Hawkins/WHO/EOP@EOP
Kathryn J. Hayes/WHO/EOP@EOP
Erin E. Healy/WHO/EOP@EOP
Anne Heiligenstein/WHO/EOP@EOP
Chris Henick/WHO/EOP@EOP
Keith Hennessey/OPD/EOP@EOP
Israel Hernandez/WHO/EOP@EOP
Douglas L. Hoelscher/WHO/EOP@EOP
Elizabeth Hogan/WHO/EOP@EOP
Stuart Holliday/WHO/EOP@EOP
Mark Holman/WHO/EOP@EOP
Glenn Hubbard/CEA/EOP@EOP
A. Merrill Hughes/OVP/EOP@EOP
Edward Ingle/WHO/EOP@EOP
Hector F. Irastorza/WHO/EOP@EOP
Barry S. Jackson/WHO/EOP@EOP
Marilyn R. Jacanin/WHO/EOP@EOP
Reuben Jeffery/OPD/EOP@EOP
Gregory J. Jenkins/WHO/EOP@EOP
Gordon D. Johndroe/WHO/EOP@EOP
Collister W. Johnson/WHO/EOP@EOP
Alison Jones/WHO/EOP@EOP
M. Kay Joshi/NSC/EOP@EOP
Joel D. Kaplan/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Daniel J. Keniry/WHO/EOP@EOP
Matthew Kirk/WHO/EOP@EOP
Ellis Kitchen/OA/EOP@EOP
Elizabeth W. Kleppe/OVP/EOP@EOP
Karen Y. Knutson/OVP/EOP@EOP
Matthew Koch/WHO/EOP@EOP
Lindsey C. Kozberg/WHO/EOP@EOP
David Kuo/WHO/EOP@EOP
Ross M. Kyle/WHO/EOP@EOP
Laura S. Lawlor/WHO/EOP@EOP

Jay P. Lefkowitz/OPD/EOP@EOP
Dirksen Lehman/WHO/EOP@EOP
Sarah M. Lenti/NSC/EOP@EOP
Adam L. Levine/WHO/EOP@EOP
Laura E. Lineberry/NSC/EOP@EOP
Stephen M. Lineberry/CEA/EOP@EOP
Kenneth A. Lisaius/WHO/EOP@EOP
Ginger G. Loper/WHO/EOP@EOP
Jose Mallea/WHO/EOP@EOP
Jeanie S. Mamo/WHO/EOP@EOP
Heidi K. Marquez/WHO/EOP@EOP
Robert Marsh/WHO/EOP@EOP
Mary J. Matalin/OVP/EOP@EOP
Jennifer H. Mayfield/OVP/EOP@EOP
Daniel M. McCarthy/WHO/EOP@EOP
Mark McClellan/CEA/EOP@EOP
Scott McClellan/WHO/EOP@EOP
John P. McConnell/OVP/EOP@EOP
Brian V. McCormack/OVP/EOP@EOP
Edward McNally/WHO/EOP@EOP
Vickie A. McQuade/WHO/EOP@EOP
Ken Mehlman/WHO/EOP@EOP
Sonya E. Medina/WHO/EOP@EOP
A. Morgan Middlemas/WHO/EOP@EOP
Harriet Miers/WHO/EOP@EOP
Michael H. Miller/WHO/EOP@EOP
Jennifer Millerwise/OVP/EOP@EOP
Cathy L. Millison/NSC/EOP@EOP
Brian D. Montgomery/WHO/EOP@EOP
Charlotte L. Montiel/WHO/EOP@EOP
Leslie A. Mooney/OPD/EOP@EOP
Michael J. Napolitano/WHO/EOP@EOP
Susan K. Neely/WHO/EOP@EOP
Wendy L. Nipper/WHO/EOP@EOP
Claire M. O'Donnell/OVP/EOP@EOP
Joseph F. O'Neill/OPD/EOP@EOP
Ziad S. Ojakli/WHO/EOP@EOP
Cheryl A. Oldham/WHO/EOP@EOP
Christopher J. Orr/WHO/EOP@EOP
Eric H. Otto/OPD/EOP@EOP
Kasey S. Pipes/WHO/EOP@EOP
Dina Powell/WHO/EOP@EOP
Clare Pritchett/WHO/EOP@EOP
Susan B. Ralston/WHO/EOP@EOP
Craig Ray/WHO/EOP@EOP
Tim Reynolds/WHO/EOP@EOP
Allison L. Riepenhoff/WHO/EOP@EOP
Krista L. Ritacco/WHO/EOP@EOP
Josephine B. Robinson/WHO/EOP@EOP
Edwina C. Rogers/OPD/EOP@EOP
Stephen S. Ruhlen/OVP/EOP@EOP
Catharine A. Ryun/WHO/EOP@EOP
Diana L. Schacht/OPD/EOP@EOP
Matthew A. Schlapp/WHO/EOP@EOP
Scott Sechser/WHO/EOP@EOP
Scott N. Sforza/WHO/EOP@EOP
Matthew E. Smith/WHO/EOP@EOP
Ashley Snee/WHO/EOP@EOP
Deborah A. Spagnoli/WHO/EOP@EOP
Scott Stanzel/WHO/EOP@EOP
Gretchen P. Steen/WHO/EOP@EOP
Timothy C. Stout/WHO/EOP@EOP
Angela B. Styles/OMB/EOP@EOP
Meredith A. Terpeluk/WHO/EOP@EOP
Eric W. Terrell/WHO/EOP@EOP
Julieanne H. Thomas/WHO/EOP@EOP
Jim Towey/WHO/EOP@EOP
Anne Trenolone/WHO/EOP@EOP

Richard J. Tubb/WHO/EOP@EOP
Ali H. Tulbah/WHO/EOP@EOP
Erin A. Vargo/WHO/EOP@EOP
Lauren J. Vestewig/OPD/EOP@EOP
Mercedes M. Viana/WHO/EOP@EOP
Jared B. Weinstein/WHO/EOP@EOP
L. Camille Welborn/WHO/EOP@EOP
Lezlee J. Westine/WHO/EOP@EOP
Heather Wingate/WHO/EOP@EOP
Tracy Young/WHO/EOP@EOP
Neil H. Zimmerman/WHO/EOP@EOP
Katherine L. Disston/WHO/EOP@EOP
Lindsay J. Bourns/WHO/EOP@EOP
Carrie B. Loy/WHO/EOP@EOP
William T. Griffin/WHO/EOP@EOP
Heather W. Musser/WHO/EOP@EOP
Jill Davie/WHO/EOP@EOP
Jack Howard/WHO/EOP@EOP
Michael J. Conway/WHO/EOP@EOP
Christal R. West/WHO/EOP@EOP
Roland N. Litterst/WHO/EOP@EOP
Adam B. Ingols/WHO/EOP@EOP
Carolyn E. Cleveland/WHO/EOP@EOP
Katherine M. Walters/WHO/EOP@EOP
Sara M. Taylor/WHO/EOP@EOP
David M. Thomas/WHO/EOP@EOP
Leonard B. Rodriguez/WHO/EOP@EOP
Angela R. Sailor/WHO/EOP@EOP
Ronald I. Christie/OPD/EOP@EOP
Melanie A. Jackson/WHO/EOP@EOP
Debra Heiden/OVP/EOP@EOP
Jennifer D. Field/OVP/EOP@EOP
Catherine J. Martin/OVP/EOP@EOP
Alice H. Williams/CEA/EOP@EOP
Lisa D. Branch/CEA/EOP@EOP
Roberta L. Conde/CEQ/EOP@EOP
Tracy L. Carson/OPD/EOP@EOP
Kenneth A. Thomas/OPD/EOP@EOP
Patricia F. Ware/OPD/EOP@EOP
Shana L. Dale/OSTP/EOP@EOP
Alberto R. Gonzales/WHO/EOP@EOP
Bradford A. Berenson/WHO/EOP@EOP
Noel J. Francisco/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
Kyle Sampson/WHO/EOP@EOP
Helgard C. Walker/WHO/EOP@EOP
Kelley Gannon/WHO/EOP@EOP
Todd W. Beyer/WHO/EOP@EOP
Stephanie E. Linder/WHO/EOP@EOP
Kristopher N. Purcell/WHO/EOP@EOP
Michael J. Gerson/WHO/EOP@EOP
Peter H. Wehner/WHO/EOP@EOP
John D. Gibson/NSC/EOP@EOP
Matthew R. Rees/NSC/EOP@EOP
Jane M. Cook/WHO/EOP@EOP
Marie Vachon/WHO/EOP@EOP
Charles S. Abbot/OVP/EOP@EOP
Wendy J. Grubbs/WHO/EOP@EOP
Julie L. Nichols/WHO/EOP@EOP
Timothy C. Stout/WHO/EOP@EOP
Bruce M. Lawlor/WHO/EOP@EOP
Paul B. Kurtz/NSC/EOP@EOP
Paul L. Morse/WHO/EOP@EOP
Michael A. Sanders/WHO/EOP@EOP
Michael Davis/WHO/EOP@EOP
Katharina M. Hager/WHO/EOP@EOP
Jackie Arends/WHO/EOP@EOP
Elizabeth Hogan/WHO/EOP@EOP

Jennifer A. Minton/WHO/EOP@EOP
Desiree T. Sayle/WHO/EOP@EOP
Terry W. Good/WHO/EOP@EOP
Philip C. Droege/WHO/EOP@EOP
Lewis Libby/OVP/EOP@EOP
Charles D. McGrath Jr/OVP/EOP@EOP
Candida P. Wolff/OVP/EOP@EOP
Lindley Kratovil/OVP/EOP@EOP
Cesar Conda/OVP/EOP@EOP
Marie K. Fishpaw/OVP/EOP@EOP
Mary K. Lang/OVP/EOP@EOP
Diana E. Furchtgott-Roth/CEA/EOP@EOP
Randall S. Kroszner/CEA/EOP@EOP
Douglas J. Holtz-Eakin/CEA/EOP@EOP
Phil Cooney/CEQ/EOP@EOP
Samuel A. Thernstrom/CEQ/EOP@EOP
Elizabeth A. Stolpe/CEQ/EOP@EOP
Virginia Stephens/CEQ/EOP@EOP
Matthew C. Waxman/NSC/EOP@EOP
Jennie M. Koch/NSC/EOP@EOP
Cheryl E. Barnett/NSC/EOP@EOP
Mary A. Haines/NSC/EOP@EOP
Alexian T. Wines/NSC/EOP@EOP
Jendayi E. Frazer/NSC/EOP@EOP
Bobby J. Pittman/NSC/EOP@EOP
Cindy L. Courville/NSC/EOP@EOP
Jane C. Heishman/NSC/EOP@EOP
Lisa Gordon-Hagerty/NSC/EOP@EOP
Franklin C. Miller/NSC/EOP@EOP
Elliott Abrams/NSC/EOP@EOP
Mary C. Andrews/WHO/EOP@EOP
John A. Cloud/NSC/EOP@EOP
Adam R. Isles/NSC/EOP@EOP
Gregory A. Manuel/NSC/EOP@EOP
John B. Bellinger/NSC/EOP@EOP
Sean I. McCormack/NSC/EOP@EOP
Matthew R. Rees/NSC/EOP@EOP
Karen E. Keller/OMB/EOP@EOP
Lois E. Altoft/OMB/EOP@EOP
Nancy Dorn/OMB/EOP@EOP
Augustine T. Smythe/OMB/EOP@EOP
Rebecca E. Davis/OMB/EOP@EOP
Philip J. Perry/OMB/EOP@EOP
Stephen S. McMillin/OMB/EOP@EOP
Karen S. Dooley/OMB/EOP@EOP
James C. Capretta/OMB/EOP@EOP
Eric C. Pelletier/OMB/EOP@EOP
Danielle M. Simonetta/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Robin Cleveland/OMB/EOP@EOP
Marcus Peacock/OMB/EOP@EOP
Richard M. Russell/OSTP/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>
Sent: 1/6/2003 7:58:43 AM
Subject: : Re: Congratulations to Libby!

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 6-JAN-2003 12:58:43.00
SUBJECT:: Re: Congratulations to Libby!
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

ok, that sounds good.

Patrick J. Bumatay
01/06/2003 12:26:52 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Congratulations to Libby!

Well, I thought that Libby might be busy on Friday trying to get out of here. So I didn't want to rush her on that day. Plus, we are having our private Counsel's office breakfast then.

Patrick

Brett M. Kavanaugh
01/06/2003 11:40:21 AM
Record Type: Record

To: Patrick J. Bumatay/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Congratulations to Libby!

why is this thursday instead of friday?

Patrick J. Bumatay
01/06/2003 10:17:22 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Congratulations to Libby!

Please join us to send off Libby Camp this Thursday as she moves on to

serve as the first-ever White House Liaison for the Department of Homeland Security.

Who: All are welcome! Please pass along to everyone.

Where: Le Bar in the Hotel Sofitel
806 15th St NW (corner of 15th and H - just two blocks north of the White House)
202-737-8800

When: 6:00 pm - whenever
Thursday, January 9

Message Sent
To:_____
Cathy Alix/WHO/EOP@EOP
Lauren K. Allgood/OMB/EOP@EOP
Magda E. Angulo/WHO/EOP@EOP
Chad Babin/WHO/EOP@EOP
Andrea G. Ball/WHO/EOP@EOP
Barbara A. Barclay/WHO/EOP@EOP
Tiffany L. Barfield/WHO/EOP@EOP
Ruben S. Barrales/WHO/EOP@EOP
Daniel J. Bartlett/WHO/EOP@EOP
Darren W. Bearson/WHO/EOP@EOP
Dee Dee Benkie/WHO/EOP@EOP
Bradford A. Berenson/WHO/EOP@EOP
Brian R. Besanceney/OPD/EOP@EOP
Stephen E. Biegun/NSC/EOP@EOP
Debra D. Bird/WHO/EOP@EOP
Bradley A. Blakeman/WHO/EOP@EOP
Kirk Blalock/WHO/EOP@EOP
Michael J. Boisvenue/WHO/EOP@EOP
Lindsay J. Bourns/WHO/EOP@EOP
Stuart W. Bowen/WHO/EOP@EOP
Brian Bravo/WHO/EOP@EOP
John M. Bridgeland/OPD/EOP@EOP
Claire E. Buchan/WHO/EOP@EOP
Carl Buchholz/WHO/EOP@EOP
Katja Bullock/WHO/EOP@EOP
Patrick J. Bumatay/WHO/EOP@EOP
Nicholas E. Calio/WHO/EOP@EOP
Elizabeth N. Camp/WHO/EOP@EOP
Anne E. Campbell/WHO/EOP@EOP
Sally Canfield/WHO/EOP@EOP
Kirsten A. Chadwick/WHO/EOP@EOP
Barbara C. Chaffee/WHO/EOP@EOP
Shane P. Chambers/WHO/EOP@EOP
Christine Ciccone/WHO/EOP@EOP
Alicia P. Clark/WHO/EOP@EOP
Brian C. Conklin/WHO/EOP@EOP
James Connaughton/CEQ/EOP@EOP
Colby J. Cooper/NSC/EOP@EOP
Stacia L. Cropper/OA/EOP@Exchange
Karen D. Cruson/WHF/EOP@EOP
Mitchell Daniels/OMB/EOP@EOP
Alicia W. Davis/WHO/EOP@EOP
Ashley E. Davis/WHO/EOP@EOP
Michael Davis/WHO/EOP@EOP
Josh Deckard/WHO/EOP@EOP
Nicolle Devenish/WHO/EOP@EOP
Reed Dickens/WHO/EOP@EOP
Eric A. Draper/WHO/EOP@EOP
Ashley D. Drummond/WHO/EOP@EOP

Trent D. Duffy/OMB/EOP@EOP
Paul B. Dyck/WHO/EOP@EOP
Ashley J. Dyer/WHO/EOP@EOP
Gary R. Edson/NSC/EOP@EOP
Ruth E. Elliott/NSC/EOP@EOP
Tucker A. Eskew/WHO/EOP@EOP
Ashley Estes/WHO/EOP@EOP
John D. Estes/WHO/EOP@EOP
Sandra K. Evans/WHO/EOP@EOP
Richard Falkenrath/WHO/EOP@EOP
Daniel D. Faoro/OA/EOP@EOP
Jennifer M. Farley/WHO/EOP@EOP
Mary Elizabeth Farr/WHO/EOP@EOP
Catherine S. Fenton/WHO/EOP@EOP
Jeanie L. Figg/WHO/EOP@EOP
Kara G. Figg/WHO/EOP@EOP
Timothy E. Flanigan/WHO/EOP@EOP
Julian M. Flannery/WHO/EOP@EOP
Lawrence A. Fleischer/WHO/EOP@EOP
Jennifer Foley/WHO/EOP@EOP
Laura F. Fullerton/WHO/EOP@EOP
Christopher Furlow/WHO/EOP@EOP
Linda M. Gambatesa/WHO/EOP@EOP
Reed H. Galen/WHO/EOP@EOP
Sarah M. Garrison/WHO/EOP@EOP
Stephen M. Garrison/WHO/EOP@EOP
Lavin Gartland/ONDCP/EOP@EOP
Dorothy C. Garvin/WHO/EOP@EOP
Joseph H. Gerdes/WHO/EOP@EOP
Eleanor L. Gillmor/OPD/EOP@EOP
Signe L. Girgus/OA/EOP@EOP
Dylan C. Glenn/OPD/EOP@EOP
Tim Goeglein/WHO/EOP@EOP
Barbara Jo Goergen/WHO/EOP@EOP
Adam B. Goldman/WHO/EOP@EOP
Blake Gottesman/WHO/EOP@EOP
Britt Grant/OPD/EOP@EOP
Adrian G. Gray/WHO/EOP@EOP
Ann Gray/WHO/EOP@EOP
Emily S. Gray/WHO/EOP@EOP
Wendy E. Gray/NSC/EOP@EOP
Brent D. Greenfield/WHO/EOP@EOP
Darren D. Grubb/WHO/EOP@EOP
Abel Guerra/WHO/EOP@EOP
Henry C. Hager/WHO/EOP@EOP
Mary Ann Hanusa/WHO/EOP@EOP
Alison M. Harden/WHO/EOP@EOP
Catherine M. Hargraves/WHO/EOP@EOP
Albert Hawkins/WHO/EOP@EOP
Kathryn J. Hayes/WHO/EOP@EOP
Erin E. Healy/WHO/EOP@EOP
Anne Heiligenstein/WHO/EOP@EOP
Chris Henick/WHO/EOP@EOP
Keith Hennessey/OPD/EOP@EOP
Israel Hernandez/WHO/EOP@EOP
Douglas L. Hoelscher/WHO/EOP@EOP
Elizabeth Hogan/WHO/EOP@EOP
Stuart Holliday/WHO/EOP@EOP
Mark Holman/WHO/EOP@EOP
Glenn Hubbard/CEA/EOP@EOP
A. Merrill Hughes/OVP/EOP@EOP
Edward Ingle/WHO/EOP@EOP
Hector F. Irastorza/WHO/EOP@EOP
Barry S. Jackson/WHO/EOP@EOP
Marilyn R. Jacanin/WHO/EOP@EOP
Reuben Jeffery/OPD/EOP@EOP
Gregory J. Jenkins/WHO/EOP@EOP
Gordon D. Johndroe/WHO/EOP@EOP

Collister W. Johnson/WHO/EOP@EOP
Alison Jones/WHO/EOP@EOP
M. Kay Joshi/NSC/EOP@EOP
Joel D. Kaplan/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Daniel J. Keniry/WHO/EOP@EOP
Matthew Kirk/WHO/EOP@EOP
Ellis Kitchen/OA/EOP@EOP
Elizabeth W. Kleppe/OVP/EOP@EOP
Karen Y. Knutson/OVP/EOP@EOP
Matthew Koch/WHO/EOP@EOP
Lindsey C. Kozberg/WHO/EOP@EOP
David Kuo/WHO/EOP@EOP
Ross M. Kyle/WHO/EOP@EOP
Laura S. Lawlor/WHO/EOP@EOP
Jay P. Lefkowitz/OPD/EOP@EOP
Dirksen Lehman/WHO/EOP@EOP
Sarah M. Lenti/NSC/EOP@EOP
Adam L. Levine/WHO/EOP@EOP
Laura E. Lineberry/NSC/EOP@EOP
Stephen M. Lineberry/CEA/EOP@EOP
Kenneth A. Lisaius/WHO/EOP@EOP
Ginger G. Loper/WHO/EOP@EOP
Jose Mallea/WHO/EOP@EOP
Jeanie S. Mamo/WHO/EOP@EOP
Heidi K. Marquez/WHO/EOP@EOP
Robert Marsh/WHO/EOP@EOP
Mary J. Matalin/OVP/EOP@EOP
Jennifer H. Mayfield/OVP/EOP@EOP
Daniel M. McCarthy/WHO/EOP@EOP
Mark McClellan/CEA/EOP@EOP
Scott McClellan/WHO/EOP@EOP
John P. McConnell/OVP/EOP@EOP
Brian V. McCormack/OVP/EOP@EOP
Edward McNally/WHO/EOP@EOP
Vickie A. McQuade/WHO/EOP@EOP
Ken Mehlman/WHO/EOP@EOP
Sonya E. Medina/WHO/EOP@EOP
A. Morgan Middlemas/WHO/EOP@EOP
Harriet Miers/WHO/EOP@EOP
Michael H. Miller/WHO/EOP@EOP
Jennifer Millerwise/OVP/EOP@EOP
Cathy L. Millison/NSC/EOP@EOP
Brian D. Montgomery/WHO/EOP@EOP
Charlotte L. Montiel/WHO/EOP@EOP
Leslie A. Mooney/OPD/EOP@EOP
Michael J. Napolitano/WHO/EOP@EOP
Susan K. Neely/WHO/EOP@EOP
Wendy L. Nipper/WHO/EOP@EOP
Claire M. O'Donnell/OVP/EOP@EOP
Joseph F. O'Neill/OPD/EOP@EOP
Ziad S. Ojakli/WHO/EOP@EOP
Cheryl A. Oldham/WHO/EOP@EOP
Christopher J. Orr/WHO/EOP@EOP
Eric H. Otto/OPD/EOP@EOP
Kasey S. Pipes/WHO/EOP@EOP
Dina Powell/WHO/EOP@EOP
Clare Pritchett/WHO/EOP@EOP
Susan B. Ralston/WHO/EOP@EOP
Craig Ray/WHO/EOP@EOP
Tim Reynolds/WHO/EOP@EOP
Allison L. Riepenhoff/WHO/EOP@EOP
Krista L. Ritacco/WHO/EOP@EOP
Josephine B. Robinson/WHO/EOP@EOP
Edwina C. Rogers/OPD/EOP@EOP
Stephen S. Ruhlen/OVP/EOP@EOP
Catharine A. Ryun/WHO/EOP@EOP
Diana L. Schacht/OPD/EOP@EOP

Matthew A. Schlapp/WHO/EOP@EOP
Scott Sechser/WHO/EOP@EOP
Scott N. Sforza/WHO/EOP@EOP
Matthew E. Smith/WHO/EOP@EOP
Ashley Snee/WHO/EOP@EOP
Deborah A. Spagnoli/WHO/EOP@EOP
Scott Stanzel/WHO/EOP@EOP
Gretchen P. Steen/WHO/EOP@EOP
Timothy C. Stout/WHO/EOP@EOP
Angela B. Styles/OMB/EOP@EOP
Meredith A. Terpeluk/WHO/EOP@EOP
Eric W. Terrell/WHO/EOP@EOP
Julieanne H. Thomas/WHO/EOP@EOP
Jim Towey/WHO/EOP@EOP
Anne Trenolone/WHO/EOP@EOP
Richard J. Tubb/WHO/EOP@EOP
Ali H. Tulbah/WHO/EOP@EOP
Erin A. Vargo/WHO/EOP@EOP
Lauren J. Vestewig/OPD/EOP@EOP
Mercedes M. Viana/WHO/EOP@EOP
Jared B. Weinstein/WHO/EOP@EOP
L. Camille Welborn/WHO/EOP@EOP
Lezlee J. Westine/WHO/EOP@EOP
Heather Wingate/WHO/EOP@EOP
Tracy Young/WHO/EOP@EOP
Neil H. Zimmerman/WHO/EOP@EOP
Katherine L. Disston/WHO/EOP@EOP
Lindsay J. Bourns/WHO/EOP@EOP
Carrie B. Loy/WHO/EOP@EOP
William T. Griffin/WHO/EOP@EOP
Heather W. Musser/WHO/EOP@EOP
Jill Davie/WHO/EOP@EOP
Jack Howard/WHO/EOP@EOP
Michael J. Conway/WHO/EOP@EOP
Christal R. West/WHO/EOP@EOP
Roland N. Litterst/WHO/EOP@EOP
Adam B. Ingols/WHO/EOP@EOP
Carolyn E. Cleveland/WHO/EOP@EOP
Katherine M. Walters/WHO/EOP@EOP
Sara M. Taylor/WHO/EOP@EOP
David M. Thomas/WHO/EOP@EOP
Leonard B. Rodriguez/WHO/EOP@EOP
Angela R. Sailor/WHO/EOP@EOP
Ronald I. Christie/OPD/EOP@EOP
Melanie A. Jackson/WHO/EOP@EOP
Debra Heiden/OVP/EOP@EOP
Jennifer D. Field/OVP/EOP@EOP
Catherine J. Martin/OVP/EOP@EOP
Alice H. Williams/CEA/EOP@EOP
Lisa D. Branch/CEA/EOP@EOP
Roberta L. Conde/CEQ/EOP@EOP
Tracy L. Carson/OPD/EOP@EOP
Kenneth A. Thomas/OPD/EOP@EOP
Patricia F. Ware/OPD/EOP@EOP
Shana L. Dale/OSTP/EOP@EOP
Alberto R. Gonzales/WHO/EOP@EOP
Bradford A. Berenson/WHO/EOP@EOP
Noel J. Francisco/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
Kyle Sampson/WHO/EOP@EOP
Helgard C. Walker/WHO/EOP@EOP
Kelley Gannon/WHO/EOP@EOP
Todd W. Beyer/WHO/EOP@EOP
Stephanie E. Linder/WHO/EOP@EOP
Kristopher N. Purcell/WHO/EOP@EOP
Michael J. Gerson/WHO/EOP@EOP
Peter H. Wehner/WHO/EOP@EOP
John D. Gibson/NSC/EOP@EOP

Matthew R. Rees/NSC/EOP@EOP
Jane M. Cook/WHO/EOP@EOP
Marie Vachon/WHO/EOP@EOP
Charles S. Abbot/OVP/EOP@EOP
Wendy J. Grubbs/WHO/EOP@EOP
Julie L. Nichols/WHO/EOP@EOP
Timothy C. Stout/WHO/EOP@EOP
Bruce M. Lawlor/WHO/EOP@EOP
Paul B. Kurtz/NSC/EOP@EOP
Paul L. Morse/WHO/EOP@EOP
Michael A. Sanders/WHO/EOP@EOP
Michael Davis/WHO/EOP@EOP
Katharina M. Hager/WHO/EOP@EOP
Jackie Arends/WHO/EOP@EOP
Elizabeth Hogan/WHO/EOP@EOP
Jennifer A. Minton/WHO/EOP@EOP
Desiree T. Sayle/WHO/EOP@EOP
Terry W. Good/WHO/EOP@EOP
Philip C. Droege/WHO/EOP@EOP
Lewis Libby/OVP/EOP@EOP
Charles D. McGrath Jr/OVP/EOP@EOP
Candida P. Wolff/OVP/EOP@EOP
Lindley Kratovil/OVP/EOP@EOP
Cesar Conda/OVP/EOP@EOP
Marie K. Fishpaw/OVP/EOP@EOP
Mary K. Lang/OVP/EOP@EOP
Diana E. Furchtgott-Roth/CEA/EOP@EOP
Randall S. Kroszner/CEA/EOP@EOP
Douglas J. Holtz-Eakin/CEA/EOP@EOP
Phil Cooney/CEQ/EOP@EOP
Samuel A. Thernstrom/CEQ/EOP@EOP
Elizabeth A. Stolpe/CEQ/EOP@EOP
Virginia Stephens/CEQ/EOP@EOP
Matthew C. Waxman/NSC/EOP@EOP
Jennie M. Koch/NSC/EOP@EOP
Cheryl E. Barnett/NSC/EOP@EOP
Mary A. Haines/NSC/EOP@EOP
Alexian T. Wines/NSC/EOP@EOP
Jendayi E. Frazer/NSC/EOP@EOP
Bobby J. Pittman/NSC/EOP@EOP
Cindy L. Courville/NSC/EOP@EOP
Jane C. Heishman/NSC/EOP@EOP
Lisa Gordon-Hagerty/NSC/EOP@EOP
Franklin C. Miller/NSC/EOP@EOP
Elliott Abrams/NSC/EOP@EOP
Mary C. Andrews/WHO/EOP@EOP
John A. Cloud/NSC/EOP@EOP
Adam R. Isles/NSC/EOP@EOP
Gregory A. Manuel/NSC/EOP@EOP
John B. Bellinger/NSC/EOP@EOP
Sean I. McCormack/NSC/EOP@EOP
Matthew R. Rees/NSC/EOP@EOP
Karen E. Keller/OMB/EOP@EOP
Lois E. Altoft/OMB/EOP@EOP
Nancy Dorn/OMB/EOP@EOP
Augustine T. Smythe/OMB/EOP@EOP
Rebecca E. Davis/OMB/EOP@EOP
Philip J. Perry/OMB/EOP@EOP
Stephen S. McMillin/OMB/EOP@EOP
Karen S. Dooley/OMB/EOP@EOP
James C. Capretta/OMB/EOP@EOP
Eric C. Pelletier/OMB/EOP@EOP
Danielle M. Simonetta/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Robin Cleveland/OMB/EOP@EOP
Marcus Peacock/OMB/EOP@EOP
Richard M. Russell/OSTP/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Charnes, Adam <Adam.Charnes@usdoj.gov>
Sent: 1/6/2003 9:17:39 AM
Subject: : RE: Re-nomination information

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 6-JAN-2003 14:17:39.00
SUBJECT:: RE: Re-nomination information
TO:"Charnes, Adam" <Adam.Charnes@usdoj.gov> ("Charnes, Adam" <Adam.Charnes@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

yes, i think so, for talking points for Ari tomorrow.

"Charnes, Adam" <Adam.Charnes@usdoj.gov>
01/06/2003 01:56:36 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: "Joy, Sheila" <Sheila.Joy@usdoj.gov>
Subject: RE: Re-nomination information

I just realized that Sheila is out sick today. Do you need this today?

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Monday, January 06, 2003 1:29 PM
To: Brett_M._Kavanaugh@who.eop.gov
Cc: Charnes, Adam; Joy, Sheila
Subject: RE: Re-nomination information

any answer to this?

Brett M. Kavanaugh
01/06/2003 09:29:01 AM

Record Type: Record

To: sheila.joy@usdoj.gov
cc: "charnes, adam" <adam.charnes@usdoj.gov>
bcc: Records Management@EOP
Subject: RE: Re-nomination information (Document link: Brett M. Kavanaugh)

Do you all know how many district court nominations President Clinton re-submitted during his Administration? The Clinton circuit re-nomination list

is below.

Re-nominations in new Congress of court of appeals judges in Clinton Administration

107th Congress (2001)
Bonnie Campbell
James Duffy
Barry Goode
Roger Gregory (confirmed)
Kathleen McCree Lewis
Enrique Moreno
Helene White
James Wynn
Alston Johnson

106th Congress (1999-2000)
Barry Goode [re-nominated again in 107th]
Timothy Dyk (confirmed)
Marsha Berzon (confirmed)
Ronald Gould (confirmed)
Richard Paez (confirmed)
Helene White [re-nominated again in 107th]

105th Congress (1997-98)
Margaret McKeown (confirmed)
Eric Clay (confirmed)
Richard Paez [re-nominated again in 106th and then confirmed]
James Beaty
William Fletcher (confirmed)
Merrick Garland (confirmed)
Arthur Gajarsa (confirmed)

104th Congress (1995-96)
James Dennis (confirmed)
Karen Moore (confirmed)
Sandra Lynch (confirmed)

From: Mike Allen <allenm@washpost.com>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/6/2003 6:08:39 PM
Subject: : latimes frum

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Mike Allen <allenm@washpost.com> (Mike Allen <allenm@washpost.com> [UNKNOWN])
CREATION DATE/TIME: 6-JAN-2003 23:08:39.00
SUBJECT:: latimes frum
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

bc-bush-book - a1850
(ATTN: National editors) (Includes optional trims)
Book by Former Insider Sheds Light on Bush White House (Washn)
By James Gerstenzang
(c) 2003, Los Angeles Times
WASHINGTON ? In the first insider book about the Bush White House, a former speech writer depicts a president who is impatient, quick to anger and sometimes lacking in curiosity, but whose shortcomings are outweighed by his decency and tenacity.
The book, by David Frum, delivers a mixed verdict on the Bush presidency, presenting a look that is at once sharply critical but also unstinting in its praise ? a detailed and complex look at a presidency as it pivoted from an uncertain peacetime policy to lead a nation attacked by terrorists.
In the months before Sept. 11, 2001, Bush was "not on his way to a very successful presidency," writes Frum in "The Right Man," which goes on sale Tuesday. With the exception of chief political aide Karl Rove, Frum views Bush as surrounded by genial lieutenants ? few of whom impressed the author with their intellectual power.
He says Bush himself is often glib ? he would refer to environmentalists as "green-green-lima-beans." Frum also describes Bush as "often uncurious and as a result ill informed" on some matters that Frum does not specify.
But the terrorist attacks, Frum stresses, drew out Bush's greatest strength: His resolve.
"George Bush, the uncertain peacetime president, has been nothing short of superb as a wartime leader," Frum writes.
Confronting a common criticism of the president, Frum also says: "Bush was not a lightweight. He was, rather, a very unfamiliar type of heavyweight. Words often failed him, his memory sometimes betrayed him, but his vision was large and clear. And when he perceived new possibilities, he had the courage to act on them ? a much less common virtue in politics than one might suppose."
Although the account is largely positive, the book is likely to cause an instant ripple because it breaks the Bush White House's code of silence. Almost without exception, the president's aides have refused to air internal disputes or provide unscripted accounts of the president or the workings of his staff.
Asked for comment, Scott McClellan, a deputy White House press secretary, said, "There are a number of books being written that will offer a variety of perspectives" on the administration. He added: "It's not the place of the White House to do book reviews or book promotions."
Frum, a native of Toronto, was credited with drafting the term "axis of evil" to describe Iraq, Iran and North Korea that Bush used in his State of the Union address last January. Frum had submitted his resignation shortly before the speech and was not viewed as having left on bad terms. But he was never part of the president's inner circle.
In contrast to close confidantes who have been at Bush's side since his days as Texas governor, Frum was a conservative writer for the Weekly Standard who was hired as a speech writer several days after the president was inaugurated.

His book provides a more detailed look than previous newspaper or magazine articles of the two aides on whom Bush has relied the most ? Rove and Karen Hughes. The latter left the White House payroll in July to return to Texas with her family, but she still serves as a key adviser to the president.

"Rove was a risk taker and an intellectual. Hughes loathed risk and abhorred ideas. Rove was a reader and a questioner ? a curious man, always eager to learn. Hughes rarely read books and distrusted people who did ? anything she did not already know she saw no point in knowing."

Hughes, he writes, is something of a "mother substitute" for Bush. She alone can criticize him, and when he performs well, he appears to take pride in reporting his success to her.

"She is a very valuable person," Frum says. "She does things for Bush that nobody else would do. Her methods work, time after time, and she has good judgment."

It was Hughes who laid down various rules for speech writers, Frum says: Parents would be referred to as "moms and dads"; "tax cuts" would be called "tax relief," to come across as "a healing balm."

Hughes' office in Texas said she was on her way to Afghanistan, on a State Department mission, and was not available to respond to Frum's comments.

Frum's year helping turn Bush's thoughts into speeches gave him a unique perspective on the president's work habits and leadership.

In the Oval Office, Frum says of his first meeting with the president, "Bush was a sharp exception to the White House code of niceness. He was tart, not sweet."

While even critics would pay tribute to his image of likability, Frum says of the president, "in private, Bush was not the easy, genial man he was in public. Close up, one saw a man keeping a tight grip on himself."

(Begin optional trim)

He also describes Bush as someone whose attention could turn to a single light left burning ? or an entire building of undimmed bulbs. Finishing a practice session before a speech one day, he pointed to a table lamp, and demanded: "Do you think it's going to occur to anybody to turn that lamp off when we leave the room?" He flicked it off himself.

"It vexed him to look out the windows of the White House family quarters before sunrise and see the Executive Office Building bright with lights that had been carelessly left burning overnight," Frum writes.

(End optional trim)

Frum said Monday his goal in writing the book was to present a picture of Bush as he saw him ? without betraying any confidences. "What I wanted to do was present a picture of a man I admire who has a great story to tell," he said.

"The Bush administration is one of the more mysterious administrations America has known. It was my experience that the better I got to know George Bush, the better I liked him, and I thought other people might have that experience," he said.

(Optional add end)

Frum was not impressed with most of Bush's staff.

"One seldom heard an unexpected thought in the Bush White House or met someone who possessed unusual knowledge. Aside from the witty and ingenious Mitch Daniels at the Office of Management and Budget and, of course, Karl Rove, who played the unusual dual role of political guru and leading intellectual, conspicuous intelligence seemed actively unwelcome in the Bush White House," he writes.

As a workplace, the Bush White House is formal ? strictly blue and gray suits for men, few bright colors for women. Language is clean ? even a mild "damn" is frowned on.

Frum, a self-described "not especially observant Jew," found himself working in "the culture of modern Evangelicalism" that prevails.

He added:

"The television show 'The West Wing' might as well have been set

aboard a Klingon starship for all it resembled life inside the Bush White House."

01/06 at 18:42.. 1248 words, 77 notes, 0 italics--TOTAL 132
AP-NY-01-06-03 2154EST

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: G. Timothy Saunders/WHO/EOP@EOP [WHO] <G. Timothy Saunders>
CC: Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>
Sent: 1/7/2003 8:29:00 AM
Subject: : status check

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 7-JAN-2003 13:29:00.00
SUBJECT:: status check
TO:G. Timothy Saunders ( CN=G. Timothy Saunders/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

what is current estimated time when you would submit judicial noms to
Senate?
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David E. Kalbaugh/WHO/EOP@EOP [WHO] <David E. Kalbaugh>;G. Timothy Saunders/WHO /EOP@EOP [WHO] <G. Timothy Saunders>
Sent: 1/7/2003 4:51:42 AM
Subject: : one discrepancy

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 7-JAN-2003 09:51:42.00
SUBJECT:: one discrepancy
TO:David E. Kalbaugh ( CN=David E. Kalbaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:G. Timothy Saunders ( CN=G. Timothy Saunders/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Your list did not include James C. Dever III, nominee to the United States
District Court for the Eastern District of North Carolina (nominated May
22, 2002).
```

From: Goodling, Monica <Monica.Goodling@usdoj.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Dinh, Viet <Viet.Dinh@usdoj.gov>
Sent: 1/7/2003 6:50:25 AM
Subject: : RE:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Goodling, Monica" <Monica.Goodling@usdoj.gov> ("Goodling, Monica" <Monica.Goodling@usdoj.gov> [UNKNOWN])
CREATION DATE/TIME: 7-JAN-2003 11:50:25.00
SUBJECT:: RE:
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:"Dinh, Viet" <Viet.Dinh@usdoj.gov> (Receipt Notification Requested) ("Dinh, Viet" <Viet.Dinh@usdoj.gov> (Receipt Notification Requested) [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Sorry, Brett, Viet did his yesterday. We did it on the record, which was how they did them during the previous administration -- but Viet said nothing new.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov [mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Tuesday, January 07, 2003 11:39 AM
To: Goodling, Monica; Dinh, Viet
Subject:

probably best to do Slotnick interviews on background as "administration officials" rather than attributable by name

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>
Sent: 1/7/2003 8:00:39 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 7-JAN-2003 13:00:39.00
SUBJECT::
TO:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

How about this at beginning of Rachel's e-mail

"The President today re-submitted the 31 Article III judicial nominations
that the Senate failed to act on during the previous Congress."
```

From:	CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To:	David G. Leitch/WHO/EOP@EOP [WHO] <David G. Leitch>
CC:	noel j. francisco/who/eop@eop [WHO] <noel j. francisco>
Sent:	1/7/2003 11:18:19 AM
Subject:	: Re: David, thanks for taking the time yesterday. I spoke with EdMoy today, and I guess we'll see where
Attachments:	P_A0ZRC003_WHO.TXT_1.wpd

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 7-JAN-2003 16:18:19.00
SUBJECT:: Re: David, thanks for taking the time yesterday. I spoke with Ed Moy today, and I guess we'll see where
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:noel j. francisco (CN=noel j. francisco/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

yes, I have been dealing with Peter Keisler at DOJ on this.

David G. Leitch

01/07/2003 04:10:54 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Noel J. Francisco/WHO/EOP@EOP
cc:
Subject: David, thanks for taking the time yesterday. I spoke with Ed Moy today, and I guess we'll see where

Either of you know anything about the litigation Peter's referencing?

---------- Forwarded by David G. Leitch/WHO/EOP on 01/07/2003 04:10 PM ----------

Peter Davidson <PDAVIDSON@ustr.gov>
01/07/2003 03:42:19 PM
Record Type: Record

To: R Federal Record <r@ustr.gov>, David G. Leitch/WHO/EOP@EOP
cc:
Subject: David, thanks for taking the time yesterday. I spoke with Ed Moy today, and I guess we'll see where

David, thanks for taking the time yesterday. I spoke with Ed Moy today, and I guess we'll see where that takes us.

One more thing I wanted to bring to your attention. We recently lost a FOIA case that has serious implications for whether we can protect negotiating documents we share with foreign governments. One solution is to classify all of these documents, but that is a tremendous burden given the range of documents we will have to deal with in the many negotiations we have going on. I have enclosed a brief description of the case, but

please don't distribute this as it is a draft and could be harmful if it gets out. I bring this to your attention because of the implications for safeguarding key presidential documents in the area of trade and foreign affairs. We are working with Justice/Civil to stay the decision, and to move forward on an appeal. But, Justice has not yet been convinced that we should appeal, and I could use your help in this regard. Give me a call (or have one of your attorneys) if you have any questions. Thanks.

- FOIA memo.wpd

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_A0ZRC003_WHO.TXT_1>

SUBJECT: FOIA Ruling on Chile FTA Negotiating Documents

ISSUE

In mid-December, DC federal court judge Paul Friedman ruled against us in a suit filed under the Freedom of Information Act seeking all USTR records documents related to our FTA negotiations with Chile. The suit was filed by the Center for International Environmental Law, Friends of the Earth, and Public Citizen. While he found we could properly withhold certain types of documents, Judge Friedman said we had no basis under the FOIA for withholding unclassified negotiating texts and related documents we had exchanged with Chile.

If sustained, the ruling will require us to classify virtually all documents we send to or receive from other governments (or international organizations) in the course of trade negotiations or risk having them made public under the FOIA.

We have requested a stay from Judge Friedman while we consult with the Department of Justice on whether to pursue an appeal.

Background

In their FOIA request, the plaintiffs sought all: 1) documents exchanged with Chile containing either government's negotiating positions, and 2) internal USTR and interagency documents generated in developing U.S. negotiating positions. The judge found that we had grounds under the FOIA for withholding the second category of documents, since some were classified and others reflected intra- or inter-agency deliberations.

The negotiating documents (proposed texts, minutes of meetings, and summaries of negotiations) were not classified and so we could not argue they could be withheld on that basis. Instead, we said the court should view them as intra- or inter-agency deliberative in character and thus exempt from disclosure – despite the fact that they had been exchanged with Chile.

We argued that the negotiating documents we exchanged with Chile were part of a protracted deliberative exercise by USTR and other USG agencies on the text of a final free trade agreement with Chile. The fact that we exchanged those documents with a foreign government, we argued, did not change their deliberative nature. We cited precedent under which courts have routinely read the FOIA exemption for agency-deliberative documents to apply even they are provided to outside experts for advice in agency decision-making.

The plaintiffs pointed to *Dep't of the Interior v. Klamath Water Users Protective Ass'n*, 532 U.S. 1 (2001) to support their argument that the negotiating documents lost any agency-deliberative character they might have when we exchanged them with Chile. In *Klamath*, the Supreme Court said that when an agency shares information with an outside entity having an interest in a government benefit, such as the distribution of water rights in the Klamath Valley, the government must share the information with all parties interested in the water rights.

We argued that our exchange of documents with Chile was not covered by *Klamath* because our

negotiations with Chile were consultative rather than adversarial in nature. The exchange of negotiating texts, we said, was part of a collaborative effort to craft a final agreement that benefitted both governments. The court disagreed, holding that our negotiations with Chile were at least in partly adversarial and thus any documents we exchanged with Chile could not be characterized as entirely advisory in character. For that reason, the court said, we had no ground for protecting the documents from disclosure under FOIA.

If the ruling is not reversed, we will need to classify all documents we provide to or receive from our trading partners or international organizations if we do not want them to be made public in response to a FOIA request. Our understanding is that the State Department routinely classifies its exchanges with other governments. Over the years, our practice has varied somewhat, but we have normally sought to classify only our most trade-sensitive negotiating proposals. That approach is in line with recent Executive Orders seeking to limit the amount of materials agencies classify. It also reduces the administrative burdens associated with safeguarding and distributing classified materials. However, after we received the FOIA request for the Chile documents, we began classifying all negotiating documents in both the Chile and Singapore FTA negotiations.

From: CN=Kyle Sampson/OU=WHO/O=EOP [WHO]
To: Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>
CC: brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>
Sent: 1/7/2003 12:40:17 PM
Subject: : Re: model form (or format) used by by nominees

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 7-JAN-2003 17:40:17.00
SUBJECT:: Re: model form (or format) used by by nominees
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

The Senate Judiciary Committee requires nominees to (1) "list sources and amount of income received during the calendar year preceding the nomination" or, alternatively, to provide a copy of "the financial disclosure report, required by the Ethic in Government act of 1978" (i.e., the SF-278) and (2) complete a "the financial net worth statement in detail" and "[a]dd schedules as called for." Note: The "Financial Statement: Net Worth" form provided by the Senate Judiciary Committee says nothing of a $1,000 disclosure floor. I have a hard copy of that form and am happy to fax it if it is helpful. What's your fax number?

I am not aware of any other standard form used by the White House -- other than the 278s or the SJC's net worth form.

From: Edward McNally on 01/07/2003 05:30:09 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: Kyle Sampson/WHO/EOP@EOP
Subject: model form (or format) used by by nominees

Brett or Kyle --

Senate Gov't Affairs Comm. staff say that WHCO has used a standard form (or maybe they mean a standard format) for the net worth statement they require for nominees like Gov. Ridge. What they ask for is "a personal financial statement which identifies and states the value of all assets of $1,000 or more".

Do we have/use a form or format for such a personal financial statement? (Obviously we can fashion a basic, ala carte net worth statement, but they seem to be insisting that WHCO uses a standardized format.)

Pls let me know if you have any such samples or models. Thanks -- E.

E. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee,s files and will be available for public inspection.)

1. Please provide a personal financial statement which identifies and states the value of all assets of $1,000 or more and liabilities of $10,000 or more. If the aggregate of your consumer debts exceeds $10,000, please include the total as a liability.

From:	Camp, Elizabeth N.
To:	<Bennett, Melissa S.>;<Ralston, Susan B.>;<Jones, Alison>;<Conway, Michael J.>;<Bartolomucci, H. Christopher>;<Berenson, Bradford A.>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Walker, Helgard C.>;<Riepenhoff, Allison L.>;andrew.beach@usdoj.gov <andrew.beach@usdoj.gov>;amy.bass@usdoj.gov <amy.bass@usdoj.gov>;adam.Ciongoli@usdoj.gov <adam.Ciongoli@usdoj.gov>;evelyn.v.long@usdoj.gov <evelyn.v.long@usdoj.gov>;Viet.Dinh@usdoj.gov <Viet.Dinh@usdoj.gov>;Viet.Dinh@usdoj.gov <Wingate, Heather>;Jason.J.Sutton@usdoj.gov <Jason.J.Sutton@usdoj.gov>;Jason.J.Sutton@usdoj.gov <Sampson, Kyle>;Jason.J.Sutton@usdoj.gov <Hoelscher, Douglas L.>;Jason.J.Sutton@usdoj.gov <McMaster, David>;Jason.J.Sutton@usdoj.gov <Gray, Ann>;don.willett@usdoj.gov <don.willett@usdoj.gov>;Albert.Brewster@usdoj.gov <Albert.Brewster@usdoj.gov>;Tracy.T.Washington@usdoj.gov <Tracy.T.Washington@usdoj.gov>;Sarah K. <Lockart@who.eop.gov>;Sarah K. <Newstead, Jennifer G.>;Adam.Charnes@usdoj.gov <Adam.Charnes@usdoj.gov>;Wendy.J.Keefer@usdoj.gov <Wendy.J.Keefer@usdoj.gov>;Wendy.J.Keefer@usdoj.gov <Powell, Benjamin A.>;Wendy.J.Keefer@usdoj.gov <Kyle, Ross M.>;Wendy.J.Keefer@usdoj.gov <Leitch, David G.>;Wendy.J.Keefer@usdoj.gov <Jackson, Barry S.>;Wendy.J.Keefer@usdoj.gov <Ellison, Kimberly>
Sent:	1/7/2003 7:48:58 PM
Subject:	JSC is CANCELLED for Wed., Jan. 8th

If you need to discuss the NJ seat please call Jennifer Newstead at 456-1984.

Thanks and sorry for the late notice.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@EOP [WHO] <David G. Leitch>
Sent: 1/8/2003 3:42:27 AM
Subject: : Re: David, thanks for taking the time yesterday. I spoke with EdMoy today, and I guess we'll see where
Attachments: P_82KSC003_WHO.TXT_1.wpd

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 8-JAN-2003 08:42:27.00
SUBJECT:: Re: David, thanks for taking the time yesterday. I spoke with Ed Moy today, and I guess we'll see where
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

will do.

David G. Leitch

01/07/2003 04:44:29 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: noel j. francisco/who/eop@eop
bcc:
Subject: Re: David, thanks for taking the time yesterday. I spoke with Ed Moy today, and I guess we'll see where

Would you mind calling Peter just to hear him out on it?

Brett M. Kavanaugh
01/07/2003 04:14:17 PM
Record Type: Record

To: David G. Leitch/WHO/EOP@EOP
cc: noel j. francisco/who/eop@eop
bcc:
Subject: Re: David, thanks for taking the time yesterday. I spoke with Ed Moy today, and I guess we'll see where

yes, I have been dealing with Peter Keisler at DOJ on this.

David G. Leitch

01/07/2003 04:10:54 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Noel J. Francisco/WHO/EOP@EOP
cc:
Subject: David, thanks for taking the time yesterday. I spoke with Ed Moy today, and I guess we'll see where

Either of you know anything about the litigation Peter's referencing?

---------- Forwarded by David G. Leitch/WHO/EOP on 01/07/2003 04:10 PM ----------

Peter Davidson <PDAVIDSON@ustr.gov>
01/07/2003 03:42:19 PM
Record Type: Record

To: R Federal Record <r@ustr.gov>, David G. Leitch/WHO/EOP@EOP
cc:
Subject: David, thanks for taking the time yesterday. I spoke with Ed Moy today, and I guess we'll see where

David, thanks for taking the time yesterday. I spoke with Ed Moy today, and I guess we'll see where that takes us.

One more thing I wanted to bring to your attention. We recently lost a FOIA case that has serious implications for whether we can protect negotiating documents we share with foreign governments. One solution is to classify all of these documents, but that is a tremendous burden given the range of documents we will have to deal with in the many negotiations we have going on. I have enclosed a brief description of the case, but please don't distribute this as it is a draft and could be harmful if it gets out. I bring this to your attention because of the implications for safeguarding key presidential documents in the area of trade and foreign affairs. We are working with Justice/Civil to stay the decision, and to move forward on an appeal. But, Justice has not yet been convinced that we should appeal, and I could use your help in this regard. Give me a call (or have one of your attorneys) if you have any questions. Thanks.

- FOIA memo.wpd

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_82KSC003_WHO.TXT_1>

SUBJECT: FOIA Ruling on Chile FTA Negotiating Documents

ISSUE

In mid-December, DC federal court judge Paul Friedman ruled against us in a suit filed under the Freedom of Information Act seeking all USTR records documents related to our FTA negotiations with Chile. The suit was filed by the Center for International Environmental Law, Friends of the Earth, and Public Citizen. While he found we could properly withhold certain types of documents, Judge Friedman said we had no basis under the FOIA for withholding unclassified negotiating texts and related documents we had exchanged with Chile.

If sustained, the ruling will require us to classify virtually all documents we send to or receive from other governments (or international organizations) in the course of trade negotiations or risk having them made public under the FOIA.

We have requested a stay from Judge Friedman while we consult with the Department of Justice on whether to pursue an appeal.

Background

In their FOIA request, the plaintiffs sought all: 1) documents exchanged with Chile containing either government's negotiating positions, and 2) internal USTR and interagency documents generated in developing U.S. negotiating positions. The judge found that we had grounds under the FOIA for withholding the second category of documents, since some were classified and others reflected intra- or inter-agency deliberations.

The negotiating documents (proposed texts, minutes of meetings, and summaries of negotiations) were not classified and so we could not argue they could be withheld on that basis. Instead, we said the court should view them as intra- or inter-agency deliberative in character and thus exempt from disclosure – despite the fact that they had been exchanged with Chile.

We argued that the negotiating documents we exchanged with Chile were part of a protracted deliberative exercise by USTR and other USG agencies on the text of a final free trade agreement with Chile. The fact that we exchanged those documents with a foreign government, we argued, did not change their deliberative nature. We cited precedent under which courts have routinely read the FOIA exemption for agency-deliberative documents to apply even they are provided to outside experts for advice in agency decision-making.

The plaintiffs pointed to *Dep't of the Interior v. Klamath Water Users Protective Ass'n*, 532 U.S. 1 (2001) to support their argument that the negotiating documents lost any agency-deliberative character they might have when we exchanged them with Chile. In *Klamath*, the Supreme Court said that when an agency shares information with an outside entity having an interest in a government benefit, such as the distribution of water rights in the Klamath Valley, the government must share the information with all parties interested in the water rights.

We argued that our exchange of documents with Chile was not covered by *Klamath* because our

negotiations with Chile were consultative rather than adversarial in nature. The exchange of negotiating texts, we said, was part of a collaborative effort to craft a final agreement that benefitted both governments. The court disagreed, holding that our negotiations with Chile were at least in partly adversarial and thus any documents we exchanged with Chile could not be characterized as entirely advisory in character. For that reason, the court said, we had no ground for protecting the documents from disclosure under FOIA.

If the ruling is not reversed, we will need to classify all documents we provide to or receive from our trading partners or international organizations if we do not want them to be made public in response to a FOIA request. Our understanding is that the State Department routinely classifies its exchanges with other governments. Over the years, our practice has varied somewhat, but we have normally sought to classify only our most trade-sensitive negotiating proposals. That approach is in line with recent Executive Orders seeking to limit the amount of materials agencies classify. It also reduces the administrative burdens associated with safeguarding and distributing classified materials. However, after we received the FOIA request for the Chile documents, we began classifying all negotiating documents in both the Chile and Singapore FTA negotiations.

From: CN=Ashley Snee/OU=WHO/O=EOP [WHO]
To: Charlotte L. Montiel/WHO/EOP@EOP [WHO] <Charlotte L. Montiel>;Scott McClellan/WHO /EOP@EOP [WHO] <Scott McClellan>;David G. Leitch/WHO/EOP@EOP [WHO] <David G. Leitch>;Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>;Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>;Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/8/2003 6:15:22 AM
Subject: : Re-nom Coverage
Attachments: P_3GVSC003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 8-JAN-2003 11:15:22.00
SUBJECT:: Re-nom Coverage
TO:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Scott McClellan ( CN=Scott McClellan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Here is a collection of some of the stories that ran on the re-noms. The
wire stories ran in many local papers around the country. Overall, I
think the coverage was ok.

Ari only got one question on this in the gaggle, but we expect more in the
briefing. He is geared up, and will probably again make mention of the
President's Oct. 30th plan and call on the Senate to join the President in
committing to a timely process.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_3GVSC003_WHO.TXT_1>
```

Bush Renominates Pickering, Other Judges

By JESSE J. HOLLAND
Associated Press Writer

WASHINGTON (AP) -- President Bush has renominated appellate court nominees Charles Pickering of Mississippi and Priscilla Owen of Texas, who were rejected by the Democrat-controlled Senate last year but will likely have a better shot of confirmation under the newly Republican-controlled chamber.

Pickering and Owen's nominations were returned to the Senate on Tuesday along with 28 other judicial nominations who were not considered by the full Senate last year. Pickering and Owen, however, were the only two who were specifically rejected last year by the Democrat-controlled Senate Judiciary Committee.

"All judicial nominees deserve consideration by the full Senate," White House spokeswoman Ashley Snee said.

There was some question about whether Pickering, who was accused of being racially insensitive by Democrats, would be renominated after one of his patrons, Sen. Trent Lott, stepped down as Senate GOP leader after making racially insensitive remarks.

And Senate Democrats immediately pledged to do whatever they could to keep Pickering from getting a seat on the 5th U.S. Circuit Court of Appeals in New Orleans, including a possible filibuster of the nomination.

"Unfortunately, they have not learned from the Trent Lott episodes
and I am going to do everything I can to stop the Pickering nomination from going forward," said Sen. Charles Schumer, D-N.Y.

Pickering, a U.S. District judge in Hattiesburg, Miss., and a Lott friend, was blocked by Senate Democrats last year after civil rights groups accused him of racial insensitivity.

"Those accusations ring hollow," Snee said. "These nominees have earned bipartisan support and respect from those who know them."

Owen also was voted down by the Democrat-controlled Senate Judiciary Committee last year while seeking a seat on the 5th U.S. Circuit Court of Appeals in New Orleans. Democrats complained that Owen has been an anti-abortion and pro-business judicial activist whose opinions and rulings were overly influenced by her personal beliefs.

After almost sweeping the November elections, Republicans - behind new Senate Majority Leader Bill Frist of Tennessee - now control the Senate by a 51-48-1 margin, with independent Sen. Jim Jeffords of Vermont voting with the Democrats.

Senate Judiciary Chairman Orrin Hatch, R-Utah, "is pleased that the president is acting as soon as possible on nominations. We have a lot of leftover work to do," spokeswoman Margarita Tapia said.

Pickering's opponents have said that in view of Lott's comments, the White House should not renominate the Mississippi judge.

Lott triggered an uproar last month when he said that Mississippians were proud to have voted for retired South Carolina Sen. Strom Thurman in 1948 on the pro-segregationist Dixiecrat ticket. "And if the rest of the country had followed our lead, we wouldn't have had all these problems over all these years either," Lott said.

Lott said last month that he expected Pickering's opponents to invoke his name in opposition to the Mississippi judge. "Obviously people will try to use it against him," Lott said. "They used a lot of things against him last time that were very unfair."

Senate Democrats say Pickering's renomination shows the GOP did not learn anything from Lott's controversy.

"Given the encouraging rhetoric of this administration on civil rights over the last few weeks, it's astonishing that when it's time to match that rhetoric with real action they nominate Charles Pickering to serve on the second highest court in the nation," said Sen. Ted Kennedy of Massachusetts.

Kennedy said Democrats "will use every tool in our arsenal to ensure that his nomination is rejected again this year."

Pickering was defeated 10-9 in committee last March after civil rights groups said he supported segregation as a young man in Mississippi. Pickering's opponents also pointed to his conservative voting record as a Mississippi state lawmaker and decisions as a judge.

Pickering's supporters, including some Mississippi Democrats and black leaders, said Pickering supported civil rights efforts as far back as the middle 1960s.

The Senate last year confirmed 100 of Bush's 131 appellate and district court nominees under Democratic control. Bush plans on making new judicial nominations before the end of April, Snee said.

Copyright 2003 Knight Ridder/Tribune Business News
Copyright 2003 Knight Ridder Washington Bureau
Knight Ridder Washington Bureau
Bush Reopens Partisan Fight with 31 Judicial Nominations
BYLINE: By Ron Hutcheson

BODY:
WASHINGTON -- Reopening a partisan fight on the first day of the new Congress, President Bush on Tuesday resubmitted 31 judicial nominations that had stalled in the Democratic-controlled Senate last year.

The move signaled Bush's determination to make the most of the new Republican Senate majority and revived a racially charged debate over Judge Charles Pickering of Mississippi, a

candidate for the 5th U.S. Circuit Court of Appeals. Liberal critics had charged that Pickering is suspect in his attitudes on race. Sen. Edward Kennedy, D-Mass., said Democrats would fight Pickering's nomination "with every tool in our arsenal."

Other controversial nominees on the president's list of candidates included Priscilla Owen of Texas for the 5th Circuit Court of Appeals and Miguel Estrada of Virginia for the Court of Appeals for the District of Columbia. Liberals say both are extreme ideological conservatives. The White House denies it.

Bush resubmitted the nominations hours after Republicans took control of the Senate, where they hold a narrow 51-48-1 majority thanks to the November elections. Twenty-nine of the 31 judicial nominees did not come to a vote in the last Congress, when Democrats were in charge. Democrats on the Senate Judiciary Committee blocked the other two -- Pickering and Owen -- in straight party-line votes.

Democrats pounced on the resubmitted Pickering nomination as a chance to revive the racial controversy that led to Mississippi Sen. Trent Lott's ouster as Republican leader last month. Sen. Bill Frist of Tennessee replaced Lott as majority leader after a furor over Lott's seeming embrace of past segregation.

Critics contend that Pickering, a close friend of Lott's who serves as a federal district judge, was friendly with segregationist groups as a Mississippi state legislator in the 1970s. He also has been accused of being overly lenient with a defendant in a 1994 case involving a group of whites who burned a cross outside the home of a mixed-race couple.

In a statement, Kennedy called Pickering's resubmitted nomination astonishing in light of the Lott controversy.

"Judge Pickering's record reflects a hostility to civil rights and a vision of the Republican Party that reminds Americans of a painful time in our nation's history," Kennedy said.

White House officials accused Democrats of distorting Pickering's record. The Senate had unanimously confirmed his nomination to the district court, and he won endorsements from prominent African-Americans in his home state.

"Such accusations ring hollow to anyone who independently reviews the facts and records," White House spokeswoman Ashley Snee said. "The nominees have earned bipartisan support and praise from those who know them best."

Democrats also contend that Owen and Estrada are conservative extremists who would use their authority to promote their views. Owen serves on the Texas Supreme Court. Estrada, a lawyer in private practice, once worked at the Justice Department.

Fort Worth Star-Telegram Washington correspondent Dave Montgomery contributed to this article.

President Renominating Federal Judge Lott Backed (NYTimes)

By NEIL A. LEWIS

The New York Times, January 08, 2003

WASHINGTON, Jan. 7 - President Bush said tonight that he was renominating Judge Charles W. Pickering Sr. of Mississippi to a federal appeals court, a step that will almost certainly set off a Senate debate over racial issues reminiscent of those that toppled Senator Trent Lott as majority leader.

Mr. Bush also named 30 other candidates for federal judgeships, many of them nominated, but like Judge Pickering not confirmed, in the last Congressional session, when Democrats controlled the Senate.

Judge Pickering, of the Federal District Court in Hattiesburg, Miss., seeks a seat on the federal appeals court in New Orleans. Mr. Bush initially nominated him largely at the behest of Mr. Lott, a longtime political supporter from Judge Pickering's home state. But the Senate Judiciary Committee rejected the nomination along party lines last March, after heated arguments over his record on civil rights in Mississippi.

Administration officials said at the time that Judge Pickering had been treated unfairly, and they planned to have the president renominate him after the new Senate convened this month under Republican control.

But that plan became uncertain when a firestorm developed over Mr. Lott's praise in December for the 1948 presidential candidacy of Strom Thurmond, who ran on a segregationist platform.

Senior Justice Department officials then recommended against Judge Pickering's renomination, fearing that the administration would otherwise be inviting a painful debate on the issue of race and how Southern Republicans like Mr. Lott and Judge Pickering had treated it.

Officials said today that the White House had wavered on whether to renominate the judge. One important reason Mr. Bush decided to go ahead, they said, was a belief that he had accumulated substantial political capital on race by severely criticizing Mr. Lott's comments on the Thurmond candidacy.

"By taking on a member of his own party over race," one official said, "he gained significant moral standing that can be used to argue that Judge Pickering is a good man whose record should not be distorted."

Last session's debate about Judge Pickering, who turns 66 this spring, raised the question of how accountable a white Southerner should be for positions taken early in a career, during a different era.

His critics have described him as a throwback to the days of segregation, citing among other things an article he wrote as a law student in 1959 that seemed to urge a strengthening of the state's anti-miscegenation laws.

At his committee hearing last February, Judge Pickering said he had never opposed mixed marriages. But detractors have pointed to his extraordinary efforts from the bench, after becoming a federal judge in 1990, to reduce the sentence of a man convicted of burning a cross on the lawn of a mixed-race couple.

The committee debate also touched on Mr. Pickering's contacts, as a state legislator in the 1970's, with the Mississippi Sovereignty Commission, created by the state in 1956 to take the lead in preserving segregation.

Yet his supporters asserted that over the course of decades in Mississippi's turbulent racial atmosphere, Mr. Pickering acted honorably, even testifying against members of the Ku Klux Klan at a murder trial in the 1960's, when it was dangerous to do so. After that, he lost a run for re-election as a local prosecutor.

The Republicans hold 51 of the Senate's 100 seats. So if they stand together, the nomination can be defeated only through a filibuster, which would require 60 votes to break. Tonight Senator Edward M. Kennedy, Democrat of Massachusetts, appeared to threaten one.

"We will use every tool in our arsenal," Mr. Kennedy said, "to ensure that his nomination is rejected again this year."

Mr. Bush said that like Judge Pickering, Justice Priscilla Owen of the Texas Supreme Court was being renominated to the United States Court of Appeals for the Fifth Circuit. The Judiciary Committee rejected Justice Owen's nomination in September after Democrats accused her of injecting her personal views opposing abortion into her state judicial opinions.

The other candidates announced by Mr. Bush tonight included Miguel Estrada and John Roberts, Washington lawyers who have argued many cases before the Supreme Court, both nominated to the United States Court of Appeals for the District of Columbia Circuit, and Justice Deborah Cook of the Ohio Supreme Court and Jeffrey Sutton, an Ohio lawyer, both nominated to the Sixth Circuit court, in Cincinnati.

Bush Sends Senate 31 Judicial Nominations (WTimes)

Stephen Dinan and Amy Fagan

The Washington Times, January 08, 2003

President Bush yesterday sent 31 judicial nominees to the Senate, including renominations of several candidates whom the Democrats blocked last year when they controlled the Judiciary Committee.

Among the names is U.S. District Judge Charles W. Pickering Sr., who Mr. Bush wants to serve on the 5th U.S. Circuit Court of Appeals. His nomination was rejected on a party-line vote in the Judiciary Committee last year.

The list also includes Texas Supreme Court Justice Priscilla Richman Owen for the 5th U.S. Circuit Court of Appeals and Miguel A. Estrada, who the administration wants to serve on the U.S. Circuit Court of Appeals for the District of Columbia.

White House spokeswoman Ashley Snee said the two judges had been nominated previously but never received a full Senate vote.

Submitting the names sets up the first big challenge for the new majority, and Republicans said they were anxious to get to work on the nominees.

Sen. Orrin G. Hatch, Utah Republican, "is pleased that the president is acting as soon as possible on nominations. We have a lot of leftover work to do," said Margarita Tapia, a spokeswoman for Mr. Hatch, the incoming Judiciary Committee chairman.

But the nominations can't move until the two parties resolve how committees will be organized. As the majority party, Republicans will eventually control the gavel, but Democrats are demanding near-parity in committee staff and funding.

Without a new agreement, last year's arrangements remain in place, and that means Sen. Patrick J. Leahy, Vermont Democrat, still holds the Judiciary chairmanship and can block action.

"It depends on when the Democratic minority lets the Republican majority have chairmanships of committees," said Sen. Jon Kyl, Arizona Republican and a member of the Judiciary panel. "As soon as they do, we'll move forward."

Democrats said they will do what they can to block Judge Pickering in particular.

"Judge Pickering's record reflects a hostility to civil rights and a vision of the Republican Party that reminds Americans of a painful time in our nation's history," said Sen. Edward M. Kennedy, Massachusetts Democrat and a senior member of the Judiciary Committee, who promised that Democrats will "use every tool in our arsenal to ensure that his nomination is rejected again this year."

Judge Pickering's chief supporter was Sen. Trent Lott, Mississippi Republican, who was forced to resign as Senate Republican leader last month after he made comments some took as an endorsement of segregation. Democrats are bound to note that in their opposition.

But Rep. Charles W. "Chip" Pickering Jr., Mississippi Republican and the judge's son, yesterday said the renomination showed Mr. Bush's confidence in his father and said Judge Pickering's past had been distorted during last year's hearings.

"My father's record is one of fighting the Klan and supporting integration in his children's schools and working for reconciliation," the congressman said.

He said he sees his father's nomination as a chance for Mr. Bush to continue the theme from his Philadelphia speech criticizing Mr. Lott.

"He can now have the opportunity to challenge leaders of the other party to stop using the issue of race to divide our country for political gain," Mr. Pickering said.

Ms. Snee also disputed Democrats' characterization of Judge Pickering.

"These accusations ring hollow to anyone who reviews the facts and the records," she said, pointing out that Judge Pickering was "unanimously confirmed [as a district judge] by the Senate 12 years ago."

President Renominates Miss. Judge, 29 Others

By Mike Allen and Charles Lane
Washington Post Staff Writers
Wednesday, January 8, 2003; Page A01

Charles W. Pickering Sr. of Mississippi, who was rejected for a federal appellate judgeship last year by Democrats who questioned his commitment to civil rights, was renominated by President Bush yesterday just hours after Republicans took control of the Senate.

Bush asked the Senate to consider 29 other candidates for federal judgeships who had been blocked or defeated when Democrats controlled the Senate. Among them is Priscilla R. Owen, a Texas Supreme Court justice who was voted down in September by Democrats who objected to her anti-abortion views and said she was anti-labor.

Sen. Trent Lott (R-Miss.) is a longtime Pickering friend and was his chief promoter. Democratic officials said they were stunned Bush would reopen the fight so soon after Lott resigned as Senate Republican leader because of outrage over his praise for the segregationist presidential ticket of 1948.

The White House announcement, made at dinnertime on the day Bush unveiled his economic plan, seemed designed to minimize attention. A senior administration official said the timing was worked out with Senate Republican leaders, who wanted to immediately begin reconsidering the nominations -- one of the major advan- tages to a GOP Senate that Bush cited while campaigning this fall.

"We were eager to allow well-qualified judges to get a fair hearing," the official said. "We don't believe many of them got a fair hearing the first time around under the Democrat control."

The official voiced hearty support for Pickering, a federal district judge from Hattiesburg whose nomination to the U.S. Court of Appeals for the 5th Circuit, in New Orleans, was rejected last March. The official said Lott's comment, which Bush condemned, presented "a completely different issue from the gross distortions about Judge Pickering, including the alleged intent of writings from his days in college, when he has the support of many black leaders and testified against the Ku Klux Klan."

The new majority leader, Sen. Bill Frist (R-Tenn.), supports Pickering, an aide said.

The Judiciary Committee chairman, Sen. Orrin G. Hatch (R-Utah) plans to schedule hearings swiftly, an aide said.

Pickering and Owen, also nominated for the 5th Circuit, were defeated in the Judiciary Committee. Like most of Bush's failed nominees, they were never considered on the Senate floor.

Bush's announcement galvanized Democrats on the day they yielded control of the Senate to Republicans after 19 months in the majority. Democrats said they viewed the nominations as a hostile opening move by Bush and portended a rancorous session.

A Democratic Senate strategist said opposition to Pickering and Owen remains "deep and wide," and aides said several senators would filibuster if necessary. Sen. Edward M. Kennedy (D-Mass.) said he found the Pickering nomination astonishing, "given the encouraging rhetoric of this administration on civil rights over the last few weeks."

Sen. Charles E. Schumer (D-N.Y.), referring to racially divisive tactics of past Republican campaigns, said the Pickering decision "shows that Nixon's 'southern strategy' is alive and well in this White House."

Liberal groups began hastily organizing opposition campaigns last night. Kate Michelman, president of the abortion rights group NARAL Pro-Choice America, said Pickering and Owen "were rejected specifically because of their hostility to the civil and constitutional rights of women and African Americans."

Other prospective judges whose candidacies were revived were Miguel A. Estrada and John G. Roberts Jr., nominated to the U.S. Court of Appeals for the D.C. Circuit, which is often called the second-most powerful court in the land after the Supreme Court. They now seem assured of speedy confirmation.

Estrada, a 41-year-old Washington lawyer often considered a possible choice as the first Hispanic on the Supreme Court, was granted a hearing last September, but the committee did not vote on his nomination. Roberts, also a lawyer in Washington who once served as a law clerk to Chief Justice William H. Rehnquist, has not received a hearing.

The confirmation of Estrada and Roberts would tilt the D.C. Circuit to the right. Currently, its membership is split evenly, 4 to 4, between appointees of Democratic and Republican presidents.

Bush's nominees would also change the ideological complexion of the left-leaning U.S. Court of Appeals for the 6th Circuit, in Cincinnati. That court is split 6 to 4 in favor of the Democratic appointees. Of the 6th Circuit nominees, Jeffrey Sutton, drew fire from disability rights groups for his successful advocacy in the Supreme Court on behalf of states seeking immunity from private lawsuits under the Americans With Disabilities Act.

Bush's determination to proceed with his nominees shows the strong influence on this issue of the Republican Party's conservative wing, for whom the future of the judiciary is a paramount issue. "Everyone on the right agreed in 2000 that judicial nominations were the single most

important reason to be for Bush," said Clint Bolick, a former Justice Department official in the Reagan administration.

Besides the 30 nominees for appellate and U.S. District courts, Bush nominated 10 judges for other federal courts, including Fern Flanagan Saddler to be an associate judge of D.C. Superior Court.

Staff writer Amy Goldstein contributed to this report.

From: [UNKNOWN] <Jones, Alison>
To: <Jones>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/E3E25A09-213F23CD-852569DC-73F16D [UNKNOWN] <Alison>
CC: john.duncan@do.treas.gov [UNKNOWN] <john.duncan@do.treas.gov>;david.aufhauser@do.treas.gov [UNKNOWN] <david.aufhauser@do.treas.gov>;robert.nichols@do.treas.gov [UNKNOWN] <robert.nichols@do.treas.gov>;tim.adams@do.treas.gov [UNKNOWN] <tim.adams@do.treas.gov>;april.lehman@do.treas.gov [UNKNOWN] <april.lehman@do.treas.gov>;<Goldman>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/698AA900-27350BE5-852569DD-5F23FE [UNKNOWN] <Adam B.>;<Hennessey>;Keith_Hennessey@opd.eop.gov [OPD] <Keith>;<Powell>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/583FB9CE-AFBAD6FF-852569DD-44BBDA [UNKNOWN] <Dina>;<Snee>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/2A49BED-5C9924C-85256B41-4CE8BA [UNKNOWN] <Ashley>;<Kavanaugh>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6246020-C20FEE19-852569DA-7648DC [UNKNOWN] <Brett M.>;janet.jones@do.treas.gov [UNKNOWN] <janet.jones@do.treas.gov>;<Ojakli>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/1B7998B0-ABAAECA4-852569DB-5EAD8A [UNKNOWN] <Ziad S.>;<Everson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/FF797A9B-218FE559-85256B99-4E9537 [UNKNOWN] <Nanette>;arnie_havens@csx.com [UNKNOWN] <arnie_havens@csx.com>;<Ingle>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/53838B5A-90E78711-852569DC-53F24B [UNKNOWN] <Edward>;linda_mathis@csx.com [UNKNOWN] <linda_mathis@csx.com>;<Wolff>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/D55BBA04-5A282E31-852569DB-607283 [UNKNOWN] <Candida P.>;<Kratovil>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/60244D3E-AABBCE0E-85256B74-5C655A [UNKNOWN] <Lindley>;<Mooney>;Leslie_A._Mooney@opd.eop.gov [OPD] <Leslie A.>
Sent: 1/8/2003 7:26:15 AM
Subject: Re: 6:00pm Snow Conf Call Tonight

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (MS Mail)
CREATOR:Jones, Alison ( [ UNKNOWN ] )
CREATION DATE/TIME: 8-JAN-2003 12:26:15.00
SUBJECT:Re: 6:00pm Snow Conf Call Tonight
TO:Jones, Alison ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=E3E25A09-213F23CD-
852569DC-73F16D [ UNKNOWN ] )
READ:UNKNOWN
CC:john.duncan@do.treas.gov ( john.duncan@do.treas.gov [ UNKNOWN ] )
READ:UNKNOWN
CC:david.aufhauser@do.treas.gov ( david.aufhauser@do.treas.gov [ UNKNOWN ] )
READ:UNKNOWN
CC:robert.nichols@do.treas.gov ( robert.nichols@do.treas.gov [ UNKNOWN ] )
READ:UNKNOWN
CC:tim.adams@do.treas.gov ( tim.adams@do.treas.gov [ UNKNOWN ] )
READ:UNKNOWN
CC:april.lehman@do.treas.gov ( april.lehman@do.treas.gov [ UNKNOWN ] )
READ:UNKNOWN
CC:Goldman, Adam B. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=698AA900-27350BE5-852569DD-5F23FE [ UNKNOWN ] )
READ:UNKNOWN
CC:Hennessey, Keith ( Keith_Hennessey@opd.eop.gov [ OPD ] )
READ:UNKNOWN
CC:Powell, Dina ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=583FB9CE-AFBAD6FF-
852569DD-44BBDA [ UNKNOWN ] )
READ:UNKNOWN
CC:Snee, Ashley ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=2A49BED-5C9924C-
85256B41-4CE8BA [ UNKNOWN ] )
READ:UNKNOWN
CC:Kavanaugh, Brett M. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6246020-
C20FEE19-852569DA-7648DC [ UNKNOWN ] )
READ:UNKNOWN
CC:janet.jones@do.treas.gov ( janet.jones@do.treas.gov [ UNKNOWN ] )
READ:UNKNOWN
```

CC:Ojakli, Ziad S. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=1B7998B0-ABAAECA4-852569DB-5EAD8A [UNKNOWN])
READ:UNKNOWN
CC:Everson, Nanette (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=FF797A9B-218FE559-85256B99-4E9537 [UNKNOWN])
READ:UNKNOWN
CC:arnie_havens@csx.com (arnie_havens@csx.com [UNKNOWN])
READ:UNKNOWN
CC:Ingle, Edward (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=53838B5A-90E78711-852569DC-53F24B [UNKNOWN])
READ:UNKNOWN
CC:linda_mathis@csx.com (linda_mathis@csx.com [UNKNOWN])
READ:UNKNOWN
CC:Wolff, Candida P. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS /CN=D55BBA04-5A282E31-852569DB-607283 [UNKNOWN])
READ:UNKNOWN
CC:Kratovil, Lindley (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=60244D3E-AABBCE0E-85256B74-5C655A [UNKNOWN])
READ:UNKNOWN
CC:Mooney, Leslie A. (Leslie_A._Mooney@opd.eop.gov [OPD])
READ:UNKNOWN
End Original ARMS Header

Number for 6:00pm call:

456-6777
456-6799

Code: 8017

Alison Jones

01/08/2003 12:11:16 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: 6:00pm Snow Conf Call Tonight

There will be a 6:00pm conference call tonight. Also, we would like to do a call Thursday (tomorrow) at 2:00pm. The conference call numbers will be emailed to you shortly.

Thanks!

Message Sent
To:_____

john.duncan@do.treas.gov @ inet

david.aufhauser@do.treas.gov @ inet

robert.nichols@do.treas.gov @ inet

tim.adams@do.treas.gov @ inet

april.lehman@do.treas.gov @ inet

adam b. goldman/who/eop@eop
keith hennessey/opd/eop@eop

dina powell/who/eop@eop
ashley snee/who/eop@eop

brett m. kavanaugh/who/eop@eop

janet.jones@do.treas.gov @ inet

ziad s. ojakli/who/eop@eop

nanette everson/who/eop@eop
arnie_havens@csx.com @ inet

edward ingle/who/eop@eop
linda_mathis@csx.com @ inet

ziad s. ojakli/who/eop@eop
Candida P. Wolff/OVP/EOP@EOP

Lindley Kratovil/OVP/EOP@EOP

Leslie A. Mooney/OPD/EOP@Exchange@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Elizabeth N. Camp/WHO/EOP@EOP [WHO] <Elizabeth N. Camp>
Sent: 1/8/2003 6:59:26 AM
Subject: : draft summary
Attachments: P_5BYSC003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 8-JAN-2003 11:59:26.00
SUBJECT:: draft summary
TO:Elizabeth N. Camp ( CN=Elizabeth N. Camp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_5BYSC003_WHO.TXT_1>
```

Hamdi case

- The U.S. Court of Appeals today concluded -- unanimously -- that the United States has acted lawfully in detaining Yaser Hamdi as an enemy combatant.

    - The Court observed that Hamdi was captured in a zone of active combat in a foreign theater of conflict, and the Court pointed out that the Supreme Court had ruled previously that "citizenship in the United States of an enemy belligerent does not relieve him from the consequences of a belligerency which is unlawful."

    - Based on that Supreme Court precedent, the Court of Appeals concluded that "one who takes up arms against the United States in a foreign theater of war, regardless of his citizenship, may properly be designated an enemy combatant and treated as such."

    - The Court noted that Hamdi is "not any American citizen alleged to be an enemy combatant by the government; he is an American citizen captured and detained by American allied forces in a foreign theater of war during active hostilities and determined by the United States military to have been indeed allied with enemy forces."

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>
Sent: 1/8/2003 9:17:13 AM
Subject: : Re: Request for info from Sen leadership

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 8-JAN-2003 14:17:13.00
SUBJECT:: Re: Request for info from Sen leadership
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

yes, will do

Heather Wingate
01/08/2003 01:58:28 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Heather Wingate/WHO/EOP@EOP
cc: ashley snee/who/eop@eop, matthew a. schlapp/who/eop@eop, tim goeglein/who/eop@eop
Subject: Re: Request for info from Sen leadership

Thanks, Brad! Do we want to see if DoJ can crunch some comparison numbers? Like, our %s compared to past administrations or compared to the current level of African Americans on the bench? Or even compared to the % of African Americans represented in the legal field (the pool from which we select judges). I'm just thinking it might be helpful for all of us to have these stats...

.

----- Original Message -----
From:Brett M. Kavanaugh/WHO/EOP
To:Heather Wingate/WHO/EOP@EOP
Cc:ashley snee/who/eop@eop,
matthew a. schlapp/who/eop@eop,
tim goeglein/who/eop@eop
Date: 01/08/2003 01:18:43 PM
Subject: Re: Request for info from Sen leadership

For circuit and district seats, the President has nominated African-Americans to 3 of the 32 circuit seats (9.4%) and to 8 of the 98 district court seats (8.2%), for an overall total of 11 of 130 (8.5%).

Heather Wingate
01/08/2003 12:32:45 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Ashley Snee/WHO/EOP@EOP,

Matthew A. Schlapp/WHO/EOP@EOP, Tim Goeglein/WHO/EOP@EOP
cc:
Subject: Request for info from Sen leadership

Senate Repub Policy Committee (Kyl) is pulling together a doc that is essentially a counter to the Dem's allegations that Repubs are anti-civil rights. Along these lines, they would like to know how many african americans we've nominated to the federal bench. Do we have any stats on this kind of thing? They also expect that the number isn't that high, so they'd like our help in "spinning" it the right way (like maybe comparing the numbers/percentages to past administrations?)

Anything like this floating around?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Adam F. Greenstone/OA/EOP@Exchange [OA] <Adam F. Greenstone>
Sent: 1/8/2003 1:22:10 PM
Subject: : Re: FW: Portability of Data from EOP Computers

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 8-JAN-2003 18:22:10.00
SUBJECT:: Re: FW: Portability of Data from EOP Computers
TO:Adam F. Greenstone (CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
End Original ARMS Header

all data that she deems necessary for her future work at DHS.

From: Adam F. Greenstone/OA/EOP@Exchange on 01/08/2003 06:18:35 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: FW: Portability of Data from EOP Computers

Brett--It would be great if you can confirm.;
-----Original Message-----
From: Hill, Bartholomew G.
Sent: Wednesday, January 08, 2003 5:00 PM
To: Greenstone, Adam F.
Subject: Portability of Data from EOP Computers

Adam,
; I received an OA65 today requesting that we copy to CD all data from the computer of Barbara Chaffee so she can take it with her to TPO and then DHS. It states in the remarks that Brett Kavanaugh approved this action. Is that approval a green light for us to complete the request for her?
Thanks. Bart (x50945)

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Adam F. Greenstone/OA/EOP@Exchange [OA] <Adam F. Greenstone>
Sent: 1/8/2003 1:22:10 PM
Subject: : Re: FW: Portability of Data from EOP Computers

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 8-JAN-2003 18:22:10.00
SUBJECT:: Re: FW: Portability of Data from EOP Computers
TO:Adam F. Greenstone (CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
End Original ARMS Header

all data that she deems necessary for her future work at DHS.

From: Adam F. Greenstone/OA/EOP@Exchange on 01/08/2003 06:18:35 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: FW: Portability of Data from EOP Computers

Brett--It would be great if you can confirm.;
-----Original Message-----
From: Hill, Bartholomew G.
Sent: Wednesday, January 08, 2003 5:00 PM
To: Greenstone, Adam F.
Subject: Portability of Data from EOP Computers

Adam,
; I received an OA65 today requesting that we copy to CD all data from the computer of Barbara Chaffee so she can take it with her to TPO and then DHS. It states in the remarks that Brett Kavanaugh approved this action. Is that approval a green light for us to complete the request for her? Thanks. Bart (x50945)

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Adam F. Greenstone/OA/EOP@Exchange [OA] <Adam F. Greenstone>
Sent: 1/8/2003 1:22:10 PM
Subject: : Re: FW: Portability of Data from EOP Computers

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 8-JAN-2003 18:22:10.00
SUBJECT:: Re: FW: Portability of Data from EOP Computers
TO:Adam F. Greenstone (CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
End Original ARMS Header

all data that she deems necessary for her future work at DHS.

From: Adam F. Greenstone/OA/EOP@Exchange on 01/08/2003 06:18:35 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: FW: Portability of Data from EOP Computers

Brett--It would be great if you can confirm.;
-----Original Message-----
From: Hill, Bartholomew G.
Sent: Wednesday, January 08, 2003 5:00 PM
To: Greenstone, Adam F.
Subject: Portability of Data from EOP Computers

Adam,
; I received an OA65 today requesting that we copy to CD all data from the computer of Barbara Chaffee so she can take it with her to TPO and then DHS. It states in the remarks that Brett Kavanaugh approved this action. Is that approval a green light for us to complete the request for her? Thanks. Bart (x50945)

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Adam F. Greenstone/OA/EOP@Exchange [OA] <Adam F. Greenstone>
Sent: 1/8/2003 1:22:10 PM
Subject: : Re: FW: Portability of Data from EOP Computers

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 8-JAN-2003 18:22:10.00
SUBJECT:: Re: FW: Portability of Data from EOP Computers
TO:Adam F. Greenstone (CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
End Original ARMS Header

all data that she deems necessary for her future work at DHS.

From: Adam F. Greenstone/OA/EOP@Exchange on 01/08/2003 06:18:35 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: FW: Portability of Data from EOP Computers

Brett--It would be great if you can confirm.;
-----Original Message-----
From: Hill, Bartholomew G.
Sent: Wednesday, January 08, 2003 5:00 PM
To: Greenstone, Adam F.
Subject: Portability of Data from EOP Computers

Adam,
; I received an OA65 today requesting that we copy to CD all data from the computer of Barbara Chaffee so she can take it with her to TPO and then DHS. It states in the remarks that Brett Kavanaugh approved this action. Is that approval a green light for us to complete the request for her? Thanks. Bart (x50945)

From: Charnes, Adam <Adam.Charnes@usdoj.gov>
To: Benczkowski, Brian A <Brian.A.Benczkowski@usdoj.gov>;Benedi, Lizette D <Lizette.D.Benedi@usdoj.gov>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/9/2003 5:01:56 AM
Subject: : Pickering

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Charnes, Adam" <Adam.Charnes@usdoj.gov> ( "Charnes, Adam" <Adam.Charnes@usdoj.gov>
[ UNKNOWN ] )
CREATION DATE/TIME: 9-JAN-2003 10:01:56.00
SUBJECT:: Pickering
TO:"Benczkowski, Brian A" <Brian.A.Benczkowski@usdoj.gov> ( "Benczkowski, Brian A"
<Brian.A.Benczkowski@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Benedi, Lizette D" <Lizette.D.Benedi@usdoj.gov> ( "Benedi, Lizette D"
<Lizette.D.Benedi@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Can one of you call Brett to get the WH some materials? Thanks.
```

From: CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO]
To: Joel D. Kaplan/WHO/EOP@Exchange@EOP [WHO] <Joel D. Kaplan>
CC: wendy j. grubbs/who/eop@eop [WHO] <wendy j. grubbs>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>
Sent: 1/9/2003 9:34:13 AM
Subject: : Re: DeWine bill putting Secty of DHS in presidential line of succession

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 9-JAN-2003 14:34:13.00
SUBJECT:: Re: DeWine bill putting Secty of DHS in presidential line of succession
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
CC:wendy j. grubbs (CN=wendy j. grubbs/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

We are involved with these issues. We should talk offline.

Joel D. Kaplan
01/08/2003 12:56:46 PM
Record Type: Record

To: Bradford A. Berenson/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc: Wendy J. Grubbs/WHO/EOP@EOP
Subject: Re: DeWine bill putting Secty of DHS in presidential line of succession

---------- Forwarded by Joel D. Kaplan/WHO/EOP on 01/08/2003 01:01 PM ----------

Joel D. Kaplan
01/08/2003 12:52:51 PM
Record Type: Record

To: Wendy J. Grubbs/WHO/EOP@EOP
cc:
Subject: Re: DeWine bill putting Secty of DHS in presidential line of succession

Wendy--I'm not sure who ought to have the lead on this from the WH, but I think probably WH Counsel. I am cc'ing Berenson and Kavanaugh, and hopefully one of them can get us some guidance.

From: [UNKNOWN] <Goeglein, Tim>
To: <Kavanaugh>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6246020-C20FEE19-852569DA-7648DC [UNKNOWN] <Brett M.>
CC: <Ralston>;Susan_B._Ralston@who.eop.gov [WHO] <Susan B.>
Sent: 1/9/2003 6:03:17 AM
Subject: Bush Renominates Pickering, 30 Other Judges
Attachments: P_CX19000674POERS_WHO.TXT_1.html

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (MS Mail)
CREATOR:Goeglein, Tim ([UNKNOWN])
CREATION DATE/TIME: 9-JAN-2003 11:03:17.00
SUBJECT:Bush Renominates Pickering, 30 Other Judges
TO:Kavanaugh, Brett M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6246020-C20FEE19-852569DA-7648DC [UNKNOWN])
READ:UNKNOWN
CC:Ralston, Susan B. (Susan_B._Ralston@who.eop.gov [WHO])
READ:UNKNOWN
End Original ARMS Header

fyi

tsg

---------- Forwarded by Tim Goeglein/WHO/EOP on 01/09/2003 11:06 AM ----------

GOPUSA News Update <news@gopusa.com>
01/09/2003 11:04:57 AM

Record Type: Record

To: Tim Goeglein/WHO/EOP@EOP
cc:

Subject: Bush Renominates Pickering, 30 Other Judges

- att1.htm <<att1.htm>>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_CX19000674POERS_WHO.TXT_1>

GOPUSA NEWS

GOPUSA News Update -- Thursday, January 9, 2003
Get these stories and more at GOPUSA!

Bush Renominates Pickering, 30 Other Judges
January 9, 2003 -- President Bush renominated 31 judges for elevation who were blocked by last year's Democrat-controlled senate, including Judge Pickeri ng of Mississippi and Priscilla Owen of Texas.
Read more... .

Bush Signs Unemployment Extension
January 9, 2003 -- President Bush signed emergency legislation which had p assed quickly through Congress, granting a thirteen-week extension of jobless b enefits for 2.5 million out-of-work Americans.
Read more...

Analysis: North Korea sees through 'talk'
January 9, 2003 -- For U.S. allies in Asia, there was no argument over mea ning: The Bush administration said it would be willing to talk directly to Nort h Korea on how Pyongyang could meet its nuclear treaty obligations.
Read more ...

Education Act Marks One-Year Anniversary
January 9, 2003 -- President Bush joined school principals and superintend ents, education leaders, and Members of Congress on Wednesday in celebrating th e one-year anniversary of the signing of the No Child Left Behind Act.
Read more...

House Dems Support Reinvoking the Draft
January 9, 2003 -- Following through on comments made before the new sessi on of Congress began, House Democrats Charles Rangel (NY) and John Conyers (MI) introduced a bill to renew the selective service draft.
Read more...

Cloning Ban Filed in House
January 9, 2003 -- A comprehensive cloning ban, the bipartisan Human Cloni ng Prohibition Act, was filed in the House Wednesday by Reps. Dave Weldon (R-FL) and Bart Stupak (D-MI).
Read more...< /a>

THE GOPUSA FORUM
Let your voice be heard!

Here's what people are talking about in the GOPUSA Forum...

- Democrats face battle in blocking ANWR drilling
  Read it here. ..
- Economic Stimulus - Who's Plan is Best?
  Read it here...
- New TV Commercials Link Gas-Guzzling SUVs to Terrorism Funding
  Read it here...

We invite you to register and add your comments.



"The Long Way Home Project," a recently released documentary series on the Vietnam War provides a more positive and unbiased look at the country's longest war and highlights many of the misconceptions America has about the men and wo men who served the country in this conflict.

Click here to order your s et today!

More News Headlines

The Washington Times

- GOP vows fast action on stalled agenda
- White House set to stay out of affirmative-action case
- Miller will retire from Senate in 2004

Fox News

- Iraq Denies 'Gaps' in Its Weapons Report
- Investigators of N.C. Commuter Plane Crash Find Both Data Recorders
- Police Arrest Three Suspected Al Qaeda Operatives in Karachi

CNSNews.com

- Bush, US Naval Base Targeted By Anti-War Group
- Bush Administration To Renew Fight For ANWR Drilling
- Clinton, Dodd: Bush 'Destroying Public Education'

NewsMax.com

- U.S. Has 'Holes' in Biodefense
- North Korean Dictator 'Now' Seen as Villain?!
- Bill O'Reilly Deems Sen. 'Osama Mama' Murray 'Insane'

USA Today

- Bush plans meet early resistance
- New TV commercials link SUVs to terrorism funding
- Toxins pose grave threat in battle

Get these stories and more at GOPUSA!

Subscribe to the GOPUSA News Update!

Was this update forwarded to you? Would you like to subscribe a friend?

Click here to subscribe. ..

Copyright © 2000-2002, GOPUSA.com, Inc.
www.GOPUSA.com
news@gopusa.com

This e-mail was sent to tim_goeglein@who.eop.gov
If you would no longer wish to receive the GOPUSA News Update, simply click here
UNSUBSCRIBE

From: CN=Tim Goeglein/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Susan B. Ralston/WHO/EOP@Exchange@EOP [WHO] <Susan B. Ralston>
Sent: 1/9/2003 6:07:04 AM
Subject: : Bush Renominates Pickering, 30 Other Judges
Attachments: P_719UC003_WHO.TXT_1.html

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 9-JAN-2003 11:07:04.00
SUBJECT:: Bush Renominates Pickering, 30 Other Judges
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

fyi

tsg

---------- Forwarded by Tim Goeglein/WHO/EOP on 01/09/2003 11:06 AM ----------

GOPUSA News Update <news@gopusa.com>
01/09/2003 11:04:57 AM
Record Type: Record

To: Tim Goeglein/WHO/EOP@EOP
cc:
Subject: Bush Renominates Pickering, 30 Other Judges

- att1.htm

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_719UC003_WHO.TXT_1>

GOPUSA NEWS

GOPUSA News Update -- Thursday, January 9, 2003
Get these stories and more at GOPUSA!

Bush Renominates Pickering, 30 Other Judges
January 9, 2003 -- President Bush renominated 31 judges for elevation who were blocked by last year's Democrat-controlled senate, including Judge Pickeri ng of Mississippi and Priscilla Owen of Texas.
Read more... .

Bush Signs Unemployment Extension
January 9, 2003 -- President Bush signed emergency legislation which had p assed quickly through Congress, granting a thirteen-week extension of jobless b enefits for 2.5 million out-of-work Americans.
Read more...

Analysis: North Korea sees through 'talk'
January 9, 2003 -- For U.S. allies in Asia, there was no argument over mea ning: The Bush administration said it would be willing to talk directly to Nort h Korea on how Pyongyang could meet its nuclear treaty obligations.
Read more ...

Education Act Marks One-Year Anniversary
January 9, 2003 -- President Bush joined school principals and superintend ents, education leaders, and Members of Congress on Wednesday in celebrating th e one-year anniversary of the signing of the No Child Left Behind Act.
Read more...

House Dems Support Reinvoking the Draft
January 9, 2003 -- Following through on comments made before the new sessi on of Congress began, House Democrats Charles Rangel (NY) and John Conyers (MI) introduced a bill to renew the selective service draft.
Read more...

Cloning Ban Filed in House
January 9, 2003 -- A comprehensive cloning ban, the bipartisan Human Cloni ng Prohibition Act, was filed in the House Wednesday by Reps. Dave Weldon (R-FL) and Bart Stupak (D-MI).
Read more...< /a>

THE GOPUSA FORUM
Let your voice be heard!

Here's what people are talking about in the GOPUSA Forum...

- Democrats face battle in blocking ANWR drilling
  Read it here. ..
- Economic Stimulus - Who's Plan is Best?
  Read it here...
- New TV Commercials Link Gas-Guzzling SUVs to Terrorism Funding
  Read it here...

We invite you to register and add your comments.



"The Long Way Home Project," a recently released documentary series on the Vietnam War provides a more positive and unbiased look at the country's longest war and highlights many of the misconceptions America has about the men and wo men who served the country in this conflict.

Click here to order your s et today!

More News Headlines

The Washington Times

- GOP vows fast action on stalled agenda
- White House set to stay out of affirmative-action case
- Miller will retire from Senate in 2004

Fox News

- Iraq Denies 'Gaps' in Its Weapons Report
- Investigators of N.C. Commuter Plane Crash Find Both Data Recorders
- Police Arrest Three Suspected Al Qaeda Operatives in Karachi

CNSNews.com

- Bush, US Naval Base Targeted By Anti-War Group
- Bush Administration To Renew Fight For ANWR Drilling
- Clinton, Dodd: Bush 'Destroying Public Education'

NewsMax.com

- U.S. Has 'Holes' in Biodefense
- North Korean Dictator 'Now' Seen as Villain?!
- Bill O'Reilly Deems Sen. 'Osama Mama' Murray 'Insane'

USA Today

- Bush plans meet early resistance
- New TV commercials link SUVs to terrorism funding
- Toxins pose grave threat in battle

Get these stories and more at GOPUSA!

Subscribe to the GOPUSA News Update!

Was this update forwarded to you? Would you like to subscribe a friend?

Click here to subscribe. ..

Copyright © 2000-2002, GOPUSA.com, Inc.
www.GOPUSA.com
news@gopusa.com

This e-mail was sent to tim_goeglein@who.eop.gov
If you would no longer wish to receive the GOPUSA News Update, simply click here
UNSUBSCRIBE

From: Goeglein, Tim
To: <Kavanaugh, Brett M.>
CC: <Ralston, Susan B.>
Sent: 1/9/2003 11:03:17 AM
Subject: Bush Renominates Pickering, 30 Other Judges
Attachments: att1.htm

fyi

tsg

---------- Forwarded by Tim Goeglein/WHO/EOP on 01/09/2003 11:06 AM ----------

GOPUSA News Update

01/09/2003 11:04:57 AM

Record Type: Record

To: Tim Goeglein/WHO/EOP@EOP

cc:

Subject: Bush Renominates Pickering, 30 Other Judges

- att1.htm <<...>>

GOPUSA NEWS

GOPUSA News Update -- Thursday, January 9, 2003
Get these stories and more at GOPUSA!

Bush Renominates Pickering, 30 Other Judges
January 9, 2003 -- President Bush renominated 31 judges for elevation who were blocked by last year's Democrat-controlled senate, including Judge Pickering of Mississippi and Priscilla Owen of Texas.
Read more...

Bush Signs Unemployment Extension
January 9, 2003 -- President Bush signed emergency legislation which had passed quickly through Congress, granting a thirteen-week extension of jobless benefits for 2.5 million out-of-work Americans.
Read more...

Analysis: North Korea sees through 'talk'
January 9, 2003 -- For U.S. allies in Asia, there was no argument over meaning: The Bush administration said it would be willing to talk directly to North Korea on how Pyongyang could meet its nuclear treaty obligations.
Read more...

Education Act Marks One-Year Anniversary
January 9, 2003 -- President Bush joined school principals and superintendents, education leaders, and Members of Congress on Wednesday in celebrating the one-year anniversary of the signing of the No Child Left Behind Act.
Read more...

House Dems Support Reinvoking the Draft
January 9, 2003 -- Following through on comments made before the new session of Congress began, House Democrats Charles Rangel (NY) and John Conyers (MI) introduced a bill to renew the selective service draft.
Read more...

Cloning Ban Filed in House
January 9, 2003 -- A comprehensive cloning ban, the bipartisan Human Cloning Prohibition Act, was filed in the House Wednesday by Reps. Dave Weldon (R-FL) and Bart Stupak (D-MI).
Read more...

THE GOPUSA FORUM
Let your voice be heard!

Here's what people are talking about in the GOPUSA Forum...

- Democrats face battle in blocking ANWR drilling
  Read it here...
- Economic Stimulus - Who's Plan is Best?
  Read it here...
- New TV Commercials Link Gas-Guzzling SUVs to Terrorism Funding
  Read it here...

We invite you to register and add your comments.



"The Long Way Home Project," a recently released documentary series on the Vietnam War provides a more positive and unbiased look at the country's longest war and highlights many of the misconceptions America has about the men and women who served the country in this conflict.

Click here to order your set today!

More News Headlines

The Washington Times

- GOP vows fast action on stalled agenda
- White House set to stay out of affirmative-action case
- Miller will retire from Senate in 2004

Fox News

- Iraq Denies 'Gaps' in Its Weapons Report
- Investigators of N.C. Commuter Plane Crash Find Both Data Recorders
- Police Arrest Three Suspected Al Qaeda Operatives in Karachi

CNSNews.com

- Bush, US Naval Base Targeted By Anti-War Group
- Bush Administration To Renew Fight For ANWR Drilling
- Clinton, Dodd: Bush 'Destroying Public Education'

NewsMax.com

- U.S. Has 'Holes' in Biodefense
- North Korean Dictator 'Now' Seen as Villain?!
- Bill O'Reilly Deems Sen. 'Osama Mama' Murray 'Insane'

USA Today

- Bush plans meet early resistance
- New TV commercials link SUVs to terrorism funding
- Toxins pose grave threat in battle

Get these stories and more at GOPUSA!

Subscribe to the GOPUSA News Update!

Was this update forwarded to you? Would you like to subscribe a friend?

Click here to subscribe...

Copyright © 2000-2002, GOPUSA.com, Inc.
www.GOPUSA.com
news@gopusa.com

This e-mail was sent to tim_goeglein@who.eop.gov
If you would no longer wish to receive the GOPUSA News Update, simply click here
UNSUBSCRIBE

From: CN=Benjamin A. Powell/OU=WHO/O=EOP [WHO]
To: Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/10/2003 4:43:09 AM
Subject: : Pickering Op-Ed

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-JAN-2003 09:43:09.00
SUBJECT:: Pickering Op-Ed
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Op-Ed on Pickering from Mobile Register:

Attack on Pickering shows rank hypocrisy
01/10/03

PUT YOURSELF, hypothetically, in the shoes of a Democrat in the U.S. Senate.
President Bush has nominated a federal district judge from Mississippi to be promoted to the Fifth Circuit Court of Appeals, and you must decide whether to approve the nomination. But this judge isn't a stereotypical Mississippi Republican.
Back in 1967, he testified in a murder trial against members of the Ku Klux Klan when it likely was dangerous to do so -- and lost his run for re-election as a local prosecutor as a result. He has testified that he believes anti-miscegenation statutes are unconstitutional. He led the effort to establish the Institute of Racial Reconciliation at the University of Mississippi.
Black leaders in Mississippi, including four of the five black city council members in his hometown of Laurel, support the judge's promotion almost unanimously. The fifth councilman objects on the odd grounds that the judge worked in favor of integrating a school system. And Charles Evers, brother of slain civil rights leader Medgar Evers, wrote a column for The Wall Street Journal supporting the judge.
It is true that the judge has been criticized for efforts to reduce the sentence of a man convicted in a cross-burning case. But prosecutors from the Civil Rights Division of President Clinton's Justice Department eventually agreed that the judge was correct -- in part, effectively, because they had erred by letting the two more culpable violators in the three-person crime escape with no prison sentences at all.
When the judge sentenced the third man to 27 months in jail, the judge told him: "The type of conduct that you exhibited cannot and will not be tolerated. ... You did that which does hinder good race relations and was a despicable act. ... I would suggest to you that during the time you're in prison that you do some reading on race relations and maintaining good race relations."
Frank Hunger, the assistant U.S. attorney general under Janet Reno, had spoken at length about the case with the judge. Mr. Hunger, an active Democrat, is Al Gore's brother-in-law. Mr. Hunger supports the judge's nomination.
For that matter, the American Bar Association -- called by Senate Democrats "the gold standard" in determining a nominee's fitness -- has

proclaimed the judge "well qualified" for the new post.
Back in 1990, both the Judiciary Committee and the full Senate approved the nominee -- unanimously -- for the district judgeship he now holds.
Among today's leading Senate Democrats who approved the nomination then are former Judiciary Committee Chairman Pat Leahy of Vermont, Ted Kennedy of Massachusetts, and potential 2004 presidential contender Joseph Biden of Delaware.
If you're a Senate Democrat, wouldn't you feel good about voting for this judge?
Maybe so, but the Democrats on the Judiciary Committee last year killed the nomination of this judge, Charles Pickering, without even letting it receive a vote by the full Senate. They said they objected to his ruling on the cross-burning case, and on a theoretical legal essay on interracial marriage that he wrote in 1959.
Now that President Bush has renominated Judge Pickering, New York's senior Democratic senator, Charles Schumer, says the nomination is evidence that the Bush administration "wants the courts to become the sword that destroys" the "basic civil rights in this country."
Sen. Schumer's attack on Judge Pickering is despicable. The Senate ought to confirm the judge's promotion, and quickly.

Copyright 2003 al.com. All Rights Reserved.

From: Carmen M. Ingwell

To: <Card, Andrew H.>;<Bolten, Joshua B.>;<Hagin, Joseph W>;<Bartlett, Daniel J.>;Suzy_DeFrancis/WHO/EOP <Suzy_DeFrancis/WHO/EOP@EOP>;Suzy_DeFrancis /WHO/EOP <Gerson, Michael J.>;Suzy_DeFrancis/WHO/EOP <Eskew, Tucker A.>;Suzy_DeFrancis/WHO/EOP <Fleischer, Lawrence A.>;Suzy_DeFrancis/WHO/EOP <Buchan, Claire E.>;Suzy_DeFrancis/WHO/EOP <McClellan, Scott>;Suzy_DeFrancis/WHO/EOP <Gonzales, Alberto R.>;Suzy_DeFrancis/WHO/EOP <Leitch, David G.>;Suzy_DeFrancis/WHO/EOP <Calio, Nicholas E.>;Suzy_DeFrancis/WHO/EOP <Hobbs, David W.>;Suzy_DeFrancis/WHO/EOP <Ojakli, Ziad S.>;Suzy_DeFrancis/WHO/EOP <Westine, Lezlee J.>;Suzy_DeFrancis/WHO/EOP <Johnson Iii, Clay>;Suzy_DeFrancis/WHO/EOP <Blakeman, Bradley A.>;Suzy_DeFrancis/WHO/EOP <Ball, Andrea G.>;Suzy_DeFrancis/WHO/EOP <Figg, Kara G.>;Suzy_DeFrancis/WHO/EOP <Gray, Adrian G.>;Suzy_DeFrancis/WHO/EOP <Kyle, Ross M.>;Suzy_DeFrancis/WHO/EOP <Litkenhaus, Colleen>;Suzy_DeFrancis/WHO/EOP <Ritacco, Krista L.>;Suzy_DeFrancis/WHO/EOP <Nipper, Wendy L.>;Suzy_DeFrancis/WHO/EOP <McQuade, Vickie A.>;Suzy_DeFrancis/WHO/EOP <Camp, Elizabeth N.>;Suzy_DeFrancis/WHO/EOP <Loper, Ginger G.>;Suzy_DeFrancis/WHO/EOP <Ralston, Susan B.>;Suzy_DeFrancis/WHO/EOP <Hayes, Kathryn J.>;Suzy_DeFrancis/WHO/EOP <Ruhlen, Stephen S.>;Suzy_DeFrancis/WHO/EOP <Libby, Lewis>;Suzy_DeFrancis/WHO/EOP <Matalin, Mary J.>;Suzy_DeFrancis/WHO/EOP <Conda, Cesar>;Suzy_DeFrancis/WHO/EOP <Wolff, Candida P.>;Suzy_DeFrancis/WHO/EOP <Smith, Matthew E.>;Suzy_DeFrancis/WHO/EOP <Spellings, Margaret M.>;Suzy_DeFrancis/WHO/EOP <Bridgeland, John M.>;Suzy_DeFrancis/WHO/EOP <Lindsey, Lawrence B.>;Suzy_DeFrancis/WHO/EOP <Russell, Jeannie>;Suzy_DeFrancis/WHO/EOP <Barrales, Ruben S.>;Suzy_DeFrancis/WHO/EOP <Clark, Alicia P.>;Suzy_DeFrancis/WHO/EOP <Silverberg, Kristen>;Suzy_DeFrancis/WHO/EOP <Kaplan, Joel>;Suzy_DeFrancis/WHO/EOP <Carlson-thies, Stanley W.>;Suzy_DeFrancis/WHO/EOP <Hernandez, Israel>;Suzy_DeFrancis/WHO/EOP <Jackson, Barry S.>;Suzy_DeFrancis/WHO/EOP <Ciccone, Christine>;Suzy_DeFrancis/WHO/EOP <Lefkowitz, Jay P.>;Suzy_DeFrancis/WHO/EOP <Heiligenstein, Anne>;Suzy_DeFrancis/WHO/EOP <Medina, Sonya E.>;Suzy_DeFrancis/WHO/EOP <Daniels, Mitchell>;Suzy_DeFrancis/WHO/EOP <Spagnoli, Deborah A.>;Suzy_DeFrancis/WHO/EOP <Connaughton, James>;Suzy_DeFrancis/WHO/EOP <Garrison, Stephen M.>;Suzy_DeFrancis/WHO/EOP <Addington, David S.>;Suzy_DeFrancis/WHO/EOP <Bartolomucci, H. Christopher>;Suzy_DeFrancis/WHO/EOP <Bellinger, John B.>;Suzy_DeFrancis/WHO/EOP <Berenson, Bradford A.>;Suzy_DeFrancis/WHO/EOP <Leitch, David G.>;Suzy_DeFrancis/WHO/EOP <Francisco, Noel J.>;Suzy_DeFrancis/WHO/EOP <Kavanaugh, Brett M.>;Suzy_DeFrancis/WHO/EOP <Walker, Helgard C.>;Suzy_DeFrancis/WHO/EOP <Riepenhoff, Allison L.>;Suzy_DeFrancis/WHO/EOP <Bennett, Melissa S.>;Suzy_DeFrancis/WHO/EOP <Keller, Karen E.>;Suzy_DeFrancis/WHO/EOP <Healy, Erin E.>;Suzy_DeFrancis/WHO/EOP <Young, Tracy>;Suzy_DeFrancis/WHO/EOP <Graham, John>;Suzy_DeFrancis/WHO/EOP <McCormack, Brian V.>;Suzy_DeFrancis/WHO/EOP <Rees, Nina>;Suzy_DeFrancis/WHO/EOP <Knutson, Karen Y.>;Suzy_DeFrancis/WHO/EOP <Lundquist, Andrew>;Suzy_DeFrancis/WHO/EOP <Goldman, Adam B.>;Suzy_DeFrancis/WHO/EOP <Davis, Ashley E.>;Suzy_DeFrancis/WHO/EOP <Holman, Mark>;Suzy_DeFrancis/WHO/EOP <Anderson, David R.>;Suzy_DeFrancis/WHO/EOP <Gambatesa, Linda M.>;Suzy_DeFrancis/WHO/EOP <Buchholz, Carl>;Suzy_DeFrancis/WHO/EOP <Garvin, Dorothy C.>;Suzy_DeFrancis/WHO/EOP <Mehlman, Ken>;Suzy_DeFrancis/WHO/EOP <Gillmor, Eleanor L.>;Suzy_DeFrancis/WHO/EOP <Campbell, Anne E.>;Suzy_DeFrancis/WHO/EOP <MacHida, Ado A.>;Suzy_DeFrancis/WHO/EOP <Cooney, Phil>;Suzy_DeFrancis/WHO/EOP <Newstead, Jennifer G.>;Suzy_DeFrancis/WHO/EOP <Grant, Britt>;Suzy_DeFrancis/WHO/EOP <Dunn, David>;Suzy_DeFrancis/WHO/EOP <Zimmerman, Neil H.>

Sent: 1/10/2003 3:37:00 PM

Subject: Cabinet Report for the Week of January 06, 2003

THIS RECORD HAS BEEN WITHDRAWN FROM THIS LOCATION
Date created: 20140529_153643

Reason for Withdrawal:

This email was withdrawn as b(1).

Description of Record:

Email message.

From: CN=Benjamin A. Powell/OU=WHO/O=EOP [WHO]
To: Kathryn E. Rust/WHO/EOP@EOP [WHO] <Kathryn E. Rust>
CC: Carolyn Nelson/WHO/EOP@EOP [WHO] <Carolyn Nelson>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/10/2003 11:59:04 AM
Subject: : Re: Lincoln Club 501c4 status
Attachments: P_LS8WC003_WHO.TXT_1.html

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-JAN-2003 16:59:04.00
SUBJECT:: Re: Lincoln Club 501c4 status
TO:Kathryn E. Rust (CN=Kathryn E. Rust/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Carolyn Nelson (CN=Carolyn Nelson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Kathy,

Brett handles the rules on allocating and accounting for trips between political and official when it is a mixed trip so I will leave it to his judgment. I get involved when an outside group is actually furnishing the tickets/meals/hotel and a "Travel Expense from Outside Source" form is needed. For the Lincoln Club of Northern California, the bylaws they sent are helpful, but I would also note their website states:

The Lincoln Club of Northern California is the preeminent organization of Republican business and community leaders in the greater Bay Area, with membership from Monterey to Sacramento.ÿ

ÿ ÿ Its primary purpose is to identify, recruit, and elect quality Republican candidates to federal, state and local office.ÿ Through the caliber of its members and the success of their efforts, The Lincoln Club has gained high respect and a reputation for strong leadership among Republican office holders and the public.

Kathryn E. Rust
01/09/2003 05:11:19 PM
Record Type: Record

To: Benjamin A. Powell/WHO/EOP@EOP
cc: Carolyn Nelson/WHO/EOP@EOP
Subject: Lincoln Club 501c4 status

Ruben will be traveling to California for three speeches. Two of the organization's have political affilations that may me wonder if I should have them cover a portion of the expenses. The Lincoln Club of Northern California sent me a brief overview of their organization including tax status. Could you clarify if this would be approved official travel? Under a separate email I will forward background on the New Majority (another group with political leanings) they would like Ruben to address a luncheon in Orange County. If not sanctioned as official travel, I would

like to split the ticket between official and political.

Tentative Schedule
DEP Washington en route to San Francisco
Address Lincoln Club
DEP San Francisco to John Wayne Airport
Address New Majority in Orange County
DEP Orange County en route to Los Angeles
Address CA State Legislators at event sponsored by UCLA School of Government
DEP Los Angeles en route to Washington

Thanks,
Kathy

---------- Forwarded by Kathryn E. Rust/WHO/EOP on 01/09/2003 05:01 PM ----------

LincClub@aol.com
01/08/2003 04:22:02 PM
Record Type: Record

To: Kathryn E. Rust/WHO/EOP@EOP
cc:
Subject: Lincoln Club 501c4 status

Hi Kathy,

From our Bylaws, here is what how we describe ourselves:

THE LINCOLN CLUB OF NORTHERN CALIFORNIA
BYLAWS
(Current as of July 17, 2002)

1. PURPOSE AND ACTIVITIES

1.1 Purpose. The Lincoln Club of Northern California (the Club) is a broad-based association of business, financial, and civic leaders whose purpose is to provide a forum for the consideration of important issues confronting the citizens of Northern California, and government policies at the local, regional, state, and national level.

In other words, we are a 501(c)(4) non-profit organization with 2 political action committees. This general membership meeting that Ruben is addressing
is of our non-profit only, not the Lincoln Club PACs. We are expecting to hear a policy address on the issues of the day from Ruben.

Our address and contact info is:

The Lincoln Club of Northern California
345 Forest Avenue, Suite 100
Palo Alto, CA 94301
(650) 321-0875

- att1.htm

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_LS8WC003_WHO.TXT_1>

Hi Kathy,

From our Bylaws, here is what how we describe ourselves:

THE LINCOLN CLUB OF NORTHERN CALIFORNIA
BYLAWS
(Current as of July 17, 2002)

1. PURPOSE AND ACTIVITIES

1.1 Purpose. The Lincoln Club of Northern California (the Clu b) is a broad-based association of business, financial, and civic leaders whose purpose is to provide a forum for the consideration of important issues confro nting the citizens of Northern California, and government policies at the local , regional, state, and national level.

In other words, we are a 501(c)(4) non-profit organization with 2 political act ion committees. This general membership meeting that Ruben is addressing is of our non-profit only, not the Lincoln Club PACs. We are expecting to hear a policy address on the issues of the day from Ruben.

Our address and contact info is:

The Lincoln Club of Northern California
345 Forest Avenue, Suite 100
Palo Alto, CA 94301
(650) 321-0875

From: CN=Alan Gilbert/OU=OPD/O=EOP [OPD]
To: Kristen Silverberg/WHO/EOP@Exchange [WHO] <Kristen Silverberg>
CC: mark kirk@eop [UNKNOWN] <mark kirk@eop>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;amy jensen/who/eop@eop [WHO] <amy jensen>;josephine b. robinson/who/eop@eop [WHO] <josephine b. robinson>;jay p. lefkowitz/opd/eop@exchange [OPD] <jay p. lefkowitz>
Sent: 1/10/2003 1:20:52 PM
Subject: : Re: med mal mtg

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Alan Gilbert ( CN=Alan Gilbert/OU=OPD/O=EOP [ OPD ] )
CREATION DATE/TIME:10-JAN-2003 18:20:52.00
SUBJECT:: Re: med mal mtg
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
CC:mark kirk@eop ( mark kirk@eop [ UNKNOWN ] )
READ:UNKNOWN
CC:brett m. kavanaugh ( CN=brett m. kavanaugh/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:amy jensen ( CN=amy jensen/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:josephine b. robinson ( CN=josephine b. robinson/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:jay p. lefkowitz ( CN=jay p. lefkowitz/OU=opd/O=eop@exchange [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######

ginger and I have scheduled a meeting with Chairman Gregg's staff for 10
am on monday....do you want me to try and reschedule?
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>
Sent: 1/13/2003 8:15:18 AM
Subject: : Re: new vacancy in ED NY

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:13-JAN-2003 13:15:18.00
SUBJECT:: Re: new vacancy in ED NY
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

on its way.

Jennifer G. Newstead
01/13/2003 01:09:38 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: new vacancy in ED NY

OK, thanks. Can you give me a copy of the letter if you have it?

Brett M. Kavanaugh
01/13/2003 09:35:47 AM
Record Type: Record

To: Jennifer G. Newstead/WHO/EOP@EOP
cc:
Subject: new vacancy in ED NY

There is a new vacancy in ED NY -- Sterling Johnson just sent his letter on Jan. 2. That means end of June is deadline for a nomination.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: don.willett@usdoj.gov [UNKNOWN] <don.willett@usdoj.gov>
Sent: 1/13/2003 4:46:44 AM
Subject: : RE: New judicial vacancy notices

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:13-JAN-2003 09:46:44.00
SUBJECT:: RE: New judicial vacancy notices
TO:don.willett@usdoj.gov (don.willett@usdoj.gov [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

thanks. And CONGRATS on your new position. That will be great for you
and for Texas.

"Willett, Don" <Don.Willett@usdoj.gov>
01/13/2003 09:40:49 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE: New judicial vacancy notices

-----Original Message-----
From: Joy, Sheila
Sent: Monday, January 13, 2003 9:39 AM
To: Dinh, Viet; Charnes, Adam; Willett, Don; Remington, Kristi L;
Benczkowski, Brian A; Sales, Nathan; Anderson, Carl A
Subject: New judicial vacancy notices

Marvin Garbis Maryland 6/14/03
Sterling Johnson NY,E 6/1/03

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>
Sent: 1/13/2003 8:15:18 AM
Subject: : Re: new vacancy in ED NY

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:13-JAN-2003 13:15:18.00
SUBJECT:: Re: new vacancy in ED NY
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

on its way.

Jennifer G. Newstead
01/13/2003 01:09:38 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: new vacancy in ED NY

OK, thanks. Can you give me a copy of the letter if you have it?

Brett M. Kavanaugh
01/13/2003 09:35:47 AM
Record Type: Record

To: Jennifer G. Newstead/WHO/EOP@EOP
cc:
Subject: new vacancy in ED NY

There is a new vacancy in ED NY -- Sterling Johnson just sent his letter on Jan. 2. That means end of June is deadline for a nomination.

From: CN=PostMaster/O=EOP [OA]

To: Joseph J. Shattan/OVP/EOP [OVP] <Joseph J. Shattan>;Kevin Warsh/OPD/EOP [OPD] <Kevin Warsh>;Richard J. Tubb/WHO/EOP [WHO] <Richard J. Tubb>;Paul J. Severs/WHO/EOP [WHO] <Paul J. Severs>;Joseph D. Rozek/OVP/EOP [OVP] <Joseph D. Rozek>;Steven J. Reynolds/WHO/EOP [WHO] <Steven J. Reynolds>;Candida P. Wolff/OVP/EOP [OVP] <Candida P. Wolff>;Heather Wingate/WHO/EOP [WHO] <Heather Wingate>;Daniel K. Wilmot/OVP/EOP [OVP] <Daniel K. Wilmot>;James R. Wilkinson/WHO/EOP [WHO] <James R. Wilkinson>;Jocelyn White/WHF/EOP [OPM] <Jocelyn White>;Lezlee J. Westine/WHO/EOP [WHO] <Lezlee J. Westine>;Peter H. Wehner/WHO/EOP [WHO] <Peter H. Wehner>;Paul A. Wedderien/NSC/EOP [NSC] <Paul A. Wedderien>;John P. Walters/ONDCP/EOP [ONDCP] <John P. Walters>;Helgard C. Walker/WHO/EOP [WHO] <Helgard C. Walker>;Jim Towey/WHO/EOP [WHO] <Jim Towey>;Catherine W. Tobias/OVP/EOP [OVP] <Catherine W. Tobias>;Jose G. Suarez/WHO/EOP [WHO] <Jose G. Suarez>;Aquiles F. Suarez/OPD/EOP [OPD] <Aquiles F. Suarez>;Angela B. Styles/OMB/EOP [OMB] <Angela B. Styles>;Mary K. Sturtevant/NSC/EOP [NSC] <Mary K. Sturtevant>;Margaret M. Spellings/OPD/EOP@Exchange [OPD] <Margaret M. Spellings>;Deborah A. Spagnoli/WHO/EOP [WHO] <Deborah A. Spagnoli>;Mary A. Solberg/ONDCP/EOP [ONDCP] <Mary A. Solberg>;Augustine T. Smythe/OMB/EOP [OMB] <Augustine T. Smythe>;Kristen Silverberg/WHO/EOP@Exchange [WHO] <Kristen Silverberg>;Thomas J. Sharpy/OVP/EOP [OVP] <Thomas J. Sharpy>;Scott N. Sforza/WHO/EOP [WHO] <Scott N. Sforza>;Howard A. Schmidt/NSC/EOP [NSC] <Howard A. Schmidt>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Daniel Schecter/ONDCP/EOP [ONDCP] <Daniel Schecter>;Diana L. Schacht/OPD/EOP [OPD] <Diana L. Schacht>;Desiree T. Sayle/WHO/EOP [WHO] <Desiree T. Sayle>;Kyle Sampson/WHO/EOP [WHO] <Kyle Sampson>;Richard M. Russell/OSTP/EOP [OSTP] <Richard M. Russell>;Stephen S. Ruhlen/OVP/EOP [OVP] <Stephen S. Ruhlen>;Karl C. Rove/WHO/EOP@Exchange [WHO] <Karl C. Rove>;Mark V. Rosenker/WHO/EOP [WHO] <Mark V. Rosenker>;Thomas J. Ridge/WHO/EOP [WHO] <Thomas J. Ridge>;Condoleezza Rice/NSC/EOP [NSC] <Condoleezza Rice>;Nina Rees/OVP/EOP [OVP] <Nina Rees>;Craig Ray/WHO/EOP [WHO] <Craig Ray>;Benjamin A. Powell/WHO/EOP [WHO] <Benjamin A. Powell>;Kathie L. Olsen/OSTP/EOP [OSTP] <Kathie L. Olsen>;John F. Newell/WHO/EOP [WHO] <John F. Newell>;Manson O. Morris/OVP/EOP [OVP] <Manson O. Morris>;Paul D. Montanus/WHO/EOP [WHO] <Paul D. Montanus>;James M. McAllister/WHO/EOP [WHO] <James M. McAllister>;James M. Kelly/WHO/EOP [WHO] <James M. Kelly>;Dina Powell/WHO/EOP [WHO] <Dina Powell>;Philip J. Perry/OMB/EOP [OMB] <Philip J. Perry>;Anna M. Perez/NSC/EOP [NSC] <Anna M. Perez>;Eric C. Pelletier/OMB/EOP [OMB] <Eric C. Pelletier>;Marcus Peacock/OMB/EOP [OMB] <Marcus Peacock>;Neil S. Patel/OVP/EOP [OVP] <Neil S. Patel>;Sean C. O'Keefe/OMB/EOP [OMB] <Sean C. O'Keefe>;Ziad S. Ojakli/WHO/EOP [WHO] <Ziad S. Ojakli>;Claire M. O'Donnell/OVP/EOP [OVP] <Claire M. O'Donnell>;Jennifer G. Newstead/WHO/EOP [WHO] <Jennifer G. Newstead>;Susan K. Neely/WHO/EOP [WHO] <Susan K. Neely>;Edmund C. Moy/WHO/EOP [WHO] <Edmund C. Moy>;James F. Moriarty/NSC/EOP [NSC] <James F. Moriarty>;Brian D. Montgomery/WHO/EOP [WHO] <Brian D. Montgomery>;Michael H. Miller/WHO/EOP [WHO] <Michael H. Miller>;Franklin C. Miller/NSC/EOP [NSC] <Franklin C. Miller>;Harriet Miers/WHO/EOP [WHO] <Harriet Miers>;Ken Mehlman/WHO/EOP [WHO] <Ken Mehlman>;Edward McNally/WHO/EOP [WHO] <Edward McNally>;Robert C. McNally/OPD/EOP [OPD] <Robert C. McNally>;Stephen S. McMillin/OMB/EOP [OMB] <Stephen S. McMillin>;Brian V. McCormack/OVP/EOP [OVP] <Brian V. McCormack>;John P. McConnell/OVP/EOP [OVP] <John P. McConnell>;Scott McClellan/WHO/EOP [WHO] <Scott McClellan>;Mark McClellan/CEA/EOP [UNKNOWN] <Mark McClellan>;Mary J. Matalin/OVP/EOP [OVP] <Mary J. Matalin>;Catherine J. Martin/OVP/EOP [OVP] <Catherine J. Martin>;Robert Marsh/WHO/EOP [WHO] <Robert Marsh>;John H. Marburger/OSTP/EOP [OSTP] <John H. Marburger>;John F. Maisto/NSC/EOP [NSC] <John F. Maisto>;Robin A. MacLean/WHO/EOP [WHO] <Robin A. MacLean>;Ado A. Machida/OVP/EOP [OVP] <Ado A. Machida>;Deborah A. Loewer/NSC/EOP [NSC] <Deborah A. Loewer>;Roland N. Litterst/WHO/EOP [WHO] <Roland N. Litterst>;Lawrence B. Lindsey/OPD/EOP@Exchange [OPD] <Lawrence B. Lindsey>;Lewis Libby/OVP/EOP [OVP] <Lewis Libby>;Jay P. Lefkowitz/OPD/EOP@Exchange [OPD] <Jay P. Lefkowitz>;Laura S. Lawlor/WHO/EOP [WHO] <Laura S. Lawlor>;Bruce M. Lawlor/WHO/EOP [WHO] <Bruce M. Lawlor>;Paul B. Kurtz/NSC/EOP [NSC] <Paul B. Kurtz>;David Kuo/WHO/EOP [WHO] <David Kuo>;Randall S. Kroszner/CEA/EOP [CEA] <Randall S. Kroszner>;Karen Y. Knutson/OVP/EOP [OVP] <Karen Y. Knutson>;Frank G. Klotz/NSC/EOP [NSC] <Frank G. Klotz>;Elizabeth W. Kleppe/OVP/EOP [

OVP] <Elizabeth W. Kleppe>;Ellis Kitchen/OA/EOP@Exchange [OA] <Ellis Kitchen>;Matthew Kirk/WHO/EOP [WHO] <Matthew Kirk>;Zalmay M. Khalilzad/NSC/EOP [NSC] <Zalmay M. Khalilzad>;Daniel J. Keniry/WHO/EOP [WHO] <Daniel J. Keniry>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Joel D. Kaplan/WHO/EOP@Exchange [WHO] <Joel D. Kaplan>;Charles D. McGrath Jr/OVP/EOP [OVP] <Charles D. McGrath Jr>;Robert G. Joseph/NSC/EOP [NSC] <Robert G. Joseph>;Reuben Jeffery/OPD/EOP [OPD] <Reuben Jeffery>;Barry S. Jackson/WHO/EOP [WHO] <Barry S. Jackson>;Hector F. Irastorza/WHO/EOP [WHO] <Hector F. Irastorza>;Edward Ingle/WHO/EOP [WHO] <Edward Ingle>;Clay Johnson III/WHO/EOP@Exchange [WHO] <Clay Johnson III>;Tim Campen/OA/EOP [UNKNOWN] <Tim Campen>;Penrose C. Albright TPO/TPO/OMB/EOP [OMB] <Penrose C. Albright TPO>;Steven I. Cooper TPO/TPO/OMB/EOP [OMB] <Steven I. Cooper TPO>;Keith Hennessey/OPD/EOP@Exchange [OPD] <Keith Hennessey>;Julian M. Flannery/WHO/EOP@Exchange [WHO] <Julian M. Flannery>;Duncan Campbell/WHO/EOP [WHO] <Duncan Campbell>;R. Rand Beers/NSC/EOP [NSC] <R. Rand Beers>;Glenn Hubbard/CEA/EOP [CEA] <Glenn Hubbard>;Jack Howard/WHO/EOP [WHO] <Jack Howard>;Mark Holman/WHO/EOP [WHO] <Mark Holman>;David W. Hobbs/WHO/EOP [WHO] <David W. Hobbs>;Israel Hernandez/WHO/EOP@Exchange [WHO] <Israel Hernandez>;Chris Henick/WHO/EOP [WHO] <Chris Henick>;Debra Heiden/OVP/EOP [OVP] <Debra Heiden>;Albert Hawkins/WHO/EOP [WHO] <Albert Hawkins>;John P. Hannah/OVP/EOP [OVP] <John P. Hannah>;John F. Haley/OVP/EOP [OVP] <John F. Haley>;Joseph W. Hagin/WHO /EOP@Exchange [WHO] <Joseph W. Hagin>;Stephen J. Hadley/NSC/EOP [NSC] <Stephen J. Hadley>;Ann Gray/WHO/EOP [WHO] <Ann Gray>;John Graham/OMB/EOP [OMB] <John Graham>;John A. Gordon/NSC/EOP [NSC] <John A. Gordon>;Alberto R. Gonzales/WHO/EOP [WHO] <Alberto R. Gonzales>;Tim Goeglein/WHO/EOP [WHO] <Tim Goeglein>;Dylan C. Glenn/OPD/EOP [OPD] <Dylan C. Glenn>;Alan Gilbert/OPD/EOP [OPD] <Alan Gilbert>;Michael J. Gerson/WHO/EOP@Exchange [WHO] <Michael J. Gerson>;Stephen M. Garrison/WHO/EOP [WHO] <Stephen M. Garrison>;Kelley Gannon/WHO/EOP [WHO] <Kelley Gannon>;Linda M. Gambatesa/WHO/EOP [WHO] <Linda M. Gambatesa>;Diana E. Furchtgott-Roth/CEA/EOP [CEA] <Diana E. Furchtgott-Roth>;Daniel Fried/NSC/EOP [NSC] <Daniel Fried>;Jendayi E. Frazer/NSC/EOP [NSC] <Jendayi E. Frazer>;Noel J. Francisco/WHO/EOP [WHO] <Noel J. Francisco>;Lawrence A. Fleischer/WHO/EOP@Exchange [WHO] <Lawrence A. Fleischer>;Catherine S. Fenton/WHO/EOP [WHO] <Catherine S. Fenton>;Richard Falkenrath/WHO/EOP [WHO] <Richard Falkenrath>;Nanette Everson/WHO/EOP [WHO] <Nanette Everson>;Mark Everson/OMB/EOP [OMB] <Mark Everson>;Ashley Estes/WHO/EOP [WHO] <Ashley Estes>;Tucker A. Eskew/WHO/EOP [WHO] <Tucker A. Eskew>;Gary R. Edson/NSC/EOP [NSC] <Gary R. Edson>;Eric S. Edelman/OVP/EOP [OVP] <Eric S. Edelman>;Wayne A. Downing/NSC/EOP [UNKNOWN] <Wayne A. Downing>;Elizabeth S. Dougherty/OPD/EOP [OPD] <Elizabeth S. Dougherty>;Nancy P. Dorn/WHO/EOP [UNKNOWN] <Nancy P. Dorn>;Diana C. Donnelly/WHO/EOP [WHO] <Diana C. Donnelly>;Nicolle Devenish/WHO/EOP [WHO] <Nicolle Devenish>;Mitchell Daniels/OMB/EOP [OMB] <Mitchell Daniels>;James F. Daniel/OA/EOP [OA] <James F. Daniel>;Stacia L. Cropper/OA /EOP@Exchange [OA] <Stacia L. Cropper>;Barry Crane/ONDCP/EOP [ONDCP] <Barry Crane>;John B. Craig/NSC/EOP [UNKNOWN] <John B. Craig>;Phil Cooney/CEQ/EOP [CEQ] <Phil Cooney>;Rebecca Contreras/WHO/EOP [WHO] <Rebecca Contreras>;Charles Conner/OPD/EOP [OPD] <Charles Conner>;James Connaughton/CEQ/EOP [CEQ] <James Connaughton>;Brian C. Conklin/WHO/EOP [WHO] <Brian C. Conklin>;Cesar Conda/OVP/EOP [OVP] <Cesar Conda>;Robert W. Cobb/WHO/EOP [UNKNOWN] <Robert W. Cobb>;John A. Cloud/NSC/EOP [NSC] <John A. Cloud>;Robin Cleveland/OMB/EOP [OMB] <Robin Cleveland>;Richard A. Clarke/NSC/EOP [NSC] <Richard A. Clarke>;Alicia P. Clark/WHO/EOP [WHO] <Alicia P. Clark>;Frank Cilluffo/WHO/EOP [WHO] <Frank Cilluffo>;Christine Ciccone/WHO/EOP [WHO] <Christine Ciccone>;Ronald I. Christie/OVP/EOP [UNKNOWN] <Ronald I. Christie>;Barbara C. Chaffee/WHO/EOP [WHO] <Barbara C. Chaffee>;Kirsten A. Chadwick/WHO/EOP [WHO] <Kirsten A. Chadwick>;Andrew H. Card/WHO/EOP@Exchange [WHO] <Andrew H. Card>;James C. Capretta/OMB/EOP [OMB] <James C. Capretta>;Nicholas E. Calio/WHO/EOP [WHO] <Nicholas E. Calio>;Scott Burns/ONDCP/EOP [ONDCP] <Scott Burns>;Katja Bullock/WHO/EOP [WHO] <Katja Bullock>;Carl Buchholz/WHO/EOP [WHO] <Carl Buchholz>;Claire E. Buchan/WHO/EOP [WHO] <Claire E. Buchan>;John M. Bridgeland/OPD/EOP [OPD] <John M. Bridgeland>;Stuart W. Bowen/WHO/EOP [WHO] <Stuart W. Bowen>;Carlos E. Bonilla/OPD/EOP [OPD] <Carlos E. Bonilla>;Joshua B. Bolten/WHO/EOP [WHO] <Joshua B. Bolten>;Lloyd A. Blanchard/OMB/EOP [UNKNOWN] <Lloyd A. Blanchard>;Bradley A. Blakeman/WHO/EOP@Exchange [WHO] <Bradley A. Blakeman>;Charles P. Blahous/OPD/EOP [OPD] <Charles P. Blahous>;Stephen E. Biegun/NSC/EOP [NSC] <Stephen E. Biegun>;Rebecca A. Beynon/WHO/EOP [WHO]

<Rebecca A. Beynon>;Janet L. Berman/OVP/EOP [OVP] <Janet L. Berman>;Bradford A. Berenson/WHO/EOP [WHO] <Bradford A. Berenson>;John B. Bellinger/NSC/EOP [NSC] <John B. Bellinger>;H. Christopher Bartolomucci/WHO/EOP [WHO] <H. Christopher Bartolomucci>;Daniel J. Bartlett/WHO/EOP@Exchange [WHO] <Daniel J. Bartlett>;Andrea G. Barthwell/ONDCP/EOP [ONDCP] <Andrea G. Barthwell>;Ruben S. Barrales/WHO/EOP [WHO] <Ruben S. Barrales>;Andrea G. Ball/WHO/EOP [WHO] <Andrea G. Ball>;Jackie Arends/WHO/EOP [WHO] <Jackie Arends>;George M. Andricos/NSC/EOP [NSC] <George M. Andricos>;Cathy Alix/WHO/EOP [WHO] <Cathy Alix>;David S. Addington/OVP/EOP [OVP] <David S. Addington>;Elliott Abrams/NSC/EOP [NSC] <Elliott Abrams>;Charles S. Abbot/OVP/EOP [OVP] <Charles S. Abbot>;Gina M. Wolford/NSC/EOP [NSC] <Gina M. Wolford>;David L. Travers/NSC/EOP [NSC] <David L. Travers>;Harry W. Wolff/WHO /EOP@Exchange [WHO] <Harry W. Wolff>;Alexian T. Wines/NSC/EOP [NSC] <Alexian T. Wines>;Patricia Williams/WHO/EOP [WHO] <Patricia Williams>;Jared B. Weinstein/WHO /EOP@Exchange [WHO] <Jared B. Weinstein>;Matthew C. Waxman/NSC/EOP [NSC] <Matthew C. Waxman>;Lauren J. Vestewig/OPD/EOP@Exchange [OPD] <Lauren J. Vestewig>;Terrill G. Tucker/NSC/EOP [NSC] <Terrill G. Tucker>;Tevi Troy/OPD /EOP@Exchange [OPD] <Tevi Troy>;Anne Trenolone/WHO/EOP [WHO] <Anne Trenolone>;Julieanne H. Thomas/WHO/EOP [WHO] <Julieanne H. Thomas>;Rachael L. Sunbarger/WHO/EOP [WHO] <Rachael L. Sunbarger>;Susan L. Sterner/WHO/EOP [WHO] <Susan L. Sterner>;Ashley Snee/WHO/EOP@Exchange [WHO] <Ashley Snee>;Robert E. Schubert/NSC/EOP [NSC] <Robert E. Schubert>;Deborah Sandler/NSC/EOP [NSC] <Deborah Sandler>;Jean M. Russell/OPD/EOP@Exchange [OPD] <Jean M. Russell>;Peter M. Rowan/WHO/EOP [UNKNOWN] <Peter M. Rowan>;Noelia Rodriguez/WHO/EOP [WHO] <Noelia Rodriguez>;Josephine B. Robinson/WHO/EOP [WHO] <Josephine B. Robinson>;Maurice C. Robinson/NSC/EOP [NSC] <Maurice C. Robinson>;Christina D. Roberts/WHO/EOP [UNKNOWN] <Christina D. Roberts>;Krista L. Ritacco/WHO /EOP@Exchange [WHO] <Krista L. Ritacco>;Allison L. Riepenhoff/WHO/EOP [WHO] <Allison L. Riepenhoff>;January M. Riecke/WHO/EOP [WHO] <January M. Riecke>;Katherine A. Rhodes/WHO/EOP [WHO] <Katherine A. Rhodes>;Tim Reynolds/WHO/EOP@Exchange [WHO] <Tim Reynolds>;David Reyes/NSC/EOP [NSC] <David Reyes>;Susan B. Ralston/WHO /EOP@Exchange [WHO] <Susan B. Ralston>;Leslie E. Radcliff/NSC/EOP [NSC] <Leslie E. Radcliff>;Alexia Poe/WHO/EOP [WHO] <Alexia Poe>;Charlotte L. Montiel/WHO /EOP@Exchange [WHO] <Charlotte L. Montiel>;Elliott M. Langer/NSC/EOP [NSC] <Elliott M. Langer>;Clare Pritchett/WHO/EOP [WHO] <Clare Pritchett>;Suzanne Primoff/WHO/EOP [WHO] <Suzanne Primoff>;John I. Pray/NSC/EOP [NSC] <John I. Pray>;Susan D. Phillips/NSC/EOP [NSC] <Susan D. Phillips>;Sarah Penny/WHO/EOP [WHO] <Sarah Penny>;Raymond H. Payne/NSC/EOP [NSC] <Raymond H. Payne>;Richard S. Paulus/WHO/EOP [WHO] <Richard S. Paulus>;Edward J. Padinske/NSC/EOP [NSC] <Edward J. Padinske>;Eric H. Otto/OPD/EOP@Exchange [OPD] <Eric H. Otto>;Lee B. Mynatt/NSC/EOP [NSC] <Lee B. Mynatt>;Steven Myers/NSC/EOP [NSC] <Steven Myers>;Sarah M. Garrison/WHO/EOP [WHO] <Sarah M. Garrison>;Paul L. Morse/WHO /EOP@Exchange [WHO] <Paul L. Morse>;Leslie A. Mooney/OPD/EOP@Exchange [OPD] <Leslie A. Mooney>;Cathy L. Millison/NSC/EOP [NSC] <Cathy L. Millison>;Sonya E. Medina/WHO/EOP [WHO] <Sonya E. Medina>;Vickie A. McQuade/WHO/EOP@Exchange [WHO] <Vickie A. McQuade>;Sara B. McIntosh/WHO/EOP [WHO] <Sara B. McIntosh>;Peter A. McCauley/NSC/EOP [NSC] <Peter A. McCauley>;Daniel M. McCarthy/WHO/EOP [WHO] <Daniel M. McCarthy>;Thomas S. Marsh/NSC/EOP [NSC] <Thomas S. Marsh>;Colleen Litkenhaus/WHO/EOP@Exchange [WHO] <Colleen Litkenhaus>;Lindsey M. Lineweaver/WHO/EOP [WHO] <Lindsey M. Lineweaver>;Laura E. Lineberry/NSC/EOP [NSC] <Laura E. Lineberry>;Adam L. Levine/WHO/EOP@Exchange [WHO] <Adam L. Levine>;Christopher S. Legrand/NSC/EOP [NSC] <Christopher S. Legrand>;Sang W. Lee/NSC/EOP [NSC] <Sang W. Lee>;Jennie M. Koch/NSC/EOP [NSC] <Jennie M. Koch>;Andrew M. Kaver/NSC/EOP [UNKNOWN] <Andrew M. Kaver>;Dora Kale/NSC/EOP [NSC] <Dora Kale>;Alexander S. Joves/NSC/EOP [NSC] <Alexander S. Joves>;M. Kay Joshi/NSC/EOP [NSC] <M. Kay Joshi>;Alison Jones/WHO/EOP [WHO] <Alison Jones>;Megan R. Johnston/WHO/EOP [WHO] <Megan R. Johnston>;Sydney R. Johnson/WHO/EOP [WHO] <Sydney R. Johnson>;Clarence C. Johnson/NSC/EOP [NSC] <Clarence C. Johnson>;Gordon D. Johndroe/WHO/EOP [WHO] <Gordon D. Johndroe>;Melanie A. Jackson/WHO/EOP [WHO] <Melanie A. Jackson>;Marilyn R. Jacanin/WHO/EOP@Exchange [WHO] <Marilyn R. Jacanin>;Restituto M. Francisco/OA/EOP [OA] <Restituto M. Francisco>;Sandra K. Evans/WHO/EOP [WHO] <Sandra K. Evans>;Regina L. Cain/WHO/EOP [WHO] <Regina L. Cain>;Katherine A. Brown/NSC/EOP [NSC] <Katherine A. Brown>;Bonnie S. Broadwick/NSC/EOP [NSC] <Bonnie S. Broadwick>;Theresa M. Hunter/NSC/EOP [NSC]

<Theresa M. Hunter>;A. Merrill Hughes/WHO/EOP [UNKNOWN] <A. Merrill Hughes>;Jeffrey P. Houle/NSC/EOP [NSC] <Jeffrey P. Houle>;Ashley Holbrook/WHO/EOP [WHO] <Ashley Holbrook>;Josephine L. Hirsch/WHO/EOP [WHO] <Josephine L. Hirsch>;Jane C. Heishman/NSC/EOP [NSC] <Jane C. Heishman>;Anne Heiligenstein/WHO/EOP [WHO] <Anne Heiligenstein>;Robert C. Hargis/NSC/EOP [NSC] <Robert C. Hargis>;Mary Ann Hanusa/WHO/EOP [WHO] <Mary Ann Hanusa>;Thomas A. Hall/NSC/EOP [NSC] <Thomas A. Hall>;Mary A. Haines/NSC/EOP [NSC] <Mary A. Haines>;Katharina M. Hager/WHO/EOP [WHO] <Katharina M. Hager>;Henry C. Hager/WHO/EOP [WHO] <Henry C. Hager>;Albert J. Guarnieri/NSC/EOP [NSC] <Albert J. Guarnieri>;Ginger G. Loper/WHO/EOP [WHO] <Ginger G. Loper>;Andrew W. Green/NSC/EOP [NSC] <Andrew W. Green>;Emily S. Gray/WHO/EOP [WHO] <Emily S. Gray>;Wendy E. Gray/NSC/EOP [NSC] <Wendy E. Gray>;Britt Grant/OPD/EOP [OPD] <Britt Grant>;Blake Gottesman/WHO/EOP [WHO] <Blake Gottesman>;Travis C. Good/NSC/EOP [UNKNOWN] <Travis C. Good>;Georgia D. Godfrey/WHO/EOP [WHO] <Georgia D. Godfrey>;Eleanor L. Gillmor/OPD/EOP@Exchange [OPD] <Eleanor L. Gillmor>;Dorothy C. Garvin/WHO/EOP@Exchange [WHO] <Dorothy C. Garvin>;Joachim D. Fuchs/NSC/EOP [NSC] <Joachim D. Fuchs>;Barbara J. Finn/OA/EOP [OA] <Barbara J. Finn>;Kara G. Figg/WHO/EOP@Exchange [WHO] <Kara G. Figg>;Jeanie L. Figg/WHO/EOP [WHO] <Jeanie L. Figg>;Jennifer D. Field/OVP/EOP [OVP] <Jennifer D. Field>;Douglas M. Erdahl/NSC/EOP [NSC] <Douglas M. Erdahl>;Ruth E. Elliott/NSC/EOP [NSC] <Ruth E. Elliott>;Kady Dunlap/WHO/EOP [WHO] <Kady Dunlap>;Eric A. Draper/WHO /EOP@Exchange [WHO] <Eric A. Draper>;Joan R. Doty/WHO/EOP [WHO] <Joan R. Doty>;Katherine L. Disston/WHO/EOP@Exchange [WHO] <Katherine L. Disston>;Reed Dickens/WHO/EOP [WHO] <Reed Dickens>;Josh Deckard/WHO/EOP [WHO] <Josh Deckard>;Ashley E. Davis/WHO/EOP [WHO] <Ashley E. Davis>;Jill Davie/WHO/EOP [WHO] <Jill Davie>;Colin Crosby/NSC/EOP [NSC] <Colin Crosby>;Lynn A. Crable/WHO/EOP [WHO] <Lynn A. Crable>;Colby J. Cooper/NSC/EOP [NSC] <Colby J. Cooper>;Michael J. Conway/WHO/EOP [WHO] <Michael J. Conway>;Carolyn E. Cleveland/WHO/EOP [WHO] <Carolyn E. Cleveland>;Shane P. Chambers/WHO/EOP [WHO] <Shane P. Chambers>;Lois A. Cassano/WHO/EOP [WHO] <Lois A. Cassano>;Pamela R. Casey/WHO/EOP [WHO] <Pamela R. Casey>;Anne E. Campbell/WHO/EOP@Exchange [WHO] <Anne E. Campbell>;Elizabeth N. Camp/WHO/EOP [WHO] <Elizabeth N. Camp>;Marcia J. Caler/NSC/EOP [UNKNOWN] <Marcia J. Caler>;Johnathan C. Bunting/NSC/EOP [NSC] <Johnathan C. Bunting>;Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>;Marko R. Broz/NSC/EOP [NSC] <Marko R. Broz>;Gary E. Bresnahan/NSC/EOP [NSC] <Gary E. Bresnahan>;Brian Bravo/WHO/EOP@Exchange [WHO] <Brian Bravo>;David R. Bohrer/OVP/EOP [OVP] <David R. Bohrer>;Debra D. Bird/WHO/EOP [WHO] <Debra D. Bird>;Melissa S. Bennett/WHO /EOP@Exchange [WHO] <Melissa S. Bennett>;Cheryl E. Barnett/NSC/EOP [NSC] <Cheryl E. Barnett>;Tiffany L. Barfield/WHO/EOP [WHO] <Tiffany L. Barfield>;Mitchell P. Backfield/NSC/EOP [NSC] <Mitchell P. Backfield>;Jill L. Angelo/WHO/EOP [UNKNOWN] <Jill L. Angelo>;Ashleigh A. Adams/WHO/EOP [UNKNOWN] <Ashleigh A. Adams>

Sent: 1/14/2003 8:09:01 AM

Subject: : POSTMASTER: Mess Holiday Hours

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME:14-JAN-2003 13:09:01.00
SUBJECT:: POSTMASTER: Mess Holiday Hours
TO:Joseph J. Shattan ( CN=Joseph J. Shattan/OU=OVP/O=EOP [ OVP ] )
READ:UNKNOWN
TO:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
TO:Richard J. Tubb ( CN=Richard J. Tubb/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Paul J. Severs ( CN=Paul J. Severs/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Joseph D. Rozek ( CN=Joseph D. Rozek/OU=OVP/O=EOP [ OVP ] )
READ:UNKNOWN
TO:Steven J. Reynolds ( CN=Steven J. Reynolds/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
TO:Candida P. Wolff ( CN=Candida P. Wolff/OU=OVP/O=EOP [ OVP ] )
READ:UNKNOWN
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP [ WHO ] )
```

READ:UNKNOWN
TO:Daniel K. Wilmot (CN=Daniel K. Wilmot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:James R. Wilkinson (CN=James R. Wilkinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jocelyn White (CN=Jocelyn White/OU=WHF/O=EOP [OPM])
READ:UNKNOWN
TO:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul A. Wedderien (CN=Paul A. Wedderien/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John P. Walters (CN=John P. Walters/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine W. Tobias (CN=Catherine W. Tobias/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jose G. Suarez (CN=Jose G. Suarez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Aquiles F. Suarez (CN=Aquiles F. Suarez/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Angela B. Styles (CN=Angela B. Styles/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary A. Solberg (CN=Mary A. Solberg/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Augustine T. Smythe (CN=Augustine T. Smythe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Thomas J. Sharpy (CN=Thomas J. Sharpy/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Howard A. Schmidt (CN=Howard A. Schmidt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel Schecter (CN=Daniel Schecter/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard M. Russell (CN=Richard M. Russell/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Stephen S. Ruhlen (CN=Stephen S. Ruhlen/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Mark V. Rosenker (CN=Mark V. Rosenker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Ridge (CN=Thomas J. Ridge/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Nina Rees (CN=Nina Rees/OU=OVP/O=EOP [OVP])

READ:UNKNOWN
TO:Craig Ray (CN=Craig Ray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kathie L. Olsen (CN=Kathie L. Olsen/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Newell (CN=John F. Newell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Manson O. Morris (CN=Manson O. Morris/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Paul D. Montanus (CN=Paul D. Montanus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. McAllister (CN=James M. McAllister/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric C. Pelletier (CN=Eric C. Pelletier/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Marcus Peacock (CN=Marcus Peacock/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Neil S. Patel (CN=Neil S. Patel/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Sean C. O'Keefe (CN=Sean C. O'Keefe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire M. O'Donnell (CN=Claire M. O'Donnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan K. Neely (CN=Susan K. Neely/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen S. McMillin (CN=Stephen S. McMillin/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark McClellan (CN=Mark McClellan/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Mary J. Matalin (CN=Mary J. Matalin/OU=OVP/O=EOP [OVP])

READ:UNKNOWN
TO:Catherine J. Martin (CN=Catherine J. Martin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John H. Marburger (CN=John H. Marburger/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Maisto (CN=John F. Maisto/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin A. MacLean (CN=Robin A. MacLean/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ado A. Machida (CN=Ado A. Machida/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Deborah A. Loewer (CN=Deborah A. Loewer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence B. Lindsey (CN=Lawrence B. Lindsey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Laura S. Lawlor (CN=Laura S. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bruce M. Lawlor (CN=Bruce M. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Randall S. Kroszner (CN=Randall S. Kroszner/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Karen Y. Knutson (CN=Karen Y. Knutson/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Frank G. Klotz (CN=Frank G. Klotz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Ellis Kitchen (CN=Ellis Kitchen/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Charles D. McGrath Jr (CN=Charles D. McGrath Jr/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Reuben Jeffery (CN=Reuben Jeffery/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hector F. Irastorza (CN=Hector F. Irastorza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Tim Campen (CN=Tim Campen/OU=OA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Penrose C. Albright TPO (CN=Penrose C. Albright TPO/OU=TPO/OU=OMB/O=EOP [OMB])

READ:UNKNOWN
TO:Steven I. Cooper TPO (CN=Steven I. Cooper TPO/OU=TPO/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Julian M. Flannery (CN=Julian M. Flannery/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Duncan Campbell (CN=Duncan Campbell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:R. Rand Beers (CN=R. Rand Beers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Glenn Hubbard (CN=Glenn Hubbard/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Jack Howard (CN=Jack Howard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Holman (CN=Mark Holman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Chris Henick (CN=Chris Henick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Debra Heiden (CN=Debra Heiden/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Albert Hawkins (CN=Albert Hawkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John P. Hannah (CN=John P. Hannah/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John F. Haley (CN=John F. Haley/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John Graham (CN=John Graham/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:John A. Gordon (CN=John A. Gordon/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Stephen M. Garrison (CN=Stephen M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Diana E. Furchtgott-Roth (CN=Diana E. Furchtgott-Roth/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Everson (CN=Mark Everson/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric S. Edelman (CN=Eric S. Edelman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Wayne A. Downing (CN=Wayne A. Downing/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Nancy P. Dorn (CN=Nancy P. Dorn/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Diana C. Donnelly (CN=Diana C. Donnelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:James F. Daniel (CN=James F. Daniel/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Stacia L. Cropper (CN=Stacia L. Cropper/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
TO:Barry Crane (CN=Barry Crane/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:John B. Craig (CN=John B. Craig/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:James Connaughton (CN=James Connaughton/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cesar Conda (CN=Cesar Conda/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert W. Cobb (CN=Robert W. Cobb/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:John A. Cloud (CN=John A. Cloud/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin Cleveland (CN=Robin Cleveland/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Richard A. Clarke (CN=Richard A. Clarke/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Frank Cilluffo (CN=Frank Cilluffo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christine Ciccone (CN=Christine Ciccone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Barbara C. Chaffee (CN=Barbara C. Chaffee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP@Exchange [WHO])

READ:UNKNOWN
TO:James C. Capretta (CN=James C. Capretta/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Nicholas E. Calio (CN=Nicholas E. Calio/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott Burns (CN=Scott Burns/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carl Buchholz (CN=Carl Buchholz/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stuart W. Bowen (CN=Stuart W. Bowen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carlos E. Bonilla (CN=Carlos E. Bonilla/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lloyd A. Blanchard (CN=Lloyd A. Blanchard/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen E. Biegun (CN=Stephen E. Biegun/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Janet L. Berman (CN=Janet L. Berman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Andrea G. Barthwell (CN=Andrea G. Barthwell/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Cathy Alix (CN=Cathy Alix/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Gina M. Wolford (CN=Gina M. Wolford/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David L. Travers (CN=David L. Travers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harry W. Wolff (CN=Harry W. Wolff/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Alexian T. Wines (CN=Alexian T. Wines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patricia Williams (CN=Patricia Williams/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Jared B. Weinstein (CN=Jared B. Weinstein/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Matthew C. Waxman (CN=Matthew C. Waxman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lauren J. Vestewig (CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Terrill G. Tucker (CN=Terrill G. Tucker/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tevi Troy (CN=Tevi Troy/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Anne Trenolone (CN=Anne Trenolone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Julieanne H. Thomas (CN=Julieanne H. Thomas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Rachael L. Sunbarger (CN=Rachael L. Sunbarger/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan L. Sterner (CN=Susan L. Sterner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Robert E. Schubert (CN=Robert E. Schubert/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Deborah Sandler (CN=Deborah Sandler/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jean M. Russell (CN=Jean M. Russell/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Peter M. Rowan (CN=Peter M. Rowan/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Noelia Rodriguez (CN=Noelia Rodriguez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine B. Robinson (CN=Josephine B. Robinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Maurice C. Robinson (CN=Maurice C. Robinson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Christina D. Roberts (CN=Christina D. Roberts/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Allison L. Riepenhoff (CN=Allison L. Riepenhoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:January M. Riecke (CN=January M. Riecke/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Rhodes (CN=Katherine A. Rhodes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Reynolds (CN=Tim Reynolds/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:David Reyes (CN=David Reyes/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Leslie E. Radcliff (CN=Leslie E. Radcliff/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexia Poe (CN=Alexia Poe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Elliott M. Langer (CN=Elliott M. Langer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Clare Pritchett (CN=Clare Pritchett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Suzanne Primoff (CN=Suzanne Primoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John I. Pray (CN=John I. Pray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan D. Phillips (CN=Susan D. Phillips/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah Penny (CN=Sarah Penny/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Raymond H. Payne (CN=Raymond H. Payne/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Richard S. Paulus (CN=Richard S. Paulus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward J. Padinske (CN=Edward J. Padinske/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric H. Otto (CN=Eric H. Otto/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Lee B. Mynatt (CN=Lee B. Mynatt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Steven Myers (CN=Steven Myers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah M. Garrison (CN=Sarah M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul L. Morse (CN=Paul L. Morse/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Leslie A. Mooney (CN=Leslie A. Mooney/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Cathy L. Millison (CN=Cathy L. Millison/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sonya E. Medina (CN=Sonya E. Medina/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Vickie A. McQuade (CN=Vickie A. McQuade/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Sara B. McIntosh (CN=Sara B. McIntosh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter A. McCauley (CN=Peter A. McCauley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel M. McCarthy (CN=Daniel M. McCarthy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas S. Marsh (CN=Thomas S. Marsh/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Lindsey M. Lineweaver (CN=Lindsey M. Lineweaver/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Laura E. Lineberry (CN=Laura E. Lineberry/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Adam L. Levine (CN=Adam L. Levine/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Christopher S. Legrand (CN=Christopher S. Legrand/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sang W. Lee (CN=Sang W. Lee/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jennie M. Koch (CN=Jennie M. Koch/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Andrew M. Kaver (CN=Andrew M. Kaver/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Dora Kale (CN=Dora Kale/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexander S. Joves (CN=Alexander S. Joves/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:M. Kay Joshi (CN=M. Kay Joshi/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Megan R. Johnston (CN=Megan R. Johnston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sydney R. Johnson (CN=Sydney R. Johnson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clarence C. Johnson (CN=Clarence C. Johnson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gordon D. Johndroe (CN=Gordon D. Johndroe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melanie A. Jackson (CN=Melanie A. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marilyn R. Jacanin (CN=Marilyn R. Jacanin/OU=WHO/O=EOP@Exchange [WHO])

READ:UNKNOWN
TO:Restituto M. Francisco (CN=Restituto M. Francisco/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Sandra K. Evans (CN=Sandra K. Evans/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Regina L. Cain (CN=Regina L. Cain/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Brown (CN=Katherine A. Brown/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Bonnie S. Broadwick (CN=Bonnie S. Broadwick/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Theresa M. Hunter (CN=Theresa M. Hunter/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:A. Merrill Hughes (CN=A. Merrill Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jeffrey P. Houle (CN=Jeffrey P. Houle/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ashley Holbrook (CN=Ashley Holbrook/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine L. Hirsch (CN=Josephine L. Hirsch/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jane C. Heishman (CN=Jane C. Heishman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anne Heiligenstein (CN=Anne Heiligenstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. Hargis (CN=Robert C. Hargis/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary Ann Hanusa (CN=Mary Ann Hanusa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas A. Hall (CN=Thomas A. Hall/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary A. Haines (CN=Mary A. Haines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Katharina M. Hager (CN=Katharina M. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Henry C. Hager (CN=Henry C. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Albert J. Guarnieri (CN=Albert J. Guarnieri/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew W. Green (CN=Andrew W. Green/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Emily S. Gray (CN=Emily S. Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wendy E. Gray (CN=Wendy E. Gray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Britt Grant (CN=Britt Grant/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Travis C. Good (CN=Travis C. Good/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Georgia D. Godfrey (CN=Georgia D. Godfrey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Dorothy C. Garvin (CN=Dorothy C. Garvin/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Joachim D. Fuchs (CN=Joachim D. Fuchs/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Barbara J. Finn (CN=Barbara J. Finn/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jeanie L. Figg (CN=Jeanie L. Figg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jennifer D. Field (CN=Jennifer D. Field/OU=OVP/O=EOP [OVP])

READ:UNKNOWN
TO:Douglas M. Erdahl (CN=Douglas M. Erdahl/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ruth E. Elliott (CN=Ruth E. Elliott/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kady Dunlap (CN=Kady Dunlap/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eric A. Draper (CN=Eric A. Draper/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Joan R. Doty (CN=Joan R. Doty/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine L. Disston (CN=Katherine L. Disston/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Reed Dickens (CN=Reed Dickens/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josh Deckard (CN=Josh Deckard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley E. Davis (CN=Ashley E. Davis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jill Davie (CN=Jill Davie/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colin Crosby (CN=Colin Crosby/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lynn A. Crable (CN=Lynn A. Crable/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colby J. Cooper (CN=Colby J. Cooper/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Shane P. Chambers (CN=Shane P. Chambers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lois A. Cassano (CN=Lois A. Cassano/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Pamela R. Casey (CN=Pamela R. Casey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne E. Campbell (CN=Anne E. Campbell/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marcia J. Caler (CN=Marcia J. Caler/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Johnathan C. Bunting (CN=Johnathan C. Bunting/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Marko R. Broz (CN=Marko R. Broz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gary E. Bresnahan (CN=Gary E. Bresnahan/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:David R. Bohrer (CN=David R. Bohrer/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Cheryl E. Barnett (CN=Cheryl E. Barnett/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell P. Backfield (CN=Mitchell P. Backfield/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jill L. Angelo (CN=Jill L. Angelo/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Ashleigh A. Adams (CN=Ashleigh A. Adams/OU=WHO/O=EOP [UNKNOWN])

READ:UNKNOWN
End Original ARMS Header

Mess Holiday Hours

Please note that the White House Mess will be closed for business on Monday, January 21 in observance of Martin Luther King Day. If the need arises, necessary arrangements will be made to meet any unforeseen demands. We apologize for any inconvenience.

Thank you.

MANAGEMENT & ADMINISTRATION

From: CN=PostMaster/O=EOP [OA]

To: Joseph J. Shattan/OVP/EOP [OVP] <Joseph J. Shattan>;Kevin Warsh/OPD/EOP [OPD] <Kevin Warsh>;Richard J. Tubb/WHO/EOP [WHO] <Richard J. Tubb>;Paul J. Severs/WHO/EOP [WHO] <Paul J. Severs>;Joseph D. Rozek/OVP/EOP [OVP] <Joseph D. Rozek>;Steven J. Reynolds/WHO/EOP [WHO] <Steven J. Reynolds>;Candida P. Wolff/OVP/EOP [OVP] <Candida P. Wolff>;Heather Wingate/WHO/EOP [WHO] <Heather Wingate>;Daniel K. Wilmot/OVP/EOP [OVP] <Daniel K. Wilmot>;James R. Wilkinson/WHO/EOP [WHO] <James R. Wilkinson>;Jocelyn White/WHF/EOP [OPM] <Jocelyn White>;Lezlee J. Westine/WHO/EOP [WHO] <Lezlee J. Westine>;Peter H. Wehner/WHO/EOP [WHO] <Peter H. Wehner>;Paul A. Wedderien/NSC/EOP [NSC] <Paul A. Wedderien>;John P. Walters/ONDCP/EOP [ONDCP] <John P. Walters>;Helgard C. Walker/WHO/EOP [WHO] <Helgard C. Walker>;Jim Towey/WHO/EOP [WHO] <Jim Towey>;Catherine W. Tobias/OVP/EOP [OVP] <Catherine W. Tobias>;Jose G. Suarez/WHO/EOP [WHO] <Jose G. Suarez>;Aquiles F. Suarez/OPD/EOP [OPD] <Aquiles F. Suarez>;Angela B. Styles/OMB/EOP [OMB] <Angela B. Styles>;Mary K. Sturtevant/NSC/EOP [NSC] <Mary K. Sturtevant>;Margaret M. Spellings/OPD/EOP@Exchange [OPD] <Margaret M. Spellings>;Deborah A. Spagnoli/WHO/EOP [WHO] <Deborah A. Spagnoli>;Mary A. Solberg/ONDCP/EOP [ONDCP] <Mary A. Solberg>;Augustine T. Smythe/OMB/EOP [OMB] <Augustine T. Smythe>;Kristen Silverberg/WHO/EOP@Exchange [WHO] <Kristen Silverberg>;Thomas J. Sharpy/OVP/EOP [OVP] <Thomas J. Sharpy>;Scott N. Sforza/WHO/EOP [WHO] <Scott N. Sforza>;Howard A. Schmidt/NSC/EOP [NSC] <Howard A. Schmidt>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Daniel Schecter/ONDCP/EOP [ONDCP] <Daniel Schecter>;Diana L. Schacht/OPD/EOP [OPD] <Diana L. Schacht>;Desiree T. Sayle/WHO/EOP [WHO] <Desiree T. Sayle>;Kyle Sampson/WHO/EOP [WHO] <Kyle Sampson>;Richard M. Russell/OSTP/EOP [OSTP] <Richard M. Russell>;Stephen S. Ruhlen/OVP/EOP [OVP] <Stephen S. Ruhlen>;Karl C. Rove/WHO/EOP@Exchange [WHO] <Karl C. Rove>;Mark V. Rosenker/WHO/EOP [WHO] <Mark V. Rosenker>;Thomas J. Ridge/WHO/EOP [WHO] <Thomas J. Ridge>;Condoleezza Rice/NSC/EOP [NSC] <Condoleezza Rice>;Nina Rees/OVP/EOP [OVP] <Nina Rees>;Craig Ray/WHO/EOP [WHO] <Craig Ray>;Benjamin A. Powell/WHO/EOP [WHO] <Benjamin A. Powell>;Kathie L. Olsen/OSTP/EOP [OSTP] <Kathie L. Olsen>;John F. Newell/WHO/EOP [WHO] <John F. Newell>;Manson O. Morris/OVP/EOP [OVP] <Manson O. Morris>;Paul D. Montanus/WHO/EOP [WHO] <Paul D. Montanus>;James M. McAllister/WHO/EOP [WHO] <James M. McAllister>;James M. Kelly/WHO/EOP [WHO] <James M. Kelly>;Dina Powell/WHO/EOP [WHO] <Dina Powell>;Philip J. Perry/OMB/EOP [OMB] <Philip J. Perry>;Anna M. Perez/NSC/EOP [NSC] <Anna M. Perez>;Eric C. Pelletier/OMB/EOP [OMB] <Eric C. Pelletier>;Marcus Peacock/OMB/EOP [OMB] <Marcus Peacock>;Neil S. Patel/OVP/EOP [OVP] <Neil S. Patel>;Sean C. O'Keefe/OMB/EOP [OMB] <Sean C. O'Keefe>;Ziad S. Ojakli/WHO/EOP [WHO] <Ziad S. Ojakli>;Claire M. O'Donnell/OVP/EOP [OVP] <Claire M. O'Donnell>;Jennifer G. Newstead/WHO/EOP [WHO] <Jennifer G. Newstead>;Susan K. Neely/WHO/EOP [WHO] <Susan K. Neely>;Edmund C. Moy/WHO/EOP [WHO] <Edmund C. Moy>;James F. Moriarty/NSC/EOP [NSC] <James F. Moriarty>;Brian D. Montgomery/WHO/EOP [WHO] <Brian D. Montgomery>;Michael H. Miller/WHO/EOP [WHO] <Michael H. Miller>;Franklin C. Miller/NSC/EOP [NSC] <Franklin C. Miller>;Harriet Miers/WHO/EOP [WHO] <Harriet Miers>;Ken Mehlman/WHO/EOP [WHO] <Ken Mehlman>;Edward McNally/WHO/EOP [WHO] <Edward McNally>;Robert C. McNally/OPD/EOP [OPD] <Robert C. McNally>;Stephen S. McMillin/OMB/EOP [OMB] <Stephen S. McMillin>;Brian V. McCormack/OVP/EOP [OVP] <Brian V. McCormack>;John P. McConnell/OVP/EOP [OVP] <John P. McConnell>;Scott McClellan/WHO/EOP [WHO] <Scott McClellan>;Mark McClellan/CEA/EOP [UNKNOWN] <Mark McClellan>;Mary J. Matalin/OVP/EOP [OVP] <Mary J. Matalin>;Catherine J. Martin/OVP/EOP [OVP] <Catherine J. Martin>;Robert Marsh/WHO/EOP [WHO] <Robert Marsh>;John H. Marburger/OSTP/EOP [OSTP] <John H. Marburger>;John F. Maisto/NSC/EOP [NSC] <John F. Maisto>;Robin A. MacLean/WHO/EOP [WHO] <Robin A. MacLean>;Ado A. Machida/OVP/EOP [OVP] <Ado A. Machida>;Deborah A. Loewer/NSC/EOP [NSC] <Deborah A. Loewer>;Roland N. Litterst/WHO/EOP [WHO] <Roland N. Litterst>;Lawrence B. Lindsey/OPD/EOP@Exchange [OPD] <Lawrence B. Lindsey>;Lewis Libby/OVP/EOP [OVP] <Lewis Libby>;Jay P. Lefkowitz/OPD/EOP@Exchange [OPD] <Jay P. Lefkowitz>;Laura S. Lawlor/WHO/EOP [WHO] <Laura S. Lawlor>;Bruce M. Lawlor/WHO/EOP [WHO] <Bruce M. Lawlor>;Paul B. Kurtz/NSC/EOP [NSC] <Paul B. Kurtz>;David Kuo/WHO/EOP [WHO] <David Kuo>;Randall S.

Kroszner/CEA/EOP [CEA] <Randall S. Kroszner>;Karen Y. Knutson/OVP/EOP [OVP] <Karen Y. Knutson>;Frank G. Klotz/NSC/EOP [NSC] <Frank G. Klotz>;Elizabeth W. Kleppe/OVP/EOP [OVP] <Elizabeth W. Kleppe>;Ellis Kitchen/OA/EOP@Exchange [OA] <Ellis Kitchen>;Matthew Kirk/WHO/EOP [WHO] <Matthew Kirk>;Zalmay M. Khalilzad/NSC/EOP [NSC] <Zalmay M. Khalilzad>;Daniel J. Keniry/WHO/EOP [WHO] <Daniel J. Keniry>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Joel D. Kaplan/WHO/EOP@Exchange [WHO] <Joel D. Kaplan>;Charles D. McGrath Jr/OVP/EOP [OVP] <Charles D. McGrath Jr>;Robert G. Joseph/NSC/EOP [NSC] <Robert G. Joseph>;Reuben Jeffery/OPD/EOP [OPD] <Reuben Jeffery>;Barry S. Jackson/WHO/EOP [WHO] <Barry S. Jackson>;Hector F. Irastorza/WHO/EOP [WHO] <Hector F. Irastorza>;Edward Ingle/WHO/EOP [WHO] <Edward Ingle>;Clay Johnson III/WHO/EOP@Exchange [WHO] <Clay Johnson III>;Tim Campen/OA/EOP [UNKNOWN] <Tim Campen>;Penrose C. Albright TPO/TPO/OMB/EOP [OMB] <Penrose C. Albright TPO>;Steven I. Cooper TPO/TPO/OMB/EOP [OMB] <Steven I. Cooper TPO>;Keith Hennessey/OPD/EOP@Exchange [OPD] <Keith Hennessey>;Julian M. Flannery/WHO/EOP@Exchange [WHO] <Julian M. Flannery>;Duncan Campbell/WHO/EOP [WHO] <Duncan Campbell>;R. Rand Beers/NSC/EOP [NSC] <R. Rand Beers>;Glenn Hubbard/CEA/EOP [CEA] <Glenn Hubbard>;Jack Howard/WHO/EOP [WHO] <Jack Howard>;Mark Holman/WHO/EOP [WHO] <Mark Holman>;David W. Hobbs/WHO/EOP [WHO] <David W. Hobbs>;Israel Hernandez/WHO/EOP@Exchange [WHO] <Israel Hernandez>;Chris Henick/WHO/EOP [WHO] <Chris Henick>;Debra Heiden/OVP/EOP [OVP] <Debra Heiden>;Albert Hawkins/WHO/EOP [WHO] <Albert Hawkins>;John P. Hannah/OVP/EOP [OVP] <John P. Hannah>;John F. Haley/OVP/EOP [OVP] <John F. Haley>;Joseph W. Hagin/WHO /EOP@Exchange [WHO] <Joseph W. Hagin>;Stephen J. Hadley/NSC/EOP [NSC] <Stephen J. Hadley>;Ann Gray/WHO/EOP [WHO] <Ann Gray>;John Graham/OMB/EOP [OMB] <John Graham>;John A. Gordon/NSC/EOP [NSC] <John A. Gordon>;Alberto R. Gonzales/WHO/EOP [WHO] <Alberto R. Gonzales>;Tim Goeglein/WHO/EOP [WHO] <Tim Goeglein>;Dylan C. Glenn/OPD/EOP [OPD] <Dylan C. Glenn>;Alan Gilbert/OPD/EOP [OPD] <Alan Gilbert>;Michael J. Gerson/WHO/EOP@Exchange [WHO] <Michael J. Gerson>;Stephen M. Garrison/WHO/EOP [WHO] <Stephen M. Garrison>;Kelley Gannon/WHO/EOP [WHO] <Kelley Gannon>;Linda M. Gambatesa/WHO/EOP [WHO] <Linda M. Gambatesa>;Diana E. Furchtgott-Roth/CEA/EOP [CEA] <Diana E. Furchtgott-Roth>;Daniel Fried/NSC/EOP [NSC] <Daniel Fried>;Jendayi E. Frazer/NSC/EOP [NSC] <Jendayi E. Frazer>;Noel J. Francisco/WHO/EOP [WHO] <Noel J. Francisco>;Lawrence A. Fleischer/WHO/EOP@Exchange [WHO] <Lawrence A. Fleischer>;Catherine S. Fenton/WHO/EOP [WHO] <Catherine S. Fenton>;Richard Falkenrath/WHO/EOP [WHO] <Richard Falkenrath>;Nanette Everson/WHO/EOP [WHO] <Nanette Everson>;Mark Everson/OMB/EOP [OMB] <Mark Everson>;Ashley Estes/WHO/EOP [WHO] <Ashley Estes>;Tucker A. Eskew/WHO/EOP [WHO] <Tucker A. Eskew>;Gary R. Edson/NSC/EOP [NSC] <Gary R. Edson>;Eric S. Edelman/OVP/EOP [OVP] <Eric S. Edelman>;Wayne A. Downing/NSC/EOP [UNKNOWN] <Wayne A. Downing>;Elizabeth S. Dougherty/OPD/EOP [OPD] <Elizabeth S. Dougherty>;Nancy P. Dorn/WHO/EOP [UNKNOWN] <Nancy P. Dorn>;Diana C. Donnelly/WHO/EOP [WHO] <Diana C. Donnelly>;Nicolle Devenish/WHO/EOP [WHO] <Nicolle Devenish>;Mitchell Daniels/OMB/EOP [OMB] <Mitchell Daniels>;James F. Daniel/OA/EOP [OA] <James F. Daniel>;Stacia L. Cropper/OA /EOP@Exchange [OA] <Stacia L. Cropper>;Barry Crane/ONDCP/EOP [ONDCP] <Barry Crane>;John B. Craig/NSC/EOP [UNKNOWN] <John B. Craig>;Phil Cooney/CEQ/EOP [CEQ] <Phil Cooney>;Rebecca Contreras/WHO/EOP [WHO] <Rebecca Contreras>;Charles Conner/OPD/EOP [OPD] <Charles Conner>;James Connaughton/CEQ/EOP [CEQ] <James Connaughton>;Brian C. Conklin/WHO/EOP [WHO] <Brian C. Conklin>;Cesar Conda/OVP/EOP [OVP] <Cesar Conda>;Robert W. Cobb/WHO/EOP [UNKNOWN] <Robert W. Cobb>;John A. Cloud/NSC/EOP [NSC] <John A. Cloud>;Robin Cleveland/OMB/EOP [OMB] <Robin Cleveland>;Richard A. Clarke/NSC/EOP [NSC] <Richard A. Clarke>;Alicia P. Clark/WHO/EOP [WHO] <Alicia P. Clark>;Frank Cilluffo/WHO/EOP [WHO] <Frank Cilluffo>;Christine Ciccone/WHO/EOP [WHO] <Christine Ciccone>;Ronald I. Christie/OVP/EOP [UNKNOWN] <Ronald I. Christie>;Barbara C. Chaffee/WHO/EOP [WHO] <Barbara C. Chaffee>;Kirsten A. Chadwick/WHO/EOP [WHO] <Kirsten A. Chadwick>;Andrew H. Card/WHO/EOP@Exchange [WHO] <Andrew H. Card>;James C. Capretta/OMB/EOP [OMB] <James C. Capretta>;Nicholas E. Calio/WHO/EOP [WHO] <Nicholas E. Calio>;Scott Burns/ONDCP/EOP [ONDCP] <Scott Burns>;Katja Bullock/WHO/EOP [WHO] <Katja Bullock>;Carl Buchholz/WHO/EOP [WHO] <Carl Buchholz>;Claire E. Buchan/WHO/EOP [WHO] <Claire E. Buchan>;John M. Bridgeland/OPD/EOP [OPD] <John M. Bridgeland>;Stuart W.

Bowen/WHO/EOP [WHO] <Stuart W. Bowen>;Carlos E. Bonilla/OPD/EOP [OPD] <Carlos E. Bonilla>;Joshua B. Bolten/WHO/EOP [WHO] <Joshua B. Bolten>;Lloyd A. Blanchard/OMB/EOP [UNKNOWN] <Lloyd A. Blanchard>;Bradley A. Blakeman/WHO/EOP@Exchange [WHO] <Bradley A. Blakeman>;Charles P. Blahous/OPD/EOP [OPD] <Charles P. Blahous>;Stephen E. Biegun/NSC/EOP [NSC] <Stephen E. Biegun>;Rebecca A. Beynon/WHO/EOP [WHO] <Rebecca A. Beynon>;Janet L. Berman/OVP/EOP [OVP] <Janet L. Berman>;Bradford A. Berenson/WHO/EOP [WHO] <Bradford A. Berenson>;John B. Bellinger/NSC/EOP [NSC] <John B. Bellinger>;H. Christopher Bartolomucci/WHO/EOP [WHO] <H. Christopher Bartolomucci>;Daniel J. Bartlett/WHO/EOP@Exchange [WHO] <Daniel J. Bartlett>;Andrea G. Barthwell/ONDCP/EOP [ONDCP] <Andrea G. Barthwell>;Ruben S. Barrales/WHO/EOP [WHO] <Ruben S. Barrales>;Andrea G. Ball/WHO/EOP [WHO] <Andrea G. Ball>;Jackie Arends/WHO/EOP [WHO] <Jackie Arends>;George M. Andricos/NSC/EOP [NSC] <George M. Andricos>;Cathy Alix/WHO/EOP [WHO] <Cathy Alix>;David S. Addington/OVP/EOP [OVP] <David S. Addington>;Elliott Abrams/NSC/EOP [NSC] <Elliott Abrams>;Charles S. Abbot/OVP/EOP [OVP] <Charles S. Abbot>;Gina M. Wolford/NSC/EOP [NSC] <Gina M. Wolford>;David L. Travers/NSC/EOP [NSC] <David L. Travers>;Harry W. Wolff/WHO /EOP@Exchange [WHO] <Harry W. Wolff>;Alexian T. Wines/NSC/EOP [NSC] <Alexian T. Wines>;Patricia Williams/WHO/EOP [WHO] <Patricia Williams>;Jared B. Weinstein/WHO /EOP@Exchange [WHO] <Jared B. Weinstein>;Matthew C. Waxman/NSC/EOP [NSC] <Matthew C. Waxman>;Lauren J. Vestewig/OPD/EOP@Exchange [OPD] <Lauren J. Vestewig>;Terrill G. Tucker/NSC/EOP [NSC] <Terrill G. Tucker>;Tevi Troy/OPD /EOP@Exchange [OPD] <Tevi Troy>;Anne Trenolone/WHO/EOP [WHO] <Anne Trenolone>;Julieanne H. Thomas/WHO/EOP [WHO] <Julieanne H. Thomas>;Rachael L. Sunbarger/WHO/EOP [WHO] <Rachael L. Sunbarger>;Susan L. Sterner/WHO/EOP [WHO] <Susan L. Sterner>;Ashley Snee/WHO/EOP@Exchange [WHO] <Ashley Snee>;Robert E. Schubert/NSC/EOP [NSC] <Robert E. Schubert>;Deborah Sandler/NSC/EOP [NSC] <Deborah Sandler>;Jean M. Russell/OPD/EOP@Exchange [OPD] <Jean M. Russell>;Peter M. Rowan/WHO/EOP [UNKNOWN] <Peter M. Rowan>;Noelia Rodriguez/WHO/EOP [WHO] <Noelia Rodriguez>;Josephine B. Robinson/WHO/EOP [WHO] <Josephine B. Robinson>;Maurice C. Robinson/NSC/EOP [NSC] <Maurice C. Robinson>;Christina D. Roberts/WHO/EOP [UNKNOWN] <Christina D. Roberts>;Krista L. Ritacco/WHO /EOP@Exchange [WHO] <Krista L. Ritacco>;Allison L. Riepenhoff/WHO/EOP [WHO] <Allison L. Riepenhoff>;January M. Riecke/WHO/EOP [WHO] <January M. Riecke>;Katherine A. Rhodes/WHO/EOP [WHO] <Katherine A. Rhodes>;Tim Reynolds/WHO/EOP@Exchange [WHO] <Tim Reynolds>;David Reyes/NSC/EOP [NSC] <David Reyes>;Susan B. Ralston/WHO /EOP@Exchange [WHO] <Susan B. Ralston>;Leslie E. Radcliff/NSC/EOP [NSC] <Leslie E. Radcliff>;Alexia Poe/WHO/EOP [WHO] <Alexia Poe>;Charlotte L. Montiel/WHO /EOP@Exchange [WHO] <Charlotte L. Montiel>;Elliott M. Langer/NSC/EOP [NSC] <Elliott M. Langer>;Clare Pritchett/WHO/EOP [WHO] <Clare Pritchett>;Suzanne Primoff/WHO/EOP [WHO] <Suzanne Primoff>;John I. Pray/NSC/EOP [NSC] <John I. Pray>;Susan D. Phillips/NSC/EOP [NSC] <Susan D. Phillips>;Sarah Penny/WHO/EOP [WHO] <Sarah Penny>;Raymond H. Payne/NSC/EOP [NSC] <Raymond H. Payne>;Richard S. Paulus/WHO/EOP [WHO] <Richard S. Paulus>;Edward J. Padinske/NSC/EOP [NSC] <Edward J. Padinske>;Eric H. Otto/OPD/EOP@Exchange [OPD] <Eric H. Otto>;Lee B. Mynatt/NSC/EOP [NSC] <Lee B. Mynatt>;Steven Myers/NSC/EOP [NSC] <Steven Myers>;Sarah M. Garrison/WHO/EOP [WHO] <Sarah M. Garrison>;Paul L. Morse/WHO /EOP@Exchange [WHO] <Paul L. Morse>;Leslie A. Mooney/OPD/EOP@Exchange [OPD] <Leslie A. Mooney>;Cathy L. Millison/NSC/EOP [NSC] <Cathy L. Millison>;Sonya E. Medina/WHO/EOP [WHO] <Sonya E. Medina>;Vickie A. McQuade/WHO/EOP@Exchange [WHO] <Vickie A. McQuade>;Sara B. McIntosh/WHO/EOP [WHO] <Sara B. McIntosh>;Peter A. McCauley/NSC/EOP [NSC] <Peter A. McCauley>;Daniel M. McCarthy/WHO/EOP [WHO] <Daniel M. McCarthy>;Thomas S. Marsh/NSC/EOP [NSC] <Thomas S. Marsh>;Colleen Litkenhaus/WHO/EOP@Exchange [WHO] <Colleen Litkenhaus>;Lindsey M. Lineweaver/WHO/EOP [WHO] <Lindsey M. Lineweaver>;Laura E. Lineberry/NSC/EOP [NSC] <Laura E. Lineberry>;Adam L. Levine/WHO/EOP@Exchange [WHO] <Adam L. Levine>;Christopher S. Legrand/NSC/EOP [NSC] <Christopher S. Legrand>;Sang W. Lee/NSC/EOP [NSC] <Sang W. Lee>;Jennie M. Koch/NSC/EOP [NSC] <Jennie M. Koch>;Andrew M. Kaver/NSC/EOP [UNKNOWN] <Andrew M. Kaver>;Dora Kale/NSC/EOP [NSC] <Dora Kale>;Alexander S. Joves/NSC/EOP [NSC] <Alexander S. Joves>;M. Kay Joshi/NSC/EOP [NSC] <M. Kay Joshi>;Alison Jones/WHO/EOP [WHO] <Alison Jones>;Megan

R. Johnston/WHO/EOP [WHO] <Megan R. Johnston>;Sydney R. Johnson/WHO/EOP [WHO] <Sydney R. Johnson>;Clarence C. Johnson/NSC/EOP [NSC] <Clarence C. Johnson>;Gordon D. Johndroe/WHO/EOP [WHO] <Gordon D. Johndroe>;Melanie A. Jackson/WHO/EOP [WHO] <Melanie A. Jackson>;Marilyn R. Jacanin/WHO/EOP@Exchange [WHO] <Marilyn R. Jacanin>;Restituto M. Francisco/OA/EOP [OA] <Restituto M. Francisco>;Sandra K. Evans/WHO/EOP [WHO] <Sandra K. Evans>;Regina L. Cain/WHO/EOP [WHO] <Regina L. Cain>;Katherine A. Brown/NSC/EOP [NSC] <Katherine A. Brown>;Bonnie S. Broadwick/NSC/EOP [NSC] <Bonnie S. Broadwick>;Theresa M. Hunter/NSC/EOP [NSC] <Theresa M. Hunter>;A. Merrill Hughes/WHO/EOP [UNKNOWN] <A. Merrill Hughes>;Jeffrey P. Houle/NSC/EOP [NSC] <Jeffrey P. Houle>;Ashley Holbrook/WHO/EOP [WHO] <Ashley Holbrook>;Josephine L. Hirsch/WHO/EOP [WHO] <Josephine L. Hirsch>;Jane C. Heishman/NSC/EOP [NSC] <Jane C. Heishman>;Anne Heiligenstein/WHO/EOP [WHO] <Anne Heiligenstein>;Robert C. Hargis/NSC/EOP [NSC] <Robert C. Hargis>;Mary Ann Hanusa/WHO/EOP [WHO] <Mary Ann Hanusa>;Thomas A. Hall/NSC/EOP [NSC] <Thomas A. Hall>;Mary A. Haines/NSC/EOP [NSC] <Mary A. Haines>;Katharina M. Hager/WHO/EOP [WHO] <Katharina M. Hager>;Henry C. Hager/WHO/EOP [WHO] <Henry C. Hager>;Albert J. Guarnieri/NSC/EOP [NSC] <Albert J. Guarnieri>;Ginger G. Loper/WHO/EOP [WHO] <Ginger G. Loper>;Andrew W. Green/NSC/EOP [NSC] <Andrew W. Green>;Emily S. Gray/WHO/EOP [WHO] <Emily S. Gray>;Wendy E. Gray/NSC/EOP [NSC] <Wendy E. Gray>;Britt Grant/OPD/EOP [OPD] <Britt Grant>;Blake Gottesman/WHO/EOP [WHO] <Blake Gottesman>;Travis C. Good/NSC/EOP [UNKNOWN] <Travis C. Good>;Georgia D. Godfrey/WHO/EOP [WHO] <Georgia D. Godfrey>;Eleanor L. Gillmor/OPD/EOP@Exchange [OPD] <Eleanor L. Gillmor>;Dorothy C. Garvin/WHO/EOP@Exchange [WHO] <Dorothy C. Garvin>;Joachim D. Fuchs/NSC/EOP [NSC] <Joachim D. Fuchs>;Barbara J. Finn/OA/EOP [OA] <Barbara J. Finn>;Kara G. Figg/WHO/EOP@Exchange [WHO] <Kara G. Figg>;Jeanie L. Figg/WHO/EOP [WHO] <Jeanie L. Figg>;Jennifer D. Field/OVP/EOP [OVP] <Jennifer D. Field>;Douglas M. Erdahl/NSC/EOP [NSC] <Douglas M. Erdahl>;Ruth E. Elliott/NSC/EOP [NSC] <Ruth E. Elliott>;Kady Dunlap/WHO/EOP [WHO] <Kady Dunlap>;Eric A. Draper/WHO /EOP@Exchange [WHO] <Eric A. Draper>;Joan R. Doty/WHO/EOP [WHO] <Joan R. Doty>;Katherine L. Disston/WHO/EOP@Exchange [WHO] <Katherine L. Disston>;Reed Dickens/WHO/EOP [WHO] <Reed Dickens>;Josh Deckard/WHO/EOP [WHO] <Josh Deckard>;Ashley E. Davis/WHO/EOP [WHO] <Ashley E. Davis>;Jill Davie/WHO/EOP [WHO] <Jill Davie>;Colin Crosby/NSC/EOP [NSC] <Colin Crosby>;Lynn A. Crable/WHO/EOP [WHO] <Lynn A. Crable>;Colby J. Cooper/NSC/EOP [NSC] <Colby J. Cooper>;Michael J. Conway/WHO/EOP [WHO] <Michael J. Conway>;Carolyn E. Cleveland/WHO/EOP [WHO] <Carolyn E. Cleveland>;Shane P. Chambers/WHO/EOP [WHO] <Shane P. Chambers>;Lois A. Cassano/WHO/EOP [WHO] <Lois A. Cassano>;Pamela R. Casey/WHO/EOP [WHO] <Pamela R. Casey>;Anne E. Campbell/WHO/EOP@Exchange [WHO] <Anne E. Campbell>;Elizabeth N. Camp/WHO/EOP [WHO] <Elizabeth N. Camp>;Marcia J. Caler/NSC/EOP [UNKNOWN] <Marcia J. Caler>;Johnathan C. Bunting/NSC/EOP [NSC] <Johnathan C. Bunting>;Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>;Marko R. Broz/NSC/EOP [NSC] <Marko R. Broz>;Gary E. Bresnahan/NSC/EOP [NSC] <Gary E. Bresnahan>;Brian Bravo/WHO/EOP@Exchange [WHO] <Brian Bravo>;David R. Bohrer/OVP/EOP [OVP] <David R. Bohrer>;Debra D. Bird/WHO/EOP [WHO] <Debra D. Bird>;Melissa S. Bennett/WHO /EOP@Exchange [WHO] <Melissa S. Bennett>;Cheryl E. Barnett/NSC/EOP [NSC] <Cheryl E. Barnett>;Tiffany L. Barfield/WHO/EOP [WHO] <Tiffany L. Barfield>;Mitchell P. Backfield/NSC/EOP [NSC] <Mitchell P. Backfield>;Jill L. Angelo/WHO/EOP [UNKNOWN] <Jill L. Angelo>;Ashleigh A. Adams/WHO/EOP [UNKNOWN] <Ashleigh A. Adams>

Sent: 1/14/2003 8:09:01 AM

Subject: : POSTMASTER: Mess Holiday Hours

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME:14-JAN-2003 13:09:01.00
SUBJECT:: POSTMASTER: Mess Holiday Hours
TO:Joseph J. Shattan ( CN=Joseph J. Shattan/OU=OVP/O=EOP [ OVP ] )
READ:UNKNOWN
TO:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP [ OPD ] )
```

READ:UNKNOWN
TO:Richard J. Tubb (CN=Richard J. Tubb/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul J. Severs (CN=Paul J. Severs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joseph D. Rozek (CN=Joseph D. Rozek/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Steven J. Reynolds (CN=Steven J. Reynolds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Candida P. Wolff (CN=Candida P. Wolff/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel K. Wilmot (CN=Daniel K. Wilmot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:James R. Wilkinson (CN=James R. Wilkinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jocelyn White (CN=Jocelyn White/OU=WHF/O=EOP [OPM])
READ:UNKNOWN
TO:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul A. Wedderien (CN=Paul A. Wedderien/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:John P. Walters (CN=John P. Walters/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine W. Tobias (CN=Catherine W. Tobias/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jose G. Suarez (CN=Jose G. Suarez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Aquiles F. Suarez (CN=Aquiles F. Suarez/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Angela B. Styles (CN=Angela B. Styles/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary A. Solberg (CN=Mary A. Solberg/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Augustine T. Smythe (CN=Augustine T. Smythe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Thomas J. Sharpy (CN=Thomas J. Sharpy/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Howard A. Schmidt (CN=Howard A. Schmidt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel Schecter (CN=Daniel Schecter/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

TO:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard M. Russell (CN=Richard M. Russell/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Stephen S. Ruhlen (CN=Stephen S. Ruhlen/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Mark V. Rosenker (CN=Mark V. Rosenker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas J. Ridge (CN=Thomas J. Ridge/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Nina Rees (CN=Nina Rees/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Craig Ray (CN=Craig Ray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kathie L. Olsen (CN=Kathie L. Olsen/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Newell (CN=John F. Newell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Manson O. Morris (CN=Manson O. Morris/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Paul D. Montanus (CN=Paul D. Montanus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. McAllister (CN=James M. McAllister/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric C. Pelletier (CN=Eric C. Pelletier/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Marcus Peacock (CN=Marcus Peacock/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Neil S. Patel (CN=Neil S. Patel/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Sean C. O'Keefe (CN=Sean C. O'Keefe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire M. O'Donnell (CN=Claire M. O'Donnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan K. Neely (CN=Susan K. Neely/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen S. McMillin (CN=Stephen S. McMillin/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark McClellan (CN=Mark McClellan/OU=CEA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Mary J. Matalin (CN=Mary J. Matalin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Catherine J. Martin (CN=Catherine J. Martin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John H. Marburger (CN=John H. Marburger/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Maisto (CN=John F. Maisto/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin A. MacLean (CN=Robin A. MacLean/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ado A. Machida (CN=Ado A. Machida/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Deborah A. Loewer (CN=Deborah A. Loewer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Roland N. Litterst (CN=Roland N. Litterst/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence B. Lindsey (CN=Lawrence B. Lindsey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Laura S. Lawlor (CN=Laura S. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Bruce M. Lawlor (CN=Bruce M. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Randall S. Kroszner (CN=Randall S. Kroszner/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Karen Y. Knutson (CN=Karen Y. Knutson/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Frank G. Klotz (CN=Frank G. Klotz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Ellis Kitchen (CN=Ellis Kitchen/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN

TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Charles D. McGrath Jr (CN=Charles D. McGrath Jr/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Reuben Jeffery (CN=Reuben Jeffery/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Hector F. Irastorza (CN=Hector F. Irastorza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Tim Campen (CN=Tim Campen/OU=OA/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Penrose C. Albright TPO (CN=Penrose C. Albright TPO/OU=TPO/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Steven I. Cooper TPO (CN=Steven I. Cooper TPO/OU=TPO/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Julian M. Flannery (CN=Julian M. Flannery/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Duncan Campbell (CN=Duncan Campbell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:R. Rand Beers (CN=R. Rand Beers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Glenn Hubbard (CN=Glenn Hubbard/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Jack Howard (CN=Jack Howard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Holman (CN=Mark Holman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Chris Henick (CN=Chris Henick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Debra Heiden (CN=Debra Heiden/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Albert Hawkins (CN=Albert Hawkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John P. Hannah (CN=John P. Hannah/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John F. Haley (CN=John F. Haley/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:John Graham (CN=John Graham/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:John A. Gordon (CN=John A. Gordon/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Dylan C. Glenn (CN=Dylan C. Glenn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Stephen M. Garrison (CN=Stephen M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Diana E. Furchtgott-Roth (CN=Diana E. Furchtgott-Roth/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Everson (CN=Mark Everson/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric S. Edelman (CN=Eric S. Edelman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Wayne A. Downing (CN=Wayne A. Downing/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Nancy P. Dorn (CN=Nancy P. Dorn/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Diana C. Donnelly (CN=Diana C. Donnelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:James F. Daniel (CN=James F. Daniel/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Stacia L. Cropper (CN=Stacia L. Cropper/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN

TO:Barry Crane (CN=Barry Crane/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:John B. Craig (CN=John B. Craig/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:James Connaughton (CN=James Connaughton/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Brian C. Conklin (CN=Brian C. Conklin/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Cesar Conda (CN=Cesar Conda/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robert W. Cobb (CN=Robert W. Cobb/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:John A. Cloud (CN=John A. Cloud/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin Cleveland (CN=Robin Cleveland/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Richard A. Clarke (CN=Richard A. Clarke/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Frank Cilluffo (CN=Frank Cilluffo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christine Ciccone (CN=Christine Ciccone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OVP/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Barbara C. Chaffee (CN=Barbara C. Chaffee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:James C. Capretta (CN=James C. Capretta/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Nicholas E. Calio (CN=Nicholas E. Calio/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott Burns (CN=Scott Burns/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carl Buchholz (CN=Carl Buchholz/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stuart W. Bowen (CN=Stuart W. Bowen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carlos E. Bonilla (CN=Carlos E. Bonilla/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lloyd A. Blanchard (CN=Lloyd A. Blanchard/OU=OMB/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])

READ:UNKNOWN
TO:Stephen E. Biegun (CN=Stephen E. Biegun/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Janet L. Berman (CN=Janet L. Berman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Andrea G. Barthwell (CN=Andrea G. Barthwell/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Cathy Alix (CN=Cathy Alix/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Gina M. Wolford (CN=Gina M. Wolford/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David L. Travers (CN=David L. Travers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harry W. Wolff (CN=Harry W. Wolff/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Alexian T. Wines (CN=Alexian T. Wines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patricia Williams (CN=Patricia Williams/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jared B. Weinstein (CN=Jared B. Weinstein/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Matthew C. Waxman (CN=Matthew C. Waxman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lauren J. Vestewig (CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Terrill G. Tucker (CN=Terrill G. Tucker/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tevi Troy (CN=Tevi Troy/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Anne Trenolone (CN=Anne Trenolone/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Julieanne H. Thomas (CN=Julieanne H. Thomas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Rachael L. Sunbarger (CN=Rachael L. Sunbarger/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan L. Sterner (CN=Susan L. Sterner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN

TO:Robert E. Schubert (CN=Robert E. Schubert/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Deborah Sandler (CN=Deborah Sandler/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jean M. Russell (CN=Jean M. Russell/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Peter M. Rowan (CN=Peter M. Rowan/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Noelia Rodriguez (CN=Noelia Rodriguez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine B. Robinson (CN=Josephine B. Robinson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Maurice C. Robinson (CN=Maurice C. Robinson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Christina D. Roberts (CN=Christina D. Roberts/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Allison L. Riepenhoff (CN=Allison L. Riepenhoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:January M. Riecke (CN=January M. Riecke/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Rhodes (CN=Katherine A. Rhodes/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Reynolds (CN=Tim Reynolds/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:David Reyes (CN=David Reyes/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Leslie E. Radcliff (CN=Leslie E. Radcliff/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexia Poe (CN=Alexia Poe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Elliott M. Langer (CN=Elliott M. Langer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Clare Pritchett (CN=Clare Pritchett/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Suzanne Primoff (CN=Suzanne Primoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John I. Pray (CN=John I. Pray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan D. Phillips (CN=Susan D. Phillips/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah Penny (CN=Sarah Penny/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Raymond H. Payne (CN=Raymond H. Payne/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Richard S. Paulus (CN=Richard S. Paulus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward J. Padinske (CN=Edward J. Padinske/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric H. Otto (CN=Eric H. Otto/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Lee B. Mynatt (CN=Lee B. Mynatt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Steven Myers (CN=Steven Myers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah M. Garrison (CN=Sarah M. Garrison/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul L. Morse (CN=Paul L. Morse/OU=WHO/O=EOP@Exchange [WHO])

READ:UNKNOWN
TO:Leslie A. Mooney (CN=Leslie A. Mooney/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Cathy L. Millison (CN=Cathy L. Millison/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sonya E. Medina (CN=Sonya E. Medina/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Vickie A. McQuade (CN=Vickie A. McQuade/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Sara B. McIntosh (CN=Sara B. McIntosh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter A. McCauley (CN=Peter A. McCauley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel M. McCarthy (CN=Daniel M. McCarthy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas S. Marsh (CN=Thomas S. Marsh/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Lindsey M. Lineweaver (CN=Lindsey M. Lineweaver/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Laura E. Lineberry (CN=Laura E. Lineberry/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Adam L. Levine (CN=Adam L. Levine/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Christopher S. Legrand (CN=Christopher S. Legrand/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sang W. Lee (CN=Sang W. Lee/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jennie M. Koch (CN=Jennie M. Koch/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Andrew M. Kaver (CN=Andrew M. Kaver/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Dora Kale (CN=Dora Kale/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alexander S. Joves (CN=Alexander S. Joves/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:M. Kay Joshi (CN=M. Kay Joshi/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Megan R. Johnston (CN=Megan R. Johnston/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Sydney R. Johnson (CN=Sydney R. Johnson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Clarence C. Johnson (CN=Clarence C. Johnson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gordon D. Johndroe (CN=Gordon D. Johndroe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melanie A. Jackson (CN=Melanie A. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marilyn R. Jacanin (CN=Marilyn R. Jacanin/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Restituto M. Francisco (CN=Restituto M. Francisco/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Sandra K. Evans (CN=Sandra K. Evans/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Regina L. Cain (CN=Regina L. Cain/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine A. Brown (CN=Katherine A. Brown/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Bonnie S. Broadwick (CN=Bonnie S. Broadwick/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Theresa M. Hunter (CN=Theresa M. Hunter/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:A. Merrill Hughes (CN=A. Merrill Hughes/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Jeffrey P. Houle (CN=Jeffrey P. Houle/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ashley Holbrook (CN=Ashley Holbrook/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josephine L. Hirsch (CN=Josephine L. Hirsch/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jane C. Heishman (CN=Jane C. Heishman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anne Heiligenstein (CN=Anne Heiligenstein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. Hargis (CN=Robert C. Hargis/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary Ann Hanusa (CN=Mary Ann Hanusa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Thomas A. Hall (CN=Thomas A. Hall/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary A. Haines (CN=Mary A. Haines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Katharina M. Hager (CN=Katharina M. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Henry C. Hager (CN=Henry C. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Albert J. Guarnieri (CN=Albert J. Guarnieri/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrew W. Green (CN=Andrew W. Green/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Emily S. Gray (CN=Emily S. Gray/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Wendy E. Gray (CN=Wendy E. Gray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Britt Grant (CN=Britt Grant/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Travis C. Good (CN=Travis C. Good/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Georgia D. Godfrey (CN=Georgia D. Godfrey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Dorothy C. Garvin (CN=Dorothy C. Garvin/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Joachim D. Fuchs (CN=Joachim D. Fuchs/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Barbara J. Finn (CN=Barbara J. Finn/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jeanie L. Figg (CN=Jeanie L. Figg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jennifer D. Field (CN=Jennifer D. Field/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Douglas M. Erdahl (CN=Douglas M. Erdahl/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ruth E. Elliott (CN=Ruth E. Elliott/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kady Dunlap (CN=Kady Dunlap/OU=WHO/O=EOP [WHO])

READ:UNKNOWN
TO:Eric A. Draper (CN=Eric A. Draper/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Joan R. Doty (CN=Joan R. Doty/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Katherine L. Disston (CN=Katherine L. Disston/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Reed Dickens (CN=Reed Dickens/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Josh Deckard (CN=Josh Deckard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley E. Davis (CN=Ashley E. Davis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jill Davie (CN=Jill Davie/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colin Crosby (CN=Colin Crosby/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lynn A. Crable (CN=Lynn A. Crable/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Colby J. Cooper (CN=Colby J. Cooper/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Michael J. Conway (CN=Michael J. Conway/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Shane P. Chambers (CN=Shane P. Chambers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lois A. Cassano (CN=Lois A. Cassano/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Pamela R. Casey (CN=Pamela R. Casey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne E. Campbell (CN=Anne E. Campbell/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Elizabeth N. Camp (CN=Elizabeth N. Camp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Marcia J. Caler (CN=Marcia J. Caler/OU=NSC/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Johnathan C. Bunting (CN=Johnathan C. Bunting/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Marko R. Broz (CN=Marko R. Broz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gary E. Bresnahan (CN=Gary E. Bresnahan/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:David R. Bohrer (CN=David R. Bohrer/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Cheryl E. Barnett (CN=Cheryl E. Barnett/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mitchell P. Backfield (CN=Mitchell P. Backfield/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jill L. Angelo (CN=Jill L. Angelo/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
TO:Ashleigh A. Adams (CN=Ashleigh A. Adams/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN

End Original ARMS Header

Mess Holiday Hours

Please note that the White House Mess will be closed for business on Monday, January 21 in observance of Martin Luther King Day. If the need arises, necessary arrangements will be made to meet any unforeseen demands. We apologize for any inconvenience.

Thank you.

MANAGEMENT & ADMINISTRATION

From: FindLaw.com <listadmin@LEGALMINDS.ORG>
To: USSC-CASELAW@LEGALMINDS.ORG [UNKNOWN] <USSC-CASELAW@LEGALMINDS.ORG>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 1/14/2003 1:12:02 PM
Subject: : [USSC-CASELAW] FindLaw Daily Opinion Summaries for 01/14/03

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"FindLaw.com" <listadmin@LEGALMINDS.ORG> ("FindLaw.com" <listadmin@LEGALMINDS.ORG> [UNKNOWN])
CREATION DATE/TIME:14-JAN-2003 18:12:02.00
SUBJECT:: [USSC-CASELAW] FindLaw Daily Opinion Summaries for 01/14/03
TO:USSC-CASELAW@LEGALMINDS.ORG (USSC-CASELAW@LEGALMINDS.ORG [UNKNOWN])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

==========
FINDLAW DAILY OPINION SUMMARIES - January 14, 2003
U.S. SUPREME COURT
http://www.findlaw.com/casecode/supreme.html
==========
TABLE OF CONTENTS

COMMERCIAL LAW, CONSTITUTIONAL LAW, EVIDENCE, INJURY AND TORT LAW, TRANSPORTATION
* PIERCE COUNTY v. GUILLEN

CONSTITUTIONAL LAW, CRIMINAL LAW & PROCEDURE, SENTENCING
* SATTAZAHN v. PENNSYLVANIA

You May FREELY Redistribute This E-Mail in Whole

=- advertisement =-=-=-/

Got control? You need AbacusLaw! Over 100,001 users can't possibly be wrong! See for yourself. For the latest color brochure and demo, call toll-free 800-726-3339 or CLICK HERE.
http://rd.findlaw.com/scripts/nl.pl?url=10373472002_nl

=-=-=-=-=-=-=-=-=-=-=-=-=-=-=-=-=-=-=-

To read the full text of this opinion, go to:
http://laws.lp.findlaw.com/us/000/017574.html

==========

Opinion Summaries Archive September 2000 to the Present

Click here to browse or search the archive for specific opinions:
http://caselaw.lp.findlaw.com/casesummary/index.html

=- advertisement =-=-=-/

SOFTWARE TECHNOLOGY

Happy with your legal billing system? If your
initial response is anything less than "absolutely", you owe it
to yourself to check out the latest version of TABS III, the most
widely used legal-specific billing system in the U.S.

Download a FREE demo copy today.
http://rd.findlaw.com/scripts/nl.pl?url=10408896001_nl

=-=-=-=-=-=-=-=-=-=-=-=-=- Accredited Online CLE Programs =-=-=-=-=-=-/

FOURTH ANNUAL SUPREME COURT REVIEW: OCTOBER 2001 TERM
Practising Law Institute brings you this highly informative
and intellectually stimulating program which analyzes and debates the
leading decisions of the present term of the United States Supreme Court.
You won?t want to miss this on-demand program for your MCLE needs.

http://rd.findlaw.com/scripts/nl.pl?url=ussc_cle_1041628367

=-=-=-=-=-=-=-=-=-=-=-=-=-=-=-=-=-=-=- westgroup.com =-=-=-=-=-=-=-=-=-=-/

Attorney Client Privilege in the U.S. 2d. The single source for
everything you need to make sure that you protect your
clients and yourself.
Buy online today or call 1-800-344-4912.

http://rd.findlaw.com/scripts/nl.pl?url=ussc_book_1041628411

=-/
FEEDBACK
We value your comments! Please take a moment to tell us what you think
at mailto:newsletters@findlaw.com?subject=U.S._Supreme_Court
and include the name of this newsletter in the subject area.
~~~~~~
SUBSCRIPTION INFORMATION
To subscribe to a FindLaw Newsletter, visit the FindLaw Newsletter
Subscription Center at http://newsletters.findlaw.com.
To unsubscribe, go to http://newsletters.findlaw.com/unsubscribe.html..
~~~~~~
ADVERTISING INFORMATION

For more information about advertising in
FindLaw Newsletters, please contact:
FindLaw Sales (mailto:sales@findlaw.com)

Have a GOOD Day!!!!

U.S. Supreme Court
Copyright 2003 FindLaw, Inc.

From: Nelson, Carolyn

To: <Bennett, Melissa S.>;<Ralston, Susan B.>;<Jones, Alison>;<Bartolomucci, H. Christopher>; <Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Walker, Helgard C.>;andrew.beach@usdoj.gov <andrew.beach@usdoj.gov>;amy.bass@usdoj.gov <amy.bass@usdoj.gov>;adam.Ciongoli@usdoj.gov <adam.Ciongoli@usdoj.gov>;evelyn.v.long@usdoj.gov <evelyn.v.long@usdoj.gov>;Viet.Dinh@usdoj.gov <Viet.Dinh@usdoj.gov>;Viet.Dinh@usdoj.gov <Wingate, Heather>;Jason.J.Sutton@usdoj.gov <Jason.J.Sutton@usdoj.gov>;Jason.J.Sutton@usdoj.gov <Sampson, Kyle>;Jason.J.Sutton@usdoj.gov <McMaster, David>;Jason.J.Sutton@usdoj.gov <Gray, Ann>;don.willett@usdoj.gov <don.willett@usdoj.gov>;Albert.Brewster@usdoj.gov <Albert.Brewster@usdoj.gov>;Tracy.T.Washington@usdoj.gov <Tracy.T.Washington@usdoj.gov>;Sarah K. <Lockart@who.eop.gov@inet>;Sarah K. <Newstead, Jennifer G.>;Adam.Charnes@usdoj.gov <Adam.Charnes@usdoj.gov>;Wendy.J.Keefer@usdoj.gov <Wendy.J.Keefer@usdoj.gov>;Wendy.J.Keefer@usdoj.gov <Powell, Benjamin A.>;Wendy.J.Keefer@usdoj.gov <Kyle, Ross M.>;Wendy.J.Keefer@usdoj.gov <Leitch, David G.>;Wendy.J.Keefer@usdoj.gov <Jackson, Barry S.>;Wendy.J.Keefer@usdoj.gov <Ellison, Kimberly>;Wendy.J.Keefer@usdoj.gov <Montiel, Charlotte L.>;Wendy.J.Keefer@usdoj.gov <Bumatay, Patrick J.>

Sent: 1/14/2003 3:36:54 PM

Subject: WHJSC Meeting: 1/15/03

There will be a JSC meeting tomorrow at 4:00pm in the Roosevelt Room.

Thanks!

From: Nelson, Carolyn

To: <Bennett, Melissa S.>;<Ralston, Susan B.>;<Jones, Alison>;<Bartolomucci, H. Christopher>; <Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Walker, Helgard C.>;andrew.beach@usdoj.gov <andrew.beach@usdoj.gov>;amy.bass@usdoj.gov <amy.bass@usdoj.gov>;adam.Ciongoli@usdoj.gov <adam.Ciongoli@usdoj.gov>;evelyn.v.long@usdoj.gov <evelyn.v.long@usdoj.gov>;Viet.Dinh@usdoj.gov <Viet.Dinh@usdoj.gov>;Viet.Dinh@usdoj.gov <Wingate, Heather>;Jason.J.Sutton@usdoj.gov <Jason.J.Sutton@usdoj.gov>;Jason.J.Sutton@usdoj.gov <Sampson, Kyle>;Jason.J.Sutton@usdoj.gov <McMaster, David>;Jason.J.Sutton@usdoj.gov <Gray, Ann>;don.willett@usdoj.gov <don.willett@usdoj.gov>;Albert.Brewster@usdoj.gov <Albert.Brewster@usdoj.gov>;Tracy.T.Washington@usdoj.gov <Tracy.T.Washington@usdoj.gov>;Tracy.T.Washington@usdoj.gov <Newstead, Jennifer G.>;Adam.Charnes@usdoj.gov <Adam.Charnes@usdoj.gov>;Wendy.J.Keefer@usdoj.gov <Wendy.J.Keefer@usdoj.gov>;Wendy.J.Keefer@usdoj.gov <Powell, Benjamin A.>;Wendy.J.Keefer@usdoj.gov <Kyle, Ross M.>;Wendy.J.Keefer@usdoj.gov <Leitch, David G.>;Wendy.J.Keefer@usdoj.gov <Jackson, Barry S.>;Wendy.J.Keefer@usdoj.gov <Ellison, Kimberly>;Charlotte_L._Montiel@oa.eop.gov <Charlotte_L._Montiel@oa.eop.gov>;Patrick_J._Bumatay@oa.eop.gov <Patrick_J._Bumatay@oa.eop.gov>

Sent: 1/14/2003 4:18:34 PM

Subject: WHJSC Meeting: 1/15/03

There will be a JSC meeting tomorrow at 4:00pm in the Roosevelt Room.

Thanks!

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@EOP [WHO] <David G. Leitch>;Noel J. Francisco/WHO /EOP@EOP [WHO] <Noel J. Francisco>;Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>
Sent: 1/14/2003 12:31:36 PM
Subject: : clement

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:14-JAN-2003 17:31:36.00
SUBJECT:: clement
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

The draft will be here at 6:45. He's calling David L. to arrange
delivery. He strongly emphasized that it is a "work in progress."
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ashley Snee/WHO/EOP@Exchange [WHO] <Ashley Snee>
Sent: 1/14/2003 1:01:49 PM
Subject: : RE: Michigan Senators - 6th Circuit

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:14-JAN-2003 18:01:49.00
SUBJECT:: RE: Michigan Senators - 6th Circuit
TO:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

did you look at draft op-ed. just interested in what you think
structurally.
```

From: Kavanaugh, Brett M.
To: <Wingate, Heather>
CC: <Silverberg, Kristen>
Sent: 1/14/2003 5:43:56 PM
Subject: Re: med mal

Not sure yet. Kristen?

Heather Wingate

01/14/2003 05:36:28 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: med mal

hey, looks like I'm going on the Thursday med mal trip. Is the President's speech going to be a rehash of last year or is he going to add a new twist? Is it basically going to be a call for a bill to pass that resembles last year's House bill?

Thanks!

From: CN=Collister W. Johnson/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/15/2003 5:54:00 AM
Subject: : Fw: POTUS endorsement mailer for KY State Senate candidate
Attachments: P_Z1E0D003_WHO.TXT_1.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:15-JAN-2003 10:54:00.00
SUBJECT:: Fw: POTUS endorsement mailer for KY State Senate candidate
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Hey man!
there is a special election in Kentucky - they're trying to kick this out the door asap -
your thoughts?

c
---------- Forwarded by Collister W. Johnson/WHO/EOP on 01/15/2003 10:52 AM ----------

Coddy Johnson <cjohnson@georgewbush.com>
01/15/2003 10:48:52 AM
Record Type: Record

To: Collister W. Johnson/WHO/EOP@EOP
cc:
Subject: Fw: POTUS endorsement mailer for KY State Senate candidate

----- Original Message -----
From: "Randy Kammerdiener - Political" <RKammerd@rnchq.org>
To: "Coddy Johnson" <cjohnson@georgewbush.com>
Sent: Wednesday, January 15, 2003 10:31 AM
Subject: POTUS endorsement mailer for KY State Senate candidate

Coddy:

KY folks would like White House approval as quickly as possible.

Thanks for your help.

Kammerdiener

- POTUS Endorsement - Revised02.pdf

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_Z1E0D003_WHO.TXT_1>



Because true leadership
is born of a person's
character,
beliefs,
and faith.

Elect Damon Thayer

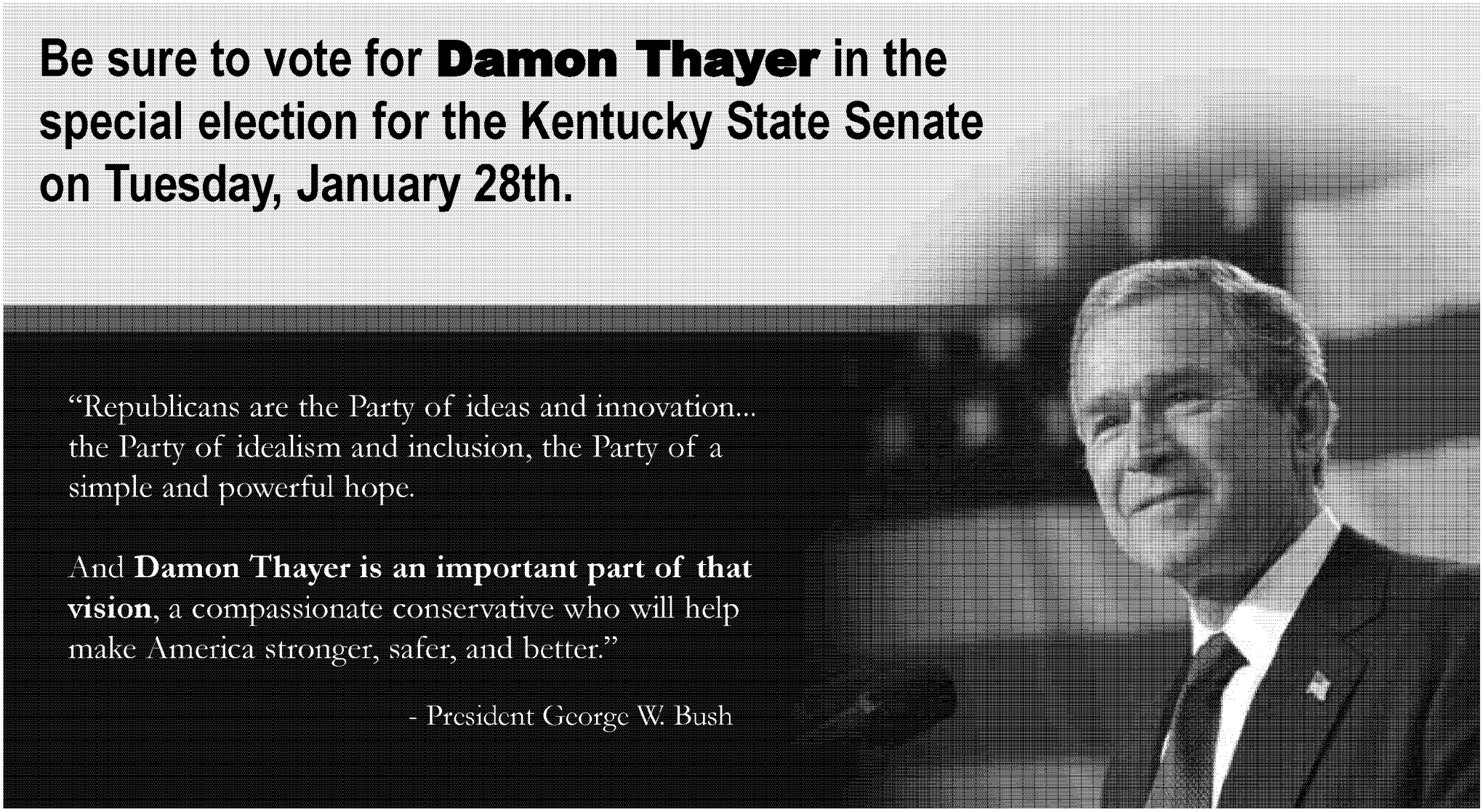
as our next State Senator on Tuesday, January 28th.

Paid for by the Republican Party of Kentucky
P.O. Box 1068
Frankfort, KY 40602

Non-Profit Org.
U.S. Postage
PAID
Republican Party
of Kentucky

REV_00156179

Be sure to vote for Damon Thayer in the special election for the Kentucky State Senate on Tuesday, January 28th.



"Republicans are the Party of ideas and innovation... the Party of idealism and inclusion, the Party of a simple and powerful hope.

And **Damon Thayer is an important part of that vision**, a compassionate conservative who will help make America stronger, safer, and better."

- President George W. Bush

From: CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO]
To: Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>
CC: noel j. francisco/who/eop@eop [WHO] <noel j. francisco>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>
Sent: 1/15/2003 10:48:24 AM
Subject: : Re: FW: 3 Judges ready to go to the Senate

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:15-JAN-2003 15:48:24.00
SUBJECT:: Re: FW: 3 Judges ready to go to the Senate
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
CC:noel j. francisco (CN=noel j. francisco/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

Fire away.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 01/15/2003 03:44:50 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Noel J. Francisco/WHO/EOP@EOP,
H. Christopher Bartolomucci/WHO/EOP@EOP
cc:
Subject: FW: 3 Judges ready to go to the Senate

-----Original Message-----
From: McCathran, William W.
Sent: Wednesday, January 15, 2003 3:40 PM
To: Bumatay, Patrick J.
Subject: 3 Judges ready to go to the Senate

Cecilia Altonaga, USDJ Southern Florida, Dee D. Drell, and Patricia
Minaldi, USDJs for Western Louisiana and going to the Senate this
afternoon.

tks,
Bill

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Jay P. Lefkowitz/OPD/EOP@Exchange [OPD] <Jay P. Lefkowitz>
Sent: 1/15/2003 8:18:23 AM
Subject: : Re: FW: q and a.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:15-JAN-2003 13:18:23.00
SUBJECT:: Re: FW: q and a.doc
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
End Original ARMS Header

I think these answers would suggest a brief where we embraced the Powell opinion, embraced diversity as a compelling governmental interest, and expressly embraced the idea that race could be a factor in admissions. Assuming we file the narrow tailoring brief that I think will be filed, that is all inaccurate. Instead, we should say:

Q: Why is the Michigan program unconstitutional? Isn't diversity a compelling government interest? Isn't ensuring that minorities are represented in colleges a compelling government interest?

A: The Michigan program is unconstitutional because race-neutral programs should be employed, where possible, to achieve the goal of ensuring diversity and ensuring that minorities have access to and are represented in universities. And we know from Texas, Florida, and California that such race-neutral programs in fact will work to ensure diversity and ensure that minorities have access to and are represented in universities. Diversity and remedying the continuing effects of societal discrimination against minorities are very important goals, but they must be achieved where possible through race-neutral programs such as the Texas program.

Q: You say "where possible." What if race-neutral programs do not work?

A: They do work, as we have seen in Texas, Florida, and California. And if there were ever a case where they did not work, then the courts would assess a university's admissions program under the standards that the Supreme Court has outlined for such circumstances.

Q: Is your position consistent with that of Justice Powell in Bakke?

A: Ensuring diversity and ensuring that minorities are represented in universities are very important goals, but must be achieved where possible through race-neutral programs such as the Texas program. The need to employ race-neutral programs, where possible, to achieve diversity is a consistent element of Supreme Court opinions over the past 20 years. And we know that these race-neutral programs work. (Justice Powell's opinion does not address the question whether race-neutral programs can achieve these goals.)

Q: If the goal of advancing diversity and ensuring that minorities are represented are permissible goals, why is it that a university must choose race-neutral programs rather than race-based programs to achieve those goals? Is there any real difference?

A: There is a real difference because race-neutral programs treat us all as individuals and do not define us solely as members of racial groups. That is why the Supreme Court has emphasized that race-neutral programs must be the first choice and race-based programs employed only as a last resort.

From: Jay P. Lefkowitz/OPD/EOP@Exchange on 01/15/2003 12:39:00 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: FW: q and a.doc

pls have at it, and think about questions I am missing
;
thanks

Policy: Brief opposing the Michigan Plan, but not ruling out other efforts to promote diversity

;

Education plays a unique role in our society) it provides the foundation that launches people on the path to opportunity and achievement.; ;The educational experience becomes richer and more valuable when it includes voices and viewpoints from many perspectives.;; For these reasons, institutions of higher education have a compelling governmental interest in obtaining a student body that reflects America,s diverse heritage. ;

;

Unfortunately, the Michigan admissions policies made race an overwhelming factor in deciding admissions, and are impossible to square with the Constitution.; Michigan,s admissions policies ignore the fact that race-neutral policies like the Texas 10 Percent Plan, the Florida One plan, and California,s &Comprehensive Review8 plan have achieved diversity without using race at all.; Because diversity in education can be achieved in a race-neutral manner, the Michigan race-conscious programs are invalid.;

;

Q. Do you mean by &diversity in education8 racial diversity?
R. As stated by Justice Powell, the constitutionally permissible goal for an institution of higher education is not racial diversity; it is diversity that &encompasses a far broader array of qualifications and characteristics of which racial or ethnic origin is but a single though important element.8

;

Q. What justifies this compelling governmental interest in diversity in education?; Is it diversity to benefit an individual applicant?
R. Enormous educational value is gained by having a student body that is diverse because a great deal of learning occurs informally.; The broader the views and ideas being exchanged, the more the entire student body benefits.

;

Q. Michigan asserts that racial and ethnic diversity is a compelling governmental interest.; Do you agree with that assertion?
R. Achieving racial or ethnic diversity purely for the sake of racial or ethnic diversity is not the point.; The point is to have a diverse student body, and a prospective student,s race or ethnicity is

just one factor a school should look at when it decides whether to accept the applicant, along with academic success, geography, economic status, and life history.

;

Q. If diversity is the desired goal, why wouldn,t quotas be the most narrowly tailored means of achieving it? Quotas would more directly ensure diversity that reflects America,s heritage it attained.
R. Attaining a diverse student body does not mean enrolling a class that is statistically parallel with the ethnic population in America.; Each applicant must be treated as an individual in the process, and must be analyzed on the basis of the combination of qualifications and attribute he or she possesses.; It does not assist diversity to enroll 20 upper class Hispanic male candidates from Detroit in a class that also includes 20 upper class white males from Detroit, and 20 upper class black males from Detroit.; Diversity does not require racial diversity) a disadvantaged white female from Miami would add diversity to a class largely populated with middle class males from Indiana.

;

Q. Isn,t this policy unfair to non-minority rejected applicants with higher academic credentials than minority applicants who are accepted?; Doesn,t this policy discriminate against them?
R. Universities consistently apply non-academic factors when making acceptance decisions.; The athlete, the thespian, the legacy, the person who has lived abroad) these and endless other non-academic qualities are factors routinely taken into account.; But candidates of identical backgrounds should not be treated differently purely because of race.; And everyone should have the opportunity to be considered as an individual.

;

Q. If diversity can be achieved through race-neutral admissions policies such as that in Texas, why should the Court depart from its general rule that racial classifications are unconstitutional unless they are intended to remedy carefully documented effects of past discrimination?
R. We agree the Court need not reach that question, because the Michigan policies do not survive the narrow tailoring prong of the suspect classification analysis.

;

Q. Doesn,t this policy &split the difference,8 without really answering the essential question of whether race can be a factor in admissions?

R. No.; There are two essential principles in question here, diversity and equal treatment.; The President believes that universities, as well as other institutions, can achieve the goal of diversity without resorting to unconstitutional behavior such as unequal treatment.;

;

;

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>
Sent: 1/15/2003 8:25:57 AM
Subject: : Re: FW: q and a.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:15-JAN-2003 13:25:57.00
SUBJECT:: Re: FW: q and a.doc
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 01/15/2003 01:29 PM ----------

Brett M. Kavanaugh
01/15/2003 01:14:49 PM
Record Type: Record

To: Jay P. Lefkowitz/OPD/EOP@Exchange
cc:
bcc: Records Management@EOP
Subject: Re: FW: q and a.doc

I think these answers would suggest a brief where we embraced the Powell opinion, embraced diversity as a compelling governmental interest, and expressly embraced the idea that race could be a factor in admissions. Assuming we file the narrow tailoring brief that I think will be filed, that is all inaccurate. Instead, we should say:

Q: Why is the Michigan program unconstitutional? Isn't diversity a compelling government interest? Isn't ensuring that minorities are represented in colleges a compelling government interest?

A: The Michigan program is unconstitutional because race-neutral programs should be employed, where possible, to achieve the goal of ensuring diversity and ensuring that minorities have access to and are represented in universities. And we know from Texas, Florida, and California that such race-neutral programs in fact will work to ensure diversity and ensure that minorities have access to and are represented in universities. Diversity and remedying the continuing effects of societal discrimination against minorities are very important goals, but they must be achieved where possible through race-neutral programs such as the Texas program.

Q: You say "where possible." What if race-neutral programs do not work?

A: They do work, as we have seen in Texas, Florida, and California. And if there were ever a case where they did not work, then the courts would assess a university's admissions program under the standards that the Supreme Court has outlined for such circumstances.

Q: Is your position consistent with that of Justice Powell in Bakke?

A: Ensuring diversity and ensuring that minorities are represented in universities are very important goals, but must be achieved where possible through race-neutral programs such as the Texas program. The need to employ race-neutral programs, where possible, to achieve diversity is a consistent element of Supreme Court opinions over the past 20 years. And we know that these race-neutral programs work. (Justice Powell's opinion

does not address the question whether race-neutral programs can achieve these goals.)

Q: If the goal of advancing diversity and ensuring that minorities are represented are permissible goals, why is it that a university must choose race-neutral programs rather than race-based programs to achieve those goals? Is there any real difference?

A: There is a real difference because race-neutral programs treat us all as individuals and do not define us solely as members of racial groups. That is why the Supreme Court has emphasized that race-neutral programs must be the first choice and race-based programs employed only as a last resort.

From: Jay P. Lefkowitz/OPD/EOP@Exchange on 01/15/2003 12:39:00 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: FW: q and a.doc

pls have at it, and think about questions I am missing
;
thanks

Policy: Brief opposing the Michigan Plan, but not ruling out other efforts to promote diversity

;

Education plays a unique role in our society) it provides the foundation that launches people on the path to opportunity and achievement.; ;The educational experience becomes richer and more valuable when it includes voices and viewpoints from many perspectives.;; For these reasons, institutions of higher education have a compelling governmental interest in obtaining a student body that reflects America,s diverse heritage. ;

;

Unfortunately, the Michigan admissions policies made race an overwhelming factor in deciding admissions, and are impossible to square with the Constitution.; Michigan,s admissions policies ignore the fact that race-neutral policies like the Texas 10 Percent Plan, the Florida One plan, and California,s &Comprehensive Review8 plan have achieved diversity without using race at all.; Because diversity in education can be achieved in a race-neutral manner, the Michigan race-conscious programs are invalid.;

;

Q. Do you mean by &diversity in education8 racial diversity?
R. As stated by Justice Powell, the constitutionally permissible goal for an institution of higher education is not racial diversity; it is diversity that &encompasses a far broader array of qualifications and characteristics of which racial or ethnic origin is but a single though important element.8

;

Q. What justifies this compelling governmental interest in diversity in education?; Is it diversity to benefit an individual applicant?
R. Enormous educational value is gained by having a student body that is diverse because a great deal of learning occurs informally.; The broader the views and ideas being exchanged, the more the entire student body benefits.

;

Q. Michigan asserts that racial and ethnic diversity is a compelling governmental interest.; Do you agree with that assertion?
R. Achieving racial or ethnic diversity purely for the sake of racial or ethnic diversity is not the point.; The point is to have a diverse student body, and a prospective student,s race or ethnicity is just one factor a school should look at when it decides whether to accept the applicant, along with academic success, geography, economic status, and life history.

;

Q. If diversity is the desired goal, why wouldn,t quotas be the most narrowly tailored means of achieving it? Quotas would more directly ensure diversity that reflects America,s heritage it attained.
R. Attaining a diverse student body does not mean enrolling a class that is statistically parallel with the ethnic population in America.; Each applicant must be treated as an individual in the process, and must be analyzed on the basis of the combination of qualifications and attribute he or she possesses.; It does not assist diversity to enroll 20 upper class Hispanic male candidates from Detroit in a class that also includes 20 upper class white males from Detroit, and 20 upper class black males from Detroit.; Diversity does not require racial diversity) a disadvantaged white female from Miami would add diversity to a class largely populated with middle class males from Indiana.

;

Q. Isn,t this policy unfair to non-minority rejected applicants with higher academic credentials than minority applicants who are accepted?; Doesn,t this policy discriminate against them?
R. Universities consistently apply non-academic factors when making acceptance decisions.; The athlete, the thespian, the legacy, the person who has lived abroad) these and endless other non-academic qualities are factors routinely taken into account.; But candidates of identical backgrounds should not be treated differently purely because of race.; And everyone should have the opportunity to be considered as an individual.

;

Q. If diversity can be achieved through race-neutral admissions policies such as that in Texas, why should the Court depart from its general rule that racial classifications are unconstitutional unless they are intended to remedy carefully documented effects of past discrimination?
R. We agree the Court need not reach that question, because the Michigan policies do not survive the narrow tailoring prong of the suspect classification analysis.

;

Q. Doesn,t this policy &split the difference,8 without really answering the essential question of whether race can be a factor in admissions?

R. No.; There are two essential principles in question here, diversity and equal treatment.; The President believes that universities, as well as other institutions, can achieve the goal of diversity without resorting to unconstitutional behavior such as unequal treatment.;

;

;

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>
Sent: 1/15/2003 10:05:06 AM
Subject: :

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:15-JAN-2003 15:05:06.00
SUBJECT::
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

You reviewed these facts, correct?

In the programs under review by the Supreme Court, the University of Michigan has established an admissions process based on race.; At the undergraduate level, African American students, some Hispanic students, and American Indian students receive 20 points out of a maximum of 150 not because of any academic achievement or life experience, but solely because they are African American, Hispanic or Native American.; To put this in perspective, a perfect SAT score is worth only 12 points under the Michigan system.; Students who accumulate 100 points are generally admitted, and so those twenty points awarded solely based on race are often the decisive factor.; At the law school, some minority students are admitted to meet percentage targets, while other applicants with higher grades and better scores are passed over.; This means that students are being selected or rejected based primarily on the color of their skin.; The motivation for such an admissions policy may be very good, but its result is discrimination, and that discrimination is wrong.;

From: Miranda, Manuel (Judiciary) <Manuel_Miranda@Judiciary.senate.gov>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 1/15/2003 2:10:53 PM
Subject: : Hatch Statement on Michigan cases
Attachments: P_XFB1D003_WHO.TXT_1.html; P_XFB1D003_WHO.TXT_2.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Miranda, Manuel (Judiciary)" <Manuel_Miranda@Judiciary.senate.gov> ("Miranda, Manuel (Judiciary)" <Manuel_Miranda@Judiciary.senate.gov> [UNKNOWN])
CREATION DATE/TIME:15-JAN-2003 19:10:53.00
SUBJECT:: Hatch Statement on Michigan cases
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

January 15, 2003
Contact: Margarita Tapia, 202/224-5225

Hatch Reacts to Administration's Position on
Michigan Racial Discrimination Case

Washington - Sen. Orrin G. Hatch (R-Utah) today issued the following statement in response to President Bush's announcement on the Michigan racial discrimination case:

"I am pleased that today President Bush has shown that his administration shares Dr. King's vision for a color blind society. The President's position on the Michigan cases reflects the tradition of Lincoln, the 13th, 14th and 15th Amendments to the Constitution, and the Civil Rights legislation of the 1950's and 1960's.

"I share the President's belief that diversity is beneficial in higher education, but that the University of Michigan's diversity rationale cannot justify discrimination on the basis of a person's skin color or national origin. Michigan's racial preference system for admissions is fatally flawed under our Constitution.

"I am especially motivated to support the administration's decision to enter the Michigan cases given the unfortunate procedural clouds that have followed these cases as shockingly detailed in the extraordinary dissenting opinion of Circuit Judge Danny Boggs, suggesting inappropriate manipulation of rules and procedure on the 6th Circuit in the pursuit of a particular result.

"I urge the President to pursue the Top Ten Percent policy he implemented in Texas. The administration should applaud the University of Georgia, which has increased minority enrollment despite elimination of racial quotas in admissions. Diversity in our society and educational system is and should be our goal, however, discrimination based on race to achieve such diversity is an ill-advised and failed means to achieve such a goal.

"I also urge the administration to advocate the promotion of alternatives to the tired policies of race-based discrimination to achieve diversity in education. Such programs include economic-based affirmative action that gives a hand to young people from disadvantaged communities. I believe that such reinvention of affirmative action will

be more effective to advancing a color-blind society and welcomed by the American people of all races. Americans of all races and ethnicities aspire to equal opportunity for all and oppose discrimination toward any race. In my opinion Michigan's program fails in this aspiration."

# # #

- att1.htm - 01152003 Michigan Case.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_XFB1D003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_XFB1D003_WHO.TXT_2>

January 15, 2003< span style='mso-tab-count:4'> & nbsp; &n bsp; &nb sp;
Contact: Margarita Tapia, 202/224-5225

HATCH REACTS TO ADMINISTRATION'S POSITION ON MICHIGAN RACIAL DISCRIMINATION CASE

Washington< /span> – Sen. Orrin G. Hatch (R-Utah) today issued the following statement in response to President Bush's announcement on the Michigan racial discrimination case:

"I am pleased that today President Bush has shown that his administration shares Dr. King's vision for a color blind society. The President's position on the Michigan cases reflects the tradition of Lincoln, the 13th, 14th and 15th Amendments to the Constitution, and the Civil Rights legislation of the 1950's and 1960's.

"I share the President's belief that diversity is beneficial in higher education, but that the University of Michigan< /st1:place>'s diversity rationale cannot justify discrimination on the basis of a person's skin color or national origin. ~~Michigan's racial preference system for admissions is fatally flawed under our Constitution.~~

~~"I am especially motivated to support the administration's decision to enter the Michigan cases given the unfortunate procedural clouds that have followed these cases as shockingly detailed in the extraordinary dissenting opinion of Circuit Judge Danny Boggs, suggesting inappropriate manipulation of rules and procedure on the 6th Circuit in the pursuit of a particular result.~~

~~"I urge the President to pursue the Top Ten Percent policy he implemented in Texas. The administration should applaud the University of Georgia, which has increased minority enrollment despite elimination of racial quotas in admissions. Diversity in our society and educational system is and should be our goal, however, discrimination based on race to achieve such diversity is an ill-advised and failed means to achieve such a goal.~~

~~"I also urge the administration to advocate the promotion of alternatives to the tired policies of race-based discrimination to achieve diversity in education. Such programs include economic-based affirmative action that gives a hand to young people from disadvantaged communities. I believe that such reinvention of affirmative action will be more effective to advancing a color-blind society and welcomed by the American people of all races. Americans of all races and ethnicities aspire to equal opportunity for all and oppose discrimination toward any race. In my opinion <st1:place>Michigan's program fails in this aspiration ."~~

###

January 15, 2003 Contact: Margarita Tapia, 202/224-5225

HATCH REACTS TO ADMINISTRATION'S POSITION ON MICHIGAN RACIAL DISCRIMINATION CASE

Washington – Sen. Orrin G. Hatch (R-Utah) today issued the following statement in response to President Bush's announcement on the Michigan racial discrimination case:

"I am pleased that today President Bush has shown that his administration shares Dr. King's vision for a color blind society. The President's position on the Michigan cases reflects the tradition of Lincoln, the 13th, 14th and 15th Amendments to the Constitution, and the Civil Rights legislation of the 1950's and 1960's.

"I share the President's belief that diversity is beneficial in higher education, but that the University of Michigan's diversity rationale cannot justify discrimination on the basis of a person's skin color or national origin. Michigan's racial preference system for admissions is fatally flawed under our Constitution.

"I am especially motivated to support the administration's decision to enter the Michigan cases given the unfortunate procedural clouds that have followed these cases as shockingly detailed in the extraordinary dissenting opinion of Circuit Judge Danny Boggs, suggesting inappropriate manipulation of rules and procedure on the 6th Circuit in the pursuit of a particular result.

"I urge the President to pursue the Top Ten Percent policy he implemented in Texas. The administration should applaud the University of Georgia, which has increased minority enrollment despite elimination of racial quotas in admissions. Diversity in our society and educational system is and should be our goal, however, discrimination based on race to achieve such diversity is an ill-advised and failed means to achieve such a goal.

"I also urge the administration to advocate the promotion of alternatives to the tired policies of race-based discrimination to achieve diversity in education. Such programs include economic-based affirmative action that gives a hand to young people from disadvantaged communities. I believe that such reinvention of affirmative action will be more effective to advancing a color-blind society and welcomed by the American people of all races. Americans of all races and ethnicities aspire to equal opportunity for all and oppose discrimination toward any race. In my opinion Michigan's program fails in this aspiration."

# # #

REV_00156207

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>
Sent: 1/15/2003 10:28:12 AM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:15-JAN-2003 15:28:12.00
SUBJECT:: Re:
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

done

Noel J. Francisco
01/15/2003 03:14:01 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re:

I reviewed an earlier version. This one refers to "some Hispanics." This is undoubtedly true, for even if "all" Hispanics got the preference, it would still be true that "some" did. But based on my review of the materials, I am not sure whether "some" or "all" Hispanics get the preference. Given this, this is probably the safest way to go.

Brett M. Kavanaugh
01/15/2003 03:01:30 PM
Record Type: Record

To: Noel J. Francisco/WHO/EOP@EOP
cc:
Subject:

You reviewed these facts, correct?

In the programs under review by the Supreme Court, the University of Michigan has established an admissions process based on race.; At the undergraduate level, African American students, some Hispanic students, and American Indian students receive 20 points out of a maximum of 150 not because of any academic achievement or life experience, but solely because they are African American, Hispanic or Native American.; To put this in perspective, a perfect SAT score is worth only 12 points under the Michigan system.; Students who accumulate 100 points are generally admitted, and so those twenty points awarded solely based on race are often the decisive factor.; At the law school, some minority students are admitted to meet percentage targets, while other applicants with higher grades and better scores are passed over.; This means that students are being selected or rejected based primarily on the color of their skin.; The motivation for such an admissions policy may be very good, but its

result is discrimination, and that discrimination is wrong.;

From: CN=Noel J. Francisco/OU=WHO/O=EOP [WHO]
To: H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>
CC: brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;noel j. francisco/who/eop@eop [WHO] <noel j. francisco>;patrick j. bumatay/who/eop@exchange [WHO] <patrick j. bumatay>
Sent: 1/15/2003 10:49:42 AM
Subject: : Re: FW: 3 Judges ready to go to the Senate

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:15-JAN-2003 15:49:42.00
SUBJECT:: Re: FW: 3 Judges ready to go to the Senate
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:noel j. francisco (CN=noel j. francisco/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:patrick j. bumatay (CN=patrick j. bumatay/OU=who/O=eop@exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

ditto.

H. Christopher Bartolomucci
01/15/2003 03:44:54 PM
Record Type: Record

To: Patrick J. Bumatay/WHO/EOP@Exchange
cc: brett m. kavanaugh/who/eop@eop, noel j. francisco/who/eop@eop
bcc:
Subject: Re: FW: 3 Judges ready to go to the Senate

Fire away.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 01/15/2003 03:44:50 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Noel J. Francisco/WHO/EOP@EOP,
H. Christopher Bartolomucci/WHO/EOP@EOP
cc:
Subject: FW: 3 Judges ready to go to the Senate

-----Original Message-----
From: McCathran, William W.
Sent: Wednesday, January 15, 2003 3:40 PM
To: Bumatay, Patrick J.
Subject: 3 Judges ready to go to the Senate

Cecilia Altonaga, USDJ Southern Florida, Dee D. Drell, and Patricia
Minaldi, USDJs for Western Louisiana and going to the Senate this
afternoon.

tks,
Bill

From: Bumatay, Patrick J.
To: <Ellison, Kimberly>;<Jones, Alison>;<Bartolomucci, H. Christopher>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Walker, Helgard C.>;<Wingate, Heather>;<Sampson, Kyle>;<McMaster, David>;<Gray, Ann>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Kyle, Ross M.>;<Leitch, David G.>;<Jackson, Barry S.>
Sent: 1/15/2003 3:22:14 PM
Subject: Room Change

JSC Meeting will now be in Judge Gonzales' office at 4 pm.

Thanks,
Patrick

Patrick J. Bumatay
Office of Counsel to the President
o: 202-456-5214
f: 202-456-6279
mainline: 202-456-2632

From: Bartolomucci, H. Christopher
To: <Bumatay, Patrick J.>
CC: <Kavanaugh, Brett M.>;<Francisco, Noel J.>
Sent: 1/15/2003 3:44:54 PM
Subject: Re: FW: 3 Judges ready to go to the Senate

Fire away.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 01/15/2003 03:44:50 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Noel J. Francisco/WHO/EOP@EOP, H. Christopher Bartolomucci/WHO/EOP@EOP

cc:

Subject: FW: 3 Judges ready to go to the Senate

-----Original Message-----

From: McCathran, William W.

Sent: Wednesday, January 15, 2003 3:40 PM

To: Bumatay, Patrick J.

Subject: 3 Judges ready to go to the Senate

Cecilia Altonaga, USDJ Southern Florida, Dee D. Drell, and Patricia Minaldi, USDJs for Western Louisiana and going to the Senate this afternoon.

tks,

Bill

From: Francisco, Noel J.
To: <Bartolomucci, H. Christopher>
CC: <Bumatay, Patrick J.>;<Kavanaugh, Brett M.>;<Francisco, Noel J.>
Sent: 1/15/2003 3:46:07 PM
Subject: Re: FW: 3 Judges ready to go to the Senate

ditto.

H. Christopher Bartolomucci

01/15/2003 03:44:54 PM

Record Type: Record

To: Patrick J. Bumatay/WHO/EOP@Exchange

cc: brett m. kavanaugh/who/eop@eop, noel j. francisco/who/eop@eop

bcc:

Subject: Re: FW: 3 Judges ready to go to the Senate <<...>>

Fire away.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 01/15/2003 03:44:50 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Noel J. Francisco/WHO/EOP@EOP, H. Christopher Bartolomucci/WHO/EOP@EOP

cc:

Subject: FW: 3 Judges ready to go to the Senate

-----Original Message-----

From: McCathran, William W.

Sent: Wednesday, January 15, 2003 3:40 PM

To: Bumatay, Patrick J.

Subject: 3 Judges ready to go to the Senate

Cecilia Altonaga, USDJ Southern Florida, Dee D. Drell, and Patricia Minaldi, USDJs for Western Louisiana and going to the Senate this afternoon.

tks,

Bill

From: Lefkowitz, Jay P.
To: <Kavanaugh, Brett M.>
Sent: 1/15/2003 7:01:22 PM
Subject: Re: BACKGROUND BRIEFING BY A SENIOR ADMINISTRATION OFFICIAL ON THE MICHIGAN AFFIRMATIVE ACTION CASE

Thanks for all the help.

Sent From Exchange 2000 Blackberry Handheld

From: CN=Alphonise R. Artis/OU=WHO/O=EOP [WHO]
To: Karen D. Cruson/WHF/EOP@EOP [OPM] <Karen D. Cruson>;Barbara A. Barclay/WHO /EOP@EOP [WHO] <Barbara A. Barclay>;Stuart W. Bowen/WHO/EOP@EOP [WHO] <Stuart W. Bowen>;Debra D. Bird/WHO/EOP@EOP [WHO] <Debra D. Bird>;Carolyn E. Cleveland/WHO/EOP@EOP [WHO] <Carolyn E. Cleveland>;Harriet Miers/WHO/EOP@EOP [WHO] <Harriet Miers>
CC: Laura F. Fullerton/WHO/EOP@EOP [WHO] <Laura F. Fullerton>;Edward McNally/WHO /EOP@EOP [WHO] <Edward McNally>;Kenneth Hill TPO/TPO/OMB/EOP@EOP [OMB] <Kenneth Hill TPO>;Robert J. Delahunty/WHO/EOP@EOP [WHO] <Robert J. Delahunty>;Terry W. Good/WHO/EOP@EOP [WHO] <Terry W. Good>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Timothy C. Stout/WHO/EOP@EOP [WHO] <Timothy C. Stout>
Sent: 1/16/2003 12:20:12 PM
Subject: : Records Management meeting

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Alphonise R. Artis ( CN=Alphonise R. Artis/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:16-JAN-2003 17:20:12.00
SUBJECT:: Records Management meeting
TO:Karen D. Cruson ( CN=Karen D. Cruson/OU=WHF/O=EOP@EOP [ OPM ] )
READ:UNKNOWN
TO:Barbara A. Barclay ( CN=Barbara A. Barclay/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Stuart W. Bowen ( CN=Stuart W. Bowen/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Debra D. Bird ( CN=Debra D. Bird/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Carolyn E. Cleveland ( CN=Carolyn E. Cleveland/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Harriet Miers ( CN=Harriet Miers/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Laura F. Fullerton ( CN=Laura F. Fullerton/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Kenneth Hill TPO ( CN=Kenneth Hill TPO/OU=TPO/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
CC:Robert J. Delahunty ( CN=Robert J. Delahunty/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Terry W. Good ( CN=Terry W. Good/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Timothy C. Stout ( CN=Timothy C. Stout/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

The cc list are the attendees for the 9:00 am meeting in Harriet's office.

Alphie
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Joseph J. Shattan/OVP/EOP@EOP [OVP] <Joseph J. Shattan>
Sent: 1/16/2003 6:46:51 PM
Subject: : Re: Federal judges

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:16-JAN-2003 23:46:51.00
SUBJECT:: Re: Federal judges
TO:Joseph J. Shattan (CN=Joseph J. Shattan/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
End Original ARMS Header

yes, let's discuss friday. sorry I have been tied up on other. How much space do you have? 1 paragraph, 2, 3?

Joseph J. Shattan
01/15/2003 03:56:46 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Federal judges

Have you got any talking points or Presidential language that I could use for the VP's appearance at CPAC? Thanks!!

From: Leitch, David G.
To: <Kavanaugh, Brett M.>;<Francisco, Noel J.>;<Addington, David S.>
Sent: 1/16/2003 7:30:16 PM
Subject: FW: Judge's morning show schedule

-----Original Message-----
From: Montiel, Charlotte L.
Sent: Thursday, January 16, 2003 6:47 PM
To: Leitch, David G.
Subject: Judge's morning show schedule

6:30 - CBS Early in Press Briefing

6:40 - NBC Today Show

6:50 - ABC GMA

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>
Sent: 1/16/2003 5:53:39 PM
Subject: : Re: Chafee Reschedule

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:16-JAN-2003 22:53:39.00
SUBJECT:: Re: Chafee Reschedule
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

thanks. as it turned out, no way i could have done it this afternoon at any point.

Heather Wingate
01/16/2003 02:57:55 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Chafee Reschedule

We're rescheduled for Tuesday, Jan 21st at 3pm in 141A Russell.

From: Kavanaugh, Brett M.
To: <Francisco, Noel J.>;<Lefkowitz, Jay P.>;<Gonzales, Alberto R.>;<Leitch, David G.>
Sent: 1/16/2003 10:12:14 PM
Subject: Re: talking points -- Michigan

same conclusion as in e-mail below is contained an amicus brief on web that was just filed in support of petitioners (by Covington & Burling for Natl Association of Scholars). The brief concludes that the Brennan opinion in Bakke is actually the narrowest ground re use of race as a factor -- and thus argues that race can be used as a factor in admissions only if narrowly tailored to remedy past discrimination and that Michigan hs not met that standard here.

Brett M. Kavanaugh

01/16/2003 06:27:38 PM

Record Type: Record

To: Noel J. Francisco/WHO/EOP@EOP

cc: jay p. lefkowitz/opd/eop@exchange, alberto r. gonzales/who/eop@eop, david g. leitch/who /eop@exchange@eop

bcc: Records Management@EOP

Subject: Re: talking points -- Michigan <<...>>

At some point, the tension Noel notes will become an issue. A very, very, very technical answer to the tension (which I discussed with Paul) is that the Court's stamp of approval for the Harvard plan was predicated on the consideration of race being deemed "necess[ary]" to ensure minority representation (see footnote 1 of Brennan opinion, the conclusion of which is narrower on the Harvard-plan issue than Powell's opinion), and we have shown that race is not necessary in 2003 to ensure minority representation in higher educational institutions given the available race-neutral alternatives. So the brief's analytical framework is consistent with the analytical framework in Bakke. But this obviously raises as many questions as it answers, and we almost certainly never want to get down to this level of discussion.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>
Sent: 1/16/2003 6:33:48 PM
Subject: : Re: FW: Letter to state legislators -- final draft for your review
Attachments: P_L2W2D003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:16-JAN-2003 23:33:48.00
SUBJECT:: Re: FW: Letter to state legislators -- final draft for your review
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

fine

From: Patrick J. Bumatay/WHO/EOP@Exchange on 01/16/2003 09:21:44 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: FW: Letter to state legislators -- final draft for your review

Brett,

OPA asked if you could sign off on this letter to newly elected GOP state legislators.

bcc:

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_L2W2D003_WHO.TXT_1>

January 14, 2003

MAILING ADDRESS

Dear _____:

Congratulations on your recent victory in X STATE. I appreciate your willingness to serve your state and to participate in America's great tradition of democracy.

We have the opportunity to give our Nation a brighter future, ensure America's families are safer in their homes and communities, strengthen our economy so people can find work, and make our country a more compassionate place. I am confident that, with your support, we will succeed.

May God bless you in your service to X state, and may God continue to bless America.

Sincerely,

George W. Bush

From: CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO]
To: Daniel J. Bartlett/WHO/EOP@Exchange [WHO] <Daniel J. Bartlett>;Jay P. Lefkowitz/OPD /EOP@Exchange [OPD] <Jay P. Lefkowitz>;Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/17/2003 3:08:18 AM
Subject: : Michigan

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:17-JAN-2003 08:08:18.00
SUBJECT:: Michigan
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Larry Thompson asked me to communicate his view that we should stress the bigotry and stereotyping inherent in the diversity rationale in that it assumes there is a black way of thinking.; This is obviously not a point that would be highlighted by our focus on narrow tailoring in the context of Michigan, but for what it's worth I pulled this from one of his speeches:
;
BLACKS AS PROSECUTORS

;;;;;As we reflect on the conduct of this war and our role in it as prosecutors, it is evident that African-Americans share the same aspirations to liberty and the same threat of harm as all of our countrymen. Now more than ever, these principles of liberty serve as the bulwark of our nation against the assaults of terrorism. As our country wages war against a tenacious and ruthless enemy, we stand together first as simply Americans.

;;;;;When I look around the administration in Washington, I find myself but one of a sizable - and influential - number of African-Americans in positions of authority, especially in our nation's fight against terrorism.

;;;;;I believe all of you know 2 of them: Secretary of State Colin Powell and National Security Advisor Dr. Condoleezza Rice -- two of President Bush's closest advisors.

;;;;;But, there are others:

;;;;;There is Ambassador Frank Taylor, who is in charge of the State Department's counter-terrorism efforts. Before we launched the military offensive against the Taliban, Amb. Taylor traveled the world making the case against Bin Laden.

;;;;;There is also Deputy Secretary of Health and Human Services, Claude Allen. Mr. Allen is responsible for our country's war against chemical and biological terrorism. He is coordinating our country's medical and scientific efforts against the anthrax attack we experienced some time ago.

;;;;;Within the Justice Department, the Assistant Attorneys General in charge of Civil Rights and Antitrust are also both African-Americans, as well as being distinguished lawyers. They direct policy on many of the

major matters affecting our economy and our liberties.

;;;;;My friend and colleague Alphonso Jackson, the Deputy Secretary of the Department of Housing and Urban Development is an influential advocate on a range of issues that effect cities across the country and a close advisor to the President.

;;;;;As much as we have in common as Americans, we in the black community enjoy the same right as other Americans to have individual views, something black prosecutors must have. As African-Americans, we know better than anyone that we are not a monolithic people. And we should not allow anyone to try to put all of our thoughts into one column or fit all of our dreams into one box.

;;;;;Remember what Dr. Martin Luther King once said:

"Many people fear nothing more terribly than to take a position which stands out sharply and clearly from the prevailing opinion."

;;;;;It is in this context that I want to address the criticism some have leveled: that blacks should never be prosecutors because we cannot single-handedly defeat racism present in the criminal justice system. We all know from our personal experience the tensions that arise where a significant majority of prosecutors are white, while a substantial number of criminal defendants are minorities.

;;;;;One of the things that was striking to me when I was in private practice was that, as I had an opportunity to litigate cases against each and every litigating division of the Department of Justice, I seldom saw a minority attorney representing the government across the negotiating table or in federal court. That was puzzling to me since I knew there are talented minority attorneys all across the country.

;;;;;As Deputy Attorney General, one of my priorities is working on diversifying the ranks of the Department. Attorney General Ashcroft and I are dedicated to making the Department's diversity plan work in as meaningful and effective a way as possible. We plan to do this, not only for the legal divisions at Justice, but also for the FBI, DEA, U.S. Marshals and all other agencies at the Department. In fact, for those of you here today who are law students or judicial clerks, I invite you to apply to join us at the Department of justice through the Attorney General's Honors Program which brings new lawyers into the Department. Information about the program is on our web site and you can apply on-line.

;;;;;Our attempt to improve the diversity of the Department of Justice reflects our commitment to recognize the valuable role that all segments of our society should play in enforcing our society's laws. If all Americans are to have confidence in the Justice Department, it is important that the Department be as diverse as it possibly can. Improving diversity is one of the attorney general's top ten initiatives. And blacks should serve as prosecutors because we can add our insight and, most importantly, our discretion to the criminal justice system and help ameliorate its flaws.

;;;;;As Professor Randall Kennedy has pointed out2 <http://www.usdoj.gov/dag/speech/2002/080802nbparemarks.htm#N_2_>, those who attack the idea of blacks as prosecutors are preying on the unfounded suspicion that blacks can only advance through "the opportunism or the indulgence of white folks or by serving as a front for white puppeteers." This suspicion "robs black people of authority over their own choices, responsibilities and achievements."

;;;;;As the sometimes-described liberal syndicated columnist Clarence Page 3 <http://www.usdoj.gov/dag/speech/2002/080802nbparemarks.htm#N_3_> put it in defending one of our colleagues who was prosecuting a black man who had killed another black man:

"When people say that good men like [this prosecutor] are traitors to the black community, I wonder which 'community they are talking about. It is a myth - a dangerous racist myth - that black people are soft on crime. Quite the opposite, black people are, on the whole, quite tough on crime. After all, they are more likely to be its victims. Just ask the young black males who have been swelling the rolls in prisons in recent years. Most were sent there by black jurors."

From: CN=Tim Goeglein/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/17/2003 2:40:58 AM
Subject: : AP - Bush administration calls affirmative action plan ``plainly unconstitutional''

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:17-JAN-2003 07:40:58.00
SUBJECT:: AP - Bush administration calls affirmative action plan ``plainly unconstitutional''
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

My friend B

A lot of interest in this in my world, as you might imagine.

Who from Counsel could speak to Norquist and Weyrich next week, as well as

the conservative teleconference on Monday?

tsg

---------- Forwarded by Tim Goeglein/WHO/EOP on 01/17/2003

07:40 AM ----------

From: Brian Bravo/WHO/EOP@Exchange on 01/17/2003 06:43:42 AM

Record Type: Record

To:

cc:

Subject: AP - Bush administration calls affirmative action plan

``plainly unconstitutional''

Bush administration calls affirmative action plan ``plainly

unconstitutional''

By ANNE GEARAN Associated Press Writer

;;;;;;;;;;; ;; WASHINGTON (AP); The Bush administration told the Supreme Court on Thursday that university admissions programs that gave an edge to minority students are unconstitutional and ignore race-neutral alternatives that could boost minority presence on campuses.

;;;;;;;;;;; ;; The administration urged the high court to strike down admissions policies at the University of Michigan and its law school.

;;;;;;;;;;; ;; The admissions policies amount to unconstitutional quota systems and unfairly discriminate against white students, the administration argued in a friend-of-the-court brief filed in the lawsuit challenging the Michigan school's practices.

;;;;;;;;;;; ;; Solicitor General Theodore Olson wrote: ``The court should hold that the university's race- and ethnic-based undergraduate admissions policies are unconstitutional because proven race-neutral alternatives to achieving the laudable goals of educational openness and diversity remain available.''

;;;;;;;;;;; ;; Both admissions policies fail the constitutional test of equal protection for everyone under the law and cannot be reconciled with previous Supreme Court rulings that severely limit the use of race as a factor in government decisions, Olson wrote.

;;;;;;;;;;; ;; The filings do not go as far as some of President Bush's most conservative supporters had hoped.

;;;;;;;;;;; ;; The administration did not stake a categorical position against any use of race in university admissions, and did not ask the court to overturn an affirmative action ruling that for 25 years has allowed some role for an applicant's race.

;;;;;;;;;;; ;; The case marks the court's first statement on racial

preference programs in academic admissions since the 1978 Bakke case, which affirmative action critics and backers alike say has muddied the waters for a quarter century.

;;;;;;;;;;; ;; The 1978 case, the last college affirmative action case at the high court, involved Allan Bakke, a white man rejected for admission to a California medical school while minorities with lower test scores got in through a special program.

;;;;;;;;;;; ;; The court on a 5-4 vote outlawed racial quotas in university admissions, but left room for race to be a ``plus factor.'' Michigan and many other public universities have used the ruling to design programs that can help minorities who might be rejected if only test scores and grades are considered.

;;;;;;;;;;; ;; In practice, that has ``become a wholesale invitation to ... mechanically admit students who have questionable academic credentials and records merely because they self-identify themselves as falling within a favored category,'' said Catholic University law school dean Douglas Kmiec, who supports the Bush position.

;;;;;;;;;;; ;; The administration is not a party to the Michigan fight and did not have to take any position. Affirmative action, however, is the most watched issue before the high court this year and it would have been unusual for the White House to remain on the sidelines.

;;;;;;;;;;; ;; The issue is politically touchy because it is seemingly impossible to please both Bush's conservative political base and the Hispanic and black voters the Republican party hopes to attract during what is presumed to be Bush's re-election campaign next year.

;;;;;;;;;;; ;; The deadline for filing court papers in the Michigan case also came close on the awkward, racially charged exit of Trent Lott, R-Miss., as the Senate's Republican leader. Bush condemned remarks Lott

made last month that seemed to long for the days of segregation.

;;;;;;;;;;; ;; The high court, which will hear arguments on the case in March, could do what the Bush friend-of-the-court brief apparently will not and conclude race can never be a factor when a government-funded school decides whom to let in.

;;;;;;;;;;; ;; That position would eliminate the leeway from the Bakke case. Some think that may be what the White House wants, even if Bush is not saying so.

;;;;;;;;;;; ;; ``His public rhetoric of no quotas is obviously quite different than the position they hope the Supreme Court will take,'' University of Southern California constitutional law professor Erwin Chemerinsky said.

;;;;;;;;;;; ;; The court, which is expected to rule by summer, could redraw the rules for when race may be considered.

;;;;;;;;;;; ;; Applicants for Michigan's undergraduate classes are scored by points, with minorities or some poor applicants receiving a boost of 20 points on a scale of 150. At the law school, admissions officers use a looser formula that tries to make sure that each class has about 10 percent or 12 percent minority enrollment.

;;;;;;;;;;; ;; The administration says the point system is skewed toward minorities, noting that a perfect SAT score is worth just 12 points, and an outstanding essay gets three points.

;;;;;;;;;;; ;; The cases are Grutter v. Bollinger, 02-241 and Gratz v. Bollinger, 02-516.

;;;;;;;;;;;

;

From: CN=Robert J. Delahunty/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>
Sent: 1/17/2003 7:57:05 AM
Subject: : Draft memo on document control
Attachments: P_ODL3D003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Robert J. Delahunty ( CN=Robert J. Delahunty/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:17-JAN-2003 12:57:05.00
SUBJECT:: Draft memo on document control
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Brett: Ed asked me to forward to you -- at this point, for your review
alone -- a draft of the guidance we discussed this morning. Ed is still
on the Hill and has not been able to review it in detail, but he has seen
an earlier and slightly different version. He is calling you to flag a
couple of questions. One further question for you is whether we should
say anything in the "request-and-approve" process about classified
materials people may want to take over to DHS.
Also, this draft is skimpy on practical guidance on boxing, filing,
inventorying, etc. My sense is that there should be a separate Exec
Sec-type memo to accompany this, giving all those thoughts. The shorter
we keep each memo, the likelier each is to be read -- and followed.
Robert
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ODL3D003_WHO.TXT_1>
```

Friday 1 PM draft

MEMORANDUM TO WHO, OMB AND OTHER STAFF TRANSFERRING TO DHS

FROM: BRETT KAVANAUGH, ASSOCIATE COUNSEL,WHC
PHIL PERRY, GENERAL COUNSEL, OMB
ED McNALLY, GENERAL COUNSEL, OHS

RE: HANDLING OF WH AND TPO MATERIALS UPON TRANSFER TO DHS

This memorandum is designed to provide you with guidance concerning the handling of White House materials and TPO (or other OMB) materials that are in your keeping before you assume your new duties at DHS.

General Rules. White House materials (which means any written, typed, recorded or graphic matter that was originated in or received by a White House entity, including OHS) are subject to the Presidential Records Act. Under that statute, *all* such materials in your keeping – whether an original or copy – *must* remain in the possession of the EOP after you transfer over to DHS. This requirement applies whether you are currently employed by a White House entity or by OMB (including TPO). As discussed further below, however, you *may*, in appropriate circumstances, take with you *copies* of White House materials *that you will need to perform your mission at DHS*.

TPO (or other OMB) materials are subject to the Federal Records Act rather than the Presidential Records Act. Nevertheless, in the case of TPO staff transferring over to DHS, any such materials should remain at OMB after your transfer to DHS, rather than being taken with you to DHS. Again, however, these employees *may*, in appropriate circumstances, take *copies* of such materials with them to DHS. [Comment: We will need a brief description from OMB/GC of OMB's standard conditions, especially if OMB requires more than "need" to take away copies.] [Should there be a separate OMB/GC memo?]

Transferring TPO personnel who have in their keeping White House materials that have originated in or been received from a White House entity should return those materials to that entity before their transfer. E.g., if you are transferring from TPO to DHS and have received White House materials from an OHS contact, you should return those materials to that contact (if he or she remains at OHS) or to the OHS Executive Secretariat.

Transferring OHS personnel should provide *all* materials in their keeping to [OHS Exec Sec?] before their transfer. Other transferring EOP personnel should provide *all* materials in their keeping to [whatever is SOP] before their transfer.

When Copies of Materials May Be Taken to DHS. You are likely to need access in many cases to White House and/or OMB materials that are currently in your keeping

after you transfer over to DHS; without such access, you may well be unable to perform your new duties and discharge your new missions efficiently and effectively. To ensure that these compelling DHS needs are served, transferring personnel *are* authorized to make *copies* of such needed materials, and to bring those *copies* with them to DHS, *provided* that a) they identify the materials, affirm that they are needed for their DHS mission, and request approval to take copies of them; and b) receive the approval of their request from appropriate counsel [after review]. "Appropriate counsel" means OHS counsel in the case where the materials sought originated in OHS; WH counsel in the case in which the materials originated elsewhere in the EOP; and OMB counsel in any case of non-White House materials. A sample request-and-approval form is attached. [1] [Comment: This procedure can be complicated, because a single person would have to categorize the materials correctly and might need three separate sets of sign-offs. An alternative would be to advise OHS or TPO transferees to consult the counsel for their agency -- and for others to consult WHC. The disadvantage here, emphasized by Steve Aitken, is that this approach would have OMB counsel approving the transfer of WH materials.]

Specific Categories of Materials: Specific advice regarding particular categories of materials may be useful.

Typed papers and memoranda. Such documents may well fall into the category of White House materials, even if they are in the keeping of TPO personnel. If they do fall into that category, OHS or WH counsel (as appropriate) should be consulted before any copies of these materials are taken to DHS. If they do not fall into that category, OMB counsel should be consulted.

Copies of such documents *may* be taken to DHS provided that the general request-and-approval procedure described above is followed. (*Originals* of such documents must remain at the EOP or at OMB, as appropriate; only *copies* may be taken away.)

E-Mail Messages. If you are currently in OHS (or another EOP entity), *any* emails sent *from or to* your OHS (or EOP) e-mail address are considered White House materials. If you are currently at TPO, any e-mails sent *from or to* your TPO e-mail address are TPO materials. The same e-mail content may therefore be *both* a presidential record and an agency record.

Copies of e-mails (whether in typed or electronic form) *may* be taken to DHS provided that the general request-and-approval procedure described above is followed.

Computer discs, computer files, and computers. Materials on computer discs are usually to be treated like any other kind of materials. Requests to download and take entire computer files to DHS are subject to closer review by counsel. Requests to take computers themselves are [?].

Retrieval of Materials. If you have left materials behind without copying them and discover after your transfer that you need a copy of them for your work at DHS, you

will be able to secure a copy. [Describe SOP for EOP, OMB.] Retrieval of material sought will be facilitated if you [describe recommended procedure for boxing, filing, inventorying – or just refer to separate Exec Sec memo for guidance.]

If you have any questions, please contact [].

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Tim Goeglein/WHO /EOP@EOP [WHO] <Tim Goeglein>
Sent: 1/17/2003 12:17:43 PM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:17-JAN-2003 17:17:43.00
SUBJECT:: Re:
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Not at all. Happy as always to help. Just let me know.

.

----- Original Message -----
From:Tim Goeglein/WHO/EOP
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 01/17/2003 05:02:49 PM
Subject: Re:

B

I thought I was imposing on your time, my friend.

Are you game to do them?

tsg

Brett M. Kavanaugh
01/17/2003 04:27:47 PM
Record Type: Record

To: Tim Goeglein/WHO/EOP@EOP
cc:
Subject:

any word on call and Norquist/Weyrich next week?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ashley Snee/WHO/EOP@Exchange@EOP [WHO] <Ashley Snee>
Sent: 1/17/2003 9:28:47 AM
Subject: : AP story

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:17-JAN-2003 14:28:47.00
SUBJECT:: AP story
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Just so that you know the general routine, this is the way these stories often come about because we also have to inform the home-state Senators (R or D) when the FBI background investigation of a prospective judge begins. And the Senators then generally let it become public one way or another. Even if the Senators do not, it often gets out when the FBI starts doing its BI and interviewing everyone for the background check. In any event, as you can see below, the Senators often do it publicly and unabashedly.

By Laurence Arnold
Associated Press Writer
Friday, January 17, 2003; 10:38 AM
WASHINGTON)) President Bush will nominate the government's chief criminal prosecutor, Michael Chertoff, to a federal appeals court that handles cases for New Jersey, Delaware, Pennsylvania and the Virgin Islands, a lawmaker says.
Chertoff was the U.S. attorney for New Jersey and an attorney in private practice before Bush brought him to Washington as head of the Justice Department's criminal division.
The White House notified Sen. Jon Corzine, D-N.J., on Wednesday that Bush would nominate Chertoff to the U.S. 3rd Circuit Court of Appeals. Corzine "views it very favorably," said his spokesman, David Wald, adding that the senator looks forward to talking with Chertoff in detail.
The Justice Department declined to comment.
Chertoff has been the administration's top anti-terrorism prosecutor. In a college commencement address in New Jersey last year, Chertoff said the United States had ample evidence that a devastating terrorist attack on U.S. soil was likely long before Sept. 11, 2001.
As federal prosecutor in New Jersey from 1990 to 1994, Chertoff oversaw high-profile prosecutions of Jersey City Mayor Gerald McCann, New York chief judge Sol Wachtler and the kidnappers and killers of Exxon executive Sidney Reso.
Later, as chief Republican counsel to the Senate Whitewater Committee during the administration of President Bill Clinton, Chertoff played a major role in the investigation of the Clintons' Arkansas business dealings; the suicide of Vincent Foster, a Clinton aide and former law partner of Hillary Clinton; and other allegations against the Clintons.
Most recently, he worked in Trenton as special counsel to the state Senate Judiciary Committee that investigated racial profiling in New Jersey.

From: CN=Edward McNally/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Faisal M. Gill/WHO/EOP@EOP [WHO] <Faisal M. Gill>
Sent: 1/17/2003 2:06:59 PM
Subject: : Re: Draft docs memo to WHO staff transferring to DHS -- comments due Tues. a.m.

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:17-JAN-2003 19:06:59.00
SUBJECT:: Re: Draft docs memo to WHO staff transferring to DHS -- comments due Tues. a.m.
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Faisal M. Gill (CN=Faisal M. Gill/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

1/17/03 7:11 PM draft

MEMORANDUM TO WHO STAFF TRANSFERRING TO DHS

FROM: ALBERTO R. GONZALES, COUNSEL TO THE PRESIDENT

SUBJECT: PRE-TRANSFER HANDLING OF WHO MATERIALS

This memorandum is designed to provide all White House staff who are transferring to the new Department of Homeland Security (DHS) with guidance concerning the handling of White House materials before you assume your new duties at DHS. By way of background, please note the attached copy of my February 26, 2001 memo concerning the Presidential Records Act (PRA), as well as the July 26, 2002 memo regarding White House materials made available to the DHS Transition Planning Office (TPO).

General Rules. White House materials (which means any written, typed, recorded or graphic matter that was originated in or received by the White House Office, including OHS) are subject to the Presidential Records Act. Under that statute, all such materials in your keeping) whether an original or copy) must remain in the possession of the Executive Office of the President (EOP) when you transfer over to DHS. However, you may, in appropriate circumstances, take with you copies of White House materials (including copies of computer disks or e-mails) that you will need to perform your mission at DHS, but you must first receive approval from counsel.

Transferring WHO personnel should provide all materials in their keeping to the White House Office of Records Management (ORM) before going to DHS. Therefore, also attached are ORM,s instructions on preparing your materials for storage, as well as ORM,s check out form.

Retrieval of Materials. If you have left materials behind without copying them and discover after your transfer that you need a copy of them for your work at DHS, you will be able to secure a copy by contacting ORM. Retrieval of material sought will be facilitated if you follow the guidance in the attached ORM materials. If you have any questions, please contact ORM at 6-2242 (www.eop.gov/ORM). For counsel,s approval for taking copies with you, please contact Faisal Gill for OHS, _____ for NSC, or Brett Kavanaugh for WHO generally. (TPO staff, obviously, should consult with OMB counsel.)

Can you email it in text.

----- Original Message -----
From:Edward McNally/WHO/EOP
To:Faisal M. Gill/WHO/EOP@EOP,
Date: 01/17/2003 06:42:51 PM
Subject: Draft docs memo to WHO staff transferring to DHS -- comments due Tues. a.m.

The att'd memo was initially drafted by Robert Delahunty after this a.m.'s meeting, and also reflects add'l drafting by Brett Kavanaugh and myself.
The ORM "check out" attachments and instructions are standard and can be viewed on the ORM website cited in the memo here.
Presumably OMB (Steve Aitken?) will be preparing a similar memo (as OMB GC did for TPO in July 2002), but that is OMB's call.
John Bellinger -- pls note the blank in the last sentence -- which NSC lawyer wld you like to approve any doc requests from NSC personnel who are at the TPO or moving to the new DHS?
Please send all edits and comments to OHS Assoc. Counsel Faisal Gill by 10:00 a.m. Tuesday.

Message Sent to:

To: Faisal Gill, Brett Kavanaugh, Steven D. Aitken/OMB/EOP, Lucy Clark TPO, Timothy Stout, John Mitnick TPO, Kenneth Hill TPO/TPO/OMB/EOP, Robert Delahunty
cc: Harriet Miers/WHO/EOP, Stuart W. Bowen/WHO/EOP, Carolyn E. Cleveland/WHO/EOP, John F. Wood/OMB/EOP, David Leitch, Barbara A. Barclay/WHO/EOP, Debra D. Bird/WHO/EOP, Karen D. Cruson/WHF/EOP, Terry W. Good/WHO/EOP, Laura Fullerton, John B. Bellinger/NSC/EOP

From:	McNally, Edward
To:	<Gill, Faisal M.>;<Kavanaugh, Brett M.>;<Aitken, Steven D.>;<Clark Tpo, Lucy G.>;<Stout, Timothy C.>;<Mitnick Tpo, John M.>;<Delahunty, Robert J.>
CC:	<Miers, Harriet>;<Bowen, Stuart W.>;<Cleveland, Carolyn E.>;<Wood, John F.>;<Leitch, David G.>;<Barclay, Barbara A.>;<Bird, Debra D.>;<Cruson, Karen D.>;<Good, Terry W.>;<Fullerton, Laura F.>;<Bellinger, John B.>
Sent:	1/17/2003 6:28:32 PM
Subject:	Draft docs memo to WHO staff transferring to DHS -- comments due Tues. a.m.
Attachments:	Handling of WH & TPO Materials to DHS.documents.doc

<<...>>

The att'd memo was initially drafted by Robert Delahunty after this a.m.'s meeting, and also reflects add'l drafting by Brett Kavanaugh and myself.

The ORM "check out" attachments and instructions are standard and can be viewed on the ORM website cited in the memo here.

Presumably OMB (Steve Aitken?) will be preparing a similar memo (as OMB GC did for TPO in July 2002), but that is OMB's call.

John Bellinger -- pls note the blank in the last sentence -- which NSC lawyer wld you like to approve any doc requests from NSC personnel who are at the TPO or moving to the new DHS?

Please send all edits and comments to OHS Assoc. Counsel Faisal Gill by 10:00 a.m. Tuesday.

Message Sent to:

To: Faisal Gill, Brett Kavanaugh, Steven D. Aitken/OMB/EOP, Lucy Clark TPO, Timothy Stout, John Mitnick TPO, Kenneth Hill TPO/TPO/OMB/EOP, Robert Delahunty

cc: Harriet Miers/WHO/EOP, Stuart W. Bowen/WHO/EOP, Carolyn E. Cleveland/WHO/EOP, John F. Wood/OMB/EOP, David Leitch, Barbara A. Barclay/WHO/EOP, Debra D. Bird/WHO/EOP, Karen D. Cruson/WHF/EOP, Terry W. Good/WHO/EOP, Laura Fullerton, John B. Bellinger/NSC/EOP

DATE draft

MEMORANDUM TO WHO STAFF TRANSFERRING TO DHS

FROM: ALBERTO R. GONZALES, COUNSEL TO THE PRESIDENT

SUBJECT: PRE-TRANSFER HANDLING OF WHO MATERIALS

This memorandum is designed to provide all White House staff who are transferring to the new Department of Homeland Security (DHS) with guidance concerning the handling of White House materials before you assume your new duties at DHS. By way of background, please note the attached copy of my February 26, 2001 memo concerning the Presidential Records Act (PRA), as well as the July 26, 2002 memo regarding White House materials made available to the DHS Transition Planning Office (TPO).

General Rules. White House materials (which means any written, typed, recorded or graphic matter that was originated in or received by the White House Office, including OHS) are subject to the Presidential Records Act. Under that statute, *all* such materials in your keeping – whether an original or copy – *must* remain in the possession of the Executive Office of the President (EOP) when you transfer over to DHS. However, you *may*, in appropriate circumstances, take with you *copies* of White House materials (including *copies* of computer disks or e-mails) *that you will need to perform your mission at DHS,* but you must first receive approval from counsel.

Transferring WHO personnel should provide *all* materials in their keeping to the White House Office of Records Management (ORM) before going to DHS. Therefore, also attached are ORM's instructions on preparing your materials for storage, as well as ORM's check out form.

Retrieval of Materials. If you have left materials behind without copying them and discover after your transfer that you need a copy of them for your work at DHS, you *will* be able to secure a copy by contacting ORM. Retrieval of material sought will be facilitated if you follow the guidance in the attached ORM materials. If you have any questions, please contact ORM at 6-2242 (www.eop.gov/ORM). For counsel's approval for taking copies with you, please contact Faisal Gill for OHS, _____ for NSC, or Brett Kavanaugh for WHO generally. (TPO staff, obviously, should consult with OMB counsel.)

From:	[UNKNOWN] <McNally, Edward>
To:	<Leitch>;David_G._Leitch@who.eop.gov [WHO] <David G.>;<Kavanaugh>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6246020-c20fee19-852569da-7648dc [UNKNOWN] <Brett M.>
CC:	<Gill>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/2e92e7f4-4c1d876a-85256c56-3e52e4 [UNKNOWN] <Faisal M.>;<Delahunty>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/3344af3f-c44288f0-85256b36-6e2832 [UNKNOWN] <Robert J.>
Sent:	1/18/2003 6:34:12 AM
Subject:	David + Brett: any new thoughts on Aitken's first point wld be welcome
Attachments:	P_YZC9000674POERS_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (MS Mail)
CREATOR:McNally, Edward ( [ UNKNOWN ] )
CREATION DATE/TIME:18-JAN-2003 11:34:12.00
SUBJECT:David + Brett: any new thoughts on Aitken's first point wld be welcome
TO:Leitch, David G. ( David_G._Leitch@who.eop.gov [ WHO ] )
READ:UNKNOWN
TO:Kavanaugh, Brett M. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6246020-
c20fee19-852569da-7648dc [ UNKNOWN ] )
READ:UNKNOWN
CC:Gill, Faisal M. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=2e92e7f4-4c1d876a-85256c56-3e52e4 [ UNKNOWN ] )
READ:UNKNOWN
CC:Delahunty, Robert J. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=3344af3f-
c44288f0-85256b36-6e2832 [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######



.

----- Original Message -----
From:Steven D. Aitken/OMB/EOP


To:Edward McNally/WHO/EOP@EOP
Cc:faisal m. gill/who/eop@eop,


brett m. kavanaugh/who/eop@eop,


lucy g. clark tpo/tpo/omb/eop@eop,
timothy c. stout/who/eop@eop,


john m. mitnick tpo/tpo/omb/eop@eop,


robert j. delahunty/who/eop@eop,
Philip J. Perry/OMB/EOP@EOP,


John F. Wood/OMB/EOP@EOP,
Kimberley S. Luczynski/OMB/EOP@EOP,


Steven R. Chabinsky TPO/TPO/OMB/EOP@EOP


Date: 01/17/2003 08:17:01 PM
```

Subject: Re: Draft docs memo to WHO staff transferring to DHS -- comments due Tues. a.m.

I will be out of the office on Tuesday and Wednesday of next week. I have forwarded the draft WH memo to Phil Perry (and to John Wood and Kimberley Luczynski of OMB OGC), and explained that the plan is for Phil to issue a parallel memo to TPO staff. I have also explained that comments on the WH draft are requested by Tuesday at 10 am.

I had two general comments on the draft memo.

The draft memo appears to state that departing staff can take electronic copies of email and wordprocessing documents. If TPO staff can take electronic copies, then -- because of the press of time and for convenience -- the TPO staff will want OA to generate and hand them "backup tapes" of all their emails on the ARMS system. Adam Greenstone (OA GC) called me this week to say that OA has already begun to receive such requests from TPO. If this occurs, then there would likely be wholesale movements of TPO emails to DHS. This may not be a problem in terms of policy, etc., but it is considerable tension with the draft memo's statement that "you must first receive approval from counsel" before departing with the copies. There is no way in which OMB OGC staff could meaningfully review hundreds (if not thousands) of emails next Thursday as TPO employees are preparing to depart. The alternative, of limiting departing staff to paper copies of emails, would avoid wholesale movements of emails outside the Complex

, and it would necessarily require some focus by departing staff on which emails they will really need at DHS. I don't know which approach is best (electronic or paper), but I wanted to flag the issue for consideration.

The second comment concerns the following paragraph about departing staff preparing all their files for records storage. While such preparation is certainly necessary, I don't know whether the timing (i.e., next week) is realistic, because departing DHS and TPO staff are likely to be very busy working on urgent matters regarding DHS's establishment on Friday, and the staff won't have the time to do this records preparation.

Transferring WHO personnel should provide all materials in their keeping to the White House Office of Records Management (ORM) before going to DHS. Therefore, also attached are ORM?s instructions on preparing your materials for storage, as well as ORM?s check out form

From: Edward McNally on 01/17/2003 06:42:51 PM
Record Type: Record

To: See the distribution list at the bottom of this message

cc: See the distribution list at the bottom of this message

Subject: Draft docs memo to WHO staff transferring to DHS -- comments due Tues. a.m.

The att'd memo was initially drafted by Robert Delahunty after this a.m.'s meeting, and also reflects add'l drafting by Brett Kavanaugh and myself.

The ORM "check out" attachments and instructions are standard and can be viewed on the ORM website cited in the memo here.

Presumably OMB (Steve Aitken?) will be preparing a similar memo (as OMB GC did for TPO in July 2002), but that is OMB's call.

John Bellinger -- pls note the blank in the last sentence -- which NSC lawyer wld you like to approve any doc requests from NSC personnel who are at the TPO or moving to the new DHS?

Please send all edits and comments to OHS Assoc. Counsel Faisal Gill by 10:00 a.m. Tuesday.

Message Sent to:

To: Faisal Gill, Brett Kavanaugh, Steven D. Aitken/OMB/EOP, Lucy Clark TPO, Timothy Stout, John Mitnick TPO, Kenneth Hill TPO/TPO/OMB/EOP, Robert Delahunty

cc: Harriet Miers/WHO/EOP, Stuart W. Bowen/WHO/EOP, Carolyn E. Cleveland/WHO/EOP, John F. Wood/OMB/EOP, David Leitch, Barbara A. Barclay/WHO/EOP, Debra D. Bird/WHO/EOP, Karen D. Cruson/WHF/EOP, Terry W. Good/WHO/EOP, Laura Fullerton, John B. Bellinger/NSC/EOP

Message Sent
To:_____

Faisal M. Gill/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP

Steven D. Aitken/OMB/EOP@EOP
Lucy G. Clark TPO/TPO/OMB/EOP@EOP

Timothy C. Stout/WHO/EOP@EOP
John M. Mitnick TPO/TPO/OMB/EOP@EOP

Robert J. Delahunty/WHO/EOP@EOP

Message Copied
To:_____

Harriet Miers/WHO/EOP@EOP
Stuart W. Bowen/WHO/EOP@EOP

Carolyn E. Cleveland/WHO/EOP@EOP
John F. Wood/OMB/EOP@EOP

David G. Leitch/WHO/EOP@EOP
Barbara A. Barclay/WHO/EOP@EOP

Debra D. Bird/WHO/EOP@EOP
Karen D. Cruson/WHF/EOP@EOP

Terry W. Good/WHO/EOP@EOP
Laura F. Fullerton/WHO/EOP@EOP

John B. Bellinger/NSC/EOP@EOP

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_YZC9000674POERS_WHO.TXT_1>

DATE draft

MEMORANDUM TO WHO STAFF TRANSFERRING TO DHS

FROM: ALBERTO R. GONZALES, COUNSEL TO THE PRESIDENT

SUBJECT: PRE-TRANSFER HANDLING OF WHO MATERIALS

This memorandum is designed to provide all White House staff who are transferring to the new Department of Homeland Security (DHS) with guidance concerning the handling of White House materials before you assume your new duties at DHS. By way of background, please note the attached copy of my February 26, 2001 memo concerning the Presidential Records Act (PRA), as well as the July 26, 2002 memo regarding White House materials made available to the DHS Transition Planning Office (TPO).

General Rules. White House materials (which means any written, typed, recorded or graphic matter that was originated in or received by the White House Office, including OHS) are subject to the Presidential Records Act. Under that statute, *all* such materials in your keeping – whether an original or copy – *must* remain in the possession of the Executive Office of the President (EOP) when you transfer over to DHS. However, you *may*, in appropriate circumstances, take with you *copies* of White House materials (including *copies* of computer disks or e-mails) *that you will need to perform your mission at DHS,* but you must first receive approval from counsel.

Transferring WHO personnel should provide *all* materials in their keeping to the White House Office of Records Management (ORM) before going to DHS. Therefore, also attached are ORM's instructions on preparing your materials for storage, as well as ORM's check out form.

Retrieval of Materials. If you have left materials behind without copying them and discover after your transfer that you need a copy of them for your work at DHS, you *will* be able to secure a copy by contacting ORM. Retrieval of material sought will be facilitated if you follow the guidance in the attached ORM materials. If you have any questions, please contact ORM at 6-2242 (www.eop.gov/ORM). For counsel's approval for taking copies with you, please contact Faisal Gill for OHS, _____ for NSC, or Brett Kavanaugh for WHO generally. (TPO staff, obviously, should consult with OMB counsel.)

From: CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/18/2003 4:47:50 AM
Subject: : RE: CNN Inside Politics

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:18-JAN-2003 09:47:50.00
SUBJECT:: RE: CNN Inside Politics
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

After the story in the Post, we need to tee up Chertoff.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Friday, January 17, 2003 4:35 PM
To: Gonzales, Alberto R; Leitch, David G.
Subject: CNN Inside Politics

just discussed Dr. Rice's statement

From:	CN=Edward McNally/OU=WHO/O=EOP [WHO]
To:	Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC:	Faisal M. Gill/WHO/EOP@EOP [WHO] <Faisal M. Gill>;Robert J. Delahunty/WHO/EOP@EOP [WHO] <Robert J. Delahunty>
Sent:	1/18/2003 6:27:53 AM
Subject:	: Atachments re: Draft docs memo to WHO staff transferring to DHS -- comments due Tues. a.m.

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-JAN-2003 11:27:53.00
SUBJECT:: Atachments re: Draft docs memo to WHO staff transferring to DHS -- comments due Tues. a.m.
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Faisal M. Gill (CN=Faisal M. Gill/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Robert J. Delahunty (CN=Robert J. Delahunty/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I don't mind leaving ARG memos out but I do think they shld be referenced re: definition of PRA and future litigation (which is whatall this is about anyway). An abundance of caution does no harm.

The ORM 1-pager is incredibly user friendly, how-to doc, and it shld stay.

.

----- Original Message -----
From:Brett M. Kavanaugh/WHO/EOP
To:Edward McNally/WHO/EOP@EOP
Cc:
Date: 01/17/2003 07:39:05 PM
Subject: Re: Draft docs memo to WHO staff transferring to DHS -- comments due Tues. a.m.

I would not want to attach anything. Need to keep it real simple.

.

From: CN=Edward McNally/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;David G. Leitch/WHO /EOP@EOP [WHO] <David G. Leitch>
CC: Robert J. Delahunty/WHO/EOP@EOP [WHO] <Robert J. Delahunty>;Faisal M. Gill/WHO /EOP@EOP [WHO] <Faisal M. Gill>
Sent: 1/18/2003 6:27:55 AM
Subject: : David + Brett: any new thoughts on Aitken's first point wld be welcome
Attachments: P_YDC4D003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-JAN-2003 11:27:55.00
SUBJECT:: David + Brett: any new thoughts on Aitken's first point wld be welcome
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Robert J. Delahunty (CN=Robert J. Delahunty/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Faisal M. Gill (CN=Faisal M. Gill/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

.

----- Original Message -----
From:Steven D. Aitken/OMB/EOP
To:Edward McNally/WHO/EOP@EOP
Cc:faisal m. gill/who/eop@eop,
brett m. kavanaugh/who/eop@eop,
lucy g. clark tpo/tpo/omb/eop@eop,
timothy c. stout/who/eop@eop,
john m. mitnick tpo/tpo/omb/eop@eop,
robert j. delahunty/who/eop@eop,
Philip J. Perry/OMB/EOP@EOP,
John F. Wood/OMB/EOP@EOP,
Kimberley S. Luczynski/OMB/EOP@EOP,
Steven R. Chabinsky TPO/TPO/OMB/EOP@EOP
Date: 01/17/2003 08:17:01 PM
Subject: Re: Draft docs memo to WHO staff transferring to DHS -- comments due Tues. a.m.

I will be out of the office on Tuesday and Wednesday of next week. I have forwarded the draft WH memo to Phil Perry (and to John Wood and Kimberley Luczynski of OMB OGC), and explained that the plan is for Phil to issue a parallel memo to TPO staff. I have also explained that comments on the WH draft are requested by Tuesday at 10 am.

I had two general comments on the draft memo.

The draft memo appears to state that departing staff can take electronic copies of email and wordprocessing documents. If TPO staff can take electronic copies, then -- because of the press of time and for convenience -- the TPO staff will want OA to generate and hand them "backup tapes" of all their emails on the ARMS system. Adam Greenstone (OA GC) called me this week to say that OA has already begun to receive such requests from TPO. If this occurs, then there would likely be wholesale movements of TPO emails to DHS. This may not be a problem in terms of policy, etc., but it is considerable tension with the draft memo's statement that "you must first receive approval from counsel" before departing with the copies. There is no way in which OMB OGC staff could meaningfully review hundreds (if not thousands) of emails next Thursday as TPO employees are preparing to depart. The alternative, of limiting departing staff to paper copies of emails, would avoid wholesale

movements of emails outside the Complex
, and it would necessarily require some focus by departing staff on which emails they will really need at DHS. I don't know which approach is best (electronic or paper), but I wanted to flag the issue for consideration.

The second comment concerns the following paragraph about departing staff preparing all their files for records storage. While such preparation is certainly necessary, I don't know whether the timing (i.e., next week) is realistic, because departing DHS and TPO staff are likely to be very busy working on urgent matters regarding DHS's establishment on Friday, and the staff won't have the time to do this records preparation.

Transferring WHO personnel should provide all materials in their keeping to the White House Office of Records Management (ORM) before going to DHS. Therefore, also attached are ORM,s instructions on preparing your materials for storage, as well as ORM,s check out form

From: Edward McNally on 01/17/2003 06:42:51 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: Draft docs memo to WHO staff transferring to DHS -- comments due Tues. a.m.

The att'd memo was initially drafted by Robert Delahunty after this a.m.'s meeting, and also reflects add'l drafting by Brett Kavanaugh and myself.
The ORM "check out" attachments and instructions are standard and can be viewed on the ORM website cited in the memo here.
Presumably OMB (Steve Aitken?) will be preparing a similar memo (as OMB GC did for TPO in July 2002), but that is OMB's call.
John Bellinger -- pls note the blank in the last sentence -- which NSC lawyer wld you like to approve any doc requests from NSC personnel who are at the TPO or moving to the new DHS?
Please send all edits and comments to OHS Assoc. Counsel Faisal Gill by 10:00 a.m. Tuesday.

Message Sent to:

To: Faisal Gill, Brett Kavanaugh, Steven D. Aitken/OMB/EOP, Lucy Clark TPO, Timothy Stout, John Mitnick TPO, Kenneth Hill TPO/TPO/OMB/EOP, Robert Delahunty
cc: Harriet Miers/WHO/EOP, Stuart W. Bowen/WHO/EOP, Carolyn E. Cleveland/WHO/EOP, John F. Wood/OMB/EOP, David Leitch, Barbara A. Barclay/WHO/EOP, Debra D. Bird/WHO/EOP, Karen D. Cruson/WHF/EOP, Terry W. Good/WHO/EOP, Laura Fullerton, John B. Bellinger/NSC/EOP

Message Sent
To:
Faisal M. Gill/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Steven D. Aitken/OMB/EOP@EOP
Lucy G. Clark TPO/TPO/OMB/EOP@EOP
Timothy C. Stout/WHO/EOP@EOP
John M. Mitnick TPO/TPO/OMB/EOP@EOP

Robert J. Delahunty/WHO/EOP@EOP

Message Copied
To:_____
Harriet Miers/WHO/EOP@EOP
Stuart W. Bowen/WHO/EOP@EOP
Carolyn E. Cleveland/WHO/EOP@EOP
John F. Wood/OMB/EOP@EOP
David G. Leitch/WHO/EOP@EOP
Barbara A. Barclay/WHO/EOP@EOP
Debra D. Bird/WHO/EOP@EOP
Karen D. Cruson/WHF/EOP@EOP
Terry W. Good/WHO/EOP@EOP
Laura F. Fullerton/WHO/EOP@EOP
John B. Bellinger/NSC/EOP@EOP
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_YDC4D003_WHO.TXT_1>

DATE draft

MEMORANDUM TO WHO STAFF TRANSFERRING TO DHS

FROM: ALBERTO R. GONZALES, COUNSEL TO THE PRESIDENT

SUBJECT: PRE-TRANSFER HANDLING OF WHO MATERIALS

This memorandum is designed to provide all White House staff who are transferring to the new Department of Homeland Security (DHS) with guidance concerning the handling of White House materials before you assume your new duties at DHS. By way of background, please note the attached copy of my February 26, 2001 memo concerning the Presidential Records Act (PRA), as well as the July 26, 2002 memo regarding White House materials made available to the DHS Transition Planning Office (TPO).

General Rules. White House materials (which means any written, typed, recorded or graphic matter that was originated in or received by the White House Office, including OHS) are subject to the Presidential Records Act. Under that statute, *all* such materials in your keeping – whether an original or copy – *must* remain in the possession of the Executive Office of the President (EOP) when you transfer over to DHS. However, you *may*, in appropriate circumstances, take with you *copies* of White House materials (including *copies* of computer disks or e-mails) *that you will need to perform your mission at DHS,* but you must first receive approval from counsel.

Transferring WHO personnel should provide *all* materials in their keeping to the White House Office of Records Management (ORM) before going to DHS. Therefore, also attached are ORM's instructions on preparing your materials for storage, as well as ORM's check out form.

Retrieval of Materials. If you have left materials behind without copying them and discover after your transfer that you need a copy of them for your work at DHS, you *will* be able to secure a copy by contacting ORM. Retrieval of material sought will be facilitated if you follow the guidance in the attached ORM materials. If you have any questions, please contact ORM at 6-2242 (www.eop.gov/ORM). For counsel's approval for taking copies with you, please contact Faisal Gill for OHS, _____ for NSC, or Brett Kavanaugh for WHO generally. (TPO staff, obviously, should consult with OMB counsel.)

From: CN=Edward McNally/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Robert J. Delahunty/WHO/EOP@EOP [WHO] <Robert J. Delahunty>;Faisal M. Gill/WHO /EOP@EOP [WHO] <Faisal M. Gill>
Sent: 1/18/2003 6:38:41 AM
Subject: : Re: Draft docs memo to WHO staff transferring to DHS -- comments due Tues. a.m.

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-JAN-2003 11:38:41.00
SUBJECT:: Re: Draft docs memo to WHO staff transferring to DHS -- comments due Tues. a.m.
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Robert J. Delahunty (CN=Robert J. Delahunty/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Faisal M. Gill (CN=Faisal M. Gill/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Almost surely. Libby is one, some from PPO, NSC and others (mybe OVP?) I know about. Count and players change daily. Remember we want to cover the map for future litigation purposes. And NOT do this ad hoc, office by office. Let's just do this once.

.

----- Original Message -----
From:Brett M. Kavanaugh/WHO/EOP
To:Edward McNally/WHO/EOP@EOP
Cc:
Date: 01/17/2003 07:14:03 PM
Subject: Re: Draft docs memo to WHO staff transferring to DHS -- comments due Tues. a.m.

Are there non ohs who people going to dhs. How many.

.

----- Original Message -----
From:Edward McNally/WHO/EOP
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:Faisal M. Gill/WHO/EOP@EOP
Date: 01/17/2003 07:06:58 PM
Subject: Re: Draft docs memo to WHO staff transferring to DHS -- comments due Tues. a.m.

1/17/03 7:11 PM draft

MEMORANDUM TO WHO STAFF TRANSFERRING TO DHS

FROM: ALBERTO R. GONZALES, COUNSEL TO THE PRESIDENT

SUBJECT: PRE-TRANSFER HANDLING OF WHO MATERIALS

This memorandum is designed to provide all White House staff who are transferring to the new Department of Homeland Security (DHS) with guidance concerning the handling of White House materials before you

assume your new duties at DHS. By way of background, please note the attached copy of my February 26, 2001 memo concerning the Presidential Records Act (PRA), as well as the July 26, 2002 memo regarding White House materials made available to the DHS Transition Planning Office (TPO).

General Rules. White House materials (which means any written, typed, recorded or graphic matter that was originated in or received by the White House Office, including OHS) are subject to the Presidential Records Act. Under that statute, all such materials in your keeping) whether an original or copy) must remain in the possession of the Executive Office of the President (EOP) when you transfer over to DHS. However, you may, in appropriate circumstances, take with you copies of White House materials (including copies of computer disks or e-mails) that you will need to perform your mission at DHS, but you must first receive approval from counsel.

Transferring WHO personnel should provide all materials in their keeping to the White House Office of Records Management (ORM) before going to DHS. Therefore, also attached are ORM,s instructions on preparing your materials for storage, as well as ORM,s check out form.

Retrieval of Materials. If you have left materials behind without copying them and discover after your transfer that you need a copy of them for your work at DHS, you will be able to secure a copy by contacting ORM. Retrieval of material sought will be facilitated if you follow the guidance in the attached ORM materials. If you have any questions, please contact ORM at 6-2242 (www.eop.gov/ORM). For counsel,s approval for taking copies with you, please contact Faisal Gill for OHS, _____ for NSC, or Brett Kavanaugh for WHO generally. (TPO staff, obviously, should consult with OMB counsel.)

Can you email it in text.

----- Original Message -----
From:Edward McNally/WHO/EOP
To:Faisal M. Gill/WHO/EOP@EOP,
Date: 01/17/2003 06:42:51 PM
Subject: Draft docs memo to WHO staff transferring to DHS -- comments due Tues. a.m.

The att'd memo was initially drafted by Robert Delahunty after this a.m.'s meeting, and also reflects add'l drafting by Brett Kavanaugh and myself.
The ORM "check out" attachments and instructions are standard and can be viewed on the ORM website cited in the memo here.
Presumably OMB (Steve Aitken?) will be preparing a similar memo (as OMB GC did for TPO in July 2002), but that is OMB's call.
John Bellinger -- pls note the blank in the last sentence -- which NSC lawyer wld you like to approve any doc requests from NSC personnel who are at the TPO or moving to the new DHS?
Please send all edits and comments to OHS Assoc. Counsel Faisal Gill by 10:00 a.m. Tuesday.

Message Sent to:

To: Faisal Gill, Brett Kavanaugh, Steven D. Aitken/OMB/EOP, Lucy Clark TPO, Timothy Stout, John Mitnick TPO, Kenneth Hill TPO/TPO/OMB/EOP, Robert Delahunty
cc: Harriet Miers/WHO/EOP, Stuart W. Bowen/WHO/EOP, Carolyn E. Cleveland/WHO/EOP, John F. Wood/OMB/EOP, David Leitch, Barbara A.

Barclay/WHO/EOP, Debra D. Bird/WHO/EOP, Karen D. Cruson/WHF/EOP, Terry W. Good/WHO/EOP, Laura Fullerton, John B. Bellinger/NSC/EOP

From: McNally, Edward
To: <Leitch, David G.>;<Kavanaugh, Brett M.>
CC: <Gill, Faisal M.>;<Delahunty, Robert J.>
Sent: 1/18/2003 11:34:12 AM
Subject: David + Brett: any new thoughts on Aitken's first point wld be welcome
Attachments: Handling of WH & TPO Materials to DHS.documents.doc

.

----- Original Message -----

From:Steven D. Aitken/OMB/EOP

To:Edward McNally/WHO/EOP@EOP

Cc:faisal m. gill/who/eop@eop,

brett m. kavanaugh/who/eop@eop,

lucy g. clark tpo/tpo/omb/eop@eop,

timothy c. stout/who/eop@eop,

john m. mitnick tpo/tpo/omb/eop@eop,

robert j. delahunty/who/eop@eop,

Philip J. Perry/OMB/EOP@EOP,

John F. Wood/OMB/EOP@EOP,

Kimberley S. Luczynski/OMB/EOP@EOP,

Steven R. Chabinsky TPO/TPO/OMB/EOP@EOP

Date: 01/17/2003 08:17:01 PM

Subject: Re: Draft docs memo to WHO staff transferring to DHS -- comments due Tues. a.m.

I will be out of the office on Tuesday and Wednesday of next week. I have forwarded the draft WH memo to Phil Perry (and to John Wood and Kimberley Luczynski of OMB OGC), and explained that the plan is for Phil to issue a parallel memo to TPO staff. I have also explained that comments on the WH draft are requested by Tuesday at 10 am.

I had two general comments on the draft memo.

The draft memo appears to state that departing staff can take electronic copies of email and wordprocessing documents. If TPO staff can take electronic copies, then -- because of the press of time and for convenience -- the TPO staff will want OA to generate and hand them "backup tapes" of all their emails on the ARMS system. Adam Greenstone (OA GC) called me this week to say that OA has already begun to receive such requests from TPO. If this occurs, then there would likely be wholesale movements of TPO emails to DHS. This may not be a problem in terms of policy, etc., but it is considerable tension with the draft memo's statement that "you must first receive approval from counsel" before departing with the copies. There is no way in which OMB OGC staff could meaningfully review hundreds (if not thousands) of emails next Thursday as TPO employees are preparing to depart. The alternative, of limiting departing staff to paper copies of emails, would avoid wholesale movements of emails outside the Complex

, and it would necessarily require some focus by departing staff on which emails they will really need at DHS. I don't know which approach is best (electronic or paper), but I wanted to flag the issue for consideration.

The second comment concerns the following paragraph about departing staff preparing all their files for records storage. While such preparation is certainly necessary, I don't know whether the timing (i.e., next week) is realistic, because departing DHS and TPO staff are likely to be very busy working on urgent matters regarding DHS's establishment on Friday, and the staff won't have the time to do this records preparation.

Transferring WHO personnel should provide all materials in their keeping to the White House Office of Records Management (ORM) before going to DHS. Therefore, also attached are ORM's instructions on preparing your materials for storage, as well as ORM's check out form

From: Edward McNally on 01/17/2003 06:42:51 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: See the distribution list at the bottom of this message

Subject: Draft docs memo to WHO staff transferring to DHS -- comments due Tues. a.m.

The att'd memo was initially drafted by Robert Delahunty after this a.m.'s meeting, and also reflects add'l drafting by Brett Kavanaugh and myself.

The ORM "check out" attachments and instructions are standard and can be viewed on the ORM website cited in the memo here.

Presumably OMB (Steve Aitken?) will be preparing a similar memo (as OMB GC did for TPO in July 2002), but that is OMB's call.

John Bellinger -- pls note the blank in the last sentence -- which NSC lawyer wld you like to approve any doc requests from NSC personnel who are at the TPO or moving to the new DHS?

Please send all edits and comments to OHS Assoc. Counsel Faisal Gill by 10:00 a.m. Tuesday.

Message Sent to:

To: Faisal Gill, Brett Kavanaugh, Steven D. Aitken/OMB/EOP, Lucy Clark TPO, Timothy Stout, John Mitnick TPO, Kenneth Hill TPO/TPO/OMB/EOP, Robert Delahunty

cc: Harriet Miers/WHO/EOP, Stuart W. Bowen/WHO/EOP, Carolyn E. Cleveland/WHO/EOP, John F. Wood/OMB/EOP, David Leitch, Barbara A. Barclay/WHO/EOP, Debra D. Bird/WHO/EOP, Karen D. Cruson/WHF/EOP, Terry W. Good/WHO/EOP, Laura Fullerton, John B. Bellinger/NSC/EOP

Message Sent To:

Faisal M. Gill/WHO/EOP@EOP

Brett M. Kavanaugh/WHO/EOP@EOP

Steven D. Aitken/OMB/EOP@EOP

Lucy G. Clark TPO/TPO/OMB/EOP@EOP

Timothy C. Stout/WHO/EOP@EOP

John M. Mitnick TPO/TPO/OMB/EOP@EOP

Robert J. Delahunty/WHO/EOP@EOP

Message Copied To:

Harriet Miers/WHO/EOP@EOP

Stuart W. Bowen/WHO/EOP@EOP

Carolyn E. Cleveland/WHO/EOP@EOP

John F. Wood/OMB/EOP@EOP

David G. Leitch/WHO/EOP@EOP

Barbara A. Barclay/WHO/EOP@EOP

Debra D. Bird/WHO/EOP@EOP

Karen D. Cruson/WHF/EOP@EOP

Terry W. Good/WHO/EOP@EOP

Laura F. Fullerton/WHO/EOP@EOP

John B. Bellinger/NSC/EOP@EOP

DATE draft

MEMORANDUM TO WHO STAFF TRANSFERRING TO DHS

FROM: ALBERTO R. GONZALES, COUNSEL TO THE PRESIDENT

SUBJECT: PRE-TRANSFER HANDLING OF WHO MATERIALS

This memorandum is designed to provide all White House staff who are transferring to the new Department of Homeland Security (DHS) with guidance concerning the handling of White House materials before you assume your new duties at DHS. By way of background, please note the attached copy of my February 26, 2001 memo concerning the Presidential Records Act (PRA), as well as the July 26, 2002 memo regarding White House materials made available to the DHS Transition Planning Office (TPO).

General Rules. White House materials (which means any written, typed, recorded or graphic matter that was originated in or received by the White House Office, including OHS) are subject to the Presidential Records Act. Under that statute, *all* such materials in your keeping – whether an original or copy – *must* remain in the possession of the Executive Office of the President (EOP) when you transfer over to DHS. However, you *may*, in appropriate circumstances, take with you *copies* of White House materials (including *copies* of computer disks or e-mails) *that you will need to perform your mission at DHS,* but you must first receive approval from counsel.

Transferring WHO personnel should provide *all* materials in their keeping to the White House Office of Records Management (ORM) before going to DHS. Therefore, also attached are ORM's instructions on preparing your materials for storage, as well as ORM's check out form.

Retrieval of Materials. If you have left materials behind without copying them and discover after your transfer that you need a copy of them for your work at DHS, you *will* be able to secure a copy by contacting ORM. Retrieval of material sought will be facilitated if you follow the guidance in the attached ORM materials. If you have any questions, please contact ORM at 6-2242 (www.eop.gov/ORM). For counsel's approval for taking copies with you, please contact Faisal Gill for OHS, _____ for NSC, or Brett Kavanaugh for WHO generally. (TPO staff, obviously, should consult with OMB counsel.)

From: David_G._Leitch@who.eop.gov [WHO] <Leitch, David G.>
To: <McNally>;emcnally@WHO.eop.gov [WHO] <Edward>;<Kavanaugh>;bkavanau@WHO.eop.gov [WHO] <Brett M.>
CC: <Gill>;fgill@WHO.eop.gov [WHO] <Faisal M.>;<Delahunty>;rdelahun@WHO.eop.gov [WHO] <Robert J.>
Sent: 1/20/2003 3:49:43 AM
Subject: Aitken comments on WHO memo

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (MS Mail)
CREATOR:Leitch, David G. (David_G._Leitch@who.eop.gov [WHO])
CREATION DATE/TIME:20-JAN-2003 08:49:43.00
SUBJECT:Aitken comments on WHO memo
TO:McNally, Edward (emcnally@WHO.eop.gov [WHO])
READ:UNKNOWN
TO:Kavanaugh, Brett M. (bkavanau@WHO.eop.gov [WHO])
READ:UNKNOWN
CC:Gill, Faisal M. (fgill@WHO.eop.gov [WHO])
READ:UNKNOWN
CC:Delahunty, Robert J. (rdelahun@WHO.eop.gov [WHO])
READ:UNKNOWN
End Original ARMS Header

I have some thoughts on the memo generally, which I'll pass on to Ed separately. I would like to see a copy of the 2/26/01 PRA memo.

As to Steve's particular point, note that the memo says nothing at all about TPO documents -- it's addressed to WHO staff, which by definition and design does not include TPO. And since TPO is not under the same legal regime relative to documents as the WHO, it seems to me that it (and OMB on its behalf) could chose to follow a completely different path on this issue (such as permitting wholesale copying) if it so chooses. Am I missing something?

The question remains, however, whether as to WHO staff this is the right policy and is one that can practically be followed. If we continue to believe it's the right policy, as I'm inclined to but not thoroughly wedded to, then we could address the problem Steve raises by adding some text at the end of the "General rules" section that reads: "Counsel will not approve requests for wholesale copying of e-mails or other computer records. Instead, each employee should make a determination of individual items that are in fact necessary to perform the mission of DHS and request approval to take copies of those particular items only."

From:	CN=Philip J. Perry/OU=OMB/O=EOP [OMB]
To:	Lucy G. Clark/WHO/EOP@EOP [WHO] <Lucy G. Clark>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Robert J. Delahunty/WHO/EOP@EOP [WHO] <Robert J. Delahunty>;Harriet Miers/WHO/EOP@EOP [WHO] <Harriet Miers>
CC:	kimberley s. luczynski/omb/eop@eop [OMB] <kimberley s. luczynski>;steven r. chabinsky tpo/tpo/omb/eop@eop [OMB] <steven r. chabinsky tpo>;john f. wood/omb/eop@eop [OMB] <john f. wood>
Sent:	1/20/2003 4:40:20 AM
Subject:	: Re: Draft docs memo to WHO staff transferring to DHS -- comments due Tues. a.m.
Attachments:	P_F0R4D003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Philip J. Perry ( CN=Philip J. Perry/OU=OMB/O=EOP [ OMB ] )
CREATION DATE/TIME:20-JAN-2003 09:40:20.00
SUBJECT:: Re: Draft docs memo to WHO staff transferring to DHS -- comments due Tues. a.m.
TO:Lucy G. Clark ( CN=Lucy G. Clark/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Robert J. Delahunty ( CN=Robert J. Delahunty/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Harriet Miers ( CN=Harriet Miers/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:kimberley s. luczynski ( CN=kimberley s. luczynski/OU=omb/O=eop@eop [ OMB ] )
READ:UNKNOWN
CC:steven r. chabinsky tpo ( CN=steven r. chabinsky tpo/OU=tpo/OU=omb/O=eop@eop [ OMB ] )
READ:UNKNOWN
CC:john f. wood ( CN=john f. wood/OU=omb/O=eop@eop [ OMB ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Four points.

1. We need to be concerned about documents from OHS or other "White
House" entities that are subject to the Presidential Records Act. OMB
is not part of the "White House" for this purpose -- it is an "agency"
subject to the Federal Records Act. While it might make sense for Ed
and Robert to scrutinize sensitive emails or other documents from the West
Wing, OHS or other "White House" entities before such documents are
transmitted by to DHS, it is not sensible to spend the same amount of time
scrutinizing documents that originated from OMB. OMB, like DHS, is an
"agency" generally subject to FOIA. Thus, DHS, just like OMB, will claim
a "deliberative process" privilege to a FOIA request for our deliberative
materials regarding the new department. OMB makes deliberative
communications to agencies everyday. We always claim a FOIA exemption.

2. In the coming days, my office will work up an appropriate memo
to the DHS GC's Office outlining the proper procedure for dealing with OMB
documents that are taken to DHS. With some very limited possible
exceptions, we will not require an unwieldy pre-clearance procedure to
move OMB documents to DHS.

3. I suspect that Ed and Robert are working with OA to segregate
electronically the email that flowed from the "White House" to TPO under
the special arrangements made for such email. Although I haven't had
time to look into that issue, I would think that our IT staff, if pushed,
should be able to simplify this task.

4. Steve Aitken will be absent on Tuesday and Wednesday. Kimberly
Luczynski will be my office's contact on these issues.
```

Steven D. Aitken
01/17/2003 08:17:01 PM
Record Type: Record

To: Edward McNally/WHO/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: Draft docs memo to WHO staff transferring to DHS -- comments due Tues. a.m.

I will be out of the office on Tuesday and Wednesday of next week. I have forwarded the draft WH memo to Phil Perry (and to John Wood and Kimberley Luczynski of OMB OGC), and explained that the plan is for Phil to issue a parallel memo to TPO staff. I have also explained that comments on the WH draft are requested by Tuesday at 10 am.

I had two general comments on the draft memo.

The draft memo appears to state that departing staff can take electronic copies of email and wordprocessing documents. If TPO staff can take electronic copies, then -- because of the press of time and for convenience -- the TPO staff will want OA to generate and hand them "backup tapes" of all their emails on the ARMS system. Adam Greenstone (OA GC) called me this week to say that OA has already begun to receive such requests from TPO. If this occurs, then there would likely be wholesale movements of TPO emails to DHS. This may not be a problem in terms of policy, etc., but it is considerable tension with the draft memo's statement that "you must first receive approval from counsel" before departing with the copies. There is no way in which OMB OGC staff could meaningfully review hundreds (if not thousands) of emails next Thursday as TPO employees are preparing to depart. The alternative, of limiting departing staff to paper copies of emails, would avoid wholesale movements of emails outside the Complex, and it would necessarily require some focus by departing staff on which emails they will really need at DHS. I don't know which approach is best (electronic or paper), but I wanted to flag the issue for consideration.

The second comment concerns the following paragraph about departing staff preparing all their files for records storage. While such preparation is certainly necessary, I don't know whether the timing (i.e., next week) is realistic, because departing DHS and TPO staff are likely to be very busy working on urgent matters regarding DHS's establishment on Friday, and the staff won't have the time to do this records preparation.

Transferring WHO personnel should provide all materials in their keeping to the White House Office of Records Management (ORM) before going to DHS. Therefore, also attached are ORM,s instructions on preparing your materials for storage, as well as ORM,s check out form

From: Edward McNally on 01/17/2003 06:42:51 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: Draft docs memo to WHO staff transferring to DHS -- comments due Tues. a.m.

The att'd memo was initially drafted by Robert Delahunty after this a.m.'s meeting, and also reflects add'l drafting by Brett Kavanaugh and myself.
The ORM "check out" attachments and instructions are standard and can be viewed on the ORM website cited in the memo here.
Presumably OMB (Steve Aitken?) will be preparing a similar memo (as OMB GC did for TPO in July 2002), but that is OMB's call.
John Bellinger -- pls note the blank in the last sentence -- which NSC lawyer wld you like to approve any doc requests from NSC personnel who are at the TPO or moving to the new DHS?
Please send all edits and comments to OHS Assoc. Counsel Faisal Gill by 10:00 a.m. Tuesday.

Message Sent to:

To: Faisal Gill, Brett Kavanaugh, Steven D. Aitken/OMB/EOP, Lucy Clark TPO, Timothy Stout, John Mitnick TPO, Kenneth Hill TPO/TPO/OMB/EOP, Robert Delahunty
cc: Harriet Miers/WHO/EOP, Stuart W. Bowen/WHO/EOP, Carolyn E. Cleveland/WHO/EOP, John F. Wood/OMB/EOP, David Leitch, Barbara A. Barclay/WHO/EOP, Debra D. Bird/WHO/EOP, Karen D. Cruson/WHF/EOP, Terry W. Good/WHO/EOP, Laura Fullerton, John B. Bellinger/NSC/EOP

Message Sent
To:_____
Faisal M. Gill/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Steven D. Aitken/OMB/EOP@EOP
Lucy G. Clark TPO/TPO/OMB/EOP@EOP
Timothy C. Stout/WHO/EOP@EOP
John M. Mitnick TPO/TPO/OMB/EOP@EOP
Robert J. Delahunty/WHO/EOP@EOP

Message Copied
To:_____
Harriet Miers/WHO/EOP@EOP
Stuart W. Bowen/WHO/EOP@EOP
Carolyn E. Cleveland/WHO/EOP@EOP
John F. Wood/OMB/EOP@EOP
David G. Leitch/WHO/EOP@EOP
Barbara A. Barclay/WHO/EOP@EOP
Debra D. Bird/WHO/EOP@EOP
Karen D. Cruson/WHF/EOP@EOP
Terry W. Good/WHO/EOP@EOP
Laura F. Fullerton/WHO/EOP@EOP
John B. Bellinger/NSC/EOP@EOP

Message Copied
To:_____
faisal m. gill/who/eop@eop
brett m. kavanaugh/who/eop@eop
lucy g. clark tpo/tpo/omb/eop@eop
timothy c. stout/who/eop@eop
john m. mitnick tpo/tpo/omb/eop@eop
robert j. delahunty/who/eop@eop
Philip J. Perry/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Kimberley S. Luczynski/OMB/EOP@EOP
Steven R. Chabinsky TPO/TPO/OMB/EOP@EOP

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_F0R4D003_WHO.TXT_1>

DATE draft

MEMORANDUM TO WHO STAFF TRANSFERRING TO DHS

FROM: ALBERTO R. GONZALES, COUNSEL TO THE PRESIDENT

SUBJECT: PRE-TRANSFER HANDLING OF WHO MATERIALS

This memorandum is designed to provide all White House staff who are transferring to the new Department of Homeland Security (DHS) with guidance concerning the handling of White House materials before you assume your new duties at DHS. By way of background, please note the attached copy of my February 26, 2001 memo concerning the Presidential Records Act (PRA), as well as the July 26, 2002 memo regarding White House materials made available to the DHS Transition Planning Office (TPO).

General Rules. White House materials (which means any written, typed, recorded or graphic matter that was originated in or received by the White House Office, including OHS) are subject to the Presidential Records Act. Under that statute, *all* such materials in your keeping – whether an original or copy – *must* remain in the possession of the Executive Office of the President (EOP) when you transfer over to DHS. However, you *may*, in appropriate circumstances, take with you *copies* of White House materials (including *copies* of computer disks or e-mails) *that you will need to perform your mission at DHS,* but you must first receive approval from counsel.

Transferring WHO personnel should provide *all* materials in their keeping to the White House Office of Records Management (ORM) before going to DHS. Therefore, also attached are ORM's instructions on preparing your materials for storage, as well as ORM's check out form.

Retrieval of Materials. If you have left materials behind without copying them and discover after your transfer that you need a copy of them for your work at DHS, you *will* be able to secure a copy by contacting ORM. Retrieval of material sought will be facilitated if you follow the guidance in the attached ORM materials. If you have any questions, please contact ORM at 6-2242 (www.eop.gov/ORM). For counsel's approval for taking copies with you, please contact Faisal Gill for OHS, _____ for NSC, or Brett Kavanaugh for WHO generally. (TPO staff, obviously, should consult with OMB counsel.)

From: Leitch, David G.
To: <McNally, Edward>;<Kavanaugh, Brett M.>
CC: <Gill, Faisal M.>;<Delahunty, Robert J.>
Sent: 1/20/2003 8:49:43 AM
Subject: Aitken comments on WHO memo

I have some thoughts on the memo generally, which I'll pass on to Ed separately. I would like to see a copy of the 2/26/01 PRA memo.

As to Steve's particular point, note that the memo says nothing at all about TPO documents -- it's addressed to WHO staff, which by definition and design does not include TPO. And since TPO is not under the same legal regime relative to documents as the WHO, it seems to me that it (and OMB on its behalf) could chose to follow a completely different path on this issue (such as permitting wholesale copying) if it so chooses. Am I missing something?

The question remains, however, whether as to WHO staff this is the right policy and is one that can practically be followed. If we continue to believe it's the right policy, as I'm inclined to but not thoroughly wedded to, then we could address the problem Steve raises by adding some text at the end of the "General rules" section that reads: "Counsel will not approve requests for wholesale copying of e-mails or other computer records. Instead, each employee should make a determination of individual items that are in fact necessary to perform the mission of DHS and request approval to take copies of those particular items only."

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@Exchange@EOP [WHO] <David G. Leitch>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Alberto R. Gonzales/WHO /EOP@Exchange@EOP [WHO] <Alberto R. Gonzales>
Sent: 1/21/2003 5:17:45 AM
Subject: : from Newsweek article

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-JAN-2003 10:17:45.00
SUBJECT:: from Newsweek article
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

No one in Washington can be as ominously sympathetic as Dick Cheney. He was that way last week, when he placed a call to Theodore Olson, solicitor general. President George W. Bush was preparing to take a politically explosive step, filing friend of the court briefs opposing the University of Michigan,s use of racial preferences in admissions.

IT WAS IMPORTANT that the &rollout8 of the briefs be as careful*as Escher-like in its eye-of-the-beholder balance*as the briefs themselves. And Olson was a problem.
ÿ ÿ ÿ ÿHere was a conservative purist, to whom preferences of any kind were abhorrent and who wanted to advise the Supreme Court to reverse the landmark Bakke case of 1978, which held that race can be &a factor8 in college admissions. But Bush had decided to move surgically, making only a relatively narrow (though still potentially far-reaching) attack on the U of M procedures. Olson,s shop could draft the briefs, but final decisions would rest with the White House counsel, Alberto Gonzales. Olson was furious: it was a slap at the powers of the SG (who would normally run the show) and, in his view, a cave-in. &If you want to be SG, that,s fine!8 he barked at Gonzales. Indeed, NEWSWEEK learned, Olson even considered quitting.

Olson on a rampage could hurt the administration*big time*with its conservative base. So Cheney made his call. He told Olson that he was sympathetic to his position, but that wasn,t what The Boss wanted to say. Time to get onboard. Cheney didn,t have to add*but Olson apparently understood*the rest of the message: shut up. The SG did so, signing the brief but otherwise staying out of sight while other hard-core conservatives were in full cry. (A Justice Department spokeswoman declined to comment.)ÿ ÿ ÿ

From: Leitch, David G.
To: <Gonzales, Alberto R>;<Bartlett, Daniel J.>;<Kavanaugh, Brett M.>;<Francisco, Noel J.>
Sent: 1/21/2003 6:52:21 AM
Subject: FW: OpinionJournal - Best of the Web Today - January 20, 2003

Interesting commentary on our Michigan briefs.

-----Original Message-----
From: OpinionJournal@wsj.com [mailto:OpinionJournal@wsj.com]
Sent: Monday, January 20, 2003 1:56 PM
To: botw@djoj.opinionjournal.com
Subject: OpinionJournal - Best of the Web Today - January 20, 2003

WSJ.com | OpinionJournal



Best of the Web Today - January 20, 2003

By JAMES TARANTO

The Greenhouse Effect--I

Last Wednesday President Bush made a tough speech arguing against racial preferences and announcing that his administration would weigh in on behalf of plaintiffs challenging the University of Michigan's admissions policies in a pair of Supreme Court cases. On Thursday Solicitor General Theodore Olson filed the briefs in the cases of *Gratz v. Bollinger* (undergraduate) and *Grutter v. Bollinger* (law school). On Friday the New York Times published a "news analysis" in which Supreme Court reporter Linda Greenhouse claimed that "the reality of [the brief's] legal argument diverged substantially from the rhetoric of the president's prime-time statement." The administration, Greenhouse suggests, pulled a fast one on its conservative supporters.

Well, over the weekend we sat down and read the the *Grutter* brief (link in PDF form), and we're pleased to report that the delightfully named Greenhouse is full of hot air.

Here's her argument:

True to [President Bush's] promise, the briefs did ask the court to declare unconstitutional the undergraduate and law school admissions programs in dispute. But it did so by means of a legal analysis that, far from insisting that any consideration of race was impermissible, did not even ask the justices to overturn the Bakke decision, the 1978 landmark ruling that by allowing race to be used as a "plus factor" ushered in a generation of affirmative action in public and private college admissions.

It was as if the administration had filed a brief denouncing abortion without asking the court to overturn Roe v. Wade.

"In the end, this case requires this court to break no new ground" in order to hold the law school's admissions policy unconstitutional, the administration said.

That's the extent of her legal analysis; the rest of the piece consists of speculation about the motives behind the administration's purported two-faced approach to the case.

Greenhouse's analysis is laughable. When the administration says that the case requires the court "to break no new ground," that just means it's basing its argument on existing Supreme Court precedent. And it's true that the administration doesn't ask the court to overturn *Bakke*. Indeed, it cites that 1978 case repeatedly in support of its argument. But why would Greenhouse expect otherwise? After all, in *Bakke* the court came down on the same side the administration is taking now. It *struck down* the University of California's race-based admissions policy.

Greenhouse doesn't seem to have interviewed any conservative legal activists for this story. If she had, she would have learned that some are indeed disappointed in the brief, because the administration stops short of denying that "diversity" is a "compelling interest" that can justify the use of race in university admissions decisions. Terry Eastland is among those making this case.

It turns out, however, that there's less to this conservative complaint than meets the eye.

On page 14 of the brief (page 15 of the PDF document), the administration takes note of the law school's claim that diversity is a compelling interest. Two pages later, the brief declares:

Ensuring that public institutions are open and available to all segments of American society, including people of all races and ethnicities, represents a paramount government objective.

It *sounds* as if the administration accepts the argument that diversity is a compelling interest. But it's unclear if "ensuring" that institutions are "open and available" is the same as "diversity," and while "paramount government objective" sounds like roughly the same thing as "compelling interest," it's actually an evasion, a phrase devoid of legal meaning, as blogger Josh Chafetz points out in a valuable analysis.

The administration thus takes no position--at least so far--on whether diversity is a compelling interest. Instead, it bases its case against the Michigan admissions policy on two arguments:

1. Even when trying to achieve a "compelling interest," a government agency cannot take race into account unless it does so in a "narrowly tailored" way and--crucially--unless there are no "race-neutral alternatives."

2. Even if the interest is compelling and race-neutral alternatives nonexistent, "quotas" are still unconstitutional. The Michigan plan explicitly seeks to enroll a "critical mass" of students from particular ethnic groups, a quota all but in name. (The university, of course, denies that a "critical mass" is a quota.)

These arguments rest on well-settled Supreme Court precedent, and they ought to be sufficient to strike down the Michigan policy. The administration's conservative critics, however, contend that these arguments are insufficient because they fail to knock down "diversity" as a rationale for racial preferences.

Yet the brief does challenge the idea of diversity, albeit slyly. For Ted Olson has hidden an Easter egg at page 24: "Although respondents [the University of Michigan] have not been clear about what they mean by diversity, we assume that they are not pursuing racial diversity for its own sake." That's actually not true; the University of Michigan brief acknowledges that the policy's aim is "to achieve meaningful racial diversity in its student body." But that admission runs afoul of Justice Lewis Powell's deciding opinion in *Bakke*, which Olson's brief quotes: "Preferring members of any one group for no reason other than race or ethnic origin is discrimination for its own sake."

The implication is that while diversity of some sort may be a compelling interest (then again, it may not), *racial* diversity not only is not compelling; it is illegitimate. Thus the only thing the brief concedes--and concedes by omission, not explicitly--is that promoting diversity *of something other than race* may be a compelling interest that would justify taking race into account (but not using quotas) *if there's no race-neutral way of achieving the same goal.* To put it more simply, the use of race in university admissions is constitutional (if ever) only if it is the *only* means to a *nonracial* end--which seems close to a logical impossibility.

In *Bakke,* Justice Powell managed to come down on both sides of the diversity question. While he

rejected racial diversity "for its own sake," he also maintained that "racial or ethnic origin" was an "important element" of "the diversity that furthers a compelling state interest." It is upon the latter of these logically contradictory propositions that a quarter century of justifications for racial preferences in higher education have been built. That's rather amazing when you consider that these were the views of one man only; *not a single other justice* joined the portions of Powell's opinion dealing with diversity.

That's why the Bush administration isn't asking the court to "overturn *Bakke*." On the central issue in question, whether diversity is a compelling interest, there is no precedent to overturn. In any case, Justice Powell's view collapses under the weight of its own illogic. The Supreme Court may not accept every element of the administration's argument, but if it does, conservatives will have won a total victory.

White With Fury

Boston Globe columnist Derrick Jackson weighs in on the Michigan case:

Bush's effort is so special that this may very well be the first Martin Luther King. Jr. birthday during which the loudest celebrations come not from black churches and integrated downtown breakfasts but from the hallways of segregated suburbia to the romantic enclaves of the Confederacy. Finally for them, this is the day to shout "*We* Have Overcome." This is the day that a lot of God's white people--Jews and Gentiles, Protestants and Catholics--are holding hands and singing in the words of their new spiritual, "Free at last, free at last, thank God almighty, we are free at last!" . . . Lying is all Bush can do now that he has decided to make the White House the national headquarters of the NAACP--the National Association for the Advancement of Caucasian People.

The objections to this are too obvious to enumerate. But there is something slightly daring about the way in which Jackson approaches the issue, for he violates what surely is the first rule of debate over American racial issues: Always seek the moral high ground. Those who argue for preferences and those who argue against them usually cast their argument in terms of grand principles (equality, justice) or of outcomes no one could be against (diversity, opportunity). You're supposed to accuse your *opponent* of racism; if you harbor racial resentments, you keep them to yourself.

To be sure, these rules don't apply evenly. A white opponent of racial preferences could never write about blacks for the mainstream media the way Jackson, a black proponent of preferences, writes about whites. Such a double standard is entirely understandable, and it's worth noting that it hasn't always been this way. It used to be white racists who expressed their resentment openly, as when Strom Thurmond declared, during his 1948 presidential campaign: "All the laws of Washington and all the bayonets of the Army cannot force the Negro into our homes, our schools, our churches."

The civil-rights movement overcame not only the segregationist laws Thurmond was defending but also the attitudes he embodied. Thus hardly anyone defended Trent Lott last month, when he implicitly endorsed Thurmond's 1948 views. Meanwhile, a black columnist for a major newspaper is free to indulge in hate-whitey rhetoric. We don't mean to draw an equivalence between Jackson and Thurmond; while the latter was defending an abominable, oppressive system, the former is more of a crank than a menace. But it's certainly a measure of how much the country has changed.

Duke U: Terrorists Have Rights Too!

A truism about American higher education is that when university officials aren't suppressing free speech, they can usually be found invoking it to deflect criticism. Duke University has officially responded to our Thursday item noting that its African and African-American studies program will be providing a forum to terrorist Laura Whitehorn, who bombed the U.S. Capitol in 1983 and subsequently spent 14 years in prison. The statement from Duke flack David Jarmul is oh so predictable:

Duke does not exert control over or pressure its faculty and departments in their selection of campus speakers. One of our nation's greatest values, and one we at Duke celebrate, is the freedom for people to express their thoughts openly. Students, faculty and other members of the Duke community benefit from hearing and debating a wide variety of ideas. We have confidence in the ability of the members of our community to analyze and critique the arguments they hear, an activity that is central to democracy, and to universities in particular.

Duke hosts speakers with a wide array of views. During the week Ms. Whitehorn will appear, for

instance, it will also hold campus events on topics ranging from spiritual responses to environmental problems to intellectual property in cyberspace. Some speakers may hold views that others consider too radical or tainted to be provided a forum. Nonetheless, Duke remains committed to the academic freedom that has contributed so much to the traditions and strength of our nation.

Of course, no one is objecting to the "freedom for people to express their thoughts openly." Laura Whitehorn, a felon who has served her time, is entitled to exercise her right to free speech. The issue is whether it is appropriate for a prestigious university to provide a forum to a violent criminal who is, by all accounts, totally unrepentant. Jarmul's statement explains that Whitehorn "was invited to speak about HIV/AIDS in prisons." A worthy topic, no doubt--but couldn't Duke have found someone knowledgeable on the subject who *isn't a terrorist?*

We have won a small victory. The African and African-American studies program has changed its description of Whitehorn in its announcement of her appearance. Originally, as we noted, it described her as having been a "political prisoner." The new version tells the truth: "Laura Whitehorn spent more than 14 years in federal prison for her role in planting a bomb in the U.S. Capitol building in 1983."

We hadn't made the connection until a reader reminded us, but one of Whitehorn's partners in crime, Linda Sue Evans, was among the recipients of 11th-hour clemency from Bill Clinton. "I'm not repentant, that's for sure," she remarked after winning her freedom, as we noted in April 2001. Evans printed fake IDs that enabled the bombers to buy explosives. As far as we know, she has not yet been invited to speak at Duke--a mere oversight, we're sure.

289 Million Americans Back War

Saturday was a big day for those of us who favor the liberation of Iraq. "Anti-anti-war demonstrators gathered in grocery stores, shopping malls and private homes to proclaim their disagreement with protestors marching in the streets of Washington D.C. and San Francisco," ScrappleFace.com reports. "Police across the nation estimate the crowd that avoided [Saturday's] anti-war demonstrations at about 289 million."

No disturbances were reported. "It was a normal Saturday in America," one law-enforcement officer tells ScrappleFace.

The liberal media, however, chose to cover the tiny pro-Saddam demonstrations instead. According to the Washington Post, turnout at the Washington rally, sponsored by the communist front group International Answer, was somewhere between 30,000 and 500,000. Even if you accept the implausible estimate of half a million, that's still a mere 1/578th of the turnout for the pro-war demonstrations--surely within the margin of error, meaning that it's statistically possible *no one* showed up to the "antiwar" rallies.

Even so, according to Reuters, "President Saddam Hussein hailed worldwide anti-war demonstrations on Saturday and said the protests showed that Iraq had international support for standing up to the United States."

How to Keep a Secret

"America's Ultra-Secret Weapon," reads the headline of a Time magazine article. We won't describe the weapon in question--after all, it's a secret--but it seems to us this is a big embarrassment for Time magazine. If the weapon is still a secret even after Time magazine has published an article about it, that means no one reads Time magazine. Then again, maybe it's not such an embarrassment. If no one reads Time magazine, then no one will see this article.

The Lunatics Are Running the Asylum Policy

"A Taliban soldier who fought British and American troops in Afghanistan has been granted asylum here because he fears persecution from the new Western-backed government in Kabul," London's Daily Telegraph reports.

The Moral Authority of the United Nations

Reuters reports that the U.N. Human Rights Commission has elected a new chairman--Najat al-Hajjaji of Libya. That's right, Libya, a country still subject to U.N. sanctions because it blew up an American commercial plane back in 1988. Normally the chairmanship rotates among the world's regions; Africa's turn was up, and its delegates settled on Libya. In an unusual move, the U.S. forced

a vote, which came out 33-3 in favor of Libya, with 17 abstentions. (The ballot was secret, but three cheers for Canada, which announced beforehand it would vote with America.) As America's Ambassador Kevin Moley said, "This is not a defeat for the United States, this is a defeat for the Human Rights Commission."

An earlier Reuters dispatch reported that "Asian and Middle Eastern states are increasingly opposed to the singling out of states for criticism" by the commission. Does this mean no more ritual denunciations of Israel? Don't hold your breath.

You Don't Say--I
"Anti-Semitism Rears Its Ugly Head in Europe"--headline, WorldNetDaily, Jan. 13

What Kind of Girl Do You Think I Am?
"Saudis are increasingly debating the phenomenon of spinsterhood, with the number of unmarried women in the Kingdom estimated to be as high as 1.5 million," the Arab News reports. "The local media have sounded the alarm bells and called on the authorities and community leaders to address the issue."

The answer, according to "50 Saudi female intellectuals and educationalists"? "They advised Saudi families--and women in particular--to accept a more modest dowry." It reminds us of an old joke. You've no doubt already heard it, so we'll just cut to the punch line: "We've already established that; we're just haggling over price!"

Homer Nods
In a Friday item, we misstated the name of a group responsible for an illiterate online conference itinerary. It's the Union of *Arab* Student Associations, not American. We've corrected the mistake.

You Don't Say--II
"Cuban Election a One-Horse Race"--headline, Australian Broadcast Corp., Jan. 20

Red Alert
"Director Oliver Stone is set to screen 'Comandante,' his documentary tribute to Cuban dictator Fidel Castro at the Sundance Film Festival in Park City, Utah, this week," reports WorldNetDaily's Joseph Farah.

Gee, what's next for Stone, a Yasser Arafat biopic? Well, actually, yes. Farah says the director is in fact at work on a movie about the 1994 Nobel Peace laureate. Seriously, this isn't a joke.

Say What?
"Bush Fires Rage in Australian Capital, One Dead"--headline, Reuters, Jan. 18

Metaphor Alert (R.)
In an article on Sen. Chuck Schumer (D., N.Y.), the New York Observer quotes Republican strategist Rick Wilson (italics ours):

"Maybe this strengthens Schumer in New York, where you have an *audience* that's somewhat receptive to that sort of *incendiary*, *chest-beating* liberalism. . . . I think the Democrats are just looking for *any port in a storm* right now as far as what they can do to *re-energize their base*. Certainly one of the most parochial issues for them is race. Now they're trying to characterize this guy--because he opposes their precious racial set-asides--as David Duke. But for the average American, the ungodly esoterica of Charles Pickering is unlikely to *cut* one way or another."

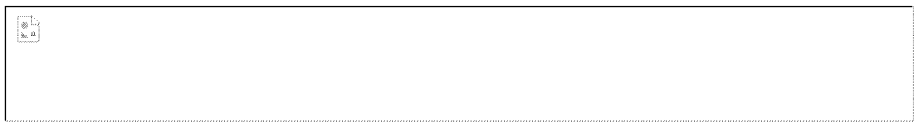
Metaphor Alert (D.)
CBSNews.com quotes Democratic strategist Donna Brazile on a prospective presidential candidacy of erstwhile senator Carol Moseley-Braun (again, italics ours):

"The Democratic Party is *running on the same tank of gas* we had in 1992. We have not *broadened* the electorate. . . . She could *excite* the Democratic *base* in ways that it has not been *excited*."

You Don't Say--III
"Campaign Trail Finds Sharpton Critical of Bush"--headline, Eagle-Tribune (Lawrence, Mass.), Jan. 18

You Don't Say--IV

"Bush Set to Pick Conservative for Supreme Court"--headline, NewsMax.com, Jan. 20



The Greenhouse Effect--II
A Boston Globe editorial beating the dead horse of Kyoto makes the odd claim that "global warming extends the areas of high risk for skin cancer." How could this be true even if global warming is real? Skin cancer is caused by sun*light*--specifically, ultraviolet rays--not heat.

Guns Don't Kill People, Cars Kill People
"Woman Shot in the Neck by Passing Car"--headline, Newsday.com (Long Island, N.Y.), Jan. 17

Bum Taxonomy
"Cops Arrest 2 Transients in S.J. Killing of Homeless Man," reads a headline in Saturday's San Jose Mercury News. Is a "transient" just a "homeless" person who's committed a crime?

Not Too Brite--XLVII
"Britain's High Court on Thursday jailed a bungling hitman who agreed to kill a businessman in return for $160 and an old car--but confused the address and shot the wrong man," Reuters reports from London. "Paul Jones, 41, ended up shooting and severely wounding his intended victim's next-door neighbor Ernest Broom." Oddly Enough!

You Don't Say--V
"Failure to Pay Property Taxes Could Lead to the Loss of Your Home"--headline, South Bend (Ind.) Tribune, Jan. 20

Mike Bloomberg's New York
With New York City facing a fiscal crisis and graffiti having returned to the subways, Mayor Mike Bloomberg knows what his priorities are. "Bloomberg is fuming mad over Rolling Stones members smoking on stage at Madison Square Garden during an nationally televised concert this weekend," according to the Drudge Report. "HBO cameras captured band members Keith Richards and Ron Wood smoking cigarettes while performing," Drudge reports:

"The mayor sent cops to issue summonses," one stage source told the Drudge Report late Saturday. "But the cops watched the show, off stage, by a monitor, instead of stopping the concert." . . . "The band raced out of the Garden after they finished their last number, avoiding the police," an insider said. "The music had not even finished playing; and they were in cars already, spinning away. They did not even go to their dressing rooms!"

The Clinton Legacy
Ronald Barker of Escondido, Calif., has been convicted of "conspiring with his girlfriend to kill her boss after she slept with the boss on a date, a crime the prosecutor called 'the worst kind of territorial marking,' " reports the San Diego Union-Tribune. Barker, 38, shot David Stevens to death more than three years ago, but the crime went unsolved until the girlfriend, Ny Nourn, now 20, made a videotaped confession to police. Nourn is to go on trial this week; Barker acted as his own lawyer:

Although Barker admitted his role in the killing to police, at trial he said he was tricked into giving a false confession.

"Let me remind you of a statement," Barker told the jury in an effort to demonstrate that police are capable of lying. " 'I did not have sexual relations with that woman.' The man who made that testimony was the highest official in the United States of America."

Speaking of Bill Clinton, London's Guardian reports that Gerhard Schroeder, Germany's chancellor, "was last night said to be seething over a British Sunday newspaper's blatant defiance of a court order issued in Germany forbidding it to repeat claims about his private life." The Mail on Sunday picked up reports that Schroeder was having an extramarital affair; the chancellor argues that the German court's order, based on his country's strict privacy laws, applies throughout the European

Union.

Good thing the Europeans are so sophisticated about sex, or this would be a *really* messy affair.

(Elizabeth Crowley helps compile Best of the Web Today. Thanks to Steven Platzer, Jerry Skurnik, Ralph Drury, T. Young, Tom Jackson, Chuck Muth, Michael Segal, Greg Reynolds, Robert LeChevalier, A. Gill, S.E. Brenner, Irene Margolin-Katz, Jon Kirk, Howard Weiser, Chana Lajcher, Mikael Nussdorf, Barak Moore, David Cushing, Neil Levine, Naftali Friedman, Joel Goldberg, Jim Cole, Craig Renner, Crampton Helms, Emily Cochran, Eric Jones, Harvard Fong, Dave Lister, Patrick Landa, Victor Spassov, Julian Cangelosi, Devon Swann, Rex Pilger, David Kaufman, Art Metz, Kurt Fletchner, Steve Stewart, Steven Rosenberg, Randy Bayuk, Lewis Chilton, Jon Fabian, Brian Schneider, Lisa Tetzlaff, Rosanne Klass, Frank Mangan, Bob Jacobsen, Tom Linehan, Greg Griffith, Dave Anderson, George Lenz, Dan Carter, Aviva Ross, Andrei Muresianu, Ed Morrissey, Tom Linnard, Michael Marz, Steve Campbell and Erik Fortune. If you have a tip, write us at opinionjournal@wsj.com, and please include the URL.)

Today on OpinionJournal:

- Review & Outlook: Bad news--under Bush's plan, even more lucky duckies will escape taxes (Plus: Read the original "lucky ducky" editorial).
- Robert Bartley: Is the Democratic Establishment giving way to a new Republican one?
- Peggy Noonan Will the Democratic Party be abortion's last victim?

ADVERTISEMENT

Hide While You Seek
At CareerJournal.com, the executive career site from The Wall Street Journal, you can register your credentials with complete confidentiality. When recruiters match your background to their job openings, they'll send us an email, which we'll forward to you. Then, only you can decide whether to respond to each job opportunity. It's free, so register today at CareerJournal.com.
http://www.careerjournal.com/marketplace/resumedatabase/index.html

From time to time Dow Jones may send you e-mails with information about new features and special offers for selected Dow Jones products. If you do not wish to receive these e-mails in the future, click here. You can also unsubscribe at the same link.

You can also review OpinionJournal's privacy policy here.

If you have been forwarded this e-mail and wish to subscribe click here.

Copyright © 2003 Dow Jones & Company, Inc. All Rights Reserved.

From: Margaret_M._Spellings@opd.eop.gov [OPD] <Spellings, Margaret M.>
To: <Gonzales>;Alberto_R._Gonzales@who.eop.gov [WHO] <Alberto R.>;<Lefkowitz>;Jay_P._Lefkowitz@opd.eop.gov [OPD] <Jay P.>;<Rove>;Karl_C._Rove@who.eop.gov [WHO] <Karl C.>
CC: <Schacht>;dschacht@OPD.eop.gov [OPD] <Diana L.>;<Kavanaugh>;bkavanau@WHO.eop.gov [WHO] <Brett M.>
Sent: 1/21/2003 2:52:55 AM
Subject: FW: Affirmative Action ideas

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (MS Mail)
CREATOR:Spellings, Margaret M. (Margaret_M._Spellings@opd.eop.gov [OPD])
CREATION DATE/TIME:21-JAN-2003 07:52:55.00
SUBJECT:FW: Affirmative Action ideas
TO:Gonzales, Alberto R. (Alberto_R._Gonzales@who.eop.gov [WHO])
READ:UNKNOWN
TO:Lefkowitz, Jay P. (Jay_P._Lefkowitz@opd.eop.gov [OPD])
READ:UNKNOWN
TO:Rove, Karl C. (Karl_C._Rove@who.eop.gov [WHO])
READ:UNKNOWN
CC:Schacht, Diana L. (dschacht@OPD.eop.gov [OPD])
READ:UNKNOWN
CC:Kavanaugh, Brett M. (bkavanau@WHO.eop.gov [WHO])
READ:UNKNOWN
End Original ARMS Header

fyi and comment
-----Original Message-----

From: Danielson, John [mailto:John.Danielson@ed.gov]

Sent: Monday, January 20, 2003 9:18 AM
To: Spellings, Margaret M.

Subject: Affirmative Action ideas

Below is the text of Jerry Reynolds' document --reviewed by all in our senior team --with ideas for announcement this week. They have also recommended that RP come back from Texas tomorrow after the Perry inaugural and be available for a possible event at the Press Club in DC on Wednesday. Thoughts??? These are just ideas --nothing is confirmed at all until we get your direction. HOpe you had a great weekend, my friend, and that Robert is on the mend!

MEMORANDUM

To: Secretary Paige
From: Gerald A. Reynolds

Subject: Outreach on Affirmative Action Issues

Date: January 17, 2003

We believe that the Department can support the President's decision on affirmative action in a number of ways. The following are a series of ideas you might consider:

1. Publish a report describing the innovative race-neutral approaches that the President referred to in his speech.

As you know, we have been doing background research on this topic for the past several months. We propose publishing a report on race-neutral alternatives that would help guide educational institutions across the country as they attempt to provide equal opportunity without running afoul of the Constitution. We have prepared a detailed outline of this report (attached). If you authorize us to continue with this work, we expect that we could deliver a draft of the report by the end of next week.

2. The Department could sponsor a national conference on race-neutral approaches to educational diversity.

During the last Administration, OCR sponsored a national conference on desegregation issues. We propose holding a similar national conference on race-neutral approaches. The speakers could include:

* Top education officials in Florida, Texas and California, who would describe all of the innovative new programs being experimented with in their states.

* People who worked closely with the President in developing the race-neutral alternatives implemented in Texas, such as Raul Romero of the Board of Regents of the University of Texas.

* Noted scholars who have specialized their research in the area of race-neutral alternatives, including Dr. George LaNoue of the University of Maryland and Richard Kahlenberg of the New Century Foundation (the national expert on socio-economic approaches).

3. Issue formal regulatory guidance on race-neutral alternatives.

In the past, OCR has issued regulatory guidance on issues such as using race

as a factor in financial aid decisions. We could issue similar legal guidance on this issue. This approach could be used to clarify our Title VI regulations (specifically, 34 C.F.R. 100.3(b)(6)(ii) and 100.5(i)) to make clear that educational institutions have a legal obligation under the Constitution to seek diversity first through race-neutral measures, prior to resorting to racial preferences. Our Title VI regulations and policy guidance would then be consistent with the position laid out in the brief filed with the Supreme Court this week.

4. Train OCR staff on race-neutral alternatives, and ask them to disseminate this information in their meetings around the country.

OCR has a series of authorized power-point presentations on various topics, such as disability law. OCR staff use these power-point presentations in dozens of meetings with school officials around the country. We could prepare a power-point presentation on race-neutral approaches, train OCR to fully understand the issues, and then ask them to make the presentation at meetings across the country.

5. Establish a blue-ribbon advisory committee on race-neutral approaches.

The Secretary could establish a blue-ribbon committee to provide him with expert guidance on race-neutral approaches to diversity in education. The advisory group could be composed of education officials from the ground-breaking states (Texas, California and Florida), as well as leading academics on this issue. The advisors would have credibility because of their impeccable credentials and that they represent both political parties. This blue-ribbon advisory committee could be assembled and announced in relatively short order.

6. Explain the President's position to the higher-education community.

We understand that on January 28 you will be meeting with several of the most notable leaders of the higher education community. While we expect that there are many topics that you need to discuss with these leaders, we recommend that you also talk with them about the need to develop race-neutral alternatives to current admissions practices.

7. Possible venue for any announcements.

We understand that you will be in Texas next week, and specifically at the University of Texas. Since Texas is at the center of the race-neutral innovations being implemented, this may present you with an appropriate venue for an announcement.

RACE NEUTRAL ALTERNATIVES REPORT

Introduction

- Schools seeking to achieve student diversity have adopted a number of innovative race-neutral programs in the wake of the Hopwood case, Proposition 209, and other challenges to racial preferences. This report catalogs the race-neutral alternatives that schools have been implementing over the past several years.

- Why catalog race-neutral alternatives? (1) Because these programs can expand equal opportunity. These programs have the potential to promote a true diversity of viewpoint and experience without employing racial preferences. That is, they have the potential to meet the goals of those on both sides of the "affirmative action" debate. (2) Because many of these programs are innovative approaches, and are consistent with the principles and goals of NCLB (3) Because these programs help minimize litigation risks, since most race-conscious programs are likely to produce costly and probably unsuccessful litigation. Since the Supreme Court's decisions in City of Richmond v. Croson (1989) and Adarand Constructors v. Pena (1994), federal courts have heard challenges to race-conscious government programs in many areas, including contracting and education. There now appears to be an overwhelming judicial consensus that governments must make a serious effort to use and evaluate race-neutral efforts before relying on race-conscious means. (The courts differ, however, about how intensive the required efforts must be and how the success of those efforts is properly measured).

- This is primarily a secondary analysis - a literature review. We hope in the future to expand the project to include a primary analysis of these programs; to provide a sense of what the effects of these programs are.

- This report covers post-secondary education, although we do discuss certain examples from elementary and secondary school level (particularly in the section on preferences based on socioeconomic status). The longer range project would hopefully include K-12 as well.

- We do not assess these programs - this is not an effort to develop a "best practices" guide. Much research is being done and needs to be done before these programs can be assessed. We are merely providing a catalog of the programs.

Systemic Approaches

This section catalogs programs that (1) build skills in students who without intervention would not be competitive in the admissions process; and (2) provide support throughout the post-secondary educational experience for these students.

In other words, this section looks at plans that help to expand the pool of competitive applicants, and then helps to ensure that those students have long-term success.

- Skills development - prepare students from low performing schools for higher education through a variety of approaches, including supplemental teacher training, additional Advanced Placement coursework, and establishing a relationship between public universities and these schools. Specifically:

(1) University of Texas Advanced Placement Initiative

(2) Florida's "The A+ Plan," which focuses on promoting achievement among the bottom 25% of every school in the state

(3) The University of California systems' partnerships with low-performing high schools

(4) Florida's "Opportunity Alliances," which also pair up colleges with low-performing schools

(5) Florida's commitment to provide the PSAT to all tenth graders in the state
(6) Florida's partnership with the College Board

(7) Supplemental teacher training

(8) Additional college course work for those admitted under alternative admission schemes
(9) Others

- Information initiatives - efforts to ensure that parents and young teenagers get sufficient information so that they know they can attend and succeed in college. Specifically:

(1) Advice to parents of young teens on how they can afford to send a child to college

(2) Information to young teens to ensure that they catch a vision for attending college (to ensure they are aware that they have options)

(3) Expanding career guidance programs

(4) Spreading the word widely about the availability of scholarships

(5) Ensuring students from low-performing schools that they would be welcome in college

(6) All "recruitment and outreach" activities

Admissions Approaches

This section focuses on the straightforward question asked by admissions officers: who do we admit? We will catalog various race-neutral efforts that have been made to determine which students are admitted and which are not. Note that the approaches described in this section are often paired with systemic approaches as described above.

- Class rank approaches:

(1) Texas's "Ten Percent Plan"

(2) Florida's "Talented Twenty Plan"

(3) California's "Four Percent Plan."

- Preferences based on socioeconomic status - This approach, sometimes called "needs-based affirmative action," promotes diversity by conferring admissions preferences based on socioeconomic disadvantage.

(1) UCLA Law School approach

(2) La Crosse, Wisconsin school district

(3) Wake County, North Carolina school district

- Other programs - comprehensive review; lotteries; etc.

Conclusion

- Although the evidence is preliminary, it appears that already there are positive developments from these race-neutral programs:

(1) Achieving goals such as increasing regional and socioeconomic diversity and promoting opportunity for persons who have overcome adversity.

(2) Achieving goals such as racial diversity. However, caution that if an educational institution attempts to establish certain racial targets through seemingly race-neutral measures 1) It presents litigation risks as it is of questionable constitutionality; and (2) that would undercut the philosophy of "race-neutral" programs.

- Other gains that are evident - for example, innovation is now encouraged. Many new ideas are being implemented because the old approaches have been disallowed by the courts or referendums.

From: CN=Hana F. Brilliant/OU=WHO/O=EOP [WHO]
To: Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Bradford A. Berenson/WHO/EOP@EOP [WHO] <Bradford A. Berenson>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/21/2003 5:45:59 AM
Subject: : JSC

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Hana F. Brilliant ( CN=Hana F. Brilliant/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:21-JAN-2003 10:45:59.00
SUBJECT:: JSC
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Please let me know by 1pm if you have anyone to put in the JSC binder for
tomorrow's meeting. Thanks.
-Hana
```

From: CN=Hana F. Brilliant/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/21/2003 7:17:52 AM
Subject: : POTUS

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Hana F. Brilliant ( CN=Hana F. Brilliant/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:21-JAN-2003 12:17:52.00
SUBJECT:: POTUS
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Do you what me to do a draft memo for Janice R. Brown?
-Hana
```

From: CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO]

To: Hana F. Brilliant/WHO/EOP@EOP [WHO] <Hana F. Brilliant>;Charlotte L. Montiel/WHO /EOP@Exchange@EOP [WHO] <Charlotte L. Montiel>;Barry S. Jackson/WHO/EOP@EOP [WHO] <Barry S. Jackson>;Ross M. Kyle/WHO/EOP@EOP [WHO] <Ross M. Kyle>;Wendy.J.Keefer@usdoj.gov @ inet [UNKNOWN] <Wendy.J.Keefer@usdoj.gov @ inet>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Tracy.T.Washington@usdoj.gov @ inet [UNKNOWN] <Tracy.T.Washington@usdoj.gov @ inet>;don.willett@usdoj.gov @ inet [UNKNOWN] <don.willett@usdoj.gov @ inet>;David McMaster/WHO/EOP@EOP [WHO] <David McMaster>;Jason.J.Sutton@usdoj.gov @ inet [UNKNOWN] <Jason.J.Sutton@usdoj.gov @ inet>;Viet.Dinh@usdoj.gov @ inet [UNKNOWN] <Viet.Dinh@usdoj.gov @ inet>;adam.Ciongoli@usdoj.gov @ inet [UNKNOWN] <adam.Ciongoli@usdoj.gov @ inet>;andrew.beach@usdoj.gov @ inet [UNKNOWN] <andrew.beach@usdoj.gov @ inet>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Susan B. Ralston/WHO /EOP@EOP [WHO] <Susan B. Ralston>;Patrick J. Bumatay/WHO/EOP@Exchange@EOP [WHO] <Patrick J. Bumatay>;Kimberly Ellison/WHO/EOP@EOP [WHO] <Kimberly Ellison>;David G. Leitch/WHO/EOP@EOP [WHO] <David G. Leitch>;Benjamin A. Powell/WHO /EOP@EOP [WHO] <Benjamin A. Powell>;Adam.Charnes@usdoj.gov @ inet [UNKNOWN] <Adam.Charnes@usdoj.gov @ inet>;Sarah K. Lockart@who.eop.gov @ inet [WHO] <Sarah K. Lockart@who.eop.gov @ inet>;Albert.Brewster@usdoj.gov @ inet [UNKNOWN] <Albert.Brewster@usdoj.gov @ inet>;Ann Gray/WHO/EOP@EOP [WHO] <Ann Gray>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>;evelyn.v.long@usdoj.gov @ inet [UNKNOWN] <evelyn.v.long@usdoj.gov @ inet>;amy.bass@usdoj.gov @ inet [UNKNOWN] <amy.bass@usdoj.gov @ inet>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Alison Jones/WHO /EOP@EOP [WHO] <Alison Jones>;Melissa S. Bennett/WHO/EOP@EOP [WHO] <Melissa S. Bennett>

Sent: 1/21/2003 9:27:23 AM

Subject: : WHJSC Meeting for 1/22 has been CANCELLED

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:21-JAN-2003 14:27:23.00
SUBJECT:: WHJSC Meeting for 1/22 has been CANCELLED
TO:Hana F. Brilliant ( CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Barry S. Jackson ( CN=Barry S. Jackson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Ross M. Kyle ( CN=Ross M. Kyle/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Wendy.J.Keefer@usdoj.gov @ inet ( Wendy.J.Keefer@usdoj.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tracy.T.Washington@usdoj.gov @ inet ( Tracy.T.Washington@usdoj.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:don.willett@usdoj.gov @ inet ( don.willett@usdoj.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:David McMaster ( CN=David McMaster/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jason.J.Sutton@usdoj.gov @ inet ( Jason.J.Sutton@usdoj.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:Viet.Dinh@usdoj.gov @ inet ( Viet.Dinh@usdoj.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:adam.Ciongoli@usdoj.gov @ inet ( adam.Ciongoli@usdoj.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:andrew.beach@usdoj.gov @ inet ( andrew.beach@usdoj.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
```

TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Kimberly Ellison (CN=Kimberly Ellison/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Adam.Charnes@usdoj.gov @ inet (Adam.Charnes@usdoj.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:Sarah K. Lockart@who.eop.gov @ inet (Sarah K. Lockart@who.eop.gov @ inet [WHO])
READ:UNKNOWN
TO:Albert.Brewster@usdoj.gov @ inet (Albert.Brewster@usdoj.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:evelyn.v.long@usdoj.gov @ inet (evelyn.v.long@usdoj.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:amy.bass@usdoj.gov @ inet (amy.bass@usdoj.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Thanks!

From: Nelson, Carolyn

To: <Bennett, Melissa S.>;<Ralston, Susan B.>;<Jones, Alison>;<Bartolomucci, H. Christopher>; <Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Walker, Helgard C.>;andrew.beach@usdoj.gov <andrew.beach@usdoj.gov>;amy.bass@usdoj.gov <amy.bass@usdoj.gov>;adam.Ciongoli@usdoj.gov <adam.Ciongoli@usdoj.gov>;evelyn.v.long@usdoj.gov <evelyn.v.long@usdoj.gov>;Viet.Dinh@usdoj.gov <Viet.Dinh@usdoj.gov>;Viet.Dinh@usdoj.gov <Wingate, Heather>;Jason.J.Sutton@usdoj.gov <Jason.J.Sutton@usdoj.gov>;Jason.J.Sutton@usdoj.gov <Sampson, Kyle>;Jason.J.Sutton@usdoj.gov <McMaster, David>;Jason.J.Sutton@usdoj.gov <Gray, Ann>;don.willett@usdoj.gov <don.willett@usdoj.gov>;Albert.Brewster@usdoj.gov <Albert.Brewster@usdoj.gov>;Tracy.T.Washington@usdoj.gov <Tracy.T.Washington@usdoj.gov>;Sarah K. <Lockart@who.eop.gov@inet>;Sarah K. <Newstead, Jennifer G.>;Adam.Charnes@usdoj.gov <Adam.Charnes@usdoj.gov>;Wendy.J.Keefer@usdoj.gov <Wendy.J.Keefer@usdoj.gov>;Wendy.J.Keefer@usdoj.gov <Powell, Benjamin A.>;Wendy.J.Keefer@usdoj.gov <Kyle, Ross M.>;Wendy.J.Keefer@usdoj.gov <Leitch, David G.>;Wendy.J.Keefer@usdoj.gov <Jackson, Barry S.>;Wendy.J.Keefer@usdoj.gov <Ellison, Kimberly>;Wendy.J.Keefer@usdoj.gov <Montiel, Charlotte L.>;Wendy.J.Keefer@usdoj.gov <Bumatay, Patrick J.>;Wendy.J.Keefer@usdoj.gov <Brilliant, Hana F.>

Sent: 1/21/2003 2:24:07 PM

Subject: WHJSC Meeting for 1/22 has been CANCELLED

Thanks!

From: Nelson, Carolyn

To: <Bennett, Melissa S.>;<Ralston, Susan B.>;<Jones, Alison>;<Bartolomucci, H. Christopher>; <Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Walker, Helgard C.>;andrew.beach@usdoj.gov <andrew.beach@usdoj.gov>;amy.bass@usdoj.gov <amy.bass@usdoj.gov>;adam.Ciongoli@usdoj.gov <adam.Ciongoli@usdoj.gov>;evelyn.v.long@usdoj.gov <evelyn.v.long@usdoj.gov>;Viet.Dinh@usdoj.gov <Viet.Dinh@usdoj.gov>;Viet.Dinh@usdoj.gov <Wingate, Heather>;Jason.J.Sutton@usdoj.gov <Jason.J.Sutton@usdoj.gov>;Jason.J.Sutton@usdoj.gov <Sampson, Kyle>;Jason.J.Sutton@usdoj.gov <McMaster, David>;Jason.J.Sutton@usdoj.gov <Gray, Ann>;don.willett@usdoj.gov <don.willett@usdoj.gov>;Albert.Brewster@usdoj.gov <Albert.Brewster@usdoj.gov>;Tracy.T.Washington@usdoj.gov <Tracy.T.Washington@usdoj.gov>;Tracy.T.Washington@usdoj.gov <Newstead, Jennifer G.>;Adam.Charnes@usdoj.gov <Adam.Charnes@usdoj.gov>;Wendy.J.Keefer@usdoj.gov <Wendy.J.Keefer@usdoj.gov>;Wendy.J.Keefer@usdoj.gov <Powell, Benjamin A.>;Wendy.J.Keefer@usdoj.gov <Kyle, Ross M.>;Wendy.J.Keefer@usdoj.gov <Leitch, David G.>;Wendy.J.Keefer@usdoj.gov <Jackson, Barry S.>;Wendy.J.Keefer@usdoj.gov <Ellison, Kimberly>;Charlotte_L._Montiel@oa.eop.gov <Charlotte_L._Montiel@oa.eop.gov>;Patrick_J._Bumatay@oa.eop.gov <Patrick_J._Bumatay@oa.eop.gov>;Patrick_J._Bumatay@oa.eop.gov <Brilliant, Hana F.>

Sent: 1/21/2003 2:28:41 PM

Subject: WHJSC Meeting for 1/22 has been CANCELLED

Thanks!

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>
Sent: 1/21/2003 11:42:28 AM
Subject: :

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-JAN-2003 16:42:28.00
SUBJECT::
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

from Raleigh News Observer

More North Carolina voters disapprove of Sen. John Edwards' White House ambitions than approve, and George W. Bush would soundly defeat Edwards in his home state if the 2004 presidential election were held today, according to a new poll conducted for The News & Observer.
Underscoring the sales job Edwards has ahead, the poll found that 47 percent of active Tar Heel voters disapprove of the senator's decision to seek the presidency, compared with 39 percent who approve. The remaining 14 percent were unsure.

related

ÿHow will John Edwards fare against the other presidential candidates?

poll methods

The News & Observer Poll is based on telephone interviews conducted Monday through Thursday with 603 likely North Carolina voters. Those surveyed were selected with random telephone calls made across the state.
The poll has a margin of sampling error of plus or minus 4 percentage points. This means that there is 95 percent probability that the true figure would fall within that range if the state's entire population was polled.
To conduct the poll, The N&O hired Research2000, a nonpartisan firm in Rockville, Md., that conducts surveys for the media, advocacy groups, trade associations and businesses.

bush or edwards?

N&O POLL OF 603 ACTIVE N.C. VOTERS: If the 2004 election for president were held today, whom would you vote for if the choice were between John Edwards, the Democrat, and George W. Bush, the Republican?
40% Edwards
56% Bush

Opinions diverged sharply along partisan lines, with 67 percent of Democrats backing Edwards' bid and 72 percent of Republicans opposing his plans.
If the 2004 election were held today, the poll found, Bush would win handily over Edwards in North Carolina, 56 percent to 40 percent. That is a slightly larger margin than Bush enjoyed in his win over Al Gore in the state in 2000.
"Right now, Edwards doesn't exactly look like he's the favorite of favorite sons," said Del Ali, president of Research2000, which conducted the poll for The N&O. "In order to reach out nationally, you've got to show strength in your own state. But Edwards got in knowing he has lots of work to do."
The poll, conducted roughly two weeks after Edwards announced his presidential bid in Raleigh, is the first in a series The N&O has planned to track home-state response to Edwards' run for the White House and the effect it might have on the race for his Senate seat, which also is on the ballot in 2004.
Aides to Edwards pointed to the backing among home-state Democrats as positive news.
"We're pleased at the overwhelming support of North Carolina Democrats who know Senator Edwards best, and we look forward to bringing along enlightened Republicans and independents," said David Ginsberg, an Edwards campaign spokesman. "North Carolinians are just beginning to hear John's ideas about why he's running for president, and we're confident support will grow as he gets his message out."
To garner more support back home, Edwards will need to do a better job connecting with voters such as Eddie Peatross of Winston-Salem, who is registered as an unaffiliated voter.
Peatross, 50, said he backed Edwards in 1998 when he ran for Senate. "I don't have any negative feelings about his performance, but personally I don't think he's qualified to be president," said Peatross, who is retired. "It's not an age thing, but I'm not sure he's been in Washington long enough to really get his feet wet. I just don't have much confidence in his abilities. In time, that may change."
The poll found 47 percent of active Tar Heel voters do not believe Edwards is qualified to be president, while 38 percent believe he is. The remaining 15 percent are unsure.
Democrats' confidence was much higher: 60 percent believe Edwards is qualified, 27 percent believe he is not, and 13 percent are unsure.
Among those who still need convincing is Paul Langan, a Durham bank branch manager and a registered Democrat. "I think he is too young," said Langan, 37. "He might be a good candidate next time."
Ali said the poll offers relatively good news for Edwards about his

re-election prospects. At this point, 39 percent of likely voters would choose to re-elect Edwards.

Ali said a majority of those who say they would consider replacing Edwards now would probably wind up supporting him in November 2004, giving him enough support to win a second term.

"The U.S. Senate seat is really his to lose at this point," Ali said.

Asked to rate Edwards' job performance as a senator, 49 percent of those polled said "excellent" or "good," while 40 percent said Edwards is doing a "fair" or "poor" job. Those ratings are similar to those of Democratic Gov. Mike Easley.

North Carolinians give Bush much higher marks. Sixty-seven percent of those polled rated the Republican president's performance as "excellent" or "good"; 31 percent said it is "fair" or "poor."

Although Bush enjoys a solid lead over Edwards in North Carolina, the poll suggested Tar Heel Democrats are not inclined at this point to support another presidential candidate from their party. Asked whom they would vote for in the primary, 51 percent of the Democrats polled -- by far the largest block -- chose Edwards.

Edwards' standing in North Carolina is important because presidential contenders are generally expected to carry their home states.

Moreover, one of the arguments pushed by Edwards boosters is that he has the potential to carry Southern states against Bush, who swept the region in 2000. If Edwards' numbers do not start rising at home, that argument will likely be undermined.

In his bid to show strength in North Carolina, Edwards has history working against him. The last time North Carolina voted for a Democratic presidential candidate was 1976, when Jimmy Carter ran from Georgia. Bill Clinton came close in 1992, losing to the elder President Bush by less than a percentage point.

But in 1996, the margin widened to 5 points against Clinton when he ran for re-election against former Sen. Bob Dole of Kansas. In 2000, George W. Bush beat Gore by 13 points in the Tar Heel state.

Not surprisingly, the N&O poll found that in a hypothetical 2004 match-up, Edwards and Bush would receive the lion's share of support from members of their own party in North Carolina: 77 percent of home-state Democrats would back Edwards, while 91 percent of Tar Heel Republicans would back Bush.

One group with which Edwards could gain traction is the growing number of independents in the state, Ali said. As of now, they favor Bush, 59 percent to 37 percent.

Edwards' suggestion in recent weeks that his presidential bid would be good for North Carolina seems to have gained limited traction, the poll found. Of those polled, 31 percent agreed that his White House run would be good for the state, while 45 percent disagreed; 24 percent had no opinion.

From: [UNKNOWN] <Berenson, Bradford A.>
To: <Kavanaugh>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6246020-c20fee19-852569da-7648dc [UNKNOWN] <Brett M.>
CC: <Gonzales>;Alberto_R._Gonzales@who.eop.gov [WHO] <Alberto R.>;<Leitch>;David_G._Leitch@who.eop.gov [WHO] <David G.>;viet.dinh@usdoj.gov [UNKNOWN] <viet.dinh@usdoj.gov>
Sent: 1/21/2003 11:48:27 AM
Subject: Re: Glenda Saunders

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (MS Mail)
CREATOR:Berenson, Bradford A. ([UNKNOWN])
CREATION DATE/TIME:21-JAN-2003 16:48:27.00
SUBJECT:Re: Glenda Saunders
TO:Kavanaugh, Brett M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6246020-c20fee19-852569da-7648dc [UNKNOWN])
READ:UNKNOWN
CC:Gonzales, Alberto R. (Alberto_R._Gonzales@who.eop.gov [WHO])
READ:UNKNOWN
CC:Leitch, David G. (David_G._Leitch@who.eop.gov [WHO])
READ:UNKNOWN
CC:viet.dinh@usdoj.gov (viet.dinh@usdoj.gov [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

I have not talked to him and have not heard of anyone who has.

Brett M. Kavanaugh
01/21/2003 04:32:10 PM

Record Type: Record

To: Bradford A. Berenson/WHO/EOP@EOP, Alberto R. Gonzales/WHO/EOP@Exchange@EOP, David G. Leitch/WHO/EOP@Exchange@EOP
cc: viet.dinh@usdoj.gov

Subject: Glenda Saunders

Per Viet, Dave Houston of LA Daily Journal is still inquiring about Glenda Saunders and apparently may be running a story. If anyone has talked to him, please let Viet know. (Houston called me about this, but I referred him to Media Affairs. I am checking with Media Affairs again to see what they have heard.)

From: Leitch, David G.
To: <Kavanaugh, Brett M.>;<Francisco, Noel J.>
Sent: 1/22/2003 7:57:08 AM
Subject:

This is amazing

The Soft Bigotry of the Teachers Union

The New Jersey Education Association's Web site features a brochure for download called "Getting Involved in Your Child's School." It comes in three versions; the first is simply described as "a parent's resource" (links in PDF format). The second is written in Spanish, but the third is curious. It's called the "African-American version."

Why is an African-American version necessary? Who knows, but there are differences between the text of two versions. For example, here's how the "parent's resource" answers the question: "Why do teachers need my help?":

Today, there is an increasing emphasis on individualized instruction--fitting the curriculum to the child. Teachers want to employ new methods and materials to give each child personal guidance.

When you assist teachers with growing paperwork, make instructional materials, or conduct a science experiment, you give them more time for planning activities, for trying new teaching strategies, and for working directly with children. As a parent volunteer, you allow them to be more effective teachers--and the school obtains your skills and services that might be unavailable due to financial limitations.

Here's how the "African-American version" answers the same question:

Today, teachers want to use new methods and materials to give each child personal guidance.

When you assist teachers, you give them more time to work with children. You allow them to be more effective teachers.

We actually like the African-American version better; it takes just 36 words to say the same thing the parent's resource says in 91. But another way of looking at it is that the New Jersey teachers union seems to think their material has to be dumbed down for the benefit of black parents.

From: CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/22/2003 8:57:21 AM
Subject: : FW:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:22-JAN-2003 13:57:21.00
SUBJECT:: FW:
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Can you participate in a meeting on Friday at 9am in the Ward Room with Hagin, Col MacDonald (WHCA), Linda Gambatesa, Harriet Miers, and Blake re: WHTV?

-----Original Message-----
From: Gottesman, Blake
Sent: Wednesday, January 22, 2003 1:14 PM
To: Gambatesa, Linda M.; Litkenhaus, Colleen
Subject: Re:

Perfect for me, too - thanks

.

----- Original Message -----
From:Linda M. Gambatesa/WHO/EOP
To:Colleen Litkenhaus/WHO/EOP@Exchange
Cc:blake gottesman/who/eop@eop
Date: 01/22/2003 12:27:10 PM
Subject: RE:

Good for me and POTUS is in meeting for 1 hour beginning at 8:55 so hopefully good for BLG!

From: Colleen Litkenhaus/WHO/EOP@Exchange on 01/22/2003 12:07:24 PM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc: Linda M. Gambatesa/WHO/EOP@EOP
Subject: RE:

Want to shoot for 9:00 AM on Friday in the Ward Room? If yes, I will extend the invite to the following:

Harriet
Brett
Col Mac
Capt Miller
Sean Newman

-----Original Message-----
From: Gottesman, Blake
Sent: Tuesday, January 21, 2003 2:25 PM
To: Litkenhaus, Colleen
Cc: Gambatesa, Linda M.
Subject:

see below (sorry there's so much info) - is there a way joe could meet about this topic sometime this week? (preferably when the president has a longer mtg like nsc mtgs in the sit rm)

Linda M. Gambatesa
01/14/2003 10:23:49 AM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc: harriet miers/who/eop@eop
bcc: Records Management@EOP
Subject: Re: << OLE Object: StdOleLink >>

All of the below most likely unless we just include Capt. Miller for now ...(not Capt. McDonald too).

Blake Gottesman
01/14/2003 10:09:45 AM
Record Type: Record

To: Linda M. Gambatesa/WHO/EOP@EOP
cc: Harriet Miers/WHO/EOP@EOP
Subject: Re:

when should we convene at least a preliminary group to discuss?

who needs to be there?

blake
linda
harriet
brett
col mcdonald (?) / capt miller (?)
sean newman (whtv) - for at least part of the mtg, so that he can shed light on their practices and their process?

---------- Forwarded by Blake Gottesman/WHO/EOP on 01/14/2003 10:06 AM ----------

Blake Gottesman
12/12/2002 08:52:41 AM
Record Type: Record

To: Linda M. Gambatesa/WHO/EOP@EOP
cc: Harriet Miers/WHO/EOP@EOP
bcc: Records Management@EOP
Subject: Re: << OLE Object: StdOleLink >>

1) let me re-phrase: i have been told by whca personnel at the events that they are recorded for the national archives; i am not certain whether when and how they are given to the archives (for all i know, they don't turn them over until the end of the administration?) - but they are recorded for that purpose.

2) i don't know what rights they have over the tape (this is the issue for which i think it's important to have counsel's ofc there)

3) i feel confident that no one reviews the tape for any comments that could be misintepreted.

Linda M. Gambatesa
12/12/2002 08:49:05 AM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc:
bcc:
Subject: Re: << OLE Object: StdOleLink >>

They have already been provided to Archives..... I wonder if this should cause any concern and why they would take possession so soon .... what rights do they have once they are in their possession .... and again, does anyone listen to them first to make sure nothing inappropriate is recorded when perhaps people thought they were not being recorded!

Blake Gottesman
12/12/2002 08:46:11 AM
Record Type: Record

To: Linda M. Gambatesa/WHO/EOP@EOP
cc: Harriet Miers/WHO/EOP@EOP
bcc:
Subject: Re: << OLE Object: StdOleLink >>

yes, i think such a meeting would be helpful. and, i do think it's an important issue for counsel - specifically, the issue of who has control / power over the tapes, especially after he leaves office. are they subject to FOIA and/or a subpoena. (< i presume the answer to both of these questions is "yes"

another little known fact: if whca a/v provides sound for any event (e.g., even if they just wire a microphone in rm 450), they record his remarks on tape to go to the national archives. technically, the event is "closed press" - and even if i decide that whtv coverage is not necessary - the event is being recorded for history - only difference being that is audio only and not video. (< a perfect example is a private fundraiser at a residence. i do not ask whtv to cover any strictly political receptions, unless it is open or pool press. however, the president's remarks at dwight and martha scharr's residence in mclean, or the event at the kennedy's residence in florida - were recorded and provided to the national archives.).

Linda M. Gambatesa
12/12/2002 07:22:52 AM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc:
bcc:
Subject: Re: << OLE Object: StdOleLink >>

Therefore, we need to take steps asap to put a system in place to ensure this does not happen. Not really a Counsel's office issue, but do you think they, along with Hagin, and other relevant parties should discuss this and what the process should be?

Blake Gottesman
12/12/2002 06:59:19 AM
Record Type: Record

To: Linda M. Gambatesa/WHO/EOP@EOP
cc:
bcc:
Subject: Re: << OLE Object: StdOleLink >>

i'm sure harriet will agree

Linda M. Gambatesa
12/11/2002 04:41:30 PM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc: harriet miers/who/eop@eop
bcc:
Subject: Re: << OLE Object: StdOleLink >>

Nothing should be released without first being reviewed in its
entirety!

Blake Gottesman
12/11/2002 04:35:16 PM
Record Type: Record

To: Harriet Miers/WHO/EOP@EOP
cc: Linda M. Gambatesa/WHO/EOP@EOP
bcc:
Subject: Re: << OLE Object: StdOleLink >>

the practice for the last 2 years (and to my knowledge, before
that) is that the aide and whtv coordinate which events will be covered.
in my case, i have a daily phone call with whtv in the morning to discuss
the day's coverage. they are always included for OPEN and POOL events.
for closed events, it is a case-by-case basis. and, how much of those
closed events (e.g., the whole thing vs. "top of only") is also determined
by me (based on the day, nature of the event, input from the event
organizer, how many similar events they already have footage of, the
president's mood, etc.).

there are a few special events like the KC honors, ford's theatre,
christmas in washington, nbc's "day in the life", sit-down interviews,
etc., which are taped for tv ... these events are not technically "open
press" - b/c only one network has their cameras there - but they will be
aired by the media. these are the types of events at which it would be
inappropriate to have whtv. these are the events for which i want to make
sure whtv is somehow obtaining the footage.

(there is a similar, but slightly different, issue on foreign
trips. e.g., whtv was not let into the president's mtg with the pope b/c
of space limitations. i think it would be a tragedy for the library not
to have footage of that meeting. in those cases, i propose that we
request a copy of the foreign government's host tv footage.)

one last note: the issue of control over whtv footage is one that
i expressed some concern about to brett kavanaugh several months ago (we
tried to get together to talk about it - but it was a really busy time. i
will re-raise the issue and try to set up a mtg). currently, reed dickens
is the one who authorizes tapes to be released (to media publications /
foreign gov'ts (e.g., during an official visit) / private citizens). my
main concern is that reed authorizes the videos without first reviewing
them to determine the exact contents (and whether anything on them could
accidentally be misinterpreted). it seems like a dangerous process with
very little control, and one which offers little, if any, protection of
the president.

blake

Harriet Miers
12/11/2002 03:47:24 PM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc:
Subject: Re: << OLE Object: StdOleLink >>

Blake, this is important as well for other reasons. Is it historically the case that in a small space only one camera is used? In other words, in other Administrations?

Also, I thought that Scott did have the rough footage. Maybe he has it and not WHTV.

From: CN=Benjamin A. Powell/OU=WHO/O=EOP [WHO]
To: Tim Campen/OA/EOP@Exchange@EOP [UNKNOWN] <Tim Campen>
CC: Adam F. Greenstone/OA/EOP@Exchange@EOP [OA] <Adam F. Greenstone>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;David S. Addington/OVP /EOP@EOP [OVP] <David S. Addington>;Keith L. Roberts/OA/EOP@Exchange@EOP [OA] <Keith L. Roberts>;Joan Trumps/OA/EOP@Exchange@EOP [OA] <Joan Trumps>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;David G. Leitch/WHO /EOP@Exchange@EOP [WHO] <David G. Leitch>
Sent: 1/22/2003 7:46:18 AM
Subject: : Congressional Inquiries

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:22-JAN-2003 12:46:18.00
SUBJECT:: Congressional Inquiries
TO:Tim Campen ( CN=Tim Campen/OU=OA/O=EOP@Exchange@EOP [ UNKNOWN ] )
READ:UNKNOWN
CC:Adam F. Greenstone ( CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange@EOP [ OA ] )
READ:UNKNOWN
CC:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
CC:Keith L. Roberts ( CN=Keith L. Roberts/OU=OA/O=EOP@Exchange@EOP [ OA ] )
READ:UNKNOWN
CC:Joan Trumps ( CN=Joan Trumps/OU=OA/O=EOP@Exchange@EOP [ OA ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Tim --

Here is the revised guidance on how to proceed with congressional
inquiries of the type attached below -- that is, the emailed questions
received from various congressional staffers:

1. When you receive them, please forward them to me to review (or
in the case where it involves anything related to OVP to David Addington
and "cc" me on the email).

2. The substance of the inquiry will determine how we proceed.
If the subject is a fairly straightforward non-sensitive request (for
example, how much did OA spend on computer cables?), OA (that is, you)
would respond. However, I would like to review the responses before they
are sent.

3. If the subject is sensitive or inappropriate, we may ask to
receive a letter from the Chairman requesting the information or respond
in a different manner.

4. Of course, in some cases, the answers may determine how we
proceed -- that is, an inquiry may appear straightforward, but when OA
puts together the answer, it may contain sensitive information.

To make this all a bit more concrete, I attached the two
congressional emails that you requested guidance on how to proceed. Both
emails are from Mike Malone, who I understand is a staffer for Steny Hoyer
(D-MD). Hoyer is the new Democratic Whip and a member of the
Appropriations Committee (including the Subcomm. on Treas, Postal, and
General Govt). Here is how we should proceed:
```

A. Jan 2 email on the vehicle fleet and use of non-fed funds for renovations of GSA facilities occupied by EOP.

1. Question #1 concerns the vehicle leases. Please put together the information for the answers and I (or someone else in WHCO if they worked on the leases) will review it before you send it. I am not sure what EO the email is referring to or if it is actually applicable to the leases.

2. Question #2 concerns the use of non-fed funds for renovation/furnishings in GSA facilities occupied by EOP. If you could compile the applicable answers to the extent they are within OA's area of responsibility and forward to me, we will review it and determine how to proceed. Jen Newstead has some concerns on this issue she may want to discuss with you. Note that the inquiry is limited to GSA facilities.

B. Jan 21 email on Off Global Comm.

1. If you could send me a proposed answer, I will review it before you send it.

An important note: When I refer to "put together answers", I am referring to subjects clearly within OA's area of responsibility. For example, in the OGC email, Malone asks "why is OGC an EOP function and not a State Dept function?" That answer has nothing to do with OA and you could just say "OA is not involved in those type of determinations." (we might also refer him to http://www.whitehouse.gov/ogc/ which contains the EO and a discussion of OGC's relationship to the State Dept).
OA does not need to (and should not) go searching for answers, or interviewing people, throughout EOP to respond to these emails -- to the extent it concerns OA subject matter, a response may be appropriate. You should not be in the position of responding on matters that are beyond OA -- it may be that WH Leg Affairs needs to work with the staffer on particular policy issues, etc.

Please let me know if anyone disagrees with this guidance.

****
****
-----Original Message-----
From: Malone, Mike [mailto:Mike.Malone@mail.house.gov <
mailto:Mike.Malone@mail.house.gov>]
Sent: Tuesday, January 21, 2003 11:51 AM
To: Campen, Tim; Mrdeza, Michelle
Subject: Global Communications Office

Tim --

I saw a newsclip today that said the president signed an Executive Order formally designating something named the Office of Global Communications. Since the E.O. isn't on the White House's website yet and the only info I have comes from press accounts, can you give me more details? How does this impact the 03 and 04 budgets? What account(s) pays for the operation of this office currently? How much was spent in FY02 and FY03 (to date) on the operations of this function? Is the cost and size of this office expected to grow in the future? Why is this an EOP function/responsibility (as opposed to a State Department or other agency function)?

Just for background (and I know you weren't there to know any of this), I have been asking questions about this operation since June of 2002. I wanted more details when I heard non-US government entities were assisting the operation of this office out of the Indian Treaty Room. I again asked for information after the ITR operation was shut down and the office assumed a lower profile. Each time I was promised that I would be kept

informed as this evolved. Unfortunately, this didn't happen and now I'm trying to find out information after the news accounts hit the wires. Whatever you can share with me will be much appreciated.

Mike

-----Original Message-----
From: Malone, Mike [mailto:Mike.Malone@mail.house.gov]
Sent: Thursday, January 02, 2003 11:04 AM
To: Campen, Tim
Cc: Mrdeza, Michelle
Subject: Budget Questions

Tim --

I have a couple of questions on other issues:

1) The EOP's FY03 budget request included a significant increase for vehicle leases. Under the previous contract, each vehicle cost the EOP $94 per month to lease. Since the FY03 budget was put together and submitted long before the EOP vehicle contract was recompeted, the EOP requested enough funds to cover costs of up to $500 per vehicle per month. Now that we are more than a quarter into FY03, I assume the new contract is in place.

What is the per vehicle cost under the new contract? What vendor was selected for this years contract? Are 75% of the vehicles under the new contract alternative fuel vehicles as required under Executive Order? What is the make and model of the sedans used to transport White House senior staff under the new contract?

2) Since 1/20/01, have any non-Federal funds been used for renovations and/or furnishings in the GSA facilities occupied by the Executive Office of the President? Which Federal agency (i.e., GSA, OA/Facilities) coordinated the work that was paid for using non-Federal funds? What were the sources and amounts of the non-Federal funds used for renovations and/or furnishings? Please also provide a description of each project for which non-Federal funds were provided. Why were non-Federal funds used to renovate and/or furnish these GSA facilities? Which agency's gift authority was used to accept the contribution of non-Federal funds for renovations and/or furnishings?

Thanks for your help on these questions.

Mike

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@Exchange [WHO] <David G. Leitch>
Sent: 1/22/2003 11:58:52 AM
Subject: : Re: WSJ Michigan piece

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:22-JAN-2003 16:58:52.00
SUBJECT:: Re: WSJ Michigan piece
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

agreed. I think the Post is better and they would run it, I am fairly confident.

From: David G. Leitch/WHO/EOP@Exchange on 01/22/2003 04:55:58 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: WSJ Michigan piece

While I think it's interesting, on reflection, I don't think it's a good vehicle off of which to bounce a Judge column.;

From: CN=Noel J. Francisco/OU=WHO/O=EOP [WHO]
To: David Kuo/WHO/EOP@EOP [WHO] <David Kuo>;steffen.johnson@usdoj.gov @ inet [UNKNOWN] <steffen.johnson@usdoj.gov @ inet>;Rebecca A. Beynon/WHO/EOP@EOP [WHO] <Rebecca A. Beynon>;Eric.Treene@usdoj.gov @ inet [UNKNOWN] <Eric.Treene@usdoj.gov @ inet>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;David G. Leitch/WHO /EOP@Exchange@EOP [WHO] <David G. Leitch>
Sent: 1/22/2003 12:49:08 PM
Subject: : Interesting Article

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:22-JAN-2003 17:49:08.00
SUBJECT:: Interesting Article
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:steffen.johnson@usdoj.gov @ inet (steffen.johnson@usdoj.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Eric.Treene@usdoj.gov @ inet (Eric.Treene@usdoj.gov @ inet [UNKNOWN])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Thought you all would be interested in this article.

Posted on Wed, Jan. 22, 2003

Honor guardsman is fired for blessings
Patrick Cubbage says he followed his training. A supervisor calls it a breach.
By David O'Reilly
Inquirer Staff Writer
As a military honor guardsman, Patrick Cubbage had a simple message to the families of deceased veterans at graveside services.
"God bless you and this family, and God bless the United States of America," he would say as he presented a folded flag to them.
Because of that, Cubbage was fired in October from his job at the Brig. Gen. William C. Doyle Veterans Memorial Cemetery in Burlington County, near McGuire Air Force Base.
He breached cemetery protocol, his supervisor said, by deviating from the script.
"No family member ever objected," Cubbage, 54, a Vietnam combat veteran, retired Philadelphia police officer, and former city bail commissioner, said in a recent interview at his Northeast Philadelphia home.
"They were always very grateful - and sometimes very moved. People would even grip my hand and say things like 'Thank you so much.' "
Cubbage said he found the blessing in training literature he got when he began working as a part-time guardsman at Doyle, making $16 an hour, in October 2001.
But Lt. Col. Roberta Niedt, spokeswoman for the New Jersey Department of Military and Veterans Affairs, said Doyle - the state's largest veterans

cemetery - has a "standard phrase [for the flag presentation] for each service."
Cubbage was dismissed not for the blessing, Niedt said, but for departing from the standard presentation protocol.
Cubbage insisted, however, that he was operating within the rules for honor guards. Opening a slender pamphlet that he said the cemetery gave him when he started, he turned to a page topped by the words Flag Presentation Protocol.
After Taps, it explains, the honor guard folds an American flag into a triangle, and a guardsman then steps before the appropriate family member. Depending on the branch of service, the presenter next is to say such words as: "This flag is presented on behalf of a grateful nation and the United States Army as a token of appreciation for your loved one's honorable and faithful service," and then to hand the flag to the deceased's kin.
"If the next of kin has expressed a religious preference or belief," the instructions continue, "add: 'God bless you and this family, and God bless the United States of America.' "
"It doesn't say, 'You may add ...,' " Cubbage, an evangelical Christian who attends Calvary Chapel in Northeast Philadelphia, said as he tapped sternly at the pamphlet. "And I said it only if the family had a chapel service or had clergy at the grave."
Although a part-time employee at Doyle, he said, he typically worked from 25 to 35 hours a week, and he estimated that he participated in about 2,000 burial ceremonies last year. "I probably said the blessing 500 times."
But two of his fellow honor guardsmen complained in October, he said, and on Oct. 16 Iven Dumas, the cemetery's honor guard coordinator, ordered him to stop the blessings.
He said he protested, noting, "It's right in the manual." Dumas replied that the blessing could offend Jews and Muslims, he said, and should be used only when next of kin notify the cemetery office that they want a blessing.
"Jews and Muslims believe in God," Cubbage said he replied.
Dumas, he said, responded by handing him a copy of state regulations prohibiting "harassment or hostile environments" in the workplace.
Dumas declined to be interviewed and referred inquiries to Niedt's office.
On Oct. 24, Joan L. Edwards, affirmative-action officer for the state Department of Military and Veterans Affairs, wrote to Dumas to clarify policy. Cubbage received a photocopy of the letter.
Government employees "must not engage in activities or expression that a reasonable observer would interpret as government endorsement ... of religion," she wrote.
Unless the next of kin expresses a religious preference "one way or another," she continued, "then, the protocol would be to omit the saying, 'God bless ...,' portion of the presentation. This is not optional."
Cubbage said he reluctantly stopped saying the blessing - until Oct. 31. That day, he said, "this funeral procession pulls in for a burial, and I see the 'fish' sign [a traditional symbol in Christianity] on the back of one of the cars."
"So, I start a conversation with the driver, who turns out to belong to Calvary Chapel. I asked him if the family would mind if I said the blessing. He said, 'Oh, they're very religious. I'm sure they'd welcome it.' "
The widow, who was in a wheelchair, bowed her head at the blessing, Cubbage recalled.
But one of the other guardsmen "practically ran to the office" to report him, he said.
He said Dumas called him into the office and demanded an explanation. He said he explained that a family friend had assured him they would welcome the blessing, but Dumas - citing Cubbage's "disregard for stated policy" - fired him that day.
"I was in shock. I'm still in shock," he said.
"I was proud to serve the veterans who have served us," said Cubbage, who in 2001 reenlisted in the New Jersey National Guard just so that he could be the first enlisted man to salute his son, Adam, when he became an Army officer.
Adam Cubbage is now a captain in the 108th Air Squadron - his father's

unit in the Vietnam War.
"I just don't get it," Patrick Cubbage said of his firing. "When you give people that flag, you see them look into it and remember a whole time in their loved one's life. So why in God's name did they fire me? Because in God's name, they did fire me."

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Lauren J. Vestewig/OPD/EOP@EOP [OPD] <Lauren J. Vestewig>
Sent: 1/22/2003 1:25:16 PM
Subject: : Re: Meeting re. Terrorism Risk Insurance

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:22-JAN-2003 18:25:16.00
SUBJECT:: Re: Meeting re. Terrorism Risk Insurance
TO:Lauren J. Vestewig (CN=Lauren J. Vestewig/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
End Original ARMS Header

Is there more we can know about the topic beforehand.

.

----- Original Message -----
From:Lauren J. Vestewig/OPD/EOP@Exchange
To:Diana L. Schacht/OPD/EOP@EOP,
Kristen Silverberg/WHO/EOP@Exchange,
Brett M. Kavanaugh/WHO/EOP@EOP,
John B. Bellinger/NSC/EOP@EOP
Cc:Emily Winland/OPD/EOP@EOP,
Joan Hunerwadel/NSC/EOP@EOP
Date: 01/22/2003 06:18:16 PM
Subject: Meeting re. Terrorism Risk Insurance

Please hold 10-11 on Friday for a meeting re. Terrorism Risk Insurance.;
David Aufhauser, Shannen Coffin, and whomever they bring;will also
attend.; I'll confirm tomorrow.; Thanks.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@Exchange [WHO] <David G. Leitch>
Sent: 1/22/2003 11:58:52 AM
Subject: : Re: WSJ Michigan piece

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:22-JAN-2003 16:58:52.00
SUBJECT:: Re: WSJ Michigan piece
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

agreed. I think the Post is better and they would run it, I am fairly
confident.




From: David G. Leitch/WHO/EOP@Exchange on 01/22/2003 04:55:58 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: WSJ Michigan piece

While I think it's interesting, on reflection, I don't think it's a good
vehicle off of which to bounce a Judge column.;
```

From: Kavanaugh, Brett M.
To: <Leitch, David G.>
Sent: 1/22/2003 4:55:11 PM
Subject: Re: WSJ Michigan piece

agreed. I think the Post is better and they would run it, I am fairly confident.

From: David G. Leitch/WHO/EOP@Exchange on 01/22/2003 04:55:58 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: WSJ Michigan piece

While I think it's interesting, on reflection, I don't think it's a good vehicle off of which to bounce a Judge column.

From: CN=Noel J. Francisco/OU=WHO/O=EOP [WHO]
To: David Kuo/WHO/EOP@EOP [WHO] <David Kuo>;steffen.johnson@usdoj.gov @ inet [UNKNOWN] <steffen.johnson@usdoj.gov @ inet>;Rebecca A. Beynon/WHO/EOP@EOP [WHO] <Rebecca A. Beynon>;Eric.Treene@usdoj.gov @ inet [UNKNOWN] <Eric.Treene@usdoj.gov @ inet>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;David G. Leitch/WHO/EOP@Exchange@EOP [WHO] <David G. Leitch>
Sent: 1/22/2003 1:22:25 PM
Subject: : Re: Interesting Article

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:22-JAN-2003 18:22:25.00
SUBJECT:: Re: Interesting Article
TO:David Kuo ( CN=David Kuo/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:steffen.johnson@usdoj.gov @ inet ( steffen.johnson@usdoj.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:Rebecca A. Beynon ( CN=Rebecca A. Beynon/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Eric.Treene@usdoj.gov @ inet ( Eric.Treene@usdoj.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

In case my last e-mail didn't come through, here it is again:

Honor guardsman is fired for blessings
Patrick Cubbage says he followed his training. A supervisor calls it a
breach.
By David O'Reilly
Inquirer Staff Writer
As a military honor guardsman, Patrick Cubbage had a simple message to the
families of deceased veterans at graveside services.
"God bless you and this family, and God bless the United States of
America," he would say as he presented a folded flag to them.
Because of that, Cubbage was fired in October from his job at the Brig.
Gen. William C. Doyle Veterans Memorial Cemetery in Burlington County,
near McGuire Air Force Base.
He breached cemetery protocol, his supervisor said, by deviating from the
script.
"No family member ever objected," Cubbage, 54, a Vietnam combat veteran,
retired Philadelphia police officer, and former city bail commissioner,
said in a recent interview at his Northeast Philadelphia home.
"They were always very grateful - and sometimes very moved. People would
even grip my hand and say things like 'Thank you so much.' "
Cubbage said he found the blessing in training literature he got when he
began working as a part-time guardsman at Doyle, making $16 an hour, in
October 2001.
But Lt. Col. Roberta Niedt, spokeswoman for the New Jersey Department of
Military and Veterans Affairs, said Doyle - the state's largest veterans
cemetery - has a "standard phrase [for the flag presentation] for each
service."
Cubbage was dismissed not for the blessing, Niedt said, but for departing
from the standard presentation protocol.
Cubbage insisted, however, that he was operating within the rules for
honor guards. Opening a slender pamphlet that he said the cemetery gave
him when he started, he turned to a page topped by the words Flag
Presentation Protocol.
After Taps, it explains, the honor guard folds an American flag into a
triangle, and a guardsman then steps before the appropriate family member.
```

Depending on the branch of service, the presenter next is to say such words as: "This flag is presented on behalf of a grateful nation and the United States Army as a token of appreciation for your loved one's honorable and faithful service," and then to hand the flag to the deceased's kin.

"If the next of kin has expressed a religious preference or belief," the instructions continue, "add: 'God bless you and this family, and God bless the United States of America.' "

"It doesn't say, 'You may add ...,' " Cubbage, an evangelical Christian who attends Calvary Chapel in Northeast Philadelphia, said as he tapped sternly at the pamphlet. "And I said it only if the family had a chapel service or had clergy at the grave."

Although a part-time employee at Doyle, he said, he typically worked from 25 to 35 hours a week, and he estimated that he participated in about 2,000 burial ceremonies last year. "I probably said the blessing 500 times."

But two of his fellow honor guardsmen complained in October, he said, and on Oct. 16 Iven Dumas, the cemetery's honor guard coordinator, ordered him to stop the blessings.

He said he protested, noting, "It's right in the manual." Dumas replied that the blessing could offend Jews and Muslims, he said, and should be used only when next of kin notify the cemetery office that they want a blessing.

"Jews and Muslims believe in God," Cubbage said he replied.

Dumas, he said, responded by handing him a copy of state regulations prohibiting "harassment or hostile environments" in the workplace.

Dumas declined to be interviewed and referred inquiries to Niedt's office.

On Oct. 24, Joan L. Edwards, affirmative-action officer for the state Department of Military and Veterans Affairs, wrote to Dumas to clarify policy. Cubbage received a photocopy of the letter.

Government employees "must not engage in activities or expression that a reasonable observer would interpret as government endorsement ... of religion," she wrote.

Unless the next of kin expresses a religious preference "one way or another," she continued, "then, the protocol would be to omit the saying, 'God bless ...,' portion of the presentation. This is not optional."

Cubbage said he reluctantly stopped saying the blessing - until Oct. 31. That day, he said, "this funeral procession pulls in for a burial, and I see the 'fish' sign [a traditional symbol in Christianity] on the back of one of the cars."

"So, I start a conversation with the driver, who turns out to belong to Calvary Chapel. I asked him if the family would mind if I said the blessing. He said, 'Oh, they're very religious. I'm sure they'd welcome it.' "

The widow, who was in a wheelchair, bowed her head at the blessing, Cubbage recalled.

But one of the other guardsmen "practically ran to the office" to report him, he said.

He said Dumas called him into the office and demanded an explanation. He said he explained that a family friend had assured him they would welcome the blessing, but Dumas - citing Cubbage's "disregard for stated policy" - fired him that day.

"I was in shock. I'm still in shock," he said.

"I was proud to serve the veterans who have served us," said Cubbage, who in 2001 reenlisted in the New Jersey National Guard just so that he could be the first enlisted man to salute his son, Adam, when he became an Army officer.

Adam Cubbage is now a captain in the 108th Air Squadron - his father's unit in the Vietnam War.

"I just don't get it," Patrick Cubbage said of his firing. "When you give people that flag, you see them look into it and remember a whole time in their loved one's life. So why in God's name did they fire me? Because in God's name, they did fire me."

From: Rebecca A. Beynon on 01/22/2003 06:16:02 PM
Record Type: Record

To: Noel J. Francisco/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Interesting Article

This didn't come across on my screen very well - can you resend or send an attachment? Thanks!

Noel J. Francisco
01/22/2003 05:45:26 PM
Record Type: Record

To: Eric.Treene@usdoj.gov @ inet, steffen.johnson@usdoj.gov @ inet, Rebecca A. Beynon/WHO/EOP@EOP, David Kuo/WHO/EOP@EOP
cc: David G. Leitch/WHO/EOP@Exchange@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
Subject: Interesting Article

Thought you all would be interested in this article.

Posted on Wed, Jan. 22, 2003

Honor guardsman is fired for blessings
Patrick Cubbage says he followed his training. A supervisor calls it a breach.
By David O'Reilly
Inquirer Staff Writer
As a military honor guardsman, Patrick Cubbage had a simple message to the families of deceased veterans at graveside services.
"God bless you and this family, and God bless the United States of America," he would say as he presented a folded flag to them.
Because of that, Cubbage was fired in October from his job at the Brig. Gen. William C. Doyle Veterans Memorial Cemetery in Burlington County, near McGuire Air Force Base.
He breached cemetery protocol, his supervisor said, by deviating from the script.
"No family member ever objected," Cubbage, 54, a Vietnam combat veteran, retired Philadelphia police officer, and former city bail commissioner, said in a recent interview at his Northeast Philadelphia home.
"They were always very grateful - and sometimes very moved. People would even grip my hand and say things like 'Thank you so much.' "
Cubbage said he found the blessing in training literature he got when he began working as a part-time guardsman at Doyle, making $16 an hour, in October 2001.
But Lt. Col. Roberta Niedt, spokeswoman for the New Jersey Department of Military and Veterans Affairs, said Doyle - the state's largest veterans cemetery - has a "standard phrase [for the flag presentation] for each service."
Cubbage was dismissed not for the blessing, Niedt said, but for departing from the standard presentation protocol.
Cubbage insisted, however, that he was operating within the rules for honor guards. Opening a slender pamphlet that he said the cemetery gave him when he started, he turned to a page topped by the words Flag

Presentation Protocol.
After Taps, it explains, the honor guard folds an American flag into a triangle, and a guardsman then steps before the appropriate family member. Depending on the branch of service, the presenter next is to say such words as: "This flag is presented on behalf of a grateful nation and the United States Army as a token of appreciation for your loved one's honorable and faithful service," and then to hand the flag to the deceased's kin.
"If the next of kin has expressed a religious preference or belief," the instructions continue, "add: 'God bless you and this family, and God bless the United States of America.' "
"It doesn't say, 'You may add ...,' " Cubbage, an evangelical Christian who attends Calvary Chapel in Northeast Philadelphia, said as he tapped sternly at the pamphlet. "And I said it only if the family had a chapel service or had clergy at the grave."
Although a part-time employee at Doyle, he said, he typically worked from 25 to 35 hours a week, and he estimated that he participated in about 2,000 burial ceremonies last year. "I probably said the blessing 500 times."
But two of his fellow honor guardsmen complained in October, he said, and on Oct. 16 Iven Dumas, the cemetery's honor guard coordinator, ordered him to stop the blessings.
He said he protested, noting, "It's right in the manual." Dumas replied that the blessing could offend Jews and Muslims, he said, and should be used only when next of kin notify the cemetery office that they want a blessing.
"Jews and Muslims believe in God," Cubbage said he replied.
Dumas, he said, responded by handing him a copy of state regulations prohibiting "harassment or hostile environments" in the workplace.
Dumas declined to be interviewed and referred inquiries to Niedt's office.
On Oct. 24, Joan L. Edwards, affirmative-action officer for the state Department of Military and Veterans Affairs, wrote to Dumas to clarify policy. Cubbage received a photocopy of the letter.
Government employees "must not engage in activities or expression that a reasonable observer would interpret as government endorsement ... of religion," she wrote.
Unless the next of kin expresses a religious preference "one way or another," she continued, "then, the protocol would be to omit the saying, 'God bless ...,' portion of the presentation. This is not optional."
Cubbage said he reluctantly stopped saying the blessing - until Oct. 31. That day, he said, "this funeral procession pulls in for a burial, and I see the 'fish' sign [a traditional symbol in Christianity] on the back of one of the cars."
"So, I start a conversation with the driver, who turns out to belong to Calvary Chapel. I asked him if the family would mind if I said the blessing. He said, 'Oh, they're very religious. I'm sure they'd welcome it.' "
The widow, who was in a wheelchair, bowed her head at the blessing, Cubbage recalled.
But one of the other guardsmen "practically ran to the office" to report him, he said.
He said Dumas called him into the office and demanded an explanation. He said he explained that a family friend had assured him they would welcome the blessing, but Dumas - citing Cubbage's "disregard for stated policy" - fired him that day.
"I was in shock. I'm still in shock," he said.
"I was proud to serve the veterans who have served us," said Cubbage, who in 2001 reenlisted in the New Jersey National Guard just so that he could be the first enlisted man to salute his son, Adam, when he became an Army officer.
Adam Cubbage is now a captain in the 108th Air Squadron - his father's unit in the Vietnam War.
"I just don't get it," Patrick Cubbage said of his firing. "When you give people that flag, you see them look into it and remember a whole time in their loved one's life. So why in God's name did they fire me? Because in God's name, they did fire me."

From: CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/23/2003 2:40:32 AM
Subject: : POTUS Book

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:23-JAN-2003 07:40:32.00
SUBJECT:: POTUS Book
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

The Judge had several changes/comments. Will you call me when you are up
and running?
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Colleen Litkenhaus/WHO/EOP@Exchange [WHO] <Colleen Litkenhaus>
Sent: 1/23/2003 8:34:54 AM
Subject: : RE:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:23-JAN-2003 13:34:54.00
SUBJECT:: RE:
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

Can I assume 1/2 hour? I just learned I have to go to meeting in Jay's office at 9:30.

From: Colleen Litkenhaus/WHO/EOP@Exchange on 01/23/2003 01:13:46 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE:

Thank you

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Thursday, January 23, 2003 12:58 PM
To: Litkenhaus, Colleen
Subject: RE:

yes, I will be there. thanks.

From: Colleen Litkenhaus/WHO/EOP@Exchange on 01/23/2003 01:00:00 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE:

Brett - are you able to participate in this meeting on Friday at 9AM in the Ward Room? I apologize if you told me and I missed it.

-----Original Message-----
From: Litkenhaus, Colleen
Sent: Wednesday, January 22, 2003 1:57 PM
To: Kavanaugh, Brett M.
Subject: FW:

Can you participate in a meeting on Friday at 9am in the Ward Room with Hagin, Col MacDonald (WHCA), Linda Gambatesa, Harriet Miers, and Blake re: WHTV?

-----Original Message-----
From: Gottesman, Blake
Sent: Wednesday, January 22, 2003 1:14 PM
To: Gambatesa, Linda M.; Litkenhaus, Colleen
Subject: Re:

Perfect for me, too - thanks

.

----- Original Message -----
From:Linda M. Gambatesa/WHO/EOP
To:Colleen Litkenhaus/WHO/EOP@Exchange
Cc:blake gottesman/who/eop@eop
Date: 01/22/2003 12:27:10 PM
Subject: RE:

Good for me and POTUS is in meeting for 1 hour beginning at 8:55 so hopefully good for BLG!

From: Colleen Litkenhaus/WHO/EOP@Exchange on 01/22/2003 12:07:24 PM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc: Linda M. Gambatesa/WHO/EOP@EOP
Subject: RE:

Want to shoot for 9:00 AM on Friday in the Ward Room? If yes, I will extend the invite to the following:

Harriet
Brett
Col Mac
Capt Miller
Sean Newman

-----Original Message-----
From: Gottesman, Blake
Sent: Tuesday, January 21, 2003 2:25 PM
To: Litkenhaus, Colleen
Cc: Gambatesa, Linda M.
Subject:

see below (sorry there's so much info) - is there a way joe could meet about this topic sometime this week? (preferably when the president has a longer mtg like nsc mtgs in the sit rm)

Linda M. Gambatesa
01/14/2003 10:23:49 AM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP

cc: harriet miers/who/eop@eop
bcc: Records Management@EOP
Subject: Re: << OLE Object: StdOleLink >>

All of the below most likely unless we just include Capt. Miller
for now ...(not Capt. McDonald too).

Blake Gottesman
01/14/2003 10:09:45 AM
Record Type: Record

To: Linda M. Gambatesa/WHO/EOP@EOP
cc: Harriet Miers/WHO/EOP@EOP
Subject: Re:

when should we convene at least a preliminary group to discuss?

who needs to be there?

blake
linda
harriet
brett
col mcdonald (?) / capt miller (?)
sean newman (whtv) - for at least part of the mtg, so that he can shed
light on their practices and their process?

---------- Forwarded by Blake Gottesman/WHO/EOP on
01/14/2003 10:06 AM ----------

Blake Gottesman
12/12/2002 08:52:41 AM
Record Type: Record

To: Linda M. Gambatesa/WHO/EOP@EOP
cc: Harriet Miers/WHO/EOP@EOP
bcc: Records Management@EOP
Subject: Re: << OLE Object: StdOleLink >>

1) let me re-phrase: i have been told by whca personnel at the
events that they are recorded for the national archives; i am not certain
whether when and how they are given to the archives (for all i know, they
don't turn them over until the end of the administration?) - but they are
recorded for that purpose.

2) i don't know what rights they have over the tape (this is the
issue for which i think it's important to have counsel's ofc there)

3) i feel confident that no one reviews the tape for any comments
that could be misintepreted.

Linda M. Gambatesa
12/12/2002 08:49:05 AM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc:

bcc:
Subject: Re: << OLE Object: StdOleLink >>

They have already been provided to Archives..... I wonder if this should cause any concern and why they would take possession so soon .... what rights do they have once they are in their possession .... and again, does anyone listen to them first to make sure nothing inappropriate is recorded when perhaps people thought they were not being recorded!

Blake Gottesman
12/12/2002 08:46:11 AM
Record Type: Record

To: Linda M. Gambatesa/WHO/EOP@EOP
cc: Harriet Miers/WHO/EOP@EOP
bcc:
Subject: Re: << OLE Object: StdOleLink >>

yes, i think such a meeting would be helpful. and, i do think it's an important issue for counsel - specifically, the issue of who has control / power over the tapes, especially after he leaves office. are they subject to FOIA and/or a subpoena. (< i presume the answer to both of these questions is "yes"

another little known fact: if whca a/v provides sound for any event (e.g., even if they just wire a microphone in rm 450), they record his remarks on tape to go to the national archives. technically, the event is "closed press" - and even if i decide that whtv coverage is not necessary - the event is being recorded for history - only difference being that is audio only and not video. (< a perfect example is a private fundraiser at a residence. i do not ask whtv to cover any strictly political receptions, unless it is open or pool press. however, the president's remarks at dwight and martha scharr's residence in mclean, or the event at the kennedy's residence in florida - were recorded and provided to the national archives.).

Linda M. Gambatesa
12/12/2002 07:22:52 AM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc:
bcc:
Subject: Re: << OLE Object: StdOleLink >>

Therefore, we need to take steps asap to put a system in place to ensure this does not happen. Not really a Counsel's office issue, but do you think they, along with Hagin, and other relevant parties should discuss this and what the process should be?

Blake Gottesman
12/12/2002 06:59:19 AM
Record Type: Record

To: Linda M. Gambatesa/WHO/EOP@EOP
cc:

bcc:
Subject: Re: << OLE Object: StdOleLink >>

i'm sure harriet will agree

Linda M. Gambatesa
12/11/2002 04:41:30 PM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc: harriet miers/who/eop@eop
bcc:
Subject: Re: << OLE Object: StdOleLink >>

Nothing should be released without first being reviewed in its
entirety!

Blake Gottesman
12/11/2002 04:35:16 PM
Record Type: Record

To: Harriet Miers/WHO/EOP@EOP
cc: Linda M. Gambatesa/WHO/EOP@EOP
bcc:
Subject: Re: << OLE Object: StdOleLink >>

the practice for the last 2 years (and to my knowledge, before
that) is that the aide and whtv coordinate which events will be covered.
in my case, i have a daily phone call with whtv in the morning to discuss
the day's coverage. they are always included for OPEN and POOL events.
for closed events, it is a case-by-case basis. and, how much of those
closed events (e.g., the whole thing vs. "top of only") is also determined
by me (based on the day, nature of the event, input from the event
organizer, how many similar events they already have footage of, the
president's mood, etc.).

there are a few special events like the KC honors, ford's theatre,
christmas in washington, nbc's "day in the life", sit-down interviews,
etc., which are taped for tv ... these events are not technically "open
press" - b/c only one network has their cameras there - but they will be
aired by the media. these are the types of events at which it would be
inappropriate to have whtv. these are the events for which i want to make
sure whtv is somehow obtaining the footage.

(there is a similar, but slightly different, issue on foreign
trips. e.g., whtv was not let into the president's mtg with the pope b/c
of space limitations. i think it would be a tragedy for the library not
to have footage of that meeting. in those cases, i propose that we
request a copy of the foreign government's host tv footage.)

one last note: the issue of control over whtv footage is one that
i expressed some concern about to brett kavanaugh several months ago (we
tried to get together to talk about it - but it was a really busy time. i
will re-raise the issue and try to set up a mtg). currently, reed dickens
is the one who authorizes tapes to be released (to media publications /
foreign gov'ts (e.g., during an official visit) / private citizens). my
main concern is that reed authorizes the videos without first reviewing
them to determine the exact contents (and whether anything on them could
accidentally be misinterpreted). it seems like a dangerous process with

very little control, and one which offers little, if any, protection of the president.

blake

Harriet Miers
12/11/2002 03:47:24 PM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc:
Subject: Re: << OLE Object: StdOleLink >>

Blake, this is important as well for other reasons. Is it historically the case that in a small space only one camera is used? In other words, in other Administrations?

Also, I thought that Scott did have the rough footage. Maybe he has it and not WHTV.

From: Montiel, Charlotte L.
To: <Kavanaugh, Brett M.>
Sent: 1/23/2003 9:34:29 AM
Subject: Please disregard last email--- oops!

From: CN=Collister W. Johnson/OU=WHO/O=EOP [WHO]
To: Smith, Kristen <Kristen.Smith@NFIB.ORG>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/23/2003 9:37:37 AM
Subject: : Re: FW: Bush visit to Missouri - post on NFIB wedbiste?
Attachments: P_F4W8D003_WHO.TXT_1.htm; P_F4W8D003_WHO.TXT_2.jpg; P_F4W8D003_WHO.TXT_3.jpg; P_F4W8D003_WHO.TXT_4.jpg; P_F4W8D003_WHO.TXT_5.jpg; P_F4W8D003_WHO.TXT_6.jpg; P_F4W8D003_WHO.TXT_7.jpeg; P_F4W8D003_WHO.TXT_8.jpg

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:23-JAN-2003 14:37:37.00
SUBJECT:: Re: FW: Bush visit to Missouri - post on NFIB wedbiste?
TO:"Smith, Kristen" <Kristen.Smith@NFIB.ORG> ("Smith, Kristen" <Kristen.Smith@NFIB.ORG> [UNKNOWN])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett -
NFIB helped host the POTUS visit to St. Louis, MO to talk re. small business. They'd like to post some of their own pictures from the event on website... anay legal concerns?

c

"Smith, Kristen" <Kristen.Smith@NFIB.ORG>
01/23/2003 02:08:30 PM
Record Type: Record

To: Collister W. Johnson/WHO/EOP@EOP
cc:
Subject: FW: Bush visit to Missouri

Hi Coddy-
These are the pics Brad Jones took for our website- as you requested, wanted
to run them through you before posting (especially the ones of the President, we would like to make sure are approved by you all). Thanks!
-Kristen

-----Original Message-----
From: Peerson, Kathy
Sent: Thursday, January 23, 2003 1:38 PM
To: Boyagian, Mindi; Bollman, Valerie
Cc: Smith, Kristen; Voepel, David
Subject: Bush visit to Missouri

Valerie Bollman suggested I send some photos on for follow up press release

and to use on the website. I will try to caption for you.
Joe, Kathy, Kathie - These are the members who were on the Roundtable discussion with the President and Hector Barreto. Joe Balsarotti, Chairman Leadership Council. Owns Software to Go, Clayton Mo., Kathy Swan, owner JCS
Tel-Link, Cape Girardeau, MO., Kathie Rothschild-Zuroweste owner Colony House Restaurant, New Haven, MO.
Bush on Stage - In addition to the Pres. are the owners of the business. In the blue jacket is John Cochran, President and Greg Hantak VP of JS Logistics. Greg is a former LC member and Leadership Trust donor.
The rest explain themselves.

Please call if you need any more info

Kathy Peerson
NFIB
308 E. High Street, Suite 110
Jefferson City, MO 65101
573 634-7660

- att1.htm
- att2.jpg
- att3.jpg
- att4.jpg
- att5.jpg
- att6.jpg
- att7.jpg
- att8.jpg

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_F4W8D003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_F4W8D003_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_F4W8D003_WHO.TXT_3>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_F4W8D003_WHO.TXT_4>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_F4W8D003_WHO.TXT_5>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_F4W8D003_WHO.TXT_6>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_F4W8D003_WHO.TXT_7>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_F4W8D003_WHO.TXT_8>

Hi Coddy-
These are the pics Brad Jones took for our website- as you requested, wanted to run them through you before posting (especially the ones of the President, we would like to make sure are approved by you all). Thanks!
-Kristen

-----Original Message-----
From: Peerson, Kathy
Sent: Thursday, January 23, 2003 1:38 PM
To: Boyagian, Mindi; Bollman, Valerie
Cc: Smith, Kristen; Voepel, David
Subject: Bush visit to Missouri

Valerie Bollman suggested I send some photos on for follow up press release and to use on the website. I will try to caption for you.
Joe, Kathy, Kathie - These are the members who were on the Roundtable discussion wit h the President and Hector Barreto. Joe Balsarotti, Chairman Leadership Council. Owns Software to Go, Clayton Mo., Kathy Swan, owner JCS Tel-Link , Cape Girardeau, MO., Kathie Rothschild-Zuroweste owner Colony House Restaurant, New Haven, MO.
Bush on Stage - In addition to the Pres. are the owners of the business. In the blue jacket is John Cochran, President and Greg Hantak VP of JS Logistics. Greg is a former LC member and Leadership Trust donor.
The rest explain themselves.

Please call if you nee d any more info

Kathy Peerson
NFIB
308 E. High Street, Suite 110
Jefferson City, MO 65101
573 634-7660

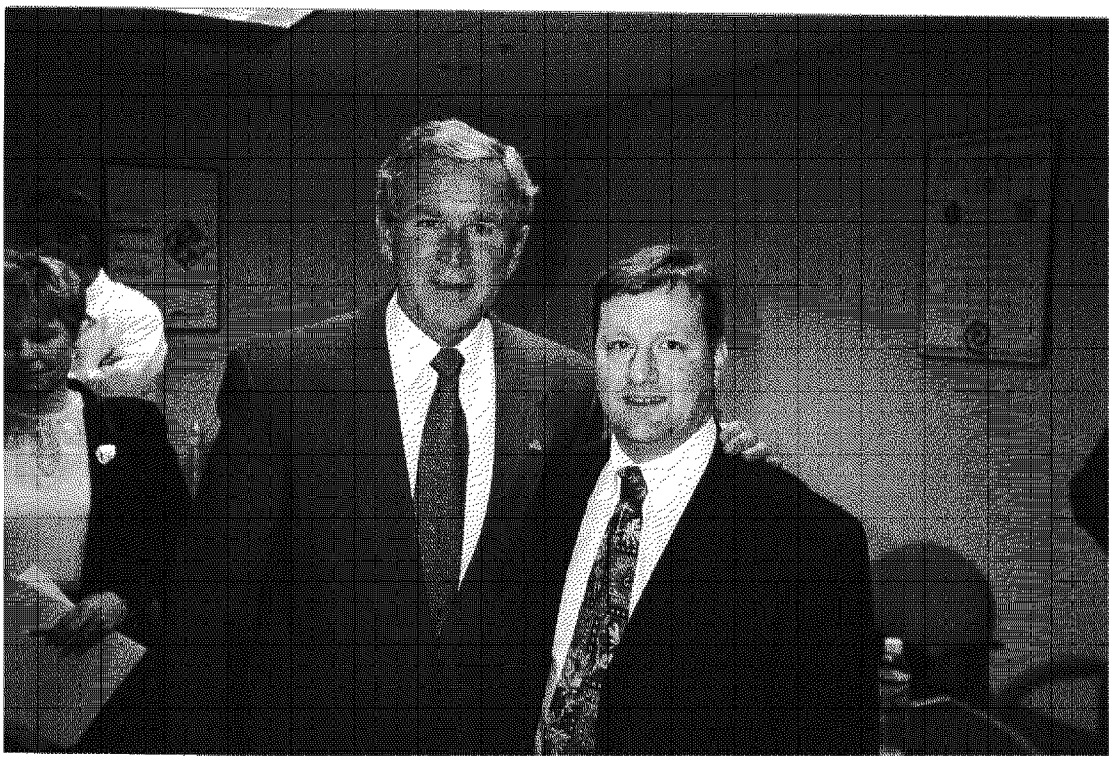


REV_00156540





REV_00156542





REV_00156544



REV_00156545



REV_00156546

From: CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/23/2003 8:00:17 AM
Subject: : RE:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:23-JAN-2003 13:00:17.00
SUBJECT:: RE:
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett - are you able to participate in this meeting on Friday at 9AM in the Ward Room? I apologize if you told me and I missed it.

-----Original Message-----
From: Litkenhaus, Colleen
Sent: Wednesday, January 22, 2003 1:57 PM
To: Kavanaugh, Brett M.
Subject: FW:

Can you participate in a meeting on Friday at 9am in the Ward Room with Hagin, Col MacDonald (WHCA), Linda Gambatesa, Harriet Miers, and Blake re: WHTV?

-----Original Message-----
From: Gottesman, Blake
Sent: Wednesday, January 22, 2003 1:14 PM
To: Gambatesa, Linda M.; Litkenhaus, Colleen
Subject: Re:

Perfect for me, too - thanks

.

----- Original Message -----
From:Linda M. Gambatesa/WHO/EOP
To:Colleen Litkenhaus/WHO/EOP@Exchange
Cc:blake gottesman/who/eop@eop
Date: 01/22/2003 12:27:10 PM
Subject: RE:

Good for me and POTUS is in meeting for 1 hour beginning at 8:55 so hopefully good for BLG!

From: Colleen Litkenhaus/WHO/EOP@Exchange on 01/22/2003 12:07:24 PM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc: Linda M. Gambatesa/WHO/EOP@EOP
Subject: RE:

Want to shoot for 9:00 AM on Friday in the Ward Room? If yes, I will extend the invite to the following:

Harriet
Brett

Col Mac
Capt Miller
Sean Newman

-----Original Message-----
From: Gottesman, Blake
Sent: Tuesday, January 21, 2003 2:25 PM
To: Litkenhaus, Colleen
Cc: Gambatesa, Linda M.
Subject:

see below (sorry there's so much info) - is there a way joe could meet about this topic sometime this week? (preferably when the president has a longer mtg like nsc mtgs in the sit rm)

Linda M. Gambatesa
01/14/2003 10:23:49 AM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc: harriet miers/who/eop@eop
bcc: Records Management@EOP
Subject: Re: << OLE Object: StdOleLink >>

All of the below most likely unless we just include Capt. Miller for now ...(not Capt. McDonald too).

Blake Gottesman
01/14/2003 10:09:45 AM
Record Type: Record

To: Linda M. Gambatesa/WHO/EOP@EOP
cc: Harriet Miers/WHO/EOP@EOP
Subject: Re:

when should we convene at least a preliminary group to discuss?

who needs to be there?

blake
linda
harriet
brett
col mcdonald (?) / capt miller (?)
sean newman (whtv) - for at least part of the mtg, so that he can shed light on their practices and their process?

---------- Forwarded by Blake Gottesman/WHO/EOP on 01/14/2003 10:06 AM ----------

Blake Gottesman
12/12/2002 08:52:41 AM
Record Type: Record

To: Linda M. Gambatesa/WHO/EOP@EOP
cc: Harriet Miers/WHO/EOP@EOP
bcc: Records Management@EOP
Subject: Re: << OLE Object: StdOleLink >>

1) let me re-phrase: i have been told by whca personnel at the events that they are recorded for the national archives; i am not certain whether when and how they are given to the archives (for all i know, they

don't turn them over until the end of the administration?) - but they are recorded for that purpose.

2) i don't know what rights they have over the tape (this is the issue for which i think it's important to have counsel's ofc there)

3) i feel confident that no one reviews the tape for any comments that could be misintepreted.

Linda M. Gambatesa
12/12/2002 08:49:05 AM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc:
bcc:
Subject: Re: << OLE Object: StdOleLink >>

They have already been provided to Archives..... I wonder if this should cause any concern and why they would take possession so soon .... what rights do they have once they are in their possession .... and again, does anyone listen to them first to make sure nothing inappropriate is recorded when perhaps people thought they were not being recorded!

Blake Gottesman
12/12/2002 08:46:11 AM
Record Type: Record

To: Linda M. Gambatesa/WHO/EOP@EOP
cc: Harriet Miers/WHO/EOP@EOP
bcc:
Subject: Re: << OLE Object: StdOleLink >>

yes, i think such a meeting would be helpful. and, i do think it's an important issue for counsel - specifically, the issue of who has control / power over the tapes, especially after he leaves office. are they subject to FOIA and/or a subpoena. (< i presume the answer to both of these questions is "yes"

another little known fact: if whca a/v provides sound for any event (e.g., even if they just wire a microphone in rm 450), they record his remarks on tape to go to the national archives. technically, the event is "closed press" - and even if i decide that whtv coverage is not necessary - the event is being recorded for history - only difference being that is audio only and not video. (< a perfect example is a private fundraiser at a residence. i do not ask whtv to cover any strictly political receptions, unless it is open or pool press. however, the president's remarks at dwight and martha scharr's residence in mclean, or the event at the kennedy's residence in florida - were recorded and provided to the national archives.).

Linda M. Gambatesa
12/12/2002 07:22:52 AM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc:
bcc:
Subject: Re: << OLE Object: StdOleLink >>

Therefore, we need to take steps asap to put a system in place to ensure this does not happen. Not really a Counsel's office issue, but do you think they, along with Hagin, and other relevant parties should discuss this and what the process should be?

Blake Gottesman
12/12/2002 06:59:19 AM
Record Type: Record

To: Linda M. Gambatesa/WHO/EOP@EOP
cc:
bcc:
Subject: Re: << OLE Object: StdOleLink >>

i'm sure harriet will agree

Linda M. Gambatesa
12/11/2002 04:41:30 PM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc: harriet miers/who/eop@eop
bcc:
Subject: Re: << OLE Object: StdOleLink >>

Nothing should be released without first being reviewed in its entirety!

Blake Gottesman
12/11/2002 04:35:16 PM
Record Type: Record

To: Harriet Miers/WHO/EOP@EOP
cc: Linda M. Gambatesa/WHO/EOP@EOP
bcc:
Subject: Re: << OLE Object: StdOleLink >>

the practice for the last 2 years (and to my knowledge, before that) is that the aide and whtv coordinate which events will be covered. in my case, i have a daily phone call with whtv in the morning to discuss the day's coverage. they are always included for OPEN and POOL events. for closed events, it is a case-by-case basis. and, how much of those closed events (e.g., the whole thing vs. "top of only") is also determined by me (based on the day, nature of the event, input from the event organizer, how many similar events they already have footage of, the president's mood, etc.).

there are a few special events like the KC honors, ford's theatre, christmas in washington, nbc's "day in the life", sit-down interviews, etc., which are taped for tv ... these events are not technically "open press" - b/c only one network has their cameras there - but they will be aired by the media. these are the types of events at which it would be inappropriate to have whtv. these are the events for which i want to make sure whtv is somehow obtaining the footage.

(there is a similar, but slightly different, issue on foreign trips. e.g., whtv was not let into the president's mtg with the pope b/c of space limitations. i think it would be a tragedy for the library not to have footage of that meeting. in those cases, i propose that we request a copy of the foreign government's host tv footage.)

one last note: the issue of control over whtv footage is one that

i expressed some concern about to brett kavanaugh several months ago (we tried to get together to talk about it - but it was a really busy time. i will re-raise the issue and try to set up a mtg). currently, reed dickens is the one who authorizes tapes to be released (to media publications / foreign gov'ts (e.g., during an official visit) / private citizens). my main concern is that reed authorizes the videos without first reviewing them to determine the exact contents (and whether anything on them could accidentally be misinterpreted). it seems like a dangerous process with very little control, and one which offers little, if any, protection of the president.

blake

Harriet Miers
12/11/2002 03:47:24 PM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc:
Subject: Re: << OLE Object: StdOleLink >>

Blake, this is important as well for other reasons. Is it historically the case that in a small space only one camera is used? In other words, in other Administrations?

Also, I thought that Scott did have the rough footage. Maybe he has it and not WHTV.

From: CN=Elizabeth H. Donnan/OU=WHO/O=EOP@Exchange [WHO]
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 1/23/2003 8:09:28 AM
Subject: : FW: WHAT DOES DISARMAMENT LOOK LIKE?
Attachments: P_4IQ8D003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Elizabeth H. Donnan ( CN=Elizabeth H. Donnan/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:23-JAN-2003 13:09:28.00
SUBJECT:: FW: WHAT DOES DISARMAMENT LOOK LIKE?
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

;
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_4IQ8D003_WHO.TXT_1>
```

What Does Disarmament Look Like?

THE WHITE HOUSE

JANUARY 2003

REV_00156559

WHAT DOES DISARMAMENT LOOK LIKE?

INTRODUCTION

On September 12, 2002, President Bush called on the United Nations to live up to its founding purpose and enforce the determination of the international community – expressed in 16 UN Security Council resolutions – that the outlaw Iraqi regime be disarmed of its weapons of mass destruction.

On November 8, the Security Council unanimously passed UNSCR 1441, which gave the Iraqi regime "a final opportunity to comply with its disarmament obligations" (OP 2). Recognizing that genuine disarmament can only be accomplished through the willing cooperation of the Iraqi regime, the resolution called for the reintroduction of weapons inspectors into Iraq, to test whether or not the regime had made a strategic decision to give up its mass destruction weapons.

The world knows what successful cooperative disarmament looks like. When a country decides to disarm, and to provide to the world verifiable evidence that it has disarmed, there are three common elements to its behavior:

- The decision to disarm is made at the highest political level;
- The regime puts in place national initiatives to dismantle weapons and infrastructure; and
- The regime fully cooperates with international efforts to implement and verify disarmament; its behavior is transparent, not secretive.

EXAMPLES OF COOPERATIVE DISARMAMENT

In recent years, there have been several notable examples of countries that have chosen to give up mass destruction weapons, and willingly cooperated with the international community to verify its disarmament. These countries include:

- South Africa
- Ukraine
- Kazakhstan

REV_00156560

High level Political Commitment

President de Klerk decided in 1989 to end South Africa's nuclear weapons production and in 1990 to dismantle all weapons. South Africa joined the Nuclear Nonproliferation Treaty (NPT) in 1991 and later that year accepted full scope International Atomic Energy Agency (IAEA) safeguards.

Under the leadership of President Kravchuk and President Nazarbayev, Ukraine and Kazakhstan, respectively, ratified the Nuclear Nonproliferation and START Treaties. This created high-level political commitments to give up the nuclear weapons and strategic delivery vehicles they inherited upon the dissolution of the Soviet Union.

National Initiatives to Dismantle Weapons of Mass Destruction

South Africa, Ukraine, and Kazakhstan each charged high-level organizations with implementing disarmament. In South Africa it was the Atomic Energy Commission and ARMSCOR. In Kazakhstan it was primarily the Ministries of Defense and Atomic Energy. In Ukraine it was mainly the Ministry of Defense. Each of these organizations worked cooperatively with outside organizations - for example, the IAEA in South Africa and the United States and Russia in Ukraine and Kazakhstan - to implement disarmament.

Full Cooperation and Transparency

The true measure of cooperation is to answer questions without being asked. In each of these examples, weapons programs were disclosed fully and voluntarily.

South Africa began its disclosure with a declaration to the IAEA on its nuclear program, which was expanded over time. South Africa allowed the IAEA complete access to operating and defunct facilities, provided thousands of current and historical documents, and allowed detailed, unfettered discussions with personnel involved in the South African program.

An IAEA article from 1994 sums up the cooperative South African approach to nuclear disarmament and IAEA verification:

> "In the case of South Africa, the results of extensive inspection and assessment, and the transparency and openness shown, have led to the conclusion that there were no indications to suggest that the initial inventory is incomplete or that the nuclear weapon programme was not completely terminated and dismantled. However, in the future, and without prejudice to the IAEA's rights under the safeguards agreement, the IAEA plans to take up the standing invitation of the South African Government -- under its reiterated policy of transparency -- to provide the IAEA

REV_00156561

with full access to any location or facility associated with the former nuclear weapons program and to grant access, on a case-by-case basis, to other locations or facilities that the IAEA may specifically wish to visit."

Given the full cooperation of both governments, implementation of the disarmament decision was smooth. All nuclear warheads were returned to Russia by 1996, and all missile silos and heavy bombers were destroyed before the December 2001 START deadline. The United States had full access, beyond Treaty requirements, to confirm silo and bomber destruction, which were done with U.S. assistance.

Both countries have also gone farther in disarmament than the NPT and START Treaty require. For example, Kazakhstan no longer has strategic missiles and Ukraine is well on the way to giving up its strategic missiles. Ukraine asked for U.S. assistance to destroy its Backfire bombers and also air-launched cruise missiles.

In the early 1990s, Kazakhstan revealed to us a stockpile of more than 500 kg. of HEU, and asked that we remove it to safety in the United States. It has also shut down its plutonium-producing reactor and is using U.S. assistance to ensure the long-term safe storage of the spent fuel. Finally, Kazakhstan used U.S. assistance to destroy all nuclear test tunnels and bore holes -- a total of almost 200 -- at the former Soviet test site there.

IRAQI NON-COOPERATION

The behavior of the Iraqi regime contrasts sharply with successful disarmament examples.

Instead of high-level commitment to disarm, highly organized concealment efforts, staffed by thousands of Iraqis, are led from the very top of the Iraqi regime.

- Iraq's concealment activities are run by the Special Security Organization (SSO), under the control of Qusay Saddam Hussein, Saddam Hussein's son.

Instead of charging organizations to work with outside groups to disarm, the regime tasks key institutions with thwarting the inspectors.

- The National Monitoring Directorate -- whose stated function is to facilitate inspections -- actually serves as an "anti-inspections" organization that:
    - Provides tip-offs to inspection sites; and
    - Uses "minders" to intimidate witnesses.
        - The minders are often former engineers and scientists with direct WMD experience, and first-hand knowledge of what needs to be protected from the inspectors when they arrive at a facility.

REV_00156562

- Thousands of personnel from Iraqi security agencies provide manpower for hiding documents and materiel from inspectors, policing inspection sites, and monitoring the inspectors' activities.

    - Such organizations include the Military Industrialization Organization, the SSO, the Special Division for Baghdad Security, the Iraqi Intelligence Service (IIS), the Special Republican Guard, the Republican Guard, and the Directorate of General Security.

    - These "anti-inspectors" vastly outnumber the 200 UNMOVIC and the IAEA personnel on the ground in Iraq.

Instead of cooperation and transparency Iraq has chosen to conceal and to lie.

- Iraq's declaration is not "currently accurate, full, and complete." It is inaccurate and incomplete.

    - **Anthrax and Other Undeclared Biological Agents**
        - The UN Special Commission concluded that Iraq did not verifiably account for, at a minimum, 2160kg of growth media. This is enough to produce 26,000 liters of anthrax -- 3 times the amount Iraq declared; 1200 liters of botulinum toxin; and, 2200 liters of aflatoxin, a carcinogen.

    - **Ballistic Missiles**
        - Iraq has declared its attempt to manufacture missile fuels suited only to a type of missile which Iraq's declaration does not admit to developing.
        - Iraq claims that its designs for a larger diameter missile fall within the UN-mandated 150km limit. But Dr. Blix has cited 13 recent Iraqi missile tests which exceed the 150km limit.

    - **Nuclear Weapons**
        - The Declaration ignores efforts to procure uranium from abroad.

REV_00156563

- **VX**
  - In 1999, UN Special Commission and international experts concluded that Iraq needed to provide additional, credible information about VX production. UNSCOM concluded that Iraq had not accounted for 1.5 tons of VX, a powerful nerve agent. Former UNSCOM head Richard Butler wrote that "a missile warhead of the type Iraq has made and used can hold some 140 liters of VX . . . A single such warhead would contain enough of the chemical to kill up to 1 million people."

  - The declaration provides no information to address these concerns.

- **Chemical and Biological Weapons Munitions**
  - In January 1999, the UN Special Commission reported that Iraq failed to provide credible evidence that 550 mustard gas-filled artillery shells and 400 biological weapon-capable aerial bombs had been lost or destroyed.

  - The Iraqi regime has never adequately accounted for hundreds, possibly thousands, of tons of chemical precursors.

- **Empty Chemical Munitions**
  - There is no adequate accounting for nearly 30,000 empty munitions that could be filled with chemical agents.

    - If one of those shells were filled with the nerve agent Sarin, which Iraq is known to have produced, it would contain over 40,000 lethal doses.

- **Unmanned Aerial Vehicles (UAV) Programs**
  - Iraq denies any connection between UAV programs and chemical or biological agent dispersal. Yet, Iraq admitted in 1995 that a MIG-21 remote-piloted vehicle tested in 1991 was intended to carry a biological weapon spray system.

  - Iraq already knows how to put these biological agents into bombs and how to disperse biological agent using aircraft or unmanned aerial vehicles.

- **Mobile Biological Weapons Agent Facilities**
  - The Iraqi declaration provides no information about its mobile biological weapon agent facilities.

REV_00156564

- Iraq continues its tactics of "cheat and retreat" that defeated prior inspections efforts, and Iraq continues its efforts to hide prohibited WMD programs.

    - This fall, satellite photos revealed activity at several suspected WMD facilities, apparently in anticipation of the resumption of inspections.

    - We have multiple reports of the intensified efforts to hide documents in spaces considered unlikely to be found, such as private homes of low level officials and universities. On January 16, 2003, a joint UNMOVIC/IAEA team found a significant cache of documents related to Iraq's uranium enrichment program in the home of Iraqi scientist Faleh Hassan.

    - We have many reports of WMD material being buried, concealed in lakes, relocated to agricultural areas and private homes, or hidden beneath Mosques or hospitals. In one report such material was buried in the banks of the Tigris river during a low water period. Furthermore, according to these reports, the material is moved constantly, making it difficult to trace or to find without absolutely fresh intelligence.

- The regime routinely conducts well-organized surveillance of inspectors.

    - The SSO tracks the number, expertise, equipment, vehicles, location, and heading of inspectors.

    - Iraq has in the past used, and is likely again to use, cyber attack methods in its efforts to collect intelligence.

        - Computer systems used to store, process, or communicate UNMOVIC and IAEA inspection schedules, methods, criteria, or findings will be particularly high-value targets.

        - At a minimum, Iraq can apply tools and methods readily available from publicly accessible Internet sources, many of which are quite effective and require only moderate skill to implement.

        - According to Iraqi defector Dr. Khidhir Hamza, Iraq's Babylon Software Company was developing cyber warfare capabilities on behalf of the Iraqi Intelligence Service as early as the 1990s. People assigned to Babylon initially worked on information security technologies and techniques, but some of the programmers were segregated into a "highly compartmented unit" and tasked with breaking into foreign computers in order to download sensitive data or infect the computers with viruses. Some of the

REV_00156565

programmers reported that they had accumulated enough expertise to break into moderately protected computer systems.

- Yet the Iraqis accuse the inspectors of being spies – the gravest accusation that a totalitarian government can make.
  - In mid-January Iraqi Vice President Taha Yassin Ramadan said "We know they [the inspectors] are playing an intelligence role. The way they are conducting their inspections and the sites they are visiting have nothing to do with weapons of mass destruction. But we are cooperating with inspection teams in a positive way in order to expose the lies of those who have bad intentions."

- Iraq has not provided "immediate, unimpeded, unrestricted and private access to witnesses."
  - Instead inspectors have been expected to interview Iraqis with minders under unsecure conditions.
  - The regime has resisted allowing interviews outside the country.
- Iraq's list of WMD scientists together with their associated work places and dates ends in 1991 although UNSCOM proved that the programs did not.
- Iraq refuses to provide key documents, some of which have been demanded by inspectors for years.
- Iraq has impeded the inspectors' demand to begin aerial surveillance.

REV_00156566

CONCLUSION

Iraq's behavior contrasts sharply with successful disarmament stories.

Instead of a high-level commitment to disarm, Iraq's concealment efforts are led by Saddam's son Qusay. The inspectors are labeled spies and treated as the enemy, not as a partner in disarmament.

Instead of national initiatives to disarm, Iraq's SSO and National Monitoring Directorate are national programs involving thousands of people to target inspectors and thwart their duties.

Instead of cooperation and transparency, Iraq has chosen concealment and deceit best exemplified by a 12,000 page declaration which is far from "currently accurate, full, and complete," as required by the United Nations Security Council.

REV_00156567

From: CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/23/2003 8:13:59 AM
Subject: : RE:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:23-JAN-2003 13:13:59.00
SUBJECT:: RE:
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Thank you

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Thursday, January 23, 2003 12:58 PM
To: Litkenhaus, Colleen
Subject: RE:

yes, I will be there. thanks.

From: Colleen Litkenhaus/WHO/EOP@Exchange on 01/23/2003 01:00:00 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE:

Brett - are you able to participate in this meeting on Friday at 9AM in the Ward Room? I apologize if you told me and I missed it.

-----Original Message-----
From: Litkenhaus, Colleen
Sent: Wednesday, January 22, 2003 1:57 PM
To: Kavanaugh, Brett M.
Subject: FW:

Can you participate in a meeting on Friday at 9am in the Ward Room with Hagin, Col MacDonald (WHCA), Linda Gambatesa, Harriet Miers, and Blake re: WHTV?

-----Original Message-----
From: Gottesman, Blake
Sent: Wednesday, January 22, 2003 1:14 PM
To: Gambatesa, Linda M.; Litkenhaus, Colleen
Subject: Re:

Perfect for me, too - thanks

.

----- Original Message -----
From:Linda M. Gambatesa/WHO/EOP
To:Colleen Litkenhaus/WHO/EOP@Exchange
Cc:blake gottesman/who/eop@eop

Date: 01/22/2003 12:27:10 PM
Subject: RE:

Good for me and POTUS is in meeting for 1 hour beginning at 8:55 so hopefully good for BLG!

From: Colleen Litkenhaus/WHO/EOP@Exchange on 01/22/2003 12:07:24 PM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc: Linda M. Gambatesa/WHO/EOP@EOP
Subject: RE:

Want to shoot for 9:00 AM on Friday in the Ward Room? If yes, I will extend the invite to the following:

Harriet
Brett
Col Mac
Capt Miller
Sean Newman

-----Original Message-----
From: Gottesman, Blake
Sent: Tuesday, January 21, 2003 2:25 PM
To: Litkenhaus, Colleen
Cc: Gambatesa, Linda M.
Subject:

see below (sorry there's so much info) - is there a way joe could meet about this topic sometime this week? (preferably when the president has a longer mtg like nsc mtgs in the sit rm)

Linda M. Gambatesa
01/14/2003 10:23:49 AM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc: harriet miers/who/eop@eop
bcc: Records Management@EOP
Subject: Re: << OLE Object: StdOleLink >>

All of the below most likely unless we just include Capt. Miller for now ...(not Capt. McDonald too).

Blake Gottesman
01/14/2003 10:09:45 AM
Record Type: Record

To: Linda M. Gambatesa/WHO/EOP@EOP
cc: Harriet Miers/WHO/EOP@EOP
Subject: Re:

when should we convene at least a preliminary group to discuss?

who needs to be there?

blake
linda
harriet

brett
col mcdonald (?) / capt miller (?)
sean newman (whtv) - for at least part of the mtg, so that he can shed light on their practices and their process?

---------- Forwarded by Blake Gottesman/WHO/EOP on 01/14/2003 10:06 AM ----------

Blake Gottesman
12/12/2002 08:52:41 AM
Record Type: Record

To: Linda M. Gambatesa/WHO/EOP@EOP
cc: Harriet Miers/WHO/EOP@EOP
bcc: Records Management@EOP
Subject: Re: << OLE Object: StdOleLink >>

1) let me re-phrase: i have been told by whca personnel at the events that they are recorded for the national archives; i am not certain whether when and how they are given to the archives (for all i know, they don't turn them over until the end of the administration?) - but they are recorded for that purpose.

2) i don't know what rights they have over the tape (this is the issue for which i think it's important to have counsel's ofc there)

3) i feel confident that no one reviews the tape for any comments that could be misintepreted.

Linda M. Gambatesa
12/12/2002 08:49:05 AM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc:
bcc:
Subject: Re: << OLE Object: StdOleLink >>

They have already been provided to Archives..... I wonder if this should cause any concern and why they would take possession so soon .... what rights do they have once they are in their possession .... and again, does anyone listen to them first to make sure nothing inappropriate is recorded when perhaps people thought they were not being recorded!

Blake Gottesman
12/12/2002 08:46:11 AM
Record Type: Record

To: Linda M. Gambatesa/WHO/EOP@EOP
cc: Harriet Miers/WHO/EOP@EOP
bcc:
Subject: Re: << OLE Object: StdOleLink >>

yes, i think such a meeting would be helpful. and, i do think it's an important issue for counsel - specifically, the issue of who has control / power over the tapes, especially after he leaves office. are they subject to FOIA and/or a subpoena. (< i presume the answer to both of these questions is "yes"

another little known fact: if whca a/v provides sound for any event (e.g., even if they just wire a microphone in rm 450), they record his remarks on tape to go to the national archives. technically, the

event is "closed press" - and even if i decide that whtv coverage is not necessary - the event is being recorded for history - only difference being that is audio only and not video. (< a perfect example is a private fundraiser at a residence. i do not ask whtv to cover any strictly political receptions, unless it is open or pool press. however, the president's remarks at dwight and martha scharr's residence in mclean, or the event at the kennedy's residence in florida - were recorded and provided to the national archives.).

Linda M. Gambatesa
12/12/2002 07:22:52 AM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc:
bcc:
Subject: Re: << OLE Object: StdOleLink >>

Therefore, we need to take steps asap to put a system in place to ensure this does not happen. Not really a Counsel's office issue, but do you think they, along with Hagin, and other relevant parties should discuss this and what the process should be?

Blake Gottesman
12/12/2002 06:59:19 AM
Record Type: Record

To: Linda M. Gambatesa/WHO/EOP@EOP
cc:
bcc:
Subject: Re: << OLE Object: StdOleLink >>

i'm sure harriet will agree

Linda M. Gambatesa
12/11/2002 04:41:30 PM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc: harriet miers/who/eop@eop
bcc:
Subject: Re: << OLE Object: StdOleLink >>

Nothing should be released without first being reviewed in its entirety!

Blake Gottesman
12/11/2002 04:35:16 PM
Record Type: Record

To: Harriet Miers/WHO/EOP@EOP
cc: Linda M. Gambatesa/WHO/EOP@EOP
bcc:
Subject: Re: << OLE Object: StdOleLink >>

the practice for the last 2 years (and to my knowledge, before that) is that the aide and whtv coordinate which events will be covered. in my case, i have a daily phone call with whtv in the morning to discuss the day's coverage. they are always included for OPEN and POOL events.

for closed events, it is a case-by-case basis. and, how much of those closed events (e.g., the whole thing vs. "top of only") is also determined by me (based on the day, nature of the event, input from the event organizer, how many similar events they already have footage of, the president's mood, etc.).

there are a few special events like the KC honors, ford's theatre, christmas in washington, nbc's "day in the life", sit-down interviews, etc., which are taped for tv ... these events are not technically "open press" - b/c only one network has their cameras there - but they will be aired by the media. these are the types of events at which it would be inappropriate to have whtv. these are the events for which i want to make sure whtv is somehow obtaining the footage.

(there is a similar, but slightly different, issue on foreign trips. e.g., whtv was not let into the president's mtg with the pope b/c of space limitations. i think it would be a tragedy for the library not to have footage of that meeting. in those cases, i propose that we request a copy of the foreign government's host tv footage.)

one last note: the issue of control over whtv footage is one that i expressed some concern about to brett kavanaugh several months ago (we tried to get together to talk about it - but it was a really busy time. i will re-raise the issue and try to set up a mtg). currently, reed dickens is the one who authorizes tapes to be released (to media publications / foreign gov'ts (e.g., during an official visit) / private citizens). my main concern is that reed authorizes the videos without first reviewing them to determine the exact contents (and whether anything on them could accidentally be misinterpreted). it seems like a dangerous process with very little control, and one which offers little, if any, protection of the president.

blake

Harriet Miers
12/11/2002 03:47:24 PM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc:
Subject: Re: << OLE Object: StdOleLink >>

Blake, this is important as well for other reasons. Is it historically the case that in a small space only one camera is used? In other words, in other Administrations?

Also, I thought that Scott did have the rough footage. Maybe he has it and not WHTV.

From: CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/23/2003 8:38:58 AM
Subject: : RE:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:23-JAN-2003 13:38:58.00
SUBJECT:: RE:
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

yes

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Thursday, January 23, 2003 1:31 PM
To: Litkenhaus, Colleen
Subject: RE:

Can I assume 1/2 hour? I just learned I have to go to meeting in Jay's office at 9:30.

From: Colleen Litkenhaus/WHO/EOP@Exchange on 01/23/2003 01:13:46 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE:

Thank you

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Thursday, January 23, 2003 12:58 PM
To: Litkenhaus, Colleen
Subject: RE:

yes, I will be there. thanks.

From: Colleen Litkenhaus/WHO/EOP@Exchange on 01/23/2003 01:00:00 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE:

Brett - are you able to participate in this meeting on Friday at 9AM in the Ward Room? I apologize if you told me and I missed it.

-----Original Message-----
From: Litkenhaus, Colleen
Sent: Wednesday, January 22, 2003 1:57 PM
To: Kavanaugh, Brett M.

Subject: FW:

Can you participate in a meeting on Friday at 9am in the Ward Room with Hagin, Col MacDonald (WHCA), Linda Gambatesa, Harriet Miers, and Blake re: WHTV?

-----Original Message-----
From: Gottesman, Blake
Sent: Wednesday, January 22, 2003 1:14 PM
To: Gambatesa, Linda M.; Litkenhaus, Colleen
Subject: Re:

Perfect for me, too - thanks

.

----- Original Message -----
From:Linda M. Gambatesa/WHO/EOP
To:Colleen Litkenhaus/WHO/EOP@Exchange
Cc:blake gottesman/who/eop@eop
Date: 01/22/2003 12:27:10 PM
Subject: RE:

Good for me and POTUS is in meeting for 1 hour beginning at 8:55 so hopefully good for BLG!

From: Colleen Litkenhaus/WHO/EOP@Exchange on 01/22/2003 12:07:24 PM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc: Linda M. Gambatesa/WHO/EOP@EOP
Subject: RE:

Want to shoot for 9:00 AM on Friday in the Ward Room? If yes, I will extend the invite to the following:

Harriet
Brett
Col Mac
Capt Miller
Sean Newman

-----Original Message-----
From: Gottesman, Blake
Sent: Tuesday, January 21, 2003 2:25 PM
To: Litkenhaus, Colleen
Cc: Gambatesa, Linda M.
Subject:

see below (sorry there's so much info) - is there a way joe could meet about this topic sometime this week? (preferably when the president has a longer mtg like nsc mtgs in the sit rm)

Linda M. Gambatesa
01/14/2003 10:23:49 AM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc: harriet miers/who/eop@eop
bcc: Records Management@EOP

Subject: Re: << OLE Object: StdOleLink >>

All of the below most likely unless we just include Capt. Miller
for now ...(not Capt. McDonald too).

Blake Gottesman
01/14/2003 10:09:45 AM
Record Type: Record

To: Linda M. Gambatesa/WHO/EOP@EOP
cc: Harriet Miers/WHO/EOP@EOP
Subject: Re:

when should we convene at least a preliminary group to discuss?

who needs to be there?

blake
linda
harriet
brett
col mcdonald (?) / capt miller (?)
sean newman (whtv) - for at least part of the mtg, so that he can shed
light on their practices and their process?

---------- Forwarded by Blake Gottesman/WHO/EOP on
01/14/2003 10:06 AM ----------

Blake Gottesman
12/12/2002 08:52:41 AM
Record Type: Record

To: Linda M. Gambatesa/WHO/EOP@EOP
cc: Harriet Miers/WHO/EOP@EOP
bcc: Records Management@EOP
Subject: Re: << OLE Object: StdOleLink >>

1) let me re-phrase: i have been told by whca personnel at the
events that they are recorded for the national archives; i am not certain
whether when and how they are given to the archives (for all i know, they
don't turn them over until the end of the administration?) - but they are
recorded for that purpose.

2) i don't know what rights they have over the tape (this is the
issue for which i think it's important to have counsel's ofc there)

3) i feel confident that no one reviews the tape for any comments
that could be misintepreted.

Linda M. Gambatesa
12/12/2002 08:49:05 AM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc:
bcc:
Subject: Re: << OLE Object: StdOleLink >>

They have already been provided to Archives..... I wonder if this
should cause any concern and why they would take possession so soon ....
what rights do they have once they are in their possession .... and again,
does anyone listen to them first to make sure nothing inappropriate is

recorded when perhaps people thought they were not being recorded!

Blake Gottesman
12/12/2002 08:46:11 AM
Record Type: Record

To: Linda M. Gambatesa/WHO/EOP@EOP
cc: Harriet Miers/WHO/EOP@EOP
bcc:
Subject: Re: << OLE Object: StdOleLink >>

yes, i think such a meeting would be helpful. and, i do think it's an important issue for counsel - specifically, the issue of who has control / power over the tapes, especially after he leaves office. are they subject to FOIA and/or a subpoena. (< i presume the answer to both of these questions is "yes"

another little known fact: if whca a/v provides sound for any event (e.g., even if they just wire a microphone in rm 450), they record his remarks on tape to go to the national archives. technically, the event is "closed press" - and even if i decide that whtv coverage is not necessary - the event is being recorded for history - only difference being that is audio only and not video. (< a perfect example is a private fundraiser at a residence. i do not ask whtv to cover any strictly political receptions, unless it is open or pool press. however, the president's remarks at dwight and martha scharr's residence in mclean, or the event at the kennedy's residence in florida - were recorded and provided to the national archives.).

Linda M. Gambatesa
12/12/2002 07:22:52 AM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc:
bcc:
Subject: Re: << OLE Object: StdOleLink >>

Therefore, we need to take steps asap to put a system in place to ensure this does not happen. Not really a Counsel's office issue, but do you think they, along with Hagin, and other relevant parties should discuss this and what the process should be?

Blake Gottesman
12/12/2002 06:59:19 AM
Record Type: Record

To: Linda M. Gambatesa/WHO/EOP@EOP
cc:
bcc:
Subject: Re: << OLE Object: StdOleLink >>

i'm sure harriet will agree

Linda M. Gambatesa
12/11/2002 04:41:30 PM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP

cc: harriet miers/who/eop@eop
bcc:
Subject: Re: << OLE Object: StdOleLink >>

Nothing should be released without first being reviewed in its
entirety!

Blake Gottesman
12/11/2002 04:35:16 PM
Record Type: Record

To: Harriet Miers/WHO/EOP@EOP
cc: Linda M. Gambatesa/WHO/EOP@EOP
bcc:
Subject: Re: << OLE Object: StdOleLink >>

the practice for the last 2 years (and to my knowledge, before
that) is that the aide and whtv coordinate which events will be covered.
in my case, i have a daily phone call with whtv in the morning to discuss
the day's coverage. they are always included for OPEN and POOL events.
for closed events, it is a case-by-case basis. and, how much of those
closed events (e.g., the whole thing vs. "top of only") is also determined
by me (based on the day, nature of the event, input from the event
organizer, how many similar events they already have footage of, the
president's mood, etc.).

there are a few special events like the KC honors, ford's theatre,
christmas in washington, nbc's "day in the life", sit-down interviews,
etc., which are taped for tv ... these events are not technically "open
press" - b/c only one network has their cameras there - but they will be
aired by the media. these are the types of events at which it would be
inappropriate to have whtv. these are the events for which i want to make
sure whtv is somehow obtaining the footage.

(there is a similar, but slightly different, issue on foreign
trips. e.g., whtv was not let into the president's mtg with the pope b/c
of space limitations. i think it would be a tragedy for the library not
to have footage of that meeting. in those cases, i propose that we
request a copy of the foreign government's host tv footage.)

one last note: the issue of control over whtv footage is one that
i expressed some concern about to brett kavanaugh several months ago (we
tried to get together to talk about it - but it was a really busy time. i
will re-raise the issue and try to set up a mtg). currently, reed dickens
is the one who authorizes tapes to be released (to media publications /
foreign gov'ts (e.g., during an official visit) / private citizens). my
main concern is that reed authorizes the videos without first reviewing
them to determine the exact contents (and whether anything on them could
accidentally be misinterpreted). it seems like a dangerous process with
very little control, and one which offers little, if any, protection of
the president.

blake

Harriet Miers
12/11/2002 03:47:24 PM
Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP
cc:
Subject: Re: << OLE Object: StdOleLink >>

Blake, this is important as well for other reasons. Is it

historically the case that in a small space only one camera is used? In other words, in other Administrations?

Also, I thought that Scott did have the rough footage. Maybe he has it and not WHTV.

From:	Winland, Emily
To:	<Gilbert, Alan>;<Jensen, Amy>;<Wingate, Heather>;<Marsh, Robert>;<Kavanaugh, Brett M.>;<Silverberg, Kristen>
CC:	<Skelly, Layton>;<Vestewig, Lauren J.>;<Schacht, Diana L.>
Sent:	1/23/2003 1:15:57 PM
Subject:	Liability Meeting

There will be a meeting tomorrow 1/24 to discuss strategy on medical malpractice and class action.

It is at 9:30am in room 211, EEOB.

Please confirm your attendance.

thanks,

Emily

6-6534

From: Benczkowski, Brian A <Brian.A.Benczkowski@usdoj.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/23/2003 10:31:17 AM
Subject: :
Attachments: P_TTZ8D003_WHO.TXT_1.pdf

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Benczkowski, Brian A" <Brian.A.Benczkowski@usdoj.gov> ( "Benczkowski, Brian A"
<Brian.A.Benczkowski@usdoj.gov> [ UNKNOWN ] )
CREATION DATE/TIME:23-JAN-2003 15:31:17.00
SUBJECT::
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Latest missive from Senator Chuck.

We are working on a response.

BAB
- att1.pdf
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_TTZ8D003_WHO.TXT_1>
```

CHARLES E. SCHUMER
NEW YORK

BANKING
JUDICIARY
RULES

United States Senate

WASHINGTON, DC 20510

January 23, 2003

The Honorable John Ashcroft
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear General Ashcroft:

I write to respond to the claims you make in your Department's letter of October 8, 2002, in which you argue that both historical precedent and policy considerations support not disclosing documents written by Mr. Miguel Estrada, a nominee to a lifetime seat on the D.C. Circuit, when he was Assistant to the Solicitor General. I write also to ask that you reconsider your decision not to disclose Mr. Estrada's memoranda.

Your argument on historical precedent boils down to a claim that the Department has never turned over such documents written by individuals who held the position Mr. Estrada held at the Department. You list several nominees who were also Assistants to the Solicitor General (or who held similar positions) and point out that the Department did not disclose these types of writings with regard to their nominations. While your assertion is true, no Senator ever requested any such materials for these nominees, so this is hardly precedent for refusing to provide them now that Congress has actually asked for them.

If the factual record ended there, you would have a persuasive case. But it does not. There is ample historical precedent for the request we have made, policy considerations argue in favor of disclosing the materials we have asked for, and this Bush Administration has already disclosed similar memoranda in connection with a Senate-confirmed nominee. Your concerns about keeping secret some once-sensitive information from long-settled cases is unpersuasive, as is your contention that current employees of the Department will somehow be chilled by the disclosure you seek.

The historical record I refer to includes the disclosure of previously confidential, internal documents relating to the nominations of:

Robert H. Bork, to become an Associate Justice on the Supreme Court;
- William Bradford Reynolds, the Assistant Attorney General for Civil Rights, to become Associate Attorney General;
- Benjamin Civiletti to become Attorney General;
- Stephen Trott to become a judge on the Ninth Circuit; and
- Justice William H. Rehnquist to become Chief Justice.

Documents provided in the course of Judge Bork's nomination are particularly illustrative. I understand that at the Committee's request, the Department disclosed to the Senate memoranda written to then-Solicitor General Bork by lower level attorneys (in the same capacity as Mr. Estrada) making recommendations about appeals. For example, the Justice Department apparently provided the Senate Judiciary Committee with memoranda related to its legal analysis of school integration cases, memoranda from Seventh Circuit Judge Frank Easterbrook when he was an Assistant Solicitor General, internal memoranda and non-public material related to Bork's analysis of President Nixon's refusal to release his Watergate-related tapes, and other memoranda regarding the pocket veto, executive privilege, and the firing of Archibald Cox.

Just as the historical precedent supports the disclosure of the requested documents, the policy considerations at stake here weigh heavily in favor of production of these materials to Congress. Perhaps the most important policy consideration is that the Senate's "consent" power, granted by the Constitution, not be thwarted. It should be exercised – pro or con – only after the Senate obtains adequate information about a nominee. No Senator could relish the prospect of voting on nominees who refuse to answer questions and whose views of the law are a near-total mystery.

You suggest that the Senate can sufficiently evaluate Mr. Estrada's qualifications for the federal bench by reviewing his already public written work. But that is simply not good enough. Mr. Estrada's work on behalf of clients in private practice and as directed by superiors at the Department of Justice does not tell us what we need to know.

Mr. Estrada's abject refusal to discuss even the most innocuous Supreme Court cases leaves Senators with distressingly little to go on in evaluating whether or not he has extreme views that may make him an unacceptable choice for a seat on the very important D.C. Circuit. When Mr. Estrada testified before the Judiciary Committee, he declined to answer all questions about his approach to the law. I asked him to name any case from recent Supreme Court jurisprudence of which he was critical. I asked him to comment on a case of which I have been critical. He declined both requests.

Given the red flags that have been raised about Mr. Estrada, it is imperative that we understand how he would approach legal questions were he confirmed. That he is nominated to the D.C. Circuit, the second-highest court in the land, and would be the swing vote on that court, makes it especially important that we know more about Mr. Estrada's views. We simply cannot rely on the scant amount of information already public to do that.

Not only do historical precedent and policy argue in favor of disclosure, but the current practice of this Administration belies your refusals. This President has already taken a position contrary to that which you advance here. Just last year, the Administration disclosed legal memoranda written by an attorney from the White House Counsel's office in connection with the nomination of Jeffrey Holmstead to be Assistant Administrator at the Environmental Protection Agency, a term appointment of far less import than this powerful lifetime appellate post. Nonetheless, in Mr. Estrada's case, the

REV_00156619

Administration has refused to provide any of the documents sought. Such refusal raises questions about the reasons underlying the Administration's unwillingness to disclose Mr. Estrada's writings. Those questions only sound more alarm bells regarding this nomination.

Finally, I would like to address two seemingly reasonable concerns that you expressed in your letter and explain why they are just ephemeral justifications for keeping Mr. Estrada's work secret longer.

You note the Department's interest in keeping the writings of members of the Office of the Solicitor General private. I can appreciate the sensitivity of these memoranda, but we are requesting documents relating to cases that likely were resolved years ago. (Should any case remain active, we would be glad to discuss appropriate precautions to ensure no damage is done to the government's interests.) I see no prejudice to the Department's interests on this score.

The other point you argue is that current employees will feel a chilling effect if they know that one day their writings may be made public. Given the public nature of the work they are tasked with, I fail to see why Assistant Solictors General would be worried that their analyses of cases might be given to Congress. Any time one of these memoranda is written, the employee must assume that his/her advice will be accepted by a superior and the views articulated in the memo will become the official position of the United States – a step that necessarily would make the substance within the memo a matter of public record. It is hard to see how a risk of future publicization creates a chilling effect under these circumstances.

We cannot properly exercise our Constitutional responsibilities on lifetime judicial appointments without adequate information. The information we need to consider Mr. Estrada's nomination is the hands of the Department of Justice. I sincerely hope that both the Bush Administration and Mr. Estrada will reconsider the efforts to block the Senate's access to this important information before we are forced into an untimely vote on his confirmation.

Sincerely

Charles E. Schumer

Charles E. Schumer
United States Senator

REV_00156620

From: CN=Edward McNally/OU=WHO/O=EOP [WHO]
To: Charlotte L. Montiel/WHO/EOP@Exchange@EOP [WHO] <Charlotte L. Montiel>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;David G. Leitch/WHO /EOP@EOP [WHO] <David G. Leitch>
Sent: 1/23/2003 12:08:30 PM
Subject: : 3 more DHS docs
Attachments: P_1U69D003_WHO.TXT_1.doc; P_1U69D003_WHO.TXT_2.doc; P_1U69D003_WHO.TXT_3.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:23-JAN-2003 17:08:30.00
SUBJECT:: 3 more DHS docs
TO:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Char -- I know David wanted GC. Brett has FOIA.

---------- Forwarded by Edward McNally/WHO/EOP on 01/23/2003 05:14 PM ----------

Lucy G. Clark TPO
01/23/2003 04:31:49 PM
Record Type: Record

To: Edward McNally/WHO/EOP@EOP, David G. Leitch/WHO/EOP@Exchange@EOP, Patrick J. Bumatay/WHO/EOP@Exchange@EOP
cc:
Subject: Re: When you get done

3 of 4
---------- Forwarded by Lucy G. Clark TPO/TPO/OMB/EOP on 01/23/2003 04:28 PM ----------

Catherine C. Mitrano TPO
01/23/2003 02:31:44 PM
Record Type: Record

To: Lucy G. Clark TPO/TPO/OMB/EOP@EOP
cc:
Subject: Re: When you get done

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_1U69D003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_1U69D003_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_1U69D003_WHO.TXT_3>

GENERAL COUNSEL ORGANIZATION

1. Purpose

This directive provides information about the organization of the Department of Homeland Security, Office of General Counsel (OGC)

2. Scope

This directive applies to the DHS OGC.

3. Authorities

The Homeland Security Act of 2002, codified in Title 6, US Code.

4. Responsibilities

A. ***General***: The Office of General Counsel (OGC) is responsible for all legal activities within DHS, to ensure full implementation of DHS' statutory responsibilities and all policies set forth by the Secretary and all officials of DHS. All DHS sub-unit and agency legal offices report up to the DHS Office of General Counsel. OGC provides legal counsel for all DHS offices except those specifically excluded by regulation or directive. OGC develops plans, policies, and operating methods and represents the agency and determines its position in order to provide effective legal services dealing with claims, protests, litigation, alternative dispute resolution and representation of DHS in all legal forums. OGC drafts legislation proposed by DHS officials and furnishes legal advice in connection with reports on legislation proposed by other Federal agencies. OGC develops, implements and coordinates DHS' ethics program for current and former DHS employees. OGC provides legal services to Boards and Commissions for which DHS provides administrative support. Enclosure (1) is an Organizational Chart for the OGC.

B. ***General Counsel***. The General Counsel is the chief legal advisor of the Department. He or she determines the policy and directs the actions of the Office of General Counsel, the Offices of Regional Counsel and other DHS legal offices.

1. Plans, directs and executes all legal activities within the DHS nationwide to ensure full and legally sound implementation of DHS' statutory responsibilities.

Assures proper legal and policy support for the missions of DHS.

2. Serves as the chief legal advisor to the Secretary, the Deputy Secretary, and other senior agency officials in developing issuing DHS policies and regulations.

3. Provides overall guidance and direction to all components of the OGC. Directs and coordinates the conduct of legal and policy assistance activities within DHS field jurisdictions and establishes reporting relationships of subordinate legal offices in the Department. Issues directives and instructions to govern execution of the functions of these offices and evaluates their performance by review and inspection.

C. ***Deputy General Counsel***. Assists the General Counsel in the execution of the functions of the Office of General Counsel and acts in the capacity of the General Counsel in the event of absence or vacancy. Performs other delegated and assigned duties.

D. ***Administrative Support Staff.***

1. Provides administrative assistance and support to the General Counsel, Associate General Counsels, Legal Advisors, and Regional Counsels in development and/or execution of staffing plans; employee development programs; hiring and other personnel actions; acquisition, allocation and management of space, equipment and other property; and law office automation programs.

2. Provides administrative assistance and support to the General Counsel, Associate General Counsels and Regional Counsels in formulation and execution of the Office of General Counsel's operating budget, including analysis of budgetary needs. Monitors expenditures to ensure they are within funding limitations and other budget constraints.

3. Provides such additional administrative support to the Office of General Counsel as may be required by the General Counsel.

E. ***Associate General Counsel for Border and Transportation Security (BTS).*** As head of the BTS Law Division, plans, develops, and coordinates legal services and advice pertaining to the Border and Transportation Security Directorate:

1. In consultation with the General Counsel, plans, directs and executes all legal activities within the BTS nationwide to ensure full and legally sound implementation of BTS' statutory responsibilities. Assures proper legal and policy support for the varied mission of BTS.

2. Serves as the chief legal advisor to the Under Secretary for Border and Transportation Security, and other BTS senior agency officials in developing and

issuing BTS policies and regulations.

3. Provides overall guidance and direction to all components of the BTS. Directs and coordinates the conduct of legal and policy assistance activities within BTS field jurisdictions through Offices of Regional Counsel.

4. Provides legal advice and guidance on all BTS matters with international law implications and coordinates with attorneys from the Department of State, as necessary.

5. Consults with and advises the General Counsel, other Associate General Counsels, Regional Counsels and other legal offices in the Department on legal matters in assigned areas of responsibility.

6. Monitors Division workloads and resources, making adjustments as necessary. Makes recommendations on resource acquisition, development and allocation to the General Counsel.

7. Implements the policies of the General Counsel and provides overall management direction for the BTS Law Division. When requested, represents the General Counsel and/or the OGC with senior DHS management, other Federal agencies, business representatives and others in interpreting OGC or BTS programs, policies and objectives.

8. Provides litigation support to the Department of Justice attorneys and offices of United States Attorneys (with assistance from other elements of the OGC and other agencies) in representation of the Government's interest in court in assigned areas of responsibility.

9. Serves as DHS' legal advisor for the Bureau of Border Security. In this role, performs the following:

a. Plans, directs and executes all legal activities within the Bureau of Border Security nationwide to ensure full and legally sound implementation of the Bureau's statutory responsibilities. Assures proper legal and policy support for the mission of the Bureau of Border Security.

b. Serves as the principal legal advisor to the Assistant Secretary, Bureau of Border Security, and other senior Bureau officials in providing specialized legal advice, opinions, determinations, regulations, and any other assistance with respect to legal matters affecting the Bureau.

c. Provides overall legal guidance and direction to all components of the Bureau of Border Security. Directs and coordinates the conduct of legal and policy assistance activities within the Bureau's field jurisdictions.

d. Represents the Bureau in all exclusion, deportation, and removal proceedings before the Executive Office for Immigration Review. (see

H.R. 5005, section 442(c)).

e. Consults with and advises the General Counsel, Associate General Counsels, Legal Advisors, and Regional Counsels on legal matters in assigned areas of responsibility.

f. Maintains close communication and coordination with the Legal Advisor for the Bureau of Citizenship & Immigration Services.

g. Provides litigation support to the Department of Justice attorneys and offices of United States Attorneys (with assistance from other elements of the OGC and other agencies) in representation of the Government's interest in court in assigned areas of responsibility.

h. Represents the bureau in all exclusion, deportation, and removal proceedings before the Executive Office for Immigration Review. (see H.R. 5005, section 442(c)).

F. ***Legal Advisor for the Bureau of Citizenship & Immigration Services.***
Serves as DHS' legal advisor for the Bureau of Citizenship & Immigration Services.

1. In consultation with the General Counsel, plans, directs and executes all legal activities within the Bureau of Citizenship & Immigration Services nationwide to ensure full and legally sound implementation of the Bureau's statutory responsibilities. Assures proper legal and policy support for the mission of the Bureau of Citizenship & Immigration Services.

2. Serves as the principal legal advisor to the Director, Bureau of Citizenship & Immigration Services, and other senior Bureau officials in providing specialized legal advice, opinions, determinations, regulations, and any other assistance with respect to legal matters affecting the Bureau.

3. Provides overall guidance and direction to all components of the Bureau of Citizenship & Immigration Services. Directs and coordinates the conduct of legal and policy assistance activities within the Bureau's field jurisdictions.

4. Represents the Bureau in visa petition appeal proceedings before the Executive Office for Immigration Review. (see H.R. 5005, section 451(d)).

5. Maintains close communication and coordination with the Legal Advisor for the
Bureau of Border Security.

6. Provides litigation support to the Department of Justice attorneys and offices of United States Attorneys (with assistance from other elements of the OGC and other agencies) in representation of the Government's interest in court in

assigned areas of responsibility.

7. Consults with and advises the General Counsel, other Associate General Counsels, Regional Counsels and other legal offices in the Department on legal matters in assigned areas of responsibility.

G. ***Associate General Counsel for Emergency Preparedness and Response (EP&R).*** As head of the EP&R Law Division, plans, develops, and coordinates legal services and advice pertaining to the EP&R Directorate:

1. In consultation with the General Counsel, plans, directs and executes all legal activities within the EP&R Directorate nationwide to ensure full and legally sound implementation of EP&R's statutory responsibilities. Assures proper legal and policy support for the varied missions of EP&R.

2. Serves as the chief legal advisor to the Under Secretary for Emergency Preparedness and Response, and other EP&R senior agency officials in developing and issuing EP&R policies and regulations.

3. Provides overall guidance and direction to all components of the EP&R Directorate. Directs and coordinates the conduct of legal and policy assistance activities within the EP&R field jurisdictions.

4. Provides advice and guidance to the Office for State and Local Government Coordination and to other DHS components and officials on state and local government matters.

5. Consults with and advises the General Counsel, other Associate General Counsels, Regional Counsels and other legal offices in the Department on legal matters in assigned areas of responsibility.

6. Monitors Division workloads and resources, making adjustments as necessary. Makes recommendations on resource acquisition, development and allocation to the General Counsel.

7. Provides litigation support to the Department of Justice attorneys and offices of United States Attorneys (with assistance from other elements of the OGC and other agencies) in representation of the Government's interest in court in assigned areas of responsibility.

8. Implements the policies of the General Counsel and provides overall management direction for the EP&R Law Division. When requested, represents the General Counsel and/or the OGC with senior DHS management, other Federal agencies, business representatives and others in interpreting OGC or EP&R programs, policies and objectives.

H. ***Legal Advisor for Ethics.*** Serves as DHS' Designated Agency Ethics Official (DAEO) and performs the functions assigned to the DAEO by statute and Government-wide regulations. Plans, directs, implements and coordinates the ethics program and policies within DHS, including employee financial disclosure, standards of conduct, and post employment situations. Acts for the Secretary in interpreting policy in conflict-of-interest cases involving senior officials, and serves as personal counsel to the Secretary on all ethics matters affecting the DHS. Makes determinations and takes other actions on behalf of the Secretary as may be warranted pursuant to 18 U.S.C. 207 pertaining to post employment activities of former employees and 18 U.S.C 208 pertaining to acts affecting a personal financial interest for current employees. Designates, directs and monitors the work of deputy standards of conduct counselors. In this role, performs the following:

1. Development, implementation and interpretation of policies governing employee financial disclosure; conduct and post employment conflict of interest situations; overall direction of DHS policies and procedures regarding standards of conduct and conflicts of interest; and establishment of program goals and methods for monitoring progress toward goal attainment.

2. Implementation of systems of financial disclosure by DHS employees, including uniform procedures and standards for review of reports.

3. Establishment of uniform policies and criteria to determine and resolve conflict of interest situations involving current employees and post employment activities of former employees, including standards to address recurrent problems involving current and former employees.

4. Development of standards of conduct regulations as necessary to supplement Governmentwide regulations of the Office of Government Ethics (OGE).

5. Development and implementation of the DHS-wide standards of conduct training program.

6. Provision of advice and assistance to senior executives of DHS, contractors doing business with DHS and labor organizations regarding DHS standards of conduct policies.

I. ***Associate General Counsel for General Law.*** As head of the General Law Division, plans, develops, and coordinates legal services and advice pertaining to: (1) labor law; acquisition, including bid protests and contract disputes; environment; intellectual property; finance; appropriations; personnel, including Office of Special Counsel matters; Freedom of Information Act and Privacy Act; civil rights, and work place initiatives; (2) DHS' alternative dispute resolution program; (3) the Board for Correction of Military Records; and (4) other general legal matters.

1. Provides legal services to the DHS Headquarters Office staff offices, including but not limited to the Offices of: Chief Information Officer; Chief Financial Officer; Civil Rights and Civil Liberties Officer, Privacy Officer; and Chief Human Capital Officer.

2. In assigned areas of legal responsibility, provides legal services to the Undersecretaries, Directors, Commandant of the Coast Guard and Inspector General, and their respective staffs.

3. Provides legal services to independent boards, commissions, and agencies serviced by DHS.

4. Consults with and advises the General Counsel, other Associate General Counsels, Legal Advisors, Regional Counsels and other legal offices in the Department on legal matters in assigned areas of responsibility.

5. As requested, provides legal support to DHS Headquarters Office staff offices and/or OGC in hearings before Congressional committees and in conferences with other Federal agencies, States and local governments, contractors and other entities.

6. Provides advice and all support to the Board for Correction of Military Records, the Chairperson of which is an attorney assigned to the Office of General Law.

7. Provides litigation support to the Department of Justice attorneys and offices of United States Attorneys (with assistance from other elements of the OGC and other agencies) in representation of the Government's interest in court in assigned areas of responsibility.

8. Represents DHS in hearings before the Merit Systems Protection Board, Equal Employment Opportunity Commission and Federal Labor Relations Authority and arbitrators in cases arising out of Headquarters Office. Provides legal counsel and litigation support to Headquarters Office Services in controversies involving assigned areas.

9. Serves as DHS final appeal authority in appeals of FOIA and Privacy Act determinations. In non-appellate FOIA and Privacy Act matters, provides legal advice and assistance to the Privacy Officer and Undersecretary for Management in implementing their FOIA and Privacy Act programs.

10. Monitors Division workloads and resources, making adjustments as necessary. Makes recommendations on resource acquisition, development and allocation to the General Counsel.

11. Implements the policies of the General Counsel and provides overall management direction for the General Law Division. When requested,

represents the General Counsel and/or the OGC with senior DHS management, other Federal agencies, business representatives and others in interpreting OGC programs, policies and objectives.

J. ***Associate General Counsel for Information Analysis and Infrastructure Protection (IA & IP).*** As head of the IA&IP Law Division, plans, develops, and coordinates legal services and advice pertaining to the IA&IP Directorate:

1. In consultation with the General Counsel, plans, directs and executes all legal activities within the IA&IP Directorate nationwide to ensure full and legally sound implementation of IA&IP's statutory responsibilities. Assures proper legal and policy support for the varied mission of the IA&IP Directorate.

2. Serves as the chief legal advisor to the Under Secretary for Information Analysis and Infrastructure Protection, and other IA&IP senior agency officials in developing and issuing IA&IP policies and regulations.

3. Provides overall guidance and direction to all components of the IA&IP Directorate. Directs and coordinates the conduct of legal and policy assistance activities within the IA&IP field jurisdictions.

4. Consults with and advises the General Counsel, other Associate General Counsels, Regional Counsels and other legal offices in the Department on legal matters in assigned areas of responsibility.

5. Provides litigation support to the Department of Justice attorneys and offices of United States Attorneys (with assistance from other elements of the OGC and other agencies) in representation of the Government's interest in court in assigned areas of responsibility.

6. Monitors Division workloads and resources, making adjustments as necessary. Makes recommendations on resource acquisition, development and allocation to the General Counsel.

7. Implements the policies of the General Counsel and provides overall management direction for the IA&IP Law Division. When requested, represents the General Counsel and/or the OGC with senior DHS management, other Federal agencies, business representatives and others in interpreting OGC or IA&IP programs, policies and objectives.

K. ***Associate General Counsel for Rules and Administration.*** As head of the Rules and Administration Law Division, plans, develops, and coordinates legal services and advice pertaining to: (1) claims and various protests, other than bid protests and contract appeals, against the DHS or the U.S. Government through DHS; (2) the collection, compromise, closing, and referral of claims in favor of the Government and litigation involving DHS; (3) legislative and regulatory activities; (4) small boards and commissions, committees for special groups, and

Federal Advisory Committee Act; (5) intergovernmental affairs; and (6) other rules and administration matters.

1. In assigned areas of legal responsibility, provides legal services to the Undersecretaries, Directors, Commandant of the Coast Guard and Inspector General, and their respective staffs.

2. Provides legal services to independent boards, commissions, and agencies serviced by DHS.

3. Consults with and advises the General Counsel, other Associate General Counsels, Regional Counsels and other legal offices in the Department on legal matters in assigned areas of responsibility.

4. As requested, provides legal support to DHS Headquarters Office staff offices and/or OGC in hearings before Congressional committees and in conferences with other Federal agencies, States and local governments, contractors and other entities.

5. Develops and manages the DHS legislative program, including the coordination of DHS comments on proposed legislation, and proposed comments by DHS and other agencies on pending legislation.

6. Develops and manages the DHS regulatory program, including the management of the regulatory docket.

7. Provides litigation support to the Department of Justice attorneys and offices of United States Attorneys (with assistance from other elements of the OGC and other agencies) in representation of the Government's interest in court in assigned areas of responsibility.

8. Monitors Division workloads and resources, making adjustments as necessary. Makes recommendations on resource acquisition, development and allocation to the General Counsel.

9. Implements the policies of the General Counsel and provides overall management direction for the Rules and Administration Division. When requested, represents the General Counsel and/or the OGC with senior DHS management, other Federal agencies, business representatives and others in interpreting OGC programs, policies and objectives.

L. ***Associate General Counsel for Science and Technology (S&T).*** As head of the Science and Technology Law Division, plans, develops, and coordinates legal services and advice pertaining to the S&T Directorate:

1. In consultation with the General Counsel, plans, directs and executes all legal activities within the Science and Technology Directorate nationwide to ensure

full and legally sound implementation of the Science and Technology Directorate's statutory responsibilities. Assures proper legal and policy support for the mission of the Science and Technology Directorate.

2. Serves as the chief legal advisor to the Under Secretary for Science and Technology, and other S&T senior agency officials in developing and issuing S&T policies and **GENERAL COUNSEL** regulations.

LEGAL ADVISOR
Bureau of Citizenshi
Immigration Service

3. Provides overall guidance and direction to all components of the S&T Directorate. Directs and **DEPUTY GENERAL COUNSEL** coordinates the conduct of legal and policy assistance activities within the S&T field jurisdictions.

4. Consults with and advises the General Counsel, other Associate General Counsels, Regional Counsels and other legal offices in the Department on legal matters in assigned areas of responsibility.

5. Monitors Division workloads and resources, making adjustments as necessary. Makes recommendations on resource acquisition, development and allocation to the General Counsel.

6. Provides litigation support to the Department of Justice attorneys and offices of United States Attorneys (with assistance from other elements of the OGC and other agencies) in representation of the Government's interest in court in assigned areas of responsibility.

7. Implements the policies of the General Counsel and provides overall management direction for the S&T Law Division. When requested, represents the General Counsel and/or the OGC with senior DHS management, other Federal agencies, business representatives and others in interpreting OGC or S&T programs, policies and objectives.

M. ***Questions or Concerns:*** Any questions or concerns regarding this directive should be addressed to the General Counsel.

Enclosure 1

ASSOCIATE GENERAL COUNSEL EMERGENCY PREPAREDNESS AND RESPONSE

ASSOCIATE GENERAL COUNSEL RULES AND ADMINISTRATION

ASSOCIATE GENERAL COUNSEL SCIENCE & TECHNOLOGY

ASSOCIATE GENERAL COUNSEL TRANSPORTATION SECURITY

ASSOCIATE GENERAL COUNSEL INFRASTRUCTURE PROTECTION

ASSOCIATE GENERAL COUNSEL BORDER & TRANSPORTATION

LEGAL ADVISOR for E

MEMORANDA OF UNDERSTANDING (MOU) AND MEMORANDA OF AGREEMENT (MOA)

1. Purpose

This directive establishes the Department of Homeland Security (DHS) procedures for entering into Memoranda of Understanding (MOU's) and Memoranda of Agreement (MOA's). It highlights the differences between the two documents, indicates the limiting characteristics of a MOU/MOA, provides a standard MOU/MOA format, and distinguishes the MOU/MOA from other commonly used agreements.

2. Scope

This directive applies to all DHS Headquarters elements.

3. Authorities

The Homeland Security Act of 2002, codified in Title 6, US Code.

4. Definitions

A. ***Memorandum of Understanding (MOU):*** A document that describes very broad concepts of mutual understanding, goals and plans shared by the parties.

B. ***Memorandum of Agreement (MOA):*** A document describing in detail the specific responsibilities of, and actions to be taken by, each of the parties so that their goals may be accomplished. A MOA may also indicate the goals of the parties, to help explain their actions and responsibilities.

C. ***Parties:*** The parties to a MOU/MOA covered by this instruction are the DHS and one or more governmental or private entities.

D. ***Designated DHS Official:*** Senior DHS officials as designated by the Secretary, Deputy Secretary or Under Secretaries.

5. Responsibilities

A. ***All Under Secretaries and Designated DHS Officials:*** when exercising any

authority vested in them by law or delegated by the Secretary, shall be responsible for complying with this instruction when drafting or signing an MOU or MOA.

B. ***The General Counsel:*** shall be responsible for providing legal review of all MOUs and MOAs drafted to ensure compliance with applicable laws, rules and regulations. This responsibility may be further delegated by the General Counsel.

6. Policy & Procedures

A. ***Policy:***

1. Every DHS MOU and MOA must be consistent with the DHS mission and be authorized by federal law, regulations and funding constraints. Additionally, the existence of a MOU or MOA does not eliminate or diminish the need for additional contracts, documents, or agreements to execute the activities contemplated by the parties. Neither this directive nor any MOU/MOA can be used as the sole authority or means to acquire or procure goods or services, exchange funds or property, or transfer or assign personnel. Although the MOU/MOA can address those issues and indicate the goals and intent of the parties, all DHS personnel must comply fully with pertinent contracting and procurement regulations.

2. ***PROHIBITED INDEMNIFICATION AGREEMENTS OR CLAUSES***. An agreement to indemnify is an agreement to assume financial, legal, or other liabilities on behalf of that other party. Neither the DHS nor any person in the DHS may agree to indemnify any other party absent specific federal statutory authorization. Federal law, 31 U.S.C. 341(a)(1)(A) and 1341(a)(1)(B), commonly referred to as the Anti-Deficiency Act, prohibits all officers and employees of the United States from making or authorizing expenditures or obligations exceeding appropriated funding and from obligating payment of money before it is appropriated. A typical indemnification clause violates both provisions of that Act because it potentially obligates the federal government (or DHS) to pay an unspecified, unlimited, and unappropriated amount of money should someone else's property be lost, damaged or destroyed, some person be injured or killed, or other parties to the MOU/MOA incur legal liabilities or expenses. Should any prospective party to a MOU/MOA request or demand that the DHS agree to an indemnification clause, contact the General Counsel's office for assistance.

B. ***Procedures:***

1. Each employee drafting or signing an MOU/MOA should comply with the following procedures:

    a) NEGOTIATIONS. When negotiating with another party, the DHS official involved should clearly indicate that he or she cannot commit the DHS until the position advanced has been approved

by the Office of General Counsel for legal sufficiency and other policy offices, as appropriate.

b) FORMAT. Enclosure (1) is the format for a two-party MOU/MOA used when the MOU/MOA originates with the DHS. The wording of the agreement may be appropriately changed to reflect multiple parties. Enclosure (1) may also be tailored to accommodate the subject matter of the agreement and needs of the parties, or to conform to an applicable law, regulation or directive. If a party other than the DHS originates the MOU/MOA, the format may differ from enclosure (1). However, every MOU/MOA in which the DHS is a party should include the following basic information:

1. Parties. The parties to be bound by the agreement must be identified.

2. Authority. The legal authority for the agreement must be cited. Federal law, applicable DHS Rules, Regulations or other directives are referenced.

3. Purpose. The purpose or reason for entering the agreement must be stated.

4. Responsibilities. A description of the duties and responsibilities of the parties must be provided. The description should be as specific and detailed as necessary. Extreme details may be provided in an appendix rather than the body of the MOU/MOA.

5. Reporting and Documentation. The MOU/MOA must specify whether follow-up reports or documentation of actions taken are required and state how often and to whom they are to be submitted.

6. Points of Contact. Points of Contact for all parties are provided, including names, office symbols, addresses and phone numbers. Fax numbers, e-mail and Internet addresses should also be provided if available.

7. Modification. A provision stating how to modify or amend the agreement is included. Modifications can be formal (written) or informal (oral). They can be approved by the Points of Contact, by the signatories, or other appropriate individuals. While it is often appropriate for those at the working level to make modifications, either orally or in writing, modifications that change central provisions of the agreement should normally be made in writing and agreed

to by the individuals who originally approved the MOU/MOA or their successors.

8. Effective Date. The date the MOU/MOA becomes effective must be stated. This may be a specified date after the MOU/MOA is signed by all parties or it may be the date the last party signs the agreement.

9. Termination. The MOU/MOA must contain several provisions regarding termination. The document will indicate that it will terminate on a certain date, upon the accomplishment of its purpose, or upon agreement of the parties. The MOU/MOA will also contain a provision indicating whether the duration of the agreement may be extended and, if so, the extension mechanism (e.g. by written agreement of the parties). Finally, the agreement will indicate whether a party may terminate the agreement early (usually by written notice to the other parties).

c) APPROVING OFFICIAL. The DHS is a party to the agreement, not the person signing for the DHS. Therefore, that person must have the authority to sign the MOU/MOA and commit the DHS. In determining who that official is, refer to the statute, regulation or directive authorizing DHS participation in the MOU/MOA. Other sources of authority are the DHS Delegations of Authority. Also, prior to signing any MOU or MOA, the person signing for DHS must ensure that Office of General Counsel has reviewed the document for legal sufficiency and approved it. If the head of another Department or Agency is signing the agreement for another party, the agreement must be coordinated with the Office of the Secretary of Homeland Security. Even if the authority to sign a MOU/MOA has been delegated to a lower level, if a higher-level official is signing for another party, it may be appropriate to elevate the signing of the MOU/MOA within DHS as a matter of protocol.

d) CLEARANCE. Clearance of a proposed MOU/MOA can be either consecutive or concurrent. Early coordination and communication with interested offices, and the use of e-mail for reviewing and editing a draft MOU/MOA is encouraged. Prior to submitting a MOU/MOA to the approval authority for signature, the originating office shall ensure that the MOU/MOA does not conflict with any preexisting agreements. The originating office shall also ensure that all interested program offices and the General Counsel has reviewed the MOU/MOA

C. ***Questions or Concerns Regarding the Process:*** Any questions or concerns regarding this directive should be addressed to the General Counsel.

Enclosure 1

MEMORANDUM OF UNDERSTANDING/AGREEMENT BETWEEN THE DEPARTMENT OF HOMELAND SECURITY AND _____ REGARDING _____

1. PARTIES. The parties to this Agreement are the Department of Homeland Security (DHS) and _____.

2. AUTHORITY. This Agreement is authorized under the provisions of [list all applicable statutory and regulatory authority].

3. PURPOSE. The purpose of this Agreement is to set forth terms by which _____ and _____ will provide [services, personnel, equipment] in order to [summarize what the MOU/MOA is intended to accomplish.]

4. RESPONSIBILITIES:

DHS.
a.
b.
c.
[Describe what the DHS will do. Include a paragraph indicating whether the DHS is required to submit status/progress reports, and, if so, how often.]

Other Party. [Describe the other party's responsibilities as discussed above.]

5. POINTS OF CONTACT. [Identify the POCs for the DHS and the other party, including office symbol, address and phone number (fax number and e-mail or internet addresses can also be included).]

6. OTHER PROVISIONS. Nothing in this Agreement is intended to conflict with current law or regulation or the directives of the DHS or [other party]. If a term of this agreement is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of this agreement shall remain in full force and effect.

7. EFFECTIVE DATE. The terms of this agreement will become effective on

. . .[insert the effect date].

8. MODIFICATION. This agreement may be modified upon the mutual [written] consent of the parties.

9. TERMINATION. The terms of this agreement, as modified with the consent of both parties, will remain in effect until [date, completion of project, or upon agreement of parties.] The agreement may be extended by mutual written agreement of the parties. Either party upon [number] days written notice to the other party may terminate this agreement.

APPROVED BY:

[Give the name and position of the official signing and dating for the DHS. If known, give the name and position of the official signing and dating for the other party.]

_____ _____

(date) (date)

FREEDOM OF INFORMATION ACT COMPLIANCE

1. Purpose

This directive establishes the Department of Homeland Security (DHS) policy and assigns responsibilities for carrying out the requirements of the Freedom of Information Act (FOIA), as amended.

2. Scope

This directive applies to all DHS Headquarters elements.

3. Authorities

This directive is governed by numerous Executive Orders, Public Laws, and national policy, such as:

A. The Freedom of Information Act, as amended (5 U.S.C. 552).

B. Paperwork Reduction Act of 1995, Pub. L. No. 104-13. Department of Justice Fee Waiver Policy Guidance, dated April 2, 1987.

C. E.O. 12600, "Predisclosure Notification Procedures for Confidential Commercial Information", dated June 23, 1987.

D. E.O. 12958, "National Security Information."

E. Freedom of Information Reform Act of 1986; Uniform Freedom of Information Act Fee Schedule and Guidelines; 52 Federal Register 10012, dated March 27, 1987.

F. President's Memorandum For Heads of Departments and Agencies, dated October 4, 1993, subject: The Freedom of Information Act.

G. Attorney General's Memorandum for Heads of Departments and Agencies, dated October 4, 1993, subject: The Freedom of Information Act.

H. Attorney General's Memorandum on the 1986 Amendments to the Freedom of Information Act;

I. Presidential Memorandum for Heads of Departments and Agencies Regarding the FOIA, October 4, 1993

J. Attorney General's Memorandum for Heads of All Federal Departments and Agencies Regarding the FOIA, October 12, 2001

K. Guidance on Homeland Security Information, March 19, 2002

4. Definitions

A. ***Category:*** The classification assigned to a requester for fee purposes determined by the projected use of the records. The categories are: (a) commercial; (b) educational; (c) non-commercial scientific institutions; (d) representative of the news media; and (e) all other requesters.

B. ***Department:*** The Department of Homeland Security (DHS).

C. ***FOIA Contact:*** FOIA Contact refers to an employee selected by an Under Secretary or a Designated DHS official to receive FOIA requests assigned to their area by the Departmental Disclosure Officer and to provide assistance in administrative matters pertaining to FOIA request processing. For other offices, FOIA Contact refers to the head of each disclosure office.

D. ***Responsible Official:*** The head of the organizational unit having immediate custody of the records requested or a designated official. The responsible official makes initial determinations to grant or deny requests for access to records and requests for fee waivers. The responsible official will also determine a requester's category for fee purposes.

E. ***Designated DHS Official***: Senior DHS officials as designated by the Secretary, Deputy Secretary or Under Secretaries.

5. Responsibilities

A. ***All Under Secretaries and Designated DHS Officials:*** shall be responsible for the following tasks relating to their area of responsibility:

1. establish internal procedures to ensure the effectiveness of the Department's FOIA program. For units transferring into DHS where such internal procedures may already exist, they may continue to be used until amended or replaced by the DHS DDO. The procedures shall be consistent with this directive and:
   (a) the FOIA, as amended;
   (b) Executive Order (E.O.) 12600;
   (c) E.O. 12958; and,
   (d) applicable Department of Justice, Office of Management and Budget, and National Archives and Records Administration guidelines.

2. ensure that employees who are responsible in any part for FOIA processing are knowledgeable about the provisions and requirements of the FOIA and ensure that these employees attend FOIA training at least once a year;

3. ensure that accurate and complete data is submitted in a timely manner to the Departmental Disclosure Officer for the Department of Homeland Security's Annual FOIA Report to the Attorney General, and for other reporting purposes, as required;

4. ensure that records that are subject to section (a)(2) of the FOIA which have been created on or after November 1, 1996, are posted;

5. submit proposed directorate disclosure regulations or proposed changes to regulations to the Departmental Disclosure Officer for review;

6. select a FOIA Contact and advise the Departmental Disclosure Officer of the selection and of any subsequent changes in designation of selection;

7. ensure that directorate FOIA Contacts and web masters collaborate with directorate records management officers prior to disposing of records posted on the FOIA web sites and to schedule electronic records on the sites; and,

8. ensure that reasonable efforts are made to maintain records in forms or formats that are reproducible for purposes of the FOIA.

B. ***The Under Secretary for Management*** shall:

1. provide technical management support for the Department's FOIA web site on the DHS Internet and technical assistance to the Departmental Disclosure Officer to ensure compliance with the requirements of the FOIA;

2. provide technical assistance to directorates in placing records in the electronic reading room which includes establishing specific procedures for maintaining and posting directorate records;

3. establish and maintain an index of all major information systems and a description of major information and record locator systems in the Department;

4. ensure that DHS-wide, cost-effective, state-of-the-art technical solutions for electronic redaction are implemented to achieve economies of scale and integrate with the information technology infrastructure;

5. provide information technology guidance to department FOIA Contacts, web masters, and records management officers regarding information posted on the DHS FOIA web sites; and,

6. provide oversight, guidance and support to the Departmental Disclosure Officer.

C. ***The Departmental Disclosure Officer (DDO)*** shall:

1. act as the Department of the Homeland Security's principal point of contact and agency representative on FOIA-related matters;

2. coordinate the Department's FOIA implementation and management in collaboration with DHS directorates and offices;

3. provide regulatory and policy guidance, and technical advice and assistance to the Department on FOIA-related matters;

4. review proposed changes to disclosure regulations;

5. collect, review, consolidate, and submit the data for the Annual FOIA Report to the Attorney General on behalf of the Department;

6. post Departmental Offices (DO) records that are subject to section (a)(2) of the FOIA which have been created on or after November 1, 1996;

7. grant or deny requests for expedited processing of requests for DO records;

8. supervise the implementation of the FOIA within the DO;

9. notify a requester when information needed to process a request for DO records is lacking;

10. assign FOIA requests to the appropriate FOIA Contact for action;

11. assign FOIA appeals to the appropriate appeal authority within DO;

12. follow up with the assigned office to ensure completion of a request or appeal, when necessary;

13. when a request seeks records in the custody of two or more functions within DO for which separate FOIA Contacts have been designated, assign to one of the FOIA Contacts the responsibility of coordinating one response;

14. assist the general public in making FOIA requests to the Department; and,

15. conduct FOIA training on a regular basis and oversee the FOIA training conducted at DHS offices.

D. ***Responsible Officials*** shall:

1. determine:

(a) whether to grant or deny requests for access to records;
(b) whether to grant or deny requests for fee waivers; and,
(c) a requester's category for fee purposes;

2. notify the requester of determination(s) made pursuant to paragraph 5.D.1;

3. determine costs incurred by the Department to process the request and whether or not fees will be charged to the requester;

4. ensure that requests are processed in accordance with all applicable disclosure requirements;

5. compile and provide data for the Annual FOIA Report; and,

6. retrieve records retired to the Federal Records Center if they are needed in processing a request.

E. ***Appeal Authorities*** shall, upon receipt of an administrative appeal, either affirm or reverse those initial determinations that:

1. deny access to a record or portion thereof;

2. deny a request for a fee waiver;

3. pertain to a requester's category;

4. advise of no records located; or,

5. deny a request for expedited processing.

F. ***FOIA Contacts*** shall:

1. designate a responsible official to respond to each FOIA request assigned pursuant to paragraph 5.C.10;

2. ensure consistency and completeness of a Departmental response when assigned responsibility for coordination pursuant to paragraph 5.C.13;

3. determine, with appropriate program officials, which records in response to FOIA requests have become or are likely to become the subject of repeated requests for the same records and ensure that these records are placed in the electronic reading room of the Department's web site; and,

4. coordinate with the Department web masters and records management officers regarding the disposing of records in the electronic reading room of the Department's web site.

6. Policy & Procedures

A. ***Policy:*** It is the policy of the Department of Homeland Security to implement the FOIA uniformly and consistently and to provide maximum allowable disclosure of agency records upon request by any individual.

B. ***Procedures:*** Upon receipt of a request satisfying the requirements of the FOIA, records shall be disclosed unless they are appropriate for withholding and are protected by one or more of the FOIA exemptions or exclusions. Requests shall be processed within the time limits defined by the FOIA. Individuals requesting information will be informed of the right and procedure to seek administrative appeal and to seek judicial review of:

1. any partial or total denial of access to records;
2. a fee waiver denial;
3. a determination of requester's category for fee purposes;
4. a no-records determination; or,
5. a denial of a request for expedited processing.

The FOIA requires that, except in "unusual circumstances" as specified in the Act, agency initial decisions on whether to grant or deny access to records must be made within 20 working days of receiving the request and the requester so notified. A requester may administratively appeal an agency's adverse initial determination and may seek judicial review if not satisfied with the agency's final decision. If a court determines that agency personnel have acted arbitrarily or capriciously in withholding records, disciplinary action against the employee primarily responsible may be warranted.

C. ***Questions or Concerns Regarding the Process:*** Any questions or concerns regarding this directive should be addressed to the DDO.

From: Brown, Jamie E (OLA) <Jamie.E.Brown@usdoj.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Charnes, Adam <Adam.Charnes@usdoj.gov>;Benczkowski, Brian A <Brian.A.Benczkowski@usdoj.gov>;Dinh, Viet <Viet.Dinh@usdoj.gov>
Sent: 1/23/2003 4:13:34 PM
Subject: : FW: Schumer Letter
Attachments: P_TOF9D003_WHO.TXT_1.pdf; P_TOF9D003_WHO.TXT_2.pdf; P_TOF9D003_WHO.TXT_3.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Brown, Jamie E (OLA)" <Jamie.E.Brown@usdoj.gov> ("Brown, Jamie E (OLA)" <Jamie.E.Brown@usdoj.gov> [UNKNOWN])
CREATION DATE/TIME:23-JAN-2003 21:13:34.00
SUBJECT:: FW: Schumer Letter
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:"Charnes, Adam" <Adam.Charnes@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) ("Charnes, Adam" <Adam.Charnes@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN])
READ:UNKNOWN
TO:"Benczkowski, Brian A" <Brian.A.Benczkowski@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) ("Benczkowski, Brian A" <Brian.A.Benczkowski@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN])
READ:UNKNOWN
TO:"Dinh, Viet" <Viet.Dinh@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) ("Dinh, Viet" <Viet.Dinh@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

I kiss all of your feet (after a pedicure, of course). Thank you for turning around a great letter so quickly. Hatch's staff is enormously appreciative.

-----Original Message-----
From: Rybicki, James E
Sent: Thursday, January 23, 2003 8:59 PM
To: Brown, Jamie E (OLA)
Subject: Schumer Letter

January 23, 2003 Letter to Sen. Schumer re: Miguel Estrada

Attachments to January 23 letter.

- att1.pdf - att2.pdf - att3.pdf
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_TOF9D003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_TOF9D003_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_TOF9D003_WHO.TXT_3>

U.S. Department of Justice

Office of Legislative Affairs

Washington, D.C. 20530

JAN 23 2003

The Honorable Charles E. Schumer
United States Senate
Washington, DC 20510

Dear Senator Schumer:

I am responding to your letter dated January 23, 2003, in which you once again requested that the Department disclose the confidential and privileged appeal, certiorari and amicus memoranda that Miguel Estrada authored when he was a career lawyer in the Office of the Solicitor General. You continue to insist that disclosure of this sensitive material is necessary to allow you adequately to address Mr. Estrada's nomination to the United States Court of Appeals for the District of Columbia Circuit -- a nomination that has been pending for some 624 days. As you know, Mr. Estrada has received a unanimous "well qualified" rating from the American Bar Association, the ABA's highest rating.

We addressed fully the assertions made in your most recent correspondence in our previous letters to you dated June 5, 2002, and October 8, 2002 (attached herewith). Our previous explanations remain equally applicable today, and we therefore must again respectfully decline your request. As we have explained, the relevant historical, policy and legal considerations implicated by your request establish that disclosure of these memoranda from the Office of Solicitor General would undermine the integrity of the decisionmaking process in that Office. Notwithstanding our previous letters, several specific items in your letter merit discussion.

At Mr. Estrada's hearing, you asserted that the Department disclosed memoranda written by Judge Easterbrook in connection with *his* confirmation hearing. In response to that claim, as we noted in our letter of October 8, 2002, we comprehensively reviewed the Department's files and the public record of Judge Easterbrook's confirmation hearing and we found absolutely no evidence that the Department authorized the release of these memoranda in connection with Judge Easterbrook's nomination. Your most recent letter now asserts that the Easterbrook documents "apparently" were provided to the Committee in connection with Judge Bork's nomination. However, the public record of Judge Bork's confirmation hearings contains no mention of the Easterbrook memoranda you reference. As we explained previously, your mere possession of these documents does not suggest that the Department waived applicable privileges nor authorized their disclosure in connection with either nomination.

REV_00156652

You also suggest in your letter that the Administration's decision to disclose legal memoranda from the White House Counsel's Office in connection with the nomination of Jeffrey Holmstead to serve as Assistant Administrator of the Environmental Protection Agency serves as precedent for disclosing Mr. Estrada's highly privileged work product. As you may be aware, the White House initially declined to provide all of Mr. Holmstead's files as requested by the Senate Environment and Public Work Committee, on the basis of the deliberative process, attorney-client and work product privileges. In response, the Environment Committee, based on its particularized concerns and allegation of misconduct regarding one specific subject, requested a small subset of documents related only to that matter. Because of the specificity of the Environment Committee's concerns, the White House permitted the Committee to review that limited subset of materials, which answered the allegation in question. This example, if anything, further demonstrates the overbreadth and impropriety of the current request -- a request that some have characterized as a fishing expedition requesting *all* documents authored by Mr. Estrada about *all* subjects during his *entire* tenure in the Office.

Finally, we respectfully submit that, despite your view to the contrary, your request threatens the proper functioning of the Office of the Solicitor General. All seven living former Solicitors General, including Archibald Cox, Drew Days, Walter Dellinger and Seth Waxman, have written to the Senate Judiciary Committee and explained the debilitating impact your request would have on the ability of the Office to represent the United States in litigation. The letter -- authored by distinguished lawyers of both parties -- noted that their "decisonmaking process required the unbridled, open exchange of ideas -- an exchange that simply cannot take place if attorneys have reason to fear that their private recommendations are not private at all, but vulnerable to public disclosure." While we respect your right to disagree with these seven former Solicitors General, we must defer to their considered judgments about the impact of disclosure based on their collective experience of decades heading the Office. Thus, we respectfully adhere to our previous decision to protect these highly privileged documents from disclosure.

Thank you for considering the Department's views on this matter. As we have noted previously, the public record is more than adequate for the Committee to evaluate Mr. Estrada's qualifications to be a Circuit Judge on the D.C. Circuit. We look forward to Mr. Estrada's prompt consideration by the Committee and confirmation by the full Senate.

Sincerely,

Jamie E. Brown

Jamie E. Brown
Acting Assistant Attorney General

Enclosures

cc: The Honorable Orrin G. Hatch, Chairman
The Honorable Patrick J. Leahy, Ranking Member
The Honorable Alberto Gonzales

REV_00156653

U.S. Department of Justice

Office of Legislative Affairs

Washington, D.C. 20530

June 5, 2002

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This responds to your letter dated May 15, 2002, requesting appeal recommendations, certiorari recommendations, and amicus recommendations that Miguel Estrada worked on when he was employed at the Department of Justice.

The categories of documents that you have requested are among the most highly privileged and deliberative documents generated within the Department of Justice. The Solicitor General must have the benefit of candid and confidential advice in order to discharge his critical responsibility of deciding what appeals the Government will take and what positions the Government will adopt in pending litigation. Attorneys like Mr. Estrada who serve as Assistants to the Solicitor General are asked to render candid, unbiased, and professional advice about the merits of potential appeals. They do so by preparing exactly the kinds of recommendation memoranda that you have requested. These documents review the substantive legal issues in a case, the broader jurisprudential implications of the case, policy considerations, the strength of the factual record, and the overall likelihood of success on appeal.

If highly privileged and deliberative documents of this kind are not shielded from disclosure, the Department will face the grave danger that Assistants to the Solicitor General, and others in comparable positions, will be chilled in the future from providing the candid and independent analysis that is essential to high-level decisionmaking. As the unanimous Supreme Court recognized: "Human experience teaches that those who expect public dissemination of their remarks may well temper candor with a concern for appearances and for their own interests to the detriment of the decisionmaking process." United States v. Nixon, 418 U.S. 683, 705 (1974). The Court observed that "the importance of this confidentiality is too plain to require further discussion." Id. Simply put, the Department cannot function properly if our attorneys write these kinds of documents with one eye focused on the effect that their words, if made public, might have on their qualification for future office.

REV_00156654

For these reasons, the Department has a longstanding policy -- which has endured across Administrations of both parties -- of declining to release publicly or make available to Congress the kinds of documents you have requested.

We trust that you will appreciate the important institutional interests that lead us to decline your request. In our judgment, the Committee has had ample time and alternative means for obtaining assessments of how Mr. Estrada's performance as an Assistant to the Solicitor General bears on the merits of his nomination. In particular, you have been free to inquire of the Solicitors General under whom Mr. Estrada served their views as to his qualifications for the position to which he has been nominated.

On January 25, 2002, you promised a Committee hearing for Mr. Estrada this year. So that the Committee can meet your commitment, we would request that you contact me or Judge Gonzales, as soon as possible to discuss this matter if you have any questions or concerns.

Sincerely,

Daniel J. Bryant
Assistant Attorney General

cc: The Honorable Orrin G. Hatch
Ranking Minority Member

REV_00156655

U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

October 8, 2002

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

During the hearing on September 26, 2002, on the nomination of Miguel A. Estrada to the United States Court of Appeals for the District of Columbia Circuit, you and Senator Schumer restated your request that the Department of Justice disclose certain confidential and privileged appeal, certiorari, and amicus memoranda that Mr. Estrada authored when he was a career lawyer in the Office of the Solicitor General.

As we indicated in our letter of June 5, 2002, we must respectfully decline your request. The relevant historical, policy, and legal considerations implicated by your request demonstrate that disclosure of these memoranda from the Office of the Solicitor General would undermine the integrity of the decisionmaking process in that Office.

The Committee's request threatens the proper functioning of the Office of the Solicitor General. Indeed, all seven living former Solicitors General—from Archibald Cox to Seth P. Waxman—have written to the Committee and explained that the Committee's broad and unprecedented request would have a debilitating effect on the ability of the United States to represent itself in litigation. Their letter explained that, as Solicitors General, their "decisionmaking process required the unbridled, open exchange of ideas—an exchange that simply cannot take place if attorneys have reason to fear that their private recommendations are not private at all, but vulnerable to public disclosure." Thus, "[a]ny attempt to intrude into the Office's highly privileged deliberations would come at the cost of the Solicitor General's ability to defend vigorously the United States' litigation interests—a cost that also would be borne by Congress itself."

Longstanding historical Senate practice reinforces the position of the former Solicitors General that confidential, deliberative documents from the Office of Solicitor General have been, and should remain, confidential during confirmation hearings. As the attached charts demonstrate, since the beginning of the Carter Administration in 1977, the Senate has approved 67 United States Court of Appeals nominees who previously had worked in the Department of Justice. Those 67 nominees—of whom 38 had no prior

REV_00156656

judicial experience—include eight former lawyers with the Office of the Solicitor General. Our review of each of these 67 nominees' hearing records establishes that in *none* of these cases did the Department of Justice produce internal deliberative materials created by the nominee while a Department lawyer. In fact, we could find no nominee for whom the Senate Judiciary Committee even *requested* that the Department produce such materials.[1] The Committee's request with respect to Mr. Estrada therefore is unprecedented.

Of particular relevance are the appellate-court nominees who previously had been Assistants to the Solicitor General or Deputy Solicitors General, and had not served as judges at the time of their nomination—the same position Mr. Estrada occupies now. The nominees, nominated by Presidents of both political parties and confirmed by Senates controlled by both political parties, are:

- Samuel A. Alito Jr. (Assistant to the Solicitor General, 1981-85; confirmed to the Third Circuit, 1990);
- Danny J. Boggs (Assistant to the Solicitor General, 1973-75; confirmed to the Sixth Circuit, 1986);
- William C. Bryson (Assistant to the Solicitor General, 1978-79; Deputy Solicitor General, 1986-94; confirmed to the Federal Circuit, 1994);
- Frank H. Easterbrook (Assistant to the Solicitor General, 1974-77; Deputy Solicitor General, 1978-79; confirmed to the Seventh Circuit, 1985);
- Daniel M. Friedman (Assistant to the Solicitor General, 1959-68; Deputy Solicitor General, 1968-78; confirmed to the appellate division of the Court of Claims (later the Federal Circuit), 1982);
- Richard A. Posner (Assistant to the Solicitor General, 1965-67; confirmed to the Seventh Circuit, 1981); and
- A. Raymond Randolph (Deputy Solicitor General, 1975-77; confirmed to the D.C. Circuit, 1990).

In none of these cases did the Department of Justice provide to the Committee the nominees' appeal, certiorari, or amicus recommendations. And in none of these cases did the Committee request that the Department do so.

The policy considerations implicated by the Committee's request underscore the strength of the Department's position and demonstrate that previous Senate Judiciary Committees have recognized the essential, long-term interest of the United States in protecting the integrity of such memoranda. The need to ensure the integrity of the process by which the Solicitor General makes litigation decisions for the United States is extraordinarily important. As the former Solicitors General explained, the interest in receiving honest, candid assessments of possible litigation positions, agency interests,

---

[1] The nomination of Stephen S. Trott to the Ninth Circuit was delayed by a dispute between the Committee and the Department with respect to access to internal documents wholly unrelated to Judge Trott. *See* Ruth Marcus, "Impasse Over Justice Documents Ends; Papers Turned Over; Senate Confirms Trott to Court of Appeals," Wash. Post., Mar. 25, 1998, at A23. The Committee never requested that the Department provide it with documents created by Judge Trott as a Department lawyer.

REV_00156657

and Supreme Court opinions would be severely compromised by disclosure in this context. It is important to add, furthermore, that memoranda written by Assistants to the Solicitor General present legal arguments supporting the litigation position of the United States, not their personal views. These memoranda seek to determine the legal arguments that are appropriate in government briefs, not the legal or policy preferences of their author.

Furthermore, the Committee's need to assess a nominee's performance, intellect, and integrity can be accommodated in ways other than intruding into the deliberative process of the Office of the Solicitor General. For example, the Committee can review the nominee's written briefs and oral arguments, consider the opinions of others who served in the Office at the same time, and examine the nominee's written performance reviews. In Mr. Estrada's case, for example, there is a substantial body of information about his tenure in the Office of the Solicitor General. Former Solicitor General Seth Waxman, who supervised Mr. Estrada, has written to the Committee in support of his nomination. Mr. Waxman wrote:

> During the time Mr. Estrada and I worked together, he was a model of professionalism and competence. In no way did I ever discern that the recommendations Mr. Estrada made or the analyses he propounded were colored in any way by his personal views—or indeed that they reflected anything other than the long-term interests of the United States.

Moreover, 14 of Mr. Estrada's former colleagues in the Office of the Solicitor General have written the Committee to emphasize his ability, collegiality, and integrity:

> We also know Miguel to be a delightful and charming colleague, someone who can engage in open, honest, and respectful discussion of legal issues with others, regardless of their ideological perspectives. Based on our experience as his colleagues in the Solicitor General's office, we are confident that he possesses the temperament, character, and qualities of fairness and respect necessary to be an exemplary judge. In combination, Miguel's exceptional legal ability and talent, his character and integrity, and his deep and varied experience as a public servant and in private practice make him an excellent candidate for service on the federal bench.

Finally, Mr. Estrada has sent the Judiciary Committee copies of his performance evaluations from his tenure in the Office. These documents indicate that Mr. Estrada's supervisors gave him ratings of "outstanding"—the highest possible score—in every category for every evaluation period.

It bears emphasis that the long-standing historical practice, policy considerations, and views of the former Solicitors General are fully supported by applicable legal principles. At the outset, it is important to note that the memoranda sought by the Committee are indisputably within the scope of the deliberative process, attorney-client, and attorney work-product privileges. The Supreme Court has recognized "the valid

REV_00156658

need for protection of communications between high Government officials and those who advise and assist them in the performance of their manifold duties." *Houchins v. KQED*, 438 U.S. 1, 35 n.27 (1978). Indeed, the Court has explained that "the importance of this confidentiality is too plain to require further discussion. Human experience teaches that those who expect public dissemination of their remarks may well temper candor with a concern for appearances and for their own interests to the detriment of the decisionmaking process." *Id.* (internal quotation omitted). The deliberative process privilege's ultimate purpose is to prevent injury to the quality of agency decisions by allowing government officials freedom to debate alternative approaches in private. *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 151 (1975). Based on these principles, courts have long recognized the Executive Branch's authority to protect the integrity of documents and other materials which would reveal advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are formulated.[2] *See In re Sealed Case*, 121 F.3d 729, 737 (D.C. Cir. 1997).

As a matter of law and tradition, these privileges can be overcome only when Congress establishes a "demonstrably critical" need for the requested information. *Senate Select Committee on Presidential Campaign Activities v. Nixon*, 498 F.2d 725, 731 (D.C. Cir. 1974) (*en banc*). It is insufficient for the requested material merely to "have some arguable relevance" to appropriate Congressional function. *Id.* at 733. In assessing whether Congress' possesses a "demonstrably critical" need for the material in question, one crucial consideration is whether Congress can obtain reasonably equivalent information from alternative sources that would satisfy its legitimate needs. In this instance, we again note that the Committee has full access to Mr. Estrada's briefs and oral arguments, to the information provided by Mr. Waxman, to the letter from former colleagues in the Solicitor General's office, and to his performance reviews. The Committee also is free to contact any of Mr. Estrada's former supervisors and colleagues in the Office of the Solicitor General to seek further information about Mr. Estrada's temperament, fairness, analytical skills and abilities or any other matters the Committee appropriately deems relevant to its inquiry. Because the Committee has adequate sources of information about Mr. Estrada, among other reasons, it cannot establish the "demonstrably critical" need for the deliberative materials in question.

None of the seven examples cited during Mr. Estrada's hearing as precedent for the Committee's request—the nominations of Judge Frank Easterbrook to the Seventh Circuit, Judge Robert Bork and Chief Justice William Rehnquist to the Supreme Court, Benjamin Civiletti to be Attorney General and Deputy Attorney General, William Bradford Reynolds to be Associate Attorney General, Judge Stephen Trott to the Ninth Circuit, and Jeffrey Holmstead to be Assistant Administrator at the Environmental Protection Agency—supports the Committee's request in this matter.

---

[2] For discussion of the history of assertions of the deliberative process privilege, see *History of Refusals by Executive Branch Officials to Provide Information Demanded by Congress: Part I--Presidential Invocations of Executive Privilege vis-à-vis Congress*, 6 Op. Off. Legal Counsel 751 (1982); *History of Refusals by Executive Branch Officials to Provide Information Demanded by Congress: Part II--Invocations of Executive Privilege by Executive Officials*, 6 Op. Off. Legal Counsel 782 (1982).

REV_00156659

Of the seven cited nominees, the hearings of only two—Judge Bork and Judge Easterbrook—involved documents from their service in the Office of the Solicitor General. Senator Schumer placed into Mr. Estrada's hearing record a single, two-page amicus recommendation memorandum that Judge Easterbrook authored as an Assistant to the Solicitor General. The official record of Judge Easterbrook's confirmation hearing contains no references to this document, and based on a comprehensive review of the Department's files, we do not believe that the Department authorized its release in connection with Judge Easterbrook's nomination. Senator Schumer's possession of this memorandum does not suggest that the Department waived applicable privileges and authorized its disclosure in connection with Judge Easterbrook's or any other nomination.

The hearing record of Judge Bork's nomination to the Supreme Court demonstrates that the Committee received access to a limited number of documents related to three specific subjects of heightened interest to the Committee, two of which were related to Judge Bork's involvement in Watergate-related issues and triggered specific concerns by the Committee. The vast majority of memoranda authored or received by Judge Bork when he served as Solicitor General were neither sought nor produced. And the limited category of documents that were produced to the Committee did not reveal the internal deliberative recommendations or analysis of Assistants to the Solicitor General regarding appeal, certiorari, or amicus recommendations in pending cases.

The remaining five nominations cited at the hearing similarly do not justify the disclosure of deliberative material authored by Mr. Estrada. None of the limited documents disclosed in the hearings for those five nominations involved deliberative memoranda from the Office of the Solicitor General. The Committee with respect to those five nominations requested specific documents primarily related to allegations of misconduct or malfeasance identified by the Committee. Moreover, as noted above, with respect to the nomination of Judge Trott, the Committee requested documents wholly unrelated to Judge Trott's service with the Department. Again, the vast majority of deliberative memoranda authored or received by these nominees were never sought or received by the Committee. In sum, the existence of a few isolated examples where the Executive Branch on occasion accommodated a Committee's targeted requests for very specific information does not in any way alter the fundamental and long-standing principle that memoranda from Office of Solicitor General—and deliberative Department of Justice materials more broadly—must remain protected in the confirmation context so as to maintain the integrity of the Executive Branch's decisionmaking process.

In conclusion, we emphasize that the Department of Justice appreciates and profoundly respects the Judiciary Committee's legitimate need to evaluate Mr. Estrada's qualifications for the federal bench. We again suggest, however, that the information currently available is more than adequate to allow the Committee to determine whether Mr. Estrada is qualified to be a federal judge.

Thank you for considering the Department's views on this matter. Mr. Estrada's nomination for a position on an important federal court of appeals has now been pending

REV_00156660

for 518 days. There is no disagreement about the fact that he is a talented, experienced and exceptionally well-qualified nominee with strong and widespread bipartisan support. In fact, after an intensive investigation, the American Bar Association found Mr. Estrada to be unanimously well-qualified for a judgeship on the District of Columbia Circuit. We sincerely hope that the Committee and the Senate will approve Mr. Estrada's nomination before the close of the 107th Congress.

Sincerely,

Daniel J. Bryant
Assistant Attorney General

Enclosures

cc: The Honorable Orrin G. Hatch,
Ranking Member
The Honorable Charles E. Schumer
The Honorable Alberto Gonzales

REV_00156661

FORMER EMPLOYEES OF THE SOLICITOR GENERAL'S OFFICE NOMINATED AND CONFIRMED TO THE FEDERAL COURTS OF APPEALS

Name of Nominee	Circuit	Year of Confirmation	Department of Justice Position(s) Held
Alito, Samuel A. Jr.	3rd	1990	Assistant U.S. Attorney, District of New Jersey, 1977-81; Assistant to the Solicitor General, 1981-85; Deputy Assistant Attorney General, 1985-87; U.S. Attorney, District of New Jersey, 1987-90
Boggs, Danny J.	6th	1986	Assistant to Solicitor General, 1973-75
Bork, Robert H.	D.C.	1981	Solicitor General, 1973-77; Acting Attorney General, 1973-74
Bryson, William C.	Federal	1994	Assistant to Solicitor General 1978-79; Chief, Appellate Section, Criminal Division, 1979-82; Special Counsel, Organized Crime and Racketeering Section, Criminal Division, 1982-86; Deputy Solicitor General, 1986-94; Deputy Associate Attorney General (Acting Associate Attorney General), 1994
Easterbrook, Frank H.	7th	1985	Assistant to Solicitor General, 1974-77; Deputy Solicitor General, 1978-79
Friedman, Daniel M.	Federal	1978	Assistant Chief, Appellate Section, Antitrust Division, 1951-59; Assistant to Solicitor General, 1959-62; Second Assistant to Solicitor General, 1962-68; First Deputy Solicitor General, 1968-78; Acting Solicitor General, 1977
Posner, Richard A.	7th	1981	Assistant to Solicitor General, 1965-67
Randolph, A. Raymond	D.C.	1990	Assistant to Solicitor General, 1970-73; Deputy Solicitor General, 1975-77

REV_00156662

FORMER DEPARTMENT OF JUSTICE EMPLOYEES WITH NO PRIOR JUDICIAL EXPERIENCE NOMINATED AND CONFIRMED TO THE FEDERAL COURTS OF APPEALS

Name of Nominee	Circuit	Year of Confirmation	Department of Justice Position(s) Held
Alito, Samuel A. Jr.	3rd	1990	Assistant U.S. Attorney, District of New Jersey, 1977-81; Assistant to the Solicitor General, 1981-85; Deputy Assistant Attorney General, 1985-87; U.S. Attorney, District of New Jersey, 1987-90
Anderson, Stephen H.	10th	1985	Trial Attorney, Tax Division, 1960-64
Archer, Glenn L.	Federal	1985	Assistant Attorney General, Tax Division, 1981-85
Boggs, Danny J.	6th	1986	Assistant to Solicitor General, 1973-75
Bork, Robert H.	D.C.	1981	Solicitor General, 1973-77; Acting Attorney General, 1973-74
Breyer, Stephen G.	1st	1980	Special Assistant to Assistant Attorney General, Antitrust Division, 1965-67
Bryson, William C.	Federal	1994	Assistant to Solicitor General 1978-79; Chief, Appellate Section, Criminal Division, 1979-82; Special Counsel, Organized Crime and Racketeering Section, Criminal Division, 1982-86; Deputy Solicitor General, 1986-94; Deputy Associate Attorney General (Acting Associate Attorney General), 1994
Bye, Kermit E.	8th	1999	Assistant U.S. Attorney, District of North Dakota, 1966-68
Dyk, Timothy	Federal	1999	Special Assistant to Assistant Attorney General, Tax Division, 1963-64
Easterbrook, Frank H.	7th	1985	Assistant to Solicitor General, 1974-77; Deputy Solicitor General, 1978-79
Fisher, Raymond C.	9th	1999	Associate Attorney General, 1997-99

Name of Nominee	Circuit	Year of Confirmation	Department of Justice Position(s) Held
Friedman, Daniel M.	Federal	1978	Assistant Chief, Appellate Section, Antitrust Division, 1951-59; Assistant to Solicitor General, 1959-62; Second Assistant to Solicitor General, 1962-68; First Deputy Solicitor General, 1968-78; Acting Solicitor General, 1977
Garland, Merrick B.	D.C.	1997	Special Assistant Attorney General, 1979-81; Assistant U.S. Attorney, District of Columbia, 1989-92; Deputy Assistant Attorney General, Criminal Division, 1993-94; Principal Associate Deputy Attorney General, 1994-97
Ginsburg, Douglas H.	D.C.	1986	Deputy Assistant Attorney General, Antitrust Division, 1983-84; Assistant Attorney General, Antitrust Division, 1985-86
Howard, Jeffrey R.	1st	2002	U.S. Attorney, District of New Hampshire, 1989-93
Johnson, Frank M., Jr.	11th	1979	U.S. Attorney, Northern District of Alabama, 1953-55
Jolly, E. Grady	5th	1982	Assistant U.S. Attorney, Northern District of Mississippi, 1964-67; Trial Attorney, Tax Division, 1967-69
Jones, Nathaniel R.	6th	1979	Assistant U.S. Attorney, Northern District of Ohio, 1961-67
King, Robert B.	4th	1998	Assistant U.S. Attorney, Southern District of West Virginia, 1970-74; U.S. Attorney, Southern District of West Virginia, 1977-81
Luttig, J. Michael	4th	1991	Principal Deputy Assistant Attorney General, Office of Legal Counsel, 1989-90; Assistant Attorney General, Office of Legal Counsel, 1990-91; Counselor to Attorney General, 1990-91
Merritt, Gilbert Stroud, Jr.	6th	1977	U.S. Attorney, Middle District of Tennessee, 1966-69

Name of Nominee	Circuit	Year of Confirmation	Department of Justice Position(s) Held
Michael, M. Blane	4th	1993	Assistant U.S. Attorney, Southern District of New York, 1971-72; Special Assistant U.S. Attorney, Northern District of West Virginia, 1972
Posner, Richard A.	7th	1981	Assistant to Solicitor General, 1965-67
Randolph, A. Raymond	D.C.	1990	Assistant to Solicitor General, 1970-73; Deputy Solicitor General, 1975-77
Rovner, Ilana D.	7th	1992	Assistant U.S. Attorney, Northern District of Illinois, 1973-77
Scalia, Antonin	D.C.	1982	Assistant Attorney General, Office of Legal Counsel, 1974-77
Schall, Alvin A.	Federal	1992	Assistant U.S. Attorney, Eastern District of New York, 1973-78; Trial Attorney, Civil Division, 1978-87; Assistant to Attorney General, 1988-92
Silberman, Laurence H.	D.C.	1985	Deputy Attorney General, 1974-75
Smith, Edward S.	Federal	1978	Chief of Trial Section, Tax Division, 1961; Deputy Assistant Attorney General for Trials, Tax Division, 1962-63
Starr, Kenneth W.	D.C.	1983	Counselor to Attorney General, 1981-1983; Solicitor General 1989-93
Tallman, Richard	9th	2000	Trial Attorney, Criminal Division, 1979-80; Assistant U.S. Attorney, Western District of Washington, 1980-83
Trott, Stephen	9th	1988	U.S. Attorney, Central District of California, 1981-83; Assistant Attorney General, Criminal Division, 1983-86; Associate Attorney General, 1986-88
Wald, Patricia M.	D.C.	1979	Attorney, Office of Criminal Justice, 1967-68; Assistant Attorney General, Office of Legislative Affairs, 1977-79
Walker, John M.	2nd	1989	Assistant U.S. Attorney, Southern District of New York, 1970-75
Wilkinson, James H.	4th	1984	Deputy Assistant Attorney General, Civil Rights Division, 1982-83

REV_00156665

Name of Nominee	Circuit	Year of Confirmation	Department of Justice Position(s) Held
Williams, Stephen F.	D.C.	1986	Assistant U.S. Attorney, Southern District of New York, 1966-69
Wood, Diane P.	7th	1995	Special Assistant to Assistant Attorney General, Antitrust Division, Foreign Commerce Section, 1985-87; Deputy Assistant Attorney General, International, Appellate, and Policy, Antitrust Division, 1993-95

REV_00156666

FORMER DEPARTMENT OF JUSTICE EMPLOYEES
NOMINATED AND CONFIRMED TO THE FEDERAL COURTS OF APPEALS

Name of Nominee	Circuit	Year of Confirmation	Department of Justice Position(s) Held	Prior Judicial Experience at the Time of Circuit Court Nomination?	Employment in the Solicitor General's Office?
Alito, Samuel A. Jr.	3rd	1990	Assistant U.S. Attorney, District of New Jersey, 1977-81; Assistant to the Solicitor General, 1981-85; Deputy Assistant Attorney General, 1985-87; U.S. Attorney, District of New Jersey, 1987-90	No	Yes
Anderson, Stephen H.	10th	1985	Trial Attorney, Tax Division, 1960-64	No	No
Archer, Glenn L.	Federal	1985	Assistant Attorney General, Tax Division, 1981-85	No	No
Barry, Maryanne	3rd	1999	Assistant U.S. Attorney, District of New Jersey, Civil Division, 1974-75; Deputy Chief, Appeals Division, 1976-1977; Chief, Appeals Division, 1977-1982; Executive Assistant U.S. Attorney, District of New Jersey 1981-82; First Assistant U.S. Attorney, District of New Jersey, 1981-83	Yes	No
Boggs, Danny J.	6th	1986	Assistant to Solicitor General, 1973-75	No	Yes
Boochever, Robert	9th	1980	Assistant U.S. Attorney, District of Arkansas, 1946-47	Yes	No
Bork, Robert H.	D.C.	1981	Solicitor General, 1973-77; Acting Attorney General, 1973-74	No	Yes
Boudin, Michael	1st	1992	Deputy Assistant Attorney General for Regulatory Affairs, Antitrust Division, 1987-90	Yes	No
Breyer, Stephen G.	1st	1980	Special Assistant to Assistant Attorney General, Antitrust Division, 1965-67	No	No

REV_00156667

Name of Nominee	Circuit	Year of Confirmation	Department of Justice Position(s) Held	Prior Judicial Experience at the Time of Circuit Court Nomination?	Employment in the Solicitor General's Office?
Briscoe, Mary B.	10th	1995	Assistant U.S. Attorney, District of Kansas, 1974-84	Yes	No
Bryson, William C.	Federal	1994	Assistant to Solicitor General 1978-79; Chief, Appellate Section, Criminal Division, 1979-82; Special Counsel, Organized Crime and Racketeering Section, Criminal Division, 1982-86; Deputy Solicitor General, 1986-94; Deputy Associate Attorney General (Acting Associate Attorney General), 1994	No	Yes
Bye, Kermit E.	8th	1999	Assistant U.S. Attorney, District of North Dakota, 1966-68	No	No
Cole, R. Guy	6th	1995	Trial Attorney, Civil Division, 1978-80	Yes	No
Cyr, Conrad	1st	1989	Assistant U.S. Attorney, District of Maine, 1959-61	Yes	No
Daughtrey, Martha C.	6th	1993	Assistant U.S. Attorney, Middle District of Tennessee, 1968-69	Yes	No
Dyk, Timothy	Federal	1999	Special Assistant to Assistant Attorney General, Tax Division, 1963-64	No	No
Easterbrook, Frank H.	7th	1985	Assistant to Solicitor General, 1974-77; Deputy Solicitor General, 1978-79	No	Yes
Fisher, Raymond C.	9th	1999	Associate Attorney General, 1997-99	No	No
Flaum, Joel M.	7th	1983	First Assistant U.S. Attorney, Northern District of Illinois, 1972-75	Yes	No
Friedman, Daniel M.	Federal	1978	Assistant Chief, Appellate Section, Antitrust Division, 1951-59; Assistant to Solicitor General, 1959-62; Second Assistant to Solicitor General, 1962-68; First Deputy Solicitor General, 1968-78; Acting Solicitor General, 1977	No	Yes

REV_00156668

Name of Nominee	Circuit	Year of Confirmation	Department of Justice Position(s) Held	Prior Judicial Experience at the Time of Circuit Court Nomination?	Employment in the Solicitor General's Office?
Garland, Merrick B.	D.C.	1997	Special Assistant Attorney General, 1979-81; Assistant U.S. Attorney, District of Columbia, 1989-92; Deputy Assistant Attorney General, Criminal Division, 1993-94; Principal Associate Deputy Attorney General, 1994-97	No	No
Ginsburg, Douglas H.	D.C.	1986	Deputy Assistant Attorney General, Antitrust Division, 1983-84; Assistant Attorney General, Antitrust Division, 1985-86	No	No
Guy, Ralph B., Jr.	6th	1985	Chief Assistant U.S. Attorney, Eastern District of Michigan, 1968-70; U.S. Attorney, Eastern District of Michigan, 1970-76	Yes	No
Hall, Cynthia H.	9th	1984	Trial Attorney, Tax Division, 1960-64	Yes	No
Hartz, Harris L.	10th	2001	Assistant U.S. Attorney, District of New Mexico, 1972-75	Yes	No
Hatchett, Joseph W.	11th	1979	Assistant U.S. Attorney, Middle District of Florida, 1966; First Assistant U.S. Attorney, Middle District of Florida, 1967-71	Yes	No
Hawkins, Michael D.	9th	1994	U.S. Attorney, District of Arizona, 1977-80	Yes	No
Howard, Jeffrey R.	1st	2002	U.S. Attorney, District of New Hampshire, 1989-93	No	No
Johnson, Frank M., Jr.	11th	1979	U.S. Attorney, Northern District of Alabama, 1953-55	No	No
Jolly, E. Grady	5th	1982	Assistant U.S. Attorney, Northern District of Mississippi, 1964-67; Trial Attorney, Tax Division, 1967-69	No	No
Jones, Nathaniel R.	6th	1979	Assistant U.S. Attorney, Northern District of Ohio, 1961-67	No	No

Name of Nominee	Circuit	Year of Confirmation	Department of Justice Position(s) Held	Prior Judicial Experience at the Time of Circuit Court Nomination?	Employment in the Solicitor General's Office?
King, Robert B.	4th	1998	Assistant U.S. Attorney, Southern District of West Virginia, 1970-74; U.S. Attorney, Southern District of West Virginia, 1977-81	No	No
Krupansky, Robert B.	6th	1982	U.S. Attorney, Northern District of Ohio, 1969-1970	Yes	No
Leval, Pierre N.	2nd	1993	Assistant U.S. Attorney, Southern District of New York, 1964-68	Yes	No
Lewis, Timothy K.	3rd	1992	Assistant U.S. Attorney, Western District of Pennsylvania, 1983-1991	Yes	No
Lipez, Kermit	1st	1998	Staff Attorney, Civil Rights Division, 1967-1968	Yes	No
Luttig, J. Michael	4th	1991	Principal Deputy Assistant Attorney General, Office of Legal Counsel, 1989-90; Assistant Attorney General, Office of Legal Counsel, 1990-91; Counselor to Attorney General, 1990-91	No	No
Marcus, Stanley	11th	1997	Assistant U.S. Attorney, Eastern District of New York, 1975-78; Deputy Chief Organized Crime Strike Force, 1978-79; Chief Organized Crime Strike Force, 1980-82; U.S. Attorney, Southern District of Florida, 1982-85	Yes	No
Martin, Boyce F., Jr.	6th	1979	Assistant U.S. Attorney, Western District of Kentucky, 1964; U.S. Attorney, Western District of Kentucky, 1965	Yes	No
McKee, Theodore A.	3rd	1994	Assistant U.S. Attorney, Eastern District of Pennsylvania, 1977-80	Yes	No
Merritt, Gilbert Stroud, Jr.	6th	1977	U.S. Attorney, Middle District of Tennessee, 1966-69	No	No

REV_00156670

Name of Nominee	Circuit	Year of Confirmation	Department of Justice Position(s) Held	Prior Judicial Experience at the Time of Circuit Court Nomination?	Employment in the Solicitor General's Office?
Michael, M. Blane	4th	1993	Assistant U.S. Attorney, Southern District of New York, 1971-72; Special Assistant U.S. Attorney, Northern District of West Virginia, 1972	No	No
Michel, Paul R.	Federal	1988	Deputy Chief Public Integrity Section, Criminal Division, 1976-78; Associate Deputy Attorney General, 1978-81	Yes	No
Newman, Jon O.	2nd	1979	U.S. Attorney, District of Connecticut, 1964-69	Yes	No
Poole, Cecil F.	9th	1979	U.S. Attorney, Northern District of California, 1961-70	Yes	No
Posner, Richard A.	7th	1981	Assistant to Solicitor General, 1965-67	No	Yes
Randolph, A. Raymond	D.C.	1990	Assistant to Solicitor General, 1970-73; Deputy Solicitor General, 1975-77	No	Yes
Rogers, Judith Ann W.	D.C.	1993	Assistant U.S. Attorney, District of Columbia, 1965-68; Trial Attorney, Criminal Division, 1969-71	Yes	No
Rovner, Ilana D.	7th	1992	Assistant U.S. Attorney, Northern District of Illinois, 1973-77	No	No
Scalia, Antonin	D.C.	1982	Assistant Attorney General, Office of Legal Counsel, 1974-77	No	No
Schall, Alvin A.	Federal	1992	Assistant U.S. Attorney, Eastern District of New York, 1973-78; Trial Attorney, Civil Division, 1978-87; Assistant to Attorney General, 1988-92	No	No
Schroeder, Mary M.	9th	1979	Trial Attorney, Civil Division, 1965-69	Yes	No
Sentelle, David B.	D.C.	1987	Assistant U.S. Attorney, Western District of North Carolina, 1970-74	Yes	No

Name of Nominee	Circuit	Year of Confirmation	Department of Justice Position(s) Held	Prior Judicial Experience at the Time of Circuit Court Nomination?	Employment in the Solicitor General's Office?
Silberman, Laurence H.	D.C.	1985	Deputy Attorney General, 1974-75	No	No
Siler, Eugene E.	6th	1991	U.S. Attorney, Eastern District of Kentucky, 1970-75	Yes	No
Smith, Edward S.	Federal	1978	Chief of Trial Section, Tax Division, 1961; Deputy Assistant Attorney General for Trials, Tax Division, 1962-63	No	No
Starr, Kenneth W.	D.C.	1983	Counselor to Attorney General, 1981-1983; Solicitor General 1989-93	No	No*
Stewart, Carl E.	5th	1994	Assistant U.S. Attorney, Western District of Louisiana, 1979-1983	Yes	No
Tallman, Richard	9th	2000	Trial Attorney, Criminal Division, 1979-80; Assistant U.S. Attorney, Western District of Washington, 1980-83	No	No
Trott, Stephen	9th	1988	U.S. Attorney, Central District of California, 1981-83; Assistant Attorney General, Criminal Division, 1983-86; Associate Attorney General, 1986-88	No	No
Wald, Patricia M.	D.C.	1979	Attorney, Office of Criminal Justice, 1967-68; Assistant Attorney General, Office of Legislative Affairs, 1977-79	No	No
Walker, John M.	2nd	1989	Assistant U.S. Attorney, Southern District of New York, 1970-75	No	No
Wilkinson, James H.	4th	1984	Deputy Assistant Attorney General, Civil Rights Division, 1982-83	No	No
Williams, Ann C.	7th	1999	Assistant U.S. Attorney, Northern District of Illinois, 1976-85	Yes	No

* Judge Starr was confirmed as a Circuit Judge on the District of Columbia Circuit *before* serving as Solicitor General.

REV_00156672

Name of Nominee	Circuit	Year of Confirmation	Department of Justice Position(s) Held	Prior Judicial Experience at the Time of Circuit Court Nomination?	Employment in the Solicitor General's Office?
Williams, Stephen F.	D.C.	1986	Assistant U.S. Attorney, Southern District of New York, 1966-69	No	No
Wilson, Charles R.	11th	1999	U.S. Attorney, Middle District of Florida, 1994-99	Yes	No
Wood, Diane P.	7th	1995	Special Assistant to Assistant Attorney General, Antitrust Division, Foreign Commerce Section, 1985-87; Deputy Assistant Attorney General, International, Appellate, and Policy, Antitrust Division, 1993-95	No	No

REV_00156673

GENERAL COUNSEL ORGANIZATION

1. Purpose

This directive provides information about the organization of the Department of Homeland Security, Office of General Counsel (OGC)

2. Scope

This directive applies to the DHS OGC.

3. Authorities

The Homeland Security Act of 2002, codified in Title 6, US Code.

4. Responsibilities

A. ***General***: The Office of General Counsel (OGC) is responsible for all legal activities within DHS, to ensure full implementation of DHS' statutory responsibilities and all policies set forth by the Secretary and all officials of DHS. All DHS sub-unit and agency legal offices report up to the DHS Office of General Counsel. OGC provides legal counsel for all DHS offices except those specifically excluded by regulation or directive. OGC develops plans, policies, and operating methods and represents the agency and determines its position in order to provide effective legal services dealing with claims, protests, litigation, alternative dispute resolution and representation of DHS in all legal forums. OGC drafts legislation proposed by DHS officials and furnishes legal advice in connection with reports on legislation proposed by other Federal agencies. OGC develops, implements and coordinates DHS' ethics program for current and former DHS employees. OGC provides legal services to Boards and Commissions for which DHS provides administrative support. Enclosure (1) is an Organizational Chart for the OGC.

B. ***General Counsel***. The General Counsel is the chief legal advisor of the Department. He or she determines the policy and directs the actions of the Office of General Counsel, the Offices of Regional Counsel and other DHS legal offices.

1. Plans, directs and executes all legal activities within the DHS nationwide to ensure full and legally sound implementation of DHS' statutory responsibilities.

Assures proper legal and policy support for the missions of DHS.

2. Serves as the chief legal advisor to the Secretary, the Deputy Secretary, and other senior agency officials in developing issuing DHS policies and regulations.

3. Provides overall guidance and direction to all components of the OGC. Directs and coordinates the conduct of legal and policy assistance activities within DHS field jurisdictions and establishes reporting relationships of subordinate legal offices in the Department. Issues directives and instructions to govern execution of the functions of these offices and evaluates their performance by review and inspection.

C. ***Deputy General Counsel***. Assists the General Counsel in the execution of the functions of the Office of General Counsel and acts in the capacity of the General Counsel in the event of absence or vacancy. Performs other delegated and assigned duties.

D. ***Administrative Support Staff.***

1. Provides administrative assistance and support to the General Counsel, Associate General Counsels, Legal Advisors, and Regional Counsels in development and/or execution of staffing plans; employee development programs; hiring and other personnel actions; acquisition, allocation and management of space, equipment and other property; and law office automation programs.

2. Provides administrative assistance and support to the General Counsel, Associate General Counsels and Regional Counsels in formulation and execution of the Office of General Counsel's operating budget, including analysis of budgetary needs. Monitors expenditures to ensure they are within funding limitations and other budget constraints.

3. Provides such additional administrative support to the Office of General Counsel as may be required by the General Counsel.

E. ***Associate General Counsel for Border and Transportation Security (BTS).*** As head of the BTS Law Division, plans, develops, and coordinates legal services and advice pertaining to the Border and Transportation Security Directorate:

1. In consultation with the General Counsel, plans, directs and executes all legal activities within the BTS nationwide to ensure full and legally sound implementation of BTS' statutory responsibilities. Assures proper legal and policy support for the varied mission of BTS.

2. Serves as the chief legal advisor to the Under Secretary for Border and Transportation Security, and other BTS senior agency officials in developing and

issuing BTS policies and regulations.

3. Provides overall guidance and direction to all components of the BTS. Directs and coordinates the conduct of legal and policy assistance activities within BTS field jurisdictions through Offices of Regional Counsel.

4. Provides legal advice and guidance on all BTS matters with international law implications and coordinates with attorneys from the Department of State, as necessary.

5. Consults with and advises the General Counsel, other Associate General Counsels, Regional Counsels and other legal offices in the Department on legal matters in assigned areas of responsibility.

6. Monitors Division workloads and resources, making adjustments as necessary. Makes recommendations on resource acquisition, development and allocation to the General Counsel.

7. Implements the policies of the General Counsel and provides overall management direction for the BTS Law Division. When requested, represents the General Counsel and/or the OGC with senior DHS management, other Federal agencies, business representatives and others in interpreting OGC or BTS programs, policies and objectives.

8. Provides litigation support to the Department of Justice attorneys and offices of United States Attorneys (with assistance from other elements of the OGC and other agencies) in representation of the Government's interest in court in assigned areas of responsibility.

9. Serves as DHS' legal advisor for the Bureau of Border Security. In this role, performs the following:

a. Plans, directs and executes all legal activities within the Bureau of Border Security nationwide to ensure full and legally sound implementation of the Bureau's statutory responsibilities. Assures proper legal and policy support for the mission of the Bureau of Border Security.

b. Serves as the principal legal advisor to the Assistant Secretary, Bureau of Border Security, and other senior Bureau officials in providing specialized legal advice, opinions, determinations, regulations, and any other assistance with respect to legal matters affecting the Bureau.

c. Provides overall legal guidance and direction to all components of the Bureau of Border Security. Directs and coordinates the conduct of legal and policy assistance activities within the Bureau's field jurisdictions.

d. Represents the Bureau in all exclusion, deportation, and removal proceedings before the Executive Office for Immigration Review. (see

H.R. 5005, section 442(c)).

e. Consults with and advises the General Counsel, Associate General Counsels, Legal Advisors, and Regional Counsels on legal matters in assigned areas of responsibility.

f. Maintains close communication and coordination with the Legal Advisor for the Bureau of Citizenship & Immigration Services.

g. Provides litigation support to the Department of Justice attorneys and offices of United States Attorneys (with assistance from other elements of the OGC and other agencies) in representation of the Government's interest in court in assigned areas of responsibility.

h. Represents the bureau in all exclusion, deportation, and removal proceedings before the Executive Office for Immigration Review. (see H.R. 5005, section 442(c)).

F. ***Legal Advisor for the Bureau of Citizenship & Immigration Services.***
Serves as DHS' legal advisor for the Bureau of Citizenship & Immigration Services.

1. In consultation with the General Counsel, plans, directs and executes all legal activities within the Bureau of Citizenship & Immigration Services nationwide to ensure full and legally sound implementation of the Bureau's statutory responsibilities. Assures proper legal and policy support for the mission of the Bureau of Citizenship & Immigration Services.

2. Serves as the principal legal advisor to the Director, Bureau of Citizenship & Immigration Services, and other senior Bureau officials in providing specialized legal advice, opinions, determinations, regulations, and any other assistance with respect to legal matters affecting the Bureau.

3. Provides overall guidance and direction to all components of the Bureau of Citizenship & Immigration Services. Directs and coordinates the conduct of legal and policy assistance activities within the Bureau's field jurisdictions.

4. Represents the Bureau in visa petition appeal proceedings before the Executive Office for Immigration Review. (see H.R. 5005, section 451(d)).

5. Maintains close communication and coordination with the Legal Advisor for the
Bureau of Border Security.

6. Provides litigation support to the Department of Justice attorneys and offices of United States Attorneys (with assistance from other elements of the OGC and other agencies) in representation of the Government's interest in court in

assigned areas of responsibility.

7. Consults with and advises the General Counsel, other Associate General Counsels, Regional Counsels and other legal offices in the Department on legal matters in assigned areas of responsibility.

G. ***Associate General Counsel for Emergency Preparedness and Response (EP&R).*** As head of the EP&R Law Division, plans, develops, and coordinates legal services and advice pertaining to the EP&R Directorate:

1. In consultation with the General Counsel, plans, directs and executes all legal activities within the EP&R Directorate nationwide to ensure full and legally sound implementation of EP&R's statutory responsibilities. Assures proper legal and policy support for the varied missions of EP&R.

2. Serves as the chief legal advisor to the Under Secretary for Emergency Preparedness and Response, and other EP&R senior agency officials in developing and issuing EP&R policies and regulations.

3. Provides overall guidance and direction to all components of the EP&R Directorate. Directs and coordinates the conduct of legal and policy assistance activities within the EP&R field jurisdictions.

4. Provides advice and guidance to the Office for State and Local Government Coordination and to other DHS components and officials on state and local government matters.

5. Consults with and advises the General Counsel, other Associate General Counsels, Regional Counsels and other legal offices in the Department on legal matters in assigned areas of responsibility.

6. Monitors Division workloads and resources, making adjustments as necessary. Makes recommendations on resource acquisition, development and allocation to the General Counsel.

7. Provides litigation support to the Department of Justice attorneys and offices of United States Attorneys (with assistance from other elements of the OGC and other agencies) in representation of the Government's interest in court in assigned areas of responsibility.

8. Implements the policies of the General Counsel and provides overall management direction for the EP&R Law Division. When requested, represents the General Counsel and/or the OGC with senior DHS management, other Federal agencies, business representatives and others in interpreting OGC or EP&R programs, policies and objectives.

H. ***Legal Advisor for Ethics.*** Serves as DHS' Designated Agency Ethics Official (DAEO) and performs the functions assigned to the DAEO by statute and Government-wide regulations. Plans, directs, implements and coordinates the ethics program and policies within DHS, including employee financial disclosure, standards of conduct, and post employment situations. Acts for the Secretary in interpreting policy in conflict-of-interest cases involving senior officials, and serves as personal counsel to the Secretary on all ethics matters affecting the DHS. Makes determinations and takes other actions on behalf of the Secretary as may be warranted pursuant to 18 U.S.C. 207 pertaining to post employment activities of former employees and 18 U.S.C 208 pertaining to acts affecting a personal financial interest for current employees. Designates, directs and monitors the work of deputy standards of conduct counselors. In this role, performs the following:

1. Development, implementation and interpretation of policies governing employee financial disclosure; conduct and post employment conflict of interest situations; overall direction of DHS policies and procedures regarding standards of conduct and conflicts of interest; and establishment of program goals and methods for monitoring progress toward goal attainment.

2. Implementation of systems of financial disclosure by DHS employees, including uniform procedures and standards for review of reports.

3. Establishment of uniform policies and criteria to determine and resolve conflict of interest situations involving current employees and post employment activities of former employees, including standards to address recurrent problems involving current and former employees.

4. Development of standards of conduct regulations as necessary to supplement Governmentwide regulations of the Office of Government Ethics (OGE).

5. Development and implementation of the DHS-wide standards of conduct training program.

6. Provision of advice and assistance to senior executives of DHS, contractors doing business with DHS and labor organizations regarding DHS standards of conduct policies.

I. ***Associate General Counsel for General Law.*** As head of the General Law Division, plans, develops, and coordinates legal services and advice pertaining to: (1) labor law; acquisition, including bid protests and contract disputes; environment; intellectual property; finance; appropriations; personnel, including Office of Special Counsel matters; Freedom of Information Act and Privacy Act; civil rights, and work place initiatives; (2) DHS' alternative dispute resolution program; (3) the Board for Correction of Military Records; and (4) other general legal matters.

1. Provides legal services to the DHS Headquarters Office staff offices, including but not limited to the Offices of: Chief Information Officer; Chief Financial Officer; Civil Rights and Civil Liberties Officer, Privacy Officer; and Chief Human Capital Officer.

2. In assigned areas of legal responsibility, provides legal services to the Undersecretaries, Directors, Commandant of the Coast Guard and Inspector General, and their respective staffs.

3. Provides legal services to independent boards, commissions, and agencies serviced by DHS.

4. Consults with and advises the General Counsel, other Associate General Counsels, Legal Advisors, Regional Counsels and other legal offices in the Department on legal matters in assigned areas of responsibility.

5. As requested, provides legal support to DHS Headquarters Office staff offices and/or OGC in hearings before Congressional committees and in conferences with other Federal agencies, States and local governments, contractors and other entities.

6. Provides advice and all support to the Board for Correction of Military Records, the Chairperson of which is an attorney assigned to the Office of General Law.

7. Provides litigation support to the Department of Justice attorneys and offices of United States Attorneys (with assistance from other elements of the OGC and other agencies) in representation of the Government's interest in court in assigned areas of responsibility.

8. Represents DHS in hearings before the Merit Systems Protection Board, Equal Employment Opportunity Commission and Federal Labor Relations Authority and arbitrators in cases arising out of Headquarters Office. Provides legal counsel and litigation support to Headquarters Office Services in controversies involving assigned areas.

9. Serves as DHS final appeal authority in appeals of FOIA and Privacy Act determinations. In non-appellate FOIA and Privacy Act matters, provides legal advice and assistance to the Privacy Officer and Undersecretary for Management in implementing their FOIA and Privacy Act programs.

10. Monitors Division workloads and resources, making adjustments as necessary. Makes recommendations on resource acquisition, development and allocation to the General Counsel.

11. Implements the policies of the General Counsel and provides overall management direction for the General Law Division. When requested,

represents the General Counsel and/or the OGC with senior DHS management, other Federal agencies, business representatives and others in interpreting OGC programs, policies and objectives.

J. ***Associate General Counsel for Information Analysis and Infrastructure Protection (IA & IP).*** As head of the IA&IP Law Division, plans, develops, and coordinates legal services and advice pertaining to the IA&IP Directorate:

1. In consultation with the General Counsel, plans, directs and executes all legal activities within the IA&IP Directorate nationwide to ensure full and legally sound implementation of IA&IP's statutory responsibilities. Assures proper legal and policy support for the varied mission of the IA&IP Directorate.

2. Serves as the chief legal advisor to the Under Secretary for Information Analysis and Infrastructure Protection, and other IA&IP senior agency officials in developing and issuing IA&IP policies and regulations.

3. Provides overall guidance and direction to all components of the IA&IP Directorate. Directs and coordinates the conduct of legal and policy assistance activities within the IA&IP field jurisdictions.

4. Consults with and advises the General Counsel, other Associate General Counsels, Regional Counsels and other legal offices in the Department on legal matters in assigned areas of responsibility.

5. Provides litigation support to the Department of Justice attorneys and offices of United States Attorneys (with assistance from other elements of the OGC and other agencies) in representation of the Government's interest in court in assigned areas of responsibility.

6. Monitors Division workloads and resources, making adjustments as necessary. Makes recommendations on resource acquisition, development and allocation to the General Counsel.

7. Implements the policies of the General Counsel and provides overall management direction for the IA&IP Law Division. When requested, represents the General Counsel and/or the OGC with senior DHS management, other Federal agencies, business representatives and others in interpreting OGC or IA&IP programs, policies and objectives.

K. ***Associate General Counsel for Rules and Administration.*** As head of the Rules and Administration Law Division, plans, develops, and coordinates legal services and advice pertaining to: (1) claims and various protests, other than bid protests and contract appeals, against the DHS or the U.S. Government through DHS; (2) the collection, compromise, closing, and referral of claims in favor of the Government and litigation involving DHS; (3) legislative and regulatory activities; (4) small boards and commissions, committees for special groups, and

Federal Advisory Committee Act; (5) intergovernmental affairs; and (6) other rules and administration matters.

1. In assigned areas of legal responsibility, provides legal services to the Undersecretaries, Directors, Commandant of the Coast Guard and Inspector General, and their respective staffs.

2. Provides legal services to independent boards, commissions, and agencies serviced by DHS.

3. Consults with and advises the General Counsel, other Associate General Counsels, Regional Counsels and other legal offices in the Department on legal matters in assigned areas of responsibility.

4. As requested, provides legal support to DHS Headquarters Office staff offices and/or OGC in hearings before Congressional committees and in conferences with other Federal agencies, States and local governments, contractors and other entities.

5. Develops and manages the DHS legislative program, including the coordination of DHS comments on proposed legislation, and proposed comments by DHS and other agencies on pending legislation.

6. Develops and manages the DHS regulatory program, including the management of the regulatory docket.

7. Provides litigation support to the Department of Justice attorneys and offices of United States Attorneys (with assistance from other elements of the OGC and other agencies) in representation of the Government's interest in court in assigned areas of responsibility.

8. Monitors Division workloads and resources, making adjustments as necessary. Makes recommendations on resource acquisition, development and allocation to the General Counsel.

9. Implements the policies of the General Counsel and provides overall management direction for the Rules and Administration Division. When requested, represents the General Counsel and/or the OGC with senior DHS management, other Federal agencies, business representatives and others in interpreting OGC programs, policies and objectives.

L. ***Associate General Counsel for Science and Technology (S&T).*** As head of the Science and Technology Law Division, plans, develops, and coordinates legal services and advice pertaining to the S&T Directorate:

1. In consultation with the General Counsel, plans, directs and executes all legal activities within the Science and Technology Directorate nationwide to ensure

full and legally sound implementation of the Science and Technology Directorate's statutory responsibilities. Assures proper legal and policy support for the mission of the Science and Technology Directorate.

2. Serves as the chief legal advisor to the Under Secretary for Science and Technology, and other S&T senior agency officials in developing and issuing S&T policies and **GENERAL COUNSEL** regulations.

LEGAL ADVISOR
Bureau of Citizenshi
Immigration Service

3. Provides overall guidance and direction to all components of the S&T Directorate. Directs and **DEPUTY GENERAL COUNSEL** coordinates the conduct of legal and policy assistance activities within the S&T field jurisdictions.

4. Consults with and advises the General Counsel, other Associate General Counsels, Regional Counsels and other legal offices in the Department on legal matters in assigned areas of responsibility.

5. Monitors Division workloads and resources, making adjustments as necessary. Makes recommendations on resource acquisition, development and allocation to the General Counsel.

6. Provides litigation support to the Department of Justice attorneys and offices of United States Attorneys (with assistance from other elements of the OGC and other agencies) in representation of the Government's interest in court in assigned areas of responsibility.

7. Implements the policies of the General Counsel and provides overall management direction for the S&T Law Division. When requested, represents the General Counsel and/or the OGC with senior DHS management, other Federal agencies, business representatives and others in interpreting OGC or S&T programs, policies and objectives.

M. ***Questions or Concerns:*** Any questions or concerns regarding this directive should be addressed to the General Counsel.

Enclosure 1

ASSOCIATE GENERAL COUNSEL EMERGENCY PREPAREDNESS AND RESPONSE

ASSOCIATE GENERAL COUNSEL RULES AND ADMINISTRATION

ASSOCIATE GENERAL COUNSEL SCIENCE & TECHNOLOGY

ASSOCIATE GENERAL COUNSEL TRANSPORTATION SECURITY

ASSOCIATE GENERAL COUNSEL INFRASTRUCTURE PROTECTION

ASSOCIATE GENERAL COUNSEL BORDER & TRANSPORTATION

LEGAL ADVISOR for E

From: Montiel, Charlotte L.
To: <Kavanaugh, Brett M.>
Sent: 1/23/2003 6:00:04 PM
Subject: Please Review Part 2
Attachments: Open IMD 1-23-03.doc

One more.Ask Ed about this one if questions.

Charlotte

-----Original Message-----
From: McNally, Edward
Sent: Thursday, January 23, 2003 5:09 PM
To: Montiel, Charlotte L.
Subject: last one

---------- Forwarded by Edward McNally/WHO/EOP on 01/23/2003 05:16 PM ----------

<<...>>
Lucy G. Clark TPO
01/23/2003 04:32:07 PM
Record Type: Record

To: Edward McNally/WHO/EOP@EOP, David G. Leitch/WHO/EOP@Exchange@EOP, Patrick J. Bumatay/WHO /EOP@Exchange@EOP
cc:
Subject: Re: When you get done

4 of 4
---------- Forwarded by Lucy G. Clark TPO/TPO/OMB/EOP on 01/23/2003 04:29 PM ----------

<<...>>
Catherine C. Mitrano TPO
01/23/2003 02:23:58 PM
Record Type: Record

To: Lucy G. Clark TPO/TPO/OMB/EOP@EOP
cc:
Subject: Re: When you get done <<...>>

<<...>>

will send other things soon.

0010	Management Directives System
0110	Organization Control System
0400	General Counsel Organization
0405	Issuing Delegations of Authority
0450	MOU's & MOA's
0460	FOIA Compliance
0470	Privacy Act Compliance
0480	Ethics Policy
0490	Federal Register Notices & Rules
0495	Response to Demands in Connection with Litigation to Which the United States is not a Party
0550	Records Management
0550.Pub	Records Management Publication
0710	Reimbursable Agreements
0720	Small Business
0740	Warrant Procedures
0750	Responding To Unsolicited Proposals
0810	Inspector General
1010	Foreign Gifts and Decorations
1110	Certifying Officers

1130	Electronic Funds Transfer
1140	Disbursements
1150	Electronic Funds Transfer for Collections and Deposits
1180	Policy for Collections & Deposits
1190	Billings & Collections
1210	Vendor Maintenance
1510	Travel for Official Government Business
1520	Government Travel Card Program
1540	Commuter Transit Subsidy Benefit Program
1550	Foreign Allowances
1570.una	Temporary Duty & Foreign Travel
1650	Payment of Claims
2000	Public Affairs Guidance & Designated Spokespeople
2110	Hearing Preparation for DHS Officials and Bureaus
2260	Review of DHS External Publications
2270	Public Speaking Opportunities
3010	Employment of Experts and Consultants
3020	Schedule C Positions and Appointment
3030	Senior Executive Service Merit Staffing Plan

3030.AttachmentA.una	Sample SES Vacancy Announcement
3040	Senior-Level and Scientific and Professional Pay
3050	Merit Staffing
3060	Employee Assistance Program
3070	Telework
3080	Payroll Processing
3090	Equal Employment Opportunity and Sexual Harrasment
3100	Human Relations
3110	Administrative Grievance System
3120	Employment of Non-Citizens
3120.Attachment1	I-9 Form
3130	Federal Detailees
3140	Pay Administration
3150	Non-Career Limited Service
3160	Delegated Personnel Management Functions
3170	Recruitment and Retention Incentives
3170.AttachmentA	Model Recruitment Bonus Plan
3170.AttachmentB	Model Relocation Bonus Plan
3170.AttachmentC	Model Retention Allowance Plan

3170.AttachmentD	Model Student Loan Plan
3170.AttachmentE	Model Superior Qualifications Model
4010	IT Accessibility
4100	National Wireless Management Office
4200	IT Capital Planning and Portfolio Management
4200.Pub A	Executive Guide to IT Investment Management
4300	IT Systems Security Program (Cover IMD)
4300.Pub Part A	IT Systems Security Program (Pub Part A)
4300.Pub Part B	IT Systems Security Program (Pub Part B)
4400	DHS Web (Internet, Intranet & Extranet)
4500	E-mail Usage Policy
4600	Personal Use Policy for IT Equipment
4700	Personal Comms Device Distribution Policy
5200	Occupational Safety & Health Programs
7010	Organization of the Border and Transportation Security Directorate
7010.Org Chart	BTS Organizational Chart
7020	Border and Transportation Security Policy Council
7500	Operational Coordination for BTS through 01 March 2003
8100	Information Quality

8100.Pub A	Information Quality Guidelines
11010	Issuance and Control of Credentials
11020	Issuance of Access Control Media
11030	Physical Protection of Property
11040	Physical Protection of Classified Matter and Information
11050	Personnel Security
	Organization of the Office of the Secretary of Homeland Security
	Organization of the Office of the Under Secretary for Management
	Organization of the Office of the Under Secretary for EP&R
	Organization of the Office of the Under Secretary for IA&IP
	Organization of the Office of Legislative Affairs
	Organization of the Office of Public Affairs

From: CN=Edward McNally/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/24/2003 10:02:36 AM
Subject: : ck v/m when you get back re: PRA/DHS day one issue

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:24-JAN-2003 15:02:36.00
SUBJECT:: ck v/m when you get back re: PRA/DHS day one issue
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: Charnes, Adam <Adam.Charnes@usdoj.gov>
To: Miguel Estrada (E-mail) <mestrada@gibsondunn.com>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Benczkowski, Brian A <Brian.A.Benczkowski@usdoj.gov>
Sent: 1/24/2003 10:33:13 AM
Subject: : Leahy

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Charnes, Adam" <Adam.Charnes@usdoj.gov> ( "Charnes, Adam" <Adam.Charnes@usdoj.gov>
[ UNKNOWN ] )
CREATION DATE/TIME:24-JAN-2003 15:33:13.00
SUBJECT:: Leahy
TO:"Miguel Estrada (E-mail)" <mestrada@gibsondunn.com> ( "Miguel Estrada (E-mail)"
<mestrada@gibsondunn.com> [ UNKNOWN ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:"Benczkowski, Brian A" <Brian.A.Benczkowski@usdoj.gov> ( "Benczkowski, Brian A"
<Brian.A.Benczkowski@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

FYI: http://leahy.senate.gov/press/200301/012403a.html
```

From: Wingate, Heather
To: <Leitch, David G.>;<Wingate, Heather>;<Gonzales, Alberto R>;<Kavanaugh, Brett M.>;<Hobbs, David W.>;<Ojakli, Ziad>
Sent: 1/25/2003 8:30:35 AM
Subject: Re: Hatch Owen/Pickering update

Article by helen dewar today in the post is much better....

.

----- Original Message -----

From:David G. Leitch/WHO/EOP@Exchange

To:Heather Wingate/WHO/EOP@EOP,

Alberto R. Gonzales/WHO/EOP@Exchange,

Brett M. Kavanaugh/WHO/EOP@EOP,

David W. Hobbs/WHO/EOP@Exchange,

Ziad S. Ojakli/WHO/EOP@Exchange

Cc:

Date: 01/24/2003 06:20:31 PM

Subject: RE: Hatch Owen/Pickering update

From the looks of this AP story that Chris Bartolomucci just sent around, looks like the press isn't getting the message.

Pickering, Owen to Get Senate Hearings

By JESSE J. HOLLAND

ASSOCIATED PRESS

WASHINGTON (AP) - Two of President Bush's most contentious court nominations, Mississippi Judge Charles Pickering and Texas Judge Priscilla Owen, will face new questions this year from the same Democrats who rejected the appeals court appointments last year.

Pickering and Owen were the only two White House judicial nominees voted down by Judiciary Democrats when they controlled the Senate last year. Committee chairman Orrin Hatch, R-Utah, plans to let senators question the two again in hopes of rehabilitating their nominations.

Bush renominated the two earlier this month, much to the Democrats' chagrin.

"I'm trying to be cooperative," Hatch said. "We'll have a hearing on Pickering because I'm trying to show deference to them."

Pickering, a U.S. District judge in Hattiesburg, Miss., and a friend of Sen. Trent Lott, R-Miss., was blocked by Democrats last year after civil rights groups questioned his race-relations record. Owen, a Texas Supreme Court justice and a friend of the president, was rejected after Democrats complained that her rulings were overly influenced by her personal beliefs.

Both were nominated for seats on the 5th U.S. Circuit Court of Appeals in New Orleans, which handles federal appeals from

Mississippi, Texas and Louisiana.

Opposition to Pickering's nomination increased among Democrats after Lott made racially insensitive remarks and ultimately stepped down as GOP leader.

Pickering's hearing - which could come as early as March - would be his third before the Senate Judiciary Committee since his May 2001 nomination. Hatch did not give a timetable for Owen. "We've got to see whether there will be obstructionist tactics," Hatch said.

Democrats say the Judiciary Committee has already rejected both, and they have threatened to filibuster Pickering's nomination if it goes to the full Senate. Sen. Patrick Leahy of Vermont, the panel's top Democrat, noted that the Republicans did not start their year by trying to get either Pickering or Owen approved quickly.

"Perhaps this is a sign that the Republicans on this committee recognize the unprecedented nature of these renominations and the divisiveness they engender," Leahy said in a statement.

Instead, the GOP will start with a Judiciary Committee vote on Miguel Estrada, who wants a seat on the U.S. Court of Appeals for the District of Columbia. That court has often been a stepping stone to the Supreme Court.

Estrada received a unanimous well-qualified recommendation from the American Bar Association. If confirmed, he would become the first Hispanic on what is considered the second-highest court in the nation. He also has been mentioned as a possible Supreme Court nominee if a vacancy occurs during Bush's presidency.

A member of the law firm that represented Bush in his successful Supreme Court fight for the presidency in 2000, Estrada had to be renominated earlier this year because the Democratic-controlled Senate did not act on his nomination last year. Estrada has been waiting for a committee vote since May 2001. Republicans now control the Senate.

"It's an important vote," Hatch, R-Utah, said Friday. "I think he will pass out with significant support from this committee."

But Democrats, outnumbered 10-9 on the committee, already are gathering their forces to oppose Estrada.

"His selection for this court has generated tremendous controversy," Leahy said. "I think that is, in part, because he appears to have been groomed to be an activist appellate judge by well-placed conservatives."

During Estrada's five-hour confirmation hearing last year, Democrats repeatedly contended that he lacked judicial experience. That, plus his refusal to answer questions about specific cases, gave Democrats little to review, they said.

The Justice Department's solicitor general's office, where Estrada used to work, refused to release copies of memos and opinions he produced when he worked there.

"Miguel Estrada refused to answer question after question regarding his judicial philosophy and his views on Supreme Court cases of national interest," said Sen. Charles Schumer, D-N.Y. "He gave senators no real insight into his judicial philosophy."

-----Original Message-----

From: Wingate, Heather

Sent: Friday, January 24, 2003 4:07 PM

To: Gonzales, Alberto R; Leitch, David G.; Kavanaugh, Brett M.; Hobbs, David W.; Ojakli, Ziad

Subject: Hatch Owen/Pickering update

Hatch has further clarified what he meant this morning when he said in the mark up that he would be holding hearings on Owen and Pickering.

First he hung out for quite awhile after the hearing and basically fudged a bit on what he meant, saying that he didn't think it necessary to do hearings again but he may/he may not.

Also, he does not plan on bringing Owen back for an actual hearing. He's thinking of a hearing of supporters/detractors for

both Owen and Pickering (separate hearings). Not bringing them back up again. This is better than we thought, but obviously not ideal.

I'm going to talk to KBH and Cornyn (actually already talked to him) about weighing in w/Hatch about Owen (no hearing). I think it's important though that we (admin folks) keep our criticism of the Chairman's idea on this private and limited only to conversations with him and his staff, not public.

From: Gilbert, Alan
To: <Kavanaugh, Brett M.>;<Lefkowitz, Jay P.>;<Silverberg, Kristen>;<Schacht, Diana L.>;<Gilbert, Alan>
Sent: 1/25/2003 3:52:23 PM
Subject: Re: medical liability

Thanks....in addition think leahy et al stuff on antitrust exemption should be rebuttable by doj...will pursue this question this week

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>
Sent: 1/27/2003 4:39:26 AM
Subject: : Re: RPC/SRC event on Judicial Nominees

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:27-JAN-2003 09:39:26.00
SUBJECT:: Re: RPC/SRC event on Judicial Nominees
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

don't we choose who goes?

Heather Wingate
01/27/2003 09:31:46 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Ziad S. Ojakli/WHO/EOP@Exchange@EOP, David W. Hobbs/WHO/EOP@Exchange@EOP
cc:
Subject: RPC/SRC event on Judicial Nominees

I know I flagged for most of you the prospect of a joint RPC/SRC Member meeting on Judicial Nominees. That meeting is talking place Wed, Jan. 29th at 2pm. Brett, as you may recall, they initially indicated that they might want the Judge to take part in this conference; no need to hold this time on the Judge's schedule. They have opted to go with having Viet Dinh brief them on judicial emergencies, nominees, etc.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@Exchange@EOP [WHO] <David G. Leitch>;Alberto R. Gonzales/WHO/EOP@Exchange@EOP [WHO] <Alberto R. Gonzales>
Sent: 1/27/2003 7:33:07 AM
Subject: : National Catholic Reporter column

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:27-JAN-2003 12:33:07.00
SUBJECT:: National Catholic Reporter column
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Catholics move to the center of the bench
By TIM UNSWORTH
Sometime in the early 1940s, my father returned from a business trip and announced to his family: &Shake the hand that shook the hand of Justice Frank Murphy.8 During that same trip, he stopped in Kansas City, Mo., and was introduced to Harry Truman, who had been a senator from that state since 1934. But my father had barely heard of him. It was Murphy, the only Catholic on the Supreme Court, that caught his baptized eye.
It was a period in Catholic thinking during which we celebrated Catholic all-American ping-pong teams. Besides, Murphy, a former mayor of Detroit, governor of Michigan and U.S. attorney general, was only the fifth Catholic to serve on the court since it was established in 1789, a period of 151 years. The Jews had to wait 127 years until Louis D. Brandeis, the first Jewish justice, was appointed by Woodrow Wilson in 1916. Compare that to the 32 Episcopalian behinds that have warmed the bench since George Washington appointed John Jay (Episcopalian) in 1789.
Now comes George W. Bush, who sees at least one vacancy on the court (maybe two) at the end of the present term. Seven of the nine justices have been appointed by Republican presidents, but the president is uncomfortable with any Dem-ocrats hanging around. It is likely that William Rehnquist, Lutheran and chief justice, who is almost 79, will leave the court after 31 years. Further, Sandra Day O,Connor (Episcopalian), who will be 73 in 2003, is making sounds that she may return to her California home.
The oldest justice is John Paul Stevens, an 82-year-old Protestant with a Catholic wife. However, he has given little indication that he,s ready to hang up his gavel. Further, with an average age of nearly 69, these nine justices could almost compete with the College of Cardinals. The aging court could use a bladder control prayer group. Any one of them could make the Last Judgment at any time.
According to The New York Times, President Bush has staffers making lists of potential candidates in order to meet the late spring deadline and to mount a strong defense of his choices who will likely be even more conservative than he is.
At the moment, the front-runner for the first vacancy is Alberto R. Gonzales, a White House counselor and former legal adviser to Bush when he was governor of Texas. Reports suggest that Harvard Law School graduate Gonzales, who came from a poor Texas family, has the requisite loyalty and philosophical conservatism that Bush craves. More important, if nominated and approved, he would be the first Hispanic to serve.
President Bush needs Hispanic votes. The nation now has over 35,300,000 Latinos -- most of them with roots in Mexico. His brother, Jeb, governor of Florida, is married to a Latina-American and has converted to

Catholicism. Jeb helped to deliver Florida,s electoral votes, the ones that put George in office, even though he lost the general election. Allegedly, Gonzales wants the post. Even now, his staff suggests that he likes to be addressed as &Judge Gonzales.8 He is conservative, antiabortion -- and Catholic.

Two other possible candidates are Samuel Alito, judge of the appeals court in Newark, N.J. However, Alito is Italian-American as is Justice Antonin Scalia. Alito once clerked for Scalia and earned the nickname &Scalito.8 Then, there is Miguel Estrada, perhaps a more reliable conservative than Gonzales. The hard-nosed conservatives don,t amount to that big a political block, however.

It,s just that they,re louder and Bush is fearful of them. In any case, all three potential justices are Roman Catholics.

That suggests there may be four, maybe five Catholics on the court by next spring -- an extraordinary shift. The new justice -- or two -- would join Scalia, Anthony Kennedy and Clarence Thomas.

There hasn,t been a Catholic chief justice in 82 years. Bush might prefer Scalia but the opinionated justice would have a hard time even with the new Republican Congress. He,s a brilliant justice but he shaves with his tongue. He could become another Robert Bork. Both Scalia and Kennedy will be 67 in 2003. And Clarence Thomas, 55 this year, is still recovering from the Anita Hill debacle. Further, he is regarded as a Scalia clone. (Thomas is a convert to Catholicism. He drifted away from the church for some 28 years but has returned, often attending Mass at St. Joseph,s on Capitol Hill, just behind the court.)

The first Catholic to serve was Roger B. Taney, son of a wealthy slave-owning family, who raised tobacco. Years later, as chief justice, he supported slavery even for descendants of slaves. This was a period during which some Catholic colleges and seminaries used slave labor (now called athletics). Taney, a former Federalist, was the fifth chief justice, appointed by Andrew Jackson in 1836. He served until 1864, long enough to incur the wrath of Abraham Lincoln.

Edward D. White of Louisiana was appointed to the court in 1894 by Grover Cleveland. He was named chief justice in 1910 and led the court until 1921. White graduated from the Jesuit College in New Orleans and then went on to Georgetown. He was the court,s ninth chief justice and was generally considered a conservative, although he did help to speed the advent of the eight-hour day for railroad workers. He was enshrined in Statuary Hall in 1955, together with 13 other Catholics.

Joseph McKenna, a William McKinley appointee, served for 26 years (1898-1925). He had been the U.S. attorney general but had little consistent legal policy. For a few years, he shared the bench with Pierce Butler, a Warren Harding ap-pointee from Minnesota, who served for 16 years (1923-39) and was generally considered a conservative.

Then came Frank Murphy, a New Deal Democrat, appointed in 1940 by Franklin D. Roosevelt. Prior to his nomination, he was widely recognized for his relief efforts. He left the court to serve in World War II but returned and served until 1949. The first -- and next to last -- of the Catholic liberals, he condemned the wartime imprisonment of the Japanese.

William J. Brennan was recognized as a liberal Catholic judge. He served 33 years (1956-90) before retiring, sometimes drawing criticism from major bishops who were growing more conservative. He ruled often for a greater guarantee of justice for the poor. By the time he left the court, two other papist justices, Antonin Scalia and Anthony Kennedy, were serving.

The potential of the voting power of four Catholics on a nine-member court is worth pondering. Only one additional vote from a Jewish justice or a lonely WASP could produce some of the many 5-4 decisions. Ruth Bader Ginsburg, 69, second female and a Jew, was appointed by Bill Clinton in 1993. Stephen G. Breyer was appointed in 1994. (He does not list himself as Jewish by religion but is considered a cultural Jew.)

Unfortunately, the four Catholics are conservative, two of them -- Scalia and Thomas -- to the right of Attila the Hun (a devout barbarian), and two others -- Kennedy and (maybe) Gonzales, leaning to the right. There are no

Murphys or Brennans.
Presently, there are issues such as capital punishment, just war, abortion, disabilities, immigration, school vouchers, welfare, wages, homosexual unions, sodomy, fair employment and college admissions practices, and so on, that need to be sorted out. Responses all have roots in church teaching but, with the exception of abortion and cloning, it doesn,t seem to matter much anymore. The situation is not unlike the laity, s response to Humanae Vitae, the encyclical on birth control. The bishops continue to rant about birth control but the Catholics in the pew pay no attention. Neither will the justices.
Just when Catholic justices have moved to the center of the bench, it doesn,t seem to matter if they are Cath-olics or Rosicrucians. It,s a shame. My long-deceased father, who finished only grammar school, would not have washed his hands for decades after shaking the hands of four Catholic justices.

From: [UNKNOWN] <Kavanaugh, Brett M.>
To: <Gonzales>;Alberto_R._Gonzales@who.eop.gov [WHO] <Alberto R.>;<Lefkowitz>;/EOP /FIRST ADMINISTRATIVE GROUP/RECIPIENTS/JAY_P._LEFKOWITZ [UNKNOWN] <Jay P.>;<Kaplan>;JKaplan@omb.eop.gov [OMB] <Joel>;<Perry>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/22733D1C-B2EC2EF-85256B73-4DEB56 [UNKNOWN] <Philip J.>;<Wood>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/7B4787CC-A2B3CECA-85256B9D-44EACB [UNKNOWN] <John F.>
Sent: 1/27/2003 3:44:33 AM
Subject: from NY Times re suit over 9/11 fund

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (MS Mail)
CREATOR:Kavanaugh, Brett M. ( [ UNKNOWN ] )
CREATION DATE/TIME:27-JAN-2003 08:44:33.00
SUBJECT:from NY Times re suit over 9/11 fund
TO:Gonzales, Alberto R. ( Alberto_R._Gonzales@who.eop.gov [ WHO ] )
READ:UNKNOWN
TO:Lefkowitz, Jay P. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=JAY_P._LEFKOWITZ [ UNKNOWN ] )
READ:UNKNOWN
TO:Kaplan, Joel ( JKaplan@omb.eop.gov [ OMB ] )
READ:UNKNOWN
TO:Perry, Philip J. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=22733D1C-
B2EC2EF-85256B73-4DEB56 [ UNKNOWN ] )
READ:UNKNOWN
TO:Wood, John F. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=7B4787CC-A2B3CECA-
85256B9D-44EACB [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

n the most sweeping challenge yet to the federal fund intended to compensate relatives of Sept. 11 victims, the families of seven victims who worked at Cantor Fitzgerald have filed a lawsuit accusing the fund's administrator of acting illegally and unfairly, thereby shortchanging the families of all New York victims.

The lawsuit calls the administrator, Kenneth R. Feinberg, autocratic and arrogant, and accuses him of having "run roughshod" over legislation governing the the Sept. 11 Victim Compensation Fund. It also says Mr. Feinberg has "alienated and disenfranchised the very constituency he was appointed to serve."

And it says that the fund violates New York law by calculating awards based on after-tax projections of lost income, discriminates against unmarried victims and imposes an illegal cap that could leave some high-income families with as little as one-tenth of what they should be awarded under the law establishing the fund.

The lawsuit, which was filed in Federal District Court in Manhattan on Saturday, details many misgivings that have been circulating for months among some families and companies that lost relatives and employees in the attack on the World Trade Center.

If successful, the lawsuit could force Mr. Feinberg, whose title is special master of the fund, to pay out hundreds of millions, if not billions, of dollars more than the $4 billion to $5 billion the fund is expected to cost taxpayers. He would also have to review, and possibly recalibrate, the 154 awards that have already been offered to decedents' families. Those awards have totaled $240 million, an average of $1.56 million per family.

The failure of the suit could also work against Mr. Feinberg and the fund because some families may agree that its formulas calculate awards that are too low. Those families might then decide to sue the airlines, airport-security companies and other entities that have been cited as bearing some responsibility for allowing the hijacking of the four jetliners involved in the Sept. 11 terrorist attacks.

But against the current backdrop of impending war and economic malaise, the tide of public opinion could also shift in favor of Mr. Feinberg and against the families for seemingly blurring the lines between grief and greed.

Reached at his home yesterday, Mr. Feinberg said he had not seen the suit. "I know nothing about it," he said, "and I have no comment. After I read it, I will turn the complaint over to the Department of Justice."

The lawsuit does not seek to overturn the statute that created the compensation fund as part of an airline bailout package after Sept. 11. Nor does it seek damages. Instead, it challenges the rules of the fund and the formulas Mr. Feinberg has come up with to determine monetary awards. It also seeks to create a single class of the approximately 2,800 victims who died at the World Trade Center.

It does not include those people who died in the planes that crashed into the Pentagon and in Pennsylvania.

The lawsuit was filed by John F. Cambria, managing partner of the New York office of Salans, an international law firm. The seven Cantor employees named in the suit were of varying ages and work experience. Their annual salaries ranged from less than $50,000 to more than $1 million.

Some of the lawsuit's arguments echo those made in a September report on the fund's shortcomings that was prepared by Cantor; the New York law firm of Skadden, Arps, Slate, Meagher & Flom; and the economic consulting firm of Chicago Partners. They also mirror arguments made either formally or informally by other companies that lost employees in the trade center attack.

Pamela S. Falk, a professor at the City University of New York who has no connection to the suit, said, "The court will have to weigh a strong and sympathetic case by the victims that they have not been fairly compensated against a longstanding tradition in U.S. law to give deference to government administrators."

And Perry Binder, a professor at Georgia State University in Atlanta, said that while the lawsuit may be technically correct, the courts may decide that Mr. Feinberg has not been unreasonable or unfair. But the real question, Mr. Binder said, was whether Congress would amend a hastily drawn and flawed statute.
"We all should have seen this lawsuit coming," he said.

The first of the four major areas of contention in the 30-page suit concerns taxes. Under New York law, pretax earnings are used in computing wrongful death awards. But Mr. Feinberg uses after-tax earnings, the complaint charges. As a result, while the survivor of a victim who made $225,000 a year should stand to receive $4.48 million under New York law, the fund would offer $3.35 million.

The second concerns the rate at which single people spend money. In computing wrongful-death awards, New York law does not differentiate between married and unmarried decedents. But according to the complaint, Mr. Feinberg calculates that a single decedent with an annual income of $70,000 spent 60.8 percent of that income, while a married decedent spent 17.4 percent because married people tend to spend less and can avail themselves of their spouses' income.

The complaint also charges that Mr. Feinberg computes income levels by averaging the years 1998 through 2000, and ignores the annualized earnings of 2001, which were presumably higher in part because of the strength of the local economy, particularly Wall Street, in the early part of the year. It accuses Mr. Feinberg of using national, not New York, statistics in calculating the growth rates of annual compensation and also says that he ignored stock options and other forms of compensation beyond salaries and bonuses.

Finally, the complaint says that Mr. Feinberg has "played a cat-and-mouse game" when it comes to figuring awards for victims who earned more than $231,000 a year.

The plaintiffs' lawyer, Mr. Cambria, said Mr. Feinberg has been loath to offer awards of more than $5 million or $6 million even though under his formula, a mother of two children who lost a 35-year-old husband should be offered $20 million.

Mr. Cambria stressed that his high-income clients ? as well as the hundreds of others who died on Sept. 11 ? do not expect to receive awards of quite that magnitude. But still, he said, they felt that the numbers were far too low, and unfair.

"Some of what he has said sounds like he views his job as the sentry at the federal treasury," Mr. Cambria said. "But it's not his job to balance the budget, or bring this project in under a certain number. It's his job to carry out this statute passed by Congress."

Mr. Cambria said that his clients did not want to be interviewed because of privacy concerns and personal grief. But in a statement released by Mr. Cambria, one widow, who was not identified, said: "My husband worked a second job to support our children and me, and now he's gone. The amount of money we'll get if Feinberg's rules stay the way they are now is unfair. The simple fact is that we need more help."

Mr. Feinberg and the federal government have 60 days to respond to the complaint, Mr. Cambria said. But given the fact that the deadline to apply to the fund is Dec. 21, 2003, and that other legal matters related to Sept. 11 are still pending, Mr. Cambria said that he anticipated an expedited resolution.

He suggested that the best solution would be a settlement that adjusted the formulas worked out by Mr. Feinberg, who Mr. Cambria said also wanted to do right by the families.

"We believe in the fund," Mr. Cambria said. "I think the fund is a good thing. And at the end of the day, the amount of money between the way Feinberg wants to do it and the way the statute requires it ? that delta is, in terms of the federal budget or other Congressionally mandated programs, very insignificant. But to my clients, it's life or death. It's the rest of their lives."

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Philip J. Perry/OMB/EOP@EOP [OMB] <Philip J. Perry>;Jay P. Lefkowitz/OPD /EOP@Exchange@EOP [OPD] <Jay P. Lefkowitz>;John F. Wood/OMB/EOP@EOP [OMB] <John F. Wood>;Joel D. Kaplan/WHO/EOP@Exchange@EOP [WHO] <Joel D. Kaplan>;Alberto R. Gonzales/WHO/EOP@Exchange@EOP [WHO] <Alberto R. Gonzales>
Sent: 1/27/2003 3:49:37 AM
Subject: : from NY Times re suit over 9/11 fund

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:27-JAN-2003 08:49:37.00
SUBJECT:: from NY Times re suit over 9/11 fund
TO:Philip J. Perry ( CN=Philip J. Perry/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange@EOP [ OPD ] )
READ:UNKNOWN
TO:John F. Wood ( CN=John F. Wood/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Joel D. Kaplan ( CN=Joel D. Kaplan/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

n the most sweeping challenge yet to the federal fund intended to compensate relatives of Sept. 11 victims, the families of seven victims who worked at Cantor Fitzgerald have filed a lawsuit accusing the fund's administrator of acting illegally and unfairly, thereby shortchanging the families of all New York victims.

The lawsuit calls the administrator, Kenneth R. Feinberg, autocratic and arrogant, and accuses him of having "run roughshod" over legislation governing the the Sept. 11 Victim Compensation Fund. It also says Mr. Feinberg has "alienated and disenfranchised the very constituency he was appointed to serve."

And it says that the fund violates New York law by calculating awards based on after-tax projections of lost income, discriminates against unmarried victims and imposes an illegal cap that could leave some high-income families with as little as one-tenth of what they should be awarded under the law establishing the fund.

The lawsuit, which was filed in Federal District Court in Manhattan on Saturday, details many misgivings that have been circulating for months among some families and companies that lost relatives and employees in the attack on the World Trade Center.

If successful, the lawsuit could force Mr. Feinberg, whose title is special master of the fund, to pay out hundreds of millions, if not billions, of dollars more than the $4 billion to $5 billion the fund is expected to cost taxpayers. He would also have to review, and possibly recalibrate, the 154 awards that have already been offered to decedents' families. Those awards have totaled $240 million, an average of $1.56 million per family.

The failure of the suit could also work against Mr. Feinberg and the fund because some families may agree that its formulas calculate awards that are too low. Those families might then decide to sue the airlines, airport-security companies and other entities that have been cited as bearing some responsibility for allowing the hijacking of the four jetliners involved in the Sept. 11 terrorist attacks.

But against the current backdrop of impending war and economic malaise, the tide of public opinion could also shift in favor of Mr. Feinberg and

against the families for seemingly blurring the lines between grief and greed.
Reached at his home yesterday, Mr. Feinberg said he had not seen the suit. "I know nothing about it," he said, "and I have no comment. After I read it, I will turn the complaint over to the Department of Justice."
The lawsuit does not seek to overturn the statute that created the compensation fund as part of an airline bailout package after Sept. 11. Nor does it seek damages. Instead, it challenges the rules of the fund and the formulas Mr. Feinberg has come up with to determine monetary awards. It also seeks to create a single class of the approximately 2,800 victims who died at the World Trade Center.
It does not include those people who died in the planes that crashed into the Pentagon and in Pennsylvania.
The lawsuit was filed by John F. Cambria, managing partner of the New York office of Salans, an international law firm. The seven Cantor employees named in the suit were of varying ages and work experience. Their annual salaries ranged from less than $50,000 to more than $1 million.
Some of the lawsuit's arguments echo those made in a September report on the fund's shortcomings that was prepared by Cantor; the New York law firm of Skadden, Arps, Slate, Meagher & Flom; and the economic consulting firm of Chicago Partners. They also mirror arguments made either formally or informally by other companies that lost employees in the trade center attack.
Pamela S. Falk, a professor at the City University of New York who has no connection to the suit, said, "The court will have to weigh a strong and sympathetic case by the victims that they have not been fairly compensated against a longstanding tradition in U.S. law to give deference to government administrators."
And Perry Binder, a professor at Georgia State University in Atlanta, said that while the lawsuit may be technically correct, the courts may decide that Mr. Feinberg has not been unreasonable or unfair. But the real question, Mr. Binder said, was whether Congress would amend a hastily drawn and flawed statute.
"We all should have seen this lawsuit coming," he said.
The first of the four major areas of contention in the 30-page suit concerns taxes. Under New York law, pretax earnings are used in computing wrongful death awards. But Mr. Feinberg uses after-tax earnings, the complaint charges. As a result, while the survivor of a victim who made $225,000 a year should stand to receive $4.48 million under New York law, the fund would offer $3.35 million.
The second concerns the rate at which single people spend money. In computing wrongful-death awards, New York law does not differentiate between married and unmarried decedents. But according to the complaint, Mr. Feinberg calculates that a single decedent with an annual income of $70,000 spent 60.8 percent of that income, while a married decedent spent 17.4 percent because married people tend to spend less and can avail themselves of their spouses' income.
The complaint also charges that Mr. Feinberg computes income levels by averaging the years 1998 through 2000, and ignores the annualized earnings of 2001, which were presumably higher in part because of the strength of the local economy, particularly Wall Street, in the early part of the year. It accuses Mr. Feinberg of using national, not New York, statistics in calculating the growth rates of annual compensation and also says that he ignored stock options and other forms of compensation beyond salaries and bonuses.
Finally, the complaint says that Mr. Feinberg has "played a cat-and-mouse game" when it comes to figuring awards for victims who earned more than $231,000 a year.
The plaintiffs' lawyer, Mr. Cambria, said Mr. Feinberg has been loath to offer awards of more than $5 million or $6 million even though under his formula, a mother of two children who lost a 35-year-old husband should be offered $20 million.
Mr. Cambria stressed that his high-income clients * as well as the hundreds of others who died on Sept. 11 * do not expect to receive awards of quite that magnitude. But still, he said, they felt that the numbers were far too low, and unfair.
"Some of what he has said sounds like he views his job as the sentry at the federal treasury," Mr. Cambria said. "But it's not his job to balance

the budget, or bring this project in under a certain number. It's his job to carry out this statute passed by Congress."

Mr. Cambria said that his clients did not want to be interviewed because of privacy concerns and personal grief. But in a statement released by Mr. Cambria, one widow, who was not identified, said: "My husband worked a second job to support our children and me, and now he's gone. The amount of money we'll get if Feinberg's rules stay the way they are now is unfair. The simple fact is that we need more help."

Mr. Feinberg and the federal government have 60 days to respond to the complaint, Mr. Cambria said. But given the fact that the deadline to apply to the fund is Dec. 21, 2003, and that other legal matters related to Sept. 11 are still pending, Mr. Cambria said that he anticipated an expedited resolution.

He suggested that the best solution would be a settlement that adjusted the formulas worked out by Mr. Feinberg, who Mr. Cambria said also wanted to do right by the families.

"We believe in the fund," Mr. Cambria said. "I think the fund is a good thing. And at the end of the day, the amount of money between the way Feinberg wants to do it and the way the statute requires it * that delta is, in terms of the federal budget or other Congressionally mandated programs, very insignificant. But to my clients, it's life or death. It's the rest of their lives."

From: Kavanaugh, Brett M.
To: <Litkenhaus, Colleen>
Sent: 1/27/2003 8:46:27 AM
Subject: Re: FW: Presidentiall Diarist

yes

From: Colleen Litkenhaus/WHO/EOP@Exchange on 01/27/2003 08:48:35 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: FW: Presidentiall Diarist

Are you the best person in Counsel's office to meet with us on this position?

-----Original Message-----

From: Gambatesa, Linda M.

Sent: Tuesday, January 21, 2003 2:20 PM

To: Hagin, Joseph W; Litkenhaus, Colleen; Gottesman, Blake

Subject: Presidentiall Diarist

A long, long time ago, we were trying to set up a meeting to discuss this position. It currently reports to Scheduling, but I suspect there is very little contact in that regard, and hence that position has no supervision or guidance.

Further, we have come up with many questions as to what exactly the offices does, type of information being collected, the process for collecting information, where the records are kept (hard copy and computer version), which of these records is protected and which are not, what the Usher's Office provides in the way of logs, etc.

We know she has all the information in a stand-alone computer system, but what exactly does this mean. I am going to ask Ellen to send us a couple of examples of what his days look like ... maybe a regular day in the Oval, one on the road, and one a weekend at Camp David. At present we never see what goes in there and have no way of checking the accuracy of the information or providing input on ways to capture what we are hoping to include.

I would like to renew the request to set up a meeting w/Counsel's office et al to discuss the background of this position and what the logical reporting structure should be. I feel strongly that it should not be Scheduling, but rather should more likely report to OOO! Then we should set up a meeting with the Diarist to get a full rundown/status report of what's been worked on ... how current or far behind they are, etc.

Thanks.

From: CN=Brian Bravo/OU=WHO/O=EOP@Exchange [WHO]
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 1/27/2003 10:17:57 AM
Subject: : TRANSCRIPT - Hans Blix Delivers Inspections Report To U.N. 01/27/03

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:27-JAN-2003 15:17:57.00
SUBJECT:: TRANSCRIPT - Hans Blix Delivers Inspections Report To U.N. 01/27/03
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Hans Blix Delivers Inspections Report To U.N. 01/27/03

BLIX: Mr. President, Mr. Secretary General, the resolution adopted by the Security Council on Iraq in November of last year asks UNMOVIC and the IAEA to, quote-unquote, ``update the council 60 days after the resumption of inspections.'' This is today.

The updating, it seems, forms part of an assessment by the council and its members of the results so far of the inspections and of their role as a means to achieve verifiable disarmament in Iraq.

As this is an open meeting of the council, it may be appropriate briefly to provide some background for a better understanding of where we stand today.

With your permission, I should do so.

I begin by recalling that inspections as a part of a disarmament process in Iraq started in 1991, immediately after the Gulf War. They went on for eight years, until 1998 when inspectors were withdrawn.

BLIX: Therefore, for nearly four years, there were no inspectors. They were resumed only at end of November last year. While the fundamental aim of inspections in Iraq has always been to verify disarmament, the successive resolutions adopted by the council over the years had varied somewhat in emphasis and approach.

In 1991, Resolution 687 adopted unanimously as a part of the cease-fire after the Gulf War had five major elements; the three first related to disarmament. They called for declarations by Iraq of its programs of weapons of mass destruction and long-range missiles; verification of the declarations through UNSCOM and the IAEA; supervision by these organizations of the destruction or the elimination of proscribed programs and items.

BLIX: After the completion of the disarmament, the council would have the authority to proceed to a lifting of the sanctions and the inspecting organizations would move to long-term, ongoing monitoring and verification.

Resolution 687 in 1991, like the subsequent resolutions I shall refer to, required cooperation by Iraq, but such was often withheld or given grudgingly.

Unlike South Africa, which decided on its own to eliminate its nuclear weapons and welcomed the inspection as a means of creating confidence in its disarmament, Iraq appears not to have come to a genuine acceptance, not even today, of the disarmament which was demanded of it and which it needs to carry out to win the confidence of the world and to live in peace.

As we know, the twin operation declare and verify, which was prescribed in Resolution 687, too often turned into a game of hide and seek. Rather than just verify in declarations and supporting evidence, the two inspecting organizations found themselves engaged in efforts to map the weapons programs and to search for evidence through inspections, interviews, seminars, inquiries with suppliers and intelligence organizations.

BLIX: As a result, the disarmament phase was not completed in the short time expected. Sanctions remained and took a severe toll until Iraq accepted the oil-for-food program, and the gradual development of that program mitigated the affects of the sanctions.

The Implementation Resolution 687, nevertheless brought about considerable disarmament results. It has been recognized that more weapons of mass destruction were destroyed under this resolution than were destroyed during the Gulf War. Large quantities of chemical weapons were destroyed under UNSCOM supervision before 1994. While Iraq claims, with little evidence, that it destroyed all biological weapons unilaterally in 1991, it is certain that UNSCOM destroyed large biological weapons production facilities in 1996. The large nuclear infrastructure was destroyed and the fissionable (ph) material was removed from Iraq by the IAEA.

One of three important questions before us today is, how much might remain undeclared and intact from before 1991 and possibly thereafter? The second question is, what, if anything, was illegally produced or procured after 1998 when the inspectors left. And the third question is, how it can be prevented that any weapons of mass destruction be produced or procured in the future?

BLIX: In December 1999, after one year without inspections in Iraq, Resolution 1284 was adopted by the council, with four abstentions. Supplementing the basic resolutions of 1991 and the following years, it provided Iraq with a somewhat less ambitious approach.

In return for cooperation in all respects for a specified period of time, including progress in the resolution of key remaining disarmament tasks, it opened the possibility not for the lifting, but the suspension of sanctions.

For nearly three years, Iraq refused to accept any inspections by UNMOVIC. It was only after appeals by the secretary general and Arab states and pressure by the United States and other member states that Iraq declared on 16 September last year that it would again accept inspections without conditions.

Resolution 1441 was adopted on 8 November last year and emphatically reaffirmed the demand on Iraq to cooperate. It required this cooperation to be immediate, unconditional and active. The resolution contained many provisions which we welcome as enhancing and strengthening the inspection regime. The unanimity by which it was adopted sent a powerful signal that the council was of one mind in creating a last opportunity for peaceful disarmament in Iraq through inspection.

UNMOVIC shares the sense of urgency felt by the council to use inspection as a path to attain, within a reasonable time, verifiable disarmament of Iraq. Under the resolutions I have cited, it would be followed by monitoring for such time as the council feels would be required.

The resolutions also point to a zone free of weapons of mass destruction as the ultimate goal.

As a subsidiary body of the council, UNMOVIC is fully aware of and appreciates the close attention which this council devotes to the inspections in Iraq. While today's updating is foreseen in Resolution 1441, the council can and does call for additional briefings whenever it wishes. One was held on the 19th of January, and a further such briefing is tentatively set for the 14th of February.

I turn now, Mr. President, to the key requirement of cooperation and Iraq's response to it. Cooperation might be said to relate to both substance and process. It would appear from our experience so far that Iraq has decided in principle to provide cooperation on process, notably access.

A similar decision is indispensable to provide cooperation on substance in order to bring the disarmament task to completion through the peaceful process of inspection and to bring the monitoring task on a firm course.

BLIX: An initial minor step would be to adopt the long overdue legislation required by the resolutions.

I shall deal first with cooperation on process. In this regard, it has regard to the procedures, mechanisms, infrastructure and practical arrangements to pursue inspections and seek verifiable disarmament. While the inspection is not built on the premise of confidence, but may lead to confidence if it is successful, there must nevertheless be a measure of mutual confidence from the very beginning in running the operation of inspection. Iraq has, on the whole, cooperated rather well so far with UNMOVIC in this field.

The most important point to make is that access has been provided to all sites we have wanted to inspect. And with one exception, it has been problems. We have further had a great help in building up the infrastructure of our office in Baghdad and the field office in Mosul. Arrangements and services for our plane and our helicopters have been good.

The environment has been workable. Our inspections have included universities, military bases, presidential sites and private residences. Inspections have also taken place on Fridays, the Muslim day of rest, on Christmas Day and New Year's Day. These inspections have been conducted in the same manner as all other inspections. We seek to be both effective and correct.

In this updating, I'm bound, however, to register some problems. The first are related to two kinds of air operations. While we now have the technical capability to send a U-2 plane placed at our disposal for aerial imagery and for surveillance during inspections and have informed Iraq that we plan to do so, Iraq has refused to guarantee its safety unless a number of conditions are fulfilled.

As these conditions went beyond what is stipulated in Resolution 1441 and what was practiced by UNSCOM and Iraq in the past, we note that Iraq is not so far complying with our requests. I hope this attitude will change.

Another air operation problem, which was so during our recent talks in Baghdad, concerned the use of helicopters flying into the no-fly zones. Iraq had insisted on sending helicopters of their own to accompany ours.

BLIX: This would have raised a safety problem.

The matter was solved by an offer on our part to take the accompanying Iraqi minders in our helicopters to the sites, an arrangement that had been practiced by UNSCOM in the past.

I'm obliged to note some recent disturbing incidents and harassment. For instance, for some time farfetched allegations have been made publicly that questions posed by inspectors were of an intelligence character. While I might not defend every question that inspectors might have asked, Iraq knows that they do not serve intelligence purposes and Iraq should not say so.

On a number of occasions, demonstrations have taken place in front of our offices and at inspection sites. The other day, a site-seeing excursion by five inspectors to a mosque was followed by an unwarranted public outburst. Inspectors went without U.N. insignia and were welcomed in the

kind manner that is characteristic of the normal Iraqi attitude to foreigners. They took off their shoes and were taken around. They asked perfectly innocent questions and parted with the invitation to come again.

Shortly thereafter, we received protests from the Iraqi authorities about an unannounced inspection and about questions not relevant to weapons of mass destruction. Indeed, they were not.

Demonstrations and outbursts of this kind are unlikely to occur in Iraq with initiative or encouragement from the authorities. We must ask ourselves what the motives may be for these events. They do not facilitate an already difficult job, in which we try to be effective, professional, and at the same time correct. Where our Iraqi counterparties have some complaint, they can take it up in a calmer and less unpleasant manner.

The substantive cooperation required relates above all to the obligation of Iraq to declare all programs of weapons of mass destruction and either to present items and activities for elimination or else to provide evidence supporting the conclusions that nothing proscribed remains.

Paragraph 9 of Resolution 1441 states that this cooperation shall be, quote/unquote, ``active.'' It is not enough to open doors. Inspection is not a game of catch as catch can. Rather, as I noted, it is a process of verification for the purpose of creating confidence. It is not built upon the premise of trust. Rather, it is designed to lead to trust, if there is both openness to the inspectors and action to present them with items to destroy or credible evidence about the absence of any such items.

On 7th of December, 2002, Iraq submitted a declaration of some 12,000 pages in response to paragraph 3 of Resolution 1441, and within the time stipulated by the Security Council. In the fields of missiles and biotechnology, the declaration contains a good deal of new material and information covering the period from 1998 and onward. This is welcome.

One might have expected that in preparing the declaration Iraq would have tried to respond to, clarify and submit supporting evidence regarding the many open disarmament issues which the Iraqi side should be familiar with from the UNSCOM documents 9994 and the so-called Almarim (ph) report of March 1999. These are questions which UNMOVIC, governments and independent commentators have often cited.

While UNMOVIC has been preparing its own list of current unresolved disarmament issues and key remaining disarmament tasks in response to requirements in the Resolution 1284, we find the issues listed in the two reports I mentioned as unresolved professionally justified.

These reports do not contend that weapons of mass destruction remain in Iraq, but nor do they exclude that possibility. They point to a lack of evidence and inconsistencies which raise question marks which must be straightened out if weapons dossiers are to be closed and confidence is to arise. They deserve to be taken seriously by Iraq, rather than being brushed aside as evil machinations of UNSCOM.

Regrettably, the 12,000-page declaration, most of which is a reprint of earlier documents, does not seem to contain any new evidence that will eliminate the questions or reduce their number. Even Iraq's letter sent in response to our recent discussions in Baghdad to the president of the Security Council on 24th of January does not lead us to the resolution of these issues.

I shall only give some examples of issues and questions that need to be answered, and I turn first to the sector of chemical weapons.

The nerve agent VX is one of the most toxic ever developed. Iraq has declared that it only produced VX on a pilot scale, just a few tons, and that the quality was poor and the product unstable. Consequently, it was said that the agent was never weaponized.

BLIX: Iraq said that the small quantity of agent remaining after the Gulf War was unilaterally destroyed in the summer of 1991.

UNMOVIC, however, has information that conflicts with this account. There are indications that Iraq had worked on the problem of purity and stabilization and that more had been achieved than has been declared. Indeed, even one of the documents provided by Iraq indicates that the purity of the agent, at least in laboratory production, was higher than declared.

There are also indications that the agent was weaponized. In addition, there are questions to be answered concerning the fate of the VX precursor chemicals, which Iraq states were lost during bombing in the Gulf War or were unilaterally destroyed by Iraq.

I would now like to turn to the so-called air force document that I have discussed with the council before. This document was originally found by an UNSCOM inspector in a safe in Iraqi air force headquarters in 1998, and taken from her (ph) by Iraqi minders. It gives an account of the expenditure of bombs, including chemical bombs by Iraq in the Iraq-Iran War. I'm encouraged by the fact that Iraq has now provided this document to UNMOVIC.

The document indicates that 13,000 chemical bombs were dropped by the Iraqi air force between 1983 and 1998; while Iraq has declared that 19,500 bombs were consumed during this period. Thus, there is a discrepancy of 6,500 bombs. The amount of chemical agent in these bombs would be in the order of about 1,000 tons. In the absence of evidence to the contrary, we must assumed that these quantities are now unaccounted for.

The discovery of a number of 122-millimeter chemical rocket warheads in a bunker at the storage depot, 170 kilometers southwest of Baghdad, was much publicized. This was a relatively new bunker, and therefore the rockets must have been moved here in the past few years at a time when Iraq should not have had such munitions. The investigation of these rockets is still proceeding.

Iraq states that they were overlooked from 1991 from a batch of some 2,000 that were stored there during the Gulf War. This could be the case. They could also be the tip of a submerged iceberg. The discovery of a few rockets does not resolve, but rather points to the issue of several thousand of chemical rockets that are unaccounted for. The finding of the rockets shows that Iraq needs to make more effort to ensure that its declaration is currently accurate.

During my recent discussions in Baghdad, Iraq declared that it would make new efforts in this regard and has set up a committee of investigation. Since then, it has reported that it has found four chemical rockets at a storage depot in al-Haji (ph). I might further mention that inspectors have found at another site a laboratory quantity of thiodylykol (ph), a mustard precursor.

While addressing chemical issues, I should mention a matter which I reported on 19th of December last year concerning equipment at a civilian chemical plant at al-Fallujah. Iraq has declared that it had repaired chemical processing equipment previously destroyed under UNSCOM supervision and had installed it at Fallujah for the production of chlorine and phenols. We have inspected this equipment and are conducting a detailed technical evaluation of it. On completion, we will decide whether this and other equipment that has been recovered by Iraq should be destroyed.

I turn to biological weapons. I mention the issue of anthrax to the council on previous occasions, and I come back to it as it is an important one. Iraq has declared that it produced about 8,500 liters of this biological warfare agent, which it states it unilaterally destroyed in the summer of 1991.

BLIX: Iraq has provided little evidence for this production and no convincing evidence for its destruction.

There are strong indications that Iraq produced more anthrax than it declared and that at least some of this was retained over the declared destruction date. It might still exist.

Either it should be found and be destroyed under UNMOVIC supervision or else convincing evidence should be produced to show that it was indeed destroyed in 1991.

As I reported to the council on the 19th of December last year, Iraq did not declare a significant quantity, some 650 kilos or bacterial growth media, which was acknowledged as reported in Iraq's submission to the Almarim (ph) panel in February 1999. As a part of its 7 December, 2002, declaration Iraq resubmitted the Almarim (ph) panel document but they table showing this particular import of media was not included. The absence of this table would appear to be deliberate, as the pages of the resubmitted document were renumbered.

In the letter of 24th of January this year to the president of the Security Council, Iraq's foreign minister stated that, I quote, ``All imported quantities of growth media were declared,'' unquote. This is not evidence. I note that the quantity of media involved would suffice to produce, for example, about 5,000 liters of concentrated anthrax.

I turn, Mr. President, now to the missile sector. There remain significant questions as to whether Iraq retained Scud-type missiles after the Gulf War. Iraq declared the consumption of a number of Scud missiles as targets in the development of an anti-ballistic missile defense system during the 1980s, yet no technical information has been produced about that program or data on the consumption of the missiles.

There has been a range of developments in the missile field during the past four years, presented by Iraq in the declaration as non-proscribed activities. We are trying to gather a clear understanding of them through inspections and on-site discussions.

Two projects in particular stand out. They are the development of a liquid-fueled missile named Al-Samud II (ph) and a solid propellant missile called Al-Fatam (ph). Both missiles have been tested to arrange in excess of the permitted range of 150 kilometers, with the Al-Samud II (ph) being tested to a maximum of 183 kilometers and the Al-Fatam (ph) to 161 kilometers. Some of both types of missiles have already been provided to the Iraqi armed forces, even though it is stated that they're still undergoing development.

The Al-Samud's (ph) diameter was increased from an earlier version to the president 760 millimeters. This modification was made despite a 1994 letter from the executive chairman of UNSCOM directing Iraq to limit its missile diameters to less than 600 millimeter. Furthermore, a November 1997 letter from the executive chairman of UNSCOM to Iraq prohibited the use of engines from certain surface-to-air missiles for the use in ballistic missiles.

During my recent meeting in Baghdad, we were briefed on these two programs. We were told that the final range for both systems would be less than the permitted maximum of 150 kilometers.

These missiles might well represent prima facie cases of proscribed systems. The test ranges in excess of 150 kilometers are significant, but some further technical considerations need to be made before we reach a conclusion on this issue. In the meantime, we have asked Iraq to cease flight tests of both missiles.

In addition, Iraq has refurbished its missile production infrastructure. In particular, Iraq reconstituted a number of casting chambers which had previously been destroyed under UNSCOM's supervision. They had been used

in the production of solid fuel missiles.

Whatever missile system these chambers are intended for, they could produce motors for missiles capable of ranges significantly greater than 150 kilometers.

Also associated with these missiles and related developments is the import which has been taking place during the last two years of a number of items despite the sanctions, including as late as December 2002. Foremost among these is import of 300 rockets engines which may be used for the Al-Samud II (ph).

Iraq has also declared the recent import of chemicals used in propellants, test instrumentation and guidance and control system. These items may well be for proscribed purposes; that is yet to be determined.

What is clear is that they were illegally brought into Iraq; that is, Iraq or some company in Iraq circumvented the restrictions imposed by various resolutions.

Mr. President, I have touched upon some of the disarmament issues that remain open and that need to be answered if dossiers are to be closed and confidence is to arise.

Which are the means at the disposal of Iraq to answer these questions?

BLIX: I have pointed to some during my presentation of the issues, let me be a little more systematic. Our Iraqi counterparts are fond of saying that there are no proscribed items and if no evidence is presented to the contrary, they should have the benefit of the doubt; be presumed innocent.

UNMOVIC, for its part, is not presuming that there are proscribed items and activities in Iraq. But nor is it, or I think anyone else, after the inspections between 1991 and '98 presuming the opposite, that no such items and activities exist in Iraq. Presumptions do not solve the problem; evidence and full transparency may help.

Let me be specific. Information provided by member-states tells us about the movement and concealment of missiles and chemical weapons and mobile units for biological weapons production. We shall certainly follow-up any credible leads given to us and report what we might find, as well as any denial of access.

So far, we have reported on the recent find of a small number of empty 122-millimeter warheads for chemical weapons. Iraq declared that it appointed a commission of inquiry to look for more. Fine. Why not extend the search to other items? Declare what may be found and destroy it under our supervision.

When we have urged our Iraqi counterparts to present more evidence, we have all too often met the response that there are no more documents. All existing relevant documents have presented, we are told. All documents relating to the biological weapons program were destroyed together with the weapons.

However, Iraq has all the archives of the government and its various departments, institutions and mechanisms. It should have budgetary documents, requests for funds and reports and how they have been used. They should also have letters of credit and bills of lading, reports and production and losses of material.

In response to a recent UNMOVIC request for a number of specific documents, the only new documents Iraq provided was a ledger of 1,093 pages which Iraq stated included all imports from 1983 to 1990 by the Technical and Scientific Importation Division, the importing authority for the biological weapons programs. Potentially, it might help to clear some open issues.

The recent inspection find in the private home of a scientist of a box of some 3,000 pages of documents, much of it relating to the lacing (ph) enrichment of uranium, support a concern that has long existed that documents might be distributed to the homes of private individuals. This interpretation is refuted by the Iraqi side which claims that research staff sometimes may bring papers from their work places.

On our side, we cannot help but think that the case might not be isolated and that such placements of documents is deliberate to make discovery difficult and to seek to shield documents by placing them in private homes.

Any further sign of the concealment of documents will be serious. The Iraqi side committed itself at our recent talks to encourage persons to accept access also to private sites. There can be no sanctuaries for proscribed items, activities or documents. A denial of prompt access to any site will be very serious matter.

When Iraq claims that tangible evidence in the form of documents is not available, it ought, at least, to find individuals, engineers, scientists and managers (ph) to testify about their experience. Large weapons programs are moved and managed by people. Interviews with individuals who may have worked in programs in the past may fill blank spots in our knowledge and understanding. It could also be useful to learn that they are now employed in peaceful sectors. These are the reasons why UNMOVIC ask for a list of such persons in accordance with Resolution 1441.

Some 400 names for all biological and chemical weapons programs, as well as their missile programs, were provided by the Iraqi side. This can be compared to over 3,500 names of people associated with those past weapons programs that UNSCOM either interviewed in the 1990s or knew from documents and other sources.

BLIX: At my recent meeting in Baghdad, the Iraqis have committed themselves to supplementing the list, and some 80 additional names have been provided.

In the past, much valuable information came from interviews. There are also cases in which the interviewee was clearly intimidated by the presence of an interruption (ph) by Iraq officials.

This was the background to Resolution 1441's provision for a right for UNMOVIC and the IAEA to hold private interviews, I quote, ``in the mode or the location,'' unquote of our choice in Baghdad or even abroad.

Today, 11 individuals were asked for interviews in Baghdad by us. The replies have been that the individual would only speak at Iraq's Monitoring Directorate or at any rate in the presence of an Iraq official.

This could be due to a wish on the part of the invited to have evidence that they have not said anything that the authorities did not wish them to say. At our recent talks in Baghdad, the Iraqi side committed itself to encourage persons to accept interviews in private, that is to say alone with us. Despite this, the pattern has not changed.

However, we hope that with further encouragement from the authorities, knowledgeable individuals will accept private interviews in Baghdad or abroad.

Mr. President, I must not conclude this update without some notes on the growing capability of UNMOVIC. In the past two months, UNMOVIC has built up its capabilities in Iraq from nothing to 260 staff members from 60 countries. This includes approximately 100 UNMOVIC inspectors, 60 air operations staff, as well as security personnel, communication, translation and interpretation staff, medical support and other services at our Baghdad office and also (ph) Mosul field office.

All serve the United Nations and report to no one else.

Furthermore, I'll roster of inspectors will continue to grow as our training program continues. Even at this moment, we have a training course in session in Vienna. At the end of that course, we should have a roster of about 350 qualified experts from which to draw inspectors.

The team supplied by the Swiss government is refurbishing our office in Baghdad which had been empty for four years. The government in New Zealand has contributed both a medical team and a communications team. The German government will contribute unmanned aerial vehicles for surveillance and a group of specialists to operate them for us within Iraq. And the government of Cyprus has kindly allowed us to set up a field office in Larnaca.

All of these contributions have an assistance in quickly starting up our inspections and enhancing our capabilities, so has help from the U.N. in New York and from sister organizations in Baghdad.

In the past two months, during which we have built up our presence in Iraq, we have conducted about 300 inspections to more than 230 different sites. Of these, more than 20 were sites that had not been inspected before.

By the end of December, UNMOVIC began using helicopters, both for the transport of inspectors and for actual inspection work. We now have eight helicopters. They have already proved invaluable in helping to freeze large sites by observing the movement of traffic in and around the area.

Setting up the field office in Mosul has facilitated rapid inspections of sites in northern Iraq. We plan to establish soon a second field office in the Basra area where we have already inspected a number of sites.

Mr. President, we now have an inspection apparatus that permits us to send multiple inspections teams every day all over Iraq by road or by air. Let me end by simply noting that that capability, which has been built up in a short time and which is now operating, is at the disposal of the Security Council.

END

;

From: [UNKNOWN] <Kavanaugh, Brett M.>
To: <Montiel>;Charlotte_L._Montiel@who.eop.gov [WHO] <Charlotte L.>
Sent: 1/27/2003 6:52:05 AM
Subject: RE: draft letter to LA Daily Journal

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (MS Mail)
CREATOR:Kavanaugh, Brett M. ([UNKNOWN])
CREATION DATE/TIME:27-JAN-2003 11:52:05.00
SUBJECT:RE: draft letter to LA Daily Journal
TO:Montiel, Charlotte L. (Charlotte_L._Montiel@who.eop.gov [WHO])
READ:UNKNOWN
End Original ARMS Header

FAX it to me. thanks.

From: Charlotte L. Montiel/WHO/EOP@Exchange on 01/27/2003 11:01:25 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:

Subject: RE: draft letter to LA Daily Journal

I have the revised letter signed by David. Did you want to fax it? If so, should I fax it to you?

Charlotte

-----Original Message-----
From: Kavanaugh, Brett M.

Sent: Monday, January 27, 2003 9:26 AM

To: Gonzales, Alberto R; Montiel, Charlotte L.; Leitch, David G.
Subject: draft letter to LA Daily Journal

We should get this (or something like it) FAXed to LA Daily Journal today by about 2:00. I will take care of FAX mechanics once letter is finalized and signed.

Katrina Dewey
Editor
Los Angeles Daily Journal

915 E. First St.
Los Angeles, CA 90012

To the Editor:

I write regarding your January 22, 2003, article on Judge Glenda Sanders. The reporter characterized the White House's consideration and evaluation of Judge Glenda Sanders for a federal position on the basis of an anonymous source. Judge Sanders is a highly qualified candidate for a federal judicial position who has a very impressive record. She has acted forthrightly and honorably with the White House and Department of Justice throughout all aspects of the selection process. Finally, no nomination for the seat in question has been made.

Sincerely,

David G. Leitch

Deputy Counsel to President Bush

From: [UNKNOWN] <Kavanaugh, Brett M.>
To: <Gonzales>;Alberto_R._Gonzales@who.eop.gov [WHO] <Alberto R.>;<Leitch>;David_G._Leitch@who.eop.gov [WHO] <David G.>
Sent: 1/27/2003 7:27:42 AM
Subject: National Catholic Reporter column

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (MS Mail)
CREATOR:Kavanaugh, Brett M. ([UNKNOWN])
CREATION DATE/TIME:27-JAN-2003 12:27:42.00
SUBJECT:National Catholic Reporter column
TO:Gonzales, Alberto R. (Alberto_R._Gonzales@who.eop.gov [WHO])
READ:UNKNOWN
TO:Leitch, David G. (David_G._Leitch@who.eop.gov [WHO])
READ:UNKNOWN
End Original ARMS Header

Catholics move to the center of the bench
By TIM UNSWORTH

Sometime in the early 1940s, my father returned from a business trip and announced to his family: ?Shake the hand that shook the hand of Justice Frank Murphy.? During that same trip, he stopped in Kansas City, Mo., and was introduced to Harry Truman, who had been a senator from that state since 1934. But my father had barely heard of him. It was Murphy, the only Catholic on the Supreme Court, that caught his baptized eye.

It was a period in Catholic thinking during which we celebrated Catholic all-American ping-pong teams. Besides, Murphy, a former mayor of Detroit, governor of Michigan and U.S. attorney general, was only the fifth Catholic to serve on the court since it was established in 1789, a period of 151 years. The Jews had to wait 127 years until Louis D. Brandeis, the first Jewish justice, was appointed by Woodrow Wilson in 1916. Compare that to the 32 Episcopalian behinds that have warmed the bench since George Washington appointed John Jay (Episcopalian) in 1789.

Now comes George W. Bush, who sees at least one vacancy on the court (maybe two) at the end of the present term. Seven of the nine justices have been appointed by Republican presidents, but the president is uncomfortable with any Dem-ocrats hanging around. It is likely that William Rehnquist, Lutheran and chief justice, who is almost 79, will leave the court after 31 years. Further, Sandra Day O?Connor (Episcopalian), who will be 73 in 2003, is making sounds that she may return to her California home.

The oldest justice is John Paul Stevens, an 82-year-old Protestant with a Catholic wife. However, he has given little indication that he?s ready to hang up his gavel. Further, with an average age of nearly 69, these nine justices could almost compete with the College of Cardinals. The aging court could use a bladder control prayer group. Any one of them could make the Last Judgment at any time.

According to The New York Times, President Bush has staffers making lists of potential candidates in order to meet the late spring deadline and to mount a strong defense of his choices who will likely be even more conservative than he is.

At the moment, the front-runner for the first vacancy is Alberto R. Gonzales,

a White House counselor and former legal adviser to Bush when he was governor of Texas. Reports suggest that Harvard Law School graduate Gonzales, who came from a poor Texas family, has the requisite loyalty and philosophical conservatism that Bush craves. More important, if nominated and approved, he would be the first Hispanic to serve.

President Bush needs Hispanic votes. The nation now has over 35,300,000 Latinos -- most of them with roots in Mexico. His brother, Jeb, governor of Florida, is married to a Latina-American and has converted to Catholicism. Jeb helped to deliver Florida?s electoral votes, the ones that put George in office, even though he lost the general election. Allegedly, Gonzales wants the post. Even now, his staff suggests that he likes to be addressed as ?Judge Gonzales.? He is conservative, antiabortion -- and Catholic.

Two other possible candidates are Samuel Alito, judge of the appeals court in Newark, N.J. However, Alito is Italian-American as is Justice Antonin Scalia. Alito once clerked for Scalia and earned the nickname ?Scalito.? Then, there is Miguel Estrada, perhaps a more reliable conservative than Gonzales. The hard-nosed conservatives don?t amount to that big a political block, however.

It?s just that they?re louder and Bush is fearful of them. In any case, all three potential justices are Roman Catholics.

That suggests there may be four, maybe five Catholics on the court by next spring -- an extraordinary shift. The new justice -- or two -- would join Scalia, Anthony Kennedy and Clarence Thomas.

There hasn?t been a Catholic chief justice in 82 years. Bush might prefer Scalia but the opinionated justice would have a hard time even with the new Republican Congress. He?s a brilliant justice but he shaves with his tongue. He could become another Robert Bork. Both Scalia and Kennedy will be 67 in 2003. And Clarence Thomas, 55 this year, is still recovering from the Anita Hill debacle. Further, he is regarded as a Scalia clone. (Thomas is a convert to Catholicism. He drifted away from the church for some 28 years but has returned, often attending Mass at St. Joseph?s on Capitol Hill, just behind the court.)

The first Catholic to serve was Roger B. Taney, son of a wealthy slave-owning family, who raised tobacco. Years later, as chief justice, he supported slavery even for descendants of slaves. This was a period during which some Catholic colleges and seminaries used slave labor (now called athletics). Taney, a former Federalist, was the fifth chief justice, appointed by Andrew Jackson in 1836. He served until 1864, long enough to incur the wrath of Abraham Lincoln.

Edward D. White of Louisiana was appointed to the court in 1894 by Grover Cleveland. He was named chief justice in 1910 and led the court until 1921. White graduated from the Jesuit College in New Orleans and then went on to Georgetown. He was the court?s ninth chief justice and was generally considered a conservative, although he did help to speed the advent of the eight-hour day for railroad workers. He was enshrined in Statuary Hall in 1955, together with 13 other Catholics.

Joseph McKenna, a William McKinley appointee, served for 26 years (1898-1925). He had been the U.S. attorney general but had little consistent legal policy. For a few years, he shared the bench with Pierce Butler, a Warren Harding ap-pointee from Minnesota, who served for 16 years (1923-39) and was generally considered a conservative.

Then came Frank Murphy, a New Deal Democrat, appointed in 1940 by Franklin D. Roosevelt. Prior to his nomination, he was widely recognized for his relief efforts. He left the court to serve in World War II but returned and served until 1949. The first -- and next to last -- of the Catholic liberals, he condemned the wartime imprisonment of the Japanese.

William J. Brennan was recognized as a liberal Catholic judge. He served 33 years (1956-90) before retiring, sometimes drawing criticism from major bishops who were growing more conservative. He ruled often for a greater guarantee of justice for the poor. By the time he left the court, two other papist justices, Antonin Scalia and Anthony Kennedy, were serving.

The potential of the voting power of four Catholics on a nine-member court is worth pondering. Only one additional vote from a Jewish justice or a lonely WASP could produce some of the many 5-4 decisions. Ruth Bader Ginsburg, 69, second female and a Jew, was appointed by Bill Clinton in 1993. Stephen G. Breyer was appointed in 1994. (He does not list himself as Jewish by religion but is considered a cultural Jew.)

Unfortunately, the four Catholics are conservative, two of them -- Scalia and Thomas -- to the right of Attila the Hun (a devout barbarian), and two others -- Kennedy and (maybe) Gonzales, leaning to the right. There are no Murphys or Brennans.

Presently, there are issues such as capital punishment, just war, abortion, disabilities, immigration, school vouchers, welfare, wages, homosexual unions, sodomy, fair employment and college admissions practices, and so on, that need to be sorted out. Responses all have roots in church teaching but, with the exception of abortion and cloning, it doesn?t seem to matter much anymore. The situation is not unlike the laity?s response to Humanae Vitae, the encyclical on birth control. The bishops continue to rant about birth control but the Catholics in the pew pay no attention. Neither will the justices.

Just when Catholic justices have moved to the center of the bench, it doesn?t seem to matter if they are Cath-olics or Rosicrucians. It?s a shame. My long-deceased father, who finished only grammar school, would not have washed his hands for decades after shaking the hands of four Catholic justices.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@Exchange@EOP [WHO] <David G. Leitch>;Alberto R. Gonzales/WHO/EOP@Exchange@EOP [WHO] <Alberto R. Gonzales>
Sent: 1/27/2003 7:33:07 AM
Subject: : National Catholic Reporter column

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:27-JAN-2003 12:33:07.00
SUBJECT:: National Catholic Reporter column
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Catholics move to the center of the bench
By TIM UNSWORTH
Sometime in the early 1940s, my father returned from a business trip and announced to his family: &Shake the hand that shook the hand of Justice Frank Murphy.8 During that same trip, he stopped in Kansas City, Mo., and was introduced to Harry Truman, who had been a senator from that state since 1934. But my father had barely heard of him. It was Murphy, the only Catholic on the Supreme Court, that caught his baptized eye.
It was a period in Catholic thinking during which we celebrated Catholic all-American ping-pong teams. Besides, Murphy, a former mayor of Detroit, governor of Michigan and U.S. attorney general, was only the fifth Catholic to serve on the court since it was established in 1789, a period of 151 years. The Jews had to wait 127 years until Louis D. Brandeis, the first Jewish justice, was appointed by Woodrow Wilson in 1916. Compare that to the 32 Episcopalian behinds that have warmed the bench since George Washington appointed John Jay (Episcopalian) in 1789.
Now comes George W. Bush, who sees at least one vacancy on the court (maybe two) at the end of the present term. Seven of the nine justices have been appointed by Republican presidents, but the president is uncomfortable with any Dem-ocrats hanging around. It is likely that William Rehnquist, Lutheran and chief justice, who is almost 79, will leave the court after 31 years. Further, Sandra Day O,Connor (Episcopalian), who will be 73 in 2003, is making sounds that she may return to her California home.
The oldest justice is John Paul Stevens, an 82-year-old Protestant with a Catholic wife. However, he has given little indication that he,s ready to hang up his gavel. Further, with an average age of nearly 69, these nine justices could almost compete with the College of Cardinals. The aging court could use a bladder control prayer group. Any one of them could make the Last Judgment at any time.
According to The New York Times, President Bush has staffers making lists of potential candidates in order to meet the late spring deadline and to mount a strong defense of his choices who will likely be even more conservative than he is.
At the moment, the front-runner for the first vacancy is Alberto R. Gonzales, a White House counselor and former legal adviser to Bush when he was governor of Texas. Reports suggest that Harvard Law School graduate Gonzales, who came from a poor Texas family, has the requisite loyalty and philosophical conservatism that Bush craves. More important, if nominated and approved, he would be the first Hispanic to serve.
President Bush needs Hispanic votes. The nation now has over 35,300,000 Latinos -- most of them with roots in Mexico. His brother, Jeb, governor of Florida, is married to a Latina-American and has converted to

Catholicism. Jeb helped to deliver Florida,s electoral votes, the ones that put George in office, even though he lost the general election. Allegedly, Gonzales wants the post. Even now, his staff suggests that he likes to be addressed as &Judge Gonzales.8 He is conservative, antiabortion -- and Catholic.

Two other possible candidates are Samuel Alito, judge of the appeals court in Newark, N.J. However, Alito is Italian-American as is Justice Antonin Scalia. Alito once clerked for Scalia and earned the nickname &Scalito.8 Then, there is Miguel Estrada, perhaps a more reliable conservative than Gonzales. The hard-nosed conservatives don,t amount to that big a political block, however.

It,s just that they,re louder and Bush is fearful of them. In any case, all three potential justices are Roman Catholics.

That suggests there may be four, maybe five Catholics on the court by next spring -- an extraordinary shift. The new justice -- or two -- would join Scalia, Anthony Kennedy and Clarence Thomas.

There hasn,t been a Catholic chief justice in 82 years. Bush might prefer Scalia but the opinionated justice would have a hard time even with the new Republican Congress. He,s a brilliant justice but he shaves with his tongue. He could become another Robert Bork. Both Scalia and Kennedy will be 67 in 2003. And Clarence Thomas, 55 this year, is still recovering from the Anita Hill debacle. Further, he is regarded as a Scalia clone. (Thomas is a convert to Catholicism. He drifted away from the church for some 28 years but has returned, often attending Mass at St. Joseph,s on Capitol Hill, just behind the court.)

The first Catholic to serve was Roger B. Taney, son of a wealthy slave-owning family, who raised tobacco. Years later, as chief justice, he supported slavery even for descendants of slaves. This was a period during which some Catholic colleges and seminaries used slave labor (now called athletics). Taney, a former Federalist, was the fifth chief justice, appointed by Andrew Jackson in 1836. He served until 1864, long enough to incur the wrath of Abraham Lincoln.

Edward D. White of Louisiana was appointed to the court in 1894 by Grover Cleveland. He was named chief justice in 1910 and led the court until 1921. White graduated from the Jesuit College in New Orleans and then went on to Georgetown. He was the court,s ninth chief justice and was generally considered a conservative, although he did help to speed the advent of the eight-hour day for railroad workers. He was enshrined in Statuary Hall in 1955, together with 13 other Catholics.

Joseph McKenna, a William McKinley appointee, served for 26 years (1898-1925). He had been the U.S. attorney general but had little consistent legal policy. For a few years, he shared the bench with Pierce Butler, a Warren Harding ap-pointee from Minnesota, who served for 16 years (1923-39) and was generally considered a conservative.

Then came Frank Murphy, a New Deal Democrat, appointed in 1940 by Franklin D. Roosevelt. Prior to his nomination, he was widely recognized for his relief efforts. He left the court to serve in World War II but returned and served until 1949. The first -- and next to last -- of the Catholic liberals, he condemned the wartime imprisonment of the Japanese.

William J. Brennan was recognized as a liberal Catholic judge. He served 33 years (1956-90) before retiring, sometimes drawing criticism from major bishops who were growing more conservative. He ruled often for a greater guarantee of justice for the poor. By the time he left the court, two other papist justices, Antonin Scalia and Anthony Kennedy, were serving.

The potential of the voting power of four Catholics on a nine-member court is worth pondering. Only one additional vote from a Jewish justice or a lonely WASP could produce some of the many 5-4 decisions. Ruth Bader Ginsburg, 69, second female and a Jew, was appointed by Bill Clinton in 1993. Stephen G. Breyer was appointed in 1994. (He does not list himself as Jewish by religion but is considered a cultural Jew.)

Unfortunately, the four Catholics are conservative, two of them -- Scalia and Thomas -- to the right of Attila the Hun (a devout barbarian), and two others -- Kennedy and (maybe) Gonzales, leaning to the right. There are no

Murphys or Brennans.
Presently, there are issues such as capital punishment, just war, abortion, disabilities, immigration, school vouchers, welfare, wages, homosexual unions, sodomy, fair employment and college admissions practices, and so on, that need to be sorted out. Responses all have roots in church teaching but, with the exception of abortion and cloning, it doesn,t seem to matter much anymore. The situation is not unlike the laity, s response to Humanae Vitae, the encyclical on birth control. The bishops continue to rant about birth control but the Catholics in the pew pay no attention. Neither will the justices.
Just when Catholic justices have moved to the center of the bench, it doesn,t seem to matter if they are Cath-olics or Rosicrucians. It,s a shame. My long-deceased father, who finished only grammar school, would not have washed his hands for decades after shaking the hands of four Catholic justices.

From: Goodling, Monica <Monica.Goodling@usdoj.gov>
To: Benczkowski, Brian A <Brian.A.Benczkowski@usdoj.gov>;Charnes, Adam <Adam.Charnes@usdoj.gov>;Remington, Kristi L <Kristi.L.Remington@usdoj.gov>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Ashley Snee (E-mail) </S=asnee#064#who.eop.gov/JCON/P=GOV+DOJ/A=TELEMAIL/C=US/"@intmail.usdoj.gov>
Sent: 1/27/2003 7:37:18 AM
Subject: : Kuhl weekend stories from California

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Goodling, Monica" <Monica.Goodling@usdoj.gov> ("Goodling, Monica" <Monica.Goodling@usdoj.gov> [UNKNOWN])
CREATION DATE/TIME:27-JAN-2003 12:37:18.00
SUBJECT:: Kuhl weekend stories from California
TO:"Benczkowski, Brian A" <Brian.A.Benczkowski@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) ("Benczkowski, Brian A" <Brian.A.Benczkowski@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN])
READ:UNKNOWN
TO:"Charnes, Adam" <Adam.Charnes@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) ("Charnes, Adam" <Adam.Charnes@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN])
READ:UNKNOWN
TO:"Remington, Kristi L" <Kristi.L.Remington@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) ("Remington, Kristi L" <Kristi.L.Remington@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:"Ashley Snee (E-mail)" <"/S=asnee#064#who.eop.gov/O=JCON/P=GOV+DOJ/A=TELEMAIL /C=US/"@intmail.usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) ("Ashley Snee (E-mail)" <"/S=asnee#064#who.eop.gov/O=JCON/P=GOV+DOJ/A=TELEMAIL /C=US/"@intmail.usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Kristi -- Wanted you to have these for your files...

[Brett -- Unbelievably, the LA Times used a quote from you, but ended up ignoring the substance of what you said, as well as all of the materials I provided. The other stories ended up using at least a little from one of us...]

****
Knight Ridder/Tribune News Service
San Jose Mercury News
January 25, 2003, Saturday
HEADLINE: Activists protest against judge with anti-abortion views
BYLINE: By Howard Mintz

SAN JOSE, Calif. _ Mounting political hostilities over the Bush administration's judicial nominations have officially spilled into California, where dozens of women's organizations and civil rights groups on Friday took aim at a Los Angeles judge picked to join the influential federal appeals court that interprets laws throughout the West.

In both San Francisco and Los Angeles, critics launched what they promised would be a vigorous campaign against Superior Court Judge Carolyn Kuhl, recently renominated by the White House for a slot on the 9th U.S. Circuit Court of Appeals, which hears cases from California and eight other states. President Bush first nominated Kuhl to the 9th Circuit more than two years ago, but she

was stalled in the Senate, primarily the result of opposition from California Sen. Barbara Boxer, a Democrat. Bush, emboldened by last fall's Republican takeover of the Senate, renominated Kuhl earlier this month, along with a group of other judicial hopefuls Democrats consider too conservative for the federal bench. Kuhl's opponents are now turning up the heat on her nomination, vowing a major fight to keep her off the 9th Circuit.

Critics, including Boxer, have targeted Kuhl for what they consider her conservative views on civil rights and abortion, citing a brief she wrote for the Justice Department during the Reagan administration criticizing the Supreme Court's Roe vs. Wade decision. This week is the 30th anniversary of the landmark ruling.

"I think we've been way too polite," said Tracy Salkowitz, executive director of the California Abortion Rights Action League. "It's time to not be polite."

Kuhl, a Superior Court judge appointed in 1995 by former Gov. Pete Wilson, declined comment Friday. But the Bush administration strongly defended Kuhl's record and qualifications.

"Judge Kuhl has demonstrated intelligence, fairness, impartiality and professionalism in her seven years on the bench in California, and those who know her best are enthusiastically supporting her nomination," said Monica Goodling, a spokeswoman for the Justice Department.

Kuhl has gained bipartisan support from the legal community, many of whom have written letters to the Senate Judiciary Committee supporting her nomination. In addition, the American Bar Association rated her "well qualified" for the 9th Circuit.

But the 50-year-old Kuhl is being labeled a "right wing ideologue" by civil rights organizations and abortion rights advocates. And the basis for much of the opposition revolves around Kuhl's legal work for the Justice Department during the Reagan administration.

Among other things, Kuhl argued in a brief in the U.S. Supreme Court in 1986 that the Roe vs. Wade decision was "flawed" and should be reconsidered. She also submitted a brief advocating tax-exempt status for Bob Jones University, which at the time was racially segregated.

With growing concerns among Democrats that Bush might tilt the federal judiciary against abortion rights, Kuhl has become one of a handful of hotly contested nominees.

"Judge Kuhl's record raises deep concerns for me," Boxer said in a statement.

The Senate Judiciary Committee has not yet scheduled a hearing on Kuhl's nomination, but one is expected soon. Until recently, Boxer was able to block a vote in the committee through a procedure that allows a home state senator to "blue slip" a nominee, but Republicans have indicated they might abolish the time-honored Senate practice.

Bush has thus far managed to get only one judge, Hawaii's Richard Clifton, on the 28-member 9th Circuit, a court dominated by 17 Democratic appointees that is widely

considered the nation's most liberal appeals
court.

Kuhl has been picked for one of four vacancies on the court; Nevada attorney Jay Bybee, who has not encountered opposition so far, has also been nominated. The Bush administration is also believed to be close to nominating San Francisco Superior Court Judge Carlos Bea.

****
The Associated Press, January 24, 2003, Friday, BC cycle
HEADLINE: Groups oppose Kuhl nomination to federal appeals court
BYLINE: By DAVID KRAVETS, AP Legal Affairs Writer

Environmental, civil rights and women's groups formally announced their opposition Friday to President Bush's nomination of a Los Angeles County judge to a federal appeals court.

They are opposing Superior Court Judge Carolyn Kuhl, a former Reagan administration lawyer appointed to the bench by California Gov. Pete Wilson in 1995. Bush has tapped her for a lifetime appointment to the San Francisco-based 9th U.S. Circuit Court of Appeals. The opposition groups, which include the California Abortion Rights Action League, the Sierra Club and the NAACP of San Francisco, said they oppose Kuhl for what they say was her work against legalized abortion, the environment and racial equality.

Hearings before the Senate Judiciary Committee on the 50-year-old's nomination have not been scheduled.

"President Bush has put political opportunism over women's health," said Tracy Salkowitz, executive director of the California Abortion Rights Action League.

As a Justice Department lawyer, Kuhl urged the Supreme Court in a 1985 case to "abandon" Roe v. Wade, the 30-year-old decision legalizing abortion.

The Duke University School of Law graduate supported parental notification of teenagers to acquire birth control pills, tax-exempt status for Bob Jones University when it was racially segregated and argued for a more-narrowed definition of sexual harassment.

"Confirmation of Kuhl and other anti-civil rights judicial nominees would do irreversible damage to civil rights, workers' rights, environmental protections, freedom of choice and the elimination of racial discrimination," said Eva Paterson, executive director of the San Francisco-based Lawyers' Committee for Civil Rights.

Kuhl declined comment.

The Bush administration defended its nomination Friday. The administration noted that the American Bar Association ranked Kuhl as well qualified. "The administration couldn't agree more," said Monica Goodling, a Justice Department spokeswoman.

Goodling added that "Judge Kuhl has demonstrated intelligence, fairness, impartiality and professionalism in her seven years on the bench in California."

Opponents point to a 2001 state appeals court decision reinstating an invasion of privacy case that Kuhl had dismissed. A breast cancer patient sued her doctor, who allowed a

drug salesman to watch the woman's
examination.

Environmental groups objected to her representing an oil company,
when she was a private lawyer, that was
refusing to clean contaminated property.

****

The San Francisco Chronicle, JANUARY 25, 2003, SATURDAY
HEADLINE: Bush choice for U.S. judge draws fire;
Various groups ask Senate to reject her again
BYLINE: Bob Egelko

Civil rights, abortion rights, labor and environmental advocates
joined forces Friday to urge U.S. Senate
rejection of Carolyn Kuhl, a Los Angeles judge nominated by
President Bush to the federal appeals court in
San Francisco.

Kuhl has "an extremist and hostile record against workers' rights,
civil rights, and women's issues," Judy Goff,
executive secretary-treasurer of the Alameda County Central Labor
Council, said in a statement distributed
at a San Francisco news conference.

The Lawyers' Committee for Civil Rights, the Sierra Club, the
National Lawyers Guild, the California Abortion
Rights Action League and the National Center for Lesbian Rights were
among those opposing Kuhl, a Los
Angeles Superior Court judge and former Justice Department lawyer
under President Ronald Reagan. Kuhl was
appointed to the Los Angeles court by then-Gov. Pete Wilson in 1995
and was nominated to the U.S. Court
of Appeals for the Ninth Circuit by Bush in June 2001. She was
denied a hearing in the Democratic-controlled
Senate Judiciary Committee because of opposition by Sen. Barbara
Boxer, D-Calif.

After Republicans regained control of the Senate, Bush renominated
Kuhl on Jan. 7 along with 29 other
candidates who had failed to win approval.

In the Justice Department, Kuhl worked on legal arguments calling
for the reversal of the Roe vs. Wade
decision, which legalized abortion, and was widely reported to have
supported tax-exempt status for Bob
Jones University, which banned interracial dating. She also argued
before the U.S. Supreme Court that
unions could not sue on behalf of their members, a position that the
Sierra Club said Friday could also
weaken environmental groups.

On Friday, opponents criticized some of her judicial rulings,
including a 1999 dismissal of a suit by a breast
cancer patient who said her privacy was invaded by the presence of a
drug salesman in her doctor's office
during a breast examination. Kuhl's ruling was overturned on appeal.

The Bush administration noted that the American Bar Association --
an organization whose assessments the
administration no longer seeks on judicial nominees -- rated Kuhl as
well-qualified.

"Judge Kuhl has demonstrated intelligence, fairness, impartiality
and professionalism in her seven years on
the bench in California, and those who know her best are
enthusiastically supporting her nomination," Justice

Department spokeswoman Monica Goodling said.

She cited the endorsement of Vilma Martinez, former head of the Mexican American legal Defense and Educational Fund, who said she disagreed with Kuhl politically but considered her "mainstream . . . a very good judge."

****
Los Angeles Times, January 25, 2003
HEADLINE: Liberal Groups Urge Rejection of Bush Court Choice; Coalition asks Boxer, Feinstein to do all they can toprevent Senate confirmation of the conservative nominee for 9thCircuit bench.
BYLINE: Jean Guccione, Times Staff Writer

A coalition of liberal groups representing women, minorities and workers urged California's two U.S. senators Friday to do everything in their power, including a filibuster on the Senate floor, to stop the nomination of conservative Judge Carolyn B. Kuhl to the federal appeals court in San Francisco.

The opposition to Kuhl's nomination could be a warmup for a larger fight over the ideology of judicial candidates if a seat opens on the U.S. Supreme Court this year.

Kuhl, a Los Angeles County Superior Court judge, was renominated to the U.S. 9th Circuit Court of Appeals by President Bush this month after the Republicans won control of the Senate in November. Her first nomination effort ended last year without a hearing before the Democrat-controlled Senate Judiciary Committee. Critics said at a Los Angeles news conference Friday that Kuhl's conservative ideology alone makes her unfit for the federal appellate bench. The American Bar Assn. has rated Kuhl "well-qualified" for the job.

"She poses an imminent threat to women if she is confirmed," said Katherine Spillar, executive director of the Feminist Majority. "She has gone on the record repeatedly, completely opposed to abortion rights in this country."

As a deputy attorney general in the Reagan administration, Kuhl wrote a friend-of-the-court brief urging the U.S. Supreme Court to overturn Roe vs. Wade and outlaw abortion. She also lobbied for tax-exempt status for Bob Jones University despite its policy against mixed-race dating on campus.

Representatives of the National Assn. for the Advancement of Colored People Legal Defense Fund, United Farm Workers and disability rights and taxpayer groups joined women's rights advocates Friday in opposing Kuhl and other Bush nominees they believe would bring their "right-wing ideology" to the federal bench.

Lawyer Mark Kleinman, who represents the national consumer group Taxpayers Against Fraud, said he represented a whistle-blower who was denied attorney fees by Kuhl in a Los Angeles courtroom. Kuhl's decision was reversed on appeal.

"I'm here to tell you that this nomination is worse than a mistake. It is dangerous," he said. "To the present day, she has demonstrated not just a disregard ... but an active

hostility toward any statute that might protect whistle-blowers or the public from companies that do horrible things."

One speaker after another urged Democratic Sens. Barbara Boxer and Dianne Feinstein to oppose Kuhl's nomination in any way, from blocking her committee hearing to filibustering to stop the Republican-controlled Senate from casting a confirmation vote.

Last year, Boxer opposed the nominee and did not return "a blue slip," a process named for the blue consent form on which home-state senators voice their opinions on whether the nominee should receive a committee hearing.

Boxer said in a statement released Friday that she opposes Kuhl's nomination because she is "out of the mainstream and not representative of the values shared by most Californians on such matters as women's rights, civil rights, defense of tobacco companies, privacy rights, whistle-blower protection and consumer rights."

A spokesman for Feinstein said that the senator has taken no position on Kuhl's nomination and that she believes the judge should have a hearing before the Senate.

Kuhl declined to comment Friday through a spokesperson, but the Bush administration maintained its support for her. "The president is strongly committed to this nominee," a White House official said Friday.

From: CN=Philip J. Perry/OU=OMB/O=EOP [OMB]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/27/2003 8:31:40 AM
Subject: : Re: from NY Times re suit over 9/11 fund

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP [OMB])
CREATION DATE/TIME:27-JAN-2003 13:31:40.00
SUBJECT:: Re: from NY Times re suit over 9/11 fund
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

talked to Ken and mccallum about this this a.m. it's what we expected .... and we should win.

Brett M. Kavanaugh
01/27/2003 08:45:51 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: from NY Times re suit over 9/11 fund

n the most sweeping challenge yet to the federal fund intended to compensate relatives of Sept. 11 victims, the families of seven victims who worked at Cantor Fitzgerald have filed a lawsuit accusing the fund's administrator of acting illegally and unfairly, thereby shortchanging the families of all New York victims.
The lawsuit calls the administrator, Kenneth R. Feinberg, autocratic and arrogant, and accuses him of having "run roughshod" over legislation governing the the Sept. 11 Victim Compensation Fund. It also says Mr. Feinberg has "alienated and disenfranchised the very constituency he was appointed to serve."
And it says that the fund violates New York law by calculating awards based on after-tax projections of lost income, discriminates against unmarried victims and imposes an illegal cap that could leave some high-income families with as little as one-tenth of what they should be awarded under the law establishing the fund.
The lawsuit, which was filed in Federal District Court in Manhattan on Saturday, details many misgivings that have been circulating for months among some families and companies that lost relatives and employees in the attack on the World Trade Center.
If successful, the lawsuit could force Mr. Feinberg, whose title is special master of the fund, to pay out hundreds of millions, if not billions, of dollars more than the $4 billion to $5 billion the fund is expected to cost taxpayers. He would also have to review, and possibly

recalibrate, the 154 awards that have already been offered to decedents' families. Those awards have totaled $240 million, an average of $1.56 million per family.

The failure of the suit could also work against Mr. Feinberg and the fund because some families may agree that its formulas calculate awards that are too low. Those families might then decide to sue the airlines, airport-security companies and other entities that have been cited as bearing some responsibility for allowing the hijacking of the four jetliners involved in the Sept. 11 terrorist attacks.

But against the current backdrop of impending war and economic malaise, the tide of public opinion could also shift in favor of Mr. Feinberg and against the families for seemingly blurring the lines between grief and greed.

Reached at his home yesterday, Mr. Feinberg said he had not seen the suit. "I know nothing about it," he said, "and I have no comment. After I read it, I will turn the complaint over to the Department of Justice."

The lawsuit does not seek to overturn the statute that created the compensation fund as part of an airline bailout package after Sept. 11. Nor does it seek damages. Instead, it challenges the rules of the fund and the formulas Mr. Feinberg has come up with to determine monetary awards. It also seeks to create a single class of the approximately 2,800 victims who died at the World Trade Center.

It does not include those people who died in the planes that crashed into the Pentagon and in Pennsylvania.

The lawsuit was filed by John F. Cambria, managing partner of the New York office of Salans, an international law firm. The seven Cantor employees named in the suit were of varying ages and work experience. Their annual salaries ranged from less than $50,000 to more than $1 million.

Some of the lawsuit's arguments echo those made in a September report on the fund's shortcomings that was prepared by Cantor; the New York law firm of Skadden, Arps, Slate, Meagher & Flom; and the economic consulting firm of Chicago Partners. They also mirror arguments made either formally or informally by other companies that lost employees in the trade center attack.

Pamela S. Falk, a professor at the City University of New York who has no connection to the suit, said, "The court will have to weigh a strong and sympathetic case by the victims that they have not been fairly compensated against a longstanding tradition in U.S. law to give deference to government administrators."

And Perry Binder, a professor at Georgia State University in Atlanta, said that while the lawsuit may be technically correct, the courts may decide that Mr. Feinberg has not been unreasonable or unfair. But the real question, Mr. Binder said, was whether Congress would amend a hastily drawn and flawed statute.

"We all should have seen this lawsuit coming," he said.

The first of the four major areas of contention in the 30-page suit concerns taxes. Under New York law, pretax earnings are used in computing wrongful death awards. But Mr. Feinberg uses after-tax earnings, the complaint charges. As a result, while the survivor of a victim who made $225,000 a year should stand to receive $4.48 million under New York law, the fund would offer $3.35 million.

The second concerns the rate at which single people spend money. In computing wrongful-death awards, New York law does not differentiate between married and unmarried decedents. But according to the complaint, Mr. Feinberg calculates that a single decedent with an annual income of $70,000 spent 60.8 percent of that income, while a married decedent spent 17.4 percent because married people tend to spend less and can avail themselves of their spouses' income.

The complaint also charges that Mr. Feinberg computes income levels by averaging the years 1998 through 2000, and ignores the annualized earnings of 2001, which were presumably higher in part because of the strength of the local economy, particularly Wall Street, in the early part of the year. It accuses Mr. Feinberg of using national, not New York, statistics

in calculating the growth rates of annual compensation and also says that he ignored stock options and other forms of compensation beyond salaries and bonuses.
Finally, the complaint says that Mr. Feinberg has "played a cat-and-mouse game" when it comes to figuring awards for victims who earned more than $231,000 a year.
The plaintiffs' lawyer, Mr. Cambria, said Mr. Feinberg has been loath to offer awards of more than $5 million or $6 million even though under his formula, a mother of two children who lost a 35-year-old husband should be offered $20 million.
Mr. Cambria stressed that his high-income clients * as well as the hundreds of others who died on Sept. 11 * do not expect to receive awards of quite that magnitude. But still, he said, they felt that the numbers were far too low, and unfair.
"Some of what he has said sounds like he views his job as the sentry at the federal treasury," Mr. Cambria said. "But it's not his job to balance the budget, or bring this project in under a certain number. It's his job to carry out this statute passed by Congress."
Mr. Cambria said that his clients did not want to be interviewed because of privacy concerns and personal grief. But in a statement released by Mr. Cambria, one widow, who was not identified, said: "My husband worked a second job to support our children and me, and now he's gone. The amount of money we'll get if Feinberg's rules stay the way they are now is unfair. The simple fact is that we need more help."
Mr. Feinberg and the federal government have 60 days to respond to the complaint, Mr. Cambria said. But given the fact that the deadline to apply to the fund is Dec. 21, 2003, and that other legal matters related to Sept. 11 are still pending, Mr. Cambria said that he anticipated an expedited resolution.
He suggested that the best solution would be a settlement that adjusted the formulas worked out by Mr. Feinberg, who Mr. Cambria said also wanted to do right by the families.
"We believe in the fund," Mr. Cambria said. "I think the fund is a good thing. And at the end of the day, the amount of money between the way Feinberg wants to do it and the way the statute requires it * that delta is, in terms of the federal budget or other Congressionally mandated programs, very insignificant. But to my clients, it's life or death. It's the rest of their lives."

Message Sent
To:_____
Alberto R. Gonzales/WHO/EOP@Exchange@EOP
Jay P. Lefkowitz/OPD/EOP@Exchange@EOP
Joel D. Kaplan/WHO/EOP@Exchange@EOP
Philip J. Perry/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP

From: Kavanaugh, Brett M.
To: <Bumatay, Patrick J.>
Sent: 1/27/2003 2:20:29 PM
Subject: Re: Red tag

never received it

From: Patrick J. Bumatay/WHO/EOP@Exchange on 01/27/2003 02:23:45 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: Red tag

Just a reminder, the red tag on National Consumer Protection Proclamation was due at 2 pm.

thanks

Patrick J. Bumatay

Office of Counsel to the President

o: 202-456-5214

f: 202-456-6279

mainline: 202-456-2632

From: CN=Heather Wingate/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/27/2003 12:26:59 PM
Subject: : SRC Room for delivery of binders

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:27-JAN-2003 17:26:59.00
SUBJECT:: SRC Room for delivery of binders
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Just wanted to let you know that the Sen Repub Conference room is 212
Dirksen SOB. I gave them a heads up that we'd be delivering a bunch of
binders to them for distribution at the joint RPC/SRC Members meeting.
(count: 75)
;
The 51 binders for Steering lunch on Wed should still go to the VP's
office at S212.
;
Thank!
```

From: [UNKNOWN] <Kavanaugh, Brett M.>
To: <Nelson>;Carolyn_Nelson@who.eop.gov [WHO] <Carolyn>;<Brilliant>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/59738820-F4C7B11F-85256B9F-47097A [UNKNOWN] <Hana F.>
Sent: 1/27/2003 4:57:53 PM
Subject:

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (MS Mail)
CREATOR:Kavanaugh, Brett M. ( [ UNKNOWN ] )
CREATION DATE/TIME:27-JAN-2003 21:57:53.00
SUBJECT:
TO:Nelson, Carolyn ( Carolyn_Nelson@who.eop.gov [ WHO ] )
READ:UNKNOWN
TO:Brilliant, Hana F. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=59738820-
F4C7B11F-85256B9F-47097A [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

We may want to cancel JSC for Wednesday. Please contact me in morning.
```

From: Greenstone, Adam F.
To: <Kavanaugh, Brett M.>
Sent: 1/27/2003 7:04:51 PM
Subject: FW: alexander filing
Attachments: att2.eml; delete.arms.not.change.1e_clean.doc

Brett--This relates to my voice-mail of this afternoon. I understand that the February 7 Alexander conference will be in chambers.

-----Original Message-----

From: Jason Baron @EOP

Sent: Monday, January 27, 2003 5:00 PM

To: Greenstone, Adam F.

Subject: alexander filing

adam, see attached. i added the qualifier "sufficiently" in footnote 3 as the only change from the printed version you saw earlier. let me know if you have any questions. jason

Jason R. Baron
Director of Litigation
Office of the General Counsel
National Archives and Records Administration
8601 Adelphi Road, Suite 3110
College Park, MD 20740
tel. 301-837-1499 (direct)
301-837-1750 (main)
301-837-0293 (fax)
email: jason.baron@nara.gov

- delete.arms.not.change.1e_clean.doc << delete.arms.not.change.1e_clean.doc >>

- att2.eml << att2.eml >>

NOTICE TO COURT AND COUNSEL RE: WHITE HOUSE E-MAIL

Undersigned counsel wish to advise the Court and counsel that, thirty days from today, or soon thereafter, the Office of Administration ("OA") within the Executive Office of the President ("EOP") intends to delete an excess of Presidential e-mail and related records originally created during the Clinton Administration, but nevertheless still currently residing on the EOP's Automated Records Management System ("ARMS"). These e-mail records (together with a small number of pager and calendar records) were copied, and, following verification, the copy set was transferred to the National Archives and Records Administration ("NARA"), in accordance with the Presidential Records Act ("PRA"). See 44 U.S.C. § 2203(f)(1) (requiring that, at the end of a President's term, the Archivist of the United States assume responsibility for "the custody, control, and preservation of, and access to, the Presidential records of that President").

As this Court is aware, EOP and NARA entered into a Memorandum of Understanding at the end of the Clinton Administration governing the recovery of e-mail records, known as the Calverton Tape Restoration Project (TRP).1 Although the original intention of the parties had been to furnish to NARA (in accordance with the PRA) *all* copies of the restored data set of ARMS and TRP e-mail records at the end of

---

1 See Memorandum of Understanding between [NARA] and [EOP] Concerning the Continuation and Completion, after January 20, 2001, of the Tape Restoration, 'Multi Host,' and Reformatting Projects for Clinton-Gore Administration Electronic Mail Records Associated With [ARMS] ("MOU"), attached as Exhibit 3 to [EOP's] Brief on the Presidential Records Act, filed January 19, 2001. Pursuant to the MOU, EOP and NARA acknowledged and agreed that, as of January 20, 2001, legal custody of all

the Project, an additional set of the original, incomplete ARMS data set has continued to reside at EOP.2

Accordingly, OA intends to delete the EOP set of these Presidential electronic records thirty days from the date of this notice, or soon thereafter.3 Because copies of the records in question are properly in the custody of the Archivist, the Archivist does not object to the deletion of these copies that remain in the physical custody of the EOP.

Dated:DATE

Clinton Administration electronic mail records governed by the PRA would transfer to NARA. See MOU, §§ I, III(A).

2 This set also includes copies of Presidential records that had been provided to NARA following an earlier EOP restoration project, which restored copies of e-mail, pager, and calendar records from backups made between November 1992 and July 1994 (including records of the George H.W. Bush and Clinton Administrations), pursuant to the litigation in Armstrong v. Executive Office of the President, Civ. No. 89-0142 (D.D.C.).

3 The ARMS data set continuing to reside at EOP also includes email records created by staff in components of the EOP covered under the Federal Records Act; copies of these records also were previously provided to NARA. Once a verification process currently underway is sufficiently completed at NARA, NARA will be prepared to assume legal custody of these separate federal record emails, at which time EOP intends to delete the excess copies of these records still residing on ARMS.

REV_00156882

From: Jason Baron <jason.baron@nara.gov>
To: adam.Greenstone@oa.eop.gov
Sent: 1/27/2003 4:59:56 PM
Subject: alexander filing
Attachments: delete.arms.not.change.1e_clean.doc

adam, see attached. i added the qualifier "sufficiently" in footnote 3 as the only change from the printed version you saw earlier. let me know if you have any questions. jason

Jason R. Baron
Director of Litigation
Office of the General Counsel
National Archives and Records Administration
8601 Adelphi Road, Suite 3110
College Park, MD 20740
tel. 301-837-1499 (direct)
301-837-1750 (main)
301-837-0293 (fax)
email: jason.baron@nara.gov

NOTICE TO COURT AND COUNSEL RE: WHITE HOUSE E-MAIL

Undersigned counsel wish to advise the Court and counsel that, thirty days from today, or soon thereafter, the Office of Administration ("OA") within the Executive Office of the President ("EOP") intends to delete an excess of Presidential e-mail and related records originally created during the Clinton Administration, but nevertheless still currently residing on the EOP's Automated Records Management System ("ARMS"). These e-mail records (together with a small number of pager and calendar records) were copied, and, following verification, the copy set was transferred to the National Archives and Records Administration ("NARA"), in accordance with the Presidential Records Act ("PRA"). See 44 U.S.C. § 2203(f)(1) (requiring that, at the end of a President's term, the Archivist of the United States assume responsibility for "the custody, control, and preservation of, and access to, the Presidential records of that President").

As this Court is aware, EOP and NARA entered into a Memorandum of Understanding at the end of the Clinton Administration governing the recovery of e-mail records, known as the Calverton Tape Restoration Project (TRP).1 Although the original intention of the parties had been to furnish to NARA (in accordance with the PRA) *all* copies of the restored data set of ARMS and TRP e-mail records at the end of

---

1 See Memorandum of Understanding between [NARA] and [EOP] Concerning the Continuation and Completion, after January 20, 2001, of the Tape Restoration, 'Multi Host,' and Reformatting Projects for Clinton-Gore Administration Electronic Mail Records Associated With [ARMS] ("MOU"), attached as Exhibit 3 to [EOP's] Brief on the Presidential Records Act, filed January 19, 2001. Pursuant to the MOU, EOP and NARA acknowledged and agreed that, as of January 20, 2001, legal custody of all

the Project, an additional set of the original, incomplete ARMS data set has continued to reside at EOP.2

Accordingly, OA intends to delete the EOP set of these Presidential electronic records thirty days from the date of this notice, or soon thereafter.3 Because copies of the records in question are properly in the custody of the Archivist, the Archivist does not object to the deletion of these copies that remain in the physical custody of the EOP.

Dated:DATE

Clinton Administration electronic mail records governed by the PRA would transfer to NARA. See MOU, §§ I, III(A).

2 This set also includes copies of Presidential records that had been provided to NARA following an earlier EOP restoration project, which restored copies of e-mail, pager, and calendar records from backups made between November 1992 and July 1994 (including records of the George H.W. Bush and Clinton Administrations), pursuant to the litigation in Armstrong v. Executive Office of the President, Civ. No. 89-0142 (D.D.C.).

3 The ARMS data set continuing to reside at EOP also includes email records created by staff in components of the EOP covered under the Federal Records Act; copies of these records also were previously provided to NARA. Once a verification process currently underway is sufficiently completed at NARA, NARA will be prepared to assume legal custody of these separate federal record emails, at which time EOP intends to delete the excess copies of these records still residing on ARMS.

REV_00156885

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Hana F. Brilliant/WHO/EOP@EOP [WHO] <Hana F. Brilliant>;Carolyn Nelson/WHO /EOP@Exchange@EOP [WHO] <Carolyn Nelson>
Sent: 1/27/2003 5:17:29 PM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:27-JAN-2003 22:17:29.00
SUBJECT::
TO:Hana F. Brilliant ( CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

We may want to cancel JSC for Wednesday. Please contact me in morning.
```

From: Kavanaugh, Brett M.
To: <Nelson, Carolyn>;<Brilliant, Hana F.>
Sent: 1/27/2003 9:57:53 PM
Subject:

We may want to cancel JSC for Wednesday. Please contact me in morning.

From: Thomas, Ginni <ginni.thomas@heritage.org>
To: Adam B. Goldman/WHO/EOP@EOP [WHO] <Adam B. Goldman>
CC: Matthew E. Smith/WHO/EOP@EOP [WHO] <Matthew E. Smith>;Tim Goeglein/WHO /EOP@EOP [WHO] <Tim Goeglein>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 1/28/2003 6:05:20 AM
Subject: : Heritage estimates on President's divident proposal

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Thomas, Ginni" <ginni.thomas@heritage.org> ( "Thomas, Ginni"
<ginni.thomas@heritage.org> [ UNKNOWN ] )
CREATION DATE/TIME:28-JAN-2003 11:05:20.00
SUBJECT:: Heritage estimates on President's divident proposal
TO:Adam B. Goldman ( CN=Adam B. Goldman/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Matthew E. Smith ( CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Tim Goeglein ( CN=Tim Goeglein/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

The Center for Data Analysis at Heritage has created a preliminary
estimate of the economic and fiscal effects of the President's plan to end
the double taxation of corporate dividends.

This plan will:

Increase the Gross Domestic Product (GDP) by an average of $40 during
2003-2012.
The static cost of the proposal is estimated to be $367 billion over ten
years. The reality-based score of the proposal is $102 billion.
This proposal will add an average of 311,000 jobs to the nation's
employment level during 2003-2012.

Further refinements to these estimates will be put on the heritage.org web
page as we are now doing daily economic growth briefings and updates, Adam.

-----Original Message-----
From: Adam_B._Goldman@who.eop.gov [mailto:Adam_B._Goldman@who.eop.gov]
Sent: Monday, January 27, 2003 9:49 PM
Subject: White House Global Messenger -- 01/28/2003


TO: DC Leaders

I will send talking points on the State of the Union and the speech as
prepared
tomorrow evening.

I thought you would want to have this up to date information on Iraq until
then.



THE GLOBAL MESSENGER

Tuesday, January 28, 2003

KEY POINTS
```

Eighty days ago, on November 8, in a historic display of unity, the UN Security Council gave Iraq a final opportunity to voluntarily disarm.

The purpose of UN Resolution 1441 was disarmament. Inspections are a means to an end and they cannot be expected to succeed when a country has an active program of denial and deception, as is the case with Iraq.

For 11 years before Resolution 1441, Saddam Hussein

From: Kavanaugh, Brett M.
To: <Greenstone, Adam F.>
Sent: 1/28/2003 7:54:43 AM
Subject: Re: FW: alexander filing
Attachments: att2.eml; delete.arms.not.change.1e_clean.doc

please call

From: Adam F. Greenstone/OA/EOP@Exchange on 01/27/2003 07:04:51 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: FW: alexander filing

Brett--This relates to my voice-mail of this afternoon. I understand that the February 7 Alexander conference will be in chambers.

-----Original Message-----

From: Jason Baron @EOP

Sent: Monday, January 27, 2003 5:00 PM

To: Greenstone, Adam F.

Subject: alexander filing

adam, see attached. i added the qualifier "sufficiently" in footnote 3 as the only change from the printed version you saw earlier. let me know if you have any questions. jason

Jason R. Baron

Director of Litigation

Office of the General Counsel

National Archives and Records Administration

8601 Adelphi Road, Suite 3110

College Park, MD 20740

tel. 301-837-1499 (direct)

301-837-1750 (main)

301-837-0293 (fax)

email: jason.baron@nara.gov

 - delete.arms.not.change.1e_clean.doc << delete.arms.not.change.1e_clean.doc >>

 - att2.eml << att2.eml >>

NOTICE TO COURT AND COUNSEL RE: WHITE HOUSE E-MAIL

Undersigned counsel wish to advise the Court and counsel that, thirty days from today, or soon thereafter, the Office of Administration ("OA") within the Executive Office of the President ("EOP") intends to delete an excess of Presidential e-mail and related records originally created during the Clinton Administration, but nevertheless still currently residing on the EOP's Automated Records Management System ("ARMS"). These e-mail records (together with a small number of pager and calendar records) were copied, and, following verification, the copy set was transferred to the National Archives and Records Administration ("NARA"), in accordance with the Presidential Records Act ("PRA"). See 44 U.S.C. § 2203(f)(1) (requiring that, at the end of a President's term, the Archivist of the United States assume responsibility for "the custody, control, and preservation of, and access to, the Presidential records of that President").

As this Court is aware, EOP and NARA entered into a Memorandum of Understanding at the end of the Clinton Administration governing the recovery of e-mail records, known as the Calverton Tape Restoration Project (TRP).1 Although the original intention of the parties had been to furnish to NARA (in accordance with the PRA) *all* copies of the restored data set of ARMS and TRP e-mail records at the end of

---

1 See Memorandum of Understanding between [NARA] and [EOP] Concerning the Continuation and Completion, after January 20, 2001, of the Tape Restoration, 'Multi Host,' and Reformatting Projects for Clinton-Gore Administration Electronic Mail Records Associated With [ARMS] ("MOU"), attached as Exhibit 3 to [EOP's] Brief on the Presidential Records Act, filed January 19, 2001. Pursuant to the MOU, EOP and NARA acknowledged and agreed that, as of January 20, 2001, legal custody of all

the Project, an additional set of the original, incomplete ARMS data set has continued to reside at EOP.2

Accordingly, OA intends to delete the EOP set of these Presidential electronic records thirty days from the date of this notice, or soon thereafter.3 Because copies of the records in question are properly in the custody of the Archivist, the Archivist does not object to the deletion of these copies that remain in the physical custody of the EOP.

Dated:DATE

Clinton Administration electronic mail records governed by the PRA would transfer to NARA. See MOU, §§ I, III(A).

2 This set also includes copies of Presidential records that had been provided to NARA following an earlier EOP restoration project, which restored copies of e-mail, pager, and calendar records from backups made between November 1992 and July 1994 (including records of the George H.W. Bush and Clinton Administrations), pursuant to the litigation in Armstrong v. Executive Office of the President, Civ. No. 89-0142 (D.D.C.).

3 The ARMS data set continuing to reside at EOP also includes email records created by staff in components of the EOP covered under the Federal Records Act; copies of these records also were previously provided to NARA. Once a verification process currently underway is sufficiently completed at NARA, NARA will be prepared to assume legal custody of these separate federal record emails, at which time EOP intends to delete the excess copies of these records still residing on ARMS.

REV_00156902

From: Jason Baron <jason.baron@nara.gov>
To: adam.Greenstone@oa.eop.gov
Sent: 1/27/2003 4:59:56 PM
Subject: alexander filing
Attachments: delete.arms.not.change.1e_clean.doc

adam, see attached. i added the qualifier "sufficiently" in footnote 3 as the only change from the printed version you saw earlier. let me know if you have any questions. jason

Jason R. Baron
Director of Litigation
Office of the General Counsel
National Archives and Records Administration
8601 Adelphi Road, Suite 3110
College Park, MD 20740
tel. 301-837-1499 (direct)
301-837-1750 (main)
301-837-0293 (fax)
email: jason.baron@nara.gov

NOTICE TO COURT AND COUNSEL RE: WHITE HOUSE E-MAIL

Undersigned counsel wish to advise the Court and counsel that, thirty days from today, or soon thereafter, the Office of Administration ("OA") within the Executive Office of the President ("EOP") intends to delete an excess of Presidential e-mail and related records originally created during the Clinton Administration, but nevertheless still currently residing on the EOP's Automated Records Management System ("ARMS"). These e-mail records (together with a small number of pager and calendar records) were copied, and, following verification, the copy set was transferred to the National Archives and Records Administration ("NARA"), in accordance with the Presidential Records Act ("PRA"). See 44 U.S.C. § 2203(f)(1) (requiring that, at the end of a President's term, the Archivist of the United States assume responsibility for "the custody, control, and preservation of, and access to, the Presidential records of that President").

As this Court is aware, EOP and NARA entered into a Memorandum of Understanding at the end of the Clinton Administration governing the recovery of e-mail records, known as the Calverton Tape Restoration Project (TRP).1 Although the original intention of the parties had been to furnish to NARA (in accordance with the PRA) *all* copies of the restored data set of ARMS and TRP e-mail records at the end of

---

1 See Memorandum of Understanding between [NARA] and [EOP] Concerning the Continuation and Completion, after January 20, 2001, of the Tape Restoration, 'Multi Host,' and Reformatting Projects for Clinton-Gore Administration Electronic Mail Records Associated With [ARMS] ("MOU"), attached as Exhibit 3 to [EOP's] Brief on the Presidential Records Act, filed January 19, 2001. Pursuant to the MOU, EOP and NARA acknowledged and agreed that, as of January 20, 2001, legal custody of all

the Project, an additional set of the original, incomplete ARMS data set has continued to reside at EOP.2

Accordingly, OA intends to delete the EOP set of these Presidential electronic records thirty days from the date of this notice, or soon thereafter.3 Because copies of the records in question are properly in the custody of the Archivist, the Archivist does not object to the deletion of these copies that remain in the physical custody of the EOP.

Dated:DATE

Clinton Administration electronic mail records governed by the PRA would transfer to NARA. See MOU, §§ I, III(A).

2 This set also includes copies of Presidential records that had been provided to NARA following an earlier EOP restoration project, which restored copies of e-mail, pager, and calendar records from backups made between November 1992 and July 1994 (including records of the George H.W. Bush and Clinton Administrations), pursuant to the litigation in Armstrong v. Executive Office of the President, Civ. No. 89-0142 (D.D.C.).

3 The ARMS data set continuing to reside at EOP also includes email records created by staff in components of the EOP covered under the Federal Records Act; copies of these records also were previously provided to NARA. Once a verification process currently underway is sufficiently completed at NARA, NARA will be prepared to assume legal custody of these separate federal record emails, at which time EOP intends to delete the excess copies of these records still residing on ARMS.

REV_00156905

From: Nelson, Carolyn
To: <Addington, David S.>;<Bartolomucci, H. Christopher>;<Ullyot, Theodore W.>;<Brilliant, Hana F.>;<Bumatay, Patrick J.>;<Cabral, Raquel>;<Carroll, James W.>;<Everson, Nanette>;<Leitch, David G.>;<Francisco, Noel J.>;<Gonzales, Alberto R.>;<Kavanaugh, Brett M.>;<Montiel, Charlotte L.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>;<Walker, Helgard C.>
Sent: 1/28/2003 8:06:46 AM
Subject: Judicial Selection Meetings with the President

Feb 7, 2003
11:35am Meeting with Judge Gonzales
(20 min)

Feb 14, 2003
10:30am Meeting with Judge Gonzales
(20 min)

From:	CN=Edward McNally/OU=WHO/O=EOP [WHO]
To:	Lauren McCord/WHO/EOP@Exchange@EOP [WHO] <Lauren McCord>;Adam F. Greenstone/OA/EOP@Exchange@EOP [OA] <Adam F. Greenstone>
CC:	Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Faisal M. Gill/WHO /EOP@EOP [WHO] <Faisal M. Gill>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent:	1/28/2003 7:35:01 AM
Subject:	: W. Asa Hutchinson TPO/TPO/OMB/EOP is out of the office.

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:28-JAN-2003 12:35:01.00
SUBJECT:: W. Asa Hutchinson TPO/TPO/OMB/EOP is out of the office.
TO:Lauren McCord ( CN=Lauren McCord/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Adam F. Greenstone ( CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange@EOP [ OA ] )
READ:UNKNOWN
CC:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Faisal M. Gill ( CN=Faisal M. Gill/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Adam and Laurie -- This seems like a practical way to address this issue
of DHS officials/employees who still have TPO e-mail accounts, and wld
avoid or at least minmize the generation of add'l records that cld be
subject to litigation or other dispute.
---------------------- Forwarded by Edward McNally/WHO/EOP on 01/28/2003
12:30 PM ---------------------------



W. Asa Hutchinson TPO
01/28/2003 09:42:02 AM
Record Type: Record

To: Edward McNally/WHO/EOP@EOP
cc:
Subject: W. Asa Hutchinson TPO/TPO/OMB/EOP is out of the office.

I will be out of the office from 01/27/2003 until 12/31/2003.

I have moved over to the new Department. Unfortunately, I cannot access
my Transition Office email from the new location. Please re-send your
email to my current address, Asa.Hutchinson@dhs.gov, and I will respond to
your message as soon as possible.
```

From: Nelson, Carolyn
To: <Kavanaugh, Brett M.>
Sent: 1/28/2003 11:56:53 AM
Subject: JSC

Did you check with him about the meeting? Reason I'm being so annoying is that I'm trying to scheudle about 10 other meetings and am wondering if we still need to block off the JSC time slot.

From: Kavanaugh, Brett M.
To: <Nelson, Carolyn>
Sent: 1/28/2003 12:34:44 PM
Subject: Re: JSC

cancel JSC

From: Carolyn Nelson/WHO/EOP@Exchange on 01/28/2003 11:56:53 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: JSC

Did you check with him about the meeting? Reason I'm being so annoying is that I'm trying to scheudle about 10 other meetings and am wondering if we still need to block off the JSC time slot.

From: Nelson, Carolyn
To: <Kavanaugh, Brett M.>
Sent: 1/28/2003 12:58:59 PM
Subject: RE: JSC

Fyi, he wrote notes on the letters. Do you want to review them before they go out?

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Tuesday, January 28, 2003 12:35 PM
To: Nelson, Carolyn
Subject: Re: JSC

cancel JSC

From: Carolyn Nelson/WHO/EOP@Exchange on 01/28/2003 11:56:53 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: JSC

Did you check with him about the meeting? Reason I'm being so annoying is that I'm trying to scheudle about 10 other meetings and am wondering if we still need to block off the JSC time slot.

From: CN=Brian Bravo/OU=WHO/O=EOP@Exchange [WHO]
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 1/28/2003 11:10:33 AM
Subject: : TRANSCRIPT - Dan Bartlett Is Interviewed On CBS'S ``Early Show" 01/28/03

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:28-JAN-2003 16:10:33.00
SUBJECT:: TRANSCRIPT - Dan Bartlett Is Interviewed On CBS'S ``Early Show'' 01/28/03
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Dan Bartlett Is Interviewed On CBS'S ``Early Show'' 01/28/03

SMITH: White House communications director Dan Bartlett has been busy helping President Bush prepare for tonight's speech. Mr. Bartlett joins us this morning from the White House.

Good morning, Dan.

BARTLETT: Good morning, Harry. How are you?

SMITH: Very well.

Will the president make a case tonight for the United States going to war with Iraq without the backing of the United Nations?

BARTLETT: Well, tonight is an opportunity for the president to address the American people about the state of our union. He'll talk about many issues that are of particular concern to the American people, particularly as many Americans are waking up this morning and reading the papers or they experience in their daily lives. There are great challenges that the country faces both at home and abroad. He'll talk about those challenges and why we're equal to the task.

He'll talk about the economy and the reason why he thinks we need to create more jobs in this new economy. He'll talk about the fact that the rising cost of health care is making it very difficult for many seniors to afford prescription drugs. He'll talk about a plan in which Congress can come together and actually renew our commitment to America's seniors by extending prescription drugs to every senior who needs them.

He'll also talk about the fact that we have much to do to continue to prosecute this war on terror. We're a nation at war right now. He'll talk about the progress we're making in dismantling the terrorist network.

He'll also talk about the great steps we're taking here at home to protect the American people and the next bold steps we ought to take to continue to protect the American people.

SMITH: Right.

BARTLETT: On the issue of...

SMITH: Dan, Dan, take a breath. The question was about Iraq.

BARTLETT: It's a very important issue. President Bush has outlined very clearly that after 9/11 we've been forced to think differently about the way we way protect the American people. The fact of the matter is that there are rogue regimes, such as Iraq, that are out there either already in possession of or acquiring weapons of mass destruction. It's very important, and that's exactly why he went to the U.N. Security Council to explain to the American people why this man is a direct threat.

Tonight, he'll talk specifically in a very detailed way why Saddam Hussein is a threat to the American people.

Yesterday, we heard from the U.N. inspectors' team. They have again declared that the Iraqi regime has not cooperating, that they're not living up to the demands of the world. Saddam Hussein is making the case against himself.

SMITH: All right. A year ago, polls showed three-quarters of the American people thought the president was taking the country in the right direction. That number is down to half now. What can he say tonight to reverse that trend?

BARTLETT: Well, what President Bush will talk about is of particular concern to the American people, outline a broad vision and show his confidence in the true character to the American people that we're up to the task.

There are very important issues as we go forward in this coming year. And he's putting forward a very detailed plan with specific initiatives to address specific concerns of the American people. And I believe and he believes that the Congress will rally, enact his initiatives. And it's going to be a great year.

SMITH: Tom Daschle said yesterday, the president says the right things but he doesn't do the right things. Would you care to respond to that?

BARTLETT: Well, it's amazing, only in Washington can politicians go out and criticize a speech they haven't even heard yet.

So President Bush is going to work with members of Congress that are interested in making progress for the American people, and he'll speak to them directly tonight.

SMITH: All right. Dan Bartlett, thanks for joining us this morning.

BARTLETT: Thanks, Harry.

END

;

From:	White House Press Office <Press.Releases@Whitehouse.Gov>
To:	Elizabeth H. Donnan Press Releases/WHO/EOP@EOP [WHO] <Elizabeth H. Donnan Press Releases>
BCC:	Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent:	1/28/2003 12:19:59 PM
Subject:	: CORRECTION: REVISED: GUESTS IN THE FIRST LADY'S BOX FOR THE STATE OF THE UNION ADDRESS 2003; CORRECTION ON SPELLING OF TONJA MYLES
Attachments:	P_FA5ED003_WHO.TXT_1.htm; P_FA5ED003_WHO.TXT_2.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:White House Press Office <Press.Releases@Whitehouse.Gov> ( White House Press Office
<Press.Releases@Whitehouse.Gov> [ UNKNOWN ] )
CREATION DATE/TIME:28-JAN-2003 17:19:59.00
SUBJECT:: CORRECTION: REVISED: GUESTS IN THE FIRST LADY'S BOX FOR THE STATE OF THE UNION
ADDRESS 2003; CORRECTION ON SPELLING OF TONJA MYLES
TO:Elizabeth H. Donnan Press Releases ( CN=Elizabeth H. Donnan Press Releases/OU=WHO
/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

CORRECTED: REVISED: GUESTS IN THE FIRST LADY'S BOX FOR THE STATE OF THE
UNION ADDRESS 2003


* note: corrected spelling of Tonja Myles




xxx

not a seat

xxx


Kristen Pappano (working family tax cut)




Joseph Pappano (working family tax cut)


Doro Koch









Seat left open
```

Richard Phillip Beck

(Retired Couple)

Georgia Louise Beck (Retired Couple)

Marine Corps Corporal Michael Vera

(Stair Step)

Greg Hantak (small businessman)

(Stair Step)

Margaret Bush

Dr. Kurt Kooyer

(Pediatrician)

Army Master Sergeant Juan Carlos Morales

Mildred Beemer (Medicare plus choice)

James Beemer (Medicare plus choice)

Henry Lozano (Teen Challenge -
Addiction)

Dr. Denise Baker
(OB-Gyn)

Mayor Anthony Williams

USSS

(Stair Step)

USSS

(Stair Step)

Karen Hughes

David McCullough
(Author)

Mrs. Cheney

Sister Maria Fest (Catholic Nuns in Service)

Guest to be named later

Mrs. Bush

Air Force Reservist Maureen Allen

Tonja Myles
(Healing Place Church -
Addiction)

Lenny Compton (Mentor)

(Stair Step)

John Cochran (small businessman)

(Stair Step)

David Hobbs

- att1.htm - 1-28 revised state of the union seating chart.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_FA5ED003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_FA5ED003_WHO.TXT_2>

CORRECTED: REVISED: GUESTS IN THE FIRST LADY'S BOX FOR THE STATE OF THE UNION ADDRESS 2003

&n bsp;

* note: corrected spelling of Tonja Myles

xxx not a seat xxx	Kristen Pappano (working family tax cut)	Joseph Pappano (working family tax cut)	Doro Koch	Seat left open	Richard Phillip Beck (Retired Couple)	Georgia Louise Beck (Retired Couple)	Marine Corps Corporal Michael Vera (Stair Step)	Greg Hantak (small businessman) (Stair Step)	Margaret Bush
Dr. Kurt Kooyer (Pediatrician)	Army Master Sergeant Juan Carlos Morales	Mildred Beemer (Medicare plus choice)	James Beemer (Medicare plus choice)	Henry Lozano (Teen Challenge – Addiction)	Dr. Denise Baker (OB-Gyn)	Mayor Anthony Williams	USSS (Stair Step)	USSS (Stair Step)	Karen Hughes
David McCullough (Author)	Mrs. Cheney	Sister Maria Fest (Catholic Nuns in Service)	Guest to be named later	Mrs. Bush	Air Force Reservist Maureen Allen	Tonja Myles (Healing Place Church – Addiction)	Lenny Compton (Mentor) (Stair Step)	John Cochran (small businessman) (Stair Step)	David Hobbs

CORRECTED: REVISED: GUESTS IN THE FIRST LADY'S BOX FOR THE STATE OF THE UNION ADDRESS 2003

* note: corrected spelling of Tonja Myles

xxx not a seat xxx	Kristen Pappano (working family tax cut)	Joseph Pappano (working family tax cut)	Doro Koch	Seat left open	Richard Phillip Beck (Retired Couple)	Georgia Louise Beck (Retired Couple)	Marine Corps Corporal Michael Vera (Stair Step)	Greg Hantak (small businessman) (Stair Step)	Margaret Bush
Dr. Kurt Kooyer (Pediatrician)	Army Master Sergeant Juan Carlos Morales	Mildred Beemer (Medicare plus choice)	James Beemer (Medicare plus choice)	Henry Lozano (Teen Challenge – Addiction)	Dr. Denise Baker (OB-Gyn)	Mayor Anthony Williams	USSS (Stair Step)	USSS (Stair Step)	Karen Hughes
David McCullough (Author)	Mrs. Cheney	Sister Maria Fest (Catholic Nuns in Service)	Guest to be named later	Mrs. Bush	Air Force Reservist Maureen Allen	Tonja Myles (Healing Place Church – Addiction)	Lenny Compton (Mentor) (Stair Step)	John Cochran (small businessman) (Stair Step)	David Hobbs

From: Kavanaugh, Brett M.
To: <Wingate, Heather>
Sent: 1/28/2003 5:40:16 PM
Subject: Re: FW: News on Estrada and SOTU

I would be shocked. In fact, I think he is in California as we speak.

From: Heather Wingate/WHO/EOP@Exchange on 01/28/2003 05:43:01 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: FW: News on Estrada and SOTU

Is Estrada in the box?

-----Original Message-----

From: Brown, Jamie E (OLA) [mailto:Jamie.E.Brown@usdoj.gov]

Sent: Tuesday, January 28, 2003 3:24 PM

To: Dinh, Viet; Charnes, Adam; Sales, Nathan; Wingate, Heather ; Kavanaugh, Brett M.

Subject: News on Estrada and SOTU

Sent to me by House staffer (not sure of source):

Hispanic Caucus Decries Nominee's Presence At Speech

Responding to reports that Miguel Estrada, President Bush's nominee to the U.S. Circuit Court of Appeals for the District of Columbia, will be First Lady Laura Bush's guest at the State of the Union address tonight, Congressional Hispanic Caucus Chairman Ciro Rodriguez, D-Texas, said today that Estrada does not represent Hispanic ideals and does not have judicial experience. "We will support President Bush's Hispanic judicial nominees when they have a demonstrated commitment to protecting the rights of Latinos, and to preserving and expanding the progress that has been made on civil rights and individual liberties," Gonzalez said. Estrada, who is from Honduras, is a partner with the firm Gibson, Dunn & Crutcher. He served as a clerk for Supreme Court Justice Anthony Kennedy, was an assistant U.S. Attorney for the Southern District of New York and an assistant to the Justice Department's solicitor general under former President Clinton. - by April Fulton

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>
Sent: 1/29/2003 4:21:50 AM
Subject: : IMPORTANT: You need to call Cal and Indiana Senators on today's nominees

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:29-JAN-2003 09:21:50.00
SUBJECT:: IMPORTANT: You need to call Cal and Indiana Senators on today's nominees
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: White House Press Office <Press.Releases@Whitehouse.Gov>
To: Elizabeth H. Donnan Press Releases/WHO/EOP@EOP [WHO] <Elizabeth H. Donnan Press Releases>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 1/29/2003 6:20:07 AM
Subject: : PARTICIPANTS FOR ROUNDTABLE ON MEDICARE AND PRESCRIPTION DRUGS
Attachments: P_ASZED003_WHO.TXT_1.htm

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:White House Press Office <Press.Releases@Whitehouse.Gov> (White House Press Office <Press.Releases@Whitehouse.Gov> [UNKNOWN])
CREATION DATE/TIME:29-JAN-2003 11:20:07.00
SUBJECT:: PARTICIPANTS FOR ROUNDTABLE ON MEDICARE AND PRESCRIPTION DRUGS
TO:Elizabeth H. Donnan Press Releases (CN=Elizabeth H. Donnan Press Releases/OU=WHO /O=EOP@EOP [WHO])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

PARTICIPANTS FOR ROUNDTABLE

ON MEDICARE AND PRESCRIPTION DRUGS

Tommy Thompson, Secretary of Health and Human Services

Richard Breon, President and CEO, Spectrum Health

Grand Rapids, Michigan

Dr. Tammy Born, Family Practitioner, Osteopath

Caledonia, Michigan

Esther Van Hammen, retired nurse, Medicare beneficiary

Grand Rapids, Michigan

Robert Roth, President, RoMan Manufacturing, family-owned manufacturing firm

Ada, Michigan

Dr. Robert Van Tuinen, Internist, Grand Rapids Associated Internists

East Rapids, Michigan

Dr. Jon Schram, General Practice Surgeon, Holland Hospital

Holland, Michigan

Patricia Wahl, rheumatoid arthritis patient, Medicare beneficiary

Grand Rapids, Michigan
- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ASZED003_WHO.TXT_1>

& nbsp; PARTICIPANTS FOR ROUNDTABLE
ON MEDICARE AND PRESCRIPTION DRUGS

Tommy Thompson, Secretary of Health and Human Services

Richard Breon, President and CEO, Spectrum Health
Grand Rapids, Michigan

Dr. Tammy Born, Family Practitioner, Osteopath
Caledonia, Michigan

Esther Van Hammen, retired nurse, Medicare beneficiary
Grand Rapids, Michigan

& nbsp; &n bsp; &nb sp; &nbs p; ;
Robert Roth, President, RoMan Manufacturing, family-owned manufacturing firm
Ada, Michigan

Dr. Robert Van Tuinen, Internist, Grand Rapids Associated Internists
East Rapids, Michigan

Dr. Jon Schram, General Practice Surgeon, Holland Hospital
Holland, Michigan

Patricia Wahl, rheumatoid arthritis patient, Medicare beneficiary
Grand Rapids, Michigan

From: Craig S Burkhardt <csburkhardt@sorlinglaw.com>
To: 'manual_miranda@judicial.senate.gov' <manual_miranda@judicial.senate.gov>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Matthew A. Schlapp/WHO/EOP@EOP [WHO] <Matthew A. Schlapp>;Michael Thielen (E-mail) <thielen@republicanlawyer.net>
Sent: 1/29/2003 6:29:24 AM
Subject: : Repub. Lawyer Assoc. Media Panel - Status - Will go active next week
Attachments: P_XV0FD003_WHO.TXT_1.html

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Craig S Burkhardt <csburkhardt@sorlinglaw.com> ( Craig S Burkhardt
<csburkhardt@sorlinglaw.com> [ UNKNOWN ] )
CREATION DATE/TIME:29-JAN-2003 11:29:24.00
SUBJECT:: Repub. Lawyer Assoc. Media Panel - Status - Will go active next w eek
TO:"'manual_miranda@judicial.senate.gov'" <manual_miranda@judicial.senate.gov> (
"'manual_miranda@judicial.senate.gov'" <manual_miranda@judicial.senate.gov> [ UNKNOWN ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Matthew A. Schlapp ( CN=Matthew A. Schlapp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:"Michael Thielen (E-mail)" <thielen@republicanlawyer.net> ( "Michael Thielen (E-mail)"
<thielen@republicanlawyer.net> [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Manual:

We have gathered 90 well-informed members in 70 media markets for our
national panel to provide practicing lawyer perspectives on the judicial
nominees. Our web site will be enhanced next week with the list for the
media to refer to by market. Reporters will be linked to our individual
member biographical pages and encouraged to contact the lawyers directly.
We should talk about whether you want these people to be funneled into
whatever mechanism you are developing to service media requests for radio
and television talk show appearances. I'll be in the office all day Friday
if you want to call. We will provide you a finalized list that day which
fills-in the remaining major markets.

Finest Regards,
Craig S. Burkhardt
National President
Republican National Lawyers Association
217-544-1144
- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_XV0FD003_WHO.TXT_1>
```

From: Bumatay, Patrick J.
To: <Kavanaugh, Brett M.>
CC: <Kalbaugh, David E.>
Sent: 1/29/2003 11:32:21 AM
Subject: RE: Patrick: The Selna vice on Judge's memo to clerk is wrong; please make it vice Letts

I'll take care of and return to Ex. Clerk

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Wednesday, January 29, 2003 11:24 AM
To: Bumatay, Patrick J.
Cc: Kalbaugh, David E.
Subject: Patrick: The Selna vice on Judge's memo to clerk is wrong; please make it vice Letts

From: FindLaw.com <listadmin@LEGALMINDS.ORG>
To: TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN] <TOPHEADLINES@LEGALMINDS.ORG>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 1/29/2003 11:58:05 AM
Subject: : [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Wed., Jan. 29, 2003

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"FindLaw.com" <listadmin@LEGALMINDS.ORG> ( "FindLaw.com" <listadmin@LEGALMINDS.ORG>
[ UNKNOWN ] )
CREATION DATE/TIME:29-JAN-2003 16:58:05.00
SUBJECT:: [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Wed., Jan. 29,
2003
TO:TOPHEADLINES@LEGALMINDS.ORG ( TOPHEADLINES@LEGALMINDS.ORG [ UNKNOWN ] )
READ:UNKNOWN
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

------------------------------------------------------------------------
FINDLAW Wed, Jan 29, 2003
------------------------------------------------------------------------
TOP LEGAL NEWS HEADLINES


For all of the day's legal news go to: http://news.findlaw.com
**********************************************************************

Attn: Attorneys Looking for New Clients

Don't waste time waiting for clients to shop for YOUR business. Shop
for THEIRS, online, quick and easy. Visit Casepost.com to learn more.
Click here:
http://rd.findlaw.com/scripts/nl.pl?url=10413216000_nl

**********************************************************************

POLITICS
Bush Asks UN To Hear Fresh Iraq Evidence
http://news.findlaw.com/news/s/20030129/bushspeechdc.html

Senate GOP Launches Hearings On Judges
http://news.findlaw.com/ap/a/w/1153/1-29-2003/20030129080003_21.html


LEGAL COMMENTARY
Suing McDonald's: Making Companies Bear The Costs Of Business
http://writ.news.findlaw.com/colb/20030129.html


CIVIL RIGHTS
Pa. District Has Parents Look For Truants
http://news.findlaw.com/ap/o/1110/1-29-2003/20030129111504_28.html


PERSONAL INJURY
Law's Attorney Is Worried About Remarks
http://news.findlaw.com/ap/o/1110/1-29-2003/20030129084504_03.html


MICROSOFT
Sun: Microsoft Injunction Is Critical
http://news.findlaw.com/ap/ht/1700/1-29-2003/20030129021503_07.html
```

LABOR AND EMPLOYMENT
Florida TV Producer Sues Over Firing
http://news.findlaw.com/ap/e/1401/1-29-2003/20030129050005_097.html

Post Office Seeks Early Retirement Offer
http://news.findlaw.com/ap/a/w/1152/1-29-2003/20030129104503_41.html

ENVIRONMENT
Conservationists Seek Lamprey Protection
http://news.findlaw.com/ap/o/1110/1-29-2003/20030129011501_12.html

Cactus Thieves Target Retiree Communities
http://news.findlaw.com/ap/o/1110/1-29-2003/20030129000007_63.html

CYBERSPACE LAW
FBI Skeptical On Internet Attack Source
http://news.findlaw.com/ap/ht/1700/1-29-2003/20030129074503_42.html

INTELLECTUAL PROPERTY
Internet Cafe To Appeal Copyright Ruling
http://news.findlaw.com/ap/ht/1700/1-29-2003/20030129080003_23.html

Firm, Lexmark At Odds Over Cartridges
http://news.findlaw.com/ap/f/1310/1-29-2003/20030129004503_29.html

BUSINESS
SEC Sues KPMG Over Xerox Records
http://news.findlaw.com/business/s/20030129/accountingkpmgdc.html

United To Give Road Map For Ch. 11 Exit
http://news.findlaw.com/business/s/20030129/airlinesunitedplandc.html

INTERNATIONAL LAW
U.N. Panel To Hear From Iraq Inspectors
http://news.findlaw.com/ap/i/1107/1-29-2003/20030129090006_10.html

French Court Overturns Dumas Conviction
http://news.findlaw.com/ap/i/1103/1-29-2003/20030129061503_08.html

WAR ON TERRORISM
Bush Asks For More Bioterror Vaccines, Drugs
http://news.findlaw.com/politics/s/20030129/bushbioterrordc.html

British Police Make More Terror Arrests
[copy and paste link into browser]
http://news.findlaw.com/international/s/20030129/crimebritainarrestsdc.html

CRIME & TRIALS
Calif. Boys Charged In 'Sopranos'-Style Murder
http://news.findlaw.com/news/s/20030129/crimebodydc.html

Agents Testify On Alleged Spy's Laptop
http://news.findlaw.com/ap/o/1110/1-29-2003/20030129093005_14.html

ENTERTAINMENT
Former Beach Boy Can't Use Band's Name
http://news.findlaw.com/ap/e/1403/1-29-2003/20030129110004_12.html

SPORTS
Title IX Panel To Exclude Minority Views
http://news.findlaw.com/ap/s/2060/1-29-2003/20030129071504_27.html

FAA Investigates Police Stunt For Bucs
http://news.findlaw.com/ap/s/2020/1-29-2003/20030129060007_19.html

****

Now available on CD-ROM: 100+ hours of Supreme Court oral arguments
in the greatest constitutional controversies of the last 45 years.
http://rd.findlaw.com/scripts/nl.pl?url=10436544000_nl

** West LegalEdcenter *******

Receive updates about NEW ONLINE CLE PROGRAMS

Register with West LegalEdcenter for monthly email updates about new
online CLE programs in your practice areas and jurisdictions. West
LegalEdcenter currently has more than 1,400 courses, with more added
daily!

http://rd.findlaw.com/scripts/nl.pl?url=gen_cle_010402

** westgroup.com *********

Get FREE ground shipping in the U.S. on all orders.
http://rd.findlaw.com/scripts/nl.pl?url=gen_ads_040102

****

FEEDBACK

We value your comments! Please take a moment to tell us what you think
by sending an e-mail to:
mailto:newsletters@findlaw.com?subject=TopHeadlines. Please include
"Top Headlines" in the subject line.

SUBSCRIPTION INFORMATION

To subscribe to a FindLaw Newsletter, visit the FindLaw Newsletter
Subscription Center at http://newsletters.findlaw.com

To unsubscribe, go to http://newsletters.findlaw.com/unsubscribe.html
---
ADVERTISING INFORMATION

For more information about advertising in FindLaw Newsletters, please
contact us at:

mailto:sales@findlaw.com

FindLaw Top Headlines http://news.findlaw.com
Copyright (c) 2003 FindLaw, Inc.

From: Rosenkranz, Nicholas Q <Nicholas.Q.Rosenkranz@usdoj.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/30/2003 4:35:16 AM
Subject: : judges

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Rosenkranz, Nicholas Q" <Nicholas.Q.Rosenkranz@usdoj.gov> ("Rosenkranz, Nicholas Q" <Nicholas.Q.Rosenkranz@usdoj.gov> [UNKNOWN])
CREATION DATE/TIME:30-JAN-2003 09:35:16.00
SUBJECT:: judges
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett --

I just got invited by the YLSAA to hear you speak about "Selection and Confirmation of Bush Administration Judges" on February 26. I would love to attend, but Steve, Susan, Stacey, and I already have opera tickets for that night. Please let me know if you're ever doing a similar event in the future; I'd be very interested to hear your thoughts on the topic.

I'm having a great time at OLC, by the way. Thanks again for counseling me to come here. The work is, if anything, even more interesting than I anticipated, and my colleagues are first rate. I hope you are still enjoying the White House Counsel's Office, and I hope that our paths cross again soon.

Nicholas Quinn Rosenkranz
Office of Legal Counsel
U.S. Department of Justice
Rm. #3220 / Tel: 202-514-3712

From: Dahl, Alex (Judiciary) <Alex_Dahl@Judiciary.senate.gov>
To: Delrahim, Makan (Judiciary) <Makan_Delrahim@Judiciary.senate.gov>;Comisac, RenaJohnson (Judiciary) <Rena_Johnson_Comisac@Judiciary.senate.gov>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/30/2003 7:13:03 AM
Subject: : RE: checking an important fact
Attachments: P_0KPGD003_WHO.TXT_1

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Dahl, Alex (Judiciary)" <Alex_Dahl@Judiciary.senate.gov> ( "Dahl, Alex
(Judiciary)" <Alex_Dahl@Judiciary.senate.gov> [ UNKNOWN ] )
CREATION DATE/TIME:30-JAN-2003 12:13:03.00
SUBJECT:: RE: checking an important fact
TO:"Delrahim, Makan (Judiciary)" <Makan_Delrahim@Judiciary.senate.gov> ( "Delrahim, Makan
(Judiciary)" <Makan_Delrahim@Judiciary.senate.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Comisac, RenaJohnson (Judiciary)" <Rena_Johnson_Comisac@Judiciary.senate.gov> (
"Comisac, RenaJohnson (Judiciary)" <Rena_Johnson_Comisac@Judiciary.senate.gov> [ UNKNOWN ]
)
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Here you go

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Thursday, January 30, 2003 11:37 AM
To: Delrahim, Makan (Judiciary); Comisac, RenaJohnson (Judiciary); Dahl,
Alex (Judiciary)
Subject: checking an important fact

Our understanding/research is that there has never been a successful
filibuster
of appeals court nominee. Do you have any different understanding?


- Cloture Attempts on Nominations.pdf
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_0KPGD003_WHO.TXT_1>
```

Order Code RS20801
February 2, 2001

CRS Report for Congress
Received through the CRS Web

Cloture Attempts on Nominations

Richard S. Beth
Specialist in the Legislative Process
Government and Finance Division

Summary

Cloture is the only means by which the Senate can vote to limit debate on a matter, and thereby overcome a possible filibuster. Until 1949, cloture could not be invoked on nominations, and before 1980 this action was attempted only twice. From 1949 through 2000, cloture was sought on 30 nominations, and invoked on 17. Among the 30 nominees, only three, on each of whom the Senate rejected cloture, were not confirmed. Until the 103rd Congress (1993-1994), the nominations involved were primarily judicial, and that Congress is the only one in which cloture was sought on more than three nominations.

This report is to be updated at the end of each Congress in which additional nominations are subjected to cloture attempts. Filibusters and cloture are discussed more generally in CRS Report RL30360, *Filibusters and Cloture in the Senate.*

Relation Between Cloture Attempts and Filibusters

Senate rules place no general limits on how long consideration of a nomination (or most other matters) may last. Owing to of this lack of general time limits, opponents of a nomination may be able to use extended debate or other delaying actions to prevent a vote from occurring. Although a voting majority of Senators may be prepared to vote for a nominee, the nomination cannot be confirmed as long as other Senators, presumably a voting minority, are able to prevent the vote from occurring. The use of dilatory actions for such a purpose is a filibuster.

The motion for cloture is the only procedure by which the Senate can vote to place time limits on its consideration of a matter. It is therefore the Senate's most usual means of attempting to overcome a filibuster. When the Senate adopts a cloture motion on a matter, known as "invoking cloture," further consideration of the matter is limited to 30

REV_00157035

hours.[1] By invoking cloture, the Senate may be able to ensure that a question will ultimately come to a vote, and can be decided by a voting majority.

The cloture rule permits Senators to move for cloture repeatedly, if necessary. The Senate, however, can impose the constraints of cloture only by a super-majority vote. For most matters, including nominations, three-fifths of the full Senate, or 60 votes, is required. As a result, even if a majority of Senators support a nomination, opponents may still be able to prevent a vote on it by defeating any attempt to invoke cloture.

It would be incorrect to assume that situations in which cloture is sought correspond completely with those in which filibusters occur. Even if opponents attempt to block a nomination through delaying tactics, supporters may decide not to move for cloture. This situation is perhaps uncommon today, but does seem to have occurred in relation to nominations. Conversely, supporters of a nomination may move for cloture, in order to speed action, even when opponents may not consider themselves to be conducting a filibuster against it, or when they may have only threatened, but not actually conducted, a filibuster.

Since filibusters may be conducted through a variety of tactics, there are no specific actions that definitively indicate the occurrence of a filibuster, much less of a mere threat to filibuster. To this extent, the presence of cloture attempts may at least be a readily available means for attempting to identify some cases in which filibusters may have occurred.

Nominations on Which Cloture was Sought

The Senate first adopted a cloture rule in 1917. Until 1949, cloture could be moved only on legislative measures, and nominations could not be subjected to cloture attempts.[2] From 1949 through 2000 (81st-106th Congresses), cloture was sought on 30 nominations.[3] Table 2 identifies the 30 nominations, the number of cloture motions filed on each, the outcome of the cloture attempt, and the disposition of each nomination. Many of these nominations have been to clearly secondary or subordinate positions; only three have been to the Supreme Court, and one to the President's Cabinet.

---

[1] Senate Rule XXII, paragraph 2. U.S. Senate, Committee on Rules and Administration, *Senate Manual, Containing the Standing Rules, Laws, and Resolutions Affecting the Business of the United States Senate*, S.Doc. 104-1, 104th Cong., 1st sess., prepared by Lana R. Slack under the direction of Grayson Winterling, Staff Director (Washington: GPO, 1995), sec. 22.2. During the 30 hours, no single Senator, other than the party floor leaders and the managers of the debate, may occupy more than one hour in debate.

[2] U.S. Congress, Senate, Committee on Rules and Administration, *Senate Cloture Rule: Limitation of Debate in the Congress of the United States and Legislative History of Paragraph 2 of Rule XXII of the Standing Rules of the United States Senate (Cloture Rule)*, committee print S. Print 99-95, prepared by the Congressional Research Service, Library of Congress, 99th Cong., 1st sess. (Washington: GPO, 1985), pp. 17, 21, 38-39, 105-112.

[3] For these purposes five State Department nominations considered concurrently are counted as one, and the nomination of one individual to two positions is counted as one.

Table 1. Cloture Attempts and Action on Nominations

Cloture Action	Action on Nomination	
	Confirmed	Not confirmed
Invoked	17	0
No vote	6	0
Rejected	4	3

Source: Table 3.

As shown by the summary in Table 1, the Senate invoked cloture on 17 of these 30 nominations. On another six, cloture motions were offered, but never came to a vote. On the remaining seven, the Senate voted only against imposing cloture.

All 17 nominations on which cloture was invoked were confirmed. Of the 13 nominations on which cloture was sought but not invoked, ten were confirmed. Only three of the 30 nominees ultimately failed of confirmation, and on all three of these the Senate had rejected cloture. These were:

- Justice Abe Fortas to be Chief Justice in 1968,
- Sam Brown to be Ambassador in 1994, and
- Dr. Henry Foster to be Surgeon General in 1995.

Historical Development of Cloture Attempts on Nominations

Even after Senate rules began to permit cloture on nominations, cloture was sought on none until 1968, when a motion to proceed to consider the nomination of Supreme Court Justice Abe Fortas to be Chief Justice was debated at length. After the Senate rejected cloture, 45-43, President Lyndon B. Johnson withdrew the nomination. In 1969 and 1970, the nominations of Clement F. Haynsworth and G. Harrold Carswell to the Supreme Court were defeated after lengthy debate, but no cloture motion was filed on either. When the Senate considered the nomination to the Supreme Court of William H. Rehnquist late in the 1971 session, however, cloture was quickly sought. Though the Senate did not invoke cloture (52-42), the nomination was subsequently confirmed.

Cloture was sought on no other nomination until 1980. In the meantime, in 1975, the majority required for cloture on most matters, including nominations, was changed from two-thirds of Senators present and voting to three-fifths of the full membership of the Senate (normally 60).[4] The 1980 occurrence was the first in which cloture was sought on a nomination to an executive branch position, that of William G. Lubbers to be General Counsel of the National Labor Relations Board. Cloture was invoked in this case and the nomination was confirmed.

[4] Committee on Rules and Administration, *Senate Cloture Rule*, pp. 30-32, 53-54, 119-121.

REV_00157037

Cloture has never been sought on more than three nominations in the same Congress, except for the 103rd (1993-1994). The 103rd was the first Congress of a new presidency, so that the number of nominations to be considered was presumably especially large (it was also the only Congress between 1981 and 2000 in which the presidency, Senate, and House were all controlled by the same political party). During this Congress, cloture action occurred on 12 nominations, ten of which were for executive branch positions. Cloture was invoked on only three of these ten nominations, a much lower proportion than in other cases.

Before the 103rd Congress, most nominations on which cloture was sought had been for judicial positions (8 of 12), perhaps reflecting the Senate's traditional inclination to permit the President generally wide latitude in selecting officials to serve under him in executive branch positions. The six nominations on which cloture has been sought since the 103rd Congress have been evenly split between executive and judicial. Table 2 summarizes the outcomes of cloture action on executive and judicial nominations during various time periods.

Table 2. Cloture Action on Judicial and Executive Nominations by Time Period

Congresses and (years)	Judicial		Executive	
	Cloture invoked	Cloture not invoked	Cloture invoked	Cloture not invoked
90th-102nd (1967-1992)	5	3*	4	0
103rd (1993-1994)	1	1	3	7*
104th-106th (1995-2000)	2	1	2	1*
TOTAL	8	5	9	8

Source: Table 3.

* On one nomination in each of these groups, cloture was ultimately rejected and the nominee was not confirmed. All other nominees were confirmed.

Table 3. Nominations Subjected to Cloture Attempts, 1968-2000

(Executive branch nominations in roman; Judicial nominations in *italic*)

Congress and year	Nominee	Position	Cloture motions filed	Outcome of cloture attempt	Disposition of nomination
90th, 1968	*Abe Fortas*	*Chief Justice*	*1*	*rejected*	*withdrawn*
92nd, 1971	*William H. Rehnquist*	*Justice*	*2*	*rejected*	*CONFIRMED*
96th, 1980	William A. Lubbers	General Counsel, National Labor Relations Board	3	INVOKED	CONFIRMED
96th, 1980	Don Zimmerman	Member, National Labor Relations Board	3	INVOKED	CONFIRMED
96th, 1980	*Stephen G. Breyer*	*Circuit Judge*	*2*	*INVOKED*	*CONFIRMED*
98th, 1984	*J. Harvie Wilkinson*	*Circuit Judge*	*2*	*INVOKED*	*CONFIRMED*
99th, 1986	*Sidney A. Fitzwater*	*District Judge*	*1*	*INVOKED*	*CONFIRMED*
99th, 1986	*Daniel A. Manion*	*Circuit Judge*	*1*	*withdrawn*	*CONFIRMED*
99th, 1986	*William H. Rehnquist*	*Chief Justice*	*1*	*INVOKED*	*CONFIRMED*
100th, 1987	Melissa Wells	Ambassador	1	INVOKED	CONFIRMED
100th, 1987	C. William Verity	Secretary of Commerce	1	INVOKED	CONFIRMED
102nd, 1992	*Edward Earl Carnes, Jr.*	*Circuit Judge*	*1*	*INVOKED*	*CONFIRMED*
103rd, 1993	Walter Dellinger	Assistant Attorney General	2	rejected	CONFIRMED
103rd, 1993	five nominations [a]	State Department	2	rejected	CONFIRMED
103rd, 1993	Janet Napolitano	U.S. Attorney	1	INVOKED	CONFIRMED
103rd, 1994	M. Larry Lawrence	Ambassador	1	fell [b]	CONFIRMED
103rd, 1994	*Rosemary Barkett*	*Circuit Judge*	*1*	*withdrawn*	*CONFIRMED*
103rd, 1994	Sam Brown	Ambassador	3	rejected	returned to President
103rd, 1994	Derek Shearer	Ambassador	2	INVOKED	CONFIRMED
103rd, 1994	Ricki Tigert	Board Member and Chair, Federal Deposit Insurance Corporation [c]	2	INVOKED	CONFIRMED

REV_00157039

Congress and year	Nominee	Position	Cloture motions filed	Outcome of cloture attempt	Disposition of nomination
103rd, 1994	*H. Lee Sarokin*	*Circuit Judge*	*1*	*INVOKED*	*CONFIRMED*
103rd, 1994	Buster Glosson	Air Force Lieutenant General (retired)	1	withdrawn	CONFIRMED
103rd, 1994	Claude Bolton, Jr.	Air Force Brigadier General	1	vitiated [d]	CONFIRMED
103rd, 1994	Edward P. Barry, Jr.	Air Force Lieutenant General (retired)	1	vitiated [d]	CONFIRMED
104th, 1995	Henry Foster	Surgeon General	2	rejected	no final vote
105th, 1997	Joel I. Klein	Assistant Attorney General	1	INVOKED	CONFIRMED
105th, 1998	David Satcher	Medical Director, Public Health Service	1	INVOKED	CONFIRMED
106th, 1999	*Brian Theadore Stewart*	*District Judge*	*1*	*rejected*	*CONFIRMED*
106th, 2000	*Marsha L. Berzon*	*Circuit Judge*	*1*	*INVOKED*	*CONFIRMED*
106th, 2000	*Richard A. Paez*	*Circuit Judge*	*1*	*INVOKED*	*CONFIRMED*

Sources: Compilations by CRS and by the Senate Library; U.S. Congress, Senate, Committee on Rules and Administration, *Senate Cloture Rule*, committee print 99-95, 99th Cong., 1st sess. (Washington: GPO, 1985), pp. 44-70, 78-85; *Congressional Record* (Daily Digest); and *Congressional Quarterly Almanac* for 1986, 1987, 1992, 1995, 1999.

[a] These five nominations to various positions in the State Department received consideration and cloture action concurrently, and are counted as one case in the table.

[b] Cloture motion became moot and received no action.

[c] Tigert was nominated simultaneously for these two positions, and cloture action took place on each nomination in turn; the table counts these events as one case.

[d] Senate unanimously consented to treat the cloture motion as having no effect.

REV_00157040

From: Cobb, Whit, Mr, DoD OGC <cobbw@dodgc.osd.mil>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/30/2003 11:39:37 AM
Subject: : RE: Republican Bicameral Retreat
Attachments: P_2P5HD003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Cobb, Whit, Mr, DoD OGC" <cobbw@dodgc.osd.mil> ("Cobb, Whit, Mr, DoD OGC" <cobbw@dodgc.osd.mil> [UNKNOWN])
CREATION DATE/TIME:30-JAN-2003 16:39:37.00
SUBJECT:: RE: Republican Bicameral Retreat
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Thanks, Brett.

Also, I'm enclosing the electrons for the letter that Jim Haynes signed out today to Ted Olson on Densberger.

-- Whit

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov [mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Thursday, January 30, 2003 9:06 AM
To: Cobb, Whit, Mr, DoD OGC
Subject: Re: Republican Bicameral Retreat

I would think there is some risk of complaints and stories about "politicization" if Iraq is a subject of discussion or questions, which I would imagine it would be.

(Embedded image moved "Cobb, Whit, Mr, DoD OGC" <cobbw@dodgc.osd.mil> to file: 01/30/2003 08:09:50 AM pic17090.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: Republican Bicameral Retreat

Brett:

I hope you're doing well. Looks like the judicial nominations are finally

moving forward. Congratulations!

Sen. Kyl has asked Deputy Secretary of Defense Wolfowitz and Under Secretary
of Defense for Policy Doug Feith to address the Republican Bicameral Retreat
at the Greenbrier a week from tomorrow. The requested topic is national
defense and foreign policy issues. The retreat is hosted by the House and
Senate Republican leadership and I understand that it is not a fundraiser.

I don't see a legal problem with Wolfowitz's and Feith's attendance, as it
is consistent with DoD policy on political activities. I wanted to run this
by you, however, due to the optics. While DoD officials have addressed
similar Republican gatherings on Capitol Hill, I haven't been able to find
an example of addressing an off-site retreat like this. Do you have any
concerns about their attendance?

Also, Jim Haynes is going to send a letter to Ted Olson today on the
Densberger case. I'll shoot you a copy once it's signed. What is your fax?

Thanks!

-- Whit

Deputy General Counsel (Legal Counsel)
Department of Defense
Pentagon, Room 3C975
1600 Defense Pentagon
Washington, DC 20310-1600

(703) 697-2714 (o)
(703) 614-6745 (fax)
(703) 614-2040 (secure fax)

cobbw@dodgc.osd.mil

CAUTION: This message may contain information protected by the attorney
client, attorney work product, deliberative process, or other privilege. Do
not disseminate without the approval of the Office of the DoD General
Counsel.

- Corr WJH to Olson re Densberger - rev.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_2P5HD003_WHO.TXT_1>

By Fax and U.S. Mail

The Honorable Theodore B. Olson
Solicitor General
United States Department of Justice
Suite 5143
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Re: *Densberger v. United Technologies Corp.*, 297 F.3d 66 (2d Cir. 2002), *cert. denied*, 2003 WL 95363 (2003)

Dear Mr. Solicitor General:

As you may know, the Supreme Court recently denied the petition for *certiorari* filed by defendant United Technologies Corporation (UTC) in this matter. To everyone's surprise, the Court did not seek the views of the United States. UTC is preparing a petition for rehearing. Paul Clement recommended to Whit Cobb that we write you. Accordingly, I ask that you prepare and file a contemporaneous *amicus* brief or otherwise bring to the attention of the Court the views of the United States in this important case. I understand that the deadline for filing is Friday, February 7.

It is unusual, although not unheard of, for the government to make such a filing. I think that doing so is warranted in this case.

On the merits, the substantive legal question raised by UTC deserves clarification by the Supreme Court. The central focus of the petition for *certiorari* involves the application of the government contractor defense (GCD) in the context of "failure to warn" claims. As recounted in memos prepared by DOJ and DoD, the circuits are split as to how this defense should be applied. Moreover, the Second Circuit's restrictive *Densberger* formulation would require that the government affirmatively "proscribe" or "prescribe" the warnings that a contractor must provide. This is simply unrealistic and highly impractical in the typical government contracting scenario.[1]

This case presents an example of a rare, appropriate circumstance for filing an *amicus* brief in support of a petition for rehearing. Under the Court's rules on petitions for rehearing, the central question normally is whether there have been "intervening circumstances of a substantial or controlling effect or . . . other substantial grounds not previously presented." Sup. Ct. R. 44.2. The

[1] Further analysis of the legal and practical aspects of the decision are contained in a letter from Deputy General Counsel Paul W. Cobb, Jr., to Deputy Assistant Attorney General Gregory Katsas dated October 24, 2002, a copy of which is attached at Tab 1.

substantial "intervening circumstance" here is the enactment of the Homeland Security legislation on November 25, which occurred after the latest date by which the government could have filed an *amicus* brief under the Court's rules (November 18). This legislation expressly recognizes the applicability of the GCD to homeland security procurements, yet it does not define the contents of the defense. Prompt and effective implementation of the legislation is a matter of paramount importance to the government. Importing the *Densberger*-generated uncertainty regarding the GCD into the procurement activities of the new Homeland Security Department is undesirable. Accordingly, the United States can point to this intervening development as justifying the Court's taking special note of the issues posed by the UTC *certiorari* petition.

We think that preparing a filing at this stage would be appropriate in light of the history of this case. My office has been in touch with DOJ since last spring, when UTC sought rehearing *en banc* before the Second Circuit. Since then, we have discussed with DOJ on a number of occasions the question of the appropriate time for the government to step into this dispute. In light of the issue in the previous paragraph, there is still an opportunity to present the government's views.

In sum, we think that the legal uncertainty created by *Densberger* should be clarified by the Court. The enactment of the Homeland Security legislation presents ample reason to request such clarification, even at this relatively late stage in the proceedings.

The Office of Management and Budget concurs in this request. I hope that you agree, but in the event you do not, or if you have any questions, I would appreciate your contacting my office to discuss the matter further. My point of contact is Whit Cobb, Deputy General Counsel (Legal Counsel), who may be reached at (703) 697-2714.

You, Paul, and your entire staff have my thanks for the attention that you all have paid to this and many other important matters for the Department of Defense.

Sincerely,

William J. Haynes II

Enclosure

cc: Hon. Angela Styles, Administrator of the Office of Federal Procurement Policy
Mr. Philip J. Perry, General Counsel of the Office of Management and Budget
Mr. Paul D. Clement, Principal Deputy Solicitor General

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/30/2003 3:18:21 PM
Subject: :

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:30-JAN-2003 20:18:21.00
SUBJECT::
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Federal Candidates and Officeholders

BCRA places limits on the amounts and types of funds that can be raised by Federal candidates and officeholders for both Federal and State candidates. See 2 U.S.C. 441i(e). The Commission is proposing to place the regulations that address these limitations in 11 CFR part 300, subpart D.
ÿ
1. General Prohibitions

The restrictions apply to Federal candidates and officeholders, their agents, and entities directly or indirectly established, maintained, or controlled by, or acting on behalf of, any such candidate(s) or officeholder(s). As defined in 2 U.S.C. 431(3) and existing 11 CFR 100.4, "Federal office" means the office of President or Vice President of the United States, Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States. There is a similar definition of "Federal officeholder" in 11 CFR 113.1(c). Please note that these restrictions encompass candidate PACs and leadership PACs. Persons covered by these restrictions may not "solicit, receive, direct, transfer or spend" non-Federal funds unless certain requirements are satisfied.

BCRA prohibits any Federal candidate or officeholder, his or her agent, or any entity described above, from raising non-Federal funds in connection with an election for Federal, State, or local office. 2 U.S.C. 441i (e)(1)(A) and (B); proposed 11 CFR 300.61. These prohibitions encompass raising money for section 527 organizations, whether or not such organizations are Federal political committees. With limited exceptions, such persons may raise and spend Federal money in connection with a non-Federal election only in amounts and from sources that are consistent with State law, and that do not exceed the Act's contribution limits or come from prohibited sources under the Act. 2 U.S.C. 441i(e)(1)(B); proposed 11 CFR 300.62.

The prohibitions in 11 CFR 300.61 and 300.62 encompass "leadership" and "candidate" PACs since these PACs are entities directly or indirectly established, financed, maintained, or controlled by, Federal candidates and/or officeholders. Specifically, leadership PACs and candidate PACs are political organizations set up by congressional leaders and other Federal candidates and officeholders as a way to support other candidates' campaigns. In 2001, at least 110 members of Congress had leadership PACs.

As Senator McCain explained in the Senate debate, "A Federal officeholder or candidate is prohibited from soliciting contributions for a Leadership PAC that do not comply with the Federal hard money source and amount limitations." See 148 Cong. Rec. S2140 (Daily ed. March 20, 2002) (statement of Sen. McCain). Consequently, under proposed 11 CFR 300.61, Federal candidates, Federal officeholders, and their leadership PACs and candidate PACs cannot solicit, receive, direct, transfer, or spend funds for a Federal account of a leadership or candidate PAC unless the funds are subject to the prohibitions, limitations, and reporting requirements of the Act. Similarly, Federal candidates, Federal officeholders, and

their leadership PACs and candidate PACs cannot solicit, receive, direct, transfer, or spend funds for a non-Federal account of a leadership PAC or candidate PAC unless the funds are subject to the prohibitions and limitations of the Act. Thus, neither the Federal nor non-Federal accounts of a Federal candidate's leadership PAC or candidate PAC could receive or spend corporate treasury or labor organization funds or funds from individuals and political committees that exceed the limitations of the Act. Additionally, funds in the non-Federal account of these PACs must not be used for Federal election activities or in connection with a Federal election. See 148 Cong. Rec. S2140 (Daily ed. March 20, 2002) (statement of Sen. McCain).
ÿ
2. Exceptions for State and Local Candidates and for Fundraising Events

An exception applies when a Federal candidate or Federal officeholder is also a candidate for State or local office. Such candidates may raise and spend non-Federal funds for their State campaign, as long as their activities are consistent with State law and refer only to their status as a State or local candidate, to other candidates for that same office, or both. 2 U.S.C. 441i(e)(2); proposed 11 CFR 300.63. Please note that if a State or local candidate is simultaneously a candidate for Federal office, he or she must raise and spend only Federal funds in connection with the Federal campaign.

BCRA contains a further exemption, for Federal candidates and officeholders who attend, speak, or appear as a featured guest at a State, district, or local party committee fundraising event. See 2 U.S.C. 441i (e)(3); proposed 11 CFR 300.64. The Commission seeks comment on how it should construe and implement this provision, particularly in light of the separate general prohibition on Federal candidates and officeholders from soliciting non-Federal funds in connection with an election for Federal, State, or local office.

Sen. McCain explained in the Senate debate that "[t]he rule here is simple: Federal candidates and officeholders cannot solicit soft money funds, funds that do not comply with Federal contribution limits and source prohibitions, for any party committee-national, State, or local." 148 Cong. Rec. S2139 (daily ed. March 20, 2002) (statement of Sen. McCain). Thus, under the proposed rules, while such individuals may attend, speak, or be a featured guest at a State or local party fundraising event, they cannot solicit funds at any such event.

However, the Commission seeks comments on whether the fundraising event provision is a total exemption from the general solicitation ban, whereby Federal candidates and officeholders and their agents may attend and speak freely at such events without restriction or regulation. In ÿ[*35673]ÿ addition, the Commission seeks comments on how it should construe BCRA's phrase permitting Federal candidates and officeholders to "attend, speak, or be a featured guest" at a fundraising event. Specifically, the phrase "featured guest" strongly suggests that State, district, or local party committees may publicize in advance that a Federal candidate or officeholder will be attending and speaking at an event. Does this mean that Federal candidates and officeholders may be referred to in invitation materials for the event? May they appear as members of a host committee of an event? May they be honored at the event? Should the general solicitation bar be construed to mean that Federal candidates and officeholders are strictly prohibited from doing anything that would constitute a "solicitation" under the Internal Revenue Code that would trigger IRS disclaimer obligations?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: m.edward.whelan@usdoj.gov @ inet [UNKNOWN] <m.edward.whelan@usdoj.gov @ inet>
Sent: 1/30/2003 3:19:22 PM
Subject: : from final rule

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:30-JAN-2003 20:19:22.00
SUBJECT:: from final rule
TO:m.edward.whelan@usdoj.gov @ inet (m.edward.whelan@usdoj.gov @ inet [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

ÿ
11 CFR 300.64 Exemption for Attending, Speaking, or Appearing as a Featured Guest at Fundraising Events

BCRA contains an exemption from the fundraising prohibition for Federal candidates and officeholders who attend, speak, or appear as a featured guest at a State, district, or local party committee fundraising event. 2 U.S.C. 441i(e)(3). The NPRM sought comment on how to construe and implement this exemption, particularly in light of the separate general prohibition on Federal candidates and officeholders soliciting non-Federal funds in connection with an election for Federal, State, or local office. The NPRM sought comment on the provision in light of Sen. McCain's ÿ [*49108]ÿ explanation in the Senate debate that Federal candidates and officeholders "cannot solicit soft money funds, funds that do not comply with Federal contribution limits and source prohibitions, for any party committee-national, State, or local." 148 Cong. Rec. S2139 (daily ed. March 20, 2002) (statement of Sen. McCain). The Commission initially sought comment on a rule proposing that, while such individuals could attend, speak, or be a featured guest at a State or local party fundraising event, they could not say anything that could be construed as soliciting or otherwise seeking non-Federal funds. In the alternative, the NPRM sought comment on whether the fundraising event provision was a total exemption from the general solicitation ban, whereby Federal candidates and officeholders and their agents may attend and speak freely at such events. The phrase "featured guest" strongly suggests that State, district, or local party committees may publicize in advance that a Federal candidate or officeholder will be attending and speaking at an event, and the Commission sought comments on whether this means that Federal candidates and officeholders may be referred to in invitation materials for the event, or appear as members of a host committee, or be honored at the event.

The Commission received a range of comments on these issues. Some advocated a restrictive approach, arguing that any other construction would undercut the fundraising prohibition. Others noted that it could be almost impossible for a Federal candidate or officeholder not to become involved in at least indirect fundraising, such as thanking people in a rope line for their support, by virtue of the fact that they are appearing and speaking at a fundraising event, which the statutory exemption expressly permits. Some claimed that monitoring every word the speaker said could turn the Commission into "speech police," raising First Amendment concerns. U.S. CONST. amend. I ("Congress shall make no law * * * abridging the freedom of speech * * *"). Also, the fact that a candidate or officeholder is to be honored at an event implies that his or her name or picture may appear prominently on invitations, flyers, and other material distributed in connection with the event.

The Commission has decided to construe the statutory exemption permitting Federal candidates and officeholders to attend, speak, and appear as a featured guest at State, district or local party committee fundraising events without regulation or restriction. This conclusion is compelled by

the plain language of the section and the structure of the section within BCRA. The structure of the statute requires the Commission to construe the provision as a total exemption to the solicitation prohibition, applicable to Federal candidates and officeholders, when attending and speaking at party fundraising events, because the statutory section is styled as such. To conclude otherwise would require the Commission to read the restrictions itemized in the general prohibition into a statutory exemption that clearly and unambiguously excludes those restrictions by it own terms. It would also require the Commission to regulate and potentially restrict what candidates and officeholders say at political events, which is contrary to the plain meaning of the statutory exemption and would raise serious constitutional concerns. Accordingly, candidates and officeholders are free under the rule to speak at such functions without regulation or restriction. In addition, as several commenters urged, State, district, and local party committees are free within the rule to publicize featured appearances of Federal candidates and officeholders at these events, including references to these individuals in invitations. The Commission concludes, however, that Federal candidates and officeholders are prohibited from serving on "host committees" for a party fundraising event or from personally signing a solicitation in connection with a State, local, or district party fundraising event, on the basis that these pre-event activities are outside the permissible activities described above flowing from a Federal candidate's or officeholder's appearance or attendance at the event. The rule, consistent with the statute, places no restriction on the speech of Federal candidates and individuals holding Federal office at these fundraising events.

From: CN=Tim Goeglein/OU=WHO/O=EOP [WHO]
To: Heather Wingate/WHO/EOP@Exchange [WHO] <Heather Wingate>
CC: leonard b. rodriguez/who/eop@eop [WHO] <leonard b. rodriguez>;brett m. kavanaugh/who /eop@eop [WHO] <brett m. kavanaugh>;matthew e. smith/who/eop@eop [WHO] <matthew e. smith>
Sent: 1/31/2003 5:17:44 AM
Subject: : Re: Conflict w/conf call and coalitions meeting?

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:31-JAN-2003 10:17:44.00
SUBJECT:: Re: Conflict w/conf call and coalitions meeting?
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
CC:leonard b. rodriguez (CN=leonard b. rodriguez/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:matthew e. smith (CN=matthew e. smith/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

I just spoke with Leonard; we are working on a new plan now.

tsg

From: Heather Wingate/WHO/EOP@Exchange on 01/31/2003 10:00:48 AM
Record Type: Record

To: Matthew E. Smith/WHO/EOP@EOP, Leonard B. Rodriguez/WHO/EOP@EOP,
Tim Goeglein/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Conflict w/conf call and coalitions meeting?

Hey, just wanted to draw to your attn that there's going to be some considerable overlap b/w those of us who need to be on the Hispanic call and the coalitions meeting. (call begin at 2:45 and coalitions meeting at 2:30). Not sure this will work? should one be moved forward or back?
;

From: CN=Heather Wingate/OU=WHO/O=EOP@Exchange [WHO]
To: Tim Goeglein/WHO/EOP@EOP [WHO] <Tim Goeglein>
CC: Matthew E. Smith/WHO/EOP@EOP [WHO] <Matthew E. Smith>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Leonard B. Rodriguez/WHO/EOP@EOP [WHO] <Leonard B. Rodriguez>
Sent: 1/31/2003 5:41:01 AM
Subject: : RE: Conflict w/conf call and coalitions meeting?

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:31-JAN-2003 10:41:01.00
SUBJECT:: RE: Conflict w/conf call and coalitions meeting?
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Matthew E. Smith (CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Leonard B. Rodriguez (CN=Leonard B. Rodriguez/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I haven't call him, but I think you all have him on your email list, yes?
In any case, I'll forward him your invite email.

-----Original Message-----
From: Goeglein, Tim
Sent: Friday, January 31, 2003 10:32 AM
To: Wingate, Heather
Cc: Rodriguez, Leonard B.; Smith, Matthew E.; Kavanaugh, Brett M.
Subject: RE: Conflict w/conf call and coalitions meeting?

I think this works perfectly. And Heather: Manny will be at the full
coalitions meeting, yes?

tsg

From: Heather Wingate/WHO/EOP@Exchange on 01/31/2003 10:28:29 AM
Record Type: Record

To: Leonard B. Rodriguez/WHO/EOP@EOP
cc: Matthew E. Smith/WHO/EOP@EOP, Tim Goeglein/WHO/EOP@EOP, Brett
M. Kavanaugh/WHO/EOP@EOP
Subject: RE: Conflict w/conf call and coalitions meeting?

That's perfect. What do you think about an end of the day internal
meeting, say at 4pm or so, following Hispanic call? Ought to include those
of you on email, but also Schlapp, Mercy, Snee, etc. Maybe gather in
Brett's office or if one of you have better accommodations?

-----Original Message-----
From: Rodriguez, Leonard B.
Sent: Friday, January 31, 2003 10:22 AM
To: Wingate, Heather
Cc: Smith, Matthew E.; Goeglein, Tim; Kavanaugh, Brett M.
Subject: RE: Conflict w/conf call and coalitions meeting?

One thing is for sure, Heather and Brett are popular people.

How does this work?

For the Hispanic call, we will start at 3:15 - 20pm.
Manny, Robert, Mercy and I will front end it, hopefully giving Brett, Heather and Matt time to join at the end.

From: Heather Wingate/WHO/EOP@Exchange on 01/31/2003 10:05:35 AM
Record Type: Record

To: Matthew E. Smith/WHO/EOP@EOP
cc: Leonard B. Rodriguez/WHO/EOP@EOP, Tim Goeglein/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
Subject: RE: Conflict w/conf call and coalitions meeting?

That's why I bring it up(I think a number of folks are invited to take part in both(.

-----Original Message-----
From: Smith, Matthew E.
Sent: Friday, January 31, 2003 10:00 AM
To: Wingate, Heather
Cc: Rodriguez, Leonard B.; Goeglein, Tim; Kavanaugh, Brett M.
Subject: Re: Conflict w/conf call and coalitions meeting?

Was not aware of a 2:45 call.

From: Heather Wingate/WHO/EOP@Exchange on 01/31/2003 10:00:48 AM
Record Type: Record

To: Matthew E. Smith/WHO/EOP@EOP, Leonard B. Rodriguez/WHO/EOP@EOP, Tim Goeglein/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: Conflict w/conf call and coalitions meeting?

Hey, just wanted to draw to your attn that there's going to be some considerable overlap b/w those of us who need to be on the Hispanic call and the coalitions meeting. (call begin at 2:45 and coalitions meeting at 2:30). Not sure this will work? should one be moved forward or back?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ken Mehlman/WHO/EOP@EOP [WHO] <Ken Mehlman>;Karl C. Rove/WHO /EOP@Exchange@EOP [WHO] <Karl C. Rove>
CC: Katherine M. Walters/WHO/EOP@EOP [WHO] <Katherine M. Walters>;Susan B. Ralston/WHO /EOP@Exchange@EOP [WHO] <Susan B. Ralston>
Sent: 1/31/2003 5:47:33 AM
Subject: : Appearances as guest speakers at events and fundraisers for state and local candidates

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:31-JAN-2003 10:47:33.00
SUBJECT:: Appearances as guest speakers at events and fundraisers for state and local candidates
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
CC:Katherine M. Walters (CN=Katherine M. Walters/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

A brief summary of where we stand on this issue:

As you know, before enactment of the campaign finance law, all Executive Branch officials were expressly permitted by law to appear as guest speakers at political events and fundraisers, including fundraisers for state and local candidates, so long as the officials did not personally solicit funds.

The judgment we had and have reached is that the new campaign finance law does not alter that conclusion. Yesterday, however, Ben Ginsberg noted what he believes to be an unintended ambiguity/absurdity in one aspect of the new campaign finance law: regarding guest speaking at events and fundraisers for state and local candidates (as distinct from guest speaking at federal party or federal candidate events or state party events, all of which he agrees is still clearly permissible). We do not share Ben's view that this ambiguity is created by the new law. The Office of Legal Counsel at the Department of Justice agrees with us.

To be very cautious and to alleviate any possible issue, however, the Department of Justice will send us their formal written opinion on the question; we should have that shortly. In addition, both political parties are seeking confirmation from the FEC in the next week on this question.

Apologies for confusion caused by this. We will have it cleared up shortly. And obviously, please call with any questions. Thanks.

From: CN=Heather Wingate/OU=WHO/O=EOP@Exchange [WHO]
To: Matthew E. Smith/WHO/EOP@EOP [WHO] <Matthew E. Smith>
CC: Tim Goeglein/WHO/EOP@EOP [WHO] <Tim Goeglein>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Leonard B. Rodriguez/WHO/EOP@EOP [WHO] <Leonard B. Rodriguez>
Sent: 1/31/2003 5:09:07 AM
Subject: : RE: Conflict w/conf call and coalitions meeting?

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:31-JAN-2003 10:09:07.00
SUBJECT:: RE: Conflict w/conf call and coalitions meeting?
TO:Matthew E. Smith (CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Leonard B. Rodriguez (CN=Leonard B. Rodriguez/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

That's why I bring it up(I think a number of folks are invited to take part in both(.

;-----Original Message-----
From: ; Smith, Matthew E.;
Sent:;; Friday, January 31, 2003 10:00 AM
To:;;;; Wingate, Heather
Cc:;;;; Rodriguez, Leonard B.; Goeglein, Tim; Kavanaugh, Brett M.
Subject:;;;;;;; Re: Conflict w/conf call and coalitions meeting?

Was not aware of a 2:45 call.

From:;; Heather Wingate/WHO/EOP@Exchange on 01/31/2003 10:00:48 AM
Record Type:;;; Record

To:;;;; Matthew E. Smith/WHO/EOP@EOP, Leonard B. Rodriguez/WHO/EOP@EOP, Tim Goeglein/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP

cc:;;;;
Subject:;;;;;;; Conflict w/conf call and coalitions meeting?

Hey, just wanted to draw to your attn that there's going to be some considerable overlap b/w those of us who need to be on the Hispanic call and the coalitions meeting. (call begin at 2:45 and coalitions meeting at 2:30). Not sure this will work? should one be moved forward or back?

;

From: CN=Heather Wingate/OU=WHO/O=EOP@Exchange [WHO]
To: Tim Goeglein/WHO/EOP@EOP [WHO] <Tim Goeglein>
CC: Leonard B. Rodriguez/WHO/EOP@EOP [WHO] <Leonard B. Rodriguez>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Matthew E. Smith/WHO /EOP@EOP [WHO] <Matthew E. Smith>
Sent: 1/31/2003 5:10:24 AM
Subject: : RE: Conflict w/conf call and coalitions meeting?

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:31-JAN-2003 10:10:24.00
SUBJECT:: RE: Conflict w/conf call and coalitions meeting?
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Leonard B. Rodriguez (CN=Leonard B. Rodriguez/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Matthew E. Smith (CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Cool, will stand by(. (-:

;-----Original Message-----
From: ; Goeglein, Tim;
Sent:;; Friday, January 31, 2003 10:06 AM
To:;;;; Wingate, Heather
Cc:;;;; Smith, Matthew E.; Rodriguez, Leonard B.; Kavanaugh, Brett M.
Subject:;;;;;;; Re: Conflict w/conf call and coalitions meeting?

I just spoke with Leonard; we are working on a new plan now.

tsg

From:;; Heather Wingate/WHO/EOP@Exchange on 01/31/2003 10:00:48 AM
Record Type:;;; Record

To:;;;; Matthew E. Smith/WHO/EOP@EOP, Leonard B. Rodriguez/WHO/EOP@EOP, Tim Goeglein/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP

cc:;;;;
Subject:;;;;;;; Conflict w/conf call and coalitions meeting?

Hey, just wanted to draw to your attn that there's going to be some considerable overlap b/w those of us who need to be on the Hispanic call and the coalitions meeting. (call begin at 2:45 and coalitions meeting at 2:30). Not sure this will work? should one be moved forward or back?

;

From: CN=Heather Wingate/OU=WHO/O=EOP@Exchange [WHO]
To: Tim Goeglein/WHO/EOP@EOP [WHO] <Tim Goeglein>
CC: Leonard B. Rodriguez/WHO/EOP@EOP [WHO] <Leonard B. Rodriguez>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Matthew E. Smith/WHO /EOP@EOP [WHO] <Matthew E. Smith>
Sent: 1/31/2003 5:10:32 AM
Subject: : RE: Conflict w/conf call and coalitions meeting?

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:31-JAN-2003 10:10:32.00
SUBJECT:: RE: Conflict w/conf call and coalitions meeting?
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Leonard B. Rodriguez (CN=Leonard B. Rodriguez/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Matthew E. Smith (CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Cool, will stand by(. (-:

-----Original Message-----
From: Goeglein, Tim
Sent: Friday, January 31, 2003 10:06 AM
To: Wingate, Heather
Cc: Smith, Matthew E.; Rodriguez, Leonard B.; Kavanaugh, Brett M.
Subject: Re: Conflict w/conf call and coalitions meeting?

I just spoke with Leonard; we are working on a new plan now.

tsg

From: Heather Wingate/WHO/EOP@Exchange on 01/31/2003 10:00:48 AM
Record Type: Record

To: Matthew E. Smith/WHO/EOP@EOP, Leonard B. Rodriguez/WHO/EOP@EOP, Tim Goeglein/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Conflict w/conf call and coalitions meeting?

Hey, just wanted to draw to your attn that there's going to be some considerable overlap b/w those of us who need to be on the Hispanic call and the coalitions meeting. (call begin at 2:45 and coalitions meeting at 2:30). Not sure this will work? should one be moved forward or back?

From: Smith, Matthew E.
To: <Wingate, Heather>
CC: <Rodriguez, Leonard B.>;<Goeglein, Tim>;<Kavanaugh, Brett M.>
Sent: 1/31/2003 10:27:26 AM
Subject: RE: Conflict w/conf call and coalitions meeting?

I can do from 4- 4:30 ...then I have to shift gears to HIV/AIDS initiative.

From: Heather Wingate/WHO/EOP@Exchange on 01/31/2003 10:28:29 AM

Record Type: Record

To: Leonard B. Rodriguez/WHO/EOP@EOP

cc: Matthew E. Smith/WHO/EOP@EOP, Tim Goeglein/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP

Subject: RE: Conflict w/conf call and coalitions meeting?

That's perfect. What do you think about an end of the day internal meeting, say at 4pm or so, following Hispanic call? Ought to include those of you on email, but also Schlapp, Mercy, Snee, etc. Maybe gather in Brett's office or if one of you have better accommodations?

-----Original Message-----

From: Rodriguez, Leonard B.

Sent: Friday, January 31, 2003 10:22 AM

To: Wingate, Heather

Cc: Smith, Matthew E.; Goeglein, Tim; Kavanaugh, Brett M.

Subject: RE: Conflict w/conf call and coalitions meeting?

One thing is for sure, Heather and Brett are popular people.

How does this work?

For the Hispanic call, we will start at 3:15 - 20pm.

Manny, Robert, Mercy and I will front end it, hopefully giving Brett, Heather and Matt time to join at the end.

From: Heather Wingate/WHO/EOP@Exchange on 01/31/2003 10:05:35 AM

Record Type: Record

To: Matthew E. Smith/WHO/EOP@EOP

cc: Leonard B. Rodriguez/WHO/EOP@EOP, Tim Goeglein/WHO/EOP@EOP, Brett M. Kavanaugh/WHO /EOP@EOP

Subject: RE: Conflict w/conf call and coalitions meeting?

That's why I bring it up... I think a number of folks are invited to take part in both....

-----Original Message-----

From: Smith, Matthew E.

Sent: Friday, January 31, 2003 10:00 AM

To: Wingate, Heather

Cc: Rodriguez, Leonard B.; Goeglein, Tim; Kavanaugh, Brett M.

Subject: Re: Conflict w/conf call and coalitions meeting?

Was not aware of a 2:45 call.

From: Heather Wingate/WHO/EOP@Exchange on 01/31/2003 10:00:48 AM

Record Type: Record

To: Matthew E. Smith/WHO/EOP@EOP, Leonard B. Rodriguez/WHO/EOP@EOP, Tim Goeglein/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: Conflict w/conf call and coalitions meeting?

Hey, just wanted to draw to your attn that there's going to be some considerable overlap b/w those of us who need to be on the Hispanic call and the coalitions meeting. (call begin at 2:45 and coalitions meeting at 2:30). Not sure this will work? should one be moved forward or back?

From: Wingate, Heather
To: <Rodriguez, Leonard B.>
CC: <Smith, Matthew E.>;<Goeglein, Tim>;<Kavanaugh, Brett M.>
Sent: 1/31/2003 10:28:29 AM
Subject: RE: Conflict w/conf call and coalitions meeting?

That's perfect. What do you think about an end of the day internal meeting, say at 4pm or so, following Hispanic call? Ought to include those of you on email, but also Schlapp, Mercy, Snee, etc. Maybe gather in Brett's office or if one of you have better accommodations?

-----Original Message-----
From: Rodriguez, Leonard B.
Sent: Friday, January 31, 2003 10:22 AM
To: Wingate, Heather
Cc: Smith, Matthew E.; Goeglein, Tim; Kavanaugh, Brett M.
Subject: RE: Conflict w/conf call and coalitions meeting?

One thing is for sure, Heather and Brett are popular people.

How does this work?

For the Hispanic call, we will start at 3:15 - 20pm.
Manny, Robert, Mercy and I will front end it, hopefully giving Brett, Heather and Matt time to join at the end.

From: Heather Wingate/WHO/EOP@Exchange on 01/31/2003 10:05:35 AM
Record Type: Record

To: Matthew E. Smith/WHO/EOP@EOP
cc: Leonard B. Rodriguez/WHO/EOP@EOP, Tim Goeglein/WHO/EOP@EOP, Brett M. Kavanaugh/WHO /EOP@EOP
Subject: RE: Conflict w/conf call and coalitions meeting?

That's why I bring it up... I think a number of folks are invited to take part in both....

-----Original Message-----
From: Smith, Matthew E.
Sent: Friday, January 31, 2003 10:00 AM
To: Wingate, Heather
Cc: Rodriguez, Leonard B.; Goeglein, Tim; Kavanaugh, Brett M.
Subject: Re: Conflict w/conf call and coalitions meeting?

Was not aware of a 2:45 call.

From: Heather Wingate/WHO/EOP@Exchange on 01/31/2003 10:00:48 AM
Record Type: Record

To: Matthew E. Smith/WHO/EOP@EOP, Leonard B. Rodriguez/WHO/EOP@EOP, Tim Goeglein/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: Conflict w/conf call and coalitions meeting?

Hey, just wanted to draw to your attn that there's going to be some considerable overlap b/w those of us who need to be on the Hispanic call and the coalitions meeting. (call begin at 2:45 and coalitions meeting at 2:30). Not sure this will work? should one be moved forward or back?

From: Rodriguez, Leonard B.
To: <Wingate, Heather>
CC: <Smith, Matthew E.>;<Goeglein, Tim>;<Kavanaugh, Brett M.>
Sent: 1/31/2003 10:36:39 AM
Subject: RE: Conflict w/conf call and coalitions meeting?

yes, we need tie the shoelaces together.

I think we can use Ken's office

From: Heather Wingate/WHO/EOP@Exchange on 01/31/2003 10:28:29 AM

Record Type: Record

To: Leonard B. Rodriguez/WHO/EOP@EOP

cc: Matthew E. Smith/WHO/EOP@EOP, Tim Goeglein/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP

Subject: RE: Conflict w/conf call and coalitions meeting?

That's perfect. What do you think about an end of the day internal meeting, say at 4pm or so, following Hispanic call? Ought to include those of you on email, but also Schlapp, Mercy, Snee, etc. Maybe gather in Brett's office or if one of you have better accommodations?

-----Original Message-----

From: Rodriguez, Leonard B.

Sent: Friday, January 31, 2003 10:22 AM

To: Wingate, Heather

Cc: Smith, Matthew E.; Goeglein, Tim; Kavanaugh, Brett M.

Subject: RE: Conflict w/conf call and coalitions meeting?

One thing is for sure, Heather and Brett are popular people.

How does this work?

For the Hispanic call, we will start at 3:15 - 20pm.

Manny, Robert, Mercy and I will front end it, hopefully giving Brett, Heather and Matt time to join at the end.

From: Heather Wingate/WHO/EOP@Exchange on 01/31/2003 10:05:35 AM

Record Type: Record

To: Matthew E. Smith/WHO/EOP@EOP

cc: Leonard B. Rodriguez/WHO/EOP@EOP, Tim Goeglein/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP

Subject: RE: Conflict w/conf call and coalitions meeting?

That's why I bring it up... I think a number of folks are invited to take part in both....

-----Original Message-----

From: Smith, Matthew E.

Sent: Friday, January 31, 2003 10:00 AM

To: Wingate, Heather

Cc: Rodriguez, Leonard B.; Goeglein, Tim; Kavanaugh, Brett M.

Subject: Re: Conflict w/conf call and coalitions meeting?

Was not aware of a 2:45 call.

From: Heather Wingate/WHO/EOP@Exchange on 01/31/2003 10:00:48 AM

Record Type: Record

To: Matthew E. Smith/WHO/EOP@EOP, Leonard B. Rodriguez/WHO/EOP@EOP, Tim Goeglein/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: Conflict w/conf call and coalitions meeting?

Hey, just wanted to draw to your attn that there's going to be some considerable overlap b/w those of us who need to be on the Hispanic call and the coalitions meeting. (call begin at 2:45 and coalitions meeting at 2:30). Not sure this will work? should one be moved forward or back?

From: CN=G. Timothy Saunders/OU=WHO/O=EOP [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>
CC: g. timothy saunders/who/eop@eop [WHO] <g. timothy saunders>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;katja bullock/who/eop@eop [WHO] <katja bullock>;david e. kalbaugh/who/eop@eop [WHO] <david e. kalbaugh>
Sent: 1/31/2003 8:02:36 AM
Subject: : Re: Designation Language for Diane Stuart

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:G. Timothy Saunders (CN=G. Timothy Saunders/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:31-JAN-2003 13:02:36.00
SUBJECT:: Re: Designation Language for Diane Stuart
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:g. timothy saunders (CN=g. timothy saunders/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:katja bullock (CN=katja bullock/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:david e. kalbaugh (CN=david e. kalbaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

Our count shows the act is effective today; thus it would appear we now have a vacancy; we'll prepare the order and move it forward.

thanks,
TIM/CLERK

Kyle Sampson
01/31/2003 12:54:22 PM
Record Type: Record

To: David E. Kalbaugh/WHO/EOP@EOP
cc: brett m. kavanaugh/who/eop@eop, katja bullock/who/eop@eop, g. timothy saunders/who/eop@eop
bcc:
Subject: Re: Designation Language for Diane Stuart

The language you suggest would be correct. "In the case of a vacancy" in the newly created statutory position of Director of the Violence Against Women Office at the Justice Department, "the President may designate an officer or employee who shall act as Director during the vacancy." Pub. L. 107-273, õ 402. A vacancy in the office will arise when the position springs into existence 90 days after the legislation was enacted on November 22, 2002 (this may already have happened?). Thus, õ 402 provides a basis, independent of the Vacancies Reform Act, for the President to make an acting designation. (And, I would note, that the acting designation under õ 402, unlike the Vacancies Reform Act, does not appear to place a temporal limit on the appointment.)

David E. Kalbaugh
01/31/2003 11:21:12 AM
Record Type: Record

To: Kyle Sampson/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP, Katja Bullock/WHO/EOP@EOP
cc: G. Timothy Saunders/WHO/EOP@EOP
Subject: Designation Language for Diane Stuart

Kyle/Brett:

Gentlemen - would one of you please look this over and advise as to correct language. I believe Katja would like this to be done today. Thank you.

Pursuant to Section 2003(c) of the Omnibus Crime Control

and Safe Streets Act of 1968, as amended by Section 402 of

P.L. 107-273, I hereby designate Diane M. Stuart as Acting

Director of the Violence Against Women Office, Department of

Justice.

From: Rodriguez, Leonard B.
To: <Kavanaugh, Brett M.>
CC: <Wingate, Heather>;<Smith, Matthew E.>
Sent: 1/31/2003 12:42:55 PM
Subject: Re: Gonzales today

Conf Call starts 3:15 --3:20

Brett M. Kavanaugh

01/31/2003 12:07:26 PM

Record Type: Record

To: Heather Wingate/WHO/EOP@Exchange@EOP, Leonard B. Rodriguez/WHO/EOP@EOP, Matthew E. Smith/WHO/EOP@EOP

cc:

Subject: Gonzales today

Judge would like to come to the 2:30 for a few minutes and be on the conference call for a few minutes. What times does the conference call start with the groups?

From: Wood, John F.
To: <Dorn, Nancy>;<Perry, Philip J.>;<Burgeson, Christine M.>;<Pelletier, Eric C.>;<Kavanaugh, Brett M.>;<Silverberg, Kristen>;<Lefkowitz, Jay P.>
Sent: 1/31/2003 2:59:31 PM
Subject: Wolf bill to expand 9/11 fund

fyi

---------- Forwarded by John F. Wood/OMB/EOP on 01/31/2003 02:58 PM ----------

"Harris, Paul (SMO)"

01/31/2003 02:15:41 PM

Record Type: Record

To: John F. Wood/OMB/EOP@EOP, Philip J. Perry/OMB/EOP@EOP

cc: "Israelite, David" (Receipt Notification Requested) (IPM Return Requested)

Subject: Wolf bill to expand 9/11 fund

Rep. Wolf has drafted a bill similar to the Blunt bill that would expand the VCF to include victims of the East Africa embassies bombings, WTC '98, USS Cole, etc. The significant distinctions b/w the Blunt and Wolf bills is that Wolf's includes caps (20% for administrative resolution and 25% in the case of litigation) and claims must be filed within one year of the date of enactment of the legislation. You will recall that the Administration, with OMB's approval, provided comment last fall on the merits of the Blunt bill. Your thoughts on if or how we should respond to Wolf's request for comments (or SAP)? Thanks, Paul

Paul Clinton Harris, Sr.

Deputy Associate Attorney General

U.S. Department of Justice

(202) 514-1968

(202) 307-3904 fax

E-mail: paul.harris@usdoj.gov

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kimberly A. Douglass/WHO/EOP@Exchange [WHO] <Kimberly A. Douglass>
Sent: 1/31/2003 11:58:01 AM
Subject: : Re: summaries

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:31-JAN-2003 16:58:01.00
SUBJECT:: Re: summaries
TO:Kimberly A. Douglass (CN=Kimberly A. Douglass/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

will be done.

From: Kimberly A. Douglass/WHO/EOP@Exchange on 01/31/2003 04:51:09 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: summaries

hey there!; I am definitely not trying to be a pest but would it be possible to get the POTUS and FLOTUS trip summaries back on Monday?; We have an AirOps briefing on Tuesday and I'd like to be able to clear up all paperwork prior to that.; Thanks!!!!!!
;
Have a great weekend!
;

From: CN=Kimberly A. Douglass/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 1/31/2003 12:00:02 PM
Subject: : RE: summaries

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kimberly A. Douglass (CN=Kimberly A. Douglass/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:31-JAN-2003 17:00:02.00
SUBJECT:: RE: summaries
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Thanks!!!!!

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Friday, January 31, 2003 4:54 PM
To: Douglass, Kimberly A.
Subject: Re: summaries

will be done.

From: Kimberly A. Douglass/WHO/EOP@Exchange on 01/31/2003 04:51:09
PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: summaries

hey there! I am definitely not trying to be a pest but would it be
possible to get the POTUS and FLOTUS trip summaries back on Monday? We
have an AirOps briefing on Tuesday and I'd like to be able to clear up all
paperwork prior to that. Thanks!!!!!!

Have a great weekend!

From: Kavanaugh, Brett M.
To: <Douglass, Kimberly A.>
Sent: 1/31/2003 4:54:10 PM
Subject: Re: summaries

will be done.

From: Kimberly A. Douglass/WHO/EOP@Exchange on 01/31/2003 04:51:09 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: summaries

hey there! I am definitely not trying to be a pest but would it be possible to get the POTUS and FLOTUS trip summaries back on Monday? We have an AirOps briefing on Tuesday and I'd like to be able to clear up all paperwork prior to that. Thanks!!!!!!

Have a great weekend!

From: Douglass, Kimberly A.
To: <Kavanaugh, Brett M.>
Sent: 1/31/2003 4:59:35 PM
Subject: RE: summaries

Thanks!!!!!

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Friday, January 31, 2003 4:54 PM
To: Douglass, Kimberly A.
Subject: Re: summaries

will be done.

From: Kimberly A. Douglass/WHO/EOP@Exchange on 01/31/2003 04:51:09 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: summaries

hey there! I am definitely not trying to be a pest but would it be possible to get the POTUS and FLOTUS trip summaries back on Monday? We have an AirOps briefing on Tuesday and I'd like to be able to clear up all paperwork prior to that. Thanks!!!!!

Have a great weekend!

From:	Bumatay, Patrick J.
To:	<Kavanaugh, Brett M.>
Sent:	1/31/2003 5:04:45 PM
Subject:	FW: LRM IKK2 - - TREASURY Testimony on How the President's Jobs and Growth Initiative Will Affect America's Senior
Attachments:	Aging and Budget Testimony Feb 4.doc; Chart 1.pdf; Chart 2.pdf; Chart 3.pdf; comparison.doc

-----Original Message-----

From: Kho, Irene

Sent: Friday, January 31, 2003 4:55 PM

To: ODCLCA.LRM.SSA@ssa.gov; lrm@hhs.gov; laffairs@ustr.gov; CLRM@doc.gov; state-lrm@state.gov; dot.legislation@ost.dot.gov; dol-sol-leg@dol.gov; llr@do.treas.gov; cla@sba.gov; justice.lrm@usdoj.gov; HUD_LRM@hud.gov; energy.gc71@hq.doe.gov

Cc: Nec Lrm; Ovp Lrm; Whgc Lrm; Hennessey, Keith; Reardon, Brian; Foster, James D.; Barth, Mary C.; Rodriguez, Justine F.; Keniry, Daniel ; Lobrano, Lauren C.; Mahaffie, Robert F.; Schwartz, Mark J.; McMillin, Stephen S.; Rhinesmith, Alan B.; Walsh, Maureen; Menchik, Mark D.; Sierra, Leticia; Dennis, Yvette M.; Boden, James; Haas, Julie L.; Mertens, Steven M.; Krauss, Lori A.; Redburn, Francis S.; Green, Richard E.; Jukes, James J.; Ohs Lrm; Schwartz, Kenneth L.; Casella, Michael; Silberman, Ronald L.; Weatherly, Mark A.; Matlack, Larry R.; Mertens, Steven M.; Kron, Jennifer S.; Lyon, Randolph M.; Goldberg, David R.; Ward, Elizabeth K.; Fontenot, Keith J.; Meredith, Diana L.; Smalligan, Jack A.

Subject: LRM IKK2 - - TREASURY Testimony on How the President's Jobs and Growth Initiative Will Affect America's Senior

Attached is CEA testimony on how the President's jobs and growth initiative will affect America's seniors for a hearing before the Senate Special Aging Committee on Tuesday, Feb. 4th. Please review and provide comments by 2:00 PM, Monday, Feb. 3rd.

This testimony is similar to the one cleared on Wednesday, Jan. 29th, under IKK1. For your convenience, attached is a comparison document showing changes. Please note that this testimony will also be used for a hearing before the Senate Budget Committee on the same day at 2:30 PM.

<<...>> <<...>>

<<...>>

<<...>>

<<...>>

LRM ID: IKK2

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Friday, January 31, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: Irene Kho
PHONE: (202)395-5858 FAX: (202)395-3109
SUBJECT: **TREASURY Testimony on How the President's Jobs and Growth Initiative Will Affect America's Senior**

DEADLINE: **2:00 PM Monday, February 3, 2003**
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

COMMENTS: Attached is CEA testimony on how the President's jobs and growth initiative will affect America's seniors for a hearing before the Senate Special Aging Committee on Tuesday, Feb. 4th. Please review and provide comments by 2:00 PM, Monday, Feb. 3rd. This testimony is similar to the one cleared on Wednesday, Jan. 29th, under IKK1. For your convenience, attached is also a comparison document.

Please note that this testimony will also be used for a hearing before the Senate Budget Committee on the same day at 2:30 PM.

We have e-mailed this Legislative Referral Memorandum (LRM) to you and have sent this fax transmission as an alert only. Please check your e-mail; if you have not received this LRM, please notify the OMB contact as soon as possible.

DISTRIBUTION LIST

AGENCIES:
110-Social Security Administration - Diane B. Garro - (202) 358-6030
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773
128-US Trade Representative - Carmen Suro-Bredie - (202) 395-4755
025-COMMERCE - Michael A. Levitt - (202) 482-3151
114-STATE - Nicole Petrosino - (202) 647-1794
117 & 340-TRANSPORTATION - Tom Herlihy - (202) 366-4687
062-LABOR - Robert A. Shapiro - (202) 693-5500
118-TREASURY - Thomas M. McGivern - (202) 622-2317
107-Small Business Administration - Richard Spence - (202) 205-6700
061-JUSTICE - Daniel Bryant - (202) 514-2141062-LABOR - Robert A. Shapiro - (202) 693-5500
054-HOUSING & URBAN DEVELOPMENT - Mike Moran - (202) 708-1793
032-ENERGY - Ted Pulliam - (202) 586-3397

EOP:
NEC LRM
OVP LRM
WHGC LRM
Keith Hennessey
Brian Reardon
James D. Foster
Mary C. Barth
Justine F. Rodriguez
Daniel J. Keniry
Danielle M. Simonetta
Lauren C. Lobrano
Robert F. Mahaffie
Mark J. Schwartz
Stephen S. McMillin
Alan B. Rhinesmith
Maureen Walsh
Mark D. Menchik
Leticia Sierra
Yvette M. Dennis
James Boden

Julie L. Haas
Steven M. Mertens
Lori A. Krauss
Francis S. Redburn
Richard E. Green
James J. Jukes
OHS LRM
Kenneth L. Schwartz
Michael Casella
Ronald L. Silberman
Mark A. Weatherly
Larry R. Matlack
Steven M. Mertens
Jennifer S. Kron
Randolph M. Lyon
David R. Goldberg
Elizabeth K. Ward
Keith J. Fontenot
Diana L. Meredith
Jack A. Smalligan**LRM ID:** IKK2 **SUBJECT:** TREASURY Testimony on How the President's Jobs and Growth Initiative Will Affect America's Senior

RESPONSE TO

LEGISLATIVE REFERRAL

MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: **Irene Kho Phone: 395-5858 Fax: 395-3109**

Office of Management and Budget

Branch-Wide Line (to reach legislative assistant): 395-3454

FROM: _____ **(Date)**

_____ **(Name)**

_____ **(Agency)**

_____ **(Telephone)**

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

[Note: This document will also be submitted as testimony to the Senate Budget Committee, with the references to aging in the first and second paragraphs removed.]

Testimony
of
R. Glenn Hubbard
Chairman, Council of Economic Advisers

before the
Senate Special Committee on Aging
Senate Dirksen Building, Room 628

Tuesday, February 4, 2003
10:00 a.m.

Chairman Craig, Ranking Member Breaux, and members of the Committee, I thank you for the opportunity to discuss how the President's Jobs and Growth Initiative will affect America's seniors. The central role of the package is to support near-term economic growth at the same time it improves the long-run productivity of the economy. This approach to fiscal policy is appropriate in the short run, because it focuses on what the economy needs now: faster investment and higher job growth for today's workers. But by raising long-run productivity, the package will help America's seniors as well. To start with, ending the double tax on corporate income will directly benefit seniors who receive dividend checks. About half of all dividend income goes to America's seniors, who often rely on those checks for a steady source of retirement income. But just as important as increasing after-tax dividend income is the effect that the President's package will have the overall productivity of the economy. Higher taxes on corporate capital act to reduce investment, which in turns lowers the amount of capital that workers can use at their jobs. With less capital, workers are less productive, so they are paid less. By ending the double tax on corporate income and permanently raising expensing limits for small firms, the President's package encourages investment. This starts the virtuous circle of higher investment and job growth today, with higher capital stocks, productivity, and wages tomorrow. In the end, the more productive economy will be better able to support the large number of workers who will soon retire.

REV_00157188

Because so many seniors depend on Social Security and Medicare, any discussion of how the proposal will affect seniors must also discuss how it affects the government's fiscal position. One of the most important lessons of the past several years is the importance of strong economic growth for the Federal government's books. Accordingly, the central role for fiscal policy is to craft a tax policy that reduces tax-based distortions that hinder growth, while at the same time limiting the growth of government outlays to a sustainable path. Given the importance of economic growth to the government's fiscal position, I will start my testimony today by reviewing the economic situation currently facing our Nation. I will then discuss the ways in which the President's proposals contribute to higher growth, specifically by targeting business spending on investment.

At the start, however, I would like to stress an important fact. While the last two years have presented many challenges to the American economy – the long decline in the stock market and the terrorist attacks and economic contraction in 2001 – our long-run economic outlook is as strong as its has been in a generation. As Chart 1 shows, the trend rate of U.S. labor productivity growth has risen from rate of 1.4 percent per year from 1973 to 1995 to 2.5 percent per year from 1995 to 2000. Because higher productivity growth is the foundation of higher incomes and living standards, the productivity acceleration is good news for all of us. What is more, over the last four quarters for which we have data, labor productivity has risen by 5.6 percent – the best four-quarter change in productivity since the early 1970s. The ongoing productivity revival speaks well for the long-term outlook. Additionally, inflation remains low and stable, which helps the economy interpret relative price signals efficiently and which gives policymakers the room to support near-term growth.

THE ECONOMIC SITUATION IN 2002

In many ways, the economy's recent behavior has been different than that of past recoveries. Typically, business investment declines most sharply in recessions and expands most briskly in recoveries. By contrast, the household and government sectors do not fluctuate as much. In 2002, however, the recovery from the economic contraction of the previous year took place amid continued weakness in business investment and strength in the household sector. After rising at an annual rate of 3.4 percent during the first three quarters, GDP rose at an annual rate of 0.7 percent in the fourth quarter. Business fixed investment rose at an annual rate of 1.5

REV_00157189

percent – the first quarterly increase since mid-2000 – but much larger rates of increase will be needed for the recovery to be fully established.

Household sector. In large part, the strength of the household sector last year stemmed from the aggressive monetary easing by the Federal Reserve in 2001. Over the course of that year, the Federal Reserve cut its target federal funds rate eleven times, lowering the target from 6.5 percent to 1.75 percent. Given the well-known lags in monetary policy, these reductions continued to provide stimulus throughout 2002. Lower interest rates, for example, allowed motor vehicle companies to offer aggressive financing incentives, which have supported auto sales through much of the year.

Additionally, the substantial cuts in the target federal funds rate by the Federal Reserve have translated into lower mortgage interest rates, supporting housing starts and mortgage refinancing. In the first three quarters of 2002, mortgage refinancing alone injected more than $100 billion into home owners' pocketbooks. After they paid down second mortgages and outstanding home equity loans, they had more than $59 billion left over to spend in other ways. Survey evidence indicates that about half of this $59 billion was probably used for consumption and home improvements – two components of aggregate demand – which would have raised nominal GDP by about 0.4 percent in the first three quarters of 2002. All in all, the interest rates cuts were helpful in maintaining the recovery last year. The most recent rate reduction of 50 basis points undertaken on November 6, 2002, will provide further support for the recovery in 2003.

Fiscal policy has also been an important force behind robust consumption in 2002. In addition to enhancing long-term economic efficiency, the tax cut proposed by the President and passed by Congress in 2001 provided valuable support for disposable income, which has been far more robust than is typical at this stage of a recovery. The upshot has been solid growth in both personal consumption expenditures and residential investment that has supported the recovery so far.

Business investment. In contrast to positive impetus from the household sector, business investment has been the economy's key weak spot. As I noted earlier, during the current business cycle, the decline in business investment has been sharper, and the recovery more modest, than an average postwar business cycle. On average, the peak-to-trough decline in nonresidential investment in the typical post-war recession is 6.2 percent. Assuming that the trough in the most

REV_00157190

recent recession occurred during the fourth quarter of 2001 – a decision that ultimately resides with the National Bureau of Economic Research – the corresponding decline in the most recent recession was 8 percent. Comparing the typical pace of recovery, during the first three quarters of this recovery, business investment fell 2.0 percent further, compared to a typical increase of roughly 2.7 percent. Chart 2 displays the current weakness investment graphically, by comparing it to the typical experience of recoveries since 1960. Simply put, the recovery in investment that one would expect at this stage of the business cycle has yet to materialize.

The current weakness in investment results is linked to adverse developments in equity markets during the past three years. Indeed, both stem in large part from the same underlying shock – a scaling back of expected profit growth. Evidence that earnings growth was adjusted downward comes from surveys of Wall Street analysts who track individual firms. According to one such survey, five-year-ahead earnings growth forecasts for the firms in the S&P 500 fell from a peak of more than 18 percent per year in mid-2000 to slightly more than 13 percent per year by September 2002. Another factor in lowering both equity values and business investment is the current risk climate. Higher levels of uncertainty in the economy and/or higher aversion to risk on the part of investors reduce the willingness of investors to hold corporate equities and lowers stock prices and investment. One reflection of the risk outlook is the spread between yields on corporate bonds and U.S. Treasury securities, because corporate bonds are subject to default risk while U.S. Treasuries are not. The widening gap between yields for corporate and Treasury securities after 2000 coincided closely with the decline in the stock market during this period. Spreads continued to widen sharply in 2002, reaching near-record levels, indicating that risk aversion played a key role in markets in the months following September 11, 2001 as well.

Inventory investment contributed strongly to the economic slowdown in 2001, but by early in 2002, the pace of inventory decline slowed, providing a significant boost to production. In some sectors of the economy, evidence suggests that inventory restocking is underway. Over the next several quarters, as inventory and sales growth come together, inventory investment's role in real GDP growth should provide upward momentum to the recovery.

Government purchases. The war on terror continued to exert upward pressure on Federal government purchases in 2002. In late March, for example, the President requested that Congress provide an additional appropriation of $27.1 billion, primarily to fund the effort in the war against terror. More than half of this amount was allocated to the activities of the Defense

REV_00157191

Department and various intelligence agencies. Most of the rest was needed for homeland security (mainly for the new Transportation Security Administration) and for the emergency response and recovery efforts in New York City. Though most of this spending was required for one-time outlays only, it nevertheless contributed to the large 6.4 percent annual rate of increase in real Federal government purchases in the first three quarters of 2002. State and local government purchases rose by a more moderate 1.7 percent annual rate during the same period.

External sector. While the United States economy remained below potential in 2002, its growth rate still outpaced that of many other industrialized countries. Growth in Canada – America's largest trading partner – was a healthy 4.0 percent in during the four quarters ending in the third quarter of 2002, but growth in many other countries, such as Mexico, France, Japan, and Italy lagged behind. Low demand for U.S. exports combined with the emerging recovery in the United States (and the subsequent increase in the U.S. demand for imports) caused the U.S. trade deficit to reach record levels in 2002.

The widening trade deficit placed additional downward pressure on the U.S. current account, which reached almost five percent of GDP in the middle of 2002. As a matter of accounting, the current account is simply the difference between net domestic investment and net domestic saving. Several factors can raise the current account deficit, including higher investment in the within our borders on the part of foreign investors, or lower savings rates on the part of U.S. citizens. In light of the large number of trade-related and financial forces operating on the current account, it is impossible to label a current account deficit as either "good" or "bad." Indeed, one factor contributing to high U.S. investment relative to savings is the rapid increase in U.S. productivity relative to many other major countries, which makes the United States a good place to invest. Because productivity growth is ultimately responsible for rising living standards, the current account deficit reflects at least in part good news about the American economy. Even so, a current account deficit indicates that the United States is consuming and investing more than it is producing, and the U.S. current account has typically been in deficit for the past two decades. As a result, the net international investment position in the United States has moved from an accumulated surplus of slightly less than 10 percent of GDP in the late 1970s to a deficit of almost 20 percent of GDP in 2001.

Recent increases in the current account deficit have led to some concerns that continued current account deficits (and the subsequent increases in international debt that would result)

REV_00157192

could not be sustained. Because debt has to be serviced by the repatriation of capital income abroad, the ratio of a country's debt to its income must stabilize at some point. Yet the U.S. is currently far from the point at which servicing our international debt becomes burdensome. In fact, until 2002, more investment income was generated by U.S. investment in foreign countries than was generated by foreign investments inside the United States.

In the end, the key determinant of the sustainability of the U.S. international debt position is continued confidence in the economic policies of the United States. As long as the United States pursues its current market-oriented, pro-growth policies, then the current account deficit will not represent an impediment to continued economic growth.

Labor market. The unemployment rate hovered between 5.5 and 6.0 percent throughout the year after rising 1.8 percentage points in 2001. Nonfarm payroll employment in 2002 was similarly weak, with 181,000 jobs lost in 2002, compared with 1.4 million jobs lost the previous year.

As in past business cycles, declines in manufacturing employment have been especially pronounced. Factory employment fell 592,000 in 2002, following a decline of 1.3 million in 2001 and about 100,000 in 2000. Another feature of previous business cycles that has recurred in the past two years is the increase in the number of workers who report a long unemployment spell. Like the overall unemployment rate, the number of workers unemployed for 26 weeks or more rose in the 2001 and remained high in 2002. Yet the pattern of long-term unemployment observed in 2001 and 2002 was similar to patterns traced out in previous postwar fluctuations. Like the overall unemployment rate, the level of long-term unemployment remains moderate relative to past business cycles.

RISKS TO THE OUTLOOK

The slowing of GDP growth and weakness in labor markets in the fourth quarter of 2002 highlight the risks the recovery currently faces. In order of importance, these risks include:

A Delayed Investment Recovery. The key to transforming the current recovery into sustained robust growth is an increase in the pace of business fixed investment. Only with robust business investment will labor markets improve. A recovery in investment is a key factor in creating more jobs because when companies build new factories, they hire directly and boost employment in capital-goods industries.

REV_00157193

While private forecasters expect business investment spending to recover in 2003, there are several potential sources of a delay in an investment recovery. One risk is weaker profit growth. Due to a sharp increase in the fourth quarter of 2001, corporate profits have rebounded from recessionary lows. (This is the most recent quarter for which we have data on corporate profits.) Yet the recovery in profits has been uneven. In the first three quarters of 2002, profits as a share of income averaged 7.5 percent. While this represents a recovery from the 7.2 percent share in 2001, it is still below shares of 8.7 percent in 1999 and 7.9 percent in 2000. Moreover, on a quarterly basis, corporate profits declined in each of the first three quarters of 2002. Because current profits are an indicator of future profits, firms may interpret recent weakness in profit growth as an indication of reduced investment opportunities. Moreover, the decline in profits may have an even more negative impact on investment at firms that depend on retained earnings (rather than external capital markets) to fund investment projects.

A second potential setback to the investment recovery reflects an increase in the level of uncertainty about the course of the near term events or higher levels of risk aversion on the part of investors. Higher levels of uncertainty in the economy can also make firms delay new projects until the uncertainty is resolved. This delay is translated into a higher expected rate of return in order for new projects to be undertaken, which reduces the level of investment that is undertaken in the near term. Additionally, higher levels of risk aversion on the part of investors can reduce investment by making it harder for firms to raise external funds.

A Decline in Consumer Spending. As mentioned, the recent business cycle stands apart from the typical postwar recession in that household income growth has been stable while stock price declines have eroded household wealth. In the typical recession, incomes and net worth move together, but in the most recent recession, net worth fell dramatically relative to income. Yet in contrast to the negative effect of lower equity values on business investment, consumption has remained remarkably robust, even as household net worth has suffered. The contrast in the pattern of spending mirrors a reversal of conventional income and wealth dynamics. In the current cycle personal income – especially disposable personal income, supported by the tax cuts of 2001 – has held up quite well, even as household balance sheet positions have weakened.

The deterioration in household wealth over the past three years raises the possibility that consumers will increase their active saving out of disposable income in order to restore at least some of their lost wealth. An increase in precautionary saving of this type could have a

REV_00157194

substantial effect on yearly consumption. From the first quarter of 2000 to the last quarter of 2002, households lost nearly $7 trillion in equity wealth. A rough rule of thumb suggested by aggregate data on wealth and consumption is that yearly consumption declines by 3 to 5 cents for every dollar of lost equity wealth. Based on the midpoint of this range, the $7 trillion reduction in equity wealth since early 2000 would be expected to eventually lower yearly consumption by about $280 billion per year. For comparison, a reduction of this amount would represent nearly 4 percent of consumption and almost 3 percent of GDP in 2002.

Empirical findings also suggest that response of consumption to stock market wealth is drawn out over time, a fact which has crucial implications for the precise path of consumption over the next few years. Because the appreciation of equity prices before 2000 would be expected to increase consumption, some of the implied $280 billion drop in consumption after 2000 may simply represent a "cancellation" of an implied consumption increase that had not yet taken place. Moreover, positive influences from the other determinants of consumption (such as current income and the continuing appreciation in housing wealth) are likely to offset the stock market's negative effects on personal spending. Even so, the possibility that consumers might pull back somewhat represents a risk to the recovery in the near term.

An Increase in Oil Prices. Oil prices trended upward in 2002, with the spot price of the benchmark West Texas Intermediate rising from about $20 per barrel at the start of the year to about $32 by year's end. Much of the increase was due to the recent turmoil in Venezuela. The general strike in that country began in the first week of December; since then, the WTI price has risen from around $27 dollars per barrel to about $33 dollars per barrel today. Concerns over the failure of the Iraqi regime to disarm in a credible way may have also been partly responsible for the increase in oil prices in 2002.

The effect of further oil price increases on the economy is difficult to determine. To be sure, there are "rules of thumb" that are often used to quantify the effect of export disruption on oil prices as well as the subsequent effect of higher oil prices on GDP. For disturbances of a few million barrels per day, a reduction of oil supplies of one million barrels per day typically raises prices by about 3 to 5 dollars per barrel. Additionally, a sustained increase in oil prices of $10 per barrel would be expected to lower GDP growth by about 0.25 to 0.50 percentage points after six months to one year. While these rules of thumb are useful guideposts, the actual effect to the economy could vary greatly from episode to episode. For example, a disruption of oil

REV_00157195

production that was that was expected to last indefinitely would affect prices differently from one that was likely to be unwound quickly. Moreover, if higher oil prices accompany a serious deterioration in consumer and business confidence, their ultimate effect on GDP could be much larger than a simple rule of thumb would suggest.

THE PRESIDENT'S JOBS AND GROWTH INITIATIVE

In light of the risks to the near-term outlook, the President has advanced a proposal to enhance long-term growth while providing near-term support against downside risks to the Nation's economic outlook. It is important to note that the recovery is not in immediate jeopardy. Private forecasters expect the recovery to gather momentum over the coming year, with both higher investment and improved job growth. Yet the presence of current risks suggests that insurance against unforeseen deterioration in economic activity is especially valuable. The best proposals are those that will raise the rate of long-term growth even if the recovery takes shape as private forecasters anticipate.

The President's proposal targets the areas that are most fundamental to the continued health of the current recovery – investment, consumption, and job growth. Specifically:

1. Accelerate to January 1, 2003 features of the 2001 tax cut currently scheduled to be phased-in: the reductions in marginal income tax rates, additional marriage penalty relief, a larger child credit, and a wider 10 percent income tax bracket.
2. Eliminate the double taxation of corporate income, whether this income is paid out to individuals as dividends or retained by the firm. Dividend income will no longer be taxable on the individual level, while a step-up in basis will be allowed in order to reflect the effect of retained earnings on share prices.
3. Increase to $75,000 the size of small business investment incentives – the amount that they may deduct from their taxable income in the year the investment takes place.
4. Provide $3.6 billion of funds to the states to fund Personal Reemployment Accounts. These accounts provide up to $3,000 to assist unemployed workers who are likely to need help in finding or training for a new job. If a new job is found quickly, the unspent balance in the account can be kept as a "reemployment bonus."

How the Proposals Will Help the Economy in the Near Term

REV_00157196

Supporting investment. To be effective in aiding the current recovery, any proposal must support investment. The President's proposals do this in three ways: ending the double taxation of corporate income, raising the expensing limits for small businesses, and lowering individual marginal tax rates (which are the relevant tax rates for small firms that pass through their income to their owners).

The most immediate effect of ending the double taxation of corporate income will be to lower the cost of capital faced by firms in equity markets. Under the double taxation inherent in the current law, investment projects funded with new equity capital face effective federal taxation of up to 60 percent. The President's proposals address this problem by removing the layer of tax at the individual level. Corporate income will be taxed once – and only once – which will make corporate equities more attractive to investors and lower the implicit cost that firms pay for equity-financed investment. As an example, the cost of capital for equity-financed equipment investment in the corporate sector would fall by more than 10 percent. For investment in structures – the weakest part of the investment outlook today – the decline in the cost of corporate equity capital would be more than one-third. For equipment investment, this decline in the cost of capital is equivalent to an investment tax credit of from four to seven percent.

In addition to the direct stimulative effects of lower costs of equity capital, ending the double taxation of corporate income will rationalize dividend payout policy among American companies. This will also aid investment, even in the short run. Currently, the tax code encourages firms to retain earnings and remit income to shareholders through share repurchases. This gives firms an incentive to inflate their reported earnings, so that their stock prices will rise. A main goal of the President's policy is to reduce this incentive by making tax policy neutral with respect to retaining earnings or paying dividends. Firms wanting to transmit their profitability to outside investors need only show them the money, in the form of dividend checks. With less uncertainty about the true profitability of firms, investment funds will flow more easily to firms with good investment prospects. This will not only make financial markets more efficient, but – like the reduction in the equity cost of capital – rational payout policy may also raise the total level of investment as well.

Other parts of the proposal support investment for smaller firms. Small firms will be allowed to expense up to $75,000 in new investment, which will lower the tax-adjusted cost of capital significantly. Eligibility for this immediate deduction would begin to phase out for small

REV_00157197

businesses with investment in excess of $325,000, which is increased from $200,000. (Both the expensing limit and the phase-out range will be indexed to inflation.) Additionally, the acceleration of the marginal tax rate reductions will help firms that pass-through earnings to their owners. According to the Treasury Department, more than 30 million individual returns listed small business income in 2000. Virtually all of these firms will enjoy marginal tax relief by accelerating the rate reductions which have already been approved by Congress.

Supporting consumption. Consumption accounts for about two-thirds of economic activity, and consumption spending must remain vigorous if the recovery is going to continue. The President's proposals will accelerate the tax relief that has already been enacted, which will put more money in the pockets of consumers this year – when it is needed most. The Treasury estimates that calendar-year tax liabilities will be reduced by almost $100 billion in 2003. Of this amount, about $29 billion will be due to the marginal rate reductions, while another $16 billion will result from the acceleration of the increase in the child credit. On a "cash-out-the-door" basis, the proposal as a whole will infuse around $52 billion into the economy this year, and tax savings for individual families will be substantial. A typical family of four with two earners making a combined $39,000 in income will receive a total of $1,100 in tax relief under the President's plan.

As with any attempt to increase economic activity with a tax cut, an important question is how much of the cut will actually be spent. An acceleration of the marginal tax reductions the 2001 tax cut is likely to result in significant spending increases, because the acceleration is done in the context of long-term tax relief. Delivering tax relief now, rather than in 2004 and 2006, sends a message that the government will meet its commitment to the American people to allow them to keep more of what they earn. As taxpayers realize that their long-term disposable income has risen, their spending plans will rise as well. By contrast, tax policy based on temporary changes to tax rates, or one-time tax rebates, has rarely worked as advertised. A temporary tax increase did not rein in the economy in 1968, a temporary tax cut did not stimulate the economy in 1975, and a temporary tax cut is not the right policy for 2003. Former Federal Reserve governor and CEA member Alan Blinder has written that in the year after enactment, a temporary tax cut has only about half the effect of a permanent tax cut.

REV_00157198

Supporting job growth. The best policies for improved job growth are those that insure the economy itself will continue to grow. Still, government policy can affect the rate at which unemployed workers find and train for the jobs that a growing economy provides. The Reemployment Accounts in the President's proposal build on the existing Workforce Development System and empower unemployed workers by giving them more flexibility and personal choice over their assistance. Unemployed workers have a wide range of needs and are best-suited to understand their particular circumstances. Some workers may want extensive retraining. Others may not require retraining, but may need help relocating or may need child care while looking for work. Economists have long recognized that except in rare circumstances, giving individuals choices over how to spend their money improves their welfare. In this case, giving unemployed workers a choice of whether to receive training or to receive alternative services for which they may have a greater need will not only improve the efficiency of government services (by matching unemployed workers with the services they need most), it will improve unemployed workers' welfare at the same time.

The potential to receive a reemployment bonus would provide eligible workers a greater incentive to find new employment. At various times from 1984 to 1989, four states—Illinois, New Jersey, Pennsylvania, and Washington—conducted controlled experiments to determine the effectiveness of providing reemployment bonuses to unemployed workers. In these experiments, a random sample of new UI claimants were told they would receive a cash bonus if they became reemployed quickly. The advantage of these experiments is that the effect of offering a reemployment bonus on the duration of unemployment and on earnings upon reemployment can be directly evaluated by comparing the experiences of UI claimants randomly chosen to be offered a reemployment bonus with those of UI claimants not chosen for the bonus (who received the regular state UI benefit).

Deleted: reemployment
Deleted: re-e

An evaluation by the Department of Labor of the reemployment bonus experiments conducted in the states of Washington, New Jersey, and Pennsylvania showed that a reemployment bonus of $300 to $1,000 motivated the recipients to become reemployed, reduced the duration of UI by almost a week, and resulted in new jobs comparable in earnings to those obtained by workers who were not eligible for the bonus and remained unemployed longer. Similarly, a study of the experiment conducted in Illinois—and published in a leading American

Deleted: reemployment
Deleted: re-e
Deleted: as little as
Deleted: previous employment.
Deleted: re-e
Deleted: the

REV_00157199

economics journal—found that a reemployment bonus of $500 reduced the duration of unemployment by more than a week and did not lead to lower earnings at the worker's next job. Therefore it is likely that giving unemployed workers the option of receiving the unspent balance in their Personal Reemployment Accounts will provide them an incentive to find a new job quickly, reducing the time spent unemployed, but will not result in workers taking lower paying jobs than they would get if they searched longer.

Deleted: re-e

Deleted: average number of weeks

Total effect on the economy. CEA estimates that the package will deliver 1.0 percentage point higher growth in 2003 (measured fourth-quarter 2002 to fourth-quarter 2003) and an additional 0.8 percentage point of growth in 2004. This increase in GDP will immediately put more Americans back to work, delivering about 510,000 jobs in 2003 alone. The next year, the plan will create about 891,000 more jobs. The plan works so well because it is focused on what the economy needs now; it encourages an investment rebound while supporting continuing growth in consumption.

How the Proposals Will Help the Economy in the Long Run

In the near term, the President's proposal insures that the recovery proceeds by supporting investment. In the long run, the higher investment delivered by the plan leads to higher productivity – the fundamental source of higher standards of living for American workers. Economists have long known that from the workers' point of view, the optimal rate of capital taxation is no taxation at all. The reason for this surprising result concerns the burden, or "incidence" of the capital tax. An investor with an extra dollar to spend can either use it to fund consumption today or save it to fund a larger amount of consumption later. His or her preferences for consuming now versus consuming later determine how much extra consumption he or she must enjoy in the future in order to resist consuming the dollar's worth of goods and services today. Lowering the capital tax means that investors receive much larger after-tax returns on their investments. This change in returns makes it more likely that households will defer consumption and invest, which will raise the amount of savings available to firms that want to borrow in financial markets. As firms invest more, the amount of capital that workers available to workers goes up, as does their productivity. In the end, higher productivity raises workers' wages and their standard of living. This line of reasoning shows that even though workers may not write a check to the IRS for dividend taxes, all of us as workers still pay part of

REV_00157200

the dividend tax in the form of lower wages, because the dividend tax reduces the amount of capital in the economy.

Workers enjoy long-run gains from the President's proposals in other ways as well. Marginal rate reductions and permanently higher expensing limits for small business will also raise investment, which in turn raises productivity and wages for the same reasons outlined above. The rationalization of dividend payout policy will improve corporate governance and place corporations on equal footing with non-corporate users of capital. Both of these developments will improve the efficiency of markets. (A 1992 Treasury Department report on the double taxation of corporate equity showed that the reallocation of capital toward more efficient uses would permanently raise economic well-being by the equivalent of $36 billion worth of consumption per year in today's dollars.) Additionally, ending the double tax in the way in which the President has suggested will increase economic efficiency by reducing the incentives for corporations to engage in tax sheltering activities, because only income on which corporate taxes have been paid can be transmitted to shareholders tax free.

Deleted: ¶

The Effect of the Proposals on National Saving and Budget Balance

Some critics of tax relief have argued that now is not the time to cut taxes, but to raise them. The view is that if the government adopts deficit reduction as its number one goal, growth will somehow follow. I disagree. To begin with, surpluses tend to follow growth, not the other way around. Raising taxes may lower the deficit, but this is not equivalent to spending restraint that limits the size of government in the economy and lets the private sector create jobs. Standard models of the economy suggest that an increase in debt of $200 billion dollars would raise long-term interest rates by 3 to 5 basis points. This modest decrease in interest rates must be set against the large costs that a current tax increase would entail – higher distortions on saving, risk-taking and entrepreneurship, as well as the loss of credibility that comes when the government reneges on its promise to tax relief.

In addition, tax relief of the size that the President has suggested in his January package does not significantly worsen the government's fiscal position. One way to judge the effect of tax proposals on the government's fiscal position is to view them in the context of a "fiscal anchor," such as the debt-to-GDP ratio, or the share of Federal outlays that go to service the government's debt. Chart 3 shows that even with the President's proposal, the debt-to-GDP ratio declines in

REV_00157201

the out-years of the budget window. Moreover, the effect on net interest on GDP is far less than a tenth of a percentage point in any year. In short, according to either of these potential fiscal anchors, the tax relief offered in the President's proposals remains sound policy.

CONCLUSION

Though the long-term fundamentals for the U.S. economy are strong, we still face a number of challenges. The recovery which began in the fourth quarter of 2001 must be maintained, and fiscal policy must remain on sound foundation. By focusing on the economy's most uncertain component – business investment – the President's proposals insure that the recovery will proceed. Although the proposals focus on the economy's near-term needs, they also promote stronger growth in the long term as well. In doing so, they insure that the standard of living enjoyed by American workers will continue to improve in the coming years.

Deleted: ¶
¶

REV_00157202

[Note: This document will also be submitted as testimony to the Senate Budget Committee, with the references to aging in the first and second paragraphs removed.]

Testimony
of
R. Glenn Hubbard
Chairman, Council of Economic Advisers

before the
Senate Special~~Joint Economic~~ Committee on Aging
Senate Dirksen Building, Room 628
~~U.S. Congress~~

~~Thursday, January 30, 2003~~
~~10:00 A.M.~~

Tuesday, February 4, 2003
10:00 a.m.

Formatted: None

Formatted: Centered

Formatted: Normal, Left

Chairman Craig, ~~Bennett and~~ Ranking Member Breaux, and members of the Committee, I _____, thank you for the opportunity to discuss how the President's Jobs and Growth Initiative will affect America's seniors. The central role of the package is to support near-term economic growth at the same time it improves the long-run productivity of the economy. This approach to fiscal policy is appropriate in the short run, because it focuses on what the economy needs now: faster investment and higher job growth for today's workers. But by raising long-run productivity, the package will help America's seniors as well. To start with, ending the double tax on corporate income will directly benefit seniors who receive dividend checks. About half of all dividend income goes to America's seniors, who often rely on those checks for a steady source of retirement income. But just as important as increasing after-tax dividend income is the effect that the President's package will have the overall productivity of the economy. Higher taxes on corporate capital act to reduce investment, which in turns lowers the amount of capital that workers can use at their jobs. With less capital, workers are less productive, so they are paid less. By ending the double tax on corporate income and permanently raising expensing limits for small firms, the President's package encourages investment. This starts the virtuous circle of

REV_00157203

higher investment and job growth today, with higher capital stocks, productivity, and wages tomorrow. In the end, the more productive economy will be better able to support the large number of workers who will soon retire.~~testify today on the economic situation facing the Nation. In many ways, the economy's recent behavior has been different than that of past recoveries in many ways. Typically, business investment declines most sharply in recessions and expands most briskly in recoveries. By contrast, the household and government sectors do not fluctuate as much. In 2002, however, the recovery from the economic contraction in the previous year took place amid continued weakness in business investment and strength in the household sector. Weakness in investment, in turn, has reduced job growth below what is normal for this stage of the expansion. In the near term, the central challenge for the economy will be to support rising investment, so that robust job growth can resume.~~

Because so many seniors depend on Social Security and Medicare, any discussion of how the proposal will affect seniors must also discuss how it affects the government's fiscal position. One of the most important lessons of the past several years is the importance of strong economic growth for the Federal government's books. Accordingly, the central role for fiscal policy is to craft a tax policy that reduces tax-based distortions that hinder growth, while at the same time limiting the growth of government outlays to a sustainable path. Given the importance of economic growth to the government's fiscal position, I will start my testimony today by reviewing the economic situation currently facing our Nation. I will then discuss the ways in which the President's proposals contribute to higher growth, specifically by targeting business spending on investment.

At the start, however, I would like to stress an important fact. While the last two years have presented many challenges to the American economy – the long decline in the stock market and the terrorist attacks and economic contraction in 2001 – our long-run economic outlook is as strong as its has been in a generation. As Chart 1 shows, the trend rate of U.S. labor productivity growth has risen from rate of 1.4 percent per year from 1973 to 1995 to 2.5 percent per year from 1995 to 2000. Because higher productivity growth is the foundation of higher incomes and living standards, the productivity acceleration is good news for all of us. What is more, over the last four quarters for which we have data, labor productivity has risen by 5.6 percent – the best four-quarter change in productivity since the early 1970s. The ongoing productivity revival speaks well for the long-term outlook. Additionally, inflation remains low and stable, which

REV_00157204

helps the economy interpret relative price signals efficiently and which gives policymakers the room to support near-term growth.

~~Over longer horizons, the fundamental strengths of the American economy are clear. Most importantly, the productivity acceleration that began in the late 1990s continued in 2002. (Chart 1.) Over the last four quarters for which we have data, labor productivity has risen by 5.6 percent—the best four-quarter change in productivity since the early 1970s. Because productivity growth is the key to growth in living standards, the ongoing productivity revival speaks well for the long-term outlook. Additionally, inflation remains low and stable, which helps the economy interpret relative price signals efficiently and which gives policymakers the room to support near-term growth.~~

~~GDP data for the fourth quarter of 2002, which was released earlier this morning, highlight the importance of supporting near-term growth with a fiscal policy that improves long-run outcomes as well. After rising at an annual rate of 3.4 percent during the first three quarters, GDP~~ **~~rose/declined~~** ~~at an annual rate of~~ **~~x.x percent~~** ~~in the fourth quarter. As was the case throughout 2002, much of the weakness in economic activity was reflected in weakness in business investment. The role of investment in the current recovery and the importance of productivity growth in the long run provide the context for the President's jobs and growth proposals, which I will discuss extensively today. In the short term, the focused, specific proposals that the President has outlined are the most appropriate way to insure that the investment recovery proceeds as expected. In the long run, the proposals will raise long-run living standards by increasing investment and the capital stock, which will make workers more productive and thereby raise their standard of living. Before I turn to those proposals, I will review the recent performance of the U.S. economy. Doing so will illustrate how the President's proposals support the immediate recovery as well as improve incentives for long-term growth.~~

Formatted: Indent: First line: 0"

THE ECONOMIC SITUATION IN 2002

In many ways, the economy's recent behavior has been different than that of past recoveries. Typically, business investment declines most sharply in recessions and expands most briskly in recoveries. By contrast, the household and government sectors do not fluctuate as much. In 2002, however, the recovery from the economic contraction of the previous year took place amid continued weakness in business investment and strength in the household sector.

REV_00157205

After rising at an annual rate of 3.4 percent during the first three quarters, GDP rose at an annual rate of 0.7 percent in the fourth quarter. Business fixed investment rose at an annual rate of 1.5 percent – the first quarterly increase since mid-2000 – but much larger rates of increase will be needed for the recovery to be fully established.

Household sector. ~~*Household sector.* The household sector was a robust and consistent source of final demand in 2002.~~ In large part, the strength of the household sector last year stemmed from the aggressive monetary easing by the Federal Reserve in 2001. Over the course of that year, the Federal Reserve cut its target federal funds rate eleven times, lowering the target from 6.5 percent to 1.75 percent. Given the well-known lags in monetary policy, these reductions continued to provide stimulus throughout 2002. Lower interest rates, for example, allowed motor vehicle companies to offer aggressive financing incentives, which have supported auto sales through much of the year.

Additionally, the substantial cuts in the target federal funds rate by the Federal Reserve have translated into lower mortgage interest rates, supporting housing starts and mortgage refinancing. In the first three quarters of 2002, mortgage refinancing alone injected more than $100 billion into home owners' pocketbooks. After they paid down second mortgages and outstanding home equity loans, they had more than $59 billion left over to spend in other ways. Survey evidence indicates that about half of this $59 billion was probably used for consumption and home improvements – two components of aggregate demand – which would have raised nominal GDP by about 0.4 percent in the first three quarters of 2002. All in all, the interest rates cuts were helpful in maintaining the recovery last year. The most recent rate reduction of 50 basis points undertaken on November 6, 2002, will provide further support for the recovery in 2003.

Fiscal policy has also been an important force behind robust consumption in 2002. In addition to enhancing long-term economic efficiency, the tax cut proposed by the President and passed by Congress in 2001 provided valuable support for disposable income, which has been far more robust than is typical at this stage of a recovery. The upshot has been solid growth in both personal consumption expenditures and residential investment that has supported the recovery so far.

Business investment. In contrast to positive impetus from the household sector, business investment has been the economy's key weak spot. As I noted earlier, during the current business

REV_00157206

cycle, the decline in business investment has been sharper, and the recovery more modest, than an average postwar business cycle. On average, the peak-to-trough decline in nonresidential investment in the typical post-war recession is 6.2 percent. Assuming that the trough in the most recent recession occurred during the fourth quarter of 2001 – a decision that ultimately resides with the National Bureau of Economic Research – the corresponding decline in the most recent recession was 8 percent. Comparing the typical pace of recovery, during the first three quarters of this recovery, business investment fell 2.0 percent further, compared to a typical increase of roughly 2.7 percent. ~~(~~Chart 2 displays the current weakness investment graphically, by comparing it to the typical experience of recoveries since 1960. Simply put, the recovery in investment that one would expect at this stage of the business cycle has yet to materialize~~)~~.

The current weakness in investment results is linked to adverse developments in equity markets during the past three years. Indeed, both stem in large part from the same underlying shock – a scaling back of expected profit growth. Evidence that earnings growth was adjusted downward comes from surveys of Wall Street analysts who track individual firms. According to one such survey, five-year-ahead earnings growth forecasts for the firms in the S&P 500 fell from a peak of more than 18 percent per year in mid-2000 to slightly more than 13 percent per year by September 2002. Another factor in lowering both equity values and business investment is the current risk climate. Higher levels of uncertainty in the economy and/or higher aversion to risk on the part of investors reduce the willingness of investors to hold corporate equities and lowers stock prices and investment. One reflection of the risk outlook is the spread between yields on corporate bonds and U.S. Treasury securities, because corporate bonds are subject to default risk while U.S. Treasuries are not. The widening gap between yields for corporate and Treasury securities after 2000 coincided closely with the decline in the stock market during this period. Spreads continued to widen sharply in 2002, reaching near-record levels, indicating that risk aversion played a key role in markets in the months following September 11, 2001 as well.

Formatted: Normal, Indent: First line: 0.5", Line spacing: 1.5 lines

Inventory investment contributed strongly to the economic slowdown in 2001, but by early in 2002, the pace of inventory decline slowed, providing a significant boost to production. In some sectors of the economy, evidence suggests that inventory restocking is underway. Over the next several quarters, as inventory and sales growth come together, inventory investment's role in real GDP growth should provide upward momentum to the recovery.

REV_00157207

Government purchases. The war on terror continued to exert upward pressure on Federal government purchases in 2002. In late March, for example, the President requested that Congress provide an additional appropriation of $27.1 billion, primarily to fund the effort in the war against terror. More than half of this amount was allocated to the activities of the Defense Department and various intelligence agencies. Most of the rest was needed for homeland security (mainly for the new Transportation Security Administration) and for the emergency response and recovery efforts in New York City. Though most of this spending was required for one-time outlays only, it nevertheless contributed to the large 6.4 percent annual rate of increase in real Federal government purchases in the first three quarters of 2002. State and local government purchases rose by a more moderate 1.7 percent annual rate during the same period.

External sector. While the United States economy remained below potential in 2002, its growth rate still outpaced that of many other industrialized countries. Growth in Canada – America's largest trading partner – was a healthy~~robust~~ 4.0 percent in during the four quarters ending in the third quarter of 2002, but growth in many other countries, such as Mexico, ~~the United Kingdom,~~ France, Japan, and Italy lagged behind. Low demand for U.S. exports combined with the emerging recovery in the United States (and the subsequent increase in the U.S. demand for imports) caused the U.S. trade deficit to reach record levels in 2002.

The widening trade deficit placed additional downward pressure on the U.S. current account, which reached almost five percent of GDP in the middle of 2002. As a matter of accounting, the current account is simply the difference between net domestic investment and net domestic saving. Several factors can raise the current account deficit, including higher investment in the within our borders on the part of foreign investors, or lower savings rates on the part of U.S. citizens. In light of the large number of trade-related and financial forces operating on the current account, it is impossible to label a current account deficit as either "good" or "bad." Indeed, one factor contributing to high U.S. investment relative to savings is the rapid increase in U.S. productivity relative to many other major countries, which makes the United States a good place to invest. Because productivity growth is ultimately responsible for rising living standards, the current account deficit reflects at least in part good news about the American economy. Even so, a current account deficit indicates that the United States is consuming and investing more than it is producing, and the U.S. current account has typically been in deficit for the past two decades. As a result, the net international investment position in

REV_00157208

the United States has moved from an accumulated surplus of slightly less than 10 percent of GDP in the late 1970s to a deficit of almost 20 percent of GDP in 2001.

Recent increases in the current account deficit have led to some concerns that continued current account deficits (and the subsequent increases in international debt that would result) could not be sustained. Because debt has to be serviced by the repatriation of capital income abroad, the ratio of a country's debt to its income must stabilize at some point. Yet the U.S. is currently far from the point at which servicing our international debt becomes burdensome. In fact, until 2002, more investment income was generated by U.S. investment in foreign countries than was generated by foreign investments inside the United States.

In the end, the key determinant of the sustainability of the U.S. international debt position is continued confidence in the economic policies of the United States. As long as the United States pursues its current market-oriented, pro-growth policies, then the current account deficit will not represent an impediment to continued economic growth.

Labor market.—~~Most major labor market indicators showed little progress over the course of the year.~~ The unemployment rate hovered between 5.5 and 6.0 percent throughout the year after rising 1.8 percentage points in 2001. Nonfarm payroll employment in 2002 was similarly weak, with 181,000 jobs lost in 2002, compared with 1.4 million jobs lost the previous year.

As in past business cycles, declines in manufacturing employment have been especially pronounced. Factory employment fell 592,000 in 2002, following a decline of 1.3 million in 2001 and about 100,000 in 2000. Another feature of previous business cycles that has recurred in the past two years is the increase in the number of workers who report a long unemployment spell. Like the overall unemployment rate, the number of workers unemployed for 26 weeks or more rose in the 2001 and remained high in 2002. Yet the pattern of long-term unemployment observed in 2001 and 2002 was similar to patterns traced out in previous postwar fluctuations. Like the overall unemployment rate, the level of long-term unemployment remains moderate relative to past business cycles.

RISKS TO THE OUTLOOK

REV_00157209

The slowing of GDP growth and weakness in labor marketsjob creation in the fourth quarter of 2002 highlight the risks the recovery currently faces. In order of importance, these risks include:

A Delayed Investment Recovery. The key to transforming the current recovery into sustained robust growth is an increase in the pace of business fixed investment. Only with robust business investment will labor markets improve. A recovery in investment is a key factor in creating more jobs because when companies build new factories, they hire directly and boost employment in capital-goods industries.

While private forecasters expect business investment spending to recover in 2003, there are several potential sources of a delay in an investment recovery. One risk is weaker profit growth. Due to a sharp increase in the fourth quarter of 2001, corporate profits have rebounded from recessionary lows., and profit growth was more than 12 percent in the four quarters ending in the third quarter of 2002. (This is the most recent quarter for which we have data on corporate profits.) Yet the recovery in profits has been uneven. In the first three quarters of 2002, profits as a share of income averaged 7.5 percent. While this represents a recovery from the 7.2 percent share in 2001, it is still below shares of 8.7 percent in 1999 and 7.9 percent in 2000. Moreover, on a quarterly basis, corporate profits declined in each of the first three quarters of 2002. Because current profits are an indicator of future profits, firms may interpret recent weakness in profit growth as an indication of reduced investment opportunities. Moreover, the decline in profits may have an even more negative impact on investment at firms that depend on retained earnings (rather than external capital markets) to fund investment projects.

A second potential setback to the investment recovery reflects an increase in the level of uncertainty about the course of the near term events or higher levels of risk aversion on the part of investors. Higher levels of uncertainty in the economy can also make firms delay new projects until the uncertainty is resolved. This delay is translated into a higher expected rate of return in order for new projects to be undertaken, which reduces the level of investment that is undertaken in the near term. Additionally, higher levels of risk aversion on the part of investors can reduce investment by making it harder for firms to raise external funds.

A Decline in Consumer Spending. As mentioned, the The recent business cycle stands apart from the typical postwar recession in that household income growth has been stable while stock price declines have eroded household wealth. In the typical recession, incomes and net

REV_00157210

worth move together, but in the most recent recession, net worth fell dramatically relative to income. Yet in contrast to the negative effect of lower equity values on business investment, consumption has remained remarkably robust, even ~~has~~ household net worth has suffered. The contrast in the pattern of spending mirrors a reversal of conventional income and wealth dynamics. In the current cycle personal income – especially disposable personal income, supported by the tax cuts of 2001 – has held up quite well, even as household balance sheet positions have weakened.

The deterioration in household wealth over the past three years raises the possibility that consumers will increase their active saving out of disposable income in order to restore at least some of their lost wealth. An increase in precautionary saving of this type could have a substantial effect on yearly consumption. From the first quarter of 2000 to the last quarter of 2002, households lost nearly $7 trillion in equity wealth. A rough rule of thumb suggested by aggregate data on wealth and consumption is that yearly consumption declines by 3 to 5 cents for every dollar of lost equity wealth. Based on the midpoint of this range, the $7 trillion reduction in equity wealth since early 2000 would be expected to eventually lower yearly consumption by about $280 billion per year. For comparison, a reduction of this amount would represent nearly 4 percent of consumption and almost 3 percent of GDP in 2002.

Empirical findings also suggest that response of consumption to stock market wealth is drawn out over time, a fact which has crucial implications for the precise path of consumption over the next few years. Because the appreciation of equity prices before 2000 would be expected to increase consumption, some of the implied $280 billion drop in consumption after 2000 may simply represent a "cancellation" of an implied consumption increase that had not yet taken place. Moreover, positive influences from the other determinants of consumption (such as current income and the continuing appreciation in housing wealth) are likely to offset the stock market's negative effects on personal spending. Even so, the possibility that consumers might pull back somewhat represents a risk to the recovery in the near term.

An Increase in Oil Prices. Oil prices trended upward in 2002, with the spot price of the benchmark West Texas Intermediate rising from about $20 per barrel at the start of the year to about $32 by year's end. Much of the increase was due to the recent turmoil in Venezuela. The general strike in that country began in the first week of December; since then, the WTI price has risen from around $27 dollars per barrel to about $33~~35~~ dollars per barrel today.~~.~~ Concerns over

REV_00157211

the failure of the Iraqi regime to disarm in a credible way may have also been partly responsible for the increase in oil prices in 2002.

The effect of further oil price increases on the economy is difficult to determine. To be sure, there are "rules of thumb" that are often used to quantify the effect of export disruption on oil prices as well as the subsequent effect of higher oil prices on GDP. For disturbances of a few million barrels per day, a reduction of oil supplies of one million barrels per day typically raises prices by about 3 to 5 dollars per barrel. Additionally, a sustained increase in oil prices of $10 per barrel would be expected to lower GDP growth by about 0.25 to 0.50 percentage points after six months to one year. While these rules of thumb are useful guideposts, the actual effect to the economy could vary greatly from episode to episode. For example, a disruption of oil production that was that was expected to last indefinitely would affect prices differently from one that was likely to be unwound quickly. Moreover, if higher oil prices accompany a serious deterioration in consumer and business confidence, their ultimate effect on GDP could be much larger than a simple rule of thumb would suggest.

THE PRESIDENT'S JOBS AND GROWTH INITIATIVE

In light of the risks to the near-term outlook, the President has advanced a proposal to enhance long-term growth while providing near-term support against downside risks to the Nation's economic outlook. It is important to note that the recovery is not in immediate jeopardy. Private forecasters expect the recovery to gather momentum over the coming year, with both higher investment and improved job growth. Yet the presence of current risks suggests that insurance against unforeseen deterioration in economic activity is especially valuable. The best proposals are those that will raise the rate of long-term growth even if the recovery takes shape as private forecasters anticipate.

The President's proposal targets the areas that are most fundamental to the continued health of the current recovery – investment, consumption, and job growth. Specifically:

1. Accelerate to January 1, 2003 features of the 2001 tax cut currently scheduled to be phased-in: the reductions in marginal income tax rates, additional marriage penalty relief, a larger child credit, and a wider 10 percent income tax bracket.
2. Eliminate the double taxation of corporate income, whether this income is paid out to individuals as dividends or retained by the firm. Dividend income will no longer be

REV_00157212

taxable on the individual level, while a step-up in basis will be allowed in order to reflect the effect of retained earnings on share prices.

3. Increase to $75,000 the size of small business investment incentives – the amount that they may deduct from their taxable income in the year the investment takes place.
4. Provide $3.6 billion of funds to the states to fund Personal Reemployment Accounts. These accounts provide up to $3,000 to assist unemployed workers who are likely to need help in finding or training for a new job. If a new job is found quickly, the unspent balance in the account can be kept as a "reemployment bonus."

How the Proposals Will Help the Economy in the Near Term

Supporting investment. To be effective in aiding the current recovery, any proposal must support investment. The President's proposals do this in three ways: ending the double taxation of corporate income, raising the expensing limits for small businesses, and lowering individual marginal tax rates (which are the relevant tax rates for small firms that pass through their income to their owners).

The most immediate effect of ending the double taxation of corporate income will be to lower the cost of capital faced by firms in equity markets. Under the double taxation inherent in the current law, investment projects funded with new equity capital face effective federal taxation of up to 60 percent. The President's proposals address this problem by removing the layer of tax at the individual level. Corporate income will be taxed once – and only once – which will make corporate equities more attractive to investors and lower the implicit cost that firms pay for equity-financed investment. As an example, the cost of capital for equity-financed equipment investment in the corporate sector would fall by more than~~about~~ 10 percent. For investment in structures – the weakest part of the investment outlook today – the decline in the cost of corporate equity capital would be more than one-third. For equipment investment, this decline in the cost of capital is equivalent to an investment tax credit of from four to seven~~29~~ percent.

In addition to the direct stimulative effects of lower costs of equity capital, ending the double taxation of corporate income will rationalize dividend payout policy among American companies. This will also aid investment, even in the short run. Currently, the tax code encourages firms to retain earnings and remit income to shareholders through share repurchases.

REV_00157213

This gives firms an incentive to inflate their reported earnings, so that their stock prices will rise. A main goal of the President's policy is to reduce this incentive by making tax policy neutral with respect to retaining earnings or paying dividends. Firms wanting to transmit their profitability to outside investors need only show them the money, in the form of dividend checks. With less uncertainty about the true profitability of firms, investment funds will flow more easily to firms with good investment prospects. This will not only make financial markets more efficient, but – like the reduction in the equity cost of capital – rational payout policy may also raise the total level of investment as well.

~~The proposal to eliminate the double taxation of corporate income supports investment by firms that are large enough to have chosen the corporate form of organization.~~ Other parts of the proposal support investment for smaller firms. Small firms will be allowed to expense up to $75,000 in new investment, which will lower the tax-adjusted cost of capital significantly. Eligibility~~The amount of investment qualifying~~ for this immediate deduction would begin to phase out for small businesses with investment in excess of $325,000, which is increased from $200,000. (Both the expensing limit and the phase-out range ~~that determines the size of qualifying firms~~ will be indexed to inflation.) Additionally, the acceleration of the marginal tax rate reductions will help firms that pass-through earnings to their owners. According to the Treasury Department, more than 30 million individual returns listed small business income in 2000. Virtually all of these firms will enjoy marginal tax relief by accelerating the rate reductions which have already been approved by Congress.

Supporting consumption. Consumption accounts for about two-thirds of economic activity, and consumption spending must remain vigorous if the recovery is going to continue. The President's proposals will accelerate the tax relief that has already been enacted, which will put more money in the pockets of consumers this year – when it is needed most. The Treasury estimates that calendar-year tax liabilities will be reduced by almost $100 billion in 2003. Of this amount, about $29 billion will be due to the marginal rate reductions, while another $16 billion will result from the acceleration of the increase in the child credit. On a "cash-out-the-door" basis, the proposal as a whole will infuse around $52~~58~~ billion into the economy this year, and tax savings for individual families will be substantial. A typical family of four with two earners making a combined $39,000 in income will receive a total of $1,100 in tax relief under the President's plan.

REV_00157214

As with any attempt to increase economic activity with a tax cut, an important question is how much of the cut will actually be spent. An acceleration of the marginal tax reductions the 2001 tax cut is likely to result in significant spending increases, because the acceleration is done in the context of long-term tax relief. Delivering tax relief now, rather than in 2004 and 2006, sends a message that the government will meet its commitment to the American people to allow them to keep more of what they earn. As taxpayers realize that their long-term disposable income has risen, their spending plans will rise as well. By contrast, tax policy based on temporary changes to tax rates, or one-time tax rebates, has rarely worked as advertised. A temporary tax increase did not rein~~reign~~ in the economy in 1968, a temporary tax cut did not stimulate the economy in 1975, and a temporary tax cut is not the right policy for 2003. Former Federal Reserve governor and CEA member Alan Blinder has written that in the year after enactment, a temporary tax cut has only about half the effect of a permanent tax cut.

Supporting job growth. The best policies for improved job growth are those that insure the economy itself will continue to grow. Still, government policy can affect the rate at which unemployed workers find and train for the jobs that a growing economy provides. The Reemployment Accounts in the President's proposal build on the existing Workforce Development System and empower unemployed workers by giving them more flexibility and personal choice over their assistance. Unemployed workers have a wide range of needs and are best-suited to understand their particular circumstances. Some workers may want extensive retraining. Others may not require retraining, but may need help relocating or may need child care while looking for~~in order to return to~~ work. Economists have long recognized that except in rare circumstances, giving individuals choices over how to spend their money improves their welfare. In this case, giving unemployed workers a choice of whether to receive training or to receive alternative services for which they may have a greater need will not only improve the efficiency of government services (by matching unemployed workers with the services they need most), it will improve unemployed workers' welfare at the same time.

The potential to receive a reemployment bonus would provide eligible workers ~~reemployment~~re-ea greater incentive to find new employment. At various times from 1984 to 1989, four states—Illinois, New Jersey, Pennsylvania, and Washington—conducted controlled experiments to determine the effectiveness of providing reemployment bonuses to unemployed workers. In these experiments, a random sample of new UI claimants were told they would

REV_00157215

receive a cash bonus if they became reemployed quickly. The advantage of these experiments is that the effect of offering a reemployment bonus on the duration of unemployment and on earnings upon reemployment can be directly evaluated by comparing the experiences of UI claimants randomly chosen to be offered a reemployment bonus with those of UI claimants not chosen for the bonus (who received the regular state UI benefit).

An evaluation by the Department of Labor of the reemployment bonus experiments conducted in the states of Washington, New Jersey, and Pennsylvania showed that a ~~reemployment~~re-ereemployment bonus of ~~as little as~~ $300 to $1,000 motivated the recipients to become reemployed, reduced the duration of UI by almost a week, and resulted in new jobs comparable in earnings to those obtained by workers who were not eligible for the bonus and remained unemployed longer. ~~previous employment.~~ Similarly, a study of the ~~re-e~~experiment conducted in Illinois—and published in ~~the~~ a leading American economics journal—found that a ~~re-e~~reemployment bonus of $500 reduced the duration ~~average number of weeks~~ of unemployment by more than a week and did not lead to lower earnings at the worker's next job. Therefore it is likely that giving unemployed workers the option of receiving the unspent balance in their Personal Reemployment Accounts will provide them an incentive to find a new job quickly, reducing the time spent unemployed, but will not result in workers taking lower paying jobs than they would get if they searched longer.

Total effect on the economy. CEA estimates that the package will deliver 1.0 percentage point higher growth in 2003 (measured fourth-quarter 2002 to fourth-quarter 2003) and an additional 0.8 percentage point of growth in 2004. This increase in GDP will immediately put more Americans back to work, delivering about 510,000 jobs in 2003 alone. The next year, the plan will create about 891,000 more jobs. The plan works so well because it is focused on what the economy needs now; it encourages an investment rebound while supporting continuing growth in consumption.

Formatted: Font: Bold, Not Italic

How the Proposals Will Help the Economy in the Long Run

In the near term, the President's proposal insures that the recovery proceeds by supporting investment. In the long run, the higher investment delivered by the plan leads to higher productivity – the fundamental source of higher standards of living for American workers. Economists have long known that from the workers' ~~workers~~ point of view, the optimal rate of

REV_00157216

capital taxation is no taxation at all. The reason for this surprising result concerns the burden, or "incidence" of the capital tax. An investor with an extra dollar to spend can either use it to fund consumption today or save it to fund a larger amount of consumption later. His or her preferences for consuming now versus consuming later determine how much extra consumption he or she must enjoy in the future in order to resist consuming the dollar's worth of goods and services today. Lowering the capital tax means that investors receive much larger after-tax returns on their investments. This change in returns makes it more likely that households will defer consumption and invest, which will raise the amount of savings available to firms that want to borrow in financial markets. As firms invest more, the amount of capital that workers available to workers goes up, as does their productivity. In the end, higher productivity raises workers' wages and their standard of living. This line of reasoning shows that even though workers ~~workers'~~ may not write a check to the IRS for dividend taxes, all of us as workers still pay part of the dividend tax in the form of lower wages, because the dividend tax reduces the amount of capital in the economy.

Workers enjoy long-run gains from the President's proposals in other ways as well. Marginal rate reductions and permanently higher expensing limits for small business will also raise investment, which in turn raises productivity and wages for the same reasons outlined above. The rationalization of dividend payout policy will improve corporate governance and place corporations on equal footing with non-corporate users of capital. Both of these developments will improve the efficiency of markets. (A 1992 Treasury Department report on the double taxation of corporate equity showed that the reallocation of capital toward more efficient uses would permanently raise economic well-being by the equivalent of $36 billion worth of consumption per year in today's dollars.) ~~forever.)~~ Additionally, ending the double tax in the way in which the President has suggested will increase economic efficiency by reducing~~reduce~~ the incentives for corporations~~firms~~ to engage in tax sheltering activities~~shelter income~~, because only income on which corporate taxes have been paid can be transmitted to shareholders tax free.

The Effect of the Proposals on National Saving and Budget Balance

REV_00157217

Some critics ~~*Effect on national saving and budget balance.* Critics~~ of tax relief have argued that now is not the time to cut taxes, but to raise them. The view is that if the government adopts deficit reduction as its number one goal, growth will somehow follow. I disagree. To begin with, surpluses tend to follow growth, not the other way around. Raising taxes may lower the deficit, but this is not equivalent to spending restraint that limits the size of government in the economy and lets the private sector create jobs. Standard models of the economy suggest that an increase in debt of $200 billion dollars would raise long-term interest rates by 3 to 5 basis points. This modest decrease in interest rates must be set against the large costs that a current tax increase would entail – higher distortions on saving, risk-taking and entrepreneurship, as well as the loss of credibility that comes when the government reneges on its promise to tax relief.

In addition, ~~Moreover,~~ tax relief of the size that the President has suggested in his January package does not significantly worsen the government's fiscal position. One way to judge the effect of tax proposals on the government's fiscal position is to view them in the context of a "fiscal anchor," such as the debt-to-GDP ratio, or the share of Federal outlays that go to service the government's debt. Chart 3 shows that even with the President's proposal, the debt-to-GDP ratio declines in the out-years of the budget window. Moreover, the effect on net interest on GDP is far less than a tenth of a percentage point in any year. In short, according to~~By~~ either of these potential fiscal anchors~~measures~~, the tax relief offered in the President's proposals remains sound policy. ~~For example, the proposals would raise the debt-to-GDP ratio by less than one percentage point in the year of adoption, and the debt-to-GDP ratio would decline in the out-years of the budget window.~~

Formatted: Indent: First line: 0.5"

CONCLUSION

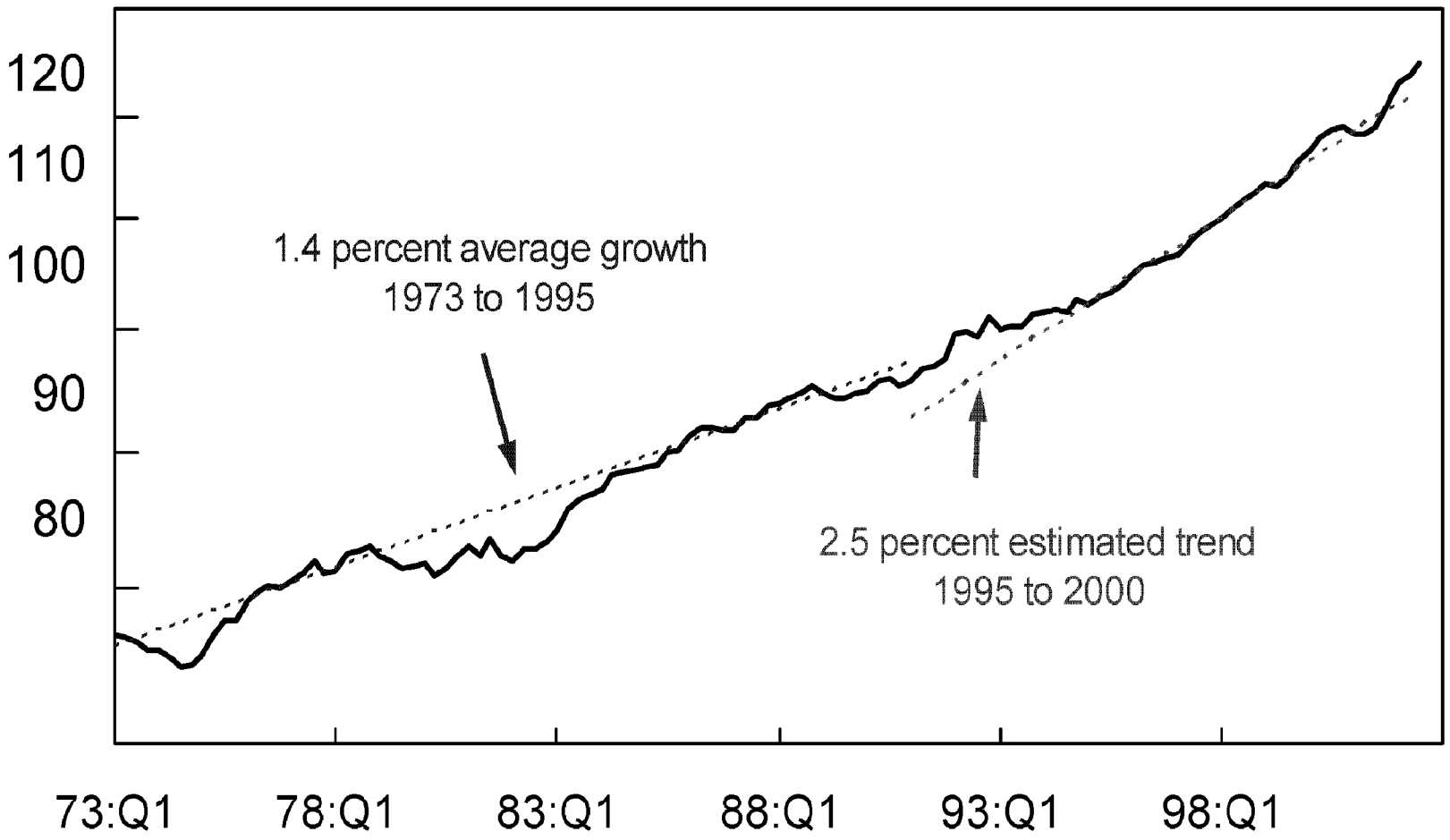
Though the long-term fundamentals for the U.S. economy are strong, we still face a number of challenges. The recovery which began in the fourth quarter of 2001 must be maintained, and fiscal policy must remain on sound foundation. By focusing on the economy's most uncertain component – business investment – the President's proposals insure that the recovery will proceed. Although~~(Chart 3.) Moreover, by raising investment in the long run,~~ the proposals focus on the economy's near-term needs, they also promote stronger growth in the long term as well. In doing so, they insure that the standard of living enjoyed by American workers will continue to improve~~grow~~ in the coming years.

REV_00157218

REV_00157219

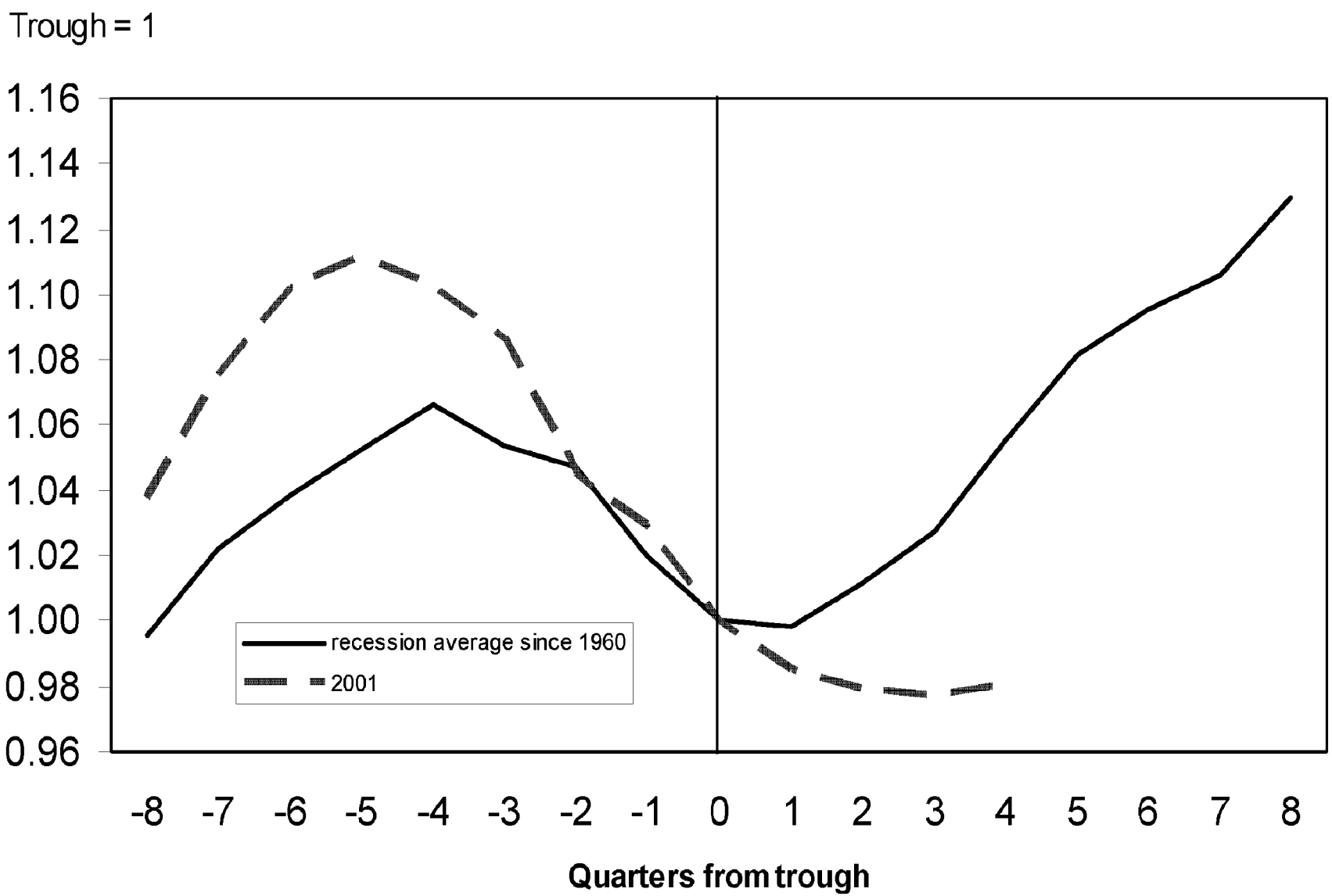
Chart 1: Labor Productivity (Nonfarm Business Sector)

Index, 1992 = 100 (ratio scale)



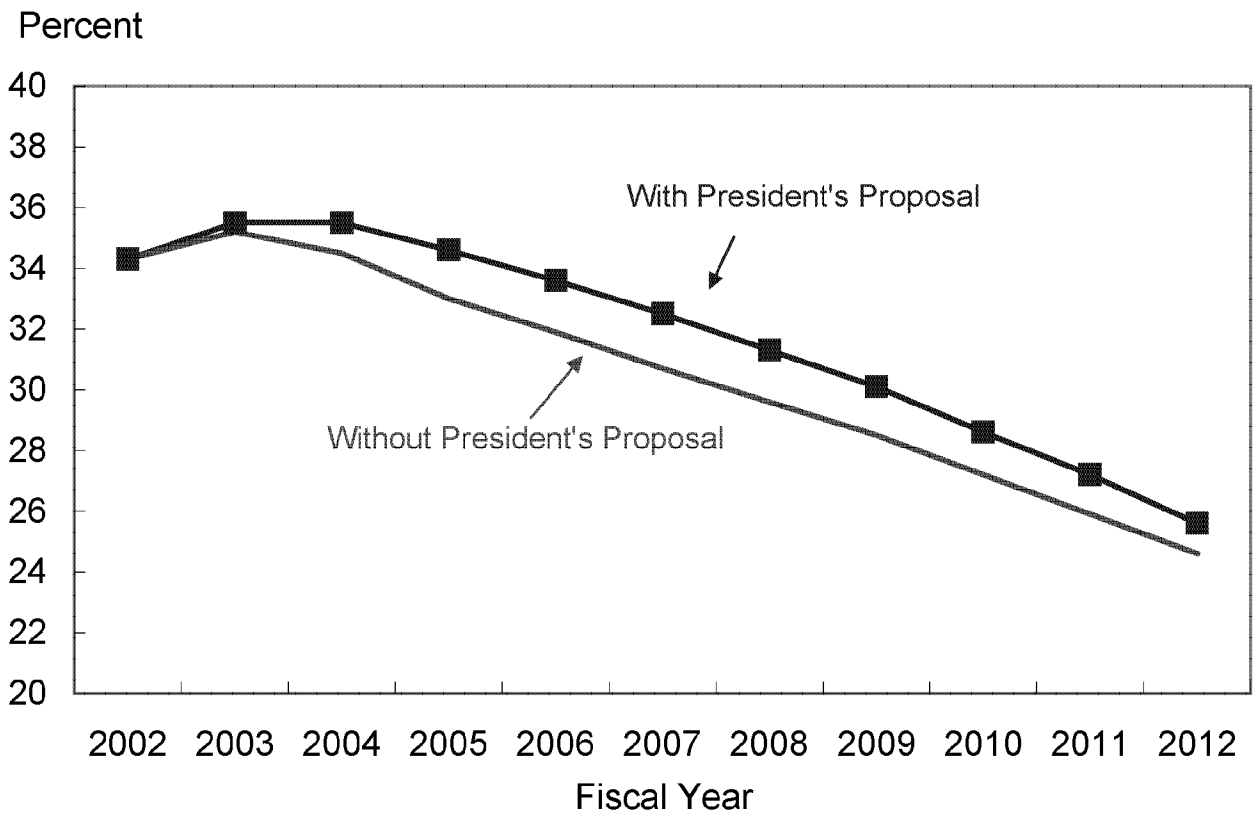
REV_00157220

Chart 2: Real Nonresidential Fixed Investment



REV_00157221

Chart 3: Ratio of Debt Held by the Public to GDP



From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@Exchange@EOP [WHO] <David G. Leitch>;Alberto R. Gonzales/WHO/EOP@Exchange@EOP [WHO] <Alberto R. Gonzales>
Sent: 1/31/2003 2:21:38 PM
Subject: : Focus on Family

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:31-JAN-2003 19:21:38.00
SUBJECT:: Focus on Family
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

First item in Focus on the Family's Daily Update is Estrada; urges people to call Senate.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 01/31/2003 07:24 PM ----------

Matthew E. Smith

01/31/2003 07:15:42 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Lezlee J. Westine/WHO/EOP@EOP, Tim Goeglein/WHO/EOP
cc:
Subject: Daily Update - January 31, 2003

Focus on the Family 1st Item
---------- Forwarded by Matthew E. Smith/WHO/EOP on 01/31/2003 07:19 PM ----------

Citizen Link <CitizenLink@FOTF.ORG>
01/31/2003 06:20:33 PM
Please respond to Citizen Link <citizenlink@FOTF.ORG>
Record Type: Record

To: LinkMembers@LISTSERV.FAMILY.ORG
cc:
Subject: Daily Update - January 31, 2003

CITIZENLINK
January 31, 2003

ESTRADA HEADED TO FULL SENATE VOTE:
Your help is needed to overcome the heavy opposition judicial nominee Miguel Estrada faces.

http://www.family.org/cforum/fnif/news/a0024368.html

FREE WEB SITE PORN FOR U.S. TROOPS?
A pornographer has created a Web site where U.S. soldiers can order free porn movies.
http://www.family.org/cforum/fnif/news/a0024366.html

CONSERVATIVES MEET AT D.C. CONFERENCE:
The Conservative Political Action Conference brings together conservative grassroots organizations.
http://www.family.org/cforum/fnif/news/a0024361.html

EVANGELICALS HELP FIGHT AIDS IN AFRICA:
Evangelicals helping to fight AIDS in Africa get some credit from the Bush administration.
http://www.family.org/cforum/fnif/news/a0024360.html

NEWS BRIEFS:
S.C. governor will honor Reservist duty if called, Head Start gets a congressional push -- and more.
(See "News Briefs" Below)

DARWINISM TO BE QUESTIONED IN NEBRASKA:
Many scientists think Darwin didn't get it right, and now that fact can be taught in Nebraska classrooms.
http://www.family.org/cforum/fnif/statenews/a0024349.cfm

Encourage a friend to sign up for this e-mail:
http://www.family.org/cforum/clinksignup.cfm

To visit our Web site:
http://www.citizenlink.org

To contact your congressman or senators:
http://www.family.org/citizenaction

++
EDITOR'S PICKS: Tools for Engaging Your World

"Creative Correction: Extraordinary Ideas for Everyday Discipline"
By Lisa Whelchel
http://www.family.org/resources/itempg.cfm?itemid=1800&refcd=CE03ACZL&tvar=no

When your children aren't behaving, getting frustrated seems the next most logical thing to do. Don't let yourself! Instead, get creative with "Creative Correction"! Sometimes the tried methods aren't so true. This book gives great tips for practical alternatives that will be more rewarding -- for both you and your children!
Item Code: BL131
++

==========
FAMILY NEWS IN FOCUS STORIES

Estrada Headed to Full Senate Vote
By David Brody, Washington, D.C., correspondent

SUMMARY: Miguel Estrada has finally been voted out of the Senate Judiciary Committee.

It took 631 days, but Miguel Estrada was finally favorably voted out of the Senate Judiciary Committee on Thursday.

Estrada, the controversial judicial nominee who came under harsh criticism from liberal senators for his conservative views, was approved along party lines -- 10 Republicans for him, nine Democrats against.

Sen. Charles Schumer, D-N.Y., said Estrada never shared his views on controversial issues.

"We know Mr. Estrada has thoughts on these subjects. He just refused to share them. I don't think that's enough, Mr. Chairman," Schumer said.

But Committee Chairman Orrin Hatch, R-Utah, wouldn't have any of that.

"Some of these groups were unable to find anything bad about him, which led them simply to resort to their fall-back line that we do not know enough about Mr. Estrada to confirm him. Well, that's frankly silly," Hatch said. "The fact is, we know as much about him as we've ever known about any nominee."

The committee is known for its divisive partisanship. Tom Jipping, senior fellow of legal studies for Concerned Women for America, said the voting outcome says a lot about the liberals.

"I think it was tragic that not a single Democrat could put aside ideology and partisan politics to support someone identical in experience and qualifications to many nominees that they have voted for in the past," Jipping said.

The Estrada saga now moves to the Senate floor, where he will likely face continued opposition from Democrats. Some liberals have threatened to filibuster the nomination. The only way Republicans can halt that is to have 60 senators vote to stop the delay tactic.

It's unclear if Republicans have the votes to stop a filibuster. There are 51 Republicans, so they would need nine Democrats to join them to make 60. But it's not a good sign that every Democrat voted against Estrada in committee.

TAKE ACTION:
Democrats strongly oppose this nomination, and many say it's based on the amount of calls and e-mails they have received against the nomination of Miguel Estrada. A full Senate vote on Estrada could happen as early as Tuesday. Please contact your two senators and urge them to vote in favor of the nomination of Miguel Estrada, and also urge them to vote against any filibuster attempts. Call the Capitol switchboard at 202-224-3121, or for contact information on your senators, please visit our Legislative Action Center at: http://www.family.org/citizenaction

---

Free Web site Porn for U.S. Troops?
By Bob Kellogg, correspondent

SUMMARY: A pornographer has created a Web site where U.S. soldiers can order free porn movies.

A potential war with Iraq and the ongoing battle against terrorism concerns many. However, one pornographer sees the troop deployment as a golden opportunity.

Aaron Gordon, of DirectLink Media Group, has created a Web site where any soldier can get free porn movies if they pay for the shipping and handling.

"We wanted to do our part," Gordon said in a news release.

Jan LaRue, of Concerned Woman of America, said Gordon's plan is unscrupulous.

"This is an abominable marketing trick by pornographers who care nothing about our troops," LaRue said.

Retired Lt. Col. Bob Maginnis, who serves as a Fox News military analyst, said Gordon doesn't understand the military life in the field.

"I don't know a commander that would allow this to be shown in a troop unit situation," Maginnis said.

He added watching porn videos would demean female soldiers serving with men. In addition, he said soldiers preparing for war are far too busy for such distractions.

LaRue noted there's another factor making the viewing of such videos unlikely to those stationed overseas.

"These Muslim countries generally don't allow anything like this," she said.

LaRue pointed out that U.S. soldiers also had trouble during the Gulf War bringing in Bibles to Kuwait.

Benjamin Bull, an attorney with the Alliance Defense Fund, a pro-family legal foundation based in Scottsdale, Ariz., thinks DirectLink Media needs to be investigated.

"The interstate distribution of obscene material is a criminal violation, and U.S. attorneys and even the FBI should investigate this guy if he's violating the law," Bull said.

Aaron Gordon, the president of DirectLink, did not return a call requesting an interview.

FOR MORE INFORMATION:
Focus on the Family offers materials helping those who struggle with pornography and its ramifications on their families. Two recommended resources offered in our Resource Center are:

"An Affair of the Mind: One Woman's Courageous Battle to Salvage Her Family From the Devastation of Pornography"
http://www.family.org/resources/itempg.cfm?itemid=39&refcd=CE03ACZL&tvar=no

"Every Man's Battle"
http://www.family.org/resources/itempg.cfm?itemid=2413&refcd=CE03ACZL&tvar=no.

Conservatives Meet at D.C. Conference
By David Brody, Washington, D.C., correspondent

SUMMARY: The Conservative Political Action Conference brings together conservative grassroots organizations.

This year, more than 70 of the nation's conservative grassroots organizations are gathering in Washington to take part in the Conservative Political Action Conference. It's a chance for the conservative movement to build momentum and strategize for the future.

The 30-year-old conference is billed as the nation's oldest and largest national gathering of grassroots conservative organizations. Many political leaders speak to the gathering as a way of gauging their support.

The atmosphere at this year's conference was upbeat, to say the least. Most agree the conservative movement is gaining momentum, citing the results of the mid-term elections.

Ron Greer is an up-and-coming politician from Wisconsin. Though he lost in his November bid to become a U.S. congressman from Madison, he said the conservative road map is clearly defined.

"They're looking more and more towards the conservative values and views", Greer said. "There's a need to restore an appreciation of value in the family. There's a need to restore an understanding and acceptance of some greater principles -- moral principles -- and without those things the country is doomed."

One of the more noticeable aspects at the conference is the huge number of young people attending this year.

Melissa Moskal is with the Young America's foundation, a group that preaches conservatism to high school and college-age students.

"College campuses have gotten so bad that students are looking for an alternative," Moskal said.

She added the future of the movement is rooted in its past.

"Everyone here is for limited government, strong national defense, traditional values, free market economics and those sorts of things," Moskal said.

There are some differences in how conservatives view the future. Ian Walters, from the American Conservative Union, said the "big brother" concerns are an example.

"There are some folks, especially in the post 9/11 world, who want to figure out what we're going to do with civil liberties in a time of war," said Walters.

But many believe those concerns won't derail the conservative train, which is clearly building up steam.

Evangelicals Help Fight AIDS in Africa
By Steve Jordahl, correspondent

SUMMARY: Evangelicals helping to fight AIDS in Africa get some credit from the Bush administration.

The Bush Administration is crediting -- in part -- pressure from Evangelical Christians for his newly announced African AIDS initiative.

Dr. Clive Calver, of World Relief, is one of those trying to answer the

cry for help from half a world away.

"What is the biggest danger in the world today? It's that we might be so absorbed with our problems that we might miss the way that AIDS is destroying half of the world today," Calver said.

World Relief is among the Evangelical Christian organizations that have been pushing the Bush administration to act. Calver said the president is listening. He added that his call now is to the American Church.

"I am thrilled with the president's initiative but I'm utterly, totally committed that the Church might live in the vanguard of that initiative," he said.

The fact that the Church is leading the way in the fight against AIDS really shouldn't be a surprise. Rodney Stark, a sociology professor at the University of Washington, said the Church has historically championed social movements.

"The churches have always been -- at least the Christian churches in the West -- very active in what people might call social movements and good causes. It's nothing unusual," Stark said.

While the AIDS epidemic is still claiming thousands a day, Stark noted many of the victims are coming to Christ before they die.

"Christianity is growing at a rate that's almost inconceivable in Africa at the moment," he said.

It provides the hope that is the strongest medicine for a deadly disease.

FOR MORE INFORMATION:
To find out more about World Relief's activities to help those with HIV/AIDS in Africa, see World Relief's Web site at:
http://www.wr.org/what_we_do/aids_ministries.asp

(NOTE: Links to Web sites not produced by Focus on the Family do not necessarily imply an endorsement of all their contents by Focus on the Family.)

==========
NEWS BRIEFS

S.C. Governor Will Honor Reservist Duty if Called

South Carolina Gov. Mark Sanford has announced that if his Air Force Reserve unit is called up, he will answer the call.

The governor has decided that his duty to country supercedes his duty to the state. Oran Smith, of South Carolina's Palmetto Family Council, said Sanford announced at a news conference that he was going for his sons.

"I think (this) sends the message not only that he is a person of his word -- which is a good fatherly message to send -- but also that he's very patriotic and believes in defending his country, and that's a wonderful legacy that he can leave," Smith said.

Sanford would likely serve as a military hospital administrator in his wartime duties.

More Reserve units are being called up across the country than at any time since the Vietnam War -- a fact that leads many to think it's likely the governor will get the call.

Head Start Gets Congressional Push

There's a congressional push to increase support for and expand the Head Start program. But is it as good as it sounds?

A bipartisan group of U.S. representatives hailed the Head Start program at the National Head Start Association meeting this week. Education analyst Dick Carpenter said from the beginning, under President Lyndon Johnson's administration, Head Start sounded good. But he said even Head Start cannot replace parental influence in getting kids started on the right track educationally and emotionally.

"If Head Start in any way displaces the role of the parent or family, then I have serious questions about whether we're meeting that laudable goal in the most effective way possible," Carpenter said.

Currently, there are more than 923,000 children in Head Start programs.

Conn. Court Dismisses Civil Union Case

The Connecticut Supreme Court has dismissed a case -- which sought to recognize a Vermont civil union as marriage in Connecticut -- because of the death of the plaintiff.

Glen Rosengarten and Peter Downes entered into a Vermont civil union in 2000. After entering into the union, they returned to Connecticut where their relationship deteriorated. Rosengarten moved to dissolve the union in Connecticut under Connecticut law. He asked the court to recognize his civil union as a binding marriage so that he could terminate it under Connecticut law.

After Rosengarten's death, the court placed a hold on the case and then ultimately dismissed it.

ACLU Loses Ten Commandments Case

A federal district court judge ruled Wednesday that a display of the Ten Commandments in Mercer County, Ky., is constitutional when it is displayed with other historical documents.

The decision ended a challenge by the American Civil Liberties Union to have the display removed from the county courthouse. Judge Karl Forrester wrote in his opinion that "the display clearly has a legitimate secular purpose of, including but not limited to, acknowledging the historical influence of the Commandments on the development of this country's laws and this record is devoid of any evidence indicating a religious purpose by the government."

-- Written by Steve Jordahl, Bob Kellogg and Trish Amason.

==========

RECOMMENDED READING

"Darwinism to be Questioned in Nebraska"

By Terry Phillips, Family News in Focus state issues producer
http://www.family.org/cforum/fnif/statenews/a0024349.cfm

Many scientists think Darwin didn't get it right, and now that fact can be taught in Nebraska classrooms.

CE03ACZL

=========

Ben Taylor
Editor

Pete Winn
Associate Editor

Trish Amason
Editorial Coordinator

Peter Brandt
Director, Issues Response

Tom Minnery
Vice President, Public Policy

Dr. James C. Dobson
President, Focus on the Family

Copyright (c) 2002, Focus on the Family. All rights reserved. International copyright secured. You are encouraged to send this e-mail to others and/or print it in its entirety, without any changes, for noncommercial and nonpolitical use only.

For permission to reprint any of these articles, please send your request in writing to permission@fotf.org or by fax at 719-531-3391.

CitizenLink is a policy and culture information service of Focus on the Family, a ministry sustained by the contributions and prayers of supporters. This e-mail may not be used for commercial or political purposes.

CitizenLink does not regularly print letters to the editor, but if you would like to submit a comment or question, send it to citizenlink@family.org. PLEASE NOTE: Due to the volume of e-mails we receive, it is possible that we may not be able to respond to your e-mail.

If you would like further information on Family News in Focus stories, call (800) 782-8227.

REMOVAL INSTRUCTIONS: If you would like to be removed from the list, please send an e-mail to listserv@listserv.family.org with the text UNSUBSCRIBE LINKMEMBERS as the body of your message.

==========

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>
Sent: 2/3/2003 5:23:50 AM
Subject: : Re: Help

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 3-FEB-2003 10:23:50.00
SUBJECT:: Re: Help
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

There is a lot going on this week -- JSC, meeting with President, and judicial nominations. She will need help.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 02/03/2003 10:13:54 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Help

As you know, we are pretty short staffed in the OEOB.; Hana is doing an admirable job by herself, but she could use help.; So if you need anything done, please feel free to send it my way.
;
Patrick J. Bumatay
Office of Counsel to the President
o: 202-456-5214
f: 202-456-6279
mainline: 202-456-2632
;

Message Sent
To:_____
Helgard C. Walker/WHO/EOP@EOP
H. Christopher Bartolomucci/WHO/EOP@EOP
Noel J. Francisco/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
Benjamin A. Powell/WHO/EOP@EOP
Kyle Sampson/WHO/EOP@EOP
Theodore W. Ullyot/WHO/EOP@EOP

From: Bumatay, Patrick J.
To: <Walker, Helgard C.>;<Bartolomucci, H. Christopher>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>;<Ullyot, Theodore W.>
Sent: 2/3/2003 7:57:19 AM
Subject: Omnibus letter

Just a reminder, please take a quick read of this letter to the Appropriators by **9:30 AM TODAY**. It contains something on virtually all of your departments.

Thanks.

The Honorable Ted Stevens
Committee on Appropriations
United States Senate
Washington, D.C. 20510

Dear Chairman Stevens:

The purpose of this letter is to provide the Administration's views on the current House and Senate versions of the remaining eleven appropriations bills. The Administration applauds the commitment of the Appropriations Committee Chairmen to the top line agreement with the President.

The Administration will support versions of the remaining eleven bills that are consistent with the agreed upon non-defense discretionary spending limit of $385.9 billion, the amount remaining within the top line after enactment of the Defense and Military Construction Appropriations Acts. It is important that this limit be reached transparently. Should the final version of the bill exceed this level, including expanded use of advance appropriations or other "gimmicks," the President's senior advisors would recommend that he veto the bill.

There are several other issues that may impact the agreed upon top line funding level discussed above, including the $3.9 billion in essential funding for defense included in the Senate bill, which the Administration supports. The Administration would support additional drought assistance for those truly in need as long as it is offset within existing agriculture funding. At the time of enactment, the 2002 Farm Bill was estimated to provide $180 billion, an increase of $82 billion above the baseline -- an historically high level of agriculture spending that can accommodate funding for emergencies, economic assistance, rural development, and other purposes. Further, the Administration believes that physician fees in Medicare need to be adjusted and that those costs can and should be fully offset through statutory changes or legislative action. We look forward to working with the Congress to address this critical matter.

The Federal government has been operating under a series of Continuing Resolutions for nearly one-half of FY 2003. Completion of the nation's budget for the current year is long overdue, and we look forward to working with the Congress to ensure an acceptable bill is presented to the President. Spending restraint is critical to encouraging continued economic growth. We appreciate your consideration of these views.

Homeland Security

On November 25, 2002, the President signed the Homeland Security Act of 2002 (HSA). The legislation transfers 22 Federal agencies and programs to the new Department of Homeland Security (DHS). The Act lays out an orderly process for transferring entities to DHS. Provisions that would preclude, complicate, or delay transfers of functions or resources to DHS are unacceptable.

Both the House and Senate bills, as currently written, include numerous unacceptable restrictions that undermine implementation of the HSA. Most broadly, a number of the House bills prohibit the transfer of funds unless the transfer is provided for in an Appropriations Act. This is contrary to existing law, which provides the authority to execute these transfers. Many bills contain specific unacceptable prohibitions on individual programs. For example, both the House and Senate bills seek to prohibit the transfer of Customs aircraft from the Treasury Department, and the House bill seeks to prevent the transfer of the Federal Law Enforcement Training Center. In addition, while funds are provided in the Senate version of bill for the Immigration and Naturalization Service (INS) Chimera IT and Entry-Exit systems, these funds are not provided within INS, complicating consolidation within DHS. The conferees must correct these restrictive provisions.

The House version of the bill cuts the request for the Transportation Security Administration (TSA) by $200 million, and the Senate bill earmarks nearly $400 million, for unrequested and lower-priority activities.

The Senate version of the bill underfunds the homeland security programs of the Immigration and Naturalization Service (INS), including the Entry-Exit System. The Senate version of the bill also includes unacceptable restrictions on the National Security Entry-Exit Registration System (NSEERS), an Administration initiative to enhance homeland security by requiring certain foreign nationals to register with the INS.

The Senate bill earmarks funding provided for our nation's First Responders, which will prevent the program from funding the highest priority programs. The Administration believes that these funds would be better targeted for homeland security and Federal law enforcement activities. The Senate version of the bill underfunds the Federal Emergency Management Agency's Disaster Relief Fund, by nearly $1 billion. The Administration urges the conferees to adopt the House level for Disaster Relief to ensure adequate resources are available to address emergency situations.

Finally, the Senate bill provides $3.3 billion for bioterrorism defense and research, which is $370 million less than the request. It is critical that the House and Senate provide the full amount requested for NIH biodefense research, including the request to accelerate investments in biodefense research infrastructure. The Administration is concerned as it appears that the Senate bill does not fund the $250 million requested for a next-generation anthrax vaccine. The Administration urges the Senate to restore funding for this important program that will help defend against the anthrax threat as well as inspire new vaccine research breakthroughs.

Other High-Priority Issues

A few significant problems remain to be addressed before a final version of an Omnibus bill would be acceptable to the President. The current House and Senate versions of the eleven remaining bills underfund major areas of responsibility and divert these funds to lesser needs. The Administration's major concerns are outlined below:

Education Funding. The Administration appreciates the House's support for funding for the Education Department. The Senate's use of gimmicks that will compromise next year's budget by increasing advance appropriations for several programs in Education, including IDEA and Title I, is unacceptable. This is a misleading practice to avoid spending limitations that Congress and the Administration agreed to curtail last year.

The Administration strongly urges the Congress to adopt the House mark for the Pell Grant program, which maintains the maximum award at the current $4,000 level and provides $11.2 billion to help address the program's current funding shortfall. The Senate bill raises the Pell Grant maximum award to students while failing to provide sufficient funding, significantly increasing the shortfall above the House level.

Transportation Department. The Senate bill proposes $31.8 billion for highways, an unsustainable level of spending that breaks dramatically with the tradition of tying highway spending to trust fund revenue. This would put the program on a path to an inevitable gas tax increase, which the Administration strongly opposes. The Administration strongly supports the highway funding level authorized by the FY 2002 Supplemental Appropriations Act and included in the House version. The Senate bill also provides $1.2 billion for Amtrak without including any of the reforms necessary to improve its operations and promote financial stability. We urge the conferees to adopt the House position and institute operational and structural reforms as a condition for increased funding for Amtrak. Finally, funding earmarks in the bill would significantly constrain flexibility in the Office of the Secretary of Transportation and the Federal Aviation Administration.

Election Reform. The Administration strongly supports the inclusion of funds to support reform and improvement of election administration systems in the Senate bill.

Wildland Firefighting. The Administration supports the inclusion of the $825 million for wildland firefighting in the Senate bill within the top line funding agreement.

Unemployment Insurance. The Senate bill raises the contingency trigger in the Unemployment Insurance program significantly. As a result, many unemployed workers may not receive timely benefit payments and States will incur workload for which there will be no federal financing. Conferees are urged to adopt the Administration's contingency trigger level.

LIHEAP. We appreciate the House's support for the overall Administration request for this important program. Conferees are encouraged to adopt the House position.

Farm Bill Conservation Programs. The Administration strongly objects to Senate language prohibiting the use of funding in USDA's Conservation Operations account to implement the recently-enacted Farm bill conservation programs. This is contrary to past practice and, without enacting the Administration's proposed budget amendment, would result in only about 10 percent of this year's authorized Farm bill conservation activities being implemented. The Administration's proposal would provide appropriate funding to ensure the farm conservation programs are properly implemented.

Energy Department. The Administration appreciates that the Senate version of the bill includes the Price-Anderson Act indemnification provisions. However, the Administration strongly objects to the Senate's reduction of $255 million for Yucca Mountain, which would severely delay and diminish the quality of DOE's submission to the Nuclear Regulatory Commission (NRC) to proceed with construction of this vital facility. The Administration urges the conferees to support the request, which would enable DOE to submit its repository license application to the NRC by December 2004, accelerate essential national transportation-related activities, and ensure the site is a safe working environment.

Housing Programs. The Senate bill contains an unacceptable provision that, as currently drafted, could result in considerable additional costs in the Housing Certificate program. The House's reform approach is acceptable provided that amounts in the final bill are sufficient to support all units under lease. We look forward to working with the conferees to ensure proposed changes to the program do not result in unintended costs.

Treasury/IRS. The Administration urges the conferees to provide the $70 million requested for the Internal Revenue Service to address new requirements under P.L. 107-210, the Trade Act of 2002, which established a new refundable Health Insurance Tax Credit (HITC) program.

Patent Office (PTO). The Senate bill would reduce requested funding for PTO by almost $300 million, compromising PTO's ability to carry out its new strategic plan.

Justice Department. The Senate bill does not provide adequate funding for the Department of Justice's core legal staff, including the U.S. Attorneys and Justice's Legal Divisions, which would severely hamper the Department's efforts in the war on terrorism. The Administration is concerned with Senate bill language that earmarks funding, thus constraining the FBI and the Bureau of Prisons from responding to emerging events such as the war on terrorism or prison emergencies.

The Senate bill reduces the request for the FBI by $75 million by requiring the use of prior year unobligated balances to fund 2003 initiatives. The Administration believes that these prior year funds are still required by the FBI and urges that they not be diverted.

The House and Senate bills provide significantly more funds for crime prevention grant programs than requested. The Administration believes that these funds would be better targeted for homeland security programs, especially funds for first responders.

Mother-to-Child HIV/AIDS Transmission Initiative. The Administration urges the conferees to fully fund the $100 million requested for each USAID and HHS for this important initiative. The Senate bill provides the request for USAID, without cutting into base HIV/AIDS programs, as the House bill does. It appears both the House and Senate have underfunded the HHS portion of this initiative by $60 million.

State Department/Foreign Affairs. The Administration strongly encourages the conferees to fund State Department Diplomatic and Consular Programs at a level that supports ongoing operations and the Diplomatic Readiness Initiative. The Administration strongly supports the language included in the Senate bill allowing funds to pay for the costs of debt reduction for Pakistan and Jordan.

Corps of Engineers. The House and the Senate have provided funds well in excess of the request that could be re-directed to higher priority items; the House and Senate bills provide nearly $600 million and $400 million, respectively, above the request for the Corps of Engineers. The bills divert funds from the large backlog of existing projects and fund activities outside the Corps main mission areas. They also fund projects that have not been previously approved or authorized. The Administration urges the conferees to redirect funds to higher-priority national projects.

Objectionable Language Provisions

The current version of the Senate bill omits several current law provisions relating to abortion. If the final version of the bill did not include all current law provisions prohibiting the use of federal funds for abortions, the President's senior advisors would recommend that he veto the bill. The Administration also urges the conferees to support the Administration position on

UNFPA, including full compliance with Kemp-Kasten.

The House bill contains provisions that would weaken current sanctions against the Cuban government. The Administration believes it is vitally important to maintain these sanctions. Lifting the sanctions now would provide a helping hand to a desperate and repressive regime, whereas the President's policy calls for reaching out to help the Cuban people. As noted in the July 11, 2002 letter from Secretaries Powell and O'Neill, the President's senior advisors would recommend that he veto a bill that contained such changes.

The Administration also objects to a number of provisions, which, inconsistent with the Supreme Court ruling in INS vs. Chadha, purport to require Committee approval before Executive Branch execution.

The Administration supports final passage of an Omnibus bill that meets our national priorities and is within the agreed upon top line funding level. We are committed to working with the Congress as the process moves forward to enact the remaining eleven appropriations bills as expeditiously as possible. We look forward to working with the conferees to address our mutual concerns as a final version of the bill is developed.

Sincerely,

Mitchell E. Daniels, Jr.

Identical Letter Sent to The Honorable C.W. Bill Young,
The Honorable David R. Obey, The Honorable Robert C. Byrd,
and The Honorable Ted Stevens

Patrick J. Bumatay
Office of Counsel to the President
o: 202-456-5214
f: 202-456-6279
mainline: 202-456-2632

From: [UNKNOWN] <Kavanaugh, Brett M.>
To: <Wingate>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/HEATHER_WINGATE [UNKNOWN] <Heather>
CC: <Holbrook>;Ashley_Holbrook@who.eop.gov [WHO] <Ashley>
Sent: 2/3/2003 4:00:15 AM
Subject: Re: Binders

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (MS Mail)
CREATOR:Kavanaugh, Brett M. ([UNKNOWN])
CREATION DATE/TIME: 3-FEB-2003 09:00:15.00
SUBJECT:Re: Binders
TO:Wingate, Heather (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=HEATHER_WINGATE [UNKNOWN])
READ:UNKNOWN
CC:Holbrook, Ashley (Ashley_Holbrook@who.eop.gov [WHO])
READ:UNKNOWN
End Original ARMS Header

By about noon; is that ok?

From: Heather Wingate/WHO/EOP@Exchange on 02/03/2003 09:02:57 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc: Ashley Holbrook/WHO/EOP@Exchange
Subject: Binders

When will the estrada binders be ready? Ashley has the unenviable task of figuring out a way to get them up there to vp office today.

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/3/2003 5:27:13 AM
Subject: : RE: Help

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 3-FEB-2003 10:27:13.00
SUBJECT:: RE: Help
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Ok. I'll meet with her to divvy this up.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Monday, February 03, 2003 10:20 AM
To: Bumatay, Patrick J.
Subject: Re: Help

There is a lot going on this week -- JSC, meeting with President, and judicial nominations. She will need help.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 02/03/2003 10:13:54 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Help

As you know, we are pretty short staffed in the OEOB. Hana is doing an admirable job by herself, but she could use help. So if you need anything done, please feel free to send it my way.

Patrick J. Bumatay
Office of Counsel to the President
o: 202-456-5214
f: 202-456-6279
mainline: 202-456-2632

Message Sent
To:_____
Helgard C. Walker/WHO/EOP@EOP
H. Christopher Bartolomucci/WHO/EOP@EOP
Noel J. Francisco/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
Benjamin A. Powell/WHO/EOP@EOP
Kyle Sampson/WHO/EOP@EOP
Theodore W. Ullyot/WHO/EOP@EOP

From: Kavanaugh, Brett M.
To: <Bumatay, Patrick J.>
Sent: 2/3/2003 10:19:58 AM
Subject: Re: Help

There is a lot going on this week -- JSC, meeting with President, and judicial nominations. She will need help.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 02/03/2003 10:13:54 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: Help

As you know, we are pretty short staffed in the OEOB. Hana is doing an admirable job by herself, but she could use help. So if you need anything done, please feel free to send it my way.

Patrick J. Bumatay

Office of Counsel to the President

o: 202-456-5214

f: 202-456-6279

mainline: 202-456-2632

Message Sent To:

Helgard C. Walker/WHO/EOP@EOP

H. Christopher Bartolomucci/WHO/EOP@EOP

Noel J. Francisco/WHO/EOP@EOP

Brett M. Kavanaugh/WHO/EOP@EOP

Jennifer G. Newstead/WHO/EOP@EOP

Benjamin A. Powell/WHO/EOP@EOP

Kyle Sampson/WHO/EOP@EOP

Theodore W. Ullyot/WHO/EOP@EOP

From: Bumatay, Patrick J.
To: <Kavanaugh, Brett M.>
Sent: 2/3/2003 10:26:47 AM
Subject: RE: Help

Ok. I'll meet with her to divvy this up.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Monday, February 03, 2003 10:20 AM
To: Bumatay, Patrick J.
Subject: Re: Help

There is a lot going on this week -- JSC, meeting with President, and judicial nominations. She will need help.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 02/03/2003 10:13:54 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Help

As you know, we are pretty short staffed in the OEOB. Hana is doing an admirable job by herself, but she could use help. So if you need anything done, please feel free to send it my way.

Patrick J. Bumatay
Office of Counsel to the President
o: 202-456-5214
f: 202-456-6279
mainline: 202-456-2632

Message Sent To:

Helgard C. Walker/WHO/EOP@EOP
H. Christopher Bartolomucci/WHO/EOP@EOP
Noel J. Francisco/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
Benjamin A. Powell/WHO/EOP@EOP
Kyle Sampson/WHO/EOP@EOP
Theodore W. Ullyot/WHO/EOP@EOP

From: CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/3/2003 8:46:20 AM
Subject: : JSC?

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME: 3-FEB-2003 13:46:20.00
SUBJECT:: JSC?
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Will we have a meeting on Wednesday?
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Heather Wingate/WHO/EOP@Exchange@EOP [WHO] <Heather Wingate>;David G. Leitch/WHO/EOP@Exchange@EOP [WHO] <David G. Leitch>;Ashley Snee/WHO /EOP@Exchange@EOP [WHO] <Ashley Snee>;Alberto R. Gonzales/WHO /EOP@Exchange@EOP [WHO] <Alberto R. Gonzales>
Sent: 2/3/2003 1:17:25 PM
Subject: : Wash Post editorial

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 3-FEB-2003 18:17:25.00
SUBJECT:: Wash Post editorial
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Post is writing what seems like it will be a positive editorial on
filibusters and Estrada. Probably will run Wednesday.
```

From: Office of Global Communications <Global.Messenger@WhiteHouse.Gov>
To: Wendy L. Nipper Office of Global Communications/WHO/EOP@EOP [WHO] <Wendy L. Nipper Office of Global Communications>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 2/3/2003 1:44:56 PM
Subject: : White House Global Messenger -- 02/03/2003
Attachments: P_8IWKD003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Office of Global Communications <Global.Messenger@WhiteHouse.Gov> (Office of Global Communications <Global.Messenger@WhiteHouse.Gov> [UNKNOWN])
CREATION DATE/TIME: 3-FEB-2003 18:44:56.00
SUBJECT:: White House Global Messenger -- 02/03/2003
TO:Wendy L. Nipper Office of Global Communications (CN=Wendy L. Nipper Office of Global Communications/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

THE GLOBAL MESSENGER
Tuesday, February 4, 2003

KEY POINTS

- We are in the final phase of the 12 year effort to disarm Saddam Hussein.

- The gravest danger we face is outlaw regimes that sponsor terror and possess or seek weapons of mass destruction.

- As part of the cease-fire agreement at the end of the Gulf War in 1991, Saddam was required to declare and destroy all his weapons of mass destruction.

- For over a decade, Saddam has consistently flouted these obligations. Eight weeks have now passed since Saddam was given his final chance. Six hundred weeks have passed since he was given his first chance.

- The UN and U.S. intelligence sources have known for some time that Saddam Hussein has materials to produce chemical and biological weapons, but he has not accounted for them, nor has he accounted for almost 30,000 munitions capable of delivering chemical agents.

- Thousands of Iraqi security personnel are at work hiding documents and materials from the UN inspectors. Iraqi officials accompany all inspectors in order to intimidate witnesses, and Saddam Hussein has ordered that scientists who cooperate with the UN be killed, along with their families.

- Saddam Hussein aids and protects terrorists. Al-Qaida members are known to have been in Iraq. He could provide hidden weapons to terrorists or help them develop their own. It would take just one vial, one canister, one crate slipped into our country to bring a day of horror like none we have ever known.

- The United States has asked the UN Security Council to convene this week to

consider the facts of Iraq
's ongoing defiance of the world. We will consult.
But if Saddam Hussein does not disarm, we will act for the safety of our
people,
and for the peace of the world.

Today's Schedule
All Times Eastern Standard Time Unless Noted
Subject to Change

1:45 pm President and Mrs. Bush attend memorial service for crew of Space
Shuttle Columbia, Houston, TX

Extending America's Compassion to the World's Neediest Citizens
Excerpts from the President's Weekly Radio Address, 2-1-03

"Across the earth, America is feeding the hungry. More than 60 percent of
international emergency food aid comes as a gift from the people of the
United
States?.We will encourage friends around the world to set up similar funds
and
leverage our combined resources to provide the most help to famine-stricken
lands.

"?.America has a special calling to come to their aid and we will do so
with the
compassion and generosity that have always defined the United States."

The President's FY 2004 Budget recognizes the need for immediate famine
relief
by providing:

- $1.185 billion in emergency aid to alleviate world hunger.- A new $100 million Emergency
Fund for Complex Foreign Crises to be
created to
meet dire food needs. This fund would help the President respond to or
prevent
complex and unforeseen foreign crises.- A new $200 million Famine Fund to prevent or
mitigate famine in vulnerable
developing countries to purchase emergency food aid or provide cash
support to
meet urgent needs in developing countries.

THE WHITE HOUSE
Office of Global Communications

For more information log on to www.whitehouse.gov/ogc

(See attached file: GM 2-4-03 FINAL.doc)

****

You have previously expressed interest in obtaining news and information
from
the White House.

The White House Office of Global Communications distributes information
about
the President's messages to the world. This office distributes updates on
major
international topics such as the global war on terror, the case for
regime
change in Iraq, and more broadly, the ways in which we can all
better
communicate the aspirations and interests that Americans
share with
freedom-loving people everywhere. - GM 2-4-03 FINAL.doc

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_8IWKD003_WHO.TXT_1>

THE GLOBAL MESSENGER

Tuesday, February 4, 2003

Today's Schedule

All Times Eastern Standard Time Unless Noted
Subject to Change

1:45 pm	President and Mrs. Bush attend memorial service for crew of Space Shuttle Columbia, Houston, TX

Extending America's Compassion to the World's Neediest Citizens

Excerpts from the President's Weekly Radio Address, 2-1-03

"Across the earth, America is feeding the hungry. More than 60 percent of international emergency food aid comes as a gift from the people of the United States….We will encourage friends around the world to set up similar funds and leverage our combined resources to provide the most help to famine-stricken lands.

"….America has a special calling to come to their aid and we will do so with the compassion and generosity that have always defined the United States."

The President's FY 2004 Budget recognizes the need for immediate famine relief by providing:

- $1.185 billion in emergency aid to alleviate world hunger.
- A new $100 million Emergency Fund for Complex Foreign Crises to be created to meet dire food needs. This fund would help the President respond to or prevent complex and unforeseen foreign crises.
- A new $200 million Famine Fund to prevent or mitigate famine in vulnerable developing countries to purchase emergency food aid or provide cash support to meet urgent needs in developing countries.

KEY POINTS

- We are in the final phase of the 12 year effort to disarm Saddam Hussein.
- The gravest danger we face is outlaw regimes that sponsor terror and possess or seek weapons of mass destruction.
- As part of the cease-fire agreement at the end of the Gulf War in 1991, Saddam was required to declare and destroy all his weapons of mass destruction.
- For over a decade, Saddam has consistently flouted these obligations. Eight weeks have now passed since Saddam was given his final chance. Six hundred weeks have passed since he was given his first chance.
- The UN and U.S. intelligence sources have known for some time that Saddam Hussein has materials to produce chemical and biological weapons, but he has not accounted for them, nor has he accounted for almost 30,000 munitions capable of delivering chemical agents.
- Thousands of Iraqi security personnel are at work hiding documents and materials from the UN inspectors. Iraqi officials accompany all inspectors in order to intimidate witnesses, and Saddam Hussein has ordered that scientists who cooperate with the UN be killed, along with their families.
- Saddam Hussein aids and protects terrorists. Al-Qaida members are known to have been in Iraq. He could provide hidden weapons to terrorists or help them develop their own. It would take just one vial, one canister, one crate slipped into our country to bring a day of horror like none we have ever known.
- The United States has asked the UN Security Council to convene this week to consider the facts of Iraq's ongoing defiance of the world. We will consult. But if Saddam Hussein does not disarm, we will act for the safety of our people, and for the peace of the world.

THE WHITE HOUSE
Office of Global Communications

For more information log on to www.whitehouse.gov/ogc

From: Nelson, Carolyn
To: <Kavanaugh, Brett M.>
Sent: 2/3/2003 1:45:43 PM
Subject: JSC?

Will we have a meeting on Wednesday?

From: Carolyn_Nelson@who.eop.gov [WHO] <Nelson, Carolyn>
To: <Bartolomucci>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/1A4DAB1A-EBCD4DB1-852569DA-6039DB [UNKNOWN] <H. Christopher>;<Ullyot>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/20AA0CA2-4AAE30FC-85256CB0-52CA15 [UNKNOWN] <Theodore W.>;<Bumatay>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/PATRICK_J._BUMATAY [UNKNOWN] <Patrick J.>;<Leitch>;David_G._Leitch@who.eop.gov [WHO] <David G.>;<Francisco>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/CEFFCE1D-3AA04CD4-852569DA-68EB00 [UNKNOWN] <Noel J.>;<Kavanaugh>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6246020-C20FEE19-852569DA-7648DC [UNKNOWN] <Brett M.>;<Montiel>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/CHARLOTTE_L._MONTIEL [UNKNOWN] <Charlotte L.>;<Newstead>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/CC23D9BE-A5E0DBB1-85256BAE-52469A [UNKNOWN] <Jennifer G.>;<Powell>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C457024B-B3447231-85256C00-44CFA6 [UNKNOWN] <Benjamin A.>;<Sampson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/4E664A2B-51BB08D-852569DC-544EBE [UNKNOWN] <Kyle>;<Walker>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/75138057-DB233081-85256A02-46FCE4 [UNKNOWN] <Helgard C.>
Sent: 2/3/2003 10:21:15 AM
Subject: JSC Prep

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (MS Mail)
CREATOR:Nelson, Carolyn ( Carolyn_Nelson@who.eop.gov [ WHO ] )
CREATION DATE/TIME: 3-FEB-2003 15:21:15.00
SUBJECT:JSC Prep
TO:Bartolomucci, H. Christopher ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=1A4DAB1A-EBCD4DB1-852569DA-6039DB [ UNKNOWN ] )
READ:UNKNOWN
TO:Ullyot, Theodore W. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=20AA0CA2-4AAE30FC-85256CB0-52CA15 [ UNKNOWN ] )
READ:UNKNOWN
TO:Bumatay, Patrick J. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=PATRICK_J._BUMATAY [ UNKNOWN ] )
READ:UNKNOWN
TO:Leitch, David G. ( David_G._Leitch@who.eop.gov [ WHO ] )
READ:UNKNOWN
TO:Francisco, Noel J. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=CEFFCE1D-
3AA04CD4-852569DA-68EB00 [ UNKNOWN ] )
READ:UNKNOWN
TO:Kavanaugh, Brett M. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6246020-
C20FEE19-852569DA-7648DC [ UNKNOWN ] )
READ:UNKNOWN
TO:Montiel, Charlotte L. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=CHARLOTTE_L._MONTIEL [ UNKNOWN ] )
READ:UNKNOWN
TO:Newstead, Jennifer G. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=CC23D9BE-
A5E0DBB1-85256BAE-52469A [ UNKNOWN ] )
READ:UNKNOWN
TO:Powell, Benjamin A. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=C457024B-
B3447231-85256C00-44CFA6 [ UNKNOWN ] )
READ:UNKNOWN
TO:Sampson, Kyle ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4E664A2B-51BB08D-
852569DC-544EBE [ UNKNOWN ] )
READ:UNKNOWN
TO:Walker, Helgard C. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=75138057-
DB233081-85256A02-46FCE4 [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Prep: 3:45-3:55 in the Judge's Office

JSC: 4:00-4:45 in the Roosevelt Room
```

From: CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;David G. Leitch/WHO/EOP@Exchange [WHO] <David G. Leitch>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>
Sent: 2/3/2003 10:21:43 AM
Subject: : JSC Prep

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME: 3-FEB-2003 15:21:43.00
SUBJECT:: JSC Prep
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Prep: 3:45-3:55 in the Judge's Office
;
JSC: 4:00-4:45 in the Roosevelt Room
```

From: CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO]

To: Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;tracy washington <tracy.t.washington@usdoj.gov>;Susan B. Ralston/WHO/EOP@Exchange [WHO] <Susan B. Ralston>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;David McMaster/WHO/EOP@EOP [WHO] <David McMaster>;David G. Leitch/WHO/EOP@Exchange [WHO] <David G. Leitch>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;jason sutton <jason.j.sutton@usdoj.gov>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Kimberly Ellison/WHO/EOP@EOP [WHO] <Kimberly Ellison>;Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>;Melissa S. Bennett/WHO /EOP@Exchange [WHO] <Melissa S. Bennett>;andrew beach <andrew.beach@usdoj.gov>;albert brewster <albert.brewster@usdoj.gov>;adam charnes <adam.charnes@usdoj.gov>;wendy keefer <wendy.j.keefer@usdoj.gov>;viet dinh <viet.dinh@usdoj.gov>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Charlotte L. Montiel/WHO /EOP@Exchange [WHO] <Charlotte L. Montiel>;Sarah K. Lockart/WHO/EOP@Exchange [WHO] <Sarah K. Lockart>;Ross M. Kyle/WHO/EOP@Exchange [WHO] <Ross M. Kyle>;Alison Jones/WHO/EOP@Exchange [WHO] <Alison Jones>;Ann Gray/WHO/EOP@EOP [WHO] <Ann Gray>;evelyn long <evelyn.v.long@usdoj.gov>;don willet <Don.Willett@usdoj.gov>;Hana F. Brilliant/WHO/EOP@EOP [WHO] <Hana F. Brilliant>;H. Christopher Bartolomucci/WHO /EOP@EOP [WHO] <H. Christopher Bartolomucci>;amy bass <amy.bass@usdoj.gov>;adam ciongoli <adam.ciongoli@usdoj.gov>;Heather Wingate/WHO/EOP@Exchange [WHO] <Heather Wingate>

Sent: 2/3/2003 10:24:25 AM

Subject: : FW: WHJSC Meeting: 2/5/03

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME: 3-FEB-2003 15:24:25.00
SUBJECT:: FW: WHJSC Meeting: 2/5/03
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:tracy washington <tracy.t.washington@usdoj.gov>@SMTP@Exchange ( tracy washington
<tracy.t.washington@usdoj.gov>@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
TO:Susan B. Ralston ( CN=Susan B. Ralston/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David McMaster ( CN=David McMaster/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:jason sutton <jason.j.sutton@usdoj.gov>@SMTP@Exchange ( jason sutton
<jason.j.sutton@usdoj.gov>@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kimberly Ellison ( CN=Kimberly Ellison/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Melissa S. Bennett ( CN=Melissa S. Bennett/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:andrew beach <andrew.beach@usdoj.gov>@SMTP@Exchange ( andrew beach
<andrew.beach@usdoj.gov>@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
TO:albert brewster <albert.brewster@usdoj.gov>@SMTP@Exchange ( albert brewster
<albert.brewster@usdoj.gov>@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
TO:adam charnes <adam.charnes@usdoj.gov>@SMTP@Exchange ( adam charnes
```

<adam.charnes@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:wendy keefer <wendy.j.keefer@usdoj.gov>@SMTP@Exchange (wendy keefer
<wendy.j.keefer@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:viet dinh <viet.dinh@usdoj.gov>@SMTP@Exchange (viet dinh
<viet.dinh@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Sarah K. Lockart (CN=Sarah K. Lockart/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Ross M. Kyle (CN=Ross M. Kyle/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:evelyn long <evelyn.v.long@usdoj.gov>@SMTP@Exchange (evelyn long
<evelyn.v.long@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:don willet <Don.Willett@usdoj.gov>@SMTP@Exchange (don willet
<Don.Willett@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:Hana F. Brilliant (CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:amy bass <amy.bass@usdoj.gov>@SMTP@Exchange (amy bass
<amy.bass@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:adam ciongoli <adam.ciongoli@usdoj.gov>@SMTP@Exchange (adam ciongoli
<adam.ciongoli@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

... the meeting will begin at 4:00 pm and should run 45 minutes.
;
;
-----Original Message-----
From: Nelson, Carolyn
Sent: Monday, February 03, 2003 3:15 PM
To: Wingate, Heather ; adam charnes; adam ciongoli; albert brewster; amy
bass; andrew beach; Bartolomucci, H. Christopher; Bennett, Melissa S.;
Brilliant, Hana F.; Bumatay, Patrick J.; don willet; Ellison, Kimberly;
evelyn long; Francisco, Noel J.; Gray, Ann; jason sutton; Jones, Alison ;
Kavanaugh, Brett M.; Kyle, Ross M.; Leitch, David G.; Lockart, Sarah K.;
McMaster, David; Montiel, Charlotte L.; Newstead, Jennifer G.; Powell,
Benjamin A.; Ralston, Susan B.; Sampson, Kyle; tracy washington; viet
dinh; Walker, Helgard C.; wendy keefer
Subject: WHJSC Meeting: 2/5/03

WHJSC is ON for this Wednesday, February 5, 2003, in the Roosevelt Room.
Thanks!

From: Kavanaugh, Brett M.
To: <Nelson, Carolyn>
Sent: 2/3/2003 2:29:25 PM
Subject: Re: JSC?

yes, and prep at 3:45

From: Carolyn Nelson/WHO/EOP@Exchange on 02/03/2003 01:45:43 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: JSC?

Will we have a meeting on Wednesday?

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/3/2003 10:46:16 AM
Subject: : FW: LRM IKK3 - - TREASURY Testimony on Fiscal Year 2004 Budget: Revenue Proposals
Attachments: P_X8KKD003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 3-FEB-2003 15:46:16.00
SUBJECT:: FW: LRM IKK3 - - TREASURY Testimony on Fiscal Year 2004 Budget: Revenue Proposals
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

-----Original Message-----
From: Kho, Irene
Sent: Monday, February 03, 2003 3:39 PM
To: Cea Lrm; ODCLCA.LRM.SSA@ssa.gov; lrm@hhs.gov;
laffairs@ustr.gov; CLRM@doc.gov; state-lrm@state.gov;
dot.legislation@ost.dot.gov; dol-sol-leg@dol.gov; cla@sba.gov;
justice.lrm@usdoj.gov; HUD_LRM@hud.gov; energy.gc71@hq.doe.gov
Cc: Ofbci Lrm; Nec Lrm; Ovp Lrm; Whgc Lrm; Hennessey, Keith;
Reardon, Brian; Foster, James D.; Barth, Mary C.; Rodriguez, Justine F.;
Keniry, Daniel ; Lobrano, Lauren C.; Mahaffie, Robert F.; Schwartz, Mark
J.; McMillin, Stephen S.; Rhinesmith, Alan B.; Walsh, Maureen; Menchik,
Mark D.; Sierra, Leticia; Dennis, Yvette M.; Boden, James; Haas, Julie L.;
Mertens, Steven M.; Krauss, Lori A.; Redburn, Francis S.; Green, Richard
E.; Jukes, James J.; Ohs Lrm; Schwartz, Kenneth L.; Casella, Michael;
Silberman, Ronald L.; Weatherly, Mark A.; Matlack, Larry R.; Mertens,
Steven M.; Kron, Jennifer S.; Lyon, Randolph M.; Goldberg, David R.; Ward,
Elizabeth K.; Fontenot, Keith J.; Smalligan, Jack A.; Seeley, Melissa M.;
Hanson-kilbride, Jennifer; Enger, Michelle A.; Wasserman, Mark A.
Subject: LRM IKK3 - - TREASURY Testimony on Fiscal Year 2004
Budget: Revenue Proposals

Attached is the Secretary of theTreasury's testimony on revenue proposals
for the fiscal year 2004 budget for a hearing before the Senate Finance
Committee tomorrow, Feb. 4th, at 10:00 AM. Please review and provide
comments by 5:30 PM today, Feb. 3rd.

- tt0004a.doc

LRM ID: IKK3
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Monday, February 3, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution
below
FROM: Richard E. Green (for) Assistant Director for
Legislative Reference
OMB CONTACT: Irene Kho
PHONE: (202)395-5858 FAX: (202)395-3109
SUBJECT: TREASURY Testimony on Fiscal Year 2004 Budget: Revenue
Proposals

DEADLINE: 5:30 PM Monday, February 3, 2003
In accordance with OMB Circular A-19, OMB requests the views of your
agency on the above subject before advising on its relationship to the
program of the President. Please advise us if this item will affect

direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Attached is the Secretary of theTreasury's testimony on revenue proposals for the fiscal year 2004 budget for a hearing before the Senate Finance Committee tomorrow, Feb. 4th, at 10:00 AM. Please review and provide comments by 5:30 PM today, Feb. 3rd.

DISTRIBUTION LIST

AGENCIES:
018-Council of Economic Advisers - Liaison Officer - (202) 395-5084
110-Social Security Administration - Diane B. Garro - (202) 358-6030
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773
128-US Trade Representative - Carmen Suro-Bredie - (202) 395-4755
025-COMMERCE - Michael A. Levitt - (202) 482-3151
114-STATE - Nicole Petrosino - (202) 647-1794
117 & 340-TRANSPORTATION - Tom Herlihy - (202) 366-4687
062-LABOR - Robert A. Shapiro - (202) 693-5500
107-Small Business Administration - Richard Spence - (202) 205-6700
061-JUSTICE - Daniel Bryant - (202) 514-2141062-LABOR - Robert A. Shapiro - (202) 693-5500
054-HOUSING & URBAN DEVELOPMENT - Mike Moran - (202) 708-1793
032-ENERGY - Ted Pulliam - (202) 586-3397

EOP:
OFBCI LRM
NEC LRM
OVP LRM
WHGC LRM
Keith Hennessey
Brian Reardon
James D. Foster
Mary C. Barth
Justine F. Rodriguez
Daniel J. Keniry
Danielle M. Simonetta
Lauren C. Lobrano
Robert F. Mahaffie
Mark J. Schwartz
Stephen S. McMillin
Alan B. Rhinesmith
Maureen Walsh
Mark D. Menchik
Leticia Sierra
Yvette M. Dennis
James Boden
Julie L. Haas
Steven M. Mertens
Lori A. Krauss
Francis S. Redburn
Richard E. Green
James J. Jukes
OHS LRM
Kenneth L. Schwartz
Michael Casella
Ronald L. Silberman
Mark A. Weatherly
Larry R. Matlack
Steven M. Mertens
Jennifer S. Kron
Randolph M. Lyon
David R. Goldberg
Elizabeth K. Ward
Keith J. Fontenot
Jack A. Smalligan

Melissa M. Seeley
Jennifer Hanson-Kilbride
Michelle A. Enger
Mark A. Wasserman

LRM ID: IKK3 SUBJECT: TREASURY Testimony on Fiscal Year 2004
Budget: Revenue Proposals
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Irene Kho Phone: 395-5858 Fax: 395-3109
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-3454

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_X8KKD003_WHO.TXT_1>

DRAFT: Snow Opening FY04 Budget Statement

Chairman Grassley, Ranking Member Baucus, and distinguished members of the Finance committee, before I begin my testimony today I would like to thank you for the trust you expressed to me last week by reporting out my nomination to be Secretary of the Treasury. I intend to do my utmost to live up to the tremendous responsibility you and the President have given to me.

Before describing a few of the highlights of the President's budget, I would like to describe my view of the essential background for the budget: the United States economy and President Bush's economic growth plan, which promises to create jobs, accelerate America's economic recovery, and increase our growth for years to come.

As every American knows by now – whether from having lost a job, knowing someone who has, or worrying about losing theirs – our economy took a turn for the worse beginning in the summer of 2000. By the time President Bush took office the undercurrent was running against the economy.

Additional shocks followed. The unprovoked and unprecedented terrorist attacks of September 11, 2001 triggered a recession, while the discovery of serious abuses of trust by some corporate business leaders slowed our recovery from it. In response to this confluence of adverse events, President Bush led decisively. Acting with Congress in a bipartisan fashion, he took the steps necessary to protect a shaken nation and a fragile economy. In 2001, when relief was needed most, he signed the most sweeping tax relief in a generation. As evidence of the damage became clearer, he acted again in March 2002 to further bolster the economy. This was precisely the right medicine at precisely the right time and these actions made the recession shorter and shallower – in fact the mildest since World War II – than it would have been.

In the face of extreme adversity, our economy, like our nation, remains resilient. Despite a sequence of economic slowdown, attack on our homeland, war abroad, and weakened investor confidence, the economy is recovering. But as the President has stated, we can and must do better. Relative success is not sufficient. Too many Americans are out of work today, and too many Americans are insecure about their tomorrow.

We must build on the proven strengths of our economy. We must continue to move towards policies that will create more good jobs and raise living standards for all. As long as there are Americans who want a job and can't find one, the economy is not growing fast enough. That's why President Bush's jobs and growth package is so important. Under the President's proposal, 92 million taxpayers and their families would receive, on average, a tax cut of $1,083 in 2003. In fact, a typical family of four with two earners making a combined $39,000 in income will receive a total of $1,100 in tax relief under the President's plan. They would receive this relief not just once this year, but in each and every year. And his plan will create hundreds of thousand of additional jobs by the end of this year and well over a million more by the end of next year.

The package will not only help America return to its economic potential, it will increase it. I believe that is what everyone in this room and across America seeks.

Before I turn to the budget, a word about deficits. We are all troubled by them and they are never welcome. But there are times such as these when they are unavoidable. And when misguided attempts to treat the symptoms, and not the disease, will only make the economy sicker, not better. Even without the President's economic growth and jobs package, homeland security, war of terrorism, we would have deficits now. Are these deficits welcome? No. Are they understandable? Yes.

The surpluses we enjoyed were the product of a strong economy, not a weak one. We will not return to economic strength by taxing our economy when it is struggling, any more than we would increase our nation's security by being unwilling to fund its defense when it is threatened. The formula for weakening the economy and maintaining deficits is just the reverse: profligate spending and job-killing tax hikes. The prescription for returning to surpluses is this: hold the line on spending and grow the economy. This is the direction the President has chosen to lead. We are not going to let the war on terrorism bring either our nation or our economy to its knees.

Finally, we should remember that current deficits are small relative to our unique circumstances and to our economy as a whole. Even at their depth they remain below the levels of the last 30 years and begin a pronounced improvement after next year.

We face new threats and challenges but job creation and economic growth are keys not only to our near-term but our long-term success as well. If we are to meet the threats of today and the challenges of tomorrow, we must have a strong economy. We must not simply return America to prosperity, we must seek a higher plane of prosperity for America. That means rewarding hard work, encouraging hard work and creating the opportunities for work for all Americans. These are the values that brought America to where we are today and they are the ones that we must allow to lead us into the future. We must also remember that our success and our example in this endeavor promises not only a brighter, better future for our people and our children, but for the rest of the world as well.

The Jobs and Growth Package, our new initiatives to promote savings, our proposal to promote health care coverage, to encourage charitable giving, and to promote responsible energy production, and improved compliance measures from the Internal Revenue Service are all important budget initiatives. Each of these is described in more detail in our request.

The Treasury Department's portion of the 2004 budget is nearly a third reduced from 2003, owing mainly to the separation of homeland security functions from the Treasury Department this year. Adjusting for that change, Treasury's request is an increase of about 3.5% over last year's request.

Treasury's budget request will allow us to build on our recent accomplishments and highlights our commitments to:

1) Fight the war against terrorist financing;
2) Ensure that the tax system is fair for all Americans through a comprehensive compliance effort that includes high income taxpayers;
3) Increase Treasury's efficiency and effectiveness by streamlining operations; and
4) Maintain the integrity of our nation's financial systems and currency.

I look forward to discussing that plan and the rest of the President's budget with you today.

From: Nelson, Carolyn

To: <Wingate, Heather>;adam charnes <adam.charnes@usdoj.gov>;adam ciongoli <adam.ciongoli@usdoj.gov>;albert brewster <albert.brewster@usdoj.gov>;amy bass <amy.bass@usdoj.gov>;andrew beach <andrew.beach@usdoj.gov>;<Bartolomucci, H. Christopher>;<Bennett, Melissa S.>;<Brilliant, Hana F.>;<Bumatay, Patrick J.>;don willet <Don.Willett@usdoj.gov>;<Ellison, Kimberly>;evelyn long <evelyn.v.long@usdoj.gov>;<Francisco, Noel J.>;<Gray, Ann>;jason sutton <jason.j.sutton@usdoj.gov>;<Jones, Alison>;<Kavanaugh, Brett M.>;<Kyle, Ross M.>;<Leitch, David G.>;<Lockart, Sarah K.>;<McMaster, David>; <Montiel, Charlotte L.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Ralston, Susan B.>;<Sampson, Kyle>;tracy washington <tracy.t.washington@usdoj.gov>;viet dinh <viet.dinh@usdoj.gov>;<Walker, Helgard C.>;wendy keefer <wendy.j.keefer@usdoj.gov>

Sent: 2/3/2003 3:15:09 PM

Subject: WHJSC Meeting: 2/5/03

WHJSC is ON for this Wednesday, February 5, 2003, in the Roosevelt Room. Thanks!

From: FindLaw.com <listadmin@LEGALMINDS.ORG>
To: TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN] <TOPHEADLINES@LEGALMINDS.ORG>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 2/3/2003 3:20:01 PM
Subject: : [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Mon., Feb. 3, 2003

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"FindLaw.com" <listadmin@LEGALMINDS.ORG> ("FindLaw.com" <listadmin@LEGALMINDS.ORG> [UNKNOWN])
CREATION DATE/TIME: 3-FEB-2003 20:20:01.00
SUBJECT:: [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Mon., Feb. 3, 2003
TO:TOPHEADLINES@LEGALMINDS.ORG (TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

FINDLAW Mon, Feb 3, 2003

TOP LEGAL NEWS HEADLINES

For all of the day's legal news go to: http://news.findlaw.com

****

Got control? You need AbacusLaw! Over 100,001 users can't possibly be wrong! See for yourself. For the latest color brochure and demo, call toll-free 800-726-3339 or CLICK HERE.
http://rd.findlaw.com/scripts/nl.pl?url=10370880000_nl

****

POLITICS
NASA Sees Shuttle Tiles As Disaster Clue
http://news.findlaw.com/ap/o/1501/2-3-2003/20030203104500_08.html

Official Says Photos Show Iraq Bioweapons
http://news.findlaw.com/ap/i/1107/2-3-2003/20030203111502_02.html

LEGAL COMMENTARY
A Fair Trial for Moussaoui
http://writ.news.findlaw.com/mariner/20030203.html

The Sentencing of "Shoe Bomber" Richard Reid:
Its Larger Significance for Terrorism Cases and
The "War on Terrorism" In General
http://writ.news.findlaw.com/commentary/20030203_kayyem.html

LABOR AND EMPLOYMENT
Lego Lays Off 160, Citing Slow Sales
http://news.findlaw.com/ap/f/1310/2-3-2003/20030203111502_22.html

Unions at Steel Plant Want 1-Day Strike
http://news.findlaw.com/ap/f/1310/2-3-2003/20030203100001_08.html

CYBERSPACE LAW
Pentagon Reaches Deal on Wireless Web
http://news.findlaw.com/ap/a/w/1152/2-3-2003/20030203064503_067.html

Putting tax-prep sites, software to the test
http://news.findlaw.com/csmonitor/s/20030203/03feb2003085934.html

BUSINESS
CSFB Puts Star Banker Quattrone on Leave
[copy link and paste in browser window]

http://news.findlaw.com/business/s/20030203/financialcsfbquattronedc.html

SkillSoft: SEC to Review SmartForce
http://news.findlaw.com/business/s/20030203/techskillsoftdc.html

ENRON
Enron Creditors Sue Ex-Chairman Lay
http://news.findlaw.com/ap/f/1310/2-3-2003/20030203100002_30.html

INTERNATIONAL LAW
ElBaradei Says Time Running Out for Iraq
[copy link and paste in browser window]

http://news.findlaw.com/international/s/20030203/iraqunelbaradeidc.html

Serb Ex-Mayor Is Convicted of War Crimes
http://news.findlaw.com/ap/i/1103/2-3-2003/20030203113003_08.html

WAR ON TERRORISM
Jakarta Says Arrests Singapore Jemaah Islamiah Head
[copy link and paste in browser window]

http://news.findlaw.com/international/s/20030203/indonesiaterrordc.html

Indonesia Police Arrest Alleged Terrorist
http://news.findlaw.com/ap/i/1104/2-3-2003/20030203024500_14.html

CRIME & TRIALS
Espionage Trial Enters Second Week
http://news.findlaw.com/ap/o/1110/2-3-2003/20030203004501_09.html

Infamous Preppie Killer Due Out of Jail
http://news.findlaw.com/ap/o/1110/2-3-2003/20030203024500_18.html

ENTERTAINMENT
Music Producer Phil Spector Held in Fatal Shooting
http://news.findlaw.com/entertainment/s/20030203/crimespectordc.html

Douglas, Zeta-Jones to Star in Real Courtroom Drama
[copy link and paste in browser window]
http://news.findlaw.com/entertainment/s/20030203/peopledouglasdc.html

WORLDCOM
WorldCom Announces 5,000 Layoffs
http://news.findlaw.com/ap/ht/1700/2-3-2003/20030203101501_19.html

****

Trying to make a full-featured Practice Management System out of
Outlook(TM), ACT!(TM), GoldMine(TM), etc? Get your FREE Trial of Time
Matters(R), the most widely used, most award-winning practice
management system. Your existing data is easily transferred to Time
Matters. Use with Outlook or replace Outlook. Get FREE Trial at
http://rd.findlaw.com/scripts/nl.pl?url=10154880003_nl

********** West LegalEdcenter *******

Receive updates about NEW ONLINE CLE PROGRAMS

Register with West LegalEdcenter for monthly email updates about new online CLE programs in your practice areas and jurisdictions. West LegalEdcenter currently has more than 1,400 courses, with more added daily!

http://rd.findlaw.com/scripts/nl.pl?url=gen_cle_010402

********** westgroup.com *********

Get FREE ground shipping in the U.S. on all orders.
http://rd.findlaw.com/scripts/nl.pl?url=gen_ads_040102

****

FEEDBACK

We value your comments! Please take a moment to tell us what you think by sending an e-mail to:
mailto:newsletters@findlaw.com?subject=TopHeadlines. Please include "Top Headlines" in the subject line.

SUBSCRIPTION INFORMATION

To subscribe to a FindLaw Newsletter, visit the FindLaw Newsletter Subscription Center at http://newsletters.findlaw.com

To unsubscribe, go to http://newsletters.findlaw.com/unsubscribe.html

---

ADVERTISING INFORMATION

For more information about advertising in FindLaw Newsletters, please contact us at:

mailto:sales@findlaw.com

FindLaw Top Headlines http://news.findlaw.com
Copyright (c) 2003 FindLaw, Inc.

From: Nelson, Carolyn
To: <Bartolomucci, H. Christopher>;<Ullyot, Theodore W.>;<Bumatay, Patrick J.>;<Leitch, David G.>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Montiel, Charlotte L.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>;<Walker, Helgard C.>
Sent: 2/3/2003 3:21:14 PM
Subject: JSC Prep

Prep: 3:45-3:55 in the Judge's Office

JSC: 4:00-4:45 in the Roosevelt Room

From: Bumatay, Patrick J.
To: <Kavanaugh, Brett M.>
Sent: 2/3/2003 3:46:05 PM
Subject: FW: LRM IKK3 - - TREASURY Testimony on Fiscal Year 2004 Budget: Revenue Proposals
Attachments: tt0004a.doc

-----Original Message-----

From: Kho, Irene

Sent: Monday, February 03, 2003 3:39 PM

To: Cea Lrm; ODCLCA.LRM.SSA@ssa.gov; lrm@hhs.gov; laffairs@ustr.gov; CLRM@doc.gov; state-lrm@state.gov; dot.legislation@ost.dot.gov; dol-sol-leg@dol.gov; cla@sba.gov; justice.lrm@usdoj.gov; HUD_LRM@hud.gov; energy.gc71@hq.doe.gov

Cc: Ofbci Lrm; Nec Lrm; Ovp Lrm; Whgc Lrm; Hennessey, Keith; Reardon, Brian; Foster, James D.; Barth, Mary C.; Rodriguez, Justine F.; Keniry, Daniel ; Lobrano, Lauren C.; Mahaffie, Robert F.; Schwartz, Mark J.; McMillin, Stephen S.; Rhinesmith, Alan B.; Walsh, Maureen; Menchik, Mark D.; Sierra, Leticia; Dennis, Yvette M.; Boden, James; Haas, Julie L.; Mertens, Steven M.; Krauss, Lori A.; Redburn, Francis S.; Green, Richard E.; Jukes, James J.; Ohs Lrm; Schwartz, Kenneth L.; Casella, Michael; Silberman, Ronald L.; Weatherly, Mark A.; Matlack, Larry R.; Mertens, Steven M.; Kron, Jennifer S.; Lyon, Randolph M.; Goldberg, David R.; Ward, Elizabeth K.; Fontenot, Keith J.; Smalligan, Jack A.; Seeley, Melissa M.; Hanson-kilbride, Jennifer; Enger, Michelle A.; Wasserman, Mark A.

Subject: LRM IKK3 - - TREASURY Testimony on Fiscal Year 2004 Budget: Revenue Proposals

Attached is the Secretary of theTreasury's testimony on revenue proposals for the fiscal year 2004 budget for a hearing before the Senate Finance Committee tomorrow, Feb. 4th, at 10:00 AM. **Please review and provide comments by 5:30 PM today, Feb. 3rd.**

- tt0004a.doc << tt0004a.doc >>

LRM ID: IKK3

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Monday, February 3, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: Irene Kho
PHONE: (202)395-5858 FAX: (202)395-3109
SUBJECT: **TREASURY Testimony on Fiscal Year 2004 Budget: Revenue Proposals**

DEADLINE: **5:30 PM Monday, February 3, 2003**
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

COMMENTS: Attached is the Secretary of theTreasury's testimony on revenue proposals for the fiscal year 2004 budget for a hearing before the Senate Finance Committee tomorrow, Feb. 4th, at 10:00 AM. **Please review and provide comments by 5:30 PM today, Feb. 3rd.**

DISTRIBUTION LIST

AGENCIES:
018-Council of Economic Advisers - Liaison Officer - (202) 395-5084
110-Social Security Administration - Diane B. Garro - (202) 358-6030
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773
128-US Trade Representative - Carmen Suro-Bredie - (202) 395-4755
025-COMMERCE - Michael A. Levitt - (202) 482-3151
114-STATE - Nicole Petrosino - (202) 647-1794
117 & 340-TRANSPORTATION - Tom Herlihy - (202) 366-4687
062-LABOR - Robert A. Shapiro - (202) 693-5500
107-Small Business Administration - Richard Spence - (202) 205-6700
061-JUSTICE - Daniel Bryant - (202) 514-2141062-LABOR - Robert A. Shapiro - (202) 693-5500
054-HOUSING & URBAN DEVELOPMENT - Mike Moran - (202) 708-1793
032-ENERGY - Ted Pulliam - (202) 586-3397

EOP:
OFBCI LRM
NEC LRM
OVP LRM
WHGC LRM
Keith Hennessey
Brian Reardon
James D. Foster
Mary C. Barth
Justine F. Rodriguez
Daniel J. Keniry
Danielle M. Simonetta
Lauren C. Lobrano
Robert F. Mahaffie
Mark J. Schwartz
Stephen S. McMillin
Alan B. Rhinesmith
Maureen Walsh
Mark D. Menchik
Leticia Sierra
Yvette M. Dennis
James Boden
Julie L. Haas
Steven M. Mertens
Lori A. Krauss
Francis S. Redburn
Richard E. Green
James J. Jukes
OHS LRM
Kenneth L. Schwartz
Michael Casella
Ronald L. Silberman
Mark A. Weatherly
Larry R. Matlack
Steven M. Mertens
Jennifer S. Kron
Randolph M. Lyon
David R. Goldberg
Elizabeth K. Ward
Keith J. Fontenot
Jack A. Smalligan
Melissa M. Seeley
Jennifer Hanson-Kilbride
Michelle A. Enger

RESPONSE TO

LEGISLATIVE REFERRAL

MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: **Irene Kho Phone: 395-5858 Fax: 395-3109**

Office of Management and Budget

Branch-Wide Line (to reach legislative assistant): 395-3454

FROM: _____ **(Date)**

_____ **(Name)**

_____ **(Agency)**

_____ **(Telephone)**

The following is the response of our agency to your request for views on the above-captioned subject:

_____ **Concur**

_____ **No Objection**

_____ **No Comment**

_____ **See proposed edits on pages** _____

_____ **Other:** _____

_____ **FAX RETURN of** _____ **pages, attached to this response sheet**

DRAFT: Snow Opening FY04 Budget Statement

Chairman Grassley, Ranking Member Baucus, and distinguished members of the Finance committee, before I begin my testimony today I would like to thank you for the trust you expressed to me last week by reporting out my nomination to be Secretary of the Treasury. I intend to do my utmost to live up to the tremendous responsibility you and the President have given to me.

Before describing a few of the highlights of the President's budget, I would like to describe my view of the essential background for the budget: the United States economy and President Bush's economic growth plan, which promises to create jobs, accelerate America's economic recovery, and increase our growth for years to come.

As every American knows by now – whether from having lost a job, knowing someone who has, or worrying about losing theirs – our economy took a turn for the worse beginning in the summer of 2000. By the time President Bush took office the undercurrent was running against the economy.

Additional shocks followed. The unprovoked and unprecedented terrorist attacks of September 11, 2001 triggered a recession, while the discovery of serious abuses of trust by some corporate business leaders slowed our recovery from it. In response to this confluence of adverse events, President Bush led decisively. Acting with Congress in a bipartisan fashion, he took the steps necessary to protect a shaken nation and a fragile economy. In 2001, when relief was needed most, he signed the most sweeping tax relief in a generation. As evidence of the damage became clearer, he acted again in March 2002 to further bolster the economy. This was precisely the right medicine at precisely the right time and these actions made the recession shorter and shallower – in fact the mildest since World War II – than it would have been.

In the face of extreme adversity, our economy, like our nation, remains resilient. Despite a sequence of economic slowdown, attack on our homeland, war abroad, and weakened investor confidence, the economy is recovering. But as the President has stated, we can and must do better. Relative success is not sufficient. Too many Americans are out of work today, and too many Americans are insecure about their tomorrow.

We must build on the proven strengths of our economy. We must continue to move towards policies that will create more good jobs and raise living standards for all. As long as there are Americans who want a job and can't find one, the economy is not growing fast enough. That's why President Bush's jobs and growth package is so important. Under the President's proposal, 92 million taxpayers and their families would receive, on average, a tax cut of $1,083 in 2003. In fact, a typical family of four with two earners making a combined $39,000 in income will receive a total of $1,100 in tax relief under the President's plan. They would receive this relief not just once this year, but in each and every year. And his plan will create hundreds of thousand of additional jobs by the end of this year and well over a million more by the end of next year.

The package will not only help America return to its economic potential, it will increase it. I believe that is what everyone in this room and across America seeks.

Before I turn to the budget, a word about deficits. We are all troubled by them and they are never welcome. But there are times such as these when they are unavoidable. And when misguided attempts to treat the symptoms, and not the disease, will only make the economy sicker, not better. Even without the President's economic growth and jobs package, homeland security, war of terrorism, we would have deficits now. Are these deficits welcome? No. Are they understandable? Yes.

The surpluses we enjoyed were the product of a strong economy, not a weak one. We will not return to economic strength by taxing our economy when it is struggling, any more than we would increase our nation's security by being unwilling to fund its defense when it is threatened. The formula for weakening the economy and maintaining deficits is just the reverse: profligate spending and job-killing tax hikes. The prescription for returning to surpluses is this: hold the line on spending and grow the economy. This is the direction the President has chosen to lead. We are not going to let the war on terrorism bring either our nation or our economy to its knees.

Finally, we should remember that current deficits are small relative to our unique circumstances and to our economy as a whole. Even at their depth they remain below the levels of the last 30 years and begin a pronounced improvement after next year.

We face new threats and challenges but job creation and economic growth are keys not only to our near-term but our long-term success as well. If we are to meet the threats of today and the challenges of tomorrow, we must have a strong economy. We must not simply return America to prosperity, we must seek a higher plane of prosperity for America. That means rewarding hard work, encouraging hard work and creating the opportunities for work for all Americans. These are the values that brought America to where we are today and they are the ones that we must allow to lead us into the future. We must also remember that our success and our example in this endeavor promises not only a brighter, better future for our people and our children, but for the rest of the world as well.

The Jobs and Growth Package, our new initiatives to promote savings, our proposal to promote health care coverage, to encourage charitable giving, and to promote responsible energy production, and improved compliance measures from the Internal Revenue Service are all important budget initiatives. Each of these is described in more detail in our request.

The Treasury Department's portion of the 2004 budget is nearly a third reduced from 2003, owing mainly to the separation of homeland security functions from the Treasury Department this year. Adjusting for that change, Treasury's request is an increase of about 3.5% over last year's request.

Treasury's budget request will allow us to build on our recent accomplishments and highlights our commitments to:

1) Fight the war against terrorist financing;
2) Ensure that the tax system is fair for all Americans through a comprehensive compliance effort that includes high income taxpayers;
3) Increase Treasury's efficiency and effectiveness by streamlining operations; and
4) Maintain the integrity of our nation's financial systems and currency.

I look forward to discussing that plan and the rest of the President's budget with you today.

From: Robert.Nichols@do.treas.gov [UNKNOWN]

To: arnie_havens@csx.com [UNKNOWN] <arnie_havens@csx.com>;JT.Young@do.treas.gov [UNKNOWN] <JT.Young@do.treas.gov>;Lindley Kratovil/OVP/EOP@EOP [OVP] <Lindley Kratovil>;linda_mathis@csx.com [UNKNOWN] <linda_mathis@csx.com>;Janet.Jones@do.treas.gov [UNKNOWN] <Janet.Jones@do.treas.gov>;Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>;Keith Hennessey/OPD/EOP@EOP [OPD] <Keith Hennessey>;April.Lehman@do.treas.gov [UNKNOWN] <April.Lehman@do.treas.gov>;Robert.Nichols@do.treas.gov [UNKNOWN] <Robert.Nichols@do.treas.gov>;John.Duncan@do.treas.gov [UNKNOWN] <John.Duncan@do.treas.gov>;LBlalack@OMM.com [UNKNOWN] <LBlalack@OMM.com>;Adam_Hollingsworth@csx.com [UNKNOWN] <Adam_Hollingsworth@csx.com>;Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Candida P. Wolff/OVP/EOP@EOP [OVP] <Candida P. Wolff>;Edward Ingle/WHO /EOP@EOP [WHO] <Edward Ingle>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Dina Powell/WHO/EOP@EOP [WHO] <Dina Powell>;Adam B. Goldman/WHO/EOP@EOP [WHO] <Adam B. Goldman>;Tim.Adams@do.treas.gov [UNKNOWN] <Tim.Adams@do.treas.gov>;David.Aufhauser@do.treas.gov [UNKNOWN] <David.Aufhauser@do.treas.gov>;Alison Jones/WHO/EOP@EOP [WHO] <Alison Jones>

CC: Ziad S. Ojakli/WHO/EOP@EOP [WHO] <Ziad S. Ojakli>

Sent: 2/3/2003 1:44:41 PM

Subject: : snow swearing in coverage fyi

Attachments: P_RHWKD003_WHO.TXT_1.txt

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Robert.Nichols@do.treas.gov ( Robert.Nichols@do.treas.gov [ UNKNOWN ] )
CREATION DATE/TIME: 3-FEB-2003 18:44:41.00
SUBJECT:: snow swearing in coverage fyi
TO:arnie_havens@csx.com ( arnie_havens@csx.com [ UNKNOWN ] )
READ:UNKNOWN
TO:JT.Young@do.treas.gov ( JT.Young@do.treas.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Lindley Kratovil ( CN=Lindley Kratovil/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:linda_mathis@csx.com ( linda_mathis@csx.com [ UNKNOWN ] )
READ:UNKNOWN
TO:Janet.Jones@do.treas.gov ( Janet.Jones@do.treas.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Keith Hennessey ( CN=Keith Hennessey/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:April.Lehman@do.treas.gov ( April.Lehman@do.treas.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Robert.Nichols@do.treas.gov ( Robert.Nichols@do.treas.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:John.Duncan@do.treas.gov ( John.Duncan@do.treas.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:LBlalack@OMM.com ( LBlalack@OMM.com [ UNKNOWN ] )
READ:UNKNOWN
TO:Adam_Hollingsworth@csx.com ( Adam_Hollingsworth@csx.com [ UNKNOWN ] )
READ:UNKNOWN
TO:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Candida P. Wolff ( CN=Candida P. Wolff/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Edward Ingle ( CN=Edward Ingle/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
```

TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Adam B. Goldman (CN=Adam B. Goldman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Tim.Adams@do.treas.gov (Tim.Adams@do.treas.gov [UNKNOWN])
READ:UNKNOWN
TO:David.Aufhauser@do.treas.gov (David.Aufhauser@do.treas.gov [UNKNOWN])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Snow Takes Oath as Treasury Chief, to Push Tax Cut
By Simon Kennedy and Brendan Murray

Washington, Feb. 3 (Bloomberg) -- John Snow was sworn in as the 73rd U.S. Treasury secretary the day before he is to begin campaigning for President George W. Bush's proposed $690 billion tax cut.

The former chief executive of CSX Corp. stepped into the top Treasury post at a private ceremony held at the department he will now run. His predecessor, Paul O'Neill, left office Dec. 31 after being fired.

Snow is now the leader of Bush's revamped economic team, charged by the president with the task of persuading Congress to lower taxes during the next decade to bolster an economy that has lost jobs for two straight years and a stock market that has dropped for three.

``He is looking forward to implementing President Bush's agenda to strengthen economic growth and create jobs,'' said Rob Nichols, the Treasury's acting assistant secretary of public affairs.

Deputy Treasury Secretary Kenneth Dam, who ran the department on an interim basis after O'Neill left, administered the oath to Snow, whose wife held a copy of the Bible. Two of Snow's three sons, one of his daughters-in-law and
all of his three grandchildren attended the ceremony, which took place beneath a portrait of Alexander Hamilton, the first Treasury secretary, in the secretary's office on the third floor of the Treasury building.

The new Treasury chief is expected to appear before a series of congressional panels this week to lobby for the tax cut and for Bush's fiscal 2004 budget. He is to start tomorrow afternoon with the House Ways and Means Committee before visiting the House Budget and Senate Finance panels Wednesday. The Senate confirmed his nomination Thursday.

Growth Forecasts

Bush overhauled his economics team Dec. 6, firing O'Neill and chief White House economic adviser Lawrence Lindsey. Stephen Friedman, a former Goldman Sachs Group Inc. co-chairman was appointed to succeed Lindsey.

After falling into recession in March 2001, the economy is expected to grow less than 3 percent for the third successive year in 2003, according to Bush's fiscal 2004 budget, released today. It will grow 2.9 percent this year and 3.6 percent in 2004 after a 2.4 percent expansion last year, the budget forecast.

The tepid recovery and the war on terrorism mean the government will run a budget deficit of $199 billion this year and won't log a surplus until 2007,
the Congressional Budget Office said last week. Wall Street analysts have said this year's shortfall will be closer to $300 billion after Congress approves tax cuts and additional spending. The White House today estimated the deficit at $304 billion on its $2.23 trillion budget proposal for fiscal

2004.

Snow on the Deficit

The administration said the projected deficit for this year would amount to 2.8 percent of gross domestic product, well below the 6 percent of 1983, which was the most since World War II.

Bush hopes his call to eliminate taxes on dividends, accelerate income-tax reductions and aid the unemployed will bolster the economy and help him win re-election in 2004.

Snow, who campaigned for balanced budgets in the 1990s as chairman of the Business Roundtable, last week told the Senate that Bush's plan would create
500,000 jobs by year end and leave ``relatively modest'' deficits that wouldn't harm growth or worry financial markets.

``Getting the economy strong is the best way to service that debt,'' Snow told the Senate Finance panel. ``Reducing taxes stimulates the economy and puts us in a better position to do that.''

Democrats complain Bush's plan is biased toward the rich, will boost the deficit and would do little for the economy. ``His plan will push up interest rates, retard economic growth, and create massive problems,'' said Senator Kent Conrad of North Dakota, the ranking Democrat on the Senate Budget Committee.

Student of Two Nobelists

The 63-year old Snow has a net worth of around $100 million and has pledged to sell his stock in CSX and 60 other companies within 90 days. CSX, the No.
3 railroad company, named Michael Ward, its president, to replace him as chief executive and chairman.

Snow holds a doctorate in economics from the University of Virginia, where he was a student of two Nobel laureates. He has also been employed as a lawyer and as an academic. He served as a deputy secretary of Transportation
under President Gerald Ford and last year co-chaired a Conference Board study of corporate malfeasance. He joined CSX in 1977.

At the Treasury, Snow will earn $171,900 a year and oversee an $11 billion annual budget. His initial staff of 117,000 will drop by around a quarter as
Treasury agencies such as the Secret Service and the Customs Service are absorbed by the new Homeland Security Department.

Paris Debut

As well as formulating domestic economic and tax policy, Snow will be responsible for leading the U.S. crackdown on terrorism financing, managing the nation's debt and crafting the Bush administration's approach to international financial institutions.

His debut on the world stage will come Feb. 21 when he travels to Paris for a meeting of finance ministers from the Group of Seven industrial nations. The gathering was scheduled for last week until the French government delayed it amid doubt Snow would receive Senate confirmation in time to attend.

Snow's signature will also begin appearing on U.S. dollar bills and notes in
April or May, according to the Bureau of Engraving and Print.

++++++++++++++++

Snow Sworn in As Treasury Secretary

By JEANNINE AVERSA, Associated Press Writer

WASHINGTON - Former CSX railroad executive John Snow was sworn in Monday as the nation's 73rd treasury secretary, and he has his work cut out for him: Trying to steer the wobbly U.S. economy back onto firmer footing.

One of Snow's first major jobs will be selling President Bush (news - web sites)'s $695 billion tax-cut plan, aimed at energizing the $10.5 trillion economy. The proposal was included in the $2.23 trillion budget for 2004 that Bush sent to Congress on Monday.

Snow - sworn in during a private ceremony at 5 p.m. - was confirmed by the Senate last week and spent all day Monday getting briefed on the president's
budget, said Treasury Secretary Rob Nichols. Snow will testify on the president's 2004 budget on Capitol Hill three times in the next two days, Nichols said.

The private ceremony took place inside the blue office of the treasury secretary and underneath the portrait of the nation's first treasury secretary, Alexander Hamilton. Snow's wife, Carolyn, two of his sons and his
grandchildren attended.

Snow has pledged to sell his extensive stock holdings in CSX Corp. and 60 other companies and put his money in diversified mutual funds. He will do so
within 90 days. Snow has said he would recuse himself from participating in any decisions involving CSX while at Treasury, and would forego a lucrative severance package estimated at up to $15 million.

Snow, the head of railroad giant CSX for the past 14 years, was picked by Bush in December to replace Paul O'Neill after the president decided to shake up his economic team in an effort to find more effective salesmen for his new economic stimulus package.

Ken Dam, the deputy treasury secretary who took over the department's helm after O'Neill's departure, administered the oath of office to Snow. A public
ceremony for Snow could take place at the White House this week. A ceremony was slated for Tuesday but was moved because of a memorial service in Houston for the Columbia shuttle astronauts.

++++++++++++++++++++++

John Snow Sworn In As US Treasury Secretary At 5 PM Mon

DOW JONES NEWSWIRES

WASHINGTON -- John Snow was sworn in as the 73rd Treasury Secretary at about
5 p.m. EST Monday, the U.S. Treasury said.

Deputy Treasury Secretary Kenneth Dam administered Snow's oath in the Treasury Secretary's office in the main Treasury building, said Treasury spokesman Rob Nichols. The ceremony was private and included Snow's wife, Carolyn, two of his three sons and his three grandchildren.

Snow was at work all day Monday, attending briefings President George W. Bush's budget, Nichols said. Snow is slated to go before three Congressional
panels this week to discuss the budget.

Tuesday afternoon he will testify before the House Ways and Means Committee.
Wednesday morning he is set to appear before the House Budget Committee, followed by the Senate Finance Committee in the afternoon.

"During those hearings, Secretary Snow will share his views on the President's jobs and growth package and what the President is doing to accelerate economic growth," Nichols said.

Treasury has been without a secretary since the end of last year, when Secretary Paul O'Neill resigned under pressure. O'Neill's last day on the job was Dec. 31 and Dam has been serving as acting Treasury secretary.

Snow stepped down last week from his job as chairman and chief executive of CSX Corp. (CSX). Friday CSX named Michael Ward as the railroad company's new
chairman and CEO.

The clock has started ticking for Snow and his wife to sell their stock holdings. In an ethics agreement released last month, Snow and his wife also
pledged to sell their holdings in CSX and some 70 other companies, including
AOL Time Warner Inc. (AOL), CarMax Inc. (KMX), Duke Energy Corp. (DUK), HSBC
Holdings PLC (HBC) and Tyco International Ltd. (TYC). The money will be reinvested in diversified mutual funds, among other ventures.

Snow's personal financial-disclosure form doesn't list his specific net wealth, but said it is at least $70 million. Snow said he and his wife would
sell CSX stock within 90 days of confirmation, which was Jan. 30, and he pledged to disqualify himself involving matters involving CSX Corp. for the duration of his Treasury term.

In addition to Monday's private swearing-in ceremony, Snow may go through a public ceremony with the President later this week, in line with usual procedure for appointments.

-By Rebecca Christie, Dow Jones Newswires; 202 862 9249;rebecca.christie@dowjones.com

++++++++++++++++++++++++++

Snow Sworn in as New Treasury Secretary
Mon February 03, 2003 06:09 PM ET

By Glenn Somerville

WASHINGTON (Reuters) - Railroad executive John Snow was sworn in on Monday as treasury secretary, taking over the senior Cabinet post left vacant by the resignation under fire of Paul O'Neill in December.

Snow, attended by his wife Carolyn and other family members, was sworn in to
office by acting Treasury Secretary Kenneth Dam at a private ceremony at the
Treasury. Typically, there is a public ceremony later with President Bush, but it was unclear when that would happen.

Snow will be the principal spokesman for Bush's economic policies, including
his $2.24-trillion budget for next year, sent to Congress on Monday. He also
has the job of selling Bush's $674-billion economic stimulus program, a

task
he will begin with three appearances before lawmakers on Capitol Hill on Tuesday and Wednesday.

Snow spent all day on Monday being briefed on the budget proposals.

He was scheduled to testify on Tuesday morning to the Senate Finance Committee, but that was rescheduled to Wednesday so lawmakers can attend a memorial ceremony for the seven astronauts lost in the Columbia space shuttle tragedy on Saturday.

TRIPLE TESTIMONY AHEAD

Snow will testify on Tuesday before the tax-writing House Ways and Means Committee. On Wednesday, he will testify twice -- before the House Budget Committee in the morning and to the Senate Finance Committee in the afternoon.

Snow is expected to face tough questioning from lawmakers on the budget proposals, which project deficits of $304 billion for the current fiscal year ending Sept. 30 and $307 billion next year, surpassing a 1992 record of
$290 billion.

The 63-year-old Snow was chairman of regional freight giant CSX Corp., a position he surrendered at the end of last week. The wealthy industrialist also said he will give up the directorships he holds on the boards of other companies to avoid any conflicts of interest.

Treasury spokesman Robert Nichols said Snow was preparing for his new duties. "Secretary Snow is looking forward to implementing President Bush's agenda to strengthen economic growth and create jobs," Nichols said.

At his hearing last Tuesday, Snow said he supported a strong dollar and, in written questions and answers made public before Thursday night's confirmation vote, he pledged to push the United States' trading partners to
do more to boost their economic growth.

Snow will get an early chance to do that when finance ministers from the Group of Seven industrial nations -- the United States, Britain, Canada, France, Germany, Italy and Japan -- gather in Paris on Feb. 21-22. The session was originally scheduled to take place on last weekend but was rescheduled to accommodate Snow.

Rob Nichols

U.S. Department of the Treasury

202-622-2910 <mailto:'JT.Young@do.treas.gov'>

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_RHWKD003_WHO.TXT_1>

Snow Takes Oath as Treasury Chief, to Push Tax Cut
By Simon Kennedy and Brendan Murray

Washington, Feb. 3 (Bloomberg) -- John Snow was sworn in as the 73rd U.S. Treasury secretary the day before he is to begin campaigning for President George W. Bush's proposed $690 billion tax cut.

The former chief executive of CSX Corp. stepped into the top Treasury post a t a private ceremony held at the department he will now run. His predecessor, Pau l O'Neill, left office Dec. 31 after being fired.

Snow is now the leader of Bush's revamped economic team, charged by the president with the task of persuading Congress to lower taxes during the next decade to bolster an economy that has lost jobs for two straight years and a stock market that has dropped for three.

``He is looking forward to implementing President Bush's agenda to strengthe n economic growth and create jobs,'' said Rob Nichols, the Treasury's acting assistant secretary of public affairs.

Deputy Treasury Secretary Kenneth Dam, who ran the department on an interim basis after O'Neill left, administered the oath to Snow, whose wife held a copy of the Bible. Two of Snow's three sons, one of his daughters-in-law and all of his three grandchildren attended the ceremony, which took place beneath a portrait of Alexander Hamilton, the first Treasury secretary, in the secretary' s office on the third floor of the Treasury building.

The new Treasury chief is expected to appear before a series of congressiona l panels this week to lobby for the tax cut and for Bush's fiscal 2004 budget. He is to start tomorrow afternoon with the House Ways and Means Committee before visiting the House Budget and Senate Finance panels Wednesday. The Senate confirmed his nomination Thursday.

Growth Forecasts

Bush overhauled his economics team Dec. 6, firing O'Neill and chief White House economic adviser Lawrence Lindsey. Stephen Friedman, a former Goldman Sachs Group Inc. co-chairman was appointed to succeed Lindsey.

After falling into recession in March 2001, the economy is expected to grow less than 3 percent for the third successive year in 2003, according to Bush's fiscal 2004 budget, released today. It will grow 2.9 percent this year and 3.6 percent in 2004 after a 2.4 percent expansion last year, the budget forecast.

The tepid recovery and the war on terrorism mean the government will run a budget deficit of $199 billion this year and won't log a surplus until 2007, th e Congressional Budget Office said last week. Wall Street analysts have said this year's shortfall will be closer to $300 billion after Congress approves tax cut s and additional spending. The White House today estimated the deficit at $304 billion on its $2.23 trillion budget proposal for fiscal 2004.

Snow on the Deficit

The administration said the projected deficit for this year would amount to 2.8 percent of gross domestic product, well below the 6 percent of 1983, which was the most since World War II.

Bush hopes his call to eliminate taxes on dividends, accelerate income-tax reductions and aid the unemployed will bolster the economy and help him win re-election in 2004.

Snow, who campaigned for balanced budgets in the 1990s as chairman of the Business Roundtable, last week told the Senate that Bush's plan would create 500,000 jobs by year end and leave ``relatively modest'' deficits that wouldn't harm growth or worry financial markets.

``Getting the economy strong is the best way to service that debt,'' Snow told the Senate Finance panel. ``Reducing taxes stimulates the economy and puts us in a better position to do that.''

Democrats complain Bush's plan is biased toward the rich, will boost the deficit and would do little for the economy. ``His plan will push up interest rates, retard economic growth, and create massive problems,'' said Senator Kent Conrad of North Dakota, the ranking Democrat on the Senate Budget Committee.

Student of Two Nobelists

The 63-year old Snow has a net worth of around $100 million and has pledged to sell his stock in CSX and 60 other companies within 90 days. CSX, the No. 3 railroad company, named Michael Ward, its president, to replace him as chief executive and chairman.

Snow holds a doctorate in economics from the University of Virginia, where h e was a student of two Nobel laureates. He has also been employed as a lawyer and as an academic. He served as a deputy secretary of Transportation under President Gerald Ford and last year co-chaired a Conference Board study of corporate malfeasance. He joined CSX in 1977.

At the Treasury, Snow will earn $171,900 a year and oversee an $11 billion annual budget. His initial staff of 117,000 will drop by around a quarter as Treasury agencies such as the Secret Service and the Customs Service are absorbed by the new Homeland Security Department.

Paris Debut

As well as formulating domestic economic and tax policy, Snow will be responsible for leading the U.S. crackdown on terrorism financing, managing the nation's debt and crafting the Bush administration's approach to international financial institutions.

His debut on the world stage will come Feb. 21 when he travels to Paris for a meeting of finance ministers from the Group of Seven industrial nations. The gathering was scheduled for last week until the French government delayed it amid doubt Snow would receive Senate confirmation in time to attend.

Snow's signature will also begin appearing on U.S. dollar bills and notes in April or May, according to the Bureau of Engraving and Print.

++++++++++++++++

Snow Sworn in As Treasury Secretary

REV_00157356

By JEANNINE AVERSA, Associated Press Writer

WASHINGTON - Former CSX railroad executive John Snow was sworn in Monday as the nation's 73rd treasury secretary, and he has his work cut out for him: Trying to steer the wobbly U.S. economy back onto firmer footing.

One of Snow's first major jobs will be selling President Bush (news - web sites)'s $695 billion tax-cut plan, aimed at energizing the $10.5 trillion economy. The proposal was included in the $2.23 trillion budget for 2004 that Bush sent to Congress on Monday.

Snow - sworn in during a private ceremony at 5 p.m. - was confirmed by the Senate last week and spent all day Monday getting briefed on the president's budget, said Treasury Secretary Rob Nichols. Snow will testify on the president's 2004 budget on Capitol Hill three times in the next two days, Nichols said.

The private ceremony took place inside the blue office of the treasury secretary and underneath the portrait of the nation's first treasury secretary, Alexander Hamilton. Snow's wife, Carolyn, two of his sons and his grandchildren attended.

Snow has pledged to sell his extensive stock holdings in CSX Corp. and 60 other companies and put his money in diversified mutual funds. He will do so within 90 days. Snow has said he would recuse himself from participating in any decisions involving CSX while at Treasury, and would forego a lucrative severance package estimated at up to $15 million.

Snow, the head of railroad giant CSX for the past 14 years, was picked by Bush in December to replace Paul O'Neill after the president decided to shake u p his economic team in an effort to find more effective salesmen for his new economic stimulus package.

Ken Dam, the deputy treasury secretary who took over the department's helm after O'Neill's departure, administered the oath of office to Snow. A public ceremony for Snow could take place at the White House this week. A ceremony was slated for Tuesday but was moved because of a memorial service in Houston for the Columbia shuttle astronauts.

++++++++++++++++++++++

John Snow Sworn In As US Treasury Secretary At 5 PM Mon

DOW JONES NEWSWIRES

WASHINGTON -- John **Snow** was sworn in as the 73rd Treasury Secretary at about 5 p.m. EST Monday, the U.S. Treasury said.

Deputy Treasury Secretary Kenneth Dam administered Snow's oath in the Treasury Secretary's office in the main Treasury building, said Treasury spokesman Rob Nichols. The ceremony was private and included Snow's wife, Carolyn, two of his three sons and his three grandchildren.

Snow was at work all day Monday, attending briefings President George W. Bush's budget, Nichols said. **Snow** is slated to go before three Congressional panels this week to discuss the budget.

Tuesday afternoon he will testify before the House Ways and Means Committee. Wednesday morning he is set to appear before the House Budget Committee, followed by the Senate Finance Committee in the afternoon.

"During those hearings, Secretary **Snow** will share his views on the President's jobs and growth package and what the President is doing to accelerate economic growth," Nichols said.

Treasury has been without a secretary since the end of last year, when Secretary Paul O'Neill resigned under pressure. O'Neill's last day on the job was Dec. 31 and Dam has been serving as acting Treasury secretary.

Snow stepped down last week from his job as chairman and chief executive of CSX Corp. (CSX). Friday CSX named Michae l Ward as the railroad company's new chairman and CEO.

The clock has started ticking for **Snow** and his wife to sell their stock holdings. In an ethics agreement released last month, **Snow** and his wife also pledged to sell their holdings in CSX and some 70 other companies, including AOL Time Warner Inc. (AOL), CarMax Inc. (KMX), Duke Energy Corp. (DUK), HSBC Holdings PLC (HBC) and Tyco International Ltd. (TYC). The money will be reinvested in diversified mutual funds, among other ventures.

Snow's personal financial-disclosure form doesn't list his specific net wealth, but said it is at least $70 million. **Snow** said he and his wife would sell CSX stock within 90 day s of confirmation, which was Jan. 30, and he pledged to disqualify himself involving matters involving CSX Corp. for the duration of his Treasury term.

In addition to Monday's private swearing-in ceremony, **Snow** may go through a public ceremony with the President later this week, in line with usual procedure for appointments.

-By Rebecca Christie, Dow Jones Newswires; 202 862 9249;rebecca.christie@dowjones.com

++++++++++++++++++++++++++

Snow Sworn in as New Treasury Secretary
Mon February 03, 2003 06:09 PM ET

By Glenn Somerville

WASHINGTON (Reuters) - Railroad executive John Snow was sworn in on Monday a s treasury secretary, taking over the senior Cabinet post left vacant by the resignation under fire of Paul O'Neill in December.

Snow, attended by his wife Carolyn and other family members, was sworn in to office by acting Treasury Secretary Kenneth Dam at a private ceremony at the Treasury. Typically, there is a public ceremony later with President Bush, but it was unclear when that would happen.

Snow will be the principal spokesman for Bush's economic policies, including his $2.24-trillion budget for next year, sent to Congress on Monday. He also ha s the job of selling Bush's $674-billion economic stimulus program, a task he wil l begin with three appearances before lawmakers on Capitol Hill on Tuesday and Wednesday.

Snow spent all day on Monday being briefed on the budget proposals.

He was scheduled to testify on Tuesday morning to the Senate Finance Committee, but that was rescheduled to Wednesday so lawmakers can attend a memorial ceremony for the seven astronauts lost in the Columbia space shuttle tragedy on Saturday.

TRIPLE TESTIMONY AHEAD

Snow will testify on Tuesday before the tax-writing House Ways and Means Committee. On Wednesday, he will testify twice -- before the House Budget Committee in the morning and to the Senate Finance Committee in the afternoon.

Snow is expected to face tough questioning from lawmakers on the budget proposals, which project deficits of $304 billion for the current fiscal year ending Sept. 30 and $307 billion next year, surpassing a 1992 record of $290 billion.

The 63-year-old Snow was chairman of regional freight giant CSX Corp., a position he surrendered at the end of last week. The wealthy industrialist also said he will give up the directorships he holds on the boards of other companie s to avoid any conflicts of interest.

Treasury spokesman Robert Nichols said Snow was preparing for his new duties . "Secretary Snow is looking forward to implementing President Bush's agenda to strengthen economic growth and create jobs," Nichols said.

At his hearing last Tuesday, Snow said he supported a strong dollar and, in written questions and answers made public before Thursday night's confirmation vote, he pledged to push the United States' trading partners to do more to boos t their economic growth.

Snow will get an early chance to do that when finance ministers from the Group of Seven industrial nations -- the United States, Britain, Canada, France , Germany, Italy and Japan -- gather in Paris on Feb. 21-22. The session was originally scheduled to take place on last weekend but was rescheduled to accommodate Snow.

Rob Nichols

U.S. Department of the Treasury

202-622-2910

From: Thomas, Ginni <ginni.thomas@heritage.org>
To: Government Relations <GovernmentRelations@heritage.org>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 2/4/2003 7:32:17 AM
Subject: : Heritage - recent publications and upcoming events - Feb. 4

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Thomas, Ginni" <ginni.thomas@heritage.org> ("Thomas, Ginni"
<ginni.thomas@heritage.org> [UNKNOWN])
CREATION DATE/TIME: 4-FEB-2003 12:32:17.00
SUBJECT:: Heritage - recent publications and upcoming events - Feb. 4
TO:Government Relations <GovernmentRelations@heritage.org> (Government Relations
<GovernmentRelations@heritage.org> [UNKNOWN])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Lots of new papers. Cheers, Ginni

Recent Publications:
Domestic Policy:

2003 Economic Growth Briefing Room
The Heritage Foundation's economic team has established this "Briefing Room" to present timely and accurate research on the tax debate. This page features daily updates with talking points, charts, related commentary and resources.
http://www.heritage.org/research/taxes/taxbriefingroom.cfm

Disclosure Benefits Business and Labor by Ed Meese
http://www.washtimes.com/commentary/20030128-99672131.htm

State of the Union Reaction by Michael Franc
http://www.heritage.org/Research/PoliticalPhilosophy/wm198.cfm

Off the Rails by Ron Utt
http://www.heritage.org/Press/Commentary/ed013103a.cfm

Principles for Safeguarding Civil Liberties in an Age of Terrorism by Paul Rosenzweig
http://www.heritage.org/Research/HomelandDefense/em854.cfm

Congress Should not Prematurely Short-Circuit the Total Information Awareness Program by Paul Rosenzweig
http://www.heritage.org/Research/HomelandDefense/em853.cfm

Code Blue: A State-by-State Assessment of America's Deepening Medical Malpractice Crisis by Derek Hunter
http://www.heritage.org/Research/HealthCare/wm194.cfm

State-by-State Breakdown of President Bush's Growth Package: Benefits for Married Couples and Families with Children by The Heritage Foundation
http://www.heritage.org/Research/Taxes/WM199.cfm

The Growth Factor: Scoring Bush's Proposal In Reality by Alfredo Goyburu and Andrew Olivastro
http://www.heritage.org/Research/Taxes/wm195.cfm

Three Ways to Make President Bush's Tax Plan Even Better by Lawrence H. Whitman http://www.heritage.org/Research/Taxes/em856.cfm

The Economic and Fiscal Effects of Ending the Federal Double Taxation of Dividends by Norbert Michel, Alfredo Goyburu, and Ralph Rector

http://www.heritage.org/Research/Taxes/CDA_workingpaper.cfm

Tax Reform Benefits Everyone by Norbert Michel
http://www.heritage.org/Press/Commentary/Ed013003c.cfm

Payback for the Rich? by Rebecca Hagelin
http://www.heritage.org/Press/Commentary/ed012903.cfm

Fact v. Fiction: Tax Rebates by Norbert Michel
http://www.heritage.org/Research/Taxes/wm192.cfm

Fact v. Fiction: Temporary Tax Cuts by Norbert Michel
http://www.heritage.org/Research/Taxes/wm193.cfm

Reforming Social Security: A Change in the Climate of Opinion by William Shipman
http://www.heritage.org/Research/SocialSecurity/hl776.cfm

The FCC's Local Competition Report: Surprise! by James Gattuso
http://www.heritage.org/Press/Commentary/ed013103d.cfm

The Role of Parental Work in Child Poverty by Robert Rector and Rea Hederman
http://www.heritage.org/Research/Family/cda-03-01.cfm

Foreign/Defense Policy:

Disarming Iraq & More: State of the Union Response by Helle Dale
http://www.heritage.org/Research/MiddleEast/wm197.cfm

The Real Smoking Gun by Dexter Ingram
http://www.heritage.org/Press/Commentary/ed020303.cfm

Why Britain will fight in Iraq by John Hulsman and Nile Gardiner
http://www.heritage.org/Press/Commentary/ed020303a.cfm

New Europe Proves Rumsfeld Right Over Iraq by John Hulsman
http://www.heritage.org/Research/Europe/wm200.cfm

Putting the EU in Its Place: Why Filing a GMO Case with the WTO Is Crucial by Sara Fitzgerald
http://www.heritage.org/Research/Europe/em855.cfm

The Prince of Peace Was a Warrior, Too by Joe Loconte
http://www.heritage.org/Press/Commentary/ed013003.cfm

Securing the Homeland Begins at Home by Michael Scardaville
http://www.heritage.org/Research/HomelandDefense/em852.cfm

Taiwan Must Get Serious About Defense by John Tkacik
http://www.heritage.org/Press/Commentary/ed013103b.cfm

The Challenges and Imperatives in Taiwan's Defense by Peter Brookes
http://www.heritage.org/Research/AsiaandthePacific/hl775.cfm

'Evil Axis' Label Fits by Jim Phillips
http://www.heritage.org/Press/Commentary/ED013003b.cfm

Why the USA is OK in the ROK by Larry Wortzel
http://www.heritage.org/Press/Commentary/ED013003d.cfm

Other:

Agenda 2003: Shaping America's Future
The issues facing the 108th Congress, from homeland security to health care to tax reform, present lawmakers with the opportunity to improve all

Americans' security and prosperity. Accomplishing this goal requires the innovative policy solutions provided in Agenda 2003 - The Heritage Foundation's public policy playbook. To request a copy of Agenda 2003 or to view excerpts, call 1-800-544-4843 or http://www.heritage.org/research/features/agenda.cfm

Policy Experts 2003
The essential "who's who" guide to the world of public policy experts and organizations can be ordered by contacting the Heritage Foundation's Publications Department at 1-800-544-4843, by mail at, 214 Massachusetts Avenue NE, Washington, DC 20002, or order online at www.policyexperts.org.

The Heritage Foundation's 2003 Calendar is still available. If you haven't received a copy please request one by e-mailing us or calling 1-800-546-2843.

Upcoming Events:
For event details and RSVP, link to :
http://www.heritage.org/Press/Events/index.cfm

Security Challenges on the Korean Peninsula
Featuring: Dr. Seok Hyun HONG, Publisher, Chairman and CEO,Joong-Ang Ilbo; Dr. Larry Wortzel, The Heritage Foundation
Tuesday, February 11th 11:00 a.m. - 12:30 p.m.

First Among Equals: The Supreme Court in American Life
Featuring: Ken Starr, author; and Edwin Meese, The Heritage Foundation
Thursday, February 13th 12:00 noon - 1:00 p.m.

Virginia (Ginni) Thomas, Director
Executive Branch Relations
The Heritage Foundation
214 Mass. Ave., NE
Washington, D.C. 20002
(202) 608-6240 and (202) 608-6068 (fax)
ginni.thomas@heritage.org
www.heritage.org

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Carolyn Nelson/WHO/EOP@Exchange [WHO] <Carolyn Nelson>
Sent: 2/4/2003 3:48:55 AM
Subject: : RE: can you fax me feinstein letter

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 4-FEB-2003 08:48:55.00
SUBJECT:: RE: can you fax me feinstein letter
TO:Carolyn Nelson (CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

no

From: Carolyn Nelson/WHO/EOP@Exchange on 02/04/2003 08:44:42 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE: can you fax me feinstein letter

Done. Did you chat with Heather about Judge's meeting with Pryor?

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Tuesday, February 04, 2003 8:38 AM
To: Nelson, Carolyn
Subject: can you fax me feinstein letter

From: Office of Global Communications <Global.Messenger@WhiteHouse.Gov>
To: Wendy L. Nipper Office of Global Communications/WHO/EOP@EOP [WHO] <Wendy L. Nipper Office of Global Communications>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 2/4/2003 3:27:42 PM
Subject: : White House Global Messenger -- 02/05/2003
Attachments: P_E1GMD003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Office of Global Communications <Global.Messenger@WhiteHouse.Gov> (Office of Global Communications <Global.Messenger@WhiteHouse.Gov> [UNKNOWN])
CREATION DATE/TIME: 4-FEB-2003 20:27:42.00
SUBJECT:: White House Global Messenger -- 02/05/2003
TO:Wendy L. Nipper Office of Global Communications (CN=Wendy L. Nipper Office of Global Communications/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

THE GLOBAL MESSENGER

Wednesday, February 5, 2003

KEY POINTS

- We are in the final phase of the 12 year effort to disarm Saddam Hussein.

- The gravest danger we face is outlaw regimes that sponsor terror and possess or seek weapons of mass destruction.

- As part of the cease-fire agreement at the end of the Gulf War in 1991, Saddam was required to declare and destroy all his weapons of mass destruction.

- For over a decade, Saddam has consistently flouted these obligations. Eight weeks have now passed since Saddam was given his final chance. Six hundred weeks have passed since he was given his first chance.

- The UN and U.S. intelligence sources have known for some time that Saddam Hussein has materials to produce chemical and biological weapons, but he has not accounted for them, nor has he accounted for almost 30,000 munitions capable of delivering chemical agents.

- Thousands of Iraqi security personnel are at work hiding documents and materials from the UN inspectors. Iraqi officials accompany all inspectors in order to intimidate witnesses, and Saddam Hussein has ordered that scientists who cooperate with the UN be killed, along with their families.

- Saddam Hussein aids and protects terrorists. Al-Qaida members are known to have been in Iraq. He could provide hidden weapons to terrorists or help them develop their own. It would take just one vial, one canister, one crate slipped into our country to bring a day of horror like none we have ever known.

- The United States has asked the UN Security Council to convene today to

consider the facts of Iraq
's ongoing defiance of the world. We will consult.
But if Saddam Hussein does not disarm, we will lead a coalition of the
willing
for the safety of our people, and for the peace of the world.

TODAY'S SCHEDULE
All Times Eastern Standard Time Unless Noted
Subject to Change

10:30 am President Bush meets with Prime Minister Miller of Poland

10:30 am Secretary Powell addresses the United Nations Security
Council,
New York, NY

1:15 pm White House Briefing by Ari Fleischer

THE RISK OF INACTION
Excerpt from an Op/Ed by former Secretary of State James Baker, published
in the
Wall Street Journal, 2-4-03

"We cannot allow the real risks associated with acting against Iraq to
paralyze
us. They must be balanced against the risks of inaction -- in this case, a
future nuclear, biological or chemical attack against the U.S., its
allies, or
Iraq's neighbors. We cannot permit Iraq to become another North Korea.
Leadership is not about making easy decisions. It is about making right
ones.
When it comes to Iraq, the administration has made the right one. With
Secretary
Powell's mission to the U.N., it is now up to the Security Council to make
the
right one as well."

EXTENDING AMERICA'S COMPASSION TO THE WORLD'S NEEDIEST CITIZENS

Today in Africa, 30 million people are at risk of starvation or are facing
severe food shortages, including 14 million people in Ethiopia alone. The
United
States is the world's largest contributor of food relief, contributing 52%
of
total contributions to the UN World Food Program's emergency operations,
and
over 40% of contributions to the World Food Program's emergency appeals for
Southern Africa last year.

For more information, please visit:
http://www.whitehouse.gov/news/releases/2003/02/20030201-1.html

THE WHITE HOUSE
Office of Global Communications

For more information log on to www.whitehouse.gov/ogc

(See attached file: GM 2-5-03 FINAL.doc)

****

You have previously expressed interest in obtaining news and information
from
the White House.

The White House Office of Global Communications distributes information
about
the President's messages to the world. This office distributes updates on

major
international topics such as the global war on terror, the case for
regime
change in Iraq, and more broadly, the ways in which we can all
better
communicate the aspirations and interests that Americans
share with
freedom-loving people everywhere. - GM 2-5-03 FINAL.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_E1GMD003_WHO.TXT_1>

THE GLOBAL MESSENGER

Wednesday, February 5, 2003

Today's Schedule

All Times Eastern Standard Time Unless Noted
Subject to Change

10:30 am	President Bush meets with Prime Minister Miller of Poland
10:30 am	Secretary Powell addresses the United Nations Security Council, New York, NY
1:15 pm	White House Briefing by Ari Fleischer

The Risk of Inaction

Excerpt from an Op/Ed by former Secretary of State James Baker, published in the Wall Street Journal, *2-4-03*

"We cannot allow the real risks associated with acting against Iraq to paralyze us. They must be balanced against the risks of inaction -- in this case, a future nuclear, biological or chemical attack against the U.S., its allies, or Iraq's neighbors. We cannot permit Iraq to become another North Korea. Leadership is not about making easy decisions. It is about making right ones. When it comes to Iraq, the administration has made the right one. With Secretary Powell's mission to the U.N., it is now up to the Security Council to make the right one as well."

Extending America's Compassion to the World's Neediest Citizens

Today in Africa, 30 million people are at risk of starvation or are facing severe food shortages, including 14 million people in Ethiopia alone. The United States is the world's largest contributor of food relief, contributing 52% of total contributions to the UN World Food Program's emergency operations, and over 40% of contributions to the World Food Program's emergency appeals for Southern Africa last year.

For more information, please visit:
http://www.whitehouse.gov/news/releases/2003/02/20030201-1.html

KEY POINTS

- We are in the final phase of the 12 year effort to disarm Saddam Hussein.
- The gravest danger we face is outlaw regimes that sponsor terror and possess or seek weapons of mass destruction.
- As part of the cease-fire agreement at the end of the Gulf War in 1991, Saddam was required to declare and destroy all his weapons of mass destruction.
- For over a decade, Saddam has consistently flouted these obligations. Eight weeks have now passed since Saddam was given his final chance. Six hundred weeks have passed since he was given his first chance.
- The UN and U.S. intelligence sources have known for some time that Saddam Hussein has materials to produce chemical and biological weapons, but he has not accounted for them, nor has he accounted for almost 30,000 munitions capable of delivering chemical agents.
- Thousands of Iraqi security personnel are at work hiding documents and materials from the UN inspectors. Iraqi officials accompany all inspectors in order to intimidate witnesses, and Saddam Hussein has ordered that scientists who cooperate with the UN be killed, along with their families.
- Saddam Hussein aids and protects terrorists. Al-Qaida members are known to have been in Iraq. He could provide hidden weapons to terrorists or help them develop their own. It would take just one vial, one canister, one crate slipped into our country to bring a day of horror like none we have ever known.
- The United States has asked the UN Security Council to convene today to consider the facts of Iraq's ongoing defiance of the world. We will consult. But if Saddam Hussein does not disarm, we will lead a coalition of the willing for the safety of our people, and for the peace of the world.

THE WHITE HOUSE
Office of Global Communications

For more information log on to www.whitehouse.gov/ogc

From: Adrian_G._Gray@who.eop.gov [UNKNOWN]

To: John.Shaw@eh.doe.gov [UNKNOWN] <John.Shaw@eh.doe.gov>;Doug_Domenech@ios.doi.gov [UNKNOWN] <Doug_Domenech@ios.doi.gov>;Peter.Dugas@sba.gov [UNKNOWN] <Peter.Dugas@sba.gov>;ashley.mcgee@hq.doe.gov [UNKNOWN] <ashley.mcgee@hq.doe.gov>;lkaufman@doc.gov [UNKNOWN] <lkaufman@doc.gov>;ljones@doc.gov [OMB] <ljones@doc.gov>;dwm@usda.gov [UNKNOWN] <dwm@usda.gov>;korsmo-michelle@dol.gov [UNKNOWN] <korsmo-michelle@dol.gov>;Brian_Waidmann@ios.doi.gov [UNKNOWN] <Brian_Waidmann@ios.doi.gov>;jeff.phillips@mail.va.gov [UNKNOWN] <jeff.phillips@mail.va.gov>;matthew_f._hunter@hud.gov [UNKNOWN] <matthew_f._hunter@hud.gov>;sinclair.kelly@epa.gov [UNKNOWN] <sinclair.kelly@epa.gov>;denherder-david@dol.gov [UNKNOWN] <denherder-david@dol.gov>;Frank_R._Jimenez@hud.gov [UNKNOWN] <Frank_R._Jimenez@hud.gov>;Stacey.Lukens@ed.gov [UNKNOWN] <Stacey.Lukens@ed.gov>;Joe.McMonigle@hq.doe.gov [UNKNOWN] <Joe.McMonigle@hq.doe.gov>;todd.ferrara@usda.gov [UNKNOWN] <todd.ferrara@usda.gov>;bill.brough@mail.va.gov [UNKNOWN] <bill.brough@mail.va.gov>;laurie.rich@ed.gov [UNKNOWN] <laurie.rich@ed.gov>;Nora.Egan@mail.va.gov [UNKNOWN] <Nora.Egan@mail.va.gov>;Robert.Wood@hhs.gov [UNKNOWN] <Robert.Wood@hhs.gov>;law-steven@dol.gov [UNKNOWN] <law-steven@dol.gov>;kyle.mcslarrow@hq.doe.gov [UNKNOWN] <kyle.mcslarrow@hq.doe.gov>;drew.deberry@usda.gov [UNKNOWN] <drew.deberry@usda.gov>;regina.schofield@hhs.gov [UNKNOWN] <regina.schofield@hhs.gov>;Quintin.Kendall@ost.dot.gov [UNKNOWN] <Quintin.Kendall@ost.dot.gov>;Sue_Ellen_Wooldridge@ios.doi.gov [UNKNOWN] <Sue_Ellen_Wooldridge@ios.doi.gov>

CC: Katherine M. Walters/WHO/EOP@EOP [WHO] <Katherine M. Walters>;Michael J. Napolitano/WHO/EOP@EOP [WHO] <Michael J. Napolitano>;Paul B. Dyck/WHO/EOP@EOP [WHO] <Paul B. Dyck>;Sara M. Taylor/WHO/EOP@EOP [WHO] <Sara M. Taylor>;Alicia W. Davis/WHO/EOP@EOP [WHO] <Alicia W. Davis>;David McMaster/WHO/EOP@EOP [WHO] <David McMaster>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Ken Mehlman/WHO/EOP@EOP [WHO] <Ken Mehlman>;Adrian G. Gray/WHO/EOP@EOP [WHO] <Adrian G. Gray>;Leonard B. Rodriguez/WHO/EOP@EOP [WHO] <Leonard B. Rodriguez>;Matthew A. Schlapp/WHO/EOP@EOP [WHO] <Matthew A. Schlapp>;Collister W. Johnson/WHO/EOP@EOP [WHO] <Collister W. Johnson>;David M. Thomas/WHO/EOP@EOP [WHO] <David M. Thomas>;jwest@rnchq.org [UNKNOWN] <jwest@rnchq.org>;tjosefiak@rnchq.org [UNKNOWN] <tjosefiak@rnchq.org>

Sent: 2/4/2003 3:58:19 PM

Subject: : Conference Call on Wednesday

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Adrian_G._Gray@who.eop.gov ( Adrian_G._Gray@who.eop.gov [ UNKNOWN ] )
CREATION DATE/TIME: 4-FEB-2003 20:58:19.00
SUBJECT:: Conference Call on Wednesday
TO:John.Shaw@eh.doe.gov ( John.Shaw@eh.doe.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Doug_Domenech@ios.doi.gov ( Doug_Domenech@ios.doi.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Peter.Dugas@sba.gov ( Peter.Dugas@sba.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:ashley.mcgee@hq.doe.gov ( ashley.mcgee@hq.doe.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:lkaufman@doc.gov ( lkaufman@doc.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:ljones@doc.gov ( ljones@doc.gov [ OMB ] )
READ:UNKNOWN
TO:dwm@usda.gov ( dwm@usda.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:korsmo-michelle@dol.gov ( korsmo-michelle@dol.gov [ UNKNOWN ] )
READ:UNKNOWN
```

TO:Brian_Waidmann@ios.doi.gov (Brian_Waidmann@ios.doi.gov [UNKNOWN])
READ:UNKNOWN
TO:jeff.phillips@mail.va.gov (jeff.phillips@mail.va.gov [UNKNOWN])
READ:UNKNOWN
TO:matthew_f._hunter@hud.gov (matthew_f._hunter@hud.gov [UNKNOWN])
READ:UNKNOWN
TO:sinclair.kelly@epa.gov (sinclair.kelly@epa.gov [UNKNOWN])
READ:UNKNOWN
TO:denherder-david@dol.gov (denherder-david@dol.gov [UNKNOWN])
READ:UNKNOWN
TO:Frank_R._Jimenez@hud.gov (Frank_R._Jimenez@hud.gov [UNKNOWN])
READ:UNKNOWN
TO:Stacey.Lukens@ed.gov (Stacey.Lukens@ed.gov [UNKNOWN])
READ:UNKNOWN
TO:Joe.McMonigle@hq.doe.gov (Joe.McMonigle@hq.doe.gov [UNKNOWN])
READ:UNKNOWN
TO:todd.ferrara@usda.gov (todd.ferrara@usda.gov [UNKNOWN])
READ:UNKNOWN
TO:bill.brough@mail.va.gov (bill.brough@mail.va.gov [UNKNOWN])
READ:UNKNOWN
TO:laurie.rich@ed.gov (laurie.rich@ed.gov [UNKNOWN])
READ:UNKNOWN
TO:Nora.Egan@mail.va.gov (Nora.Egan@mail.va.gov [UNKNOWN])
READ:UNKNOWN
TO:Robert.Wood@hhs.gov (Robert.Wood@hhs.gov [UNKNOWN])
READ:UNKNOWN
TO:law-steven@dol.gov (law-steven@dol.gov [UNKNOWN])
READ:UNKNOWN
TO:kyle.mcslarrow@hq.doe.gov (kyle.mcslarrow@hq.doe.gov [UNKNOWN])
READ:UNKNOWN
TO:drew.deberry@usda.gov (drew.deberry@usda.gov [UNKNOWN])
READ:UNKNOWN
TO:regina.schofield@hhs.gov (regina.schofield@hhs.gov [UNKNOWN])
READ:UNKNOWN
TO:Quintin.Kendall@ost.dot.gov (Quintin.Kendall@ost.dot.gov [UNKNOWN])
READ:UNKNOWN
TO:Sue_Ellen_Wooldridge@ios.doi.gov (Sue_Ellen_Wooldridge@ios.doi.gov [UNKNOWN])
READ:UNKNOWN
CC:Katherine M. Walters (CN=Katherine M. Walters/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Michael J. Napolitano (CN=Michael J. Napolitano/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Paul B. Dyck (CN=Paul B. Dyck/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Sara M. Taylor (CN=Sara M. Taylor/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Alicia W. Davis (CN=Alicia W. Davis/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:David McMaster (CN=David McMaster/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Adrian G. Gray (CN=Adrian G. Gray/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Leonard B. Rodriguez (CN=Leonard B. Rodriguez/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:David M. Thomas (CN=David M. Thomas/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:jwest@rnchq.org (jwest@rnchq.org [UNKNOWN])
READ:UNKNOWN
CC:tjosefiak@rnchq.org (tjosefiak@rnchq.org [UNKNOWN])
READ:UNKNOWN

End Original ARMS Header

Tomorrow there will be a conference with WH Political Affairs, WH Counsel's office, and RNC Counsel to discuss how the new campaign finance laws may affect the political activity that your bosses may be involved in (invitations, what types of events may be done, what kind of money, state vs. federal, etc etc).

Please join us.

Time: Wednesday at 5:30pm

Number: 877-811-2620

Participant code: 760055

From: CN=Jim Towey/OU=WHO/O=EOP [WHO]
To: Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>
CC: brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;noel j. francisco/who/eop@eop [WHO] <noel j. francisco>
Sent: 2/4/2003 12:40:44 PM
Subject: : Re: Windsor Village United Methodist Church POTUS Participation

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 4-FEB-2003 17:40:44.00
SUBJECT:: Re: Windsor Village United Methodist Church POTUS Participation
TO:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:noel j. francisco (CN=noel j. francisco/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

You do superb work - and you do it quickly! I will share with the appropriate West Wing folks. Thanks again. Jim

Nanette Everson
02/04/2003 05:22:06 PM
Record Type: Record

To: Jim Towey/WHO/EOP@EOP
cc: Nanette Everson/WHO/EOP@EOP, Noel J. Francisco/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
Subject: Windsor Village United Methodist Church POTUS Participation

You have asked the Counsel's Office whether the President may attend the Pyramid Community Development Corporation ("CDC") banquet and provide a keynote speech for the CDC's tenth anniversary, where the proceeds from the event will go to three projects: (1) an endowment for the Pyramid CDC; (2) an entrepreneurs' empowerment program that provides low-interest loans; and (3) the Village of Hope a residential drug treatment facility for women and children that utilizes faith based solutions to the issues of addiction.

Short Answer: Yes, provided all practical safeguards and vetting procedures as described more fully below are scrupulously adhered to.

Issues and Short Answers:

May the President give an official speech at a non-profit organization annual banquet where that organization funds three faith based programs that incidentally will benefit from the President's presence?

Yes. Under federal ethics laws the President may give an official speech on a subject matter that relates to his official duties where the event at which the speech is to be given provides an appropriate forum for the dissemination of the information to be presented and provided that the President does not request donations or other support for the nonprofit organization. 5 C.F.R. section 2635.808(3).

Discussion

Although the ethics regulations and the examples contained therein do not reference the President, Example 1provides an analogous example of appropriate conduct in the context of a nonprofit organization. Specifically, the regulations approve the following hypothetical. "The Secretary of Labor is invited to speak at a banquet honoring a distinguished labor leader, the proceeds of which will benefit a nonprofit organization that assists homeless families. She devotes a major portion of her speech to the Administration's Points of Light initiative, an effort to encourage citizens to volunteer their time to help solve serious social problems. Because she is authorized to speak on Administration policy, her remarks at the banquet are an official speech. However, the Secretary would be engaged in fund-raising if she were to conclude her official speech with a request for donations to the nonprofit organization." See 5 C.F.R. section 2635.808(3)(Example 1).

Applying this analysis to these facts leads to a similar conclusion. First, it is beyond doubt that the President of the United States is authorized to "speak on Administration policy" and the remarks the President would make would at the CDC banquet qualify as an "official speech."

The President's recent State of the Union address demonstrates the President's focus on problems of homelessness, addiction and economic development, issues that are being addressed by the CDC and its affiliates. In his State of the Union the President stated: "Our . . . goal is to apply the compassion of America to the deepest problems of America. For so many in our country--the homeless, the fatherless, the addicted--the need is great." Similarly, the President emphasized his administration's concern regarding addiction. "Another cause of hopelessness is addiction to drugs. Addiction crowds out friendship, ambition, moral conviction, and reduces all the richness of life to a single destructive desire." Finally, while increasing funding for addiction treatment programs, the President demonstrated his particular commitment to faith based treatment programs. "Our Nation is blessed with recovery programs that do amazing work. One of them is found at the Healing Place Church in Baton Rouge, Louisiana. A man in the program said, 'God does miracles in people's lives, and you never think it could be you.'"

I therefore conclude that the analysis applied under federal ethics regulations--provided no solicitation occurs and provided you receive commitments from that CDC that the CDC will not use the President's or the First Lady's name in connection with any fund-raising efforts nor include their names on any fund-raising solicitations or stationary--allows the President to attend this banquet where proceeds will fund the nonprofit entities and to give an official speech.

Have all appropriate vetting procedures been completed?

Short Answer:
Not yet, but these can be quickly completed by the Office of Faith Based Initiatives.

Discussion

The Counsel's Office has suggested several vetting procedures that should be followed in all instances involving the President's or the First Lady's involvement with charitable organizations. By copy of this e-mail I am asking the Office of Faith Based and Community Initiatives to undertake this vetting process immediately and to provide the Office of the Counsel to the President the opportunity to review the results to ensure that adequate due diligence has been completed.

Based on the facts provided to me by the Director of the Office of Faith Based and Community Initiatives, the President regularly has attended the

Windsor Village United Methodist Church and the Minister, Reverend Kirbyjon H. Caldwell is a close personal friend of the First Family and the President who is invited to stay as an overnight guest in the White House residence. These facts indicate a number of factors relevant to the Counsel's Office policy guidance as follows:

Does the President or First Lady have an existing relationship with the charitable organization?
Could the association with the organization reflect negatively on the President or the First Lady?

From these facts, the first two prongs of the vetting analysis appear to be satisfied.
By way of analogy, it is worth mentioning that the President and the First Lady do serve as honorary co-chairs of charitable and non-profit organizations and these organizations engage in fund-raising efforts on behalf of their organizations, which precedent also lends support to these facts.

A few issues do remain to be researched and evaluated however;other factors that the OFB and CI needs to analyze and provide assurances to the Office of the Counsel include the following:

Is the charitable organization engaged in litigation against the United States?
Is the organization or any of its directors officers or trustees under investigation by law enforcement?
Is the charitable organization in compliance with all laws and regulations, including tax laws, that apply to it?

Assuming the results to these questions is positive, this request appears to be lawful and appropriate under ethics laws; please ensure that all materials relating to this event are pre-approved by the Counsel's office to conform with this guidance.

Let me know if I can be of further help; of course, it goes without saying that the actual Presidential decision to participate rests with the President and his close advisors. Also, decisions regarding the use of the President's likeness and seal are carefully monitored by my colleague Noel Francisco in the Counsel's Office, should these issues arise. I am also copying Brett Kavanaugh, who also frequently fields similar-type issues.

From: Nelson, Carolyn

To: <Wingate, Heather>;adam charnes <adam.charnes@usdoj.gov>;adam ciongoli <adam.ciongoli@usdoj.gov>;albert brewster <albert.brewster@usdoj.gov>;amy bass <amy.bass@usdoj.gov>;andrew beach <andrew.beach@usdoj.gov>;<Bartolomucci, H. Christopher>;<Bennett, Melissa S.>;<Brilliant, Hana F.>;<Bumatay, Patrick J.>;don willet <Don.Willett@usdoj.gov>;<Ellison, Kimberly>;evelyn long <evelyn.v.long@usdoj.gov>;<Francisco, Noel J.>;<Gray, Ann>;jason sutton <jason.j.sutton@usdoj.gov>;<Jones, Alison>;<Kavanaugh, Brett M.>;<Kyle, Ross M.>;<Leitch, David G.>;<Lockart, Sarah K.>;<McMaster, David>; <Montiel, Charlotte L.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Ralston, Susan B.>;<Sampson, Kyle>;tracy washington <tracy.t.washington@usdoj.gov>;viet dinh <viet.dinh@usdoj.gov>;<Walker, Helgard C.>;wendy keefer <wendy.j.keefer@usdoj.gov>

Sent: 2/4/2003 5:03:20 PM

Subject: WHJSC Room Change

WHJSC will now be held in the Judge's Office at 4:00pm tomorrow afternoon.

Thanks!

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>
Sent: 2/4/2003 1:18:56 PM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 4-FEB-2003 18:18:56.00
SUBJECT::
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

call me
```

From: CN=Adrian G. Gray/OU=WHO/O=EOP [WHO]

To: John.Shaw@eh.doe.gov @ inet [UNKNOWN] <John.Shaw@eh.doe.gov @ inet>;Doug_Domenech@ios.doi.gov @ inet [UNKNOWN] <Doug_Domenech@ios.doi.gov @ inet>;Peter.Dugas@sba.gov @ inet [UNKNOWN] <Peter.Dugas@sba.gov @ inet>;ashley.mcgee@hq.doe.gov @ inet [UNKNOWN] <ashley.mcgee@hq.doe.gov @ inet>;lkaufman@doc.gov @ inet [UNKNOWN] <lkaufman@doc.gov @ inet>;ljones@doc.gov @ inet [OMB] <ljones@doc.gov @ inet>;dwm@usda.gov @ inet [UNKNOWN] <dwm@usda.gov @ inet>;korsmo-michelle@dol.gov @ inet [UNKNOWN] <korsmo-michelle@dol.gov @ inet>;Brian_Waidmann@ios.doi.gov @ inet [UNKNOWN] <Brian_Waidmann@ios.doi.gov @ inet>;jeff.phillips@mail.va.gov @ inet [UNKNOWN] <jeff.phillips@mail.va.gov @ inet>;matthew_f._hunter@hud.gov @ inet [UNKNOWN] <matthew_f._hunter@hud.gov @ inet>;sinclair.kelly@epa.gov @ inet [UNKNOWN] <sinclair.kelly@epa.gov @ inet>;denherder-david@dol.gov @ inet [UNKNOWN] <denherder-david@dol.gov @ inet>;Frank_R._Jimenez@hud.gov @ inet [UNKNOWN] <Frank_R._Jimenez@hud.gov @ inet>;Stacey.Lukens@ed.gov @ inet [UNKNOWN] <Stacey.Lukens@ed.gov @ inet>;Joe.McMonigle@hq.doe.gov @ inet [UNKNOWN] <Joe.McMonigle@hq.doe.gov @ inet>;todd.ferrara@usda.gov @ inet [UNKNOWN] <todd.ferrara@usda.gov @ inet>;bill.brough@mail.va.gov @ inet [UNKNOWN] <bill.brough@mail.va.gov @ inet>;laurie.rich@ed.gov @ inet [UNKNOWN] <laurie.rich@ed.gov @ inet>;Nora.Egan@mail.va.gov @ inet [UNKNOWN] <Nora.Egan@mail.va.gov @ inet>;Robert.Wood@hhs.gov @ inet [UNKNOWN] <Robert.Wood@hhs.gov @ inet>;law-steven@dol.gov @ inet [UNKNOWN] <law-steven@dol.gov @ inet>;kyle.mcslarrow@hq.doe.gov @ inet [UNKNOWN] <kyle.mcslarrow@hq.doe.gov @ inet>;drew.deberry@usda.gov @ inet [UNKNOWN] <drew.deberry@usda.gov @ inet>;regina.schofield@hhs.gov @ inet [UNKNOWN] <regina.schofield@hhs.gov @ inet>;Quintin.Kendall@ost.dot.gov @ inet [UNKNOWN] <Quintin.Kendall@ost.dot.gov @ inet>;Sue_Ellen_Wooldridge@ios.doi.gov @ inet [UNKNOWN] <Sue_Ellen_Wooldridge@ios.doi.gov @ inet>

CC: Katherine M. Walters/WHO/EOP@EOP [WHO] <Katherine M. Walters>;Michael J. Napolitano/WHO/EOP@EOP [WHO] <Michael J. Napolitano>;Paul B. Dyck/WHO/EOP@EOP [WHO] <Paul B. Dyck>;Sara M. Taylor/WHO/EOP@EOP [WHO] <Sara M. Taylor>;Alicia W. Davis/WHO/EOP@EOP [WHO] <Alicia W. Davis>;David McMaster/WHO/EOP@EOP [WHO] <David McMaster>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;kmehlman@who.eop.gov @ inet [WHO] <kmehlman@who.eop.gov @ inet>;Adrian G. Gray/WHO/EOP@EOP [WHO] <Adrian G. Gray>;Leonard B. Rodriguez/WHO/EOP@EOP [WHO] <Leonard B. Rodriguez>;Matthew A. Schlapp/WHO/EOP@EOP [WHO] <Matthew A. Schlapp>;Collister W. Johnson/WHO/EOP@EOP [WHO] <Collister W. Johnson>;David M. Thomas/WHO/EOP@EOP [WHO] <David M. Thomas>;jwest@rnchq.org @ inet [UNKNOWN] <jwest@rnchq.org @ inet>;tjosefiak@rnchq.org @ inet [UNKNOWN] <tjosefiak@rnchq.org @ inet>

Sent: 2/4/2003 3:57:39 PM

Subject: : Conference Call on Wednesday

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Adrian G. Gray ( CN=Adrian G. Gray/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 4-FEB-2003 20:57:39.00
SUBJECT:: Conference Call on Wednesday
TO:John.Shaw@eh.doe.gov @ inet ( John.Shaw@eh.doe.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:Doug_Domenech@ios.doi.gov @ inet ( Doug_Domenech@ios.doi.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:Peter.Dugas@sba.gov @ inet ( Peter.Dugas@sba.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:ashley.mcgee@hq.doe.gov @ inet ( ashley.mcgee@hq.doe.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:lkaufman@doc.gov @ inet ( lkaufman@doc.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:ljones@doc.gov @ inet ( ljones@doc.gov @ inet [ OMB ] )
READ:UNKNOWN
TO:dwm@usda.gov @ inet ( dwm@usda.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
```

TO:korsmo-michelle@dol.gov @ inet (korsmo-michelle@dol.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:Brian_Waidmann@ios.doi.gov @ inet (Brian_Waidmann@ios.doi.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:jeff.phillips@mail.va.gov @ inet (jeff.phillips@mail.va.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:matthew_f._hunter@hud.gov @ inet (matthew_f._hunter@hud.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:sinclair.kelly@epa.gov @ inet (sinclair.kelly@epa.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:denherder-david@dol.gov @ inet (denherder-david@dol.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:Frank_R._Jimenez@hud.gov @ inet (Frank_R._Jimenez@hud.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:Stacey.Lukens@ed.gov @ inet (Stacey.Lukens@ed.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:Joe.McMonigle@hq.doe.gov @ inet (Joe.McMonigle@hq.doe.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:todd.ferrara@usda.gov @ inet (todd.ferrara@usda.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:bill.brough@mail.va.gov @ inet (bill.brough@mail.va.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:laurie.rich@ed.gov @ inet (laurie.rich@ed.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:Nora.Egan@mail.va.gov @ inet (Nora.Egan@mail.va.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:Robert.Wood@hhs.gov @ inet (Robert.Wood@hhs.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:law-steven@dol.gov @ inet (law-steven@dol.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:kyle.mcslarrow@hq.doe.gov @ inet (kyle.mcslarrow@hq.doe.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:drew.deberry@usda.gov @ inet (drew.deberry@usda.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:regina.schofield@hhs.gov @ inet (regina.schofield@hhs.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:Quintin.Kendall@ost.dot.gov @ inet (Quintin.Kendall@ost.dot.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:Sue_Ellen_Wooldridge@ios.doi.gov @ inet (Sue_Ellen_Wooldridge@ios.doi.gov @ inet [
UNKNOWN])
READ:UNKNOWN
CC:Katherine M. Walters (CN=Katherine M. Walters/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Michael J. Napolitano (CN=Michael J. Napolitano/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Paul B. Dyck (CN=Paul B. Dyck/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Sara M. Taylor (CN=Sara M. Taylor/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Alicia W. Davis (CN=Alicia W. Davis/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:David McMaster (CN=David McMaster/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:kmehlman@who.eop.gov @ inet (kmehlman@who.eop.gov @ inet [WHO])
READ:UNKNOWN
CC:Adrian G. Gray (CN=Adrian G. Gray/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Leonard B. Rodriguez (CN=Leonard B. Rodriguez/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:David M. Thomas (CN=David M. Thomas/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:jwest@rnchq.org @ inet (jwest@rnchq.org @ inet [UNKNOWN])

READ:UNKNOWN
CC:tjosefiak@rnchq.org @ inet (tjosefiak@rnchq.org @ inet [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Tomorrow there will be a conference with WH Political Affairs, WH Counsel's office, and RNC Counsel to discuss how the new campaign finance laws may affect the political activity that your bosses may be involved in (invitations, what types of events may be done, what kind of money, state vs. federal, etc etc). Please join us.

Time: Wednesday at 5:30pm

Number: 877-811-2620

Participant code: 760055

From: CN=Ken Mehlman/OU=WHO/O=EOP [WHO]
To: Leonard B. Rodriguez/WHO/EOP@EOP [WHO] <Leonard B. Rodriguez>;Mercedes M. Viana/WHO/EOP@EOP [WHO] <Mercedes M. Viana>;Karl C. Rove/WHO /EOP@Exchange@EOP [WHO] <Karl C. Rove>;Heather Wingate/WHO /EOP@Exchange@EOP [WHO] <Heather Wingate>;Daniel J. Bartlett/WHO /EOP@Exchange@EOP [WHO] <Daniel J. Bartlett>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/5/2003 6:14:24 AM
Subject: : FW: Liberal Democrats Threaten Filibuster On Miguel Estrada
Attachments: P_5B0ND003_WHO.TXT_1.htm

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 5-FEB-2003 11:14:24.00
SUBJECT:: FW: Liberal Democrats Threaten Filibuster On Miguel Estrada
TO:Leonard B. Rodriguez (CN=Leonard B. Rodriguez/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Mercedes M. Viana (CN=Mercedes M. Viana/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

This went out last night.
---------- Forwarded by Ken Mehlman/WHO/EOP on 02/05/2003 11:10 AM ----------

Ken Mehlman <kmehlman@georgewbush.com>
02/05/2003 11:01:12 AM
Record Type: Record

To: Ken Mehlman/WHO/EOP@EOP
cc:
Subject: FW: Liberal Democrats Threaten Filibuster On Miguel Estrada

RNC Research Briefing
-----Original Message-----
From: RNC Research [mailto:Rncresearch@rnchq.org]
Sent: Tuesday, February 04, 2003 9:26 PM
To: Ken Mehlman
Subject: Liberal Democrats Threaten Filibuster On Miguel Estrada

RNCResearch@rnchq.org
February 4, 2003

Click Here To View This Document In Word Format
Click Here To View This Document In PDF Format

LIBERAL DEMOCRATS THREATEN FILIBUSTER ON MIGUEL ESTRADA

Democrat Senator Kennedy And His Liberal Colleagues Seek To Block
First Hispanic To Serve On U.S. Court Of Appeals For The D.C. Circuit

---

?It Is Hard To Imagine A Worse Parody Of A Judicial Confirmation Process Than The Unfolding Drama Of Miguel Estrada?s Nomination . . . .? (Editorial, ?Exploiting Estrada,? The Washington Post, September 29, 2002)

democrats plan to filibuster

Democrats Plan To ?Portray The Nominees As Extremists? And Filibuster.
?The Democrats? plan appears to be to portray the nominees as extremists who are well outside the mainstream of the law. If Democrats can make that label stick, they hope to hold their party together on the Senate floor and quash Republican efforts to block a filibuster and bring the nominees to a vote.? (Jonathan Groner, ?Hatch Off To A Fast Start On Judges,? Legal Times, February 3, 2003)

Senator Ted Kennedy (D-MA) Is ?Angry? Over Estrada Nomination And ?Pledged To Fight.? ?Angry about what he termed a bid to rush controversial nominations through the Judiciary Committee without serious scrutiny, Edward M. Kennedy, D-Mass., pledged to fight for the Senate?s constitutionally delegated responsibility to give ?advice and consent? on nominees.. ?If we have to exercise all our rights in order to protect them, so be it,? Kennedy said.? (Jennifer A. Dlouhy, ?No Letup In Judiciary Wars As Party-Line Vote Advances Disputed Estrada Nomination,? Congressional Quarterly Weekly, February 1, 2003)

ESTRADA IS ?WELL QUALIFIED?

The Washington Post Says Estrada Is ?Well-Regarded? And Should Be Confirmed. Estrada is ?a well-regarded appellate lawyer . . . . There is no sound basis on which to oppose him. . . . At the end of the day, Mr. Estrada must be considered on his merits. His confirmation is an easy call.? (Editorial, ?Exploiting Estrada,? The Washington Post, September 29, 2002)

The American Bar Association Says Estrada Is ?Well Qualified.? The American Bar Association (ABA) has given Miguel Estrada a unanimous ?Well Qualified? rating, the highest possible rating. The ABA bases its ratings on ?integrity, professional competence and judicial temperament.? Democrats have called the ABA rating the ?gold standard.? (Jonathan Ringel, ?ABA Approves More Bush Nominees,? Legal Times, July 16, 2001; Amy Goldstein, ?Bush Set To Curb ABA?s Role In Court Appointments,? The Washington Post, March 18, 2001)

? The Senate Has Rejected Only One Nominee With A Unanimous ?Well Qualified? Rating. If Democrats play politics with Estrada?s nomination, he would be only the second nominee given an unanimous ?Well Qualified? rating from the American Bar Association (ABA) to be rejected by

the Senate Judiciary Committee. The other nominee, Priscilla Owen, was rejected on partisan political grounds September 5, 2002. (Senator Orrin Hatch (R-UT), Senate Judiciary Committee Hearing, July 23, 2002; Chuck Lindell, ?Senate Democrats Reject Bush Pick For Appeals Court As ?Too Extreme,?? The Atlanta Journal Constitution, September 6, 2002)

Estrada Is ?Remarkably Qualified.? Gabriela Lemus, spokeswoman for the League of United Latin American Citizens, said, ?So often you hear there are not enough qualified Latinos for these positions, but he is remarkably qualified.? (Frank Davies, ?Battle Is Brewing Over Court Nominee,? St. Paul Pioneer Press, January 6, 2002)

Estrada Has A ?Proven Record Of Success.? Fraternal Order of Police President Steve Young said, ?A necessary qualification for any candidate for a position within the Federal Judiciary should be a proven record of success as a practicing attorney. I believe that it is also necessary for a candidate to be familiar with the inner-workings of the Court, and to have respect for the law enforcement community of which they are an important part. Mr. Estrada meets both of these important criteria . . . .? (White House Fact Sheet: ?What They Are Saying About Miguel Estrada.?)

Estrada Has Superb Academic And Professional Credentials:

? Estrada has argued 15 cases before the U.S. Supreme Court. He won two-thirds of those cases.

? From 1992 to 1997, Estrada served as Assistant to the Solicitor General of the United States.

? Estrada graduated magna cum laude from Harvard Law School, where he was editor of the Harvard Law Review.

? Estrada graduated magna cum laude and Phi Beta Kappa from Columbia College, New York.

? Estrada served as a clerk to Supreme Court Justice Anthony M. Kennedy.

? Estrada is a partner with Gibson, Dunn, & Crutcher LLP, where he is a member of the firm?s Appellate and Constitutional Law Practice Group and the Business Crimes and Investigations Practice Group.

? Estrada served as Assistant U.S. Attorney and Deputy Chief of the Appellate Section for the U.S. Attorney?s Office, Southern District of New York. Estrada tried 10 cases as a prosecutor and argued 7 cases before the U.S. Court of Appeals for the Second Circuit.

(Resume Of Miguel A. Estrada, U.S. Department Of Justice Website, www.usdoj.gov; Accessed September 25, 2002; Neil A. Lewis, ?Appeals Court Nominee Facing Tough Confirmation Hearing,? The New York Times, September 24, 2002; Charles Lane, ?Nominee For Court Faces Two Battles,? The Washington Post, September 24, 2002; White House Fact Sheet: ?Who Is Miguel Estrada??; White House Fact Sheet: ?Miguel Estrada.?)

BI-PARTISAN SUPPORT FOR ESTRADA

?An Absolutely Brilliant Lawyer.? Robert Litt, who served as Associate Deputy Attorney General in the Criminal Division at the Clinton Justice Department, said, ?Miguel is an absolutely brilliant lawyer . . . . I always felt that he was a talented and responsible advocate.? (?Bench Book: New Faces For The Federal Courts,? Legal Times, May 14, 2001)

?Model Of Professionalism And Competence.? Seth P. Waxman, Solicitor General under President Clinton, said Estrada is a ?model of professionalism and competence? and that he has ?great respect for both Mr. Estrada?s intellect and for his integrity.? (Seth P. Waxman, Letter To The Senate Judiciary Committee, As Quoted In Alberto R. Gonzales, Letter To Diane Feinstein, February 3, 2003)

?Brilliant, Dedicated, And Principled.? In a letter to the Senate Judiciary Committee, Randolph Moss, President Clinton?s former Assistant Attorney General in the Office of Legal Counsel wrote, ?Although I am [sic] Democrat and Miguel and I do not see eye-to-eye on every issue, I hold Miguel in the highest regard and I urge the Committee to give favorable consideration to his nomination . . . . Miguel is a brilliant, dedicated, and principled lawyer.? (?Miguel Estrada: An American Success Story,? The Latino Coalition)

?Genuinely Compassionate.? Vice President Gore?s former Chief of Staff, Ronald Klain, in a letter to the Senate Judiciary Committee, wrote the ?challenges [Estrada] has overcome in his life have made him genuinely compassionate, genuinely concerned for others, and genuinely devoted to helping those in need . . . .? (?Miguel Estrada: An American Success Story,? The Latino Coalition)

?Superb Analytical Lawyer.? Robert S. Litt, Clinton Justice Department Associate Deputy Attorney General, said, ?Miguel has an absolutely brilliant mind. He is a superb analytical lawyer and he?s an outstanding oral advocate.? (Bill Miller, ?Appeals Court Nominees Share Conservative Roots,? The Washington Post, May 23, 2001)

Many Groups Have Announced Their Support For Mr. Estrada?s Nomination, Including:

? Hispanic National Bar Association

? League of the United Latin American Citizens (LULAC)

? U.S. Hispanic Chamber of Commerce

? Fraternal Order of Police

? Hispanic Business Roundtable

? The Latino Coalition

? Hispanic Engineers Business Corporation

? Hispanic Contractors of America, Inc.

(?Miguel Estrada: An American Success Story,? The Latino Coalition; White House Fact Sheet: ?Miguel Estrada.?)

ESTRADA WILL FOLLOW THE LAW, NOT MAKE IT

Estrada Will ?Faithfully Follow The Law.? Vice President Gore?s former Chief of Staff, Ronald Klain said Mr. Estrada would be able to ?faithfully follow the law.? (Bill Miller, ?Appeals Court Nominees Share Conservative Roots,? The Washington Post, May 23, 2001)

Estrada ?Will Follow A Legal Argument Where It Takes Him.? Randolph D. Moss, an official in the Clinton Justice Department, said, ?As a matter of fundamental integrity, Miguel will follow a legal argument where it takes him and will not succumb to leaps of faith or lapses of logic to reach a desired result.? (White House Fact Sheet, ?What They Are Saying About Miguel Estrada.?)

Estrada Will ?Faithfully Apply The Precedents Of His Court.? Ronald Klain, former Chief of Staff to Vice President Gore, said, ?I have no doubt that on the bench, Miguel will faithfully apply the precedents of his court, and the Supreme Court, without regard to his personal views or his political perspectives. His belief in the rule of law, in a limited judiciary, and in the separation of powers is too strong for him to act otherwise.? (White House Fact Sheet, ?What They Are Saying About Miguel Estrada.?)

Estrada Is Within Mainstream Legal Analysis. Clinton Justice Department Associate Deputy Attorney General Robert Litt said, ?I have never felt that the arguments he made were in any way outside the scope of legitimate legal analysis. While I may disagree with some aspects of Mr. Estrada?s legal philosophy, I believe that he is eminently qualified to serve on the Court of Appeals, and I hope that he will be confirmed.? (?Miguel Estrada: An American Success Story,? The Latino Coalition)

Estrada?s Record Shows He Is Not An ?Ideologue.? ?[A] close examination of his record and career belie his portrayal by some interest groups as a right-wing ideologue.? (Jonathan Groner, ?When Labels Don?t Fit,? Legal Times, June 25, 2001)

Estrada Would ?Keep An Open Mind.? Columbia University law professor John Manning, who has known Estrada since law school, said, ?He would, as a judge, absolutely keep an open mind in any type of case . . . . He?s a lawyer?s lawyer.? (Jonathan Groner, ?When Labels Don?t Fit,? Legal Times, June 25, 2001)

Estrada Is ?Independent? And ?Fair.? Ronald Klain, who was Vice President Gore?s Chief of Staff, in a letter to the Senate Judiciary Committee, wrote that Estrada has an ?independent streak . . . [that] will give every litigant, from any point of view, a fair chance to persuade Miguel of the rightness of his or her case . . . . He will ask tough questions of both sides, and give both sides a chance to win.? (?Miguel Estrada: An American Success Story,? The Latino Coalition)

Estrada Does Not Allow His Personal Views To Interfere With His Professional Work.

? While at Gibson, Dunn, & Crutcher, Estrada donated 450 hours of his time to represent a death row inmate before the Supreme Court, attempting to persuade the Court ?to set aside a Virginia death sentence on the grounds of prosecutorial misconduct.? Estrada is personally in favor of capital punishment. (Mark Helm, ?GOP, Democrats Sparring Over Court Nomination,? [Albany] Times Union, December 2, 2001)

? While he worked at the Clinton Justice Department, Estrada filed an amicus brief on behalf of the government on the same side of the case as the National Organization of Women. The Supreme Court unanimously agreed with Estrada in NOW v. Scheidler that the Racketeer Influenced and Corrupt Organizations Act (RICO) could be applied to abortion protestors. (Jonathan Groner, ?When Labels Don?t Fit,? Legal Times, June 25, 2001)

? Estrada served for four years in the Department of Justice under President Clinton, and argued many cases on behalf of the government at that time. (White House Fact Sheet: ?Miguel Estrada: The Myths V. The Facts.?)

? Seth P. Waxman, former Solicitor General under President Clinton, said ?In no way did I ever discern that the recommendations Mr. Estrada made or the views he propounded were colored in any way by his personal views ? or indeed that they reflected anything other than the long-term interests of the United States.? (Seth P. Waxman, Letter To The Senate Judiciary Committee, As Quoted In Alberto R. Gonzales, Letter To Senator Dianne Feinstein (D-CA), February 3, 2003)

A Publication from the RNC Research Department
Paid for by the Republican National Committee
310 First Street SE, Washington, DC 20003 - (202) 863-8614 -
www.rnc.org
Unsubscribe

- att1.htm

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_5B0ND003_WHO.TXT_1>

-----Original Message-----
From: RNC Research [mailto:Rncresearch@rnchq.org]
Sent: Tuesday, February 04, 2003 9:26 PM
To: Ken Mehlman
Subject: Liberal Democrats Threaten Filibuster On Miguel Estrada



RNCResearch@rnchq.org
February 4, 2003

Clic k Here To View This Document In Word Format
Clic k Here To View This Document In PDF Format

LIBERAL DEMOCRATS THREATEN FILIBUSTER ON MIGUEL ESTRADA

Democrat Senator Kennedy And His Liberal Colleagues Seek To Block First Hispanic T o Serve On U.S. Court Of Appeals For The D.C. Circuit

---

"It Is Hard To Imagine A Worse Parody Of A Judicial Confirmation Process Than The Unfolding Drama Of Miguel Estrada's Nomination . . . ." (Editorial, "Exploiting Estrada," *The Washington Post*, September 29, 2002)

DEMOCRATS PLAN TO FILIBUSTER

Democrats Plan To "Portray The Nominees As Extremists" And Filibuster. "The Democrats' plan appears to be to portray the nominees as extremists who are well outside the mainstream of the law. If Democrats can make that label stick, they hope to hold their party together on the Senate floor and quash Republican efforts to block a filibuster and bring the nominees to a vote." (Jonathan Groner, "Hatch Off To A Fast Start On Judges," *Legal Times*, February 3, 2003)

Senator Ted Kennedy (D-MA) Is "Angry" Over Estrada Nomination And "Pledged To Fight." "Angry about what he termed a bid to rush controversial nominations through the Judiciary Committee without serious scrutiny, Edward M. Kennedy, D-Mass., pledged t o fight for the Senate's constitutionally delegated responsibility to give 'advice and consent' on nominees. 'If we have to exercise all our rights in order to protect them, so be it,' Kennedy said." (Jennifer A. Dlouhy, "No Letup In Judiciary Wars As Party-Line Vote Advances Disputed Estrada Nomination," *Congressional Quarterly Weekly*, February 1, 2003)

ESTRADA IS "WELL QUALIFIED"

The Washington Post **Says Estrada Is "Well-Regarded" And Should Be Confirmed.** Estrada is "a well-regarded appellate lawyer . . . . There is no sound basis on which to oppose him. . . .. At the end of the day, Mr. Estrada must be considered on his merits. His confirmation is an easy call." (Editorial, "Exploiting Estrada," *The Washingto n Post*, September 29, 2002)

The American Bar Association Says Estrada Is "Well Qualified." The American Bar Association (ABA) has given Miguel Estrada a unanimous "Well Qualified" rating, the highest possible rating. The ABA bases its ratings on "integrity, professional competence and judicial temperament." Democrats have called the ABA rating the "gold standard." (Jonathan Ringel, "ABA Approves More Bush Nominees," *Legal Times*, July 16, 2001; Amy Goldstein, "Bush Set To Curb ABA's Role In Court Appointments," *The Washington Post*, March 18, 2001)

& nbsp; **The Senate Has Rejected Only One Nominee With A Unanimous "Well Qualified" Rating.** If Democrats play politics with Estrada's nomination, he would be only the second nominee given an unanimous "Well Qualified" rating from the American Bar Association (ABA) to be rejected by the Senate Judiciary Committee. The other nominee, Priscilla Owen, was rejected on partisan political grounds September 5, 2002. (Senator Orrin Hatch (R-UT), Senate Judiciary Committee Hearing, July 23, 2002; Chuck Lindell, "Senate Democrats Reject Bush Pick For Appeals Court As 'Too Extreme,'" *The Atlanta Journal Constitution*, September 6, 2002)

Estrada Is "Remarkabl y Qualified." Gabriela Lemus , spokeswoman for the League of United Latin American Citizens, said, "So often you hear there are not enough qualified Latinos for these positions , but he is remarkably qualified." (Frank Davies, "Battle Is Brewing Over Court Nominee," *St. Paul Pioneer Press*, January 6, 2002)

Estrada Has A "Proven Record Of Success." Fraternal Order of Police President Steve Young said, "A necessary qualification for any candidate for a position within the Federal Judiciary should be a proven record of success as a practicing attorney. I believe that it is also necessary for a candidate to be familiar with the inner-workings of the Court, and to have respect for th e law enforcement community of which they are an important part. Mr. Estrada meets both of these important criteria . . . .." (White House Fact Sheet: "What They Are Saying About Miguel Estrada.")

Estrada Has Superb Academic And Professional Credentials:

Estrada has argued 15 cases before the U.S. Supreme Court. He won two-thirds of those cases.

From 1992 to 1997, Estrada served as Assistant to the Solicitor General of the United States.

Estrada graduated magna cum laude from Harvard Law School, where he was editor of the Harvard Law Review.

Estrada graduated magna cum laude and Phi Beta Kappa from Columbia College, New York.

Estrada served as a clerk to Supreme Court Justice Anthony M. Kennedy.

Estrada is a partner with Gibson, Dunn, & Crutcher LLP, where he is a member of the firm's Appellate and Constitutional Law Practice Group and the Business Crimes and Investigations Practice Group.

Estrada served as Assistant U.S. Attorney and Deputy Chief of the Appellate Section for the U.S. Attorney's Office, Southern District of New York. Estrada tried 10 cases as a prosecutor and argued 7 cases before the U.S. Court of Appeals for the Second Circuit.

(Resume Of Miguel A. Estrada, U.S. Department Of Justice Website, www.usdoj.gov; Accessed September 25, 2002; Neil A. Lewis, "Appeals Court Nominee Facing Tough Confirmation Hearing," *The New York Times*, September 24, 2002; Charles Lane, "Nominee For Court Faces Two Battles," *The Washington Post*, September 24, 2002; White House Fact Sheet: "Who Is Miguel Estrada?"; White House Fact Sheet: "Miguel Estrada.")

BI-PARTISAN SUPPORT FOR ESTRADA

"An Absolutely Brilliant Lawyer." Robert Litt, who served as Associate Deputy Attorney General in the Criminal Division at the Clinton Justice Department, said, "Miguel is an absolutel y brilliant lawyer . . . . I always felt that he was a talented and responsible advocate." ("Bench Book: New Faces For The Federal Courts," *Legal Times*, May 14, 2001)

"Model Of Professionalism And Competence." Seth P. Waxman, Solicitor General under President Clinton, said Estrada i s a "model of professionalism and competence" and that he has "great respec t for both Mr. Estrada's intellect and for his integrity." (Seth P. Waxman, Letter To The Senate Judiciary Committee, As Quoted In Alberto R. Gonzales, Letter To Diane Feinstein, February 3, 2003)

"Brilliant, Dedicated, And Principled." In a letter t o the Senate Judiciary Committee, Randolph Moss, President Clinton's former Assistant Attorney General in the Office of Legal Counsel wrote, "Althoug h I am [sic] Democrat and Miguel and I do not see eye-to-eye on every issue, I hold Miguel in the highest regard and I urge the Committee to give favorable consideration to his nomination . . . . Miguel is a brilliant, dedicated, and principled lawyer." ("Miguel Estrada: An American Success Story," The Latino Coalition)

"Genuinely Compassionate." Vice President Gore's former Chief of Staff, Ronald Klain, in a letter to the Senate Judiciary Committee, wrote the "challenges [Estrada] has overcome in his life have made him genuinely compassionate, genuinely concerned fo r others, and genuinely devoted to helping those in need . . . ." ("Miguel Estrada: An America n Success Story," The Latino Coalition)

"Superb Analytical Lawyer." Robert S. Litt, Clinton Justice Department Associate Deputy Attorney General, said, "Miguel has an absolutely brilliant mind. He is a superb analytical lawyer and he's an outstanding oral advocate." (Bill Miller, "Appeals Court Nominees Share Conservative Roots," *The Washington Post*, May 23, 2001)

Many Groups Have Announced Their Support For Mr. Estrada's Nomination, Including:

Hispanic National Bar Association

League of the United Latin American Citizens (LULAC)

U.S. Hispanic Chamber of Commerce

Fraternal Order of Police

Hispanic Business Roundtable

The Latino Coalition

Hispanic Engineers Busines s Corporation

Hispanic Contractors of America, Inc.

("Miguel Estrada: An American Success Story," The Latino Coalition; White House Fact Sheet: "Miguel Estrada.")

ESTRADA WILL FOLLOW THE LAW, NOT MAKE IT

Estrada Will "Faithfully Follow The Law." Vice President Gore's former Chief of Staff, Ronald Klain said Mr. Estrada would be able to "faithfully follow the law." (Bill Miller, "Appeals Cour t Nominees Share Conservative Roots," *The Washington Post*, May 23, 2001)

Estrada "Will Follow A Legal Argument Where It Takes Him." Randolph D. Moss, an official in the Clinton Justice Department, said, "As a matter of fundamental integrity, Miguel will follow a legal argument where it takes him and will not succumb to leaps of faith or lapses of logic to reach a desired result." (White House Fact Sheet, "What They Are Saying About Miguel Estrada.")

Estrada Will "Faithfully Apply The Precedents Of His Court." Ronald Klain, former Chief of Staff to Vic e President Gore, said, "I have no doubt that on the bench, Miguel will faithfully apply the precedents of his court, and the Supreme Court, without regard to his personal views or his political perspectives. His belief in the rule of law, in a limited judiciary, and in the separation of powers is too strong for him to act otherwise." (White House Fact Sheet, "What They Are Saying About Miguel Estrada.")

Estrada Is Within Mainstream Legal Analysis. Clinton Justice Department Associate Deputy Attorney General Robert Litt said, "I have never felt that the arguments he made were in any way outside the scope of legitimate legal analysis. While I may disagre e with some aspects of Mr. Estrada's legal philosophy, I believe that he is eminently qualified to serve on the Court of Appeals, and I hope that he will be confirmed." ("Miguel Estrada: An American Success Story," The Latino Coalition)

Estrada's Record Show s He Is Not An "Ideologue." "[A] close examination of his record and career belie his portrayal by some interest groups as a right-wing ideologue." (Jonathan Groner, "When Labels Don't Fit, " *Legal Times*, June 25, 2001)

Estrada Would "Keep A n Open Mind." Columbia University law professor John Manning, who has known Estrada since law school, said, "He would, as a judge, absolutely keep an open mind in any type of case . . . . He's a lawyer's lawyer." (Jonathan Groner, "When Labels Don't Fit," *Lega l Times*, June 25, 2001)

Estrada Is "Independent" And "Fair." Ronald Klain, who was Vice President Gore's Chief of Staff, in a letter t o the Senate Judiciary Committee, wrote that Estrada has an "independent streak . . . [that] will give every litigant, from any point of view, a fair chance to persuade Miguel of the rightness of his or her case .. . . . He will ask tough questions of both sides, and give both sides a chance to win." ("Miguel Estrada: An American Success Story," The Latino Coalition)

Estrada Does Not Allow His Personal Views To Interfere With His Professional Work.

-   While at Gibson, Dunn, & Crutcher, Estrada donated 450 hours of his time to represent a death row inmate before the Supreme Court, attempting to persuade the Court "to set aside a Virginia death sentence on the grounds of prosecutorial misconduct." Estrada is personally in favor of capital punishment. (Mark Helm, "GOP, Democrats Sparring Over Court Nomination," [Albany] *Times Union*, December 2, 2001)

-   While he worked at the Clinton Justice Department, Estrada filed an amicus brie f on behalf of the government on the same side of the case as the National Organization of Women. The Supreme Court unanimously agreed with Estrada in *NOW v. Scheidler* that the Racketeer Influenced and Corrupt Organizations Act (RICO) could be applied to abortion protestors. (Jonathan Groner, "When Labels Don't Fit," *Legal Times*, June 25, 2001)

-   Estrada served for four years in the Department of Justice under President Clinton, and argued many cases on behalf of the government at that time. (White House Fact Sheet: "Miguel Estrada: The Myth s V. The Facts.")

-   Seth P. Waxman, former Solicitor General under President Clinton, said "In no way did I ever discern that the recommendations Mr. Estrada made or the views he propounded were colored in any way by his personal views - or indeed that they reflected anything other than the long-term interests of the United States." (Seth P. Waxman, Lette r To The Senate Judiciary Committee, As Quoted In Alberto R. Gonzales, Letter To Senator Dianne Feinstein (D-CA), February 3, 2003)

A Publication from the RNC Research Department
Paid for by the Republican National Committee
310 First Street SE, Washington, DC 20003 - (202) 863-8614 - www.rnc.org

Unsubscribe

Powered by
Grassroots
Enterprise, Inc.

From:	Rodriguez, Leonard B.
To:	Manuel_Miranda@Judiciary.senate.gov <Wingate, Heather>;Manuel_Miranda@Judiciary.senate.gov <Kavanaugh, Brett M.>;Manuel_Miranda@Judiciary.senate.gov <Mehlman, Ken>;Manuel_Miranda@Judiciary.senate.gov <Snee, Ashley>
CC:	Manuel_Miranda@Judiciary.senate.gov <Manuel_Miranda@Judiciary.senate.gov>
Sent:	2/5/2003 7:39:03 AM
Subject:	final letter
Attachments:	Estrada Coalition Letter.doc

This is going out to the Democratic Senators this morning.

---------- Forwarded by Leonard B. Rodriguez/WHO/EOP on 02/05/2003 07:35 AM ----------

"R.G. Deposada"

02/04/2003 06:48:28 PM

Record Type: Record

To: Leonard B. Rodriguez/WHO/EOP@EOP, Abel Guerra/WHO/EOP@EOP

cc:

Subject: final letter

Here it is...

Robert G. de Posada

President, The Latino Coalition

725 Massachusetts Avenue, NE

Washington, DC 20002

202-546-0008

202-546-0807 Fax

www.TheLatinoCoalition.com

- Estrada Coalition Letter.doc << Estrada Coalition Letter.doc >>

LATINO COALITION FOR MIGUEL ESTRADA

February 4, 2003

Dear Senator:

At a time of a serious judicial vacancy crisis in our country, it is simply disingenuous that the Senate Democratic leadership is threatening to filibuster a nominee to the U.S. Court of Appeals, who received a unanimous "well qualified" rating from the American Bar Association.

On May 9, 2001, President Bush nominated Miguel A. Estrada to fill a vacancy on the United States Court of Appeals for the District of Columbia Circuit. Mr. Estrada would be the first Hispanic in history to sit on that court, which is widely viewed as the most important and prestigious Court of Appeals in the nation. No wonder George Herrera, President and Chief Executive Officer of the United States Hispanic Chamber of Commerce, concludes that *"Estrada's nomination can be a historic event for the Hispanic community. Latinos in this country have worked hard to break the barriers and obstacles that have stood in our way for too long and we now have the opportunity to do so. Estrada's appointment will also be a role model for Latino youth by demonstrating that a Latino can be appointed to one of the highest courts in the nation."* **He is just one of the overwhelming majority of national Hispanic grassroots organizations that are enthusiastically supporting his nomination, not just because he is Hispanic, but because he is superbly qualified.**

Mr. Estrada is unique in another respect, too. As his colleagues can attest, both conservatives and liberals alike, **Mr. Estrada is one of the most brilliant and effective appellate lawyers in the country.** Having worked at the Justice Department under Republican and Democratic Administrations, he has demonstrated a commitment to upholding the integrity of the law and a dedication to public service. During his career, he has argued fifteen cases before the Supreme Court—all before reaching the age of 40. **He richly deserves the unanimous "well qualified" rating the American Bar Association** bestowed on him—the organization's highest possible evaluation.

But Miguel Estrada is more than just a talented lawyer. He represents the potential of a growing population and what is possible in the United States. A native of Honduras, Mr. Estrada arrived in the United States at age 17, unable to speak much English. Just five years later he had graduated from Columbia University, and five years after that he was clerking for a Justice of the United States Supreme Court. Mr. Estrada's own journey from immigrant to successful attorney has inspired him to devote much of his career to serving his fellow Americans. Both in government service and in private practice, he has sought to ensure that all citizens receive the law's fullest protections and benefits, whether they are death-row inmates, abortion clinics targeted by violent protestors, or inner-city residents victimized by gang violence.

Never has a judicial nominee that has been voted out of the Judiciary Committee has been filibustered in the Senate. Estrada's opponents can only argue that he is a Hispanic in name only and is an ideologue. This is absolute non-sense.

725 Massachusetts Avenue, N.E. • Washington, DC 20002 • 202-546-0008

How can they call him an ideologue when Ron Klein, the former Chief of Staff of Vice President Gore, and Clinton's Solicitor General have called him ***"an extraordinary legal talent"*** and ***'genuinely compassionate"***. But how can any U.S. Senator threaten to kill this nomination arguing with a straight face that Mr. Estrada does not understand or represent the values of our community? Under normal circumstances, this argument would be so absurd that we would have ignored it. But under the current partisan environment, we cannot stand by and allow them to use unprecedented tactics to kill this nomination just to score political points.

The Hispanic National Bar Association, the League of United Latin American Citizens (LULAC), The Latino Coalition, the United States Hispanic Chamber of Commerce, the American Association for the Advancement of Mexican Americans, MANA – a national Latina organization, and the Mexican American Grocers Association are among the hundreds of Hispanic organizations supporting the nomination of Miguel Estrada.

Miguel Estrada is a perfect example of an American success story, who deserves an up or down vote on the Senate floor. He brings to the court a distinguished legal record based on his many years of work in the public and private sector. Mr. Estrada also brings a unique perspective and human experience understood only by those who have migrated to a foreign land as a teenager not knowing the language.

It is for this cultural depth and his unique legal qualifications that on behalf of an overwhelming majority of Hispanics in this country, we urge the leadership of both parties in the U.S. Senate to put partisan politics aside so that Hispanics are no longer denied representation in one of the most prestigious courts in the land.

Sincerely,

League of United Latin Americans Citizens
Hispanic National Bar Association
U.S. Hispanic Chamber of Commerce
Association for the Advancement of Mexican Americans
The Latino Coalition
Mexican American Grocers Association
Hispanic Contractors Association
Interamerican College of Physicians & Surgeons
American G.I. Forum
Casa De Sinaloense
Cuban American National Foundation
Hispanic Business Roundtable
Congregacion Cristiana y Misionera "Fe y Alabanza"
MANA, a National Latina Organization
Nueva Esperanza Inc.
Cuban American Voters National Community
Cuban Liberty Council
Federation of Mayors of Puerto Rico
Puerto Rican American Foundations

(Partial List of Organizations Signing Letter)

From: CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO]
To: adam.charnes@usdoj.gov @ inet [UNKNOWN] <adam.charnes@usdoj.gov @ inet>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;David G. Leitch/WHO /EOP@Exchange@EOP [WHO] <David G. Leitch>
Sent: 2/5/2003 3:43:20 AM
Subject: : John Roberts

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 5-FEB-2003 08:43:20.00
SUBJECT:: John Roberts
TO:adam.charnes@usdoj.gov @ inet ( adam.charnes@usdoj.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Are you going to send us John's draft answers?
```

From: Charnes, Adam <Adam.Charnes@usdoj.gov>
To: H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>
CC: David G. Leitch/WHO/EOP@EOP [WHO] <David G. Leitch>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Benczkowski, Brian A <Brian.A.Benczkowski@usdoj.gov>
Sent: 2/5/2003 3:49:38 AM
Subject: : Re: John Roberts

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Charnes, Adam" <Adam.Charnes@usdoj.gov> ("Charnes, Adam" <Adam.Charnes@usdoj.gov> [UNKNOWN])
CREATION DATE/TIME: 5-FEB-2003 08:49:38.00
SUBJECT:: Re: John Roberts
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:"Benczkowski, Brian A" <Brian.A.Benczkowski@usdoj.gov> ("Benczkowski, Brian A" <Brian.A.Benczkowski@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Yes.

-----Original Message-----
From:
/DDV=H._Christopher_Bartolomucci@who.eop.gov/DDT=RFC-822/O=INETGW/P=GOV+DOJ /A=TELEMAIL/C=US/
</DDV=H._Christopher_Bartolomucci@who.eop.gov/DDT=RFC-822/O=INETGW/P=GOV+DO J/A=TELEMAIL/C=US/>
To: Charnes, Adam <Adam.Charnes@USDOJ.gov>
CC: David_G._Leitch@oa.eop.gov <David_G._Leitch@oa.eop.gov>; Brett_M._Kavanaugh@who.eop.gov <Brett_M._Kavanaugh@who.eop.gov>
Sent: Wed Feb 05 08:43:19 2003
Subject: John Roberts

Are you going to send us John's draft answers?

From: Carolyn_Nelson@who.eop.gov [WHO] <Nelson, Carolyn>
To: <Brilliant>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/59738820-F4C7B11F-85256B9F-47097A [UNKNOWN] <Hana F.>
CC: <Kavanaugh>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6246020-C20FEE19-852569DA-7648DC [UNKNOWN] <Brett M.>
Sent: 2/5/2003 3:52:38 AM
Subject: JSC Binder

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (MS Mail)
CREATOR:Nelson, Carolyn ( Carolyn_Nelson@who.eop.gov [ WHO ] )
CREATION DATE/TIME: 5-FEB-2003 08:52:38.00
SUBJECT:JSC Binder
TO:Brilliant, Hana F. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=59738820-
F4C7B11F-85256B9F-47097A [ UNKNOWN ] )
READ:UNKNOWN
CC:Kavanaugh, Brett M. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6246020-
C20FEE19-852569DA-7648DC [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Judge says the binder is good to go!
```

From: CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO]
To: Hana F. Brilliant/WHO/EOP@EOP [WHO] <Hana F. Brilliant>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/5/2003 3:52:52 AM
Subject: : JSC Binder

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME: 5-FEB-2003 08:52:52.00
SUBJECT:: JSC Binder
TO:Hana F. Brilliant ( CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Judge says the binder is good to go!
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kristen Silverberg/WHO/EOP@Exchange@EOP [WHO] <Kristen Silverberg>;John F. Wood/OMB/EOP@EOP [OMB] <John F. Wood>
CC: irene kho/omb/eop@eop [OMB] <irene kho>
Sent: 2/5/2003 4:16:22 AM
Subject: : Re: LRM IKK4 - - JUSTICE Views on Proposed Amendment to H.J.Res 2
Attachments: P_38QMD003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 5-FEB-2003 09:16:22.00
SUBJECT:: Re: LRM IKK4 - - JUSTICE Views on Proposed Amendment to H.J.Res 2
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:John F. Wood ( CN=John F. Wood/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
CC:irene kho ( CN=irene kho/OU=omb/O=eop@eop [ OMB ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I think we should be stronger than this letter is drafted, pointing out
the flaws in the 9/11 fund and quoting the same points that the Armitage
letter last summer made.
```

```
John F. Wood
02/04/2003 07:35:24 PM
Record Type: Record

To: Irene Kho/OMB/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: LRM IKK4 - - JUSTICE Views on Proposed Amendment to
H.J.Res 2

I have two suggestions:
(1) I would delete "except in unique circumstances like the September 11
attacks," from the second paragraph of the DOJ views, as that invites
questions as to why other terrorist attacks are different.
(2) My inclination would be for DOJ to take a position on the attorneys
fee provision rather than merely noting the ambiguity. I would suggest
changing the last paragraph to something like:
"Finally, the proposed amendment, unlike the September 11th Victim
Compensation Fund of 2001, would limit 'fees paid for legal services.'
The Department notes that the Fund does not provide payments for attorneys
fees. Thus, the Department would construe the language in the proposed
amendment as limiting the amount attorneys can draw from a claimants'
award from the Fund. The limitation on attorneys, fees for those pursuing
litigation would need to be interpreted by the courts."
```

From: Irene Kho on 02/04/2003 04:13:32 PM
Record Type: Record

To: state-lrm@state.gov, llr@do.treas.gov, dodlrs@osdgc.osd.mil
cc: See the distribution list at the bottom of this message
Subject: LRM IKK4 - - JUSTICE Views on Proposed Amendment to H.J.Res 2

Attached are Justice views on a proposed amendment to the FY 2003 Omnibus Appropriations bill to expand the application of the September 11th Victim Compensation Fund of 2001. Please review and provide comments by no later than 5:00 PM, today, Tuesday, Feb. 4th. Justice has informed us that they plan to submit these views informally to House Appropriations Committee staff.

LRM ID: IKK4
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, February 4, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: Irene Kho
PHONE: (202)395-5858 FAX: (202)395-3109
SUBJECT: JUSTICE Views on Proposed Amendment to H.J.Res 2

DEADLINE: 5:00 PM Tuesday, February 4, 2003
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Attached are Justice views on a proposed amendment to the FY 2003 Omnibus Appropriations bill to expand the application of the September 11th Victim Compensation Fund of 2001. Please review and provide comments by no later than 5:00 PM, today, Tuesday, Feb. 4th. Justice has informed us that they plan to submit these views informally to House Appropriations Committee staff.

DISTRIBUTION LIST

AGENCIES:
114-STATE - VACANT - (202) 647-4463
118-TREASURY - Thomas M. McGivern - (202) 622-2317
029-DEFENSE - Vic Bernson - (703) 697-1305

EOP:
Jay P. Lefkowitz
Brett M. Kavanaugh
Kristen Silverberg
Jonathan R. Scharfen
Nancy Dorn
Philip J. Perry
Stephen S. McMillin

Christine M. Burgeson
Elizabeth L. Rossman
John F. Wood
James Boden
Douglas Pitkin
Lauren E. Bloomquist
James J. Jukes
Richard E. Green
LRM ID: IKK4 SUBJECT: JUSTICE Views on Proposed Amendment to
H.J.Res 2
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Irene Kho Phone: 395-5858 Fax: 395-3109
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-3454

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Copied
To:_____
Jay P. Lefkowitz/OPD/EOP@Exchange@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Kristen Silverberg/WHO/EOP@Exchange@EOP
Jonathan R. Scharfen/NSC/EOP@EOP
Nancy Dorn/OMB/EOP@EOP
Philip J. Perry/OMB/EOP@EOP
Stephen S. McMillin/OMB/EOP@EOP
Christine M. Burgeson/OMB/EOP@EOP
Elizabeth L. Rossman/OMB/EOP@EOP

John F. Wood/OMB/EOP@EOP
James Boden/OMB/EOP@EOP
Douglas Pitkin/OMB/EOP@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Richard E. Green/OMB/EOP@EOP

Message Copied
To:_____
jay p. lefkowitz/opd/eop@exchange@eop
brett m. kavanaugh/who/eop@eop
kristen silverberg/who/eop@exchange@eop
jonathan r. scharfen/nsc/eop@eop
nancy dorn/omb/eop@eop
philip j. perry/omb/eop@eop
stephen s. mcmillin/omb/eop@eop
christine m. burgeson/omb/eop@eop
elizabeth l. rossman/omb/eop@eop
james boden/omb/eop@eop
douglas pitkin/omb/eop@eop
lauren e. bloomquist/omb/eop@eop
james j. jukes/omb/eop@eop
richard e. green/omb/eop@eop

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_38QMD003_WHO.TXT_1>

The language of the amend:

"Sec. ___. Notwithstanding any other provision of law, United States citizens who suffered death or physical harm as a result of the bombings of the Untied embassies in East Africa on August 7, 1998, or the World Trade Center in 1998, or as a result of the attack on the U.S.S. Cole on October 12, 2000, or as a result of the bombing of the national Guard's Program Management Office in Saudi Arabia on November 13, 1995, or the representatives of any of the aforementioned persons, shall be eligible for compensation from the September 11th Victim Compensation Fund of 2001 [citation omitted] to the extent and under the same conditions as the victims of the September 11, 2001 tragedies, provided that fees paid for legal services shall not exceed 20% of any compensation award for an administrative resolution or 25% in case of litigation; and provided further, that any claim for such compensation must be filed within one year of the date of enactment of this section."

Justice's Views

The proposed amendment to the September 11th Victim Compensation Fund of 2001 (the "Fund") would expand the application of the Fund to include victims (or their representatives) who are citizens of the Untied States and suffered death or physical harm as a result of the bombings of the United States embassies in East Africa on August 7, 1998, or the World Trade Center in 1998, or as a result of the attack on the U.S.S. Cole on October 12, 2000. If the Fund were expanded to include these victims of terrorism, the Department believes the Fund would not effectively serve the initial goals for its enactment.

The Department believes that the compensation program envisioned by the proposed amendment would not provide victims with fair and expeditious compensation. For one, the bill would provide different levels of compensation to high-income victims than it would to victims with lower incomes. The Department believes, except in unique circumstances like the September 11 attacks, every victim should receive a set amount of compensation, similar to the federal no-fault benefit for public safety officers killed in the line of duty (42 U.S.C. 3796). The need for a prompt compensation process further weighs against providing different amounts to different victims based upon their individual financial circumstances, as envisioned under the proposed amendment, because any program with differential awards necessarily would require a burdensome and fact-intensive administrative claims process. Any claims process resulting from a new (or amended) federal compensation program should be quick, streamlined, and as simple as possible, in order to help victims' families in their time of need.

Finally, the Fund does not provide for federal subsidization of attorneys' fees, nor does it establish any limitations on the amount an attorney can collect from a claimant. With that as background, the last provision of the proposed amendment related to attorneys' fees is unclear. Specifically, it is unclear whether the proposed amendment envisions the federal government paying the attorneys' fees of claimants entering the Fund, or, rather, whether it limits the amount attorneys can draw from a claimants' award, which

otherwise would not include amounts for attorneys' fees. The limitiation on attorneys' fees for those pursuing litigation is equally unclear. Accordingly, the Department would need clarification on this provision before providing any substantive comments.

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Ashley Snee/WHO/EOP@Exchange [WHO] <Ashley Snee>
Sent: 2/5/2003 4:17:57 AM
Subject: : FW: Spring 2003 Harvard Law Magazine
Attachments: P_YBQMD003_WHO.TXT_1.jpeg; P_YBQMD003_WHO.TXT_2.jpeg

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME: 5-FEB-2003 09:17:57.00
SUBJECT:: FW: Spring 2003 Harvard Law Magazine
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

;
The Loyalist

With devotion to the president and the office, Alberto Gonzales '82
tackles the complications and controversies of the White House counsel's
job

by Lewis Rice <mailto:lrice@law.harvard.edu>


Alberto Gonzales '82 (in his West Wing office) advises President Bush on
all legal issues concerning the president and the White House.

Alberto Gonzales '82 was back in Texas not long after he left for his
first job outside his home state. He stood at the front of a lecture hall
at Rice University, where as a youngster he had sold soft drinks in the
football stadium. Now it was his alma mater, and he was a local boy made
good, made famous even. And he spoke about who had made him good, who had
made him famous. He was answering a question he gets a lot, about who his
heroes are, and he answered it--at least at first--in a way a lot of
people do. Though he had more reason than most to choose as heroes his
parents: natives of Mexico with little education or money, who raised
eight children in a two-bedroom house and, he noted, not once asked for
help from the government. But he also called his boss a hero. It may sound
self-serving, he said, but that doesn't make it untrue. For he has seen
his boss, who happens to be the president of the United States, not only
as an employer, but as a statesman, a father, a friend, a mentor.
```

That admiration and respect for George W. Bush infuse everything Gonzales does in a job that is as unpredictable as it is demanding: the White House counsel, the lawyer for the president and for the presidency, a person with an imprint on almost everything that originates from the seat of executive power. The job has catapulted Gonzales to the center of attention and contention on such issues as judicial nominations, Iraq and executive privilege. It is the fourth time he has taken a job at the behest of Bush, his fourth once-in-a-lifetime opportunity, he says. And the Washington chatter indicates that it may not be the last: Gonzales, many say, is a leading contender to fill the next vacancy on the U.S. Supreme Court. Such talk is flattering, Gonzales says, but he has enough to worry about now.

He painstakingly outlines those concerns in his speech, listing nine responsibilities of the job, including vetting people appointed to work in the White House, drafting legislation, monitoring litigation in the Department of Justice, developing policy, offering legal advice on national security matters and chairing the White House judicial selection committee. Then there are the responsibilities that can't be anticipated, of which he's had many.

Sometimes the job seems to entail, more than anything, responding to the crisis of the moment, he says in an interview with the Bulletin. He's there in the meetings that drive the White House operation, answering legal questions when they come up. And there are times when he practices very little law. But his most crucial function, he says, is simply to be there for the person at whose pleasure he serves.

"For me, the most important part of this job is being able to work for this president based upon my relationship with him, and that is what makes this job so special for me--being able to help him in an extraordinarily difficult time," said Gonzales. "It is a tremendously burdensome position. Everything that I say, everything that I do publicly, is monitored, is analyzed, is cataloged away for future reference."

Put another way, the job can be "one damn thing after another," as a White House counsel for Ronald Reagan once described it. But that's not the kind of language or tone Gonzales would use; during a visit to his West Wing office, he shows why people who work with him call him "the judge," a formal title from his stint as a Texas Supreme Court justice but also an affectionate description of a courtly manner: polite, soft-spoken, reflective. He describes himself as mild-mannered, as do those who know him. But that mildness should not be mistaken for weakness, nor should his lack of wordiness be taken as lack of conviction, says Viet Dinh '93, who has worked closely with Gonzales as head of the Justice Department's Office of Legal Policy.

"He is a very effective leader because he has a quiet resolve--he provides leadership and does it through consensus rather than steamrolling," said Dinh. "Any fear that his consensus is not backed by leadership is misplaced because behind the congenial operating manner is a very clear vision and very good leadership style."

That style has helped him negotiate the many shared responsibilities of the Justice Department and the counsel's office, says Dinh, who crafted the USA Patriot Act and credits Gonzales as "critical to its passage." Just as they did to everyone else in the administration, the attacks of 9/11 turned Gonzales' focus to anti-terror measures and thrust him into the debate over a possible war with Iraq. Over the summer, the counsel reportedly advised the president that congressional approval was not required to take action against Iraq. But on the same day in October that the president would sign the joint congressional resolution authorizing him to use force against Iraq if necessary, Gonzales would rather talk about the drafting of the language in the counsel's office and the series of meetings with staff and leadership in Congress that led to agreement. The point, said Gonzales, is that the president decided to go to Congress to get authorization. And he got it done.

President Bush returns to the White House on Sept. 11, 2001, followed by Karen Hughes, then White House counselor, and Gonzales.

Gonzales will always credit the president first, not least for leading him to the place he is today. Many people with much more privileged backgrounds don't get the same opportunities, but he has, he says, because one person believed in him.

"I owe all that, really, to the president," said Gonzales. "Sometimes life works out that way; there is really no good explanation. All you can do is prepare yourself, get a good education, get good training, and the next time the next George W. Bush comes along, you're there and you're ready, and that person could turn the tables for you."

Gonzales began the training for his career after serving in the U.S. Air Force, attending the Air Force Academy and getting his bachelor's degree from Rice. He had never seen Harvard Law School before arriving as a student in the summer of 1979. That first day, he remembers riding a 10-speed bike and parking in front of Langdell Hall, and feeling joy and pride and even awe at being a part of such a place. But soon enough came another feeling, one not as often associated with students at HLS. He felt comfortable. It helped that he was older than many other students, and it helped to realize that it wouldn't be the end of the world if he didn't make straight A's (which was a good thing because he didn't). He hung around with a group of students who shared his feeling of calm and feeling of good fortune, people who knew they would get great jobs, were there to learn but also to enjoy themselves. They knew the world, eventually, would come to them.

It did to Gonzales in the form of an offer from Vinson & Elkins in Houston. He worked there on corporate transactions, aiming for partnership. He even declined a job offer from George H.W. Bush to serve in his administration in Washington. It was a low-level position, and Gonzales saw better opportunities ahead if he stayed and made partner.

He proved himself on a public offering that took half a year and involved local counsels in more than a dozen states, according to Robert Baird '69, a partner at Vinson & Elkins. Gonzales was a "get-the-job-done kind of guy," said Baird, working hard and showing sound judgment. Just as important, however, was the way he did it.

"Being the kind of gentleman that Al is," he said, "is probably the most effective way to approach the situation, because most corporate transaction projects are projects where different constituencies with different interests are working together toward a common end, and there is a lot of persuasion involved. So if you get everybody on your team and you get everyone working in parallel, the transaction goes so much more smoothly. I think Al, with his personality, is superb at that. And I would guess that quality is extremely important in the kind of arena that he is playing in now."

Gonzales eventually did make partner and made a good living at it. So some people questioned whether it really was a better opportunity when Texas Gov. George W. Bush, then a political newcomer, asked him to serve as his general counsel at the recommendation of local attorneys. But he wanted to do something different, wanted to go into public service and, though he didn't know Bush well then, saw his chance to do something important. After three years in the counsel job, he went on to serve as Texas secretary of state and a justice on the Supreme Court of Texas. Over the years, Gonzales says, he and Bush have built a good relationship. The president, he says, is comfortable with his style of providing advice. One of the first things Bush did after he became president-elect was ask Gonzales, with his wife and three boys, to come with him to Washington. Gonzales didn't really need to think about it. "I am not sure that there will ever be a job that I would say 'no' to, if he asked me to do it," he said.

The words "first" and "Hispanic" cling to Gonzales in life and on the page. They are used in the typical summary of him: the first Hispanic White House counsel, the first Hispanic partner at his firm, a leading candidate to become the first Hispanic justice on the Supreme Court (though, depending on how one defines the term, Benjamin Cardozo, a Sephardic Jew of Portuguese descent who served on the high court from 1932 to 1938, may actually have been the first Hispanic justice). Throughout Gonzales' career, he has belonged to Hispanic organizations, serving as president of the Houston Hispanic Bar Association and chairman of the Republican National Hispanic Assembly of Harris County, Texas. In 1999, the Hispanic National Bar Association gave him the Latino Lawyer of the Year award.

His heritage is important to him and also important to a president who has emphasized including people of all backgrounds and ethnicities in his administration, Gonzales says. When the White House counsel wrote an op-ed in the Washington Post in September advocating for Miguel Estrada's ('86) confirmation to the U.S. Court of Appeals for the D.C. Circuit (the confirmation was stalled in committee last year), he noted that Estrada "is an inspiration to Hispanics and to all Americans." Many people do feel special pride in seeing someone who looks like them in positions of prominence, he says.

"It is true that, for some Americans, they couldn't care less that I am Hispanic, doing this job. What they care about is that the job gets done right," he said. "But I am always very mindful that for another segment of the population, there is a special pride that someone named Gonzales is advising the president of the United States on legal issues."

But he also is quick to note that there is no Hispanic way to judge a case or to do a job, and that, while it pleases Bush when a well-qualified person may also happen to be Hispanic or another minority, merit will always be the priority for the president. Gonzales agrees, and that's why he says he doesn't concern himself with debates on whether he got this far because of his heritage. It's what he has done with the opportunities that matters, he says.

Judging that, of course, may depend largely on what you think of what President Bush has done in office. Gonzales doesn't like to talk about the advice he's given to the president, but he has helped guide Bush through legal questions surrounding the war on terrorism, such as military tribunals and detaining suspects without counsel. Tribunals, Gonzales said, "would provide basic rights to terrorists, but they would be structured in a way which would ensure the continued protection of the national security of this country." And in every war this country has fought, he says, people have been detained without access to a lawyer, even if they are American citizens. "I think legally we are right, and that will be confirmed in the courts," said Gonzales. "[But] maybe we need to do a better job of educating the American public about what we are doing here and the need for that course of action."

Though his office tries to find ways to allow the president to do what he believes needs to be done to protect the country, there are times, Gonzales says, when he has to tell the president what he doesn't want to hear. An effective White House counsel is one who can say "no" to his boss. That has happened occasionally, particularly on questions of executive privilege. People have criticized the secrecy of this White House, but that charge is leveled against most administrations, he says. The White House has released most documents that Congress has requested, Gonzales says, and has reached agreement on releasing some disputed records, such as those detailing the administration's contacts with Enron. In addition, the president may want to turn over communications that, in the opinion of his counsel, should be privileged, and his counsel doesn't hesitate to advise him that he shouldn't. "My job is to protect the institution of the presidency, and so, in that case, my job is to make the president understand that 'by doing this, Mr. President, you'll weaken the institution of the presidency,'" said Gonzales. "This president has great

respect for that institution, so when someone tells him that it weakens it, he considers that very, very seriously."

Gonzales also advises the president on the judiciary, an institution of government that he fears has been weakened by the Senate's failure to fill a number of vacancies. Indeed, by the end of November the Senate had confirmed only about half of Bush's circuit court nominees, while it confirmed a much higher percentage for recent presidents in their first two years in office. The dearth of confirmations and the long delays in hearings for many nominees are frustrating, he acknowledges. Particularly unfortunate, he says, was the failed 5th Circuit nomination last year of Priscilla Owen, with whom he served on the Supreme Court of Texas. (In January, she was renominated to the appeals court.) Her critics cited Gonzales' own words in an abortion case, in which he characterized Owen's interpretation of a statute as an "unconscionable act of judicial activism," as evidence of her unfitness for the court of appeals. But disagreement, he notes, should not mean disqualification, a point he made in a letter to the Senate Judiciary Committee.

Earlier last year, he cited the judicial issue as one key reason that the Republicans needed to take back the Senate in the fall elections. Before the Republican victory, in fact, came to pass, Bush and his counsel unveiled a proposal that would streamline the judicial confirmation process. The initiative calls for the Senate Judiciary Committee to hold a hearing within 90 days of receiving a nomination and for the full Senate to vote on each nominee within 180 days after the nomination is submitted. "All Americans would see a more dignified process and have their federal courts fully staffed to protect their rights and their liberties," Bush said. "And the vacancy crisis would be resolved once and for all."

At its core, the wrangling over judicial nominees exemplifies a fundamental disagreement on what makes a person qualified for the job, according to Gonzales. "That person should come to the bench with no personal agenda to follow," he said. "Certain Democrats on the Judiciary Committee believe that judges do come with a personal agenda. . . . [They] ask, 'What are your personal beliefs about an issue?' because they believe that that is going to impact your decision making as a judge. I think that that is wholly inappropriate; I think it is wrong for a judge to pursue a personal agenda, and their own personal beliefs, in my judgment, are wholly irrelevant to how they should do their job as a judge."

He believed the same when he was a judge. And he has been criticized for it by people in his own party, as in the abortion case in which he differed from Owen. In that opinion, he ruled with the majority to overturn a lower court ruling, thereby allowing a minor to have an abortion without parental consent. In doing so, he was following the law, not his own values, he wrote: "While the ramifications of such a law and the results of the Court's decision may be personally troubling to me as a parent, it is my obligation as a judge to impartially apply the laws of this state without imposing my moral view on the decisions of the Legislature."

That deference to legislative intent pervaded Gonzales' time on the bench, according to Supreme Court of Texas Chief Justice Thomas Phillips ' 74. For example, Gonzales' opinion in another case, Fitzgerald v. Advanced Spine Fixation Systems, reads as a "paean to strict statutory construction," he said.

Gonzales' decisions "show an equal disdain for activism, regardless of what side of the political spectrum it comes from," Phillips said. "I never saw anything inconsistent on that, and I never had any sense that he was casting any votes based on whether somebody--a former employee, a contributor, a friend who was governor or anybody else--would approve or disapprove."

On the court, Gonzales was soft-spoken, not confrontational, said Phillips: "He tried to prevail through reason rather than intimidation." Perhaps it is a testimony to that style that the case Phillips cites to

praise his former colleague is one in which he took the opposite side.

* * *

Kenneth Starr's book about the Rehnquist court, "First Among Equals," lies on a shelf outside Gonzales' office on the day of the interview. Whether Gonzales will be a member of that court is a topic of much speculation. But of course no one who has any say in the matter, least of all Gonzales himself, is talking about it. Viet Dinh, who helps recommend judges to the president, was asked what he would think of a candidate for the Supreme Court with Judge Gonzales' credentials. He laughed and laughed at the question, and he didn't stop laughing until he said goodbye.

Such talk is not a distraction to Gonzales at all, he says. There is nothing he can do about it, and he is a person who focuses on what he can do. But he does worry about something, on top of the worries inherent in his current role. He wonders what he will do next after his job in the White House is done, what will be as exciting and satisfying. After all, how many once-in-a-lifetime opportunities can one person have?
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_YBQMD003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_YBQMD003_WHO.TXT_2>



White House Photo by Eric Draper

From:	Bumatay, Patrick J.
To:	<Snee, Ashley>;<Walker, Helgard C.>;<Bartolomucci, H. Christopher>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>; <Ullyot, Theodore W.>
Sent:	2/5/2003 9:17:35 AM
Subject:	FW: Spring 2003 Harvard Law Magazine
Attachments:	f1-1.jpg; f1-2.jpg

The Loyalist

With devotion to the president and the office, Alberto Gonzales '82 tackles the complications and controversies of the White House counsel's job

by Lewis Rice

Alberto Gonzales

Alberto Gonzales '82 (in his West Wing office) advises President Bush on all legal issues concerning the president and the White House.

Alberto Gonzales '82 was back in Texas not long after he left for his first job outside his home state. He stood at the front of a lecture hall at Rice University, where as a youngster he had sold soft drinks in the football stadium. Now it was his alma mater, and he was a local boy made good, made famous even. And he spoke about who had made him good, who had made him famous. He was answering a question he gets a lot, about who his heroes are, and he answered it--at least at first--in a way a lot of people do. Though he had more reason than most to choose as heroes his parents: natives of Mexico with little education or money, who raised eight children in a two-bedroom house and, he noted, not once asked for help from the government. But he also called his boss a hero. It may sound self-serving, he said, but that doesn't make it untrue. For he has seen his boss, who happens to be the president of the United States, not only as an employer, but as a statesman, a father, a friend, a mentor.

That admiration and respect for George W. Bush infuse everything Gonzales does in a job that is as unpredictable as it is demanding: the White House counsel, the lawyer for the president and for the presidency, a person with an imprint on almost everything that originates from the seat of executive power. The job has catapulted Gonzales to the center of attention and contention on such issues as judicial nominations, Iraq and executive privilege. It is the fourth time he has taken a job at the behest of Bush, his fourth once-in-a-lifetime opportunity, he says. And the Washington chatter indicates that it may not be the last: Gonzales, many say, is a leading contender to fill the next vacancy on the U.S. Supreme Court. Such talk is flattering, Gonzales says, but he has enough to worry about now.

He painstakingly outlines those concerns in his speech, listing nine responsibilities of the job, including vetting people appointed to work in the White House, drafting legislation, monitoring litigation in the Department of Justice, developing policy, offering legal advice on national security matters and chairing the White House judicial selection committee. Then there are the responsibilities that can't be anticipated, of which he's had many.

Sometimes the job seems to entail, more than anything, responding to the crisis of the moment, he says in an interview with the Bulletin. He's there in the meetings that drive the White House operation, answering legal questions when they come up. And there are times when he practices very little law. But his most crucial function, he says, is simply to be there for the person at whose pleasure he serves.

"For me, the most important part of this job is being able to work for this president based upon my relationship with him, and that is what makes this job so special for me--being able to help him in an extraordinarily difficult time," said Gonzales. "It is a tremendously burdensome position. Everything that I say, everything that I do publicly, is monitored, is analyzed, is cataloged away for future reference."

Put another way, the job can be "one damn thing after another," as a White House counsel for Ronald Reagan once described it. But that's not the kind of language or tone Gonzales would use; during a visit to his West Wing office, he shows why people who work with him call him "the judge," a formal title from his stint as a Texas Supreme Court justice but also an affectionate description of a courtly manner: polite, soft-spoken, reflective. He describes himself as mild-mannered, as do

those who know him. But that mildness should not be mistaken for weakness, nor should his lack of wordiness be taken as lack of conviction, says Viet Dinh '93, who has worked closely with Gonzales as head of the Justice Department's Office of Legal Policy.

"He is a very effective leader because he has a quiet resolve--he provides leadership and does it through consensus rather than steamrolling," said Dinh. "Any fear that his consensus is not backed by leadership is misplaced because behind the congenial operating manner is a very clear vision and very good leadership style."

That style has helped him negotiate the many shared responsibilities of the Justice Department and the counsel's office, says Dinh, who crafted the USA Patriot Act and credits Gonzales as "critical to its passage." Just as they did to everyone else in the administration, the attacks of 9/11 turned Gonzales' focus to anti-terror measures and thrust him into the debate over a possible war with Iraq. Over the summer, the counsel reportedly advised the president that congressional approval was not required to take action against Iraq. But on the same day in October that the president would sign the joint congressional resolution authorizing him to use force against Iraq if necessary, Gonzales would rather talk about the drafting of the language in the counsel's office and the series of meetings with staff and leadership in Congress that led to agreement. The point, said Gonzales, is that the president decided to go to Congress to get authorization. And he got it done.

President Bush followed byKaren Hughes and Gonzales

President Bush returns to the White House on Sept. 11, 2001, followed by Karen Hughes, then White House counselor, and Gonzales.

Gonzales will always credit the president first, not least for leading him to the place he is today. Many people with much more privileged backgrounds don't get the same opportunities, but he has, he says, because one person believed in him.

"I owe all that, really, to the president," said Gonzales. "Sometimes life works out that way; there is really no good explanation. All you can do is prepare yourself, get a good education, get good training, and the next time the next George W. Bush comes along, you're there and you're ready, and that person could turn the tables for you."

Gonzales began the training for his career after serving in the U.S. Air Force, attending the Air Force Academy and getting his bachelor's degree from Rice. He had never seen Harvard Law School before arriving as a student in the summer of 1979. That first day, he remembers riding a 10-speed bike and parking in front of Langdell Hall, and feeling joy and pride and even awe at being a part of such a place. But soon enough came another feeling, one not as often associated with students at HLS. He felt comfortable. It helped that he was older than many other students, and it helped to realize that it wouldn't be the end of the world if he didn't make straight A's (which was a good thing because he didn't). He hung around with a group of students who shared his feeling of calm and feeling of good fortune, people who knew they would get great jobs, were there to learn but also to enjoy themselves. They knew the world, eventually, would come to them.

It did to Gonzales in the form of an offer from Vinson & Elkins in Houston. He worked there on corporate transactions, aiming for partnership. He even declined a job offer from George H.W. Bush to serve in his administration in Washington. It was a low-level position, and Gonzales saw better opportunities ahead if he stayed and made partner.

He proved himself on a public offering that took half a year and involved local counsels in more than a dozen states, according to Robert Baird '69, a partner at Vinson & Elkins. Gonzales was a "get-the-job-done kind of guy," said Baird, working hard and showing sound judgment. Just as important, however, was the way he did it.

"Being the kind of gentleman that Al is," he said, "is probably the most effective way to approach the situation, because most corporate transaction projects are projects where different constituencies with different interests are working together toward a common end, and there is a lot of persuasion involved. So if you get everybody on your team and you get everyone working in parallel, the transaction goes so much more smoothly. I think Al, with his personality, is superb at that. And I would guess that quality is extremely important in the kind of arena that he is playing in now."

Gonzales eventually did make partner and made a good living at it. So some people questioned whether it really was a better opportunity when Texas Gov. George W. Bush, then a political newcomer, asked him to serve as his general counsel at the recommendation of local attorneys. But he wanted to do something different, wanted to go into public service and, though he didn't know Bush well then, saw his chance to do something important. After three years in the counsel job, he went on to serve as Texas secretary of state and a justice on the Supreme Court of Texas. Over the years, Gonzales says, he and Bush have built a good relationship. The president, he says, is comfortable with his style of providing advice. One of the first things Bush did after he became president-elect was ask Gonzales, with his wife and three boys, to come with him to Washington. Gonzales didn't really need to think about it. "I am not sure that there will ever be a job that I would say 'no' to, if he asked me to do it," he said.

The words "first" and "Hispanic" cling to Gonzales in life and on the page. They are used in the typical summary of him: the

first Hispanic White House counsel, the first Hispanic partner at his firm, a leading candidate to become the first Hispanic justice on the Supreme Court (though, depending on how one defines the term, Benjamin Cardozo, a Sephardic Jew of Portuguese descent who served on the high court from 1932 to 1938, may actually have been the first Hispanic justice). Throughout Gonzales' career, he has belonged to Hispanic organizations, serving as president of the Houston Hispanic Bar Association and chairman of the Republican National Hispanic Assembly of Harris County, Texas. In 1999, the Hispanic National Bar Association gave him the Latino Lawyer of the Year award.

His heritage is important to him and also important to a president who has emphasized including people of all backgrounds and ethnicities in his administration, Gonzales says. When the White House counsel wrote an op-ed in the Washington Post in September advocating for Miguel Estrada's ('86) confirmation to the U.S. Court of Appeals for the D.C. Circuit (the confirmation was stalled in committee last year), he noted that Estrada "is an inspiration to Hispanics and to all Americans." Many people do feel special pride in seeing someone who looks like them in positions of prominence, he says.

"It is true that, for some Americans, they couldn't care less that I am Hispanic, doing this job. What they care about is that the job gets done right," he said. "But I am always very mindful that for another segment of the population, there is a special pride that someone named Gonzales is advising the president of the United States on legal issues."

But he also is quick to note that there is no Hispanic way to judge a case or to do a job, and that, while it pleases Bush when a well-qualified person may also happen to be Hispanic or another minority, merit will always be the priority for the president. Gonzales agrees, and that's why he says he doesn't concern himself with debates on whether he got this far because of his heritage. It's what he has done with the opportunities that matters, he says.

Judging that, of course, may depend largely on what you think of what President Bush has done in office. Gonzales doesn't like to talk about the advice he's given to the president, but he has helped guide Bush through legal questions surrounding the war on terrorism, such as military tribunals and detaining suspects without counsel. Tribunals, Gonzales said, "would provide basic rights to terrorists, but they would be structured in a way which would ensure the continued protection of the national security of this country." And in every war this country has fought, he says, people have been detained without access to a lawyer, even if they are American citizens. "I think legally we are right, and that will be confirmed in the courts," said Gonzales. "[But] maybe we need to do a better job of educating the American public about what we are doing here and the need for that course of action."

Though his office tries to find ways to allow the president to do what he believes needs to be done to protect the country, there are times, Gonzales says, when he has to tell the president what he doesn't want to hear. An effective White House counsel is one who can say "no" to his boss. That has happened occasionally, particularly on questions of executive privilege. People have criticized the secrecy of this White House, but that charge is leveled against most administrations, he says. The White House has released most documents that Congress has requested, Gonzales says, and has reached agreement on releasing some disputed records, such as those detailing the administration's contacts with Enron. In addition, the president may want to turn over communications that, in the opinion of his counsel, should be privileged, and his counsel doesn't hesitate to advise him that he shouldn't. "My job is to protect the institution of the presidency, and so, in that case, my job is to make the president understand that 'by doing this, Mr. President, you'll weaken the institution of the presidency,'" said Gonzales. "This president has great respect for that institution, so when someone tells him that it weakens it, he considers that very, very seriously."

Gonzales also advises the president on the judiciary, an institution of government that he fears has been weakened by the Senate's failure to fill a number of vacancies. Indeed, by the end of November the Senate had confirmed only about half of Bush's circuit court nominees, while it confirmed a much higher percentage for recent presidents in their first two years in office. The dearth of confirmations and the long delays in hearings for many nominees are frustrating, he acknowledges. Particularly unfortunate, he says, was the failed 5th Circuit nomination last year of Priscilla Owen, with whom he served on the Supreme Court of Texas. (In January, she was renominated to the appeals court.) Her critics cited Gonzales' own words in an abortion case, in which he characterized Owen's interpretation of a statute as an "unconscionable act of judicial activism," as evidence of her unfitness for the court of appeals. But disagreement, he notes, should not mean disqualification, a point he made in a letter to the Senate Judiciary Committee.

Earlier last year, he cited the judicial issue as one key reason that the Republicans needed to take back the Senate in the fall elections. Before the Republican victory, in fact, came to pass, Bush and his counsel unveiled a proposal that would streamline the judicial confirmation process. The initiative calls for the Senate Judiciary Committee to hold a hearing within 90 days of receiving a nomination and for the full Senate to vote on each nominee within 180 days after the nomination is submitted. "All Americans would see a more dignified process and have their federal courts fully staffed to protect their rights and their liberties," Bush said. "And the vacancy crisis would be resolved once and for all."

At its core, the wrangling over judicial nominees exemplifies a fundamental disagreement on what makes a person qualified for the job, according to Gonzales. "That person should come to the bench with no personal agenda to follow," he said. "Certain Democrats on the Judiciary Committee believe that judges do come with a personal agenda. . . . [They] ask, 'What are your personal beliefs about an issue?' because they believe that that is going to impact your decision making as a judge.

I think that that is wholly inappropriate; I think it is wrong for a judge to pursue a personal agenda, and their own personal beliefs, in my judgment, are wholly irrelevant to how they should do their job as a judge."

He believed the same when he was a judge. And he has been criticized for it by people in his own party, as in the abortion case in which he differed from Owen. In that opinion, he ruled with the majority to overturn a lower court ruling, thereby allowing a minor to have an abortion without parental consent. In doing so, he was following the law, not his own values, he wrote: "While the ramifications of such a law and the results of the Court's decision may be personally troubling to me as a parent, it is my obligation as a judge to impartially apply the laws of this state without imposing my moral view on the decisions of the Legislature."

That deference to legislative intent pervaded Gonzales' time on the bench, according to Supreme Court of Texas Chief Justice Thomas Phillips ' 74. For example, Gonzales' opinion in another case, Fitzgerald v. Advanced Spine Fixation Systems, reads as a "paean to strict statutory construction," he said.

Gonzales' decisions "show an equal disdain for activism, regardless of what side of the political spectrum it comes from," Phillips said. "I never saw anything inconsistent on that, and I never had any sense that he was casting any votes based on whether somebody--a former employee, a contributor, a friend who was governor or anybody else--would approve or disapprove."

On the court, Gonzales was soft-spoken, not confrontational, said Phillips: "He tried to prevail through reason rather than intimidation." Perhaps it is a testimony to that style that the case Phillips cites to praise his former colleague is one in which he took the opposite side.

* * *

Kenneth Starr's book about the Rehnquist court, "First Among Equals," lies on a shelf outside Gonzales' office on the day of the interview. Whether Gonzales will be a member of that court is a topic of much speculation. But of course no one who has any say in the matter, least of all Gonzales himself, is talking about it. Viet Dinh, who helps recommend judges to the president, was asked what he would think of a candidate for the Supreme Court with Judge Gonzales' credentials. He laughed and laughed at the question, and he didn't stop laughing until he said goodbye.

Such talk is not a distraction to Gonzales at all, he says. There is nothing he can do about it, and he is a person who focuses on what he can do. But he does worry about something, on top of the worries inherent in his current role. He wonders what he will do next after his job in the White House is done, what will be as exciting and satisfying. After all, how many once-in-a-lifetime opportunities can one person have?

From: Kavanaugh, Brett M.
To: <Gonzales, Alberto R.>;<Leitch, David G.>
Sent: 2/5/2003 9:44:53 AM
Subject: new letter

new letter sent to Senate today:

February 5, 2003

The Honorable Thomas A. Daschle

Senate Minority Leader

Washington, DC 20510

Dear Senator Daschle:

As the Chief Operating Officer of the American GI Forum of the United States (AGIF) located in Washington, DC, I am writing to call on the Senate to confirm Miguel A. Estrada for the position of United States Circuit Judge for the District of Columbia.

The AGIF is the only Hispanic congressionally chartered veterans' organization representing more than 1.5 million Hispanic veterans and their families with more than 500 chapters in the United States and Puerto Rico. The AGIF has been actively involved with veterans' legislative issues, education and civil rights since its founding in 1948.

Mr. Estrada, who came to the United States from his native Honduras at age 17, has an impressive judicial background. He is currently a partner with Gibson, Dunn & Crutcher LLP, where he is a member of the firm's Appellate and Constitutional Law Practice Group and the Business Crimes and Investigations Practice Group and has argued 15 cases before the U.S. Supreme Court.

Mr. Estrada has proven he has the judicial skills to serve on the United States Court of Appeals for the District of Columbia Circuit. He served as a Law Clerk for the Honorable Anthony M. Kennedy, Supreme Court of the United States. He also served as an assistant to the Solicitor General and served both the Democrat and Republican Administrations. He attended Harvard Law School, where he was editor of the Harvard Law Review and received a J.D. degree magna cum laude in 1986 and graduated from Columbia College in New York with an A.B. magna cum laude.

When confirmed, Mr. Estrada will become the first Hispanic to sit on the D.C. Circuit Court. The confirmation of this historic appointment will help open doors for more Hispanic Judges.

The American GI Forum of the United States urges the Senate to confirm Miguel A. Estrada to fill a vacancy on the Unites States Court of Appeals for the District of Columbia Circuit.

Sincerely,

Samuel Calderon

Chief Operating Officer

From: Kavanaugh, Brett M.
To: <Wingate, Heather>;<Gonzales, Alberto R.>;<Leitch, David G.>;<Viana, Mercedes M.>;<Schlapp, Matthew A.>;<Rodriguez, Leonard B.>;<Guerra, Abel>;<Goeglein, Tim>;<Smith, Matthew E.>;<Snee, Ashley>
Sent: 2/5/2003 9:56:42 AM
Subject: Byron York column today on Estrada

He obviously liked Judge's letter to Feinstein:

The White House Case for Miguel Estrada

A final attempt to correct the record.

Senate debate is set to begin today on the nomination of Miguel Estrada to a place on the D.C. Circuit Court of Appeals. It is still not clear whether Democrats will attempt to block a vote on Estrada, who won approval from the Senate Judiciary Committee last week on a straight party-line vote. On Monday, White House Counsel Alberto Gonzales sent a letter to Democratic Sen. Dianne Feinstein in a last attempt to gain her support — if not for the nomination itself, then at least for allowing a full-Senate vote. Although the letter is framed as an effort to correct some of the "inaccurate or incomplete information" that Feinstein has cited in her opposition to Estrada, it is in fact the most concise and effective argument the White House has yet made for the nomination. What follows is the full text of the Gonzales letter.

— Byron York

February 3, 2003

Dear Senator Feinstein:

I write in response to your vote in the Judiciary Committee on the nomination of Miguel Estrada and to respectfully urge that you reconsider this important nomination when you vote on it in the full Senate. I write in particular because it appears from your statement in the Committee (and on your web site) that you may possess inaccurate or incomplete information on certain issues that you have deemed important to the Estrada nomination.

First, it appears you relied on the fact that Estrada has no previous judicial service. But five of the eight judges currently serving on the D.C. Circuit had no previous judicial experience when appointed. That includes two of President Clinton's nominees, Merrick Garland, whose Justice Department record was quite similar to that of Miguel Estrada, and David Tatel. In addition, Judge Harry Edwards had no prior judicial experience when he was nominated by President Carter in 1979, and he was younger than Estrada. In addition, several Ninth Circuit judges from California who were appointed by President Clinton, and had your support, had no prior judicial experience. That includes Judge William Fletcher, Judge Raymond Fisher, and Judge Marsha Berzon.

The American Bar Association, which Democrat Senators Leahy and Schumer have referred to as the "gold standard," unanimously rated Estrada "well qualified" for the D.C. Circuit, the ABA's highest possible rating. We

think the ABA rating was quite appropriate in light of Estrada's excellent record, including his work as an Assistant Solicitor General in the Clinton and Bush Administrations, his record as a federal prosecutor in New York, his service as a law clerk to Justice Kennedy, and his pro bono work including his volunteer representation of a death row inmate before the Supreme Court. He has argued 15 cases before the Supreme Court of the United States, a figure that few lawyers can match, and particularly impressive for someone who immigrated to this country at age 17 speaking little English.

Second, you also referenced a news report quoting the views of Paul Bender, a former Deputy Solicitor General. Mr. Bender has not written a letter to the Committee or otherwise publicly explained his views, so we are unclear whether this news report was accurate. But more important, as I explained in a September 17, 2002, letter to then-Chairman Leahy and Senator Hatch, Paul Bender in fact signed the performance reviews of Miguel Estrada for the two years that they worked together. The performance reviews for those years gave Estrada the highest possible rating of "outstanding" in every possible category. Significantly, the performance reviews that Bender signed also stated the following to support the judgment that Estrada's performance was "outstanding."

"states the operative facts and applicable law completely and persuasively, with record citations, and in conformance with court and office rules, and with concern for fairness, clarity, simplicity, and conciseness."

"[i]s extremely knowledgeable of resource materials and uses them expertly; acting independently, goes directly to point of the matter and gives reliable, accurate, responsive information in communicating position to others."

"[a]ll dealings, oral and written, with the courts, clients, and others are conducted in a diplomatic, cooperative, and candid manner."

"[a]ll briefs, motions or memoranda reviewed consistently reflect no policies at variance with Departmental or Governmental policies, or fails to discuss and analyze relevant authorities."

"[i]s constantly sought for advice and counsel. Inspires co-workers by example."

Apart from the contemporaneous reviews that Mr. Bender himself signed, it also bears mention that the Committee has received letters from Seth Waxman, President Clinton's Solicitor General, and a bipartisan group of 14 former colleagues of Mr. Estrada in the Solicitor General's office. Seth Waxman wrote to the Committee that Estrada is a "model of professionalism and competence" and that he has "great respect both for Mr. Estrada's intellect and for his integrity." He continued: "In no way did I ever discern that the recommendations Mr. Estrada made or the views he propounded were colored in any way by his personal views - or indeed that they reflected anything other than the long-term interests of the United States." And the bipartisan group of former colleagues from the Office of Solicitor General wrote to the Committee that Estrada "would be a fair and honest judge who would decide cases in accordance with applicable legal principles and precedents." Finally, to the extent Mr. Bender's own personal political and ideological views are relevant, we call your attention to Senator Hatch's opening statement at the hearing on September 26, 2002.

Third, you referenced the fact that Miguel Estrada has been "accused" of using an ideological litmus test when assisting Justice Kennedy in the selection of his law clerks. We respectfully do not think this "accusation" is credible or supported. In fact, Mr. Estrada explained at his hearing that he in fact had been very supportive, for example, of the hiring of one law clerk for Justice Kennedy who at the time worked for President Clinton, is a strong Democrat, and now works for Senator Leahy on the Judiciary Committee.

Fourth, you noted concern among "Hispanic organizations." In fact, the overwhelming majority of national Hispanic organizations have supported Mr. Estrada. That includes the Hispanic National Bar Association, the League of United Latin American Citizens, the U.S. Hispanic Chamber of Commerce, the Hispanic Business Roundtable, and the Latino Coalition, among many others. To be sure, MALDEF and PRLDEF do oppose Mr. Estrada. As to Hispanic members of the House, we understand that all of the Republican Hispanics support him

while the Democrat Hispanics do not. In any event, LULAC's statement is noteworthy, as it states: "[Estrada] is truly one of the rising stars in the Hispanic community and a role model for our youth."

Thank you for considering this nominee in light of the above information. This is an historic nomination, as Miguel Estrada would be the first Hispanic to serve on the D.C. Circuit. We urge you to vote to confirm him.

Sincerely,

Alberto R. Gonzales

Counsel to the President

From:	Rodriguez, Leonard B.
To:	rfernandez@rnchq.org <Wingate, Heather>;rfernandez@rnchq.org <Kavanaugh, Brett M.>;rfernandez@rnchq.org <Snee, Ashley>
CC:	<Viana, Mercedes M.>;<Guerra, Abel>;scastillo@rnchq.org <scastillo@rnchq.org>;rfernandez@rnchq.org <rfernandez@rnchq.org>
Sent:	2/5/2003 10:12:49 AM
Subject:	final,final letter
Attachments:	Estrada Coalition Letter FINAL.doc

It is gone to all Senators and is on the wire, Robert is specifically sending to media outlets in the target states

---------- Forwarded by Leonard B. Rodriguez/WHO/EOP on 02/05/2003 10:09 AM ----------

"R.G. Deposada"

02/05/2003 10:10:39 AM

Record Type: Record

To: Leonard B. Rodriguez/WHO/EOP@EOP

cc:

Subject: final,final letter

Robert G. de Posada

President, The Latino Coalition

725 Massachusetts Avenue, NE

Washington, DC 20002

202-546-0008

202-546-0807 Fax

www.TheLatinoCoalition.com

- Estrada Coalition Letter FINAL.doc << Estrada Coalition Letter FINAL.doc >>

LATINO COALITION FOR MIGUEL ESTRADA

February 4, 2003

Dear Senator:

At a time of a serious judicial vacancy crisis in our country, it is simply disingenuous that the Senate Democratic leadership is threatening to filibuster a nominee to the U.S. Court of Appeals, who received a unanimous "well qualified" rating from the American Bar Association.

On May 9, 2001, President Bush nominated Miguel A. Estrada to fill a vacancy on the United States Court of Appeals for the District of Columbia Circuit. Mr. Estrada would be the first Hispanic in history to sit on that court, which is widely viewed as the most important and prestigious Court of Appeals in the nation. No wonder George Herrera, President and Chief Executive Officer of the United States Hispanic Chamber of Commerce, concludes that "Estrada's nomination can be a historic event for the Hispanic community. Latinos in this country have worked hard to break the barriers and obstacles that have stood in our way for too long and we now have the opportunity to do so. Estrada's appointment will also be a role model for Latino youth by demonstrating that a Latino can be appointed to one of the highest courts in the nation." **He is just one of the overwhelming majority of national Hispanic grassroots organizations that are enthusiastically supporting his nomination, not just because he is Hispanic, but because he is superbly qualified.**

Mr. Estrada is unique in another respect, too. As his colleagues can attest, both conservatives and liberals alike, **Mr. Estrada is one of the most brilliant and effective appellate lawyers in the country.** Having worked at the Justice Department under Republican and Democratic Administrations, he has demonstrated a commitment to upholding the integrity of the law and a dedication to public service. During his career, he has argued fifteen cases before the Supreme Court—all before reaching the age of 40. **He richly deserves the unanimous "well qualified" rating the American Bar Association** bestowed on him—the organization's highest possible evaluation.

But Miguel Estrada is more than just a talented lawyer. He represents the potential of a growing population and what is possible in the United States. A native of Honduras, Mr. Estrada arrived in the United States at age 17, unable to speak much English. Just five years later he had graduated from Columbia University, and five years after that he was clerking for a Justice of the United States Supreme Court. Mr. Estrada's own journey from immigrant to successful attorney has inspired him to devote much of his career to serving his fellow Americans. Both in government service and in private practice, he has sought to ensure that all citizens receive the law's fullest protections and benefits, whether they are death-row inmates, abortion clinics targeted by violent protestors, or inner-city residents victimized by gang violence.

Never has a judicial nominee that has been voted out of the Judiciary Committee been successfully filibustered in the Senate. Estrada's opponents can only argue that he is a Hispanic in name only and is an ideologue. This is absolute non-sense.

725 Massachusetts Avenue, N.E. • Washington, DC 20002 • 202-546-0008

How can they call him an ideologue when prominent Democrats like Ron Klain, the former Chief of Staff of Vice President Gore, and Seth Waxman, Clinton's Solicitor General support him? Klain calls Estrada ***"an extraordinary legal talent"*** and ***'genuinely compassionate"***. But how can any U.S. Senator threaten to kill this nomination arguing with a straight face that Mr. Estrada does not understand or represent the values of our community? Under normal circumstances, this argument would be so absurd that we would have ignored it. But under the current partisan environment, we cannot stand by and allow them to use unprecedented tactics to kill this nomination just to score political points.

The Hispanic National Bar Association, the League of United Latin American Citizens (LULAC), The Latino Coalition, the United States Hispanic Chamber of Commerce, the American Association for the Advancement of Mexican Americans, MANA – a national Latina organization, and the Mexican American Grocers Association are among the hundreds of Hispanic organizations supporting the nomination of Miguel Estrada.

Miguel Estrada is a perfect example of an American success story, who deserves an up or down vote on the Senate floor. He brings to the court a distinguished legal record based on his many years of work in the public and private sector. Mr. Estrada also brings a unique perspective and human experience understood only by those who have migrated to a foreign land as a teenager not knowing the language.

It is for this cultural depth and his unique legal qualifications that on behalf of an overwhelming majority of Hispanics in this country, we urge the leadership of both parties in the U.S. Senate to put partisan politics aside so that Hispanics are no longer denied representation in one of the most prestigious courts in the land.

Sincerely,

League of United Latin Americans Citizens
Hispanic National Bar Association
U.S. Hispanic Chamber of Commerce
Association for the Advancement of Mexican Americans
The Latino Coalition
Mexican American Grocers Association
Hispanic Contractors Association
Interamerican College of Physicians & Surgeons
American G.I. Forum
Federation of Mayors of Puerto Rico
Casa De Sinaloense
Cuban American National Foundation
Hispanic Business Roundtable
Cuban Liberty Council
Congregacion Cristiana y Misionera "Fe y Alabanza"
MANA, a National Latina Organization
Nueva Esperanza Inc.
Cuban American Voters National Community
Puerto Rican American Foundations

(Partial List of Organizations Signing Letter)

From: Bumatay, Patrick J.
To: <Kavanaugh, Brett M.>
Sent: 2/5/2003 10:35:35 AM
Subject: FW: Byron York column today on Estrada

Brett,

I am sure you are aware, but anyway, Bryon York has published ARG's to Feinstein on National Review Online.

---------- Forwarded by Douglas L. Hoelscher/WHO/EOP on 02/05/2003 10:24 AM ----------

Leonard B. Rodriguez
02/05/2003 10:12:31 AM
Record Type: Record

To:
cc:
Subject: Byron York column today on Estrada

The White House Case for Miguel Estrada

A final attempt to correct the record.

Senate debate is set to begin today on the nomination of Miguel Estrada to a place on the D.C. Circuit Court of Appeals. It is still not clear whether Democrats will attempt to block a vote on Estrada, who won approval from the Senate Judiciary Committee last week on a straight party-line vote. On Monday, White House Counsel Alberto Gonzales sent a letter to Democratic Sen. Dianne Feinstein in a last attempt to gain her support — if not for the nomination itself, then at least for allowing a full-Senate vote. Although the letter is framed as an effort to correct some of the "inaccurate or incomplete information" that Feinstein has cited in her opposition to Estrada, it is in fact the most concise and effective argument the White House has yet made for the nomination. What follows is the full text of the Gonzales letter.

— Byron York

February 3, 2003

Dear Senator Feinstein:
I write in response to your vote in the Judiciary Committee on the nomination of Miguel Estrada and to respectfully urge that you reconsider this important nomination when you vote on it in the full Senate. I write in particular because it appears from your statement in the Committee (and on your web site) that you may possess

inaccurate or incomplete information on certain issues that you have deemed important to the Estrada nomination.

First, it appears you relied on the fact that Estrada has no previous judicial service. But five of the eight judges currently serving on the D.C. Circuit had no previous judicial experience when appointed. That includes two of President Clinton's nominees, Merrick Garland, whose Justice Department record was quite similar to that of Miguel Estrada, and David Tatel. In addition, Judge Harry Edwards had no prior judicial experience when he was nominated by President Carter in 1979, and he was younger than Estrada. In addition, several Ninth Circuit judges from California who were appointed by President Clinton, and had your support, had no prior judicial experience. That includes Judge William Fletcher, Judge Raymond Fisher, and Judge Marsha Berzon.

The American Bar Association, which Democrat Senators Leahy and Schumer have referred to as the "gold standard," unanimously rated Estrada "well qualified" for the D.C. Circuit, the ABA's highest possible rating. We think the ABA rating was quite appropriate in light of Estrada's excellent record, including his work as an Assistant Solicitor General in the Clinton and Bush Administrations, his record as a federal prosecutor in New York, his service as a law clerk to Justice Kennedy, and his pro bono work including his volunteer representation of a death row inmate before the Supreme Court. He has argued 15 cases before the Supreme Court of the United States, a figure that few lawyers can match, and particularly impressive for someone who immigrated to this country at age 17 speaking little English.

Second, you also referenced a news report quoting the views of Paul Bender, a former Deputy Solicitor General. Mr. Bender has not written a letter to the Committee or otherwise publicly explained his views, so we are unclear whether this news report was accurate. But more important, as I explained in a September 17, 2002, letter to then-Chairman Leahy and Senator Hatch, Paul Bender in fact signed the performance reviews of Miguel Estrada for the two years that they worked together. The performance reviews for those years gave Estrada the highest possible rating of "outstanding" in every possible category. Significantly, the performance reviews that Bender signed also stated the following to support the judgment that Estrada's performance was "outstanding."

"states the operative facts and applicable law completely and persuasively, with record citations, and in conformance with court and office rules, and with concern for fairness, clarity, simplicity, and conciseness."

"[i]s extremely knowledgeable of resource materials and uses them expertly; acting independently, goes directly to point of the matter and gives reliable, accurate, responsive information in communicating position to others."

"[a]ll dealings, oral and written, with the courts, clients, and others are conducted in a diplomatic, cooperative, and candid manner."

"[a]ll briefs, motions or memoranda reviewed consistently reflect no policies at variance with Departmental or Governmental policies, or fails to discuss and analyze relevant authorities."

"[i]s constantly sought for advice and counsel. Inspires co-workers by example."
Apart from the contemporaneous reviews that Mr. Bender himself signed, it also bears mention that the Committee has received letters from Seth Waxman, President Clinton's Solicitor General, and a bipartisan group of 14 former colleagues of Mr. Estrada in the Solicitor General's office. Seth Waxman wrote to the Committee that Estrada is a "model of professionalism and competence" and that he has "great respect both for Mr. Estrada's intellect and for his integrity." He continued: "In no way did I ever discern that the recommendations Mr. Estrada made or the views he propounded were colored in any way by his personal views - or indeed that they reflected anything other than the long-term interests of the United States." And the bipartisan group of former colleagues from the Office of Solicitor General wrote to the Committee that Estrada "would be a fair and honest judge who would decide cases in accordance with applicable legal principles and precedents." Finally, to the extent Mr. Bender's own personal political and ideological views are relevant, we call your attention to Senator Hatch's opening statement at the hearing on September 26, 2002.

Third, you referenced the fact that Miguel Estrada has been "accused" of using an ideological litmus test when assisting Justice Kennedy in the selection of his law clerks. We respectfully do not think this "accusation" is credible or supported. In fact, Mr. Estrada explained at his hearing that he in fact had been very supportive, for example, of the hiring of one law clerk for Justice Kennedy who at the time worked for President Clinton, is a strong Democrat, and now works for Senator Leahy on the Judiciary Committee.

Fourth, you noted concern among "Hispanic organizations." In fact, the overwhelming majority of national Hispanic organizations have supported Mr. Estrada. That includes the Hispanic National Bar Association, the League of United Latin American Citizens, the U.S. Hispanic Chamber of Commerce, the Hispanic Business Roundtable, and the Latino Coalition, among many others. To be sure, MALDEF and PRLDEF do oppose Mr. Estrada. As to Hispanic members of the House, we understand that all of the Republican Hispanics support him while the Democrat Hispanics do not. In any event, LULAC's statement is noteworthy, as it states: "[Estrada] is truly one of the rising stars in the Hispanic community and a role model for our youth."

Thank you for considering this nominee in light of the above information. This is an historic nomination, as Miguel Estrada would be the first Hispanic to serve on the D.C. Circuit. We urge you to vote to confirm him.

Sincerely,

Alberto R. Gonzales
Counsel to the President

From: CN=Brian Bravo/OU=WHO/O=EOP@Exchange [WHO]
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 2/5/2003 7:54:59 AM
Subject: : TRANSCRIPT - Jack Straw Addresses The United Nations 02/05/03

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 5-FEB-2003 12:54:59.00
SUBJECT:: TRANSCRIPT - Jack Straw Addresses The United Nations 02/05/03
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Jack Straw Addresses The United Nations 02/05/03

STRAW: Mr. President, may I, like the foreign minister for China, congratulate Germany on taking the presidency of the Security Council and congratulate you personally on assuming the chair this morning.

Mr. President, we've just heard a most powerful and authoritative case against the Iraqi regime set out by United States Secretary of State Powell. The international community owes him its thanks for laying bare the deceit practiced by the regime of Saddam Hussein, and worse, the very great danger which that regime represents.

Three months ago, we united to send Iraq an uncompromising message: Cooperate fully with weapons inspectors or face disarmament by force.

After years of Iraqi deception, when resolutions were consistently flouted, Resolution 1441 was a powerful reminder of the importance of international law and of the authority of the Security Council itself.

United and determined, we gave Iraq a final opportunity to rid itself of its weapons of mass terror; of gasses which can poison thousands in one go; of bacilli and viruses like anthrax and smallpox, which can disable and kill by the tens of thousands; of the means to make nuclear weapons, which can kill by the million.

By Resolution 1441, we strengthened inspections massively. The only missing ingredient was full Iraqi compliance--immediate, full and active cooperation.

And the truth is, and we all know this, without that full and active cooperation, however strong the inspectors' powers, however good the inspectors, inspections in a country as huge as Iraq could never be sure of finding all Iraqi weapons of mass destruction.

Now, Mr. President, sadly, the inspectors' reports last week and Secretary Powell's presentation today can leave us under no illusions about Saddam Hussein's response. Saddam Hussein holds United Nations Security Council Resolution 1441 in the same contempt as all previous resolutions in respect of Iraq.

And let us reflect on what that means: That Saddam is defying every one of us, every nation here represented. He questions our resolve and is gambling that we will lose our nerve rather than enforce our will.

Paragraph 1 of 1441 said that Saddam was and remained in material breach of Security Council resolutions. Paragraph 4 of 1441 then set two clear tests for a further material breach by Iraq.

First, that Iraq must not make false statements or omissions in its declaration. But the Iraqi document submitted to us on the 7th of December, as we've heard from Secretary Powell, was long on repetition but

short on fact. It was neither full nor accurate nor complete. And by anyone's definition, it was a false statement. Its central premise, that Iraq possesses no weapons of mass destruction, is a lie.

STRAW: This outright lie was repeated yesterday on television by Saddam Hussein.

And the declaration also has obvious omissions, not least in the failure to explain what has happened to the large quantities of chemical and biological weapons material and munitions unaccounted for by U.N. weapons inspectors in 1998.

And there is no admission of Iraq's extensive efforts to develop weapons of mass destruction since the last round of UNSCOM inspections ended in December 1998.

Mr. President, paragraph 4 goes on to set a second test for a further material breach; namely, and I quote, ``a failure by Iraq at any time to comply with and to cooperate fully in the implementation of Resolution 1441.''

Following the presentation by the inspectors last week and today's briefing by Secretary Powell, it is clear that Iraq has failed this test. These briefings have confirmed our worst fears: that Iraq has no intention of relinquishing its weapons of mass destruction, no intention of following the path of peaceful disarmament set out in Security Council Resolution 1441.

Instead of open admissions and transparency, we have a charade where a veneer of superficial cooperation masks willful concealment, the extent of which has been devastatingly revealed this morning by Secretary Powell.

Mr. President, in his report last week, Dr. Blix set out a number of instances where Iraqi behavior reveals a determination to avoid compliance.

Why is Iraq refusing to allow UNMOVIC to use a U-2 plane to conduct aerial imagery and surveillance operations? When will Iraq account for the 6,500 bombs which could carry up to 1,000 tons of chemical agent? How will Iraq justify having a prohibited chemical precursor for mustard gas. But how will Iraq explain the concealment of nuclear documents and the development of a missile program in clear contravention of United Nations resolutions?

And there is, Mr. President, only one possible conclusion from all of this, which is that Iraq is in further material breach as set out in United Nations Security Council Resolution 1441. And I believe that all colleagues here, all members will share our deep sense of frustration that Iraq is choosing to spurn this final opportunity to achieve a peaceful outcome.

Mr. President, given what has to follow and the difficult choice now facing us, it would be easy to turn a blind eye to the wording of Resolution 1441 and hope for a change of heart by Iraq. Easy but wrong, because if we did so, we would be repeating the mistakes of the past 12 years and empowering a dictator who believes that his diseases and poison gases are essential weapons to suppress his own people and to threaten his neighbors and that by defiance of the United Nations he can indefinitely hoodwink the world.

Mr. President, under the French presidency two weeks ago, we had a special session on the dangers of international terrorism, which I greatly welcomed, that session, of the grave danger to the world of terrorists acquiring weapons of mass destruction through the connivance of rogue states.

Secretary Powell has today set out deeply worrying reports about the presence in Iraq of one of Osama bin Laden's lieutenants, al-Zaqawi (ph), and other members of Al Qaida and their efforts to develop poisons.

STRAW: It defies imagination that all of this could be going on without the knowledge of Saddam Hussein. And the recent discovery of the poison ricin in London has underlined again that this is a threat which all of us face.

Mr. President, Saddam must be left in no doubt as to the serious consequences and the serious situation which he now faces. The United Kingdom does not want war. What we want is for the United Nations system to be upheld.

But the logic of Resolution 1441 is inescapable. Time is now very short. This council will have further reports from the inspectors on Friday week, the 14th of February. If noncooperation continues, this council must meet its responsibilities.

Mr. President, our world faces many threats, from poverty and disease to civil war and terrorism. Working through this great institution, we have the capacity to tackle these challenges together. But if we are to do so, then the decisions we have to take must have a force beyond mere words.

This is a moment of choice for Saddam and for the Iraqi regime, but it is also a moment of choice for this institution, the United Nations.

The United Nations' pre-war predecessor, the League of Nations, had the same fine ideals as the United Nations, but the league failed because it could not create actions from its words. It could not back diplomacy with a credible threat and where necessary, the use of force.

So small evils went unchecked. Tyrants became emboldened. Then greater evils were unleashed.

At each stage good men said, ``Wait, the evil is not big enough to challenge.'' Then before their eyes, the evil became too big to challenge. We slipped slowly down a slope, never noticing how far we had gone until it was too late.

Mr. President, we owe it to our history, as well as to our future, not to make the same mistake again.

Thank you.

END

;

;

From:	Office of Global Communications <Global.Messenger@WhiteHouse.Gov>
To:	Wendy L. Nipper Office of Global Communications/WHO/EOP@EOP [WHO] <Wendy L. Nipper Office of Global Communications>
BCC:	Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent:	2/5/2003 12:17:33 PM
Subject:	: IRAQ'S "EVASION AND DECEPTION" -- SECRETARY POWELL SPEAKS TO THE U.N. SECURITY COUNCIL
Attachments:	P_7TOND003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Office of Global Communications <Global.Messenger@WhiteHouse.Gov> (Office of Global Communications <Global.Messenger@WhiteHouse.Gov> [UNKNOWN])
CREATION DATE/TIME: 5-FEB-2003 17:17:33.00
SUBJECT:: IRAQ'S "EVASION AND DECEPTION" -- SECRETARY POWELL SPEAKS TO THE U.N. SECURITY COUNCIL
TO:Wendy L. Nipper Office of Global Communications (CN=Wendy L. Nipper Office of Global Communications/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

IRAQ'S "EVASION AND DECEPTION"
SECRETARY POWELL SPEAKS TO THE U.N. SECURITY COUNCIL

Today, United States Secretary of State Colin Powell presented a thorough and deeply troubling case that Saddam Hussein and his regime:
- Possess weapons of mass destruction;
- Are working to acquire more and more lethal WMD;
- Continue to hide current stocks and procurement efforts;
- Continue to harbor and sponsor terrorists;
- Continue to abuse the human rights of the Iraqi people; and
- Have made no attempt to disarm as required by Security Council Resolution 1441.

The United States presented material from a variety of sources -- U.S. and foreign, human and technical. This represents an unprecedented effort to declassify sensitive material.

The U.S. took this step because Iraq's weapons present real and immediate dangers to the region and the world.

Secretary Powell shared new, detailed information with the Security Council about:

- Iraq's weapons of mass destruction;
- Iraq's systematic efforts to conceal prohibited materials; and
- Iraq's involvement in terrorism.

WEAPONS OF MASS DESTRUCTION: DENIAL AND DECEPTION

Secretary Powell's presentation began with audiotapes of intercepted communications.
- In the first, two senior Iraqi officers discuss the need to hide something from inspectors.
- In the second, an officer is directed by headquarters to destroy an order related to inspectors finding "forbidden ammo."

Secretary Powell described the Iraqi concealment effort, headed by Iraq's Vice President Ramadan.

Secretary Powell showed satellite photos of increased activity at several weapons sites, including clear signs that chemical and biological agents were
being moved, presumably to thwart inspectors.

He also detailed Iraq's efforts to block interviews with Iraqi scientists, which
include public accusations that the inspectors are spies and private death threats to potential witnesses and their families.

BIOLOGICAL WEAPONS

Dr. Blix has recently confirmed that Iraq has not accounted for large quantities
of biological agents based on evidence from UNSCOM before inspections ended in
1998 (up to 25,000 liters of anthrax and 38,000 liters of botulinum toxin).

We have firsthand descriptions of biological weapons factories on wheels and
rails. There are at least seven such factories.- Together, they can produce in a matter of months more biological agent than
Iraq admitted to producing before the Gulf War.
- They are mobile, to evade inspectors.CHEMICAL WEAPONS

As with biological weapons, Iraq has never accounted for vast quantities of chemical weapons, including:
- 550 artillery shells filled with mustard agent;- About 30,000 empty chemical munitions; and
- Enough precursors to produce much as 500 tons of chemical agents.Dr. Blix also recently cited 6,500 unaccounted-for aerial chemical bombs, which
would contain around 1,000 tons of chemical agents.

Iraq could not, and did not need to, make its chemical weapons manufacturing
mobile. Instead, it is carrying out these activities under the cover of dual-use civilian manufacturing.- Satellite imagery documented transshipment activity of chemical weapons at a
site called al-Musayyib. After the transshipment was over, further imagery revealed that the complex was sanitized.

Secretary Powell detailed extensive reporting on covert procurement efforts for
chemical and biological agent production. He also played a taped conversation
between officers of the 2nd Republican Guard (which oversees the garrison at
al-Musayyib). In this conversation, the junior officer is ordered to "remove the
expression 'nerve agents'" from wireless instructions.

Secretary Powell cited reports that Iraq has experimented on human beings with
chemical or biological agents.

NUCLEAR WEAPONS

We know that Saddam has kept together cadres of nuclear scientists and that he
has a bomb design.

So far as we know, Iraq lacks fissile material, but is seeking the means to enrich uranium.- Procurement efforts include high specification aluminum tubes for gascentrifuges used to enrich uranium;
- A production plant for magnets suitable in centrifuge work, and- Machines suitable for balancing centrifuge rotors.

Secretary Powell noted that procurement efforts for aluminum tubes have continued past the adoption of Resolution 1441.

The world underestimated Saddam's nuclear program before. Prior to the Gulf War, most allied intelligence agencies estimated that Iraq was at least five years away from developing a nuclear weapon. Information obtained from Iraqi defectors after the Gulf war showed that ? if not for that war ? Iraq could have produced a nuclear weapon by 1993.

DELIVERY SYSTEMS

U.S. intelligence assesses that Iraq retains a force of up to a few dozen prohibited SCUD-variant missiles.

UNSCOM discovered that Iraq had an active Unmanned Arial Vehicle (UAV) program with ties to its chemical and biological weapons programs.

TIES TO TERRORISM - A LONG HISTORY

Secretary Powell was clear: Iraq has been involved with terrorism for decades:- Palestinian terrorist groups, including the Palestine Liberation Front, train in Iraq;
- Saddam funnels money to the families of suicide bombers;- Iraq has hosted conference attended by Palestine Islamic Jihad;
- Hamas opened an office in Baghdad in 1999;- Saddam's Iraqi Intelligence Service (IIS) has been involved in dozens of attacks, planned and/or attempted assassinations since the 1990s, including a worldwide campaign of foiled attacks against U.S. Embassies during the Gulf war and plans to attack Radio Free Europe.

IRAQ AND AL-QAIDA: WHAT WE KNOW TODAY

Iraq harbors a deadly terrorist network headed by senior al-Qaida operative Musab al-Zarqawi -- a Palestinian-Jordanian, and collaborator of Usama Bin Laden.

- We know Zarqawi came to Baghdad in May 2002 for medical treatment.- Zarqawi oversees the cell responsible for the assassination of USAID officer Lawrence Foley in Amman last October.
- Zarqawi directs a poisons/toxins laboratory in northeastern Iraq alongside the radical Islamist organization, Ansar al-Islam. Many of Zarqawi's colleagues remain in Baghdad, where they have been operating for more than 8 months. The network there coordinates the movement of people, money, and supplies into and throughout Iraq.
- Law enforcement and intelligence operations have disrupted Zarqawi's poison plotting in France, Britain, Spain, Italy, Germany, and Russia. A British officer was killed in the raid of the cell which was identified with ricin. In total, at last count, 116 operatives with Zarqawi's network have been arrested.

IRAQ AND AL-QAIDA: HISTORY

Secretary Powell spelled out how Iraq-al-Qaida ties were forged by secret high-level contacts in the 1990s, including at least eight senior level meetings. Their relationship is prompted by mutual hatred for the United States, Israel, the Saudi royal family, and by bin Ladin's interest in both WMD and

future safe havens.

As the Secretary said, there is more:

A senior al-Qaida terrorist, now detained, who had been responsible for bin Ladin's training in Afghanistan, reports that al-Qaida was intent on obtaining WMD assistance from Iraq.- According to this source deceased al-Qaida leader Muhammad 'Atif did not believe that al-Qaida labs in Afghanistan were capable enough to manufacture BW and CW.
- He turned to Iraq for assistance.- Iraq agreed to provide chemical and biological weapons training for two al-Qaida associates starting in December 2000.

IRAQ'S DEPLORABLE HUMAN RIGHTS RECORD

Saddam Hussein's regime is unsurpassed in its brutality and viciousness..

What has the international community found and documented?
- The regime practices systemic and indiscriminate torture, detention,disappearance, expulsion, and murder.- Rape is a policy of the Iraqi government, used for torture and intimidation.
- The regime has used chemical weapons against civilians.- The Iraqi regime has more forced disappearance cases than any country in the world.- For two decades, the Iraqi regime has practiced phased terror against the Kurdish people, including the destruction of some 2,000 villages.- Saddam's campaign of ethnic cleansing has displaced some 700,000 people throughout Iraq.- Saddam's unprovoked invasion of Iran in 1980 resulted in an estimated one million Iranians dead, and his 1990 invasion of Kuwait killed at least 1,000 Kuwaitis.

And we cannot forget that it is precisely the totalitarian, oppressive nature of Saddam's regime that enables his deception and continued stockpiling and pursuit of chemical, biological and nuclear weapons.

(See attached file: Sec. Powell UNSC Summary FINAL 02-05-2003.doc)

****

You have previously expressed interest in obtaining news and information from the White House.

The White House Office of Global Communications distributes information about the President's messages to the world. This office distributes updates on major international topics such as the global war on terror, the case for regime change in Iraq, and more broadly, the ways in which we can all better communicate the aspirations and interests that Americans share with freedom-loving people everywhere.

- Sec. Powell UNSC Summary FINAL 02-05-2003.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_7TOND003_WHO.TXT_1>

IRAQ'S "EVASION AND DECEPTION"
SECRETARY POWELL SPEAKS TO THE U.N. SECURITY COUNCIL

Today, United States Secretary of State Colin Powell presented a thorough and deeply troubling case that Saddam Hussein and his regime:

- Possess weapons of mass destruction;
- Are working to acquire more and more lethal WMD;
- Continue to hide current stocks and procurement efforts;
- Continue to harbor and sponsor terrorists;
- Continue to abuse the human rights of the Iraqi people; and
- Have made no attempt to disarm as required by Security Council Resolution 1441.

The United States presented material from a variety of sources -- U.S. and foreign, human and technical. This represents an unprecedented effort to declassify sensitive material.

The U.S. took this step because Iraq's weapons present real and immediate dangers to the region and the world.

Secretary Powell shared new, detailed information with the Security Council about:

- Iraq's weapons of mass destruction;
- Iraq's systematic efforts to conceal prohibited materials; and
- Iraq's involvement in terrorism.

Weapons of Mass Destruction: Denial and Deception

Secretary Powell's presentation began with **audiotapes** of intercepted communications.

- In the first, two senior Iraqi officers discuss the need to hide something from inspectors.
- In the second, an officer is directed by headquarters to destroy an order related to inspectors finding "forbidden ammo."

Secretary Powell described the Iraqi concealment effort, headed by Iraq's Vice President Ramadan.

Secretary Powell showed **satellite photos** of increased activity at several weapons sites, including clear signs that chemical and biological agents were being moved, presumably to thwart inspectors.

He also detailed Iraq's efforts to block interviews with Iraqi scientists, which include public accusations that the inspectors are spies and private death threats to potential witnesses and their families.

Biological Weapons

Dr. Blix has recently confirmed that Iraq has not accounted for large quantities of biological agents based on evidence from UNSCOM before inspections ended in 1998 (up to 25,000 liters of anthrax and 38,000 liters of botulinum toxin).

We have **firsthand descriptions** of biological weapons factories on wheels and rails. There are at least seven such factories.

- Together, they can produce in a matter of months more biological agent than Iraq admitted to producing before the Gulf War.
- They are mobile, to evade inspectors.

Chemical Weapons

As with biological weapons, Iraq has never accounted for vast quantities of chemical weapons, including:

- 550 artillery shells filled with mustard agent;
- About 30,000 empty chemical munitions; and
- Enough precursors to produce much as 500 tons of chemical agents.

Dr. Blix also recently cited 6,500 unaccounted-for aerial chemical bombs, which would contain around 1,000 tons of chemical agents.

Iraq could not, and did not need to, make its chemical weapons manufacturing mobile. Instead, it is carrying out these activities under the cover of dual-use civilian manufacturing.

- **Satellite imagery** documented transshipment activity of chemical weapons at a site called al-Musayyib. After the transshipment was over, further imagery revealed that the complex was sanitized.

Secretary Powell detailed **extensive reporting** on covert procurement efforts for chemical and biological agent production. He also played a **taped conversation** between officers of the 2nd Republican Guard (which oversees the garrison at al-Musayyib). In this conversation, the junior officer is ordered to "remove the expression 'nerve agents'" from wireless instructions.

Secretary Powell cited reports that Iraq has experimented on human beings with chemical or biological agents.

Nuclear Weapons

We know that Saddam has kept together cadres of nuclear scientists and that he has a bomb design.

So far as we know, Iraq lacks fissile material, but is seeking the means to enrich uranium.

- Procurement efforts include high specification aluminum tubes for gas centrifuges used to enrich uranium;
- A production plant for magnets suitable in centrifuge work, and
- Machines suitable for balancing centrifuge rotors.

Secretary Powell noted that procurement efforts for aluminum tubes have continued past the adoption of Resolution 1441.

The world underestimated Saddam's nuclear program before. Prior to the Gulf War, most allied intelligence agencies estimated that Iraq was at least five years away from developing a nuclear weapon. Information obtained from Iraqi defectors after the Gulf war showed that – if not for that war – Iraq could have produced a nuclear weapon by 1993.

Delivery Systems

U.S. intelligence assesses that Iraq retains a force of up to a few dozen prohibited SCUD-variant missiles.

UNSCOM discovered that Iraq had an active Unmanned Arial Vehicle (UAV) program with ties to its chemical and biological weapons programs.

Ties to Terrorism - A Long History

Secretary Powell was clear: Iraq has been involved with terrorism for decades:

- Palestinian terrorist groups, including the Palestine Liberation Front, train in Iraq;
- Saddam funnels money to the families of suicide bombers;
- Iraq has hosted conference attended by Palestine Islamic Jihad;
- Hamas opened an office in Baghdad in 1999;
- Saddam's Iraqi Intelligence Service (IIS) has been involved in dozens of attacks, planned and/or attempted assassinations since the 1990s, including a worldwide campaign of foiled attacks against U.S. Embassies during the Gulf war and plans to attack Radio Free Europe.

Iraq and Al-Qaida: What We Know Today

Iraq harbors a deadly terrorist network headed by senior al-Qaida operative Musab al-Zarqawi -- a Palestinian-Jordanian, and collaborator of Usama Bin Laden.

- We know Zarqawi came to Baghdad in May 2002 for medical treatment.

- Zarqawi oversees the cell responsible for the assassination of USAID officer Lawrence Foley in Amman last October.

- Zarqawi directs a poisons/toxins laboratory in northeastern Iraq alongside the radical Islamist organization, Ansar al-Islam. Many of Zarqawi's colleagues remain in Baghdad, where they have been operating for more than 8 months. The network there coordinates the movement of people, money, and supplies into and throughout Iraq.

- Law enforcement and intelligence operations have disrupted Zarqawi's poison plotting in France, Britain, Spain, Italy, Germany, and Russia. A British officer was killed in the raid of the cell which was identified with ricin. In total, at last count, 116 operatives with Zarqawi's network have been arrested.

Iraq and Al-Qaida: History

Secretary Powell spelled out how Iraq-al-Qaida ties were forged by secret high-level contacts in the 1990s, including at least eight senior level meetings. Their relationship is prompted by mutual hatred for the United States, Israel, the Saudi royal family, and by bin Ladin's interest in both WMD and future safe havens.

As the Secretary said, there is more:

- A senior al-Qaida **terrorist, now detained**, who had been responsible for bin Ladin's training in Afghanistan, reports that al-Qaida was intent on obtaining WMD assistance from Iraq.
    - According to this source deceased al-Qaida leader Muhammad 'Atif did not believe that al-Qaida labs in Afghanistan were capable enough to manufacture BW and CW.
    - He turned to Iraq for assistance.
    - Iraq agreed to provide chemical and biological weapons training for two al-Qaida associates starting in December 2000.

Iraq's Deplorable Human Rights Record

Saddam Hussein's regime is unsurpassed in its brutality and viciousness.

What has the international community found and documented?

- The regime practices systemic and indiscriminate torture, detention, disappearance, expulsion, and murder.
- Rape is a policy of the Iraqi government, used for torture and intimidation.
- The regime has used chemical weapons against civilians.
- The Iraqi regime has more forced disappearance cases than any country in the world.
- For two decades, the Iraqi regime has practiced phased terror against the Kurdish people, including the destruction of some 2,000 villages.
- Saddam's campaign of ethnic cleansing has displaced some 700,000 people throughout Iraq.

- Saddam's unprovoked invasion of Iran in 1980 resulted in an estimated one million Iranians dead, and his 1990 invasion of Kuwait killed at least 1,000 Kuwaitis.

And we cannot forget that it is precisely the totalitarian, oppressive nature of Saddam's regime that enables his deception and continued stockpiling and pursuit of chemical, biological and nuclear weapons.

From: Rodriguez, Leonard B.
To: <Kavanaugh, Brett M.>
CC: <Wingate, Heather>
Sent: 2/5/2003 4:48:31 PM
Subject: Re: Urgent matter, need to get the 3 of us on the phone

Wingate got back to me, we are okay.

thx

Brett M. Kavanaugh

02/05/2003 04:43:59 PM

Record Type: Record

To: Leonard B. Rodriguez/WHO/EOP@EOP, Heather Wingate/WHO/EOP@Exchange@EOP

cc:

bcc:

Subject: Re: Urgent matter, need to get the 3 of us on the phone 

how's 5:20

Leonard B. Rodriguez

02/05/2003 04:01:54 PM

Record Type: Record

To: Heather Wingate/WHO/EOP@Exchange@EOP, Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: Urgent matter, need to get the 3 of us on the phone

From: FindLaw.com <listadmin@LEGALMINDS.ORG>
To: TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN] <TOPHEADLINES@LEGALMINDS.ORG>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 2/5/2003 1:27:38 PM
Subject: : [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Wed., Feb. 5, 2003

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"FindLaw.com" <listadmin@LEGALMINDS.ORG> ("FindLaw.com" <listadmin@LEGALMINDS.ORG> [UNKNOWN])
CREATION DATE/TIME: 5-FEB-2003 18:27:38.00
SUBJECT:: [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Wed., Feb. 5, 2003
TO:TOPHEADLINES@LEGALMINDS.ORG (TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

FINDLAW Wed, Feb 5, 2003

TOP LEGAL NEWS HEADLINES

For all of the day's legal news go to: http://news.findlaw.com

****

Thinking about taking the LSAT?

The Princeton Review can help you prepare. We offer classroom courses, online courses and tutoring programs to fit your busy schedule. We guarantee that you will be completely satisfied with your LSAT score, or we'll work with you again for up to one full year-for free!
http://rd.findlaw.com/scripts/nl.pl?url=10293948000_nl

****

POLITICS
Powell: World Must Not Shrink From Disarming Iraq
http://news.findlaw.com/international/s/20030205/iraqdc.html

SEC Nominee Pledges Accounting Board Action
http://news.findlaw.com/politics/s/20030205/congresssecdonaldsondc.html

LEGAL COMMENTARY
Copyright Ruling: Why It May Have Important Implications For Gun Rights
http://writ.news.findlaw.com/dorf/20030205.html

Europe's Blocking Of Racist Websites
http://writ.news.findlaw.com/ramasastry/20030205.html

CIVIL RIGHTS
Groups Sue NYC Over Rally Permit Refusal
http://news.findlaw.com/ap/o/1110/2-5-2003/20030205094502_26.html

Ga. Rep. Revives Patients' Rights Bill
http://news.findlaw.com/ap/o/1500/2-5-2003/20030205113006_05.html

PERSONAL INJURY
Families Could Face Battle In Lawsuits
http://news.findlaw.com/ap/o/1501/2-5-2003/20030205001501_26.html

1994 Report Warned Of Shuttle Tile Danger
http://news.findlaw.com/ap/o/1501/2-5-2003/20030205051501_08.html

PRODUCT LIABILITY
NASA Defends Shuttle's Thermal Tiles
http://news.findlaw.com/ap/o/1501/2-5-2003/20030205104501_29.html

LABOR AND EMPLOYMENT
American Asks Labor For $1.8B Cost Cuts
http://news.findlaw.com/ap/f/1310/2-5-2003/20030205011501_72.html

Bank Of America Cutting 1,000 Workers
http://news.findlaw.com/ap/f/1310/2-5-2003/20030205111504_23.html

ENVIRONMENT
Wash. Protesters Shadow Gale Norton
http://news.findlaw.com/ap/a/w/1152/2-5-2003/20030205024500_01.html

Co. Polluted River With Salad Dressing
http://news.findlaw.com/ap/o/fe/1120/2-5-2003/20030205070001_12.html

CYBERSPACE LAW
Idle Computers Could Seek Smallpox Cure
http://news.findlaw.com/ap/ht/1700/2-5-2003/20030205020004_13.html

TELECOMMUNICATIONS
Sprint Forces Out 2 Execs Over Tax - WSJ
http://news.findlaw.com/business/s/20030205/telecomssprintreportdc.html

BUSINESS
N.J. Senate Reaches Malpractice Compromise
http://news.findlaw.com/ap/o/1500/2-5-2003/20030205081503_81.html

Tyson Immigrant Smuggling Trial Begins
http://news.findlaw.com/ap/f/1310/2-5-2003/20030205093004_83.html

ENRON
Enron Trader Pleads Guilty
http://news.findlaw.com/business/s/20030205/utilitiesenrontraderdc.html

INTERNATIONAL LAW
Blix Warns Iraq It Is 'Five Minutes To Midnight'
http://news.findlaw.com/international/s/20030205/iraqunblixdc.html

World Court: U.S. Must Stay 3 Mexicans' Executions
http://news.findlaw.com/international/s/20030205/crimeusaexecutionsdc.html

WAR ON TERRORISM
FBI Says al Qaeda Still A Viable Threat To U.S.
http://news.findlaw.com/news/s/20030205/attackthreatdc.html

German Prosecutors Seek 15 Years For 9/11 Suspect
http://news.findlaw.com/international/s/20030205/attackgermanytrialdc.html

CRIME & TRIALS
Texas Executes Briton For 1986 Murder
http://news.findlaw.com/news/s/20030205/executiontexasbritishdc.html

FBI Arrests 2 People On Espionage Charges
http://news.findlaw.com/ap/a/w/1152/2-5-2003/20030205101502_047.html

ENTERTAINMENT
Spector Met Actress At LA Club Hours Before Death
http://news.findlaw.com/news/s/20030205/crimespectordc.html

Rapper-Actor Ice-T Acknowledges Son
http://news.findlaw.com/ap/e/1401/2-5-2003/20030205113006_03.html

SPORTS
Williams Settles Shooting Civil Lawsuit
http://news.findlaw.com/ap/s/2030/2-5-2003/20030205113007_51.html

Top U.S. Olympic Official Mankamyer Resigns
http://news.findlaw.com/news/s/20030205/olympicsusdc.html

****

SOFTWARE TECHNOLOGY

Happy with your legal billing system? If your
initial response is anything less than "absolutely", you owe it to
yourself to check out the latest version of TABS III, the most widely
used legal-specific billing system in the U.S.

Download a FREE demo copy today.
http://rd.findlaw.com/scripts/nl.pl?url=10408896001_nl

********** West LegalEdcenter *******

Receive updates about NEW ONLINE CLE PROGRAMS

Register with West LegalEdcenter for monthly email updates about new
online CLE programs in your practice areas and jurisdictions. West
LegalEdcenter currently has more than 1,400 courses, with more added
daily!

http://rd.findlaw.com/scripts/nl.pl?url=gen_cle_010402

********** westgroup.com *********

Get FREE ground shipping in the U.S. on all orders.
http://rd.findlaw.com/scripts/nl.pl?url=gen_ads_040102

****

FEEDBACK

We value your comments! Please take a moment to tell us what you think by sending an e-mail to:
mailto:newsletters@findlaw.com?subject=TopHeadlines. Please include "Top Headlines" in the subject line.

SUBSCRIPTION INFORMATION

To subscribe to a FindLaw Newsletter, visit the FindLaw Newsletter Subscription Center at http://newsletters.findlaw.com

To unsubscribe, go to http://newsletters.findlaw.com/unsubscribe.html

---

ADVERTISING INFORMATION

For more information about advertising in FindLaw Newsletters, please contact us at:

mailto:sales@findlaw.com

FindLaw Top Headlines http://news.findlaw.com
Copyright (c) 2003 FindLaw, Inc.

From: [UNKNOWN] <Kavanaugh, Brett M.>
To: <Silverberg>;Kristen_Silverberg@who.eop.gov [WHO] <Kristen>
Sent: 2/6/2003 2:15:47 AM
Subject: debt ceiling

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (MS Mail)
CREATOR:Kavanaugh, Brett M. ([UNKNOWN])
CREATION DATE/TIME: 6-FEB-2003 07:15:47.00
SUBJECT:debt ceiling
TO:Silverberg, Kristen (Kristen_Silverberg@who.eop.gov [WHO])
READ:UNKNOWN
End Original ARMS Header

Is Treasury consulting us on this?

?The federal government will run out of borrowing authority in about two weeks, forcing the Bush administration to ask Congress to boost the debt limit while selling a budget that envisions even bigger deficits. The Treasury said Wednesday that it expects to hit the statutory limit on how much debt it can issue around Feb. 20, although it could use several bookkeeping maneuvers to delay that to the beginning of April. The current debt ceiling is $6.4 trillion. As of Tuesday, debt subject to that ceiling stood at $6.34 trillion, meaning only $60 billion more can be issued.?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: sheila.joy@usdoj.gov @ inet [UNKNOWN] <sheila.joy@usdoj.gov @ inet>
Sent: 2/6/2003 5:43:32 AM
Subject: : based on AOUSC web site

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 6-FEB-2003 10:43:32.00
SUBJECT:: based on AOUSC web site
TO:sheila.joy@usdoj.gov @ inet ( sheila.joy@usdoj.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Nominations: 141 (32 circuit, 108
district, 1 Int,1 Trade)
Confirmations: 100 (17 circuit, 83
district)
Nominees Pending: 41 (15 circuit, 25
district, 1 Int,1 Trade)
Current Vacancies w/o noms: 23 (10 circuit and 13
district)
[Nominations to these seats will occur no later than April 25]
Known-Future Vacancies w/o noms: 29 (3 circuit and 26
district)
```

From: Manus Cooney <Manus.Cooney@potomaccounsel.com>
To: Makan Delrahim <makan_delrahim@judiciary.senate.gov>;Rena_johnson@judiciary.senate.gov [UNKNOWN] <Rena_johnson@judiciary.senate.gov>;alex_dahl@judicairy.senate.gov [UNKNOWN] <alex_dahl@judicairy.senate.gov>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>
Sent: 2/6/2003 5:44:44 AM
Subject: : Estrada
Attachments: P_I3GOD003_WHO.TXT_1.html

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Manus Cooney <Manus.Cooney@potomaccounsel.com> ( Manus Cooney
<Manus.Cooney@potomaccounsel.com> [ UNKNOWN ] )
CREATION DATE/TIME: 6-FEB-2003 10:44:44.00
SUBJECT:: Estrada
TO:Makan Delrahim <makan_delrahim@judiciary.senate.gov> ( Makan Delrahim
<makan_delrahim@judiciary.senate.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:Rena_johnson@judiciary.senate.gov ( Rena_johnson@judiciary.senate.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:alex_dahl@judicairy.senate.gov ( alex_dahl@judicairy.senate.gov [ UNKNOWN ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Check out People for the American Way's website page on fighting Bush's
judicial nominees. There are FOUR separate solicitations for donations.
FOUR on one page. I think it is worth pointing out that they are free
to raise money and exercise their first amendment rights. But we are not
obligated to do their bidding or jump when they say so. Perhaps calling
attention to them will only help their cause, but it might also get
people focused on the need to get engaged on the other side. Further, it
can help reveal just how weakkneed the Dems are on this matter. You
ought to consider blowing up the page and having Hatch make a statement
of it on the floor...that this is about special interest politics and
fundraising.



http://www.pfaw.org/pfaw/general/default.aspx?oid=103


Manus Cooney

CEO

Potomac Counsel LLC

227 Massachusettes Ave. NE

Suite #1

Washington, DC 20002


www.potomaccounsel.com
```

Tel-202-543-2800

Fax-202-544-6770

Mobile-202-669-2537

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_I3GOD003_WHO.TXT_1>

Check out People for the American Way's website page on fighting Bush's judicial nominees. There are FOUR separate solicitations for donations. FOUR on one page. I think it is worth pointing out that they are free to raise money and exercise their first amendment rights. But we are not obligated to do their bidding or jump when they say so. Perhaps calling attention to them will only help their cause, but it might also get people focused on the need to get engaged on the other side. Further, it can help reveal just how weakkneed the Dems are on this matter. You ought to consider blowing up the page and having Hatch make a statement of it on the floor.....that this is about special interest politics and fundraising.

http://www.pfaw.org/pfaw/general/default.aspx?oid=103

Manus Cooney
CEO
Potomac Counsel LLC
227 Massachusettes Ave. NE
Suite #1
Washington, DC< font size=2 face=Arial> 20002

www.potomaccounsel.c om
Tel-202-543-2800
Fax-202-544-6770
Mobile-202-669-2537

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Heather Wingate/WHO/EOP@Exchange@EOP [WHO] <Heather Wingate>
Sent: 2/6/2003 6:33:18 AM
Subject: : fact check

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 6-FEB-2003 11:33:18.00
SUBJECT:: fact check
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Bunning just said the DC Circuit vacancy is a judicial emergency. That is
not true.
```

From: CN=Layton Skelly/OU=OPD/O=EOP [OPD]

To: Philo D. Hall/OPD/EOP@EOP [OPD] <Philo D. Hall>;William D. Badger/OPD/EOP@EOP [OPD] <William D. Badger>;Ginger G. Loper/WHO/EOP@Exchange@EOP [WHO] <Ginger G. Loper>;john.hoff@hhs.gov @ inet [UNKNOWN] <john.hoff@hhs.gov @ inet>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;viet.dinh@usdoj.gov @ inet [UNKNOWN] <viet.dinh@usdoj.gov @ inet>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Jay P. Lefkowitz/OPD/EOP@Exchange@EOP [OPD] <Jay P. Lefkowitz>;Alan Gilbert/OPD/EOP@EOP [OPD] <Alan Gilbert>;Heather Wingate/WHO/EOP@Exchange@EOP [WHO] <Heather Wingate>;Amy Jensen/WHO/EOP@Exchange@EOP [WHO] <Amy Jensen>;alex.azar@hhs.gov @ inet [UNKNOWN] <alex.azar@hhs.gov @ inet>;Thomas C. DeLeire/CEA/EOP@EOP [CEA] <Thomas C. DeLeire>;wendy.j.keefer@usdoj.gov @ inet [UNKNOWN] <wendy.j.keefer@usdoj.gov @ inet>;Kristen Silverberg/WHO /EOP@Exchange@EOP [WHO] <Kristen Silverberg>;Philip J. Perry/OMB/EOP@EOP [OMB] <Philip J. Perry>;bobby.jindal@hhs.gov [UNKNOWN] <bobby.jindal@hhs.gov>

CC: marie.belt@hhs.gov [UNKNOWN] <marie.belt@hhs.gov>;tracy.t.washington@usdoj.gov [UNKNOWN] <tracy.t.washington@usdoj.gov>;Lauren J. Vestewig/OPD/EOP@Exchange@EOP [OPD] <Lauren J. Vestewig>;Marty P. Smith/OPD/EOP@EOP [OPD] <Marty P. Smith>;pamela.roller@hhs.gov [UNKNOWN] <pamela.roller@hhs.gov>;Emily Winland/OPD /EOP@EOP [OPD] <Emily Winland>;Layton Skelly/OPD/EOP@EOP [OPD] <Layton Skelly>

Sent: 2/6/2003 9:45:40 AM

Subject: : Medical Liability Working Group

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Layton Skelly ( CN=Layton Skelly/OU=OPD/O=EOP [ OPD ] )
CREATION DATE/TIME: 6-FEB-2003 14:45:40.00
SUBJECT:: Medical Liability Working Group
TO:Philo D. Hall ( CN=Philo D. Hall/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:William D. Badger ( CN=William D. Badger/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Ginger G. Loper ( CN=Ginger G. Loper/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:john.hoff@hhs.gov @ inet ( john.hoff@hhs.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:viet.dinh@usdoj.gov @ inet ( viet.dinh@usdoj.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange@EOP [ OPD ] )
READ:UNKNOWN
TO:Alan Gilbert ( CN=Alan Gilbert/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Amy Jensen ( CN=Amy Jensen/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:alex.azar@hhs.gov @ inet ( alex.azar@hhs.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:Thomas C. DeLeire ( CN=Thomas C. DeLeire/OU=CEA/O=EOP@EOP [ CEA ] )
READ:UNKNOWN
TO:wendy.j.keefer@usdoj.gov @ inet ( wendy.j.keefer@usdoj.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Philip J. Perry ( CN=Philip J. Perry/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:bobby.jindal@hhs.gov ( bobby.jindal@hhs.gov [ UNKNOWN ] )
```

READ:UNKNOWN
CC:marie.belt@hhs.gov (marie.belt@hhs.gov [UNKNOWN])
READ:UNKNOWN
CC:tracy.t.washington@usdoj.gov (tracy.t.washington@usdoj.gov [UNKNOWN])
READ:UNKNOWN
CC:Lauren J. Vestewig (CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange@EOP [OPD])
READ:UNKNOWN
CC:Marty P. Smith (CN=Marty P. Smith/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
CC:pamela.roller@hhs.gov (pamela.roller@hhs.gov [UNKNOWN])
READ:UNKNOWN
CC:Emily Winland (CN=Emily Winland/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
CC:Layton Skelly (CN=Layton Skelly/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
End Original ARMS Header

There will be Medical Liability Working Group meeting next Monday (2/10) at 3:00 in room 472 EEOB. An agenda will follow. Please let me know if you will be unable to attend or if there are any additional participants from your office that should also attend/attend in your place. For our outside guests, please include clearance information for any additional participants. Thank you.

Layton
456-5086

From: CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/6/2003 11:57:51 AM
Subject: : RE: Don't forget Nat'l Sportscasters Pres'l Message

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 6-FEB-2003 16:57:51.00
SUBJECT:: RE: Don't forget Nat'l Sportscasters Pres'l Message
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Thanks!

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Thursday, February 06, 2003 4:53 PM
To: Montiel, Charlotte L.
Subject: Re: Don't forget Nat'l Sportscasters Pres'l Message

coming to you now

From: Charlotte L. Montiel/WHO/EOP@Exchange on 02/06/2003 04:46:36
PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Don't forget Nat'l Sportscasters Pres'l Message

From: Wingate, Heather
To: <Rodriguez, Leonard B.>;<Kavanaugh, Brett M.>
Sent: 2/6/2003 4:14:56 PM
Subject: Guliani Letter

I just read the version w/Brett's edits and it looks good. Brett, I know it still has some stuff on the numbers game, but I don't think it's too much. The thrust of the oped is exactly what we need. So consider it a sign off from here.

I hope they'll be trying to place this asap? The sooner the better.... I sense them starting to break, so need to keep it up! thanks!!

From: CN=Carrie B. Loy/OU=WHO/O=EOP [WHO]
To: Taylor A. Hughes/WHO/EOP@EOP [WHO] <Taylor A. Hughes>;Carmen M. Ingwell/WHO /EOP@EOP [WHO] <Carmen M. Ingwell>;MKoch@who.eop.gov [WHO] <MKoch@who.eop.gov>;Laura S. Lawlor/WHO/EOP@EOP [WHO] <Laura S. Lawlor>;Bradford A. Berenson/WHO/EOP@EOP [UNKNOWN] <Bradford A. Berenson>;Brian D. Montgomery/WHO/EOP@EOP [WHO] <Brian D. Montgomery>;Christie Parell/WHO /EOP@EOP [WHO] <Christie Parell>;Ali H. Tulbah/WHO/EOP@EOP [WHO] <Ali H. Tulbah>;Edward Ingle/WHO/EOP@EOP [WHO] <Edward Ingle>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/6/2003 1:01:35 PM
Subject: : Agency FOIA Requests
Attachments: P_AOBPD003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carrie B. Loy ( CN=Carrie B. Loy/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 6-FEB-2003 18:01:35.00
SUBJECT:: Agency FOIA Requests
TO:Taylor A. Hughes ( CN=Taylor A. Hughes/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Carmen M. Ingwell ( CN=Carmen M. Ingwell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:MKoch@who.eop.gov ( MKoch@who.eop.gov [ WHO ] )
READ:UNKNOWN
TO:Laura S. Lawlor ( CN=Laura S. Lawlor/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ UNKNOWN ] )
READ:UNKNOWN
TO:Brian D. Montgomery ( CN=Brian D. Montgomery/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Christie Parell ( CN=Christie Parell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Ali H. Tulbah ( CN=Ali H. Tulbah/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward Ingle ( CN=Edward Ingle/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_AOBPD003_WHO.TXT_1>
```

2/06/03

AGENCY FOIA REQUESTS

DOL

Tom FitzGerald, Director, Kentucky Resources Council, Inc., Frankfort, Kentucky, is seeking:

> copies of any inspection report, analytical document or enforcement action regarding breakthroughs from active underground mine or active surface mines into abandoned underground coal mines.

Ellen E. Smith, Publisher, Mine Safety and Health News, Pittsford, New York, is seeking:

> copies of the last two MSHA inspection reports, violations found and citations issued to Central Cambria Drilling at the McElroy Coal Mine in Cameron, West Virginia. Smith is specifically interested in knowing when the mine shaft was last inspected prior to the accident that killed three men on January 22, 2003. She would also like copies of any citations issued based on those inspections and a copy of the ventilation plan, including the amounts of air required under the plan, and any MSHA and company correspondence related to the ventilation plan.

Matt Yule, Reporter, Inside Edition, is seeking:

> data on all construction accidents in New York City between January 1, 2001, and January 30, 2003.

OPM

- OPM received a FOIA request from **a reporter with American Lawyer Media** (publisher of more than 25 news magazines and newspapers, including Legal Times, The American Lawyer, and The National Law Journal) asking for the correspondence between Representative Lane Evans (D-IL) and OPM concerning a FOIA request from the Congressman, including the legal opinion of the Office of the General Counsel as well pertinent e-mails. Congressman Evans FOIA request, submitted on 9/5/02, concerned the FY 2001 Disabled Veterans Affirmative Action Program (DVAAP), and specifically reports supplied by the agencies and a copy of the Office of General Counsel's May 18, 1998, opinion. OPM denied the request based on FOIA exemption 5 (protecting pre-decisional documents) and he has initiated a lawsuit in the district court for DC.
- OPM received a FOIA request (1/31) from **Quickhire, Inc., an Alexandria-based employment service firm**, requesting a copy of the Statement of Work for the contract that was awarded to TMP Worldwide for the USAJobs Recruitment One-Stop Initiative.

HHS

2/18/03-News Media Request -**The Philadelphia Inquirer** requested information about the liver transplant program at Thomas Jefferson University Hospital in Philadelphia, including all reports on intraoperative deaths and post-surgical deaths during the hospital stay; documents on failure to report such patient deaths or delay in reporting them; documents on the qualifications of transplant surgeons in the program; and any documents on complaints, investigations, or sanctions of this program since January 1, 2000.

2/25/03-News Media FOIA Request - **The Denver Post** requested copies of all approval and denial letters for grants from the University of Colorado Health Sciences Center to HRSA since January 1, 1999.

2/26/03-Columbia (Missouri) **Daily Tribune** FOIA Request - This news outlet requested a copy of the financial recovery plan developed by HRSA for the Family Health Center located at 1500 Vandiver Drive in Columbia, MO.

EPA

During the week of January 27-31, 2003, the Agency received 301 FOIA requests. Of the total, 37 were received in Headquarters. Year-to-date totals are 825 for Headquarters and 4,217 Agency-wide. Significant FOIA requests received this week include:

(4) **Carl Weiser of the Gannett News Service** is requesting any correspondence since January 1, 2001, between EPA and the Cincinnati area congressional delegation which includes Sen. Mike DeWine, Sen. George Voinovich, Rep. Rob Portman, Rep. John Boehner, Rep. Steve Chabot, all of Ohio, and Rep. Ken Lucas of Kentucky.

(5) Mr. **John D. Flaherty, a lobbyist for the Common Cause of Delaware**, is requesting any documents involving EPA, the state of Delaware, Delaware River Basin Commission, DOJ, Motiva Enterprises, and Shell Oil Products US regarding possible changes to a Consent Order entered into by EPA, DOJ, and Motiva (Civil Action No. H-01-0978). The mission of Common Cause of Delaware is to make the process of government more effective, to advance open, honest and responsive government, and to advocate that government officials be accountable to the public.

(6) **Russell G. Martin from WRCB TV** Channel 3 in Chattanooga, TN is requesting any records pertaining to warnings, concerns, and/or fines over the last 5 years involving ConAgra Foods. Mr. Martin is seeking this information because of environmental concerns raised by the nearby community.

(7) Ms. **Sierra Weaver of the Southern Environmental Law Center** is requesting all documents relating to air quality permits sought by or issued to stationary air pollution sources in North Carolina, South Carolina, Tennessee, Alabama, and Georgia which

require compliance with any Clean Air Act New Source Performance Standard (NSPS). Ms. Weaver is seeking this information because of the current national attention directed at efforts to amend the Clean Air Act=s New Source Review program.

(8) Ms. **Laurie Valeriano of the Washington Toxics Coalition** is requesting the Summer 2002 test results submitted to EPA by the Shoalwater Tribe from the carbaryl spray in Willapa Bay, WA. Carbaryl is a pesticide that oyster growers use to control burrowing shrimp that can damage oyster beds.

(9) Mr. **Bruce Nilles of the Sierra Club** is requesting all Clean Air Act Section 114 information requests that EPA has sent to and the responses provided to EPA from Midwest Generation and Commonwealth Edison regarding its coal-fired powerplants in Illinois since 1990. The Sierra Club is seeking these records because they are preparing comments for the facilities= draft Title V Clean Air Act permits that the State of Illinois will release later this year for public review.

DoED

NCLB State Accountability Plans. Lynn Amy Olson, representing EDUCATION WEEK, has submitted a Freedom of Information Act Request for access to and copies of the Consolidated State Application Accountability Workbooks prepared by each of the 50 states and the District of Columbia, that were due to the Department by January 31,

DOJ

DOJ has received the following significant FOIA requests:

$ **Michael S. Arif, attorney for John Lee Malvo**, has requested all records "submitted to the Attorney General or Department of Justice, generally, regarding John Lee Malvo."

$ **Michael Ravnitzky, of American Lawyer Media**, has requested all records concerning the contract awarded by the Department of Justice to KPMG Consulting to conduct an analysis of diversity in the Department's attorney workforce.

$ **Ann Rees, of The Atkinson Fellowship in Public Policy**, has requested "all records in connection with the December 2002 agreement between Canada and the United States to share electronic information from criminal databases."

DOE

Pete Yost, Associated Press: Requested copies of the appointment calendar for Secretary Abraham and Deputy Secretary and former Chief of Staff Kyle McSlarrow for calendar year 2002 to the present. In addition, he requested appointment calendar for John McCutcheon, Senior

Policy Advisor and former White House Liaison from the time he came to the Department to the present.

DOC

$ Received 01/28/03 from **Carl Weiser, Gannett News Service**, requesting correspondence since January 1, 1997 between the Department of Commerce and Procter & Gamble Company or its representatives.

$ Received 1/30/03 from **Larry Dressler, Kauai Farm Bureau Development Corporation**, requesting AEDA grant documents for the construction of the Kauai Tropical Fruit Disinfestation Facility adjacent to the Lihue airport.@

$ Received 1/30/03, from **Randal Ivor-Smith, Pillsbury Winthrop LLP**, requesting information about a letter sent by DOC=s Assistant Secretary for Market Access and Compliance William Lash to Dr. Jose Daniel Amado Vargas; letter sent by Juan Antonio Castro to A/S Lash; analysis, investigation or communications in response to the letters; inquiries made by STM Wireless to DOC about STM's efforts to obtain rights to sell telephone equipment in rural Peru, or concerning STM's allegations about the conduct of Gilat Satellite Networks, Ltd. with respect to a public tender to sell telephone services and equipment in Peru; and DOC's analysis or investigation in response to any such inquiry.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@Exchange@EOP [WHO] <David G. Leitch>
CC: Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>
Sent: 2/7/2003 3:40:16 AM
Subject: : the basics on political
Attachments: P_JPMPD003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 7-FEB-2003 08:40:16.00
SUBJECT:: the basics on political
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
CC:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######



ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_JPMPD003_WHO.TXT_1>
```

Basic Rules

The basic rules are straightforward. You are legally permitted to engage in a variety of political activity, as detailed more fully below, subject to certain important restrictions:

- First, you may not use your official authority for the purpose of interfering with or affecting the result of an election. That means, for example, that you may not knowingly permit your official title to be used on invitations to political fundraisers. You also may not use your official authority to coerce any person to engage in political activity.

- Second, you *may not* solicit, receive, or accept political contributions, and you *may not* host or sponsor political fundraisers. However, you *may* speak at, attend, and be the featured guest at political fundraisers.

On-Duty Activity

Most employees in the Cabinet departments and agencies can engage in permitted political activity only when they are off duty and not in a government building. However, a different rule applies to: (i) PAS officials and (ii) those employees in the Executive Office of the President whose duties can continue after normal duty hours and away from the normal duty post. Officials in these two categories are permitted to engage in political activity -- such as meetings and telephone calls related to elections, campaigns, or political parties -- while on duty and in the office. However, any such activity should be limited so that it is not inconsistent with official duties or otherwise inappropriate. In addition, any non-incidental costs associated with that activity must be paid by a political entity (either in advance or through reasonable reimbursement). Finally, political fundraising events may *not* occur on government property.

Travel and Costs

There are a few rules to keep in mind with respect to political travel and costs.

- First, as a matter of policy, you should not travel on corporate aircraft for political trips. You *may* travel on charter aircrafts that the political entity leases from a charter company.

- Second, as indicated above, when an official engages in political activity, the government must be reimbursed for non-incidental costs that it would not have incurred but for the political activity.

    - The issue arises primarily with respect to travel costs. The appropriate political entity ordinarily pays the relevant travel costs associated with political activity (or the costs for the political portion of mixed official-political travel). The government need not be reimbursed, however, for: (i) the costs that result from security needs; or (ii) the compensation or expenses of persons required to accompany or assist the official engaging in political activity.

- The appropriate political entity must pay any additional costs of political activity or political events in government buildings -- for example, the costs "used to cater the political activity." 5 C.F.R. 734.503(d) (Example 1).

Classification of Activity as Official or Political

At times, there may be difficulty classifying activity as official or political, which is relevant for payment of costs, for example. An activity or event is generally considered political if it is conducted for a partisan election or campaign or for a political party. An event or activity should be classified as official or political on an objective basis, not based on the possible political ramifications of an event. Speakers at official events should take care to avoid expressly advocating the election of a candidate.

Leave

You may engage in political activity while on leave.

Select List of Permitted Political Activities

Subject to applicable prohibitions, including the prohibitions on improper use of official title and solicitation of contributions discussed above, you *may* engage in the following political activities:

- participation in political organizations, which includes:
    - being a member of a political party;
    - serving as an officer of a political party;
    - attending and participating in nominating caucuses;
    - participating in a political convention or rally; and
    - serving as a delegate to a political convention.
- participation in political campaigns, which includes:
    - canvassing for votes;
    - endorsing or opposing a candidate in an advertisement, broadcast, campaign literature, or similar material;
    - addressing a convention, caucus, rally, or similar gathering of a political party or political group; and
    - actively managing the political campaign of a partisan political candidate or candidate for political party office.
- participation in elections, including:
    - voting; and
    - driving voters to polling places.

- participation in fundraising:

  You may not solicit, receive, or accept political contributions, and you may not host or sponsor fundraisers. However, you *may*:

  - make political contributions;
  - attend political fundraisers;
  - manage or organize political fundraisers;
  - speak at political fundraisers;
  - be listed as a guest speaker on the invitation for a fundraiser (but the invitation should not list your official title); and
  - solicit, accept, or receive uncompensated volunteer services from any individual (however, a superior may not ask his or her subordinate employee to provide such services, nor may he or she target a company or entity with official matters pending before the agency for provision of such services).

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@Exchange@EOP [WHO] <David G. Leitch>
Sent: 2/7/2003 3:41:57 AM
Subject: : more
Attachments: P_URMPD003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 7-FEB-2003 08:41:57.00
SUBJECT:: more
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

You should also be aware of this memo, which I gave to Karl, Mehlman, and Judge a while back. (This memo is NOT for circulation to anyone else obviously.) Per Karl's request, I am meeting with Mark McKinnon and Matthew Dowd soon about this.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_URMPD003_WHO.TXT_1>

DRAFT
(12/3/02)

PRIMARY LEGAL/APPEARANCE ISSUES RELATED TO RE-ELECTION

What legal restrictions apply to White House officials with respect to the campaign?

The law *expressly* permits White House officials and Senate-confirmed officials in the Executive Branch to engage in extensive political activity, including while on duty and in their offices. White House officials therefore may exercise significant responsibility over the conduct of the President's re-election campaign (and White House officials have done so for past Presidents). In addition, White House personnel in offices such as speechwriting, scheduling, and correspondence may assist the President as he performs political activities.

The main restrictions on White House officials are that they may not (i) solicit contributions, (ii) knowingly use their official titles on invitations to political events such as fundraisers, or (iii) "coerce" others such as subordinates or those with business before the government into political activity.

How do the legal restrictions on the President differ?

The President's title always may be used, and he may solicit contributions. But he should not solicit funds in a government office, including by use of the telephone in a government office. (This was the issue with Vice President Gore.) The President may solicit funds in calls made from the Residence, although appearance issues can arise with such calls.

What about the use for campaign purposes of government equipment such as computers, printers, paper, copiers, FAXes, telephones, and e-mail?

The government must be reimbursed for those non-incidental costs that the government would not have incurred but for the political activity. In practice, this principle applies primarily to paper and long-distance telephone calls that are charged on a per-call basis (no additional costs are ordinarily incurred from additional use of the other equipment listed above). Out of an abundance of caution, however, it may be prudent to ensure that those White House officials with significant involvement in the campaign have separate equipment or only campaign-provided equipment (as well as separate campaign e-mail addresses). The Office of Political Affairs has followed this practice. At a minimum, we should ensure that the campaign pays (in advance, where possible) a clearly sufficient amount for use of existing government equipment.

Who pays for travel costs when the President travels on campaign activity?

A long-standing formula is employed to divide costs between the government and the campaign. The campaign generally will pay equivalent first-class airfare, as well as hotel, food, and related costs, for the President and the other "political travelers," including those doing advance work. Costs related to security and secure communications are always paid by the government, and certain travelers are always deemed official, such as the Secret Service, personal aide, Chief of Staff, and National Security Advisor.

Are any additional rules or policies imposed on travel by Executive Branch officials other than the President?

As a matter of policy, we have prevented Executive Branch officials from flying on corporate-owned aircraft to political events, even if reimbursed by the political entity. This policy has worked well so far.

What additional rules apply to non-PAS employees in Cabinet departments?

These officials may engage in political activity, but may not do so while on duty or in a government building. They must take leave for any political activity that will keep them away from their official duties.

What about communications between campaign officials and White House officials?

There are no legal restrictions on communications between campaign officials and White House officials. Appearance issues can arise when campaign officials seek to improperly influence official decisions on particular matters (as distinct from broad policy decisions).

Does the Presidential Records Act apply?

The Act expressly exempts records related to the President's campaign. However, e-mails to and from the White House system may be archived, and the National Archives therefore would be responsible for withholding them after the conclusion of the Presidency.

What are the likely "appearance" issues that will receive media scrutiny, and how can we avoid them or respond to them?

First, as in the mid-term cycle, we can expect stories about the costs of Presidential travel on Air Force One and the costs of the associated official personnel (such as Secret Service) who travel with the President.

Response: These stories are largely unavoidable; we would simply continue to emphasize that we are complying with law and bipartisan tradition and that the only alternative is for the President either not to travel at all or to travel without necessary security precautions and communications equipment.

REV_00157555

Second, as revealed in the 1996 Presidential campaign, fundraising activities are closely scrutinized from many angles: (i) the location where fundraising activities occur (e.g., government office telephones), (ii) the nature and location of donor maintenance events (e.g., White House coffees), (iii) the identities of the people who contribute, and (iv) the White House benefits purportedly bestowed upon contributors (e.g., Lincoln bedroom sleepovers).

Response: We must continue to monitor all issues related to Presidential political fundraising. We would continue to caution against donor maintenance events or benefits (for donors qua donors) in government buildings. We also would recommend that donors be strictly scrutinized by the campaign officials.

Third, the use of government-purchased equipment for political purposes has received attention in the past.

Response: As outlined above, we recommend that we use precise and strict (and easily understood) procedures to ensure that the government incurs no additional costs as a result of campaign activity.

Fourth, there routinely are stories about official action allegedly taken for political purposes.

Response: Such stories are largely unavoidable. The theme that "good policy is good politics" is a proper response.

REV_00157556

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Heather Wingate/WHO/EOP@Exchange@EOP [WHO] <Heather Wingate>
Sent: 2/7/2003 2:57:12 AM
Subject: : Reminder: Meeting Tomorrow
Attachments: P_PLLPD003_WHO.TXT_1.html

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 7-FEB-2003 07:57:12.00
SUBJECT:: Reminder: Meeting Tomorrow
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I cannot go to this because have to brief Sec Martinez with Mercy. can
you go?
---------------------- Forwarded by Brett M. Kavanaugh/WHO/EOP on
02/07/2003 08:00 AM ---------------------------

"Comisac, RenaJohnson (Judiciary)"
<Rena_Johnson_Comisac@Judiciary.senate.gov>
02/06/2003 07:57:45 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: Reminder: Meeting Tomorrow

We will meet, as usual, tomorrow at 10 a.m. in Makan's office (SD-145)
to discuss judicial nominations. See you then!

- att1.htm

Message Sent
To:_____
"Viet Dinh (Business Fax)"
<"IMCEAFAX-Viet+20Dinh+40202_514-2424"@routing.senate.gov>
Brian.A.Benczkowski@usdoj.gov
Jamie.E.Brown@usdoj.gov
Heather Wingate/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Kyle Sampson/WHO/EOP@EOP
Ashley Snee/WHO/EOP@EOP
"Vogel, Alex (Frist)" <Alex_Vogel@frist.senate.gov>
"Abegg, John (McConnell)" <John_Abegg@mcconnell.senate.gov>
"Gumerson, Katie (RPC)" <Katie_Gumerson@RPC.Senate.Gov>
"Jafari, Beth (Cornyn)" <Beth_Jafari@cornyn.senate.gov>
"Turner, Tiffany (Cornyn)" <Tiffany_Turner@cornyn.senate.gov>
Adam.Charnes@usdoj.gov
Monica_Goodling@usdoj.gov
"Smith, William (Judiciary)" <William_Smith@Judiciary.senate.gov>

Message Copied
To:_____
"Delrahim, Makan (Judiciary)" <Makan_Delrahim@Judiciary.senate.gov>
"Caramanica, Jessica (Judiciary)" <Jessica_Caramanica@Judiciary.senate.gov>
"Snell, BethAnn (Judiciary)" <BethAnn_Snell@Judiciary.senate.gov>

"Dahl, Alex (Judiciary)" <Alex_Dahl@Judiciary.senate.gov>
"Miranda, Manuel (Judiciary)" <Manuel_Miranda@Judiciary.senate.gov>
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_PLLPD003_WHO.TXT_1>

We will meet, as usual, tomorrow at 10 a.m. in Makan 217;s office (SD-145) to discuss judicial nominations. See you then!

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@Exchange@EOP [WHO] <David G. Leitch>
Sent: 2/7/2003 3:42:43 AM
Subject: : Appearances as guest speakers at events and fundraisers for state and local candidates

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 7-FEB-2003 08:42:43.00
SUBJECT:: Appearances as guest speakers at events and fundraisers for state and local candidates
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Finally, you should be aware of this wrinkle that has arisen in recent weeks.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 02/07/2003 08:46 AM ----------

Brett M. Kavanaugh
01/31/2003 10:43:43 AM
Record Type: Record

To: Karl C. Rove/WHO/EOP@Exchange@EOP, Ken Mehlman/WHO/EOP@EOP
cc: Susan B. Ralston/WHO/EOP@Exchange@EOP, Katherine M. Walters/WHO/EOP@EOP
Subject: Appearances as guest speakers at events and fundraisers for state and local candidates

A brief summary of where we stand on this issue:

As you know, before enactment of the campaign finance law, all Executive Branch officials were expressly permitted by law to appear as guest speakers at political events and fundraisers, including fundraisers for state and local candidates, so long as the officials did not personally solicit funds.

The judgment we had and have reached is that the new campaign finance law does not alter that conclusion. Yesterday, however, Ben Ginsberg noted what he believes to be an unintended ambiguity/absurdity in one aspect of the new campaign finance law: regarding guest speaking at events and fundraisers for state and local candidates (as distinct from guest speaking at federal party or federal candidate events or state party events, all of which he agrees is still clearly permissible). We do not share Ben's view that this ambiguity is created by the new law. The Office of Legal Counsel at the Department of Justice agrees with us.

To be very cautious and to alleviate any possible issue, however, the Department of Justice will send us their formal written opinion on the question; we should have that shortly. In addition, both political parties are seeking confirmation from the FEC in the next week on this question.

Apologies for confusion caused by this. We will have it cleared up shortly. And obviously, please call with any questions. Thanks.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Leonard B. Rodriguez/WHO/EOP@EOP [WHO] <Leonard B. Rodriguez>
CC: Heather Wingate/WHO/EOP@Exchange@EOP [WHO] <Heather Wingate>
Sent: 2/7/2003 8:19:31 AM
Subject: : giuliani

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 7-FEB-2003 13:19:31.00
SUBJECT:: giuliani
TO:Leonard B. Rodriguez ( CN=Leonard B. Rodriguez/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

What's status of Giuliani op-ed placement? If it does not get placed
asap, we should convert to a letter to Senate that would be sent Monday
and that then can be distributed widely
```

From: CN=Katherine M. Walters/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/7/2003 6:58:59 AM
Subject: : RNC "File Card"

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Katherine M. Walters ( CN=Katherine M. Walters/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 7-FEB-2003 11:58:59.00
SUBJECT:: RNC "File Card"
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Brett- the RNC is going crazy for their direct mail piece called File
Card. do you mind trying to look at it today? They will miss a mail date
if they don't get it today. It is signed by someone named Patty Luther.

thanks
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>
Sent: 2/7/2003 7:44:29 AM
Subject: : RE: Cong. Melissa Hart call/ Brett

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 7-FEB-2003 12:44:29.00
SUBJECT:: RE: Cong. Melissa Hart call/ Brett
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

ok, but I have to lead a conference call at 1:00

From: Patrick J. Bumatay/WHO/EOP@Exchange on 02/07/2003 12:40:00 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE: Cong. Melissa Hart call/ Brett

They are calling our number 6-2632 and we will connect them to you.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Friday, February 07, 2003 12:35 PM
To: Bumatay, Patrick J.
Subject: Re: Cong. Melissa Hart call/ Brett

who is calling whom?

From: Patrick J. Bumatay/WHO/EOP@Exchange on 02/06/2003 10:29:23 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Cong. Melissa Hart call/ Brett

When: Friday, February 07, 2003 12:45 PM-1:00 PM (GMT-05:00) Eastern Time
(US & Canada).

~~*~*~*~*~*~*~*~*

From: FindLaw.com <listadmin@LEGALMINDS.ORG>
To: TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN] <TOPHEADLINES@LEGALMINDS.ORG>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 2/7/2003 12:40:50 PM
Subject: : [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Fri., Feb. 7, 2003

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"FindLaw.com" <listadmin@LEGALMINDS.ORG> ( "FindLaw.com" <listadmin@LEGALMINDS.ORG>
[ UNKNOWN ] )
CREATION DATE/TIME: 7-FEB-2003 17:40:50.00
SUBJECT:: [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Fri., Feb. 7,
2003
TO:TOPHEADLINES@LEGALMINDS.ORG ( TOPHEADLINES@LEGALMINDS.ORG [ UNKNOWN ] )
READ:UNKNOWN
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

------------------------------------------------------------------------
FINDLAW Fri, Feb 7, 2003
------------------------------------------------------------------------
TOP LEGAL NEWS HEADLINES


For all of the day's legal news go to: http://news.findlaw.com
**********************************************************************

DepoWave

Scheduling depositions and videographers anywhere in the world has
never been easier. Providing attorneys, paralegals and legal
secretaries with an efficient, convenient and cost effective national
reporting and legal video resource is what DepoWave is all about. To
schedule a court reporter or videographer, please call us at
1.866-DepoWave (337.6928), or click below for additional information
about DepoWave:
http://rd.findlaw.com/scripts/nl.pl?url=10415808000_nl

**********************************************************************

POLITICS
Bush Says 'Game Is Over' For Saddam
http://news.findlaw.com/news/s/20030207/iraqusadc.html

Democrats: Bush Ignoring N. Korea Threat
http://news.findlaw.com/ap/a/w/1153/2-7-2003/20030207000002_060.html


LEGAL COMMENTARY
Affirmative Action: On Narrow Tailoring & Other Methods
Of Ensuring Diversity
http://writ.news.findlaw.com/amar/20030207.html

A Review Of "Can Gun Control Work?"
http://writ.news.findlaw.com/books/reviews/20030207_aronson.html


CIVIL RIGHTS
```

Princeton To End Minority Program
http://news.findlaw.com/ap/o/1110/2-7-2003/20030207061501_04.html

Cuban Coast Guardsmen Defect To Florida
http://news.findlaw.com/ap/o/1110/2-7-2003/20030207090002_84.html

PERSONAL INJURY
NASA-Named Board Leading Columbia Probe
http://news.findlaw.com/ap/o/1501/2-7-2003/20030207031502_26.html

Iowa Kindergartner Left At Wrong Bus
http://news.findlaw.com/ap/o/1110/2-7-2003/20030207090002_62.html

PRODUCT LIABILITY
Biogen's Avonex Drug Gets FDA Approval
http://news.findlaw.com/ap/o/1500/2-7-2003/20030207101503_076.html

LABOR AND EMPLOYMENT
Union To Ask Weirton To Take Concessions
http://news.findlaw.com/ap/f/1310/2-7-2003/20030207091502_02.html

Unemployed Tech Workers Meet For Support
http://news.findlaw.com/ap/ht/1700/2-7-2003/20030207024500_03.html

ENVIRONMENT
Hydrogen Cars Fuel U.S. Energy Debate
http://news.findlaw.com/ap/ht/1700/2-7-2003/20030207000003_130.html

More Horses Seized In Nev. Land Dispute
http://news.findlaw.com/ap/o/1110/2-7-2003/20030207043004_02.html

CYBERSPACE LAW
Bush Orders Guidelines For Cyber-Warfare - Report
http://news.findlaw.com/news/s/20030207/busharmscyberdc.html

Court Rules In Favor Of Vote Swap Web Site
http://news.findlaw.com/politics/s/20030207/politicsinternetdc.html

TELECOMMUNICATIONS
Federal Court's Ruling Pleases Qwest
http://news.findlaw.com/business/s/20030207/telecomsqwestsuitdc.html

BUSINESS
Prosecutor: Firm Knew Of Tyco Transactions
http://news.findlaw.com/ap/f/1310/2-7-2003/20030207111502_54.html

Border Agent: Gave Immigrants To Tyson
http://news.findlaw.com/ap/o/1110/2-7-2003/20030207034501_21.html

ENRON
Enron To Evaluate Enron Bonus Proposals
http://news.findlaw.com/ap/f/1310/2-7-2003/20030207111502_60.html

INTERNATIONAL LAW

Blix Says Iraq Making Effort, But Wants More
http://news.findlaw.com/international/s/20030207/iraqinspectorsdc.html

No Second Iraq U.N. Resolution Needed Now--Russia
http://news.findlaw.com/international/s/20030207/iraqrussiadc.html

WAR ON TERRORISM
Bush Administration Raises Terror Alert
http://news.findlaw.com/ap/a/w/1151/2-7-2003/20030207081502_20.html

Hamas Urges Muslims To Hit Back If US Attacks Iraq
http://news.findlaw.com/international/s/20030207/iraqhamasdc.html

CRIME & TRIALS
Texas Snubs World Court On Execution Stays
http://news.findlaw.com/news/s/20030207/crimeusaexecutionsdc.html

Accused Murderer: Husband Said I Was Fat
http://news.findlaw.com/ap/o/1110/2-7-2003/20030207111501_09.html

ENTERTAINMENT
Police Work To Build Murder Case Against Spector
http://news.findlaw.com/news/s/20030207/crimespectordc.html

Jackson Files Complaints On Documentary
http://news.findlaw.com/ap/e/1403/2-7-2003/20030207000002_083.html

****

Litigation Management Consulting, Inc.

Bridging the distance between your understanding of traditional document management issues, and how to use technology to effectively manage information for your case. Database Consulting. Data Processing - Imaging, Coding & OCR. Authorized Reseller & Certified Trainers for Summation, Sanction, and IPRO. Beyond the Box solutions for the way you need to work.
http://rd.findlaw.com/scripts/nl.pl?url=10414944000_nl

********** West LegalEdcenter *******

Receive updates about NEW ONLINE CLE PROGRAMS

Register with West LegalEdcenter for monthly email updates about new online CLE programs in your practice areas and jurisdictions. West LegalEdcenter currently has more than 1,400 courses, with more added daily!

http://rd.findlaw.com/scripts/nl.pl?url=gen_cle_010402

=- westgroup.com -=-=-=-=-=-\

Get FREE ground shipping in the U.S. on all orders.
http://rd.findlaw.com/scripts/nl.pl?url=gen_ads_040102

****

FEEDBACK

We value your comments! Please take a moment to tell us what you think by sending an e-mail to: mailto:newsletters@findlaw.com?subject=TopHeadlines. Please include "Top Headlines" in the subject line.

SUBSCRIPTION INFORMATION

To subscribe to a FindLaw Newsletter, visit the FindLaw Newsletter Subscription Center at http://newsletters.findlaw.com

To unsubscribe, go to http://newsletters.findlaw.com/unsubscribe.html

---

ADVERTISING INFORMATION

For more information about advertising in FindLaw Newsletters, please contact us at:

mailto:sales@findlaw.com

FindLaw Top Headlines http://news.findlaw.com

Copyright (c) 2003 FindLaw, Inc.

From: Office of Global Communications <Global.Messenger@WhiteHouse.Gov>
To: Wendy L. Nipper Office of Global Communications/WHO/EOP@EOP [WHO] <Wendy L. Nipper Office of Global Communications>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 2/7/2003 1:29:50 PM
Subject: : White House Global Messenger -- 02/08/2003
Attachments: P_N3OQD003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Office of Global Communications <Global.Messenger@WhiteHouse.Gov> (Office of Global Communications <Global.Messenger@WhiteHouse.Gov> [UNKNOWN])
CREATION DATE/TIME: 7-FEB-2003 18:29:50.00
SUBJECT:: White House Global Messenger -- 02/08/2003
TO:Wendy L. Nipper Office of Global Communications (CN=Wendy L. Nipper Office of Global Communications/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

(See attached file: GM 2-8-03 FINAL.doc)

THE GLOBAL MESSENGER
Saturday, February 8, 2003

*****KEY POINTS FROM THE PRESIDENT'S REMARKS ON IRAQ 2-6-03*****

- The Iraqi regime's violations of Security Council resolutions are evident, and they continue to this hour. The regime has never accounted for a vast arsenal of deadly biological and chemical weapons, and is pursuing an elaborate campaign to conceal its weapons materials, and to hide or intimidate key experts and scientists.

- This deception is directed from the highest levels of the Iraqi regime, including Saddam Hussein, his son, the Vice President, and the very official responsible for cooperating with inspectors.

- Sources tell us Saddam Hussein recently authorized Iraqi field commanders to use chemical weapons - the very weapons the dictator tells the world he does not have.

- The same terrorist network operating out of Iraq is responsible for the recent murder of an American diplomat, Laurence Foley. The same network has plotted terrorism against France, Spain, Italy, Germany, the Republic of Georgia, and Russia, and was caught producing poisons in London. The danger Saddam Hussein poses reaches across the world.

- Saddam Hussein was given a final chance; he is throwing that chance away. The Security Council must show whether its words have any meaning. Having made its demands, the Security Council must not back down, when those demands are defied and mocked by a dictator.

- The United States would welcome and support a new resolution which makes clear
that the Security Council stands behind its previous demands. Yet resolutions
mean little without resolve. And the United States, along with a growing
coalition of nations, is resolved to take whatever action is necessary to defend
ourselves and disarm the Iraqi regime.

- On September 11, 2001, America saw what terrorists could do by turning four
airplanes into weapons. We will not wait to see what terrorists or terrorist
states could do with chemical, biological, radiological or nuclear weapons.

- Saddam Hussein has made Iraq into a prison, a poison factory, and a torture
chamber for patriots and dissidents. He has the motive, means, recklessness and
hatred to threaten the American people. Saddam Hussein will be stopped.

*****US SUNDAY SHOW SCHEDULE*****
Subject to Change

FOX: Secretary of State Powell

CBS: National Security Advisor Rice

NBC: Secretary of State Powell

ABC: Secretary of State Powell

CNN: National Security Advisor Rice

*****IN CASE YOU MISSED IT...*****
Excerpt of a statement from ten European foreign ministers calling for unity
with the United States, 2-5-03. The nations represented were Albania, Bulgaria,
Croatia, Estonia, Latvia, Lithuania, Macedonia, Romania, Slovakia and Slovenia

"The United States presented compelling evidence to the United Nations Security
Council detailing Iraq's weapons of mass destruction programs, its active
efforts to deceive U.N. inspectors, and its links to international terrorism....
Our countries understand the dangers posed by tyranny and the special
responsibility of democracies to defend our shared values. The trans-Atlantic
community, of which we are a part, must stand together to face the threat posed
by the nexus of terrorism and dictators with weapons of mass destruction."

*****KEY QUOTES****
"This is a defining moment for the UN Security Council. If the Security Council
were to allow a dictator to lie and deceive, the Security Council would be
weakened. I'm confident that when the members assess their responsibilities and
the responsibilities of the UN, that they will understand that 1441 must be
upheld in the fullest."
President Bush, to reporters, 2-7-03

THE WHITE HOUSE
Office of Global Communications

For more information log on to www.whitehouse.gov/ogc

****

You have previously expressed interest in obtaining news and information from
the White House.

The White House Office of Global Communications distributes information about
the President's messages to the world. This office distributes updates on major
international topics such as the global war on terror, the case for regime
change in Iraq, and more broadly, the ways in which we can all better
communicate the aspirations and interests that Americans share with
freedom-loving people everywhere.
- GM 2-8-03 FINAL.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_N3OQD003_WHO.TXT_1>

THE GLOBAL MESSENGER

Saturday, February 8, 2003

US Sunday Show Schedule

Subject to Change

FOX:	Secretary of State Powell
CBS:	National Security Advisor Rice
NBC:	Secretary of State Powell
ABC:	Secretary of State Powell
CNN:	National Security Advisor Rice

In Case You Missed It...

Excerpt of a statement from ten European foreign ministers calling for unity with the United States, 2-5-03. The nations represented were Albania, Bulgaria, Croatia, Estonia, Latvia, Lithuania, Macedonia, Romania, Slovakia and Slovenia

"The United States presented compelling evidence to the United Nations Security Council detailing Iraq's weapons of mass destruction programs, its active efforts to deceive U.N. inspectors, and its links to international terrorism....Our countries understand the dangers posed by tyranny and the special responsibility of democracies to defend our shared values. The trans-Atlantic community, of which we are a part, must stand together to face the threat posed by the nexus of terrorism and dictators with weapons of mass destruction."

Key Quotes

"This is a defining moment for the UN Security Council. If the Security Council were to allow a dictator to lie and deceive, the Security Council would be weakened. I'm confident that when the members assess their responsibilities and the responsibilities of the UN, that they will understand that 1441 must be upheld in the fullest."
President Bush, to reporters, 2-7-03

Key Points from the President's Remarks on Iraq 2-6-03

- The Iraqi regime's violations of Security Council resolutions are evident, and they continue to this hour. The regime has never accounted for a vast arsenal of deadly biological and chemical weapons, and is pursuing an elaborate campaign to conceal its weapons materials, and to hide or intimidate key experts and scientists.
- This deception is directed from the highest levels of the Iraqi regime, including Saddam Hussein, his son, the Vice President, and the very official responsible for cooperating with inspectors.
- Sources tell us Saddam Hussein recently authorized Iraqi field commanders to use chemical weapons - the very weapons the dictator tells the world he does not have.
- The same terrorist network operating out of Iraq is responsible for the recent murder of an American diplomat, Laurence Foley. The same network has plotted terrorism against France, Spain, Italy, Germany, the Republic of Georgia, and Russia, and was caught producing poisons in London. The danger Saddam Hussein poses reaches across the world.
- Saddam Hussein was given a final chance; he is throwing that chance away. The Security Council must show whether its words have any meaning. Having made its demands, the Security Council must not back down, when those demands are defied and mocked by a dictator.
- The United States would welcome and support a new resolution which makes clear that the Security Council stands behind its previous demands. Yet resolutions mean little without resolve. And the United States, along with a growing coalition of nations, is resolved to take whatever action is necessary to defend ourselves and disarm the Iraqi regime.
- On September 11, 2001, America saw what terrorists could do by turning four airplanes into weapons. We will not wait to see what terrorists or terrorist states could do with chemical, biological, radiological or nuclear weapons.
- Saddam Hussein has made Iraq into a prison, a poison factory, and a torture chamber for patriots and dissidents. He has the motive, means, recklessness and hatred to threaten the American people. Saddam Hussein will be stopped.

THE WHITE HOUSE
Office of Global Communications

For more information log on to www.whitehouse.gov/ogc

From: Leitch, David G.
To: <Kavanaugh, Brett M.>
Sent: 2/7/2003 3:12:12 PM
Subject: FW: Further thoughts

Do you think Patrick's plans make sense?

-----Original Message-----
From: Bumatay, Patrick J.
Sent: Friday, February 07, 2003 3:10 PM
To: Leitch, David G.
Subject: Further thoughts

David,

After our discussion yesterday, I thought I would posit how I envision the change in positions:

1.) I would keep many of my current responsibilities such as handling all red tags (Staff Secretary Memos) and OMB Legislative Referral Memoranda.
2.) I would also continue assisting the Judge with correspondence, speeches, research, phones, and scheduling.
3.) I would give to the staff assistants across the street the responsibilities of logging in the mail, ordering supplies, assisting in filing, and shuttling around between the two buildings.
4.) In turn, I would like to play a larger role in the judicial selection process including the JSC and POTUS binders. I think my familiarity with the binders and with Staff Secretary procedures would be beneficial to this task.

Of course, I would be open to any changes in this that you see appropriate. I have served in this office for over a year now and would welcome some new challenges.

In addition, I feel that it is not essential that someone in a staff assistant position sit at my desk in the West Wing. From mid-September 2001 to January 2002 (n.b., the period right after 9/11), my seat was vacant because the staff assistant left for OHS. Libby and Allison were able to perform their jobs during this demanding period without a staff assistant.

Finally, I was able to speak to Brett about these ideas this morning, and he was supportive of this change.

Thanks for thinking about this. I appreciate it.

Patrick J. Bumatay
Office of Counsel to the President
o: 202-456-5214
f: 202-456-6279
mainline: 202-456-2632

From: CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Alberto R. Gonzales/WHO/EOP@Exchange [WHO] <Alberto R. Gonzales>
Sent: 2/7/2003 2:56:40 PM
Subject: : Fw: Roberts and Microsoft

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 7-FEB-2003 19:56:40.00
SUBJECT:: Fw: Roberts and Microsoft
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

FYI

-----Original Message-----
From: Charnes, Adam <Adam.Charnes@usdoj.gov>
To: Dinh, Viet <Viet.Dinh@usdoj.gov>; Benczkowski, Brian A <Brian.A.Benczkowski@usdoj.gov>; Goodling, Monica <Monica.Goodling@usdoj.gov>; Bartolomucci, H. Christopher <hbartolo@WHO.eop.gov>; Leitch, David G. <David_G._Leitch@who.eop.gov>
Sent: Fri Feb 07 19:18:09 2003
Subject: Roberts and Microsoft

John left me a voicemail message indicating that. James Grimaldi of the Post called him and will be running the Microsoft stock story in the hearsay column on Monday.; Grimaldi was told by Tom Miller the Iowa AG that John disclosed this and will apparently so indicate.; The reporter apparently said that it wouldn't be a bad story from John's perspective but that the reporter was going to "have fun" with the issue.; Monica, can you touch base with the reporter if someone already hasn't?

From: CN=Wendy J. Grubbs/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/8/2003 9:08:40 AM
Subject: : Hey there. Please

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 8-FEB-2003 14:08:40.00
SUBJECT:: Hey there. Please
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Cc me on all judicial nom emails, so when heather leaves next week I am in the loop. Thanks.

My numbers are: 6.7075
Cell: 494.3923

From: Kavanaugh, Brett M.
To: <Leitch, David G.>
Sent: 2/9/2003 6:17:56 PM
Subject: Re: FW: Further thoughts

I think this makes sense. We would have Patrick in essence supervising the 2 new staff assistants over here and Hana. That should work pretty well.

From: David G. Leitch/WHO/EOP@Exchange on 02/07/2003 03:12:12 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: FW: Further thoughts

Do you think Patrick's plans make sense?

-----Original Message-----

From: Bumatay, Patrick J.

Sent: Friday, February 07, 2003 3:10 PM

To: Leitch, David G.

Subject: Further thoughts

David,

After our discussion yesterday, I thought I would posit how I envision the change in positions:

1.) I would keep many of my current responsibilities such as handling all red tags (Staff Secretary Memos) and OMB Legislative Referral Memoranda.

2.) I would also continue assisting the Judge with correspondence, speeches, research, phones, and scheduling.

3.) I would give to the staff assistants across the street the responsibilities of logging in the mail, ordering supplies, assisting in filing, and shuttling around between the two buildings.

4.) In turn, I would like to play a larger role in the judicial selection process including the JSC and POTUS binders. I think my familiarity with the binders and with Staff Secretary procedures would be beneficial to this task.

Of course, I would be open to any changes in this that you see appropriate. I have served in this office for over a year now and would welcome some new challenges.

In addition, I feel that it is not essential that someone in a staff assistant position sit at my desk in the West Wing. From mid-September 2001 to January 2002 (n.b., the period right after 9/11), my seat was vacant because the staff assistant left for OHS. Libby and Allison were able to perform their jobs during this demanding period without a staff assistant.

Finally, I was able to speak to Brett about these ideas this morning, and he was supportive of this change.

Thanks for thinking about this. I appreciate it.

Patrick J. Bumatay

Office of Counsel to the President

o: 202-456-5214

f: 202-456-6279

mainline: 202-456-2632

From: CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO]
To: Alberto R. Gonzales/WHO/EOP@Exchange [WHO] <Alberto R. Gonzales>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/10/2003 5:22:33 AM
Subject: : Newsweek Story

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:10-FEB-2003 10:22:33.00
SUBJECT:: Newsweek Story
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

;

Sir - Please see this Newsweek piece out today.; Although your interview today at 2:30pm with Major Garrett (Fox News) is about Miguel, he may try and bring this up.;

;

;

;

Supreme Court: Moving On, Moving In, Moving Up

Bush may tap California Supreme Court Justice Janice Rogers Brown, a conservative judge who ruled against affirmative action and abortion rights, if a spot opens on the U.S. Supreme Court

A vacancy could open up in the U.S. Supreme Court soon

;

By Daniel Klaidman, Debra Rosenberg and Tamara Lipper
NEWSWEEK

;

;

;

;

Feb. 17 issue * ;It,s been nine years since the last vacancy opened up on the U.S. Supreme Court. That historically long drought could end this year with at least one resignation. Eager White House aides are stepping up preparation efforts, vetting candidates and contemplating a special media operation to deal with a potential confirmation battle.

;

;

;

; ; ; ; WITH THE WHITE HOUSE and the Senate both in Republican hands, GOP-nominated Justices William Rehnquist, 78, and Sandra Day O,Connor, 72, are considered most likely to depart. Some reports suggested that

Rehnquist has already given President George W. Bush a heads up on his departure. But a senior administration official dismisses the idea, saying the White House has no &inside information.8
; ; ; ; Bush aides had contemplated the idea of elevating Associate Justice Antonin Scalia, 66, to replace Rehnquist as chief. Some administration officials relished the idea of courting a major confirmation battle over Scalia*a folk hero to conservatives. Nominating Scalia to be chief would fire up Bush,s conservative base, some argued. And some Democratic senators might find it tough to oppose Scalia since they already voted for him once: he cleared the Senate by a vote of 98-0 in 1986. But in the end, sources tell NEWSWEEK, White House officials rejected the idea, concluding that the brilliant but pugnacious justice would not be a consensus builder*an important quality for a chief justice. &We discussed it seriously, but rejected it definitively,8 says a source familiar with the process.
; ; ; ; Many strategists have predicted Bush will fill the open seat with the court,s first Hispanic justice. Early betting centered on White House counsel and Bush confidant Alberto Gonzales. But some elements of Bush,s conservative base seem to have cooled on the idea. And White House insiders say Gonzales himself has never been enthusiastic about going on the high court. (More likely, the sources say, is that Gonzales, succumbing to President Bush,s personal entreaties, would fill a second vacancy.) Other possibilities: appellate Judge Emilio M. Garza of Texas and, if he,s confirmed to the D.C. Circuit Court, lawyer Miguel Estrada.

;

;

; ; ; ; Other observers think Bush could take another approach, appointing California Supreme Court Justice Janice Rogers Brown instead. Brown is a conservative African-American who,s ruled against affirmative action and abortion rights. Her nomination would let Bush add the court,s third woman and second African-American in one swoop. And White House lawyers have already interviewed her. Tom Goldstein, a Washington lawyer who argues cases before the court, believes Brown could even get the nod for chief justice. &An African-American female nominee is not going to be filibustered,8 he says. &She doesn,t have a record that will stop Democrats in their tracks.8 And after months of bitter Senate fights over nominations to lower courts, that could have an appeal all its own.

;

From: CN=Jeanie S. Mamo/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Ashley Snee/WHO /EOP@Exchange@EOP [WHO] <Ashley Snee>
Sent: 2/10/2003 4:27:12 AM
Subject: : Estrada Editorials (Atlanta Journal Constitution/Tampa Tribune/ Jacksonville Times Union

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jeanie S. Mamo (CN=Jeanie S. Mamo/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-FEB-2003 09:27:12.00
SUBJECT:: Estrada Editorials (Atlanta Journal Constitution/Tampa Tribune/ Jacksonville Times Union
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

OUR VIEW

Estrada worthy of appellate seat
Atlanta Journal Constitution
February 10, 2003

Miguel Estrada, a Harvard-educated lawyer who has argued 15 cases before the U.S. Supreme Court, is well qualified for the federal appellate bench. Democrats, who are threatening to stall a vote on this confirmation, are choosing the wrong target.

In recent years, unfortunately, leaders in both parties have treated nominations to the federal judiciary as an extension of partisan politics rather than a serious constitutional responsibility. Nominations and confirmation debates should center on meritorious legal qualifications and performance.

President Bush himself has often failed to meet that standard. He sent a string of conservative ideologues to the Senate Judiciary Committee, and then used legitimate questions about their suitability for the bench as an inflammatory partisan theme during the last election.

Still, that is no reason for Democratic senators to play the same game. Estrada is no right-wing nut. The scholarly Latino lawyer, who came to this country at age 17 from Honduras, has earned respect for his intellect and his legal acumen.

While its true his lack of judicial experience has left no record for the Senate to examine, he would not be the first nominee to a high court in that position.

U.S. Supreme Court Chief Justice William Rehnquist had never served as a judge, either, though he had been an assistant U.S. attorney general during the Nixon administration. Estrada was an assistant U.S. solicitor general during the Clinton years.

Sen. Charles Schumer (D-N.Y.) and other members of the Judiciary Committee asked Estrada to submit nonconfidential legal memos from his days in the solicitor's office, which could shed light on his judicial philosophy; Estrada made a mistake in not producing those.

Still, the 41-year-old lawyer, whose confirmation is scheduled for debate on the Senate floor this week, should be approved for a post on the U.S. Court of Appeals for the D.C. Circuit. There are some scary ideologues among the nominees that Bush has sent forward, but Estrada is not one of them.

Filibuster Threat On Estrada Does The Democrats No Honor

Published: Feb 8, 2003
Tampa Tribune
N ow that the Democrats on the Senate Judiciary Committee cannot cynically distort the record of President Bush's appointments to federal appeals courts in an effort to block the nominations, they are threatening another maneuver - the filibuster.
Leading the charge are committee members picked by the Democratic leadership precisely because of their ideological bent. Until the new Congress was seated, they thought nothing of thwarting the constitutional mandate that gives the Senate - the full Senate - the advise and consent power over judicial nominations.
These are senators who have maliciously maligned Bush's nominees to cater to the left-wing base of their party, never mind that the lawyers and judges they have discredited and rejected or delayed have received the highest recommendation of the American Bar Association, the party's so-called gold standard.
Never mind that they have distorted the records of some nominees beyond recognition.
The Democrats claim they are concerned about protecting civil rights and liberties, about defending the right to abortion, about making sure there will not be another Antonin Scalia or Clarence Thomas on the court.
Currently their fangs are out for Miguel Estrada, a 41-year-old lawyer whose biography would thrill most champions of diversity. The native of Honduras moved to the United States as a teenager, learned English, succeeded in school, wound up at Harvard, clerked for Justice Anthony Kennedy and worked in Bill Clinton's Justice Department.
He has the enthusiastic support of, among others, Ron Klain, who helped run Al Gore's campaign in 2000.
Yet the Democrats claim they don't know enough about Estrada. They have demanded to see copies of his work in the Justice Department, intentionally seeking papers they knew to be confidential. Because Estrada did not turn them over, they have attempted to crucify him, this despite letters from former solicitors general complaining that their demand amounted to legislative overreach and that acceding to it would set a dangerous precedent.
Sen. Dianne Feinstein of California, who occasionally shows some modicum of fair-mindedness, calls Estrada a cipher, and now committee members, because they didn't have the votes to deny him full consideration by the Senate, threaten to use the filibuster.
We suspect they will fail because some sane Democrats in the Senate, such as Louisiana's John Breaux, have said they would not support a filibuster. We hope that other moderates, like Florida's Bob Graham and Bill Nelson, come around.
Estrada needs only 50 votes for confirmation, but to stop a filibuster, the Republicans would need 60. So let the Democrats try if they dare. The judiciary was a major theme in the last election. Let's see how they will explain to voters how subverting the confirmation process with a months-long delay is in the public good.

Saturday, February 8, 2003

Last modified at 10:10 p.m. on Friday, February 7, 2003
Jacksonville Times Union
JUDICIARY: Blocking Hispanics

If the system were functioning as the founders intended, Miguel Estrada would be confirmed quickly to the federal D.C. Circuit Court of Appeals. He is extremely qualified in both education and experience -- and the American Bar Association unanimously awarded him its highest possible rating. Democrats have called the ABA rating their "gold standard" for evaluating judicial nominees. Estrada has been endorsed by previous administration legal officials and numerous Hispanic groups that normally support Democrats.

Estrada also has a compelling personal story, as an immigrant who arrived speaking virtually no English and a few years later graduated from Harvard law school.

Nevertheless, Democrats kept Estrada's nomination bottled up in committee until they lost the Senate -- and now may filibuster, hoping to prevent a floor vote they would lose.

Far-left interest groups don't question Estrada's qualifications. However, Rep. Bob Menendez, D-N.J., says Estrada isn't Hispanic enough. By that, he means Estrada is suspected of being insufficiently liberal. But, under his rules, Menendez wouldn't recognize most residents of Miami's "Little Havana" area as Hispanic.

Liberals worry that Estrada will prove himself worthy of someday becoming the first Hispanic on the U.S. Supreme Court -- a position that would make him, and perhaps his moderate philosophy, a role model for young Hispanics nationwide. They fear that might hurt them politically. The founders, however, tried to isolate the courts from politics.

Fanaticism will serve only to alienate the party further from the public.

From: CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO]
To: Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>
CC: Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Kyle Sampson/WHO /EOP@EOP [WHO] <Kyle Sampson>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>
Sent: 2/10/2003 8:59:05 AM
Subject: : RE: Feinstein on CSPAN2 "rebutting" ARG letter, point by point, now

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:10-FEB-2003 13:59:05.00
SUBJECT:: RE: Feinstein on CSPAN2 "rebutting" ARG letter, point by point, now
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Earlier, Leahy was quoting Tim Flanigan.

;-----Original Message-----
From: ; Walker, Helgard C.;
Sent:;; Monday, February 10, 2003 1:50 PM
To:;;;; Gonzales, Alberto R.; Leitch, David G.
Cc:;;;; Newstead, Jennifer G.; Powell, Benjamin A.; Ullyot, Theodore W.;
Sampson, Kyle; Kavanaugh, Brett M.; Bartolomucci, H. Christopher;
Francisco, Noel J.; Newstead, Jennifer G.; Everson, Nanette

Subject:;;;;;;; Feinstein on CSPAN2 "rebutting" ARG letter, point
by point, now
```

From: Kavanaugh, Brett M.
To: <Gonzales, Alberto R.>;<Leitch, David G.>;<Walker, Helgard C.>;<Newstead, Jennifer G.>;<Bartolomucci, H. Christopher>;<Sampson, Kyle>;<Francisco, Noel J.>;<Powell, Benjamin A.>;<Ullyot, Theodore W.>
Sent: 2/10/2003 9:13:08 AM
Subject: Giuliani op-ed on Estrada -- today's NY Post

AN UGLY STALL

By RUDOLPH GIULIANI

February 10, 2003 -- LET me share with you a great American success story.

A 17-year-old named Miguel Estrada immigrates to this country from Honduras, speaking only a few words of English. He attends Columbia College, making Phi Beta Kappa and graduating magna cum laude, then Harvard Law School, becoming editor of the Law Review.

Next, he serves as a clerk first to U.S. Court of Appeals Judge Amalya L. Kearse (a President Carter appointee), and then to Supreme Court Justice Anthony M. Kennedy. From there, he joins the Solicitor General's Office, serving as assistant to the solicitor general of the United States for a year under President George H.W. Bush and for four years under President Clinton.

Then Estrada becomes a partner in a prestigious private law practice - yet finds the time to perform significant pro bono service, including some four hundred hours representing a death row inmate before the Supreme Court.

In recognition of his special abilities and achievements, President Bush nominates Miguel Estrada to the U.S. Court of Appeals for the D.C. Circuit. He is supported by no fewer than 16 Hispanic groups, who express enormous pride at the prospect of the first Hispanic joining one of America's most prestigious courts. Also supporting him are numerous prominent Democrats, including President Clinton's solicitor general and Vice President Gore's counselor and chief of Staff.

Sounds pretty good? Well, here's where this story runs the risk of a most unhappy - and unfair - ending.

For nearly *two years*, Senate Democrats have delayed action on the nomination of Miguel Estrada.

Citing *no* specific issues, Democratic senators vaguely alluded to Estrada being "way out of the mainstream." Others raised equally hollow charges - all of which have not only kept Estrada from getting the vote he deserves, but denied the American people of a talented and effective jurist.

Obviously, the fact that the Judiciary Committee was controlled by the Democrats until this year helped delay action. Last week, the committee finally voted to approve Estrada's nomination, hewing strictly to party lines. But now a few Democratic senators want to prevent a vote before the full Senate by way of a filibuster.

Despite all the racket, the knocks against Estrada are so easily dismissed that it is difficult to see them as anything other than a thin veil disguising his detractors' true motives. Let's take a look at them:

S*ome note that Estrada lacks judicial experience.* Yet five of the eight judges now on the D.C. circuit had no previous judicial experience - including Chief Judge Harry Edwards, who when President Carter appointed him in 1979 was even younger than Estrada is now. Indeed, several *Supreme Court* justices - including Byron White and Chief Justice William Rehnquist - had never been judges when they were named to the land's highest court.

Estrada no rookie. He has argued 15 cases before the Supreme Court and was a highly respected Assistant U.S. Attorney in my old office, the Southern District of New York. And the American Bar Association unanimously gave him its highest rating - "well qualified," a designation that some of the very senators who now oppose him have called the "gold standard."

Some object that the Bush administration won't produce memoranda from Estrada in the Solicitor General's Office. Bear in mind the Solicitor General's function: His office represents the United States in court - in other words, the government is his client. Why would a client or his attorney choose to reveal their private and privileged communications?

The zeal to read a nominee's private memoranda seems to apply only to *this* nominee. Seven past nominees to the Courts of Appeals had worked in the Solicitor General's office - yet not one was asked to disclose attorney-client memoranda. And *every* living former Solicitor General - including Democrats Archibald Cox, Seth Waxman and Walter Dellinger - signed a letter to the Judiciary Committee stating that sharing these confidential memos would damage the Justice Department's ability to represent the United States before the Supreme Court.

Some civil-rights groups complain that in private practice, Estrada defended anti-loitering laws. In truth, he was retained by the Democratic City Solicitor of Chicago to defend the constitutionality of the anti-gang ordinances of Democratic Mayor Richard M. Daley.

Miguel Estrada brings a proven ability to work with others in a fair and constructive way, and his appeal is not limited to any set of ideological backers. President Clinton's Solicitor General, Seth Waxman, called his former colleague a "model of professionalism and "competence" and described his "great respect both for Mr. Estrada's intellect and for his "integrity." Ronald Klain, former Counselor to Vice President Gore, wrote: "Miguel is a person of outstanding character, tremendous intellect, and with a deep commitment to the faithful application of precedent."

The Senate must fulfill its duty to consider the appropriateness of judicial nominees. But that "advice and consent" was never meant to empower special-interest groups to hijack the appointments of abundantly qualified, eminently decent nominees.

If senators who feel it's their right to let special-interest agendas derail Estrada, the judiciary will lose a wonderful opportunity. Far worse, the entire system will have fallen victim to narrow and misguided attempts to thwart the Constitution.

The stalling of Miguel Estrada's confirmation has been not only unseemly and demeaning, but a perversion of the system of judicial selection. It is also the escalation of a dangerous trend. In their first two years in office,

Presidents Bill Clinton, George H.W. Bush and Ronald Reagan saw more than 90 percent of their nominees to federal appeals courts confirmed. In the first two years of this administration, the figure is barely 50 percent.

Some say that's because President Bush isn't nominating qualified individuals. But Miguel Estrada clearly puts the lie to that suggestion.

I urge the Senate to allow this worthy man a vote. I urge the Senate not to underestimate what a fair vote will mean to Hispanic all across America.

I feel certain the result will be a confirmation - another wonderful chapter in a true American success story.

From: Kavanaugh, Brett M.
To: <Gonzales, Alberto R.>;<Leitch, David G.>
Sent: 2/10/2003 9:24:12 AM
Subject: Estrada Editorials (Atlanta Journal Constitution/Tampa Tribune/ Jacksonville Times Union

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 02/10/2003 09:32 AM ----------

Jeanie S. Mamo

02/10/2003 09:27:11 AM

Record Type: Record

To: Ashley Snee/WHO/EOP@Exchange@EOP, Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: Estrada Editorials (Atlanta Journal Constitution/Tampa Tribune/ Jacksonville Times Union

OUR VIEW

Estrada worthy of appellate seat

Atlanta Journal Constitution

February 10, 2003

Miguel Estrada, a Harvard-educated lawyer who has argued 15 cases before the U.S. Supreme Court, is well qualified for the federal appellate bench. Democrats, who are threatening to stall a vote on this confirmation, are choosing the wrong target.

In recent years, unfortunately, leaders in both parties have treated nominations to the federal judiciary as an extension of partisan politics rather than a serious constitutional responsibility. Nominations and confirmation debates should center on meritorious legal qualifications and performance.

President Bush himself has often failed to meet that standard. He sent a string of conservative ideologues to the Senate Judiciary Committee, and then used legitimate questions about their suitability for the bench as an inflammatory partisan theme during the last election.

Still, that is no reason for Democratic senators to play the same game. Estrada is no right-wing nut. The scholarly Latino lawyer, who came to this country at age 17 from Honduras, has earned respect for his intellect and his legal acumen.

While its true his lack of judicial experience has left no record for the Senate to examine, he would not be the first nominee to a high court in that position.

U.S. Supreme Court Chief Justice William Rehnquist had never served as a judge, either, though he had been an assistant U.S. attorney general during the Nixon administration. Estrada was an assistant U.S. solicitor general during the Clinton years.

Sen. Charles Schumer (D-N.Y.) and other members of the Judiciary Committee asked Estrada to submit nonconfidential legal memos from his days in the solicitor's office, which could shed light on his judicial philosophy; Estrada made a mistake in not producing those.

Still, the 41-year-old lawyer, whose confirmation is scheduled for debate on the Senate floor this week, should be approved for a post on the U.S. Court of Appeals for the D.C. Circuit. There are some scary ideologues among the nominees that Bush has sent forward, but Estrada is not one of them.

Filibuster Threat On Estrada Does The Democrats No Honor

Published: **Feb 8, 2003**

Tampa Tribune

N ow that the Democrats on the Senate Judiciary Committee cannot cynically distort the record of President Bush's appointments to federal appeals courts in an effort to block the nominations, they are threatening another maneuver - the filibuster.

Leading the charge are committee members picked by the Democratic leadership precisely because of their ideological bent. Until the new Congress was seated, they thought nothing of thwarting the constitutional mandate that gives the Senate - the full Senate - the advise and consent power over judicial nominations.

These are senators who have maliciously maligned Bush's nominees to cater to the left-wing base of their party, never mind that the lawyers and judges they have discredited and rejected or delayed have received the highest recommendation of the American Bar Association, the party's so-called gold standard.

Never mind that they have distorted the records of some nominees beyond recognition.

The Democrats claim they are concerned about protecting civil rights and liberties, about defending the right to abortion, about making sure there will not be another Antonin Scalia or Clarence Thomas on the court.

Currently their fangs are out for Miguel Estrada, a 41-year-old lawyer whose biography would thrill most champions of diversity. The native of Honduras moved to the United States as a teenager, learned English, succeeded in school, wound up at Harvard, clerked for Justice Anthony Kennedy and worked in Bill Clinton's Justice Department.

He has the enthusiastic support of, among others, Ron Klain, who helped run Al Gore's campaign in 2000.

Yet the Democrats claim they don't know enough about Estrada. They have demanded to see copies

of his work in the Justice Department, intentionally seeking papers they knew to be confidential. Because Estrada did not turn them over, they have attempted to crucify him, this despite letters from former solicitors general complaining that their demand amounted to legislative overreach and that acceding to it would set a dangerous precedent.

Sen. Dianne Feinstein of California, who occasionally shows some modicum of fair-mindedness, calls Estrada a cipher, and now committee members, because they didn't have the votes to deny him full consideration by the Senate, threaten to use the filibuster.

We suspect they will fail because some sane Democrats in the Senate, such as Louisiana's John Breaux, have said they would not support a filibuster. We hope that other moderates, like Florida's Bob Graham and Bill Nelson, come around.

Estrada needs only 50 votes for confirmation, but to stop a filibuster, the Republicans would need 60. So let the Democrats try if they dare. The judiciary was a major theme in the last election. Let's see how they will explain to voters how subverting the confirmation process with a months-long delay is in the public good.

Saturday, February 8, 2003

Last modified at 10:10 p.m. on Friday, February 7, 2003

Jacksonville Times Union

JUDICIARY: Blocking Hispanics

If the system were functioning as the founders intended, Miguel Estrada would be confirmed quickly to the federal D.C. Circuit Court of Appeals.

He is extremely qualified in both education and experience -- and the American Bar Association unanimously awarded him its highest possible rating. Democrats have called the ABA rating their "gold standard" for evaluating judicial nominees. Estrada has been endorsed by previous administration legal officials and numerous Hispanic groups that normally support Democrats.

Estrada also has a compelling personal story, as an immigrant who arrived speaking virtually no English and a few years later graduated from Harvard law school.

Nevertheless, Democrats kept Estrada's nomination bottled up in committee until they lost the Senate -- and now may filibuster, hoping to prevent a floor vote they would lose.

Far-left interest groups don't question Estrada's qualifications. However, Rep. Bob Menendez, D-N.J., says Estrada isn't Hispanic enough. By that, he means Estrada is suspected of being insufficiently liberal. But, under his rules, Menendez wouldn't recognize most residents of Miami's "Little Havana" area as Hispanic.

Liberals worry that Estrada will prove himself worthy of someday becoming the first Hispanic on the U.S. Supreme Court -- a position that would make him, and perhaps his moderate philosophy, a role model for young Hispanics nationwide. They fear that might hurt them politically. The founders, however, tried to isolate the courts from politics.

Fanaticism will serve only to alienate the party further from the public.

From: Mamo, Jeanie S.
To: <Snee, Ashley>;<Kavanaugh, Brett M.>
Sent: 2/10/2003 9:24:27 AM
Subject: Estrada Editorials (Atlanta Journal Constitution/Tampa Tribune/ Jacksonville Times Union

OUR VIEW

Estrada worthy of appellate seat

Atlanta Journal Constitution

February 10, 2003

Miguel Estrada, a Harvard-educated lawyer who has argued 15 cases before the U.S. Supreme Court, is well qualified for the federal appellate bench. Democrats, who are threatening to stall a vote on this confirmation, are choosing the wrong target.

In recent years, unfortunately, leaders in both parties have treated nominations to the federal judiciary as an extension of partisan politics rather than a serious constitutional responsibility. Nominations and confirmation debates should center on meritorious legal qualifications and performance.

President Bush himself has often failed to meet that standard. He sent a string of conservative ideologues to the Senate Judiciary Committee, and then used legitimate questions about their suitability for the bench as an inflammatory partisan theme during the last election.

Still, that is no reason for Democratic senators to play the same game. Estrada is no right-wing nut. The scholarly Latino lawyer, who came to this country at age 17 from Honduras, has earned respect for his intellect and his legal acumen.

While its true his lack of judicial experience has left no record for the Senate to examine, he would not be the first nominee to a high court in that position.

U.S. Supreme Court Chief Justice William Rehnquist had never served as a judge, either, though he had been an assistant U.S. attorney general during the Nixon administration. Estrada was an assistant U.S. solicitor general during the Clinton years.

Sen. Charles Schumer (D-N.Y.) and other members of the Judiciary Committee asked Estrada to submit nonconfidential legal memos from his days in the solicitor's office, which could shed light on his judicial philosophy; Estrada made a mistake in not producing those.

Still, the 41-year-old lawyer, whose confirmation is scheduled for debate on the Senate floor this week, should be approved for a post on the U.S. Court of Appeals for the D.C. Circuit. There are some scary ideologues among the nominees that Bush has sent forward, but Estrada is not one of them.

Filibuster Threat On Estrada Does The

Democrats No Honor

Published: Feb 8, 2003

Tampa Tribune

N ow that the Democrats on the Senate Judiciary Committee cannot cynically distort the record of President Bush's appointments to federal appeals courts in an effort to block the nominations, they are threatening another maneuver - the filibuster.

Leading the charge are committee members picked by the Democratic leadership precisely because of their ideological bent. Until the new Congress was seated, they thought nothing of thwarting the constitutional mandate that gives the Senate - the full Senate - the advise and consent power over judicial nominations.

These are senators who have maliciously maligned Bush's nominees to cater to the left-wing base of their party, never mind that the lawyers and judges they have discredited and rejected or delayed have received the highest recommendation of the American Bar Association, the party's so-called gold standard.

Never mind that they have distorted the records of some nominees beyond recognition.

The Democrats claim they are concerned about protecting civil rights and liberties, about defending the right to abortion, about making sure there will not be another Antonin Scalia or Clarence Thomas on the court.

Currently their fangs are out for Miguel Estrada, a 41-year-old lawyer whose biography would thrill most champions of diversity. The native of Honduras moved to the United States as a teenager, learned English, succeeded in school, wound up at Harvard, clerked for Justice Anthony Kennedy and worked in Bill Clinton's Justice Department.

He has the enthusiastic support of, among others, Ron Klain, who helped run Al Gore's campaign in 2000.

Yet the Democrats claim they don't know enough about Estrada. They have demanded to see copies of his work in the Justice Department, intentionally seeking papers they knew to be confidential. Because Estrada did not turn them over, they have attempted to crucify him, this despite letters from former solicitors general complaining that their demand amounted to legislative overreach and that acceding to it would set a dangerous precedent.

Sen. Dianne Feinstein of California, who occasionally shows some modicum of fair-mindedness, calls Estrada a cipher, and now committee members, because they didn't have the votes to deny him full consideration by the Senate, threaten to use the filibuster.

We suspect they will fail because some sane Democrats in the Senate, such as Louisiana's John Breaux, have said they would not support a filibuster. We hope that other moderates, like Florida's Bob Graham and Bill Nelson, come around.

Estrada needs only 50 votes for confirmation, but to stop a filibuster, the Republicans would need 60. So let the Democrats try if they dare. The judiciary was a major theme in the last election. Let's see how they will explain to voters how subverting the confirmation process with a months-long delay is in the public good.

Saturday, February 8, 2003

Last modified at 10:10 p.m. on Friday, February 7, 2003

Jacksonville Times Union

JUDICIARY: Blocking Hispanics

If the system were functioning as the founders intended, Miguel Estrada would be confirmed quickly to the federal D.C. Circuit Court of Appeals.

He is extremely qualified in both education and experience -- and the American Bar Association unanimously awarded him its highest possible rating. Democrats have called the ABA rating their "gold standard" for evaluating judicial nominees. Estrada has been endorsed by previous administration legal officials and numerous Hispanic groups that normally support Democrats.

Estrada also has a compelling personal story, as an immigrant who arrived speaking virtually no English and a few years later graduated from Harvard law school.

Nevertheless, Democrats kept Estrada's nomination bottled up in committee until they lost the Senate -- and now may filibuster, hoping to prevent a floor vote they would lose.

Far-left interest groups don't question Estrada's qualifications. However, Rep. Bob Menendez, D-N.J., says Estrada isn't Hispanic enough. By that, he means Estrada is suspected of being insufficiently liberal. But, under his rules, Menendez wouldn't recognize most residents of Miami's "Little Havana" area as Hispanic.

Liberals worry that Estrada will prove himself worthy of someday becoming the first Hispanic on the U.S. Supreme Court -- a position that would make him, and perhaps his moderate philosophy, a role model for young Hispanics nationwide. They fear that might hurt them politically. The founders, however, tried to isolate the courts from politics.

Fanaticism will serve only to alienate the party further from the public.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kenneth A. Lisaius/WHO/EOP@EOP [WHO] <Kenneth A. Lisaius>
Sent: 2/10/2003 5:53:26 AM
Subject: : Re: Estrada - The Orange County Register - Editorial - 2/9/03

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-FEB-2003 10:53:26.00
SUBJECT:: Re: Estrada - The Orange County Register - Editorial - 2/9/03
TO:Kenneth A. Lisaius (CN=Kenneth A. Lisaius/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

great, thanks for help.

Kenneth A. Lisaius
02/10/2003 10:45:04 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Ashley Snee/WHO/EOP@Exchange@EOP, Parker B. Hamilton/WHO/EOP@EOP
cc: Nicolle Devenish/WHO/EOP@EOP, Jeanie S. Mamo/WHO/EOP@EOP
Subject: Estrada - The Orange County Register - Editorial - 2/9/03

A feckless threat to filibuster

Feb. 9, 2003 Orange County Register Editorial

Senate Democrats and liberal interest groups have adopted a despicable strategy of character assassination against some Bush administration judicial selections. The latest victim is Miguel Estrada, a well-qualified nominee to the U.S. Court of Appeals for the D.C. Circuit and potential Supreme Court nominee in the future. He is facing a possible filibuster from Democrats who do not even want his nomination brought to a vote.

In a less partisan atmosphere, Mr. Estrada would be a noncontroversial nominee to the appeals court. The Honduran-born attorney is, in the view of the generally liberal Washington Post, "well qualified for the bench" and someone who "should not be a tough case for confirmation." As the Post sees it, senators who disagree with his views should vote against him, but "should not deny him a vote."

So why the efforts to put together the rarely used filibuster? Why portray a man with a long, distinguished background as some sort of ideological radical? It's simply not so, and should be no surprise that a president would appoint federal judicial nominees who tend to reflect his own judicial views.

"Certain Washington interest groups," a senior White House official told us, want to oppose nominees with "a lack of stated support for certain positions." In other words, Mr. Estrada will not do what the left wants him to do: commit in advance to support the political positions they support. These "interest groups see judges as a means to an end," the official said, rather than as people who will rule based on the law and court precedents.

Consider the shallow arguments against Mr. Estrada. The National Organization for Women, a liberal interest group urging senators to "defeat the nomination of Miguel Estrada by any means necessary," could

mainly come up with this issue from his background: "His troublesome record entering the hearing included having defended anti-loitering laws which have been shown to have a disproportionately negative effect on minorities."

This is an indictment? That he argued on behalf of an anti-gang ordinance supported by the Democratic mayor of Chicago?

Another point of contention by Democrats: Mr. Estrada didn't answer direct questions about his positions at a hearing. But the Democrats were playing a game of "gotcha," asking broad questions (Were there any Supreme Court cases with which you disagreed over the last 40 years?) designed to entrap the nominee into expressing a non-politically correct opinion. Then that opinion could be used as a rallying cry by Democrats who are looking for any excuse to stop the nomination with cries of "extremism." We don't blame Mr. Estrada for not falling into that trap.

As the White House official explained, Mr. Estrada is being held to a double standard. He answered the questions in the appropriate way that judicial nominees are supposed to answer questions - by talking about his qualifications rather than committing to certain positions.

Unfortunately, some liberal activists are playing the ethnicity card. Mr. Estrada has the backing of mainstream Hispanic groups, but some of the more liberal ones argue that he is not a "real" Hispanic because his views don't conform to their political views. This race-baiting is unseemly, and Democratic senators should rebuke it rather than tolerate it.

Mr. Estrada does not have a long record of political positions, but appears to hold a traditional, constitutional view of his role - that the judiciary should rule based on the law and not take "activist" positions to advance any particular political agenda, of the left or the right.

Regardless of one's leanings, a president deserves to have his nominees voted on before the full Senate, and not filibustered away.

Democrats should drop the filibuster idea, and let their colleagues vote on Miguel Estrada.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>
Sent: 2/10/2003 6:02:42 AM
Subject: : from national review per your question

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-FEB-2003 11:02:42.00
SUBJECT:: from national review per your question
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

The Estrada Trap
Democrats talk themselves into a corner over Miguel Estrada.

ere's the latest on the battle over the nomination of Miguel Estrada to a place on the D.C. Circuit Court of Appeals: When debate restarts in the Senate today, there will be a filibuster. If Democrats don't do it, Republicans will * sort of.

ÿ

Debate began last week. On Wednesday, Judiciary Committee chairman Orrin Hatch talked and talked and talked about Estrada. Then ranking Democrat Patrick Leahy talked and talked and talked about Estrada. More debate was set for the next day.
But when Thursday came, Democrat Byron Dorgan went to the floor and asked for unanimous consent to talk about hydrogen-powered cars. Republicans graciously gave it to him. Then Democrat Patty Murray asked for unanimous consent to talk about asbestos. Republicans graciously gave it to her. Then Democrat Joseph Biden asked for unanimous consent to talk about North

Korea. Republicans graciously gave it to him. It seemed like Democrats wanted to talk about everything except Miguel Estrada. (The only one who discussed the nomination was Minority Whip Harry Reid, and that was just for a few minutes.)

At the end of the day, the Republican leadership said to Democrats, We'll offer you six more hours of debate on Estrada, and then we'll have a vote. Democrats refused. No, no, no, they said, we need more time to talk about Estrada. So there was no agreement to limit debate * and no schedule for a vote.

Now, debate is starting up again. But this time, Republicans say, things will be different. If Democrats want to change the subject to hydrogen cars or asbestos or North Korea * or anything else to delay the matter at hand * Republicans will likely say no. You wanted more time to debate Estrada, they'll say, so we're going to debate Estrada. As one Republican puts it, "It's going to be all Estrada, all the time. We're not going to turn to anything else. We're just going to talk about Estrada."

At some point, Republicans will again ask for a vote. And if Democrats again say, No, no, no, we need more time to talk about Estrada, Republicans will answer: OK, you want to talk, let's keep talking. Let's keep talking through the afternoon. And into the night. And into the morning. And into the next afternoon. At some point, Republicans will again demand a vote. If Democrats do not agree, Republicans will suggest more talking.

What the GOP strategy amounts to is, in effect, a preemptive filibuster. Democrats have threatened a real filibuster to block the nomination, but some Republicans believe that threat is mostly bluff * that Democrats will not be able to muster the 41 votes they need to stop Estrada. So Republicans plan to force the issue this week.

If any GOP senators are wavering, they heard words of encouragement over the weekend from President Bush. Speaking at the Republican retreat in West Virginia, Bush thanked senators for "standing strong for this good nominee" and said: "I expect that [Estrada] will be given a fair hearing on the floor of the Senate. I expect the people of the Senate not to hold him up, not to try to talk his nomination into the ground, because Miguel Estrada not only represents the American dream, but will do us proud on the bench....And when the vote comes up, this guy is going to be confirmed."

From: [UNKNOWN] <Snee, Ashley>
To: <Gonzales>;Alberto_R._Gonzales@who.eop.gov [WHO] <Alberto R.>
CC: <Kavanaugh>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6246020-C20FEE19-852569DA-7648DC [UNKNOWN] <Brett M.>
Sent: 2/10/2003 6:22:17 AM
Subject: Newsweek Story

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (MS Mail)
CREATOR:Snee, Ashley ( [ UNKNOWN ] )
CREATION DATE/TIME:10-FEB-2003 11:22:17.00
SUBJECT:Newsweek Story
TO:Gonzales, Alberto R. ( Alberto_R._Gonzales@who.eop.gov [ WHO ] )
READ:UNKNOWN
CC:Kavanaugh, Brett M. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6246020-
C20FEE19-852569DA-7648DC [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Unable to convert backlog_02:[message.d40]sreop4760005F1J.MSG ?z¸!´¡ To ASCII,
The following is a HEX dump of the file:
```

From: Kavanaugh, Brett M.
To: <Snee, Ashley>;<Goeglein, Tim>;<Wingate, Heather>;<Grubbs, Wendy J.>;<Smith, Matthew E.>
Sent: 2/10/2003 10:32:17 AM
Subject: Mayor Giuliani op-ed on Miguel Estrada in today's NY Post

AN UGLY STALL

By RUDOLPH GIULIANI

February 10, 2003 -- LET me share with you a great American success story.

A 17-year-old named Miguel Estrada immigrates to this country from Honduras, speaking only a few words of English. He attends Columbia College, making Phi Beta Kappa and graduating magna cum laude, then Harvard Law School, becoming editor of the Law Review.

Next, he serves as a clerk first to U.S. Court of Appeals Judge Amalya L. Kearse (a President Carter appointee), and then to Supreme Court Justice Anthony M. Kennedy. From there, he joins the Solicitor General's Office, serving as assistant to the solicitor general of the United States for a year under President George H.W. Bush and for four years under President Clinton.

Then Estrada becomes a partner in a prestigious private law practice - yet finds the time to perform significant pro bono service, including some four hundred hours representing a death row inmate before the Supreme Court.

In recognition of his special abilities and achievements, President Bush nominates Miguel Estrada to the U.S. Court of Appeals for the D.C. Circuit. He is supported by no fewer than 16 Hispanic groups, who express enormous pride at the prospect of the first Hispanic joining one of America's most prestigious courts. Also supporting him are numerous prominent Democrats, including President Clinton's solicitor general and Vice President Gore's counselor and chief of Staff.

Sounds pretty good? Well, here's where this story runs the risk of a most unhappy - and unfair - ending.

For nearly *two years*, Senate Democrats have delayed action on the nomination of Miguel Estrada.

Citing *no* specific issues, Democratic senators vaguely alluded to Estrada being "way out of the mainstream."

Others raised equally hollow charges - all of which have not only kept Estrada from getting the vote he deserves, but denied the American people of a talented and effective jurist.

Obviously, the fact that the Judiciary Committee was controlled by the Democrats until this year helped delay action. Last week, the committee finally voted to approve Estrada's nomination, hewing strictly to party lines. But now a few Democratic senators want to prevent a vote before the full Senate by way of a filibuster.

Despite all the racket, the knocks against Estrada are so easily dismissed that it is difficult to see them as anything other than a thin veil disguising his detractors' true motives. Let's take a look at them:

S*ome note that Estrada lacks judicial experience.* Yet five of the eight judges now on the D.C. circuit had no previous judicial experience - including Chief Judge Harry Edwards, who when President Carter appointed him in 1979 was even younger than Estrada is now. Indeed, several *Supreme Court* justices - including Byron White and Chief Justice William Rehnquist - had never been judges when they were named to the land's highest court.

Estrada no rookie. He has argued 15 cases before the Supreme Court and was a highly respected Assistant U.S. Attorney in my old office, the Southern District of New York. And the American Bar Association unanimously gave him its highest rating - "well qualified," a designation that some of the very senators who now oppose him have called the "gold standard."

Some object that the Bush administration won't produce memoranda from Estrada in the Solicitor General's Office. Bear in mind the Solicitor General's function: His office represents the United States in court - in other words, the government is his client. Why would a client or his attorney choose to reveal their private and privileged communications?

The zeal to read a nominee's private memoranda seems to apply only to *this* nominee. Seven past nominees to the Courts of Appeals had worked in the Solicitor General's office - yet not one was asked to disclose attorney-client memoranda. And *every* living former Solicitor General - including Democrats Archibald Cox, Seth Waxman and Walter Dellinger - signed a letter to the Judiciary Committee stating that sharing these confidential memos would damage the Justice Department's ability to represent the United States before the Supreme Court.

Some civil-rights groups complain that in private practice, Estrada defended anti-loitering laws. In truth, he was retained by the Democratic City Solicitor of Chicago to defend the constitutionality of the anti-gang ordinances of Democratic Mayor Richard M. Daley.

Miguel Estrada brings a proven ability to work with others in a fair and constructive way, and his appeal is not limited to any set of ideological backers. President Clinton's Solicitor General, Seth Waxman, called his former colleague a "model of professionalism and "competence" and described his "great respect both for Mr. Estrada's intellect and for his "integrity." Ronald Klain, former Counselor to Vice President Gore, wrote: "Miguel is a person of outstanding character, tremendous intellect, and with a deep commitment to the faithful application of precedent."

The Senate must fulfill its duty to consider the appropriateness of judicial nominees. But that "advice and consent" was never meant to empower special-interest groups to hijack the appointments of abundantly qualified, eminently decent nominees.

If senators who feel it's their right to let special-interest agendas derail Estrada, the judiciary will lose a wonderful opportunity. Far worse, the entire system will have fallen victim to narrow and misguided attempts to thwart the Constitution.

The stalling of Miguel Estrada's confirmation has been not only unseemly and demeaning, but a perversion of the system of judicial selection. It is also the escalation of a dangerous trend. In their first two years in office, Presidents Bill Clinton, George H.W. Bush and Ronald Reagan saw more than 90 percent of their nominees to federal appeals courts confirmed. In the first two years of this administration, the figure is barely 50 percent.

Some say that's because President Bush isn't nominating qualified individuals. But Miguel Estrada clearly puts the lie to that suggestion.

I urge the Senate to allow this worthy man a vote. I urge the Senate not to underestimate what a fair vote will mean to Hispanic all across America.

I feel certain the result will be a confirmation - another wonderful chapter in a true American success story.

From: CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO]
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 2/10/2003 11:46:01 AM
Subject: : Alicia Davis

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Colleen Litkenhaus ( CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:10-FEB-2003 16:46:01.00
SUBJECT:: Alicia Davis
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Please join us THIS SATURDAY for drinks at Zaytinya to celebrate Alicia's
birthday!


Hope to see you there! Feel free to spread the word.

Saturday, February 15 at 9:00 p.m.
Zaytinya
701 9th Street, NW
Washington, D.C.
```

From: MIchael Thielen <thielen@republicanlawyer.net>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/10/2003 8:02:01 AM
Subject: : RNLA Judicial Advocacy Panel Conference Call Details
Attachments: P_Q8TRD003_WHO.TXT_1.txt

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:MIchael Thielen <thielen@republicanlawyer.net> ( MIchael Thielen
<thielen@republicanlawyer.net> [ UNKNOWN ] )
CREATION DATE/TIME:10-FEB-2003 13:02:01.00
SUBJECT:: RNLA Judicial Advocacy Panel Conference Call Details
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_Q8TRD003_WHO.TXT_1>
```

Dear Mr. Kavanaugh,

Here are the conference call details.

<P class=MsoNormal style="MARGIN: 0in 0in 0pt"><SPAN style="FONT-SIZE:
12pt"><FONT face="Times New Roman">US/Canada Dial-In Number: (877)
855-4251 <?xml:namespace prefix = o ns =
"urn:schemas-microsoft-com:office:office" /><o:p></o:p></FONT></SPAN>
<P cla
ss=MsoNormal style="MARGIN: 0in 0in 0pt"><SPAN style="FONT-SIZE:
12pt"><FONT face="Times New Roman">Conference ID: 10525
Emergency
Contact during call for technical difficultes: Melinda Thielen at
703-203-8013</FONT></SPAN>
<P class=MsoNormal style="MARGIN: 0in 0in 0pt"><S
PAN style="FONT-SIZE:
12pt"><FONT face="Times New Roman">Conference Date:
2/11/2003
Start Time: 2:00 PM EASTERN STANDARD TIME
Expected
Duration: 30 minutes<BR style="mso-special-character:
line-break"><BR style="mso-special-character:
line-break"><o:p></o:p></FONT></SPAN>
<SPAN style="FONT-SIZE: 12pt; FONT-FAM
ILY: 'Times New Roman';
mso-fareast-font-family: 'Times New Roman'; mso-ansi-language: EN-US;
mso-fareast-language: EN-US; mso-bidi-language: AR-SA">Note:<SPAN
style="mso-tab-count: 1">   </SPAN>The Conference call
will begin and end promptly. </SPAN>
<SPAN style="FONT-SIZE: 12pt; FONT-FAMI
LY: 'Times New Roman';
mso-fareast-font-family: 'Times New Roman'; mso-ansi-language: EN-US;
mso-fareast-language: EN-US; mso-bidi-language: AR-SA"></SPAN>
<SPAN s
tyle="FONT-SIZE: 12pt; FONT-FAMILY: 'Times New Roman';
mso-fareast-font-family: 'Times New Roman'; mso-ansi-language: EN-US;
mso-fareast-language: EN-US; mso-bidi-language: AR-SA">Thank you for your
help and participation. </SPAN>
<SPAN style="FONT-SIZE: 12pt; FONT-FAM
ILY: 'Times New Roman';
mso-fareast-font-family: 'Times New Roman'; mso-ansi-language: EN-US;
mso-fareast-language: EN-US; mso-bidi-language: AR-SA"></SPAN>
<SPAN s
tyle="FONT-SIZE: 12pt; FONT-FAMILY: 'Times New Roman';
mso-fareast-font-family: 'Times New Roman'; mso-ansi-language: EN-US;
mso-fareast-language: EN-US; mso-bidi-language: AR-SA">--Michael
Thielen</SPAN>
<SPAN style="FONT-SIZE: 12pt; FONT-FAMILY: 'Times New Roman';

mso-fareast-font-family: 'Times New Roman'; mso-ansi-language: EN-US;
mso-fareast-language: EN-US; mso-bidi-language: AR-SA">Executive
Director
RNLA</SPAN>
<SPAN style="FONT-SIZE: 12pt; FONT-FAMILY: 'Times Ne
w Roman';
mso-fareast-font-family: 'Times New Roman'; mso-ansi-language: EN-US;
mso-fareast-language: EN-US; mso-bidi-language:
AR-SA">703-719-6335</SPAN>

-------- Original Message --------
Subject
: RE: RNLA Judicial
Advocacy Panel Active
From: Craig S Burkhardt
<csburkhardt@sorlinglaw.com>
Date: Mon, February 10, 2003 8:38
am
To: "'Brett_M._Kavanaugh@who.eop.gov'"
<Brett_M._Kavanaugh@who.eop.gov>

<META content="MS Exchange&#1
0; Server version 5.5.2653.12" name=Generator>
<FONT size=2>Brett:</FONT>
<FONT size=2>Michael Thielen is sending out the call-in details
today. You will need to place a call into the conference. Try
to be on 2 minutes early. It will last 30 minutes, and the program
is as follows:</FONT>
<FONT size=2>Burkhardt   &n
bsp;
        3 Minutes of opening
remarks.</FONT>
<FONT size=2>Benetiz

       5 Minutes to describe panel
operations.</FONT>
<FONT size=2>Miranda
       5 Minutes of Senate
perspective.</FONT>
<FONT
size=2>Kavanaugh
       5 Minutes. You should
talk about how important effort is to the President. What kind of
issues you would

        like stressed, etc.</FONT>
<FONT
size=2>Wiley/Fahrenkopf
5 Minutes. Co-Chair Remarks.</FONT>
<FONT
size=2>Burkhardt
        2 Minutes Closing/Estrada
remarks.</FONT>
<FONT size=2>There are currently 105 members on the panel,
and we are
adding about 25 more early this week to fill-in some markets and add some
higher-profile members in larger markets.</FONT>
<FONT size=2>Regards,</FONT
>
<FONT size=2>Craig</FONT>
<FONT
size=2>217-544-1144 </FONT>
<FONT size=2>-----Original Message-----</F
ONT>
<FONT size=2>From:
Brett_M._Kavanaugh@who.eop.gov</FONT>
<FONT size=2>[<A
href="mailto:Brett_M._Kavanaugh@who.eop.gov">mailto:Brett_M._Kavanaugh@who.eop.
gov</A>]</FONT>

<FONT size=2>Sent: Sunday, February 09, 2003 5:50 PM</FONT>
<FONT
size=2>To: Craig S Burkhardt</FONT>
<FONT size=2>Subject: Re: RNLA
Judicial Advocacy Panel Active</FONT>

<FONT size=2>I can do this.
 Please give me details when you get a
chance.</FONT>

<FONT
size=2>
            &
nbsp;   &n
bsp;   &nb
sp;   &nbs
p;
</FONT>
<FONT
size=2> (Embedded   &nb
sp;   &nbs
p;
;

</FONT>
<FONT size=2> image moved   Craig S Burkhardt
<csburkhardt@sorlinglaw.com>
</FONT>
<FONT size=2> to file:
02/03/2003 10:03:52
AM
;

</FONT>
<FONT
size=2> pic02529.pcx)
;
             &
nbsp;   &n
bsp;
</FONT>
<FONT
size=2>
             &
nbsp;   &n
bsp;   &nb

sp;   &nbs
p;
</FONT>

<FONT size=2>Record Type: Record</FONT>

<FONT size=2>To: Brett M. Kavanaugh/WHO/EOP@EOP</FONT>
<FONT size=2>cc:</FONT>
<FONT size=2>Subject: RNLA Judicial
Advocacy Panel Active</FONT>

<FONT size=2>Brett:</FONT>
<FONT size=2>The list of the judicial advocacy panel members is now
active on our web</FONT>
<FONT size=2>site. The panel will begin
work this week. You can review the membership</FONT>
<FONT
size=2>by clicking <A href="http://www.republicanlawyer.com/Speakers.asp"
target=_blank>http://www.republicanlawyer.com/Speakers.asp</A>.
These are the</FONT>
<FONT size=2>people who will be responding to
press inquiry seeking practicing attorney</FONT>
<FONT size=2>comments
on the nominees. We will also be inserting them into talk
radio,</FONT>
<FONT size=2>etc.</FONT>
<FONT size=2>We will have a 30-m
inute conference call of all 98 panel
members on February</FONT>
<FONT size=2>11 at 2:00 p.m. your
time. We would like to have someone from your office,</FONT>

<FONT size=2>preferably Gonzales or you, make 5 minutes of encouraging
comments. Please</FONT>
<FONT size=2>let me know who can
participate. I'm also inviting Miranda and someone from</FONT>

<FONT size=2>the political office to participate.</FONT>
<FONT size=2>R
egards,</FONT>
<FONT size=2>Craig Burkhardt</FONT>

<FONT size=2>217-544-1144</FONT>

From: White House Press Office <Press.Releases@Whitehouse.Gov>
To: Elizabeth H. Donnan Press Releases/WHO/EOP@EOP [WHO] <Elizabeth H. Donnan Press Releases>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 2/10/2003 8:07:46 AM
Subject: : POOL REPORT #1, 02-10-03

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:White House Press Office <Press.Releases@Whitehouse.Gov> ( White House Press Office
<Press.Releases@Whitehouse.Gov> [ UNKNOWN ] )
CREATION DATE/TIME:10-FEB-2003 13:07:46.00
SUBJECT:: POOL REPORT #1, 02-10-03
TO:Elizabeth H. Donnan Press Releases ( CN=Elizabeth H. Donnan Press Releases/OU=WHO
/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Pool Report #1
Andrews to Opryland Hotel


No news. Scott gaggled aboard AF1. transcript coming.
Due to weather, POTUS motorcaded from the WH to Andrews. Upon arrival,
Karl
Rover also emerged from the president's SUV.

Ed Chen
L.A. Times
202-255-4476
```

From: CN=Arthur B. Applegate/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Emory Rounds/WHO/EOP@EOP [WHO] <Emory Rounds>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>
Sent: 2/10/2003 8:23:59 AM
Subject: : Hatch Act Crib Sheet
Attachments: P_BQURD003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Arthur B. Applegate (CN=Arthur B. Applegate/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-FEB-2003 13:23:59.00
SUBJECT:: Hatch Act Crib Sheet
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Emory Rounds (CN=Emory Rounds/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Hi Brett,

As part of the overall and continuous process of ethics training, we are in the process of creating crib sheets, along with corresponding wallet size cards, on various topics. If a crib sheet is double sided the corresponding wallet size card is a summary of the material, as opposed to a reprint of the crib sheet, due to the size constraints of the card.

Emory Rounds (a fellow detailee) and I have roughed out a draft Hatch Act crib sheet using some of your previous guidance along with other general material. Since the Hatch Act is in your portfolio and expertise, Nanette, Emory and I would appreciate your input and comments. As you know, it is difficult to cover a lot of points in limited space so we wanted to hit some key points that would be applicable to all White House staff while sending a clear message of the importance of the Hatch Act.

A particular point that we would greatly appreciate your comment on is in the third bullet from the bottom. We are thinking of replacing the words " pending White House matters" with " matters pending before the Administration." As always, your guidance and input is greatly appreciated. The wallet size cards allow for 21 lines per side so there is still room to add a short bullet point or two. Thank you.

Bryant

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_BQURD003_WHO.TXT_1>

POLITICAL ACTIVITIES (HATCH ACT) GUIDANCE

- An activity or event is "political" if it is conducted for a partisan election or campaign, or for a political party. Classify an event as "political" or "official" objectively, not based on any possible political ramifications. If speaking at an official event, you **may not** expressly advocate a candidate's election.
- Subject to prohibitions such as those on improper use of an official title and solicitation of contributions, you **may** vote, participate in political organizations and campaigns, make political contributions and attend fundraisers, and serve as a political party officer or as a political convention delegate.
- You **may not** solicit, receive, or accept political contributions; host a political fundraiser; or, regardless of your government position, conduct political fundraising on government property.
- However, **if (and only if)** you are a staff member whose government duties are "24/7", i.e., continue after normal duty hours and away from the normal duty post, you **may** engage in political activity—such as party or campaign related meetings or telephone calls—while on duty, or in a government building or vehicle, so long as it does not interfere with official duties. But, the political entity must pay any non-incidental costs associated with such activity.

- You **may** speak at a political fundraiser, and be listed on the event invitation as a speaker or guest, but your official government title **may not** be used either on the invitation or during your introduction.
- You **may not** use your official authority to interfere with or affect the result of an election, or to coerce any person to engage in political activity.
- You **may not** travel on corporate or private aircraft for political trips, but you **may** travel on a charter aircraft leased by a political entity.
- You **may not** promise government employment or any other benefit in exchange for political activity; threaten employment loss for political activity; or solicit or accept anything of value to obtain public office for another.
- You **may not** solicit, accept, or receive uncompensated volunteer services from a subordinate employee or from a company with pending White House matters.
- Beware of the government e-mail system; a widely circulated message seeking support for a candidate may violate the Hatch Act. Each case depends on its own facts, but act with caution and discretion when using government property.
- Penalties for violations include suspension or removal from office, and possible criminal penalties under various statues (depending on the violation).

White House Counsel's Office – 202-456-2608

From: Robinson, Josephine B.

To: Andrew Card <Andrew Card@EOP>;Andrew Card <Osi - Strategic Initiatives>;Andrew Card <Iga Intergovernmental Affairs>;Andrew Card <Bennett, Melissa S.>;Andrew Card <Litkenhaus, Colleen>;Andrew Card <Mallea, Jose>;Andrew Card <Davis, Ashley E.>;Andrew Card <Gambatesa, Linda M.>;Andrew Card <Gottesman, Blake>;Andrew Card <Estes, Ashley>;Andrew Card <Heiden, Debra>;Andrew Card <Lineberry, Laura E.>;Andrew Card <Barnett, Cheryl E.>;Andrew Card <Gray, Ann>;Andrew Card <Miers, Harriet>;Andrew Card <Cleveland, Carolyn E.>;Andrew Card <Bowen, Stuart W.>;Andrew Card <Barclay, Barbara A.>;Andrew Card <Bird, Debra D.>;Andrew Card <Figg, Kara G.>;Andrew Card <Blakeman, Bradley A.>;Andrew Card <Hanusa, Mary Ann>;Andrew Card <Jacanin, Marilyn R.>;Andrew Card <Draper, Eric>;Andrew Card <Hager, Katharina M.>;Andrew Card <Davis, Michael>;Andrew Card <Davis, Jennifer L.>;Andrew Card <Morse, Paul L>;Andrew Card <Sterner, Susan L.>;Andrew Card <Alix, Cathy>;Andrew Card <Evans, Sandra K.>;Andrew Card <Sechser, Scott D.>;Andrew Card <Marshall, Misty C.>;Andrew Card <Chambers, Shane P.>;Andrew Card <Campbell, Sarah>;Andrew Card <Dickey, Lana>;Andrew Card <Williams, Sherman A.>;Andrew Card <Silverberg, Kristen>;Andrew Card <Kaplan, Joel>;Andrew Card <Bolten, Joshua B.>;Andrew Card <Hagin, Joseph W>;Andrew Card <Vestewig, Lauren J.>;Andrew Card <Smith, Marty P.>;Andrew Card <Spellings, Margaret M.>;Andrew Card <Gillmor, Eleanor L.>;Andrew Card <Davie, Jill>;Andrew Card <Garvin, Dorothy C>;Andrew Card <Powell, Dina>;Andrew Card <Hobbs, David W.>;Andrew Card <Ojakli, Ziad>;Andrew Card <Ritacco, Krista L.>;Andrew Card <Rodriguez, Noelia>;Andrew Card <Medina, Sonya E.>;Andrew Card <Barfield, Tiffany L.>;Andrew Card <Figg, Jeanie L.>;Andrew Card <Fenton, Catherine S.>;Andrew Card <Hirsch, Josephine L.>;Andrew Card <Johnston, Megan R.>;Andrew Card <Ball, Andrea G.>;Andrew Card <Francisco, Noel J.>;Andrew Card <Kavanaugh, Brett M.>;Andrew Card <Montgomery, Brian D.>;Andrew Card <Ray, Craig>;Andrew Card <Beyer, Todd W.>;Andrew Card <Linder, Stephanie E.>;Andrew Card <Heath, Michael>;Andrew Card <Lawlor, Laura S.>;Andrew Card <Besanceney, Brian R.>;Andrew Card <Healy, Erin E.>;Andrew Card <Young, Tracy>;Andrew Card <Jones, Brian C.>;Andrew Card <Walsh, Edmund A.>;Andrew Card <Neusner, Noam M.>;Andrew Card <Devenish, Nicolle>;Andrew Card <Viana, Mercedes M.>;Andrew Card <Mamo, Jeanie S.>;Andrew Card <Lisaius, Kenneth A.>;Andrew Card <Stanzel, Scott>;Andrew Card <Griffin, William T.>;Andrew Card <Eskew, Tucker A.>;Andrew Card <Nipper, Wendy L.>;Andrew Card <Middlemas, A. Morgan>;Andrew Card <West, Christal R.>;Andrew Card <Marsh, Robert>;Andrew Card <Holbrook, Ashley>;Andrew Card <Morse, Paul L>;Andrew Card <Fleischer, Lawrence A.>;Andrew Card <McClellan, Scott>;Andrew Card <Buchan, Claire>;Andrew Card <Deckard, Josh>;Andrew Card <Cassano, Lois A.>;Andrew Card <Ciafardini, Andrew D.>;Andrew Card <Drummond, Ashley D.>;Andrew Card <Carstensen, Distie>;Andrew Card <Rowley, Jill C.>;Andrew Card <Good, Terry W.>;Andrew Card <Bridgeland, John M.>;Andrew Card <Christie, Ronald I.>;Andrew Card <Grant, Britt>;Andrew Card <Kozberg, Lindsey C.>;Andrew Card <Wendel, Matthew L.>;Andrew Card <White, Jeremy L.>;Andrew Card <McCormack, Brian V.>;Andrew Card <Field, Jennifer D.>;Andrew Card <Millerwise, Jennifer>;Andrew Card <Addington, David S.>;Andrew Card <O'Donnell, Claire M.>;Andrew Card <Kleppe, Elizabeth W.>;Andrew Card <Branch, Lisa D.>;Andrew Card <Hadley, Stephen J.>;Andrew Card <Edson, Gary R.>;Andrew Card <Waxman, Matthew C.>;Andrew Card <Gray, Wendy E.>;Andrew Card <Daniels, Mitchell>;Andrew Card <Keller, Karen E.>;Andrew Card <Capretta, James C.>;christopher_m._marston@who.eop.gov <christopher_m._marston@who.eop.gov>;christopher_m._marston@who.eop.gov <Lefkowitz, Jay P.>;christopher_m._marston@who.eop.gov <Hall, Philo D.>;christopher_m._marston@who.eop.gov <Gilbert, Alan>;christopher_m._marston@who.eop.gov <Suarez, Aquiles F.>;christopher_m._marston@who.eop.gov <Skelly, Layton>;christopher_m._marston@who.eop.gov <Wilson, Christina C.>;christopher_m._marston@who.eop.gov <Winland, Emily>;christopher_m._marston@who.eop.gov <Bonilla, Carlos E.>;christopher_m._marston@who.eop.gov <Johnson III, Clay>;christopher_m._marston@who.eop.gov <Paulus, Richard S.>;christopher_m._marston@who.eop.gov <Opa - Political Affairs>

Sent: 2/10/2003 1:15:15 PM

Subject: Adios Mis Amigos

Friends,

My time here is coming to an end. Friday, February 14th is my last day and I didn't want to miss the opportunity to say goodbye to each and every one of you. This has been the most memorable two years of my professional life for many reasons, one of which is the chance to work alongside such wonderful people. Many of you were incredibly kind to me during my recuperation from surgery and I will never forget your prayers, support and friendship.

I'm just hopping over to HHS, and for a short time, will temporarily head up the President's HIV and AIDS council, but look forward to some form of communication with you all as I continue working on the President's healthcare agenda.

I haven't confirmed my direct phone number at HHS yet, but can be reached on my cell (202/246-6384) if there are White House issues that need my assistance or you just want to drop a line. My home info remains the same and I truly look forward to the occasional call. Please don't be strangers.

Continue to take care of yourself and the President. I have never met and worked with a better group of people.

Blessings to all,

Josephine

From: CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO]
To: Heather Wingate/WHO/EOP@Exchange [WHO] <Heather Wingate>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/10/2003 10:59:27 AM
Subject: : FW: MEDIA COMMENTARY: News from Outside the Beltway 02/10

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:10-FEB-2003 15:59:27.00
SUBJECT:: FW: MEDIA COMMENTARY: News from Outside the Beltway 02/10
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

-----Original Message-----
From: Hamilton, Parker B.
Sent: Monday, February 10, 2003 3:55 PM
To: Bartlett, Daniel J.; Jackson, Barry S.; Rove, Karl C.; Fleischer, Lawrence A.; Buchan, Claire ; Wilkinson, James R.; Gerson, Michael J.; Wehner, Peter H.; Perez, Anna M.; McCormack, Sean I.; Westine, Lezlee J.; Clark, Alicia P.; Martin, Catherine J.; Barrales, Ruben S.; Rodriguez, Noelia ; Ralston, Susan B.; Sullivan, Mark J.; Osi - Strategic Initiatives; Opa - Political Affairs; Camp, Elizabeth N.; Johnson III, Clay ; Office Of Media Affairs; McQuade, Vickie A.; Holman, Mark; Neely, Susan K.; Ritacco, Krista L.; McClellan, Scott ; Levine, Adam L.; Hernandez, Israel; Johndroe, Gordon D.; Snee, Ashley; Neely, Susan K.; Dickens, Reed; Hughes, A. Merrill; Kuo, David; Towey, Jim; Millerwise, Jennifer; Mehlman, Ken; Hennessey, Keith; Rule, Natalie; DeFrancis, Suzy; Poe, Alexia; Cooper, Colby J.; Donnan, Elizabeth H.; karen@georgewbush.com; Burkhart, Shannon; Besanceney, Brian R.
Subject: MEDIA COMMENTARY: News from Outside the Beltway 02/10

MEDIA COMMENTARY: News from Outside the Beltway
February 7-10, 2003
What they,re saying about:

Judicial Nominees

Atlanta Journal-Constitution (02/10/03): &Miguel Estrada, a Harvard-educated lawyer who has argued 15 cases before the U.S. Supreme Court, is well qualified for the federal appellate bench. Democrats, who are threatening to stall a vote on this confirmation, are choosing the wrong target.8

Detroit News, editorial (02/10/03): &The level of obstruction his nomination has faced has been truly extraordinary. Michigan Sens. Carl Levin and Debbie Stabenow -- who are running their own vendetta in blocking four Bush nominees to the Court of Appeals in Cincinnati -- shouldn't be a part of it. That would be an insult to their Hispanic constituents. Estrada should have his nomination put up for an ordinary vote, as have all of his predecessors. If he loses, fair enough. But a filibuster would signal an unreasonable posture by Democratic senators that could have long-term -- and damaging -- consequences for how business is conducted in the U.S. Senate.8

SFGate.com, op-ed by Adam Sparks (02/10/03): &A cabal of the usual suspects -- abortion rights advocates, enviro-activists, civil rights groups and organized labor -- is attacking President Bush's nomination choices for the federal bench. Do these groups all share the same board of directors? They all march in lockstep. What they have in common is that they don't like independent judges who won't toe the Democratic Party line.8 SFGate.com is the website run by the San Francisco Chronicle.

Orange County Register, editorial (02/09/03): &Senate Democrats and liberal interest groups have adopted a despicable strategy of character assassination against some Bush administration judicial selections. The latest victim is Miguel Estrada, a well-qualified nominee to the U.S. Court of Appeals for the D.C. Circuit and potential Supreme Court nominee in the future. He is facing a possible filibuster from Democrats who do not even want his nomination brought to a vote. In a less partisan atmosphere, Mr. Estrada would be a noncontroversial nominee to the appeals court.8

Tampa Tribune, editorial (02/08/03): &We suspect [that Democrats threatening to filibuster Estrada] will fail because some sane Democrats in the Senate, such as Louisiana's John Breaux, have said they would not support a filibuster. We hope that other moderates, like Florida's Bob Graham and Bill Nelson, come around. Estrada needs only 50 votes for confirmation, but to stop a filibuster, the Republicans would need 60. So let the Democrats try if they dare. The judiciary was a major theme in the last election. Let's see how they will explain to voters how subverting the confirmation process with a months-long delay is in the public good.8

Florida Times-Union (02/08/03): &Liberals worry that Estrada will prove himself worthy of someday becoming the first Hispanic on the U.S. Supreme Court -- a position that would make him, and perhaps his moderate philosophy, a role model for young Hispanics nationwide. They fear that might hurt them politically. The founders, however, tried to isolate the courts from politics. Fanaticism will serve only to alienate the party further from the public.8

St. Louis Post-Dispatch, editorial (02/07/03): &In short, the Democratic position doesn't justify a filibuster. Instead, Democrats should reach out to Republicans and try to develop a bipartisan truce that gives judges prompt, but thorough, hearings that will speed the important process of filling the many vacancies on the federal bench.8

Pittsburgh Post-Dispatch, editorial (02/07/03): &This tit-for-tat is bad for the courts, including the Supreme Court. And it's risky for both parties. By using judicial appointments to shore up its base, the White House gives credence to Democratic claims that all Bush nominees are extremists. And by seeming to oppose every Bush appointment, Democrats risk being accused of crying wolf when a truly extreme nominee is proposed. A truce is in everyone's interest.8

Rochester (NY) Democrat and Chronicle, editorial (02/07/03): &The Democrats know Estrada's legal record, and it's a good one. To suggest that he needed to answer the questions to establish his credentials is disingenuous. There's more than enough known about Estrada for an up-or-down floor vote. A filibuster could make partisanship history - never before has the Senate prevented a lower-court confirmation via filibuster. The Democrats have a duty to ask tough questions and to base their votes on the answers, or lack of them. But they also have a duty to live by the final tally - not delay its taking with divisive filibuster.8

War with Iraq

Fresno Bee, editorial (02/10/03): &Reports that the Bush administration is developing plans for the possible use of low-yield nuclear weapons in pre-emptive strikes against underground targets in Iraq are raising concerns in Washington. (Understandably, the administration believes it must adapt national security strategy to new circumstances in which those who threaten this country have no compunctions about using the most terrible means in pursuit of their aims. But if Bush expands a dubious pre-emptive strike policy to include the use of nuclear weapons, he would increase the likelihood that the nuclear anarchy the world has avoided for a half-century would flourish.8

The Budget

Springfield (MA) Union-News & Sunday Republican, editorial (02/10/03): &A White House plan to make it easier for workers to save more of their money without incurring taxes was unveiled several days before the delivery of the fiscal 2004 budget, in part, so that the proposal would not be buried beneath the avalanche of documents that make up the new spending plan. (Those who are thinking ahead to retirement or are worried about funding their children's college education or families simply planning for a rainy day would all have reason to cheer the set of plans to increase tax-free savings. (The plan could well increase savings by simplifying what is currently a complex web of plans. That's indisputably good. But it is focusing on only a part of the picture: those with money to save in the first place. The administration, especially in the current economy, needs to take a serious look at proposals that would have an impact on everyone else, as well.8

Savannah Morning News, editorial (02/10/03): &When the White House released the president's fiscal 2004 budget proposal last week, it included a record projected deficit of $307 billion -- a steep reversal of the budget surpluses the country briefly enjoyed around the turn of the century. The reasons for the deficits are largely the inverse of how we achieved the surpluses. A booming economy and a nation at relative peace in the mid-1990s fueled a massive increase in federal revenues. The economic slump and 9/11 combined to turn the black ink into a sea of red. (The economy and war are by no means the only reasons for the bigger budget. The White House proposes increasing non-defense, discretionary (non-entitlement) spending by 4 percent, a figure likely to jump after congressional appropriators get their hands on it. In a time of impending war with Iraq (and an ongoing war on terrorism), Mr. Bush clearly has refused to concede much in domestic spending. He has made defense a (worthy) priority but failed to make cuts elsewhere to offset war-related spending.8

Iowa State Daily, editorial (02/10/03): &On Feb. 3 President Bush laid out a $2.23 trillion budget for the coming fiscal year. The proposed budget outline is set to plunge the United States in to the deepest debt it has ever seen, bottoming out at a $307 billion deficit. This even tops former President Bush's record of $290 billion, set back in 1992. The new budget calls for roughly $500 million for NASA spending, a rise set prior to the Columbia tragedy. Also included in the bill is a 7.6 percent increase in non-defense-related homeland security, a $15 billion increase in military spending and hundreds of billions in tax cuts. (All in all, Bush's budget is fundamentally flawed. Forcing the country deeper in to debt, without even factoring in action in Iraq, could cause the worst economic downturn this country has seen since the sock market crash of 1929 and the ensuing Great Depression. Hundreds of billions in tax cuts are not the answer to the country's current recession, especially when the cuts benefit those who do not even really need the money.8

AIDS

New Haven Register, editorial (02/10/03): &The president,s proposal offers the first real hope for saving millions in sub-Sahara Africa. About 28.5 million people are infected with the AIDS virus, but only 20,000 to 30,000 Africans are receiving anti-viral drug treatment. It is estimated more than 4 million need immediate treatment if their lives are to be saved or prolonged. (America,s obligation to help the world,s needy is an important and long-standing element of U.S. foreign policy. It deserves recognition as antiwar protesters denounce what they consider an ugly America.8

Environment

St. Paul Pioneer Press, editorial (02/10/03): &When President Bush says he wants to put your money on development of hydrogen-fueled cars as a key environmental initiative for years far down the road, he diverted attention from here-and-now options to reduce pollution, dependence of foreign oil and build jobs in corn and soybean states like Minnesota and Wisconsin. (The administration could actively back moving American

hybrid cars to market more quickly and supporting local programs like the hOurCars initiative here that will bring hybrids for hourly rental into urban neighborhoods. Hybrids, propelled by a combination of gasoline and electricity, are poised to reach critical mass in the American market. (The administration has resisted reasonable increases for average fuel economy standards in vehicles * the single most effective tool for reducing foreign oil dependency. The administration should support higher average fuel economy standards.8

Medicaid

Boston Herald, editorial (02/10/03): &The costly Medicaid program is busting federal and state budgets alike and having a former governor in the big office down at the federal Department of Health and Human Services trumpeting reform can be a real plus when states are facing huge budget shortfalls and have to grapple with burdensome federal mandates. (Bush promises an additional $13 billion over seven years, but whether this is a net benefit to Massachusetts depends on which states get the bulk of the new money and that will be determined by a formula which in turn will be determined by the legislative process in Congress. Inevitably, a congressional formula fight means regional politics - and power - will come into play. New England, traditionally a generous, but high-cost, provider of health care to the poor could lose out in a formula fight dominated by more powerful regional interests in Congress.8

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/10/2003 11:50:42 AM
Subject: : nominations

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:10-FEB-2003 16:50:42.00
SUBJECT:: nominations
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

do you anticipate any nominations for this week?
;
also, you have any of the CA9 - ID bios/resumes available for the JSC
binder?
;
Patrick J. Bumatay
Office of Counsel to the President
o: 202-456-5214
f: 202-456-6279
mainline: 202-456-2632
;
```

From: Snee, Ashley
To: <Kavanaugh, Brett M.>;<Wingate, Heather>
Sent: 2/10/2003 3:59:15 PM
Subject: FW: MEDIA COMMENTARY: News from Outside the Beltway 02/10

-----Original Message-----

From: Hamilton, Parker B.

Sent: Monday, February 10, 2003 3:55 PM

To: Bartlett, Daniel J.; Jackson, Barry S.; Rove, Karl C.; Fleischer, Lawrence A.; Buchan, Claire ; Wilkinson, James R.; Gerson, Michael J.; Wehner, Peter H.; Perez, Anna M.; McCormack, Sean I.; Westine, Lezlee J.; Clark, Alicia P.; Martin, Catherine J.; Barrales, Ruben S.; Rodriguez, Noelia ; Ralston, Susan B.; Sullivan, Mark J.; Osi - Strategic Initiatives; Opa - Political Affairs; Camp, Elizabeth N.; Johnson III, Clay ; Office Of Media Affairs; McQuade, Vickie A.; Holman, Mark; Neely, Susan K.; Ritacco, Krista L.; McClellan, Scott ; Levine, Adam L.; Hernandez, Israel; Johndroe, Gordon D.; Snee, Ashley; Neely, Susan K.; Dickens, Reed; Hughes, A. Merril; Kuo, David; Towey, Jim; Millerwise, Jennifer; Mehlman, Ken; Hennessey, Keith; Rule, Natalie; DeFrancis, Suzy; Poe, Alexia; Cooper, Colby J.; Donnan, Elizabeth H.; karen@georgewbush.com; Burkhart, Shannon; Besanceney, Brian R.

Subject: MEDIA COMMENTARY: News from Outside the Beltway 02/10

MEDIA COMMENTARY: News from Outside the Beltway

February 7-10, 2003

What they're saying about:

Judicial Nominees

Atlanta Journal-Constitution (02/10/03): "Miguel Estrada, a Harvard-educated lawyer who has argued 15 cases before the U.S. Supreme Court, is well qualified for the federal appellate bench. Democrats, who are threatening to stall a vote on this confirmation, are choosing the wrong target."

Detroit News, editorial (02/10/03): "The level of obstruction his nomination has faced has been truly extraordinary. Michigan Sens. Carl Levin and Debbie Stabenow -- who are running their own vendetta in blocking four Bush nominees to the Court of Appeals in Cincinnati -- shouldn't be a part of it. That would be an insult to their Hispanic constituents. Estrada should have his nomination put up for an ordinary vote, as have all of his predecessors. If he loses, fair enough. But a filibuster would signal an unreasonable posture by Democratic senators that could have long-term -- and damaging -- consequences for how business is conducted in the U.S. Senate."

SFGate.com, op-ed by Adam Sparks (02/10/03): "A cabal of the usual suspects -- abortion rights advocates, enviro-activists, civil rights groups and organized labor -- is attacking President Bush's nomination choices for the federal bench. Do these groups all share the same board of directors? They all march in lockstep. What they have in common is that they don't like independent judges who won't toe the Democratic Party line." *SFGate.com is the website run by the San Francisco Chronicle.*

Orange County Register, editorial (02/09/03): "Senate Democrats and liberal interest groups have adopted a despicable strategy of character assassination against some Bush administration judicial selections. The latest victim is Miguel Estrada, a well-qualified nominee to the U.S. Court of Appeals for the D.C. Circuit and potential Supreme Court nominee in the future. He is facing a possible filibuster from Democrats who do not even want his nomination brought to a vote. In a less partisan atmosphere, Mr. Estrada would be a noncontroversial nominee to the appeals court."

Tampa Tribune, editorial (02/08/03): "We suspect [that Democrats threatening to filibuster Estrada] will fail because some sane Democrats in the Senate, such as Louisiana's John Breaux, have said they would not support a filibuster. We hope that other moderates, like Florida's Bob Graham and Bill Nelson, come around. Estrada needs only 50 votes for confirmation, but to stop a filibuster, the Republicans would need 60. So let the Democrats try if they dare. The judiciary was a major theme in the last election. Let's see how they will explain to voters how subverting the confirmation process with a months-long delay is in the public good."

Florida Times-Union (02/08/03): "Liberals worry that Estrada will prove himself worthy of someday becoming the first Hispanic on the U.S. Supreme Court -- a position that would make him, and perhaps his moderate philosophy, a role model for young Hispanics nationwide. They fear that might hurt them politically. The founders, however, tried to isolate the courts from politics. Fanaticism will serve only to alienate the party further from the public."

St. Louis Post-Dispatch, editorial (02/07/03): "In short, the Democratic position doesn't justify a filibuster. Instead, Democrats should reach out to Republicans and try to develop a bipartisan truce that gives judges prompt, but thorough, hearings that will speed the important process of filling the many vacancies on the federal bench."

Pittsburgh Post-Dispatch, editorial (02/07/03): "This tit-for-tat is bad for the courts, including the Supreme Court. And it's risky for both parties. By using judicial appointments to shore up its base, the White House gives credence to Democratic claims that all Bush nominees are extremists. And by seeming to oppose every Bush appointment, Democrats risk being accused of crying wolf when a truly extreme nominee is proposed. A truce is in everyone's interest."

Rochester (NY) Democrat and Chronicle, editorial (02/07/03): "The Democrats know Estrada's legal record, and it's a good one. To suggest that he needed to answer the questions to establish his credentials is disingenuous. There's more than enough known about Estrada for an up-or-down floor vote. A filibuster could make partisanship history - never before has the Senate prevented a lower-court confirmation via filibuster. The Democrats have a duty to ask tough questions and to base their votes on the answers, or lack of them. But they also have a duty to live by the final tally - not delay its taking with divisive filibuster."

War with Iraq

Fresno Bee, editorial (02/10/03): "Reports that the Bush administration is developing plans for the possible use of low-yield nuclear weapons in pre-emptive strikes against underground targets in Iraq are raising concerns in Washington. … Understandably, the administration believes it must adapt national security strategy to new circumstances in which those who threaten this country have no compunctions about using the most terrible means in pursuit of their aims. But if Bush expands a dubious pre-emptive strike policy to include the use of nuclear weapons, he would increase the likelihood that the nuclear anarchy the world has avoided for a half-century would flourish."

The Budget

Springfield (MA) Union-News & Sunday Republican, editorial (02/10/03): "A White House plan to make it easier for workers to save more of their money without incurring taxes was unveiled several days before the delivery of the fiscal 2004 budget, in part, so that the proposal would not be buried beneath the avalanche of documents that make up the new spending plan. … Those who are thinking ahead to retirement or are worried about funding their children's college education or families simply planning for a rainy day would all have reason to cheer the set of plans to increase tax-free savings. … The plan could well increase savings by simplifying what is currently a complex web of plans. That's indisputably good. But it is focusing on only a part of the picture: those with money to save in the first place. The administration, especially in the current economy, needs to take a serious look at proposals that would have an impact on everyone else, as well."

Savannah Morning News, editorial (02/10/03): "When the White House released the president's fiscal 2004 budget proposal last week, it included a record projected deficit of $307 billion -- a steep reversal of the budget surpluses the country briefly enjoyed around the turn of the century. The reasons for the deficits are largely the inverse of how we achieved the surpluses. A booming economy and a nation at relative peace in the mid-1990s fueled a massive increase in federal revenues. The economic slump and 9/11 combined to turn the black ink into a sea of red. … The economy and war are by no means the only reasons for the bigger budget. The White House proposes increasing non-defense, discretionary (non-entitlement) spending by 4 percent, a figure likely to jump after congressional appropriators get their hands on it. In a time of impending war with Iraq (and an ongoing war on terrorism), Mr. Bush clearly has refused to concede much in domestic spending. He has made defense a (worthy) priority but failed to make cuts elsewhere to offset war-related spending."

Iowa State Daily, editorial (02/10/03): "On Feb. 3 President Bush laid out a $2.23 trillion budget for the coming fiscal year. The proposed budget outline is set to plunge the United States in to the deepest debt it has ever seen, bottoming out at a $307 billion deficit. This even tops former President Bush's record of $290 billion, set back in 1992. The new budget calls for roughly $500 million for NASA spending, a rise set prior to the Columbia tragedy. Also included in the bill is a 7.6 percent increase in non-defense-related homeland security, a $15 billion increase in military spending and hundreds of billions in tax cuts. … All in all, Bush's budget is fundamentally flawed. Forcing the country deeper in to debt, without even factoring in action in Iraq, could cause the worst economic downturn this country has seen since the sock market crash of 1929 and the ensuing Great Depression. Hundreds of billions in tax cuts are not the answer to the country's current recession, especially when the cuts benefit those who do not even really need the money."

AIDS

New Haven Register, editorial (02/10/03): "The president's proposal offers the first real hope for saving millions in sub-Sahara Africa. About 28.5 million people are infected with the AIDS virus, but only 20,000 to 30,000 Africans are receiving anti-viral drug treatment. It is estimated more than 4 million need immediate treatment if their lives are to be saved or prolonged. … America's obligation to help the world's needy is an important and long-standing element of U.S. foreign policy. It deserves recognition as antiwar protesters denounce what they consider an ugly America."

Environment

St. Paul Pioneer Press, editorial (02/10/03): "When President Bush says he wants to put your money on development of hydrogen-fueled cars as a key environmental initiative for years far down the road, he diverted attention from here-and-now options to reduce pollution, dependence of foreign oil and build jobs in corn and soybean states like Minnesota and Wisconsin. … The administration could actively back moving American hybrid cars to market more quickly and supporting local programs like the hOurCars initiative here that will bring hybrids for hourly rental into urban neighborhoods. Hybrids, propelled by a combination of gasoline and electricity, are poised to reach critical mass in the American market. … The administration has resisted reasonable increases for average fuel economy standards in vehicles — the single most effective tool for reducing foreign oil dependency. The administration should support higher average fuel economy standards."

Medicaid

Boston Herald, editorial (02/10/03): "The costly Medicaid program is busting federal and state budgets alike and having a former governor in the big office down at the federal Department of Health and Human Services trumpeting reform can be a real plus when states are facing huge budget shortfalls and have to grapple with burdensome federal mandates. … Bush promises an additional $13 billion over seven years, but whether this is a net benefit to Massachusetts depends on which states get the bulk of the new money and that will be determined by a formula which in turn will be determined by the legislative process in Congress. Inevitably, a congressional formula fight means regional politics - and power - will come into play. New England, traditionally a generous, but high-cost, provider of health care to the poor could lose out in a formula fight dominated by more powerful regional interests in Congress."

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>
Sent: 2/10/2003 12:35:46 PM
Subject: :

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-FEB-2003 17:35:46.00
SUBJECT::
TO:Theodore W. Ullyot (CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

DRAFT
5/21
4:00 P.M.

May 21, 2002

Dear Chairman Lieberman:

When we first spoke about the request of the Committee, I told you that the White House would cooperate to make appropriate information available to the Committee. I confirmed our cooperative approach in my letter to you of April 19, stating that we &support the Committee,s objective8 and would &assist the Committee by taking reasonable steps to gather certain information for the Committee.8

Since then, we have done so. As I wrote you on May 16, we already have taken numerous steps to gather information requested by the Committee. We are gathering and reviewing documents. We are gathering and reviewing e-mails. We are gathering and reviewing visitor entry records. We are interviewing individuals with relevant information. And we are preparing to respond soon to assist the Committee,s inquiry in a time frame we had originally discussed with your staff.

We respectfully believe, therefore, that the Committee would be acting precipitously -- and in a manner inconsistent with the traditional inter-Branch accommodation process -- by issuing a subpoena at this juncture in the inquiry.

The Committee,s approach also is in tension with the case law. The D.C. Circuit has held that Congress seldom needs a &precise reconstruction of past events8 in order to legislate. Senate Select Committee on Presidential Campaign Activities v. Nixon, 498 F.2d 725, 732 (D.C. Cir. 1974) (en banc). And even when Congress has authority to inquire, it may not intrude unduly on presidential prerogatives or demand all information within the scope of a presidential privilege. Rather, a committee must establish that &the subpoenaed evidence is demonstrably critical to the responsible fulfillment of the Committee,s functions.8 Id. at 731.

Most important for present purposes, the case law recognizes that, as here, there may be inter-Branch disputes about whether Congress has a sufficient predicate and, if so, whether it is unduly intruding on Executive Branch prerogatives. The case law recognizes, in particular, that the respective interests of the two Branches may conflict when Congress seeks to inquire into the activities of the Executive Branch -- especially when it seeks to inquire into activities of the Executive Office of the President and the Office of the Vice President. As the D.C. Circuit has stated:

The framers . . . expect[ed] that where conflicts in scope of authority arose between the coordinate branches, a spirit of dynamic compromise would promote resolution of the dispute in the manner most likely to

result in efficient and effective functioning of our governmental system. . . . [E]ach branch should take cognizance of an implicit constitutional mandate to seek optimal accommodation through a realistic evaluation of the needs of the conflicting branches in the particular fact situation. . . . The Constitution contemplates such accommodation. Negotiation between the two branches should thus be viewed as a dynamic process affirmatively furthering the constitutional scheme.

United States v. American Tel. & Tel. Co., 567 F.2d 121, 127, 130 (D.C. Cir. 1977) (emphasis added).

Consistent with this case law, we have taken extensive steps to accommodate the Committee,s request, as detailed above and in my letter of May 16. We have done so notwithstanding our doubts whether certain aspects of the Committee,s request are within the proper scope of its legislative authority and our further concerns that the Committee may be seeking to intrude inappropriately into the deliberative processes of the President and his advisors, particularly with respect to Presidential appointments and development of policy.

We respectfully do not believe that the Committee has similarly engaged in the process of dynamic compromise and optimal accommodation. In our meetings with you and your staff, the Committee has not attempted reasonably to clarify, define, prioritize, or otherwise accommodate our attempts to seek reasonable clarifications of the Committee,s request. The Committee,s failure to reasonably define its request is a factor that has affected the timing of the Committee,s receipt of information. We nonetheless have gathered substantial information and would be prepared soon to submit appropriate information to the Committee.

Your May 16 letter states that you would not seek a subpoena this week if I can assure you:

(1) [we] will promptly take steps to broaden the search along the lines discussed above and in the Committee,s May 3 letter in order to obtain all information sought in the Committee,s March 27 letter, and (2) [we] will provide the Committee all information sought in the Committee,s March 27 letter by the end of May.

As to your first condition, we believe we can satisfy you by submitting the Enron surveys to all employees of the Executive Office of the President and the Office of the Vice President. We contacted your staff on May 17 to offer the accommodation of circulating the survey to all such employees if you would withdraw the threat to seek a subpoena. We have yet to hear your response.

As to your second request, we think your demand premature. It would be irresponsible, in my judgment, for my Office to commit in advance to provide information to Congress before we have reviewed it to assess whether disclosure would be inconsistent with the effective operation and long-term institutional prerogatives of the Presidency. Let me emphasize, however, that we have no intention of unnecessarily provoking a confrontation with the Committee. We simply believe it unusual and inappropriate for a congressional committee to threaten a subpoena simply because the President,s counsel has not committed in advance to provide the Committee every shred of information -- no matter how sensitive to the Presidency, no matter how extraneous to the Committee,s inquiry.

In sum, I respectfully suggest that you reconsider and withdraw the threat of a subpoena until, at a minimum, you can review the information we intend to provide soon to the Committee.

Sincerely,

Alberto R. Gonzales
Counsel to the President

The Honorable Joseph I. Lieberman
United States Senate
Washington, DC 20510

cc: The Honorable Fred Thompson

From: Gumerson, Katie (RPC) <Katie_Gumerson@RPC.Senate.Gov>
To: Stephen Higgins (E-mail) <IMCEACCMAIL-Stephen+20Higgins+20at+20Judiciary"@routing.senate.gov>;Pat. O'Brien@usdoj. gov (E-mail) <Pat.O'Brien@usdoj.gov>;Matthew Kirk/WHO/EOP@EOP [WHO] <Matthew Kirk>;John Abegg (E-mail) <IMCEACCMAIL-John+20Abegg+20at+20McConnell-DC"@routing.senate.gov>;Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>;Brown, Jamie E (E-mail) <jamie.e.brown@usdoj.gov>;Barbara Ledeen (E-mail) <barbara_ledeen@src.senate.gov>;Rena Johnson (E-mail) <IMCEACCMAIL-Rena+20Johnson+20at+20Judiciary"@routing.senate.gov>;Matt Letourneau <matthew_letourneau@judiciary.senate.gov>;Manuel Miranda (E-mail) <IMCEACCMAIL-Manuel+20Miranda+20at+20Judiciary"@routing.senate.gov>;Jason Lundell (E-mail) <IMCEACCMAIL-Jason+20Lundell+20at+20Judiciary"@routing.senate.gov>;Gary Andres (E-mail) <gary.andres@dutkogroup.com>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Alex Dahl (E-mail) <IMCEACCMAIL-Alex+20Dahl+20at+20Judiciary"@routing.senate.gov>
Sent: 2/10/2003 12:40:14 PM
Subject: : FW: RPC Paper - Denying Mr. Estrada an Up-or-Down Vote
Attachments: P_XTBSD003_WHO.TXT_1.wpd

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Gumerson, Katie (RPC)" <Katie_Gumerson@RPC.Senate.Gov> ( "Gumerson, Katie (RPC)"
<Katie_Gumerson@RPC.Senate.Gov> [ UNKNOWN ] )
CREATION DATE/TIME:10-FEB-2003 17:40:14.00
SUBJECT:: FW: RPC Paper - Denying Mr. Estrada an Up-or-Down Vote
TO:"Stephen Higgins (E-mail)" <"IMCEACCMAIL-
Stephen+20Higgins+20at+20Judiciary"@routing.senate.gov> ( "Stephen Higgins (E-mail)"
<"IMCEACCMAIL-Stephen+20Higgins+20at+20Judiciary"@routing.senate.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Pat. O'Brien@usdoj. gov (E-mail)" <Pat.O'Brien@usdoj.gov> ( "Pat. O'Brien@usdoj. gov
(E-mail)" <Pat.O'Brien@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:Matthew Kirk ( CN=Matthew Kirk/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:"John Abegg (E-mail)" <"IMCEACCMAIL-John+20Abegg+20at+20McConnell-
DC"@routing.senate.gov> ( "John Abegg (E-mail)" <"IMCEACCMAIL-
John+20Abegg+20at+20McConnell-DC"@routing.senate.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:"Brown, Jamie E (E-mail)" <jamie.e.brown@usdoj.gov> ( "Brown, Jamie E (E-mail)"
<jamie.e.brown@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Barbara Ledeen (E-mail)" <barbara_ledeen@src.senate.gov> ( "Barbara Ledeen (E-mail)"
<barbara_ledeen@src.senate.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Rena Johnson (E-mail)" <"IMCEACCMAIL-
Rena+20Johnson+20at+20Judiciary"@routing.senate.gov> ( "Rena Johnson (E-mail)"
<"IMCEACCMAIL-Rena+20Johnson+20at+20Judiciary"@routing.senate.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:Matt Letourneau <matthew_letourneau@judiciary.senate.gov> ( Matt Letourneau
<matthew_letourneau@judiciary.senate.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Manuel Miranda (E-mail)" <"IMCEACCMAIL-
Manuel+20Miranda+20at+20Judiciary"@routing.senate.gov> ( "Manuel Miranda (E-mail)"
<"IMCEACCMAIL-Manuel+20Miranda+20at+20Judiciary"@routing.senate.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Jason Lundell (E-mail)" <"IMCEACCMAIL-
Jason+20Lundell+20at+20Judiciary"@routing.senate.gov> ( "Jason Lundell (E-mail)"
<"IMCEACCMAIL-Jason+20Lundell+20at+20Judiciary"@routing.senate.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Gary Andres (E-mail)" <gary.andres@dutkogroup.com> ( "Gary Andres (E-mail)"
<gary.andres@dutkogroup.com> [ UNKNOWN ] )
READ:UNKNOWN
```

TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:"Alex Dahl (E-mail)" <"IMCEACCMAIL-Alex+20Dahl+20at+20Judiciary"@routing.senate.gov> (
"Alex Dahl (E-mail)" <"IMCEACCMAIL-Alex+20Dahl+20at+20Judiciary"@routing.senate.gov> [
UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

> This RPC paper will also be available on the Trunkline (http:\\GOP) and
in SR-347.
>
>
>
> > <<JUDICIARYsd021003 - e-mail copy.wpd>>
- JUDICIARYsd021003 - e-mail copy.wpd
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_XTBSD003_WHO.TXT_1>

U.S. SENATE Established 1947
Republican Policy Committee

February 10, 2003

The Miguel Estrada Nomination

Denying Mr. Estrada an Up-or-Down Vote Would Set a Dangerous Precedent

> "I have stated over and over again on this floor that I would . . . object and fight against any filibuster on a judge, whether it is somebody I opposed or supported . . ."
>
> — *Senator Leahy, Congressional Record, June 18, 1998*

> "I do not want to get [to] having to invoke cloture on judicial nominations. I think it is a bad precedent."
>
> — *Senator Leahy, Congressional Record, September 16, 1999*

If press reports are to be believed, some Senators are contemplating a dramatic change to the Senate's treatment of the President's judicial nominees — a new requirement that nominees to the nation's courts must receive at least 60 votes in order to be confirmed. If Senators do filibuster Mr. Estrada's nomination to the U.S. Court of Appeals for the D.C. Circuit, and if that filibuster results in the nomination being rejected, Democrats will have forced a permanent change to the political and constitutional landscape. Never again could a President fairly expect a judicial nominee whose nomination reaches the Senate floor to receive an up-or-down vote, and never again would the Senate minority party fear that blocking a judicial nominee by partisan filibuster was unprecedented. If the Estrada nomination is permanently blocked by filibuster, the political baseline shifts forever.

To understand just how stunningly extraordinary this state of affairs is, one needs to examine the Senate's record of confirming judicial nominations. The first filibuster of a judicial nominee that resulted in a cloture vote was in 1968. Since then, the Senate has confirmed approximately 1,600 judicial nominations — the vast majority (nearly 1,500) without even a roll call vote, as most are confirmed by unanimous consent.[1] Indeed, of those some 1,600 judicial

REV_00157764

nominations confirmed by the Senate since 1968, ***only fourteen*** underwent a cloture vote. And with the exception of the bipartisan 1968 filibuster of Abe Fortas's nomination to be Chief Justice of the United States, the ***Senate has never blocked by filibuster*** a judicial nominee to any court.

What follows is an account of all past debates over judicial nominees which required cloture votes. The history establishes a consistent, bipartisan resistance to taking the step that some Democrats are contemplating today.

The Bipartisan Fortas Filibuster

Judicial nominations have been especially contentious since the days of the Warren Court (1954-1969). Nowhere has that controversy been more pronounced than for nominees to the nation's highest court. In particular, Supreme Court nominees such as Abe Fortas, William Rehnquist, and Clarence Thomas all faced considerable opposition in the Senate during their confirmations. Yet despite this controversy, only Justice Fortas's nomination to be Chief Justice in the tumultuous summer of 1968 caused the Senate to filibuster and block confirmation.

President Lyndon Johnson nominated Associate Justice Abe Fortas to be Chief Justice in June 1968. A bipartisan coalition of Senators soon formed to oppose Justice Fortas's elevation. The reasons were varied. Some opposed the nomination because Justice Fortas often joined the "progressive" Earl Warren wing of the activist Supreme Court. Other Senators opposed Fortas because of his admission before the Judiciary Committee that he remained involved in White House political affairs even while serving on the Supreme Court, including advising the President regarding the Vietnam War and recent race-riots in Detroit. When it was discovered that Justice Fortas had accepted $15,000 (more than $75,000 in 2001 dollars) from controversial sources to teach a nine-week academic course, support further deteriorated. Yet as the heated 1968 election season continued, some Democrats were wary of defeating Fortas if that meant leaving the nomination to soon-to-be-President-elect Richard Nixon.

Nevertheless, bipartisan opposition to Fortas's elevation was substantial, and a filibuster ensued. The filibuster itself was controversial, as some Republicans such as Nixon himself believed that Fortas should receive an up-or-down vote as a matter of principle. Senators persisted, and an October 1 cloture vote failed by a margin of 45-43. Twenty-four Republicans and nineteen Democrats voted against the cloture motion – with ten Republicans and thirty-five Democrats in favor of cutting off debate. President Johnson then withdrew the nomination.[2]

The Effect of the Fortas Filibuster on Future Supreme Court Battles

---

[1] Analysis of judicial nominations and confirmations, including those confirmed by roll call vote, conducted by staff of Senate Republican Policy Committee and confirmed with staff of Congressional Research Service.

[2] For information regarding the Fortas nomination, see generally *Congress and the Nation, Vol. II, 1965-68, A Review of Government and Politics*, at 335-336 (Cong. Quarterly Serv. 1969); James A. Thorpe, *The Appearance of Supreme Court Nominees Before the Judiciary Committee*, 18 JOURNAL OF PUBLIC LAW 515 (1969).

REV_00157765

After the Fortas filibuster, the Senate rejected outright two of President Nixon's nominees to the Supreme Court, Clement Haynsworth (45-55) and G. Harold Carswell (48-51). But neither nominee faced a filibuster attempt despite the close votes. The Fortas affair is, therefore, especially important for what it did ***not*** lead to: a pattern of blocking by filibuster controversial judicial nominees.

That refusal to block nominees by filibuster is most dramatic and important in the context of the Supreme Court. The Supreme Court nominations that most divided the Senate since the Haynsworth and Carswell defeats were those of William Rehnquist (1972 and 1986) and Clarence Thomas (1991). Rehnquist's nomination to be Associate Justice provoked considerable controversy and division within the Senate, but he nonetheless received a full Senate vote after but a few days' debate.[3] The same was true in 1986 when he was nominated to become Chief Justice.[4]

During Clarence Thomas's hard-fought nomination battle of 1991, outside activist groups urged Justice Thomas's Senate opponents to filibuster the nomination, but Senate Democrats such as then-Judiciary Committee Chairman Joseph Biden and leading Thomas opponent Senator Howard Metzenbaum balked.[5] Future Judiciary Committee Chairman Patrick Leahy publicly "declared himself 'totally opposed to a filibuster,' adding, 'We should vote for or against [Thomas].'"[6] No filibuster was attempted, and Justice Thomas was confirmed, 52-48.[7]

As is well known, President Clinton's nominations of both Ruth Bader Ginsburg and Stephen Breyer sailed through the Senate with minimal debate and no filibusters. Justice Ginsburg was confirmed 96-3 and Justice Breyer was confirmed 87-9.[8]

Lower Court Nominees Have *Never* Been Blocked by Filibusters

Given the Senate's general unwillingness to filibuster nominees – even Supreme Court nominees – it is unsurprising that ***the Senate has never blocked by filibuster a nominee to any lower court.*** Furthermore, the Senate has ***never blocked — by a partisan filibuster*** — any judicial nominee. (Recall, the only successful rejection-by-filibuster was the aforementioned case of Justice Fortas, which was bipartisan.). Thus, there is no historical example of a filibuster conducted solely by one party that denied the President his judicial nominee.

Recent Quasi-Filibusters of President Bush's Judicial Nominees

---

[3] Votes 413, 414, and 417, 92nd Cong., 2nd Sess. (Dec. 10, 1972).
[4] Votes 265 and 266, 99th Cong., 2nd Sess. (Sept. 17, 1986).
[5] Hearing of the Senate Judiciary Committee, Testimony of Eleanor Smeal, Sept. 20, 1991; Judy Wiessler, "Split on Thomas expected," HOUSTON CHRONICLE (Sept. 27, 1991); Federal News Service, Press Conference with Sen. Howard Metzenbaum, Sept. 27, 1991.
[6] Ruth Marcus, "Divided Committee Refuses to Endorse Judge Thomas," WASHINGTON POST (Sept. 28, 1991). Senator Biden likewise refused to support any filibuster attempt on the Thomas nomination. James Rowley, "Committee Deadlocks on Thomas," ASSOCIATED PRESS (Sept. 27, 1991).
[7] *Congressional Record* (Oct. 15, 1991).
[8] *Congressional Record* (Aug. 3, 1993 and July 29, 1994).

REV_00157766

During Democrat control of the Senate during 2001-2002, only 17 Bush circuit court nominees reached the floor for votes. In three of the cases where they did — the nominations of Julia Smith Gibbons, Richard B. Clifton, and Lavenski R. Smith — cloture petitions were filed and the motions easily carried. However, none of those cloture votes was responding to a genuine effort to filibuster a nominee. Rather, cloture petitions were filed as a Senate time-management device (Gibbons, Clifton) or in response to a small number of Senators who wished to force the cloture vote to draw attention to another issue unrelated to the nominee (Smith).[9]

Floor Debates for President Clinton's Judicial Nominees

Despite a Republican majority during six years of President Clinton's term, no judicial nominee was ever deprived of a vote on the Senate floor due to a floor filibuster of the nomination.

Many Senators may recall the controversy over President Clinton's nominations of Martha Berzon and Richard Paez to the U.S. Court of Appeals for the Ninth Circuit. Although most Republican Senators opposed their confirmations, the majority of Republican Senators also opposed any effort to prevent the full Senate from voting on their nominations. Debate on each nomination lasted only one day, and a majority of Republicans joined all Democrats in supporting cloture petitions for debate on each nomination — including over 20 Republicans who would eventually vote against confirmation, and a majority of the Republican members of the Judiciary Committee.[10] In neither case did Republicans mount a party-line filibuster effort to prevent voting on a nominee. Indeed, Majority Leader Lott filed the cloture petitions for the above debates.

The situation was similar in 1994 when some Republicans voiced objections to President Clinton's nomination of H. Lee Sarokin to the U.S. Court of Appeals for the Third Circuit. A majority of Republicans supported a cloture petition after a relatively brief period of debate, and cloture was invoked by a vote of 85-12.[11] Judge Sarokin was then confirmed by a vote of only 63-35.[12]

The only judge nominated by President Clinton who faced a partisan filibuster was that

---

[9] Vote 193, 107th Cong., 2nd Sess. (July 26, 2002) (Gibbons cloture motion passing 89-0); Vote 183, 107th Cong., 2nd Sess. (July 18, 2002) (Clifton cloture motion passing 97-1); Vote 177, 107th Cong., 2nd Sess. (July 15, 2002) (Smith cloture vote passing 94-3). In the case of Judge Smith, Senator Feingold stated on the floor that he opposed cloture in order to slow down the confirmation of nominees whom Republicans supported until a nominee to the Federal Election Committee was confirmed. *Congressional Record* (July 15, 2002).

[10] Compare for Berzon Votes 36 and 38, 106th Cong., 2nd Sess. (March 8-9, 2000); compare for Paez Votes 37 and 40, 106th Cong., 2nd Sess. (March 8-9, 2000). Those opposing cloture for the Berzon debate were Senators Allard, Brownback, Bunning, Craig, DeWine, Enzi, Gramm, Helms, T. Hutchinson, Inhofe, Murkowski, Shelby, and B. Smith. Senator Frist joined the same group in opposing cloture for Paez.

[11] Vote 318, 103rd Cong., 2nd Sess. (Oct. 4, 1994). Republicans opposing cloture were Senators Coverdell, D'Amato, Gorton, Gramm, Helms, McCain, Nickles, Thurmond, and Wallop, joined by Democrats Ford, Sasser, and Shelby.

[12] Vote 319, 103rd Cong., 2nd Sess. (Oct. 4, 1994).

REV_00157767

of Brian Theadore Stewart, a nominee to the federal district court in Utah. However, it was Senate ***Democrats*** who filibustered the nominee in protest over purported delays in bringing other judicial nominees to the floor. A cloture petition was voted upon on September 21, 1999 and failed (by falling short of 60 votes) by a vote of 55-44, with all Democrats except Senator Moynihan opposing cloture.[13] But once again, Democrats' objection was not to Judge Stewart himself, and on October 5, 1999, the Senate confirmed him by a vote of 93-5.[14]

For all the hand-wringing about the "treatment" of President Clinton's nominees, one thing is clear: ***every*** nomination taken up for debate on the floor received an up-or-down vote.

Democrats' Failed Filibusters of Reagan and Bush Judges

Even when Democrats attempted to filibuster Republican Presidents' judicial nominees, those efforts were still unsuccessful, as a substantial majority of Senators resisted using the partisan filibuster as a means to block judicial nominations.

When President Bush nominated Edward Carnes to be a judge on the U.S. Court of Appeals for the Eleventh Circuit in 1992, many Democrats opposed the nomination on the merits, in particular because of his past prosecution of death penalty cases. Aware of this opposition, the Senate agreed by unanimous consent to two days of debate with a cloture vote to follow.[15] The debate proceeded, the cloture motion carried by a vote of 66-30, with 24 Democrats joining 42 Republicans to close the debate.[16] The Senate proceeded immediately to confirm Judge Carnes by a vote of 62-36.[17]

A similarly close cloture vote occurred in March of 1986 when the Senate considered President Reagan's nomination of Sidney Fitzwater to be a federal district court judge in Texas. Many Democrats opposed Judge Fitzwater on the merits and after a few days' debate, Majority Leader Dole filed a cloture motion which, by unanimous consent, was to be voted on the next day the Senate was in session.[18] That cloture petition prevailed, 64-33, with the support of 12 Democrats.[19] The Senate proceeded immediately to confirm Judge Fitzwater by a vote of 52-42.[20]

The only other judicial nominee of President Reagan's to face a cloture vote was J. Harvie Wilkinson to the U.S. Court of Appeals for the Fourth Circuit. Many Democrats opposed the nominee and filibustered the nomination. An initial cloture motion *failed* on July 31, 1984

---

[13] Vote 281, 106th Cong., 1st Sess. (Sept. 21, 1999).
[14] Vote 308, 106th Cong., 1st Sess. (Oct. 5, 1999).
[15] *Congressional Record* (Aug. 7, 1992).
[16] Vote 192, 102nd Cong., 2nd Sess. (Sept. 9, 1992). Four of those Democrats — Senators Daschle, Kerrey, Leahy, and Simon — later voted against confirmation.
[17] Vote 193, 102nd Cong., 2nd Sess. (Sept. 9, 1992).
[18] *Congressional Record* (March 14, 1986).
[19] Vote 40, 99th Cong., 2nd Sess. (March 18, 1986).
[20] Vote 41, 99th Cong., 2nd Sess. (March 18, 1986). Nine Democrats and three Republicans who had supported cloture voted against confirmation.

REV_00157768

(57-39) because some Senators argued that additional information had arisen since Judge Wilkinson's original Judiciary Committee hearings and that further investigation was necessary. Judge Wilkinson returned to the Judiciary Committee on August 7, his nomination was returned to the floor of the Senate, and a second cloture motion prevailed on August 9 by a vote of 65-32. The Senate then proceeded immediately to confirm Judge Wilkinson by a vote of 58-39.[21]

It is apparent that Democrats historically have been more willing than Republicans to vote against cloture petitions and to attempt to prevent votes on Republican judicial nominees. However, it is important to note that even in the cases above, many Democrats found the filibuster process inappropriate in the judicial nominee context and insisted upon full Senate votes.

Stephen Breyer's 1980 Nomination

Senators, led by Republican Gordon Humphrey and Democrat Robert Morgan of North Carolina, filibustered the nomination of Stephen Breyer to be a judge on the U.S. Court of Appeals for the First Circuit in late 1980. Their objection was not to Mr. Breyer's qualifications — indeed, this is the same Stephen Breyer currently serving as a Supreme Court Justice — but to the process by which he was nominated and reported to the full Senate. The Senators argued that the Judiciary Committee had improperly reported out Mr. Breyer's nomination without proper committee approval and without regard to many other earlier-nominated persons waiting for hearings. After forcing the Judiciary Committee to reconvene and approve the nominee through proper procedures, the Senate invoked cloture, 68-28, and confirmed Mr. Breyer, 80-10.[22]

* * *

This history demonstrates that while some nominees have been filibustered and cloture petitions filed in those and other situations, the only nominee ***ever*** to have been defeated or withdrawn after a filibuster was Abe Fortas in 1968. Even key Democrats who opposed Republican nominees voted for cloture. So, if a partisan filibuster of Miguel Estrada resulted in his nomination being defeated, it would be unprecedented.

Senate Democrats Voice Opposition to Filibusters of Judicial Nominees

A partisan attempt to block Mr. Estrada's nomination by filibuster would contradict the repeated and emphatic statements of Democrats who have served for a long time in positions of special responsibility. Consider the past comments by Senators regarding judicial and executive nominees:

- Senator Leahy (past Judiciary Chairman and current Ranking Member): "If we want to vote against somebody, vote against them. I respect that. State your reasons. I respect that.

---

[21] Votes 208, 225 and 226, 98th Cong., 2nd Sess. (1984).

[22] Votes 512 and 513, 96th Cong., 2nd Sess. (1980). This controversy was complicated by the fact that Mr. Breyer was Chief Counsel to the Senate Judiciary Committee at the time.

REV_00157769

But don't hold up a qualified judicial nominee. . . . I have stated over and over again on this floor that I would . . . object and fight against any filibuster on a judge, whether it is somebody I opposed or supported; that I felt the Senate should do its duty." (*Congressional Record*, June 18, 1998.)

· Senator Leahy: "I have said on the floor, although we are different parties, I have agreed with Gov. George Bush, who has said that in the Senate a nominee ought to get a [floor] vote, up or down, within 60 days." (*Congressional Record*, October 11, 2000.)

· Senator Daschle (Minority Leader): "As Chief Justice Rehnquist has recognized: 'The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down.' An up-or-down vote, that is all we ask for [Clinton judicial nominees] Berzon and Paez." (*Congressional Record*, October 5, 1999.)

· Senator Biden (past Judiciary Chairman): "But I also respectfully suggest that everyone who is nominated ought to have a shot, to have a hearing and to have a shot to be heard on the floor and have a vote on the floor. . . . It is totally appropriate for Republicans to reject every single nominee if they want to. That is within their right. But it is not, I will respectfully request, Madam President, appropriate not to have hearings on them, not to bring them to the floor and not to allow a vote . . . ." (*Congressional Record*, March 19, 1997.)

· Senator Kennedy (past Judiciary Chairman): "The Chief Justice of the United States Supreme Court said: 'The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down.' Which is exactly what I would like." (*Congressional Record*, March 7, 2000.)

· Senator Kennedy: "We owe it to Americans across the country to give these nominees a vote. If our Republican colleagues don't like them, vote against them. But give them a vote." (*Congressional Record,* February 3, 1998.)

· Senator Feinstein (Judiciary Committee member): "A nominee is entitled to a vote. Vote them up; vote them down." (*Congressional Record*, September 16, 1999.)

Absent from any of the current debate over Miguel Estrada is any explanation as to why he should be denied the floor vote that every one of President Clinton's judicial nominees who reached the floor received.

This Nomination Does Not Justify Escalating the Nomination Conflict

The rejection of Abe Fortas to serve as Chief Justice of the United States marked the first and only time the Senate has rejected a President's judicial nominee by way of a filibuster. Yet, Miguel Estrada presents none of the concerns that caused a ***bipartisan*** coalition of Senators to block Justice Fortas's elevation to Chief Justice. Mr. Estrada is an outstanding nominee fully

REV_00157770

qualified for this judgeship who has committed to enforce the Constitution as interpreted by the Supreme Court, not to interpose his personal political views into his jurisprudence. The American Bar Association unanimously gave him its highest rating of "well-qualified;" and Democrats such as President Clinton's Solicitor General, Seth Waxman, and Vice President Gore's attorney, Ron Klain, have praised his intellect, judgment, and integrity.

But the stakes here are much greater than the fate of a single judicial nominee. At issue is whether the Senate should reinterpret its constitutional advise and consent obligation to require 60 rather than 51 votes to confirm a judicial nominee. This is a position that the Senate has never taken in the context of lower court nominees, and Republicans especially have eschewed. To adopt this new standard would fundamentally alter the balance of power between the Executive and the Senate in the judicial confirmation process and would seriously erode the comity that generally has existed between the two branches in the past.

Prepared by RPC Judiciary Analyst & Counsel Steven J. Duffield, 224-2946

For more information regarding the nomination of Miguel Estrada, please contact the Judiciary Committee, Rena Johnson Comisac (4-5225), or Steven J. Duffield with the RPC (4-2946).

REV_00157771

From: Bumatay, Patrick J.
To: <Kavanaugh, Brett M.>
Sent: 2/10/2003 4:50:11 PM
Subject: nominations

do you anticipate any nominations for this week?

also, you have any of the CA9 - ID bios/resumes available for the JSC binder?

Patrick J. Bumatay
Office of Counsel to the President
o: 202-456-5214
f: 202-456-6279
mainline: 202-456-2632

From: Nelson, Carolyn
To: <Leitch, David G.>;<Kavanaugh, Brett M.>
Sent: 2/10/2003 5:47:49 PM
Subject: FW: Spring 2003 Harvard Law Magazine
Attachments: f1-1.jpg; f1-2.jpg

fyi:
-----Original Message-----
From: Nelson, Carolyn
Sent: Wednesday, February 05, 2003 7:55 AM
To: Gonzales, Alberto R.
Subject: Spring 2003 Harvard Law Magazine

Judge-

Have you seen this yet?

-Carrie

The Loyalist

With devotion to the president and the office, Alberto Gonzales '82 tackles the complications and controversies of the White House counsel's job

by Lewis Rice

Alberto Gonzales

Alberto Gonzales '82 (in his West Wing office) advises President Bush on all legal issues concerning the president and the White House.

Alberto Gonzales '82 was back in Texas not long after he left for his first job outside his home state. He stood at the front of a lecture hall at Rice University, where as a youngster he had sold soft drinks in the football stadium. Now it was his alma mater, and he was a local boy made good, made famous even. And he spoke about who had made him good, who had made him famous. He was answering a question he gets a lot, about who his heroes are, and he answered it--at least at first--in a way a lot of people do. Though he had more reason than most to choose as heroes his parents: natives of Mexico with little education or money, who raised eight children in a two-bedroom house and, he noted, not once asked for help from the government. But he also called his boss a hero. It may sound self-serving, he said, but that doesn't make it untrue. For he has seen his boss, who happens to be the president of the United States, not only as an employer, but as a statesman, a father, a friend, a mentor.

That admiration and respect for George W. Bush infuse everything Gonzales does in a job that is as unpredictable as it is demanding: the White House counsel, the lawyer for the president and for the presidency, a person with an imprint on almost everything that originates from the seat of executive power. The job has catapulted Gonzales to the center of attention and contention on such issues as judicial nominations, Iraq and executive privilege. It is the fourth time he has taken a job at the behest of Bush, his fourth once-in-a-lifetime opportunity, he says. And the Washington chatter indicates that it may not be the last: Gonzales, many say, is a leading contender to fill the next vacancy on the U.S. Supreme Court. Such talk is flattering, Gonzales says, but he has enough to worry about now.

He painstakingly outlines those concerns in his speech, listing nine responsibilities of the job, including vetting people appointed to work in the White House, drafting legislation, monitoring litigation in the Department of Justice, developing policy, offering legal advice on national security matters and chairing the White House judicial selection committee. Then there are the responsibilities that can't be anticipated, of which he's had many.

Sometimes the job seems to entail, more than anything, responding to the crisis of the moment, he says in an interview with the Bulletin. He's there in the meetings that drive the White House operation, answering legal questions when they come up. And there are times when he practices very little law. But his most crucial function, he says, is simply to be there for the person at whose pleasure he serves.

"For me, the most important part of this job is being able to work for this president based upon my relationship with him, and that is what makes this job so special for me--being able to help him in an extraordinarily difficult time," said Gonzales. "It is a tremendously burdensome position. Everything that I say, everything that I do publicly, is monitored, is analyzed, is cataloged away for future reference."

Put another way, the job can be "one damn thing after another," as a White House counsel for Ronald Reagan once described it. But that's not the kind of language or tone Gonzales would use; during a visit to his West Wing office, he shows why people who work with him call him "the judge," a formal title from his stint as a Texas Supreme Court justice but also an affectionate description of a courtly manner: polite, soft-spoken, reflective. He describes himself as mild-mannered, as do those who know him. But that mildness should not be mistaken for weakness, nor should his lack of wordiness be taken as lack of conviction, says Viet Dinh '93, who has worked closely with Gonzales as head of the Justice Department's Office of Legal Policy.

"He is a very effective leader because he has a quiet resolve--he provides leadership and does it through consensus rather than steamrolling," said Dinh. "Any fear that his consensus is not backed by leadership is misplaced because behind the congenial operating manner is a very clear vision and very good leadership style."

That style has helped him negotiate the many shared responsibilities of the Justice Department and the counsel's office, says Dinh, who crafted the USA Patriot Act and credits Gonzales as "critical to its passage." Just as they did to everyone else in the administration, the attacks of 9/11 turned Gonzales' focus to anti-terror measures and thrust him into the debate over a possible war with Iraq. Over the summer, the counsel reportedly advised the president that congressional approval was not required to take action against Iraq. But on the same day in October that the president would sign the joint congressional resolution authorizing him to use force against Iraq if necessary, Gonzales would rather talk about the drafting of the language in the counsel's office and the series of meetings with staff and leadership in Congress that led to agreement. The point, said Gonzales, is that the president decided to go to Congress to get authorization. And he got it done.

President Bush followed byKaren Hughes and Gonzales

President Bush returns to the White House on Sept. 11, 2001, followed by Karen Hughes, then White House counselor, and Gonzales.

Gonzales will always credit the president first, not least for leading him to the place he is today. Many people with much more privileged backgrounds don't get the same opportunities, but he has, he says, because one person believed in him.

"I owe all that, really, to the president," said Gonzales. "Sometimes life works out that way; there is really no good explanation. All you can do is prepare yourself, get a good education, get good training, and the next time the next George W. Bush comes along, you're there and you're ready, and that person could turn the tables for you."

Gonzales began the training for his career after serving in the U.S. Air Force, attending the Air Force Academy and getting his bachelor's degree from Rice. He had never seen Harvard Law School before arriving as a student in the summer of 1979. That first day, he remembers riding a 10-speed bike and parking in front of Langdell Hall, and feeling joy and pride and even awe at being a part of such a place. But soon enough came another feeling, one not as often associated with students at HLS. He felt comfortable. It helped that he was older than many other students, and it helped to realize that it wouldn't be the end of the world if he didn't make straight A's (which was a good thing because he didn't). He hung around with a group of students who shared his feeling of calm and feeling of good fortune, people who knew they would get great jobs, were there to learn but also to enjoy themselves. They knew the world, eventually, would come to them.

It did to Gonzales in the form of an offer from Vinson & Elkins in Houston. He worked there on corporate transactions, aiming for partnership. He even declined a job offer from George H.W. Bush to serve in his administration in Washington. It was a low-level position, and Gonzales saw better opportunities ahead if he stayed and made partner.

He proved himself on a public offering that took half a year and involved local counsels in more than a dozen states, according to Robert Baird '69, a partner at Vinson & Elkins. Gonzales was a "get-the-job-done kind of guy," said Baird, working hard and showing sound judgment. Just as important, however, was the way he did it.

"Being the kind of gentleman that Al is," he said, "is probably the most effective way to approach the situation, because most corporate transaction projects are projects where different constituencies with different interests are working together toward a common end, and there is a lot of persuasion involved. So if you get everybody on your team and you get everyone

working in parallel, the transaction goes so much more smoothly. I think Al, with his personality, is superb at that. And I would guess that quality is extremely important in the kind of arena that he is playing in now."

Gonzales eventually did make partner and made a good living at it. So some people questioned whether it really was a better opportunity when Texas Gov. George W. Bush, then a political newcomer, asked him to serve as his general counsel at the recommendation of local attorneys. But he wanted to do something different, wanted to go into public service and, though he didn't know Bush well then, saw his chance to do something important. After three years in the counsel job, he went on to serve as Texas secretary of state and a justice on the Supreme Court of Texas. Over the years, Gonzales says, he and Bush have built a good relationship. The president, he says, is comfortable with his style of providing advice. One of the first things Bush did after he became president-elect was ask Gonzales, with his wife and three boys, to come with him to Washington. Gonzales didn't really need to think about it. "I am not sure that there will ever be a job that I would say 'no' to, if he asked me to do it," he said.

The words "first" and "Hispanic" cling to Gonzales in life and on the page. They are used in the typical summary of him: the first Hispanic White House counsel, the first Hispanic partner at his firm, a leading candidate to become the first Hispanic justice on the Supreme Court (though, depending on how one defines the term, Benjamin Cardozo, a Sephardic Jew of Portuguese descent who served on the high court from 1932 to 1938, may actually have been the first Hispanic justice). Throughout Gonzales' career, he has belonged to Hispanic organizations, serving as president of the Houston Hispanic Bar Association and chairman of the Republican National Hispanic Assembly of Harris County, Texas. In 1999, the Hispanic National Bar Association gave him the Latino Lawyer of the Year award.

His heritage is important to him and also important to a president who has emphasized including people of all backgrounds and ethnicities in his administration, Gonzales says. When the White House counsel wrote an op-ed in the Washington Post in September advocating for Miguel Estrada's ('86) confirmation to the U.S. Court of Appeals for the D.C. Circuit (the confirmation was stalled in committee last year), he noted that Estrada "is an inspiration to Hispanics and to all Americans." Many people do feel special pride in seeing someone who looks like them in positions of prominence, he says.

"It is true that, for some Americans, they couldn't care less that I am Hispanic, doing this job. What they care about is that the job gets done right," he said. "But I am always very mindful that for another segment of the population, there is a special pride that someone named Gonzales is advising the president of the United States on legal issues."

But he also is quick to note that there is no Hispanic way to judge a case or to do a job, and that, while it pleases Bush when a well-qualified person may also happen to be Hispanic or another minority, merit will always be the priority for the president. Gonzales agrees, and that's why he says he doesn't concern himself with debates on whether he got this far because of his heritage. It's what he has done with the opportunities that matters, he says.

Judging that, of course, may depend largely on what you think of what President Bush has done in office. Gonzales doesn't like to talk about the advice he's given to the president, but he has helped guide Bush through legal questions surrounding the war on terrorism, such as military tribunals and detaining suspects without counsel. Tribunals, Gonzales said, "would provide basic rights to terrorists, but they would be structured in a way which would ensure the continued protection of the national security of this country." And in every war this country has fought, he says, people have been detained without access to a lawyer, even if they are American citizens. "I think legally we are right, and that will be confirmed in the courts," said Gonzales. "[But] maybe we need to do a better job of educating the American public about what we are doing here and the need for that course of action."

Though his office tries to find ways to allow the president to do what he believes needs to be done to protect the country, there are times, Gonzales says, when he has to tell the president what he doesn't want to hear. An effective White House counsel is one who can say "no" to his boss. That has happened occasionally, particularly on questions of executive privilege. People have criticized the secrecy of this White House, but that charge is leveled against most administrations, he says. The White House has released most documents that Congress has requested, Gonzales says, and has reached agreement on releasing some disputed records, such as those detailing the administration's contacts with Enron. In addition, the president may want to turn over communications that, in the opinion of his counsel, should be privileged, and his counsel doesn't hesitate to advise him that he shouldn't. "My job is to protect the institution of the presidency, and so, in that case, my job is to make the president understand that 'by doing this, Mr. President, you'll weaken the institution of the presidency,'" said Gonzales. "This president has great respect for that institution, so when someone tells him that it weakens it, he considers that very, very seriously."

Gonzales also advises the president on the judiciary, an institution of government that he fears has been weakened by the Senate's failure to fill a number of vacancies. Indeed, by the end of November the Senate had confirmed only about half of Bush's circuit court nominees, while it confirmed a much higher percentage for recent presidents in their first two years in office. The dearth of confirmations and the long delays in hearings for many nominees are frustrating, he acknowledges. Particularly unfortunate, he says, was the failed 5th Circuit nomination last year of Priscilla Owen, with whom he served on the Supreme Court of Texas. (In January, she was renominated to the appeals court.) Her critics cited Gonzales' own words in an abortion case, in which he characterized Owen's interpretation of a statute as an "unconscionable act of judicial

activism," as evidence of her unfitness for the court of appeals. But disagreement, he notes, should not mean disqualification, a point he made in a letter to the Senate Judiciary Committee.

Earlier last year, he cited the judicial issue as one key reason that the Republicans needed to take back the Senate in the fall elections. Before the Republican victory, in fact, came to pass, Bush and his counsel unveiled a proposal that would streamline the judicial confirmation process. The initiative calls for the Senate Judiciary Committee to hold a hearing within 90 days of receiving a nomination and for the full Senate to vote on each nominee within 180 days after the nomination is submitted. "All Americans would see a more dignified process and have their federal courts fully staffed to protect their rights and their liberties," Bush said. "And the vacancy crisis would be resolved once and for all."

At its core, the wrangling over judicial nominees exemplifies a fundamental disagreement on what makes a person qualified for the job, according to Gonzales. "That person should come to the bench with no personal agenda to follow," he said. "Certain Democrats on the Judiciary Committee believe that judges do come with a personal agenda. . . . [They] ask, 'What are your personal beliefs about an issue?' because they believe that that is going to impact your decision making as a judge. I think that that is wholly inappropriate; I think it is wrong for a judge to pursue a personal agenda, and their own personal beliefs, in my judgment, are wholly irrelevant to how they should do their job as a judge."

He believed the same when he was a judge. And he has been criticized for it by people in his own party, as in the abortion case in which he differed from Owen. In that opinion, he ruled with the majority to overturn a lower court ruling, thereby allowing a minor to have an abortion without parental consent. In doing so, he was following the law, not his own values, he wrote: "While the ramifications of such a law and the results of the Court's decision may be personally troubling to me as a parent, it is my obligation as a judge to impartially apply the laws of this state without imposing my moral view on the decisions of the Legislature."

That deference to legislative intent pervaded Gonzales' time on the bench, according to Supreme Court of Texas Chief Justice Thomas Phillips ' 74. For example, Gonzales' opinion in another case, Fitzgerald v. Advanced Spine Fixation Systems, reads as a "paean to strict statutory construction," he said.

Gonzales' decisions "show an equal disdain for activism, regardless of what side of the political spectrum it comes from," Phillips said. "I never saw anything inconsistent on that, and I never had any sense that he was casting any votes based on whether somebody--a former employee, a contributor, a friend who was governor or anybody else--would approve or disapprove."

On the court, Gonzales was soft-spoken, not confrontational, said Phillips: "He tried to prevail through reason rather than intimidation." Perhaps it is a testimony to that style that the case Phillips cites to praise his former colleague is one in which he took the opposite side.

* * *

Kenneth Starr's book about the Rehnquist court, "First Among Equals," lies on a shelf outside Gonzales' office on the day of the interview. Whether Gonzales will be a member of that court is a topic of much speculation. But of course no one who has any say in the matter, least of all Gonzales himself, is talking about it. Viet Dinh, who helps recommend judges to the president, was asked what he would think of a candidate for the Supreme Court with Judge Gonzales' credentials. He laughed and laughed at the question, and he didn't stop laughing until he said goodbye.

Such talk is not a distraction to Gonzales at all, he says. There is nothing he can do about it, and he is a person who focuses on what he can do. But he does worry about something, on top of the worries inherent in his current role. He wonders what he will do next after his job in the White House is done, what will be as exciting and satisfying. After all, how many once-in-a-lifetime opportunities can one person have?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Arthur B. Applegate/WHO/EOP@EOP [WHO] <Arthur B. Applegate>
CC: emory rounds/who/eop@eop [WHO] <emory rounds>;nanette everson/who/eop@eop [WHO] <nanette everson>
Sent: 2/10/2003 5:17:50 PM
Subject: : Re: Hatch Act Crib Sheet
Attachments: P_4QHSD003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-FEB-2003 22:17:50.00
SUBJECT:: Re: Hatch Act Crib Sheet
TO:Arthur B. Applegate (CN=Arthur B. Applegate/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:emory rounds (CN=emory rounds/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:nanette everson (CN=nanette everson/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

I like the idea, but think we can condense and clarify some. Although clear to us, people will read only if very simple. Organizationally, I think the bullets should be re-ordered as #2, #4 (and re-phrased accordingly), #1, #5, #3 and then the rest. I would delete last two bullets. We need to add that all political activity of commissioned officers should be cleared with OPA and WHC.

Arthur B. Applegate
02/10/2003 01:19:59 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: Nanette Everson/WHO/EOP@EOP, Emory Rounds/WHO/EOP@EOP
Subject: Hatch Act Crib Sheet

Hi Brett,

As part of the overall and continuous process of ethics training, we are in the process of creating crib sheets, along with corresponding wallet size cards, on various topics. If a crib sheet is double sided the corresponding wallet size card is a summary of the material, as opposed to a reprint of the crib sheet, due to the size constraints of the card.

Emory Rounds (a fellow detailee) and I have roughed out a draft Hatch Act crib sheet using some of your previous guidance along with other general material. Since the Hatch Act is in your portfolio and expertise, Nanette, Emory and I would appreciate your input and comments. As you know, it is difficult to cover a lot of points in limited space so we wanted to hit some key points that would be applicable to all White House staff while sending a clear message of the importance of the Hatch Act.

A particular point that we would greatly appreciate your comment on is in the third bullet from the bottom. We are thinking of replacing the words " pending White House matters" with " matters pending before the Administration." As always, your guidance and input is greatly appreciated. The wallet size cards allow for 21 lines per side so there is still room to add a short bullet point or two. Thank you.

Bryant

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_4QHSD003_WHO.TXT_1>

POLITICAL ACTIVITIES (HATCH ACT) GUIDANCE

- An activity or event is "political" if it is conducted for a partisan election or campaign, or for a political party. Classify an event as "political" or "official" objectively, not based on any possible political ramifications. If speaking at an official event, you **may not** expressly advocate a candidate's election.
- Subject to prohibitions such as those on improper use of an official title and solicitation of contributions, you **may** vote, participate in political organizations and campaigns, make political contributions and attend fundraisers, and serve as a political party officer or as a political convention delegate.
- You **may not** solicit, receive, or accept political contributions; host a political fundraiser; or, regardless of your government position, conduct political fundraising on government property.
- However, **if (and only if)** you are a staff member whose government duties are "24/7", i.e., continue after normal duty hours and away from the normal duty post, you **may** engage in political activity—such as party or campaign related meetings or telephone calls—while on duty, or in a government building or vehicle, so long as it does not interfere with official duties. But, the political entity must pay any non-incidental costs associated with such activity.

- You **may** speak at a political fundraiser, and be listed on the event invitation as a speaker or guest, but your official government title **may not** be used either on the invitation or during your introduction.
- You **may not** use your official authority to interfere with or affect the result of an election, or to coerce any person to engage in political activity.
- You **may not** travel on corporate or private aircraft for political trips, but you **may** travel on a charter aircraft leased by a political entity.
- You **may not** promise government employment or any other benefit in exchange for political activity; threaten employment loss for political activity; or solicit or accept anything of value to obtain public office for another.
- You **may not** solicit, accept, or receive uncompensated volunteer services from a subordinate employee or from a company with pending White House matters.
- Beware of the government e-mail system; a widely circulated message seeking support for a candidate may violate the Hatch Act. Each case depends on its own facts, but act with caution and discretion when using government property.
- Penalties for violations include suspension or removal from office, and possible criminal penalties under various statues (depending on the violation).

White House Counsel's Office – 202-456-2608

From: Yoo, John C <John.C.Yoo@usdoj.gov>

To: 'dcox@gibsondunn.com' <dcox@gibsondunn.com>;H. Christopher Bartolomucci/WHO /EOP@EOP [WHO] <H. Christopher Bartolomucci>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Jan E. Williams/WHO/EOP@EOP [WHO] <Jan E. Williams>;'apnewton@hotmail.com' <apnewton@hotmail.com>;'Alex.Acosta@att.net' <Alex.Acosta@att.net>;'rdavies@greenbag.org' <rdavies@greenbag.org>;Hall, William <William.Hall2@usdoj.gov>;Benedi, Lizette D <Lizette.D.Benedi@usdoj.gov>;Chenoweth, Mark <Mark.Chenoweth@usdoj.gov>;Willett, Don <Don.Willett@usdoj.gov>;Dinh, Viet <Viet.Dinh@usdoj.gov>;Katsas, Gregory <Gregory.Katsas@usdoj.gov>;Coffin, Shannen <Shannen.Coffin@usdoj.gov>;Jaso, Eric <EricJaso%JCON@intmail.usdoj.gov>;Lelling, Andrew <Andrew.Lelling@usdoj.gov>;Vu, Minh <Minh.Vu@usdoj.gov>;Wiggins, Mike <Mike.Wiggins@usdoj.gov>;Berry, Matthew <Matthew.Berry@usdoj.gov>;Eisenberg, John <John.Eisenberg@usdoj.gov>;Koester, Jennifer <Jennifer.Koester@usdoj.gov>;Jacob, Gregory F <Gregory.F.Jacob@usdoj.gov>;Philbin, Patrick <Patrick.Philbin@usdoj.gov>;Whelan, M Edward III <M.Edward.Whelan@usdoj.gov>;Salmons, David B <David.B.Salmons@usdoj.gov>;Clement, Paul D <Paul.D.Clement@usdoj.gov>;Olson, Theodore B <Theodore.B.Olson@usdoj.gov>;Collins, Dan <Dan.Collins@usdoj.gov>;Kim, Elizabeth <Elizabeth.Kim@usdoj.gov>;Nielson, Howard <Howard.Nielson@usdoj.gov>;'ebirg@paulweiss.com' <ebirg@paulweiss.com>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Noel J. Francisco/WHO /EOP@EOP [WHO] <Noel J. Francisco>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Robert J. Delahunty/WHO/EOP@EOP [WHO] <Robert J. Delahunty>;'goldsmij@dodgc.osd.mil' <goldsmij@dodgc.osd.mil>;'amcbride@wrf.com' <amcbride@wrf.com>;'lleo@fed-soc.org' <lleo@fed-soc.org>;Fisher, Alice <AliceFisher%JCON@intmail.usdoj.gov>;Benczkowski, Brian A <Brian.A.Benczkowski@usdoj.gov>;Sales, Nathan <Nathan.Sales@usdoj.gov>;Carrington, Michael <Michael.Carrington@usdoj.gov>;Charnes, Adam <Adam.Charnes@usdoj.gov>;Morrison, Richard T. <Richard.T.Morrison@usdoj.gov>;Flippin, Laura <Laura.Flippin@usdoj.gov>;Mandelker, Sigal <SigalMandelker%JCON@intmail.usdoj.gov>;Malcolm, John G <John.GMalcolm%JCON@intmail.usdoj.gov>;Treene, Eric <Eric.Treene@usdoj.gov>;Driscoll, Bob <Bob.Driscoll@usdoj.gov>;Boyd, Ralph <Ralph.Boyd@usdoj.gov>;Rosenkranz, Nicholas Q <Nicholas.Q.Rosenkranz@usdoj.gov>;Johnson, Steffen <Steffen.Johnson@usdoj.gov>;Gannon, Curtis <Curtis.Gannon@usdoj.gov>;Larsen, Joan <Joan.Larsen@usdoj.gov>;Bradshaw, Sheldon <Sheldon.Bradshaw@usdoj.gov>;Bybee, Jay <Jay.Bybee@usdoj.gov>;Elwood, John <John.Elwood@usdoj.gov>;Voss, Helen L <Helen.L.Voss@usdoj.gov>;Keisler, Peter D <Peter.D.Keisler@usdoj.gov>;Hruska, Andrew <Andrew.Hruska@usdoj.gov>;Israelite, David <David.Israelite@usdoj.gov>;Ciongoli, Adam <Adam.Ciongoli@usdoj.gov>

Sent: 2/10/2003 7:55:18 PM

Subject: : Jim Ho Happy Hour

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Yoo, John C" <John.C.Yoo@usdoj.gov> ( "Yoo, John C" <John.C.Yoo@usdoj.gov> [
UNKNOWN ] )
CREATION DATE/TIME:11-FEB-2003 00:55:18.00
SUBJECT:: Jim Ho Happy Hour
TO:"'dcox@gibsondunn.com'" <dcox@gibsondunn.com> ( "'dcox@gibsondunn.com'"
<dcox@gibsondunn.com> [ UNKNOWN ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jan E. Williams ( CN=Jan E. Williams/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:"'apnewton@hotmail.com'" <apnewton@hotmail.com> ( "'apnewton@hotmail.com'"
<apnewton@hotmail.com> [ UNKNOWN ] )
READ:UNKNOWN
TO:"'Alex.Acosta@att.net'" <Alex.Acosta@att.net> ( "'Alex.Acosta@att.net'"
```

<Alex.Acosta@att.net> [UNKNOWN])
READ:UNKNOWN
TO:"'rdavies@greenbag.org'" <rdavies@greenbag.org> ("'rdavies@greenbag.org'"
<rdavies@greenbag.org> [UNKNOWN])
READ:UNKNOWN
TO:"Hall, William" <William.Hall2@usdoj.gov> ("Hall, William" <William.Hall2@usdoj.gov> [
UNKNOWN])
READ:UNKNOWN
TO:"Benedi, Lizette D" <Lizette.D.Benedi@usdoj.gov> ("Benedi, Lizette D"
<Lizette.D.Benedi@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Chenoweth, Mark" <Mark.Chenoweth@usdoj.gov> ("Chenoweth, Mark"
<Mark.Chenoweth@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Willett, Don" <Don.Willett@usdoj.gov> ("Willett, Don" <Don.Willett@usdoj.gov> [
UNKNOWN])
READ:UNKNOWN
TO:"Dinh, Viet" <Viet.Dinh@usdoj.gov> ("Dinh, Viet" <Viet.Dinh@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Katsas, Gregory" <Gregory.Katsas@usdoj.gov> ("Katsas, Gregory"
<Gregory.Katsas@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Coffin, Shannen" <Shannen.Coffin@usdoj.gov> ("Coffin, Shannen"
<Shannen.Coffin@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Jaso, Eric" <EricJaso%JCON@intmail.usdoj.gov> ("Jaso, Eric"
<EricJaso%JCON@intmail.usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Lelling, Andrew" <Andrew.Lelling@usdoj.gov> ("Lelling, Andrew"
<Andrew.Lelling@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Vu, Minh" <Minh.Vu@usdoj.gov> ("Vu, Minh" <Minh.Vu@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Wiggins, Mike" <Mike.Wiggins@usdoj.gov> ("Wiggins, Mike" <Mike.Wiggins@usdoj.gov> [
UNKNOWN])
READ:UNKNOWN
TO:"Berry, Matthew" <Matthew.Berry@usdoj.gov> ("Berry, Matthew" <Matthew.Berry@usdoj.gov>
[UNKNOWN])
READ:UNKNOWN
TO:"Eisenberg, John" <John.Eisenberg@usdoj.gov> ("Eisenberg, John"
<John.Eisenberg@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Koester, Jennifer" <Jennifer.Koester@usdoj.gov> ("Koester, Jennifer"
<Jennifer.Koester@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Jacob, Gregory F" <Gregory.F.Jacob@usdoj.gov> ("Jacob, Gregory F"
<Gregory.F.Jacob@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Philbin, Patrick" <Patrick.Philbin@usdoj.gov> ("Philbin, Patrick"
<Patrick.Philbin@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov> ("Whelan, M Edward III"
<M.Edward.Whelan@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Salmons, David B" <David.B.Salmons@usdoj.gov> ("Salmons, David B"
<David.B.Salmons@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Clement, Paul D" <Paul.D.Clement@usdoj.gov> ("Clement, Paul D"
<Paul.D.Clement@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Olson, Theodore B" <Theodore.B.Olson@usdoj.gov> ("Olson, Theodore B"
<Theodore.B.Olson@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Collins, Dan" <Dan.Collins@usdoj.gov> ("Collins, Dan" <Dan.Collins@usdoj.gov> [
UNKNOWN])
READ:UNKNOWN
TO:"Kim, Elizabeth" <Elizabeth.Kim@usdoj.gov> ("Kim, Elizabeth" <Elizabeth.Kim@usdoj.gov>
[UNKNOWN])

READ:UNKNOWN
TO:"Nielson, Howard" <Howard.Nielson@usdoj.gov> ("Nielson, Howard"
<Howard.Nielson@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"'ebirg@paulweiss.com'" <ebirg@paulweiss.com> ("'ebirg@paulweiss.com'"
<ebirg@paulweiss.com> [UNKNOWN])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Robert J. Delahunty (CN=Robert J. Delahunty/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:"'goldsmij@dodgc.osd.mil'" <goldsmij@dodgc.osd.mil> ("'goldsmij@dodgc.osd.mil'"
<goldsmij@dodgc.osd.mil> [UNKNOWN])
READ:UNKNOWN
TO:"'amcbride@wrf.com'" <amcbride@wrf.com> ("'amcbride@wrf.com'" <amcbride@wrf.com> [
UNKNOWN])
READ:UNKNOWN
TO:"'lleo@fed-soc.org'" <lleo@fed-soc.org> ("'lleo@fed-soc.org'" <lleo@fed-soc.org> [
UNKNOWN])
READ:UNKNOWN
TO:"Fisher, Alice" <AliceFisher%JCON@intmail.usdoj.gov> ("Fisher, Alice"
<AliceFisher%JCON@intmail.usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Benczkowski, Brian A" <Brian.A.Benczkowski@usdoj.gov> ("Benczkowski, Brian A"
<Brian.A.Benczkowski@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Sales, Nathan" <Nathan.Sales@usdoj.gov> ("Sales, Nathan" <Nathan.Sales@usdoj.gov> [
UNKNOWN])
READ:UNKNOWN
TO:"Carrington, Michael" <Michael.Carrington@usdoj.gov> ("Carrington, Michael"
<Michael.Carrington@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Charnes, Adam" <Adam.Charnes@usdoj.gov> ("Charnes, Adam" <Adam.Charnes@usdoj.gov> [
UNKNOWN])
READ:UNKNOWN
TO:"Morrison, Richard T." <Richard.T.Morrison@usdoj.gov> ("Morrison, Richard T."
<Richard.T.Morrison@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Flippin, Laura" <Laura.Flippin@usdoj.gov> ("Flippin, Laura" <Laura.Flippin@usdoj.gov>
[UNKNOWN])
READ:UNKNOWN
TO:"Mandelker, Sigal" <SigalMandelker%JCON@intmail.usdoj.gov> ("Mandelker, Sigal"
<SigalMandelker%JCON@intmail.usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Malcolm, John G" <John.GMalcolm%JCON@intmail.usdoj.gov> ("Malcolm, John G"
<John.GMalcolm%JCON@intmail.usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Treene, Eric" <Eric.Treene@usdoj.gov> ("Treene, Eric" <Eric.Treene@usdoj.gov> [
UNKNOWN])
READ:UNKNOWN
TO:"Driscoll, Bob" <Bob.Driscoll@usdoj.gov> ("Driscoll, Bob" <Bob.Driscoll@usdoj.gov> [
UNKNOWN])
READ:UNKNOWN
TO:"Boyd, Ralph" <Ralph.Boyd@usdoj.gov> ("Boyd, Ralph" <Ralph.Boyd@usdoj.gov> [UNKNOWN]
)
READ:UNKNOWN
TO:"Rosenkranz, Nicholas Q" <Nicholas.Q.Rosenkranz@usdoj.gov> ("Rosenkranz, Nicholas Q"
<Nicholas.Q.Rosenkranz@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Johnson, Steffen" <Steffen.Johnson@usdoj.gov> ("Johnson, Steffen"
<Steffen.Johnson@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Gannon, Curtis" <Curtis.Gannon@usdoj.gov> ("Gannon, Curtis" <Curtis.Gannon@usdoj.gov>
[UNKNOWN])

READ:UNKNOWN
TO:"Larsen, Joan" <Joan.Larsen@usdoj.gov> ("Larsen, Joan" <Joan.Larsen@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Bradshaw, Sheldon" <Sheldon.Bradshaw@usdoj.gov> ("Bradshaw, Sheldon" <Sheldon.Bradshaw@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Bybee, Jay" <Jay.Bybee@usdoj.gov> ("Bybee, Jay" <Jay.Bybee@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Elwood, John" <John.Elwood@usdoj.gov> ("Elwood, John" <John.Elwood@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Voss, Helen L" <Helen.L.Voss@usdoj.gov> ("Voss, Helen L" <Helen.L.Voss@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Keisler, Peter D" <Peter.D.Keisler@usdoj.gov> ("Keisler, Peter D" <Peter.D.Keisler@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Hruska, Andrew" <Andrew.Hruska@usdoj.gov> ("Hruska, Andrew" <Andrew.Hruska@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Israelite, David" <David.Israelite@usdoj.gov> ("Israelite, David" <David.Israelite@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Ciongoli, Adam" <Adam.Ciongoli@usdoj.gov> ("Ciongoli, Adam" <Adam.Ciongoli@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Pat Philbin and I would like to invite you to a happy hour this Thursday in honor of Jim Ho, who is leaving OLC to become Chief Counsel of the Constitution Subcommittee of the Senate Judiciary Committee (the launching pad from which others have begun their ascent toward greatness). It will be Thursday evening at the Caucus Room bar at 6:30.

John Yoo
Office of Legal Counsel
Department of Justice
202.514.2069
202.514.0539 (fax)

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Christine M. Burgeson/OMB/EOP@EOP [OMB] <Christine M. Burgeson>
Sent: 2/11/2003 4:08:08 AM
Subject: : What happened?

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:11-FEB-2003 09:08:08.00
SUBJECT:: What happened?
TO:Christine M. Burgeson ( CN=Christine M. Burgeson/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Leonard B. Rodriguez/OU=WHO/O=EOP [WHO]
To: Heather Wingate/WHO/EOP@Exchange@EOP [WHO] <Heather Wingate>;Ashley Snee/WHO /EOP@Exchange@EOP [WHO] <Ashley Snee>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/11/2003 11:17:41 AM
Subject: : ABC News (Peter Jennings) interested in doing Human Interest story on Miguel

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Leonard B. Rodriguez ( CN=Leonard B. Rodriguez/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:11-FEB-2003 16:17:41.00
SUBJECT:: ABC News (Peter Jennings) interested in doing Human Interest story on Miguel
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

They are looking for early childhood photos.
```

From:	CN=Edward McNally/OU=WHO/O=EOP [WHO]
To:	Lauren McCord/WHO/EOP@Exchange [WHO] <Lauren McCord>
CC:	John F. Wood/OMB/EOP@EOP [OMB] <John F. Wood>;Kimberley S. Luczynski/OMB /EOP@EOP [OMB] <Kimberley S. Luczynski>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Philip J. Perry/OMB/EOP@EOP [OMB] <Philip J. Perry>;Faisal M. Gill/WHO/EOP@EOP [WHO] <Faisal M. Gill>;cathy alix/who/eop@eop [WHO] <cathy alix>
Sent:	2/11/2003 11:32:22 AM
Subject:	: Request for TPO account extensions
Attachments:	P_R9LTD003_WHO.TXT_1.doc; P_R9LTD003_WHO.TXT_2

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:11-FEB-2003 16:32:22.00
SUBJECT:: Request for TPO account extensions
TO:Lauren McCord (CN=Lauren McCord/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
CC:John F. Wood (CN=John F. Wood/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Kimberley S. Luczynski (CN=Kimberley S. Luczynski/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Faisal M. Gill (CN=Faisal M. Gill/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:cathy alix (CN=cathy alix/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

Laurie -- Thanks your quick clarification earlier. Looking at the
original request more closely, I note that what Steve Cooper was actually
requesting was extensions for TPO accounts (see bolded portion below),
which are of course exclusively within OMB. We defer to OMB entirely as
to all aspects of OMB e-mail & etc. I think Kimberly has the action on
that in Phil Perry's office.

From: Lauren McCord/WHO/EOP@Exchange on 02/10/2003 06:05:50 PM
Record Type: Record

To: Edward McNally/WHO/EOP@EOP, Cathy Alix/WHO/EOP@EOP
cc:
Subject: FW: Request for EOP account extensions

Your thoughts, Ed and Cathy?

-----Original Message-----
From: Cooper, Steven
Sent: Monday, February 10, 2003 6:00 PM
To: McCord, Lauren; Solari, Carlos
Subject: Request for EOP account extensions

given our delay in getting an approved process to transfer data, and
additionally that we have many people who have not completed the detail
process from their home agencies to dhs, i would like to request an

extension of the time needed to migrate tpo accounts...

we have begun transfer/copy and i anticipate that we will need an additional two weeks...can we extend to feb 28th just to be safe? thank you for your consideration of this request on behalf of the new department...steve

---------- Forwarded by Steven Cooper/WHO/EOP on 02/10/2003 06:00 PM ----------

Tom Klitsner TPO
02/05/2003 05:56:39 PM
Record Type: Record

To: Steven Cooper/WHO/EOP@EOP
cc: mcqueary.charles@dhs.gov, Maureen I. McCarthy TPO/TPO/OMB/EOP@EOP, Charles E. McQueary TPO/TPO/OMB/EOP@EOP, Penrose C. Albright TPO/TPO/OMB/EOP@EOP
Subject: Request for EOP account extensions

Mr. Cooper,
I'm working with the S&T Directorate as a liason to your group to help S&T with their connectivity (and general IT) requirements. As part of this I've been trying to get the group onto the DHS network, but so far we haven't been able to wend our way completely through this process. At this point it doesn't appear we will be able to have DHS systems for the staff before the Feb 10 date that was set as the time our EOP accounts would be removed. As you might imagine, should this occur it will cause considerable problems for S&T. Is there a way to request an extension for the EOP accounts until the migration to DHS is completed? Please let me know if there is anything I can do to help with this issue.

Thank you for your time and help with this.

Tom Klitsner
DHS S&T
786-0056

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_R9LTD003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_R9LTD003_WHO.TXT_2>

Document Produced Natively

Document Produced Natively

From: CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: david mcmaster/who/eop@eop [WHO] <david mcmaster>
Sent: 2/11/2003 9:44:25 AM
Subject: : Re: you are due on RNLA conference call

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:11-FEB-2003 14:44:25.00
SUBJECT:: Re: you are due on RNLA conference call
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:david mcmaster (CN=david mcmaster/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

was it okay?

Brett M. Kavanaugh
02/11/2003 01:59:26 PM
Record Type: Record

To: Matthew A. Schlapp/WHO/EOP@EOP, David McMaster/WHO/EOP@EOP
cc:
Subject: you are due on RNLA conference call

From: CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/11/2003 10:50:19 AM
Subject: : Message Mtg Changes

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:11-FEB-2003 15:50:19.00
SUBJECT:: Message Mtg Changes
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

See below.
;
-----Original Message-----
From: Ritacco, Krista L.
Sent: Tuesday, February 11, 2003 3:49 PM
To: Yunker, Jacob H.; Barclay, Barbara A.; Barrales, Ruben S.; Bennett, Melissa S.; Bird, Debra D.; Bowen, Stuart W.; Buchan, Claire ; Burkhart, Shannon; Campbell, Anne E.; Canfield, Sally; Ciafardini, Andrew D.; Cleveland, Carolyn E.; Conde, Roberta L.; DeFrancis, Suzy; Devenish, Nicolle; Duffy, Trent D.; Ellison, Kimberly; Eskew, Tucker A.; Figg, Kara G.; Gambatesa, Linda M.; Gerdelman, Sue H.; Gillmor, Eleanor L.; Goergen, Barbara Jo; Gottesman, Blake; Grant, Britt; Gray, Adrian G.; Gray, Ann; Hamilton, Parker B.; Hennessey, Keith; Hernandez, Israel; Hughes, A. Merrill; Hughes, Taylor A.; Ingle, Edward; Jackson, Barry S.; Kaplan, Joel; Kozberg, Lindsey C.; Kyle, Ross M.; Lefkowitz, Jay P.; Lineberry, Stephen M.; Litkenhaus, Colleen; Mallea, Jose; Marquez, Heidi K.; McClellan, Scott ; McDonald, Rebekah; McQuade, Vickie A.; Mehlman, Ken; Middlemas, A. Morgan; Miers, Harriet; Millerwise, Jennifer; Montiel, Charlotte L.; Neely, Susan K.; Nelson, Carolyn; Nipper, Wendy L.; Parell, Christie; Pelletier, Eric C.; Perez, Anna M.; Ralston, Susan B.; Rodriguez, Noelia ; Rogers, Edwina C.; Rust, Kathryn E.; Ryun, Catharine A.; Sforza, Scott N.; Silverberg, Kristen; Snee, Ashley; Spagnoli, Deborah A.; Towey, Jim; Vestewig, Lauren J.; Walters, Katherine M.; Wehner, Peter H.; Westine, Lezlee J.; Williams, Mary C.; Wozniak, Natalie S.
Subject: MESSAGE MEETING update for next week

Message Meeting;is cancelled on Monday, February 17.; Have a nice holiday!
;
Instead, there will be a message meeting;on TUESDAY, February 18 at;11:00 am in the Roosevelt Room.
;
Thanks!
;

From: Bumatay, Patrick J.
To: <Kavanaugh, Brett M.>
Sent: 2/11/2003 3:58:36 PM
Subject: JSC stuff

can you send me your stuff for the Ninth circuit as soon as possible? I want to get the Judge to approve before he leaves tonight (probably around 6:30 pm) and distribute later tonight.

Patrick J. Bumatay
Office of Counsel to the President
o: 202-456-5214
f: 202-456-6279
mainline: 202-456-2632

From: Office of Global Communications <Global.Messenger@WhiteHouse.Gov>
To: Carolene Langie Office of Global Communications/WHO/EOP@EOP [WHO] <Carolene Langie Office of Global Communications>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 2/11/2003 3:05:08 PM
Subject: : White House Global Messenger -- 02/11/2003
Attachments: P_9EUTD003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Office of Global Communications <Global.Messenger@WhiteHouse.Gov> (Office of Global Communications <Global.Messenger@WhiteHouse.Gov> [UNKNOWN])
CREATION DATE/TIME:11-FEB-2003 20:05:08.00
SUBJECT:: White House Global Messenger -- 02/11/2003
TO:Carolene Langie Office of Global Communications (CN=Carolene Langie Office of Global Communications/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

(See attached file: GM 2-11-03 FINAL.doc)

THE GLOBAL MESSENGER

Tuesday, February 11, 2003

******KEY POINTS******

- The Iraqi regime's violations of Security Council resolutions are evident, and
they continue. The regime has never accounted for a vast arsenal of deadly biological and chemical weapons, and is pursuing an elaborate campaign to conceal its weapons materials, and to hide or intimidate key experts and scientists.

- This deception is directed from the highest levels of the Iraqi regime, including Saddam Hussein, his son, the Vice President, and the very official
responsible for cooperating with inspectors.

- Sources tell us Saddam Hussein recently authorized Iraqi field commanders to
use chemical weapons - the very weapons the dictator tells the world he does not
have.

- The same terrorist network operating out of Iraq is responsible for the recent
murder of an American diplomat. This network has plotted terrorism against France, Spain, Italy, Germany, the Republic of Georgia, Russia, and was caught
producing poisons in London. The danger of weapons of mass destruction reaches
across the world.

- Saddam Hussein was given a final chance; he is throwing that chance away. The
Security Council must show whether its words have any meaning. Having made its
demands, the Security Council must not back down, when those demands are defied
and mocked by a dictator.

- The United States would welcome and support a new resolution which makes

clear
that the Security Council stands behind its previous demands. Yet
resolutions
mean little without resolve. The United States, along with a growing
coalition
of nations, is will take whatever action is necessary to defend ourselves
and
disarm the Iraqi regime.

- On September 11, 2001, America saw what terrorists could do by turning
four
airplanes into weapons. We will not wait to see what terrorists or
terrorist
states could do with chemical, biological, radiological or nuclear weapons.

- The people of Iraq are not our enemies. The true enemy of the Iraqi
people is
Saddam Hussein, and they have suffered long enough under this tyrant. And
the
Iraqi people can be certain the United States is committed to helping them
build
a better future. If conflict occurs, America will bring Iraq food,
medicine,
supplies and, most importantly, freedom.

******TODAY'S SCHEDULE******
All Times Eastern Standard Time Unless Noted
Subject to Change

10:00 am Secretary Powell testifies before the Senate Budget Committee

12:30 pm White House Briefing by Ari Fleischer

3:25 pm President Bush meets with President Gutierrez of Ecuador

******IN CASE YOU MISSED IT...******
Excerpt from UN Secretary Genera; Kofi Annan
's speech to College of William and
Mary, 2-8-03

"...[O]ur founders were not pacifists. They knew there would be times when
force
must be met with force. And therefore they wrote into the United Nations
Charter
strong enforcement provisions, to enable the world community to unite
against
aggression and defeat it.... If Iraq fails to make use of this last
chance, and
continues its defiance...the council will have to make another grim
choice. When
that time comes, the council must face up to its responsibilities."

******KEY QUOTES******

"In violation of the Geneva Conventions, Saddam Hussein is positioning his
military forces within civilian populations in order to shield his
military and
blame coalition forces for civilian casualties that he has caused. Saddam
Hussein regards the Iraqi people as human shields, entirely expendable when
their suffering serves his purposes. America views the Iraqi people as
human
beings who have suffered long enough under this tyrant."
President Bush, in Nashville, TN, 2-10-03

"With respect to a second resolution, why don't we all start calling it
the 18th
resolution, which is in fact what it [would be], if there is to be one."

Secretary Rumsfeld, to reporters, 2-10-03

THE WHITE HOUSE
Office of Global Communications

For more information log on to http://www.whitehouse.gov/ogc/

****

You have previously expressed interest in obtaining news and information from
the White House.

The White House Office of Global Communications distributes information about
the President's messages to the world. This office distributes updates on major
international topics such as the global war on terror, the case for regime
change in Iraq, and more broadly, the ways in which we can all better
communicate the aspirations and interests that Americans share with
freedom-loving people everywhere. - GM 2-11-03 FINAL.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_9EUTD003_WHO.TXT_1>

THE GLOBAL MESSENGER

Tuesday, February 11, 2003

Today's Schedule

All Times Eastern Standard Time Unless Noted
Subject to Change

10:00 am	Secretary Powell testifies before the Senate Budget Committee
12:30 pm	White House Briefing by Ari Fleischer
3:25 pm	President Bush meets with President Gutierrez of Ecuador

In Case You Missed It...

Excerpt from UN Secretary Genera; Kofi Annan's speech to College of William and Mary, 2-8-03

"….[O]ur founders were not pacifists. They knew there would be times when force must be met with force. And therefore they wrote into the Charter of the United Nations strong enforcement provisions, to enable the world community to unite against aggression and defeat it….If Iraq fails to make use of this last chance, and continues its defiance…the council will have to make another grim choice. When that time comes, the council must face up to its responsibilities."

Key Quotes

"In violation of the Geneva Conventions, Saddam Hussein is positioning his military forces within civilian populations in order to shield his military and blame coalition forces for civilian casualties that he has caused. Saddam Hussein regards the Iraqi people as human shields, entirely expendable when their suffering serves his purposes. America views the Iraqi people as human beings who have suffered long enough under this tyrant."
President Bush, in Nashville, TN, 2-10-03

"With respect to a second resolution, why don't we all start calling it the 18th resolution, which is in fact what it [would be], if there is to be one."
Secretary Rumsfeld, to reporters, 2-10-03

KEY POINTS

- The Iraqi regime's violations of Security Council resolutions are evident, and they continue. The regime has never accounted for a vast arsenal of deadly biological and chemical weapons, and is pursuing an elaborate campaign to conceal its weapons materials, and to hide or intimidate key experts and scientists.
- This deception is directed from the highest levels of the Iraqi regime, including Saddam Hussein, his son, the Vice President, and the very official responsible for cooperating with inspectors.
- Sources tell us Saddam Hussein recently authorized Iraqi field commanders to use chemical weapons - the very weapons the dictator tells the world he does not have.
- The same terrorist network operating out of Iraq is responsible for the recent murder of an American diplomat. This network has plotted terrorism against France, Spain, Italy, Germany, the Republic of Georgia, Russia, and was caught producing poisons in London. The danger of weapons of mass destruction reaches across the world.
- Saddam Hussein was given a final chance; he is throwing that chance away. The Security Council must show whether its words have any meaning. Having made its demands, the Security Council must not back down, when those demands are defied and mocked by a dictator.
- The United States would welcome and support a new resolution which makes clear that the Security Council stands behind its previous demands. Yet resolutions mean little without resolve. The United States, along with a growing coalition of nations, is will take whatever action is necessary to defend ourselves and disarm the Iraqi regime.
- On September 11, 2001, America saw what terrorists could do by turning four airplanes into weapons. We will not wait to see what terrorists or terrorist states could do with chemical, biological, radiological or nuclear weapons.
- The people of Iraq are not our enemies. The true enemy of the Iraqi people is Saddam Hussein, and they have suffered long enough under this tyrant. And the Iraqi people can be certain the United States is committed to helping them build a better future. If conflict occurs, America will bring Iraq food, medicine, supplies and, most importantly, freedom.

THE WHITE HOUSE
Office of Global Communications

For more information log on to www.whitehouse.gov/ogc

From: FindLaw.com <listadmin@LEGALMINDS.ORG>
To: TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN] <TOPHEADLINES@LEGALMINDS.ORG>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 2/11/2003 4:23:39 PM
Subject: : [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Tue., Feb. 11, 2003

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"FindLaw.com" <listadmin@LEGALMINDS.ORG> ("FindLaw.com" <listadmin@LEGALMINDS.ORG> [UNKNOWN])
CREATION DATE/TIME:11-FEB-2003 21:23:39.00
SUBJECT:: [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Tue., Feb. 11, 2003
TO:TOPHEADLINES@LEGALMINDS.ORG (TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

FINDLAW Tue, Feb 11, 2003

TOP LEGAL NEWS HEADLINES

For all of the day's legal news go to: http://news.findlaw.com

****

MEETINGBRIDGE - Teleconferencing. Pure and Simple.

MeetingBridge understands what law firms want from a teleconferencing service - easy setup, simple scheduling, clear connections, and convenient client billing features. Our rate is up to 79% less than AT&T, up to 55% less than MCI. To learn about our free no-risk trial, click below:

http://rd.findlaw.com/scripts/nl.pl?url=10397664001_nl

****

POLITICS
Bush Nears Senate Showdown On Estrada Nomination
http://news.findlaw.com/politics/s/20030211/congressjudgesdc.html

Senate Panel Backs Donaldson For SEC

http://news.findlaw.com/business/s/20030211/congresssecdonaldsondc.html

LEGAL COMMENTARY
The Tort Of Wrongful Seduction: Still Viable?
http://writ.news.findlaw.com/grossman/20030211.html

The World Court Order That The U.S. Stay Executions
http://writ.news.findlaw.com/commentary/20030211_ku.html

CIVIL RIGHTS
MIT Drops Minority Policy For 2 Programs
http://news.findlaw.com/ap/o/1110/2-11-2003/20030211053011_43.html

PRODUCT LIABILITY
ABA Recommends Curbs On Asbestos Lawsuits

http://news.findlaw.com/ap/o/1110/2-11-2003/20030211104501_29.html

MICROSOFT
EU To Look Into New Microsoft Complaint
http://news.findlaw.com/business/s/20030211/techmicrosofteudc.html

LABOR AND EMPLOYMENT
Strapped Companies Wrestle With CEO Pay
http://news.findlaw.com/ap/f/1310/2-11-2003/20030211110010_06.html

ENVIRONMENT
GOP Works To Tilt Environmental Policy
http://news.findlaw.com/ap/a/w/1153/2-11-2003/20030211003005_07.html

Farm Aid Dispute Hinders $396B Deal
http://news.findlaw.com/ap/a/w/1153/2-11-2003/20030211023005_54.html

CYBERSPACE LAW
French Court Clears Yahoo! In Nazi Case
http://news.findlaw.com/ap/ht/1700/2-11-2003/20030211101502_08.html

'Cyberbegging' Sites Popping Up On Web
http://news.findlaw.com/ap/ht/1700/2-11-2003/20030211014501_85.html

TELECOMMUNICATIONS
Judge Suspends Wash. State Phone Privacy
http://news.findlaw.com/ap/f/1310/2-11-2003/20030211070001_19.html

Sprint-Bellsouth Fight Faces Arbitration
http://news.findlaw.com/ap/ht/1700/2-11-2003/20030211014501_22.html

BUSINESS
Wyeth Expects Subpoena on Sales Practices
http://news.findlaw.com/business/s/20030211/healthwyethdc.html

Tyco Ex-Officials Used Tax Shelters -WSJ

http://news.findlaw.com/business/s/20030211/manufacturingtycoreportdc.html

ENRON
Paperwork Slows Case Of Enron's Fastow
http://news.findlaw.com/ap/f/1310/2-11-2003/20030211014501_35.html

INTERNATIONAL LAW
Iraq Crisis Sharply Divides U.N. Council
http://news.findlaw.com/ap/i/1107/2-11-2003/20030211014501_16.html

French Court Orders Germany To Pay Nazi-Era Slave

http://news.findlaw.com/international/s/20030211/francegermanyslavedc.html

WAR ON TERRORISM
CIA Chief Says Al Qaeda Still A Threat
http://news.findlaw.com/politics/s/20030211/attackciaqaedadc.html

London Boosts Security On Terror Alert
http://news.findlaw.com/ap/i/1103/2-11-2003/20030211103011_08.html

CRIME & TRIALS
Court Rules Insane Inmate Can Be Executed
http://news.findlaw.com/ap/o/1110/2-11-2003/20030211064501_12.html

Men Testify Cheating Husband Hit 3 Times
http://news.findlaw.com/ap/o/1110/2-11-2003/20030211104501_21.html

ENTERTAINMENT
Fugitive Filmmaker Nominated For Oscar
http://news.findlaw.com/ap/e/1402/2-11-2003/20030211064501_02.html

'Dell Dude' Arrested On Drug Charge
http://news.findlaw.com/ap/e/1401/2-11-2003/20030211023003_03.html

SPORTS
Report: Eagles, Phillies Owe Millions
http://news.findlaw.com/ap/s/2020/2-11-2003/20030211030004_6.html

Olden Polynice Is No-Show For Retrial
http://news.findlaw.com/ap/s/2030/2-11-2003/20030211074501_07.html

****

The Prevail System is the most user friendly case management system
available for litigators. Simplicity is the key for your staff to use
any system and Prevail's automatic document generation & tracking,
user-definable claims management system, integrated calendar and to-do
lists, time & cost tracking, damages & medical specials tracking and
hundreds of customizable reports can be accessed with ease.
http://rd.findlaw.com/scripts/nl.pl?url=10448640001_nl

** West LegalEdcenter *******

Receive updates about NEW ONLINE CLE PROGRAMS

Register with West LegalEdcenter for monthly email updates about new
online CLE programs in your practice areas and jurisdictions. West
LegalEdcenter currently has more than 1,400 courses, with more added
daily!

http://rd.findlaw.com/scripts/nl.pl?url=gen_cle_010402

=- westgroup.com -=-=-=-=-=-\

Get FREE ground shipping in the U.S. on all orders.
http://rd.findlaw.com/scripts/nl.pl?url=gen_ads_040102

****

FEEDBACK

We value your comments! Please take a moment to tell us what you think
by sending an e-mail to:
mailto:newsletters@findlaw.com?subject=TopHeadlines. Please include
"Top Headlines" in the subject line.

SUBSCRIPTION INFORMATION

To subscribe to a FindLaw Newsletter, visit the FindLaw Newsletter
Subscription Center at http://newsletters.findlaw.com

To unsubscribe, go to http://newsletters.findlaw.com/unsubscribe.html

---

ADVERTISING INFORMATION

For more information about advertising in FindLaw Newsletters, please contact us at:

mailto:sales@findlaw.com

FindLaw Top Headlines http://news.findlaw.com

Copyright (c) 2003 FindLaw, Inc.

From: CN=Paul B. Dyck/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/12/2003 1:57:32 AM
Subject: : Press release
Attachments: P_3P4UD003_WHO.TXT_1.htm; P_3P4UD003_WHO.TXT_2.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Paul B. Dyck (CN=Paul B. Dyck/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:12-FEB-2003 06:57:32.00
SUBJECT:: Press release
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Attached is a draft press release for a Lincoln Day DInner call is doing -
for your review and edits. Thaks.

---------- Forwarded by Paul B. Dyck/WHO/EOP on 02/12/2003
06:59 AM ----------

Court Koenning <court.koenning@harriscountygop.com>
02/11/2003 12:34:20 PM
Record Type: Record

To: Paul B. Dyck/WHO/EOP@EOP
cc: 'Dawn Smith' <dsmith@gophq.com>
Subject: Press release

Paul,
I took the liberty of scrubbing the title on the attached press release.
Please let me know if this version is ok to send out.

Thanks,
Court

- att1.htm
- PR 030124 - Rove.doc

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_3P4UD003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_3P4UD003_WHO.TXT_2>

Paul,
I took the liberty of scrubbing the title on the attached press release. Please let me know if this version is ok to send out.

Thanks,
Court

Harris County
REPUBLICAN PARTY
Jared Woodfill, Chairman

NOT FOR RELEASE - DRAFT
TIME

Contact: Court Koenning
Phone: 713-838-7900

KARL ROVE TO HEADLINE LOCAL REPUBLICAN EVENT

President's Senior Advisor to Keynote Annual Lincoln Day Dinner

HOUSTON – Harris County Republican Party Chairman Jared Woodfill announced that Karl Rove, long time advisor and chief campaign strategist to President George W. Bush, will be the keynote speaker at the Party's annual Lincoln Day Dinner. The annual fundraising event will be held on Thursday, April 17, 2003.

"We are very excited to have Karl Rove as our keynote speaker at our annual Lincoln Day celebration," Chairman Jared Woodfill said. "Mr. Rove's inside knowledge of international events, Washington happenings and national politics will serve as a special briefing for those that attend this unique event," Chairman Woodfill added.

In the Sunday, January 5 edition of the *Washington Times* Mr. Rove touted the successes in Harris County where Republicans registered 55,000 new or lapsed voters, all in Republican-friendly areas.

"We were excited to hear that the White House was applauding our successes this election cycle. Harris County is Republican country. We helped elect a Republican US Senator, Governor, Lt. Governor and every other statewide elected official. We helped increase the Republican majorities in the Texas Senate and won the Texas House for the first time since Reconstruction. And locally every countywide elected official is a Republican," Chairman Woodfill announced.

Karl Rove is the long time advisor and chief campaign strategist to President George W. Bush. Mr. Rove oversees the strategic planning, political affairs, public liaison, and intergovernmental affairs efforts of the White House. He served as chief strategist for the Bush for President Campaign and for 18 years prior to that, he served as president of Karl Rove & Company, an Austin, Texas-based public affairs firm that worked for Republican candidates, non-partisan causes, and non-profit groups. His clients have included over 75 Republican U.S. Senate, Congressional and gubernatorial candidates in 24 states.

The 2003 Harris County Republican Party's Lincoln Day Dinner will be held on Thursday, April 17, 2003. For more information or to purchase individual tickets or tables please contact the Harris County Republican Party at 713-838-7900.

Paid for by the Harris County Republican Party, Jared Woodfill, Chairman
3311 Richmond Ave., Suite 218, Houston, Texas 77098
Tel. 713-838-7900 Fax. 713-838-7901
Visit our website at: www.harriscountygop.com

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ashley Snee/WHO/EOP@Exchange@EOP [WHO] <Ashley Snee>
Sent: 2/12/2003 4:29:19 AM
Subject: :

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:12-FEB-2003 09:29:19.00
SUBJECT::
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

just a few years ago, Senator Leahy expressly agreed with then-Governor Bush that every judicial nominee was entitled to an up-or-down floor vote within a reasonable time. On October 3, 2000, for example, Senator Leahy stated:

Governor Bush and I, while we disagree on some issues, have one very significant issue on which we agree. He gave a speech a while back and criticized what has happened in the Senate where confirmations are held up not because somebody votes down a nominee but because they cannot ever get a vote. Governor Bush said. You have the nominee. Hold the hearing. Than, within 60 days, vote them up or vote them down. Don,t leave them in limbo. Frankly, that is what we are paid to do in this body. We are paid to vote either yes or no) not vote maybe. When we hold a nominee up by not allowing them a vote and not taking any action one way or the other, we are not only voting +maybe,, but we are doing a terrible disservice to the man or woman to whom we do this.

From: Bumatay, Patrick J.
To: <Nelson, Carolyn>;<Montiel, Charlotte L.>;<Brilliant, Hana F.>;<Walker, Helgard C.>;<Bartolomucci, H. Christopher>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>;<Ullyot, Theodore W.>
Sent: 2/12/2003 7:59:45 AM
Subject: National Review

Copyright 2003 National Review
National Review

February 11, 2003, Tuesday

SECTION: National Review Online; Ramesh Ponnuru

LENGTH: 1189 words

HEADLINE: Judging Gonzales

BYLINE: By Ramesh Ponnuru; NR Senior Editor

BODY:
Is **White House** counsel **Alberto Gonzales** on the short list to fill the next Supreme Court vacancy? That's been the subject of speculation since even before President Bush took office. That speculation had declined in recent months, and a recent Washington Post story suggested he was out of the running. But the rumor mill is up and running again. Some social conservatives are reporting that the **White House** is trying to sell them on Gonzales's merits. They're worried that a Justice Gonzales could be in our future.

In the Senate, Republican staffers who share this alarm have taken to saying that "Gonzales is Spanish for Souter." The reference is to Justice David Souter, a nominee of the first President Bush. Souter was picked because he lacked a paper trail and could thus easily be confirmed. Souter got 90 votes in the Senate. But on the bench he turned out to be a fairly reliable liberal vote. In the latest issue of NR, my colleagues editorialize that it is unfair to compare Gonzales to Souter: "When Souter was nominated, we didn't know anything about his views. We do know something about Gonzales's views, and what we know is not encouraging."

Gonzales opponents say there are two strikes against him. The first is that he weakened the administration's brief to the Supreme Court in the University of Michigan racial-preference cases. Solicitor General Ted Olson wanted the administration to say that the use of racial preferences to achieve diversity is constitutionally impermissible. Gonzales overruled him.

The second strike is Gonzales's record on abortion as a justice of the Texas supreme court. The state had passed a law requiring parents to be notified before a minor could get an abortion. That law, like most parental-notification laws, allowed judges to waive the requirement if observing it could be expected to lead to the abuse of the girl in question. In its first cases dealing with the law, the court read this judicial-bypass provision broadly - so broadly that one dissenter furiously charged that the law had been gutted.

Priscilla Owen, whom Bush has nominated to a federal court of appeals, sat on the Texas supreme court with Gonzales during the notification cases. She was a dissenter, and last year her opponents seized on a remark Gonzales made in the cases to cast her as an extremist. Gonzales had supposedly tagged Owen as a right-wing activist. Some conservatives believe that Gonzales made this remark, and hold it against him. It appears, however, that Gonzales was referring not to Owen but to one of their colleagues on the Texas supreme court.

I reviewed Gonzales's opinions (and those of his colleagues) for a profile of him in NR two years ago. My conclusion was that while the dissenters had the better argument about how to construe the statute, the cases do not prove Gonzales to be a lawless judge, a supporter of Roe v. Wade, or even a proponent of a right to abortion. On the other hand, nothing in Gonzales's jurisprudence in that case or others would lead people to believe that he would be a Supreme Court justice in the mold of Antonin Scalia or Clarence Thomas - which is what Bush said he wanted on the campaign trail.

So far, the **White House** campaign for Gonzales has found few takers among social conservatives or legal conservatives generally. Some of the former are regularly discussing what to do if Bush nominates Gonzales.

The short answer is that there's not much they would be able to do to stop Gonzales's confirmation. Social conservatives would feel betrayed - the rank-and-filers, that is, not just the leaders of the Washington groups - since the chief reason they were given to vote for Bush was that he would nominate "strict constructionists" like Scalia and Thomas. But Republican senators are not going to vote against a Bush nominee who's also the first Hispanic nominee to the Supreme Court, whatever conservatives say. Conservative opponents of Gonzales will have to be careful not to threaten more than they can deliver.

Two months ago, Jeff Bell, an influential social-conservative activist, told me how he thought a Gonzales nomination would play out. "Every article would say that the pro-life movement is over," he said. "[Gonzales would] make [his non-conservatism] obvious as early as the hearings. Leahy would whisk him through, a handful would vote against him. It'd be 90-10. It would be seen as a complete victory for the other side on every difficult liberal-conservative issue before the Supreme Court. . . . Gonzales is not going to resist the zeitgeist on anything for any length of time and everybody knows that. I think it's a major risk for Bush to make a nomination like that and I think he won't. It might not hurt short-run but in the medium-run and long-run it is very dangerous to his base."

Bell could be wrong about the danger. Everyone can understand the political point of nominating the first Hispanic Supreme Court justice and avoiding a confirmation fight with the Democrats. Says one opponent, "If I was just a Machiavellian Republican, without any desire to do the right thing, I'd try to make this thing work." If Gonzales is nominated, however, it will be hard to see what the point of all the pro-life positions that Bush has taken was.

The president has run real political risks in standing with pro-lifers on stem cells, cloning, and international family-planning funding. He has gained their enthusiastic support as a result - and that's all he has gained. Nominating Gonzales this year would instantly wipe out that enthusiasm. Gonzales's nomination would also raise another question: What was the point of Bush's nominating Scalia-Thomas-style conservatives to the federal courts of appeal? If Bush thought it was worth fighting with liberals over those courts, why not over the court to whose precedents they are bound?

Perhaps the point of all these moves was to build up Bush's credibility among pro-lifers to the point that they would give Gonzales the benefit of the doubt as Bush's friend. But pro-lifers have several reasons not to give Supreme Court nominees the benefit of the doubt. They have been burned before. Pro-lifers were bitterly disappointed with Justices Sandra Day O'Connor, Anthony Kennedy, and Souter, all of whom were nominated by political allies and expected to vote against Roe, but didn't. Another such disappointment would leave the court split 7-2 for Roe. That's the same as the original vote for it. We'd be right back to 1973.

Some people believe that it would be easier to sell conservatives on Gonzales as a replacement for Justice O'Connor than as a replacement for Chief Justice William Rehnquist. The **White House** could tell conservatives that trading O'Connor for Gonzales was a step up, even if Gonzales is not conservatives' ideal justice. That won't work for everyone: Bush's promise was to appoint "strict constructionists," not to improve the Supreme Court incrementally. It might, however, work for a lot of conservatives - especially if Bush had already gotten a conservative justice confirmed and Gonzales were his second nominee.

Patrick J. Bumatay

Office of Counsel to the President
o: 202-456-5214
f: 202-456-6279
mainline: 202-456-2632

From: CN=Arthur B. Applegate/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Emory Rounds/WHO/EOP@EOP [WHO] <Emory Rounds>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>
Sent: 2/12/2003 4:53:46 AM
Subject: : Hatch Act / 2d draft
Attachments: P_DNDUD003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Arthur B. Applegate (CN=Arthur B. Applegate/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:12-FEB-2003 09:53:46.00
SUBJECT:: Hatch Act / 2d draft
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Emory Rounds (CN=Emory Rounds/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett,

Attached is the 2d draft of the Hatch Ac t Crib Sheet. Per your suggestion we have reorganized and consolidated the bullet points. We have revised the bullet point on the use of e-mails and ask that you consider retaining this in the document in light of the recent OSC Advisory on the use of e-mails for political purposes. If you can incorporate any further changes into the document while keeping it to one page we can save a lot of back and forth e-mails. Our goal is to insure that you are completely satisfied with the final version. (I am working on solving the indent problem with the first two bullet points).
Thanks again for your assistance.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_DNDUD003_WHO.TXT_1>

POLITICAL ACTIVITIES (HATCH ACT) GUIDANCE

- **While off duty** and subject to the prohibitions on the improper use of an official title and solicitation of contributions, you **may** vote, participate in political organizations and campaigns, make political contributions and attend fundraisers, serve as a political party officer or as a political convention delegate; you may endorse, oppose or canvass for votes in support of a candidate or party and organize political groups;
- If **(and only if)** you are a staff member whose government duties are "24/7", i.e., continue after normal duty hours and away from the normal duty post, you **may** engage in political activity—such as party or campaign related meetings or telephone calls—while on duty, or in a government building or vehicle, so long as it does not interfere with official duties. But, the political entity must pay any non-incidental costs associated with such activity.
- An activity or event is "political" if it is conducted for a partisan election or campaign, or for a political party. Classify an event as "political" or "official" objectively, not based on any possible political ramifications. (A good starting point is determining who is organizing the event). If speaking at an official event, you **may not** expressly advocate a candidate's election.
- You **may** speak at a political fundraiser, and be listed on the event invitation as a speaker or guest, but your official government title **may not** be used either on the invitation or during your introduction.
- **Regardless of your government position or if your "24/7"**, you **may not** solicit, receive, or accept political contributions, host a political fundraiser, or conduct political fundraising on government property,
- You **may not** use your official authority to interfere with or affect the result of an election, to coerce any person to engage in political activity, promise government employment or any other benefit in exchange for political activity, threaten employment loss for political activity, solicit or accept anything of value to obtain public office for another, or solicit, accept, or receive uncompensated volunteer services from a subordinate employee or from a company with matters pending before the Administration.
- You **may not** travel on corporate or private aircraft for political trips, but you **may** travel on a charter aircraft leased by a political entity.
- E-mail messages that solicit support for political candidates or parties, may, depending on the circumstances, violate the Hatch Act.
- All political activity of commissioned officers need to be cleared through the Office of Political Affairs and the White House Counsel's Office.
  White House Counsel's Office – 202-456-2608

From:	Nelson, Carolyn
To:	<Bartolomucci, H. Christopher>;<Ullyot, Theodore W.>;<Bumatay, Patrick J.>;<Leitch, David G.>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Montiel, Charlotte L.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>;<Walker, Helgard C.>
Sent:	2/12/2003 8:57:57 AM
Subject:	FW: WHJSC Time Change

Also note that JSC Prep has been cancelled.
-----Original Message-----
From: Nelson, Carolyn
Sent: Wednesday, February 12, 2003 8:55 AM
To: Wingate, Heather ; adam charnes; adam ciongoli; albert brewster; amy bass; andrew beach; Bartolomucci, H. Christopher; Bennett, Melissa S.; Brilliant, Hana F.; Bumatay, Patrick J.; Ellison, Kimberly; evelyn long; Francisco, Noel J.; Gray, Ann; jason sutton; Jones, Alison ; Kavanaugh, Brett M.; Kristi Remington; Kyle, Ross M.; Leitch, David G.; Lockart, Sarah K.; McMaster, David; Montiel, Charlotte L.; Newstead, Jennifer G.; Powell, Benjamin A.; Ralston, Susan B.; Sampson, Kyle; tracy washington; viet dinh; Walker, Helgard C.; wendy keefer
Subject: WHJSC Time Change

Please note that WHJSC has been rescheduled for **4:45-5:30** this afternoon. We'll still meet in the Roosevelt Room.

Thanks!

From: Goeglein, Tim
To: <Kavanaugh, Brett M.>;<Wingate, Heather>
Sent: 2/12/2003 8:59:06 AM
Subject: FYI, Have activated AR phone banks. Sen. Nelson will receive several hundred calls commencing tomorr

fyi

tsg

---------- Forwarded by Tim Goeglein/WHO/EOP on 02/12/2003 09:03 AM ----------

Richard Lessner

02/11/2003 04:51:02 PM

Record Type: Record

To: Tim Goeglein/WHO/EOP@EOP

cc:

Subject: FYI, Have activated AR phone banks. Sen. Nelson will receive several hundred calls commencing tomorr

My friend Tim

FYI, Have activated AR phone banks. Sen. Nelson will receive several

hundred calls commencing tomorrow morning. --RL

From: David_G._Leitch@who.eop.gov [WHO] <Leitch, David G.>
To: <Kavanaugh>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6246020-C20FEE19-852569DA-7648DC [UNKNOWN] <Brett M.>
CC: <Gonzales>;Alberto_R._Gonzales@who.eop.gov [WHO] <Alberto R.>
Sent: 2/12/2003 9:25:18 AM
Subject: tone issue on letter

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (MS Mail)
CREATOR:Leitch, David G. ( David_G._Leitch@who.eop.gov [ WHO ] )
CREATION DATE/TIME:12-FEB-2003 14:25:18.00
SUBJECT:tone issue on letter
TO:Kavanaugh, Brett M. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6246020-
C20FEE19-852569DA-7648DC [ UNKNOWN ] )
READ:UNKNOWN
CC:Gonzales, Alberto R. ( Alberto_R._Gonzales@who.eop.gov [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

My understanding has always been that the use of "Democrat" as an adjective is
viewed or used as something of a slight (other than the obvious) and that those
on the other side of the aisle prefer "Democratic" -- as in "Democratic
Solicitors General," for example, rather than "Democrat Solicitors General."
Check me on this, but if it's an issue I think we should be on the deferential
side.
```

From: Kate Walters <kate@georgewbush.com>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/12/2003 6:24:29 AM
Subject: : Invite for Approval
Attachments: P_ZMMUD003_WHO.TXT_1.htm; P_ZMMUD003_WHO.TXT_2.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kate Walters <kate@georgewbush.com> (Kate Walters <kate@georgewbush.com> [UNKNOWN])
CREATION DATE/TIME:12-FEB-2003 11:24:29.00
SUBJECT:: Invite for Approval
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett- do you mind approving this? If it is not a fundraiser, I told them that they could use his title.

Also, Happy Birthday!

-----Original Message-----
From: Alex Johnson [mailto:alex.johnson@mindspring.com]
Sent: Wednesday, February 12, 2003 9:38 AM
To: Kate Walters
Subject: RE: RLCC Dinner Invite

It's an event for our members not a fundraiser.

I have attached a flyer I would like to fax/email out with Ken on it. Let me know if this works.

Alex Johnson

RLCC

alex.johnson@mindspring.com

202-289-3974

-----Original Message-----
From: Kate Walters [mailto:kate@georgewbush.com]
Sent: Wednesday, February 12, 2003 9:30 AM
To: 'Alex Johnson'
Subject: RE: RLCC Dinner Invite

could he just come to the dinner at 7:00 pm or 7:15 pm? If this is a fundraiser, then we can't use Ken's title. If it is just an event, then we can use it. thanks!

-----Original Message-----
From: Alex Johnson [mailto:alex.johnson@mindspring.com]
Sent: Wednesday, February 12, 2003 8:45 AM
To: Kate Walters
Subject: RE: RLCC Dinner Invite

Attached is the formal invite. The event is at the Occidental Grille with
a reception at 6 and dinner starts at 7. We would like to have him speak at
approximately 7:30.

I haven't sent anything out with his name on it but would like to. At this point we will probably blast an email out but I will send it to you to approve.

Alex Johnson

RLCC

alex.johnson@mindspring.com

202-289-3974

-----Original Message-----
From: Kate Walters [mailto:kate@georgewbush.com]
Sent: Tuesday, February 11, 2003 6:48 PM
To: 'Alex Johnson'
Subject: RE: RLCC Dinner Invite

March 3 looks fine. What time? I didn't see an attachment. If anything with Ken's name needs to go out, please send to us first. White House Counsel will need to approve. Thanks.

See you on Thursday!

-----Original Message-----
From: Alex Johnson [mailto:alex.johnson@mindspring.com]
Sent: Monday, February 10, 2003 10:43 AM
To: Kate Walters
Subject: FW: RLCC Dinner Invite

Kate, sorry I used wrong address. How does this date look? Let me know
if this is going to work because I'd like to tell people he is coming to the
event.

Look forward to seeing you later this week.

Alex Johnson

RLCC

alex.johnson@mindspring.com

202-289-3974

-----Original Message-----
From: Ken Mehlman [mailto:kmehlman@georgewbush.com]
Sent: Wednesday, February 05, 2003 4:54 PM
To: 'Alex Johnson'; ken@georgewbush.com
Cc: kwalters@georgewbush.com
Subject: RE: RLCC Dinner Invite

Would like to if I can. Kate: Please advise?

-----Original Message-----
From: Alex Johnson [mailto:alex.johnson@mindspring.com]
Sent: Wednesday, February 05, 2003 3:52 PM
To: ken@georgewbush.com; Ken Mehlman
Cc: kwalters@georgewbush.com
Subject: RLCC Dinner Invite

Ken, I would like to invite you to keynote a Dinner for the
Republican
Legislative Campaign Committee on Monday, March 3 at the Occidental Grille
in Washington, DC.

We will have over 20 legislative leaders in attendance in addition to
approximately 80+ members of the business community. We have made great
strides with our group in a short period of time and are focused on making
a
difference in starting this cycle in New Jersey, Virginia, Mississippi and
Louisiana.

I've attached a formal invitation for Kate to have.

Please let me know if this is a possibility as I would like to make
an
announcement of your participation.

Thanks and feel free to call me if you have any questions.

Alex

Alex Johnson

RLCC

alex.johnson@mindspring.com

202-289-3974

- att1.htm - 3-3 dinner invite.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ZMMUD003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ZMMUD003_WHO.TXT_2>

Brett- do you mind approving this? If it i s not a fundraiser, I told them that they could use his title.

Also, Happy Birthday!

-----Original Message-----
From: Alex Johnson [mailto:alex.johnson@mindspring.com]
Sent: Wednesday, February 12, 2003 9:38 AM
To: Kate Walters
Subject: RE: RLCC Dinner Invite

It's an event fo r our members not a fundraiser.

I have attached a flye r I would like to fax/email out with Ken on it. Let me know if this works.

Alex Johnson
RLCC
alex.johnson@mindspring.com< /P>
202-289-3974

> -----Original Message-----
> **From:** Kate Walter s [mailto:kate@georgewbush.com]
> **Sent:** Wednesday, February 12, 2003 9:30 AM
> **To:** 'Alex Johnson'
> **Subject:** RE: RLCC Dinner Invite
>
> could he just come to the dinner at 7:00 pm or 7:15 pm? If this is a fundraiser, then we can't use Ken's title. If it is just an event, then we can use it. thanks!
>
> -----Original Message-----
> **From:** Alex Johnson [mailto:alex.johnson@mindspring.com]
> **Sent:** Wednesday, February 12, 2003 8:45 AM
> **To:** Kate Walters
> **Subject:** RE: RLCC Dinner Invite
>
> Attache d is the formal invite. The event is at the Occidental Grille with a reception at 6 and dinner starts at 7. We would like to have him speak at approximately 7:30.
>
> I haven't sent anything out with his name on it but would like to. At this point we will probably blast an email out but I will send it to you to approve.
>
> Alex Johnson
> RLCC
> alex.johnson@mindspring.com
> 202-289-3974
>
> > -----Original Message-----
> > **From:** Kate Walters [mailto:kate@georgewbush.com]
> > **Sent:** Tuesday, February 11, 2003 6:48 PM
> > **To:** 'Alex Johnson'
> > **Subject:** RE: RLCC Dinner Invite
> >
> > March 3 looks fine. What time? I didn't see an attachment. If anything with Ken's name needs to go out, please send to us first. Whit e House Counsel will need to approve. Thanks.
> >
> > See you on Thursday!
> >
> > -----Original Message-----
> > **From:** Alex Johnson [mailto:alex.johnson@mindspring.com]
> > **Sent:** Monday, February 10, 2003 10:43 AM

To: Kate Walters
Subject: FW: RLCC Dinner Invite

Kate, sorry I used wrong address. How does this date look? Let me kno w if this is going to work because I'd like to tell people he is coming to the event.

Look forward to seeing you later this week.

Alex Johnson
RLCC
alex.johnson@mindspring.com
202-289-3974

-----Original Message-----
From: Ken Mehlman [mailto:kmehlman@georgewbush.com]
Sent: Wednesday, February 05, 2003 4:5 4 PM
To: 'Alex Johnson'; ken@georgewbush.com
Cc: kwalters@georgewbush.com
Subject: RE: RLCC Dinner Invite

Would like to if I can. Kate: Please advise?

-----Original Message-----
From: Alex Johnson [mailto:alex.johnson@mindspring.com]
Sent: Wednesday, February 05, 2003 3:52 PM
To: ken@georgewbush.com; Ken Mehlman
Cc: kwalters@georgewbush.com
Subject: RLCC Dinner Invite

Ken, I would lik e to invite you to keynote a Dinner for the Republican Legislative Campaign Committee on Monday, March 3 at the Occidental Grille in Washington, DC.

We will have ove r 20 legislative leaders in attendance in addition to approximately 80+ members of the business community. We have made great strides with our group in a short period of time and are focused on making a differenc e in starting this cycle in New Jersey, Virginia, Mississippi and Louisiana.

I've attac hed a formal invitation for Kate to have.

Please let me know if this is a possibility as I would like to make an announcement of your participation.

Thanks and feel free to call me if you have any questions.

Alex

Alex Johnson
RLCC
alex.johnson@mindspring.com
202-289-3974

RLCC Inaugural Leadership Dinner

Featured Speaker

Ken Mehlman
Deputy Assistant to the President and Director of Political Affairs

Special Guests

Senator John Bennett
Republican President, New Jersey
Senator Richard A. Bennett
President of the Republican Caucus, Maine
Representative Rick Berg
Majority Leader, North Dakota
Representative Joseph Bruno
Minority Leader, Maine
Senator Mike Chaney
Senator, Mississippi
Assemblyman Paul DiGaetano
Minority Leader, New Jersey
Representative Mark Formby
Mississippi
Senator Robert Geddes
Senate President Pro Tem, Idaho
Senator John Hainkel
Senate President, Louisiana
Representative Tre Hargett
Minority Leader, Tennessee
Representative Lynn Hettrick
Minority Leader, Nevada
Representative William Howell
Speaker of the House, Virginia
Representative Jerry Keen
House Minority Whip, Georgia
Senator Joe Kyrillos
Republican State Party Chairman, New Jersey
Representative Charles Lancaster
House Minority Whip, Louisiana
Representative Doug Mays
Speaker of the House, Kansas
Senator Tom Price
Senate Majority Whip, Georgia
Senator Ron Ramsey
Senate Caucus Chairman, Tennessee
Representative Terry Spence
Speaker of the House, Delaware
Senator Bob Stenehjem
Senate President, North Dakota
Senator Frank Watson
Minority Leader, Illinois

Monday, March 3, 2003
The Occidental Grille
1475 Pennsylvania Avenue, NW
Washington, DC
Reception – 6:00 pm
Dinner – 7:00 pm

This event is for current members only
Please contact Alex Johnson, RLCC Executive Director, at (202) 289-3974 or alex.johnson@mindspring.com with questions regarding the event or your membership. Thank you!

From: Charnes, Adam <Adam.Charnes@usdoj.gov>
To: Chenoweth, Mark <Mark.Chenoweth@usdoj.gov>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Dinh, Viet <Viet.Dinh@usdoj.gov>
CC: Anderson, Carl A <Carl.A.Anderson@usdoj.gov>;McNaught, Heather <Heather.McNaught@usdoj.gov>;Benczkowski, Brian A <Brian.A.Benczkowski@usdoj.gov>
Sent: 2/12/2003 6:53:33 AM
Subject: : RE: Transcript of past DC Cir. hearings.

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Charnes, Adam" <Adam.Charnes@usdoj.gov> ( "Charnes, Adam" <Adam.Charnes@usdoj.gov>
[ UNKNOWN ] )
CREATION DATE/TIME:12-FEB-2003 11:53:33.00
SUBJECT:: RE: Transcript of past DC Cir. hearings.
TO:"Chenoweth, Mark" <Mark.Chenoweth@usdoj.gov> ( "Chenoweth, Mark"
<Mark.Chenoweth@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:"Dinh, Viet" <Viet.Dinh@usdoj.gov> ( "Dinh, Viet" <Viet.Dinh@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
CC:"Anderson, Carl A" <Carl.A.Anderson@usdoj.gov> ( "Anderson, Carl A"
<Carl.A.Anderson@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
CC:"McNaught, Heather" <Heather.McNaught@usdoj.gov> ( "McNaught, Heather"
<Heather.McNaught@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
CC:"Benczkowski, Brian A" <Brian.A.Benczkowski@usdoj.gov> ( "Benczkowski, Brian A"
<Brian.A.Benczkowski@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Carl has the hearing books, from which the quotes are taken.
Carl/Heather, please provide Garland and Rogers to Viet asap.

-----Original Message-----
From: Dinh, Viet
Sent: Wednesday, February 12, 2003 11:51 AM
To: Chenoweth, Mark; 'Kavanaugh, Brett'
Cc: Charnes, Adam; Benczkowski, Brian A
Subject: Transcript of past DC Cir. hearings.

Brett,

Can you give me transcript citations for the Garland and Rogers hearings
(that you cited in the letter). Mark, can you pull the transcript for
both of these hearings and also the Tatel hearing? I need these pretty
quickly, early this afternoon. Brett--this is for our friend, who is
writing a "double standard" for the DC Circuit piece. thanks,

viet
```

From: Bumatay, Patrick J.
To: <Walker, Helgard C.>;<Addington, David S.>;<Bartolomucci, H. Christopher>;<Bellinger, John B.>;Berenson, Bradford A. <bberenso@WHO.eop.gov>;<Brilliant, Hana F.>;<Bumatay, Patrick J.>;<Cabral, Raquel>;<Camp, Elizabeth N.>;<Carroll, James W.>;<Everson, Nanette>;<Francisco, Noel J.>;<Gonzales, Alberto R.>;<Jucas, Tracy>;<Kavanaugh, Brett M.>;<Leitch, David G.>;<McNally, Edward>;<Montiel, Charlotte L.>;<Nelson, Carolyn>;<Powell, Benjamin A.>;<Sampson, Kyle>;<Ullyot, Theodore W.>
Sent: 2/12/2003 11:34:59 AM
Subject: Jim Ho's Going Away

Everyone is invited to Jim Ho's going away party tomorrow. As you may know, Jim is leaving John Yoo's side at OLC (why would anyone do that?) to serve on the Senate Judiciary Committee with Sen. Cornyn. It is this Thursday at the Caucus Room near DOJ starting at 6:30 pm.

Patrick J. Bumatay
Office of Counsel to the President
o: 202-456-5214
f: 202-456-6279
mainline: 202-456-2632

From: Dinh, Viet <Viet.Dinh@usdoj.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/12/2003 8:50:28 AM
Subject: : need copy of letter please 514-2424 thx

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Dinh, Viet" <Viet.Dinh@usdoj.gov> ( "Dinh, Viet" <Viet.Dinh@usdoj.gov> [ UNKNOWN ]
)
CREATION DATE/TIME:12-FEB-2003 13:50:28.00
SUBJECT:: need copy of letter please 514-2424 thx
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Wendy J. Grubbs/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/12/2003 11:35:30 AM
Subject: : I will miss jsc today

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Wendy J. Grubbs ( CN=Wendy J. Grubbs/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:12-FEB-2003 16:35:30.00
SUBJECT:: I will miss jsc today
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Need anything from me?
```

From: FindLaw.com <listadmin@LEGALMINDS.ORG>
To: TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN] <TOPHEADLINES@LEGALMINDS.ORG>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 2/12/2003 12:12:48 PM
Subject: : [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Wed., Feb. 12, 2003

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"FindLaw.com" <listadmin@LEGALMINDS.ORG> ("FindLaw.com" <listadmin@LEGALMINDS.ORG> [UNKNOWN])
CREATION DATE/TIME:12-FEB-2003 17:12:48.00
SUBJECT:: [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Wed., Feb. 12, 2003
TO:TOPHEADLINES@LEGALMINDS.ORG (TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

FINDLAW Wed, Feb 12, 2003

TOP LEGAL NEWS HEADLINES

For all of the day's legal news go to: http://news.findlaw.com

****

Trying to make a full-featured Practice Management System out of Outlook(TM), ACT!(TM), GoldMine(TM), etc? Get your FREE Trial of Time Matters(R), the most widely used, most award-winning practice management system. Your existing data is easily transferred to Time Matters. Use with Outlook or replace Outlook. Get FREE Trial at http://rd.findlaw.com/scripts/nl.pl?url=10154880003_nl

****

POLITICS

Bush, Democrats Clash Over Estrada Nomination
http://news.findlaw.com/politics/s/20030212/congressjudgesdc.html

North Korea Rocket Can Hit U.S., CIA Says
http://news.findlaw.com/ap/a/w/1153/2-12-2003/20030212103005_18.html

LEGAL COMMENTARY

Marijuana Offenses: The Conviction Of Ed Rosenthal
http://writ.news.findlaw.com/colb/20030212.html

The Case Of Criminal Defendant Jairo Zapata
http://writ.news.findlaw.com/student/20030212_kreilkamp.html

CIVIL RIGHTS

Judge May Let NYC Police Follow Spy Rules
http://news.findlaw.com/ap/o/1110/2-12-2003/20030212100005_33.html

Affirmative Action, Texas Style, Stirs Criticism
http://news.findlaw.com/csmonitor/s/20030212/12feb2003110047.html

PERSONAL INJURY

Shuttle Gave No Trouble Signs, NASA Says
http://news.findlaw.com/ap/o/1501/2-12-2003/20030212000005_2.html

Man Rolls Snake-Eyes In Wrong-Drink Suit
http://news.findlaw.com/ap/o/fe/1120/2-12-2003/20030212063005_13.html

PRODUCT LIABILITY
Fla. Woman Reacts To Smallpox Vaccine
http://news.findlaw.com/ap/o/1500/2-12-2003/20030212064501_30.html

LABOR AND EMPLOYMENT
Agents Win Suit vs. Pa. Attorney General
http://news.findlaw.com/ap/o/1110/2-12-2003/20030212113007_35.html

N.Y. Day-Care Workers Stage 1-Day Strike
http://news.findlaw.com/ap/o/1110/2-12-2003/20030212110002_22.html

ENVIRONMENT
Arctic Experts: Treaty Could Benefit U.S.
http://news.findlaw.com/business/s/20030212/usaarcticdc.html

CYBERSPACE LAW
17 Charged With Hacking Into Satellite TV
http://news.findlaw.com/ap/ht/1700/2-12-2003/20030212114501_14.html

Expansion Of '.Edu' Domain Name Approved
http://news.findlaw.com/ap/ht/1700/2-12-2003/20030212023005_58.html

INTELLECTUAL PROPERTY
Glaxo CEO Unperturbed By Patent Threats
http://news.findlaw.com/business/s/20030212/healthglaxopatentsdc.html

TELECOMMUNICATIONS
Court Sides With Consumers In AT&T Dispute

http://news.findlaw.com/business/s/20030212/telecomsattconsumersdc.html

EU Wants More Remedies On Pay TV Deal
http://news.findlaw.com/ap/f/1310/2-12-2003/20030212103005_02.html

BUSINESS
Credit Card Users May Get Foreign Refund
http://news.findlaw.com/ap/f/1310/2-12-2003/20030212060011_09.html

Feds Approve US Airways Loan Guarantee
http://news.findlaw.com/ap/f/1310/2-12-2003/20030212014502_12.html

INTERNATIONAL LAW
Belgian Court Bars Sharon War-Crimes Case
http://news.findlaw.com/ap/i/1103/2-12-2003/20030212094502_104.html

France Torpedoes Iraq Compromise Plan At NATO
http://news.findlaw.com/international/s/20030212/iraqnatodc.html

WAR ON TERRORISM
Anti-Aircraft Missiles Deployed Around Washington
http://news.findlaw.com/news/s/20030212/attackusathreatdc.html

Sept. 11 Suspect Moussaoui Objects To Trial Delay
http://news.findlaw.com/news/s/20030212/attackmoussaouidc.html

CRIME & TRIALS
Jury Deliberates Fate Of Woman Who Ran Over Husband
http://news.findlaw.com/news/s/20030212/crimedentistdc.html

Proposal Would Let Jurors Ask Questions
http://news.findlaw.com/ap/o/1110/2-12-2003/20030212011500_04.html

ENTERTAINMENT
Actor Seagal Testifies in NY Organized Crime Case
http://news.findlaw.com/entertainment/s/20030212/crimegottidc.html

Polanski's Fugitive Status Clouds Oscar Chances

http://news.findlaw.com/entertainment/s/20030212/leisureoscarspolanskidc.ht
ml

SPORTS
Magic's Kemp Suspended Over Drug Program
http://news.findlaw.com/sports/s/20030212/nbakempdc.html

Heat Coach Riley Handed $20,000 Fine
http://news.findlaw.com/sports/s/20030212/nbarileydc.html

****

SOFTWARE TECHNOLOGY

Happy with your legal billing system? If your
initial response is anything less than "absolutely", you owe it to
yourself to check out the latest version of TABS III, the most widely
used legal-specific billing system in the U.S.

Download a FREE demo copy today.
http://rd.findlaw.com/scripts/nl.pl?url=10408896001_nl

********** West LegalEdcenter *******

Receive updates about NEW ONLINE CLE PROGRAMS

Register with West LegalEdcenter for monthly email updates about new
online CLE programs in your practice areas and jurisdictions. West
LegalEdcenter currently has more than 1,400 courses, with more added
daily!

http://rd.findlaw.com/scripts/nl.pl?url=gen_cle_010402

=- westgroup.com -=-=-=-=-=-/

Get FREE ground shipping in the U.S. on all West Group orders.
http://rd.findlaw.com/scripts/nl.pl?url=10337148000_nl

****

FEEDBACK

We value your comments! Please take a moment to tell us what you think
by sending an e-mail to:
mailto:newsletters@findlaw.com?subject=TopHeadlines. Please include
"Top Headlines" in the subject line.

SUBSCRIPTION INFORMATION

To subscribe to a FindLaw Newsletter, visit the FindLaw Newsletter Subscription Center at http://newsletters.findlaw.com

To unsubscribe, go to http://newsletters.findlaw.com/unsubscribe.html

---

ADVERTISING INFORMATION

For more information about advertising in FindLaw Newsletters, please contact us at:

mailto:sales@findlaw.com

FindLaw Top Headlines http://news.findlaw.com

Copyright (c) 2003 FindLaw, Inc.

From: CN=Daniel McCarthy/OU=WHO/O=EOP@Exchange [UNKNOWN]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/12/2003 1:29:44 PM
Subject: : RE: CONFERENCE CALL TONIGHT AT 6:30pm re: Estrada Fillibuster
Attachments: P_ACEVD003_WHO.TXT_1.rtf

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Daniel McCarthy ( CN=Daniel McCarthy/OU=WHO/O=EOP@Exchange [ UNKNOWN ] )
CREATION DATE/TIME:12-FEB-2003 18:29:44.00
SUBJECT:: RE: CONFERENCE CALL TONIGHT AT 6:30pm re: Estrada Fillibuster
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Checking out right now.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ACEVD003_WHO.TXT_1>
```

From: Kavanaugh, Brett M.
To: McCarthy, Daniel
cc: scastillo@rnchq.org; Mehlman, Ken; Rodriguez, Leonard B.; rfernandez@rnchq.org; Mamo, Jeanie S.; Wingate, Heather ; Viana, Mercedes M.; Grubbs, Wendy J.
Subject: Re: CONFERENCE CALL TONIGHT AT 6:30pm re: Estrada Fillibuster

nsi
0 having trouble getting in

ri0

From: Daniel McCarthy/WHO/EOP@Exchange on 02/12/2003 11:05:05 AM

Record Type: Record

70 To: See the distribution list at the bottom of this message

Subject: CONFERENCE CALL TONIGHT AT 6:30pm re: Estrada Fillibuster

i0
lain Call in #'s: 456-6777

'a0 456-6799

i0 Code: 2052

i0

ar

rMessage Sent To:

cf0 scastillo@rnchq.org@SMTP@Exchange
Ken Mehlman/WHO/EOP@EOP
Leonard B. Rodriguez/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
rfernandez@rnchq.org@SMTP@Exchange
Jeanie S. Mamo/WHO/EOP@EOP
Heather Wingate/WHO/EOP@Exchange
Mercedes M. Viana/WHO/EOP@EOP
Wendy J. Grubbs/WHO/EOP@EOP

i0
0

From: CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [WHO]
To: Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Benjamin A. Powell/WHO /EOP@EOP [WHO] <Benjamin A. Powell>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>
Sent: 2/12/2003 2:16:35 PM
Subject: : POTUS mtg Fri CANCELED

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:12-FEB-2003 19:16:35.00
SUBJECT:: POTUS mtg Fri CANCELED
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: [UNKNOWN] <Kavanaugh, Brett M.>
To: <Montiel>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/CHARLOTTE_L._MONTIEL [UNKNOWN] <Charlotte L.>;<Gonzales>;Alberto_R._Gonzales@who.eop.gov [WHO] <Alberto R.>
Sent: 2/12/2003 2:31:06 PM
Subject: has Judge talked to Frist?

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (MS Mail)
CREATOR:Kavanaugh, Brett M. ( [ UNKNOWN ] )
CREATION DATE/TIME:12-FEB-2003 19:31:06.00
SUBJECT:has Judge talked to Frist?
TO:Montiel, Charlotte L. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=CHARLOTTE_L._MONTIEL [ UNKNOWN ] )
READ:UNKNOWN
TO:Gonzales, Alberto R. ( Alberto_R._Gonzales@who.eop.gov [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Ashley Estes/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/12/2003 2:42:19 PM
Subject: : Fw: Progress Report - 2/23 Governors Dinner
Attachments: P_IYGVD003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Ashley Estes ( CN=Ashley Estes/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:12-FEB-2003 19:42:19.00
SUBJECT:: Fw: Progress Report - 2/23 Governors Dinner
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

.

----- Original Message -----
From:Deborah A. Spagnoli/WHO/EOP
To:Ashley Estes/WHO/EOP@EOP
Cc:
Date: 02/12/2003 07:13:28 PM
Subject: FW: Progress Report - 2/23 Governors Dinner

Ashley -- attached is a list of acceptances/regrets we have received to
date for the dinner on Sunday night. We and NGA are still receiving
accepts/regrets to the conference and to the dinner as we speak. If this
does not satisfy your needs, please let me know.




ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_IYGVD003_WHO.TXT_1>
```

NATIONAL GOVERNORS ASSOCIATION DINNER GUEST LIST
ALL INVITEES WITH RESPONSE
February 23, 2003
7:30 PM

THE PRESIDENT and MRS. BUSH

A The Honorable (Secretary) Spencer Abraham, Secretary of Energy
A Mrs. Spencer Abraham, Spouse of the Secretary of Energy

The Honorable (Attorney General) John Ashcroft, Attorney General of the United States
Mrs. John Ashcroft, Spouse of the Attorney General (R/Missouri)

The Honorable (Governor) Juan N. Babuata, Governor of the Northern Mariana Islands
Mrs. Diane Babuata, First Lady of the Northern Mariana Islands

A The Honorable (Governor) John Elias Baldacci, Governor of Maine (D)
A Mrs. Karen Baldacci, First Lady of Maine

The Honorable (Governor) Rod R. Blagojevich, Governor of Illinois (D)
Mrs. Patricia Blagojevich, First Lady of Illinois

A The Honorable (Governor) Phil Bredesen, Governor of Tennessee (D)
A Ms. Andrea Conte, First Lady of Tennessee (D)

A The Honorable (Governor) Jeb Bush, Governor of Florida (R)
A Mrs. Columba Bush, First Lady of Florida (R)

The Honorable (Governor) Sila M. Calderon, Governor of Puerto Rico (PDP)
Unknown Guest Calderon (Guest)

The Honorable (Governor) Felix Camacho, Governor of Guam (R)
Ms. Joann Gumataotao Garcia, First Lady of Guam (R)

A The Honorable (Governor) Donald Carcieri, Governor of Rhode Island (R)
A Mrs. Sue Carcieri, First Lady of Rhode Island (R)

A The Honorable (Mr.) Andrew H. Card, Jr., Assistant to the President and Chief of Staff
A The Reverend Kathleene B. Card, Spouse of the Assistant to the President and Chief of Staff

A The Honorable (Secretary) Elaine Chao, Secretary of Labor
A The Honorable (Senator) Mitch McConnell, Spouse of the Secretary of Labor, United States Senator (R/Kentucky)

The Honorable (Vice President) Richard Cheney, Vice President of the United States
The Honorable (Mrs.) Lynne V. Cheney, By Messenger

REV_00157959

NATIONAL GOVERNORS ASSOCIATION DINNER GUEST LIST
ALL INVITEES WITH RESPONSE
February 23, 2003
7:30 PM

The Honorable (Director) Mitchell E. Daniels, Jr., Director of the Office of Management and Budget
Mrs. Mitchell E. Daniels, Jr., Spouse of the Director of the Office of Management and Budget

A The Honorable (Governor) Gray Davis, Governor of California (D)
A Mrs. Sharon Davis, First Lady of California (D)

The Honorable (Governor) Jim Douglas, Governor of Vermont (R)
Mrs. Dorothy Douglas, First Lady of Vermont (R)

A The Honorable (Governor) Jim Doyle, Governor of Wisconsin (D)
A Mrs. Jessica Doyle, First Lady of Wisconsin (D)

The Honorable (Governor) Michael F. Easley, Governor of North Carolina (D)
Mrs. Mary Easley, First Lady of North Carolina (D)

A The Honorable (Governor) Robert L. Ehrlich, Jr., Governor of Maryland (R)
A Mrs. Kendel Ehrlich, First Lady of Maryland (R)

A The Honorable (Secretary) Donald L. Evans, Secretary of Commerce
A Mrs. Donald L. Evans, Spouse of the Secretary of Commerce

A The Honorable (Governor) Mike Foster, Governor of Louisiana (R)
A Mrs. Alice Foster, First Lady of Louisiana (R)

A The Honorable (Governor) David Freudenthal, Governor of Wyoming (D)
A Mrs. Nancy Freudenthal, First Lady of Wyoming (D)

A The Honorable (Governor) Jennifer Granholm, Governor of Michigan (D)
A Mr. Daniel Mulhern, Spouse of the Governor of Michigan (D)

A The Honorable (Governor) Kenny C. Guinn, Governor of Nevada (R)
A Mrs. Dema Guinn, First Lady of Nevada (R)

A The Honorable (Governor) Brad Henry, Governor of Oklahoma (D)
A Mrs. Kimberley Henry, First Lady of Oklahoma (D)

A The Honorable (Governor) John Hoeven, Governor of North Dakota (R)
A Mrs. Mikey Hoeven, First Lady of North Dakota (R)

The Honorable (Governor) Robert Lee Holden, Jr., Governor of Missouri (D)
Mrs. Lori Hauser Holden, First Lady of Missouri (D)

REV_00157960

NATIONAL GOVERNORS ASSOCIATION DINNER GUEST LIST
ALL INVITEES WITH RESPONSE
February 23, 2003
7:30 PM

A The Honorable (Governor) Mike Huckabee, Governor of Arkansas (R)
A Mrs. Janet Huckabee, First Lady of Arkansas (R)

A The Honorable (Governor) Mike Johanns, Governor of Nebraska (R)
A Mrs. Stephanie Johanns, First Lady of Nebraska (R)

A The Honorable (Governor) Dirk Kempthorne, Governor of Idaho (R) and Vice Chairman, National Governors Association
A Mrs. Dirk Kempthorne, First Lady of Idaho and Associate Senate Spouse (R)

The Honorable (Governor) Ted Kulongoski, Governor of Oregon (D)
Mrs. Mary Kulongoski, First Lady of Oregon (D)

The Honorable (Governor) Michael O. Leavitt, Governor of Utah (R)
Mrs. Jacalyn S. Leavitt, Salt Lake City, Utah

The Honorable (Governor) Linda Lingle, Governor of Hawaii (R)
Unknown Guest Lingle (Guest)

A The Honorable (Governor) Gary Locke, Governor of Washington (D)
A Mrs. Mona Locke, First Lady of Washington (D)

Mr. Lyle Lovett, Singer and Song Writer
Ms. April Kimble, Guest of Mr. Lyle Lovett (Guest)

A The Honorable (Secretary) Mel Martinez, Secretary of Housing and Urban Development
A Mrs. Mel Martinez, Spouse of the Secretary of Housing and Urban Development, (guest of Lady Meyer)

A The Honorable (Governor) Judy Martz, Governor of Montana (R)

The Honorable (Governor) James E. McGreevey, Governor of New Jersey (D)
Mrs. Dina Matos McGreevey, First Lady of New Jersey (D)

A The Honorable (Governor) Ruth Ann Minner, Governor of Delaware (D)
A Mr. Mark Brainard, Chief of Staff, Office of the Governor of Delaware (Guest)

A The Honorable (Governor) Frank Murkowski, Governor of Alaska (R)
A Mrs. Nancy Murkowski, First Lady of Alaska (R)

The Honorable (Governor) Ronnie Musgrove, Governor of Mississippi (D)
Unknown Guest Musgrove (Guest)

A The Honorable (Governor) Janet Napolitano, Governor of Arizona (D)

REV_00157961

NATIONAL GOVERNORS ASSOCIATION DINNER GUEST LIST
ALL INVITEES WITH RESPONSE
February 23, 2003
7:30 PM

A Mr. Mario Diaz, Deputy Chief of Staff, Urban Affairs, (Guest of the Governor of Arizona) (Guest)

A The Honorable (Secretary) Gale Norton, Secretary of the Interior
A Mr. John G. Hughes, Spouse of the Secretary of the Interior

A The Honorable () Frank L. O'Bannon, Governor of Indiana (D)
A Mrs. Judy O'Bannon, First Lady of Indiana (D)

A The Honorable (Governor) Bill Owens, Governor of Colorado (R) and Chairman, Republican Governors Association
A Mrs. Frances Owens, First Lady of Colorado (R)

The Honorable (Secretary) Roderick Paige, Secretary of Education
Unknown Guest Paige (Guest)

A The Honorable (Governor) George E. Pataki, Governor of New York (R)
A Mrs. Libby Pataki, First Lady of New York (R)

A The Honorable (Governor) Paul E. Patton, Governor of Kentucky (D) and Chairman, National Governors Association
A Mrs. Judi Patton, First Lady of Kentucky (D)

A The Honorable (Governor) Tim Pawlenty, Governor of Minnesota (R)
A Mrs. Mary Pawlenty, First Lady of Minnesota (R)

The Honorable (Governor) Sonny Perdue, Governor of Georgia (R)
Mrs. Mary Perdue, First Lady of Georgia (R)

The Honorable (Secretary) Anthony J. Principi, Secretary of Veterans Affairs
Mrs. Anthony J. Principi, Spouse of the Secretary of Veterans Affairs

The Honorable (Governor) Ed Rendell, Governor of Pennsylvania (D)
Mrs. Marjorie Rendell, First Lady of Pennsylvania (D)

The Honorable (Governor) Bill Richardson, Governor of New Mexico (D)
Mrs. Barbara Richardson, First Lady of New Mexico (D)

The Honorable (Secretary) Thomas J. Ridge, Secretary of Homeland Security
Mrs. Thomas J. Ridge, Spouse of the Secretary of Homeland Security

A The Honorable (Governor) Bob Riley, Governor of Alabama (R)
A Mrs. Patsy Riley, First Lady of Alabama (R)

REV_00157962

NATIONAL GOVERNORS ASSOCIATION DINNER GUEST LIST
ALL INVITEES WITH RESPONSE
February 23, 2003
7:30 PM

The Honorable (Governor) Mitt Romney, Governor of Massachusetts (R)
Mrs. Ann Romney, First Lady of Massachusetts (R)

A The Honorable (Governor) Mike Rounds, Governor of South Dakota (R)
A Mrs. Jean Rounds, First Lady of South Dakota (R)

The Honorable (Governor) John G. Rowland, Governor of Connecticut (R)
Mrs. Patty Rowland, First Lady of Connecticut (R)

A The Honorable (Governor) Mark Sanford, Governor of South Carolina (R)
A Mrs. Jenny Sanford, First Lady of South Carolina (R)

The Honorable (Governor) Kathleen Sebelius, Governor of Kansas (D)
Mr. Gary Sebelius, Spouse of the Governor of Kansas (D)

The Honorable (Secretary) John Snow, Secretary of the Treasury
Mrs. Carolyn Snow, Spouse of the Secretary-designate of the Treasury

The Honorable (Governor) Tauese P.F. Sunia, Governor of American Samoa (D)
Mrs. Fagaoalii Sunia, First Lady of American Samoa (D)

A The Honorable (Governor) Bob Taft, Governor of Ohio (R)
A Mrs. Hope Taft, First Lady of Ohio (R)

A The Honorable (Secretary) Tommy G. Thompson, Secretary of Health and Human Services
Mrs. Tommy G. Thompson, Spouse of the Secretary of Health and Human Services

A The Honorable (Governor) Charles W. Turnbull, Governor of the United States Virgin Islands (D)
A Mrs. Mavis M. Richards, Sister of Governor Turnbull (Virgin Island/D) (Sister)

A The Honorable (Secretary) Ann M. Veneman, Secretary of Agriculture

A The Honorable (Governor) Thomas J. Vilsack, Governor of Iowa (D)
A Mrs. Christie Vilsack, First Lady of Iowa (D)

The Honorable (Governor) Mark Warner, Governor of Virginia (D)
Ms. Lisa Collis, First Lady of Virginia (D)

A The Honorable (Administrator) Christine Todd Whitman, Administrator of the Environmental Protection Agency
A Mr. John R. Whitman, Spouse of the Administrator of the Environmental Protection Agency

REV_00157963

NATIONAL GOVERNORS ASSOCIATION DINNER GUEST LIST
ALL INVITEES WITH RESPONSE
February 23, 2003
7:30 PM

The Honorable (Governor) Bob Wise, Governor of West Virginia (D)
Mrs. Sandy Wise, First Lady of West Virginia (D)

REV_00157964

NATIONAL GOVERNORS ASSOCIATION DINNER GUEST LIST
ALL INVITEES WITH RESPONSE
February 23, 2003
7:30 PM

Regrets

R The Honorable (Governor) Craig Benson, Governor of New Hampshire (R)
R Mrs. Denise Benson, First Lady of New Hampshire (R)

R Mr. Harry Martz, Spouse of the Governor of Montana (R) (Husband of The Honorable (Governor) Judy Martz)

R The Honorable (Governor) Rick Perry, Governor of Texas (R)
R Mrs. Anita Perry, First Lady of Texas (R)

R Unknown Guest Veneman (Guest of The Honorable (Secretary) Ann M. Veneman)

REV_00157965

NATIONAL GOVERNORS ASSOCIATION DINNER GUEST LIST
ALL INVITEES WITH RESPONSE
February 23, 2003
7:30 PM

INVITATION STATISTICS:
INVITES
146
ACCEPTS
81
REGRETS
6
NO RESPONSES
59
ATTENDS
0
TOTAL POSSIBLE
140

REV_00157966

From: Mike Allen <allenm@washpost.com>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/12/2003 4:13:44 PM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Mike Allen <allenm@washpost.com> ( Mike Allen <allenm@washpost.com> [ UNKNOWN ] )
CREATION DATE/TIME:12-FEB-2003 21:13:44.00
SUBJECT::
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

bc-whitehouse-email - a1706
White House E-Mail Slows to a Crawl
By Edwin Chen
(c) 2003, Los Angeles Times
WASHINGTON --The Bush White House is having trouble communicating with
the outside world-literally.
Its electronic mail system has slowed to a crawl, causing delays of
incoming and outgoing mail ranging from a few hours to overnight.
White House officials said Wednesday that the glitches have not
affected the affairs of state. They blamed the slowdown, which began about
two weeks ago, on the high volume of e-mail and online traffic, including
activity associated with the White House Web site, www.whitehouse.gov.
But some information technology experts say the explanation may not be
quite that simple, especially considering several tantalizing recent
developments at 1600 Pennsylvania Ave.
Last month the White House converted its e-mail system from Lotus
Notes to Microsoft Outlook. At the same time, the White House is moving to
a new e-mail server to better accommodate the volume of traffic it must
handle.
But several West Wing staffers, speaking on condition of anonymity,
offered another theory: that the slowdown can be traced to the system's
"firewall," which is designed to protect it from hackers by filtering out
unwanted incoming missives.
"Something happened with our firewall, and things really got jammed
up," one aide said Wednesday. "Tech support had to shut down the whole
thing, and just barely got it up and running this morning."
The problem has hampered the e-mail capabilities of most, if not all,
White House staffers ? but not President Bush, who no longer sends e-mails
due to security concerns.
One senior aide who works just steps from the Oval Office did not
receive an e-mail sent Tuesday morning until the end of the day. And a
press aide did not get an e-mail sent at 7:53 p.m. Tuesday until the next
morning.
Officials said the internal White House e-mail communications have not
been disrupted, nor has a separate, classified e-mail system used by the
National Security Council.
In any case, not everyone at the White House is unhappy about the
slowdown.
Noelia Rodriguez, a top aide to Laura Bush, is among those who has
experienced the problem. It took one e-mail more than three hours to reach
her on Tuesday afternoon.
But she isn't complaining.
"Problems in getting e-mail? I'd like to have that problem. Where do I
sign up?" she quipped.
Reporters assigned to cover President Bush were among the first
outsiders to notice the delays, as routine media advisories and official
announcements from the White House abruptly began arriving very late or not
at all.
The routine distribution, by mass e-mail, of the president's schedule
for the following day stopped. Official transcripts of Bush's remarks were
slow in coming, sometimes not available until after deadline.
```

Instant theories sprouted among the press corps.
Could it be related to the recent departure of a press aide who processed such e-mails? Was her replacement not quite up to snuff, technologically speaking? Was this another downturn in the uneasy co-existence between the White House and the Fourth Estate?
Not at all, said deputy press secretary Scott McClellan.
"This has nothing to do with changing e-mail systems," he said Wednesday. "The issue here is the large quantities of e-mail coming into and going out of the White House."
Avi Rubin, an author and professor of computer science at Johns Hopkins University, downplayed the firewall theory.
"There are multiple reasons why mail slows down," added Alan Pallen, another information technology expert. He also considered volume to be low on the list of likely culprits.
Rather, Pallen suggested, the cause may be settings in the e-mail filter system that cause mail to be "queued up" for prolonged periods.
Rubin agreed. "More likely is some kind of configuration error during the conversion," he said.
Whatever the reason, White House officials said, the problem should be ephemeral. Indeed, there were signs late Wednesday that the e-mail flow was starting to return to normal.
"There definitely were some glitches. But the situation seems to be improving," reported one West Wing staffer.
But even if normalcy is not immediately restored, no one was reaching for the panic button.
"We do have other means of communicating at our disposal," said one aide.
AP-NY-02-12-03 2010EST

From:	CN=Matthew E. Smith/OU=WHO/O=EOP [WHO]
To:	todd.gaziano@heritage.org @ inet [UNKNOWN] <todd.gaziano@heritage.org @ inet>
BCC:	Paul Perkins (Paul Perkins/WHO/EOP [WHO]), Tim Goeglein (Tim Goeglein/WHO/EOP [WHO]), Carolyn Nelson (Carolyn Nelson/WHO/EOP@Exchange [WHO]), Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent:	2/13/2003 9:17:29 AM
Subject:	: 2:00 p.m. Friday Call

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Matthew E. Smith ( CN=Matthew E. Smith/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:13-FEB-2003 14:17:29.00
SUBJECT:: 2:00 p.m. Friday Call
TO:todd.gaziano@heritage.org @ inet ( todd.gaziano@heritage.org @ inet [ UNKNOWN ] )
READ:UNKNOWN
BCC:Paul Perkins ( CN=Paul Perkins/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Tim Goeglein ( CN=Tim Goeglein/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Just to confirm tomorrow.

Judge Gonzales will now be the featured speaker on tomorrow's grassroots
conference call at 2:00 p.m.

Please send to me the call information as soon as it is available.

Thanks Todd.

Matt
```

From:	Griffin, William T.
To:	<Snee, Ashley>;<Kavanaugh, Brett M.>;<Gross, Taylor S.>;<Mamo, Jeanie S.>;<Devenish, Nicolle>;<Viana, Mercedes M.>
Sent:	2/13/2003 2:00:49 PM
Subject:	RUSH LIMBAUGH ON ESTRADA

Rush Limbaugh yesterday dedicated a good deal of his time to the Estrada nomination. Below is the story he posted on his web site. You can also cut and paste the link and scroll down to hear audio bites.

http://www.rushlimbaugh.com/home/daily/site_021203/content/truth_detector.guest.html

Estrada Betrayed By Landrieu; Bashed By Schumer & Menendez; Frist & GOP Fight for Historic Hispanic Nominee

February 12, 2003

On Wednesday, I broke down the truth behind this Senate confirmation battle over President Bush's nominee for the D.C. Circuit Court of Appeals: Miguel Estrada. You can hear me touch on all the points of this hot issue - from Mary Landrieu's flip-flop to Democratic "weapons of mass obstruction" - in the audio links below.

Judgeships matter, folks, so listen up. Liberals want activists on the bench who will write instead of just interpret law, because that's the only way they can advance their unpopular agenda. Mr. Estrada will be a good judge; the Democrats are opposing him because he doesn't match their litmus test for judicial activism. They always complain that Republicans have these tests, but they think they're just fine on their side. They don't want a man like this on the bench - where he'll be, it's said, on the fast track to the Supreme Court.

This will be a big test for Senate Majority Leader Bill Frist (R-TN), because the Democrats are threatening a filibuster. Frist made a good start by calling the Democrats' bluff. Usually the mere threat of a filibuster is enough to derail a vote. But Frist is challenging the Democrats to go out on the Senate floor, in full view of the C-Span2 cameras, and use this trick to prevent the first Hispanic from sitting on this court.

There aren't enough Democrats willing to do that, and Frist needs 60 votes to break the filibuster. With my audio comments on Mr. Estrada, you'll hear some funny bites of Judiciary Committee Chairman Senator Orrin Hatch (R-UT) hammering away at Senator Harry Reid (D-NV). Reid either wasn't paying attention, or pulled the tactic of deliberately misunderstanding when Republicans said that these rabid leftists are deploying "weapons of mass obstruction" on Estrada. The truth really gets to these guys when the GOP has the grapes to point it out.

Landrieu Claims Hispanic Supporters Too Dumb to Understand Estrada Ad

If Democratic senators thought Estrada wasn't being forthcoming, they could've asked him any question they wanted last September when he appeared before the judiciary committee they then controlled. Chuck Schumer (D-NY) didn't submit a single question - yet he's the one whining, "We don't know where Estrada stands." Similarly hypocritical: newly re-elected Mary Landrieu (D-LA), who claims that her Hispanic supporters

"misunderstood" a campaign ad in which she said she'd vote YES on Estrada.

Charging these guys with using "weapons of mass obstruction" is 100% accurate. No circuit court judge has even been filibustered. That's why guys like millionaire trial lawyer John Edwards (D-NC) tried to trip Mr. Estrada up before he got to a vote. He pulled this trick of asking the nominee how he'd rule in a generic case, knowing full way that no judge worth his or her robe will ever commit to a ruling before the case appears before him.

Nor should you discount that Estrada faces much of the same liberal bigotry as Justice Clarence Thomas. Estrada would be the first Hispanic on either the U.S. Circuit or the Supreme Court - at least, depending on what the meaning of "Hispanic" is. To liberals, Miguel Estrada is the Hispanic version of an Uncle Tom. Congressman Bob Menendez (D-NJ) charged that Estrada is Hispanic, but he's not really Hispanic because his family in Honduras was somewhat successful.

The achievers in minority groups are never the ones liberals want people to emulate. Liberalism is not about achievement; it's about remaining dependent and in need. It's the same old tired, worn out argument: you're not really a minority if you're not in poverty - and certainly not if you vote Republican. If you become a Miguel Estrada, you have forsaken your heritage. It's just sick to tell minority kids or any kids that garbage. They can all make it. They all have the right stuff.

Listen to Rush...

(...listen to Rush break down the fight over Miguel Estrada)

(...roll Orrin Hatch challenging Democrats to stop using "weapons of mass obstruction")

(...ask why Democrats think all true Hispanics have to be poor and dumb)

(...expose Sen. Schumer, who didn't bother to submit a single question to Estrada)

(...discuss Sen. Landrieu's claim that Hispanics mistook her Estrada ad)

The Inspiring Record of Miguel A. Estrada...

(U.S. Department of Justice: Office of Legal Policy Biography of Miguel Estrada)

Read the Articles...

(SF Chronicle: Democrats say they have enough votes to filibuster Estrada vote)

(National Review Online: The Estrada fight takes an ominous turn - Byron York)

(NY Sun: The Estrada Filibuster)

From: FindLaw.com <listadmin@LEGALMINDS.ORG>
To: TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN] <TOPHEADLINES@LEGALMINDS.ORG>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 2/13/2003 11:47:09 AM
Subject: : [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Thu, Feb 13, 2003

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"FindLaw.com" <listadmin@LEGALMINDS.ORG> ("FindLaw.com" <listadmin@LEGALMINDS.ORG> [UNKNOWN])
CREATION DATE/TIME:13-FEB-2003 16:47:09.00
SUBJECT:: [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Thu, Feb 13, 2003
TO:TOPHEADLINES@LEGALMINDS.ORG (TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

FINDLAW Thu, Feb 13, 2003

TOP LEGAL NEWS HEADLINES

For all of the day's legal news go to: http://news.findlaw.com

****

Amicus Attorney

Stuck under a mountain of files? Finding it hard to find information when you need it? We can help! Amicus Attorney, the world's most widely used practice management software, puts all of your practice information at your fingertips. By spending less time looking for information, you'll increase your productivity and your billable time. Get Amicus Attorney today. FREE TRIAL.
http://rd.findlaw.com/scripts/nl.pl?url=10439136001_nl

****

POLITICS

Lawsuit Challenges Bush Authority On Iraq
http://news.findlaw.com/ap/o/1110/2-13-2003/20030213103004_16.html

Bush Urges Allies To Stand Up To Saddam
http://news.findlaw.com/ap/a/w/1151/2-13-2003/20030213110001_07.html

LEGAL COMMENTARY

Eldred v. Ashcroft: Looking At Options To Long Copyright Terms
http://writ.news.findlaw.com/hamilton/20030213.html

A Look At The Medical Board Of California v. Hanson
http://writ.news.findlaw.com/commentary/20030213_chemerinsky.html

CIVIL RIGHTS

90 U.S. Cities Have Passed Anti-War Resolutions
http://news.findlaw.com/news/s/20030213/iraqusacitiesdc.html

Defense Dept. Won't Release FOIA Video
http://news.findlaw.com/ap/a/w/1152/2-13-2003/20030213011501_18.html

PERSONAL INJURY

Lawmakers Question Shuttle Probe's Independence
http://news.findlaw.com/news/s/20030213/shuttledc.html

MICROSOFT
Microsoft Appeals Court Order To Add Java
http://news.findlaw.com/ap/ht/1700/2-13-2003/20030213014501_05.html

IMMIGRATION
Balkan Film Enters World Of Migrants, Traffickers

http://news.findlaw.com/entertainment/s/20030213/artsfilmberlinrefugeesdc.h
tml

LABOR AND EMPLOYMENT
Bethlehem Steel To Reduce Jobs In Buyout
http://news.findlaw.com/ap/f/1310/2-13-2003/20030213083006_18.html

Delta Requests Pilot Talks Over Contract
http://news.findlaw.com/business/s/20030213/airlinesdeltapilotsdc.html

ENVIRONMENT
'Green Payments' Earmarked For U.S. Farm Aid
http://news.findlaw.com/politics/s/20030213/congressfarmdc.html

Animals Die In Mich. Petting Farm Fire
http://news.findlaw.com/ap/o/1110/2-13-2003/20030213040001_04.html

TOBACCO
Court: Smokers Don't Get Tobacco Money
http://news.findlaw.com/ap/o/1110/2-13-2003/20030213080001_23.html

CYBERSPACE LAW
Music Industry Targets Workplace Downloaders

http://news.findlaw.com/entertainment/s/20030213/mediamusiccorporatesdc.htm
l

BUSINESS
CSFB to Court: Files Erased by Mistake -WSJ
http://news.findlaw.com/business/s/20030213/financialcsfbreportdc.html

Kmart Seeks to Void Self-Checkout Machines
http://news.findlaw.com/ap/f/1310/2-13-2003/20030213101504_05.html

ENRON
Enron Aggressively Bent Tax Code - Report
http://news.findlaw.com/business/s/20030213/enrontaxesdc.html

INTERNATIONAL LAW
Polarized UN Council Prepares For New Report
http://news.findlaw.com/news/s/20030213/iraqundc.html

French Court: Nazi Helper Can Stay Free
http://news.findlaw.com/ap/i/1103/2-13-2003/20030213071502_40.html

WAR ON TERRORISM
Gov't Warns Industries Of Terror Attacks
http://news.findlaw.com/ap/a/w/1152/2-13-2003/20030213080001_21.html

Researchers Work On Anti-Terror Program
http://news.findlaw.com/ap/ht/1700/2-13-2003/20030213080001_08.html

CRIME & TRIALS
Jury Convicts Woman In Texas Love Triangle Killing
http://news.findlaw.com/court_tv/s/20030213/13feb2003111424.html

Reputed Los Angeles Gang Leader Arrested
http://news.findlaw.com/ap/o/1110/2-13-2003/20030213104501_11.html

ENTERTAINMENT
Stan Lee Media Sues Merrill Lynch
http://news.findlaw.com/ap/ht/1700/2-13-2003/20030213110001_22.html

Prosecutors Reject Reubens' 'Vintage Porn' Defense
http://news.findlaw.com/entertainment/s/20030213/crimereubensdc.html

SPORTS
Vikings Under Investigation For Alleged Assault
http://news.findlaw.com/court_tv/s/20030213/13feb2003121205.html

MSU Freshman Sentenced For Counterfeit Money
http://news.findlaw.com/court_tv/s/20030213/13feb2003121635.html

****

Need a Court Reporter/Videographer Nationwide?
With Alexander Gallo & Associates, ONE CALL DOES IT ALL!
They are a full service firm offering Trial Presentations,
Videoconferencing, Video Synchronization, Real-Time and Video
Depositions, Exhibit Scanning, Document Management, Record Retrieval
and more.

Schedule your next deposition online TODAY at
http://rd.findlaw.com/scripts/nl.pl?url=10425312002_nl

********** West LegalEdcenter *******

Receive updates about NEW ONLINE CLE PROGRAMS

Register with West LegalEdcenter for monthly email updates about new
online CLE programs in your practice areas and jurisdictions. West
LegalEdcenter currently has more than 1,400 courses, with more added
daily!

http://rd.findlaw.com/scripts/nl.pl?url=gen_cle_010402

********** westgroup.com *******

Get FREE ground shipping in the U.S. on all West Group orders.
http://rd.findlaw.com/scripts/nl.pl?url=10337148000_nl

****

FEEDBACK

We value your comments! Please take a moment to tell us what you think
by sending an e-mail to:
mailto:newsletters@findlaw.com?subject=TopHeadlines. Please include
"Top Headlines" in the subject line.

SUBSCRIPTION INFORMATION

To subscribe to a FindLaw Newsletter, visit the FindLaw Newsletter Subscription Center at http://newsletters.findlaw.com

To unsubscribe, go to http://newsletters.findlaw.com/unsubscribe.html

---

ADVERTISING INFORMATION

For more information about advertising in FindLaw Newsletters, please contact us at:

mailto:sales@findlaw.com

FindLaw Top Headlines http://news.findlaw.com

Copyright (c) 2003 FindLaw, Inc.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@Exchange@EOP [WHO] <David G. Leitch>;Ashley Snee/WHO /EOP@Exchange@EOP [WHO] <Ashley Snee>;Alberto R. Gonzales/WHO /EOP@Exchange@EOP [WHO] <Alberto R. Gonzales>
Sent: 2/13/2003 4:40:39 PM
Subject: : San Jose Mercury News on Consuelo Callahan nomination

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:13-FEB-2003 21:40:39.00
SUBJECT:: San Jose Mercury News on Consuelo Callahan nomination
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

Bush nominates Palo Alto Latina for appeals court bench
By Howard Mintz
Mercury News

In a move that could bolster Latino representation on the nation's largest federal appeals court, President George W. Bush today nominated a Latina state appeals court justice to the 9th U.S. Circuit Court of Appeals.

Consuelo Maria Callahan, who currently serves on the Sacramento-based Third District Court of Appeal, would become the second Latino judge on the 28-member 9th Circuit if she is confirmed by the U.S. Senate. Bush nominated Callahan to fill one of four vacancies on the San Francisco-based appeals court, which interprets law for California and eight other western states.

A native of Palo Alto and a Stanford University graduate, Callahan, 52, has been a state appeals court justice since 1996, when she was named to the court by former Gov. Pete Wilson. Callahan was previously a San Joaquin County Superior Court judge and a longtime prosecutor in Stockton.

The Bush administration is also close to nominating San Francisco Superior Court Judge Carlos Bea to the 9th Circuit, according to Republican lawyers and judges familiar with the process. Bea and Callahan, if eventually confirmed, would join Judge Richard Paez of Los Angeles as the court's Latino members.

The White House has named two other 9th Circuit nominees, Los Angeles Superior Court Judge Carolyn Kuhl and Nevada lawyer Jay Bybee, who are currently encountering opposition from Democrats in the Senate. If the Bush appointees are confirmed to the 9th Circuit, they would join a court that is heavily dominated by judges appointed by Democrats and which is widely considered the country's most liberal.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Wendy J. Grubbs/WHO/EOP@EOP [WHO] <Wendy J. Grubbs>;Tim Goeglein/WHO /EOP@EOP [WHO] <Tim Goeglein>;Leonard B. Rodriguez/WHO/EOP@EOP [WHO] <Leonard B. Rodriguez>;manuel_miranda@frist.senate.gov @ inet [UNKNOWN] <manuel_miranda@frist.senate.gov @ inet>;makan_delrahim@judiciary.senate.gov @ inet [UNKNOWN] <makan_delrahim@judiciary.senate.gov @ inet>;Matthew E. Smith/WHO /EOP@EOP [WHO] <Matthew E. Smith>;Abel Guerra/WHO/EOP@EOP [WHO] <Abel Guerra>;Mercedes M. Viana/WHO/EOP@EOP [WHO] <Mercedes M. Viana>;alex_dahl@judiciary.senate.gov @ inet [UNKNOWN] <alex_dahl@judiciary.senate.gov @ inet>;rena_johnson_comisac@judiciary.senate.gov @ inet [UNKNOWN] <rena_johnson_comisac@judiciary.senate.gov @ inet>
Sent: 2/13/2003 4:57:00 PM
Subject: : San Jose Mercury News on President's Ninth Circuit nomination of Consuelo Callahan on Wednesday

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:13-FEB-2003 21:57:00.00
SUBJECT:: San Jose Mercury News on President's Ninth Circuit nomination of Consuelo
Callahan on Wednesday
TO:Wendy J. Grubbs ( CN=Wendy J. Grubbs/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tim Goeglein ( CN=Tim Goeglein/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Leonard B. Rodriguez ( CN=Leonard B. Rodriguez/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:manuel_miranda@frist.senate.gov @ inet ( manuel_miranda@frist.senate.gov @ inet [
UNKNOWN ] )
READ:UNKNOWN
TO:makan_delrahim@judiciary.senate.gov @ inet ( makan_delrahim@judiciary.senate.gov @ inet
[ UNKNOWN ] )
READ:UNKNOWN
TO:Matthew E. Smith ( CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Abel Guerra ( CN=Abel Guerra/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Mercedes M. Viana ( CN=Mercedes M. Viana/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:alex_dahl@judiciary.senate.gov @ inet ( alex_dahl@judiciary.senate.gov @ inet [ UNKNOWN
] )
READ:UNKNOWN
TO:rena_johnson_comisac@judiciary.senate.gov @ inet (
rena_johnson_comisac@judiciary.senate.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Bush nominates Palo Alto Latina for appeals court bench
By Howard Mintz
Mercury News

In a move that could bolster Latino representation on the nation's largest
federal appeals court, President George W. Bush today nominated
a Latina state appeals court justice to the 9th U.S. Circuit Court of
Appeals.

Consuelo Maria Callahan, who currently serves on the Sacramento-based
Third District Court of Appeal, would become the second
Latino judge on the 28-member 9th Circuit if she is confirmed by the U.S.
Senate. Bush nominated Callahan to fill one of four vacancies
on the San Francisco-based appeals court, which interprets law for
California and eight other western states.

A native of Palo Alto and a Stanford University graduate, Callahan, 52,
```

has been a state appeals court justice since 1996, when she was named to the court by former Gov. Pete Wilson. Callahan was previously a San Joaquin County Superior Court judge and a longtime prosecutor in Stockton.

The Bush administration is also close to nominating San Francisco Superior Court Judge Carlos Bea to the 9th Circuit, according to Republican lawyers and judges familiar with the process. Bea and Callahan, if eventually confirmed, would join Judge Richard Paez of Los Angeles as the court's Latino members.

The White House has named two other 9th Circuit nominees, Los Angeles Superior Court Judge Carolyn Kuhl and Nevada lawyer Jay Bybee, who are currently encountering opposition from Democrats in the Senate. If the Bush appointees are confirmed to the 9th Circuit, they would join a court that is heavily dominated by judges appointed by Democrats and which is widely considered the country's most liberal.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Kyle Sampson/WHO /EOP@EOP [WHO] <Kyle Sampson>
Sent: 2/13/2003 5:09:48 PM
Subject: : San Jose Mercury News on Consuelo Callahan nomination

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:13-FEB-2003 22:09:48.00
SUBJECT:: San Jose Mercury News on Consuelo Callahan nomination
TO:Theodore W. Ullyot (CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 02/13/2003 10:09 PM ----------

Brett M. Kavanaugh
02/13/2003 09:36:36 PM
Record Type: Record

To: Alberto R. Gonzales/WHO/EOP@Exchange@EOP, David G. Leitch/WHO/EOP@Exchange@EOP, Ashley Snee/WHO/EOP@Exchange@EOP
cc:
Subject: San Jose Mercury News on Consuelo Callahan nomination

Bush nominates Palo Alto Latina for appeals court bench
By Howard Mintz
Mercury News

In a move that could bolster Latino representation on the nation's largest federal appeals court, President George W. Bush today nominated a Latina state appeals court justice to the 9th U.S. Circuit Court of Appeals.

Consuelo Maria Callahan, who currently serves on the Sacramento-based Third District Court of Appeal, would become the second Latino judge on the 28-member 9th Circuit if she is confirmed by the U.S. Senate. Bush nominated Callahan to fill one of four vacancies on the San Francisco-based appeals court, which interprets law for California and eight other western states.

A native of Palo Alto and a Stanford University graduate, Callahan, 52, has been a state appeals court justice since 1996, when she was named to the court by former Gov. Pete Wilson. Callahan was previously a San Joaquin County Superior Court judge and a longtime prosecutor in Stockton.

The Bush administration is also close to nominating San Francisco Superior Court Judge Carlos Bea to the 9th Circuit, according to Republican lawyers and judges familiar with the process. Bea and Callahan, if eventually confirmed, would join Judge Richard Paez of Los Angeles as the court's Latino members.

The White House has named two other 9th Circuit nominees, Los Angeles Superior Court Judge Carolyn Kuhl and Nevada lawyer Jay Bybee, who are currently encountering opposition from Democrats in the Senate. If the Bush appointees are confirmed to the 9th Circuit, they would join a court that is heavily dominated by judges

appointed by Democrats and which is widely considered the country's most liberal.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Wendy J. Grubbs/WHO/EOP@EOP [WHO] <Wendy J. Grubbs>;Tim Goeglein/WHO /EOP@EOP [WHO] <Tim Goeglein>;Leonard B. Rodriguez/WHO/EOP@EOP [WHO] <Leonard B. Rodriguez>;manuel_miranda@frist.senate.gov @ inet [UNKNOWN] <manuel_miranda@frist.senate.gov @ inet>;makan_delrahim@judiciary.senate.gov @ inet [UNKNOWN] <makan_delrahim@judiciary.senate.gov @ inet>;Matthew E. Smith/WHO /EOP@EOP [WHO] <Matthew E. Smith>;Abel Guerra/WHO/EOP@EOP [WHO] <Abel Guerra>;Mercedes M. Viana/WHO/EOP@EOP [WHO] <Mercedes M. Viana>;alex_dahl@judiciary.senate.gov @ inet [UNKNOWN] <alex_dahl@judiciary.senate.gov @ inet>;rena_johnson_comisac@judiciary.senate.gov @ inet [UNKNOWN] <rena_johnson_comisac@judiciary.senate.gov @ inet>
Sent: 2/13/2003 4:57:00 PM
Subject: : San Jose Mercury News on President's Ninth Circuit nomination of Consuelo Callahan on Wednesday

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:13-FEB-2003 21:57:00.00
SUBJECT:: San Jose Mercury News on President's Ninth Circuit nomination of Consuelo
Callahan on Wednesday
TO:Wendy J. Grubbs ( CN=Wendy J. Grubbs/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tim Goeglein ( CN=Tim Goeglein/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Leonard B. Rodriguez ( CN=Leonard B. Rodriguez/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:manuel_miranda@frist.senate.gov @ inet ( manuel_miranda@frist.senate.gov @ inet [
UNKNOWN ] )
READ:UNKNOWN
TO:makan_delrahim@judiciary.senate.gov @ inet ( makan_delrahim@judiciary.senate.gov @ inet
[ UNKNOWN ] )
READ:UNKNOWN
TO:Matthew E. Smith ( CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Abel Guerra ( CN=Abel Guerra/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Mercedes M. Viana ( CN=Mercedes M. Viana/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:alex_dahl@judiciary.senate.gov @ inet ( alex_dahl@judiciary.senate.gov @ inet [ UNKNOWN
] )
READ:UNKNOWN
TO:rena_johnson_comisac@judiciary.senate.gov @ inet (
rena_johnson_comisac@judiciary.senate.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Bush nominates Palo Alto Latina for appeals court bench
By Howard Mintz
Mercury News

In a move that could bolster Latino representation on the nation's largest
federal appeals court, President George W. Bush today nominated
a Latina state appeals court justice to the 9th U.S. Circuit Court of
Appeals.

Consuelo Maria Callahan, who currently serves on the Sacramento-based
Third District Court of Appeal, would become the second
Latino judge on the 28-member 9th Circuit if she is confirmed by the U.S.
Senate. Bush nominated Callahan to fill one of four vacancies
on the San Francisco-based appeals court, which interprets law for
California and eight other western states.

A native of Palo Alto and a Stanford University graduate, Callahan, 52,
```

has been a state appeals court justice since 1996, when she was named to the court by former Gov. Pete Wilson. Callahan was previously a San Joaquin County Superior Court judge and a longtime prosecutor in Stockton.

The Bush administration is also close to nominating San Francisco Superior Court Judge Carlos Bea to the 9th Circuit, according to Republican lawyers and judges familiar with the process. Bea and Callahan, if eventually confirmed, would join Judge Richard Paez of Los Angeles as the court's Latino members.

The White House has named two other 9th Circuit nominees, Los Angeles Superior Court Judge Carolyn Kuhl and Nevada lawyer Jay Bybee, who are currently encountering opposition from Democrats in the Senate. If the Bush appointees are confirmed to the 9th Circuit, they would join a court that is heavily dominated by judges appointed by Democrats and which is widely considered the country's most liberal.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Patrick J. Bumatay/WHO/EOP@Exchange@EOP [WHO] <Patrick J. Bumatay>
Sent: 2/14/2003 4:23:34 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:14-FEB-2003 09:23:34.00
SUBJECT::
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

can you e-mail me the Kinsley column in post asap. having trouble with
internet access this morning.
```

From: Bumatay, Patrick J.
To: <Kavanaugh, Brett M.>
Sent: 2/14/2003 9:29:15 AM
Subject: kinsely article
Attachments: I34766-2000Apr28; spacer.gif

Michael Kinsley
Columnist

Estrada's Omerta

By Michael Kinsley
Friday, February 14, 2003; Page A31

Add Michael Kinsley to your **personal home page**.

Like gangsters taking the Fifth, nominees for federal judgeships have reduced their reason for not talking to a mantra. Repeat after me: "My view of the judicial function, Senator, does not allow me to answer that question." Miguel Estrada, President Bush's nominee for the U.S. Court of Appeals for the D.C. Circuit, used variations on that one many times in refusing to express any opinion on any important legal topic during Judiciary Committee hearings last fall. Democrats are now trying to block the Estrada nomination with a filibuster.

Estrada's "view of the judicial function" is shared by President Bush, congressional Republicans and conservative media voices hoarse with rage that Democratic senators want to know what someone thinks before making him or her a judge. The Estrada view is that judges should not prejudge the issues that will come before them. As Estrada amplified in his testimony, "I'm very firmly of the view that although we all have views on a number of subjects from A to Z, the job of a judge is to subconsciously put that aside and look at each case . . . with an open mind."

Obviously, Estrada's real reason for evasiveness is the fear that if some senators knew what his views are, they would vote against him. However, this kind of high-minded bluster is a powerful weapon in the ongoing judicial wars. Over the past couple of decades, talk like this has intimidated many a senator who aspires to a reputation for thoughtfulness. And it does sound swell. Until you think about it.

Potential judges should not reveal their views on legal issues because a judge should have an open mind? Hiding your views doesn't make them go away. If the problem is judges having views on judicial topics, rather than judges expressing those views, then allowing people to become judges without revealing their views is a solution that doesn't address the problem. And if the problem is judges who fail to put their previous views aside, rather than judges having such views to begin with, then allowing judicial nominees to hide those views until it's too late is still a solution that is logically unrelated to the problem.

So Estrada's Rule of Silence does not solve the problem. And the supposed problem -- of "prejudging" -- makes no sense either. To see why, consider -- or reconsider -- Justice Clarence Thomas. In his 1991 confirmation hearings, Thomas testified that he had no "personal opinion" about *Roe v. Wade*, probably the most controversial Supreme Court decision of the 20th century. In 1992 Justice Thomas joined in a minority opinion calling for *Roe* to be overturned. By 2000 he was writing that the *Roe* decision was "grievously wrong" and "illegitimate" and part of "a particularly virulent strain of constitutional exegesis" and generally not something he cared for the least little bit.

This does not prove that Thomas was lying under oath in claiming that he hadn't prejudged *Roe* in 1991 (though no reasonable person could doubt that). It does prove that Thomas had prejudged *Roe* in 1992. But this is a point that Justice Thomas needn't bother to lie about, because no one objects. It's perfectly okay for a sitting judge to have and express views about an issue that comes before his or her court. That is his job.

In fact it's inevitable that anyone who has been an appellate judge for a while will have published opinions that touch on many of the issues he or she must decide in the future. There is not even an expectation of open-mindedness. Although a willingness to reconsider your own assumptions is regarded as admirable, no one is accused of prejudging a case just for ruling the same way this year as last year. Quite the opposite: Intellectual consistency is the hallmark of a fine legal mind. And following precedent is a sign of judicial professionalism.

Most legal rulings come from judges who have been on the bench for a while. If that is not a problem, why is it a problem if they have thought and reached conclusions on some important legal issues before they join the bench? The answer is that it

is not a problem. It ought to be a problem if a potential judge has not thought about important legal issues and has no views on them. But instead, the problem is how to keep a judgeship candidate's opinions hidden until he or she is safely confirmed for a lifetime appointment, and the phony issue of "prejudging" is a strategy for doing that.

Judgeship nominations bring out the hypocrite in politicians of both parties, but the Republican hypocrisy here is especially impressive. When Bill Clinton was appointing judges, the senior Judiciary Committee Republican, Sen. Orrin Hatch, called for "more diligent and extensive . . . questioning of nominees' jurisprudential views." Now Hatch says Democrats have no right to demand any such thing. President Bush fired the American Bar Association as official auditor of judicial nominations because the ABA gave some Republican nominees a lousy grade. Now Hatch cites the ABA's judgment as "the gold standard" because it unofficially gave Estrada a high grade.

The seat Republicans want to give Estrada is open only because Republicans successfully blocked a Clinton nominee. Two Clinton nominations to the D.C. Circuit were blocked because Republicans said the circuit had too many judges already. Now Bush has sent nominations for both those seats. Hatch and others accuse Democrats of being anti-Hispanic for opposing Estrada. With 42 circuit court vacancies to fill, Estrada is the only Hispanic Bush has nominated. Clinton nominated 11, three of whom the Republicans blocked.

I could go on and on. Which is just what Senate Democrats are doing.

© 2003 The Washington Post Company

Patrick J. Bumatay
Office of Counsel to the President
o: 202-456-5214
f: 202-456-6279
mainline: 202-456-2632

Michael Kinsley

Columnist

REV_00158043

From: Bumatay, Patrick J.
To: <Walker, Helgard C.>;<Bartolomucci, H. Christopher>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>;<Ullyot, Theodore W.>
Sent: 2/14/2003 9:48:18 AM
Subject: JSC next week

Since we are (hopefully) off on Monday, I wanted to ask you all if you had anyone for a JSC meeting next week. Please forward me anything you have. Also, I am told that we are not going to have a POTUS meeting next week.

Thanks

Patrick J. Bumatay
Office of Counsel to the President
o: 202-456-5214
f: 202-456-6279
mainline: 202-456-2632

From: CN=Brian Bravo/OU=WHO/O=EOP@Exchange [WHO]
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 2/14/2003 8:29:56 AM
Subject: : TRANSCRIPT - Secretary Powell Delivers Remarks In Response To Blix And Elbaradei'S Presentation To The U.N. Security Council 02/14/03

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:14-FEB-2003 13:29:56.00
SUBJECT:: TRANSCRIPT - Secretary Powell Delivers Remarks In Response To Blix And Elbaradei'S Presentation To The U.N. Security Council 02/14/03
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Secretary Powell Delivers Remarks In Response To Blix And Elbaradei'S Presentation To The U.N. Security Council 02/14/03

POWELL: Thank you very much, Mr. President.

Mr. President, Mr. Secretary General, distinguished members of the council, it's a great pleasure to be here with you again to consider this very important matter, and I'm very pleased to be here as the secretary of state of a relatively new country on the face of the Earth.

But I think I can take some credit sitting here as being the representative of the oldest democracy that is assembled here around this table. Proud of that. A democracy that believes in peace, a nation that has tried in the course of its history to show how people can live in peace with one another, but a democracy that has not been afraid to meet its responsibilities on the world stage when it has been challenged; more importantly, when others in the world have been challenged, or when the international order has been challenged, or when the international institutions of which we are a part have been challenged.

That's why we have joined and been active members of institutions such as the United Nations and a number of other institutions that have come together for the purpose of peace and for the purpose of mutual security and for the purpose of letting other nations which pursue a path of destruction, which pursue paths of developing weapons of mass destruction which threaten their neighbors, to let them know that we will stand tall, we will stand together to meet these kinds of challenges.

I want to express my appreciation to Dr. Blix and Dr. ElBaradei for their presentation this morning. They took up a difficult challenge when they went back into Iraq last fall in pursuit of disarmament as required by Resolution 1441. And I listened very attentively to all they said this morning, and I am pleased that there have been improvements with respect to process. I'm pleased that there have been improvements with respect to not having five minders with each inspector down to something less than five minders with each inspector.

But I think they still are being minded, they are still being watched, they are still being bugged, they still do not have the freedom of access around Iraq that they need to do their job well.

I'm pleased that a few people have come forward for interviews, but not all the people who should be coming forward for interviews, and with the freedom to interview them in a manner that their safety can be protected and the safety of their families can be protected as required by U.N. Resolution 1441.

I am glad that access has been relatively good. But that is all process, it is not substance.

I am pleased to hear that decrees have now been issued that should have been issued years and years ago, but does anybody really think a decree from Saddam Hussein--directed to whom--is going to fundamentally change the situation? And it comes out on a morning when we are moving forward down the path laid out by Resolution 1441. These are all process issues. These are all tricks that are being played on us.

And to say that new commissions are being formed that will go find materials that they claim are not there in the first place--can anybody honestly believe that either one of these two new commissions will actively seek out information that they have been actively trying to deny to the world community, to the inspectors for the last 11-plus years?

I commend the inspectors. I thank they for what they are doing. But at the same time, I have to keep coming back to the point that the inspectors have repeatedly made, and they've made it again here this morning, they've been making it for the last 11-plus years: What we need is not more inspections, what we need is not more immediate access, what we need is immediate, active, unconditional, full cooperation on the part of Iraq. What we need is for Iraq to disarm.

Resolution 1441 was not about inspections. Let me say that again. Resolution 1441 was not about inspections. Resolution 1441 was about the disarmament of Iraq.

POWELL: We worked on that resolution for seven weeks, from the time of President Bush's powerful speech here at the United Nations General Assembly on the 12th of September until the resolution was passed on the 8th of November.

We had intense discussions. All of you are familiar with it. You participated in these discussions. And it was about disarmament. And the resolution began with the clear statement that Iraq was in material breach of its obligations for the past 11 years and remains to that day, the day the resolution was passed, in material breach. And the resolution said Iraq must now come into compliance, it must disarm.

The resolution went on to say that we want to see a declaration from Iraq within 30 days of all of its activities, put it all on the table. ``Let's see what you have been doing. Give us a declaration that we can believe and that is full, complete and accurate.'' That's what we said to Iraq on the 8th of November. And some 29 days later, we got 12,000 pages. Nobody in this Council can say that that was a full, complete or accurate declaration.

And now it is several months after that declaration was submitted. And I have heard nothing to suggest that they have filled in the gaps that were in that declaration or they have added new evidence that should give us any comfort that we have a full, complete and accurate declaration.

You will recall we put that declaration requirement into the resolution as an early test of Iraq's seriousness. Are they serious? Are they going to disarm? Are they going to comply? Are they going to cooperate?

And the answer with that declaration was no, we're going to see what we can get away with. We can see how much we can slip under your nose and everybody will clap and say, isn't that wonderful? They provided a declaration. That was of not any particular use.

We then had some level of acceptance of the fact that inspectors were going back in. We called that. Iraq tried to use this gambit right after the president's speech in September to try to keep Resolution 1441 from ever coming down the pipe. Suddenly in the following Monday after the president's speech, ``Oh, we'll let inspectors back in.''

Why? Because when the president spoke and when Iraq saw that the international community was now coming together with seriousness and with

determination, it knew it better do something. It didn't do it out of the goodness of its heart or it suddenly discovered that it's been in violation for all of those years. They did it because the pressure. They did it because this Council stood firm. They did it because the international community said, ``Enough, we will not tolerate Iraq continuing to have weapons of mass destruction to be used against its own people, to be used against its neighbors, or worse, if we find a post-9/11 nexus between Iraq and terrorist organizations that are looking for just such weapons.''

And I would submit and will provide more evidence that such connections are now emerging, and we can establish that they exist.

We cannot wait for one of these terrible weapons to show up in one of our cities and wonder where it came from after it's been detonated by Al Qaida or somebody else. This is the time to go after this source of this kind of weaponry.

And that's what 1441 was all about.

And to this day, we have not seen the level of cooperation that was expected, anticipated, hoped for. I hoped for it. No one worked harder than the United States. And I submit to you, no on worked harder, if I may humbly say, I did, to try to put forward a resolution that would show the determination of the international community to the leadership in Iraq so that they would now meet their obligations and come clean and comply. And they did not.

Notwithstanding all of the discussion we have heard so far this morning about give inspections more time, let's have more airplanes flying over, let's have more inspectors added to the inspection process--Dr. Blix noted earlier this week that it's not more inspectors that it needed. What's needed is what both Dr. Blix and Dr. ElBaradei have said what's been needed since 1991: immediate, active, unconditional compliance and cooperation.

I'm pleased that Iraq is now discussing this matter with South Africa. But it isn't brain surgery. South Africa knows how to do it. Anybody knows how to do it. If we were getting the kind of cooperation that we expected when 1441 was passed and we hoped when 1441 was passed, these documents would be flooding out of homes, flooding out of factories. There would be no question about access. There would be no question about interviews.

If Iraq was serious in this matter, interviewees would be standing outside of UNMOVIC and IAEA offices in Baghdad and elsewhere waiting to be interviewed, because they are determined to prove to the world, to give the world all the evidence needed that these weapons of mass destruction are gone.

POWELL: But the questions, notwithstanding all of the level of letter, the questions remain, and some of my colleagues have talked about them. We haven't accounted for the anthrax, we haven't accounted for the botulinum, VX, both biological agents, growth media, 30,000 chemical and biological munitions.

These are not trivial matters one can just ignore and walk away from and say, ``Well, maybe the inspectors will find them, maybe they won't.''

We have not had a complete, accurate declaration.

We have seen the reconstitution of casting chambers for missiles. Why? Because they are still trying to develop these weapons. We have seen the kind of cooperation that was anticipated, expected and demanded of this body.

And we must continue to demand it. We must continue to put pressure on Iraq, put force upon Iraq to make sure that the threat of force is not removed, because 1441 was all about compliance, not inspections. The

inspections were put in as a way, of course, to assist Iraq in coming forward and complying, in order to verify, in order to monitor, as the chief inspector noted.

But we so got an incomplete answer from Iraq, we are facing a difficult situation. More inspectors, sorry, not the answer. What we need is immediate cooperation. Time? How much time does it take to say, ``I understand the will of the international community, and I and my regime are laying it all out for you and not playing guess--not forming commissions, not issuing decrees, not getting laws that should've been passed years ago suddenly passed on the day when we are meeting''?

These are not responsible actions on the part of Iraq. These are contingent efforts to deceive, to deny, to divert, to throw us off the trail, to throw us off the path.

The resolution anticipated this kind of response from Iraq. And that's why in all our discussions about that resolution we said they're in material breach. If they come into new material breach with a false declaration or not a willingness to cooperate and comply, as OP4 (ph) says, then the matter has to be referred to the Council for serious consequences.

I submit to you that, notwithstanding the improvements in process that we have noted and I welcome--and I thank the inspectors for their hard work--these improvements in process do not move us away from the central problem that we continue to have. And more inspections and a longer inspection period will not move us away from the central issue, the central problem we are facing. And that central problem is that Iraq has failed to comply with 1441.

The threat of force must remain. Force should always be a last resort. I have preached this for most of my professional life as a soldier and as a diplomat. But it must be a resort.

We cannot allow this process to be endlessly strung out, as Iraq is trying to do right now: ``String it out long enough, and the world will start looking in other directions, the Security Council will move on, we'll get away with it again.'' My friends, they cannot be allowed to get away with it again.

We now are in a situation where Iraq's continued noncompliance and failure to cooperate, it seems to me, in the clearest terms requires this Council to begin to think through the consequences of walking away from this problem, or the reality that we have to face this problem, and that in the very near future, we will have to consider whether or not we've reached this Council, as distasteful as it may be, as reluctant as we may be, as many as--there are so many of you who would rather not to face this issue, but it's an issue that must be faced, and that is whether or not it is time to consider serious consequences of the kind intended by 1441.

The reason we must not look away from it is because these are terrible weapons. We are talking about weapons that will kill not a few people, not a hundred people, not a thousand people, but could kill tens of thousands of people, if these weapons got into the wrong hands.

And the security of the region, the hopes for the people of Iraq themselves, and our security rests upon us meeting our responsibilities and, if it comes to it, invoking the serious consequences called for in 1441.

1441 is about disarmament and compliance, and not merely a process of inspections that goes on forever without ever resolving the basic problem.

Thank you.

END

;

From: GaryM Stern <garym.stern@nara.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Craig.Blackwell@usdoj.gov [UNKNOWN] <Craig.Blackwell@usdoj.gov>
Sent: 2/14/2003 12:31:35 PM
Subject: : Nelson Letter
Attachments: P_1LYXD003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:GaryM Stern <garym.stern@nara.gov> (GaryM Stern <garym.stern@nara.gov> [UNKNOWN])
CREATION DATE/TIME:14-FEB-2003 17:31:35.00
SUBJECT:: Nelson Letter
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Craig.Blackwell@usdoj.gov (Craig.Blackwell@usdoj.gov [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Here is a draft letter to Scott Nelson, responding to his FOIA request for the 1654, in anticipation of Brett okaying the release, at least in part, early next week. Any comments are welcome.

Brett, let me know if you end up resolving the privileged records at the same time, in which case I would make this a final response.

Thanks.

- nelsonFO.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_1LYXD003_WHO.TXT_1>

National Archives and Records Administration

8601 Adelphi Road
College Park, Maryland 20740-6001

DRAFT AND PRIVILEGED: ATTORNEY WORK PRODUCT/ATTORNEY CLIENT

February [], 2003

Scott L. Nelson
Public Citizen Litigation Group
1600 20th Street, NW
Washington, DC 20009-1001

By Fax (202-588-7795) and First Class Mail

Dear Scott:

In your letter to me of May 7, 2002, you noted that you were simultaneously submitting a request to the Reagan Library under the Presidential Records Act (PRA) and the Freedom of Information Act (FOIA) for the 1654 pages of Reagan Presidential records (as described to you in my letters of June 28, 2002, and October 25, 2002).

This is an interim response to your FOIA request, to inform you that, in accordance with the PRA and Executive Order 13233, approximately 1612 pages of this request are now open and available at the Reagan Library; information has been withheld in part from two pages in accordance with FOIA exemption (b)(1) and 13 pages in accordance with FOIA exemption (b)(6). You may view and copy these records at the Library or contact the Library directly if you would like to have copies sent to you in accordance with the NARA fee schedule.

Approximately 42 pages and 15 minutes of video segments remain under review in accordance with E.O. 13233, and we will let you know when that review is complete.

Sincerely,

GARY M. STERN
General Counsel

REV_00158065

From: CN=Brian Bravo/OU=WHO/O=EOP@Exchange [WHO]
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 2/14/2003 8:44:40 AM
Subject: : TRANSCRIPT - Jack Straw (Britain) Delivers Remarks In Response To Blix And Elbaradei'S Presentation To The U.N. Security Council 02/14/03

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:14-FEB-2003 13:44:40.00
SUBJECT:: TRANSCRIPT - Jack Straw (Britain) Delivers Remarks In Response To Blix And Elbaradei'S Presentation To The U.N. Security Council 02/14/03
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Jack Straw Delivers Remarks In Response To Blix And Elbaradei'S Presentation To The U.N. Security Council 02/14/03

STRAW: Mr. President, I speak on behalf of a very old country founded...

(LAUGHTER)

... founded in 1066 by the French.

(LAUGHTER)

I'd like, in opening, Mr. President, to thank Dr. Blix and Dr. ElBaradei for their reports and to express my very great appreciation to them and to their inspection teams for their great efforts in the face of what I think is still very clear, Iraq's failure, fully and actively, to comply with Resolution 1441.

Mr. President, the issue before us could not be graver. It is about the authority of the United Nations and about the responsibility of the Security Council for international peace and security.

Just three months ago, on the 8th of November, we unanimously agreed Resolution 1441, tabled by the United States and ourselves. We said then that Iraq's proliferation of weapons of mass destruction, of long-range missiles and its noncompliance with Council resolutions was a threat to international peace and security.

Now, we all know that they've had these weapons. That's why we said that Iraq had them, why all five permanent members, all 10 elected members, said the same thing. We knew that the issue was not whether Iraq had them, but whether Iraq was actively cooperating to get rid of them.

And we emphasized that Iraq had been found guilty 12 years ago by the world community. This was just reminding ourselves that Iraq is the only country in the world which has launched missile attacks on five of its neighbors, invaded two of its neighbors, both Muslim, and killed, without any justification, hundreds of thousands of innocent people in Iran, in Kuwait and in Iraq itself.

Dr. Blix, in his report, refers to the decisions which were made in 1991, and he said regrettably the high degree of cooperation required by this Council of Iraq for disarmament through inspection was not forthcoming in 1991.

And it is worth reminding ourselves when we discuss this issue of time scales that on the 3rd of April 1991, this Council gave Iraq 90 days to disarm, by the 2nd of July 1991. And in the 11 years, 7 months and 12 days, quite a long of time, since the Council's deadline to Iraq ran out, what is it that they've done? Well, they've lied, they've concealed,

they've played games. A game of catcher's catch can, as Dr. Blix told us on the 27th of January.

Saddam said for four years that he had no biological weapons program, no anthrax bacillus, no smallpox virus, no VX nerve agent. And indeed, the inspectors found absolutely nothing. It took the defection of Saddam's own son-in-law to uncover Saddam's biological weapons program, more terrible than anybody had thought.

And to bring us up to date, as Dr. Blix and Dr. ElBaradei spelled out in their report on the 27th of January, Iraq has failed to account for thousands of tons of chemical weapons and precursor chemicals, of shells and bombs for anthrax, for mustard gas, for VX nerve agent. They have failed to make a full and complete disclousre as required of them on the 7th of December, failed to cooperate fully and actively on substance, as well as on process with the inspectors, and failed substantively to meet the obligations imposed on them.

STRAW: Now, I've listened with very great care to the colleagues who've spoken so far. And we all agreed on the importance of 1441, and it was striking that nobody who's spoken so far--and I warrant that nobody who speaks after me--that nobody has spoken so far has suggested for a second that Iraq is fully and actively complying with the obligations that we imposed on him and on them on the 8th of November of last year. So Iraq's material breaches, which we spelled out on the 8th of November, are still there.

Now, in that regard, I'd be glad to put these questions to the inspectors. Why did Dr. Blix think that Iraq has refurbished equipment, like the engine casting chambers at Al Mahmoun (ph) and the chemical processing equipment at Fallujah, both of which were destroyed by UNSCOM because they were prohibited?

Since the last report, how many interviews have taken place with the officials which the inspectors have asked to interview? How many in places which the two inspectors are sure have not subject to electronic interception and bugging by Iraq?

Has any of the outstanding material identified by UNSCOM in early 1999--the missing 8,500 liters of anthrax, the one and a half tons of VX nerve agent, the 6,500 chemical bombs--been satisfactorily dealt with by Iraq? Do recent documents provided by Iraq give any serious evidence for this?

As for the nuclear dossier, how many of the IAEA's open issues has it been able to close through Iraq's cooperation?

Mr. President, I thought that the most significant point made by Dr. Blix in his report, which has subsequently been echoed by everyone who has spoken so far, was his closing remarks when he said, ``Three months after the adoption of Resolution 1441, the period of disarmament through inspection could still be short if the immediate, active and unconditional cooperation with UNMOVIC and the IAEA were to be forthcoming.'' I take those words to mean that Iraq has yet to be forthcoming with that immediate, active and unconditional cooperation.

And I'd like to ask Dr. Blix, picking up a phrase from his report of the 27th of January, whether he believes that Iraq has yet come to a genuine acceptance of the disarmament which has been demanded of it.

Mr. President, the issue before us is of the authority of the U.N. and of the defiance of the United Nations resolutions. On the 8th of November, we said unanimously that Saddam was to have a final opportunity. Can anyone say, does anyone truly believe here that he has yet taken that final opportunity?

Like every other member of this Council and, I believe, of the international community, I hope and believe that a peaceful solution to

this crisis may still be possible. But this will require a dramatic and immediate change by Saddam.

And this will only be achieved if we, the Security Council, hold our nerve in the face of this tyrant, give meaning to our words and to the decisions which we've already collectively taken, and make ourselves ready to ensure that Iraq will face the serious consequences which we all decided would have to happen if Iraq's defiance did not end.

And, Mr. President, I want to close by saying this. This period of 12 years since 687 was passed on the 3rd of April 1991 has frankly been a period of humiliation for this body, for this Security Council and for the United Nations, as games have been played with the Security Council's authority.

And the period after the inspectors were kicked out effectively by Iraq at the end of 1998 until the 8th of November will hardly be described as the best in the Security Council's history, because Iraq was in open defiance of the United Nations and nothing effectively was being done about its weapons of mass destruction.

I am proud that with the United States, the United Kingdom took the initiative on this issue and tabled what became 1441. And I'm glad to note the progress on process that has been made. I'm glad to note that, notwithstanding a clear statement by the government of Iraq on the 10th of September last year that the inspectors would never go back into Iraq, inspectors have now gone back into Iraq, and we note the progress on process that has been made.

But I also say this, that in securing a peaceful conclusion to this crisis, as all we must, I know and I think everybody else here knows that we have only got to this stage by doing what the United Nations charter requires of us, which is to back a diplomatic process with a credible threat of force and also, if necessary, to be ready to use that threat of force.

And if we back away from that, if we decide to give unlimited time for little or no cooperation on substance, then the disarmament of Iraq and the peace and security of the international community, for which we are responsible, will not get any easier, but very much harder.

And this issue is not just about Iraq, it's how we deal with proliferators elsewhere across the globe. And if we send out the message to proliferators the world over that the defiance of the United Nations pays, then it will not be peace that we will have secured.

Thank you.

END

;

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Wendy J. Grubbs/WHO/EOP@EOP [WHO] <Wendy J. Grubbs>;Tim Goeglein/WHO /EOP@EOP [WHO] <Tim Goeglein>;Abel Guerra/WHO/EOP@EOP [WHO] <Abel Guerra>;Mercedes M. Viana/WHO/EOP@EOP [WHO] <Mercedes M. Viana>;Matthew E. Smith/WHO/EOP@EOP [WHO] <Matthew E. Smith>;Jeanie S. Mamo/WHO/EOP@EOP [WHO] <Jeanie S. Mamo>;Leonard B. Rodriguez/WHO/EOP@EOP [WHO] <Leonard B. Rodriguez>;Ashley Snee/WHO/EOP@Exchange@EOP [WHO] <Ashley Snee>
Sent: 2/14/2003 1:24:33 PM
Subject: : Rocky Mountain News editorial

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:14-FEB-2003 18:24:33.00
SUBJECT:: Rocky Mountain News editorial
TO:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Abel Guerra (CN=Abel Guerra/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Mercedes M. Viana (CN=Mercedes M. Viana/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Matthew E. Smith (CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jeanie S. Mamo (CN=Jeanie S. Mamo/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Leonard B. Rodriguez (CN=Leonard B. Rodriguez/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Democrats turn ugly on Estrada
February 14, 2003
Miguel Estrada is - uh oh - a conservative, and if that makes your heart pound with fear you may very well be a U.S. Senate Democrat. Then you may also be among those trying to thwart the Senate's majoritarian decision-making with a filibuster.
It's irresponsible, this hysteria being acted out to keep Estrada from serving on the U.S. Court of Appeals for the District of Columbia. But Democratic senators do have their excuses, each more petty than the next. One excuse is that they don't know enough about Estrada - implausible because there's a well-known and rather amazing life history here: Estrada immigrated to this country from Honduras, graduated with honors at Columbia College, was editor of the Law Review at Harvard Law School, a clerk to a Supreme Court justice, argued before the Supreme Court 15 times, and received the highest possible recommendation of the American Bar Association.
Opponents of Estrada are piqued because he stayed true to a widely endorsed tradition of refusing to indicate how as a judge he might decide cases that could come before him. Instead, Estrada merely said he would be an impartial judge loyal to the law.
The Democrats have no excuse (although it's clear they fear Estrada would be in line for a Supreme Court nomination if he gets this other judgeship first). If liberals in the Senate think conservatives will spell the end of civilization if they become judges, they can vote against Estrada. But keeping others from voting their consciences on this particular matter is simply out of line.

From: Gossel, John C.
To: <McNally, Edward>;<Kavanaugh, Brett M.>
CC: <Crumling, Dorothy>;<Sherry, Paula M.>
Sent: 2/14/2003 5:17:42 PM
Subject: Transfer Julie Nichols email and documents to OVP

Mr. McNally and Mr. Kavanaugh,

Julie Nichols, with Homeland Security, will be joining the Vice President's Office next Tuesday and has requested a transfer of her computer files and account from OHS/WHO to OVP. I am requesting authority for OA IS&T to preserve all electronic files generated by Ms. Nichols under the Presidential Records Act and duplicate them for her use while working for this office.

Your attention and response to this matter is greatly appreciated.

John Gossel
Information Systems Specialist
Office of the Vice President
456-6488 office
456-0386 fax

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Daniel J. Bartlett/WHO/EOP@Exchange [WHO] <Daniel J. Bartlett>
Sent: 2/17/2003 3:18:33 AM
Subject: : Re: estrada q&a

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:17-FEB-2003 08:18:33.00
SUBJECT:: Re: estrada q&a
TO:Daniel J. Bartlett ( CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

yes, the 4-wheel Jeep came in handy.




From: Daniel J. Bartlett/WHO/EOP@Exchange on 02/17/2003 08:15:39 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Re: estrada q&a

Did you get into the office?
```

From: Kavanaugh, Brett M.
To: <Gossel, John C.>
CC: <McNally, Edward>
Sent: 2/17/2003 7:59:16 AM
Subject: Re: Transfer Julie Nichols email and documents to OVP

Ed has replied to this. Thanks.

From: John C. Gossel/OVP/EOP@Exchange on 02/14/2003 05:17:42 PM

Record Type: Record

To: Edward McNally/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP

cc: Dorothy Crumling/OA/EOP@Exchange, Paula M. Sherry/OA/EOP@Exchange

Subject: Transfer Julie Nichols email and documents to OVP

Mr. McNally and Mr. Kavanaugh,

Julie Nichols, with Homeland Security, will be joining the Vice President's Office next Tuesday and has requested a transfer of her computer files and account from OHS/WHO to OVP. I am requesting authority for OA IS&T to preserve all electronic files generated by Ms. Nichols under the Presidential Records Act and duplicate them for her use while working for this office.

Your attention and response to this matter is greatly appreciated.

John Gossel

Information Systems Specialist

Office of the Vice President

456-6488 office

456-0386 fax

From: CN=Heidi K. Marquez/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/17/2003 6:40:06 AM
Subject: : Re: Questions concerning the NRCC, RNC, Republican National Hispanic Assembly

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Heidi K. Marquez (CN=Heidi K. Marquez/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:17-FEB-2003 11:40:06.00
SUBJECT:: Re: Questions concerning the NRCC, RNC, Republican National Hispanic Assembly
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Thank you

.

----- Original Message -----
From:Brett M. Kavanaugh/WHO/EOP
To:Heidi K. Marquez/WHO/EOP@EOP
Cc:eleanor stone/who/eop@eop
Date: 02/17/2003 11:07:57 AM
Subject: Re: Questions concerning the NRCC, RNC, Republican National Hispanic Assembly

When President receives letters such as these, it is appropriate to respond with a letter from the President if that is consistent with your practice.

HEIDI K.
MARQUEZ
02/12/2003 05:35:44 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: Eleanor Stone/WHO/EOP@EOP
Subject: Questions concerning the NRCC, RNC, Republican National Hispanic Assembly

Our gift unit has recently rcvd. gifts from individuals in the following circumstances:
(We want to make sure it is appropriate for us to respond with a POTUS letter from the White House - instead of OPA)

- The NRCC provided people on their mailing list with Christmas cards to be sent to the President. Some individuals have sent gifts along with these cards to the NRCC. The NRCC has forwarded these gifts to us.

- Individuals who attend RNC receptions bringing gifts for the President.

- The Chairperson of the RNHA sent a gift to the President.

Please let me know if you have further questions X65253
sorry if this is not clear...

From: CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO]
To: John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;Theodore W. Ullyot/WHO /EOP@EOP [WHO] <Theodore W. Ullyot>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Patrick J. Bumatay/WHO /EOP@Exchange [WHO] <Patrick J. Bumatay>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Carolyn Nelson/WHO/EOP@Exchange [WHO] <Carolyn Nelson>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>
Sent: 2/17/2003 4:10:31 PM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:17-FEB-2003 21:10:31.00
SUBJECT::
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

No staff meeting tomorrow.;
```

From: CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO]
To: John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;Theodore W. Ullyot/WHO /EOP@EOP [WHO] <Theodore W. Ullyot>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Patrick J. Bumatay/WHO /EOP@Exchange [WHO] <Patrick J. Bumatay>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Carolyn Nelson/WHO/EOP@Exchange [WHO] <Carolyn Nelson>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>
Sent: 2/17/2003 4:10:35 PM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:17-FEB-2003 21:10:35.00
SUBJECT::
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

No staff meeting tomorrow.;
```

From: Seidel, Rebecca (Judiciary) <Rebecca_Seidel@Judiciary.senate.gov>
To: Alan Gilbert/OPD/EOP@EOP [OPD] <Alan Gilbert>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/18/2003 8:59:30 AM
Subject: : Post article on Med liab

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Seidel, Rebecca (Judiciary)" <Rebecca_Seidel@Judiciary.senate.gov> ("Seidel, Rebecca (Judiciary)" <Rebecca_Seidel@Judiciary.senate.gov> [UNKNOWN])
CREATION DATE/TIME:18-FEB-2003 13:59:30.00
SUBJECT:: Post article on Med liab
TO:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I don,t know who this House Leadership aid is, but this is a problem.ÿ
Post article today Medical Malpractice Sparks Partisan Battle
Democrats Say Bush Caters to Insurers

ÿ

&The Republican-controlled House should have no problem passing the plan as written, but Senate Democrats appear to have enough votes to defeat it, unless the cap on pain-and-suffering awards is significantly raised. A top House GOP aide suggested party leaders might be willing to accept a limit as high as $1 million if they can enact a law with bipartisan support.8

The rest of the article isn,t too helpful either.

ÿ

To view the entire article, go to
http://www.washingtonpost.com/wp-dyn/articles/A18522-2003Feb16.html

ÿ

ÿMedical Malpractice Sparks Partisan Battle

ÿ

ÿBy Jim VandeHei

ÿ

ÿPresident Bush's hope of placing a $250,000 cap on pain-and-suffering awards for medical malpractice victims rests largely on his ability to convince lawmakers and the public that the plan is meant to help average Americans -- not cater to the doctors and insurance companies pouring millions of dollars into GOP campaigns.

ÿ

ÿ

ÿ

From: Bumatay, Patrick J.
To: <Kavanaugh, Brett M.>
Sent: 2/18/2003 10:07:08 AM
Subject: FW: JSC

Any thoughts on this? He is stuck in Florida.

-----Original Message-----

From: Bartolomucci, H. Christopher

Sent: Tuesday, February 18, 2003 10:01 AM

To: Bumatay, Patrick J.

Subject: JSC

Is there any chance JSC can be postponed, perhaps to Friday, since there's no POTUS meeting this week? I probably won't get a flight back to DC until Thursday.

.

From: Kavanaugh, Brett M.
To: <Bumatay, Patrick J.>
Sent: 2/18/2003 10:22:05 AM
Subject: Re: FW: JSC

We could just delete the Florida folks from JSC for tomorrow.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 02/18/2003 10:07:08 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: FW: JSC

Any thoughts on this? He is stuck in Florida.

-----Original Message-----

From: Bartolomucci, H. Christopher

Sent: Tuesday, February 18, 2003 10:01 AM

To: Bumatay, Patrick J.

Subject: JSC

Is there any chance JSC can be postponed, perhaps to Friday, since there's no POTUS meeting this week? I probably won't get a flight back to DC until Thursday.

.

From: CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [WHO]
To: Brian Reardon/OPD/EOP@EOP [OPD] <Brian Reardon>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Keith Hennessey/OPD /EOP@Exchange [OPD] <Keith Hennessey>
Sent: 2/18/2003 12:46:03 PM
Subject: : RE: debt ceiling

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:18-FEB-2003 17:46:03.00
SUBJECT:: RE: debt ceiling
TO:Brian Reardon (CN=Brian Reardon/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
End Original ARMS Header

Great -- thank you.;

;-----Original Message-----
From: ; Reardon, Brian;
Sent:;; Tuesday, February 18, 2003 5:45 PM
To:;;;; Silverberg, Kristen
Cc:;;;; Hennessey, Keith; Kavanaugh, Brett M.
Subject:;;;;;;;; RE: debt ceiling

I'll set up a meeting later this week with Brett and the Treasury guys to go through the plan.

From:;; Kristen Silverberg/WHO/EOP@Exchange on 02/18/2003 05:36:10 PM
Record Type:;;; Record

To:;;;; Brian Reardon/OPD/EOP@EOP
cc:;;;; Keith Hennessey/OPD/EOP@Exchange, Brett M. Kavanaugh/WHO/EOP@EOP
Subject:;;;;;;;; RE: debt ceiling

Who from Treasury committed to the debt suspension period. (In other words, are you confident, in light of last year's problems, that you have a firm commitment?) Did WHC (Brett) participate in confirming their agreement?;

;-----Original Message-----
From: ; Reardon, Brian;
Sent:;; Tuesday, February 18, 2003 4:01 PM
To:;;;; Silverberg, Kristen
Cc:;;;; Hennessey, Keith; Kavanaugh, Brett M.
Subject:;;;;;;;; Re: debt ceiling

our; preferred strategy is they pass a debt limit increase now, but they're not going to do it.;; The two most likely vehicles at this point are a) the budget resolution or b) a possible defense supplemental.; Neither bill will move fast enough to avoid Treasury having to declare a debt suspension period.;; Treasury is resigned to this and is prepared to make the declaration.; The question before them is how long will they have to make it in order to provide them with enough liquidity.

From:;; Kristen Silverberg/WHO/EOP@Exchange on 02/18/2003 03:42:33 PM
Record Type:;;; Record

To:;;;; Keith Hennessey/OPD/EOP@Exchange, Brian Reardon/OPD/EOP@EOP
cc:;;;; Brett M. Kavanaugh/WHO/EOP@EOP
Subject:;;;;;;; debt ceiling

Have we resolved our leg strategy on debt ceiling?; Does our preferred vehicle depend on using a debt suspension period and, if so, have; we confirmed that Treasury will do it?;

From: CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO]
To: Jonathan F. Ganter/WHO/EOP@EOP [WHO] <Jonathan F. Ganter>;Hana F. Brilliant/WHO /EOP@EOP [WHO] <Hana F. Brilliant>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/18/2003 9:26:52 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:18-FEB-2003 14:26:52.00
SUBJECT::
TO:Jonathan F. Ganter ( CN=Jonathan F. Ganter/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Hana F. Brilliant ( CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

FYI -- We've just hired a new staff assistant, Liz Farrell, who'll be
starting Monday.;
```

From: CN=Wendy J. Grubbs/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: wendy j. grubbs/who/eop@eop [WHO] <wendy j. grubbs>;ashley snee/who/eop@exchange [WHO] <ashley snee>
Sent: 2/18/2003 11:30:10 AM
Subject: : Re: Target states

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-FEB-2003 16:30:10.00
SUBJECT:: Re: Target states
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:wendy j. grubbs (CN=wendy j. grubbs/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:ashley snee (CN=ashley snee/OU=who/O=eop@exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

List looks good. I, too, am perlexed by Ill...anybody know why it is there? Cannot find any reason in my notes, but as a complete newcomer may have missed something.

----- Original Message -----
From:Brett M. Kavanaugh/WHO/EOP
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:ashley snee/who/eop@exchange,
wendy j. grubbs/who/eop@eop
Date: 02/18/2003 03:59:15 PM
Subject: Re: Target states

btw, I am not sure Illinois belongs, but leave that to you all.

Brett M. Kavanaugh
02/18/2003 03:55:22 PM
Record Type: Record

To: Ashley Snee/WHO/EOP@Exchange
cc: wendy j. grubbs/who/eop@eop
bcc: Records Management@EOP
Subject: Re: Target states

Thanks. Delaware should be added as a tier 1 target, I believe.

As to tier 2, I think those targets break down into several sub-categories and we should think about each: (i) old bull states [WV, SC, HI]; (ii) states with large Hispanic populations [NM, IL]; and states with other individualized reasons [ND, SD, VT]. Do those purposes make sense? Should we delete any? Should we add NC [Edwards] and/or NJ [large Hispanic population/Menendez]?

From: Ashley Snee/WHO/EOP@Exchange on 02/18/2003 03:41:09 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Wendy J. Grubbs/WHO/EOP@EOP
cc:
Subject: Target states

Here is a whack at it. For press purposes, we will focus our earned media efforts in the tier one states first and then the second. Let me know if any should be moved.

Leg Targets

Tier One:
Indiana
Florida
New York
Louisiana
Arkansas
California

Tier Two:
New Mexico
West Virginia
South Carolina
North Dakota
South Dakota
Vermont
Illinois
Hawaii

From: Grubbs, Wendy J.
To: <Kavanaugh, Brett M.>
CC: <Snee, Ashley>;<Grubbs, Wendy J.>
Sent: 2/18/2003 4:30:03 PM
Subject: Re: Target states

List looks good. I, too, am perlexed by Ill...anybody know why it is there? Cannot find any reason in my notes, but as a complete newcomer may have missed something.

----- Original Message -----

From:Brett M. Kavanaugh/WHO/EOP

To:Brett M. Kavanaugh/WHO/EOP@EOP

Cc:ashley snee/who/eop@exchange,

wendy j. grubbs/who/eop@eop

Date: 02/18/2003 03:59:15 PM

Subject: Re: Target states

btw, I am not sure Illinois belongs, but leave that to you all.

Brett M. Kavanaugh

02/18/2003 03:55:22 PM

Record Type: Record

To: Ashley Snee/WHO/EOP@Exchange

cc: wendy j. grubbs/who/eop@eop

bcc: Records Management@EOP

Subject: Re: Target states

Thanks. Delaware should be added as a tier 1 target, I believe.

As to tier 2, I think those targets break down into several sub-categories and we should think about each: (i) old bull states [WV, SC, HI]; (ii) states with large Hispanic populations [NM, IL]; and states with other individualized reasons [ND, SD, VT]. Do those purposes make sense? Should we delete any? Should we add NC [Edwards] and/or NJ [large Hispanic population/Menendez]?

From: Ashley Snee/WHO/EOP@Exchange on 02/18/2003 03:41:09 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Wendy J. Grubbs/WHO/EOP@EOP

cc:

Subject: Target states

Here is a whack at it. For press purposes, we will focus our earned media efforts in the tier one states first and then the second. Let me know if any should be moved.

Leg Targets

Tier One:

Indiana

Florida

New York

Louisiana

Arkansas

California

Tier Two:

New Mexico

West Virginia

South Carolina

North Dakota

South Dakota

Vermont

Illinois

Hawaii

From: CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [WHO]
To: Brian Reardon/OPD/EOP@EOP [OPD] <Brian Reardon>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Keith Hennessey/OPD /EOP@Exchange [OPD] <Keith Hennessey>
Sent: 2/18/2003 12:36:27 PM
Subject: : RE: debt ceiling

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:18-FEB-2003 17:36:27.00
SUBJECT:: RE: debt ceiling
TO:Brian Reardon (CN=Brian Reardon/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
End Original ARMS Header

Who from Treasury committed to the debt suspension period. (In other words, are you confident, in light of last year's problems, that you have a firm commitment?) Did WHC (Brett) participate in confirming their agreement?

-----Original Message-----
From: Reardon, Brian
Sent: Tuesday, February 18, 2003 4:01 PM
To: Silverberg, Kristen
Cc: Hennessey, Keith; Kavanaugh, Brett M.
Subject: Re: debt ceiling

our preferred strategy is they pass a debt limit increase now, but they're not going to do it. The two most likely vehicles at this point are a) the budget resolution or b) a possible defense supplemental. Neither bill will move fast enough to avoid Treasury having to declare a debt suspension period. Treasury is resigned to this and is prepared to make the declaration. The question before them is how long will they have to make it in order to provide them with enough liquidity.

From: Kristen Silverberg/WHO/EOP@Exchange on 02/18/2003 03:42:33 PM
Record Type: Record

To: Keith Hennessey/OPD/EOP@Exchange, Brian Reardon/OPD/EOP@EOP
cc: Brett M. Kavanaugh/WHO/EOP@EOP
Subject: debt ceiling

Have we resolved our leg strategy on debt ceiling? Does our preferred vehicle depend on using a debt suspension period and, if so, have we confirmed that Treasury will do it?

From: CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [WHO]
To: Brian Reardon/OPD/EOP@EOP [OPD] <Brian Reardon>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Keith Hennessey/OPD /EOP@Exchange [OPD] <Keith Hennessey>
Sent: 2/18/2003 12:46:03 PM
Subject: : RE: debt ceiling

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:18-FEB-2003 17:46:03.00
SUBJECT:: RE: debt ceiling
TO:Brian Reardon (CN=Brian Reardon/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
End Original ARMS Header

Great -- thank you.;

;-----Original Message-----
From: ; Reardon, Brian;
Sent:;; Tuesday, February 18, 2003 5:45 PM
To:;;;; Silverberg, Kristen
Cc:;;;; Hennessey, Keith; Kavanaugh, Brett M.
Subject:;;;;;;;; RE: debt ceiling

I'll set up a meeting later this week with Brett and the Treasury guys to go through the plan.

From:;; Kristen Silverberg/WHO/EOP@Exchange on 02/18/2003 05:36:10 PM
Record Type:;;; Record

To:;;;; Brian Reardon/OPD/EOP@EOP
cc:;;;; Keith Hennessey/OPD/EOP@Exchange, Brett M. Kavanaugh/WHO/EOP@EOP
Subject:;;;;;;;; RE: debt ceiling

Who from Treasury committed to the debt suspension period. (In other words, are you confident, in light of last year's problems, that you have a firm commitment?) Did WHC (Brett) participate in confirming their agreement?;

;-----Original Message-----
From: ; Reardon, Brian;
Sent:;; Tuesday, February 18, 2003 4:01 PM
To:;;;; Silverberg, Kristen
Cc:;;;; Hennessey, Keith; Kavanaugh, Brett M.
Subject:;;;;;;;; Re: debt ceiling

our; preferred strategy is they pass a debt limit increase now, but they're not going to do it.;; The two most likely vehicles at this point are a) the budget resolution or b) a possible defense supplemental.; Neither bill will move fast enough to avoid Treasury having to declare a debt suspension period.;; Treasury is resigned to this and is prepared to make the declaration.; The question before them is how long will they have to make it in order to provide them with enough liquidity.

From:;; Kristen Silverberg/WHO/EOP@Exchange on 02/18/2003 03:42:33 PM
Record Type:;;; Record

To:;;;; Keith Hennessey/OPD/EOP@Exchange, Brian Reardon/OPD/EOP@EOP
cc:;;;; Brett M. Kavanaugh/WHO/EOP@EOP
Subject:;;;;;;; debt ceiling

Have we resolved our leg strategy on debt ceiling?; Does our preferred vehicle depend on using a debt suspension period and, if so, have; we confirmed that Treasury will do it?;

From: Kristen_Silverberg@who.eop.gov [WHO] <Silverberg, Kristen>
To: <Hennessey>;Keith_Hennessey@opd.eop.gov [OPD] <Keith>;<Reardon>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C3FC7E04-51373AEF-85256CBB-6E18A1 [UNKNOWN] <Brian>
CC: <Kavanaugh>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6246020-C20FEE19-852569DA-7648DC [UNKNOWN] <Brett M.>
Sent: 2/18/2003 3:42:33 PM
Subject: debt ceiling

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (MS Mail)
CREATOR:Silverberg, Kristen ( Kristen_Silverberg@who.eop.gov [ WHO ] )
CREATION DATE/TIME:18-FEB-2003 20:42:33.00
SUBJECT:debt ceiling
TO:Hennessey, Keith ( Keith_Hennessey@opd.eop.gov [ OPD ] )
READ:UNKNOWN
TO:Reardon, Brian ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=C3FC7E04-51373AEF-85256CBB-6E18A1 [ UNKNOWN ] )
READ:UNKNOWN
CC:Kavanaugh, Brett M. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6246020-
C20FEE19-852569DA-7648DC [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Have we resolved our leg strategy on debt ceiling? Does our preferred vehicle
depend on using a debt suspension period and, if so, have we confirmed that
Treasury will do it?
```

From: Kristen_Silverberg@who.eop.gov [WHO] <Silverberg, Kristen>
To: <Reardon>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C3FC7E04-51373AEF-85256CBB-6E18A1 [UNKNOWN] <Brian>
CC: <Hennessey>;Keith_Hennessey@opd.eop.gov [OPD] <Keith>;<Kavanaugh>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6246020-C20FEE19-852569DA-7648DC [UNKNOWN] <Brett M.>
Sent: 2/18/2003 5:36:10 PM
Subject: RE: debt ceiling

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (MS Mail)
CREATOR:Silverberg, Kristen (Kristen_Silverberg@who.eop.gov [WHO])
CREATION DATE/TIME:18-FEB-2003 22:36:10.00
SUBJECT:RE: debt ceiling
TO:Reardon, Brian (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS /CN=C3FC7E04-51373AEF-85256CBB-6E18A1 [UNKNOWN])
READ:UNKNOWN
CC:Hennessey, Keith (Keith_Hennessey@opd.eop.gov [OPD])
READ:UNKNOWN
CC:Kavanaugh, Brett M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6246020-C20FEE19-852569DA-7648DC [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Who from Treasury committed to the debt suspension period. (In other words, are you confident, in light of last year's problems, that you have a firm commitment?) Did WHC (Brett) participate in confirming their agreement?

-----Original Message-----
From: Reardon, Brian

Sent: Tuesday, February 18, 2003 4:01 PM

To: Silverberg, Kristen

Cc: Hennessey, Keith; Kavanaugh, Brett M.

Subject: Re: debt ceiling

our preferred strategy is they pass a debt limit increase now, but they're not going to do it. The two most likely vehicles at this point are a) the budget resolution or b) a possible defense supplemental. Neither bill will move fast enough to avoid Treasury having to declare a debt suspension period. Treasury is resigned to this and is prepared to make the declaration. The question before them is how long will they have to make it in order to provide them with enough liquidity.

From: Kristen Silverberg/WHO/EOP@Exchange on 02/18/2003 03:42:33 PM

Record Type: Record

To: Keith Hennessey/OPD/EOP@Exchange, Brian Reardon/OPD/EOP@EOP

cc: Brett M. Kavanaugh/WHO/EOP@EOP
Subject: debt ceiling

Have we resolved our leg strategy on debt ceiling? Does our preferred vehicle depend on using a debt suspension period and, if so, have we confirmed that Treasury will do it?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Melissa S. Bennett/WHO/EOP@Exchange [WHO] <Melissa S. Bennett>
CC: jose mallea/who/eop@exchange [WHO] <jose mallea>;alicia w. davis/who/eop@eop [WHO] <alicia w. davis>
Sent: 2/19/2003 5:17:42 AM
Subject: : RE: New Hampshire

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:19-FEB-2003 10:17:42.00
SUBJECT:: RE: New Hampshire
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
CC:jose mallea (CN=jose mallea/OU=who/O=eop@exchange [WHO])
READ:UNKNOWN
CC:alicia w. davis (CN=alicia w. davis/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

This should not change our previous decision to proceed, but I told Alicia that I am confirming with relevant office that provides advisory guidance on these issues just to make sure they agree and back us up. That confirmation should happen this morning. I will let you know as soon as I know. (Btw, the consequences described in the news article are dramatically overstated.)

From: Melissa S. Bennett/WHO/EOP@Exchange on 02/19/2003 09:32:51 AM
Record Type: Record

To: Alicia W. Davis/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc: Jose Mallea/WHO/EOP@Exchange
Subject: RE: New Hampshire

Please let us know, as soon as you can.
MB

;-----Original Message-----
From: ; Davis, Alicia W.;
Sent:;; Wednesday, February 19, 2003 8:26 AM
To:;;;; Kavanaugh, Brett M.
Cc:;;;; Bennett, Melissa S.
Subject:;;;;;;; FW: New Hampshire

Brett-we discussed this before and you indicated that if they were traded in it would not be a problem-that number was 50.; How do you want to handle this?; Should we cancel?

---------- Forwarded by Alicia W. Davis/WHO/EOP on 02/19/2003 08:28 AM ----------

From:;; Melissa S. Bennett/WHO/EOP@Exchange on 02/19/2003 08:29:00 AM
Record Type:;;; Record

To:;;;; Alicia W. Davis/WHO/EOP@EOP
cc:;;;;
Subject:;;;;;;; FW: New Hampshire

;
-----Original Message-----
From: Mallea, Jose
Sent: Wednesday, February 19, 2003 8:28 AM
To: Everson, Nanette
Cc: Nelson, Carolyn; Bennett, Melissa S.
Subject: New Hampshire

;

Copyright 2003 Union Leader Corp. ;

The Union Leader (Manchester NH)

February 16, 2003 Sunday STATE EDITION

SECTION: NEWS; Pg. A3

LENGTH: 750 words

HEADLINE: (UNDER THE STATE HOUSE DOME) Labor committee expected to favor right-to-work bill

BYLINE: By TOM FAHEY

BODY:

Going to the Reagan-Lincoln Day Dinner on Friday at Yoken's in Portsmouth? Check your ticket. If it identifies guest speaker Andrew Card as the White House chief of staff, trade it in quick.

State Republican Committee Chairwoman Jayne Millerick said the Strafford and Belknap county Republicans printed the tickets without knowing the latest campaign finance laws. Now-departed state GOP Executive Director Chuck McGee warned event organizers that using Card's title on the tickets or advertising fliers could be construed as a felony.

About 500 of the tickets were printed up, so 500 new tickets were printed up with the instructions to distributors to exchange old tickets for new. The new ones just describe Card as "Honorable."

Most people willing to pay $40 to hear him speak know the rest anyway.

Millerick, meanwhile, is seeking a replacement for McGee, who resigned right after word came out that a Republican-hired company jammed get-out-the-vote phone lines in four New Hampshire cities. She has about a dozen resumes on her desk.

"We want to make sure that our next executive director is the best candidate," she said. "We're looking forward to hiring a very qualified and hard-working person."

LOAD-DATE: February 18, 2003

From: CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO]
To: Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Jay P. Lefkowitz/OPD /EOP@Exchange [OPD] <Jay P. Lefkowitz>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Alberto R. Gonzales/WHO/EOP@Exchange [WHO] <Alberto R. Gonzales>
Sent: 2/19/2003 2:48:13 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:19-FEB-2003 07:48:13.00
SUBJECT::
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [ OPD ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

This web site contains links to many of the amicus briefs filed in the
Michigan case.;
;
http://www.umich.edu/~urel/admissions/legal/amicus.html
<http://www.umich.edu/~urel/admissions/legal/amicus.html>
```

From: CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO]

To: Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;tracy washington <tracy.t.washington@usdoj.gov>;Susan B. Ralston/WHO/EOP@Exchange [WHO] <Susan B. Ralston>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;David McMaster/WHO/EOP@EOP [WHO] <David McMaster>;David G. Leitch/WHO/EOP@Exchange [WHO] <David G. Leitch>;Kristi Remington <Kristi.l.Remington@usdoj.gov>;Alison Jones/WHO /EOP@Exchange [WHO] <Alison Jones>;Ann Gray/WHO/EOP@EOP [WHO] <Ann Gray>;evelyn long <evelyn.v.long@usdoj.gov>;Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>;Melissa S. Bennett/WHO/EOP@Exchange [WHO] <Melissa S. Bennett>;andrew beach <andrew.beach@usdoj.gov>;albert brewster <albert.brewster@usdoj.gov>;adam charnes <adam.charnes@usdoj.gov>;wendy keefer <wendy.j.keefer@usdoj.gov>;viet dinh <viet.dinh@usdoj.gov>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>;Sarah K. Lockart/WHO/EOP@Exchange [WHO] <Sarah K. Lockart>;Ross M. Kyle/WHO /EOP@Exchange [WHO] <Ross M. Kyle>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;jason sutton <jason.j.sutton@usdoj.gov>;Noel J. Francisco/WHO /EOP@EOP [WHO] <Noel J. Francisco>;Kimberly Ellison/WHO/EOP@EOP [WHO] <Kimberly Ellison>;Hana F. Brilliant/WHO/EOP@EOP [WHO] <Hana F. Brilliant>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;amy bass <amy.bass@usdoj.gov>;adam ciongoli <adam.ciongoli@usdoj.gov>;Heather Wingate/WHO /EOP@Exchange [WHO] <Heather Wingate>

Sent: 2/19/2003 3:10:55 AM

Subject: : JSC Meeting Today

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:19-FEB-2003 08:10:55.00
SUBJECT:: JSC Meeting Today
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:tracy washington <tracy.t.washington@usdoj.gov>@SMTP@Exchange ( tracy washington
<tracy.t.washington@usdoj.gov>@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
TO:Susan B. Ralston ( CN=Susan B. Ralston/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David McMaster ( CN=David McMaster/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Kristi Remington <Kristi.l.Remington@usdoj.gov>@SMTP@Exchange ( Kristi Remington
<Kristi.l.Remington@usdoj.gov>@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
TO:Alison Jones ( CN=Alison Jones/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Ann Gray ( CN=Ann Gray/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:evelyn long <evelyn.v.long@usdoj.gov>@SMTP@Exchange ( evelyn long
<evelyn.v.long@usdoj.gov>@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Melissa S. Bennett ( CN=Melissa S. Bennett/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:andrew beach <andrew.beach@usdoj.gov>@SMTP@Exchange ( andrew beach
<andrew.beach@usdoj.gov>@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
TO:albert brewster <albert.brewster@usdoj.gov>@SMTP@Exchange ( albert brewster
<albert.brewster@usdoj.gov>@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
```

TO:adam charnes <adam.charnes@usdoj.gov>@SMTP@Exchange (adam charnes
<adam.charnes@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:wendy keefer <wendy.j.keefer@usdoj.gov>@SMTP@Exchange (wendy keefer
<wendy.j.keefer@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:viet dinh <viet.dinh@usdoj.gov>@SMTP@Exchange (viet dinh
<viet.dinh@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Sarah K. Lockart (CN=Sarah K. Lockart/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Ross M. Kyle (CN=Ross M. Kyle/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:jason sutton <jason.j.sutton@usdoj.gov>@SMTP@Exchange (jason sutton
<jason.j.sutton@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kimberly Ellison (CN=Kimberly Ellison/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Hana F. Brilliant (CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:amy bass <amy.bass@usdoj.gov>@SMTP@Exchange (amy bass
<amy.bass@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:adam ciongoli <adam.ciongoli@usdoj.gov>@SMTP@Exchange (adam ciongoli
<adam.ciongoli@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

There WILL be;a WHJSC meeting today at 4:00pm in the Judge's Office.
;
Thanks!

From: Nelson, Carolyn

To: <Wingate, Heather>;adam charnes <adam.charnes@usdoj.gov>;adam ciongoli <adam.ciongoli@usdoj.gov>;albert brewster <albert.brewster@usdoj.gov>;amy bass <amy.bass@usdoj.gov>;andrew beach <andrew.beach@usdoj.gov>;<Bartolomucci, H. Christopher>;<Bennett, Melissa S.>;<Brilliant, Hana F.>;<Bumatay, Patrick J.>;<Ellison, Kimberly>;evelyn long <evelyn.v.long@usdoj.gov>;<Francisco, Noel J.>;<Gray, Ann>;jason sutton <jason.j.sutton@usdoj.gov>;<Jones, Alison>;<Kavanaugh, Brett M.>;Kristi Remington <Kristi.I.Remington@usdoj.gov>;<Kyle, Ross M.>;<Leitch, David G.>;<Lockart, Sarah K.>;<McMaster, David>;<Montiel, Charlotte L.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Ralston, Susan B.>;<Sampson, Kyle>;tracy washington <tracy.t.washington@usdoj.gov>;viet dinh <viet.dinh@usdoj.gov>;<Walker, Helgard C.>;wendy keefer <wendy.j.keefer@usdoj.gov>

Sent: 2/19/2003 8:10:36 AM

Subject: JSC Meeting Today

There WILL be a WHJSC meeting today at 4:00pm in the Judge's Office.

Thanks!

From:	Nelson, Carolyn
To:	<Bartolomucci, H. Christopher>;<Ullyot, Theodore W.>;<Leitch, David G.>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>; <Walker, Helgard C.>
CC:	<Montiel, Charlotte L.>;<Bumatay, Patrick J.>
Sent:	2/19/2003 9:34:21 AM
Subject:	JSC Prep

Prep will be from 3:40-4:00 this afternoon in the Judge's Office.

Note that Brian Benczkowski and Kristi Remington will attend in place of Viet and Adam Ciongoli, who are stranded due to the weather.

From: FindLaw.com <listadmin@LEGALMINDS.ORG>
To: TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN] <TOPHEADLINES@LEGALMINDS.ORG>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 2/19/2003 11:27:33 AM
Subject: : [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Wed., Feb. 19, 2003

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"FindLaw.com" <listadmin@LEGALMINDS.ORG> ( "FindLaw.com" <listadmin@LEGALMINDS.ORG>
[ UNKNOWN ] )
CREATION DATE/TIME:19-FEB-2003 16:27:33.00
SUBJECT:: [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Wed., Feb. 19,
2003
TO:TOPHEADLINES@LEGALMINDS.ORG ( TOPHEADLINES@LEGALMINDS.ORG [ UNKNOWN ] )
READ:UNKNOWN
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

------------------------------------------------------------------------
FINDLAW Wed, Feb 19, 2003
------------------------------------------------------------------------
TOP LEGAL NEWS HEADLINES


For all of the day's legal news go to: http://news.findlaw.com
**********************************************************************

Amicus Attorney

Stuck under a mountain of files? Finding it hard to find information
when you need it? We can help! Amicus Attorney, the world's most widely
used practice management software, puts all of your practice
information at your fingertips. By spending less time looking for
information, you'll increase your productivity and your billable time.
Get Amicus Attorney today. FREE TRIAL.
http://rd.findlaw.com/scripts/nl.pl?url=10439136001_nl

**********************************************************************

SUPREME COURT
Groups Urge Limit on Govt. Spying Powers
http://news.findlaw.com/ap/a/w/1154/2-18-2003/20030218140005_06.html


POLITICS
Bush Challenges U.N. To Confront Saddam
http://news.findlaw.com/ap/a/w/1151/2-19-2003/20030219050001_33.html

Rep. Gephardt Announces Presidential Run
http://news.findlaw.com/ap/a/p/1131/2-19-2003/20030219080001_05.html


LEGAL COMMENTARY
Capital Punishment: The Quest For Geographic Uniformity
http://writ.news.findlaw.com/dorf/20030219.html


CIVIL RIGHTS
Oakland Settles Alleged Police Abuse
http://news.findlaw.com/ap/o/1110/2-19-2003/20030219061501_48.html

Anti-Bush T-Shirt Banned At Mich. School
http://news.findlaw.com/ap/a/w/1151/2-19-2003/20030219090004_06.html
```

PERSONAL INJURY
Judge Rejects Archdiocese Suit Dismissal
http://news.findlaw.com/ap/o/1110/2-19-2003/20030219094501_03.html

Judge Cuts Award For Diluted Drug Patient
http://news.findlaw.com/ap/o/1501/2-19-2003/20030219111504_37.html

PRODUCT LIABILITY
Ford Recalls 1997 Escorts And Tracers
http://news.findlaw.com/business/s/20030219/autosfordrecalldc.html

Overuse Cited In Cipro Ineffectiveness
http://news.findlaw.com/ap/o/1500/2-19-2003/20030219060000_20.html

LABOR AND EMPLOYMENT
Steel Workers OK Concessions In New Deal
http://news.findlaw.com/ap/f/1310/2-19-2003/20030219111504_40.html

Fidelity To Employees: Raises Unlikely
http://news.findlaw.com/ap/f/1310/2-19-2003/20030219111503_20.html

ENVIRONMENT
9/11 Air-Quality Aid Program Troubled
http://news.findlaw.com/ap/o/1110/2-19-2003/20030219111503_35.html

Meat Groups, Vegetarians Target Youth
http://news.findlaw.com/ap/o/1110/2-19-2003/20030219060000_18.html

CYBERSPACE LAW
DVD-Copying Software Maker Offers Reward
http://news.findlaw.com/ap/f/1310/2-19-2003/20030219080002_38.html

Hollywood, Fighting Asian Piracy, Seeks Informers

http://news.findlaw.com/entertainment/s/20030219/crimethailandhollywooddc.h
tml

TELECOMMUNICATIONS
Audit Rips Md. Government Cell Phones
http://news.findlaw.com/ap/ht/1700/2-19-2003/20030219030004_2.html

BUSINESS
Judge Lets IPO Lawsuits Proceed
http://news.findlaw.com/ap/f/1310/2-19-2003/20030219084501_47.html

INTERNATIONAL LAW
U.N. Tribunal Convicts Rwandan Pastor
http://news.findlaw.com/ap/i/1105/2-19-2003/20030219041500_21.html

Cuba Gives Democracy Backers Prison Time
http://news.findlaw.com/ap/i/1102/2-19-2003/20030219070004_06.html

WAR ON TERRORISM
9/11 Suspect Convicted Of Aiding Murder
http://news.findlaw.com/ap/i/1103/2-19-2003/20030219051501_08.html

Ridge Launches Terror Readiness Campaign
http://news.findlaw.com/ap/a/w/1152/2-19-2003/20030219101502_05.htm

CRIME & TRIALS
Homeless Man Sought In Utah Girl's Case
http://news.findlaw.com/ap/o/1110/2-19-2003/20030219104502_34.html

L.A. Korean Man Indicted On 'Low-Level' Spy Charge
http://news.findlaw.com/news/s/20030219/crimekoreandc.html

ENTERTAINMENT
Jackson Response To Be Included in Trial
http://news.findlaw.com/ap/e/1403/2-19-2003/20030219071501_34.html

L.A. Woman Chased By Fake Alien Sues Reality Show
http://news.findlaw.com/entertainment/s/20030219/leisurescaredc.html

SPORTS
Baseball Player's Death Re-Ignites Ephedra Debate
http://news.findlaw.com/sports/s/20030219/mlbhealthephedradc.html

Former Baseball Slugger Canseco Sent To Jail
http://news.findlaw.com/sports/s/20030219/mlbcansecodc.html

****

DepoWave

Scheduling depositions and videographers anywhere in the world has never been easier. Providing attorneys, paralegals and legal secretaries with an efficient, convenient and cost effective national reporting and legal video resource is what DepoWave is all about. To schedule a court reporter or videographer, please call us at 1.866-DepoWave (337.6928), or click below for additional information about DepoWave:
http://rd.findlaw.com/scripts/nl.pl?url=10415808000_nl

********** West LegalEdcenter *******

Receive updates about NEW ONLINE CLE PROGRAMS

Register with West LegalEdcenter for monthly email updates about new online CLE programs in your practice areas and jurisdictions. West LegalEdcenter currently has more than 1,400 courses, with more added daily!

http://rd.findlaw.com/scripts/nl.pl?url=gen_cle_010402

********** westgroup.com *********

Get FREE ground shipping in the U.S. on all orders.
http://rd.findlaw.com/scripts/nl.pl?url=gen_ads_040102

****

FEEDBACK

We value your comments! Please take a moment to tell us what you think by sending an e-mail to:
mailto:newsletters@findlaw.com?subject=TopHeadlines. Please include "Top Headlines" in the subject line.

SUBSCRIPTION INFORMATION

To subscribe to a FindLaw Newsletter, visit the FindLaw Newsletter Subscription Center at http://newsletters.findlaw.com

To unsubscribe, go to http://newsletters.findlaw.com/unsubscribe.html

---

ADVERTISING INFORMATION

For more information about advertising in FindLaw Newsletters, please contact us at:

mailto:sales@findlaw.com

FindLaw Top Headlines http://news.findlaw.com

Copyright (c) 2003 FindLaw, Inc.

From: Clark, Lucy <Lucy.Clark@DHS.GOV>
To: Mcclain, Ellen <Ellen.Mcclain@DHS.GOV>
CC: Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>
Sent: 2/19/2003 1:18:09 PM
Subject: : Treasury Delegation
Attachments: P_SMH0E003_WHO.TXT_1.html

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Clark, Lucy" <Lucy.Clark@DHS.GOV> ( "Clark, Lucy" <Lucy.Clark@DHS.GOV> [ UNKNOWN ]
)
CREATION DATE/TIME:19-FEB-2003 18:18:09.00
SUBJECT:: Treasury Delegation
TO:"Mcclain, Ellen" <Ellen.Mcclain@DHS.GOV> ( "Mcclain, Ellen" <Ellen.Mcclain@DHS.GOV> [
UNKNOWN ] )
READ:UNKNOWN
CC:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Ellen -- If you still have a clean copy of the Treasury draft
delegation - i.e., what they drafted and sent over - can you forward it
to the above folks? Thanks

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_SMH0E003_WHO.TXT_1>
```

Ellen -- If you still have a clean copy of the Treasur y draft delegation – i.e., what they drafted and sent over – can you forward it to the above folks? Thanks

From: [UNKNOWN] <Kavanaugh, Brett M.>
To: <Bennett>;Melissa_S._Bennett@who.eop.gov [WHO] <Melissa S.>
CC: <Davis>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/5E936C0E-B2212C01-852569E5-72EE65 [UNKNOWN] <Alicia W.>;<Mallea>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/JOSE_MALLEA [UNKNOWN] <Jose>
Sent: 2/19/2003 10:03:09 AM
Subject: RE: New Hampshire

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (MS Mail)
CREATOR:Kavanaugh, Brett M. ([UNKNOWN])
CREATION DATE/TIME:19-FEB-2003 15:03:09.00
SUBJECT:RE: New Hampshire
TO:Bennett, Melissa S. (Melissa_S._Bennett@who.eop.gov [WHO])
READ:UNKNOWN
CC:Davis, Alicia W. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=5E936C0E-B2212C01-852569E5-72EE65 [UNKNOWN])
READ:UNKNOWN
CC:Mallea, Jose (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=JOSE_MALLEA [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

This should not change our previous decision to proceed, but I told Alicia that I am confirming with relevant office that provides advisory guidance on these issues just to make sure they agree and back us up. That confirmation should happen this morning. I will let you know as soon as I know. (Btw, the consequences described in the news article are dramatically overstated.)

From: Melissa S. Bennett/WHO/EOP@Exchange on 02/19/2003 09:32:51 AM

Record Type: Record

To: Alicia W. Davis/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP

cc: Jose Mallea/WHO/EOP@Exchange
Subject: RE: New Hampshire

Please let us know, as soon as you can.
MB

-----Original Message-----
From: Davis, Alicia W.

Sent: Wednesday, February 19, 2003 8:26 AM

To: Kavanaugh, Brett M.

Cc: Bennett, Melissa S.

Subject: FW: New Hampshire

Brett-we discussed this before and you indicated that if they were traded in it would not be a problem-that number was 50. How do you want to handle this? Should we cancel?

---------- Forwarded by Alicia W. Davis/WHO/EOP on 02/19/2003 08:28 AM ----------

From: Melissa S. Bennett/WHO/EOP@Exchange on 02/19/2003 08:29:00 AM

Record Type: Record

To: Alicia W. Davis/WHO/EOP@EOP

cc:
Subject: FW: New Hampshire

-----Original Message-----
From: Mallea, Jose

Sent: Wednesday, February 19, 2003 8:28 AM
To: Everson, Nanette

Cc: Nelson, Carolyn; Bennett, Melissa S.
Subject: New Hampshire

Copyright 2003 Union Leader Corp.

The Union Leader (Manchester NH)

February 16, 2003 Sunday STATE EDITION

SECTION: NEWS; Pg. A3

LENGTH: 750 words

HEADLINE: (UNDER THE STATE HOUSE DOME) Labor committee expected to favor right-to-work bill

BYLINE: By TOM FAHEY

BODY:

Going to the Reagan-Lincoln Day Dinner on Friday at Yoken's in Portsmouth? Check your ticket. If it identifies guest speaker Andrew Card as the White House chief of staff, trade it in quick.

State Republican Committee Chairwoman Jayne Millerick said the Strafford and Belknap county Republicans printed the tickets without knowing the latest campaign finance laws. Now-departed state GOP Executive Director Chuck McGee warned event organizers that using Card's title on the tickets or advertising fliers could be construed as a felony.

About 500 of the tickets were printed up, so 500 new tickets were printed up with the instructions to distributors to exchange old tickets for new. The new ones just describe Card as "Honorable."

Most people willing to pay $40 to hear him speak know the rest anyway.

Millerick, meanwhile, is seeking a replacement for McGee, who resigned right after word came out that a Republican-hired company jammed get-out-the-vote phone lines in four New Hampshire cities. She has about a dozen resumes on her desk.

"We want to make sure that our next executive director is the best candidate," she said. "We're looking forward to hiring a very qualified and hard-working person."

LOAD-DATE: February 18, 2003

From: CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [OA]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/20/2003 5:55:44 AM
Subject: : FW: Response on Nonrecord Emails
Attachments: P_U001E003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Adam F. Greenstone (CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [OA])
CREATION DATE/TIME:20-FEB-2003 10:55:44.00
SUBJECT:: FW: Response on Nonrecord Emails
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Fyi. I wasn't sure if I forwarded this to you before. Gary called this morning and asked if we had any comments.
-----Original Message-----
From: GaryM Stern [mailto:garym.stern@nara.gov]
Sent: Tuesday, January 21, 2003 2:27 PM
To: Greenstone, Adam F.
Cc: Jason Baron
Subject: Response on Nonrecord Emails

As discussed, here is a proposed response to your letter. Let us know what you think. Thanks.
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_U001E003_WHO.TXT_1>

National Archives and Records Administration

8601 Adelphi Road
College Park, Maryland 20740-6001

DRAFT

Adam F. Greenstone
General Counsel
Office of Administration
Executive Office of the President
New Executive Office Building
Washington, DC 20503

Dear Mr. Greenstone:

Thank you for your letter of January 8, 2003, concerning the effect of the new software products on the record/non-record function of the EOP email system. We understand that the technological complexities concerning the interface of Microsoft Office with the current email electronic recordkeeping system, known as the Automated Records Management System (ARMS), make it infeasible to continue this function at present.

However, as we have discussed, NARA believes that the EOP should make every effort to install a new electronic recordkeeping system for email as soon as possible that would accommodate this function and would also facilitate other important records management functions. As you know, the Presidential Records Act (PRA) requires that, to the extent practicable, personal records (i.e., non-records) be filed separately from Presidential records. Similarly, the records disposition schedule that governs the email records of federal agency components of the EOP requires that temporary records be separated from permanent records; implicit in the handling of federal records is that non-records will also be separated, as was accomplished under the existing system.

In the interim, you have indicated your support of a partial solution to this problem, by instructing all EOP staff to mark explicitly all non-record or personal emails as such within the subject line of the email. Such a practice will greatly facilitate NARA's future ability to protect from inappropriate disclosure personal non-record emails under both the PRA and the Freedom of Information Act.

Sincerely,

GARY M. STERN
General Counsel

Cc: Honorable Alberto R. Gonzales, Assistant to the President and Counsel to the President
Honorable Brett M. Kavanaugh, Special Assistant to the President and Associate Counsel

REV_00158229

From: CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [OA]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/20/2003 5:55:44 AM
Subject: : FW: Response on Nonrecord Emails
Attachments: F_U001E003_OA.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Adam F. Greenstone (CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [OA])
CREATION DATE/TIME:20-FEB-2003 10:55:44.00
SUBJECT:: FW: Response on Nonrecord Emails
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Fyi. I wasn't sure if I forwarded this to you before. Gary called this morning and asked if we had any comments.
-----Original Message-----
From: GaryM Stern [mailto:garym.stern@nara.gov]
Sent: Tuesday, January 21, 2003 2:27 PM
To: Greenstone, Adam F.
Cc: Jason Baron
Subject: Response on Nonrecord Emails

As discussed, here is a proposed response to your letter. Let us know what you think. Thanks.
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <F_U001E003_OA.TXT_1>

National Archives and Records Administration

8601 Adelphi Road
College Park, Maryland 20740-6001

DRAFT

Adam F. Greenstone
General Counsel
Office of Administration
Executive Office of the President
New Executive Office Building
Washington, DC 20503

Dear Mr. Greenstone:

Thank you for your letter of January 8, 2003, concerning the effect of the new software products on the record/non-record function of the EOP email system. We understand that the technological complexities concerning the interface of Microsoft Office with the current email electronic recordkeeping system, known as the Automated Records Management System (ARMS), make it infeasible to continue this function at present.

However, as we have discussed, NARA believes that the EOP should make every effort to install a new electronic recordkeeping system for email as soon as possible that would accommodate this function and would also facilitate other important records management functions. As you know, the Presidential Records Act (PRA) requires that, to the extent practicable, personal records (i.e., non-records) be filed separately from Presidential records. Similarly, the records disposition schedule that governs the email records of federal agency components of the EOP requires that temporary records be separated from permanent records; implicit in the handling of federal records is that non-records will also be separated, as was accomplished under the existing system.

In the interim, you have indicated your support of a partial solution to this problem, by instructing all EOP staff to mark explicitly all non-record or personal emails as such within the subject line of the email. Such a practice will greatly facilitate NARA's future ability to protect from inappropriate disclosure personal non-record emails under both the PRA and the Freedom of Information Act.

Sincerely,

GARY M. STERN
General Counsel

Cc: Honorable Alberto R. Gonzales, Assistant to the President and Counsel to the President
Honorable Brett M. Kavanaugh, Special Assistant to the President and Associate Counsel

REV_00158231

From: Greenstone, Adam F.
To: <Kavanaugh, Brett M.>
Sent: 2/20/2003 10:55:23 AM
Subject: FW: Response on Nonrecord Emails
Attachments: nonrecor.doc

Fyi. I wasn't sure if I forwarded this to you before. Gary called this morning and asked if we had any comments.
-----Original Message-----
From: GaryM Stern [mailto:garym.stern@nara.gov]
Sent: Tuesday, January 21, 2003 2:27 PM
To: Greenstone, Adam F.
Cc: Jason Baron
Subject: Response on Nonrecord Emails

As discussed, here is a proposed response to your letter. Let us know what you think. Thanks.

National Archives and Records Administration

8601 Adelphi Road
College Park, Maryland 20740-6001

DRAFT

Adam F. Greenstone
General Counsel
Office of Administration
Executive Office of the President
New Executive Office Building
Washington, DC 20503

Dear Mr. Greenstone:

Thank you for your letter of January 8, 2003, concerning the effect of the new software products on the record/non-record function of the EOP email system. We understand that the technological complexities concerning the interface of Microsoft Office with the current email electronic recordkeeping system, known as the Automated Records Management System (ARMS), make it infeasible to continue this function at present.

However, as we have discussed, NARA believes that the EOP should make every effort to install a new electronic recordkeeping system for email as soon as possible that would accommodate this function and would also facilitate other important records management functions. As you know, the Presidential Records Act (PRA) requires that, to the extent practicable, personal records (i.e., non-records) be filed separately from Presidential records. Similarly, the records disposition schedule that governs the email records of federal agency components of the EOP requires that temporary records be separated from permanent records; implicit in the handling of federal records is that non-records will also be separated, as was accomplished under the existing system.

In the interim, you have indicated your support of a partial solution to this problem, by instructing all EOP staff to mark explicitly all non-record or personal emails as such within the subject line of the email. Such a practice will greatly facilitate NARA's future ability to protect from inappropriate disclosure personal non-record emails under both the PRA and the Freedom of Information Act.

Sincerely,

GARY M. STERN
General Counsel

Cc: Honorable Alberto R. Gonzales, Assistant to the President and Counsel to the President
Honorable Brett M. Kavanaugh, Special Assistant to the President and Associate Counsel

REV_00158237

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: mestrada@gibsondunn.com @ inet [UNKNOWN] <mestrada@gibsondunn.com @ inet>
Sent: 2/20/2003 9:17:35 AM
Subject: : President's interview with Telemundo

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:20-FEB-2003 14:17:35.00
SUBJECT:: President's interview with Telemundo
TO:mestrada@gibsondunn.com @ inet (mestrada@gibsondunn.com @ inet [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

THE WHITE HOUSE

Office of the Press Secretary

Internal Transcript February 19, 2003

INTERVIEW OF THE PRESIDENT
BY TELEMUNDO

The Library

3:10 P.M. EST

Q Thank you for the opportunity. My first question is about Mr. Miguel Estrada and the whole controversy around him. What do you think, how do you feel about that?

THE PRESIDENT: Well, I am -- I'm upset, because Miguel Estrada is a very good man, and I believe he is being treated unfairly. Miguel Estrada es una persona que -- he symbolizes el sueno Americano. He came to this country at age 17, de Honduras. He studied -- he could barely speak English. He studied hard, he went to Harvard Law School. He's a brilliant lawyer. He's practiced in front of the Supreme Court.

So I named him to a high court. And instead of people looking at his qualifications, they're playing shameful politics. And I'm going to fight for his nomination, because he's not only brilliant, but he speaks to the greatness of America. But it's not just me that feels that way about Miguel. I mean, LULAC and organizations -- mainstream organizations that represent the Hispanic voice believe strongly that Miguel should be on the court.

Q Why do you think there's such a bitterness against Estrada? You were talking about shameful politics. Why do you think something like that is happening?

THE PRESIDENT: I think it's causas politicas. It's simple politics. It's certainly not -- the fight is not over his qualifications, because he's plenty qualified. Many Democrats say he's qualified. The fight isn't over his capacity to think. He's brilliant, he's a brilliant lawyer. Republicans and Democrats say that. It's got to be politics. And that's sad. Esso es muy triste, porque Miguel Estrada es un hombre inteligente, muy bueno, porque ser una juez grande.

Q Is there an anti-Hispanic feeling in some of the people

that are opposing Estrada?

THE PRESIDENT: Espero que no, espero que no. No se, pero -- I think it's -- I would hope it's simply politics, and not anti-Hispanic. That would be the opposite of what Miguel represents. Miguel represents the greatness of America. To oppose him for racial reasons would be -- that would be anti the greatness of -- I don't think so. I think people -- I think it's just pure politics.

Q In a filibuster they can talk until they basically lose their voices, no?

THE PRESIDENT: Si. (Laughter.)

Q So the Republican side is ready to have the patience to wait for --

THE PRESIDENT: Si, espero que si. That's what I've told the Senate. I said, let's fight for Miguel. If we believe he's a good man, if we believe he represents the story of America, stand strong. And I expect the Senate to stand strong, because I'm going to.

Q What do you want to tell the Hispanic community who is looking at this interview?

THE PRESIDENT: Well, I'm going to tell them, first of all, Miguel Estrada is an important symbol, and he's a good man, and we expect him to be confirmed. And they've got a -- when I name somebody, George Bush is going to stand by his side. But that I will continue to reach out to the Hispanic community and find people from the Hispanic community to serve not only as judges, but in my administration. It's important for people to feel a part of this -- the people in this country to feel like they're going to be included in the governance of this country, whether it be on the executive branch or the judiciary.

Q If you allow me, I'm going to change the subject.

THE PRESIDENT: Si.

Q There's a very bad dictator in another part of the world. He doesn't like you, you don't like him. But I want to talk first about another dictator than maybe you're thinking about, I'm talking about Kim in North Korea.

THE PRESIDENT: Si, si.

Q He looks as dangerous as Saddam Hussein. He sounds maybe even more dangerous as Saddam Hussein. And why not maybe the symmetry in terms of going against that position, us against Saddam?

THE PRESIDENT: Si. Well, first of all, Saddam is, in my judgment, more dangerous because he lives in a part of the world where he can create tremendous havoc. He's richer; he's got $20 billion a year of cash flow; he's got the capacity to buy weapons. Plus, he's linked with terrorist groups, groups that have hurt America in the past.

The key -- the thing that people must understand is, we must not allow Saddam to develop weapons to the point where North Korea perhaps has developed a weapon. In other words, the North Korean example should serve as what we ought not to let happen in Iraq, because we would be in real problems then.

But we'll deal with North Korea, too. It's -- this is -- unlike Iraq, the North Korean issue has just been placed to the United Nations. The Iraq issue has been in the United Nations now for 12 years. We will deal with North Korea. I believe we can solve this diplomatically. I don't -- I hope we can solve the Iraq issue diplomatically. But if you look at past behavior, it's pretty clear that

he is not interested in disarming.

Q It doesn't look like Saddam will change his tune, according to what he's doing and saying. With things like they are right now, are we going to be at war with Iraq by middle of March?

THE PRESIDENT: Well, that's very hard for me to tell. Of course, war is my last option. I would hope that the U.N. Security Council resolutions will be effective. We're trying to make sure they are effective by showing some muscle. But if he won't disarm, we will disarm him. And even if I knew the date, I wouldn't share it with my friend because I don't want to share it with him -- he's probably watching this interview right now. But he must know that we are serious about keeping the peace by disarming Saddam.

Q Is it correct to say that at some point you would establish a deadline?

THE PRESIDENT: It is clear to say at some point in time it will be evident that Saddam has defied the U.N. one more time. He's defying it now, and at some point in time, obviously, this must come to an end.

Q And it's a matter of weeks?

THE PRESIDENT: Yes, it's sooner, rather than later, I think is the best way to describe it.

Q There is a situation with terrorist groups in Colombia.

THE PRESIDENT: Si.

Q They executed an American, they kidnapped -- now they have three Americans. The President -- President Uribe is asking for help against terrorism. When is the United States is going to -- are you going to send more troops? Now we have some special ops there.

THE PRESIDENT: Well, first of all, we made a commitment to the Uribe government that we will help him in narco-terrorism, and we are. The first commitment was made by Uribe, himself, who is a very strong leader. I'm impressed by my fellow leader. He's got a clear vision about how to deal with terror. He has asked us for help and we are providing help. Congress has been very forthcoming. But there are limitations as to the nature of the help we provide, and we will uphold the limitations placed on us by Congress. President Uribe understands that.

In terms of this incident, we are working very closely with the Colombian President. We are sharing intelligence. He is coordinating his troops in the jungle to try to rescue the three that still remain -- one man had bullet holes in the back of his head, clearly an execution. So we're dealing with cold-blooded killers that need to be treated as cold-blooded killers.

Q A personal question.

THE PRESIDENT: Si.

Q You are the most powerful man in the world and, at the same time, you have a gigantic responsibility. At some point in the next few weeks, maybe 150,000 people are going to be put in harm's way defending a cause. How do you sleep? How do you feel? Are you at peace with your soul?

THE PRESIDENT: Si. I'm at peace with my soul because I trust in the Lord. I'm at peace in my soul because I believe strongly in peace. I have a responsibility to protect American lives. And I'm at peace knowing I'm doing everything in my power to do that.

I am honored to be in the position I am in. It does have

responsibilities, but I've got a great team with me. More importantly, I'm the President of a great country and I feel that -- feel the strength of the country and I feel the prayers of the people. I'm confident in the future, confident in a peaceful future because I'm confident in the American people and the American values.

Q Something about the immigrants. You were working with the Mexican government.

THE PRESIDENT: Yes.

Q And you were very close to have something in the process before September 2001. Now things are on basically a stalemate. But a couple of weeks ago, the Foreign Minister of Mexico said something that sounded very pessimistic -- maybe 25 years or something?

THE PRESIDENT: No, that's not true.

Q What --

THE PRESIDENT: Well, first of all, we are modernizing our border. I mean, like for example, in the Texas border -- I know a lot about it -- there's a lot of traffic back and forth and we're making it easier for people to travel back and forth on a daily basis. That's positive. And at the same time, by the way, making the border more secure -- neither Mexico, nor the United States wants contraband flowing either way. So we're making good progress there.

In terms of how you deal with people living in the United States, we'll work with Mexico to develop a plan that makes sense. But the problem is, I couldn't even get 245I, the family reunification bill, through the Congress. I pushed it. I thought it was a good idea. I worked with both Republicans and Democrats, and it got defeated.

And so what I tell my friend, Vicente Fox -- and he's a very good friend and a good man -- I said, look, there's a reality that we're dealing with now, so let's see if we can't work some other things to get to the point where eventually we can get Congress to come around to the point of view where we must treat -- figure out how the treat the Mexicans living here in the United States in a different way.

But we'll make progress on it. Obviously, right after September the 11th, it became impossible to, because the mood of the Congress switched. And that's -- as I say, 245I seemed like a simple gesture to me, which is, allow for families to be reunified quickly. I couldn't get the Congress to budge. So it's the reality I deal with. But, nevertheless, I do believe there's reasonable immigration policy.

But we ought to match a willing worker with a willing employer. It's in America's interest to do that. There are people who want to work and people who need jobs, who need workers -- have jobs and need workers. And we ought to match that, facilitate that match. And to me, that makes good immigration policy.

Q Thank you very much for the opportunity. Muchas gracias.

THE PRESIDENT: Si.

END 3:17 P.M. EST

From: Office of Global Communications <Global.Messenger@WhiteHouse.Gov>
To: Carolene Langie Office of Global Communications/WHO/EOP@EOP [WHO] <Carolene Langie Office of Global Communications>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 2/20/2003 1:25:25 PM
Subject: : White House Global Messenger -- 02/21/2003
Attachments: P_BAS1E003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Office of Global Communications <Global.Messenger@WhiteHouse.Gov> (Office of Global Communications <Global.Messenger@WhiteHouse.Gov> [UNKNOWN])
CREATION DATE/TIME:20-FEB-2003 18:25:25.00
SUBJECT:: White House Global Messenger -- 02/21/2003
TO:Carolene Langie Office of Global Communications (CN=Carolene Langie Office of Global Communications/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

(See attached file: GM 2-21-03 FINAL.doc)

THE GLOBAL MESSENGER

Friday, February 21, 2003

******KEY POINTS******

- The UN Security Council and all nations in the world have a responsibility to see that Saddam Hussein's regime is disarmed, and that the will of the international community is enforced.

- We must decide to confront the gravest security challenge of our time: the nexus between outlaw regimes, the proliferation of chemical, biological and nuclear weapons, and spread of global terror.

- The United Nations is the most important international and multilateral institution in the world. We all have a responsibility to strengthen, and not weaken, it.

- Twelve years of sanctions and inspections have not stopped Saddam's quest for chemical, biological and nuclear weapons.

- The outlaw Iraqi regime's chemical and biological weapons stockpiles, its continued pursuit of nuclear weapons and its ties to global terrorists are a threat to the US, our allies and friends and to the Iraqi people.

- The Iraqi regime has not decided to disarm. What we heard from the inspectors on Friday was that the Iraqis have taken some superficial steps. But these do not amount to a strategic decision to disarm.

- More inspections, or more inspectors, will do no good unless Iraq makes the decision to disarm. Dr. Blix himself has said that lack of inspectors is not the problem, lack of Iraqi compliance is the problem.

- The UNSC must rise to the challenge posed by Saddam Hussein's regime. The
UNSC must choose to be relevant - it must act to enforce not just 1441, but all
17 resolutions that the Iraqi regime continues to defy.

- Freedom-loving nations are determined that Iraq will be disarmed -- one way or
another, sooner rather than later.

- The President will continue to consult members of Congress, our allies and
friends and the UNSC during this final, diplomatic phase.

******TODAY'S SCHEDULE******
All Times Eastern Standard Time Unless Noted
Subject to Change

Note: President Bush meets with President Aznar of Spain in Crawford, Texas

******REALITY CHECK: SADDAM HUSSEIN - IN HIS OWN WORDS******

THEN: "[I]t is possible to turn to biological attack, where a small can, not
bigger than the size of a hand, can be used to release viruses that affect
everything."
Saddam Hussein, from Babil, September 20, 2001

NOW: "If the purpose was to make sure that Iraq is free of nuclear, chemical and
biological weapons then they can do that. These weapons do not come in small
pills that you can hide in your pocket. These are weapons of mass destruction
and it is easy to work out if Iraq has them or not. We have said many times
before and we say it again today that Iraq is free of such weapons."
Saddam Hussein, interview with Tony Benn, February 2003

http://www.whitehouse.gov/ogc/apparatus/index.html

******KEY QUOTES******

"Our goal is peace. And achieving peace requires resolve and action by free
nations....The United States...joined by many nations...is committed to building
a world at peace and bringing a better day."
President Bush, in remarks, 2-20-03

"The legitimacy of the United Nations is important....It's necessary to set a
precise time period in which to cooperate with the inspectors and destroy
weapons of mass destruction...Iraq is a very large country, as big as France,
and the number of UN inspectors will always be insufficient."
Egyptian President Mubarak, interview with Le Figaro of France, 2-19-03

THE WHITE HOUSE
Office of Global Communications

For more information log on to http://www.whitehouse.gov/ogc

****

You have previously expressed interest in obtaining news and information from
the White House.

The White House Office of Global Communications distributes information about the President's messages to the world. This office distributes updates on major international topics such as the global war on terror, the case for regime change in Iraq, and more broadly, the ways in which we can all better communicate the aspirations and interests that Americans share with freedom-loving people everywhere.

- GM 2-21-03 FINAL.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_BAS1E003_WHO.TXT_1>

THE GLOBAL MESSENGER

Friday, February 21, 2003

TODAY'S SCHEDULE

All Times Eastern Standard Time Unless Noted
Subject to Change

Note: President Bush meets with President Aznar of Spain in Crawford, Texas

REALITY CHECK: Saddam Hussein – In His Own Words

THEN: "[I]t is possible to turn to biological attack, where a small can, not bigger than the size of a hand, can be used to release viruses that affect everything."
Saddam Hussein, from Babil, September 20, 2001

NOW: "If the purpose was to make sure that Iraq is free of nuclear, chemical and biological weapons then they can do that. These weapons do not come in small pills that you can hide in your pocket. These are weapons of mass destruction and it is easy to work out if Iraq has them or not. We have said many times before and we say it again today that Iraq is free of such weapons."
Saddam Hussein, interview with Tony Benn, February 2003

http://www.whitehouse.gov/ogc/apparatus/index.html

KEY QUOTES

"Our goal is peace. And achieving peace requires resolve and action by free nations….The United States…joined by many nations…is committed to building a world at peace and bringing a better day."
President Bush, in remarks, 2-20-03

"The legitimacy of the United Nations is important….It's necessary to set a precise time period in which to cooperate with the inspectors and destroy weapons of mass destruction…Iraq is a very large country, as big as France, and the number of UN inspectors will always be insufficient."
Egyptian President Mubarak, interview with *Le Figaro* of France, 2-19-03

KEY POINTS

- The UN Security Council and all nations in the world have a responsibility to see that Saddam Hussein's regime is disarmed, and that the will of the international community is enforced.
- We must decide to confront the gravest security challenge of our time: the nexus between outlaw regimes, the proliferation of chemical, biological and nuclear weapons, and spread of global terror.
- The United Nations is the most important international and multilateral institution in the world. We all have a responsibility to strengthen, and not weaken, it.
- Twelve years of sanctions and inspections have not stopped Saddam's quest for chemical, biological and nuclear weapons.
- The outlaw Iraqi regime's chemical and biological weapons stockpiles, its continued pursuit of nuclear weapons and its ties to global terrorists are a threat to the US, our allies and friends and to the Iraqi people.
- The Iraqi regime has not decided to disarm. What we heard from the inspectors on Friday was that the Iraqis have taken some superficial steps. But these do not amount to a strategic decision to disarm.
- More inspections, or more inspectors, will do no good unless Iraq makes the decision to disarm. Dr. Blix himself has said that lack of inspectors is not the problem, lack of Iraqi compliance is the problem.
- The UNSC must rise to the challenge posed by Saddam Hussein's regime. The UNSC must choose to be relevant – it must act to enforce not just 1441, but all 17 resolutions that the Iraqi regime continues to defy.
- Freedom-loving nations are determined that Iraq will be disarmed – one way or another, sooner rather than later.
- The President will continue to consult members of Congress, our allies and friends and the UNSC during this final, diplomatic phase.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Barry S. Jackson/WHO/EOP@EOP [WHO] <Barry S. Jackson>
CC: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>
Sent: 2/20/2003 1:32:38 PM
Subject: : Re: need counsel

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:20-FEB-2003 18:32:38.00
SUBJECT:: Re: need counsel
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Kyle Sampson is our guy on this.

From: Barry S. Jackson on 02/20/2003 06:19:35 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: need counsel

who should we (CEQ and me) talk to in your shop about natural resource issues? first out of the gate is Klamath River - we fear the 9th circuit may close the project down this year and want to make sure that DOJ understands how important it is to quickly turn around an appeal.

From: [UNKNOWN] <Kavanaugh, Brett M.>
To: <Rodriguez>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/AED12750-ABC6F760-852569DC-5352FE [UNKNOWN] <Leonard B.>;<Guerra>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/A6B2E380-D5A4FADA-852569E4-4C97FA [UNKNOWN] <Abel>
CC: <Gonzales>;Alberto_R._Gonzales@who.eop.gov [WHO] <Alberto R.>
Sent: 2/20/2003 11:02:33 AM
Subject: Miguel at Latino Coalition event

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (MS Mail)
CREATOR:Kavanaugh, Brett M. ( [ UNKNOWN ] )
CREATION DATE/TIME:20-FEB-2003 16:02:33.00
SUBJECT:Miguel at Latino Coalition event
TO:Rodriguez, Leonard B. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=AED12750-
ABC6F760-852569DC-5352FE [ UNKNOWN ] )
READ:UNKNOWN
TO:Guerra, Abel ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=A6B2E380-D5A4FADA-
852569E4-4C97FA [ UNKNOWN ] )
READ:UNKNOWN
CC:Gonzales, Alberto R. ( Alberto_R._Gonzales@who.eop.gov [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Miguel will not attend the Latino Coalition event.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Wendy J. Grubbs/WHO/EOP@EOP [WHO] <Wendy J. Grubbs>;Ashley Snee/WHO /EOP@Exchange@EOP [WHO] <Ashley Snee>
Sent: 2/20/2003 3:24:29 PM
Subject: : in case you did not see

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:20-FEB-2003 20:24:29.00
SUBJECT:: in case you did not see
TO:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

;
BYRON YORK
This is how the filibuster will fall to pieces

Right now the Senate debate over the appeals court nomination of Miguel Estrada seems hopelessly deadlocked. When Democrat Harry Reid of Nevada says, &It doesn't matter if there is one cloture vote or 50 cloture votes, we will all be together,8 and when Republican Orrin Hatch or Utah says, & I'll stay here +til hell freezes over8 -- well, things don't look good.

But beneath all the tough rhetoric -- and the lobbying campaigns of interest groups on both sides -- there's a relatively simple solution to the standoff. And it might emerge soon after lawmakers come back from the Presidents, Day recess.

The two main Democratic objections to Estrada are that he has not fully answered questions about his legal views and that the Bush administration has refused to release internal Justice Department memos he wrote while he served in the Solicitor General,s office -- memos that Democrats contend might contain insights into Estrada's legal thinking.

&For the Senate to make an informed decision about Mr. Estrada's nomination, it is essential that we receive the information requested and answers to these basic legal questions,8 Minority Leader Tom Daschle (S.D.) and ranking Judiciary Committee Democrat Patrick Leahy (Vt.) wrote in a Feb. 11 letter to the president.

The White House responded the next day with a 15-page, single-spaced letter from counsel Alberto Gonzales. Most news reports characterized it as a refusal of Daschle and Leahy's request * which it was * but missed the letter's between-the-lines suggestions for compromise.

On the issue of questions for Estrada, Gonzales noted that Daschle and Leahy cited just one inquiry that Estrada did not answer -- a question about his judicial role models. Gonzales wrote that Estrada in fact discussed that very issue in response to a written question from Sen. Richard Durbin (Ill.).

& Beyond this one query, your letter does not pose any additional questions to [Estrada],8 Gonzales said. &Additionally, neither of you has posed any written questions to Mr. Estrada in the more than three months since his all-day committee hearing.8

In that sentence is what appears to be a White House message to Democrats: You can ask more questions. There,s nothing in Gonzales,s letter to suggest that Estrada would not answer them.

On the second issue, the White House is standing firm against giving the

internal Justice Department papers to the Senate. But Gonzales went out of his way to point out that some high-level Democrats have already seen the documents. The papers were, after all, written by Estrada during his time in the Clinton Justice Department. &It also is important to recognize that [Clinton] political appointees have read virtually all of the memoranda in question,8 Gonzales wrote, &namely, the Democrat Solicitors General Drew Days, Walter Dellinger, and Seth Waxman.8

Gonzales also points out that none of those former officials have objected to Estrada's nomination. That,s another unspoken suggestion to Democrats: If you want to know more about the memos, ask the Democrats who have seen them. Days, Dellinger, and Waxman would most likely cite the same confidentiality concerns that led them to join other former Solicitors General in declaring release of the memos to be a bad idea, but they might be able say there was nothing in the papers that they found disturbing.

Republicans know there are some moderate Democrats who do not passionately oppose Estrada but who have so far stuck with the party in upholding the filibuster. Republicans also realize that, since hard-line Democratic leaders have made specific demands and vowed Estrada would not be confirmed unless the White House met those demands, those moderate Democrats will need some sort of Republican gesture they can use as cover to change their minds and stop supporting the filibuster.

That might already be happening. It has not been widely reported, but while the filibuster has been going on, Estrada has met with several Democratic senators, among them Mary Landrieu (La.), Blanche Lincoln (Ark.), Bill Nelson (Neb.), Herb Kohl (Wis.), and Thomas Carper (Del.). Presumably he has been answering some questions.

A few more such meetings, along with some reassuring words about the content of the Justice Department memos, and some moderate Democratic minds might change.

And in the end, there won't be 50 cloture votes, as Harry Reid suggested. There might not even be one. With four or five more moderate Democrats on board, Republicans will request, as they have several times already, that the Senate unanimously agree to end debate and give Estrada an up-or-down vote. So far, Democrats have refused every such request. But that might change soon.

From: CN=Carrie B. Loy/OU=WHO/O=EOP [WHO]
To: Taylor A. Hughes/WHO/EOP@EOP [WHO] <Taylor A. Hughes>;Carmen M. Ingwell/WHO /EOP@EOP [WHO] <Carmen M. Ingwell>;MKoch@who.eop.gov [WHO] <MKoch@who.eop.gov>;Laura S. Lawlor/WHO/EOP@EOP [WHO] <Laura S. Lawlor>;Bradford A. Berenson/WHO/EOP@EOP [UNKNOWN] <Bradford A. Berenson>;Brian D. Montgomery/WHO/EOP@EOP [WHO] <Brian D. Montgomery>;Christie Parell/WHO /EOP@EOP [WHO] <Christie Parell>;Ali H. Tulbah/WHO/EOP@EOP [WHO] <Ali H. Tulbah>;Edward Ingle/WHO/EOP@EOP [WHO] <Edward Ingle>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/20/2003 1:51:29 PM
Subject: : Agency FOIA Requests
Attachments: P_B9T1E003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carrie B. Loy ( CN=Carrie B. Loy/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:20-FEB-2003 18:51:29.00
SUBJECT:: Agency FOIA Requests
TO:Taylor A. Hughes ( CN=Taylor A. Hughes/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Carmen M. Ingwell ( CN=Carmen M. Ingwell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:MKoch@who.eop.gov ( MKoch@who.eop.gov [ WHO ] )
READ:UNKNOWN
TO:Laura S. Lawlor ( CN=Laura S. Lawlor/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Bradford A. Berenson ( CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [ UNKNOWN ] )
READ:UNKNOWN
TO:Brian D. Montgomery ( CN=Brian D. Montgomery/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Christie Parell ( CN=Christie Parell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Ali H. Tulbah ( CN=Ali H. Tulbah/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward Ingle ( CN=Edward Ingle/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_B9T1E003_WHO.TXT_1>
```

2/20/03

AGENCY FOIA REQUESTS

DOL

Steven Emerson, Representative, New Republic and the Wall Street Journal, is seeking:
All documentation of all forms and applications (H-1B applications, Curricula Vitae, descriptions of work, countries or origin, visa sponsorship, etc.) filed with the Department of Labor regarding any foreign employees by the following companies:

- Bait ul Mal, Inc. (BMI), One Harmon Plaza, Seacaucus, NJ 07094, 201-865-8549
- P-Tech, 500 Victory Road, Quincy, MA 02171
- Associated Design Technology, 2 Westboro Business Park, Westboro, MA 01581

HHS

2/25/03
News Media FOIA Request - **The Denver Post** requested copies of all approval and denial letters for grants from the University of Colorado Health Sciences Center to HRSA since January 1, 1999.

2/26/03
Columbia (Missouri) Daily Tribune FOIA Request - This news outlet requested a copy of the financial recovery plan developed by HRSA for the Family Health Center located at 1500 Vandiver Drive in Columbia, MO.

DOE

Connor Raso, Democrat National Committee: Requests copies of Secretary Abraham schedule from January 1, 2002 through February 4, 2003. And travel costs associated with the Secretary's domestic travel from January 1, 2002 through January 1, 2003.

DOT

The Bureau of Transportation Statistics received the following requests:

- A request for aviation data on Cape Smythe Air Service, Inc. from the Law Offices of **Marc June, Anchorage, Alaska**. We are researching and will respond.

- A request **from John C. Glennon**, Chartered as to whether BTS has any past due invoices for document requests made by the company. We are researching and will respond.

- A request from an individual for "**the 85th percentile speed**" for a section of Route 20 in Auburn, MA. The same individual also submitted a separate request for all engineering

reports, collision data and studies performed which were used in the determination of the posted speed limit on the same section of Route 20. We are researching and will respond.

- A request from a Baltimore, MD company for a **list of all BTS employees that hold a government purchase card**. We will provide a list of BTS employees that have been issued a government purchase card.

DOC

$ Received 02/06/03, from Katherine Muldoon, ***The Oregonian***, requesting records concerning reintroduction protocols for Keiko, the killer whale.

$ Received 02/07/03, from **Mark Berman, Earth Island Institute**, requesting a copy of the current Marine Mammal Inventory Report (MMIR) for Mirage Hotel in Las Vegas.

$ Received 2/12/03 from **Nigel Marsh, NCM Software Development**, Inc., requesting an electronic copy of the data stored on the Aperson finder@ database, which is accessible through the Department=s Internet homepage.

$ Received 2/12/03 from **Eric Wingerter, Public Employees for Environmental Responsibility**, requesting a summary of all incidents of violence or threats against NOAA employees that occurred between January 1 to December 21, 2002.

$ Received 2/12/03 from **Julie Eskritt**, requesting a copy of the proposal and any supporting documentation related to the decision to award an Advanced Technology Program grant to eSpin Technologies.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Wendy J. Grubbs/WHO/EOP@EOP [WHO] <Wendy J. Grubbs>;Ashley Snee/WHO /EOP@EOP [WHO] <Ashley Snee>
Sent: 2/21/2003 2:30:57 AM
Subject: : Dionne piece in post

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:21-FEB-2003 07:30:57.00
SUBJECT:: Dionne piece in post
TO:Wendy J. Grubbs ( CN=Wendy J. Grubbs/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Will talk to judge and wittes of post about judge doing taking exception
piece in response to dionne piece today. Dionne does explain a root
cause of D objections but he fails to note that bush 41 noms received same
treatment and fails to note that president has prescribed a way out of the
cycle of revenge and bitterness. He also assumes that judging is an
inherently political policymaking task, which it is not. Any
objection/concern to drafting something like this which we would of course
shoot to you monday before submitting to post?

.
```

From: CN=Joan Hunerwadel/OU=NSC/O=EOP [NSC]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/21/2003 5:53:46 AM
Subject: : Iraqi Assets Meeting

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Joan Hunerwadel ( CN=Joan Hunerwadel/OU=NSC/O=EOP [ NSC ] )
CREATION DATE/TIME:21-FEB-2003 10:53:46.00
SUBJECT:: Iraqi Assets Meeting
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Brad Wiegmann will hold a small meeting on Iraqi assets on Monday, 24
February at 11 am in his office, Room 348. Please let us know if you can
attend. Thanks.
```

From: CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/21/2003 2:01:18 AM
Subject: : Re: books

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-FEB-2003 07:01:18.00
SUBJECT:: Re: books
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Thanks.

Brett M. Kavanaugh
02/20/2003 09:22:47 PM
Record Type: Record

To: Linda M. Gambatesa/WHO/EOP@EOP
cc:
Subject: books

We can and should purchase any books, etc., that you think appropriate for preservation/Library out of general WH appropriation.

From: Colloton, Steve <Steve.Colloton@usdoj.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/21/2003 8:16:30 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Colloton, Steve" <Steve.Colloton@usdoj.gov> ( "Colloton, Steve"
<Steve.Colloton@usdoj.gov> [ UNKNOWN ] )
CREATION DATE/TIME:21-FEB-2003 13:16:30.00
SUBJECT::
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Message left with George Collins; have not heard back yet. Let me know if
developments.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Carolyn Nelson/WHO/EOP@Exchange@EOP [WHO] <Carolyn Nelson>;Alberto R. Gonzales/WHO/EOP@Exchange@EOP [WHO] <Alberto R. Gonzales>
CC: Ashley Snee/WHO/EOP@Exchange@EOP [WHO] <Ashley Snee>;David G. Leitch/WHO/EOP@Exchange@EOP [WHO] <David G. Leitch>
Sent: 2/21/2003 4:23:03 AM
Subject: : Draft letter to editor of Wall Street Journal

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-FEB-2003 09:23:03.00
SUBJECT:: Draft letter to editor of Wall Street Journal
TO:Carolyn Nelson (CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
CC:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
CC:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Rove/Mehlman have signed off. Judge, are you ok with submitting this?

February 21, 2003

Dear Editor:

I write in response to two points in Al Hunt's column of February 20.

First, Mr. Hunt writes that President Bush has nominated only one Hispanic to the U.S. Courts of Appeals. In fact, three of President Bush,s 34 appeals court nominees (9%) have been Hispanic: Miguel Estrada (D.C. Circuit), Ed Prado (Texas, 5th Circuit), and Consuelo Callahan (California, 9th Circuit).
Second, Mr. Hunt contends that the appointment of judges has been a non-issue in recent elections. In campaigning for Republican Senate candidates last fall, however, President Bush repeatedly discussed the Democrat Senate's mistreatment of his judicial nominees. The President emphasized that the voters should elect Senators who would treat the President's judicial nominees fairly and who would vote to confirm them. While a number of issues obviously may influence voters, many observers believe that the judges issue was important in the 2002 Senate elections in Texas, Georgia, South Carolina, North Carolina, New Hampshire, Colorado, Missouri, and Minnesota, among other states. And the Republicans regained majority-party status in the Senate.

Sincerely,

Alberto R. Gonzales
Counsel to the President

Editor
Wall Street Journal

From: CN=Wendy J. Grubbs/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/21/2003 5:17:16 AM
Subject: : Re: 2:30 meeting in 153 EEOB

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-FEB-2003 10:17:16.00
SUBJECT:: Re: 2:30 meeting in 153 EEOB
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

as an fyi, i plan to do a hill conf call at 4pm today so we are on the same pg for monday...

Brett M. Kavanaugh
02/21/2003 09:44:46 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: 2:30 meeting in 153 EEOB

Message Sent
To:_____
Ashley Snee/WHO/EOP@Exchange@EOP
Mercedes M. Viana/WHO/EOP@EOP
Leonard B. Rodriguez/WHO/EOP@EOP
Abel Guerra/WHO/EOP@EOP
Jeanie S. Mamo/WHO/EOP@EOP
Tim Goeglein/WHO/EOP@EOP
Matthew E. Smith/WHO/EOP@EOP
Wendy J. Grubbs/WHO/EOP@EOP

From: CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>
Sent: 2/21/2003 5:17:43 AM
Subject: : Off Site

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:21-FEB-2003 10:17:43.00
SUBJECT:: Off Site
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

With Ben and Ted being cleared for off site duty on Tuesday (the 25th),
the question is when they should be thrown into the pool. I think it
would make sense to insert them in the line up after Noel's Feb. 24-26
rotation and then bump the schedule back a week for the rest of us.

I am open to suggestions.

Here is the current schedule:

Feb. 24-26: Noel
Feb. 26-28: Kyle
Mar. 3-5: Helgi
Mar. 5-7: Brett
Mar. 10-12: Bart
Mar. 12-14: Noel
```

From: Dinh, Viet <Viet.Dinh@usdoj.gov>
To: 'leonard.leo@mindspring.com' <leonard.leo@mindspring.com>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Benczkowski, Brian A <Brian.A.Benczkowski@usdoj.gov>;Wendy J. Grubbs/WHO/EOP@EOP [WHO] <Wendy J. Grubbs>;Brown, Jamie E (OLA) <Jamie.E.Brown@usdoj.gov>
Sent: 2/21/2003 9:34:50 AM
Subject: : RE: Capitol Hill Meeting

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Dinh, Viet" <Viet.Dinh@usdoj.gov> ( "Dinh, Viet" <Viet.Dinh@usdoj.gov> [ UNKNOWN ]
)
CREATION DATE/TIME:21-FEB-2003 14:34:50.00
SUBJECT:: RE: Capitol Hill Meeting
TO:"'leonard.leo@mindspring.com'" <leonard.leo@mindspring.com> (Receipt Notification
Requested) (IPM Return Requested) ( "'leonard.leo@mindspring.com'"
<leonard.leo@mindspring.com> (Receipt Notification Requested) (IPM Return Requested) [
UNKNOWN ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:"Benczkowski, Brian A" <Brian.A.Benczkowski@usdoj.gov> (Receipt Notification Requested)
(IPM Return Requested) ( "Benczkowski, Brian A" <Brian.A.Benczkowski@usdoj.gov> (Receipt
Notification Requested) (IPM Return Requested) [ UNKNOWN ] )
READ:UNKNOWN
CC:Wendy J. Grubbs ( CN=Wendy J. Grubbs/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:"Brown, Jamie E (OLA)" <Jamie.E.Brown@usdoj.gov> (Receipt Notification Requested) (IPM
Return Requested) ( "Brown, Jamie E (OLA)" <Jamie.E.Brown@usdoj.gov> (Receipt Notification
Requested) (IPM Return Requested) [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Leonard,

Thank you and Congrats to you on the new chapter. I would love to oblige,
but because it is on the Hill, I want input from DoJ and WH leg shops
before I commit. Looks like I am pretty open in March, though.

Best,

viet

-----Original Message-----
From: leonard.leo(a)mindspring.com [mailto:leonard.leo@mindspring.com]
Sent: Friday, February 21, 2003 2:01 PM
To: Dinh, Viet
Subject: Capitol Hill Meeting


Viet-

I hope this email finds you well. I was so happy to hear about your
marriage plans. Best wishes to you both!

I am writing in the hopes that you'd be willing to do a brief talk on the
Hill regarding the judicial confirmations crisis, probably for some time in
March. As you may have heard, the Federalist Society now has a Capitol Hill
chapter that has received status as a CSO (Congressional Staff
Organization). This would be the group's third meeting (Congressman John
Shadegg and Boyden were the first two).

You would expect a lunch crowd of 50-70 staff and members. We probably
would hold the meeting on the Senate side given the topic.
```

What do you think? Are there any dates in March where the 12-1 pm hour would not work?

---

mail2web - Check your email from the web at
http://mail2web.com/ .

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Matthew E. Smith/WHO/EOP@EOP [WHO] <Matthew E. Smith>
Sent: 2/21/2003 11:17:52 AM
Subject: : can you send me the whole memo in e-mail form?

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:21-FEB-2003 16:17:52.00
SUBJECT:: can you send me the whole memo in e-mail form?
TO:Matthew E. Smith ( CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Wendy J. Grubbs/WHO/EOP@EOP [WHO] <Wendy J. Grubbs>
Sent: 2/21/2003 11:40:03 AM
Subject: : Re: policy lunch

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-FEB-2003 16:40:03.00
SUBJECT:: Re: policy lunch
TO:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

agreed

Wendy J. Grubbs
02/21/2003 04:37:59 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: policy lunch

yup, but not a battle worth fighting at this moment.

Brett M. Kavanaugh
02/21/2003 04:31:10 PM
Record Type: Record

To: Wendy J. Grubbs/WHO/EOP@EOP
cc:
bcc:
Subject: Re: policy lunch

exactly. Manny is not a fan. irritating. Heather may have alerted you
to this problem.

Wendy J. Grubbs
02/21/2003 04:33:37 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: policy lunch

hum.....

Brett M. Kavanaugh
02/21/2003 04:28:20 PM
Record Type: Record

To: Wendy J. Grubbs/WHO/EOP@EOP
cc:
Subject: policy lunch

why would they have martinez or cardona but not gonzales

From: CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO]
To: Katherine M. Walters/WHO/EOP@EOP [WHO] <Katherine M. Walters>
CC: brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>
Sent: 2/21/2003 7:45:36 AM
Subject: : Re: RGA event

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-FEB-2003 12:45:36.00
SUBJECT:: Re: RGA event
TO:Katherine M. Walters (CN=Katherine M. Walters/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

Kate -- Brett told me yesterday that we should not attend and that is what we are telling other admin officials as well.

Katherine M. Walters
02/21/2003 11:57:03 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: Deborah A. Spagnoli/WHO/EOP@EOP
Subject: RGA event

Brett- David Maggi, a political appointee at Commerce, called here asking if it was ok for some folks over at Commerce to attend the RGA Fundraiser on Monday evening. No one in OPA is attending, but I wanted to see what you thought. thanks

I think he also left a message for you.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Colloton, Steve <Steve.Colloton@usdoj.gov>
Sent: 2/21/2003 8:35:25 AM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-FEB-2003 13:35:25.00
SUBJECT:: Re:
TO:"Colloton, Steve" <Steve.Colloton@usdoj.gov> ("Colloton, Steve"
<Steve.Colloton@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

No developments; think it is in good shape.

"Colloton, Steve" <Steve.Colloton@usdoj.gov>
02/21/2003 01:15:11 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject:

Message left with George Collins; have not heard back yet. Let me know if
developments.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Camp, Libby <Libby.Camp@DHS.GOV>
Sent: 2/21/2003 8:56:34 AM
Subject: : Re: FW: Rules on Political Activities Document #'s: 38082;38083;38084;38085;38086
Attachments: P_ION2E003_WHO.TXT_1.html; P_ION2E003_WHO.TXT_2.doc; P_ION2E003_WHO.TXT_3.doc; P_ION2E003_WHO.TXT_4.doc; P_ION2E003_WHO.TXT_5.doc; P_ION2E003_WHO.TXT_6.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-FEB-2003 13:56:34.00
SUBJECT:: Re: FW: Rules on Political Activities Document #'s: 38082;38083;38084;38085;38086
TO:"Camp, Libby" <Libby.Camp@DHS.GOV> ("Camp, Libby" <Libby.Camp@DHS.GOV> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

who prepared?

"Camp, Libby" <Libby.Camp@DHS.GOV>
02/21/2003 01:51:13 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: FW: Rules on Political Activities Document #'s:
38082;38083;38084;38085;38086

Hey -

It was good to talk with you yesterday - glad you called to catch up:-)

Attached are the documents I mentioned. Please let me know what you
think.

Thanks!

Libby Camp

White House Liaison

Department of Homeland Security

P: 202-282-8220

-----Original Message-----
From: Christian, Cindy
Sent: Thursday, February 20, 2003 3:13 PM
To: Clark, Lucy; Camp, Libby

Cc: Musser, Heather
Subject: Rules on Political Activities Document #'s:
38082;38083;38084;38085;38086

Lucy and Libby,

Here are the documents in question from today's staff meeting.

Cindy

^*^*^*

- Memorandum to all Political Appointees.doc
- Memorandum to all Senate.doc
- Memorandum to Career Senior Executive Service.doc
- igmemo.doc

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ION2E003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ION2E003_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ION2E003_WHO.TXT_3>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ION2E003_WHO.TXT_4>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ION2E003_WHO.TXT_5>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ION2E003_WHO.TXT_6>

Hey –

It was good to talk with you yesterday 211; glad you called to catch up ☺

Attached are the documents I mentioned.&nb sp; Please let me know what you think.

Thanks!

Libby Camp
White House Liaison
Department of Homeland Security
P: 202-282-8220

-----Original Message-----
From: Christian, Cindy
Sent: Thursday, February 20, 2003 3:13 PM
To: Clark, Lucy; Camp, Libby
Cc: Musser, Heather
Subject: Rules on Political Activities Document #'s: 38082;38083;38084;38085;38086

Lucy and Libby,

Here are the documents in question from today's staff meeting.

Cindy

^*^*^*^*^*^*^* *^*^*^*^*^*^*

department employees depending upon their respective categories. Since I'm not physically at the NAC(yet), may I count on you to get it through the Secretariat process? Thank you.

Memorandum to all Department of Homeland Security Career Employees (Other than Career Senior Executive Service, Secret Service or Certain Employees of the Customs Service)

Subject: Rules on Political Activities

The Hatch Act restricts the political activity of executive branch employees of the federal government. Employees who violate the Hatch Act face removal from their position or suspension of not less than 30 days. Federal employees also should be aware that certain political activities also may be criminal offenses under various provisions of title 18 of the U.S. Code. This memorandum outlines the restrictions on political activities that apply to career employees at the Department of Homeland Security, other than employees of the Senior Executive Service ("SES"), the Secret Service, or the Office of Investigative Programs of the United States Customs. This guidance reflects amendments made in 1993 to the Hatch Act. **The Hatch Act amendments made it possible for you to take an active part in political campaigns and other political activities when not on duty. Under the amendments, however, you are prohibited from personally soliciting, accepting, or receiving partisan political contributions, running for partisan political office, and engaging in otherwise permissible political activities while on duty. If you have any questions regarding whether an activity is permissible, contact the Designated Agency Ethics Official.**

Permissible Activities

NOTE:

- **Time, place and manner restrictions: you may NOT engage in the otherwise permissible partisan political activities listed below while on duty, or in a government office or building, or wearing a uniform, badge, insignia or other item identifying you as a federal employee, or using a government owned or leased vehicle, or using a privately owned vehicle that is used on a recurrent basis for official business or that is clearly identified as being on government business.**

- **"On duty" includes the time period during which you are either (1) in a pay status other than paid leave, compensatory time off, credit hours, time off as an incentive award, or excused or authorized absence (including leave without pay), or (2) representing any agency or instrumentality of the United States in an official capacity.**

- Registration and Voting: You **may** register and vote.

- Freedom of Expression: You **may**:

- Express personal opinions on partisan political subjects and candidates, subject to the prohibition on misuse of official position described below;

- Sign a partisan political petition as an individual;

- Display partisan pictures, signs, stickers, badges or buttons as an individual expression of opinion;

- Place a partisan bumper sticker on your privately owned vehicle and park it in a federal lot. If the car is used for official business on a recurrent basis or is clearly identified as being used on official business, however, you must cover the sticker while the car is being used for official business; and

- Place a sign or banner supporting a partisan political candidate at your home.

- Political Contributions: You **may** make financial contributions to partisan political candidates, parties, or organizations, including to campaign committees or party committees, subject to state and federal limitations.

- Political Party Participation: You **may**:

  - Join and maintain membership in a partisan political party or club; and

  - Hold office in or organize a partisan political party or club or be a delegate to a party convention as long as the duties of the office do not involve personal solicitation, acceptance, or receipt of political contributions.

- Working for a Candidate or Party: You **may**:

  - Initiate, circulate, and sign nominating petitions for candidates for partisan political office or other political petitions;

  - Campaign for or against, make campaign speeches for or against, and distribute campaign literature for or against candidates in partisan elections;

  - Host, help organize, and attend a partisan political rally or meet-the-candidate event which is not a fundraiser (see the rules on fundraisers below);

  - Serve as officer or chairperson of a partisan political fundraising organization or committee, as long as you do not personally solicit, accept, or receive political contributions;

  - Give a speech or keynote address at a partisan political fundraiser, as long as you do not solicit political contributions;

- Allow your name (but **not** your official title) to appear on an invitation to a partisan political fundraiser as a guest speaker, as long as the reference in no way suggests that you solicit or encourage contributions;

- Organize mail or phone solicitations, or stuff envelopes with requests for partisan political contributions (including funds, in-kind contributions, paid and unpaid services from businesses, and paid and unpaid services from individuals), as long as you do not personally solicit, accept or receive contributions;

- Help organize a partisan fundraiser including supplying names for the invitation list, as long as you do not personally solicit, accept, or receive contributions;

- Donate an item to be auctioned off in a fundraising raffle for the benefit of a partisan candidate's campaign;

- Solicit, accept, or receive uncompensated volunteer services related to partisan fundraising from an individual other than a subordinate; and

- Attend a partisan political convention or rally, fundraising function, election party, or meet-the candidate event.

- Endorsements: You **may** endorse or oppose a candidate for partisan political office in a political advertisement, broadcast, campaign literature, or similar material, provided you do not reference your title or official position.

- Voter Registration: You **may** assist in partisan voter registration efforts.

- Get out the Vote: You **may** drive voters in a private vehicle to polling places for a partisan political candidate, group, or party.

- Working at a Polling Station: You **may**:

  - Act as a recorder, watcher, challenger or similar officer at a polling place for a partisan election; or

  - Serve as an election judge or clerk, or in a similar position, performing nonpartisan duties as prescribed by state or local law.

- Running for Office: If you reside in a designated location, which includes most cities and counties in the Washington, DC area, you **may** run as an independent candidate for election to partisan political office at the municipal level and accept political contributions in connection with municipal elections, but you may not personally solicit political contributions from the general public.

- Nonpartisan Activities: You **may**:

- Express personal opinions on nonpartisan political subjects and candidates, subject to the prohibition on misuse of official position described below;

- Sign a nonpartisan political petition as an individual;

- Provide policy briefings in your official capacity to candidates and political groups on a nonpartisan basis;

- Participate in nonpartisan activities of a civic, community, social, labor, or professional organization, such as nonpartisan voter registration efforts;

- Campaign for or against nonpartisan issues, such as referendum questions, constitutional amendments, or municipal reforms;

- Participate actively as a candidate or in support of a candidate in a nonpartisan election; and

- Serve as an election judge or clerk, or in a similar position, performing nonpartisan duties as prescribed by state or local law.

- Authorized Statements of Administration Policy: You **may** defend or debate current Administration policy in an appropriate forum in your official capacity, when properly authorized.

- Support for a Candidate who is a Family Member: If your spouse or other family member is a candidate for partisan political office, you **may**:

  - Attend a fundraiser or rally supporting him or her, stand in the receiving line, sit at the head table, distribute flyers and urge others to vote for him or her, provided that you do **not** personally solicit, accept, or receive contributions of money or paid or unpaid services or sell or collect money for tickets to the fundraiser or rally.

  - Appear with your candidate family member in a political advertisement, broadcast, campaign literature, or similar material and urge others to vote for your spouse or family member, as long as you do not personally solicit political contributions.

Prohibited Activities

- Running for Office: You may **not** run for nomination or as a candidate for election to a partisan political office, unless you are running as an independent candidate for a partisan political office on the local level in a designated municipality.

- Fundraising: You may **not** personally solicit, accept, or receive a partisan political contribution (except in certain circumstances involving a federal labor union), including by allowing your name to be listed on a fundraising invitation as a point of contact for the fundraiser or as part of the host committee for such an event, or by personally hosting a fundraiser at your residence. A "political contribution" includes funds, in-kind goods, and paid or unpaid personal services.

  - Exception: you **may** solicit, accept and receive uncompensated volunteer services from individuals who are not your subordinates (e.g., you may work in a phone bank asking individuals to volunteer).

  - Exception: Your spouse **may** host a fundraiser at your home, and you may attend and help organize it (e.g., by supplying names for the invitation list, addressing invitations, checking coats or serving drinks at the event), as long as you do **not** personally solicit, accept, or receive political contributions.

- Misuse of Official Position: You may **not**:

  - Use your official authority or influence for the purpose of interfering with or affecting the result of an election (for example, you may **not** use your official authority to coerce any person to participate in partisan political activity, or solicit, accept, or receive partisan political contributions from anyone, with the exception for uncompensated voluntary services from individuals noted above);

  - Knowingly solicit or discourage the participation in any partisan political activity of any employee or person regulated by or doing business with the Department (for example, someone who has a matter pending before the Department); or

  - Use your official title while participating in otherwise permissible political activities.

- Recommendations: If you are involved in examining or appointing an applicant for the competitive service, you may **not** receive or consider a recommendation of the applicant by a Senator or Representative, except as to the character or residence of the applicant.

Memorandum to all Political Appointees
(Other than Senate-Confirmed Appointees)

Subject: Rules on Political Activities

The Hatch Act restricts the political activity of executive branch employees of the federal government. Employees who violate the Hatch Act face removal from their position or suspension of not less than 30 days. Federal employee also should be aware that certain political activities also may be criminal offenses under various provisions of title 18 of the U.S. Code. This memorandum outlines the restrictions on political activities that apply to political appointees other than Senate-confirmed Presidential appointees. **Under the Hatch Act, you are subject to several restrictions, including prohibitions on soliciting, accepting or receiving partisan political contributions and running for partisan political office. You are also barred from otherwise engaging in political activities while on duty and on many off-duty occasions as well.**

Regulations implementing the 1993 Hatch Act amendments specifically provide agencies with discretion to impose additional restrictions on political appointees. In recognition of the character of our responsibilities, the Secretary has decided to limit participation in partisan campaigns by its top officials and political appointees, which are incorporated into the list of "do's" and "don'ts" below. If you have any questions regarding whether an activity is permissible, contact the Designated Agency Ethics Official.

Permissible Activities

NOTE:

- **The combination of Department policy and Hatch Act requirements effectively bars you from engaging in partisan political activities while "on duty," and, in many circumstances, even when you are "off duty."**

- **Time, place and manner restrictions: you may NOT engage in the otherwise permissible partisan political activities listed below while on duty, or in a government office or building, or wearing a uniform, badge, insignia or similar item identifying you as a federal employee, or using a government owned or leased vehicle, or using a privately owned vehicle that is used on a recurrent basis for official business or that is clearly identified as being on government business.**

- **"On duty" includes the time period during which you are either (1) in a pay status other than paid leave, compensatory time off, credit hours, time off as an incentive award, or excused or authorized absence (including leave without pay), or (2) representing any agency or instrumentality of the United States in an official capacity.**

- Registration and Voting: You **may** register and vote.

- Freedom of Expression: You **may**:

  - Express personal opinions on partisan political subjects and candidates, subject to the prohibition on misuse of official position described below;

  - Sign a partisan political petition as an individual;

  - Display partisan pictures, signs, stickers, badges or buttons as an individual expression of opinion;

  - Place a partisan bumper sticker on your privately owned vehicle and park it in a federal parking facility. If the car is used for official business on a recurrent basis or is clearly identified as being used on official business, however, you must cover the sticker while the car is being used for official business; and

- Political Party Membership: You **may** join and maintain membership in a partisan political party or group.

- Political Contributions: You **may** make financial contributions to partisan political candidates, parties or organizations, including to campaign committees or party committees, subject to state and federal limitations.

- Prior Relationship to a Candidate: You **may** provide political advice to a partisan candidate with whom you have had a prior relationship, subject to the compensation limitations on certain political appointees.

- Authorized Statements of Administration Policy: You **may** debate or defend current Administration policy in an appropriate forum in an official capacity, when properly authorized.

- Nonpartisan Activities: You **may**:

  - Express personal opinions on nonpartisan political subjects and candidate, subject to the prohibition on misuse of official position described below;

  - Sign a nonpartisan political petition as an individual;

  - Provide policy briefings in your official capacity to candidates and political groups on a nonpartisan basis;

  - Participate in nonpartisan activities of a civic, community, social, labor, or professional organization, such as nonpartisan voter registration efforts;

- Campaign for or against nonpartisan issues, such as referendum questions, constitutional amendments, or municipal reforms;

- Participate actively as a candidate or in support of a candidate in a nonpartisan election; and

- Serve as an election judge or clerk, or in a similar position, performing nonpartisan duties as prescribed by state or local law.

- Conventions: You **may** attend political party conventions, but not as a delegate, proxy or alternate and only on your own time.

- Partisan Fundraisers, Rallies and Meet-the Candidate Events: You **may** attend partisan fundraisers, rallies, meet-the-candidate events and election celebrations on your own time, subject to the restrictions on working for a party or candidate and on fundraising that are set forth below.

Prohibited Activities

- Running for Office: You may **not** run for a nomination or as a candidate for election to a partisan political office.

- Working for a Party or Candidate: You may **not**:

  - Take a visible or active management position in a partisan political campaign, e.g., by serving as a campaign officer;

  - Serve as an officer or organizer of a political party or other partisan political group;

  - Serve as a delegate, alternate or proxy to a political party convention;

  - Host, help organize, speak or work at a partisan rally or meet-the-candidate event;

  - Endorse or oppose a candidate for partisan political office in a political advertisement, broadcast, campaign literature, or similar medium;

  - Work at the polls on behalf of a partisan candidate or political party by acting as a checker, challenger or watcher, or in a similar partisan position; or

  - Otherwise volunteer or work in a partisan campaign in a role that involves direct contact with the electorate, including advance work.

- Fundraising: You may **not** knowingly solicit, accept, or receive a partisan political contribution, regardless of whether the candidate is a spouse or family member. A

"political contribution" includes funds, in-kind goods, and paid or unpaid personal services. In particular, you may **not**:

- Sell tickets for or otherwise promote fundraising activities such as political dinners for a partisan candidate or political committee;
- Speak at partisan fundraising events;
- Allow your name and/or official title to be listed on a partisan fundraising invitation, or as part of a host committee for such an event;
- Serve as an individually named guest of honor at a partisan fundraising event;
- Help organize or work at a partisan fundraiser; or
- Personally host a partisan fundraiser at your residence in the United States (although your spouse may host a fundraiser at your residence, provided he or she is hosting it in his or her own right and not as a surrogate for you, and you **may** attend, subject to the restrictions on participation in such events described above).

- Misuse of Official Position: You may **not**:
  - Use your official authority or influence for the purpose of interfering with or affecting the result of an election (for example, you may **not** use your official authority to coerce any person to participate in partisan political activity, or solicit, accept, or receive partisan political contributions from anyone, including a subordinate);
  - Knowingly solicit or discourage the participation in any partisan political activity of any employee or person regulated by or doing business with the Department (for example, someone who has a matter pending before the Department); or
  - Use your official title while participating in otherwise permissible political activities.

- Recommendations: If you are involved in examining or appointing an applicant for the competitive service, you may **not** receive or consider a recommendation of the applicant by a Senator or Representative, except as to the character or residence of the applicant.

- Special Rule –Support for a Candidate Who is a Family Member: If your spouse or other family member is a candidate for partisan political office, you should seek further guidance from the Designated Agency Ethics Official.

Memorandum to all Senate-Confirmed Presidential Appointees

Subject: Rules on Political Activities

The Hatch Act restricts the political activity of executive branch employees of the federal government. Employees who violate the Hatch Act face removal from their position or suspension of not less than 30 days. Federal employee also should be aware that certain political activities also may be criminal offenses under various provisions of title 18 of the U.S. Code. This memorandum outlines the restrictions on political activities that apply to Senate-confirmed Presidential appointees, including career employees serving in such positions. **Under the Hatch Act, you are subject to several restrictions, including prohibitions on soliciting, accepting or receiving partisan political contributions and running for partisan political office. You are also barred from otherwise engaging in political activities while on duty and on many off-duty occasions as well.**

Regulations implementing the 1993 Hatch Act amendments specifically provide agencies with discretion to impose additional restrictions on political appointees. In recognition of the character of our responsibilities, the Secretary has decided to limit participation in partisan campaigns by its top officials and political appointees, which are incorporated into the list of "do's" and "don'ts" below. If you have any questions regarding whether an activity is permissible, contact the Designated Agency Ethics Official.

Permissible Activities

NOTE:

- **Regardless of where you are assigned, the combination of Hatch Act requirements and Department policy effectively bars you from engaging in partisan political activities while "on duty," or in a government office or building, or wearing a uniform, badge or similar item identifying you as a federal employee, or using a government owned or leased vehicle, or using a privately owned vehicle that is used on a recurrent basis for official business or that is clearly identified as being on government business. In many circumstances, you are also precluded from engaging in partisan political activities even when you are "off duty."**

- **"On duty" includes any time period during which you are representing any agency or instrumentality of the United States in an official capacity.**

- Registration and Voting: You **may** register and vote.

- Freedom of Expression: You **may**:
  - Express personal opinions on partisan political subjects and candidates, subject to the prohibition on misuse of official position described below;
  - Sign a partisan political petition as an individual;
  - Place a partisan bumper sticker on your privately owned vehicle and park it in a federal parking facility. If the car is used for official business on a recurrent basis or is clearly identified as being used on official business, however, you must cover the sticker while the car is being used for official business; and
- Political Party Membership: You **may** join and maintain membership in a partisan political party or group.
- Political Contributions: You **may** make financial contributions to partisan political candidates, parties or organizations, including to campaign committees or party committees, subject to state and federal limitations.
- Prior Relationship to a Candidate: If your post of assignment is in the United States, you **may** provide political advice on an uncompensated basis to a partisan candidate with whom you have had a prior relationship.
- Authorized Statements of Administration Policy: You **may** debate or defend current Administration policy in an appropriate forum in an official capacity, when properly authorized.
- Nonpartisan Activities: You **may**:
  - Express personal opinions on nonpartisan political subjects and candidates, subject to the prohibition on misuse of official position described below;
  - Sign a nonpartisan political petition as an individual;
  - Provide policy briefings in your official capacity to candidates and political groups on a nonpartisan basis;
  - Participate in nonpartisan activities of a civic, community, social, labor, or professional organization, such as nonpartisan voter registration efforts;
  - Campaign for or against nonpartisan issues, such as referendum questions, constitutional amendments, or municipal reforms;
  - Participate actively as a candidate or in support of a candidate in a nonpartisan election; and

- Serve as an election judge or clerk, or in a similar position, performing nonpartisan duties as prescribed by state or local law.

Prohibited Activities

- Running for Office: You may **not** run for a nomination or as a candidate for election to a partisan political office

- Working for a Party or Candidate: You may **not**:

  - Take a visible or active management position in a partisan political campaign, e.g., by serving as a campaign officer;

  - Serve as an officer or organizer of a political party or other partisan political group;

  - Serve as a delegate, alternate or proxy to a political party convention;

  - Attend a political party convention or an election night celebration, unless authorized to attend by the Designated Agency Ethics Official due to "special circumstances;"

  - Host, help organize, or attend partisan political rallies or meet-the-candidate events;

  - Endorse or oppose a candidate for partisan political office in a political advertisement, broadcast, campaign literature, or similar medium;

  - Work at the polls on behalf of a partisan candidate or political party by acting as a checker, challenger or watcher, or in a similar partisan position; or

  - Otherwise volunteer or work in a partisan campaign in a role that involves direct contact with the electorate, including advance work.

- Fundraising: You may **not** knowingly solicit, accept, or receive a partisan political contribution, regardless of whether the candidate is a spouse or family member. A "political contribution" includes funds, in-kind goods, and paid or unpaid personal services. In particular, you may **not**:

  - Sell tickets for or otherwise promote fundraising activities such as political dinners for a partisan candidate or political committee;

  - Speak at partisan fundraising events;

- Allow your name and/or official title to be listed on a partisan fundraising invitation, or as part of a host committee for such an event;

- Serve as an individually named guest of honor at a partisan fundraising event;

- Personally host a partisan fundraiser at your residence (although your spouse may host a fundraiser at your residence, provided he or she is hosting it in his or her own right and not as a surrogate for you and provided you do not attend); or

- Attend partisan political fundraisers.

■ Misuse of Official Position: You may **not**:

- Use your official authority or influence for the purpose of interfering with or affecting the result of an election (for example, you may **not** use your official authority to coerce any person to participate in partisan political activity, or solicit, accept, or receive partisan political contributions from anyone, including a subordinate);

- Knowingly solicit or discourage the participation in any partisan political activity of any employee or person regulated by or doing business with the Department (for example, someone who has a matter pending before the Department); or

- Use your official title while participating in otherwise permissible political activities.

■ Recommendations: If you are involved in examining or appointing an applicant for the competitive service, you may **not** receive or consider a recommendation of the applicant by a Senator or Representative, except as to the character or residence of the applicant.

■ Special Rule –Support for a Candidate Who is a Family Member: If your spouse or other family member is a candidate for partisan political office, you should seek further guidance from the Designated Agency Ethics Official.

MEMORANDUM

DATE: **February 17, 2003**

TO: **Career Senior Executive Service,**
Secret Service, and Certain Employees of the Customs Service

FROM: **Secretary Tom Ridge**
Deputy Secretary Gordon England

Subject: **Rules on Political Activities**

The Hatch Act restricts the political activity of executive branch employees of the federal government. Employees who violate the Hatch Act face removal from their position or suspension of not less than 30 days. Federal employees also should be aware that certain political activities also may be criminal offenses under various provisions of title 18 of the U.S. Code. This memorandum outlines the restrictions on political activities that apply to career Senior Executive Service ("SES"), Secret Service, and employees of the Office of Investigative Programs of the United States Customs Service.

Under the Hatch Act, you are prohibited from soliciting, accepting or receiving partisan political contributions, from running for partisan political office, and from pursuing otherwise permissible political activities while on duty. Although the amendments to the Act in 1993 liberalized the statutory restrictions on taking an active part in partisan political campaigns for most career employees, it did NOT do so for the career Senior Executive Service, Secret Service personnel, or employees of the Office of Investigative Programs of the United States Customs Service. You remain subject to the previous Hatch Act restrictions prohibiting you from taking an active part in such campaigns. If you have any questions about whether an activity is permissible, contact the Designated Agency Ethics Official.

Permissible Activities

NOTE:

- **Time, place and manner restrictions: you may NOT engage in the otherwise permissible partisan activities listed below while on duty, or in a government office or building, or wearing a uniform, badge, insignia or other item identifying you as a federal employee, or using a government owned or leased vehicle, or using a privately owned vehicle that is used on a recurrent basis for official business or that is clearly identified as being on government business.**

REV_00158359

- **"On duty" includes the time period during which you are either (1) in a pay status other than paid leave, compensatory time off, credit hours, time off as an incentive award, or excused or authorized absence (including leave without pay), or (2) representing any agency or instrumentality of the United States in an official capacity.**

- Registration and Voting: You **may** register and vote.

- Freedom of Expression: You **may**:

  - Express personal opinions on partisan political subjects and candidates, subject to the prohibition on misuse of official position described below;

  - Sign a partisan political petition as an individual;

  - Display partisan pictures, signs, stickers, badges or buttons as an individual expression of opinion;

  - Place a partisan bumper sticker on your privately owned vehicle and park it in a federal parking facility. If the car is used for official business on a recurrent basis or is clearly identified as being used on official business, however, you must cover the sticker while the car is being used for official business; and

  - Place a sign or banner supporting a partisan political candidate at your home.

- Political Contributions: You **may** make financial contributions to partisan political candidates, parties or organizations, including to campaign committees or party committees, subject to state and federal limitations.

- Attendance at Political Events. You **may** attend a partisan political convention or rally, fundraising function or meet-the-candidate event solely as a spectator, but you may **not** participate in demonstrations or parades which are sponsored by a political party, a partisan political group, or an individual who is a candidate for partisan political office.

- Political Party Membership: You **may** join and maintain membership in a partisan political party or club.

- Nonpartisan Activities: You **may**:

  - Express personal opinions on nonpartisan political subjects and candidates;

  - Sign a nonpartisan political petition as an individual;

- Provide policy briefings in your official capacity to candidates and political groups on a nonpartisan basis;

- Participate in nonpartisan activities of a civic, community, social, labor, or professional organization, such as nonpartisan voter registration efforts;

- Campaign for or against nonpartisan issues, such as referendum questions, constitutional amendments, or municipal reforms;

- Participate actively as a candidate or in support of a candidate in a nonpartisan election; and

- Serve as an election judge or clerk, or in a similar position, performing nonpartisan duties as prescribed by state or local law.

- Authorized Statements of Administration Policy: You may defend or debate current administration policy in an appropriate forum in your official capacity, when properly authorized.

- Support for a Candidate who is a Family Member: If you are the spouse or family member of a candidate for partisan political office, you **may**:

  - Appear in photographs of the candidate's family shown in a political advertisement, broadcast, campaign literature, or similar material; and

  - Attend political functions with the candidate (including sitting at the head table and standing in the receiving line) as long as you do **not** distribute campaign literature, personally solicit, accept, or receive contributions of money or services, or collect money for tickets to the event.

Prohibited Activities

- Running for Office: You may **not** run for nomination or as a candidate for election to a partisan political office.

- Working for a Party or a Candidate: You may **not**:

  - Campaign for or against a political party or candidate or take a visible or active part in managing the political campaign of a candidate in a partisan political election, **e.g.**, by serving as a campaign officer;

  - Make campaign speeches for or against a political party or candidate in partisan elections or on a partisan political question, if the address is given in concert with such a candidate or political party;

- Serve as an officer of a political party, a member of a national, state or local committee of a political party, or an officer or member of a committee of a partisan political club, or be a candidate for any of these positions;

- Organize or reorganize a partisan political party organization or partisan political group;

- Organize or manage partisan political rallies or meetings;

- Distribute campaign literature for or against a political party or candidates in partisan elections;

- Canvass for votes in support of or in opposition to a partisan candidate or political party;

- Initiate or circulate a partisan nominating petition;

- Work at the polls on behalf of a partisan candidate or political party by acting as a checker, challenger, or watcher, or in a similar partisan position;

- Serve as a delegate, alternate, or proxy to a political party convention;

- Drive voters in a private vehicle to polling places for a partisan political candidate, group, or party; or

- Endorse or oppose a candidate for partisan political office in a political advertisement, broadcast, campaign literature, or similar material sponsored or prepared by the candidate's campaign committee, a political party, or a partisan political group.

- Exception: You **may** purchase air time on a radio or television station, have fliers printed at your own expense, or stand outside of a political party convention with a homemade sign to state your personal opinion that a partisan political candidate is the best for a job, as long as the commercial, program or written material is **not** prepared at the request of, and is **not** sponsored by or paid for by, the candidate's campaign committee, a political party, or a partisan political group and you do **not** use your official title or reference your official position.

■ Fundraising: You may **not**:

- Personally solicit, accept, or receive a partisan political contribution (except in certain circumstances involving a federal labor union), including by allowing your name to be listed on a fundraising invitation as a point of contact for the fundraiser or as part of the host committee for such an event or by personally hosting a fundraiser at your residence; or

- Sell tickets, distribute invitations, or otherwise organize or promote such partisan fundraising events.

- A "political contribution" includes funds, in-kind goods, and paid or unpaid personal services.

- Exception: Your spouse **may** host a partisan fundraiser at your home and you **may** attend as long as you do not personally solicit, accept, or receive political contributions, and you do not speak at, organize, promote, or assist at the event.

- Misuse of Official Position: You may **not**:

  - Use your official authority or influence for the purpose of interfering with or affecting the result of an election (for example, you may **not** use your official authority to coerce any person to participate in partisan political activity, or solicit, accept, or receive partisan political contributions from anyone, including a subordinate);

  - Knowingly solicit or discourage the participation in any partisan political activity of any employee or person regulated by or doing business with the Department (for example, someone who has a matter pending before the Department); or

  - Use your official title while participating in otherwise permissible political activities.

- Recommendations: If you are involved in examining or appointing an applicant for the competitive service, you may **not** receive or consider a recommendation of the applicant by a Senator or Representative, except as to the character or residence of the applicant.

DATE: February 13, 2003

MEMORANDUM FOR: The Secretary
The Deputy Secretary

FROM: Clark Kent Ervin – Acting Inspector General

SUBJECT: Permitted and Prohibited Political Activity

Per the Chief of Staff's request, my office provides herewith suggested memoranda that you may consider issuing to applicable department employees regarding what political activity they may and may not engage in. We have modeled these memoranda on the guidance issued by the Secretaries of State and Defense, reasoning that this department and its employees likewise should be as apolitical and nonpartisan as possible.

From: Colloton, Steve <Steve.Colloton@usdoj.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/21/2003 10:28:36 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Colloton, Steve" <Steve.Colloton@usdoj.gov> ( "Colloton, Steve"
<Steve.Colloton@usdoj.gov> [ UNKNOWN ] )
CREATION DATE/TIME:21-FEB-2003 15:28:36.00
SUBJECT::
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Talked to George Collins. He said he was called by KC Star yesterday and
gave them a positive report.
```

From: CN=Scott Stanzel/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/21/2003 10:39:25 AM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Scott Stanzel (CN=Scott Stanzel/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-FEB-2003 15:39:25.00
SUBJECT:: Re:
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Excellent. thanks. I did pass along the info about the other two judges. He was glad to get the info.

Brett M. Kavanaugh
02/21/2003 03:25:09 PM
Record Type: Record

To: Scott Stanzel/WHO/EOP@EOP
cc:
Subject:

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 02/21/2003 03:33 PM ----------

"Colloton, Steve" <Steve.Colloton@usdoj.gov>
02/21/2003 03:25:23 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject:

Talked to George Collins. He said he was called by KC Star yesterday and gave them a positive report.

From: CN=Kenneth A. Lisaius/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Ashley Snee/WHO/EOP@Exchange@EOP [WHO] <Ashley Snee>
Sent: 2/21/2003 10:46:56 AM
Subject: : Conf. Call

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kenneth A. Lisaius ( CN=Kenneth A. Lisaius/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:21-FEB-2003 15:46:56.00
SUBJECT:: Conf. Call
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Can one of you please send me the new conf. call number once it is
established?
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Wendy J. Grubbs/WHO/EOP@EOP [WHO] <Wendy J. Grubbs>
Sent: 2/21/2003 11:40:03 AM
Subject: : Re: policy lunch

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-FEB-2003 16:40:03.00
SUBJECT:: Re: policy lunch
TO:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

agreed

Wendy J. Grubbs
02/21/2003 04:37:59 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: policy lunch

yup, but not a battle worth fighting at this moment.

Brett M. Kavanaugh
02/21/2003 04:31:10 PM
Record Type: Record

To: Wendy J. Grubbs/WHO/EOP@EOP
cc:
bcc:
Subject: Re: policy lunch

exactly. Manny is not a fan. irritating. Heather may have alerted you
to this problem.

Wendy J. Grubbs
02/21/2003 04:33:37 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: policy lunch

hum.....

Brett M. Kavanaugh
02/21/2003 04:28:20 PM
Record Type: Record

To: Wendy J. Grubbs/WHO/EOP@EOP
cc:
Subject: policy lunch

why would they have martinez or cardona but not gonzales

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kimberly A. Douglass/WHO/EOP@Exchange@EOP [WHO] <Kimberly A. Douglass>
Sent: 2/21/2003 12:40:40 PM
Subject: : could not find it

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:21-FEB-2003 17:40:40.00
SUBJECT:: could not find it
TO:Kimberly A. Douglass ( CN=Kimberly A. Douglass/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: Kimberly_A._Douglass@who.eop.gov [WHO] <Douglass, Kimberly A.>
To: <Kavanaugh>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6246020-C20FEE19-852569DA-7648DC [UNKNOWN] <Brett M.>
Sent: 2/21/2003 12:43:57 PM
Subject: RE: could not find it

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (MS Mail)
CREATOR:Douglass, Kimberly A. (Kimberly_A._Douglass@who.eop.gov [WHO])
CREATION DATE/TIME:21-FEB-2003 17:43:57.00
SUBJECT:RE: could not find it
TO:Kavanaugh, Brett M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6246020-C20FEE19-852569DA-7648DC [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Ok, I'll just wait until Greg gets back next week. Thanks for looking. I appreciate it.

-----Original Message-----

From: Kavanaugh, Brett M.

Sent: Friday, February 21, 2003 5:36 PM

To: Douglass, Kimberly A.
Subject: could not find it

From: CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Lawrence A. Fleischer/WHO/EOP@Exchange [WHO] <Lawrence A. Fleischer>;Wendy J. Grubbs/WHO /EOP@EOP [WHO] <Wendy J. Grubbs>
Sent: 2/22/2003 12:22:31 PM
Subject: : Judge Gonzales

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:22-FEB-2003 17:22:31.00
SUBJECT:: Judge Gonzales
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Lawrence A. Fleischer ( CN=Lawrence A. Fleischer/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Wendy J. Grubbs ( CN=Wendy J. Grubbs/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

The Judge did great on the Fox News and ABC interviews.; (ABC was a little
stronger) Both are scheduled to air tomorrow during the Sunday Shows.;
Both George and Tony asked about strategy for moving forward - if we'd
compromise.; He said that we are not going to compromise and that we would
defer to Sen leaders on the strategy, but that we are not going to
compromise on the SG documents and went into why.; Overall really good -
this coupled with the radio address should be a great way to kick off the
week.;
```

From: CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/23/2003 1:45:57 PM
Subject: : Re: tv interviews

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:23-FEB-2003 18:45:57.00
SUBJECT:: Re: tv interviews
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Brett I need information about whether Rehnquist , Civilati and whether
they turned over documents, didn't we send a letter on this topic? Schmer
said there is a lot of precedent for this
.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ashley Snee/WHO/EOP@Exchange [WHO] <Ashley Snee>
Sent: 2/23/2003 4:48:52 PM
Subject: : Re: Judge Gonzales

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:23-FEB-2003 21:48:52.00
SUBJECT:: Re: Judge Gonzales
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

I thought the transcript from Fox actually read very strong. And I saw ABC and agree with your assessment. ABC kind of set us up by letting Schumer take pot shots at the Judge's comments. But no real surprise that they did that, I suppose.

From: Ashley Snee/WHO/EOP@Exchange on 02/22/2003 05:22:18 PM
Record Type: Record

To: Wendy J. Grubbs/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP, Lawrence A. Fleischer/WHO/EOP@Exchange
cc:
Subject: Judge Gonzales

The Judge did great on the Fox News and ABC interviews.; (ABC was a little stronger) Both are scheduled to air tomorrow during the Sunday Shows.; Both George and Tony asked about strategy for moving forward - if we'd compromise.; He said that we are not going to compromise and that we would defer to Sen leaders on the strategy, but that we are not going to compromise on the SG documents and went into why.; Overall really good - this coupled with the radio address should be a great way to kick off the week.;

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Wendy J. Grubbs/WHO/EOP@EOP [WHO] <Wendy J. Grubbs>
CC: Alberto R. Gonzales/WHO/EOP@Exchange@EOP [WHO] <Alberto R. Gonzales>
Sent: 2/23/2003 5:04:00 PM
Subject: : Schumer denies filibuster

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:23-FEB-2003 22:04:00.00
SUBJECT:: Schumer denies filibuster
TO:Wendy J. Grubbs ( CN=Wendy J. Grubbs/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Wendy: I think Schumer's comment on ABC This Week in his last response --
where he denied that D's were engaged in a filibuster -- demonstrates the
need for around the clock sessions.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: brian.a.benczkowski@usdoj.gov @ inet [UNKNOWN] <brian.a.benczkowski@usdoj.gov @ inet>
Sent: 2/23/2003 5:32:39 PM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:23-FEB-2003 22:32:39.00
SUBJECT::
TO:brian.a.benczkowski@usdoj.gov @ inet ( brian.a.benczkowski@usdoj.gov @ inet [ UNKNOWN ]
)
READ:UNKNOWN
###### End Original ARMS Header ######

what in fact was produced during rehnquist 1986 hearing?
```

From: CN=Jonathan F. Ganter/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/24/2003 6:07:31 AM
Subject: : Re: Books

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jonathan F. Ganter ( CN=Jonathan F. Ganter/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:24-FEB-2003 11:07:31.00
SUBJECT:: Re: Books
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I spoke with Karen. The library # is 6-7000.
```

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 2/24/2003 6:26:04 AM
Subject: : FW: U.S. Coast Guard Change of Watch Ceremony

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:24-FEB-2003 11:26:04.00
SUBJECT:: FW: U.S. Coast Guard Change of Watch Ceremony
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

-----Original Message-----
From: Kendall, Quintin [mailto:Quintin.Kendall@ost.dot.gov]
Sent: Monday, February 24, 2003 11:21 AM
Subject: U.S. Coast Guard Change of Watch Ceremony


FYI--If you or your staff/co-workers/interns are available to attend this
event, you really should. Obviously very historic, but also extremely
cool, with silent drill team, coast guard band, etc...

> -----Original Message-----
> From: Broadcast Messages <OST>
> Sent: Friday, February 21, 2003 1:56 PM
> Subject: U.S. Coast Guard Change of Watch Ceremony
>
>
> The Secretary of the United States Coast Guard
> requests the honor of your presence
> at a Change of Watch Ceremony where
> Secretary Norman Y. Mineta, Department of Transportation
> will be relieved by
> Secretary Thomas J. Ridge, Department of Homeland Security Tuesday,
> the twenty-fifth of February two thousand and three ten o'clock in the
> morning D.C. Guard Armory
> Washington, D.C.
> Reception to follow ceremony
>
> NOTE: Bus service will be provided, departing the NASSIF Building at
> 8:45 a.m. from the 6th street side of the building or; take the orange
> or blue metro line toward Addison Rd/New Carrolton to the
> Stadium-Armory stop.
>
>
```

From: Bumatay, Patrick J.
To: <Walker, Helgard C.>;<Bartolomucci, H. Christopher>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>;<Ullyot, Theodore W.>
Sent: 2/24/2003 8:50:25 AM
Subject: JSC & POTUS Binder

Good morning.

I'm making my Monday morning call for the JSC meeting this Wednesday. Please let me know **today** if you plan on having someone in the book.

Also, this Friday is our next POTUS meeting, the book is due in Staff Secretary's Office on COB Wednesday. Please let me know of any possibilities for inclusion in this asap. Thank you.

Patrick

Patrick J. Bumatay
Office of Counsel to the President
o: 202-456-5214
f: 202-456-6279
mainline: 202-456-2632

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Benjamin A. Powell/WHO /EOP@EOP [WHO] <Benjamin A. Powell>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Noel J. Francisco/WHO /EOP@EOP [WHO] <Noel J. Francisco>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>
Sent: 2/24/2003 5:16:33 AM
Subject: : JSC & POTUS Binder

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:24-FEB-2003 10:16:33.00
SUBJECT:: JSC & POTUS Binder
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Good morning.
;
;;; I'm making my Monday morning call for the JSC meeting this Wednesday.;
Please let me know today if you plan on having someone in the book.;
;
;;; Also, this Friday is our next POTUS meeting, the book is due;in Staff
Secretary's Office on COB Wednesday.; Please let me know of any
possibilities for inclusion in this asap.; Thank you.
;
Patrick
;
;;;
;
Patrick J. Bumatay
Office of Counsel to the President
o: 202-456-5214
f: 202-456-6279
mainline: 202-456-2632
;
```

From: Mike Allen <allenm@washpost.com>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/24/2003 9:29:43 AM
Subject: : AP on the AG

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Mike Allen <allenm@washpost.com> ( Mike Allen <allenm@washpost.com> [ UNKNOWN ] )
CREATION DATE/TIME:24-FEB-2003 14:29:43.00
SUBJECT:: AP on the AG
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

BC-Ashcroft Arisen, Adv27,1340
adv27
For release Thursday, Feb. 27, and thereafter
The post-Sept. 11 John Ashcroft: an unfamiliar grimness, an unusual
chance to make his mark
With BC-Ashcroft Glance, BC-Ashcroft-Bio Box
AP Photos
With AP Graphic ASHCROFT CAREER
By RON KAMPEAS
Associated Press Writer
WASHINGTON (AP) ? Descending into National Airport aboard the last
plane to fly on Sept. 11, 2001, the attorney general kept his counsel. John
Ashcroft watched the Pentagon smolder black that afternoon and mourned
Barbara Olsen, a beloved friend among its ashes.
His silence ended when he landed. He ordered his offices moved from
the Justice Department, with its broad rooms and stunning views of the
Capitol, to a windowless bunker across the street at FBI headquarters.
The somber directive was a harbinger of decisions Ashcroft cast in the
pall of Sept. 11.
Some decisions are grounded in the age of terrorism; others are wholly
unrelated but no less dramatic.
A short list includes broadly enhancing search powers, puncturing
attorney-client privilege, clamping down on public information access,
rolling back pollution enforcement and terminating some anti-discrimination
settlements in the work place.
Such sweeping powers were once unimaginable for a public figure who
lost his Senate seat in Missouri to a dead man and went through a fiery
confirmation that made him attorney general by the narrowest vote ever for
that position.
Aides acknowledge Ashcroft's agenda derived momentum from the worst
single crime ever committed on American soil.
"Sept. 11 gave us an opportunity to do what should have been done long
ago," said Ralph Boyd, who heads the Justice Department's civil rights
division. Boyd meant that Ashcroft now had a better chance to correct what
he saw as a bias for affirmative action in the government.
It's a view consistent with Ashcroft's description in his
autobiography of his bumpy political career ? "for every crucifixion, a
resurrection is waiting to follow." But critics are unnerved by changes
made under cover of a national tragedy.
Even some of Ashcroft's personal beliefs seem to have evolved. The
senator who crusaded against Big Government is now its toughest enforcer.
The separation-of-powers enthusiast now says he is too busy or worried
about leaks to testify often to Congress. The opponent of secret recordings
now wants to grant police the right to eavesdrop for up to two weeks before
getting a judge's sanction.
"John Ashcroft as attorney general is not who I thought I knew as
Senator Ashcroft," Dick Armey, an old Ashcroft pal and the just-retired
Republican house majority leader, told the National Journal. Armey was
especially demoralized by the new powers Ashcroft sought through the USA
Patriot Act.
But Viet Dinh, the assistant attorney general who was the lead drafter
```

of the Patriot Act, says Ashcroft's new purpose is wrapped with caution. "We don't shoot from the hip just because our sleeves are rolled up," he said in an interview. "We have to be methodical, precise and careful about all our actions."

???

Ashcroft's deliberate Midwestern tones evoke a slightly caffeinated John Wayne. He peppers his speech with equal parts hellfire and high tech. "The terrorists have an interest in very serious weapons of chemistry, evil biology and even radiological consequences," Ashcroft said recently.

Since the terrorist attacks, he's rarely been home to his beloved Missouri farm and has suspended his morning prayer meetings.

He commands loyalty: His favorite admonishment, "Think outside the box, think inside the Constitution," is repeated over and over by aides in interviews. Ashcroft tends to speak in rehearsed lines and in the most formal settings ? a speech, a news conference ? rather than mixing it up on the TV talk shows.

He is resilient and almost seems to enjoy bouncing back from defeat. His most significant loss was his Senate seat ? in 2000 to Missouri Gov. Mel Carnahan, three weeks after Carnahan died in a plane crash.

But while the public rarely sees his lighter side, he can be a cutup. "We're already reading all your e-mail anyway," he once teased Armey, "and it's not that interesting." In less weighty days, he was part of a quartet of singing senators.

Flying back from a Milwaukee trip on the day of the terrorist attacks, Ashcroft learned that his friend Barbara ? wife of Solicitor General Theodore Olsen ? had been on the hijacked plane that crashed into the Pentagon. He'd had dinner with her the weekend before.

Adam Ciongoli, a senior adviser who has known Ashcroft for years, saw Ashcroft's self-deprecating humor vanish that Sept. 11, at least for a while. "There was a clear sense, it's a whole new ballgame, the entire world had changed ? and it had," Ciongoli said.

???

Defenders and detractors agree that Ashcroft's changes will reverberate long after the war on terrorism has subsided. They differ on whether Ashcroft is exploiting Sept. 11 or whether the attacks in New York and Washington permanently changed how Americans live.

"We cannot sit still and think that all of the laws we had to prevent previous threats will work," Ashcroft says.

Civil libertarians don't agree.

When it comes to civil rights, said Laura Murphy, the congressional liaison for ACLU, "They can't say, 'Oh, it's war ? never mind!"'

At the center of the debate is the USA Patriot Act, drafted by Ashcroft's top lawyers and passed after Sept. 11 with bipartisan support. The act extended authorization for "roving" wiretaps ? tapping someone at whatever phone he uses, not just those he owns ? to the secretive Foreign Intelligence and Surveillance Court. Since then, Ashcroft has sought unprecedented "John Doe" taps of individuals who exist in theory only ? a license, civil libertarians say, for fishing expeditions.

The act also allows "sneak and peek" warrants for searches without notifying the homeowner, erodes a decades-old wall aimed at preventing domestic spying and quashes the ancient tradition of attorney-client privilege in terrorist cases.

In November 2001, Ashcroft ended the practice of cooperating with Freedom of Information Act requests, saying he would back refusals to consider requests. "There certainly is a climate of restriction in this administration, an about-face," said Will Ferroggiaro of the National Security Archive, a nongovernment research institute and library at George Washington University.

Ashcroft pledged before Sept. 11 to remove race as a factor in police stops and searches. He now encourages law enforcement to profile people from countries with ties to terror, a strategy aides defend.

"Country-of-origin profiling is not racial profiling ? any country may include multiple races," his deputy chief of staff, David Israelite, said in an interview.

On the environment, Ashcroft has virtually ended his department's periodic checks on older factories to make sure they are not abusing pollution laws.

"It's like he's given the polluters get-out-of-jail-free cards," said

Mike Casey of the activist Environmental Working Group.
Ashcroft aides say actions against racial profiling and environmental abuses are important but for now must give way to national security.
"His focus has changed dramatically," Israelite said. "Since Sept. 11, he probably spends 90 percent of each day on terrorism matters."
Even so, activism has accelerated in many areas.
He's overruled U.S. attorneys who forgo the death penalty and insisted on capital charges 28 times ? a rate many times that of his predecessors.
His civil rights division has terminated a variety of discrimination enforcement cases, some dating back to the Reagan administration.
Ashcroft has invoked federal powers to override state laws decriminalizing some forms of marijuana use and euthanasia.
In 1997 Ashcroft called a Clinton administration attempt to launch international e-mail monitoring as a means of tracking terror "paranoid and prurient ... wholly unhealthy." In November, his department persuaded a panel of judges to endorse just such monitoring.
???
End advance for Feb. 27 and thereafter
AP-ES-02-24-03 1409EST

BC-Ashcroft-Glance, Adv27,190
adv27
For release Thursday, Feb. 27, and thereafter
Changes at Justice
Eds: With BC-Ashcroft Arisen, Adv27
By The Associated Press
A look at some of the policy changes achieved by Attorney General John Ashcroft since the Sept. 11 attacks:
?Enhanced search powers, including "sneak and peek" searches without the homeowner's knowledge and extending roving wiretap authority to the secretive Foreign Intelligence and Surveillance court.
?More cooperation between the CIA and domestic law enforcement despite provisions added in the 1970s to prevent domestic spying.
?Discouraged staff from cooperating with Freedom of Information Act requests.
?Virtually ended checks on whether older factories are being used to bypass Environmental Protection Agency restrictions.
?Terminated a number of "consent decrees" that enforce increased hiring of women and minorities and sensitivity training in workplaces that his predecessors found to be discriminating against women, blacks and Hispanics.
?Waived some attorney-client privileges in terror cases despite a custom that dates back 500 years in British common law.
???
End advance for Feb. 27 and thereafter
AP-ES-02-24-03 1410EST

BC-Bio Box-Ashcroft, Adv27,290
adv27
For release Thursday, Feb. 27, and thereafter
John Ashcroft
Eds: With BC-Ashcroft Arisen, Adv27
By The Associated Press
NAME ? John D. Ashcroft
AGE-BIRTH DATE ? 60; May 9, 1942.
EDUCATION ? Bachelor of Arts, Yale University, 1964; law degree, University of Chicago, 1967.
EXPERIENCE ? Lost a primary race for Congress in 1972. Appointed Missouri state auditor in 1973 but lost post in 1974 election. Won two terms as Missouri attorney general, in 1976 and 1980, and two terms as governor, 1984 and 1988. Lost bid to become Republican National Committee chairman in 1993. Elected senator in 1994. Lost Senate seat in 2000 election to the deceased Gov. Mel Carnahan, and Carnahan's wife Jean assumed the seat. Confirmed as U.S. attorney general Feb. 1, 2001.
FAMILY ? Wife, Janet; three children.
QUOTES ? "My theory about elections is mirrored in what I believe about all of life: for every crucifixion, a resurrection is waiting to follow ? perhaps not immediately, but the possibility is there." From his

1998 autobiography, "On My Honor."
"The protections of the Fourth Amendment are clear. The right to protection from unlawful searches is an indivisible American value. Two hundred years of court decisions have stood in defense of this fundamental right." Writing in The Washington Times in 1997 in opposition to Clinton administration plans to eavesdrop on international e-mail.
"To those who scare peace-loving people with phantoms of lost liberty, my message is this: Your tactics only aid terrorists, for they erode our national unity and diminish our resolve ... They give ammunition to America's enemies and pause to America's friends." In December 2001, arguing for security measures, including eavesdropping on e-mail.
???
End advance for Feb. 27 and thereafter
AP-ES-02-24-03 1412EST

From: CN=Diana L. Schacht/OU=OPD/O=EOP [OPD]
To: Kristen Silverberg/WHO/EOP@Exchange@EOP [WHO] <Kristen Silverberg>;Clarence C. Johnson/NSC/EOP@EOP [NSC] <Clarence C. Johnson>;Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Adam B. Goldman/WHO/EOP@EOP [WHO] <Adam B. Goldman>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/24/2003 9:58:51 AM
Subject: : Asbestos Reform Meeting

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
CREATION DATE/TIME:24-FEB-2003 14:58:51.00
SUBJECT:: Asbestos Reform Meeting
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Clarence C. Johnson (CN=Clarence C. Johnson/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Adam B. Goldman (CN=Adam B. Goldman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

this meeting will be a presentation by an Ohio CEO who has been active in promoting asbestos liability reform
---------- Forwarded by Diana L. Schacht/OPD/EOP on 02/24/2003 02:57 PM ----------

Emily Winland
02/24/2003 12:57:26 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: Diana L. Schacht/OPD/EOP@EOP, Lauren J. Vestewig/OPD/EOP@Exchange@EOP, Marty P. Smith/OPD/EOP@EOP
Subject: Asbestos Reform Meeting

There will be a meeting to discuss Asbestos Reform on Monday March 10 at 2:00pm.
The meeting will be held in room 211, EEOB.

Please confirm your attendance.

thanks,
Emily
6-6534

Message Sent
To:_____
Brett M. Kavanaugh/WHO/EOP@EOP
Clarence C. Johnson/NSC/EOP@EOP
Adam B. Goldman/WHO/EOP@EOP
Kristen Silverberg/WHO/EOP@Exchange@EOP
Kevin Warsh/OPD/EOP@EOP

From: Snee, Ashley
To: <Grubbs, Wendy J.>;<Kavanaugh, Brett M.>
Sent: 2/24/2003 11:00:08 AM
Subject: RE: Time sensitive request from Rena
Attachments: FINAL ESTRADA LETTER - email version.pdf

Which letter? The one that is going today? Here is the letter to Leahy and Daschle from a couple weeks ago.
<< FINAL ESTRADA LETTER - email version.pdf >>

-----Original Message-----
From: Grubbs, Wendy J.
Sent: Monday, February 24, 2003 10:57 AM
To: Kavanaugh, Brett M.; Snee, Ashley
Subject: Time sensitive request from Rena

Let me know..
---------- Forwarded by Wendy J. Grubbs/WHO/EOP on 02/24/2003 10:57 AM ----------

"Brown, Jamie E (OLA)"
02/24/2003 10:47:08 AM

Record Type: Record

To: "Benczkowski, Brian A" (Receipt Notification Requested) (IPM Return Requested), Wendy J. Grubbs/WHO/EOP@EOP

cc:
Subject: Time sensitive request from Rena

Rena Comisac has asked for a PDF version (or if not that - faxed copy) of the Gonzales letter - signed and on letterhead. It's for George Will (at his request) - and she would prefer to provide him an actual copy of the official letter. Thanks! (Let me know if you need her e-mail or fax number)

February 12, 2003

Dear Senator Daschle and Senator Leahy:

On behalf of President Bush, I write in response to your letter to the President dated February 11, 2003. In the letter, you renew your previous request for confidential Department of Justice memoranda in which Mr. Estrada provided appeal, certiorari, and amicus recommendations while he was a career attorney in the Office of Solicitor General for four years in the Clinton Administration and one year in the George H.W. Bush Administration. You also request that Mr. Estrada answer certain questions beyond the extensive questions that he already answered appropriately and forthrightly during his Committee hearing and in follow-up written responses.

We respect the Senate's constitutional role in the confirmation process, and we agree that the Senate must make an informed judgment consistent with its traditional role and practices. However, your requests have no persuasive support in the history and precedent of judicial appointments. Indeed, the relevant history and precedent convincingly demonstrate that a new and shifting standard is being applied to Miguel Estrada.

First, as the Department of Justice explained in its letters of June 5, 2002, October 8, 2002, and January 23, 2003, all living former Solicitors General (four Democrats and three Republicans) have strongly opposed your request for Solicitor General memoranda and stated that it would sacrifice and compromise the ability of the Justice Department to effectively represent the United States in court. Even more telling, we are informed that the Senate has not requested memos such as these for *any* of the 67 appeals court nominees since 1977 who had previously worked in the Justice Department (including the seven nominees who had previously worked in the Solicitor General's office). The few isolated examples you have cited – in which targeted requests for particular documents about specific issues were accommodated for nominees to positions other than the U.S. Courts of Appeals – similarly do not support your request here.

Second, as explained more fully below with respect to your request that Mr. Estrada answer additional questions, the only specific question identified in your letter refers to his judicial role models. You claim that Mr. Estrada refused to answer a question on this topic. In fact, in his written responses to Senator Durbin's question on this precise subject that Mr. Estrada submitted three months ago, he cited Justice Anthony Kennedy, Justice Lewis Powell, and Judge Amalya Kearse as judges he admires (he clerked for Justice Kennedy and Judge Kearse), and he further pointed out, of course, that he would seek to resolve cases as he analyzed them "without any preconception about how some other judge might approach the question." Your letter to the President ignores Mr. Estrada's answer to this question. In any event, beyond this one query, your letter does not pose any additional questions to him. Additionally, neither of you has posed *any* written questions to Mr. Estrada in the more than three months since his all-day Committee hearing. Since the hearing, Mr. Estrada also has met (and continues to meet) with numerous Democrat Senators interested in learning more about his record. Finally, as I will

explain below, Mr. Estrada forthrightly answered numerous questions about his judicial approach and views in a manner that matches or greatly exceeds answers demanded of previous appeals court nominees.

With respect, it appears that a double standard is being applied to Miguel Estrada. That is highly unfair and inappropriate, particularly for this well-qualified and well-respected nominee.

I will turn now in more detail to the various issues raised by your letter. I will address them at some length given the importance of this issue and the nature of your requests.

I. Miguel Estrada's Qualifications and Bipartisan Support

Miguel Estrada is an extraordinarily qualified judicial nominee. The American Bar Association, which Senators Leahy and Schumer have referred to as the "gold standard," *unanimously* rated Estrada "well qualified" for the D.C. Circuit, the ABA's highest possible rating. The ABA rating was entirely appropriate in light of Mr. Estrada's superb record as Assistant to the Solicitor General in the Clinton and George H.W. Bush Administrations, as a federal prosecutor in New York, as a law clerk to Justice Kennedy, and in performing significant *pro bono* work.

Some who are misinformed have seized on Mr. Estrada's lack of prior judicial experience, but five of the eight judges currently serving on the D.C. Circuit had no prior judicial experience, including two appointees of President Clinton and one appointee of President Carter. Miguel Estrada has tried numerous cases before federal juries, argued many cases in the federal appeals courts, and argued 15 cases before the Supreme Court of the United States. That is a record that few judicial nominees can match. And few lawyers, whatever their ideology or philosophy, have volunteered to represent a death row inmate *pro bono* before the Supreme Court as did Miguel Estrada.

Mr. Estrada's excellent legal qualifications are all the more extraordinary given his personal history. Simply put, Miguel Estrada is an American success story. He came to this country at age 17 from Honduras speaking little English. Through hard work and dedicated service to the United States, Miguel Estrada has risen to the very pinnacle of the legal profession. If confirmed, he would be the first Hispanic judge to sit on the U.S. Court of Appeals for the D.C. Circuit. Given his record, his background, and his integrity, it is no surprise that Miguel Estrada is strongly supported by the vast majority of national Hispanic organizations. The League of United Latin American Citizens (LULAC), for example, wrote to Senator Leahy to urge Mr. Estrada's confirmation and explain that he "is truly one of the rising stars in the Hispanic community and a role model for our youth." A group of 19 Hispanic organizations, including LULAC and the Hispanic National Bar Association, recently wrote to the Senate urging "on behalf of an overwhelming majority of Hispanics in this country" that "both parties in the U.S. Senate . . . put partisan politics aside so that Hispanics are no longer denied representation in one of the most prestigious courts in the land."

The current effort to filibuster Mr. Estrada's nomination is particularly unjustified given that those who have worked with Miguel -- including prominent Democrat lawyers whom you

REV_00158435

know well -- strongly support his confirmation. For example, Ron Klain, who served as a high-ranking adviser to former Vice President Gore and former Chief Counsel to the Senate Judiciary Committee, wrote: "Miguel is a person of outstanding character, tremendous intellect, and with a deep commitment to the faithful application of precedent. . . . [T]he challenges that he has overcome in his life have made him genuinely compassionate, genuinely concerned for others, and genuinely devoted to helping those in need."

President Clinton's Solicitor General, Seth Waxman, wrote: "During the time Mr. Estrada and I worked together, he was a model of professionalism and competence. . . . In no way did I ever discern that the recommendations Mr. Estrada made or the analyses he propounded were colored in any way by his personal views – or indeed that they reflected any consideration other than the long-term interests of the United States. I have great respect both for Mr. Estrada's intellect and for his integrity."

A bipartisan group of 14 former colleagues in the Office of the Solicitor General at the U.S. Department of Justice wrote: "We hold varying ideological views and affiliations that range across the political spectrum, but we are unanimous in our conviction that Miguel would be a fair and honest judge who would decide cases in accordance with the applicable legal principles and precedents, not on the basis of personal preferences or political viewpoints." One former colleague, Richard Seamon, wrote that he is a pro-choice, lifelong Democrat with self-described "liberal views on most issues" who said he would "consider it a disgrace" if Mr. Estrada is not confirmed.

Similarly, Leonard Joy, head of the Federal Defender Division of the Legal Aid Society of New York, wrote that "Miguel would make an excellent Circuit Court Judge. He is as fine a lawyer as I have met and, on top of all his intellectual abilities and judgment he would bring to bear, he would bring a desirable diversity to the Court. I heartily recommend him."

Beyond the extensive personal testimony from those who worked side-by-side with him for many years, the performance reviews of Miguel for the years that he worked in the Office of Solicitor General gave him the highest possible rating of "outstanding" in every possible category. The reviews stated that Miguel:

- "states the operative facts and applicable law completely and persuasively, with record citations, and in conformance with court and office rules, and with concern for fairness, clarity, simplicity, and conciseness."
- "[i]s extremely knowledgeable of resource materials and uses them expertly; acting independently, goes directly to point of the matter and gives reliable, accurate, responsive information in communicating position to others."
- "[a]ll dealings, oral and written, with the courts, clients, and others are conducted in a diplomatic, cooperative, and candid manner."
- "[a]ll briefs, motions or memoranda reviewed consistently reflect no policies at variance with Departmental or Governmental policies, or fails to discuss and analyze relevant authorities."
- "[i]s constantly sought for advice and counsel. Inspires co-workers by example."

REV_00158436

In the two years that Miguel Estrada and Paul Bender worked together, Mr. Bender signed those reviews. These employment reviews thus call into serious question some press reports containing a negative comment from Mr. Bender about Mr. Estrada's temperament (which is the only negative comment made by anyone who actually knows Mr. Estrada). Just as important, President Clinton's Solicitor General Seth Waxman expressly refuted Mr. Bender's statement.

In sum, based on his experience, his intellect, his integrity, and his bipartisan support, Miguel Estrada should be confirmed promptly.

II. The Senate's Role

President Bush nominated Miguel Estrada nearly two years ago on May 9, 2001. As explained above, he is well-qualified and well-respected. By any traditional measure that the Senate has used to evaluate appeals court nominees, Miguel Estrada should have been confirmed long ago. Your letter and public statements indicate, however, that you are applying both a new standard and new tactics to this particular nominee.

As to the standard, the Senate has a very important role in the process, but the Senate's traditional approach to appeals court nominees, and the approach envisioned by the Constitution's Framers, is far different from the standard that you now seek to apply. Senator Biden stated the traditional approach in 1997: "Any person who is nominated for the district or circuit court who, in fact, any Senator believes will be a person of their word and follow stare decisis, it does not matter to me what their ideology is, as long as they are in a position where they are in the general mainstream of American political life, and they have not committed crimes of moral turpitude, and have not, in fact, acted in a way that would shed a negative light on the court." Congressional Record, March 19, 1997. Alexander Hamilton explained that the purpose of Senate confirmation is to prevent appointment of "unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity." Federalist No. 76. It was anticipated that the Senate's approval would not often be refused unless there were "special and strong reasons for the refusal." No. 76.

As to tactics, you have indicated that some Senate Democrats intend to filibuster to prevent a vote on this nominee. As you know, there has never been a successful filibuster of a court of appeals nominee. Only a few years ago, Senator Leahy and other Democrat Senators expressly agreed with then-Governor Bush that every judicial nominee was entitled to an up-or-down floor vote within a reasonable time. On October 3, 2000, for example, Senator Leahy stated:

> Governor Bush and I, while we disagree on some issues, have one very significant issue on which we agree. He gave a speech a while back and criticized what has happened in the Senate where confirmations are held up not because somebody votes down a nominee but because they cannot ever get a vote. Governor Bush said: You have the nominee. Hold the hearing. Then, within 60 days, vote them up or vote them down. Don't leave them in limbo. *Frankly, that is what we are paid to do in this body. We are paid to vote either yes or no – not vote maybe*. When we hold a nominee up by not allowing them a

REV_00158437

vote and not taking any action one way or the other, we are not only voting 'maybe,' but we are doing a terrible disservice to the man or woman to whom we do this.

Senator Daschle similarly stated on October 5, 1999, that "[t]he Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down. An up or down vote, that is all we seek for Berzon and Paez. And after years of waiting, they deserve at least that much."

In his East Room speech of October 30, 2002, President Bush reiterated that every judicial nominee deserves a timely up-or-down floor vote in the Senate, no matter who is President or which party controls the Senate. Contrary to President Bush's attempts at permanent reform to bring order to the process, your current effort to employ a filibuster and block an up-or-down vote on the Estrada nomination may significantly exacerbate the cycle of bitterness and recrimination that President Bush has sought to resolve on a bipartisan basis. We fear that the damage caused by a filibuster could take many years to undo. To continue on this path would also be, in Senator Leahy's words, "a terrible disservice" to Mr. Estrada. We urge you to reconsider this extraordinary action, to end the filibuster of Mr. Estrada's nomination, and to allow the full Senate to vote up or down.

III. Request for Confidential Solicitor General Memos

You have suggested that Mr. Estrada's background, experience, and support are insufficient to assess his suitability for the D.C. Circuit. You have renewed your request for Solicitor General memos authored by Mr. Estrada. But every living former Solicitor General signed a joint letter to the Senate opposing your request. The letter was signed by Democrats Archibald Cox, Walter Dellinger, Drew Days, and Seth Waxman. They stated: "Any attempt to intrude into the Office's highly privileged deliberations would come at the cost of the Solicitor General's ability to defend vigorously the United States' litigation interests – a cost that also would be borne by Congress itself. . . . Although we profoundly respect the Senate's duty to evaluate Mr. Estrada's fitness for the federal judiciary, we do not think that the confidentiality and integrity of internal deliberations should be sacrificed in the process."

It bears mention that the interest asserted here is that of the United States, not the personal interest of Mr. Estrada. Indeed, Mr. Estrada himself testified that "I have not opposed the release of those records. . . . I am exceptionally proud of every piece of legal work that I have done in my life. If it were up to me as a private citizen, I would be more than proud to have you look at everything that I have done for the government or for a private client."

The history of Senate confirmations of nominees who had previously worked in the Department of Justice makes clear that an unfair double standard is being applied to Miguel Estrada's nomination. Since the beginning of the Carter Administration in 1977, the Senate has approved 67 United States Court of Appeals nominees who previously had worked in the Department of Justice. Of those 67 nominees, 38 had no prior judicial experience, like Miguel Estrada. The Department of Justice's review of those nomination records disclosed that in *none* of those cases did the Department of Justice produce internal deliberative materials created by

REV_00158438

the Department. In fact, the Department's review disclosed that the Senate did not even request such materials for *a single one* of these 67 nominees.

Of this group of 67 nominees, seven were nominees who had worked as a Deputy Solicitor General or Assistant to the Solicitor General. These seven nominees, nominated by Presidents of each party and confirmed by Senates controlled by each party, included Samuel Alito, Danny Boggs, William Bryson, Frank Easterbrook, Daniel Friedman, Richard Posner, and Raymond Randolph.

The five isolated historical examples you have cited do not support your current request. In each of those five cases, the Committee made a targeted request for specific information primarily related to allegations of misconduct or malfeasance identified by the Committee. Even in those isolated cases, the vast majority of deliberative memoranda written by those nominees were neither requested nor produced. With respect to Judge Bork's nomination, for example, the Committee received access to certain particular memoranda (many related to Judge Bork's involvement in Watergate-related issues). The vast majority of memoranda authored by Judge Bork were never received. With respect to Judge Trott, the Committee requested documents unrelated to Judge Trott's service to the Department. So, too, in the three other examples you cite, the Committee requested specific documents primarily related to allegations of misconduct or malfeasance identified by the Committee. Of course, no such allegations have been made in the case of Mr. Estrada.

In sum, the examples you have cited only highlight the lack of precedent for the current request. As the Justice Department has explained to you previously, the existence of a few isolated examples where the Executive Branch on occasion accommodated a Committee's targeted requests for very specific information primarily related to allegations of misconduct does not in any way alter the fundamental and long-standing principle that memos from the Office of Solicitor General – and deliberative Department of Justice memoranda more broadly – must remain protected in the confirmation context so as to maintain the integrity of the Executive Branch's decisionmaking process. That is a fundamental principle that has been followed irrespective of the party that controls the White House and the Senate.

Your continued requests for these memoranda have provoked a foreseeable and inevitable conflict that, in turn, has been cited as a basis for obstructing a vote on Mr. Estrada's nomination. Respectfully, the conflict is unnecessary because your desire to assess the nominee can be readily accommodated in many ways other than intruding into and severely damaging the deliberative process of the Office of Solicitor General. For example, you can review Mr. Estrada's written briefs and oral arguments both as an attorney for the United States and in private practice. As you know, those documents are publicly available and easily accessible; that said, we would be pleased to facilitate your access to them. (Mr. Estrada's hearing transcript suggests that no Democrat Member of the Committee had read Mr. Estrada's many dozens of Solicitor General merits briefs, certiorari petitions, and opposition briefs or the transcripts of his 14 oral arguments when he represented the United States.) You also may consider the opinions of others who served in the Office at the same time (discussed above) and examine the nominee's written performance reviews (also discussed above). There is more than ample

REV_00158439

information for you to assess Mr. Estrada's qualifications and suitability for the D.C. Circuit based on the traditional standards the Senate has employed.

It also is important to recognize that political appointees of President Clinton have read virtually all of the memoranda in question – namely, the Democrat Solicitors General Drew Days, Walter Dellinger, and Seth Waxman. None of those three highly respected Democrat lawyers has expressed any concern whatever about Mr. Estrada's nomination. Indeed, Mr. Waxman wrote a letter of strong support, and Mr. Days made public statements in support of Mr. Estrada.

In sum, the historical record and past precedent convincingly demonstrate that this request creates and applies an unfair double standard to Miguel Estrada.

IV. Request that Miguel Estrada Answer Additional Questions

Your letter also suggests that Miguel Estrada should answer certain questions that he allegedly did not answer in his hearing. To begin with, we do not know what your specific questions are. In addition, this request frankly comes as a surprise given that (i) Senator Schumer chaired the hearing on Mr. Estrada, (ii) the hearing lasted an entire day, (iii) Senators at the all-day hearing asked numerous far-reaching questions that Mr. Estrada answered forthrightly and appropriately, and (iv) only two of the 10 Democrat Senators then on the Committee even submitted any follow-up written questions, and they submitted only a few questions (in marked contrast to other nominees who received voluminous follow-up questions).

It also bears mention that Mr. Estrada has personally met with a large number of Democrat Senators, including Senators Landrieu, Lincoln, Bill Nelson, Ben Nelson, Leahy, Feinstein, Kohl, and Breaux; is scheduled to meet with Senator Carper; and would be pleased to meet with additional Senators.

The only specific question your letter identifies refers to Mr. Estrada's judicial role models, and you claim that he refused to answer a question on this topic. In fact, in Mr. Estrada's written responses to Senator Durbin's question on this precise subject, Mr. Estrada cited Justice Anthony Kennedy, Justice Lewis Powell, and Judge Amalya Kearse as judges he admires, and he further pointed out, of course, that he would seek to resolve cases as he analyzed them "without any preconception about how some other judge might approach the question."

In our judgment, moreover, Mr. Estrada answered the Committee's questions in a manner that was both entirely appropriate and entirely consistent with the approach that judicial nominees of Presidents of both parties have taken for many years. Your suggestions to the contrary do not square with the hearing record or traditional practice.

A. Judicial Ethics and Traditional Practice

In assessing your request that Miguel Estrada did not answer appropriate questions, we begin with rules of judicial ethics that govern prospective nominees. Canon 5A(3)(d) provides that prospective judges "shall not . . . make statements that commit *or appear to commit* the candidate with respect to cases, controversies or issues that are likely to come before the court"

REV_00158440

(emphasis added). Justice Thurgood Marshall made the point well in 1967 when asked about the Fifth Amendment: "I do not think you want me to be in a position of giving you a statement on the Fifth Amendment and then, if I am confirmed and sit on the Court, when a Fifth Amendment case comes up, I will have to disqualify myself." Lloyd Cutler, who served as Counsel to President Carter and President Clinton, has stated that "candidates should decline to reply when efforts are made to find out how they would decide a particular case."

In 1968, in the context of the Justice Abe Fortas' nomination to be Chief Justice, the Senate Judiciary Committee similarly stated: "Although recognizing the constitutional dilemma which appears to exist when the Senate is asked to advise and consent on a judicial nominee without examining him on legal questions, the Committee is of the view that Justice Fortas wisely and correctly declined to answer questions in this area. To require a Justice to state his views on legal questions or to discuss his past decisions before the Committee would threaten the independence of the judiciary and the integrity of the judicial system itself. It would also impinge on the constitutional doctrine of separation of powers among the three branches of Government as required by the Constitution." S. Exec. Rep. No. 8, 90th Cong. 2d Sess. 5 (1968).

Even in the context of a Supreme Court confirmation hearing, Senator Kennedy defended Sandra Day O'Connor's refusal to discuss her views on abortion: "It is offensive to suggest that a potential Justice of the Supreme Court must pass some presumed test of judicial philosophy. It is even more offensive to suggest that a potential justice must pass the litmus test of any single-issue interest group." Nomination of Sandra O'Connor: Hearings Before the Senate Comm. on the Judiciary on the Nomination of Judge Sandra Day O'Connor of Arizona to Serve as an Associate Justice of the Supreme Court of the United States, 97th Cong. 6 (1981) (statement of Sen. Kennedy).

Justice Ruth Bader Ginsburg likewise declined to answer certain questions: "Because I am and hope to continue to be a judge, it would be wrong for me to say or to preview in this legislative chamber how I would cast my vote on questions the Supreme Court may be called upon to decide. Were I to rehearse here what I would say and how I would reason on such questions, I would act injudiciously." Similarly, Justice John Paul Stevens stated in his hearing: "I really don't think I should discuss this subject generally, Senator. I don't mean to be unresponsive but in all candor I must say that there have been many times in my experience in the last five years where I found that my first reaction to a problem was not the same as the reaction I had when I had the responsibility of decisions and I think that if I were to make comments that were not carefully thought through they might be given significance that they really did not merit."

Justice Ginsburg described the traditional practice in a case decided last year: "In the context of the federal system, how a prospective nominee for the bench would resolve particular contentious issues would certainly be 'on interest' to the President and the Senate . . . . *But in accord with a longstanding norm,* every Member of this Court declined to furnish such information to the Senate, and presumably to the President as well." *Republican Party of Minnesota v. White*, 122 S. Ct. 2528, 2552 n.1 (2002) (Ginsburg, J., dissenting) (emphasis added). Justice Ginsburg added that this adherence to this "longstanding norm" was "crucial to the health of the Federal Judiciary." *Id.* In his majority opinion, Justice Scalia did not take issue

REV_00158441

with that description and added: "Nor do we assert that candidates for judicial office should be *compelled* to announce their views on disputed legal issues." *Id.* at 2539 n.11 (emphasis in original).

In some recent hearings, including Mr. Estrada's, Senator Schumer has asked that nominees identify particular Supreme Court cases of the last few decades with which they disagree. But the problems with such a question and answer were well stated by Justice Stephen Breyer. As Justice Breyer put it, "Until [an issue] comes up, I don't really think it through with the depth that it would require. . . . So often, when you decide a matter for real, in a court or elsewhere, it turns out to be very different after you've become informed and think it through for real than what you would have said at a cocktail party answering a question." 34 U.C. Davis L. Rev. 425, 462.

Senator Schumer also has asked nominees how they would have ruled in particular Supreme Court cases. Again, a double standard is being applied. The nominees of President Clinton did not answer such questions. For example, Richard Tallman, a nominee with no prior judicial service who would now serves on the Ninth Circuit, not only would not answer how he would have ruled as a judge in *Roe v. Wade* – but even how he would have ruled in *Plessy v. Ferguson,* the infamous case that upheld the discredited and shameful "separate but equal" doctrine. So, too, in the hearing on President Clinton's nomination of Judges Barry and Fisher, Senator Smith asked whether the nominees would have voted for a constitutional right to abortion before *Roe v. Wade*. Chairman Hatch interrupted Senator Smith to say "that is not a fair question to these two nominees because regardless of what happened pre-1973, they have to abide by what has happened post-1973 and the current precedents that the Supreme Court has."

B. Answers by Miguel Estrada

Miguel Estrada answered the Committee's questions forthrightly and appropriately. Indeed, Miguel Estrada was *more* expansive than many judicial nominees traditionally have been in Senate hearings, and he was asked a far *broader* range of questions than many previous appeals court nominees were asked. We will catalogue here a select sample of his answers.

Unenumerated rights, privacy, and abortion

When asked by Senator Edwards about the Constitution's protection for rights not enumerated in the Constitution, Mr. Estrada replied: "I recognize that the Supreme Court has said [on] numerous occasions in the area of privacy and elsewhere that there are unenumerated rights in the Constitution, and I have no view of any sort, whether legal or personal, that would hinder me from applying those rulings by the court. But I think the court has been quite clear that there are a number of unenumerated rights in the Constitution. In the main, the court has recognized them as being inherent in the right of substantive due process and the liberty clause of the Fourteenth Amendment."

When asked by Senator Feinstein whether the Constitution encompasses a right to privacy and abortion, Mr. Estrada responded, "The Supreme Court has so held, and I have no view of any nature whatsoever, whether it be legal, philosophical, moral, or any other type of

REV_00158442

view that would keep me from applying that case law faithfully." When asked whether *Roe v. Wade* was "settled law," Mr. Estrada replied, "I believe so."

General Approach to Judging

When asked by Senator Edwards about judicial review, Mr. Estrada explained: "Courts take the laws that have been passed by you and give you the benefit of understanding that you take the same oath that they do to uphold the Constitution, and therefore they take the laws with the presumption that they are constitutional. It is the affirmative burden of the plaintiff to show that you have gone beyond your oath. If they come into court, then it is appropriate for courts to undertake to listen to the legal arguments – why it is that the legislature went beyond [its] role as a legislat[ure] and invaded the Constitution."

Mr. Estrada stated to Senator Edwards that there are 200 years of Supreme Court precedent and that it is *not* the case that "the appropriate conduct for courts is to be guided solely by the bare text of the Constitution because that is not the legal system that we have."

When asked by Senator Edwards whether he was a strict constructionist, Mr. Estrada replied that he was "a fair constructionist" – meaning that "I don't think that it should be the goal of courts to be strict or lax. The goal of courts is to get it right. . . . It is not necessarily the case in my mind that, for example, all parts of the Constitution are suitable for the same type of interpretative analysis. . . . [T]he Constitution says, for example, that you must be 35 years old to be our chief executive. . . . There are areas of the Constitution that are more open-ended. And you adverted to one, like the substantive component of the due process clauses, where there are other methods of interpretation that are not quite so obvious that the court has brought to bear to try to bring forth what the appropriate answer should be."

When Senator Kohl asked him about environmental statutes, for example, Mr. Estrada explained that those statutes come to court "with a strong presumption of constitutionality."

In response to Senator Leahy, Mr. Estrada described the most important attributes of a judge: "The most important quality for a judge, in my view Senator Leahy, is to have an appropriate process for decisionmaking. That entails having an open mind. It entails listening to the parties, reading their briefs, going back beyond those briefs and doing all of the legwork needed to ascertain who is right in his or her claims as to what the law says and what the facts [are]. In a court of appeals court, where judges sit in panels of three, it is important to engage in deliberation and give ear to the views of colleagues who may have come to different conclusions. And in sum, to be committed to judging as a process that is intended to give us the right answer, not to a result. And I can give you my level best solemn assurance that I firmly think I do have those qualities or else I would not have accepted the nomination."

In response to Senator Durbin, Miguel Estrada stated that "the Constitution, like other legal texts, should be construed reasonably and fairly, to give effect to all that its text contains."

Mr. Estrada indicated to Senator Durbin that he admired the judges for whom he clerked, Justice Kennedy and Judge Kearse, as well as Justice Lewis Powell.

REV_00158443

Mr. Estrada stated to Senator Durbin that "I can absolutely assure the Committee that I will follow binding Supreme Court precedent until and unless such precedent has been displaced by subsequent decisions of the Supreme Court itself."

In response to Senator Grassley, Mr. Estrada stated: "When facing a problems for which there is a not a decisive precedent from a higher court, my cardinal rule would be to seize aid from anyplace where I could get it. Depending on the nature of the problem, that would include related case law in other areas that higher courts had dealt with that had had some insights to teach with respect to the problem at hand. It could include the history of the enactment, including in the case of a statute legislative history. It could include the custom and practice under any predecessor statute or document. It could include the views of academics to the extent that they purport to analyze what the law is instead of – instead of prescribing what it should be. And in sum, as Chief Justice Marshall once said, to attempt not to overlook anything from which aid might be derived."

In response to Senator Sessions, Estrada stated: "I am very firmly of the view that although we all have views on a number of subjects from A to Z, the first duty of a judge is to self-consciously put that aside and look at each case by starting withholding judgment with an open mind and listen to the parties. So I think that the job of a judge is to put all of that aside, and to the best of his human capacity to give a judgment based solely on the arguments and the law."

In response to Senator Sessions, Mr. Estrada stated that "I will follow binding case law in every case. . . . I may have a personal, moral, philosophical view on the subject matter. But I undertake to you that I would put all that aside and decide cases in accordance with binding case law and even in accordance with the case law that is not binding but seems constructive on the area, without any influence whatsoever from any personal view I may have about the subject matter."

Miranda/Stare Decisis

Mr. Estrada stated that *United States v. Dickerson* – a case raising the question whether *Miranda* should be overruled – reflected a "reasonable application of the doctrine of stare decisis. In my view, it is rarely appropriate for the Supreme Court to overturn one of its own precedents."

Affirmative Action

With respect to affirmative action, Mr. Estrada responded to Senator Kennedy that "any policy views I might have as a private citizen on the subject of affirmative action would not enter into how I would approach any case that comes before me as a judge. Under controlling Supreme Court authority, particularly *Adarand Constructors, Inc. v. Pena*, 515 U.S. 200 (1995), if a government program creates a racial classification, it will be subject to strict scrutiny. Whether the program survives that sort of scrutiny will often involve a highly contextual and fact-specific inquiry into the nature of the justifications asserted by the government and the fit

REV_00158444

between those justifications and the classification at issue. *Adarand* and similar cases provide the framework that I would be required to apply, and would apply, in considering these issues as a judge."

Asked by Senator Leahy about the strict scrutiny test, Mr. Estrada replied, "the Supreme Court in the *Adarand* case stated, as a general rule, that the consideration of race is subject to strict scrutiny. That means that though it may be used in some cases, it has to be justified by a compelling state interest. And with respect to the particular context, there must be a fairly fact-bound individual assessment of the fit between the interest that is being asserted and the category being used. That is just another way of saying that it is a very fact-intensive analysis in the context of a specific program and in the context of the justifications that are being offered in support of the program."

Congressional Authority

With respect to the outer limits of Congress' power to confer authority on other governmental bodies, Miguel responded to Senator Kennedy that the Supreme Court has said that "particular factual context is significant in analyzing the appropriateness of a particular delegation. . . . Of course, the fact that the Supreme Court only rarely has struck down statutes on this ground suggests that the Court has been quite deferential to congressional judgments about the types of delegations that reasonably might be needed to carry on the business of government."

When Senator Kohl asked Mr. Estrada about the 1995 *Lopez* case concerning the scope of Congress' power to regulate, Mr. Estrada pointed out that he had argued in a companion case "for a very expansive view of the power to Congress to pass statutes under the Commerce Clause and have them be upheld by the court. . . . *Lopez* has given us guidance on when it is appropriate for the court to exercise the commerce power. It is binding law and I would follow it."

Ethnicity

With respect to the fact that the President had noted Miguel's ethnicity, Miguel responded to Senator Kennedy: "The President is the leader of a large and diverse country, and it is accordingly appropriate for him, in exercising his constitutional nomination and appointment powers, to select qualified individuals who reflect the breadth and diversity of our Nation."

With respect to the Democrat Congressional Hispanic Caucus's criticism of him, Miguel responded to Senator Kennedy that "I strongly disagree, however, with the Congressional Hispanic Caucus' view that I lack an understanding of the role and importance of courts in protecting the legal rights of minorities, of the values and mores of Latino culture, or the significance of role models for minority communities."

REV_00158445

Racial Discrimination

With respect to race discrimination, Mr. Estrada stated in response to Senator Kennedy: "I take a backseat to no one in my abhorrence of race discrimination in law enforcement or anything else."

Senator Feingold asked Mr. Estrada whether he believed that racial profiling and racially motivated law enforcement misconduct are problems in this country today. Mr. Estrada replied, "I am – I will once again emphasize I'm unalterably opposed to any sort of race discrimination in law enforcement, Senator, whether it's called racial profiling or anything else. . . . I know full well that we have real problems with discrimination in our day and age."

Senator Leahy asked Mr. Estrada about whether statistical evidence of discriminatory impact is relevant in establishing discrimination. Mr. Estrada replied: "I am not a specialist in this area of the law, Senator Leahy, but I am aware that there is a line of cases, beginning with the Supreme Court's decision in *Griggs*, that suggests that in appropriate cases that [such evidence] may be appropriate. . . . I do understand that there is a major area of law that deals with how you prove and try disparate-impact cases."

Congressional Authority to Regulate Firearms

Senator Feinstein asked whether Congress may legislate in the area of dangerous firearms, and Mr. Estrada responded that the Supreme Court had ruled that "if the government were to prove that the firearm had at any time in its lifetime been in interstate commerce even if that had nothing to do with the crime at issue, that that would be an adequate basis for the exercise of Congress' power."

Right to Counsel

Senator Edwards asked about *Gideon v. Wainwright*, the Supreme Court case guaranteeing the right to counsel for poor defendants who could not afford counsel. Although Senator Edwards appeared to question the reasoning in that landmark case, Mr. Estrada responded that "I frankly have always taken it as a given that that's – the ruling in the case."

C. Answers by President Clinton's Nominees

Your criticism of Miguel Estrada's testimony creates a double standard. You did not require nominees of President Clinton to answer questions of this sort (keeping in mind that you have not identified what your additional questions to Mr. Estrada are). President Clinton's appeals court nominees routinely testified without discussing their views of specific issues or cases. A few select examples, including of several nominees who had no prior judicial experience, illustrate the point. (Please note that these are isolated examples; there are many more we can provide if necessary.)

Merrick Garland (no prior judicial experience). In the nomination of Merrick Garland to the D.C. Circuit, Senator Specter asked him: "Do you favor, as a personal matter, capital

REV_00158446

punishment?" Judge Garland replied only that he would follow Supreme Court precedent: "This is really a matter of settled law now. The Court has held that capital punishment is constitutional and lower courts are to follow that rule." Senator Specter also asked him about his views of the independent counsel statute's constitutionality, and Judge Garland responded: "Well, that, too, the Supreme Court in *Morrison v. Olson* upheld as constitutional, and, of course, I would follow that ruling." Judge Garland did not provide his personal view of either subject.

Judith Rogers. In the hearing on Judge Judith Rogers' nomination to the D.C. Circuit, Judge Rogers was asked by Senator Cohen about the debate over an evolving Constitution. Judge Rogers responded: "My obligation as an appellate judge is to apply precedent. Some of the debates which I have heard and to which I think you may be alluding are interesting, but as an appellate judge, my obligation is to apply precedent. And so the interpretations of the Constitution by the U.S. Supreme Court would be binding on me." She then was asked how she would rule in the absence of precedent and responded: "When I was taking my master's in judicial process at the University of Virginia Law School, one of the points emphasized was the growth of our common law system based on the English common law judge system. And my opinions, I think if you look at them, reflect that where I am presented with a question of first impression, that I look to the language of whatever provision we are addressing, that I look to whatever debates are available, that I look to the interpretations by other Federal courts, that I look to the interpretations of other State courts, and it may be necessary, as well, to look at the interpretations suggested by commentators. And within that framework, which I consider to be a discipline, that I would reach a view in a case of first impression." Finally, Judge Rogers was asked her view of the three-strikes law and stated: "As an appellate judge, my obligation is to enforce the laws that Congress passes or, where I am now, that the District of Columbia Council passes." Judge Rogers did not provide her personal view of these subjects.

Marsha Berzon (no prior judicial experience). Senator Smith asked her views on *Roe v. Wade* and whether "an unborn child is a human being." Judge Berzon stated: "[M]y role as a judge is not to further anything that I personally believe or don't believe, and I think that is the strength of our system and the strength of our appellate system. The Supreme Court has been quite definitive quite recently about the applicable standard, and I absolutely pledge to you that I will follow that standard as it exists now, and if it is changed, I will follow that standard. And my personal views in this area, as in any other, will have absolutely no effect." When Senator Smith probed about their personal views on abortion and *Roe v. Wade*, Chairman Hatch interrupted: "I don't know how they can say much more than that at this point in this meeting."

Richard Tallman (no prior judicial experience). In response to written questions, Judge Tallman explained that "[j]udicial nominees are limited by judicial ethical considerations from answering any question in a manner that would call for an 'advisory opinion' as the courts have defined it or that in effect ask a nominee to suggest how he or she would rule on an issue that could foreseeably require his or her attention in a future case or controversy after confirmation." He was asked how he would have ruled in *Plessy v. Ferguson*. He stated: "It is entirely conjectural as to what I would have done without having the opportunity to thoroughly review the record presented on appeal, the briefs and arguments of counsel, and supporting legal authorities that were applicable at that time." He gave the same response when asked how he would have ruled on *Roe v. Wade*. When asked his personal view on abortion, he wrote: "I hold

REV_00158447

no personal views that would prevent me from doing my judicial duty to follow the precedent set down by the Supreme Court." He gave the same answer about the death penalty.

Kim Wardlaw. In the hearing on Judge Kim Wardlaw's nomination to the Ninth Circuit, Judge Wardlaw was asked about the constitutionality of affirmative action. She stated (in an answer similar to Miguel Estrada's answer to the same question): "The Supreme Court has held that racial classifications are unconstitutional unless they are narrowly tailored to meet a compelling governmental interest."

Maryanne Trump Barry. In the hearing on Judge Maryanne Trump Barry's nomination to the Third Circuit, Senator Smith asked for her personal opinion on whether "an unborn child at any stage of the pregnancy is a human being." Judge Barry responded: "*Casey* is the law that I would look at. If I had a personal opinion – and I am not suggesting that I do – it is irrelevant because I must look to the law which binds me."

Raymond Fisher. In the hearing on Judge Raymond Fisher's nomination to the Ninth Circuit, Senator Sessions asked Judge Fisher's own personal views on whether the death penalty was constitutional. Judge Fisher responded that "My view, Senator, is that, as you indicated, the Supreme Court has ruled that the death penalty is constitutional. As a lower appellate court judge, that is the law that I am governed by. I don't want in my judicial career, should I be fortunate enough to have one, to inject my personal opinions into whether or not I follow the law. I believe that the precedent of the Supreme Court is binding and that is what my function is."

V. Conclusion

Miguel Estrada is a well-qualified and well-respected judicial nominee who has very strong bipartisan support. Based on our reading of history, we believe that you have ample information about this nominee and have had more than enough time to consider questions about his qualifications and suitability. We urge you to stop the unfair treatment, end the filibuster, allow an up-or-down vote, and vote to confirm Mr. Estrada.

Sincerely,

/s/

Alberto R. Gonzales
Counsel to the President

The Honorable Thomas A. Daschle
The Honorable Patrick Leahy

Copy: The Honorable Bill Frist
The Honorable Orrin Hatch

REV_00158448

From: CN=Diana L. Schacht/OU=OPD/O=EOP [OPD]
To: Kristen Silverberg/WHO/EOP@Exchange@EOP [WHO] <Kristen Silverberg>;Clarence C. Johnson/NSC/EOP@EOP [NSC] <Clarence C. Johnson>;Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Adam B. Goldman/WHO/EOP@EOP [WHO] <Adam B. Goldman>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/24/2003 9:58:51 AM
Subject: : Asbestos Reform Meeting

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
CREATION DATE/TIME:24-FEB-2003 14:58:51.00
SUBJECT:: Asbestos Reform Meeting
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Clarence C. Johnson (CN=Clarence C. Johnson/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Adam B. Goldman (CN=Adam B. Goldman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

this meeting will be a presentation by an Ohio CEO who has been active in promoting asbestos liability reform
---------- Forwarded by Diana L. Schacht/OPD/EOP on 02/24/2003 02:57 PM ----------

Emily Winland
02/24/2003 12:57:26 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: Diana L. Schacht/OPD/EOP@EOP, Lauren J. Vestewig/OPD/EOP@Exchange@EOP, Marty P. Smith/OPD/EOP@EOP
Subject: Asbestos Reform Meeting

There will be a meeting to discuss Asbestos Reform on Monday March 10 at 2:00pm.
The meeting will be held in room 211, EEOB.

Please confirm your attendance.

thanks,
Emily
6-6534

Message Sent
To:_____
Brett M. Kavanaugh/WHO/EOP@EOP
Clarence C. Johnson/NSC/EOP@EOP
Adam B. Goldman/WHO/EOP@EOP
Kristen Silverberg/WHO/EOP@Exchange@EOP
Kevin Warsh/OPD/EOP@EOP

From: CN=Kyle Sampson/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/24/2003 10:03:44 AM
Subject: : Biden Questions
Attachments: P_VEL4E003_WHO.TXT_1.wpd

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:24-FEB-2003 15:03:44.00
SUBJECT:: Biden Questions
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

FYI -- this is what we decided to go with in response to Sen. Biden.

---------- Forwarded by Kyle Sampson/WHO/EOP on 02/24/2003 03:03 PM ----------

"Bybee, Jay" <Jay.Bybee@usdoj.gov>
02/24/2003 12:49:56 PM
Record Type: Record

To: Kyle Sampson/WHO/EOP@EOP
cc:
Subject: Biden Questions

Kyle--
We have softened questions 1(a) and 2(b). I think that Viet, Dan Bryant, Ed and I are now agreed on this draft. I plan to send it up this afternoon around 3 or 4. Comments? Thanks.
Jay

Jay S. Bybee
Assistant Attorney General
Office of Legal Counsel
U.S. Department of Justice
(202) 514-2051 (phone)
(202) 514-0539 (fax)
Jay.Bybee@usdoj.gov

- BidenQuestions.wpd

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_VEL4E003_WHO.TXT_1>

Senator Joseph R. Biden, Jr.
Questions for Jay Bybee
February 14, 2003

Question One

As you know, the Justice Department recently announced its intention to maintain the Violence Against Women Office within the Office of Justice Programs, requiring its Director to report to the Assistant Attorney General, rather than creating a separate and distinct office within the Department, with its Director reporting directly to the Attorney General, as required by the 21st Century Department of Justice Appropriations Authorization Act, Pub. L. 107-273, 116 Stat. 1758 (Nov. 2, 2002) ("DOJ Authorization Act"). The Department has represented to me that its decision rested solely on a legal interpretation supplied by the Office of Legal Counsel ("OLC"). That legal opinion was contained, in part or in whole, in a February 7, 2003 letter to me from Acting Assistant Attorney General Jamie E. Brown.

Question (a). Did you author the OLC legal opinion contained, in part or in whole, in the February 7th letter?

Answer: As head of the Department's Office of Legal Counsel, I am obligated to keep confidential the legal advice that my Office provides to others in the executive branch. I therefore cannot comment on whether or not my Office provided any of the legal analysis reflected in Acting Assistant Attorney General Brown's letter or on what role, if any, I may have played in such advice.

I understand that the Department has explained to your staff the policy reasons underlying the decision to keep the Violence Against Women Office within the Office of Justice Programs ("OJP"). Indeed, upon review, I do not think that Acting Assistant Attorney General Brown's February 7th letter offers any legal argument as to where the Violence Against Women Office should be located within the Department.

Question (b). If you did not directly author the legal opinion, did you approve it in your capacity as Assistant Attorney General?

Answer: See my response to Question 1(a).

Question Two

The February 7th letter states that "[t]he sparse legislative history [of the DOJ Authorization Act] is consistent with our conclusions." It then cites to a floor statement from a House subcommittee chairman. Significantly, the letter contains no citations to the Conference Report or the floor statements of other Members of Congress. I assume that OLC attorneys thoroughly reviewed the legislative history before making the previous statement.

REV_00158478

A review of the legislative history includes a number of other statements, beyond the sole statement cited by the Department's letter. For example, the letter fails to cite to the Conference Report for the DOJ Authorization Act issued by House Judiciary Committee Chairman James Sensenbrenner and signed by all the Conferees. The Sensenbrenner Conference Report states:

> *Section 2002 creates a* ***separate and independent*** *Violence Against Women Office* (hereinafter the "Office") in the Department of Justice, under the general authority of the Attorney General. *The Office shall be headed by a Director who reports* ***directly*** *to the Attorney General* and has final authority over all grants, cooperative agreements and contracts awarded by the Office.

Conf. Rep. 107-685 (Sept. 25, 2002), at 180 (emphasis added).

In addition, the February 7 letter fails to cite to a number of other statements by House members made the same day as the sole statement included in the Department's letter. For example, Representative Henry Hyde -- the former Chairman of the House Judiciary Committee and a member of the Conference Committee on H.R. 2215 -- stated that "[t]he Office will be headed by a Director *who reports* ***directly*** *to the Attorney General. . . .*" H6748 (Sept. 26, 2002) (emphasis added). See also Statement of Representative Conyers ("important compromises were reached between the House and Senate . . . to establish an independent Violence Against Women Office within the Department of Justice. This provision raises the profile of the Office by having its Director report directly to the Attorney General instead of through other subordinates.") H6750 (Sept. 26, 2002); Statement of Representative Slaughter ("The conference report creates an independent Violence Against Women Office within the Department of Justice, rather than making the office simply a subsidiary part of the office of the Office of Justice Programs.") H6746 (Sept. 26, 2002); Statement of Representative Nadler (The legislation "enhance[s] the Violence Against Women Office") H6748 (Sept. 26, 2002).

The Department's letter also fails to include any mention of legislative history in the Senate. Significantly, while citing to a statement from the House Crime subcommittee chairman, the letter omits my floor statement, made in my capacity as Chairman of the Senate subcommittee with jurisdiction over the Violence Against Women Office. I explained that the DOJ Authorization Act created

> [a] permanent and independent Violence Against Women Office, a proposal I first introduced in the Senate in March, 2001, and is now established in the Conference Report. This provision means that the Office will be removed from its current location inside the Office of Justice Programs, and become its own free-standing entity. . . . It also requires that the Director be nominated by the President, confirmed by the Senate and report directly to the Attorney General.

REV_00158479

S9701 (Oct. 1, 2002). My remarks were echoed in a colloquy I entered into with Senator Patrick Leahy, then Chairman of the Senate Judiciary Committee with jurisdiction over the DOJ Reauthorization Act:

> [T]he pending Justice reauthorization conference report establishes an independent Violence Against Women Office [which] will be an autonomous and separate office within the Department of Justice and no longer underneath the jurisdiction of the Office of Justice Programs. . . . [T]he statute is unequivocal. The director shall report directly to the Attorney General -- do not pass go, do not get out of jail free. The law is clear that the director is not to report to various deputies or assistants, but rather straight to the Attorney General.

Id.

Question (a). Did the OLC opinion on this issue consider the discussion of the Violence Against Women Office contained in the Sensenbrenner Conference Report or any of statements contained above?

Answer: As the head of the Department's Office of Legal Counsel, I am obligated to keep confidential the legal advice that my Office provides to others in the executive branch. I cannot comment on whether or not I have provided any advice on this matter and, if so, the substance of that advice. I can say, however, that ideally all OLC advice would be based on a review of all relevant legal resources, including pertinent legislative history. In addition, I agree with you that insofar as legislative history is concerned, the statements that you cite would merit full consideration along with the statement included in Acting Assistant Attorney General Brown's letter.

Question (b). Why did the Department's February 7th letter omit any mention of the Sensenbrenner Conference Report or these other statements?

Answer: As the head of the Department's Office of Legal Counsel, I am obligated to keep confidential the legal advice that my Office provides to others in the executive branch. Upon reviewing Acting Assistant Attorney General Brown's letter, however, I will note that it sets forth the legal analysis and conclusion before addressing any legislative history. The structure of the letter would thus indicate that legislative history had no significant bearing on its analysis or conclusion. I do agree with you, though, that if the letter is to cite legislative history on one side of the question, it would have been better for the letter to cite legislative history on the other side as well.

Question (c). Did you personally review the February 7th letter? If so, were you aware that the letter contained these significant omissions? If not, who in your office did review the

REV_00158480

February 7th letter?

Answer: As the head of the Department's Office of Legal Counsel, I am obligated to keep confidential the legal advice that my Office provides to others in the executive branch. I cannot comment on whether or not my Office provided assistance in the preparation of Acting Assistant Attorney General Brown's letter or on what role, if any, I may have played.

Question (d). To the extent that you were not aware – prior to the issuance of the OLC opinion and/or the February 7th letter – of the Sensenbrenner Conference Report and the other statements cited above, do you still agree that the legislative history is "sparse" and "is consistent with [DOJ's] conclusions?"

Answer: As the head of the Department's Office of Legal Counsel, I am obligated to keep confidential the legal advice that my Office provides to others in the executive branch. I therefore cannot comment on whether or not my Office provided any of the legal analysis reflected in Acting Assistant Attorney General Brown's letter or on what I was aware of, or not aware of, in connection with rendering any such advice. I can say, however, that the legislative history that you cite, together with the legislative history cited in Acting Assistant Attorney General Brown's letter, indicates that there was legislative history on both sides of the question.

Question (e). To the extent that you were aware – prior to the issuance of the OLC opinion and/or the February 7th letter – of the Sensenbrenner Conference Report and the other statements cited above, is it still your view that the legislative history is "sparse" and "is consistent with [DOJ's] conclusions?"

Answer: As the head of the Department's Office of Legal Counsel, I am obligated to keep confidential the legal advice that my Office provides to others in the executive branch. I therefore cannot comment on whether or not my Office provided any of the legal analysis reflected in Acting Assistant Attorney General Brown's letter or on what I was aware of, or not aware of, in connection with rendering any such advice. I can say, however, that the legislative history that you cite, together with the legislative history cited in Acting Assistant Attorney General Brown's letter, indicates that there was legislative history on both sides of the question.

Question Three

(a). Do you agree that on occasion, when called upon to construe a statute, federal judges may resort to an examination of the legislative history to assist them?

Answer: Yes.

(b). Do you agree that a federal judge should consider the legislative history as a whole, rather than relying on, for example, a single statement of an individual legislator?

REV_00158481

Answer: Yes.

(c). In construing an act of Congress, would you give more weight to, for example, analysis contained in the Conference Report than to statements by individual members of Congress?

Answer: Yes.

REV_00158482

From: Kavanaugh, Brett M.
To: <Bumatay, Patrick J.>
Sent: 2/24/2003 2:52:23 PM
Subject: Re: FW: Time sensitive - LRM JAW5 - - TREASURY Testimony on Deposit insurance reform
Attachments: tt0007a.doc

No objection.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 02/24/2003 02:43:41 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: FW: Time sensitive - LRM JAW5 - - TREASURY Testimony on Deposit insurance reform

Just a reminder, this was due at 2 pm.

thanks

-----Original Message-----

From: Weinberg, Jeffrey A.

Sent: Friday, February 21, 2003 10:21 AM

To: Whgc Lrm; Ovp Lrm; Nec Lrm; Cea Lrm

Cc: Swagel, Phillip L.; Warsh, Kevin; Smythe, Augustine T.; Trinh, Catherine V.; McMillin, Stephen S.; Roberson, Halley M.; Rhinesmith, Alan B.; Schwartz, Mark J.; Grippando, Hester C.; Hunt, Alexander T.; Hill, Jefferson B.; Lee, Sarah S.; Perry, Philip J.; Wood, John F.; Schneider, Matthew J.; Lobrano, Lauren C.; Kirk, Matthew ; Foster, James D.; Jukes, James J.; Green, Richard E.; MacEcevic, Lisa J.

Subject: Time sensitive - LRM JAW5 - - TREASURY Testimony on Deposit insurance reform

Please reply to Lisa Macecevic by 2PM Monday, February 24, 2003.

Note to reviewers: The Treasury (Under Secretary Fisher) testimony states: "The Administration strongly opposes any changes in deposit insurance coverage limits."

- tt0007a.doc << tt0007a.doc >>

---------- Forwarded by Jeffrey A. Weinberg/OMB/EOP on 02/21/2003 10:13 AM ----------

LRM ID: JAW5

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Friday, February 21, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Richard E. Green (for) Assistant Director for Legislative Reference

OMB CONTACT: Lisa J. Macecevic

PHONE: (202)395-1092 FAX: (202)395-3109

SUBJECT: **TREASURY Testimony on Deposit insurance reform**

DEADLINE: **2 PM Monday, February 24, 2003**

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS:

DISTRIBUTION LIST

AGENCIES:

EOP:

WHGC LRM

OVP LRM

NEC LRM

CEA LRM

Phillip L. Swagel

Augustine T. Smythe

Catherine V. Trinh

Stephen S. McMillin

Halley M. Roberson

Alan B. Rhinesmith

Kenneth L. Schwartz

Hester C. Grippando

Alexander T. Hunt

Jefferson B. Hill

Sarah S. Lee

Philip J. Perry

John F. Wood

Matthew J. Schneider

Elizabeth L. Rossman

Lauren C. Lobrano

Matthew Kirk

James D. Foster

James J. Jukes

Richard E. Green

LRM ID: JAW5 **SUBJECT:** TREASURY Testimony on Deposit insurance reform

RESPONSE TO

LEGISLATIVE REFERRAL

MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: **Lisa J. Macecevic Phone: 395-1092 Fax: 395-3109**

Office of Management and Budget

Branch-Wide Line (to reach legislative assistant): 395-3454

FROM: _____ **(Date)**

_____ **(Name)**

_____ **(Agency)**

_____ **(Telephone)**

The following is the response of our agency to your request for views on the above-captioned subject:

_____ **Concur**

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Revised DRAFT, 20 Feb 2003,

DEPOSIT INSURANCE REFORM

Testimony of Peter R. Fisher
Under Secretary for Domestic Finance
U.S. Department of the Treasury

Before the
Committee on Banking, Housing and Urban Affairs
United States Senate

February 26, 2003

Mr. Chairman, Senator Sarbanes, and Members of the Committee, I appreciate the opportunity to provide the Administration's views on deposit insurance reform.

The Administration strongly supports reforms to our deposit insurance system that would, first, merge the bank and thrift insurance funds, second, allow more flexibility in the management of fund reserves while maintaining adequate reserve levels and, third, ensure that all participating institutions fairly share in the maintenance of FDIC resources in accordance with the insurance fund's loss exposure from each institution. The Administration strongly opposes any changes in deposit insurance coverage limits.

Our current deposit insurance system managed by the Federal Deposit Insurance Corporation (FDIC) serves to protect insured depositors from exposure to bank losses and, as a result, helps to promote public confidence in the U.S. banking system. I am concerned today that our deposit insurance system has structural weaknesses that, in the absence of reform, could deepen over time. I want to emphasize that there is no crisis in the FDIC; both of its funds are strong, well managed, with adequate reserves. This is the right time to act – when we do not face

a crisis – and the Administration supports legislation focused on the repair of these structural weaknesses.

Increases in FDIC benefits, however, including any increases in the level of insurance coverage, are not part of the solution to these problems and should be avoided. When I testified before this Committee last April, I argued that an increase in deposit insurance coverage limits would serve no sound public policy purpose. Nothing has occurred since to change that view. The Administration continues to oppose higher coverage limits in any form. Indeed, we feel that the entire issue of coverage limits regrettably diverts attention from the important reforms that are needed.

Merging the Bank and Thrift Insurance Funds

We support a merger of the Bank Insurance Fund (BIF) and Savings Association Insurance Fund (SAIF) as soon as practicable. A larger, combined insurance fund would be better able to diversify risks, and thus withstand losses, than would either fund separately. Merging the funds while the industry is strong and both funds adequately capitalized would not burden either BIF or SAIF members. A merged fund would also end the possibility that similar institutions could pay significantly different premiums for the same product, as was the case in the recent past and could occur again in the near future without this change. A merger would also recognize what has taken place in practice. As a result of mergers and consolidations, each fund now insures deposits of both commercial banks and thrifts. Indeed, commercial banks now account for 45 percent of all SAIF-insured deposits.

REV_00158499

Flexibility in the Management of FDIC Reserves

Current law generally requires each insurance fund to maintain reserves equal to 1.25 percent of estimated insured deposits, the "designated reserve ratio." When the designated reserve ratio falls below this threshold, the FDIC must charge either a premium sufficient to restore the reserve ratio to 1.25 percent within one year, or a minimum of 23 basis points if the reserve ratio would remain below 1.25 percent for a longer period. Since that latter likelihood would be expected when the banking system, and probably the economy as well, were under stress, such a sharp increase in industry assessments could have an undesirable pro-cyclical effect, further reducing liquidity precisely when liquidity is needed. Were FDIC fund contributions to come from resources that otherwise might be part of capital, every dollar paid would mean a reduction of 10 or 12 dollars in lending, or as much as $12 billion in reduced lending for a $1 billion FDIC replenishment.

Reserves should be allowed to grow when conditions are good. This would enable the fund to absorb losses under adverse conditions without sharp increases in premiums. In order to achieve this objective and also account for changing risks to the insurance fund over time, we support greater latitude for the FDIC to alter the designated reserve ratio within statutorily prescribed upper and lower bounds. The FDIC should have discretion in determining how quickly the fund meets its targeted designated reserve ratio as long as the actual reserve ratio is within these bounds. If the reserve ratio were to fall below the lower bound, the FDIC should restore it to within the statutory range promptly, over a reasonable but limited timeframe. We would also support some reduction in the prescribed minimum premium rate – currently 23 basis points – that would be in effect when it would take more than one year to restore reserves.

REV_00158500

Nevertheless, as we learned from the deposit insurance experience of the 1980s, flexibility must be tempered by a clear requirement for prudent and timely fund replenishment. The statutory range for the designated reserve ratio should strike an appropriate balance between the burden of pre-funding future losses and the avoidance of pro-cyclical costs of replenishing the insurance fund in a downturn. A key benefit to giving the FDIC greater flexibility in managing the reserve ratio within statutorily prescribed bounds is the ability to achieve low, stable premiums over time, adequate to FDIC needs in bad times, with the least burden on financial institutions and on the economy. We also believe that with this reform, the possibility of recourse to taxpayer resources is even further removed.

Full Risk-Based Shared Funding

Every day that they operate, banks and thrifts benefit from their access to federal deposit insurance. For several years, however, the FDIC has been allowed to obtain premiums for deposit insurance from only a few institutions. Currently, over 90 percent of banks and thrifts pay nothing to the FDIC. This is an untenable formula for the long-term stability of the FDIC.

Moreover, current rules frustrate one of the most important reforms enacted in the wake of the collapse of the Federal Savings and Loan Insurance Corporation (FSLIC) and the depletion of FDIC reserves: the requirement for risk-based premiums. When 90 percent of the industry pays no premiums, there is little opportunity to do what any prudent insurer would do, adjust premiums for risk. Nearly all banks are treated the same, and lately they have been treated to free service.

REV_00158501

For example, today a bank can rapidly increase its insured deposits without paying anything into the insurance fund. As is now well known, some large financial companies have greatly augmented their insured deposits in the past few years by sweeping uninsured funds into their affiliated depository institutions – without compensating the FDIC at all. Other major financial companies might be expected to do the same in the future. In addition, most of the over 1,100 banks and thrifts chartered after 1996 have never paid a penny in insurance premiums. Yet if insured deposit growth by a relatively few institutions were to cause the reserve ratio to decline below the designated reserve ratio, all banks would be required to pay premiums to raise reserves.

To rectify this "free rider" problem and ensure that institutions appropriately compensate the FDIC commensurate with their risk, Congress should remove the current restrictions on FDIC premium-setting. In order to recognize past payments to build up current reserves, we support the proposal to apply temporary transition credits against future premiums that would be distributed based on a measure of each institution's contribution to the build-up of insurance fund reserves in the early-to-mid 1990s. In addition to transition credits, allowing the FDIC to provide assessment credits on an on-going basis would permit the FDIC to collect payments from institutions more closely in relation to their deposit growth.

We strongly oppose rebates, which would drain the insurance fund of cash. Over much of its history, the FDIC insurance fund reserve ratio remained well above the current target, only to drop into deficit conditions by the beginning of the 1990s. Therefore, it is vital that funds

REV_00158502

collected in good times, and the earnings on those collections, be available for times when they will be needed.

There are other important structural issues that need to be addressed sooner than later. It would be appropriate to evaluate whether there are changes to the National Credit Union Share Insurance Fund (NCUSIF) that would be suitable in light of the proposed reforms made to FDIC insurance so as to avoid unintended disparities between the two programs. Perhaps even more important is the need to address the long-term funding of supervision by the National Credit Union Administration, particularly in view of recent trends toward conversions from federal to state charters and growing consolidation of credit unions. Similarly, there are structural problems in the funding of the Office of the Comptroller of the Currency and the Office of Thrift Supervision, the resolution of which should not be delayed.

Deposit Insurance Coverage Limits

The improvements to the deposit insurance system that I have just outlined are vital to the system's long-term health. Other proposals, however, would not contribute to the strength of the taxpayer-backed deposit insurance system any may actually weaken it.

Increasing the general coverage limit up front or through indexation, or raising coverage limits for particular categories of deposits, is unneeded and harmful. Savers do not need an increase in coverage limits and would receive no real financial benefit. Higher coverage limits would not predictably advantage any particular size of banks, but could increase all banks' insurance premium costs. Higher coverage limits would mean greater taxpayer exposure by

REV_00158503

adding to the contingent liabilities of the government and by weakening market discipline. An increase in coverage limits would reduce – not enhance – competition among banks in general as the efficient and inefficient offer the same investment risk to depositors; in fact, perversely, investors would be drawn at no risk to the worst banks, which usually offer the highest interest rates.

Higher Coverage Limits Not Sought by Savers

First of all, the clamor for raising coverage limits does not come from savers. The evidence that current coverage limits constitute a burden to savers is scant; there has been little demand from depositors for higher maximum levels. The recent consumer finance survey data released by the Federal Reserve confirm what we found in the previous survey, namely that raising the coverage limit would do little, if anything, for most savers. Median family deposit balances are only $4,000 for transaction account deposits and $15,000 for certificates of deposit, far below the current $100,000 ceiling. The same holds true even when considering only older Americans, a segment of the population with higher bank account usage: median transaction account balances and certificates of deposit total $8,000 and $20,000, respectively, for those households headed by individuals between the ages of 65 and 74.

Examining the Federal Reserve data for retirement accounts shows present maximum deposit insurance coverage to be more than adequate. The median balance across age groups held in IRA/Keogh accounts at insured depository institutions is only $15,000. For the 65 to 69 age group, median household IRA/Keogh deposits total $30,000.

REV_00158504

A small group of relatively affluent savers might find greater convenience from increased maximum coverage levels. But it is a tiny group. Only 3.4 percent of households with bank accounts held any uninsured deposits, and the median income of these households was more than double the median income of all depositors in the survey.

Under current rules, these savers have plenty of options, with the market place presenting new options for unlimited deposit insurance coverage without changing federal coverage limits. At little inconvenience, savers with substantial bank deposits – including retirees and those with large bank savings for retirement – may place deposits at any number of banks to obtain as much FDIC coverage as desired. They may also establish accounts within the same bank under different legal capacities, qualifying for several multiples of current maximum coverage limits. Firms are now developing programs for exchanging depositor accounts that could offer seamless means of providing unlimited coverage for depositors without any change in current limits, and in a manner that strengthens market discipline on banks.

One of the fundamental rules of prudent retirement planning is to diversify investment vehicles. Many individuals, including those who are retired or planning for retirement, feel comfortable putting substantial amounts into uninsured mutual funds, money market accounts, and a variety of other investment instruments. Just 21 percent of all IRA/Keogh funds are in insured depository institutions. There is simply no widespread consumer concern about existing coverage limits that would justify extending taxpayer exposure by creating a new government-insured retirement program under the FDIC.

REV_00158505

Coverage Limits and Bank Competition

Banks, regardless of size, continue to have little trouble attracting deposits under the existing coverage limits. Federal Reserve data have shown that smaller banks have grown more rapidly and experienced higher rates of growth in both insured and uninsured deposits than have larger banks over the past several years. After adjusting for the effects of mergers, domestic assets of the largest 1,000 commercial banks grew 5.5 percent per year on average from 1994 to 2002; all other banks grew 13.8 percent per year on average. Nor are smaller banks losing the competition for uninsured deposits. Uninsured deposits of the top 1,000 grew 9.9 percent annually on average over this period, while such deposits at smaller banks on average grew 21.4 percent annually.

Higher Coverage Limits for Municipal Funds Erode Discipline

Proposals for substantially higher levels of protection of municipal deposits than of other classes of deposits would exacerbate the inherent moral hazard problems of deposit insurance. Rather than keep funds in local institutions, state and municipal treasurers would have powerful incentives to seek out not the safest institutions in which to place taxpayer funds but rather those offering the highest interest rates. Since these are usually riskier institutions, state and municipal treasurers would be drawn into funding the more troubled banks. Local, well run, healthy banks might have to pay a premium in increased deposit rates to retain municipal business. Today there are incentives for state and local government treasurers to monitor risks taken with large volumes of public sector deposits. Should the FDIC largely protect these funds, an important source of credit judgment on the lending and investment decisions of local banks would be lost.

REV_00158506

Conclusion

In conclusion, I reaffirm the Administration's support for the three-part general framework that I have outlined to correct the structural flaws in the deposit insurance system. I encourage Congress to pursue these improvements with a steady focus on the important work that needs to be done. The Administration cannot support legislation that raises deposit insurance coverage limits in any form, and we urge that Congress avoid such an unneeded and counterproductive diversion from real and necessary reform.

REV_00158507

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Camp, Libby <Libby.Camp@DHS.GOV>
Sent: 2/24/2003 3:29:02 PM
Subject: : Re: FW: Political Activity Memos
Attachments: P_CN35E003_WHO.TXT_1.htm; P_CN35E003_WHO.TXT_2.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:24-FEB-2003 20:29:02.00
SUBJECT:: Re: FW: Political Activity Memos
TO:"Camp, Libby" <Libby.Camp@DHS.GOV> ("Camp, Libby" <Libby.Camp@DHS.GOV> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

I think the memo should be sent from acting gc (not secretary) and should not be sent as one of first guidances, per e-mails below. Substance looks fine, although pelase come back to me before you all decide to issue.
Hope you are well.

"Camp, Libby" <Libby.Camp@DHS.GOV>
02/24/2003 07:51:59 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: FW: Political Activity Memos

Hey-

Here is a revised political activity memo for your review. Please let me know your thoughts on this.

Thanks!

Lib

Libby Camp

White House Liaison

Department of Homeland Security

P: 202-282-8220

-----Original Message-----
From: Clark, Lucy
Sent: Monday, February 24, 2003 6:57 PM

To: Lawlor, Bruce
Cc: Hill, Ken; Christian, Cindy; Wojnarowski, Doris; 'Coyle, Robert'; Camp, Libby
Subject: FW: Political Activity Memos

Please find attached a revised memo on political activities. I suggest this be issued instead of the IG drafts. Also, Doris' point below about the timing of issuance is a good one. Defer to you on how you want to proceed.

-----Original Message-----
From: Wojnarowski, Doris
Sent: Monday, February 24, 2003 3:45 PM
To: Clark, Lucy
Cc: 'Coyle, Robert'
Subject: Political Activity Memos

Lucy, I have proposed a redrafted single memo on political activities for the Secretary's signature. The IG drafts had some substantive problems; more importantly, my advice would be that the Secretary not issue such detailed guidance on almost any topic, especially not this one. Four memos on political activity is overkill in my mind. Even with this single memo, I would suggest that this not be among the first policy statements that he issue--for example, has he issued civil rights or EEO statements, a general ethics statement? I know that the NAC transition packages included policy statements on these topics; the package I received did not have signatures of anyone on these documents. There is a concern about the message if the political activities memo goes out first, especially given that we are not really in a campaign season.

Doris

- att1.htm
- HatchActmemo.doc

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_CN35E003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_CN35E003_WHO.TXT_2>

Hey-

Here is a revised political activity memo for your review. Please let me know your thoughts on this.</p>

Thanks!

Lib

Libby Camp
White House Liaison
Department of Homeland Security
P: 202-282-8220

-----Original Message-----
From: Clark, Lucy
Sent: Monday, February 24, 2003 6:57 PM
To: Lawlor, Bruce
Cc: Hill, Ken; Christian, Cindy; Wojnarowski, Doris; 'Coyle, Robert'; Camp, Libby
Subject: FW: Political Activity Memos

Please find attached a revised memo on political activities. I suggest this be issued instead of the IG drafts. Also, Doris' point below about the timing of issuance is a good one. Defer to you on how you want to proceed.

-----Original Message-----
From: Wojnarowski, Doris
Sent: Monday, February 24, 2003 3:45 PM
To: Clark, Lucy
Cc: 'Coyle, Robert'
Subject: Political Activity Memos< /span>

Lucy, I have proposed a redrafted single memo on political activities for the Secretary's signature. The IG drafts had some substantive problems; more importantly, my advice would be that the Secretary not issue such detailed guidance on almost any topic, especially not this one. Four memos on political activity is overkill in my mind. Even with this single memo, I would suggest that this not be among the first policy statements that he issue--for example, has he issued civil rights or EEO statements, a general ethics statement? I know that the NAC transition packages included policy statements on these topics; the package I received did not have signatures of anyone on these documents. There is a concern about the message if the political activities memo goes out first, especially given that we are not really in a campaign season.

Doris

To: All DHS Employees

From: The Secretary

Subject: Political Activities of Federal Employees

Below is a brief summary of the rules imposed on DHS employees with respect to political activities; that is, activities directed towards the success or failure of a candidate for partisan political office, a political party, or a partisan political group. The Hatch Act, as amended (5 U.S.C. §§ 7321-7326), generally permits most Federal employees to actively participate in political management and political campaigns. However, some employees continue to be prohibited from engaging in partisan political activity, and all employees face at least some restrictions on their conduct. These rules do not apply to members of the uniformed services; members should look to their parent service for guidance on political activities.

General Schedule and Non-Career Employees

Most employees may participate in most types of political activity on their own time. This category includes General Schedule, Senior Level, Schedule C, and non-career Senior Executive Service (SES) employees. Specifically, these employees may:

- Be candidates for public office in nonpartisan elections
- Assist in voter registration drives
- Express opinions about candidates and issues
- Contribute money to political organizations
- Attend political fundraisers
- Join or attend political rallies, meetings, parties, and clubs
- Sign nominating petitions
- Campaign for or against candidates or questions
- Make campaign speeches for candidates in partisan elections
- Distribute campaign literature.

However, some activities remain prohibited. Specifically, employees may not:

- Use official position to interfere with an election
- Solicit or receive political contributions, except in very limited circumstances
- Knowingly solicit or discourage political activity of someone who has business with the Government
- Engage in political activity while on duty, while wearing a uniform or official insignia, in a Government office, or while using a Government vehicle.

The restriction on conduct of political activities while on duty prohibits, among other things, the wearing of campaign buttons and the placement of political posters in work areas. It does not prohibit bumper stickers on privately-owned vehicles parked on Government property.

Career SES, the Secret Service, Employees of the Office of Investigative Programs of the Customs Service, and Administrative Law Judges (ALJs)

Career SES members, Secret Service personnel, certain Customs Service employees, and ALJs still may not engage in partisan political activity. This is a significant restriction on permissible political activities. This category of employees may:

- Assist in voter registration drives
- Express opinions about candidates and issues
- Contribute money to political organizations or attend political fundraising functions
- Attend political rallies and meetings
- Join political clubs or parties
- Sign nominating petitions
- Campaign for or against referendum questions, constitutional amendments, and municipal ordinances
- Participate in campaigns where none of the candidates represent a political party.

However, most political activities are prohibited for this group. Specifically, in addition to activities which General Schedule and non-career employees may not engage in, personnel in this category may not:

- Campaign for or against candidates or slates of candidates in partisan elections
- Make campaign speeches for candidates in partisan elections
- Collect contributions for, or sell tickets to, political fundraising functions
- Distribute campaign material in partisan elections
- Organize or manage partisan political rallies or meetings
- Hold office in partisan political clubs or parties
- Circulate nominating petitions in partisan elections
- Be candidates for public office in partisan elections
- Register voters on behalf of a particular political party.

Presidential Appointees Subject to Senate Confirmation (PAS)

PAS, with the exception of the Inspector General, may engage in political activity while on duty, while wearing a uniform or other insignia, while in a Government office, or while using a Government vehicle. Funds from the Treasury may not be used to support these activities so any additional costs incurred by the Government must be reimbursed.

This brief summary of Hatch Act restrictions is not intended as a substitute for individualized advice. Special rules apply to local elections in certain designated municipalities in Maryland, Virginia, and several other states and more detailed guidance on political activities may be found at 5 CFR Part 734. In the event of any uncertainty on the application of the Hatch Act, employees may contact the Office of the General Counsel. Employees may also obtain advice directly from the Office of the Special Counsel (www.osc.gov) which has exclusive authority to provide advisory opinions on this subject.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Arthur B. Applegate/WHO/EOP@EOP [WHO] <Arthur B. Applegate>
CC: emory rounds/who/eop@eop [WHO] <emory rounds>;nanette everson/who/eop@eop [WHO] <nanette everson>
Sent: 2/24/2003 4:43:22 PM
Subject: : Re: Hatch Act / 2d draft
Attachments: P_LG45E003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:24-FEB-2003 21:43:22.00
SUBJECT:: Re: Hatch Act / 2d draft
TO:Arthur B. Applegate (CN=Arthur B. Applegate/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:emory rounds (CN=emory rounds/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:nanette everson (CN=nanette everson/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

I am not real big on the "24/7" shorthand, which seems stricter in my judgment than the law and regs require.

Arthur B. Applegate
02/12/2003 09:49:44 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: Nanette Everson/WHO/EOP@EOP, Emory Rounds/WHO/EOP@EOP
Subject: Hatch Act / 2d draft

Brett,

Attached is the 2d draft of the Hatch Ac t Crib Sheet. Per your suggestion we have reorganized and consolidated the bullet points. We have revised the bullet point on the use of e-mails and ask that you consider retaining this in the document in light of the recent OSC Advisory on the use of e-mails for political purposes. If you can incorporate any further changes into the document while keeping it to one page we can save a lot of back and forth e-mails. Our goal is to insure that you are completely satisfied with the final version. (I am working on solving the indent problem with the first two bullet points).
Thanks again for your assistance.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_LG45E003_WHO.TXT_1>

POLITICAL ACTIVITIES (HATCH ACT) GUIDANCE

- **While off duty** and subject to the prohibitions on the improper use of an official title and solicitation of contributions, you **may** vote, participate in political organizations and campaigns, make political contributions and attend fundraisers, serve as a political party officer or as a political convention delegate; you may endorse, oppose or canvass for votes in support of a candidate or party and organize political groups;
- If **(and only if)** you are a staff member whose government duties are "24/7", i.e., continue after normal duty hours and away from the normal duty post, you **may** engage in political activity—such as party or campaign related meetings or telephone calls—while on duty, or in a government building or vehicle, so long as it does not interfere with official duties. But, the political entity must pay any non-incidental costs associated with such activity.
- An activity or event is "political" if it is conducted for a partisan election or campaign, or for a political party. Classify an event as "political" or "official" objectively, not based on any possible political ramifications. (A good starting point is determining who is organizing the event). If speaking at an official event, you **may not** expressly advocate a candidate's election.
- You **may** speak at a political fundraiser, and be listed on the event invitation as a speaker or guest, but your official government title **may not** be used either on the invitation or during your introduction.
- **Regardless of your government position or if your "24/7"**, you **may not** solicit, receive, or accept political contributions, host a political fundraiser, or conduct political fundraising on government property,
- You **may not** use your official authority to interfere with or affect the result of an election, to coerce any person to engage in political activity, promise government employment or any other benefit in exchange for political activity, threaten employment loss for political activity, solicit or accept anything of value to obtain public office for another, or solicit, accept, or receive uncompensated volunteer services from a subordinate employee or from a company with matters pending before the Administration.
- You **may not** travel on corporate or private aircraft for political trips, but you **may** travel on a charter aircraft leased by a political entity.
- E-mail messages that solicit support for political candidates or parties, may, depending on the circumstances, violate the Hatch Act.
- All political activity of commissioned officers need to be cleared through the Office of Political Affairs and the White House Counsel's Office.
  White House Counsel's Office – 202-456-2608

From: CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/24/2003 5:19:50 PM
Subject: : FW: WH Liaison Meeting

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:24-FEB-2003 22:19:50.00
SUBJECT:: FW: WH Liaison Meeting
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

When can you sit down with us?;
;
;
-----Original Message-----
From: Cabral, Raquel
Sent: Friday, February 21, 2003 3:03 PM
To: Litkenhaus, Colleen
Subject: WH Liaison Meeting

We are having a WH Liaison meeting Monday March 3rd at 1:00.; Dina Powell, Matt Schlapp, Brian Montgomery, and Karl Rove will all speak to the group. After the speakers we are taking the Liaisons to take their picture with POTUS.; We were hoping to have snack type food at the event and would like to know if there are any office funds we can use to pay for the food....; Any information would be greatly appreciated.; Thanks

From: Litkenhaus, Colleen
To: <Kavanaugh, Brett M.>
Sent: 2/24/2003 10:19:43 PM
Subject: FW: WH Liaison Meeting

When can you sit down with us?

-----Original Message-----
From: Cabral, Raquel
Sent: Friday, February 21, 2003 3:03 PM
To: Litkenhaus, Colleen
Subject: WH Liaison Meeting

We are having a WH Liaison meeting Monday March 3rd at 1:00. Dina Powell, Matt Schlapp, Brian Montgomery, and Karl Rove will all speak to the group. After the speakers we are taking the Liaisons to take their picture with POTUS. We were hoping to have snack type food at the event and would like to know if there are any office funds we can use to pay for the food.... Any information would be greatly appreciated. Thanks

From: CN=Wendy J. Grubbs/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/25/2003 12:58:57 AM
Subject: : Re:

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Wendy J. Grubbs ( CN=Wendy J. Grubbs/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:25-FEB-2003 05:58:57.00
SUBJECT:: Re:
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Yup...wanted in cloak room for members.

.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Matthew A. Schlapp/WHO/EOP@EOP [WHO] <Matthew A. Schlapp>;Kyle Sampson/WHO /EOP@EOP [WHO] <Kyle Sampson>;Sara M. Taylor/WHO/EOP@EOP [WHO] <Sara M. Taylor>
CC: Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>
Sent: 2/25/2003 7:17:25 AM
Subject: : important item from Des Moines Register about Colloton and possible US Attorney replacement

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:25-FEB-2003 12:17:25.00
SUBJECT:: important item from Des Moines Register about Colloton and possible US Attorney
replacement
TO:Matthew A. Schlapp ( CN=Matthew A. Schlapp/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Sara M. Taylor ( CN=Sara M. Taylor/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

JUSTICE COLLOTON? Steve Colloton, U.S. attorney for the Southern District
of Iowa, has been nominated for the 8th U.S. Circuit Court of Appeals in
St. Louis. Lots of Republican insiders say the 40-year-old Colloton, who
caught the eye of conservatives when he worked on Whitewater probes for
Ken Starr in 1994-96, might make a good Supreme Court nominee someday.
Colloton also clerked for Chief Justice William Rehnquist in 1989. The
Iowa City native is young, conservative and doesn't have a big paper trail
for liberals to use against him.
But Colloton's confirmation is far from a sure thing. The word from Tom
Harkin's camp is the senator is not inclined to go along with Colloton if
the Bush administration makes state Senator Chuck Larson of Cedar Rapids
his replacement as U.S. attorney.
Larson is angling for the governorship, and Harkin folks worry the new job
with enable Larson to get favorable attention as a crime-busting lawman.
```

From: Nelson, Carolyn
To: <Kavanaugh, Brett M.>
Sent: 2/25/2003 1:08:18 PM
Subject: Is JSC on for sure?

From:	Nelson, Carolyn
To:	<Wingate, Heather>;adam charnes <adam.charnes@usdoj.gov>;adam ciongoli <adam.ciongoli@usdoj.gov>;albert brewster <albert.brewster@usdoj.gov>;amy bass <amy.bass@usdoj.gov>;andrew beach <andrew.beach@usdoj.gov>;<Bartolomucci, H. Christopher>;<Bennett, Melissa S.>;<Brilliant, Hana F.>;<Bumatay, Patrick J.>;<Ellison, Kimberly>;evelyn long <evelyn.v.long@usdoj.gov>;<Francisco, Noel J.>;<Gray, Ann>;<Grubbs, Wendy J.>;jason sutton <jason.j.sutton@usdoj.gov>;<Jones, Alison>;<Kavanaugh, Brett M.>;Kristi Remington <Kristi.l.Remington@usdoj.gov>;<Kyle, Ross M.>;<Leitch, David G.>;<Lockart, Sarah K.>;<McMaster, David>;<Montiel, Charlotte L.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Ralston, Susan B.>;<Sampson, Kyle>;tracy washington <tracy.t.washington@usdoj.gov>;viet dinh <viet.dinh@usdoj.gov>;<Walker, Helgard C.>;wendy keefer <wendy.j.keefer@usdoj.gov>
CC:	<Ganter, Jonathan F.>;<Brilliant, Hana F.>
Sent:	2/25/2003 2:04:40 PM
Subject:	WHJSC tomorrow

Please note that the WHJSC will meet tomorrow, 2/25, at 4:00 pm in the Roosevelt Room.

Thanks much!

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: William T. Griffin/WHO/EOP@EOP [WHO] <William T. Griffin>
Sent: 2/25/2003 3:39:28 PM
Subject: : Re: Estrada interview

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:25-FEB-2003 20:39:28.00
SUBJECT:: Re: Estrada interview
TO:William T. Griffin (CN=William T. Griffin/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

good; I've booked it

William T. Griffin
02/25/2003 06:24:54 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Estrada interview

how about monday?

Brett M. Kavanaugh
02/25/2003 06:21:27 PM
Record Type: Record

To: William T. Griffin/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Re: Estrada interview

Yes

.

----- Original Message -----
From:William T. Griffin/WHO/EOP
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 02/25/2003 05:58:49 PM
Subject: Estrada interview

Can you do Good Day USA Monday or Tuesday morning at 9:05 AM?

From: Snee, Ashley
To: <Kavanaugh, Brett M.>;<Grubbs, Wendy J.>
Sent: 2/25/2003 5:10:20 PM
Subject: RE: Nora odonnell

absolutely

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Tuesday, February 25, 2003 5:04 PM
To: Grubbs, Wendy J.
Cc: Snee, Ashley
Subject: Re: Nora odonnell

should we make sure she has the letter to schumer as well?

Wendy J. Grubbs
02/25/2003 05:04:36 PM
Record Type: Record

To: Ashley Snee/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Nora odonnell

Asked for gonzalez letters sent today and is working on a piece for tonight...

.

From: Office of Global Communications <Global.Messenger@WhiteHouse.Gov>
To: Carolene Langie Office of Global Communications/WHO/EOP@EOP [WHO] <Carolene Langie Office of Global Communications>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 2/25/2003 1:42:55 PM
Subject: : White House Global Messenger -- 02/26/2003
Attachments: P_ENH6E003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Office of Global Communications <Global.Messenger@WhiteHouse.Gov> (Office of Global Communications <Global.Messenger@WhiteHouse.Gov> [UNKNOWN])
CREATION DATE/TIME:25-FEB-2003 18:42:55.00
SUBJECT:: White House Global Messenger -- 02/26/2003
TO:Carolene Langie Office of Global Communications (CN=Carolene Langie Office of Global Communications/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

(See attached file: GM 2-26-03 FINAL.doc)

THE GLOBAL MESSENGER

Wednesday, February 26, 2003

******KEY POINTS******

- The future of peace depends on the disarmament of Iraq. Saddam Hussein continues to be in violation of UN Security Council Resolution 1441 and the terms of that resolution must be fully respected.

- The Security Council has taken a clear stand, and it now faces a clear choice.
With all the world watching, the Council will now show whether it means what it
says.

- The US, the UK, and Spain introduced a new Security Council resolution that
says in clear and simple terms that Iraq is not complying with Resolution 1441.
This is not a second resolution on Iraq's weapons of mass destruction, it is the
18th in a long series of resolutions going back 12 years.

- During these final deliberations, there is but one question for the Council to
address: is Saddam Hussein complying with Resolution 1441? That resolution did
not call for hints of progress or minor concessions, but demanded full and immediate disarmament.

- We will not allow the Iraqi dictator, with a history of aggression and close
ties to terrorist groups, to continue to possess or produce weapons of mass destruction.

******TODAY'S SCHEDULE******
All Times Eastern Standard Time Unless Noted
Subject to Change

11:15 am President Bush meets with President Aliyev of Azerbaijan

1:15 pm White House Briefing by Ari Fleischer

7:00 pm President Bush delivers remarks to the American Enterprise Institute

******PREDICTABLE BEHAVIOR******
Administration officials' forewarning against Saddam's last-minute evasions

"I can absolutely predict...that Saddam Hussein will do what he's done over the
last 12 years. Whenever he's under tremendous pressure, he puts forward a little cooperation in hopes he can release the pressure, and then he goes back
to cheating and retreating and deceiving again."
NSA Rice, in briefing, 2-24-03

"The Iraqis are playing a game here. They do this every time they see a little
bit of pressure. What they're trying to do is to create a little bit of a sense
that they're moving forward, so that they can release the pressure on themselves, but they have one thing to do and one thing only and that is to disarm."
NSA Rice, CNN
's Late Edition, 2-9-03

"We have had ample time now to see that the tricks of the past -- he's employing
the tricks of the past today. He's giving people the run-around."
President Bush, to reporters, 1-21-03

"[Saddam] has a way of finding half-truths that try to get him off the hook with
the world?the history of Saddam Hussein is he will do everything in his power to
lie and deceive, to deny and hide."
Ari Fleischer, press briefing, 12-2-02

"For 11 long years, Saddam Hussein has sidestepped, crawfished, wheedled out of
any agreement he had made. I am going to call upon the world to recognize that
he is stiffing the world."
President Bush, to reporters, 9-4-02

******KEY QUOTES******

"Fifteen weeks have now passed since Resolution 1441 was adopted and in that
period of time it has been made clear on a number of occasions that Iraq is stubbornly unwilling... to take advantage of the final opportunity...this is an
acid test for the Security Council...if it does not give genuine effect to what
it said so solemnly through Resolution 1441, then it does risk doing long-term
damage to its own credibility."
Australian Prime Minister Howard, to reporters, 2-25-03

"Resolution 1441 called for full, unconditional and immediate compliance. Not
10 per cent, not 20 per cent, not even 50 per cent, but 100 per cent compliance.
Anything less will not do."
British Prime Minister Blair, in remarks, 2-25-03

THE WHITE HOUSE
Office of Global Communications

For more information log on to http://www.whitehouse.gov/ogc/

****

You have previously expressed interest in obtaining news and information
from
the White House.

The White House Office of Global Communications distributes information
about
the President's messages to the world. This office distributes updates on
major
international topics such as the global war on terror, the case for
regime
change in Iraq, and more broadly, the ways in which we can all
better
communicate the aspirations and interests that Americans
share with
freedom-loving people everywhere. - GM 2-26-03 FINAL.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ENH6E003_WHO.TXT_1>

THE GLOBAL MESSENGER

Wednesday, February 26, 2003

TODAY'S SCHEDULE

All Times Eastern Standard Time Unless Noted
Subject to Change

11:15 am	President Bush meets with President Aliyev of Azerbaijan
1:15 pm	White House Briefing by Ari Fleischer
7:00 pm	President Bush delivers remarks to the American Enterprise Institute

PREDICTABLE BEHAVIOR

Administration officials' forewarning against Saddam's last-minute evasions

"I can absolutely predict...that Saddam Hussein will do what he's done over the last 12 years. Whenever he's under tremendous pressure, he puts forward a little cooperation in hopes he can release the pressure, and then he goes back to cheating and retreating and deceiving again."
NSA Rice, in briefing, 2-24-03

"The Iraqis are playing a game here. They do this every time they see a little bit of pressure. What they're trying to do is to create a little bit of a sense that they're moving forward, so that they can release the pressure on themselves, but they have one thing to do and one thing only and that is to disarm."
NSA Rice, CNN's *Late Edition*, 2-9-03

"We have had ample time now to see that the tricks of the past -- he's employing the tricks of the past today. He's giving people the run-around."
President Bush, to reporters, 1-21-03

"[Saddam] has a way of finding half-truths that try to get him off the hook with the world…the history of Saddam Hussein is he will do everything in his power to lie and deceive, to deny and hide."
Ari Fleischer, press briefing, 12-2-02

"For 11 long years, Saddam Hussein has sidestepped, crawfished, wheedled out of any agreement he had made. I am going to call upon the world to recognize that he is stiffing the world."
President Bush, to reporters, 9-4-02

KEY POINTS

- The future of peace depends on the disarmament of Iraq. Saddam Hussein continues to be in violation of UN Security Council Resolution 1441 and the terms of that resolution must be fully respected.
- The Security Council has taken a clear stand, and it now faces a clear choice. With all the world watching, the Council will now show whether it means what it says.
- The US, the UK, and Spain introduced a new Security Council resolution that says in clear and simple terms that Iraq is not complying with Resolution 1441. This is not a second resolution on Iraq's weapons of mass destruction, it is the 18th in a long series of resolutions going back 12 years.
- During these final deliberations, there is but one question for the Council to address: is Saddam Hussein complying with Resolution 1441? That resolution did not call for hints of progress or minor concessions, but demanded full and immediate disarmament.
- We will not allow the Iraqi dictator, with a history of aggression and close ties to terrorist groups, to continue to possess or produce weapons of mass destruction.

KEY QUOTES

"Fifteen weeks have now passed since Resolution 1441 was adopted and in that period of time it has been made clear on a number of occasions that Iraq is stubbornly unwilling… to take advantage of the final opportunity…this is an acid test for the Security Council…if it does not give genuine effect to what it said so solemnly through Resolution 1441, then it does risk doing long-term damage to its own credibility."
Australian Prime Minister Howard, to reporters, 2-25-03

"Resolution 1441 called for full, unconditional and immediate compliance. Not 10 per cent, not 20 per cent, not even 50 per cent, but 100 per cent compliance. Anything less will not do. "
British Prime Minister Blair, in remarks, 2-25-03

THE WHITE HOUSE
Office of Global Communications

For more information log on to www.whitehouse.gov/ogc

From: Nelson, Carolyn
To: <Bartolomucci, H. Christopher>;<Ullyot, Theodore W.>;<Leitch, David G.>;<Montiel, Charlotte L.>;<Brilliant, Hana F.>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>;<Walker, Helgard C.>
Sent: 2/25/2003 5:47:43 PM
Subject: JSC Prep

February 25 @ 3:45 pm in the Judge's Office.

Thanks!!

From: [UNKNOWN] <McNally, Edward>
To: Chadwick/WHO/EOP@Exchange [UNKNOWN] <Chadwick/WHO/EOP@Exchange>
CC: <Falkenrath>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6F0F0D0E-F6542B48-85256B45-6B8324 [UNKNOWN] <Richard>;lucy.clark@dhs.gov [UNKNOWN] <lucy.clark@dhs.gov>;<Kaplan>;JKaplan@omb.eop.gov [OMB] <Joel>;ellen.mcclain@dhs.gov [UNKNOWN] <ellen.mcclain@dhs.gov>;asa.hutchinson@dhs.gov [UNKNOWN] <asa.hutchinson@dhs.gov>;baruch.weiss@dhs.gov [UNKNOWN] <baruch.weiss@dhs.gov>;chris.smith@do.treas.gov [UNKNOWN] <chris.smith@do.treas.gov>;<Allen>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6666E076-21120EDE-85256B21-78251A [UNKNOWN] <Michael>;<Kirk>;Matthew_Kirk@who.eop.gov [WHO] <Matthew>;<Pelletier>;Eric_C._Pelletier@who.eop.gov [WHO] <Eric C.>;<Gill>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/2E92E7F4-4C1D876A-85256C56-3E52E4 [UNKNOWN] <Faisal M.>;<Reese>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/5652E46B-E37C4517-85256CC9-5FA100 [UNKNOWN] <Shelley>;<Kavanaugh>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6246020-C20FEE19-852569DA-7648DC [UNKNOWN] <Brett M.>;<Powell>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C457024B-B3447231-85256C00-44CFA6 [UNKNOWN] <Benjamin A.>
Sent: 2/25/2003 2:26:51 PM
Subject: Actions Items fr Tonight's Conf. Call on Customs revenue auth. delegation

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (MS Mail)
CREATOR:McNally, Edward ( [ UNKNOWN ] )
CREATION DATE/TIME:25-FEB-2003 19:26:51.00
SUBJECT:Actions Items fr Tonight's Conf. Call on Customs revenue auth. delegation
TO:Chadwick/WHO/EOP@Exchange ( Chadwick/WHO/EOP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
CC:Falkenrath, Richard ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6F0F0D0E-
F6542B48-85256B45-6B8324 [ UNKNOWN ] )
READ:UNKNOWN
CC:lucy.clark@dhs.gov ( lucy.clark@dhs.gov [ UNKNOWN ] )
READ:UNKNOWN
CC:Kaplan, Joel ( JKaplan@omb.eop.gov [ OMB ] )
READ:UNKNOWN
CC:ellen.mcclain@dhs.gov ( ellen.mcclain@dhs.gov [ UNKNOWN ] )
READ:UNKNOWN
CC:asa.hutchinson@dhs.gov ( asa.hutchinson@dhs.gov [ UNKNOWN ] )
READ:UNKNOWN
CC:baruch.weiss@dhs.gov ( baruch.weiss@dhs.gov [ UNKNOWN ] )
READ:UNKNOWN
CC:chris.smith@do.treas.gov ( chris.smith@do.treas.gov [ UNKNOWN ] )
READ:UNKNOWN
CC:Allen, Michael ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=6666E076-21120EDE-85256B21-78251A [ UNKNOWN ] )
READ:UNKNOWN
CC:Kirk, Matthew ( Matthew_Kirk@who.eop.gov [ WHO ] )
READ:UNKNOWN
CC:Pelletier, Eric C. ( Eric_C._Pelletier@who.eop.gov [ WHO ] )
READ:UNKNOWN
CC:Gill, Faisal M. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=2E92E7F4-4C1D876A-85256C56-3E52E4 [ UNKNOWN ] )
READ:UNKNOWN
CC:Reese, Shelley ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=5652E46B-
E37C4517-85256CC9-5FA100 [ UNKNOWN ] )
READ:UNKNOWN
CC:Kavanaugh, Brett M. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6246020-
C20FEE19-852569DA-7648DC [ UNKNOWN ] )
READ:UNKNOWN
CC:Powell, Benjamin A. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=C457024B-
B3447231-85256C00-44CFA6 [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Thanks Kirsten. By way of add'l follow up, our understanding of the action
```

items from tonight's conf. call is as follows:

Baruch to cont. drafting his alternative option, and then send it to George Wolfe, Lucy, you, Asa, us;

Lucy's tweaking Treas' orig. draft from a week ago, and also circulating it (and this is the likely plan A?);

Asa to call Thomas to tell him a proposed option is coming;

Your crew to meet w/ Angela and deliver the option that gets blessed by Asa; and

DHS/Treas to continue to ID a true Plan B to turn to, in the event the clock runs out on us Friday.

Shelley to set up conf. call for tomorrow following Kirsten's 4:00 on the Hill.

Pls feel free to add, revise, improve. Thanks all.

From: Kirsten Chadwick/WHO/EOP@Exchange on 02/25/2003 06:28:38 PM

Record Type: Record

To: Richard Falkenrath/WHO/EOP@EOP, Lucy.Clark@DHS.GOV@SMTP@Exchange, Edward McNally/WHO/EOP@EOP, Joel Kaplan/WHO/EOP@Exchange

cc: See the distribution list at the bottom of this message

Subject: RE: CTR Delegation

Talked to Angela - we are scheduled to meet in her office at 400p tomorrow - I think we should go with same team as before - Baruch, Chris, Michael and me. Baruch does this work on your schedule? So with the plan discussed, it sounds like after we have paper, Mr Hutchinson will call Thomas and lay the ground work and then we will go up and see what we can do.

I talked to her further about concurrence and it sounds like she wants more specifics included - they have a list of statutes - but they will only give us the list if we agree to include them all. Not saying we should do that but I think where we are headed with our paper tomorrow will be in the ball park.

Matt - you will share with Sen Finance at the same time, right - I think we need to try to box ways and means in a bit with them.

Thx

KAC

-----Original Message-----
From: Falkenrath, Richard

Sent: Monday, February 24, 2003 10:18 AM

To: Chadwick, Kirsten; Lucy.Clark@DHS.GOV; McNally, Edward; Falkenrath, Richard; Kaplan, Joel

Cc: Ellen.Mcclain@DHS.GOV; Asa.Hutchinson@DHS.GOV; Baruch.Weiss@DHS.GOV; Reese, Shelley
Subject: Re: CTR Delegation

Kirsten: sorry but I didn't get your call. I'm in LA now returning tonight.

Two questions

What odds to you give a technical correction amdt, given that we would strongly oppose and that it wouldn't just be "techical"?

If Treasury did something just short of full delegation (ie, a modest concession like we discussed at mtg), would thomas still try to change the law?

----- Original Message -----

From:Kirsten Chadwick/WHO/EOP@Exchange
To:<Lucy.Clark@DHS.GOV>@EOP,

Edward McNally/WHO/EOP@EOP,

Richard Falkenrath/WHO/EOP@EOP,

Joel Kaplan/WHO/EOP@Exchange

Cc:<Ellen.Mcclain@DHS.GOV>@SMTP@Exchange,

<Asa.Hutchinson@DHS.GOV>@SMTP@Exchange,

<Baruch.Weiss@DHS.GOV>@SMTP@Exchange

Date: 02/24/2003 10:11:41 AM
Subject: RE: CTR Delegation

I called Rich on Friday to say that we need to come to agreement among ourselves as to what our offer is and present to W&M tomorrow.

We met with W&M a week ago Friday and had a good mtg - then Angela talked with Thomas and he blew up and she was back to being hard line. They won't put an offer on the table - they want us to.

If we do a full delegation on March 1st, Thomas' general counsel told me this AM that they will file a Homeland Security Technical Corrections bill and specifically state what would stay at Treasury so I would strongly recommend we figure out an offer and get it up there.

KAC

-----Original Message-----

From: "Clark, Lucy" <Lucy.Clark@DHS.GOV>@EOP

Sent: Monday, February 24, 2003 8:32 AM

To: McNally, Edward; Falkenrath, Richard; Kaplan, Joel; Chadwick, Kirsten

Cc: Mcclain, Ellen; Hutchinson, Asa; Weiss, Baruch

Subject: CTR Delegation

Here's what we are sending to Treasury this am. We are still pushing

for a full delegation, but as I've discussed with all of you will have

this in our back pocket if need be.

Kirsten - Could you drop me a note today, letting me know where we stand

with Thomas getting back in town and us getting to see him? With our

leg affairs shop a bit in disarray, I'm not sure where we stand on that.

Thanks.

- att1.htm << File: att1.htm >>

- Treasury Original Draft of CFR delegation.doc << File: Treasury Original Draft of CFR delegation.doc >>

- att3.eml << File: att3.eml >>

Message Copied
To:_____

Ellen.Mcclain@DHS.GOV@SMTP@Exchange

Asa.Hutchinson@DHS.GOV@SMTP@Exchange

Baruch.Weiss@DHS.GOV@SMTP@Exchange

chris.smith@do.treas.gov@SMTP@Exchange

Michael Allen/WHO/EOP@EOP
Matthew Kirk/WHO/EOP@Exchange

Eric C. Pelletier/WHO/EOP@Exchange

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: brian.benczkowski@usdoj.gov @ inet [UNKNOWN] <brian.benczkowski@usdoj.gov @ inet>
Sent: 2/26/2003 4:44:21 AM
Subject: : quotes from Democrat Senators on May 9, 2001

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:26-FEB-2003 09:44:21.00
SUBJECT:: quotes from Democrat Senators on May 9, 2001
TO:brian.benczkowski@usdoj.gov @ inet (brian.benczkowski@usdoj.gov @ inet [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on
02/26/2003 09:48 AM ----------

Brett M. Kavanaugh
02/26/2003 09:31:26 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: quotes from Democrat Senators on May 9, 2001

Senator Daschle: &We are pleased that the White House has chosen to work with us on the first group of nominations.8
Question to Senator Leahy: &Does this strike you, on first impression, as a balanced slate?8 Answer by Sen. Leahy: &Had I not been encouraged, I would not have been here [at the White House] today.8
Senator Leahy: &I know them well enough that I would assume they'll go through all right.8
Senator Leahy: &I would hope that we would go forward quickly.8
Senator Kennedy: &I think we ought to move ahead with these judges that the president submitted.8

Message Sent
To:_____
Rena_Johnson_Comisac@Judiciary.senate.gov @ inet
steven_duffield@rpc.senate.gov @ inet
john_abegg@mcconnell.senate.gov @ inet
makan_delrahim@judiciary.senate.gov @ inet
manuel_miranda@frist.senate.gov @ inet

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: brian.a.benczkowski@usdoj.gov @ inet [UNKNOWN] <brian.a.benczkowski@usdoj.gov @ inet>
Sent: 2/26/2003 4:44:44 AM
Subject: : quotes from Democrat Senators on May 9, 2001

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:26-FEB-2003 09:44:44.00
SUBJECT:: quotes from Democrat Senators on May 9, 2001
TO:brian.a.benczkowski@usdoj.gov @ inet (brian.a.benczkowski@usdoj.gov @ inet [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 02/26/2003 09:48 AM ----------

Brett M. Kavanaugh
02/26/2003 09:31:26 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: quotes from Democrat Senators on May 9, 2001

Senator Daschle: &We are pleased that the White House has chosen to work with us on the first group of nominations.8
Question to Senator Leahy: &Does this strike you, on first impression, as a balanced slate?8 Answer by Sen. Leahy: &Had I not been encouraged, I would not have been here [at the White House] today.8
Senator Leahy: &I know them well enough that I would assume they'll go through all right.8
Senator Leahy: &I would hope that we would go forward quickly.8
Senator Kennedy: &I think we ought to move ahead with these judges that the president submitted.8

Message Sent
To:
Rena_Johnson_Comisac@Judiciary.senate.gov @ inet
steven_duffield@rpc.senate.gov @ inet
john_abegg@mcconnell.senate.gov @ inet
makan_delrahim@judiciary.senate.gov @ inet
manuel_miranda@frist.senate.gov @ inet

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ben Wittes <wittesb@washpost.com>
Sent: 2/26/2003 4:48:27 AM
Subject: : Re: May 9, 2001 quotes

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:26-FEB-2003 09:48:27.00
SUBJECT:: Re: May 9, 2001 quotes
TO:Ben Wittes <wittesb@washpost.com> (Ben Wittes <wittesb@washpost.com> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

the times they are a-changing

Ben Wittes <wittesb@washpost.com>
02/26/2003 09:48:22 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Re: May 9, 2001 quotes

And your point is?

_____
Benjamin Wittes
Editorial Writer
The Washington Post
1150 15th Street, NW
Washington DC 20071
phone: 202-334-4134
fax: 202-334-5269

Brett_M.
_Kavanaugh@who.eop. To:
wittesb@washpost.com
gov cc:
Subject: May 9, 2001
quotes
02/26/2003 09:34 AM

Senator Daschle:

"We are pleased that the White House has chosen to work
with us on the first group of nominations."
Question to Senator Leahy: "Does this strike you, on first impression,
as a

balanced slate?" Answer by Sen. Leahy: "Had I not been encouraged, I would
not
have been here [at the White House] today."
Senator Leahy: "I know them well enough that I would assume they'll go
through all right."
Senator Leahy: "I would hope that we would go forward quickly."
Senator Kennedy: "I think we ought to move ahead with these judges that the
president submitted."

From: ShellUser MAILER-DAEMON <MAILER-DAEMON@usdoj.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/26/2003 8:27:41 AM
Subject: : Returned mail

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:ShellUser MAILER-DAEMON <MAILER-DAEMON@usdoj.gov> ( ShellUser MAILER-DAEMON
<MAILER-DAEMON@usdoj.gov> [ UNKNOWN ] )
CREATION DATE/TIME:26-FEB-2003 13:27:41.00
SUBJECT:: Returned mail
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

----- The following addresses had delivery problems -----
kenneth_starr@usdoj.gov
because: Address is unrecognized

----- Original message follows -----
Reporting-MTA: dns; wt6

Final-Recipient: rfc822; kenneth_starr@usdoj.gov
Action: failed
Status: 5.1.1
Received: from wdcsun021.usdoj.gov (wtavscan2 [10.222.3.28]) by
wt6.usdoj.gov (8.9.3 (PHNE_24419)/8.9.3) with ESMTP id NAA25677 for
<kenneth_starr@usdoj.gov>; Wed, 26 Feb 2003 13:26:55 -0500 (EST)
Received: from eop2.eop.gov (localhost [127.0.0.1]) by wdcsun021.usdoj.gov
(Netscape Messaging Server 4.15) with ESMTP id HAXHWV01.H98 for
<kenneth_starr@usdoj.gov>; Wed, 26 Feb 2003 13:26:55 -0500
Received: from CONVERSION-DAEMON by EOP.GOV (PMDF V5.2-33 #41062) id
<01KSW8SB5B8WA9TCW5@EOP.GOV> for kenneth_starr@usdoj.gov; Wed, 26 Feb 2003
13:26:53 EST
Received: from mhub2.eop.gov ([198.137.241.13]) by EOP.GOV (PMDF V5.2-33
#41062) with ESMTP id <01KSW8S8T5SKA8MD65@EOP.GOV> for
kenneth_starr@usdoj.gov; Wed, 26 Feb 2003 13:26:52 -0500 (EST)
Received: from sgeop03.eop.gov ([165.119.1.37]) by mhub.eop.gov (PMDF
V6.1-1 #41014) with SMTP id <01KSW8RZ5ULKA4LPOD@mhub.eop.gov> for
kenneth_starr@usdoj.gov; Wed, 26 Feb 2003 13:26:37 -0500 (EST)
Received: by sgeop03.eop.gov(Lotus SMTP MTA v4.6.7 (934.1 12-30-1999)) id
85256CD9.00654EA9 ; Wed, 26 Feb 2003 13:26:32 -0500
Date: Wed, 26 Feb 2003 13:22:22 -0500
From: Brett_M._Kavanaugh@who.eop.gov
Subject: President's speech to Latino Coalition in EEOB today -- see very
strong discussion of Estrada
To: kenneth_starr@usdoj.gov
Message-id: <85256CD9.00654D35.00@sgeop03.eop.gov>
MIME-version: 1.0
Content-type: text/plain; charset=us-ascii
Content-disposition: inline
Content-transfer-encoding: 7BIT
X-Lotus-FromDomain: EOP
President Calls for Action on Judicial Nominee




Presidential Hall
Dwight D. Eisenhower Executive Office Building
```

10:30 A.M. EST

THE PRESIDENT: Bienvenidos. I want to thank mi abogado and my close friend for his leadership and his participation in our government. Everybody has got to have a good lawyer. (Laughter.) Especially in my line of work. (Laughter.) And I've got a great one with Al Gonzales. I'm proud to call him friend.

I also want to thank the members of the Latino Coalition who are here today. I want to thank for your work in -- obviously, on political issues. But really I want to thank you for what you're doing in your own community, showing people that through hard work there's opportunity and hope; that if you're an entrepreneur, thanks for setting such a great example. Truly, one of the greatest things about the nation is that somebody who has got a dream and who works hard can own their own business, realize their own potential. So thanks for setting the example for a lot of our fellow citizens.

I'm honored that Mel Martinez is here with us, and Hector Barreto, serving my administration. Both men are doing a fine job in important positions. I want to thank Ambassador Hans Hertell, from the Dominican Republic for coming. (Applause.) I see your brought an entourage with you. (Laughter.) Rosario Marin, who's the Treasurer, is here. Rosario, great to see you. Josefina Carbonell, who is the Assistant Secretary for Aging, Health and Human Services, is with us.

I want to thank very much the -- Robert Deposada, who is the President of the Latino Coalition. I also want to thank Jane Delgado, as well, for your leadership and for working for what you think is right for the country. (Applause.) El gobernador del estado de Hidalgo is with us today. Gobernador, bienvenidos. Glad you're here. (Applause.)

I see my friend Alfredo Phillips. One of the great honors when I was the governor of Texas was to work closely with our Mexican counterparts. Senor Phillips was a man who came to Austin quite frequently to talk about NADBANK and mutual development programs. I'm honored you're here. I appreciate your delegation coming.

This nation is committed to making sure we've got great relations with Mexico. The cornerstone of good foreign policy starts with making sure the neighborhood is prosperous and peaceful. I look forward to continuing to work with Vicente Fox on advancing a common agenda for the good of both nations.

And so I welcome you all here. You come to America today during times of great challenges. There are some challenges which face us. But there's no

hurdle big
enough for the American people not to cross. This is -- we've got some
mighty
challenges -- to make sure the country is more prosperous and more
hopeful,
and the world more peaceful. But sin duda, we're going to achieve what we
need
to achieve, porque este pais es un gran pais, with great values and great
hope
and great strength.

The first challenge we have is to make sure people can find work. We want
everybody working who wants to find a job. The challenge was created,
really,
because of a recession, and an attack on America, and the fact that some
of
our fellow citizens didn't realize that they needed to tell the truth all
the
time when it came to the numbers on their balance sheets. All three of
those
circumstances has created a challenge for the country. And the challenge
is
how to make sure the entrepreneurial environment is strong and steady, so
that
people are confident in taking risk; that small businesses are willing to
take
risks to expand.

And so I put out an economic plan that addresses the challenges that we
face.
First, I want to remind you we responded to the recession by tax relief.
We
believe that if a person has more money in their pockets, they're likely
to
demand a good or a service. And when they do so, in the marketplace,
somebody
is likely to produce the good or a service. And when that happens,
somebody is
more likely to find work. That's the premise of the economic policy we
laid
out in '01. I worked with the Republicans and Democrats to get the tax
plan
through.

We responded to the attacks on September the 11th, 2001. We had a
terrorism
insurance bill passed to encourage construction programs to go forward. We
dealt with the airline issue. We got the stock market opened up quickly.
And,
of course, then we liberated Afghanistan as we sought to bring justice to
the
killers of the thousands of Americans and others.

We dealt with the corporate scandals by passing the law that clearly says
that
if you lie, cheat or steal, that if you defraud a shareholder or an
employee,
there is going to be certain consequences.

And so we made progress. But the economy still needs more work as far as
we're
concerned. And so I've gone to Congress, and I want to share with you
quite

quickly, quite briefly what I am asking Congress to do.

First of all, I think it's very important for us to focus on small business growth. We're interested in job creation. The first thing -- the first fact that Congress has got to understand is most small -- most jobs are created by small businesses, most new jobs. And so, therefore, any package ought to be focused on small business in America. And this package is. It basically says, we're -- we've asked Congress to cut rates; they did. But they phased in the tax rate cuts over three, five or seven years. Well, if the economy is not doing as well as it should today, and if Congress has one time seen the wisdom of letting people keep more of their own money, then step one is they ought to accelerate the tax relief plan to this year. All tax cuts in the future ought to be accelerated to this year. If they're good enough five years from now, they're good enough today. (Applause.)

Most small businesses are sole proprietorships, or limited partnerships, or sub-chapter S corporations, which means that they pay tax at the individual income tax rate. And so, therefore, when you accelerate rate cuts, you're really accelerating capital to be invested by small businesses. And that's what Congress must understand. The rate reduction package is good for the small business sector of the American economy. (Applause.)

As well, we believe we ought to increase the amount of expensing available to small businesses from the current limitation of $25,000 to $75,000 a year. This will encourage capital expenditure. (Applause.) It will provide incentive for people to expand their businesses. Capital expenditure equals jobs, and the more capital accumulation and capital expenditure we can encourage, the more likely it is somebody is going to find work.

And so this plan focuses on boosting the amount of money consumers have to spend, strengthening demand for products. But it also focuses on capital accumulation, capital formation, particularly at the small business sector of the American economy.

Furthermore, I believe we ought to eliminate the double taxation on dividends, and I will tell you why. If capital equals jobs, the double taxation of dividends means there is less capital in the private markets for investment. It's fair to tax a company's profits. It is unfair to tax that profit again when it's distributed to one of the shareholders. (Applause.) And so our plan encourages capital formation. Our plan addresses the needs of the 10 million seniors who have dividend income; it is beneficial for those seniors not

to
have to pay a tax on their dividends -- as a matter of fact, it will help
them
in the later years of their lives.

The dividend plan also is going to have a positive effect on our
accounting
process. I mean, after all, we went through a period of time when people
said,
invest in my company even though I may not have any earnings, I've got a
good
idea, so let's invest -- let's invest in something that may or may not
happen.

A society which is focused on dividends says, you know, cash is really
what
matters. You can't -- you say, invest in my company, I'm going to pay a
dividend -- is not based upon some pie-in-the-sky protection; it's based
on
the reality of cash. The dividend policy, if more companies pay dividends,
will have a positive effect when it comes to the balance sheets of
America. It
will have a reform effect, because you can't project what may be. When
you're
promising dividends, you've got to project what is. And that's going to be
good for investors, and it's going to be good for accountability when it
comes
to the corporate sector of America.

So this is the plan I'm asking Congress to look at. It's a reasonable
plan,
it's a stimulative plan, it's a plan that makes sense. And I'm asking for
your
help. I'd like for you to contact your congressman or your senator and
let him
know that this plan makes sense for the economic vitality of this country.

We continue to face a hurdle with our schools. If you want America to be a
hopeful place, we better make sure the public school system of America
works.
And so I want to continue -- (applause.) I say we face a problem because
not
every school is working the way we want it to. I proposed reform which the
Senate and the House passed in my first year as the President. The reform
said, if you spend money, then it makes sense to demand results. We spend
money at the federal level; therefore, we ought to ask, what are the
results.
We're asking the simple question, if you receive money, can the children
read and write and add and subtract. That's what we want to know. It's really
important for Latino parents to have that question asked.

It's essential to ask that question if you want to future of this country
to
be bright. Because, oftentimes, the Latino child just gets passed through
the
system, without asking the fundamental question of whether or not that
child
can read and write and add and subtract.

You see, it's oftentimes easy to walk into a classroom full of the
so-called
"hard to educate" and say, we're moving you through. It's what I call the

soft
bigotry of low expectations. I told the American people when I was
running for
office, I will challenge the soft bigotry of low expectations, because I
believe every child can learn, regardless of the status of their parents.
(Applause.) And we have done that. We have done that. We've increased
federal
education spending by 50 percent from the time I got here. But more
importantly, we're demanding accountability, because we believe in the
value
of every child, and we don't want one child left behind here in America.
(Applause.)

We look forward to working with you on health care matters. We want the
Medicare system to function well. We want to make sure that there is a
capacity for people to get primary care through community health centers.
It's
an initiative which I strongly support and I'm pushing Congress to fund
to its
fullest.

We want to make sure that there is a -- health tax credits to help the
working
uninsured. And we want to make sure there's medical liability reform to
make
sure that health care is not only affordable, but available. In other
words,
we don't want our docs sued to the point where they're leaving the
profession,
where people can't find good medical care.

There's a lot we can work with you on, and intend to do -- associated
health
care plans, incredibly important part of making sure small business
owners can
provide affordable health care to their employees.

I also want to work with -- continue to work with you all in America on
making
sure that our welfare system is complete. I say complete because the best
welfare programs oftentimes are those found in our iglesias, our
churches, and
synagogues, and mosques. And our government must not fear the power of
faith
in our society, but must welcome faith-based programs, which exist to heal
hearts and provide hope for broken lives.

The great strength of this country lies in the hearts of our fellow
citizens.
The great power of transformation in neighborhoods can take place because
thousands of citizens have heard the universal call to love a neighbor
like
they would like to be loved themself. And so you'll see us continue to
work
with our neighborhood helpers and healers at the federal level to
encourage
faith-based programs to flourish and exist.

I recognize that one person can't solve all of our society's problems,
but one
person can help save one life. And it's that accumulative effect, what I
call

the gathering momentum of millions of acts of kindness which take place on a
daily basis, which literally can transform this country, one heart and one soul at a time.

I also want to talk to you about how to make sure our judiciary works well --
historically, with me naming good people to serve on the bench -- good, solid,
honest, decent Americans who are willing to forego the private practice of
law, the comforts of private life and serve on the federal bench. And that's
exactly what I've done. I've named some incredibly fine Americans to serve in
this important part of our government. And no finer American is Miguel
Estrada. (Applause.)

He is a man I have named, nominated for the D.C. Circuit Court of Appeals.
When confirmed he'll be the first Hispanic to serve on what they call "the
second most important court in America". (Applause.) His story is the American
story. His story -- it's what makes this country so profound and so hopeful
and so promising. After all, he came to the country from Honduras. He could
barely speak English. He came as a teenage boy, had trouble with our native
language and, yet, ends up shortly thereafter in Harvard Law School as one of
the top students.

It speaks about a man who has a dream and works hard to achieve that dream;
understands the value of education; overcame difficulties and became one of
the top law students out of Harvard. He has argued 15 cases before the Supreme
Court. He has taken his knowledge and capacity and argued before the highest
court of our land. He has served in the Justice Department under Presidents
from both political parties. He is a incredibly bright mind.

Yet, his nomination is being delayed and stalled by Democratic senators. His
nomination has been stalled for two years. They're blocking the vote on this
good man for purely political reasons. The senators are applying a double
standard to Miguel Estrada by requiring him to answer questions that other
judicial nominees, over time, have not been forced to answer. And that is not
right, and that is not fair.

By blocking a vote on Miguel Estrada, some Democrats in the Senate are
flaunting the intention of the United States Constitution and the tradition of
the United States Senate, itself. Alexander Hamilton wrote that, the purpose
of the Senate confirmation was to prevent the appointment of unfit characters.
No one can possibly call Miguel Estrada "unfit." (Applause.)

The American Bar Association has given him its highest ratings -- highest ratings. And he has the qualifications and the experience and the temperament to make an outstanding judge. The partisans in the Senate are subjecting Miguel Estrada to an unfair double standard. Failing to allow an up or down vote -- a vote which will pass -- on Miguel Estrada's nomination is a travesty, an injustice being carried out by those responsible for helping to uphold justice in this country.

I want to thank you for your work on Miguel's nomination. I will stand by that man's side until he is sworn in as a judge. (Applause.)

And, finally, we have been called to defend America and to keep the peace. We face a significant challenge, and that is to protect the homeland of the American people. Prior to September 11, 2001, we thought oceans would protect the homeland of the American people. We thought that history would continue to repeat itself, that this nation was safe and secure; that if there was a gathering threat overseas, we could deal with it if we felt like dealing with it, but it was not a problem for the home people. Yet, on September the 11th, the world changed; it changed dramatically and sadly for thousands of citizens. It also changed for how this country must view our position in the world. The strategic vision of the country shifted.

We're doing everything we can here at home to secure the homeland. We've got agencies working overtime, people sharing information. Our borders are becoming more efficient. We want people, commerce to move freely, but we don't want terrorists to move freely. So we're doing as good a job as we possibly can to protect you. But the best way to secure the homeland is to find killers before they kill us and bring them to justice. And that's what we're going to do. (Applause.)

So we're on the hunt, on al Qaeda. This is a different kind of war. It's a war which requires a good intelligence-sharing, and it requires cutting off money. It requires specially skilled troops to smoke these people out of their caves and to bring them to justice. And that's what we're doing -- one by one. Sometimes you'll see success and sometimes you won't. You just got to know the mighty United States, along with 89 other countries in our coalition for Enduring Freedom, are doing everything we can to protect you and protect other people who love freedom.

There's also a threat gathering in Iraq. It's been gathering for a long period of time. The danger with Iraq is that he can strike in the neighborhood. And

the danger with Iraq is that he has got the willingness and capacity to train
al Qaeda-type organizations and provide them with equipment to hurt America.

The world has waited a long time for Mr. Saddam Hussein to disarm. They've waited a long time. He is a master of disguise and delay. He'll say, oh, I'm
disarming -- after he said he has no arms. (Laughter.)

We will continue to work with our friends, people who understand the value of
freedom. We will insist that the United Nation Resolution 1441 be adhered to
in its fullest. After all, we want the United Nations to be a legitimate, effective body. But for the safety of the American people and for peace in the
world, Saddam Hussein will be disarmed, one way or the other. And this nation
does so for the sake of peace.

The use of our military is the absolute last option. It is the last alternative for the -- for the President. But the risk of doing nothing, the
risk of assuming that Saddam Hussein will change, the risk of thinking and hoping for the best for the American people far outweighs the risk of committing troops, if we have to. The choice is Saddam Hussein's to make. It's
been his to make all along. He gets to choose between peace and war.

And the other thing that is an inherent part of our view of Iraq is how I started the discussion here. See, we believe everybody matters, everybody counts. It doesn't matter your background, where you're from, everybody has
worth. As I said in my State of the Union address, liberty is not America's
gift to the world; liberty is God's gift to human -- to the human -- mankind.
And that's what we believe. (Applause.)

So in the days ahead, as we deal with this challenge facing our country, you
need to know that the value of freedom and liberty will be at the forefront of a policy designed to make the world more peaceful, and a policy designed to
protect the American people.

Thank you for your interest. May God bless you all, and may God bless America.
(Applause.)

END 11:00 A.M. EST

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: brian.benczkowski@usdoj.gov @ inet [UNKNOWN] <brian.benczkowski@usdoj.gov @ inet>
Sent: 2/26/2003 4:44:21 AM
Subject: : quotes from Democrat Senators on May 9, 2001

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:26-FEB-2003 09:44:21.00
SUBJECT:: quotes from Democrat Senators on May 9, 2001
TO:brian.benczkowski@usdoj.gov @ inet (brian.benczkowski@usdoj.gov @ inet [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on
02/26/2003 09:48 AM ----------

Brett M. Kavanaugh
02/26/2003 09:31:26 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: quotes from Democrat Senators on May 9, 2001

Senator Daschle: &We are pleased that the White House has chosen to work with us on the first group of nominations.8
Question to Senator Leahy: &Does this strike you, on first impression, as a balanced slate?8 Answer by Sen. Leahy: &Had I not been encouraged, I would not have been here [at the White House] today.8
Senator Leahy: &I know them well enough that I would assume they'll go through all right.8
Senator Leahy: &I would hope that we would go forward quickly.8
Senator Kennedy: &I think we ought to move ahead with these judges that the president submitted.8

Message Sent
To:_____
Rena_Johnson_Comisac@Judiciary.senate.gov @ inet
steven_duffield@rpc.senate.gov @ inet
john_abegg@mcconnell.senate.gov @ inet
makan_delrahim@judiciary.senate.gov @ inet
manuel_miranda@frist.senate.gov @ inet

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ben Wittes <wittesb@washpost.com>
Sent: 2/26/2003 4:48:27 AM
Subject: : Re: May 9, 2001 quotes

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:26-FEB-2003 09:48:27.00
SUBJECT:: Re: May 9, 2001 quotes
TO:Ben Wittes <wittesb@washpost.com> (Ben Wittes <wittesb@washpost.com> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

the times they are a-changing

Ben Wittes <wittesb@washpost.com>
02/26/2003 09:48:22 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Re: May 9, 2001 quotes

And your point is?

_____
Benjamin Wittes
Editorial Writer
The Washington Post
1150 15th Street, NW
Washington DC 20071
phone: 202-334-4134
fax: 202-334-5269

Brett_M.
_Kavanaugh@who.eop. To:
wittesb@washpost.com
gov cc:
Subject: May 9, 2001
quotes
02/26/2003 09:34 AM

Senator Daschle:

"We are pleased that the White House has chosen to work
with us on the first group of nominations."
Question to Senator Leahy: "Does this strike you, on first impression,
as a

balanced slate?" Answer by Sen. Leahy: "Had I not been encouraged, I would
not
have been here [at the White House] today."
Senator Leahy: "I know them well enough that I would assume they'll go
through all right."
Senator Leahy: "I would hope that we would go forward quickly."
Senator Kennedy: "I think we ought to move ahead with these judges that the
president submitted."

From: CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO]

To: wendy keefer <wendy.j.keefer@usdoj.gov>;viet dinh <viet.dinh@usdoj.gov>;Kyle Sampson/WHO /EOP@EOP [WHO] <Kyle Sampson>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>;Sarah K. Lockart/WHO/EOP@Exchange [WHO] <Sarah K. Lockart>;Ross M. Kyle/WHO/EOP@Exchange [WHO] <Ross M. Kyle>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;jason sutton <jason.j.sutton@usdoj.gov>;Ann Gray/WHO /EOP@EOP [WHO] <Ann Gray>;evelyn long <evelyn.v.long@usdoj.gov>;Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>;Melissa S. Bennett/WHO /EOP@Exchange [WHO] <Melissa S. Bennett>;andrew beach <andrew.beach@usdoj.gov>;albert brewster <albert.brewster@usdoj.gov>;adam charnes <adam.charnes@usdoj.gov>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;tracy washington <tracy.t.washington@usdoj.gov>;Susan B. Ralston/WHO /EOP@Exchange [WHO] <Susan B. Ralston>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;David McMaster/WHO/EOP@EOP [WHO] <David McMaster>;David G. Leitch/WHO/EOP@Exchange [WHO] <David G. Leitch>;Kristi Remington <Kristi.l.Remington@usdoj.gov>;Alison Jones/WHO/EOP@Exchange [WHO] <Alison Jones>;Wendy J. Grubbs/WHO/EOP@EOP [WHO] <Wendy J. Grubbs>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Kimberly Ellison/WHO/EOP@EOP [WHO] <Kimberly Ellison>;Hana F. Brilliant/WHO/EOP@EOP [WHO] <Hana F. Brilliant>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;amy bass <amy.bass@usdoj.gov>;adam ciongoli <adam.ciongoli@usdoj.gov>;Heather Wingate/WHO /EOP@Exchange [WHO] <Heather Wingate>

Sent: 2/26/2003 7:55:38 AM

Subject: : WHJSC Meeting location change

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:26-FEB-2003 12:55:38.00
SUBJECT:: WHJSC Meeting location change
TO:wendy keefer <wendy.j.keefer@usdoj.gov>@SMTP@Exchange ( wendy keefer
<wendy.j.keefer@usdoj.gov>@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
TO:viet dinh <viet.dinh@usdoj.gov>@SMTP@Exchange ( viet dinh
<viet.dinh@usdoj.gov>@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Sarah K. Lockart ( CN=Sarah K. Lockart/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Ross M. Kyle ( CN=Ross M. Kyle/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:jason sutton <jason.j.sutton@usdoj.gov>@SMTP@Exchange ( jason sutton
<jason.j.sutton@usdoj.gov>@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
TO:Ann Gray ( CN=Ann Gray/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:evelyn long <evelyn.v.long@usdoj.gov>@SMTP@Exchange ( evelyn long
<evelyn.v.long@usdoj.gov>@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Melissa S. Bennett ( CN=Melissa S. Bennett/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:andrew beach <andrew.beach@usdoj.gov>@SMTP@Exchange ( andrew beach
<andrew.beach@usdoj.gov>@SMTP@Exchange [ UNKNOWN ] )
```

READ:UNKNOWN
TO:albert brewster <albert.brewster@usdoj.gov>@SMTP@Exchange (albert brewster
<albert.brewster@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:adam charnes <adam.charnes@usdoj.gov>@SMTP@Exchange (adam charnes
<adam.charnes@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:tracy washington <tracy.t.washington@usdoj.gov>@SMTP@Exchange (tracy washington
<tracy.t.washington@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:David McMaster (CN=David McMaster/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Kristi Remington <Kristi.l.Remington@usdoj.gov>@SMTP@Exchange (Kristi Remington
<Kristi.l.Remington@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kimberly Ellison (CN=Kimberly Ellison/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Hana F. Brilliant (CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:amy bass <amy.bass@usdoj.gov>@SMTP@Exchange (amy bass
<amy.bass@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:adam ciongoli <adam.ciongoli@usdoj.gov>@SMTP@Exchange (adam ciongoli
<adam.ciongoli@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

Please note that today's WHJSC Meeting will be held in the Judge's Office.
Sorry for the late notice!

From: Nelson, Carolyn
To: <Bartolomucci, H. Christopher>;<Ullyot, Theodore W.>;<Brilliant, Hana F.>;<Bumatay, Patrick J.>;<Leitch, David G.>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>;<Walker, Helgard C.>
Sent: 2/26/2003 12:10:57 PM
Subject: 2/28 Meeting with the President- time change

1:30-1:50pm	Prep	Judge's Office
1:55-2:15pm	Meeting with POTUS	Oval Office

From: Nelson, Carolyn

To: <Wingate, Heather>;adam charnes <adam.charnes@usdoj.gov>;adam ciongoli <adam.ciongoli@usdoj.gov>;albert brewster <albert.brewster@usdoj.gov>;amy bass <amy.bass@usdoj.gov>;andrew beach <andrew.beach@usdoj.gov>;<Bartolomucci, H. Christopher>;<Bennett, Melissa S.>;<Brilliant, Hana F.>;<Bumatay, Patrick J.>;<Ellison, Kimberly>;evelyn long <evelyn.v.long@usdoj.gov>;<Francisco, Noel J.>;<Gray, Ann>;<Grubbs, Wendy J.>;jason sutton <jason.j.sutton@usdoj.gov>;<Jones, Alison>;<Kavanaugh, Brett M.>;Kristi Remington <Kristi.l.Remington@usdoj.gov>;<Kyle, Ross M.>;<Leitch, David G.>;<Lockart, Sarah K.>;<McMaster, David>;<Montiel, Charlotte L.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Ralston, Susan B.>;<Sampson, Kyle>;tracy washington <tracy.t.washington@usdoj.gov>;viet dinh <viet.dinh@usdoj.gov>;<Walker, Helgard C.>;wendy keefer <wendy.j.keefer@usdoj.gov>

Sent: 2/26/2003 12:55:11 PM

Subject: WHJSC Meeting location change

Please note that today's WHJSC Meeting will be held in the Judge's Office. Sorry for the late notice!

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>
Sent: 2/26/2003 9:01:24 AM
Subject: : Re: nominations

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:26-FEB-2003 14:01:24.00
SUBJECT:: Re: nominations
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

Can you find out if Senate plans to be in session Friday. If so, we want
to do it then.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 02/26/2003 01:58:27 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: nominations

do you have any plans to send up nominations this week?; Sheila said that
you told her last week that we wanted to send up four tomorrow.
;
Patrick J. Bumatay
Office of Counsel to the President
o: 202-456-5214
f: 202-456-6279
mainline: 202-456-2632
;

From: Kavanaugh, Brett M.
To: <Gonzales, Alberto R.>;<Leitch, David G.>;<Ullyot, Theodore W.>
Sent: 2/26/2003 2:06:47 PM
Subject: crapo ca9 idaho possibility

Schlapp, Mehlman, and Karl are conferring about this.

From:	Nelson, Carolyn
To:	<Bartolomucci, H. Christopher>;<Ullyot, Theodore W.>;<Leitch, David G.>;<Montiel, Charlotte L.>;<Brilliant, Hana F.>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>;<Walker, Helgard C.>
Sent:	2/26/2003 3:31:25 PM
Subject:	FW: JSC Prep

Reminder:
-----Original Message-----
From: Nelson, Carolyn
Sent: Tuesday, February 25, 2003 5:48 PM
To: Bartolomucci, H. Christopher; Ullyot, Theodore W.; Leitch, David G.; Montiel, Charlotte L.; Brilliant, Hana F.; Francisco, Noel J.; Kavanaugh, Brett M.; Newstead, Jennifer G.; Powell, Benjamin A.; Sampson, Kyle; Walker, Helgard C.
Subject: JSC Prep

February 25 @ 3:45 pm in the Judge's Office.

Thanks!!

From: CN=Wendy J. Grubbs/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/26/2003 12:12:32 PM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:26-FEB-2003 17:12:32.00
SUBJECT:: Re:
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Spoke with grassley's guy already.

.

----- Original Message -----
From:Brett M. Kavanaugh/WHO/EOP
To:Wendy J. Grubbs/WHO/EOP@EOP
Cc:
Date: 02/26/2003 05:08:32 PM
Subject:

Please do not talk to grassley or harkin until we talk.

.

From: FindLaw.com <listadmin@LEGALMINDS.ORG>
To: TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN] <TOPHEADLINES@LEGALMINDS.ORG>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 2/26/2003 2:09:26 PM
Subject: : [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Wed., Feb. 26, 2003

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"FindLaw.com" <listadmin@LEGALMINDS.ORG> ("FindLaw.com" <listadmin@LEGALMINDS.ORG> [UNKNOWN])
CREATION DATE/TIME:26-FEB-2003 19:09:26.00
SUBJECT:: [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Wed., Feb. 26, 2003
TO:TOPHEADLINES@LEGALMINDS.ORG (TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

FINDLAW Wed, Feb 26, 2003

TOP LEGAL NEWS HEADLINES

For all of the day's legal news go to: http://news.findlaw.com

****

No commute. No traffic. No travel.

Concord Law School's online LL.M. in Health Law delivers innovative, practice-oriented curriculum taught by expert faculty from around the country without the hassles associated with attending courses. Take advantage of Concord's part-time, affordable program to enhance your practice or change your focus. Visit
http://rd.findlaw.com/scripts/nl.pl?url=10360512003_nl

****

SUPREME COURT
Supreme Court Rules For Anti-Abortion Groups
http://news.findlaw.com/news/s/20030226/courtabortiondc.html

Supreme Court Considers Agent Orange Case
http://news.findlaw.com/ap/a/w/1154/2-26-2003/20030226030003_7.html

POLITICS
Bush Pleads For Estrada Confirmation
http://news.findlaw.com/ap/a/w/1151/2-26-2003/20030226093002_06.html

White House: U.S. Could Target Saddam
http://news.findlaw.com/ap/i/1107/2-26-2003/20030226021501_26.html

LEGAL COMMENTARY
Singleton v. Norris: Ct. Approves Antipsychotic Treatment Of Mentally Incompetent Clients
http://writ.news.findlaw.com/colb/20030226.html

Which War On Terrorism?
http://writ.news.findlaw.com/commentary/20030226_kayyem.html

CIVIL RIGHTS
Philly Black Police Claim Harassment
http://news.findlaw.com/ap/o/1110/2-26-2003/20030226043001_03.html

PERSONAL INJURY
Grand Jury Convenes Over Deadly Nightclub Fire
http://news.findlaw.com/news/s/20030226/leisurefiredc.html

Cardinal Law Testifies Before Grand Jury
http://news.findlaw.com/ap/o/1110/2-26-2003/20030226003002_8.html

PRODUCT LIABILITY
Bayer: Cannot Forecast Litigation Outcome
http://news.findlaw.com/business/s/20030226/healthbayerdc.html

U.S. Favors Steps To Improve SUV Safety
http://news.findlaw.com/news/s/20030226/autossuvdc.html

LABOR AND EMPLOYMENT
Florida Univ. Fires Indicted Professor
http://news.findlaw.com/ap/o/1110/2-26-2003/20030226104501_21.html

Pilots Warn Of American Bankruptcy
http://news.findlaw.com/ap/f/1310/2-26-2003/20030226041501_01.html

ENVIRONMENT
Calif. County Files Against Lumber Co.
http://news.findlaw.com/ap/f/1310/2-26-2003/20030226120005_35.html

PETA Wants Beer As Wis. State Beverage
http://news.findlaw.com/ap/o/fe/1120/2-26-2003/20030226070001_32.html

BUSINESS
Ex-Kmart Execs Accused Of Accounting Fraud

http://news.findlaw.com/business/s/20030226/retailkmartindictmentsdc.html

Illinois Doctors Stage Insurance Protest
http://news.findlaw.com/business/s/20030226/healthdoctorsdc.html

INTERNATIONAL LAW
Judge Rules For Biological Dad In Mix-Up
http://news.findlaw.com/ap/o/1500/2-26-2003/20030226110010_25.html

Blix: Iraq Letters Not Full Cooperation
http://news.findlaw.com/ap/i/1107/2-26-2003/20030226104500_02.html

WAR ON TERRORISM
4 People, Charity Charged In Iraq Probe
http://news.findlaw.com/ap/a/w/1152/2-26-2003/20030226110010_03.html

U.S. Warns Citizens After Saudi 'Terror' Shooting
http://news.findlaw.com/news/s/20030226/saudiusashootingdc.html

CRIME & TRIALS
Prosecutor: Sniper Suspects Were a Team
http://news.findlaw.com/ap/o/1110/2-26-2003/20030226053002_13.html

Air Force Welcomes Outside Probe Of Sex Charges
http://news.findlaw.com/news/s/20030226/crimeacademydc.html

ENTERTAINMENT
Calif. Airs Evidence vs. Robert Blake
http://news.findlaw.com/ap/e/1401/2-26-2003/20030226101502_23.html

Band Expected To Testify On Club Fire
http://news.findlaw.com/ap/o/1110/2-26-2003/20030226083002_08.html

SPORTS
Stringer Family Attorney Blasts Vikings
http://news.findlaw.com/ap/s/2020/2-26-2003/20030226103002_19.html

Ex-Ark. Lineman Gets 10-Year Sentence
http://news.findlaw.com/ap/s/2060/2-26-2003/20030226114501_02.html

****

Online Legal Document Services with LegalZoom!

LegalZoom can help you form a corporation, make a living trust, or file for a trademark, all online! Our services are fast, affordable and guaranteed. Visit our website today at LegalZoom.com or click here:
http://rd.findlaw.com/scripts/nl.pl?url=10456416000_nl

********** West LegalEdcenter *******

Receive updates about NEW ONLINE CLE PROGRAMS

Register with West LegalEdcenter for monthly email updates about new online CLE programs in your practice areas and jurisdictions. West LegalEdcenter currently has more than 1,400 courses, with more added daily!

http://rd.findlaw.com/scripts/nl.pl?url=gen_cle_010402

********** westgroup.com *********

Get FREE ground shipping in the U.S. on all orders.
http://rd.findlaw.com/scripts/nl.pl?url=gen_ads_040102

****

FEEDBACK

We value your comments! Please take a moment to tell us what you think by sending an e-mail to:
mailto:newsletters@findlaw.com?subject=TopHeadlines. Please include "Top Headlines" in the subject line.

SUBSCRIPTION INFORMATION

To subscribe to a FindLaw Newsletter, visit the FindLaw Newsletter Subscription Center at http://newsletters.findlaw.com

To unsubscribe, go to http://newsletters.findlaw.com/unsubscribe.html
---
ADVERTISING INFORMATION

For more information about advertising in FindLaw Newsletters, please contact us at:

mailto:sales@findlaw.com

FindLaw Top Headlines http://news.findlaw.com
Copyright (c) 2003 FindLaw, Inc.

From: CN=Theodore W. Ullyot/OU=WHO/O=EOP [WHO]
To: Colleen Litkenhaus/WHO/EOP@Exchange [WHO] <Colleen Litkenhaus>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/27/2003 3:17:34 AM
Subject: : Re: also for our meeting tomorrow....

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Theodore W. Ullyot (CN=Theodore W. Ullyot/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:27-FEB-2003 08:17:34.00
SUBJECT:: Re: also for our meeting tomorrow....
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett is our FOIA expert, so I would first raise it in your meeting with him.

From: Colleen Litkenhaus/WHO/EOP@Exchange on 02/26/2003 09:14:49 PM
Record Type: Record

To: Theodore W. Ullyot/WHO/EOP@EOP
cc:
Subject: also for our meeting tomorrow....

Ted - Can you help us to clarify the FOIA issues for us between OA and; M&A?

From: Office of Global Communications <Global.Messenger@WhiteHouse.Gov>
To: Carolene Langie Office of Global Communications/WHO/EOP@EOP [WHO] <Carolene Langie Office of Global Communications>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 2/27/2003 6:35:22 AM
Subject: : In the President's Words... The Rights and the Aspirations of the People of Afghanistan
Attachments: P_PBL8E003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Office of Global Communications <Global.Messenger@WhiteHouse.Gov> (Office of Global Communications <Global.Messenger@WhiteHouse.Gov> [UNKNOWN])
CREATION DATE/TIME:27-FEB-2003 11:35:22.00
SUBJECT:: In the President's Words... The Rights and the Aspirations of the People of Afghanistan
TO:Carolene Langie Office of Global Communications (CN=Carolene Langie Office of Global Communications/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

(See attached file: In the President's Words -- The Rights and Aspirations of
the People of Afghanistan.doc)

President Bush meets today with Afghanistan President Hamid Karzai. The US commitment to this war-torn nation is demonstrated in the Administration's policies -- and in the President's words.

****

IN THE PRESIDENT'S WORDS...

THE RIGHTS AND THE ASPIRATIONS OF THE PEOPLE OF AFGHANISTAN

"In Afghanistan, we helped to liberate an oppressed people. And we will continue helping them secure their country, rebuild their society, and educate all their children, boys and girls."
State of the Union, January 28, 2003

"We've seen in Afghanistan that the road to freedom can be hard; it's a hard struggle. We've also seen in Afghanistan that the road to freedom is the only one worth traveling. Any nation that sacrifices to build a future of liberty will have the respect, the support, and the friendship of the United States of America."
Remarks on Humanitarian Efforts in Afghanistan, October 11, 2002

"Our commitment to a stable and free and peaceful Afghanistan is a long-term commitment."
Statement with Afghanistan's President Karzai, September 12, 2002

"Our governments have acted as leaders in the international community to address the humanitarian needs of Afghanistan, including repatriation and resettlement of refugees and the internally displaced. While these challenges continue, it is

now time for the international community to take strong, visible steps to begin
Afghanistan's physical reconstruction."
Joint Statement with Japan's Prime Minister and Saudi Arabia's Foreign Minister,
September 12, 2002

"In Afghanistan, the Taliban used violence and fear to deny Afghan women access
to education, health care, mobility, and the right to vote. Our coalition has
liberated Afghanistan and restored fundamental human rights and freedoms to
Afghan women, and all the people of Afghanistan. Young girls in Afghanistan are
able to attend schools for the first time."
Proclamation 7584,Women's Equality Day, 2002, August 23, 2002

"And thanks to our United States military and thanks to a coalition we put
together -- and thanks to the coalition we have put together, we have freed the
people of Afghanistan from one of the most repressive regimes in the history of
mankind. Not only are we steadfast in our desire to defend that which we
believe, we also are willing to commit resources to free a nation."
Remarks at the Knoxville, Tennessee, Civic Center, April 8, 2002

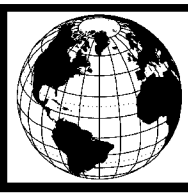
"[T]hat cause was to liberate the Afghan people from terrorist occupation, and
we did so. Next week, the schools reopen in Afghanistan. They will be open to
all -- and many young girls will go to school for the first time in their young
lives. Afghanistan has many difficult challenges ahead -- and, yet, we've
averted mass starvation, begun clearing mine fields, rebuilding roads and
improving health care. In Kabul, a friendly government is now an essential
member of the coalition against terror."
Remarks on the World Coalition for Anti-Terrorism Efforts, March 11, 2002

"All fathers and mothers, in all societies, want their children to be educated,
and live free from poverty and violence. No people on Earth yearn to be
oppressed, or aspire to servitude, or eagerly await the midnight knock of the
secret police. If anyone doubts this, let them look to Afghanistan, where the
Islamic 'street' greeted the fall of tyranny with song and celebration."
State of the Union, January 29, 2002

Office of Global Communications * http://www.whitehouse.gov/ogc
- In the President's Words -- The Rights and Aspirations of the People of Afghanistan.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_PBL8E003_WHO.TXT_1>



In the President's Words...



The Rights and the Aspirations of the People of Afghanistan

"In Afghanistan, we helped to liberate an oppressed people. And we will continue helping them secure their country, rebuild their society, and educate all their children, boys and girls."
State of the Union, January 28, 2003

"We've seen in Afghanistan that the road to freedom can be hard; it's a hard struggle. We've also seen in Afghanistan that the road to freedom is the only one worth traveling. Any nation that sacrifices to build a future of liberty will have the respect, the support, and the friendship of the United States of America."
Remarks on Humanitarian Efforts in Afghanistan, October 11, 2002

"Our commitment to a stable and free and peaceful Afghanistan is a long-term commitment."
Statement with Afghanistan's President Karzai, September 12, 2002

"Our governments have acted as leaders in the international community to address the humanitarian needs of Afghanistan, including repatriation and resettlement of refugees and the internally displaced. While these challenges continue, it is now time for the international community to take strong, visible steps to begin Afghanistan's physical reconstruction."
Joint Statement with Japan's Prime Minister and Saudi Arabia's Foreign Minister, September 12, 2002

"In Afghanistan, the Taliban used violence and fear to deny Afghan women access to education, health care, mobility, and the right to vote. Our coalition has liberated Afghanistan and restored fundamental human rights and freedoms to Afghan women, and all the people of Afghanistan. Young girls in Afghanistan are able to attend schools for the first time."
Proclamation 7584,Women's Equality Day, 2002, August 23, 2002

"And thanks to our United States military and thanks to a coalition we put together -- and thanks to the coalition we have put together, we have freed the people of Afghanistan from one of the most repressive regimes in the history of mankind. Not only are we steadfast in our desire to defend that which we believe, we also are willing to commit resources to free a nation."
Remarks at the Knoxville, Tennessee, Civic Center, April 8, 2002

"[T]hat cause was to liberate the Afghan people from terrorist occupation, and we did so. Next week, the schools reopen in Afghanistan. They will be open to all -- and many young girls will go to school for the first time in their young lives. Afghanistan has many difficult challenges ahead -- and, yet, we've averted mass starvation, begun clearing mine fields, rebuilding roads and improving health care. In Kabul, a friendly government is now an essential member of the coalition against terror."
Remarks on the World Coalition for Anti-Terrorism Efforts, March 11, 2002

"All fathers and mothers, in all societies, want their children to be educated, and live free from poverty and violence. No people on Earth yearn to be oppressed, or aspire to servitude, or eagerly await the midnight knock of the secret police. If anyone doubts this, let them look to Afghanistan, where the Islamic 'street' greeted the fall of tyranny with song and celebration."
State of the Union, January 29, 2002

THE WHITE HOUSE
Office of Global Communications

For more information log on to www.whitehouse.gov/ogc

From: CN=John B. Wiegmann/OU=NSC/O=EOP [NSC]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/27/2003 7:01:22 AM
Subject: : Re: Who is Roger Cressey?

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:John B. Wiegmann (CN=John B. Wiegmann/OU=NSC/O=EOP [NSC])
CREATION DATE/TIME:27-FEB-2003 12:01:22.00
SUBJECT:: Re: Who is Roger Cressey?
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Former NSC staffer, worked for Dick Clarke's cyber operation when Dick moved there, left several months ago.

Brett M. Kavanaugh
02/27/2003 11:08:33 AM
Record Type: Record

To: John B. Wiegmann/NSC/EOP@EOP
cc:
Subject: Who is Roger Cressey?

From: CN=Joel Kaplan/OU=WHO/O=EOP@Exchange [UNKNOWN]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/27/2003 4:39:09 AM
Subject: : RE: Campbell brown.

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Joel Kaplan (CN=Joel Kaplan/OU=WHO/O=EOP@Exchange [UNKNOWN])
CREATION DATE/TIME:27-FEB-2003 09:39:09.00
SUBJECT:: RE: Campbell brown.
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

No, she didn't show. I'm assuming (b/c I'm prideful) that it's b/c she had to cover the President's speech.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Thursday, February 27, 2003 9:32 AM
To: Kaplan, Joel
Subject: RE: Campbell brown.

were you sitting with her at AEI

From: Joel Kaplan/WHO/EOP@Exchange on 02/27/2003 09:30:54 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE: Campbell brown.

Huh?

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Thursday, February 27, 2003 1:13 AM
To: Kaplan, Joel
Subject: Campbell brown.

.

From: Kirk Blalock <kblalock@fierce-isakowitz.com>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Diana L. Schacht/OPD /EOP@EOP [OPD] <Diana L. Schacht>;Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
Sent: 2/27/2003 4:51:46 AM
Subject: : LA Times Editorial Today - First, Help the Sick
Attachments: P_4CC8E003_WHO.TXT_1.htm; P_4CC8E003_WHO.TXT_2.gif

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kirk Blalock <kblalock@fierce-isakowitz.com> (Kirk Blalock <kblalock@fierce-isakowitz.com> [UNKNOWN])
CREATION DATE/TIME:27-FEB-2003 09:51:46.00
SUBJECT:: LA Times Editorial Today - First, Help the Sick
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

<http://www.latimes.com/> latimes.com

_____

EDITORIAL: First, Help the Sick

February 27, 2003

The continuing flood of asbestos injury lawsuits clogging courts around the country now represents the longest-running legal saga in American history. That unhappy distinction should prod Congress to step in at last.

In recent decades, more than half a million men and women, most of them blue-collar workers, have sued companies that made or used products containing asbestos. Many are desperately sick with respiratory cancers or other conditions causing severe breathing difficulties, but most who say they were exposed to asbestos aren't currently ill.

Lawyers for the earliest asbestos victims were heroes. In the 1970s, they exposed corporate bosses who for decades had told their employees to mine asbestos or insulate ships with it even though company officials knew the material was deadly. When workers fell ill, many coughing up blood, their bosses refused to tell them that asbestos might be the reason. In trial after trial, executives swore that something else must have caused the plaintiffs' diseases -- though juries increasingly refused to buy that line.

At this point, there's plenty of dishonor to be shared. By the labor unions that have shamelessly trolled their ranks for plaintiffs, many of them likely never to fall ill with asbestos-caused disease. By lawyers who have grown rich off these cases but still charge 30% contingency fees to process plaintiffs in impersonal batches of 1,000 or more. And certainly by the corporate defendants.

Asbestos litigation has already cost the U.S. economy $54 billion, according to a Rand Corp. estimate. Plaintiffs have sued some 6,000 companies. Legal fees and payouts have bankrupted dozens of corporations, with more failures to come. Desperately sick plaintiffs can still wait years before they get to court; many have died before

their trial dates.

By clumping cases into huge groups, lawyers haggle with the corporations and their insurers over the value of workers' injuries, often shaking them down on behalf of clients who were merely exposed to asbestos while underpaying people who are acutely ill.

For years, policymakers have tried to devise a speedier, fairer way to resolve this mess. The continuing bankruptcies and estimates of half a million or more asbestos lawsuits to come may have created momentum for reform.

The most thoughtful proposal, which Sen. Don Nickles (R-Okla.) introduced as legislation this month, would make sure that payouts go where they are most needed, to people who are already ill. Those who fall ill in the future would be able to seek compensation then. This approach won important support in recent weeks from the American Bar Assn. Congress should pass Nickles' legislation.

Copyright 2003 Los Angeles Times

- att1.htm - image001.gif
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_4CC8E003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_4CC8E003_WHO.TXT_2>

latimes.com

EDITORIAL: First, Help the Sick

February 27, 2003

The continuing flood of asbestos injury lawsuits clogging courts around the country now represents the longest-running legal saga in American history. That unhappy distinction should prod Congress to step in at last.

In recent decades, more than half a million men and women, most of them blue-collar workers, have sued companies that made or used products containing asbestos. Many are desperately sick with respiratory cancers or other conditions causing severe breathing difficulties, but most who say they were exposed to asbestos aren't currently ill.

Lawyers for the earliest asbestos victims were heroes. In the 1970s, they exposed corporate bosses who for decades had told their employees to mine asbestos or insulate ships with it even though company officials knew the material was deadly. When workers fell ill, many coughing up blood, their bosses refused to tell them that asbestos might be the reason. In trial after trial, executives swore that something else must have caused the plaintiffs' diseases -- though juries increasingly refused to buy that line.

At this point, there's plenty of dishonor to be shared. By the labor unions that have shamelessly trolled their ranks for plaintiffs, many of them likely never to fall ill with asbestos-caused disease. By lawyers who have grown ric h off these cases but still charge 30% contingency fees to process plaintiffs in impersonal batches of 1,000 or more. And certainly by the corporate defendants.

Asbestos litigation has already cost the U.S. economy $54 billion, according to a Rand Corp. estimate. Plaintiffs have sued some 6,000 companies. Legal fees and payouts have bankrupted dozens of corporations, with more failures to come. Desperately sick plaintiffs can still wait years before they get to court; many have died before their trial dates.

By clumping cases into huge groups, lawyers haggle with the corporations and their insurers over the value of workers' injuries, often shaking them down on behalf of clients who were merely exposed to asbestos while underpaying people who are acutely ill.

For years, policymakers have tried to devise a speedier, fairer way to resolve this mess. The continuing bankruptcies and estimates of half a million or more asbestos lawsuits to come may have created momentum for reform.

The most thoughtful proposal, which Sen. Don Nickles (R-Okla.) introduced as legislation this month, would make sure that payouts go where they are most needed, to people who are already ill. Those who fall ill in the future would be able to seek compensation then. This approach won important support in recent weeks from the American Bar Assn. Congress should pass Nickles' legislation.

< /font>

Copyright 2003 Los Angeles Times

Los Angeles Times
latimes.com

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Wendy J. Grubbs/WHO/EOP@EOP [WHO] <Wendy J. Grubbs>;David G. Leitch/WHO /EOP@Exchange@EOP [WHO] <David G. Leitch>;Ashley Snee/WHO/EOP@Exchange@EOP [WHO] <Ashley Snee>;Alberto R. Gonzales/WHO/EOP@Exchange@EOP [WHO] <Alberto R. Gonzales>
Sent: 2/27/2003 5:43:21 AM
Subject: : Akron paper positive editorial on Cook in response to NY Times

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:27-FEB-2003 10:43:21.00
SUBJECT:: Akron paper positive editorial on Cook in response to NY Times
TO:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Cook and the law
The demonization of Deborah Cook has reached full froth. So much for assessing a judicial nominee on her record

The Senate Judiciary Committee is expected to vote this morning on the nomination of Deborah Cook to sit on the 6th U.S. Circuit Court of Appeals in Cincinnati. Almost two years have passed since she was first tapped by President Bush to join the federal bench. The delay reflects understandable payback from Democrats who watched strong nominees of Bill Clinton linger for longer as Republicans played political games. Unfortunately, part of the game played by both parties and their allies involves the crude caricature (and worse) of judicial nominees.

A fresh example of the distortion and even recklessness can be found on today's Commentary page. Adam Cohen, an editorial writer for the New York Times, delivers a slashing critique of the Cook record as a justice on the Ohio Supreme Court the past eight years Too bad his assessment lacks the necessary context, let alone a full grasp of the issues at work in the cases he discusses.

Cohen notes ``the predominantly Republican court'' and later adds that Cook ``frequently breaks with her Republican colleagues.'' The objective is to portray the justice, ``the court's most prolific dissenter,'' as extreme, even for a Republican court. Those who pay cursory attention to the Ohio Supreme Court know that party labels do not tell the story of recent years.

Two of the Republicans have been among the most liberal members, siding regularly with the two Democrats to form a majority in such areas as employment and tort liability law. To say the court is predominantly Republican may be convenient. It doesn't add to an understanding of Cook.

We have noted in the past our sharp disagreements with Cook, especially in the landmark school-funding case. What offends in the current confirmation process is the attempt to demonize the Akron resident, arguing (as Cohen does) that ``often she reaches for a harsh legal technicality to send a hapless victim home empty-handed,'' that she shills for ``big business and insurance companies.''

Actually, the description is funny, in view of the mish-mash the ``bipartisan'' majority made of insurance law in the state. Cook has been a frequent dissenter. That doesn't mean she stands alone. Cohen addresses a half-dozen cases. In four, Cook sided with the rulings of both the trial court and the state appeals court. In the remaining two, she would have upheld the trial court or the appeals court.

Were these courts reaching for ``a harsh legal technicality''? Is there a vast right-wing conspiracy? Sorry, not in Ohio. If anything, Cook and two Republican colleagues (Chief Justice Thomas Moyer, ideologue?) often objected to the majority departing from precedent, hardly a radical position.

Cook critics overlook the majority opinion she wrote rejecting the claims of employers and concluding that punitive damages are available to workers who have suffered discrimination in the workplace. The opinion reveals much about the Cook judicial philosophy. She precisely examined legislative intent in crafting the law.

That is the Cook familiar to many Ohioans. She gives great deference to the legislature. She reflects the principle that this is a nation of laws, not of men or women.

Who doesn't sympathize with David Norgard, a worker exposed to beryllium on the job who has been ailing for two decades? The issue before the Ohio Supreme Court was whether Norgard filed suit within the statute of limitations. The majority ruled he had. Cook dissented.

Cohen suggests Norgard knew little about his illness because the company stonewalled. In truth, Norgard knew for years. He sought advice about hiring an attorney. The trial court dismissed his case on summary judgment. The appeals court unanimously upheld the lower court. Cook objected to the majority casting aside settled law on the statute of limitations. Her interpretation followed the practice of courts across the country.

The ruling of the Ohio Supreme Court in the case of Phyllis Ruth Mauzy provoked cries of amazement in courthouses. Cook dissented from the majority's far-flung and poorly reasoned departure from the way Ohio and almost every other state applied federal civil-rights law. Again, Cook wasn't by herself. She argued the mainstream interpretation.

The impression promoted by Cohen is that Cook is results-oriented, serving corporate masters, denying the little guy his due. Read the cases cited in the Cohen column and many others, and the conclusion is plain: Cook criticizes the majority for bending the law to fit its desired result.

We share concerns about Bush nominees who ``will radically reshape the federal judiciary for a generation'' (as Cohen puts it). Jeffrey Sutton, another selected to sit on the federal appeals court in Cincinnati, may give too little deference to legislative intent. Is the argument that Cook gives too much? A silly argument? It is almost as silly as surveying the many Bush nominees and concluding that Cook offers reason for Americans to be ``very worried.''

In this crowd, she is reassuring.

Other nominees deserve harsh words. Yet, in seeking to demonize Cook, critics risk their credibility. When trouble really enters the committee room, the howls will be dismissed as the usual fare. That ill serves the federal judiciary. The Adam Cohens could learn something from Deborah Cook. They could argue their case more carefully.

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/27/2003 5:52:27 AM
Subject: : FW: URGENT - 11:30 AM Deadline - LRM LJM5 - - TREASURY Report on HR878 Armed Forces Tax Fairness Act of 2003
Attachments: P_RWH8E003_WHO.TXT_1.doc; P_RWH8E003_WHO.TXT_2.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:27-FEB-2003 10:52:27.00
SUBJECT:: FW: URGENT - 11:30 AM Deadline - LRM LJM5 - - TREASURY Report on HR878 Armed Forces Tax Fairness Act of 2003
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

They called and said they REALLY need our sign on this by 11:30 am.

-----Original Message-----
From: MacEcevic, Lisa J.
Sent: Thursday, February 27, 2003 10:23 AM
To: dodlrs@osdgc.osd.mil; valrm@mail.va.gov; justice.lrm@usdoj.gov; ogc_legislation@ed.gov; HUD_LRM@hud.gov; state-lrm@state.gov
Cc: Rodriguez, Justine F.; Foster, James D.; Barth, Mary C.; Lobrano, Lauren C.; Dove, Stephen W.; Rossman, Elizabeth L.; Call, Amy L.; Perry, Philip J.; Schneider, Matthew J.; Wood, John F.; McMillin, Stephen S.; Rhinesmith, Alan B.; Schwartz, Mark J.; Mahaffie, Robert F.; Gillis, Ursula S.; Smythe, Augustine T.; Little, Attia; Balis, Ellen J.; Kilpatrick, Robert W.; Emery Jr., Richard P.; Redburn, Francis S.; Stack, Kathryn B.; Haun, David J.; Leuthy, Cameron M.; Hustead, Toni S.; Kulikowski, James M.; Kho, Irene; Green, Richard E.; Jukes, James J.; Ovp Lrm; Whgc Lrm; Cea Lrm; Nec Lrm; Chadwick, Kirsten; Keniry, Daniel ; Hobbs, David W.; Burgeson, Christine M.; Malphrus, Garry; Ingle, Edward; Barrales, Ruben S.; Lefkowitz, Jay P.; Kaplan, Joel; Silverberg, Kristen; Ohs Lrm
Subject: URGENT - 11:30 AM Deadline - LRM LJM5 - - TREASURY Report on HR878 Armed Forces Tax Fairness Act of 2003

Treasury would like to send the attached letter supporting H.R. 878 to the House Ways and Means Committee before it marks up the bill. The markup is scheduled to begin at noon today. Please respond with any comments on the letter by 11:30 A.M. TODAY. Thank you.
Letter - - hr0878altr.doc
Bill Text -

LRM ID: LJM5
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Thursday, February 27, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: Lisa J. Macecevic

PHONE: (202)395-1092 FAX: (202)395-3109
SUBJECT: TREASURY Report on HR878 Armed Forces Tax Fairness Act of 2003

DEADLINE: 11:30 A.M. TODAY Thursday, February 27, 2003
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Treasury would like to send the attached letter supporting H.R. 878 to the House Ways and Means Committee before it marks up the bill. The markup is scheduled to begin at noon today. Please respond with any comments on the letter by 11:30 A.M. TODAY. Thank you.

DISTRIBUTION LIST

AGENCIES:
029-DEFENSE - Vic Bernson - (703) 697-1305
129-VETERANS AFFAIRS - John H. Thompson - (202) 273-6666
061-JUSTICE - Jamie E. Brown - (202) 514-2141
030-EDUCATION - Jack Kristy - (202) 401-8313
054-HOUSING & URBAN DEVELOPMENT - Mike Moran - (202) 708-1793
-HOMELAND SECURITY - -
114-STATE - VACANT - (202) 647-4463

EOP:
Justine F. Rodriguez
James D. Foster
Mary C. Barth
Lauren C. Lobrano
Stephen W. Dove
Elizabeth L. Rossman
Amy L. Call
Philip J. Perry
Matthew J. Schneider
John F. Wood
Stephen S. McMillin
Alan B. Rhinesmith
Mark J. Schwartz
Robert F. Mahaffie
Ursula S. Gillis
Augustine T. Smythe
Attia Little
Ellen J. Balis
Robert W. Kilpatrick
Richard P. Emery Jr.
Francis S. Redburn
Kathryn B. Stack
David J. Haun
Cameron M. Leuthy
Toni S. Hustead
James M. Kulikowski
Irene Kho
Richard E. Green
James J. Jukes
OVP LRM
WHGC LRM
CEA LRM
NEC LRM
Kirsten A. Chadwick
Daniel J. Keniry

David W. Hobbs
Christine M. Burgeson
Garry Malphrus
Edward Ingle
Ruben S. Barrales
Jay P. Lefkowitz
Joel D. Kaplan
Kristen Silverberg
OHS LRM

LRM ID: LJM5 SUBJECT: TREASURY Report on HR878 Armed Forces Tax Fairness Act of 2003
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Lisa J. Macecevic Phone: 395-1092 Fax: 395-3109
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-3454

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_RWH8E003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_RWH8E003_WHO.TXT_2>

The Honorable William M. Thomas
Chairman
Committee on Ways and Means
U. S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I thank the Committee on Ways and Means for providing me this opportunity to comment on H.R. 878, the "Armed Forces Tax Fairness Act of 2003."

Treasury supports this legislation to promote fair tax treatment for our men and women serving in the military to protect our nation.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely,

Pam Olson
Assistant Secretary

HR 878 IH

108th CONGRESS
1st Session
H. R. 878

To amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and Foreign Service in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

February 25, 2003

Mr. THOMAS (for himself, Mr. HOUGHTON, Mr. CAMP, Mr. LEWIS of Kentucky, Mr. HAYWORTH, Mr. SAM JOHNSON of Texas, Mr. HERGER, Mr. RAMSTAD, Mr. CANTOR, Mr. ENGLISH, and Mr. CRANE) introduced the following bill; which was referred to the Committee on Ways and Means

---

A BILL

To amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and Foreign Service in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Armed Forces Tax Fairness Act of 2003'.

SEC. 2. SPECIAL RULE FOR MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE IN DETERMINING EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL- Subsection (d) of section 121 of the Internal Revenue Code of 1986 (relating to exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

`(10) MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE-

`(A) IN GENERAL- At the election of an individual with respect to a property, the running of the 5-year period referred to in

subsection (a) with respect to such property shall be suspended during any period that such individual or such individual's spouse is serving on qualified official extended duty as a member of the uniformed services or of the Foreign Service.

`(B) MAXIMUM PERIOD OF SUSPENSION- Such 5-year period shall not be extended more than 5 years by reason of subparagraph (A).

`(C) QUALIFIED OFFICIAL EXTENDED DUTY- For purposes of this paragraph--

`(i) IN GENERAL- The term `qualified official extended duty' means any extended duty while serving at a duty station which is at least 150 miles from such property or while residing under Government orders in Government quarters.

`(ii) UNIFORMED SERVICES- The term `uniformed services' has the meaning given such term by section 101(a)(5) of title 10, United States Code, as in effect on the date of the enactment of this paragraph.

`(iii) FOREIGN SERVICE- The term `member of the Foreign Service' has the meaning given the term `member of the Service' by paragraph (1), (2), (3), (4), or (5) of section 103 of the Foreign Service Act of 1980, as in effect on the date of the enactment of this paragraph.

`(iv) EXTENDED DUTY- The term `extended duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 180 days or for an indefinite period.

`(D) SPECIAL RULES RELATING TO ELECTION-

`(i) ELECTION LIMITED TO 1 PROPERTY AT A TIME- An election under subparagraph (A) with respect to any property may not be made if such an election is in effect with respect to any other property.

`(ii) REVOCATION OF ELECTION- An election under subparagraph (A) may be revoked at any time.'.

(b) EFFECTIVE DATE; SPECIAL RULE-

(1) EFFECTIVE DATE- The amendment made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) WAIVER OF LIMITATIONS- If refund or credit of any overpayment of tax resulting from the amendment made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 3. RESTORATION OF FULL EXCLUSION FROM GROSS INCOME OF DEATH GRATUITY PAYMENT.

(a) IN GENERAL- Subsection (b)(3) of section 134 of the Internal Revenue Code of 1986 (relating to certain military benefits) is amended by adding at the end the following new subparagraph:

> `(C) EXCEPTION FOR DEATH GRATUITY ADJUSTMENTS MADE BY LAW- Subparagraph (A) shall not apply to any adjustment to the amount of death gratuity payable under chapter 75 of title 10, United States Code, which is pursuant to a provision of law enacted before December 31, 1991.'.

(b) CONFORMING AMENDMENT- Subparagraph (A) of section 134(b)(3) of such Code is amended by striking `subparagraph (B)' and inserting `subparagraphs (B) and (C)'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply with respect to deaths occurring after September 10, 2001.

SEC. 4. EXCLUSION FOR AMOUNTS RECEIVED UNDER DEPARTMENT OF DEFENSE HOMEOWNERS ASSISTANCE PROGRAM.

(a) IN GENERAL- Section 132(a) of the Internal Revenue Code of 1986 (relating to the exclusion from gross income of certain fringe benefits) is amended by striking `or' at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting `, or' and by adding at the end the following new paragraph:

> `(8) qualified military base realignment and closure fringe.'.

(b) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE- Section 132 of such Code is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

`(n) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE-

> `(1) IN GENERAL- For purposes of this section, the term `qualified military base realignment and closure fringe' means 1 or more payments under the authority of section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) (as in effect on the date of the enactment of this subsection).
>
> `(2) LIMITATION- With respect to any property, such term shall not include any payment referred to in paragraph (1) to the extent that the sum of all such payments related to such property exceeds the amount described in subsection (c)(1) of such section (as in effect on such date).'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

SEC. 5. EXPANSION OF COMBAT ZONE FILING RULES TO CONTINGENCY OPERATIONS.

(a) IN GENERAL- Section 7508(a) of the Internal Revenue Code of 1986 (relating to time for performing certain acts postponed by reason of service in combat zone) is amended--

(1) by inserting `or when deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) or which became such a contingency operation by operation of law' after `section 112',

(2) by inserting in the first sentence `or at any time during the period of such contingency operation' after `for purposes of such section',

(3) by inserting `or operation' after `such an area', and

(4) by inserting `or operation' after `such area'.

(b) CONFORMING AMENDMENTS-

(1) Section 7508(d) of such Code is amended by inserting `or contingency operation' after `area'.

(2) The heading for section 7508 of such Code is amended by inserting `or contingency operation' after `combat zone'.

(3) The item relating to section 7508 of such Code in the table of sections for chapter 77 is amended by inserting `or contingency operation' after `combat zone'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to any period for performing an act which has not expired before the date of the enactment of this Act.

SEC. 6. MODIFICATION OF MEMBERSHIP REQUIREMENT FOR EXEMPTION FROM TAX FOR CERTAIN VETERANS' ORGANIZATIONS.

(a) IN GENERAL- Subparagraph (B) of section 501(c)(19) of the Internal Revenue Code of 1986 (relating to list of exempt organizations) is amended by striking `or widowers' and inserting `, widowers, ancestors, or lineal descendants'.

(b) EFFECTIVE DATE- The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 7. CLARIFICATION OF THE TREATMENT OF CERTAIN DEPENDENT CARE ASSISTANCE PROGRAMS.

(a) IN GENERAL- Section 134(b) of the Internal Revenue Code of 1986 (defining qualified military benefit) is amended by adding at the end the following new paragraph:

`(4) CLARIFICATION OF CERTAIN BENEFITS- For purposes of paragraph (1), such term includes any dependent care assistance program

(as in effect on the date of the enactment of this paragraph) for any individual described in paragraph (1)(A).'.

(b) CONFORMING AMENDMENTS-

(1) Section 134(b)(3)(A) of such Code (as amended by section 3) is further amended by inserting `and paragraph (4)' after `subparagraphs (B) and (C)'.

(2) Section 3121(a)(18) of such Code is amended by striking `or 129' and inserting `, 129, or 134(b)(4)'.

(3) Section 3306(b)(13) of such Code is amended by striking `or 129' and inserting `, 129, or 134(b)(4)'.

(4) Section 3401(a)(18) of such Code is amended by striking `or 129' and inserting `, 129, or 134(b)(4)'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 8. CLARIFICATION RELATING TO EXCEPTION FROM ADDITIONAL TAX ON CERTAIN DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS, ETC., ON ACCOUNT OF ATTENDANCE AT MILITARY ACADEMY.

(a) IN GENERAL- Subparagraph (B) of section 530(d)(4) of the Internal Revenue Code of 1986 (relating to exceptions from additional tax for distributions not used for educational purposes) is amended by striking `or' at the end of clause (iii), by redesignating clause (iv)

as clause (v), and by inserting after clause (iii) the following new clause:

> `(iv) made on account of the attendance of the account holder at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy, to the extent that the amount of the payment or distribution does not exceed the costs of advanced education (as defined by section 2005(e)(3) of title 10, United States Code, as in effect on the date of the enactment of this section) attributable to such attendance, or'.

(b) EFFECTIVE DATE- The amendment made by this section shall take effect for taxable years beginning after December 31, 2002.

SEC. 9. SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.

(a) IN GENERAL- Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by

redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

`(p) SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS-

`(1) IN GENERAL- The exemption from tax under subsection (a) with respect to any organization described in paragraph (2), and the eligibility of any organization described in paragraph (2) to apply for recognition of exemption under subsection (a), shall be suspended during the period described in paragraph (3).

`(2) TERRORIST ORGANIZATIONS- An organization is described in this paragraph if such organization is designated or otherwise individually identified--

`(A) under section 212(a)(3)(B)(vi)(II) or 219 of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization,

`(B) in or pursuant to an Executive order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act of 1945 for the purpose of imposing on such organization an economic or other sanction, or

`(C) in or pursuant to an Executive order issued under the authority of any Federal law if--

`(i) the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989); and

`(ii) such Executive order refers to this subsection.

`(3) PERIOD OF SUSPENSION- With respect to any organization described in paragraph (2), the period of suspension--

`(A) begins on the later of--

`(i) the date of the first publication of a designation or identification described in paragraph (2) with respect to such organization, or

`(ii) the date of the enactment of this subsection, and

`(B) ends on the first date that all designations and identifications described in paragraph (2) with respect to such organization are rescinded pursuant to the law or Executive order under which such designation or identification was made.

`(4) DENIAL OF DEDUCTION- No deduction shall be allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for any contribution to an organization described in paragraph (2) during the period described in paragraph (3).

`(5) DENIAL OF ADMINISTRATIVE OR JUDICIAL CHALLENGE OF SUSPENSION OR DENIAL OF DEDUCTION- Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a designation or identification described in paragraph (2), the period of suspension described in paragraph (3), or a denial of a deduction under paragraph (4) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

`(6) ERRONEOUS DESIGNATION-

`(A) IN GENERAL- If--

`(i) the tax exemption of any organization described in paragraph (2) is suspended under paragraph (1),

`(ii) each designation and identification described in paragraph (2) which has been made with respect to such organization is determined to be erroneous pursuant to the law or Executive order under which such designation or identification was made, and

`(iii) the erroneous designations and identifications result in an overpayment of income tax for any taxable year by such organization,

credit or refund (with interest) with respect to such overpayment shall be made.

`(B) WAIVER OF LIMITATIONS- If the credit or refund of any overpayment of tax described in subparagraph (A)(iii) is prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date of the last determination described in subparagraph (A)(ii).

`(7) NOTICE OF SUSPENSIONS- If the tax exemption of any organization is suspended under this subsection, the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.'.

(b) EFFECTIVE DATE- The amendments made by this section shall apply to designations made before, on, or after the date of the enactment of this Act.

SEC. 10. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT TRAVEL EXPENSES OF NATIONAL GUARD AND RESERVE MEMBERS.

(a) DEDUCTION ALLOWED- Section 162 of the Internal Revenue Code of 1986 (relating to certain trade or business expenses) is amended by redesignating subsection (p) as subsection (q) and inserting after subsection (o) the following new subsection:

`(p) TREATMENT OF EXPENSES OF MEMBERS OF RESERVE COMPONENT OF ARMED FORCES OF THE UNITED STATES- For purposes of subsection (a)(2), in the case of an individual who performs services as a member of a reserve component of the Armed Forces of the United States at any time during the taxable year, such individual shall be deemed to be away from home in the pursuit of a trade or business for any period during which such individual is away from home in connection with such services.'.

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ELECTS TO ITEMIZE- Section 62(a)(2) of such Code (relating to certain trade and business deductions of employees) is amended by adding at the end the following new subparagraph:

`(E) CERTAIN EXPENSES OF MEMBERS OF RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES- The deductions allowed by section 162 which consist of expenses, not in excess of $500, paid or incurred by the taxpayer in connection with the performance of services by such taxpayer as a member of a reserve component of the Armed Forces of the United States for any period during which such individual is more than 100 miles away from home in connection with such services.'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.

SEC. 11. PROTECTION OF SOCIAL SECURITY.

The amounts transferred to any trust fund under title II of the Social Security Act shall be determined as if this Act had not been enacted.

END

From: [UNKNOWN] <Kavanaugh, Brett M.>
To: <Snee>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/ASHLEY_M_SNEE [UNKNOWN] <Ashley>;<Viana>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /3DBB7217-8575999B-852569FA-77CFE8 [UNKNOWN] <Mercedes M.>;<Rodriguez>;/EOP /FIRST ADMINISTRATIVE GROUP/RECIPIENTS/AED12750-ABC6F760-852569DC-5352FE [UNKNOWN] <Leonard B.>;<Guerra>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /A6B2E380-D5A4FADA-852569E4-4C97FA [UNKNOWN] <Abel>;<Mamo>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/7DC6DC70-6F4D0E18-852569DB-5B674A [UNKNOWN] <Jeanie S.>;<Goeglein>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /45280CD0-28425E29-852569DC-58479D [UNKNOWN] <Tim>;<Smith>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6BF4B26C-5CAAC856-852569DE-66F827 [UNKNOWN] <Matthew E.>;<Grubbs>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS /CB4CBFE1-555CE201-85256B0A-6C5633 [UNKNOWN] <Wendy J.>;<Mehlman>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/50BA7341-700F1B8A-85256B0A-6B34A8 [UNKNOWN] <Ken>;<Gonzales>;Alberto_R._Gonzales@who.eop.gov [WHO] <Alberto R.>
Sent: 2/27/2003 6:43:28 AM
Subject: from ABC News The Note

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (MS Mail)
CREATOR:Kavanaugh, Brett M. ( [ UNKNOWN ] )
CREATION DATE/TIME:27-FEB-2003 11:43:28.00
SUBJECT:from ABC News The Note
TO:Snee, Ashley ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=ASHLEY_M_SNEE [
UNKNOWN ] )
READ:UNKNOWN
TO:Viana, Mercedes M. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=3DBB7217-8575999B-852569FA-77CFE8 [ UNKNOWN ] )
READ:UNKNOWN
TO:Rodriguez, Leonard B. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=AED12750-
ABC6F760-852569DC-5352FE [ UNKNOWN ] )
READ:UNKNOWN
TO:Guerra, Abel ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=A6B2E380-D5A4FADA-
852569E4-4C97FA [ UNKNOWN ] )
READ:UNKNOWN
TO:Mamo, Jeanie S. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=7DC6DC70-6F4D0E18-852569DB-5B674A [ UNKNOWN ] )
READ:UNKNOWN
TO:Goeglein, Tim ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=45280CD0-28425E29-852569DC-58479D [ UNKNOWN ] )
READ:UNKNOWN
TO:Smith, Matthew E. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6BF4B26C-
5CAAC856-852569DE-66F827 [ UNKNOWN ] )
READ:UNKNOWN
TO:Grubbs, Wendy J. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=CB4CBFE1-555CE201-85256B0A-6C5633 [ UNKNOWN ] )
READ:UNKNOWN
TO:Mehlman, Ken ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=50BA7341-700F1B8A-
85256B0A-6B34A8 [ UNKNOWN ] )
READ:UNKNOWN
TO:Gonzales, Alberto R. ( Alberto_R._Gonzales@who.eop.gov [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

Those Republicans who have been critical in the past of the party's pre-Bush communications efforts can't help but be pleased at the coordinated effort between the White House and the party on the Hill to coalition-build and Hispanic-media-outreach on this, but, as (belated) birthday boy Bob Novak says

and writes regularly, it still isn't clear what the Republican end game on this shall be.

From: Kavanaugh, Brett M.
To: <Bumatay, Patrick J.>
Sent: 2/27/2003 10:50:27 AM
Subject: Re: FW: URGENT - 11:30 AM Deadline - LRM LJM5 - - TREASURY Report on HR878 Armed Forces Tax Fairness Act of 2003
Attachments: hr0878altr.doc; HR878.doc

No objection.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 02/27/2003 10:52:14 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: FW: URGENT - 11:30 AM Deadline - LRM LJM5 - - TREASURY Report on HR878 Armed Forces Tax Fairness Act of 2003

They called and said they REALLY need our sign on this by 11:30 am.

-----Original Message-----

From: MacEcevic, Lisa J.

Sent: Thursday, February 27, 2003 10:23 AM

To: dodlrs@osdgc.osd.mil; valrm@mail.va.gov; justice.lrm@usdoj.gov; ogc_legislation@ed.gov; HUD_LRM@hud.gov; state-lrm@state.gov

Cc: Rodriguez, Justine F.; Foster, James D.; Barth, Mary C.; Lobrano, Lauren C.; Dove, Stephen W.; Rossman, Elizabeth L.; Call, Amy L.; Perry, Philip J.; Schneider, Matthew J.; Wood, John F.; McMillin, Stephen S.; Rhinesmith, Alan B.; Schwartz, Mark J.; Mahaffie, Robert F.; Gillis, Ursula S.; Smythe, Augustine T.; Little, Attia; Balis, Ellen J.; Kilpatrick, Robert W.; Emery Jr., Richard P.; Redburn, Francis S.; Stack, Kathryn B.; Haun, David J.; Leuthy, Cameron M.; Hustead, Toni S.; Kulikowski, James M.; Kho, Irene; Green, Richard E.; Jukes, James J.; Ovp Lrm; Whgc Lrm; Cea Lrm; Nec Lrm; Chadwick, Kirsten; Keniry, Daniel ; Hobbs, David W.; Burgeson, Christine M.; Malphrus, Garry; Ingle, Edward; Barrales, Ruben S.; Lefkowitz, Jay P.; Kaplan, Joel; Silverberg, Kristen; Ohs Lrm

Subject: URGENT - 11:30 AM Deadline - LRM LJM5 - - TREASURY Report on HR878 Armed Forces Tax Fairness Act of 2003

Treasury would like to send the attached letter supporting H.R. 878 to the House Ways and Means Committee before it marks up the bill. The markup is scheduled to begin at noon today. Please respond with any comments on the letter by 11:30 A.M. TODAY. Thank you.

Letter - - hr0878altr.doc << hr0878altr.doc >>

Bill Text - << HR878.doc >>

LRM ID: LJM5

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Thursday, February 27, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Richard E. Green (for) Assistant Director for Legislative Reference

OMB CONTACT: Lisa J. Macecevic

PHONE: (202)395-1092 FAX: (202)395-3109

SUBJECT: **TREASURY Report on HR878 Armed Forces Tax Fairness Act of 2003**

DEADLINE: **11:30 A.M. TODAY Thursday, February 27, 2003**

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Treasury would like to send the attached letter supporting H.R. 878 to the House Ways and Means Committee before it marks up the bill. The markup is scheduled to begin at noon today. Please respond with any comments on the letter by 11:30 A.M. TODAY. Thank you.

DISTRIBUTION LIST

AGENCIES:

029-DEFENSE - Vic Bernson - (703) 697-1305

129-VETERANS AFFAIRS - John H. Thompson - (202) 273-6666

061-JUSTICE - Jamie E. Brown - (202) 514-2141

030-EDUCATION - Jack Kristy - (202) 401-8313

054-HOUSING & URBAN DEVELOPMENT - Mike Moran - (202) 708-1793

-HOMELAND SECURITY - -

114-STATE - VACANT - (202) 647-4463

EOP:

Justine F. Rodriguez

James D. Foster

Mary C. Barth

Lauren C. Lobrano

Stephen W. Dove

Elizabeth L. Rossman

Amy L. Call

Philip J. Perry

Matthew J. Schneider

John F. Wood

Stephen S. McMillin

Alan B. Rhinesmith

Mark J. Schwartz

Robert F. Mahaffie

Ursula S. Gillis

Augustine T. Smythe

Attia Little

Ellen J. Balis

Robert W. Kilpatrick

Richard P. Emery Jr.

Francis S. Redburn

Kathryn B. Stack

David J. Haun

Cameron M. Leuthy

Toni S. Hustead

James M. Kulikowski

Irene Kho

Richard E. Green

James J. Jukes

OVP LRM

WHGC LRM

CEA LRM

NEC LRM

Kirsten A. Chadwick

Daniel J. Keniry

David W. Hobbs

Christine M. Burgeson

Garry Malphrus

Edward Ingle

Ruben S. Barrales

Jay P. Lefkowitz

Joel D. Kaplan

Kristen Silverberg

OHS LRM

LRM ID: LJM5 **SUBJECT:** TREASURY Report on HR878 Armed Forces Tax Fairness Act of 2003

RESPONSE TO

LEGISLATIVE REFERRAL

MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: **Lisa J. Macecevic Phone: 395-1092 Fax: 395-3109**

Office of Management and Budget

Branch-Wide Line (to reach legislative assistant): 395-3454

FROM: _____ **(Date)**

_____ **(Name)**

_____ **(Agency)**

_____ **(Telephone)**

The following is the response of our agency to your request for views on the above-captioned subject:

_____ **Concur**

_____ **No Objection**

_____ **No Comment**

_____ **See proposed edits on pages** _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

The Honorable William M. Thomas
Chairman
Committee on Ways and Means
U. S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I thank the Committee on Ways and Means for providing me this opportunity to comment on H.R. 878, the "Armed Forces Tax Fairness Act of 2003."

Treasury supports this legislation to promote fair tax treatment for our men and women serving in the military to protect our nation.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely,

Pam Olson
Assistant Secretary

REV_00158924

HR 878 IH

108th CONGRESS
1st Session
H. R. 878

To amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and Foreign Service in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

February 25, 2003

Mr. THOMAS (for himself, Mr. HOUGHTON, Mr. CAMP, Mr. LEWIS of Kentucky, Mr. HAYWORTH, Mr. SAM JOHNSON of Texas, Mr. HERGER, Mr. RAMSTAD, Mr. CANTOR, Mr. ENGLISH, and Mr. CRANE) introduced the following bill; which was referred to the Committee on Ways and Means

---

A BILL

To amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and Foreign Service in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Armed Forces Tax Fairness Act of 2003'.

SEC. 2. SPECIAL RULE FOR MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE IN DETERMINING EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL- Subsection (d) of section 121 of the Internal Revenue Code of 1986 (relating to exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

`(10) MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE-

`(A) IN GENERAL- At the election of an individual with respect to a property, the running of the 5-year period referred to in

subsection (a) with respect to such property shall be suspended during any period that such individual or such individual's spouse is serving on qualified official extended duty as a member of the uniformed services or of the Foreign Service.

`(B) MAXIMUM PERIOD OF SUSPENSION- Such 5-year period shall not be extended more than 5 years by reason of subparagraph (A).

`(C) QUALIFIED OFFICIAL EXTENDED DUTY- For purposes of this paragraph--

`(i) IN GENERAL- The term `qualified official extended duty' means any extended duty while serving at a duty station which is at least 150 miles from such property or while residing under Government orders in Government quarters.

`(ii) UNIFORMED SERVICES- The term `uniformed services' has the meaning given such term by section 101(a)(5) of title 10, United States Code, as in effect on the date of the enactment of this paragraph.

`(iii) FOREIGN SERVICE- The term `member of the Foreign Service' has the meaning given the term `member of the Service' by paragraph (1), (2), (3), (4), or (5) of section 103 of the Foreign Service Act of 1980, as in effect on the date of the enactment of this paragraph.

`(iv) EXTENDED DUTY- The term `extended duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 180 days or for an indefinite period.

`(D) SPECIAL RULES RELATING TO ELECTION-

`(i) ELECTION LIMITED TO 1 PROPERTY AT A TIME- An election under subparagraph (A) with respect to any property may not be made if such an election is in effect with respect to any other property.

`(ii) REVOCATION OF ELECTION- An election under subparagraph (A) may be revoked at any time.'.

(b) EFFECTIVE DATE; SPECIAL RULE-

(1) EFFECTIVE DATE- The amendment made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) WAIVER OF LIMITATIONS- If refund or credit of any overpayment of tax resulting from the amendment made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 3. RESTORATION OF FULL EXCLUSION FROM GROSS INCOME OF DEATH GRATUITY PAYMENT.

(a) IN GENERAL- Subsection (b)(3) of section 134 of the Internal Revenue Code of 1986 (relating to certain military benefits) is amended by adding at the end the following new subparagraph:

> `(C) EXCEPTION FOR DEATH GRATUITY ADJUSTMENTS MADE BY LAW- Subparagraph (A) shall not apply to any adjustment to the amount of death gratuity payable under chapter 75 of title 10, United States Code, which is pursuant to a provision of law enacted before December 31, 1991.'.

(b) CONFORMING AMENDMENT- Subparagraph (A) of section 134(b)(3) of such Code is amended by striking `subparagraph (B)' and inserting `subparagraphs (B) and (C)'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply with respect to deaths occurring after September 10, 2001.

SEC. 4. EXCLUSION FOR AMOUNTS RECEIVED UNDER DEPARTMENT OF DEFENSE HOMEOWNERS ASSISTANCE PROGRAM.

(a) IN GENERAL- Section 132(a) of the Internal Revenue Code of 1986 (relating to the exclusion from gross income of certain fringe benefits) is amended by striking `or' at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting `, or' and by adding at the end the following new paragraph:

> `(8) qualified military base realignment and closure fringe.'.

(b) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE- Section 132 of such Code is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

`(n) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE-

> `(1) IN GENERAL- For purposes of this section, the term `qualified military base realignment and closure fringe' means 1 or more payments under the authority of section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) (as in effect on the date of the enactment of this subsection).
>
> `(2) LIMITATION- With respect to any property, such term shall not include any payment referred to in paragraph (1) to the extent that the sum of all such payments related to such property exceeds the amount described in subsection (c)(1) of such section (as in effect on such date).'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

SEC. 5. EXPANSION OF COMBAT ZONE FILING RULES TO CONTINGENCY OPERATIONS.

(a) IN GENERAL- Section 7508(a) of the Internal Revenue Code of 1986 (relating to time for performing certain acts postponed by reason of service in combat zone) is amended--

(1) by inserting `or when deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) or which became such a contingency operation by operation of law' after `section 112',

(2) by inserting in the first sentence `or at any time during the period of such contingency operation' after `for purposes of such section',

(3) by inserting `or operation' after `such an area', and

(4) by inserting `or operation' after `such area'.

(b) CONFORMING AMENDMENTS-

(1) Section 7508(d) of such Code is amended by inserting `or contingency operation' after `area'.

(2) The heading for section 7508 of such Code is amended by inserting `or contingency operation' after `combat zone'.

(3) The item relating to section 7508 of such Code in the table of sections for chapter 77 is amended by inserting `or contingency operation' after `combat zone'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to any period for performing an act which has not expired before the date of the enactment of this Act.

SEC. 6. MODIFICATION OF MEMBERSHIP REQUIREMENT FOR EXEMPTION FROM TAX FOR CERTAIN VETERANS' ORGANIZATIONS.

(a) IN GENERAL- Subparagraph (B) of section 501(c)(19) of the Internal Revenue Code of 1986 (relating to list of exempt organizations) is amended by striking `or widowers' and inserting `, widowers, ancestors, or lineal descendants'.

(b) EFFECTIVE DATE- The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 7. CLARIFICATION OF THE TREATMENT OF CERTAIN DEPENDENT CARE ASSISTANCE PROGRAMS.

(a) IN GENERAL- Section 134(b) of the Internal Revenue Code of 1986 (defining qualified military benefit) is amended by adding at the end the following new paragraph:

`(4) CLARIFICATION OF CERTAIN BENEFITS- For purposes of paragraph (1), such term includes any dependent care assistance program

(as in effect on the date of the enactment of this paragraph) for any individual described in paragraph (1)(A).'.

(b) CONFORMING AMENDMENTS-

(1) Section 134(b)(3)(A) of such Code (as amended by section 3) is further amended by inserting `and paragraph (4)' after `subparagraphs (B) and (C)'.

(2) Section 3121(a)(18) of such Code is amended by striking `or 129' and inserting `, 129, or 134(b)(4)'.

(3) Section 3306(b)(13) of such Code is amended by striking `or 129' and inserting `, 129, or 134(b)(4)'.

(4) Section 3401(a)(18) of such Code is amended by striking `or 129' and inserting `, 129, or 134(b)(4)'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 8. CLARIFICATION RELATING TO EXCEPTION FROM ADDITIONAL TAX ON CERTAIN DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS, ETC., ON ACCOUNT OF ATTENDANCE AT MILITARY ACADEMY.

(a) IN GENERAL- Subparagraph (B) of section 530(d)(4) of the Internal Revenue Code of 1986 (relating to exceptions from additional tax for distributions not used for educational purposes) is amended by striking `or' at the end of clause (iii), by redesignating clause (iv)

as clause (v), and by inserting after clause (iii) the following new clause:

> `(iv) made on account of the attendance of the account holder at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy, to the extent that the amount of the payment or distribution does not exceed the costs of advanced education (as defined by section 2005(e)(3) of title 10, United States Code, as in effect on the date of the enactment of this section) attributable to such attendance, or'.

(b) EFFECTIVE DATE- The amendment made by this section shall take effect for taxable years beginning after December 31, 2002.

SEC. 9. SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.

(a) IN GENERAL- Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by

redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

`(p) SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS-

`(1) IN GENERAL- The exemption from tax under subsection (a) with respect to any organization described in paragraph (2), and the eligibility of any organization described in paragraph (2) to apply for recognition of exemption under subsection (a), shall be suspended during the period described in paragraph (3).

`(2) TERRORIST ORGANIZATIONS- An organization is described in this paragraph if such organization is designated or otherwise individually identified--

`(A) under section 212(a)(3)(B)(vi)(II) or 219 of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization,

`(B) in or pursuant to an Executive order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act of 1945 for the purpose of imposing on such organization an economic or other sanction, or

`(C) in or pursuant to an Executive order issued under the authority of any Federal law if--

`(i) the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989); and

`(ii) such Executive order refers to this subsection.

`(3) PERIOD OF SUSPENSION- With respect to any organization described in paragraph (2), the period of suspension--

`(A) begins on the later of--

`(i) the date of the first publication of a designation or identification described in paragraph (2) with respect to such organization, or

`(ii) the date of the enactment of this subsection, and

`(B) ends on the first date that all designations and identifications described in paragraph (2) with respect to such organization are rescinded pursuant to the law or Executive order under which such designation or identification was made.

`(4) DENIAL OF DEDUCTION- No deduction shall be allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for any contribution to an organization described in paragraph (2) during the period described in paragraph (3).

`(5) DENIAL OF ADMINISTRATIVE OR JUDICIAL CHALLENGE OF SUSPENSION OR DENIAL OF DEDUCTION- Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a designation or identification described in paragraph (2), the period of suspension described in paragraph (3), or a denial of a deduction under paragraph (4) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

`(6) ERRONEOUS DESIGNATION-

`(A) IN GENERAL- If--

`(i) the tax exemption of any organization described in paragraph (2) is suspended under paragraph (1),

`(ii) each designation and identification described in paragraph (2) which has been made with respect to such organization is determined to be erroneous pursuant to the law or Executive order under which such designation or identification was made, and

`(iii) the erroneous designations and identifications result in an overpayment of income tax for any taxable year by such organization,

credit or refund (with interest) with respect to such overpayment shall be made.

`(B) WAIVER OF LIMITATIONS- If the credit or refund of any overpayment of tax described in subparagraph (A)(iii) is prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date of the last determination described in subparagraph (A)(ii).

`(7) NOTICE OF SUSPENSIONS- If the tax exemption of any organization is suspended under this subsection, the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.'.

(b) EFFECTIVE DATE- The amendments made by this section shall apply to designations made before, on, or after the date of the enactment of this Act.

SEC. 10. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT TRAVEL EXPENSES OF NATIONAL GUARD AND RESERVE MEMBERS.

(a) DEDUCTION ALLOWED- Section 162 of the Internal Revenue Code of 1986 (relating to certain trade or business expenses) is amended by redesignating subsection (p) as subsection (q) and inserting after subsection (o) the following new subsection:

`(p) TREATMENT OF EXPENSES OF MEMBERS OF RESERVE COMPONENT OF ARMED FORCES OF THE UNITED STATES- For purposes of subsection (a)(2), in the case of an individual who performs services as a member of a reserve component of the Armed Forces of the United States at any time during the taxable year, such individual shall be deemed to be away from home in the pursuit of a trade or business for any period during which such individual is away from home in connection with such services.'.

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ELECTS TO ITEMIZE- Section 62(a)(2) of such Code (relating to certain trade and business deductions of employees) is amended by adding at the end the following new subparagraph:

`(E) CERTAIN EXPENSES OF MEMBERS OF RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES- The deductions allowed by section 162 which consist of expenses, not in excess of $500, paid or incurred by the taxpayer in connection with the performance of services by such taxpayer as a member of a reserve component of the Armed Forces of the United States for any period during which such individual is more than 100 miles away from home in connection with such services.'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.

SEC. 11. PROTECTION OF SOCIAL SECURITY.

The amounts transferred to any trust fund under title II of the Social Security Act shall be determined as if this Act had not been enacted.

END

From: Bumatay, Patrick J.
To: <Kavanaugh, Brett M.>
Sent: 2/27/2003 10:52:14 AM
Subject: FW: URGENT - 11:30 AM Deadline - LRM LJM5 - - TREASURY Report on HR878 Armed Forces Tax Fairness Act of 2003
Attachments: hr0878altr.doc; HR878.doc

They called and said they REALLY need our sign on this by 11:30 am.

-----Original Message-----

From: MacEcevic, Lisa J.

Sent: Thursday, February 27, 2003 10:23 AM

To: dodlrs@osdgc.osd.mil; valrm@mail.va.gov; justice.lrm@usdoj.gov; ogc_legislation@ed.gov; HUD_LRM@hud.gov; state-lrm@state.gov

Cc: Rodriguez, Justine F.; Foster, James D.; Barth, Mary C.; Lobrano, Lauren C.; Dove, Stephen W.; Rossman, Elizabeth L.; Call, Amy L.; Perry, Philip J.; Schneider, Matthew J.; Wood, John F.; McMillin, Stephen S.; Rhinesmith, Alan B.; Schwartz, Mark J.; Mahaffie, Robert F.; Gillis, Ursula S.; Smythe, Augustine T.; Little, Attia; Balis, Ellen J.; Kilpatrick, Robert W.; Emery Jr., Richard P.; Redburn, Francis S.; Stack, Kathryn B.; Haun, David J.; Leuthy, Cameron M.; Hustead, Toni S.; Kulikowski, James M.; Kho, Irene; Green, Richard E.; Jukes, James J.; Ovp Lrm; Whgc Lrm; Cea Lrm; Nec Lrm; Chadwick, Kirsten; Keniry, Daniel ; Hobbs, David W.; Burgeson, Christine M.; Malphrus, Garry; Ingle, Edward; Barrales, Ruben S.; Lefkowitz, Jay P.; Kaplan, Joel; Silverberg, Kristen; Ohs Lrm

Subject: URGENT - 11:30 AM Deadline - LRM LJM5 - - TREASURY Report on HR878 Armed Forces Tax Fairness Act of 2003

Treasury would like to send the attached letter supporting H.R. 878 to the House Ways and Means Committee before it marks up the bill. The markup is scheduled to begin at noon today. Please respond with any comments on the letter by 11:30 A.M. TODAY. Thank you.

Letter - - hr0878altr.doc << hr0878altr.doc >>
Bill Text - << HR878.doc >>

LRM ID: LJM5

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Thursday, February 27, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: Lisa J. Macecevic
PHONE: (202)395-1092 FAX: (202)395-3109
SUBJECT: **TREASURY Report on HR878 Armed Forces Tax Fairness Act of 2003**

DEADLINE: **11:30 A.M. TODAY Thursday, February 27, 2003**
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Treasury would like to send the attached letter supporting H.R. 878 to the House Ways and Means Committee before it marks up the bill. The markup is scheduled to begin at noon today. Please respond with any comments on the letter by 11:30 A.M. TODAY. Thank you.

DISTRIBUTION LIST

AGENCIES:
029-DEFENSE - Vic Bernson - (703) 697-1305
129-VETERANS AFFAIRS - John H. Thompson - (202) 273-6666
061-JUSTICE - Jamie E. Brown - (202) 514-2141
030-EDUCATION - Jack Kristy - (202) 401-8313
054-HOUSING & URBAN DEVELOPMENT - Mike Moran - (202) 708-1793
-HOMELAND SECURITY - -
114-STATE - VACANT - (202) 647-4463

EOP:
Justine F. Rodriguez
James D. Foster
Mary C. Barth
Lauren C. Lobrano
Stephen W. Dove
Elizabeth L. Rossman
Amy L. Call
Philip J. Perry
Matthew J. Schneider
John F. Wood
Stephen S. McMillin
Alan B. Rhinesmith
Mark J. Schwartz
Robert F. Mahaffie
Ursula S. Gillis
Augustine T. Smythe
Attia Little
Ellen J. Balis
Robert W. Kilpatrick
Richard P. Emery Jr.
Francis S. Redburn
Kathryn B. Stack
David J. Haun
Cameron M. Leuthy
Toni S. Hustead
James M. Kulikowski
Irene Kho
Richard E. Green
James J. Jukes
OVP LRM
WHGC LRM
CEA LRM
NEC LRM
Kirsten A. Chadwick
Daniel J. Keniry
David W. Hobbs
Christine M. Burgeson
Garry Malphrus
Edward Ingle
Ruben S. Barrales
Jay P. Lefkowitz
Joel D. Kaplan
Kristen Silverberg
OHS LRM**LRM ID:** LJM5 **SUBJECT:** TREASURY Report on HR878 Armed Forces Tax Fairness Act of 2003

RESPONSE TO

LEGISLATIVE REFERRAL

MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Lisa J. Macecevic Phone: 395-1092 Fax: 395-3109

Office of Management and Budget

Branch-Wide Line (to reach legislative assistant): 395-3454

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

REV_00158935

The Honorable William M. Thomas
Chairman
Committee on Ways and Means
U. S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I thank the Committee on Ways and Means for providing me this opportunity to comment on H.R. 878, the "Armed Forces Tax Fairness Act of 2003."

Treasury supports this legislation to promote fair tax treatment for our men and women serving in the military to protect our nation.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely,

Pam Olson
Assistant Secretary

REV_00158936

HR 878 IH

108th CONGRESS
1st Session
H. R. 878

To amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and Foreign Service in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

February 25, 2003

Mr. THOMAS (for himself, Mr. HOUGHTON, Mr. CAMP, Mr. LEWIS of Kentucky, Mr. HAYWORTH, Mr. SAM JOHNSON of Texas, Mr. HERGER, Mr. RAMSTAD, Mr. CANTOR, Mr. ENGLISH, and Mr. CRANE) introduced the following bill; which was referred to the Committee on Ways and Means

---

A BILL

To amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and Foreign Service in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Armed Forces Tax Fairness Act of 2003'.

SEC. 2. SPECIAL RULE FOR MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE IN DETERMINING EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL- Subsection (d) of section 121 of the Internal Revenue Code of 1986 (relating to exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

`(10) MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE-

`(A) IN GENERAL- At the election of an individual with respect to a property, the running of the 5-year period referred to in

subsection (a) with respect to such property shall be suspended during any period that such individual or such individual's spouse is serving on qualified official extended duty as a member of the uniformed services or of the Foreign Service.

`(B) MAXIMUM PERIOD OF SUSPENSION- Such 5-year period shall not be extended more than 5 years by reason of subparagraph (A).

`(C) QUALIFIED OFFICIAL EXTENDED DUTY- For purposes of this paragraph--

`(i) IN GENERAL- The term `qualified official extended duty' means any extended duty while serving at a duty station which is at least 150 miles from such property or while residing under Government orders in Government quarters.

`(ii) UNIFORMED SERVICES- The term `uniformed services' has the meaning given such term by section 101(a)(5) of title 10, United States Code, as in effect on the date of the enactment of this paragraph.

`(iii) FOREIGN SERVICE- The term `member of the Foreign Service' has the meaning given the term `member of the Service' by paragraph (1), (2), (3), (4), or (5) of section 103 of the Foreign Service Act of 1980, as in effect on the date of the enactment of this paragraph.

`(iv) EXTENDED DUTY- The term `extended duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 180 days or for an indefinite period.

`(D) SPECIAL RULES RELATING TO ELECTION-

`(i) ELECTION LIMITED TO 1 PROPERTY AT A TIME- An election under subparagraph (A) with respect to any property may not be made if such an election is in effect with respect to any other property.

`(ii) REVOCATION OF ELECTION- An election under subparagraph (A) may be revoked at any time.'.

(b) EFFECTIVE DATE; SPECIAL RULE-

(1) EFFECTIVE DATE- The amendment made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) WAIVER OF LIMITATIONS- If refund or credit of any overpayment of tax resulting from the amendment made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 3. RESTORATION OF FULL EXCLUSION FROM GROSS INCOME OF DEATH GRATUITY PAYMENT.

(a) IN GENERAL- Subsection (b)(3) of section 134 of the Internal Revenue Code of 1986 (relating to certain military benefits) is amended by adding at the end the following new subparagraph:

> `(C) EXCEPTION FOR DEATH GRATUITY ADJUSTMENTS MADE BY LAW- Subparagraph (A) shall not apply to any adjustment to the amount of death gratuity payable under chapter 75 of title 10, United States Code, which is pursuant to a provision of law enacted before December 31, 1991.'.

(b) CONFORMING AMENDMENT- Subparagraph (A) of section 134(b)(3) of such Code is amended by striking `subparagraph (B)' and inserting `subparagraphs (B) and (C)'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply with respect to deaths occurring after September 10, 2001.

SEC. 4. EXCLUSION FOR AMOUNTS RECEIVED UNDER DEPARTMENT OF DEFENSE HOMEOWNERS ASSISTANCE PROGRAM.

(a) IN GENERAL- Section 132(a) of the Internal Revenue Code of 1986 (relating to the exclusion from gross income of certain fringe benefits) is amended by striking `or' at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting `, or' and by adding at the end the following new paragraph:

> `(8) qualified military base realignment and closure fringe.'.

(b) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE- Section 132 of such Code is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

`(n) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE-

> `(1) IN GENERAL- For purposes of this section, the term `qualified military base realignment and closure fringe' means 1 or more payments under the authority of section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) (as in effect on the date of the enactment of this subsection).
>
> `(2) LIMITATION- With respect to any property, such term shall not include any payment referred to in paragraph (1) to the extent that the sum of all such payments related to such property exceeds the amount described in subsection (c)(1) of such section (as in effect on such date).'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

SEC. 5. EXPANSION OF COMBAT ZONE FILING RULES TO CONTINGENCY OPERATIONS.

(a) IN GENERAL- Section 7508(a) of the Internal Revenue Code of 1986 (relating to time for performing certain acts postponed by reason of service in combat zone) is amended--

(1) by inserting `or when deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) or which became such a contingency operation by operation of law' after `section 112',

(2) by inserting in the first sentence `or at any time during the period of such contingency operation' after `for purposes of such section',

(3) by inserting `or operation' after `such an area', and

(4) by inserting `or operation' after `such area'.

(b) CONFORMING AMENDMENTS-

(1) Section 7508(d) of such Code is amended by inserting `or contingency operation' after `area'.

(2) The heading for section 7508 of such Code is amended by inserting `or contingency operation' after `combat zone'.

(3) The item relating to section 7508 of such Code in the table of sections for chapter 77 is amended by inserting `or contingency operation' after `combat zone'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to any period for performing an act which has not expired before the date of the enactment of this Act.

SEC. 6. MODIFICATION OF MEMBERSHIP REQUIREMENT FOR EXEMPTION FROM TAX FOR CERTAIN VETERANS' ORGANIZATIONS.

(a) IN GENERAL- Subparagraph (B) of section 501(c)(19) of the Internal Revenue Code of 1986 (relating to list of exempt organizations) is amended by striking `or widowers' and inserting `, widowers, ancestors, or lineal descendants'.

(b) EFFECTIVE DATE- The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 7. CLARIFICATION OF THE TREATMENT OF CERTAIN DEPENDENT CARE ASSISTANCE PROGRAMS.

(a) IN GENERAL- Section 134(b) of the Internal Revenue Code of 1986 (defining qualified military benefit) is amended by adding at the end the following new paragraph:

`(4) CLARIFICATION OF CERTAIN BENEFITS- For purposes of paragraph (1), such term includes any dependent care assistance program

(as in effect on the date of the enactment of this paragraph) for any individual described in paragraph (1)(A).'.

(b) CONFORMING AMENDMENTS-

(1) Section 134(b)(3)(A) of such Code (as amended by section 3) is further amended by inserting `and paragraph (4)' after `subparagraphs (B) and (C)'.

(2) Section 3121(a)(18) of such Code is amended by striking `or 129' and inserting `, 129, or 134(b)(4)'.

(3) Section 3306(b)(13) of such Code is amended by striking `or 129' and inserting `, 129, or 134(b)(4)'.

(4) Section 3401(a)(18) of such Code is amended by striking `or 129' and inserting `, 129, or 134(b)(4)'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 8. CLARIFICATION RELATING TO EXCEPTION FROM ADDITIONAL TAX ON CERTAIN DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS, ETC., ON ACCOUNT OF ATTENDANCE AT MILITARY ACADEMY.

(a) IN GENERAL- Subparagraph (B) of section 530(d)(4) of the Internal Revenue Code of 1986 (relating to exceptions from additional tax for distributions not used for educational purposes) is amended by striking `or' at the end of clause (iii), by redesignating clause (iv)

as clause (v), and by inserting after clause (iii) the following new clause:

> `(iv) made on account of the attendance of the account holder at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy, to the extent that the amount of the payment or distribution does not exceed the costs of advanced education (as defined by section 2005(e)(3) of title 10, United States Code, as in effect on the date of the enactment of this section) attributable to such attendance, or'.

(b) EFFECTIVE DATE- The amendment made by this section shall take effect for taxable years beginning after December 31, 2002.

SEC. 9. SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.

(a) IN GENERAL- Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by

redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

`(p) SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS-

`(1) IN GENERAL- The exemption from tax under subsection (a) with respect to any organization described in paragraph (2), and the eligibility of any organization described in paragraph (2) to apply for recognition of exemption under subsection (a), shall be suspended during the period described in paragraph (3).

`(2) TERRORIST ORGANIZATIONS- An organization is described in this paragraph if such organization is designated or otherwise individually identified--

`(A) under section 212(a)(3)(B)(vi)(II) or 219 of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization,

`(B) in or pursuant to an Executive order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act of 1945 for the purpose of imposing on such organization an economic or other sanction, or

`(C) in or pursuant to an Executive order issued under the authority of any Federal law if--

`(i) the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989); and

`(ii) such Executive order refers to this subsection.

`(3) PERIOD OF SUSPENSION- With respect to any organization described in paragraph (2), the period of suspension--

`(A) begins on the later of--

`(i) the date of the first publication of a designation or identification described in paragraph (2) with respect to such organization, or

`(ii) the date of the enactment of this subsection, and

`(B) ends on the first date that all designations and identifications described in paragraph (2) with respect to such organization are rescinded pursuant to the law or Executive order under which such designation or identification was made.

`(4) DENIAL OF DEDUCTION- No deduction shall be allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for any contribution to an organization described in paragraph (2) during the period described in paragraph (3).

`(5) DENIAL OF ADMINISTRATIVE OR JUDICIAL CHALLENGE OF SUSPENSION OR DENIAL OF DEDUCTION- Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a designation or identification described in paragraph (2), the period of suspension described in paragraph (3), or a denial of a deduction under paragraph (4) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

`(6) ERRONEOUS DESIGNATION-

`(A) IN GENERAL- If--

`(i) the tax exemption of any organization described in paragraph (2) is suspended under paragraph (1),

`(ii) each designation and identification described in paragraph (2) which has been made with respect to such organization is determined to be erroneous pursuant to the law or Executive order under which such designation or identification was made, and

`(iii) the erroneous designations and identifications result in an overpayment of income tax for any taxable year by such organization,

credit or refund (with interest) with respect to such overpayment shall be made.

`(B) WAIVER OF LIMITATIONS- If the credit or refund of any overpayment of tax described in subparagraph (A)(iii) is prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date of the last determination described in subparagraph (A)(ii).

`(7) NOTICE OF SUSPENSIONS- If the tax exemption of any organization is suspended under this subsection, the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.'.

(b) EFFECTIVE DATE- The amendments made by this section shall apply to designations made before, on, or after the date of the enactment of this Act.

SEC. 10. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT TRAVEL EXPENSES OF NATIONAL GUARD AND RESERVE MEMBERS.

(a) DEDUCTION ALLOWED- Section 162 of the Internal Revenue Code of 1986 (relating to certain trade or business expenses) is amended by redesignating subsection (p) as subsection (q) and inserting after subsection (o) the following new subsection:

`(p) TREATMENT OF EXPENSES OF MEMBERS OF RESERVE COMPONENT OF ARMED FORCES OF THE UNITED STATES- For purposes of subsection (a)(2), in the case of an individual who performs services as a member of a reserve component of the Armed Forces of the United States at any time during the taxable year, such individual shall be deemed to be away from home in the pursuit of a trade or business for any period during which such individual is away from home in connection with such services.'.

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ELECTS TO ITEMIZE- Section 62(a)(2) of such Code (relating to certain trade and business deductions of employees) is amended by adding at the end the following new subparagraph:

`(E) CERTAIN EXPENSES OF MEMBERS OF RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES- The deductions allowed by section 162 which consist of expenses, not in excess of $500, paid or incurred by the taxpayer in connection with the performance of services by such taxpayer as a member of a reserve component of the Armed Forces of the United States for any period during which such individual is more than 100 miles away from home in connection with such services.'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.

SEC. 11. PROTECTION OF SOCIAL SECURITY.

The amounts transferred to any trust fund under title II of the Social Security Act shall be determined as if this Act had not been enacted.

END

From: Gumerson, Katie (RPC) <Katie_Gumerson@RPC.Senate.Gov>

To: Stephen Higgins (E-mail) <IMCEACCMAIL-Stephen+20Higgins+20at+20Judiciary"@routing.senate.gov>;Pat. O'Brien@usdoj. gov (E-mail) <Pat.O'Brien@usdoj.gov>;Matt Letourneau <matthew_letourneau@Judiciary.senate.gov>;John Abegg (E-mail) <IMCEACCMAIL-John+20Abegg+20at+20McConnell-DC"@routing.senate.gov>;Heather Wingate/WHO/EOP@EOP [WHO] <Heather Wingate>;Delrahim, Makan (Judiciary) <Makan_Delrahim@Judiciary.senate.gov>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Alex Dahl (E-mail) <IMCEACCMAIL-Alex+20Dahl+20at+20Judiciary"@routing.senate.gov>;Yehle, Keith (Roberts) <Keith_Yehle@Roberts.senate.gov>;willhauck, gregg (Sununu) <gregg_willhauck@sununu.senate.gov>;Whitman, Shawn (Thomas) <Shawn_Whitman@thomas.senate.gov>;Vigil, Larry (Campbell) <Larry_Vigil@campbell.senate.gov>;Tom Geier (E-mail) <IMCEACCMAIL-Tom+20Geier+20at+20Snowe-DC"@routing.senate.gov>;Thomas, Jason (RPC) <Jason_Thomas@RPC.Senate.Gov>;Smith, Brooke (RPC) <Brooke_Smith@RPC.Senate.Gov>;Schlecht, Eric (RPC) <Eric_Schlecht@RPC.Senate.Gov>;Schiappa, David (Rep-Secretary) <David_Schiappa@rep-secretary.senate.gov>;Ramonas, Denise (Rep-Secretary) <Denise_Ramonas@rep-secretary.senate.gov>;Poindexter, Martha Scott (Chambliss) <MarthaScott_Poindexter@chambliss.senate.gov>;Peschke, John (RPC) <John_Peschke@RPC.Senate.Gov>;Palagyi, Paul (DeWine) <Paul_Palagyi@dewine.senate.gov>;Moore, Allen (Frist) <Allen_Moore@frist.senate.gov>;Molen, Ric (Burns) <Ric_Molen@burns.senate.gov>;McGuire, Katherine (Enzi) <Katherine_McGuire@enzi.senate.gov>;Major, Diane (RPC) <Diane_Major@RPC.Senate.Gov>;Mack, Kristan (Campbell) <Kristan_Mack@campbell.senate.gov>;Loomis, Ann (Warner) <Ann_Loomis@Warner.senate.gov>;Lee, Jeff (Republican-Conf) <Jeff_Lee@src.senate.gov>;Kotch, Kelly (McConnell) <Kelly_Kotch@mcconnell.senate.gov>;Knight, Patricia (Hatch) <Patricia_Knight@hatch.senate.gov>;Kenski, Hank (Kyl) <Hank_Kenski@kyl.senate.gov>;Jafari, Beth (Cornyn) <Beth_Jafari@cornyn.senate.gov>;Hicks, Kyle (RPC) <Kyle_Hicks@RPC.Senate.Gov>;Hemingway, Jennifer (Collins) <Jennifer_Hemingway@collins.senate.gov>;Heil, Clayton (Cochran) <Clayton_Heil@Cochran.senate.gov>;Hanson, Alan (Shelby) <Alan_Hanson@shelby.senate.gov>;Gorman, Judy (RPC) <Judy_Gorman@RPC.Senate.Gov>;George Bernier (E-mail) <IMCEACCMAIL-George+20Bernier+20at+20Santorum-DC"@routing.senate.gov>;Flanz, Ken (Crapo) <Ken_Flanz@crapo.senate.gov>;Duffield, Steven (RPC) <Steven_Duffield@RPC.Senate.Gov>;DeVore, Jon (Murkowski) <Jon_DeVore@murkowski.senate.gov>;Davis, Kolan (Grassley) <Kolan_Davis@grassley.senate.gov>;Cheney, Craig (RPC) <Craig_Cheney@RPC.Senate.Gov>;Brayton, Deborah (Chafee) <Deborah_Brayton@chafee.senate.gov>;Bradley, Chad (Inhofe) <Chad_Bradley@inhofe.senate.gov>;Rena Johnson (E-mail) <IMCEACCMAIL-Rena+20Johnson+20at+20Judiciary"@routing.senate.gov>;Miranda, Manuel (Frist) <Manuel_Miranda@frist.senate.gov>;Matthew Kirk/WHO/EOP@EOP [WHO] <Matthew Kirk>;Jason Lundell (E-mail) <IMCEACCMAIL-Jason+20Lundell+20at+20Judiciary"@routing.senate.gov>;Gary Andres (E-mail) <gary.andres@dutkogroup.com>;Brown, Jamie E (E-mail) <jamie.e.brown@usdoj.gov>;Barbara Ledeen (E-mail) <barbara_ledeen@src.senate.gov>;Young, David (Bunning) <David_Young@bunning.senate.gov>;Wold, Kim (Kyl) <Kim_Wold@kyl.senate.gov>;Willcox, Lawrence (RPC) <Lawrence_Willcox@RPC.Senate.Gov>;Watson, Joseph (Fitzgerald) <Joseph_Watson@fitzgerald.senate.gov>;Unger, Paul (Allen) <Paul_Unger@allen.senate.gov>;Thompson, Brett (TALENT) <Brett_Thompson@talent.senate.gov>;Thiessen, Pam (Ensign) <Pam_Thiessen@ensign.senate.gov>;Simmons, Brook (Nickles) <Brook_Simmons@Nickles.senate.gov>;Schiller, Penny (Gordon Smith) <Penny_Schiller@gsmith.senate.gov>;Sartucci, Jim (Lott) <Jim_Sartucci@lott.senate.gov>;Quesenberry, Scott (Dole)

<Scott_Quesenberry@dole.senate.gov>;Piper, Billy (McConnell)
<Billy_Piper@mcconnell.senate.gov>;Palmer, Wayne
<Wayne_Palmer@Santorum.Senate.Gov>;Newhouse, Aric (Voinovich)
<Aric_Newhouse@voinovich.senate.gov>;Mondello, Joe (Hutchison)
<Joe_Mondello@hutchison.senate.gov>;Miller, John (Brownback)
<John_Miller@brownback.senate.gov>;Mark Heilbrun (E-mail) <IMCEACCMAIL-
Mark+20Heilbrun+20at+20Specter-DC"@routing.senate.gov>;Maier, Elizabeth (Kyl)
<Elizabeth_Maier@kyl.senate.gov>;Luck, Chad (RPC) <Chad_Luck@RPC.Senate.Gov>;Lewis,
Brian (McConnell) <Brian_Lewis@mcconnell.senate.gov>;Laird, Carolyn (RPC)
<Carolyn_Laird@RPC.Senate.Gov>;Koonce, Kevin (Gregg)
<Kevin_Koonce@gregg.senate.gov>;Klippenstein, Brian (Bond)
<Brian_Klippenstein@bond.senate.gov>;Jarvis, Aleix (L. Graham)
<Aleix_Jarvis@lgraham.senate.gov>;Hild, Edward (Domenici)
<Edward_Hild@domenici.senate.gov>;Hertling, Richard (Alexander)
<Richard_Hertling@alexander.senate.gov>;Hemenway, Margaret (RPC)
<Margaret_Hemenway@RPC.Senate.Gov>;Harrison, Jeff (Coleman)
<Jeff_Harrison@coleman.senate.gov>;Gumerson, Katie (RPC)
<Katie_Gumerson@RPC.Senate.Gov>;George Lowe (E-mail) <IMCEACCMAIL-
George+20Lowe+20at+20Stevens-DC"@routing.senate.gov>;Geeslin, Chris (Lugar)
<Chris_Geeslin@lugar.senate.gov>;Flanders, Doug (Allard)
<Doug_Flanders@Allard.senate.gov>;Douglas, Richard (RPC)
<Richard_Douglas@RPC.Senate.Gov>;Dearborn, Rick (Sessions)
<Rick_Dearborn@Sessions.senate.gov>;Christine Dodd (E-mail) <IMCEACCMAIL-
Christine+20Dodd+20at+20McCain-DC"@routing.senate.gov>;Brooke Roberts (E-mail)
<IMCEACCMAIL-Brooke+20Roberts+20at+20Craig-DC"@routing.senate.gov>;Bradshaw, Corine
(Bennett) <Corine_Bradshaw@Bennett.senate.gov>;Archer, Dan (Hagel)
<Dan_Archer@hagel.senate.gov>

Sent: 2/27/2003 7:32:37 AM
Subject: : Business Involvement in Confirming Judges
Attachments: P_LNP8E003_WHO.TXT_1.htm

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Gumerson, Katie (RPC)" <Katie_Gumerson@RPC.Senate.Gov> ( "Gumerson, Katie (RPC)"
<Katie_Gumerson@RPC.Senate.Gov> [ UNKNOWN ] )
CREATION DATE/TIME:27-FEB-2003 12:32:37.00
SUBJECT:: Business Involvement in Confirming Judges
TO:"Stephen Higgins (E-mail)" <"IMCEACCMAIL-
Stephen+20Higgins+20at+20Judiciary"@routing.senate.gov> ( "Stephen Higgins (E-mail)"
<"IMCEACCMAIL-Stephen+20Higgins+20at+20Judiciary"@routing.senate.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Pat. O'Brien@usdoj. gov (E-mail)" <Pat.O'Brien@usdoj.gov> ( "Pat. O'Brien@usdoj. gov
(E-mail)" <Pat.O'Brien@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:Matt Letourneau <matthew_letourneau@Judiciary.senate.gov> ( Matt Letourneau
<matthew_letourneau@Judiciary.senate.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"John Abegg (E-mail)" <"IMCEACCMAIL-John+20Abegg+20at+20McConnell-
DC"@routing.senate.gov> ( "John Abegg (E-mail)" <"IMCEACCMAIL-
John+20Abegg+20at+20McConnell-DC"@routing.senate.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:Heather Wingate ( CN=Heather Wingate/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:"Delrahim, Makan (Judiciary)" <Makan_Delrahim@Judiciary.senate.gov> ( "Delrahim, Makan
(Judiciary)" <Makan_Delrahim@Judiciary.senate.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:"Alex Dahl (E-mail)" <"IMCEACCMAIL-Alex+20Dahl+20at+20Judiciary"@routing.senate.gov> (
"Alex Dahl (E-mail)" <"IMCEACCMAIL-Alex+20Dahl+20at+20Judiciary"@routing.senate.gov> [
```

UNKNOWN])
READ:UNKNOWN
TO:"Yehle, Keith (Roberts)" <Keith_Yehle@Roberts.senate.gov> ("Yehle, Keith (Roberts)"
<Keith_Yehle@Roberts.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"willhauck, gregg (Sununu)" <gregg_willhauck@sununu.senate.gov> ("willhauck, gregg
(Sununu)" <gregg_willhauck@sununu.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Whitman, Shawn (Thomas)" <Shawn_Whitman@thomas.senate.gov> ("Whitman, Shawn (Thomas)"
<Shawn_Whitman@thomas.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Vigil, Larry (Campbell)" <Larry_Vigil@campbell.senate.gov> ("Vigil, Larry (Campbell)"
<Larry_Vigil@campbell.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Tom Geier (E-mail)" <"IMCEACCMAIL-Tom+20Geier+20at+20Snowe-DC"@routing.senate.gov> (
"Tom Geier (E-mail)" <"IMCEACCMAIL-Tom+20Geier+20at+20Snowe-DC"@routing.senate.gov> [
UNKNOWN])
READ:UNKNOWN
TO:"Thomas, Jason (RPC)" <Jason_Thomas@RPC.Senate.Gov> ("Thomas, Jason (RPC)"
<Jason_Thomas@RPC.Senate.Gov> [UNKNOWN])
READ:UNKNOWN
TO:"Smith, Brooke (RPC)" <Brooke_Smith@RPC.Senate.Gov> ("Smith, Brooke (RPC)"
<Brooke_Smith@RPC.Senate.Gov> [UNKNOWN])
READ:UNKNOWN
TO:"Schlecht, Eric (RPC)" <Eric_Schlecht@RPC.Senate.Gov> ("Schlecht, Eric (RPC)"
<Eric_Schlecht@RPC.Senate.Gov> [UNKNOWN])
READ:UNKNOWN
TO:"Schiappa, David (Rep-Secretary)" <David_Schiappa@rep-secretary.senate.gov> ("Schiappa,
David (Rep-Secretary)" <David_Schiappa@rep-secretary.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Ramonas, Denise (Rep-Secretary)" <Denise_Ramonas@rep-secretary.senate.gov> ("Ramonas,
Denise (Rep-Secretary)" <Denise_Ramonas@rep-secretary.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Poindexter, Martha Scott (Chambliss)" <MarthaScott_Poindexter@chambliss.senate.gov> (
"Poindexter, Martha Scott (Chambliss)" <MarthaScott_Poindexter@chambliss.senate.gov> [
UNKNOWN])
READ:UNKNOWN
TO:"Peschke, John (RPC)" <John_Peschke@RPC.Senate.Gov> ("Peschke, John (RPC)"
<John_Peschke@RPC.Senate.Gov> [UNKNOWN])
READ:UNKNOWN
TO:"Palagyi, Paul (DeWine)" <Paul_Palagyi@dewine.senate.gov> ("Palagyi, Paul (DeWine)"
<Paul_Palagyi@dewine.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Moore, Allen (Frist)" <Allen_Moore@frist.senate.gov> ("Moore, Allen (Frist)"
<Allen_Moore@frist.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Molen, Ric (Burns)" <Ric_Molen@burns.senate.gov> ("Molen, Ric (Burns)"
<Ric_Molen@burns.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"McGuire, Katherine (Enzi)" <Katherine_McGuire@enzi.senate.gov> ("McGuire, Katherine
(Enzi)" <Katherine_McGuire@enzi.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Major, Diane (RPC)" <Diane_Major@RPC.Senate.Gov> ("Major, Diane (RPC)"
<Diane_Major@RPC.Senate.Gov> [UNKNOWN])
READ:UNKNOWN
TO:"Mack, Kristan (Campbell)" <Kristan_Mack@campbell.senate.gov> ("Mack, Kristan
(Campbell)" <Kristan_Mack@campbell.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Loomis, Ann (Warner)" <Ann_Loomis@Warner.senate.gov> ("Loomis, Ann (Warner)"
<Ann_Loomis@Warner.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Lee, Jeff (Republican-Conf)" <Jeff_Lee@src.senate.gov> ("Lee, Jeff (Republican-Conf)"
<Jeff_Lee@src.senate.gov> [UNKNOWN])

READ:UNKNOWN
TO:"Kotch, Kelly (McConnell)" <Kelly_Kotch@mcconnell.senate.gov> ("Kotch, Kelly (McConnell)" <Kelly_Kotch@mcconnell.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Knight, Patricia (Hatch)" <Patricia_Knight@hatch.senate.gov> ("Knight, Patricia (Hatch)" <Patricia_Knight@hatch.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Kenski, Hank (Kyl)" <Hank_Kenski@kyl.senate.gov> ("Kenski, Hank (Kyl)" <Hank_Kenski@kyl.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Jafari, Beth (Cornyn)" <Beth_Jafari@cornyn.senate.gov> ("Jafari, Beth (Cornyn)" <Beth_Jafari@cornyn.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Hicks, Kyle (RPC)" <Kyle_Hicks@RPC.Senate.Gov> ("Hicks, Kyle (RPC)" <Kyle_Hicks@RPC.Senate.Gov> [UNKNOWN])
READ:UNKNOWN
TO:"Hemingway, Jennifer (Collins)" <Jennifer_Hemingway@collins.senate.gov> ("Hemingway, Jennifer (Collins)" <Jennifer_Hemingway@collins.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Heil, Clayton (Cochran)" <Clayton_Heil@Cochran.senate.gov> ("Heil, Clayton (Cochran)" <Clayton_Heil@Cochran.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Hanson, Alan (Shelby)" <Alan_Hanson@shelby.senate.gov> ("Hanson, Alan (Shelby)" <Alan_Hanson@shelby.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Gorman, Judy (RPC)" <Judy_Gorman@RPC.Senate.Gov> ("Gorman, Judy (RPC)" <Judy_Gorman@RPC.Senate.Gov> [UNKNOWN])
READ:UNKNOWN
TO:"George Bernier (E-mail)" <"IMCEACCMAIL-George+20Bernier+20at+20Santorum-DC"@routing.senate.gov> ("George Bernier (E-mail)" <"IMCEACCMAIL-George+20Bernier+20at+20Santorum-DC"@routing.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Flanz, Ken (Crapo)" <Ken_Flanz@crapo.senate.gov> ("Flanz, Ken (Crapo)" <Ken_Flanz@crapo.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Duffield, Steven (RPC)" <Steven_Duffield@RPC.Senate.Gov> ("Duffield, Steven (RPC)" <Steven_Duffield@RPC.Senate.Gov> [UNKNOWN])
READ:UNKNOWN
TO:"DeVore, Jon (Murkowski)" <Jon_DeVore@murkowski.senate.gov> ("DeVore, Jon (Murkowski)" <Jon_DeVore@murkowski.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Davis, Kolan (Grassley)" <Kolan_Davis@grassley.senate.gov> ("Davis, Kolan (Grassley)" <Kolan_Davis@grassley.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Cheney, Craig (RPC)" <Craig_Cheney@RPC.Senate.Gov> ("Cheney, Craig (RPC)" <Craig_Cheney@RPC.Senate.Gov> [UNKNOWN])
READ:UNKNOWN
TO:"Brayton, Deborah (Chafee)" <Deborah_Brayton@chafee.senate.gov> ("Brayton, Deborah (Chafee)" <Deborah_Brayton@chafee.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Bradley, Chad (Inhofe)" <Chad_Bradley@inhofe.senate.gov> ("Bradley, Chad (Inhofe)" <Chad_Bradley@inhofe.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Rena Johnson (E-mail)" <"IMCEACCMAIL-Rena+20Johnson+20at+20Judiciary"@routing.senate.gov> ("Rena Johnson (E-mail)" <"IMCEACCMAIL-Rena+20Johnson+20at+20Judiciary"@routing.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Miranda, Manuel (Frist)" <Manuel_Miranda@frist.senate.gov> ("Miranda, Manuel (Frist)" <Manuel_Miranda@frist.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:"Jason Lundell (E-mail)" <"IMCEACCMAIL-

Jason+20Lundell+20at+20Judiciary"@routing.senate.gov> ("Jason Lundell (E-mail)"
<"IMCEACCMAIL-Jason+20Lundell+20at+20Judiciary"@routing.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Gary Andres (E-mail)" <gary.andres@dutkogroup.com> ("Gary Andres (E-mail)"
<gary.andres@dutkogroup.com> [UNKNOWN])
READ:UNKNOWN
TO:"Brown, Jamie E (E-mail)" <jamie.e.brown@usdoj.gov> ("Brown, Jamie E (E-mail)"
<jamie.e.brown@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Barbara Ledeen (E-mail)" <barbara_ledeen@src.senate.gov> ("Barbara Ledeen (E-mail)"
<barbara_ledeen@src.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Young, David (Bunning)" <David_Young@bunning.senate.gov> ("Young, David (Bunning)"
<David_Young@bunning.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Wold, Kim (Kyl)" <Kim_Wold@kyl.senate.gov> ("Wold, Kim (Kyl)"
<Kim_Wold@kyl.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Willcox, Lawrence (RPC)" <Lawrence_Willcox@RPC.Senate.Gov> ("Willcox, Lawrence (RPC)"
<Lawrence_Willcox@RPC.Senate.Gov> [UNKNOWN])
READ:UNKNOWN
TO:"Watson, Joseph (Fitzgerald)" <Joseph_Watson@fitzgerald.senate.gov> ("Watson, Joseph
(Fitzgerald)" <Joseph_Watson@fitzgerald.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Unger, Paul (Allen)" <Paul_Unger@allen.senate.gov> ("Unger, Paul (Allen)"
<Paul_Unger@allen.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Thompson, Brett (TALENT)" <Brett_Thompson@talent.senate.gov> ("Thompson, Brett
(TALENT)" <Brett_Thompson@talent.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Thiessen, Pam (Ensign)" <Pam_Thiessen@ensign.senate.gov> ("Thiessen, Pam (Ensign)"
<Pam_Thiessen@ensign.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Simmons, Brook (Nickles)" <Brook_Simmons@Nickles.senate.gov> ("Simmons, Brook
(Nickles)" <Brook_Simmons@Nickles.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Schiller, Penny (Gordon Smith)" <Penny_Schiller@gsmith.senate.gov> ("Schiller, Penny
(Gordon Smith)" <Penny_Schiller@gsmith.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Sartucci, Jim (Lott)" <Jim_Sartucci@lott.senate.gov> ("Sartucci, Jim (Lott)"
<Jim_Sartucci@lott.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Quesenberry, Scott (Dole)" <Scott_Quesenberry@dole.senate.gov> ("Quesenberry, Scott
(Dole)" <Scott_Quesenberry@dole.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Piper, Billy (McConnell)" <Billy_Piper@mcconnell.senate.gov> ("Piper, Billy
(McConnell)" <Billy_Piper@mcconnell.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Palmer, Wayne" <Wayne_Palmer@Santorum.Senate.Gov> ("Palmer, Wayne"
<Wayne_Palmer@Santorum.Senate.Gov> [UNKNOWN])
READ:UNKNOWN
TO:"Newhouse, Aric (Voinovich)" <Aric_Newhouse@voinovich.senate.gov> ("Newhouse, Aric
(Voinovich)" <Aric_Newhouse@voinovich.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Mondello, Joe (Hutchison)" <Joe_Mondello@hutchison.senate.gov> ("Mondello, Joe
(Hutchison)" <Joe_Mondello@hutchison.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Miller, John (Brownback)" <John_Miller@brownback.senate.gov> ("Miller, John
(Brownback)" <John_Miller@brownback.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Mark Heilbrun (E-mail)" <"IMCEACCMAIL-Mark+20Heilbrun+20at+20Specter-
DC"@routing.senate.gov> ("Mark Heilbrun (E-mail)" <"IMCEACCMAIL-
Mark+20Heilbrun+20at+20Specter-DC"@routing.senate.gov> [UNKNOWN])

READ:UNKNOWN
TO:"Maier, Elizabeth (Kyl)" <Elizabeth_Maier@kyl.senate.gov> ("Maier, Elizabeth (Kyl)"
<Elizabeth_Maier@kyl.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Luck, Chad (RPC)" <Chad_Luck@RPC.Senate.Gov> ("Luck, Chad (RPC)"
<Chad_Luck@RPC.Senate.Gov> [UNKNOWN])
READ:UNKNOWN
TO:"Lewis, Brian (McConnell)" <Brian_Lewis@mcconnell.senate.gov> ("Lewis, Brian
(McConnell)" <Brian_Lewis@mcconnell.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Laird, Carolyn (RPC)" <Carolyn_Laird@RPC.Senate.Gov> ("Laird, Carolyn (RPC)"
<Carolyn_Laird@RPC.Senate.Gov> [UNKNOWN])
READ:UNKNOWN
TO:"Koonce, Kevin (Gregg)" <Kevin_Koonce@gregg.senate.gov> ("Koonce, Kevin (Gregg)"
<Kevin_Koonce@gregg.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Klippenstein, Brian (Bond)" <Brian_Klippenstein@bond.senate.gov> ("Klippenstein, Brian
(Bond)" <Brian_Klippenstein@bond.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Jarvis, Aleix (L. Graham)" <Aleix_Jarvis@lgraham.senate.gov> ("Jarvis, Aleix (L.
Graham)" <Aleix_Jarvis@lgraham.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Hild, Edward (Domenici)" <Edward_Hild@domenici.senate.gov> ("Hild, Edward (Domenici)"
<Edward_Hild@domenici.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Hertling, Richard (Alexander)" <Richard_Hertling@alexander.senate.gov> ("Hertling,
Richard (Alexander)" <Richard_Hertling@alexander.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Hemenway, Margaret (RPC)" <Margaret_Hemenway@RPC.Senate.Gov> ("Hemenway, Margaret
(RPC)" <Margaret_Hemenway@RPC.Senate.Gov> [UNKNOWN])
READ:UNKNOWN
TO:"Harrison, Jeff (Coleman)" <Jeff_Harrison@coleman.senate.gov> ("Harrison, Jeff
(Coleman)" <Jeff_Harrison@coleman.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Gumerson, Katie (RPC)" <Katie_Gumerson@RPC.Senate.Gov> ("Gumerson, Katie (RPC)"
<Katie_Gumerson@RPC.Senate.Gov> [UNKNOWN])
READ:UNKNOWN
TO:"George Lowe (E-mail)" <"IMCEACCMAIL-George+20Lowe+20at+20Stevens-
DC"@routing.senate.gov> ("George Lowe (E-mail)" <"IMCEACCMAIL-
George+20Lowe+20at+20Stevens-DC"@routing.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Geeslin, Chris (Lugar)" <Chris_Geeslin@lugar.senate.gov> ("Geeslin, Chris (Lugar)"
<Chris_Geeslin@lugar.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Flanders, Doug (Allard)" <Doug_Flanders@Allard.senate.gov> ("Flanders, Doug (Allard)"
<Doug_Flanders@Allard.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Douglas, Richard (RPC)" <Richard_Douglas@RPC.Senate.Gov> ("Douglas, Richard (RPC)"
<Richard_Douglas@RPC.Senate.Gov> [UNKNOWN])
READ:UNKNOWN
TO:"Dearborn, Rick (Sessions)" <Rick_Dearborn@Sessions.senate.gov> ("Dearborn, Rick
(Sessions)" <Rick_Dearborn@Sessions.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Christine Dodd (E-mail)" <"IMCEACCMAIL-Christine+20Dodd+20at+20McCain-
DC"@routing.senate.gov> ("Christine Dodd (E-mail)" <"IMCEACCMAIL-
Christine+20Dodd+20at+20McCain-DC"@routing.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Brooke Roberts (E-mail)" <"IMCEACCMAIL-Brooke+20Roberts+20at+20Craig-
DC"@routing.senate.gov> ("Brooke Roberts (E-mail)" <"IMCEACCMAIL-
Brooke+20Roberts+20at+20Craig-DC"@routing.senate.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Bradshaw, Corine (Bennett)" <Corine_Bradshaw@Bennett.senate.gov> ("Bradshaw, Corine
(Bennett)" <Corine_Bradshaw@Bennett.senate.gov> [UNKNOWN])

READ:UNKNOWN
TO:"Archer, Dan (Hagel)" <Dan_Archer@hagel.senate.gov> ("Archer, Dan (Hagel)"
<Dan_Archer@hagel.senate.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

To: LD's
From: RPC
Re: Judicial Confirmation Process

FYI, the following article appears in today's Washington Times -

Hanging with Clay, Calhoun and Webster by Gary J. Andres. Andres holds a Ph.D. in public policy and is a senior managing partner with the Dutko Group, a D.C. based government relations company. A former White House senior lobbyist, he writes every Thursday for The Washington Times on politics and policy.

http://www.washingtontimes.com/op-ed/20030227-90554514.htm

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_LNP8E003_WHO.TXT_1>

To: LD's
From: RPC
Re: Judicial Confirmation Process

FYI, the following article appears in today's Washington Times -

Hanging with Clay, Calhoun and Webster by Gary J. Andres. Andres holds a Ph.D. in public policy and is a senior managing partner with the Dutko Group, a D.C. based government relations company. A former White House senior lobbyist, he writes every Thursday for The Washington Times on politics and policy.

http://www.wa shingtontimes.com/op-ed/20030227-90554514.htm

From: Joe Jaso - Government Affairs <JJaso@rnchq.org>
To: Charles Spies - Legal <CSpies@rnchq.org>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/27/2003 7:40:21 AM
Subject: : Re: Republican National Legislators Assoc.

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Joe Jaso - Government Affairs <JJaso@rnchq.org> ( Joe Jaso - Government Affairs
<JJaso@rnchq.org> [ UNKNOWN ] )
CREATION DATE/TIME:27-FEB-2003 12:40:21.00
SUBJECT:: Re: Republican National Legislators Assoc.
TO:Charles Spies - Legal <CSpies@rnchq.org> ( Charles Spies - Legal <CSpies@rnchq.org> [
UNKNOWN ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

They raise dollars to elect state legislators. NRLA is a 527.
--------------------------
Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)
```

From: [UNKNOWN] <Bumatay, Patrick J.>
To: <Kavanaugh>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/6246020-C20FEE19-852569DA-7648DC [UNKNOWN] <Brett M.>
CC: <Nelson>;Carolyn_Nelson@who.eop.gov [WHO] <Carolyn>
Sent: 2/27/2003 8:26:35 AM
Subject: Estrada letters w/ signatures
Attachments: P_24S7000674POERS_WHO.TXT_1.pdf; P_24S7000674POERS_WHO.TXT_2.pdf; P_24S7000674POERS_WHO.TXT_3.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (MS Mail)
CREATOR:Bumatay, Patrick J. ([UNKNOWN])
CREATION DATE/TIME:27-FEB-2003 13:26:35.00
SUBJECT:Estrada letters w/ signatures
TO:Kavanaugh, Brett M. (/O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=6246020-C20FEE19-852569DA-7648DC [UNKNOWN])
READ:UNKNOWN
CC:Nelson, Carolyn (Carolyn_Nelson@who.eop.gov [WHO])
READ:UNKNOWN
End Original ARMS Header

Per your request

Patrick J. Bumatay
Office of Counsel to the President

o: 202-456-5214
f: 202-456-6279
mainline: 202-456-2632

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_24S7000674POERS_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_24S7000674POERS_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_24S7000674POERS_WHO.TXT_3>

THE WHITE HOUSE

WASHINGTON

February 12, 2003

Dear Senator Daschle and Senator Leahy:

On behalf of President Bush, I write in response to your letter to the President dated February 11, 2003. In the letter, you renew your previous request for confidential Department of Justice memoranda in which Mr. Estrada provided appeal, certiorari, and amicus recommendations while he was a career attorney in the Office of Solicitor General for four years in the Clinton Administration and one year in the George H.W. Bush Administration. You also request that Mr. Estrada answer certain questions beyond the extensive questions that he already answered appropriately and forthrightly during his Committee hearing and in follow-up written responses.

We respect the Senate's constitutional role in the confirmation process, and we agree that the Senate must make an informed judgment consistent with its traditional role and practices. However, your requests have no persuasive support in the history and precedent of judicial appointments. Indeed, the relevant history and precedent convincingly demonstrate that a new and shifting standard is being applied to Miguel Estrada.

First, as the Department of Justice explained in its letters of June 5, 2002, October 8, 2002, and January 23, 2003, all living former Solicitors General (four Democrats and three Republicans) have strongly opposed your request for Solicitor General memoranda and stated that it would sacrifice and compromise the ability of the Justice Department to effectively represent the United States in court. Even more telling, we are informed that the Senate has not requested memos such as these for *any* of the 67 appeals court nominees since 1977 who had previously worked in the Justice Department (including the seven nominees who had previously worked in the Solicitor General's office). The few isolated examples you have cited – in which targeted requests for particular documents about specific issues were accommodated for nominees to positions other than the U.S. Courts of Appeals – similarly do not support your request here.

Second, as explained more fully below with respect to your request that Mr. Estrada answer additional questions, the only specific question identified in your letter refers to his judicial role models. You claim that Mr. Estrada refused to answer a question on this topic. In fact, in his written responses to Senator Durbin's question on this precise subject that Mr. Estrada submitted three months ago, he cited Justice Anthony Kennedy, Justice Lewis Powell, and Judge Amalya Kearse as judges he admires (he clerked for Justice Kennedy and Judge Kearse), and he further pointed out, of course, that he would seek to resolve cases as he analyzed them "without any preconception about how some other judge might approach the question." Your letter to the President ignores Mr. Estrada's answer to this question. In any event, beyond this one query, your letter does not pose any additional questions to him. Additionally, neither of you has posed *any* written questions to Mr. Estrada in the more than three months since his all-day Committee hearing. Since the hearing, Mr. Estrada also has met (and continues to meet) with numerous Democrat Senators interested in learning more about his record. Finally, as I will

explain below, Mr. Estrada forthrightly answered numerous questions about his judicial approach and views in a manner that matches or greatly exceeds answers demanded of previous appeals court nominees.

With respect, it appears that a double standard is being applied to Miguel Estrada. That is highly unfair and inappropriate, particularly for this well-qualified and well-respected nominee.

I will turn now in more detail to the various issues raised by your letter. I will address them at some length given the importance of this issue and the nature of your requests.

I. Miguel Estrada's Qualifications and Bipartisan Support

Miguel Estrada is an extraordinarily qualified judicial nominee. The American Bar Association, which Senators Leahy and Schumer have referred to as the "gold standard," *unanimously* rated Estrada "well qualified" for the D.C. Circuit, the ABA's highest possible rating. The ABA rating was entirely appropriate in light of Mr. Estrada's superb record as Assistant to the Solicitor General in the Clinton and George H.W. Bush Administrations, as a federal prosecutor in New York, as a law clerk to Justice Kennedy, and in performing significant *pro bono* work.

Some who are misinformed have seized on Mr. Estrada's lack of prior judicial experience, but five of the eight judges currently serving on the D.C. Circuit had no prior judicial experience, including two appointees of President Clinton and one appointee of President Carter. Miguel Estrada has tried numerous cases before federal juries, argued many cases in the federal appeals courts, and argued 15 cases before the Supreme Court of the United States. That is a record that few judicial nominees can match. And few lawyers, whatever their ideology or philosophy, have volunteered to represent a death row inmate *pro bono* before the Supreme Court as did Miguel Estrada.

Mr. Estrada's excellent legal qualifications are all the more extraordinary given his personal history. Simply put, Miguel Estrada is an American success story. He came to this country at age 17 from Honduras speaking little English. Through hard work and dedicated service to the United States, Miguel Estrada has risen to the very pinnacle of the legal profession. If confirmed, he would be the first Hispanic judge to sit on the U.S. Court of Appeals for the D.C. Circuit. Given his record, his background, and his integrity, it is no surprise that Miguel Estrada is strongly supported by the vast majority of national Hispanic organizations. The League of United Latin American Citizens (LULAC), for example, wrote to Senator Leahy to urge Mr. Estrada's confirmation and explain that he "is truly one of the rising stars in the Hispanic community and a role model for our youth." A group of 19 Hispanic organizations, including LULAC and the Hispanic National Bar Association, recently wrote to the Senate urging "on behalf of an overwhelming majority of Hispanics in this country" that "both parties in the U.S. Senate . . . put partisan politics aside so that Hispanics are no longer denied representation in one of the most prestigious courts in the land."

The current effort to filibuster Mr. Estrada's nomination is particularly unjustified given that those who have worked with Miguel -- including prominent Democrat lawyers whom you

REV_00158958

know well -- strongly support his confirmation. For example, Ron Klain, who served as a high-ranking adviser to former Vice President Gore and former Chief Counsel to the Senate Judiciary Committee, wrote: "Miguel is a person of outstanding character, tremendous intellect, and with a deep commitment to the faithful application of precedent. . . . [T]he challenges that he has overcome in his life have made him genuinely compassionate, genuinely concerned for others, and genuinely devoted to helping those in need."

President Clinton's Solicitor General, Seth Waxman, wrote: "During the time Mr. Estrada and I worked together, he was a model of professionalism and competence. . . . In no way did I ever discern that the recommendations Mr. Estrada made or the analyses he propounded were colored in any way by his personal views – or indeed that they reflected any consideration other than the long-term interests of the United States. I have great respect both for Mr. Estrada's intellect and for his integrity."

A bipartisan group of 14 former colleagues in the Office of the Solicitor General at the U.S. Department of Justice wrote: "We hold varying ideological views and affiliations that range across the political spectrum, but we are unanimous in our conviction that Miguel would be a fair and honest judge who would decide cases in accordance with the applicable legal principles and precedents, not on the basis of personal preferences or political viewpoints." One former colleague, Richard Seamon, wrote that he is a pro-choice, lifelong Democrat with self-described "liberal views on most issues" who said he would "consider it a disgrace" if Mr. Estrada is not confirmed.

Similarly, Leonard Joy, head of the Federal Defender Division of the Legal Aid Society of New York, wrote that "Miguel would make an excellent Circuit Court Judge. He is as fine a lawyer as I have met and, on top of all his intellectual abilities and judgment he would bring to bear, he would bring a desirable diversity to the Court. I heartily recommend him."

Beyond the extensive personal testimony from those who worked side-by-side with him for many years, the performance reviews of Miguel for the years that he worked in the Office of Solicitor General gave him the highest possible rating of "outstanding" in every possible category. The reviews stated that Miguel:

- "states the operative facts and applicable law completely and persuasively, with record citations, and in conformance with court and office rules, and with concern for fairness, clarity, simplicity, and conciseness."
- "[i]s extremely knowledgeable of resource materials and uses them expertly; acting independently, goes directly to point of the matter and gives reliable, accurate, responsive information in communicating position to others."
- "[a]ll dealings, oral and written, with the courts, clients, and others are conducted in a diplomatic, cooperative, and candid manner."
- "[a]ll briefs, motions or memoranda reviewed consistently reflect no policies at variance with Departmental or Governmental policies, or fails to discuss and analyze relevant authorities."
- "[i]s constantly sought for advice and counsel. Inspires co-workers by example."

REV_00158959

In the two years that Miguel Estrada and Paul Bender worked together, Mr. Bender signed those reviews. These employment reviews thus call into serious question some press reports containing a negative comment from Mr. Bender about Mr. Estrada's temperament (which is the only negative comment made by anyone who actually knows Mr. Estrada). Just as important, President Clinton's Solicitor General Seth Waxman expressly refuted Mr. Bender's statement.

In sum, based on his experience, his intellect, his integrity, and his bipartisan support, Miguel Estrada should be confirmed promptly.

II. The Senate's Role

President Bush nominated Miguel Estrada nearly two years ago on May 9, 2001. As explained above, he is well-qualified and well-respected. By any traditional measure that the Senate has used to evaluate appeals court nominees, Miguel Estrada should have been confirmed long ago. Your letter and public statements indicate, however, that you are applying both a new standard and new tactics to this particular nominee.

As to the standard, the Senate has a very important role in the process, but the Senate's traditional approach to appeals court nominees, and the approach envisioned by the Constitution's Framers, is far different from the standard that you now seek to apply. Senator Biden stated the traditional approach in 1997: "Any person who is nominated for the district or circuit court who, in fact, any Senator believes will be a person of their word and follow stare decisis, it does not matter to me what their ideology is, as long as they are in a position where they are in the general mainstream of American political life, and they have not committed crimes of moral turpitude, and have not, in fact, acted in a way that would shed a negative light on the court." Congressional Record, March 19, 1997. Alexander Hamilton explained that the purpose of Senate confirmation is to prevent appointment of "unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity." Federalist No. 76. It was anticipated that the Senate's approval would not often be refused unless there were "special and strong reasons for the refusal." No. 76.

As to tactics, you have indicated that some Senate Democrats intend to filibuster to prevent a vote on this nominee. As you know, there has never been a successful filibuster of a court of appeals nominee. Only a few years ago, Senator Leahy and other Democrat Senators expressly agreed with then-Governor Bush that every judicial nominee was entitled to an up-or-down floor vote within a reasonable time. On October 3, 2000, for example, Senator Leahy stated:

> Governor Bush and I, while we disagree on some issues, have one very significant issue on which we agree. He gave a speech a while back and criticized what has happened in the Senate where confirmations are held up not because somebody votes down a nominee but because they cannot ever get a vote. Governor Bush said: You have the nominee. Hold the hearing. Then, within 60 days, vote them up or vote them down. Don't leave them in limbo. *Frankly, that is what we are paid to do in this body. We are paid to vote either yes or no – not vote maybe*. When we hold a nominee up by not allowing them a

REV_00158960

vote and not taking any action one way or the other, we are not only voting 'maybe,' but we are doing a terrible disservice to the man or woman to whom we do this.

Senator Daschle similarly stated on October 5, 1999, that "[t]he Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down. An up or down vote, that is all we seek for Berzon and Paez. And after years of waiting, they deserve at least that much."

In his East Room speech of October 30, 2002, President Bush reiterated that every judicial nominee deserves a timely up-or-down floor vote in the Senate, no matter who is President or which party controls the Senate. Contrary to President Bush's attempts at permanent reform to bring order to the process, your current effort to employ a filibuster and block an up-or-down vote on the Estrada nomination may significantly exacerbate the cycle of bitterness and recrimination that President Bush has sought to resolve on a bipartisan basis. We fear that the damage caused by a filibuster could take many years to undo. To continue on this path would also be, in Senator Leahy's words, "a terrible disservice" to Mr. Estrada. We urge you to reconsider this extraordinary action, to end the filibuster of Mr. Estrada's nomination, and to allow the full Senate to vote up or down.

III. Request for Confidential Solicitor General Memos

You have suggested that Mr. Estrada's background, experience, and support are insufficient to assess his suitability for the D.C. Circuit. You have renewed your request for Solicitor General memos authored by Mr. Estrada. But every living former Solicitor General signed a joint letter to the Senate opposing your request. The letter was signed by Democrats Archibald Cox, Walter Dellinger, Drew Days, and Seth Waxman. They stated: "Any attempt to intrude into the Office's highly privileged deliberations would come at the cost of the Solicitor General's ability to defend vigorously the United States' litigation interests – a cost that also would be borne by Congress itself. . . . Although we profoundly respect the Senate's duty to evaluate Mr. Estrada's fitness for the federal judiciary, we do not think that the confidentiality and integrity of internal deliberations should be sacrificed in the process."

It bears mention that the interest asserted here is that of the United States, not the personal interest of Mr. Estrada. Indeed, Mr. Estrada himself testified that "I have not opposed the release of those records. . . . I am exceptionally proud of every piece of legal work that I have done in my life. If it were up to me as a private citizen, I would be more than proud to have you look at everything that I have done for the government or for a private client."

The history of Senate confirmations of nominees who had previously worked in the Department of Justice makes clear that an unfair double standard is being applied to Miguel Estrada's nomination. Since the beginning of the Carter Administration in 1977, the Senate has approved 67 United States Court of Appeals nominees who previously had worked in the Department of Justice. Of those 67 nominees, 38 had no prior judicial experience, like Miguel Estrada. The Department of Justice's review of those nomination records disclosed that in *none* of those cases did the Department of Justice produce internal deliberative materials created by

REV_00158961

the Department. In fact, the Department's review disclosed that the Senate did not even request such materials for *a single one* of these 67 nominees.

Of this group of 67 nominees, seven were nominees who had worked as a Deputy Solicitor General or Assistant to the Solicitor General. These seven nominees, nominated by Presidents of each party and confirmed by Senates controlled by each party, included Samuel Alito, Danny Boggs, William Bryson, Frank Easterbrook, Daniel Friedman, Richard Posner, and Raymond Randolph.

The five isolated historical examples you have cited do not support your current request. In each of those five cases, the Committee made a targeted request for specific information primarily related to allegations of misconduct or malfeasance identified by the Committee. Even in those isolated cases, the vast majority of deliberative memoranda written by those nominees were neither requested nor produced. With respect to Judge Bork's nomination, for example, the Committee received access to certain particular memoranda (many related to Judge Bork's involvement in Watergate-related issues). The vast majority of memoranda authored by Judge Bork were never received. With respect to Judge Trott, the Committee requested documents unrelated to Judge Trott's service to the Department. So, too, in the three other examples you cite, the Committee requested specific documents primarily related to allegations of misconduct or malfeasance identified by the Committee. Of course, no such allegations have been made in the case of Mr. Estrada.

In sum, the examples you have cited only highlight the lack of precedent for the current request. As the Justice Department has explained to you previously, the existence of a few isolated examples where the Executive Branch on occasion accommodated a Committee's targeted requests for very specific information primarily related to allegations of misconduct does not in any way alter the fundamental and long-standing principle that memos from the Office of Solicitor General – and deliberative Department of Justice memoranda more broadly – must remain protected in the confirmation context so as to maintain the integrity of the Executive Branch's decisionmaking process. That is a fundamental principle that has been followed irrespective of the party that controls the White House and the Senate.

Your continued requests for these memoranda have provoked a foreseeable and inevitable conflict that, in turn, has been cited as a basis for obstructing a vote on Mr. Estrada's nomination. Respectfully, the conflict is unnecessary because your desire to assess the nominee can be readily accommodated in many ways other than intruding into and severely damaging the deliberative process of the Office of Solicitor General. For example, you can review Mr. Estrada's written briefs and oral arguments both as an attorney for the United States and in private practice. As you know, those documents are publicly available and easily accessible; that said, we would be pleased to facilitate your access to them. (Mr. Estrada's hearing transcript suggests that no Democrat Member of the Committee had read Mr. Estrada's many dozens of Solicitor General merits briefs, certiorari petitions, and opposition briefs or the transcripts of his 14 oral arguments when he represented the United States.) You also may consider the opinions of others who served in the Office at the same time (discussed above) and examine the nominee's written performance reviews (also discussed above). There is more than ample

REV_00158962

information for you to assess Mr. Estrada's qualifications and suitability for the D.C. Circuit based on the traditional standards the Senate has employed.

It also is important to recognize that political appointees of President Clinton have read virtually all of the memoranda in question – namely, the Democrat Solicitors General Drew Days, Walter Dellinger, and Seth Waxman. None of those three highly respected Democrat lawyers has expressed any concern whatever about Mr. Estrada's nomination. Indeed, Mr. Waxman wrote a letter of strong support, and Mr. Days made public statements in support of Mr. Estrada.

In sum, the historical record and past precedent convincingly demonstrate that this request creates and applies an unfair double standard to Miguel Estrada.

IV. Request that Miguel Estrada Answer Additional Questions

Your letter also suggests that Miguel Estrada should answer certain questions that he allegedly did not answer in his hearing. To begin with, we do not know what your specific questions are. In addition, this request frankly comes as a surprise given that (i) Senator Schumer chaired the hearing on Mr. Estrada, (ii) the hearing lasted an entire day, (iii) Senators at the all-day hearing asked numerous far-reaching questions that Mr. Estrada answered forthrightly and appropriately, and (iv) only two of the 10 Democrat Senators then on the Committee even submitted any follow-up written questions, and they submitted only a few questions (in marked contrast to other nominees who received voluminous follow-up questions).

It also bears mention that Mr. Estrada has personally met with a large number of Democrat Senators, including Senators Landrieu, Lincoln, Bill Nelson, Ben Nelson, Leahy, Feinstein, Kohl, and Breaux; is scheduled to meet with Senator Carper; and would be pleased to meet with additional Senators.

The only specific question your letter identifies refers to Mr. Estrada's judicial role models, and you claim that he refused to answer a question on this topic. In fact, in Mr. Estrada's written responses to Senator Durbin's question on this precise subject, Mr. Estrada cited Justice Anthony Kennedy, Justice Lewis Powell, and Judge Amalya Kearse as judges he admires, and he further pointed out, of course, that he would seek to resolve cases as he analyzed them "without any preconception about how some other judge might approach the question."

In our judgment, moreover, Mr. Estrada answered the Committee's questions in a manner that was both entirely appropriate and entirely consistent with the approach that judicial nominees of Presidents of both parties have taken for many years. Your suggestions to the contrary do not square with the hearing record or traditional practice.

A. Judicial Ethics and Traditional Practice

In assessing your request that Miguel Estrada did not answer appropriate questions, we begin with rules of judicial ethics that govern prospective nominees. Canon 5A(3)(d) provides that prospective judges "shall not . . . make statements that commit *or appear to commit* the candidate with respect to cases, controversies or issues that are likely to come before the court"

REV_00158963

(emphasis added). Justice Thurgood Marshall made the point well in 1967 when asked about the Fifth Amendment: "I do not think you want me to be in a position of giving you a statement on the Fifth Amendment and then, if I am confirmed and sit on the Court, when a Fifth Amendment case comes up, I will have to disqualify myself." Lloyd Cutler, who served as Counsel to President Carter and President Clinton, has stated that "candidates should decline to reply when efforts are made to find out how they would decide a particular case."

In 1968, in the context of the Justice Abe Fortas' nomination to be Chief Justice, the Senate Judiciary Committee similarly stated: "Although recognizing the constitutional dilemma which appears to exist when the Senate is asked to advise and consent on a judicial nominee without examining him on legal questions, the Committee is of the view that Justice Fortas wisely and correctly declined to answer questions in this area. To require a Justice to state his views on legal questions or to discuss his past decisions before the Committee would threaten the independence of the judiciary and the integrity of the judicial system itself. It would also impinge on the constitutional doctrine of separation of powers among the three branches of Government as required by the Constitution." S. Exec. Rep. No. 8, 90th Cong. 2d Sess. 5 (1968).

Even in the context of a Supreme Court confirmation hearing, Senator Kennedy defended Sandra Day O'Connor's refusal to discuss her views on abortion: "It is offensive to suggest that a potential Justice of the Supreme Court must pass some presumed test of judicial philosophy. It is even more offensive to suggest that a potential justice must pass the litmus test of any single-issue interest group." Nomination of Sandra O'Connor: Hearings Before the Senate Comm. on the Judiciary on the Nomination of Judge Sandra Day O'Connor of Arizona to Serve as an Associate Justice of the Supreme Court of the United States, 97th Cong. 6 (1981) (statement of Sen. Kennedy).

Justice Ruth Bader Ginsburg likewise declined to answer certain questions: "Because I am and hope to continue to be a judge, it would be wrong for me to say or to preview in this legislative chamber how I would cast my vote on questions the Supreme Court may be called upon to decide. Were I to rehearse here what I would say and how I would reason on such questions, I would act injudiciously." Similarly, Justice John Paul Stevens stated in his hearing: "I really don't think I should discuss this subject generally, Senator. I don't mean to be unresponsive but in all candor I must say that there have been many times in my experience in the last five years where I found that my first reaction to a problem was not the same as the reaction I had when I had the responsibility of decisions and I think that if I were to make comments that were not carefully thought through they might be given significance that they really did not merit."

Justice Ginsburg described the traditional practice in a case decided last year: "In the context of the federal system, how a prospective nominee for the bench would resolve particular contentious issues would certainly be 'on interest' to the President and the Senate . . . . *But in accord with a longstanding norm,* every Member of this Court declined to furnish such information to the Senate, and presumably to the President as well." *Republican Party of Minnesota v. White*, 122 S. Ct. 2528, 2552 n.1 (2002) (Ginsburg, J., dissenting) (emphasis added). Justice Ginsburg added that this adherence to this "longstanding norm" was "crucial to the health of the Federal Judiciary." *Id.* In his majority opinion, Justice Scalia did not take issue

REV_00158964

with that description and added: "Nor do we assert that candidates for judicial office should be *compelled* to announce their views on disputed legal issues." *Id.* at 2539 n.11 (emphasis in original).

In some recent hearings, including Mr. Estrada's, Senator Schumer has asked that nominees identify particular Supreme Court cases of the last few decades with which they disagree. But the problems with such a question and answer were well stated by Justice Stephen Breyer. As Justice Breyer put it, "Until [an issue] comes up, I don't really think it through with the depth that it would require. . . . So often, when you decide a matter for real, in a court or elsewhere, it turns out to be very different after you've become informed and think it through for real than what you would have said at a cocktail party answering a question." 34 U.C. Davis L. Rev. 425, 462.

Senator Schumer also has asked nominees how they would have ruled in particular Supreme Court cases. Again, a double standard is being applied. The nominees of President Clinton did not answer such questions. For example, Richard Tallman, a nominee with no prior judicial service who would now serves on the Ninth Circuit, not only would not answer how he would have ruled as a judge in *Roe v. Wade* – but even how he would have ruled in *Plessy v. Ferguson,* the infamous case that upheld the discredited and shameful "separate but equal" doctrine. So, too, in the hearing on President Clinton's nomination of Judges Barry and Fisher, Senator Smith asked whether the nominees would have voted for a constitutional right to abortion before *Roe v. Wade*. Chairman Hatch interrupted Senator Smith to say "that is not a fair question to these two nominees because regardless of what happened pre-1973, they have to abide by what has happened post-1973 and the current precedents that the Supreme Court has."

B. Answers by Miguel Estrada

Miguel Estrada answered the Committee's questions forthrightly and appropriately. Indeed, Miguel Estrada was *more* expansive than many judicial nominees traditionally have been in Senate hearings, and he was asked a far *broader* range of questions than many previous appeals court nominees were asked. We will catalogue here a select sample of his answers.

Unenumerated rights, privacy, and abortion

When asked by Senator Edwards about the Constitution's protection for rights not enumerated in the Constitution, Mr. Estrada replied: "I recognize that the Supreme Court has said [on] numerous occasions in the area of privacy and elsewhere that there are unenumerated rights in the Constitution, and I have no view of any sort, whether legal or personal, that would hinder me from applying those rulings by the court. But I think the court has been quite clear that there are a number of unenumerated rights in the Constitution. In the main, the court has recognized them as being inherent in the right of substantive due process and the liberty clause of the Fourteenth Amendment."

When asked by Senator Feinstein whether the Constitution encompasses a right to privacy and abortion, Mr. Estrada responded, "The Supreme Court has so held, and I have no view of any nature whatsoever, whether it be legal, philosophical, moral, or any other type of

REV_00158965

view that would keep me from applying that case law faithfully." When asked whether *Roe v. Wade* was "settled law," Mr. Estrada replied, "I believe so."

General Approach to Judging

When asked by Senator Edwards about judicial review, Mr. Estrada explained: "Courts take the laws that have been passed by you and give you the benefit of understanding that you take the same oath that they do to uphold the Constitution, and therefore they take the laws with the presumption that they are constitutional. It is the affirmative burden of the plaintiff to show that you have gone beyond your oath. If they come into court, then it is appropriate for courts to undertake to listen to the legal arguments – why it is that the legislature went beyond [its] role as a legislat[ure] and invaded the Constitution."

Mr. Estrada stated to Senator Edwards that there are 200 years of Supreme Court precedent and that it is *not* the case that "the appropriate conduct for courts is to be guided solely by the bare text of the Constitution because that is not the legal system that we have."

When asked by Senator Edwards whether he was a strict constructionist, Mr. Estrada replied that he was "a fair constructionist" – meaning that "I don't think that it should be the goal of courts to be strict or lax. The goal of courts is to get it right. . . . It is not necessarily the case in my mind that, for example, all parts of the Constitution are suitable for the same type of interpretative analysis. . . . [T]he Constitution says, for example, that you must be 35 years old to be our chief executive. . . . There are areas of the Constitution that are more open-ended. And you adverted to one, like the substantive component of the due process clauses, where there are other methods of interpretation that are not quite so obvious that the court has brought to bear to try to bring forth what the appropriate answer should be."

When Senator Kohl asked him about environmental statutes, for example, Mr. Estrada explained that those statutes come to court "with a strong presumption of constitutionality."

In response to Senator Leahy, Mr. Estrada described the most important attributes of a judge: "The most important quality for a judge, in my view Senator Leahy, is to have an appropriate process for decisionmaking. That entails having an open mind. It entails listening to the parties, reading their briefs, going back beyond those briefs and doing all of the legwork needed to ascertain who is right in his or her claims as to what the law says and what the facts [are]. In a court of appeals court, where judges sit in panels of three, it is important to engage in deliberation and give ear to the views of colleagues who may have come to different conclusions. And in sum, to be committed to judging as a process that is intended to give us the right answer, not to a result. And I can give you my level best solemn assurance that I firmly think I do have those qualities or else I would not have accepted the nomination."

In response to Senator Durbin, Miguel Estrada stated that "the Constitution, like other legal texts, should be construed reasonably and fairly, to give effect to all that its text contains."

Mr. Estrada indicated to Senator Durbin that he admired the judges for whom he clerked, Justice Kennedy and Judge Kearse, as well as Justice Lewis Powell.

REV_00158966

Mr. Estrada stated to Senator Durbin that "I can absolutely assure the Committee that I will follow binding Supreme Court precedent until and unless such precedent has been displaced by subsequent decisions of the Supreme Court itself."

In response to Senator Grassley, Mr. Estrada stated: "When facing a problems for which there is a not a decisive precedent from a higher court, my cardinal rule would be to seize aid from anyplace where I could get it. Depending on the nature of the problem, that would include related case law in other areas that higher courts had dealt with that had had some insights to teach with respect to the problem at hand. It could include the history of the enactment, including in the case of a statute legislative history. It could include the custom and practice under any predecessor statute or document. It could include the views of academics to the extent that they purport to analyze what the law is instead of – instead of prescribing what it should be. And in sum, as Chief Justice Marshall once said, to attempt not to overlook anything from which aid might be derived."

In response to Senator Sessions, Estrada stated: "I am very firmly of the view that although we all have views on a number of subjects from A to Z, the first duty of a judge is to self-consciously put that aside and look at each case by starting withholding judgment with an open mind and listen to the parties. So I think that the job of a judge is to put all of that aside, and to the best of his human capacity to give a judgment based solely on the arguments and the law."

In response to Senator Sessions, Mr. Estrada stated that "I will follow binding case law in every case. . . . I may have a personal, moral, philosophical view on the subject matter. But I undertake to you that I would put all that aside and decide cases in accordance with binding case law and even in accordance with the case law that is not binding but seems constructive on the area, without any influence whatsoever from any personal view I may have about the subject matter."

Miranda/Stare Decisis

Mr. Estrada stated that *United States v. Dickerson* – a case raising the question whether *Miranda* should be overruled – reflected a "reasonable application of the doctrine of stare decisis. In my view, it is rarely appropriate for the Supreme Court to overturn one of its own precedents."

Affirmative Action

With respect to affirmative action, Mr. Estrada responded to Senator Kennedy that "any policy views I might have as a private citizen on the subject of affirmative action would not enter into how I would approach any case that comes before me as a judge. Under controlling Supreme Court authority, particularly *Adarand Constructors, Inc. v. Pena*, 515 U.S. 200 (1995), if a government program creates a racial classification, it will be subject to strict scrutiny. Whether the program survives that sort of scrutiny will often involve a highly contextual and fact-specific inquiry into the nature of the justifications asserted by the government and the fit

REV_00158967

between those justifications and the classification at issue. *Adarand* and similar cases provide the framework that I would be required to apply, and would apply, in considering these issues as a judge."

Asked by Senator Leahy about the strict scrutiny test, Mr. Estrada replied, "the Supreme Court in the *Adarand* case stated, as a general rule, that the consideration of race is subject to strict scrutiny. That means that though it may be used in some cases, it has to be justified by a compelling state interest. And with respect to the particular context, there must be a fairly fact-bound individual assessment of the fit between the interest that is being asserted and the category being used. That is just another way of saying that it is a very fact-intensive analysis in the context of a specific program and in the context of the justifications that are being offered in support of the program."

Congressional Authority

With respect to the outer limits of Congress' power to confer authority on other governmental bodies, Miguel responded to Senator Kennedy that the Supreme Court has said that "particular factual context is significant in analyzing the appropriateness of a particular delegation. . . . Of course, the fact that the Supreme Court only rarely has struck down statutes on this ground suggests that the Court has been quite deferential to congressional judgments about the types of delegations that reasonably might be needed to carry on the business of government."

When Senator Kohl asked Mr. Estrada about the 1995 *Lopez* case concerning the scope of Congress' power to regulate, Mr. Estrada pointed out that he had argued in a companion case "for a very expansive view of the power to Congress to pass statutes under the Commerce Clause and have them be upheld by the court. . . . *Lopez* has given us guidance on when it is appropriate for the court to exercise the commerce power. It is binding law and I would follow it."

Ethnicity

With respect to the fact that the President had noted Miguel's ethnicity, Miguel responded to Senator Kennedy: "The President is the leader of a large and diverse country, and it is accordingly appropriate for him, in exercising his constitutional nomination and appointment powers, to select qualified individuals who reflect the breadth and diversity of our Nation."

With respect to the Democrat Congressional Hispanic Caucus's criticism of him, Miguel responded to Senator Kennedy that "I strongly disagree, however, with the Congressional Hispanic Caucus' view that I lack an understanding of the role and importance of courts in protecting the legal rights of minorities, of the values and mores of Latino culture, or the significance of role models for minority communities."

REV_00158968

Racial Discrimination

With respect to race discrimination, Mr. Estrada stated in response to Senator Kennedy: "I take a backseat to no one in my abhorrence of race discrimination in law enforcement or anything else."

Senator Feingold asked Mr. Estrada whether he believed that racial profiling and racially motivated law enforcement misconduct are problems in this country today. Mr. Estrada replied, "I am – I will once again emphasize I'm unalterably opposed to any sort of race discrimination in law enforcement, Senator, whether it's called racial profiling or anything else. . . . I know full well that we have real problems with discrimination in our day and age."

Senator Leahy asked Mr. Estrada about whether statistical evidence of discriminatory impact is relevant in establishing discrimination. Mr. Estrada replied: "I am not a specialist in this area of the law, Senator Leahy, but I am aware that there is a line of cases, beginning with the Supreme Court's decision in *Griggs*, that suggests that in appropriate cases that [such evidence] may be appropriate. . . . I do understand that there is a major area of law that deals with how you prove and try disparate-impact cases."

Congressional Authority to Regulate Firearms

Senator Feinstein asked whether Congress may legislate in the area of dangerous firearms, and Mr. Estrada responded that the Supreme Court had ruled that "if the government were to prove that the firearm had at any time in its lifetime been in interstate commerce even if that had nothing to do with the crime at issue, that that would be an adequate basis for the exercise of Congress' power."

Right to Counsel

Senator Edwards asked about *Gideon v. Wainwright*, the Supreme Court case guaranteeing the right to counsel for poor defendants who could not afford counsel. Although Senator Edwards appeared to question the reasoning in that landmark case, Mr. Estrada responded that "I frankly have always taken it as a given that that's – the ruling in the case."

C. Answers by President Clinton's Nominees

Your criticism of Miguel Estrada's testimony creates a double standard. You did not require nominees of President Clinton to answer questions of this sort (keeping in mind that you have not identified what your additional questions to Mr. Estrada are). President Clinton's appeals court nominees routinely testified without discussing their views of specific issues or cases. A few select examples, including of several nominees who had no prior judicial experience, illustrate the point. (Please note that these are isolated examples; there are many more we can provide if necessary.)

Merrick Garland (no prior judicial experience). In the nomination of Merrick Garland to the D.C. Circuit, Senator Specter asked him: "Do you favor, as a personal matter, capital

REV_00158969

punishment?" Judge Garland replied only that he would follow Supreme Court precedent: "This is really a matter of settled law now. The Court has held that capital punishment is constitutional and lower courts are to follow that rule." Senator Specter also asked him about his views of the independent counsel statute's constitutionality, and Judge Garland responded: "Well, that, too, the Supreme Court in *Morrison v. Olson* upheld as constitutional, and, of course, I would follow that ruling." Judge Garland did not provide his personal view of either subject.

Judith Rogers. In the hearing on Judge Judith Rogers' nomination to the D.C. Circuit, Judge Rogers was asked by Senator Cohen about the debate over an evolving Constitution. Judge Rogers responded: "My obligation as an appellate judge is to apply precedent. Some of the debates which I have heard and to which I think you may be alluding are interesting, but as an appellate judge, my obligation is to apply precedent. And so the interpretations of the Constitution by the U.S. Supreme Court would be binding on me." She then was asked how she would rule in the absence of precedent and responded: "When I was taking my master's in judicial process at the University of Virginia Law School, one of the points emphasized was the growth of our common law system based on the English common law judge system. And my opinions, I think if you look at them, reflect that where I am presented with a question of first impression, that I look to the language of whatever provision we are addressing, that I look to whatever debates are available, that I look to the interpretations by other Federal courts, that I look to the interpretations of other State courts, and it may be necessary, as well, to look at the interpretations suggested by commentators. And within that framework, which I consider to be a discipline, that I would reach a view in a case of first impression." Finally, Judge Rogers was asked her view of the three-strikes law and stated: "As an appellate judge, my obligation is to enforce the laws that Congress passes or, where I am now, that the District of Columbia Council passes." Judge Rogers did not provide her personal view of these subjects.

Marsha Berzon (no prior judicial experience). Senator Smith asked her views on *Roe v. Wade* and whether "an unborn child is a human being." Judge Berzon stated: "[M]y role as a judge is not to further anything that I personally believe or don't believe, and I think that is the strength of our system and the strength of our appellate system. The Supreme Court has been quite definitive quite recently about the applicable standard, and I absolutely pledge to you that I will follow that standard as it exists now, and if it is changed, I will follow that standard. And my personal views in this area, as in any other, will have absolutely no effect." When Senator Smith probed about their personal views on abortion and *Roe v. Wade*, Chairman Hatch interrupted: "I don't know how they can say much more than that at this point in this meeting."

Richard Tallman (no prior judicial experience). In response to written questions, Judge Tallman explained that "[j]udicial nominees are limited by judicial ethical considerations from answering any question in a manner that would call for an 'advisory opinion' as the courts have defined it or that in effect ask a nominee to suggest how he or she would rule on an issue that could foreseeably require his or her attention in a future case or controversy after confirmation." He was asked how he would have ruled in *Plessy v. Ferguson*. He stated: "It is entirely conjectural as to what I would have done without having the opportunity to thoroughly review the record presented on appeal, the briefs and arguments of counsel, and supporting legal authorities that were applicable at that time." He gave the same response when asked how he would have ruled on *Roe v. Wade*. When asked his personal view on abortion, he wrote: "I hold

REV_00158970

no personal views that would prevent me from doing my judicial duty to follow the precedent set down by the Supreme Court." He gave the same answer about the death penalty.

Kim Wardlaw. In the hearing on Judge Kim Wardlaw's nomination to the Ninth Circuit, Judge Wardlaw was asked about the constitutionality of affirmative action. She stated (in an answer similar to Miguel Estrada's answer to the same question): "The Supreme Court has held that racial classifications are unconstitutional unless they are narrowly tailored to meet a compelling governmental interest."

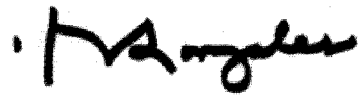
Maryanne Trump Barry. In the hearing on Judge Maryanne Trump Barry's nomination to the Third Circuit, Senator Smith asked for her personal opinion on whether "an unborn child at any stage of the pregnancy is a human being." Judge Barry responded: "*Casey* is the law that I would look at. If I had a personal opinion – and I am not suggesting that I do – it is irrelevant because I must look to the law which binds me."

Raymond Fisher. In the hearing on Judge Raymond Fisher's nomination to the Ninth Circuit, Senator Sessions asked Judge Fisher's own personal views on whether the death penalty was constitutional. Judge Fisher responded that "My view, Senator, is that, as you indicated, the Supreme Court has ruled that the death penalty is constitutional. As a lower appellate court judge, that is the law that I am governed by. I don't want in my judicial career, should I be fortunate enough to have one, to inject my personal opinions into whether or not I follow the law. I believe that the precedent of the Supreme Court is binding and that is what my function is."

V. Conclusion

Miguel Estrada is a well-qualified and well-respected judicial nominee who has very strong bipartisan support. Based on our reading of history, we believe that you have ample information about this nominee and have had more than enough time to consider questions about his qualifications and suitability. We urge you to stop the unfair treatment, end the filibuster, allow an up-or-down vote, and vote to confirm Mr. Estrada.

Sincerely,



Alberto R. Gonzales
Counsel to the President

The Honorable Thomas A. Daschle
The Honorable Patrick Leahy

Copy: The Honorable Bill Frist
The Honorable Orrin Hatch

REV_00158971

THE WHITE HOUSE

WASHINGTON

February 24, 2003

Dear Senator Schumer:

Based on your public comments yesterday, I am concerned that you may have inaccurate and incomplete information about Miguel Estrada's qualifications and about the historical practice with respect to judicial confirmations. Therefore, I write to respectfully reiterate and explain our conclusion that you and certain other Senators are applying an unfair double standard -- indeed, a series of unfair double standards -- to Miguel Estrada.

First, your request for confidential attorney-client memoranda Mr. Estrada wrote in the Office of Solicitor General seeks information that, based on our review, has not been demanded from past nominees to the federal courts of appeals. We are informed that the Senate has not requested memoranda such as these for *any* of the 67 appeals court nominees since 1977 who had previously worked in the Justice Department -- including the seven nominees who had previously worked in the Solicitor General's office. Nor have such memoranda been demanded from nominees in similar attorney-client situations: The Senate has not demanded confidential memoranda written by judicial nominees who had served as Senate lawyers, such as memoranda written by Stephen Breyer as a Senate counsel before Justice Breyer was confirmed to the First Circuit in 1980. Nor has the Senate demanded confidential memoranda written by judicial nominees who had served as law clerks to Supreme Court Justices or other federal or state judges. Nor has the Senate demanded confidential memoranda written by judicial nominees who had worked for private clients.

The very few isolated examples you have cited were not nominees for federal appeals courts. Moreover, those situations involved Executive Branch accommodations of targeted requests for particular documents about specific issues that were primarily related to allegations of malfeasance or misconduct in a federal office. We respectfully do not believe these examples support your request. Our conclusion about the general lack of support and precedent for your position is buttressed by the fact that every living former Solicitor General (four Democrats and three Republicans) has strongly opposed your request and stated that it would sacrifice and compromise the ability of the Justice Department to effectively represent the United States in court. In short, the traditional practice of the Senate and the Executive Branch with respect to federal appeals court nominations stands in contrast to your request here and supports our conclusion that an unfair double standard is being applied to Miguel Estrada. (Also, contrary to your suggestion yesterday, please note that no one in the Executive Branch has reviewed these memoranda since President Bush took office in January 2001.)

Second, you suggested that "no judicial nominee that I'm aware of, for such a high court, has ever had so little of a record." I respectfully disagree. Miguel Estrada has been a very accomplished lawyer, trying cases before federal juries, briefing and arguing numerous appeals before federal and state appeals courts, and arguing 15 cases before the Supreme Court, among his other significant work. His record and breadth of experience exceeds that of many judicial nominees, which is no doubt why the American Bar Association -- which you have labeled the

"gold standard" -- *unanimously* rated him "well-qualified." In noting yesterday that Mr. Estrada's career had been devoted to "arguing for a client," you appeared to imply that only those with prior judicial service (or perhaps "a lot of [law review] articles") may serve on the federal appeals courts. But five of the eight judges currently serving on the D.C. Circuit had no prior judicial service at the time of their appointments. Indeed, Supreme Court Justices Rehnquist, White, and Powell -- to name three of the most recent -- had not served as judges before being confirmed to the Supreme Court. And like Mr. Estrada, two appointees of President Clinton to the D.C. Circuit (Judge David Tatel and Judge Merrick Garland) had similarly spent their careers "arguing for a client," but were nonetheless confirmed.

As the Chief Justice noted in his 2001 Year-End Report, moreover, "[t]he federal Judiciary has traditionally drawn from a wide diversity of professional backgrounds." The Chief Justice cited Justice Louis Brandeis, Justice John Harlan, Justice Byron White, Judge Thurgood Marshall (as nominee to the Second Circuit), Judge Learned Hand, and Judge John Minor Wisdom as just a few examples of great judges who had spent virtually their entire careers "arguing for a client" before becoming Supreme Court Justices or federal appeals court judges. As these examples show, had the "arguing for a client" standard been applied in the past, it would have deprived the American people of many of our most notable appellate judges. Based on our understanding, this standard has *not* been applied in the past. This further explains why we have concluded that an unfair double standard is being applied to Miguel Estrada.

Third, you stated that "when you went to those hearings, Mr. Estrada answered no questions." The record demonstrates otherwise. Mr. Estrada answered more than 100 questions at his hearing (and another 25 in follow-up written answers). He explained in some detail his approach to judging on many issues, and did so appropriately without providing his personal views on specific legal or policy questions that could come before him – which is how previous judicial nominees of Presidents of both parties have appropriately answered questions. Indeed, at his hearing, Mr. Estrada was asked and answered more questions, and did so more fully, than did President Clinton's appointees to this same court. Judge David Tatel was asked a total of three questions at his hearing. Judges Judith Rogers and Merrick Garland were each asked fewer than 20 questions. The three appointees of President Clinton – combined – thus answered fewer than half the number of questions at their hearings that Mr. Estrada answered at his hearing. What is more, like Mr. Estrada, both Judge Rogers and Judge Garland declined to give their personal views on disputed legal and policy questions at the hearing. Judge Rogers refused to give her views when asked about the notion of an evolving Constitution. And Mr. Garland did not answer questions about his personal views on the death penalty, stating that he would follow precedent. In short, we believe that your criticism of Mr. Estrada's answers at his hearing reveals that another unfair double standard is being applied to Mr. Estrada.

Fourth, you stated that the Founding Fathers "came to the conclusion that the Senate ought to ask a whole lot of questions" of judicial nominees. We respect the Senate's constitutional role in the confirmation process, and we agree that the Senate should make an informed judgment consistent with its traditional role and practices. But your characterization of the Senate's role with respect to judicial nominations is not consistent with our reading of historical or traditional practice. Alexander Hamilton explained that the purpose of Senate confirmation is to prevent appointment of "unfit characters from State prejudice, from family

REV_00158973

connection, from personal attachment, or from a view to popularity." *The Federalist* 76. The Framers anticipated that the Senate's approval would not often be refused unless there were "special and strong reasons for the refusal." *Id.* Moreover, the Senate did not hold hearings on judicial nominees for much of American history, and the hearings for lower-court nominees in modern times traditionally have not included the examination of personal views that you have advocated. (My letter of February 12, 2003, to Senators Daschle and Leahy contains more detail on this point.) Indeed, just a few years ago, Senator Biden made clear, consistent with the traditional practice, that he would vote to confirm an appeals court judge if he were convinced that the nominee would follow precedent and otherwise was of high ability and integrity.

In short, it appears that you are seeking to change the Senate's traditional standard for assessing judicial nominees. We respect your right to advocate a change, but we do not believe that the standard you seek to apply is consistent with the Framers' vision, the traditional Senate practice, or the Senate's treatment of President Clinton's nominees. Rather, we believe a new standard is being devised and applied to Miguel Estrada.

Fifth, you stated yesterday that a "filibuster" is not an appropriate term to describe what has been occurring in the Senate. We respectfully disagree. Democrat Senators have objected to unanimous consent motions to schedule a vote, and they have indicated that they will continue to do so. That tactic is historically and commonly known as a filibuster, and is a dramatic escalation of the tactics used to oppose judicial nominees. Indeed, in 1998, Senator Leahy stated: "I have stated over and over again on this floor that I would refuse to put an anonymous hold on any judge; that *I would object and fight against any filibuster on a judge*, whether it is somebody I opposed or supported; that I felt the Senate should do its duty. If we don't like somebody the President nominates, vote him or her down. But don't hold them in this anonymous unconscionable limbo, because in doing that, the minority of Senators really shame all Senators." 144 Cong. Rec. S6522 (June 18, 1998). In our judgment, the tactics now being employed again show that Miguel Estrada is receiving differential treatment.

* * *

As I have said before, I appreciate and respect the Senate's constitutional role in the confirmation process. You have expressed concern that you do not know enough about Mr. Estrada's views, but you have not submitted any follow-up questions to him. We respectfully submit that the Senate has ample information and has had more than enough time to consider questions about the qualifications and suitability of a nominee submitted more than 21 months ago. Most important, we believe that a majority of Senators have now concluded that they possess sufficient information on Mr. Estrada and would vote to confirm him. We believe it is past time for the Senate to vote on this nominee, and we urge your support.

Sincerely,

/s/

Alberto R. Gonzales
Counsel to the President

REV_00158974

Copy: The Honorable Bill Frist
The Honorable Thomas A. Daschle
The Honorable Orrin Hatch
The Honorable Patrick Leahy

REV_00158975

THE WHITE HOUSE

WASHINGTON

February 3, 2003

Dear Senator Feinstein:

I write in response to your vote in the Judiciary Committee on the nomination of Miguel Estrada and to respectfully urge that you reconsider this important nomination when you vote on it in the full Senate. I write in particular because it appears from your statement in the Committee (and on your web site) that you may possess inaccurate or incomplete information on certain issues that you have deemed important to the Estrada nomination.

First, it appears you relied on the fact that Estrada has no previous judicial service. But five of the eight judges currently serving on the D.C. Circuit had no previous judicial experience when appointed. That includes two of President Clinton's nominees, Merrick Garland, whose Justice Department record was quite similar to that of Miguel Estrada, and David Tatel. In addition, Judge Harry Edwards had no prior judicial experience when he was nominated by President Carter in 1979, and he was *younger* than Estrada. In addition, several Ninth Circuit judges from California who were appointed by President Clinton, and had your support, had no prior judicial experience. That includes Judge William Fletcher, Judge Raymond Fisher, and Judge Marsha Berzon.

The American Bar Association, which Democrat Senators Leahy and Schumer have referred to as the "gold standard," *unanimously* rated Estrada "well qualified" for the D.C. Circuit, the ABA's highest possible rating. We think the ABA rating was quite appropriate in light of Estrada's excellent record, including his work as an Assistant Solicitor General in the Clinton and Bush Administrations, his record as a federal prosecutor in New York, his service as a law clerk to Justice Kennedy, and his *pro bono* work including his volunteer representation of a death row inmate before the Supreme Court. He has argued 15 cases before the Supreme Court of the United States, a figure that few lawyers can match, and particularly impressive for someone who immigrated to this country at age 17 speaking little English.

Second, you also referenced a news report quoting the views of Paul Bender, a former Deputy Solicitor General. Mr. Bender has not written a letter to the Committee or otherwise publicly explained his views, so we are unclear whether this news report was accurate. But more important, as I explained in a September 17, 2002, letter to then-Chairman Leahy and Senator Hatch, Paul Bender in fact signed the performance reviews of Miguel Estrada for the two years that they worked together. The performance reviews for those years gave Estrada the highest possible rating of "outstanding" in every possible category. Significantly, the performance reviews that Bender signed also stated the following to support the judgment that Estrada's performance was "outstanding."

- "states the operative facts and applicable law completely and persuasively, with record citations, and in conformance with court and office rules, and with concern for fairness, clarity, simplicity, and conciseness."
- "[i]s extremely knowledgeable of resource materials and uses them expertly; acting independently, goes directly to point of the matter and gives reliable, accurate, responsive information in communicating position to others."
- "[a]ll dealings, oral and written, with the courts, clients, and others are conducted in a diplomatic, cooperative, and candid manner."
- "[a]ll briefs, motions or memoranda reviewed consistently reflect no policies at variance with Departmental or Governmental policies, or fails to discuss and analyze relevant authorities."
- "[i]s constantly sought for advice and counsel. Inspires co-workers by example."

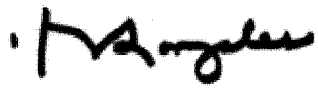
Apart from the contemporaneous reviews that Mr. Bender himself signed, it also bears mention that the Committee has received letters from Seth Waxman, President Clinton's Solicitor General, and a bipartisan group of 14 former colleagues of Mr. Estrada in the Solicitor General's office. Seth Waxman wrote to the Committee that Estrada is a "model of professionalism and competence" and that he has "great respect both for Mr. Estrada's intellect and for his integrity." He continued: "In no way did I ever discern that the recommendations Mr. Estrada made or the views he propounded were colored in any way by his personal views – or indeed that they reflected anything other than the long-term interests of the United States." And the bipartisan group of former colleagues from the Office of Solicitor General wrote to the Committee that Estrada "would be a fair and honest judge who would decide cases in accordance with applicable legal principles and precedents." Finally, to the extent Mr. Bender's own personal political and ideological views are relevant, we call your attention to Senator Hatch's opening statement at the hearing on September 26, 2002.

Third, you referenced the fact that Miguel Estrada has been "accused" of using an ideological litmus test when assisting Justice Kennedy in the selection of his law clerks. We respectfully do not think this "accusation" is credible or supported. In fact, Mr. Estrada explained at his hearing that he in fact had been very supportive, for example, of the hiring of one law clerk for Justice Kennedy who at the time worked for President Clinton, is a strong Democrat, and now works for Senator Leahy on the Judiciary Committee.

Fourth, you noted concern among "Hispanic organizations." In fact, the overwhelming majority of national Hispanic organizations have supported Mr. Estrada. That includes the Hispanic National Bar Association, the League of United Latin American Citizens, the U.S. Hispanic Chamber of Commerce, the Hispanic Business Roundtable, and the Latino Coalition, among many others. To be sure, MALDEF and PRLDEF do oppose Mr. Estrada. As to Hispanic members of the House, we understand that all of the Republican Hispanics support him while the Democrat Hispanics do not. In any event, LULAC's statement is noteworthy, as it states: "[Estrada] is truly one of the rising stars in the Hispanic community and a role model for our youth."

Thank you for considering this nominee in light of the above information. This is an historic nomination, as Miguel Estrada would be the first Hispanic to serve on the D.C. Circuit. We urge you to vote to confirm him.

Sincerely,



Alberto R. Gonzales
Counsel to the President

The Honorable Dianne Feinstein
United States Senate
Washington, D.C. 20510

cc: The Honorable Bill Frist
The Honorable Thomas A. Daschle
The Honorable Orrin G. Hatch
The Honorable Patrick J. Leahy
The Honorable Mitch McConnell
The Honorable Rick Santorum
The Honorable Jon L. Kyl

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Carolyn Nelson/WHO/EOP@Exchange [WHO] <Carolyn Nelson>
Sent: 2/27/2003 8:26:58 AM
Subject: : Estrada letters w/ signatures
Attachments: P_O3T8E003_WHO.TXT_1.pdf; P_O3T8E003_WHO.TXT_2.pdf; P_O3T8E003_WHO.TXT_3.pdf

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:27-FEB-2003 13:26:58.00
SUBJECT:: Estrada letters w/ signatures
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Per your request
;
Patrick J. Bumatay
Office of Counsel to the President
o: 202-456-5214
f: 202-456-6279
mainline: 202-456-2632
;
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_O3T8E003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_O3T8E003_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_O3T8E003_WHO.TXT_3>
```

THE WHITE HOUSE

WASHINGTON

February 12, 2003

Dear Senator Daschle and Senator Leahy:

On behalf of President Bush, I write in response to your letter to the President dated February 11, 2003. In the letter, you renew your previous request for confidential Department of Justice memoranda in which Mr. Estrada provided appeal, certiorari, and amicus recommendations while he was a career attorney in the Office of Solicitor General for four years in the Clinton Administration and one year in the George H.W. Bush Administration. You also request that Mr. Estrada answer certain questions beyond the extensive questions that he already answered appropriately and forthrightly during his Committee hearing and in follow-up written responses.

We respect the Senate's constitutional role in the confirmation process, and we agree that the Senate must make an informed judgment consistent with its traditional role and practices. However, your requests have no persuasive support in the history and precedent of judicial appointments. Indeed, the relevant history and precedent convincingly demonstrate that a new and shifting standard is being applied to Miguel Estrada.

First, as the Department of Justice explained in its letters of June 5, 2002, October 8, 2002, and January 23, 2003, all living former Solicitors General (four Democrats and three Republicans) have strongly opposed your request for Solicitor General memoranda and stated that it would sacrifice and compromise the ability of the Justice Department to effectively represent the United States in court. Even more telling, we are informed that the Senate has not requested memos such as these for *any* of the 67 appeals court nominees since 1977 who had previously worked in the Justice Department (including the seven nominees who had previously worked in the Solicitor General's office). The few isolated examples you have cited – in which targeted requests for particular documents about specific issues were accommodated for nominees to positions other than the U.S. Courts of Appeals – similarly do not support your request here.

Second, as explained more fully below with respect to your request that Mr. Estrada answer additional questions, the only specific question identified in your letter refers to his judicial role models. You claim that Mr. Estrada refused to answer a question on this topic. In fact, in his written responses to Senator Durbin's question on this precise subject that Mr. Estrada submitted three months ago, he cited Justice Anthony Kennedy, Justice Lewis Powell, and Judge Amalya Kearse as judges he admires (he clerked for Justice Kennedy and Judge Kearse), and he further pointed out, of course, that he would seek to resolve cases as he analyzed them "without any preconception about how some other judge might approach the question." Your letter to the President ignores Mr. Estrada's answer to this question. In any event, beyond this one query, your letter does not pose any additional questions to him. Additionally, neither of you has posed *any* written questions to Mr. Estrada in the more than three months since his all-day Committee hearing. Since the hearing, Mr. Estrada also has met (and continues to meet) with numerous Democrat Senators interested in learning more about his record. Finally, as I will

explain below, Mr. Estrada forthrightly answered numerous questions about his judicial approach and views in a manner that matches or greatly exceeds answers demanded of previous appeals court nominees.

With respect, it appears that a double standard is being applied to Miguel Estrada. That is highly unfair and inappropriate, particularly for this well-qualified and well-respected nominee.

I will turn now in more detail to the various issues raised by your letter. I will address them at some length given the importance of this issue and the nature of your requests.

I. Miguel Estrada's Qualifications and Bipartisan Support

Miguel Estrada is an extraordinarily qualified judicial nominee. The American Bar Association, which Senators Leahy and Schumer have referred to as the "gold standard," *unanimously* rated Estrada "well qualified" for the D.C. Circuit, the ABA's highest possible rating. The ABA rating was entirely appropriate in light of Mr. Estrada's superb record as Assistant to the Solicitor General in the Clinton and George H.W. Bush Administrations, as a federal prosecutor in New York, as a law clerk to Justice Kennedy, and in performing significant *pro bono* work.

Some who are misinformed have seized on Mr. Estrada's lack of prior judicial experience, but five of the eight judges currently serving on the D.C. Circuit had no prior judicial experience, including two appointees of President Clinton and one appointee of President Carter. Miguel Estrada has tried numerous cases before federal juries, argued many cases in the federal appeals courts, and argued 15 cases before the Supreme Court of the United States. That is a record that few judicial nominees can match. And few lawyers, whatever their ideology or philosophy, have volunteered to represent a death row inmate *pro bono* before the Supreme Court as did Miguel Estrada.

Mr. Estrada's excellent legal qualifications are all the more extraordinary given his personal history. Simply put, Miguel Estrada is an American success story. He came to this country at age 17 from Honduras speaking little English. Through hard work and dedicated service to the United States, Miguel Estrada has risen to the very pinnacle of the legal profession. If confirmed, he would be the first Hispanic judge to sit on the U.S. Court of Appeals for the D.C. Circuit. Given his record, his background, and his integrity, it is no surprise that Miguel Estrada is strongly supported by the vast majority of national Hispanic organizations. The League of United Latin American Citizens (LULAC), for example, wrote to Senator Leahy to urge Mr. Estrada's confirmation and explain that he "is truly one of the rising stars in the Hispanic community and a role model for our youth." A group of 19 Hispanic organizations, including LULAC and the Hispanic National Bar Association, recently wrote to the Senate urging "on behalf of an overwhelming majority of Hispanics in this country" that "both parties in the U.S. Senate . . . put partisan politics aside so that Hispanics are no longer denied representation in one of the most prestigious courts in the land."

The current effort to filibuster Mr. Estrada's nomination is particularly unjustified given that those who have worked with Miguel -- including prominent Democrat lawyers whom you

REV_00158981

know well -- strongly support his confirmation. For example, Ron Klain, who served as a high-ranking adviser to former Vice President Gore and former Chief Counsel to the Senate Judiciary Committee, wrote: "Miguel is a person of outstanding character, tremendous intellect, and with a deep commitment to the faithful application of precedent. . . . [T]he challenges that he has overcome in his life have made him genuinely compassionate, genuinely concerned for others, and genuinely devoted to helping those in need."

President Clinton's Solicitor General, Seth Waxman, wrote: "During the time Mr. Estrada and I worked together, he was a model of professionalism and competence. . . . In no way did I ever discern that the recommendations Mr. Estrada made or the analyses he propounded were colored in any way by his personal views – or indeed that they reflected any consideration other than the long-term interests of the United States. I have great respect both for Mr. Estrada's intellect and for his integrity."

A bipartisan group of 14 former colleagues in the Office of the Solicitor General at the U.S. Department of Justice wrote: "We hold varying ideological views and affiliations that range across the political spectrum, but we are unanimous in our conviction that Miguel would be a fair and honest judge who would decide cases in accordance with the applicable legal principles and precedents, not on the basis of personal preferences or political viewpoints." One former colleague, Richard Seamon, wrote that he is a pro-choice, lifelong Democrat with self-described "liberal views on most issues" who said he would "consider it a disgrace" if Mr. Estrada is not confirmed.

Similarly, Leonard Joy, head of the Federal Defender Division of the Legal Aid Society of New York, wrote that "Miguel would make an excellent Circuit Court Judge. He is as fine a lawyer as I have met and, on top of all his intellectual abilities and judgment he would bring to bear, he would bring a desirable diversity to the Court. I heartily recommend him."

Beyond the extensive personal testimony from those who worked side-by-side with him for many years, the performance reviews of Miguel for the years that he worked in the Office of Solicitor General gave him the highest possible rating of "outstanding" in every possible category. The reviews stated that Miguel:

- "states the operative facts and applicable law completely and persuasively, with record citations, and in conformance with court and office rules, and with concern for fairness, clarity, simplicity, and conciseness."
- "[i]s extremely knowledgeable of resource materials and uses them expertly; acting independently, goes directly to point of the matter and gives reliable, accurate, responsive information in communicating position to others."
- "[a]ll dealings, oral and written, with the courts, clients, and others are conducted in a diplomatic, cooperative, and candid manner."
- "[a]ll briefs, motions or memoranda reviewed consistently reflect no policies at variance with Departmental or Governmental policies, or fails to discuss and analyze relevant authorities."
- "[i]s constantly sought for advice and counsel. Inspires co-workers by example."

REV_00158982

In the two years that Miguel Estrada and Paul Bender worked together, Mr. Bender signed those reviews. These employment reviews thus call into serious question some press reports containing a negative comment from Mr. Bender about Mr. Estrada's temperament (which is the only negative comment made by anyone who actually knows Mr. Estrada). Just as important, President Clinton's Solicitor General Seth Waxman expressly refuted Mr. Bender's statement.

In sum, based on his experience, his intellect, his integrity, and his bipartisan support, Miguel Estrada should be confirmed promptly.

II. The Senate's Role

President Bush nominated Miguel Estrada nearly two years ago on May 9, 2001. As explained above, he is well-qualified and well-respected. By any traditional measure that the Senate has used to evaluate appeals court nominees, Miguel Estrada should have been confirmed long ago. Your letter and public statements indicate, however, that you are applying both a new standard and new tactics to this particular nominee.

As to the standard, the Senate has a very important role in the process, but the Senate's traditional approach to appeals court nominees, and the approach envisioned by the Constitution's Framers, is far different from the standard that you now seek to apply. Senator Biden stated the traditional approach in 1997: "Any person who is nominated for the district or circuit court who, in fact, any Senator believes will be a person of their word and follow stare decisis, it does not matter to me what their ideology is, as long as they are in a position where they are in the general mainstream of American political life, and they have not committed crimes of moral turpitude, and have not, in fact, acted in a way that would shed a negative light on the court." Congressional Record, March 19, 1997. Alexander Hamilton explained that the purpose of Senate confirmation is to prevent appointment of "unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity." Federalist No. 76. It was anticipated that the Senate's approval would not often be refused unless there were "special and strong reasons for the refusal." No. 76.

As to tactics, you have indicated that some Senate Democrats intend to filibuster to prevent a vote on this nominee. As you know, there has never been a successful filibuster of a court of appeals nominee. Only a few years ago, Senator Leahy and other Democrat Senators expressly agreed with then-Governor Bush that every judicial nominee was entitled to an up-or-down floor vote within a reasonable time. On October 3, 2000, for example, Senator Leahy stated:

> Governor Bush and I, while we disagree on some issues, have one very significant issue on which we agree. He gave a speech a while back and criticized what has happened in the Senate where confirmations are held up not because somebody votes down a nominee but because they cannot ever get a vote. Governor Bush said: You have the nominee. Hold the hearing. Then, within 60 days, vote them up or vote them down. Don't leave them in limbo. *Frankly, that is what we are paid to do in this body. We are paid to vote either yes or no – not vote maybe*. When we hold a nominee up by not allowing them a

REV_00158983

vote and not taking any action one way or the other, we are not only voting 'maybe,' but we are doing a terrible disservice to the man or woman to whom we do this.

Senator Daschle similarly stated on October 5, 1999, that "[t]he Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down. An up or down vote, that is all we seek for Berzon and Paez. And after years of waiting, they deserve at least that much."

In his East Room speech of October 30, 2002, President Bush reiterated that every judicial nominee deserves a timely up-or-down floor vote in the Senate, no matter who is President or which party controls the Senate. Contrary to President Bush's attempts at permanent reform to bring order to the process, your current effort to employ a filibuster and block an up-or-down vote on the Estrada nomination may significantly exacerbate the cycle of bitterness and recrimination that President Bush has sought to resolve on a bipartisan basis. We fear that the damage caused by a filibuster could take many years to undo. To continue on this path would also be, in Senator Leahy's words, "a terrible disservice" to Mr. Estrada. We urge you to reconsider this extraordinary action, to end the filibuster of Mr. Estrada's nomination, and to allow the full Senate to vote up or down.

III. Request for Confidential Solicitor General Memos

You have suggested that Mr. Estrada's background, experience, and support are insufficient to assess his suitability for the D.C. Circuit. You have renewed your request for Solicitor General memos authored by Mr. Estrada. But every living former Solicitor General signed a joint letter to the Senate opposing your request. The letter was signed by Democrats Archibald Cox, Walter Dellinger, Drew Days, and Seth Waxman. They stated: "Any attempt to intrude into the Office's highly privileged deliberations would come at the cost of the Solicitor General's ability to defend vigorously the United States' litigation interests – a cost that also would be borne by Congress itself. . . . Although we profoundly respect the Senate's duty to evaluate Mr. Estrada's fitness for the federal judiciary, we do not think that the confidentiality and integrity of internal deliberations should be sacrificed in the process."

It bears mention that the interest asserted here is that of the United States, not the personal interest of Mr. Estrada. Indeed, Mr. Estrada himself testified that "I have not opposed the release of those records. . . . I am exceptionally proud of every piece of legal work that I have done in my life. If it were up to me as a private citizen, I would be more than proud to have you look at everything that I have done for the government or for a private client."

The history of Senate confirmations of nominees who had previously worked in the Department of Justice makes clear that an unfair double standard is being applied to Miguel Estrada's nomination. Since the beginning of the Carter Administration in 1977, the Senate has approved 67 United States Court of Appeals nominees who previously had worked in the Department of Justice. Of those 67 nominees, 38 had no prior judicial experience, like Miguel Estrada. The Department of Justice's review of those nomination records disclosed that in *none* of those cases did the Department of Justice produce internal deliberative materials created by

REV_00158984

the Department. In fact, the Department's review disclosed that the Senate did not even request such materials for *a single one* of these 67 nominees.

Of this group of 67 nominees, seven were nominees who had worked as a Deputy Solicitor General or Assistant to the Solicitor General. These seven nominees, nominated by Presidents of each party and confirmed by Senates controlled by each party, included Samuel Alito, Danny Boggs, William Bryson, Frank Easterbrook, Daniel Friedman, Richard Posner, and Raymond Randolph.

The five isolated historical examples you have cited do not support your current request. In each of those five cases, the Committee made a targeted request for specific information primarily related to allegations of misconduct or malfeasance identified by the Committee. Even in those isolated cases, the vast majority of deliberative memoranda written by those nominees were neither requested nor produced. With respect to Judge Bork's nomination, for example, the Committee received access to certain particular memoranda (many related to Judge Bork's involvement in Watergate-related issues). The vast majority of memoranda authored by Judge Bork were never received. With respect to Judge Trott, the Committee requested documents unrelated to Judge Trott's service to the Department. So, too, in the three other examples you cite, the Committee requested specific documents primarily related to allegations of misconduct or malfeasance identified by the Committee. Of course, no such allegations have been made in the case of Mr. Estrada.

In sum, the examples you have cited only highlight the lack of precedent for the current request. As the Justice Department has explained to you previously, the existence of a few isolated examples where the Executive Branch on occasion accommodated a Committee's targeted requests for very specific information primarily related to allegations of misconduct does not in any way alter the fundamental and long-standing principle that memos from the Office of Solicitor General – and deliberative Department of Justice memoranda more broadly – must remain protected in the confirmation context so as to maintain the integrity of the Executive Branch's decisionmaking process. That is a fundamental principle that has been followed irrespective of the party that controls the White House and the Senate.

Your continued requests for these memoranda have provoked a foreseeable and inevitable conflict that, in turn, has been cited as a basis for obstructing a vote on Mr. Estrada's nomination. Respectfully, the conflict is unnecessary because your desire to assess the nominee can be readily accommodated in many ways other than intruding into and severely damaging the deliberative process of the Office of Solicitor General. For example, you can review Mr. Estrada's written briefs and oral arguments both as an attorney for the United States and in private practice. As you know, those documents are publicly available and easily accessible; that said, we would be pleased to facilitate your access to them. (Mr. Estrada's hearing transcript suggests that no Democrat Member of the Committee had read Mr. Estrada's many dozens of Solicitor General merits briefs, certiorari petitions, and opposition briefs or the transcripts of his 14 oral arguments when he represented the United States.) You also may consider the opinions of others who served in the Office at the same time (discussed above) and examine the nominee's written performance reviews (also discussed above). There is more than ample

REV_00158985

information for you to assess Mr. Estrada's qualifications and suitability for the D.C. Circuit based on the traditional standards the Senate has employed.

It also is important to recognize that political appointees of President Clinton have read virtually all of the memoranda in question – namely, the Democrat Solicitors General Drew Days, Walter Dellinger, and Seth Waxman. None of those three highly respected Democrat lawyers has expressed any concern whatever about Mr. Estrada's nomination. Indeed, Mr. Waxman wrote a letter of strong support, and Mr. Days made public statements in support of Mr. Estrada.

In sum, the historical record and past precedent convincingly demonstrate that this request creates and applies an unfair double standard to Miguel Estrada.

IV. Request that Miguel Estrada Answer Additional Questions

Your letter also suggests that Miguel Estrada should answer certain questions that he allegedly did not answer in his hearing. To begin with, we do not know what your specific questions are. In addition, this request frankly comes as a surprise given that (i) Senator Schumer chaired the hearing on Mr. Estrada, (ii) the hearing lasted an entire day, (iii) Senators at the all-day hearing asked numerous far-reaching questions that Mr. Estrada answered forthrightly and appropriately, and (iv) only two of the 10 Democrat Senators then on the Committee even submitted any follow-up written questions, and they submitted only a few questions (in marked contrast to other nominees who received voluminous follow-up questions).

It also bears mention that Mr. Estrada has personally met with a large number of Democrat Senators, including Senators Landrieu, Lincoln, Bill Nelson, Ben Nelson, Leahy, Feinstein, Kohl, and Breaux; is scheduled to meet with Senator Carper; and would be pleased to meet with additional Senators.

The only specific question your letter identifies refers to Mr. Estrada's judicial role models, and you claim that he refused to answer a question on this topic. In fact, in Mr. Estrada's written responses to Senator Durbin's question on this precise subject, Mr. Estrada cited Justice Anthony Kennedy, Justice Lewis Powell, and Judge Amalya Kearse as judges he admires, and he further pointed out, of course, that he would seek to resolve cases as he analyzed them "without any preconception about how some other judge might approach the question."

In our judgment, moreover, Mr. Estrada answered the Committee's questions in a manner that was both entirely appropriate and entirely consistent with the approach that judicial nominees of Presidents of both parties have taken for many years. Your suggestions to the contrary do not square with the hearing record or traditional practice.

A. Judicial Ethics and Traditional Practice

In assessing your request that Miguel Estrada did not answer appropriate questions, we begin with rules of judicial ethics that govern prospective nominees. Canon 5A(3)(d) provides that prospective judges "shall not . . . make statements that commit *or appear to commit* the candidate with respect to cases, controversies or issues that are likely to come before the court"

REV_00158986

(emphasis added). Justice Thurgood Marshall made the point well in 1967 when asked about the Fifth Amendment: "I do not think you want me to be in a position of giving you a statement on the Fifth Amendment and then, if I am confirmed and sit on the Court, when a Fifth Amendment case comes up, I will have to disqualify myself." Lloyd Cutler, who served as Counsel to President Carter and President Clinton, has stated that "candidates should decline to reply when efforts are made to find out how they would decide a particular case."

In 1968, in the context of the Justice Abe Fortas' nomination to be Chief Justice, the Senate Judiciary Committee similarly stated: "Although recognizing the constitutional dilemma which appears to exist when the Senate is asked to advise and consent on a judicial nominee without examining him on legal questions, the Committee is of the view that Justice Fortas wisely and correctly declined to answer questions in this area. To require a Justice to state his views on legal questions or to discuss his past decisions before the Committee would threaten the independence of the judiciary and the integrity of the judicial system itself. It would also impinge on the constitutional doctrine of separation of powers among the three branches of Government as required by the Constitution." S. Exec. Rep. No. 8, 90th Cong. 2d Sess. 5 (1968).

Even in the context of a Supreme Court confirmation hearing, Senator Kennedy defended Sandra Day O'Connor's refusal to discuss her views on abortion: "It is offensive to suggest that a potential Justice of the Supreme Court must pass some presumed test of judicial philosophy. It is even more offensive to suggest that a potential justice must pass the litmus test of any single-issue interest group." Nomination of Sandra O'Connor: Hearings Before the Senate Comm. on the Judiciary on the Nomination of Judge Sandra Day O'Connor of Arizona to Serve as an Associate Justice of the Supreme Court of the United States, 97th Cong. 6 (1981) (statement of Sen. Kennedy).

Justice Ruth Bader Ginsburg likewise declined to answer certain questions: "Because I am and hope to continue to be a judge, it would be wrong for me to say or to preview in this legislative chamber how I would cast my vote on questions the Supreme Court may be called upon to decide. Were I to rehearse here what I would say and how I would reason on such questions, I would act injudiciously." Similarly, Justice John Paul Stevens stated in his hearing: "I really don't think I should discuss this subject generally, Senator. I don't mean to be unresponsive but in all candor I must say that there have been many times in my experience in the last five years where I found that my first reaction to a problem was not the same as the reaction I had when I had the responsibility of decisions and I think that if I were to make comments that were not carefully thought through they might be given significance that they really did not merit."

Justice Ginsburg described the traditional practice in a case decided last year: "In the context of the federal system, how a prospective nominee for the bench would resolve particular contentious issues would certainly be 'on interest' to the President and the Senate . . . . *But in accord with a longstanding norm,* every Member of this Court declined to furnish such information to the Senate, and presumably to the President as well." *Republican Party of Minnesota v. White*, 122 S. Ct. 2528, 2552 n.1 (2002) (Ginsburg, J., dissenting) (emphasis added). Justice Ginsburg added that this adherence to this "longstanding norm" was "crucial to the health of the Federal Judiciary." *Id.* In his majority opinion, Justice Scalia did not take issue

REV_00158987

with that description and added: "Nor do we assert that candidates for judicial office should be *compelled* to announce their views on disputed legal issues." *Id.* at 2539 n.11 (emphasis in original).

In some recent hearings, including Mr. Estrada's, Senator Schumer has asked that nominees identify particular Supreme Court cases of the last few decades with which they disagree. But the problems with such a question and answer were well stated by Justice Stephen Breyer. As Justice Breyer put it, "Until [an issue] comes up, I don't really think it through with the depth that it would require. . . . So often, when you decide a matter for real, in a court or elsewhere, it turns out to be very different after you've become informed and think it through for real than what you would have said at a cocktail party answering a question." 34 U.C. Davis L. Rev. 425, 462.

Senator Schumer also has asked nominees how they would have ruled in particular Supreme Court cases. Again, a double standard is being applied. The nominees of President Clinton did not answer such questions. For example, Richard Tallman, a nominee with no prior judicial service who would now serves on the Ninth Circuit, not only would not answer how he would have ruled as a judge in *Roe v. Wade* – but even how he would have ruled in *Plessy v. Ferguson,* the infamous case that upheld the discredited and shameful "separate but equal" doctrine. So, too, in the hearing on President Clinton's nomination of Judges Barry and Fisher, Senator Smith asked whether the nominees would have voted for a constitutional right to abortion before *Roe v. Wade*. Chairman Hatch interrupted Senator Smith to say "that is not a fair question to these two nominees because regardless of what happened pre-1973, they have to abide by what has happened post-1973 and the current precedents that the Supreme Court has."

B. Answers by Miguel Estrada

Miguel Estrada answered the Committee's questions forthrightly and appropriately. Indeed, Miguel Estrada was *more* expansive than many judicial nominees traditionally have been in Senate hearings, and he was asked a far *broader* range of questions than many previous appeals court nominees were asked. We will catalogue here a select sample of his answers.

Unenumerated rights, privacy, and abortion

When asked by Senator Edwards about the Constitution's protection for rights not enumerated in the Constitution, Mr. Estrada replied: "I recognize that the Supreme Court has said [on] numerous occasions in the area of privacy and elsewhere that there are unenumerated rights in the Constitution, and I have no view of any sort, whether legal or personal, that would hinder me from applying those rulings by the court. But I think the court has been quite clear that there are a number of unenumerated rights in the Constitution. In the main, the court has recognized them as being inherent in the right of substantive due process and the liberty clause of the Fourteenth Amendment."

When asked by Senator Feinstein whether the Constitution encompasses a right to privacy and abortion, Mr. Estrada responded, "The Supreme Court has so held, and I have no view of any nature whatsoever, whether it be legal, philosophical, moral, or any other type of

REV_00158988

view that would keep me from applying that case law faithfully." When asked whether *Roe v. Wade* was "settled law," Mr. Estrada replied, "I believe so."

General Approach to Judging

When asked by Senator Edwards about judicial review, Mr. Estrada explained: "Courts take the laws that have been passed by you and give you the benefit of understanding that you take the same oath that they do to uphold the Constitution, and therefore they take the laws with the presumption that they are constitutional. It is the affirmative burden of the plaintiff to show that you have gone beyond your oath. If they come into court, then it is appropriate for courts to undertake to listen to the legal arguments – why it is that the legislature went beyond [its] role as a legislat[ure] and invaded the Constitution."

Mr. Estrada stated to Senator Edwards that there are 200 years of Supreme Court precedent and that it is *not* the case that "the appropriate conduct for courts is to be guided solely by the bare text of the Constitution because that is not the legal system that we have."

When asked by Senator Edwards whether he was a strict constructionist, Mr. Estrada replied that he was "a fair constructionist" – meaning that "I don't think that it should be the goal of courts to be strict or lax. The goal of courts is to get it right. . . . It is not necessarily the case in my mind that, for example, all parts of the Constitution are suitable for the same type of interpretative analysis. . . . [T]he Constitution says, for example, that you must be 35 years old to be our chief executive. . . . There are areas of the Constitution that are more open-ended. And you adverted to one, like the substantive component of the due process clauses, where there are other methods of interpretation that are not quite so obvious that the court has brought to bear to try to bring forth what the appropriate answer should be."

When Senator Kohl asked him about environmental statutes, for example, Mr. Estrada explained that those statutes come to court "with a strong presumption of constitutionality."

In response to Senator Leahy, Mr. Estrada described the most important attributes of a judge: "The most important quality for a judge, in my view Senator Leahy, is to have an appropriate process for decisionmaking. That entails having an open mind. It entails listening to the parties, reading their briefs, going back beyond those briefs and doing all of the legwork needed to ascertain who is right in his or her claims as to what the law says and what the facts [are]. In a court of appeals court, where judges sit in panels of three, it is important to engage in deliberation and give ear to the views of colleagues who may have come to different conclusions. And in sum, to be committed to judging as a process that is intended to give us the right answer, not to a result. And I can give you my level best solemn assurance that I firmly think I do have those qualities or else I would not have accepted the nomination."

In response to Senator Durbin, Miguel Estrada stated that "the Constitution, like other legal texts, should be construed reasonably and fairly, to give effect to all that its text contains."

Mr. Estrada indicated to Senator Durbin that he admired the judges for whom he clerked, Justice Kennedy and Judge Kearse, as well as Justice Lewis Powell.

REV_00158989

Mr. Estrada stated to Senator Durbin that "I can absolutely assure the Committee that I will follow binding Supreme Court precedent until and unless such precedent has been displaced by subsequent decisions of the Supreme Court itself."

In response to Senator Grassley, Mr. Estrada stated: "When facing a problems for which there is a not a decisive precedent from a higher court, my cardinal rule would be to seize aid from anyplace where I could get it. Depending on the nature of the problem, that would include related case law in other areas that higher courts had dealt with that had had some insights to teach with respect to the problem at hand. It could include the history of the enactment, including in the case of a statute legislative history. It could include the custom and practice under any predecessor statute or document. It could include the views of academics to the extent that they purport to analyze what the law is instead of – instead of prescribing what it should be. And in sum, as Chief Justice Marshall once said, to attempt not to overlook anything from which aid might be derived."

In response to Senator Sessions, Estrada stated: "I am very firmly of the view that although we all have views on a number of subjects from A to Z, the first duty of a judge is to self-consciously put that aside and look at each case by starting withholding judgment with an open mind and listen to the parties. So I think that the job of a judge is to put all of that aside, and to the best of his human capacity to give a judgment based solely on the arguments and the law."

In response to Senator Sessions, Mr. Estrada stated that "I will follow binding case law in every case. . . . I may have a personal, moral, philosophical view on the subject matter. But I undertake to you that I would put all that aside and decide cases in accordance with binding case law and even in accordance with the case law that is not binding but seems constructive on the area, without any influence whatsoever from any personal view I may have about the subject matter."

Miranda/Stare Decisis

Mr. Estrada stated that *United States v. Dickerson* – a case raising the question whether *Miranda* should be overruled – reflected a "reasonable application of the doctrine of stare decisis. In my view, it is rarely appropriate for the Supreme Court to overturn one of its own precedents."

Affirmative Action

With respect to affirmative action, Mr. Estrada responded to Senator Kennedy that "any policy views I might have as a private citizen on the subject of affirmative action would not enter into how I would approach any case that comes before me as a judge. Under controlling Supreme Court authority, particularly *Adarand Constructors, Inc. v. Pena*, 515 U.S. 200 (1995), if a government program creates a racial classification, it will be subject to strict scrutiny. Whether the program survives that sort of scrutiny will often involve a highly contextual and fact-specific inquiry into the nature of the justifications asserted by the government and the fit

REV_00158990

between those justifications and the classification at issue. *Adarand* and similar cases provide the framework that I would be required to apply, and would apply, in considering these issues as a judge."

Asked by Senator Leahy about the strict scrutiny test, Mr. Estrada replied, "the Supreme Court in the *Adarand* case stated, as a general rule, that the consideration of race is subject to strict scrutiny. That means that though it may be used in some cases, it has to be justified by a compelling state interest. And with respect to the particular context, there must be a fairly fact-bound individual assessment of the fit between the interest that is being asserted and the category being used. That is just another way of saying that it is a very fact-intensive analysis in the context of a specific program and in the context of the justifications that are being offered in support of the program."

Congressional Authority

With respect to the outer limits of Congress' power to confer authority on other governmental bodies, Miguel responded to Senator Kennedy that the Supreme Court has said that "particular factual context is significant in analyzing the appropriateness of a particular delegation. . . . Of course, the fact that the Supreme Court only rarely has struck down statutes on this ground suggests that the Court has been quite deferential to congressional judgments about the types of delegations that reasonably might be needed to carry on the business of government."

When Senator Kohl asked Mr. Estrada about the 1995 *Lopez* case concerning the scope of Congress' power to regulate, Mr. Estrada pointed out that he had argued in a companion case "for a very expansive view of the power to Congress to pass statutes under the Commerce Clause and have them be upheld by the court. . . . *Lopez* has given us guidance on when it is appropriate for the court to exercise the commerce power. It is binding law and I would follow it."

Ethnicity

With respect to the fact that the President had noted Miguel's ethnicity, Miguel responded to Senator Kennedy: "The President is the leader of a large and diverse country, and it is accordingly appropriate for him, in exercising his constitutional nomination and appointment powers, to select qualified individuals who reflect the breadth and diversity of our Nation."

With respect to the Democrat Congressional Hispanic Caucus's criticism of him, Miguel responded to Senator Kennedy that "I strongly disagree, however, with the Congressional Hispanic Caucus' view that I lack an understanding of the role and importance of courts in protecting the legal rights of minorities, of the values and mores of Latino culture, or the significance of role models for minority communities."

REV_00158991

Racial Discrimination

With respect to race discrimination, Mr. Estrada stated in response to Senator Kennedy: "I take a backseat to no one in my abhorrence of race discrimination in law enforcement or anything else."

Senator Feingold asked Mr. Estrada whether he believed that racial profiling and racially motivated law enforcement misconduct are problems in this country today. Mr. Estrada replied, "I am – I will once again emphasize I'm unalterably opposed to any sort of race discrimination in law enforcement, Senator, whether it's called racial profiling or anything else. . . . I know full well that we have real problems with discrimination in our day and age."

Senator Leahy asked Mr. Estrada about whether statistical evidence of discriminatory impact is relevant in establishing discrimination. Mr. Estrada replied: "I am not a specialist in this area of the law, Senator Leahy, but I am aware that there is a line of cases, beginning with the Supreme Court's decision in *Griggs*, that suggests that in appropriate cases that [such evidence] may be appropriate. . . . I do understand that there is a major area of law that deals with how you prove and try disparate-impact cases."

Congressional Authority to Regulate Firearms

Senator Feinstein asked whether Congress may legislate in the area of dangerous firearms, and Mr. Estrada responded that the Supreme Court had ruled that "if the government were to prove that the firearm had at any time in its lifetime been in interstate commerce even if that had nothing to do with the crime at issue, that that would be an adequate basis for the exercise of Congress' power."

Right to Counsel

Senator Edwards asked about *Gideon v. Wainwright*, the Supreme Court case guaranteeing the right to counsel for poor defendants who could not afford counsel. Although Senator Edwards appeared to question the reasoning in that landmark case, Mr. Estrada responded that "I frankly have always taken it as a given that that's – the ruling in the case."

C. Answers by President Clinton's Nominees

Your criticism of Miguel Estrada's testimony creates a double standard. You did not require nominees of President Clinton to answer questions of this sort (keeping in mind that you have not identified what your additional questions to Mr. Estrada are). President Clinton's appeals court nominees routinely testified without discussing their views of specific issues or cases. A few select examples, including of several nominees who had no prior judicial experience, illustrate the point. (Please note that these are isolated examples; there are many more we can provide if necessary.)

Merrick Garland (no prior judicial experience). In the nomination of Merrick Garland to the D.C. Circuit, Senator Specter asked him: "Do you favor, as a personal matter, capital

REV_00158992

punishment?" Judge Garland replied only that he would follow Supreme Court precedent: "This is really a matter of settled law now. The Court has held that capital punishment is constitutional and lower courts are to follow that rule." Senator Specter also asked him about his views of the independent counsel statute's constitutionality, and Judge Garland responded: "Well, that, too, the Supreme Court in *Morrison v. Olson* upheld as constitutional, and, of course, I would follow that ruling." Judge Garland did not provide his personal view of either subject.

Judith Rogers. In the hearing on Judge Judith Rogers' nomination to the D.C. Circuit, Judge Rogers was asked by Senator Cohen about the debate over an evolving Constitution. Judge Rogers responded: "My obligation as an appellate judge is to apply precedent. Some of the debates which I have heard and to which I think you may be alluding are interesting, but as an appellate judge, my obligation is to apply precedent. And so the interpretations of the Constitution by the U.S. Supreme Court would be binding on me." She then was asked how she would rule in the absence of precedent and responded: "When I was taking my master's in judicial process at the University of Virginia Law School, one of the points emphasized was the growth of our common law system based on the English common law judge system. And my opinions, I think if you look at them, reflect that where I am presented with a question of first impression, that I look to the language of whatever provision we are addressing, that I look to whatever debates are available, that I look to the interpretations by other Federal courts, that I look to the interpretations of other State courts, and it may be necessary, as well, to look at the interpretations suggested by commentators. And within that framework, which I consider to be a discipline, that I would reach a view in a case of first impression." Finally, Judge Rogers was asked her view of the three-strikes law and stated: "As an appellate judge, my obligation is to enforce the laws that Congress passes or, where I am now, that the District of Columbia Council passes." Judge Rogers did not provide her personal view of these subjects.

Marsha Berzon (no prior judicial experience). Senator Smith asked her views on *Roe v. Wade* and whether "an unborn child is a human being." Judge Berzon stated: "[M]y role as a judge is not to further anything that I personally believe or don't believe, and I think that is the strength of our system and the strength of our appellate system. The Supreme Court has been quite definitive quite recently about the applicable standard, and I absolutely pledge to you that I will follow that standard as it exists now, and if it is changed, I will follow that standard. And my personal views in this area, as in any other, will have absolutely no effect." When Senator Smith probed about their personal views on abortion and *Roe v. Wade*, Chairman Hatch interrupted: "I don't know how they can say much more than that at this point in this meeting."

Richard Tallman (no prior judicial experience). In response to written questions, Judge Tallman explained that "[j]udicial nominees are limited by judicial ethical considerations from answering any question in a manner that would call for an 'advisory opinion' as the courts have defined it or that in effect ask a nominee to suggest how he or she would rule on an issue that could foreseeably require his or her attention in a future case or controversy after confirmation." He was asked how he would have ruled in *Plessy v. Ferguson*. He stated: "It is entirely conjectural as to what I would have done without having the opportunity to thoroughly review the record presented on appeal, the briefs and arguments of counsel, and supporting legal authorities that were applicable at that time." He gave the same response when asked how he would have ruled on *Roe v. Wade*. When asked his personal view on abortion, he wrote: "I hold

REV_00158993

no personal views that would prevent me from doing my judicial duty to follow the precedent set down by the Supreme Court." He gave the same answer about the death penalty.

Kim Wardlaw. In the hearing on Judge Kim Wardlaw's nomination to the Ninth Circuit, Judge Wardlaw was asked about the constitutionality of affirmative action. She stated (in an answer similar to Miguel Estrada's answer to the same question): "The Supreme Court has held that racial classifications are unconstitutional unless they are narrowly tailored to meet a compelling governmental interest."

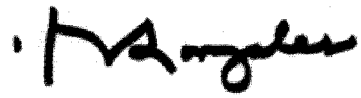
Maryanne Trump Barry. In the hearing on Judge Maryanne Trump Barry's nomination to the Third Circuit, Senator Smith asked for her personal opinion on whether "an unborn child at any stage of the pregnancy is a human being." Judge Barry responded: "*Casey* is the law that I would look at. If I had a personal opinion – and I am not suggesting that I do – it is irrelevant because I must look to the law which binds me."

Raymond Fisher. In the hearing on Judge Raymond Fisher's nomination to the Ninth Circuit, Senator Sessions asked Judge Fisher's own personal views on whether the death penalty was constitutional. Judge Fisher responded that "My view, Senator, is that, as you indicated, the Supreme Court has ruled that the death penalty is constitutional. As a lower appellate court judge, that is the law that I am governed by. I don't want in my judicial career, should I be fortunate enough to have one, to inject my personal opinions into whether or not I follow the law. I believe that the precedent of the Supreme Court is binding and that is what my function is."

V. Conclusion

Miguel Estrada is a well-qualified and well-respected judicial nominee who has very strong bipartisan support. Based on our reading of history, we believe that you have ample information about this nominee and have had more than enough time to consider questions about his qualifications and suitability. We urge you to stop the unfair treatment, end the filibuster, allow an up-or-down vote, and vote to confirm Mr. Estrada.

Sincerely,



Alberto R. Gonzales
Counsel to the President

The Honorable Thomas A. Daschle
The Honorable Patrick Leahy

Copy: The Honorable Bill Frist
The Honorable Orrin Hatch

REV_00158994

THE WHITE HOUSE

WASHINGTON

February 24, 2003

Dear Senator Schumer:

Based on your public comments yesterday, I am concerned that you may have inaccurate and incomplete information about Miguel Estrada's qualifications and about the historical practice with respect to judicial confirmations. Therefore, I write to respectfully reiterate and explain our conclusion that you and certain other Senators are applying an unfair double standard -- indeed, a series of unfair double standards -- to Miguel Estrada.

First, your request for confidential attorney-client memoranda Mr. Estrada wrote in the Office of Solicitor General seeks information that, based on our review, has not been demanded from past nominees to the federal courts of appeals. We are informed that the Senate has not requested memoranda such as these for *any* of the 67 appeals court nominees since 1977 who had previously worked in the Justice Department -- including the seven nominees who had previously worked in the Solicitor General's office. Nor have such memoranda been demanded from nominees in similar attorney-client situations: The Senate has not demanded confidential memoranda written by judicial nominees who had served as Senate lawyers, such as memoranda written by Stephen Breyer as a Senate counsel before Justice Breyer was confirmed to the First Circuit in 1980. Nor has the Senate demanded confidential memoranda written by judicial nominees who had served as law clerks to Supreme Court Justices or other federal or state judges. Nor has the Senate demanded confidential memoranda written by judicial nominees who had worked for private clients.

The very few isolated examples you have cited were not nominees for federal appeals courts. Moreover, those situations involved Executive Branch accommodations of targeted requests for particular documents about specific issues that were primarily related to allegations of malfeasance or misconduct in a federal office. We respectfully do not believe these examples support your request. Our conclusion about the general lack of support and precedent for your position is buttressed by the fact that every living former Solicitor General (four Democrats and three Republicans) has strongly opposed your request and stated that it would sacrifice and compromise the ability of the Justice Department to effectively represent the United States in court. In short, the traditional practice of the Senate and the Executive Branch with respect to federal appeals court nominations stands in contrast to your request here and supports our conclusion that an unfair double standard is being applied to Miguel Estrada. (Also, contrary to your suggestion yesterday, please note that no one in the Executive Branch has reviewed these memoranda since President Bush took office in January 2001.)

Second, you suggested that "no judicial nominee that I'm aware of, for such a high court, has ever had so little of a record." I respectfully disagree. Miguel Estrada has been a very accomplished lawyer, trying cases before federal juries, briefing and arguing numerous appeals before federal and state appeals courts, and arguing 15 cases before the Supreme Court, among his other significant work. His record and breadth of experience exceeds that of many judicial nominees, which is no doubt why the American Bar Association -- which you have labeled the

"gold standard" -- *unanimously* rated him "well-qualified." In noting yesterday that Mr. Estrada's career had been devoted to "arguing for a client," you appeared to imply that only those with prior judicial service (or perhaps "a lot of [law review] articles") may serve on the federal appeals courts. But five of the eight judges currently serving on the D.C. Circuit had no prior judicial service at the time of their appointments. Indeed, Supreme Court Justices Rehnquist, White, and Powell -- to name three of the most recent -- had not served as judges before being confirmed to the Supreme Court. And like Mr. Estrada, two appointees of President Clinton to the D.C. Circuit (Judge David Tatel and Judge Merrick Garland) had similarly spent their careers "arguing for a client," but were nonetheless confirmed.

As the Chief Justice noted in his 2001 Year-End Report, moreover, "[t]he federal Judiciary has traditionally drawn from a wide diversity of professional backgrounds." The Chief Justice cited Justice Louis Brandeis, Justice John Harlan, Justice Byron White, Judge Thurgood Marshall (as nominee to the Second Circuit), Judge Learned Hand, and Judge John Minor Wisdom as just a few examples of great judges who had spent virtually their entire careers "arguing for a client" before becoming Supreme Court Justices or federal appeals court judges. As these examples show, had the "arguing for a client" standard been applied in the past, it would have deprived the American people of many of our most notable appellate judges. Based on our understanding, this standard has *not* been applied in the past. This further explains why we have concluded that an unfair double standard is being applied to Miguel Estrada.

Third, you stated that "when you went to those hearings, Mr. Estrada answered no questions." The record demonstrates otherwise. Mr. Estrada answered more than 100 questions at his hearing (and another 25 in follow-up written answers). He explained in some detail his approach to judging on many issues, and did so appropriately without providing his personal views on specific legal or policy questions that could come before him – which is how previous judicial nominees of Presidents of both parties have appropriately answered questions. Indeed, at his hearing, Mr. Estrada was asked and answered more questions, and did so more fully, than did President Clinton's appointees to this same court. Judge David Tatel was asked a total of three questions at his hearing. Judges Judith Rogers and Merrick Garland were each asked fewer than 20 questions. The three appointees of President Clinton – combined – thus answered fewer than half the number of questions at their hearings that Mr. Estrada answered at his hearing. What is more, like Mr. Estrada, both Judge Rogers and Judge Garland declined to give their personal views on disputed legal and policy questions at the hearing. Judge Rogers refused to give her views when asked about the notion of an evolving Constitution. And Mr. Garland did not answer questions about his personal views on the death penalty, stating that he would follow precedent. In short, we believe that your criticism of Mr. Estrada's answers at his hearing reveals that another unfair double standard is being applied to Mr. Estrada.

Fourth, you stated that the Founding Fathers "came to the conclusion that the Senate ought to ask a whole lot of questions" of judicial nominees. We respect the Senate's constitutional role in the confirmation process, and we agree that the Senate should make an informed judgment consistent with its traditional role and practices. But your characterization of the Senate's role with respect to judicial nominations is not consistent with our reading of historical or traditional practice. Alexander Hamilton explained that the purpose of Senate confirmation is to prevent appointment of "unfit characters from State prejudice, from family

REV_00158996

connection, from personal attachment, or from a view to popularity." *The Federalist* 76. The Framers anticipated that the Senate's approval would not often be refused unless there were "special and strong reasons for the refusal." *Id.* Moreover, the Senate did not hold hearings on judicial nominees for much of American history, and the hearings for lower-court nominees in modern times traditionally have not included the examination of personal views that you have advocated. (My letter of February 12, 2003, to Senators Daschle and Leahy contains more detail on this point.) Indeed, just a few years ago, Senator Biden made clear, consistent with the traditional practice, that he would vote to confirm an appeals court judge if he were convinced that the nominee would follow precedent and otherwise was of high ability and integrity.

In short, it appears that you are seeking to change the Senate's traditional standard for assessing judicial nominees. We respect your right to advocate a change, but we do not believe that the standard you seek to apply is consistent with the Framers' vision, the traditional Senate practice, or the Senate's treatment of President Clinton's nominees. Rather, we believe a new standard is being devised and applied to Miguel Estrada.

Fifth, you stated yesterday that a "filibuster" is not an appropriate term to describe what has been occurring in the Senate. We respectfully disagree. Democrat Senators have objected to unanimous consent motions to schedule a vote, and they have indicated that they will continue to do so. That tactic is historically and commonly known as a filibuster, and is a dramatic escalation of the tactics used to oppose judicial nominees. Indeed, in 1998, Senator Leahy stated: "I have stated over and over again on this floor that I would refuse to put an anonymous hold on any judge; that *I would object and fight against any filibuster on a judge*, whether it is somebody I opposed or supported; that I felt the Senate should do its duty. If we don't like somebody the President nominates, vote him or her down. But don't hold them in this anonymous unconscionable limbo, because in doing that, the minority of Senators really shame all Senators." 144 Cong. Rec. S6522 (June 18, 1998). In our judgment, the tactics now being employed again show that Miguel Estrada is receiving differential treatment.

* * *

As I have said before, I appreciate and respect the Senate's constitutional role in the confirmation process. You have expressed concern that you do not know enough about Mr. Estrada's views, but you have not submitted any follow-up questions to him. We respectfully submit that the Senate has ample information and has had more than enough time to consider questions about the qualifications and suitability of a nominee submitted more than 21 months ago. Most important, we believe that a majority of Senators have now concluded that they possess sufficient information on Mr. Estrada and would vote to confirm him. We believe it is past time for the Senate to vote on this nominee, and we urge your support.

Sincerely,

/s/

Alberto R. Gonzales
Counsel to the President

REV_00158997

Copy: The Honorable Bill Frist
The Honorable Thomas A. Daschle
The Honorable Orrin Hatch
The Honorable Patrick Leahy

REV_00158998

THE WHITE HOUSE

WASHINGTON

February 3, 2003

Dear Senator Feinstein:

I write in response to your vote in the Judiciary Committee on the nomination of Miguel Estrada and to respectfully urge that you reconsider this important nomination when you vote on it in the full Senate. I write in particular because it appears from your statement in the Committee (and on your web site) that you may possess inaccurate or incomplete information on certain issues that you have deemed important to the Estrada nomination.

First, it appears you relied on the fact that Estrada has no previous judicial service. But five of the eight judges currently serving on the D.C. Circuit had no previous judicial experience when appointed. That includes two of President Clinton's nominees, Merrick Garland, whose Justice Department record was quite similar to that of Miguel Estrada, and David Tatel. In addition, Judge Harry Edwards had no prior judicial experience when he was nominated by President Carter in 1979, and he was *younger* than Estrada. In addition, several Ninth Circuit judges from California who were appointed by President Clinton, and had your support, had no prior judicial experience. That includes Judge William Fletcher, Judge Raymond Fisher, and Judge Marsha Berzon.

The American Bar Association, which Democrat Senators Leahy and Schumer have referred to as the "gold standard," *unanimously* rated Estrada "well qualified" for the D.C. Circuit, the ABA's highest possible rating. We think the ABA rating was quite appropriate in light of Estrada's excellent record, including his work as an Assistant Solicitor General in the Clinton and Bush Administrations, his record as a federal prosecutor in New York, his service as a law clerk to Justice Kennedy, and his *pro bono* work including his volunteer representation of a death row inmate before the Supreme Court. He has argued 15 cases before the Supreme Court of the United States, a figure that few lawyers can match, and particularly impressive for someone who immigrated to this country at age 17 speaking little English.

Second, you also referenced a news report quoting the views of Paul Bender, a former Deputy Solicitor General. Mr. Bender has not written a letter to the Committee or otherwise publicly explained his views, so we are unclear whether this news report was accurate. But more important, as I explained in a September 17, 2002, letter to then-Chairman Leahy and Senator Hatch, Paul Bender in fact signed the performance reviews of Miguel Estrada for the two years that they worked together. The performance reviews for those years gave Estrada the highest possible rating of "outstanding" in every possible category. Significantly, the performance reviews that Bender signed also stated the following to support the judgment that Estrada's performance was "outstanding."

- "states the operative facts and applicable law completely and persuasively, with record citations, and in conformance with court and office rules, and with concern for fairness, clarity, simplicity, and conciseness."
- "[i]s extremely knowledgeable of resource materials and uses them expertly; acting independently, goes directly to point of the matter and gives reliable, accurate, responsive information in communicating position to others."
- "[a]ll dealings, oral and written, with the courts, clients, and others are conducted in a diplomatic, cooperative, and candid manner."
- "[a]ll briefs, motions or memoranda reviewed consistently reflect no policies at variance with Departmental or Governmental policies, or fails to discuss and analyze relevant authorities."
- "[i]s constantly sought for advice and counsel. Inspires co-workers by example."

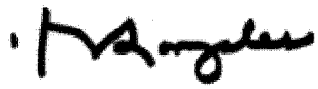
Apart from the contemporaneous reviews that Mr. Bender himself signed, it also bears mention that the Committee has received letters from Seth Waxman, President Clinton's Solicitor General, and a bipartisan group of 14 former colleagues of Mr. Estrada in the Solicitor General's office. Seth Waxman wrote to the Committee that Estrada is a "model of professionalism and competence" and that he has "great respect both for Mr. Estrada's intellect and for his integrity." He continued: "In no way did I ever discern that the recommendations Mr. Estrada made or the views he propounded were colored in any way by his personal views – or indeed that they reflected anything other than the long-term interests of the United States." And the bipartisan group of former colleagues from the Office of Solicitor General wrote to the Committee that Estrada "would be a fair and honest judge who would decide cases in accordance with applicable legal principles and precedents." Finally, to the extent Mr. Bender's own personal political and ideological views are relevant, we call your attention to Senator Hatch's opening statement at the hearing on September 26, 2002.

Third, you referenced the fact that Miguel Estrada has been "accused" of using an ideological litmus test when assisting Justice Kennedy in the selection of his law clerks. We respectfully do not think this "accusation" is credible or supported. In fact, Mr. Estrada explained at his hearing that he in fact had been very supportive, for example, of the hiring of one law clerk for Justice Kennedy who at the time worked for President Clinton, is a strong Democrat, and now works for Senator Leahy on the Judiciary Committee.

Fourth, you noted concern among "Hispanic organizations." In fact, the overwhelming majority of national Hispanic organizations have supported Mr. Estrada. That includes the Hispanic National Bar Association, the League of United Latin American Citizens, the U.S. Hispanic Chamber of Commerce, the Hispanic Business Roundtable, and the Latino Coalition, among many others. To be sure, MALDEF and PRLDEF do oppose Mr. Estrada. As to Hispanic members of the House, we understand that all of the Republican Hispanics support him while the Democrat Hispanics do not. In any event, LULAC's statement is noteworthy, as it states: "[Estrada] is truly one of the rising stars in the Hispanic community and a role model for our youth."

Thank you for considering this nominee in light of the above information. This is an historic nomination, as Miguel Estrada would be the first Hispanic to serve on the D.C. Circuit. We urge you to vote to confirm him.

Sincerely,



Alberto R. Gonzales
Counsel to the President

The Honorable Dianne Feinstein
United States Senate
Washington, D.C. 20510

cc: The Honorable Bill Frist
The Honorable Thomas A. Daschle
The Honorable Orrin G. Hatch
The Honorable Patrick J. Leahy
The Honorable Mitch McConnell
The Honorable Rick Santorum
The Honorable Jon L. Kyl

From: [UNKNOWN] <Kavanaugh, Brett M.>
To: <Gonzales>;Alberto_R._Gonzales@who.eop.gov [WHO] <Alberto R.>;<Leitch>;David_G._Leitch@who.eop.gov [WHO] <David G.>;<Walker>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/75138057-DB233081-85256A02-46FCE4 [UNKNOWN] <Helgard C.>;<Newstead>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/CC23D9BE-A5E0DBB1-85256BAE-52469A [UNKNOWN] <Jennifer G.>;<Bartolomucci>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/1A4DAB1A-EBCD4DB1-852569DA-6039DB [UNKNOWN] <H. Christopher>;<Sampson>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/4E664A2B-51BB08D-852569DC-544EBE [UNKNOWN] <Kyle>;<Francisco>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/CEFFCE1D-3AA04CD4-852569DA-68EB00 [UNKNOWN] <Noel J.>;<Powell>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/C457024B-B3447231-85256C00-44CFA6 [UNKNOWN] <Benjamin A.>;<Ullyot>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/20AA0CA2-4AAE30FC-85256CB0-52CA15 [UNKNOWN] <Theodore W.>
Sent: 2/27/2003 12:37:25 PM
Subject: from AP story

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (MS Mail)
CREATOR:Kavanaugh, Brett M. ( [ UNKNOWN ] )
CREATION DATE/TIME:27-FEB-2003 17:37:25.00
SUBJECT:from AP story
TO:Gonzales, Alberto R. ( Alberto_R._Gonzales@who.eop.gov [ WHO ] )
READ:UNKNOWN
TO:Leitch, David G. ( David_G._Leitch@who.eop.gov [ WHO ] )
READ:UNKNOWN
TO:Walker, Helgard C. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=75138057-
DB233081-85256A02-46FCE4 [ UNKNOWN ] )
READ:UNKNOWN
TO:Newstead, Jennifer G. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=CC23D9BE-
A5E0DBB1-85256BAE-52469A [ UNKNOWN ] )
READ:UNKNOWN
TO:Bartolomucci, H. Christopher ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=1A4DAB1A-EBCD4DB1-852569DA-6039DB [ UNKNOWN ] )
READ:UNKNOWN
TO:Sampson, Kyle ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=4E664A2B-51BB08D-
852569DC-544EBE [ UNKNOWN ] )
READ:UNKNOWN
TO:Francisco, Noel J. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=CEFFCE1D-
3AA04CD4-852569DA-68EB00 [ UNKNOWN ] )
READ:UNKNOWN
TO:Powell, Benjamin A. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=C457024B-
B3447231-85256C00-44CFA6 [ UNKNOWN ] )
READ:UNKNOWN
TO:Ullyot, Theodore W. ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS
/CN=20AA0CA2-4AAE30FC-85256CB0-52CA15 [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

. . .



But Democrats now are likely at least to ask for an extended Senate floor
debate on Roberts and Cook to protest Hatch's action, even though both got
votes from Judiciary Democrats.
```

Sen. Patrick Leahy of Vermont, the lead Judiciary Democrat, said Hatch is ignoring committee rules that require a Democrat to agree to end a committee filibuster. Hatch said Senate parliamentarians informed him that as chairman he could force a vote on the president's nominees.

Cook, an Ohio Supreme Court justice, was approved by the committee by a 12-2 vote, with the rest of the Democrats passing or voting "present" to reserve their right to bring the issue up on the Senate floor. Roberts, a Washington appellate lawyer, was approved by the 19-member committee by a 14-3 vote with the rest of the Democrats passing or voting present.

The committee also sent the appellate court nomination of Justice Department lawyer Jay Bybee of Nevada to the Senate for confirmation by a 12-6, with Leahy again voting "present." Democrats had agreed earlier to allow his nomination through regardless of what happened with Cook and Roberts.

Democrats say they didn't have enough time to question Cook and Roberts during their original confirmation hearing because Hatch had three federal appellate candidates at the same hearing, instead of considering them one at a time. Liberals have accused Cook of ruling with business interests too much as a judges, and Roberts of opposing abortion rights, affirmative action and environmental protection laws.

Democrats blocked a committee vote on Roberts and Cook last week in hopes of getting additional questions, but White House counsel Alberto Gonzales said Wednesday the White House would resist additional hearings on the two, who were first nominated in May 2001.

Democrats are now likely to at least force a debate on Hatch's decision on the Senate floor, and could even filibuster Cook and Roberts' nomination. "I don't expect it but I wouldn't put it past them," Hatch said.

From: CN=John B. Wiegmann/OU=NSC/O=EOP [NSC]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 2/27/2003 8:59:00 AM
Subject: : Re: Who is Roger Cressey?

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:John B. Wiegmann (CN=John B. Wiegmann/OU=NSC/O=EOP [NSC])
CREATION DATE/TIME:27-FEB-2003 13:59:00.00
SUBJECT:: Re: Who is Roger Cressey?
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Dunno. Will have to look into it.

Brett M. Kavanaugh
02/27/2003 12:07:52 PM
Record Type: Record

To: John B. Wiegmann/NSC/EOP@EOP
cc:
bcc:
Subject: Re: Who is Roger Cressey?

where is he now

John B. Wiegmann
02/27/2003 11:57:07 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Who is Roger Cressey?

Former NSC staffer, worked for Dick Clarke's cyber operation when Dick moved there, left several months ago.

Brett M. Kavanaugh
02/27/2003 11:08:33 AM
Record Type: Record

To: John B. Wiegmann/NSC/EOP@EOP
cc:
Subject: Who is Roger Cressey?

From: [UNKNOWN] <Kavanaugh, Brett M.>
To: <Gonzales>;Alberto_R._Gonzales@who.eop.gov [WHO] <Alberto R.>;<Leitch>;David_G._Leitch@who.eop.gov [WHO] <David G.>;<Snee>;/EOP/FIRST ADMINISTRATIVE GROUP/RECIPIENTS/ASHLEY_M_SNEE [UNKNOWN] <Ashley>
Sent: 2/27/2003 12:59:42 PM
Subject: NO cloture vote tonight -- good news

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (MS Mail)
CREATOR:Kavanaugh, Brett M. ( [ UNKNOWN ] )
CREATION DATE/TIME:27-FEB-2003 17:59:42.00
SUBJECT:NO cloture vote tonight -- good news
TO:Gonzales, Alberto R. ( Alberto_R._Gonzales@who.eop.gov [ WHO ] )
READ:UNKNOWN
TO:Leitch, David G. ( David_G._Leitch@who.eop.gov [ WHO ] )
READ:UNKNOWN
TO:Snee, Ashley ( /O=EOP/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=ASHLEY_M_SNEE [
UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: Office of Global Communications <Global.Messenger@WhiteHouse.Gov>
To: Carolene Langie Office of Global Communications/WHO/EOP@EOP [WHO] <Carolene Langie Office of Global Communications>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 2/27/2003 2:30:57 PM
Subject: : FACT SHEET: Rebuilding Afghanistan
Attachments: P_9WE9E003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Office of Global Communications <Global.Messenger@WhiteHouse.Gov> (Office of Global Communications <Global.Messenger@WhiteHouse.Gov> [UNKNOWN])
CREATION DATE/TIME:27-FEB-2003 19:30:57.00
SUBJECT:: FACT SHEET: Rebuilding Afghanistan
TO:Carolene Langie Office of Global Communications (CN=Carolene Langie Office of Global Communications/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

(See attached file: Afghanistan - Fact Sheet 022703 - OGC.doc)

FACT SHEET: Rebuilding Afghanistan

The United States and Afghanistan share a common vision for an Afghanistan that
is prosperous, democratic, self-governing, market friendly and respectful of
human rights

******HEALTH******
Afghanistan has improved its health care system, with the help of $23 million
from the U.S. Since April 2002, Afghanistan has:
- Improved access to primary health care for 2 million Afghans living in rural
areas
- Vaccinated 4.3 million children against measles and treated 700,000 cases of
malaria
- Rebuilt 72 hospitals, clinics, and women's healthcare centers
- Planned to build or rehabilitate 550 health care centers
- Provided medicine and equipment to 68 clinics
- Provided 120,000 insecticide-treated bed nets
- Revitalized the polio eradication program's surveillance system
- Revised the national curriculum for midwives

******INFRASTRUCTURE******
The U.S. has pledged $80 million to help Afghanistan rehabilitate the main road
connecting Kabul, Kandahar, and Herat. Construction of the Kabul-Kandahar
portion is slated for completion next year. The U.S. is also helping to:
- Repair and reconstruct 31 bridges and more than 2,485 miles of roads
- Provide $1.6 million to winterize the Salang tunnel/highway
- Repair more than 6,000 water wells, canals, dams and water systems

******EDUCATION******
The UN expects 4 million to enroll for the new school year that begins in March.
Today, 3 million are enrolled. Most Afghan children didn't attend school in
2001. Afghanistan has, with U.S. assistance:
- Provided more than 15 million textbooks
- Provided 30,000 instructional kits

- Offered salary supplements to more than 50,000 teachers
- Rebuilt or rehabilitated more than 250 schools
- Provided refresher training to 1,360 teachers and trained 60 teacher trainers

******EMPOWERING WOMEN******
Afghanistan is dedicated to improving the lives of women. The U.S. is helping
by:
- Providing $8 million for women's resource centers

******AFGHAN NATIONAL ARMY******
The Afghan government plans to create an army of 70,000 to defend their country.
The 6th Battalion, Afghan National Army finished basic training on February 9,
yielding nearly 600 more troops for the central government. The U.S. is:
- Providing assistance for military infrastructure, training, and equipment,
utilizing $150 million from the Afghan Freedom Support Act
- Alternated with the coalition military partners as trainers for each class of
Afghan recruits trained at the Kabul Military Training Center

2/27/03

THE WHITE HOUSE
Office of Global Communications

For more information log on to http://www.whitehouse.gov/ogc
- Afghanistan - Fact Sheet 022703 - OGC.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_9WE9E003_WHO.TXT_1>

Rebuilding Afghanistan
FACT SHEET

The United States and Afghanistan share a common vision for an Afghanistan that is prosperous, democratic, self-governing, market friendly and respectful of human rights

Health {PRIVATE "TYPE=PICT;ALT=Photo of an Afghan child at clinic"}
Afghanistan has improved its health care system, with the help of $23 million from the U.S. Since April 2002, Afghanistan has:

- Improved access to primary health care for 2 million Afghans living in rural areas
- Vaccinated 4.3 million children against measles and treated 700,000 cases of malaria
- Rebuilt 72 hospitals, clinics, and women's healthcare centers
- Planned to build or rehabilitate 550 health care centers
- Provided medicine and equipment to 68 clinics
- Provided 120,000 insecticide-treated bed nets
- Revitalized the polio eradication program's surveillance system
- Revised the national curriculum for midwives

Infrastructure
The U.S. has pledged $80 million to help Afghanistan rehabilitate the main road connecting Kabul, Kandahar, and Herat. Construction of the Kabul-Kandahar portion is slated for completion next year. The U.S. is also helping to:

- Repair and reconstruct 31 bridges and more than 2,485 miles of roads
- Provide $1.6 million to winterize the Salang tunnel/highway
- Repair more than 6,000 water wells, canals, dams and water systems

Education {PRIVATE "TYPE=PICT;ALT=Photo of Afghan children at school"}
The UN expects 4 million to enroll for the new school year that begins in March. Today, 3 million are enrolled. Most Afghan children didn't attend school in 2001. Afghanistan has, with U.S. assistance:

- Provided more than 15 million textbooks
- Provided 30,000 instructional kits
- Offered salary supplements to more than 50,000 teachers
- Rebuilt or rehabilitated more than 250 schools
- Provided refresher training to 1,360 teachers and trained 60 teacher trainers

Empowering Women
Afghanistan is dedicated to improving the lives of women. The U.S. is helping by:

- Providing $8 million for women's resource centers

Afghan National Army
The Afghan government plans to create an army of 70,000 to defend their country. The 6th Battalion, Afghan National Army finished basic training on February 9, yielding nearly 600 more troops for the central government. The U.S. is:

- Providing assistance for military infrastructure, training, and equipment, utilizing $150 million from the Afghan Freedom Support Act
- Alternated with the coalition military partners as trainers for each class of Afghan recruits trained at the Kabul Military Training Center

2/27/03

THE WHITE HOUSE
Office of Global Communications

For more information log on to www.whitehouse.gov/ogc

From:	Powell, Benjamin A.
To:	<Gonzales, Alberto R.>;<Leitch, David G.>;<Ullyot, Theodore W.>;<Walker, Helgard C.>;<Newstead, Jennifer G.>;<Sampson, Kyle>;<Bartolomucci, H. Christopher>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>
Sent:	2/27/2003 5:59:33 PM
Subject:	Judiciary Hearing Article

Senate GOP Forces Approval of 3 Nominees

By JESSE J. HOLLAND

The Associated Press

Thursday, February 27, 2003; 3:13 PM

Senate Republicans forced committee approval of three of President Bush's judicial nominees Thursday, despite Democrats' efforts to delay action as they have delayed the high-profile nomination of Miguel Estrada to the federal appellate bench.

Senate Judiciary Chairman Orrin Hatch, R-Utah, overrode committee rules to send U.S. Appeals Court nominees Deborah Cook and John Roberts to the Republican-controlled Senate, despite Democratic objections that they had the right to continue hold the nominees in committee.

"We're not going to have filibusters in committee," said an often-angry Hatch at the end of a three-hour hearing in which sharp words were exchanged between himself and Sen. Edward Kennedy, D-Mass.

The three-hour hearing was heated at times, with Democrats at one point walking out to prevent Hatch from having enough committee members present to vote and Hatch and Kennedy exchanging sharp words. "You may bully some but you're not going to bully me," Kennedy told Hatch.

"You're not going to bully me either," Hatch replied later.

For three weeks, Democrats have held up a confirmation vote on Estrada's nomination by threatening a full-blown filibuster to force him to answer more of their questions.

But Democrats now are likely at least to ask for an extended Senate floor debate on Roberts and Cook to protest Hatch's action, even though both got votes from Judiciary Democrats.

Sen. Patrick Leahy of Vermont, the lead Judiciary Democrat, said Hatch is ignoring committee rules that require a Democrat to agree to end a committee filibuster. Hatch said Senate parliamentarians informed him that as chairman he could force a vote on the president's nominees.

Cook, an Ohio Supreme Court justice, was approved by the committee by a 12-2 vote, with the rest of the Democrats passing or voting "present" to reserve their right to bring the issue up on the Senate floor. Roberts, a Washington appellate lawyer, was approved by the 19-member committee by a 14-3 vote with the rest of the Democrats passing or voting present.

The committee also sent the appellate court nomination of Justice Department lawyer Jay Bybee of Nevada to the Senate for confirmation by a 12-6, with Leahy again voting "present." Democrats had agreed earlier to allow his nomination through regardless of what happened with Cook and Roberts.

Democrats say they didn't have enough time to question Cook and Roberts during their original confirmation hearing because Hatch had three federal appellate candidates at the same hearing, instead of considering them

one at a time. Liberals have accused Cook of ruling with business interests too much as a judges, and Roberts of opposing abortion rights, affirmative action and environmental protection laws.

Democrats blocked a committee vote on Roberts and Cook last week in hopes of getting additional questions, but White House counsel Alberto Gonzales said Wednesday the White House would resist additional hearings on the two, who were first nominated in May 2001.

Democrats are now likely to at least force a debate on Hatch's decision on the Senate floor, and could even filibuster Cook and Roberts' nomination. "I don't expect it but I wouldn't put it past them," Hatch said.

Bush has called it a "travesty" that Democratic senators have refuse to allow a full Senate vote on Estrada's nomination.

"They're blocking the vote on this good man for purely political reasons," Bush said.

Democrats have refused to let Estrada's nomination for the U.S. Court of Appeals for the District of Columbia come up for a final Senate vote for three weeks because they say the Washington lawyer was not forthcoming about his legal opinions during his confirmation hearing last year.

Republicans lack the 60 votes in the 100-member Senate to force Democrats to allow a vote on Estrada.

© 2003 The Associated Press

From: Delrahim, Makan \(Judiciary\) <Makan_Delrahim@Judiciary.senate.gov>
To: <Leitch, David G.>;<Kavanaugh, Brett M.>;<Sampson, Kyle>;<Grubbs, Wendy J.>;<Ojakli, Ziad>;Brown, Jamie E \(OLA\) <Jamie.E.Brown@usdoj.gov>;Dinh, Viet <Viet.Dinh@usdoj.gov>
Sent: 2/27/2003 6:11:03 PM
Subject: FW: Senators trade jabs in heated exchange

WASHINGTON (AP) -- Senate Republicans forced committee approval of three of President Bush's judicial nominees Thursday, despite Democrats' efforts to delay action as they have delayed the high-profile nomination of Miguel Estrada to the federal appellate bench.

Senate Judiciary Chairman Orrin Hatch, R-Utah, overrode committee rules to send U.S. Appeals Court nominees Deborah Cook and John Roberts to the Republican-controlled Senate, despite Democratic objections that they had the right to continue hold the nominees in committee.

"We're not going to have filibusters in committee," said an often-angry Hatch at the end of a three-hour hearing in which sharp words were exchanged between himself and Sen. Edward Kennedy, D-Massachusetts.

The three-hour hearing was heated at times, with Democrats at one point walking out to prevent Hatch from having enough committee members present to vote and Hatch and Kennedy exchanging sharp words. "You may bully some, but you're not going to bully me," Kennedy told Hatch.

"You're not going to bully me either," Hatch replied later.
For three weeks, Democrats have held up a confirmation vote on Estrada's nomination by threatening a full-blown filibuster to force him to answer more of their questions.

But Democrats now are likely at least to ask for an extended Senate floor debate on Roberts and Cook to protest Hatch's action, even though both got votes from Judiciary Democrats.

Sen. Patrick Leahy of Vermont, the lead Judiciary Democrat, said Hatch is ignoring committee rules that require a Democrat to agree to end a committee filibuster. Hatch said Senate parliamentarians informed him that as chairman he could force a vote on the president's nominees.

Cook, an Ohio Supreme Court justice, was approved by the committee by a 12-2 vote, with the rest of the Democrats passing or voting "present" to reserve their right to bring the issue up on the Senate floor. Roberts, a Washington appellate lawyer, was approved by the 19-member committee by a 14-3 vote with the rest of the Democrats passing or voting present.

The committee also sent the appellate court nomination of Justice Department lawyer Jay Bybee of Nevada to the Senate for confirmation by a 12-6, with Leahy again voting "present." Democrats had agreed earlier to allow his nomination through regardless of what happened with Cook and Roberts.

Democrats say they didn't have enough time to question Cook and Roberts during their original confirmation hearing because Hatch had three federal appellate candidates at the same hearing, instead of considering them one at a time. Liberals have accused Cook of ruling with business interests too much as a judges, and Roberts of opposing abortion rights, affirmative action and environmental protection laws.

Democrats blocked a committee vote on Roberts and Cook last week in hopes of getting additional questions, but White House counsel Alberto Gonzales said Wednesday the White House would resist additional hearings on the two, who were first nominated in May 2001.

Democrats are now likely to at least force a debate on Hatch's decision on the Senate floor, and could even

filibuster Cook and Roberts' nomination. "I don't expect it but I wouldn't put it past them," Hatch said.

Bush has called it a "travesty" that Democratic senators have refuse to allow a full Senate vote on Estrada's nomination.

"They're blocking the vote on this good man for purely political reasons," Bush said.
Democrats have refused to let Estrada's nomination for the U.S. Court of Appeals for the District of Columbia come up for a final Senate vote for three weeks because they say the Washington lawyer was not forthcoming about his legal opinions during his confirmation hearing last year.

Republicans lack the 60 votes in the 100-member Senate to force Democrats to allow a vote on Estrada.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Bradley, Neil <Neil.Bradley@mail.house.gov>
Sent: 2/28/2003 4:28:47 AM
Subject: : RE: CONFERENCE CALL INFO re Estrada Phone Conf/ Friday at 11:15

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:28-FEB-2003 09:28:47.00
SUBJECT:: RE: CONFERENCE CALL INFO re Estrada Phone Conf/ Friday at 11:15
TO:"Bradley, Neil" <Neil.Bradley@mail.house.gov> ("Bradley, Neil"
<Neil.Bradley@mail.house.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

just tried again and sent around to everyone; serious gremlin; let me know
if you get this time

"Bradley, Neil" <Neil.Bradley@mail.house.gov>
02/28/2003 09:21:22 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE: CONFERENCE CALL INFO re Estrada Phone Conf/ Friday at 11:15

Weird. For some reason the phone number is still not showing up.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Friday, February 28, 2003 9:12 AM
To: Bradley, Neil
Subject: RE: CONFERENCE CALL INFO re Estrada Phone Conf/ Friday at 11:15

must have somehow got cut off on yours

Friday, Feb. 28th
11:15am-12:15pm

Dial in #

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Wendy J. Grubbs/WHO/EOP@EOP [WHO] <Wendy J. Grubbs>
Sent: 2/28/2003 5:17:27 AM
Subject: : Re: press coverage of Judge's letter offer of yesterday

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:28-FEB-2003 10:17:27.00
SUBJECT:: Re: press coverage of Judge's letter offer of yesterday
TO:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

agreed.

Wendy J. Grubbs
02/28/2003 10:02:59 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Re: press coverage of Judge's letter offer of yesterday

Would it be good for z, hobbs and me to sit down with u and the judge today to get evryone on same page? Z and I think it would be helpful..do you?

.

From: CN=Noel J. Francisco/OU=WHO/O=EOP [WHO]
To: Leonard B. Rodriguez/WHO/EOP@EOP [WHO] <Leonard B. Rodriguez>
CC: Matthew A. Schlapp/WHO/EOP@EOP [WHO] <Matthew A. Schlapp>;margaret m. spellings/opd/eop@exchange@eop [OPD] <margaret m. spellings>;brett m. kavanaugh/who /eop@eop [WHO] <brett m. kavanaugh>
Sent: 2/28/2003 8:25:28 AM
Subject: : Re: DED Affirmative Action
Attachments: P_VB6AE003_WHO.TXT_1.html

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:28-FEB-2003 13:25:28.00
SUBJECT:: Re: DED Affirmative Action
TO:Leonard B. Rodriguez (CN=Leonard B. Rodriguez/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:margaret m. spellings (CN=margaret m. spellings/OU=opd/O=eop@exchange@eop [OPD])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

My understanding is that as of now, this call will not be taking place.

Leonard B. Rodriguez
02/28/2003 01:11:20 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: Matthew A. Schlapp/WHO/EOP, Noel J. Francisco/WHO/EOP@EOP,
Margaret M. Spellings/OPD/EOP@Exchange@EOP
bcc:
Subject: Re: DED Affirmative Action

I do not where we are on this with respect to the Judge's participation,
but should the Judge brief the committee members, we need to be aware that
anything the Judge says could be leaked to the press by Charles Garcia.

This is a concern that has been brought to my attention by a few
indidviduals.

Brett M. Kavanaugh
02/18/2003 06:59:07 PM
Record Type: Record

To: leonard b. rodriguez/who/eop@eop, matthew a.
schlapp/who/eop@eop
cc:
bcc:
Subject: Re: DED Affirmative Action

ignore last e-mail

Brett M. Kavanaugh
02/18/2003 06:50:55 PM
Record Type: Record

To: Leonard B. Rodriguez/WHO/EOP@EOP
cc: Matthew A. Schlapp/WHO/EOP@EOP
Subject: Re: DED Affirmative Action

tell us what do we need to do.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 02/18/2003 06:58 PM ----------

Matthew A. Schlapp
02/18/2003 03:31:44 PM
Record Type: Record

To: Leonard B. Rodriguez/WHO/EOP@EOP
cc: brett m. kavanaugh/who/eop@eop, darren w. bearson/who/eop@eop, abel guerra/who/eop@eop
bcc:
Subject: Re: DED Affirmative Action

in any case we need to move quickly on the briefing b/c some members of these boards are building a consensus against us while we fiddle

Leonard B. Rodriguez
02/18/2003 01:42:13 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: Matthew A. Schlapp/WHO/EOP, Darren W. Bearson/WHO/EOP@EOP, Abel Guerra/WHO/EOP@EOP
bcc:
Subject: Re: DED Affirmative Action

You should reach out to Maragaret

Brett M. Kavanaugh
02/17/2003 08:24:16 AM
Record Type: Record

To: Leonard B. Rodriguez/WHO/EOP@EOP
cc:
bcc:
Subject: Re: DED Affirmative Action

David Leitch or I could do so. Abel or you may want to talk to Margaret (or should I?). Let me know what I need to do.

Leonard B. Rodriguez
02/14/2003 11:37:36 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: DED Affirmative Action

See below, Could you or another WHO Associate handle the briefing to keep the Judge removed??
You may need to insert yourself.

---------- Forwarded by Leonard B. Rodriguez/WHO/EOP on 02/14/2003 11:32 AM ----------

"Sanchez, Leslie" <Leslie.Sanchez@ed.gov>
02/14/2003 11:33:03 AM
Record Type: Record

To: Leonard B. Rodriguez/WHO/EOP@EOP, Holly A. Kuzmich/OPD/EOP@EOP
cc:
Subject: Fw: Hispanic board

-----Original Message-----
From: Sailor, Angela <Angela.Sailor@ed.gov>
To: Sanchez, Leslie <Leslie.Sanchez@ed.gov>; 'Abel_Guerra@who.eop.gov' <Abel_Guerra@who.eop.gov>
Sent: Fri Feb 14 10:39:09 2003
Subject: Fw: Hispanic board

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)

-----Original Message-----
From: Jones, Brian <Brian.Jones@ed.gov>
To: Sailor, Angela <Angela.Sailor@ed.gov>
Sent: Fri Feb 14 10:31:39 2003
Subject: Re: Hispanic board

Yes. I spoke to Margaret last night (who said she'd also spoken to John), and she said the strategy would be to have the Judge and RP do a call with the Hispanic Init board. We at ED will then work to fashion language for the
board's report that will indicate the board's support for diversity without arguing that it is a compelling state interest - essentially language that tracks that used by POTUS in the Roosevelt Room.

Margaret also indicated that the Judge and RP would do a similar call with the HBCU board, and that perhaps Larry Thompson could be added to the call as well, if we thought it useful.

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)

-----Original Message-----
From: Sailor, Angela <Angela.Sailor@ed.gov>
To: Jones, Brian <Brian.Jones@ed.gov>

Sent: Fri Feb 14 09:26:15 2003
Subject: Hispanic board

Any updates? Your last email sounded like the Judge and Leslie need to meet
---
Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)

- att1.htm

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_VB6AE003_WHO.TXT_1>

-----Original Message-----
From: Sailor, Angela <Angela.Sailor@ed.gov>
To: Sanchez, Leslie <Leslie.Sanchez@ed.gov>; 'Abel_Guerr a@who.eop.gov' <Abel_Guerra@who.eop.gov>
Sent: Fri Feb 14 10:39:09 2003
Subject: Fw: Hispanic board

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)

-----Original Message-----
From: Jones, Brian <Brian.Jones@ed.gov>
To: Sailor, Angela <Angela.Sailor@ed.gov>
Sent: Fri Feb 14 10:31:39 2003
Subject: Re: Hispanic board

Yes. I spoke to Margaret last night (who said she'd also spoken to John), and she said the strategy would be to have the Judge and RP do a cal l with the Hispanic Init board. We at ED will then work to fashion language for the board's report that will indicate the board's support for diversity withou t arguing that it is a compelling state interest - essentially language that tr acks that used by POTUS in the Roosevelt Room.

Margaret also indicated that the Judge and RP would do a simila r call with the HBCU board, and that perhaps Larry Thompson could be added to t he call as well, if we thought it useful.

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)

-----Original Message-----
From: Sailor, Angela <Angela.Sailor@ed.gov>
To: Jones, Brian <Brian.Jones@ed.gov>
Sent: Fri Feb 14 09:26:15 2003
Subject: Hispanic board

Any updates? Your last email sounded like the Judge and Leslie need to meet
---
Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)

From: FindLaw.com <listadmin@LEGALMINDS.ORG>
To: TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN] <TOPHEADLINES@LEGALMINDS.ORG>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 2/28/2003 1:46:53 PM
Subject: : [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Fri., Feb. 28, 2003

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"FindLaw.com" <listadmin@LEGALMINDS.ORG> ( "FindLaw.com" <listadmin@LEGALMINDS.ORG>
[ UNKNOWN ] )
CREATION DATE/TIME:28-FEB-2003 18:46:53.00
SUBJECT:: [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Fri., Feb. 28,
2003
TO:TOPHEADLINES@LEGALMINDS.ORG ( TOPHEADLINES@LEGALMINDS.ORG [ UNKNOWN ] )
READ:UNKNOWN
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

------------------------------------------------------------------------
FINDLAW Fri, Feb 28, 2003
------------------------------------------------------------------------
TOP LEGAL NEWS HEADLINES


For all of the day's legal news go to: http://news.findlaw.com
**********************************************************************

Online Legal Document Services with LegalZoom!

LegalZoom can help you form a corporation, make a living trust, or file
for a trademark, all online! Our services are fast, affordable and
guaranteed. Visit our website today at LegalZoom.com or click here:
http://rd.findlaw.com/scripts/nl.pl?url=10456416000_nl

**********************************************************************

POLITICS
Destroying Missiles Won't Be Enough, U.S. Says
http://news.findlaw.com/news/s/20030228/iraqusadc.html

Rumsfeld: Impossible to Estimate War Cost
http://news.findlaw.com/ap/i/1107/2-28-2003/20030228113009_152.html


LEGAL COMMENTARY
Is It Time To Consider Mandatory Voting Laws?
http://writ.news.findlaw.com/dean/20030228.html

A Review of Michal Belknap's The Vietnam War on Trial
http://writ.news.findlaw.com/books/reviews/20030228_mariner.html


CIVIL RIGHTS
U.S. Court Won't Review Pledge of Allegiance Ruling
http://news.findlaw.com/politics/s/20030228/lifepledgedc.html

Air Passenger Screening System Planned
http://news.findlaw.com/ap/a/w/1152/2-28-2003/20030228041501_01.html


PERSONAL INJURY
Atty: R.I. Club Rep. OK'd Pyrotechnics
http://news.findlaw.com/ap/o/1110/2-28-2003/20030228033001_5.html
```

Band Attorney Says Singer Wants Immunity
http://news.findlaw.com/ap/o/1110/2-28-2003/20030228071501_05.html

PRODUCT LIABILITY
Fla. Toddler Dies After Airbag Deploys
http://news.findlaw.com/ap/o/1110/2-28-2003/20030228113012_18.html

MICROSOFT
Microsoft Offers Source Code to China
http://news.findlaw.com/business/s/20030228/techmicrosoftchinadc.html

IMMIGRATION
Detained Iranian Granted Asylum in U.S.
http://news.findlaw.com/ap/o/1110/2-28-2003/20030228000005_23.html

LABOR AND EMPLOYMENT
Whistle-Blower Sues Qwest Over Firing
http://news.findlaw.com/ap/ht/1700/2-28-2003/20030228113011_283.html

Workers Strike Tyson Meat Plant in Wisc.
http://news.findlaw.com/business/s/20030228/foodtysonstrikedc.html

INTELLECTUAL PROPERTY
Norwegian Teenager to Face Retrial for Film Piracy
http://news.findlaw.com/entertainment/s/20030228/technorwaydvddc.html

BUSINESS
Personal Bankruptcies to Hit Record-Fitch
[copy link and paste in browser]

http://news.findlaw.com/business/s/20030228/financialbankruptcyfitchdc.html

US Sues Smithfield for Antitrust Issues
http://news.findlaw.com/business/s/20030228/foodsmithfielddc.html

INTERNATIONAL LAW
Russia May Veto Iraq War Resolution
http://news.findlaw.com/ap/i/1107/2-28-2003/20030228071501_19.html

France Hails Iraq Missile Pledge, Counts U.N. Votes
[copy link and paste in browser]

http://news.findlaw.com/international/s/20030228/iraqfrancevillepindc.html

WAR ON TERRORISM
Pentagon Releases Tribunal Crime List
http://news.findlaw.com/ap/a/w/1152/2-28-2003/20030228113011_236.html

Indonesia Readies Terror Suspect Charges
http://news.findlaw.com/ap/i/1104/2-28-2003/20030228011504_22.html

CRIME & TRIALS
San Francisco Police Chief Is Indicted
http://news.findlaw.com/ap/o/1110/2-28-2003/20030228113012_298.html

R.I. Fire Challenges State Atty. Gen.
http://news.findlaw.com/ap/o/1110/2-28-2003/20030228020005_24.html

ENTERTAINMENT
Jacko's Contract Breach Trial Nears End
http://news.findlaw.com/ap/e/1403/2-28-2003/20030228044500_23.html

Jackson Wins First Legal Skirmish Over TV Footage
http://news.findlaw.com/entertainment/s/20030228/peoplejacksondc.html

SPORTS
Ku Klux Klan Supports All-Male Masters Golf Club
http://news.findlaw.com/news/s/20030228/rightsmastersdc.html

Ark. Says Richardson Not Fired for Race
http://news.findlaw.com/ap/s/2060/2-28-2003/20030228113011_256.html

****

Thinking about taking the LSAT?

The Princeton Review can help you prepare. We offer classroom courses, online courses and tutoring programs to fit your busy schedule. We guarantee that you will be completely satisfied with your LSAT score, or we'll work with you again for up to one full year-for free!
http://rd.findlaw.com/scripts/nl.pl?url=10293948000_nl

********** West LegalEdcenter *******

Receive updates about NEW ONLINE CLE PROGRAMS

Register with West LegalEdcenter for monthly email updates about new online CLE programs in your practice areas and jurisdictions. West LegalEdcenter currently has more than 1,400 courses, with more added daily!

http://rd.findlaw.com/scripts/nl.pl?url=gen_cle_010402

********** westgroup.com *********

Get FREE ground shipping in the U.S. on all orders.
http://rd.findlaw.com/scripts/nl.pl?url=gen_ads_040102

****

FEEDBACK

We value your comments! Please take a moment to tell us what you think by sending an e-mail to:
mailto:newsletters@findlaw.com?subject=TopHeadlines. Please include "Top Headlines" in the subject line.

SUBSCRIPTION INFORMATION

To subscribe to a FindLaw Newsletter, visit the FindLaw Newsletter Subscription Center at http://newsletters.findlaw.com

To unsubscribe, go to http://newsletters.findlaw.com/unsubscribe.html
---
ADVERTISING INFORMATION

For more information about advertising in FindLaw Newsletters, please contact us at:

mailto:sales@findlaw.com

FindLaw Top Headlines http://news.findlaw.com
Copyright (c) 2003 FindLaw, Inc.

From: Office of Global Communications <Global.Messenger@WhiteHouse.Gov>
To: Carolene Langie Office of Global Communications/WHO/EOP@EOP [WHO] <Carolene Langie Office of Global Communications>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 2/28/2003 12:35:28 PM
Subject: : White House Global Messenger -- 03/03/2003
Attachments: P_6MLAE003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Office of Global Communications <Global.Messenger@WhiteHouse.Gov> (Office of Global Communications <Global.Messenger@WhiteHouse.Gov> [UNKNOWN])
CREATION DATE/TIME:28-FEB-2003 17:35:28.00
SUBJECT:: White House Global Messenger -- 03/03/2003
TO:Carolene Langie Office of Global Communications (CN=Carolene Langie Office of Global Communications/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

(See attached file: GM 3-3-03 FINAL.doc)

THE GLOBAL MESSENGER

Monday, March 3, 2003

******KEY POINTS FROM THE PRESIDENT'S REMARKS ON IRAQ AND THE MIDDLE EAST, 2-26-03******

- The danger posed by Saddam Hussein and his weapons cannot be ignored or wished away. We hope the Iraqi regime will meet the demands of the UN and disarm, fully and peacefully. If it does not, we are prepared to disarm Iraq by force.

- Acting against this danger will also contribute greatly to the long term safety and stability of the Middle East and the world.

- The first to benefit from a free Iraq would be the Iraqi people themselves. Their lives and freedom matter little to Saddam Hussein, but matter greatly to us. If we must use force, the United States and our allies stand ready to help the citizens of a liberated Iraq.

- Rebuilding Iraq will require a sustained commitment from many nations, including our own: We will remain in Iraq as long as necessary, and not a day more. The nation of Iraq -- with its proud heritage, abundant resources, and skilled, educated people -- is fully capable of achieving democracy and living in freedom.

- The United States and other countries continue to work on a roadmap for peace. Success in Iraq could begin a new stage for Middle East peace, and set in motion progress towards a truly democratic Palestine. A Palestinian state must be reformed, peaceful and abandon forever the use of terror.

- For its part, the new government of Israel - as security improves - will be

expected to support the creation of a Palestinian state and work toward a final
status agreement, and settlement activity must end.

- And the Arab states will be expected to meet their responsibilities to oppose
terrorism, support the emergence of a peaceful and democratic Palestine, and
state clearly that they will live in peace with Israel.

- In confronting Iraq, the US is also showing our commitment to effective
international institutions. If the UN Security Council responds to Iraq's
defiance with more excuses and delays, the UN will be severely weakened as a
source of stability and order. If the members rise to this moment, the Council
will fulfill its founding purpose.

******TODAY'S SCHEDULE******
All Times Eastern Standard Time Unless Noted
Subject to Change

12:15 pm White House Briefing by Ari Fleischer

TBD State Department Briefing by Richard Boucher

******ELIE WIESEL: A VOICE FROM HISTORY******
Excerpts from remarks by Elie Wiesel, a Nobel Peace Prize winner and author of
the book Night, describing his experiences in Nazi concentration camps during
World War II

"I am not, you can imagine, a man of war. I have seen war and I know that war is
a malediction... but I am for intervention.

"I believe it is the moral duty to intervene when evil has power and uses it....
If Europe were to apply as much pressure on Saddam Hussein as [it] does on the
United States and Britain, I think we could prevent war."

******KEY QUOTES******

"You can't leave a country with chemical and biological weapons with the track
record of Iraq. There is a risk other countries will do the same thing and there
is an even greater risk that those weapons will one day get into the hands of
international terrorists, and God knows how they will be used if that happens."
Australian Prime Minister Howard, radio interview, 2-28-03

"Saddam Hussein is trying to string it out... trying to pretend he is
cooperating when he is not cooperating, trying to use process as an excuse for
not cooperating, and not complying with the will of the international community.
It is just further chaff that he is throwing into the system to try to divert
attention."
Secretary Powell, to reporters, 2-27-03

THE WHITE HOUSE
Office of Global Communications

For more information log on to http://www.whitehouse.gov/ogc

****

You have previously expressed interest in obtaining news and information from
the White House.

The White House Office of Global Communications distributes information about
the President's messages to the world. This office distributes updates on major
international topics such as the global war on terror, the case for regime
change in Iraq, and more broadly, the ways in which we can all better
communicate the aspirations and interests that Americans share with
freedom-loving people everywhere.
- GM 3-3-03 FINAL.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_6MLAE003_WHO.TXT_1>

THE GLOBAL MESSENGER

Monday, March 3, 2003

TODAY'S SCHEDULE

All Times Eastern Standard Time Unless Noted
Subject to Change

12:15 pm	White House Briefing by Ari Fleischer
TBD	State Department Briefing by Richard Boucher

ELIE WIESEL: A VOICE FROM HISTORY

*Excerpts from remarks **by** Elie Wiesel, a Nobel Peace Prize winner and author of the book Night, describing his experiences in Nazi concentration camps during World War II*

"I am not, you can imagine, a man of war. I have seen war and I know that war is a malediction…but I am for intervention."

"I believe it is the moral duty to intervene when evil has power and uses it….If Europe were to apply as much pressure on Saddam Hussein as [it] does on the United States and Britain, I think we could prevent war."

KEY QUOTES

"You can't leave a country with chemical and biological weapons with the track record of Iraq. There is a risk other countries will do the same thing and there is an even greater risk that those weapons will one day get into the hands of international terrorists, and God knows how they will be used if that happens."
Australian Prime Minister Howard, radio interview, 2-28-03

"Saddam Hussein is trying to string it out…trying to pretend he is cooperating when he is not cooperating, trying to use process as an excuse for not cooperating, and not complying with the will of the international community. It is just further chaff that he is throwing into the system to try to divert attention."
Secretary Powell, to reporters, 2-27-03

Key Points from the President's Remarks on Iraq and the Middle East, 2-26-03

- The danger posed by Saddam Hussein and his weapons cannot be ignored or wished away. We hope the Iraqi regime will meet the demands of the UN and disarm, fully and peacefully. If it does not, we are prepared to disarm Iraq by force.
- Acting against this danger will also contribute greatly to the long term safety and stability of the Middle East and the world.
- The first to benefit from a free Iraq would be the Iraqi people themselves. Their lives and freedom matter little to Saddam Hussein, but matter greatly to us. If we must use force, the United States and our allies stand ready to help the citizens of a liberated Iraq.
- Rebuilding Iraq will require a sustained commitment from many nations, including our own: We will remain in Iraq as long as necessary, and not a day more. The nation of Iraq – with its proud heritage, abundant resources, and skilled, educated people – is fully capable of achieving democracy and living in freedom.
- The United States and other countries continue to work on a roadmap for peace. Success in Iraq could begin a new stage for Middle East peace, and set in motion progress towards a truly democratic Palestine. A Palestinian state must be reformed, peaceful and abandon forever the use of terror.
- For its part, the new government of Israel – as security improves - will be expected to support the creation of a Palestinian state and work toward a final status agreement, and settlement activity must end.
- And the Arab states will be expected to meet their responsibilities to oppose terrorism, support the emergence of a peaceful and democratic Palestine, and state clearly that they will live in peace with Israel.
- In confronting Iraq, the US is also showing our commitment to effective international institutions. If the UN Security Council responds to Iraq's defiance with more excuses and delays, the UN will be severely weakened as a source of stability and order. If the members rise to this moment, the Council will fulfill its founding purpose.

THE WHITE HOUSE
Office of Global Communications

For more information log on to www.whitehouse.gov/ogc

From: Kavanaugh, Brett M.
To: <Bumatay, Patrick J.>;<Kho, Irene>
Sent: 2/28/2003 5:30:00 PM
Subject: Re: FW: LRM IKK10 - - TREASURY Draft Bill To Authorize the Treasury to Produce Currency, Postage Stamps, and Other Security Documents for Foreign Governments on a Reimbursable Basis
Attachments: treas0006abil.doc; treas0006altrs.doc; treas0006asec.doc

No objection.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 02/28/2003 03:27:47 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: FW: LRM IKK10 - - TREASURY Draft Bill To Authorize the Treasury to Produce Currency, Postage Stamps, and Other Security Documents for Foreign Governments on a Reimbursable Basis

This was due at 3 pm.

-----Original Message-----

From: Kho, Irene

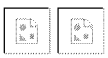
Sent: Tuesday, February 25, 2003 11:30 AM

To: laffairs@ustr.gov; state-lrm@state.gov; justice.lrm@usdoj.gov; smires@email.usps.gov

Cc: Gable, Anne; Schwartz, Mark J.; McMillin, Stephen S.; Rhinesmith, Alan B.; Silverberg, Kristen; Kaplan, Joel; Whgc Lrm; Ovp Lrm; Lee, Sarah S.; Lobron, Neil; Kulikowski, James M.; Durant, Catherine; Bloomquist, Lauren E.; Boden, James; Schwartz, Kenneth L.; Hunt, Alexander T.; Morrall Iii, John F.; Lackey Jr., Joseph F.; Schneider, Matthew J.; Wood, John F.; Perry, Philip J.; Call, Amy L.; Dove, Stephen W.; Lobrano, Lauren C.; Laplaca, Daniel; Green, Richard E.; Jukes, James J.; Blum, Mathew C.; Alesi, Susan E.; Craythorn, Dennis; Casella, Michael

Subject: LRM IKK10 - - TREASURY Draft Bill To Authorize the Treasury to Produce Currency, Postage Stamps, and Other Security Documents for Foreign Governments on a Reimbursable Basis

Attached is a Treasury draft bill which would authorize the Treasury to produce currency, postage stamps, and other security documents for foreign governments on a reimbursable basis. Similar legislation was cleared and transmitted in the 107th Congress. Also, attached are: (1) a transmittal letter; and (2) a sectional analysis. Please review and provide comments by 3:00 PM, Friday, March 7th.

 - treas0006altrs.doc << treas0006altrs.doc >>

 - treas0006abil.doc << treas0006abil.doc >>

 - treas0006asec.doc << treas0006asec.doc >>

LRM ID: IKK10

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Tuesday, February 25, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Richard E. Green (for) Assistant Director for Legislative Reference

OMB CONTACT: Irene Kho

PHONE: (202)395-5858 FAX: (202)395-3109

SUBJECT: TREASURY Draft Bill To Authorize the Treasury to Produce Currency, Postage Stamps, and Other Security Documents for Foreign Governments on a Reimbursable Basis

DEADLINE: 3:00 PM Friday, March 7, 2003

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Attached is a Treasury draft bill which would authorize the Treasury to produce currency, postage stamps, and other security documents for foreign governments on a reimbursable basis. Similar legislation was cleared and transmitted in the 107th Congress. Also, attached are: (1) a transmittal letter; and (2) a sectional analysis. Please review and provide comments by 3:00 PM, Friday, March 7th.

DISTRIBUTION LIST

AGENCIES:

128-US Trade Representative - Carmen Suro-Bredie - (202) 395-4755

114-STATE - VACANT - (202) 647-4463

061-JUSTICE - Jamie E. Brown - (202) 514-2141

126-US Postal Service - Stanley F. Mires - (202) 268-2958

EOP:

Anne Gable

Mark J. Schwartz

Stephen S. McMillin

Alan B. Rhinesmith

Kristen Silverberg

Joel D. Kaplan

WHGC LRM

OVP LRM

Sarah S. Lee

Neil Lobron

James M. Kulikowski

Catherine Durant

Lauren E. Bloomquist

James Boden

Kenneth L. Schwartz

Alexander T. Hunt

John F. Morrall III

Joseph F. Lackey Jr.

Matthew J. Schneider

John F. Wood

Philip J. Perry

Amy L. Call

Stephen W. Dove

Lauren C. Lobrano

Daniel LaPlaca

Richard E. Green

James J. Jukes

Mathew C. Blum

Susan E. Alesi

Dennis Craythorn

Michael Casella

LRM ID: IKK10 **SUBJECT:** TREASURY Draft Bill To Authorize the Treasury to Produce Currency, Postage Stamps, and Other Security Documents for Foreign Governments on a Reimbursable Basis

RESPONSE TO

LEGISLATIVE REFERRAL

MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Irene Kho Phone: 395-5858 Fax: 395-3109

Office of Management and Budget

Branch-Wide Line (to reach legislative assistant): 395-3454

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

REV_00159088

The Honorable Richard Cheney
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

Enclosed is a draft bill that would authorize the Secretary of the Treasury to produce currency, postage stamps, and other security documents for foreign governments on a reimbursable basis. Also enclosed is an analysis of the draft bill.

The Bureau of Engraving and Printing (BEP) in the Department of the Treasury is the security printer for the United States, producing a number of products that require special printing processes to protect documents from counterfeiting and fraudulent alteration. Currently, BEP is authorized to produce currency and postage stamps on behalf of the Federal Reserve System and United States Postal Service, respectively, and other security documents at the request of other Federal agencies.

The draft bill would authorize BEP to print securities and other documents for foreign governments. Although BEP has specialized expertise that can be made available to foreign governments, current statutory limitations preclude BEP from providing actual production support. The authority in the draft bill would be limited to times when demand for U.S. currency, postage stamps, and other Federal government products is below BEP's production capacity. In addition, any production on behalf of a foreign government would be subject to a determination by the Secretary of State that it is consistent with the foreign policy of the United States.

Treasury submitted a similar bill to the Congress during 2001. That bill, introduced as H.R. 2509, received bipartisan support when it passed the House of Representatives on March 19, 2002, but it was not acted on by the Senate prior to adjournment.

The prompt and favorable consideration of this proposal would be appreciated. An identical draft bill has been transmitted to the Speaker of the House.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to the Congress.

Sincerely,

David D. Aufhauser

General Counsel

Enclosures

A BILL

To authorize the Secretary of the Treasury to produce, on a reimbursable basis, currency, postage stamps, and other security documents at the request of foreign governments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PRODUCTION OF DOCUMENTS.

Section 5114(a) of title 31, United States Code (relating to engraving and printing currency and security documents), is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary of the Treasury may, if the Secretary determines that it will not interfere with engraving and printing needs of the United States, produce currency, postage stamps, and other security documents for foreign governments, subject to a determination by the Secretary of State that such production would be consistent with the foreign policy of the United States.".

SEC. 2. REIMBURSEMENT.

Section 5143 of title 31, United States Code (relating to payment for services of the Bureau of Engraving and Printing), is amended by inserting "or foreign government" after "agency" each place it appears.

SECTION-BY-SECTION ANALYSISSECTION-BY-SECTION ANALYSIS{tc \l1 "SECTION-BY-SECTION ANALYSIS}

Section 1 amends section 5114(a) of title 31, United States Code, by designating the current text as paragraph (1) and by adding a new paragraph (2) authorizing the Secretary of the Treasury to produce currency, stamps, and other security documents for foreign governments.

Paragraph (2) specifically requires that any production for foreign governments not interfere with the ability of the Treasury to satisfy the engraving and printing needs of the United States, and makes such production contingent on a determination by the Secretary of State that it is consistent with the foreign policy of the United States.

Section 2 amends section 5143 of title 31, United States Code, to provide the Secretary of the Treasury with the authority to charge fees and receive reimbursement for engraving and printing services provided under new section 5114(a)(2).

From: Craig S Burkhardt <csburkhardt@sorlinglaw.com>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/1/2003 12:09:39 PM
Subject: : I'll be at Mon. Meeting
Attachments: P_EDWAE003_WHO.TXT_1.html

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Craig S Burkhardt <csburkhardt@sorlinglaw.com> ( Craig S Burkhardt
<csburkhardt@sorlinglaw.com> [ UNKNOWN ] )
CREATION DATE/TIME: 1-MAR-2003 17:09:39.00
SUBJECT:: I'll be at Mon. Meeting
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Brett:

I'm in town on Monday, and will be at the 2:30 meeting on Estrada.

Craig Burkhardt
- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_EDWAE003_WHO.TXT_1>
```

Brett:

I'm in town on Monday, and will be at the 2:30 mee ting on Estrada.

Craig Burkhardt

From: CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/3/2003 3:37:31 AM
Subject: : FW: MESSAGE MEETING REMINDER

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 3-MAR-2003 08:37:31.00
SUBJECT:: FW: MESSAGE MEETING REMINDER
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

;
-----Original Message-----
From: Ritacco, Krista L.
Sent: Monday, March 03, 2003 8:29 AM
To: Cooper, Rory S.; Yunker, Jacob H.; Allgood, Lauren K.; Barclay, Barbara A.; Barrales, Ruben S.; Bennett, Melissa S.; Besanceney, Brian R.; Bird, Debra D.; Bowen, Stuart W.; Buchan, Claire ; Burkhart, Shannon; Campbell, Anne E.; Canfield, Sally; Christie, Ronald I.; Ciafardini, Andrew D.; Cleveland, Carolyn E.; Conde, Roberta L.; DeFrancis, Suzy; Devenish, Nicolle; Duffy, Trent D.; Ellison, Kimberly; Eskew, Tucker A.; Figg, Kara G.; Gambatesa, Linda M.; Gerdelman, Sue H.; Gillmor, Eleanor L.; Goergen, Barbara Jo; Gottesman, Blake; Grant, Britt; Gray, Adrian G.; Gray, Ann ; Hamilton, Parker B.; Healy, Erin E.; Hennessey, Keith; Hernandez, Israel; Hughes, A. Merrill; Hughes, Taylor A.; Ingle, Edward; Jackson, Barry S.; Kaplan, Joel; Kozberg, Lindsey C.; Kyle, Ross M.; Lefkowitz, Jay P.; Lineberry, Stephen M.; Litkenhaus, Colleen; Mallea, Jose; Marquez, Heidi K.; Martin, Catherine J.; McClellan, Scott ; McDonald, Rebekah; McQuade, Vickie A.; Mehlman, Ken; Middlemas, A. Morgan; Miers, Harriet; Millerwise, Jennifer; Montiel, Charlotte L.; Neely, Susan K.; Nelson, Carolyn; Nipper, Wendy L.; Parell, Christie; Pelletier, Eric C.; Perez, Anna M.; Ralston, Susan B.; Reese, Shelley; Riecke, January M.; Rodriguez, Noelia ; Rogers, Edwina C.; Rust, Kathryn E.; Ryun, Catharine A.; Sforza, Scott N.; Silverberg, Kristen; Snee, Ashley; Spagnoli, Deborah A.; Towey, Jim; Vestewig, Lauren J.; Walters, Katherine M.; Wehner, Peter H.; Westine, Lezlee J.; Williams, Mary C.; Wozniak, Natalie S.
Subject: MESSAGE MEETING REMINDER

There will be a message meeting today at noon in the Roosevelt Room.

From: CN=Collister W. Johnson/OU=WHO/O=EOP [WHO]
To: Peter H. Wehner/WHO/EOP@EOP [WHO] <Peter H. Wehner>;Tevi Troy/OPD /EOP@Exchange@EOP [OPD] <Tevi Troy>;Alicia P. Clark/WHO/EOP@EOP [WHO] <Alicia P. Clark>;Stephen M. Garrison/WHO/EOP@EOP [WHO] <Stephen M. Garrison>;Lauren L. Willson/WHO/EOP@EOP [WHO] <Lauren L. Willson>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/3/2003 6:35:47 AM
Subject: : Re: Promises and Accomplishments
Attachments: P_WGMBE003_WHO.TXT_1.doc; P_WGMBE003_WHO.TXT_2.doc; P_WGMBE003_WHO.TXT_3.doc; P_WGMBE003_WHO.TXT_4.doc; P_WGMBE003_WHO.TXT_5.doc; P_WGMBE003_WHO.TXT_6.doc; P_WGMBE003_WHO.TXT_7.doc; P_WGMBE003_WHO.TXT_8.doc; P_WGMBE003_WHO.TXT_9.doc; P_WGMBE003_WHO.TXT_10.doc; P_WGMBE003_WHO.TXT_11.doc; P_WGMBE003_WHO.TXT_12.doc; P_WGMBE003_WHO.TXT_13.doc; P_WGMBE003_WHO.TXT_14.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Collister W. Johnson ( CN=Collister W. Johnson/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 3-MAR-2003 11:35:47.00
SUBJECT:: Re: Promises and Accomplishments
TO:Peter H. Wehner ( CN=Peter H. Wehner/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tevi Troy ( CN=Tevi Troy/OU=OPD/O=EOP@Exchange@EOP [ OPD ] )
READ:UNKNOWN
TO:Alicia P. Clark ( CN=Alicia P. Clark/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Stephen M. Garrison ( CN=Stephen M. Garrison/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Lauren L. Willson ( CN=Lauren L. Willson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

The RNC is working on both:
1. gathering past examples of "promises-accomplishments" documents, and
2. tracking DNC attacks on current "promises-accomplishments".

Before sharing those documents with us, Brett Kavanaugh and Counsel will
let us know guidelines -
thanks -

c




From: Tevi Troy/OPD/EOP@Exchange on 02/28/2003 01:14:13 PM
Record Type: Record

To: Lauren L. Willson/WHO/EOP@EOP
cc: Alicia P. Clark/WHO/EOP@EOP, Stephen M. Garrison/WHO/EOP@EOP,
Peter H. Wehner/WHO/EOP@EOP, Collister W. Johnson/WHO/EOP@EOP
Subject: Promises and Accomplishments

Attached please find all of the DPC promises and accomplishment documents,
taken out of the policy reviews done last fall.
;
The achievement section largely tracks which promises we have followed
through on.
;
```

The outstanding commitment section is just that.
;
Please note: these documents are not necessarily comprehensive, but take into account prioritization decisions made by the SAPs in each area.
;
Tevi
;
;
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WGMBE003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WGMBE003_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WGMBE003_WHO.TXT_3>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WGMBE003_WHO.TXT_4>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WGMBE003_WHO.TXT_5>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WGMBE003_WHO.TXT_6>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WGMBE003_WHO.TXT_7>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WGMBE003_WHO.TXT_8>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WGMBE003_WHO.TXT_9>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WGMBE003_WHO.TXT_10>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WGMBE003_WHO.TXT_11>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WGMBE003_WHO.TXT_12>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WGMBE003_WHO.TXT_13>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WGMBE003_WHO.TXT_14>

Civil Justice Reform and New Freedom Initiative

II. Looking Back: Review of '01 and '02

A. Achievements

Tort Reform

- Teacher Protection Act: As part of the No Child Left Behind Act, the President signed into law the Teacher Protection Act, which provides civil immunity from state and Federal actions to teachers, principals, and other education professionals for actions taken to maintain discipline, order, or control in the classroom or school. The President promised to support the Teacher Protection Act during the campaign.

Campaign Finance Reform

- In March 2002, the President signed into law H.R. 2356, the Campaign Finance Reform Act. The Act contains various provisions the President supported, including a ban on unregulated, "soft" money contributions from unions and corporations, increased limits on individual giving, and new and more expedited disclosure requirements. However, it also includes provisions that raise constitutional concerns, such as the broad ban on issue advertising.
- The bill contains reforms the President promised to support during the campaign, including: "banning 'soft money' contributions from labor unions and corporations" and "raising individual contribution limits." As enacted, it did not include provisions advocated by the President such as "enforcement of the Beck decision and enactment of effective 'Paycheck Protection'" legislation or "instant disclosure of contributions" (although it did further lessen the amount of time before disclosure was required).*

Election Reform

- The President endorsed four guiding principles embodied in the May 2001 report of the bipartisan National Commission on Election Reform: (1) primacy of state, county and local governments in elections; (2) a limited but responsible role for the federal government in assisting states and localities with election administration so that voting technology and practices respect the value of every eligible vote; (3) need for active and vigorous enforcement of voting rights laws; and (4) need to uphold the voting rights of members of the armed services and of Americans living abroad.
- The legislation signed by the President largely follows these principles.
- The Administration has proposed to spend $1.2 billion in matching grants to fund a state revolving fund to be used in election administration. The first of three $400 million installments was included in the President's FY 2003 budget.

Affirmative Action

- The President stated during the campaign that he "supports 'affirmative access' to open the doors of opportunity" to all Americans, and "opposes quotas and racial preferences."* The goal is to provide greater opportunity and access without creating race-conscious remedies that only benefit particular racial or ethnic groups. Policies advocated during the campaign in the context of affirmative access have been implemented, as discussed below. However, the Administration has not proactively modified existing race-conscious programs from the prior Administration, such as government contracting programs.

    - Education: The No Child Left Behind Bill establishes high standards and accountability for all public schools. Educating every American to his or her full potential was part of the campaign's affirmative access goals.

    - Contracting: The President announced a Small Business Agenda earlier this year, which included promoting the unbundling of contracts so that small businesses that are not capable of bidding for entire projects are not disadvantaged. This is consistent with the campaign promise to advocate "breaking down government contracts to smaller sizes to encourage entrepreneurship in all communities" as a way to promote affirmative access.* Also, the President instructed the OMB Director to review contracting practices at relevant agencies to make sure their practices reflect a commitment to full and open competition.

    - Housing: The President announced a homeownership initiative targeted at increasing homeownership for minority families. It includes proposals to increase the supply of affordable homes for low and moderate income families, provide downpayment assistance and more educational assistance, and a "Homeownership Challenge" to the real estate and mortgage finance industries to help increase the number of minority homeowners by 5.5 million families by the end of the decade.

New Freedom Initiative

Community Living

- *Olmstead*: The President issued an Executive Order in June 2001 requiring Federal agencies to assist states and localities to implement the Supreme Court's *Olmstead* decision. *Olmstead* requires states to place qualified individuals with disabilities in community settings, rather than in institutions, whenever treatment professionals determine that such placement is appropriate, the affected persons do not oppose such placement, and the state can reasonably accommodate the placement, taking into account the resources available to the state and the needs of others with disabilities.
    - In response, key Federal agencies conducted the first comprehensive Federal review of barriers that prevent people with disabilities from living in the community and identified over 400 potential solutions to remove impediments to community-based living, which agencies have begun to implement.

REV_00159115

- Medicare Homebound Rules: During the ADA Anniversary event on July 26, the President announced a clarification with respect to Medicare recipients with disabilities who are considered "homebound." This change makes it clear that people with significant disabilities may leave their homes for occasional activities without losing their Medicare homebound services.

Education

- IDEA: The President requested the largest increases of any President in history for the Individuals with Disabilities Education Act (IDEA) Part B State Grants program in his FY 2002 and FY 2003 budgets. The President signed legislation increasing by $1.2 billion in FY 2002 budget for the IDEA Part B State Grants program.

- Special Education Commission: The President issued Executive Order 13227 in October 2001 creating the Presidential Commission on Excellence in Special Education. The Commission issued its report to the President on July 1, 2002.

Technology

- Section 508: In June 2001, the President promised full enforcement of Section 508 of the Rehabilitation Act, which requires that all Federal government electronic and information technologies be accessible to individuals with disabilities. In response, the Administration collaborated to expedite Section 508 implementation, and produced extensive technical guidance and training materials that will be helpful to Federal agencies and others interested in accessible technologies.

Homeownership

- HUD Section 8: The President in June 2001 committed to revising the HUD Section 8 rent subsidy program to permit people with disabilities to use up to one year's worth of Section 8 rent subsidy vouchers to finance a down payment and purchase a home. HUD later implemented this pilot program.

Employment Integration

- Ticket to Work: The President promoted swift implementation of the Ticket to Work and Work Incentives Improvement Act, which provides incentives for more than 7.5 million Americans receiving benefits under Federal disability programs to return to work.

Other

- Commission on Mental Health: In April 2002, the President announced the formation of the New Freedom Commission on Mental Health to conduct a comprehensive study of the Nation's mental health service delivery system.

- DisabilityInfo.gov: In August 2002, the President signed an Executive Memorandum creating a single source Federal web site dedicated to providing information that

REV_00159116

facilitates access to all the Federal web sites important to people with disabilities. This web site will be launched in October 2002.

- NFI Budget: The President secured funding for the vast majority of NFI programs in FY 2002 and requested a higher overall level of NFI-related funding in FY 2003. In the FY 2002 budget, the President requested $10.781 billion and received $10.872 billion. In the FY 2003 budget, he is seeking $1.39 billion over 2002 appropriations.

B. Outstanding Commitments

Civil Justice

Tort Reform

- The President promised during the campaign to "support meaningful, broad-based tort reform" to discourage frivolous lawsuits. Specific reforms on which no action has yet been taken are listed below.
  The following would require Congressional action:
  - "Strengthen Federal Rule 11 to require stiffer penalties for frivolous suits, and impose a 'Three Strikes, You're Out' rule on attorneys who repeatedly file frivolous claims."
  - "Limit 'fishing expeditions' by amending federal discovery rules, and curb the use of 'junk science' by raising the federal standard for admission of scientific testimony."
  - "Eliminate the much-abused private cause of action under the RICO statute."
  - "Raise the amount in controversy for removal where there is complete diversity."
  - "Enact a 'Fair Settlement Rule,' requiring parties who reject a pre-trial settlement offer, and who ultimately lose their case or receive substantially less at trial, to pay the other party's costs, including legal fees."
  - "Enact a 'Client's Bill of Rights' to allow federal courts to hear challenges to attorneys' fees, and require attorneys to disclose their ethical obligation to charge reasonable fees."
  - "Require private lawyers who contract to represent states or municipalities to return any excessive fees to their government clients."

  The following could be accomplished administratively:
  - "Issue an Executive Order prohibiting Federal agencies from paying contingency fees."*

- Class Action Reform: The Administration sent a Statement of Administration Policy (SAP) supporting the Class Action Fairness Act (H.R. 2341), which passed the House and is pending in the Senate. The bill would allow removal of cases to Federal court when the amount in controversy exceeds $2 million and there is minimal diversity. This is consistent with the campaign promise to "allow large cases to be removed from state to federal court where only minimal diversity exists."* Also, the bill establishes a consumer class action bill of rights, including notice of lawsuits in "plain English" and required judicial review of non-cash benefits like coupons.

REV_00159117

- Medical Liability Reform: In July 2002, President proposed national minimum standards in healthcare cases, including limits on non-economic damages and punitive damages, proportional liability, and informing juries of other sources of reimbursement. He also supports legislation that would protect from use in lawsuits reports and information about efforts of Patient Safety Organizations to improve patient care.

New Freedom Initiative

- Transportation Grants: The President requested $145 million in his 2002 and 2003 budgets for competitive grants through the Department of Transportation to provide alternative transportation services to give people with disabilities increased access to the job market, and to fund a pilot program to demonstrate innovative solutions for overcoming transportation barriers. This is the major NFI program that was not funded in FY 2002. The reason appears to be lack of available resources rather than any problem with the program itself. The President specifically referenced the need to fund this program during his ADA Anniversary White House event in July.

* References A Fresh Start for America: Policy Addresses of George W. Bush. Otherwise, quotes reference campaign position papers compiled in Renewing America's Purpose: Policy Addresses of George W. Bush, July 1999 – July 2000.

II. Looking Forward: '03 Agenda

B. Legislative

Civil Justice

- Tort reform, including class action reform and medical malpractice liability reform, will not likely be resolved this year and will be an issue in the 108th Congress.

- Election reform will remain an issue for the 108th Congress if not resolved in conference this year.

C. Regulatory

Civil Justice

SBA Women Owned Small Business Program

- SBA Women Owned Small Business Program: Congress authorized (but did not mandate) the creation of a new set-aside program for women-owned small businesses to restrict certain federal contracts to bidding by women-owned businesses, which would be the first newly-created set-aside program in this Administration.
- The SBA proposed regulations to implement the program, but they were of questionable constitutionality and withdrawn in the OMB process. Currently, SBA is reevaluating a Congressionally-mandated draft study it had developed to justify the program. After the revised study is complete next year, the Administration will have to determine whether to implement the program.

REV_00159118

LABOR POLICY

II. Looking Back: Review of '01 and '02

A. Achievements.

- Issuance of Executive Orders on Project Labor Agreements and Notification of "Beck" Rights.
- Creation of Office of 21st Century Workforce and appearance by President at 21st Century Workforce Summit (May 2001) to address challenges facing our workforce in the new economy, such as changing workplace demographics and technology.
- Issuance of DOL's ergonomics plan, which features issuance by the Occupational Safety and Health Administration (OSHA) of industry-specific guidelines for ergonomic workplace safety, instead of a far-reaching, onerous, one-size-fits all federal mandate. This action was consistent with the President's campaign statement: "As for OSHA's proposed ergonomics standards, I believe the federal government should provide workers and businesses with information about ergonomic-related injuries, but it should not impose far-reaching federal regulations that are neither clear nor rooted in strong science."
- Participation in record number of Health and Safety Partnerships. Health and Safety Partnerships between labor unions and the Department of Labor are at an all time high. In 2001, labor unions participated in 465 safety partnerships with DOL, including a partnership with the Laborers Union to address the anthrax threat.
- Proposal of "Back to Work Relief" package shortly after September 11, which culminated in the signing into law (early 2002) of a major element of that package -- extended unemployment benefits for thirteen weeks for all dislocated workers.
- Signing into law major expansion and reauthorization of Trade Adjustment Assistance program to provide for assistance for workers impacted by trade, including job training, financial assistance, and, for the first time, assistance with health insurance. Reauthorization of TAA was crucial to passage of Trade Promotion Authority, one of the President's major legislative priorities.
- Pennsylvania Mine Rescue – Mine Safety and Health Administration (MSHA) played a major role in the rescue of the miners at Quecreek Mine in Pennsylvania.

B. Outstanding Commitments

- Propose "Compensatory Time" amendment. The "Tools for Parents" document produced during the campaign stated "Governor Bush will propose to amend the FLSA to provide private sector employees the option . . . of taking comp time instead of overtime pay." President Bush has twice spoken in favor of comp time since taking office, but has not proposed actual legislation or pushed for enactment of existing legislation.
- Propose amendment to Occupational Safety and Health Act to ensure that private, residential homes will not be subject to OSHA regulations. The "Tools for Parents" document produced during the campaign stated "Governor Bush will propose

legislation to amend the Occupational Safety and Health Act to prohibit the Act from being applied to employees who work at home." President Bush has not spoken about this proposal since taking office, but the Department of Labor issued a directive during the Clinton Administration committing to keep OSHA out of home offices, and the directive is still in effect.

- Seek to enact "Paycheck Protection" legislation as part of campaign finance reform legislation. The campaign finance reform fact sheet produced by Governor Bush's campaign pledged that "Governor Bush will accompany the ban on union and corporate soft money with legislation to enact "Paycheck Protection" preventing union bosses from directly spending roughly $300 million in union dues annually -- without members' permission – to support candidates of the bosses' choosing." A campaign finance reform bill was signed into law by the President earlier this year, and efforts to include a "Paycheck Protection" provision were defeated.

III. Looking Forward: '03 Agenda

A. **Legislative** (active legislative issues)

- Davis Bacon in the Homeland Security bill – The current Senate version of the bill creating the Department of Homeland Security (DHS) contains a provision applying Davis-Bacon to construction projects funded with assistance from the DHS. The House bill has no such provision. Some Senate Republicans plan to fight the provision in the Senate, but do not have the votes to win an up-or-down vote. Certain House Republican conferees will vigorously fight in conference to keep the provision out of the final bill.
- Workforce Investment Act Reauthorization – The legislation that authorizes the federally-funded, state-run job training system expires on September 30, 2003 and must be reauthorized before that date. DOL plans to have a legislative proposal ready to send to Congress by January 2003.
- Minimum Wage increase – Democrats will likely continue to try to increase the minimum wage by $1.50 over 18 months.
- Extended Unemployment Insurance Benefits – workers who lost their jobs right after September 11 have already exhausted even the additional 13 weeks of benefits granted by the economic stimulus bill, and the entire extended benefit program ends at the end of Calendar Year 2002. Democrats in both the House and the Senate are already pushing legislation to extend the program and create another 13-week extension. Another extension could cost as much as $11 billion.
- Genetic Discrimination Legislation – The President has endorsed legislation prohibiting employment discrimination based on genetic information, but there is competing legislation in both the House and the Senate. Congress, with technical assistance and encouragement from the Administration, is working on a compromise bill that both Houses could pass. The bills differ mainly over private rights of action and damages levels.
- Unemployment Insurance/Employment Services (UI/ES) Reform – The President's FY '03 budget proposed a comprehensive reform of the UI/ES system to cut employer taxes, return trust fund money to the states and gradually shift responsibility for all administrative costs to the states. The proposal is stalled in Congress.

REV_00159121

B. Regulatory

- Revision of Family and Medical Leave Act (FMLA) Regulations -- The Clinton Administration issued several regulations implementing the FMLA that have made it extremely difficult and onerous to implement. The Supreme Court recently struck down one such regulation as an improper interpretation of the statute. DOL plans to seek comment on and propose changes to these regulations.
- Revision of Fair Labor Standards Act (FLSA) Regulations -- Certain "white-collar" professions are exempt from FLSA requirements, but the regulations defining these exemptions are vague, out-dated, and extremely difficult to administer. Employers and employees alike agree that these regulations need to be updated. DOL plans to seek comment on and propose changes to these regulations.
- Revision of Regulations Governing Union Financial Disclosures – DOL plans to seek comment on proposed revisions in late November-December 2002. See discussion in new policy recommendation #2 below.

REV_00159122

Drug Policy

II. Looking Back: Review of '01 and '02

A. Achievements.

1. **Presidential Events:** Announcement of Director of National Drug Control Policy, May 10, 2001 ("announcement"); Signing Drug-Free Communities Act Reauthorization Bill, December 14, 2001 ("signing"); Remarks on the 2002 National Drug Control Strategy, February 12, 2002 ("strategy").
2. **Stopping Use Before it Starts:** Education and Community Action—Implementing the first priority of the National Drug Control Strategy has produced accomplishments across all sectors relevant to drug prevention: communities, schools, parents, and work places.
   a. **Empower Community and Faith-Based Groups to Fight Drugs** (campaign, announcement, signing, strategy)—On track to meet President's commitment to double community coalitions in five years. The Drug-Free Communities Act has been successfully reauthorized and appropriations are on track for FY02 and FY03. The program includes expansion in rural and under-served areas and the continued involvement of faith leaders.
   b. **Ensure Students have Access to Drug-Free Schools** (campaign, strategy)—No Child Left Behind reauthorized the Safe and Drug-Free Schools program, requiring accountability for grant recipients pursuant to the President's commitment. Department of Education has begun work on implementation of the new accountability with OMB and ONDCP. Additionally, ONDCP and Education have produced and are distributing a guide to drug testing for schools.
   c. **Mobilize Parents in the War on Drugs** (campaign, announcement, strategy)—ONDCP has used the National Youth Anti-Drug Media Campaign to reach parents and increase their efficacy in dealing with their kids on drug abuse. Additionally, we have worked to develop a parent drug corps. Although the Appropriations Committees appear poised to deny our request for a second year, we have provided grants from existing authority at SAMHSA to support the efforts of non-profits to develop a parent drug corps in several states.
   d. **Promote Drug-Free Workplaces** (campaign)—The Administration continues to implement a small business drug-free workplace program, although at a lower funding level than the President originally committed ($3M per year v. $5M per year). Additionally, the National Youth Anti-Drug Media Campaign has launched the @Work program, which enrolls corporations in a program to provide drug-free workplace materials through existing corporate infrastructure (e.g., intranets, company newsletters).
3. **Healing America's Drug Users:** Getting Treatment Resources Where They Are Needed—Health and Human Services is on track to meet the budgetary commitment of an additional $1.6B in treatment resources and doubling the budget for the National Institute on Drug Abuse over five years. Department of Justice has met the President's commitment to drug-free federal prisons with an outstanding array of anti-drug programs that provide a great example for state correctional systems. Additionally, in

the Residential Substance Abuse Treatment (RSAT) program, which provides funds for treatment to States for use in correctional settings, we requested a $10M increase in FY02, and received $7M, for a total of $70M. In FY03, we requested an additional $7M.

4. **Disrupting the Market:** Attacking the Economic Basis of the Drug Trade
   a. **Secure and Defend our Borders** (campaign)—The Administration has provided $100M over the first two years of a $250M over 5 year commitment to reimburse local governments for prosecuting drug cases on the southwest border.
   b. **Clean up Meth labs** (campaign)—The campaign paper committed $100M over 5 years at DEA for Meth lab clean up, and the funds were provided through the retooled COPS program.
5. **Fighting the War on Terror** (signing, strategy)—The President has effectively linked the issues of drugs and terror in his public statements, demonstrating that the purchase of illegal drugs funds terrorist activity and violence. The National Youth Anti-Drug Media Campaign has used this theme in a group of ads released at the Super Bowl and a second group to be released in September.
6. **Oppose legalization** (announcement)—The President came out strongly against drug legalization and Director Walters has visited and will continue to visit the three states that have legalization ballot initiatives this fall—Arizona, Ohio, and Nevada.

B. Outstanding Commitments

1. **Healing America's Drug Users**—While the Administration has made substantial progress on providing treatment, particularly in the budget, some of the President's policy commitments have not yet been met.
   a. **Treatment**—While we have met the funding commitment, we are still working to fully implement three policy changes: (1) making state grant awards performance-based, and (2) ensuring that non-medical faith-based and community providers are eligible for funds on the same basis as other groups, (3) targeting resources to the greatest need. (See "Turning Back the Tide of Drugs," October 6, 2000: "Federal funds will be provided to support drug treatment programs that prove demonstrated results. And faith-based and community-based organizations will be fully eligible as well, provided they can demonstrate the same effectiveness.")
   b. **Drug Courts**—We have not fully met our funding commitment to the drug courts program, increasing funding by $50M over five years, nor have we made policy changes to improve drug courts. We did not request an increase in FY02 maintaining the request at the base $50M. In the FY03 budget, we requested an increase of $2M. (See "Turning Back the Tide of Drugs," October 6, 2000: "Drug Courts: Increase funding by $50 million over five years for drug courts, share best practices, and hold them accountable for results. Under a Bush Administration, the Department of Justice will support local drug courts that combine drug testing with effective monitoring.")
2. **Stopping Use Before It Starts**—Although we have made progress in ensuring that students have access to drug-free schools, there remains important implementation work to do on No Child Left Behind and we have not increased funding for Safe and Drug Free Schools, despite a campaign commitment to add $20M/year for five years. (See "Turning Back the Tide of Drugs," October 6, 2000: "Work to make all schools

REV_00159124

drug-free: Increase funding for the Safe and Drug-Free Schools program by $100 million over five years, but require that states and districts measure and report drug use and demonstrate effective use of federal funds.")

III. Looking Forward: '03 Agenda

B. Legislative (active legislative issues)

1. ONDCP Reauthorization—ONDCP's organic statute, including authorizations for several of its programmatic responsibilities.
2. Substance Abuse and Mental Health Services Administration (SAMHSA) Reauthorization—HHS prevention and treatment programs, including the principle drug-related block grant.
3. Coverdell Drug-Free Workplace Reauthorization—Grants to support technical assistance and services for small business drug-free workplace programs.
4. Faith Bill (if not completed in '02)—Provisions allowing faith-based organizations to receive federal assistance for treatment and prevention services.
5. Department of Homeland Security Authorization (if not completed in '02)—Many counter-drug law enforcement functions are responsibilities of the new DHS.
6. Department of Justice Reauthorization (if not completed in '02)—includes most drug enforcement agencies, drug courts program.

C. Regulatory—None.

REV_00159125

Environment and Natural Resource Policy

II. Looking Back: Review of '01 and '02

A. Achievements.

The first 18 months of this Administration has been marked by the fulfillment of a wide range of commitments in the environmental and natural resource areas, as outlined below. Two Presidential Initiatives – Clear Skies and Healthy Forests – represent priority, "signature," policies that will require strong and coordinated, multi-agency efforts to achieve Congressional approval and subsequent implementation.

1. **Brownfields Cleanup and Restoration** *(campaign commitment)*: On January 11, 2002, President Bush signed historic legislation that will facilitate cleanup and redevelopment of contaminated industrial sites – "brownfields" – improving the environment, protecting public health, creating jobs, and revitalizing communities. The President's '03 budget proposal provides $200 million – twice the '02 level of funding – for EPA's brownfields program, $171 million of which is for grants for states and local communities.
2. **Clear Skies Initiative** *(campaign commitment)*: On February 14, 2002, President Bush announced an initiative that will cut power plant emissions of the three major air pollutants – nitrogen oxides, sulfur dioxide, and mercury – by 70 percent by 2018. In late July 2002, the President's Clear Skies legislation was introduced by Senator Smith and Congressmen Tauzin and Barton. The Initiative, contrary to the campaign commitment, does not include carbon dioxide which is now addressed in the President's climate change policy.
3. **Global Climate Change** *(campaign commitment)*: The Administration is partially on track to meet this commitment through the announcement of three initiatives focused on science, technology, and mitigation. On June 11, 2001, the President announced a new commitment to develop a science-based climate change policy (Climate Change Research Initiative), and a new commitment to funding research on "breakthrough technologies" (National Climate Change Technology Initiative) that will help meet the long-run climate change challenge. On February 14, 2002, the President announced a new approach to climate change that commits America to cut greenhouse gas intensity by 18% over the next 10 years. A range of domestic and international initiatives accompanied the February 14 announcement. **The National Climate Change Technology Initiative has not evolved sufficiently,** (see Outstanding Issues Section).
   a. Created the Climate Change Research Initiative *(1st-year commitment)*: The objective of this initiative is to promote a vision focused on the effective use of scientific knowledge in policy and management decisions, and continued evaluation of management strategies and choices. To meet this commitment to climate research, the U.S. will spend $1.7 billion in FY'03 for basic research on climate change, $40 million of which is dedicated to leverage other funding to address major gaps in scientific understanding including the carbon cycle and the role of black soot, aerosols, and clouds.

b. **Climate Change Mitigation Policy** *(2nd-year commitment)*: The President announced a new strategy that commits America to cut greenhouse gas intensity by 18% over the next 10 years. To help meet this commitment, the President directed the Secretary of Energy to substantially improve the registry to enhance measurement accuracy, reliability and verifiability of voluntary emissions reductions and to give transferable credits to companies that can show real emissions reductions. Numerous other domestic and international initiatives will help meet this goal.

4. **Energy Project Streamlining** *(1st-year commitment)*: Executive Order #13212 was signed on May 18, 2001. The White House Task Force on Energy Project Streamlining was charged with conducting a top-to-bottom review of federal procedures in order to find ways to expedite the review of permits for projects that will increase the production, transmission, and conservation of energy, while maintaining safety, public health, and environmental protections.
5. **Restoring the Everglades** *(campaign commitment)*: To fulfill a campaign pledge, President Bush and Florida Governor Jeb Bush, in January 2002, signed an agreement that ensures adequate water supplies are available to support the 30-year Comprehensive Everglades Restoration Plan (CERP). This agreement further bolsters the Bush Administration's strong support for the 30-year, $7.8 billion CERP, the most comprehensive and ambitious ecosystem restoration project ever undertaken in the United States. The President's FY'03 budget proposal includes $245 million for Everglades restoration.
6. **Protecting our National Wildlife Refuges**: The President's FY'03 budget proposes a record $376 million, up $57 million from FY'02, for our National Wildlife Refuges as we prepare to celebrate the system's 100-year anniversary on March 14, 2003. **Opportunity for White House participation and profile in this celebration.** The Department of the Interior's Centennial Campaign will improve resource conservation, visitor programs, and facilities on wildlife refuges nationwide and increase visibility for wildlife refuges by strengthening and expanding partnerships.
7. **Landowner Incentive Program** *(campaign commitment)*: Fulfilling a campaign pledge, President Bush has created new landowner incentives and private stewardship grant programs, which Congress funded at $50 million. The President's FY'03 Budget includes an additional $10 million – for a total of $60 million – for these programs. The Department of Interior also is seeking $100 million for a new Cooperative Conservation Initiative to protect and conserve the environment through partnerships that will tap the ingenuity, imagination, and innovative spirit of American citizens. Challenge grants will be awarded competitively to landowners, environmental groups, land-user groups, communities and local and state governments. In addition, the President signed legislation temporarily ending the estate tax, which will allow more lands to stay in family ownership and prevent habitat fragmentation.
8. **Oppose Breaching Dams in the Pacific Northwest** *(campaign commitment)*: The Administration continues to uphold this position. The Administration has supported local efforts to restore salmon runs and provided $20 million in funding for local salmon recovery projects.
9. **Conservation Title of the Farm Bill**: The Administration worked with the Congressional conference committee to ensure a forward-looking farm policy that more than doubles the funding to enhance conservation and environmental

REV_00159127

stewardship on private lands. On May 13, 2002, President Bush signed the Farm Security and Rural Investment Act into law, which will add $17.1 billion over the next ten years to existing programs.

10. **Klamath Basin Cabinet-level Panel** *(1st-year commitment)*: On March 1, 2002, the President established a Cabinet-level panel to recommend within 18 months ways to enhance water quality and quantity in Oregon's Klamath River Basin. President Bush named Secretaries Norton, Veneman, Evans, and Chairman Connaughton to head the panel.
11. **Tropical Forest Conservation Act** *(campaign commitment)*: On track to meet the President's TFCA commitments. Agreements with Belize, El Salvador, and Bangladesh, and the Philippines have been completed. The President's FY '03 budget request of $40 million for "debt for nature" agreements with developing countries nearly triples funding for this successful program, which preserves species habitat and sequesters greenhouse gases.
12. **Offshore Drilling** *(campaign commitment)*: On track to support position on a moratorium against offshore drilling in Florida. The Administration has taken active steps to ensure no drilling will occur off the coast of Florida, in two distinct actions announced in May, 2002, (lease buy back at Destin Dome and purchase of drilling rights in the Everglades). The Administration also adjusted Lease Sale 181 to further ensure there would be no drilling offshore in Florida. Resolving controversial leases along California coastline could present opportunity; complex litigation, however, is now in process.
13. **Fully Fund the Global Environment Facility** *(2nd-year commitment)*: The 2002 U.S. pledge includes $107.5 million per year for each of the four years of the replenishment period, plus another $70 million in the fourth year if the GEF meets a set of performance measurements agreed to by donors. In addition, the Administration is requesting $70.3 million annually for the next three years to pay off U.S. arrears accumulated during the previous Administration. The GEF is the primary international institution for transferring energy and sequestration technologies to the developing world under the United Nations Framework Convention on Climate Change (UNFCCC).
14. **Eliminating Persistent Organic Pollutants (POPs)**: To protect the American people and the world from the dangers of 12 chemicals that persist in the environment long after their use, President Bush announced the United States' support for the Convention on Persistent Organic Pollutants. Governor Whitman signed the treaty, which bans or restricts the production, use, and/or release of 12 chemicals that have been linked to numerous adverse effects in humans and animals, including cancer, central nervous system damage, reproductive disorders, and immune system disruption. The Administration sent the treaty to the U.S. Senate for ratification in April 2002.
15. **Forest Health Initiative** *(2nd-year commitments)*: On August 22, 2002, the President announced a new initiative that will significantly reduce the damage caused by catastrophic wildfires, by removing unnecessary regulatory obstacles that hinder active forest management to improve forest health. He called upon Congress to work with his Administration to pass legislation that addresses the unhealthy forest crisis by expediting procedures for forest thinning and restoration projects.

REV_00159128

16. **Northwest Forest Plan**: On August 22, 2002 the President also emphasized the promise of the 1994 Northwest Forest Plan to ensure sustainable forest management and appropriate timber production. On September 12, 2002, a House bill was introduced to implement the Administration's strategy.
17. **World Summit on Sustainable Development (WSSD)**: The WSSD was successful in four major areas. First, the Plan of Action and Head of State Declaration reaffirmed the importance of good national governance, national investment in sound economic and social policies and the shared responsibilities between developed and developing countries as a basis for development. As such, the WSSD reinforced the new "compact for development" launched at the Monterrey Financing for Development Conference. Second, the WSSD acknowledged the importance of partnerships among governments, private sector and non-government organizations as an importance new means of implementing the WSSD action Plan. Over 220 partnerships (with $235 million in resources) were identified in advance off the Summit, and around 60 partnerships were announced during the Summit by a variety of countries. Third, the Action Plan focused on obtaining concrete results, many with specific timetables and achievable targets. Fourth, the US led and announced partnerships in four major areas: $970 million in investments over 3 years on water and sanitation projects, largely in Africa; $43 million in 2003 to leverage an estimated $400 million in clean energy for rural and poor communities; $90 million in 2003 for sustainable agricultural programs; $53 million for forest protection in the Congo Basin. The U.S. also reaffirmed its commitment of $2.3 billion through 2003 on health and combating HIV/AIDS and infectious diseases.

B. Outstanding Commitments

1. **Fully Fund the Land and Water Conservation Fund** *(campaign commitment)*: The President committed during the campaign to fully fund DOI's Land and Water Conservation Fund at $900m. In our FY'02 and 03 budgets, the Administration significantly increased LWCF funding. The FY'03 budget proposed for LWCF was fully funded at $900m, although it did so by combining existing non-LWCF grant programs with LWCF grant programs. The Interior appropriation bills in Congress are not adhering to that budgeted amount, however, because certain programs, such as a new $100 million Cooperative Conservation Initiative, are not funded in the pending legislation. The Administration faces two challenges in FY04. First, we must devise a better strategy to fully fund the Cooperative Conservation Initiative. Second, certain environmental groups will be disappointed unless there is a large increase in funding for federal land acquisition. Thus, we should devise an outreach approach with groups supportive of the state grant programs that are being increased.
2. **Protecting National Parks** *(campaign commitment)*: In a campaign pledge, then-Governor Bush committed to seek funds for National Parks to eliminate within five years—by 2006—a $4.9 billion maintenance backlog identified in a rough 1996 National Park Service estimate. Although the 1996 survey was not a true survey of the actual maintenance backlog—because it also included some cyclic maintenance needs and "wish-list" items—the Administration's budgets have attempted to meet that $4.9b goal. Facilities maintenance constitutes $2.2 billion of the $4.9b total, and, if current funding commitments continue, the Administration will meet that goal. Road

REV_00159129

maintenance and construction constitutes $2.7billion of the $4.9b goal. That portion will be reauthorized and started but not completed by 2006 because the funding stream will be derived from the next transportation bill over the FY04-09 timeframe. Moreover, to meet the road construction goal, the Administration will need to prioritize that funding choice over certain other choices in the transportation bill such as funding for National Forest roads and highway safety.

3. **National Climate Change Technology Initiative** *(1st-year commitment)*: Promotes funding research on "breakthrough technologies" that will help meet the long-run climate change challenge. This program has not evolved sufficiently in interagency deliberations. While the Administration has made substantial budgetary commitments, some of the related programmatic commitments have not been adequately agreed upon or articulated.
4. **President's Award for Private Stewardship** *(campaign commitment)*: Establish this award to fulfill the President's campaign promise. A draft Executive Order is currently being reviewed.
5. **Missouri River** *(campaign commitment)*: The President committed the Corps of Engineers to consult with the Fish and Wildlife Service (FWS) under the Endangered Species Act to develop a change in the Master Manual that governs the Corps' operation of the Missouri River. Its release is anticipated in 2003.
6. **Environmental Compliance at Federal Facilities** *(campaign commitment)*: The President committed during the campaign to require all federal facilities to meet all environmental standards.

III. Looking Forward: '03 Agenda

B. Legislative (active legislative issues)

1. **Clear Skies**: President Bush announced an initiative that will cut power plant emissions of the three major air pollutants – nitrogen oxides, sulfur dioxide, and mercury – by 70 percent by 2018. In late July 2002, the President's Clear Skies legislation was introduced in Congress.
2. **EPA Cabinet Elevation**: A Bill has been introduced and the President has expressed his support.
3. **Energy Bill**: The Energy Bill includes tax incentives for renewable energy, cogeneration, and new technology. Also included in the Bill is a significant climate change title that the Administration opposes. While it will not likely survive the conference, legislative activity on this issue is very likely in 2003-2004.
4. **Forest Health Initiative:** The Administration is pursuing administrative and legislative reforms to implement the President's August 2002 initiative.
5. **Commission on Oceans Policy**: The Commission will be issuing its final report and recommendations to the President and Congress in March 2003, at which time implementing action will likely be required of the Administration, in close consultation with Congress. CEQ and other agencies are providing ongoing support to the Commission, the President, and Congress in this important policy issue.

C. Regulatory

REV_00159130

a. **New Source Review**: EPA and DOE forwarded a report to the President, in accordance with the National Energy Plan, recommending changes to the Clean Air Act New Source Review program. On June 13, EPA released a policy which outlined the proposed changes to the rules. The changes are in two parts: (1) rules that we will finalize that were originally proposed by the Clinton Administration. These deal with regulatory flexibility incentives for pollution control equipment and two accounting changes. The first will provide a more rigorous baseline calculation against which potential emission increases are measured. The second will require emission levels to be determined on an 'actual emissions compared to future actual emissions' basis. And (2) a proposed rule that will clarify what projects will be excluded from the New Source Review permitting process because they are routine maintenance, repair or replacement. OMB is currently reviewing both of these rule packages and intends to publish them in the near future.
b. **Total Maximum Daily Load (TMDL)**: In response to concerns expressed by Congress, the National Academy of Sciences, and others, EPA Administrator Whitman extended the effective date for the controversial TMDL rule through April 2003. The TMDL program will continue to operate under rules issued in 1985 and 1991, while the Administrator develops a more flexible and effective approach to TMDLs. The Administration will adopt rules to restore polluted waterbodies that are based on sound science and which will better integrate the several tools in the Clean Water Act to encourage clean-up actions even in advance of TMDLs.
c. **Combined Animal Feeding Operation (CAFO)**: EPA is currently working with State agencies to determine whether drinking water sources are impacted by upstream agricultural sources, and then advising on development and implementation of programs to address CAFO's and other sources.
d. **Wetlands guidance and rulemaking**: This fall EPA and the Corps of Engineers will initiate advance notice of proposed rulemaking to solicit public comment on issues relating to the extent of federal jurisdiction over waters of the United States, including tributaries and adjacent wetlands, for purposes of regulation under the Clean Water Act and related federal laws. The rulemaking is in response to a 2001 United States Supreme Court decision which limited federal jurisdiction over certain isolated intrastate isolated waters but which raised questions regarding jurisdiction over other waters as well.
e. **DOE regulations for voluntary greenhouse gas reduction registry**: As a part of the Climate Change Strategy, the Administration is committed to substantially improving the current voluntary emission reduction registration program under section 1605(b) of the 1992 Energy Policy Act and provide transferable credits. Secretaries Evans, Abraham, Veneman, and EPA Administrator Whitman made recommendations in a letter to the President in July 2002, to start a stakeholder process in the next six months; finalization of new standards by January 2004.
f. **Corporate Average Fuel Economy (CAFE)**: A key recommendation of the President's National Energy Policy directed the Secretary to undertake an immediate review of vehicle fuel efficiency standards. The Administration is dedicated to a responsibly crafted CAFE standard that is based on sound science, and takes into account passenger safety, economic concerns, and disparate impact on the U.S. versus

REV_00159131

foreign fleet of automobiles. New standards should extend to include light trucks, vans, and SUV's.

g. **Renewable fuels regulations**: The energy bill will likely contain language that will require regulatory changes in the federal reformulated gasoline program. The final conference report may very likely repeal the current 2% oxygenate requirement, ban MTBE (a widely used additive to bring down toxics and criteria pollutants), and impose an ethanol mandate. There may be new opt in/opt out language for states as well, with related regulatory activities checked by legislation.

h. **Transportation Streamlining**: DOT is chairing a "Transportation Infrastructure Streamlining Task Force" that will report to the President through the Chairman of the Council on Environmental Quality. The task force will formulate and implement administrative, policy, and procedural mechanisms that enable each agency required by law to conduct environmental reviews with respect to high - priority infrastructure projects to ensure completion in a timely and environmentally responsible manner. The task force will complete a report to the President once a year.

i. **Improving the implementation of the National Environmental Policy Act** (NEPA): The NEPA Task Force is examining how federal agencies can improve NEPA implementation and is currently gathering and assessing public comments. The Task Force plans to submit its report on making NEPA more effective and efficient to CEQ by the end of the calendar year. Until the Task Force reviews all of the comments, it is premature to conclude whether the report will include recommendations to update or revise sections of the CEQ Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR Parts 1500-1508).

j. **Endangered Species Act**: The Department of the Interior is improving incentive and Section 7 consultation tools available under the Endangered Species Act. Scheduled to be completed in 2003, these changes include greater private landowner protections under safe harbor agreements, extension of safe-harbor-like protections to the Fish & Wildlife Service's Partners for Fish and Wildlife Program, and advancement of conservation banking as an incentive-based tool for listed species mitigation.

k. **Grazing**: The Department of the Interior is developing options for greater citizen involvement in the administration of BLM grazing permits and the building and sustaining of working landscapes on public lands.

l. **National Monuments**: The Department of the Interior is developing a range of options for expanded citizen involvement in the stewardship of BLM National Monuments. Those options include collaborative and citizen-based participation in development of monument land-use plans.

m. **Dioxin Reassessment**: EPA will soon send a reassessment of the health effects of dioxin exposure. It will reconfirm EPA's position that dioxin is a toxic chemical that can cause both cancer and non-cancer adverse health effects. The reassessment also identifies animal fats in the commercial food supply (beef, pork, poultry, dairy, eggs, and fish) as the primary route of human exposure. The IWG will review the reassessment and determine whether the substantial questions about the health effects warrant a review by the National Academy of Sciences. The IWG, through the Food and Drug Administration and the U.S. Department of Agriculture, have already engaged the National Academy of Sciences to examine the potential trade-offs

REV_00159132

between the benefits of a balanced diet and the potential risk of dioxin exposure. The Academy is also examining potential opportunities for reducing dioxin input into the food supply.

REV_00159133

II. Looking Back: Review of 2002

A. Achievements.

- **Launched USA Freedom Corps (1/30/02):** During his State of the Union, the President announced his creation by Executive Order of the USA Freedom Corps as a Coordinating Council and office to be housed at the White House. The Mission of the USA Freedom Corps is to foster a culture of service, citizenship and responsibility.

- **Launched Citizen Corps Effort (2/1/02)**: More than 50,000 individuals have signed up online to participate in the newly created Citizen Corps. They join hundreds of thousands of individuals already volunteering at the local level with Citizen Corps-supported programs including CERT, Neighborhood Watch, and Volunteers in Police Service. More than 160 communities around the country have officially registered Citizen Corps Councils to coordinate local emergency prevention, preparation and response volunteer activity.
  - ✓ **Launched Citizen Corps *Citizens Preparedness Guidebook* (2/1/02)**: The guidebook produced by the National Crime Prevention Council with support from the Department of Justice and the USA Freedom Corps, gives Americans guidance on how to prepare for disasters and prevent crime in our homes, in our neighborhoods, at work, at the airport, in places of worship, and in public spaces.
  - ✓ **Launched Neighborhood Watch Expansion (3/6/02)**: General John Ashcroft and the USA Freedom Corps launched the expansion of Neighborhood Watch with the National Sheriffs Association. The launch included a new website, how-to materials for local communities and a public service ad campaign.
  - ✓ **Launched Volunteers in Police Service (5/30/02)**: General John Ashcroft and the USA Freedom Corps launched the Volunteers in Police Service (VIPS) program with the International Association of Chiefs of Police (IACP). The goal of VIPS is to provide support for resource-constrained law enforcement agencies by tapping civilian volunteers to supplement their community's law enforcement professionals in order to free up officers for frontline duty. The number of registered VIPS programs has doubled since the launch.
  - ✓ **Launched First Medical Reserve Corps Grants (9/02)**: On July 19, 2002, HHS announced the availability of $2 million in grants, during FY02, to help local officials develop volunteer Medical Reserve corps units. The MRC will strengthen local communities' capacities to respond to disasters and emergencies in the community, as well as strengthen the local public health infrastructure.
  - ✓ **Launched Community Emergency Response Team Initiative (2/1/02):** The Community Emergency Response Team (CERT) program helps train people to be better prepared to respond to emergency situations in their communities. CERT members support first responders in emergencies, provide assistance to victims, organize spontaneous volunteers at a disaster site, and collect disaster intelligence for first responders. Over the next two years, CERT aims to double the number of

participants, with over 400,000 individuals completing the 18 plus hours of training and funding was secured in the supplemental budget to achieve goals.

- ✓ **Appointed State Citizen Corps Contacts (6/02)**: 50 governors have assigned a state point of contact for Citizen Corps. From 7/31-8/1 these state contacts participated in a FEMA conference with select federal agencies, local governments and experts from volunteer agencies.

- **Launched Business Strengthening America (6/13/02)**: In June, President Bush met with business leaders who are working on a self-directed effort to get businesses involved in supporting and promoting volunteer service by their employees and customers. Financial services companies, grocers, hospitality companies and entertainment and media businesses are among those who have already made major commitments to support volunteer service in response to the President's "Call to Service." These companies have announced new policies, including paid leave time for employees to participate in volunteer service, sponsorship of volunteer projects involving employees, and the creation of resources to engage customers in volunteer service, and working to make a person's Record of Service relevant to getting a job.

- **Launched Public Service Announcement Campaign (7/30/02)**: The advertising campaign includes television, print, radio, and web products. President Bush appears in each of the ads, saying, "When you help your neighbors, you help your Nation. Everyone can do something. "New York Yankee Mariano Rivera appears in English and Spanish language versions of a radio and television ad, actress Angie Harmon appears in a second television and radio ad, and former Senators Robert Dole and John Glenn appear together in a third radio and television ad.

  The USA Freedom Corps worked with the Corporation for National and Community Service and the Ad Council, with the support of the Walt Disney Company and Department of Justice, to develop the campaign featuring *usafreedomcorps.gov* as a way to get involved. In addition the USA Freedom Corps is the fulfillment mechanism at the end of three Entertainment Council television commercials and movie trailers that have been running nationwide since May.

- **Launched USA Freedom Corps Volunteer Network and Redesigned USA Freedom Corps Website (7/30/02)**: The USA Freedom Corp website is the concrete representation of the USA Freedom Corps Volunteer Network – a massive public-private enterprise on the web that enables volunteers to search according to their interests and their geographic location from the largest clearinghouse of volunteer service opportunities ever assembled – 50,000 organizations around the country and the world, with millions of service opportunities

  The search function draws upon well established non-profit organizations, including America's Promise, the National Mentoring Partnership, the Points of Light Foundation, SERVEnet, the United Way, and VolunteerMatch, as well as the federal government agencies that are a part of the USA Freedom Corps Coordinating Council – AmeriCorps, Senior Corps, Peace Corps and Citizen Corps. The Department of the Interior's one-stop

REV_00159135

registration center for federal, state and local government agencies that need and use volunteers can also be accessed through the new search function.

- **Launched American History, Civics and Service Initiative (9/17/02)**:
  - ✓ Launched NEH "We the People" initiative and President announced significant, ongoing investment in the program through the National Endowment for the Humanities (NEH), including competitive grant programs and other public programs to support the teaching of American History and Civics.
  - ✓ Launched "Our Documents" initiative of the National Archives and Records Administration, in collaboration with National History Day, the Corporation for National and Community Service and the USA Freedom Corps. Through web materials, a lesson plan sourcebook, and teacher workshops, 100 American milestone documents from the holdings of the National Archives will be made available to teachers and students.
  - ✓ Announced that the "We the People" Forum on American History, Civics, and Service, to be cosponsored by the NEH, the Corporation for National and Community Service, and the U.S. Department of Education, will be held in February 2003. The purpose of the forum is to call public attention to the need for more and better American history, civics, and service and draw attention to promising practices in history, civics, and student service, as well as innovative initiatives.

- **Launch of Students in Service to America Initiative (8/31/02)**: The President encouraged America's students to begin a service activity or project this school year and introduced the new Students in Service to America guidebook for educators to help them enlist America's young people in service to their communities and develop the habits of civic participation, responsibility, and service. More than 130,000 public and private elementary and secondary schools, homeschools, and after-school programs around the country received copies of the Students in Service to America guidebook, a CD-ROM, posters and other teaching and community resources. In addition, CNCS dedicated the time and talents of 25,000 AmeriCorps members and Senior Corps volunteers to support student service activities and service-learning programs.

- **Release of new Americorps Regulations (6/02)**: In June, CNCS issued final AmeriCorps regulations implementing a portion of the reforms called for in the President's principles, including: greater flexibility in the use of AmeriCorps members by nonprofit organizations; an explicit statement of the eligibility of religious organizations for AmeriCorps grants; reductions in administrative burdens on grantees; strengthening the prohibition on political activities; and making the education award more flexible for use by seniors and others.

- **Awarding of CNCS Homeland Security Grants (7/02)**: In July, CNCS in concert with the USA Freedom Corps and the Homeland Security Council, awarded its first homeland security grants totaling $10.3 million to support more than 37,000 AmeriCorps members and Senior Corps and other volunteers in 43 non-profit and public agencies in 26 states and the District of Columbia to:

REV_00159136

- ✓ use volunteers to develop and carry out emergency response plans;
- ✓ expand Citizen Corps programs related to crime and health; and
- ✓ develop public health strategies for responding to emergencies.

- **Freedom Corps Greeters (ongoing):** On more than 60 trips around the country, President Bush has met with volunteers who are answering his "Call to Service" to highlight their volunteer service as an example of the dedication he is hoping to instill in all Americans through the USA Freedom Corps.

- **Response to President's Call to Service (ongoing)**:
  - ✓ VolunteerMatch, one of the groups matching volunteers with opportunities through the USA Freedom Corps website, reports that more people are serving. The group measured a 72 percent increase in matching during the first six months of 2002 after USA Freedom Corps was launched, compared to the same period in 2001.
  - ✓ The number of potential AmeriCorps members is growing, with a 95 percent increase in online applications compared with pre-State of the Union levels.
  - ✓ Potential volunteers with Senior Corps, another CNCS program, have contributed to a 60 percent jump in web visitors since January.
  - ✓ More than 76,000 potential Peace Corps Volunteers have requested applications since the President's State of the Union address - a 40 percent increase over the same period in 2001. 34 countries have requested Peace Corps volunteers since State of the Union.
  - ✓ More than 160 Citizen Corps Councils have been created around the country.

B. Outstanding Commitments

- **Federal Program Service Opportunities**: Continue to expand and strengthen federal service programs, including the Peace Corps, Citizen Corps, AmeriCorps, and Senior Corps, including official launch of Medical Reserve Corps and Terrorism Information and Prevention System programs.

- **Citizen Service Act:** The President sent his "Principles and Reforms for a Citizen Service Act" to Congress on April 9, 2002. HR 4854, the Citizen Service Act of 2002, was introduced by Rep. Pete Hoekstra (R-MI) and Rep. Tim Roemer (D-IN) on May 24, 2002 and was reported by voice vote by the full House Education and the Workforce Committee on June 20, 2002. The bill awaits House Floor action. Senators Gregg and Kennedy are expected to introduce a companion bill shortly. The bill would reauthorize for five years the programs administered by CNCS and implement the following reforms, consistent with the President's policies:
  - ✓ Support and encourage greater engagement of citizens in volunteering;
  - ✓ Make Federal funds more responsive to state and local needs;
  - ✓ Make Federal support more accountable and effective; and
  - ✓ Provide greater assistance to community organizations, both secular and faith-based.
- **Corporation for National and Community Service Appropriations**: CNCS and the USA Freedom Corps are working closely with appropriators to secure the $296 million increase from appropriated levels the President requested for AmeriCorps, Senior Corps and Learn and Serve America for FY 2003.

REV_00159137

- **Peace Corps Reauthorization**: Even though Peace Corps is fully authorized through FY 2003, because of heightened interest in the Peace Corps as a result of the President's new policy, Senator Dodd and Representative Kirk have already introduced bipartisan bills in the Senate and House, respectively, to reauthorize the Peace Corps and to meet the President's commitment to double the number of Peace Corps Volunteers over the next five years.

- **Peace Corps Appropriations:** Peace Corps and the USA Freedom Corps are working closely with appropriators to secure the Presidents full funding request of $320 million for FY 2003. This is the amount requested in the President's budget to expand the number of volunteers from less than 7,000 today to 8,200 in FY 2003, on the path to nearly doubling the number of volunteers by FY 2007.

- **Citizen Corps Appropriations**: The Federal Emergency Management Agency, the Department of Justice, the Department of Health and Human Services and the USA Freedom Corps are working closely with appropriators to secure the President's funding request of $195 million for FY 2003 to support Citizen Corps initiatives, including Citizen Corps Councils, CERT, Neighborhood Watch and Medical Reserve Corps.

- **Civics**: Commitment made on September 17 for "significant ongoing" investment in American History and civics education. Internal discussions have revolved around $100 million over three years starting in the 2004 budget. There has not been consensus reached in the Administration on total or mix of new vs. redirected funds.

III. Looking Forward: '03 Agenda

B. Legislative

- See Citizen Service Act, Peace Corps reauthorization and appropriations request descriptions above. In addition, funding for the American History and Civics initiative through the National Endowment for the Humanities will need to be requested.

C. Regulatory

- NA

REV_00159138

Health Care Policy

II. LOOKING BACK: REVIEW OF '01 AND '02

A. Achievements *(See also NEC Health Care Policy)..*

1. **Presidential Events:**

- **March 21, 2001**-- Patients' Bill of Rights (strategy). The President addressed the American College of Cardiology to announce his principles for patients' rights legislation as Congress began debating the issue.
- **May 21, 2001** –Global Fund to Fight AIDS (announcement). The President announced the United States' commitment to supporting the new Global Fund to Fight HIV/AIDS, TB, and Malaria.
- **August 9, 2001**--Stem Cell Research Policy (announcement). Speaking from the Crawford Ranch during a nation-wide television broadcast, the President announced his decision to prohibit federal funding of research on stem cells derived from live human embryos.
- **December 6, 2001**--Director of the National Cancer Institute (announcement). The President announced the appointment of Dr. von Eschenbach to head the NCI and discussed four principles that will guide research efforts there.
- **February 11, 2002--** Health Care Agenda (strategy). Speaking at the University of Wisconsin Medical School, the President enumerated his entire health care agenda as part of a vision of a patient controlled quality health care system.
- **March 26, 2002--** Director of the National Institutes of Health and the Surgeon General (announcement). The President announced the nominees to be two major health care officials. As NIH Director, Dr. Zerhouni was tasked with the issues of the human genome, stem cell research, and biodefense. Dr. Carmona was nominated to use the post of Surgeon General to promote preventive health and to reduce the incidence of diabetes and obesity.
- **April 10, 2002--** Cloning Ban (strategy). In response to Senate debate, the President defined the need for a comprehensive ban on human cloning and announced his support of legislation sponsored by Senators Brownback and Landrieu.
- **April 29, 2002--** Improving Mental Health Care (strategy). The President participated in a local mental health round table with Senator Domenici and then addressed health care providers at the University of New Mexico Medical Campus. The President signed an EO establishing the New Freedom Commission on Mental Health, and announced that he would work with Congress to pass federal mental health parity legislation in 2002.
- **June 19, 2002--** New Mother and Child HIV Prevention Initiative (announcement). The President announced a new $500 million International Mother and Child HIV Prevention Initiative that seeks to prevent the transmission of HIV/AIDS from mothers to infants and to improve health care delivery in Africa and the Caribbean.
- **June 20, 2002--** HealthierUS Initiative (announcement). The President launched a new initiative to draw upon the resources of the federal government to promote the value of fitness in reducing the incidence and severity of chronic health conditions.

- **July 25, 2002--** Proposal to Address Medical Liability Crisis (strategy). In response to a new HHS study highlighting the higher costs and lower quality of care resulting from the broken liability system, President Bush proposed major legislative reforms to address the medical liability crisis.

2. **Patient Protections:**
   - **Patients' Bill of Rights** – The President negotiated House-passed legislation that fulfills his campaign commitment to pass a Patients' Bill of Rights that would "provide patient protections, like those passed in Texas, to ensure quality of care from health providers. Texas is recognized as having one of the strongest patients' bill of rights in the country."* It has been blocked by the Democrat-controlled Senate. The bill puts medical decisions in the hands of physicians, instead of insurance companies; provides independent, binding external medical review for denials of care, and gives patients meaningful legal remedies who have been harmed by an HMO's denial of medical care.

3. **Strengthening the Health Care Safety Net:**
   - **Community Health Centers (CHCs)** - The Administration's FY 2002 and 2003 budgets follow through on the President's campaign promise to double the number of people served in CHCs by creating 1,200 new and expanded CHC sites over a five-year period. CHCs provide critical primary health care services to uninsured individuals regardless of their ability to pay. There are areas in the country that still do not have access to basic health care services and these new resources will help new and existing CHCs to serve a greater number of people.

4. **Supporting Medical Research:**
   - **National Institutes of Health (NIH)** – The President promised to support medical research by working with Congress to enact a record increase for the NIH, and he will have fulfilled his campaign promise to double the NIH budget from the 1998 level of $13.6 billion when the proposed 2003 budget of $27.3 billion is enacted. The NIH is the world's preeminent and largest medical research organization. NIH research has already led to many medical breakthroughs, including lifesaving vaccines, new cancer therapies, human genome sequencing and effective drugs for the treatment of mental illness. Completing this historic increase furthers NIH's efforts to improve the prevention, detection, and treatment of the diseases and conditions that affect the lives of all Americans.
   - **Stem Cell Research** – The President announced his decision to allow medical research using embryonic stem cells while still preserving the value and sanctity of human life. This policy permits federal funding of research using certain existing stem cell lines that have already been derived, but does not sanction or encourage the destruction of additional live human embryos. Scientists will explore the potential of this research to benefit the lives of millions of people who suffer from life destroying illnesses. As part of the decision, the President created a new President's Council on Bioethics, to study the human and moral ramifications of developments in biomedical and behavioral science and technology.

REV_00159140

5. **Combating HIV/AIDS**
   - **Global HIV/AIDS:** Between the Global Fund and the MTCT Initiative, the 2003 budget for global HIV/AIDS activities will be 82% higher than the amount provided by Congress in 2001.
   - **Global Fund to Fight HIV/AIDS, TB, and Malaria** – The President became the first world leader to accept a new challenge to combat global AIDS by committing the U.S. to financially supporting the Global Fund to Fight HIV/AIDS, TB and Malaria. The U.S. remains the single largest donor to this multilateral fund – contributing $500 million through FY '03. The United States continues to be actively involved in influencing the structure, development and implementation of the Global Fund. By October of 2002, over $600 million worth of grants in over thirty countries will have been awarded, and disbursement of these funds is imminent pending the finalization of management and evaluation controls. Continued support by the U.S. is key to the long-term success of the Global Fund.
   - **Mother and Child HIV Prevention Initiative** – The President announced a major initiative to help stop the spread of HIV from mothers to their children. This long-term program of providing treatment and improving basic health infrastructure in the hardest hit countries will be initially funded at $500 million. The initiative is being implemented through a unique partnership between the Department of Health and Human Services and the Agency for International Development and will provide a new model for foreign assistance generally, and, in particular, global health assistance.

6. **Other:**
   - **Medical Records Privacy** – The President ushered in unprecedented protections for every American relating to their private medical information. The federal privacy regulation, which will be in effect by April 2003, protects medical records and other personal health information maintained by certain health care providers, hospitals, health plans, health insurers, and health care clearinghouses. The rule guarantees patients access to their medical records, gives them more control over how their protected health information is used and disclosed, and provides a clear avenue of recourse if their medical privacy is compromised. The Administration's actions were criticized by consumer advocates and Congressional Democrats, but praised by other stakeholders in the health care system.

B. Outstanding Commitments

1. **Patient Protections:**
   - **Patients' Bill of Rights** – While the President's negotiated House-passed legislation fulfills his campaign commitment to pass a Patients' Bill of Rights; the bill has been blocked by the Democrat-controlled Senate.

2. **Strengthening the Health Care Safety Net:**

REV_00159141

- **National Health Service Corps (NHSC)** – The President promised during the campaign to refocus this scholarship and loan repayment program that places "Corps physicians in the neediest areas," and to "coordinate the Corps program with the J-1 visa waiver program to avoid overlap." The President also promised to "encourage physicians to participate in the NHSC by making scholarship funds tax free." HHS recently assumed responsibility over much of the J-1 Visa program, but coordinating this program with the NHSC has not been proposed.

3. Long Term Care:

- **Affordability** – The President promised to "make long-term care available and affordable, instead of a path to financial ruin." This was to include making the "cost of long-term care insurance fully deductible" and establishing an "additional personal exemption for home caregivers." The FY '03 budget proposal included both full deductibility for long-term care insurance, and a caregiver personal exemption. While the House has acted on similar legislation, additional action on these proposals is not expected. *See also NEC Health Care Policy.*

  Quotations reference speeches and campaign position papers compiled in Renewing America's Purpose: Policy Addresses of George W. Bush , July 1999-2000.
  **References position papers released as a part of Real Plans for Real People: Blueprint for the Middle Class, September 17, 2000, Austin, TX.*

III. LOOKING FORWARD: '03 AGENDA

B. Legislative (active legislative issues)

1. **Patients' Bill of Rights ('03)** – The President negotiated a historic compromise with Rep. Norwood to give every American a meaningful Patient Bill of Rights. Legislation is not likely to be active again in the remaining days of 107th Congress, but Democrats will likely reintroduce the bill in the next session of Congress. Support for Democrat-backed patient protection bills—by its most vocal advocate the AMA—has waned since the President announced his commitment to legislation to address the nation's badly broken medical liability system. The President should support the principles set forth in the compromise legislation. However, he should seek to emphasize his priority is making sure families and individuals have access to affordable health care.
2. **Tobacco Control Legislation ('03)**– Bipartisan legislation in Congress has been introduced to grant the FDA authority to regulate tobacco products. While the issue has not been highly visible in the 107th Congress, Democrats and some Republicans plan to raise its profile in the 108th Congress. The Administration may be required to take a position on the regulation of tobacco products, and should prepare a strategy to address this issue for early next year.
3. **Mental Health Parity Legislation (fall '02)** – Last December, the President agreed to work with Senator Domenici to pass a mental health parity bill in the 107th Congress. While Speaker Hastert is strongly opposed to any parity

REV_00159142

legislation, the White House is working to facilitate a compromise that would prohibit health plans that provide medical and surgical benefits, from placing higher financial requirements or different treatment limitations on mental health benefits. Action is needed this year, because the current federal mental health parity law expires in December of 2002.

4. **Medical Liability Reform** – The Administration endorsed legislation to address the nation's badly broken medical liability system. The proposal creates a more timely, predictable, and fair liability system that improves access to quality health care while reducing health care costs. The bill passed the House, but is being blocked by the Democrat-controlled Senate. *See also NEC Health Care Policy.*
5. **Patient Safety/Medical Errors Legislation (if not completed in '02)** —The Administration has endorsed legislation to authorize patient safety organizations to collect confidential data on medical mistakes from hospitals, doctors, and other health care providers, and develop programs to address particular needs identified by data. While the proposals enjoy strong bipartisan support in both the House and Senate, several key Senate Democrats continue to block progress and ask for additional funding for patient safety and medical information grants. *See also NEC Health Care Policy.*
6. **Genetic Non-Discrimination Legislation (if not completed in '02)** –Earlier this year, the President endorsed legislation introduced by Senators Snowe, Frist, Gregg and Jeffords to prohibit discrimination by employers and health insurers based on genetic information. Democratic legislation introduced by Sen. Daschle is similar but would also encourage lawsuits by creating new private rights of action with unlimited damages. Congressional negotiators have not been able to resolve the liability issue, and the bill supported by the President has been blocked by the Democrat-controlled Senate.
7. **Cloning Ban (if not completed in '02)** --The President strongly supports House passed legislation that would prohibit all forms of human cloning. A current proposal in the Senate would allow the cloning of embryos for research purposes.
8. **Cancer Care Quality Legislation (if not completed in '02)**– Led by the American Cancer Society and the Lance Armstrong Foundation, bipartisan Congressional members are pushing legislation authorizing development and collection of information on quality of cancer care, mandating specific dollars for cancer survivorship research, and creating other programs to address end-of-life care. As the legislation is currently drafted, it takes power to set research priorities away from scientists, duplicates existing programs, and expands bureaucracy.
9. **Early Treatment for HIV Act** – Legislation is being developed that would allow State Medicaid programs the option to expand Medicaid coverage to individuals with an HIV diagnosis as an early preventive treatment measure in a budget neutral way.
10. **United States Leadership Against HIV/AIDS, TB, and Malaria** – This proposal authorizes the Executive branch to develop a 5-year strategic plan for addressing the international HIV/AIDS pandemic, provide increased resources for multilateral and bilateral efforts, and expand HHS's authority to provide

REV_00159143

international assistance. This amendment would require several reports back to Congress by the Executive branch.

C. Regulatory (key regulatory issues)

1. **HIPAA Security Standards for Health Information Regulation (Fall '02)** — Highly visible regulation to protect identifiable health information/medical records; affects all health care stakeholders subject to the HIPAA Privacy regulation.
2. **HIPAA Electronic Medicare Claims Submission (Fall '02)** —Highly visible regulation to require all Medicare claims be submitted electronically.
3. **Bar Code Labeling on Human Drug Products —(Fall '02)** Highly visible regulation that uses bar coding technology to identify potential medical errors.
4. **Bioterrorism Regulations for Food Safety and Security —(Fall '02)** Regulation to enhance the inspection and oversight of imported food.
5. **Bioterrorism Regulations for Tracking Dangerous Biological Pathogens (Fall '02)** —Regulation to enhance surveillance and security over dangerous agents and toxins that pose a public health threat; applies to all public and private entities that use, possess and transfer these dangerous pathogens.

REV_00159144

Immigration

II. Looking Back: Review of '01 and '02

A. Achievements

Restructuring the Immigration and Naturalization Service
The President promised to "restructure the INS, splitting it into two agencies: one to deal with enforcement, and one to deal with service."* In November 2001, the Attorney General announced an administrative restructuring plan for the agency and began its implementation. The President's proposal to create the Department of Homeland Security contemplates preserving the separation between service and enforcement when the INS moves to that department.

Provide increased funding for INS personnel
The President promised to "propose an additional $500 million over 5 years to fund new INS personnel and increased employee incentives to provide quality service to legal immigrants."* The Administration has sought $100 million each fiscal year for this purpose.

Reduce INS benefit processing times
The President promised to "improve INS service by proposing that every INS immigration application be processed within 180 days of submission."* The INS has a backlog elimination plan in place to achieve that goal by FY 2004. It is on track to meet that goal for 9 of 12 classes of applications. Increased security checks have caused delays in some categories.

A. Outstanding Commitments

None.

III. Looking Forward: '03 Agenda

B. Legislative

- INS reorganization will be a significant issue next year if it is not dealt with in Homeland Security Department legislation or otherwise this year.
- Extension of Section 245(i) of the Immigration and Nationality Act, which the President supports, is unlikely to occur during the 107th Congress. Section 245(i) permits aliens residing illegally in the U.S., but who are otherwise entitled to obtain permanent legal status, to do so without first leaving the country. As a result they can avoid being barred from reentering the U.S. for 3 or 10 years.

A. Regulatory
None.

Ground Transportation

II. Looking Back: Review of '01 and '02

A. Achievements

- Finalized a number of regulations to ensure the safe opening of the U.S.-Mexico border to commercial truck traffic. White House is reviewing Secretary Mineta's recommendation to the President that opening the border will not present a significant safety risk.
- Issued an Executive Order establishing the Transportation Infrastructure Streamlining Task Force. DOT will chair an interagency task force to help move high-priority transportation projects through the environmental permitting process. Members of Congress, roadbuilding associations, state representatives and environmental groups have praised this approach. The construction trade unions will support this as well.
- Granted $100 million loan to Amtrak to prevent total shutdown of Amtrak and several key commuter rail systems.

B. Outstanding Commitments

None

III. Looking Forward: '03 Agenda

A. Legislative:

- TEA 21 reauthorization: TEA 21, which funds highway and urban transit projects, covers fiscal years 1998-2003, so a new bill must be in place ahead of the fiscal year 2004 appropriations cycle.

- Amtrak reauthorization: See discussion above.

B. Regulatory:

- Corporate Average Fuel Economy (CAFE)– NHTSA is required by law to propose new fuel economy standards for light trucks for the 2005 model year by October 2002 and finalize the regulation by April 2003. If NHTSA chooses not to initiate a rulemaking on passenger cars, the current standard will remain in effect.

  The Administration is currently pushing a CAFE reform proposal in the Energy bill Conference. The proposal requires NHTSA to set a new light truck standard that will save 5 billion gallons of fuel between 2006 and 2012. It also gives the Secretary of Transportation greater authority to amend passenger car fuel economy standards while taking into account safety and economic burden.

- Open the Mexican border to cross-border commercial trucking. The White House is currently reviewing DOT's recommendation.

REV_00159147

Welfare, Child Welfare, Adoption

II. Looking Back: Review of '01 and '02

A. Achievements

- **Abstinence Education.** Both as part of the welfare reform reauthorization legislation and the normal appropriations process, the Administration is trying to increase funding for abstinence education by $126 million per year. The House supports the additional funding; the position of the Senate is not clear. If successful, this effort will fulfill the President's campaign promise to fund abstinence education programs at the same level as family planning and condom distribution programs, although some conservatives are already arguing that more money for abstinence will be needed to achieve parity with family planning.

- **Compassion Capital Fund.** In June 2002, HHS announced the implementation of the Compassion Capital Fund. In response to the President's fiscal 2002 budget request, Congress appropriated funds that are specifically designed to assist grassroots organizations as part of the President's faith-based and community initiative. $30 million is being used to help level the playing field for faith and community-based organizations as they compete for federal grants. It is too early to determine whether these funds will have an impact.

- **Child Support Enforcement.** HHS's Office of the Inspector General (OIG), in cooperation with HHS's Office of Child Support Enforcement, have implemented strong measures, including a three-day national sweep, to locate the Nation's most wanted "deadbeat parents". So far, 70 of the biggest offenders have been arrested, in part through cooperation between OIG, the U.S. Marshals Service, and state and local police. Arrests have been made in 29 states, the District of Columbia, and Puerto Rico. Due to this effort, as well as continued aggressive implementation of the child support program by the Office of Child Support Enforcement, both child support collections and paternity establishments are at an all-time high.

- **Good Start, Grow Smart.** In April 2002, President Bush presented *Good Start, Grow Smart*, the Administration's Initiative to address standards of learning in early literacy, language, and numeracy skills. To ensure that the President's Initiative is implemented boldly and effectively, the Head Start and Child Care Bureaus are completing a joint strategic plan, and Head Start programs are being required to fully implement new requirements for charting the progress of each child. In addition, HHS has implemented a plan to train Head Start administrators and teachers in research-based teaching techniques that will lead to improved school readiness (50,000 Head Start teachers will receive this training). HHS is also conducting a variety of activities to ensure that rigorous, cutting-edge research is developed, carried out, and translated into practices that enhance children's progress toward school readiness.

B. Outstanding Commitments

- **Reauthorize the 1996 Welfare Reform Legislation that Expires on September 30, 2002.** In February of this year, the Administration submitted to Congress a plan to reauthorize and strengthen the 1996 welfare reform legislation. By May, the House had developed and passed a bill that was nearly identical to the Administration plan. However, at this writing the bill is mired in the Senate and seems unlikely to pass this year, especially because the bill being pushed by the Senate Democratic leadership is deeply flawed. If a bill cannot be enacted in 2002, Congress will probably enact a 1-year extension of funding authority, which would mean that welfare reform reauthorization would be on the agenda for the 108th Congress. Because of this failure to act on reauthorization, the Child Care and Development Block Grant (CCDBG) has not been reauthorized either. If the Senate fails to reauthorize the CCDBG in the 107th Congress, we would be provided with a good opportunity to seek measures to coordinate the CCDBG with Head Start during next year's reauthorization debate.

- **Head Start.** The Administration promised during the campaign to move the Head Start program from the Department of Health and Human Services to the Department of Education.

III. Looking Forward: '03 Agenda

B. Legislative

- The 1996 welfare reform law expires on September 30, 2002 and must be reauthorized. The House has enacted legislation but the Senate has not. If this is not completed by the 107th Congress, the 108th Congress would take up reauthorization.

C. Regulatory

- HHS is using its statutory authority to administer the Head Start program to aggressively implement significant improvements in Head Start teaching, administration, and research. These initiatives are grouped together under the rubric "Good Start, Grow Smart".

REV_00159149

Education

II. Looking Back: Review of '01 and '02

A. Achievements

The No Child Left Behind Act

- The No Child Left Behind Act was signed into law by President Bush on January 8, 2002. By turning federal spending on schools into a federal investment in improved student performance, this law provides the most sweeping reform of the Elementary & Secondary Education Act since it was enacted in 1965. The law ensures that States and school districts will develop strong systems of accountability based on student performance, provides increased local control and flexibility by putting decision-making in the hands of those at the State and local levels, increases parental options, and encourages the use of effective programs and solid research to drive instruction.
- The Department of Education has been working to implement the NCLBA by releasing regulations and guidance for programs under the Act. The 2002-2003 school year is the first year that many of these reforms are going into effect.
- One of the most important reforms in the Act is the development of state accountability systems that hold schools accountable for student progress. The Department is currently reviewing the first round of state accountability plans, and will be approving these state plans in the coming months.
- The Act also launched a comprehensive effort called Reading First, a five-year, $5 billion state grant program. Reading First provides assistance to state and local education agencies to apply scientifically-based research—and the proven instructional and assessment tools consistent with this research—to improve reading instruction for K-3 students and to ensure that all children learn to read well by the end of the third grade.

Economic Growth and Tax Relief Reconciliation Act of 2001

- **Commitment: Supports expanding education savings accounts for parents to increase their annual contributions from $500 per student to $5,000 and withdraw funds tax free to pay for education expenses from Kindergarten to college**
- The tax relief bill that President Bush signed last year provides $22.7 billion in education savings for American families over the next five years: eliminates the 60-month limitation on student loan interest deductions and increases the income levels of individuals able to claim the deduction, increases the annual limit on contributions to education savings accounts from $500 to $2,000, and allows savings to be used for elementary, secondary, and postsecondary education expenses, adds a new above-the-line deduction for qualified higher education expenses, allows tax-free distributions from Qualified Tuition Plans (Section 529 plans) to be used to pay educational expenses and permits private institutions to offer such plans, makes the income

exclusion for employer-provided educational assistance permanent and extends the benefit of the exclusion to graduate level courses.
- President Bush had proposed during his campaign to increase the annual limit on contributions to education savings accounts to $5,000.

Teacher Tax Deduction

- **Commitment: Establish a teacher tax deduction to help defray out-of-pocket classroom expenses**
- The Job Creation and Worker Assistance Act provided an above-the-line tax deduction for up to $250 in classroom expenses incurred by teachers and other educators. Effective only in 2002 and 2003.
- The President proposed a $400 teacher tax deduction for out-of-pocket classroom expenses.

Special Education Funding

- **Commitment: Work with Congress to increase funding for special education with the goal of meeting the federal obligation under the Individuals with Disabilities Education Act**
- The President is on the way to fulfilling his campaign promise to increase funding for special education with the goal of meeting the federal obligation under IDEA.
- The President's 2003 budget provides an increase of $1 billion for Special Education Grants to States (following an increase of $1.2 billion in FY 2002), to $8.5 billion, and an increase of $20 million for states to identify and serve infants and toddlers with disabilities, to $437 million.

Character Education

- **Commitment: Triple character education funding and incorporate character-building lessons into federal youth programs**
- The President proposed and has fulfilled his promise to triple character education grant funding, from $8 million to $25 million. The Character Education program received $25 million in 2002, and the same amount is proposed for 2003. More emphasis could be put on research into character education and its effect on student outcomes.

State Scholars Initiative

- The Department of Education awarded a $2.4 million grant to the Center for State Scholars to create a pilot program in five states to encourage students to take a more demanding curriculum in high school in preparation for entry into a technical school, community college, university or work. States that participate will have to encourage

REV_00159151

the business community, school districts, and higher education institutions in each state to work together to encourage a more rigorous curriculum in high schools nationwide.

C. Outstanding Commitments

Pell Grants

- **Commitment: Provide $1 billion over five years for enhanced Pell Grants to students who take college-level math and science courses in high school, allowing them an additional $1,000 to pay for college tuition**
- To fulfill this commitment, the President would need to propose this initiative in a future budget submission or in the reauthorization of the Higher Education Act.
- While this initiative has not been proposed, the President has provided significant increases in funding for Pell Grants.
- The Pell Grant maximum award increased from $3,750 in 2001 to $4,000 in 2002.
- The President's 2003 budget provides $10.9 billion for the Pell Grant program, maintaining a maximum award of $4000 for Fiscal Year 2003-2004. This is an increase of $2.1 billion over 2001 Pell Grant funding.
- The recently enacted supplemental appropriations bill provided an additional $1 billion in Pell Grant funding to eliminate the shortfall in 2002.

III. Looking Forward: '03 Agenda

B. Legislative

Several key pieces of legislation are up for reauthorization in 2003, and several pieces of legislation will be held over from 2002.

1. **Individuals with Disabilities Education Act Reauthorization (authorization ends September 30, 2002)**—Special Education programs for children, provided mostly in K-12 education.
2. **Office of Educational Research and Improvement Reauthorization (authorization expired end of FY 1998, but has continued under that authorization)**—Department of Education research initiatives.
3. **Higher Education Act Reauthorization (authorization ends September 30, 2003)**—Postsecondary education programs, including all federal student financial aid.
4. **Perkins Act Reauthorization (authorization ends September 30, 2003)**—Vocational and Adult Education programs
5. **Rehabilitation Act Reauthorization (authorization ends September 30, 2003)**—Employment programs for adults with disabilities
6. **Head Start Reauthorization (authorization ends September 30, 2003)**—HHS early education programs, but significant coordination with Department of Education

REV_00159152

C. Regulatory

The Department of Education will continue to regulate on and develop and revise guidance for the implementation of the No Child Left Behind Act.

In addition, the Secretary's Commission on Opportunity in Athletics must submit its report on findings and recommendations on Title IX to Secretary Paige by January 31, 2003. The Administration will review regulations on Title IX at this time.

REV_00159153

Faith-Based

II. Looking Back: Review of '01 and '02

A. Achievements.

Office Establishment

- An Office of Faith-Based and Community Initiatives and five Cabinet Centers at HUD, HHS, Education, Labor, and Justice have been established. This is to fulfill the President's campaign promise of same.

New Resources and Programs for Faith-Based Groups

- The President's 2003 budget provides $25 million in competitive grants for mentoring programs for children of prisoners. This is to fulfill the President's campaign promise to launch a new program to address the needs of children of prisoners, offering grants on a competitive basis to faith-based and community groups.
- H.R. 1 opens the 21st Century after-school program's funding (maintained at $1 billion in FY 2003) to competitive bidding by faith-based and community groups. This is to fulfill the President's campaign promise of same.
- On June 4, the Administration for Children and Families (ACF) at the Department of Health and Human Services announced the rollout of the $30 million Compassion Capital Fund. Nearly $25 million will be made available to 15-25 intermediary organizations that will provide technical assistance to help faith-based and community organizations expand the reach of their programs. The remaining $5 million will be used to conduct research and establish a National Resource Center that will provide tools to faith-based and community organizations. More than 350 groups applied for the intermediary grants and nearly 70 applied for the field research grants. In addition, the President's 2003 budget provides $100 million for the Compassion Capital Fund, a public-private partnership to identify and invest in charitable "best practices." These each fulfill the President's campaign promise to create a Compassion Capital Fund.
- The President's 2003 budget provides $10 million in competitive grants to fund pilot Second Chance maternity homes. This is to fulfill the President's campaign promise of same.
- Two faith-based prison pre-release programs have been established, one designed for federal prisoners (a religion specific, multi-faith, and social responsibility program) and one for state prisoners (faith-based organizations will provide mentoring and role modeling during incarceration, transition and stabilization phases). This is to fulfill the President's campaign promise to initiate and fund same
- The Department of Labor awarded a total of $17.5 million in grants specifically designed to link faith-based and grassroots community organizations to the nation's One-Stop Career System. Twelve states and 29 organizations around the country will receive funds that they will use to create partnerships between faith-based and community groups and the One-Stop career centers.

Administrative Reforms and Outreach Programs

- OFBCI has created a database of more than 100 social service programs open to faith-based groups worth more than $50 billion, organized for the first time by groups of people served, not by program names.
- In the past three months, all of the agencies have established websites for the initiative. These websites provide detailed information about the initiative generally, as well as information about applicable funding opportunities.
- To date, the Department of Education Center for Faith-Based and Community Initiatives has held a total of six very successful outreach conferences attended by more than 4000 people. These conferences are designed to make local organizations aware of the initiative and Department of Education funding opportunities in which they might be interested.
- The Department of Education has issued appropriate guidance to states concerning the involvement of faith-based and community organizations in all formula grant programs that are amenable to participation by these groups.
- The Substance Abuse and Mental Health Services Administration at HHS has planned six technical assistance conferences throughout the country to provide technical assistance to faith-based and community organizations that wish to apply for substance abuse prevention/treatment funds.
- The DOJ Center is working with the Office of Justice Programs to simplify the grants and administrative process to make it friendlier to smaller faith-based and community organizations.
- The DOJ Center is also working with OJP to establish a Community Capacity Development Office. This office will focus on capacity development issues for faith-based organizations, small communities, and other entities identified.

Legislation

- H.R. 7, The Community Solutions Act, passed the House in July, 2001 and helped meet a number of the President's Faith-Based commitments including: non-itemizer tax deduction, charity IRA rollover, raising the cap on corporate charity contributions, civil liability protection for corporate donations and an expansion of Charitable Choice.
- Authorization for the Mentoring of Prisoner's Children pilot project.
- $30 million appropriation for the Compassion Capital Fund.
- Introduction and Senate Finance passage of the bi-partisan CARE Act (27 co-sponsors including 10 Democrats).

B. Outstanding Commitments

- Hold a corporate and philanthropic summit to examine private-sector discrimination against funding faith-based organizations. (Notre Dame Commencement Speech, May 2001)
- Promote a Charitable State Tax Credit of up to 50% of the first $500 for individuals or $1000 for married couples for contributions to charities addressing poverty; extend the

REV_00159155

tax credit—up to 50% of the first $1000—to corporations. This is to fulfill the President's campaign promise of same. (*Rallying the Armies of Compassion*, January 2001)

- Provide federal matching funds for the establishment of state Offices of Faith-Based Action. This is to fulfill the President's campaign promise of same. (*Rallying the Armies of Compassion*, January 2001)
- Promote alternative licensing regimes that recognize religious training as an alternative form of qualification for delivery of non-medical social services. This is to fulfill the President's campaign promise of same. (*Rallying the Armies of Compassion*, January 2001)
- Fund certificates to help 500,000 lower-income parents pay for after-school activities of their choosing, with funding of $400 million. This is to fulfill the President's campaign promise of same. (*Rallying the Armies of Compassion*, January 2001)
- Provide performance-based drug treatment grants to states; ensure that non-medical faith-based and community providers are eligible for funds on the same basis as other groups. This is to fulfill the President's campaign promise of same. (*Rallying the Armies of Compassion*, January 2001)

III. Looking Forward: '03 Agenda

A. Legislative

Depending on activity in the final month of the 107th Congress, the President's faith-based bill may or may not have been passed and signed into law. If passed, it would fulfill a majority of the commitments the President has made on faith-based issues. If not, all of those issues would remain outstanding including: 1) the expansion of Charitable Choice; 2) a non-itemizer tax deduction; 3) tax-free IRA charitable rollover; 4) raising the cap on corporate contributions; and 5) civil liability protection for corporate charity donations.

If this package fails to pass, however, OFBCI strongly recommends a different legislative approach for the 108th Congress. Specifically, OFBCI recommends using an amendment strategy to expand Charitable Choice to all Federal social service programs along with a free-standing charitable tax incentives bill. We do not recommend a strategy that marries the two efforts together.

B. Regulatory:

The Office's main issues will be administrative and regulatory in nature, and may be somewhat controversial. Specifically:

- Provide clear guidance to faith-based organizations on the 'Do's and Don'ts' of interacting with the Federal government.
- Announce new FEMA policy that treats all non-profit organizations equally in its emergency assistance programs.
- Provide official guidance on Charitable Choice for TANF, SAMHSA, CSBG and other programs covered by Federal statute, either through executive order or department regulation.
- Issue a user-friendly booklet identifying Federal funding opportunities that may interest faith-based organizations, with instructions about how to apply.

REV_00159156

- Update its website with the guidance materials and grants information, as well as other information about the Initiative.
- Oversee Agencies issuing internal guidance to peer review panels and grants management staff on the participation of FBOs in grants programs.
- Agency Centers will begin to work within their agencies on innovative pilot and demonstration projects targeting elders, at-risk youth and prisoners, addicts, the homeless, and those making the transition from welfare to work.
- Remove regulations that prohibit faith-based organizations' participation in many programs, beginning at HUD.
- Remove regulations that limit the right of faith-based organizations to maintain religious identity through hiring autonomy unless there is a statutory basis for them.
- Improve data collection so that accurate information on faith-based organizations is available.
- Expand the Office of Faith-Based and Community Initiatives by executive order to include new Faith-Based Centers at Departments of State and Agriculture because both work extensively with faith-based organizations to feed the hungry and provide relief for those in desperate need.
- Fight to maintain religious organizations' rights to hire and fire on the basis of religion.

REV_00159157

Housing and Community Development

II. Looking Back: Review of '01 and '02

A. Achievements.

- The President issued America's Homeownership Challenge, mobilizing the private real estate and mortgage finance sector to eliminate barriers to homeownership through increased financial and organizational commitments to increase minority homeownership by at least 5.5 million families by 2010. As a result, additional private capital of $440 billion has been pledged by the government-sponsored enterprises to increase minority homeownership. Private entities have committed resources to assist in the effort. Sears Roebuck recently announced a $100 million, five-year program to reduce barriers to minority homeownership, specifically responding to President Bush's challenge.

- The President's FY 03 budget proposed $200 million for the American Dream Downpayment Initiative, which would provide state and local agencies with matching grants to assist an estimated 40,000 first-time homebuyer families with downpayment funds. Legislation has been introduced in the House (Mike Rogers) and the Senate (Allard).

- The President's FY 03 budget proposed a $2.4 billion, five-year Single-Family Affordable Housing Tax Credit of up to 50% of the project costs of rehabilitation and construction of low-income housing, provided that eligible homebuyers have incomes of not more than 80% of area median income. The tax credit will eventually result in an additional 200,000 affordable single-family homes becoming available through construction or rehabilitation. Legislation very close to the President's proposal has been introduced in the House (Portman/Cardin) and is expected to be introduced in the Senate this month (Santorum/Gordon Smith).

- The Section 8 Homeownership Program has been implemented in part by HUD. The program allows local housing agencies flexibility to provide either mortgage assistance in lieu of a rental subsidy. A downpayment grant equaling up to one-year's worth of a family's Section 8 rental assistance is also envisioned, but Congress has not made a specific appropriation allowing the use of Section 8 funds for this activity. HUD has also implemented a Section 8 Disability Initiative -- a three-year pilot program authorized in 1999 which allows recipients with disabilities to use rental assistance toward mortgage payments.

- The Administration has issued for public comment a proposed regulation to simplify and modernize the current homebuying process, which is governed by the Real Estate Settlement Procedures Act (RESPA) and the regulation implementing the act. Secretary Martinez expects that legislation amending RESPA may also be needed to strengthen enforcement.

B. Outstanding Commitments

- **End Chronic Homelessness:** Secretary Martinez's speech before the National Alliance to End Homelessness committed to ending chronic homelessness by the end of the decade, and the FY 03 budget cites this as an explicit Administration goal. The Interagency Council on the Homeless held its first meeting in six years and announced a $35 million initiative (using recaptured funds) in furtherance of the Administration's goal.

- **Convene a White House Conference on Increasing Minority Homeownership:** In his June 17th Atlanta rollout of his homeownership initiative, the President committed to holding a White House Conference on minority homeownership this fall. The conference, currently scheduled for October 15th, will highlight barriers to minority homeownership and develop proposed solutions.

- **Modernize and simplify the homebuying process.** Secretary Martinez has made reform of the homebuying process a top HUD priority, with the goal of benefiting consumers with cost savings and ensuring that they receive timely, accurate information that is reflected at closing. Reform of the homebuying process was a component of the President's homeownership initiative announced in Atlanta in June. HUD has issued proposed changes to the RESPA regulation for public comment. The comment period closes in October.

- **Promote financial education through housing counseling.** The Administration has proposed increasing funding for housing counseling grants by $15 million in FY 2003, to $35 million. In his June 17th Atlanta speech, the President cited the importance of housing counseling in reducing barriers to minority homeownership. Faith-based groups will be key partners in HUD's housing counseling efforts.

- **Triple funding for the Self-Help Homeownership Opportunity Program (SHOP).** In his May 20, 2001 Notre Dame speech, the President promised to request a tripling of funds for the Self-Help Homeownership Opportunities Program (SHOP), which provides grants for land acquisition and infrastructure improvement to non-profit organizations that offer homeownership opportunities to families willing to contribute their own "sweat equity" (such as Habitat for Humanity). The President's FY 03 budget request tripled funding for SHOP (from approximately $22 million to nearly $66 million). These requested increases were not been included in the Senate VA/HUD Appropriations bill.

REV_00159159

III. Looking Forward: '03 Agenda

B. Legislation:

Enactment of existing proposals (American Dream Downpayment Initiative; Single-Family Affordable Housing Tax Credit) should be the Administration's top priorities in the next session of Congress if these are not enacted this year. At this point, the downpayment initiative is the only legislative proposal with a chance of enactment this session of Congress.

Much press attention has been focused on what housing advocates have termed "the housing crisis." This has galvanized a wide array of groups in support of the creation of a dedicated source of federal funding for housing expenditures (a housing trust fund similar to the highway trust fund). In this session of Congress, H.R. 3995, an Oxley-Roukema housing bill containing the President's downpayment initiative, has been reported out of the Financial Services Committee. The bill now contains a number of new program authorizations which we oppose. In the Senate, Christopher (Kit) Bond, the Ranking Minority Member on the VA/HUD Appropriations Committee introduced a bill (S. 2967) on September 19th authorizing a major new housing production program. Rather than creating new and possibly duplicative housing programs, increased funding for the existing HOME program, targeted to the very low-income, is the Secretary's preferred approach to dealing with the increased housing needs.

C. Regulatory:

The key regulatory issue facing the Department will be reform of the regulation implementing the Real Estate Settlement Procedures Act, which Secretary Martinez advocates as part of his effort to reduce closing costs and make the homebuying process easier. Because of the varied economic interests involved in the homebuying industry affected by these changes, this will be highly contentious. HUD has proposed changes to the RESPA rule and is currently receiving comments on its draft rule. While HUD believes it has the authority to adopt the rule it has proposed, the Secretary has stated that further changes (especially in the enforcement arena) may also be desirable and would require legislation.

REV_00159160

Veterans

II. Looking Back: Review of '01 and '02

A. Achievements

- **Established the Task Force to Improve Health Care Delivery For Our Nation's Veterans (Veterans Healthcare Task Force – Executive Order 13214):** The fifteen member Veterans Healthcare Task Force, co-chaired by Dr. Gail Wilensky, former Administrator of the Health Care Financing Administration, and former Congressman John Paul Hammerschmidt, will recommend specific actions to improve coordination between VA and the Department of Defense (DoD) on health care for those who have served in uniform and who are eligible for VA benefits. The Task Force issued an interim report on the issues to be addressed on July 31, 2002. A final report is due in March 2003.

- **Reduced Veterans Claims Backlog:** Conducted a top-to-bottom review of VA claims processing to identify weaknesses and areas for improvement, as the President had promised in the campaign ("The veterans health care system and the claims process need an overhauling from top to bottom. It needs to be modernized, so that claims are handled in a fair and timely fashion." *Honoring our Commitment to Veterans*, November 11, 1999). Reduced the claims pending backlog by almost 40% in the first year.

- **Reduced Longest-Pending Veterans Claims for Older Veterans:** Established a "Tiger Team" of experienced employees and managers to focus on the longest-pending claims from older veterans. By August 2002 VA, had completed 47,000 cases that had been pending for more than one year.

- **Reinstated VA's "Duty to Assist" Policy:** VA had traditionally pursued a "duty to assist" policy of helping claimants in gathering evidence to support their claims, including compiling medical and service records. A court decision, however, had overturned the holding it was not authorized by law. During the campaign, Governor Bush promised to reinstate the policy (August 2000). The President implemented provisions of the Veterans Claims Assistance Act reinstating the policy.

- **World War II Memorial Legislation:** Signed bipartisan legislation that ended ending delays and ensured that the planned World War II Memorial is located on the National Mall, between the Washington Monument and Lincoln Memorial.

B. Outstanding Commitments

- Although VA has made improvements in claims processing and in addressing the backlog of claims, the current delays remain unacceptable by President Bush's and Secretary's Principi's standards.

III. Looking Forward: '03 Agenda

B. Legislative

Priority Level 7 (PL 7) Vets: Veterans who choose to enroll in the VA health care system are placed in a priority group based on their specific eligibility status. The priority groups range from 1-7, with 1 being the highest priority for enrollment. The numbers of PL 7[1] veterans (those in least need of services) has increased dramatically since 1996, when they were accepted on a space-available basis and averaged two percent of all patients. This influx strains VA's capacity and hinders delivery of care to higher priority veterans.

VA medical care is not an entitlement offered to all veterans irrespective of geographic location. It is a service limited primarily to VA's geographic infrastructure and the size of the appropriation in any one year. Federal law requires that the VA Secretary announce, in conjunction with the appropriations process, what categories of veterans VA will be able to serve for that fiscal year. The issue, therefore, must be faced each year. For FY 2002, VA originally had determined that the budget would not permit it to serve all PL 7 veterans, and had proposed suspending new enrollment by PL 7 veterans who were not then enrolled. The final decision, however, was not to suspend PL 7 enrollment but to add $200 million to the President's budget request to address the issue. VA has proposed a regulation (See Section C, Regulatory, below) allowing it to provide services to higher priority veterans before providing services to lower priority veterans.

Concurrent Receipts: Currently, in order to receive VA disability payments, a military retiree must waive an equivalent amount of military retirement pay. Many in Congress have supported attempts to allow military retirees to concurrently receive VA disability and military retirement benefits. Every Administration has opposed these attempts based on the long-standing principle that no one should be able to receive concurrent retirement benefits and disability benefits based upon the same service. All Federal compensation systems aim for an equitable percentage of income replacement in the case of either work-related injury *or* retirement. Such a change in policy would cost approximately $58 billion dollars over ten years.

Most recently, the President threatened to veto the Department of Defense authorization bill because it contained a provision allowing concurrent receipts. Veterans groups, as expected, have been heated in their criticism of the Administration over this issue, and will continue to press their supporters to change policy and allow concurrent receipts.

---

[1] PL 7 veterans are veterans who (i) do not have a service-connected disability serious enough to qualify for disability compensation; (ii) have an annual income exceeding $24,000 ($27,000 with one dependent) or who have a substantial net worth; and (iii) do not qualify for care under other special provisions (e.g. World War I veteran, care for conditions associated with herbicide or radiation exposure, etc.)

REV_00159162

POW Legislation: American ex-POWs held by the Japanese have been active in trying to pass legislation that would allow them to sue Japanese corporations that used POW slave labor. The latest iteration in this effort is legislation sponsored by Republican Dana Rohrbacher (HR 1189). State Department believes the Rohrbacher bill would contravene our peace treaty with the Japanese, which shielded Japanese nationals from liability. A bill introduced by Michael Simpson, (HR 5235) would provide a pension benefit for former POWs.

VA had submitted a legislative proposal establishing a POW benefit, and supported the Simpson effort. In order to pay for the benefit, VA's proposal contained language overturning a recent court ruling that expanded the definition of service-connected disability to include alcoholism and drug-use. The POW benefit would have cost nearly $1.7 billion over ten years, while the offset would result in $4.6 billion in savings over the same period. However, the Administration chose not to send POW benefit legislation or publicly endorse the Simpson legislation because we would be creating an new entitlement without a guarantee that offset portion would survive.

C. Regulatory

Secretary Principi recently issued a regulation allowing VA to ensure priority care for veterans with severe service-connected disabilities. Priority for treatment for service-connected veterans does not reduce the number of veterans VA treats, but does reduce the amount of time veterans seeking treatment for a service-connected disability must wait before receiving care. Predictably, the regulation was criticized as a "cut" in veterans benefits (most particularly by Senator Rockefeller).

REV_00159163

Criminal Justice

II. Looking Back: Review of '01 and '02

A. Achievements

Tort Reform

- Teacher Protection Act: As part of No Child Left Behind Act, the President signed into law the Teacher Protection Act, which provides civil immunity from state and Federal actions to teachers, principals, and other education professionals for actions taken to maintain discipline, order, or control in the classroom or school. The President promised to support the Teacher Protection Act during the campaign.
- Class Action Reform: The Administration sent a Statement of Administration Position (SAP) supporting the Class Action Fairness Act (H.R. 2341), which passed the House and is pending in the Senate. The bill would allow removal of cases to Federal court when the amount in controversy exceeds $2 million and there is minimal diversity. This is consistent with the campaign promise to "allow large cases to be removed from state to federal court where only minimal diversity exists."* Also, the bill establishes a consumer class action bill of rights, including notice of lawsuits in "plain English" and requires judicial review of non-cash benefits like coupons.
- Medical Liability Reform: In July 2002, President proposed national minimum standards in healthcare cases, including limits on non-economic damages and punitive damages, proportional liability, and informing juries of other sources of reimbursement. It would also protect from use in lawsuits reports and information about efforts of Patient Safety Organizations to improve patient care. The House approved this legislation.

Campaign Finance Reform

- In March 2002, the President signed H.R. 2356, the Campaign Finance Reform Act. The Act contains various provisions the President supported, including a ban on unregulated, "soft" money contributions from unions and corporations, increased limits on individual giving, and new and more expedited disclosure requirements. However, it also includes provisions that raise constitutional concerns, such as the broad ban on issue advertising.
- The bill contains reforms the President promised to support during the campaign, including: "banning 'soft money' contributions from labor unions and corporations" and "raising individual contribution limits." As enacted, it did not include provisions advocated by the President such as "enforcement of the Beck decision and enactment of effective 'Paycheck Protection'" legislation or "instant disclosure of contributions" (although it did further lessen the amount of time before disclosure was required).*

Election Reform

- The President endorsed four guiding principles embodied in the May 2001 report of the bipartisan National Commission on Election Reform: (1) primacy of state, county and local governments in elections; (2) a limited but responsible role for the federal government in assisting states and localities with election administration so that voting technology and practices respect the value of every eligible vote; (3) need for active and

vigorous enforcement of voting rights laws; and (4) need to uphold the voting rights of members of the armed services and of Americans living abroad.

- The President signed legislation consistent with these principles. It also contains important tools to decrease fraud in our voting systems.
- The bill authorizes $3.9 billion over four years for a variety of grant programs, including general improvement of the election administration system, and improved access to the voting process for individuals with disabilities. The Administration has proposed to spend $1.2 billion in matching grants to fund a state revolving fund to be used in election administration. The first of three $400 million installments was included in the President's FY 2003 budget.

Affirmative Action

- The President stated during the campaign that he "supports 'affirmative access' to open the doors of opportunity" to all Americans, and "opposes quotas and racial preferences."* The goal is to provide greater opportunity and access without creating race-conscious remedies that only benefit particular racial or ethnic groups. His Administration has done so in the following contexts:

    - Education: The No Child Left Behind Act establishes high standards and accountability for all public schools. Educating every American to his or her full potential was part of the campaign's affirmative access goals.
    - Contracting: The President's Small Business Agenda includes promoting the unbundling of contracts so that small businesses that are not capable of bidding for entire projects are not disadvantaged. This meets his campaign promise to advocate "breaking down government contracts to smaller sizes to encourage entrepreneurship in all communities" as a way to promote affirmative access.* Also, the President instructed the OMB Director to review contracting practices at relevant agencies to make sure their practices reflect a commitment to full and open competition.
    - Housing: The President announced a homeownership initiative targeted at increasing homeownership for minority families. It includes proposals to increase the supply of affordable homes for low and moderate income families, provide downpayment assistance, more educational assistance, and a "Homeownership Challenge" to the real estate and mortgage finance industries to help increase the number of minority homeowners by 5.5 million families by the end of the decade. This initiative does not rely on racial classifications.

New Freedom Initiative

Community Living

- *Olmstead*: By Executive Order, the President required Federal agencies to assist states and localities to implement the Supreme Court's *Olmstead* decision. *Olmstead* requires states to place qualified individuals with disabilities in community settings, rather than in institutions, whenever treatment professionals determine that such placement is appropriate, the affected persons do not oppose such placement, and the state can reasonably accommodate the placement, taking into account the resources available to the state and the needs of others with disabilities.

REV_00159166

- In response, key Federal agencies conducted the first comprehensive Federal review of barriers that prevent people with disabilities from living in the community and identified over 400 potential solutions to remove impediments to community-based living, which agencies have begun to implement.
- Medicare Homebound Rules: The President announced a clarification with respect to Medicare recipients with disabilities who are considered "homebound." This change makes it clear that people with significant disabilities may leave their homes for occasional activities without losing their Medicare homebound services.

Education

- IDEA: The President requested the largest increases of any President in history for the Individuals with Disabilities Education Act (IDEA) Part B State Grants program in his FY 2002 and FY 2003 budgets. The President signed legislation increasing by $1.2 billion in FY 2002 budget for the IDEA Part B State Grants program.
- Special Education Commission: The President issued Executive Order 13227 in October 2001 creating the Presidential Commission on Excellence in Special Education. The Commission issued its report to the President on July 1, 2002.

Technology

- Section 508: The President promised full enforcement of Section 508 of the Rehabilitation Act, which requires that all Federal government electronic and information technologies be accessible to individuals with disabilities. In response, the Administration collaborated to expedite Section 508 implementation, and produced extensive technical guidance and training materials that will be helpful to Federal agencies and others interested in accessible technologies.

Homeownership

- HUD Section 8: The President committed to revising the HUD Section 8 rent subsidy program to permit people with disabilities to use up to one year's worth of Section 8 rent subsidy vouchers to finance a down payment and purchase a home. HUD has implemented this pilot program.

Employment Integration

- Ticket to Work: The President promoted swift implementation of the Ticket to Work and Work Incentives Improvement Act, which provides incentives for more than 7.5 million Americans receiving benefits under Federal disability programs to return to work.

Other

- Commission on Mental Health: The President formed the New Freedom Commission on Mental Health to conduct a comprehensive study of the Nation's mental health service delivery system.
- Access to Voting Places: The President will sign legislation mandating increased access to polling places by individuals with disabilities.

REV_00159167

- DisabilityInfo.gov: By Executive Memorandum, the President created a single source Federal web site providing access to all the Federal web sites important to people with disabilities. This web site was launched in October 2002.
- NFI Budget: The President secured funding for the vast majority of NFI programs in FY 2002 and requested a higher overall level of NFI-related funding in FY 2003. In the FY 2002 budget, the President requested $10.781 billion and received $10.872 billion. In the FY 2003 budget, he is seeking $1.39 billion over 2002 appropriations.

B. Outstanding Commitments

Civil Justice
Tort Reform
The President promised during the campaign to "support meaningful, broad-based tort reform" to discourage frivolous lawsuits. Congress has not acted on the following items the President pledged to support:

- "Strengthen Federal Rule 11 to require stiffer penalties for frivolous suits, and impose a 'Three Strikes, You're Out' rule on attorneys who repeatedly file frivolous claims."
- "Limit 'fishing expeditions' by amending federal discovery rules, and curb the use of 'junk science' by raising the federal standard for admission of scientific testimony."
- "Eliminate the much-abused private cause of action under the RICO statute."
- "Raise the amount in controversy for removal where there is complete diversity."
- "Enact a 'Fair Settlement Rule,' requiring parties who reject a pre-trial settlement offer, and who ultimately lose their case or receive substantially less at trial, to pay the other party's costs, including legal fees."
- "Enact a 'Client's Bill of Rights' to allow federal courts to hear challenges to attorneys' fees, and require attorneys to disclose their ethical obligation to charge reasonable fees."

The President's remaining campaign civil justice system reform pledge was to "Issue an Executive Order prohibiting Federal agencies from paying contingency fees."* This executive order is currently being drafted.

New Freedom Initiative

- Transportation Grants: The President requested $145 million in his 2002 and 2003 budgets for competitive grants through the Department of Transportation to provide alternative transportation services to give people with disabilities increased access to the job market, and to fund a pilot program to demonstrate innovative solutions for overcoming transportation barriers. This is the major NFI program that was not funded in FY 2002. The reason appears to be lack of available resources rather than any problem with the program itself.

* References A Fresh Start for America: Policy Addresses of George W. Bush. Otherwise, quotes reference campaign position papers compiled in Renewing

REV_00159168

America's Purpose: Policy Addresses of George W. Bush, July 1999 – July 2000.

II. Looking Forward: '03 Agenda

B. Legislative

Civil Justice

Civil Justice Reform. Tort reform, including class action reform and medical malpractice liability reform, will not likely be resolved this year and will be an issue in the 108th Congress.

- Class Action Jurisdiction Act – This legislation has passed the House twice but has never been considered in the Senate. The President has endorsed it as a reform that will reduce inefficiency, waste and unfairness in the existing class action system, without curtailing plaintiff's rights or remedies.
  Other related legislation might involve anticipated changes to Rule 23 (governing class actions) that the Supreme Court is expected to propose on or before May 1, 2003. Some of these changes are to allow class members to opt out of the class once the terms of a proposed settlement are known; to allow the court to select class counsel; and to establish procedures for approval of attorney's fee awards. If Congress takes no action they would go into effect as proposed. However, there may be opportunities to strengthen the rule changes by legislation.
- Medical Malpractice Liability -- The House passed the HEALTH Act by vote of 217 – 203. The Senate is unlikely to consider the bill this Congress. However, as the public continues to suffer from increased medical insurance costs, watches doctors withdraw from practices where their insurance costs are prohibitive, and notes the absence of facilities such as trauma centers, there will be increasing pressure on the Senate to move next year.

Tobacco Control Legislation ('03)– Bipartisan legislation in Congress has been introduced to grant the FDA authority to regulate tobacco products. While the issue has not been highly visible in the 107th Congress, Democrats and some Republicans plan to raise its profile in the 108th Congress. The Administration may be required to take a position on the regulation of tobacco products, and should prepare a strategy to address this issue for early next year.

C. Regulatory

Civil Justice

FDA Drug Labeling Safe Harbor. The FDA reviews and approves every word on the label of any prescription drug product, and it requires manufacturers to obtain approval before modifying a drug label. Yet many courts permit lawsuits based on a claim that a drug manufacturer's label did not warn of a certain risk – even though the label fully complied with all federal safety requirements. Such lawsuits essentially allow a jury to second-guess the FDA's judgment regarding a product's label and develop labeling policy without considering all the consequences. Empirical evidence shows that these decisions actually jeopardize the public health, since labels that are too complicated or long lead to consumers' ignoring *all* warnings.

REV_00159169

FDA intends to promulgate a regulation expressly preempting tort failure-to-warn and other claims based on alleged deficiencies in a drug's label, as part of a new rule that will extensively revise drug-labeling requirements. These revised labeling requirements will result in simpler, more focused labels that will better protect the general public health.

This initiative could be unveiled at the Presidential level if desired.

SBA Women Owned Small Business Program

- SBA Women Owned Small Business Program: Congress authorized (but did not mandate) the creation of a new set-aside program for women-owned small businesses to restrict certain federal contracts to bidding by women-owned businesses, which would be the first newly-created set-aside program in this Administration.
- The SBA proposed regulations to implement the program, but they were of questionable constitutionality and withdrawn in the OMB process. Currently, SBA is reevaluating a Congressionally-mandated draft study it had developed to justify the program. After the revised study is complete next year, the Administration will have to determine whether to implement the program.

New Freedom Initiative

OPM Regulations

- The Office of Personnel Management regulations limit which entities can certify that an applicant has a disability. They are the state vocational rehabilitation agencies and the Department of Veterans Affairs. OPM is actively considering a change in regulation to add SSA as a certifying agency. This could streamline the process in allowing Ticket to Work candidates to apply for Federal jobs. This is expected to change in 2003.

REV_00159170

From: CN=Collister W. Johnson/OU=WHO/O=EOP [WHO]
To: Peter H. Wehner/WHO/EOP@EOP [WHO] <Peter H. Wehner>;Tevi Troy/OPD /EOP@Exchange@EOP [OPD] <Tevi Troy>;Alicia P. Clark/WHO/EOP@EOP [WHO] <Alicia P. Clark>;Stephen M. Garrison/WHO/EOP@EOP [WHO] <Stephen M. Garrison>;Lauren L. Willson/WHO/EOP@EOP [WHO] <Lauren L. Willson>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/3/2003 6:35:47 AM
Subject: : Re: Promises and Accomplishments
Attachments: P_WGMBE003_OPD.TXT_1.doc; P_WGMBE003_OPD.TXT_2.doc; P_WGMBE003_OPD.TXT_3.doc; P_WGMBE003_OPD.TXT_4.doc; P_WGMBE003_OPD.TXT_5.doc; P_WGMBE003_OPD.TXT_6.doc; P_WGMBE003_OPD.TXT_7.doc; P_WGMBE003_OPD.TXT_8.doc; P_WGMBE003_OPD.TXT_9.doc; P_WGMBE003_OPD.TXT_10.doc; P_WGMBE003_OPD.TXT_11.doc; P_WGMBE003_OPD.TXT_12.doc; P_WGMBE003_OPD.TXT_13.doc; P_WGMBE003_OPD.TXT_14.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Collister W. Johnson ( CN=Collister W. Johnson/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 3-MAR-2003 11:35:47.00
SUBJECT:: Re: Promises and Accomplishments
TO:Peter H. Wehner ( CN=Peter H. Wehner/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tevi Troy ( CN=Tevi Troy/OU=OPD/O=EOP@Exchange@EOP [ OPD ] )
READ:UNKNOWN
TO:Alicia P. Clark ( CN=Alicia P. Clark/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Stephen M. Garrison ( CN=Stephen M. Garrison/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Lauren L. Willson ( CN=Lauren L. Willson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

The RNC is working on both:
1. gathering past examples of "promises-accomplishments" documents, and
2. tracking DNC attacks on current "promises-accomplishments".

Before sharing those documents with us, Brett Kavanaugh and Counsel will
let us know guidelines -
thanks -

c
```

```
From: Tevi Troy/OPD/EOP@Exchange on 02/28/2003 01:14:13 PM
Record Type: Record

To: Lauren L. Willson/WHO/EOP@EOP
cc: Alicia P. Clark/WHO/EOP@EOP, Stephen M. Garrison/WHO/EOP@EOP,
Peter H. Wehner/WHO/EOP@EOP, Collister W. Johnson/WHO/EOP@EOP
Subject: Promises and Accomplishments

Attached please find all of the DPC promises and accomplishment documents,
taken out of the policy reviews done last fall.
;
The achievement section largely tracks which promises we have followed
through on.
;
```

The outstanding commitment section is just that.
;
Please note: these documents are not necessarily comprehensive, but take into account prioritization decisions made by the SAPs in each area.
;
Tevi
;
;
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WGMBE003_OPD.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WGMBE003_OPD.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WGMBE003_OPD.TXT_3>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WGMBE003_OPD.TXT_4>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WGMBE003_OPD.TXT_5>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WGMBE003_OPD.TXT_6>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WGMBE003_OPD.TXT_7>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WGMBE003_OPD.TXT_8>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WGMBE003_OPD.TXT_9>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WGMBE003_OPD.TXT_10>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WGMBE003_OPD.TXT_11>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WGMBE003_OPD.TXT_12>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WGMBE003_OPD.TXT_13>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WGMBE003_OPD.TXT_14>

Civil Justice Reform and New Freedom Initiative

II. Looking Back: Review of '01 and '02

A. Achievements

Tort Reform

- Teacher Protection Act: As part of the No Child Left Behind Act, the President signed into law the Teacher Protection Act, which provides civil immunity from state and Federal actions to teachers, principals, and other education professionals for actions taken to maintain discipline, order, or control in the classroom or school. The President promised to support the Teacher Protection Act during the campaign.

Campaign Finance Reform

- In March 2002, the President signed into law H.R. 2356, the Campaign Finance Reform Act. The Act contains various provisions the President supported, including a ban on unregulated, "soft" money contributions from unions and corporations, increased limits on individual giving, and new and more expedited disclosure requirements. However, it also includes provisions that raise constitutional concerns, such as the broad ban on issue advertising.
- The bill contains reforms the President promised to support during the campaign, including: "banning 'soft money' contributions from labor unions and corporations" and "raising individual contribution limits." As enacted, it did not include provisions advocated by the President such as "enforcement of the Beck decision and enactment of effective 'Paycheck Protection'" legislation or "instant disclosure of contributions" (although it did further lessen the amount of time before disclosure was required).*

Election Reform

- The President endorsed four guiding principles embodied in the May 2001 report of the bipartisan National Commission on Election Reform: (1) primacy of state, county and local governments in elections; (2) a limited but responsible role for the federal government in assisting states and localities with election administration so that voting technology and practices respect the value of every eligible vote; (3) need for active and vigorous enforcement of voting rights laws; and (4) need to uphold the voting rights of members of the armed services and of Americans living abroad.
- The legislation signed by the President largely follows these principles.
- The Administration has proposed to spend $1.2 billion in matching grants to fund a state revolving fund to be used in election administration. The first of three $400 million installments was included in the President's FY 2003 budget.

Affirmative Action

- The President stated during the campaign that he "supports 'affirmative access' to open the doors of opportunity" to all Americans, and "opposes quotas and racial preferences."* The goal is to provide greater opportunity and access without creating race-conscious remedies that only benefit particular racial or ethnic groups. Policies advocated during the campaign in the context of affirmative access have been implemented, as discussed below. However, the Administration has not proactively modified existing race-conscious programs from the prior Administration, such as government contracting programs.

    - Education: The No Child Left Behind Bill establishes high standards and accountability for all public schools. Educating every American to his or her full potential was part of the campaign's affirmative access goals.

    - Contracting: The President announced a Small Business Agenda earlier this year, which included promoting the unbundling of contracts so that small businesses that are not capable of bidding for entire projects are not disadvantaged. This is consistent with the campaign promise to advocate "breaking down government contracts to smaller sizes to encourage entrepreneurship in all communities" as a way to promote affirmative access.* Also, the President instructed the OMB Director to review contracting practices at relevant agencies to make sure their practices reflect a commitment to full and open competition.

    - Housing: The President announced a homeownership initiative targeted at increasing homeownership for minority families. It includes proposals to increase the supply of affordable homes for low and moderate income families, provide downpayment assistance and more educational assistance, and a "Homeownership Challenge" to the real estate and mortgage finance industries to help increase the number of minority homeowners by 5.5 million families by the end of the decade.

New Freedom Initiative

Community Living

- *Olmstead*: The President issued an Executive Order in June 2001 requiring Federal agencies to assist states and localities to implement the Supreme Court's *Olmstead* decision. *Olmstead* requires states to place qualified individuals with disabilities in community settings, rather than in institutions, whenever treatment professionals determine that such placement is appropriate, the affected persons do not oppose such placement, and the state can reasonably accommodate the placement, taking into account the resources available to the state and the needs of others with disabilities.
    - In response, key Federal agencies conducted the first comprehensive Federal review of barriers that prevent people with disabilities from living in the community and identified over 400 potential solutions to remove impediments to community-based living, which agencies have begun to implement.

REV_00159174

- Medicare Homebound Rules: During the ADA Anniversary event on July 26, the President announced a clarification with respect to Medicare recipients with disabilities who are considered "homebound." This change makes it clear that people with significant disabilities may leave their homes for occasional activities without losing their Medicare homebound services.

Education

- IDEA: The President requested the largest increases of any President in history for the Individuals with Disabilities Education Act (IDEA) Part B State Grants program in his FY 2002 and FY 2003 budgets. The President signed legislation increasing by $1.2 billion in FY 2002 budget for the IDEA Part B State Grants program.

- Special Education Commission: The President issued Executive Order 13227 in October 2001 creating the Presidential Commission on Excellence in Special Education. The Commission issued its report to the President on July 1, 2002.

Technology

- Section 508: In June 2001, the President promised full enforcement of Section 508 of the Rehabilitation Act, which requires that all Federal government electronic and information technologies be accessible to individuals with disabilities. In response, the Administration collaborated to expedite Section 508 implementation, and produced extensive technical guidance and training materials that will be helpful to Federal agencies and others interested in accessible technologies.

Homeownership

- HUD Section 8: The President in June 2001 committed to revising the HUD Section 8 rent subsidy program to permit people with disabilities to use up to one year's worth of Section 8 rent subsidy vouchers to finance a down payment and purchase a home. HUD later implemented this pilot program.

Employment Integration

- Ticket to Work: The President promoted swift implementation of the Ticket to Work and Work Incentives Improvement Act, which provides incentives for more than 7.5 million Americans receiving benefits under Federal disability programs to return to work.

Other

- Commission on Mental Health: In April 2002, the President announced the formation of the New Freedom Commission on Mental Health to conduct a comprehensive study of the Nation's mental health service delivery system.

- DisabilityInfo.gov: In August 2002, the President signed an Executive Memorandum creating a single source Federal web site dedicated to providing information that

REV_00159175

facilitates access to all the Federal web sites important to people with disabilities. This web site will be launched in October 2002.

- NFI Budget: The President secured funding for the vast majority of NFI programs in FY 2002 and requested a higher overall level of NFI-related funding in FY 2003. In the FY 2002 budget, the President requested $10.781 billion and received $10.872 billion. In the FY 2003 budget, he is seeking $1.39 billion over 2002 appropriations.

B. Outstanding Commitments

Civil Justice

Tort Reform

- The President promised during the campaign to "support meaningful, broad-based tort reform" to discourage frivolous lawsuits. Specific reforms on which no action has yet been taken are listed below.
  The following would require Congressional action:
  - "Strengthen Federal Rule 11 to require stiffer penalties for frivolous suits, and impose a 'Three Strikes, You're Out' rule on attorneys who repeatedly file frivolous claims."
  - "Limit 'fishing expeditions' by amending federal discovery rules, and curb the use of 'junk science' by raising the federal standard for admission of scientific testimony."
  - "Eliminate the much-abused private cause of action under the RICO statute."
  - "Raise the amount in controversy for removal where there is complete diversity."
  - "Enact a 'Fair Settlement Rule,' requiring parties who reject a pre-trial settlement offer, and who ultimately lose their case or receive substantially less at trial, to pay the other party's costs, including legal fees."
  - "Enact a 'Client's Bill of Rights' to allow federal courts to hear challenges to attorneys' fees, and require attorneys to disclose their ethical obligation to charge reasonable fees."
  - "Require private lawyers who contract to represent states or municipalities to return any excessive fees to their government clients."

  The following could be accomplished administratively:
  - "Issue an Executive Order prohibiting Federal agencies from paying contingency fees."*

- Class Action Reform: The Administration sent a Statement of Administration Policy (SAP) supporting the Class Action Fairness Act (H.R. 2341), which passed the House and is pending in the Senate. The bill would allow removal of cases to Federal court when the amount in controversy exceeds $2 million and there is minimal diversity. This is consistent with the campaign promise to "allow large cases to be removed from state to federal court where only minimal diversity exists."* Also, the bill establishes a consumer class action bill of rights, including notice of lawsuits in "plain English" and required judicial review of non-cash benefits like coupons.

REV_00159176

- Medical Liability Reform: In July 2002, President proposed national minimum standards in healthcare cases, including limits on non-economic damages and punitive damages, proportional liability, and informing juries of other sources of reimbursement. He also supports legislation that would protect from use in lawsuits reports and information about efforts of Patient Safety Organizations to improve patient care.

New Freedom Initiative

- Transportation Grants: The President requested $145 million in his 2002 and 2003 budgets for competitive grants through the Department of Transportation to provide alternative transportation services to give people with disabilities increased access to the job market, and to fund a pilot program to demonstrate innovative solutions for overcoming transportation barriers. This is the major NFI program that was not funded in FY 2002. The reason appears to be lack of available resources rather than any problem with the program itself. The President specifically referenced the need to fund this program during his ADA Anniversary White House event in July.

* References A Fresh Start for America: Policy Addresses of George W. Bush. Otherwise, quotes reference campaign position papers compiled in Renewing America's Purpose: Policy Addresses of George W. Bush, July 1999 – July 2000.

II. Looking Forward: '03 Agenda

B. Legislative

Civil Justice

- Tort reform, including class action reform and medical malpractice liability reform, will not likely be resolved this year and will be an issue in the 108th Congress.

- Election reform will remain an issue for the 108th Congress if not resolved in conference this year.

C. Regulatory

Civil Justice

SBA Women Owned Small Business Program

- SBA Women Owned Small Business Program: Congress authorized (but did not mandate) the creation of a new set-aside program for women-owned small businesses to restrict certain federal contracts to bidding by women-owned businesses, which would be the first newly-created set-aside program in this Administration.
- The SBA proposed regulations to implement the program, but they were of questionable constitutionality and withdrawn in the OMB process. Currently, SBA is reevaluating a Congressionally-mandated draft study it had developed to justify the program. After the revised study is complete next year, the Administration will have to determine whether to implement the program.

REV_00159177

REV_00159178

LABOR POLICY

II. Looking Back: Review of '01 and '02

A. Achievements.

- Issuance of Executive Orders on Project Labor Agreements and Notification of "Beck" Rights.
- Creation of Office of 21st Century Workforce and appearance by President at 21st Century Workforce Summit (May 2001) to address challenges facing our workforce in the new economy, such as changing workplace demographics and technology.
- Issuance of DOL's ergonomics plan, which features issuance by the Occupational Safety and Health Administration (OSHA) of industry-specific guidelines for ergonomic workplace safety, instead of a far-reaching, onerous, one-size-fits all federal mandate. This action was consistent with the President's campaign statement: "As for OSHA's proposed ergonomics standards, I believe the federal government should provide workers and businesses with information about ergonomic-related injuries, but it should not impose far-reaching federal regulations that are neither clear nor rooted in strong science."
- Participation in record number of Health and Safety Partnerships. Health and Safety Partnerships between labor unions and the Department of Labor are at an all time high. In 2001, labor unions participated in 465 safety partnerships with DOL, including a partnership with the Laborers Union to address the anthrax threat.
- Proposal of "Back to Work Relief" package shortly after September 11, which culminated in the signing into law (early 2002) of a major element of that package -- extended unemployment benefits for thirteen weeks for all dislocated workers.
- Signing into law major expansion and reauthorization of Trade Adjustment Assistance program to provide for assistance for workers impacted by trade, including job training, financial assistance, and, for the first time, assistance with health insurance. Reauthorization of TAA was crucial to passage of Trade Promotion Authority, one of the President's major legislative priorities.
- Pennsylvania Mine Rescue – Mine Safety and Health Administration (MSHA) played a major role in the rescue of the miners at Quecreek Mine in Pennsylvania.

B. Outstanding Commitments

- Propose "Compensatory Time" amendment. The "Tools for Parents" document produced during the campaign stated "Governor Bush will propose to amend the FLSA to provide private sector employees the option . . . of taking comp time instead of overtime pay." President Bush has twice spoken in favor of comp time since taking office, but has not proposed actual legislation or pushed for enactment of existing legislation.
- Propose amendment to Occupational Safety and Health Act to ensure that private, residential homes will not be subject to OSHA regulations. The "Tools for Parents" document produced during the campaign stated "Governor Bush will propose

legislation to amend the Occupational Safety and Health Act to prohibit the Act from being applied to employees who work at home." President Bush has not spoken about this proposal since taking office, but the Department of Labor issued a directive during the Clinton Administration committing to keep OSHA out of home offices, and the directive is still in effect.

- Seek to enact "Paycheck Protection" legislation as part of campaign finance reform legislation. The campaign finance reform fact sheet produced by Governor Bush's campaign pledged that "Governor Bush will accompany the ban on union and corporate soft money with legislation to enact "Paycheck Protection" preventing union bosses from directly spending roughly $300 million in union dues annually -- without members' permission – to support candidates of the bosses' choosing." A campaign finance reform bill was signed into law by the President earlier this year, and efforts to include a "Paycheck Protection" provision were defeated.

III. Looking Forward: '03 Agenda

A. **Legislative** (active legislative issues)

- Davis Bacon in the Homeland Security bill – The current Senate version of the bill creating the Department of Homeland Security (DHS) contains a provision applying Davis-Bacon to construction projects funded with assistance from the DHS. The House bill has no such provision. Some Senate Republicans plan to fight the provision in the Senate, but do not have the votes to win an up-or-down vote. Certain House Republican conferees will vigorously fight in conference to keep the provision out of the final bill.
- Workforce Investment Act Reauthorization – The legislation that authorizes the federally-funded, state-run job training system expires on September 30, 2003 and must be reauthorized before that date. DOL plans to have a legislative proposal ready to send to Congress by January 2003.
- Minimum Wage increase – Democrats will likely continue to try to increase the minimum wage by $1.50 over 18 months.
- Extended Unemployment Insurance Benefits – workers who lost their jobs right after September 11 have already exhausted even the additional 13 weeks of benefits granted by the economic stimulus bill, and the entire extended benefit program ends at the end of Calendar Year 2002. Democrats in both the House and the Senate are already pushing legislation to extend the program and create another 13-week extension. Another extension could cost as much as $11 billion.
- Genetic Discrimination Legislation – The President has endorsed legislation prohibiting employment discrimination based on genetic information, but there is competing legislation in both the House and the Senate. Congress, with technical assistance and encouragement from the Administration, is working on a compromise bill that both Houses could pass. The bills differ mainly over private rights of action and damages levels.
- Unemployment Insurance/Employment Services (UI/ES) Reform – The President's FY '03 budget proposed a comprehensive reform of the UI/ES system to cut employer taxes, return trust fund money to the states and gradually shift responsibility for all administrative costs to the states. The proposal is stalled in Congress.

REV_00159180

B. Regulatory

- Revision of Family and Medical Leave Act (FMLA) Regulations -- The Clinton Administration issued several regulations implementing the FMLA that have made it extremely difficult and onerous to implement. The Supreme Court recently struck down one such regulation as an improper interpretation of the statute. DOL plans to seek comment on and propose changes to these regulations.
- Revision of Fair Labor Standards Act (FLSA) Regulations -- Certain "white-collar" professions are exempt from FLSA requirements, but the regulations defining these exemptions are vague, out-dated, and extremely difficult to administer. Employers and employees alike agree that these regulations need to be updated. DOL plans to seek comment on and propose changes to these regulations.
- Revision of Regulations Governing Union Financial Disclosures – DOL plans to seek comment on proposed revisions in late November-December 2002. See discussion in new policy recommendation #2 below.

REV_00159181

Drug Policy

II. Looking Back: Review of '01 and '02

A. Achievements.

1. **Presidential Events:** Announcement of Director of National Drug Control Policy, May 10, 2001 ("announcement"); Signing Drug-Free Communities Act Reauthorization Bill, December 14, 2001 ("signing"); Remarks on the 2002 National Drug Control Strategy, February 12, 2002 ("strategy").
2. **Stopping Use Before it Starts:** Education and Community Action—Implementing the first priority of the National Drug Control Strategy has produced accomplishments across all sectors relevant to drug prevention: communities, schools, parents, and work places.
   a. **Empower Community and Faith-Based Groups to Fight Drugs** (campaign, announcement, signing, strategy)—On track to meet President's commitment to double community coalitions in five years. The Drug-Free Communities Act has been successfully reauthorized and appropriations are on track for FY02 and FY03. The program includes expansion in rural and under-served areas and the continued involvement of faith leaders.
   b. **Ensure Students have Access to Drug-Free Schools** (campaign, strategy)—No Child Left Behind reauthorized the Safe and Drug-Free Schools program, requiring accountability for grant recipients pursuant to the President's commitment. Department of Education has begun work on implementation of the new accountability with OMB and ONDCP. Additionally, ONDCP and Education have produced and are distributing a guide to drug testing for schools.
   c. **Mobilize Parents in the War on Drugs** (campaign, announcement, strategy)—ONDCP has used the National Youth Anti-Drug Media Campaign to reach parents and increase their efficacy in dealing with their kids on drug abuse. Additionally, we have worked to develop a parent drug corps. Although the Appropriations Committees appear poised to deny our request for a second year, we have provided grants from existing authority at SAMHSA to support the efforts of non-profits to develop a parent drug corps in several states.
   d. **Promote Drug-Free Workplaces** (campaign)—The Administration continues to implement a small business drug-free workplace program, although at a lower funding level than the President originally committed ($3M per year v. $5M per year). Additionally, the National Youth Anti-Drug Media Campaign has launched the @Work program, which enrolls corporations in a program to provide drug-free workplace materials through existing corporate infrastructure (e.g., intranets, company newsletters).
3. **Healing America's Drug Users:** Getting Treatment Resources Where They Are Needed—Health and Human Services is on track to meet the budgetary commitment of an additional $1.6B in treatment resources and doubling the budget for the National Institute on Drug Abuse over five years. Department of Justice has met the President's commitment to drug-free federal prisons with an outstanding array of anti-drug programs that provide a great example for state correctional systems. Additionally, in

the Residential Substance Abuse Treatment (RSAT) program, which provides funds for treatment to States for use in correctional settings, we requested a $10M increase in FY02, and received $7M, for a total of $70M. In FY03, we requested an additional $7M.

4. **Disrupting the Market:** Attacking the Economic Basis of the Drug Trade
   a. **Secure and Defend our Borders** (campaign)—The Administration has provided $100M over the first two years of a $250M over 5 year commitment to reimburse local governments for prosecuting drug cases on the southwest border.
   b. **Clean up Meth labs** (campaign)—The campaign paper committed $100M over 5 years at DEA for Meth lab clean up, and the funds were provided through the retooled COPS program.
5. **Fighting the War on Terror** (signing, strategy)—The President has effectively linked the issues of drugs and terror in his public statements, demonstrating that the purchase of illegal drugs funds terrorist activity and violence. The National Youth Anti-Drug Media Campaign has used this theme in a group of ads released at the Super Bowl and a second group to be released in September.
6. **Oppose legalization** (announcement)—The President came out strongly against drug legalization and Director Walters has visited and will continue to visit the three states that have legalization ballot initiatives this fall—Arizona, Ohio, and Nevada.

B. Outstanding Commitments

1. **Healing America's Drug Users**—While the Administration has made substantial progress on providing treatment, particularly in the budget, some of the President's policy commitments have not yet been met.
   a. **Treatment**—While we have met the funding commitment, we are still working to fully implement three policy changes: (1) making state grant awards performance-based, and (2) ensuring that non-medical faith-based and community providers are eligible for funds on the same basis as other groups, (3) targeting resources to the greatest need. (See "Turning Back the Tide of Drugs," October 6, 2000: "Federal funds will be provided to support drug treatment programs that prove demonstrated results. And faith-based and community-based organizations will be fully eligible as well, provided they can demonstrate the same effectiveness.")
   b. **Drug Courts**—We have not fully met our funding commitment to the drug courts program, increasing funding by $50M over five years, nor have we made policy changes to improve drug courts. We did not request an increase in FY02 maintaining the request at the base $50M. In the FY03 budget, we requested an increase of $2M. (See "Turning Back the Tide of Drugs," October 6, 2000: "Drug Courts: Increase funding by $50 million over five years for drug courts, share best practices, and hold them accountable for results. Under a Bush Administration, the Department of Justice will support local drug courts that combine drug testing with effective monitoring.")
2. **Stopping Use Before It Starts**—Although we have made progress in ensuring that students have access to drug-free schools, there remains important implementation work to do on No Child Left Behind and we have not increased funding for Safe and Drug Free Schools, despite a campaign commitment to add $20M/year for five years. (See "Turning Back the Tide of Drugs," October 6, 2000: "Work to make all schools

REV_00159183

drug-free: Increase funding for the Safe and Drug-Free Schools program by $100 million over five years, but require that states and districts measure and report drug use and demonstrate effective use of federal funds.")

III. Looking Forward: '03 Agenda

B. Legislative (active legislative issues)

1. ONDCP Reauthorization—ONDCP's organic statute, including authorizations for several of its programmatic responsibilities.
2. Substance Abuse and Mental Health Services Administration (SAMHSA) Reauthorization—HHS prevention and treatment programs, including the principle drug-related block grant.
3. Coverdell Drug-Free Workplace Reauthorization—Grants to support technical assistance and services for small business drug-free workplace programs.
4. Faith Bill (if not completed in '02)—Provisions allowing faith-based organizations to receive federal assistance for treatment and prevention services.
5. Department of Homeland Security Authorization (if not completed in '02)—Many counter-drug law enforcement functions are responsibilities of the new DHS.
6. Department of Justice Reauthorization (if not completed in '02)—includes most drug enforcement agencies, drug courts program.

C. Regulatory—None.

REV_00159184

Environment and Natural Resource Policy

II. Looking Back: Review of '01 and '02

A. Achievements.

The first 18 months of this Administration has been marked by the fulfillment of a wide range of commitments in the environmental and natural resource areas, as outlined below. Two Presidential Initiatives – Clear Skies and Healthy Forests – represent priority, "signature," policies that will require strong and coordinated, multi-agency efforts to achieve Congressional approval and subsequent implementation.

1. **Brownfields Cleanup and Restoration** *(campaign commitment)*: On January 11, 2002, President Bush signed historic legislation that will facilitate cleanup and redevelopment of contaminated industrial sites – "brownfields" – improving the environment, protecting public health, creating jobs, and revitalizing communities. The President's '03 budget proposal provides $200 million – twice the '02 level of funding – for EPA's brownfields program, $171 million of which is for grants for states and local communities.
2. **Clear Skies Initiative** *(campaign commitment)*: On February 14, 2002, President Bush announced an initiative that will cut power plant emissions of the three major air pollutants – nitrogen oxides, sulfur dioxide, and mercury – by 70 percent by 2018. In late July 2002, the President's Clear Skies legislation was introduced by Senator Smith and Congressmen Tauzin and Barton. The Initiative, contrary to the campaign commitment, does not include carbon dioxide which is now addressed in the President's climate change policy.
3. **Global Climate Change** *(campaign commitment)*: The Administration is partially on track to meet this commitment through the announcement of three initiatives focused on science, technology, and mitigation. On June 11, 2001, the President announced a new commitment to develop a science-based climate change policy (Climate Change Research Initiative), and a new commitment to funding research on "breakthrough technologies" (National Climate Change Technology Initiative) that will help meet the long-run climate change challenge. On February 14, 2002, the President announced a new approach to climate change that commits America to cut greenhouse gas intensity by 18% over the next 10 years. A range of domestic and international initiatives accompanied the February 14 announcement. **The National Climate Change Technology Initiative has not evolved sufficiently,** (see Outstanding Issues Section).
   a. **Created the Climate Change Research Initiative** *(1st-year commitment)*: The objective of this initiative is to promote a vision focused on the effective use of scientific knowledge in policy and management decisions, and continued evaluation of management strategies and choices. To meet this commitment to climate research, the U.S. will spend $1.7 billion in FY'03 for basic research on climate change, $40 million of which is dedicated to leverage other funding to address major gaps in scientific understanding including the carbon cycle and the role of black soot, aerosols, and clouds.

b. **Climate Change Mitigation Policy** *(2nd-year commitment)*: The President announced a new strategy that commits America to cut greenhouse gas intensity by 18% over the next 10 years. To help meet this commitment, the President directed the Secretary of Energy to substantially improve the registry to enhance measurement accuracy, reliability and verifiability of voluntary emissions reductions and to give transferable credits to companies that can show real emissions reductions. Numerous other domestic and international initiatives will help meet this goal.

4. **Energy Project Streamlining** *(1st-year commitment)*: Executive Order #13212 was signed on May 18, 2001. The White House Task Force on Energy Project Streamlining was charged with conducting a top-to-bottom review of federal procedures in order to find ways to expedite the review of permits for projects that will increase the production, transmission, and conservation of energy, while maintaining safety, public health, and environmental protections.
5. **Restoring the Everglades** *(campaign commitment)*: To fulfill a campaign pledge, President Bush and Florida Governor Jeb Bush, in January 2002, signed an agreement that ensures adequate water supplies are available to support the 30-year Comprehensive Everglades Restoration Plan (CERP). This agreement further bolsters the Bush Administration's strong support for the 30-year, $7.8 billion CERP, the most comprehensive and ambitious ecosystem restoration project ever undertaken in the United States. The President's FY'03 budget proposal includes $245 million for Everglades restoration.
6. **Protecting our National Wildlife Refuges**: The President's FY'03 budget proposes a record $376 million, up $57 million from FY'02, for our National Wildlife Refuges as we prepare to celebrate the system's 100-year anniversary on March 14, 2003. **Opportunity for White House participation and profile in this celebration.** The Department of the Interior's Centennial Campaign will improve resource conservation, visitor programs, and facilities on wildlife refuges nationwide and increase visibility for wildlife refuges by strengthening and expanding partnerships.
7. **Landowner Incentive Program** *(campaign commitment)*: Fulfilling a campaign pledge, President Bush has created new landowner incentives and private stewardship grant programs, which Congress funded at $50 million. The President's FY'03 Budget includes an additional $10 million – for a total of $60 million – for these programs. The Department of Interior also is seeking $100 million for a new Cooperative Conservation Initiative to protect and conserve the environment through partnerships that will tap the ingenuity, imagination, and innovative spirit of American citizens. Challenge grants will be awarded competitively to landowners, environmental groups, land-user groups, communities and local and state governments. In addition, the President signed legislation temporarily ending the estate tax, which will allow more lands to stay in family ownership and prevent habitat fragmentation.
8. **Oppose Breaching Dams in the Pacific Northwest** *(campaign commitment)*: The Administration continues to uphold this position. The Administration has supported local efforts to restore salmon runs and provided $20 million in funding for local salmon recovery projects.
9. **Conservation Title of the Farm Bill**: The Administration worked with the Congressional conference committee to ensure a forward-looking farm policy that more than doubles the funding to enhance conservation and environmental

REV_00159186

stewardship on private lands. On May 13, 2002, President Bush signed the Farm Security and Rural Investment Act into law, which will add $17.1 billion over the next ten years to existing programs.

10. **Klamath Basin Cabinet-level Panel** *(1st-year commitment)*: On March 1, 2002, the President established a Cabinet-level panel to recommend within 18 months ways to enhance water quality and quantity in Oregon's Klamath River Basin. President Bush named Secretaries Norton, Veneman, Evans, and Chairman Connaughton to head the panel.
11. **Tropical Forest Conservation Act** *(campaign commitment)*: On track to meet the President's TFCA commitments. Agreements with Belize, El Salvador, and Bangladesh, and the Philippines have been completed. The President's FY '03 budget request of $40 million for "debt for nature" agreements with developing countries nearly triples funding for this successful program, which preserves species habitat and sequesters greenhouse gases.
12. **Offshore Drilling** *(campaign commitment)*: On track to support position on a moratorium against offshore drilling in Florida. The Administration has taken active steps to ensure no drilling will occur off the coast of Florida, in two distinct actions announced in May, 2002, (lease buy back at Destin Dome and purchase of drilling rights in the Everglades). The Administration also adjusted Lease Sale 181 to further ensure there would be no drilling offshore in Florida. Resolving controversial leases along California coastline could present opportunity; complex litigation, however, is now in process.
13. **Fully Fund the Global Environment Facility** *(2nd-year commitment)*: The 2002 U.S. pledge includes $107.5 million per year for each of the four years of the replenishment period, plus another $70 million in the fourth year if the GEF meets a set of performance measurements agreed to by donors. In addition, the Administration is requesting $70.3 million annually for the next three years to pay off U.S. arrears accumulated during the previous Administration. The GEF is the primary international institution for transferring energy and sequestration technologies to the developing world under the United Nations Framework Convention on Climate Change (UNFCCC).
14. **Eliminating Persistent Organic Pollutants (POPs)**: To protect the American people and the world from the dangers of 12 chemicals that persist in the environment long after their use, President Bush announced the United States' support for the Convention on Persistent Organic Pollutants. Governor Whitman signed the treaty, which bans or restricts the production, use, and/or release of 12 chemicals that have been linked to numerous adverse effects in humans and animals, including cancer, central nervous system damage, reproductive disorders, and immune system disruption. The Administration sent the treaty to the U.S. Senate for ratification in April 2002.
15. **Forest Health Initiative** *(2nd-year commitments)*: On August 22, 2002, the President announced a new initiative that will significantly reduce the damage caused by catastrophic wildfires, by removing unnecessary regulatory obstacles that hinder active forest management to improve forest health. He called upon Congress to work with his Administration to pass legislation that addresses the unhealthy forest crisis by expediting procedures for forest thinning and restoration projects.

REV_00159187

16. **Northwest Forest Plan**: On August 22, 2002 the President also emphasized the promise of the 1994 Northwest Forest Plan to ensure sustainable forest management and appropriate timber production. On September 12, 2002, a House bill was introduced to implement the Administration's strategy.
17. **World Summit on Sustainable Development (WSSD)**: The WSSD was successful in four major areas. First, the Plan of Action and Head of State Declaration reaffirmed the importance of good national governance, national investment in sound economic and social policies and the shared responsibilities between developed and developing countries as a basis for development. As such, the WSSD reinforced the new "compact for development" launched at the Monterrey Financing for Development Conference. Second, the WSSD acknowledged the importance of partnerships among governments, private sector and non-government organizations as an importance new means of implementing the WSSD action Plan. Over 220 partnerships (with $235 million in resources) were identified in advance off the Summit, and around 60 partnerships were announced during the Summit by a variety of countries. Third, the Action Plan focused on obtaining concrete results, many with specific timetables and achievable targets. Fourth, the US led and announced partnerships in four major areas: $970 million in investments over 3 years on water and sanitation projects, largely in Africa; $43 million in 2003 to leverage an estimated $400 million in clean energy for rural and poor communities; $90 million in 2003 for sustainable agricultural programs; $53 million for forest protection in the Congo Basin. The U.S. also reaffirmed its commitment of $2.3 billion through 2003 on health and combating HIV/AIDS and infectious diseases.

B. Outstanding Commitments

1. **Fully Fund the Land and Water Conservation Fund** *(campaign commitment)*: The President committed during the campaign to fully fund DOI's Land and Water Conservation Fund at $900m. In our FY'02 and 03 budgets, the Administration significantly increased LWCF funding. The FY'03 budget proposed for LWCF was fully funded at $900m, although it did so by combining existing non-LWCF grant programs with LWCF grant programs. The Interior appropriation bills in Congress are not adhering to that budgeted amount, however, because certain programs, such as a new $100 million Cooperative Conservation Initiative, are not funded in the pending legislation. The Administration faces two challenges in FY04. First, we must devise a better strategy to fully fund the Cooperative Conservation Initiative. Second, certain environmental groups will be disappointed unless there is a large increase in funding for federal land acquisition. Thus, we should devise an outreach approach with groups supportive of the state grant programs that are being increased.
2. **Protecting National Parks** *(campaign commitment)*: In a campaign pledge, then-Governor Bush committed to seek funds for National Parks to eliminate within five years—by 2006—a $4.9 billion maintenance backlog identified in a rough 1996 National Park Service estimate. Although the 1996 survey was not a true survey of the actual maintenance backlog—because it also included some cyclic maintenance needs and "wish-list" items—the Administration's budgets have attempted to meet that $4.9b goal. Facilities maintenance constitutes $2.2 billion of the $4.9b total, and, if current funding commitments continue, the Administration will meet that goal. Road

REV_00159188

maintenance and construction constitutes $2.7billion of the $4.9b goal. That portion will be reauthorized and started but not completed by 2006 because the funding stream will be derived from the next transportation bill over the FY04-09 timeframe. Moreover, to meet the road construction goal, the Administration will need to prioritize that funding choice over certain other choices in the transportation bill such as funding for National Forest roads and highway safety.

3. **National Climate Change Technology Initiative** *(1st-year commitment)*: Promotes funding research on "breakthrough technologies" that will help meet the long-run climate change challenge. This program has not evolved sufficiently in interagency deliberations. While the Administration has made substantial budgetary commitments, some of the related programmatic commitments have not been adequately agreed upon or articulated.
4. **President's Award for Private Stewardship** *(campaign commitment)*: Establish this award to fulfill the President's campaign promise. A draft Executive Order is currently being reviewed.
5. **Missouri River** *(campaign commitment)*: The President committed the Corps of Engineers to consult with the Fish and Wildlife Service (FWS) under the Endangered Species Act to develop a change in the Master Manual that governs the Corps' operation of the Missouri River. Its release is anticipated in 2003.
6. **Environmental Compliance at Federal Facilities** *(campaign commitment)*: The President committed during the campaign to require all federal facilities to meet all environmental standards.

III. Looking Forward: '03 Agenda

B. Legislative (active legislative issues)

1. **Clear Skies**: President Bush announced an initiative that will cut power plant emissions of the three major air pollutants – nitrogen oxides, sulfur dioxide, and mercury – by 70 percent by 2018. In late July 2002, the President's Clear Skies legislation was introduced in Congress.
2. **EPA Cabinet Elevation**: A Bill has been introduced and the President has expressed his support.
3. **Energy Bill**: The Energy Bill includes tax incentives for renewable energy, cogeneration, and new technology. Also included in the Bill is a significant climate change title that the Administration opposes. While it will not likely survive the conference, legislative activity on this issue is very likely in 2003-2004.
4. **Forest Health Initiative:** The Administration is pursuing administrative and legislative reforms to implement the President's August 2002 initiative.
5. **Commission on Oceans Policy**: The Commission will be issuing its final report and recommendations to the President and Congress in March 2003, at which time implementing action will likely be required of the Administration, in close consultation with Congress. CEQ and other agencies are providing ongoing support to the Commission, the President, and Congress in this important policy issue.

C. Regulatory

REV_00159189

a. **New Source Review**: EPA and DOE forwarded a report to the President, in accordance with the National Energy Plan, recommending changes to the Clean Air Act New Source Review program. On June 13, EPA released a policy which outlined the proposed changes to the rules. The changes are in two parts: (1) rules that we will finalize that were originally proposed by the Clinton Administration. These deal with regulatory flexibility incentives for pollution control equipment and two accounting changes. The first will provide a more rigorous baseline calculation against which potential emission increases are measured. The second will require emission levels to be determined on an 'actual emissions compared to future actual emissions' basis. And (2) a proposed rule that will clarify what projects will be excluded from the New Source Review permitting process because they are routine maintenance, repair or replacement. OMB is currently reviewing both of these rule packages and intends to publish them in the near future.
b. **Total Maximum Daily Load (TMDL)**: In response to concerns expressed by Congress, the National Academy of Sciences, and others, EPA Administrator Whitman extended the effective date for the controversial TMDL rule through April 2003. The TMDL program will continue to operate under rules issued in 1985 and 1991, while the Administrator develops a more flexible and effective approach to TMDLs. The Administration will adopt rules to restore polluted waterbodies that are based on sound science and which will better integrate the several tools in the Clean Water Act to encourage clean-up actions even in advance of TMDLs.
c. **Combined Animal Feeding Operation (CAFO)**: EPA is currently working with State agencies to determine whether drinking water sources are impacted by upstream agricultural sources, and then advising on development and implementation of programs to address CAFO's and other sources.
d. **Wetlands guidance and rulemaking**: This fall EPA and the Corps of Engineers will initiate advance notice of proposed rulemaking to solicit public comment on issues relating to the extent of federal jurisdiction over waters of the United States, including tributaries and adjacent wetlands, for purposes of regulation under the Clean Water Act and related federal laws. The rulemaking is in response to a 2001 United States Supreme Court decision which limited federal jurisdiction over certain isolated intrastate isolated waters but which raised questions regarding jurisdiction over other waters as well.
e. **DOE regulations for voluntary greenhouse gas reduction registry**: As a part of the Climate Change Strategy, the Administration is committed to substantially improving the current voluntary emission reduction registration program under section 1605(b) of the 1992 Energy Policy Act and provide transferable credits. Secretaries Evans, Abraham, Veneman, and EPA Administrator Whitman made recommendations in a letter to the President in July 2002, to start a stakeholder process in the next six months; finalization of new standards by January 2004.
f. **Corporate Average Fuel Economy (CAFE)**: A key recommendation of the President's National Energy Policy directed the Secretary to undertake an immediate review of vehicle fuel efficiency standards. The Administration is dedicated to a responsibly crafted CAFE standard that is based on sound science, and takes into account passenger safety, economic concerns, and disparate impact on the U.S. versus

REV_00159190

foreign fleet of automobiles. New standards should extend to include light trucks, vans, and SUV's.

g. **Renewable fuels regulations**: The energy bill will likely contain language that will require regulatory changes in the federal reformulated gasoline program. The final conference report may very likely repeal the current 2% oxygenate requirement, ban MTBE (a widely used additive to bring down toxics and criteria pollutants), and impose an ethanol mandate. There may be new opt in/opt out language for states as well, with related regulatory activities checked by legislation.

h. **Transportation Streamlining**: DOT is chairing a "Transportation Infrastructure Streamlining Task Force" that will report to the President through the Chairman of the Council on Environmental Quality. The task force will formulate and implement administrative, policy, and procedural mechanisms that enable each agency required by law to conduct environmental reviews with respect to high - priority infrastructure projects to ensure completion in a timely and environmentally responsible manner. The task force will complete a report to the President once a year.

i. **Improving the implementation of the National Environmental Policy Act** (NEPA): The NEPA Task Force is examining how federal agencies can improve NEPA implementation and is currently gathering and assessing public comments. The Task Force plans to submit its report on making NEPA more effective and efficient to CEQ by the end of the calendar year. Until the Task Force reviews all of the comments, it is premature to conclude whether the report will include recommendations to update or revise sections of the CEQ Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR Parts 1500-1508).

j. **Endangered Species Act**: The Department of the Interior is improving incentive and Section 7 consultation tools available under the Endangered Species Act. Scheduled to be completed in 2003, these changes include greater private landowner protections under safe harbor agreements, extension of safe-harbor-like protections to the Fish & Wildlife Service's Partners for Fish and Wildlife Program, and advancement of conservation banking as an incentive-based tool for listed species mitigation.

k. **Grazing**: The Department of the Interior is developing options for greater citizen involvement in the administration of BLM grazing permits and the building and sustaining of working landscapes on public lands.

l. **National Monuments**: The Department of the Interior is developing a range of options for expanded citizen involvement in the stewardship of BLM National Monuments. Those options include collaborative and citizen-based participation in development of monument land-use plans.

m. **Dioxin Reassessment**: EPA will soon send a reassessment of the health effects of dioxin exposure. It will reconfirm EPA's position that dioxin is a toxic chemical that can cause both cancer and non-cancer adverse health effects. The reassessment also identifies animal fats in the commercial food supply (beef, pork, poultry, dairy, eggs, and fish) as the primary route of human exposure. The IWG will review the reassessment and determine whether the substantial questions about the health effects warrant a review by the National Academy of Sciences. The IWG, through the Food and Drug Administration and the U.S. Department of Agriculture, have already engaged the National Academy of Sciences to examine the potential trade-offs

REV_00159191

between the benefits of a balanced diet and the potential risk of dioxin exposure. The Academy is also examining potential opportunities for reducing dioxin input into the food supply.

REV_00159192

II. Looking Back: Review of 2002

A. Achievements.

- **Launched USA Freedom Corps (1/30/02):** During his State of the Union, the President announced his creation by Executive Order of the USA Freedom Corps as a Coordinating Council and office to be housed at the White House. The Mission of the USA Freedom Corps is to foster a culture of service, citizenship and responsibility.

- **Launched Citizen Corps Effort (2/1/02)**: More than 50,000 individuals have signed up online to participate in the newly created Citizen Corps. They join hundreds of thousands of individuals already volunteering at the local level with Citizen Corps-supported programs including CERT, Neighborhood Watch, and Volunteers in Police Service. More than 160 communities around the country have officially registered Citizen Corps Councils to coordinate local emergency prevention, preparation and response volunteer activity.
  - ✓ **Launched Citizen Corps *Citizens Preparedness Guidebook* (2/1/02)**: The guidebook produced by the National Crime Prevention Council with support from the Department of Justice and the USA Freedom Corps, gives Americans guidance on how to prepare for disasters and prevent crime in our homes, in our neighborhoods, at work, at the airport, in places of worship, and in public spaces.
  - ✓ **Launched Neighborhood Watch Expansion (3/6/02)**: General John Ashcroft and the USA Freedom Corps launched the expansion of Neighborhood Watch with the National Sheriffs Association. The launch included a new website, how-to materials for local communities and a public service ad campaign.
  - ✓ **Launched Volunteers in Police Service (5/30/02)**: General John Ashcroft and the USA Freedom Corps launched the Volunteers in Police Service (VIPS) program with the International Association of Chiefs of Police (IACP). The goal of VIPS is to provide support for resource-constrained law enforcement agencies by tapping civilian volunteers to supplement their community's law enforcement professionals in order to free up officers for frontline duty. The number of registered VIPS programs has doubled since the launch.
  - ✓ **Launched First Medical Reserve Corps Grants (9/02)**: On July 19, 2002, HHS announced the availability of $2 million in grants, during FY02, to help local officials develop volunteer Medical Reserve corps units. The MRC will strengthen local communities' capacities to respond to disasters and emergencies in the community, as well as strengthen the local public health infrastructure.
  - ✓ **Launched Community Emergency Response Team Initiative (2/1/02):** The Community Emergency Response Team (CERT) program helps train people to be better prepared to respond to emergency situations in their communities. CERT members support first responders in emergencies, provide assistance to victims, organize spontaneous volunteers at a disaster site, and collect disaster intelligence for first responders. Over the next two years, CERT aims to double the number of

participants, with over 400,000 individuals completing the 18 plus hours of training and funding was secured in the supplemental budget to achieve goals.

- ✓ **Appointed State Citizen Corps Contacts (6/02)**: 50 governors have assigned a state point of contact for Citizen Corps. From 7/31-8/1 these state contacts participated in a FEMA conference with select federal agencies, local governments and experts from volunteer agencies.

- **Launched Business Strengthening America (6/13/02)**: In June, President Bush met with business leaders who are working on a self-directed effort to get businesses involved in supporting and promoting volunteer service by their employees and customers. Financial services companies, grocers, hospitality companies and entertainment and media businesses are among those who have already made major commitments to support volunteer service in response to the President's "Call to Service." These companies have announced new policies, including paid leave time for employees to participate in volunteer service, sponsorship of volunteer projects involving employees, and the creation of resources to engage customers in volunteer service, and working to make a person's Record of Service relevant to getting a job.

- **Launched Public Service Announcement Campaign (7/30/02)**: The advertising campaign includes television, print, radio, and web products. President Bush appears in each of the ads, saying, "When you help your neighbors, you help your Nation. Everyone can do something. "New York Yankee Mariano Rivera appears in English and Spanish language versions of a radio and television ad, actress Angie Harmon appears in a second television and radio ad, and former Senators Robert Dole and John Glenn appear together in a third radio and television ad.

  The USA Freedom Corps worked with the Corporation for National and Community Service and the Ad Council, with the support of the Walt Disney Company and Department of Justice, to develop the campaign featuring *usafreedomcorps.gov* as a way to get involved. In addition the USA Freedom Corps is the fulfillment mechanism at the end of three Entertainment Council television commercials and movie trailers that have been running nationwide since May.

- **Launched USA Freedom Corps Volunteer Network and Redesigned USA Freedom Corps Website (7/30/02)**: The USA Freedom Corp website is the concrete representation of the USA Freedom Corps Volunteer Network – a massive public-private enterprise on the web that enables volunteers to search according to their interests and their geographic location from the largest clearinghouse of volunteer service opportunities ever assembled – 50,000 organizations around the country and the world, with millions of service opportunities

  The search function draws upon well established non-profit organizations, including America's Promise, the National Mentoring Partnership, the Points of Light Foundation, SERVEnet, the United Way, and VolunteerMatch, as well as the federal government agencies that are a part of the USA Freedom Corps Coordinating Council – AmeriCorps, Senior Corps, Peace Corps and Citizen Corps. The Department of the Interior's one-stop

REV_00159194

registration center for federal, state and local government agencies that need and use volunteers can also be accessed through the new search function.

- **Launched American History, Civics and Service Initiative (9/17/02)**:
  - ✓ Launched NEH "We the People" initiative and President announced significant, ongoing investment in the program through the National Endowment for the Humanities (NEH), including competitive grant programs and other public programs to support the teaching of American History and Civics.
  - ✓ Launched "Our Documents" initiative of the National Archives and Records Administration, in collaboration with National History Day, the Corporation for National and Community Service and the USA Freedom Corps. Through web materials, a lesson plan sourcebook, and teacher workshops, 100 American milestone documents from the holdings of the National Archives will be made available to teachers and students.
  - ✓ Announced that the "We the People" Forum on American History, Civics, and Service, to be cosponsored by the NEH, the Corporation for National and Community Service, and the U.S. Department of Education, will be held in February 2003. The purpose of the forum is to call public attention to the need for more and better American history, civics, and service and draw attention to promising practices in history, civics, and student service, as well as innovative initiatives.

- **Launch of Students in Service to America Initiative (8/31/02)**: The President encouraged America's students to begin a service activity or project this school year and introduced the new Students in Service to America guidebook for educators to help them enlist America's young people in service to their communities and develop the habits of civic participation, responsibility, and service. More than 130,000 public and private elementary and secondary schools, homeschools, and after-school programs around the country received copies of the Students in Service to America guidebook, a CD-ROM, posters and other teaching and community resources. In addition, CNCS dedicated the time and talents of 25,000 AmeriCorps members and Senior Corps volunteers to support student service activities and service-learning programs.

- **Release of new Americorps Regulations (6/02)**: In June, CNCS issued final AmeriCorps regulations implementing a portion of the reforms called for in the President's principles, including: greater flexibility in the use of AmeriCorps members by nonprofit organizations; an explicit statement of the eligibility of religious organizations for AmeriCorps grants; reductions in administrative burdens on grantees; strengthening the prohibition on political activities; and making the education award more flexible for use by seniors and others.

- **Awarding of CNCS Homeland Security Grants (7/02)**: In July, CNCS in concert with the USA Freedom Corps and the Homeland Security Council, awarded its first homeland security grants totaling $10.3 million to support more than 37,000 AmeriCorps members and Senior Corps and other volunteers in 43 non-profit and public agencies in 26 states and the District of Columbia to:

REV_00159195

- ✓ use volunteers to develop and carry out emergency response plans;
- ✓ expand Citizen Corps programs related to crime and health; and
- ✓ develop public health strategies for responding to emergencies.

- **Freedom Corps Greeters (ongoing):** On more than 60 trips around the country, President Bush has met with volunteers who are answering his "Call to Service" to highlight their volunteer service as an example of the dedication he is hoping to instill in all Americans through the USA Freedom Corps.

- **Response to President's Call to Service (ongoing)**:
  - ✓ VolunteerMatch, one of the groups matching volunteers with opportunities through the USA Freedom Corps website, reports that more people are serving. The group measured a 72 percent increase in matching during the first six months of 2002 after USA Freedom Corps was launched, compared to the same period in 2001.
  - ✓ The number of potential AmeriCorps members is growing, with a 95 percent increase in online applications compared with pre-State of the Union levels.
  - ✓ Potential volunteers with Senior Corps, another CNCS program, have contributed to a 60 percent jump in web visitors since January.
  - ✓ More than 76,000 potential Peace Corps Volunteers have requested applications since the President's State of the Union address - a 40 percent increase over the same period in 2001. 34 countries have requested Peace Corps volunteers since State of the Union.
  - ✓ More than 160 Citizen Corps Councils have been created around the country.

B. Outstanding Commitments

- **Federal Program Service Opportunities**: Continue to expand and strengthen federal service programs, including the Peace Corps, Citizen Corps, AmeriCorps, and Senior Corps, including official launch of Medical Reserve Corps and Terrorism Information and Prevention System programs.

- **Citizen Service Act:** The President sent his "Principles and Reforms for a Citizen Service Act" to Congress on April 9, 2002. HR 4854, the Citizen Service Act of 2002, was introduced by Rep. Pete Hoekstra (R-MI) and Rep. Tim Roemer (D-IN) on May 24, 2002 and was reported by voice vote by the full House Education and the Workforce Committee on June 20, 2002. The bill awaits House Floor action. Senators Gregg and Kennedy are expected to introduce a companion bill shortly. The bill would reauthorize for five years the programs administered by CNCS and implement the following reforms, consistent with the President's policies:
  - ✓ Support and encourage greater engagement of citizens in volunteering;
  - ✓ Make Federal funds more responsive to state and local needs;
  - ✓ Make Federal support more accountable and effective; and
  - ✓ Provide greater assistance to community organizations, both secular and faith-based.
- **Corporation for National and Community Service Appropriations**: CNCS and the USA Freedom Corps are working closely with appropriators to secure the $296 million increase from appropriated levels the President requested for AmeriCorps, Senior Corps and Learn and Serve America for FY 2003.

REV_00159196

- **Peace Corps Reauthorization**: Even though Peace Corps is fully authorized through FY 2003, because of heightened interest in the Peace Corps as a result of the President's new policy, Senator Dodd and Representative Kirk have already introduced bipartisan bills in the Senate and House, respectively, to reauthorize the Peace Corps and to meet the President's commitment to double the number of Peace Corps Volunteers over the next five years.

- **Peace Corps Appropriations:** Peace Corps and the USA Freedom Corps are working closely with appropriators to secure the Presidents full funding request of $320 million for FY 2003. This is the amount requested in the President's budget to expand the number of volunteers from less than 7,000 today to 8,200 in FY 2003, on the path to nearly doubling the number of volunteers by FY 2007.

- **Citizen Corps Appropriations**: The Federal Emergency Management Agency, the Department of Justice, the Department of Health and Human Services and the USA Freedom Corps are working closely with appropriators to secure the President's funding request of $195 million for FY 2003 to support Citizen Corps initiatives, including Citizen Corps Councils, CERT, Neighborhood Watch and Medical Reserve Corps.

- **Civics**: Commitment made on September 17 for "significant ongoing" investment in American History and civics education. Internal discussions have revolved around $100 million over three years starting in the 2004 budget. There has not been consensus reached in the Administration on total or mix of new vs. redirected funds.

III. Looking Forward: '03 Agenda

B. Legislative

- See Citizen Service Act, Peace Corps reauthorization and appropriations request descriptions above. In addition, funding for the American History and Civics initiative through the National Endowment for the Humanities will need to be requested.

C. Regulatory

- NA

REV_00159197

Health Care Policy

II. LOOKING BACK: REVIEW OF '01 AND '02

A. Achievements *(See also NEC Health Care Policy)..*

1. **Presidential Events:**

- **March 21, 2001**-- Patients' Bill of Rights (strategy). The President addressed the American College of Cardiology to announce his principles for patients' rights legislation as Congress began debating the issue.
- **May 21, 2001** –Global Fund to Fight AIDS (announcement). The President announced the United States' commitment to supporting the new Global Fund to Fight HIV/AIDS, TB, and Malaria.
- **August 9, 2001**--Stem Cell Research Policy (announcement). Speaking from the Crawford Ranch during a nation-wide television broadcast, the President announced his decision to prohibit federal funding of research on stem cells derived from live human embryos.
- **December 6, 2001**--Director of the National Cancer Institute (announcement). The President announced the appointment of Dr. von Eschenbach to head the NCI and discussed four principles that will guide research efforts there.
- **February 11, 2002--** Health Care Agenda (strategy). Speaking at the University of Wisconsin Medical School, the President enumerated his entire health care agenda as part of a vision of a patient controlled quality health care system.
- **March 26, 2002--** Director of the National Institutes of Health and the Surgeon General (announcement). The President announced the nominees to be two major health care officials. As NIH Director, Dr. Zerhouni was tasked with the issues of the human genome, stem cell research, and biodefense. Dr. Carmona was nominated to use the post of Surgeon General to promote preventive health and to reduce the incidence of diabetes and obesity.
- **April 10, 2002--** Cloning Ban (strategy). In response to Senate debate, the President defined the need for a comprehensive ban on human cloning and announced his support of legislation sponsored by Senators Brownback and Landrieu.
- **April 29, 2002--** Improving Mental Health Care (strategy). The President participated in a local mental health round table with Senator Domenici and then addressed health care providers at the University of New Mexico Medical Campus. The President signed an EO establishing the New Freedom Commission on Mental Health, and announced that he would work with Congress to pass federal mental health parity legislation in 2002.
- **June 19, 2002--** New Mother and Child HIV Prevention Initiative (announcement). The President announced a new $500 million International Mother and Child HIV Prevention Initiative that seeks to prevent the transmission of HIV/AIDS from mothers to infants and to improve health care delivery in Africa and the Caribbean.
- **June 20, 2002--** HealthierUS Initiative (announcement). The President launched a new initiative to draw upon the resources of the federal government to promote the value of fitness in reducing the incidence and severity of chronic health conditions.

- **July 25, 2002--** Proposal to Address Medical Liability Crisis (strategy). In response to a new HHS study highlighting the higher costs and lower quality of care resulting from the broken liability system, President Bush proposed major legislative reforms to address the medical liability crisis.

2. **Patient Protections:**
   - **Patients' Bill of Rights** – The President negotiated House-passed legislation that fulfills his campaign commitment to pass a Patients' Bill of Rights that would "provide patient protections, like those passed in Texas, to ensure quality of care from health providers. Texas is recognized as having one of the strongest patients' bill of rights in the country."* It has been blocked by the Democrat-controlled Senate. The bill puts medical decisions in the hands of physicians, instead of insurance companies; provides independent, binding external medical review for denials of care, and gives patients meaningful legal remedies who have been harmed by an HMO's denial of medical care.

3. **Strengthening the Health Care Safety Net:**
   - **Community Health Centers (CHCs)** - The Administration's FY 2002 and 2003 budgets follow through on the President's campaign promise to double the number of people served in CHCs by creating 1,200 new and expanded CHC sites over a five-year period. CHCs provide critical primary health care services to uninsured individuals regardless of their ability to pay. There are areas in the country that still do not have access to basic health care services and these new resources will help new and existing CHCs to serve a greater number of people.

4. **Supporting Medical Research:**
   - **National Institutes of Health (NIH)** – The President promised to support medical research by working with Congress to enact a record increase for the NIH, and he will have fulfilled his campaign promise to double the NIH budget from the 1998 level of $13.6 billion when the proposed 2003 budget of $27.3 billion is enacted. The NIH is the world's preeminent and largest medical research organization. NIH research has already led to many medical breakthroughs, including lifesaving vaccines, new cancer therapies, human genome sequencing and effective drugs for the treatment of mental illness. Completing this historic increase furthers NIH's efforts to improve the prevention, detection, and treatment of the diseases and conditions that affect the lives of all Americans.
   - **Stem Cell Research** – The President announced his decision to allow medical research using embryonic stem cells while still preserving the value and sanctity of human life. This policy permits federal funding of research using certain existing stem cell lines that have already been derived, but does not sanction or encourage the destruction of additional live human embryos. Scientists will explore the potential of this research to benefit the lives of millions of people who suffer from life destroying illnesses. As part of the decision, the President created a new President's Council on Bioethics, to study the human and moral ramifications of developments in biomedical and behavioral science and technology.

REV_00159199

5. **Combating HIV/AIDS**
   - **Global HIV/AIDS:** Between the Global Fund and the MTCT Initiative, the 2003 budget for global HIV/AIDS activities will be 82% higher than the amount provided by Congress in 2001.
   - **Global Fund to Fight HIV/AIDS, TB, and Malaria** – The President became the first world leader to accept a new challenge to combat global AIDS by committing the U.S. to financially supporting the Global Fund to Fight HIV/AIDS, TB and Malaria. The U.S. remains the single largest donor to this multilateral fund – contributing $500 million through FY '03. The United States continues to be actively involved in influencing the structure, development and implementation of the Global Fund. By October of 2002, over $600 million worth of grants in over thirty countries will have been awarded, and disbursement of these funds is imminent pending the finalization of management and evaluation controls. Continued support by the U.S. is key to the long-term success of the Global Fund.
   - **Mother and Child HIV Prevention Initiative** – The President announced a major initiative to help stop the spread of HIV from mothers to their children. This long-term program of providing treatment and improving basic health infrastructure in the hardest hit countries will be initially funded at $500 million. The initiative is being implemented through a unique partnership between the Department of Health and Human Services and the Agency for International Development and will provide a new model for foreign assistance generally, and, in particular, global health assistance.

6. **Other:**
   - **Medical Records Privacy** – The President ushered in unprecedented protections for every American relating to their private medical information. The federal privacy regulation, which will be in effect by April 2003, protects medical records and other personal health information maintained by certain health care providers, hospitals, health plans, health insurers, and health care clearinghouses. The rule guarantees patients access to their medical records, gives them more control over how their protected health information is used and disclosed, and provides a clear avenue of recourse if their medical privacy is compromised. The Administration's actions were criticized by consumer advocates and Congressional Democrats, but praised by other stakeholders in the health care system.

B. Outstanding Commitments

1. **Patient Protections:**
   - **Patients' Bill of Rights** – While the President's negotiated House-passed legislation fulfills his campaign commitment to pass a Patients' Bill of Rights; the bill has been blocked by the Democrat-controlled Senate.

2. **Strengthening the Health Care Safety Net:**

REV_00159200

- **National Health Service Corps (NHSC)** – The President promised during the campaign to refocus this scholarship and loan repayment program that places "Corps physicians in the neediest areas," and to "coordinate the Corps program with the J-1 visa waiver program to avoid overlap." The President also promised to "encourage physicians to participate in the NHSC by making scholarship funds tax free." HHS recently assumed responsibility over much of the J-1 Visa program, but coordinating this program with the NHSC has not been proposed.

3. Long Term Care:

- **Affordability** – The President promised to "make long-term care available and affordable, instead of a path to financial ruin." This was to include making the "cost of long-term care insurance fully deductible" and establishing an "additional personal exemption for home caregivers." The FY '03 budget proposal included both full deductibility for long-term care insurance, and a caregiver personal exemption. While the House has acted on similar legislation, additional action on these proposals is not expected. *See also NEC Health Care Policy.*

  Quotations reference speeches and campaign position papers compiled in Renewing America's Purpose: Policy Addresses of George W. Bush , July 1999-2000.
  **References position papers released as a part of Real Plans for Real People: Blueprint for the Middle Class, September 17, 2000, Austin, TX.*

III. LOOKING FORWARD: '03 AGENDA

B. Legislative (active legislative issues)

1. **Patients' Bill of Rights ('03)** – The President negotiated a historic compromise with Rep. Norwood to give every American a meaningful Patient Bill of Rights. Legislation is not likely to be active again in the remaining days of 107th Congress, but Democrats will likely reintroduce the bill in the next session of Congress. Support for Democrat-backed patient protection bills—by its most vocal advocate the AMA—has waned since the President announced his commitment to legislation to address the nation's badly broken medical liability system. The President should support the principles set forth in the compromise legislation. However, he should seek to emphasize his priority is making sure families and individuals have access to affordable health care.
2. **Tobacco Control Legislation ('03)**– Bipartisan legislation in Congress has been introduced to grant the FDA authority to regulate tobacco products. While the issue has not been highly visible in the 107th Congress, Democrats and some Republicans plan to raise its profile in the 108th Congress. The Administration may be required to take a position on the regulation of tobacco products, and should prepare a strategy to address this issue for early next year.
3. **Mental Health Parity Legislation (fall '02)** – Last December, the President agreed to work with Senator Domenici to pass a mental health parity bill in the 107th Congress. While Speaker Hastert is strongly opposed to any parity

REV_00159201

legislation, the White House is working to facilitate a compromise that would prohibit health plans that provide medical and surgical benefits, from placing higher financial requirements or different treatment limitations on mental health benefits. Action is needed this year, because the current federal mental health parity law expires in December of 2002.

4. **Medical Liability Reform** – The Administration endorsed legislation to address the nation's badly broken medical liability system. The proposal creates a more timely, predictable, and fair liability system that improves access to quality health care while reducing health care costs. The bill passed the House, but is being blocked by the Democrat-controlled Senate. *See also NEC Health Care Policy.*
5. **Patient Safety/Medical Errors Legislation (if not completed in '02)** —The Administration has endorsed legislation to authorize patient safety organizations to collect confidential data on medical mistakes from hospitals, doctors, and other health care providers, and develop programs to address particular needs identified by data. While the proposals enjoy strong bipartisan support in both the House and Senate, several key Senate Democrats continue to block progress and ask for additional funding for patient safety and medical information grants. *See also NEC Health Care Policy.*
6. **Genetic Non-Discrimination Legislation (if not completed in '02)** –Earlier this year, the President endorsed legislation introduced by Senators Snowe, Frist, Gregg and Jeffords to prohibit discrimination by employers and health insurers based on genetic information. Democratic legislation introduced by Sen. Daschle is similar but would also encourage lawsuits by creating new private rights of action with unlimited damages. Congressional negotiators have not been able to resolve the liability issue, and the bill supported by the President has been blocked by the Democrat-controlled Senate.
7. **Cloning Ban (if not completed in '02)** --The President strongly supports House passed legislation that would prohibit all forms of human cloning. A current proposal in the Senate would allow the cloning of embryos for research purposes.
8. **Cancer Care Quality Legislation (if not completed in '02)**– Led by the American Cancer Society and the Lance Armstrong Foundation, bipartisan Congressional members are pushing legislation authorizing development and collection of information on quality of cancer care, mandating specific dollars for cancer survivorship research, and creating other programs to address end-of-life care. As the legislation is currently drafted, it takes power to set research priorities away from scientists, duplicates existing programs, and expands bureaucracy.
9. **Early Treatment for HIV Act** – Legislation is being developed that would allow State Medicaid programs the option to expand Medicaid coverage to individuals with an HIV diagnosis as an early preventive treatment measure in a budget neutral way.
10. **United States Leadership Against HIV/AIDS, TB, and Malaria** – This proposal authorizes the Executive branch to develop a 5-year strategic plan for addressing the international HIV/AIDS pandemic, provide increased resources for multilateral and bilateral efforts, and expand HHS's authority to provide

REV_00159202

international assistance. This amendment would require several reports back to Congress by the Executive branch.

C. Regulatory (key regulatory issues)

1. **HIPAA Security Standards for Health Information Regulation (Fall '02)** — Highly visible regulation to protect identifiable health information/medical records; affects all health care stakeholders subject to the HIPAA Privacy regulation.
2. **HIPAA Electronic Medicare Claims Submission (Fall '02)** —Highly visible regulation to require all Medicare claims be submitted electronically.
3. **Bar Code Labeling on Human Drug Products —(Fall '02)** Highly visible regulation that uses bar coding technology to identify potential medical errors.
4. **Bioterrorism Regulations for Food Safety and Security —(Fall '02)** Regulation to enhance the inspection and oversight of imported food.
5. **Bioterrorism Regulations for Tracking Dangerous Biological Pathogens (Fall '02)** —Regulation to enhance surveillance and security over dangerous agents and toxins that pose a public health threat; applies to all public and private entities that use, possess and transfer these dangerous pathogens.

REV_00159203

Immigration

II. Looking Back: Review of '01 and '02

A. Achievements

Restructuring the Immigration and Naturalization Service
The President promised to "restructure the INS, splitting it into two agencies: one to deal with enforcement, and one to deal with service."* In November 2001, the Attorney General announced an administrative restructuring plan for the agency and began its implementation. The President's proposal to create the Department of Homeland Security contemplates preserving the separation between service and enforcement when the INS moves to that department.

Provide increased funding for INS personnel
The President promised to "propose an additional $500 million over 5 years to fund new INS personnel and increased employee incentives to provide quality service to legal immigrants."* The Administration has sought $100 million each fiscal year for this purpose.

Reduce INS benefit processing times
The President promised to "improve INS service by proposing that every INS immigration application be processed within 180 days of submission."* The INS has a backlog elimination plan in place to achieve that goal by FY 2004. It is on track to meet that goal for 9 of 12 classes of applications. Increased security checks have caused delays in some categories.

A. Outstanding Commitments

None.

III. Looking Forward: '03 Agenda

B. Legislative

- INS reorganization will be a significant issue next year if it is not dealt with in Homeland Security Department legislation or otherwise this year.
- Extension of Section 245(i) of the Immigration and Nationality Act, which the President supports, is unlikely to occur during the 107th Congress. Section 245(i) permits aliens residing illegally in the U.S., but who are otherwise entitled to obtain permanent legal status, to do so without first leaving the country. As a result they can avoid being barred from reentering the U.S. for 3 or 10 years.

A. Regulatory

None.

Ground Transportation

II. Looking Back: Review of '01 and '02

A. Achievements

- Finalized a number of regulations to ensure the safe opening of the U.S.-Mexico border to commercial truck traffic. White House is reviewing Secretary Mineta's recommendation to the President that opening the border will not present a significant safety risk.
- Issued an Executive Order establishing the Transportation Infrastructure Streamlining Task Force. DOT will chair an interagency task force to help move high-priority transportation projects through the environmental permitting process. Members of Congress, roadbuilding associations, state representatives and environmental groups have praised this approach. The construction trade unions will support this as well.
- Granted $100 million loan to Amtrak to prevent total shutdown of Amtrak and several key commuter rail systems.

B. Outstanding Commitments

None

III. Looking Forward: '03 Agenda

A. Legislative:

- TEA 21 reauthorization: TEA 21, which funds highway and urban transit projects, covers fiscal years 1998-2003, so a new bill must be in place ahead of the fiscal year 2004 appropriations cycle.

- Amtrak reauthorization: See discussion above.

B. Regulatory:

- Corporate Average Fuel Economy (CAFE)– NHTSA is required by law to propose new fuel economy standards for light trucks for the 2005 model year by October 2002 and finalize the regulation by April 2003. If NHTSA chooses not to initiate a rulemaking on passenger cars, the current standard will remain in effect.

  The Administration is currently pushing a CAFE reform proposal in the Energy bill Conference. The proposal requires NHTSA to set a new light truck standard that will save 5 billion gallons of fuel between 2006 and 2012. It also gives the Secretary of Transportation greater authority to amend passenger car fuel economy standards while taking into account safety and economic burden.

- Open the Mexican border to cross-border commercial trucking. The White House is currently reviewing DOT's recommendation.

REV_00159206

Welfare, Child Welfare, Adoption

II. Looking Back: Review of '01 and '02

A. Achievements

- **Abstinence Education.** Both as part of the welfare reform reauthorization legislation and the normal appropriations process, the Administration is trying to increase funding for abstinence education by $126 million per year. The House supports the additional funding; the position of the Senate is not clear. If successful, this effort will fulfill the President's campaign promise to fund abstinence education programs at the same level as family planning and condom distribution programs, although some conservatives are already arguing that more money for abstinence will be needed to achieve parity with family planning.

- **Compassion Capital Fund.** In June 2002, HHS announced the implementation of the Compassion Capital Fund. In response to the President's fiscal 2002 budget request, Congress appropriated funds that are specifically designed to assist grassroots organizations as part of the President's faith-based and community initiative. $30 million is being used to help level the playing field for faith and community-based organizations as they compete for federal grants. It is too early to determine whether these funds will have an impact.

- **Child Support Enforcement.** HHS's Office of the Inspector General (OIG), in cooperation with HHS's Office of Child Support Enforcement, have implemented strong measures, including a three-day national sweep, to locate the Nation's most wanted "deadbeat parents". So far, 70 of the biggest offenders have been arrested, in part through cooperation between OIG, the U.S. Marshals Service, and state and local police. Arrests have been made in 29 states, the District of Columbia, and Puerto Rico. Due to this effort, as well as continued aggressive implementation of the child support program by the Office of Child Support Enforcement, both child support collections and paternity establishments are at an all-time high.

- **Good Start, Grow Smart.** In April 2002, President Bush presented *Good Start, Grow Smart*, the Administration's Initiative to address standards of learning in early literacy, language, and numeracy skills. To ensure that the President's Initiative is implemented boldly and effectively, the Head Start and Child Care Bureaus are completing a joint strategic plan, and Head Start programs are being required to fully implement new requirements for charting the progress of each child. In addition, HHS has implemented a plan to train Head Start administrators and teachers in research-based teaching techniques that will lead to improved school readiness (50,000 Head Start teachers will receive this training). HHS is also conducting a variety of activities to ensure that rigorous, cutting-edge research is developed, carried out, and translated into practices that enhance children's progress toward school readiness.

B. Outstanding Commitments

- **Reauthorize the 1996 Welfare Reform Legislation that Expires on September 30, 2002.** In February of this year, the Administration submitted to Congress a plan to reauthorize and strengthen the 1996 welfare reform legislation. By May, the House had developed and passed a bill that was nearly identical to the Administration plan. However, at this writing the bill is mired in the Senate and seems unlikely to pass this year, especially because the bill being pushed by the Senate Democratic leadership is deeply flawed. If a bill cannot be enacted in 2002, Congress will probably enact a 1-year extension of funding authority, which would mean that welfare reform reauthorization would be on the agenda for the 108th Congress. Because of this failure to act on reauthorization, the Child Care and Development Block Grant (CCDBG) has not been reauthorized either. If the Senate fails to reauthorize the CCDBG in the 107th Congress, we would be provided with a good opportunity to seek measures to coordinate the CCDBG with Head Start during next year's reauthorization debate.

- **Head Start.** The Administration promised during the campaign to move the Head Start program from the Department of Health and Human Services to the Department of Education.

III. Looking Forward: '03 Agenda

B. Legislative

- The 1996 welfare reform law expires on September 30, 2002 and must be reauthorized. The House has enacted legislation but the Senate has not. If this is not completed by the 107th Congress, the 108th Congress would take up reauthorization.

C. Regulatory

- HHS is using its statutory authority to administer the Head Start program to aggressively implement significant improvements in Head Start teaching, administration, and research. These initiatives are grouped together under the rubric "Good Start, Grow Smart".

REV_00159208

Education

II. Looking Back: Review of '01 and '02

A. Achievements

The No Child Left Behind Act

- The No Child Left Behind Act was signed into law by President Bush on January 8, 2002. By turning federal spending on schools into a federal investment in improved student performance, this law provides the most sweeping reform of the Elementary & Secondary Education Act since it was enacted in 1965. The law ensures that States and school districts will develop strong systems of accountability based on student performance, provides increased local control and flexibility by putting decision-making in the hands of those at the State and local levels, increases parental options, and encourages the use of effective programs and solid research to drive instruction.
- The Department of Education has been working to implement the NCLBA by releasing regulations and guidance for programs under the Act. The 2002-2003 school year is the first year that many of these reforms are going into effect.
- One of the most important reforms in the Act is the development of state accountability systems that hold schools accountable for student progress. The Department is currently reviewing the first round of state accountability plans, and will be approving these state plans in the coming months.
- The Act also launched a comprehensive effort called Reading First, a five-year, $5 billion state grant program. Reading First provides assistance to state and local education agencies to apply scientifically-based research—and the proven instructional and assessment tools consistent with this research—to improve reading instruction for K-3 students and to ensure that all children learn to read well by the end of the third grade.

Economic Growth and Tax Relief Reconciliation Act of 2001

- **Commitment: Supports expanding education savings accounts for parents to increase their annual contributions from $500 per student to $5,000 and withdraw funds tax free to pay for education expenses from Kindergarten to college**
- The tax relief bill that President Bush signed last year provides $22.7 billion in education savings for American families over the next five years: eliminates the 60-month limitation on student loan interest deductions and increases the income levels of individuals able to claim the deduction, increases the annual limit on contributions to education savings accounts from $500 to $2,000, and allows savings to be used for elementary, secondary, and postsecondary education expenses, adds a new above-the-line deduction for qualified higher education expenses, allows tax-free distributions from Qualified Tuition Plans (Section 529 plans) to be used to pay educational expenses and permits private institutions to offer such plans, makes the income

exclusion for employer-provided educational assistance permanent and extends the benefit of the exclusion to graduate level courses.
- President Bush had proposed during his campaign to increase the annual limit on contributions to education savings accounts to $5,000.

Teacher Tax Deduction

- **Commitment: Establish a teacher tax deduction to help defray out-of-pocket classroom expenses**
- The Job Creation and Worker Assistance Act provided an above-the-line tax deduction for up to $250 in classroom expenses incurred by teachers and other educators. Effective only in 2002 and 2003.
- The President proposed a $400 teacher tax deduction for out-of-pocket classroom expenses.

Special Education Funding

- **Commitment: Work with Congress to increase funding for special education with the goal of meeting the federal obligation under the Individuals with Disabilities Education Act**
- The President is on the way to fulfilling his campaign promise to increase funding for special education with the goal of meeting the federal obligation under IDEA.
- The President's 2003 budget provides an increase of $1 billion for Special Education Grants to States (following an increase of $1.2 billion in FY 2002), to $8.5 billion, and an increase of $20 million for states to identify and serve infants and toddlers with disabilities, to $437 million.

Character Education

- **Commitment: Triple character education funding and incorporate character-building lessons into federal youth programs**
- The President proposed and has fulfilled his promise to triple character education grant funding, from $8 million to $25 million. The Character Education program received $25 million in 2002, and the same amount is proposed for 2003. More emphasis could be put on research into character education and its effect on student outcomes.

State Scholars Initiative

- The Department of Education awarded a $2.4 million grant to the Center for State Scholars to create a pilot program in five states to encourage students to take a more demanding curriculum in high school in preparation for entry into a technical school, community college, university or work. States that participate will have to encourage

REV_00159210

the business community, school districts, and higher education institutions in each state to work together to encourage a more rigorous curriculum in high schools nationwide.

C. Outstanding Commitments

Pell Grants

- **Commitment: Provide $1 billion over five years for enhanced Pell Grants to students who take college-level math and science courses in high school, allowing them an additional $1,000 to pay for college tuition**
- To fulfill this commitment, the President would need to propose this initiative in a future budget submission or in the reauthorization of the Higher Education Act.
- While this initiative has not been proposed, the President has provided significant increases in funding for Pell Grants.
- The Pell Grant maximum award increased from $3,750 in 2001 to $4,000 in 2002.
- The President's 2003 budget provides $10.9 billion for the Pell Grant program, maintaining a maximum award of $4000 for Fiscal Year 2003-2004. This is an increase of $2.1 billion over 2001 Pell Grant funding.
- The recently enacted supplemental appropriations bill provided an additional $1 billion in Pell Grant funding to eliminate the shortfall in 2002.

III. Looking Forward: '03 Agenda

B. Legislative

Several key pieces of legislation are up for reauthorization in 2003, and several pieces of legislation will be held over from 2002.

1. **Individuals with Disabilities Education Act Reauthorization (authorization ends September 30, 2002)**—Special Education programs for children, provided mostly in K-12 education.
2. **Office of Educational Research and Improvement Reauthorization (authorization expired end of FY 1998, but has continued under that authorization)**—Department of Education research initiatives.
3. **Higher Education Act Reauthorization (authorization ends September 30, 2003)**—Postsecondary education programs, including all federal student financial aid.
4. **Perkins Act Reauthorization (authorization ends September 30, 2003)**—Vocational and Adult Education programs
5. **Rehabilitation Act Reauthorization (authorization ends September 30, 2003)**—Employment programs for adults with disabilities
6. **Head Start Reauthorization (authorization ends September 30, 2003)**—HHS early education programs, but significant coordination with Department of Education

REV_00159211

C. Regulatory

The Department of Education will continue to regulate on and develop and revise guidance for the implementation of the No Child Left Behind Act.

In addition, the Secretary's Commission on Opportunity in Athletics must submit its report on findings and recommendations on Title IX to Secretary Paige by January 31, 2003. The Administration will review regulations on Title IX at this time.

REV_00159212

Faith-Based

II. Looking Back: Review of '01 and '02

A. Achievements.

Office Establishment

- An Office of Faith-Based and Community Initiatives and five Cabinet Centers at HUD, HHS, Education, Labor, and Justice have been established. This is to fulfill the President's campaign promise of same.

New Resources and Programs for Faith-Based Groups

- The President's 2003 budget provides $25 million in competitive grants for mentoring programs for children of prisoners. This is to fulfill the President's campaign promise to launch a new program to address the needs of children of prisoners, offering grants on a competitive basis to faith-based and community groups.
- H.R. 1 opens the 21st Century after-school program's funding (maintained at $1 billion in FY 2003) to competitive bidding by faith-based and community groups. This is to fulfill the President's campaign promise of same.
- On June 4, the Administration for Children and Families (ACF) at the Department of Health and Human Services announced the rollout of the $30 million Compassion Capital Fund. Nearly $25 million will be made available to 15-25 intermediary organizations that will provide technical assistance to help faith-based and community organizations expand the reach of their programs. The remaining $5 million will be used to conduct research and establish a National Resource Center that will provide tools to faith-based and community organizations. More than 350 groups applied for the intermediary grants and nearly 70 applied for the field research grants. In addition, the President's 2003 budget provides $100 million for the Compassion Capital Fund, a public-private partnership to identify and invest in charitable "best practices." These each fulfill the President's campaign promise to create a Compassion Capital Fund.
- The President's 2003 budget provides $10 million in competitive grants to fund pilot Second Chance maternity homes. This is to fulfill the President's campaign promise of same.
- Two faith-based prison pre-release programs have been established, one designed for federal prisoners (a religion specific, multi-faith, and social responsibility program) and one for state prisoners (faith-based organizations will provide mentoring and role modeling during incarceration, transition and stabilization phases). This is to fulfill the President's campaign promise to initiate and fund same
- The Department of Labor awarded a total of $17.5 million in grants specifically designed to link faith-based and grassroots community organizations to the nation's One-Stop Career System. Twelve states and 29 organizations around the country will receive funds that they will use to create partnerships between faith-based and community groups and the One-Stop career centers.

Administrative Reforms and Outreach Programs

- OFBCI has created a database of more than 100 social service programs open to faith-based groups worth more than $50 billion, organized for the first time by groups of people served, not by program names.
- In the past three months, all of the agencies have established websites for the initiative. These websites provide detailed information about the initiative generally, as well as information about applicable funding opportunities.
- To date, the Department of Education Center for Faith-Based and Community Initiatives has held a total of six very successful outreach conferences attended by more than 4000 people. These conferences are designed to make local organizations aware of the initiative and Department of Education funding opportunities in which they might be interested.
- The Department of Education has issued appropriate guidance to states concerning the involvement of faith-based and community organizations in all formula grant programs that are amenable to participation by these groups.
- The Substance Abuse and Mental Health Services Administration at HHS has planned six technical assistance conferences throughout the country to provide technical assistance to faith-based and community organizations that wish to apply for substance abuse prevention/treatment funds.
- The DOJ Center is working with the Office of Justice Programs to simplify the grants and administrative process to make it friendlier to smaller faith-based and community organizations.
- The DOJ Center is also working with OJP to establish a Community Capacity Development Office. This office will focus on capacity development issues for faith-based organizations, small communities, and other entities identified.

Legislation

- H.R. 7, The Community Solutions Act, passed the House in July, 2001 and helped meet a number of the President's Faith-Based commitments including: non-itemizer tax deduction, charity IRA rollover, raising the cap on corporate charity contributions, civil liability protection for corporate donations and an expansion of Charitable Choice.
- Authorization for the Mentoring of Prisoner's Children pilot project.
- $30 million appropriation for the Compassion Capital Fund.
- Introduction and Senate Finance passage of the bi-partisan CARE Act (27 co-sponsors including 10 Democrats).

B. Outstanding Commitments

- Hold a corporate and philanthropic summit to examine private-sector discrimination against funding faith-based organizations. (Notre Dame Commencement Speech, May 2001)
- Promote a Charitable State Tax Credit of up to 50% of the first $500 for individuals or $1000 for married couples for contributions to charities addressing poverty; extend the

REV_00159214

tax credit—up to 50% of the first $1000—to corporations. This is to fulfill the President's campaign promise of same. (*Rallying the Armies of Compassion*, January 2001)

- Provide federal matching funds for the establishment of state Offices of Faith-Based Action. This is to fulfill the President's campaign promise of same. (*Rallying the Armies of Compassion*, January 2001)
- Promote alternative licensing regimes that recognize religious training as an alternative form of qualification for delivery of non-medical social services. This is to fulfill the President's campaign promise of same. (*Rallying the Armies of Compassion*, January 2001)
- Fund certificates to help 500,000 lower-income parents pay for after-school activities of their choosing, with funding of $400 million. This is to fulfill the President's campaign promise of same. (*Rallying the Armies of Compassion*, January 2001)
- Provide performance-based drug treatment grants to states; ensure that non-medical faith-based and community providers are eligible for funds on the same basis as other groups. This is to fulfill the President's campaign promise of same. (*Rallying the Armies of Compassion*, January 2001)

III. Looking Forward: '03 Agenda

A. Legislative

Depending on activity in the final month of the 107th Congress, the President's faith-based bill may or may not have been passed and signed into law. If passed, it would fulfill a majority of the commitments the President has made on faith-based issues. If not, all of those issues would remain outstanding including: 1) the expansion of Charitable Choice; 2) a non-itemizer tax deduction; 3) tax-free IRA charitable rollover; 4) raising the cap on corporate contributions; and 5) civil liability protection for corporate charity donations.

If this package fails to pass, however, OFBCI strongly recommends a different legislative approach for the 108th Congress. Specifically, OFBCI recommends using an amendment strategy to expand Charitable Choice to all Federal social service programs along with a free-standing charitable tax incentives bill. We do not recommend a strategy that marries the two efforts together.

B. Regulatory:

The Office's main issues will be administrative and regulatory in nature, and may be somewhat controversial. Specifically:

- Provide clear guidance to faith-based organizations on the 'Do's and Don'ts' of interacting with the Federal government.
- Announce new FEMA policy that treats all non-profit organizations equally in its emergency assistance programs.
- Provide official guidance on Charitable Choice for TANF, SAMHSA, CSBG and other programs covered by Federal statute, either through executive order or department regulation.
- Issue a user-friendly booklet identifying Federal funding opportunities that may interest faith-based organizations, with instructions about how to apply.

REV_00159215

- Update its website with the guidance materials and grants information, as well as other information about the Initiative.
- Oversee Agencies issuing internal guidance to peer review panels and grants management staff on the participation of FBOs in grants programs.
- Agency Centers will begin to work within their agencies on innovative pilot and demonstration projects targeting elders, at-risk youth and prisoners, addicts, the homeless, and those making the transition from welfare to work.
- Remove regulations that prohibit faith-based organizations' participation in many programs, beginning at HUD.
- Remove regulations that limit the right of faith-based organizations to maintain religious identity through hiring autonomy unless there is a statutory basis for them.
- Improve data collection so that accurate information on faith-based organizations is available.
- Expand the Office of Faith-Based and Community Initiatives by executive order to include new Faith-Based Centers at Departments of State and Agriculture because both work extensively with faith-based organizations to feed the hungry and provide relief for those in desperate need.
- Fight to maintain religious organizations' rights to hire and fire on the basis of religion.

REV_00159216

Housing and Community Development

II. Looking Back: Review of '01 and '02

A. Achievements.

- The President issued America's Homeownership Challenge, mobilizing the private real estate and mortgage finance sector to eliminate barriers to homeownership through increased financial and organizational commitments to increase minority homeownership by at least 5.5 million families by 2010. As a result, additional private capital of $440 billion has been pledged by the government-sponsored enterprises to increase minority homeownership. Private entities have committed resources to assist in the effort. Sears Roebuck recently announced a $100 million, five-year program to reduce barriers to minority homeownership, specifically responding to President Bush's challenge.

- The President's FY 03 budget proposed $200 million for the American Dream Downpayment Initiative, which would provide state and local agencies with matching grants to assist an estimated 40,000 first-time homebuyer families with downpayment funds. Legislation has been introduced in the House (Mike Rogers) and the Senate (Allard).

- The President's FY 03 budget proposed a $2.4 billion, five-year Single-Family Affordable Housing Tax Credit of up to 50% of the project costs of rehabilitation and construction of low-income housing, provided that eligible homebuyers have incomes of not more than 80% of area median income. The tax credit will eventually result in an additional 200,000 affordable single-family homes becoming available through construction or rehabilitation. Legislation very close to the President's proposal has been introduced in the House (Portman/Cardin) and is expected to be introduced in the Senate this month (Santorum/Gordon Smith).

- The Section 8 Homeownership Program has been implemented in part by HUD. The program allows local housing agencies flexibility to provide either mortgage assistance in lieu of a rental subsidy. A downpayment grant equaling up to one-year's worth of a family's Section 8 rental assistance is also envisioned, but Congress has not made a specific appropriation allowing the use of Section 8 funds for this activity. HUD has also implemented a Section 8 Disability Initiative -- a three-year pilot program authorized in 1999 which allows recipients with disabilities to use rental assistance toward mortgage payments.

- The Administration has issued for public comment a proposed regulation to simplify and modernize the current homebuying process, which is governed by the Real Estate Settlement Procedures Act (RESPA) and the regulation implementing the act. Secretary Martinez expects that legislation amending RESPA may also be needed to strengthen enforcement.

B. Outstanding Commitments

- **End Chronic Homelessness:** Secretary Martinez's speech before the National Alliance to End Homelessness committed to ending chronic homelessness by the end of the decade, and the FY 03 budget cites this as an explicit Administration goal. The Interagency Council on the Homeless held its first meeting in six years and announced a $35 million initiative (using recaptured funds) in furtherance of the Administration's goal.

- **Convene a White House Conference on Increasing Minority Homeownership:** In his June 17th Atlanta rollout of his homeownership initiative, the President committed to holding a White House Conference on minority homeownership this fall. The conference, currently scheduled for October 15th, will highlight barriers to minority homeownership and develop proposed solutions.

- **Modernize and simplify the homebuying process.** Secretary Martinez has made reform of the homebuying process a top HUD priority, with the goal of benefiting consumers with cost savings and ensuring that they receive timely, accurate information that is reflected at closing. Reform of the homebuying process was a component of the President's homeownership initiative announced in Atlanta in June. HUD has issued proposed changes to the RESPA regulation for public comment. The comment period closes in October.

- **Promote financial education through housing counseling.** The Administration has proposed increasing funding for housing counseling grants by $15 million in FY 2003, to $35 million. In his June 17th Atlanta speech, the President cited the importance of housing counseling in reducing barriers to minority homeownership. Faith-based groups will be key partners in HUD's housing counseling efforts.

- **Triple funding for the Self-Help Homeownership Opportunity Program (SHOP).** In his May 20, 2001 Notre Dame speech, the President promised to request a tripling of funds for the Self-Help Homeownership Opportunities Program (SHOP), which provides grants for land acquisition and infrastructure improvement to non-profit organizations that offer homeownership opportunities to families willing to contribute their own "sweat equity" (such as Habitat for Humanity). The President's FY 03 budget request tripled funding for SHOP (from approximately $22 million to nearly $66 million). These requested increases were not been included in the Senate VA/HUD Appropriations bill.

REV_00159218

III. Looking Forward: '03 Agenda

B. Legislation:

Enactment of existing proposals (American Dream Downpayment Initiative; Single-Family Affordable Housing Tax Credit) should be the Administration's top priorities in the next session of Congress if these are not enacted this year. At this point, the downpayment initiative is the only legislative proposal with a chance of enactment this session of Congress.

Much press attention has been focused on what housing advocates have termed "the housing crisis." This has galvanized a wide array of groups in support of the creation of a dedicated source of federal funding for housing expenditures (a housing trust fund similar to the highway trust fund). In this session of Congress, H.R. 3995, an Oxley-Roukema housing bill containing the President's downpayment initiative, has been reported out of the Financial Services Committee. The bill now contains a number of new program authorizations which we oppose. In the Senate, Christopher (Kit) Bond, the Ranking Minority Member on the VA/HUD Appropriations Committee introduced a bill (S. 2967) on September 19th authorizing a major new housing production program. Rather than creating new and possibly duplicative housing programs, increased funding for the existing HOME program, targeted to the very low-income, is the Secretary's preferred approach to dealing with the increased housing needs.

C. Regulatory:

The key regulatory issue facing the Department will be reform of the regulation implementing the Real Estate Settlement Procedures Act, which Secretary Martinez advocates as part of his effort to reduce closing costs and make the homebuying process easier. Because of the varied economic interests involved in the homebuying industry affected by these changes, this will be highly contentious. HUD has proposed changes to the RESPA rule and is currently receiving comments on its draft rule. While HUD believes it has the authority to adopt the rule it has proposed, the Secretary has stated that further changes (especially in the enforcement arena) may also be desirable and would require legislation.

REV_00159219

Veterans

II. Looking Back: Review of '01 and '02

A. Achievements

- **Established the Task Force to Improve Health Care Delivery For Our Nation's Veterans (Veterans Healthcare Task Force – Executive Order 13214):** The fifteen member Veterans Healthcare Task Force, co-chaired by Dr. Gail Wilensky, former Administrator of the Health Care Financing Administration, and former Congressman John Paul Hammerschmidt, will recommend specific actions to improve coordination between VA and the Department of Defense (DoD) on health care for those who have served in uniform and who are eligible for VA benefits. The Task Force issued an interim report on the issues to be addressed on July 31, 2002. A final report is due in March 2003.

- **Reduced Veterans Claims Backlog:** Conducted a top-to-bottom review of VA claims processing to identify weaknesses and areas for improvement, as the President had promised in the campaign ("The veterans health care system and the claims process need an overhauling from top to bottom. It needs to be modernized, so that claims are handled in a fair and timely fashion." *Honoring our Commitment to Veterans*, November 11, 1999). Reduced the claims pending backlog by almost 40% in the first year.

- **Reduced Longest-Pending Veterans Claims for Older Veterans:** Established a "Tiger Team" of experienced employees and managers to focus on the longest-pending claims from older veterans. By August 2002 VA, had completed 47,000 cases that had been pending for more than one year.

- **Reinstated VA's "Duty to Assist" Policy:** VA had traditionally pursued a "duty to assist" policy of helping claimants in gathering evidence to support their claims, including compiling medical and service records. A court decision, however, had overturned the holding it was not authorized by law. During the campaign, Governor Bush promised to reinstate the policy (August 2000). The President implemented provisions of the Veterans Claims Assistance Act reinstating the policy.

- **World War II Memorial Legislation:** Signed bipartisan legislation that ended ending delays and ensured that the planned World War II Memorial is located on the National Mall, between the Washington Monument and Lincoln Memorial.

B. Outstanding Commitments

- Although VA has made improvements in claims processing and in addressing the backlog of claims, the current delays remain unacceptable by President Bush's and Secretary's Principi's standards.

III. Looking Forward: '03 Agenda

B. Legislative

Priority Level 7 (PL 7) Vets: Veterans who choose to enroll in the VA health care system are placed in a priority group based on their specific eligibility status. The priority groups range from 1-7, with 1 being the highest priority for enrollment. The numbers of PL 7[1] veterans (those in least need of services) has increased dramatically since 1996, when they were accepted on a space-available basis and averaged two percent of all patients. This influx strains VA's capacity and hinders delivery of care to higher priority veterans.

VA medical care is not an entitlement offered to all veterans irrespective of geographic location. It is a service limited primarily to VA's geographic infrastructure and the size of the appropriation in any one year. Federal law requires that the VA Secretary announce, in conjunction with the appropriations process, what categories of veterans VA will be able to serve for that fiscal year. The issue, therefore, must be faced each year. For FY 2002, VA originally had determined that the budget would not permit it to serve all PL 7 veterans, and had proposed suspending new enrollment by PL 7 veterans who were not then enrolled. The final decision, however, was not to suspend PL 7 enrollment but to add $200 million to the President's budget request to address the issue. VA has proposed a regulation (See Section C, Regulatory, below) allowing it to provide services to higher priority veterans before providing services to lower priority veterans.

Concurrent Receipts: Currently, in order to receive VA disability payments, a military retiree must waive an equivalent amount of military retirement pay. Many in Congress have supported attempts to allow military retirees to concurrently receive VA disability and military retirement benefits. Every Administration has opposed these attempts based on the long-standing principle that no one should be able to receive concurrent retirement benefits and disability benefits based upon the same service. All Federal compensation systems aim for an equitable percentage of income replacement in the case of either work-related injury *or* retirement. Such a change in policy would cost approximately $58 billion dollars over ten years.

Most recently, the President threatened to veto the Department of Defense authorization bill because it contained a provision allowing concurrent receipts. Veterans groups, as expected, have been heated in their criticism of the Administration over this issue, and will continue to press their supporters to change policy and allow concurrent receipts.

---

[1] PL 7 veterans are veterans who (i) do not have a service-connected disability serious enough to qualify for disability compensation; (ii) have an annual income exceeding $24,000 ($27,000 with one dependent) or who have a substantial net worth; and (iii) do not qualify for care under other special provisions (e.g. World War I veteran, care for conditions associated with herbicide or radiation exposure, etc.)

REV_00159221

POW Legislation: American ex-POWs held by the Japanese have been active in trying to pass legislation that would allow them to sue Japanese corporations that used POW slave labor. The latest iteration in this effort is legislation sponsored by Republican Dana Rohrbacher (HR 1189). State Department believes the Rohrbacher bill would contravene our peace treaty with the Japanese, which shielded Japanese nationals from liability. A bill introduced by Michael Simpson, (HR 5235) would provide a pension benefit for former POWs.

VA had submitted a legislative proposal establishing a POW benefit, and supported the Simpson effort. In order to pay for the benefit, VA's proposal contained language overturning a recent court ruling that expanded the definition of service-connected disability to include alcoholism and drug-use. The POW benefit would have cost nearly $1.7 billion over ten years, while the offset would result in $4.6 billion in savings over the same period. However, the Administration chose not to send POW benefit legislation or publicly endorse the Simpson legislation because we would be creating an new entitlement without a guarantee that offset portion would survive.

C. Regulatory

Secretary Principi recently issued a regulation allowing VA to ensure priority care for veterans with severe service-connected disabilities. Priority for treatment for service-connected veterans does not reduce the number of veterans VA treats, but does reduce the amount of time veterans seeking treatment for a service-connected disability must wait before receiving care. Predictably, the regulation was criticized as a "cut" in veterans benefits (most particularly by Senator Rockefeller).

REV_00159222

Criminal Justice

II. Looking Back: Review of '01 and '02

A. Achievements

Tort Reform

- Teacher Protection Act: As part of No Child Left Behind Act, the President signed into law the Teacher Protection Act, which provides civil immunity from state and Federal actions to teachers, principals, and other education professionals for actions taken to maintain discipline, order, or control in the classroom or school. The President promised to support the Teacher Protection Act during the campaign.
- Class Action Reform: The Administration sent a Statement of Administration Position (SAP) supporting the Class Action Fairness Act (H.R. 2341), which passed the House and is pending in the Senate. The bill would allow removal of cases to Federal court when the amount in controversy exceeds $2 million and there is minimal diversity. This is consistent with the campaign promise to "allow large cases to be removed from state to federal court where only minimal diversity exists."* Also, the bill establishes a consumer class action bill of rights, including notice of lawsuits in "plain English" and requires judicial review of non-cash benefits like coupons.
- Medical Liability Reform: In July 2002, President proposed national minimum standards in healthcare cases, including limits on non-economic damages and punitive damages, proportional liability, and informing juries of other sources of reimbursement. It would also protect from use in lawsuits reports and information about efforts of Patient Safety Organizations to improve patient care. The House approved this legislation.

Campaign Finance Reform

- In March 2002, the President signed H.R. 2356, the Campaign Finance Reform Act. The Act contains various provisions the President supported, including a ban on unregulated, "soft" money contributions from unions and corporations, increased limits on individual giving, and new and more expedited disclosure requirements. However, it also includes provisions that raise constitutional concerns, such as the broad ban on issue advertising.
- The bill contains reforms the President promised to support during the campaign, including: "banning 'soft money' contributions from labor unions and corporations" and "raising individual contribution limits." As enacted, it did not include provisions advocated by the President such as "enforcement of the Beck decision and enactment of effective 'Paycheck Protection'" legislation or "instant disclosure of contributions" (although it did further lessen the amount of time before disclosure was required).*

Election Reform

- The President endorsed four guiding principles embodied in the May 2001 report of the bipartisan National Commission on Election Reform: (1) primacy of state, county and local governments in elections; (2) a limited but responsible role for the federal government in assisting states and localities with election administration so that voting technology and practices respect the value of every eligible vote; (3) need for active and

vigorous enforcement of voting rights laws; and (4) need to uphold the voting rights of members of the armed services and of Americans living abroad.

- The President signed legislation consistent with these principles. It also contains important tools to decrease fraud in our voting systems.
- The bill authorizes $3.9 billion over four years for a variety of grant programs, including general improvement of the election administration system, and improved access to the voting process for individuals with disabilities. The Administration has proposed to spend $1.2 billion in matching grants to fund a state revolving fund to be used in election administration. The first of three $400 million installments was included in the President's FY 2003 budget.

Affirmative Action

- The President stated during the campaign that he "supports 'affirmative access' to open the doors of opportunity" to all Americans, and "opposes quotas and racial preferences."* The goal is to provide greater opportunity and access without creating race-conscious remedies that only benefit particular racial or ethnic groups. His Administration has done so in the following contexts:

    - Education: The No Child Left Behind Act establishes high standards and accountability for all public schools. Educating every American to his or her full potential was part of the campaign's affirmative access goals.
    - Contracting: The President's Small Business Agenda includes promoting the unbundling of contracts so that small businesses that are not capable of bidding for entire projects are not disadvantaged. This meets his campaign promise to advocate "breaking down government contracts to smaller sizes to encourage entrepreneurship in all communities" as a way to promote affirmative access.* Also, the President instructed the OMB Director to review contracting practices at relevant agencies to make sure their practices reflect a commitment to full and open competition.
    - Housing: The President announced a homeownership initiative targeted at increasing homeownership for minority families. It includes proposals to increase the supply of affordable homes for low and moderate income families, provide downpayment assistance, more educational assistance, and a "Homeownership Challenge" to the real estate and mortgage finance industries to help increase the number of minority homeowners by 5.5 million families by the end of the decade. This initiative does not rely on racial classifications.

New Freedom Initiative

Community Living

- *Olmstead*: By Executive Order, the President required Federal agencies to assist states and localities to implement the Supreme Court's *Olmstead* decision. *Olmstead* requires states to place qualified individuals with disabilities in community settings, rather than in institutions, whenever treatment professionals determine that such placement is appropriate, the affected persons do not oppose such placement, and the state can reasonably accommodate the placement, taking into account the resources available to the state and the needs of others with disabilities.

REV_00159225

- In response, key Federal agencies conducted the first comprehensive Federal review of barriers that prevent people with disabilities from living in the community and identified over 400 potential solutions to remove impediments to community-based living, which agencies have begun to implement.
- Medicare Homebound Rules: The President announced a clarification with respect to Medicare recipients with disabilities who are considered "homebound." This change makes it clear that people with significant disabilities may leave their homes for occasional activities without losing their Medicare homebound services.

Education

- IDEA: The President requested the largest increases of any President in history for the Individuals with Disabilities Education Act (IDEA) Part B State Grants program in his FY 2002 and FY 2003 budgets. The President signed legislation increasing by $1.2 billion in FY 2002 budget for the IDEA Part B State Grants program.
- Special Education Commission: The President issued Executive Order 13227 in October 2001 creating the Presidential Commission on Excellence in Special Education. The Commission issued its report to the President on July 1, 2002.

Technology

- Section 508: The President promised full enforcement of Section 508 of the Rehabilitation Act, which requires that all Federal government electronic and information technologies be accessible to individuals with disabilities. In response, the Administration collaborated to expedite Section 508 implementation, and produced extensive technical guidance and training materials that will be helpful to Federal agencies and others interested in accessible technologies.

Homeownership

- HUD Section 8: The President committed to revising the HUD Section 8 rent subsidy program to permit people with disabilities to use up to one year's worth of Section 8 rent subsidy vouchers to finance a down payment and purchase a home. HUD has implemented this pilot program.

Employment Integration

- Ticket to Work: The President promoted swift implementation of the Ticket to Work and Work Incentives Improvement Act, which provides incentives for more than 7.5 million Americans receiving benefits under Federal disability programs to return to work.

Other

- Commission on Mental Health: The President formed the New Freedom Commission on Mental Health to conduct a comprehensive study of the Nation's mental health service delivery system.
- Access to Voting Places: The President will sign legislation mandating increased access to polling places by individuals with disabilities.

REV_00159226

- DisabilityInfo.gov: By Executive Memorandum, the President created a single source Federal web site providing access to all the Federal web sites important to people with disabilities. This web site was launched in October 2002.
- NFI Budget: The President secured funding for the vast majority of NFI programs in FY 2002 and requested a higher overall level of NFI-related funding in FY 2003. In the FY 2002 budget, the President requested $10.781 billion and received $10.872 billion. In the FY 2003 budget, he is seeking $1.39 billion over 2002 appropriations.

B. Outstanding Commitments

Civil Justice
Tort Reform
The President promised during the campaign to "support meaningful, broad-based tort reform" to discourage frivolous lawsuits. Congress has not acted on the following items the President pledged to support:

- "Strengthen Federal Rule 11 to require stiffer penalties for frivolous suits, and impose a 'Three Strikes, You're Out' rule on attorneys who repeatedly file frivolous claims."
- "Limit 'fishing expeditions' by amending federal discovery rules, and curb the use of 'junk science' by raising the federal standard for admission of scientific testimony."
- "Eliminate the much-abused private cause of action under the RICO statute."
- "Raise the amount in controversy for removal where there is complete diversity."
- "Enact a 'Fair Settlement Rule,' requiring parties who reject a pre-trial settlement offer, and who ultimately lose their case or receive substantially less at trial, to pay the other party's costs, including legal fees."
- "Enact a 'Client's Bill of Rights' to allow federal courts to hear challenges to attorneys' fees, and require attorneys to disclose their ethical obligation to charge reasonable fees."

The President's remaining campaign civil justice system reform pledge was to "Issue an Executive Order prohibiting Federal agencies from paying contingency fees."* This executive order is currently being drafted.

New Freedom Initiative

- Transportation Grants: The President requested $145 million in his 2002 and 2003 budgets for competitive grants through the Department of Transportation to provide alternative transportation services to give people with disabilities increased access to the job market, and to fund a pilot program to demonstrate innovative solutions for overcoming transportation barriers. This is the major NFI program that was not funded in FY 2002. The reason appears to be lack of available resources rather than any problem with the program itself.

* References A Fresh Start for America: Policy Addresses of George W. Bush. Otherwise, quotes reference campaign position papers compiled in Renewing

REV_00159227

America's Purpose: Policy Addresses of George W. Bush, July 1999 – July 2000.

II. Looking Forward: '03 Agenda

B. Legislative

Civil Justice

Civil Justice Reform. Tort reform, including class action reform and medical malpractice liability reform, will not likely be resolved this year and will be an issue in the 108th Congress.

- Class Action Jurisdiction Act – This legislation has passed the House twice but has never been considered in the Senate. The President has endorsed it as a reform that will reduce inefficiency, waste and unfairness in the existing class action system, without curtailing plaintiff's rights or remedies.
  Other related legislation might involve anticipated changes to Rule 23 (governing class actions) that the Supreme Court is expected to propose on or before May 1, 2003. Some of these changes are to allow class members to opt out of the class once the terms of a proposed settlement are known; to allow the court to select class counsel; and to establish procedures for approval of attorney's fee awards. If Congress takes no action they would go into effect as proposed. However, there may be opportunities to strengthen the rule changes by legislation.
- Medical Malpractice Liability -- The House passed the HEALTH Act by vote of 217 – 203. The Senate is unlikely to consider the bill this Congress. However, as the public continues to suffer from increased medical insurance costs, watches doctors withdraw from practices where their insurance costs are prohibitive, and notes the absence of facilities such as trauma centers, there will be increasing pressure on the Senate to move next year.

Tobacco Control Legislation ('03)– Bipartisan legislation in Congress has been introduced to grant the FDA authority to regulate tobacco products. While the issue has not been highly visible in the 107th Congress, Democrats and some Republicans plan to raise its profile in the 108th Congress. The Administration may be required to take a position on the regulation of tobacco products, and should prepare a strategy to address this issue for early next year.

C. Regulatory

Civil Justice

FDA Drug Labeling Safe Harbor. The FDA reviews and approves every word on the label of any prescription drug product, and it requires manufacturers to obtain approval before modifying a drug label. Yet many courts permit lawsuits based on a claim that a drug manufacturer's label did not warn of a certain risk – even though the label fully complied with all federal safety requirements. Such lawsuits essentially allow a jury to second-guess the FDA's judgment regarding a product's label and develop labeling policy without considering all the consequences. Empirical evidence shows that these decisions actually jeopardize the public health, since labels that are too complicated or long lead to consumers' ignoring *all* warnings.

REV_00159228

FDA intends to promulgate a regulation expressly preempting tort failure-to-warn and other claims based on alleged deficiencies in a drug's label, as part of a new rule that will extensively revise drug-labeling requirements. These revised labeling requirements will result in simpler, more focused labels that will better protect the general public health.

This initiative could be unveiled at the Presidential level if desired.

SBA Women Owned Small Business Program

- SBA Women Owned Small Business Program: Congress authorized (but did not mandate) the creation of a new set-aside program for women-owned small businesses to restrict certain federal contracts to bidding by women-owned businesses, which would be the first newly-created set-aside program in this Administration.
- The SBA proposed regulations to implement the program, but they were of questionable constitutionality and withdrawn in the OMB process. Currently, SBA is reevaluating a Congressionally-mandated draft study it had developed to justify the program. After the revised study is complete next year, the Administration will have to determine whether to implement the program.

New Freedom Initiative

OPM Regulations

- The Office of Personnel Management regulations limit which entities can certify that an applicant has a disability. They are the state vocational rehabilitation agencies and the Department of Veterans Affairs. OPM is actively considering a change in regulation to add SSA as a certifying agency. This could streamline the process in allowing Ticket to Work candidates to apply for Federal jobs. This is expected to change in 2003.

REV_00159229

From: Johnson, Collister W.
To: <Willson, Lauren L.>;<Troy, Tevi>;<Garrison, Stephen M.>;<Wehner, Peter H.>;<Clark, Alicia P.>
CC: <Kavanaugh, Brett M.>
Sent: 3/3/2003 11:33:20 AM
Subject: Re: Promises and Accomplishments
Attachments: Civil Justice Reform and New Freedom Initiative Promise.doc; Criminal Justice Promise.doc; Drug Promise.doc; Education Promise.doc; Environment and Natural Resource Promise.doc; Faith-Based Promise.doc; Ground Transportation Promise.doc; Health Care Policy Promise.doc; Housing and Community Development Promise.doc; Immigration Promise.doc; Labor Promise.doc; USA Freedom Corps Promise.doc; Veterans Promise.doc; Welfare, Child Welfare, Adoption Promise.doc

The RNC is working on both:

1. gathering past examples of "promises-accomplishments" documents, and

2. tracking DNC attacks on current "promises-accomplishments".

Before sharing those documents with us, Brett Kavanaugh and Counsel will let us know guidelines -

thanks -

c

From: Tevi Troy/OPD/EOP@Exchange on 02/28/2003 01:14:13 PM

Record Type: Record

To: Lauren L. Willson/WHO/EOP@EOP

cc: Alicia P. Clark/WHO/EOP@EOP, Stephen M. Garrison/WHO/EOP@EOP, Peter H. Wehner/WHO/EOP@EOP, Collister W. Johnson/WHO/EOP@EOP

Subject: Promises and Accomplishments

Attached please find all of the DPC promises and accomplishment documents, taken out of the policy reviews done last fall.

The achievement section largely tracks which promises we have followed through on.

The outstanding commitment section is just that.

Please note: these documents are not necessarily comprehensive, but take into account prioritization decisions made by the SAPs in each area.

Tevi

<< Civil Justice Reform and New Freedom Initiative Promise.doc >> << Labor Promise.doc >> << Drug Promise.doc >> << Environment and Natural Resource Promise.doc >> << USA Freedom Corps Promise.doc >> << Health Care Policy Promise.doc >> << Immigration Promise.doc >> << Ground Transportation Promise.doc >> << Welfare, Child Welfare, Adoption Promise.doc >> << Education Promise.doc >> << Faith-Based Promise.doc >> << Housing and Community Development Promise.doc >> << Veterans Promise.doc >> << Criminal Justice Promise.doc >>

Civil Justice Reform and New Freedom Initiative

II. Looking Back: Review of '01 and '02

A. Achievements

Tort Reform

- Teacher Protection Act: As part of the No Child Left Behind Act, the President signed into law the Teacher Protection Act, which provides civil immunity from state and Federal actions to teachers, principals, and other education professionals for actions taken to maintain discipline, order, or control in the classroom or school. The President promised to support the Teacher Protection Act during the campaign.

Campaign Finance Reform

- In March 2002, the President signed into law H.R. 2356, the Campaign Finance Reform Act. The Act contains various provisions the President supported, including a ban on unregulated, "soft" money contributions from unions and corporations, increased limits on individual giving, and new and more expedited disclosure requirements. However, it also includes provisions that raise constitutional concerns, such as the broad ban on issue advertising.
- The bill contains reforms the President promised to support during the campaign, including: "banning 'soft money' contributions from labor unions and corporations" and "raising individual contribution limits." As enacted, it did not include provisions advocated by the President such as "enforcement of the Beck decision and enactment of effective 'Paycheck Protection'" legislation or "instant disclosure of contributions" (although it did further lessen the amount of time before disclosure was required).*

Election Reform

- The President endorsed four guiding principles embodied in the May 2001 report of the bipartisan National Commission on Election Reform: (1) primacy of state, county and local governments in elections; (2) a limited but responsible role for the federal government in assisting states and localities with election administration so that voting technology and practices respect the value of every eligible vote; (3) need for active and vigorous enforcement of voting rights laws; and (4) need to uphold the voting rights of members of the armed services and of Americans living abroad.
- The legislation signed by the President largely follows these principles.
- The Administration has proposed to spend $1.2 billion in matching grants to fund a state revolving fund to be used in election administration. The first of three $400 million installments was included in the President's FY 2003 budget.

Affirmative Action

- The President stated during the campaign that he "supports 'affirmative access' to open the doors of opportunity" to all Americans, and "opposes quotas and racial preferences."* The goal is to provide greater opportunity and access without creating race-conscious remedies that only benefit particular racial or ethnic groups. Policies advocated during the campaign in the context of affirmative access have been implemented, as discussed below. However, the Administration has not proactively modified existing race-conscious programs from the prior Administration, such as government contracting programs.

    - Education: The No Child Left Behind Bill establishes high standards and accountability for all public schools. Educating every American to his or her full potential was part of the campaign's affirmative access goals.

    - Contracting: The President announced a Small Business Agenda earlier this year, which included promoting the unbundling of contracts so that small businesses that are not capable of bidding for entire projects are not disadvantaged. This is consistent with the campaign promise to advocate "breaking down government contracts to smaller sizes to encourage entrepreneurship in all communities" as a way to promote affirmative access.* Also, the President instructed the OMB Director to review contracting practices at relevant agencies to make sure their practices reflect a commitment to full and open competition.

    - Housing: The President announced a homeownership initiative targeted at increasing homeownership for minority families. It includes proposals to increase the supply of affordable homes for low and moderate income families, provide downpayment assistance and more educational assistance, and a "Homeownership Challenge" to the real estate and mortgage finance industries to help increase the number of minority homeowners by 5.5 million families by the end of the decade.

New Freedom Initiative

Community Living

- *Olmstead*: The President issued an Executive Order in June 2001 requiring Federal agencies to assist states and localities to implement the Supreme Court's *Olmstead* decision. *Olmstead* requires states to place qualified individuals with disabilities in community settings, rather than in institutions, whenever treatment professionals determine that such placement is appropriate, the affected persons do not oppose such placement, and the state can reasonably accommodate the placement, taking into account the resources available to the state and the needs of others with disabilities.
    - In response, key Federal agencies conducted the first comprehensive Federal review of barriers that prevent people with disabilities from living in the community and identified over 400 potential solutions to remove impediments to community-based living, which agencies have begun to implement.

REV_00159235

- Medicare Homebound Rules: During the ADA Anniversary event on July 26, the President announced a clarification with respect to Medicare recipients with disabilities who are considered "homebound." This change makes it clear that people with significant disabilities may leave their homes for occasional activities without losing their Medicare homebound services.

Education

- IDEA: The President requested the largest increases of any President in history for the Individuals with Disabilities Education Act (IDEA) Part B State Grants program in his FY 2002 and FY 2003 budgets. The President signed legislation increasing by $1.2 billion in FY 2002 budget for the IDEA Part B State Grants program.

- Special Education Commission: The President issued Executive Order 13227 in October 2001 creating the Presidential Commission on Excellence in Special Education. The Commission issued its report to the President on July 1, 2002.

Technology

- Section 508: In June 2001, the President promised full enforcement of Section 508 of the Rehabilitation Act, which requires that all Federal government electronic and information technologies be accessible to individuals with disabilities. In response, the Administration collaborated to expedite Section 508 implementation, and produced extensive technical guidance and training materials that will be helpful to Federal agencies and others interested in accessible technologies.

Homeownership

- HUD Section 8: The President in June 2001 committed to revising the HUD Section 8 rent subsidy program to permit people with disabilities to use up to one year's worth of Section 8 rent subsidy vouchers to finance a down payment and purchase a home. HUD later implemented this pilot program.

Employment Integration

- Ticket to Work: The President promoted swift implementation of the Ticket to Work and Work Incentives Improvement Act, which provides incentives for more than 7.5 million Americans receiving benefits under Federal disability programs to return to work.

Other

- Commission on Mental Health: In April 2002, the President announced the formation of the New Freedom Commission on Mental Health to conduct a comprehensive study of the Nation's mental health service delivery system.

- DisabilityInfo.gov: In August 2002, the President signed an Executive Memorandum creating a single source Federal web site dedicated to providing information that

REV_00159236

facilitates access to all the Federal web sites important to people with disabilities. This web site will be launched in October 2002.

- NFI Budget: The President secured funding for the vast majority of NFI programs in FY 2002 and requested a higher overall level of NFI-related funding in FY 2003. In the FY 2002 budget, the President requested $10.781 billion and received $10.872 billion. In the FY 2003 budget, he is seeking $1.39 billion over 2002 appropriations.

B. Outstanding Commitments

Civil Justice

Tort Reform

- The President promised during the campaign to "support meaningful, broad-based tort reform" to discourage frivolous lawsuits. Specific reforms on which no action has yet been taken are listed below.
  The following would require Congressional action:
  - "Strengthen Federal Rule 11 to require stiffer penalties for frivolous suits, and impose a 'Three Strikes, You're Out' rule on attorneys who repeatedly file frivolous claims."
  - "Limit 'fishing expeditions' by amending federal discovery rules, and curb the use of 'junk science' by raising the federal standard for admission of scientific testimony."
  - "Eliminate the much-abused private cause of action under the RICO statute."
  - "Raise the amount in controversy for removal where there is complete diversity."
  - "Enact a 'Fair Settlement Rule,' requiring parties who reject a pre-trial settlement offer, and who ultimately lose their case or receive substantially less at trial, to pay the other party's costs, including legal fees."
  - "Enact a 'Client's Bill of Rights' to allow federal courts to hear challenges to attorneys' fees, and require attorneys to disclose their ethical obligation to charge reasonable fees."
  - "Require private lawyers who contract to represent states or municipalities to return any excessive fees to their government clients."

  The following could be accomplished administratively:
  - "Issue an Executive Order prohibiting Federal agencies from paying contingency fees."*

- Class Action Reform: The Administration sent a Statement of Administration Policy (SAP) supporting the Class Action Fairness Act (H.R. 2341), which passed the House and is pending in the Senate. The bill would allow removal of cases to Federal court when the amount in controversy exceeds $2 million and there is minimal diversity. This is consistent with the campaign promise to "allow large cases to be removed from state to federal court where only minimal diversity exists."* Also, the bill establishes a consumer class action bill of rights, including notice of lawsuits in "plain English" and required judicial review of non-cash benefits like coupons.

REV_00159237

- Medical Liability Reform: In July 2002, President proposed national minimum standards in healthcare cases, including limits on non-economic damages and punitive damages, proportional liability, and informing juries of other sources of reimbursement. He also supports legislation that would protect from use in lawsuits reports and information about efforts of Patient Safety Organizations to improve patient care.

New Freedom Initiative

- Transportation Grants: The President requested $145 million in his 2002 and 2003 budgets for competitive grants through the Department of Transportation to provide alternative transportation services to give people with disabilities increased access to the job market, and to fund a pilot program to demonstrate innovative solutions for overcoming transportation barriers. This is the major NFI program that was not funded in FY 2002. The reason appears to be lack of available resources rather than any problem with the program itself. The President specifically referenced the need to fund this program during his ADA Anniversary White House event in July.

* References A Fresh Start for America: Policy Addresses of George W. Bush. Otherwise, quotes reference campaign position papers compiled in Renewing America's Purpose: Policy Addresses of George W. Bush, July 1999 – July 2000.

II. Looking Forward: '03 Agenda

B. Legislative

Civil Justice

- Tort reform, including class action reform and medical malpractice liability reform, will not likely be resolved this year and will be an issue in the 108th Congress.

- Election reform will remain an issue for the 108th Congress if not resolved in conference this year.

C. Regulatory

Civil Justice

SBA Women Owned Small Business Program

- SBA Women Owned Small Business Program: Congress authorized (but did not mandate) the creation of a new set-aside program for women-owned small businesses to restrict certain federal contracts to bidding by women-owned businesses, which would be the first newly-created set-aside program in this Administration.
- The SBA proposed regulations to implement the program, but they were of questionable constitutionality and withdrawn in the OMB process. Currently, SBA is reevaluating a Congressionally-mandated draft study it had developed to justify the program. After the revised study is complete next year, the Administration will have to determine whether to implement the program.

REV_00159238

REV_00159239

LABOR POLICY

II. Looking Back: Review of '01 and '02

A. Achievements.

- Issuance of Executive Orders on Project Labor Agreements and Notification of "Beck" Rights.
- Creation of Office of 21st Century Workforce and appearance by President at 21st Century Workforce Summit (May 2001) to address challenges facing our workforce in the new economy, such as changing workplace demographics and technology.
- Issuance of DOL's ergonomics plan, which features issuance by the Occupational Safety and Health Administration (OSHA) of industry-specific guidelines for ergonomic workplace safety, instead of a far-reaching, onerous, one-size-fits all federal mandate. This action was consistent with the President's campaign statement: "As for OSHA's proposed ergonomics standards, I believe the federal government should provide workers and businesses with information about ergonomic-related injuries, but it should not impose far-reaching federal regulations that are neither clear nor rooted in strong science."
- Participation in record number of Health and Safety Partnerships. Health and Safety Partnerships between labor unions and the Department of Labor are at an all time high. In 2001, labor unions participated in 465 safety partnerships with DOL, including a partnership with the Laborers Union to address the anthrax threat.
- Proposal of "Back to Work Relief" package shortly after September 11, which culminated in the signing into law (early 2002) of a major element of that package -- extended unemployment benefits for thirteen weeks for all dislocated workers.
- Signing into law major expansion and reauthorization of Trade Adjustment Assistance program to provide for assistance for workers impacted by trade, including job training, financial assistance, and, for the first time, assistance with health insurance. Reauthorization of TAA was crucial to passage of Trade Promotion Authority, one of the President's major legislative priorities.
- Pennsylvania Mine Rescue – Mine Safety and Health Administration (MSHA) played a major role in the rescue of the miners at Quecreek Mine in Pennsylvania.

B. Outstanding Commitments

- Propose "Compensatory Time" amendment. The "Tools for Parents" document produced during the campaign stated "Governor Bush will propose to amend the FLSA to provide private sector employees the option . . . of taking comp time instead of overtime pay." President Bush has twice spoken in favor of comp time since taking office, but has not proposed actual legislation or pushed for enactment of existing legislation.
- Propose amendment to Occupational Safety and Health Act to ensure that private, residential homes will not be subject to OSHA regulations. The "Tools for Parents" document produced during the campaign stated "Governor Bush will propose

legislation to amend the Occupational Safety and Health Act to prohibit the Act from being applied to employees who work at home." President Bush has not spoken about this proposal since taking office, but the Department of Labor issued a directive during the Clinton Administration committing to keep OSHA out of home offices, and the directive is still in effect.

- Seek to enact "Paycheck Protection" legislation as part of campaign finance reform legislation. The campaign finance reform fact sheet produced by Governor Bush's campaign pledged that "Governor Bush will accompany the ban on union and corporate soft money with legislation to enact "Paycheck Protection" preventing union bosses from directly spending roughly $300 million in union dues annually -- without members' permission – to support candidates of the bosses' choosing." A campaign finance reform bill was signed into law by the President earlier this year, and efforts to include a "Paycheck Protection" provision were defeated.

III. Looking Forward: '03 Agenda

A. **Legislative** (active legislative issues)

- Davis Bacon in the Homeland Security bill – The current Senate version of the bill creating the Department of Homeland Security (DHS) contains a provision applying Davis-Bacon to construction projects funded with assistance from the DHS. The House bill has no such provision. Some Senate Republicans plan to fight the provision in the Senate, but do not have the votes to win an up-or-down vote. Certain House Republican conferees will vigorously fight in conference to keep the provision out of the final bill.
- Workforce Investment Act Reauthorization – The legislation that authorizes the federally-funded, state-run job training system expires on September 30, 2003 and must be reauthorized before that date. DOL plans to have a legislative proposal ready to send to Congress by January 2003.
- Minimum Wage increase – Democrats will likely continue to try to increase the minimum wage by $1.50 over 18 months.
- Extended Unemployment Insurance Benefits – workers who lost their jobs right after September 11 have already exhausted even the additional 13 weeks of benefits granted by the economic stimulus bill, and the entire extended benefit program ends at the end of Calendar Year 2002. Democrats in both the House and the Senate are already pushing legislation to extend the program and create another 13-week extension. Another extension could cost as much as $11 billion.
- Genetic Discrimination Legislation – The President has endorsed legislation prohibiting employment discrimination based on genetic information, but there is competing legislation in both the House and the Senate. Congress, with technical assistance and encouragement from the Administration, is working on a compromise bill that both Houses could pass. The bills differ mainly over private rights of action and damages levels.
- Unemployment Insurance/Employment Services (UI/ES) Reform – The President's FY '03 budget proposed a comprehensive reform of the UI/ES system to cut employer taxes, return trust fund money to the states and gradually shift responsibility for all administrative costs to the states. The proposal is stalled in Congress.

REV_00159241

B. Regulatory

- Revision of Family and Medical Leave Act (FMLA) Regulations -- The Clinton Administration issued several regulations implementing the FMLA that have made it extremely difficult and onerous to implement. The Supreme Court recently struck down one such regulation as an improper interpretation of the statute. DOL plans to seek comment on and propose changes to these regulations.
- Revision of Fair Labor Standards Act (FLSA) Regulations -- Certain "white-collar" professions are exempt from FLSA requirements, but the regulations defining these exemptions are vague, out-dated, and extremely difficult to administer. Employers and employees alike agree that these regulations need to be updated. DOL plans to seek comment on and propose changes to these regulations.
- Revision of Regulations Governing Union Financial Disclosures – DOL plans to seek comment on proposed revisions in late November-December 2002. See discussion in new policy recommendation #2 below.

REV_00159242

Drug Policy

II. Looking Back: Review of '01 and '02

A. Achievements.

1. **Presidential Events:** Announcement of Director of National Drug Control Policy, May 10, 2001 ("announcement"); Signing Drug-Free Communities Act Reauthorization Bill, December 14, 2001 ("signing"); Remarks on the 2002 National Drug Control Strategy, February 12, 2002 ("strategy").
2. **Stopping Use Before it Starts:** Education and Community Action—Implementing the first priority of the National Drug Control Strategy has produced accomplishments across all sectors relevant to drug prevention: communities, schools, parents, and work places.
   a. **Empower Community and Faith-Based Groups to Fight Drugs** (campaign, announcement, signing, strategy)—On track to meet President's commitment to double community coalitions in five years. The Drug-Free Communities Act has been successfully reauthorized and appropriations are on track for FY02 and FY03. The program includes expansion in rural and under-served areas and the continued involvement of faith leaders.
   b. **Ensure Students have Access to Drug-Free Schools** (campaign, strategy)—No Child Left Behind reauthorized the Safe and Drug-Free Schools program, requiring accountability for grant recipients pursuant to the President's commitment. Department of Education has begun work on implementation of the new accountability with OMB and ONDCP. Additionally, ONDCP and Education have produced and are distributing a guide to drug testing for schools.
   c. **Mobilize Parents in the War on Drugs** (campaign, announcement, strategy)—ONDCP has used the National Youth Anti-Drug Media Campaign to reach parents and increase their efficacy in dealing with their kids on drug abuse. Additionally, we have worked to develop a parent drug corps. Although the Appropriations Committees appear poised to deny our request for a second year, we have provided grants from existing authority at SAMHSA to support the efforts of non-profits to develop a parent drug corps in several states.
   d. **Promote Drug-Free Workplaces** (campaign)—The Administration continues to implement a small business drug-free workplace program, although at a lower funding level than the President originally committed ($3M per year v. $5M per year). Additionally, the National Youth Anti-Drug Media Campaign has launched the @Work program, which enrolls corporations in a program to provide drug-free workplace materials through existing corporate infrastructure (e.g., intranets, company newsletters).
3. **Healing America's Drug Users:** Getting Treatment Resources Where They Are Needed—Health and Human Services is on track to meet the budgetary commitment of an additional $1.6B in treatment resources and doubling the budget for the National Institute on Drug Abuse over five years. Department of Justice has met the President's commitment to drug-free federal prisons with an outstanding array of anti-drug programs that provide a great example for state correctional systems. Additionally, in

the Residential Substance Abuse Treatment (RSAT) program, which provides funds for treatment to States for use in correctional settings, we requested a $10M increase in FY02, and received $7M, for a total of $70M. In FY03, we requested an additional $7M.

4. **Disrupting the Market:** Attacking the Economic Basis of the Drug Trade
   a. **Secure and Defend our Borders** (campaign)—The Administration has provided $100M over the first two years of a $250M over 5 year commitment to reimburse local governments for prosecuting drug cases on the southwest border.
   b. **Clean up Meth labs** (campaign)—The campaign paper committed $100M over 5 years at DEA for Meth lab clean up, and the funds were provided through the retooled COPS program.
5. **Fighting the War on Terror** (signing, strategy)—The President has effectively linked the issues of drugs and terror in his public statements, demonstrating that the purchase of illegal drugs funds terrorist activity and violence. The National Youth Anti-Drug Media Campaign has used this theme in a group of ads released at the Super Bowl and a second group to be released in September.
6. **Oppose legalization** (announcement)—The President came out strongly against drug legalization and Director Walters has visited and will continue to visit the three states that have legalization ballot initiatives this fall—Arizona, Ohio, and Nevada.

B. Outstanding Commitments

1. **Healing America's Drug Users**—While the Administration has made substantial progress on providing treatment, particularly in the budget, some of the President's policy commitments have not yet been met.
   a. **Treatment**—While we have met the funding commitment, we are still working to fully implement three policy changes: (1) making state grant awards performance-based, and (2) ensuring that non-medical faith-based and community providers are eligible for funds on the same basis as other groups, (3) targeting resources to the greatest need. (See "Turning Back the Tide of Drugs," October 6, 2000: "Federal funds will be provided to support drug treatment programs that prove demonstrated results. And faith-based and community-based organizations will be fully eligible as well, provided they can demonstrate the same effectiveness.")
   b. **Drug Courts**—We have not fully met our funding commitment to the drug courts program, increasing funding by $50M over five years, nor have we made policy changes to improve drug courts. We did not request an increase in FY02 maintaining the request at the base $50M. In the FY03 budget, we requested an increase of $2M. (See "Turning Back the Tide of Drugs," October 6, 2000: "Drug Courts: Increase funding by $50 million over five years for drug courts, share best practices, and hold them accountable for results. Under a Bush Administration, the Department of Justice will support local drug courts that combine drug testing with effective monitoring.")
2. **Stopping Use Before It Starts**—Although we have made progress in ensuring that students have access to drug-free schools, there remains important implementation work to do on No Child Left Behind and we have not increased funding for Safe and Drug Free Schools, despite a campaign commitment to add $20M/year for five years. (See "Turning Back the Tide of Drugs," October 6, 2000: "Work to make all schools

REV_00159244

drug-free: Increase funding for the Safe and Drug-Free Schools program by $100 million over five years, but require that states and districts measure and report drug use and demonstrate effective use of federal funds.")

III. Looking Forward: '03 Agenda

B. Legislative (active legislative issues)

1. ONDCP Reauthorization—ONDCP's organic statute, including authorizations for several of its programmatic responsibilities.
2. Substance Abuse and Mental Health Services Administration (SAMHSA) Reauthorization—HHS prevention and treatment programs, including the principle drug-related block grant.
3. Coverdell Drug-Free Workplace Reauthorization—Grants to support technical assistance and services for small business drug-free workplace programs.
4. Faith Bill (if not completed in '02)—Provisions allowing faith-based organizations to receive federal assistance for treatment and prevention services.
5. Department of Homeland Security Authorization (if not completed in '02)—Many counter-drug law enforcement functions are responsibilities of the new DHS.
6. Department of Justice Reauthorization (if not completed in '02)—includes most drug enforcement agencies, drug courts program.

C. Regulatory—None.

REV_00159245

Environment and Natural Resource Policy

II. Looking Back: Review of '01 and '02

A. Achievements.

The first 18 months of this Administration has been marked by the fulfillment of a wide range of commitments in the environmental and natural resource areas, as outlined below. Two Presidential Initiatives – Clear Skies and Healthy Forests – represent priority, "signature," policies that will require strong and coordinated, multi-agency efforts to achieve Congressional approval and subsequent implementation.

1. **Brownfields Cleanup and Restoration** *(campaign commitment)*: On January 11, 2002, President Bush signed historic legislation that will facilitate cleanup and redevelopment of contaminated industrial sites – "brownfields" – improving the environment, protecting public health, creating jobs, and revitalizing communities. The President's '03 budget proposal provides $200 million – twice the '02 level of funding – for EPA's brownfields program, $171 million of which is for grants for states and local communities.
2. **Clear Skies Initiative** *(campaign commitment)*: On February 14, 2002, President Bush announced an initiative that will cut power plant emissions of the three major air pollutants – nitrogen oxides, sulfur dioxide, and mercury – by 70 percent by 2018. In late July 2002, the President's Clear Skies legislation was introduced by Senator Smith and Congressmen Tauzin and Barton. The Initiative, contrary to the campaign commitment, does not include carbon dioxide which is now addressed in the President's climate change policy.
3. **Global Climate Change** *(campaign commitment)*: The Administration is partially on track to meet this commitment through the announcement of three initiatives focused on science, technology, and mitigation. On June 11, 2001, the President announced a new commitment to develop a science-based climate change policy (Climate Change Research Initiative), and a new commitment to funding research on "breakthrough technologies" (National Climate Change Technology Initiative) that will help meet the long-run climate change challenge. On February 14, 2002, the President announced a new approach to climate change that commits America to cut greenhouse gas intensity by 18% over the next 10 years. A range of domestic and international initiatives accompanied the February 14 announcement. **The National Climate Change Technology Initiative has not evolved sufficiently,** (see Outstanding Issues Section).
   a. Created the Climate Change Research Initiative *(1st-year commitment)*: The objective of this initiative is to promote a vision focused on the effective use of scientific knowledge in policy and management decisions, and continued evaluation of management strategies and choices. To meet this commitment to climate research, the U.S. will spend $1.7 billion in FY'03 for basic research on climate change, $40 million of which is dedicated to leverage other funding to address major gaps in scientific understanding including the carbon cycle and the role of black soot, aerosols, and clouds.

b. **Climate Change Mitigation Policy** *(2nd-year commitment)*: The President announced a new strategy that commits America to cut greenhouse gas intensity by 18% over the next 10 years. To help meet this commitment, the President directed the Secretary of Energy to substantially improve the registry to enhance measurement accuracy, reliability and verifiability of voluntary emissions reductions and to give transferable credits to companies that can show real emissions reductions. Numerous other domestic and international initiatives will help meet this goal.

4. **Energy Project Streamlining** *(1st-year commitment)*: Executive Order #13212 was signed on May 18, 2001. The White House Task Force on Energy Project Streamlining was charged with conducting a top-to-bottom review of federal procedures in order to find ways to expedite the review of permits for projects that will increase the production, transmission, and conservation of energy, while maintaining safety, public health, and environmental protections.
5. **Restoring the Everglades** *(campaign commitment)*: To fulfill a campaign pledge, President Bush and Florida Governor Jeb Bush, in January 2002, signed an agreement that ensures adequate water supplies are available to support the 30-year Comprehensive Everglades Restoration Plan (CERP). This agreement further bolsters the Bush Administration's strong support for the 30-year, $7.8 billion CERP, the most comprehensive and ambitious ecosystem restoration project ever undertaken in the United States. The President's FY'03 budget proposal includes $245 million for Everglades restoration.
6. **Protecting our National Wildlife Refuges**: The President's FY'03 budget proposes a record $376 million, up $57 million from FY'02, for our National Wildlife Refuges as we prepare to celebrate the system's 100-year anniversary on March 14, 2003. **Opportunity for White House participation and profile in this celebration.** The Department of the Interior's Centennial Campaign will improve resource conservation, visitor programs, and facilities on wildlife refuges nationwide and increase visibility for wildlife refuges by strengthening and expanding partnerships.
7. **Landowner Incentive Program** *(campaign commitment)*: Fulfilling a campaign pledge, President Bush has created new landowner incentives and private stewardship grant programs, which Congress funded at $50 million. The President's FY'03 Budget includes an additional $10 million – for a total of $60 million – for these programs. The Department of Interior also is seeking $100 million for a new Cooperative Conservation Initiative to protect and conserve the environment through partnerships that will tap the ingenuity, imagination, and innovative spirit of American citizens. Challenge grants will be awarded competitively to landowners, environmental groups, land-user groups, communities and local and state governments. In addition, the President signed legislation temporarily ending the estate tax, which will allow more lands to stay in family ownership and prevent habitat fragmentation.
8. **Oppose Breaching Dams in the Pacific Northwest** *(campaign commitment)*: The Administration continues to uphold this position. The Administration has supported local efforts to restore salmon runs and provided $20 million in funding for local salmon recovery projects.
9. **Conservation Title of the Farm Bill**: The Administration worked with the Congressional conference committee to ensure a forward-looking farm policy that more than doubles the funding to enhance conservation and environmental

REV_00159247

stewardship on private lands. On May 13, 2002, President Bush signed the Farm Security and Rural Investment Act into law, which will add $17.1 billion over the next ten years to existing programs.

10. **Klamath Basin Cabinet-level Panel** *(1st-year commitment)*: On March 1, 2002, the President established a Cabinet-level panel to recommend within 18 months ways to enhance water quality and quantity in Oregon's Klamath River Basin. President Bush named Secretaries Norton, Veneman, Evans, and Chairman Connaughton to head the panel.
11. **Tropical Forest Conservation Act** *(campaign commitment)*: On track to meet the President's TFCA commitments. Agreements with Belize, El Salvador, and Bangladesh, and the Philippines have been completed. The President's FY '03 budget request of $40 million for "debt for nature" agreements with developing countries nearly triples funding for this successful program, which preserves species habitat and sequesters greenhouse gases.
12. **Offshore Drilling** *(campaign commitment)*: On track to support position on a moratorium against offshore drilling in Florida. The Administration has taken active steps to ensure no drilling will occur off the coast of Florida, in two distinct actions announced in May, 2002, (lease buy back at Destin Dome and purchase of drilling rights in the Everglades). The Administration also adjusted Lease Sale 181 to further ensure there would be no drilling offshore in Florida. Resolving controversial leases along California coastline could present opportunity; complex litigation, however, is now in process.
13. **Fully Fund the Global Environment Facility** *(2nd-year commitment)*: The 2002 U.S. pledge includes $107.5 million per year for each of the four years of the replenishment period, plus another $70 million in the fourth year if the GEF meets a set of performance measurements agreed to by donors. In addition, the Administration is requesting $70.3 million annually for the next three years to pay off U.S. arrears accumulated during the previous Administration. The GEF is the primary international institution for transferring energy and sequestration technologies to the developing world under the United Nations Framework Convention on Climate Change (UNFCCC).
14. **Eliminating Persistent Organic Pollutants (POPs)**: To protect the American people and the world from the dangers of 12 chemicals that persist in the environment long after their use, President Bush announced the United States' support for the Convention on Persistent Organic Pollutants. Governor Whitman signed the treaty, which bans or restricts the production, use, and/or release of 12 chemicals that have been linked to numerous adverse effects in humans and animals, including cancer, central nervous system damage, reproductive disorders, and immune system disruption. The Administration sent the treaty to the U.S. Senate for ratification in April 2002.
15. **Forest Health Initiative** *(2nd-year commitments)*: On August 22, 2002, the President announced a new initiative that will significantly reduce the damage caused by catastrophic wildfires, by removing unnecessary regulatory obstacles that hinder active forest management to improve forest health. He called upon Congress to work with his Administration to pass legislation that addresses the unhealthy forest crisis by expediting procedures for forest thinning and restoration projects.

REV_00159248

16. **Northwest Forest Plan**: On August 22, 2002 the President also emphasized the promise of the 1994 Northwest Forest Plan to ensure sustainable forest management and appropriate timber production. On September 12, 2002, a House bill was introduced to implement the Administration's strategy.
17. **World Summit on Sustainable Development (WSSD)**: The WSSD was successful in four major areas. First, the Plan of Action and Head of State Declaration reaffirmed the importance of good national governance, national investment in sound economic and social policies and the shared responsibilities between developed and developing countries as a basis for development. As such, the WSSD reinforced the new "compact for development" launched at the Monterrey Financing for Development Conference. Second, the WSSD acknowledged the importance of partnerships among governments, private sector and non-government organizations as an importance new means of implementing the WSSD action Plan. Over 220 partnerships (with $235 million in resources) were identified in advance off the Summit, and around 60 partnerships were announced during the Summit by a variety of countries. Third, the Action Plan focused on obtaining concrete results, many with specific timetables and achievable targets. Fourth, the US led and announced partnerships in four major areas: $970 million in investments over 3 years on water and sanitation projects, largely in Africa; $43 million in 2003 to leverage an estimated $400 million in clean energy for rural and poor communities; $90 million in 2003 for sustainable agricultural programs; $53 million for forest protection in the Congo Basin. The U.S. also reaffirmed its commitment of $2.3 billion through 2003 on health and combating HIV/AIDS and infectious diseases.

B. Outstanding Commitments

1. **Fully Fund the Land and Water Conservation Fund** *(campaign commitment)*: The President committed during the campaign to fully fund DOI's Land and Water Conservation Fund at $900m. In our FY'02 and 03 budgets, the Administration significantly increased LWCF funding. The FY'03 budget proposed for LWCF was fully funded at $900m, although it did so by combining existing non-LWCF grant programs with LWCF grant programs. The Interior appropriation bills in Congress are not adhering to that budgeted amount, however, because certain programs, such as a new $100 million Cooperative Conservation Initiative, are not funded in the pending legislation. The Administration faces two challenges in FY04. First, we must devise a better strategy to fully fund the Cooperative Conservation Initiative. Second, certain environmental groups will be disappointed unless there is a large increase in funding for federal land acquisition. Thus, we should devise an outreach approach with groups supportive of the state grant programs that are being increased.
2. **Protecting National Parks** *(campaign commitment)*: In a campaign pledge, then-Governor Bush committed to seek funds for National Parks to eliminate within five years—by 2006—a $4.9 billion maintenance backlog identified in a rough 1996 National Park Service estimate. Although the 1996 survey was not a true survey of the actual maintenance backlog—because it also included some cyclic maintenance needs and "wish-list" items—the Administration's budgets have attempted to meet that $4.9b goal. Facilities maintenance constitutes $2.2 billion of the $4.9b total, and, if current funding commitments continue, the Administration will meet that goal. Road

REV_00159249

maintenance and construction constitutes $2.7billion of the $4.9b goal. That portion will be reauthorized and started but not completed by 2006 because the funding stream will be derived from the next transportation bill over the FY04-09 timeframe. Moreover, to meet the road construction goal, the Administration will need to prioritize that funding choice over certain other choices in the transportation bill such as funding for National Forest roads and highway safety.

3. **National Climate Change Technology Initiative** *(1st-year commitment)*: Promotes funding research on "breakthrough technologies" that will help meet the long-run climate change challenge. This program has not evolved sufficiently in interagency deliberations. While the Administration has made substantial budgetary commitments, some of the related programmatic commitments have not been adequately agreed upon or articulated.
4. **President's Award for Private Stewardship** *(campaign commitment)*: Establish this award to fulfill the President's campaign promise. A draft Executive Order is currently being reviewed.
5. **Missouri River** *(campaign commitment)*: The President committed the Corps of Engineers to consult with the Fish and Wildlife Service (FWS) under the Endangered Species Act to develop a change in the Master Manual that governs the Corps' operation of the Missouri River. Its release is anticipated in 2003.
6. **Environmental Compliance at Federal Facilities** *(campaign commitment)*: The President committed during the campaign to require all federal facilities to meet all environmental standards.

III. Looking Forward: '03 Agenda

B. Legislative (active legislative issues)

1. **Clear Skies**: President Bush announced an initiative that will cut power plant emissions of the three major air pollutants – nitrogen oxides, sulfur dioxide, and mercury – by 70 percent by 2018. In late July 2002, the President's Clear Skies legislation was introduced in Congress.
2. **EPA Cabinet Elevation**: A Bill has been introduced and the President has expressed his support.
3. **Energy Bill**: The Energy Bill includes tax incentives for renewable energy, cogeneration, and new technology. Also included in the Bill is a significant climate change title that the Administration opposes. While it will not likely survive the conference, legislative activity on this issue is very likely in 2003-2004.
4. **Forest Health Initiative:** The Administration is pursuing administrative and legislative reforms to implement the President's August 2002 initiative.
5. **Commission on Oceans Policy**: The Commission will be issuing its final report and recommendations to the President and Congress in March 2003, at which time implementing action will likely be required of the Administration, in close consultation with Congress. CEQ and other agencies are providing ongoing support to the Commission, the President, and Congress in this important policy issue.

C. Regulatory

REV_00159250

a. **New Source Review**: EPA and DOE forwarded a report to the President, in accordance with the National Energy Plan, recommending changes to the Clean Air Act New Source Review program. On June 13, EPA released a policy which outlined the proposed changes to the rules. The changes are in two parts: (1) rules that we will finalize that were originally proposed by the Clinton Administration. These deal with regulatory flexibility incentives for pollution control equipment and two accounting changes. The first will provide a more rigorous baseline calculation against which potential emission increases are measured. The second will require emission levels to be determined on an 'actual emissions compared to future actual emissions' basis. And (2) a proposed rule that will clarify what projects will be excluded from the New Source Review permitting process because they are routine maintenance, repair or replacement. OMB is currently reviewing both of these rule packages and intends to publish them in the near future.
b. **Total Maximum Daily Load (TMDL)**: In response to concerns expressed by Congress, the National Academy of Sciences, and others, EPA Administrator Whitman extended the effective date for the controversial TMDL rule through April 2003. The TMDL program will continue to operate under rules issued in 1985 and 1991, while the Administrator develops a more flexible and effective approach to TMDLs. The Administration will adopt rules to restore polluted waterbodies that are based on sound science and which will better integrate the several tools in the Clean Water Act to encourage clean-up actions even in advance of TMDLs.
c. **Combined Animal Feeding Operation (CAFO)**: EPA is currently working with State agencies to determine whether drinking water sources are impacted by upstream agricultural sources, and then advising on development and implementation of programs to address CAFO's and other sources.
d. **Wetlands guidance and rulemaking**: This fall EPA and the Corps of Engineers will initiate advance notice of proposed rulemaking to solicit public comment on issues relating to the extent of federal jurisdiction over waters of the United States, including tributaries and adjacent wetlands, for purposes of regulation under the Clean Water Act and related federal laws. The rulemaking is in response to a 2001 United States Supreme Court decision which limited federal jurisdiction over certain isolated intrastate isolated waters but which raised questions regarding jurisdiction over other waters as well.
e. **DOE regulations for voluntary greenhouse gas reduction registry**: As a part of the Climate Change Strategy, the Administration is committed to substantially improving the current voluntary emission reduction registration program under section 1605(b) of the 1992 Energy Policy Act and provide transferable credits. Secretaries Evans, Abraham, Veneman, and EPA Administrator Whitman made recommendations in a letter to the President in July 2002, to start a stakeholder process in the next six months; finalization of new standards by January 2004.
f. **Corporate Average Fuel Economy (CAFE)**: A key recommendation of the President's National Energy Policy directed the Secretary to undertake an immediate review of vehicle fuel efficiency standards. The Administration is dedicated to a responsibly crafted CAFE standard that is based on sound science, and takes into account passenger safety, economic concerns, and disparate impact on the U.S. versus

REV_00159251

foreign fleet of automobiles. New standards should extend to include light trucks, vans, and SUV's.

g. **Renewable fuels regulations**: The energy bill will likely contain language that will require regulatory changes in the federal reformulated gasoline program. The final conference report may very likely repeal the current 2% oxygenate requirement, ban MTBE (a widely used additive to bring down toxics and criteria pollutants), and impose an ethanol mandate. There may be new opt in/opt out language for states as well, with related regulatory activities checked by legislation.

h. **Transportation Streamlining**: DOT is chairing a "Transportation Infrastructure Streamlining Task Force" that will report to the President through the Chairman of the Council on Environmental Quality. The task force will formulate and implement administrative, policy, and procedural mechanisms that enable each agency required by law to conduct environmental reviews with respect to high - priority infrastructure projects to ensure completion in a timely and environmentally responsible manner. The task force will complete a report to the President once a year.

i. **Improving the implementation of the National Environmental Policy Act** (NEPA): The NEPA Task Force is examining how federal agencies can improve NEPA implementation and is currently gathering and assessing public comments. The Task Force plans to submit its report on making NEPA more effective and efficient to CEQ by the end of the calendar year. Until the Task Force reviews all of the comments, it is premature to conclude whether the report will include recommendations to update or revise sections of the CEQ Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR Parts 1500-1508).

j. **Endangered Species Act**: The Department of the Interior is improving incentive and Section 7 consultation tools available under the Endangered Species Act. Scheduled to be completed in 2003, these changes include greater private landowner protections under safe harbor agreements, extension of safe-harbor-like protections to the Fish & Wildlife Service's Partners for Fish and Wildlife Program, and advancement of conservation banking as an incentive-based tool for listed species mitigation.

k. **Grazing**: The Department of the Interior is developing options for greater citizen involvement in the administration of BLM grazing permits and the building and sustaining of working landscapes on public lands.

l. **National Monuments**: The Department of the Interior is developing a range of options for expanded citizen involvement in the stewardship of BLM National Monuments. Those options include collaborative and citizen-based participation in development of monument land-use plans.

m. **Dioxin Reassessment**: EPA will soon send a reassessment of the health effects of dioxin exposure. It will reconfirm EPA's position that dioxin is a toxic chemical that can cause both cancer and non-cancer adverse health effects. The reassessment also identifies animal fats in the commercial food supply (beef, pork, poultry, dairy, eggs, and fish) as the primary route of human exposure. The IWG will review the reassessment and determine whether the substantial questions about the health effects warrant a review by the National Academy of Sciences. The IWG, through the Food and Drug Administration and the U.S. Department of Agriculture, have already engaged the National Academy of Sciences to examine the potential trade-offs

REV_00159252

between the benefits of a balanced diet and the potential risk of dioxin exposure. The Academy is also examining potential opportunities for reducing dioxin input into the food supply.

REV_00159253

II. Looking Back: Review of 2002

A. Achievements.

- **Launched USA Freedom Corps (1/30/02):** During his State of the Union, the President announced his creation by Executive Order of the USA Freedom Corps as a Coordinating Council and office to be housed at the White House. The Mission of the USA Freedom Corps is to foster a culture of service, citizenship and responsibility.

- **Launched Citizen Corps Effort (2/1/02)**: More than 50,000 individuals have signed up online to participate in the newly created Citizen Corps. They join hundreds of thousands of individuals already volunteering at the local level with Citizen Corps-supported programs including CERT, Neighborhood Watch, and Volunteers in Police Service. More than 160 communities around the country have officially registered Citizen Corps Councils to coordinate local emergency prevention, preparation and response volunteer activity.
  - ✓ **Launched Citizen Corps *Citizens Preparedness Guidebook* (2/1/02)**: The guidebook produced by the National Crime Prevention Council with support from the Department of Justice and the USA Freedom Corps, gives Americans guidance on how to prepare for disasters and prevent crime in our homes, in our neighborhoods, at work, at the airport, in places of worship, and in public spaces.
  - ✓ **Launched Neighborhood Watch Expansion (3/6/02)**: General John Ashcroft and the USA Freedom Corps launched the expansion of Neighborhood Watch with the National Sheriffs Association. The launch included a new website, how-to materials for local communities and a public service ad campaign.
  - ✓ **Launched Volunteers in Police Service (5/30/02)**: General John Ashcroft and the USA Freedom Corps launched the Volunteers in Police Service (VIPS) program with the International Association of Chiefs of Police (IACP). The goal of VIPS is to provide support for resource-constrained law enforcement agencies by tapping civilian volunteers to supplement their community's law enforcement professionals in order to free up officers for frontline duty. The number of registered VIPS programs has doubled since the launch.
  - ✓ **Launched First Medical Reserve Corps Grants (9/02)**: On July 19, 2002, HHS announced the availability of $2 million in grants, during FY02, to help local officials develop volunteer Medical Reserve corps units. The MRC will strengthen local communities' capacities to respond to disasters and emergencies in the community, as well as strengthen the local public health infrastructure.
  - ✓ **Launched Community Emergency Response Team Initiative (2/1/02):** The Community Emergency Response Team (CERT) program helps train people to be better prepared to respond to emergency situations in their communities. CERT members support first responders in emergencies, provide assistance to victims, organize spontaneous volunteers at a disaster site, and collect disaster intelligence for first responders. Over the next two years, CERT aims to double the number of

participants, with over 400,000 individuals completing the 18 plus hours of training and funding was secured in the supplemental budget to achieve goals.

- ✓ **Appointed State Citizen Corps Contacts (6/02)**: 50 governors have assigned a state point of contact for Citizen Corps. From 7/31-8/1 these state contacts participated in a FEMA conference with select federal agencies, local governments and experts from volunteer agencies.

- **Launched Business Strengthening America (6/13/02)**: In June, President Bush met with business leaders who are working on a self-directed effort to get businesses involved in supporting and promoting volunteer service by their employees and customers. Financial services companies, grocers, hospitality companies and entertainment and media businesses are among those who have already made major commitments to support volunteer service in response to the President's "Call to Service." These companies have announced new policies, including paid leave time for employees to participate in volunteer service, sponsorship of volunteer projects involving employees, and the creation of resources to engage customers in volunteer service, and working to make a person's Record of Service relevant to getting a job.

- **Launched Public Service Announcement Campaign (7/30/02)**: The advertising campaign includes television, print, radio, and web products. President Bush appears in each of the ads, saying, "When you help your neighbors, you help your Nation. Everyone can do something. "New York Yankee Mariano Rivera appears in English and Spanish language versions of a radio and television ad, actress Angie Harmon appears in a second television and radio ad, and former Senators Robert Dole and John Glenn appear together in a third radio and television ad.

  The USA Freedom Corps worked with the Corporation for National and Community Service and the Ad Council, with the support of the Walt Disney Company and Department of Justice, to develop the campaign featuring *usafreedomcorps.gov* as a way to get involved. In addition the USA Freedom Corps is the fulfillment mechanism at the end of three Entertainment Council television commercials and movie trailers that have been running nationwide since May.

- **Launched USA Freedom Corps Volunteer Network and Redesigned USA Freedom Corps Website (7/30/02)**: The USA Freedom Corp website is the concrete representation of the USA Freedom Corps Volunteer Network – a massive public-private enterprise on the web that enables volunteers to search according to their interests and their geographic location from the largest clearinghouse of volunteer service opportunities ever assembled – 50,000 organizations around the country and the world, with millions of service opportunities

  The search function draws upon well established non-profit organizations, including America's Promise, the National Mentoring Partnership, the Points of Light Foundation, SERVEnet, the United Way, and VolunteerMatch, as well as the federal government agencies that are a part of the USA Freedom Corps Coordinating Council – AmeriCorps, Senior Corps, Peace Corps and Citizen Corps. The Department of the Interior's one-stop

REV_00159255

registration center for federal, state and local government agencies that need and use volunteers can also be accessed through the new search function.

- **Launched American History, Civics and Service Initiative (9/17/02)**:
  - ✓ Launched NEH "We the People" initiative and President announced significant, ongoing investment in the program through the National Endowment for the Humanities (NEH), including competitive grant programs and other public programs to support the teaching of American History and Civics.
  - ✓ Launched "Our Documents" initiative of the National Archives and Records Administration, in collaboration with National History Day, the Corporation for National and Community Service and the USA Freedom Corps. Through web materials, a lesson plan sourcebook, and teacher workshops, 100 American milestone documents from the holdings of the National Archives will be made available to teachers and students.
  - ✓ Announced that the "We the People" Forum on American History, Civics, and Service, to be cosponsored by the NEH, the Corporation for National and Community Service, and the U.S. Department of Education, will be held in February 2003. The purpose of the forum is to call public attention to the need for more and better American history, civics, and service and draw attention to promising practices in history, civics, and student service, as well as innovative initiatives.

- **Launch of Students in Service to America Initiative (8/31/02)**: The President encouraged America's students to begin a service activity or project this school year and introduced the new Students in Service to America guidebook for educators to help them enlist America's young people in service to their communities and develop the habits of civic participation, responsibility, and service. More than 130,000 public and private elementary and secondary schools, homeschools, and after-school programs around the country received copies of the Students in Service to America guidebook, a CD-ROM, posters and other teaching and community resources. In addition, CNCS dedicated the time and talents of 25,000 AmeriCorps members and Senior Corps volunteers to support student service activities and service-learning programs.

- **Release of new Americorps Regulations (6/02)**: In June, CNCS issued final AmeriCorps regulations implementing a portion of the reforms called for in the President's principles, including: greater flexibility in the use of AmeriCorps members by nonprofit organizations; an explicit statement of the eligibility of religious organizations for AmeriCorps grants; reductions in administrative burdens on grantees; strengthening the prohibition on political activities; and making the education award more flexible for use by seniors and others.

- **Awarding of CNCS Homeland Security Grants (7/02)**: In July, CNCS in concert with the USA Freedom Corps and the Homeland Security Council, awarded its first homeland security grants totaling $10.3 million to support more than 37,000 AmeriCorps members and Senior Corps and other volunteers in 43 non-profit and public agencies in 26 states and the District of Columbia to:

REV_00159256

- ✓ use volunteers to develop and carry out emergency response plans;
- ✓ expand Citizen Corps programs related to crime and health; and
- ✓ develop public health strategies for responding to emergencies.

- **Freedom Corps Greeters (ongoing):** On more than 60 trips around the country, President Bush has met with volunteers who are answering his "Call to Service" to highlight their volunteer service as an example of the dedication he is hoping to instill in all Americans through the USA Freedom Corps.

- **Response to President's Call to Service (ongoing)**:
  - ✓ VolunteerMatch, one of the groups matching volunteers with opportunities through the USA Freedom Corps website, reports that more people are serving. The group measured a 72 percent increase in matching during the first six months of 2002 after USA Freedom Corps was launched, compared to the same period in 2001.
  - ✓ The number of potential AmeriCorps members is growing, with a 95 percent increase in online applications compared with pre-State of the Union levels.
  - ✓ Potential volunteers with Senior Corps, another CNCS program, have contributed to a 60 percent jump in web visitors since January.
  - ✓ More than 76,000 potential Peace Corps Volunteers have requested applications since the President's State of the Union address - a 40 percent increase over the same period in 2001. 34 countries have requested Peace Corps volunteers since State of the Union.
  - ✓ More than 160 Citizen Corps Councils have been created around the country.

B. Outstanding Commitments

- **Federal Program Service Opportunities**: Continue to expand and strengthen federal service programs, including the Peace Corps, Citizen Corps, AmeriCorps, and Senior Corps, including official launch of Medical Reserve Corps and Terrorism Information and Prevention System programs.

- **Citizen Service Act:** The President sent his "Principles and Reforms for a Citizen Service Act" to Congress on April 9, 2002. HR 4854, the Citizen Service Act of 2002, was introduced by Rep. Pete Hoekstra (R-MI) and Rep. Tim Roemer (D-IN) on May 24, 2002 and was reported by voice vote by the full House Education and the Workforce Committee on June 20, 2002. The bill awaits House Floor action. Senators Gregg and Kennedy are expected to introduce a companion bill shortly. The bill would reauthorize for five years the programs administered by CNCS and implement the following reforms, consistent with the President's policies:
  - ✓ Support and encourage greater engagement of citizens in volunteering;
  - ✓ Make Federal funds more responsive to state and local needs;
  - ✓ Make Federal support more accountable and effective; and
  - ✓ Provide greater assistance to community organizations, both secular and faith-based.
- **Corporation for National and Community Service Appropriations**: CNCS and the USA Freedom Corps are working closely with appropriators to secure the $296 million increase from appropriated levels the President requested for AmeriCorps, Senior Corps and Learn and Serve America for FY 2003.

REV_00159257

- **Peace Corps Reauthorization**: Even though Peace Corps is fully authorized through FY 2003, because of heightened interest in the Peace Corps as a result of the President's new policy, Senator Dodd and Representative Kirk have already introduced bipartisan bills in the Senate and House, respectively, to reauthorize the Peace Corps and to meet the President's commitment to double the number of Peace Corps Volunteers over the next five years.

- **Peace Corps Appropriations:** Peace Corps and the USA Freedom Corps are working closely with appropriators to secure the Presidents full funding request of $320 million for FY 2003. This is the amount requested in the President's budget to expand the number of volunteers from less than 7,000 today to 8,200 in FY 2003, on the path to nearly doubling the number of volunteers by FY 2007.

- **Citizen Corps Appropriations**: The Federal Emergency Management Agency, the Department of Justice, the Department of Health and Human Services and the USA Freedom Corps are working closely with appropriators to secure the President's funding request of $195 million for FY 2003 to support Citizen Corps initiatives, including Citizen Corps Councils, CERT, Neighborhood Watch and Medical Reserve Corps.

- **Civics**: Commitment made on September 17 for "significant ongoing" investment in American History and civics education. Internal discussions have revolved around $100 million over three years starting in the 2004 budget. There has not been consensus reached in the Administration on total or mix of new vs. redirected funds.

III. Looking Forward: '03 Agenda

B. Legislative

- See Citizen Service Act, Peace Corps reauthorization and appropriations request descriptions above. In addition, funding for the American History and Civics initiative through the National Endowment for the Humanities will need to be requested.

C. Regulatory

- NA

REV_00159258

Health Care Policy

II. LOOKING BACK: REVIEW OF '01 AND '02

A. Achievements *(See also NEC Health Care Policy)..*

1. **Presidential Events:**

- **March 21, 2001**-- Patients' Bill of Rights (strategy). The President addressed the American College of Cardiology to announce his principles for patients' rights legislation as Congress began debating the issue.
- **May 21, 2001** –Global Fund to Fight AIDS (announcement). The President announced the United States' commitment to supporting the new Global Fund to Fight HIV/AIDS, TB, and Malaria.
- **August 9, 2001**--Stem Cell Research Policy (announcement). Speaking from the Crawford Ranch during a nation-wide television broadcast, the President announced his decision to prohibit federal funding of research on stem cells derived from live human embryos.
- **December 6, 2001**--Director of the National Cancer Institute (announcement). The President announced the appointment of Dr. von Eschenbach to head the NCI and discussed four principles that will guide research efforts there.
- **February 11, 2002--** Health Care Agenda (strategy). Speaking at the University of Wisconsin Medical School, the President enumerated his entire health care agenda as part of a vision of a patient controlled quality health care system.
- **March 26, 2002--** Director of the National Institutes of Health and the Surgeon General (announcement). The President announced the nominees to be two major health care officials. As NIH Director, Dr. Zerhouni was tasked with the issues of the human genome, stem cell research, and biodefense. Dr. Carmona was nominated to use the post of Surgeon General to promote preventive health and to reduce the incidence of diabetes and obesity.
- **April 10, 2002--** Cloning Ban (strategy). In response to Senate debate, the President defined the need for a comprehensive ban on human cloning and announced his support of legislation sponsored by Senators Brownback and Landrieu.
- **April 29, 2002--** Improving Mental Health Care (strategy). The President participated in a local mental health round table with Senator Domenici and then addressed health care providers at the University of New Mexico Medical Campus. The President signed an EO establishing the New Freedom Commission on Mental Health, and announced that he would work with Congress to pass federal mental health parity legislation in 2002.
- **June 19, 2002--** New Mother and Child HIV Prevention Initiative (announcement). The President announced a new $500 million International Mother and Child HIV Prevention Initiative that seeks to prevent the transmission of HIV/AIDS from mothers to infants and to improve health care delivery in Africa and the Caribbean.
- **June 20, 2002--** HealthierUS Initiative (announcement). The President launched a new initiative to draw upon the resources of the federal government to promote the value of fitness in reducing the incidence and severity of chronic health conditions.

- **July 25, 2002--** Proposal to Address Medical Liability Crisis (strategy). In response to a new HHS study highlighting the higher costs and lower quality of care resulting from the broken liability system, President Bush proposed major legislative reforms to address the medical liability crisis.

2. **Patient Protections:**
   - **Patients' Bill of Rights** – The President negotiated House-passed legislation that fulfills his campaign commitment to pass a Patients' Bill of Rights that would "provide patient protections, like those passed in Texas, to ensure quality of care from health providers. Texas is recognized as having one of the strongest patients' bill of rights in the country."* It has been blocked by the Democrat-controlled Senate. The bill puts medical decisions in the hands of physicians, instead of insurance companies; provides independent, binding external medical review for denials of care, and gives patients meaningful legal remedies who have been harmed by an HMO's denial of medical care.

3. **Strengthening the Health Care Safety Net:**
   - **Community Health Centers (CHCs)** - The Administration's FY 2002 and 2003 budgets follow through on the President's campaign promise to double the number of people served in CHCs by creating 1,200 new and expanded CHC sites over a five-year period. CHCs provide critical primary health care services to uninsured individuals regardless of their ability to pay. There are areas in the country that still do not have access to basic health care services and these new resources will help new and existing CHCs to serve a greater number of people.

4. **Supporting Medical Research:**
   - **National Institutes of Health (NIH)** – The President promised to support medical research by working with Congress to enact a record increase for the NIH, and he will have fulfilled his campaign promise to double the NIH budget from the 1998 level of $13.6 billion when the proposed 2003 budget of $27.3 billion is enacted. The NIH is the world's preeminent and largest medical research organization. NIH research has already led to many medical breakthroughs, including lifesaving vaccines, new cancer therapies, human genome sequencing and effective drugs for the treatment of mental illness. Completing this historic increase furthers NIH's efforts to improve the prevention, detection, and treatment of the diseases and conditions that affect the lives of all Americans.
   - **Stem Cell Research** – The President announced his decision to allow medical research using embryonic stem cells while still preserving the value and sanctity of human life. This policy permits federal funding of research using certain existing stem cell lines that have already been derived, but does not sanction or encourage the destruction of additional live human embryos. Scientists will explore the potential of this research to benefit the lives of millions of people who suffer from life destroying illnesses. As part of the decision, the President created a new President's Council on Bioethics, to study the human and moral ramifications of developments in biomedical and behavioral science and technology.

REV_00159260

5. **Combating HIV/AIDS**
   - **Global HIV/AIDS:** Between the Global Fund and the MTCT Initiative, the 2003 budget for global HIV/AIDS activities will be 82% higher than the amount provided by Congress in 2001.
   - **Global Fund to Fight HIV/AIDS, TB, and Malaria** – The President became the first world leader to accept a new challenge to combat global AIDS by committing the U.S. to financially supporting the Global Fund to Fight HIV/AIDS, TB and Malaria. The U.S. remains the single largest donor to this multilateral fund – contributing $500 million through FY '03. The United States continues to be actively involved in influencing the structure, development and implementation of the Global Fund. By October of 2002, over $600 million worth of grants in over thirty countries will have been awarded, and disbursement of these funds is imminent pending the finalization of management and evaluation controls. Continued support by the U.S. is key to the long-term success of the Global Fund.
   - **Mother and Child HIV Prevention Initiative** – The President announced a major initiative to help stop the spread of HIV from mothers to their children. This long-term program of providing treatment and improving basic health infrastructure in the hardest hit countries will be initially funded at $500 million. The initiative is being implemented through a unique partnership between the Department of Health and Human Services and the Agency for International Development and will provide a new model for foreign assistance generally, and, in particular, global health assistance.

6. **Other:**
   - **Medical Records Privacy** – The President ushered in unprecedented protections for every American relating to their private medical information. The federal privacy regulation, which will be in effect by April 2003, protects medical records and other personal health information maintained by certain health care providers, hospitals, health plans, health insurers, and health care clearinghouses. The rule guarantees patients access to their medical records, gives them more control over how their protected health information is used and disclosed, and provides a clear avenue of recourse if their medical privacy is compromised. The Administration's actions were criticized by consumer advocates and Congressional Democrats, but praised by other stakeholders in the health care system.

B. Outstanding Commitments

1. **Patient Protections:**
   - **Patients' Bill of Rights** – While the President's negotiated House-passed legislation fulfills his campaign commitment to pass a Patients' Bill of Rights; the bill has been blocked by the Democrat-controlled Senate.

2. **Strengthening the Health Care Safety Net:**

REV_00159261

- **National Health Service Corps (NHSC)** – The President promised during the campaign to refocus this scholarship and loan repayment program that places "Corps physicians in the neediest areas," and to "coordinate the Corps program with the J-1 visa waiver program to avoid overlap." The President also promised to "encourage physicians to participate in the NHSC by making scholarship funds tax free." HHS recently assumed responsibility over much of the J-1 Visa program, but coordinating this program with the NHSC has not been proposed.

3. Long Term Care:

- **Affordability** – The President promised to "make long-term care available and affordable, instead of a path to financial ruin." This was to include making the "cost of long-term care insurance fully deductible" and establishing an "additional personal exemption for home caregivers." The FY '03 budget proposal included both full deductibility for long-term care insurance, and a caregiver personal exemption. While the House has acted on similar legislation, additional action on these proposals is not expected. *See also NEC Health Care Policy.*

  Quotations reference speeches and campaign position papers compiled in Renewing America's Purpose: Policy Addresses of George W. Bush , July 1999-2000.
  **References position papers released as a part of Real Plans for Real People: Blueprint for the Middle Class, September 17, 2000, Austin, TX.*

III. LOOKING FORWARD: '03 AGENDA

B. Legislative (active legislative issues)

1. **Patients' Bill of Rights ('03)** – The President negotiated a historic compromise with Rep. Norwood to give every American a meaningful Patient Bill of Rights. Legislation is not likely to be active again in the remaining days of 107th Congress, but Democrats will likely reintroduce the bill in the next session of Congress. Support for Democrat-backed patient protection bills—by its most vocal advocate the AMA—has waned since the President announced his commitment to legislation to address the nation's badly broken medical liability system. The President should support the principles set forth in the compromise legislation. However, he should seek to emphasize his priority is making sure families and individuals have access to affordable health care.
2. **Tobacco Control Legislation ('03)**– Bipartisan legislation in Congress has been introduced to grant the FDA authority to regulate tobacco products. While the issue has not been highly visible in the 107th Congress, Democrats and some Republicans plan to raise its profile in the 108th Congress. The Administration may be required to take a position on the regulation of tobacco products, and should prepare a strategy to address this issue for early next year.
3. **Mental Health Parity Legislation (fall '02)** – Last December, the President agreed to work with Senator Domenici to pass a mental health parity bill in the 107th Congress. While Speaker Hastert is strongly opposed to any parity

REV_00159262

legislation, the White House is working to facilitate a compromise that would prohibit health plans that provide medical and surgical benefits, from placing higher financial requirements or different treatment limitations on mental health benefits. Action is needed this year, because the current federal mental health parity law expires in December of 2002.

4. **Medical Liability Reform** – The Administration endorsed legislation to address the nation's badly broken medical liability system. The proposal creates a more timely, predictable, and fair liability system that improves access to quality health care while reducing health care costs. The bill passed the House, but is being blocked by the Democrat-controlled Senate. *See also NEC Health Care Policy.*
5. **Patient Safety/Medical Errors Legislation (if not completed in '02)** —The Administration has endorsed legislation to authorize patient safety organizations to collect confidential data on medical mistakes from hospitals, doctors, and other health care providers, and develop programs to address particular needs identified by data. While the proposals enjoy strong bipartisan support in both the House and Senate, several key Senate Democrats continue to block progress and ask for additional funding for patient safety and medical information grants. *See also NEC Health Care Policy.*
6. **Genetic Non-Discrimination Legislation (if not completed in '02)** –Earlier this year, the President endorsed legislation introduced by Senators Snowe, Frist, Gregg and Jeffords to prohibit discrimination by employers and health insurers based on genetic information. Democratic legislation introduced by Sen. Daschle is similar but would also encourage lawsuits by creating new private rights of action with unlimited damages. Congressional negotiators have not been able to resolve the liability issue, and the bill supported by the President has been blocked by the Democrat-controlled Senate.
7. **Cloning Ban (if not completed in '02)** --The President strongly supports House passed legislation that would prohibit all forms of human cloning. A current proposal in the Senate would allow the cloning of embryos for research purposes.
8. **Cancer Care Quality Legislation (if not completed in '02)**– Led by the American Cancer Society and the Lance Armstrong Foundation, bipartisan Congressional members are pushing legislation authorizing development and collection of information on quality of cancer care, mandating specific dollars for cancer survivorship research, and creating other programs to address end-of-life care. As the legislation is currently drafted, it takes power to set research priorities away from scientists, duplicates existing programs, and expands bureaucracy.
9. **Early Treatment for HIV Act** – Legislation is being developed that would allow State Medicaid programs the option to expand Medicaid coverage to individuals with an HIV diagnosis as an early preventive treatment measure in a budget neutral way.
10. **United States Leadership Against HIV/AIDS, TB, and Malaria** – This proposal authorizes the Executive branch to develop a 5-year strategic plan for addressing the international HIV/AIDS pandemic, provide increased resources for multilateral and bilateral efforts, and expand HHS's authority to provide

REV_00159263

international assistance. This amendment would require several reports back to Congress by the Executive branch.

C. Regulatory (key regulatory issues)

1. **HIPAA Security Standards for Health Information Regulation (Fall '02)** — Highly visible regulation to protect identifiable health information/medical records; affects all health care stakeholders subject to the HIPAA Privacy regulation.
2. **HIPAA Electronic Medicare Claims Submission (Fall '02)** —Highly visible regulation to require all Medicare claims be submitted electronically.
3. **Bar Code Labeling on Human Drug Products —(Fall '02)** Highly visible regulation that uses bar coding technology to identify potential medical errors.
4. **Bioterrorism Regulations for Food Safety and Security —(Fall '02)** Regulation to enhance the inspection and oversight of imported food.
5. **Bioterrorism Regulations for Tracking Dangerous Biological Pathogens (Fall '02)** —Regulation to enhance surveillance and security over dangerous agents and toxins that pose a public health threat; applies to all public and private entities that use, possess and transfer these dangerous pathogens.

REV_00159264

Immigration

II. Looking Back: Review of '01 and '02

A. Achievements

Restructuring the Immigration and Naturalization Service
The President promised to "restructure the INS, splitting it into two agencies: one to deal with enforcement, and one to deal with service."* In November 2001, the Attorney General announced an administrative restructuring plan for the agency and began its implementation. The President's proposal to create the Department of Homeland Security contemplates preserving the separation between service and enforcement when the INS moves to that department.

Provide increased funding for INS personnel
The President promised to "propose an additional $500 million over 5 years to fund new INS personnel and increased employee incentives to provide quality service to legal immigrants."* The Administration has sought $100 million each fiscal year for this purpose.

Reduce INS benefit processing times
The President promised to "improve INS service by proposing that every INS immigration application be processed within 180 days of submission."* The INS has a backlog elimination plan in place to achieve that goal by FY 2004. It is on track to meet that goal for 9 of 12 classes of applications. Increased security checks have caused delays in some categories.

A. Outstanding Commitments

None.

III. Looking Forward: '03 Agenda

B. Legislative

- INS reorganization will be a significant issue next year if it is not dealt with in Homeland Security Department legislation or otherwise this year.
- Extension of Section 245(i) of the Immigration and Nationality Act, which the President supports, is unlikely to occur during the 107th Congress. Section 245(i) permits aliens residing illegally in the U.S., but who are otherwise entitled to obtain permanent legal status, to do so without first leaving the country. As a result they can avoid being barred from reentering the U.S. for 3 or 10 years.

A. Regulatory

None.

Ground Transportation

II. Looking Back: Review of '01 and '02

A. Achievements

- Finalized a number of regulations to ensure the safe opening of the U.S.-Mexico border to commercial truck traffic. White House is reviewing Secretary Mineta's recommendation to the President that opening the border will not present a significant safety risk.
- Issued an Executive Order establishing the Transportation Infrastructure Streamlining Task Force. DOT will chair an interagency task force to help move high-priority transportation projects through the environmental permitting process. Members of Congress, roadbuilding associations, state representatives and environmental groups have praised this approach. The construction trade unions will support this as well.
- Granted $100 million loan to Amtrak to prevent total shutdown of Amtrak and several key commuter rail systems.

B. Outstanding Commitments

None

III. Looking Forward: '03 Agenda

A. Legislative:

- TEA 21 reauthorization: TEA 21, which funds highway and urban transit projects, covers fiscal years 1998-2003, so a new bill must be in place ahead of the fiscal year 2004 appropriations cycle.

- Amtrak reauthorization: See discussion above.

B. Regulatory:

- Corporate Average Fuel Economy (CAFE)– NHTSA is required by law to propose new fuel economy standards for light trucks for the 2005 model year by October 2002 and finalize the regulation by April 2003. If NHTSA chooses not to initiate a rulemaking on passenger cars, the current standard will remain in effect.

  The Administration is currently pushing a CAFE reform proposal in the Energy bill Conference. The proposal requires NHTSA to set a new light truck standard that will save 5 billion gallons of fuel between 2006 and 2012. It also gives the Secretary of Transportation greater authority to amend passenger car fuel economy standards while taking into account safety and economic burden.

- Open the Mexican border to cross-border commercial trucking. The White House is currently reviewing DOT's recommendation.

REV_00159267

Welfare, Child Welfare, Adoption

II. Looking Back: Review of '01 and '02

A. Achievements

- **Abstinence Education.** Both as part of the welfare reform reauthorization legislation and the normal appropriations process, the Administration is trying to increase funding for abstinence education by $126 million per year. The House supports the additional funding; the position of the Senate is not clear. If successful, this effort will fulfill the President's campaign promise to fund abstinence education programs at the same level as family planning and condom distribution programs, although some conservatives are already arguing that more money for abstinence will be needed to achieve parity with family planning.

- **Compassion Capital Fund.** In June 2002, HHS announced the implementation of the Compassion Capital Fund. In response to the President's fiscal 2002 budget request, Congress appropriated funds that are specifically designed to assist grassroots organizations as part of the President's faith-based and community initiative. $30 million is being used to help level the playing field for faith and community-based organizations as they compete for federal grants. It is too early to determine whether these funds will have an impact.

- **Child Support Enforcement.** HHS's Office of the Inspector General (OIG), in cooperation with HHS's Office of Child Support Enforcement, have implemented strong measures, including a three-day national sweep, to locate the Nation's most wanted "deadbeat parents". So far, 70 of the biggest offenders have been arrested, in part through cooperation between OIG, the U.S. Marshals Service, and state and local police. Arrests have been made in 29 states, the District of Columbia, and Puerto Rico. Due to this effort, as well as continued aggressive implementation of the child support program by the Office of Child Support Enforcement, both child support collections and paternity establishments are at an all-time high.

- **Good Start, Grow Smart.** In April 2002, President Bush presented *Good Start, Grow Smart*, the Administration's Initiative to address standards of learning in early literacy, language, and numeracy skills. To ensure that the President's Initiative is implemented boldly and effectively, the Head Start and Child Care Bureaus are completing a joint strategic plan, and Head Start programs are being required to fully implement new requirements for charting the progress of each child. In addition, HHS has implemented a plan to train Head Start administrators and teachers in research-based teaching techniques that will lead to improved school readiness (50,000 Head Start teachers will receive this training). HHS is also conducting a variety of activities to ensure that rigorous, cutting-edge research is developed, carried out, and translated into practices that enhance children's progress toward school readiness.

B. Outstanding Commitments

- **Reauthorize the 1996 Welfare Reform Legislation that Expires on September 30, 2002.** In February of this year, the Administration submitted to Congress a plan to reauthorize and strengthen the 1996 welfare reform legislation. By May, the House had developed and passed a bill that was nearly identical to the Administration plan. However, at this writing the bill is mired in the Senate and seems unlikely to pass this year, especially because the bill being pushed by the Senate Democratic leadership is deeply flawed. If a bill cannot be enacted in 2002, Congress will probably enact a 1-year extension of funding authority, which would mean that welfare reform reauthorization would be on the agenda for the 108th Congress. Because of this failure to act on reauthorization, the Child Care and Development Block Grant (CCDBG) has not been reauthorized either. If the Senate fails to reauthorize the CCDBG in the 107th Congress, we would be provided with a good opportunity to seek measures to coordinate the CCDBG with Head Start during next year's reauthorization debate.

- **Head Start.** The Administration promised during the campaign to move the Head Start program from the Department of Health and Human Services to the Department of Education.

III. Looking Forward: '03 Agenda

B. Legislative

- The 1996 welfare reform law expires on September 30, 2002 and must be reauthorized. The House has enacted legislation but the Senate has not. If this is not completed by the 107th Congress, the 108th Congress would take up reauthorization.

C. Regulatory

- HHS is using its statutory authority to administer the Head Start program to aggressively implement significant improvements in Head Start teaching, administration, and research. These initiatives are grouped together under the rubric "Good Start, Grow Smart".

REV_00159269

Education

II. Looking Back: Review of '01 and '02

A. Achievements

The No Child Left Behind Act

- The No Child Left Behind Act was signed into law by President Bush on January 8, 2002. By turning federal spending on schools into a federal investment in improved student performance, this law provides the most sweeping reform of the Elementary & Secondary Education Act since it was enacted in 1965. The law ensures that States and school districts will develop strong systems of accountability based on student performance, provides increased local control and flexibility by putting decision-making in the hands of those at the State and local levels, increases parental options, and encourages the use of effective programs and solid research to drive instruction.
- The Department of Education has been working to implement the NCLBA by releasing regulations and guidance for programs under the Act. The 2002-2003 school year is the first year that many of these reforms are going into effect.
- One of the most important reforms in the Act is the development of state accountability systems that hold schools accountable for student progress. The Department is currently reviewing the first round of state accountability plans, and will be approving these state plans in the coming months.
- The Act also launched a comprehensive effort called Reading First, a five-year, $5 billion state grant program. Reading First provides assistance to state and local education agencies to apply scientifically-based research—and the proven instructional and assessment tools consistent with this research—to improve reading instruction for K-3 students and to ensure that all children learn to read well by the end of the third grade.

Economic Growth and Tax Relief Reconciliation Act of 2001

- **Commitment: Supports expanding education savings accounts for parents to increase their annual contributions from $500 per student to $5,000 and withdraw funds tax free to pay for education expenses from Kindergarten to college**
- The tax relief bill that President Bush signed last year provides $22.7 billion in education savings for American families over the next five years: eliminates the 60-month limitation on student loan interest deductions and increases the income levels of individuals able to claim the deduction, increases the annual limit on contributions to education savings accounts from $500 to $2,000, and allows savings to be used for elementary, secondary, and postsecondary education expenses, adds a new above-the-line deduction for qualified higher education expenses, allows tax-free distributions from Qualified Tuition Plans (Section 529 plans) to be used to pay educational expenses and permits private institutions to offer such plans, makes the income

exclusion for employer-provided educational assistance permanent and extends the benefit of the exclusion to graduate level courses.
- President Bush had proposed during his campaign to increase the annual limit on contributions to education savings accounts to $5,000.

Teacher Tax Deduction

- **Commitment: Establish a teacher tax deduction to help defray out-of-pocket classroom expenses**
- The Job Creation and Worker Assistance Act provided an above-the-line tax deduction for up to $250 in classroom expenses incurred by teachers and other educators. Effective only in 2002 and 2003.
- The President proposed a $400 teacher tax deduction for out-of-pocket classroom expenses.

Special Education Funding

- **Commitment: Work with Congress to increase funding for special education with the goal of meeting the federal obligation under the Individuals with Disabilities Education Act**
- The President is on the way to fulfilling his campaign promise to increase funding for special education with the goal of meeting the federal obligation under IDEA.
- The President's 2003 budget provides an increase of $1 billion for Special Education Grants to States (following an increase of $1.2 billion in FY 2002), to $8.5 billion, and an increase of $20 million for states to identify and serve infants and toddlers with disabilities, to $437 million.

Character Education

- **Commitment: Triple character education funding and incorporate character-building lessons into federal youth programs**
- The President proposed and has fulfilled his promise to triple character education grant funding, from $8 million to $25 million. The Character Education program received $25 million in 2002, and the same amount is proposed for 2003. More emphasis could be put on research into character education and its effect on student outcomes.

State Scholars Initiative

- The Department of Education awarded a $2.4 million grant to the Center for State Scholars to create a pilot program in five states to encourage students to take a more demanding curriculum in high school in preparation for entry into a technical school, community college, university or work. States that participate will have to encourage

REV_00159271

the business community, school districts, and higher education institutions in each state to work together to encourage a more rigorous curriculum in high schools nationwide.

C. Outstanding Commitments

Pell Grants

- **Commitment: Provide $1 billion over five years for enhanced Pell Grants to students who take college-level math and science courses in high school, allowing them an additional $1,000 to pay for college tuition**
- To fulfill this commitment, the President would need to propose this initiative in a future budget submission or in the reauthorization of the Higher Education Act.
- While this initiative has not been proposed, the President has provided significant increases in funding for Pell Grants.
- The Pell Grant maximum award increased from $3,750 in 2001 to $4,000 in 2002.
- The President's 2003 budget provides $10.9 billion for the Pell Grant program, maintaining a maximum award of $4000 for Fiscal Year 2003-2004. This is an increase of $2.1 billion over 2001 Pell Grant funding.
- The recently enacted supplemental appropriations bill provided an additional $1 billion in Pell Grant funding to eliminate the shortfall in 2002.

III. Looking Forward: '03 Agenda

B. Legislative

Several key pieces of legislation are up for reauthorization in 2003, and several pieces of legislation will be held over from 2002.

1. **Individuals with Disabilities Education Act Reauthorization (authorization ends September 30, 2002)**—Special Education programs for children, provided mostly in K-12 education.
2. **Office of Educational Research and Improvement Reauthorization (authorization expired end of FY 1998, but has continued under that authorization)**—Department of Education research initiatives.
3. **Higher Education Act Reauthorization (authorization ends September 30, 2003)**—Postsecondary education programs, including all federal student financial aid.
4. **Perkins Act Reauthorization (authorization ends September 30, 2003)**—Vocational and Adult Education programs
5. **Rehabilitation Act Reauthorization (authorization ends September 30, 2003)**—Employment programs for adults with disabilities
6. **Head Start Reauthorization (authorization ends September 30, 2003)**—HHS early education programs, but significant coordination with Department of Education

REV_00159272

C. Regulatory

The Department of Education will continue to regulate on and develop and revise guidance for the implementation of the No Child Left Behind Act.

In addition, the Secretary's Commission on Opportunity in Athletics must submit its report on findings and recommendations on Title IX to Secretary Paige by January 31, 2003. The Administration will review regulations on Title IX at this time.

REV_00159273

Faith-Based

II. Looking Back: Review of '01 and '02

A. Achievements.

Office Establishment

- An Office of Faith-Based and Community Initiatives and five Cabinet Centers at HUD, HHS, Education, Labor, and Justice have been established. This is to fulfill the President's campaign promise of same.

New Resources and Programs for Faith-Based Groups

- The President's 2003 budget provides $25 million in competitive grants for mentoring programs for children of prisoners. This is to fulfill the President's campaign promise to launch a new program to address the needs of children of prisoners, offering grants on a competitive basis to faith-based and community groups.
- H.R. 1 opens the 21st Century after-school program's funding (maintained at $1 billion in FY 2003) to competitive bidding by faith-based and community groups. This is to fulfill the President's campaign promise of same.
- On June 4, the Administration for Children and Families (ACF) at the Department of Health and Human Services announced the rollout of the $30 million Compassion Capital Fund. Nearly $25 million will be made available to 15-25 intermediary organizations that will provide technical assistance to help faith-based and community organizations expand the reach of their programs. The remaining $5 million will be used to conduct research and establish a National Resource Center that will provide tools to faith-based and community organizations. More than 350 groups applied for the intermediary grants and nearly 70 applied for the field research grants. In addition, the President's 2003 budget provides $100 million for the Compassion Capital Fund, a public-private partnership to identify and invest in charitable "best practices." These each fulfill the President's campaign promise to create a Compassion Capital Fund.
- The President's 2003 budget provides $10 million in competitive grants to fund pilot Second Chance maternity homes. This is to fulfill the President's campaign promise of same.
- Two faith-based prison pre-release programs have been established, one designed for federal prisoners (a religion specific, multi-faith, and social responsibility program) and one for state prisoners (faith-based organizations will provide mentoring and role modeling during incarceration, transition and stabilization phases). This is to fulfill the President's campaign promise to initiate and fund same
- The Department of Labor awarded a total of $17.5 million in grants specifically designed to link faith-based and grassroots community organizations to the nation's One-Stop Career System. Twelve states and 29 organizations around the country will receive funds that they will use to create partnerships between faith-based and community groups and the One-Stop career centers.

Administrative Reforms and Outreach Programs

- OFBCI has created a database of more than 100 social service programs open to faith-based groups worth more than $50 billion, organized for the first time by groups of people served, not by program names.
- In the past three months, all of the agencies have established websites for the initiative. These websites provide detailed information about the initiative generally, as well as information about applicable funding opportunities.
- To date, the Department of Education Center for Faith-Based and Community Initiatives has held a total of six very successful outreach conferences attended by more than 4000 people. These conferences are designed to make local organizations aware of the initiative and Department of Education funding opportunities in which they might be interested.
- The Department of Education has issued appropriate guidance to states concerning the involvement of faith-based and community organizations in all formula grant programs that are amenable to participation by these groups.
- The Substance Abuse and Mental Health Services Administration at HHS has planned six technical assistance conferences throughout the country to provide technical assistance to faith-based and community organizations that wish to apply for substance abuse prevention/treatment funds.
- The DOJ Center is working with the Office of Justice Programs to simplify the grants and administrative process to make it friendlier to smaller faith-based and community organizations.
- The DOJ Center is also working with OJP to establish a Community Capacity Development Office. This office will focus on capacity development issues for faith-based organizations, small communities, and other entities identified.

Legislation

- H.R. 7, The Community Solutions Act, passed the House in July, 2001 and helped meet a number of the President's Faith-Based commitments including: non-itemizer tax deduction, charity IRA rollover, raising the cap on corporate charity contributions, civil liability protection for corporate donations and an expansion of Charitable Choice.
- Authorization for the Mentoring of Prisoner's Children pilot project.
- $30 million appropriation for the Compassion Capital Fund.
- Introduction and Senate Finance passage of the bi-partisan CARE Act (27 co-sponsors including 10 Democrats).

B. Outstanding Commitments

- Hold a corporate and philanthropic summit to examine private-sector discrimination against funding faith-based organizations. (Notre Dame Commencement Speech, May 2001)
- Promote a Charitable State Tax Credit of up to 50% of the first $500 for individuals or $1000 for married couples for contributions to charities addressing poverty; extend the

REV_00159275

tax credit—up to 50% of the first $1000—to corporations. This is to fulfill the President's campaign promise of same. (*Rallying the Armies of Compassion*, January 2001)

- Provide federal matching funds for the establishment of state Offices of Faith-Based Action. This is to fulfill the President's campaign promise of same. (*Rallying the Armies of Compassion*, January 2001)
- Promote alternative licensing regimes that recognize religious training as an alternative form of qualification for delivery of non-medical social services. This is to fulfill the President's campaign promise of same. (*Rallying the Armies of Compassion*, January 2001)
- Fund certificates to help 500,000 lower-income parents pay for after-school activities of their choosing, with funding of $400 million. This is to fulfill the President's campaign promise of same. (*Rallying the Armies of Compassion*, January 2001)
- Provide performance-based drug treatment grants to states; ensure that non-medical faith-based and community providers are eligible for funds on the same basis as other groups. This is to fulfill the President's campaign promise of same. (*Rallying the Armies of Compassion*, January 2001)

III. Looking Forward: '03 Agenda

A. Legislative

Depending on activity in the final month of the 107th Congress, the President's faith-based bill may or may not have been passed and signed into law. If passed, it would fulfill a majority of the commitments the President has made on faith-based issues. If not, all of those issues would remain outstanding including: 1) the expansion of Charitable Choice; 2) a non-itemizer tax deduction; 3) tax-free IRA charitable rollover; 4) raising the cap on corporate contributions; and 5) civil liability protection for corporate charity donations.

If this package fails to pass, however, OFBCI strongly recommends a different legislative approach for the 108th Congress. Specifically, OFBCI recommends using an amendment strategy to expand Charitable Choice to all Federal social service programs along with a free-standing charitable tax incentives bill. We do not recommend a strategy that marries the two efforts together.

B. Regulatory:

The Office's main issues will be administrative and regulatory in nature, and may be somewhat controversial. Specifically:

- Provide clear guidance to faith-based organizations on the 'Do's and Don'ts' of interacting with the Federal government.
- Announce new FEMA policy that treats all non-profit organizations equally in its emergency assistance programs.
- Provide official guidance on Charitable Choice for TANF, SAMHSA, CSBG and other programs covered by Federal statute, either through executive order or department regulation.
- Issue a user-friendly booklet identifying Federal funding opportunities that may interest faith-based organizations, with instructions about how to apply.

REV_00159276

- Update its website with the guidance materials and grants information, as well as other information about the Initiative.
- Oversee Agencies issuing internal guidance to peer review panels and grants management staff on the participation of FBOs in grants programs.
- Agency Centers will begin to work within their agencies on innovative pilot and demonstration projects targeting elders, at-risk youth and prisoners, addicts, the homeless, and those making the transition from welfare to work.
- Remove regulations that prohibit faith-based organizations' participation in many programs, beginning at HUD.
- Remove regulations that limit the right of faith-based organizations to maintain religious identity through hiring autonomy unless there is a statutory basis for them.
- Improve data collection so that accurate information on faith-based organizations is available.
- Expand the Office of Faith-Based and Community Initiatives by executive order to include new Faith-Based Centers at Departments of State and Agriculture because both work extensively with faith-based organizations to feed the hungry and provide relief for those in desperate need.
- Fight to maintain religious organizations' rights to hire and fire on the basis of religion.

REV_00159277

Housing and Community Development

II. Looking Back: Review of '01 and '02

A. Achievements.

- The President issued America's Homeownership Challenge, mobilizing the private real estate and mortgage finance sector to eliminate barriers to homeownership through increased financial and organizational commitments to increase minority homeownership by at least 5.5 million families by 2010. As a result, additional private capital of $440 billion has been pledged by the government-sponsored enterprises to increase minority homeownership. Private entities have committed resources to assist in the effort. Sears Roebuck recently announced a $100 million, five-year program to reduce barriers to minority homeownership, specifically responding to President Bush's challenge.

- The President's FY 03 budget proposed $200 million for the American Dream Downpayment Initiative, which would provide state and local agencies with matching grants to assist an estimated 40,000 first-time homebuyer families with downpayment funds. Legislation has been introduced in the House (Mike Rogers) and the Senate (Allard).

- The President's FY 03 budget proposed a $2.4 billion, five-year Single-Family Affordable Housing Tax Credit of up to 50% of the project costs of rehabilitation and construction of low-income housing, provided that eligible homebuyers have incomes of not more than 80% of area median income. The tax credit will eventually result in an additional 200,000 affordable single-family homes becoming available through construction or rehabilitation. Legislation very close to the President's proposal has been introduced in the House (Portman/Cardin) and is expected to be introduced in the Senate this month (Santorum/Gordon Smith).

- The Section 8 Homeownership Program has been implemented in part by HUD. The program allows local housing agencies flexibility to provide either mortgage assistance in lieu of a rental subsidy. A downpayment grant equaling up to one-year's worth of a family's Section 8 rental assistance is also envisioned, but Congress has not made a specific appropriation allowing the use of Section 8 funds for this activity. HUD has also implemented a Section 8 Disability Initiative -- a three-year pilot program authorized in 1999 which allows recipients with disabilities to use rental assistance toward mortgage payments.

- The Administration has issued for public comment a proposed regulation to simplify and modernize the current homebuying process, which is governed by the Real Estate Settlement Procedures Act (RESPA) and the regulation implementing the act. Secretary Martinez expects that legislation amending RESPA may also be needed to strengthen enforcement.

B. Outstanding Commitments

- **End Chronic Homelessness:** Secretary Martinez's speech before the National Alliance to End Homelessness committed to ending chronic homelessness by the end of the decade, and the FY 03 budget cites this as an explicit Administration goal. The Interagency Council on the Homeless held its first meeting in six years and announced a $35 million initiative (using recaptured funds) in furtherance of the Administration's goal.

- **Convene a White House Conference on Increasing Minority Homeownership:** In his June 17th Atlanta rollout of his homeownership initiative, the President committed to holding a White House Conference on minority homeownership this fall. The conference, currently scheduled for October 15th, will highlight barriers to minority homeownership and develop proposed solutions.

- **Modernize and simplify the homebuying process.** Secretary Martinez has made reform of the homebuying process a top HUD priority, with the goal of benefiting consumers with cost savings and ensuring that they receive timely, accurate information that is reflected at closing. Reform of the homebuying process was a component of the President's homeownership initiative announced in Atlanta in June. HUD has issued proposed changes to the RESPA regulation for public comment. The comment period closes in October.

- **Promote financial education through housing counseling.** The Administration has proposed increasing funding for housing counseling grants by $15 million in FY 2003, to $35 million. In his June 17th Atlanta speech, the President cited the importance of housing counseling in reducing barriers to minority homeownership. Faith-based groups will be key partners in HUD's housing counseling efforts.

- **Triple funding for the Self-Help Homeownership Opportunity Program (SHOP).** In his May 20, 2001 Notre Dame speech, the President promised to request a tripling of funds for the Self-Help Homeownership Opportunities Program (SHOP), which provides grants for land acquisition and infrastructure improvement to non-profit organizations that offer homeownership opportunities to families willing to contribute their own "sweat equity" (such as Habitat for Humanity). The President's FY 03 budget request tripled funding for SHOP (from approximately $22 million to nearly $66 million). These requested increases were not been included in the Senate VA/HUD Appropriations bill.

REV_00159279

III. Looking Forward: '03 Agenda

B. Legislation:

Enactment of existing proposals (American Dream Downpayment Initiative; Single-Family Affordable Housing Tax Credit) should be the Administration's top priorities in the next session of Congress if these are not enacted this year. At this point, the downpayment initiative is the only legislative proposal with a chance of enactment this session of Congress.

Much press attention has been focused on what housing advocates have termed "the housing crisis." This has galvanized a wide array of groups in support of the creation of a dedicated source of federal funding for housing expenditures (a housing trust fund similar to the highway trust fund). In this session of Congress, H.R. 3995, an Oxley-Roukema housing bill containing the President's downpayment initiative, has been reported out of the Financial Services Committee. The bill now contains a number of new program authorizations which we oppose. In the Senate, Christopher (Kit) Bond, the Ranking Minority Member on the VA/HUD Appropriations Committee introduced a bill (S. 2967) on September 19th authorizing a major new housing production program. Rather than creating new and possibly duplicative housing programs, increased funding for the existing HOME program, targeted to the very low-income, is the Secretary's preferred approach to dealing with the increased housing needs.

C. Regulatory:

The key regulatory issue facing the Department will be reform of the regulation implementing the Real Estate Settlement Procedures Act, which Secretary Martinez advocates as part of his effort to reduce closing costs and make the homebuying process easier. Because of the varied economic interests involved in the homebuying industry affected by these changes, this will be highly contentious. HUD has proposed changes to the RESPA rule and is currently receiving comments on its draft rule. While HUD believes it has the authority to adopt the rule it has proposed, the Secretary has stated that further changes (especially in the enforcement arena) may also be desirable and would require legislation.

REV_00159280

Veterans

II. Looking Back: Review of '01 and '02

A. Achievements

- **Established the Task Force to Improve Health Care Delivery For Our Nation's Veterans (Veterans Healthcare Task Force – Executive Order 13214):** The fifteen member Veterans Healthcare Task Force, co-chaired by Dr. Gail Wilensky, former Administrator of the Health Care Financing Administration, and former Congressman John Paul Hammerschmidt, will recommend specific actions to improve coordination between VA and the Department of Defense (DoD) on health care for those who have served in uniform and who are eligible for VA benefits. The Task Force issued an interim report on the issues to be addressed on July 31, 2002. A final report is due in March 2003.

- **Reduced Veterans Claims Backlog:** Conducted a top-to-bottom review of VA claims processing to identify weaknesses and areas for improvement, as the President had promised in the campaign ("The veterans health care system and the claims process need an overhauling from top to bottom. It needs to be modernized, so that claims are handled in a fair and timely fashion." *Honoring our Commitment to Veterans*, November 11, 1999). Reduced the claims pending backlog by almost 40% in the first year.

- **Reduced Longest-Pending Veterans Claims for Older Veterans:** Established a "Tiger Team" of experienced employees and managers to focus on the longest-pending claims from older veterans. By August 2002 VA, had completed 47,000 cases that had been pending for more than one year.

- **Reinstated VA's "Duty to Assist" Policy:** VA had traditionally pursued a "duty to assist" policy of helping claimants in gathering evidence to support their claims, including compiling medical and service records. A court decision, however, had overturned the holding it was not authorized by law. During the campaign, Governor Bush promised to reinstate the policy (August 2000). The President implemented provisions of the Veterans Claims Assistance Act reinstating the policy.

- **World War II Memorial Legislation:** Signed bipartisan legislation that ended ending delays and ensured that the planned World War II Memorial is located on the National Mall, between the Washington Monument and Lincoln Memorial.

B. Outstanding Commitments

- Although VA has made improvements in claims processing and in addressing the backlog of claims, the current delays remain unacceptable by President Bush's and Secretary's Principi's standards.

III. Looking Forward: '03 Agenda

B. Legislative

Priority Level 7 (PL 7) Vets: Veterans who choose to enroll in the VA health care system are placed in a priority group based on their specific eligibility status. The priority groups range from 1-7, with 1 being the highest priority for enrollment. The numbers of PL 7[1] veterans (those in least need of services) has increased dramatically since 1996, when they were accepted on a space-available basis and averaged two percent of all patients. This influx strains VA's capacity and hinders delivery of care to higher priority veterans.

VA medical care is not an entitlement offered to all veterans irrespective of geographic location. It is a service limited primarily to VA's geographic infrastructure and the size of the appropriation in any one year. Federal law requires that the VA Secretary announce, in conjunction with the appropriations process, what categories of veterans VA will be able to serve for that fiscal year. The issue, therefore, must be faced each year. For FY 2002, VA originally had determined that the budget would not permit it to serve all PL 7 veterans, and had proposed suspending new enrollment by PL 7 veterans who were not then enrolled. The final decision, however, was not to suspend PL 7 enrollment but to add $200 million to the President's budget request to address the issue. VA has proposed a regulation (See Section C, Regulatory, below) allowing it to provide services to higher priority veterans before providing services to lower priority veterans.

Concurrent Receipts: Currently, in order to receive VA disability payments, a military retiree must waive an equivalent amount of military retirement pay. Many in Congress have supported attempts to allow military retirees to concurrently receive VA disability and military retirement benefits. Every Administration has opposed these attempts based on the long-standing principle that no one should be able to receive concurrent retirement benefits and disability benefits based upon the same service. All Federal compensation systems aim for an equitable percentage of income replacement in the case of either work-related injury *or* retirement. Such a change in policy would cost approximately $58 billion dollars over ten years.

Most recently, the President threatened to veto the Department of Defense authorization bill because it contained a provision allowing concurrent receipts. Veterans groups, as expected, have been heated in their criticism of the Administration over this issue, and will continue to press their supporters to change policy and allow concurrent receipts.

---

[1] PL 7 veterans are veterans who (i) do not have a service-connected disability serious enough to qualify for disability compensation; (ii) have an annual income exceeding $24,000 ($27,000 with one dependent) or who have a substantial net worth; and (iii) do not qualify for care under other special provisions (e.g. World War I veteran, care for conditions associated with herbicide or radiation exposure, etc.)

REV_00159282

POW Legislation: American ex-POWs held by the Japanese have been active in trying to pass legislation that would allow them to sue Japanese corporations that used POW slave labor. The latest iteration in this effort is legislation sponsored by Republican Dana Rohrbacher (HR 1189). State Department believes the Rohrbacher bill would contravene our peace treaty with the Japanese, which shielded Japanese nationals from liability. A bill introduced by Michael Simpson, (HR 5235) would provide a pension benefit for former POWs.

VA had submitted a legislative proposal establishing a POW benefit, and supported the Simpson effort. In order to pay for the benefit, VA's proposal contained language overturning a recent court ruling that expanded the definition of service-connected disability to include alcoholism and drug-use. The POW benefit would have cost nearly $1.7 billion over ten years, while the offset would result in $4.6 billion in savings over the same period. However, the Administration chose not to send POW benefit legislation or publicly endorse the Simpson legislation because we would be creating an new entitlement without a guarantee that offset portion would survive.

C. Regulatory

Secretary Principi recently issued a regulation allowing VA to ensure priority care for veterans with severe service-connected disabilities. Priority for treatment for service-connected veterans does not reduce the number of veterans VA treats, but does reduce the amount of time veterans seeking treatment for a service-connected disability must wait before receiving care. Predictably, the regulation was criticized as a "cut" in veterans benefits (most particularly by Senator Rockefeller).

REV_00159283

REV_00159284

Criminal Justice

II. Looking Back: Review of '01 and '02

A. Achievements

Tort Reform

- Teacher Protection Act: As part of No Child Left Behind Act, the President signed into law the Teacher Protection Act, which provides civil immunity from state and Federal actions to teachers, principals, and other education professionals for actions taken to maintain discipline, order, or control in the classroom or school. The President promised to support the Teacher Protection Act during the campaign.
- Class Action Reform: The Administration sent a Statement of Administration Position (SAP) supporting the Class Action Fairness Act (H.R. 2341), which passed the House and is pending in the Senate. The bill would allow removal of cases to Federal court when the amount in controversy exceeds $2 million and there is minimal diversity. This is consistent with the campaign promise to "allow large cases to be removed from state to federal court where only minimal diversity exists."* Also, the bill establishes a consumer class action bill of rights, including notice of lawsuits in "plain English" and requires judicial review of non-cash benefits like coupons.
- Medical Liability Reform: In July 2002, President proposed national minimum standards in healthcare cases, including limits on non-economic damages and punitive damages, proportional liability, and informing juries of other sources of reimbursement. It would also protect from use in lawsuits reports and information about efforts of Patient Safety Organizations to improve patient care. The House approved this legislation.

Campaign Finance Reform

- In March 2002, the President signed H.R. 2356, the Campaign Finance Reform Act. The Act contains various provisions the President supported, including a ban on unregulated, "soft" money contributions from unions and corporations, increased limits on individual giving, and new and more expedited disclosure requirements. However, it also includes provisions that raise constitutional concerns, such as the broad ban on issue advertising.
- The bill contains reforms the President promised to support during the campaign, including: "banning 'soft money' contributions from labor unions and corporations" and "raising individual contribution limits." As enacted, it did not include provisions advocated by the President such as "enforcement of the Beck decision and enactment of effective 'Paycheck Protection'" legislation or "instant disclosure of contributions" (although it did further lessen the amount of time before disclosure was required).*

Election Reform

- The President endorsed four guiding principles embodied in the May 2001 report of the bipartisan National Commission on Election Reform: (1) primacy of state, county and local governments in elections; (2) a limited but responsible role for the federal government in assisting states and localities with election administration so that voting technology and practices respect the value of every eligible vote; (3) need for active and

vigorous enforcement of voting rights laws; and (4) need to uphold the voting rights of members of the armed services and of Americans living abroad.

- The President signed legislation consistent with these principles. It also contains important tools to decrease fraud in our voting systems.
- The bill authorizes $3.9 billion over four years for a variety of grant programs, including general improvement of the election administration system, and improved access to the voting process for individuals with disabilities. The Administration has proposed to spend $1.2 billion in matching grants to fund a state revolving fund to be used in election administration. The first of three $400 million installments was included in the President's FY 2003 budget.

Affirmative Action

- The President stated during the campaign that he "supports 'affirmative access' to open the doors of opportunity" to all Americans, and "opposes quotas and racial preferences."* The goal is to provide greater opportunity and access without creating race-conscious remedies that only benefit particular racial or ethnic groups. His Administration has done so in the following contexts:

    - Education: The No Child Left Behind Act establishes high standards and accountability for all public schools. Educating every American to his or her full potential was part of the campaign's affirmative access goals.
    - Contracting: The President's Small Business Agenda includes promoting the unbundling of contracts so that small businesses that are not capable of bidding for entire projects are not disadvantaged. This meets his campaign promise to advocate "breaking down government contracts to smaller sizes to encourage entrepreneurship in all communities" as a way to promote affirmative access.* Also, the President instructed the OMB Director to review contracting practices at relevant agencies to make sure their practices reflect a commitment to full and open competition.
    - Housing: The President announced a homeownership initiative targeted at increasing homeownership for minority families. It includes proposals to increase the supply of affordable homes for low and moderate income families, provide downpayment assistance, more educational assistance, and a "Homeownership Challenge" to the real estate and mortgage finance industries to help increase the number of minority homeowners by 5.5 million families by the end of the decade. This initiative does not rely on racial classifications.

New Freedom Initiative

Community Living

- *Olmstead*: By Executive Order, the President required Federal agencies to assist states and localities to implement the Supreme Court's *Olmstead* decision. *Olmstead* requires states to place qualified individuals with disabilities in community settings, rather than in institutions, whenever treatment professionals determine that such placement is appropriate, the affected persons do not oppose such placement, and the state can reasonably accommodate the placement, taking into account the resources available to the state and the needs of others with disabilities.

REV_00159286

- In response, key Federal agencies conducted the first comprehensive Federal review of barriers that prevent people with disabilities from living in the community and identified over 400 potential solutions to remove impediments to community-based living, which agencies have begun to implement.
- Medicare Homebound Rules: The President announced a clarification with respect to Medicare recipients with disabilities who are considered "homebound." This change makes it clear that people with significant disabilities may leave their homes for occasional activities without losing their Medicare homebound services.

Education

- IDEA: The President requested the largest increases of any President in history for the Individuals with Disabilities Education Act (IDEA) Part B State Grants program in his FY 2002 and FY 2003 budgets. The President signed legislation increasing by $1.2 billion in FY 2002 budget for the IDEA Part B State Grants program.
- Special Education Commission: The President issued Executive Order 13227 in October 2001 creating the Presidential Commission on Excellence in Special Education. The Commission issued its report to the President on July 1, 2002.

Technology

- Section 508: The President promised full enforcement of Section 508 of the Rehabilitation Act, which requires that all Federal government electronic and information technologies be accessible to individuals with disabilities. In response, the Administration collaborated to expedite Section 508 implementation, and produced extensive technical guidance and training materials that will be helpful to Federal agencies and others interested in accessible technologies.

Homeownership

- HUD Section 8: The President committed to revising the HUD Section 8 rent subsidy program to permit people with disabilities to use up to one year's worth of Section 8 rent subsidy vouchers to finance a down payment and purchase a home. HUD has implemented this pilot program.

Employment Integration

- Ticket to Work: The President promoted swift implementation of the Ticket to Work and Work Incentives Improvement Act, which provides incentives for more than 7.5 million Americans receiving benefits under Federal disability programs to return to work.

Other

- Commission on Mental Health: The President formed the New Freedom Commission on Mental Health to conduct a comprehensive study of the Nation's mental health service delivery system.
- Access to Voting Places: The President will sign legislation mandating increased access to polling places by individuals with disabilities.

REV_00159287

- DisabilityInfo.gov: By Executive Memorandum, the President created a single source Federal web site providing access to all the Federal web sites important to people with disabilities. This web site was launched in October 2002.
- NFI Budget: The President secured funding for the vast majority of NFI programs in FY 2002 and requested a higher overall level of NFI-related funding in FY 2003. In the FY 2002 budget, the President requested $10.781 billion and received $10.872 billion. In the FY 2003 budget, he is seeking $1.39 billion over 2002 appropriations.

B. Outstanding Commitments

Civil Justice
Tort Reform
The President promised during the campaign to "support meaningful, broad-based tort reform" to discourage frivolous lawsuits. Congress has not acted on the following items the President pledged to support:

- "Strengthen Federal Rule 11 to require stiffer penalties for frivolous suits, and impose a 'Three Strikes, You're Out' rule on attorneys who repeatedly file frivolous claims."
- "Limit 'fishing expeditions' by amending federal discovery rules, and curb the use of 'junk science' by raising the federal standard for admission of scientific testimony."
- "Eliminate the much-abused private cause of action under the RICO statute."
- "Raise the amount in controversy for removal where there is complete diversity."
- "Enact a 'Fair Settlement Rule,' requiring parties who reject a pre-trial settlement offer, and who ultimately lose their case or receive substantially less at trial, to pay the other party's costs, including legal fees."
- "Enact a 'Client's Bill of Rights' to allow federal courts to hear challenges to attorneys' fees, and require attorneys to disclose their ethical obligation to charge reasonable fees."

The President's remaining campaign civil justice system reform pledge was to "Issue an Executive Order prohibiting Federal agencies from paying contingency fees."* This executive order is currently being drafted.

New Freedom Initiative

- Transportation Grants: The President requested $145 million in his 2002 and 2003 budgets for competitive grants through the Department of Transportation to provide alternative transportation services to give people with disabilities increased access to the job market, and to fund a pilot program to demonstrate innovative solutions for overcoming transportation barriers. This is the major NFI program that was not funded in FY 2002. The reason appears to be lack of available resources rather than any problem with the program itself.

* References A Fresh Start for America: Policy Addresses of George W. Bush. Otherwise, quotes reference campaign position papers compiled in Renewing

REV_00159288

America's Purpose: Policy Addresses of George W. Bush, July 1999 – July 2000.

II. Looking Forward: '03 Agenda

B. Legislative

Civil Justice

Civil Justice Reform. Tort reform, including class action reform and medical malpractice liability reform, will not likely be resolved this year and will be an issue in the 108th Congress.

- Class Action Jurisdiction Act – This legislation has passed the House twice but has never been considered in the Senate. The President has endorsed it as a reform that will reduce inefficiency, waste and unfairness in the existing class action system, without curtailing plaintiff's rights or remedies.
  Other related legislation might involve anticipated changes to Rule 23 (governing class actions) that the Supreme Court is expected to propose on or before May 1, 2003. Some of these changes are to allow class members to opt out of the class once the terms of a proposed settlement are known; to allow the court to select class counsel; and to establish procedures for approval of attorney's fee awards. If Congress takes no action they would go into effect as proposed. However, there may be opportunities to strengthen the rule changes by legislation.
- Medical Malpractice Liability -- The House passed the HEALTH Act by vote of 217 – 203. The Senate is unlikely to consider the bill this Congress. However, as the public continues to suffer from increased medical insurance costs, watches doctors withdraw from practices where their insurance costs are prohibitive, and notes the absence of facilities such as trauma centers, there will be increasing pressure on the Senate to move next year.

Tobacco Control Legislation ('03)– Bipartisan legislation in Congress has been introduced to grant the FDA authority to regulate tobacco products. While the issue has not been highly visible in the 107th Congress, Democrats and some Republicans plan to raise its profile in the 108th Congress. The Administration may be required to take a position on the regulation of tobacco products, and should prepare a strategy to address this issue for early next year.

C. Regulatory

Civil Justice

FDA Drug Labeling Safe Harbor. The FDA reviews and approves every word on the label of any prescription drug product, and it requires manufacturers to obtain approval before modifying a drug label. Yet many courts permit lawsuits based on a claim that a drug manufacturer's label did not warn of a certain risk – even though the label fully complied with all federal safety requirements. Such lawsuits essentially allow a jury to second-guess the FDA's judgment regarding a product's label and develop labeling policy without considering all the consequences. Empirical evidence shows that these decisions actually jeopardize the public health, since labels that are too complicated or long lead to consumers' ignoring *all* warnings.

REV_00159289

FDA intends to promulgate a regulation expressly preempting tort failure-to-warn and other claims based on alleged deficiencies in a drug's label, as part of a new rule that will extensively revise drug-labeling requirements. These revised labeling requirements will result in simpler, more focused labels that will better protect the general public health.

This initiative could be unveiled at the Presidential level if desired.

SBA Women Owned Small Business Program

- SBA Women Owned Small Business Program: Congress authorized (but did not mandate) the creation of a new set-aside program for women-owned small businesses to restrict certain federal contracts to bidding by women-owned businesses, which would be the first newly-created set-aside program in this Administration.
- The SBA proposed regulations to implement the program, but they were of questionable constitutionality and withdrawn in the OMB process. Currently, SBA is reevaluating a Congressionally-mandated draft study it had developed to justify the program. After the revised study is complete next year, the Administration will have to determine whether to implement the program.

New Freedom Initiative

OPM Regulations

- The Office of Personnel Management regulations limit which entities can certify that an applicant has a disability. They are the state vocational rehabilitation agencies and the Department of Veterans Affairs. OPM is actively considering a change in regulation to add SSA as a certifying agency. This could streamline the process in allowing Ticket to Work candidates to apply for Federal jobs. This is expected to change in 2003.

REV_00159290

From: CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/3/2003 8:18:36 AM
Subject: : FW: LRM RJP17 - - HEALTH & HUMAN SERVICES Draft Bill on Smallpox First Responders Protection Act of 2003
Attachments: P_3JTBE003_WHO.TXT_1.wpd

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 3-MAR-2003 13:18:36.00
SUBJECT:: FW: LRM RJP17 - - HEALTH & HUMAN SERVICES Draft Bill on Smallpox First Responders Protection Act of 2003
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

OK, this is what you need to look at.

Patrick - can you keep both me and Brett posted on this issue. thanks
---------- Forwarded by Jennifer G. Newstead/WHO/EOP on 03/03/2003 01:17 PM ----------

From: Patrick J. Bumatay/WHO/EOP@Exchange on 03/03/2003 09:54:02 AM
Record Type: Record

To: Jennifer G. Newstead/WHO/EOP@EOP
cc:
Subject: FW: LRM RJP17 - - HEALTH & HUMAN SERVICES Draft Bill on Smallpox First Responders Protection Act of 2003

-----Original Message-----
From: Pellicci, Robert J.
Sent: Monday, March 03, 2003 9:48 AM
To: Capretta, James C.; Gilbert, Alan; Silverberg, Kristen; Lefkowitz, Jay P.; Hall, Philo D.; Whgc Lrm; Perry, Philip J.; Wood, John F.; Schneider, Matthew J.; Ovp Lrm; Ohs Lrm; Walsh, Maureen; Benton, Melissa N.; Hustead, Toni S.; Ermann, Danny A.; Bartrum, John J.; Clendenin, Barry T.; Reilly, Thomas; Aylward, Patrick; Lobrano, Lauren C.; Cox, Christopher C.; Loper, Ginger G.; Allen, Michael; Shapiro, Stuart; Boden, James; Pitkin, Douglas; Rettman, Rosalyn J.; Emery Jr., Richard P.; Bernard, Kenneth
Cc: Schroeder, Ingrid M.; Jukes, James J.
Subject: LRM RJP17 - - HEALTH & HUMAN SERVICES Draft Bill on Smallpox First Responders Protection Act of 2003

COMMENTS ARE DUE NO LATER THAN 1:00 P.M. TODAY - DEADLINE IS FIRM. DRAFT LANGUAGE FOLLOWS--

THIS IS AN INTERNAL EOP REVIEW.
---------- Forwarded by Robert J. Pellicci/OMB/EOP on 03/03/2003 09:47 AM ----------
LRM ID: RJP17
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Monday, March 3, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution
below
FROM: Ingrid M. Schroeder (for) Assistant Director for
Legislative Reference
OMB CONTACT: Robert J. Pellicci
PHONE: (202)395-4871 FAX: (202)395-6148
SUBJECT: HEALTH & HUMAN SERVICES Draft Bill on Smallpox First
Responders Protection Act of 2003

DEADLINE: 1:00 P.M. Monday, March 3, 2003
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS:

DISTRIBUTION LIST

AGENCIES:
-Executive Office of the President - EOP Review Only See Distribution -

EOP:
James C. Capretta
Alan Gilbert
Kristen Silverberg
Jay P. Lefkowitz
Philo D. Hall
WHGC LRM
Philip J. Perry
John F. Wood
Matthew J. Schneider
OVP LRM
OHS LRM
Maureen Walsh
Melissa N. Benton
Toni S. Hustead
John J. Bartrum
Danny A. Ermann
Barry T. Clendenin
Thomas Reilly
Patrick Aylward
Lauren C. Lobrano
Christopher C. Cox
Ginger G. Loper
Michael Allen
Stuart Shapiro
James Boden
Douglas Pitkin
Rosalyn J. Rettman
Richard P. Emery Jr.
Ingrid M. Schroeder
James J. Jukes

LRM ID: RJP17 SUBJECT: HEALTH & HUMAN SERVICES Draft Bill on Smallpox First Responders Protection Act of 2003
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Robert J. Pellicci Phone: 395-4871 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-7362

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_3JTBE003_WHO.TXT_1>

GCL DRAFT 3/2/03

A BILL

To provide for compensation for certain individuals with injuries resulting from administration of smallpox countermeasures within the scope of the Declaration Regarding Administration of Smallpox Countermeasures issued by the Secretary of Health and Human Services on January 24, 2003, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Smallpox First Responders Protection Act of 2003".

SEC. 2. DEFINITIONS.

As used in this Act, terms have the following meanings:

(1) DECLARATION.—The term "Declaration" means the Declaration Regarding Administration of Smallpox Countermeasures issued by the Secretary of Health and Human Services on January 24, 2003 and published in the Federal Register on _____, including any subsequent amendment.

(2) COVERED COUNTERMEASURE.—The term "covered countermeasure" means a covered countermeasure specified in article III of the Declaration.

(3) COVERED FIRST RESPONDER.—The term "covered first responder" means an individual—

(A) who is within a category of individuals specified in article IV of the Declaration; and

(B) to whom a covered countermeasure is administered during the effective period of the Declaration and not later than—

(i) 60 days after the effective date of this Act, or, if later

(ii) 60 days after becoming an individual within a category specified in such article IV.

(3) ELIGIBLE INDIVIDUAL.—The term "eligible individual" means an individual who is (as determined in accordance with section 3)—

(A) a covered first responder who sustains a covered injury as a result of administration of a covered countermeasure; or

(B) any other individual who contracts vaccinia during the effective period of the Declaration or within 30 days after the end of such period—

(i) to whom vaccinia vaccine was not administered; and

(ii) who has resided with, **or has been in close contact with,** a covered first responder. **[NOTE: A parallel amendment should be considered for the amendments to sec. 304 of PL 107-296, adding bolded language to sec. 224(p)(2)(C)(ii)(II) of PHSA.]**

(4) COVERED INJURY.—The term "covered injury" means an injury, disability, illness, condition, or death determined, pursuant to the procedures established under section 3, to have been sustained by an eligible individual as the direct or indirect result of administration of a covered countermeasure during the effective period of the Declaration, including—

(A) contact vaccinia; and

(B) complications and secondary adverse health effects of such injury, including aggravation of other or preexisting injuries, disabilities, illnesses, or conditions.

[QUERY: Need to consider whether to include some severity threshold or

equivalent, to prevent claims for de minimis injuries. E.g., HR 865 (Waxman) provides no benefits for "minor scarring or minor local reactions".]

SEC. 3. DETERMINATION OF ELIGIBILITY.

(a) IN GENERAL.—The [Attorney General, in consultation with the Secretary of Health and Human Services,] shall establish administrative procedures for determining, as applicable with respect to an individual—

(1) whether the individual is an eligible individual;

(2) whether an eligible individual has sustained covered injuries for which medical benefits and employment income-loss compensation may be available under sections 5 and 6;

(3) whether the covered injuries of an eligible individual constitute a compensable disability, or caused the individual's death, for purposes of benefits under section 8.

(b) COVERED FIRST RESPONDERS.—The Attorney General may accept a certification, by a Federal, State, or local government entity or private health care entity participating in the administration of covered countermeasures under the Declaration, that an individual is a first responder to whom such a countermeasure has been administered by the applicable deadline specified in section 2(3)(B), as establishing that the individual is a covered first responder.

(b) DETERMINATION OF CAUSATION.—

(1) INJURIES SPECIFIED IN INJURY TABLE.—In any case where an injury or other adverse effect specified in the injury table established under section 4 as a known effect of a countermeasure manifests in an individual within the time period specified in such table, such injury or other effect shall be

[conclusively?] presumed to have resulted from administration of such countermeasure.

(2) OTHER DETERMINATIONS.—In making determinations other than those described in paragraph (1) as to the causation or severity of an injury, the [Attorney General] shall take into consideration all relevant medical and scientific evidence presented for consideration, and may obtain and consider the views of qualified medical experts.

SEC. 4. COUNTERMEASURE INJURY TABLE.

(a) SMALLPOX COUNTERMEASURE INJURY TABLE.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall establish by interim final regulation, and may amend by regulation, a table identifying adverse effects (including injuries, disabilities, illnesses, conditions, and deaths) that shall be presumed to result from the administration of (or exposure to) a covered countermeasure, and the time period in which the first symptom or indication of each such adverse effect must manifest in order for such presumption to apply.

SEC. 5. MEDICAL BENEFITS.

(a) IN GENERAL.—Subject to the succeeding provisions of this section, an eligible individual shall be entitled to provision of or payment for medical items and services as reasonable and necessary to treat a covered injury, to the extent and in the manner that would apply under section ____ of the Federal Employees Compensation Act (5 U.S.C. 8103) to a Federal employee injured in the performance of duty.

(b) BENEFITS SECONDARY TO OTHER COVERAGE.—The obligation of the United States to pay for or provide any services or benefits under subsection (a) shall be secondary to the obligation of the United States or any third party, under any other provision of law or contractual agreement, to pay for or provide such services or benefits.

(c) OPTION TO RECEIVE MEDICAL SERVICES THROUGH DEFENSE DEPARTMENT OR VETERANS AFFAIRS FACILITIES.—

(1) INDIVIDUAL OPTION.—An eligible individual may elect to receive some or all medical services covered under this section at medical facilities operated by the Secretary of Defense or the Secretary of Veterans Affairs.

(2) RESPONSIBILITY OF DOD.—The Secretary of Defense shall furnish medical items and services necessary to treat covered injuries of an eligible individual to the same extent that the Secretary furnishes such care and services to any member of the armed services under **[cite?]**.

(3) RESPONSIBILITY OF DVA.—The Secretary of Veterans Affairs shall furnish medical items and services necessary to treat covered injuries of an eligible individual to the same extent that the Secretary furnishes such care and services to any veteran for a service-connected disability under 38 U.S.C. 1710(a)(1).

SEC. 6. COMPENSATION FOR LOST EMPLOYMENT INCOME.

(a) IN GENERAL.—Subject to the succeeding provisions of this section, an eligible individual shall be entitled to payment of compensation for loss of employment income incurred as a result of a covered injury, at the rate specified in subsection (b).

(b) AMOUNT OF COMPENSATION.—

(1) IN GENERAL.—Compensation under this section shall be at the rate of 66 2/3 percent of monthly pay, as determined in accordance with sections ____ and ____ of the Federal Employees Compensation Act (5 U.S.C. 8114 and 8115).

(2) TREATMENT OF SELF-EMPLOYMENT INCOME.—For purposes of this section—

(i) the term "employment income" includes income from self-employment; and

(ii) for purposes of computation of pay and determination of wage-earning capacity under paragraph (1), self-employment income shall be treated as wages.

(c) LIMITATIONS.—

(1) BENEFITS SECONDARY TO OTHER COVERAGE.—The obligation of the United States to pay compensation under subsection (a) shall be secondary to the obligation of the United States or any third party, under any other law or contractual agreement, to pay compensation for loss of employment income.

(2) NO BENEFITS FOR DEATH OR PERMANENT AND TOTAL DISABILITY.—No payment shall be made under this section in compensation for loss of employment income due to the death or permanent and total disability of an eligible individual.

(3) LIMIT ON TOTAL BENEFITS.—Total benefits paid to an individual under this section shall not exceed $50,000.

(4) WAITING PERIOD.—An eligible individual is not entitled to compensation under this section for the first 5 days of disability.

SEC. 8. PAYMENT FOR DEATH AND DISABILITY.

(a) BENEFIT FOR PERMANENT AND TOTAL DISABILITY.—Subject to the succeeding provisions of this section, an eligible individual who is determined, in accordance with the procedures established under section 3, to have a covered injury or injuries meeting the definition of disability in section 216(i) of the Social Security Act (42 U.S.C. 416(i)) shall be entitled to a payment by the United States of an amount determined under subsection (c), in the same manner as payment may be made pursuant to the Public Safety Officers' Benefits Program (PSOB) to a public safety officer

permanently and totally disabled as the direct result of a catastrophic injury sustained in the line of duty.

(b) DEATH BENEFIT.—Subject to the succeeding provisions of this section, in the case of an eligible individual whose death is determined, in accordance with the procedures established under section 3, to have resulted from a covered injury or injuries a death benefit in the amount determined under subsection (c) shall be payable to the survivor or survivors in the same manner as a death benefit under the PSOB is payable to the survivor or survivors of a public safety officer who has died as the result of a personal injury sustained in the line of duty.

(c) BENEFIT AMOUNT.—The amount of the disability or death benefit under subsection (a) or (b) in a fiscal year shall equal the amount of the comparable benefit calculated under the PSOB in such fiscal year, without regard to any reduction attributable to a limitation on appropriations.

(d) LIMITATIONS.—

(1) DISABILITY BENEFITS.—No benefit is payable under subsection (a) with respect to the disability of an eligible individual if—

(A) a disability benefit is paid or payable with respect to such individual under the PSOB; or

(B) a death benefit is paid or payable with respect to such individual under subsection (b) or the PSOB.

(2) DEATH BENEFITS.—No benefit is payable under subsection (b) with respect to the death of an eligible individual if—

(A) a disability benefit is paid with respect to such individual under subsection (a) or the PSOB; or

(B) a death benefit is paid or payable with respect to such individual under the PSOB.

(e) REFERENCE.—References in this section to the Public Safety Officers' Benefits Program or PSOB are references to the program under part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.).

SEC. 9. ADMINISTRATION.

(a) ADMINISTRATION BY AGREEMENT WITH OTHER AGENCY OR AGENCIES.—The [Attorney General] may administer [any or all of] the provisions of this Act through Memorandum of Agreement with one or more of the following: the Secretaries of Defense, Health and Human Services, Labor, and Veterans Affairs.

(b) REGULATIONS.—The head of the agency administering this Act or provisions thereof may promulgate such implementing regulations as may be found necessary and appropriate. Initial implementing regulations may be interim final regulations.

SEC. 10. APPROPRIATIONS.

(1) IN GENERAL.—There are hereby appropriated such sums as may be necessary for fiscal year 2003 and each succeeding fiscal year to carry out the provisions of this Act, including administrative costs and costs of provision and payment of benefits.

SEC. 11. RELATIONSHIP TO OTHER LAWS.

(a) NO PREEMPTION OF INDIVIDUAL RIGHTS.—Nothing in this Act shall be construed to override or limit any rights an individual may have to seek compensation, benefits, or redress under any other provision of Federal or State law, specifically including section 224(p) of the Public Health Service Act (providing a cause of action under the Federal Tort Claims Act for injuries resulting from administration of smallpox countermeasures under such section 224(p)).

[(b) PREEMPTION OF STATE LAWS PROVIDING EXCLUSIVE REMEDY FOR WORK-RELATED INJURIES.—No provision of a State workers' compensation

law or other State law shall be given effect that purports to make such State law the exclusive remedy for a work-related injury or otherwise to make benefits under this Act unavailable to an otherwise eligible individual.

From: Office of Global Communications <Global.Messenger@WhiteHouse.Gov>
To: Carolene Langie Office of Global Communications/WHO/EOP@EOP [WHO] <Carolene Langie Office of Global Communications>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 3/4/2003 3:08:37 AM
Subject: : White House Global Messenger -- 03/04/2003
Attachments: P_MHOCE003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Office of Global Communications <Global.Messenger@WhiteHouse.Gov> (Office of Global Communications <Global.Messenger@WhiteHouse.Gov> [UNKNOWN])
CREATION DATE/TIME: 4-MAR-2003 08:08:37.00
SUBJECT:: White House Global Messenger -- 03/04/2003
TO:Carolene Langie Office of Global Communications (CN=Carolene Langie Office of Global Communications/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

(See attached file: GM 3-4-03 FINAL.doc)

THE GLOBAL MESSENGER

Tuesday, March 4, 2003

******KEY POINTS******

If Saddam Hussein were serious about complying with the latest UN resolution, in
the 15 weeks since 1441 passed on November 8th Iraq would have:
- Submitted a full, accurate, and complete declaration, and destroyed all prohibited materials;
- Accounted for all unaccounted-for weapons;
- Turned over and destroyed the mobile bio-weapons labs, all illegal missiles,
missile parts, testing equipment, and unmanned aerial vehicles with ranges greater than 150 km;
- Encouraged scientists to be interviewed without minders, inside or outside of
Iraq;
- Allowed unimpeded aerial reconnaissance; and
- Turned over all documents requested by inspectors.

Nothing less that full and immediate disarmament is required of the regime by
UNSCR 1441. Yet Saddam continues to resist full and immediate cooperation --
even with respect to the missiles.

The missiles are just the tip of the iceberg of Iraq's illegal arsenal. Iraq has
not accounted for:
- Raw materials sufficient to produce:
26,000 liters of anthrax
38,000 liters of botulinum toxin; and
5500 liters of aflatoxin, a carcinogen.
- 1.5 tons of VX, a powerful nerve agent.
- Nearly 30,000 empty munitions that could be filled with chemical agents.
- 550 artillery shells filled with mustard agent;

It is not surprising that Saddam Hussein is willing to sacrifice a few illegal
weapons to save many other illegal weapons.

Saddam Hussein has a long history of complying with inspectors on small, technical issues, only to continue to cheat inspectors on a large scale. His tactical concessions are designed to buy time, ease the pressure on his regime, split the international community, and erode its resolve.

The danger posed by Saddam Hussein and his weapons cannot be ignored or wished away. We hope the Iraqi regime will meet the demands of the UN and disarm, fully and peacefully. If it does not, we are prepared to disarm Iraq by force.

******TODAY'S SCHEDULE******
All Times Eastern Standard Time Unless Noted
Subject to Change

12:30 pm White House Briefing by Ari Fleischer

1:00 pm State Department Briefing by Richard Boucher

3:25 pm President Bush meets with President Kagame of Rwanda

******ANN CLWYD: A VOICE FOR FREEDOM******

"The humanitarian crisis in Iraq is not something we will create. It is there. Listen to the testimony of Ann Clwyd, a brave and tireless campaigner against the barbarism of the Iraqi regime and the suffering of the Iraqi people when the world's attention was turned away."
- British Prime Minister Tony Blair, 2-28-03

Excerpts from a speech by Ann Clwyd, a British Labour MP and human rights activist, who recently traveled to Iraq and met with former prisoners, 2-26-03

"...[One prisoner] said that almost every day, people were executed... not one person, but hundreds. When there was an attack on Uday Hussein's life some time ago, 2,000 prisoners in the prison were executed on the same day. That is the reality of Saddam's Iraq. When I hear people calling for more time, I say 'Who will speak up for those victims? Who is to help the victims of Saddam Hussein's regime unless we do?"

******KEY QUOTES******

"Saddam Hussein has a long history of brutal crimes, especially in time of war -- even against his own citizens. If conflict comes, he could target civilians or place them inside military facilities. He could encourage ethnic violence. He could destroy natural resources. Or, worst of all, he could use his weapons of mass destruction."
President Bush, in radio address, 3-1-03

THE WHITE HOUSE
Office of Global Communications

For more information log on to http://www.whitehouse.gov/ogc

****

You have previously expressed interest in obtaining news and information from
the White House.

The White House Office of Global Communications distributes information about
the President's messages to the world. This office distributes updates on major
international topics such as the global war on terror, the case for regime
change in Iraq, and more broadly, the ways in which we can all better
communicate the aspirations and interests that Americans share with
freedom-loving people everywhere.

- GM 3-4-03 FINAL.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_MHOCE003_WHO.TXT_1>

THE GLOBAL MESSENGER

Tuesday, March 4, 2003

TODAY'S SCHEDULE

All Times Eastern Standard Time Unless Noted
Subject to Change

12:30 pm	White House Briefing by Ari Fleischer
1:00 pm	State Department Briefing by Richard Boucher
3:25 pm	President Bush meets with President Kagame of Rwanda

ANN CLWYD: A VOICE FOR FREEDOM

"The humanitarian crisis in Iraq is not something we will create. It is there. Listen to the testimony of Ann Clwyd, a brave and tireless campaigner against the barbarism of the Iraqi regime and the suffering of the Iraqi people when the world's attention was turned away."
- British Prime Minister Tony Blair, 2-28-03

Excerpts from a speech by Ann Clwyd, a British Labour MP and human rights activist, who recently traveled to Iraq and met with former prisoners, 2-26-03

"….[One prisoner] said that almost every day, people were executed…not one person, but hundreds. When there was an attack on Uday Hussein's life some time ago, 2,000 prisoners in the prison were executed on the same day. That is the reality of Saddam's Iraq. When I hear people calling for more time, I say 'Who will speak up for those victims? Who is to help the victims of Saddam Hussein's regime unless we do?"

KEY QUOTES

"Saddam Hussein has a long history of brutal crimes, especially in time of war -- even against his own citizens. If conflict comes, he could target civilians or place them inside military facilities. He could encourage ethnic violence. He could destroy natural resources. Or, worst of all, he could use his weapons of mass destruction."
President Bush, in radio address, 3-1-03

KEY POINTS

- If Saddam Hussein were serious about complying with the latest UN resolution, in the 15 weeks since 1441 passed on November 8th Iraq would have:
  - Submitted a full, accurate, and complete declaration, and destroyed all prohibited materials;
  - Accounted for all unaccounted-for weapons;
  - Turned over and destroyed the mobile bio-weapons labs, all illegal missiles, missile parts, testing equipment, and unmanned aerial vehicles with ranges greater than 150 km;
  - Encouraged scientists to be interviewed without minders, inside or outside of Iraq;
  - Allowed unimpeded aerial reconnaissance; and
  - Turned over all documents requested by inspectors.
- Nothing less that full and immediate disarmament is required of the regime by UNSCR 1441. Yet Saddam continues to resist full and immediate cooperation--even with respect to the missiles.
- The missiles are just the tip of the iceberg of Iraq's illegal arsenal. Iraq ***has not accounted for***:
  - Raw materials sufficient to produce:
    -26,000 liters of anthrax
    -38,000 liters of botulinum toxin; and
    -5500 liters of aflatoxin, a carcinogen.
  - 1.5 tons of VX, a powerful nerve agent.
  - Nearly 30,000 empty munitions that could be filled with chemical agents.
  - 550 artillery shells filled with mustard agent;
- It is not surprising that Saddam Hussein is willing to sacrifice a few illegal weapons to save many other illegal weapons.
- Saddam Hussein has a long history of complying with inspectors on small, technical issues, only to continue to cheat inspectors on a large scale. His tactical concessions are designed to buy time, ease the pressure on his regime, split the international community, and erode its resolve.
- The danger posed by Saddam Hussein and his weapons cannot be ignored or wished away. We hope the Iraqi regime will meet the demands of the UN and disarm, fully and peacefully. If it does not, we are prepared to disarm Iraq by force.

THE WHITE HOUSE
Office of Global Communications

For more information log on to www.whitehouse.gov/ogc

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>;David G. Leitch/WHO/EOP@Exchange [WHO] <David G. Leitch>;Theodore W. Ullyot/WHO /EOP@EOP [WHO] <Theodore W. Ullyot>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Hana F. Brilliant/WHO/EOP@EOP [WHO] <Hana F. Brilliant>;Alberto R. Gonzales/WHO /EOP@Exchange [WHO] <Alberto R. Gonzales>
Sent: 3/4/2003 3:52:02 AM
Subject: : Legal Times

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 4-MAR-2003 08:52:02.00
SUBJECT:: Legal Times
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Theodore W. Ullyot (CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Hana F. Brilliant (CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

For those of you who are updating their SC memos, from yesterday's Legal Times
;
Patrick
;
All Rights Reserved. ;
Legal Times

March 3, 2003

SECTION: COURT WATCH; Pg. 11

LENGTH: 7532 words

HEADLINE: The Six on Bush's High Court Short List
Possible nominees include a black woman, two Hispanic men, two 4th Circuit jurists, and a judge dubbed Scalito.

BYLINE: By Shannon P. Duffy
By Mike McKee
By Mary Alice Robbins
By Jonathan Groner

By Tony Mauro
By Tony Mauro

BODY:

;
Samuel Alito Jr.: The Mild-Mannered Scalia

There's a nickname for federal appeals Judge Samuel Alito Jr. that captures two things at once -- his particular brand of legal conservatism and a recognition that his credentials are strong enough to put him on any Republican president's short-list for the U.S. Supreme Court.

Some lawyers call the judge "Scalito."

Roughly translated, the nickname means "Little Scalia," suggesting that Alito, a judge on the U.S. Court of Appeals for the 3rd Circuit, has modeled himself after Supreme Court Justice Antonin Scalia.

With Alito in President George W. Bush's sights as a possible high court nominee, the question is whether he can both overcome the nickname and somehow live up to it.

In some ways, the Scalito moniker hits the mark. In his 13 years on the 3rd Circuit, Alito has earned his stripes as a strong and intelligent voice on the growing conservative wing of a court once considered among the country's most liberal.

As with Scalia, lawyers say that Alito's vote is easy to predict in highly charged cases.

But where the nickname misses is temperament, or what some might call personality. Personality-wise, on the bench and in person, Alito is no Scalia.

Though he's a frequent dissenter and not at all afraid to disagree with his colleagues, Alito's opinions are usually devoid of passion. And his tone during oral arguments is probing but always polite.

For that reason, the 52-year-old Alito might be exactly what Bush is looking for to fill the first or, more likely, a second vacancy on the Supreme Court if the opportunity arises. Alito declined to comment for this article.

Alito's r?sum? reads like a recipe for high court consideration -- beginning with undergrad studies at Princeton, perhaps the Ivy League's most welcoming home for conservatives seeking elite educations, and a law degree from Yale, the Bush family's sentimental favorite.

After a clerkship with a 3rd Circuit judge, Alito worked as a front-line federal prosecutor in New Jersey for four years.

But soon after President Ronald Reagan was elected, Alito joined the Office of the Solicitor General, staying for four years and helping to decide what position the administration would take in cases up for review by the Supreme Court.

That was followed by a three-year stint at Main Justice as a deputy assistant attorney general.

In 1987, at the age of 37, Alito was appointed U.S. attorney for the District of New Jersey, a post he held until he was tapped in 1990 by the first President Bush to join the 3rd Circuit.

On the hot-button issues, Alito has been consistently conservative.

In ACLU v. Schundler, Alito wrote the majority opinion holding that a city's holiday display that included a cr?che and a menorah did not

violate the establishment clause of the First Amendment because it also included secular symbols such as Frosty the Snowman and a banner promoting racial diversity.

On abortion, Alito was the lone dissenter in Planned Parenthood v. Casey, in which the 3rd Circuit struck down a Pennsylvania law that required women seeking abortions to inform their husbands.

Alito argued that the Pennsylvania law's restrictions should have been upheld.

"The Pennsylvania Legislature could have rationally believed," Alito wrote, "that some married women are initially inclined to obtain an abortion without their husbands' knowledge because of perceived problems -- such as economic constraints, future plans, or the husbands' previously expressed opposition -- that may be obviated by discussion prior to the abortion."

The case went on to the Supreme Court, resulting in a 6-3 decision that reaffirmed Roe v. Wade and struck down the spousal notification provision of the law. Chief Justice William Rehnquist, in his dissent, quoted Alito's underlying dissent and said he agreed with his reasoning.

In fact, over the years, Alito has been a frequent dissenter. And, unlike in Casey, he has sometimes been vindicated, when the Supreme Court reversed his colleagues and made his view the law.

In Homar v. Gilbert, Alito dissented from a ruling that a state university had violated a campus police officer's due process rights by suspending him without pay immediately after he was arrested on drug charges. The Supreme Court later agreed with Alito's view that no hearing was required because the criminal charges showed that the suspension was not baseless.

Perhaps Alito's most memorable dissent came in 1996 in Sheridan v. Dupont, a sex discrimination suit that forced the 3rd Circuit to tackle fundamental questions about the plaintiff's burden of proof.

The issue in Sheridan was whether a plaintiff in a sex discrimination case can survive summary judgment simply by casting doubt on the employer's proffer of legitimate, nondiscriminatory reasons for the adverse employment decision.

More specifically, the question was how the 3rd Circuit should interpret the 1993 Supreme Court decision in St. Mary's Honor Center v. Hicks, which held that once an employer offers legitimate reasons for its conduct, the presumption of discrimination is "rebutted" and "drops from the case."

After Hicks, the federal circuits split, with a few creating what came to be known as the "pretext-plus" standard, meaning plaintiffs must do more than merely cast doubt on an employer's explanation to have the case go forward.

In Sheridan, a 12-judge en banc panel rejected the pretext-plus theory, saying it was "within the province of the jury" to decide when discrimination had occurred.

Alito, the lone dissenter, argued that his colleagues were going too far by allowing plaintiffs to get their case to a jury whenever they managed to cast any doubt on the employer's version.

"If the majority had merely said that . . . a defense motion for summary judgment or judgment as a matter of law must generally be denied, I would agree," Alito wrote.

But, he said, his colleagues had established a "blanket rule" against summary judgment that was legally "unsound."

Shannon P. Duffy is U.S. courthouse correspondent at the Legal

Intelligencer in Philadelphia.
;
Janice Rogers Brown: As Sharp as They Come

When the California Supreme Court limited the use of stun belts on criminal defendants in courtrooms, it wasn't the decision that raised eyebrows -- it was the lone dissent by Justice Janice Rogers Brown.

The 53-year-old Republican appointee lashed out at her fellow jurists, accusing them of "rushing to judgment after conducting an embarrassing Google.com search for information outside the record," and criticizing them for citing a student law review article and a story from a left-wing magazine.

"A high school student who turned in a research paper like that," Brown wrote last year, "would be unlikely to get high marks for either the distinction or balance of the authorities cited."

Harsh comments, but Brown, the first African-American woman to sit on the California Supreme Court, isn't known to mince words, especially when she's on the losing side.

She once alluded to the majority justices as "philosopher kings" when they voided a law requiring minors to obtain parental consent for abortions. In another case she accused them of being "wimps" for letting the legislative and executive branches appoint some of the judges to the state's lawyer-discipline court.

While some lawyers love Brown's directness, others say her tart dissents could pose problems if, as many believe, she's under consideration for a seat on the U.S. Supreme Court.

"They're very acerbic," says court watcher Gerald Uelmen, a professor at Santa Clara University School of Law, "and raise the question of her basic collegiality."

Others say that's nonsense.

"If a justice strongly believes in her position, I think she should strongly state it," says Anthony Caso, senior vice president and general counsel of the conservative Pacific Legal Foundation in Sacramento. "It should be stated in no uncertain terms."

Brown, who declined an interview request, was born in 1949 in rural Alabama, the daughter of a sharecropper. After her family moved to California, she went on to graduate from UCLA School of Law, work for California's legislative counsel, and then serve eight years in the state attorney general's office. In 1991, she became Republican Gov. Pete Wilson's legal affairs secretary.

Two years later, Wilson nominated Brown to the California Supreme Court, but the state's Judicial Nominees Evaluation Commission rated her not qualified, presumably because she had no judicial experience. When she was nominated for an intermediate appellate court position in 1995, she got rave reviews and took the bench.

Brown joined the high court in 1996 after once again being rated not qualified. At that time the state nominations commission said she lacked sufficient legal and judicial experience for the high court and that she improperly injected her political philosophy into her judicial opinions.

As a child of the Deep South, Brown experienced firsthand the rampant racism of the era, but, she's said in previous interviews, she also witnessed changing times, beginning most prominently when the U.S. Supreme Court desegregated public schools with Brown v. Board of Education on May 17, 1954 -- six days after her fifth birthday.

Brown has had high praise for that ruling, even though it represents the

kind of judicial activism she doesn't advocate. "How could anybody of my background not think that Brown was an extremely good idea whose time had come?" she said in a 1996 interview. "Let's face it."

But in 2000, Brown shocked civil rights lawyers and black bar groups by writing the opinion that basically affirmed California's controversial Proposition 209, which banned racial and gender preferences in state contracting and hiring. That ruling, Hi-Voltage Wire Works Inc. v. City of San Jose, struck down a San Jose program that required contractors to attempt to recruit female- and minority-owned subcontractors.

"With the approval of Proposition 209," Brown wrote, "the electorate chose to reassert the principle of equality of individual opportunity as a constitutional imperative."

The ruling horrified civil rights lawyers.

Eva Paterson, executive director of the Lawyers Committee for Civil Rights of the San Francisco Bay Area, says that, as a black woman herself, she hates to criticize another black woman.

"That having been said," Paterson says, "if Janice Brown were a white man, I would vigorously oppose her elevation to the Supreme Court if for no other reason than her opinion in Hi-Voltage, which was very disturbing and had a view of civil rights which does not comport with the civil rights that I hold dear.

"It is very painful for me to say this," she adds, "but if I don't speak out, other people may feel that it's racist to speak out, and it's not."

Still, it's rulings such as Hi-Voltage that many expect will catch President George W. Bush's eye. "She's clearly qualified for the Supreme Court," says J. Clark Kelso, a professor at Sacramento's McGeorge School of Law.

Kelso also says too much is made of Brown's dissents. "[Experts] don't talk about the hundred other cases where everybody is agreeing and getting along," he says. "[They] tend to focus on those isolated instances where real fundamental disagreement flares up."

Of the 115 rulings issued by the California Supreme Court last year, 73 were unanimous. Brown was the most prolific of the court's seven justices, the author of 23 opinions while also writing or participating in 16 dissents.

Cases that Kelso and others believe are among Brown's most prominent include 1998's People v. Reyes, in which she wrote the majority ruling that held that reasonable suspicion is not required for a parole search if it is based on a properly imposed condition.

They also point to Brown's dissent last year in Kasky v. Nike Inc. In that case, now pending before the U.S. Supreme Court, Brown argued that statements by Nike defending itself against charges that it runs sweatshops overseas should have been protected as commercial speech. She also called on the nation's highest court to re-examine its 60-year-old policies on commercial speech, saying the current doctrine "fails to account for the realities of a modern world."

Brown's opinion in the Prop. 209 case drew a rebuke from California Chief Justice Ronald George -- a fellow Republican and Wilson appointee. George accused Brown of distorting history by including a long rendition of court rulings on race.

"In view of the limited issue before us," the chief justice wrote, "it is unnecessary and inappropriate to use this case as an occasion in which to attack the analysis and conclusions of pre-Proposition 209 decisions."

It wasn't the first time Brown and George have clashed. Reportedly, early

in her tenure, George advised Brown to tone down her dissents, and to this day it is said they communicate only by memorandum.

While that friction will likely be no factor in Bush's decision, lawyers say Brown's penchant to issue rulings that range from conservative to liberal could.

"There's something for everyone to pick at on her record," Uelmen says. "The National Rifle Association will be unhappy with the opinion she wrote upholding our assault weapons law, and a lot of law-and-order people will be unhappy about how liberal she is in criminal cases."

One California judge, who requested anonymity, says that, ironically, Brown could be in trouble for having issued such a strong dissent in the parental consent case -- 1997's American Academy of Pediatrics v. Lungren, in which the majority struck down a law that would have required minors to get permission before having abortions.

"Bush is going to appoint somebody that has exactly zero record on the 'A' word -- abortion," the judge says. "He's looking for someone who's conservative but not particularly controversial."

Mike McKee is associate editor at The Recorder in San Francisco.
;
Emilio Garza: The Careful Conservative

George W. Bush's desire to be the first president to nominate a Hispanic to the U.S. Supreme Court could lead him to Emilio Garza, a judge on the U.S. Court of Appeals for the 5th Circuit whose judicial philosophy makes him attractive to conservatives but an anathema to pro-abortion groups.

"You don't have to dig very deep to find that Emilio Garza is opposed to Roe v. Wade," says Kae McLaughlin, executive director of the Texas Abortion Rights League. "We would definitely oppose his nomination."

While Roe remains a touchstone for any judicial nominee 30 years after it was decided, it is the only obvious hurdle for Garza to overcome. Practitioners describe Garza, who rose quickly through the judicial ranks to reach the 5th Circuit in 1991, as an affable, extremely analytical, and solidly conservative judge.

But a handful of rulings are likely to raise trouble, even though Garza sided with a majority in each case that upheld abortion rights.

In 1992, Garza was a member of a panel that struck down a Louisiana law criminalizing abortions except in limited circumstances. But his concurrence in Sojourner T. v. Edwards articulated his displeasure about having to do it.

"Because the decision to permit or proscribe abortion is a political choice," he wrote, "I would allow the people of the state of Louisiana to decide this issue for themselves."

In 1997, Garza again criticized the Supreme Court's abortion jurisprudence in a concurring opinion. In Causeway Medical Suite v. Ieyoub, Garza voted with the majority to strike down parts of a Louisiana law requiring parental notification when a minor seeks an abortion. But he suggested in his concurrence that Roe is flawed and that subsequent Supreme Court rulings upheld it not because of its sound basis, but in part because of "the primacy of settled expectations about constitutional law."

David Garrow, a court observer and professor at Emory University School of Law in Atlanta, says he doesn't believe Garza is confirmable because of his reasoning in Causeway Medical. "This is a judge who believes Griswold v. Connecticut [the 1965 Supreme Court decision that laid the framework for a constitutionally guaranteed right to privacy] was incorrect and Bowers v. Hardwick [a 1986 decision that refused to extend the privacy right in a case about a sodomy statute] was correct," Garrow says. "Judge

Garza would be Teddy Kennedy's dream nominee."

Garza could not be reached for comment. A spokeswoman in his office says Garza generally does not give interviews.

Despite the opposition Garza would generate, practitioners give him high praise.

Lino Graglia, a University of Texas School of Law professor who teaches constitutional law, describes Garza as a "soundly reasonable and basically conservative" judge who engages in self-restraint on the bench.

"He's not anxious to enact conservative philosophy," Graglia says. "I would guess he's not as conservative as Edith Jones," another 5th Circuit judge and perennial name on conservative lists for the high court.

While people often assume that Garza is not as conservative as Jones, David Schenck, an appellate litigator and partner in the Dallas office of Hughes & Luce, says, "I think you'll find it very rare the cases on which they differ."

A native of San Antonio, the 55-year-old Garza is a devout Roman Catholic who has never married. He received undergraduate and master's degrees from the University of Notre Dame and served on active duty as a captain in the U.S. Marine Corps from 1970 to 1973. Following graduation from the University of Texas School of Law in 1976, Garza established his private practice and joined a small firm in San Antonio, now known as Clemens & Spencer, before beginning his rise through the judicial ranks.

In 1987, then-Gov. Bill Clements of Texas appointed Garza to the state trial court in San Antonio, but his tenure on the state bench was very brief. President Ronald Reagan nominated Garza to the U.S. District Court for the Western District of Texas the following year, and in 1991, the first President Bush named him to the 5th Circuit.

On the circuit, Garza has shown a penchant for a careful reading of the law. King & Spalding associate Tracey Robertson of Houston served as a law clerk for Garza during the court's 1994-95 term. "It's really important to him to get it right," Robertson says.

In a concurring opinion to 2000's Flores v. Johnson, Garza criticized the basis on which a trial court allowed psychiatric testimony to help condemn Mexican national Miguel Angel Flores for rape and murder. Garza noted in the opinion that a psychiatric expert testified unequivocally that Flores would be a "future danger" without ever evaluating him, and that the expert's opinion was based on the facts of the crime and the defendant's conduct during the trial rather than on an independent assessment.

Garza wrote, "What separates the executioner from the murderer is the legal process by which the state ascertains and condemns those guilty of heinous crimes. If that process is flawed because it allows evidence without any scientific validity to push the jury toward condemning the accused, the legitimacy of our legal process is threatened."

In 1997, Garza wrote the 5th Circuit's en banc opinion in Atwater v. City of Lago Vista, upholding a lower court decision to grant immunity to officers sued by a woman who was arrested and jailed for violating a seat belt law. The Supreme Court voted 5-4 to affirm the ruling.

Greg Coleman, a former Texas solicitor general who heads the Austin office of Weil, Gotshal & Manges, says Garza always focuses on the pressure points in a case and typically doesn't accept answers that he feels misrepresent the 5th Circuit's previous rulings.

"I've seen him cut people short -- not in an unpleasant way -- if they're misrepresenting," Coleman says. "I've seen him stop a guy midway [in an argument] and say, 'That's not really what we meant in that case.' "

Mary Alice Robbins is a senior reporter at Texas Lawyer.
;
Alberto Gonzales: A Washington Education

It seems to be a no-brainer for President George W. Bush to nominate White House Counsel Alberto Gonzales to the Supreme Court. After all, Bush has already appointed Gonzales to four different legal positions in less than a decade.

In 1995, then-Texas Gov. Bush named Gonzales, a partner at Houston's Vinson & Elkins, as his gubernatorial counsel. In 1997, Bush made him Texas secretary of state, and the following year he appointed Gonzales to his first judicial post -- a seat on the Texas Supreme Court. Finally, in 2001, Gonzales became White House counsel.

Gonzales came to Washington before Bush's inauguration as part of the administration's transition team, and he is one of the few people who sees the president just about every working day.

In an administration in which loyalty and closeness to the president are highly valued, Gonzales, 47, scores well on just about every count.

In addition to enjoying the president's confidence, Gonzales has gotten good reviews within the administration for his work as presidential counsel in two very challenging years. And it's no secret that Bush would like to make history by naming the nation's first Hispanic Supreme Court justice.

Gonzales, who declined comment for this story, has said in the past that he is not interested in a Supreme Court appointment. And some conservatives close to the administration are expressing serious concerns about his possible nomination, fearing that Gonzales would not line up with the Court's conservative bloc on issues like abortion and affirmative action.

Still, Gonzales, the Harvard-educated son of Mexican-American migrant workers, is widely considered to be among the front-runners for the first high court vacancy that arises during Bush's years in office.

"He is very able, very common-sensical, level-headed, and unflappable," says C. Boyden Gray, who was White House counsel under the first President Bush and who spearheads a group that lobbies for the current president's judicial nominees. "He has everything that a good Supreme Court justice should have."

Gonzales' personal story is compelling. The second of eight children, he grew up in a home without hot running water or a telephone. He joined the Air Force out of high school, then switched from the Air Force Academy to Rice University in Houston. He graduated from Harvard Law School in 1982 and became the first Hispanic partner at Vinson & Elkins, where he spent 13 years.

There's no doubt that, as White House counsel, Gonzales has established plenty of conservative credentials.

He has carved out a strong niche in favor of executive and attorney-client privilege. He led the administration's successful effort to withhold from Congress documents concerning Vice President Dick Cheney's energy task force, as well as the decision not to hand over D.C. Circuit nominee Miguel Estrada's working papers from the Office of the Solicitor General.

Gonzales has had a key role in crafting the administration's anti-terrorism strategy. He wrote the president's executive order authorizing the use of military tribunals to try alleged terrorists and was the point man in the White House in setting up the Department of Homeland Security and interpreting the USA Patriot Act.

Early on, Gonzales cheered conservatives and irked liberals by reducing

the role of the American Bar Association in federal judicial selection and by advising the president to nominate a roster of largely conservative appeals court nominees.

But the irony of a possible Gonzales appointment is that he would probably draw more flak from the right than from the left. Liberals are quietly saying that although Gonzales is far from their ideal nominee, other possible appointees are more troubling.

To conservatives who care about affirmative action and abortion, Gonzales is widely viewed as a compromiser, or worse.

Conservative activists, who generally have been very pleased with Bush's appeals court nominees, are skittish about Gonzales' opinions in several cases on the Texas court in 2000 involving teen-age girls seeking abortions. In those cases, Gonzales gave a broad interpretation to exceptions to a parental-notification requirement in a recently passed and ambiguous state law.

Conservatives were also unhappy to read in recent newspaper accounts that Gonzales was among administration officials who advocated a moderate approach to the University of Michigan affirmative action case. This approach rejects the racial preferences granted by the university, but does not rule out all efforts to take race into account in admissions.

The amicus curiae brief filed by the administration in January was widely seen as just such a compromise.

"The reports are that the Department of Justice sent a brief to the White House that was much better than the brief that was filed, and the reports are that this was partly due to the influence of Judge Gonzales," says Roger Clegg, general counsel of the D.C.-based Center for Equal Opportunity and a foe of affirmative action. "That certainly makes me nervous."

Another conservative legal thinker says, "It's very unlikely that social conservatives will actively support a Gonzales nomination. He may in fact draw opposition from conservatives, based both on questions about his role in the Jane Doe [abortion notification] cases and on the reports that he weakened the administration's position in the Michigan case. There's a lot of concern out there about his judicial philosophy."

In a Los Angeles Times interview two years ago, Gonzales said that, in hiring decisions, "[p]ersonally, I'm not offended that race is a factor. But it should never be the overriding factor or the most important factor."

Gonzales' record in his less than two years on the Texas Supreme Court is generally viewed as moderate. In addition to the parental-notification cases, he wrote an opinion in 2000 that held that the Texas Department of Transportation could be sued by the survivors of a man killed in an automobile accident, even though the department itself was not found to be negligent.

Gonzales' opinion in Texas Department of Transportation v. Able found the department subject to suit because it had entered a joint enterprise with another state agency that was found negligent. Justice Priscilla Owen, a conservative who is a current nominee for the 5th Circuit, dissented.

Gray, the former White House counsel, dismisses the objections of his fellow conservatives.

"I don't regard him as an unreliable conservative," says Gray. "You can never precisely predict one's degree of conservatism, but I am confident that Gonzales is not a liberal. He will probably tend to look more at the facts of each case rather than try to define some sweeping principle, but over the long haul, the result is going to be much the same."

Gray says one can tell a great deal about a potential nominee from the associates that he hires. Here he gives Gonzales very high marks.

"He has picked a crackerjack conservative staff [for the White House counsel's office]," says Gray. "To me, that's probative of his inclinations."

;

J. Michael Luttig: Putting the Courts In Restraints

If J. Michael Luttig is nominated to the Supreme Court, Senate investigators and journalists will search in vain for his speeches or law review articles.

The last public talk the 4th Circuit appeals judge gave was a eulogy in 2001 for Barbara Olson, the wife of Solicitor General Theodore Olson who was killed in the Sept. 11 terrorist attacks. Luttig had presided over their wedding.

Before that, friends say, Luttig's previous off-the-bench remarks were in 1995 at another funeral, this time eulogizing his mentor, Supreme Court Chief Justice Warren Burger.

It is no accident that Luttig's public appearances since being appointed by the first President Bush in 1991 have been so rare -- and so indicative of his ties to the conservative Washington legal scene. Luttig, 48, strongly believes that judges should stick to their cases and speak only through their opinions. Policy pronouncements are the business of others, Luttig says, and his job -- his only job -- is to analyze the cases and precedents before him in a disciplined way to come to the most logical and defensible result. He rarely, if ever, cites law review articles or other secondary sources.

"At the end of the day, other than conscience, it is only analytical rigor, and the accountability that such renders possible, that can restrain a judiciary that serves for life and at the pleasure of no one," Luttig wrote in an obscure 2001 decision, Safety-Kleen v. Wyche.

That rigor has earned Luttig a reputation as a meticulous taskmaster whose law clerks gain an intense, unparalleled education in judicial craftsmanship. It is no wonder that almost all his law clerks go on to clerk for Supreme Court justices.

"There is no one in the federal judiciary who works longer or harder than he does," says a lawyer who has worked with him. "He pours more into getting the details right than anyone." This lawyer, who requested anonymity, says Luttig's passion for detail and discipline leads to his main flaw: "He is not as aware as he might be that not everyone is as smart or persevering as he is. He expects a lot of himself and others." Luttig declined to be interviewed for this article.

Luttig's analytical approach also leads him, at times, to veer sharply from conservative orthodoxy.

In the partial-birth abortion case Richmond Medical Center v. Gilmore in 2000, Luttig said that because of Supreme Court precedent, the abortion right deserved "super-stare decisis" status -- a precedent that cannot be disturbed -- and as a result, the Virginia partial-birth law could not be upheld. "Our responsibility is to follow faithfully its opinions," Luttig wrote -- a stance that could change once Luttig is writing, rather than following, precedent.

Last March, in Harvey v. Horan, Luttig said high court precedent also compelled the conclusion that those convicted of serious crimes possess a limited constitutional right of access to DNA evidence for testing.

And in a dissent in Robles v. Prince George's County last October, Luttig said police who tied a suspect to a pole in an isolated parking lot and left him unattended at 3 a.m. were not entitled to qualified immunity from

a Section 1983 civil rights suit. The majority had granted the immunity, and Luttig said the majority's effort to strike a "just balance" had blinded it to the obvious conclusion that the police should have no such immunity.

"I confess ignorance as to where the justice of the case lies," Luttig wrote. "But under the law, it is quite clear that these officers are not entitled to immunity for their conduct."

In Robles and other decisions, Luttig's forceful analysis has brought him into direct conflict with natural conservative allies such as Judge J. Harvie Wilkinson III -- public disagreements that a more flexible or collegial judge might avoid.

In the en banc ruling for Urofsky v. Gilmore in 2000, both Wilkinson and Luttig agreed with the judgment of the court that Virginia could restrict state employees' access to sexually explicit materials when they use state computers. But when Wilkinson wrote separately to voice concern about the impact of the ruling on academic freedom for state university professors, Luttig wrote a withering concurrence that picked apart Wilkinson's analysis, almost line by line.

"Although Judge Wilkinson trumpets judicial restraint," Luttig said, "his fanfare can hardly be heard over the clashing from his own unabashed creation of new constitutional rights out of whole cloth -- an unabashedness that forces his surrender of the high ground that he has assumed in the debate over judicial activism."

Luttig's unflinching readiness to criticize his allies invites comparison to Justice Antonin Scalia, for whom Luttig clerked on the D.C. Circuit 20 years ago. Scalia often seems happier in his decision-making when he is jabbing his colleagues for lack of doctrinal purity than he would be if he tempered his words in the interest of collegiality and coalition-building.

Luttig himself has voiced disdain for the "false collegiality" of papering over differences, preferring instead the collegiality that he says comes with the airing of "high-spirited differences of opinion." But if he is named to the high court, the challenge for Luttig may be whether that brand of collegiality can be counted on to build and hold majorities on a divided bench.

University of Virginia law professor A.E. Dick Howard says the comparison between Luttig and Scalia, while tempting, is not precise. "Judge Luttig is not nearly as theatrical as Justice Scalia," says Howard, a longtime observer of the 4th Circuit. "Luttig shuns publicity, and he is very pleasant and steady, with no rough edges -- none of the flashes of lightning you get with Scalia."

Indeed, in person, Luttig seems the opposite of Scalia, with a boyish face, an unassuming manner, teetotaling ways, and a friendly Texas drawl. He has a sense of humor: A few years ago, he "applied" for a first-year associate's job at Hogan & Hartson, which, he suspected, would pay more than the salary of a federal appeals judge. Responding in kind, Hogan partner John Roberts Jr. turned Luttig down, informing him that first-year associates normally lack life tenure, are not assigned a battery of law clerks to assist them, and don't wear black robes -- even on casual Fridays.

Luttig has also known tragedy in his life. His father, John, was murdered in a 1994 carjacking in Tyler, Texas, in front of his mother, Bobbie. Luttig went to the trial of Napoleon Beazley, his father's murderer, who was 17 at the time of the crime. When Beazley's case went to the U.S. Supreme Court on appeal, it became evident how close Luttig is to several justices. His one-time boss Scalia, as well as Justices Clarence Thomas and David Souter, recused. While in the Bush Justice Department before joining the bench, Luttig helped shepherd Thomas and Souter through confirmation. Beazley was executed last May.

Since the murder of Luttig's father, defense lawyers have tried occasionally to get Luttig to recuse himself in capital cases, but he has refused. Friends have noted that the late Chief Justice Earl Warren's father was murdered before he joined the Supreme Court, and Warren did not recuse from murder cases.

It was the late Chief Justice Burger who guided Luttig into a legal career. Luttig, whose first initial stands for John, began working for Burger as an intern at the high court even before becoming a lawyer. And his Justice Department job was in the Office of Legal Counsel, where his predecessors included Scalia and William Rehnquist. "Mike has been on a fast track toward the Supreme Court since the Burger days," says someone who has worked with Luttig.

When Luttig's law clerks celebrated his 10th anniversary as a federal appeals judge in 2001, they presented him with an American flag that had flown over the Supreme Court. He displays it in his chambers in Alexandria, Va.

The clerks knew that to Luttig, anything having to do with the Supreme Court has special meaning. And a seat on the Supreme Court would be the best gift of all.

Says another friend of Luttig: "I really think that if he was given the choice between being president and being a justice or chief justice, the presidency would lose out."
;
J. Harvie Wilkinson III: A Soft Face On the Hard Line

The title of the speech that 4th Circuit Judge J. Harvie Wilkinson III gave on Feb. 19 said it all: "Why Conservative Jurisprudence Is Compassionate."

Speaking to a student audience at his alma mater, the University of Virginia Law School, Wilkinson spoke almost defensively about the ways in which conservative judges have heart. Favoring the individual over business or government, he said, is not always compassionate. Compassion is sometimes best left to legislators, and can be either inappropriate, hard to define, or insufficient in a judicial setting. Modesty, not compassion, is the highest virtue for a judge, said Wilkinson, whose chambers are in Charlottesville.

Wilkinson's thesis was soon put to the test. A black law student approached him during a post-speech reception. Judicial modesty and deference to the elected branches are all well and good, the student told Wilkinson, but "what if the legislature is dragging its feet?"

With a friendly smile, Wilkinson responded, "Well, saying that the legislature is dragging its feet sounds to me like, 'The legislature isn't doing what I'd like it to be doing.' I'm very uneasy with that."

The student retorted, "So you are saying there are no absolutes? What if the legislature approves slavery?"

Without missing a beat, Wilkinson replied, "Then, the judiciary must step in. Brown v. Board of Education and Marbury v. Madison were the best decisions the Supreme Court ever made."

The student was disarmed. And then he was charmed when Wilkinson told him, with characteristic full-body enthusiasm, how much he appreciated the student's attendance and his comments.

It was a classic Wilkinson moment: putting a friendly face on conservative jurisprudence, and trying to bring everyone under its tent with collegiality and consensus. It is these qualities, matched by respected opinion writing, that lead some inside and outside the White House to place the 58-year-old Wilkinson high on the list for nomination as chief justice. Like the late Supreme Court Justice Lewis Powell Jr., the man

after whom he has modeled his life and jurisprudence, Wilkinson exudes a courtly civility that could be a unifying force on the Court.

"The person in the center chair is expected to have a certain gravitas. So someone like Wilkinson, who is older, would be an appealing candidate," says Florida International University law professor Thomas Baker. But age could also work against Wilkinson, says the University of Connecticut's David Yalof. "If [the Bush administration is] using the Reagan playbook, where youth and longevity are key, then Wilkinson is in the danger zone." Wilkinson declined to be interviewed for this article.

Wilkinson's eagerness for consensus may also frustrate some in the White House who would prefer a harder-edged conservative. Though a Judicature magazine tally of the rulings of several potential Bush nominees last year placed Wilkinson farthest to the right, those who know Wilkinson dismissed the study and place him closer to the Powellesque right-leaning middle.

The Bush administration has little to object to in Wilkinson's handling of the post-Sept. 11 national security cases that have gone before the 4th Circuit. In three separate rulings on different aspects of the government's case against enemy combatant Yaser Esam Hamdi, Wilkinson expressed little doubt about the executive branch's primacy over the judiciary in times of war -- even undeclared war.

"Our Constitution's commitment of the conduct of war to the political branches of American government requires the court's respect at every step," Wilkinson wrote last July. "The deference that flows from the explicit enumeration of powers protects liberty as much as the explicit enumeration of rights," Wilkinson said in another ruling this January.

But in the January ruling, Wilkinson added that especially in the context of a habeas corpus petition such as the one filed by Hamdi, courts do have a responsibility to serve as a check on the other branches. "The duty of the judicial branch to protect our individual freedoms does not simply cease whenever our military forces are committed by the political branches to armed conflict."

Wilkinson, who recently rotated out of a seven-year term as chief judge of the 4th Circuit, has also distanced himself somewhat from the Rehnquist Court's trademark series of federalism-based rulings striking down acts of Congress.

In 1999, Wilkinson joined the 4th Circuit majority in Brzonkala v. Virginia Polytechnic Institute, rejecting a provision of the Violence Against Women Act as an excessive intrusion by Congress into state sovereignty -- a position later ratified by the Supreme Court.

But in a concurrence tinged with doubt, Wilkinson said the ruling, like others by the Supreme Court that rejected acts of Congress, could be labeled judicial activism. In the end it was justifiable as fulfilling the judiciary's role of "structural referee," Wilkinson wrote, but he cautioned against going too far, too fast. "The values of federalism must be tempered by the maxims of prudence and restraint," Wilkinson wrote.

Taking his own advice, Wilkinson ruled the next year in Gibbs v. Babbitt that the Endangered Species Act was a valid exercise of Congress' power over interstate commerce when applied to the protection of red wolves. "The courts may not simply tear through the considered judgments of Congress," Wilkinson wrote.

On the issue of affirmative action, a 1987 ruling by Wilkinson struck down Richmond's minority set-aside program in Croson v. City of Richmond. The Supreme Court affirmed Wilkinson's view in a 1989 ruling that made clear its growing disenchantment with affirmative action.

A decade later in his book One Nation Indivisible, Wilkinson reaffirmed his opposition to affirmative action as "the most dangerous of policy prescriptions for a multiethnic nation." But the rest of the book, which

called for an end to ethnic and racial separatism in America, is a celebration of multiculturalism and diversity. Wilkinson wrote that at times he rues the all-white milieu of his own upbringing in upper-crust Richmond, which he said was "as distant from multicultural America as any childhood could possibly be."

Wilkinson's father was a prominent Richmond banker who was introduced to his wife by the young Lewis Powell. Powell gave the young Wilkinson -- known to friends as Jay, short for James -- his first summer job in high school, as a messenger at Powell's law firm, Hunton & Williams. "One day you may make a good lawyer," Powell told Wilkinson, and he kept in contact with Wilkinson through college and law school. When lightning struck and Powell was named to the high court in 1971, Wilkinson was the first clerk he hired.

"Clerking for Justice Powell was clearly one of the centerpieces of Jay's career," says longtime friend Russell Palmore Jr., a partner in the Richmond office of the Atlanta firm Troutman Sanders. Wilkinson wrote about his experience as a Powell clerk in the 1974 book Serving Justice. Wilkinson also dabbled in teaching law and in journalism, writing editorials for a Norfolk newspaper. Before he went with Powell, he even ran for Congress -- and lost. He has said that winning only 30 percent of the vote left him with a "profound respect" for those who achieve a majority and are elected. President Ronald Reagan named Wilkinson to the 4th Circuit in 1984.

Even Wilkinson's friends remark that he sounds and even looks somewhat like the late Justice Powell. Wilkinson's thin frame -- he runs daily, according to friends -- and the inflections and cadence of his reedy Southern voice match Powell's. Wilkinson does not object when the comparison is made.

In addition to explaining and popularizing conservative jurisprudence, Wilkinson has devoted much of his public speaking and off-the-bench writing to spreading the word about Powell's legacy.

In a 1992 Washington and Lee Law Review article, Wilkinson praised Powell for regarding the role of the judiciary as "that of a mediator and facilitator, not as dictator." As for his jurisprudence, Wilkinson said Powell "sought to craft decisions that gave something to both sides." Admiringly, Wilkinson also said Powell avoided establishing bright-line rules or issuing sweeping decisions -- characteristics of Powell's approach that partisans sometimes found frustrating. "The Powell approach sought to ensure that the most volatile issues in our society did not quickly achieve definitive outcomes in the courts," Wilkinson wrote.

After Powell retired from the high court in 1987, he occasionally sat on the 4th Circuit by designation, sometimes finding himself on the same panel with his younger friend Wilkinson.

In a 1992 trademark case, Anheuser-Busch v. L&L Wings Inc., Wilkinson wrote the majority opinion and Powell filed a dissent -- a rare, if not unique, instance when the two disagreed. Wilkinson, joined by Judge J. Michael Luttig, held that T-shirts displaying humorous images that looked like Budweiser beer cans did not confuse consumers and did not infringe the Budweiser trademark. Powell disagreed, though he gently remarked that in one aspect of the case "the court is correct in the abstract."

Wilkinson, for his part, gently chided Powell: "Our dissenting brother's standard is so broad that it would banish virtually all attempts at humorous takeoffs on trademarks as a matter of law." The disagreement was clear, but Wilkinson's tone, as always, was respectful.

;

Patrick J. Bumatay
Office of Counsel to the President
o: 202-456-5214
f: 202-456-6279

mainline: 202-456-2632
;

From:	Bumatay, Patrick J.
To:	<Gonzales, Alberto R.>;<Leitch, David G.>;<Brilliant, Hana F.>;<Walker, Helgard C.>;<Bartolomucci, H. Christopher>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>;<Ullyot, Theodore W.>
Sent:	3/4/2003 8:51:43 AM
Subject:	Legal Times

For those of you who are updating their SC memos, from yesterday's Legal Times

Patrick

All Rights Reserved.
Legal Times

March 3, 2003

SECTION: COURT WATCH; Pg. 11

LENGTH: 7532 words

HEADLINE: The Six on Bush's High Court Short List
Possible nominees include a black woman, two Hispanic men, two 4th Circuit jurists, and a judge dubbed Scalito.

BYLINE: By Shannon P. Duffy
By Mike McKee
By Mary Alice Robbins
By Jonathan Groner
By Tony Mauro
By Tony Mauro

BODY:

Samuel Alito Jr.: The Mild-Mannered Scalia

There's a nickname for federal appeals Judge Samuel Alito Jr. that captures two things at once -- his particular brand of legal conservatism and a recognition that his credentials are strong enough to put him on any Republican president's short-list for the U.S. Supreme Court.

Some lawyers call the judge "Scalito."

Roughly translated, the nickname means "Little Scalia," suggesting that Alito, a judge on the U.S. Court of Appeals for the 3rd Circuit, has modeled himself after Supreme Court Justice Antonin Scalia.

With Alito in President George W. Bush's sights as a possible high court nominee, the question is whether he can both overcome the nickname and somehow live up to it.

In some ways, the Scalito moniker hits the mark. In his 13 years on the 3rd Circuit, Alito has earned his stripes as a strong and intelligent voice on the growing conservative wing of a court once considered among the country's most liberal.

As with Scalia, lawyers say that Alito's vote is easy to predict in highly charged cases.

But where the nickname misses is temperament, or what some might call personality. Personality-wise, on the bench and in person, Alito is no Scalia.

Though he's a frequent dissenter and not at all afraid to disagree with his colleagues, Alito's opinions are usually devoid of passion. And his tone during oral arguments is probing but always polite.

For that reason, the 52-year-old Alito might be exactly what Bush is looking for to fill the first or, more likely, a second vacancy on the Supreme Court if the opportunity arises. Alito declined to comment for this article.

Alito's résumé reads like a recipe for high court consideration -- beginning with undergrad studies at Princeton, perhaps the Ivy League's most welcoming home for conservatives seeking elite educations, and a law degree from Yale, the Bush family's sentimental favorite.

After a clerkship with a 3rd Circuit judge, Alito worked as a front-line federal prosecutor in New Jersey for four years.

But soon after President Ronald Reagan was elected, Alito joined the Office of the Solicitor General, staying for four years and helping to decide what position the administration would take in cases up for review by the Supreme Court.

That was followed by a three-year stint at Main Justice as a deputy assistant attorney general.

In 1987, at the age of 37, Alito was appointed U.S. attorney for the District of New Jersey, a post he held until he was tapped in 1990 by the first President Bush to join the 3rd Circuit.

On the hot-button issues, Alito has been consistently conservative.

In ACLU v. Schundler, Alito wrote the majority opinion holding that a city's holiday display that included a crèche and a menorah did not violate the establishment clause of the First Amendment because it also included secular symbols such as Frosty the Snowman and a banner promoting racial diversity.

On abortion, Alito was the lone dissenter in Planned Parenthood v. Casey, in which the 3rd Circuit struck down a Pennsylvania law that required women seeking abortions to inform their husbands.

Alito argued that the Pennsylvania law's restrictions should have been upheld.

"The Pennsylvania Legislature could have rationally believed," Alito wrote, "that some married women are initially inclined to obtain an abortion without their husbands' knowledge because of perceived problems -- such as economic constraints, future plans, or the husbands' previously expressed opposition -- that may be obviated by discussion prior to the abortion."

The case went on to the Supreme Court, resulting in a 6-3 decision that reaffirmed Roe v. Wade and struck down the spousal notification provision of the law. Chief Justice William Rehnquist, in his dissent, quoted Alito's underlying dissent and said he agreed with his reasoning.

In fact, over the years, Alito has been a frequent dissenter. And, unlike in Casey, he has sometimes been vindicated, when the Supreme Court reversed his colleagues and made his view the law.

In Homar v. Gilbert, Alito dissented from a ruling that a state university had violated a campus police officer's due process rights by suspending him without pay immediately after he was arrested on drug charges. The Supreme Court later agreed with Alito's view that no hearing was required because the criminal charges showed that the suspension was not baseless.

Perhaps Alito's most memorable dissent came in 1996 in Sheridan v. Dupont, a sex discrimination suit that forced

the 3rd Circuit to tackle fundamental questions about the plaintiff's burden of proof.

The issue in Sheridan was whether a plaintiff in a sex discrimination case can survive summary judgment simply by casting doubt on the employer's proffer of legitimate, nondiscriminatory reasons for the adverse employment decision.

More specifically, the question was how the 3rd Circuit should interpret the 1993 Supreme Court decision in St. Mary's Honor Center v. Hicks, which held that once an employer offers legitimate reasons for its conduct, the presumption of discrimination is "rebutted" and "drops from the case."

After Hicks, the federal circuits split, with a few creating what came to be known as the "pretext-plus" standard, meaning plaintiffs must do more than merely cast doubt on an employer's explanation to have the case go forward.

In Sheridan, a 12-judge en banc panel rejected the pretext-plus theory, saying it was "within the province of the jury" to decide when discrimination had occurred.

Alito, the lone dissenter, argued that his colleagues were going too far by allowing plaintiffs to get their case to a jury whenever they managed to cast any doubt on the employer's version.

"If the majority had merely said that . . . a defense motion for summary judgment or judgment as a matter of law must generally be denied, I would agree," Alito wrote.

But, he said, his colleagues had established a "blanket rule" against summary judgment that was legally "unsound."

Shannon P. Duffy is U.S. courthouse correspondent at the Legal Intelligencer in Philadelphia.

Janice Rogers Brown: As Sharp as They Come

When the California Supreme Court limited the use of stun belts on criminal defendants in courtrooms, it wasn't the decision that raised eyebrows -- it was the lone dissent by Justice Janice Rogers Brown.

The 53-year-old Republican appointee lashed out at her fellow jurists, accusing them of "rushing to judgment after conducting an embarrassing Google.com search for information outside the record," and criticizing them for citing a student law review article and a story from a left-wing magazine.

"A high school student who turned in a research paper like that," Brown wrote last year, "would be unlikely to get high marks for either the distinction or balance of the authorities cited."

Harsh comments, but Brown, the first African-American woman to sit on the California Supreme Court, isn't known to mince words, especially when she's on the losing side.

She once alluded to the majority justices as "philosopher kings" when they voided a law requiring minors to obtain parental consent for abortions. In another case she accused them of being "wimps" for letting the legislative and executive branches appoint some of the judges to the state's lawyer-discipline court.

While some lawyers love Brown's directness, others say her tart dissents could pose problems if, as many believe, she's under consideration for a seat on the U.S. Supreme Court.

"They're very acerbic," says court watcher Gerald Uelmen, a professor at Santa Clara University School of Law, "and raise the question of her basic collegiality."

Others say that's nonsense.

"If a justice strongly believes in her position, I think she should strongly state it," says Anthony Caso, senior vice president and general counsel of the conservative Pacific Legal Foundation in Sacramento. "It should be stated in no uncertain terms."

Brown, who declined an interview request, was born in 1949 in rural Alabama, the daughter of a sharecropper. After her family moved to California, she went on to graduate from UCLA School of Law, work for California's legislative counsel, and then serve eight years in the state attorney general's office. In 1991, she became Republican Gov. Pete Wilson's legal affairs secretary.

Two years later, Wilson nominated Brown to the California Supreme Court, but the state's Judicial Nominees Evaluation Commission rated her not qualified, presumably because she had no judicial experience. When she was nominated for an intermediate appellate court position in 1995, she got rave reviews and took the bench.

Brown joined the high court in 1996 after once again being rated not qualified. At that time the state nominations commission said she lacked sufficient legal and judicial experience for the high court and that she improperly injected her political philosophy into her judicial opinions.

As a child of the Deep South, Brown experienced firsthand the rampant racism of the era, but, she's said in previous interviews, she also witnessed changing times, beginning most prominently when the U.S. Supreme Court desegregated public schools with Brown v. Board of Education on May 17, 1954 -- six days after her fifth birthday.

Brown has had high praise for that ruling, even though it represents the kind of judicial activism she doesn't advocate. "How could anybody of my background not think that Brown was an extremely good idea whose time had come?" she said in a 1996 interview. "Let's face it."

But in 2000, Brown shocked civil rights lawyers and black bar groups by writing the opinion that basically affirmed California's controversial Proposition 209, which banned racial and gender preferences in state contracting and hiring. That ruling, Hi-Voltage Wire Works Inc. v. City of San Jose, struck down a San Jose program that required contractors to attempt to recruit female- and minority-owned subcontractors.

"With the approval of Proposition 209," Brown wrote, "the electorate chose to reassert the principle of equality of individual opportunity as a constitutional imperative."

The ruling horrified civil rights lawyers.

Eva Paterson, executive director of the Lawyers Committee for Civil Rights of the San Francisco Bay Area, says that, as a black woman herself, she hates to criticize another black woman.

"That having been said," Paterson says, "if Janice Brown were a white man, I would vigorously oppose her elevation to the Supreme Court if for no other reason than her opinion in Hi-Voltage, which was very disturbing and had a view of civil rights which does not comport with the civil rights that I hold dear.

"It is very painful for me to say this," she adds, "but if I don't speak out, other people may feel that it's racist to speak out, and it's not."

Still, it's rulings such as Hi-Voltage that many expect will catch President George W. Bush's eye. "She's clearly qualified for the Supreme Court," says J. Clark Kelso, a professor at Sacramento's McGeorge School of Law.

Kelso also says too much is made of Brown's dissents. "[Experts] don't talk about the hundred other cases where everybody is agreeing and getting along," he says. "[They] tend to focus on those isolated instances where real fundamental disagreement flares up."

Of the 115 rulings issued by the California Supreme Court last year, 73 were unanimous. Brown was the most prolific of the court's seven justices, the author of 23 opinions while also writing or participating in 16 dissents.

Cases that Kelso and others believe are among Brown's most prominent include 1998's People v. Reyes, in which she wrote the majority ruling that held that reasonable suspicion is not required for a parole search if it is based on a properly imposed condition.

They also point to Brown's dissent last year in Kasky v. Nike Inc. In that case, now pending before the U.S. Supreme Court, Brown argued that statements by Nike defending itself against charges that it runs sweatshops overseas should have been protected as commercial speech. She also called on the nation's highest court to re-examine its 60-year-old policies on commercial speech, saying the current doctrine "fails to account for the realities of a modern world."

Brown's opinion in the Prop. 209 case drew a rebuke from California Chief Justice Ronald George -- a fellow Republican and Wilson appointee. George accused Brown of distorting history by including a long rendition of court rulings on race.

"In view of the limited issue before us," the chief justice wrote, "it is unnecessary and inappropriate to use this case as an occasion in which to attack the analysis and conclusions of pre-Proposition 209 decisions."

It wasn't the first time Brown and George have clashed. Reportedly, early in her tenure, George advised Brown to tone down her dissents, and to this day it is said they communicate only by memorandum.

While that friction will likely be no factor in Bush's decision, lawyers say Brown's penchant to issue rulings that range from conservative to liberal could.

"There's something for everyone to pick at on her record," Uelmen says. "The National Rifle Association will be unhappy with the opinion she wrote upholding our assault weapons law, and a lot of law-and-order people will be unhappy about how liberal she is in criminal cases."

One California judge, who requested anonymity, says that, ironically, Brown could be in trouble for having issued such a strong dissent in the parental consent case -- 1997's American Academy of Pediatrics v. Lungren, in which the majority struck down a law that would have required minors to get permission before having abortions.

"Bush is going to appoint somebody that has exactly zero record on the 'A' word -- abortion," the judge says. "He's looking for someone who's conservative but not particularly controversial."

Mike McKee is associate editor at The Recorder in San Francisco.

Emilio Garza: The Careful Conservative

George W. Bush's desire to be the first president to nominate a Hispanic to the U.S. Supreme Court could lead him to Emilio Garza, a judge on the U.S. Court of Appeals for the 5th Circuit whose judicial philosophy makes him attractive to conservatives but an anathema to pro-abortion groups.

"You don't have to dig very deep to find that Emilio Garza is opposed to Roe v. Wade," says Kae McLaughlin, executive director of the Texas Abortion Rights League. "We would definitely oppose his nomination."

While Roe remains a touchstone for any judicial nominee 30 years after it was decided, it is the only obvious hurdle for Garza to overcome. Practitioners describe Garza, who rose quickly through the judicial ranks to reach the 5th Circuit in 1991, as an affable, extremely analytical, and solidly conservative judge.

But a handful of rulings are likely to raise trouble, even though Garza sided with a majority in each case that upheld abortion rights.

In 1992, Garza was a member of a panel that struck down a Louisiana law criminalizing abortions except in limited circumstances. But his concurrence in Sojourner T. v. Edwards articulated his displeasure about having to do it.

"Because the decision to permit or proscribe abortion is a political choice," he wrote, "I would allow the people of the state of Louisiana to decide this issue for themselves."

In 1997, Garza again criticized the Supreme Court's abortion jurisprudence in a concurring opinion. In Causeway Medical Suite v. Ieyoub, Garza voted with the majority to strike down parts of a Louisiana law requiring parental notification when a minor seeks an abortion. But he suggested in his concurrence that Roe is flawed and that subsequent Supreme Court rulings upheld it not because of its sound basis, but in part because of "the primacy of settled expectations about constitutional law."

David Garrow, a court observer and professor at Emory University School of Law in Atlanta, says he doesn't believe Garza is confirmable because of his reasoning in Causeway Medical. "This is a judge who believes Griswold v. Connecticut [the 1965 Supreme Court decision that laid the framework for a constitutionally guaranteed right to privacy] was incorrect and Bowers v. Hardwick [a 1986 decision that refused to extend the privacy right in a case about a sodomy statute] was correct," Garrow says. "Judge Garza would be Teddy Kennedy's dream nominee."

Garza could not be reached for comment. A spokeswoman in his office says Garza generally does not give interviews.

Despite the opposition Garza would generate, practitioners give him high praise.

Lino Graglia, a University of Texas School of Law professor who teaches constitutional law, describes Garza as a "soundly reasonable and basically conservative" judge who engages in self-restraint on the bench.

"He's not anxious to enact conservative philosophy," Graglia says. "I would guess he's not as conservative as Edith Jones," another 5th Circuit judge and perennial name on conservative lists for the high court.

While people often assume that Garza is not as conservative as Jones, David Schenck, an appellate litigator and partner in the Dallas office of Hughes & Luce, says, "I think you'll find it very rare the cases on which they differ."

A native of San Antonio, the 55-year-old Garza is a devout Roman Catholic who has never married. He received undergraduate and master's degrees from the University of Notre Dame and served on active duty as a captain in the U.S. Marine Corps from 1970 to 1973. Following graduation from the University of Texas School of Law in 1976, Garza established his private practice and joined a small firm in San Antonio, now known as Clemens & Spencer, before beginning his rise through the judicial ranks.

In 1987, then-Gov. Bill Clements of Texas appointed Garza to the state trial court in San Antonio, but his tenure on the state bench was very brief. President Ronald Reagan nominated Garza to the U.S. District Court for the Western District of Texas the following year, and in 1991, the first President Bush named him to the 5th Circuit.

On the circuit, Garza has shown a penchant for a careful reading of the law. King & Spalding associate Tracey Robertson of Houston served as a law clerk for Garza during the court's 1994-95 term. "It's really important to him to get it right," Robertson says.

In a concurring opinion to 2000's Flores v. Johnson, Garza criticized the basis on which a trial court allowed psychiatric testimony to help condemn Mexican national Miguel Angel Flores for rape and murder. Garza noted in the opinion that a psychiatric expert testified unequivocally that Flores would be a "future danger" without ever evaluating him, and that the expert's opinion was based on the facts of the crime and the defendant's conduct

during the trial rather than on an independent assessment.

Garza wrote, "What separates the executioner from the murderer is the legal process by which the state ascertains and condemns those guilty of heinous crimes. If that process is flawed because it allows evidence without any scientific validity to push the jury toward condemning the accused, the legitimacy of our legal process is threatened."

In 1997, Garza wrote the 5th Circuit's en banc opinion in Atwater v. City of Lago Vista, upholding a lower court decision to grant immunity to officers sued by a woman who was arrested and jailed for violating a seat belt law. The Supreme Court voted 5-4 to affirm the ruling.

Greg Coleman, a former Texas solicitor general who heads the Austin office of Weil, Gotshal & Manges, says Garza always focuses on the pressure points in a case and typically doesn't accept answers that he feels misrepresent the 5th Circuit's previous rulings.

"I've seen him cut people short -- not in an unpleasant way -- if they're misrepresenting," Coleman says. "I've seen him stop a guy midway [in an argument] and say, 'That's not really what we meant in that case.' "

Mary Alice Robbins is a senior reporter at Texas Lawyer.

Alberto Gonzales: A Washington Education

It seems to be a no-brainer for President George W. Bush to nominate **White House** Counsel **Alberto Gonzales** to the Supreme Court. After all, Bush has **already** appointed **Gonzales** to four different legal positions in less than a decade.

In 1995, then-Texas Gov. Bush named Gonzales, a partner at Houston's Vinson & Elkins, as his gubernatorial counsel. In 1997, Bush made him Texas secretary of state, and the following year he appointed Gonzales to his first judicial post -- a seat on the Texas Supreme Court. Finally, in 2001, Gonzales became **White House** counsel.

Gonzales came to Washington before Bush's inauguration as part of the administration's transition team, and he is one of the few people who sees the president just about every working day.

In an administration in which loyalty and closeness to the president are highly valued, Gonzales, 47, scores well on just about every count.

In addition to enjoying the president's confidence, Gonzales has gotten good reviews within the administration for his work as presidential counsel in two very challenging years. And it's no secret that Bush would like to make history by naming the nation's first Hispanic Supreme Court justice.

Gonzales, who declined comment for this story, has said in the past that he is not interested in a Supreme Court appointment. And some conservatives close to the administration are expressing serious concerns about his possible nomination, fearing that Gonzales would not line up with the Court's conservative bloc on issues like abortion and affirmative action.

Still, Gonzales, the Harvard-educated son of Mexican-American migrant workers, is widely considered to be among the front-runners for the first high court vacancy that arises during Bush's years in office.

"He is very able, very common-sensical, level-headed, and unflappable," says C. Boyden Gray, who was **White House** counsel under the first President Bush and who spearheads a group that lobbies for the current president's judicial nominees. "He has everything that a good Supreme Court justice should have."

Gonzales' personal story is compelling. The second of eight children, he grew up in a home without hot running water or a telephone. He joined the Air Force out of high school, then switched from the Air Force Academy to

Rice University in Houston. He graduated from Harvard Law School in 1982 and became the first Hispanic partner at Vinson & Elkins, where he spent 13 years.

There's no doubt that, as **White House** counsel, Gonzales has established plenty of conservative credentials.

He has carved out a strong niche in favor of executive and attorney-client privilege. He led the administration's successful effort to withhold from Congress documents concerning Vice President Dick Cheney's energy task force, as well as the decision not to hand over D.C. Circuit nominee Miguel Estrada's working papers from the Office of the Solicitor General.

Gonzales has had a key role in crafting the administration's anti-terrorism strategy. He wrote the president's executive order authorizing the use of military tribunals to try alleged terrorists and was the point man in the **White House** in setting up the Department of Homeland Security and interpreting the USA Patriot Act.

Early on, Gonzales cheered conservatives and irked liberals by reducing the role of the American Bar Association in federal judicial selection and by advising the president to nominate a roster of largely conservative appeals court nominees.

But the irony of a possible Gonzales appointment is that he would probably draw more flak from the right than from the left. Liberals are quietly saying that **although Gonzales** is far from their ideal nominee, other possible appointees are more troubling.

To conservatives who care about affirmative action and abortion, Gonzales is widely viewed as a compromiser, or worse.

Conservative activists, who generally have been very pleased with Bush's appeals court nominees, are skittish about Gonzales' opinions in several cases on the Texas court in 2000 involving teen-age girls seeking abortions. In those cases, Gonzales gave a broad interpretation to exceptions to a parental-notification requirement in a recently passed and ambiguous state law.

Conservatives were also unhappy to read in recent newspaper accounts that Gonzales was among administration officials who advocated a moderate approach to the University of Michigan affirmative action case. This approach rejects the racial preferences granted by the university, but does not rule out all efforts to take race into account in admissions.

The amicus curiae brief filed by the administration in January was widely seen as just such a compromise.

"The reports are that the Department of Justice sent a brief to the **White House** that was much better than the brief that was filed, and the reports are that this was partly due to the influence of Judge Gonzales," says Roger Clegg, general counsel of the D.C.-based Center for Equal Opportunity and a foe of affirmative action. "That certainly makes me nervous."

Another conservative legal thinker says, "It's very unlikely that social conservatives will actively support a Gonzales nomination. He may in fact draw opposition from conservatives, based both on questions about his role in the Jane Doe [abortion notification] cases and on the reports that he weakened the administration's position in the Michigan case. There's a lot of concern out there about his judicial philosophy."

In a Los Angeles Times interview two years ago, Gonzales said that, in hiring decisions, "[p]ersonally, I'm not offended that race is a factor. But it should never be the overriding factor or the most important factor."

Gonzales' record in his less than two years on the Texas Supreme Court is generally viewed as moderate. In addition to the parental-notification cases, he wrote an opinion in 2000 that held that the Texas Department of Transportation could be sued by the survivors of a man killed in an automobile accident, even though the department itself was not found to be negligent.

Gonzales' opinion in Texas Department of Transportation v. Able found the department subject to suit because it had entered a joint enterprise with another state agency that was found negligent. Justice Priscilla Owen, a conservative who is a current nominee for the 5th Circuit, dissented.

Gray, the former **White House** counsel, dismisses the objections of his fellow conservatives.

"I don't regard him as an unreliable conservative," says Gray. "You can never precisely predict one's degree of conservatism, but I am confident that Gonzales is not a liberal. He will probably tend to look more at the facts of each case rather than try to define some sweeping principle, but over the long haul, the result is going to be much the same."

Gray says one can tell a great deal about a potential nominee from the associates that he hires. Here he gives Gonzales very high marks.

"He has picked a crackerjack conservative staff [for the **White House** counsel's office]," says Gray. "To me, that's probative of his inclinations."

J. Michael Luttig: Putting the Courts In Restraints

If J. Michael Luttig is nominated to the Supreme Court, Senate investigators and journalists will search in vain for his speeches or law review articles.

The last public talk the 4th Circuit appeals judge gave was a eulogy in 2001 for Barbara Olson, the wife of Solicitor General Theodore Olson who was killed in the Sept. 11 terrorist attacks. Luttig had presided over their wedding.

Before that, friends say, Luttig's previous off-the-bench remarks were in 1995 at another funeral, this time eulogizing his mentor, Supreme Court Chief Justice Warren Burger.

It is no accident that Luttig's public appearances since being appointed by the first President Bush in 1991 have been so rare -- and so indicative of his ties to the conservative Washington legal scene. Luttig, 48, strongly believes that judges should stick to their cases and speak only through their opinions. Policy pronouncements are the business of others, Luttig says, and his job -- his only job -- is to analyze the cases and precedents before him in a disciplined way to come to the most logical and defensible result. He rarely, if ever, cites law review articles or other secondary sources.

"At the end of the day, other than conscience, it is only analytical rigor, and the accountability that such renders possible, that can restrain a judiciary that serves for life and at the pleasure of no one," Luttig wrote in an obscure 2001 decision, Safety-Kleen v. Wyche.

That rigor has earned Luttig a reputation as a meticulous taskmaster whose law clerks gain an intense, unparalleled education in judicial craftsmanship. It is no wonder that almost all his law clerks go on to clerk for Supreme Court justices.

"There is no one in the federal judiciary who works longer or harder than he does," says a lawyer who has worked with him. "He pours more into getting the details right than anyone." This lawyer, who requested anonymity, says Luttig's passion for detail and discipline leads to his main flaw: "He is not as aware as he might be that not everyone is as smart or persevering as he is. He expects a lot of himself and others." Luttig declined to be interviewed for this article.

Luttig's analytical approach also leads him, at times, to veer sharply from conservative orthodoxy.

In the partial-birth abortion case Richmond Medical Center v. Gilmore in 2000, Luttig said that because of

Supreme Court precedent, the abortion right deserved "super-stare decisis" status -- a precedent that cannot be disturbed -- and as a result, the Virginia partial-birth law could not be upheld. "Our responsibility is to follow faithfully its opinions," Luttig wrote -- a stance that could change once Luttig is writing, rather than following, precedent.

Last March, in Harvey v. Horan, Luttig said high court precedent also compelled the conclusion that those convicted of serious crimes possess a limited constitutional right of access to DNA evidence for testing.

And in a dissent in Robles v. Prince George's County last October, Luttig said police who tied a suspect to a pole in an isolated parking lot and left him unattended at 3 a.m. were not entitled to qualified immunity from a Section 1983 civil rights suit. The majority had granted the immunity, and Luttig said the majority's effort to strike a "just balance" had blinded it to the obvious conclusion that the police should have no such immunity.

"I confess ignorance as to where the justice of the case lies," Luttig wrote. "But under the law, it is quite clear that these officers are not entitled to immunity for their conduct."

In Robles and other decisions, Luttig's forceful analysis has brought him into direct conflict with natural conservative allies such as Judge J. Harvie Wilkinson III -- public disagreements that a more flexible or collegial judge might avoid.

In the en banc ruling for Urofsky v. Gilmore in 2000, both Wilkinson and Luttig agreed with the judgment of the court that Virginia could restrict state employees' access to sexually explicit materials when they use state computers. But when Wilkinson wrote separately to voice concern about the impact of the ruling on academic freedom for state university professors, Luttig wrote a withering concurrence that picked apart Wilkinson's analysis, almost line by line.

"Although Judge Wilkinson trumpets judicial restraint," Luttig said, "his fanfare can hardly be heard over the clashing from his own unabashed creation of new constitutional rights out of whole cloth -- an unabashedness that forces his surrender of the high ground that he has assumed in the debate over judicial activism."

Luttig's unflinching readiness to criticize his allies invites comparison to Justice Antonin Scalia, for whom Luttig clerked on the D.C. Circuit 20 years ago. Scalia often seems happier in his decision-making when he is jabbing his colleagues for lack of doctrinal purity than he would be if he tempered his words in the interest of collegiality and coalition-building.

Luttig himself has voiced disdain for the "false collegiality" of papering over differences, preferring instead the collegiality that he says comes with the airing of "high-spirited differences of opinion." But if he is named to the high court, the challenge for Luttig may be whether that brand of collegiality can be counted on to build and hold majorities on a divided bench.

University of Virginia law professor A.E. Dick Howard says the comparison between Luttig and Scalia, while tempting, is not precise. "Judge Luttig is not nearly as theatrical as Justice Scalia," says Howard, a longtime observer of the 4th Circuit. "Luttig shuns publicity, and he is very pleasant and steady, with no rough edges -- none of the flashes of lightning you get with Scalia."

Indeed, in person, Luttig seems the opposite of Scalia, with a boyish face, an unassuming manner, teetotaling ways, and a friendly Texas drawl. He has a sense of humor: A few years ago, he "applied" for a first-year associate's job at Hogan & Hartson, which, he suspected, would pay more than the salary of a federal appeals judge. Responding in kind, Hogan partner John Roberts Jr. turned Luttig down, informing him that first-year associates normally lack life tenure, are not assigned a battery of law clerks to assist them, and don't wear black robes -- even on casual Fridays.

Luttig has also known tragedy in his life. His father, John, was murdered in a 1994 carjacking in Tyler, Texas, in front of his mother, Bobbie. Luttig went to the trial of Napoleon Beazley, his father's murderer, who was 17 at the

time of the crime. When Beazley's case went to the U.S. Supreme Court on appeal, it became evident how close Luttig is to several justices. His one-time boss Scalia, as well as Justices Clarence Thomas and David Souter, recused. While in the Bush Justice Department before joining the bench, Luttig helped shepherd Thomas and Souter through confirmation. Beazley was executed last May.

Since the murder of Luttig's father, defense lawyers have tried occasionally to get Luttig to recuse himself in capital cases, but he has refused. Friends have noted that the late Chief Justice Earl Warren's father was murdered before he joined the Supreme Court, and Warren did not recuse from murder cases.

It was the late Chief Justice Burger who guided Luttig into a legal career. Luttig, whose first initial stands for John, began working for Burger as an intern at the high court even before becoming a lawyer. And his Justice Department job was in the Office of Legal Counsel, where his predecessors included Scalia and William Rehnquist. "Mike has been on a fast track toward the Supreme Court since the Burger days," says someone who has worked with Luttig.

When Luttig's law clerks celebrated his 10th anniversary as a federal appeals judge in 2001, they presented him with an American flag that had flown over the Supreme Court. He displays it in his chambers in Alexandria, Va.

The clerks knew that to Luttig, anything having to do with the Supreme Court has special meaning. And a seat on the Supreme Court would be the best gift of all.

Says another friend of Luttig: "I really think that if he was given the choice between being president and being a justice or chief justice, the presidency would lose out."

J. Harvie Wilkinson III: A Soft Face On the Hard Line

The title of the speech that 4th Circuit Judge J. Harvie Wilkinson III gave on Feb. 19 said it all: "Why Conservative Jurisprudence Is Compassionate."

Speaking to a student audience at his alma mater, the University of Virginia Law School, Wilkinson spoke almost defensively about the ways in which conservative judges have heart. Favoring the individual over business or government, he said, is not always compassionate. Compassion is sometimes best left to legislators, and can be either inappropriate, hard to define, or insufficient in a judicial setting. Modesty, not compassion, is the highest virtue for a judge, said Wilkinson, whose chambers are in Charlottesville.

Wilkinson's thesis was soon put to the test. A black law student approached him during a post-speech reception. Judicial modesty and deference to the elected branches are all well and good, the student told Wilkinson, but "what if the legislature is dragging its feet?"

With a friendly smile, Wilkinson responded, "Well, saying that the legislature is dragging its feet sounds to me like, 'The legislature isn't doing what I'd like it to be doing.' I'm very uneasy with that."

The student retorted, "So you are saying there are no absolutes? What if the legislature approves slavery?"

Without missing a beat, Wilkinson replied, "Then, the judiciary must step in. Brown v. Board of Education and Marbury v. Madison were the best decisions the Supreme Court ever made."

The student was disarmed. And then he was charmed when Wilkinson told him, with characteristic full-body enthusiasm, how much he appreciated the student's attendance and his comments.

It was a classic Wilkinson moment: putting a friendly face on conservative jurisprudence, and trying to bring everyone under its tent with collegiality and consensus. It is these qualities, matched by respected opinion writing, that lead some inside and outside the **White House** to place the 58-year-old Wilkinson high on the list for nomination as chief justice. Like the late Supreme Court Justice Lewis Powell Jr., the man after whom he has

modeled his life and jurisprudence, Wilkinson exudes a courtly civility that could be a unifying force on the Court.

"The person in the center chair is expected to have a certain gravitas. So someone like Wilkinson, who is older, would be an appealing candidate," says Florida International University law professor Thomas Baker. But age could also work against Wilkinson, says the University of Connecticut's David Yalof. "If [the Bush administration is] using the Reagan playbook, where youth and longevity are key, then Wilkinson is in the danger zone." Wilkinson declined to be interviewed for this article.

Wilkinson's eagerness for consensus may also frustrate some in the **White House** who would prefer a harder-edged conservative. Though a Judicature magazine tally of the rulings of several potential Bush nominees last year placed Wilkinson farthest to the right, those who know Wilkinson dismissed the study and place him closer to the Powellesque right-leaning middle.

The Bush administration has little to object to in Wilkinson's handling of the post-Sept. 11 national security cases that have gone before the 4th Circuit. In three separate rulings on different aspects of the government's case against enemy combatant Yaser Esam Hamdi, Wilkinson expressed little doubt about the executive branch's primacy over the judiciary in times of war -- even undeclared war.

"Our Constitution's commitment of the conduct of war to the political branches of American government requires the court's respect at every step," Wilkinson wrote last July. "The deference that flows from the explicit enumeration of powers protects liberty as much as the explicit enumeration of rights," Wilkinson said in another ruling this January.

But in the January ruling, Wilkinson added that especially in the context of a habeas corpus petition such as the one filed by Hamdi, courts do have a responsibility to serve as a check on the other branches. "The duty of the judicial branch to protect our individual freedoms does not simply cease whenever our military forces are committed by the political branches to armed conflict."

Wilkinson, who recently rotated out of a seven-year term as chief judge of the 4th Circuit, has also distanced himself somewhat from the Rehnquist Court's trademark series of federalism-based rulings striking down acts of Congress.

In 1999, Wilkinson joined the 4th Circuit majority in Brzonkala v. Virginia Polytechnic Institute, rejecting a provision of the Violence Against Women Act as an excessive intrusion by Congress into state sovereignty -- a position later ratified by the Supreme Court.

But in a concurrence tinged with doubt, Wilkinson said the ruling, like others by the Supreme Court that rejected acts of Congress, could be labeled judicial activism. In the end it was justifiable as fulfilling the judiciary's role of "structural referee," Wilkinson wrote, but he cautioned against going too far, too fast. "The values of federalism must be tempered by the maxims of prudence and restraint," Wilkinson wrote.

Taking his own advice, Wilkinson ruled the next year in Gibbs v. Babbitt that the Endangered Species Act was a valid exercise of Congress' power over interstate commerce when applied to the protection of red wolves. "The courts may not simply tear through the considered judgments of Congress," Wilkinson wrote.

On the issue of affirmative action, a 1987 ruling by Wilkinson struck down Richmond's minority set-aside program in Croson v. City of Richmond. The Supreme Court affirmed Wilkinson's view in a 1989 ruling that made clear its growing disenchantment with affirmative action.

A decade later in his book One Nation Indivisible, Wilkinson reaffirmed his opposition to affirmative action as "the most dangerous of policy prescriptions for a multiethnic nation." But the rest of the book, which called for an end to ethnic and racial separatism in America, is a celebration of multiculturalism and diversity. Wilkinson wrote that at times he rues the all-white milieu of his own upbringing in upper-crust Richmond, which he said was

"as distant from multicultural America as any childhood could possibly be."

Wilkinson's father was a prominent Richmond banker who was introduced to his wife by the young Lewis Powell. Powell gave the young Wilkinson -- known to friends as Jay, short for James -- his first summer job in high school, as a messenger at Powell's law firm, Hunton & Williams. "One day you may make a good lawyer," Powell told Wilkinson, and he kept in contact with Wilkinson through college and law school. When lightning struck and Powell was named to the high court in 1971, Wilkinson was the first clerk he hired.

"Clerking for Justice Powell was clearly one of the centerpieces of Jay's career," says longtime friend Russell Palmore Jr., a partner in the Richmond office of the Atlanta firm Troutman Sanders. Wilkinson wrote about his experience as a Powell clerk in the 1974 book Serving Justice. Wilkinson also dabbled in teaching law and in journalism, writing editorials for a Norfolk newspaper. Before he went with Powell, he even ran for Congress -- and lost. He has said that winning only 30 percent of the vote left him with a "profound respect" for those who achieve a majority and are elected. President Ronald Reagan named Wilkinson to the 4th Circuit in 1984.

Even Wilkinson's friends remark that he sounds and even looks somewhat like the late Justice Powell. Wilkinson's thin frame -- he runs daily, according to friends -- and the inflections and cadence of his reedy Southern voice match Powell's. Wilkinson does not object when the comparison is made.

In addition to explaining and popularizing conservative jurisprudence, Wilkinson has devoted much of his public speaking and off-the-bench writing to spreading the word about Powell's legacy.

In a 1992 Washington and Lee Law Review article, Wilkinson praised Powell for regarding the role of the judiciary as "that of a mediator and facilitator, not as dictator." As for his jurisprudence, Wilkinson said Powell "sought to craft decisions that gave something to both sides." Admiringly, Wilkinson also said Powell avoided establishing bright-line rules or issuing sweeping decisions -- characteristics of Powell's approach that partisans sometimes found frustrating. "The Powell approach sought to ensure that the most volatile issues in our society did not quickly achieve definitive outcomes in the courts," Wilkinson wrote.

After Powell retired from the high court in 1987, he occasionally sat on the 4th Circuit by designation, sometimes finding himself on the same panel with his younger friend Wilkinson.

In a 1992 trademark case, Anheuser-Busch v. L&L Wings Inc., Wilkinson wrote the majority opinion and Powell filed a dissent -- a rare, if not unique, instance when the two disagreed. Wilkinson, joined by Judge J. Michael Luttig, held that T-shirts displaying humorous images that looked like Budweiser beer cans did not confuse consumers and did not infringe the Budweiser trademark. Powell disagreed, though he gently remarked that in one aspect of the case "the court is correct in the abstract."

Wilkinson, for his part, gently chided Powell: "Our dissenting brother's standard is so broad that it would banish virtually all attempts at humorous takeoffs on trademarks as a matter of law." The disagreement was clear, but Wilkinson's tone, as always, was respectful.

Patrick J. Bumatay
Office of Counsel to the President
o: 202-456-5214
f: 202-456-6279
mainline: 202-456-2632

From: Dahl, Alex (Judiciary) <Alex_Dahl@Judiciary.senate.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/4/2003 10:10:09 AM
Subject: : fax number
Attachments: P_IGIDE003_WHO.TXT_1.html

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Dahl, Alex (Judiciary)" <Alex_Dahl@Judiciary.senate.gov> ( "Dahl, Alex
(Judiciary)" <Alex_Dahl@Judiciary.senate.gov> [ UNKNOWN ] )
CREATION DATE/TIME: 4-MAR-2003 15:10:09.00
SUBJECT:: fax number
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Brett could you please send me your fax number. I want to send some
Kuhl correspondence.
```


_____

Deputy Staff Director & Senior Counsel

Committee on the Judiciary

United States Senate

224 Dirksen Building

Washington, DC 20510

phone: (202) 224-5225

fax: (202) 228-1115


```
- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_IGIDE003_WHO.TXT_1>
```

Brett could you please send me your fax number. I want to send some Kuhl correspondence.

Deputy Staff Director & Senior Counsel
Committee on the Judiciary
United States Senate
224 Dirksen Building
Washington, DC 20510
phone: (202) 224-5225
fax: (202) 228-1115

From: Thomas, Ginni <ginni.thomas@heritage.org>
To: Thomas, Ginni <ginni.thomas@heritage.org>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 3/4/2003 10:10:12 AM
Subject: : Speech in Britian (praises President Bush's economic leadership) - Our Conservative Opportunity
Attachments: P_LGIDE003_WHO.TXT_1.htm; P_LGIDE003_WHO.TXT_2.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Thomas, Ginni" <ginni.thomas@heritage.org> ("Thomas, Ginni" <ginni.thomas@heritage.org> [UNKNOWN])
CREATION DATE/TIME: 4-MAR-2003 15:10:12.00
SUBJECT:: Speech in Britian (praises President Bush's economic leadership) - Our Conservative Opportunity
TO:"Thomas, Ginni" <ginni.thomas@heritage.org> ("Thomas, Ginni" <ginni.thomas@heritage.org> [UNKNOWN])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Take a glance at the attached speech by the Right Honorable David Davis, MP, Shadow Deputy Prime Minister, as well as this excerpt....

....I understand that in the last few days more than 350 economists have attacked President Bush's tax plans. Well, I have to tell you, we've been there before. In the early days of Lady Thatcher's tenure, she was attacked in the pages of the Times by 364 economists for her economic policy. When asked about this she replied "if they were right, one would be enough."

Best regards, Ginni

Virginia (Ginni) Thomas, Director
Executive Branch Relations
The Heritage Foundation
214 Mass. Ave., NE
Washington, D.C. 20002
(202) 608-6240 and (202) 608-6068 (fax)
ginni.thomas@heritage.org

<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

-----Original Message-----
From: Bond, Drew
Sent: Tuesday, March 04, 2003 2:40 PM
To: Mitchell, Daniel; Butler, Stuart; Franc, Mike; Thomas, Ginni; Hulsman, John; Dale, Helle; Beach, Bill; Gallagher, Paul; Baird, Tripp; Doane, Dani
Subject: FW: DD's tax speech

The attached was sent to Ed Feulner and I thought you would find it useful. It's a speech on economic policy by one of our allies in Britain. DB

- att1.htm - Davis Republicans press.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_LGIDE003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_LGIDE003_WHO.TXT_2>

Take a glance at th e attached speech by the Right Honorable David Davis, MP, Shadow Deputy Prime Minister, as well as this excerpt....

...I understand that in the last few days more than 350 economists have attacked President Bush's tax plans. Well, I have to tell you, we-7;ve been there before. In the early days of Lady Thatcher's tenure, she was attacked in the pages of th e Times by 364 economists for her economic policy. When asked about this she replied "if they were right, one would be enough."

Best regards, Ginni

Virginia (Ginni) Thomas, Director
Executive Branch Relations
The Heritage Foundation
214 Mass. Ave., NE
Washington, D.C. 20002
(202) 608-6240 and (202) 608-6068 (fax)
ginni.thomas@heritage.org

-----Original Message-----
From: Bond, Drew
Sent: Tuesday, March 04, 2003 2:40 PM
To: Mitchell, Daniel; Butler, Stuart; Franc, Mike; Thomas, Ginni; Hulsman, John; Dale, Helle; Beach, Bill; Gallagher, Paul; Baird, Tripp; Doane, Dani
Subject: FW: DD's tax speech
The attached was sent t o Ed Feulner and I thought you would find it useful. It's a speech on economic policy by one of our allies in Britain. DB

SPEECH BY THE RT.HON. DAVID DAVIS, MP, SHADOW DEPUTY PRIME MINISTER TO REPUBLICANS ABROAD AT THE LONDON CHANCERY COURT HOTEL, LONDON, ON THURSDAY 13TH FEBRUARY 2003

Extract:

Labour's Policy of Tax-and-Spend

President Bush's recent inspiring State of the Union did not just point out the path to security: equally important, it signalled the road to prosperity – through low taxes. That, too, is a message we in Britain have every reason to take to heart.

I understand that in the last few days more than 350 economists have attacked President Bush's tax plans. Well, I have to tell you, we've been there before. In the early days of Lady Thatcher's tenure, she was attacked in the pages of the Times by 364 economists for her economic policy. When asked about this she replied "if they were right, one would be enough."

The next ten years demonstrated unequivocally that ***she*** was right and ***they*** were wrong, as her policies galvanised the British economy. Just as the next ten years will demonstrate that President Bush is right and his critics wrong.

But while President Bush is pursuing an enlightened low tax, high growth policy, under this Government, Britain has been lumbering remorselessly in the opposite direction.

The Chancellor's very first budget revealed the new governing philosophy: for it contained a brutal tax hike, which is now at the root of a pensions crisis that has shattered the hopes of a generation. ***

This wasn't a mere one-off deviation: it was an expression of the Labour Party's whole approach to government. That approach can be summed up as follows. It holds, essentially, that government alone has the virtue, the knowledge and the means to take key economic decisions. The unspoken assumptions are that the state, not business, ultimately generates wealth; that

public spending is good and private spending suspect; and that government's coffers must be continually replenished, even if it requires that the savings accounts and pockets of the people are repeatedly raided.

And this is what has been happening. The government has imposed successive batches of new and costly regulations on business. It has reinforced trade union power, and so encouraged a return to militancy. Above all, it has embarked upon a highly damaging programme of tax-and-spend.

The consequences for business are fearful. Since 1997 the London stock exchange has declined in value by 30% more than New York. Some #300 billion of value has been destroyed, causing or exacerbating the pensions crisis and the savings crisis that now afflict Britain, and creating agonising financial problems for small savers and pensioners who cannot escape the damage.

The most important advantages Britain once enjoyed over mainland European economies are now being lost – as a matter of government policy. The Chancellor openly plans to increase the tax burden as a share of national income every year until 2007/8. This April, National Insurance Contributions – income tax by another name - will rise sharply.

Day by day, fresh doubts are raised about the Government's figures for growth, and so tax receipts; and expectations of bloated public borrowing and further tax increases have multiplied. But even taking the published figures at face value, it is already clear that Britain is reverting to a high tax economy *at precisely the time when most European countries are cutting their public spending so as to become more competitive*. In fact, on present trends Britain's public spending, as a share of GDP, will converge with Europe's in a decade.

This isn't some technicality. It means that we are turning our backs on those changes made in the Conservative years that turned Britain from being the Also Ran into the Pace-Setter of Europe. It means that we are rapidly abandoning the free enterprise model which has made America the greatest economic success story that the world has seen. And it means as well that the British people as a whole will be poorer than they would otherwise have been – while other nations forge ahead. Nothing less than this is at stake in the debate about levels of taxation that has opened up in the country today.

Low Taxes Lead to Prosperity

Whatever the views of those left wing economists I mentioned earlier, some parts of the dismal science have caught up with commonsense. The empirical data shows that low taxes motivate individuals, companies and nations to succeed. To take just one example: a widely-quoted OECD study covering more than twenty countries suggests that a one per cent increase in the tax ratio leads to a fall in output of over a half a per cent of GDP.

What this means is that whatever gain is achieved by increasing government spending can be lost within 4 or 5 years, and certainly within two parliamentary or presidential terms. And an equivalent amount of money disappears from the pockets of the private citizens in lower incomes and lost jobs.

The classic example of low spending and low taxes generating high growth and new jobs is, of course, America. The US has its cyclical problems at present. But its productivity continues to soar. Above all, the US attachment to low taxes and light regulation has helped generate incomes and employment. During the last three decades of the twentieth century, America created almost ten times as many jobs as over-taxed, over-regulated Europe.

But we needn't look across the Atlantic, we can just cast a glance over to Ireland. There, large cuts in the tax burden during the 1990s led to much higher rates of economic growth.

It's a sad fact that in Britain today too many politicians and pressure groups still speak as if economic policy were a zero-sum game. One person's gain is assumed to be another person's loss. But that isn't the case at all – particularly with tax-cuts.

Securing lower taxes doesn't mean worse public services – any more than bumping up taxes means better services, as this Labour government's policy failures show.

Low tax (along with low regulation) is the *only* durable way of getting public services – because it makes them affordable. The case of Ireland shows that better services and lower taxes can complement, not contradict, each other. While those Irish taxes were being cut, spending on health was

actually being doubled. In Canada more recently something similar has occurred – taxes down and health spending up.

Nor do low taxes involve short-changing the less well-off. Again, quite the contrary. Over time, the effect of lower taxes is to increase the national income. That yields positive results for everyone. It provides more well-paid employment so that people can climb out of poverty and begin to save. It also generates the extra wealth required to look after those who truly can't cope for themselves. And yes: some people will do better than others. But that's merely the difference between equity and equality. As Abraham Lincoln himself once said: "You cannot make the weak strong by making the strong weak."

Furthermore, as the passage continues: "You cannot build character and courage by taking away man's initiative and independence". Yet this sort of demoralisation is exactly what flows from the high spending/high taxing system beloved of Messrs Blair and Brown, where the only way disadvantaged people can cope is by relying on means-tested benefits. This undermines dignity: it reduces the will to work, earn and save; it therefore creates a vicious circle of poverty and dependency.

The truth which the Left, now as in the past, can't or won't grasp is that when government leaves more of what they earn in the pockets of citizens they will themselves *by their own efforts* increase the national kitty. That's in the end how capitalism works – always and everywhere.

As Iain Duncan Smith has reaffirmed, we remain a Party which passionately believes in low taxes – and which does so as a matter of principle. That principle, let me say at once, is moral. It is morally right that people should keep as much of what they earn as is compatible with Government doing those few things which it alone can do. [PAC joke]

The state generates no wealth and it has no money of its own. It has only what it can gain by coercion. Keeping that coercion to a minimum is, along with adherence to the law of the land, the most important condition for a free society to flourish.

The principle of keeping taxes low is also founded upon an understanding of economics. As I have shown, low taxes help make a nation richer. And with that wealth all our citizens have brighter and better prospects.

And then, of course, having made that argument we must act on it in government. For there is another – perhaps still more sobering – reflection which emerges from the experience of Britain and America in the 1990s. It is that conservative governments which raise taxes go on to lose elections.

Britain today faces a deepening domestic crisis which overseas events have only temporarily obscured. This crisis is inevitably overtaking a government which, having abandoned caution and dissipated its legacy, simply has no answers left to excuse or mitigate its failures. As a result, we now approach one of those rare, defining moments when it becomes not just possible but imperative to advance a completely new approach. One in line with the mood of the times and the manifest needs of the nation. This is the Conservative opportunity - and we shall not miss it.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Wendy J. Grubbs/WHO/EOP@EOP [WHO] <Wendy J. Grubbs>
Sent: 3/4/2003 6:35:31 AM
Subject: : Re: draft letter

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 4-MAR-2003 11:35:31.00
SUBJECT:: Re: draft letter
TO:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I did.

Wendy J. Grubbs
03/04/2003 11:32:57 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Re: draft letter

Hey did the judge call estrada about second hearing idea?

.

From: CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@Exchange@EOP [WHO] <David G. Leitch>;Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/4/2003 11:50:34 AM
Subject: : Newdow

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 4-MAR-2003 16:50:34.00
SUBJECT:: Newdow
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Pledge case
---------- Forwarded by H. Christopher Bartolomucci/WHO/EOP on 03/04/2003 04:50 PM ----------

"Sturgill, Lowell" <Lowell.Sturgill@usdoj.gov>
03/04/2003 04:45:32 PM
Record Type: Record

To: "Pat Bryan (E-mail)" <pat_bryan@legal.senate.gov> (Receipt Notification Requested) (IPM Return Requested), "David Plotinsky (E-mail)" <david.plotinsky@mail.house.gov> (Receipt Notification Requested) (IPM Return Requested)
cc: H. Christopher Bartolomucci/WHO/EOP@EOP, Noel J. Francisco/WHO/EOP@EOP
Subject: Newdow

The CA9 clerk's office called a few minutes ago to advise us that the Court has granted the School District's motion to stay issuance of the mandate pending certiorari.

From: CN=Matthew R. Rees/OU=NSC/O=EOP [NSC]
To: Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Noam M. Neusner/WHO/EOP@EOP [WHO] <Noam M. Neusner>;Jay P. Lefkowitz/OPD/EOP@Exchange@EOP [OPD] <Jay P. Lefkowitz>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Brian R. Besanceney/WHO/EOP@EOP [WHO] <Brian R. Besanceney>;Brian Reardon/OPD/EOP@EOP [OPD] <Brian Reardon>;Scott McClellan/WHO/EOP@Exchange@EOP [WHO] <Scott McClellan>;David Kuo/WHO/EOP@EOP [WHO] <David Kuo>;Brian C. Jones/WHO/EOP@EOP [WHO] <Brian C. Jones>;Daniel J. Bartlett/WHO/EOP@Exchange@EOP [WHO] <Daniel J. Bartlett>
CC: schragesp@state.gov @ inet [UNKNOWN] <schragesp@state.gov @ inet>
Sent: 3/4/2003 1:24:22 PM
Subject: : Pick and roll

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Matthew R. Rees (CN=Matthew R. Rees/OU=NSC/O=EOP [NSC])
CREATION DATE/TIME: 4-MAR-2003 18:24:22.00
SUBJECT:: Pick and roll
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Noam M. Neusner (CN=Noam M. Neusner/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange@EOP [OPD])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brian R. Besanceney (CN=Brian R. Besanceney/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brian Reardon (CN=Brian Reardon/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brian C. Jones (CN=Brian C. Jones/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
CC:schragesp@state.gov @ inet (schragesp@state.gov @ inet [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Gentlemen:

Any interest in trying to pull together a weekly White House/Bush Administration basketball game? I have talked with the Interior Department about getting access to their gym -- it is just a few blocks from here, on F Street -- and they have given a preliminary OK. Here are the conditions:

ú If we played in the evening, we could come at any time, but would need to be finished by 7:30. I know this is early, and maybe we could work something out with them, but in the meantime let me know if a mid-day game would be your preference.
ú We could play any weekday night. I would recommend Mondays, as there,s less time for work to pile up, but I,m open to other suggestions. (The gym is not open on weekends.)
ú The fee would be small -- maybe $10 a month -- and according to Interior this would also entitle you to use the Interior weight room.
ú Those who play need not be government employees.

Let me know if you are interested in this, and feel free to forward this e-mail to others. If we can get enough people so that there,s some likelihood of regularly getting at least 6 people, and hopefully 10 or

more, I can talk further with Interior about setting it up.

And if you,re looking to rationalize to yourself, or others, leaving the office early one night a week, consider this: We had a weekly game during Bush 41, and everyone found it invigorating, and useful for building morale and camaraderie. (Didn,t help with the re-elect, of course, but that,s another story.)

From: Kavanaugh, Brett M.
To: <Gonzales, Alberto R.>;<Leitch, David G.>
Sent: 3/4/2003 2:12:03 PM
Subject: fyi

I have collected (i) all remarks of Presidents in announcing Supreme Court Justices for last 50 years and (ii) time lines from announcement to confirmation for all Supreme Court Justices since 1950.

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/4/2003 11:29:42 AM
Subject: : FW: LRM IKK18 - - TREASURY Testimony on Tax Treaties
Attachments: P_BSNDE003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 4-MAR-2003 16:29:42.00
SUBJECT:: FW: LRM IKK18 - - TREASURY Testimony on Tax Treaties
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

-----Original Message-----
From: Kho, Irene
Sent: Tuesday, March 04, 2003 4:18 PM
To: laffairs@ustr.gov; Cea Lrm; state-lrm@state.gov; CLRM@doc.gov; justice.lrm@usdoj.gov
Cc: Casella, Michael; Durant, Catherine; Kulikowski, James M.; Lyon, Randolph M.; Goldberg, David R.; Boden, James; Bloomquist, Lauren E.; Schwartz, Mark J.; Schwartz, Kenneth L.; Mahaffie, Robert F.; Foster, James D.; Rodriguez, Justine F.; Barth, Mary C.; Lobrano, Lauren C.; Call, Amy L.; Rossman, Elizabeth L.; Schneider, Matthew J.; Perry, Philip J.; Wood, John F.; Burgeson, Christine M.; Nec Lrm; Ovp Lrm; Whgc Lrm; Reardon, Brian
Subject: LRM IKK18 - - TREASURY Testimony on Tax Treaties

Please respond asap, comments were due at 3:00 PM. Thank you.
---------- Forwarded by Irene Kho/OMB/EOP on 03/04/2003 04:18 PM ----------

From: Irene Kho on 03/04/2003 10:13:05 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: LRM IKK18 - - TREASURY Testimony on Tax Treaties

Attached is Treasury testimony on tax treaties for a hearing before the Senate Foreign Relations Committee at 3:00 PM, tomorrow, Wednesday, March 5th. Please review and provide comments by 3:00 PM, today, Tuesday, March 4th. Thank you.

- tt0011a.doc

LRM ID: IKK18
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, March 4, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution

below
FROM: Richard E. Green (for) Assistant Director for
Legislative Reference
OMB CONTACT: Irene Kho
PHONE: (202)395-5858 FAX: (202)395-3109
SUBJECT: TREASURY Testimony on Tax Treaties

DEADLINE: 3:00 PM Tuesday, March 4, 2003
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Attached is Treasury testimony on tax treaties for a hearing before the Senate Foreign Relations Committee at 3:00 PM, tomorrow, Wednesday, March 5th. Please review and provide comments by 3:00 PM, today, Tuesday, March 4th. Thank you.

DISTRIBUTION LIST

AGENCIES:
128-US Trade Representative - Carmen Suro-Bredie - (202) 395-4755
018-Council of Economic Advisers - - (202) 395-5084
114-STATE - VACANT - (202) 647-4463
025-COMMERCE - Michael A. Levitt - (202) 482-3151
061-JUSTICE - Jamie E. Brown - (202) 514-2141

EOP:
Michael Casella
Catherine Durant
James M. Kulikowski
Randolph M. Lyon
David R. Goldberg
James Boden
Lauren E. Bloomquist
Mark J. Schwartz
Kenneth L. Schwartz
Robert F. Mahaffie
James D. Foster
Justine F. Rodriguez
Mary C. Barth
Lauren C. Lobrano
Amy L. Call
Elizabeth L. Rossman
Matthew J. Schneider
Philip J. Perry
John F. Wood
Christine M. Burgeson
NEC LRM
OVP LRM
WHGC LRM
Brian Reardon
Richard E. Green
James J. Jukes

LRM ID: IKK18 SUBJECT: TREASURY Testimony on Tax Treaties

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no

comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Irene Kho Phone: 395-5858 Fax: 395-3109
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-3454

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Sent
To:_____
laffairs@ustr.gov @ inet
CEA LRM
state-lrm@state.gov @ inet
CLRM@doc.gov @ inet
justice.lrm@usdoj.gov @ inet

Message Copied
To:_____
Michael Casella/OMB/EOP@EOP
Catherine Durant/OMB/EOP@EOP
James M. Kulikowski/OMB/EOP@EOP
Randolph M. Lyon/OMB/EOP@EOP
David R. Goldberg/OMB/EOP@EOP
James Boden/OMB/EOP@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
Mark J. Schwartz/OMB/EOP@EOP
Kenneth L. Schwartz/OMB/EOP@EOP
Robert F. Mahaffie/OMB/EOP@EOP

James D. Foster/OMB/EOP@EOP
Justine F. Rodriguez/OMB/EOP@EOP
Mary C. Barth/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
Amy L. Call/OMB/EOP@EOP
Elizabeth L. Rossman/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
Philip J. Perry/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Christine M. Burgeson/WHO/EOP@Exchange@EOP
NEC LRM
OVP LRM
WHGC LRM
Brian Reardon/OPD/EOP@EOP
Richard E. Green/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_BSNDE003_WHO.TXT_1>

Draft

TESTIMONY OF
BARBARA ANGUS, INTERNATIONAL TAX COUNSEL,
UNITED STATES DEPARTMENT OF THE TREASURY
BEFORE THE SENATE COMMITTEE ON FOREIGN RELATIONS
ON PENDING INCOME TAX AGREEMENTS

MARCH 5, 2003

Mr. Chairman and distinguished Members of the Committee, I appreciate the opportunity to appear today at this hearing to recommend, on behalf of the Administration, favorable action on three income tax agreements that are pending before this Committee.

This Administration is dedicated to eliminating unnecessary barriers to cross-border trade and investment. The primary means for eliminating tax barriers to trade and investment are bilateral tax treaties. Tax treaties eliminate barriers by providing greater certainty to taxpayers regarding their potential liability to tax; allocating taxing rights between jurisdictions so that the taxpayer is not subject to double taxation; by reducing the risk of excessive taxation that may arise because of high gross-basis withholding taxes; and by ensuring that taxpayers will not be subject to discriminatory taxation in other countries. The international network of over 2000 bilateral tax treaties has established a stable framework that allows international trade and investment to flourish. The success of this framework is evidenced by the fact that the millions of cross-border transactions that take place each year give rise to relatively few disputes regarding the allocation of tax revenues between governments.

The Administration believes that these three agreements, which update important treaty relationships with the United Kingdom, Australia and Mexico, would provide significant benefits to the United States and to our treaty partners, as well as our respective business communities. We look forward to receiving the views of the Committee regarding these agreements.

Purposes and Benefits of Tax Treaties

Tax treaties provide benefits to both taxpayers and governments by setting out clear ground rules that will govern the tax matters relating to trade and investment between the two countries. The goal of the treaty is to mesh the tax systems of the two countries in such a way that there is little potential for dispute regarding the amount of tax that should be paid to each country, so that the taxpayer does not end up caught in the middle between two governments, each of which would like to tax the same income. Once a treaty relationship is in place and working as it should, governments need expend little additional resources negotiating to resolve individual cases because the general principles for taxation will have been agreed by the treaty negotiators.

One of the primary functions of tax treaties is to provide certainty to taxpayers with respect to the "threshold" question – that is, whether the taxpayer's cross-border activities will subject it to taxation by two or more countries. Treaties answer this question by establishing the minimum level of economic activity that a resident of one country must engage in within the other country before the latter country may tax any resulting business profits. In general terms, treaties provide that if the branch operations have sufficient substance and continuity, the country where the activities occur will have primary (but not exclusive) jurisdiction to tax. In other cases, where the operations are relatively minor, the home country retains the sole jurisdiction to tax its residents. In the absence of a treaty, a U.S. company operating a branch or division or providing services in another country might be subject to income tax in both the United States and the other country on the income generated by such operations. Although the United States provides a foreign tax credit, there remains potential for resulting double taxation that could make an otherwise attractive investment opportunity unprofitable, depriving both countries of the benefits of increased cross-border investment.

Tax treaties protect taxpayers from double taxation through the allocation of taxing rights between the two countries. This allocation takes several forms. First, the treaty has a mechanism for determining the residence of a taxpayer that otherwise would be a resident of both countries. Second, with respect to each category of income, the treaty assigns the "primary" right to tax to one country, usually (but not always) the country in which the income arises (the "source" country), and the "residual" right to tax to the other country, usually (but not always) the country of residence of the taxpayer. Third, the treaty provides rules for determining which country will be treated as the source country for each category of income. Finally, the treaty establishes both limitations on the amount of tax that the source country can impose on each category of income and the obligation of the residence country to eliminate double taxation that otherwise would arise from the exercise of concurrent taxing jurisdiction by the two countries.

As a complement to these substantive rules regarding allocation of taxing rights, treaties provide a mechanism for dealing with disputes or questions of application that arise after the treaty enters into force. In such cases, designated tax authorities of the two governments – known as the Acompetent authorities@ in tax treaty parlance – are to consult and reach an agreement under which the taxpayer's income is allocated between the two taxing jurisdictions on a consistent basis, thereby preventing the double taxation that might otherwise result. The U.S. competent authority under our tax treaties is the Secretary of the Treasury. That function has been delegated to the Director, International (LMSB) of the Internal Revenue Service.

In addition to reducing potential double taxation, treaties also reduce "excessive" taxation by reducing withholding taxes that are imposed at source. Under U.S. domestic law, all payments to non-U.S. persons of dividends and royalties as well as certain payments of interest are subject to withholding tax equal to 30 percent of the gross amount paid. Most of our trading partners impose similar levels of withholding tax on these types of income. This tax is imposed on a gross, rather than net, amount. Because the withholding tax does not take into account the expenses incurred in generating the income, the taxpayer

REV_00159383

frequently will be subject to an effective rate of tax that is significantly higher than the tax rate that would be applicable in either the source or the residence country with respect to net income. The taxpayer may be viewed, therefore, as having suffered "excessive" taxation.

Tax treaties alleviate this burden by providing maximum levels of withholding tax that the treaty partners may impose on these types of income. In general, U.S. tax treaty policy is to reduce the rate of withholding tax on interest and royalties to zero, so that such payments are taxed exclusively in the country of residence, and not in the country of source. In contrast, U.S. tax treaty policy has been to allow some source-country taxation of dividends and many U.S. treaties provide for a maximum source-country withholding tax of 5 percent on dividends paid to direct corporate investors and a maximum source-country withholding tax of 15 percent on dividends paid to all other shareholders. Over the years, U.S. treaty negotiators have considered proposals to treat intercompany dividends in the same manner as these other categories of income and provide for exclusive residence-country taxation of intercompany dividends in some cases. The three treaties before the Committee are the first U.S. tax treaties to do so.

Our treaties also include provisions intended to ensure that cross-border investors do not suffer discrimination in the application of the tax laws of the other country. While this is similar to a basic investor protection provided in several types of agreements, the non-discrimination provisions of tax treaties are more effective because they are specifically tailored to tax concerns. They provide guidance about what "national treatment" means in the tax context by specifically prohibiting types of discriminatory measures that once were common in some tax systems. At the same time, they clarify the manner in which discrimination is to be tested in the tax context. Particular rules are needed here because, for example, foreign persons that are subject to tax in the host country only on certain income may not be in the same position as domestic taxpayers that may be subject to tax in such country on all their income.

Treaties also include provisions dealing with more specialized situations. Some of these provisions are becoming increasingly important as the number of individuals engaged in cross-border activities increases. For example, in many treaty negotiations, significant time is spent on the pension provisions of the treaty, in order to ensure that individuals who are expecting to be subject to a certain manner and level of taxation do not find their pensions disappearing because of unexpected taxation by another country. Other quite specific rules deal with Social Security benefits, alimony and child support and employee stock options in the cross-border context. While these subjects may not involve a lot of revenue from the perspective of the two governments, getting the provision right can be very important to each of the individual taxpayers who are affected.

Other provisions deal with the administration of the treaty and, to a certain extent, the domestic tax law of the two countries. One of the most important of these is the provision addressing the exchange of information between the tax authorities. Under the tax treaties, the competent authorities may exchange such information as may be necessary for the proper administration of the countries' tax laws, subject to strict

REV_00159384

protections on the confidentiality of taxpayer information. Access to information from other countries is critically important to the full and fair enforcement of the U.S. tax laws. Information exchange is a priority for the United States in its tax treaty program. If a country has bank secrecy rules that prevent or seriously inhibit the exchange of information under the tax treaty, we will not conclude a treaty with that country. In fact, information exchange is a matter we raise with the other country before beginning formal negotiations because it is one of a very few issues that we consider non-negotiable.

Treaty Program and Negotiation Priorities

Given all of these benefits to taxpayers and the government, an obvious question is why we do not have a tax treaty with every country. The answer is slightly different for each potential treaty partner, but there are some general patterns.

The United States has a network of 54 bilateral income tax treaties, the oldest of which now dates from 1950. This network includes all 29 of our fellow members of the OECD and covers the vast majority of foreign trade and investment of U.S. companies.

For the past decade, the Treasury Department has given priority to renegotiating older treaties to ensure that they reflect current U.S. treaty policy. The treaties before you are evidence of how even good treaty relationships can be made better. At the same time, we are actively working to establish new treaty relationships that will fill gaps in our treaty network.

In establishing priorities, our primary objective is the conclusion of treaties or protocols that will provide the greatest benefits to the United States and to U.S. taxpayers. We communicate regularly with the U.S. business community, seeking input regarding the areas in which treaty network expansion and improvement efforts should be focused and information regarding practical problems they face with respect to particular countries.

The U.S. commitment to including comprehensive provisions designed to prevent "treaty-shopping" in all of our tax treaties is one of the keys to improving our overall treaty network. Treaty-shopping can take a number of forms, but it generally involves a resident of a third state that either has no treaty with the United States or has a treaty that offers relatively less benefit. The third-state resident establishes an entity in a treaty partner that has a relatively more favorable treaty with the United States in order to hold title to the person's investments in the United States, which could range from portfolio stock investments to substantial operating subsidiaries. By interposing the new entity so that the U.S. investment appears to be made through the treaty partner, the third-country person is able to withdraw the returns from the U.S. investment subject to the favorable rates of tax provided in the tax treaty, rather than the higher rates that would be imposed on such returns if the person had held the U.S. investments directly.

If treaty-shopping is allowed to occur, then there is less incentive for the third country with which the United States has no treaty to negotiate a tax treaty with the United States. The third country could maintain inappropriate barriers to investment and trade from the

REV_00159385

United States and yet its companies could obtain the benefits of lower U.S. tax by organizing their investment and trade in the United States so that they flow through a country with a favorable tax treaty with the United States.

For these reasons, all recent U.S. tax treaties contain comprehensive "limitation on benefits" provisions that limit the benefits of the treaty to *bona fide* residents of the treaty partner. These provisions are not uniform, as each country has particular characteristics that affect both its attractiveness as a country through which to treaty shop and the mechanisms through which treaty shopping may be attempted. Consequently, the specific limitation on benefits provision in each treaty must to some extent be tailored to fit the facts and circumstances of the treaty partner's internal laws and practices. Moreover, the provisions need to strike a balance that prevents the inappropriate exploitation of treaty benefits while ensuring that the treaty benefits flow smoothly to the legitimate and desirable economic activity for which the benefits were intended.

Despite the protections of the limitation on benefits provisions, there may be countries with which we choose not to have a tax treaty because of the possibility of abuse. With other countries there may not be the type of cross-border tax issues that are best resolved by treaty. For example, we generally do not conclude tax treaties with jurisdictions that do not impose significant income taxes, because there is little possibility of double taxation of income in such a case. In such cases, we seek to enter into an agreement limited to the exchange of tax information, which furthers the goal of reducing tax avoidance and evasion.

However, the situation can become more complex when a country adopts a special preferential regime for certain parts of the economy that is different from the rules generally applicable to the country's residents. In those cases, the residents benefiting from the preferential regime do not face potential double taxation, and so should not be entitled to reductions in U.S. withholding taxes, while a treaty relationship might be useful and appropriate in order to avoid double taxation in the case of the residents who do not receive the benefit of the preferential regime. Accordingly, in some cases we have developed treaties that carve out from the benefits of the treaties certain residents and activities. In other cases, we have determined that economic relations with the relevant country were such that the potential gains from a treaty were not sufficient to outweigh the risk of abuse, and have therefore decided against entering into a tax treaty relationship (or have terminated an existing relationship).

Prospective treaty partners also must indicate that they understand their obligations under the treaty, including those with respect to information exchange, and must demonstrate that they are able to comply with those obligations. Sometimes a potential treaty partner is unable to do so. In other cases we may feel that a treaty is inappropriate because a treaty partner may be unwilling to address in the treaty real tax problems identified by U.S. businesses operating there. Lesser developed and newly emerging economies, for which capital and trade flows with the United States are often disproportionate or virtually one-way, may not be willing to reduce withholding taxes to a level acceptable to the United States because they feel that they cannot give up scarce tax revenues.

REV_00159386

The primary constraint on the size of our treaty network, however, may be the complexity of the negotiations themselves. The various functions performed by tax treaties, and particularly the goal of meshing two different tax systems, make the negotiation process exacting and time-consuming.

A country's tax policy, as reflected in its domestic tax legislation as well as its tax treaty positions, reflects the sovereign choices made by that country in the fulfillment of its obligation to fund the government. Numerous features of the treaty partner's unique tax legislation and its interaction with U.S. domestic tax rules must be considered in negotiating an appropriate treaty. Examples include whether the country eliminates double taxation through an exemption or a credit system, the country's treatment of partnerships and other transparent entities, and how the country taxes contributions to pension funds, the funds themselves and distributions from the funds. A treaty negotiation must take into account all of these and many other aspects of the treaty partner's tax system in order to arrive at an acceptable treaty from the perspective of the United States. Accordingly, a simple side-by-side comparison of two treaties, or of a proposed treaty against a model treaty, will not enable meaningful conclusions to be drawn as to whether a proposed treaty reflects an appropriate balance. Moreover, there may be differences that are of little substantive importance, reflecting language issues, cultural obstacles or other impediments to the use of particular U.S. or other model text.

Each treaty is the result of a negotiated bargain between two countries that often have conflicting objectives. Each country has certain positions that it considers non-negotiable. The United States, which insists on effective anti-treaty-shopping and exchange of information provisions, and which must accommodate its uniquely complex tax laws, probably has more non-negotiable positions than most countries. For example, every U.S. treaty must contain the Asaving clause@, which permits the United States to tax its citizens and residents as if the treaty had not come into effect, and allow the United States to apply its rules applicable to former citizens and long-term residents. Other U.S. tax law provisions that may complicate negotiations are the branch profits tax and the branch level interest tax, rules regarding contingent interest, real estate mortgage investment conduits, real estate investment trusts and regulated investment companies, and the Foreign Investors in Real Property Tax Act rules.

Obtaining the agreement of our treaty partners on provisions of importance to the United States sometimes requires other concessions on our part. Similarly, other countries sometimes must make concessions to obtain our agreement on matters that are critical to them. In most cases, the process of give-and-take produces a document that is the best treaty that is possible with that other country. In others, we may agree with the other country that it will not be possible to reach an acceptable agreement. In those cases, we simply stop negotiating with the understanding that negotiations might restart if circumstances change. Accordingly, each treaty that we present here represents not only the best deal that we believe we can achieve with the particular country at this time, but also constitutes an agreement that we believe is in the best interests of the United States.

REV_00159387

Discussion of Treaties and Protocols

I would now like to discuss the importance and purposes of each agreement that has been transmitted for your consideration. We have submitted Technical Explanations of each agreement that contain detailed discussions of the provisions of each treaty and protocol. These Technical Explanations serve as an official guide to each agreement. Before discussing the individual treaties, however, I would like to discuss a development common to all three agreements.

Elimination of Source Country Tax on Certain Intercompany Dividends

As discussed above, U.S. tax treaty policy for many years has been to eliminate (or when that is not possible, substantially reduce) source-country withholding taxes on interest and royalties. By contrast, the United States regularly reduces by treaty the withholding tax on intercompany dividends but has never agreed in a treaty to eliminate source-country withholding taxes on intercompany dividends. These three agreements each include provisions for the elimination of source-country withholding taxes on intercompany dividends if certain conditions are satisfied. The major policy question presented by these three agreements, therefore, is whether the United States should agree with any country to eliminate, on a reciprocal basis, source-country withholding taxes on intercompany dividends. If the answer to this question is "yes, in appropriate circumstances", as the Treasury Department believes, then the additional question, addressed in the discussion of the individual treaties below, is whether the circumstances are appropriate in the three treaties before the Committee.

In general, reductions in withholding taxes increase tax revenues for the United States because U.S. companies that will pay less in foreign withholding taxes will therefore claim less in foreign tax credits to offset their U.S. tax. Of course, the revenue gain for the U.S. fisc will be offset by any reductions in U.S. withholding taxes. However, when U.S. companies receive more in payments from their foreign subsidiaries than U.S. subsidiaries make in payments to their foreign parents, the reduction in foreign tax credit claims will offset the reduction in withholding tax collections. This should hold true with respect to dividends, as U.S. companies receive significantly more direct dividends from abroad than foreign companies receive from the United States.

Reductions in foreign withholding taxes borne by U.S. taxpayers result in a direct benefit to the U.S. fisc to the extent that the U.S. taxpayer otherwise would have been able to use the foreign tax credits associated with such withholding taxes to offset its U.S. tax liability. Reductions in foreign withholding taxes result in a direct benefit to the U.S. taxpayer to the extent that it could not have used the foreign tax credits to offset its U.s. tax liability. In cases where the U.S. taxpayer has excess foreign tax credits, reductions in foreign withholding taxes represent a dollar-for-dollar reduction in its overall tax burden. This reduction in foreign withholding taxes represents a reduction in costs that may increase their competitiveness in connection with international business opportunities.

REV_00159388

For example, if a U.S. company is considering an investment in a foreign country, it of course must consider the after-tax cost of that investment. If the potential investment is the purchase of an existing business in a foreign country, the U.S. company likely will compete against bidders from other countries. If the U.S. company is in an excess foreign tax credit position, any withholding tax paid to the host country will decrease the U.S company's expected return on the foreign investment. If another bidder is not subject to the host country withholding tax (perhaps because of its home country's treaty relationship with the host country), it may be willing to pay a higher price for the target.

Similarly, a foreign company that is in an excess foreign tax credit position in its own country might be discouraged from investing in the United States because of the five percent withholding tax that the United States is permitted to impose on direct investment dividends under most of its tax treaties. The same is true of a company that is based in a country that relieves double taxation by exempting direct investment dividends from taxation. In either case, the imposition of a five percent U.S. withholding tax reduces the return on the investment in the United States dollar-for-dollar. Eliminating the withholding tax by treaty therefore may encourage inbound investment. Increased investment in the United States means more jobs, greater productivity and higher wage rates.

The U.S. position of imposing a withholding tax on direct investment dividends was consistent with general treaty practice throughout the world. When most major trading partners imposed such a tax, then the tax would not create the competitive advantages and disadvantages described above, since every company would be subject to it. In addition, many of our treaties were negotiated at a time when corporate tax rates in Europe tended to be higher than those in the United States, making it less likely for foreign companies to be in an excess foreign tax credit position. As a result, a five percent U.S. withholding tax on direct investment may not have been seen as a significant cost of doing business here. However, more and more countries are eliminating their withholding taxes on intercompany dividends. In this regard, it should be noted that the Parent-Subsidiary Directive adopted by the European Union in [ ] eliminated all withholding taxes on dividends paid by a subsidiary in one EU member country to a parent in another of the fifteen (soon to be 25) members of the European Union. Moreover, corporate tax rates have been falling around the world, In this climate, it was appropriate for the United States to begin to consider agreeing by treaty to eliminate source-country withholding taxes on certain intercompany dividends.

We believe that it is in the interest of the United States to take a flexible approach, agreeing to eliminate the withholding tax on intercompany dividends in appropriate cases. This would not be a blanket change in policy, and the Treasury Department does not recommend a change to the U.S. negotiating position in this respect, because it may not be appropriate to agree to such reductions in every treaty with every country. Therefore, we would approach each case individually.

Some of the parameters are relevant across the board. We do not believe that it is appropriate to eliminate source-country taxation of intercompany dividends by treaty

REV_00159389

unless the treaty partner is willing to adopt anti-treaty-shopping rules that meet the highest standards and the information exchange provision of the treaty are sufficient to allow us to confirm that the requirements for entitlement to this benefit. Strict protections against treaty shopping are particularly important when the elimination of withholding taxes on intercompany dividends is included in only relatively few U.S. treaties.

In addition to these conditions, we must be satisfied with the overall balance of the treaty. The balance assessment will be relatively simple in cases where the other country imposes a withholding tax on dividends comparable to the U.S. withholding tax and the dividend flows are roughly equal (or favor the United States). In other cases, eliminating the withholding tax on intercompany dividends nevertheless may be appropriate if the United States benefits from concessions made by the other country with respect to other provisions of the treaty. Finally, there may be other cases where the elimination of withholding taxes may be appropriate in order to establish certainty and stability with respect to the tax treatment of investments in a particular country.

We cannot now set the outer limits of the policy, but need to develop them through careful consideration of the question as it presents itself in other contexts. What we need now is Senate approval of our decision to explore this approach in the context of the three treaties before the Committee.

United Kingdom

The proposed new Convention with the United Kingdom was signed in London on July 24, 2001, and was amended by a Protocol, signed in Washington on July 19, 2002. The Convention is accompanied by an exchange of diplomatic notes, also dated July 24, 2001. The Convention, Protocol and notes replace the existing Convention, which was signed in London in 1975 and modified by subsequent notes and protocols. The proposed Convention generally follows the pattern of other recent U.S. treaties and the U.S. Model treaty.

The main impetus for the re-negotiation of the U.S.-U.K. tax treaty was the changes made by the United Kingdom to its domestic laws regarding the treatment of dividends. The dividend article of the current treaty (along with corresponding provisions of the article regarding foreign tax credits) contained unusual rules intended to extend to U.S. shareholders the benefit of the United Kingdom's imputation system for the taxation of dividends, while dividing the cost of that benefit between the United States and the United Kingdom. Changes in the United Kingdom's domestic system for taxing dividends meant that the provisions no longer worked as intended. As a result, the two countries agreed that the treaty would have to be changed.

For the United States, the start of negotiations provided an opportunity to bring the treaty into greater conformity with U.S. treaty policy. The current treaty does not include an effective anti-treaty-shopping provision, and it grants a waiver of the insurance excise tax without the anti-abuse protection that has become standard in other U.S. tax treaties.

REV_00159390

There were substantial problems under the information exchange provisions of the current treaty because the United Kingdom could not provide information to the United States unless it too needed the information for its own domestic tax purposes. Because the treaty was negotiated in the late 1970's, it did not include any of the provisions found in modern treaties to reflect the changes in U.S. domestic law made over the last 20 years.

The maximum withholding tax rates on investment income in the proposed Convention are the same or lower than those in the existing Convention. Although the Convention continues the rule under which the country of source may tax direct investment dividends and portfolio dividends at a maximum rate of 5 and 15 percent, respectively, the new Convention provides for a withholding rate of zero percent on certain qualifying dividends. Qualifying dividends include those from certain 80-percent-owned corporate subsidiaries and those derived by pension plans. The new Convention was the first income tax treaty signed by the United States that contains this limit on source-country taxation for intercompany dividends.

Dividends paid by non-taxable conduit entities, such as U.S. regulated investment companies and real estate investment trusts, and any comparable investment vehicles in the United Kingdom, are subject to special rules to prevent the use of these entities to transform what is otherwise high-taxed income into lower-taxed income.

Interest and royalties generally may not be taxed by the source country, as in the present treaty as well as in the U.S. Model Convention and in recent U.S. treaties with OECD countries. However, excess inclusions with respect to residual interests in U.S. real estate mortgage investment conduits may be taxed under U.S. domestic rules, without regard to the rest of the provisions relating to interest, and contingent interest may be taxed by the source country at a maximum rate of 15 percent rate.

The new Convention confirms that the United States generally will not impose the excise tax on insurance policies issued by foreign insurers if the premiums on such policies are derived by a U.K. enterprise. This rule is a continuation of the waiver of the excise tax that applies under the existing Convention, with the addition of an anti-abuse rule that will prevent companies in third countries that do not benefit from a waiver of the insurance excise tax from using a U.K. insurance company as a conduit to avoid imposition of the tax.

The new Convention provides for exclusive residence-country taxation of profits from the operation in international traffic of ships or aircraft, including profits from the rental of ships and aircraft on a full basis, or on a bareboat basis if the rental income is incidental to profits from the operation of ships or aircraft in international traffic. All income from the use, maintenance or rental of containers used in international traffic is likewise exempt from source-country taxation under the proposed Convention.

The new Convention carries over from the existing Convention special rules regarding offshore exploration and exploitation activities. These rules were included at the request

REV_00159391

of the United Kingdom. We were successful in making some technical changes to avoid some unintended consequences of the old rules and in providing a slightly higher threshold for taxation of employees working in the offshore oil sector.

The new Convention contains rules for the taxation of private pensions that differ from those in recent U.S. treaties and the existing Convention. Under the new Convention, the U.S. and the U.K. each will treat pension plans established in the other State the same way as comparable domestic plans are treated. A similar rule applies to earnings and accretions of pension plans and to employer contributions. For instance, if a U.S. citizen contributes to a qualified plan while working in the United States and then establishes residence in the United Kingdom, the new Convention prevents the United Kingdom from taxing the earnings and accretions of the pension plan with respect to that individual. Finally, the new Convention provides for the exclusive residence-based taxation of Social Security payments, which is different from the U.S. Model but consistent with the existing Convention.

The new Convention also deals with income earned by entertainers and sportsmen, corporate directors, government employees and students in a manner consistent with the rules of the U.S. Model. The Convention continues a host-country exemption for income earned by teachers that is found in the existing Convention, although not in the U.S. Model.

The new Convention contains comprehensive rules in its "Limitation on Benefits" article, designed to deny "treaty-shoppers" the benefits of the Convention. This article is essentially the same as the limitation on benefits articles contained in recent U.S. treaties.

At the request of the United Kingdom, the new Convention includes an additional limit on the availability of certain treaty benefits obtained in connection with "conduit arrangements." The conduit arrangement test may apply to deny treaty benefits in certain tax avoidance cases involving the payment of insurance premiums, dividends, interest, royalties, or other income. The conduit test is not contained in the U.S. Model. The test is designed primarily to allow the United Kingdom to combat treaty shopping transactions that would not be caught by the limitation on benefits article of the new Convention. U.K. domestic law does not provide sufficient protection against such abusive transactions, but U.S. domestic law does. Accordingly, the Treasury Department will interpret the term "conduit arrangement" in a manner consistent and co-extensive with existing tax avoidance doctrines and measures under U.S. law.

The new Convention provides relief from double taxation in a manner consistent with the U.S. Model. The new Convention also contains a re-sourcing rule to ensure that a U.S. resident can obtain a U.S. foreign tax credit for U.K. taxes paid when the Convention assigns to the United Kingdom primary taxing rights over an item of gross income. A comparable rule applies for purposes of the U.K. foreign tax credit. Although the U.S. Model does not contain a re-sourcing rule, the existing Convention contains a similar rule.

REV_00159392

Like the existing Convention, the new Convention provides a credit for the U.K. Petroleum Revenue Tax, limited to the amount of the tax attributable to sources within the United Kingdom. The credit allowed by the new Convention, however, is somewhat broader than that allowed under the existing Convention to account for intervening changes in U.S. domestic law.

In addition, the proposed Convention provides for non-discriminatory treatment (i.e., national treatment) by one country to residents and nationals of the other. Also included in the proposed treaty are rules necessary for administering the treaty, including rules for the resolution of disputes under the Convention. The information exchange provisions generally follow the U.S. Model and make clear that the United Kingdom will provide U.S. tax officials such information as is relevant to carry out the provisions of the Convention and the domestic tax laws of the United States. This provision is authorized by a recent change in U.K. law.

Australia

The proposed Protocol to the income tax Convention with Australia was signed in Canberra on September 27, 2001. It was negotiated to bring the current Convention, concluded in 1982, up to date and into closer conformity with current U.S. tax treaty practice, while also incorporating some provisions found in the Australian Model income tax convention.

The most important aspects of the proposed Protocol deal with the taxation of cross-border dividend, royalty and interest payments. The current treaty provides for levels of source-country taxation that are consistent with Australian treaty practice but substantially higher than provided by the U.S. Model. We were able to negotiate substantial reductions with respect to all three categories of payments.

Whereas the existing Convention allows for taxation at source of 15 percent on all dividends, the proposed Protocol provides for a maximum withholding rate of 5 percent on direct dividends meeting a 10 percent ownership threshold, and the elimination of the source-country withholding tax with respect to dividends from certain 80 percent owned corporate subsidiaries. Portfolio dividends will continue to be subject to a 15 percent rate of withholding. Australia imposes a withholding tax on dividends paid out of earnings that have not been subject to full corporate tax ("unfranked dividends"). Therefore, the elimination of the Australian withholding tax on intercompany dividends will provide a direct and immediate benefit to U.S. businesses operating there, and to the U.S. fisc.

Dividends paid by U.S. regulated investment companies and real estate investment trusts are subject to special rules to prevent the use of these entities to transform what is otherwise high-taxed income into lower-taxed income. The U.S. Model provision was adapted to recognize the special investment structure of Australian unit trusts and their participation in the U.S. REIT industry.

The proposed Protocol eliminates withholding on interest payments in two key cases. Interest that is derived by a financial institution which is unrelated to the payor and interest paid to governmental entities are exempt from withholding tax at source. All other types of interest (including interest received by financial institutions in back-to-

REV_00159393

back loans or their economic equivalent) continue to be subject to withholding at the 10 percent rate prescribed in the existing Convention.

The proposed Protocol also reduces the level of withholding on royalty payments from the 10 percent limit prescribed in the existing Convention to a general 5 percent. Consistent with the U.S. Model, the proposed Protocol also provides that payments for the use of or the right to use any industrial, commercial or scientific equipment shall be taxed as business profits. The existing Convention treats this type of income as a royalty that may be taxed by the source country at a maximum rate of 10 percent. The treatment of royalties was a major concession by Australia, which has never agreed in a treaty to lower its withholding tax on royalties below 10 percent.

The proposed Protocol brings the existing Convention's treatment of income from the operation of ships, aircraft and containers in international traffic closer to that of the U.S. Model convention. The proposed Protocol provides for exclusive residence-country taxation of profits from the rental of ships and aircraft on a bareboat basis when the ship or aircraft is operated by the lessee in international traffic and the rental activity is incidental to the operation of ships or aircraft by the lessor. All income from the use, maintenance or rental of containers used in international traffic is likewise exempt from source-country taxation under the proposed Protocol.

The proposed Protocol clarifies that Australia's tax on capital gains will be a covered tax for purposes of the existing Convention. This closes a gap in the existing Convention and increases the likelihood that U.S. taxpayers subject to capital gains tax in Australia will be able to claim a foreign tax credit with respect to that tax. Generally, the proposed Protocol preserves the existing Convention's tax treatment of capital gains, while incorporating some aspects of Australia's domestic law regarding expatriation. The proposed Protocol also provides rules that coordinate both countries' tax systems with respect to these expatriation rules.

An important modernization that the proposed Protocol brings to the existing Convention is a comprehensive "Limitation on Benefits" Article based closely on the latest U.S. Model. This updated provision is designed to deny "treaty-shoppers" the benefits of the Convention.

The current treaty preserves the U.S. right to tax former citizens whose loss of citizenship had as one of its principal purposes the avoidance of tax. The proposed Protocol expands this right to include former long-term residents whose loss of such status had, as one of its principal purposes, the avoidance of tax. Therefore, the United States may fully apply section 877 of the Internal Revenue Code.

Mexico

The proposed Protocol to the income tax Convention with Mexico was signed in Mexico City on November 26, 2002. It was negotiated to bring the existing Convention, concluded in 1992, into closer conformity with current U.S. tax treaty policy. The

REV_00159394

proposed Protocol was concluded in recognition of the importance of the United States' economic relations with Mexico.

The major feature of the proposed Protocol is its treatment of dividends. As in the agreements with the United Kingdom and Australia, the proposed Protocol reduces to zero the maximum level of withholding tax on certain types of cross-border direct dividends. Under the existing Convention, dividends may be taxed by the country of source at a maximum rate of 5 percent on direct dividends (where the recipient of the dividends owns at least 10 percent of the company paying the dividends) and 10 percent with respect to all other dividends. Pursuant to the proposed Protocol, the withholding tax will be eliminated entirely with respect to dividends from certain 80-percent owned corporate subsidiaries. The other rules will, however, remain in place with respect to those dividends that do not qualify for the elimination of the source-country withholding tax. Dividends paid to qualified pension funds also will be exempt from withholding tax at source.

While Mexico does not currently impose a withholding tax on dividends, it has enacted such a tax and then repealed it since the existing treaty was negotiated in the early 1990's. As a result, locking in the source-country exemption will provide greater certainty to taxpayers regarding the long-term tax environments for their investments in Mexico.

Dividends paid by U.S. regulated investment companies and real estate investment trusts are subject to special rules to prevent the use of these entities to transform what is otherwise high-taxed income into lower-taxed income. The U.S. Model provision was adapted to recognize the special investment structure of Australian unit trusts and their participation in the U.S. REIT industry.

The current treaty preserves the U.S. right to tax former citizens whose loss of citizenship had as one of its principal purposes the avoidance of tax. The proposed Protocol expands this right to include former long-term residents whose loss of such status had, as one of its principal purposes, the avoidance of tax. Therefore, the United States may fully apply section 877 of the Internal Revenue Code.

The proposed Protocol incorporates a modernized provision regarding the source of income that will be more effective in eliminating double taxation. Under the new rule, income that may be taxed by one of the parties to the Convention will generally be treated as arising in that country. Thus, the other country generally will exempt that income or provide a credit for the taxes paid with respect to such income.

Treaties under Negotiation

We continue to maintain an active calendar of tax treaty negotiations. We are in active negotiations with Japan, the Netherlands, Iceland, Hungary, Barbados, France, Bangladesh, Canada, and Korea. We have also signed an agreement with Sri Lanka which we expect will be ready for transmittal to the Senate soon. In accordance with the treaty program priorities noted earlier, we continue to seek appropriate opportunities for

REV_00159395

tax treaty discussions and negotiations with several countries in Latin America and in the developing world generally.

Conclusion

Let me conclude by again thanking the Committee for its continuing interest in the tax treaty program, and the Members and staff for devoting the time and attention to the review of the agreements that are pending before you. We also appreciate the assistance and cooperation of the staffs of this Committee and of the Joint Committee on Taxation in the tax treaty process.

We urge the Committee to take prompt and favorable action on all of the agreements before you today. Such action will strengthen and expand our economic relations with countries that have been significant economic and political partners for many years. As a result, we will improve the climate for cross-border investment, which brings jobs and prosperity to countries that are wise enough to reduce barriers to investment.

REV_00159396

From: Higgins, Stephen (Judiciary) <Stephen_Higgins@Judiciary.senate.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/4/2003 12:06:57 PM
Subject: : David Campbell
Attachments: P_XEQDE003_WHO.TXT_1.html

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Higgins, Stephen (Judiciary)" <Stephen_Higgins@Judiciary.senate.gov> ( "Higgins,
Stephen (Judiciary)" <Stephen_Higgins@Judiciary.senate.gov> [ UNKNOWN ] )
CREATION DATE/TIME: 4-MAR-2003 17:06:57.00
SUBJECT:: David Campbell
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Any word?

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_XEQDE003_WHO.TXT_1>
```

Any word?

From: Bumatay, Patrick J.
To: <Kavanaugh, Brett M.>
Sent: 3/4/2003 4:29:13 PM
Subject: FW: LRM IKK18 - - TREASURY Testimony on Tax Treaties
Attachments: tt0011a.doc

-----Original Message-----

From: Kho, Irene

Sent: Tuesday, March 04, 2003 4:18 PM

To: laffairs@ustr.gov; Cea Lrm; state-lrm@state.gov; CLRM@doc.gov; justice.lrm@usdoj.gov

Cc: Casella, Michael; Durant, Catherine; Kulikowski, James M.; Lyon, Randolph M.; Goldberg, David R.; Boden, James; Bloomquist, Lauren E.; Schwartz, Mark J.; Schwartz, Kenneth L.; Mahaffie, Robert F.; Foster, James D.; Rodriguez, Justine F.; Barth, Mary C.; Lobrano, Lauren C.; Call, Amy L.; Rossman, Elizabeth L.; Schneider, Matthew J.; Perry, Philip J.; Wood, John F.; Burgeson, Christine M.; Nec Lrm; Ovp Lrm; Whgc Lrm; Reardon, Brian

Subject: LRM IKK18 - - TREASURY Testimony on Tax Treaties

Please respond asap, comments were due at 3:00 PM. Thank you.

---------- Forwarded by Irene Kho/OMB/EOP on 03/04/2003 04:18 PM ----------

From: Irene Kho on 03/04/2003 10:13:05 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: LRM IKK18 - - TREASURY Testimony on Tax Treaties

Attached is Treasury testimony on tax treaties for a hearing before the Senate Foreign Relations Committee at 3:00 PM, tomorrow, Wednesday, March 5th. Please review and provide comments by 3:00 PM, today, Tuesday, March 4th. Thank you.

- tt0011a.doc << tt0011a.doc >>

LRM ID: IKK18

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Tuesday, March 4, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference

OMB CONTACT: Irene Kho
PHONE: (202)395-5858 FAX: (202)395-3109
SUBJECT: **TREASURY Testimony on Tax Treaties**

DEADLINE: **3:00 PM Tuesday, March 4, 2003**
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Attached is Treasury testimony on tax treaties for a hearing before the Senate Foreign Relations Committee at 3:00 PM, tomorrow, Wednesday, March 5th. Please review and provide comments by 3:00 PM, today, Tuesday, March 4th. Thank you.

DISTRIBUTION LIST

AGENCIES:
128-US Trade Representative - Carmen Suro-Bredie - (202) 395-4755
018-Council of Economic Advisers - - (202) 395-5084
114-STATE - VACANT - (202) 647-4463
025-COMMERCE - Michael A. Levitt - (202) 482-3151
061-JUSTICE - Jamie E. Brown - (202) 514-2141

EOP:
Michael Casella
Catherine Durant
James M. Kulikowski
Randolph M. Lyon
David R. Goldberg
James Boden
Lauren E. Bloomquist
Mark J. Schwartz
Kenneth L. Schwartz
Robert F. Mahaffie
James D. Foster
Justine F. Rodriguez
Mary C. Barth
Lauren C. Lobrano
Amy L. Call
Elizabeth L. Rossman
Matthew J. Schneider
Philip J. Perry
John F. Wood
Christine M. Burgeson
NEC LRM
OVP LRM
WHGC LRM
Brian Reardon
Richard E. Green
James J. Jukes**LRM ID:** IKK18 **SUBJECT:** TREASURY Testimony on Tax Treaties

RESPONSE TO

LEGISLATIVE REFERRAL

MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: **Irene Kho Phone: 395-5858 Fax: 395-3109**

Office of Management and Budget

Branch-Wide Line (to reach legislative assistant): 395-3454

FROM: _____ **(Date)**

_____ **(Name)**

_____ **(Agency)**

_____ **(Telephone)**

The following is the response of our agency to your request for views on the above-captioned subject:

_____ **Concur**

_____ **No Objection**

_____ **No Comment**

_____ **See proposed edits on pages** _____

_____ **Other:** _____

_____ **FAX RETURN of** _____ **pages, attached to this response sheet**

Message Sent To:

laffairs@ustr.gov @ inet
CEA LRM
state-lrm@state.gov @ inet
CLRM@doc.gov @ inet
justice.lrm@usdoj.gov @ inet

Message Copied To:

Michael Casella/OMB/EOP@EOP
Catherine Durant/OMB/EOP@EOP
James M. Kulikowski/OMB/EOP@EOP
Randolph M. Lyon/OMB/EOP@EOP

David R. Goldberg/OMB/EOP@EOP
James Boden/OMB/EOP@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
Mark J. Schwartz/OMB/EOP@EOP
Kenneth L. Schwartz/OMB/EOP@EOP
Robert F. Mahaffie/OMB/EOP@EOP
James D. Foster/OMB/EOP@EOP
Justine F. Rodriguez/OMB/EOP@EOP
Mary C. Barth/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
Amy L. Call/OMB/EOP@EOP
Elizabeth L. Rossman/OMB/EOP@EOP
Matthew J. Schneider/OMB/EOP@EOP
Philip J. Perry/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Christine M. Burgeson/WHO/EOP@Exchange@EOP
NEC LRM
OVP LRM
WHGC LRM
Brian Reardon/OPD/EOP@EOP
Richard E. Green/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP

Draft

TESTIMONY OF
BARBARA ANGUS, INTERNATIONAL TAX COUNSEL,
UNITED STATES DEPARTMENT OF THE TREASURY
BEFORE THE SENATE COMMITTEE ON FOREIGN RELATIONS
ON PENDING INCOME TAX AGREEMENTS

MARCH 5, 2003

Mr. Chairman and distinguished Members of the Committee, I appreciate the opportunity to appear today at this hearing to recommend, on behalf of the Administration, favorable action on three income tax agreements that are pending before this Committee.

This Administration is dedicated to eliminating unnecessary barriers to cross-border trade and investment. The primary means for eliminating tax barriers to trade and investment are bilateral tax treaties. Tax treaties eliminate barriers by providing greater certainty to taxpayers regarding their potential liability to tax; allocating taxing rights between jurisdictions so that the taxpayer is not subject to double taxation; by reducing the risk of excessive taxation that may arise because of high gross-basis withholding taxes; and by ensuring that taxpayers will not be subject to discriminatory taxation in other countries. The international network of over 2000 bilateral tax treaties has established a stable framework that allows international trade and investment to flourish. The success of this framework is evidenced by the fact that the millions of cross-border transactions that take place each year give rise to relatively few disputes regarding the allocation of tax revenues between governments.

The Administration believes that these three agreements, which update important treaty relationships with the United Kingdom, Australia and Mexico, would provide significant benefits to the United States and to our treaty partners, as well as our respective business communities. We look forward to receiving the views of the Committee regarding these agreements.

Purposes and Benefits of Tax Treaties

Tax treaties provide benefits to both taxpayers and governments by setting out clear ground rules that will govern the tax matters relating to trade and investment between the two countries. The goal of the treaty is to mesh the tax systems of the two countries in such a way that there is little potential for dispute regarding the amount of tax that should be paid to each country, so that the taxpayer does not end up caught in the middle between two governments, each of which would like to tax the same income. Once a treaty relationship is in place and working as it should, governments need expend little additional resources negotiating to resolve individual cases because the general principles for taxation will have been agreed by the treaty negotiators.

One of the primary functions of tax treaties is to provide certainty to taxpayers with respect to the "threshold" question – that is, whether the taxpayer's cross-border activities will subject it to taxation by two or more countries. Treaties answer this question by establishing the minimum level of economic activity that a resident of one country must engage in within the other country before the latter country may tax any resulting business profits. In general terms, treaties provide that if the branch operations have sufficient substance and continuity, the country where the activities occur will have primary (but not exclusive) jurisdiction to tax. In other cases, where the operations are relatively minor, the home country retains the sole jurisdiction to tax its residents. In the absence of a treaty, a U.S. company operating a branch or division or providing services in another country might be subject to income tax in both the United States and the other country on the income generated by such operations. Although the United States provides a foreign tax credit, there remains potential for resulting double taxation that could make an otherwise attractive investment opportunity unprofitable, depriving both countries of the benefits of increased cross-border investment.

Tax treaties protect taxpayers from double taxation through the allocation of taxing rights between the two countries. This allocation takes several forms. First, the treaty has a mechanism for determining the residence of a taxpayer that otherwise would be a resident of both countries. Second, with respect to each category of income, the treaty assigns the "primary" right to tax to one country, usually (but not always) the country in which the income arises (the "source" country), and the "residual" right to tax to the other country, usually (but not always) the country of residence of the taxpayer. Third, the treaty provides rules for determining which country will be treated as the source country for each category of income. Finally, the treaty establishes both limitations on the amount of tax that the source country can impose on each category of income and the obligation of the residence country to eliminate double taxation that otherwise would arise from the exercise of concurrent taxing jurisdiction by the two countries.

As a complement to these substantive rules regarding allocation of taxing rights, treaties provide a mechanism for dealing with disputes or questions of application that arise after the treaty enters into force. In such cases, designated tax authorities of the two governments – known as the Acompetent authorities@ in tax treaty parlance – are to consult and reach an agreement under which the taxpayer's income is allocated between the two taxing jurisdictions on a consistent basis, thereby preventing the double taxation that might otherwise result. The U.S. competent authority under our tax treaties is the Secretary of the Treasury. That function has been delegated to the Director, International (LMSB) of the Internal Revenue Service.

In addition to reducing potential double taxation, treaties also reduce "excessive" taxation by reducing withholding taxes that are imposed at source. Under U.S. domestic law, all payments to non-U.S. persons of dividends and royalties as well as certain payments of interest are subject to withholding tax equal to 30 percent of the gross amount paid. Most of our trading partners impose similar levels of withholding tax on these types of income. This tax is imposed on a gross, rather than net, amount. Because the withholding tax does not take into account the expenses incurred in generating the income, the taxpayer

REV_00159409

frequently will be subject to an effective rate of tax that is significantly higher than the tax rate that would be applicable in either the source or the residence country with respect to net income. The taxpayer may be viewed, therefore, as having suffered "excessive" taxation.

Tax treaties alleviate this burden by providing maximum levels of withholding tax that the treaty partners may impose on these types of income. In general, U.S. tax treaty policy is to reduce the rate of withholding tax on interest and royalties to zero, so that such payments are taxed exclusively in the country of residence, and not in the country of source. In contrast, U.S. tax treaty policy has been to allow some source-country taxation of dividends and many U.S. treaties provide for a maximum source-country withholding tax of 5 percent on dividends paid to direct corporate investors and a maximum source-country withholding tax of 15 percent on dividends paid to all other shareholders. Over the years, U.S. treaty negotiators have considered proposals to treat intercompany dividends in the same manner as these other categories of income and provide for exclusive residence-country taxation of intercompany dividends in some cases. The three treaties before the Committee are the first U.S. tax treaties to do so.

Our treaties also include provisions intended to ensure that cross-border investors do not suffer discrimination in the application of the tax laws of the other country. While this is similar to a basic investor protection provided in several types of agreements, the non-discrimination provisions of tax treaties are more effective because they are specifically tailored to tax concerns. They provide guidance about what "national treatment" means in the tax context by specifically prohibiting types of discriminatory measures that once were common in some tax systems. At the same time, they clarify the manner in which discrimination is to be tested in the tax context. Particular rules are needed here because, for example, foreign persons that are subject to tax in the host country only on certain income may not be in the same position as domestic taxpayers that may be subject to tax in such country on all their income.

Treaties also include provisions dealing with more specialized situations. Some of these provisions are becoming increasingly important as the number of individuals engaged in cross-border activities increases. For example, in many treaty negotiations, significant time is spent on the pension provisions of the treaty, in order to ensure that individuals who are expecting to be subject to a certain manner and level of taxation do not find their pensions disappearing because of unexpected taxation by another country. Other quite specific rules deal with Social Security benefits, alimony and child support and employee stock options in the cross-border context. While these subjects may not involve a lot of revenue from the perspective of the two governments, getting the provision right can be very important to each of the individual taxpayers who are affected.

Other provisions deal with the administration of the treaty and, to a certain extent, the domestic tax law of the two countries. One of the most important of these is the provision addressing the exchange of information between the tax authorities. Under the tax treaties, the competent authorities may exchange such information as may be necessary for the proper administration of the countries' tax laws, subject to strict

REV_00159410

protections on the confidentiality of taxpayer information. Access to information from other countries is critically important to the full and fair enforcement of the U.S. tax laws. Information exchange is a priority for the United States in its tax treaty program. If a country has bank secrecy rules that prevent or seriously inhibit the exchange of information under the tax treaty, we will not conclude a treaty with that country. In fact, information exchange is a matter we raise with the other country before beginning formal negotiations because it is one of a very few issues that we consider non-negotiable.

Treaty Program and Negotiation Priorities

Given all of these benefits to taxpayers and the government, an obvious question is why we do not have a tax treaty with every country. The answer is slightly different for each potential treaty partner, but there are some general patterns.

The United States has a network of 54 bilateral income tax treaties, the oldest of which now dates from 1950. This network includes all 29 of our fellow members of the OECD and covers the vast majority of foreign trade and investment of U.S. companies.

For the past decade, the Treasury Department has given priority to renegotiating older treaties to ensure that they reflect current U.S. treaty policy. The treaties before you are evidence of how even good treaty relationships can be made better. At the same time, we are actively working to establish new treaty relationships that will fill gaps in our treaty network.

In establishing priorities, our primary objective is the conclusion of treaties or protocols that will provide the greatest benefits to the United States and to U.S. taxpayers. We communicate regularly with the U.S. business community, seeking input regarding the areas in which treaty network expansion and improvement efforts should be focused and information regarding practical problems they face with respect to particular countries.

The U.S. commitment to including comprehensive provisions designed to prevent "treaty-shopping" in all of our tax treaties is one of the keys to improving our overall treaty network. Treaty-shopping can take a number of forms, but it generally involves a resident of a third state that either has no treaty with the United States or has a treaty that offers relatively less benefit. The third-state resident establishes an entity in a treaty partner that has a relatively more favorable treaty with the United States in order to hold title to the person's investments in the United States, which could range from portfolio stock investments to substantial operating subsidiaries. By interposing the new entity so that the U.S. investment appears to be made through the treaty partner, the third-country person is able to withdraw the returns from the U.S. investment subject to the favorable rates of tax provided in the tax treaty, rather than the higher rates that would be imposed on such returns if the person had held the U.S. investments directly.

If treaty-shopping is allowed to occur, then there is less incentive for the third country with which the United States has no treaty to negotiate a tax treaty with the United States. The third country could maintain inappropriate barriers to investment and trade from the

REV_00159411

United States and yet its companies could obtain the benefits of lower U.S. tax by organizing their investment and trade in the United States so that they flow through a country with a favorable tax treaty with the United States.

For these reasons, all recent U.S. tax treaties contain comprehensive "limitation on benefits" provisions that limit the benefits of the treaty to *bona fide* residents of the treaty partner. These provisions are not uniform, as each country has particular characteristics that affect both its attractiveness as a country through which to treaty shop and the mechanisms through which treaty shopping may be attempted. Consequently, the specific limitation on benefits provision in each treaty must to some extent be tailored to fit the facts and circumstances of the treaty partner's internal laws and practices. Moreover, the provisions need to strike a balance that prevents the inappropriate exploitation of treaty benefits while ensuring that the treaty benefits flow smoothly to the legitimate and desirable economic activity for which the benefits were intended.

Despite the protections of the limitation on benefits provisions, there may be countries with which we choose not to have a tax treaty because of the possibility of abuse. With other countries there may not be the type of cross-border tax issues that are best resolved by treaty. For example, we generally do not conclude tax treaties with jurisdictions that do not impose significant income taxes, because there is little possibility of double taxation of income in such a case. In such cases, we seek to enter into an agreement limited to the exchange of tax information, which furthers the goal of reducing tax avoidance and evasion.

However, the situation can become more complex when a country adopts a special preferential regime for certain parts of the economy that is different from the rules generally applicable to the country's residents. In those cases, the residents benefiting from the preferential regime do not face potential double taxation, and so should not be entitled to reductions in U.S. withholding taxes, while a treaty relationship might be useful and appropriate in order to avoid double taxation in the case of the residents who do not receive the benefit of the preferential regime. Accordingly, in some cases we have developed treaties that carve out from the benefits of the treaties certain residents and activities. In other cases, we have determined that economic relations with the relevant country were such that the potential gains from a treaty were not sufficient to outweigh the risk of abuse, and have therefore decided against entering into a tax treaty relationship (or have terminated an existing relationship).

Prospective treaty partners also must indicate that they understand their obligations under the treaty, including those with respect to information exchange, and must demonstrate that they are able to comply with those obligations. Sometimes a potential treaty partner is unable to do so. In other cases we may feel that a treaty is inappropriate because a treaty partner may be unwilling to address in the treaty real tax problems identified by U.S. businesses operating there. Lesser developed and newly emerging economies, for which capital and trade flows with the United States are often disproportionate or virtually one-way, may not be willing to reduce withholding taxes to a level acceptable to the United States because they feel that they cannot give up scarce tax revenues.

REV_00159412

The primary constraint on the size of our treaty network, however, may be the complexity of the negotiations themselves. The various functions performed by tax treaties, and particularly the goal of meshing two different tax systems, make the negotiation process exacting and time-consuming.

A country's tax policy, as reflected in its domestic tax legislation as well as its tax treaty positions, reflects the sovereign choices made by that country in the fulfillment of its obligation to fund the government. Numerous features of the treaty partner's unique tax legislation and its interaction with U.S. domestic tax rules must be considered in negotiating an appropriate treaty. Examples include whether the country eliminates double taxation through an exemption or a credit system, the country's treatment of partnerships and other transparent entities, and how the country taxes contributions to pension funds, the funds themselves and distributions from the funds. A treaty negotiation must take into account all of these and many other aspects of the treaty partner's tax system in order to arrive at an acceptable treaty from the perspective of the United States. Accordingly, a simple side-by-side comparison of two treaties, or of a proposed treaty against a model treaty, will not enable meaningful conclusions to be drawn as to whether a proposed treaty reflects an appropriate balance. Moreover, there may be differences that are of little substantive importance, reflecting language issues, cultural obstacles or other impediments to the use of particular U.S. or other model text.

Each treaty is the result of a negotiated bargain between two countries that often have conflicting objectives. Each country has certain positions that it considers non-negotiable. The United States, which insists on effective anti-treaty-shopping and exchange of information provisions, and which must accommodate its uniquely complex tax laws, probably has more non-negotiable positions than most countries. For example, every U.S. treaty must contain the Asaving clause@, which permits the United States to tax its citizens and residents as if the treaty had not come into effect, and allow the United States to apply its rules applicable to former citizens and long-term residents. Other U.S. tax law provisions that may complicate negotiations are the branch profits tax and the branch level interest tax, rules regarding contingent interest, real estate mortgage investment conduits, real estate investment trusts and regulated investment companies, and the Foreign Investors in Real Property Tax Act rules.

Obtaining the agreement of our treaty partners on provisions of importance to the United States sometimes requires other concessions on our part. Similarly, other countries sometimes must make concessions to obtain our agreement on matters that are critical to them. In most cases, the process of give-and-take produces a document that is the best treaty that is possible with that other country. In others, we may agree with the other country that it will not be possible to reach an acceptable agreement. In those cases, we simply stop negotiating with the understanding that negotiations might restart if circumstances change. Accordingly, each treaty that we present here represents not only the best deal that we believe we can achieve with the particular country at this time, but also constitutes an agreement that we believe is in the best interests of the United States.

REV_00159413

Discussion of Treaties and Protocols

I would now like to discuss the importance and purposes of each agreement that has been transmitted for your consideration. We have submitted Technical Explanations of each agreement that contain detailed discussions of the provisions of each treaty and protocol. These Technical Explanations serve as an official guide to each agreement. Before discussing the individual treaties, however, I would like to discuss a development common to all three agreements.

Elimination of Source Country Tax on Certain Intercompany Dividends

As discussed above, U.S. tax treaty policy for many years has been to eliminate (or when that is not possible, substantially reduce) source-country withholding taxes on interest and royalties. By contrast, the United States regularly reduces by treaty the withholding tax on intercompany dividends but has never agreed in a treaty to eliminate source-country withholding taxes on intercompany dividends. These three agreements each include provisions for the elimination of source-country withholding taxes on intercompany dividends if certain conditions are satisfied. The major policy question presented by these three agreements, therefore, is whether the United States should agree with any country to eliminate, on a reciprocal basis, source-country withholding taxes on intercompany dividends. If the answer to this question is "yes, in appropriate circumstances", as the Treasury Department believes, then the additional question, addressed in the discussion of the individual treaties below, is whether the circumstances are appropriate in the three treaties before the Committee.

In general, reductions in withholding taxes increase tax revenues for the United States because U.S. companies that will pay less in foreign withholding taxes will therefore claim less in foreign tax credits to offset their U.S. tax. Of course, the revenue gain for the U.S. fisc will be offset by any reductions in U.S. withholding taxes. However, when U.S. companies receive more in payments from their foreign subsidiaries than U.S. subsidiaries make in payments to their foreign parents, the reduction in foreign tax credit claims will offset the reduction in withholding tax collections. This should hold true with respect to dividends, as U.S. companies receive significantly more direct dividends from abroad than foreign companies receive from the United States.

Reductions in foreign withholding taxes borne by U.S. taxpayers result in a direct benefit to the U.S. fisc to the extent that the U.S. taxpayer otherwise would have been able to use the foreign tax credits associated with such withholding taxes to offset its U.S. tax liability. Reductions in foreign withholding taxes result in a direct benefit to the U.S. taxpayer to the extent that it could not have used the foreign tax credits to offset its U.s. tax liability. In cases where the U.S. taxpayer has excess foreign tax credits, reductions in foreign withholding taxes represent a dollar-for-dollar reduction in its overall tax burden. This reduction in foreign withholding taxes represents a reduction in costs that may increase their competitiveness in connection with international business opportunities.

REV_00159414

For example, if a U.S. company is considering an investment in a foreign country, it of course must consider the after-tax cost of that investment. If the potential investment is the purchase of an existing business in a foreign country, the U.S. company likely will compete against bidders from other countries. If the U.S. company is in an excess foreign tax credit position, any withholding tax paid to the host country will decrease the U.S company's expected return on the foreign investment. If another bidder is not subject to the host country withholding tax (perhaps because of its home country's treaty relationship with the host country), it may be willing to pay a higher price for the target.

Similarly, a foreign company that is in an excess foreign tax credit position in its own country might be discouraged from investing in the United States because of the five percent withholding tax that the United States is permitted to impose on direct investment dividends under most of its tax treaties. The same is true of a company that is based in a country that relieves double taxation by exempting direct investment dividends from taxation. In either case, the imposition of a five percent U.S. withholding tax reduces the return on the investment in the United States dollar-for-dollar. Eliminating the withholding tax by treaty therefore may encourage inbound investment. Increased investment in the United States means more jobs, greater productivity and higher wage rates.

The U.S. position of imposing a withholding tax on direct investment dividends was consistent with general treaty practice throughout the world. When most major trading partners imposed such a tax, then the tax would not create the competitive advantages and disadvantages described above, since every company would be subject to it. In addition, many of our treaties were negotiated at a time when corporate tax rates in Europe tended to be higher than those in the United States, making it less likely for foreign companies to be in an excess foreign tax credit position. As a result, a five percent U.S. withholding tax on direct investment may not have been seen as a significant cost of doing business here. However, more and more countries are eliminating their withholding taxes on intercompany dividends. In this regard, it should be noted that the Parent-Subsidiary Directive adopted by the European Union in [ ] eliminated all withholding taxes on dividends paid by a subsidiary in one EU member country to a parent in another of the fifteen (soon to be 25) members of the European Union. Moreover, corporate tax rates have been falling around the world, In this climate, it was appropriate for the United States to begin to consider agreeing by treaty to eliminate source-country withholding taxes on certain intercompany dividends.

We believe that it is in the interest of the United States to take a flexible approach, agreeing to eliminate the withholding tax on intercompany dividends in appropriate cases. This would not be a blanket change in policy, and the Treasury Department does not recommend a change to the U.S. negotiating position in this respect, because it may not be appropriate to agree to such reductions in every treaty with every country. Therefore, we would approach each case individually.

Some of the parameters are relevant across the board. We do not believe that it is appropriate to eliminate source-country taxation of intercompany dividends by treaty

REV_00159415

unless the treaty partner is willing to adopt anti-treaty-shopping rules that meet the highest standards and the information exchange provision of the treaty are sufficient to allow us to confirm that the requirements for entitlement to this benefit. Strict protections against treaty shopping are particularly important when the elimination of withholding taxes on intercompany dividends is included in only relatively few U.S. treaties.

In addition to these conditions, we must be satisfied with the overall balance of the treaty. The balance assessment will be relatively simple in cases where the other country imposes a withholding tax on dividends comparable to the U.S. withholding tax and the dividend flows are roughly equal (or favor the United States). In other cases, eliminating the withholding tax on intercompany dividends nevertheless may be appropriate if the United States benefits from concessions made by the other country with respect to other provisions of the treaty. Finally, there may be other cases where the elimination of withholding taxes may be appropriate in order to establish certainty and stability with respect to the tax treatment of investments in a particular country.

We cannot now set the outer limits of the policy, but need to develop them through careful consideration of the question as it presents itself in other contexts. What we need now is Senate approval of our decision to explore this approach in the context of the three treaties before the Committee.

United Kingdom

The proposed new Convention with the United Kingdom was signed in London on July 24, 2001, and was amended by a Protocol, signed in Washington on July 19, 2002. The Convention is accompanied by an exchange of diplomatic notes, also dated July 24, 2001. The Convention, Protocol and notes replace the existing Convention, which was signed in London in 1975 and modified by subsequent notes and protocols. The proposed Convention generally follows the pattern of other recent U.S. treaties and the U.S. Model treaty.

The main impetus for the re-negotiation of the U.S.-U.K. tax treaty was the changes made by the United Kingdom to its domestic laws regarding the treatment of dividends. The dividend article of the current treaty (along with corresponding provisions of the article regarding foreign tax credits) contained unusual rules intended to extend to U.S. shareholders the benefit of the United Kingdom's imputation system for the taxation of dividends, while dividing the cost of that benefit between the United States and the United Kingdom. Changes in the United Kingdom's domestic system for taxing dividends meant that the provisions no longer worked as intended. As a result, the two countries agreed that the treaty would have to be changed.

For the United States, the start of negotiations provided an opportunity to bring the treaty into greater conformity with U.S. treaty policy. The current treaty does not include an effective anti-treaty-shopping provision, and it grants a waiver of the insurance excise tax without the anti-abuse protection that has become standard in other U.S. tax treaties.

REV_00159416

There were substantial problems under the information exchange provisions of the current treaty because the United Kingdom could not provide information to the United States unless it too needed the information for its own domestic tax purposes. Because the treaty was negotiated in the late 1970's, it did not include any of the provisions found in modern treaties to reflect the changes in U.S. domestic law made over the last 20 years.

The maximum withholding tax rates on investment income in the proposed Convention are the same or lower than those in the existing Convention. Although the Convention continues the rule under which the country of source may tax direct investment dividends and portfolio dividends at a maximum rate of 5 and 15 percent, respectively, the new Convention provides for a withholding rate of zero percent on certain qualifying dividends. Qualifying dividends include those from certain 80-percent-owned corporate subsidiaries and those derived by pension plans. The new Convention was the first income tax treaty signed by the United States that contains this limit on source-country taxation for intercompany dividends.

Dividends paid by non-taxable conduit entities, such as U.S. regulated investment companies and real estate investment trusts, and any comparable investment vehicles in the United Kingdom, are subject to special rules to prevent the use of these entities to transform what is otherwise high-taxed income into lower-taxed income.

Interest and royalties generally may not be taxed by the source country, as in the present treaty as well as in the U.S. Model Convention and in recent U.S. treaties with OECD countries. However, excess inclusions with respect to residual interests in U.S. real estate mortgage investment conduits may be taxed under U.S. domestic rules, without regard to the rest of the provisions relating to interest, and contingent interest may be taxed by the source country at a maximum rate of 15 percent rate.

The new Convention confirms that the United States generally will not impose the excise tax on insurance policies issued by foreign insurers if the premiums on such policies are derived by a U.K. enterprise. This rule is a continuation of the waiver of the excise tax that applies under the existing Convention, with the addition of an anti-abuse rule that will prevent companies in third countries that do not benefit from a waiver of the insurance excise tax from using a U.K. insurance company as a conduit to avoid imposition of the tax.

The new Convention provides for exclusive residence-country taxation of profits from the operation in international traffic of ships or aircraft, including profits from the rental of ships and aircraft on a full basis, or on a bareboat basis if the rental income is incidental to profits from the operation of ships or aircraft in international traffic. All income from the use, maintenance or rental of containers used in international traffic is likewise exempt from source-country taxation under the proposed Convention.

The new Convention carries over from the existing Convention special rules regarding offshore exploration and exploitation activities. These rules were included at the request

REV_00159417

of the United Kingdom. We were successful in making some technical changes to avoid some unintended consequences of the old rules and in providing a slightly higher threshold for taxation of employees working in the offshore oil sector.

The new Convention contains rules for the taxation of private pensions that differ from those in recent U.S. treaties and the existing Convention. Under the new Convention, the U.S. and the U.K. each will treat pension plans established in the other State the same way as comparable domestic plans are treated. A similar rule applies to earnings and accretions of pension plans and to employer contributions. For instance, if a U.S. citizen contributes to a qualified plan while working in the United States and then establishes residence in the United Kingdom, the new Convention prevents the United Kingdom from taxing the earnings and accretions of the pension plan with respect to that individual. Finally, the new Convention provides for the exclusive residence-based taxation of Social Security payments, which is different from the U.S. Model but consistent with the existing Convention.

The new Convention also deals with income earned by entertainers and sportsmen, corporate directors, government employees and students in a manner consistent with the rules of the U.S. Model. The Convention continues a host-country exemption for income earned by teachers that is found in the existing Convention, although not in the U.S. Model.

The new Convention contains comprehensive rules in its "Limitation on Benefits" article, designed to deny "treaty-shoppers" the benefits of the Convention. This article is essentially the same as the limitation on benefits articles contained in recent U.S. treaties.

At the request of the United Kingdom, the new Convention includes an additional limit on the availability of certain treaty benefits obtained in connection with "conduit arrangements." The conduit arrangement test may apply to deny treaty benefits in certain tax avoidance cases involving the payment of insurance premiums, dividends, interest, royalties, or other income. The conduit test is not contained in the U.S. Model. The test is designed primarily to allow the United Kingdom to combat treaty shopping transactions that would not be caught by the limitation on benefits article of the new Convention. U.K. domestic law does not provide sufficient protection against such abusive transactions, but U.S. domestic law does. Accordingly, the Treasury Department will interpret the term "conduit arrangement" in a manner consistent and co-extensive with existing tax avoidance doctrines and measures under U.S. law.

The new Convention provides relief from double taxation in a manner consistent with the U.S. Model. The new Convention also contains a re-sourcing rule to ensure that a U.S. resident can obtain a U.S. foreign tax credit for U.K. taxes paid when the Convention assigns to the United Kingdom primary taxing rights over an item of gross income. A comparable rule applies for purposes of the U.K. foreign tax credit. Although the U.S. Model does not contain a re-sourcing rule, the existing Convention contains a similar rule.

REV_00159418

Like the existing Convention, the new Convention provides a credit for the U.K. Petroleum Revenue Tax, limited to the amount of the tax attributable to sources within the United Kingdom. The credit allowed by the new Convention, however, is somewhat broader than that allowed under the existing Convention to account for intervening changes in U.S. domestic law.

In addition, the proposed Convention provides for non-discriminatory treatment (i.e., national treatment) by one country to residents and nationals of the other. Also included in the proposed treaty are rules necessary for administering the treaty, including rules for the resolution of disputes under the Convention. The information exchange provisions generally follow the U.S. Model and make clear that the United Kingdom will provide U.S. tax officials such information as is relevant to carry out the provisions of the Convention and the domestic tax laws of the United States. This provision is authorized by a recent change in U.K. law.

Australia

The proposed Protocol to the income tax Convention with Australia was signed in Canberra on September 27, 2001. It was negotiated to bring the current Convention, concluded in 1982, up to date and into closer conformity with current U.S. tax treaty practice, while also incorporating some provisions found in the Australian Model income tax convention.

The most important aspects of the proposed Protocol deal with the taxation of cross-border dividend, royalty and interest payments. The current treaty provides for levels of source-country taxation that are consistent with Australian treaty practice but substantially higher than provided by the U.S. Model. We were able to negotiate substantial reductions with respect to all three categories of payments.

Whereas the existing Convention allows for taxation at source of 15 percent on all dividends, the proposed Protocol provides for a maximum withholding rate of 5 percent on direct dividends meeting a 10 percent ownership threshold, and the elimination of the source-country withholding tax with respect to dividends from certain 80 percent owned corporate subsidiaries. Portfolio dividends will continue to be subject to a 15 percent rate of withholding. Australia imposes a withholding tax on dividends paid out of earnings that have not been subject to full corporate tax ("unfranked dividends"). Therefore, the elimination of the Australian withholding tax on intercompany dividends will provide a direct and immediate benefit to U.S. businesses operating there, and to the U.S. fisc.

Dividends paid by U.S. regulated investment companies and real estate investment trusts are subject to special rules to prevent the use of these entities to transform what is otherwise high-taxed income into lower-taxed income. The U.S. Model provision was adapted to recognize the special investment structure of Australian unit trusts and their participation in the U.S. REIT industry.

The proposed Protocol eliminates withholding on interest payments in two key cases. Interest that is derived by a financial institution which is unrelated to the payor and interest paid to governmental entities are exempt from withholding tax at source. All other types of interest (including interest received by financial institutions in back-to-

REV_00159419

back loans or their economic equivalent) continue to be subject to withholding at the 10 percent rate prescribed in the existing Convention.

The proposed Protocol also reduces the level of withholding on royalty payments from the 10 percent limit prescribed in the existing Convention to a general 5 percent. Consistent with the U.S. Model, the proposed Protocol also provides that payments for the use of or the right to use any industrial, commercial or scientific equipment shall be taxed as business profits. The existing Convention treats this type of income as a royalty that may be taxed by the source country at a maximum rate of 10 percent. The treatment of royalties was a major concession by Australia, which has never agreed in a treaty to lower its withholding tax on royalties below 10 percent.

The proposed Protocol brings the existing Convention's treatment of income from the operation of ships, aircraft and containers in international traffic closer to that of the U.S. Model convention. The proposed Protocol provides for exclusive residence-country taxation of profits from the rental of ships and aircraft on a bareboat basis when the ship or aircraft is operated by the lessee in international traffic and the rental activity is incidental to the operation of ships or aircraft by the lessor. All income from the use, maintenance or rental of containers used in international traffic is likewise exempt from source-country taxation under the proposed Protocol.

The proposed Protocol clarifies that Australia's tax on capital gains will be a covered tax for purposes of the existing Convention. This closes a gap in the existing Convention and increases the likelihood that U.S. taxpayers subject to capital gains tax in Australia will be able to claim a foreign tax credit with respect to that tax. Generally, the proposed Protocol preserves the existing Convention's tax treatment of capital gains, while incorporating some aspects of Australia's domestic law regarding expatriation. The proposed Protocol also provides rules that coordinate both countries' tax systems with respect to these expatriation rules.

An important modernization that the proposed Protocol brings to the existing Convention is a comprehensive "Limitation on Benefits" Article based closely on the latest U.S. Model. This updated provision is designed to deny "treaty-shoppers" the benefits of the Convention.

The current treaty preserves the U.S. right to tax former citizens whose loss of citizenship had as one of its principal purposes the avoidance of tax. The proposed Protocol expands this right to include former long-term residents whose loss of such status had, as one of its principal purposes, the avoidance of tax. Therefore, the United States may fully apply section 877 of the Internal Revenue Code.

Mexico

The proposed Protocol to the income tax Convention with Mexico was signed in Mexico City on November 26, 2002. It was negotiated to bring the existing Convention, concluded in 1992, into closer conformity with current U.S. tax treaty policy. The

REV_00159420

proposed Protocol was concluded in recognition of the importance of the United States' economic relations with Mexico.

The major feature of the proposed Protocol is its treatment of dividends. As in the agreements with the United Kingdom and Australia, the proposed Protocol reduces to zero the maximum level of withholding tax on certain types of cross-border direct dividends. Under the existing Convention, dividends may be taxed by the country of source at a maximum rate of 5 percent on direct dividends (where the recipient of the dividends owns at least 10 percent of the company paying the dividends) and 10 percent with respect to all other dividends. Pursuant to the proposed Protocol, the withholding tax will be eliminated entirely with respect to dividends from certain 80-percent owned corporate subsidiaries. The other rules will, however, remain in place with respect to those dividends that do not qualify for the elimination of the source-country withholding tax. Dividends paid to qualified pension funds also will be exempt from withholding tax at source.

While Mexico does not currently impose a withholding tax on dividends, it has enacted such a tax and then repealed it since the existing treaty was negotiated in the early 1990's. As a result, locking in the source-country exemption will provide greater certainty to taxpayers regarding the long-term tax environments for their investments in Mexico.

Dividends paid by U.S. regulated investment companies and real estate investment trusts are subject to special rules to prevent the use of these entities to transform what is otherwise high-taxed income into lower-taxed income. The U.S. Model provision was adapted to recognize the special investment structure of Australian unit trusts and their participation in the U.S. REIT industry.

The current treaty preserves the U.S. right to tax former citizens whose loss of citizenship had as one of its principal purposes the avoidance of tax. The proposed Protocol expands this right to include former long-term residents whose loss of such status had, as one of its principal purposes, the avoidance of tax. Therefore, the United States may fully apply section 877 of the Internal Revenue Code.

The proposed Protocol incorporates a modernized provision regarding the source of income that will be more effective in eliminating double taxation. Under the new rule, income that may be taxed by one of the parties to the Convention will generally be treated as arising in that country. Thus, the other country generally will exempt that income or provide a credit for the taxes paid with respect to such income.

Treaties under Negotiation

We continue to maintain an active calendar of tax treaty negotiations. We are in active negotiations with Japan, the Netherlands, Iceland, Hungary, Barbados, France, Bangladesh, Canada, and Korea. We have also signed an agreement with Sri Lanka which we expect will be ready for transmittal to the Senate soon. In accordance with the treaty program priorities noted earlier, we continue to seek appropriate opportunities for

REV_00159421

tax treaty discussions and negotiations with several countries in Latin America and in the developing world generally.

Conclusion

Let me conclude by again thanking the Committee for its continuing interest in the tax treaty program, and the Members and staff for devoting the time and attention to the review of the agreements that are pending before you. We also appreciate the assistance and cooperation of the staffs of this Committee and of the Joint Committee on Taxation in the tax treaty process.

We urge the Committee to take prompt and favorable action on all of the agreements before you today. Such action will strengthen and expand our economic relations with countries that have been significant economic and political partners for many years. As a result, we will improve the climate for cross-border investment, which brings jobs and prosperity to countries that are wise enough to reduce barriers to investment.

REV_00159422

From:	Office of Global Communications <Global.Messenger@WhiteHouse.Gov>
To:	Carolene Langie Office of Global Communications/WHO/EOP@EOP [WHO] <Carolene Langie Office of Global Communications>
BCC:	Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent:	3/4/2003 12:59:08 PM
Subject:	: White House Global Messenger - 3-5-03
Attachments:	P_0XTDE003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Office of Global Communications <Global.Messenger@WhiteHouse.Gov> (Office of Global Communications <Global.Messenger@WhiteHouse.Gov> [UNKNOWN])
CREATION DATE/TIME: 4-MAR-2003 17:59:08.00
SUBJECT:: White House Global Messenger - 3-5-03
TO:Carolene Langie Office of Global Communications (CN=Carolene Langie Office of Global Communications/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

(See attached file: GM 3-5-03 FINAL.doc)

THE GLOBAL MESSENGER

Wednesday, March 5, 2003

******KEY POINTS******

If Saddam Hussein were serious about complying with the latest UN resolution, in the 15 weeks since 1441 passed on November 8th Iraq would have:
- Submitted a full, accurate, and complete declaration, and destroyed all prohibited materials;
- Accounted for all unaccounted-for weapons;
- Turned over and destroyed the mobile bio-weapons labs, all illegal missiles,
missile parts, testing equipment, and unmanned aerial vehicles with ranges greater than 150 km;
- Encouraged scientists to be interviewed without minders, inside or outside of
Iraq;
- Allowed unimpeded aerial reconnaissance; and
- Turned over all documents requested by inspectors.

Nothing less that full and immediate disarmament is required of the regime by
UNSCR 1441. Yet Saddam continues to resist full and immediate cooperation - even
with respect to the missiles.

The missiles are just the tip of the iceberg of Iraq's illegal arsenal. Iraq has
not accounted for:
- Raw materials sufficient to produce:
26,000 liters of anthrax
38,000 liters of botulinum toxin; and
5500 liters of aflatoxin, a carcinogen.
- 1.5 tons of VX, a powerful nerve agent.
- Nearly 30,000 empty munitions that could be filled with chemical agents.
- 550 artillery shells filled with mustard agent;

It is not surprising that Saddam Hussein is willing to sacrifice a few illegal
weapons to save many other illegal weapons.Saddam Hussein has a long

history of
complying with inspectors on small, technical issues, only to continue to
cheat
inspectors on a large scale. His tactical concessions are designed to buy
time,
ease the pressure on his regime, split the international community, and
erode
its resolve.

The danger posed by Saddam Hussein and his weapons cannot be ignored or
wished
away. We hope the Iraqi regime will meet the demands of the UN and disarm,
fully
and peacefully. If it does not, we are prepared to disarm Iraq by force.

******TODAY'S SCHEDULE******
All Times Eastern Standard Time Unless Noted
Subject to Change

12:30 pm Defense Department Briefing by Secretary Rumsfeld and
General Franks

1:15 pm White House Briefing by Ari Fleischer

2:00 pm Secretary Powell remarks to Center for Strategic and
International Studies

******EXCERPTS FROM THE PRESIDENT'S ROUNDTABLE WITH REGIONAL

JOURNALISTS, 3-3-03******

On Protestors
"They've got all the right in the world to express their opinion. If they
tried
to do that in Iraq, they'd have their tongues cut out. Of course, I care
what
they believe. And I've listened carefully. I've thought long and hard
about what
needs to happen....I see the protests, and I know they're large at times.
But
I'm not so sure I'd jump to the conclusion that everybody in those parts
of the
world are anti-American. [Many] governments fully understand what we're
doing
and are supportive in what we're doing. And it's just not America."

On the Situation in Iraq
"This is a difficult decision for any president to make. I've thought
about the
consequences of doing nothing. I've thought about the consequences of
military
action. I would have hoped that the world would have come together with one
voice....But it didn't, and therefore...I have come to the conclusion that
the
man must be disarmed for the safety and security of the American people."

On the United Nations
"Twelve years of hollow words, 12 years of saying to Saddam, you must
disarm....[H]e is a danger to the neighborhood. I believe he's a danger to
America and so do a lot of other people. He's a danger to his own
people....I
went to the UN because I want the UN to be effective. This is a test for
the
United Nations, to determine whether or not it means what it says."

THE WHITE HOUSE
Office of Global Communications

For more information log on to http://www.whitehouse.gov/ogc

****

You have previously expressed interest in obtaining news and information
from
the White House.The White House Office of Global Communications distributes
information about the President's messages to the world. This office
distributes
updates on major international topics such as the global war on terror,
the case
for regime change in Iraq, and more broadly, the ways in which we can all
better
communicate the aspirations and interests that Americans share with
freedom-loving people everywhere.
- GM 3-5-03 FINAL.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_0XTDE003_WHO.TXT_1>

THE GLOBAL MESSENGER

Wednesday, March 5, 2003

TODAY'S SCHEDULE

All Times Eastern Standard Time Unless Noted
Subject to Change

12:30 pm	Defense Department Briefing by Secretary Rumsfeld and General Franks
1:15 pm	White House Briefing by Ari Fleischer
2:00 pm	Secretary Powell remarks to Center for Strategic and International Studies

EXCERPTS FROM THE PRESIDENT'S ROUNDTABLE WITH REGIONAL JOURNALISTS, 3-3-03

On Protestors
"They've got all the right in the world to express their opinion. If they tried to do that in Iraq, they'd have their tongues cut out. Of course, I care what they believe. And I've listened carefully. I've thought long and hard about what needs to happen….I see the protests, and I know they're large at times. But I'm not so sure I'd jump to the conclusion that everybody in those parts of the world are anti-American. [Many] governments fully understand what we're doing and are supportive in what we're doing. And it's just not America."

On the Situation in Iraq
"This is a difficult decision for any president to make. I've thought about the consequences of doing nothing. I've thought about the consequences of military action. I would have hoped that the world would have come together with one voice….But it didn't, and therefore…I have come to the conclusion that the man must be disarmed for the safety and security of the American people."

On the United Nations
"Twelve years of hollow words, 12 years of saying to Saddam, you must disarm….[H]e is a danger to the neighborhood. I believe he's a danger to America and so do a lot of other people. He's a danger to his own people….I went to the UN because I want the UN to be effective. This is a test for the United Nations, to determine whether or not it means what it says."

KEY POINTS

- If Saddam Hussein were serious about complying with the latest UN resolution, in the 15 weeks since 1441 passed on November 8th Iraq would have:
  - Submitted a full, accurate, and complete declaration, and destroyed all prohibited materials;
  - Accounted for all unaccounted-for weapons;
  - Turned over and destroyed the mobile bio-weapons labs, all illegal missiles, missile parts, testing equipment, and unmanned aerial vehicles with ranges greater than 150 km;
  - Encouraged scientists to be interviewed without minders, inside or outside of Iraq;
  - Allowed unimpeded aerial reconnaissance; and
  - Turned over all documents requested by inspectors.
- Nothing less that full and immediate disarmament is required of the regime by UNSCR 1441. Yet Saddam continues to resist full and immediate cooperation--even with respect to the missiles.
- The missiles are just the tip of the iceberg of Iraq's illegal arsenal. Iraq ***has not accounted for***:
  - Raw materials sufficient to produce:
    -26,000 liters of anthrax
    -38,000 liters of botulinum toxin; and
    -5500 liters of aflatoxin, a carcinogen.
  - 1.5 tons of VX, a powerful nerve agent.
  - Nearly 30,000 empty munitions that could be filled with chemical agents.
  - 550 artillery shells filled with mustard agent;
- It is not surprising that Saddam Hussein is willing to sacrifice a few illegal weapons to save many other illegal weapons.
- Saddam Hussein has a long history of complying with inspectors on small, technical issues, only to continue to cheat inspectors on a large scale. His tactical concessions are designed to buy time, ease the pressure on his regime, split the international community, and erode its resolve.
- The danger posed by Saddam Hussein and his weapons cannot be ignored or wished away. We hope the Iraqi regime will meet the demands of the UN and disarm, fully and peacefully. If it does not, we are prepared to disarm Iraq by force.

THE WHITE HOUSE
Office of Global Communications

For more information log on to www.whitehouse.gov/ogc

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@Exchange@EOP [WHO] <David G. Leitch>;Alberto R. Gonzales/WHO/EOP@Exchange@EOP [WHO] <Alberto R. Gonzales>
Sent: 3/5/2003 2:56:53 AM
Subject: : Cloture Coverage

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 5-MAR-2003 07:56:53.00
SUBJECT:: Cloture Coverage
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 03/05/2003 08:00 AM ----------

From: Ashley Snee/WHO/EOP@Exchange on 03/05/2003 07:53:49 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Cloture Coverage

Vote Set On Ending Filibuster On Judge (NYTimes)

By THE NEW YORK TIMES

The New York Times, March 05, 2003

WASHINGTON, March 4 - Senate Republicans today set a vote for Thursday on whether to end a Democratic filibuster that has blocked consideration of President Bush's nomination of Miguel Estrada to a federal appeals court seat.

No one expects the effort to end the filibuster to succeed. But calling for the vote represents an escalation in tactics as Republicans say they believe they are gaining political support among Hispanic voters.

"This will make it more clear that the Democrats are blocking the Estrada nomination," said a senior Republican strategist.

The Senate majority leader, Bill Frist, Republican of Tennessee, said that he was filing a motion to end what he called a "cavalier filibuster" by the Democrats. But Dr. Frist acknowledged the unlikelihood that the Republicans would be able to win Thursday's vote.

"I want to make it very clear that that is the beginning of the battle," Dr. Frist told reporters.

While the 51 Republicans in the Senate are a majority, enough to confirm Mr. Estrada in a straight up-or-down vote, they would need 60 votes to end the filibuster. Currently, only four Democrats have indicated they will vote with the Republicans, leaving them five votes short.

GOP To Force An Estrada Filibuster Vote (AP)

By JESSE J. HOLLAND

The Associated Press, March 5, 2003

WASHINGTON - After more than three weeks of debate, Republicans decided Tuesday to try to break the Democratic filibuster of Miguel Estrada's nomination to a federal appeals court before moving the Senate on to other legislative business.

Democrats say the GOP will lose the Thursday vote to end the filibuster, but Senate Majority Leader Bill Frist, R-Tenn., promised to keep demanding such votes until Estrada gets a confirmation vote on his nomination to the U.S. Court of Appeals for the District of Columbia.

"It may take five weeks, it may take eight weeks, it may take two months, it may take three or four months," Frist said. "I'm going to use everything I possibly can, every tool I possibly can. This battle is just beginning. We are going to see that this nominee has an up or down vote."

If Republicans don't gain the 60 votes they need on Thursday and in other Estrada votes, the Senate will likely move on to other business instead of debating Estrada every day, although the nomination will not be withdrawn, GOP senators said.

"That is the beginning of the battle," Frist said. "This is not going to go away not until we get an up or down vote."

Democrats insist they will not allow a final vote on Estrada until the Washington appellate lawyer answers more of their questions in a public hearing, or the White House releases Estrada's working papers from his time at the Justice Department solicitor general's office. Republicans have refused those requests.

Senate Democratic Leader Tom Daschle of South Dakota said Democrats can hold out as long as Republicans can.

"We have sufficient support to sustain a series of cloture votes," Daschle said. "That was confirmed again today and I would expect it to remain that way for whatever length of time they choose to continue this debate."

Only four Democrats have said publicly that they would vote against continuing a filibuster - Sens. Zell Miller of Georgia, Ben Nelson of Nebraska, Bill Nelson of Florida and John Breaux of Louisiana - leaving Republicans short of the 60 votes they need to close off debate and get a final confirmation vote.

The GOP strategy is to make Democratic senators go on the record in supporting the Estrada filibuster, said GOP caucus chairman Rick Santorum of Pennsylvania.

"It give us and the folks across America a picture of where the problem is," Santorum said. "Maybe the reaction after this vote will elicit some sort of change in their understanding."

Democrats have been getting pressure from conservative Hispanic groups to confirm Estrada, who would become the first Hispanic on the U.S. Court of Appeals for the District of Columbia.

"There's no question, once we do so many cloture votes, we'll have to double track it to get the work of the Senate done," Senate Judiciary Chairman Orrin Hatch, R-Utah, said.

Democrats say their votes against an Estrada confirmation are solid and have been calling on Republicans to end the debate. "We've got to move on to these other issues and I think it's time to do that," Daschle said.

There are 51 Republicans, 48 Democrats and one independent in the Senate.

Senate Republicans Set Showdown Vote On Estrada (Reuters)

Reuters, March 5, 2003

WASHINGTON (Reuters) - Senate Republicans on Tuesday scheduled what may be the first of many showdown votes on President Bush's stalled bid to make conservative lawyer Miguel Estrada the first Hispanic on the U.S. Court of Appeals for the District of Columbia Circuit.

;Democrats promptly predicted they would prevail in Thursday's vote and keep the nomination bottled up in a divided Senate, which has already debated it for nearly a month.

Republicans said they would hold as many "cloture votes" as needed in coming weeks to end debate and clear the way for a confirmation vote on the 41-year-old Estrada.

To succeed on cloture, Republicans would need the support of 60 of the chamber's 100 senators. A top Democratic aide said Republicans would fall at least three short on Thursday.

Republicans said they believed cloture votes would crank up pressure on Democrats to eventually break ranks and permit confirmation.

"It may be five weeks, it may be eight weeks, it may be two months, it may be three or four months," said Senate Majority Leader Bill Frist, a Tennessee Republican.

Senate Minority Leader Tom Daschle, a South Dakota Democrat, said: "We have sufficient support to sustain a series of cloture votes. I am confident that, regardless of how many votes are taken, our caucus is going to hold its position."

Democrats oppose Estrada, complaining that he refused to answer a number of questions at a confirmation hearing last year, making him a "stealth candidate."

They also charge that Estrada, whose nomination has drawn a split response from the Hispanic community, is part of Bush's effort to pack the court with right-wing ideologues.

Bush and fellow Republicans contend that the Honduran-born, Harvard-educated Estrada deserves to be confirmed, noting the American Bar Association gave him its highest rating.

The battle is seen as a possible dress rehearsal for Bush's first U.S. Supreme Court nominee, who could be Estrada, if he wins the appeals court seat.

The U.S. Court of Appeals for the District of Columbia Circuit is considered the nation's second most powerful court since it often resolves disputes between the executive and legislative branches of government and rules on the constitutionality of federal laws and regulations.

Republicans To File Cloture On Estrada Nomination Tuesday Afternoon (Roll Call)

By Paul Kane

Roll Call, March 05, 2003

Ending weeks of internal debate, Senate Republican leaders have decided to file cloture on the stalled judicial nomination of Miguel Estrada, setting up the first in a series of votes Thursday in their effort to break the Democratic filibuster.

Aides said the full Republican Conference was expected to sign off on the strategy at its weekly policy luncheon Tuesday unless there was a "dramatic reversal" in the tide of opinion.

Another Republican source, however, cautioned that there was a large contingent within the Conference opposed to filling cloture, a bloc that

could provide that dramatic sway and reverse the movement toward cloture.

Emerging from a meeting of GOP chairmen and leaders Monday night, Conference Chairman Rick Santorum (Pa.) declined to specify what decisions had been made, but indicated that an announcement of their strategy was expected after the luncheon.

One GOP aide indicated that the new tactic calls for Majority Leader Bill Frist (R-Tenn.) to file cloture Tuesday afternoon, leading to the Thursday vote. The aide said there is no expectation of winning the 60 votes needed to break the filibuster, but that Frist would continue to force "as many cloture votes as is necessary to win confirmation."

"They'll be frequent and they'll be prominent," the aide said.

With 45 Democrats dug in on their opposition to Estrada, Republicans had been divided over how to proceed with the battle over President Bush's nominee to the U.S. Court of Appeals for the D.C. Circuit.

Santorum and Majority Whip Mitch McConnell (R-Ky.) had been the leading opponents of filing cloture, warning that it would set a bad institutional precedent of requiring 60 votes for nominees and could doom Estrada's hopes for confirmation by locking in Democrats in conservative-leaning states.

But others, including Sen. Trent Lott (R-Miss.) and Judiciary Chairman Orrin Hatch (R-Utah), had been pushing for cloture, arguing that putting Democrats officially on the record in support of the filibuster would allow outside conservative interest groups to heighten the pressure on them.

The Democrats' top vote counter, Minority Whip Harry Reid (Nev.), said there may be a couple of Democrats who are wavering on Estrada, but there was no doubt he had the minimum of 41 votes needed to block a vote, no matter how many cloture votes Republicans call.

"We have 41, that's all we care about," Reid said.

So far, Democratic Sens. John Breaux (La.), Zell Miller (Ga.), Ben Nelson (Neb.) and Bill Nelson (Fla.) have announced their support for Estrada.

GOP Files For Vote On Estrada (WTimes)

By Amy Fagan

The Washington Times, March 5, 2003

Senate Republican leaders yesterday made the first move to cut off debate on federal appeals court nominee Miguel Estrada by filing for "cloture" to force a final vote on his nomination.

"We're just beginning the fight," said Senate Majority Leader Bill Frist, Tennessee Republican. "This is not going to go away - not until we get an up-or-down vote."

Senators will vote tomorrow on the cloture motion, which will limit debate and force a vote on the nomination.

Republicans now have 55 of the needed 60 votes on cloture, including those of four Democrats, but have targeted a handful of other Democrats, hoping to get them to break ranks with their party and end the filibuster.

Republicans say it is time for the Democrats to go on record either for or against the 41-year-old Honduran-born lawyer, who was nominated to the U.S. Circuit Court of Appeals for the District of Columbia. Democrats have been preventing a vote on the nomination as debate continued since Feb 5.

"We've had a debate now; now it's time to see who's going to vote where,"

said Senate Judiciary Committee Chairman Orrin G. Hatch, Utah Republican. "Then the American people are going to have to speak to those senators."

Democrats are confident they have the 41 votes needed to continue a filibuster by defeating this cloture motion, as well as any others Republicans may file later.

"We are more than ready to have one or more votes," said Senate Minority Leader Tom Daschle, South Dakota Democrat.

If the cloture motion fails, Republicans plan to keep the Estrada nomination on the floor for as long as it takes to get a vote, setting it aside occasionally to go to other Senate business. They also plan additional cloture votes.

Mr. Frist said he will use "every tool that I possibly can" to get a final vote.

A Senate Republican leadership aide said Republicans are hopeful that Democratic Sens. Blanche Lincoln of Arkansas and Robert C. Byrd of West Virginia will join them in stopping a filibuster tomorrow.

Mr. Byrd has said he would vote with the Democrats against cloture on Mr. Estrada's nomination. But Republican aides say they are making progress with Mr. Byrd, who is set to meet the lawyer on Friday.

Mrs. Lincoln did not say yesterday how she would vote on cloture, repeating only that she would like more information from Mr. Estrada. But a Democratic aide has said his party is not counting on Mrs. Lincoln to support the filibuster.

Sen. Bob Graham, Florida Democrat, also is undecided - both on a cloture vote and ultimate support for Mr. Estrada's nomination. His office said late yesterday that no decision had been made.

Several Democrats who have been on Republicans' target list said yesterday that they plan to support the filibuster. Those include Sens. Evan Bayh of Indiana; Jeff Bingaman of New Mexico; Daniel K. Inouye and Daniel K. Akaka, both of Hawaii; Thomas R. Carper of Delaware; Ernest F. Hollings of South Carolina and Mark Pryor of Arkansas.

Mr. Hollings would not say whether he would vote for subsequent cloture votes to keep the filibuster going.

"Let's see what they do," he said, referring to Republicans.

Others such as Mr. Carper and Mr. Pryor said they would continue to vote against cloture.

The Democrats who have said they will vote with the 51 Republicans in favor of cloture are John B. Breaux of Louisiana, Ben Nelson of Nebraska, Bill Nelson of Florida and Zell Miller of Georgia.

The White House has repeatedly invited Democrats seeking more information to meet with Mr. Estrada, and several have done so. The latest letter from the White House, sent Feb. 27, also encouraged them to submit written questions to Mr. Estrada and talk to his former employers.

As of yesterday, only Mr. Byrd had requested a meeting with Mr. Estrada and no senators had submitted more questions.

"The Senate Democrats have repeatedly said they need more information, yet they have repeatedly ignored or declined these offers," White House spokesman Ashley Snee said.

The Senate Republican leadership aide said that if Democrats continue to stick together to support the filibuster, they "will hear about Miguel Estrada for the next 18 months until November 2004."

Mr. Daschle said yesterday that the cloture vote tomorrow "doesn't change anything," because "the only thing that would change the circumstances we currently face is if Mr. Estrada becomes more cooperative."

Democratic leaders are demanding that the administration release memos Mr. Estrada wrote while working in the solicitor general's office - a request the administration has denied, with the backing of every living solicitor-general of both parties.

But Mr. Hatch said the cloture vote will establish on record that for the first time there is a "true filibuster against a circuit court nominee" - an accusation many Democrats have rejected.

Mr. Frist noted that Republicans have tried 17 times to get unanimous consent to have a vote, but Democrats have objected. He also noted that 72 newspaper editorials across the country support Mr. Estrada and/or oppose the Democratic filibuster, while just 10 support the filibuster.

The Senate is set to consider an arms control treaty with Russia today, setting aside the Estrada nomination temporarily.

Frist Invokes Cloture Vote Over Estrada (The Hill)

By Hans Nichols

The Hill, March 5, 2003

Senate Majority Leader Bill Frist (R-Tenn.) sought a showdown yesterday over President Bush's embattled bid to make conservative lawyer Miguel Estrada the first Hispanic on the U.S. Court of Appeals for the D.C. Circuit.

But the Democrats promptly predicted they would prevail in Thursday's vote and keep the nomination bottled up in a divided Senate, which has already debated it for nearly a month.

" We are just beginning to fight," Frist vowed in filing what could well prove to be several cloture petitions aimed at cutting off a three-week-old Democratic filibuster.

" The only response from the other side of the aisle has been a cavalier filibuster. That's unacceptable," said Frist. "This is not going to go away, until we get an up and down vote."

" We have had over 85 hours of active debate, 17 unanimous consent requests," he added.

The Republicans leader promised to keep up the fight no matter how long it might take. "Estrada will not go away," he said.

Sen. Rick Santorum (R-Pa.), the GOP conference chairman, acknowledged that the cloture petition, which calls for a vote on Thursday, represents a new line of attack.

" Correct. We are changing strategies," he said.

For their part, the Democrats braced for an extended battle, voicing confidence that they have the votes to sustain their filibuster. A minimum of 60 votes - three-fifths of the Senate- is needed to cut off debate.

" We'll hold enough of our guys," said Sen. Richard Durbin (D-Ill.) "We've told our people they need to be ready for the long haul. It's a matter of principle," he added.

Sen. Tom Daschle (D-S.D.), the minority leader, reiterated, "nobody should be above the law."

" We have to find out who is going to vote which way," said Judiciary Committee Chairman Orrin Hatch (R-Utah) promising to put Democrats on record for denying the first Hispanic nominee to the federal circuit a straight up or down vote.

Republicans observed that only one Democrat has taken the White House's offer to meet with the embattled nominee. Sen. Robert Byrd (D-W. Virginia) is scheduled to meet with him on Friday, a GOP leadership aide said.

" I will vote against Estrada unless he answers questions about the broad views of the Constitution...," said Sen. Joseph Biden (D-Del.).

" I am an odd man out as a Democrat. I don't think they should have to provide the memorandum," said Biden claiming that he's been too busy with his duties on the Foreign Relations Committee in regards to Iraq to meet with the nominee. Some Democrats had been pressing the nominee to provide a memo on his opinions while serving in the solicitor general's office during the Clinton years.

" Looking at Estrada and what he's told or won't tell, there's no way I would vote for him," said Sen. Jim Jeffords (I-Vt.). However, he conceded that he had not acted on the administration's offer to meet with the nominee because "it would just be a waste of time... Estrada is going to have to find another job."

Despite the apparent setback, Republicans exuded confidence about their new line of attack, with Frist referring to the "mounds of editorial support" claiming that 72 out of a total of 82 editorials favored confirmation.

With both sides ratcheting up their rhetoric, the number of possible outcomes dwindled, as did chances of a compromise.

Santorum said: "We are trying to listen to the better angels of the some of the natures of our Democrat colleagues who can hopefully see if this tactic being waged against us and Miguel Estrada today sets a precedent that could be dangerous in future Congresses."

"We're really in danger of a constitutional crisis," said Hatch as he and other senior Republicans spoke to reporters after emerging from their Tuesday lunch

Hatch added: "There has never been a judicial nominee stopped except for Abe Fortas to the Supreme Court and I'll say again that was a bi-partisan filibuster."

"Fighting and losing less is desirable than fighting and winning but not fighting at all and losing is not acceptable," said Sen. Larry Craig (R-Idaho), adding: "Some of our base has said over the years that we didn't go the extra mile to fight the fight. It would be difficult for them to argue that we haven't on this one."

GOP Senators Move To Force Vote On Estrada (WPost)

By Helen Dewar

The Washington Post, March 05, 2003

Senate Republicans moved yesterday to force a showdown they were likely to lose on ending the month-long Democratic filibuster against the judicial nomination of Miguel Estrada -- a step enabling them to start scheduling other business.

While Republicans vowed to continue pressing for a vote to approve the highly contested nomination, their decision to combine the debate with action on other matters appeared likely to take some of the spotlight off the struggle over Estrada's nomination to the U.S. Court of Appeals for the District of Columbia Circuit.

GOP leaders said the Senate will take up a U.S.-Russia treaty on arms reduction today and may schedule debate and votes next week on a bill that would ban a late-term procedure opponents call "partial birth" abortion. Action would be scheduled for the following week on the budget for fiscal 2004. They said the Senate may also soon take up legislation to help faith-based charities, one of President Bush's priorities.

Republicans said they will return repeatedly to the Estrada nomination and predicted they would eventually prevail. But Democrats showed no signs of relenting and predicted the Republicans would ultimately fail.

Democrats said they will have more than enough votes to prevail in Thursday's "cloture" vote to end the filibuster. Republicans need 60 votes to shut off debate and force a vote on Estrada. They have picked up the votes of four Democrats -- Sens. John Breaux (La.), Zell Miller (Ga.), Ben Nelson (Neb.) and Bill Nelson (Fla.) -- but remain at least three or four votes short of 60, according to Democratic nose-counters.

While conceding they are likely to lose Thursday, Republicans contended the vote will be useful in targeting persuadable senators and building pressure for action by making the case that Democrats are obstructing action.

Republicans said they will keep holding cloture votes "for as long as it takes," said Majority Leader Bill Frist (R-Tenn.). "This is not going to go away until we get an up-or-down vote," he added.

But Democrats, who had been pushing unsuccessfully to get the Republicans to end the Estrada debate and move to other business, claimed that their votes to continue the filibuster are solid.

"I am confident that, regardless of how many votes are taken, our caucus is going to hold its position," said Minority Leader Thomas A. Daschle (D-S.D.).

Democrats say they will allow a simple-majority vote -- which presumably would confirm Estrada's nomination -- only if he would answer questions more fully about his legal views before the Judiciary Committee, and if the administration would release copies of memos he wrote while working for the solicitor general's office in the Justice Department during the 1990s. Without this information, Democrats say, the Senate cannot adequately carry out its advise-and-consent duties under the Constitution.

Republicans defend the 41-year-old Honduran-born, Harvard-educated lawyer as highly qualified. They say he has answered questions as fully as many other nominees who have moved easily through the Senate. They accuse the Democrats of trying to scuttle the nomination because Estrada is a conservative.

GOP Senators Want Vote On Judge Choice (AJC)

By JASON EMBRY

The Atlanta Journal-Constitution, March 5, 2003

WASHINGTON -- Seeking to end a standoff with Democrats, Republicans will call for a vote Thursday to end debate over nominating Miguel Estrada to a federal judgeship.

President Bush has tapped Estrada to become the first Hispanic on the U.S. Court of Appeals for the District of Columbia Circuit, a powerful court that often rules on federal disputes. The vote on a parliamentary procedure called "cloture" would force Democrats to confirm whether they oppose or favor the nomination, which is supported by some Latino groups.

Estrada has enough support to get 51 votes for the nomination. But his backers do not appear to have the 60 votes needed to stop what has

amounted to a filibuster of his nomination by Democrats who say he has not been forthcoming about his views.

Approval of a motion for cloture would end debate and bring the issue to a vote, but it must receive at least 60 votes to pass. So far, those declaring they favor Estrada's nomination are the 51 Republicans in the 100-member Senate and four Democrats, among them Georgia's Zell Miller.

Sen. John Cornyn (R-Texas) said a cloture vote will show who's blocking the nomination.

"Some [Democrats] are sitting back in their offices saying, 'I'm not filibustering, I'm not preventing this nomination from going forward,'" said Cornyn, a member of the Senate Judiciary Committee. "Now senators are going to be held accountable."

Republicans could hold more cloture votes if, as expected, Thursday's fails.

"We ought to have a cloture vote every day from now on," said Sen. Saxby Chambliss (R-Ga.).

GOP Poll: Estrada Opposition Could Cost Dems (The Hill)

By Sarita Chourey

The Hill, March 5, 2003

The Democratic Party could pay a price for Senate Democrats' effort to block President Bush's nomination of Miguel Estrada for a federal judgeship, according to an internal GOP poll.

The poll, which questioned 1,000 registered voters about the impact of the nomination on Senate Democratic candidates, found that 42 percent of respondents have a less favorable view of Democratic candidates while only 32 percent had a favorable view.

Further evidence of the negative effect of the Democratic filibuster on its own party came from the League of United Latin American Citizens (LULAC), a traditionally Democratic organization, which has become an ally of Republican Hispanic groups backing Estrada.

But LULAC is in a quandary. Last week, several members of the all-Democratic Congressional Hispanic Caucus expressed their irritation with the organization's pro-Estrada stance and requested that LULAC's board address their concerns.

"LULAC came out fairly early in support of Mr. Estrada," said Rep. Charlie Gonzalez (D-Texas). "We respect that, but we disagree. The problem is that LULAC has allowed itself to be used to legitimize the illegitimate."

He added, "LULAC needs to look carefully and deeply as to whether or not they're being used as tools. We've worked with them, of course. I can't believe they've allowed themselves to be aligned with certain organizations."

LULAC has held two joint press conferences with GOP groups like the Latino Coalition, which criticized the Hispanic Caucus for not supporting Estrada.

Even though LULAC did not directly criticize the Hispanic Caucus, some Senate Republicans such as Sen. Chuck Grassley (R-Iowa) and Trent Lott (R-Miss.) accused members of the Hispanic Caucus of being anti-Hispanic, and turning their backs on their own community.

Sen. Orrin Hatch (R-Utah, chairman of the Judiciary Committee, compared the Hispanic Caucus to a "lioness eating its cub."

Gonzalez dismissed such criticism. "Trent Lott? I mean, please," he remarked.

Brian Wilkes, LULAC's national executive director, played down speculation that his organization is shifting its allegiance to the Democratic Party, and said he plans to issue a release this week criticizing Senate Republicans for their statements against the Hispanic Caucus.

" We may have been unwittingly caught up in a play for the Republican vote," Wilkes said. He expressed regret at attending briefings where the Hispanic Caucus was criticized.

" Unfortunately, Republicans have taken the qualifications away from Miguel Estrada and tried to push a wedge between the Hispanic community and the Democratic Party," he said. "We never signed up for that."

Despite the organization's apparent flip-flop, Wilkes praised President Bush for his outreach to Hispanic voters. He said Hispanic Democrats do have reason to worry about their base gravitating toward the GOP.

Asked about his views on Bush, Wilkes replied: "There is a sense that Bush, unlike his predecessor, has been reaching out to Hispanics. [But] we definitely disagree with his stance on affirmative action. We are concerned about his tax package. He seems to be tilting his economic program toward the more affluent, and that doesn't help our community."

While LULAC is going to some length to avoid an open breach with the Democrats, it is not budging from its position that Estrada should be confirmed.

" We've evaluated his record, he's got a very strong academic record," said Wilkes, who remarked that Estrada worked in the solicitor general's office under President Clinton and was once editor of the Columbia Law Review.

Hispanic Democrats say their constituents do not necessarily favor Estrada. Rep. Gonzalez added that his local LULAC chapter does not support Estrada.

The Democrats continue to hammer the message that Estrada is wrong for the job. "I was there when he came before the caucus and refused to answer a question," said Rep. Jose Serrano (D-N.Y.). "I don't expect George Bush to nominate a liberal, but I expect [the nomination] to be some kind of sensible person."

The Political Life (The Hill)

Column by Dick Morris

The Hill, March 5, 2003

The whole (Hispanic) world is watching

The Democrats are talking themselves to death in their filibuster against the nomination of Miguel Estrada to the federal bench. The more they talk, the more it is clear that they have nothing to say and no reason to block the nomination of one of the few Hispanics to be nominated to the senior levels of our judiciary.

There is no ethical problem here. No rash statements. No imputed bias. Not even any clear indication of a strong right wing or left wing political philosophy. The burden of the Democratic argument seems to be that Estrada has not ruled, in advance, on all the cases that will come before him. What many would take as a refreshing lack of prejudice and the indication of an open mind, the Democrats assume is evidence of a great conspiracy of silence.

Liberals see the Estrada filibuster as providing a precedent for a new

level of disclosure for all nominees to the federal bench. Rather than nominate and confirm good people and let them decide cases, the Democrats are now asking for clear commitments on each area of judicial decision-making that a new judge is likely to confront. The independence of the judiciary is at stake in this new assertion of legislative prerogative.

But the Democrats should realize that they have chosen a terrible target for their new level of scrutiny. By filibustering an Hispanic nominee and going to such lengths to block his confirmation, even when there is no clear reason to do so, they are asking the Hispanic voters to turn against them in droves.

For his part, Majority Leader Bill Frist (R-Tenn.) is skillfully calling the Democratic bluff by requiring them to talk out the filibuster. No gentleman filibuster this time. Lengthy sessions and constant talk animate this effort to block Estrada. Frist should keep the Senate in session around the clock and on weekends to make the Democrats carry their opposition to a Hispanic judge to absurd lengths.

If Frist continues his policy of making the Democrats act out their filibusters by actually talking on the floor endlessly, he may well succeed in breaking the filibuster as a weapon. He may accomplish the ultimate goal of a majority leader - empower the majority and end the 60-vote requirement to pass a bill in the Senate.

How long could the South have filibustered civil rights if the talk-a-thon were covered by cable TV as this filibuster is? Frist is making the Democrats look like anti-Hispanic bigots, all the more because they have no real basis for dissing Estrada.

Remember the stakes, folks. The Hispanic population grew by 4.7 percent last year, while blacks expanded by 1.5 percent and whites by a paltry 0.3 percent. Hispanics cast 6 percent of the vote in 1990 and 12 percent in 2000. If their numbers expand at the current pace, they will be up to 18 percent in 2010 and 24 percent in 2020. With one-third of Hispanics voting Republican, they are the jump ball in American politics. As this vote goes, so goes the future.

Republicans got off on the wrong foot by listening to the likes of Pat Buchanan and other Nativists. Their English-only and anti-immigration initiatives stopped them from appealing to newly arrived Hispanic voters. But President Bush has changed all that. Estrada symbolizes the transition. If Bush takes it the next step and embraces some of Mexican President Vicente Fox's ideas about earned amnesty for Mexican-Americans, he can truly bring Hispanics into the Republican fold for decades to come.

Estrada is no Clarence Thomas, so clearly out of step with his voters as to make his nomination suspect. And Hispanics are not blacks, so committed to the Democratic Party that it would take an act of genocide to breach their amity. Hispanics are up for grabs and each day of the filibuster drives them further toward the GOP.

Dick Morris is a former consultant to President Clinton, Sen. Trent Lott (R-Miss.) and other political figures

;

Global News Wire;
Copyright 2003 EFE News Services (U.S.) Inc ;
EFE News Service

March 5, 2003

LENGTH: 369 words
HEADLINE: US-JUDGE REPUBLICANS MOVE TO BREAK FILIBUSTER ON ESTRADA VOTE
BODY:
Washington, Mar 4 (EFE).- Senate Republicans on Tuesday announced plans to

overcome the filibuster on President George W. Bush's nomination of Hispanic lawyer Miguel Estrada to a federal court before moving forward.

The vote to confirm Estrada to a federal appeals court in the District of Columbia has been blocked for nearly a month, after Democrats made good on a threat to carry out a filibuster unless the Honduran-born lawyer responded to more of their questions. In a press conference Tuesday, Senate Majority Leader Bill Frist (Rep.-Tenn.) and Senate Judiciary Chairman Orrin Hatch (Rep.-Utah) said Republicans plan to vote Thursday to end the filibuster, a lengthy speechmaking tactic traditionally employed by the minority party to extend a debate.

Republicans need 60 votes to end the debate and vote on Estrada's confirmation. The Senate is currently made up of 51 Republicans, 48 Democrats and one independent, who votes with the Democrats.

"It may take five weeks, it may take eight weeks, it may take two months, it may take three or four months," Frist said

"This battle is just beginning. We are going to see that this nominee has an up or down vote," he said, adding that Republicans have been "reasonable and patient" but are eager to end the debate.

Bush nominated Estrada in May 2001 to the U.S. District of Columbia Court of Appeals, the second-highest tribunal after the Supreme Court, along with some 30 other candidates to serve as judges in different federal courts.

For their part, Democrats have pledged to continue pressuring Estrada to speak on issues he refused to touch during his interview with congressional leaders before voting on his confirmation, maintaining Republicans do not have the votes needed to break the filibuster.

"We have sufficient support to sustain a series of cloture votes," said Senate Minority Leader Tom Daschle (Dem.-S.D.)

"That was confirmed again today and I would expect it to remain that way for whatever length of time they choose to continue this debate," he added.

Estrada has never served as a judge and, despite being Latino, is opposed by most Hispanic organizations for what they say is his extreme conservatism.

JOURNAL-CODE: WEFE

LOAD-DATE: March 5, 2003

Message Sent
To:_____
Brett M. Kavanaugh/WHO/EOP@EOP
Wendy J. Grubbs/WHO/EOP@EOP
David G. Leitch/WHO/EOP@Exchange
Leonard B. Rodriguez/WHO/EOP@EOP
Abel Guerra/WHO/EOP@EOP

From: Kavanaugh, Brett M.
To: <Gonzales, Alberto R.>;<Leitch, David G.>
Sent: 3/5/2003 7:52:28 AM
Subject: Cloture Coverage

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 03/05/2003 08:00 AM ----------

From: Ashley Snee/WHO/EOP@Exchange on 03/05/2003 07:53:49 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: Cloture Coverage

Vote Set On Ending Filibuster On Judge (NYTimes)

By THE NEW YORK TIMES

The New York Times, March 05, 2003

WASHINGTON, March 4 - Senate Republicans today set a vote for Thursday on whether to end a Democratic filibuster that has blocked consideration of President Bush's nomination of Miguel Estrada to a federal appeals court seat.

No one expects the effort to end the filibuster to succeed. But calling for the vote represents an escalation in tactics as Republicans say they believe they are gaining political support among Hispanic voters.

"This will make it more clear that the Democrats are blocking the Estrada nomination," said a senior Republican strategist.

The Senate majority leader, Bill Frist, Republican of Tennessee, said that he was filing a motion to end what he called a "cavalier filibuster" by the Democrats. But Dr. Frist acknowledged the unlikelihood that the Republicans would be able to win Thursday's vote.

"I want to make it very clear that that is the beginning of the battle," Dr. Frist told reporters.

While the 51 Republicans in the Senate are a majority, enough to confirm Mr. Estrada in a straight up-or-down vote, they would need 60 votes to end the filibuster. Currently, only four Democrats have indicated they will vote with the Republicans, leaving them five votes short.

GOP To Force An Estrada Filibuster Vote (AP)

By JESSE J. HOLLAND

The Associated Press, March 5, 2003

WASHINGTON - After more than three weeks of debate, Republicans decided Tuesday to try to break the Democratic filibuster of Miguel Estrada's nomination to a federal appeals court before moving the Senate on to other legislative business.

Democrats say the GOP will lose the Thursday vote to end the filibuster, but Senate Majority Leader Bill Frist, R-Tenn.,

promised to keep demanding such votes until Estrada gets a confirmation vote on his nomination to the U.S. Court of Appeals for the District of Columbia.

"It may take five weeks, it may take eight weeks, it may take two months, it may take three or four months," Frist said. "I'm going to use everything I possibly can, every tool I possibly can. This battle is just beginning. We are going to see that this nominee has an up or down vote."

If Republicans don't gain the 60 votes they need on Thursday and in other Estrada votes, the Senate will likely move on to other business instead of debating Estrada every day, although the nomination will not be withdrawn, GOP senators said.

"That is the beginning of the battle," Frist said. "This is not going to go away not until we get an up or down vote."

Democrats insist they will not allow a final vote on Estrada until the Washington appellate lawyer answers more of their questions in a public hearing, or the White House releases Estrada's working papers from his time at the Justice Department solicitor general's office. Republicans have refused those requests.

Senate Democratic Leader Tom Daschle of South Dakota said Democrats can hold out as long as Republicans can.

"We have sufficient support to sustain a series of cloture votes," Daschle said. "That was confirmed again today and I would expect it to remain that way for whatever length of time they choose to continue this debate."

Only four Democrats have said publicly that they would vote against continuing a filibuster - Sens. Zell Miller of Georgia, Ben Nelson of Nebraska, Bill Nelson of Florida and John Breaux of Louisiana - leaving Republicans short of the 60 votes they need to close off debate and get a final confirmation vote.

The GOP strategy is to make Democratic senators go on the record in supporting the Estrada filibuster, said GOP caucus chairman Rick Santorum of Pennsylvania.

"It give us and the folks across America a picture of where the problem is," Santorum said. "Maybe the reaction after this vote will elicit some sort of change in their understanding."

Democrats have been getting pressure from conservative Hispanic groups to confirm Estrada, who would become the first Hispanic on the U.S. Court of Appeals for the District of Columbia.

"There's no question, once we do so many cloture votes, we'll have to double track it to get the work of the Senate done," Senate Judiciary Chairman Orrin Hatch, R-Utah, said.

Democrats say their votes against an Estrada confirmation are solid and have been calling on Republicans to end the debate. "We've got to move on to these other issues and I think it's time to do that," Daschle said.

There are 51 Republicans, 48 Democrats and one independent in the Senate.

Senate Republicans Set Showdown Vote On Estrada (Reuters)

Reuters, March 5, 2003

WASHINGTON (Reuters) - Senate Republicans on Tuesday scheduled what may be the first of many showdown votes on President Bush's stalled bid to make conservative lawyer Miguel Estrada the first Hispanic on the U.S. Court of Appeals for the District of Columbia Circuit.

Democrats promptly predicted they would prevail in Thursday's vote and keep the nomination bottled up in a divided Senate, which has already debated it for nearly a month.

Republicans said they would hold as many "cloture votes" as needed in coming weeks to end debate and clear the way for a confirmation vote on the 41-year-old Estrada.

To succeed on cloture, Republicans would need the support of 60 of the chamber's 100 senators. A top Democratic aide said Republicans would fall at least three short on Thursday.

Republicans said they believed cloture votes would crank up pressure on Democrats to eventually break ranks and permit confirmation.

"It may be five weeks, it may be eight weeks, it may be two months, it may be three or four months," said Senate Majority Leader Bill Frist, a Tennessee Republican.

Senate Minority Leader Tom Daschle, a South Dakota Democrat, said: "We have sufficient support to sustain a series of cloture votes. I am confident that, regardless of how many votes are taken, our caucus is going to hold its position."

Democrats oppose Estrada, complaining that he refused to answer a number of questions at a confirmation hearing last year, making him a "stealth candidate."

They also charge that Estrada, whose nomination has drawn a split response from the Hispanic community, is part of Bush's effort to pack the court with right-wing ideologues.

Bush and fellow Republicans contend that the Honduran-born, Harvard-educated Estrada deserves to be confirmed, noting the American Bar Association gave him its highest rating.

The battle is seen as a possible dress rehearsal for Bush's first U.S. Supreme Court nominee, who could be Estrada, if he wins the appeals court seat.

The U.S. Court of Appeals for the District of Columbia Circuit is considered the nation's second most powerful court since it often resolves disputes between the executive and legislative branches of government and rules on the constitutionality of federal laws and regulations.

Republicans To File Cloture On Estrada Nomination Tuesday Afternoon (Roll Call)

By Paul Kane

Roll Call, March 05, 2003

Ending weeks of internal debate, Senate Republican leaders have decided to file cloture on the stalled judicial nomination of Miguel Estrada, setting up the first in a series of votes Thursday in their effort to break the Democratic filibuster.

Aides said the full Republican Conference was expected to sign off on the strategy at its weekly policy luncheon Tuesday unless there was a "dramatic reversal" in the tide of opinion.

Another Republican source, however, cautioned that there was a large contingent within the Conference opposed to filling cloture, a bloc that could provide that dramatic sway and reverse the movement toward cloture.

Emerging from a meeting of GOP chairmen and leaders Monday night, Conference Chairman Rick Santorum (Pa.) declined to specify what decisions had been made, but indicated that an announcement of their strategy was expected after the luncheon.

One GOP aide indicated that the new tactic calls for Majority Leader Bill Frist (R-Tenn.) to file cloture Tuesday afternoon, leading to the Thursday vote. The aide said there is no expectation of winning the 60 votes needed to break the filibuster, but that Frist would continue to force "as many cloture votes as is necessary to win confirmation."

"They'll be frequent and they'll be prominent," the aide said.

With 45 Democrats dug in on their opposition to Estrada, Republicans had been divided over how to proceed with the battle over President Bush's nominee to the U.S. Court of Appeals for the D.C. Circuit.

Santorum and Majority Whip Mitch McConnell (R-Ky.) had been the leading opponents of filing cloture, warning that it would set a bad institutional precedent of requiring 60 votes for nominees and could doom Estrada's hopes for confirmation by locking in Democrats in conservative-leaning states.

But others, including Sen. Trent Lott (R-Miss.) and Judiciary Chairman Orrin Hatch (R-Utah), had been pushing for cloture, arguing that putting Democrats officially on the record in support of the filibuster would allow outside conservative interest groups to heighten the pressure on them.

The Democrats' top vote counter, Minority Whip Harry Reid (Nev.), said there may be a couple of Democrats who are wavering on Estrada, but there was no doubt he had the minimum of 41 votes needed to block a vote, no matter how many cloture votes Republicans call.

"We have 41, that's all we care about," Reid said.

So far, Democratic Sens. John Breaux (La.), Zell Miller (Ga.), Ben Nelson (Neb.) and Bill Nelson (Fla.) have announced their support for Estrada.

GOP Files For Vote On Estrada (WTimes)

By Amy Fagan

The Washington Times, March 5, 2003

Senate Republican leaders yesterday made the first move to cut off debate on federal appeals court nominee Miguel Estrada by filing for "cloture" to force a final vote on his nomination.

"We're just beginning the fight," said Senate Majority Leader Bill Frist, Tennessee Republican. "This is not going to go away - not until we get an up-or-down vote."

Senators will vote tomorrow on the cloture motion, which will limit debate and force a vote on the nomination.

Republicans now have 55 of the needed 60 votes on cloture, including those of four Democrats, but have targeted a handful of other Democrats, hoping to get them to break ranks with their party and end the filibuster.

Republicans say it is time for the Democrats to go on record either for or against the 41-year-old Honduran-born lawyer, who was nominated to the U.S. Circuit Court of Appeals for the District of Columbia. Democrats have been preventing a vote on the nomination as debate continued since Feb 5.

"We've had a debate now; now it's time to see who's going to vote where," said Senate Judiciary Committee Chairman Orrin G. Hatch, Utah Republican. "Then the American people are going to have to speak to those senators."

Democrats are confident they have the 41 votes needed to continue a filibuster by defeating this cloture motion, as well as any others Republicans may file later.

"We are more than ready to have one or more votes," said Senate Minority Leader Tom Daschle, South Dakota Democrat.

If the cloture motion fails, Republicans plan to keep the Estrada nomination on the floor for as long as it takes to get a vote, setting it aside occasionally to go to other Senate business. They also plan additional cloture votes.

Mr. Frist said he will use "every tool that I possibly can" to get a final vote.

A Senate Republican leadership aide said Republicans are hopeful that Democratic Sens. Blanche Lincoln of Arkansas and Robert C. Byrd of West Virginia will join them in stopping a filibuster tomorrow.

Mr. Byrd has said he would vote with the Democrats against cloture on Mr. Estrada's nomination. But Republican aides say

they are making progress with Mr. Byrd, who is set to meet the lawyer on Friday.

Mrs. Lincoln did not say yesterday how she would vote on cloture, repeating only that she would like more information from Mr. Estrada. But a Democratic aide has said his party is not counting on Mrs. Lincoln to support the filibuster.

Sen. Bob Graham, Florida Democrat, also is undecided - both on a cloture vote and ultimate support for Mr. Estrada's nomination. His office said late yesterday that no decision had been made.

Several Democrats who have been on Republicans' target list said yesterday that they plan to support the filibuster. Those include Sens. Evan Bayh of Indiana; Jeff Bingaman of New Mexico; Daniel K. Inouye and Daniel K. Akaka, both of Hawaii; Thomas R. Carper of Delaware; Ernest F. Hollings of South Carolina and Mark Pryor of Arkansas.

Mr. Hollings would not say whether he would vote for subsequent cloture votes to keep the filibuster going.

"Let's see what they do," he said, referring to Republicans.

Others such as Mr. Carper and Mr. Pryor said they would continue to vote against cloture.

The Democrats who have said they will vote with the 51 Republicans in favor of cloture are John B. Breaux of Louisiana, Ben Nelson of Nebraska, Bill Nelson of Florida and Zell Miller of Georgia.

The White House has repeatedly invited Democrats seeking more information to meet with Mr. Estrada, and several have done so. The latest letter from the White House, sent Feb. 27, also encouraged them to submit written questions to Mr. Estrada and talk to his former employers.

As of yesterday, only Mr. Byrd had requested a meeting with Mr. Estrada and no senators had submitted more questions.

"The Senate Democrats have repeatedly said they need more information, yet they have repeatedly ignored or declined these offers," White House spokesman Ashley Snee said.

The Senate Republican leadership aide said that if Democrats continue to stick together to support the filibuster, they "will hear about Miguel Estrada for the next 18 months until November 2004."

Mr. Daschle said yesterday that the cloture vote tomorrow "doesn't change anything," because "the only thing that would change the circumstances we currently face is if Mr. Estrada becomes more cooperative."

Democratic leaders are demanding that the administration release memos Mr. Estrada wrote while working in the solicitor general's office - a request the administration has denied, with the backing of every living solicitor-general of both parties.

But Mr. Hatch said the cloture vote will establish on record that for the first time there is a "true filibuster against a circuit court nominee" - an accusation many Democrats have rejected.

Mr. Frist noted that Republicans have tried 17 times to get unanimous consent to have a vote, but Democrats have objected. He also noted that 72 newspaper editorials across the country support Mr. Estrada and/or oppose the Democratic filibuster, while just 10 support the filibuster.

The Senate is set to consider an arms control treaty with Russia today, setting aside the Estrada nomination temporarily.

Frist Invokes Cloture Vote Over Estrada (The Hill)

By Hans Nichols

The Hill, March 5, 2003

Senate Majority Leader Bill Frist (R-Tenn.) sought a showdown yesterday over President Bush's embattled bid to make

conservative lawyer Miguel Estrada the first Hispanic on the U.S. Court of Appeals for the D.C. Circuit.

But the Democrats promptly predicted they would prevail in Thursday's vote and keep the nomination bottled up in a divided Senate, which has already debated it for nearly a month.

" We are just beginning to fight," Frist vowed in filing what could well prove to be several cloture petitions aimed at cutting off a three-week-old Democratic filibuster.

" The only response from the other side of the aisle has been a cavalier filibuster. That's unacceptable," said Frist. "This is not going to go away, until we get an up and down vote."

" We have had over 85 hours of active debate, 17 unanimous consent requests," he added.

The Republicans leader promised to keep up the fight no matter how long it might take. "Estrada will not go away," he said.

Sen. Rick Santorum (R-Pa.), the GOP conference chairman, acknowledged that the cloture petition, which calls for a vote on Thursday, represents a new line of attack.

" Correct. We are changing strategies," he said.

For their part, the Democrats braced for an extended battle, voicing confidence that they have the votes to sustain their filibuster. A minimum of 60 votes - three-fifths of the Senate- is needed to cut off debate.

" We'll hold enough of our guys," said Sen. Richard Durbin (D-Ill.) "We've told our people they need to be ready for the long haul. It's a matter of principle," he added.

Sen. Tom Daschle (D-S.D.), the minority leader, reiterated, "nobody should be above the law."

" We have to find out who is going to vote which way," said Judiciary Committee Chairman Orrin Hatch (R-Utah) promising to put Democrats on record for denying the first Hispanic nominee to the federal circuit a straight up or down vote.

Republicans observed that only one Democrat has taken the White House's offer to meet with the embattled nominee. Sen. Robert Byrd (D-W. Virginia) is scheduled to meet with him on Friday, a GOP leadership aide said.

" I will vote against Estrada unless he answers questions about the broad views of the Constitution...," said Sen. Joseph Biden (D-Del.).

" I am an odd man out as a Democrat. I don't think they should have to provide the memorandum," said Biden claiming that he's been too busy with his duties on the Foreign Relations Committee in regards to Iraq to meet with the nominee. Some Democrats had been pressing the nominee to provide a memo on his opinions while serving in the solicitor general's office during the Clinton years.

" Looking at Estrada and what he's told or won't tell, there's no way I would vote for him," said Sen. Jim Jeffords (I-Vt.). However, he conceded that he had not acted on the administration's offer to meet with the nominee because "it would just be a waste of time... Estrada is going to have to find another job."

Despite the apparent setback, Republicans exuded confidence about their new line of attack, with Frist referring to the "mounds of editorial support" claiming that 72 out of a total of 82 editorials favored confirmation.

With both sides ratcheting up their rhetoric, the number of possible outcomes dwindled, as did chances of a compromise.

Santorum said: "We are trying to listen to the better angels of the some of the natures of our Democrat colleagues who can hopefully see if this tactic being waged against us and Miguel Estrada today sets a precedent that could be dangerous in future Congresses."

"We're really in danger of a constitutional crisis," said Hatch as he and other senior Republicans spoke to reporters after emerging from their Tuesday lunch

Hatch added: "There has never been a judicial nominee stopped except for Abe Fortas to the Supreme Court and I'll say again that was a bi-partisan filibuster."

"Fighting and losing less is desirable than fighting and winning but not fighting at all and losing is not acceptable," said Sen. Larry Craig (R-Idaho), adding: "Some of our base has said over the years that we didn't go the extra mile to fight the fight. It would be difficult for them to argue that we haven't on this one."

GOP Senators Move To Force Vote On Estrada (WPost)

By Helen Dewar

The Washington Post, March 05, 2003

Senate Republicans moved yesterday to force a showdown they were likely to lose on ending the month-long Democratic filibuster against the judicial nomination of Miguel Estrada -- a step enabling them to start scheduling other business.

While Republicans vowed to continue pressing for a vote to approve the highly contested nomination, their decision to combine the debate with action on other matters appeared likely to take some of the spotlight off the struggle over Estrada's nomination to the U.S. Court of Appeals for the District of Columbia Circuit.

GOP leaders said the Senate will take up a U.S.-Russia treaty on arms reduction today and may schedule debate and votes next week on a bill that would ban a late-term procedure opponents call "partial birth" abortion. Action would be scheduled for the following week on the budget for fiscal 2004. They said the Senate may also soon take up legislation to help faith-based charities, one of President Bush's priorities.

Republicans said they will return repeatedly to the Estrada nomination and predicted they would eventually prevail. But Democrats showed no signs of relenting and predicted the Republicans would ultimately fail.

Democrats said they will have more than enough votes to prevail in Thursday's "cloture" vote to end the filibuster. Republicans need 60 votes to shut off debate and force a vote on Estrada. They have picked up the votes of four Democrats -- Sens. John Breaux (La.), Zell Miller (Ga.), Ben Nelson (Neb.) and Bill Nelson (Fla.) -- but remain at least three or four votes short of 60, according to Democratic nose-counters.

While conceding they are likely to lose Thursday, Republicans contended the vote will be useful in targeting persuadable senators and building pressure for action by making the case that Democrats are obstructing action.

Republicans said they will keep holding cloture votes "for as long as it takes," said Majority Leader Bill Frist (R-Tenn.). "This is not going to go away until we get an up-or-down vote," he added.

But Democrats, who had been pushing unsuccessfully to get the Republicans to end the Estrada debate and move to other business, claimed that their votes to continue the filibuster are solid.

"I am confident that, regardless of how many votes are taken, our caucus is going to hold its position," said Minority Leader Thomas A. Daschle (D-S.D.).

Democrats say they will allow a simple-majority vote -- which presumably would confirm Estrada's nomination -- only if he would answer questions more fully about his legal views before the Judiciary Committee, and if the administration would release copies of memos he wrote while working for the solicitor general's office in the Justice Department during the 1990s. Without this information, Democrats say, the Senate cannot adequately carry out its advise-and-consent duties under the Constitution.

Republicans defend the 41-year-old Honduran-born, Harvard-educated lawyer as highly qualified. They say he has answered

questions as fully as many other nominees who have moved easily through the Senate. They accuse the Democrats of trying to scuttle the nomination because Estrada is a conservative.

GOP Senators Want Vote On Judge Choice (AJC)

By JASON EMBRY

The Atlanta Journal-Constitution, March 5, 2003

WASHINGTON -- Seeking to end a standoff with Democrats, Republicans will call for a vote Thursday to end debate over nominating Miguel Estrada to a federal judgeship.

President Bush has tapped Estrada to become the first Hispanic on the U.S. Court of Appeals for the District of Columbia Circuit, a powerful court that often rules on federal disputes. The vote on a parliamentary procedure called "cloture" would force Democrats to confirm whether they oppose or favor the nomination, which is supported by some Latino groups.

Estrada has enough support to get 51 votes for the nomination. But his backers do not appear to have the 60 votes needed to stop what has amounted to a filibuster of his nomination by Democrats who say he has not been forthcoming about his views.

Approval of a motion for cloture would end debate and bring the issue to a vote, but it must receive at least 60 votes to pass. So far, those declaring they favor Estrada's nomination are the 51 Republicans in the 100-member Senate and four Democrats, among them Georgia's Zell Miller.

Sen. John Cornyn (R-Texas) said a cloture vote will show who's blocking the nomination.

"Some [Democrats] are sitting back in their offices saying, 'I'm not filibustering, I'm not preventing this nomination from going forward,'" said Cornyn, a member of the Senate Judiciary Committee. "Now senators are going to be held accountable."

Republicans could hold more cloture votes if, as expected, Thursday's fails.

"We ought to have a cloture vote every day from now on," said Sen. Saxby Chambliss (R-Ga.).

GOP Poll: Estrada Opposition Could Cost Dems (The Hill)

By Sarita Chourey

The Hill, March 5, 2003

The Democratic Party could pay a price for Senate Democrats' effort to block President Bush's nomination of Miguel Estrada for a federal judgeship, according to an internal GOP poll.

The poll, which questioned 1,000 registered voters about the impact of the nomination on Senate Democratic candidates, found that 42 percent of respondents have a less favorable view of Democratic candidates while only 32 percent had a favorable view.

Further evidence of the negative effect of the Democratic filibuster on its own party came from the League of United Latin American Citizens (LULAC), a traditionally Democratic organization, which has become an ally of Republican Hispanic groups backing Estrada.

But LULAC is in a quandary. Last week, several members of the all-Democratic Congressional Hispanic Caucus expressed their irritation with the organization's pro-Estrada stance and requested that LULAC's board address their concerns.

"LULAC came out fairly early in support of Mr. Estrada," said Rep. Charlie Gonzalez (D-Texas). "We respect that, but we disagree. The problem is that LULAC has allowed itself to be used to legitimize the illegitimate."

He added, "LULAC needs to look carefully and deeply as to whether or not they're being used as tools. We've worked with them, of course. I can't believe they've allowed themselves to be aligned with certain organizations."

LULAC has held two joint press conferences with GOP groups like the Latino Coalition, which criticized the Hispanic Caucus for not supporting Estrada.

Even though LULAC did not directly criticize the Hispanic Caucus, some Senate Republicans such as Sen. Chuck Grassley (R-Iowa) and Trent Lott (R-Miss.) accused members of the Hispanic Caucus of being anti-Hispanic, and turning their backs on their own community.

Sen. Orrin Hatch (R-Utah, chairman of the Judiciary Committee, compared the Hispanic Caucus to a "lioness eating its cub."

Gonzalez dismissed such criticism. "Trent Lott? I mean, please," he remarked.

Brian Wilkes, LULAC's national executive director, played down speculation that his organization is shifting its allegiance to the Democratic Party, and said he plans to issue a release this week criticizing Senate Republicans for their statements against the Hispanic Caucus.

" We may have been unwittingly caught up in a play for the Republican vote," Wilkes said. He expressed regret at attending briefings where the Hispanic Caucus was criticized.

" Unfortunately, Republicans have taken the qualifications away from Miguel Estrada and tried to push a wedge between the Hispanic community and the Democratic Party," he said. "We never signed up for that."

Despite the organization's apparent flip-flop, Wilkes praised President Bush for his outreach to Hispanic voters. He said Hispanic Democrats do have reason to worry about their base gravitating toward the GOP.

Asked about his views on Bush, Wilkes replied: "There is a sense that Bush, unlike his predecessor, has been reaching out to Hispanics. [But] we definitely disagree with his stance on affirmative action. We are concerned about his tax package. He seems to be tilting his economic program toward the more affluent, and that doesn't help our community."

While LULAC is going to some length to avoid an open breach with the Democrats, it is not budging from its position that Estrada should be confirmed.

" We've evaluated his record, he's got a very strong academic record," said Wilkes, who remarked that Estrada worked in the solicitor general's office under President Clinton and was once editor of the Columbia Law Review.

Hispanic Democrats say their constituents do not necessarily favor Estrada. Rep. Gonzalez added that his local LULAC chapter does not support Estrada.

The Democrats continue to hammer the message that Estrada is wrong for the job. "I was there when he came before the caucus and refused to answer a question," said Rep. Jose Serrano (D-N.Y.). "I don't expect George Bush to nominate a liberal, but I expect [the nomination] to be some kind of sensible person."

The Political Life (The Hill)

Column by Dick Morris

The Hill, March 5, 2003

The whole (Hispanic) world is watching

The Democrats are talking themselves to death in their filibuster against the nomination of Miguel Estrada to the federal bench. The more they talk, the more it is clear that they have nothing to say and no reason to block the nomination of one of the few Hispanics to be nominated to the senior levels of our judiciary.

There is no ethical problem here. No rash statements. No imputed bias. Not even any clear indication of a strong right wing or left wing political philosophy. The burden of the Democratic argument seems to be that Estrada has not ruled, in advance, on all the cases that will come before him. What many would take as a refreshing lack of prejudice and the indication of an open mind, the Democrats assume is evidence of a great conspiracy of silence.

Liberals see the Estrada filibuster as providing a precedent for a new level of disclosure for all nominees to the federal bench. Rather than nominate and confirm good people and let them decide cases, the Democrats are now asking for clear commitments on each area of judicial decision-making that a new judge is likely to confront. The independence of the judiciary is at stake in this new assertion of legislative prerogative.

But the Democrats should realize that they have chosen a terrible target for their new level of scrutiny. By filibustering an Hispanic nominee and going to such lengths to block his confirmation, even when there is no clear reason to do so, they are asking the Hispanic voters to turn against them in droves.

For his part, Majority Leader Bill Frist (R-Tenn.) is skillfully calling the Democratic bluff by requiring them to talk out the filibuster. No gentleman filibuster this time. Lengthy sessions and constant talk animate this effort to block Estrada. Frist should keep the Senate in session around the clock and on weekends to make the Democrats carry their opposition to a Hispanic judge to absurd lengths.

If Frist continues his policy of making the Democrats act out their filibusters by actually talking on the floor endlessly, he may well succeed in breaking the filibuster as a weapon. He may accomplish the ultimate goal of a majority leader - empower the majority and end the 60-vote requirement to pass a bill in the Senate.

How long could the South have filibustered civil rights if the talk-a-thon were covered by cable TV as this filibuster is? Frist is making the Democrats look like anti-Hispanic bigots, all the more because they have no real basis for dissing Estrada.

Remember the stakes, folks. The Hispanic population grew by 4.7 percent last year, while blacks expanded by 1.5 percent and whites by a paltry 0.3 percent. Hispanics cast 6 percent of the vote in 1990 and 12 percent in 2000. If their numbers expand at the current pace, they will be up to 18 percent in 2010 and 24 percent in 2020. With one-third of Hispanics voting Republican, they are the jump ball in American politics. As this vote goes, so goes the future.

Republicans got off on the wrong foot by listening to the likes of Pat Buchanan and other Nativists. Their English-only and anti-immigration initiatives stopped them from appealing to newly arrived Hispanic voters. But President Bush has changed all that. Estrada symbolizes the transition. If Bush takes it the next step and embraces some of Mexican President Vicente Fox's ideas about earned amnesty for Mexican-Americans, he can truly bring Hispanics into the Republican fold for decades to come.

Estrada is no Clarence Thomas, so clearly out of step with his voters as to make his nomination suspect. And Hispanics are not blacks, so committed to the Democratic Party that it would take an act of genocide to breach their amity. Hispanics are up for grabs and each day of the filibuster drives them further toward the GOP.

Dick Morris is a former consultant to President Clinton, Sen. Trent Lott (R-Miss.) and other political figures

Global News Wire

Copyright 2003 EFE News Services (U.S.) Inc

EFE News Service

March 5, 2003

LENGTH: 369 words

HEADLINE: US-JUDGE REPUBLICANS MOVE TO BREAK FILIBUSTER ON **ESTRADA** VOTE

BODY:

Washington, Mar 4 (EFE).- Senate Republicans on Tuesday announced plans to overcome the filibuster on President George W. Bush's nomination of Hispanic lawyer Miguel **Estrada** to a federal court before moving forward.

The vote to confirm **Estrada** to a federal appeals court in the District of Columbia has been blocked for nearly a month, after Democrats made good on a threat to carry out a filibuster unless the Honduran-born lawyer responded to more of their questions. In a press conference Tuesday, Senate Majority Leader Bill Frist (Rep.-Tenn.) and Senate Judiciary Chairman Orrin Hatch (Rep.-Utah) said Republicans plan to vote Thursday to end the filibuster, a lengthy speechmaking tactic traditionally employed by the minority party to extend a debate.

Republicans need 60 votes to end the debate and vote on **Estrada's** confirmation. The Senate is currently made up of 51 Republicans, 48 Democrats and one independent, who votes with the Democrats.

"It may take five weeks, it may take eight weeks, it may take two months, it may take three or four months," Frist said

"This battle is just beginning. We are going to see that this nominee has an up or down vote," he said, adding that Republicans have been "reasonable and patient" but are eager to end the debate.

Bush nominated **Estrada** in May 2001 to the U.S. District of Columbia Court of Appeals, the second-highest tribunal after the Supreme Court, along with some 30 other candidates to serve as judges in different federal courts.

For their part, Democrats have pledged to continue pressuring **Estrada** to speak on issues he refused to touch during his interview with congressional leaders before voting on his confirmation, maintaining Republicans do not have the votes needed to break the filibuster.

"We have sufficient support to sustain a series of **cloture** votes," said Senate Minority Leader Tom Daschle (Dem.-S.D.)

"That was confirmed again today and I would expect it to remain that way for whatever length of time they choose to continue this debate," he added.

Estrada has never served as a judge and, despite being Latino, is opposed by most Hispanic organizations for what they say is his extreme conservatism.

JOURNAL-CODE: WEFE

LOAD-DATE: March 5, 2003

Message Sent To:

Brett M. Kavanaugh/WHO/EOP@EOP

Wendy J. Grubbs/WHO/EOP@EOP

David G. Leitch/WHO/EOP@Exchange

Leonard B. Rodriguez/WHO/EOP@EOP

Abel Guerra/WHO/EOP@EOP

From: Snee, Ashley
To: <Kavanaugh, Brett M.>;<Grubbs, Wendy J.>;<Leitch, David G.>;<Rodriguez, Leonard B.>;<Guerra, Abel>
Sent: 3/5/2003 7:53:49 AM
Subject: Cloture Coverage

Vote Set On Ending Filibuster On Judge (NYTimes)

By THE NEW YORK TIMES
The New York Times, March 05, 2003
WASHINGTON, March 4 - Senate Republicans today set a vote for Thursday on whether to end a Democratic filibuster that has blocked consideration of President Bush's nomination of Miguel Estrada to a federal appeals court seat.
No one expects the effort to end the filibuster to succeed. But calling for the vote represents an escalation in tactics as Republicans say they believe they are gaining political support among Hispanic voters.
"This will make it more clear that the Democrats are blocking the Estrada nomination," said a senior Republican strategist.
The Senate majority leader, Bill Frist, Republican of Tennessee, said that he was filing a motion to end what he called a "cavalier filibuster" by the Democrats. But Dr. Frist acknowledged the unlikelihood that the Republicans would be able to win Thursday's vote.
"I want to make it very clear that that is the beginning of the battle," Dr. Frist told reporters.
While the 51 Republicans in the Senate are a majority, enough to confirm Mr. Estrada in a straight up-or-down vote, they would need 60 votes to end the filibuster. Currently, only four Democrats have indicated they will vote with the Republicans, leaving them five votes short.

GOP To Force An Estrada Filibuster Vote (AP)

By JESSE J. HOLLAND
The Associated Press, March 5, 2003
WASHINGTON - After more than three weeks of debate, Republicans decided Tuesday to try to break the Democratic filibuster of Miguel Estrada's nomination to a federal appeals court before moving the Senate on to other legislative business.
Democrats say the GOP will lose the Thursday vote to end the filibuster, but Senate Majority Leader Bill Frist, R-Tenn., promised to keep demanding such votes until Estrada gets a confirmation vote on his nomination to the U.S. Court of Appeals for the District of Columbia.
"It may take five weeks, it may take eight weeks, it may take two months, it may take three or four months," Frist said. "I'm going to use everything I possibly can, every tool I possibly can. This battle is just beginning. We are going to see that this nominee has an up or down vote."
If Republicans don't gain the 60 votes they need on Thursday and in other Estrada votes, the Senate will likely move on to other business instead of debating Estrada every day, although the nomination will not be withdrawn, GOP senators said.
"That is the beginning of the battle," Frist said. "This is not going to go away not until we get an up or down vote."
Democrats insist they will not allow a final vote on Estrada until the Washington appellate lawyer answers more of their questions in a public hearing, or the White House releases Estrada's working papers from his time at the Justice Department solicitor general's office. Republicans have refused those requests.
Senate Democratic Leader Tom Daschle of South Dakota said Democrats can hold out as long as Republicans can.
"We have sufficient support to sustain a series of cloture votes," Daschle said. "That was confirmed again today and I would expect it to remain that way for whatever length of time they choose to continue this debate."
Only four Democrats have said publicly that they would vote against continuing a filibuster - Sens. Zell Miller of Georgia, Ben Nelson of Nebraska, Bill Nelson of Florida and John Breaux of Louisiana - leaving Republicans short of the 60 votes they need to close off debate and get a final confirmation vote.
The GOP strategy is to make Democratic senators go on the record in supporting the Estrada filibuster, said GOP caucus chairman Rick Santorum of Pennsylvania.
"It give us and the folks across America a picture of where the problem is," Santorum said. "Maybe the reaction after this vote will elicit some sort of change in their understanding."
Democrats have been getting pressure from conservative Hispanic groups to confirm Estrada, who would become the first

Hispanic on the U.S. Court of Appeals for the District of Columbia.
"There's no question, once we do so many cloture votes, we'll have to double track it to get the work of the Senate done," Senate Judiciary Chairman Orrin Hatch, R-Utah, said.
Democrats say their votes against an Estrada confirmation are solid and have been calling on Republicans to end the debate.
"We've got to move on to these other issues and I think it's time to do that," Daschle said.
There are 51 Republicans, 48 Democrats and one independent in the Senate.

Senate Republicans Set Showdown Vote On Estrada (Reuters)

Reuters, March 5, 2003
WASHINGTON (Reuters) - Senate Republicans on Tuesday scheduled what may be the first of many showdown votes on President Bush's stalled bid to make conservative lawyer Miguel Estrada the first Hispanic on the U.S. Court of Appeals for the District of Columbia Circuit.
Democrats promptly predicted they would prevail in Thursday's vote and keep the nomination bottled up in a divided Senate, which has already debated it for nearly a month.
Republicans said they would hold as many "cloture votes" as needed in coming weeks to end debate and clear the way for a confirmation vote on the 41-year-old Estrada.
To succeed on cloture, Republicans would need the support of 60 of the chamber's 100 senators. A top Democratic aide said Republicans would fall at least three short on Thursday.
Republicans said they believed cloture votes would crank up pressure on Democrats to eventually break ranks and permit confirmation.
"It may be five weeks, it may be eight weeks, it may be two months, it may be three or four months," said Senate Majority Leader Bill Frist, a Tennessee Republican.
Senate Minority Leader Tom Daschle, a South Dakota Democrat, said: "We have sufficient support to sustain a series of cloture votes. I am confident that, regardless of how many votes are taken, our caucus is going to hold its position."
Democrats oppose Estrada, complaining that he refused to answer a number of questions at a confirmation hearing last year, making him a "stealth candidate."
They also charge that Estrada, whose nomination has drawn a split response from the Hispanic community, is part of Bush's effort to pack the court with right-wing ideologues.
Bush and fellow Republicans contend that the Honduran-born, Harvard-educated Estrada deserves to be confirmed, noting the American Bar Association gave him its highest rating.
The battle is seen as a possible dress rehearsal for Bush's first U.S. Supreme Court nominee, who could be Estrada, if he wins the appeals court seat.
The U.S. Court of Appeals for the District of Columbia Circuit is considered the nation's second most powerful court since it often resolves disputes between the executive and legislative branches of government and rules on the constitutionality of federal laws and regulations.

Republicans To File Cloture On Estrada Nomination Tuesday Afternoon (Roll Call)

By Paul Kane
Roll Call, March 05, 2003
Ending weeks of internal debate, Senate Republican leaders have decided to file cloture on the stalled judicial nomination of Miguel Estrada, setting up the first in a series of votes Thursday in their effort to break the Democratic filibuster.
Aides said the full Republican Conference was expected to sign off on the strategy at its weekly policy luncheon Tuesday unless there was a "dramatic reversal" in the tide of opinion.
Another Republican source, however, cautioned that there was a large contingent within the Conference opposed to filling cloture, a bloc that could provide that dramatic sway and reverse the movement toward cloture.
Emerging from a meeting of GOP chairmen and leaders Monday night, Conference Chairman Rick Santorum (Pa.) declined to specify what decisions had been made, but indicated that an announcement of their strategy was expected after the luncheon.
One GOP aide indicated that the new tactic calls for Majority Leader Bill Frist (R-Tenn.) to file cloture Tuesday afternoon, leading to the Thursday vote. The aide said there is no expectation of winning the 60 votes needed to break the filibuster, but that Frist would continue to force "as many cloture votes as is necessary to win confirmation."
"They'll be frequent and they'll be prominent," the aide said.
With 45 Democrats dug in on their opposition to Estrada, Republicans had been divided over how to proceed with the battle

over President Bush's nominee to the U.S. Court of Appeals for the D.C. Circuit.
Santorum and Majority Whip Mitch McConnell (R-Ky.) had been the leading opponents of filing cloture, warning that it would set a bad institutional precedent of requiring 60 votes for nominees and could doom Estrada's hopes for confirmation by locking in Democrats in conservative-leaning states.
But others, including Sen. Trent Lott (R-Miss.) and Judiciary Chairman Orrin Hatch (R-Utah), had been pushing for cloture, arguing that putting Democrats officially on the record in support of the filibuster would allow outside conservative interest groups to heighten the pressure on them.
The Democrats' top vote counter, Minority Whip Harry Reid (Nev.), said there may be a couple of Democrats who are wavering on Estrada, but there was no doubt he had the minimum of 41 votes needed to block a vote, no matter how many cloture votes Republicans call.
"We have 41, that's all we care about," Reid said.
So far, Democratic Sens. John Breaux (La.), Zell Miller (Ga.), Ben Nelson (Neb.) and Bill Nelson (Fla.) have announced their support for Estrada.

GOP Files For Vote On Estrada (WTimes)

By Amy Fagan
The Washington Times, March 5, 2003
Senate Republican leaders yesterday made the first move to cut off debate on federal appeals court nominee Miguel Estrada by filing for "cloture" to force a final vote on his nomination.
"We're just beginning the fight," said Senate Majority Leader Bill Frist, Tennessee Republican. "This is not going to go away - not until we get an up-or-down vote."
Senators will vote tomorrow on the cloture motion, which will limit debate and force a vote on the nomination.
Republicans now have 55 of the needed 60 votes on cloture, including those of four Democrats, but have targeted a handful of other Democrats, hoping to get them to break ranks with their party and end the filibuster.
Republicans say it is time for the Democrats to go on record either for or against the 41-year-old Honduran-born lawyer, who was nominated to the U.S. Circuit Court of Appeals for the District of Columbia. Democrats have been preventing a vote on the nomination as debate continued since Feb 5.
"We've had a debate now; now it's time to see who's going to vote where," said Senate Judiciary Committee Chairman Orrin G. Hatch, Utah Republican. "Then the American people are going to have to speak to those senators."
Democrats are confident they have the 41 votes needed to continue a filibuster by defeating this cloture motion, as well as any others Republicans may file later.
"We are more than ready to have one or more votes," said Senate Minority Leader Tom Daschle, South Dakota Democrat.
If the cloture motion fails, Republicans plan to keep the Estrada nomination on the floor for as long as it takes to get a vote, setting it aside occasionally to go to other Senate business. They also plan additional cloture votes.
Mr. Frist said he will use "every tool that I possibly can" to get a final vote.
A Senate Republican leadership aide said Republicans are hopeful that Democratic Sens. Blanche Lincoln of Arkansas and Robert C. Byrd of West Virginia will join them in stopping a filibuster tomorrow.
Mr. Byrd has said he would vote with the Democrats against cloture on Mr. Estrada's nomination. But Republican aides say they are making progress with Mr. Byrd, who is set to meet the lawyer on Friday.
Mrs. Lincoln did not say yesterday how she would vote on cloture, repeating only that she would like more information from Mr. Estrada. But a Democratic aide has said his party is not counting on Mrs. Lincoln to support the filibuster.
Sen. Bob Graham, Florida Democrat, also is undecided - both on a cloture vote and ultimate support for Mr. Estrada's nomination. His office said late yesterday that no decision had been made.
Several Democrats who have been on Republicans' target list said yesterday that they plan to support the filibuster. Those include Sens. Evan Bayh of Indiana; Jeff Bingaman of New Mexico; Daniel K. Inouye and Daniel K. Akaka, both of Hawaii; Thomas R. Carper of Delaware; Ernest F. Hollings of South Carolina and Mark Pryor of Arkansas.
Mr. Hollings would not say whether he would vote for subsequent cloture votes to keep the filibuster going.
"Let's see what they do," he said, referring to Republicans.
Others such as Mr. Carper and Mr. Pryor said they would continue to vote against cloture.
The Democrats who have said they will vote with the 51 Republicans in favor of cloture are John B. Breaux of Louisiana, Ben Nelson of Nebraska, Bill Nelson of Florida and Zell Miller of Georgia.
The White House has repeatedly invited Democrats seeking more information to meet with Mr. Estrada, and several have done

so. The latest letter from the White House, sent Feb. 27, also encouraged them to submit written questions to Mr. Estrada and talk to his former employers.
As of yesterday, only Mr. Byrd had requested a meeting with Mr. Estrada and no senators had submitted more questions.
"The Senate Democrats have repeatedly said they need more information, yet they have repeatedly ignored or declined these offers," White House spokesman Ashley Snee said.
The Senate Republican leadership aide said that if Democrats continue to stick together to support the filibuster, they "will hear about Miguel Estrada for the next 18 months until November 2004."
Mr. Daschle said yesterday that the cloture vote tomorrow "doesn't change anything," because "the only thing that would change the circumstances we currently face is if Mr. Estrada becomes more cooperative."
Democratic leaders are demanding that the administration release memos Mr. Estrada wrote while working in the solicitor general's office - a request the administration has denied, with the backing of every living solicitor-general of both parties.
But Mr. Hatch said the cloture vote will establish on record that for the first time there is a "true filibuster against a circuit court nominee" - an accusation many Democrats have rejected.
Mr. Frist noted that Republicans have tried 17 times to get unanimous consent to have a vote, but Democrats have objected.
He also noted that 72 newspaper editorials across the country support Mr. Estrada and/or oppose the Democratic filibuster, while just 10 support the filibuster.
The Senate is set to consider an arms control treaty with Russia today, setting aside the Estrada nomination temporarily.

Frist Invokes Cloture Vote Over Estrada (The Hill)

By Hans Nichols
The Hill, March 5, 2003
Senate Majority Leader Bill Frist (R-Tenn.) sought a showdown yesterday over President Bush's embattled bid to make conservative lawyer Miguel Estrada the first Hispanic on the U.S. Court of Appeals for the D.C. Circuit.
But the Democrats promptly predicted they would prevail in Thursday's vote and keep the nomination bottled up in a divided Senate, which has already debated it for nearly a month.
" We are just beginning to fight," Frist vowed in filing what could well prove to be several cloture petitions aimed at cutting off a three-week-old Democratic filibuster.
" The only response from the other side of the aisle has been a cavalier filibuster. That's unacceptable," said Frist. "This is not going to go away, until we get an up and down vote."
" We have had over 85 hours of active debate, 17 unanimous consent requests," he added.
The Republicans leader promised to keep up the fight no matter how long it might take. "Estrada will not go away," he said.
Sen. Rick Santorum (R-Pa.), the GOP conference chairman, acknowledged that the cloture petition, which calls for a vote on Thursday, represents a new line of attack.
" Correct. We are changing strategies," he said.
For their part, the Democrats braced for an extended battle, voicing confidence that they have the votes to sustain their filibuster. A minimum of 60 votes - three-fifths of the Senate- is needed to cut off debate.
" We'll hold enough of our guys," said Sen. Richard Durbin (D-Ill.) "We've told our people they need to be ready for the long haul. It's a matter of principle," he added.
Sen. Tom Daschle (D-S.D.), the minority leader, reiterated, "nobody should be above the law."
" We have to find out who is going to vote which way," said Judiciary Committee Chairman Orrin Hatch (R-Utah) promising to put Democrats on record for denying the first Hispanic nominee to the federal circuit a straight up or down vote.
Republicans observed that only one Democrat has taken the White House's offer to meet with the embattled nominee. Sen. Robert Byrd (D-W. Virginia) is scheduled to meet with him on Friday, a GOP leadership aide said.
" I will vote against Estrada unless he answers questions about the broad views of the Constitution...," said Sen. Joseph Biden (D-Del.).
" I am an odd man out as a Democrat. I don't think they should have to provide the memorandum," said Biden claiming that he's been too busy with his duties on the Foreign Relations Committee in regards to Iraq to meet with the nominee. Some Democrats had been pressing the nominee to provide a memo on his opinions while serving in the solicitor general's office during the Clinton years.
" Looking at Estrada and what he's told or won't tell, there's no way I would vote for him," said Sen. Jim Jeffords (I-Vt.).
However, he conceded that he had not acted on the administration's offer to meet with the nominee because "it would just be a waste of time... Estrada is going to have to find another job."

Despite the apparent setback, Republicans exuded confidence about their new line of attack, with Frist referring to the "mounds of editorial support" claiming that 72 out of a total of 82 editorials favored confirmation.
With both sides ratcheting up their rhetoric, the number of possible outcomes dwindled, as did chances of a compromise.
Santorum said: "We are trying to listen to the better angels of the some of the natures of our Democrat colleagues who can hopefully see if this tactic being waged against us and Miguel Estrada today sets a precedent that could be dangerous in future Congresses."
"We're really in danger of a constitutional crisis," said Hatch as he and other senior Republicans spoke to reporters after emerging from their Tuesday lunch
Hatch added: "There has never been a judicial nominee stopped except for Abe Fortas to the Supreme Court and I'll say again that was a bi-partisan filibuster."
"Fighting and losing less is desirable than fighting and winning but not fighting at all and losing is not acceptable," said Sen. Larry Craig (R-Idaho), adding: "Some of our base has said over the years that we didn't go the extra mile to fight the fight. It would be difficult for them to argue that we haven't on this one."

GOP Senators Move To Force Vote On Estrada (WPost)

By Helen Dewar
The Washington Post, March 05, 2003
Senate Republicans moved yesterday to force a showdown they were likely to lose on ending the month-long Democratic filibuster against the judicial nomination of Miguel Estrada -- a step enabling them to start scheduling other business.
While Republicans vowed to continue pressing for a vote to approve the highly contested nomination, their decision to combine the debate with action on other matters appeared likely to take some of the spotlight off the struggle over Estrada's nomination to the U.S. Court of Appeals for the District of Columbia Circuit.
GOP leaders said the Senate will take up a U.S.-Russia treaty on arms reduction today and may schedule debate and votes next week on a bill that would ban a late-term procedure opponents call "partial birth" abortion. Action would be scheduled for the following week on the budget for fiscal 2004. They said the Senate may also soon take up legislation to help faith-based charities, one of President Bush's priorities.
Republicans said they will return repeatedly to the Estrada nomination and predicted they would eventually prevail. But Democrats showed no signs of relenting and predicted the Republicans would ultimately fail.
Democrats said they will have more than enough votes to prevail in Thursday's "cloture" vote to end the filibuster. Republicans need 60 votes to shut off debate and force a vote on Estrada. They have picked up the votes of four Democrats -- Sens. John Breaux (La.), Zell Miller (Ga.), Ben Nelson (Neb.) and Bill Nelson (Fla.) -- but remain at least three or four votes short of 60, according to Democratic nose-counters.
While conceding they are likely to lose Thursday, Republicans contended the vote will be useful in targeting persuadable senators and building pressure for action by making the case that Democrats are obstructing action.
Republicans said they will keep holding cloture votes "for as long as it takes," said Majority Leader Bill Frist (R-Tenn.). "This is not going to go away until we get an up-or-down vote," he added.
But Democrats, who had been pushing unsuccessfully to get the Republicans to end the Estrada debate and move to other business, claimed that their votes to continue the filibuster are solid.
"I am confident that, regardless of how many votes are taken, our caucus is going to hold its position," said Minority Leader Thomas A. Daschle (D-S.D.).
Democrats say they will allow a simple-majority vote -- which presumably would confirm Estrada's nomination -- only if he would answer questions more fully about his legal views before the Judiciary Committee, and if the administration would release copies of memos he wrote while working for the solicitor general's office in the Justice Department during the 1990s. Without this information, Democrats say, the Senate cannot adequately carry out its advise-and-consent duties under the Constitution.
Republicans defend the 41-year-old Honduran-born, Harvard-educated lawyer as highly qualified. They say he has answered questions as fully as many other nominees who have moved easily through the Senate. They accuse the Democrats of trying to scuttle the nomination because Estrada is a conservative.

GOP Senators Want Vote On Judge Choice (AJC)

By JASON EMBRY
The Atlanta Journal-Constitution, March 5, 2003

WASHINGTON -- Seeking to end a standoff with Democrats, Republicans will call for a vote Thursday to end debate over nominating Miguel Estrada to a federal judgeship.
President Bush has tapped Estrada to become the first Hispanic on the U.S. Court of Appeals for the District of Columbia Circuit, a powerful court that often rules on federal disputes. The vote on a parliamentary procedure called "cloture" would force Democrats to confirm whether they oppose or favor the nomination, which is supported by some Latino groups.
Estrada has enough support to get 51 votes for the nomination. But his backers do not appear to have the 60 votes needed to stop what has amounted to a filibuster of his nomination by Democrats who say he has not been forthcoming about his views.
Approval of a motion for cloture would end debate and bring the issue to a vote, but it must receive at least 60 votes to pass. So far, those declaring they favor Estrada's nomination are the 51 Republicans in the 100-member Senate and four Democrats, among them Georgia's Zell Miller.
Sen. John Cornyn (R-Texas) said a cloture vote will show who's blocking the nomination.
"Some [Democrats] are sitting back in their offices saying, 'I'm not filibustering, I'm not preventing this nomination from going forward,'" said Cornyn, a member of the Senate Judiciary Committee. "Now senators are going to be held accountable."
Republicans could hold more cloture votes if, as expected, Thursday's fails.
"We ought to have a cloture vote every day from now on," said Sen. Saxby Chambliss (R-Ga.).

GOP Poll: Estrada Opposition Could Cost Dems (The Hill)

By Sarita Chourey
The Hill, March 5, 2003
The Democratic Party could pay a price for Senate Democrats' effort to block President Bush's nomination of Miguel Estrada for a federal judgeship, according to an internal GOP poll.
The poll, which questioned 1,000 registered voters about the impact of the nomination on Senate Democratic candidates, found that 42 percent of respondents have a less favorable view of Democratic candidates while only 32 percent had a favorable view.
Further evidence of the negative effect of the Democratic filibuster on its own party came from the League of United Latin American Citizens (LULAC), a traditionally Democratic organization, which has become an ally of Republican Hispanic groups backing Estrada.
But LULAC is in a quandary. Last week, several members of the all-Democratic Congressional Hispanic Caucus expressed their irritation with the organization's pro-Estrada stance and requested that LULAC's board address their concerns.
"LULAC came out fairly early in support of Mr. Estrada," said Rep. Charlie Gonzalez (D-Texas). "We respect that, but we disagree. The problem is that LULAC has allowed itself to be used to legitimize the illegitimate."
He added, "LULAC needs to look carefully and deeply as to whether or not they're being used as tools. We've worked with them, of course. I can't believe they've allowed themselves to be aligned with certain organizations."
LULAC has held two joint press conferences with GOP groups like the Latino Coalition, which criticized the Hispanic Caucus for not supporting Estrada.
Even though LULAC did not directly criticize the Hispanic Caucus, some Senate Republicans such as Sen. Chuck Grassley (R-Iowa) and Trent Lott (R-Miss.) accused members of the Hispanic Caucus of being anti-Hispanic, and turning their backs on their own community.
Sen. Orrin Hatch (R-Utah, chairman of the Judiciary Committee, compared the Hispanic Caucus to a "lioness eating its cub."
Gonzalez dismissed such criticism. "Trent Lott? I mean, please," he remarked.
Brian Wilkes, LULAC's national executive director, played down speculation that his organization is shifting its allegiance to the Democratic Party, and said he plans to issue a release this week criticizing Senate Republicans for their statements against the Hispanic Caucus.
" We may have been unwittingly caught up in a play for the Republican vote," Wilkes said. He expressed regret at attending briefings where the Hispanic Caucus was criticized.
" Unfortunately, Republicans have taken the qualifications away from Miguel Estrada and tried to push a wedge between the Hispanic community and the Democratic Party," he said. "We never signed up for that."
Despite the organization's apparent flip-flop, Wilkes praised President Bush for his outreach to Hispanic voters. He said Hispanic Democrats do have reason to worry about their base gravitating toward the GOP.
Asked about his views on Bush, Wilkes replied: "There is a sense that Bush, unlike his predecessor, has been reaching out to Hispanics. [But] we definitely disagree with his stance on affirmative action. We are concerned about his tax package. He seems to be tilting his economic program toward the more affluent, and that doesn't help our community."

While LULAC is going to some length to avoid an open breach with the Democrats, it is not budging from its position that Estrada should be confirmed.
" We've evaluated his record, he's got a very strong academic record," said Wilkes, who remarked that Estrada worked in the solicitor general's office under President Clinton and was once editor of the Columbia Law Review.
Hispanic Democrats say their constituents do not necessarily favor Estrada. Rep. Gonzalez added that his local LULAC chapter does not support Estrada.
The Democrats continue to hammer the message that Estrada is wrong for the job. "I was there when he came before the caucus and refused to answer a question," said Rep. Jose Serrano (D-N.Y.). "I don't expect George Bush to nominate a liberal, but I expect [the nomination] to be some kind of sensible person."

The Political Life (The Hill)

Column by Dick Morris
The Hill, March 5, 2003
The whole (Hispanic) world is watching
The Democrats are talking themselves to death in their filibuster against the nomination of Miguel Estrada to the federal bench. The more they talk, the more it is clear that they have nothing to say and no reason to block the nomination of one of the few Hispanics to be nominated to the senior levels of our judiciary.
There is no ethical problem here. No rash statements. No imputed bias. Not even any clear indication of a strong right wing or left wing political philosophy. The burden of the Democratic argument seems to be that Estrada has not ruled, in advance, on all the cases that will come before him. What many would take as a refreshing lack of prejudice and the indication of an open mind, the Democrats assume is evidence of a great conspiracy of silence.
Liberals see the Estrada filibuster as providing a precedent for a new level of disclosure for all nominees to the federal bench. Rather than nominate and confirm good people and let them decide cases, the Democrats are now asking for clear commitments on each area of judicial decision-making that a new judge is likely to confront. The independence of the judiciary is at stake in this new assertion of legislative prerogative.
But the Democrats should realize that they have chosen a terrible target for their new level of scrutiny. By filibustering an Hispanic nominee and going to such lengths to block his confirmation, even when there is no clear reason to do so, they are asking the Hispanic voters to turn against them in droves.
For his part, Majority Leader Bill Frist (R-Tenn.) is skillfully calling the Democratic bluff by requiring them to talk out the filibuster. No gentleman filibuster this time. Lengthy sessions and constant talk animate this effort to block Estrada. Frist should keep the Senate in session around the clock and on weekends to make the Democrats carry their opposition to a Hispanic judge to absurd lengths.
If Frist continues his policy of making the Democrats act out their filibusters by actually talking on the floor endlessly, he may well succeed in breaking the filibuster as a weapon. He may accomplish the ultimate goal of a majority leader - empower the majority and end the 60-vote requirement to pass a bill in the Senate.
How long could the South have filibustered civil rights if the talk-a-thon were covered by cable TV as this filibuster is? Frist is making the Democrats look like anti-Hispanic bigots, all the more because they have no real basis for dissing Estrada.
Remember the stakes, folks. The Hispanic population grew by 4.7 percent last year, while blacks expanded by 1.5 percent and whites by a paltry 0.3 percent. Hispanics cast 6 percent of the vote in 1990 and 12 percent in 2000. If their numbers expand at the current pace, they will be up to 18 percent in 2010 and 24 percent in 2020. With one-third of Hispanics voting Republican, they are the jump ball in American politics. As this vote goes, so goes the future.
Republicans got off on the wrong foot by listening to the likes of Pat Buchanan and other Nativists. Their English-only and anti-immigration initiatives stopped them from appealing to newly arrived Hispanic voters. But President Bush has changed all that. Estrada symbolizes the transition. If Bush takes it the next step and embraces some of Mexican President Vicente Fox's ideas about earned amnesty for Mexican-Americans, he can truly bring Hispanics into the Republican fold for decades to come.
Estrada is no Clarence Thomas, so clearly out of step with his voters as to make his nomination suspect. And Hispanics are not blacks, so committed to the Democratic Party that it would take an act of genocide to breach their amity. Hispanics are up for grabs and each day of the filibuster drives them further toward the GOP.
Dick Morris is a former consultant to President Clinton, Sen. Trent Lott (R-Miss.) and other political figures

Global News Wire

Copyright 2003 EFE News Services (U.S.) Inc
EFE News Service
March 5, 2003
LENGTH: 369 words
HEADLINE: US-JUDGE REPUBLICANS MOVE TO BREAK FILIBUSTER ON **ESTRADA** VOTE
BODY:
Washington, Mar 4 (EFE).- Senate Republicans on Tuesday announced plans to overcome the filibuster on President George W. Bush's nomination of Hispanic lawyer Miguel **Estrada** to a federal court before moving forward.

The vote to confirm **Estrada** to a federal appeals court in the District of Columbia has been blocked for nearly a month, after Democrats made good on a threat to carry out a filibuster unless the Honduran-born lawyer responded to more of their questions. In a press conference Tuesday, Senate Majority Leader Bill Frist (Rep.-Tenn.) and Senate Judiciary Chairman Orrin Hatch (Rep.-Utah) said Republicans plan to vote Thursday to end the filibuster, a lengthy speechmaking tactic traditionally employed by the minority party to extend a debate.

Republicans need 60 votes to end the debate and vote on **Estrada's** confirmation. The Senate is currently made up of 51 Republicans, 48 Democrats and one independent, who votes with the Democrats.

"It may take five weeks, it may take eight weeks, it may take two months, it may take three or four months," Frist said

"This battle is just beginning. We are going to see that this nominee has an up or down vote," he said, adding that Republicans have been "reasonable and patient" but are eager to end the debate.

Bush nominated **Estrada** in May 2001 to the U.S. District of Columbia Court of Appeals, the second-highest tribunal after the Supreme Court, along with some 30 other candidates to serve as judges in different federal courts.

For their part, Democrats have pledged to continue pressuring **Estrada** to speak on issues he refused to touch during his interview with congressional leaders before voting on his confirmation, maintaining Republicans do not have the votes needed to break the filibuster.

"We have sufficient support to sustain a series of **cloture** votes," said Senate Minority Leader Tom Daschle (Dem.-S.D.)

"That was confirmed again today and I would expect it to remain that way for whatever length of time they choose to continue this debate," he added.

Estrada has never served as a judge and, despite being Latino, is opposed by most Hispanic organizations for what they say is his extreme conservatism.

JOURNAL-CODE: WEFE

LOAD-DATE: March 5, 2003

From: Kavanaugh, Brett M.
To: <Gonzales, Alberto R.>;<Leitch, David G.>
Sent: 3/5/2003 7:55:01 AM
Subject: Wash Timed editorial -- "make em talk"

Make 'em talk

The fight over federal appeals court nominee Miguel Estrada is now entering a new phase. According to GOP caucus leader Sen. Rick Santorum, the Republicans will attempt to force the issue this week by filing a cloture motion on the Democrat's gentleman's filibuster against Mr. Estrada's nomination.

Republicans hope that putting their Democratic colleagues officially on the record against Mr. Estrada, the first Hispanic to sit on the U.S. Court of Appeals for the District of Columbia and a likely candidate for the Supreme Court, may be enough to change a few minds. Only five votes would be enough to end the debate, and it's hoped that those Democrats up for re-election next year, such as Sens. Barbara Boxer, Blanche Lincoln, Ernest Hollings, Ron Wyden and Bob Graham, might be particularly pliable.

However, such a demonstration is, at best, a consolation prize, since the cloture vote could have been taken at any time since Feb. 5, when Mr. Estrada's nomination was taken up on the Senate floor. There's also the possibility that a series of cloture votes (Mr. Santorum promised that, if the Thursday vote failed, there would be at least one more) could have the opposite effect, hardening the minds of those Democrats anxious to placate their party's special interests. Besides, if they wish to really put their colleagues on the spot, Republicans have a more dramatic means to such a demonstration — a real filibuster.

Such a filibuster forces Democrats to talk about anything they want to, so long as they are willing to continue to be seen by their constituents as obstructing the Senate's business and blocking an amply qualified candidate who has put himself at their disposal for almost two years.

Despite a few late-night sessions since Mr. Estrada's nomination hit the floor, Republicans have not forced their filibustering fellows to talk all night, allowing a gentleman's measure to serve in this less-than-genteel debate. Even a series of cloture votes won't have the same effect, since Senate business will still go on.

Republicans' reluctance seems to be based in the simple fact that filibusters are so inconvenient. Democrats would only need a few members to hold their place on the floor, while all 51 Republicans would have to be present, awaiting the first opportunity to force the vote. Unfortunately, during a lengthy filibuster, it's more likely that a few Republicans will take breaks than a few Democrats will break ranks.

Thus, the anticipated cloture vote represents not so much a failure of Republican Senate leadership as of followership. While some Republican leaders have expressed a desire to force a full-fledged filibuster, they really have rather small cudgels to hold their rank and file in place, much less penalize them if they break ranks. Besides, senators are notoriously independent, preferring to lead a glorious but doomed calvary charge than march along with their fellow foot soldiers in a crushing phalanx. The cloture vote is a tacit admission that Republicans have failed to coalesce into the disciplined fighting force needed to overcome obstructionism on judgeships.

As worrisome is the fact that the nomination fight appears to be approaching a critical juncture. The war in Iraq will undoubtedly sweep other matters aside, and the Senate has other legislation it should take up

soon, including the president's tax-cut plan and a ban on partial-birth abortion.

This weekend would seem to be an opportune time for Republicans to put up a full-fledged floor flight against a filibuster on Mr. Estrada. It's time for Republicans to go to the mattresses — figuratively and literally. It's time for Republicans to march like the majority they are. It's time for Republicans to make 'em talk.

From: Nelson, Carolyn
To: <Bartolomucci, H. Christopher>;<Ullyot, Theodore W.>;<Bumatay, Patrick J.>;<Leitch, David G.>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>;<Walker, Helgard C.>
Sent: 3/5/2003 7:58:16 AM
Subject: Prep

We'll have JSC Prep @ 4:30 this afternoon in the Judge's Office.
-----Original Message-----
From: Nelson, Carolyn
Sent: Tuesday, March 04, 2003 6:13 PM
To: Wingate, Heather ; adam charnes; adam ciongoli; albert brewster; amy bass; andrew beach; Bartolomucci, H. Christopher; Bennett, Melissa S.; Brilliant, Hana F.; Bumatay, Patrick J.; Ellison, Kimberly; evelyn long; Francisco, Noel J.; Gray, Ann; Grubbs, Wendy J.; jason sutton; Jones, Alison ; Kavanaugh, Brett M.; Kristi Remington; Kyle, Ross M.; Leitch, David G.; Lockart, Sarah K.; McMaster, David; Montiel, Charlotte L.; Newstead, Jennifer G.; Powell, Benjamin A.; Ralston, Susan B.; Sampson, Kyle; tracy washington; viet dinh; Walker, Helgard C.; wendy keefer
Subject: WHJSC Meeting tomorrow

There will be a WHJSC meeting tomorrow, March 4, @ 4:45 PM in the Roosevelt Room.

From: Leitch, David G.
To: <Kavanaugh, Brett M.>;<Gonzales, Alberto R.>
Sent: 3/5/2003 8:05:06 AM
Subject: RE: Wash Timed editorial -- "make em talk"

Very compelling.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Wednesday, March 05, 2003 7:55 AM
To: Gonzales, Alberto R.; Leitch, David G.
Subject: Wash Timed editorial -- "make em talk"

Make 'em talk

The fight over federal appeals court nominee Miguel Estrada is now entering a new phase. According to GOP caucus leader Sen. Rick Santorum, the Republicans will attempt to force the issue this week by filing a cloture motion on the Democrat's gentleman's filibuster against Mr. Estrada's nomination.

Republicans hope that putting their Democratic colleagues officially on the record against Mr. Estrada, the first Hispanic to sit on the U.S. Court of Appeals for the District of Columbia and a likely candidate for the Supreme Court, may be enough to change a few minds. Only five votes would be enough to end the debate, and it's hoped that those Democrats up for re-election next year, such as Sens. Barbara Boxer, Blanche Lincoln, Ernest Hollings, Ron Wyden and Bob Graham, might be particularly pliable.

However, such a demonstration is, at best, a consolation prize, since the cloture vote could have been taken at any time since Feb. 5, when Mr. Estrada's nomination was taken up on the Senate floor. There's also the possibility that a series of cloture votes (Mr. Santorum promised that, if the Thursday vote failed, there would be at least one more) could have the opposite effect, hardening the minds of those Democrats anxious to placate their party's special interests. Besides, if they wish to really put their colleagues on the spot, Republicans have a more dramatic means to such a demonstration — a real filibuster.

Such a filibuster forces Democrats to talk about anything they want to, so long as they are willing to continue to be seen by their constituents as obstructing the Senate's business and blocking an amply qualified candidate who has put himself at their disposal for almost two years.

Despite a few late-night sessions since Mr. Estrada's nomination hit the floor, Republicans have not forced their filibustering fellows to talk all night, allowing a gentleman's measure to serve in this less-than-genteel debate. Even a series of cloture votes won't have the same effect, since Senate business will still go on.

Republicans' reluctance seems to be based in the simple fact that filibusters are so inconvenient. Democrats would only need a few members to hold their place on the floor, while all 51 Republicans would have to be present, awaiting the first opportunity to force the vote. Unfortunately, during a lengthy filibuster, it's more likely that a few Republicans will take breaks than a few Democrats will break ranks.

Thus, the anticipated cloture vote represents not so much a failure of Republican Senate leadership as of followership. While some Republican leaders have expressed a desire to force a full-fledged filibuster, they

really have rather small cudgels to hold their rank and file in place, much less penalize them if they break ranks. Besides, senators are notoriously independent, preferring to lead a glorious but doomed calvary charge than march along with their fellow foot soldiers in a crushing phalanx. The cloture vote is a tacit admission that Republicans have failed to coalesce into the disciplined fighting force needed to overcome obstructionism on judgeships.

As worrisome is the fact that the nomination fight appears to be approaching a critical juncture. The war in Iraq will undoubtedly sweep other matters aside, and the Senate has other legislation it should take up soon, including the president's tax-cut plan and a ban on partial-birth abortion.

This weekend would seem to be an opportune time for Republicans to put up a full-fledged floor flight against a filibuster on Mr. Estrada. It's time for Republicans to go to the mattresses — figuratively and literally. It's time for Republicans to march like the majority they are. It's time for Republicans to make 'em talk.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Helgard C. Walker/WHO /EOP@EOP [WHO] <Helgard C. Walker>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Kyle Sampson/WHO /EOP@EOP [WHO] <Kyle Sampson>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>
Sent: 3/5/2003 8:30:35 AM
Subject: :
Attachments: P_YBREE003_WHO.TXT_1.pdf

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 5-MAR-2003 13:30:35.00
SUBJECT::
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_YBREE003_WHO.TXT_1>
```

THE WHITE HOUSE

WASHINGTON

March 5, 2003

Dear Senator Daschle:

As you know, some Democrat Senators have engaged in a filibuster to prevent a vote on Miguel Estrada's nomination. They have stated that they want more information about Mr. Estrada's record before they will end the filibuster and allow the full Senate to vote up or down on the nomination. We strongly believe that the Senate has sufficient information and should hold an immediate up or down vote. In an effort to be responsive, however, I wrote to you on February 27 to indicate that Senators who want more information can and should avail themselves of three different and important sources: Senators should meet with Mr. Estrada, pose written questions to him, and/or pose inquiries to his former superiors in the Department of Justice and Judiciary. Since my offer of February 27, however, I understand that no Senator has submitted any questions to Mr. Estrada and that no Senator has submitted any inquiries to his former superiors. And only one Senator, Senator Byrd, has scheduled a meeting with Mr. Estrada.

We are deeply disappointed by and do not understand the near-uniform lack of response thus far to my suggestion of ways in which Senators could gather more information about Mr. Estrada. Being respectful of those who have stated that they want more information, however, I want to reiterate what I stated in my letter of February 27. I urge Senators engaged in the filibuster to avail themselves of the existing opportunities to gather additional information. Senators who want more information can and should promptly meet with Mr. Estrada, pose written questions to him, and/or pose inquiries to his former superiors in the Department of Justice and Judiciary. If the asserted basis for the filibuster -- the need for more information -- is the actual motivation, Senators who have engaged in the filibuster should avail themselves of these existing sources of information.

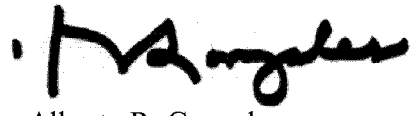
My renewed invitation is not to suggest that we find merit in the contention that Senators currently do not have sufficient information to vote up or down on Mr. Estrada. In that regard, I ask all Senators who have engaged in the filibuster to carefully compare the extensive transcript of Mr. Estrada's hearing, as well as his subsequent written answers, to the transcripts of the hearings of President Clinton's three appointees to the D.C. Circuit: David Tatel, Judith Rogers, and Merrick Garland. (Two of these three nominees had no prior judicial experience, like Mr. Estrada.) Such a comparison demonstrates beyond any reasonable debate that Mr. Estrada was asked for and has already provided far more information than any of those three appointees. Judge Tatel was asked a total of three questions at his hearing. Judges Rogers and Garland were each asked fewer than 20 questions at their hearings. The three appointees of President Clinton -- combined -- thus answered fewer than half the number of questions at their hearings that Mr. Estrada answered at his hearing. What is more, both Judge Rogers and Judge Garland declined to give their personal views on disputed legal and policy questions. Judge Rogers refused even to give her views when asked about the notion of an evolving Constitution. And

Judge Garland did not answer questions about his personal views on the death penalty and on various Supreme Court precedents, stating only that he would follow the precedents. In short, we believe that the criticism of Mr. Estrada's answers at his hearing is misplaced and reveals an unfair double standard being applied to Mr. Estrada.

We strongly believe that the record justifies an immediate up or down vote. I also respectfully urge those Senators who continue to filibuster on the ground that they need more information to avail themselves of the existing sources of information.

Please do not hesitate to contact me with any questions.

Sincerely,



Alberto R. Gonzales
Counsel to the President

The Honorable Thomas A. Daschle

Copy: The Honorable Bill Frist
All United States Senators

From: FindLaw.com <listadmin@LEGALMINDS.ORG>
To: TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN] <TOPHEADLINES@LEGALMINDS.ORG>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 3/5/2003 12:51:38 PM
Subject: : [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Wed., Mar. 5, 2003

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"FindLaw.com" <listadmin@LEGALMINDS.ORG> ("FindLaw.com" <listadmin@LEGALMINDS.ORG> [UNKNOWN])
CREATION DATE/TIME: 5-MAR-2003 17:51:38.00
SUBJECT:: [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Wed., Mar. 5, 2003
TO:TOPHEADLINES@LEGALMINDS.ORG (TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

FINDLAW Wed, Mar 5, 2003

TOP LEGAL NEWS HEADLINES

For all of the day's legal news go to: http://news.findlaw.com

****

Trying to make a full-featured Practice Management System out of Outlook(TM), ACT!(TM), GoldMine(TM), etc? Get your FREE Trial of Time Matters(R), the most widely used, most award-winning practice management system. Your existing data is easily transferred to Time Matters. Use with Outlook or replace Outlook. Get FREE Trial at http://rd.findlaw.com/scripts/nl.pl?url=10154880003_nl

****

SUPREME COURT
Court Upholds Sex Offender Registration
http://news.findlaw.com/ap/a/w/1154/3-5-2003/20030305074501_13.html

Supreme Court Upholds 'Three-Strikes' Sentence
http://news.findlaw.com/news/s/20030305/courtthreestrikesdc.html

POLITICS
Powell To Attend Critical U.N. Session
http://news.findlaw.com/politics/s/20030305/iraqunpowelldc.html

Franks Cleared Of Most Charges In Pentagon Probe
http://news.findlaw.com/news/s/20030305/iraqusafranksdc.html

LEGAL COMMENTARY
Scheidler v. NOW: Supreme Ct. Rejects Racketeering For Anti-Abortion Protestors
http://writ.news.findlaw.com/dorf/20030305.html

Challenging The FBI's Spying Powers
http://writ.news.findlaw.com/ramasastry/20030305.html

CIVIL RIGHTS
Lawyer Arrested For Wearing A 'Peace' T-Shirt

http://news.findlaw.com/news/s/20030305/iraqusashirtdc.html

Pro-Marijuana Group Sponsors Road Cleanup
http://news.findlaw.com/ap/o/fe/1120/3-5-2003/20030305080004_05.html

PERSONAL INJURY
2 R.I. Families File Wrongful Death Suit
http://news.findlaw.com/ap/o/1110/3-5-2003/20030305030001_42.html

Dog Mauls Orlando, Fla., Second-Grader
http://news.findlaw.com/ap/o/1110/3-5-2003/20030305110005_31.html

IMMIGRATION
New Immigration Agency Arrests Honduran
http://news.findlaw.com/ap/o/1110/3-5-2003/20030305083003_22.html

LABOR AND EMPLOYMENT
Eight Chicago Jail Officers Disciplined
http://news.findlaw.com/ap/o/1110/3-5-2003/20030305060002_07.html

Child Care Costs Strain Working Poor
http://news.findlaw.com/ap/o/1110/3-5-2003/20030305011501_17.html

CYBERSPACE LAW
Should Libraries Filter Out Internet Porn?
http://news.findlaw.com/csmonitor/s/20030305/05mar2003084300.html

Feds Nab Internet Domain Names In Raids
http://news.findlaw.com/ap/ht/1700/3-5-2003/20030305020002_01.html

TELECOMMUNICATIONS
Judge OKs Adelphia Senior Exec Hirings
http://news.findlaw.com/business/s/20030305/mediaadelphiadc.html

BUSINESS
U.S. To Block Nestle Bid To Buy Dreyer's
http://news.findlaw.com/business/s/20030305/fooddreyersdc.html

INTERNATIONAL LAW
France, Russia Vow Not To Allow War Vote
http://news.findlaw.com/ap/i/1107/3-5-2003/20030305081502_08.html

EU Secures Passenger Privacy Protection
http://news.findlaw.com/ap/i/1103/3-5-2003/20030305070004_18.html

WAR ON TERRORISM
Suicide Bus Bombing Kills 15 In Israel
http://news.findlaw.com/ap/i/1107/3-5-2003/20030305073002_09.html

German Terror Aide Faces Murder Charges
http://news.findlaw.com/ap/i/1103/3-5-2003/20030305083002_11.html

CRIME & TRIALS
San Francisco Top Cop Pleads Not Guilty in Scandal
http://news.findlaw.com/news/s/20030305/crimepolicedc.html

Pa. Committee Urges Death Penalty Halt
http://news.findlaw.com/ap/o/1110/3-5-2003/20030305021501_23.html

ENTERTAINMENT
Witness: Robert Blake Not Worried About Police
http://news.findlaw.com/entertainment/s/20030305/crimeblakedc.html

British Army Major Accused Of Cheating In TV Quiz
[Copy and paste link into browser]

http://news.findlaw.com/entertainment/s/20030305/crimebritainmillionairedc.
html

SPORTS
Ga. Coach Hints At 'Minor' Violations
http://news.findlaw.com/ap/s/2060/3-5-2003/20030305020002_19.html

World Youth Championships Set To Go Ahead - Organizers
http://news.findlaw.com/sports/s/20030305/sportsoccerdubaidc.html

****

SOFTWARE TECHNOLOGY

Happy with your legal billing system? If your
initial response is anything less than "absolutely", you owe it to
yourself to check out the latest version of TABS III, the most widely
used legal-specific billing system in the U.S.

Download a FREE demo copy today.
http://rd.findlaw.com/scripts/nl.pl?url=10408896001_nl

********** West LegalEdcenter *******

Receive updates about NEW ONLINE CLE PROGRAMS

Register with West LegalEdcenter for monthly email updates about new
online CLE programs in your practice areas and jurisdictions. West
LegalEdcenter currently has more than 1,400 courses, with more added
daily!

http://rd.findlaw.com/scripts/nl.pl?url=gen_cle_010402

********** westgroup.com *********

Get FREE ground shipping in the U.S. on all orders.
http://rd.findlaw.com/scripts/nl.pl?url=gen_ads_040102

****

FEEDBACK

We value your comments! Please take a moment to tell us what you think
by sending an e-mail to:
mailto:newsletters@findlaw.com?subject=TopHeadlines. Please include
"Top Headlines" in the subject line.

SUBSCRIPTION INFORMATION

To subscribe to a FindLaw Newsletter, visit the FindLaw Newsletter
Subscription Center at http://newsletters.findlaw.com

To unsubscribe, go to http://newsletters.findlaw.com/unsubscribe.html
---
ADVERTISING INFORMATION

For more information about advertising in FindLaw Newsletters, please contact us at:

mailto:sales@findlaw.com

FindLaw Top Headlines http://news.findlaw.com
Copyright (c) 2003 FindLaw, Inc.

From:	Office of Global Communications <Global.Messenger@WhiteHouse.Gov>
To:	Carolene Langie Office of Global Communications/WHO/EOP@EOP [WHO] <Carolene Langie Office of Global Communications>
BCC:	Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent:	3/5/2003 1:27:59 PM
Subject:	: White House Global Messenger - Thursday, March 6, 2003
Attachments:	P_DZ9FE003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Office of Global Communications <Global.Messenger@WhiteHouse.Gov> (Office of Global Communications <Global.Messenger@WhiteHouse.Gov> [UNKNOWN])
CREATION DATE/TIME: 5-MAR-2003 18:27:59.00
SUBJECT:: White House Global Messenger - Thursday, March 6, 2003
TO:Carolene Langie Office of Global Communications (CN=Carolene Langie Office of Global Communications/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

(See attached file: GM 3-6-03 FINAL.doc)

THE GLOBAL MESSENGER
Thursday, March 6, 2003

******KEY POINTS FROM SECRETARY POWELL'S SPEECH ON IRAQ, 3-5-03******

*Continuing to deceive
*Inspections not working
*Concessions are not compliance

-United Nations Resolution 1441 was meant to end 12 years of lies and manipulation. Nothing we have seen since the passage of 1441 indicates that Iraq has decided to disarm or decided to actively,unconditionally, and immediately cooperate with the inspectors.

-Intelligence from multiple sources shows that Iraq is continuing efforts to deceive inspectors by moving weapons of mass destruction material around the country to avoid detection. Baghdad is also working to discredit intelligence information being provided to the inspection teams by the United States and our allies.

-The inspections are not working. Dribbling out of a warhead here, a missile there, may give the appearance of disarmament, but it is not reducing Saddam's capabilities. It is not eliminating the threat. He gives a little to save a lot, but we
've caught on to this game.

-Iraq has had more than a decade to decide to disarm. Iraq could havemade the decision on November 8 when 1441 was passed. It could make the
decision today.
-Process is not performance. Concessions are not compliance. Destroyinga handful of missiles is not disarmament. Saddam Hussein is betting
that his contempt for the will of the Security Council is stronger than
our collective resolve. Division among us will only convince Saddam
that he is right.

-If Saddam leaves us no choice but to disarm him by force, the UnitedStates and our coalition partners will do our utmost to minimize the
loss of civilian life, meet the humanitarian needs of the Iraqi people,
and take responsibility for the post-war stabilization of the country.

-We want an Iraq whose people are free from fear and can look to thefuture with hope. The hard work of rehabilitation and reconstruction

will begin at the first possible moment, but our collective, long-term commitment to Iraq will be our efforts to help the Iraqi people build a unified Iraq that does not pose a threat to international peace and a welcome presence among nations.

******TODAY'S SCHEDULE******
All Times Eastern Standard Time Unless Noted
Subject to Change

10:30 am Secretary Rumsfeld delivers remarks at a Town Hall meeting with troops

12:15 pm White House Briefing by Ari Fleischer

TBD State Department Briefing by Richard Boucher

******IRAQI VOICES******
Excerpt from remarks by Ahmad Berwari, representative of Iraqi Kurdish opposition group PUK, interview with Germany's Der Spiegel

"We view the Americans and British as liberators. The no-fly zone they're guarding in Northern Iraq has allowed the Iraqi Kurds to administer our own region since 1991....Despite the economic difficulties and blockades, the people there at least enjoy a certain freedom, and we're proud of that. They even have Internet cafes, cell phones and satellite receivers. The people in the rest of Iraq are envious of these freedoms and the standard of living outside of the authority of the Iraqi central government."

******KEY QUOTES******

"Iraq's too-little, too-late gestures are meant not just to deceive and delay action by the international community, [Saddam] has as one of his major goals to divide the international community, to split us into arguing factions. That effort must fail."
Secretary Powell,in remarks,3-5-03

"Saddam Hussein can prevent the use of force....To do so, he will have to disarm or leave."
Secretary Rumsfeld, to reporters,3-5-03

"It is clear that Saddam Hussein believes he can once again divide and outwit the international community through a pretence of co-operation. We cannot afford to send him a clear signal that he is close to success."
British Foreign Secretary Straw,in remarks,3-4-03

THE WHITE HOUSE
Office of Global Communications

For more information log on to http://www.whitehouse.gov/ogc

****

You have previously expressed interest in obtaining news and information from the White House. The White House Office of Global Communications distributes information
about the President's messages to the world. This office distributes updates on
major international topics such as the global war on terror, the case for regime
change in Iraq, and more broadly, the ways in which we can all better communicate the aspirations and interests that Americans share with freedom-loving people everywhere. - GM 3-6-03 FINAL.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_DZ9FE003_WHO.TXT_1>

THE GLOBAL MESSENGER

Thursday, March 6, 2003

TODAY'S SCHEDULE

All Times Eastern Standard Time Unless Noted
Subject to Change

10:30 am	Secretary Rumsfeld delivers remarks at a Town Hall meeting with troops
12:15 pm	White House Briefing by Ari Fleischer
TBD	State Department Briefing by Richard Boucher

IRAQI VOICES

Excerpt from remarks by Ahmad Berwari, representative of Iraqi Kurdish opposition group PUK, interview with Germany's Der Spiegel

"We view the Americans and British as liberators. The no-fly zone they're guarding in Northern Iraq has allowed the Iraqi Kurds to administer our own region since 1991….Despite the economic difficulties and blockades, the people there at least enjoy a certain freedom, and we're proud of that. They even have Internet cafes, cell phones and satellite receivers. The people in the rest of Iraq are envious of these freedoms and the standard of living outside of the authority of the Iraqi central government."

KEY QUOTES

"Iraq's too-little too-late gestures are meant not just to deceive and delay action by the international community, [Saddam] has as one of his major goals to divide the international community, to split us into arguing factions. That effort must fail."
Secretary Powell, in remarks, 3-5-03

"Saddam Hussein can prevent the use of force….To do so, he will have to disarm or leave."
Secretary Rumsfeld, to reporters, 3-5-03

"It is clear that Saddam Hussein believes he can once again divide and outwit the international community through a pretence of co-operation. We cannot afford to send him a clear signal that he is close to success."
British Foreign Secretary Straw, in remarks, 3-4-03

KEY POINTS FROM SECRETARY POWELL'S SPEECH ON IRAQ, 3-5-03

- **Continuing to deceive**
- **Inspections not working**
- **Concessions are not compliance**

- United Nations Resolution 1441 was meant to end 12 years of lies and manipulation. Nothing we have seen since the passage of 1441 indicates that Iraq has decided to disarm or decided to actively, unconditionally, and immediately cooperate with the inspectors.
- Intelligence from multiple sources shows that Iraq is continuing efforts to deceive inspectors by moving weapons of mass destruction material around the country to avoid detection. Baghdad is also working to discredit intelligence information being provided to the inspection teams by the United States and our allies.
- The inspections are not working. Dribbling out of a warhead here, a missile there, may give the appearance of disarmament, but it is not reducing Saddam's capabilities. It is not eliminating the threat. He gives a little to save a lot, but we've caught on to this game.
- Iraq has had more than a decade to decide to disarm. Iraq could have made the decision on November 8 when 1441 was passed. It could make the decision today.
- Process is not performance. Concessions are not compliance. Destroying a handful of missiles is not disarmament. Saddam Hussein is betting that his contempt for the will of the Security Council is stronger than our collective resolve. Division among us will only convince Saddam that he is right.
- If Saddam leaves us no choice but to disarm him by force, the United States and our coalition partners will do our utmost to minimize the loss of civilian life, meet the humanitarian needs of the Iraqi people, and take responsibility for the post-war stabilization of the country.
- We want an Iraq whose people are free from fear and can look to the future with hope. The hard work of rehabilitation and reconstruction will begin at the first possible moment, but our collective, long-term commitment to Iraq will be our efforts to help the Iraqi people build a unified Iraq that does not pose a threat to international peace and a welcome presence among nations.

THE WHITE HOUSE
Office of Global Communications

For more information log on to www.whitehouse.gov/ogc

From: CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/5/2003 4:00:58 PM
Subject: : FW: Inquiry from House Appropriations Committee Staff on USA Freedom Corps
Attachments: P_KXCFE003_WHO.TXT_1.doc; P_KXCFE003_WHO.TXT_2.xlw

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 5-MAR-2003 21:00:58.00
SUBJECT:: FW: Inquiry from House Appropriations Committee Staff on USA Freedom Corps
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Please meet with me

-----Original Message-----
From: McCord, Lauren
Sent: Wednesday, March 05, 2003 4:56 PM
To: Litkenhaus, Colleen
Subject: FW: Inquiry from House Appropriations Committee Staff on
USA Freedom Corps

Just thought you'd like to see this request. Thanks.

-----Original Message-----
From: Gelfer, Elizabeth
Sent: Wednesday, March 05, 2003 11:57 AM
To: Bridgeland, John M.
Cc: Garrison, Stephen M.; Grant, Britt; McCord, Lauren; Lanman,
Eric D.; Ehrhardt, Paul A.
Subject: Inquiry from House Appropriations Committee Staff on USA
Freedom Corps

John,
As you are probably aware, we just submitted our FY 2004 budget request to Congress for the White House . We have a new staffer on the House Appropriations Committee (Rich Efford) who is interested in getting some information on the USA Freedom Corps. His email request is provided below:

"Are you familiar with a program called USA Freedom Corps? It isapparently related to Americorps. Another subcommittee asked me about it today, they heard it was being funded by EOP. I have not yet noticed it in the justifications."

While we did break out the request of $2.6 million in FY 2003 (because it was a new program), our FY 2004 budget justification does not mention USA Freedom Corps specifically. Rather, it is part of the total White House budget.

Could you please have someone one your staff prepare a paper addressing the background of the initiative, major accomplishments to date and a funding profile for FY 2002-2004? Attached is a draft that we started but we are missing some key elements and would appreciate your help. You may have some other ideas as well in terms of what to include.

We would like to get this information back to Rich Efford today, if possible. This is his first request and we would like to be as responsive as possible. Thanks for your help.

Liz

ATT CREATION TIME/DATE: 0 00:00:00.00

File attachment <P_KXCFE003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_KXCFE003_WHO.TXT_2>

Issue

Information paper, briefing on USA Freedom Corps for Rich Efford.

Background

The USA Freedom Corps is an interagency initiative bringing together executive branch departments, agencies, and offices that have public service programs and components to promote, expand, and enhance volunteer service opportunities for all Americans. The USA Freedom Corps Council and Office were established per the Executive Order attached, as components of the White House Office and tasked with coordinating the USA Freedom Corps initiative.

The formation of the USA Freedom Corps was announced at President Bush's January 29, 2002 State of the Union Address. In an effort to build on the generous spirit of the American people, President Bush is challenging all Americans to a two-year call to service—that over their lifetimes every American devotes at least 4,000 hours of volunteer service to their community, our country or the world.

The USA Freedom Corps initiative is coordinated by a Council and a supporting Office within the Executive Office of the President. The Council is chaired by the President and includes the heads of key departments and agencies with public service programs and components. The Office is headed by an Assistant to the President, reporting directly to the President, and includes a staff to help coordinate the service initiative.

The Council makes policy recommendations to the President on additional service opportunities and ways in which Federal and community-based programs can provide incentives and information to foster better citizenship and more service to the Nation and to communities.

The USA Freedom Corps works with appropriate Federal departments and agencies to establish baseline data for measuring participation in service programs, identifying serious needs, and tracking progress resulting from additional resources and opportunities made possible through the USA Freedom Corps.

The USA Freedom Corps Council and Office coordinates this interagency service initiative with appropriate federal departments and agencies, and helped work with the Congress to secure more than [redacted] million in Fiscal Year 2003 across all government agencies to support this initiative.

Budget

The President's FY03 Congressional budget submission included, as a part of the EOP submission, the following White House Office funding requests specifically associated with the USA Freedom Corps Office:

Total: $2,600,000
To be used for personnel, travel, publications (procured through other services), and other contracted services. The specifics for these areas are as follows:

Personnel: $800,000
The staff of the USA Freedom Corps office is composed of 6 FTE and is lead by an Assistant to the President who is Director of the USA Freedom Corps and includes a Special Assistant for administrative duties, a Director of Communications to coordinate the communications efforts of the agencies associated with the USA Freedom Corps effort, a Director of Policy Development, a Director of Policy Initiatives and Government Relations and a Director of Management who measures the statistical effects that the activities undertaken by the USA Freedom Corps are actually having across the country. In addition, other appropriate White House support staff will be utilized as needed.

Travel: $600,000
The USA Freedom Corps office staff are frequent travelers particularly this year, its first full year of existence. The creation of the USA Freedom Corps requires work at the local level with organizations, especially organizing the Citizen Corps across the country. Much of this work has to be done in person. In addition, the Director of the USA Freedom Corps or the appropriate staff is required to address gatherings of state and local officials in order to disseminate information about the USA Freedom Corps and answer questions relating to the organization of USA Freedom Corps activities at the local level. This level of funding is sufficient for approximately 500 staff member trips.

Other services: $1,200,000
The final category includes funds for the hiring of contractors to measure the nationwide effects of the USA Freedom Corps efforts through surveys and other measurement tools, funds for the creation and printing of documents outlining the USA Freedom Corps mission and specific programs, and other activities that will further the mission of the USA Freedom Corps.

Accomplishments to Date

Relationship to AmeriCorps, etc.

FY 2004 Budget Request and Summary Budget Table by Object Classification

Document Produced Natively

From: Litkenhaus, Colleen
To: <Kavanaugh, Brett M.>
Sent: 3/5/2003 9:00:44 PM
Subject: FW: Inquiry from House Appropriations Committee Staff on USA Freedom Corps
Attachments: USA Freedom Corps - Briefing for Rich Effords - 3-5-2003.doc; USA Freedom Corps Budget - FY03-FY04.xls

Please meet with me

-----Original Message-----

From: McCord, Lauren

Sent: Wednesday, March 05, 2003 4:56 PM

To: Litkenhaus, Colleen

Subject: FW: Inquiry from House Appropriations Committee Staff on USA Freedom Corps

Just thought you'd like to see this request. Thanks.

-----Original Message-----

From: Gelfer, Elizabeth

Sent: Wednesday, March 05, 2003 11:57 AM

To: Bridgeland, John M.

Cc: Garrison, Stephen M.; Grant, Britt; McCord, Lauren; Lanman, Eric D.; Ehrhardt, Paul A.

Subject: Inquiry from House Appropriations Committee Staff on USA Freedom Corps

John,
As you are probably aware, we just submitted our FY 2004 budget request to Congress for the White House . We have a new staffer on the House Appropriations Committee (Rich Efford) who is interested in getting some information on the USA Freedom Corps. His email request is provided below:

"Are you familiar with a program called USA Freedom Corps? It isapparently related to Americorps. Another subcommittee asked me about it today, they heard it was being funded by EOP. I have not yet noticed it in the justifications."

While we did break out the request of $2.6 million in FY 2003 (because it was a new program), our FY 2004 budget justification does not mention USA Freedom Corps specifically. Rather, it is part of the total White House budget.

Could you please have someone one your staff prepare a paper addressing the background of the initiative, major accomplishments to date and a funding profile for FY 2002-2004? Attached is a draft that we started but we are missing some key elements and would appreciate your help. You may have some other ideas as well in terms of what to include.

We would like to get this information back to Rich Efford today, if possible. This is his first request and we would like to be as responsive as possible. Thanks for your help.

Liz

<< USA Freedom Corps - Briefing for Rich Effords - 3-5-2003.doc >> << USA Freedom Corps Budget - FY03-FY04.xls >>

Issue

Information paper, briefing on USA Freedom Corps for Rich Efford.

Background

The USA Freedom Corps is an interagency initiative bringing together executive branch departments, agencies, and offices that have public service programs and components to promote, expand, and enhance volunteer service opportunities for all Americans. The USA Freedom Corps Council and Office were established per the Executive Order attached, as components of the White House Office and tasked with coordinating the USA Freedom Corps initiative.

The formation of the USA Freedom Corps was announced at President Bush's January 29, 2002 State of the Union Address. In an effort to build on the generous spirit of the American people, President Bush is challenging all Americans to a two-year call to service—that over their lifetimes every American devotes at least 4,000 hours of volunteer service to their community, our country or the world.

The USA Freedom Corps initiative is coordinated by a Council and a supporting Office within the Executive Office of the President. The Council is chaired by the President and includes the heads of key departments and agencies with public service programs and components. The Office is headed by an Assistant to the President, reporting directly to the President, and includes a staff to help coordinate the service initiative.

The Council makes policy recommendations to the President on additional service opportunities and ways in which Federal and community-based programs can provide incentives and information to foster better citizenship and more service to the Nation and to communities.

The USA Freedom Corps works with appropriate Federal departments and agencies to establish baseline data for measuring participation in service programs, identifying serious needs, and tracking progress resulting from additional resources and opportunities made possible through the USA Freedom Corps.

The USA Freedom Corps Council and Office coordinates this interagency service initiative with appropriate federal departments and agencies, and helped work with the Congress to secure more than [redacted] million in Fiscal Year 2003 across all government agencies to support this initiative.

Budget

The President's FY03 Congressional budget submission included, as a part of the EOP submission, the following White House Office funding requests specifically associated with the USA Freedom Corps Office:

Total: $2,600,000
To be used for personnel, travel, publications (procured through other services), and other contracted services. The specifics for these areas are as follows:

Personnel: $800,000
The staff of the USA Freedom Corps office is composed of 6 FTE and is lead by an Assistant to the President who is Director of the USA Freedom Corps and includes a Special Assistant for administrative duties, a Director of Communications to coordinate the communications efforts of the agencies associated with the USA Freedom Corps effort, a Director of Policy Development, a Director of Policy Initiatives and Government Relations and a Director of Management who measures the statistical effects that the activities undertaken by the USA Freedom Corps are actually having across the country. In addition, other appropriate White House support staff will be utilized as needed.

Travel: $600,000
The USA Freedom Corps office staff are frequent travelers particularly this year, its first full year of existence. The creation of the USA Freedom Corps requires work at the local level with organizations, especially organizing the Citizen Corps across the country. Much of this work has to be done in person. In addition, the Director of the USA Freedom Corps or the appropriate staff is required to address gatherings of state and local officials in order to disseminate information about the USA Freedom Corps and answer questions relating to the organization of USA Freedom Corps activities at the local level. This level of funding is sufficient for approximately 500 staff member trips.

Other services: $1,200,000
The final category includes funds for the hiring of contractors to measure the nationwide effects of the USA Freedom Corps efforts through surveys and other measurement tools, funds for the creation and printing of documents outlining the USA Freedom Corps mission and specific programs, and other activities that will further the mission of the USA Freedom Corps.

Accomplishments to Date

Relationship to AmeriCorps, etc.

FY 2004 Budget Request and Summary Budget Table by Object Classification

Document Produced Natively

From: CN=Matthew E. Smith/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/6/2003 4:42:27 AM
Subject: : Is Miguel Catholic?

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Matthew E. Smith ( CN=Matthew E. Smith/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 6-MAR-2003 09:42:27.00
SUBJECT:: Is Miguel Catholic?
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Linda M. Gambatesa/OU=WHO/O=EOP@Exchange [WHO]
To: Eric D. Lanman/OA/EOP@EOP [OA] <Eric D. Lanman>;Paul A. Ehrhardt/OA/EOP@EOP [OA] <Paul A. Ehrhardt>;Elizabeth Gelfer/OA/EOP@EOP [OA] <Elizabeth Gelfer>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Colleen Litkenhaus/WHO/EOP@Exchange [WHO] <Colleen Litkenhaus>;David W. Hobbs/WHO/EOP@Exchange [WHO] <David W. Hobbs>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Lauren McCord/WHO/EOP@Exchange [WHO] <Lauren McCord>;Tim Campen/OA/EOP@Exchange [UNKNOWN] <Tim Campen>;Adam B. Ingols/WHO/EOP@Exchange [WHO] <Adam B. Ingols>;James F. Daniel/OA/EOP@EOP [OA] <James F. Daniel>
Sent: 3/6/2003 9:09:28 AM
Subject: : Legislative Inquiries

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Linda M. Gambatesa ( CN=Linda M. Gambatesa/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME: 6-MAR-2003 14:09:28.00
SUBJECT:: Legislative Inquiries
TO:Eric D. Lanman ( CN=Eric D. Lanman/OU=OA/O=EOP@EOP [ OA ] )
READ:UNKNOWN
TO:Paul A. Ehrhardt ( CN=Paul A. Ehrhardt/OU=OA/O=EOP@EOP [ OA ] )
READ:UNKNOWN
TO:Elizabeth Gelfer ( CN=Elizabeth Gelfer/OU=OA/O=EOP@EOP [ OA ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Colleen Litkenhaus ( CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
CC:David W. Hobbs ( CN=David W. Hobbs/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
CC:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Lauren McCord ( CN=Lauren McCord/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
CC:Tim Campen ( CN=Tim Campen/OU=OA/O=EOP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
CC:Adam B. Ingols ( CN=Adam B. Ingols/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
CC:James F. Daniel ( CN=James F. Daniel/OU=OA/O=EOP@EOP [ OA ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Please use the following process for addressing inquiries from the Hill.;
When;a question is received, please forward it to Adam Ingols in WH
Legislative Affairs and Ben Powell in WH Counsel's Office for initial
review.; In addition, please copy me and Tim Campen.;; A meeting will be
scheduled next week with WH M and A, OA, WH Legislative Affairs and WH
Counsel to discuss.; In the interim, please do not draft any response to
questions from the Hill.; If you have any questions or immediate concerns,
please contact me.
;
Thanks for your cooperation.
;
```

From: Office of Global Communications <Global.Messenger@WhiteHouse.Gov>
To: Carolene Langie Office of Global Communications/WHO/EOP@EOP [WHO] <Carolene Langie Office of Global Communications>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 3/6/2003 11:30:55 AM
Subject: : Summary of Secretary Powell's Remarks - 3-05-03
Attachments: P_7MFGE003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Office of Global Communications <Global.Messenger@WhiteHouse.Gov> (Office of Global Communications <Global.Messenger@WhiteHouse.Gov> [UNKNOWN])
CREATION DATE/TIME: 6-MAR-2003 16:30:55.00
SUBJECT:: Summary of Secretary Powell's Remarks - 3-05-03
TO:Carolene Langie Office of Global Communications (CN=Carolene Langie Office of Global Communications/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

(See attached file: CSIS Summary - FINAL.doc)

******IRAQ: STILL FAILING TO DISARM
SECRETARY POWELL OUTLINES FURTHER DECEPTION BY IRAQI REGIME******

"Iraq's too little, too late gestures are meant not just to deceive and delay action by the international community, he has as one of his major goals to divide the international community, to split us into arguing factions. That effort must fail."
-Secretary of State Colin Powell

******Summary of Secretary Powell's Remarks to the Center for Strategic and International Studies, March 5, 2003******

******Saddam Hussein Has Not Made the Fundamental Decision to Disarm******

-Resolution 1441 reaffirmed Saddam Hussein's guilt over the preceding 11 years of possessing and developing with the intention of having and potentially using weapons of mass destruction, and gave him one last chance to come clean and disarm.

-When Saddam Hussein recognized that something might come out of 1441, he started to respond. Was he doing so because he suddenly made a decision to comply or disarm? No. He was doing it because he began to feel the pressure. And once again, he started to play the game that he had been playing for the last 12 years: to divert attention, to distract, to throw chaff up, to confuse, to cause us to lose our way in applying our will.

-The question is not how much more time should be allowed for inspections or how many more inspectors should be sent in. The question simply is: Has Saddam Hussein made a strategic, political decision that he will give up these horrible weapons of mass destruction. It's an issue that's been on the table for 12 years.

******Process is not Performance******

-No one has seriously claimed that Iraq provided a currently accurate, full and complete declaration on December 8th as required by Resolution 1441. The 12,000-page document that they tried to pass off as the whole truth was nothing but a rehash of old and discredited material, with some new lies thrown in for good measure.

-Intelligence from multiple sources shows that Iraq is continuing efforts to deceive inspectors by moving weapons of mass destruction material around the country to avoid detection.

-The inspections are not working. Dribbling out of a warhead here, a missile there, may give the appearance of disarmament, but it is not reducing Saddam's capabilities. It is not eliminating the threat. He gives a little to save a lot, but we 've caught on to this game.

******War is the Last Option******

-The international community declared Saddam Hussein a threat. He wasgiven one last chance to avoid war. If Iraq complies and disarms, even at this late hour, it is possible to avoid war.

-We should do everything possible to avoid war. We have done that, andno one believes that more deeply than President Bush. That's why he went to the United Nations. That's why he persuaded all 15 of us on the Security Council to give Saddam Hussein one last chance.

-Consider what could happen if Saddam Hussein, a tyrant who has noscruples and no mercies, concludes that the governments of the world will not condone military action under any circumstances, even as a last resort. Under those circumstances, he will never comply with his obligations.

-Saddam Hussein has used war and weapons of mass destruction againsthis neighbors and against thousands of his own citizens. And in this post-September 11th world, getting those appalling weapons out of his hands is the only way to guarantee he won't use them again, or make common cause and pass them through his terrorist connections for use practically anywhere in the world.

******Commitment to Rebuilding Iraq******

-If Saddam leaves us no choice but to disarm him by force, the UnitedStates and our coalition partners will do our utmost to do it quickly, and in a way that minimizes the loss of civilian life or destruction of property.

-We will meet the humanitarian needs of the Iraqi people and takeresponsibility for the post-war stabilization of that country, establishing and maintaining order, dismantling terrorist networks with nodes in Iraq, and destroying Iraq's weapons of mass destruction once and for all.

-Working with many coalition partners, as soon as internal security isestablished, we would want to move as quickly as possible to civilian oversight of the next stages in the transformation of Iraq. Then, legitimate Iraqi institutions representing all Iraqis, representing the people, can be created and a formal government put in place.

-The United States has a superb record over the past 50 or 60 years ofhelping countries that we found it necessary to do battle with or in, put themselves on a better footing for a brighter future.

-The work of reconciliation and rehabilitation and reconstruction willbe a long and hard one, but we are up to the task. But the true test of our collective commitment to Iraq will be our efforts to help the Iraqi people build a unified Iraq that does not threaten international peace, one that is a welcome presence among the nations of the world, not an international pariah.

THE WHITE HOUSE
Office of Global Communications

For more information log on to http://www.whitehouse.gov/ogc

****

You have previously expressed interest in obtaining news and
information from the White House.

The White House Office of Global Communications distributes information
about the President's messages to the world. This office distributes
updates on major international topics such as the global war on terror,
the case for regime change in Iraq, and more broadly, the ways in which
we can all better communicate the aspirations and interests that
Americans share with freedom-loving people everywhere. - CSIS Summary - FINAL.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_7MFGE003_WHO.TXT_1>

IRAQ: STILL FAILING TO DISARM

SECRETARY POWELL OUTLINES FURTHER DECEPTION BY IRAQI REGIME

"Iraq's too little, too late gestures are meant not just to deceive and delay action by the international community, he has as one of his major goals to divide the international community, to split us into arguing factions. That effort must fail." ***- Secretary of State Colin Powell***

Summary of Secretary Powell's Remarks to the Center for Strategic and International Studies March 5, 2003

Saddam Hussein Has Not Made the Fundamental Decision to Disarm

- Resolution 1441 reaffirmed Saddam Hussein's guilt over the preceding 11 years of possessing and developing with the intention of having and potentially using weapons of mass destruction, and gave him one last chance to come clean and disarm.

- When Saddam Hussein recognized that something might come out of 1441, he started to respond. Was he doing so because he suddenly made a decision to comply or disarm? No. He was doing it because he began to feel the pressure. And once again, he started to play the game that he had been playing for the last 12 years: to divert attention, to distract, to throw chaff up, to confuse, to cause us to lose our way in applying our will.

- The question is not how much more time should be allowed for inspections or how many more inspectors should be sent in. The question simply is: Has Saddam Hussein made a strategic, political decision that he will give up these horrible weapons of mass destruction. It's an issue that's been on the table for 12 years.

Process is not Performance

- No one has seriously claimed that Iraq provided a currently accurate, full and complete declaration on December 8th as required by Resolution 1441. The 12,000-page document that they tried to pass off as the whole truth was nothing but a rehash of old and discredited material, with some new lies thrown in for good measure.

- Intelligence from multiple sources shows that Iraq is continuing efforts to deceive inspectors by moving weapons of mass destruction material around the country to avoid detection.

- The inspections are not working. Dribbling out of a warhead here, a missile there, may give the appearance of disarmament, but it is not reducing Saddam's capabilities. It is not eliminating the threat. He gives a little to save a lot, but we've caught on to this game.

Continued

War is the Last Option

- The international community declared Saddam Hussein a threat. He was given one last chance to avoid war. If Iraq complies and disarms, even at this late hour, it is possible to avoid war.

- We should do everything possible to avoid war. We have done that, and no one believes that more deeply than President Bush. That's why he went to the United Nations. That's why he persuaded all 15 of us on the Security Council to give Saddam Hussein one last chance.

- Consider what could happen if Saddam Hussein, a tyrant who has no scruples and no mercies, concludes that the governments of the world will not condone military action under any circumstances, even as a last resort. Under those circumstances, he will never comply with his obligations.

- Saddam Hussein has used war and weapons of mass destruction against his neighbors and against thousands of his own citizens. And in this post-September 11th world, getting those appalling weapons out of his hands is the only way to guarantee he won't use them again, or make common cause and pass them through his terrorist connections for use practically anywhere in the world.

Commitment to Rebuilding Iraq

- If Saddam leaves us no choice but to disarm him by force, the United States and our coalition partners will do our utmost to do it quickly, and in a way that minimizes the loss of civilian life or destruction of property.

- We will meet the humanitarian needs of the Iraqi people and take responsibility for the post-war stabilization of that country, establishing and maintaining order, dismantling terrorist networks with nodes in Iraq, and destroying Iraq's weapons of mass destruction once and for all.

- Working with many coalition partners, as soon as internal security is established, we would want to move as quickly as possible to civilian oversight of the next stages in the transformation of Iraq. Then, legitimate Iraqi institutions representing all Iraqis, representing the people, can be created and a formal government put in place.

- The United States has a superb record over the past 50 or 60 years of helping countries that we found it necessary to do battle with or in, put themselves on a better footing for a brighter future.

- The work of reconciliation and rehabilitation and reconstruction will be a long and hard one, but we are up to the task. But the true test of our collective commitment to Iraq will be our efforts to help the Iraqi people build a unified Iraq that does not threaten international peace, one that is a welcome presence among the nations of the world, not an international pariah.

###

From: Litkenhaus, Colleen
To: <Kavanaugh, Brett M.>
Sent: 3/6/2003 1:50:09 PM
Subject: FW: equipment and travel

My guess is yes - although it may not be pretty.

-----Original Message-----
From: McCord, Lauren
Sent: Thursday, March 06, 2003 1:38 PM
To: Litkenhaus, Colleen
Subject: RE: equipment and travel

Will the garments need to be returned to us afterward?

-----Original Message-----
From: Litkenhaus, Colleen
Sent: Thursday, March 06, 2003 1:19 PM
To: McCord, Lauren; Babin, Chad; Dickens, Reed
Subject: FW: equipment and travel

Ok to use the credit card to buy camouflage clothes.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Thursday, March 06, 2003 12:57 PM
To: Litkenhaus, Colleen
Cc: Eskew, Tucker A.; Powell, Benjamin A.
Subject: equipment and travel

On the clothing/equipment question, we should pay out of WH appropriation (or DOD if we can) as we would for other equipment that employees need. On the travel cost issue, Ben is handling with Tucker. My understanding is that, as of now, WH may have to pay for travel out of WH money, but Ben and Tucker are working on that and will let you know.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: GaryM Stern <garym.stern@nara.gov>
Sent: 3/6/2003 9:50:18 AM
Subject: : Re: Fwd: RE: Nelson Letter

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 6-MAR-2003 14:50:18.00
SUBJECT:: Re: Fwd: RE: Nelson Letter
TO:GaryM Stern <garym.stern@nara.gov> ( GaryM Stern <garym.stern@nara.gov> [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

no end to the filibuster in the Senate, but your letter has been FAXed
```

From: CN=John B. Bellinger/OU=NSC/O=EOP [NSC]
To: Melissa S. Bennett/WHO/EOP@Exchange [WHO] <Melissa S. Bennett>
CC: brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;kristen silverberg/who /eop@exchange [WHO] <kristen silverberg>;elliott abrams/nsc/eop@eop [NSC] <elliott abrams>;joshua b. bolten/who/eop@exchange [WHO] <joshua b. bolten>;melissa s. bennett/who/eop@exchange [WHO] <melissa s. bennett>
Sent: 3/6/2003 10:01:34 AM
Subject: : RE: Iraqi Terrorist Victims -- Request for Meeting

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP [ NSC ] )
CREATION DATE/TIME: 6-MAR-2003 15:01:34.00
SUBJECT:: RE: Iraqi Terrorist Victims -- Request for Meeting
TO:Melissa S. Bennett ( CN=Melissa S. Bennett/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
CC:brett m. kavanaugh ( CN=brett m. kavanaugh/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:kristen silverberg ( CN=kristen silverberg/OU=who/O=eop@exchange [ WHO ] )
READ:UNKNOWN
CC:elliott abrams ( CN=elliott abrams/OU=nsc/O=eop@eop [ NSC ] )
READ:UNKNOWN
CC:joshua b. bolten ( CN=joshua b. bolten/OU=who/O=eop@exchange [ WHO ] )
READ:UNKNOWN
CC:melissa s. bennett ( CN=melissa s. bennett/OU=who/O=eop@exchange [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

Thanks. Will this message get to Karl Rove as well?

From: FindLaw.com <listadmin@LEGALMINDS.ORG>
To: TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN] <TOPHEADLINES@LEGALMINDS.ORG>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 3/6/2003 12:31:34 PM
Subject: : [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Thu., Mar. 6, 2003

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"FindLaw.com" <listadmin@LEGALMINDS.ORG> ( "FindLaw.com" <listadmin@LEGALMINDS.ORG>
[ UNKNOWN ] )
CREATION DATE/TIME: 6-MAR-2003 17:31:34.00
SUBJECT:: [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Thu., Mar. 6,
2003
TO:TOPHEADLINES@LEGALMINDS.ORG ( TOPHEADLINES@LEGALMINDS.ORG [ UNKNOWN ] )
READ:UNKNOWN
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

------------------------------------------------------------------------
FINDLAW Thu, Mar 6, 2003
------------------------------------------------------------------------
TOP LEGAL NEWS HEADLINES


For all of the day's legal news go to: http://news.findlaw.com
**********************************************************************

DepoWave

Scheduling depositions and videographers anywhere in the world has
never been easier. Providing attorneys, paralegals and legal
secretaries with an efficient, convenient and cost effective national
reporting and legal video resource is what DepoWave is all about. To
schedule a court reporter or videographer, please call us at
1.866-DepoWave (337.6928), or click below for additional information
about DepoWave: http://rd.findlaw.com/scripts/nl.pl?url=10415808000_nl

**********************************************************************

POLITICS
Bush to Hold News Conference Thursday Night
http://news.findlaw.com/news/s/20030306/bushnewsdc.html

Republicans Lose Senate Test Vote On Estrada
http://news.findlaw.com/politics/s/20030306/congressjudgesdc.html


LEGAL COMMENTARY
More On Filibuster: George Will, Miguel Estrada & The Cloture Vote
http://writ.news.findlaw.com/lazarus/20030306.html

Protecting Developing Countries' Access To Pharmaceuticals
http://writ.news.findlaw.com/commentary/20030306_chander.html


CIVIL RIGHTS
States Grapple With Gay Rights And Definition Of The Family
http://news.findlaw.com/csmonitor/s/20030306/06mar2003091332.html

U.S. Students Protest Possible Iraq War
http://news.findlaw.com/ap/o/1110/3-6-2003/20030306003005_18.html
```

PERSONAL INJURY
R.I. Club Fire Puts Heat On Inspectors
http://news.findlaw.com/ap/o/1110/3-6-2003/20030306110004_05.html

Woman Gets $800K For 'Dracula' Bite
http://news.findlaw.com/ap/o/fe/1120/3-6-2003/20030306091502_52.html

PRODUCT LIABILITY
U.S. Proposes Limited Smallpox Compensation

http://news.findlaw.com/news/s/20030306/healthsmallpoxcompensationdc.html

Senator Hatch Wants Asbestos Bill Quickly
http://news.findlaw.com/politics/s/20030306/congressasbestosdc.html

IMMIGRATION
Man Seeking Asylum To Smoke Marijuana
http://news.findlaw.com/ap/o/fe/1120/3-6-2003/20030306063005_08.html

Slain Immigrant Called 9th Victim In Arizona Spree
http://news.findlaw.com/news/s/20030306/crimearizonadc.html

LABOR AND EMPLOYMENT
Jobless Claims Rise Unexpectedly
http://news.findlaw.com/business/s/20030306/economyjoblessdc.html

UPS Suspends Pilot Furlough Plan

http://news.findlaw.com/business/s/20030306/transportupsfurloughsdc.html

ENVIRONMENT
Monterey Harbor Bans Cruise Ship
http://news.findlaw.com/ap/o/1110/3-6-2003/20030306044501_11.html

Planned Navy Field In N.C. Stirs Worries
http://news.findlaw.com/ap/o/1110/3-6-2003/20030306010006_14.html

GUNS
CDC: Guns In School Shootings From Home
http://news.findlaw.com/ap/o/1110/3-6-2003/20030306104501_18.html

CYBERSPACE LAW
Hackers Steal Students' Soc. Sec. Numbers
http://news.findlaw.com/ap/ht/1700/3-6-2003/20030306091502_32.html

AOL Claims Record Block Of Spam E-Mails
http://news.findlaw.com/ap/ht/1700/3-6-2003/20030306021500_06.html

INTELLECTUAL PROPERTY
Judge Declares Painkiller Patent Invalid
http://news.findlaw.com/ap/f/1310/3-6-2003/20030306010006_08.html

BUSINESS
Nestle-FTC Talks Continue
http://news.findlaw.com/business/s/20030306/foodnestledreyersdc.html

Banking Glitch Gives Student $9.9 Million
http://news.findlaw.com/ap/o/fe/1120/3-6-2003/20030306051501_06.html

ENRON
Bankruptcy Report: Enron Shifted Assets
http://news.findlaw.com/ap/f/1310/3-6-2003/20030306073005_05.html

WORLDCOM
Judge Outlines Budget Plan for WorldCom
http://news.findlaw.com/ap/f/1310/3-6-2003/20030306101502_35.html

INTERNATIONAL LAW
Britain Considers Compromise on Iraq UN Resolution
http://news.findlaw.com/international/s/20030306/iraqunbritaindc.html

UN War Crimes Prosecutor Slams Serbia, Montenegro
[Copy and paste link into browser]

http://news.findlaw.com/international/s/20030306/serbiamontenegrodelpontedc
.html

WAR ON TERRORISM
FBI Whistle-Blower Says Agency Still Ill-Prepared
http://news.findlaw.com/news/s/20030306/attackfbidc.html

Official: Arrest ID's Terror Suspects
http://news.findlaw.com/ap/a/w/1153/3-6-2003/20030306061501_02.html

CRIME & TRIALS
Air Force Reports 54 Rapes, Assault
http://news.findlaw.com/ap/a/w/1152/3-6-2003/20030306103005_34.html

Police Calling Peterson Case A Homicide
http://news.findlaw.com/ap/o/1110/3-6-2003/20030306021501_46.html

ENTERTAINMENT
Nev. Amusement Tax Bill May Hit Brothels
http://news.findlaw.com/ap/o/fe/1120/3-6-2003/20030306061502_34.html

Moviemakers Mount Ad Effort To Thwart Piracy

http://news.findlaw.com/entertainment/s/20030306/leisurefilmpiracydc.html

SPORTS
Ullrich's Team Loses License Due To Wage Problems
http://news.findlaw.com/sports/s/20030306/cyclingullrichdc.html

Change In 'Boozy' Fight Song Sought
http://news.findlaw.com/ap/o/fe/1120/3-6-2003/20030306110004_20.html

****

Torri's Legal Services
"Quality Legal Services Based on Confidence, Trust and Results" We
specialize in Service of Process, Document Retrieval, International and
Nationwide Service, Rush Service, Court Filings and the Hard to Serve.
TLS is known for our personalized service. Our offices are fully
staffed and have years of experience. Please contact us at
(800)990-SERV (7378) or visit us on the Web at
http://rd.findlaw.com/scripts/nl.pl?url=10285308004_nl

** West LegalEdcenter *******

Receive updates about NEW ONLINE CLE PROGRAMS

Register with West LegalEdcenter for monthly email updates about new online CLE programs in your practice areas and jurisdictions. West LegalEdcenter currently has more than 1,400 courses, with more added daily!

http://rd.findlaw.com/scripts/nl.pl?url=gen_cle_010402

********** westgroup.com *********

Get FREE ground shipping in the U.S. on all orders.
http://rd.findlaw.com/scripts/nl.pl?url=gen_ads_040102

****

FEEDBACK

We value your comments! Please take a moment to tell us what you think by sending an e-mail to:
mailto:newsletters@findlaw.com?subject=TopHeadlines. Please include "Top Headlines" in the subject line.

SUBSCRIPTION INFORMATION

To subscribe to a FindLaw Newsletter, visit the FindLaw Newsletter Subscription Center at http://newsletters.findlaw.com

To unsubscribe, go to http://newsletters.findlaw.com/unsubscribe.html

---

ADVERTISING INFORMATION

For more information about advertising in FindLaw Newsletters, please contact us at:

mailto:sales@findlaw.com

FindLaw Top Headlines http://news.findlaw.com
Copyright (c) 2003 FindLaw, Inc.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Abel Guerra/WHO/EOP@EOP [WHO] <Abel Guerra>
Sent: 3/6/2003 2:18:16 PM
Subject: : Re: USHCC and Estrada

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 6-MAR-2003 19:18:16.00
SUBJECT:: Re: USHCC and Estrada
TO:Abel Guerra (CN=Abel Guerra/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

He plans to attend.

ABEL
GUERRA
03/05/2003 06:04:50 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: USHCC and Estrada

Brett,

George Herrera (USHCC- President), is saving a seat for Miguel at the US Hispanic Chamber dinner next week. Do you know if Miguel will be able to attend?

Abel

From: Kavanaugh, Brett M.
To: <Gottesman, Blake>
Sent: 3/6/2003 7:27:19 PM
Subject: RE: books

The National Archives general counsel advised that, from their perspective as guardian of the Presidential Libraries, this was an appropriate official purchase. He thought it made sense to purchase out of WH funds. I can see a minor appearance issue, I suppose, but there is no legal problem.

Blake Gottesman

02/26/2003 04:35:11 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: RE: books

if you're looking for a big, unnecessary mess ... read below.

there seems to be a lot of heartburn about your decision that we should use wh funds for the purchase of the books. should we table the issue for now and leave the books alone, or stick w/ the project and ignore the advice of our staffers-turned-lawyers.

blake

---------- Forwarded by Blake Gottesman/WHO/EOP on 02/26/2003 04:33 PM ----------

From: Chad Babin/WHO/EOP@Exchange on 02/26/2003 03:38:02 PM

Record Type: Record

To: Tim Reynolds/WHO/EOP@Exchange, Blake Gottesman/WHO/EOP@EOP

cc: Linda M. Gambatesa/WHO/EOP@EOP

Subject: RE: books

Blake/Tim,

It wasn't so much that I was nervous, I was simply skeptical as to whether that was an appropriate use of WHO funds.

I spoke with Eric Lanman who is the Political Accounts team Accountant/Financial Analyst from OA

and agreed that the books were not an appropriate use of WH funds and that the RNC or some other outside entity (GWB Library?) needed to provide payment for the books.

If Counsel's office believes that it is an acceptable use of funds, and Linda is fine with the expenditure, I'll be happy to order the books and use my WH credit card to pay for them.

Sorry if this has created unnecessary confusion.

Thanks,

Chad

-----Original Message-----

From: Reynolds, Tim

Sent: Wednesday, February 26, 2003 3:30 PM

To: Gottesman, Blake

Cc: Gambatesa, Linda M.; Babin, Chad

Subject: RE: books

Yes- and he was nervous using White House funds to pay for the items.

-----Original Message-----

From: Gottesman, Blake

Sent: Wednesday, February 26, 2003 2:58 PM

To: Reynolds, Tim

Cc: Gambatesa, Linda M.; Babin, Chad

Subject: RE: books

ok - did you share with joe the original recommendation by brett kavanaugh below. we originally took the idea to counsel's ofc to weigh in on the appropriate funding source.

Brett M. Kavanaugh

02/20/2003 09:22:47 PM

Record Type: Record

To: Linda M. Gambatesa/WHO/EOP@EOP

cc:

Subject: books

We can and should purchase any books, etc., that you think appropriate for preservation/Library out of general WH appropriation.

From: Tim Reynolds/WHO/EOP@Exchange on 02/26/2003 02:26:09 PM

Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP

cc: Linda M. Gambatesa/WHO/EOP@EOP, Chad Babin/WHO/EOP@Exchange

Subject: RE: books

I spoke to Chad Babin about the appropriate purchasing procedure for this project (the books published since the President's been in office). Here's the deal... Linda would have sign off on the purchasing of the books in a memo- have it approved through Mehlman- and then we'd send the bill to the RNC.

Joe said earlier today that this definitely isn't a federal issue, and should NOT be funded through RNC (even if they're reimbursed at a later date). So, until there is a GWB Library Fund set aside, I'll keep track of these books and hold off on the purchase.

Please let me know if you have any concerns. Thanks,

Tim

-----Original Message-----

From: Gottesman, Blake

Sent: Friday, February 21, 2003 1:51 PM

To: Reynolds, Tim

Subject: RE: books

actually, since linda's got her plate full - can you pls work w/ someone else in M&A who can help facilitate the purchase of the books. maybe chad babin could help?

---------- Forwarded by Blake Gottesman/WHO/EOP on 02/21/2003 12:49 PM ----------

<< OLE Object: Picture (Device Independent Bitmap) >>

Blake Gottesman

02/21/2003 01:51:06 PM

Record Type: Record

To: Tim Reynolds/WHO/EOP@Exchange

cc:

bcc: Records Management@EOP

Subject: RE: books << OLE Object: StdOleLink >>

correct. thanks for handling.

From: Tim Reynolds/WHO/EOP@Exchange on 02/21/2003 12:17:05 PM

Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP

cc:

Subject: RE: books

I believe this refers to books re: the President that have been published since he started office. If this is correct- I'll check the list with Linda and make it's handled appropriately.

-----Original Message-----

From: Gottesman, Blake

Sent: Friday, February 21, 2003 12:10 PM

To: Reynolds, Tim

Subject: Re: books

see below. let me know if this makes sense, pls.

---------- Forwarded by Blake Gottesman/WHO/EOP on 02/21/2003 11:08 AM ----------

<< OLE Object: Picture (Device Independent Bitmap) >>

Linda M. Gambatesa

02/21/2003 11:50:49 AM

Record Type: Record

To: Blake Gottesman/WHO/EOP@EOP

cc:

bcc:

Subject: Re: books << OLE Object: StdOleLink >>

Yes please.

<< OLE Object: Picture (Device Independent Bitmap) >>

Blake Gottesman

02/21/2003 11:13:56 AM

Record Type: Record

To: Linda M. Gambatesa/WHO/EOP@EOP

cc:

bcc:

Subject: Re: books << OLE Object: StdOleLink >>

shall i ask tim to arrange for the purchase of the books which he found through amazon, or would you like to wait?

<< OLE Object: Picture (Device Independent Bitmap) >>

Linda M. Gambatesa

02/21/2003 07:03:10 AM

Record Type: Record

To: Colleen Litkenhaus/WHO/EOP@EOP, Mary Ann Hanusa/WHO /EOP@EOP, Blake Gottesman/WHO/EOP@EOP

cc:

Subject: books

fyi

---------- Forwarded by Linda M. Gambatesa/WHO/EOP on 02/21/2003 07:01 AM ----------

<< OLE Object: Picture (Device Independent Bitmap) >>

Brett M. Kavanaugh

02/20/2003 09:22:47 PM

Record Type: Record

To: Linda M. Gambatesa/WHO/EOP@EOP

cc:

Subject: books

We can and should purchase any books, etc., that you think appropriate for preservation/Library out of general WH appropriation.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Seidel, Rebecca (Judiciary) <Rebecca_Seidel@Judiciary.senate.gov>
Sent: 3/6/2003 4:51:52 PM
Subject: : RE: finally

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 6-MAR-2003 21:51:52.00
SUBJECT:: RE: finally
TO:"Seidel, Rebecca (Judiciary)" <Rebecca_Seidel@Judiciary.senate.gov> ("Seidel, Rebecca (Judiciary)" <Rebecca_Seidel@Judiciary.senate.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

go home

"Seidel, Rebecca (Judiciary)" <Rebecca_Seidel@Judiciary.senate.gov>
03/06/2003 09:44:01 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE: finally

UGH. The $64,000 question. I am supposed to update Alex Vogel on that very question tomorrow. Asbestos is about as much fun as root canal right now. My boss announced a great idea (from his point of view) at the hearing yesterday, amounts to not much fun for me. Class action - chicken and egg analogy fits there. med mal looking a little better than it did last week.
Does that tell you much?

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov [mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Thursday, March 06, 2003 9:35 PM
To: Seidel, Rebecca (Judiciary)
Subject: Re: finally

Thanks for update. What is your current read on progress and status of class
action, med mal, and asbestos.

(Embedded
image moved "Seidel, Rebecca (Judiciary)"
to file: <Rebecca_Seidel@Judiciary.senate.gov>
pic26777.pcx) 03/03/2003 09:26:45 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: finally

Met with Dianna Schacht today (after about 4 reschedules by both of us), we had lunch in the White House mess. Very nice. I am glad she and I finally got together, thanks for suggesting it. It was really helpful for us to discuss all the tort issues. Hope you are hanging in there. I know Estrada must be grueling. Good luck.

From: CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>
CC: brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>
Sent: 3/7/2003 4:04:06 AM
Subject: : Re: Fla

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 7-MAR-2003 09:04:06.00
SUBJECT:: Re: Fla
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

Judge is not there now. His next opening is at -- ta da -- 10. So let's
go then

Kyle Sampson
03/07/2003 08:57:50 AM
Record Type: Record

To: H. Christopher Bartolomucci/WHO/EOP@EOP
cc: brett m. kavanaugh/who/eop@eop
bcc:
Subject: Re: Fla

Sure. Is Judge going to be there? He left for a meeting shortly after we
left.

H. Christopher Bartolomucci
03/07/2003 08:56:59 AM
Record Type: Record

To: Kyle Sampson/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Fla

I said we'd go back to the Judge at 10 but I meant 9. Do you guys want to
go now?

From: Kavanaugh, Brett M.
To: <Bumatay, Patrick J.>
Sent: 3/7/2003 9:26:54 AM
Subject: Re: estrada

don't call them; I talked to them

From: Patrick J. Bumatay/WHO/EOP@Exchange on 03/07/2003 09:26:43 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: estrada

Karl relayed his comments to you via phone.

Bolten is the only one that I haven't heard from.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Wendy J. Grubbs/WHO/EOP@EOP [WHO] <Wendy J. Grubbs>
Sent: 3/7/2003 11:38:36 AM
Subject: : Re: Hey I am in owen

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 7-MAR-2003 16:38:36.00
SUBJECT:: Re: Hey I am in owen
TO:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

sorry I did not think you were there!!

Wendy J. Grubbs
03/07/2003 04:37:31 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Hey I am in owen

Mtging..will check with mods but chafee's staffer and I spoke and he seems ok.

.

From: CN=Brian Bravo/OU=WHO/O=EOP@Exchange [WHO]
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 3/7/2003 8:24:00 AM
Subject: : TRANSCRIPT - Hans Blix And Mohamed Elbaradei Deliver Report To The U.N. Security Council 03/07/03

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 7-MAR-2003 13:24:00.00
SUBJECT:: TRANSCRIPT - Hans Blix And Mohamed Elbaradei Deliver Report To The U.N. Security Council 03/07/03
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Hans Blix And Mohamed Elbaradei Deliver Report To The U.N. Security Council 03/07/03

BLIX: Thank you, Mr. President.

Mr. President, for nearly three years, I've been coming to the Security Council presenting the quarterly reports of UNMOVIC. They have described our many preparations for the resumption of inspections in Iraq.

The 12th quarterly report is the first that describes three months of inspection. They come after four years without inspections. The report was finalized 10 days ago, and a number of relevant events have taken place since then. Today's statement will supplement the circulated report on these points to bring the council up to date.

Inspections in Iraq resumed on the 27th of November, 2002. In matters relating to process, notably prompt access to sites, we have faced relatively few difficulties, and certainly much less than those that were faced by UNSCOM in the period 1991 to 1998. This may well be due to the strong outside pressure.

Some practical matters which were not settled by the talks Dr. ElBaradei and I had with Iraqi side in Vienna prior to inspections or in Resolution 1441 have been resolved at meetings which we have had in Baghdad.

BLIX: Initial difficulties raised by the Iraqi side about helicopters and aerial surveillance planes operating in the no-fly zones were overcome.

This is not to say that the operation of inspections is free from frictions, but at this juncture we are able to perform professional, no-notice inspections all over Iraq and to increase aerial surveillance.

American U-2 and French Mirage surveillance aircraft already give us valuable imagery, supplementing satellite pictures, and we would expect soon to be able to add night-vision capability through an aircraft offered to us by the Russian Federation. We also expect to add low-level, close-area surveillance through drones provided by Germany.

We are grateful not only to the countries which place these valuable tools at our disposal, but also the states, most recently Cyprus, which has agreed to the stationing of aircraft on their territory.

Mr. President, Iraq, with a highly developed administrative system, should be able to provide more documentary evidence about its proscribed weapons programs. Only a few new such documents have come to light so far and been handed over since we began inspections. It was a disappointment that Iraq's declaration of the 7th of December did not bring new documentary evidence.

I hope that efforts in this respect, including the appointment of a governmental commission, will give significant results.

When proscribed items are deemed unaccounted for, it is, above all, credible accounts that is needed, or the proscribed items if they exist.

Where authentic documents do not become available, interviews with persons who may have relevant knowledge and experience may be another way of obtaining evidence. UNMOVIC has names of such persons in its records, and they are among the people whom we seek to interview.

BLIX: In the last month, Iraq has provided us with names of many persons who may be irrelevant sources of information, in particular persons who took part in various places of the unilateral destruction of biological and chemical weapons and proscribed missiles in 1991.

This provision of names prompts two reflections. The first is that with such detailed information existing regarding those who took part in the unilateral destruction, surely there must also remain records regarding the quantities and other data concerning the various items destroyed.

The second reflection is that, with relevant witnesses available, it becomes even more important to be able to conduct interviews in modes and locations which allow us to be confident that the testimony given is given without outside influence.

While the Iraqi side seems to have encouraged interviewees not to request the presence of Iraqi officials, local minders or the taping of the interviews, conditions ensuring the absence of undue influences are difficult to attain inside Iraq. Interviews outside the country might provide such assurance. It is our intention to request such interviews shortly.

Nevertheless, despite remaining shortcomings, interviews are useful. Since we started requesting interviews, 38 individuals were asked for private interviews, of which 10 accepted under our terms, seven of these during the last week.

As I noted on the 14th of February, intelligence authorities have claimed that weapons of mass destruction are moved around Iraq by trucks, in particular that there are mobile production units for biological weapons. The Iraqi side states that such activities do not exist.

Several inspections have taken place at declared and undeclared sites in relation to mobile production facilities. Food-testing mobile laboratories and mobile workshops have been seen, as well as large containers with seed-processing equipment. No evidence of proscribed activities have so far been found.

BLIX: Iraq is expected to assist in the development of credible ways to conduct random checks of ground transportation.

Inspectors are also engaged in examining Iraq's programs for remotely piloted vehicles. A number of sites have been inspected with data being collected to assess their range and other capabilities of the various models found, and inspections are continuing in this area.

There have been reports, denied from the Iraqi side, that proscribed activities are conducted underground. Iraq should provide information on any underground structure suitable for the production or storage of weapons of mass destruction.

During inspections of declared our undeclared facilities, inspection teams have examined building structures for any possible underground facilities. In addition, ground-penetrating radar equipment was used in several specific locations. No underground facilities for chemical or biological production or storage were found so far.

I should add that, both for the monitoring of ground transportation and for the inspection of underground facilities, we would need to increase our staff in Iraq. I'm not talking about a doubling of the staff. I would rather have twice the amount of high-quality information about sites to inspect than twice the number of expert inspectors to send.

On 14 February, I reported to the council that the Iraqi side had become more active in taking and proposing steps which potentially might shed new light on unresolved disarmament issues. Even a week ago, when the current quarterly report was finalized, there were still relatively little tangible progress to note. Hence, the cautious formulations in the report before you. As of today, there is more.

While during our meetings in Baghdad, the Iraqi side tried to persuade us that the Al-Samoud 2 missiles they have declared fall within the permissible range set by the Security Council. The calculations of an international panel of experts led us to the opposite conclusion. Iraq has since accepted that these missiles and associated items be destroyed, and has started the process of destruction under our supervision.

The destruction undertaken constitutes a substantial measure of disarmament, indeed the first since the middle of the 1990s. We are not watching the breaking of toothpicks; lethal weapons are being destroyed.

However, I must add that the report I have today tells me that no destruction work has continued today. I hope this is a temporary break.

Until today, 34 Al-Samoud 2 missiles, including four training missiles, two combat warheads, one launcher and five engines, have been destroyed under UNMOVIC's supervision. Work is continuing to identify and inventory the parts and equipment associated with the Al-Samoud 2 program.

BLIX: Two reconstituted casting chambers used in the production of solid propellant missiles have been destroyed and the remnants melted or encased in concrete.

The legality of the Al-Fatah missile is still under review, pending further investigation and measurement of various parameters of that missile.

More papers on anthrax, VX and missiles have recently been provided. Many have been found to restate what Iraq already has declared, and some will require further study and discussion.

There is a significant Iraqi effort under way to clarify a major source of uncertainty as to the quantities of biological and chemical weapons which were unilaterally destroyed in 1991. A part of this effort concerns a disposal site which was deemed too dangerous for full investigation in the past. It is now being re-excavated.

To date, Iraq has unearthed eight complete bombs, comprising two liquid-filled intact R-400 (ph) bombs and six other complete bombs. Bomb fragments are also found. Samples have been taken.

The investigation of the destruction site could, in the best case, allow the determination of the number of bombs destroyed at that site. It should be followed by serious and credible effort to determine the separate issue of how many R-400-type (ph) bombs were produced.

In this, as in other matters, the inspection work is moving on and may yield results.

Iraq proposed an investigation using advanced technology to quantify the amount of unilaterally destroyed anthrax dumped at a site. However, even if the use of advanced technology could quantify the amount of anthrax said to be dumped at the site, the results will still be open to interpretation. Defining the quantity of anthrax destroyed must of course be followed by efforts to establish what quantity was actually produced.

With respect to VX, Iraq has recently suggested a similar method to quantify VX precursors stated to have been unilaterally destroyed in the summer of 1991.

BLIX: Iraq has also recently informed us that following the adoption of the presidential decree prohibiting private individuals and mixed companies from engaging in work relating to weapons of mass destruction, further legislation on the subject is to be enacted. This appears to be in response to a letter from UNMOVIC requesting clarification of the issue.

Mr. President, what are we to make of these activities?

One can hardly avoid the impression that after a period of somewhat reluctant cooperation, there's been an acceleration of initiatives from the Iraqi side since the end of January. This is welcome. But the value of these measures must be soberly judged by how many question marks they actually succeed in straightening out. This is not yet clear.

Against this background, the question is now asked whether Iraq has cooperated, quote, ``immediately, unconditionally and actively,'' unquote, with UNMOVIC, as is required under Paragraph 9 of Resolution 1441. The answers can be seen from the factor (ph) descriptions that I have provided.

However, if more direct answers are desired, I would say the following: The Iraqi side has tried on occasion to attach conditions, as it did regarding helicopters and U-2 planes. It has not, however, so far persisted in this or other conditions for the exercise of any of our inspection rights. If it did, we would report it.

It is obvious that while the numerous initiatives which are now taken by the Iraqi side with a view to resolving some longstanding, open disarmament issues can be seen as active or even proactive, these initiatives three to four months into the new resolution cannot be said to constitute immediate cooperation. Nor do they necessarily cover all areas of relevance. They are, nevertheless, welcome. And UNMOVIC is responding to them in the hope of solving presently unresolved disarmament issues.

Mr. President, members of the council may relate most of what I have said to Resolution 1441, but UNMOVIC is performing work under several resolutions of the Security Council. The quarterly report before you is submitted in accordance with Resolution 1284, which not only created UNMOVIC but also continues to guide much of our work.

BLIX: Under the time lines set by that resolution, the results of some of this work is reported to the council before the end of this month.

Let me be more specific. Resolution 1284 instructs UNMOVIC to, I quote, ``address unresolved disarmament issues,'' unquote, and to identify, quote, ``key remaining disarmament tasks,'' unquote. And the latter are to be submitted for approval by the council in the context of a work program. UNMOVIC will be ready to submit a draft work program this month as required.

UNMOVIC, UNSCOM and the Amorin Panel did valuable work to identify the disarmament issues which were still open at the end of 1998. UNMOVIC has used this material as starting points, but analyzed the data behind it and data and document post-1998 up to the present time to compile its own list of unresolved disarmament issues, or rather clustered issues.

It is the answers to these issues which we seek through our inspection activities. And it is also from the list of these clustered issues that UNMOVIC will identify the key remaining disarmament tasks. As noted in the report before you, this list of clustered issues is ready.

UNMOVIC is only required to submit the work program with the key remaining (inaudible) to the council. As I understand, several council members are

interested in the working document with a complete cluster of disarmament issues. And we have declassified it and are ready to make it available to members of the council on request.

In this working document, which may still be adjusted in the light of new information, members will get a more up-to-date review of the outstanding issues than in the documents of 1999, which members usually refer to.

Each cluster in the working document ends with a number of points indicating what Iraq could do to solve the issue. Hence, Iraq's cooperation could be measured against a successful resolution of issues.

I should note that the working document contains much information and discussion about the issues which existed at the end of 1998, including information which has come to light after '98. It contains much less information and discussion about the period after 1998, primarily because of paucity of information.

Nevertheless, intelligence agencies have expressed the view that proscribed programs have continued or restarted in this period. It is further contended that proscribed programs and items are located in underground facilities, as I mentioned, and that proscribed items are being moved around Iraq. The working document does contain suggestions on how these concerns may be tackled.

Mr. President, let me conclude by telling you that UNMOVIC is currently drafting the work program which Resolution 1284 requires us to submit this month.

BLIX: It will obviously contain our proposed list of key remaining disarmament tasks. It will describe the reinforced system of ongoing monitoring and verification that the council has asked us to implement.

It will also describe the various subsystems which constitute the program; for instance, for aerial surveillance, for information from governments and suppliers, for sampling, for the checking of road traffic, et cetera.

How much time would it take to resolve the key remaining disarmament tasks? While cooperation can--cooperation can and is to be immediate, disarmament, and at any rate verification of it, cannot be instant. Even with a proactive Iraqi attitude induced by continued outside pressure, it will still take some time to verify sites and items, analyze documents, interview relevant persons and draw conclusions. It will not take years, nor weeks, but months.

Neither governments nor inspectors would want disarmament inspection to go on forever. However, it must be remembered that in accordance with the governing resolutions, a sustained inspection and monitoring system is to remain in place after verified disarmament to give confidence and to strike an alarm if signs were seen of the revival of any proscribed weapons programs.

Thank you, Mr. President.

SECURITY COUNCIL PRESIDENT (THROUGH TRANSLATOR): I thank Dr. Blix for his briefing.

I now give the floor to Dr. Mohamed ElBaradei, director general of the International Atomic Energy Agency.

Mr. Baradei, you have the floor.

ELBARADEI: Thank you, Mr. President.

Mr. President, my report to the council today is an update on the status of the International Atomic Energy Agency's nuclear verification activities in Iraq pursuant to Security Council Resolution 1441 and other relevant resolutions.

When I reported last to the council on 14 February, I explained that the agency's inspection activities has moved well beyond the reconnaissance phase--that is, reestablishing our knowledge base regarding Iraq nuclear capabilities--into the investigative phase, which focuses on the central question before the IAEA relevant to disarmament: whether Iraq has revived, or attempted to revive, its defunct nuclear weapons program over the last four years.

At the outset, let me state on general observation, namely that during the past four years at the majority of Iraqi sites industrial capacity has deteriorated substantially due to the departure of the foreign support that was often present in the late '80s, the departure of large numbers of skilled Iraqi personnel in the past decade, and the lack of consistent maintenance by Iraq of sophisticated equipment.

At only a few inspected sites involved in industrial research, development and manufacturing have the facilities been improved and new personnel been taken on.

This overall deterioration in industrial capacity is naturally of direct relevance to Iraq's capability for resuming a nuclear weapon program.

ELBARADEI: The IAEA has now conducted a total of 218 nuclear inspections at 141 sites, including 21 that have not been inspected before. In addition, the agency experts have taken part in many joint UNMOVIC-IAEA inspections.

Technical support for nuclear inspections has continued to expand. The three operational air samplers have collected from key locations in Iraq weekly air particulate samples that are being sent to laboratories for analysis. Additional results of water, sediment, vegetation and material sample analysis have been received from the relevant laboratories.

Our vehicle-borne radiation survey team has covered some 2,000 kilometers over the past three weeks. Survey access has been gained to over 75 facilities, including military garrisons and camps, weapons factories, truck parks, and manufacturing facilities and residential areas.

Interviews have continued with relevant Iraqi personnel, at times with individuals and groups in the workplace during the course of unannounced inspections, and on other occasions in pre-arranged meetings with key scientists and other specialists known to have been involved with Iraq's past nuclear program.

The IAEA has continued to conduct interviews, even when the conditions were not in accordance with the IAEA-preferred modalities, with a view to gaining as much information as possible, information that could be cross-checked for validity with other sources and which could be helpful in our assessment of areas under investigation.

As you may recall, when we first began to request private, unescorted interviews, the Iraqi interviewees insisted on taping the interviews and keeping the recorded tapes. Recently, upon our insistence, individuals have been consenting to being interviewed without escort and without a taped record. The IAEA has conducted two such private interviews in the last 10 days, and hope that its ability to conduct private interviews will continue unhindered, including possibly interviews outside Iraq.

I should add that we are looking into further refining the modalities for conducting interviews to ensure that they are conducted freely and to alleviate concerns that interviews are being listened to by other Iraqi parties. In our view, interviews outside Iraq may be the best way to ensure that interviews are free, and we intend, therefore, to request such interviews shortly.

ELBARADEI: We are also asking other states to enable us to conduct interviews with former Iraqi scientists that now reside in those states.

Mr. President, in the last few weeks, Iraq has provided a considerable volume of documentation relevant to the issues I reported earlier as being of particular concern, including Iraq's efforts to procure aluminum tubes, its attempted procurement of magnets and magnets-production capabilities, and its reported attempt to import uranium.

I will touch briefly on the progress made on each of these issues.

Since my last update to the council, the primary technical focus of IAEA field activities in Iraq has been on resolving several outstanding issues related to the possible resumption of efforts by Iraq to enrich uranium through the use of centrifuge. For that purpose, the IAEA assembled a specially qualified team of international centrifuge manufacturing experts.

With regard to the aluminum tubes, the IAEA has conducted a thorough investigation of Iraq's attempt to purchase large quantities of high-strength aluminum tubes. As previously reported, Iraq has maintained that these aluminum tubes were sold for rocket production. Extensive field investigation and document analysis have failed to uncover any evidence that Iraq intended to use these 81-millimeter tubes for any project other than the reverse engineering of rockets.

The Iraqi decision-making process with regard to the design of these rockets was well-documented. Iraq has provided copies of design documents, procurement records, minutes of committee meetings and supporting data and samples.

A thorough analysis of this information, together with information gathered from interviews with Iraqi personnel, has allowed the IAEA to develop a coherent picture of attempted purchase and intended usage of the 81-millimeter aluminum tubes, as well as the rationale behind the changes in the tolerance.

Drawing on this information, the IAEA has learned that the original tolerance for the 81-millimeter tubes were set prior to 1987 and were based on physical measurements taken from a small number of imported rockets in Iraq's possession.

Initial attempts to reverse-engineer the rockets met with little success. Tolerance were adjusted during the following years as part of ongoing efforts to revitalize a project and improve operational efficiency. The project language for a long period during this time and became the subject of several committees which resulted in the specification and tolerance changes on each occasion.

Based on available evidence, the IAEA team has concluded that Iraq efforts to import these aluminum tubes were not likely to have been related to the manufacture of centrifuge, and moreover that it was highly unlikely that Iraq could have achieved the considerable redesign needed to use them in a revived centrifuge program.

ELBARADEI: However, this issue will continue to be scrutinized and investigated.

With respect to reports about Iraq efforts to import high-strength permanent magnets or to achieve the capability for producing such magnets for use in a centrifuge enrichment program, I should note that since 1998 Iraq has purchased high-strength magnets for various uses. Iraq has declared inventories of magnets of 12 different designs. The IAEA has verified that previously acquired magnets have been used for missile guidance systems, industrial machinery, electricity meters and field telephones.

Through visit to research and production sites, review of engineering drawings and analysis of sample magnets, the IAEA expert familiar with the use of such magnets in centrifuge enrichment have verified that none of

the magnets that Iraq has declared could be used directly for centrifuge magnetic bearings.

In June 2001, Iraq signed a contract for a new magnet production line for delivery and installation in 2003. The delivery has not yet occurred, and Iraqi documentations and interviews of Iraqi personnel indicate that this contract will not be executed.

However, they have concluded that the replacement of foreign procurement with domestic magnet production seems reasonable from an economic point of view.

In addition, the training and experience acquired by Iraq in pre-1991 period make it likely that Iraq possesses the expertise to manufacture high-strength permanent magnets suitable for use in enrichment centrifuges. The IAEA will continue, therefore, to monitor and inspect equipment and materials that could be used to make magnets for enrichment centrifuges.

ELBARADEI: With regard to uranium acquisition, the IAEA has made progress in its investigation ito reports that Iraq sought to buy uranium from Niger in recent years. The investigation was centered on documents provided by a number of states that pointed to an agreement between Niger and Iraq for the sale of uranium between 1999 and 2001. The IAEA has discussed these reports with the governments of Iraq and Israel, both of which have denied that any such activity took place.

For its part, Iraq has provided the IAEA with a comprehensive explanation of its relations with Niger and has described a visit by an Iraqi official to a number of African countries including Niger in February 1999, which Iraq thought might have given rise to the reports. The IAEA was able to review correspondence coming from various bodies of the government of Niger and to compare the form, format, contents and signature of that correspondence with those of the alleged procurement-related documentation.

Based on thorough analysis, the IAEA has concluded with the concurrence of outside experts that these documents which formed the basis for the report of recent uranium transaction between Iraq and Niger are in fact not authentic. We have therefore concluded that these specific allegations are unfounded. However, we will continue to follow up any additional evidence if it emerges relevant to efforts by Iraq to illicitly import nuclear materials.

Many concerns regarding Iraq's possible intention to resume its nuclear program have arisen from Iraq's procurement efforts reported by a number of states. In addition, many of Iraq's efforts to procure commodities and products, including magnets and aluminum tubes, have been conducted in contravention of the sanctions controlled specified under Security Council Resolution 661 and other relevant resolutions.

The issue of procurement efforts remains under thorough investigation, and further verification will be forthcoming. In fact, an IAEA team of technical experts is currently in Iraq, composed of custom investigators and computer forensics specialists, to conduct a--which is conducting a series (ph) of investigations so (ph) inspection of trading (ph) companies and commercial organizations aimed at understanding Iraq's pattern of procurement.

Mr. President, in conclusion, I am able to report today that in the area of nuclear weapons, the most lethal weapons of mass destruction, inspection in Iraq are moving forward.

ELBARADEI: Since the resumption of inspection a little over three months ago, and particularly during the three weeks since my last ordered (ph) report to the council, the IAEA has made important progress in identifying what nuclear-related capabilities remain in Iraq and in its assessment of whether Iraq has made any effort to revive its past nuclear program during

the intervening four years since inspections were brought to a halt.

At this stage, the following can be stated:

One, there is no indication of resumed nuclear activities in those buildings that were identified through the use of satellite imagery as being reconstructed or newly erected since 1998, nor any indication of nuclear-related prohibited activities at any inspected sites.

Second, there is no indication that Iraq has attempted to import uranium since 1990.

Three, there is no indication that Iraq has attempted to import aluminum tubes for use in centrifuge enrichment. Moreover, even had Iraq pursued such a plan, it would have encountered practical difficulties in manufacturing centrifuge out of the aluminum tubes in question.

Fourth, although we are still reviewing issues related to magnets and magnet-production, there is no indication to date that Iraq imported magnets for use in centrifuge enrichment program.

As I stated above, the IAEA will naturally continue further to scrutinize and investigate all of the above issues.

After three months of intrusive inspections, we have to date found no evidence or plausible indication of the revival of a nuclear weapon program in Iraq.

We intend to continue our inspection activities, making use of all additional rights granted to us by Resolution 1441 and all additional tools that might be available to us, including reconnaissance platforms and all relevant technologies.

We also hope to continue to receive from states actionable information relevant to our mandate.

I should note that in the past three weeks, possibly as a result of ever-increasing pressure by the international community, Iraq has been forthcoming in its cooperation, particularly with regard to the conduct of private interviews and in making available evidence that could contribute to the resolution of matters of IAEA concern. I do hope that Iraq will continue to expand the scope and accelerate the pace of its cooperation.

ELBARADEI: The detailed knowledge of Iraq capabilities that IAEA experts have accumulated since 1991, combined with the extended rights provided by Resolution 1441, the active commitment by all states to help us fulfill our mandate, and the recently increased level of Iraqi cooperation should enable us in the near future to provide the Security Council with an objective and thorough assessment of Iraq's nuclear-related capabilities.

However, however credible this assessment may be, we will endeavor, in view of the inherent uncertainties associated with any verification process, and particularly in the light of Iraq past record of cooperation, to evaluate Iraq capabilities on a continuous basis as part of our long-term monitoring and verification program in order to provide the international community with ongoing and real-time assurances.

Thank you, Mr. President.

END

;

From: Office of Global Communications <Global.Messenger@WhiteHouse.Gov>
To: Carolene Langie Office of Global Communications/WHO/EOP@EOP [WHO] <Carolene Langie Office of Global Communications>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 3/7/2003 3:25:56 PM
Subject: : 2 of 3: Expert Voices on Iraq and WMD Deception
Attachments: P_IG3IE003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Office of Global Communications <Global.Messenger@WhiteHouse.Gov> (Office of Global Communications <Global.Messenger@WhiteHouse.Gov> [UNKNOWN])
CREATION DATE/TIME: 7-MAR-2003 20:25:56.00
SUBJECT:: 2 of 3: Expert Voices on Iraq and WMD Deception
TO:Carolene Langie Office of Global Communications (CN=Carolene Langie Office of Global Communications/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

(See attached file: Ken Pollack 022103 NYT Op-Ed.doc)

New York Times
February 21, 2003

A Last Chance to Stop Iraq
By KENNETH M. POLLACK

WASHINGTON -- With the Bush administration set to put a resolution on Iraq before the United Nations Security Council next week, those opposed to war will rally around the notion that Saddam Hussein can be deterred from aggression. They will continue to say that the mere presence of United Nations inspectors will prevent him from building nuclear weapons, and that even if he were to acquire them he could still be contained.

Unfortunately, these claims fly in the face of 12 years -- and in truth more like 30 years -- of history.

Observers have a very poor track record in predicting the progress of the Iraqi nuclear weapons program. In the late 1980's, the nuclear experts of the American intelligence services were convinced that the Iraqis were at least 5 and probably 10 years away from having a nuclear weapon. For its part, the International Atomic Energy Agency did not even believe that Iraq had a nuclear weapons program. After the 1991 Persian Gulf war, United Nations inspectors found that not only did Iraq have a program far more extensive than anyone had realized, but it was also less than two years away from producing a weapon.

Four years later, the international agency was so certain that it had eradicated the Iraqi nuclear program that it wanted to end aggressive inspections in favor of passive "monitoring." Then a slew of defectors came out of Iraq -- including Hussein Kamel al-Majid, the son-in-law of Saddam Hussein who led the Iraqi program to build weapons of mass destruction; Wafiq al-Samarrai, one of

Saddam Hussein's intelligence chiefs; and Khidhir Hamza, a leading scientist with the nuclear weapons program. These defectors reported that outside pressure had not only failed to eradicate the nuclear program, it was bigger and more cleverly spread out and concealed than anyone had imagined it to be.

In the late 1990's, American and international nuclear experts again concluded that the Iraqi nuclear program was dormant: yes, the scientists were still working in teams; yes, they still had all of the plans; and yes, they probably were hiding some machinery -- but they were not making any progress. Then another batch of important defectors escaped to Europe and told Western intelligence services that after the inspectors left Iraq in 1998, Saddam Hussein had started a crash program to build a nuclear weapon and that the Iraqis had devised methods to hide the effort.

The reports of these defectors prompted the German intelligence service in 2001 to conclude that Iraq was only three to six years away from having one or more nuclear weapons. Today, the American, British and Israeli intelligence services believe that unless he is stopped, Saddam Hussein is likely to acquire a nuclear weapon in the second half of this decade.

Even this estimate may be overly optimistic. While it's true that the presence of weapons inspectors does hamper the Iraqis, there are some critical caveats. We simply do not know how close Iraq is to acquiring a nuclear weapon, nor do we know to what extent the inspectors' presence is slowing the Iraqi program. What we do know is that for more than a decade we have consistently overestimated the ability of inspectors to impede the Iraqi efforts and we have consistently underestimated how far along Iraq has been toward acquiring a nuclear weapon.

For all of these reasons the assurances from Mohamed ElBaradei, the head of the International Atomic Energy Agency, that he has Iraq's nuclear program well in hand should be less than comforting.

Nor is there reason to be confident about how Saddam Hussein will behave once he has acquired a nuclear weapon.

He has been anything but circumspect about his aspirations: He has stated that he wants to turn Iraq into a "superpower" that will dominate the Middle East, to liberate Jerusalem and to drive the United States out of the region. He has said he believes the only way he can achieve his goals is through the use of force. Indeed, his half-brother and former chief of intelligence, Barzan al-Tikriti, was reported to say that Iraq needs nuclear weapons because it wants "a strong hand in order to redraw the map of the Middle East."

It is probably true that fear of retaliation kept Iraq from using chemical weapons against coalition forces during the gulf war. However, this should give us little comfort that he will be similarly deterred in the future. Before the 1991 war, Secretary of State James Baker warned his Iraqi counterpart, Tariq Aziz, that Iraq faced "terrible consequences" if it used weapons of mass destruction, mounted terrorist attacks or destroyed Kuwaiti oil fields.

Yet despite this warning, Saddam Hussein tried to send terrorist teams to America and did blow up the Kuwaiti oil fields -- he simply gambled on which two of the three things Mr. Baker mentioned were unlikely to result in America ending the regime. (Many officials from that Bush administration have suggested, in fact, that Saddam Hussein didn't even make the right calculation.)

Proponents of deterrence also argue that since nobody has ever actually tried to deter Saddam Hussein from attacking another country, how can we claim that doing so will be difficult in the future? The example most often cited is the Iraqi invasion of Kuwait, where the common wisdom holds that because of the botched messages he received from the American ambassador, April Glaspie, Iraq had no reason to believe we would fight.

In fact, all the evidence indicates the opposite: Saddam Hussein believed it was highly likely that the United States would try to liberate Kuwait, but convinced himself that we would send only lightly armed, rapidly deployable forces that would be quickly destroyed by his 120,000-man Republican Guard. After this, he assumed, Washington would acquiesce to his conquest.

Much of the evidence for this remains classified, but at least two points can be made using public material: Tariq Aziz has told reporters that this was what Saddam Hussein thought at the time; and we know that when the Republican Guards invaded Kuwait they moved quickly -- even before they had consolidated control over the country -- to set up defenses along Kuwait's borders and against amphibious and airborne landings.

In other words, Saddam Hussein thinks we tried to deter him, and that we failed. He was ready and willing to fight the United States for Kuwait.

Even that crushing defeat, however, didn't dim his adventurism. Just two years later he attempted to assassinate the emir of Kuwait and former President Bush. This was not a rational act but a meaningless bid for revenge. And he is lucky that the attempts failed. If they had succeeded, there is no question that the United States would have obliterated his regime.

Then, in October 2000, he dispatched five divisions to western Iraq. All of the evidence available to the American government indicated that, with the

acquiescence of Damascus, he intended to move them through Syria and into the Golan Heights. In response, Washington began preparing a military strike far greater than Desert Fox of 1999 (which itself prompted revolts throughout Iraq for six months), and the Israeli military planned its own crushing response. Only American and Saudi diplomatic intervention with Syria, combined with the Iraqi military's logistical problems, quashed the adventure.

Most ominous today, we have heard from many intelligence sources -- including some of the highest-level defectors now in America and abroad -- that Saddam Hussein believes that once he has acquired nuclear weapons it is the United States that will be deterred. He apparently believes that America will be so terrified of getting into a nuclear confrontation that it would not dare to stop him should he decide to invade, threaten or blackmail his neighbors.

America has never encountered a country that saw nuclear weapons as a tool for aggression. During the cold war we feared that the Russians thought this way, but we eventually learned that they were far more conservative. Our experts may be split on how to handle North Korea, but they agree that the Pyongyang regime wants nuclear weapons for defensive purposes -- to stave off the perceived threat of an American attack. The worst that anyone can suggest is that North Korea might blackmail us for economic aid or sell such weapons to someone else (with Iraq being near the top of that list). Only Saddam Hussein sees these weapons as offensive -- as enabling aggression.

Finally, we cannot forget that all evidence has shown Saddam Hussein to be an incorrigible optimist who willfully ignores signs of danger. Consider that on at least five occasions over the last three decades, he has embarked on foreign policy adventures that nearly destroyed him: his attack on Iraq's Kurds in 1974 (which might have ended in an Iranian assault on Baghdad if the shah of Iran had not unexpectedly decided to double-cross the Kurds instead); his invasion of Iran in 1980; his invasion of Kuwait in 1990; his assassination attempt against former President Bush in 1993; and his threatened attack on Kuwait in 1994. In each case, he took a course of action that we know even his closest advisers considered extremely dangerous.

This is the problem with Saddam Hussein. The assertion that he is not intentionally suicidal may be true, but it is irrelevant. In the end, he has frequently proven inadvertently suicidal.

And he seems to be doing it again. With more than 150,000 American soldiers taking positions on his borders he continues to run the international inspectors in circles, foolishly confident that his minor concessions will stave off

an
invasion. Is there any other person on earth who wouldn't turn his country
inside out to prove that he did not have more weapons of mass destruction?
Once
again, he seems to be betting his life that the game is not as dangerous as
everyone else thinks it is.

Given Saddam Hussein's current behavior, his track record, his aspirations
and
his terrifying beliefs about the utility of nuclear weapons, it would be
reckless for us to assume that he can be deterred. Yes, we must weigh the
costs
of a war with Iraq today, but on the other side of the balance we must
place the
cost of a war with a nuclear-armed Iraq tomorrow.

Kenneth M. Pollack, a former analyst of the Iraqi military at the C.I.A.,
is a
fellow at the Saban Center for Middle East Policy at the Brookings
Institution
and author of "The Threatening Storm: The Case for Invading Iraq."

- Ken Pollack 022103 NYT Op-Ed.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_IG3IE003_WHO.TXT_1>

The New York Times

February 21, 2003

A Last Chance to Stop Iraq

By KENNETH M. POLLACK

WASHINGTON — With the Bush administration set to put a resolution on Iraq before the United Nations Security Council next week, those opposed to war will rally around the notion that Saddam Hussein can be deterred from aggression. They will continue to say that the mere presence of United Nations inspectors will prevent him from building nuclear weapons, and that even if he were to acquire them he could still be contained.

Unfortunately, these claims fly in the face of 12 years — and in truth more like 30 years — of history.

Observers have a very poor track record in predicting the progress of the Iraqi nuclear weapons program. In the late 1980's, the nuclear experts of the American intelligence services were convinced that the Iraqis were at least 5 and probably 10 years away from having a nuclear weapon. For its part, the International Atomic Energy Agency did not even believe that Iraq had a nuclear weapons program. After the 1991 Persian Gulf war, United Nations inspectors found that not only did Iraq have a program far more extensive than anyone had realized, but it was also less than two years away from producing a weapon.

Four years later, the international agency was so certain that it had eradicated the Iraqi nuclear program that it wanted to end aggressive inspections in favor of passive "monitoring." Then a slew of defectors came out of Iraq — including Hussein Kamel al-Majid, the son-in-law of Saddam Hussein who led the Iraqi program to build weapons of mass destruction; Wafiq al-Samarrai, one of Saddam Hussein's intelligence chiefs; and Khidhir Hamza, a leading scientist with the nuclear weapons program. These defectors reported that outside pressure had not only failed to eradicate the nuclear program, it was bigger and more cleverly spread out and concealed than anyone had imagined it to be.

In the late 1990's, American and international nuclear experts again concluded that the Iraqi nuclear program was dormant: yes, the scientists were still working in teams; yes, they still had all of the plans; and yes, they probably were hiding some machinery — but they were not making any progress. Then another batch of important defectors escaped to Europe and told Western intelligence services that after the inspectors left Iraq in 1998, Saddam Hussein had started a crash program to build a nuclear weapon and that the Iraqis had devised methods to hide the effort.

The reports of these defectors prompted the German intelligence service in 2001 to conclude that Iraq was only three to six years away from having one or more nuclear weapons. Today, the American, British and Israeli intelligence services believe that unless he is stopped, Saddam Hussein is likely to acquire a nuclear weapon in the second half of this decade.

Even this estimate may be overly optimistic. While it's true that the presence of weapons inspectors does hamper the Iraqis, there are some critical caveats. We simply do not know how close Iraq is to acquiring a nuclear weapon, nor do we know to what extent the inspectors' presence is slowing the Iraqi program. What we do know is that for more than a decade we have consistently overestimated the ability of inspectors to impede the Iraqi efforts and we have consistently underestimated how far along Iraq has been toward acquiring a nuclear weapon.

For all of these reasons the assurances from Mohamed ElBaradei, the head of the International Atomic Energy Agency, that he has Iraq's nuclear program well in hand should be less than comforting.

Nor is there reason to be confident about how Saddam Hussein will behave once he has acquired a nuclear weapon.

He has been anything but circumspect about his aspirations: He has stated that he wants to turn Iraq into a "superpower" that will dominate the Middle East, to liberate Jerusalem and to drive the United States out of the region. He has said he believes the only way he can achieve his goals is through the use of force. Indeed, his half-brother and former chief of intelligence, Barzan al-Tikriti, was reported to say that Iraq needs nuclear weapons because it wants "a strong hand in order to redraw the map of the Middle East."

It is probably true that fear of retaliation kept Iraq from using chemical weapons against coalition forces during the gulf war. However, this should give us little comfort that he will be similarly deterred in the future. Before the 1991 war, Secretary of State James Baker warned his Iraqi counterpart, Tariq Aziz, that Iraq faced "terrible consequences" if it used weapons of mass destruction, mounted terrorist attacks or destroyed Kuwaiti oil fields.

Yet despite this warning, Saddam Hussein tried to send terrorist teams to America and did blow up the Kuwaiti oil fields — he simply gambled on which two of the three things Mr. Baker mentioned were unlikely to result in America ending the regime. (Many officials from that Bush administration have suggested, in fact, that Saddam Hussein didn't even make the right calculation.)

Proponents of deterrence also argue that since nobody has ever actually tried to deter Saddam Hussein from attacking another country, how can we claim that doing so will be difficult in the future? The example most often cited is the Iraqi invasion of Kuwait, where the common wisdom holds that because of the botched messages he received from the American ambassador, April Glaspie, Iraq had no reason to believe we would fight.

In fact, all the evidence indicates the opposite: Saddam Hussein believed it was highly likely that the United States would try to liberate Kuwait, but convinced himself that we would send only lightly armed, rapidly deployable forces that would be quickly destroyed by his 120,000-man Republican Guard. After this, he assumed, Washington would acquiesce to his conquest.

REV_00159634

Much of the evidence for this remains classified, but at least two points can be made using public material: Tariq Aziz has told reporters that this was what Saddam Hussein thought at the time; and we know that when the Republican Guards invaded Kuwait they moved quickly — even before they had consolidated control over the country — to set up defenses along Kuwait's borders and against amphibious and airborne landings.

In other words, Saddam Hussein thinks we tried to deter him, and that we failed. He was ready and willing to fight the United States for Kuwait.

Even that crushing defeat, however, didn't dim his adventurism. Just two years later he attempted to assassinate the emir of Kuwait and former President Bush. This was not a rational act but a meaningless bid for revenge. And he is lucky that the attempts failed. If they had succeeded, there is no question that the United States would have obliterated his regime.

Then, in October 2000, he dispatched five divisions to western Iraq. All of the evidence available to the American government indicated that, with the acquiescence of Damascus, he intended to move them through Syria and into the Golan Heights. In response, Washington began preparing a military strike far greater than Desert Fox of 1999 (which itself prompted revolts throughout Iraq for six months), and the Israeli military planned its own crushing response. Only American and Saudi diplomatic intervention with Syria, combined with the Iraqi military's logistical problems, quashed the adventure.

Most ominous today, we have heard from many intelligence sources — including some of the highest-level defectors now in America and abroad — that Saddam Hussein believes that once he has acquired nuclear weapons it is the United States that will be deterred. He apparently believes that America will be so terrified of getting into a nuclear confrontation that it would not dare to stop him should he decide to invade, threaten or blackmail his neighbors.

America has never encountered a country that saw nuclear weapons as a tool for aggression. During the cold war we feared that the Russians thought this way, but we eventually learned that they were far more conservative. Our experts may be split on how to handle North Korea, but they agree that the Pyongyang regime wants nuclear weapons for defensive purposes — to stave off the perceived threat of an American attack. The worst that anyone can suggest is that North Korea might blackmail us for economic aid or sell such weapons to someone else (with Iraq being near the top of that list). Only Saddam Hussein sees these weapons as offensive — as enabling aggression.

Finally, we cannot forget that all evidence has shown Saddam Hussein to be an incorrigible optimist who willfully ignores signs of danger. Consider that on at least five occasions over the last three decades, he has embarked on foreign policy adventures that nearly destroyed him: his attack on Iraq's Kurds in 1974 (which might have ended in an Iranian assault on Baghdad if the shah of Iran had not unexpectedly decided to double-cross the Kurds instead); his invasion of Iran in 1980; his invasion of Kuwait in 1990; his assassination attempt against former President Bush in 1993; and his threatened attack on Kuwait in 1994. In each case, he took a course of action that we know even his closest advisers considered extremely dangerous.

REV_00159635

This is the problem with Saddam Hussein. The assertion that he is not intentionally suicidal may be true, but it is irrelevant. In the end, he has frequently proven inadvertently suicidal.

And he seems to be doing it again. With more than 150,000 American soldiers taking positions on his borders he continues to run the international inspectors in circles, foolishly confident that his minor concessions will stave off an invasion. Is there any other person on earth who wouldn't turn his country inside out to prove that he did not have more weapons of mass destruction? Once again, he seems to be betting his life that the game is not as dangerous as everyone else thinks it is.

Given Saddam Hussein's current behavior, his track record, his aspirations and his terrifying beliefs about the utility of nuclear weapons, it would be reckless for us to assume that he can be deterred. Yes, we must weigh the costs of a war with Iraq today, but on the other side of the balance we must place the cost of a war with a nuclear-armed Iraq tomorrow.

Kenneth M. Pollack, a former analyst of the Iraqi military at the C.I.A., is a fellow at the Saban Center for Middle East Policy at the Brookings Institution and author of "The Threatening Storm: The Case for Invading Iraq."

REV_00159636

From: CN=Wendy J. Grubbs/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/7/2003 11:46:25 AM
Subject: : Re:

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Wendy J. Grubbs ( CN=Wendy J. Grubbs/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 7-MAR-2003 16:46:25.00
SUBJECT:: Re:
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

As courtesy visits? Or should kbh do a group thing? I know kbh's staffer
really well.

.
```

From: Sara Taylor <Staylor@georgewbush.com>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Lrodriguez@georgewbush.com [UNKNOWN] <Lrodriguez@georgewbush.com>
Sent: 3/9/2003 11:38:16 AM
Subject: : FW: Fargo Forum Editorial: Put an end to Estrada filibuster
Attachments: P_JPEIE003_WHO.TXT_1.htm

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Sara Taylor <Staylor@georgewbush.com> (Sara Taylor <Staylor@georgewbush.com> [UNKNOWN])
CREATION DATE/TIME: 9-MAR-2003 16:38:16.00
SUBJECT:: FW: Fargo Forum Editorial: Put an end to Estrada filibuster
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Lrodriguez@georgewbush.com (Lrodriguez@georgewbush.com [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

FYI.....
-----Original Message-----From: Daniel M. Traynor [mailto:dantraynor@ndgop.org]
Sent: Sunday, March 09, 2003 12:40 PM
To: Sara Taylor
Cc: MIchael Thielen; Jason Stverak; Dean Winkjer; Chad Colby - Communications; Patrick Davis; Anne Hathaway
Subject: Fargo Forum Editorial: Put an end to Estrada filibuster

Forum editorial: Put an end to Estrada filibuster
The Forum - 03/09/2003

Notably absent among senators who voted to break a filibuster over the nomination of Miguel Estrada to the nation?s most important federal circuit court were North Dakota Democrats Kent Conrad and Byron Dorgan and Minnesota
Democrat Mark Dayton.

Their opposition to the highly qualified Estrada might make political sense as the nation moves toward a presidential campaign, but it makes no judicial
sense. Playing politics with a president?s judicial appointments is nothing new, but doing so with Estrada is a disservice to the judiciary and an insult to an eminently qualified, Harvard-educated, Hispanic American..

Fact is, most Democrats in the Senate don?t like Estrada because (horrors!) he might be a conservative. But really, who knows? That much- reviled liberal Earl Warren was a conservative from California who was appointed to the U.S. Supreme Court by President Eisenhower in 1953. Justice David Souter, allegedly a New Hampshire conservative, was appointed to the high court by George Bush (Sr.), and promply took his place on the court as a reliable liberal.

If Democrats can block Estrada from a seat on the U.S. Court of Appeals for the District of Columbia, they effectively eliminate him from consideration for a seat on the U.S. Supreme Court when a vacancy occurs. It?s a foolish strategy that is sure to backfire next time a Democrat occupies the White House.

The rap against the nominee is that he has not been forthcoming enough about
his judicial philosophy. That?s nonsense that was blown away a few days ago when Sen. Lamar Alexander, R-Tenn., cited a long litany of questions from members of the Senate Judiciary Committee that were answered in eyes-glazed-over detail by Estrada. Yet, facts did not matter. All but four Democratic senators took their marching orders from Minority Leader Tom

Daschle, D-S.D., whose only priority these days seems to be to embarrass the president. The vote Thursday to continue the filibuster was 55-44. Sixty votes were needed to end it. Estrada received the highest rating the American Bar Association can give. He?s been praised by Democrats and Republicans for his work in the Solicitor General?s office in Democratic and Republican administrations.

He certainly is as qualified or more qualified than many judges in the federal judiciary. And more is known about him than was known about many nominees, including nominees who were confirmed for the Supreme Court, and most certainly for the circuit courts.

The Democratic obstructionism is blatant politics poorly disguised as cluck-clucking about Estrada?s ?qualifications.? It?s misuse of the filibuster and abuse of the public trust. Democratic senators ? including those from North Dakota and Minnesota ? should abandon the filibuster and allow a Senate vote on the Estrada nomination.

Forum editorials represent the opinion of Forum management and the newspaper ?s Editorial Board

Daniel M. Traynor

Republican State Chairman

Email: dantraynor@ndgop.org

----Join North Dakota's largest grassroots political party today at www.ndgop.org. You can sign up to be an ONline Activist and become a member of the Republican Party on our secure contribution server.

----North Dakota Republican Party

PO Box 1917

Bismarck ND 58502-1917

Telephone: (701) 255-0030

Facsimile: (701) 255-7513

Cellular: (701) 230-1447

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_JPEIE003_WHO.TXT_1>

FYI.....
-----Original Message-----
From: Daniel M. Traynor [mailto:dantraynor@ndgop.org]
Sent: Sunday, March 09, 2003 12:40 PM
To: Sara Taylor
Cc: MIchael Thielen; Jason Stverak; Dean Winkjer; Chad Colby - Communications; Patrick Davis; Anne Hathaway
Subject: Fargo Forum Editorial: Put an end to Estrada filibuster

Forum editorial: Put an end to Estrada filibuster

The Forum - 03/09/2003

Notably absent amon g senators who voted to break a filibuster over the nomination of Miguel Estrada to the nation's most important federal circuit court were North Dakota De mocrats Kent Conrad and Byron Dorgan and Minnesota Democrat Mark Dayton.

Their opposition to the highly qualified Estrada might make political sense as the nation moves toward a presidential campaign, but it makes no judicial sense. Playing politic s with a president's judicial appointments is nothing new, but doing so wit h Estrada is a disservice to the judiciary and an insult to an eminently qualified, Harvard-educated, Hispanic American.

Fact is, most Democrats in the Senate don't like Estrada because (horrors!) he might be a conservative. But really, who knows? That much- reviled liberal Earl Warren was a conservative from California who was appointed to the U.S. Supreme Court by President Eisenhower in 1953. Justice David Souter , allegedly a New Hampshire conservative, was appointed to the high court by George Bush (Sr.), and promply took his place on the court as a reliable liberal.

If Democrats can block Estrada from a seat on the U.S. Court of Appeals for the District of Columbia, they effectively eliminate him from consideration for a seat on the U.S. Supreme Court when a vacancy occurs. It's a foolish strategy that is sure to backfire next tim e a Democrat occupies the White House.

The rap against the nominee is that he has not been forthcoming enough about his judicial philosophy. That's nonsense that was blown away a few days ago when Sen. Lamar Alexander, R-Tenn., cited a long litany of questions from members of the Senate Judiciary Committee that were answered in eyes-glazed-over detail by Estrada. Yet, facts did not matter. All but four Democratic senators took their marching orders from Minority Leader Tom Daschle, D-S.D., whose only priority these days seems to be to embarrass the president. The vote Thursday to continue the filibuster was 55-44. Sixty votes were needed to end it. Estrada received the highest rating the American Bar Association can give. He's been praised b y Democrats and Republicans for his work in the Solicitor General's office in Democratic and Republican administrations.

He certainly is as qualified or more qualified than many judges in the federal judiciary.. And mor e is known about him than was known about many nominees, including nominees who were confirmed for the Supreme Court, and most certainly for the circuit courts .

The Democratic obstructionism is blatant politics poorly disguised as cluck-clucking about Estrada's "qualifications." It's misuse of the filibust er and abuse of the public trust. Democratic senators – including those from North Dakota and Minnesota – should aba ndon the filibuster and allow a Senate vote on the Estrada nomination.

Forum editorials represent the opinion of Forum management and the newspaper's Editorial B oard

Daniel M. Traynor
Republican State Chairman
Email: dantraynor@ndgop.org

Join North Dakota's largest grassroots political party today at www.ndgop.org. You can sign up to be an ONline Activist an d become a member of the Republican Party on our secure contribution server.

North Dakota Republican Party
PO Box 1917
Bismarck ND 58502-1917
Telephone: (701) 255-0030
Facsimile: (701) 255-7513

Cellular: (701) 230-1447

From: Kavanaugh, Brett M.
To: <Gonzales, Alberto R.>;<Leitch, David G.>
Sent: 3/9/2003 4:44:51 PM
Subject: Fw: Fargo Forum Editorial: Put an end to Estrada filibuster
Attachments: att1.htm

Editorial drumbeat continues.

.

----- Original Message -----

From:Staylor@georgewbush.com

To:Lrodriguez@georgewbush.com,

Brett M. Kavanaugh/WHO/EOP@EOP

Cc:

Date: 03/09/2003 04:38:32 PM

Subject: FW: Fargo Forum Editorial: Put an end to Estrada filibuster

FYI.....

-----Original Message-----From: Daniel M. Traynor [mailto:dantraynor@ndgop.org]

Sent: Sunday, March 09, 2003 12:40 PM

To: Sara Taylor

Cc: MIchael Thielen; Jason Stverak; Dean Winkjer; Chad Colby -

Communications; Patrick Davis; Anne Hathaway

Subject: Fargo Forum Editorial: Put an end to Estrada filibuster

Forum editorial: Put an end to Estrada filibuster

The Forum - 03/09/2003

Notably absent among senators who voted to break a filibuster over the

nomination of Miguel Estrada to the nation s most important federal circuit

court were North Dakota Democrats Kent Conrad and Byron Dorgan and Minnesota

Democrat Mark Dayton.

Their opposition to the highly qualified Estrada might make political sense

as the nation moves toward a presidential campaign, but it makes no judicial

sense. Playing politics with a president s judicial appointments is nothing

new, but doing so with Estrada is a disservice to the judiciary and an

insult to an eminently qualified, Harvard-educated, Hispanic American..

Fact is, most Democrats in the Senate don t like Estrada because (horrors!) he might be a conservative. But really, who knows? That much- reviled liberal Earl Warren was a conservative from California who was appointed to the U.S. Supreme Court by President Eisenhower in 1953. Justice David Souter, allegedly a New Hampshire conservative, was appointed to the high court by George Bush (Sr.), and promply took his place on the court as a reliable liberal.

If Democrats can block Estrada from a seat on the U.S. Court of Appeals for the District of Columbia, they effectively eliminate him from consideration for a seat on the U.S. Supreme Court when a vacancy occurs. It s a foolish strategy that is sure to backfire next time a Democrat occupies the White House.

The rap against the nominee is that he has not been forthcoming enough about his judicial philosophy. That s nonsense that was blown away a few days ago when Sen. Lamar Alexander, R-Tenn., cited a long litany of questions from members of the Senate Judiciary Committee that were answered in eyes-glazed-over detail by Estrada. Yet, facts did not matter. All but four Democratic senators took their marching orders from Minority Leader Tom Daschle, D-S.D., whose only priority these days seems to be to embarrass the president. The vote Thursday to continue the filibuster was 55-44. Sixty votes were needed to end it. Estrada received the highest rating the American Bar Association can give. He s been praised by Democrats and Republicans for his work in the Solicitor General s office in Democratic and Republican administrations.

He certainly is as qualified or more qualified than many judges in the federal judiciary. And more is known about him than was known about many nominees, including nominees who were confirmed for the Supreme Court, and most certainly for the circuit courts.

The Democratic obstructionism is blatant politics poorly disguised as cluck-clucking about Estrada s qualifications. It s misuse of the filibuster and abuse of the public trust. Democratic senators including

those from North Dakota and Minnesota should abandon the filibuster and allow a Senate vote on the Estrada nomination.

Forum editorials represent the opinion of Forum management and the newspaper s Editorial Board

Daniel M. Traynor

Republican State Chairman

Email: dantraynor@ndgop.org

----Join North Dakota's largest grassroots political party today at www.ndgop.org. You can sign up to be an ONline Activist and become a member of the Republican Party on our secure contribution server.

----North Dakota Republican Party

PO Box 1917

Bismarck ND 58502-1917

Telephone: (701) 255-0030

Facsimile: (701) 255-7513

Cellular: (701) 230-1447

- att1.htm

FYI.....
-----Original Message-----
From: Daniel M. Traynor [mailto:dantraynor@ndgop.org]
Sent: Sunday, March 09, 2003 12:40 PM
To: Sara Taylor
Cc: MIchael Thielen; Jason Stverak; Dean Winkjer; Chad Colby - Communications; Patrick Davis; Anne Hathaway
Subject: Fargo Forum Editorial: Put an end to Estrada filibuster

Forum editorial: Put an end to Estrada filibuster
The Forum - 03/09/2003
Notably absent among senators who voted to break a filibuster over the nomination of Miguel Estrada to the nation's most important federal circuit court were North Dakota Democrats Kent Conrad and Byron Dorgan and Minnesota Democrat Mark Dayton.
Their opposition to the highly qualified Estrada might make political sense as the nation moves toward a presidential campaign, but it makes no judicial sense. Playing politics with a president's judicial appointments is nothing new, but doing so with Estrada is a disservice to the judiciary and an insult to an eminently qualified, Harvard-educated, Hispanic American.
Fact is, most Democrats in the Senate don't like Estrada because (horrors!) he might be a conservative. But really, who knows? That much- reviled liberal Earl Warren was a conservative from California who was appointed to the U.S. Supreme Court by President Eisenhower in 1953. Justice David Souter, allegedly a New Hampshire conservative, was appointed to the high court by George Bush (Sr.), and promply took his place on the court as a reliable liberal.
If Democrats can block Estrada from a seat on the U.S. Court of Appeals for the District of Columbia, they effectively eliminate him from consideration for a seat on the U.S. Supreme Court when a vacancy occurs. It's a foolish strategy that is sure to backfire next time a Democrat occupies the White House.
The rap against the nominee is that he has not been forthcoming enough about his judicial philosophy. That's nonsense that was blown away a few days ago when Sen. Lamar Alexander, R-Tenn., cited a long litany of questions from members of the Senate Judiciary Committee that were answered in eyes-glazed-over detail by Estrada. Yet, facts did not matter. All but four Democratic senators took their marching orders from Minority Leader Tom Daschle, D-S.D., whose only priority these days seems to be to embarrass the president. The vote Thursday to continue the filibuster was 55-44. Sixty votes were needed to end it. Estrada received the highest rating the American Bar Association can give. He's been praised by Democrats and Republicans for his work in the Solicitor General's office in Democratic and Republican administrations.
He certainly is as qualified or more qualified than many judges in the federal judiciary.. And more is known about him than was known about many nominees, including nominees who were confirmed for the Supreme Court, and most certainly for the circuit courts.
The Democratic obstructionism is blatant politics poorly disguised as cluck-clucking about Estrada's "qualifications." It's misuse of the filibuster and abuse of the public trust. Democratic senators – including those from North Dakota and Minnesota – should abandon the filibuster and allow a Senate vote on the Estrada nomination.
Forum editorials represent the opinion of Forum management and the newspaper's Editorial Board

Daniel M. Traynor
Republican State Chairman
Email: dantraynor@ndgop.org

Join North Dakota's largest grassroots political party today at www.ndgop.org. You can sign up to be an ONline Activist and become a member of the Republican Party on our secure contribution server.

North Dakota Republican Party
PO Box 1917
Bismarck ND 58502-1917
Telephone: (701) 255-0030
Facsimile: (701) 255-7513
Cellular: (701) 230-1447

From:	CN=Jeanie S. Mamo/OU=WHO/O=EOP [WHO]
To:	Leonard B. Rodriguez/WHO/EOP@EOP [WHO] <Leonard B. Rodriguez>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Mercedes M. Viana/WHO /EOP@EOP [WHO] <Mercedes M. Viana>;Ashley Snee/WHO/EOP@Exchange@EOP [WHO] <Ashley Snee>
Sent:	3/9/2003 1:12:10 PM
Subject:	: Orlando Sentinel, column by Myriam Marquez (3/9/03) re: Judging Estrada: Democrats' gamble could help Bush

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jeanie S. Mamo ( CN=Jeanie S. Mamo/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 9-MAR-2003 18:12:10.00
SUBJECT:: Orlando Sentinel, column by Myriam Marquez (3/9/03) re: Judging Estrada:
Democrats' gamble could help Bush
TO:Leonard B. Rodriguez ( CN=Leonard B. Rodriguez/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Mercedes M. Viana ( CN=Mercedes M. Viana/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

Judging Estrada: Democrats' gamble could help Bush
Published March 9, 2003

Having lost control of the Senate in 2002 elections, the Democrats have turned sour grapes into a bitter fight over President George W. Bush's historic nomination of a Latino immigrant to the appellate bench in Washington.

Democrats vow to continue to filibuster Miguel Estrada's nomination to the U.S. Court of Appeals for the District of Columbia. Fight it based on "principle." Fight it to the bitter end.

The end will be bitter, but there's little principle in the Democrats' cause. It's all political posturing, a trial run for the 2004 presidential election that serves to put Bush on notice about the battles ahead over any Supreme Court nominee.

Republicans are hoping that Democrats' obstreperousness will help Bush secure re-election with the help of the Latino vote in two years. For sure, the backlash against the Senate Democrats' blockade is growing. At least four Democrats, including Florida's Bill Nelson, have broken with party ranks to support a vote on Estrada.

Conspicuously absent from this debate is Sen. Bob Graham, who's running for president and, at last count, remains undecided. If Graham were to vote to end the filibuster, would he jeopardize his party's nomination? Or does he tow the liberal party line and write off Florida's substantial Cuban-American vote -- backing he has secured in past Senate bids -- figuring it would be a no-win in a national contest against the exiles' favorite anti-Castro hard-line son, George W. Bush?

I know. Graham's recovering from open-heart surgery. Good reason not to have voted last week to end the filibuster. But what's Graham's excuse for not publicly stating, at least, his opinion on Estrada?

It's not just conservatives who are bothered. Many Hispanic moderates and independents are appalled that Senate Democrats would try to stop a vote. Estrada is no Clarence Thomas, though Democratic leaders are treating him

as if he hadn't a clue about the law or the ethical backbone to serve as judge.

Estrada has been ranked as "most qualified" by the American Bar Association. He's a Harvard grad with vast experience, arguing 15 cases before the U.S. Supreme Court for the U.S. Solicitor General's Office during the Bush (the elder) and Clinton administrations. He even took on a pro-bono death penalty case, which should be a plus for the liberals.

But no. Some Democrats blame Estrada's "silence" on such constitutional issues as privacy (aka abortion rights). Odd because Estrada answered the Senate Judiciary panel's questions with the same type of measured response that other confirmed judges have used. On the right to privacy, Estrada said, "The Supreme Court has so held" that right, and added he has "no view of any nature whatsoever that would keep me from applying that case law faithfully."

About Roe v. Wade, he said, "It is the law." And later, "I will follow it."

What more do Democrats want? They want to know Estrada's personal beliefs on abortion, but that's not ethically appropriate. Judicial candidates should be asked about their philosophy -- do they believe in judicial precedent, for instance? Do they adhere to or abhor judicial activism? They shouldn't be asked about specific legal issues that may come before the court.

There's another intriguing political puzzle to Estrada's nomination: his heritage. Were Estrada of Mexican or Puerto Rican heritage his historic nomination might have a very different trajectory even if it did come from a conservative president. But, alas, Estrada was born in Honduras. So Hispanic Democrats in Congress -- most of them of Puerto Rican or Mexican ancestry -- may feel their constituents don't much care about a Honduran-American getting on the bench.

All voters should care about the democratic process and simple fairness, though. Estrada deserves a vote, up or down. Graham, who's made tough calls before, should give Estrada that courtesy.

From: CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/10/2003 5:26:03 AM
Subject: : RE:

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:10-MAR-2003 10:26:03.00
SUBJECT:: RE:
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Thanks Brett

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Monday, March 10, 2003 10:19 AM
To: Snee, Ashley
Subject:

I am told her e-mail is dewarh@washpost.com to send a copy of President's
speech
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: mestrada@gibsondunn.com @ inet [UNKNOWN] <mestrada@gibsondunn.com @ inet>
Sent: 3/10/2003 4:20:46 AM
Subject: : call me asap about questions

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:10-MAR-2003 09:20:46.00
SUBJECT:: call me asap about questions
TO:mestrada@gibsondunn.com @ inet ( mestrada@gibsondunn.com @ inet [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>
Sent: 3/10/2003 9:52:13 AM
Subject: : Re: FW: Draft Letter to Sens. Daschle and Frist re: Estrada

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-MAR-2003 14:52:13.00
SUBJECT:: Re: FW: Draft Letter to Sens. Daschle and Frist re: Estrada
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

Karl told me on phone that he had a few small comments and one large one. We discussed the large one, but I gathered that he was sending the smaller ones in writing? Has he sent anything in.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 03/10/2003 02:49:51 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: FW: Draft Letter to Sens. Daschle and Frist re: Estrada

Only comments;outstanding are Card &;Bolten.
;
-----Original Message-----
From: Ingols, Adam B.
Sent: Monday, March 10, 2003 2:47 PM
To: Bumatay, Patrick J.
Subject: RE: Draft Letter to Sens. Daschle and Frist re: Estrada

Wendy Grubbs in our office (and/or Ziad Ojakli);discussed it directly with Brett this morning.; He should have our comments.; If he does not, please let me know.; Thanks.

-----Original Message-----
From: Bumatay, Patrick J.
Sent: Monday, March 10, 2003 2:46 PM
To: Kyle, Ross M.; Ingols, Adam B.
Subject: Draft Letter to Sens. Daschle and Frist re: Estrada

Hey Guys,
;
;;; I'm just checking to see if your principal has any comments on the revised letter to Sens. Daschle and Frist.;; Thanks.
;
Patrick

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Abel Guerra/WHO/EOP@EOP [WHO] <Abel Guerra>
Sent: 3/10/2003 9:58:39 AM
Subject: : Re: Hispanic Caucus

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-MAR-2003 14:58:39.00
SUBJECT:: Re: Hispanic Caucus
TO:Abel Guerra (CN=Abel Guerra/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

which caucus; the Democrat Congressional Hispanic Caucus????

ABEL
GUERRA
03/10/2003 02:57:36 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Hispanic Caucus

BK,

The Caucus would like POTUS to speak at their Dinner in September...whaddya think? Can you believe

Ag

From: CN=Abel Guerra/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/10/2003 9:58:59 AM
Subject: : Re: Hispanic Caucus

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Abel Guerra (CN=Abel Guerra/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-MAR-2003 14:58:59.00
SUBJECT:: Re: Hispanic Caucus
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

yeap!

Brett M. Kavanaugh
03/10/2003 02:54:21 PM
Record Type: Record

To: Abel Guerra/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Hispanic Caucus

which caucus; the Democrat Congressional Hispanic Caucus????

ABEL
GUERRA
03/10/2003 02:57:36 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Hispanic Caucus

BK,

The Caucus would like POTUS to speak at their Dinner in
September...whaddya think? Can you believe

Ag

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: mestrada@gibsondunn.com @ inet [UNKNOWN] <mestrada@gibsondunn.com @ inet>
Sent: 3/10/2003 10:02:13 AM
Subject: : answers?

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:10-MAR-2003 15:02:13.00
SUBJECT:: answers?
TO:mestrada@gibsondunn.com @ inet ( mestrada@gibsondunn.com @ inet [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/10/2003 10:06:30 AM
Subject: : RE: FW: Draft Letter to Sens. Daschle and Frist re: Estrada

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:10-MAR-2003 15:06:30.00
SUBJECT:: RE: FW: Draft Letter to Sens. Daschle and Frist re: Estrada
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I am faxing them to you now.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Monday, March 10, 2003 2:48 PM
To: Bumatay, Patrick J.
Subject: Re: FW: Draft Letter to Sens. Daschle and Frist re:
Estrada

Karl told me on phone that he had a few small comments and one
large one. We discussed the large one, but I gathered that he was sending
the smaller ones in writing? Has he sent anything in.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 03/10/2003 02:49:51 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: FW: Draft Letter to Sens. Daschle and Frist re: Estrada

Only comments outstanding are Card & Bolten.

-----Original Message-----
From: Ingols, Adam B.
Sent: Monday, March 10, 2003 2:47 PM
To: Bumatay, Patrick J.
Subject: RE: Draft Letter to Sens. Daschle and Frist re: Estrada

Wendy Grubbs in our office (and/or Ziad Ojakli) discussed it directly with
Brett this morning. He should have our comments. If he does not, please
let me know. Thanks.

-----Original Message-----
From: Bumatay, Patrick J.
Sent: Monday, March 10, 2003 2:46 PM
To: Kyle, Ross M.; Ingols, Adam B.
Subject: Draft Letter to Sens. Daschle and Frist re: Estrada

Hey Guys,

I'm just checking to see if your principal has any comments on the revised letter to Sens. Daschle and Frist. Thanks.

Patrick

From: Office of Global Communications <Global.Messenger@WhiteHouse.Gov>
To: Carolene Langie Office of Global Communications/WHO/EOP@EOP [WHO] <Carolene Langie Office of Global Communications>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 3/10/2003 2:19:38 PM
Subject: : White House Global Messenger - 03/11/03
Attachments: P_69XJE003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Office of Global Communications <Global.Messenger@WhiteHouse.Gov> (Office of Global Communications <Global.Messenger@WhiteHouse.Gov> [UNKNOWN])
CREATION DATE/TIME:10-MAR-2003 19:19:38.00
SUBJECT:: White House Global Messenger - 03/11/03
TO:Carolene Langie Office of Global Communications (CN=Carolene Langie Office of Global Communications/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

(See attached file: GM 3-11-03 FINAL.doc)

THE GLOBAL MESSENGER
Tuesday, March 11, 2003

******KEY POINTS******

*Chief Weapons Inspector Hans Blix filed a document with the UN detailing 29 "clusters" of unresolved disarmament issues, covering chemical and biological weapons and the means to deliver them, including:

-Undeclared UAV: Blix revealed the recent discovery of an undeclared Unmanned Aerial Vehicle.

-Lists of WMD Personnel: According to Blix's report, "Iraq lists less than 132 'experts, specialists, and technicians'...as having worked in the entire chemical weapons program. UNMOVIC databases, on the other hand, indicate that over 325 individuals were engaged in chemical weapons related research or had responsible positions associated with agent production at [one facility] alone."

-Anthrax: Blix's report states "UNMOVIC has credible information that the total quantity of BW agent in bombs, warheads, and in bulk at the time of the Gulf War was 7,000 liters more than declared by Iraq. This additional agent was most likely all anthrax. Based on all the available evidence the strong presumption is that about 10,000 liters of anthrax was not destroyed and may still exist."

*16 weeks after the passage of 1441, the Iraqi regime has not complied and has not cooperated "immediately, unconditionally, and actively," as required by UN Resolution 1441. Iraq's recent gestures are nothing more than attempts to game the inspectors, split the international community, and sap its resolve.

*Saddam Hussein possesses weapons of terror, and provides funding, training, and safe haven to terrorists who would willingly use weapons of mass destruction. If the world fails to confront the threat posed by the Iraqi regime, free nations would assume immense and unacceptable risks.

*Saddam has had 12 years to disarm. The diplomatic window is closing. Security Council members must stand and be counted, and sometime this week we will call for a vote on the resolution. We are hopeful the

members of the Security Council will live up to their obligations and vote to affirm and enforce UN Resolution 1441.

******TODAY'S SCHEDULE******
All Times Eastern Standard Time Unless Noted
Subject to Change

12:30 pm White House Briefing by Ari Fleischer

1:30 pm Defense Department Briefing by Secretary Rumsfeld and Chairman Myers

******INTERNATIONAL VOICES******
Excerpt from a speech by Paul Kagame, President of Rwanda, 3-8-03

"A world in which terrorism, human death and genocide exists is a dangerous world to live in. The imperative to create a just, effective international order requires us to push for results, not rhetoric....I have hope the Security Council and the UN can act decisively [in Iraq] and not act in the same way they acted in Rwanda...because the Security Council can be wrong. It was wrong in Rwanda about the genocide, and we lost one million people."

******KEY QUOTES******

"This information on the drones...should be of concern to everyone. Iraq continues to demonstrate that it has not really changed its strategic intent, which is the case we've been making all along."
Secretary Powell, to reporters, 3-10-03

"The Security Council needs to show that its resolutions mean something. We have a lot of difficult problems out there in which we need a strong, vital Security Council - not one that is still reeling from a history of having been unable to act in Kosovo...unable to act in Rwanda. How long are we going to wait for Saddam Hussein, who is a murderer and homicidal - not just against the neighborhood but also against his own people? How long are we going to allow him to defy the United Nations?"
NSA Rice, interview with ABC's "This Week," 3-9-03

THE WHITE HOUSE
Office of Global Communications

For more information log on to http://www.whitehouse.gov/ogc

****
You have previously expressed interest in obtaining news and information from the White House.

The White House Office of Global Communications distributes information about the President's messages to the world. This office distributes updates on major international topics such as the global war on terror, the case for regime change in Iraq, and more broadly, the ways in which we can all better communicate the aspirations and interests that Americans share with freedom-loving people everywhere.
- GM 3-11-03 FINAL.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_69XJE003_WHO.TXT_1>

THE GLOBAL MESSENGER

Tuesday, March 11, 2003

TODAY'S SCHEDULE

All Times Eastern Standard Time, Subject to Change

12:30 pm	White House Briefing by Ari Fleischer
1:30 pm	Defense Department Briefing by Secretary Rumsfeld and Chairman Myers

INTERNATIONAL VOICES

Excerpt from a speech by Paul Kagame, President of Rwanda, 3-8-03

"A world in which terrorism, human death and genocide exists is a dangerous world to live in. The imperative to create a just, effective international order requires us to push for results, not rhetoric….I have hope the Security Council and the UN can act decisively [in Iraq] and not act in the same way they acted in Rwanda…because the Security Council can be wrong. It was wrong in Rwanda about the genocide, and we lost one million people."

KEY QUOTES

"This information on the drones…should be of concern to everyone. Iraq continues to demonstrate that it has not really changed its strategic intent, which is the case we've been making all along."
Secretary Powell, to reporters, 3-10-03

"The Security Council needs to show that its resolutions mean something. We have a lot of difficult problems out there in which we need a strong, vital Security Council - not one that is still reeling from a history of having been unable to act in Kosovo…unable to act in Rwanda. How long are we going to wait for Saddam Hussein, who is a murderer and homicidal - not just against the neighborhood but also against his own people? How long are we going to allow him to defy the United Nations?"
NSA Rice, interview with ABC's "This Week," 3-9-03

KEY POINTS

- Chief Weapons Inspector Hans Blix filed a document with the UN detailing 29 "clusters" of unresolved disarmament issues, covering chemical and biological weapons and the means to deliver them, including:
  - **Undeclared UAV:** Blix revealed the recent discovery of an undeclared Unmanned Aerial Vehicle.
  - **Lists of WMD Personnel:** According to Blix's report, "Iraq lists less than 132 'experts, specialists, and technicians'…as having worked in the entire chemical weapons program. UNMOVIC databases, on the other hand, indicate that over 325 individuals were engaged in chemical weapons related research or had responsible positions associated with agent production at [one facility] alone."
  - **Anthrax:** Blix's report states "UNMOVIC has credible information that the total quantity of BW agent in bombs, warheads, and in bulk at the time of the Gulf War was 7,000 liters more than declared by Iraq. This additional agent was most likely all anthrax. Based on all the available evidence the strong presumption is that about 10,000 liters of anthrax was not destroyed and may still exist."
- 16 weeks after the passage of 1441, the Iraqi regime has not complied and has not cooperated "immediately, unconditionally, and actively," as required by UN Resolution 1441. Iraq's recent gestures are nothing more than attempts to game the inspectors, split the international community, and sap its resolve.
- Saddam Hussein possesses weapons of terror, and provides funding, training, and safe haven to terrorists who would willingly use weapons of mass destruction. If the world fails to confront the threat posed by the Iraqi regime, free nations would assume immense and unacceptable risks.
- Saddam has had 12 years to disarm. The diplomatic window is closing. Security Council members must stand and be counted, and sometime this week we will call for a vote on the resolution. We are hopeful the members of the Security Council will live up to their obligations and vote to affirm and enforce UN Resolution 1441.

From: Kavanaugh, Brett M.
To: <Gonzales, Alberto R.>;<Leitch, David G.>
Sent: 3/10/2003 3:02:46 PM
Subject: Congressional Hispanic Caucus

I think they call this chutzpah

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 03/10/2003 03:07 PM ----------

ABEL

GUERRA

03/10/2003 02:57:36 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: Hispanic Caucus

BK,

The Caucus would like POTUS to speak at their Dinner in September...whaddya think? Can you believe

Ag

From: FindLaw.com <listadmin@LEGALMINDS.ORG>
To: TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN] <TOPHEADLINES@LEGALMINDS.ORG>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 3/10/2003 11:10:08 AM
Subject: : [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Mon., Mar. 10, 2003

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"FindLaw.com" <listadmin@LEGALMINDS.ORG> ("FindLaw.com" <listadmin@LEGALMINDS.ORG> [UNKNOWN])
CREATION DATE/TIME:10-MAR-2003 16:10:08.00
SUBJECT:: [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Mon., Mar. 10, 2003
TO:TOPHEADLINES@LEGALMINDS.ORG (TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

FINDLAW Mon, Mar 10, 2003

TOP LEGAL NEWS HEADLINES

For all of the day's legal news go to: http://news.findlaw.com

****

The Tussman Program - Created by an Attorney for Attorneys

Tussman Programs, Inc. has been a leader in developing legal billing, accounting, and docket calendar software for over 18 years. To learn more about why Tussman Programs is used in over 2,500 law firms nationwide, please call us at (800)228-6589 or visit us at: http://rd.findlaw.com/scripts/nl.pl?url=10237788000_nl

****

SUPREME COURT
Supreme Court Allows Asbestos-Cancer Anxiety Claims
http://news.findlaw.com/news/s/20030310/courtasbestosdc.html

Whistle-Blower's Right To Sue Upheld
http://news.findlaw.com/ap/a/w/1154/3-10-2003/20030310090004_24.html

POLITICS
Franks To 'Redouble' Efforts To Hide Info
http://news.findlaw.com/ap/a/w/1152/3-10-2003/20030310081502_02.html

US: Signs Iraq Has Explosives At Kirkuk Fields
http://news.findlaw.com/news/s/20030310/iraqoilfieldsdc.html

LEGAL COMMENTARY
1921 Tulsa Race Riot Lawsuit May Change Reparations Debate For African-Americans
http://writ.news.findlaw.com/sebok/20030310.html

CIVIL RIGHTS
Report: Agriculture Depart. Erred Rights
http://news.findlaw.com/ap/a/w/1152/3-10-2003/20030310093011_10.html

PERSONAL INJURY
Columbia Data May Show Autopilot Override
http://news.findlaw.com/ap/o/1501/3-10-2003/20030310053001_11.html

Dozens Hurt In Calif. Tour Bus Collision
http://news.findlaw.com/ap/o/1110/3-10-2003/20030310001501_27.html

PRODUCT LIABILITY
Officials Warn Of Household Poisoning
http://news.findlaw.com/ap/o/1500/3-10-2003/20030310080002_34.html

IMMIGRATION
2 Killed Near Mexican Border After Chase
http://news.findlaw.com/ap/o/1110/3-10-2003/20030310023001_13.html

ENVIRONMENT
Wildfire Fighting Budgets Suffer Cuts
http://news.findlaw.com/ap/o/1110/3-10-2003/20030310011501_24.html

TELECOMMUNICATIONS
Qwest And The Cost Of Outside Lawyers
http://news.findlaw.com/business/s/20030310/telecomsqwestdc.html

INTERNATIONAL LAW
Bush Works Phones But Makes Little Headway In U.N.
http://news.findlaw.com/international/s/20030310/iraqdc.html

Britain Considers U.N. Iraq Compromises
http://news.findlaw.com/international/s/20030310/iraqunbritaindc.html

WAR ON TERRORISM
Net Said To Close Around Osama bin Laden
http://news.findlaw.com/ap/i/1104/3-10-2003/20030310073004_12.html

Guantanamo Detainee Attempts Suicide
http://news.findlaw.com/ap/i/1102/3-10-2003/20030310103005_05.html

CRIME & TRIALS
Trial On For Man Accused Of Killing Family
http://news.findlaw.com/ap/o/1110/3-10-2003/20030310070002_02.html

Landlord Accused Of Arranging Stabbings
http://news.findlaw.com/ap/o/1110/3-10-2003/20030310083001_22.html

ENTERTAINMENT
Enjoying Violent TV As Child Leads To Aggression
http://news.findlaw.com/entertainment/s/20030310/healthviolencedc.html

Sheep Head Breaks Music Fan's Skull
http://news.findlaw.com/ap/o/fe/1120/3-10-2003/20030310093011_24.html

SPORTS
Scandal Claims St. Bonaventure President
http://news.findlaw.com/ap/s/2060/3-10-2003/20030310051501_27.html

****

Got control? You need AbacusLaw! Over 100,001 users can't possibly be
wrong! See for yourself. For the latest color brochure and demo, call

toll-free 800-726-3339 or CLICK HERE.
http://rd.findlaw.com/scripts/nl.pl?url=10370880000_nl

** West LegalEdcenter *******

Receive updates about NEW ONLINE CLE PROGRAMS

Register with West LegalEdcenter for monthly email updates about new online CLE programs in your practice areas and jurisdictions. West LegalEdcenter currently has more than 1,400 courses, with more added daily!

http://rd.findlaw.com/scripts/nl.pl?url=gen_cle_010402

** westgroup.com **********

Get FREE ground shipping in the U.S. on all orders.
http://rd.findlaw.com/scripts/nl.pl?url=gen_ads_040102

****

FEEDBACK

We value your comments! Please take a moment to tell us what you think by sending an e-mail to:
mailto:newsletters@findlaw.com?subject=TopHeadlines. Please include "Top Headlines" in the subject line.

SUBSCRIPTION INFORMATION

To subscribe to a FindLaw Newsletter, visit the FindLaw Newsletter Subscription Center at http://newsletters.findlaw.com

To unsubscribe, go to http://newsletters.findlaw.com/unsubscribe.html
---
ADVERTISING INFORMATION

For more information about advertising in FindLaw Newsletters, please contact us at:

mailto:sales@findlaw.com

FindLaw Top Headlines http://news.findlaw.com
Copyright (c) 2003 FindLaw, Inc.

From:	CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To:	Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC:	Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>
Sent:	3/11/2003 6:44:07 AM
Subject:	: FW: LRM RJP27 - - HEALTH & HUMAN SERVICES Testimony on reforming the medical litigation system to improve the quality of health care
Attachments:	P_XXKKE003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:11-MAR-2003 11:44:07.00
SUBJECT:: FW: LRM RJP27 - - HEALTH & HUMAN SERVICES Testimony on reforming the medical litigation system to improve the quality of health care
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

This is for Brett's review, and just a cc to Newstead

-----Original Message-----
From: Pellicci, Robert J.
Sent: Tuesday, March 11, 2003 11:22 AM
To: Capretta, James C.; Silverberg, Kristen; Lefkowitz, Jay P.; Gilbert, Alan; Whgc Lrm; Perry, Philip J.; Wood, John F.; Schneider, Matthew J.; Ovp Lrm; Lobrano, Lauren C.; Rossman, Elizabeth L.; Call, Amy L.; Loper, Ginger G.; Kirk, Matthew ; Jensen, Amy; Badger, William D.; Hall, Philo D.; Ackerly, Dana; Nec Lrm; Boden, James; Clendenin, Barry T.; Reilly, Thomas; Fontenot, Keith J.; Vinkenes, Mark; Cochran, Norris W.; Aguilar, Brenda; Hustead, Toni S.; Ermann, Danny A.; Sastry, Narahari
Cc: Schroeder, Ingrid M.; Jukes, James J.
Subject: LRM RJP27 - - HEALTH & HUMAN SERVICES Testimony on reforming the medical litigation system to improve the quality of health care

COMMENTS ARE DUE BY NOON TOMORROW - WEDNESDAY, MARCH 12TH. HHS DEPUTY SECRETARY ALLEN'S TESTIMONY FOLLOWS--

HEARING IS BEFORE A SENATE APPROPRIATIONS SUBCOMMITTEE ON THURSDAY, MARCH 13TH.
---------- Forwarded by Robert J. Pellicci/OMB/EOP on 03/11/2003 11:22 AM ----------
LRM ID: RJP27
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, March 11, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: Robert J. Pellicci
PHONE: (202)395-4871 FAX: (202)395-6148
SUBJECT: HEALTH & HUMAN SERVICES Testimony on reforming the medical litigation system to improve the quality of health care

DEADLINE: NOON Wednesday, March 12, 2003

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS:

DISTRIBUTION LIST

AGENCIES:
061-JUSTICE - Jamie E. Brown - (202) 514-2141
029-DEFENSE - Vic Bernson - (703) 697-1305
129-VETERANS AFFAIRS - John H. Thompson - (202) 273-6666
095-Office of Science and Technology Policy - Maureen O'Brien - (202) 456-6037

EOP:
James C. Capretta
Kristen Silverberg
Jay P. Lefkowitz
Alan Gilbert
WHGC LRM
Philip J. Perry
John F. Wood
Matthew J. Schneider
OVP LRM
Lauren C. Lobrano
Elizabeth L. Rossman
Amy L. Call
Ginger G. Loper
Matthew Kirk
Amy Jensen
William D. Badger
Dana Ackerly
NEC LRM
James Boden
Barry T. Clendenin
Thomas Reilly
Keith J. Fontenot
Mark Vinkenes
Norris W. Cochran
Brenda Aguilar
Toni S. Hustead
Danny A. Ermann
Narahari Sastry
Ingrid M. Schroeder
James J. Jukes

LRM ID: RJP27 SUBJECT: HEALTH & HUMAN SERVICES Testimony on reforming the medical litigation system to improve the quality of health care
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) faxing us a memo or letter.
Please include the LRM number and subject shown above.

TO: Robert J. Pellicci Phone: 395-4871 Fax: 395-6148

Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_XXKKE003_WHO.TXT_1>

DRAFT TESTIMONY

CLAUDE ALLEN, DEPUTY ASSISTANT SECRETARY

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

On the

ADDRESSING THE NEW HEALTH CARE CRISIS:

REFORMING THE MEDICAL LITIGATION SYSTEM TO IMPROVE THE QUALITY OF HEALTH CARE

Before the

UNITED STATES SENATE COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION

~~**Speech of Alex M. Azar II, General Counsel,**~~

~~**U.S. Department of Health and Human Services**~~

~~**Common Good and AEI-Brookings Joint Center**~~

~~**Washington, DC**~~

~~**March 4, 2003**~~

Thursday March 13, 2003

Thank you very much, Chairman Specter, Senator Harkin, distinguished committee members, for calling this very important hearing, and for inviting me here to discuss the Bush Administration and Department of Health and Human Service's strong support for legislation that increases access to care for Americans by fixing the broken litigation system.

Before I begin, let me start out by thanking this committee for its leadership and vision on this important issue. (Insert something related from committee's efforts in last

session on tort or quality care). (Insert any specific member compliment-does Claude have any history testifying before this committee before?)

On behalf of our President, I must report that there is today a threat to the health care quality of all Americans because of a litigation system that does more to reward trial lawyers than to help injured patients. This system is impairing access to care for all Americans. This Administration strongly believes that the role of government is to protect the freedom of all people to take steps to improve their own health. We must renew our commitment to this principle by harnessing, not undermining, the market-based system that has made American health care an example of quality and innovation to the whole world.

The medical litigation crisis isn't about doctors or hospitals or insurance companies or even lawyers; it's about patients. This crisis is threatening quality of care; it's threatening access to care for all Americans. The Administration is calling upon this committee, and the full Senate, to act, and enact legislation this session that will reform the medical litigation system, and improve patient safety by providing confidential protections necessary for reporting and collaborative efforts.

Our Department issued a report earlier this month entitled: "Addressing the New Health Care Crisis: Reforming the Medical Litigation System to Improve the Quality of Health Care," which shows how problems associated with medical litigation have significantly worsened in this past year. Premiums charged to specialists in 18 states without reasonable limits on non-economic damages increased by 39% between 2000 and 2001. Premiums in these states have now gone up an additional 51%. In other words,

REV_00159804

they have almost doubled in two years. The report documents the spiraling cost of insurance for health care providers, which is impairing patients' access to care, as well as the cost and quality of care.

We have found that more doctors, hospitals, and nursing homes are finding it increasingly difficult to obtain insurance against lawsuits, and as a result more patients in more states are facing greater difficulty in obtaining access to quality care and physicians.

Pregnant women in states like Nevada, Mississippi, Pennsylvania, West Virginia, and Florida have to drive hours to find an obstetrician who can care for them. Several states, like Vermont, Mississippi, Nevada, and Massachusetts have witnessed an exodus of obstetricians from their state.

Trauma centers in several states have had to close because insurance carriers were not willing to offer malpractice liability insurance to doctors staffing it, or surgeons could no longer afford the malpractice insurance. Some doctors' premiums have increased from $40,000 to $200,000.

In several states, physicians are leaving their practices, because of the skyrocketing rise in insurance premiums. In Mississippi, doctors have moved across the river to Louisiana to serve the same patients from Mississippi because they can no longer afford to practice there. Washington State has reported a thirty-one percent (31%) increase in the number of physicians moving out of state since 1998. The Massachusetts Medical Society reported that rising premiums in their state have forced many obstetricians out of delivering babies. The Florida Medical Directors Association has reported that attending physicians have stopped following patients in nursing homes in the last 12 months because of difficulty obtaining liability coverage.

REV_00159805

Six of the largest nursing home companies have filed for bankruptcy in the past two years, largely because of the uncontrolled costs of medical liability premiums and tort related expenses. One-third of hospitals saw an increase of 100% or more in liability premiums in 2002, and over one-fourth of all hospitals have reported either a curtailment or complete discontinuation of services as a result of growing liability premium expenses.

One of the main reasons we are faced this litigation crisis is the fact that too many lawsuits are filed against doctors that have no merit. The unpredictability of our liability system means that plaintiffs' attorneys are encouraged to file frivolous cases, so called "junk lawsuits", in the hope of winning the lottery and receiving a very large verdict. Mega-million dollar "jackpot" jury awards for non-economic damages are a very real problem to our health care system in themselves, and because they influence settlements. ~~The President and the Secretary strongly believe that the role of government is to protect the freedom of all people to take steps to improve their own health. We must renew our commitment to this principle by harnessing, not undermining, the market-based system that has made American health care an example of quality and innovation to the whole world.~~

~~Reform of the medical litigation system is a critical part of this effort. The system as it stands is a horrible mess.~~ Between 1991 and 2001, the maximum payment reported to the National Practitioner Data Bank escalated from $5,300,000 to $20,700,000. The number of payments of $1 million or more reported to the National Practitioner Data Bank exploded in the past 7 years nationwide, from 298 in 1991 to 806 in 2002.

Physicians are reacting to the threat of litigation by avoiding the specialties that

REV_00159806

present the greatest risk of a lawsuit. A recent survey of physicians revealed that one-third shied away from going into a particular specialty because they feared the liability exposure. Fear of liability also forces physicians to engage in the practice of defensive medicine. The practice of defensive medicine, performing tests and providing treatments to protect themselves from the risk of possible litigation, is astounding. Seventy-nine percent (79%) of physicians admit that fear of litigation caused them to order more tests; Seventy-four percent (74%) refer more patients to specialists than they otherwise would. Fifty percent (50%) have recommended what they consider to be not-medically necessary procedures to confirm diagnoses because of litigation fears.

The litigation system attacks the wallets of every American. We have calculated that each American household is taxed over $1,200 to pay the costs of associated with defending frivolous lawsuits, jackpot jury awards, and the costs associated with defensive medicine.

At the same time, this crisis is being caused by a medical liability system that does not serve the interests of patients. Up to 70% of medical liability claims result in no payments to patients, but it costs an average of over $40,000 to defend each claim. And less than 2% of cases result in trial victories for plaintiffs. Of the small number of claimants that achieve a large judgment, it is not as attractive as it may seem at first blush. A plaintiff who wins a judgment must pay the lawyer 30-40% of it, and sometimes even more. Successful plaintiffs do not recover anything on average until five years after the injury, longer if the case goes to trail. For most injured patients, the litigation process, while offering the remote change of a jackpot judgment, provides little real benefit.

REV_00159807

I know there are those that will argue that this is an insurance industry problem, that is caused somehow by the poor management practices of the insurance industry or a result of an "insurance cycle." These arguments have no validity.

There is an attempt to shift the blame to insurers by asserting that they have engaged in anti-competitive practices. The National Association of Insurance Commissioners has reviewed this assertion and reported that "insurance regulators have not seen evidence that suggests medical malpractice insurers have engaged or are engaging in price fixing, bid rigging, or market allocation." Rather, the NAIC also says, "the preliminary evidences points to rising loss costs and defense costs associated with litigation as the principal drivers of medical malpractice [insurance] prices."

But the fact is that the insurers are being forced to increase their premiums more rapidly and more steeply in the non-reform states than in states that have placed reasonable limits on non-economic damages. In 2001, the average loss ratio, which is the ratio of claims paid to premiums collected by insurers, in states without caps was 100.86 compared to 68.98 in states with reasonable limits on non-economic damages. Simply put, claims have outstripped premiums in states without such reforms.

This crisis has also not been caused by losses from investment income. In fact, investments by medical malpractice companies have been conservative. Most states have laws that specifically limit the percentage of assets an insurance company can put in stocks. Over the last five years, the industry wide allocation of assets into equities has been relatively constant. Medical malpractice insurers' investments in equities as a percentage of total assets, as shown below, has been 11% or less. Neither asset allocation nor investment income correlates to, much less causes, the current medical malpractice

REV_00159808

crisis. Brown Brothers Harriman & Company analyzed the relationship between premiums and the change in investment yields among malpractice insurers. The results showed that the performance of the economy and interest rates do not determine medical malpractice premiums.

The President and the Administration look forward to working with Congress, and members of this committee, as it considers ways to address the broken medical litigation system.

In February of last year President Bush outlined a framework for addressing this national crisis. First, the President believes all those who are truly injured by negligent medical care should receive swift, certain recovery of their economic injuries. They should be made whole financially. But we need reasonable limits on non-economic damages, such as pain and suffering.

Reasonable caps on non-economic damages result in lower medical liability costs and lower premiums—and thus greater access to care. We have estimated that if this reform were adopted nationally, it would save as much as $126 billion in health care costs this year. Of that amount, over $28 billion is taxpayers' money the Federal Government spends. ~~Premium increases in 2001 averaged 12% in states with caps, and 44% in states without.~~ The research is compelling that this type of reform works. Over the last two years, states with limits of $250,000 or $350,000 on non-economic damages have seen increases in premium quotes for specialists increase only 18%, but states without reasonable limits on non-economic damages, in states representing almost half of the entire United States population, have seen average increases of 45%. Since California instituted a reasonable cap on non-economic damages and other critical

REV_00159809

procedural reforms 25 years ago, liability premiums have increased by less than 1/3 as much as in the rest of the country.

The President has also called for reserving punitive damages in health care cases that justify them such as instances where they is clear and convincing proof that the defendant acted with malicious intent or deliberately failed to avoid unnecessary injury to the patient. And he's called for several other key procedural reforms that would ensure that defendants pay their fair share— prohibitions on double dipping on compensation, ensuring that cases are brought before they become stale, and taking steps to make future payments are available when patients need them.

The House of Representatives passed these reforms last September. We believe that was an important step in the right direction – and are encouraged that the Judiciary and Energy and Commerce Committees have forwarded H.R. 5 for full vote in the House. We are committed to working with this committee, and other members of the Senate to join us in bringing these common sense reforms to all Americans.

We are also encouraging states to consider other innovative ways to deal with the broken medical liability system. The Department of Health and Human Services is implementing a demonstration program, an "Early Offer Program", for rapid and fair settlement of claims made against the Department for claims of negligence by Indian Health Service and Community Health Center patients.

But we need more than just judicial system changes. If we truly want a healthcare system where quality is valued, we should spend less time seeking to assess blame and more time finding out how to change health care systems to reduce or avoid real medical errors. We need a change from a culture of blame to a culture of quality.

REV_00159810

Seminal studies have established that one of the best ways to improve health care quality is to provide better opportunities for health professionals to work together to identify errors, or practices that may lead to errors, and correct them. Many preventable errors and complications arise not from failures by individual doctors, but from systemic problems in our increasingly complex medical delivery system. In its report, To Err is Human, The Institute of Medicine acknowledged, "the common initial reaction when an error occurs is to find and blame someone… Preventing errors and improving safety for patients require a systems approach in order to modify the conditions that contribute to errors. The problem is not bad people; the problem is that the system needs to be made safer."

Providers need to be able to study how mistakes occur and how to prevent them. When they do, the results can be incredible. The doctors and hospitals of the Pittsburgh Regional Healthcare Initiative reduced blood infections in ICUs by 20% through collaborative work to identify safer ways to treat ICU patients. Anesthesiologists dramatically reduced the patient death rate from anesthesia administered during surgery, from two deaths per 10,000 anesthetics in the mid-1980s to about one death for every 200-300,000 anesthetics administered today.

How did the anesthesiologists do it? First, they acknowledged that a problem existed, and they shared information. They standardized anesthesia machines to ensure consistency in the delivery of drugs and also addressed issues of fatigue and sleep deprivation and changes in training. To give one example: an engineering researcher observed a number of anesthesiologists in operating rooms. The researcher noted that anesthesia machines were not standardized: Turning a dial clockwise on one machine

REV_00159811

decreased the concentration of anesthesia in some machines. In others, turning the dial clockwise increased the concentration of anesthesia. The research was publicized and manufacturers standardized anesthesia machines so that dials turned in a uniform direction.

You would think that we would do everything in our power to encourage this kind of critical self-analysis and systems evaluation. Instead, our tort system has set up roadblocks that discourage health care providers from participating in quality improvement efforts. Providers are understandably reluctant to report information about adverse events or near misses and are reluctant to collaborate for fear of drawing up a road map for lawsuits.

Doctors, nurses, and hospitals that participate in good faith in peer review and research activities shouldn't be afraid that their quality efforts would get them caught up in lawsuits. The peer review laws in most states, however, do not protect the information collected and studies done by external patient safety organizations. Most laws protect only the internal peer review discussions at particular committees within a hospital. The knowledge and insights from a researcher looking at dozens or hundreds of hospitals cannot currently be adequately protected.

The President and the Secretary congratulate and support the exceptional tri-partisan efforts of members on this committee, and other members of the Senate, such as Senators Jeffords, Gregg, Frist and Breaux, who sponsored legislation in the last session that would give health professionals the ability to engage in quality and safety evaluation without fear of having it used against them in court. The House has recently reported similar bills (H.R. 663 —The Patient Safety and Quality Improvement Act and

REV_00159812

H.R. 877— The Patient Safety Improvement Act of 2003). We look forward to working with this committee and members of Congress to secure passage of a similar bill and other Administration proposals to help fix the medical liability system and improve access to care for all Americans.

Thank you for giving me the opportunity to represent the Administration here today. In closing, let me stress that the Administration believes that doctors who practice bad medicine ought to be held accountable for their actions. But, a system that puts good doctors out of business is a broken system, a system that restricts patient access to physicians is a broken system, a system that encourages physicians to order excessive tests and procedures that places patients at great risk is a broken system. Needless litigation does incredible harm to our health care system. It destroys the bond of trust between physicians and patients, it discourages employers from offering health care coverage, it undermines quality improvement efforts among health care systems, and it encourages lawyers to sue. Our goal is to improve the quality of care, increase access to care, and reduce the costs. The litigation system is imperiling this effort. We should rely on doctors, not lawyers to improve our health care system. We need to fix this broken medical liability system now, and the reforms I just discussed are just the first step. With good ideas, strong leadership through this committee, and much-needed reform, we can truly restore common sense to medical liability in America.

Thank you, Mr. Chairman, and Members of the Committee, for your commitment to this issue.

REV_00159813

REV_00159814

From: CN=Tim Goeglein/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/11/2003 8:43:37 AM
Subject: : RE: The next Clinton-Dole debate...

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Tim Goeglein ( CN=Tim Goeglein/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:11-MAR-2003 13:43:37.00
SUBJECT:: RE: The next Clinton-Dole debate...
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Brett

Can you please phone Kasey Pipes today; he is helping Dole prepare for 60
MINUTES on Estrada this week.

Cheers

tsg
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Wendy J. Grubbs/WHO/EOP@EOP [WHO] <Wendy J. Grubbs>
Sent: 3/11/2003 6:52:01 AM
Subject: : Re: Estrada Should be Confirmed!

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:11-MAR-2003 11:52:01.00
SUBJECT:: Re: Estrada Should be Confirmed!
TO:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

He was head of OLA at Justice during Reagan era and is now a partner of Miguel's at Gibson Dunn.

Wendy J. Grubbs
03/11/2003 11:51:15 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Re: Estrada Should be Confirmed!

Who is this?

.

From: CN=David McMaster/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/11/2003 10:53:24 AM
Subject: : WH / campaign internship applications

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:David McMaster ( CN=David McMaster/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:11-MAR-2003 15:53:24.00
SUBJECT:: WH / campaign internship applications
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Brett- Is it ok to forward along resumes that I receive for internship at
the White House to POTUS' re-election campaign (should he choose to run)?

Is it ok for me to suggest to a candidate for an internship at the WH that
he/she should consider interning on the campaign when it gets started?
```

From: CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [WHO]
To: Jay P. Lefkowitz/OPD/EOP@Exchange [OPD] <Jay P. Lefkowitz>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>
Sent: 3/11/2003 3:09:58 PM
Subject: : Re: Blocked Assets Meeting Tomorrow

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:11-MAR-2003 20:09:58.00
SUBJECT:: Re: Blocked Assets Meeting Tomorrow
TO:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [ OPD ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I would invite dan keniry and z.;
.

-----Original Message-----
From: Bellinger, John B. <jbelling@NSC.eop.gov>
To: Silverberg, Kristen <Kristen_Silverberg@who.eop.gov>; Lefkowitz, Jay
P. <Jay_P._Lefkowitz@opd.eop.gov>; Kavanaugh, Brett M.
<bkavanau@WHO.eop.gov>
Sent: Tue Mar 11 18:06:59 2003
Subject: Blocked Assets Meeting Tomorrow

We need to meet again tomorrow in order to go back to Deputies on
Thursday.; Need your recommendations as soon as possible re WH (or agency)
Leg folks to invite to discuss possible Hill impact and impact on victims
legislation.; We are looking at either around 1:00 or after 4:00.; We also
have new info that 9/11 plaintiffs are moving quickly to get a default
judgment and lien on the blocked assets before they are returned to Iraq.;
This may argue for seizure.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brian Reardon/OPD/EOP@EOP [OPD] <Brian Reardon>
CC: Kristen Silverberg/WHO/EOP@Exchange@EOP [WHO] <Kristen Silverberg>
Sent: 3/11/2003 11:27:58 AM
Subject: : OLC

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:11-MAR-2003 16:27:58.00
SUBJECT:: OLC
TO:Brian Reardon ( CN=Brian Reardon/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
CC:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

still working with them on debt issue. should have more info tomorrow.
```

From: Nelson, Carolyn
To: <Bartolomucci, H. Christopher>;<Ullyot, Theodore W.>;<Bumatay, Patrick J.>;<Leitch, David G.>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Montiel, Charlotte L.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>;<Walker, Helgard C.>
Sent: 3/11/2003 3:36:59 PM
Subject: FW: WHJSC Meeting Tomorrow

Prep @ 3:45 PM in the Judge's Office.

Thanks!

-----Original Message-----
From: Nelson, Carolyn
Sent: Tuesday, March 11, 2003 3:32 PM
To: wendy keefer; adam ciongoli; albert brewster; amy bass; andrew beach; Bartolomucci, H. Christopher; Bennett, Melissa S.; Brilliant, Hana F.; Bumatay, Patrick J.; Ellison, Kimberly; evelyn long; Francisco, Noel J.; Gray, Ann; Grubbs, Wendy J.; jason sutton; Jones, Alison ; Kavanaugh, Brett M.; Kristi Remington; Kyle, Ross M.; Leitch, David G.; Lockart, Sarah K.; McMaster, David; Montiel, Charlotte L.; Newstead, Jennifer G.; Powell, Benjamin A.; Ralston, Susan B.; Sampson, Kyle; tracy washington; viet dinh; Walker, Helgard C.
Cc: Farrell, J. Elizabeth; Ganter, Jonathan F.
Subject: WHJSC Meeting Tomorrow

The WHJSC will meet tomorrow, March 12, at 4:00 pm in the Roosevelt Room.

Thank you!

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Tim Goeglein/WHO/EOP@EOP [WHO] <Tim Goeglein>
Sent: 3/11/2003 2:21:21 PM
Subject: : RE: The next Clinton-Dole debate...

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:11-MAR-2003 19:21:21.00
SUBJECT:: RE: The next Clinton-Dole debate...
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

done. What are you hearing from the group leaders?

Tim Goeglein
03/11/2003 01:39:11 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE: The next Clinton-Dole debate...

Brett

Can you please phone Kasey Pipes today; he is helping Dole prepare for 60 MINUTES on Estrada this week.

Cheers

tsg

From:	Kavanaugh, Brett M.
To:	<Gonzales, Alberto R.>;<Leitch, David G.>;<Grubbs, Wendy J.>;<Bartolomucci, H. Christopher>
Sent:	3/11/2003 7:06:59 PM
Subject:	a story no doubt not far from Sen. Graham's calculations . . .

By Sandra Fleishman

Tuesday, March 11, 2003; Page A05

President Bush's political architect, Karl Rove, is trying to talk Housing and Urban Development Secretary Mel R. Martinez into running for the Senate against veteran Democratic Sen. Bob Graham of Florida.

Word is that Rove has been urging Martinez to run, and the two men are due to sit down to discuss the matter on Wednesday. Yesterday, when a reporter asked Martinez about the matter, he congratulated her on her sources and said "good scoop." As for a Senate run, Martinez said: "I'm thinking about it but not inclined."

The White House is eager to have a strong Senate candidate on the ticket with Bush in 2004 in Florida, which gave new meaning to the term "swing state" in the 2000 election. And Martinez, who has served as an envoy for Bush to the Hispanic community and is close to Florida's Cuban American voters, could be a strong candidate. Martinez also is rumored as a Florida gubernatorial candidate in 2006 to succeed Jeb Bush. The Cuban-born Martinez was the elected chief executive of Orange County, Fla.

The news came as a surprise to Graham's office. The third-term senator, recuperating from heart surgery, is himself a presidential candidate. Though Florida law would require Graham to give up his Senate reelection campaign, he has until the spring of 2004 -- after the presidential primaries -- to decide.

Diane Leneghan Tomb, HUD's assistant secretary for public affairs, called yesterday to soften her boss's admission. "He goes to the White House for lots of meetings and lots of different topics come up," she said. "Secretary Martinez plans to continue to serve at the pleasure of the president as HUD secretary."

From: CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD]
To: Kristen Silverberg/WHO/EOP@Exchange [WHO] <Kristen Silverberg>;John B. Bellinger/NSC /EOP@EOP [NSC] <John B. Bellinger>
CC: John B. Wiegmann/NSC/EOP@EOP [NSC] <John B. Wiegmann>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/12/2003 3:22:34 AM
Subject: : RE: Blocked Assets -- Next Steps

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [ OPD ] )
CREATION DATE/TIME:12-MAR-2003 08:22:34.00
SUBJECT:: RE: Blocked Assets -- Next Steps
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
CC:John B. Wiegmann ( CN=John B. Wiegmann/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Have we a time for a meeting yet?

;-----Original Message-----
From: ; Bellinger, John B.;
Sent:;; Wednesday, March 12, 2003 8:05 AM
To:;;;; Silverberg, Kristen
Cc:;;;; Lefkowitz, Jay P.; Kavanaugh, Brett M.; Wiegmann, John B.
Subject:;;;;;;; Re: Blocked Assets -- Next Steps

Well, Nancy's views definitely swayed the group from the domestic
political perspective, and Deputies asked us to go back and think about
the issues and legislative impact.; So we will need your help to decide
which way we should go and whether we should set aside something for a
domestic fund.
```

From: CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD]
To: Kristen Silverberg/WHO/EOP@Exchange [WHO] <Kristen Silverberg>;John B. Bellinger/NSC /EOP@EOP [NSC] <John B. Bellinger>
CC: John B. Wiegmann/NSC/EOP@EOP [NSC] <John B. Wiegmann>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/12/2003 3:22:37 AM
Subject: : RE: Blocked Assets -- Next Steps

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [ OPD ] )
CREATION DATE/TIME:12-MAR-2003 08:22:37.00
SUBJECT:: RE: Blocked Assets -- Next Steps
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
CC:John B. Wiegmann ( CN=John B. Wiegmann/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Have we a time for a meeting yet?

;-----Original Message-----
From: ; Bellinger, John B.;
Sent:;; Wednesday, March 12, 2003 8:05 AM
To:;;;; Silverberg, Kristen
Cc:;;;; Lefkowitz, Jay P.; Kavanaugh, Brett M.; Wiegmann, John B.
Subject:;;;;;;; Re: Blocked Assets -- Next Steps

Well, Nancy's views definitely swayed the group from the domestic
political perspective, and Deputies asked us to go back and think about
the issues and legislative impact.; So we will need your help to decide
which way we should go and whether we should set aside something for a
domestic fund.
```

From: Hunerwadel, Joan
To: <Silverberg, Kristen>;<Kavanaugh, Brett M.>;<Keniry, Daniel>;<Ojakli, Ziad>
Sent: 3/12/2003 9:00:47 AM
Subject: Iraq Frozen Assets Meeting

John Bellinger will have a meeting today, March 12 at 5 pm in Room 476 on Iraq Frozen Assets. Please let me know if you can attend. Thank you.

From: Kate Walters <kate@georgewbush.com>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/12/2003 9:35:04 AM
Subject: : RNC postcard to NRC
Attachments: P_7LAME003_WHO.TXT_1.htm; P_7LAME003_WHO.TXT_2.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kate Walters <kate@georgewbush.com> (Kate Walters <kate@georgewbush.com> [UNKNOWN])
CREATION DATE/TIME:12-MAR-2003 14:35:04.00
SUBJECT:: RNC postcard to NRC
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett- Domestic Policy and Ken have tweaked this response slightly since you have seen. Do you mind taking another look? This is a letter that the RNC would send in response to a postcard that was generated by an NRA mailing.

-----Original Message-----
From: Dave McMaster [mailto:dmcmaster@georgewbush.com]
Sent: Tuesday, March 11, 2003 5:47 PM
To: Kate Walters
Subject:

- att1.htm - RNC response.nra.postcard.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_7LAME003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_7LAME003_WHO.TXT_2>

Brett- Domestic Policy and Ken have tweaked this response slightly since you have seen. Do you mind taking another look? This is a letter that the RNC would send in response to a postcard that was generated by an NRA mailing.

-----Original Message-----
From: Dave McMaster [mailto:dmcmaster@georgewbush.com]
Sent: Tuesday, March 11, 2003 5:47 PM
To: Kate Walters
Subject:

Dear Mr. Prezocki,

Thank you for your postcard concerning your Second Amendment rights. I appreciate you sharing your thoughts with me on this important issue.

The Republican Party proudly defends our Bill of Rights including the Second Amendment. Our platform also specifically endorses a law-abiding individual's right to own firearms.

Within the National debate over gun control measures, the need to pursue gun-crime prosecutions often is lost. That is why this Republican Administration supports strict enforcement of existing gun laws which keeps guns out of the hands of felons and other prohibited persons, while not infringing on Constitutional Rights.

I would welcome any further comments you may have on this or any other issue.

From: CN=Eric C. Pelletier/OU=WHO/O=EOP@Exchange [WHO]
To: Daniel Keniry/WHO/EOP@Exchange [UNKNOWN] <Daniel Keniry>;Kristen Silverberg/WHO /EOP@Exchange [WHO] <Kristen Silverberg>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;John B. Wiegmann/NSC /EOP@EOP [NSC] <John B. Wiegmann>;Jay P. Lefkowitz/OPD/EOP@Exchange [OPD] <Jay P. Lefkowitz>
Sent: 3/13/2003 4:49:04 AM
Subject: : RE: Follow-up points on frozen assets.

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Eric C. Pelletier (CN=Eric C. Pelletier/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:13-MAR-2003 09:49:04.00
SUBJECT:: RE: Follow-up points on frozen assets.
TO:Daniel Keniry (CN=Daniel Keniry/OU=WHO/O=EOP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:John B. Wiegmann (CN=John B. Wiegmann/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
CC:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
End Original ARMS Header

Thanks.; This follow up summary is helpful.; I also think your tradeoff risk is probably right.; We just wanted to make it clear that there will be some form of Congressional response supported by heavy majorities in both Chambers to whatever action we choose to do with the Iraqi assets and that the response will come even if they agree with the action from a foreign policy standpoint.; Our "fight/risk" with the Hill will primarily be on how to channel this response in a direction that leads to the most responsible policy and budget outcome possible.; Perhaps that is a variation of the Hagel proposal, but it very well maybe something else, like additional appropriations either for reconstruction purposes for Iraq or to some new fund to offer legitimate releief to affected victims.
;
Thanks.

-----Original Message-----
From: Silverberg, Kristen
Sent: Thursday, March 13, 2003 9:38 AM
To: Keniry, Daniel ; Pelletier, Eric C.
Cc: Lefkowitz, Jay P.; Kavanaugh, Brett M.; Wiegmann, John B.
Subject: Follow-up points on frozen assets.

;
In case our argument wasn't clear yesterday ...
;

* We think that this is a different fight;than last year's frozen assets battle.; Last year, we were debating whether to keep frozen assets sitting in a bank or whether to make them available for victims.; It was easy for Congress to vote to make them available because it was free money .; And even so,;Hagel, Lugar and Biden apparently agree with us that Iraqi; assets should not be available to victims.;
* This year, we'll have a different debate.; If we use our Patriot Act authority, Congress will respond by trying to compensate victims through extra appropriations in the war supp or by adding something in the '04 approps process.; They will have to vote explicitly to stick taxpayers with this expense.; We may lose, but we'll have a much stronger;case.
* And, even if Congress eventually votes to;compensate Iraqi victims,;we're better off than we would be by;setting aside;the;frozen

Iraqi assets.;

* If we reserve money for victims, we probably have to reserve the entire $1.7 billion because anything less will be grossly inadequate to compensate the human shields and the 9/11 victims.; Of the $1.7, attorneys will take between 500 and 700m.; The remaining amounts will be divided up among only a few plaintiffs.; We will have to ask for an additional $1.6b or so in the war supp. to make up for this money, and we'll;still have sympathetic;plaintiffs asking Congress to come up with more money to make up for the fact that they missed out on the $1.7.;
* If Congress passes a compensation program, they;are not likely to compensate the 9/11 victims because they are already eligible for a compensation program.; If Congress passes a fund only for the other Iraqi victims, it's highly likely it will cost less than $200m.; Even if they pass a program for all past or future;victims of any terrorist group or state, we'll have to fight hard over the terms of the program but;will at least have taken this issue off the table for future cases.
* In other words, if we don't use this money we;will be giving up; over; $1.6 billion to avoid a risk that we get stuck with $200m.;

;

From: CN=Carrie B. Loy/OU=WHO/O=EOP [WHO]
To: Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Brian D. Montgomery/WHO /EOP@Exchange@EOP [WHO] <Brian D. Montgomery>;Christie Parell/WHO/EOP@EOP [WHO] <Christie Parell>;Ali H. Tulbah/WHO/EOP@EOP [WHO] <Ali H. Tulbah>;Edward Ingle/WHO/EOP@EOP [WHO] <Edward Ingle>;Taylor A. Hughes/WHO/EOP@Exchange@EOP [WHO] <Taylor A. Hughes>;Carmen M. Ingwell/WHO/EOP@EOP [WHO] <Carmen M. Ingwell>;MKoch@who.eop.gov [WHO] <MKoch@who.eop.gov>;Laura S. Lawlor/WHO /EOP@EOP [WHO] <Laura S. Lawlor>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/13/2003 11:54:50 AM
Subject: : Agency FOIA Requests
Attachments: P_DXXNE003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carrie B. Loy ( CN=Carrie B. Loy/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:13-MAR-2003 16:54:50.00
SUBJECT:: Agency FOIA Requests
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brian D. Montgomery ( CN=Brian D. Montgomery/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Christie Parell ( CN=Christie Parell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Ali H. Tulbah ( CN=Ali H. Tulbah/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward Ingle ( CN=Edward Ingle/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Taylor A. Hughes ( CN=Taylor A. Hughes/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Carmen M. Ingwell ( CN=Carmen M. Ingwell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:MKoch@who.eop.gov ( MKoch@who.eop.gov [ WHO ] )
READ:UNKNOWN
TO:Laura S. Lawlor ( CN=Laura S. Lawlor/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_DXXNE003_WHO.TXT_1>
```

3/13/03

AGENCY FOIA REQUESTS

DOT

The St. Lawrence Seaway Development Corporation received three Freedom of Information requests. One was for records pertaining to marine safety incidents including releases of oil into the environment as well as personal injuries for a charter barge company. The second was from an Overland, KS business for any invoices regarding that business. The final request was from a University for records concerning the March 19, 2002 memo issued by White House Chief of Staff Andrew Card regarding weapons of mass destruction.

DOL

Benjamin Jones, Research Director, Democratic Senatorial Campaign Committee, Washington, D.C., is seeking:

All correspondence and other information requested by or provided to the following current and former Members of the House of the Representatives and United States Senate between the dates listed below:

- Robert Bennett: Senator: 1/1/93 - Present
- Christopher Bond: Senator: 1/1/87 - Present
- Sam Brownback: Senator: 1/1/97 - Present
- Judd Gregg: Senator: 1/1/82 - 12/31/89

Mr. Jones is seeking all direct correspondence between the members or their staff at the Department of Labor, including letters, reports, requests and other relevant material.

Joyce A. Hanula, Esq., Division of Occupational Health and Safety, United Mine Workers of America, Fairfax, VA, is seeking:

Copies of all correspondence, telephone logs, appointment calendars, calendar markings, notes, and travel vouchers of any MSHA Arlington, Virginia officials, specifically from David Lauriski, Mike Lawless, John Caylor and Mark Ellis, indicating contact and/or meetings with representatives from Consolidated Coal Company and Maple Creek Mining regarding complaints concerning MSHA's enforcement actions and review and approval of mining plans at the Enlow Fork Mine and the Maple Creek Mine. Ms. Hanula is also seeking the sign-in sheets for any meetings.

Susan Tsui Grundmann, General Counsel, National Federation of Federal Employees (affiliated with the International Association of Machinists and Aerospace Workers, AFL-CIO), Washington, D.C., is seeking:

Copies of any and all contracts, agreements, memorandum of understanding, and/or correspondence elaborating or concerning such contracts, agreements, memoranda, with any office, branch, region, or division of the Department of Labor regarding Medical Consultants Network and Brian Grant.

Paul Greenberg, Esq., Law Office of Paul Greenberg, Washington, D.C., is seeking:

1. Copies of all documents (including but not limited to correspondence testimony and/or statements of position) exchanged between the U.S. Department of Labor and members of Congress relating to the employee protection ("whistleblower") provisions of the Sarbanes-Oxley Act.
2. Copies of any briefs or statements that the Solicitor's Office has submitted to the Administrative Review Board in the Willy v. Coastal case (currently pending before ARB) that discuss the application of attorney-client privilege or client confidentiality issues in connection with whistleblower cases.
3. Copies of any briefs or statements that the Solicitor's Office has submitted to the Administrative Review Board between March 1, 2002 and the present in the Sasse v. Department of Justice case.

William Ferroggiaro, Director, Freedom of Information Project and Barbara Elias, The National Security Archive, Washington, D.C., are seeking:

Copies of the Department of Labor's ten oldest open or pending Freedom of Information Act requests currently being processed or pending in the Office of the Assistant Secretary for Administration and Management.

Paul Reyes, Associate Editor, Oxford American, is seeking:

records regarding the qualifications of MSHA inspectors who visited the Jim Walter Resources No. 5 mine between January 1, 2001, and January 1, 2002. This mine was the site of two explosions that killed 13 miners on September 23, 2001.

DOJ

Omar C. Jadwat, of the American Civil Liberties Union Foundation (ACLUF), has requested "records forming a basis for, setting forth, or communicating the Department of Justice's position regarding the authority of state and local law enforcement officials to engage in enforcement of civil immigration provisions, as stated by Attorney General John Ashcroft at a June 5, 2002 press conference."

EPA

During the week of March 3-7, 2003, the Agency received 264 FOIA requests. Of the total, 37 were received in Headquarters. Year-to-date totals are 1,033 for Headquarters and 5,413 agency-wide. Significant FOIA requests received this week include:

(1) **Diana Post of the Rachel Carson Council**, Inc. has requested the pesticide incident data reports on the active ingredients bromethalin and brodifacoum (ingredients in certain rodent control products);

(4) **Tom Avril of *The Philadelphia Inquirer*** has requested information regarding the 30 Superfund National Priority List (NPL) sites recommended by regional EPA offices by

the NPL panel in November 2002; each site=s score; whether there is an identified potentially responsible party (PRP); whether EPA is taking the lead in paying for its cleanup; and the regional office=s recommendation for each site;

(5) **Kate Bernstein of New York** has requested documents regarding asbestos and mineral richterite released into the environment between September 11, 2001 and the present, outdoor and indoor test results throughout the zone of danger surrounding Aground zero@ and the pathway of the plume;

(6) **James Munoz of KACB TV** - San Angelo (NBC 3) has requested information on any violations, including dumping of chemicals into the water supply by the San Angelo Electric Service Company site at 926 Pulliam, San Angelo, Texas. Citizens around the site have expressed concerns about leaks from the site;

(7) **Katy Hubener of the Blue Skies Alliance** has requested public comment records relating to correspondence regarding the Clean Air Act Reclassification; Texas-Dallas/Fort Worth Non-attainment Area; and Ozone Final Rule to take effect March 20, 1998;

(8) **Richard Lymp of Right2Know.org** has requested information regarding the financing of a California Department of Toxic Substances Control report ADraft Report - California=s Automobile Shredder Waste Initiative@ with grant funds provided by the EPA;

(9) **Bruce Henderson of *The Charlotte Observer*** has requested copies of the most recent End of Year reviews of North Carolina and South Carolina=s water quality programs produced by EPA=s Water Management Section.

HHS

3/26/03 (Tentative)
CMS High Visibility FOIA Request - On February 4, a FOIA request was submitted to CMS asking for disbursements, budgets, and related documents pertaining to all agency-wide expenditures obligated or expected to be obligated for agency-wide costs associated with domestic travel for the CMS Administrator.

DoED

Benjamin Jones, representing the Democratic Senatorial Campaign Committee, has submitted a Freedom of Information Act Request for access to and copies of correspondence and other information requested by or provided to Senator Christopher Bond, 1/87 – Present, and Senator Judd Gregg, 1/82 - Present.

Aoife McCarthy has submitted a Freedom of Information Act Request for access to and copies of correspondence and other information requested by or provided to Senator Peter Fitzgerald, 1/1/99 – Present.

DOC

$ Received 3/3/03 from **Rob Evans, the Guardian (London),** requesting all documents held by the DOC that relate to the British Government=s actions involving Railtrack, the British privatized rail infrastructure operator.

$ Received 3/3/03 from **Connor Raso requesting daily schedules for Deputy Secretary Samuel Bodman** from January 1, 2002 through February 4, 2003, and the costs associated with his domestic travel, excluding travel within Washington, D.C., Maryland and Virginia, from January 1, 2002 through January 1, 2003.

$ Received 3/3/03 **from Mishawn C. Turner, The M & C Group**, Inc., requesting information about the Commerce Information Technology Solutions (COMMITS) government-wide acquisition contract, including a list of the federal agencies that have utilized this procurement vehicle from its inception through December 2002.

$ Received 3/4/03 from **Michael Ravnitzky, American Lawyer Media**, requesting all correspondence dated from July 1, 2001 to the present and maintained in the Office of General Counsel or the Office of Legislative and Intergovernmental Affairs that originated from the Securities and Exchange Commission.

$ Received 3/4/03 from **Michael Ravnitzky, American Lawyer Media**, requesting all correspondence dated from July 1, 2001 to the present and maintained in the Office of the Secretary that originated from the Securities and Exchange Commission.

$ Received 3/5/03 from **Michael E. White, Jaspan, Schlesinger, Hoffman LLP**, requesting any reports, studies, or related documents concerning the level of methyl mercury in tilefish; the issuance of the advisory relating to the health risk of methyl mercury from consuming tilefish; the presence of methyl mercury in the habitat of tilefish; and any comparison of the concentration of the methyl mercury in tuna, shark, swordfish, king mackerel and tilefish.

VA

FOIA Request for Four IG Reports. Mr. Anthony Gottschlich, Reporter for the *Dayton Daily News*, requested four IG reports pertaining to Dayton VA Medical Center during the last 10 years. These include an audit of the medical center; quality of care provided to patients in the Extended Care Unit; allegations of a wrongful death in a VA community contract nursing home; and healthcare inspection, National Practitioner Data Bank reporting issues.

FOIA Request for Sanitation Issues. Mr. Matthew DoBias, Editor for *Inside the Joint Commission, DecisionHealth*, requested information pertaining to the Kansas City VA Medical Center's sanitation issues last summer and any follow up reviews.

OPM

OPM received two FOIA requests from **Randy Herschaft of the Associated Press** (3/10). The first requests a copy of OPM FOIA logs from January 2001, to present. The second asks for documents relating to a contract OPM performed for the U.S. National Archives and Records Administration (NARA) at the National Personnel Records Center in St. Louis, MO (referred to the National Archives for response because the work products belong to NARA).

DOI

Wilderness Society. The Wilderness Society has filed a Freedom of Information Act request for a copy of the State of Alaska=s application for a recordable disclaimer of interest for the bed of the Black River. Item 3 requests Aany and all guidance documents or policy statements prepared by any office of the BLM or the U.S. Department of the Interior (ADOI@) that address the substantive standards or the procedures which the BLM will use in reviewing the [disclaimer] application.@ The Solicitor=s Office advised Bureau of Land Management that this request required referral to the Departmental Freedom of Information Act Officer.

DOE

Benjamin Jones, Democratic Senatorial Campaign Committee: Requests copies of all documents between the Department and the following Members of Congress: Senator Jim Bunning, Senator Campbell, Senator Murkowski and Senator Nickles.

From: Ledeen, Barbara (Republican-Conf) <Barbara_Ledeen@src.senate.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/13/2003 12:48:31 PM
Subject: : RE: Corrected

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Ledeen, Barbara (Republican-Conf)" <Barbara_Ledeen@src.senate.gov> ("Ledeen, Barbara (Republican-Conf)" <Barbara_Ledeen@src.senate.gov> [UNKNOWN])
CREATION DATE/TIME:13-MAR-2003 17:48:31.00
SUBJECT:: RE: Corrected
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Thank you.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Thursday, March 13, 2003 4:55 PM
To: Ledeen, Barbara (Republican-Conf)
Subject: Corrected

Questions at hearing -- approximately 120
Written questions afterward -- 25 questions from 2 Senators (Durbin and Kennedy)

Gonzales letters offering to send written questions -- 2 letters
Questions since Gonzales offer -- 3 questions from 1 Senator (Lincoln)

Gonzales letters offering to meet -- 3 lettersetters
Meetings since letters -- 1 (Byrd)

Gonzales letters offering inquiries of former SG's -- 2 letters
Follow-up inquiries to SGs -- 0

From: CN=H. Bryan Cunningham/OU=NSC/O=EOP [NSC]
To: Colborn, Paul P <Paul.P.Colborn@usdoj.gov>
CC: brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;david s. addington/ovp /eop@eop [OVP] <david s. addington>
Sent: 3/14/2003 6:59:32 AM
Subject: : Re: FW: GAO Review on Information and Intelligence Sharing (GAO Code 3502 40): Providing GAO Results of Survey Questionnaire

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:H. Bryan Cunningham ( CN=H. Bryan Cunningham/OU=NSC/O=EOP [ NSC ] )
CREATION DATE/TIME:14-MAR-2003 11:59:32.00
SUBJECT:: Re: FW: GAO Review on Information and Intelligence Sharing (GAO Code 3502 40):
Providing GAO Results of Survey Questionnaire
TO:"Colborn, Paul P" <Paul.P.Colborn@usdoj.gov> ( "Colborn, Paul P"
<Paul.P.Colborn@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
CC:brett m. kavanaugh ( CN=brett m. kavanaugh/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:david s. addington ( CN=david s. addington/OU=ovp/O=eop@eop [ OVP ] )
READ:UNKNOWN
###### End Original ARMS Header ######

agree. let's not poke them if we don't need to.
```

From:	Kirk Blalock <kblalock@fierce-isakowitz.com>
To:	<Kavanaugh, Brett M.>;<Silverberg, Kristen>;<Schacht, Diana L.>;<Warsh, Kevin>
Sent:	3/14/2003 9:18:42 AM
Subject:	Recent Asbestos Letters, etc. to the Hill/Biz Community
Attachments:	310ceoltr.doc; asbestoslegislativesummary.doc; ASG proposal summary 031103.TIF

Brett, Kristen, Diana and Kevin,

I am enclosing copies of recent letters that have been exchanged on the Asbestos Issue. The first letter from above was sent from Bob Vagley, the head of the American Insurance Association, to the Asbestos Study Group CEOs on Monday of this week with the Insurance Companies Legislative Summary attached. The second letter is from the Asbestos Study Group to Senator Hatch with the outline of their proposal – the first we have seen.

I set up a time with Diana next week to discuss where I believe we are and would encourage each of you to sit in if you have time. I believe we are meeting Wednesday at 2pm. I am also bringing Leigh Ann Pusey from AIA with me to the meeting.

Thanks.

March 10, 2003

Address

Dear <>:

On behalf of the property/casualty insurance industry, I am writing to you and other members of the Asbestos Study Group to request a CEO-to-CEO meeting between our industry and members of your group. There is growing, bipartisan agreement on the urgent need for federal asbestos litigation reform, and both of our organizations are working hard to achieve it. Yet, we have been unable to reach a consensus as to the best way to move forward, either substantively or politically.

At last Wednesday's hearing of the Senate Judiciary Committee, Chairman Hatch charged the business and insurance industries, as well as other interest groups, to reach consensus within two weeks, so that he can introduce and move a bill before the Judiciary Committee turns its attention to other matters (including highly contentious judicial nominations). We believe that a CEO-to-CEO meeting is essential if we are to reach such a consensus. We ask that this meeting take place as quickly as possible, and hopefully within the next week.

I believe that our organizations share the same goals regarding asbestos litigation reform: fair compensation to sick plaintiffs; elimination of litigation abuse; and greater financial certainty for corporate defendants and their insurers. Our disagreements seem to involve the most workable way of achieving these goals, from both a substantive and a political perspective. Our CEOs would like the opportunity to share their perspectives with you, and to learn about yours. We already have had such a meeting with members of the Asbestos Alliance, where we had a candid and salutary discussion of the importance of venue and consolidation reform.

To start the requested dialogue, I am enclosing a short paper which we prepared outlining a reform proposal that goes beyond the medical criteria, consolidation, and limited venue reform in the Asbestos Alliance bill. We will be happy to send you legislative language incorporating these concepts, should you desire to receive it. We are open to suggestions about the exact parameters of the proposal, but believe it addresses

REV_00160146

many concerns that members of the Asbestos Study Group have expressed about the current system and the more limited Asbestos Alliance approach. We also would welcome a dialogue with you on any proposals you wish to discuss, including the trust fund approach. If the Study Group has a written legislative proposal, we request that you provide us with a copy.

The insurance industry and the broader business community are partners on countless private sector and public policy initiatives, and we hope to stand with you in advancing meaningful, viable asbestos litigation reform. As an important step in that process, I hope you will agree to join in a meeting of Asbestos Study Group and insurance industry CEOs in finding a way to respond to Chairman Hatch's challenge and move a consensus bill forward.

We will be in touch with you shortly to discuss your availability for this meeting, and the logistics.

Sincerely,

Robert E. Vagley
President

cc: Barry Direnfeld

Enclosure

CONFIDENTIAL DRAFT

American Insurance Association
Overview of Federal Asbestos Reform Proposal

Asbestos is the most significant, difficult mass tort issue facing the property-casualty insurance industry, and corporate America at large. Actuarial experts estimate that payments to individuals exposed to asbestos in the U.S., along with related expenses, ultimately could total $200 billion or more. The current estimates are nearly two thirds higher than those developed only a few years ago, and recent claim filings and litigation outcomes suggest further deterioration. Thus, asbestos reform has become a top public policy priority for the insurance industry and the business community.

For the past two years, the American Insurance Association (AIA) and a broader insurance industry coalition have been involved in an ambitious campaign to enact federal asbestos reform legislation. The legislation we are seeking would create a judicial mechanism to screen out medical claims from people who are not sick, liberalize the statute of limitations, eliminate huge consolidation actions that lead to shotgun settlements, and prevent venue selection abuse. In addition, we have developed additional reforms to address other serious legal abuses, some of which have emerged or worsened since our legislative proposal was first developed.

Medical Criteria: A critical element of today's asbestos litigation problem is the massive filing of lawsuits by plaintiffs who claim to have been harmed by asbestos (i.e., alleging asbestosis or pleural injury) but who have no discernable impairment and may never have one. Approximately 90% of all claims filed today are for non-malignant conditions, and the vast majority of these are made by unimpaired individuals. These claims are draining resources that could be used to compensate other plaintiffs who are sick as a result of exposure to asbestos. To address this problem, the proposal sets the minimum requirements for an "injury" in asbestos lawsuits. The medical criteria would be derived primarily from the AMA Guides for the Evaluation of Permanent Impairment, which Congress adopted by reference in the Longshore Act and which already serves a similar function under that Act. Some elements of the asbestos medical standard recently approved by the American Bar Association also would be included.

Statute of Limitations Extended: At the same time, the proposal preserves the legal rights of claimants who were exposed to asbestos and may become ill in the future. To do so, it liberalizes the statute of limitations to provide that the statute will not begin to run until the exposed person discovers that he or she is physically impaired due to exposure to asbestos. No longer would claimants be forced to file a lawsuit before they become ill in order to prevent the statute of limitations from running on a potential claim.

Venue Reform: There is a clear pattern for asbestos lawsuits to be filed in a few states that have the most favorable laws or have returned the most favorable verdicts. According RAND, five states (MS, NY, WV, OH, TX) accounted for 66% of filings

between 1998 and 2000, and more recently, a single small county in Illinois (Madison County) has attracted hundreds of asbestos lawsuits. To address this problem, our proposal seeks to end the practice of "forum shopping"—i.e., filing claims in jurisdictions known to return more favorable results, rather than those with a real connection to the plaintiff or his injury—by requiring asbestos claims to be brought either in the state where the plaintiff resides, or where he or she was exposed to asbestos.

Elimination of Mass Consolidations: Asbestos claims are often consolidated for trial, sometimes with thousands of claims brought together in one action. This makes it difficult, if not impossible, for each individual claim to be fairly assessed on its merits and often leads to unimpaired individuals, or those whose illnesses were not caused by asbestos, being overcompensated. To address this problem, our proposal allows claims to be consolidated only with the consent of all parties.

Other Reforms: As we advance the aforementioned proposals, AIA has developed additional reforms that are needed to address other serious abuses in the asbestos litigation system. These include:

Lung cancer criteria: Over the past several years, there has been an increase in the number of lung cancer cases against asbestos defendants. There is growing concern among medical experts that many of these cancers, while representing real illness, were not caused by exposure to asbestos. Accordingly, Congress should enact exposure criteria for lung and other cancer based on medical findings and epidemiological data about relative risk in various industries.

Joint and several liability: Asbestos claims are also increasingly being extended to a wider array of firms. In 1983, RAND found that 300 firms had been listed as defendants in asbestos cases; by 2002, that estimate grew to more than 6,000. These defendants represent 75 of the 83 different types of industries in the U.S. Many defendants had little or no connection to asbestos but represent the "deepest pockets" available, particularly as more and more of the primary defendants file for bankruptcy. To address this concern, we suggest joint and several liability reform that limits the liability of defendants who are less than 50% responsible to their proportionate share.

Caps on damages: For some disease categories, there is a ten-fold difference in average settlement values across states. Asbestos is a national problem, and Congress should consider reasonable damage caps to provide greater equity. Using President Bush's medical malpractice proposals as a model, we would put forth a $250,000 cap on non-economic damages, except in the case of mesothelioma, where there would be a $500,000 cap on non-economic damages.

A ban on punitive damages also would be beneficial. The rationale for such a ban is the absence of deterrence value (asbestos has been largely eliminated from the workplace for more than twenty years) and the need to conserve resources for future claimants.

Protections for retailers: As the number of asbestos defendants grows ever larger, there is increasing concern about lawsuits against retailers who did not manufacture any asbestos products, such as hardware stores, home improvement centers, and auto parts outlets. As was the case with product and small business liability reform legislation that has been considered in Congress, it would be appropriate to take these peripheral defendants, many of them small businesses, out of the liability system, provided they did not fail to exercise reasonable care.

Collateral Source Payments: Many asbestos suits involve claims against hundreds of defendants. At the time of evaluating these suits, there often is no way for a defendant to know how much the plaintiff already has received through settlements with other defendants. Therefore, the legislation should require that, at the time of filing a complaint or other initial pleading in a case alleging an asbestos injury, the plaintiff must file a statement listing all asbestos settlements or judgments which have been received or to be received as a result of the claim; furthermore, these statements should be regularly updated to include asbestos settlements or judgments that subsequently are received.

Bankruptcy cases: According to a recent report prepared by Dr. Joseph Stigletz for AIA, more than 60 firms have filed for bankruptcy in order to address their asbestos liabilities. These bankruptcies have pernicious effects on workers and communities. They also create new legal rules for adjudicating asbestos claims. In order to assure a level playing field among all defendants regardless of whether they have filed for bankruptcy, the reforms outlined above should apply to all asbestos claims, including those against bankrupt defendants.

March 1, 2003

THE ASBESTOS STUDY GROUP

March 11, 2003

Via Hand Delivery

The Honorable Orrin Hatch
Chairman, Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Hatch:

Thank you for requesting that the Asbestos Study Group (ASG) provide the Senate Judiciary Committee with a detailed explanation of our proposal to address the asbestos litigation crisis. We appreciate the opportunity to present the attached more complete explanation of a privately funded claims facility that will pay victims fair compensation quickly, on a no-fault basis, for a range of asbestos-related diseases. This proposal is based on ongoing discussions with members of the ASG as well as outside experts, other asbestos defendants, insurance companies, and organized labor, in addition to Members of Congress from both parties and their staffs. We believe that a resolution based upon a claims facility instead of continued reliance on the tort system will be the best way to bring fairness, certainty, and finality for all stakeholders, including, most importantly, the victims of asbestos-related disease. Moreover, we believe such an approach will have the best chance of enactment.

The attached description lays out in detail legislation to create an Asbestos Injury Compensation Program. The key issues of who is eligible, how they would be compensated, and how the program would be funded are also described. The ASG has also reviewed possible approaches to solving the asbestos litigation crisis other than the one outlined in this submission. We believe this solution is best because it will (a) assure prompt and fair compensation for those with asbestos related diseases; (b) it will do so without delay and with minimum transaction costs; (c) it can solve the problem with certainty and finality for all, including the Congress; and (d) it has the best chances of garnering bipartisan support which we all agree is essential to enacting a solution to this terrible problem. We note that no other proposed solution has achieved consensus among the relevant constituencies.

Obviously, several components of our proposal must still be resolved. We have been working for months with representatives of many of the stakeholders to address the key issues and have made substantial progress, but we have not yet been able to reach consensus on all issues among all the parties. To meet the time frame established at the hearing, we believe the Committee will have to become more directly involved in the negotiations. However, prior to such discussion, we would appreciate an opportunity to explain to you in greater detail our proposal and our analysis of the options that remain outstanding.

The ultimate merits of a claim facility, if it can be enacted, are beyond dispute. We believe it is the best path to the bipartisan consensus that the Chairman and Ranking Member indicated they desired at last week's hearing, and we look forward to working with you and the Committee to solve this national crisis.

Sincerely,

Barry B. Direnfeld
On behalf of the
Asbestos Study Group

cc: The Honorable Patrick Leahy

REV_00160152

CONFIDENTIAL BRIEFING MATERIALS

ADDITIONAL SUBMISSION OF THE ASBESTOS STUDY GROUP

to the

United States Senate

Committee on the Judiciary

The Asbestos Study Group (ASG) appreciates the opportunity to provide the Senate Judiciary Committee with a more complete explanation of our proposal to address the asbestos litigation crisis. The ASG proposal would establish a privately funded claims facility that will pay victims fair compensation quickly, on a no-fault basis, for a range of asbestos-related diseases. Our proposal is based on ongoing discussions with members of the ASG, as well as outside experts, other asbestos defendants, insurance companies, and organized labor, in addition to Members of Congress from both parties and their staffs. We believe that a resolution based upon a claims facility instead of continued reliance on the tort system will be the only way to bring fairness, certainty, and finality for all stakeholders, including, most importantly, the victims of asbestos-related disease. Moreover, we believe such an approach will have the best chance of securing bipartisan support and thus enactment.

Under the ASG proposal, victims of asbestos-related disease would be compensated on a no-fault basis, upon showing that they were exposed to asbestos and that they satisfy the other eligibility standards for compensation. Victim compensation would no longer be held hostage to bankruptcies or to years of expensive litigation over product identification, causation, and other difficult issues. Victims of asbestos-related diseases would be assured prompt and fair compensation with the minimum amount of paperwork and delay. The tort system would be replaced, reducing the heavy burden of transaction costs and saving money so that funds can be targeted much more directly to compensate those suffering from asbestos. Defendants and insurance companies currently caught in the litigation crisis would no longer face the uncertainty and the risk premium Wall Street imposes in order to deal with the unpredictable nature of asbestos litigation. Instead, they would accept somewhat "rough justice" in providing the private funding for the compensation system in exchange for financial predictability and relief from the uncertainties of the tort system. We believe that the certainty provided by this proposal would be welcomed by the financial markets.

In reviewing and analyzing our proposal from a public policy and a political standpoint, we ask that one critical factor be kept in mind. Our proposal represents a structure that can accommodate the decisions that Congress will reach on the issues of eligibility, compensation, and the overall size of the program. We fully recognize that several key issues must still be resolved, and we believe these will require the active participation of Congress. We have been working for months with representatives of many of the stakeholders to address these key issues, but we have not yet been able to reach consensus among all the parties. (This, of course, is also true with respect other legislative options proposed by other stakeholders.) Consequently, no matter which structure the Senate Judiciary Committee adopts, Congress clearly must engage actively in the debate to develop a consensus on any proposal.

The following reflects in greater detail our proposal for establishing a no-fault, privately funded claims facility. The description below is organized to reflect (I) the Asbestos Injury Compensation Program, (II) Eligibility, (III) Compensation, and (IV) Program Funding.

I. The Asbestos Injury Compensation Program

A. Legislative Findings: Asbestos claims have become a national crisis characterized by erratic and delayed compensation of asbestos-related diseases, over-compensation for the non-impaired, bankruptcy of major companies with more threatened, widespread unemployment and distress to local communities, high legal costs and court congestion, remedial demands on governments at all levels, and widespread economic uncertainties. This crisis, and its significant effect on the welfare of the people of the United States and on interstate commerce, compels Congress to create this national Asbestos Injury Compensation Program (the "Program") to supersede all existing methods to compensate those injured by asbestos.

B. Structure: The Program will consist of a privately funded, publicly administered fund that will provide the resources necessary for operation of the Program and payment of compensation to asbestos victims. The statute will establish within the Department of Justice an Asbestos Injury Compensation Board (the "Board"), whose members will be inferior officers of the United States, to implement and administer the Program.

1. Administrative Board: The Board created by the Act to administer the Program will be within the United States Department of Justice. The Attorney General shall exercise oversight of the Board, and shall require and publish periodic reports concerning the Program's performance.

2. Appointment of Board Members: The Board will have seven members, who will be appointed by the U.S. Court of Appeals for the Federal Circuit.

   a. The appointing Court will initiate the appointment process by soliciting comments and suggestions for appointees from defendant companies, victims' groups, organized labor, insurers and other interested members of the public during a 60-day period, after which the Court will appoint the Board members.

3. Board Rulemaking: Within 90 days of the appointment of its members, the Board will promulgate a list and brief discussion of the various issues that the Board must address in order to draft the Program's governing regulations, and invite public comment over a subsequent 60-day period.

   a. Thirty days after the close of the comment period, the Board will promulgate interim regulations. This will enable the Board to begin to process claims and make awards, so that the most seriously injured claimants are not subject to further delay while

REV_00160154

the Board considers further public comment. The Board will also invite public comment for a further 30-day period. Within 30 days after the close of the final comment period, the Board will issue its final regulations.

Note: The Board serves a narrowly circumscribed function with relatively little discretion.

(i) First, the Board is authorized to process individual asbestos personal injury and death claims associated with Major Compensable Illnesses (as defined below), but only pursuant to explicit statutory criteria governing eligibility and compensation amounts over which the Board can exercise no discretion (except in certain narrowly defined extraordinary circumstances set forth in the Act).

(ii) The Board has the responsibility, delegated to it by Congress, for establishing rules and procedures for determining eligibility.

(iii) The Board is responsible for issuing regulations regarding the documentation of claims, the conduct of hearings, and the other ministerial functions necessary to implement and carry out the process of receiving and processing claims.

(iv) The Board would have broad audit authority over claimants and other entities submitting information or diagnoses under the Program. The statute would provide substantial civil and criminal penalties for knowingly filing false information and for fraud.

(v) The Board will be authorized to retain private claims payment facilities to administer the claims payment aspects of the Program under the relevant statutory and regulatory standards. (See Section I.C.4. on Processing Units below).

C. Procedure - Claim Processing

1. Award Calculation: To the extent a formulaic approach to compensation is used (discussed below), the Board will develop a precise and detailed methodology for applying the statutory formula for the calculation of individual claimant awards based on information submitted by each claimant. There will be three considerations in determining a claimant's award: (1) lost wages, (2) medical expenses, and (3) pain and suffering.

Note: No such methodology is necessary if the statute prescribes scheduled amounts for all claimants for each compensable disease, which aggregate those elements into a single number.

REV_00160155

2. Processing Method: Compensation will be awarded to eligible claimants upon the receipt and evaluation of applications and supporting evidence submitted in writing to the Board pursuant to its regulations.

3. Burden of Proof: Claimants shall bear the burden of proving the eligibility criteria and award amounts through the introduction of competent and persuasive evidence.

4. Processing Unit: After proposals have been solicited, received, and evaluated, a private entity will be engaged by the Board to receive and process claims on the Board's behalf. This is similar to the process now used for processing Medicare claims. The entity's responsibilities will include:

   a. setting up a claimant assistance program to respond to claimant inquiries and to assist claimants and counsel in preparing and submitting claim applications;

   b. confirming that all necessary documentation and other material has been submitted by each claimant;

   c. applying the eligibility criteria (exposure, medical, and diagnostic) to determine a claimant's eligibility to receive compensation under the Program;

   d. applying the award calculation methodology with respect to each eligible claim to calculate a claim award or applying a scheduled value for each disease category; and

   e. advising the claimant of the eligibility determination and amount of the award, if any, and responding to inquiries about the eligibility determination and award calculus.

   Note: The resources necessary for operation of the Processing Unit could be accommodated by existing claims resolution facilities and private companies that will no longer be utilized in the tort system for asbestos bodily injury claims. These entities already have the expertise needed for administration of such an operation.

D. Administrative Appeals and Judicial Review

1. Administrative Review: A claimant may request an administrative review of the Board's claim decision.

   a. Review Panel: The Board shall create a Review Panel to hear and decide administrative appeals by claimants dissatisfied with any eligibility or compensation decision of the Board. The Review

REV_00160156

Panel will consider only the materials considered by the Board in its claim decision, plus a written statement setting out the claimant's reasons for challenging the Board's decision.

b. Standard of Review: The Review Panel will affirm the Board's claim decision unless it finds that the decision is arbitrary and capricious.

c. Submission of Additional Material: A claimant may petition the Review Panel in writing for an opportunity to submit supporting evidence not available to the claimant at the time of application to the Program. The Review Panel will grant permission to submit additional material in extraordinary circumstances.

2. Judicial Review: Aggrieved parties may seek judicial review of the Program, of a funding participant's allocation, and of an individual eligibility determination as follows.

a. The U.S. Court of Appeals for the District of Columbia Circuit will have exclusive jurisdiction to hear challenges to the statute and the regulations implementing the Program. Not later than 30 days following promulgation of the final rules implementing the Program, any aggrieved party may seek judicial review of (1) the constitutionality of the Act or of the regulations promulgated by the Board, and (2) whether any of the regulations promulgated by the Board are arbitrary, capricious, or otherwise not in accordance with law, exceed statutory jurisdiction, authority, or limitation, or are short of statutory right. The court will not have authority to issue a stay pending review. Issues that were or could have been raised in any such challenge may not be raised in subsequent challenges to individual eligibility determinations. The statute may also provide for immediate review of any constitutional action for declaratory or injunctive relief with expedited appellate review by the Supreme Court.

b. The U.S. Court of Appeals for the District of Columbia Circuit will have exclusive jurisdiction to hear challenges by individual funding participants to the funding assessments for that participant. The legislation will establish the allocation principles which may be challenged once under paragraph a. above. This provision allows individual entities to challenge only the application of those principles to their particular circumstance. Any such challenges must be filed within 30 days following the assessments of funding participants. The court will not have authority to stay the funding obligations of any party pending review.

REV_00160157

c. The U.S. Court of Appeals for the District of Columbia Circuit or the U.S. Court of Appeals for the Circuit of the claimant's residence will have jurisdiction to hear challenges to individual eligibility decisions, but only after the claimant has received a final decision of the Review Panel. The reviewing court will set aside an individual eligibility decision only if, upon consideration of the record before the Review Panel, the court concludes the decision is arbitrary and capricious. The scope of judicial review does not include compensation awards; compensation will be determined solely under the standards of the Program.

Note: There is no constitutional requirement that claimants be afforded the opportunity to seek judicial review of the Board's individual claim decisions. If the legislative goal is to preclude such review, however, the statute must expressly include a provision such as the following: "Individual claim decisions by the Board are (1) final and conclusive for all purposes and with respect to all questions of law and fact other than constitutionality; and (2) not subject to review by another official of the United States or by a court by mandamus or otherwise."

E. Payment of Awards

1. Priority of Payment: The Program will allow for a substantial down payment of full claim value to all living mesothelioma victims on an accelerated basis. For exigent circumstances and in cases of extreme hardship caused by asbestos-related disease, the Program will allow for expediting payments made to such claimants.

2. Scheduled Payment of Awards: Individual claimants will receive structured payments.

II. Eligibility

Subject to the eligibility criteria set forth below, the statute will establish a no-fault compensation system under the Program. Claimants would not be required to show that the injury for which the claim is made resulted from the negligence or other fault of any other person. Under this provision, the Program avoids the time-consuming and expensive process of litigating product identification and fault. In this respect, the Program will operate in the same manner as a worker's compensation program, in which rapid and certain recovery is substituted for the uncertain, time-consuming, and expensive process of obtaining recoveries under the tort system.

A. Eligibility Standards: In order to be eligible for compensation under the Program, a claimant must (1) demonstrate significant occupational exposure to asbestos, and (2) suffer from a compensable medical condition, as (3) diagnosed pursuant to the standards in the Program.

REV_00160158

1. Exposure Criteria: To be eligible for compensation under the Program, a claimant must establish sufficient exposure to asbestos to qualify for compensation.

   a. For mesothelioma claims, claimants must demonstrate medically sufficient levels of exposure. Mesothelioma victims with take-home exposures will qualify under the Program. The Program is expected to provide prompt compensation to mesothelioma victims that satisfy the criteria.

   b. For all other claims, claimants must demonstrate medically sufficient levels of "significant occupational exposure" appropriate for each disease category. The term "significant occupational exposure" means employment for a cumulative period of at least five years, in an industry and an occupation in which the claimant (i) handled raw asbestos fibers on a regular basis, (ii) fabricated asbestos-containing products so that the claimant in the fabrication process was exposed on a regular basis to raw asbestos fibers, (iii) altered, repaired or otherwise worked with an asbestos-containing product such that the claimant was exposed on a regular basis to raw asbestos fibers, or (iv) worked on a regular basis in close proximity to workers engaged in the activities described in (i), (ii), and/or (iii).

   c. Claimants will also be required to show that the delay between exposure and illness is consistent with Board-endorsed medical criteria concerning the latency periods typically associated with that disease category.

2. Medical Criteria:

   a. Major Compensable Illnesses: Claimants will be eligible for compensation under the Program for the following enumerated Major Compensable Illnesses:

      i. Mesothelioma
      ii. Lung cancer
      iii. Other compensable cancers
      iv. Qualifying non-malignant asbestos-related diseases.

Note: Like other legislative options, a national claims facility will need to establish medical criteria, but can have more flexibility to compensate victims among a variety of disease categories. Importantly, a facility can assure quick payment to these victims by avoiding the necessity for protracted and expensive litigation to establish product identification, causation and fault. We have worked for many months to establish appropriate criteria and standards with medical experts and those representing victims of asbestos exposure. We have been working with a

REV_00160159

variety of criteria from other contexts, including those of the Manville Trust, the Georgine settlement, the American Bar Association (ABA) standards, the standards in S.413 (Nickles), as well as those proposed by doctors representing organized labor and victims. The difficulty in resolving these issues is not unique to the ASG proposal as, for example, was demonstrated when Dennis Archer agreed at the recent hearing to reconsider some of the language in the ABA proposal. Resolution of this issue will require Congress to determine the appropriate policy choice after assessing various stakeholder positions.

3. Diagnostic Criteria: Claims must meet diagnostic criteria for a medical diagnosis to be accepted for purposes of Program eligibility. The Board must have reasonable confidence that the medical evidence provided in support of the claim is credible and consistent with recognized medical standards. Claimants would have to demonstrate the existence of a compensable disease by a treating physician diagnosed as part of an in-person medical exam by that physician. A claimant's complete work history, exposure pattern, and smoking history, among other factors, would be reviewed by the physician as part of the diagnosis. Other more likely causes of a claimant's condition would also have to be excluded by the physician submitting the diagnosis to the Program. The statute will instruct the Board to require the submission of x-rays, detailed results of pulmonary function tests, laboratory tests, tissue samples, results of medical examination or reviews of other medical evidence, and require that medical evidence submitted comply with recognized medical standards regarding equipment, testing methods, and procedure to assure that such evidence is reliable.

Note: There has been widespread criticism of the quality of medical evidence utilized to sustain awards for asbestos exposure in the tort system. This provision gives the Board authority to formulate standards insuring use of high quality medical evidence as a basis for awards of compensation. The Board may utilize existing standards when appropriate. For example, the statute could provide that pulmonary function testing must meet the quality criteria established by the American Thoracic Society and to be performed on equipment in material compliance with the Society's standards for technical quality and calibration. Other diagnostic criteria must also be included in the statute for individual compensable diseases, for example, to exclude other more likely causes of a claimant's medical condition.

B. Limitations Period:

1. Future Illness: In order to be eligible under the Program, a claimant must submit a claim to the Program within two years of having received a medical diagnosis of a Major Compensable Illness or of having discovered

REV_00160160

facts that would have led a reasonable person to obtain a medical diagnosis of a Major Compensable Illness.

2. Current Illness: A claimant who, at the commencement of the Program, has a pending timely-filed claim in state or federal court, must submit a claim to the Program within two years of the Program's commencement date. Claims that are already time-barred would not be revived by the legislation.

3. Separate Disease Rule: Victims that receive compensation for one asbestos-related disease, but who later develop another disease, will be eligible for additional compensation under the program (subject to setoff for prior, duplicative recoveries).

III. Compensation

Note: We have evaluated two possible schemes to determine the compensation level for each eligible claimant. The first is a standardized benefit, which would award statutory values for each scheduled disease independent of a claimant's individual circumstances. The second is an individualized program, which would utilize a formula to compensate victims based upon actual lost wages, medical expenses, and statutorily set values for pain and suffering. Pursuant to either approach, the fund can be managed to pay a single stated value for each disease category, or to pay a specified average for each disease category. Either can be included in the Program after Congress determines its preferred policy option. Provided below is an outline of each approach.

A. Standardized Benefit – Scheduled Values

1. The Board shall compensate claims for Major Compensable Illnesses according to the following schedule:

Mesothelioma	----------
Lung Cancer (Level 2)	----------
Lung Cancer (Level 1)	----------
Other Cancers	----------
Qualifying Non-Malignant Asbestosis	
Level 3	----------
Level 2	----------
Level 1	----------

Note: The success of a national claims facility will depend on its ability to pay fair values for compensable diseases on an expedited basis. We have been working to determine the range of compensation that could be paid to claimants at a magnitude we believe can be funded. Necessarily, the exact value will depend on resolving both overall funding and compensable disease issues. For example, incidence levels for mesothelioma are predictable to a high degree; it is most clearly associated with asbestos, and is typically fatal. For these reasons, the

REV_00160161

primary policy goal of the Program is to compensate mesothelioma victims expeditiously. Once these claims values are set, the values of other disease categories (and the ultimate size of the fund) can be established. Whether a claims facility can be enacted will ultimately depend on the political process to determine how much money must go to how many people.

2. The statute will reduce compensation amounts to reflect recovery from collateral sources for the claimant's Major Compensable Illness. This adjustment will account for all collateral sources, including life and disability insurance, pension funds, and death benefit programs. Collateral sources will also be defined to include amounts received from defendants or their insurers, because compensation awards under this Program should not duplicate amounts already received through suit or settlement. This provision is intended prevent the funds from the Program from being used to provide double recoveries.

3. The statute will not preclude recovery for smokers but would provide significant discounts for smokers unless an individual claimant can demonstrate that the medical cause of the disease is not the result of smoking. In those cases, claimants will be eligible for standard levels of compensation.

B. Individualized Program -- Formulaic Approach

1. Elements of Victim Compensation:

a. Lost Earnings: Claimants suffering from a Major Compensable Illness will be eligible for compensation for past and future lost earnings caused by the Major Compensable Illness.

i. Past and future lost earnings will be based on actual employment history.

ii. Total past and future earnings loss will equal the number of work-months lost by the claimant as a result of the Major Compensable Illness, multiplied by the degree of work-related disability caused by the illness, multiplied by the per month value of the lost earnings.

(a) The number of work-months lost by the claimant will be based upon the average age of retirement for an American of the claimant's gender, less the age at which the claimant ceased working as the result of the Major Compensable Illness.

(b) If the claimant is deceased, the estate will receive 100% of the lost earnings up to the average age of

REV_00160162

retirement for an American of the claimant's gender in the relevant employment classification.

b. Medical Expenses: Eligible claimants suffering from a Major Compensable Illness will be compensated for reasonable medical expenses (past and future) related to the claimant's Major Compensable Illness and unreimbursed by third parties.

i. Past Expenses: Past medical expenses will be based on out-of-pocket, reasonable unreimbursed medical expenses related to the diagnosis and treatment of the claimant's Major Compensable Illness.

ii. Future Expenses: Future reasonable, unreimbursed medical expenses will be reimbursed to claimants under the Program.

c. Pain and Suffering:

Note: Award amounts for pain and suffering remain to be determined.

i. Mesothelioma: Eligible claimants suffering from mesothelioma will be compensated a lump sum amount of $_____.

ii. Other Major Compensable Illnesses: Eligible Claimants suffering from all other Major Compensable Illnesses will be compensated for pain and suffering as follows based on the listed disease categories:

Lung Cancer (Level 2) ----------
Lung Cancer (Level 1) ----------
Other Cancers ----------
Qualifying Non-Malignant Asbestosis
Level 3 ----------
Level 2 ----------
Level 1 ----------

(a) Past pain and suffering will be based on the number of months between the date the claimant's Major Compensable Injury was diagnosed and the date the claimant applied to the Program.

(b) Future pain and suffering will be based on the number of months between the claimant's age at application to the Program and the average life

REV_00160163

expectancy for an American of the claimant's age and gender suffering from the claimant's Major Compensable Illness.

(c) If the claimant is deceased, the estate will receive the applicable monthly amount multiplied by the number of months between the date the claimant's Major Compensable Illness was diagnosed and the claimant's date of death.

Note: The amount of compensation for pain and suffering awarded to claimants suffering from mesothelioma will not vary by duration of the illness because of the unique nature of mesothelioma. Currently, mesothelioma is considered incurable and causes death rapidly after diagnosis (usually within 24 months, often within a year). Cancer and other non-malignant asbestos-related diseases are unlike mesothelioma in that in some cases the illnesses are curable and/or the illnesses can often be managed for much longer periods of time. The injuries suffered by different persons with the same non-mesothelioma Major Compensable Illness may vary greatly depending on the age of diagnosis and course of the illness. Therefore, the Program compensates claimants with the same non-mesothelioma Major Compensable Illnesses according to the duration of the disease.

IV. Program Funding

Funding raised under the Program will be distributed to eligible claimants by the Board pursuant to the Program. The Board will also be responsible for establishing a financial reserve and for managing assets of the Program to ensure sufficient resources to compensate victims in the future. The statute would include the following funding provisions.

A. Mandatory Participants: Funding needed for the Program would be raised primarily from current defendants in asbestos litigation that have paid a threshold amount of total defense and indemnity costs in asbestos tort litigation and from their insurance carriers. The threshold spending amount will be calculated on a gross basis, rather than net of insurance.

1. Claims: After the commencement date of the Program, and except for claims already reduced to final judgment, no personal injury or death claims arising out of exposure to asbestos nor any related claims for contribution or indemnification may be asserted or prosecuted in any state or federal court against any participant in the program.

REV_00160164

2. Funding Levels: Based on extensive discussions with most of the insurers providing the bulk of the coverage for asbestos claims, we have little doubt that insurers can provide tens of billions of dollars of funding over the life of the Program while remaining financially stable. We believe that we have a reasonable, equitable approach to the allocation between insureds and insurers and to the allocation within the universe of insureds. We would be pleased to share our ideas with you, but this is an issue where the Committee will need to aid the affected parties to achieve a just solution.

3. Feasibility: Obviously, Congress will ultimately need to decide the appropriate level of funding for and duration of the Program, but, based on negotiations to date, it appears that there is sufficient funding available to create a fair and just compensation program outside the tort system. We would welcome the opportunity to update the Committee on the current framework of our negotiations.

4. Annual Assessments: Participants in the Program will pay annual assessments over the duration of the Program. Projections indicate that the funding required during the early years will taper off as the projected incidence levels of asbestos-related disease decline. The Program is expected to last until 2049, when projections of excess mesothelioma incidence (and lung cancer) caused by asbestos decline to zero, but the bulk of the payments will be made over the next 30 years.

5. Congressional Authority: Congress has ample authority under the Commerce Clause to require defendant companies and their insurers to fund an administrative compensation system, particularly where, in exchange for such funding, the companies and their insurers are relieved from the expense of liabilities under the tort system.

B. Voluntary Participation: Current defendants that have not spent the minimum or threshold amount in the system and possible future defendants would not be forced into the program, but could elect to participate voluntarily.

1. Assessments: Voluntary participants would be assessed annual payments less than those assessed for mandatory participants, and would make annual payments to the fund over the life of the Program. In exchange, they will obtain the liability protections afforded to mandatory participants. We recognize that voluntary assessments will take into account the size of the participants so as not to unduly burden small businesses.

2. Non-Participants: Those that do not participate voluntarily will remain subject to litigation in the tort system. If any of these defendants later exceed the threshold spending amount triggering mandatory participation

REV_00160165

in the Program, they would then be legally obligated to participate in the Program at levels comparable to mandatory participants.

C. Bankruptcies: Because the Program is expected to provide full and fair compensation for all victims of asbestos-related disease, it is expected that the current bankruptcies would be incorporated into the Program. In other words, by creating a program to fully compensate victims, it would be duplicative to leave existing trusts outside that system, so the Program will provide for incorporating them into the structure.

1. Confirmed Plans/Existing Trusts: Subject to constitutional limits, the statute would provide for incorporating assets of existing trusts into the Program. 524(g)

2. Pending Bankruptcies: For defendants that have filed for bankruptcy protection but have not received confirmed plans as of the date of enactment, the Program will assess financial contributions and annual funding requirements under the statute. Some defendants may elect to terminate their bankruptcy proceedings and emerge from Chapter 11 with their funding contribution determined under the statute; others may elect to continue with their bankruptcy and emerge with a confirmed plan, in which case they will be incorporated into the Program pursuant to the provisions for confirmed plans (above). Non 524(g)

D. Insurance and Reinsurance. Defendant companies have tens of billions of dollars in insurance coverage for asbestos-related liabilities pursuant to insurance contracts they have bought and paid for with substantial premiums. Similarly, the insurers who issued those contracts have in many instances ceded their risks, in whole or in part, to reinsurers in exchange for substantial consideration. Neither the defendants' insurance rights nor the reinsurance rights of the direct insurers should be prejudiced by the fact that the payments for which coverage is sought arise from this legislation rather than from continued operation of the dysfunctional asbestos tort system. The benefits of a no-fault claims facility are more likely to be realized if: (1) the policyholders have comfort that their insurers will contribute a fair share to the fund in accordance with their existing contractual obligations either to pay directly, or to indemnify the policyholders against, liabilities to asbestos victims; and (2) insurers have comfort that their reinsurance rights will not be prejudiced.

Note: We believe that properly constructed federal legislation altering rights under existing insurance contracts can successfully be defended against challenges under the Contracts, Due Process or Takings Clauses.

1. Structure: We envision that the legislation would prohibit defendants from seeking recovery of their payments to the trust directly from their insurers. In return for protection from such claims, the legislation would require that the insurers contribute directly to the trust. The insurance industry contribution might be structured in several ways: (1) as a fixed

REV_00160166

amount; (2) as a fixed share of the annual total funding assessment for the fund as a whole; or (3) by providing the defendants with the statutory ability to offset their annual assessments with the exercise of insurance credits, with the insurers' collective required contribution established by the exercise of these credits. We believe that option (2) is the most equitable and least likely to cause insurance companies financial issues or to create unneeded complexity in the claims facility system.

2. Allocation and Exhaustion: Under any funding method, the insurers will need to develop an appropriate method of allocating the insurance industry payment, similar to the effort among the defendants to allocate their required assessments. Similarly, under any funding method, the legislation should provide a method by which the insurers can apply their payments to the fund toward the exhaustion of any applicable aggregate limits remaining on policies issued to participating defendants. The manner in which these credits would be calculated and applied would depend on the ultimate structure of the fund.

3. Reinsurance: The legislation would address reinsurance issues, with a view toward ensuring that insurers' payments to the trust would be recoverable under reinsurance treaties and policies to the same extent as an indemnity payment on the underlying asbestos claims would be.

4. Claims for Past Expenses: Notwithstanding the provisions above, nothing in the statute is expected to bar claims against insurance policies for reimbursement for expenses incurred prior to enactment.

E. Structural Considerations:

1. Optional v. Mandatory: We have analyzed whether the fund could be created as a voluntary "opt in." We believe for a variety of reasons that it is far preferable to create a fund in which a sufficient number of asbestos defendants and their insurance carriers must participate. Otherwise, the sufficiency of the fund will be difficult to assess because we cannot know in advance how many defendants would choose to stay in the tort system. A mandatory fund, on the other hand, can raise substantial funding.

2. Caps (Annual and Aggregate): The overall size of the Program, as well as annual funding requirements, would be set by statute.

Note: The ASG recognizes that many traditional defendants have gone bankrupt and some of the trusts established on their behalf have experienced an unanticipated flood of claims, resulting in reductions in compensation levels – some to as little as pennies on the dollar – thus increasing the unfairness to victims. The ASG is actively engaged in efforts to avoid that risk even as we develop a program providing the requisite affordability, predictability and certainty for the financial obligations of those funding the Program.

REV_00160167

3. Borrowing Authority: The Program will have limited borrowing authority to provide financial flexibility and to ensure compensation to eligible claimants in light of steady and predictable funding sources from Program participants.

F. Finality and Certainty for Funding Participants: Funding participants may elect to enter into a contract with the Board that will include at least the following terms:

1. The contracting funding participants, in the amounts allocated among them, will pay to the Board the funds that the Board will distribute to eligible claimants in the amounts and under the schedules specified in the statute.

Note: The final formula allocating Program costs among contracting funding participants will be incorporated in the statute and into the contract with the Board. We are working on funding formulas for differently situated defendants and are happy to share our current structure with you.

2. These payments will constitute the full and final extent of the contracting funding participants' liabilities for pending and future asbestos-related claims in the Program and, once made, the payments will fully and finally extinguish these liabilities.

3. If the contracting funding participants must sue the Board to enforce provisions of their contract, the Board will not assert any defenses based on its sovereign immunity or sovereign authority.

Note: In order to make secure the annual limitation on the funding participants' financial obligations, it is necessary to bind the government, insofar as that is possible, to the amounts and allocations specified by the statute. The general rule is that no Congress can bind its successors, but the Supreme Court recently held in the Winstar case that when Congress indicates in "unmistakable" terms that it intends a federal agency to relinquish its sovereign regulatory authority and bind itself by its contractual undertakings, it may do so. A number of lower courts have implemented Winstar's "unmistakability doctrine." A contractual device of the kind presented above appears to be the safest way to trigger this doctrine.

V. Federal Role

Despite the federal government's role with respect to asbestos exposure, the Program could be funded privately, without any direct government funding. We believe it is appropriate for the federal government to allow for tax-free accretion of the corpus of the fund, as proposed by Senators DeWine and Leahy in S. 1048 (107th Congress). Payments made to the fund should be construed as ordinary business expenses. Others have proposed additional roles for the

REV_00160168

federal government, which the Committee may wish to consider.

VI. Conclusion

There is broad agreement that asbestos litigation reform is urgently needed. The consequences of failing to act fall heavily on asbestos victims, the ever-increasing number of companies now defending asbestos actions even as the original producers of asbestos are bankrupt and gone, the insurance industry, which is weighed down by huge asbestos-related obligations, and all Americans who suffer the economic consequences of a system that is out of control.

The ASG has also reviewed possible approaches to solving the asbestos litigation crisis other than the one outlined in this submission. Many of them have aspects that are worthy of study and possibly may represent compromises that this Committee should consider if the approach outlined here is not feasible. We nonetheless believe that this approach is the best because (a) it assures prompt and full compensation for all the sick with the minimum amount of paperwork and delay, (b) other solutions inevitably involve more and higher wasteful transaction costs than a system that completely replaces the tort system, (c) other solutions are more difficult to price (and therefore provide less certainty for the defendants and insurers that would fund the system) due to the uncertainties inherent in litigation, and (d) more certain cost levels make it easier to assure that the funding mechanism will be sufficient to provide sufficient funds for victims and to avoid situations like the Manville Trust and the black lung program that have not been able to provide all of their promised benefits.

No public policy problem of this magnitude has ever been solved by private parties negotiating among themselves. Congress must be actively involved in any resolution as the only forum to resolve difficult political and policy questions. Of course, Congress cannot do it alone. Our efforts to explore workable solutions with key stakeholders has borne fruit. The issues that remain unresolved, while perhaps politically difficult, are by no means insurmountable unless stakeholders choose to make them so. There may yet be other issues we have not considered, and we look forward to meeting with the Judiciary Committee staff to discuss your thoughts as to this submission and other issues that you choose to raise. The ultimate merits of a claims facility, if it can be achieved, seems to be beyond dispute. We believe it is the best path to the bipartisan consensus to which the Chairman and Ranking Member committed at last week's hearing. We welcome further discussion.

REV_00160169

From: CN=Matthew E. Smith/OU=WHO/O=EOP [WHO]
To: Lauren J. Vestewig/OPD/EOP@Exchange@EOP [OPD] <Lauren J. Vestewig>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Colby J. Cooper/NSC/EOP@EOP [NSC] <Colby J. Cooper>;Catharine A. Ryun/WHO/EOP@EOP [WHO] <Catharine A. Ryun>;Taylor S. Gross/WHO/EOP@EOP [WHO] <Taylor S. Gross>;Meredith A. Terpeluk/WHO/EOP@EOP [WHO] <Meredith A. Terpeluk>;Wendy L. Nipper/WHO/EOP@EOP [WHO] <Wendy L. Nipper>
Sent: 3/14/2003 7:17:28 AM
Subject: : Speaking Request

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Matthew E. Smith (CN=Matthew E. Smith/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:14-MAR-2003 12:17:28.00
SUBJECT:: Speaking Request
TO:Lauren J. Vestewig (CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange@EOP [OPD])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Colby J. Cooper (CN=Colby J. Cooper/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Catharine A. Ryun (CN=Catharine A. Ryun/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Taylor S. Gross (CN=Taylor S. Gross/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Meredith A. Terpeluk (CN=Meredith A. Terpeluk/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Wendy L. Nipper (CN=Wendy L. Nipper/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Date: Friday, March 21, 2003
Time: 10:00 a.m. - 12:00 p.m.
Location: EEOB Room 450
Audience: Salem Communications Annual Talk Show Conference
Attendees
Rules: The guests are talk show hosts, supportive of the Bush
Administration. The ground rules have been conveyed that the briefing is
off the record and will serve to help them understand Administration
policy.

Invited briefers: Jay Lefkowitz Topic:
Social Policy Agenda items
Jim Towey Topic:
Faith-based initiative
Tucker Eskew Topic: Office
of Global Communications
NSC Rep. Topic: Current
Events
Homeland Security Rep. Topic: Homeland
Security
Judge Gonzales/Brett K. Topic: Judicial
nominations
Taylor Gross Topic: Drop-by
as WH Radio Director

As always, can strive to work around everyone,s busy schedule. This is a
great group of assets to advance the President,s agenda.

Please call with any questions.

Thanks.
Matt Smith
X6-7702

Background on Annual Talk Show Conference:

Since 1997, Salem Communications has hosted an annual talk show conference for all their local and national hosts and producers. They also include their editorial board and commentators, Salem's senior management, key station mangers and corporate news and public affairs staff.

The Talk Show Conference is designed to provide direction and guidance to the many voices of our talk and news platform, and to provide a forum for discussion on the most relevant issues of the day. Past speakers have included John Ashcroft and Chuck Colson.

Background on Salem Communications:

Salem Communications is a publicly held corporation providing religious & family themes programming distributed through four different platforms - Salem Radio, Salem Radio Network, Salem Web Network, Salem Publishing.

Salem Radio owns and operates 89 radio stations, including 55 stations in the top 25 markets. Salem is the 3rd largest radio operator in top 25 markets. Salem's focus is on Christian teaching and talk, music and general market (conservative) talk which is our fastest growing format. In addition to its radio properties, Salem owns the Salem Radio Network (SRN), which syndicates talk, news and music programming to over 1,600 affiliated radio stations throughout the United States.

On the non-broadcast side, Salem owns OnePlace.com and Crosswalk.com, leading Internet providers of Christian focused content (over 3 million unique visitors per month); and Salem Publishing, a leading producer of contemporary Christian music trade and consumer publications such as Faith Talk magazine.

From: CN=Matthew E. Smith/OU=WHO/O=EOP [WHO]
To: Lauren J. Vestewig/OPD/EOP@Exchange@EOP [OPD] <Lauren J. Vestewig>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Colby J. Cooper/NSC/EOP@EOP [NSC] <Colby J. Cooper>;Catharine A. Ryun/WHO/EOP@EOP [WHO] <Catharine A. Ryun>;Taylor S. Gross/WHO/EOP@EOP [WHO] <Taylor S. Gross>;Meredith A. Terpeluk/WHO/EOP@EOP [WHO] <Meredith A. Terpeluk>;Wendy L. Nipper/WHO/EOP@EOP [WHO] <Wendy L. Nipper>
Sent: 3/14/2003 7:17:28 AM
Subject: : Speaking Request

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Matthew E. Smith (CN=Matthew E. Smith/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:14-MAR-2003 12:17:28.00
SUBJECT:: Speaking Request
TO:Lauren J. Vestewig (CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange@EOP [OPD])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Colby J. Cooper (CN=Colby J. Cooper/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Catharine A. Ryun (CN=Catharine A. Ryun/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Taylor S. Gross (CN=Taylor S. Gross/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Meredith A. Terpeluk (CN=Meredith A. Terpeluk/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Wendy L. Nipper (CN=Wendy L. Nipper/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Date: Friday, March 21, 2003
Time: 10:00 a.m. - 12:00 p.m.
Location: EEOB Room 450
Audience: Salem Communications Annual Talk Show Conference
Attendees
Rules: The guests are talk show hosts, supportive of the Bush
Administration. The ground rules have been conveyed that the briefing is
off the record and will serve to help them understand Administration
policy.

Invited briefers: Jay Lefkowitz Topic:
Social Policy Agenda items
Jim Towey Topic:
Faith-based initiative
Tucker Eskew Topic: Office
of Global Communications
NSC Rep. Topic: Current
Events
Homeland Security Rep. Topic: Homeland
Security
Judge Gonzales/Brett K. Topic: Judicial
nominations
Taylor Gross Topic: Drop-by
as WH Radio Director

As always, can strive to work around everyone,s busy schedule. This is a
great group of assets to advance the President,s agenda.

Please call with any questions.

Thanks.
Matt Smith
X6-7702

Background on Annual Talk Show Conference:

Since 1997, Salem Communications has hosted an annual talk show conference for all their local and national hosts and producers. They also include their editorial board and commentators, Salem's senior management, key station mangers and corporate news and public affairs staff.

The Talk Show Conference is designed to provide direction and guidance to the many voices of our talk and news platform, and to provide a forum for discussion on the most relevant issues of the day. Past speakers have included John Ashcroft and Chuck Colson.

Background on Salem Communications:

Salem Communications is a publicly held corporation providing religious & family themes programming distributed through four different platforms - Salem Radio, Salem Radio Network, Salem Web Network, Salem Publishing.

Salem Radio owns and operates 89 radio stations, including 55 stations in the top 25 markets. Salem is the 3rd largest radio operator in top 25 markets. Salem's focus is on Christian teaching and talk, music and general market (conservative) talk which is our fastest growing format. In addition to its radio properties, Salem owns the Salem Radio Network (SRN), which syndicates talk, news and music programming to over 1,600 affiliated radio stations throughout the United States.

On the non-broadcast side, Salem owns OnePlace.com and Crosswalk.com, leading Internet providers of Christian focused content (over 3 million unique visitors per month); and Salem Publishing, a leading producer of contemporary Christian music trade and consumer publications such as Faith Talk magazine.

From: FindLaw.com <listadmin@LEGALMINDS.ORG>
To: TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN] <TOPHEADLINES@LEGALMINDS.ORG>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 3/14/2003 12:27:01 PM
Subject: : [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Fri., Mar. 14, 2003

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"FindLaw.com" <listadmin@LEGALMINDS.ORG> ("FindLaw.com" <listadmin@LEGALMINDS.ORG> [UNKNOWN])
CREATION DATE/TIME:14-MAR-2003 17:27:01.00
SUBJECT:: [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Fri., Mar. 14, 2003
TO:TOPHEADLINES@LEGALMINDS.ORG (TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

FINDLAW Fri, Mar 14, 2003

TOP LEGAL NEWS HEADLINES

For all of the day's legal news go to: http://news.findlaw.com

****

Attn: Attorneys Looking for New Clients

Don't waste time waiting for clients to shop for YOUR business. Shop for THEIRS, online, quick and easy. Visit Casepost.com to learn more.
Click here: http://rd.findlaw.com/scripts/nl.pl?url=10413216000_nl

****

POLITICS
Bush Sets Timetable On Palestinian State
http://news.findlaw.com/ap/i/1107/3-14-2003/20030314094502_52.html

Sen. Lott Urges Peace On Judicial Nominations
http://news.findlaw.com/politics/s/20030314/congressjudgesdc.html

LEGAL COMMENTARY
The American Presidency: George Reedy's "Twilight Of The Presidency"
http://writ.news.findlaw.com/dean/20030314.html

A Review Of Robert Bork's "Coercing Virtue"
http://writ.news.findlaw.com/books/reviews/20030314_horwitz.html

CIVIL RIGHTS
New Jersey Law Makes Racial Profiling A Crime
http://news.findlaw.com/news/s/20030314/crimeracedc.html

San Francisco War Protest Snarls Morning Traffic
http://news.findlaw.com/news/s/20030314/iraqusaprotestdc.html

PERSONAL INJURY
House Passes Medical Malpractice Limits
http://news.findlaw.com/ap/o/1500/3-14-2003/20030314020001_09.html

Family Plans To Take Abuse Case To Pope
http://news.findlaw.com/ap/o/1110/3-14-2003/20030314043005_12.html

PRODUCT LIABILITY
Jury Deliberating Bayer Drug Lawsuit
http://news.findlaw.com/ap/f/1310/3-14-2003/20030314120007_42.html

Bayer Settlements Included 13 Fatalities
http://news.findlaw.com/business/s/20030314/healthbayerdeathsdc.html

IMMIGRATION
U.S. To Try Out New Citizenship Tests
http://news.findlaw.com/ap/a/w/1152/3-14-2003/20030314051501_13.html

ENVIRONMENT
Senate Panel Acts To Allow Oil Drilling In ANWR
http://news.findlaw.com/politics/s/20030314/energycongressoildc.html

Calif. Tree Sitters Refuse to Budge
http://news.findlaw.com/ap/o/1110/3-14-2003/20030314030004_31.html

CYBERSPACE LAW
Judge Dismisses E-Mail Case vs. Sprint
http://news.findlaw.com/ap/ht/1700/3-14-2003/20030314091502_22.html

BUSINESS
Prosecutors Rest Case Against Tyson
http://news.findlaw.com/ap/f/1310/3-14-2003/20030314003004_06.html

Paper; MasterCard Seeks Separate Trial

http://news.findlaw.com/business/s/20030314/financialmastercardreportdc.htm
l

ENRON
Judge Throws Out Enron Civil Claims
http://news.findlaw.com/ap/f/1310/3-14-2003/20030314021501_13.html

INTERNATIONAL LAW
U.S., Britain, Spain To Hold Iraq Crisis Summit
http://news.findlaw.com/international/s/20030314/iraqdc.html

Serbia Continues Manhunt In PM's Slaying
http://news.findlaw.com/ap/i/1103/3-14-2003/20030314003004_04.html

WAR ON TERRORISM
U.S.: Caught bin Laden Won't End al-Qaeda
http://news.findlaw.com/ap/i/1107/3-14-2003/20030314120007_44.html

Imam Urges Iraqis To Harm U.S. Interests
http://news.findlaw.com/ap/i/1107/3-14-2003/20030314043005_09.html

CRIME & TRIALS
Smart Case Gives Push To 'AMBER Alert' Legislation
http://news.findlaw.com/politics/s/20030314/crimesmartamberdc.html

Woman Convicted In Racist Plot Shameful
http://news.findlaw.com/ap/o/1110/3-14-2003/20030314070003_28.html

ENTERTAINMENT
Howard Stern Sues ABC Over 'Are You Hot?'
http://news.findlaw.com/ap/e/1401/3-14-2003/20030314080003_24.html

Tim Allen, Wife Reach Divorce Settlement
http://news.findlaw.com/ap/e/1401/3-14-2003/20030314111501_14.html

SPORTS
Canada Wants Quick Fix To Secret Judging System
http://news.findlaw.com/sports/s/20030314/figureskatingjudgingdc.html

Penalty Box: Football Recruit Arrested After Fight
http://news.findlaw.com/court_tv/s/20030314/14mar2003121302.html

****

SOFTWARE TECHNOLOGY

Happy with your legal billing system? If your initial response is anything less than "absolutely", you owe it to yourself to check out the latest version of TABS III, the most widely used legal-specific billing system in the U.S.

Download a FREE demo copy today.
http://rd.findlaw.com/scripts/nl.pl?url=10408896001_nl

********** West LegalEdcenter *******

Receive updates about NEW ONLINE CLE PROGRAMS

Register with West LegalEdcenter for monthly email updates about new online CLE programs in your practice areas and jurisdictions. West LegalEdcenter currently has more than 1,400 courses, with more added daily!

http://rd.findlaw.com/scripts/nl.pl?url=gen_cle_010402

********** westgroup.com **********

Get FREE ground shipping in the U.S. on all orders.
http://rd.findlaw.com/scripts/nl.pl?url=gen_ads_040102

****

FEEDBACK

We value your comments! Please take a moment to tell us what you think by sending an e-mail to:
mailto:newsletters@findlaw.com?subject=TopHeadlines. Please include "Top Headlines" in the subject line.

SUBSCRIPTION INFORMATION

To subscribe to a FindLaw Newsletter, visit the FindLaw Newsletter Subscription Center at http://newsletters.findlaw.com

To unsubscribe, go to http://newsletters.findlaw.com/unsubscribe.html
---
ADVERTISING INFORMATION

For more information about advertising in FindLaw Newsletters, please contact us at:

mailto:sales@findlaw.com

FindLaw Top Headlines http://news.findlaw.com
Copyright (c) 2003 FindLaw, Inc.

From: CN=Collister W. Johnson/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/14/2003 10:02:33 AM
Subject: : two KY approvals?
Attachments: P_AXLOE003_WHO.TXT_1.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:14-MAR-2003 15:02:33.00
SUBJECT:: two KY approvals?
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett -
1. thanks for working on the Fletcher TV ad - hope to get that one back from you soon if possible?
2. also, please find below for approval a pushcard piece picturing the same picture of the President -
you are the Man -

c

---------- Forwarded by Collister W. Johnson/WHO/EOP on 03/14/2003 03:01 PM ----------

Daniel Groves <daniel@fletcher2003.com>
03/14/2003 02:59:29 PM
Record Type: Record

To: Collister W. Johnson/WHO/EOP@EOP, cjohnson@georgewbush.com
cc: Daniel Groves <daniel@fletcher2003.com>
Subject: Push Card with POTUS Photo...

Here is a draft for your review and approval. We want to print Monday if possible.

<<Fletcher Push Card 3.pdf>>

Thank you...

- Fletcher Push Card 3.pdf

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_AXLOE003_WHO.TXT_1>

Front of 4" x 8" push card

Ernie Fletcher
Restoring hope.
Kentucky Governor



A child born in Kentucky was once so fortunate, so filled with hope. Kentucky can be that way again.

Ernie Fletcher and his running mate for Lt. Governor, Hunter Bates, will rebuild Frankfort with people of rock solid values. They'll cut needless spending and attract business and good jobs again.

Ernie is a physician who knows how to heal healthcare and lower costs. He will improve education.

Ernie Fletcher will make our lives better. So that a child born in Kentucky can once again learn here, love here and prosper here.



REV_00160195

Ernie Fletcher and Hunter Bates will make our lives better. The jobs will come back, then our kids can come back and make a good living here.

A robust economy with good, new jobs
- Make Kentucky business-friendly again
- Improve roads and infrastructure
- Eliminate wasteful spending
- Balance the budget without raising taxes
- Preserve our family farms

Strong, moral leadership we can be proud of
- Ernie's a doctor, a family man
- Married to his high school sweetheart from Lexington, Glenna
- He was a jet fighter pilot
- A Kentucky State Representative
- A United States Congressman
- Wrote the bill that helped put character education back in our schools
- He's led with distinction, brings honor to Kentucky

Affordable healthcare
- This doctor knows how to cure healthcare
- Make healthcare affordable and available
- Keep doctors in Kentucky
- Help Seniors afford prescription drugs

Restoring the hope that once was Kentucky
- Protect Kentucky's time-honored values
- Return us to honor and greatness
- A leader in Frankfort our kids can look up to

Paid for by The Friends of Ernie Fletcher

Biography

Born in Mt. Sterling, Montgomery County, Kentucky

Husband, **father** of two, **grandfather** of three

Graduated from UK Colleges of Engineering & Medicine

F-4E Air Force fighter pilot during the Cold War

Respected physician in Lexington for 12 years

Elected **Kentucky State Representative** in 1994

Elected to the **U.S. House of Representatives** in 1998, representing Kentucky's 6th District (Central Kentucky)

Fletcher
Kentucky Governor

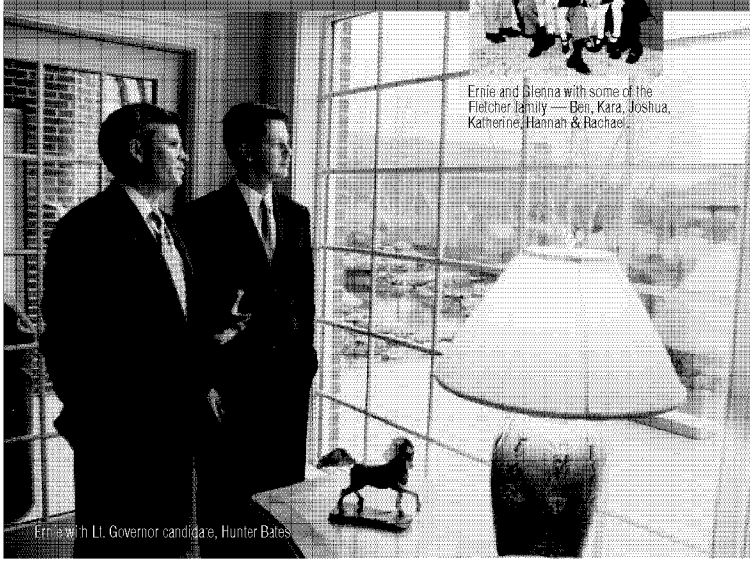
Restoring hope.

Get involved in Ernie's campaign!

Post Office Box 910504
Lexington, KY 40591-0504
859.296-6761
www.fletcher2003.com



Ernie and Glenna with some of the Fletcher family — Ben, Kara, Joshua, Katherine, Hannah & Rachael



Ernie with Lt. Governor candidate, Hunter Bates

Front of 4" x 8" push card, Fletcher only

Ernie Fletcher

Restoring hope.

Kentucky Governor



A child born in Kentucky was once so fortunate, so filled with hope. Kentucky can be that way again.

Ernie Fletcher will rebuild Frankfort with people of rock solid values. They'll cut needless spending and attract business and good jobs again.

Ernie is a physician who knows how to heal healthcare and lower costs. He will improve education.

Ernie Fletcher will make our lives better. So that a child born in Kentucky can once again learn here, love here and prosper here.



REV_00160197

Back of 4" x 8" push card, Fletcher only

Ernie Fletcher will make our lives better. The jobs will come back, then our kids can come back and make a good living here.

A robust economy with good, new jobs
- Make Kentucky business-friendly again
- Improve roads and infrastructure
- Eliminate wasteful spending
- Balance the budget without raising taxes
- Preserve our family farms

Strong, moral leadership we can be proud of
- Ernie's a doctor, a family man
- Married to his high school sweetheart from Lexington, Glenna
- He was a jet fighter pilot
- A Kentucky State Representative
- A United States Congressman
- Wrote the bill that helped put character education back in our schools
- He's led with distinction, brings honor to Kentucky

Affordable healthcare
- This doctor knows how to cure healthcare
- Make healthcare affordable and available
- Keep doctors in Kentucky
- Help Seniors afford prescription drugs

Restoring the hope that once was Kentucky
- Protect Kentucky's time-honored values
- Return us to honor and greatness
- A leader in Frankfort our kids can look up to

Biography

Born in Mt. Sterling, Montgomery County, Kentucky

Husband, **father** of two, **grandfather** of three

Graduated from UK Colleges of Engineering & Medicine

F-4E Air Force fighter pilot during the Cold War

Respected physician in Lexington for 12 years

Elected **Kentucky State Representative** in 1994

Elected to the **U.S. House of Representatives** in 1998, representing Kentucky's 6th District (Central Kentucky)

Fletcher
Kentucky Governor

Restoring hope.



Paid for by The Friends of Ernie Fletcher

Get involved in Ernie's campaign!

Post Office Box 910504
Lexington, KY 40591-0504
859.296-6761
www.fletcher2003.com



Right: Ernie and Glenna Fletcher

Above right: Ernie and Glenna with some of the Fletcher family — Ben, Kara, Joshua, Katherine, Hannah & Rachael

REV_00160198

From: JT.Young@do.treas.gov [UNKNOWN]
To: JT.Young@do.treas.gov [UNKNOWN] <JT.Young@do.treas.gov>;Brian Reardon/OPD /EOP@EOP [OPD] <Brian Reardon>;chris.smith@do.treas.gov [UNKNOWN] <chris.smith@do.treas.gov>;Augustine T. Smythe/OMB/EOP@EOP [OMB] <Augustine T. Smythe>;Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
CC: Eric C. Pelletier/WHO/EOP@EOP [WHO] <Eric C. Pelletier>;Daniel J. Keniry/WHO/EOP@EOP [WHO] <Daniel J. Keniry>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Christine M. Burgeson/WHO/EOP@EOP [WHO] <Christine M. Burgeson>;Ziad S. Ojakli/WHO/EOP@EOP [WHO] <Ziad S. Ojakli>
Sent: 3/14/2003 11:25:01 AM
Subject: : RE: debt ceiling question
Attachments: P_7MQOE003_WHO.TXT_1.htm

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:JT.Young@do.treas.gov ( JT.Young@do.treas.gov [ UNKNOWN ] )
CREATION DATE/TIME:14-MAR-2003 16:25:01.00
SUBJECT:: RE: debt ceiling question
TO:JT.Young@do.treas.gov ( JT.Young@do.treas.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Brian Reardon ( CN=Brian Reardon/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:chris.smith@do.treas.gov ( chris.smith@do.treas.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Augustine T. Smythe ( CN=Augustine T. Smythe/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Eric C. Pelletier ( CN=Eric C. Pelletier/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Daniel J. Keniry ( CN=Daniel J. Keniry/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Christine M. Burgeson ( CN=Christine M. Burgeson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Ziad S. Ojakli ( CN=Ziad S. Ojakli/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Unclear how long it would be - we can only give a range of dates, but it
would certainly be in '04. amount would be that amount contained in the
budget resolution conference report unless amended in the senate.



-----Original Message-----
From: Silverberg, Kristen [mailto:Kristen_Silverberg@who.eop.gov]
Sent: Friday, March 14, 2003 3:35 PM
To: Reardon, Brian; Smythe, Augustine T.; JT.Young@do.treas.gov;
chris.smith@do.treas.gov
Cc: Ojakli, Ziad ; Keniry, Daniel ; Burgeson, Christine M.; Pelletier, Eric
C.; Kavanaugh, Brett M.
Subject: debt ceiling question



I forgot to ask ---



If we raise the debt ceiling using the Gephardt Rule, by how much would it
be raised? How long until we have to raise it again?
```

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_7MQOE003_WHO.TXT_1>

Unclear how long it would be - we can only give a range of dates, but it would certainly be in '04. amount would be that amount contained in the budget resolution conference report unless amended in the senate.

-----Original Message-----
From: Silverberg, Kristen [mailto:Kristen_Silverberg@who.eop.gov]
Sent: Friday, March 14, 2003 3:35 PM
To: Reardon, Brian; Smythe, Augustine T.; JT.Young@do.treas.gov; chris.smith@do.treas.gov
Cc: Ojakli, Ziad ; Keniry, Daniel ; Burgeson, Christine M.; Pelletier, Eric C.; Kavanaugh, Brett M.
Subject: debt ceiling question

I forgot to ask ---

If we raise the debt ceiling using the Gephardt Rule, by how much would it be raised? How long until we have to raise it again?

From: CN=Christine M. Burgeson/OU=WHO/O=EOP@Exchange [WHO]
To: JT.Young@do.treas.gov@SMTP@Exchange [UNKNOWN] <JT.Young@do.treas.gov@SMTP@Exchange>;Brian Reardon/OPD/EOP@EOP [OPD] <Brian Reardon>;chris.smith@do.treas.gov@SMTP@Exchange [UNKNOWN] <chris.smith@do.treas.gov@SMTP@Exchange>;Augustine T. Smythe/OMB/EOP@EOP [OMB] <Augustine T. Smythe>;Kristen Silverberg/WHO/EOP@Exchange [WHO] <Kristen Silverberg>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Daniel Keniry/WHO /EOP@Exchange [UNKNOWN] <Daniel Keniry>;Eric C. Pelletier/WHO/EOP@Exchange [WHO] <Eric C. Pelletier>;Ziad Ojakli/WHO/EOP@Exchange [UNKNOWN] <Ziad Ojakli>
Sent: 3/14/2003 11:26:26 AM
Subject: : RE: debt ceiling question

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Christine M. Burgeson ( CN=Christine M. Burgeson/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:14-MAR-2003 16:26:26.00
SUBJECT:: RE: debt ceiling question
TO:JT.Young@do.treas.gov@SMTP@Exchange ( JT.Young@do.treas.gov@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
TO:Brian Reardon ( CN=Brian Reardon/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:chris.smith@do.treas.gov@SMTP@Exchange ( chris.smith@do.treas.gov@SMTP@Exchange [
UNKNOWN ] )
READ:UNKNOWN
TO:Augustine T. Smythe ( CN=Augustine T. Smythe/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Daniel Keniry ( CN=Daniel Keniry/OU=WHO/O=EOP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
CC:Eric C. Pelletier ( CN=Eric C. Pelletier/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
CC:Ziad Ojakli ( CN=Ziad Ojakli/OU=WHO/O=EOP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

by the amount designated in the House Budget resolution ($800-ish, I
think) ... it would be automatically discharged as a separate vehicle and
sent over to the Senate.; The Senate would have to take up that HR bill
and pass it as well.; If changed, they'd conf. etc.
correct?
;
;

-----Original Message-----
From: Silverberg, Kristen
Sent: Friday, March 14, 2003 3:35 PM
To: Reardon, Brian; Smythe, Augustine T.; JT.Young@do.treas.gov;
chris.smith@do.treas.gov
Cc: Ojakli, Ziad ; Keniry, Daniel ; Burgeson, Christine M.; Pelletier,
Eric C.; Kavanaugh, Brett M.
Subject: debt ceiling question


I forgot to ask ---
;
If we raise the debt ceiling;using the Gephardt Rule, by how much would it
```

be raised?; How long until we have to raise it again?

From: JT.Young@do.treas.gov [UNKNOWN]
To: JT.Young@do.treas.gov [UNKNOWN] <JT.Young@do.treas.gov>;Brian Reardon/OPD /EOP@EOP [OPD] <Brian Reardon>;chris.smith@do.treas.gov [UNKNOWN] <chris.smith@do.treas.gov>;Augustine T. Smythe/OMB/EOP@EOP [OMB] <Augustine T. Smythe>;Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>
CC: Eric C. Pelletier/WHO/EOP@EOP [WHO] <Eric C. Pelletier>;Daniel J. Keniry/WHO/EOP@EOP [WHO] <Daniel J. Keniry>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Christine M. Burgeson/WHO/EOP@EOP [WHO] <Christine M. Burgeson>;Ziad S. Ojakli/WHO/EOP@EOP [WHO] <Ziad S. Ojakli>
Sent: 3/14/2003 11:29:15 AM
Subject: : RE: debt ceiling question
Attachments: P_8TQOE003_OPD.TXT_1.htm

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:JT.Young@do.treas.gov ( JT.Young@do.treas.gov [ UNKNOWN ] )
CREATION DATE/TIME:14-MAR-2003 16:29:15.00
SUBJECT:: RE: debt ceiling question
TO:JT.Young@do.treas.gov ( JT.Young@do.treas.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Brian Reardon ( CN=Brian Reardon/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:chris.smith@do.treas.gov ( chris.smith@do.treas.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Augustine T. Smythe ( CN=Augustine T. Smythe/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Eric C. Pelletier ( CN=Eric C. Pelletier/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Daniel J. Keniry ( CN=Daniel J. Keniry/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Christine M. Burgeson ( CN=Christine M. Burgeson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Ziad S. Ojakli ( CN=Ziad S. Ojakli/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Unclear how long it would be - we can only give a range of dates, but it
would certainly be in '04. amount would be that amount contained in the
budget resolution conference report unless amended in the senate.



-----Original Message-----
From: Silverberg, Kristen [mailto:Kristen_Silverberg@who.eop.gov]
Sent: Friday, March 14, 2003 3:35 PM
To: Reardon, Brian; Smythe, Augustine T.; JT.Young@do.treas.gov;
chris.smith@do.treas.gov
Cc: Ojakli, Ziad ; Keniry, Daniel ; Burgeson, Christine M.; Pelletier, Eric
C.; Kavanaugh, Brett M.
Subject: debt ceiling question



I forgot to ask ---



If we raise the debt ceiling using the Gephardt Rule, by how much would it
be raised? How long until we have to raise it again?
```

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_8TQOE003_OPD.TXT_1>

Unclear how long it would be - we can only give a range of dates, but it would certainly be in '04. amount would be that amount contained in the budget resolution conference report unless amended in the senate.

-----Original Message-----
From: Silverberg, Kristen [mailto:Kristen_Silverberg@who.eop.gov]
Sent: Friday, March 14, 2003 3:35 PM
To: Reardon, Brian; Smythe, Augustine T.; JT.Young@do.treas.gov; chris.smith@do.treas.gov
Cc: Ojakli, Ziad ; Keniry, Daniel ; Burgeson, Christine M.; Pelletier, Eric C.; Kavanaugh, Brett M.
Subject: debt ceiling question

I forgot to ask ---

If we raise the debt ceiling using the Gephardt Rule, by how much would it be raised? How long until we have to raise it again?

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/14/2003 11:31:36 AM
Subject: : FW: LRM PTM18 - - VETERANS AFFAIRS Testimony on VA Pharmaceutical Services
Attachments: P_OYQOE003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:14-MAR-2003 16:31:36.00
SUBJECT:: FW: LRM PTM18 - - VETERANS AFFAIRS Testimony on VA Pharmaceutical Services
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

-----Original Message-----
From: Hassing, Erin P.
Sent: Friday, March 14, 2003 4:21 PM
To: dodlrs@osdgc.osd.mil; lrm@hhs.gov; justice.lrm@usdoj.gov; llr@do.treas.gov
Cc: Cleveland, Robin; Carson, Karyn T.; Peroff, Kathleen; Siclari, Mary Jo; Hustead, Toni S.; Ermann, Danny A.; Chang, Winifred Y.; Seastrom, Mark R.; Benson, Shalini M.; Grayton, Arecia A.; Waites, Wendell H.; Goldstein, Jeffrey D.; Clendenin, Barry T.; Reilly, Thomas; Forshey, Jennifer M.; Fontenot, Keith J.; Bassano, Amy; Vinkenes, Mark; Bloomquist, Lauren E.; Schwartz, Mark J.; Crilley, Joseph; Lee, Sarah S.; Ingle, Edward; Lawlor, Laura S.; Ohs Lrm; Kron, Jennifer S.; Suarez, Aquiles F.; Badger, William D.; Gilbert, Alan; Hall, Philo D.; Halaska, Terrell L.; Ovp Lrm; Nec Lrm; Whgc Lrm; Wood, John F.; Perry, Philip J.; Schneider, Matthew J.; O'Hollaren, Sean B.; Cox, Christopher C.; Dove, Stephen W.; Lobrano, Lauren C.; Jukes, James J.; Schroeder, Ingrid M.; Messenger, P. Thaddeus; Pellicci, Robert J.; Silverberg, Kristen
Subject: LRM PTM18 - - VETERANS AFFAIRS Testimony on VA Pharmaceutical Services

LRM ID: PTM18
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Wednesday, March 12, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: P. Thaddeus Messenger
PHONE: (202)395-7754 FAX: (202)395-6148
SUBJECT: VETERANS AFFAIRS Testimony on VA Pharmaceutical Services

DEADLINE: 2:00 p.m. Monday, March 17, 2003
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Attached, please find a draft copy of VA (Principi) testimony for a March 19th hearing before the House Committee on Veterans Affairs,

Subcommittee on Health regarding the availability and eligibility for pharmaceutical services provided by the Department of Veterans Affairs. The testimony discusses five bills: H.R. 709 - Veterans Prescription Access Improvement Act; H.R. 372 - To authorize VA to fill Rx written by private physicians; H.R. 240 - Veterans Prescription Drug Equity Act; H.R. XX - Veterans Prescription Drug Benefit Act of 2003; and H.R. 5286.

- h3-19-03(drugs)#7.doc

Please provide your comments by 2:00 p.m., MONDAY, 17 March 2003. If we do not receive your comments by that time, we will assume you have no objection to the document as drafted.

If you experience difficulty with this LRM, or its attachment, please contact us immediately. To ensure receipt by Agency addressees, the electronic copy of this LRM will be followed by a duplicate copy via facsimile.

Thank you.

DISTRIBUTION LIST

AGENCIES:
029-DEFENSE - Vic Bernson - (703) 697-1305
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773
061-JUSTICE - Jamie E. Brown - (202) 514-2141
118-TREASURY - Thomas M. McGivern - (202) 622-2317

EOP:
NSP LRM
VAB LRM Wendell H. Waites
Jeffrey D. Goldstein
Barry T. Clendenin
Thomas Reilly
Jennifer M. Forshey
Keith J. Fontenot
Amy Bassano
Mark Vinkenes
Lauren E. Bloomquist
Mark J. Schwartz
Joseph Crilley
Sarah S. Lee
Edward Ingle
Laura S. Lawlor
OHS LRM
Jennifer S. Kron
Aquiles F. Suarez
William D. Badger
Alan Gilbert
Philo D. Hall
Terrell L. Halaska
OVP LRM
NEC LRM
WHGC LRM
OMBGC LRM
Sean B. O'Hollaren
Christopher C. Cox
Stephen W. Dove
Lauren C. Lobrano
James J. Jukes
Ingrid M. Schroeder
P. Thaddeus Messenger

Robert J. Pellicci
Kristen Silverberg

LRM ID: PTM18 SUBJECT: VETERANS AFFAIRS Testimony on VA Pharmaceutical Services
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) faxing us a memo or letter.
Please include the LRM number and subject shown above.

TO: P. Thaddeus Messenger Phone: 395-7754 Fax: 395-6148
Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_OYQOE003_WHO.TXT_1>

Statement of
The Honorable Anthony J. Principi
Secretary of Veterans Affairs
Before The
Subcommittee on Health
of the
Committee on Veterans' Affairs
U.S. House of Representatives

March 19, 2003

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here this morning to discuss whether VA should provide veterans with pharmaceuticals prescribed by physicians or other health-care professionals who have no affiliation with VA. The subcommittee is considering five different bills concerned with this issue. I would like to generally provide the Department's views on the subject and the specific bills under consideration, and answer any questions you may have.

Mr. Chairman, VA has in recent years faced an extraordinary demand for services. Many veterans enrolling in the VA system are seeking only pharmacy benefits. This has put unprecedented demand on VA for prescription drugs since open enrollment became effective in 1998. The growth in VA enrollment is due, at least in part, to the lack of a meaningful drug benefit for many seniors. I expect this demand to continue unless action is taken to address this federal health care issue. As more and more veterans have enrolled in the VA system seeking affordable prescription drugs, VA has been unable to provide all enrolled veterans with services in a timely manner, and we have been forced to place

many veterans on waiting lists for primary care. This difficult situation has generated great interest in having VA begin to fill prescriptions from outside providers.

Let me begin by saying that I plan to work closely with this committee as well as the Senate to find a solution to the vexing problem of waiting lists. A limited program under which we would fill prescriptions written for veterans by non-VA physicians may be part of that solution. We are particularly interested in exploring an effort that might allow us to fill prescriptions of enrollees who are unable to obtain timely services from VA until such time that we are able to eliminate waiting lists and fully serve all veterans who seek care. In addition to meeting an urgent need, such a program would provide us with valuable data upon which to make policy decisions in this area.

We have also had an opportunity to review the five bills currently being considered by the subcommittee. I want to explain why we are unable to support those specific bills, particularly those that would provide the Department with broad-based authority to routinely fill prescriptions written by non-VA physicians. I will first briefly describe each bill.

Discussion Draft

Mr. Evans, the Ranking Minority Member on the full committee, has prepared a detailed draft bill to authorize VA to furnish drugs and medicines ordered by non-VA physicians and other care providers to veterans with service-connected

disabilities rated at least 50 percent (enrollment priority category 1 veterans) and to other veterans eligible for Medicare benefits. Medicare-eligible veterans would have to choose the new drug benefit in lieu of all regular VA health-care benefits available to enrollees today, and do so during an annual open season. Veterans in enrollment priority category 1 would receive the benefit in addition to the benefits of regular enrollment. VA would have broad authority to establish copayments and annual premiums, and all amounts collected from the Medicare eligible veterans would be deposited in the Medicare Trust Fund. In turn, HHS would have to transfer from the Medicare Trust Fund, to VA, sufficient funds to cover VA costs. Finally, the bill would permit VA, during the first five years, to limit participation in the program for administrative or fiscal reasons. However, by the end of five years, VA must provide the benefit to all those who seek benefits during the first year.

H. R. 709

H. R. 709 would direct the Secretary to furnish any veteran with drugs and medicines prescribed by any licensed physician if needed for the treatment of an illness or injury of the veteran. The provision of such pharmaceuticals would be subject to the same copayment requirements applicable to drugs and medicines furnished to veterans when prescribed by a VA physician. (The copayment is currently $7 for each 30-day supply of medication.) The bill would require the Secretary to furnish the pharmaceuticals without regard to whether the veteran was enrolled in the VA health care system.

REV_00160217

H. R. 5286

This measure is very similar to H.R. 709, except that it would direct the Secretary to fill prescriptions written by non-VA physicians only for enrolled veterans and only for medications on VA's formulary. It too would utilize the same copayment requirements that currently exist.

H. R. 372

H. R. 372 would do virtually the same thing as H. R. 709, the first bill I described, but on a very limited pilot basis. Thus, it would direct the Secretary to furnish veterans with drugs and medicines prescribed by any licensed physician if needed for the treatment of an illness or injury of the veteran, subject to the same copayment requirements applicable to drugs and medicines furnished to veterans when prescribed by a VA physician. However, VA would have to exercise the authority on a pilot basis in VISN I in New England. The pilot would last for two years, and the stated purpose for it would be to assess the advantages and disadvantages of having VA furnish these drugs and medications. The bill would require that VA report to Congress regarding the pilot.

H. R. 240

H. R. 240 would direct the Secretary to furnish any veteran with drugs and medicines prescribed by any licensed physician, or other health-care professional not affiliated with VA, subject to two conditions. First, as with the

first two bills, the provision of pharmaceuticals would be subject to the same copayment requirements applicable to drugs and medicines furnished to veterans when prescribed by a VA physician or health-care professional. Second, the veteran would have to initially make an appointment with a licensed VA physician or other VA health-care professional for the sole purpose of obtaining the prescription and having it filled by VA. VA would have a 30-day period to provide such an appointment and to fill the desired prescription. VA would be required to fill the prescription written by the non-VA health-care professional only if it was unable to furnish the drugs or medicines, through a VA prescription, within 30 days. As we interpret the bill, only veterans enrolled in the VA health care system could have prescriptions filled under this authority.

Mr. Chairman, I said earlier that the Department does not support broad-based legislation like the first three bills I described. As you know, the Department now provides enrolled veterans with a complete spectrum of health-care services on both an inpatient and outpatient basis. With very limited exceptions, we furnish drugs and medications to those veterans only in the course of providing them with medical care. Our prescription benefit is only one component of the continuum of care that we furnish veterans. It is not an "add-on" or "carved-out" benefit.

To provide veterans with a so-called "add-on" pharmacy benefit would constitute an expanded service that, without additional new funding, would tend to erode

REV_00160219

the comprehensive medical care benefits that veteran users of the VA health care system now enjoy. VA estimates that on average, it cost VA $664 per veteran in FY2002 for outpatient prescriptions and we expect that amount to increase this fiscal year. Those costs assume that VA would fill prescriptions in accordance with VA's national formulary. Without that limitation, the cost of filling prescriptions would be significantly higher.

As you also know, we currently fill many prescriptions from veterans through our Consolidated Mail Outpatient Pharmacies (CMOPs). At the present time, our CMOPS are operating at near capacity. A recent study suggested VA would need to expand CMOPs significantly by 2005 just to keep up with workload being generated by prescriptions written by VA providers. VA would need new capital infrastructure, and lead-time, to assume any significantly increased workload from prescriptions written by private physicians. It is also unreasonable to expect that VA could quickly and easily expand capacity in local medical center pharmacies. VA pharmacies are often constrained by space, but more importantly, recruiting and hiring pharmacy personnel is very difficult. The marketplace for pharmacists is currently extremely competitive. In short, we would want to make certain that adding new workload from privately written prescriptions would not simply result in degradation of services currently available to veterans.

REV_00160220

Mr. Chairman, with respect to the bills you are considering today, H.R. 709 is the most far-reaching, and would be prohibitively costly. Under that measure, every Medicare-eligible veteran in America would be eligible for pharmacy benefits from VA. For all the reasons discussed above, we must oppose enactment of that bill. Similarly, H.R. 5286 is very broad-based and would also be very costly. H.R. 372 would also provide a virtually unlimited benefit, but in only one geographic area. We think it is very difficult to justify providing benefits to veterans in only one location, even on a pilot basis. That is particularly the case with this bill because the veteran seeking benefits would not be required to forego other VA healthcare benefits if he or she chooses to take advantage of the new benefit. Thus, we also oppose that measure.

The draft bill prepared by Mr. Evans would, in short, provide a comprehensive pharmaceutical benefit to all Medicare-eligible veterans in America. As such, it is potentially very expensive. Moreover, this administration currently has a proposal before the Congress to provide a pharmaceutical benefit to Medicare beneficiaries and believes that is the appropriate way to provide for that population.

H.R. 240 is a somewhat more limited measure in that veterans could obtain benefits only if they are unable to obtain them from VA within 30 days. In our view, H.R. 240 appears to be aimed at addressing the problem VA has with being unable to provide all enrolled veterans with timely access to a primary care visit during which they could receive appropriate medications. However, we believe the bill would need some revision to actually solve that problem.

Now that we have our appropriation for the current fiscal year, we expect to quickly make significant headway toward reducing the time it takes for enrollees to obtain an appointment with a VA primary care provider. When enrolled veterans are able to receive timely primary care, there is no need for them to seek care, including prescriptions, in the private sector. However, we all know that there will always be situations when care cannot be provided as quickly as we would like. Let me give you just one example. We may have a small community based outpatient clinic staffed by a physician and a nurse practitioner. If one of those providers leaves, it sometimes takes a considerable length of time to recruit and hire a replacement. During that period, it may be very difficult to provide primary care in as timely a manner as we would like and expect. That is the type of situation in which I would like to have the authority to fill prescriptions written by non-VA providers. I want to be able to provide enrolled veterans with assurances that they will always be able to receive medications when they need them and to reduce the financial burden of out-of-pocket drug expenses that they will incur while waiting for VA medical care. I look forward to working with you to take care of that kind of problem.

While we will continue to work with the Congress on this issue, I have also directed VA staff to explore and provide me recommendations for administrative approaches to initiate a limited program for filling prescriptions written by non-VA providers for enrolled veterans who are on waiting lists for VA care. Any approach we take to address this critical issue, whether through legislation or administrative action, must be a measured approach. I believe a solution must be carefully designed to ensure that no veteran enrolled in the VA system is required to wait an unreasonable length of time for health care. We must also take care to ensure that the actions we take have no unintended consequences

REV_00160222

that could adversely affect VA's ability to provide timely, quality health care to enrolled veterans.

This concludes my prepared statement. I would be happy to respond to your questions.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Collister W. Johnson/WHO/EOP@EOP [WHO] <Collister W. Johnson>
Sent: 3/14/2003 1:54:39 PM
Subject: : Re: two KY approvals?
Attachments: P_KHXOE003_WHO.TXT_1.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:14-MAR-2003 18:54:39.00
SUBJECT:: Re: two KY approvals?
TO:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Fletcher is approved. Assume they paid for picture in that one. I could not open this attachment.

Collister W. Johnson
03/14/2003 03:02:31 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: two KY approvals?

Brett -
1. thanks for working on the Fletcher TV ad - hope to get that one back from you soon if possible?
2. also, please find below for approval a pushcard piece picturing the same picture of the President -
you are the Man -

c

---------- Forwarded by Collister W. Johnson/WHO/EOP on 03/14/2003 03:01 PM ----------

Daniel Groves <daniel@fletcher2003.com>
03/14/2003 02:59:29 PM
Record Type: Record

To: Collister W. Johnson/WHO/EOP@EOP, cjohnson@georgewbush.com
cc: Daniel Groves <daniel@fletcher2003.com>
Subject: Push Card with POTUS Photo...

Here is a draft for your review and approval. We want to print Monday if possible.

<<Fletcher Push Card 3.pdf>>

Thank you...

- Fletcher Push Card 3.pdf

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_KHXOE003_WHO.TXT_1>

Front of 4" x 8" push card

Ernie Fletcher

Restoring hope.

Kentucky Governor



A child born in Kentucky was once so fortunate, so filled with hope. Kentucky can be that way again.

Ernie Fletcher and his running mate for Lt. Governor, Hunter Bates, will rebuild Frankfort with people of rock solid values. They'll cut needless spending and attract business and good jobs again.

Ernie is a physician who knows how to heal healthcare and lower costs. He will improve education.

Ernie Fletcher will make our lives better. So that a child born in Kentucky can once again learn here, love here and prosper here.



REV_00160244

Ernie Fletcher and Hunter Bates will make our lives better. The jobs will come back, then our kids can come back and make a good living here.

A robust economy with good, new jobs
- Make Kentucky business-friendly again
- Improve roads and infrastructure
- Eliminate wasteful spending
- Balance the budget without raising taxes
- Preserve our family farms

Strong, moral leadership we can be proud of
- Ernie's a doctor, a family man
- Married to his high school sweetheart from Lexington, Glenna
- He was a jet fighter pilot
- A Kentucky State Representative
- A United States Congressman
- Wrote the bill that helped put character education back in our schools
- He's led with distinction, brings honor to Kentucky

Affordable healthcare
- This doctor knows how to cure healthcare
- Make healthcare affordable and available
- Keep doctors in Kentucky
- Help Seniors afford prescription drugs

Restoring the hope that once was Kentucky
- Protect Kentucky's time-honored values
- Return us to honor and greatness
- A leader in Frankfort our kids can look up to

Paid for by The Friends of Ernie Fletcher

Biography

Born in Mt. Sterling, Montgomery County, Kentucky

Husband, **father** of two, **grandfather** of three

Graduated from UK Colleges of Engineering & Medicine

F-4E Air Force fighter pilot during the Cold War

Respected physician in Lexington for 12 years

Elected **Kentucky State Representative** in 1994

Elected to the **U.S. House of Representatives** in 1998, representing Kentucky's 6th District (Central Kentucky)

Fletcher
Kentucky Governor

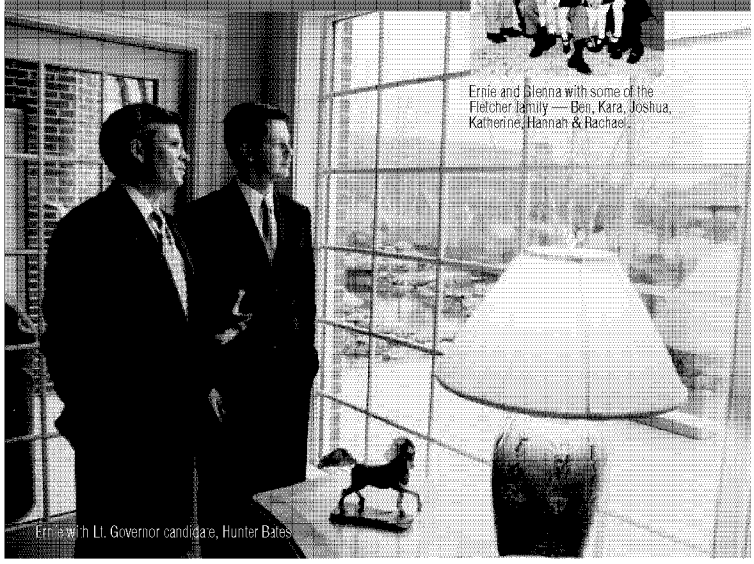
Restoring hope.

Get involved in Ernie's campaign!

Post Office Box 910504
Lexington, KY 40591-0504
859.296-6761
www.fletcher2003.com



Ernie and Glenna with some of the Fletcher family — Ben, Kara, Joshua, Katherine, Hannah & Rachael



Ernie with Lt. Governor candidate, Hunter Bates

Front of 4" x 8" push card, Fletcher only

Ernie Fletcher

Restoring hope.

Kentucky Governor



A child born in Kentucky was once so fortunate, so filled with hope. Kentucky can be that way again.

Ernie Fletcher will rebuild Frankfort with people of rock solid values. They'll cut needless spending and attract business and good jobs again.

Ernie is a physician who knows how to heal healthcare and lower costs. He will improve education.

Ernie Fletcher will make our lives better. So that a child born in Kentucky can once again learn here, love here and prosper here.



REV_00160246

Ernie Fletcher will make our lives better. The jobs will come back, then our kids can come back and make a good living here.

A robust economy with good, new jobs
- Make Kentucky business-friendly again
- Improve roads and infrastructure
- Eliminate wasteful spending
- Balance the budget without raising taxes
- Preserve our family farms

Strong, moral leadership we can be proud of
- Ernie's a doctor, a family man
- Married to his high school sweetheart from Lexington, Glenna
- He was a jet fighter pilot
- A Kentucky State Representative
- A United States Congressman
- Wrote the bill that helped put character education back in our schools
- He's led with distinction, brings honor to Kentucky

Affordable healthcare
- This doctor knows how to cure healthcare
- Make healthcare affordable and available
- Keep doctors in Kentucky
- Help Seniors afford prescription drugs

Restoring the hope that once was Kentucky
- Protect Kentucky's time-honored values
- Return us to honor and greatness
- A leader in Frankfort our kids can look up to

Biography

Born in Mt. Sterling, Montgomery County, Kentucky

Husband, **father** of two, **grandfather** of three

Graduated from UK Colleges of Engineering & Medicine

F-4E Air Force fighter pilot during the Cold War

Respected physician in Lexington for 12 years

Elected **Kentucky State Representative** in 1994

Elected to the **U.S. House of Representatives** in 1998, representing Kentucky's 6th District (Central Kentucky)

Fletcher
Kentucky Governor

Restoring hope.



Paid for by The Friends of Ernie Fletcher

Get involved in Ernie's campaign!

Post Office Box 910504
Lexington, KY 40591-0504
859.296-6761
www.fletcher2003.com



Right: Ernie and Glenna Fletcher

Above right: Ernie and Glenna with some of the Fletcher family — Ben, Kara, Joshua, Katherine, Hannah & Rachael

From: Schilling, Andrew <Andrew.Schilling@usdoj.gov>
To: Philip J. Perry/OMB/EOP@EOP [OMB] <Philip J. Perry>;'Deborah@thefeinberggroup.com' <Deborah@thefeinberggroup.com>;John F. Wood/OMB/EOP@EOP [OMB] <John F. Wood>;Boudreaux, Chad <Chad.Boudreaux@usdoj.gov>;Letter, Douglas <Douglas.Letter@usdoj.gov>;Hunt, Jody <Jody.Hunt@usdoj.gov>;McCallum, Robert <Robert.McCallum@usdoj.gov>;Coffin, Shannen <Shannen.Coffin@usdoj.gov>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;'kfeinberg@thefeinberggroup.com' <kfeinberg@thefeinberggroup.com>;Bloemendal, Katherine <Katherine.Bloemendal@usdoj.gov>;Swingle, Sharon <Sharon.Swingle@usdoj.gov>;Garvey, Vincent <Vincent.Garvey@usdoj.gov>;Harris, Paul (SMO) <Paul.Harris@usdoj.gov>;Keisler, Peter D <Peter.D.Keisler@usdoj.gov>;Blackwell, Craig <Craig.Blackwell@usdoj.gov>
Sent: 3/14/2003 3:31:40 PM
Subject: : VCF Fund Final Version
Attachments: P_7SYOE003_WHO.TXT_1.wpd

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Schilling, Andrew" <Andrew.Schilling@usdoj.gov> ( "Schilling, Andrew"
<Andrew.Schilling@usdoj.gov> [ UNKNOWN ] )
CREATION DATE/TIME:14-MAR-2003 20:31:40.00
SUBJECT:: VCF Fund Final Version
TO:Philip J. Perry ( CN=Philip J. Perry/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:"'Deborah@thefeinberggroup.com'" <Deborah@thefeinberggroup.com> (
"'Deborah@thefeinberggroup.com'" <Deborah@thefeinberggroup.com> [ UNKNOWN ] )
READ:UNKNOWN
TO:John F. Wood ( CN=John F. Wood/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:"Boudreaux, Chad" <Chad.Boudreaux@usdoj.gov> ( "Boudreaux, Chad"
<Chad.Boudreaux@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Letter, Douglas" <Douglas.Letter@usdoj.gov> ( "Letter, Douglas"
<Douglas.Letter@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Hunt, Jody" <Jody.Hunt@usdoj.gov> ( "Hunt, Jody" <Jody.Hunt@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"McCallum, Robert" <Robert.McCallum@usdoj.gov> ( "McCallum, Robert"
<Robert.McCallum@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Coffin, Shannen" <Shannen.Coffin@usdoj.gov> ( "Coffin, Shannen"
<Shannen.Coffin@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:"'kfeinberg@thefeinberggroup.com'" <kfeinberg@thefeinberggroup.com> (
"'kfeinberg@thefeinberggroup.com'" <kfeinberg@thefeinberggroup.com> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Bloemendal, Katherine" <Katherine.Bloemendal@usdoj.gov> ( "Bloemendal, Katherine"
<Katherine.Bloemendal@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Swingle, Sharon" <Sharon.Swingle@usdoj.gov> ( "Swingle, Sharon"
<Sharon.Swingle@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Garvey, Vincent" <Vincent.Garvey@usdoj.gov> ( "Garvey, Vincent"
<Vincent.Garvey@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Harris, Paul (SMO)" <Paul.Harris@usdoj.gov> ( "Harris, Paul (SMO)"
<Paul.Harris@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Keisler, Peter D" <Peter.D.Keisler@usdoj.gov> ( "Keisler, Peter D"
<Peter.D.Keisler@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Blackwell, Craig" <Craig.Blackwell@usdoj.gov> ( "Blackwell, Craig"
<Craig.Blackwell@usdoj.gov> [ UNKNOWN ] )
```

READ:UNKNOWN
End Original ARMS Header

Attached is the final version of the brief, which was served and filed tonight. This version does not have the Table of Contents and Table of Authorities, since I don't have those on my system. If you would like the TOC/TOA as well, just let me know and I'll ask my secretary send you one on Monday.

If anyone would like a copy of the signed, bound version of the brief, just send me the address and I will have one sent out to you promptly.

We have already received a fax copy of the 2 briefs submitted by plaintiffs (the Colaio plaintiffs submitted one brief (63 pages), and the Smith and Schneider plaintiffs submitted a separate, joint brief (32 pages). I have sent a copy of each brief to Craig, who will circulate in DC.

Have a good weekend.

Andrew

- VCFundOpeningBrDr7FINAL2march 13.wpd
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_7SYOE003_WHO.TXT_1>

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUNE COLAIO, et al.,	:	
Plaintiffs,	:	03 Civ. 0558 (AKH) And Related Cases:
- against-	:	03 Civ. 1040 (AKH) 03 Civ. 1129 (AKH)
KENNETH R. FEINBERG, et al.,	:	
Defendants.	:	

DEFENDANTS' MEMORANDUM OF LAW
IN SUPPORT OF THEIR MOTION TO DISMISS

PETER D. KEISLER
Acting Associate Attorney General

ROBERT D. McCALLUM, Jr.
Assistant Attorney General

SHANNEN W. COFFIN
Deputy Assistant Attorney General

JOSEPH H. HUNT
Director, Federal Programs Branch

CRAIG M. BLACKWELL
Senior Trial Counsel

CHAD N. BOUDREAUX
Counsel to the Assistant Attorney General
United States Department of Justice

JAMES B. COMEY
United States Attorney for the
Southern District of New York
33 Whitehall Street, 8th Floor
New York, New York 10004
Tel.: (212) 637-2721

ANDREW W. SCHILLING
Assistant United States Attorney

REV_00160250

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUNE COLAIO, et al.,	:	
Plaintiffs,	:	03 Civ. 0558 (AKH) And Related Cases:
- against-	:	03 Civ. 1040 (AKH) 03 Civ. 1129 (AKH)
KENNETH R. FEINBERG, et al.,	:	
Defendants.	:	

DEFENDANTS' MEMORANDUM OF LAW
IN SUPPORT OF THEIR MOTION TO DISMISS

Defendants Kenneth R. Feinberg, Special Master of the September 11th Victim Compensation Fund, John Ashcroft, Attorney General of the United States, and the United States Department of Justice ("Department") (collectively, "Defendants") respectfully submit this memorandum of law in support of their motion to dismiss.

PRELIMINARY STATEMENT

In the immediate aftermath of the September 11th terrorist attacks, Congress created the September 11th Victim Compensation Fund of 2001 ("the Fund"), enacted as Title IV of the Air Transportation Safety and System Stabilization Act ("Act"). See note following 49 U.S.C. § 40101. Recognizing that victims and their families had suffered horrific and grievous harm, and realizing that ordinary tort litigation would subject victims and their families to a wrenching and protracted adversarial process that ultimately could leave most with little or no recovery, the Act created a taxpayer-funded no-fault claims fund to provide immediate, fair, consistent, and predictable compensation to eligible claimants through non-adversarial proceedings. The Fund is voluntary. Victims and their families seeking a different remedy – with greater risk, expense,

REV_00160251

and delay – may file a tort suit for damages sustained as a result of the attacks. To date, more than 1000 claimants have filed claims with the program, far exceeding the 60 or so victims who have elected the alternative of filing wrongful death tort suits for damages. The average award after the statutorily-

required collateral source deductions is approximately $1.5 million. Awards thus far have been as high as $6.7 million dollars for physically injured victims and $5.7 million dollars for deceased victims.

Plaintiffs – most of whom are beneficiaries or representatives of specific decedents who earned extraordinarily high incomes (beyond the 98th percentile of individual income in the United States) – bring this broad-ranging Administrative Procedure Act (APA) challenge to the regulations and methodology for determining awards administered by the Special Master to the Fund, Kenneth R. Feinberg. While plaintiffs have not submitted claims to the Fund, and thus do not (and cannot) know the amount of compensation they ultimately would receive under it, they nevertheless argue that, if they elected to submit claims, as a result of the regulations and methodology, they would be undercompensated when compared to a tort claim adjudicated in court. Certain plaintiffs go so far as to claim an entitlement to Fund awards as high as $28 to $40 million dollars. See Schneider Compl. ¶ 54.

Reduced to its essence, plaintiffs' argument that the Fund undercompensates high-end earners rests on two faulty assumptions: (i) that the "amount of compensation" awarded under the Fund must be based solely on the sum of a claimant's "economic and noneconomic losses," minus any collateral offsets; and (ii) that their "economic loss" under the Fund is required to be no more or less than the amount that would theoretically have been calculated if, instead of entering the Fund, they had filed wrongful death suits; New York law had been held to apply to those suits; they had prevailed; and they received the maximum possible damages permissible under New York law.

REV_00160252

Wholly apart from ignoring the obvious point that there is no predictable way to determine what a jury award would be if plaintiffs were to sue in court, plaintiffs' claims are legally erroneous. They result from a fundamental misunderstanding of the plain language of the Act and its implementing regulations. Equally important, if accepted by this Court, plaintiffs' arguments – which, at bottom, challenge the Special Master's substantial statutory discretion in determining the amount of an award – would have a potentially devastating impact on hundreds of claimants or potential claimants who, in the absence of that discretion, would receive little, no, or substantially lower awards from the Fund. Indeed, plaintiffs' argument that claims previously awarded would have to be re-opened might well require the Special Master to reduce many awards that have already been issued. See Colaio Compl. at 32, ¶ 4 (seeking an injunction requiring that "any previously granted compensation awards . . . be deemed interim and subject to revision").

First, plaintiffs' suggestion that the Act requires awards based solely upon mechanistic calculations of the decedents' economic and non-economic losses, like many of plaintiffs' other challenges, stems from their wholesale disregard of one of the principal provisions of the Act, which governs the Special Master's award determinations. Contrary to plaintiffs' suggestions, the Act expressly requires the Special Master to determine compensation not only in light of the economic and noneconomic harm to the claimant, but also in light of claimants' "individual circumstances." See Act § 405(b)(1)(B)(ii). Consequently, Congress expressly rejected the notion that the determination of the award should be confined to a mechanical addition of economic and noneconomic losses, and plaintiffs can argue otherwise only by attempting to read out of the statute the additional factors Congress required the Special Master to consider. Moreover, the implementing regulations, which permit the Special Master to consider "the financial needs or financial resources" of the claimant or the victim's dependents and beneficiaries in determining "individual circumstances" under the Act, see 28 C.F.R. § 104.41,

REV_00160253

are eminently reasonable and entitled to deference by this Court. Taken together, these provisions reject the mechanistic formula for determination of awards suggested by plaintiffs and permit considerable discretion to the Special Master in calculating awards.

Exercising that discretion, the Special Master has sought to guarantee that all victims and their families receive at least a minimum level of resources to help meet their needs and rebuild their lives. Thus, the Special Master has determined that families of deceased victims will rarely receive less than $250,000 after statutorily-prescribed collateral offsets. That is the case even when the amount of their collateral offsets approximates or even exceeds their combined economic and non-

economic loss, and – if their award were determined through the strict mathematical calculation advocated by the plaintiffs – they would otherwise receive little or nothing from the Fund. Similar provisions of the regulations provide minimum awards for single decedents of $300,000, or $500,000 for those with families, regardless of economic loss. See 28 C.F.R. § 104.41. Beyond these regulatory provisions, the Special Master can use his discretion to address the financial needs of the full range of claimants, such as families with lower incomes or children left parentless where an economic formula alone would be insufficient. By challenging the Special Master's consideration of "individual circumstances" as part of the award calculation, a consideration required by statute, plaintiffs necessarily assert that the Special Master does not have discretion to provide appropriate awards for these families and the families of other decedents – including the firefighters, police officers, members of the military, secretaries, and janitors who also died that day.

Plaintiffs' second assumption – that the purpose of the Fund is to mirror what could be obtained through state tort law under a best case scenario – also is inconsistent with the Act, which requires a potential claimant to elect between the Fund and a tort suit, and which explicitly provides for Fund awards that could deviate in specific respects from damages which

REV_00160254

might be recovered in a tort suit. See Act §§ 405(c)(3)(B), 405(b)(5), 405(b)(6). Plaintiffs' claim that the Fund must provide the maximum award theoretically possible in a state law tort suit without the litigation risk, collection uncertainty, expense, attorney's fees, and delay inherent in any tort case (much less a suit for damages arising out of the September 11th attacks) simply makes no sense. Indeed, were that the case, there would have been no reason for Congress to have made the Fund voluntary, and no economic reason for a plaintiff ever to elect to sue in tort.

Plaintiffs' related challenges to the Fund must also be dismissed as a matter of law. First, plaintiffs' argument that the Act requires the Special Master to apply the specifics of New York law when calculating economic loss is simply wrong. The Act's definition of "economic loss" was drawn verbatim from other statutes that manifestly do not require such specific incorporation of state law. The Department, by regulation, has construed that definition here in a manner that is consistent with those statutory precursors and that does not require the Special Master to calculate economic loss in accordance with the specifics of every potentially applicable state law. This interpretation not only is reasonable, but it accords with Congress's desire that the Special Master review claims expeditiously (i.e., within 120 days of submission), prevents claimants from being treated differently based on where they lived or died, and gives the Special Master flexibility to calculate economic loss in a manner that, for certain claimants, may be more favorable than applicable state law.

Second, and contrary to plaintiffs' repeated claims, the Special Master has not imposed any "cap" on awards of compensation. Plaintiffs note that the regulations require the Special Master to develop a methodology for calculating presumed economic loss "up to but not beyond" the 98th percentile of average incomes in the United States, but that is a recognition that a rigid matrix calculation of economic loss on extraordinarily high incomes is inherently more speculative than at lower income levels. Extraordinarily high income normally depends upon the peculiar individual circumstances of the claimant, and the application of generous assumptions

REV_00160255

for lower income levels (work life, income stability/growth, consumption rate, etc.) are much more conjectural at extraordinarily high income levels. Variations in assumptions necessarily have an exponentially magnified impact in a formulaic calculation of economic loss at extraordinarily high income levels, which makes the credibility of the result more suspect than at lower income levels. Importantly, no high income claimant is required to accept a "presumed" award; to the contrary, every claimant has the right to request an individualized hearing where he or she can attempt to demonstrate "extraordinary circumstances not adequately addressed by the presumed award." Although the Special Master has stated that awards in excess of $3 to $4 million will be rare, he has also stated that awards lower than $250,000 will be rare. This reasonable prediction is not a "cap" on awards, but merely a public acknowledgment that the regulations are designed to ensure a) that every claimant receives reasonable and fair compensation which reflects not only their economic loss from this tragedy but also their financial needs and resources and b) that, while differences in economic loss will exist from claimant to claimant, all lives lost in this attack have significant and comparable value regardless of income level.

In the end, the regulations governing the Fund not only are reasonable and "permissible" – they work. The regulations and methodology plaintiffs challenge have, for the most part, been in place since December 21, 2001, when the Department and the Special Master issued interim final rules, and numerous claimants have benefitted from those rules. While Defendants recognize that this case involves the most difficult and horrific of factual circumstances for each of the plaintiffs, it involves simple and well-established principles of administrative law that must be followed. Under these well-settled principles, the Department of Justice and the Special Master are entitled to broad deference in promulgating regulations to carry out the purposes of the Act. Each of the challenged regulations (as well as the challenged methodology) represents

REV_00160256

the most natural construction of the statute, and certainly a permissible one. Accordingly, plaintiffs' claims must be dismissed.[1]

---

[1] While this brief addresses at length plaintiffs' claims on the merits, their claims should be dismissed on the additional ground that this Court is statutorily precluded from reaching the merits. As set forth in greater detail herein, plaintiffs' claims are not reviewable under the Act's preclusion provision, which expressly precludes courts from reviewing "the matters that were the subject of the claim under review," see Act § 405(b)(3), including, of course, the amount of compensation awarded.

REV_00160257

BACKGROUND[2]

A. Statutory and Regulatory Framework

1. The Air Transportation Safety and System Stabilization Act

In the immediate days following the terrorist attacks of September 11, 2001, Congress enacted the Air Transportation and Safety and System Stabilization Act. That legislation, signed by the President on September 22, 2001, provided financial aid to an air transportation industry threatened with collapse as a result of the terrorist attacks and sought to protect the American economy against the consequences of that collapse.[3] See note following 49 U.S.C. § 40101.

As part of that legislation, Congress also sought to address the grievous harms suffered by the thousands of victims of the terrorist attacks and their survivors. Title IV of the Act created the "September 11th Victim Compensation Fund of 2001," see Act § 401, to address "the issue of legal liability for the tragic events of [September 11th]." See 147 Cong. Rec. S9594 (Sept. 21, 2001) (statement of Sen. McCain). As Senator McCain noted, while Congress wanted to ensure that the victims of this national tragedy received needed compensation, the "vast uncertainty of our litigation system posed significant challenges" towards achieving that goal. See id.

For example, Congress recognized that "some or all" of the victims could "receive no compensation from the courts" if the airlines were found not liable, see 147 Cong. Rec. S9594

---

[2] The administrative record in this case consists of six bound volumes, the last of which includes two CD ROMs containing the public comments related to the September 11th Victim Compensation Fund rulemaking. Each record document bears an identification consisting of the prefix "VCF" followed by a seven digit number (e.g., VCF101-0001).

[3] See, e.g., 147 Cong. Rec. S9599 (statement of Sen. Leahy) ("the airline industry of this country is in grave danger of collapse"; "[i]f Congress does not pass this legislation today, it is likely that all of our Nation's air carriers would cease service next Wednesday"); see also 147 Cong. Rec. S9600 (Sept. 21, 2001) (statement of Sen. Byrd) ("[t]he Federal Government cannot allow this industry to fold without seriously disrupting the United States economy").

REV_00160258

(Sept. 21, 2001) (statement of Sen. McCain) (emphasis added),[4] or could receive limited compensation if the airlines were bankrupted by massive judgments for both personal injury and property damage and victims and their families were forced to compete for a limited pool of funds and pay contingent attorney's fees. See id.; cf. id. at S9595 (statement of Sen. Hatch); id. at S9597 (statement of Sen. Clinton); id. at H5888 (statement of Rep. Shadegg). Congress also recognized that, even if the airlines ultimately were found liable, the litigation process would be lengthy, unlikely to relieve victims' urgent needs, and potentially "arbitrary" in its awards.[5] See id. at S9594 (statement of Sen. McCain); see also id. at S9595 (statement of Sen. Hatch) (noting the need for "consistency in the judgments awarded" in any tort suits).

Weighing all of these (sometimes competing) factors, noting the need to act, and recognizing it had no perfect solution, Congress concluded the national interest would best be served by giving victims and their families a choice of mutually exclusive remedies. For persons choosing the "litigation route," see 147 Cong. Rec. S9595 (Sept. 21, 2001) (statement of Sen. Hatch), Title IV established a federal cause of action as the exclusive remedy "for damages arising out of the hijacking and subsequent crashes" of aircraft on September 11.[6] See Act §

---

[4] See also 147 Cong. Rec. H5892 (Sept. 21, 2001) (statement of Rep. Spratt) ("in this case . . . the liability of the airlines is unsettled"); id. at H5913 (statement of Rep. Delahunt) (noting the "uncertainty . . . of protracted litigation" against the airlines).

[5] See 147 Cong. Rec. S9594 (Sept. 21, 2001) (statement of Sen. McCain) (noting "the tangle of lawsuits that will ensue" and "the unity that . . . will devolve in the courts to massive legal wrangling"); id. (statement of Sen. Hatch) (victims in the Fund will receive compensation "faster than they otherwise would if left to pursue claims through litigation"); id. at S9599 (statement of Sen. Specter) (Fund provides an alternative to "the long litigation process"); id. at H5913 (statement of Rep. Delahunt) (Fund provides an alternative to the "expense, uncertainty, and pain of protracted litigation"). See also 147 Cong. Rec. S9599 (Sept. 21, 2001) (statement of Sen. Leahy) (describing children coming home to find "that they were orphans, and the mortgage is due in 2 weeks"); id. at H5906 (statement of Rep. Menendez) (describing families "who have been directly affected by this tragedy and who are in desperate need right now").

[6] In such an action, the Act provides that the "substantive law for decision . . . shall be derived from the law, including choice of law principles, of the State in which the crash occurred unless such law is inconsistent with or preempted by Federal law." See Act §

REV_00160259

408(b)(1). Congress vested jurisdiction exclusively in this Court, see id. § 408(b)(3), and capped air carrier liability for compensatory and punitive damages at the "amount . . . [of] the limits of liability insurance coverage maintained by [the] air carrier." See id. § 408(a)(1). By amendment, Congress extended certain liability limitations to suits against aircraft manufacturers, airport sponsors, persons with a property interest in the World Trade Center, and the City of New York. See Aviation and Transportation Security Act at section 201 (Public Law 107-71).

The Act established the Fund as the alternative to litigation for victims of the terrorist attacks.[7] As Senator McCain noted, the Fund was not intended to "duplicate the arbitrary, wildly divergent awards that sometimes come from" the tort litigation process. See 147 Cong. Rec. S9594 (Sept. 21, 2001) (statement of Sen. McCain); see also id. at H5913 (statement of Rep. Bentsen) (noting that Congress preserved "the right [of families] to seek higher compensation through a legal case"). Rather, while the Fund was intended to provide a "generous administrative remedy," see id. at S9594 (statement of Sen. Hatch), most Members of Congress who addressed the issue described the Fund as a means to provide expedited "assistance" and "relief" to victims and their families. See, e.g.,147 Cong. Rec. S9599 (Sept. 21, 2001) (statement of Sen. Leahy) ("[t]his program is targeted to help the neediest victims and their families"); id. at S9594 (statement of Sen. McCain) ("[t]he intent of the fund is to ensure that the victims of this unprecedented, unforeseeable, and horrific event, and their families, do not suffer financial hardship in addition to the terrible hardships they already have been forced to endure"). The text of the statute bears this purpose out.

The Fund is intended "to provide compensation to any individual (or relatives of a

---

408(b)(2).

[7] Although the remedies are generally mutually exclusive, persons electing the Fund do not waive their right to file either an action to recover collateral source obligations or an action to recover damages against any "knowing participant in any conspiracy to hijack any aircraft or commit any terrorist act." See id. § 405(c)(3)(B)(i).

REV_00160260

deceased individual) who was physically injured or killed as a result of [the September 11th attacks]." Act § 403. Towards this end, Title IV authorizes the Attorney General, acting through a Special Master appointed by him, to administer the Fund, promulgate any necessary "procedural and substantive rules," and "employ and supervise" hearing officers and other administrative personnel. See id. § 404(a)(1)-(3). The Act further required the Attorney General (in conjunction with the Special Master) to promulgate regulations within 90 days of enactment, including with respect to procedures for hearing and presenting evidence and "other matters determined appropriate by the Attorney General." See id. § 407(3), (5).

Section 405(b) establishes the substantive guidelines for the Fund. Under Section 405(b)(1), the Special Master must "review" each claim and make certain "determinations." See Act § 405(b)(1). First, he must "determine" whether the claimant is "eligible" to receive compensation, i.e., meets statutory criteria establishing who was a victim of the terrorist attacks. See id. § 405(b)(1)(A). Second, if the claimant is deemed eligible, the Special Master must "determine . . . (i) the extent of the harm to the claimant, including any economic and noneconomic losses"; id. § 405(b)(1)(B)(i); and "(ii) the amount of compensation to which the claimant is entitled." Id. § 405(b)(1)(B)(ii). In determining the amount of compensation, the Special Master is given discretion to consider three broad factors: the "harm to the claimant," the "facts of the claim," and "the individual circumstances of the claimant." See id.

The first factor – "harm to the claimant" – includes "economic loss," which the Act defines as "any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law."[8] See Act § 402(7). The Act does not expressly

---

[8] The "harm to the claimant" also includes "noneconomic losses," which the Act defines as "losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and

REV_00160261

define the other two factors for determining "the amount of compensation" (i.e., the "facts of the claim" and "the individual circumstances of the claimant"). See Act § 405(2).

The Fund is a no fault compensation program, and the Act expressly precludes the Special Master from "consider[ing] negligence or any other theory of liability." See Act § 405(b)(2). The Act also bars the Special Master from awarding punitive damages, see id. § 405(b)(5), and requires him to reduce "the amount of compensation" by "the amount of the collateral source compensation the claimant has received or is entitled to receive as a result of [the attacks]." See id. § 405(b)(6). "Collateral source" is defined as "all collateral sources, including life insurance, pension funds, death benefit programs, and payments by Federal, State, or local governments related to the [terrorist attacks]." Id. § 402(6).

To expedite processing of claims, the Act provides that "[n]ot later than 120 days [after a claim is filed], the Special Master shall complete a review, make a determination, and provide written notice to the claimant, with respect to the matters that were the subject of the claim under review." See Act § 405(b)(3). The Special Master's determination of "the matters that were the subject of the claim" is "final and not subject to judicial review." Id. Payment must be authorized within 20 days of the date of a "determination . . . regarding the amount of compensation due." See id. § 406(a). No claim may be filed "after the date that is 2 years after the date on which regulations are promulgated under section 407." See id. § 405(a)(3).

2. Rulemaking History

The rulemaking required by the Act proceeded in three steps. On November 5, 2001, the Department published a "Notice of Inquiry and Advance Notice of Rulemaking" ("Notice"). See 66 Fed. Reg. 55,901 (2001). On December 21, 2001, the Department, in consultation with the Special Master, published an interim final rule. See 66 Fed. Reg. 66,274 (2001). On March 13,

---

companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature." Act § 402(9).

REV_00160262

2002, the Department, again in consultation with the Special Master, published its final rule. See 67 Fed. Reg. 11,233 (2002). We discuss each step in the process below.

a. Notice of inquiry

The Department issued an "advance notice of rulemaking" to "obtain as much public comment as feasible" before issuing the required regulations. See 66 Fed. Reg. 55,901.[9] In describing its "general approach" to the regulations, the Department recognized the strong interest of potential claimants in obtaining information about how the program "is likely to operate in their circumstances." See id. at 55,902. Echoing statements during the congressional debates, the Notice stated:

> Litigation to obtain damages, particularly in a mass tort context, can be a lengthy, uncertain, and complex process, filled with substantial risk and expense. The purpose of this compensation program is to offer all potential claimants a more expeditious, predictable, and less complex alternative to that process. The Department recognizes that unless and until it can provide some certainty as to how the compensation award program will work, some claimants may be reluctant to commit themselves to the Fund as an alternative to tort awards.

66 Fed. Reg. 55,902-03.

The Notice solicited public comment on each of the topics Congress expressly required the Department to address by regulation. See 66 Fed. Reg. 55,902-04. In addition, the Notice solicited comment on "the nature and amount of compensation." See id. at 55,904. After summarizing the standard for determining the "amount" of compensation -- i.e., "based on the harm to the claimant, the facts of the claim, and the individual circumstances of the claimant" -- the Notice stated:

> [E]ach of the perhaps thousands of determinations must be made in a very short period of time. Moreover, such determinations should be founded on consistent

---

[9] To simplify correspondence and handle the large volume of expected comments, the Department -- in addition to providing a physical mailing address -- created an email address (victimcomp.comments@usdoj.gov) and website (www.usdoj.gov/victimcompensation) for the program. See 66 Fed. Reg. 55,901. The website contains (among other things) answers to "frequently asked questions." See, e.g., VCF100-1997 to VCF100-2013 (posted Dec. 21, 2001).

REV_00160263

> and clear principles that treat each claimant fairly. The Department invites comments that identify the practical means to achieve these results all within the very short time period that Congress has permitted. Among other topics, the Department would welcome comment on whether and how schedules or statistical methodologies should be developed and used in reaching a determination for each claimant within the mandated time period.

Id. at 55,904.

b. Interim final rule

The interim final rule was published on December 21, 2001, within the 90-day statutory deadline. See Act § 407. In a statement accompanying the interim regulations, the Special Master explained the twin objectives of the regulations:

> (1) [t]o provide fair, predictable and consistent compensation to the victims of September 11 and their families throughout the life of the program; and (2) to do so in an expedited, efficient manner without unnecessary bureaucracy and needless demands on the victims.

66 Fed. Reg. 66,274.

Amplifying these objectives, the Special Master explained that the Fund offers "an alternative to litigation," a "fast track administrative compensation program . . . [without] the red tape, time and expense of a traditional lawsuit." 66 Fed. Reg. 66,274. And without the risk. A victim pursuing a tort claim, the Special Master noted, would be "compelled to litigate, probably for many years at excessive cost, and with all the uncertainty of result which is part of the litigation process." Id. As one commenter stated:

> As I am sure you are aware, this fund is a major undertaking not only because of the multitude of victims for whom it is intended to provide relief and tremendous cost to the American taxpayer, but also because these victims very likely will receive relief that they would not recover if they choose to go to court as per the normal course. This is because the fund was created to compensate without requiring proof of fault or liability -- which relieves the victims of the normal legal burden they will have difficulty overcoming in court with regard to this particular tragedy.

See VCF110-0072 (comment of Sen. Hatch) (Nov. 21, 2001).[10] For these reasons, the Special

REV_00160264

Master noted, "[t]rade-offs are required in developing Fund procedures that are different than those in the more conventional lawsuit." 66 Fed. Reg. 66,274.

The interim regulations addressed a range of issues relating to the Fund, from the Special Master's decision to provide advance benefits to "needy" claimants, to his much-anticipated decision to generally exclude charitable donations from the definition of collateral offset compensation. For purposes of these lawsuits, the most important provisions relate to the claims evaluation process and the process for determining economic loss.

1. Procedure for claims evaluation

Although Congress required the Attorney General to promulgate regulations governing "procedures for hearing and the presentation of evidence," Act § 407(3), it offered little guidance on what those procedures should be. While the Act permits the Special Master to decide each claim individually without giving any guidance to potential claimants, the Department and the Special Master created a "presumed award" process to give potential claimants some indication of the general range of their likely awards and to allow claimants to select, at their option, a quick, easy procedure without an individualized hearing.[11] Recognizing, however, that "one size and one system will not fit all," 67 Fed. Reg. 11,234, the regulations provide claimants an opportunity to seek individualized review of their "presumed awards" or to bypass the presumed award stage altogether. The interim regulations thus provided two procedural tracks: Track A and Track B.

Track A. Under Track A, a Claims Evaluator determines whether the claimant is "eligible" and, if so, the claimant's "presumed award." See 28 C.F.R. § 104.31(b)(1). A claimant

---

[10] See also VCF111-1333 (comment of Sen. Nickles) (Dec. 17, 2001) ("I urge you to keep in mind that the Fund was created by Congress as a unique federal response to a situation where normal litigation may have left victims without recovery"); cf. VCF110-0107 (comment of Rep. Holt) (Nov. 19, 2001) (describing Fund as a "settle[ment] in lieu of litigating").

[11] The concept of a "presumed award" is discussed in more detail infra at pages 16-20.

REV_00160265

deemed eligible may accept the presumed determination as final and request payment. Id. This offers a "simple and direct route," with "payment within a matter of weeks." See 67 Fed. Reg. 11,234. Alternatively, a claimant deemed eligible may request review and a hearing before the Special Master. See 28 C.F.R. § 104.31(b)(1).

At a Track A hearing, the claimant may "present information or evidence that the claimant believes is necessary to a full understanding of the claim." See 28 C.F.R. § 104.33(b). The hearing is "conducted in a nonadversarial manner," 66 Fed. Reg. 66,280, and the claimant is entitled to be represented by counsel. See 28 C.F.R. § 104.33(d). Upon review, the Special Master "shall . . . determin[e]" whether (1) there was an error in calculating the presumed award (either because the claimant's individual criteria were misapplied or for another reason), or (2) the claimant presents "extraordinary circumstances not adequately addressed by the presumptive award." 28 C.F.R. § 104.33(f)(1), (2). This determination is final and not subject to further review. See id. § 104.33(g).

Track B. Track B provides an option for victims seeking an "opportunity to present their cases personally in greater detail." 67 Fed. Reg. 11,234. Under Track B, the Claims Evaluator determines whether the claimant is eligible, but does not determine the claimant's presumed award. See 28 C.F.R. § 104.31(b)(2). Instead, eligible claimants proceed directly to a hearing. See id. At a Track B hearing (which is conducted pursuant to the same regulations governing a Track A hearing), the Special Master "shall utilize the presumptive award methodology . . . but may modify or vary the award if the claimant presents extraordinary circumstances not adequately addressed by the presumptive award methodology." 28 C.F.R. § 104.31(b)(2). The Special Master's determination is final and not subject to further review. See id.

2. The amount of compensation

Recognizing his broad discretion to determine compensation under § 405(b)(1)(B)(ii),[12]

---

[12] A number of commenters noted the discretion vested in the Special Master. See

REV_00160266

the Special Master explained that, after "careful consideration" of "the language of the Act, the varying public comments, evidence and data about the many victims of the [attacks], and economic and demographic studies," he and the Department had concluded that compensation decisions should be guided by certain overarching objectives. See 66 Fed. Reg. 66,277.

First, the Special Master explained, while not required by the Act, the Fund should provide claimants "some understanding of how their award will be calculated and how much they would receive from the Fund should they decide to file a claim." 66 Fed. Reg. 66,278. Second, he continued, "each claimant should, to the greatest extent possible, be treated fairly based on the claimant's own individual circumstances and relative to other claimants." Id. Third, the Special Master noted that, in light of Congress's requirement that compensation be determined in part based on claimants' individual circumstances, "[w]e have . . . concluded that the purpose of the Act is not simply to examine economic and noneconomic harm, but also to provide compensation that is just and appropriate in light of the financial needs and resources of the claimants."[13] 66 Fed. Reg. 66,278. This interpretation of the statute is reflected in a

---

VCF111-1332 (comment of Sen. Nickles) (Dec. 17, 2001) ("while Congress provided some specifics as to who is entitled to receive an award and the extent of the award, the details are to be decided by the Department of Justice and specifically by the Special Master . . . . [T]he Special Master, Kenneth Feinberg, has enormous responsibility to balance the needs of the victims and their families with the knowledge that American taxpayers may end up footing the bill for his decisions"); VCF110-0089 (comment signed by 45 representatives) (Nov. 15, 2001) ("[b]ecause it was important for Congress to act speedily, the legislation of necessity sets out broad guidelines and leaves to [the Attorney General] and [his] department the job of providing specificity so that these funds can be distributed fairly and expeditiously").

[13] See, e.g., VCF110-0073 (comment of Sen. Hatch) (dated Nov. 21, 2001) ("[a]s we all know, the fund was not created to give a windfall to these tragic victims, but rather to assist them in their time of need to get through the loss suffered at the hands of these terrorists"); VCF111-1333 (comment of Sen. Nickles) (Dec. 17, 2001) ("[t]he Fund should be administered with both the needs of the victims and the taxpayers in mind and with recognition of the impressive charitable reaction of the American people"); VCF118-0035 (comment of Rep. DeGette) (Dec. 21, 2001) ("[a]lthough there is no way to truly compensate for their loss the funds will bring help to those in need"); VCF101-0982 (comment of Consumer's Union) (Nov. 20, 2001) (noting the victims at the "lower end of the economic scale have likely suffered more severely in terms of relative economic harm than those at the top end, and to the extent that the

REV_00160267

regulation. See 28 C.F.R. § 104.41 ("[t]he individual circumstances of the claimant may include the financial needs or financial resources of the claimant or the victim's dependents and beneficiaries").

To achieve these objectives, the interim regulations require the Special Master to develop methodologies for calculating "presumed economic loss" and "presumed noneconomic losses" for decedents and claimants who suffered physical harm. See 66 Fed. Reg. 66,278. In determining presumed economic loss for decedents, the regulations require the Special Master to:

> develop a methodology and publish schedules, tables, or charts that will permit prospective claimants to estimate determinations of loss of earnings or other benefits related to employment based upon individual circumstances of the deceased victim, including: The age of the decedent as of September 11, 2001; the number of dependents who survive the decedent; whether the decedent is survived by a spouse; and the amount and nature of the decedent's income for recent years. The decedent's salary/income in 1998-2000 shall be evaluated in a manner that the Special Master deems appropriate. The Special Master may, if he deems appropriate, take an average of income figures for each of those three years.

28 C.F.R. § 104.43(a).[14] (As explained below, these last two sentences were amended in the final rule.)

The regulation further provides that "[t]he Special Master's methodology . . . shall yield presumed determinations of loss of earnings or other benefits related to employment for annual incomes up to but not beyond the 98th percentile of individual income in the United States for the year 2000." 28 C.F.R. § 104.43(a). As the Special Master explained, the determination to provide presumed determinations "up to but not beyond the 98th percentile" was based on a

---

government must balance the equities in making its determinations, compensation provided under the fund should reflect that economic disparity").

[14] With respect to noneconomic loss, the final rule established a presumed non-economic loss compensation of $250,000 for decedents and $100,000 for the spouse and each dependent of a deceased victim. See 28 C.F.R. § 104.44.

REV_00160268

number of factors, including the Special Master's and the Department's interpretation of the "individual circumstances" requirement:

> The Department recognizes that projecting earnings over worklife for people with extraordinary annual incomes is a very complex exercise, often requiring a detailed evaluation of variable and often complex formulae for nonvariable income, differing work life expectations, often highly volatile industries or markets, and other factors that are not often subject to easy generalization. We have also concluded that the purpose of the Act is not simply to examine economic and noneconomic harm, but also to provide compensation that is just and appropriate in light of the financial needs and resources of the claimants. Any methodology that does nothing more than attempt to replicate a theoretically possible future income stream would lead to awards that would be insufficient relative to the needs of some victims' families, and excessive relative to the needs of others. . . . [T]he Act's requirement that the Special Master consider "the individual circumstances of the claimant" indicates that the Special Master may consider a particular claimant's financial needs and resources.

66 Fed. Reg. 66,278 (emphasis added).

For example, the Special Master and the Department considered the "needs of the claimants" in establishing a policy with respect to minimum awards. See 66 Fed. Reg. 66,278. The Act does not establish a minimum level of compensation for claimants. But based on Congress's requirement to consider the "individual circumstances of the claimant," the Department and the Special Master wanted to "ensure that victims' families are receiving at least a minimum level of resources to help meet their needs and rebuild their lives." Id. at 66,274. Accordingly, the interim regulations provided that no claimant bringing a claim on behalf of a deceased victim should receive less than $500,000 (for a claim on behalf of a deceased victim with a spouse or dependent) or $300,000 (for a claim on behalf of a deceased victim with no dependents) before collateral source offsets. See id. at 66,278.

The Special Master emphasized that the methodology could not "take into account all of the individual facts and circumstances for every claimant," and that a claimant under either Track A or Track B could seek a departure from a presumed award based upon "a demonstration of extraordinary circumstances that the presumed award methodology does not adequately

REV_00160269

address." 66 Fed. Reg. 66,278 (emphasis in original).

3. Applicability of State Law

Finally, the interim regulation addressed the applicability of state law in determining a claimant's economic loss. As explained above, see supra p.12, the Act defines "economic loss" as "any pecuniary loss resulting from harm . . . to the extent recovery for such loss is allowed under applicable state law." Act § 402(7). By way of example, the Act lists several categories or types of "harm," including "the loss of earnings or other benefits related to employment," "medical expense loss," replacement services loss," "loss due to death," "burial costs," and "loss of business or employment opportunities." Id.

Recognizing the ambiguity of the phrase "to the extent recovery for such loss is allowed under applicable state law," the regulations interpreted the phrase as a limiting provision, to mean "that the Special Master is not permitted to compensate claimants for those categories or types of economic losses that would not be compensable under the law of the state that would be applicable to any tort claims brought by or on behalf of the victim." 28 C.F.R. § 104.42. Each category or type of harm listed in the statute is factored into the determination of presumed economic loss for decedents. See id. at §§ 104.43(a)-(e).

c. Final rule

On March 13, 2002, the Department promulgated the final rule. As with the interim final rule, the final rule addressed a range of issues relating to the Fund, from collateral source offsets, to the Special Master's policy toward "minimum" awards. As before, these issues generally were resolved in a manner advantageous to claimants. See 67 Fed. Reg. 11,233-34; see also id. at 11,238. Moreover, while the Special Master also "announce[d] his intention" to meet with potential claimants to give "some indication" of how "broad categories of benefits" might be treated under the Fund, he cautioned that he "cannot, and will not, give a precise computation of an award before a claim is filed." Id. at 11,241.

REV_00160270

With respect to the methodologies for calculating awards, the Special Master noted the comments were "starkly divided," 67 Fed. Reg. 11,233, and that the presumed award charts, while not part of the rulemaking, received more public comment than any other subject.[15] See id. at 11,236. Noting that he and the Department had "modif[ied] presumed economic loss in a manner that will further increase presumed awards," 67 Fed. Reg. 11,237; see also id. at 11,238, the Special Master turned to specific comments relating to the methodology for determining presumed economic loss and the claims evaluation process. We address the issues relevant to plaintiffs' claims below. Average income. The Special Master noted that several commenters raised issues "with respect to deriving a victim's average annual income from the years 1998-2000 in determining the foundation for calculating economic loss." 67 Fed. Reg. 11,237. Specifically, some commenters suggested that 2001 "is more indicative of a victim's actual earning potential." Id. In response to these suggestions, the interim final rule was amended to allow the Special Master "discretion to consider on a prorated basis a victim's income from 2001." Id.

The 98th percentile. The comments were divided over whether presumed awards should be calculated beyond the 98th percentile of individual income in the United States. Although the Special Master did not change the provision in the interim rule setting the 98th percentile, he explained, in response to comments from high-end earners, that the provision was not a "cap" on economic loss recovery:

> To be absolutely clear: The fact that the 'presumed awards' address incomes only up to the 98th percentile does not indicate that awards from the Fund are 'capped' at that level. In extending the presumed awards only up to the 98th percentile, we merely recognized that calculation of awards for many victims with extraordinary incomes beyond the 98th percentile could be a highly speculative exercise and that, moreover, providing compensation above that level would rarely be

---

[15] The methodology -- or "Explanation of Process for Computing Presumed Economic Loss" ("Explanation of Process") -- is in the administrative record at VCF100-0229 to VCF100-0242.

REV_00160271

> necessary to ensure that the financial needs of a claimant are met. Calculation of an award beyond that point using the presumed award methodology without a detailed record could very well produce inappropriate results. Accordingly, we permitted applicants with extraordinary prior earnings to accept awards at the 98th percentile or seek calculation of an award based upon a more detailed record.

67 Fed. Reg. 11,237 (emphasis added); see also id. ("it bears repeating that the Special Master's 'presumed award charts' are estimates and do not determine the final award for claimants who request individualized hearings").

Deduction for personal consumption. Noting that a "few" commenters were "oppos[ed] to consumption factors being used," 67 Fed. Reg. 11,238, the Special Master explained that a deduction for personal consumption – i.e., for the victim's share of household expenditures -- is "standard." Id. The Special Master noted, however, that his methodology was more favorable to claimants than the methodology "that would typically apply in an economic loss calculation" in tort litigation. 67 Fed. Reg. 11,238. For example, for claimants whose total expenditures exceed income, "expenditures were scaled to income, so as not to reduce income for expenses potentially met by other forms of support." See Explanation of Process at 3 (VCF100-0231). This was intended to avoid a "penalty" to lower income claimants. See id.

Taxes. Awards from the Fund are not subject to federal taxation. See 67 Fed. Reg. 11,235. The Special Master rejected one commenter's suggestion "that taxes should not be deducted from future lost earnings" when calculating economic loss. Id. at 11,238. He did, however, elect to use a "blended after-tax discount rate[]" to compute the present value of awards, and to "adjust[] the discount rate to reflect current yields on mid- to long-term U.S. Treasury securities." See id. (noting these decisions will create a "more complex computational process," but one that will "better reflect the different ages of the victims and the fact that the survivors will receive awards reflecting different assumed future years of work life").

Claims evaluation. Finally, the Special Master addressed comments relating to the Track A/Track B procedure for claims evaluation. See 67 Fed. Reg. at 11,243. Addressing the

REV_00160272

argument by some commenters that "the 'extraordinary circumstances' burden was too high to have any practical effect on increasing awards" (67 Fed. Reg. 11,243), the Special Master noted:

> [I]t is important that the Special Master have an opportunity to consider circumstances that are not accounted for in the presumed award charts. The term 'extraordinary circumstances' is not intended to signal that there is an unsustainable burden to justify departure from the presumed award. Instead, it reflects the Special Master's sense that the presumed award methodology should be fair and appropriate for a substantial majority of claims. A number of factors could support a determination to depart from the presumed award methodology. For victims who had extremely high earnings (beyond the 98th percentile of individuals in the United States), the Special Master may consider any relevant individual circumstances, including whether the financial needs of those victims' families are being met.

Id. at 11,243-44 (emphasis added).

3. Methodology

The day after the final rule was promulgated, the revised methodology (or "Explanation of Process") was posted on the Fund's website. See VCF100-0229 to VCF100-0242. The Explanation of Process is a step-by-step analysis of how the Special Master calculates presumed economic loss for decedents.[16] It explains the methodology's underlying economic assumptions, provides citations to the economic data and sources on which it relies, and contains explanatory tables and charts. See id. The Explanation makes clear that the economic assumptions underlying the methodology "are designed to benefit the claimants and are more favorable than the standard assumptions typically applied in litigation." Id. at 4 (VCF100-0232).

B. Plaintiffs' Complaints

---

[16] We note that the methodology was not part of the rulemaking. See 67 Fed. Reg. 11,238. On December 20, 2001, when the Special Master publicly announced the interim regulations, he disclosed several charts reflecting "presumed awards" for eligible claimants filing on behalf of decedents, as well as an explanation of how the awards were calculated. See id. at 11,233. The charts and the Special Master's explanation are in the administrative record at VCF100-1875 to VCF100-1881. The presumptive awards ranged from several hundred thousand dollars to more than $3 million. See 67 Fed. Reg. at 11,233.

REV_00160273

Three complaints have been filed challenging the Fund: Colaio v. Feinberg, et al., 03 Civ. 558 (AKH) (filed Jan. 24, 2003), Smith v. Ashcroft, et al., 03 Civ. 1040 (AKH) (filed Feb. 14, 2003), and Schneider v. Feinberg, et al., 03 Civ. 1129 (AKH) (filed Feb. 20, 2003). None of the complaints challenges any provision of Title IV of the Act. None of the complaints challenges the regulations for determining eligibility, noneconomic losses, or collateral offsets. Rather, each complaint mounts a broad facial challenge under the Administrative Procedure Act to one or more aspects of the regulatory framework by which the Special Master determines "economic loss," the "amount of compensation," and a claimant's "individual circumstances."

Colaio v. Feinberg. The seven plaintiffs administer the estates of close relatives killed at the World Trade Center. See Colaio Compl. ¶¶ 11-17. Each plaintiff represents a decedent who worked at Cantor Fitzgerald L.P. or eSpeed, Inc. See id.[17] Plaintiffs have not submitted claims with the Fund. Nevertheless, several plaintiffs submitted affidavits to the Court providing information about their "economic losses," and explaining why, in their view, they would not receive "appropriate compensation" under the Fund. One such plaintiff alleges she discussed her claim informally with the Special Master and was dissatisfied with the non-binding award estimate -- $5,000,000 to $6,000,000 -- she received. See Declaration of June Colaio ¶ 8.

Plaintiffs contend the "regulations" and "methodologies" governing the Fund are unlawful to the extent they calculate presumed economic loss "in contravention of applicable New York state law." See Colaio Compl. ¶ 27. Specifically, plaintiffs contend the Fund violates New York law (and thus, in their view, the Act) by: (i) calculating presumed economic loss based on after-tax earnings; (ii) applying a higher consumption rate for single versus married

---

[17] Plaintiffs also seek to represent a class of "similarly situated 'eligible individuals'" who (a) "are eligible for compensation from the Fund"; (b) "have filed, or wish to and are prepared to file, formal applications for such compensation"; and (c) "wish to, and are prepared to, waive their rights to file a civil action [under the Act § 408]." Colaio Compl. ¶ 21. The Court has deferred proceedings involving class certification pending ruling on the parties' cross dispositive motions.

REV_00160274

decedents; (iii) calculating presumed economic loss based on a 1998-2000 three-year income average; and (iv) failing to calculate presumed awards beyond the 98th percentile. See id.

Smith v. Ashcroft. Plaintiffs are administrators of their husbands' estates. See Smith Compl. ¶¶ 1-2. Plaintiffs' husbands, who were killed at the World Trade Center, see id., each had annual earnings that "substantially exceed[ed]" the 98th percentile. See id. ¶¶ 25, 27. Neither plaintiff has submitted a claim with the Fund.

Plaintiffs challenge two regulations governing the Fund: (i) Section 104.41, which authorizes the Special Master to consider the "financial needs or financial resources of the claimant" in determining the amount of compensation; see Smith Compl. ¶¶ 35-36; and (ii) Section 104.33(f), which permits the Special Master to modify a presumed award if a claimant shows "extraordinary circumstances not adequately addressed by the presumptive award." See id. ¶¶ 43-44. Plaintiffs also challenge the Special Master's decision to compute presumed economic loss based on after-tax income. See id. ¶¶ 45-46.

Schneider v. Feinberg. Plaintiff is the executrix of her husband's estate. See Schneider Compl. ¶ 2. Her husband, who worked at Cantor Fitzgerald and was killed at the World Trade Center, see id. ¶ 3, earned an average of $2,592,183 for the years 1998-2000. See id. ¶ 54. Plaintiff has not submitted a claim to the Fund. She alleges, however, that she made a "preliminary submission" to the Special Master and was dissatisfied with the non-binding award estimate -- $4,500,000 to $6,000,000 -- the Special Master gave her. See Schneider Compl. ¶¶ 54, 75. Plaintiff claims, instead, that she is entitled to an award between $28,553,513 and $40,092,883. See id. ¶ 54. Plaintiff raises claims similar to those raised in Smith. That is, she challenges Section 104.41; see Schneider Compl. pp. 20-21, ¶¶ 3-4, 6; Section 104.33(f); see id. p. 21, ¶ 5; and the Special Master's decision to calculate presumed economic loss based on post-tax earnings. See id. p. 22, ¶ 8.

Read together, then, plaintiffs' complaints essentially challenge the facial validity of four regulations governing the Fund:

REV_00160275

(i) Section 104.41, which interprets the statutory term "individual circumstances of the claimant" and provides that it "may include the financial needs or financial resources of the claimant or the victim's dependents and beneficiaries"; see 28 C.F.R. § 104.41;

(ii) Section 104.42, which embodies the Department's and the Special Master's interpretation of the statutory phrase "to the extent recovery . . . is allowed under applicable state law"; see id. § 104.42;

(iii) Section 104.43, which requires the Special Master to develop a methodology for determining presumed economic loss for decedents that yields determinations "up to but not beyond the 98th percentile of individual income in the United States for the year 2000" and requires the Special Master to use "[t]he Decedent's salary/income in 1998-2000 (or for other years the Special Master deems relevant)"; see id. § 104.43(a); and

(iv) Sections 104.31(b)(2) & 104.33(f)(2), which authorize the Special Master to adjust a presumed award if "the claimant presents extraordinary circumstances not adequately addressed by the presumptive award." See id. §§ 104.31(b)(2), 104.33(f)(2).

Plaintiffs also raise challenges to other aspects of the Special Master's methodology, including the use of post-tax income for determining lost earnings and the consumption rate for single decedents.

ARGUMENT

Plaintiffs purport to challenge the regulations promulgated by the Department and the Special Master as well as the Special Master's specific methodology for calculating economic loss. All of plaintiffs' challenges have one thing in common: they arise under the APA and are governed by an extremely deferential standard of review.[18] In short, the Court must defer to the Special Master's permissible and reasonable construction of the Act.

---

[18] Although plaintiffs cite other federal statutes in their complaint, including the Declaratory Judgment Act, 28 U.S.C. § 2201, and the general federal question statute, 28 U.S.C. § 1331, their claims arise solely under the APA, which alone provides the requisite waiver of sovereign immunity. See, e.g., Mack v. United States, 814 F.2d 120, 122 (2d Cir. 1987); Doe v. Civiletti, 635 F.2d 88, 94 (2d Cir. 1980).

REV_00160276

In determining "whether the agency's interpretation of the statute is lawful," Barnhart v. Walton, 122 S. Ct. 1265, 1269 (2002), this Court applies the deferential standard set forth in the familiar, two-step Chevron analysis. See Chevron, U.S.A., Inc. v. Natural Resources Defense Council, 467 U.S. 837, 842 (1984). The Court first examines whether Congress "has directly spoken to the precise question at issue" in the text of the statute. If so, the text governs. Chevron, 467 U.S. at 842. When "Congress has not directly addressed the precise question at issue," that is, if the statute is "silent or ambiguous with respect to the specific issue," then the only question for the Court to decide is "whether the agency's answer is based on a permissible construction of the statute." Chevron, 467 U.S. at 843; see Yellow Transportation, Inc. v. Michigan, 123 S. Ct. 371, 377 (2002). The agency's construction is permissible "if it reflects a plausible construction of the plain language of the statute and does not otherwise conflict with Congress' expressed intent." Rust v. Sullivan, 500 U.S. 173, 184 (1991). In other words, the Special Master's reasonable interpretation of the Act binds this Court unless the Act "unambiguously forbids the Agency's interpretation." Barnhart v. Walton, 122 S. Ct. 1265 (2002); accord United States v. Mead Corp., 533 U.S. 218, 227 (2001). Moreover, this customary deference to the agency's interpretation is heightened where, as here, a court is reviewing "the construction of a new statute by its implementing agency." Natural Resources Defense Council v. Train, 510 F.2d 692, 706 (D.C. Cir. 1975); see American Farm Lines, Inc. v. United States, 684 F.2d 697, 700 (10th Cir. 1982); accord Verizon Communications, Inc. v. FCC, 535 U.S. 467, 122 S. Ct. 1646, 1668 n.20 (2002) (deferring to FCC's "first interpretation of a new statute").

Plaintiffs' claims challenging the Special Master's methodology for calculating economic loss are similarly constrained by the APA. Specifically, section 706(2) of the APA provides that final agency action may be set aside only if "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). "The scope of review under this

REV_00160277

provision of the APA is a 'narrow one.'" City of New York v. Shalala, 34 F.3d 1161, 1167 (2d Cir. 1994) (quoting Citizens to Preserve Overton Park, Inc. v. Volpe, 401 U.S. 402, 416 (1971)); accord Natural Resources Defense Council v. Muszynski, 268 F.3d 91 (2d Cir. 2001). "This 'arbitrary and capricious' standard of review is a highly deferential one which presumes the agency's action to be valid." Environmental Defense Fund, Inc. v. Costle, 657 F.2d 275, 283 (D.C. Cir. 1981) (emphasis added) (citations omitted). In other words, the highly deferential APA standard of review "mandates judicial affirmance if a rational basis for the agency's decision is presented." Id. The burden of overcoming the presumption of validity rests upon plaintiffs. See Costle, 657 F.2d at 283.

Finally, in conducting an APA review of administrative action, the court is limited to examining the administrative record compiled by the agency. The Supreme Court has explained that "the focal point for judicial review should be the administrative record already in existence, not some new record made initially in the reviewing court." Camp v. Pitts, 411 U.S. 138, 142 (1973); accord Florida Power & Light Co. v. Lorion, 470 U.S. 729, 743-44 (1985); 5 U.S.C. § 706 ("In making the foregoing determination[ ] [that, among other things, agency action was arbitrary or capricious], the court shall review the whole record or those parts of it cited by a party"). Although the Colaio and Schneider plaintiffs have submitted voluminous extra-record materials to the Court,[19] this information is entirely irrelevant to resolving plaintiffs' APA-based claims, the merits of which must be resolved on the basis of the administrative record filed by Defendants. See Camp, 411 U.S. at 132; Florida Power, 470 U.S. at 743-44. With these principles in mind, we turn to plaintiffs' claims.

POINT I

THE SPECIAL MASTER IS ENTITLED TO CONSIDER

---

[19] At a status conference held in this action on February 6, 2003, the Government objected to any attempt by plaintiffs to take discovery or to supplement the administrative record in this case.

REV_00160278

THE INDIVIDUAL CIRCUMSTANCES OF THE CLAIMANTS

Plaintiffs' principal legal argument is that 28 C.F.R. § 104.41, which interprets the term "individual circumstances" to authorize the Special Master to take the financial needs of victims' families into account in determining awards of compensation, is inconsistent with the Act. Plaintiffs contend, instead, that the Act requires the Special Master to award compensation based solely on a mechanical addition of economic and non-economic losses, less amounts received from collateral sources. See Colaio Compl. ¶ 67 ("The Act mandates compensation for economic and non-economic losses, deducting only 'collateral source' compensation."); accord Smith Compl. ¶ 12 (claimants should receive "full compensatory damages for their 'economic loss' plus 'noneconomic loss,' offset by 'collateral sources'"); Schneider Compl. ¶ 24 ("The Act requires the Special Master to award the amount of economic loss provided for under the express terms of the Act to an eligible claimant, reduced by the amount of the collateral source compensation"). Thus, where a strict mathematical calculation for a high-earning victim yields a figure in excess of $50 million (applying all of plaintiffs' untested assumptions),[20] plaintiffs would have the Court declare that the Act requires the Special Master to mechanistically award that entire sum (minus only collateral source compensation), regardless of the financial needs or resources of the victim's family. In the same way, where that same calculation for a retiree or low-wage earner yields an award of zero, plaintiffs effectively ask this Court to declare that the Act unambiguously forbids the Special Master from awarding that victim's family any money at all, regardless of their demonstrated financial needs. This argument is flatly inconsistent with the terms of the Act.

Section 405(b) establishes the requirements for determining the "amount of compensation." Paragraph (1)(B)(i) requires the Special Master to determine "the extent of the

---

[20] See Schneider Compl. 54; Ex. A at 2 (claiming that plaintiff Schneider's economic loss was $52.4 million).

REV_00160279

harm to the claimant." That "harm" to the claimant expressly includes "any economic and noneconomic losses." Paragraph (1)(B)(ii) requires the Special Master to determine "the amount of compensation to which the claimant is entitled." Paragraph (1)(B)(ii) directs the Special Master to "base[]" that determination upon a consideration of three factors: "[1] the harm to the claimant, [2] the facts of the claim, and [3] the individual circumstances of the claimant." Finally, paragraph 6 requires the Special Master to reduce "the amount of compensation determined under paragraph (1)(B)(ii)" by the amount of "collateral source compensation."

Congress thus expressly rejected the notion that the determination of the award should be confined to a mechanical addition of economic and noneconomic losses. Instead, the Act requires the Special Master to base the "amount of compensation" in part on the "harm to the claimant" (including the claimant's "economic and noneconomic losses") and the claimants' "individual circumstances." The phrase "individual circumstances" thus plainly refers to circumstances other than "economic and noneconomic losses." Plaintiffs' argument to the contrary contradicts the most basic principles of statutory construction. See Potter v. United States, 155 U.S. 438, 446 (1894) (statutory term "cannot be regarded as mere surplusage; it means something."); Bell v. Reno, 218 F.3d 86, 91 (2d Cir. 2000) ("It is a well-known canon of statutory construction that, in general, a statute should not be construed so as to render a word or clause inoperative."); Bailey v. United States, 516 U.S. 137, 146 (1995) ("We assume that Congress used two terms because it intended each term to have a particular, nonsuperfluous meaning.").

The Act, of course, does not define the critical term "individual circumstances." Nor does it define the term "compensation" or specify precisely how an award of compensation should be calculated; it simply identifies three factors upon which the determination of compensation should be "based." The Department, by regulation, has construed the phrase "individual circumstances of the claimant" to include "the financial needs or financial resources

REV_00160280

of the claimant or the victim's dependents and beneficiaries." 28 C.F.R. § 104.41. This interpretation not only is fully consistent with the Act, but it is the most natural reading of the "individual circumstances" provision.

It is hard to see how the term "individual circumstances" could be defined to exclude consideration of "'need." The Fund is a no-fault compensation program, designed to assist those most devastated by the September 11th attacks. During debate on the Act, Members of Congress repeatedly referred to the Fund as a means to provide expedited "assistance" and "relief" to victims and their families. See, e.g.,147 Cong. Rec. S9599 (Sept. 21, 2001) (statement of Sen. Leahy) ("[t]his program is targeted to help the neediest victims and their families"); id. at S9594 (statement of Sen. McCain) ("[t]he intent of the fund is to ensure that the victims of this unprecedented, unforeseeable, and horrific event, and their families do not suffer financial hardship in addition to the terrible hardships they already have been forced to endure").[21]

One commenter, noting the Special Master's policy with respect to minimum awards, observed: "[t]he Special Master's correct decision to include a minimum compensatory amount eliminates the concern that a strict analysis of economic harm would leave the families of low-earning individuals out in the cold." VCF105-0967. But the Special Master has the authority to

---

[21] See also VCF101-0982 ("among the victims of the September 11 attacks, those at the lower end of the economic scale have likely suffered more severely in terms of relative economic harm than those at the top end, and to the extent the government must balance the equities in making its determinations, compensation provided under the fund should reflect that economic disparity"). Some commenters noted that consideration of financial need is particularly appropriate for this no-fault compensation fund because the purposes of the fund differ from the purposes of the civil tort system: "While both share the goal of adequate compensation, the civil justice system is designed to punish wrongdoers, ensure that the full cost to individuals and society for harm caused by those who inflict the harm are paid by the wrongdoer, and create incentives to promote safety and reasonable care in the future[.]" VCF101-0982. See also VCF104-2416 ("[F]or every vice-president who died, a security guard died with him. For every bond trader who died, a cook died as well . . . . Nothing about Sept. 11 was normal, and the 'normal' civil litigation rules cannot apply.").

REV_00160281

award compensation to a person who would receive nothing "under a strict analysis of economic harm" only because the regulations interpret the phrase "individual circumstances" to include the financial needs of the claimant. Without that authority to consider financial need of all claimants in addition to harm, the families of low-earning individuals might indeed be, in the commenter's words, "out in the cold." Id.

Indeed, reading the Act (as plaintiffs do) to preclude any consideration of the financial needs and resources of the claimant could result in families receiving no compensation at all for decedents who died without substantial resources. That result occurs in traditional tort litigation even when liability can be established,[22] and it could happen even more frequently under plaintiffs' approach to the Fund because of the Act's requirement that awards be reduced by the amount of collateral source compensation received.

Under the Fund, however, because the Special Master may consider financial need in determining compensation, the regulations assure claimants that "[i]n no event shall an award (before collateral source compensation has been deducted) be less than $500,000 in any case brought on behalf of a deceased victim with a spouse or dependent, or $300,000 in any case brought on behalf of a deceased victim who was single with no dependents." 28 C.F.R. § 104.41 (emphasis added). See also 67 Fed. Reg. 11242 (stating that, "when the total needs of deceased victims' families are considered, it will be very rare that a claimant will receive less than $250,000, except in unusual circumstances where a claimant has already received very

---

[22] See, e.g., Datskow v. Teledyne Continental Motors Aircraft Prods., 807 F. Supp. 941, 945 (W.D.N.Y. 1992) (denying any wrongful death recovery to sister of air crash victim who failed to establish pecuniary loss); Driscoll v. Akron Fire Co., 675 N.Y.S.2d 264, 265 (4th Dep't 1998) (upholding denial of future pecuniary loss damages to mother of 23-year old decedent given "conflicting testimony regarding the pecuniary value of decedent to his parents"); Public Administrator v. U.S. Fleet Leasing of N.Y., Inc., 552 N.Y.S.2d 608, 609 (1st Dep't 1990) (upholding denial of any recovery to father for wrongful death of son who died without assets); Hartman v. Dermont, 453 N.Y.S.2d 464, 464-65 (4th Dep't 1982) (upholding finding of no pecuniary loss to daughter of 64-year old widow on disability).

REV_00160282

substantial compensation from collateral sources").

Accordingly, plaintiffs challenge to the Department's reasonable regulations should be rejected.[23]

POINT II
THE SPECIAL MASTER IS NOT REQUIRED TO CONSIDER ALL ASPECTS OF STATE LAW IN CALCULATING ECONOMIC LOSS

Plaintiffs also contend that the Act obligates the Special Master to calculate an award of compensation in precisely the same way that damages for pecuniary loss would be calculated under whichever state's law would be deemed "applicable" to the particular claimant. Plaintiffs thus argue that each subsidiary calculation that relates to the determination of a claimant's "economic loss" – the consumption rate, the treatment of taxes, and every other element of the loss determination – must replicate the calculation that would be made by a jury applying the law of the state that would have governed a hypothetical tort suit by that claimant.[24] For example,

---

[23] Although plaintiffs contend that reducing compensation awards based on a claimant's financial resources is inconsistent with New York law, as we demonstrate below, nothing in the Act requires the Special Master to consider or apply state law when determining the ultimate award. In any event, we note that, in fact, compensation under the Act proves far more generous in this regard than compensation under New York State's own statutory scheme for compensating victims of crime. Under the New York Crime Victims Board, the "financial resources" of the claimants are not only considered, but claimants may not receive any award of compensation unless the claimant will suffer "financial difficulty" without an award. N.Y. Exec. Law § 631(6). In this case, there is no allegation that any plaintiff will be denied "compensation" because of their financial resources. Plaintiff Schneider, for example, alleges only that an award in the range of $4.5 to $6 million would be inadequate. Plaintiff Colaio, whose decedent had earned approximately $4 million per year from 1998 to 2000, alleges only that an award in the range of $5-6 million would be inadequate. See Declaration of June Colaio, Ex. A at 2. Cf. Regan v. Crime Victims Compensation Board, 455 N.Y.S.2d 552, 554 (1982) (holding that award of $594 to 66-year-old mugging victim was excessive since victim had savings, property, and earnings valued at $58,275).

[24] Although plaintiffs apparently assume that New York law would apply to any tort claim made by a victim of the World Trade Center attack, there is no way to know whether that is the case and no reason to presume it would be. Those victims were domiciled in many different States and even countries, and the choice-of-law analysis could vary from claimant to

REV_00160283

since New York law generally uses pre-tax earnings to calculate a wrongful death award (see Johnson v. Manhattan & Bronx Surface Transit Operating Auth., 524 N.Y.S.2d 415, 420 (1988)), plaintiffs reason that Section 402(7) of the Act requires the Special Master to calculate awards of compensation in precisely the same way. Plaintiffs assert that this result is compelled by the Act's definition of "economic loss" as "any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement service loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law." Act § 402(7) (emphasis added).

Plaintiffs' interpretation, were it adopted, would present enormous difficulties in the administration of the Fund -- difficulties that Congress could not have intended to impose. A process that was designed to be expeditious and non-adversarial would be required repeatedly to resolve potentially complex choice-of-law issues and the particulars of damages laws of various states before determining an award. The awards themselves, even if the claimants presented identical facts, could reflect significant variances depending solely on where the claimant resided or died -- notwithstanding the fact that all were victims of the same attack, and that all are covered by a single, uniform, federal compensation scheme. Congress expressly rejected numerous aspects of state wrongful death regimes in crafting this federal compensation program -- see, e.g., § 405(b)(6) (requiring deductions for life insurance proceeds) -- and there is no basis for concluding that it believed that calculations of "economic loss," by contrast, uniquely warranted the wholesale incorporation of varying state laws.

For these and other reasons, the Department did not adopt plaintiffs' interpretation. It instead interpreted the pertinent language in Section 402(7) to mean "that the Special Master is not permitted to compensate claimants for those categories or types of economic losses that

---

claimant.

REV_00160284

would not be compensable under the law of the state that would be applicable to any tort claim brought by or on behalf of the victim." 28 C.F.R. § 104.42 (emphasis added). In other words, the statutory phrase "to the extent . . . law" is a limiting provision, limiting the "categories" or "types" of losses allowed under the Fund to those allowed under state law -- rather than a provision that addresses how those losses must be calculated and mandates the use of various states' laws at that highly specific level of detail. The regulation thus construes the Act to prohibit the Special Master from compensating claimants for those "categories" or "types" of economic loss that are not available under applicable state laws.[25]

The Department's construction is by far the more natural reading of the statute, and is supported by the Act's text, its structure, and its purposes.

First, the text of Section 402(7), on its face, refers to the types or categories of losses available under State law. It says nothing about the calculation of those damages. It defines "economic loss" by reference to a non-exhaustive list of six particular categories of losses. The phrase "such loss" as used in the limiting phrase that immediately follows that enumeration of categories -- i.e., "to the extent recovery for such loss is allowed under applicable state law" -- then clearly refers back to the categories of losses just enumerated (and to any other, unspecified

---

[25] The Department's construction found support in the comments submitted by the State of New York and the City of New York, among others. See, e.g., VCF109-0013-14 ("New York law allows all the types of economic loss enumerated in the ATSSSA. . . . As ATSSSA 402(5) provides that economic loss includes 'any pecuniary loss . . . allowed under applicable State law,' the regulations should specify that 'economic loss' includes any pecuniary losses which may not be specifically identified in ATSSSA but which are compensable under New York law.") (emphasis added). See also VCF106-1430 (proposing regulation that would include the following limitation on economic loss: "provided, however, that claimants will receive compensation only for those categories or types of economic losses that would be compensable under the state law that would be applicable to any tort claims brought by or on behalf of the victim.") (emphasis added); VCF105-1889 (proposing regulation that would interpret statutory phrase "to the extent . . . applicable State law" to mean "that the Special Master shall compensate claimants for those categories or types of economic losses that would be compensable under the law of the state that would be applicable to any tort claims brought by or on behalf of the victim.") (emphasis added).

REV_00160285

categories of "economic loss") and requires an inquiry into whether those categories are "allowed" under applicable state law.

Construing Section 402(7) as addressing the kinds of losses permitted under state law, rather than the methods for calculating them, is further supported by the text of the Act's parallel definition of "noneconomic loss." Like Section 402(7)'s definition of "economic loss," Section 402(9) defines "noneconomic loss" by enumerating specific categories of losses. After enumerating those categories, Section 402(9) expands the definition to encompass all other nonpecuniary losses "of any kind or nature." Since the phrase that follows the enumeration of categories of noneconomic losses in Section 402(9) references "kinds" of losses, the phrase that follows the similar enumeration of categories of economic losses in Section 402(7) should most logically be construed as referencing "kinds" of economic losses as well.

Moreover, the Department's construction is the only plausible one in every instance in which this precise statutory language has elsewhere been employed by Congress. See Frankfurter, Some Reflections on the Reading of Statutes, 47 Colum. L. Rev. 527, 537 (1947) ("[I]f a word is obviously transplanted from another legal source, whether the common law or other legislation, it brings the old soil with it."); United States v. Slevin, 106 F.3d 1086, 1088 (2d Cir. 1996) ("Because these [two federal] statutes use the same relevant language, they are analyzed in the same way."). The definition of "economic loss" in the Act was lifted verbatim from the "definitions" sections of three other acts of Congress which have nothing to do with calculation of compensation, and in which Congress plainly was utilizing "state law" to govern only which categories of losses would be included within the term "economic loss." See 20 U.S.C. § 6733(1) (defining "economic loss" for purposes of the Teacher Protection Act); 42 U.S.C. § 238q(e)(2)(b)(ii) (defining "economic loss" for purposes of protecting "Good Samaritans"); 42 U.S.C. § 14505(1) (defining "economic loss" for purposes of the Volunteer Protection Act). Each of these statutes provides immunity from liability under state law to

REV_00160286

groups of individuals -- specifically, to teachers, Good Samaritans, and volunteers -- for all categories of economic loss that would otherwise be available under State law. Because these groups were granted immunity from damages, the "to the extent . . . law" phrase was clearly understood to determine only which categories of damages would be included within the term "economic loss," and not to address any issue of how damages are calculated. The Department has simply interpreted "to the extent recovery for such loss is allowed under applicable State law" with respect to the Fund in the same way that identical language has previously been applied in other statutes.

Second, the structure of the Act weighs heavily in favor of the Department's interpretation and against that advanced by plaintiffs. The guidance provided by the Act to the Special Master on the calculation of compensation awarded under the Fund is provided in Section 405(b), not in Section 402. Section 405(b) specifically addresses the manner in which the Special Master must determine an award of compensation: Paragraph (1)(B) identifies the steps the Special Master must take to determine the award; paragraph (5) precludes the Special Master from including punitive damages in the computation of the award; and paragraph (6) directs the Special Master to deduct collateral source compensation from the amount determined under paragraph (1)(B)(ii). Section 402, in contrast, is the "definitions" section of the statute. The Department's construction of that section as further defining the categories or types of economic loss recoverable is consistent with the purpose of that section in explaining the meaning of terms used in the statute. In contrast, plaintiffs' reading of Section 402 as addressing not the definition of economic loss recoverable but rather the precise calculation of compensation is at odds with the overall structure of the Act, which addresses the calculation of compensation exclusively within Section 405(b).

Third, plaintiffs' proposed construction would frustrate the purposes of the Act. Contrary to plaintiffs' claims (see Colaio Compl. ¶ 36), Congress's purpose was not to ensure that the

REV_00160287

Special Master's determination of compensation would replicate a jury's potential calculation of damages recoverable under a state "wrongful death" law. The Act's provisions repeatedly make this clear. For example, while the Act expressly precludes the Special Master from including "amounts for punitive damages" in the compensation paid under the Fund (§ 405(b)(5)), New York law permits recovery of punitive damages (N.Y. EPTL § 5-4.3(b)). Similarly, while the Act does not include interest as an element of compensation recoverable under the Fund, New York law requires that interest "from the date of decedent's death" be "added to and be a part of the total sum awarded" in a wrongful death lawsuit. N.Y. EPTL § 5-4.3(a). And while the Act expressly requires the Special Master to deduct life insurance proceeds from an award of compensation under the Fund (Act § 405(b)(6)), New York law expressly precludes any reduction of life insurance proceeds from the amount of damages recoverable in a wrongful death lawsuit (N.Y. CPLR § 4545). Thus, Congress expressly prohibited the Special Master from calculating compensation in a manner consistent with the calculation of damages under state law in many respects.

Plaintiffs' argument must therefore be that, while Congress deviated from state law recoveries in all these other respects, it sought to replicate precisely a particular state law in terms of the method of calculating "economic loss." That interpretation attributes a wholly unreasonable intent to Congress, because it would mean that Congress had imposed an enormous burden on the Fund – one which would impede its speedy and efficient operation – without any consistent or rational purpose in doing so.

Different states calculate damages differently, and for different reasons. For example, while New Jersey discounts wrongful death damages to present value, see, Tenore v. Nu Car Carriers, Inc., 67 N.J. 466, 81, 341 A.2d 613 (N.J. 1975), Pennsylvania does not discount to present value, see Kaczkowski v. Bolubasz, 491 Pa. 561, 583, 421 A.2d 1027, 1039-40 (Pa. 1980). While New Jersey and Pennsylvania both consider the effect of future inflation,

REV_00160288

Pennsylvania has adopted a presumption that future inflation is totally offset by future interest. See Kaczkowski, 421 A.2d at 1039-40. And while Pennsylvania requires a deduction for the decedent's personal consumption, see id. at 1030 n.7, Kentucky does not permit such a deduction at all, see Charlton v. Jacobs, 619 S.W.2d 498, 500 (Ky. Ct. App. 1981).

The varying (and at times flatly inconsistent) rules applied by states to calculate wrongful death damages -- to the extent they are well developed in the case law at all -- reflect different state's public policy choices. See, e.g., Johnson, 524 N.Y.S.2d at 418. On some points, they will be less favorable to claimants than the Fund's methodology, and on other points more favorable. Nothing in the Act suggests that Congress intended for state public policy choices to tie the hands of the Special Master when determining an award of compensation under this federal compensation program. See Jones & Laughlin Steel Corp. v. Pfeifer, 462 U.S. 523, 547 (1983) ("[T]he reasons which may support the adoption of a rule for a State's entire judicial system -- for a broad class of cases encompassing a variety of claims affecting a number of different industries and occupations -- are not necessarily applicable to the special class of workers covered by the Act."); see also McNerney v. Secretary, HHS, 1992 WL 120345 (Cl. Ct. May 5, 1992) (state law evidentiary privileges of "doubtful significance" to federal compensation program).[26]

Indeed, since the thousands of victims of September 11th came from all over the United States (and from around the world), requiring the Special Master to discern and apply state public policy choices on the calculation of damages would create great uncertainty and confusion, and would threaten, if not preclude, his ability to comply with the highly expedited time frames which the Act requires for compensation decisions. See Act § 405(b)(3) (requiring

---

[26] See also Buxkemper v. Secretary, HHS, 32 Fed. Cl. 213 (Fed. Cl. 1994) (rejecting reliance upon Texas wrongful death law in federal compensation program); Van Epps v. Secretary, HHS, 26 Cl. Ct. 650, 652 (Ct. Cl. 1992) ("[T]he Vaccine Act does not incorporate state law standards.").

REV_00160289

award determination 120 days after claim is filed). The interests of consistency and uniformity would likewise certainly suffer, as families of similarly situated victims receive vastly different awards based solely on factors (such as the residency of the decedents, the location of the crashes, the origins and destination of the planes, etc.) that might be deemed relevant to the choice-of-law determination. As one Special Master observed in connection with a different federal compensation program, "it would be too much to expect special masters dealing with cases from all 50 States -- plus the District of Columbia and U.S. territories -- to make appropriate determinations concerning the public policies of these jurisdictions; and it would be counter-productive and impractical to apply different rules to different cases." McNerney, 1992 WL 120345, at * 4. See Jelly v. Secretary, HHS, 1998 WL 211913, at * 1-2 (Fed. Cl. Apr. 6, 1998) (rejecting state cases that rely on pre-tax earnings to calculate awards under federal compensation program). This burden would be particularly irrational here in light of the fact that the calculation of economic loss is only one factor in the Special Master's compensation decision, and does not alone determine the ultimate amount of the award. See Point I, supra (discussing role of "individual circumstances"). Congress should not lightly be presumed to have intended to impose such a burden, and to cause such potential disparities among claimants, absent compelling evidence of such a purpose – and no such evidence exists.

POINT III

CALCULATION OF PRESUMED ECONOMIC LOSS UP TO, BUT NOT BEYOND, THE 98TH PERCENTILE OF AVERAGE ANNUAL EARNINGS IS PERMISSIBLE AND REASONABLE

Plaintiffs' challenge to the regulations' "98th percentile" rule is based upon a fundamental misconception – that high-end earners (those earning above the 98th percentile of individual income in the United States) – are somehow prevented by the regulations (and the Special Master's implementing methodology) from having their substantial incomes considered by the Special Master in determining a final award. Specifically, plaintiffs contend that the regulations

REV_00160290

are invalid to the extent they do not require the Special Master to calculate presumed awards for those decedents having income in the top two percent of individual income in the United States. See Colaio Compl. ¶¶ 67-77. They also contend that, by requiring such claimants to demonstrate "extraordinary circumstances" to justify a departure from the highest presumed award, the regulations and methodology effectively "cap" compensation awards in violation of the Act. See Smith Compl. ¶ 43-44; Schneider Compl. ¶ 48.

At the outset, plaintiffs' claims that the regulations "cap" compensation at the 98th percentile of individual incomes fundamentally misconstrues those regulations. The regulations simply provide that the Special Master's methodology may not yield "presumed determinations for loss of earnings or other benefits of employment" in excess of "the 98th percentile of individual income in the United States for the year 2000." 28 C.F.R. § 104.43 (emphasis added). Nothing in the regulations prohibits final determinations in excess of that threshold. Thus, under the Fund's two-track system for determining awards, the survivors of individuals with incomes in excess of the 98th percentile have a choice: While they may, of course, choose to accept a presumed award at the 98th percentile level, they may just as easily opt for an individual hearing, at which they would be permitted to present evidence of their higher earnings (and any other evidence they believe relevant to the Special Master's determination). 28 C.F.R. § 104.31(b)(1) & (2). The Special Master may then modify or vary the presumed award if he determines that "the claimant presents extraordinary circumstances not adequately addressed by the presumptive award methodology." 28 C.F.R. § 104.31(b)(2); 28 C.F.R. § 104.33(f)(2).

Thus, far from capping the awards available to high-end earners, the methodology expressly permits such claims to be heard and awarded. As the Preamble to the final rule explains:

> To be absolutely clear: The fact that the 'presumed awards' address incomes only up to the 98th percentile does not indicate that awards from the Fund are 'capped' at that level. In extending the presumed awards only up to the 98th percentile, we merely recognized that calculation of awards for many victims with extraordinary incomes beyond the 98th percentile could be a highly speculative exercise and

REV_00160291

> that, moreover, providing compensation above that level would rarely be necessary to ensure that the financial needs of a claimant are met. Calculation of an award beyond that point using the presumed award methodology without a detailed record could very well produce inappropriate results. Accordingly, we permitted applicants with extraordinary prior earnings to accept awards at the 98th percentile or seek calculation of an award based upon a more detailed record.

67 Fed. Reg. 11,237.

A. The Maximum Presumed Award Methodology is a Reasonable Interpretation of the Act Entitled to Substantial Deference

Nevertheless, to the extent plaintiffs challenge the use of maximum presumed awards, those challenges are meritless. The use of the methodology – including the 98th-percentile presumption – is perfectly consistent with the Act and eminently reasonable. It thus easily satisfies Chevron's extraordinarily deferential standard.

The determination to limit presumed award calculations to the 98th percentile of individual incomes was merely one part of a broader presumed award methodology, in which claimants are given the option of having an initial determination of their award made. That broader methodology was not only permitted by the Act; it was fully consistent with it. In addition to expressly authorizing the Special Master to "promulgate all procedural and substantive rules for the administration" of the Fund, Act § 404(a)(1) & (2); see also § 407, the Act provides the Special Master with the authority to "determine" the amount of compensation in an individual award. Act § 405(b). This express statutory delegation to a special master of the authority to "determine" compensation necessarily includes the authority to decide how to determine compensation. See United States v. Fior D'Italia, 122 S. Ct. 2117, 2122 (2002) (provision granting IRS assessment authority "must simultaneously grant the IRS power to decide how to make that assessment").

Exercising the broad discretion granted by these provisions and dictated by the short claims process required by statute,[27] the Department and the Special Master determined that

[27] The Act requires the Special Master to make determinations of compensation no later

REV_00160292

publishing a presumed award methodology and presumed award charts would best serve the purposes of the Act by ensuring that the process for determining compensation is efficient, straightforward, and understandable to claimants, and would allow claimants to make an informed decision about whether to submit a claim to the Fund. See 66 Fed. Reg. 66,278.

Defendants' determination to establish in the regulations a maximum presumed award is also fully consistent with the Act and eminently reasonable. It is well established that damages for wrongful death may not be recovered when they are based on contingencies that are inherently speculative. See Farrar v. Brooklyn Union Gas Co., 537 N.Y.S.2d 802 (1988); Mono v. Peter Pan Bus Lines, Inc., 13 F. Supp. 2d 471, 478 (S.D.N.Y. 1988). But determining presumed economic loss requires the Special Master to make a prediction about each claimant's likely future income – a prediction that necessarily involves some degree of speculation. See, e.g., Norfolk & Western Railway Co. v. Liepelt, 444 U.S. 490 (1980) ("[F]uture employment itself, future health, future personal expenditures, future interest rates, and future inflation are also matters of estimate and prediction."); Feldman v. Allegheny Airlines, Inc., 524 F.2d 384, 386 (2d Cir. 1975) ("Damages in a wrongful death action must necessity represent a crude monetary forecast of how the decedent's life would have evolved."); Kaczkowski v. Bolubasz, 491 Pa. 561, 575, 421 A.2d 1027, 1034 (Pa. 1980) ("[P]redicting lost future earnings entails some degree of speculation.").

The ability to project likely future earnings becomes increasingly speculative with respect to high earning decedents. While the future income stream of low- and middle-income employees can often be predicted with some degree of certainty, courts have found that projecting the future earnings of decedents with extraordinarily high incomes involves a level of speculation and uncertainty not present in ordinary cases. As Judge Friendly has explained, "in sharp contrast to the great mass of litigation at the lower and middle reach of the income scale,

---

than "120 days after the date on which a claim is filed." Act § 405(b)(3).

REV_00160293

where future income is fairly predictable," the "projection of future income at [higher] levels" of earnings is "itself extremely conjectural." McWeeney v. New York, New Haven & Hartford Railroad Co., 282 F.2d 34, 39 (2d Cir. 1960) (en banc) (Friendly, J.) (addressing incomes in excess of $100,000 in 1960), overruled on other grounds, Norfolk & Western Railway Co. v. Liepelt, 444 U.S. 490, 494 (1980); see also Machine v. National Helicopter Corp., 1997 WL 786937, at *1 (S.D.N.Y. 1997) (noting "scarcity of apposite cases" that provide guidance to "difficult task" of calculating future lost earnings for entrepreneur with "unusual wealth"). The Special Master's methodology merely follows this legally recognized principle, concluding that "projecting earnings over worklife for people with extraordinary annual incomes is a very complex exercise, often requiring a detailed evaluation of variable and often complex formulae for nonvariable income, differing work life expectations, often highly volatile industries or markets and other factors that are not often subject to easy generalization." 66 Fed. Reg. 66,278. As a result, any attempt to apply the "presumed award" methodology to extraordinary incomes might necessitate that the methodology itself be reconsidered, because it presently incorporates numerous assumptions about growth, consumption, and other factors that might be wholly inappropriate if mechanically applied to the highest level incomes.

Indeed, even if a particularly wealthy decedent's future income could be projected with reasonable certainty, the likelihood that the decedent would have contributed to the support of surviving family members also becomes increasingly speculative, particularly when those family members are themselves financially secure. See N.Y. Jur2d: Damages § 357 (2d Ed. 2003) ("In assessing the value of the contributions that a decedent might be expected to make to such decedent's nondependent beneficiaries, the financial circumstances of the beneficiaries, and the likelihood that because of their financial position they would not need or want financial assistance from the decedent, have a bearing on the pecuniary loss caused by the death."); see, e.g., Breckir v. Lewis, 251 N.Y.S.2d 77 (1st Dep't 1964) (damage award for wrongful death of

REV_00160294

daughter was excessive considering surviving parents' "comfortable circumstances," since daughter may not have contributed to her parents after marriage), aff'd, 260 N.Y.2d 178 (1965); Franchell v. Sims, 424 N.Y.S.2d 959, 963 (4th Dep't 1980) (extent of financial dependency of beneficiaries is relevant in determining amount of damages). Given the inherently speculative nature of predicting both future income and economic loss for victims whose incomes are extraordinarily high, the Department's regulations are reasonable to the extent that they decline to calculate presumed economic loss for incomes beyond the 98th percentile.[28]

B. "Extraordinary Circumstances" Review of Presumed Awards is Permissible and Reasonable

Because the use of maximum presumed awards is permissible, plaintiffs' claim that the regulations would necessarily undercompensate them depends upon their allegation that they must demonstrate "extraordinary circumstances" in order to deviate from the maximum presumed award. This argument is without merit.

At the outset, plaintiffs badly mischaracterize the nature and role of the "extraordinary circumstances" burden as posing an insurmountable obstacle to an award in excess of the

---

[28] To the extent plaintiffs challenge the particular percentage selected (i.e., 98%) as arbitrary and capricious, it is well established that agencies enjoy particularly "wide discretion" when the exercise of their discretion involves the selection of a numerical or percentage standard. AT&T Corp. v. FCC, 220 F.3d 607, 627(D.C. Cir. 2000). Accordingly, this Court may not set aside the percentile selected unless plaintiffs demonstrate that the agency's numerical choice was "patently unreasonable" or irrational. See Worldcom, Inc. v. FCC, 238 F.3d 449 (2d Cir. 2001) (citing WJG Telephone Co. v. FCC, 675 F.2d 386, 388-89 (D.C. Cir. 1982)); see, e.g., AT&T Corp., 220 F.3d at 627 ("[T]he Commission has wide discretion to determine where to draw administrative lines, and appellants point to nothing suggesting that the agency abused its discretion in drawing the line at ninety as opposed to ninety-five percent."); NRDC v. Muszynski, 268 F.3d 91, 102 (2d Cir. 2001) (where statute did not provide "mathematical basis" to determine adequate "margin of safety," agency entitled to use "best professional judgment" to select 15% margin of safety over any other percentage).

REV_00160295

presumed awards. Nothing could be further from the truth. Rather, the "extraordinary circumstances" review of presumed awards is an acknowledgment that, while the presumed award methodology will adequately address most of any claimant's circumstances, some claimants may have some circumstances that are not adequately addressed by a simple mathematical formula. Thus the Special Master may address "extraordinary" circumstances not adequately addressed by the presumed award methodology.

The Special Master and the Department have repeatedly made clear that the "extraordinary circumstances" standard does not prevent consideration of circumstances beyond those in the presumed award methodology. The Special Master emphasized that "[t]he term 'extraordinary circumstances' is not intended to signal that there is an unsustainable burden to justify departure from the presumed award. Instead, it reflects the Special Master's sense that the presumed award methodology should be fair and appropriate for a substantial majority of claims." 67 Fed. Reg. 11,244. In fact, the Preamble to the Final Rule expressly recognizes that evidence of income beyond the 98th percentile may be considered as part of an "extraordinary circumstances" determination, noting that the regulations permit "applicants with extraordinary prior earnings to accept awards at the 98th percentile or seek calculation of an award based upon a more detailed record." 67 Fed. Reg. 11,237 (emphasis added).

In any event, the "extraordinary circumstances" standard is a valid exercise of the Special Master's statutory discretion to establish substantive and procedural rules to govern the determination of compensation. The Act expressly authorizes the Department, in consultation with the Special Master, to promulgate regulations with respect to "procedures for hearing and the presentation of evidence" on claims and "procedures to assist an individual in filing and pursuing claims." Act § 407. It is well settled, in such circumstances, that federal agencies granted authority to establish rules of procedure to make those individualized decisions may establish and rely upon "reasonable presumptions and generic rules." Reno v. Flores, 507 U.S.

REV_00160296

292 (1993); see Heckler v. Campbell, 461 U.S. 458, 467 (1983); see also Vermont Yankee Nuclear Power Corp. v. NRDC, 435 U.S. 519 (1978) (recognizing "the very basic tenet of administrative law that agencies should be free to fashion their own rules of procedure.").

Consequently, under this express grant of authority, the Department had wide discretion to establish substantive evidentiary burdens for claimants to satisfy to qualify for an award of compensation. See Heckler, 461 U.S. at 466-67 (where statute authorized agency to adopt regulations "for the nature and extent of the proofs and evidence and the method of taking and furnishing same" in disability cases, agency permitted to establish vocational guidelines); see also Mobil Oil Exploration & Producing Southeast Inc. v. United Distribution Cos., 498 U.S. 211, 228 (1991) ("Time and again, the [Supreme] Court has recognized that even where an agency's enabling statute expressly requires it to hold a hearing, the agency may rely on its rulemaking authority to determine issues that do not require case-by-case consideration.") (internal citations and quotation omitted).

Under similar circumstances, the Supreme Court has found that the general authority to establish procedures for agency proceedings is broad enough to encompass not only rules but also exceptions to those rules, including, in particular, an "extraordinary circumstances" exception. See American Hospital Ass'n v. NLRB, 499 U.S. 606, 609-610 (1991) (statutory authority to establish regulations "necessary to carry out the provisions" of NLRA "unquestionably sufficient" to authorize "extraordinary circumstances" exception); see also Flores, 507 U.S. at 313 (upholding INS regulations establishing "presumptively appropriate" custodians for juveniles in INS custody and granting INS directors discretion to depart from presumptive rule in "unusual and compelling circumstances").

The requirement here that a claimant demonstrate extraordinary circumstances to depart from a presumed award appropriately reflects the "conjectural" nature of a claim of a sustained extraordinary income over an entire life expectancy. McWeeney, 282 F.2d at 38. It recognizes that the higher the reported income for a one- or three-year period, the less reliable it may be simply to presume the same level of income through an entire life expectancy. It further is consistent with the Act's requirement that the Special Master consider claimants' "individual

REV_00160297

circumstances," which, as explained above, the Department and the Special Master have interpreted to include a claimant's financial needs and resources. The regulations enable a child who lost a parent, for example, to present evidence at a hearing relating to the continuing needs of that child – which could be an "extraordinary circumstance" and is not covered by the more streamlined "presumed award" methodology. More generally, the Special Master has concluded that, for a substantial majority of claimants, matrix determinations of economic loss up to the 98th percentile will be sufficient to address issues of financial needs and resources. While a number of factors may support a determination to depart from that presumption and the presumed award methodology, it is appropriate that claimants must justify the departure. Accordingly, the requirement of demonstrating "extraordinary circumstances" is both permissible and reasonable.[29]

POINT IV

PLAINTIFFS' MISCELLANEOUS APA CHALLENGES TO THE REGULATIONS AND METHODOLOGY ARE MISPLACED

A. The Regulations Permissibly Authorize the Use of Average Earnings

The Colaio plaintiffs misconstrue the applicable regulations in their challenge to Section 104.43, which allows the Special Master to consider "average earnings" in calculating economic loss. 28 C.F.R. § 104.43; see Colaio Compl. ¶ 64. Plaintiffs argue that the regulations violate the Act by providing for the calculation of a decedent's economic loss on the basis of average earnings for the three-year period 1998-2000. Id. ¶¶ 61-66. But the regulations do no such thing.

As an initial matter, plaintiffs' suggestion that the Special Master would disregard annualized 2001 earnings in determining economic loss is expressly belied by the regulations, which provide:

---

[29] Although New York law does not govern the determination of compensation, we note that New York wrongful death law itself uses presumptive methodologies when distributing the proceeds of a wrongful death judgment or settlement among the distributees. See Matter of Kaiser, 100 N.Y.S.2d 218 (Surr. Ct. Kings Cty. 1950) (establishing mathematical formula for distributing proceeds). Indeed, quite similar to the Special Master's methodology, New York courts have noted that this presumptive "formula should be followed except where there are compelling circumstances shown for an alternate method of distribution." Estate of Muccini, 460 N.Y.S.2d 680, 682 (Surr. Ct. Queens Cty. 1983)

REV_00160298

> The Decedent's salary/income in 1998-2000 (or for other years the Special Master deems relevant) shall be evaluated in a manner that the Special Master deems appropriate. The Special Master may, if he deems appropriate, take an average of income figures for 1998-2000, and may also consider other periods that he deems appropriate, including the published pay scales for victims who were government or military employees.

28 C.F.R. § 104.43 (emphasis added).[30] Thus, the regulations expressly allow the Special Master the "discretion to consider on a prorated basis a victim's income from 2001." Id. Since the Final Rule expressly permits the Special Master to consider 2001 income in determining compensation if that is more indicative of the decedent's actual earning potential, the Colaio plaintiffs' facial challenge to the regulation necessarily fails.

To the extent plaintiffs complain that the regulations permit the use of average income from 1998-2000 as the "presumptive" measure of annual income, that authority is reasonable. First, three-year income averaging accounts for income disparities and fluctuations from year to year, providing a more accurate projection of a person's future income.[31] Second, since the attacks occurred in the year 2001, the use of the three-year period from 1998-2000 permits the determination of average annual earnings on the basis of objective evidence (such as full-year earnings statements) without the need to project, extrapolate or speculate.

Finally, plaintiffs' suggestion that the Special Master "presumptively" uses 1998-2000

---

[30] The emphasized language was added to the final regulations in response to comments that 2001 income should be allowed in the calculation of economic loss. 67 Fed. Reg. 11237. Like the Colaio plaintiffs, several commenters argued that 2001 is more indicative of a victim's actual earning potential. Id.

[31] While the Special Master has no obligation to consider New York law, see Point II, supra, in fact, New York courts routinely use a decedent's average earnings for the years preceding death to compute future lost earnings. See, e.g., Ritter v. New York, 344 N.Y.S.2d 257, 270 (N.Y. Ct. Cl. 1972) (using "average weekly earnings as a carpenter for the three years before [decedent's] death"); Bankers Trust Co. v. R & Z Television of N.Y., Inc., 164 N.Y.S.2d 488, 488-89 (2d Dep't 1957) (using average annual income for seven years). Thus, plaintiffs' claim that the use of average earnings is inconsistent with New York law is incorrect as a matter of law.

REV_00160299

earnings and thus under-compensates "many" claimants, Colaio Compl. ¶ 61, is simply incorrect. For those who would benefit from the use of a different year or period of years, the regulations expressly provide the opportunity for the claimant to demonstrate at a hearing that the use of a different year or years is more appropriate. Accordingly, even if some claimants would benefit from the use of a different year or years to determine average earnings, plaintiffs provide no basis to set aside the regulations' authorization of the use of 1998-2000 earnings to calculate presumed economic loss.

B. The Special Master May Permissibly Use Net, After-Tax Earnings to Calculate Economic Loss

Plaintiffs also contend that the Special Master's methodology violates the Act by calculating presumed economic loss on the basis of net, after-tax earnings rather than gross, pre-tax earnings.[32] But the Special Master's decision to use net, after-tax income to calculate a claimant's presumed loss of earnings is not only plainly reasonable, it has been specifically approved by the Supreme Court. Indeed, as the Court reasoned in the context of a wrongful death claim:

> The amount of money that a wage earner is able to contribute to the support of his family is unquestionably affected by the amount of the tax he must pay to the Federal Government. It is his after-tax income, rather than his gross income before taxes, that provides the only realistic measure of his ability to support his family. It follows inexorably that the wage earner's income tax is a relevant factor in calculating the monetary loss suffered by his dependents when he dies.

Liepelt, 444 U.S. at 493-94. Given the Supreme Court's endorsement of this rationale, it can hardly be debated that the decision to use net income after taxes is a reasonable one.

C. The Consumption Rates Applicable to Single Decedents Represent Rational Decisionmaking by the Special Master and Must Be Upheld

---

[32] To the extent plaintiffs challenge the Special Master's methodology, those claims plainly are precluded by the Act's provision barring judicial review of the Special Master's determinations. See Act § 405(b)(3). The entire purpose of the methodology is to produce a presumed compensation amount, which a claimant may then accept (or not accept) as a "final" award. We discuss preclusion at length in Point VI, infra.

REV_00160300

Finally, the Colaio plaintiffs challenge the rates that the Special Master used in his presumed economic loss methodology to calculate the personal consumption of single decedents. See Colaio Compl. ¶¶ 57-60. Specifically, they contend that the consumption rates selected by the Special Master to calculate presumed economic loss for single victims are "discriminatory" when compared to the consumption rates used for married victims. Colaio Compl. ¶ 58, 60.

Plaintiffs' argument again runs counter to the broad discretion granted to the Special Master and must therefore be rejected. Because both the Act and the regulations are silent on the specific question of consumption rates the Special Master must use in determining awards, his choice of consumption rates rests entirely within the discretion Congress granted by Section 405(b) of the Act. Act § 405(b) (authorizing Special Master to determine amount of compensation in individual award). Under the APA, the Special Master's methodology is presumed valid, and this Court asks only whether a rational basis exists to support that methodology. That standard is more than met here.

As the Colaio plaintiffs themselves recognize, "consumption rates are ordinarily and necessarily applied in computing wrongful death awards under state law[.]" Coliao Compl. ¶ 59. A percentage deduction from lost earnings to account for personal consumption by the decedent is generally appropriate in wrongful death cases because "[a] certain portion of the earnings in such cases would have been devoted to the purchase of goods and services that would have been used exclusively for the benefit of the deceased person. These personal consumption items include such things as food, clothing, transportation, medical care, personal care items, hobbies, entertainment, and any other item that would not benefit the survivors or give rise to asset accumulation in the estate." R. Patton, & D. Nelson, Estimating Personal Consumption Costs in Wrongful Death Cases, Journal of Forensic Economics, at 283 (1991). Accordingly, in calculating presumed economic loss, the Special Master appropriately subtracted from projected income the victim's share of household expenditures as a percentage of income. As the Special

REV_00160301

Master explained, this subtraction for personal consumption is a standard adjustment in evaluating loss of earnings in wrongful death claims because some amount of the income the victim would have contributed to the household would have been consumed by the victim himself and therefore not available to other household members. See Explanation of Process at 3 (VCF100-0231).

Plaintiffs' only complaint is that the Special Master "discriminates" against the families of single decedents by using consumption rates that are substantially higher than the rates applied to married decedents. It is generally recognized, however, that consumption rates depend not only on the decedent's income but also on the size of the decedent's household. See VCF100-0371-72 (M. Rubel, R. Patton, & D. Nelson, Patton-Nelson Personal Consumption Tables 1997-98 Update, Journal of Forensic Economics, at 306-07 (2000)). While experts calculate the consumption rate of a decedent who is single and living alone based upon the decedent's own expenditures, experts calculate the consumption rate differently when the decedent is a member of a family because the decedent consumed only a percentage of all goods consumed by the family:

> In the case of a death of a single person assumed to be residing in a family unit of one person, the range of expenditures shown in Table 1 as a percent of income before taxes will, in fact, bracket the proper consumption deduction which should be taken out of income when computing the economic loss to the estate. However, in family units of two or more persons, the death of one adult family member will only reduce total household expenditures by the amount of direct personal consumption of the deceased person. Therefore, it is this figure which should be deducted as the personal consumption adjustment when the deceased person is residing in a family comprised of two or more persons. In order to determine the amount of direct personal consumption of one adult person in a family these costs must be separated out of the total family expenditures.

Patton & Nelson, supra, at 236. Thus, a rational basis exists to treat single and married decedents differently for purposes of calculating consumption rates.

Moreover, plaintiffs fail to appreciate that the consumption rates used by the Special Master are actually more favorable to claimants than the rates that likely would apply in tort

REV_00160302

litigation. For example, a family living at or near the poverty level may easily consume all of its income; in such a case, the consumption rate would equal or even exceed 100%. See T. Depperschmidt, A Law and Economics Perspective on the Personal Consumption Deduction in Wrongful Death Litigation, 7 J. Legal Econ. 1, 4 (Winter 1998) (observing that "use of a personal consumption deduction might lead to zero dollars as a net award for plaintiffs in a wrongful death action"). To avoid this result, the Special Master scaled expenditures to income. See Explanation of Process at 3. As a result, while the Special Master would have been justified in applying a consumption rate of over 100% to offset the earnings of a single victim who earned $10,000 per year (see VCF100-0371 (calculating consumption rate for single decedent earning $10,000 at range of 128.1% to 140.8%)), the highest consumption rate used by the Special Master is only 76.4%. See id. Table 3 (for single decedent earning $10,000 per year).[33] Accordingly, the Special Master's rates actually benefit claimants more than the rates that may be found to apply in tort litigation. Indeed, as with plaintiffs' challenge to the "financial needs" criterion, displacing the Special Master's approach to consumption rates with the approach applied in traditional tort litigation under State law might well result in altogether eliminating any recovery for claimants without significant resources.

Finally, plaintiffs' challenge to the consumption rates fails because, once again, the challenged rates apply only when calculating presumed economic loss. If a claimant believes that the assumptions that underlie the consumption rates do not apply in his or her particular case, the regulations permit the claimant to demonstrate at an individual hearing that the

---

[33] In addition, while consumption rates that are based upon from data from the Bureau of Labor Statistics typically represent household expenditures as a percent of before-tax household income (see VCF100-0371), the actual consumption rates used by the Special Master to determine the victim's personal expenditures were calculated as a percent of (lower) after-tax income, which significantly reduced the consumption offset. See Explanation of Process at 3. Furthermore, while consumption rates used in litigation typically include expenditures for items such as alcoholic beverages and tobacco products, the Special Master's calculations excluded those categories, which also reduces the consumption deduction. Id.

REV_00160303

presumed rates should not be applied.[34] For all of these reasons, the Special Master's use of consumption rates is valid and should be upheld.[35]

POINT V

PLAINTIFFS' CONSTITUTIONAL ARGUMENTS ARE MERITLESS

Two sets of plaintiffs raise meritless constitutional claims. The Smith plaintiffs mistakenly contend that the "exceptional circumstances" burden is imposed solely upon the families of decedents who earned more than $231,000 per year. As such, they argue that this violates the Equal Protection Clause. See Smith Compl. ¶ 44. In the same vein, plaintiff in Schneider alleges that the Special Master violates the Equal Protection Clause by awarding her a "fraction" of her economic loss when other claimants receive "full compensation." Schneider Compl. ¶ 84. Schneider also contends that, if the Act grants the Special Master the discretion to "limit" awards to claimants based on the decedent's wealth, the Act unconstitutionally delegates legislative power to the Special Master. Id. ¶ 49. Neither of these arguments has any basis in law.

A. The Special Master's Methodology is Consistent with the Equal Protection Clause

---

[34] Indeed, plaintiffs appear to recognize that the Special Master will consider challenges to the consumption rate on a case-by-case basis at the hearing. See Colaio Compl. ¶ 60 (challenging consumption rates "even if the Special Master is willing to vary presumptive awards for single decedents where their personal representatives demonstrate a level of dependency or other special circumstance").

[35] To the extent plaintiffs claim that New York law requires the use of different consumption rates, New York law provides no guidance in determining appropriate consumption rates in particular cases. Under New York law, the particular consumption rate applicable to a decedent is a matter of fact to be determined by a trier of fact, not a matter of law. See Connecticut National Bank v. OMI Corp., 928 F.2d 39, 47 (2d Cir. 1991) (consumption rate "is not a rule of law" but a "finding of fact"); McDougald v. Garber, 404 N.Y.S.2d 383, 384-85 (Sup. Ct. N.Y. Cty. 1986) (consumption deduction was for jury to decide based on evidence presented).

REV_00160304

The Special Master's methodology does not violate the Equal Protection Clause. Potential fund claimants enjoy no fundamental right to an award of compensation from the September 11th Victim Compensation Fund, much less an award in any particular amount. As the Supreme Court has stated, "a noncontractual claim to receive funds from the public treasury enjoys no constitutionally protected status." Weinberger v. Salfi, 422 U.S. 749 (1975); accord Supreme Oil Co. v. Metropolitan Trans. Auth., 157 F.3d 148, 153 (2d Cir. 1998) (due process rights not infringed by denial of federal relocation benefits). Furthermore, it is well-settled that government classifications based upon wealth alone are not suspect. See Harris v. McRae, 448 U.S. 297, 322 (1980); Maher v. Roe, 432 U.S. 464 (1977); Woe v. Cuomo, 729 F.2d 96, 103-04 (2d Cir. 1984); accord San Antonio Ind. School Dist. v. Rodriguez, 411 U.S. 1, 24 (1973) ("[A]t least where wealth is involved, the Equal Protection Clause does not require absolute equality or precisely equal advantages."); United States v. Hirschberg, 988 F.2d 1509, 1515 (7th Cir. 1993) ("Try as we might, we find no cases in the defendant's brief or in our research that identify the wealthy as a suspect class.").

The Federal Circuit has rejected a similar attempt by claimants to another congressionally enacted compensation program to make an Equal Protection challenge. See Black v. Secretary of Health & Human Services, 93 F.3d 781, 787-89 (Fed. Cir. 1996). In the context of the National Child Vaccine Injury Act, 33 U.S.C. § 300aa-1 to 300aa-34, which established a federal program to compensate individuals who suffer a vaccine-related injury, claimants must file a petition demonstrating (among other things) unreimbursed expenses resulting from a vaccine-related injury "in an amount greater than $1,000" to be eligible for compensation. 42 U.S.C. § 300aa-

11(c)(1)(D)(i). The claimants in Black challenged the $1,000 threshold requirement on Equal Protection grounds, arguing that the denial of compensation to persons who did not incur $1,000 in unreimbursed expenses disadvantaged poor persons by precluding compensation to persons

REV_00160305

whose medical expenses are often defrayed by government programs such as Medicaid. Black, 93 F.3d at 787.

The Federal Circuit flatly rejected the claimant's constitutional argument. First, the court held that claimants enjoyed no fundamental right to receive benefits from the compensation program. Black, 93 F.3d at 787. Next, it reasoned that, because poverty is not a suspect classification, distinctions based upon wealth are not subject to "strict scrutiny" review; rather, distinctions based upon wealth in a federal program are constitutional so long as they are supported by a "rational basis." Id. at 788. Because the Court found that the $1,000 threshold requirement served a rational purpose, the Court upheld the statute. Id. Indeed, the Court observed that "[a]n eligibility test may be rational even if it does not do a perfect job of selecting those cases that appear to be appropriate subjects of congressional concern." Id.

Plaintiffs' Equal Protection challenge here implicates neither a fundamental right, since plaintiffs enjoy no "right" to any award, nor a suspect class, since plaintiffs' claim is based upon their relative wealth. Accordingly, as in Blake, the Act, the regulations, and the Special Master's methodology are presumed constitutional, and need only be supported by a rational basis. As set forth above, calculating awards up to, but not beyond, the 98th percentile is rationally based. See Point III, supra. Furthermore, even if a constitutional claim could possibly lie to challenge the amount of one claimant's award vis-a-vis another's (or could possibly be ripe, since there is as yet no award to challenge), Schneider's Equal Protection challenge is baseless since it wrongly assumes that all Fund claimants are similarly situated. They are not. Congress required the Special Master to "base" compensation on the "harm" to the claimant, the facts of the claim, and the "individual" circumstances of the claimant. As a result, awards of compensation cannot be uniform across-the-

board, but will necessarily vary based on, among other factors, the earnings of the decedent and the needs and resources of the claimant.

REV_00160306

Contrary to Schneider's complaint, the Special Master's methodology does not result in "full compensation" to some claimants and "partial compensation" to others. The consideration of need and resources may result in greater compensation for lower income claimants than a strict economic analysis of earnings might arbitrarily dictate; however, the awards to high income claimants do not then become "partial compensation" by virtue of some comparison to lower income claimants with different individual circumstances. While there is a general consistency in awards for similarly situated claimants, the Special Master's methodology is designed to provide appropriate compensation for every claimant in accordance with their harm, the facts, and their individual circumstances, all of which vary from claim to claim.

B. The Act Does Not Result in an Unconstitutional Delegation of Legislative Authority

The Act is not, as Schneider argues, an unconstitutional delegation of legislative power. "In a delegation challenge, the constitutional question is whether the statute has delegated legislative power to the agency." Whitman v. American Trucking Associations, Inc., 531 U.S. 457, 472 (2001); see also Touby v. United States, 500 U.S. 160, 163 (1991). It is well established, however, that "Congress does not violate the Constitution merely because it legislates in broad terms, leaving a degree of discretion to executive and judicial actors." Touby, 500 U.S. at 165. Rather, if Congress establishes "an intelligible principle to which the person or body authorized to [act] is directed to conform, such legislative action is not a forbidden delegation of legislative power." J.W. Hampton, Jr., & Co. v. United States, 276 U.S. 394, 409 (1928) (emphasis added). The Supreme Court, having found the requisite "intelligible principle" lacking in only two statutes in its entire history, has "almost never felt qualified to second-guess Congress regarding the permissible degree of policy judgment that can be left to those executing or applying the law." Whitman, 531 U.S. at 475 (internal quotations and citations omitted).

REV_00160307

Here, the Act plainly provides an "intelligible principle" to guide the Department and the Special Master. Section 403 states that the Act's purpose is to "provide compensation," and Section 405(b) provides the standard for determining the amount of the award – i.e., it provides that compensation should be based on the harm to the claimant, the facts of the claim, and the individual circumstances of the claimant. The Act further defines the harm to the claimant as including economic and noneconomic losses, and provides definitions of those terms. Although Congress established factors for the Special Master to consider rather than an exact mathematical calculation, "[i]t is not necessary that Congress prescribe a standard that can be applied with mathematical certainty." Allegheny Airlines, Inc. v. Village of Cedarhurst, 238 F.2d 812 (2d Cir. 1956). Nor is it necessary "that Congress supply administrative officials with a specific formula for guidance in a field where flexibility and the adaption of congressional policy to infinitely variable conditions constitute the essence of the program." Lichter v. United States, 334 U.S. 742, 785 (1948). To effectuate the congressional policy of providing compensation to thousands of victims of September 11th, Congress granted the Special Master nothing more than the degree of discretion necessary and appropriate to consider and evaluate their claims on an individualized basis, ensuring that no claimant was undercompensated or overcompensated. Although plaintiffs may not be satisfied with the choices made by the Special Master, those choices unquestionably were made in accordance with an "intelligible principle" set down by Congress.

POINT VI

PLAINTIFFS' CLAIMS ARE NOT REVIEWABLE

While this brief addresses at length plaintiffs' claims on the merits, to explain fully that the Fund, as operated and implemented by the Department and the Special Master, is legally permissible, the Court need not reach these merits issues. That is because, as set forth in greater detail below, plaintiffs' claims are barred by the Act's express preclusion of review provision.

REV_00160308

A. Plaintiffs' Claims are Precluded.

Congress is "free to establish a compensation scheme that operates without court participation." Gutierrez de Martinez v. Lamagno, 515 U.S. 417, 430 (1995). See, e.g., Walters v. Nat'l Ass'n of Radiation Survivors, 473 U.S. 305, 307 (1985) (no judicial review of administrative decisions regarding veterans benefits); Johnson v. Robison, 415 U.S. 361, 367 (1974) (same); Rhodes v. United States, 760 F.2d 1180 (11th Cir. 1985) (no judicial review of administrative decisions regarding Army National Guard tort claims); Mattes v. Chairman Vietnamese Commandos Compensation Comm'n, 173 F.3d 817 (11th Cir. 1999) (no judicial review of compensation awards to Vietnamese commandos and survivors, and related attorneys' fees decisions). That is precisely what Congress has done here. The Act's text and structure show Congress's clear intent to bar judicial review of the Special Master's compensation awards, and plaintiffs' attempted end-run around this provision must be rejected.

Under the Act, the Special Master must, within 120 days after a claim is filed, "complete a review, make a determination, and provide written notice to the claimant, with respect to the matters that were the subject of the claim under review. Such a determination shall be final and not subject to judicial review." Act § 405(b)(3) (emphasis added). The "matters" that the Special Master is required to "review" and "determine" are set out in Section 405(b)(1): whether a claimant is "eligible"; the "extent of the harm to the claimant, including any economic and noneconomic losses"; and, finally, the "amount of compensation." Id. § 405(b)(1)(A), (B)(i) &(B)(ii). The "amount of compensation," in turn, is determined based on the "harm to the claimant," the "facts of the claim," and the "individual circumstances of the claimant." Id. § 405(b)(1)(B)(ii).

If the Special Master simply applied on a case-by-case basis the substantive standards and guidelines that plaintiffs challenge, a dissatisfied claimant could not challenge those standards and guidelines in federal court. As underlying components of the Special Master's

REV_00160309

determination regarding the proper "amount of compensation," they would fall within the plain language of Section 405(b)(3)'s preclusion provision and be exempt from judicial review.

No different result should attain merely because the Special Master has voluntarily disclosed the substantive standards and guidelines that he intends to apply to calculate the "amount of compensation" for each claimant.[36] In asserting that the challenged statements and regulations violate the substantive provisions of the Act, plaintiffs essentially seek a judicial determination as to the "amount of compensation" to which they are entitled under the statute. They ask this Court to grant declaratory and injunctive relief that would control the Special Master's determination of the "extent of the harm" to individual claimants, claimants' "individual circumstances," and the "amount of compensation" to be awarded. Indeed, the Colaio plaintiffs, as part of their prayer for relief, request that "any previously granted compensation awards from the [Fund] be deemed interim and subject to revision based on a final judgment herein," Colaio Compl. p. 34 -- precisely the same compensation awards that the Act makes unreviewable. This type of judicial intervention would be flatly at odds with Congress's intent to immunize from judicial review the Special Master's "determination" of claimants' "amount of compensation" and related statutory factors. See, e.g., American Society of Cataract and Refractive Surgery v. Thompson, 279 F.3d 447, 452-454 (7th Cir. 2002) (preclusion provision barring judicial challenge to administrator's determination of value also barred challenge to regulation setting forth formula for calculating value); Painter v. Shalala, 97 F.3d 1351, 1355-1356 (10th Cir. 1996) (same).[37] That is especially clear with respect to the Special Master's methodology for

---

[36] Congress did not require the Special Master to promulgate regulations or otherwise give guidance with respect to the substantive standards and guidelines for determining the amount of compensation. See Act § 407. To the contrary, as the Special Master has noted, he could have determined the amount of awards on a discretionary, "case-by-case" basis, without providing "any guidance to potential claimants regarding the awards that they would likely receive if they waived their rights to litigation and opted into the Fund." 67 Fed. Reg. 11,236.

[37] The fact that plaintiffs challenge the substantive criteria under which the Special Master makes award calculations distinguishes this case from cases in which collateral

REV_00160310

determining loss of earnings and other benefits, which the regulations explicitly identify as "part of the process for reaching a 'determination' pursuant to section 405(b) of the Act." 28 C.F.R. § 104.43(a).

To hold that this Court has jurisdiction over plaintiffs' claims "would create the absurd result of permitting a court to strike down a policy statement of the [administrator], notwithstanding the court's inability to review any subsequent individual adjudications for conformance with its policy decision." Paluca v. Secretary of Labor, 813 F.2d 524, 527 (1st Cir.), cert. denied, 484 U.S. 943 (1987). It would also have the anomalous result of giving greater rights of judicial review to potential applicants who had not yet filed a claim for compensation than the rights of review given to dissatisfied claimants -- despite the fact that individuals "'have traditionally been accorded more rather than less judicial protection against agency error than generally applicable rules.'" Id. (quoting Gott v. Walters, 756 F.2d 902, 915 (D.C. Cir. 1985) (Scalia, J.), vacated and reh'g granted, 791 F.2d 172, remanded with instructions to dismiss as moot, 791 F.2d 172 (D.C. Cir. 1985)). Plaintiffs should not be permitted to thwart Congress's intent to bar judicial review of the Special Master's determinations "by simply bringing declaratory judgment actions in federal court before they" file a claim for compensation. Heckler v. Ringer, 466 U.S. 602, 621 (1984). See, e.g., Califano v. Sanders, 430 U.S. 99, 108 (1977). This Court should dismiss their claims for lack of jurisdiction under Section 405(b)(3).[38]

B.Plaintiffs Cannot Seek Review of the

---

challenges to agency action -- which did not seek to establish the plaintiff's entitlement to a particular outcome or a particular relief in the administrative process -- have been permitted to go forward notwithstanding statutory preclusion provisions. E.g., McNary v. Haitian Refugee Ctr., Inc., 498 U.S. 479, 498-494 (1991); Abdullah v. INS, 184 F.3d 158, 163-164 (2d Cir. 1999), cert. denied, 529 U.S. 1066 (2000). Nor do plaintiffs raise a colorable constitutional challenge to the Special Master's regulations and guidelines, which might require a heightened showing of intent before preclusion could be found. See, e.g., Webster v. Doe, 486 U.S. 592, 603-604 (1988); Czerkies v. Department of Labor, 73 F.3d 1435, 1439 (7th Cir. 1996) (en banc).

[38] Notwithstanding the preclusion provision, the Fund does not operate free from oversight. During debate on the Act, several Members of Congress stated their intention to

REV_00160311

Special Master's Actions in Individual Cases

As noted above, plaintiffs in the Colaio and Schneider cases have submitted affidavits (or otherwise alleged facts) relating to statements the Special Master purportedly made during the course of providing informal "estimates" of what certain plaintiffs might receive upon submission of a claim to the Fund. See, e.g., Declaration of Stephen Merkel ¶ 1; Schneider Compl. ¶ 53. It is not clear whether, and if so, how, these allegations relate to plaintiffs' claim that the regulations and the methodology are facially invalid.

Nevertheless, to the extent plaintiffs seek review of the Special Master's statements and conduct during such informal, "pre-filing" meetings, review is barred for two reasons. First, the APA permits judicial review of only "final agency action[s]." See 5 U.S.C. § 704. For agency action to be "final," it must (among other things) "'mark the consummation of the agency's decisionmaking process -- it must not be of a merely tentative or interlocutory nature.'" Air Espana v. Brien, 165 F.3d 148, 152 (2d Cir. 1999) (internal quotation and citation omitted); see also Bennett v. Spear, 520 U.S. 154, 177-78 (1997). The alleged "estimates" of compensation are, by definition, preliminary; they do not reflect the "consummation" of the Special Master's "decisionmaking process." To the contrary, the Special Master emphatically has stated that he "cannot, and will not, give a precise computation of an award before a claim is filed." See 67 Fed. Reg. 11,241.

Second, as noted above, the Act expressly bars review of the Special Master's determinations with respect to "the matters that [are] the subject of [a] claim under review." See Act § 405(b)(3). This bar would mean little if a claimant could seek review of the Special

---

monitor the Fund and to "step in" if needed. See, e.g., 147 Cong. Rec. S9594 (Sept. 21, 2001) (statement of Sen. Grassley) ("As a member of the Judiciary Committee, I will monitor these provisions continually and closely as to their propriety and proper functioning. I will not hesitate to step in as I see necessary should the situation call for further action."); see also Immigration and Naturalization Serv. v. Chadha, 462 U.S. 919, 955 n.19 (1983) ("[t]he Constitution provides Congress with abundant means to oversee and control its administrative creatures").

REV_00160312

Master's deliberations at every stage of the process;[39] it would mean even less (and next to nothing) if a potential claimant could seek review of the Special Master's pre-filing "estimate" of what he or she might receive upon filing a claim. Judicial review in these circumstances would frustrate Congress's basic desire that the Fund provide a quick and sure administrative remedy. See, e.g., Block v. Community Nutrition Institute, 467 U.S. 340, 345 (1984) (whether and to what extent a particular statute precludes judicial review is determined in part by "the structure of the statutory scheme [and] its objectives"). Moreover, it would permit claimants to obtain greater judicial review by not formally submitting claims to the Fund. For all of these reasons, it would be inappropriate to consider plaintiffs' factual allegations relating to informal "estimates" of their claims.

---

[39] Plaintiffs appear to acknowledge they could not, for example, submit a claim, obtain a presumed award, and then file suit challenging that presumed award. See Colaio Compl. ¶ 6; Schneider Compl. ¶ 30.

REV_00160313

CONCLUSION

For all of these reasons, Defendants respectfully submit that the Court should dismiss the complaints.

Dated: New York, New York
March 14, 2003

PETER D. KEISLER
Acting Associate Attorney General

ROBERT D. McCALLUM, Jr.
Assistant Attorney General

SHANNEN W. COFFIN
Deputy Assistant Attorney General

JOSEPH H. HUNT
Director, Federal Programs Branch

CRAIG M. BLACKWELL
Senior Trial Counsel

CHAD N. BOUDREAUX
Counsel to the Assistant Attorney General
United States Department of Justice

JAMES B. COMEY
United States Attorney for the
Southern District of New York

By:_____
ANDREW W. SCHILLING (AS-7872)
Assistant United States Attorney
33 Whitehall Street -- 8th Floor
New York, New York 10004
(212) 637-2721

REV_00160314

From: CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/15/2003 5:39:12 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:15-MAR-2003 10:39:12.00
SUBJECT::
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Do you mind if I send out an email telling everyone that you're now Senior
Associate Counsel to the President?
```

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/17/2003 5:41:32 AM
Subject: : RE: JSC & Nominations

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:17-MAR-2003 10:41:32.00
SUBJECT:: RE: JSC & Nominations
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Yes, at 12 pm.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Monday, March 17, 2003 10:38 AM
To: Bumatay, Patrick J.
Subject: Re: JSC & Nominations

Can you ask charlotte whether there is message mtg and respond to this
emal asap. Thx

.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Alicia W. Davis/WHO/EOP@EOP [WHO] <Alicia W. Davis>
Sent: 3/17/2003 4:29:50 AM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:17-MAR-2003 09:29:50.00
SUBJECT:: Re:
TO:Alicia W. Davis (CN=Alicia W. Davis/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I do not have this? When did you leave?

Alicia W. Davis
03/17/2003 08:25:26 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject:

I put an email on the NH Senators visit on your chair. I need to nail down whether they will be able to participate-can you let me know?

From: Bumatay, Patrick J.
To: <Leitch, David G.>;<Walker, Helgard C.>;<Bartolomucci, H. Christopher>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>; <Ullyot, Theodore W.>
Sent: 3/17/2003 8:53:16 AM
Subject: JSC This Week

Good morning, all.

Please let me know if you have any one for the JSC Book this week. It would be good to know by COB today.

As of right now, there is no POTUS meeting this week, so you are off the hook on that.

Thanks

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Patrick J. Bumatay/WHO/EOP@EOP [WHO] <Patrick J. Bumatay>
Sent: 3/17/2003 5:37:59 AM
Subject: : Re: JSC & Nominations

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:17-MAR-2003 10:37:59.00
SUBJECT:: Re: JSC & Nominations
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Can you ask charlotte whether there is message mtg and respond to this
emal asap. Thx

.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Katherine M. Walters/WHO/EOP@EOP [WHO] <Katherine M. Walters>
Sent: 3/17/2003 9:51:50 AM
Subject: : Re: NRSC letter for the President's dinner

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:17-MAR-2003 14:51:50.00
SUBJECT:: Re: NRSC letter for the President's dinner
TO:Katherine M. Walters (CN=Katherine M. Walters/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

These changes are all fine.

Katherine M. Walters
03/17/2003 02:48:52 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: NRSC letter for the President's dinner

You approved a mail letter for the NRSC to advertise the President's Dinner on May 21st. We made the following changes so I wanted to send you an FYI. I don't believe you will have a problem. Thanks

ps- they are on a very tight mail deadline.

"I am writing to invite you to a private dinner with honoring President Bush on May 21st here in Washington, D.C."

"More importantly, The President's Dinner is the kick-off event of the critical 2004 election campaign and a symbol of the President's commitment to maintain and expand our very slim Republican majorities in Congress and particularly in the U.S. Senate in the critical 2004 election campaign."

"If you cannot renew at this time, then I hope you will continue your support of President Bush and help him get the 2004 campaign off to a great start by making make a special contribution of $1000, $500, $250, or even $150."

From: Kavanaugh, Brett M.
To: <Bumatay, Patrick J.>
Sent: 3/17/2003 10:37:54 AM
Subject: Re: JSC & Nominations

Can you ask charlotte whether there is message mtg and respond to this emal asap. Thx

.

From: Bumatay, Patrick J.
To: <Kavanaugh, Brett M.>
Sent: 3/17/2003 10:41:16 AM
Subject: RE: JSC & Nominations

Yes, at 12 pm.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Monday, March 17, 2003 10:38 AM
To: Bumatay, Patrick J.
Subject: Re: JSC & Nominations

Can you ask charlotte whether there is message mtg and respond to this emal asap. Thx

.

From: Nelson, Carolyn
To: <Kavanaugh, Brett M.>
Sent: 3/17/2003 12:50:05 PM
Subject: two things

1. will we have JSC this week?

2. do I need to submit a new request for a meeting with the President? We don't have any POTUS meetings on the schedule.

From: CN=Katherine M. Walters/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/17/2003 9:48:46 AM
Subject: : NRSC letter for the President's dinner

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Katherine M. Walters (CN=Katherine M. Walters/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:17-MAR-2003 14:48:46.00
SUBJECT:: NRSC letter for the President's dinner
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

You approved a mail letter for the NRSC to advertise the President's Dinner on May 21st. We made the following changes so I wanted to send you an FYI. I don't believe you will have a problem. Thanks

ps- they are on a very tight mail deadline.

"I am writing to invite you to a private dinner with honoring President Bush on May 21st here in Washington, D.C."

"More importantly, The President's Dinner is the kick-off event of the critical 2004 election campaign and a symbol of the President's commitment to maintain and expand our very slim Republican majorities in Congress and particularly in the U.S. Senate in the critical 2004 election campaign."

"If you cannot renew at this time, then I hope you will continue your support of President Bush and help him get the 2004 campaign off to a great start by making make a special contribution of $1000, $500, $250, or even $150."

From: Kavanaugh, Brett M.
To: <Bumatay, Patrick J.>;<Kho, Irene>
Sent: 3/17/2003 2:12:44 PM
Subject: Re: FW: LRM IKK29 - - TREASURY Testimony on the President's Jobs and Growth package
Attachments: tt0014a.doc

White House Counsel has no objection.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 03/17/2003 02:04:58 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: FW: LRM IKK29 - - TREASURY Testimony on the President's Jobs and Growth package

Just a reminder, this is due at 2 pm.

-----Original Message-----

From: Kho, Irene

Sent: Friday, March 14, 2003 5:05 PM

To: Cea Lrm; ODCLCA.LRM.SSA@ssa.gov; lrm@hhs.gov; CLRM@doc.gov; dol-sol-leg@dol.gov; cla@sba.gov; justice.lrm@usdoj.gov; HUD_LRM@hud.gov; ogc_legislation@ed.gov

Cc: Nec Lrm; Ovp Lrm; Whgc Lrm; Hennessey, Keith; Reardon, Brian; Foster, James D.; Barth, Mary C.; Rodriguez, Justine F.; Burgeson, Christine M.; Call, Amy L.; Lobrano, Lauren C.; Mahaffie, Robert F.; Schwartz, Mark J.; McMillin, Stephen S.; Rhinesmith, Alan B.; Walsh, Maureen; Menchik, Mark D.; Kitti, Carole; Dennis, Yvette M.; Boden, James; Redburn, Francis S.; Price, Sharon L.; Ohs Lrm; Schwartz, Kenneth L.; Lyon, Randolph M.; Ward, Elizabeth K.; Fontenot, Keith J.; Smalligan, Jack A.; Hanson-kilbride, Jennifer; Enger, Michelle A.; Wasserman, Mark A.; Carroll, Robert J.; Conda, Cesar; Schneider, Matthew J.; Wood, John F.; Perry, Philip J.; Green, Richard E.; Jukes, James J.; Stack, Kathryn B.; Rowe, David; Badger, William D.; Gilbert, Alan; Jensen, Amy; Kirk, Matthew ; Loper, Ginger G.; Bassano, Amy; Spuria, Lillian S.; Robillard, Lara E.; White, Chiquita; Krauss, Lori A.; Grippando, Hester C.

Subject: LRM IKK29 - - TREASURY Testimony on the President's Jobs and Growth package

Attached is Treasury testimony on the President's jobs and growth package for a hearing before the House Financial Services Committee's Oversight and Investigations Subcommittee on Tuesday, March 18th, at 3:00 PM. Please review and provide comments by 2:00 PM, Monday, March 17th. Thank you.

- tt0014a.doc << tt0014a.doc >>

LRM ID: IKK29

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Friday, March 14, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Richard E. Green (for) Assistant Director for Legislative Reference

OMB CONTACT: Irene Kho

PHONE: (202)395-5858 FAX: (202)395-3109

SUBJECT: **TREASURY Testimony on the President's Jobs and Growth package**

DEADLINE: **2:00 PM Monday, March 17, 2003**

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Attached is Treasury testimony on the President's jobs and growth package for a hearing before the House Financial Services Committee's Oversight and Investigations Subcommittee on Tuesday, March 18th, at 3:00 PM. Please review and provide comments by 2:00 PM, Monday, March 17th. Thank you.

DISTRIBUTION LIST

AGENCIES:

018-Council of Economic Advisers - Liaison Officer - (202) 395-5084

110-Social Security Administration - Diane B. Garro - (202) 358-6030

052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773

025-COMMERCE - Michael A. Levitt - (202) 482-3151

062-LABOR - Robert A. Shapiro - (202) 693-5500

107-Small Business Administration - Richard Spence - (202) 205-6700

061-JUSTICE - Daniel Bryant - (202) 514-2141062-LABOR - Robert A. Shapiro - (202) 693-5500

054-HOUSING & URBAN DEVELOPMENT - Mike Moran - (202) 708-1793

030-EDUCATION - Jack Kristy - (202) 401-8313

EOP:

NEC LRM

OVP LRM

WHGC LRM

Keith Hennessey

Brian Reardon

James D. Foster

Mary C. Barth

Justine F. Rodriguez

Christine M. Burgeson

Amy L. Call

Lauren C. Lobrano

Robert F. Mahaffie

Mark J. Schwartz

Stephen S. McMillin

Alan B. Rhinesmith

Maureen Walsh

Mark D. Menchik

Carole Kitti

Yvette M. Dennis

James Boden

Francis S. Redburn

Sharon L. Price

OHS LRM

Kenneth L. Schwartz

Randolph M. Lyon

Elizabeth K. Ward

Keith J. Fontenot

Jack A. Smalligan

Jennifer Hanson-Kilbride

Michelle A. Enger

Mark A. Wasserman

Robert J. Carroll

Cesar Conda

Matthew J. Schneider

John F. Wood

Philip J. Perry

Richard E. Green

James J. Jukes

Kathryn B. Stack

David Rowe

William D. Badger

Alan Gilbert

Amy Jensen

Matthew Kirk

Ginger G. Loper

Amy Bassano

Lillian S. Spuria

Lara E. Robillard

Chiquita White

Lori A. Krauss

Hester C. Grippando

LRM ID: IKK29 **SUBJECT:** TREASURY Testimony on the President's Jobs and Growth package

RESPONSE TO

LEGISLATIVE REFERRAL

MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) faxing us a memo or letter.

Please include the LRM number and subject shown above.

TO: **Irene Kho Phone: 395-5858 Fax: 395-3109**

Office of Management and Budget

FROM: _____ **(Date)**

_____ **(Name)**

_____ **(Agency)**

_____ **(Telephone)**

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Draft testimony for Peter R. Fisher
House Financial Services Oversight and Investigations Subcommittee
Tuesday, March 18, 3 pm

Madame Chairman Kelly, Ranking Member Gutierrez, and distinguished members of the Oversight Subcommittee, thank you for your invitation to testify on the President's Jobs and Growth package. I will emphasize two critical features of the President's plan to create and secure jobs, accelerate and sustain our recovery, and increase workers' standards of living and the economic performance of our nation for many years to come.

First, the President's package is the right prescription for the macroeconomic circumstances we face today. We face more than the ups and downs of the regular economic cycle. A pure consumption-oriented, short-term stimulus is not the right response. We are recovering from the events of the 1990s, culminating in the stock market bubble and its aftermath, as well as the attacks of September 11th. We should support consumption and promote investment on a balanced, enduring basis. The President's package would do this.

Second is the promise of sharpening capital allocation in the United States. The President has proposed reducing the distortion in taxation of equity capital vs. debt capital by taxing corporate income just once and not twice. By enacting this proposal, this Congress has the opportunity to make the single biggest improvement in the efficiency of capital investment that Congress has taken in decades.

The right prescription for today's macroeconomic circumstances

It may be helpful to identify our macroeconomic challenge before we discuss a solution. The United States, in my judgment, is not facing just another swing of the business cycle, but the aftermath of the extraordinary events of the 1990s. Federal Reserve monetary policy successes, global economic integration, and telecommunications advances combined to fuel real prosperity but also a stock market bubble. We continue to live with the dis-inflationary consequences and the destruction of wealth as the bubble burst.

Under these circumstances, using fiscal policy only to deliver a "short-term stimulus" would be a mistake. The American people are smart enough to distinguish between a one-off injection of cash and an enduring improvement in their disposable income. When consumers re-finance their mortgages at lower rates, they gain the true wealth effect of an enduring improvement in household cash flow.

The same would be true of bringing forward to this year the tax rate reductions that Congress has already approved, of ending the marriage penalty, of increasing the

REV_00160364

child credit from $400 to $1000 per child, of reducing the taxation of equity capital (the dividend tax). The President's plan would put cash in people's pockets right away and in the future. The plan would spur small businesses to invest as their marginal rates fall. Higher incomes stretching into the future will stimulate consumer demand and business investment – policy for the long-term, beginning today.

The scale of the package is central to accelerating growth and job creation. Over the next decade, U.S. economic output is projected to total $142 trillion, generating $27 to $28 trillion in federal revenues. The President's package would reduce taxes by $670 billion over that period (scored with static modeling). Fiscal action cannot be timid or tiny if it is to influence such a massive economy. It must have some heft.

Let's not make the mistake of opting for unbalanced, short-term consumption stimulus. We should choose policies that will promote consumer and business confidence, sustained consumption and investment, real economic growth and job creation, both now and over the coming decade.

Keener incentives for more efficient capital allocation

In the past year, Congress under Chairman Oxley's and Senator Sarbanes' leadership took a major step toward improving our capital markets' performance. While implementation is still underway, corporate executives, directors, auditors, and lawyers are already feeling the tighter accountability. Better run, better-disclosing corporations make for better capital markets.

But there is more to be done in setting the right incentives for corporate executives. By double-taxing profits but not interest, our tax code encourages executives to retain earnings instead of paying them to shareholders; to favor debt over equity finance; and to dedicate some of America's leading minds to tax alchemy instead of value creation. By imposing a high marginal rate on profit, our tax code thins the vital blood of economic growth, risk capital. No other major industrial nation taxes profits at such a punitive effective rate.

The President's proposal would reduce these biases against equity capital. Individuals would no longer pay taxes on dividends based on income for which the corporation has already paid tax. To avoid forcing companies to pay dividends, a shareholder's basis in his or her stock would rise by a commensurate amount if a company chose to retain earnings for re-investment.

Shareholders would be tax-neutral between re-investing profits in the best projects a company could offer versus the best projects the market could offer. Today's tax code cordons off that choice inside the company.

The President's proposal would raise the burden of proof on corporate executives for retaining profits instead of sending them to shareholders. Some executives may

REV_00160365

prefer today's tax code, which places a less onerous burden for justifying a decision to retain earnings with clear and attractive re-investment plans. Yet corporations exist to serve shareholders, not corporate employees, and our tax code would be the better for recognizing such.

The impact on capital efficiency may be huge. Each year American firms invest over $1 trillion in fresh capital and generate $700-800 billion in corporate profits. Think of the gains in capital utilization and job creation if we accelerate and re-target the investment process.

The economy and financial markets would reap collateral benefits. With companies issuing less debt and more equity, balance sheets would become sturdier over time, and companies less prone to job-destroying bankruptcy. Eliminating this distortion would diminish the tax code's overall bias against savings and investment and lower the cost of capital – meaning higher capital investment, a higher-long-term growth rate, higher productivity, and higher wages for everyone. And the proposal would slash the incentives for corporate tax engineering because the exclusion only applies to fully taxed profits. Net tax complexity and compliance costs would fall, freeing some of our keenest minds for more productive work.

Corporate executives would also face cleaner incentives for their own conduct. If dividends are no longer a tax-inefficient way of paying shareholders, executives will have fewer arguments to justify cash mountains and share buy-backs – which, a critic may note, offer the insider benefit of boosting the value of executives' stock options. And, because the President believes that profits should be taxed once – not twice, but also not never – a company's paying tax actually accrues as an asset to shareholders. "Corporate inversions" won't make sense any more.

Impact of anticipated borrowing on fiscal sustainability

Growth has been slower and unemployment higher than we would like. Prudent fiscal policy leans against the economic cycle – exactly as the President has proposed with cutting taxes for the long-term and increasing deficits for the near-term. The deficits projected are very manageable in historical context, in comparison to other G-7 countries, and in proportion to the scale of the domestic and global credit markets.

In February 2003, the Treasury announced its most recent refunding needs and related financing changes. We are confident that the Treasury will have no difficulty financing the federal government's needs under all projected fiscal scenarios. There were no changes in the issuance calendar for this quarter. Looking ahead, the Treasury announced plans to re-introduce a 3-year note in May, to be part of future quarterly financing packages, primarily to diversify issuance away from Treasury bills and the 2-year note. The Treasury instituted a regular re-opening policy for 5-year notes, beginning in May, and outlined additional steps in case more borrowing capacity proves needed.

REV_00160366

[*Optional supplementary ending – based on Fisher's recent remarks:*
- *March 10, 2003, http://www.treas.gov/press/releases/js95.htm*
- *November 14, 2002, http://www.treas.gov/press/releases/po3622.htm]*

[But how can we bridge the gap from the budget deficits that it is wise to incur now to the fiscal balance that we need to achieve in the long run? The first step is diagnosing the real problem. I suggest that we re-focus our attention from annual deficits and total debt, which understate our long-term challenge, and instead look to the future – to our total future obligations.]

[According to the Treasury's annual *Financial Report of the United States Government*, these future obligations, chiefly Social Security, Medicare, and government employee and retirement benefits, are twenty-odd trillion dollars – over six times greater than the national debt held by the public. Yet our fiscal discourse seems oddly unfocused on this fact. Once we have the government's total financial position in mind, and only then, can we start real discussion about closing the gap between future revenues and outlays.]

[From 1961 to 2001, through five Democratic and five Republican administrations, as tax debates have come and gone, total federal revenues have ranged from 17 to 21 percent of GDP. The average has been 18.6 percent. We are now operating a bit below this long-run average, as we would both hope and expect given the state of our economy. The prudent way to plan for the government's finances over the coming decades is to project that federal revenues remain around the average of the last forty years. When we plan in this cautious way, we will of course realize that federal revenues can only grow with growth in the economy.]

[Real fiscal discipline will only come about if we consider a forward-looking measure of the federal government's fiscal position. When we grapple with the fiscal gap that matters - between the current value of future outlays and future revenues - we will recognize the force of the President's insistence that only by growing the economy and controlling future spending will we control future deficits.]

REV_00160367

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Benjamin A. Powell/WHO /EOP@EOP [WHO] <Benjamin A. Powell>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Noel J. Francisco/WHO /EOP@EOP [WHO] <Noel J. Francisco>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>
Sent: 3/18/2003 5:00:38 AM
Subject: : JSC Off

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:18-MAR-2003 10:00:38.00
SUBJECT:: JSC Off
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

JSC is Off this week.
;
thanks
```

From: Bumatay, Patrick J.
To: <Kavanaugh, Brett M.>;<Leitch, David G.>
CC: <Nelson, Carolyn>
Sent: 3/18/2003 9:10:36 AM
Subject: JSC

Right now, no one has anyone to present for JSC.

Jen Newstead said there is still a possibility that she might have someone later today.

Do you want to go ahead and cancel?

From: CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange [OPD]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jess Sharp/OPD /EOP@EOP [OPD] <Jess Sharp>;Elizabeth S. Dougherty/OPD/EOP@EOP [OPD] <Elizabeth S. Dougherty>
CC: Layton Skelly/OPD/EOP@EOP [OPD] <Layton Skelly>
Sent: 3/18/2003 5:38:01 AM
Subject: : FW: Antitrust call today at 11:30

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Lauren J. Vestewig (CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange [OPD])
CREATION DATE/TIME:18-MAR-2003 10:38:01.00
SUBJECT:: FW: Antitrust call today at 11:30
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jess Sharp (CN=Jess Sharp/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
CC:Layton Skelly (CN=Layton Skelly/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
End Original ARMS Header

Make this 11:20.; Thanks.
-----Original Message-----
From: Vestewig, Lauren J.
Sent: Tuesday, March 18, 2003 10:22 AM
To: Sharp, Jess; Dougherty, Elizabeth S.; Kavanaugh, Brett M.
Cc: Skelly, Layton; Lefkowitz, Jay P.
Subject: Antitrust call today at 11:30

Provided Hew Pate can participate, there will be a conference call today at 11:30.; (I'll shoot you another email to confirm around 11.); Kirk Van Tine will also join.; Thanks.;;;

From: Bumatay, Patrick J.
To: <Walker, Helgard C.>;<Bartolomucci, H. Christopher>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>;<Ullyot, Theodore W.>
Sent: 3/18/2003 10:00:14 AM
Subject: JSC Off

JSC is Off this week.

thanks

From: CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange [OPD]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/18/2003 6:16:03 AM
Subject: : RE: Conference call

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Lauren J. Vestewig (CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange [OPD])
CREATION DATE/TIME:18-MAR-2003 11:16:03.00
SUBJECT:: RE: Conference call
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Do you want to get on a call without him?

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Tuesday, March 18, 2003 11:10 AM
To: Vestewig, Lauren J.
Cc: Sharp, Jess; Dougherty, Elizabeth S.; Skelly, Layton;
Lefkowitz, Jay P.
Subject: Re: Conference call

He may be on a plane back from NY.

From: Lauren J. Vestewig/OPD/EOP@Exchange on 03/18/2003 11:13:04 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Jess Sharp/OPD/EOP@EOP,
Elizabeth S. Dougherty/OPD/EOP@EOP
cc: Layton Skelly/OPD/EOP@EOP, Jay P. Lefkowitz/OPD/EOP@Exchange
Subject: Conference call

Still no word from Hew Pate. If I hear from him, I will hook you all into
a call at 11:20. If not, I'll be in contact to set something else up.
Thanks.

From:	Rooney, Annette E.
To:	<Lefkowitz, Jay P.>;<Dorn, Nancy>;<Cleveland, Robin>;<Perry, Philip J.>;<Kavanaugh, Brett M.>
CC:	<Vestewig, Lauren J.>;<Carson, Karyn T.>;<Wood, John F.>;<Lobrano, Lauren C.>;<Jukes, James J.>;<Bent, Rodney G.>;<Kulikowski, James M.>;<Pipan, Joseph G.>;<Powell, Benjamin>;<Burnim, John D.>;<Green, Richard E.>
Sent:	3/18/2003 6:16:30 PM
Subject:	Compensation for Victims of Terrorism
Attachments:	Powell ltr -Victims Compensation.PDF

Attached is a copy of a letter from Secretary Powell to Director Daniels on State's legislative proposal to compensate US victims of international terrorism. The letter urges completion of interagency review of the proposal. This proposal was submitted as part of State's Foreign Relations Authorization bill. Per guidance within EXOP, we advised State that the proposal was on hold and that State's Legal Advisor should pursue with Jay Lefkowitz.

We are close to final clearance of State's Authorization bill in anticipation of a House International Relations Committee markup possibly next week.

<< Powell ltr -Victims Compensation.PDF >>

S/S 200305894

COPIES TO:
S
D
P
E
T
M
G
R
S/ES
SP
PA
PA/RB
S/ES-S
H
L
HR
IPS
(HEW)

THE SECRETARY OF STATE
WASHINGTON

March 13, 2003

Dear Mr. Daniels:

We have corresponded with your office since December 2001 regarding the State Department's legislative proposal to establish a comprehensive federal program to compensate U.S. victims of international terrorism. We submitted our plan in November 2001 in connection with a provision in the FY 2002 Commerce, Justice, State (CJS) Appropriations Act (P.L. 107-77), requiring the President to submit such a proposal not later than submission of the 2003 budget. This proposal has yet to be approved by your office despite subsequent revisions addressing initial OMB concerns.

Deputy Secretary Armitage had several conversations with Deputy Director Dorn in May and June of 2002 regarding legislation to provide compensation for victims of international terrorism. Since we have not submitted a proposal to Congress, Senator Hollings has attempted to add language to the FY 2002 Supplemental Appropriations bill, as well as to the FY 2003 CJS Appropriations bill, that seeks to abrogate the 1981 Algiers Accords and permit the 1979 Tehran hostages to sue Iran for damages in U.S. court in violation of U.S. international obligations to the Accords. Each time, we successfully worked to get the language dropped, arguing that an Administration proposal on this matter would be forthcoming.

In June of 2002, Deputy Secretary Armitage sent a letter to key members, with OMB concurrence, outlining the Administration's principles for such a proposal. Senator Hollings and other members, however, are still awaiting the Administration proposal, in response to the FY 2002 directive. Just recently, at a hearing on March 6 before the Senate CJS Appropriations Subcommittee, Senator Hollings asked me about the status of our proposal.

The Honorable
Mitchell E. Daniels, Jr.,
Director,
Office of Management and Budget.

In February, we again provided draft legislation to OMB as part of our proposed FY 2004/2005 Foreign Relations Authorization bill. On March 3, OMB advised us of its staff recommendation to defer a decision for further consideration.

Our failure to submit a proposal is increasingly problematic. I strongly urge you to complete your inter-agency review of this matter as soon as possible so that our proposed legislation can remain in the State Authorization bill. I am concerned that if the Administration is not more responsive to the FY 2002 CJS bill, we will not be able to deter more objectionable legislation during this year's appropriations process. Moreover, the current ad hoc approach favors large payments to a few victims who find assets, and large fees to their trial lawyers, with a high risk that the U.S. treasury will ultimately have to pay any amounts taken from blocked assets. The current approach also creates serious foreign policy difficulties, particularly since U.S. assets abroad risk similar treatment. I believe it is urgent that we change from that approach to a system without the foreign policy difficulties that provides a limited but equitable recovery to all victims of terrorism.

Sincerely,

Colin L. Powell

From: CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/18/2003 3:00:43 PM
Subject: : RE: OMB has some concerns, as you probably heard

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [ OPD ] )
CREATION DATE/TIME:18-MAR-2003 20:00:43.00
SUBJECT:: RE: OMB has some concerns, as you probably heard
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Yes

Think I cleared them up, but will follow up with them

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Tuesday, March 18, 2003 7:55 PM
To: Lefkowitz, Jay P.
Subject: OMB has some concerns, as you probably heard
```

From: CN=John B. Bellinger/OU=NSC/O=EOP [NSC]
To: Jay P. Lefkowitz/OPD/EOP@Exchange [OPD] <Jay P. Lefkowitz>
CC: brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>
Sent: 3/19/2003 8:22:23 AM
Subject: : Re: FW: draft -- any edits before we send in? The first part is a summary for Andy -- what follows is a scheduling proposal

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP [ NSC ] )
CREATION DATE/TIME:19-MAR-2003 13:22:23.00
SUBJECT:: Re: FW: draft -- any edits before we send in? The first part is a summary for
Andy -- what follows is a scheduling proposal
TO:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [ OPD ] )
READ:UNKNOWN
CC:brett m. kavanaugh ( CN=brett m. kavanaugh/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

This looks basically fine. We will probably not table a separate UNSCR on
return of assets but rather include that as a provision in our mega
post-conflict UNSCR.
```

From:	Keys, Elizabeth \(Republican-Conf\) <Elizabeth_Keys@src.senate.gov>
To:	Ledeen, Barbara \(Republican-Conf\) <Barbara_Ledeen@src.senate.gov>;Keys, Elizabeth \(Republican-Conf\) <Elizabeth_Keys@src.senate.gov>;<Kavanaugh, Brett M.>;Benczkowski, Brian A <Brian.A.Benczkowski@usdoj.gov>;<Guerra, Abel>;leonard.leo@mindspring.com <leonard.leo@mindspring.com>;margaret.hoover@mail.house.gov <margaret.hoover@mail.house.gov>;margaret.hoover@mail.house.gov <Snee, Ashley>
Sent:	3/19/2003 2:02:51 PM
Subject:	FW: White House Bulletin-Hispanic Conference
Attachments:	wb030319.doc

Without attending the event, using the advisory and press release I forwarded to him, John Fogarty at White House Bulletin wrote the following story today about the launch of the Hispanic Conference. The complete text of today's Bulletin is attached. -Elizabeth

Five Republican House Members Announce Formation Of "Congressional Hispanic Conference."

Reps. Henry Bonilla, Ileana Ros-Lehtinen, Lincoln Diaz-Balart, Devin Nunes and Mario Diaz-Balart scheduled an afternoon news conference today where they were expected to announce the formation of the Congressional Hispanic Conference. The statement prepared for the news conference lists the group's priorities, including: "support of President Bush and American troops in the war against terrorism, the Free Trade Agreement of the Americas (FTAA), tax relief to families, through eliminating the death tax and the marriage penalty," and backing "faith based initiatives and educational choice for all."

Ros-Lehtinen, who will serve as Chair of the Congressional Hispanic Conference, says in a statement prepared for delivery, "The newly formed Congressional Hispanic Conference...will let all Hispanics know that their issues and concerns are being listened to and acted upon in the US Congress. Lower taxes, affordable health care and the education of our youth are all issues which are dear to the Republican Party and to Hispanics as well and we will fight our hardest to assure that the largest minority group in the United States have a loud and powerful voice in Congress."

Bonilla adds in his statement, "Many Americans think the Congressional Hispanic Caucus represents Hispanics -- that is not the case. Today we make clear that there is another voice. Today we introduce a group who will look out for the best interests of all Hispanics -- not just those with liberal politics. I am proud to serve as a founding member of this group and look forward to great progress."

THE WHITE HOUSE **BULLETIN**

BULLETIN NEWS NETWORK, INC. • 8150 LEESBURG PIKE, SUITE 501 • VIENNA, VA 22182 • FAX (703)749-0060 • TEL (703)749-0040

SUBJECT: **TODAY'S BRIEFING**

DATE: **WEDNESDAY, MARCH 19, 2003**

OFF THE WIRES:

- **Arafat Appoints Longtime Deputy Abbas Prime Minister.** Palestinian President Yasser Arafat appointed his longtime deputy Mahmoud Abbas prime minister today, a senior Palestinian official said. According to legislation creating the new post, Abbas has the authority to appoint the Cabinet and call it into session, and he is responsible for overseeing its functions. Legislator Hanan Ashrawi said, "It's the beginning of a transition -- it is certainly a turning point and a qualitative shift in the political culture. Now we have power-sharing that is clearly spelled out." Arafat remains overall commander of Palestinian security forces, and also has final say in negotiations with Israel.

IN THE WHITE HOUSE AND AROUND TOWN:

- **Bush Aides Say Timing Of Attack On Iraq Is Up To Military.** President Bush was meeting today with his foreign policy and military advisors as Bush's deadline for Iraqi President Saddam Hussein to depart the country approached. Bush aides said the White House has no plans to mark the deadline and that war will not necessarily begin at 8 p.m. tonight. They said Bush would decide on the timing of military action based on the advice of military leaders.

  White House Press Secretary Ari Fleischer said this morning, "On the brink of war with Iraq, Americans should be prepared for what we hope will be as precise and short a conflict as possible, but there are many unknowns. It could be a matter of some duration; we do not know. Americans have to be prepared for loss of life. Americans have to be prepared for the importance of disarming Saddam Hussein to protect the peace."

  Turkey Moving Toward Allowing Fly-Overs But Not Base Access. Turkish Prime Minister Tayyip Erdogan said today his country is moving toward opening its airspace to US military planes but not allowing them access to air bases. A parliamentary vote on the proposal is expected tomorrow. Such a decision would result in Turkey forfeiting a US aid package of up to $30 billion in grants and loans.

  Germany Allows Fly-Over Rights. Germany today guaranteed the US fly-over rights. Chancellor Gerhard Schroeder also rejected calls for a parliamentary votes on whether to allow German troops on NATO reconnaissance flights over Turkey and on keeping nuclear and chemical contamination detection units in Kuwait. Several members of Schroeder's coalition of Social Democrats and Greens have expressed reservations about allowing Germans to join NATO AWACS radar plane crews in flights over Turkish airspace, arguing the flights could assist the US-led attack on Iraq.

  US Bombs More Iraqi Positions In Southern No-Fly Zone. US planes bombed Iraqi positions after coalition planes patrolling the southern no-fly zone were fired on, Admiral John Kelly told reporters aboard the USS Abraham Lincoln today. Kelly said "a series of targets" which he described as command and control positions were hit. Kelly added, "We're seeing some fortifications that were built over the last month or two months being occupied. Mostly we're seeing high-value targets, surface-to-air missiles, moving in an effort by them to increase their survivability." Kelly said Saddam Hussein "continues to reposition his forces. We continue to use our intelligence gathering abilities to adjust to this and to be prepared."

Almost 2 Million Leaflets Dropped In Southern Iraq. The US military said today coalition planes dropped almost 2 million more leaflets into Iraq today, targeting 29 military and civilian sites in the southeastern part of the country. The leaflets carried various messages. A US military statement said, "Some stressed that Coalition forces do not wish to harm innocent Iraqis. One message informed Iraqi citizens that they could be the victims if Saddam Hussein uses chemical weapons. Another message encouraged the Iraqi military to refrain from using weapons of mass destruction or burning oil fields." Officials in Washington said one of the main purposes of the leaflets is to persuade Iraqi forces in the south to step aside when coalition forces move in from Kuwait.

General Warns Response To Iraqi Chemical Attack Would Be "Dramatic." Gen. David McKiernan, the top US commander in Kuwait, warned Iraq today, "It would be a hugely bad choice on the part of any Iraqi leader or commander to employ chemical weapons." He promised that the allied response to such an attack would be "dramatic."

Iraqi Parliament Pledges Loyalty To Saddam. In an emergency session today, deputies in Iraq's parliament issued a letter pledging their loyalty to President Saddam Hussein. Several chanted, "We'll sacrifice our blood and souls for Saddam." Speaker Saadoun Hammadi told reporters afterward that "it is unthinkable for Saddam Hussein to leave" the country.

Italian Prime Minister Backs Use Of Force, Faults France. Italian Prime Minister Silvio Berlusconi today backed military action in Iraq and said France had derailed diplomatic efforts. As the Italian parliament prepared to vote on opening the country's air space to US fly-overs, Berlusconi said, "The game is in play between those who historically have been committed to the liberty of men and those who have transformed their country into a chamber of torture. It seems to me that France made a mistake, saying it would have used its veto against another resolution. Resolution 1441…still applies and thus the conditions to authorize the use of force." Though Berlusconi was heckled repeatedly during his speech, the parliament is expected to approve the measure later today. Berlusconi repeated that Italian troops would not participate in the war, however.

Sharon Says Little Risk Of Iraqi Missile Strike; $2 Billion Defense In Place. Israeli Prime Minister Ariel Sharon told his Cabinet today there is little risk of Iraq hitting Israel with missiles but that the armed forces are ready for the worst. Since the 1991 Gulf War, when Israel was hit by 39 Scud missiles, Israel has installed a $2 billion-plus missile defense system. US forces man three of at least eight Patriot anti-missile batteries now in Israel. Sharon also praised the US for its determination to strip Iraq of weapons of mass destruction. Said Sharon, "The war being waged, which will be waged, is not a war in which we are involved. We hope their efforts will be successful." Though Israel stayed on the sidelines of the 1991 conflict, this time it has reserved the right to retaliate. A government spokesman said counterattack options were not discussed at today's Cabinet session, however.

US Officials Deny Aziz Rumors. US officials denied this morning that Iraqi Deputy Prime Minister Tariq Aziz had either defected to US authorities or was shot trying to flee Baghdad. "These rumors are just not true," one official told Reuters.

- **Ridge Says Al Qaeda Still Principal Terror Threat.** Homeland Security Secretary Tom Ridge told ABC television this morning that Al Qaeda remains "the principle threat" to commit an act of terrorism against the US. Ridge said that "between what our allies have acquired and what we've learned over the past couple of weeks, it has reached the point that we are at a higher level of risk at this time. Bin Laden has also said that if we move military into Iraq, he will use this as a rallying cry. Again, it's very much about bin Laden and Al Qaeda primarily." Asked whether there is a specific threat, Ridge said, "The traffic discusses targeting US and coalition interests around the world, US interests domestically and internationally. And again, the general references to different sectors, the general references to soft targets, again I think if you took a look at the litany of generic references that we pick up from our sources, you'd find that they've, in one manner, shape or form, talked about a lot of things in this country, but not with the kind of specificity that we would like to see and, frankly, not with the specificity that a lot of people think we get."

  $3 Billion Coming To States, Cities To Shore Up Security Efforts. In an earlier interview with NBC, Ridge was asked about states and cities which are saying they cannot afford to take the anti-terror measures Ridge has suggested and that they have not received money promised by Washington. Ridge answered, "First of all, when I spoke with the governors a couple of nights ago, they all understood that we have to improve security and I think they've all undertaken a very robust and broad-ranging group of security precautions. Secondly, the President has said that he would ask for a supplemental. There will

REV_00160547

be a homeland security piece of that supplemental." Asked when states and cities can expect to get more money, Ridge responded, "Well, I think it really depends on when the decision is made to ask for the supplemental and it'll be forthcoming. But I must tell you...that we now have out applications far in excess of $1 billion to the states and the locals, for law enforcement and first-responders. We'll put another $1 billion out that was appropriated by the Congress. So in due time there will be about $3 billion available to the governors and the mayors to help them shore up their efforts to make America more secure."

Color-Coded Terror Alert Levels Meant For Government Professionals. Appearing on CBS, Ridge was asked how he plans to "avoid the sort of hysterical duct-tape buying and the run on water that we saw the last time the threat level was raised." Said Ridge, "I think Americans over the past couple of months, since we've raised the threat level -- this is the third occasion -- have begun to understand that when we raise the threat, when we go from yellow to orange or when we engage additional security measures with Liberty Shield, that this is really our work with government, with security personnel, with law enforcement, and I think they understand that the national threat warning is really for the professionals, not for them. Hopefully, as we've seen with over 100 million hits on the ready.gov website, that people are learning more about what they can do to be prepared. But by and large, I think Americans understand the reality of the 21st century and trust the professionals to keep them safe."

Bloomberg Makes Case To White House For NYC Security Aid. President Bush and Homeland Security Secretary Tom Ridge met with New York City Mayor Michael Bloomberg this morning, after which Bloomberg called it a "great meeting." Bloomberg told reporters New Yorkers "are behind the President and our prayers are with him and with our troops overseas." He added, "We do have, in New York, some special needs in the sense that we represent to the whole world a lot of things that terrorists find very threatening. And we obviously can use every bit of help that we can get from Washington and also from Governor Pataki in Albany, who've been very helpful, in terms of providing resources." Bloomberg also thanked Ridge, saying, "He's got a very difficult job. Pulling together disparate groups, coordinating our resources to meet a changing world is perhaps the hardest job in government. And my hat's off to him."

Asked what he requested in terms of dollars, Bloomberg said, "We didn't talk specifics, but our great interest is that the monies that are distributed and made available are based on where the risks are and on need." He added, "Clearly, New York City was ground zero before, and because it is such a diverse city where people can express their views, where all of the world's religions are practiced, it's the target."

Ridge indicated he was on the same wavelength. In remarks to reporters preceding Bloomberg's, Ridge said, "We understand the primacy that the terrorists place on densely populated area. We know they go after economic targets. And the city of New York obviously remains a part of this national infrastructure that is a target." He also said "no final determinations have been made" regarding the supplemental budget request.

- **House Leaders Looking To "Wall Off" Medicare As They Grow Vote On Budget Resolution.** Lacking the votes to pass their budget resolution, House GOP leaders have been engaging in a series of meetings to tweak the bill in an effort to get to a majority. While some are claiming the leadership is dozens of votes short, a House GOP leadership source told the Bulletin the number is not that high, but a scheduled 11:00 Rules Committee meeting today on the budget resolution will likely be pushed back to later in the day.

  According to knowledgeable sources, there are "competing" alternatives the House GOP leaders are weighing right now. One is a funding boost for both Medicare and Medicaid, but that is said to be "not the frontrunner." Instead, House GOP leaders are looking at "walling off" the Medicare program from cuts. The budget resolution passed by the Committee called for the underlying program to be cut even as $400 billion is set aside for a prescription drug benefit to be integrated into the program. That has resurrected memories for some of the 1996 budget battle in which Democrats blasted Republicans for supporting tax cuts for the rich while "cutting" Medicare to pay for it – a battle many Republicans are not eager to replay. And while Republican leaders appear to be focusing on Medicare, apparently believing that Medicaid is not a potent political issue, others are dusting off the MMEE – Medicare, Medicaid, Environment and Education – to remind colleagues of the mantra and agenda used by Democrats in the 90s to eat into the House GOP majority.

REV_00160548

- **Senate GOP Leaders Seek To Force Issue On Budget Resolution.** The Senate's stalemate over tax cuts continues, but the Senate GOP leadership intends to force the issue by bringing the budget resolution to a vote this week. Currently there are three floating coalitions in the Senate, none of which can muster a majority right now. There is one group which backs the President's plan to provide $700 billion+ in tax relief over ten years, a second group which seeks a smaller number, and a third group which wants no tax cuts. While an extended debate today on ANWR threatens to delay final consideration of the budget resolution, a Senate Budget Committee source tells the Bulletin that GOP leaders still plan on voting this week.

  The current nose counting suggests that GOP leaders are a handful of votes shy of 51. However, a Senate Budget Committee source said that GOP leaders are committed to "moving forward," and they will force members to demonstrate where they stand on the President's plan via a vote. According to the committee source, no Senator has yet come forward with an actual amendment to change the tax cut number in the budget resolution.

- **House Approves Tax Bill.** The House approved by voice vote today the Tax Relief, Simplification and Equity Act of 2003, designed to simplify and make more equitable 14 provisions in the tax code. Ways and Means Committee Chairman Bill Thomas, the bill's sponsor, said, "The provisions in this bill exemplify areas of the tax code that do not make sense and should not remain in the tax code one day longer."

  According to a Ways and Means press release, "HR 1308 adjusts areas of the Tax Code that penalize farmers who are stricken by drought, flood or other weather-related conditions. The legislation also helps small businesses to flourish rather than face possible bankruptcy by closing loopholes that place an unfair tax burden on their products. In addition, the bill provides for assistance to families whose children have been injured as a result of the Hepatitis A vaccination, as well as expands the orphan drug tax credit to help speed the accessibility of cures for diseases to those who need them. Other provisions grant tax relief to astronauts who perish in a space shuttle mission, including those who lost their lives in the space shuttle Columbia disaster, and extends the special capital gain exclusion for home sales for members of the military to members of the Foreign Service."

- **Democrats Poised To Defeat Artic National Wildlife Refuge Drilling Provision.** Senate Democratic Leader Tom Daschle and Senators Barbara Boxer, Dick Durbin, Joe Lieberman and Ron Wyden held what one Senate aide described as a "rally" on Capitol Hill this morning in anticipation of passing an amendment to the FY2004 Budget Resolution that would strike a provision from the resolution that "could lead to the opening of the Arctic National." Supporters and opponents of the amendment agreed this morning that the amendment, sponsored by Boxer and Republican Sen. Lincoln Chafee is likely to pass. The vote is expected to be taken today.

  A Senate aide, whose boss backs the Boxer-Chafee amendment, said, "It ain't over 'til it's over, but things are looking very good for us this morning." Other Senate sources on both sides of the issue told the Bulletin the Administration's bid to open the refuge to oil drilling, as one source said, "is poised for defeat." The source said head counts by both sides found "at least 52 senators would oppose drilling in the refuge."

- **Commerce Secretary Evans Unveils Plan To Reduce Trade Barriers, Increase Global Competition.** Commerce Secretary Don Evans this morning released an eight-point "Standards Initiative" he said was designed "to help break down trade barriers." Evans added, "The initiative is in response to industry concerns that foreign standards and technical regulation issues are becoming among of the greatest challenges to expanding exports."

  At a news conference held to release the plan, Evans said, "The Bush Administration remains committed to promoting competition and opening new markets for US goods. Standards and testing are key to our international competitiveness. But more and more we are hearing that foreign standards and testing requirements are keeping our products out of foreign markets. This is the wrong approach that reduces efficiencies, limits competition and increases prices for the consumer goods. This eight-point initiative is an effort to create a more level playing field around the world."

  The Standards Initiative includes:

  - "Developing a Commerce Global Standards Activity Assessment: The Technology Administration, through the National Institute of Standards and Technology (NIST), will take the lead in conducting a standards activity assessment of all existing Commerce Department programs and efforts to reduce

REV_00160549

standards-related barriers in foreign markets. Following consultations with industry and other stakeholders, recommendations will be made to the Secretary for future action."

- "Reinforcing Expertise in Key Markets: NIST and the International Trade Administration (ITA) have developed a new, redesigned, intensive training program for standards liaisons posted abroad."
- "Devising an Effective Training and Outreach Program: NIST and ITA, in cooperation with US standards development organizations, will develop a standards training program for all Commerce Department Foreign Commercial Service Officers."
- "Creating a 'Best Practices' Database: Working with its offices abroad, other government agencies, and industry, the Commerce Department will develop a database of 'best practices' in addressing standards issues in foreign markets."
- "Expanding the Early Warning System: The Commerce Department will strengthen and expand 'Export Alert!', a free, web-based service to disseminate market intelligence and information on standards developments in key priority foreign markets in Europe, Asia, and Latin America."
- "Partnering with the President's Export Council on Standards Leadership: The Commerce Department will support the development of a dialogue on standards within the proposed President's Export Council subcommittee on technology and competitiveness."
- "Reaching out to US Industry: The Commerce Department will host a series of industry-specific roundtables to gather input from US industry on the most pressing standards issues and priority foreign markets."
- "Appointing a Liaison at the International Trade Administration: A senior official will be named to act as ITA's Standards Liaison with US industry to ensure that industry's priorities on standards are promoted through the Commerce Department's international policies and programs, and will also work closely with other US government agencies."

- **SEC Charges HealthSouth, CEO, With $1.4 Billion In Accounting Fraud.** The SEC announced today it has charged HealthSouth Corporation and CEO Richard M. Scrushy with $1.4 billion in accounting fraud. HealthSouth is the country's largest provider of outpatient surgery, diagnostic and rehabilitative health care services. According to an SEC news release issued this morning, the commission charges that in 1999, at Scrushy's insistence, HealthSouth "systematically overstated its earnings by at least $1.4 billion in order to meet or exceed Wall Street earnings expectations. The false increases in earnings were matched by false increases in HealthSouth's assets. By the third quarter of 2002, HealthSouth's assets were overstated by at least $800 million, or approximately 10 percent." The SEC suspended trading in HealthSouth securities for two days. SEC Enforcement Director Stephen Cutler said, "HealthSouth's fraud represents an appalling betrayal of investors." The SEC said it is seeking civil penalties, surrender "of all ill-gotten gains or losses avoided by both defendants, and an order prohibiting Scrushy from ever serving as an officer or director of a public company."

  Also today, the Justice Department said former HealthSouth Chief Financial Officer Weston Smith has agreed to plead guilty to securities fraud, conspiracy, wire fraud and false certification of financial records. The department said Smith has agreed to cooperate with the government's ongoing investigation.

- **Stabenow Says "Special Interest Thimerosal Provision Has Been Dropped From Bio-terrorism Legislation."** Sen. Debbie Stabenow told a rally of families of autism victims on Capitol Hill today that a "special interest Thimerosal provision has been dropped from bio-terrorism legislation." Stabenow said, "I was surprised and disappointed to learn last week that this provision, identical to one which the House and Senate recently voted to remove from the Homeland Security bill, was attached to new legislation -- in this case, legislation dealing with smallpox and bio-terrorism. I was pleased to learn today that this provision has now been pulled from the draft of the bill, even before the bill goes to its first committee markup."

- **Frost Says Rules Committee Is "Stifling Democracy" By Blocking Democratic Amendments To Bankruptcy Bill.** Rep. Martin Frost this morning charges that in approving the rule it did for House consideration of the bankruptcy bill, the Rules Committee "continued its strategy to stifle democracy by blocking serious and substantive Democratic amendments." Frost continued, "The rule made in order a substitute amendment offered by Rep. Conyers, the Ranking Member of the Judiciary Committee, as well as an amendment offered by Rep. Sherman and a technical amendment offered by Rep. Gutierrez. Unfortunately, the Committee refused to allow the House to consider six amendments that our Democratic

REV_00160550

colleagues brought to the Committee. While the Chairman of the Rules Committee contends that making in order the substitute and the two Democratic amendments makes for a fair rule, Democratic Members should know what was not made in order in order to judge for themselves the fairness of this rule." He added, "These six were serious, substantive amendments that should have been given the opportunity to be debated and voted on by the full House."

Frost listed the amendments that the committee refused to allow:

- "An amendment by Rep. Schakowsky that would protect against the bill's means test the following groups: unemployed people who have exhausted their benefits, active duty members of the armed forces, and victims of terrorism."
- "An amendment by Rep. Waters that would prohibit credit card companies from issuing cards to people under 21 years of age."
- "An amendment from Reps. Conyers, Slaughter, and Jackson Lee that would give courts the discretion to provide extra protection for people entitled to alimony or child support."
- "An amendment by Rep. Delahunt that would place a $125,000 national cap on the homestead exemption, without any of the exceptions allowed in the underlying bill."
- "Another amendment by Rep. Delahunt that would place reasonable limits on exorbitant 'retention bonuses', severance packages, and other payments to corporate insiders of companies that are bankrupt or facing bankruptcy."
- "An amendment by Rep. Jackson Lee that would crack down on the predatory lending practice known as 'payday lending.'"

- **China Releases US Resident Teng Chunyan After 3 Years.** Chinese-born former New York City resident Teng Chunyan was released from a Beijing prison today after serving almost three years for publicizing details of China's crackdown on the dissident Falun Gong group. Teng told reporters, "Falun Gong is purely an evil cult. It has a definite political aspect." Teng has made similar comments in prison interviews, and Falun Gong activists have suggested she may have been brainwashed or tortured. Teng, who is married to an American, has permanent US resident status.

- **Five Republican House Members Announce Formation Of "Congressional Hispanic Conference."** Reps. Henry Bonilla, Ileana Ros-Lehtinen, Lincoln Diaz-Balart, Devin Nunes and Mario Diaz-Balart scheduled an afternoon news conference today where they were expected to announce the formation of the Congressional Hispanic Conference. The statement prepared for the news conference lists the group's priorities, including: "support of President Bush and American troops in the war against terrorism, the Free Trade Agreement of the Americas (FTAA), tax relief to families, through eliminating the death tax and the marriage penalty," and backing "faith based initiatives and educational choice for all."

  Ros-Lehtinen, who will serve as Chair of the Congressional Hispanic Conference, says in a statement prepared for delivery, "The newly formed Congressional Hispanic Conference...will let all Hispanics know that their issues and concerns are being listened to and acted upon in the US Congress. Lower taxes, affordable health care and the education of our youth are all issues which are dear to the Republican Party and to Hispanics as well and we will fight our hardest to assure that the largest minority group in the United States have a loud and powerful voice in Congress."

  Bonilla adds in his statement, "Many Americans think the Congressional Hispanic Caucus represents Hispanics -- that is not the case. Today we make clear that there is another voice. Today we introduce a group who will look out for the best interests of all Hispanics -- not just those with liberal politics. I am proud to serve as a founding member of this group and look forward to great progress."

- **Club For Growth Endorses Isset In Texas Special Election.** The "Reaganite" Club for Growth has endorsed Carl Isset in the May 3 special election in TX 19, being held to fill the upcoming vacancy being created by Rep. Larry Combest's retirement.

- **Political Notes.** ***Presidential.*** As the New York Times was reporting on the split in the Democratic Party on Iraq, **Sen. Joseph Lieberman** said on Fox News's "O'Reilly Factor" that he "wouldn't have done anything differently" from the way **President Bush** has. Lieberman also said on the show that the Democratic Party will not elect a president until "the American people trust us to be tough on security questions when you've got to be tough." ... The Washington Post writes that "as long as Iraq looms, [**Howard**] **Dean** has a sheen." In fact, House Majority Leader **Tom DeLay** "is drawing as much attention

REV_00160551

as possible" to Dean in an effort to push other Democratic prospects "go out on a limb and match his anti-war rhetoric," the Hill reports. ... The Washington Post profiles **Gary Hart**, who, at a speaking engagement warned of "possible nuclear catastrophes in New York, Chicago and Los Angeles" and said the battle for Baghdad could resemble the film "Black Hawk Down" played out in the "streets of a city the size of Paris."

Governors. The New York Times reports that Connecticut GOP **Gov. John Rowland** will pay up to $50,000 to a Hartford law firm to represent several of his administration officials testifying in a federal grand jury corruption investigation tomorrow. ... Alabama **Gov. Bob Riley** (R) has agreed to accept a five percent pay cut, the Mobile Register reports.

Senate. Rumors are circulating that **Sen. Ben Nighthorse Campbell** (R) might not seek a third term in Colorado if he is offered the leadership of the US Olympic Committee, the Washington Post reports. ... The "news around Washington" is that US HUD Secretary **Mel Martinez** (R) is still mulling a Florida run, UPI reports. In a letter to the Orlando Sentinel, Martinez expressed his disappointment at incumbent Democratic **Sen. Bob Graham**'s "vote last week to impede the nomination of Miguel Estrada." ...The White House is trying to get ex-Gov. **Ed Schafer** to challenge Democratic **Sen. Byron Dorgan** in North Dakota, the Hill reports. ... White House political adviser **Karl Rove** will speak at a fundraiser for GOP **Rep. Richard Burr**'s North Carolina Senate campaign next month, the Raleigh News and Observer reports. ... Senate Minority Leader **Tom Daschle** (D) has "revamped his political operation, putting a stronger emphasis on fundraising for his own re-election but also working numerous party events into his national travels" as he gets ready for another South Dakota run, Roll Call reports.

House. The New York Post's Page Six reports that "hundreds of well-heeled Washingtonians paid $1,000 to $5,000 per ticket to attend **Rep. Patrick Kennedy**'s St. Patrick's Day fund-raiser on Capitol Hill -- but Kennedy was a no-show." ... Democratic IL4 **Rep. Luis Gutierrez** has endorsed a Republican for Town President in Cicero, the Chicago Tribune reports.

POLL WATCH:

Zogby Poll Shows Double Digit Bush Lead Over All Potential Democratic Challengers. The latest Zogby International Poll (3/18) of 1,129 likely voters conducted March 14-15 (+/- 3%) shows:

2004 General Election:

- 50% said would vote for President Bush; 38% said they would vote for Sen. Joe Lieberman.
- 50% said would vote for President Bush; 38% said they would vote for Rep. Richard Gephardt.
- 49% said would vote for President Bush; 36% said they would vote for Sen. John Kerry.
- 51% said would vote for President Bush; 32% said they would vote for Sen. John Edwards.
- 54% said would vote for President Bush; 31% said they would vote for Former Sen. Gary Hart.
- 52% said would vote for President Bush; 31% said they would vote for Former Governor Howard Dean.
- 54% said would vote for President Bush; 30% said they would vote for Former Sen. Carol Moseley-Braun.
- 52% said would vote for President Bush; 26% said they would vote for Rep. Dennis Kucinich.
- 58% said would vote for President Bush; 25% said they would vote for Rev. Al Sharpton.
- 52% said would vote for President Bush; 42% said they would vote for Former Vice President Al Gore.
- 52% said would vote for President Bush; 39% said they would vote for Sen. Hillary Clinton.
- 52% said would vote for President Bush; 28% said they would vote for General Wesley Clark.

NBC News/WSJ Poll Finds Bush's Job Approval At 62%, 65% Support Iraq War. The latest NBC News/ Wall Street Journal Poll of 506 interviews conducted March 17 (+/- 4%) shows:

Bush Job Performance:

- 62% said they "approve" of the job President Bush is doing; 33% said they "disapprove" of the job Bush is doing; 5% were "not sure."

Iraq War Support:

- 65% said the US "should" take military action against Iraq; 30% said the US "should not" take military action against Iraq; 5% were "not sure."
- 59% said they think the Bush Administration "has adequately prepared the American people" for war with Iraq; 38% said they think the Bush Administration "has not adequately prepared the American people" for war with Iraq; 3% were "not sure."

REV_00160552

- 52% said they think if Saddam is removed from power, the threat of terrorism will "increase"; 16% said they think if Saddam is removed from power, the threat of terrorism will "decrease"; 29% said they think if Saddam is removed from power, the threat of terrorism will "stay about the same"; 3% were "not sure."

ABC News/Money Magazine Poll Indicates Increasing Pessimism Towards Economy. The latest ABC News/Money Magazine Poll of 1,005 telephone interviews in the month ending March 16 (+/- 3) shows:

- 9% of Americans said the economy is "getting better"; 52% said the economy is "getting worse"; 39% said the economy is "staying the same."
- 22% of Americans rate the current economy "positively"; 34% said the buying climate is "positive"; 55% rate their own finances "positively."

LAST LAUGHS:

Late Night Political Humor.

The late-night shows were reruns last night.

Copyright 2003 by the Bulletin News Network, Inc. Reproduction without permission prohibited. The White House Bulletin -- written by an editorial staff of former White House and congressional officials relying on inside sources and wire service reports -- is published 50 weeks a year on business days by the Bulletin News Network, Vienna, VA. For subscription information, please contact our Circulation Department at (703) 749-0040. You can find us on the Internet at www.BulletinNews.com.

From: Kavanaugh, Brett M.
To: <Ganter, Jonathan F.>;<Bumatay, Patrick J.>
Sent: 3/19/2003 3:09:17 PM
Subject: need clean nice PDF's of following

President's speech in June 2000 in Knoxville on confirmation process

President's 5-9-01 speech on judges

President's 10-30-02 speech on judges

President's 10-30-02 letter to Daschle re judges

President's radio address on November 2, 2002 re judges

President's 3-11-03 letter to Frist on judges

I also need one combined PDF that includes all of these in chronological order

From: Benczkowski, Brian A <Brian.A.Benczkowski@usdoj.gov>
To: Rena_Johnson_Comisac@Judiciary.senate.gov [UNKNOWN] <Rena_Johnson_Comisac@Judiciary.senate.gov>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Wendy J. Grubbs/WHO/EOP@EOP [WHO] <Wendy J. Grubbs>;Brown, Jamie E (OLA) <Jamie.E.Brown@usdoj.gov>
Sent: 3/19/2003 1:09:34 PM
Subject: : RE: We have blue slips for Michigan nominees!

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Benczkowski, Brian A" <Brian.A.Benczkowski@usdoj.gov> ("Benczkowski, Brian A" <Brian.A.Benczkowski@usdoj.gov> [UNKNOWN])
CREATION DATE/TIME:19-MAR-2003 18:09:34.00
SUBJECT:: RE: We have blue slips for Michigan nominees!
TO:Rena_Johnson_Comisac@Judiciary.senate.gov (Rena_Johnson_Comisac@Judiciary.senate.gov [UNKNOWN])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:"Brown, Jamie E (OLA)" <Jamie.E.Brown@usdoj.gov> ("Brown, Jamie E (OLA)" <Jamie.E.Brown@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Can you send me one to 514-1685.
Thanks.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Wednesday, March 19, 2003 6:01 PM
To: Comisac, RenaJohnson (Judiciary)
Cc: Benczkowski, Brian A; Brown, Jamie E (OLA);
Wendy_J._Grubbs@who.eop.gov
Subject: Re: We have blue slips for Michigan nominees!

please FAX one to 456-5104 as well; thanks

(Embedded
image moved "Comisac, RenaJohnson (Judiciary)"
to file: <Rena_Johnson_Comisac@Judiciary.senate.gov>
pic22785.pcx) 03/19/2003 05:57:10 PM

Record Type: Record

To: jamie.e.brown@usdoj.gov, "Benczkowski, Brian A"
<Brian.A.Benczkowski@usdoj.gov>, Wendy J. Grubbs/WHO/EOP@EOP, Brett
M.
Kavanaugh/WHO/EOP@EOP

cc:
Subject: We have blue slips for Michigan nominees!

Both Levin and Stabenow have returned negative blue slips for all five pending Michigan nominees - the 4 circuits and 1 district. The blue slips are accompanied by a letter to Senator Hatch explaining that the WH has rejected their proposals for bipartisan solution to the situation, which has "left us in this position." They also attach all of their correspondence to the White House and Leahy on this issue since 2001 (but none of the WH responses, or Abraham's letter explaining the source of his opposition to White and Lewis).

Jamie, Wendy - I'll fax over a copy of the letter to Senator Hatch.

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Jonathan F. Ganter/WHO/EOP@EOP [WHO] <Jonathan F. Ganter>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/19/2003 1:41:23 PM
Subject: : RE: need clean nice PDF's of following

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:19-MAR-2003 18:41:23.00
SUBJECT:: RE: need clean nice PDF's of following
TO:Jonathan F. Ganter (CN=Jonathan F. Ganter/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

We were have some technical problems, but Jon is now scanning them all in.;
; Shouldn't be too long now.

;-----Original Message-----
From: ; Kavanaugh, Brett M.;
Sent:;; Wednesday, March 19, 2003 3:09 PM
To:;;;; Ganter, Jonathan F.; Bumatay, Patrick J.
Subject:;;;;;;; need clean nice PDF's of following

President's speech in June 2000 in Knoxville on confirmation
process
President's 5-9-01 speech on judges
President's 10-30-02 speech on judges
President's 10-30-02 letter to Daschle re judges
President's radio address on November 2, 2002 re judges
President's 3-11-03 letter to Frist on judges

I also need one combined PDF that includes all of these in
chronological order

From: CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/20/2003 6:30:59 AM
Subject: : RE:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD])
CREATION DATE/TIME:20-MAR-2003 11:30:59.00
SUBJECT:: RE:
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

thanks

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Thursday, March 20, 2003 11:13 AM
To: Lefkowitz, Jay P.
Subject:

Philbin is on board. That section allows those with judgments to obtain attachments, which is why the money for those with judgments is being set aside. This law does NOT mean that assets that are frozen now can be used only to satisfy judgments.

From: CN=Helgard C. Walker/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@Exchange [WHO] <David G. Leitch>
CC: patrick j. bumatay/who/eop@exchange [WHO] <patrick j. bumatay>;brett m. kavanaugh/who /eop@eop [WHO] <brett m. kavanaugh>
Sent: 3/20/2003 6:41:38 AM
Subject: : RE: docket

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:20-MAR-2003 11:41:38.00
SUBJECT:: RE: docket
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
CC:patrick j. bumatay ( CN=patrick j. bumatay/OU=who/O=eop@exchange [ WHO ] )
READ:UNKNOWN
CC:brett m. kavanaugh ( CN=brett m. kavanaugh/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

It's really quite a selfless act, on Brett's part, to transfer it to
Jenny.



From: David G. Leitch/WHO/EOP@Exchange on 03/20/2003 11:40:27 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Patrick J.
Bumatay/WHO/EOP@Exchange, Helgard C. Walker/WHO/EOP@EOP
cc:
Subject: RE: docket

I know it will pain you so to give up HUD.

;-----Original Message-----
From: ; Kavanaugh, Brett M.;
Sent:;; Thursday, March 20, 2003 10:24 AM
To:;;;; Bumatay, Patrick J.; Walker, Helgard C.; Leitch, David G.
Subject:;;;;;;;; docket

;;;;;;; Consistent with the grand traditions of this office, I
would like to trade HUD for Transportation with Ms. Walker's departure.;
This make some sense in any event because I have had involvement at times
in various aviation and insurance issues.
```

From: CN=Michael N. Anton/OU=NSC/O=EOP [NSC]
To: Joshua B. Bolten/WHO/EOP@Exchange [WHO] <Joshua B. Bolten>
CC: faryar shirzad/nsc/eop@eop [NSC] <faryar shirzad>;tucker a. eskew/who/eop@eop [WHO] <tucker a. eskew>;kristen silverberg/who/eop@exchange [WHO] <kristen silverberg>;lawrence a. fleischer/who/eop@exchange [WHO] <lawrence a. fleischer>;anna m. perez/nsc/eop@eop [NSC] <anna m. perez>;nancy dorn/omb/eop@eop [OMB] <nancy dorn>;gary r. edson/nsc /eop@eop [NSC] <gary r. edson>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;john b. bellinger/nsc/eop@eop [NSC] <john b. bellinger>;daniel j. bartlett/who /eop@exchange [WHO] <daniel j. bartlett>;jay p. lefkowitz/opd/eop@exchange [OPD] <jay p. lefkowitz>
Sent: 3/20/2003 7:17:47 AM
Subject: : RE: vesting of assets

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Michael N. Anton ( CN=Michael N. Anton/OU=NSC/O=EOP [ NSC ] )
CREATION DATE/TIME:20-MAR-2003 12:17:47.00
SUBJECT:: RE: vesting of assets
TO:Joshua B. Bolten ( CN=Joshua B. Bolten/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
CC:faryar shirzad ( CN=faryar shirzad/OU=nsc/O=eop@eop [ NSC ] )
READ:UNKNOWN
CC:tucker a. eskew ( CN=tucker a. eskew/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:kristen silverberg ( CN=kristen silverberg/OU=who/O=eop@exchange [ WHO ] )
READ:UNKNOWN
CC:lawrence a. fleischer ( CN=lawrence a. fleischer/OU=who/O=eop@exchange [ WHO ] )
READ:UNKNOWN
CC:anna m. perez ( CN=anna m. perez/OU=nsc/O=eop@eop [ NSC ] )
READ:UNKNOWN
CC:nancy dorn ( CN=nancy dorn/OU=omb/O=eop@eop [ OMB ] )
READ:UNKNOWN
CC:gary r. edson ( CN=gary r. edson/OU=nsc/O=eop@eop [ NSC ] )
READ:UNKNOWN
CC:brett m. kavanaugh ( CN=brett m. kavanaugh/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:john b. bellinger ( CN=john b. bellinger/OU=nsc/O=eop@eop [ NSC ] )
READ:UNKNOWN
CC:daniel j. bartlett ( CN=daniel j. bartlett/OU=who/O=eop@exchange [ WHO ] )
READ:UNKNOWN
CC:jay p. lefkowitz ( CN=jay p. lefkowitz/OU=opd/O=eop@exchange [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I have reworked the talking points a little to make them more "user
friendly." I'm waiting for NSC legal folks to clear. (John Bellinger,
this means you!) No major differences, just moved up the emphasis on
helping the Iraqi people, and folded some of the more technical language
into a Q & A section.
```

From: Whelan, M Edward III <M.Edward.Whelan@usdoj.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/20/2003 9:43:44 AM
Subject: : supermajority

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov> ( "Whelan, M Edward III"
<M.Edward.Whelan@usdoj.gov> [ UNKNOWN ] )
CREATION DATE/TIME:20-MAR-2003 14:43:44.00
SUBJECT:: supermajority
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Nick hopes to turn full-time to the question on Monday. If you have a
particular deadline in mind, please let me know.

On the sub-question you raised, Nick and I are both of the view that the
2/3 rule is unconstitutional ab initio, so that even if the Senate adopted
it this session, it can still by simple majority amend its rules.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: wittesb@washpost.com @ inet [UNKNOWN] <wittesb@washpost.com @ inet>
Sent: 3/20/2003 1:57:41 PM
Subject: :

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:20-MAR-2003 18:57:41.00
SUBJECT::
TO:wittesb@washpost.com @ inet (wittesb@washpost.com @ inet [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

realize other things going on, but this warrants editorial attention, I would think . . .

Text of 3/11/03 Letter from the President to Senator Frist and Senator Daschle
ÿDear Senator Frist: (Dear Senator Daschle:)
The Senate is debating the nomination of Miguel A. Estrada to be a Judge of the United States Court of Appeals for the District of Columbia Circuit. Miguel Estrada's life is an example of the American Dream. He came to this country from Honduras as a teenager barely speaking English and went on to graduate with honors from Harvard Law School. He has argued 15 cases before the Supreme Court of the United States and served in the United States Department of Justice under Presidents of both political parties. The American Bar Association has given him its highest rating. When appointed, he will be the first Hispanic ever to serve on the D.C. Circuit.
I submitted Mr. Estrada's nomination to the Senate on May 9, 2001. But his nomination has been stalled for partisan reasons for nearly 2 years in which the Senate has not held a vote either to confirm or to reject the nomination.
The Senate has a solemn responsibility to exercise its constitutional advice and consent function and hold up or down votes on judicial nominees within a reasonable time after nomination. Senators who are filibustering a vote on Miguel Estrada are flouting the intention of the United States Constitution and the tradition of the United States Senate. The filibuster is the culmination of an escalating series of back-and-forth tactics that have marred the judicial confirmation process for years, as many judicial nominees have never received up or down Senate votes. And now, a minority of Senators are threatening for the first time to use ideological filibusters as a standard tool to indefinitely block confirmation of well-qualified nominees with strong bipartisan support. This has to end.
The judicial confirmation process is broken, and the consequences for the American people are real. Because of the Senate's failure to hold timely votes, the number of judicial vacancies has been unacceptably high during my Presidency and those of President Bill Clinton and President George H.W. Bush. The Chief Justice has warned that the high number of judicial vacancies, when combined with the ever-increasing caseloads, leads to crowded courts and threatens the administration of justice. When understaffed, the Federal courts cannot act in a timely manner to resolve disputes that affect the lives and liberties of all Americans. The courts cannot decide constitutional cases promptly, which harms people seeking to vindicate and protect their rights, and the courts cannot rule on commercial cases efficiently, which hurts the economy, businesses, and workers. Our system of equal justice under law administered fairly and efficiently is at risk. The American Bar Association in 2002 accurately described the situation as an "emergency."
My concern about the state of the judicial confirmation process is not new. In June 2000, I proposed timely votes for all nominees, stating that the confirmation process "does not empower anyone to turn the process into

a protracted ordeal of unreasonable delay and unrelenting investigation."
In May 2001, when I announced my first judicial nominations, I urged the Senate to rise above the bitterness of the past and again asked that every judicial nominee receive a timely up or down vote. In October 2002, after nearly two additional years in which too many nominees did not receive votes, I proposed a specific, commonsense plan involving all three Branches that, among other steps, would ensure that all judicial nominees receive an up or down Senate vote within 180 days of nomination.
Over the years, many Senators of both political parties have publicly agreed with the principle that every judicial nominee should receive a timely up or down Senate vote. Similarly, the Federal Judiciary, speaking through the Chief Justice in his 2001 Year-End Report, has stated that the Senate should "schedule up or down votes on judicial nominees within a reasonable time after receiving the nomination."
I ask Senators of both parties to come together to end the escalating cycle of blame and bitterness and to restore fairness, predictability, and dignity to the process. I ask that the Senate take action, including adoption of a permanent rule, to ensure timely up or down votes on judicial nominations both now and in the future, no matter who is President or which party controls the Senate. This is the only way to ensure that our Judiciary works and that good people remain willing to be nominated to the Federal bench.
All Senators should have a chance to have their voices heard and their votes counted. All Presidents should have their judicial nominees considered and voted upon in a reasonable time. All nominees should have the certainty of an up or down Senate vote within a reasonable time. All Judges should have the assurance that vacancies on their courts will not persist for years. And all Americans should have the assurance that the Federal courts will remain open and fully staffed to resolve their disputes and protect their rights and liberties.
As I stated last October, the current state of affairs in the United States Senate is not merely another round of political wrangling. It is a disturbing failure to meet a responsibility under the Constitution. Our country deserves better, the process can work better, and we can make it better. The Constitution has given us a shared duty, and we must meet that duty together. Thank you for your attention to this important matter.
Sincerely,
GEORGE W. BUSH

From: Dorn, Nancy
To: <Anton, Michael N.>
CC: <Bolten, Joshua B.>;<Lefkowitz, Jay P.>;<Anton, Michael N.>;<Perez, Anna M.>;<Bartlett, Daniel J.>;<Fleischer, Lawrence A.>;<Bellinger, John B.>;<Silverberg, Kristen>;<Kavanaugh, Brett M.>;<Eskew, Tucker A.>;<Edson, Gary R.>;<Shirzad, Faryar>
Sent: 3/20/2003 3:18:00 PM
Subject: RE: vesting of assets
Attachments: Assets plan.doc; Assets points.doc

I do not think we should encourage specific victims compensation legislation becuase we will be unlikely to control it or garner allies. My comments provided earlier to WH staff sec, DPC and COS will be faxed post haste. Thanks.

Michael N. Anton

03/20/2003 01:48:42 PM

Record Type: Record

To: Nancy Dorn/OMB/EOP@EOP

cc: See the distribution list at the bottom of this message

Subject: RE: vesting of assets

Attached is a roll-out plan and points approved by the NSC front office. Points are based on a document drafted by Jay Lefkowitz. They have been sent to Treasury and State lawyers for clearance; no word yet from them.

Roll-out plan in a nutshell:

Secretary Snow makes a statement on camera at 3:15 today, no Q & A.

G/C Aufhauser backgrouns press following Snow statement

WH releases SBTP once it's cleared.

<< Assets plan.doc >> << Assets points.doc >>

Message Copied To:

joshua b. bolten/who/eop@exchange

jay p. lefkowitz/opd/eop@exchange

michael n. anton/nsc/eop@eop

anna m. perez/nsc/eop@eop

daniel j. bartlett/who/eop@exchange

lawrence a. fleischer/who/eop@exchange

john b. bellinger/nsc/eop@eop

kristen silverberg/who/eop@exchange

brett m. kavanaugh/who/eop@eop

tucker a. eskew/who/eop@eop

gary r. edson/nsc/eop@eop

faryar shirzad/nsc/eop@eop

Media Plan
For Roll-Out of Order to Vest Iraqi Assets Abroad

Goals:

1. Emphasize that the US action will preserve assets for the benefit of the Iraqi people.
2. Mitigate misperceptions of this action in the Arab and Muslim world.
3. Assure U.S. victims of foreign terror who already have final judgments against Iraqi assets that the those judgments will be honored.

Themes:

1. Iraqi assets are the rightful property of the Iraqi people.
2. Iraqi assets will be used to assist the Iraqi people and to assist in the reconstruction of Iraq.
3. The US will work to locate and seize other assets removed from Iraq by Saddam Hussein and his confederates.

Strategy:

1. Treasury takes the public lead

Tactics:

- Release Statement by the President
- Treasury Secretary Snow reads a statement on camera
- Background briefing by Treasury General Counsel Aufhauser
- Background briefing at the Foreign Press Center by Treasury official TBD
- Talking points and Qs & As circulated to public affairs personnel at all relevant agencies.

REV_00160656

Points on Vesting of Iraqi Assets

Thursday, March 20, 2003

- Today, the President vested more than $1 billion in non-diplomatic Iraqi accounts currently frozen in U.S. banks.
- The purpose of this action is to ensure that these Iraqi funds will be used to assist the Iraqi people and assist in the reconstruction of Iraq, such as by funding humanitarian relief or payment of government workers in Iraq.

- The action targets the frozen accounts of the Government of Iraq and four Iraqi state entities:
  - The Central Bank of Iraq;
  - Rafidain Bank;
  - Rasheed Bank; and
  - The State Organization for Marketing Oil
- These accounts currently hold approximately $1.74 billion in frozen assets in the United States.
- The President's action did NOT vest approximately $250 million in assets that are subject to judicial writs on behalf of victims of terrorism.

- The assets being vested were frozen after Iraq's invasion of Kuwait in 1990.
- Once vested, the assets will be administered by the Treasury Department, until such time as they can be returned to Iraq.
- Today the President also directed Secretaries Snow and Powell to work with other countries to identify other Iraqi state assets that they may control that can also be dedicated to the benefit of the Iraqi people.
- He also directed the State Department to begin work on a UN resolution that would direct member states to identify and return Saddam Hussein's ill-gotten gains over the past 12 years from the illicit trade in oil or other goods, held in accounts around the world.

Questions and Answers

How does vesting work?

- Pursuant to Executive Order, the President is technically confiscating these accounts and their title is being vested

in the Department of the Treasury. The Order also delegates implementation authority to Treasury.

- Legally, the accounts immediately become U.S. property.
- The Treasury Department will have an account at the Federal Reserve Bank of New York into which the vested monies will be consolidated.
- The Secretary of the Treasury will immediately contact the CEOs of the banks known to hold virtually all of the frozen Iraqi accounts.
- Simultaneously, Treasury's Office of Foreign Assets Control will issue a Directive License to each of the banks instructing them to transfer the vested accounts to the FRBNY account within three business days.

Why are you vesting these assets, rather than turning them over to Iraq, just as you turned over frozen Taliban assets to Afghanistan?

- In 2002, the United States returned frozen assets of the Central Bank of Afghanistan directly to the post-Taliban Afghan government.
- It could be some time before Iraqi authorities will be in place after the conflict to receive and use the Iraqi assets, and there is an immediate need to have this money available to assist the Iraqi people and to assist in reconstruction of Iraq.

Does this action take money away from U.S. victims of foreign terror?

- No. The executive order does not vest the assets that have been attached by victims of terrorism.
- The President believes that victims of terrorism and their survivors should be compensated for the harm they suffer at the hands of terrorists and terrorist states, and is prepared to work with Congress to ensure that those terrorist victims who may have legitimate claims against the Iraqi government receive appropriate compensation.
- We believe the best model for such compensation is the federal benefit provided to families of public safety officers killed in the line of duty (see 42 U.S.C. 3796). This model would provide all victims equal awards, regardless of income. The claims process would also by quick, streamlined, and simple, and awards would be on a par with that paid to the families of public safety officers killed in the line of duty.

- The principles of the Administration's legislative proposal for compensating victims of terrorism were laid out in a letter from the State Department to the Congress last year.

From: Thomas, Ginni <ginni.thomas@heritage.org>
To: Government Relations <GovernmentRelations@heritage.org>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 3/20/2003 12:00:30 PM
Subject: : New Heritage Update - Recent Publications and Upcoming Events, March 20, 2003
Attachments: P_BAUVE003_WHO.TXT_1.htm

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Thomas, Ginni" <ginni.thomas@heritage.org> ("Thomas, Ginni"
<ginni.thomas@heritage.org> [UNKNOWN])
CREATION DATE/TIME:20-MAR-2003 17:00:30.00
SUBJECT:: New Heritage Update - Recent Publications and Upcoming Events, March 20, 2003
TO:Government Relations <GovernmentRelations@heritage.org> (Government Relations
<GovernmentRelations@heritage.org> [UNKNOWN])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

<http://www.heritage.org/emails/hidden/heritage_update.gif>
<http://www.heritage.org/> <http://www.heritage.org/research/>
<http://www.heritage.org/press/dailybriefing/>
<http://www.heritage.org/press/events/>

SOON: Heritage's website will feature a new "Iraq war room" update as well as a comparison between Senator Daschle's growth plan and the President's.

Upcoming Events: For event details and RSVP, link to:
http://www.heritage.org/Press/Events/index.cfm

The 20th Anniversary of President Reagan's Address to the Nation Announcing The Strategic Defense Initiative Featuring: Robert G. Joseph, Special Assistant to the President and Senior Director for Proliferation Strategy, Counter proliferation and Homeland Defense; Ambassador Henry F. Cooper, Chairman, High Frontier, William O'Keefe President, George C. Marshall Institute; and Becky Norton Dunlop, The Heritage Foundation
Friday, March 21st, 12:00 noon

Diversity: The Invention of a Concept
Featuring: Peter Wood, Professor of Anthropology, Boston University; Abigail Thernstrom, Senior Fellow, Manhattan Institute, Commissioner, U.S. Commission on Civil Rights; Stephan Thernstrom, Winthrop Professor of History, Harvard University, Editor, Harvard Encyclopedia of Am. Ethnic Groups
Wednesday, March 26th, 12:00 noon

Foreign/Defense Policy:
French Act <http://www.heritage.org/Research/Europe/wm219.cfm>
Unilaterally When Their Interests are at Stake
by John Hulsman and Nile Gardiner

<http://www.heritage.org/Research/InternationalOrganizations/wm230.cfm>
What the UN Could Learn from the OAS
by Stephen Johnson
<http://www.heritage.org/Research/Europe/hl779.cfm> Looking for Allies:
Magnet and Wedge in Western Civilization by Balint Vazsonyi
<http://www.heritage.org/Research/MiddleEast/wm228.cfm> The Anglo-U.S.

Special Relationship and the Coalition of the Willing by Dr. Nile Gardiner
<http://www.heritage.org/Research/MiddleEast/wm225.cfm> "Coalition of the Willing" Already Larger than the 1991 Gulf War coalition
by Paolo Pasicolan and Carrie Satterlee
<http://www.heritage.org/Research/MiddleEast/wm226.cfm> Why Preemption is Necessary by Jack Spencer
<http://www.heritage.org/Research/MiddleEast/wm227.cfm> The Case Against Iraq by Jack Spencer
Three <http://www.heritage.org/Research/MiddleEast/wm229.cfm> War Aims
by Baker Spring and Jack Spencer
<http://www.heritage.org/Research/MiddleEast/wm224.cfm> President Bush's Clarion Call For War With Iraq
by James Phillips
The <http://www.heritage.org/Press/Commentary/ed032003.cfm> Exhausting Pursuit of Peace
by Joseph Loconte
<http://www.heritage.org/Press/Commentary/ed031903.cfm> Ulterior Motives
by Rebecca Hagelin
<http://www.heritage.org/Press/Commentary/ed031303.cfm> Mything in Action <http://www.heritage.org/Press/Commentary/ed031303.cfm> by Jack Spencer
<http://www.heritage.org/Press/Commentary/ed031703a.cfm> The Price of Freedom by Jack Spencer
<http://www.heritage.org/Research/RussiaandEurasia/em865.cfm> A Private Russian Oil Pipeline Is Good for U.S. Energy Security by Dr. Ariel Cohen
<http://www.heritage.org/Research/AsiaandthePacific/test031903.cfm> The Effects and Consequences of an Emerging China
by Larry M. Wortzel

Domestic Policy:
<http://www.heritage.org/Research/Budget/bg1635.cfm> Balancing the Budget by 2008 While Cutting Taxes, Funding Defense, and Creating a Prescription Drug Benefit
<http://www.heritage.org/Research/B>
by Brian Riedl

<http://www.heritage.org/Press/Commentary/ed031703.cfm> The Truth About Deficits by Bill Beach

<http://www.heritage.org/Research/SocialSecurity/em866.cfm> Telling Americans the Truth About Social Security: The Straight Talk About Social Security Act by David John
A <http://www.heritage.org/Research/SocialSecurity/wm221.cfm> Guide to the new 2003 Social Security Trustees' Report
by David John

<http://www.heritage.org/Research/SocialSecurity/wm222.cfm> Social Security: Texas Teachers Learn to Cheat
by David John
<http://www.heritage.org/Research/HealthCare/bg1637.cfm> Covering the Uninsured: How States Can Expand and Improve Health Coverage by Bob Moffit and Nina Owcharenko
<http://www.heritage.org/Research/HealthCare/wm220.cfm> How Tax Credits Help Overcome the Obstacles Facing the Uninsured by Nina Owcharenko
The <http://www.heritage.org/Research/HealthCare/wm223.cfm> 2003 Trustees' Report on the Medicare Program
by Bob Moffit

<http://www.heritage.org/>
<http://www.heritage.org/research/requestbriefing.cfm>
Executive Branch Relations
(202) 608-6058

<http://www.heritage.org/about/staff/michaelfranc.cfm> Michael Franc
Vice President, Government Relations
<http://www.heritage.org/about/staff/virginiathomas.cfm> Virginia Thomas
(Ginni)
Director, Executive Branch Relations
<http://www.heritage.org/About/Staff/GinaHatheway.cfm> Gina Marie Hatheway
Deputy Director of Government Relations, Foreign Policy and Defense
Meredith Karre (<emailto:%20staff@heritage.org> email)
Deputy Executive Branch Liaison
<http://www.heritage.org/emails/hidden/pres_prior.gif>
<http://www.heritage.org/Research/MiddleEast/iraq/> War in Iraq
<http://www.heritage.org/research/taxes/taxbriefingroom.cfm> The Economy
<http://www.heritage.org/research/healthcare/medicarebriefingroom.cfm>
Medicare
<http://www.heritage.org/emails/hidden/must.gif>
<http://www.heritage.org/research/taxes/taxbriefingroom.cfm> Reality
Check - Economic Growth Briefing Room
<http://www.heritage.org/Research/HealthCare/WM208.cfm> Getting The
Details Right: The Key Do's And Don'ts Of Medicare Reform by Robert
Moffit, Ph.D.
<http://www.heritage.org/Research/HealthCare/bg1625.cfm> What The GAO
Says About The Best Model For Medicare Reform
by Robert Moffit, Ph.D.
<http://www.heritage.org/Research/Welfare/bg1620.cfm> The Continuing Good
News about Welfare Reform
by Robert Rector and Patrick F. Fagan
<http://www.heritage.org/emails/hidden/GR_heritageResources.gif>
<http://www.heritage.org/research/features/agenda.cfm> Agenda 2003:
Shaping America's Future
The issues facing the 108th Congress, from homeland security to health
care to tax reform, present lawmakers with the opportunity to improve all
Americans' security and prosperity. Accomplishing this goal requires the
innovative policy solutions provided in Agenda 2003. The Heritage
Foundation's public policy playbook. To request a copy of Agenda 2003 or
to view excerpts, contact Deputy Director, Nick Reid (
<emailto:%20nick.reid@heritage.org> email).
<http://www.heritage.org/research/taxes/taxbriefingroom.cfm> 2003
Economic Growth Briefing Room
The Heritage Foundation's economic team has established this "Briefing
Room" to present timely and accurate research on the tax debate. This page
features daily updates with talking points, charts, related commentary and
resources.
<http://www.heritage.org/About/Bookstore/policyexperts2003.cfm> Policy
Experts 2003
The essential "who's who" guide to the world of public policy experts and
organizations can be ordered by contacting the Heritage Foundation's
Publications Department at 1-800-544-4843, by mail at, 214 Massachusetts
Avenue NE, Washington, DC 20002, or
<http://www.heritage.org/About/Bookstore/policyexperts2003.cfm> click here
to order online.
<http://www.heritage.org/research/features/familydatabase/> Family and
Society Database
<http://www.heritage.org/About/Staff/experts.cfm> Heritage Experts
<http://www.heritage.org/press/> Press Room
<http://www.heritage.org/press/events/> Heritage Live Events
- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_BAUVE003_WHO.TXT_1>

SOON: *Heritage's website will feature a new "Iraq war room" update as well as a comparison between Senator Daschle's growth plan and the President's.*

Upcoming Events: For event details and RSVP, link to: http://www.he ritage.org/Press/Events/index.cfm

The **20th Anniversary of President Reagan's Address t o the Nation Announcing The Strategic Defense Initiative**
Featuring: **Robert G. Joseph**, Special Assistant to the President and Senior Director for Proliferation Strategy, Counter proliferation and Homeland Defense; **Ambassador Henry F. Cooper,** Chairman, High Frontier, **William O'Keefe** President, George C. Marshall Institute; and **Becky Norton Dunlop**, The Heritage Foundation **& nbsp; &n bsp; &nb sp; &nbs p; ; Friday, March 21st**, 12:00 noon

Diversity: The Inventio n of a Concept
Featuring: **Peter Wood**, Professor of Anthropology, Boston University; **Abigail Thernstrom**, Senior Fellow, Manhattan Institute, Commissioner, *U.S. Commission on Civil Rights;* **Stephan Thernstrom**, Winthrop Professor of History, Harvard University, Editor, *Harvard Encyclopedia of Am . Ethnic Groups*
Wednesday, March 26th, 12:00 noon

Foreign/Defense Policy:
French Act Unilaterally When Their Interests are at Stake
by John Hulsman and Nile Gardiner
What the UN Could Learn from the OAS
by Stephen Johnson
Looking for Allies: Magnet and Wedge in Western Civilization
by Balint Vazsonyi
The Anglo-U.S. Special Relationship and the Coalition of the Willing by Dr. Nile Gardiner
"Coalition of the Willing" Already Larger than the 1991 Gulf War coalition
by Paolo Pasicolan and Carrie Satterlee
Why Preemption is Necessary by Jack Spencer
The Case Against Iraq by Jack Spencer
Three War Aims
by Baker Spring and Jack Spencer

President Bush's Clarion Call For War With Iraq
by James Phillips
The Exhausting Pursuit of Peace
by Joseph Loconte
Ulterior Motives by Rebecca Hagelin
Mything in Action by Jack Spencer
The Price of Freedom by Jack Spencer
< /SPAN>
A Private Russian Oil Pipeline Is Good for U.S. Energy Security by Dr. Ariel Cohen
The Effects and Consequences of an Emerging China
by Larry M. Wortzel

</SPAN>

Domestic Policy:
Balancing the Budget by 2008 While Cutting Taxes, Funding Defense, and Creating a Prescription Drug Benefit
by Brian Riedl
The Truth About Deficits by Bill Beach
Telling Americans the Truth About Social Security: The Straight Talk About Social Security Act by David John
A Guide to the new 2003 Social Security Trustees' Report
by David John
Social Security: Texas Teachers Learn to Cheat
by David John
Covering the Uninsured: How States Can Expand and Improve Health Coverage by Bob Moffit and Nina Owcharenko
How Tax Credits Help Overcome the Obstacles Facing the Uninsured by Nina Owcharenko
The 2003 Trustees' Report on the Medicare Program
by Bob Moffit

Executive Branch Relations
(202) 608-6058

Michael Franc
Vice President, Government Relations

Virginia Thomas (Ginni)
Director, Executive Branch Relations

Gina Marie Hatheway
Deputy Director of Government Relations, Foreign Policy and Defense

Meredith Karre (email)
Deputy Executive Branch Liaison

War in Iraq

< FONT color=#294984>The Economy

Medicare

< FONT color=#294984>**Reality Check - Economic Growth Briefing Room**

Getting The Details Right: The Key Do's And Don'ts Of Medicare Reform by Robert Moffit, Ph.D.

What The GAO Says About The Best Model For Medicare Reform
by Robert Moffit, Ph.D.

The Continuing Good News about Welfare Reform
by Robert Rector and Patrick F. Fagan

Agenda 2003: Shaping America's Future
The issues facing the 108th Congress, from homeland security to health care to tax reform , present lawmakers with the opportunity to improve all Americans' security and prosperity. Accomplishing this goal requires the innovative policy solutions provided in Agenda 2003. The Heritage Foundation's public policy playbook. To request a copy of

Agenda 2003 or to view excerpts, contact Deputy Director, Nick Reid (email).

< FONT color=#294984>2003 Economic Growth Briefing Room

The Heritage Foundation' s economic team has established this "Briefing Room" to present timel y and accurate research on the tax debate. This page features daily updates with talking points, charts, related commentary and resources.

Policy Experts 2003

The essential "who's who" guide to the world of public polic y experts and organizations can be ordered by contacting the Heritage Foundation's Publications Department at 1-800-544-4843, by mail at, 214 Massachusetts Avenue NE, Washington, DC 20002, or click here to order online.

Family and Society Database

Heritage Experts

Press Room

Heritage Live Events

From: CN=Jonathan F. Ganter/OU=WHO/O=EOP [WHO]
To: Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Helgard C. Walker/WHO /EOP@EOP [WHO] <Helgard C. Walker>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Kyle Sampson/WHO /EOP@EOP [WHO] <Kyle Sampson>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>
CC: Hana F. Brilliant/WHO/EOP@EOP [WHO] <Hana F. Brilliant>;Charlotte L. Montiel/WHO /EOP@Exchange@EOP [WHO] <Charlotte L. Montiel>;J. Elizabeth Farrell/WHO/EOP@EOP [WHO] <J. Elizabeth Farrell>
Sent: 3/20/2003 1:20:24 PM
Subject: : JSC Interviews

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jonathan F. Ganter ( CN=Jonathan F. Ganter/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:20-MAR-2003 18:20:24.00
SUBJECT:: JSC Interviews
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Hana F. Brilliant ( CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
CC:J. Elizabeth Farrell ( CN=J. Elizabeth Farrell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Please reply to me with your judicial selection interview schedules for
next week, including each candidate's social security # and date of
birth. In the case that you have certain candidates who still need to
have interviews scheduled, feel free to email me their info and I will
work with Charlotte to set them up for you. Thanks.

Jon
```

From: CN=William H. Leary/OU=NSC/O=EOP [NSC]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/21/2003 4:17:02 AM
Subject: : Re: IMPORTANT: latest talking points on declass order

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:William H. Leary (CN=William H. Leary/OU=NSC/O=EOP [NSC])
CREATION DATE/TIME:21-MAR-2003 09:17:02.00
SUBJECT:: Re: IMPORTANT: latest talking points on declass order
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett M. Kavanaugh
03/21/2003 08:33:01 AM
Record Type: Record

To: John B. Bellinger/NSC/EOP@EOP, John B. Wiegmann/NSC/EOP@EOP,
William H. Leary/NSC/EOP@EOP
cc:
Subject: IMPORTANT: latest talking points on declass order

Ari Fleischer needs talking points on the declass order.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kmiec, Douglas <KMIEC@law.edu>
Sent: 3/21/2003 9:19:32 AM
Subject: : Re: FW: organizing resolution

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-MAR-2003 14:19:32.00
SUBJECT:: Re: FW: organizing resolution
TO:"Kmiec, Douglas" <KMIEC@law.edu> ("Kmiec, Douglas" <KMIEC@law.edu> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

S. Res. 18 and S. Res. 20. I doubt they add much.

"Kmiec, Douglas" <KMIEC@law.edu>
03/21/2003 10:17:28 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: FW: organizing resolution

Brett

I have been after my librarian to find the exact wording of the Senate "organizing resolution." So far we are out of luck -- see messages below. If what has been reported to us is correct, then I believe the constitutional argument against the "continuing" language in Rule V is even more forceful. If you have better intelligence on an organizing resolution than the librarians of the Senate, I would be delighted to have a copy. Thanks.

Best,
Doug

> -----Original Message-----
> From: Young, Stephen E.
> Sent: Friday, March 21, 2003 10:10 AM
> To: Kmiec, Douglas
> Subject: RE: organizing resolution
>
> Dean Kmiec:
> Although I was able to find a comparable resolution for the House I
> did not find one for the Senate for this Congress. I therefore
> contacted the Senate Library who indicated that since the Senate is a
> continuing body they do not re-adopt the rules with every new
> Congress. Please let me know if this does not answer your question.
> Steve
>
> -----Original Message-----
> From: Kmiec, Douglas
> Sent: Thursday, March 20, 2003 7:59 PM
> To: Young, Stephen E.
> Subject: organizing resolution
>

> Steve
>
> I am told that when a new senate convenes, it adopts an organizing
> resolution to abide by the standing rules of the senate. That's what
> I am trying to find.
>
> Thanks
> Doug
>
> Douglas W. Kmiec
> Dean & St. Thomas More Professor
> The Catholic University of America School of Law
> Cardinal Station
> Washington, D.C. 20064-8005
> voice: (202) 319-5139
> fax: (202) 319 5473
> email: Kmiec@cua.edu
>

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/21/2003 12:53:57 PM
Subject: : FW: LRM LJM17 - - TREASURY Testimony on Executive Compensation
Attachments: P_PRHXE003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:21-MAR-2003 17:53:57.00
SUBJECT:: FW: LRM LJM17 - - TREASURY Testimony on Executive Compensation
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

-----Original Message-----
From: MacEcevic, Lisa J.
Sent: Friday, March 21, 2003 5:50 PM
To: dol-sol-leg@dol.gov; CLRM@doc.gov; justice.lrm@usdoj.gov; cla@sba.gov
Cc: Barth, Mary C.; Foster, James D.; Rodriguez, Justine F.; Grippando, Hester C.; Schwartz, Mark J.; Rhinesmith, Alan B.; McMillin, Stephen S.; Nec Lrm; Ovp Lrm; Whgc Lrm; Cea Lrm; Reardon, Brian; Warsh, Kevin; Ojakli, Ziad ; Pelletier, Eric C.; Kirk, Matthew ; Call, Amy L.; Lobrano, Lauren C.; Mahaffie, Robert F.; Gillis, Ursula S.; Walsh, Maureen; Menchik, Mark D.; Sierra, Leticia; Smythe, Augustine T.; Dennis, Yvette M.; Stauffer, Anne R.; Lyon, Randolph M.; Balis, Ellen J.; Little, Attia; Lackey Jr., Joseph F.; Morrall Iii, John F.; Aitken, Steven D.; Perry, Philip J.; Wood, John F.; Schneider, Matthew J.; Rossman, Elizabeth L.; Silverberg, Kristen; Kaplan, Joel; Kitti, Carole; Burgeson, Christine M.; Bloomquist, Lauren E.; Boden, James; Kho, Irene; Green, Richard E.; Jukes, James J.
Subject: LRM LJM17 - - TREASURY Testimony on Executive Compensation

The attached Treasury testimony is for a March 25th hearing before the Senate Finance Committee on a Joint Committee on Taxation report on executive compensation. The testimony also discusses a proposal in the President's FY 2004 Budget that would repeal Section 132 of the Revenue Act of 1978 dealing with deferred compensation arrangements. Please respond with any comments on the testimony by 2:00 P.M. Monday, March 24th. Thank you.

- tt0018a.doc

LRM ID: LJM17
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Friday, March 21, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: Lisa J. Macecevic
PHONE: (202)395-1092 FAX: (202)395-3109
SUBJECT: TREASURY Testimony on Executive Compensation

DEADLINE: 2:00 P.M. Monday, March 24, 2003
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect

direct spending or receipts.

COMMENTS: The attached Treasury testimony is for a March 25th hearing before the Senate Finance Committee on a Joint Committee on Taxation report on executive compensation. The testimony also discusses a proposal in the President's FY 2004 Budget that would repeal Section 132 of the Revenue Act of 1978 dealing with deferred compensation arrangements. Please respond with any comments on the testimony by 2:00 P.M. Monday, March 24th. Thank you.

DISTRIBUTION LIST

AGENCIES:
062-LABOR - Robert A. Shapiro - (202) 693-5500
025-COMMERCE - Michael A. Levitt - (202) 482-3151
061-JUSTICE - Jamie E. Brown - (202) 514-2141
107-Small Business Administration - Richard Spence - (202) 205-6700

EOP:
Mary C. Barth
James D. Foster
Justine F. Rodriguez
Hester C. Grippando
Mark J. Schwartz
Alan B. Rhinesmith
Stephen S. McMillin
NEC LRM
OVP LRM
WHGC LRM
CEA LRM
Brian Reardon
Kevin Warsh
Ziad S. Ojakli
Eric C. Pelletier
Matthew Kirk
Amy L. Call
Lauren C. Lobrano
Robert F. Mahaffie
Ursula S. Gillis
Maureen Walsh
Mark D. Menchik
Leticia Sierra
Augustine T. Smythe
Yvette M. Dennis
Anne R. Stauffer
Randolph M. Lyon
Ellen J. Balis
Attia Little
Joseph F. Lackey Jr.
John F. Morrall III
Steven D. Aitken
Philip J. Perry
John F. Wood
Matthew J. Schneider
Elizabeth L. Rossman
Kristen Silverberg
Joel D. Kaplan
Carole Kitti
Christine M. Burgeson
Lauren E. Bloomquist
James Boden
Irene Kho
Richard E. Green
James J. Jukes

LRM ID: LJM17 SUBJECT: TREASURY Testimony on Executive Compensation

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) faxing us a memo or letter.
Please include the LRM number and subject shown above.

TO: Lisa J. Macecevic Phone: 395-1092 Fax: 395-3109
Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

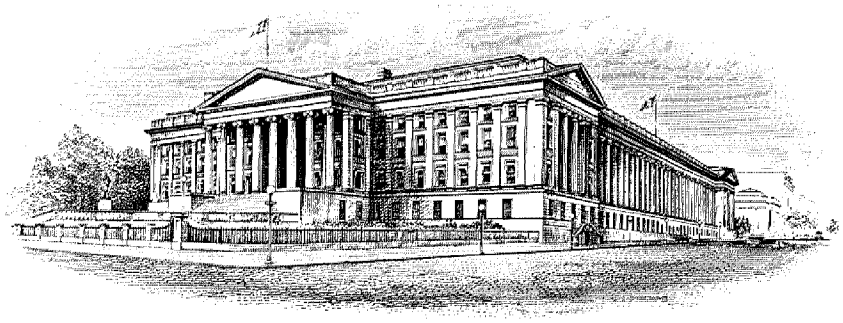
_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_PRHXE003_WHO.TXT_1>



TESTIMONY OF
PAMELA F. OLSON
ASSISTANT SECRETARY OF THE TREASURY (TAX POLICY)
FOR THE
COMMITTEE ON FINANCE
UNITED STATES SENATE
MARCH 25, 2003

Mr. Chairman, Senator Baucus, and distinguished Members of the Finance Committee, thank you for the opportunity to testify regarding the Administration's legislative and regulatory proposals on executive compensation. The recent report by the staff of the Joint Committee on Taxation, prepared at the request of this Committee, reveals Enron Corporation's excessive and questionable executive compensation practices. The details of the report underscore the importance and timeliness of this hearing.

The practices of Enron make clear that executive pay is about more than just tax policy. Executive pay is an issue of corporate governance and accountability. Many investors have watched corporate leaders receive increasing paychecks while producing deteriorating returns. Executive pay is an issue of fiscal responsibility – as the markets worry about the integrity of companies' financial statements. And executive pay is an issue of fairness – the same set of rules should govern all. The issues raised by the Enron report deserve the immediate attention of legislators and regulators. However, we think it is important to distinguish tax policy issues from corporate governance and accountability issues. We have specific recommendations for addressing tax policy matters through tax legislation, but we recommend against addressing corporate governance and accountability concerns by amending the tax code.

In reviewing the report, we noted three general points about Enron's executive compensation. First, several of the executive pay practices at Enron pushed the envelope of current law. The company permitted its executives to defer staggering amounts of income but took measures to insulate them from the risk of non-payment that the law requires as a trade-off for tax deferral. Enron was helped in this effort by out-dated rules on executive compensation – rules that the Treasury Department and the IRS have been statutorily prohibited from updating since 1978. Second, we were pleased to note that several of the pay practices at Enron have been addressed through legislation signed by President Bush last year and by recent Treasury and IRS regulations. Third, the largest category of executive pay at Enron was the massive stock option gains realized by Enron's executives. Enron's heavy use of stock options, which parallels the use of options by other large companies, may in fact be the unintended result of legislation from past Congresses and of current financial accounting standards.

The Enron report raises another important issue, one extending beyond executive compensation. The sheer complexity of Enron's tax-motivated transactions made it very difficult for the IRS to find out and then understand what the company was up to. In many cases, it appears that Enron intended the complexity of the transactions to frustrate detection by the IRS. In other words, Enron was deliberately hiding the ball, and that is cause for concern.

Tax Rules for Executive Compensation

It is important to understand the current tax rules for executive compensation and how those rules factored into Enron's compensation practices. The tax law does not specifically encourage executive compensation arrangements. In contrast to qualified retirement plans and employer-provided health insurance, Congress has never enacted incentives for companies to maintain or enhance executive pay arrangements. In certain cases, Congress has taken the opposite approach by imposing a tax penalty on practices considered inappropriate.

The rules on executive compensation generally have focused on three policy goals: first, to prevent tax avoidance; second, to protect the qualified-plan system; and, third, to promote good corporate governance. I want to say a few words about each of these goals before turning in detail to the applicable tax rules.

First, many of the rules on executive compensation aim to prevent tax avoidance. General tax principles allow an executive to defer tax on compensation only if the executive accepts the risk that the compensation may never be paid if the company becomes insolvent or bankrupt. Executives, naturally, do not like this risk and so push for greater security and control in their deferred compensation arrangements. Many of the current rules are intended to prevent tax deferral where the executive has minimized the risk of non-payment or has realized current economic value from deferred amounts.

Second, certain executive compensation rules protect the integrity of the qualified plan system. To ensure the retirement security of millions of American workers and their families, the tax code provides substantial tax incentives for companies to establish and maintain qualified plans. These tax benefits are most valuable to high-paid employees, but they are available to those employees only if the qualified plans give proportional benefits to a broad cross-section of rank-and-file workers. Allowing executive pay plans to provide the same tax benefits that qualified plans can provide would undermine the qualified plan system. That, in turn, would put the retirement security of rank-and-file workers at risk. Thus, the tax code must continue to ensure that executive pay arrangements do not inappropriately compete with qualified plans.

Third, certain tax rules for executive compensation are intended to promote good corporate governance and accountability. In certain cases, Congress has determined that particular types of executive compensation arrangements harm shareholders – either because of the type of payment involved or the size of the payment involved. In

REV_00160730

response, Congress has enacted rules that impose tax penalties unless the company meets certain shareholder-protection standards.

Let me now discuss the tax rules for executive compensation, focusing on how the rules apply to common types of executive pay and the compensation practices at Enron. Instead of setting out comprehensive rules, the tax law addresses executive pay through a combination of general tax principles and particular rules aimed at very specific situations. These principles and rules are found in the tax code, IRS rulings and regulations, and federal court decisions.

In discussing these rules, I want to stress the role of the Treasury Department and the IRS in executive compensation matters. Our job is to interpret and administer tax rules – in particular, to ensure that companies and executives adhere to the long-standing tax rules about how much control an executive can have over deferred compensation payouts (the "constructive receipt" rules) and how much protection the company can give the executive against non-payment if the company becomes bankrupt or insolvent (the "funding" rules). We do not believe that we are well-served by assigning to the IRS the role of enforcing rules intended to promote good corporate governance and corporate accountability. We recognize that corporate governance and accountability are legitimate policy goals for executive compensation, and we understand that Congress in particular cases may conclude that legislation is needed to promote those goals. However, experience shows that addressing corporate governance and accountability issues through the tax code is ineffective. Moreover, logic dictates that the issues should be dealt with directly and not through the tax code.

Nonqualified Deferred Compensation – Tax Policy Issues. Nonqualified deferred compensation arrangements – including both executive bonus plans and executive pension plans – constitute one of the most common elements of executive pay. The terms of these arrangements vary widely, but their common objective is to provide tax deferral for a specified period on either an elective or non-elective basis. The compensation compounds during the deferral period at a fixed or variable rate of return, and the executive typically receives distributions of the accumulated amounts at or after retirement (with provisions for distributions under certain other circumstances, as discussed below). Many plans provide the executive with some measure of actual or hypothetical investment control over deferred amounts.

If structured correctly, the tax treatment of a nonqualified deferred compensation arrangement is as follows. The executive does not include the deferred amount in gross income until it is actually paid out to the executive. The company cannot claim a deduction for the deferred amount until the executive includes it in gross income. During the deferral period, earnings on the deferred amount generally remain taxable to the company. Thus, the law imposes a "tax tension" between the executive and the company because every dollar for which the executive defers income is a dollar for which the company must defer its deduction.

REV_00160731

However, that tax tension only works if the executive and the company are both representing their own interests; it does not work if the company structures the pay with the sole aim of maximizing value for the executive without regard to the interests of shareholders. For example, an arrangement under which a company commits substantial assets to an irrevocable trust for the executive's benefit results in the company having less capital to re-invest in its business and may result in lower returns for shareholders – without an offsetting tax deduction for the compensation the company has set aside.

Deferred compensation arrangements must meet certain legal requirements. First, the executive cannot be in "constructive receipt" of any deferred amount. This means that an executive can defer an amount only as long as there is a "substantial limitation or restriction" on the executive's right to receive the amount. The principle of constructive receipt ensures that an executive cannot manipulate the timing of when taxes are due by turning his or her back on income that would be paid right away if the executive simply asked for it. If an executive can choose to receive deferred compensation at any time, the executive is in constructive receipt and is taxed immediately.

The IRS has applied the constructive-receipt doctrine by refusing to approve any decision to defer income and any decision about when and how that income will be paid unless the decision is made in the taxable year before the income is earned. For this reason, deferred compensation plans often provide for deferral elections to be made before the start of the taxable year. The plans often state the time when amounts will be paid out and the form of the distribution. Payout usually is made in a lump sum or in annuity or installment form at retirement or other termination of employment, death, disability, financial hardship, or after a fixed number of years.

Many plans allow an executive to make a subsequent election to defer payouts that are coming due or to change the form of the payout (or both). The plans typically require that the subsequent election be made a fixed number of months (usually twelve) before the payout is due. Some plans also allow for accelerated payouts. For example, a plan may provide for an early distribution with a "haircut" – such as a forfeiture of 10 percent of the deferred amount – or a suspension from further participation.

The IRS has had difficulty enforcing the constructive-receipt rules in disputes with taxpayers. The federal courts generally have followed an expansive interpretation of these rules, which were first written decades ago. Each court loss for the IRS has made companies and executives bolder in pushing out the line of common practice, with Treasury and the IRS prevented by Congress from updating the rules in response. The treatment by the courts of this issue has been a major factor in the expansion of deferred compensation.

Second, the tax law treats an unfunded promise to pay differently from a funded promise. Thus, the "economic benefit" doctrine and the rules governing transfers of property require that assets related to nonqualified deferred compensation remain subject to the claims of the company's general creditors along with the other general assets of the company. These rules are intended to put the executive at risk of non-payment if the

REV_00160732

company becomes bankrupt or insolvent. If a company insulates deferred compensation assets from the claims of its creditors – for example, by placing the deferred compensation in a trust or an escrow account for the exclusive benefit of the executive – the executive has a taxable economic benefit and must include the deferred compensation in gross income. Special rules, intended to backstop the qualified plan rules, provide a harsher result for discriminatory trusts by requiring the executive to pay tax currently on earnings as well.

The IRS has allowed very limited funding arrangements – commonly known as "rabbi trusts" – without triggering current tax to executives. Assets held by a rabbi trust are treated as belonging to the company, and the company continues to pay tax on any income they produce. More importantly, assets in a rabbi trust must be reachable by the general creditors of the company in the event of bankruptcy or insolvency. However, certain executive pay arrangements have increasingly stretched the limits on rabbi trusts and deferred compensation funding. In general, these arrangements – which include offshore rabbi trusts and hybrid (rabbi and non-rabbi) arrangements – are meant to keep assets away from creditors without triggering current tax to the executives.

Finally, the cash-equivalence and assignment-of-income doctrines require that an executive's interest in deferred compensation be non-assignable. This ensures that the executive cannot sell, transfer, pledge, or borrow against the deferred compensation and thereby realize economic value from it before it is paid.

The staff of the Joint Committee on Taxation found that Enron, like many large companies, provided very significant deferred compensation to its executives. It appears that Enron's deferred compensation arrangements generally complied with current law. However, Enron's arrangements also demonstrate the limitations of current law. As the company rapidly approached bankruptcy, many Enron executives were able to invoke accelerated distribution clauses. Although those accelerated distributions required a "haircut" – the executives had to forfeit 10 percent of the deferred compensation – the choice between receiving most of their deferred compensation and receiving none of their deferred compensation was surely an easy one. The practical effect of the accelerated distributions was to put these Enron executives in line ahead of the company's general creditors, allowing an end-run around the legal requirement that deferred compensation remain at risk of non-payment.

As discussed in more detail below, current law prevents Treasury and the IRS from restricting haircuts and other accelerated distribution clauses. Because of legislation passed by Congress in 1978, Treasury and IRS only have the authority to make haircut provisions *less restrictive* for executives. This is precisely the opposite of the authority we need when confronting arrangements that present potential for inappropriate tax avoidance or that undermine the qualified plan system. We strongly recommend that Congress repeal that limitation and give us the authority necessary to address both appropriate and inappropriate deferred compensation arrangements.

REV_00160733

Nonqualified Deferred Compensation – Corporate Governance Issues. Let me emphasize again that interpretation and administration of the constructive receipt and funding rules are proper roles for Treasury and the IRS, but the tax code is not the most effective means of promoting good corporate governance and corporate accountability. Practices that pass muster under the constructive receipt and funding rules may still present corporate governance or accountability concerns that Congress should address through legislation. If so, we recommend that Congress legislate directly rather than indirectly through the tax code.

Recent history provides examples of what happens when Congress does or does not legislate directly on corporate governance and accountability. Last summer, Congress passed and President Bush signed the Sarbanes-Oxley Act, which includes important new rules about executive compensation. Sarbanes-Oxley enacts one of the President's retirement-security proposals by prohibiting corporate insiders from trading company stock during a "blackout" period of the company's 401(k) or other defined contribution retirement plan; it prohibits public companies from making virtually any loan to executives or directors; and it requires the chief executive officer and the chief financial officer to forfeit incentive and equity-based compensation if the company restates its financial statements. In all these cases, Sarbanes-Oxley directly addresses the problem; it does not attempt to ban or curb a practice indirectly by amending the tax code and then asking the IRS to take on the role of enforcing shareholder protections.

Compare the Sarbanes-Oxley approach with two situations where Congress has used the tax code to address shareholder-protection concerns – the $1 million cap on deductible compensation and the "golden parachute" payments. Both these sets of rules show the unintended consequences that follow from legislating corporate governance through the tax laws.

Section 162(m) provides that a public company cannot deduct compensation in excess of $1 million for any of its top five executives. The provision contains a key exception for certain "performance-based" compensation that has been approved by shareholders after full disclosure. Stock option grants ordinarily fall within this exception. Congress enacted section 162(m) on the rationale that taking away a deduction for "excessive" compensation to top executives would protect investors in public companies by instilling greater discipline in executive pay packages.

But section 162(m) has had the opposite of its intended effect. At many companies, the $1 million "cap" has effectively become a $1 million "floor" for base salary and non-performance bonuses. Additionally, the "performance-based" exception has encouraged many companies, like Enron, to shift compensation above the $1 million amount into stock options and other forms of compensation tied to the company's stock price. As the Committee is well aware, much of the recent concern about the accuracy of companies' financial statements has focused on whether tying executive pay to the company's stock price gives the executive too much incentive to manipulate earnings statements in order to affect the stock price. Finally, many companies facing the choice between losing the deduction for compensation above $1 million or trimming executive pay simply do not

REV_00160734

claim the deduction. In those cases, the loss to shareholders simply compounds – the executive still receives the same pay, and the company loses its tax deduction. What was intended as a shield for investors instead becomes a sword against them.

The golden parachute rules provide a similar example. Congress enacted these tax penalties in the mid-1980s to prevent executives from draining value out of companies in connection with corporate takeovers. Section 280G prevents the company from deducting an excess golden parachute payment, and section 4999 imposes a 20 percent excise tax on an executive who receives such a parachute payment. Again, however, the tax penalties intended to protect shareholders have had the opposite effect. In many situations, companies and executives respond to the tax penalties by agreeing that the company will "gross up" the executive – that is, pay for any penalty tax that the executive incurs on a golden parachute payment. The law treats the gross up as a parachute payment, meaning that the cost of making the executive whole spirals upward – and of course, the company cannot deduct the underlying parachute payment or the gross up payment. Thus, the golden parachute penalties have resulted in many companies paying executives *larger* parachute payments and losing their tax deductions – all to the detriment of shareholders.

Congress must consider corporate governance and accountability issues when crafting legislation on executive compensation, but we strongly recommend that Congress not use the tax code for those issues. Experience has demonstrated that trying to implement shareholder protections through the tax laws likely will compound the harm to shareholders. Additionally, legislating corporate governance through the tax code puts the IRS in a position of being the primary defender of shareholder interests – a position for which the IRS simply is not well-suited. Shareholder interests are best protected by shareholders themselves and appropriate federal regulatory agencies, such as the SEC. Congress should look to the tax code to promote sound tax policy and, on executive compensation, should enable Treasury and the IRS to administer the long-standing rules concerning constructive receipt and funding of deferred compensation.

Restricted Stock and Stock Options. Restricted stock has long been a component of executive pay packages. Section 83 sets out rules for taxing restricted stock and stock options. An executive must include the fair market value of restricted stock at the time the restricted stock becomes "substantially vested" – that is, when it becomes transferable or not subject to a substantial risk of forfeiture. A special rule allows the executive to make an election to include the restricted stock in gross income prior to its becoming substantially vested. The company's deduction for the restricted stock matches the timing and amount of the executive's income.

In recent years, companies have made extensive use of stock options to compensate executives. An executive is not taxed on the receipt of a stock option (except in the highly unusual case where the option has a "readily ascertainable fair market value" when granted). Instead, the executive is taxed upon exercise of the option. At that time, the executive includes in gross income the "spread" on the option – that is, the difference between the fair market value of the stock and the amount the executive pays to exercise

REV_00160735

the option (plus any amount the executive paid to acquire the option). The company's deduction for the spread matches the timing and the amount of the executive's income.

A major consideration in the use of stock options for executive pay has been the current accounting rules for options. Under those rules, a company must account for stock-based executive compensation plans under the "fair value" method or the "intrinsic value" method. Under the fair value method (set out in FAS 123), a company expenses an option under Black-Scholes or a binomial model. This creates a charge to earnings at grant or on vesting. Under the intrinsic value method (set out in APB Opinion No. 25) an option granted at fair market value does not have any intrinsic value and results in no charge to earnings. However, a company using the intrinsic value method must disclose in a footnote to its financial statements the effect on earnings, including earnings per share, of using the fair value method to account for option grants.

Most companies, Enron included, have used the intrinsic value method for stock options, thereby avoiding any charge to earnings for this element of executive compensation. It is important to note that the tide may be changing. More companies are beginning to use the fair value method, and FASB currently has this issue under review.

Enron compensated its executives primarily with stock options. According to the Enron report, total compensation for the 200 highest-paid executives was $1.4 billion, and over $1 billion of that amount was attributable to stock options. For the years 1998 to 2000, Enron's deduction for stock-option compensation increased by 1,000 percent. Still, it appears from the Enron report that the company treated the option grants and exercises properly under the tax law and that Enron accounted for these options in conformity with FASB accounting rules.

It is important that the Committee's review of executive compensation consider the working of the current rules with regard to stock options and whether these rules caused the concentration of stock options in the Enron executives' pay packages.

Administration's Proposals on Executive Compensation

This Administration has a strong commitment to ensuring that the tax rules apply fairly to everyone. Those who play by the rules rightly expect that all will play by the rules. The law cannot allow executives to end-run existing rules for paying tax on amounts that are currently available to them or that have been insulated from creditors. Unfortunately, Congress in 1978 tied the hands of the Treasury Department and the IRS. The Administration proposes that Congress lift the restrictions on new regulation of executive compensation and give Treasury and the IRS full authority to address appropriate and inappropriate deferred compensation arrangements.

Section 132 of the Revenue Act of 1978. In 1978, Treasury and the IRS proposed Treasury Regulations section 1.61-16, providing for current inclusion of compensation deferred "at the taxpayer's individual option." The proposed regulation alarmed companies because the scope of the regulation was vague, and it was not clear whether all

REV_00160736

deferred compensation might be taxed currently. Companies also made strong arguments that they needed deferred compensation as part of their executive pay packages.

In response, Congress enacted section 132 of the Revenue Act of 1978 to prevent finalization of section 1.61-16. Section 132 provides that the taxable year of inclusion of any amount under a private deferred compensation plan "shall be determined in accordance with the principles set forth in regulations, rulings, and judicial decisions relating to deferred compensation which were in effect on February 1, 1978." The broad rule-making moratorium imposed by section 132 currently prohibits Treasury and the IRS from issuing new regulations or other guidance on many aspects of nonqualified deferred compensation arrangements.

Since the enactment of section 132, Treasury and the IRS have been unable to provide new guidance about core elements of deferred compensation arrangements. New guidance is needed to ensure that the tax rules keep pace with the constant changes in deferred compensation practices and to address federal court decisions that have undercut the rules on constructive receipt. The guidance also is needed simply to update IRS ruling guidelines that were issued in 1971 and that, despite minor changes in 1992, are considered out of step with the case law.

Budget Proposal to Repeal Section 132. The Administration's budget for fiscal year 2004 proposes the repeal of section 132 of the Revenue Act of 1978 and a grant of new authority to write regulations on inappropriate deferred compensation arrangements. Last year this Committee reported legislation that would have repealed section 132, and the staff of the Joint Committee on Taxation also recommended repeal of section 132 in the Enron report.

Repeal of section 132 would greatly enhance the ability of Treasury and the IRS to write regulations addressing deferred compensation practices. In some situations, section 132 directly constrains issuing new rules. In others, repeal of section 132 along with new statutory authority to address inappropriate arrangements would make the rules more likely to survive court challenge. Treasury and the IRS would not implement proposed section 1.61-16 as part of this authority.

The new regulations would address the following topics, among others: benefit distribution elections; initial and subsequent deferral elections; executive control over deferred amounts; shielding deferred compensation from creditors; and constructive receipt of property. Let me describe these briefly:

- Regarding *benefit distribution elections*, the regulations could address circumstances under which executives control the timing of their benefit payouts to the detriment of general creditors – for example, "haircuts" and other acceleration clauses.

- Regarding *initial and subsequent deferral elections*, the regulations could provide clearer rules to require that an executive's choice to defer income be made before

REV_00160737

the income is actually available – eliminating the executive's ability to defer tax on amounts under the executive's immediate control; the regulations also could state whether and when subsequent deferral elections are permitted.

- Regarding *executive control over deferred amounts*, the regulations could address questions about how much control an executive may have over deferred amounts – for example, whether and to what extent an executive may control the investment of deferred compensation or "swap" deferred compensation rights for stock options or life insurance arrangements.

- Regarding *shielding deferred compensation from creditors*, the new regulations could address techniques that attempt to shield assets from creditors while making it appear that the assets are reachable by creditors – for example, offshore rabbi trusts, secured trusts that "spring" into existence as a company approaches insolvency, trigger clauses that provide for automatic payouts as a company approaches insolvency, and third-party guarantees of deferred benefits.

- Regarding *constructive receipt of property*, the regulations could address when an executive is taxable on property (such as company stock) that is made available to the executive but is not actually transferred; this would give Treasury and the IRS clearer authority to address the taxation of deeply discounted stock options, resolving uncertainty about how certain old federal court decisions apply to current practices of issuing discounted options in lieu of deferred compensation.

One of the key points of the Administration's legislative proposal is the on-going flexibility that it will provide. Companies and executives regularly restructure executive pay packages, and the tax laws need to keep pace with these changes. The status quo is unacceptable as a matter of tax policy – Treasury and the IRS are actually forbidden from shaping or updating the law to address new practices. Moreover, legislation targeted at specific transactions or practices would be an incomplete response. It may not reach the new transactions or practices companies and executives develop in the future.

Furthermore, it is important that Treasury and the IRS have the authority to determine not only what types of arrangements cross the line but also to say what types of arrangements are permissible. The market pressures for executive compensation are significant, and limiting one particular inappropriate practice inevitably will lead companies and executives to develop new practices, some troublesome and some not. Effective regulation in this area requires a comprehensive approach and continual updating of the rules to respond to new developments so that companies and executives are guided to appropriate arrangements.

We need also to shape the rules for nonqualified deferred compensation to keep pace with changes in the rules for qualified plans. One of the policy goals of the nonqualified plan rules is to protect the viability and the integrity of the qualified plan system. Because of the important role that qualified plans play in providing retirement income security for millions of American workers and their families, Congress regularly reviews and updates

REV_00160738

the rules for those plans through new legislation, and Treasury and the IRS regularly issue new regulations and rulings to implement that legislation. In fact, this Committee last year reported legislation, first proposed by the President, to protect the retirement security of workers whose plans invest in employer stock. Just as the Administration urges you to take up the retirement security legislation again this year, so too we urge you to give us the tools needed to make sure that this and future legislation will maintain the balance between qualified and nonqualified plans.

To meet the policy challenges of this dynamic area, we strongly recommend that Congress repeal section 132 of the Revenue Act of 1978 and give Treasury and the IRS lasting and meaningful authority to write proper rules for taxing executive pay. Untying our hands is the only way to ensure that Treasury and the IRS can respond quickly and effectively to developments in executive compensation.

Other Recent Legislative and Regulatory Developments

Certain of the executive compensation practices discussed by the staff of the Joint Committee on Taxation in its report have been addressed either through legislation signed into law by President Bush or through regulations issued by Treasury and the IRS. Additionally, Treasury and the IRS are continually reviewing new transactions to determine whether they are appropriate.

Sarbanes-Oxley Act. The Sarbanes-Oxley Act signed by President Bush last summer addresses outside the tax code certain executive compensation issues. Sarbanes-Oxley prohibits insider trading during "blackout" periods, prohibits almost all loans from public companies to executives and directors, and requires certain executives to forfeit incentive and equity-based compensation if the company restates its financial statements. All these changes would have had a material impact on Enron's executive compensation practices, and we believe they will help curb inappropriate executive pay practices in the future.

Split-Dollar Life Insurance Arrangements. Also last summer, Treasury and the IRS proposed new regulations for taxing split-dollar life insurance arrangements. A split-dollar life insurance arrangement is a contract to allocate the benefits and, in some cases, the costs of a life insurance policy. Under a typical equity split-dollar arrangement, an executive receives an interest in the policy cash value disproportionate to the executive's share of premiums. The new regulations ended many years of uncertainty about how these arrangements are taxed and remove the tax advantage of split-dollar life insurance arrangements. Under the regulations, an executive will be taxed as receiving below-market loans from the company (if the executive owns the life insurance policy) or as receiving taxable economic benefits from the company (if the company owns the policy). Treasury and the IRS intend to finalize these regulations in the near future.

Other Arrangements. We are aware of other executive pay arrangements that raise tax policy concerns, and in some cases we anticipate publishing regulations or other guidance. For example, some executives who own stock options purport to sell those options to a family limited partnership, a family trust, or another entity in which they or their family members have a direct financial stake. This transaction is intended to defer

REV_00160739

the gain the executive would otherwise recognize on exercise of the options. We have reviewed these transactions, and we have serious concerns with them. We expect to issue a notice in the near future indicating how and why we intend to challenge them.

Of course, our review of certain transactions would potentially be different if Congress enacted our budget proposal to repeal section 132 of the Revenue Act of 1978. Section 132 ties our hands. To challenge a transaction, we have to conclude that it violates the law as in effect back in 1978. Executive compensation has changed a lot since 1978, and we need to be able to issue new rules and regulations to keep pace with changes in the market.

Finally, once we have identified a type of transaction and have determined that it fails under current law, we are able to list the transaction type and require taxpayers to disclose their participation in it. As with other types of abusive tax avoidance, we believe that listing is an important tool in tax administration and enforcement.

Summary and Closing

I thank the Committee for holding a hearing on this important topic, and I appreciate the opportunity to discuss these critical issues with you. We urge the Committee to do this year what it did last year – report legislation to repeal section 132 of the Revenue Act of 1978 to give us new authority to address deferred compensation, as proposed in the Administration's budget. We further urge the Committee to address the corporate governance and accountability issues raised by executive compensation, but to do so directly rather than through the tax code. Mr. Chairman and Senator Baucus, the Office of Tax Policy would be happy to offer any assistance to you and your staff as you continue your review of this critical issue.

Mr. Chairman, this concludes my formal statement. I will be pleased to answer any questions that you or any other member may wish to ask.

REV_00160740

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Whelan, M Edward III <M.Edward.Whelan@usdoj.gov>
Sent: 3/21/2003 1:35:01 PM
Subject: : Re: supermajority

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-MAR-2003 18:35:01.00
SUBJECT:: Re: supermajority
TO:"Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov> ("Whelan, M Edward III"
<M.Edward.Whelan@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

maybe towards end of next week.

"Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov>
03/20/2003 02:39:23 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: supermajority

Nick hopes to turn full-time to the question on Monday. If you have a particular deadline in mind, please let me know.

On the sub-question you raised, Nick and I are both of the view that the 2/3 rule is unconstitutional ab initio, so that even if the Senate adopted it this session, it can still by simple majority amend its rules.

From: Bumatay, Patrick J.
To: <Kavanaugh, Brett M.>
Sent: 3/21/2003 5:53:46 PM
Subject: FW: LRM LJM17 - - TREASURY Testimony on Executive Compensation
Attachments: tt0018a.doc

-----Original Message-----

From: MacEcevic, Lisa J.

Sent: Friday, March 21, 2003 5:50 PM

To: dol-sol-leg@dol.gov; CLRM@doc.gov; justice.lrm@usdoj.gov; cla@sba.gov

Cc: Barth, Mary C.; Foster, James D.; Rodriguez, Justine F.; Grippando, Hester C.; Schwartz, Mark J.; Rhinesmith, Alan B.; McMillin, Stephen S.; Nec Lrm; Ovp Lrm; Whgc Lrm; Cea Lrm; Reardon, Brian; Warsh, Kevin; Ojakli, Ziad ; Pelletier, Eric C.; Kirk, Matthew ; Call, Amy L.; Lobrano, Lauren C.; Mahaffie, Robert F.; Gills, Ursula S.; Walsh, Maureen; Menchik, Mark D.; Sierra, Leticia; Smythe, Augustine T.; Dennis, Yvette M.; Stauffer, Anne R.; Lyon, Randolph M.; Balis, Ellen J.; Little, Attia; Lackey Jr., Joseph F.; Morrall Iii, John F.; Aitken, Steven D.; Perry, Philip J.; Wood, John F.; Schneider, Matthew J.; Rossman, Elizabeth L.; Silverberg, Kristen; Kaplan, Joel; Kitti, Carole; Burgeson, Christine M.; Bloomquist, Lauren E.; Boden, James; Kho, Irene; Green, Richard E.; Jukes, James J.

Subject: LRM LJM17 - - TREASURY Testimony on Executive Compensation

The attached Treasury testimony is for a March 25th hearing before the Senate Finance Committee on a Joint Committee on Taxation report on executive compensation. The testimony also discusses a proposal in the President's FY 2004 Budget that would repeal Section 132 of the Revenue Act of 1978 dealing with deferred compensation arrangements. **Please respond with any comments on the testimony by 2:00 P.M. Monday, March 24th.** Thank you.

- tt0018a.doc << tt0018a.doc >>

LRM ID: LJM17

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Friday, March 21, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: Lisa J. Macecevic
PHONE: (202)395-1092 FAX: (202)395-3109
SUBJECT: **TREASURY Testimony on Executive Compensation**

DEADLINE: **2:00 P.M. Monday, March 24, 2003**
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: The attached Treasury testimony is for a March 25th hearing before the Senate Finance Committee on a Joint Committee on Taxation report on executive compensation. The testimony also discusses a proposal in the President's FY 2004 Budget that would repeal Section 132 of the Revenue Act of 1978 dealing with deferred compensation arrangements. **Please respond with any comments on the testimony by 2:00 P.M. Monday, March 24th.** Thank you.

DISTRIBUTION LIST

AGENCIES:
062-LABOR - Robert A. Shapiro - (202) 693-5500
025-COMMERCE - Michael A. Levitt - (202) 482-3151
061-JUSTICE - Jamie E. Brown - (202) 514-2141
107-Small Business Administration - Richard Spence - (202) 205-6700

EOP:
Mary C. Barth
James D. Foster
Justine F. Rodriguez
Hester C. Grippando
Mark J. Schwartz
Alan B. Rhinesmith
Stephen S. McMillin
NEC LRM
OVP LRM
WHGC LRM
CEA LRM
Brian Reardon
Kevin Warsh
Ziad S. Ojakli
Eric C. Pelletier
Matthew Kirk
Amy L. Call
Lauren C. Lobrano
Robert F. Mahaffie
Ursula S. Gillis
Maureen Walsh
Mark D. Menchik
Leticia Sierra
Augustine T. Smythe
Yvette M. Dennis
Anne R. Stauffer
Randolph M. Lyon
Ellen J. Balis
Attia Little
Joseph F. Lackey Jr.
John F. Morrall III
Steven D. Aitken
Philip J. Perry
John F. Wood
Matthew J. Schneider
Elizabeth L. Rossman
Kristen Silverberg
Joel D. Kaplan
Carole Kitti
Christine M. Burgeson
Lauren E. Bloomquist
James Boden
Irene Kho
Richard E. Green
James J. Jukes**LRM ID:** LJM17 **SUBJECT:** TREASURY Testimony on Executive Compensation

RESPONSE TO

LEGISLATIVE REFERRAL

MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail

or by faxing us this response sheet.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) faxing us a memo or letter.

Please include the LRM number and subject shown above.

TO: Lisa J. Macecevic Phone: 395-1092 Fax: 395-3109

Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

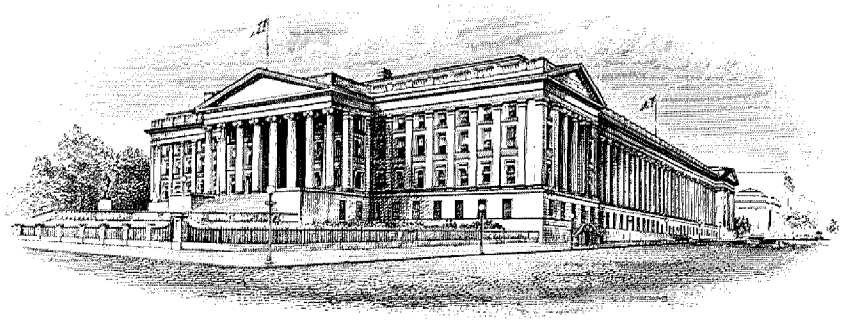
_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet



TESTIMONY OF
PAMELA F. OLSON
ASSISTANT SECRETARY OF THE TREASURY (TAX POLICY)
FOR THE
COMMITTEE ON FINANCE
UNITED STATES SENATE
MARCH 25, 2003

Mr. Chairman, Senator Baucus, and distinguished Members of the Finance Committee, thank you for the opportunity to testify regarding the Administration's legislative and regulatory proposals on executive compensation. The recent report by the staff of the Joint Committee on Taxation, prepared at the request of this Committee, reveals Enron Corporation's excessive and questionable executive compensation practices. The details of the report underscore the importance and timeliness of this hearing.

The practices of Enron make clear that executive pay is about more than just tax policy. Executive pay is an issue of corporate governance and accountability. Many investors have watched corporate leaders receive increasing paychecks while producing deteriorating returns. Executive pay is an issue of fiscal responsibility – as the markets worry about the integrity of companies' financial statements. And executive pay is an issue of fairness – the same set of rules should govern all. The issues raised by the Enron report deserve the immediate attention of legislators and regulators. However, we think it is important to distinguish tax policy issues from corporate governance and accountability issues. We have specific recommendations for addressing tax policy matters through tax legislation, but we recommend against addressing corporate governance and accountability concerns by amending the tax code.

In reviewing the report, we noted three general points about Enron's executive compensation. First, several of the executive pay practices at Enron pushed the envelope of current law. The company permitted its executives to defer staggering amounts of income but took measures to insulate them from the risk of non-payment that the law requires as a trade-off for tax deferral. Enron was helped in this effort by out-dated rules on executive compensation – rules that the Treasury Department and the IRS have been statutorily prohibited from updating since 1978. Second, we were pleased to note that several of the pay practices at Enron have been addressed through legislation signed by President Bush last year and by recent Treasury and IRS regulations. Third, the largest category of executive pay at Enron was the massive stock option gains realized by Enron's executives. Enron's heavy use of stock options, which parallels the use of options by other large companies, may in fact be the unintended result of legislation from past Congresses and of current financial accounting standards.

The Enron report raises another important issue, one extending beyond executive compensation. The sheer complexity of Enron's tax-motivated transactions made it very difficult for the IRS to find out and then understand what the company was up to. In many cases, it appears that Enron intended the complexity of the transactions to frustrate detection by the IRS. In other words, Enron was deliberately hiding the ball, and that is cause for concern.

Tax Rules for Executive Compensation

It is important to understand the current tax rules for executive compensation and how those rules factored into Enron's compensation practices. The tax law does not specifically encourage executive compensation arrangements. In contrast to qualified retirement plans and employer-provided health insurance, Congress has never enacted incentives for companies to maintain or enhance executive pay arrangements. In certain cases, Congress has taken the opposite approach by imposing a tax penalty on practices considered inappropriate.

The rules on executive compensation generally have focused on three policy goals: first, to prevent tax avoidance; second, to protect the qualified-plan system; and, third, to promote good corporate governance. I want to say a few words about each of these goals before turning in detail to the applicable tax rules.

First, many of the rules on executive compensation aim to prevent tax avoidance. General tax principles allow an executive to defer tax on compensation only if the executive accepts the risk that the compensation may never be paid if the company becomes insolvent or bankrupt. Executives, naturally, do not like this risk and so push for greater security and control in their deferred compensation arrangements. Many of the current rules are intended to prevent tax deferral where the executive has minimized the risk of non-payment or has realized current economic value from deferred amounts.

Second, certain executive compensation rules protect the integrity of the qualified plan system. To ensure the retirement security of millions of American workers and their families, the tax code provides substantial tax incentives for companies to establish and maintain qualified plans. These tax benefits are most valuable to high-paid employees, but they are available to those employees only if the qualified plans give proportional benefits to a broad cross-section of rank-and-file workers. Allowing executive pay plans to provide the same tax benefits that qualified plans can provide would undermine the qualified plan system. That, in turn, would put the retirement security of rank-and-file workers at risk. Thus, the tax code must continue to ensure that executive pay arrangements do not inappropriately compete with qualified plans.

Third, certain tax rules for executive compensation are intended to promote good corporate governance and accountability. In certain cases, Congress has determined that particular types of executive compensation arrangements harm shareholders – either because of the type of payment involved or the size of the payment involved. In

REV_00160752

response, Congress has enacted rules that impose tax penalties unless the company meets certain shareholder-protection standards.

Let me now discuss the tax rules for executive compensation, focusing on how the rules apply to common types of executive pay and the compensation practices at Enron. Instead of setting out comprehensive rules, the tax law addresses executive pay through a combination of general tax principles and particular rules aimed at very specific situations. These principles and rules are found in the tax code, IRS rulings and regulations, and federal court decisions.

In discussing these rules, I want to stress the role of the Treasury Department and the IRS in executive compensation matters. Our job is to interpret and administer tax rules – in particular, to ensure that companies and executives adhere to the long-standing tax rules about how much control an executive can have over deferred compensation payouts (the "constructive receipt" rules) and how much protection the company can give the executive against non-payment if the company becomes bankrupt or insolvent (the "funding" rules). We do not believe that we are well-served by assigning to the IRS the role of enforcing rules intended to promote good corporate governance and corporate accountability. We recognize that corporate governance and accountability are legitimate policy goals for executive compensation, and we understand that Congress in particular cases may conclude that legislation is needed to promote those goals. However, experience shows that addressing corporate governance and accountability issues through the tax code is ineffective. Moreover, logic dictates that the issues should be dealt with directly and not through the tax code.

Nonqualified Deferred Compensation – Tax Policy Issues. Nonqualified deferred compensation arrangements – including both executive bonus plans and executive pension plans – constitute one of the most common elements of executive pay. The terms of these arrangements vary widely, but their common objective is to provide tax deferral for a specified period on either an elective or non-elective basis. The compensation compounds during the deferral period at a fixed or variable rate of return, and the executive typically receives distributions of the accumulated amounts at or after retirement (with provisions for distributions under certain other circumstances, as discussed below). Many plans provide the executive with some measure of actual or hypothetical investment control over deferred amounts.

If structured correctly, the tax treatment of a nonqualified deferred compensation arrangement is as follows. The executive does not include the deferred amount in gross income until it is actually paid out to the executive. The company cannot claim a deduction for the deferred amount until the executive includes it in gross income. During the deferral period, earnings on the deferred amount generally remain taxable to the company. Thus, the law imposes a "tax tension" between the executive and the company because every dollar for which the executive defers income is a dollar for which the company must defer its deduction.

REV_00160753

However, that tax tension only works if the executive and the company are both representing their own interests; it does not work if the company structures the pay with the sole aim of maximizing value for the executive without regard to the interests of shareholders. For example, an arrangement under which a company commits substantial assets to an irrevocable trust for the executive's benefit results in the company having less capital to re-invest in its business and may result in lower returns for shareholders – without an offsetting tax deduction for the compensation the company has set aside.

Deferred compensation arrangements must meet certain legal requirements. First, the executive cannot be in "constructive receipt" of any deferred amount. This means that an executive can defer an amount only as long as there is a "substantial limitation or restriction" on the executive's right to receive the amount. The principle of constructive receipt ensures that an executive cannot manipulate the timing of when taxes are due by turning his or her back on income that would be paid right away if the executive simply asked for it. If an executive can choose to receive deferred compensation at any time, the executive is in constructive receipt and is taxed immediately.

The IRS has applied the constructive-receipt doctrine by refusing to approve any decision to defer income and any decision about when and how that income will be paid unless the decision is made in the taxable year before the income is earned. For this reason, deferred compensation plans often provide for deferral elections to be made before the start of the taxable year. The plans often state the time when amounts will be paid out and the form of the distribution. Payout usually is made in a lump sum or in annuity or installment form at retirement or other termination of employment, death, disability, financial hardship, or after a fixed number of years.

Many plans allow an executive to make a subsequent election to defer payouts that are coming due or to change the form of the payout (or both). The plans typically require that the subsequent election be made a fixed number of months (usually twelve) before the payout is due. Some plans also allow for accelerated payouts. For example, a plan may provide for an early distribution with a "haircut" – such as a forfeiture of 10 percent of the deferred amount – or a suspension from further participation.

The IRS has had difficulty enforcing the constructive-receipt rules in disputes with taxpayers. The federal courts generally have followed an expansive interpretation of these rules, which were first written decades ago. Each court loss for the IRS has made companies and executives bolder in pushing out the line of common practice, with Treasury and the IRS prevented by Congress from updating the rules in response. The treatment by the courts of this issue has been a major factor in the expansion of deferred compensation.

Second, the tax law treats an unfunded promise to pay differently from a funded promise. Thus, the "economic benefit" doctrine and the rules governing transfers of property require that assets related to nonqualified deferred compensation remain subject to the claims of the company's general creditors along with the other general assets of the company. These rules are intended to put the executive at risk of non-payment if the

REV_00160754

company becomes bankrupt or insolvent. If a company insulates deferred compensation assets from the claims of its creditors – for example, by placing the deferred compensation in a trust or an escrow account for the exclusive benefit of the executive – the executive has a taxable economic benefit and must include the deferred compensation in gross income. Special rules, intended to backstop the qualified plan rules, provide a harsher result for discriminatory trusts by requiring the executive to pay tax currently on earnings as well.

The IRS has allowed very limited funding arrangements – commonly known as "rabbi trusts" – without triggering current tax to executives. Assets held by a rabbi trust are treated as belonging to the company, and the company continues to pay tax on any income they produce. More importantly, assets in a rabbi trust must be reachable by the general creditors of the company in the event of bankruptcy or insolvency. However, certain executive pay arrangements have increasingly stretched the limits on rabbi trusts and deferred compensation funding. In general, these arrangements – which include offshore rabbi trusts and hybrid (rabbi and non-rabbi) arrangements – are meant to keep assets away from creditors without triggering current tax to the executives.

Finally, the cash-equivalence and assignment-of-income doctrines require that an executive's interest in deferred compensation be non-assignable. This ensures that the executive cannot sell, transfer, pledge, or borrow against the deferred compensation and thereby realize economic value from it before it is paid.

The staff of the Joint Committee on Taxation found that Enron, like many large companies, provided very significant deferred compensation to its executives. It appears that Enron's deferred compensation arrangements generally complied with current law. However, Enron's arrangements also demonstrate the limitations of current law. As the company rapidly approached bankruptcy, many Enron executives were able to invoke accelerated distribution clauses. Although those accelerated distributions required a "haircut" – the executives had to forfeit 10 percent of the deferred compensation – the choice between receiving most of their deferred compensation and receiving none of their deferred compensation was surely an easy one. The practical effect of the accelerated distributions was to put these Enron executives in line ahead of the company's general creditors, allowing an end-run around the legal requirement that deferred compensation remain at risk of non-payment.

As discussed in more detail below, current law prevents Treasury and the IRS from restricting haircuts and other accelerated distribution clauses. Because of legislation passed by Congress in 1978, Treasury and IRS only have the authority to make haircut provisions *less restrictive* for executives. This is precisely the opposite of the authority we need when confronting arrangements that present potential for inappropriate tax avoidance or that undermine the qualified plan system. We strongly recommend that Congress repeal that limitation and give us the authority necessary to address both appropriate and inappropriate deferred compensation arrangements.

REV_00160755

Nonqualified Deferred Compensation – Corporate Governance Issues. Let me emphasize again that interpretation and administration of the constructive receipt and funding rules are proper roles for Treasury and the IRS, but the tax code is not the most effective means of promoting good corporate governance and corporate accountability. Practices that pass muster under the constructive receipt and funding rules may still present corporate governance or accountability concerns that Congress should address through legislation. If so, we recommend that Congress legislate directly rather than indirectly through the tax code.

Recent history provides examples of what happens when Congress does or does not legislate directly on corporate governance and accountability. Last summer, Congress passed and President Bush signed the Sarbanes-Oxley Act, which includes important new rules about executive compensation. Sarbanes-Oxley enacts one of the President's retirement-security proposals by prohibiting corporate insiders from trading company stock during a "blackout" period of the company's 401(k) or other defined contribution retirement plan; it prohibits public companies from making virtually any loan to executives or directors; and it requires the chief executive officer and the chief financial officer to forfeit incentive and equity-based compensation if the company restates its financial statements. In all these cases, Sarbanes-Oxley directly addresses the problem; it does not attempt to ban or curb a practice indirectly by amending the tax code and then asking the IRS to take on the role of enforcing shareholder protections.

Compare the Sarbanes-Oxley approach with two situations where Congress has used the tax code to address shareholder-protection concerns – the $1 million cap on deductible compensation and the "golden parachute" payments. Both these sets of rules show the unintended consequences that follow from legislating corporate governance through the tax laws.

Section 162(m) provides that a public company cannot deduct compensation in excess of $1 million for any of its top five executives. The provision contains a key exception for certain "performance-based" compensation that has been approved by shareholders after full disclosure. Stock option grants ordinarily fall within this exception. Congress enacted section 162(m) on the rationale that taking away a deduction for "excessive" compensation to top executives would protect investors in public companies by instilling greater discipline in executive pay packages.

But section 162(m) has had the opposite of its intended effect. At many companies, the $1 million "cap" has effectively become a $1 million "floor" for base salary and non-performance bonuses. Additionally, the "performance-based" exception has encouraged many companies, like Enron, to shift compensation above the $1 million amount into stock options and other forms of compensation tied to the company's stock price. As the Committee is well aware, much of the recent concern about the accuracy of companies' financial statements has focused on whether tying executive pay to the company's stock price gives the executive too much incentive to manipulate earnings statements in order to affect the stock price. Finally, many companies facing the choice between losing the deduction for compensation above $1 million or trimming executive pay simply do not

REV_00160756

claim the deduction. In those cases, the loss to shareholders simply compounds – the executive still receives the same pay, and the company loses its tax deduction. What was intended as a shield for investors instead becomes a sword against them.

The golden parachute rules provide a similar example. Congress enacted these tax penalties in the mid-1980s to prevent executives from draining value out of companies in connection with corporate takeovers. Section 280G prevents the company from deducting an excess golden parachute payment, and section 4999 imposes a 20 percent excise tax on an executive who receives such a parachute payment. Again, however, the tax penalties intended to protect shareholders have had the opposite effect. In many situations, companies and executives respond to the tax penalties by agreeing that the company will "gross up" the executive – that is, pay for any penalty tax that the executive incurs on a golden parachute payment. The law treats the gross up as a parachute payment, meaning that the cost of making the executive whole spirals upward – and of course, the company cannot deduct the underlying parachute payment or the gross up payment. Thus, the golden parachute penalties have resulted in many companies paying executives *larger* parachute payments and losing their tax deductions – all to the detriment of shareholders.

Congress must consider corporate governance and accountability issues when crafting legislation on executive compensation, but we strongly recommend that Congress not use the tax code for those issues. Experience has demonstrated that trying to implement shareholder protections through the tax laws likely will compound the harm to shareholders. Additionally, legislating corporate governance through the tax code puts the IRS in a position of being the primary defender of shareholder interests – a position for which the IRS simply is not well-suited. Shareholder interests are best protected by shareholders themselves and appropriate federal regulatory agencies, such as the SEC. Congress should look to the tax code to promote sound tax policy and, on executive compensation, should enable Treasury and the IRS to administer the long-standing rules concerning constructive receipt and funding of deferred compensation.

Restricted Stock and Stock Options. Restricted stock has long been a component of executive pay packages. Section 83 sets out rules for taxing restricted stock and stock options. An executive must include the fair market value of restricted stock at the time the restricted stock becomes "substantially vested" – that is, when it becomes transferable or not subject to a substantial risk of forfeiture. A special rule allows the executive to make an election to include the restricted stock in gross income prior to its becoming substantially vested. The company's deduction for the restricted stock matches the timing and amount of the executive's income.

In recent years, companies have made extensive use of stock options to compensate executives. An executive is not taxed on the receipt of a stock option (except in the highly unusual case where the option has a "readily ascertainable fair market value" when granted). Instead, the executive is taxed upon exercise of the option. At that time, the executive includes in gross income the "spread" on the option – that is, the difference between the fair market value of the stock and the amount the executive pays to exercise

REV_00160757

the option (plus any amount the executive paid to acquire the option). The company's deduction for the spread matches the timing and the amount of the executive's income.

A major consideration in the use of stock options for executive pay has been the current accounting rules for options. Under those rules, a company must account for stock-based executive compensation plans under the "fair value" method or the "intrinsic value" method. Under the fair value method (set out in FAS 123), a company expenses an option under Black-Scholes or a binomial model. This creates a charge to earnings at grant or on vesting. Under the intrinsic value method (set out in APB Opinion No. 25) an option granted at fair market value does not have any intrinsic value and results in no charge to earnings. However, a company using the intrinsic value method must disclose in a footnote to its financial statements the effect on earnings, including earnings per share, of using the fair value method to account for option grants.

Most companies, Enron included, have used the intrinsic value method for stock options, thereby avoiding any charge to earnings for this element of executive compensation. It is important to note that the tide may be changing. More companies are beginning to use the fair value method, and FASB currently has this issue under review.

Enron compensated its executives primarily with stock options. According to the Enron report, total compensation for the 200 highest-paid executives was $1.4 billion, and over $1 billion of that amount was attributable to stock options. For the years 1998 to 2000, Enron's deduction for stock-option compensation increased by 1,000 percent. Still, it appears from the Enron report that the company treated the option grants and exercises properly under the tax law and that Enron accounted for these options in conformity with FASB accounting rules.

It is important that the Committee's review of executive compensation consider the working of the current rules with regard to stock options and whether these rules caused the concentration of stock options in the Enron executives' pay packages.

Administration's Proposals on Executive Compensation

This Administration has a strong commitment to ensuring that the tax rules apply fairly to everyone. Those who play by the rules rightly expect that all will play by the rules. The law cannot allow executives to end-run existing rules for paying tax on amounts that are currently available to them or that have been insulated from creditors. Unfortunately, Congress in 1978 tied the hands of the Treasury Department and the IRS. The Administration proposes that Congress lift the restrictions on new regulation of executive compensation and give Treasury and the IRS full authority to address appropriate and inappropriate deferred compensation arrangements.

Section 132 of the Revenue Act of 1978. In 1978, Treasury and the IRS proposed Treasury Regulations section 1.61-16, providing for current inclusion of compensation deferred "at the taxpayer's individual option." The proposed regulation alarmed companies because the scope of the regulation was vague, and it was not clear whether all

REV_00160758

deferred compensation might be taxed currently. Companies also made strong arguments that they needed deferred compensation as part of their executive pay packages.

In response, Congress enacted section 132 of the Revenue Act of 1978 to prevent finalization of section 1.61-16. Section 132 provides that the taxable year of inclusion of any amount under a private deferred compensation plan "shall be determined in accordance with the principles set forth in regulations, rulings, and judicial decisions relating to deferred compensation which were in effect on February 1, 1978." The broad rule-making moratorium imposed by section 132 currently prohibits Treasury and the IRS from issuing new regulations or other guidance on many aspects of nonqualified deferred compensation arrangements.

Since the enactment of section 132, Treasury and the IRS have been unable to provide new guidance about core elements of deferred compensation arrangements. New guidance is needed to ensure that the tax rules keep pace with the constant changes in deferred compensation practices and to address federal court decisions that have undercut the rules on constructive receipt. The guidance also is needed simply to update IRS ruling guidelines that were issued in 1971 and that, despite minor changes in 1992, are considered out of step with the case law.

Budget Proposal to Repeal Section 132. The Administration's budget for fiscal year 2004 proposes the repeal of section 132 of the Revenue Act of 1978 and a grant of new authority to write regulations on inappropriate deferred compensation arrangements. Last year this Committee reported legislation that would have repealed section 132, and the staff of the Joint Committee on Taxation also recommended repeal of section 132 in the Enron report.

Repeal of section 132 would greatly enhance the ability of Treasury and the IRS to write regulations addressing deferred compensation practices. In some situations, section 132 directly constrains issuing new rules. In others, repeal of section 132 along with new statutory authority to address inappropriate arrangements would make the rules more likely to survive court challenge. Treasury and the IRS would not implement proposed section 1.61-16 as part of this authority.

The new regulations would address the following topics, among others: benefit distribution elections; initial and subsequent deferral elections; executive control over deferred amounts; shielding deferred compensation from creditors; and constructive receipt of property. Let me describe these briefly:

- Regarding *benefit distribution elections*, the regulations could address circumstances under which executives control the timing of their benefit payouts to the detriment of general creditors – for example, "haircuts" and other acceleration clauses.

- Regarding *initial and subsequent deferral elections*, the regulations could provide clearer rules to require that an executive's choice to defer income be made before

REV_00160759

the income is actually available – eliminating the executive's ability to defer tax on amounts under the executive's immediate control; the regulations also could state whether and when subsequent deferral elections are permitted.

- Regarding *executive control over deferred amounts*, the regulations could address questions about how much control an executive may have over deferred amounts – for example, whether and to what extent an executive may control the investment of deferred compensation or "swap" deferred compensation rights for stock options or life insurance arrangements.

- Regarding *shielding deferred compensation from creditors*, the new regulations could address techniques that attempt to shield assets from creditors while making it appear that the assets are reachable by creditors – for example, offshore rabbi trusts, secured trusts that "spring" into existence as a company approaches insolvency, trigger clauses that provide for automatic payouts as a company approaches insolvency, and third-party guarantees of deferred benefits.

- Regarding *constructive receipt of property*, the regulations could address when an executive is taxable on property (such as company stock) that is made available to the executive but is not actually transferred; this would give Treasury and the IRS clearer authority to address the taxation of deeply discounted stock options, resolving uncertainty about how certain old federal court decisions apply to current practices of issuing discounted options in lieu of deferred compensation.

One of the key points of the Administration's legislative proposal is the on-going flexibility that it will provide. Companies and executives regularly restructure executive pay packages, and the tax laws need to keep pace with these changes. The status quo is unacceptable as a matter of tax policy – Treasury and the IRS are actually forbidden from shaping or updating the law to address new practices. Moreover, legislation targeted at specific transactions or practices would be an incomplete response. It may not reach the new transactions or practices companies and executives develop in the future.

Furthermore, it is important that Treasury and the IRS have the authority to determine not only what types of arrangements cross the line but also to say what types of arrangements are permissible. The market pressures for executive compensation are significant, and limiting one particular inappropriate practice inevitably will lead companies and executives to develop new practices, some troublesome and some not. Effective regulation in this area requires a comprehensive approach and continual updating of the rules to respond to new developments so that companies and executives are guided to appropriate arrangements.

We need also to shape the rules for nonqualified deferred compensation to keep pace with changes in the rules for qualified plans. One of the policy goals of the nonqualified plan rules is to protect the viability and the integrity of the qualified plan system. Because of the important role that qualified plans play in providing retirement income security for millions of American workers and their families, Congress regularly reviews and updates

REV_00160760

the rules for those plans through new legislation, and Treasury and the IRS regularly issue new regulations and rulings to implement that legislation. In fact, this Committee last year reported legislation, first proposed by the President, to protect the retirement security of workers whose plans invest in employer stock. Just as the Administration urges you to take up the retirement security legislation again this year, so too we urge you to give us the tools needed to make sure that this and future legislation will maintain the balance between qualified and nonqualified plans.

To meet the policy challenges of this dynamic area, we strongly recommend that Congress repeal section 132 of the Revenue Act of 1978 and give Treasury and the IRS lasting and meaningful authority to write proper rules for taxing executive pay. Untying our hands is the only way to ensure that Treasury and the IRS can respond quickly and effectively to developments in executive compensation.

Other Recent Legislative and Regulatory Developments

Certain of the executive compensation practices discussed by the staff of the Joint Committee on Taxation in its report have been addressed either through legislation signed into law by President Bush or through regulations issued by Treasury and the IRS. Additionally, Treasury and the IRS are continually reviewing new transactions to determine whether they are appropriate.

Sarbanes-Oxley Act. The Sarbanes-Oxley Act signed by President Bush last summer addresses outside the tax code certain executive compensation issues. Sarbanes-Oxley prohibits insider trading during "blackout" periods, prohibits almost all loans from public companies to executives and directors, and requires certain executives to forfeit incentive and equity-based compensation if the company restates its financial statements. All these changes would have had a material impact on Enron's executive compensation practices, and we believe they will help curb inappropriate executive pay practices in the future.

Split-Dollar Life Insurance Arrangements. Also last summer, Treasury and the IRS proposed new regulations for taxing split-dollar life insurance arrangements. A split-dollar life insurance arrangement is a contract to allocate the benefits and, in some cases, the costs of a life insurance policy. Under a typical equity split-dollar arrangement, an executive receives an interest in the policy cash value disproportionate to the executive's share of premiums. The new regulations ended many years of uncertainty about how these arrangements are taxed and remove the tax advantage of split-dollar life insurance arrangements. Under the regulations, an executive will be taxed as receiving below-market loans from the company (if the executive owns the life insurance policy) or as receiving taxable economic benefits from the company (if the company owns the policy). Treasury and the IRS intend to finalize these regulations in the near future.

Other Arrangements. We are aware of other executive pay arrangements that raise tax policy concerns, and in some cases we anticipate publishing regulations or other guidance. For example, some executives who own stock options purport to sell those options to a family limited partnership, a family trust, or another entity in which they or their family members have a direct financial stake. This transaction is intended to defer

REV_00160761

the gain the executive would otherwise recognize on exercise of the options. We have reviewed these transactions, and we have serious concerns with them. We expect to issue a notice in the near future indicating how and why we intend to challenge them.

Of course, our review of certain transactions would potentially be different if Congress enacted our budget proposal to repeal section 132 of the Revenue Act of 1978. Section 132 ties our hands. To challenge a transaction, we have to conclude that it violates the law as in effect back in 1978. Executive compensation has changed a lot since 1978, and we need to be able to issue new rules and regulations to keep pace with changes in the market.

Finally, once we have identified a type of transaction and have determined that it fails under current law, we are able to list the transaction type and require taxpayers to disclose their participation in it. As with other types of abusive tax avoidance, we believe that listing is an important tool in tax administration and enforcement.

Summary and Closing

I thank the Committee for holding a hearing on this important topic, and I appreciate the opportunity to discuss these critical issues with you. We urge the Committee to do this year what it did last year – report legislation to repeal section 132 of the Revenue Act of 1978 to give us new authority to address deferred compensation, as proposed in the Administration's budget. We further urge the Committee to address the corporate governance and accountability issues raised by executive compensation, but to do so directly rather than through the tax code. Mr. Chairman and Senator Baucus, the Office of Tax Policy would be happy to offer any assistance to you and your staff as you continue your review of this critical issue.

Mr. Chairman, this concludes my formal statement. I will be pleased to answer any questions that you or any other member may wish to ask.

REV_00160762

From: CN=Jonathan F. Ganter/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/24/2003 5:53:58 AM
Subject: : U.S. Tax Court interviews

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jonathan F. Ganter ( CN=Jonathan F. Ganter/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:24-MAR-2003 10:53:58.00
SUBJECT:: U.S. Tax Court interviews
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Brett-
Kyle asked me to schedule interviews for the U.S. Tax Court panel at some
point over the next couple of weeks. What is your availability for The
first two weeks in April: 3/31-4/4, and 4/7- 4/11. There are three
interviews that need to be done.

Jon
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Jay P. Lefkowitz/OPD/EOP@Exchange@EOP [OPD] <Jay P. Lefkowitz>
Sent: 3/24/2003 5:36:25 AM
Subject: : DOT

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:24-MAR-2003 10:36:25.00
SUBJECT:: DOT
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange@EOP [OPD])
READ:UNKNOWN
End Original ARMS Header

Our DOT/DOJ legal analysis will be complete this week, including with OLC backup. Will keep you posted and let me know if timing needs change.

From: CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/24/2003 5:50:31 AM
Subject: : Re: DOT

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD])
CREATION DATE/TIME:24-MAR-2003 10:50:31.00
SUBJECT:: Re: DOT
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Thx
.

-----Original Message-----
From: Kavanaugh, Brett M. <bkavanau@WHO.eop.gov>
To: Lefkowitz, Jay P. <Jay_P._Lefkowitz@opd.eop.gov>
Sent: Mon Mar 24 10:30:27 2003
Subject: DOT

Our DOT/DOJ legal analysis will be complete this week, including with OLC backup.; Will keep you posted and let me know if timing needs change.

From: Whelan, M Edward III <M.Edward.Whelan@usdoj.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/24/2003 6:35:58 AM
Subject: : supermajority
Attachments: P_6CLYE003_WHO.TXT_1.txt

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov> ( "Whelan, M Edward III"
<M.Edward.Whelan@usdoj.gov> [ UNKNOWN ] )
CREATION DATE/TIME:24-MAR-2003 11:35:58.00
SUBJECT:: supermajority
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

FYI: The attached law-review article by Mcginnis and Rappaport argues (in
part) that the Constitution prohibits a House from requiring a
supermajority to repeal a rule. See Part II.B & nn. 103-117. (The
broader thesis of the article defends legislative supermajority
requirements.)
- Westlaw_Document_07_22_29_1900.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_6CLYE003_WHO.TXT_1>
```

row

colw9360



fl

Yale Law Journal
November 1995

Essay

*483 THE CONSTITUTIONALITY OF LEGISLATIVE SUPERMAJORITY REQUIREMENTS: A DEFENSE

John O. Mcginnis [FNd]
Michael B. Rappaport d [FNdd]

Copyright © 1995 Yale Law Journal Company, Inc.; John O. Mcginnis, Michael B.

Rappaport

INTRODUCTION

On the first day of the 104th Congress, the House of Representatives adopted a rule that requires a three-fifths majority of those voting to pass an increase in income tax rates. [FN1] This three-fifths rule had been publicized during the 1994 congressional elections as part of the House Republicans' Contract with America. [FN2] In a recent Open Letter to Congressman Gingrich, seventeen well-known law professors assert that the rule is unconstitutional. [FN3] They argue that requiring a legislative supermajority to enact bills conflicts with the intent of the Framers. They also contend that the rule conflicts with the Constitution's text, because they believe that the Constitution's specific supermajority requirements, such as the requirement for approval of treaties, indicate that simple majority voting is required for the passage of ordinary legislation. 2[FN4]

***484** Despite the prominence of its signers, we believe that the Open Letter seriously misconstrues the Constitution. Under the Rules of Proceedings Clause, the House may enact a rule governing its internal operations so long as the rule does not violate another provision of the Constitution. The Open Letter fails to identify a constitutional clause that prohibits the three- fifths rule. The Open Letter's attempt to establish a constitutional requirement of majority rule fails because the only inference that can be drawn from the provisions requiring supermajorities in certain instances is that the Constitution itself does not require a supermajority for the passage of legislation. Thus, the Constitution's silence on the proportion of legislators necessary to pass bills is not the result of inattention to the issue. Rather, it reflects the Framers' intent to permit the houses of the legislature to decide the question. When the Constitution mandates a legislative majority, as it does for quorums, or a supermajority, as it does for treaties, it does so explicitly.

The Open Letter's arguments based on the intent of the Framers fare no better. The Framers' discussions cited in the Open Letter address only the issue of whether the Constitution imposes a supermajority rule rather than whether the Rules of Proceedings Clause authorizes a house to pass a supermajority rule. Far better evidence of the Framers' intent regarding that clause is the unbroken tradition, stretching from the early Republic to the present day, of rules,

REV_00160776

row
such as those sustaining the filibuster and the committee system, whose objective has been the same as the three-fifths rule -- to frustrate legislative majorities and promote other values. Invalidating the three-fifths rule would also require use of a subjective standard that could create chaos because legislators and citizens would not be sure what rules were valid and thus which enactments were law.

In contrast, the appropriate standard -- that standing rules of the legislature are valid so long as the rules are themselves subject to repeal or emendation by majority vote-- is easily applied and best comports with the text of the Constitution and our legislative traditions. The Open Letter argues that the three-fifths rule would run afoul of even this standard because the rule cannot be waived or amended by a majority of the House. The Open Letter, however, seriously misunderstands the mechanisms by which the House of Representatives passes legislation: A simple majority of the House can waive or amend the three-fifths rule.

In addition to being wholly constitutional, the three-fifths rule for income tax increases is also good policy. For the last fifty years the Republic has been beset by a difficult problem: Concentrated interest groups can successfully obtain benefits for themselves and place the costs on a diffuse, and therefore legislatively ineffective, popular majority. Rather than being criticized, the ruleshould ***485** be celebrated because it is a modest attempt to restore the effective power of popular majorities without taking the more radical step of amending the Constitution.

I. THE CONSTITUTION AUTHORIZES THE THREE-FIFTHS RULE

The Constitution grants each house the authority to "determine the Rules of its Proceedings." [FN5] Rules of proceedings are rules that govern the operations of a house of the legislature. eld [FN6] On its face, the three- fifths rule is a rule of proceeding. The rule provides that "[n]o bill . . . carrying a Federal income tax rate increase shall be considered as passed . . . unless so determined by a vote of not less than three-fifths of the Members voting." [FN7]
f1 The rule governs how the House may pass an increase in income tax rates. The passage of bills and other measures is one of the most important functions that legislatures perform. A legislature must be able to issue rules that determine whether a bill will be deemed to have passed the legislature, including rules on permissible voting methods and the number of votes required. It is difficult to imagine that the Framers would have deprived the houses of the authority to pass rules of this kind. Although legislative rules usually require only a majority to pass a bill, nothing in the Rules of Proceedings Clause prevents the houses from using nonmajority rules. ield 2 [FN8] Thus, just as the text of the Rules of Proceedings Clause authorizes the House to issue a rule providing that bills pass by majority vote, it also authorizes the issuance of a rule providing for a supermajority. A supermajority rule would be illegal only if it conflicted with some other clause of the Constitution or some implicit constitutional principle.
cf2 [FN9] In this part, we show that nothing in the Constitution requires majority voting for alllegislation***486**
fs20 and that the Rules of Proceedings Clause does not distinguish between rules that promote debate and those that do not. [FN10]
f1

A. The Constitution Does Not Mandate Majority Voting for Bills

Although the Open Letter asserts that the Constitution forbids the House from requiring a supermajority to pass a bill, the Constitution simply does not contain such a prohibition. The Open Letter tries to derive the prohibition on the basis of arguments drawn from the text of the Constitution, the intent of the Framers, and Supreme Court precedent, but none of these claims are persuasive.

1. Text

The Constitution addresses the power of each house to pass bills principally in the Presentment Clause, which provides that "[e]very Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States."
fldinst HYPERLINK \l Document0zzFN_F11 [FN11] Additionally, the Orders Presentment Clause states that "[e]very Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be

REV_00160777

row
necessary . . . shall be presented to the President."
f1 t [FN12]

Neither clause specifies the proportion of a chamber necessary to pass a bill. Rather, the clauses simply refer to a bill's passage by a house or an order's receipt of the concurrence of a house. The Constitution's failure to specify a proportion necessary to pass a bill, combined with the delegation of authority to each house under the Rules of Proceedings Clause, suggests that the Constitution permits each house to decide how many members are necessary to pass a bill.

The Constitution's silence on the number necessary to pass a bill stands in stark contrast to other provisions that specify the requisite number to undertake particular actions. Most significantly, the Quorum Clause states that"***487** a Majority of each [house] shall constitute a Quorum to do Business." 1 [FN13]
bkmkstart Document0zzFN_B14

Other provisions of the Constitution similarly undermine the claim that there is an implicit requirement of majority voting. Their language reveals that the Framers did not leave constitutional voting requirements to speculation, but made them explicit where there would otherwise be doubt about their content. For instance, the Constitution is clear when it requires less than a majority, as when it states that "one fifth of those Present" in either house may insist that there be a roll call vote recorded in the journal. [FN15] Likewise, the Constitution is explicit in the many places where it requires a supermajority. **kmkend Document0zzFN_B16** [FN16] Indeed, the Presentment Clause itself states that two-thirds of each house are necessary to override the President's veto. s20 [FN17]f1

Oddly enough, the Open Letter relies principally on these supermajority requirements as the textual basis for its conclusion that the three-fifths rule isunconstitutional. ***488**[FN18]
cf1 According to the Open Letter, it is
f1 telling that the Constitution specifically imposes supermajority requirements in seven places, but not as to ordinary bills. Thus, the argument goes, because the Constitution "never places any special obstacles in the way of the enactment of ordinary legislation," the House may not do so. [FN19]r

This argument is wholly misdirected. That the Constitution elsewhere expressly imposes supermajority requirements would be a strong argument against the claim, if anyone made it, that the Presentment Clause implicitly requires a supermajority to pass a bill. The existence of seven supermajority requirements in the Constitution, however, provides no support for the conclusion that the Constitution forbids the houses from passing other supermajority rules. There is nothing strange about the Framers refusing to impose a supermajority requirement but permitting the legislature to do so. [FN20]1 The problem with the Open Letter's argument is that it assumes a prohibition on legislative supermajority rules simply because they are not constitutionally prescribed.

The weakness in the structure of the Open Letter's position may be made even more obvious by a review of analogousarguments. The Constitution requires each house to keep a journal, [FN21] but no one would argue that this provision disables each house from directing under its Rules of Proceedings Clause that other kinds of records of its proceedings also be printed. The Constitution requires the President to report on the "State of the Union," fldrslt [FN22] but no one would argue that he is constitutionally disabled from sending messages to Congress on other subjects.

Surprisingly, the Open Letter argument with the most surface appeal is in a footnote. The Open Letter suggests that the constitutional provision giving the Vice President a vote only when the Senate is equally divided indicates that the Framers required the houses to use majority voting. [FN23] The Vice President Voting Clause, however, does not begin to support a majority rule requirement. The clause simply reflects the Framers' reasonable assumption that the houses would often choose to use majority rule and that majority rule would be the default rule applied when no other procedure was adopted. [FN24] The Constitution itself shows that the Framers could not possibly have thought that the Vice President would have the potential to cast a vote on every rollcall ***489** because it requires a two-thirds majority rather than a simple majority for the Senate to pass a treaty, [FN25]
fs20 propose a constitutional amendment, [FN26]
fs20 expel a member, [FN27] or impeach an officer of the United States. [FN28] Thus, the Vice President has no power to cast a vote in a wide variety of important situations, demonstrating that the Framers could not have thought that the Vice President Voting Clause had to be given effect whenever the Senate votes.

row

Moreover, as we argue below, the rules of each house are subject to repeal by majority vote. [FN29] Thus, even if the Senate exercised its authority under the Rules of Proceedings Clause to require all legislation to pass by supermajority vote, votes on the repeal of such rules would always provide opportunities for the Vice President to cast a vote. Thus, under our construction of the Rules of Proceeding Clause, the Vice President Voting Clause would never become superfluous.

The Open Letter also finds problematic that the three-fifths supermajority required for income tax increases is different from the various two-thirds majorities required by the Constitution. [FN30] The Open Letter worries about the "proliferation of supermajority" rules with incongruous requirements of 55r 73%. But such quibbles do not supply a constitutional argument. In delegating to the houses the authority to pass voting rules, the Constitution permits them to choose unusual or odd proportions. Moreover, for a variety of reasons, the houses are likely to choose simple proportions. 2[FN31] In fact, the houses have often in the past chosen a simple three-fifths requirement, [FN32] presumably because they believe a two-thirds requirements is too strict.

2. Framers' Intent

The Open Letter supplements its textual argument with an argument concerning the intent of the Framers. The Open Letter argues that the Framerswanted ***490** to prohibit supermajority voting rules.
*
fs20 [FN33] The Open Letter relies on a passage from The Federalist No. 58 in which James 1 Madison defends the Philadelphia Convention's decision not to constitutionally require a supermajority for a quorum or for particular types of legislation. Although Madison did not entirely agree with the Convention's decision, [FN34]
f1 he argues in The Federalist that a supermajority requirement would reverse the "fundamental principle of free government." [FN35] He also states that a constitutionally required supermajority would permit a minority to take advantage of the public. ld [FN36]

At first glance, Madison's remarks appear to create a puzzle. If the Framers really intended to prohibit supermajority voting rules, why does the text show so little evidence of the prohibition? The puzzle soon vanishes as further inspection reveals that Madison was addressing an entirely different question than that raised by the Open Letter. Madison was explaining why the Framers did not establish a constitutional supermajority requirement. [FN37] The present issue concerns the validity of a legislative supermajority requirement.

Legislative supermajority requirements also do not raise the problems that Madison identified with constitutional supermajority rules.
*[FN38] Permitting houses to pass supermajority requirements would not allow a minority to take advantage of the public.
fldinst HYPERLINK \l Document0zzFN_F39 [FN39] A supermajority rule would only be passed if amajority 1 ***491** believed it was appropriate, and it could be repealed if the majority believed that a minority was using its powers improperly. rslt [FN40]

That the Framers opposed many constitutional supermajority requirements does not suggest that they also opposed legislative supermajority requirements, because the policies underlying the two types of requirements differ. slt [FN41] While constitutional supermajority requirements conflict with majority rule, legislative supermajority requirements do not. A legislative supermajority rule simply involves a majority imposing a supermajority requirement upon itself until the majority decides to eliminate it.
fldrslt [FN42] Permitting the legislature to adopt a supermajority requirement respects majority rule in more important ways than does a prohibition on legislative supermajority rules. Allowing the legislature to adopt supermajority requirements permits the majority to make crucial decisions -- to adopt supermajority rules and possibly to eliminate them -- that a prohibition would deny.
*[FN43]ar

***492** 3. Judicial Precedent

row

The Open Letter also argues that the three-fifths rule conflicts with the Chadha decision. [FN44] It contends that requiring a legislative supermajority is inconsistent with Chadha's holding that Congress can change the constitutional requirements for the passage of legislation only by constitutional amendment. If the Constitution contained a majority-voting requirement for legislation, Chadha would, of course, support the conclusion that Congress could not depart from the requirement. But the question here is whether the Constitution contains such a requirement, and Chadha provides no guidance on this point. [FN45]

The Open Letter also claims support from United States v. Ballin. [FN46] In Ballin, the Supreme Court reviewed a House rule that counted toward a quorum members who were present in the hall but did not vote. The Court held that the rule was a rule of proceeding that reasonably determined whether a quorum existed and therefore was constitutional. The Open Letter quotes language from the decision that, at first glance, might be thought to suggest that the Supreme Court implied that supermajority rules are unconstitutional: [FN47]

> The other branch of the question is, whether, a quorum being present, the bill received a sufficient number of votes; and here the general rule of all parliamentary bodies is that, when a quorum is present, the act of a majority of the quorum is the act of the body. This has been the rule for all time, except so far as in any given case the terms of the organic act under which the body is assembled have prescribedspecific
> fl ***493** limitations. . . . No such limitation is found in the Federal Constitution, and therefore the general law of such bodies obtains.
> fldrslt [FN48]

Despite first appearances, however, the Court's statement is not addressing the issue of whether the legislature can require a supermajority to take action. That issue is neither discussed in the opinion nor raised by the facts of the case.

Interpreting the Court as addressing whether the legislature can pass supermajority rules is mistaken for additional reasons. It would mean that the Court made an erroneous historical claim because, as we show below, it was understood in the nineteenth century that legislatures could enact supermajority rules. [FN49] Moreover, that interpretation would suggest that all legislative supermajority rules are unconstitutional, even though the Open Letter acknowledges that supermajority rules addressed to procedural issues are neither unconstitutional nor unusual.

The better interpretation is that the Ballin Court is discussing the rule that applies when neither the Constitution nor the legislature imposes a specific rule, such as a supermajority rule. Under this interpretation, the Court correctly states that the universal default rule is that a majority of the quorum may take action. The Court is also addressing an issue that the case raises, because the House had not displaced the default rule. [FN50] Nothing in the Court's discussion, however, indicates that the Rules of Proceedings Clause found in the Constitution -- "the organic act under which [Congress] is assembled" [FN51] -- fails to authorize the House to pass a supermajority rule if it chooses to supersede the default rule.

While the Open Letter's argument is not supported by Supreme Court precedent, our position on supermajority rules comports with venerable authority. fl A century and a half ago, Luther Cushing, who was clerk of the Massachusetts House of Representatives for twelve years, published a thousand- page treatise on legislative procedure that "was received with universal approval." [FN53]s20 Cushing recognized that legislative majorities sometimes chose to depart from simple-majority voting rules, but argued thatthis***494** deviation was consistent with majoritarian principles. He concluded that a nonmajoritarian rule may be

> prescribed, by some paramount authority, or . . . agreed upon beforehand and established by the assembly itself, by which a smaller number is permitted, or a larger number is required, to do some particular act. But even in these cases, it is the will of the majority that governs; because it is by a major [sic] vote, in the first instance, that the rule itself is established. [FN54]

B. The Rules of Proceedings Clause Is Not Limited to Rules that Promote Debate

In addition to arguing that the Constitution directly prohibits rules that require supermajority votes to pass bills, the Open Letter also argues that the three-fifths rule is not even a rule of proceeding within the authority of each house

REV_00160780

row
to pass. The Open Letter contends that rules of proceedings are confined to rules that contribute to "informed discussion" and are procedural rather than substantive. [FN55] This interpretation is mistaken.

1. Text

The text of the Rules of Proceedings Clause does not suggest that it should be limited to rules that are procedural or that advance deliberation. The distinction to be drawn is not between procedure and substance, but between acts that govern the operations of a house of the legislature and those that alter the rights and duties of citizens outside the legislative branch. The former are within the ambit of the Clause, and the latter are exercises of legislative power that fall outside the Clause. Permitting each house to govern its operations accords with the text and purposes of the Rules of Proceedings Clause, prior judicial precedent, and the rules of proceedings that Congress has adopted for two hundred years. In contrast, the Open Letter's interpretation of the Clause conflicts with Supreme Court precedent and would cast doubt on our most venerable legislative practices, including those patterned after practices of the British Parliament.

***495** The Rules of Proceedings Clause grants to each house authority over its own proceedings -- that is, its operations or business. [FN56] This interpretation conforms to the ordinary meaning of "proceedings." [FN57] It also serves the evident purpose of the Clause in that it gives each house authority to run its own business. In the absence of a grant of authority to each house, Congress would have to rely on its legislative authority under the Necessary and Proper Clause to pass rules of proceedings.
fldrslt [FN58] But this would have the troubling consequence of requiring each house to submit its rules to the other house and the President for approval. If the Clause were limited to procedural aspects, this would unduly limit each house's authority to regulate its own affairs. t [FN59] This interpretation is in keeping with general separation of powers principles by which the Constitution gives each governmental institution sufficient autonomy to act as a counterweight to others.

2. Precedent

Our interpretation is also supported by Chadha, the case upon which the Open Letter itself relies. In Chadha, the Court expressly contrasts legislative power, described as the power "of altering the legal rights [and] duties . . . outside the Legislative Branch," with Congress's rulemaking authority, interpreted as the power "to bind itself." **kmkend Document0zzFN_B60**[FN60] Permitting Congress wide latitude with respect to rules relating to its proceedings is also consistent with the broad interpretation of Congress's authority under the Rules of Proceedings Clause in the Supreme Court's most extensive discussion of the subject. In United States v. Ballin, the Court states:

> The Constitution empowers each house to determine its rules of proceedings. It may not by its rules ignore constitutional restraints orviolate***496** fundamental rights, and there should be a reasonable relation between the ... f1 [FN61]

The three-fifths rule is a method of proceeding in that it regulates the operations of the House, and a reasonable relation exists between the rule and the need to determine whether an increase in tax rates passed the House. Thus, the reasoning of Ballin supports the constitutionality of the three-fifths rule. [FN62]

3. Historical Practice

The history of the rules of proceedings from the First Congress to the present day also confirms that Congress has the power to make rules that have substantive effects, so long as they also regulate the operations of a chamber. **kmkstart Document0zzFN_B63**
cf1 .. Indeed, many of the most significant congressional rules frustrate the enactment of majority-supported legislation in order to advance other values. For instance, the rules of the Senate have allowed for filibusters since the early republic. In fact, the first filibuster was attempted in the First Congress. [FN64] Indeed, until 1917, the Senate did not have a cloture rule at all; the ability of members to hold up majoritarian
*legislation was limited only by their endurance. [FN65] Even the House of Representatives did not use effective

REV_00160781

row
mechanisms to limit debate until Speaker Reed's reforms of the late-nineteenth century. [FN66] While the Open Letter declines to endorse the rules permittingfilibusters, ***497**[FN67] the continuous use of filibusters since the early Republic provides compelling support for their constitutionality.
*[FN68]ar
No plausible constitutional distinction exists between the rules that have permitted filibusters and the three-fifths rule; if the former is within the historical meaning of the Rules of Proceedings Clause, so is the latter. The filibuster and the three-fifths rule both have the procedural effect of sometimes encouraging deliberation and the substantive effect of giving more power to a minority of legislators. The three-fifths rule, like any supermajority rule, may often promote informed discussion; since a legislator's vote in favor of a tax bill becomes more valuable, individuals may invest more time in persuading the legislator of the bill's merits. **kmkend Document0zzFN_B69**[FN69] Similarly, permitting unlimited debate leads simultaneously to more deliberation and to greater power for legislative minorities vis-'a-vis legislative majorities. [FN70] Indeed, whenever the merits of the rules relating to filibusters have been discussed, the central issue in the debate over their wisdom has always been substantive: How much influence should a legislative minority have over the content of legislation? [FN71] The exercise of the filibuster is further proof of its substantive nature. Surely, the authors of the Open Letter do not believe that those Southern legislators who filibustered civil rights legislation by, among other things, reading the telephone book were merely promoting deliberation rather than exercising a minority veto.

Like the filibuster, the congressional committee system is an institutional mechanism maintained through legislative rules that temper the power of a chamber's numerical majority. Legislative committees are even more venerable than the filibuster. They were used in the English Parliament from the fourteenth century and thus were part of parliamentary practice well known tothe ***498** Framers. [FN72] The House of Representatives of the early Republic established both select and standing committees with important powers. 1 [FN73]_____[FN74]

Legislative rules in both the House and Senate allow committees to act as gatekeepers over legislative initiatives within their jurisdictions, a power which provides them with disproportionate influence over the final content of legislation. slt [FN75] Even if the members of committees were randomly chosen, some committees would be unrepresentative of the preferences of the entire body, and the power afforded these committees would increase the chance that, on some issues, the majority will of the legislative body would be thwarted. Moreover, substantial evidence exists that the preferences of committee members are likely to differ from those of the average member of Congress on issues within the committee's jurisdiction, because members choose committees that are the most useful for aiding their constituents and most conducive for promoting their own reelection. [FN76] In addition, on key House committees, such as the Ways and Means and the Rules Committees, the majority party gives itself a more favorable partisan ratio than it enjoys in the entire chamber. [FN77] This imbalance also potentially skews the kind of legislation that is enacted. Finally, committee chairmen have substantial power over what legislation is considered in committee, thus providing further nonmajoritarian influence over legislation.
*[FN78]ar
***499** Thus, like the three-fifths rule, the committee system both promotes deliberation and impedes majoritarian legislative control. For instance, the committee system aids concentrated interest groups, since they are likely to be better represented on committees of importance to them than in the House as a whole. The system also advances the institutional interests of the majority party rather than a majority of legislators, particularly in the House of Representatives. In fact, legislation supported by a majority of the House is regularly bottled up in committee when such an obstruction preserves the cohesion of the majority party. Most notoriously, for instance, civil rights legislation was long delayed by senior Democratic members of the Rules Committee even though the legislation commanded majority support in the House. [FN79] Many of the items in the recent Contract with America had been prevented from reaching the floor in past Congresses by the Democratic leadership working through the committee system, although those issues commanded majority support of the entire body even before the last election. D [FN80]f1 We are not aware that any of the signers of the Open Letter have protested the frustration of majority will in Congresses of the last decade. [FN81]

4. Jurisprudential Considerations

The foregoing discussion demonstrates that besides its lack of historical support, the kind of standard that the Open Letter seeks to require of rules that frustrate majoritarian control -- for instance, that such rules contribute to

REV_00160782

row
deliberative democracy -- is hopelessly indeterminate and subjective.
ul [FN82] The Open Letter believes that the courts should employ such a standard to invalidate the three-fifths rule. Given the Framers' understanding of judicial review, however, indeterminacy and subjectivity are substantial defects of aconstitutional ***500**f1 rule to be applied by the judiciary.
fs20 [FN83] Such defects are even more serious than usual when assessing the constitutionality of rules that determine whether congressional legislation is law. Here formal and determinate rules like the one we suggest are particularly 1 necessary; legislators (and citizens) must be able to know in advance whether their actions will be deemed legallybinding in order to avoid the very substantial social costs that would result from uncertainty as to which bills become law. Jefferson's statement about parliamentary rules of procedure applies as well to the constitutional tests for assessing the constitutionality of these rules: "It is much more material that there should be a rule to go by than what that rule is . . . ." [FN84] The Open Letter's vague standard for assessing the constitutionality of legislative rules would subject legislative proceedings to the "caprice" of judges and the "captiousness" of constitutional commentators. [FN85]s20

II. REPEALING AND WAIVING SUPERMAJORITY REQUIREMENTS

Although our argument has assumed that a majority of the House could eliminate the three-fifths rule, the Open Letter appears to argue that a two- thirds vote would be needed. In this part, we argue that the Open Letter's reading of the House Rules is mistaken. We then argue, more fundamentally, that even if the House sought to prevent a majority from repealing a supermajority requirement, it could not constitutionally do so.

A. The House Rules Permit a Majority to Waive or Repeal the Three-Fifths Rule

The Open Letter mistakenly asserts that a standing rule of the House of Representatives may be modified only through suspension of the rules, which requires a two-thirds majority of those voting. [FN86] In reality, a simple majoritymay ***501** waive any standing rule of the House, including the three- fifths rule, by passing a measure called a "special rule." A simple majority of the House may also amend or repeal any standing rule of the House.

To understand the relation between suspension of the rules and passage of special rules, one needs only a basic understanding of the different mechanisms by which the House considers legislation. In the nineteenth century, the House of Representatives considered legislation through a mechanism that permitted each committee to call up the bills of its choice. This mechanism was not successful because it did not provide a means for prioritizing bills or limiting debate.
f1 [FN87] After the reforms of Speaker Reed in the late- nineteenth century, the House developed two major routes to obtain floor votes on bills. [FN88] The most important route is through the enactment of a special rule. In this procedure, the Rules Committee votes out a rule that will structure the procedures for considering a specific piece of legislation (hence the name special rule, which contrasts with the standing rules of the House of Representatives). [FN89] The special rule must be passed by a simple majority of members voting. [FN90] The House then considers the bill under the procedures established under the special rule. Those procedures may include the waiver of any standing rule of the House. [FN91] In fact, the House has waived one or more standing rules numerous times in every session. eld 2 [FN92]

Suspension of the rules is a different mechanism for passing a bill. Under this mechanism, a two-thirds majority of the members voting suspends all the rules and passes specific legislation. [FN93] Unlike the special-rule procedure,***502** which requires two votes -- one on the rule and one on the legislation itself -- suspension of the rules requires only a single vote. [FN94] The House generally uses this mechanism to pass relatively uncontroversial and minor legislation, although on occasion an important bill is passed under suspension. [FN95] When a bill fails to get a two-thirds vote under suspension, the House has at times then passed it through use of a special rule, thus underscoring in fact that suspension of the rules and special rules are two distinct mechanisms for passing legislation. lt [FN96]

In addition to waiving its standing rules, the House may also amend or repeal them. The Rules Committee has continuing jurisdiction over the rules of the House and, pursuant to that jurisdiction, may recommend amendments

REV_00160783

row
to those rules. [FN97] Such amendments may then be passed by a majority vote of a quorum of the House. [FN98]s20

The Open Letter's failure to understand the mechanisms for passing legislation in the House leads it into a major legal error. The three-fifths rule can be temporarily waived or permanently repealed at any time to raise income tax rates if a majority so determines. It is true that such changes would normally require the Rules Committee to recommend either waiving or repealing the three-fifths rule, [FN99] but all proposed legislation similarly requirescommittee ***503** recommendation. [FN100] Rules changed are thus subject to the same procedures as any legislative proposal and may be blocked by a committee unless they are brought to the House floor in a discharge petition. [FN101] Accordingly, the three-fifths rule can be changed as easily as can any existing rule or law. rslt [FN102]

B. The Constitution Prohibits the House from Requiring a Supermajority to Repeal a Rule

Because the House rules permit a majority to repeal the three-fifths rule, we do not strictly need to address the issues that would arise if the House attempted to prevent a majority from repealing the three-fifths rule. These issues, however, are the most difficult and interesting ones raised by the Open Letter, so we believe it is appropriate to discuss them briefly. We believe that the best view is that, even if the House did attempt to prevent a majority from repealing the three-fifths rule, it could not constitutionally do so. Thus, a simple majority would still be able to repeal the three-fifths rule.

The issue may be addressed with a hypothetical. Suppose that, instead of passing a three-fifths rule that a majority could repeal, the House had passed the three-fifths rule and a special repeal rule that required a supermajority vote to repeal the three-fifths rule. This simple repeal rule would not prevent a majority from repealing the three-fifths rule. To repeal the three-fifths rule, a majority could simply pass resolutions that repealed the repeal rule and thethree-***504** fifths rule. [FN103] In this way, a majority that chose to do so would have the power to circumvent the repeal rule.

To prevent this maneuver, the House might attempt to insulate the repeal rule from repeal by a majority. Thus, the House might pass a stronger repeal rule -- call it the insulated repeal rule -- providing that both it (the insulated repeal rule) and the three-fifths rule could only be repealed by a supermajority vote. We believe, however, that the Constitution does not allow such an insulated repeal rule to be given effect. In other words, as a constitutional matter the authority of a majority of the House to repeal a rule cannot be extirpated.

The view that a majority can repeal the insulated repeal rule is rooted in the history and structure of the Constitution. Before we explain our argument, it is important to emphasize that the constitutional issue raised here is not limited to the narrow question that we have asked about the insulated repeal rule. Rather, the constitutional issue is broader in two ways. First, although we are attempting to determine whether the House may require that a rule be repealed by a supermajority, it seems clear that, if the House had this power, it would also have the power simply to prevent repeal of a rule or, in fact, the passage of a rule. If the House had the power to require, for example, a two-thirds vote to repeal a rule, there is no principled reason why it could not also require a 99% vote or entirely prohibit repeal of the rule. (With this power, the House could also pass a rule that would prevent it from passing particular kinds of rules in the future.) Second, although we are addressing the power of the House to insulate rules from repeal, the answer to this question would almost certainly apply to the analogous question raised with respect to legislation: Whether Congress can pass a law that will prevent it from repealing or passing a law in the future. [FN104]
cfl

Returning to the insulated repeal rule, our analysis begins with the constitutional text. Unfortunately, the text does not clearly resolve the issue. The Rules of Proceedings Clause merely provides that each house has the authority to pass the rules of its proceedings. It does not specify whether rules of proceedings may be insulated from repeal by a majority. Similarly, the Presentment Clause is silent on whether Congress may insulate a law from repeal by a future Congress.***505** Although the text does not answer the question, the history and structure of the Constitution do. When the Framers drafted the Constitution, they did so against a traditional understanding of the limits of legislative

row
power. The Framers were clearly aware of the traditional understanding, and absent evidence to the contrary, it must be assumed that they followed it. Blackstone states the traditional view in Book I of his Commentaries:

> Acts of parliament derogatory from the power of subsequent parliaments bind not . . . . Because the legislature, being in truth the sovereign power, is always of equal, always of absolute authority: it acknowledges no superior upon earth, which the prior legislature must have been, if it's [sic] ordinances could bind the present parliament. s20 [FN105]

Because each legislature is equal, one legislature cannot prevent a successor from taking action. [FN106] Although Blackstone links this point about the equality of legislatures over time with the British notion of the sovereignty of Parliament, the equality of legislatures is a distinct point. While American law abandoned the principle of legislative sovereignty, it retained that of legislative equality. [FN107]

The structure of the Constitution also indicates that one legislature cannot bind another. If a legislature could pass a measure that would prevent a successor from taking action, then that measure would function as a constitutional restraint on the future legislature. For example, if the Senate passed a rule prohibiting tax increases, that would function exactly as if it were a constitutional prohibition on tax increases. As Thomas Cooley stated:

> To say that the legislature may pass irrepealable laws, is to say that it may alter the very constitution from which it derives its authority;***506** since e e in so far as one legislature could bind a subsequent one by its enactments, it could in the same degree reduce the legislative power of its successors, and the process might be repeated until, one by one, the subjects of legislation would be excluded altogether from their control, and the constitutional provision, that the legislative power shall be vested in two houses, would be to a greater or less degree rendered ineffectual. d _ [FN108]

Because the Constitution permits amendments only under the procedures in Article V, and not simply through legislative enactments, the legislature does not have the power to bind itself in the future. [FN109]

It is true that the text of the Constitution has been interpreted to permit legislatures to enter into binding contracts and to create vested rights in contract and property that a subsequent legislature cannot impair.
field [FN110] But this authority specifically derives from the constitutional provisions protecting such rights, such as the Contracts Clause and the Takings Clause. [FN111] The legislature, however, lacks the authority to prevent subsequent legislatures from changing the law when it passes ordinary statutes or rules of proceedings.
*s20 1 [FN112]

***507** The view that the Constitution does not permit the House to require a supermajority to repeal a rule is also consistent with the Senate's long practice of requiring a supermajority to end debate on legislation. It might be thought that a simple majority of the Senate could not repeal the cloture rule, but that is mistaken. If the Senate voted on whether to change the cloture rule, only a simple majority would be needed to change it. [FN113] It is true that an attempt to change the cloture rule might be filibustered,
bkmkstart Document0zzFN_B114 [FN114] but that is another matter. The historical and structural argument presented above does not demonstrate that a majority must at all times be able to obtain a vote on all measures that it desires.
f1 t [FN115] Indeed, as discussed above, several longstanding legislative rules, including the rules governing the filibuster and the committee system, sometimes burden the ability of a majority to vote on bills and rules. [FN116] Here we can state with some confidence only that when a house votes, the Constitution requires that a majority be able to repeal an existing rule. [FN117]

***508** III. THE THREE-FIFTHS RULE IS GOOD POLICY THAT ACCORDS WITH THE SPIRIT OF THE CONSTITUTION

We believe that the three-fifths rule not only passes muster as a matter of positive constitutional law but also advances important policy goals, including the cause of democratic self-governance. The Open Letter unwisely seeks to cut off legitimate policy debates about how best to structure the legislative process in light of the current political landscape. By arguing that nonmajoritarian legislative rules are presumptively unconstitutional, for instance, the Open Letter attempts to dictate the proper balance between majority and minority legislative influence

REV_00160785

row
over legislation when the Constitution itself does not resolve this complicated issue of political science.
ul [FN118] In this respect, the Constitution is more flexible than the signers of the Open Letter believe.

In drafting the Constitution, the Framers' objective was to establish a well- functioning republic -- a concept that is not necessarily synonymous with government by legislative majority. First, the Framers understood that legislative majorities were but an imperfect reflection of the majoritarian will of the people as a whole. [FN119] Second, the Constitution was designed to protect individual rights as well as political rights. 1 [FN120] The Constitution's limitations on legislative and even popular majorities are apparent not only in the Bill of Rights but also in the entire structure of government. Bicameralism and the separation of powers make it difficult for mere majorities to pass legislation.The ***509** original Constitution further restrained the power of a majority of the national legislature by dividing powers between the federal government and the states.

Thus, in passing the three-fifths rule, the Republican Congress not only acted in accord with the formal rule that can be derived from the text and structure of the Constitution but also with the overall architecture of the Constitution, because the rule will simultaneously protect the interests of popular, rather than legislative, majorities and protect the exercise of individual rights. One of the fundamental problems of democratic politics is that concentrated interest groups have more influence with legislators than diffuse groups, even if the diffuse groups represent a numerical majority. fl [FN121] Public choice theory suggests, and observations confirm, that political entrepreneurs will therefore favor a legislative agenda that provides benefits to cohesive and organized interest groups while imposing costs on the electorate as a whole. [FN122]1 Our present budget crisis is in large measure a reflection of repeated instances of this dynamic. Legislators will trade votes to provide entitlements and other expenditure programs to numerous concentrated interest groups. 1 [FN123] The taxes (or debt) required to pay for expenditures do not impose a substantial constraint on such activity because the incidence of the taxes (or debt) can be diffused over the entire population (and future generations, if possible). [FN124]
fl Thus, a three- fifths rule for taxes can be understood as a roughattempt ***510** to restore a more, rather than less, democratic balance between those adversely affected by taxes and those advantaged by expenditures. [FN125] Moreover, because taxes encroach on individual rights, the rule also directly attempts to facilitate the protection of liberties.

The rule thus functions as a modest precommitment by the majority not to go down a road that will make everyone worse off in the end as concentrated interest groups demand expenditures that beggar the nation as a whole. drslt [FN126] While the Open Letter views the three-fifths rule as an imprudent incursion on our constitutional tradition, slt [FN127] the House can easily change the rule in response to popular opposition. In fact, the Gramm-Rudman Act, which represented another kind of precommitment by the legislative branches toeliminate ***511** the budget deficit, was changed by a legislative majority. [FN128] If anything, one might argue that the three-fifths rule is too easily changed. While a constitutional amendment, such as the proposed balanced budget amendment that would require a sixty-percent majority to pass tax increases, would be less easily avoided, the three-fifths rule may be defended as a prudent experiment in addressing the problem of interest-group power. Thus, the three-fifths rule is appropriately viewed not as the reckless endeavor that the Open Letter portrays, but rather as a cautious exercise of statesmanship.

The Open Letter also complains that this precommitment was established on the first day of the congressional session without the benefit of further deliberation. But the public choice analysis outlined above suggests that there are public benefits of a party running on a platform, such as the Contract with America, containing such a rule and implementing it while the public's attention remains focused on its promises. This is one way of restraining the natural process by which concentrated interest groups gain undue leverage with legislators.ar

CONCLUSION

The three-fifths rule is entirely constitutional. The best textual reading of the Constitution demonstrates that Congress, acting by majority vote under its explicit rulemaking authority, may require supermajorities for votes on specific legislation. The rule is also in keeping with our constitutional history, because the history of legislative procedure, whether of the filibuster or of the committee system, is a history of tempering the power of legislative majorities in order to promote values other than majoritarian rule. The values advanced by this rule -- deliberation among the legislators, diminution of the influence of rent-seeking interest groups, and protection of individual rights --

REV_00160786

row
are not simply legitimate constitutional values. They are values central to the original Constitution.

s20 [FNd]. Professor of Law, Benjamin N. Cardozo Law School.

fs20 [FNdd]
cfl . Professor of Law, University of San Diego School of Law. The authors would like to thank Larry Alexander, Akhil Amar, Carl Auerbach, Jay Bybee, David Gray Carlson, Lawrence Cunningham, Neal Devins, John Harrison, Michael Herz, Arthur Jacobson, Gary Lawson, Nelson Lund, Erela Katz Rappaport, Paul Shupack, Stewart Sterk, Eugene Volokh, and Fred Zacharias for their comments and assistance.

s20 [FN1]. See Rules of the House of Representatives, Effective for One Hundred Fourth Congress (Jan. 4, 1995) [hereinafter Rules] (House Rule XXI(5)(c)); see also id. House Rule XXI(5)(d) (barring retroactive tax increases).

s20 [FN2]. The rule publicized in the Contract with America was actually broader than the one the House enacted. The publicized proposal would have required a three-fifths vote "to pass a tax increase." See Contract with America 8 (Ed Gillespie & Bob Schellhas eds., 1994).

s20 [FN3]. See An Open Letter to Congressman Gingrich, 104 Yale L.J. 1539 (1995) [[hereinafter Open Letter] (signed by Bruce Ackerman and 16 others).

s20 [FN4]. A group of members of the House of Representatives challenged the constitutionality of the three-fifths rule in federal district court. See Skaggs v. Carle, No. 95-251, 1995 U.S. Dist. LEXIS 13772 (D.D.C. Aug. 23, 1995). The district court dismissed the suit on grounds of "equitable discretion," stating that "federal courts should generally refrain, as a matter of policy, from intruding in the name of the Constitution upon the internal affairs of Congress at the behest of lawmakers who have failed to prevail in the political process." Id. at *5-6. The decision is being appealed. See Benjamin Sheffner, Judge Jettisons Lawsuit on New Tax-Hike Rule, Roll Call , Sept. 4, 1995, at 3.
par

s20 [FN5]. ___.

s20 [FN6]. When the Constitution was enacted, a body of rules already existed governing parliamentary proceedings . See 1 William Blackstone, Commentaries * 159-82; 3 Josef Redlich , The Procedure of the House of Commons 37-41 (1908). These rules governed issues such as the powers of committees, permissible amendments, and the scheduling of house business . See 3 John Hatsell, Precedents of Proceedings in the House of Commons 100 (London, H. Hughes Co., 2d ed. 1785) (amendments inflicting pecuniary penalties); 2 Redlich , supra, at 203-14 (committees); 3 id. at 37-41 (order of business).

s20 [FN7]. Rules , supra note 1, House Rule XXI(5)(c).

s20 [FN8]. Cf. United States v. Ballin, 144 U.S. 1, 5 (1892) ("It is no objection to the validity of a rule that a different one has been prescribed and in force for a length of time.").

[FN9]. For instance, the House of Representatives could not use the authority of the Rules of Proceedings Clause to

REV_00160787

row
adopt a rule permitting individuals other than members of the House to vote on legislation, because such a rule would violate the provision of Article I, Section 2, Clause 1 that states that "[t]he House of Representatives shall be composed of Members...." See Michel v. Anderson, 14 F.3d 623, 630 (D.C. Cir. 1994) (holding that House is precluded "from bestowing the characteristics of membership on someone other than those" chosen as members under procedures specified by Article I of the Constitution).

fs20 [FN10]
cfl . In addition to the three-fifths rule, the House also passed a rule prohibiting a retroactive income tax rate increase. See Rules , supra note 1, House Rule XXI(5)(d). This rule is also a rule of proceeding. The rule governs what measures may be considered and voted upon by the House. Rules governing the agenda of a chamber are common, including the rules that prevent the House in the ordinary course from considering bills that have not been reported out of committee. Because the retroactivity rule is a rule of proceeding, the Constitution grants the House authority to pass it as well. As with the three- fifths rule, the rule will be constitutional unless it violates another constitutional provision.

[FN11]. U.S. Const. art. I, s 7, cl. 2.

fs20 [FN12]
cfl . Id. art. I, s 7, cl. 3. Congress's power to pass bills is also implicated in id. art. I, s 1, which provides that "[a]ll legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

fs20 [FN13]
cfl . Id. art. I, s 5, cl. 1.

fs20 [FN14]
cfl . It might be argued that it would be incongruous for the Framers to have required a majority for a quorum, but not for the passage of legislation. But there is nothing strange about requiring a majority for a quorum but permitting a chamber to require a supermajority to pass legislation. The Framers had reason to treat the two situations differently, because preventing a minority from defeating a quorum may be understood as far more important than preventing a majority from impeding legislation. A minority that attempts to block legislation must confront the many political pressures that induce legislatures to behave reasonably, such as debate, deliberation, and publicity. By contrast, a minority that defeats a quorum will be much less vulnerable to these pressures because the failure to establish the quorum will prevent the operation of the legislature and simultaneously frustrate the political dynamics that constrain the legislators' behavior. Indeed, the majority needed for a quorum is clearly not the same as the majority needed to pass legislation: The majority needed for a quorum is a majority of the entire house, but the number ordinarily required to pass legislation is a majority of the quorum. That no one argues that a majority of the entire house is needed to pass legislation suggests a recognition that the rule for a quorum and the rule for passing legislation have different functions. It is thus perfectly logical that the rule for a quorum be constitutionally mandated, but the rule for passage of legislation be left to the discretion of the legislative majority.

fs20 [FN15]
cfl . U.S. Const. art. I, s 5, cl. 3.

row

fs20 [FN16]
cf1 . See id. lt art. I, s 3, cl. 6 (two-thirds Senate vote needed for conviction in impeachment); id. art. I, s 5, cl. 2 (two-thirds vote of applicable house needed to expel member); id. s20 art. I, s 7, cl. 2 (two-thirds vote of both houses needed to overrule presidential veto); id. art. II, s 2, cl. 2 (two-thirds Senate vote needed to ratify treaty); id. art. V (two-thirds vote of both houses needed to propose constitutional amendments); id. amend. XIV, s 3 (two-thirds vote of both houses needed to remove disability for office of any prior federal or state officer who engaged in insurrection against U.S. government or gave aid to enemies); id. amend. XXV, s 4 (two-thirds vote of both houses needed for determination that President is unable to discharge powers and duties of office).

fs20 [FN17]
cf1 . The Constitution's requirement that a majority be able to repeal a rule of proceeding, which we discuss in Section II.B, was not made explicit because the Framers did not appear to consider it an open question. The historical and structural evidence supporting the requirement was powerful.

fs20 [FN18]
cf1 . See Open Letter, supra note 3, at 1541.

fs20 [FN19]
cf1 . Id.

fs20 [FN20]
cf1 . Indeed, this is the normal situation as to the passage of legislation generally. The Constitution does not prescribe legislation, but instead permits Congress to enact it as Congress deems desirable.

fs20 [FN21]
cf1 . See U.S. Const. art. I, s 5, cl. 3.

fs20 [FN22]
cf1 . See id. art II, s 3.

fs20 [FN23]
cf1 . See Open Letter, supra note 3, at 1541 n.9.

fs20 [FN24]
cf1 . For further discussion of the default rule, see infra note 50 and accompanying text.

row

fs20 [FN25]
cfl . See U.S. Const. art. II, s 2, cl. 2.

fs20 [FN26]
cfl . See id. art. V.

fs20 [FN27]
cfl . See id. lt art. I, s 5, cl. 2.

fs20 [FN28]
cfl . See id. lt art. I, s 3, cl. 6.

fs20 [FN29]
cfl . See infra notes 97-107 and accompanying text.

fs20 [FN30]
cfl . See Open Letter, supra note 3, at 1541. Considered by itself, this is a strange argument to make. Do the authors of the Open Letter really believe that the three-fifths rule would be on surer constitutional footing if it required a two-thirds vote?

fs20 [FN31]
cfl . One would expect a chamber to choose round numbers to avoid suspicion that a rule with odd proportions was selected by counting heads in advance. Roundness thus provides a greater assurance of neutrality. A house might also choose round numbers to avoid the ridicule that odd proportions might provoke.

fs20 [FN32]
cfl . See, e.g., United States Senate, Senate Manual (1993) [hereinafter Senate Manual] (Senate Rule XXII(2)) (requiring three-fifths for cloture); Omnibus Budget Reconciliation Act of 1990, Pub. L. No. 101-508, s 13208, 104 Stat. 1388, 1619 (1990) (requiring three-fifths to waive certain budget rules).

fs20 [FN33]
cfl . Open Letter, supra note 3, at 1540.

fs20 [FN34]
cfl . In the Philadelphia Convention, Madison argued that a quorum of the Senate should require a two-thirds supermajority, but his view did not prevail. Arthur T. Prescott, Drafting the Federal Constitution 426 (1941). We do

row
not believe that the argument expressed in The Federalist should be discounted simply because Madison may not have agreed with it. After all, he defended the Constitution on this ground, and the Convention disagreed with his original position. We do believe, however, that Madison's belief significantly undermines the Open Letter's attempt to rely on his authority. We also believe that Madison's original view shows, as do the other supermajority requirements in the Constitution, that there was no consensus that supermajority requirements were generally inappropriate.

fs20 [FN35]
cf1 . The Federalist No. 58, at 361 (James Madison) (Clinton Rossiter ed., 1961).

fs20 [FN36]
cf1 . Such a requirement might enable a minority to use its voting power to screen itself from equitable obligations or to extort special benefits during an emergency.

fs20 [FN37]
cf1 . Similarly, Alexander Hamilton's discussion in The Federalist No. 22 also addresses the question of the extent to which the Constitution should impose requirements that restrain majorities. See The Federalist No. 22, at 147-48 (Alexander Hamilton) (Clinton Rossiter ed., 1961).

fs20 [FN38]
cf1 . It follows from the logic of our position that the Rules of Proceedings Clause also authorizes a house to pass a rule allowing for the passage of bills by less than a majority vote. Minority voting rules, however, sometimes create practical difficulties, because one minority could repeal provisions that another minority had passed. A useless cycle of passage and repeal could result. More narrowly drawn minority voting rules can avoid these problems and have been used successfully by various government institutions. For example, the Constitution permits a minority in a house to require a roll call vote, and the Supreme Court permits four Justices to grant certiorari from a lower court decision. See Lawrence C. Marshall, "Let Congress Do It": The Case for an Absolute Rule of Statutory Stare Decisis, 88 Mich. L. Rev . 177, 235 n.279 (1989).

fs20 [FN39]
cf1 . Even Madison's brief remarks criticizing constitutional supermajority requirements contain evidence that he might have approved of certain legislative supermajority rules. Madison acknowledged that there are advantages in supermajority requirements -- they protect vulnerable groups and impede bad legislation -- but he believed that they were outweighed by disadvantages. See The Federalist No. 58, supra note 35, at 361. But Madison may simply have believed that constitutional supermajority requirements were too broad and undiscriminating. He may have believed that legislatures could determine when supermajority rules would be beneficial and therefore might have approved of the particular supermajority rules that legislatures might pass. Indeed, it is quite possible that Madison might have approved of the three- fifths rule, given the large increases in taxes and frequent changes in tax rates in recent decades.

fs20 [FN40]
cf1 . If the rules governing how a bill or rule may be passed are rules of proceedings that each house has the power to enact, under what rules does a house act before any rules have been enacted? For example, because the rules of

row
the 103d Congress are deemed tohave terminated with that Congress, under what rules did the House of Representatives of the 104th Congress act when it passed by a majority vote its new rules, including the three-fifths rule? The House of Representatives has historically followed the view that, prior to the passage of the House rules, the House is governed by legislative common law. 1 Deschler's Precedents of the United States House of Representatives 55, 308-09 (1976). There is a strong argument for recognizing this legislative common law. The common law has its strongest appeal in areas where there are traditional rules and the legislature is not able to be the exclusive promulgator of the rules. These conditions certainly hold for legislative rules during the period before the legislature has had the opportunity to make these rules itself. In addition, the British Parliament's use of legislative common law, 2 Redlich , supra note 6, at 3-9, suggests that the Framers considered it a valid means of governing the legislature. One would expect that the common law legislative rules would incorporate majority voting, because that is traditionally the most common voting rule. The common law, however, would not prevent the House from enacting a supermajority rule.

fs20 [FN41]
cfl . As Madison's discussion indicates, the Philadelphia Convention
fs20 considered and rejected certain constitutional supermajority requirements (although it did, of course, adopt several others). See, e.g., 2 Max Farrand, The Records of the Federal Convention of 1787 , at 449-51 (1911) (discussing proposed constitutional supermajority requirement to pass regulations of commerce); id. at 631 (discussing proposed constitutional supermajority requirement to pass navigation acts). Our analysis of Madison's statement also applies here: The Framers' rejection of certain constitutional supermajority requirements does not indicate that they also prohibited legislative supermajority requirements.

fs20 [FN42]
cfl . Contrary to the assertions of the Open Letter, a majority can eliminate the supermajority requirement. See infra Section II.A.

fs20 [FN43]
cfl . Because it is easy to confuse constitutional and legislative supermajority requirements, care must be taken when interpreting statements about this subject. For example, some opponents of ratification criticized the Constitution because it did not require supermajorities in certain instances but instead permitted Congress to enact laws based on majority rule. See George Mason, Objections to the Constitution of Government Formed by the Convention (1787), reprinted in 2 Herbert J. Storing , The Complete Anti-Federalist 9, 12 (1981) (criticizing fact that Constitution permits "only a Majority" to pass certain laws); A Letter of His Excellency Edmund Randolph Esquire, on the Federal Constitution (Oct. 10, 1787), reprinted in 2 Storing, supra, at 86, 97 (criticizing "submission of commerce to a mere majority in the legislature"). These statements, however, do not suggest that the Constitution prohibits the legislature from passing supermajority requirements. Instead, the statements merely indicate that these opponents understood that the Constitution permits a majority to pass legislation in this area and assumed that Congress would employ the usual majority voting rule.

fs20 [FN44]
cfl . INS v. Chadha, 462 U.S. 919 (1983).

fs20 [FN45]
cfl . Chadha also contains some language that might be misinterpreted as suggesting that the Constitution mandates a majority vote to pass legislation. One example arises in a section of the opinion where the Court explains that,

row
when the Constitution does not mandate bicameralism and presentment, it sometimes imposes a supermajority requirement. The Court gives as an example that "Art. II, s 2 requires that two-thirds of the Senators present concur in the Senate's consent to a treaty, rather than the simple majority required for passage of legislation." Id. at 956 n.21. This language should not be understood to suggest that the Constitution requires that legislation be passed by majority vote; rather, it should be interpreted as a shorthand reference to the fact that the Constitution does not require a supermajority to pass bills and that the usual legislative rule permits bills to be passed by a majority. Under our interpretation, the Court's argument that a supermajority would be needed instead of bicameralism and presentment makes perfect sense. Any other interpretation would be extraordinary because it would view the Court as taking a controversial position in a footnote on an issue that is not raised in the case and offering no analysis in support of its position. For another example of language that might similarly be misinterpreted to require a majority vote, see id. at 958.

fs20 [FN46]
cfl . 144 U.S. 1 (1891).

fs20 [FN47]
cfl . Open Letter, supra note 3, at 1543.

fs20 [FN48]
cfl . Ballin, 144 U.S. at 6.

fs20 [FN49]
cfl . See infra notes 52-54 and accompanying text.

fs20 [FN50]
cfl . Consistent with this interpretation, the Ballin Court labels majority rule "the general rule," Ballin, 144 U.S. at 6 (emphasis added), implying that the norm is open to modification.

fs20 [FN51]
cfl . Id.

fs20 [FN52]
cfl . Our conclusion also accords with the opinion of the executive branch. See Constitutionality of Proposed Budget Process Reform Legislation, 11 Op. Off. Legal Counsel 57 (1987) [hereinafter OLC Opinion] (providing that legislation granting to Congressional Budget Office the ability to trigger supermajority vote on budget items was within Congress's authority under Rules of Proceedings Clause). (At the time this opinion was rendered, the authors were employed by the Office of Legal Counsel, but they had no part in researching or writing this opinion.)

fs20 [FN53]

row
cfl . 2 Dictionary of American Biography 632 (Allen Johnson & Dumas Malone eds., 1930).

fs20 [FN54]
cfl . Luther S. Cushing, Elements of the Law and Practice of Legislative Assemblies in the United States of America 168 (Boston, Little, Brown and Co. 1856). As we discuss below, the three-fifths rule is clearly a rule of the majority in Cushing's sense because a House majority adopted it and may repeal it.

[FN55]. See Open Letter, supra note 3, at 1541-43.

fs20 [FN56]
cfl . See U.S. Const. art. I, s 5, cl. 2. The "business" of the House is precisely that referred to in the Quorum Clause's direction that "a Majority of each [house] shall constitute a Quorum to do Business." Id. s20 art. I, s 5, cl. 1 (emphasis added).

fs20 [FN57]
cfl . The proceedings of an organization or institution are not limited to procedures, but include the business or operations of that organization. Even "legal proceedings" or "proceedings before a court" are not limited to matters of procedure, but extend to both procedural and substantive aspects of a case.

fs20 [FN58]
cfl . See U.S. Const. art. I, s 8, cl. 18.

fs20 [FN59]
cfl . It might be argued that the term "proceedings" suggests "procedure." But if the Framers intended to narrow the rule in this way, they could have provided for "rules of procedure." The term "proceedings" is broader than the Open Letter's narrow use of "procedure." Of course, one might interpret "procedure" broadly to include all procedures or actions of a house, but then the three-fifths rule would be procedural in this sense.

[FN60]. INS v. Chadha, 462 U.S. 919, 952, 955-56 n.21 (1983) (emphasis added). Of course, when the Court stated that the Rules of Proceedings Clause gave Congress the power to "bind itself," it meant simply that the rules were binding on members of Congress as opposed to individuals or institutions outside Congress. There is no suggestion that the Court meant to disturb the longstanding view that one Congress could not bind another.

fs20 [FN61]
cfl . United States v. Ballin, 144 U.S. 1, 5 (1891).

fs20 [FN62]
cfl . The three-fifths rule, of course, applies to a particular subject -- increases in the rate of taxation -- and not to all legislation. However, nothing in the Rules of Proceedings Clause or judicial precedent suggests that Congress is

row
disabled from passing subject-specific rules of proceeding. A requirement that every rule of proceeding apply to all legislation would unaccountably prevent Congress from taking into account relevant differences among legislative subject matters. (For a discussion of the public policy reasons supporting the three-fifths rule, see infra notes 118-28 and accompanying text.) Surely, the House would not be acting unconstitutionally if it abolished a committee with jurisdiction over a particular subject matter and initiated legislation on that subject through the entire House. Yet such action would also create subject-specific rules of proceeding.

fs20 [FN63]
cfl . It might seem odd that the Open Letter argues for this doubtful distinction between procedure and substance because the distinction appears unnecessary to its argument. After all, even if the three-fifths rule is a rule of proceeding, it would still be unconstitutional if the Presentment Clause required majority votes. It would appear that the Open Letter needs this distinction to buttress its interpretation of the Presentment Clause.

fs20 [FN64]
cfl . See Franklin L. Burdette , Filibustering in the Senate 14 (1940).

fs20 [FN65]
cfl . Id. at 43-80.

fs20 [FN66]
cfl . Robert Luce , Legislative Procedure 283-88 (1922).

fs20 [FN67]
cfl . See Open Letter, supra note 3, at 1543.

fs20 [FN68]
cfl . See The Pocket Veto Case, 279 U.S. 655, 689 (1929) (noting that "[l] ong-settled and established practice is a consideration of great weight in a proper interpretation" of provisions of Constitution); see also Marsh v. Chambers, 463 U.S. 783 (1983) (upholding practice of legislative prayers that began in First Congress and spanned two hundred years);
fldrslt Walz v. Tax Comm'n, 397 U.S. 664, 678 (1970) (noting that "an unbroken practice... is not something to be lightly cast aside" by constitutional challenge).

fs20 [FN69]
cfl . For instance, the unanimity rule for juries has often been defended on the grounds that it leads to more deliberation than a rule permitting a decision by majority or even supermajority. See 2 Saul M. Kassin, The American Jury: Handicapped in the Pursuit of Justice, 51 Ohio St. L.J. 687, 708-09 (1990) (reviewing multiple studies suggesting that juries making decisions under unanimity rule have longer and better deliberations than juries making decisions under majority rule).

row

fs20 [FN70]
cf1 . The very etymology of "filibuster" shows that the action was originally understood as a barrier to majority rule rather than a perfection of the deliberative process. The word comes from the Spanish "filibusteros," who were West Indian pirates using small vessels called "filibotes" to conduct raids on larger ships. Luce, supra note 66, at 283. The word "filibuster" is thus cognate with "freebooter," both derived from the Dutch word "vrijbuiter," meaning pirate. The American Heritage College Dictionary 509, 542 (3d ed. 1993).

fs20 [FN71]
cf1 . Luce , supra note 66, at 297-98. For the most recent reiteration of
bkmkstart Document0zzSDUNumber55this point, observe Senator Joseph Lieberman's suggestion that the rules permitting filibusters be repealed because filibusters are inconsistent with majority rule. See Harkin, Lieberman to Fight Use of Senate Filibuster, Gannett News Service, Nov. 22, 1994, available in LEXIS, News Library, GNS File.

fs20 [FN72]
cf1 . For a discussion of the history of committees in the English Parliament, see 2 Redlich , supra note 6, at 203-07 (detailing history of committees from 1340 through 1700s). Some of these committees had substantial powers. See 2 id. at 206-07.

fs20 [FN73]
cf1 . The first standing committee was created in 1789, and, by 1822, the House had 19 such committees. Malcolm E. Jewell & Samuel C. Patterson , The Legislative Process in the United States 143 (4th ed. 1986). Early Congresses also created select committees to consider particular legislation; over 350 were created in the Third Congress alone. Congressional Quarterly , Origins and Development of Congress 99 (2d ed. 1982).

fs20 [FN74]
cf1 . Woodrow Wilson, Congressional Government: A Study in American Politics 79 (Legal Classics Library 1993) (1885).

fs20 [FN75]
cf1 . See Kenneth A. Shepsle & Barry R. Weingast, The Institutional s20 Foundations of Committee Power, 81 Am. Pol. Sci. Rev. 85, 97-100 (1987) (suggesting that committee members gain their substantial influence over legislation not only through their ability to initiate legislation, but also from their power to dominate conference committees and hence exercise substantial control over final legislative product).

fs20 [FN76]
cf1 . Thus, for instance, members from agricultural districts and states may have disproportionate representation on the agricultural committee. See Kenneth A. Shepsle , The Giant Jigsaw Puzzle: Democratic Committee Assignments in the Modern House 259 (1978) (suggesting members of committees are unrepresentative of preferences of entire House on issues before committee).

row
fs20 [FN77]
cf1 . See Charles Tiefer , Congressional Practice and Procedure 90 (1989).

fs20 [FN78]
cf1 . See C. Lawrence Evans, Leadership in Committee 45 (1991) (suggesting that control of committee chairpersons over committee agendas represents most significant formal prerogative of leadership). Even apart from the committee system, in the House of Representatives, the Speaker has the substantial power to recognize or decline to recognize motions, which is yet another potentially antimajoritarian power. Tiefer , supra note 77, at 229-32.

[FN79]. Tiefer , supra note 77, at 257 & n.16 Moreover, in 1982, the House Rules Committee prevented consideration of an important regulatory reform measure that had passed the Senate and had majority support in the House. Id. at 264.

fs20 [FN80]
cf1 . The popularity of many of these items once they reached the floor was demonstrated by the very significant majorities they received, which included significant Democratic support. See Passage of Contract Bills, 53 Cong. Q. 1006 (1995) (showing that bills incorporating Contract with America were supported on average by 333 members).

fs20 [FN81]
cf1 . While the Open Letter describes the three-fifths rule as "unprecedented," it acknowledges that rules that it regards as constitutionally indistinguishable were enacted in 1985. See Open Letter, supra note 3, at 1539- 43.

fs20 [FN82]
cf1 . The Open Letter itself provides no less than four different formulations for assessing which rules issued under the Rules of Proceedings Clause should be deemed constitutional: rules that allow the House to "organize itself for informed and efficient debate and decision," id. at 1541; rules aimed at "efficient decisionmaking," id.; rules of "general procedure aimed at 1 inducing deliberative decisionmaking," id. at 1542; and rules not based on "substantive and selective judgments," id. at 1543. Some of the elements of these standards are themselves in substantial tension with one another. For example, rules that promote efficient decisionmaking tend to limit debate and frustrate attempts to encourage more fully informed discussion.

fs20 [FN83]
cf1 . It is a premise of judicial review that rules of constitutional decision be capable of fairly determinate and objective application. See The Federalist No. 78, at 469 (Alexander Hamilton) (Clinton Rossiter ed., 1961) (distinguishing judicial from political behavior because it represents "judgment" according to rules rather than mere exercise of political "will").

fs20 [FN84]
cf1 . Thomas Jefferson , Manual of Parliamentary Practice , reprinted in H.R. Doc. No. 248, 100th Cong., 2d Sess. 117 (1975). Hatsell, the great English recorder of parliamentary rules and precedents, has expressed a similar sentiment: "[I]f the maxim 'Stare super vias antiquas,' has ever any weight it is in those matters where it is not so

row
material, that the rule should be established on the foundation of sound reason and argument, as it is, that order, decency, and regularity, should be preserved in a large, a numerous and consequently often tumultuous assembly." 2 Hatsell , supra note 6, at 150.

[FN85]. Cf. Jefferson , supra note 84, at 117-18 (stating clear legislative rules are required to avoid "the caprice of the Speaker or captiousness of the members").

fs20 [FN86]
cf1 . Open Letter, supra note 3, at 1542. Although we interpret the Open Letter to deny that the three-fifths rule can be temporarily waived or permanently repealed by a majority vote, we acknowledge some uncertainty on this point. The Open Letter may instead be asserting that the three-fifths rule can be temporarily waived only by a two-thirds vote, but can be permanently repealed by a majority. We hesitate to impute to the Open Letter the view that a majority of the House may repeal permanently the three-fifths rule, because it would be hard to reconcile this view with the Open Letter's claim that the three-fifths rule "erod[es]... our central constitutional commitments to majority rule and deliberative democracy." Id. at 1539. In any event, the ambiguity in the Open Letter's argument need not detain us too long because, under either interpretation, the Open Letter's position is mistaken.

fs20 [FN87]
cf1 . See Tiefer , supra note 77, at 253-54.

fs20 [FN88]
cf1 . Id. at 252.

[FN89]. Id. at 269-74.

fs20 [FN90]
cf1 . See 139 Cong. Rec. H552-57 (daily ed. Feb. 4, 1993) (waiving House Rule XI(4)(b), which requires two-thirds majority to call up rule for consideration on same day it is presented to House); Walter J. Oleszek, Congressional Procedures and the Policy Process 130 (3d ed. 1989) ("All rules must be approved by a majority of the House."); Stanley Bach, The Nature of Congressional Rules, 5 J.L. & Pol . 725, 745 (1989) ("House can adopt the [[[special] rule by simple majority vote.").

fs20 [FN91]
cf1 . Oleszek , supra note 90, at 127 ("In recent Congresses, [the] Rules [[[Committee] has granted blanket waivers of all points of order against pending legislation."); Tiefer , supra note 77, at 285-91, 286 ("[W]aiver provisions may [say]... that all points of order are waived for the whole bill."); Bach, supra note 90, at 737 n.49 ("The only legislative rules the Rules Committee cannot propose to waive by special rule are clause 4 of Rule XVI, providing for the motion to recommit, and clause 7 of Rule XXIV, providing for Calendar Wednesday.").

fs20 [FN92]
cf1 . For instance, the Budget Act requirements were waived 132 times in the 98th Congress. See House Comm. on

row
Rules , Survey of the Activities of the 1 House Committee on Rules, 98th Cong. , H.R. Rep. No. 1192, 98th Cong., 2d Sess. 31 (1985).

fs20 [FN93]
cf1 . See Rules , supra note 1, House Rule XXVII.

fs20 [FN94]
cf1 . Tiefer , supra note 77, at 310.

fs20 [FN95]
cf1 . Id. at 296-300.

fs20 [FN96]
cf1 . Id. at 314.

fs20 [FN97]
cf1 . See Rules , supra note 1, House Rule X(1)(m).

fs20 [FN98]
cf1 . The majority requirement for amending or repealing the rules is implicit in the House rules. The rules treat the requirement of a majority of those voting as a default position that applies in the absence of something expressly to the contrary in the rules. For example, the rules do not explicitly state that ordinary bills require a majority vote to pass. See id. House Rule XXI (bill passage); cf. id. House Rule X(1)(m) (giving Rules Committee jurisdiction over House rules); id. House Rule XI(4)(d) (requiring Rules Committee to issue reports of rule changes). Thus, the fact that the House rules do not specify a supermajority vote for an amendment to the rules indicates that a majority may do so.

The structure of the rules also indicates that they may be amended by majority vote. The House rules provide the Rules Committee with jurisdiction over the rules, see id. House Rule X(1)(m), as they provide other committees with jurisdiction over their substantive areas, see id. House Rule X(1)(a)- (s). The rules also clearly provide the Rules Committee with authority to recommend amendments to, or repeals of, the rules. See id. House Rule XI(4)(d). Just as bills that other legislative committees recommend must be passed by the entire House, so must amendments and repeals of rules that are recommended by the Rules Committee. For examples of amendments to the House rules that passed by less than a two-thirds vote, see 135 Cong. Rec. 8775 (1989) (59% of House passing amendment to rules as part of Government Ethics Reform Act of 1989); 123 Cong. Rec. 22,949 (1977) (57% of House passing amendment to House rules).

fs20 [FN99]
cf1 . It might be argued that, because the Rules Committee tends to be composed of a greater percentage of members of the majority party than are other committees, it will be more difficult to amend the three-fifths rule than other legislation, and this raises constitutional concerns. This argument, however, fails for two reasons. First, bills normally must be approved by the

row
cf1 committee that has jurisdiction and the Rules Committee. Floor consideration of bills usually requires that the Rules Committee pass a special rule. Thus, amending the three-fifths rule is easier in this respect than passing a bill. Second, even if one focuses only on the Rules Committee, it is no less representative of the entire House than other House committees. The membership of the committee on Ways and Means, for example, also comes disproportionately from the majority party. More importantly, committees are typically unrepresentative of the entire House in other ways. For example, committees with jurisdiction over agriculture will tend to have members from farm states, which may make it more difficult to pass or repeal certain types of bills. See supra notes 75-78 and accompanying text.

[FN100]

[FN101]

[FN102]
bkmkstart Document0zzSDUNumber64would be to assert that the committee system was unconstitutional. The Open Letter, however, does not make that argument. In any event, the Open Letter argues that a majority could not discharge the three-fifths rule from the Rules Committee because a discharge petition requires a majority of the entire House rather than a mere quorum. Open Letter, supra note 3, at 1542. This argument is disputable. A discharge petition may be signed over an extended period of time. Thus, it is not clear what the relevant quorum is for the discharge petition. Indeed, there is a strong argument that the relevant quorum comprises all members who were present in the House at any time during the entire period the discharge petition could have been signed. After all, a quorum is a measure of the number of members who could vote for a bill or rule, and, given a sufficiently long period, practically all members have the opportunity to sign the discharge petition. Under this analysis, the membership of the entire House would be nearly identical to the quorum for the discharge rule. The quorum for the discharge rule would diverge only to the extent there are members who are absent for extended periods, which should occur only rarely. Thus, a majority of the quorum would normally be able to discharge the three-fifths rule from the Rules Committee.

[FN103] hirds majority to call up for consideration a rule on same day it is presented to House).

[FN104]

[FN105]

[FN106]
par Of necessity... give effect to one in exclusion to the other. The rule which has obtained in the courts for determining their relative validity is that the last in order of time shall be preferred tothe first.... [The courts] thought it reasonable that between the interfering acts of an equal authority that which was the last indication of its will should have the preference. The Federalist No. 78, supra note 83, at 468.

[FN107] Reichelderfer v. Quinn, 287 U.S. 315, 318 (1932) ("[T]he 1 will of a particular Congress... does not impose itself upon those to follow in succeeding years."); Manigault v. Springs, 199 U.S. 473, 487 (1905) (holding that general state statute enacted by legislature can be repealed or amended by enacting legislature); Newton v. Commissioners, 100 U.S. 548, 559 (1879) ("succeeding legislature possesses the same jurisdiction and power with respect to [public laws] as its predecessors"); Thomas M. Cooley, Constitutional Limitations 125-26 (Boston, Little, Brown, and Co. 1868); see also Earl T. Crawford, The Construction of Statutes 171, 193 (1940) (citing numerous

REV_00160800

row
state cases).

[FN108]

[FN109] time. We are not aware of any evidence that British or American law has permitted one legislature to bind itself. More importantly, Blackstone's argument that each legislature is equal does not mean merely that the 103d Congress is the equal of the 104th Congress, but also that the 103d Congress on one day is the equal to the 103d Congress on a subsequent day. The structural argument that permitting one house to bind another would in effect permit a house to amend the Constitution also supports our interpretation. The Senate has traditionally been understood to be a continuous legislative body because two-thirds of the Senate of every new Congress has not stood for reelection. Julian Eule, Temporal Limits on the Legislative Mandate: Entrenchment and Retroactivity, 1987 Am. B. Found. Res. J. 379, 408 (Senate has repeatedly endorsed view that it is a continuous body). Thus, under the traditional view of the Senate rules, if one legislature could bind itself, that would permit the Senate to bind itself permanently, which would effectively enable the Senate to amend the Constitution by passing unrepealable rules.

[FN110] Stewart E. Sterk, The Continuity of Legislatures: Of Congress and the Contracts Clause, 88 Colum. L. Rev. 647, 672-85 (1988).

[FN111] (Takings Clause).

[FN112]
The executive branch, through the Office of Legal Counsel, has also held that one Congress cannot bind a subsequent one:
Clearly, Congress cannot by legislation prevent itself from enacting future legislation pursuant to whatever procedures it chooses to follow at that future time. A future Congress can always legislatively change what a previous Congress has done. In a legally enforceable sense, therefore, such future lawmaking would be regulated only by the requirements of the Constitution.OLC Opinion, supra note 52, at 45.

[FN113]
*bills and rules be passed by a majority is implicit rather than explicit. The factors that indicate that a majority of the House may amend the rules apply with equal force to the Senate. The Senate Committee on Rules and Administration, like the House Rules Committee, has jurisdiction over the rules of its chambers, see Senate Manual , supra note 32, Senate Rule XXV(1)(n), and its recommendations, like those of any Senate legislative committee when reported to the floor, are passed with a majority vote. Thus, the fact that there is no explicit supermajority requirement for amending the filibuster rule indicates that a majority may do so. See id. Senate Rule XXII (cloture rule). For an example of an amendment to the Senate rules that passed by less than a two-thirds or three-fifths vote, see 128 Cong. Rec. 30,640-45 (1982) (approximately 59% of Senators repealing Senate Rule XXXVI).

[FN114]

[FN115] all questions, this does not render the three-fifths rule unconstitutional. Rather, it simply means that certain other rules of the house that prevent a majority from obtaining a vote would be unconstitutional. See infra note 117.

row

[FN116]

[FN117] able to obtain a vote on all measures. Under this view, the committee system would be unconstitutional to the extent that it prevented a majority from voting on a measure. The committee system will not prevent the majority from voting on measures so long as a majority can waive or amend the rule preventing floor consideration of measures not reported by a committee. Thus, this position would prohibit the committee system from being used only to prevent votes on waivers or amendments to the rule barring floor consideration of measures not reported by a committee. For similar reasons, this position would prohibit the filibuster from being used only to prevent votes amending or waiving the rules governing the filibuster. One major problem for this position is that it would render part of the rules governing the committee system and the filibuster unconstitutional, even though such rules have venerable origins.

A second position is that each chamber should have broad discretion to establish rules that govern the scheduling of votes on measures. Under this view, each chamber's discretion must be broad enough to encompass at least the filibuster and the committee system. A problem for this view is that the chambers cannot have unlimited discretion to pass rules that regulate the opportunity to hold votes, because some versions of such rules function like extreme insulated repeal rules. For example, imagine that the Senate, after enacting the three-fifths rule, passed a second rule forbidding itself from ever taking a vote on whether to waive or amend the three-fifths rule or this second rule. While this rule appears unconstitutional, it may be a complex matter to fashion a principled distinction between it and the original filibuster (which was not subject to cloture).

[FN118]

[FN119] See Akhil Reed Amar, The Bill of Rights as a Constitution, 100 Yale L.J. 1131, 1147-52 (1991) (suggesting that original purpose of First Amendment was to permit popular majorities to bring pressure to bear on potentially unrepresentative national legislative majorities).

[FN120] See John O. McGinnis, The Partial Republican, 35 Wm. & Mary L. Rev. 1751, 1760 (1994) (outlining manner in which Constitution is designed to protect individual rights).

[FN121] Steven G. Calabresi, The Political Parties as Mediating Institutions, 61 U. Chi. L. Rev. 1479, 1507 (1994) (arguing that a member of Congress "concerned with maximizing her potential to be reelected to Congress will want, ideally, to try to tax the nation as a whole, while steering a disproportionate share of the proceeds back to her district").

[FN122] See E. Donald Elliott, Constitutional Conventions and the Deficit, 1985 Duke L.J. 1077, 1090s20 (noting that government spending programs provide concentrated benefits while spreading costs of programs over large and diffuse groups).

[FN123] including the traders themselves.").

[FN124]

This theoretical argument is confirmed by political observation. Large deficits are now cited, particularly by the new Republican majority, as the primary reason to cut spending. See Kenneth J. Cooper, House Panel Softens Defense Measure, Wash. Post , Feb. 1, 1995, at A1 (noting that Republicans had to reduce their own planned

REV_00160802

row
defense expenditures because of pressure to reduce deficit). Indeed, supporters and critics of the Reagan tax cuts of the early 1980s have, respectively, celebrated and deplored the curtailment of government expenditures that the resulting deficits appeared to cause. See Daniel P. Moynihan, Sick of Stockman and LaRouche, New Republic , May 26, 1986, at 16 (observing that both Friedrich Hayek, who approved of the strategy, and Moynihan, who did not, believed that deficits were "deliberately created to force a great reduction in the size and activities of the federal government").

Although the three-fifths rule should therefore pressure Congress to reduce spending, we recognize that spending might be reduced more effectively if the rule applied not merely to increases in income tax rates, but also to increases in taxes generally and to the public debt. Indeed, a more direct way to limit spending would be to apply the three-fifths rule to spending increases. Unfortunately, these versions of the rule may not have been politically feasible.

[FN125] supermajority rules because they might confer undue power on certain groups). The effects of supermajority rules on special interests will depend on the circumstances. While supermajority rules in some areas could give special interests even greater power, this is not true of the three-fifths rule for income tax increases. It has been our argument, which public choice theory supports, that special interests have generally exercised their power to secure benefits that have required increases in government spending and taxes. Because the three-fifths rule makes it more difficult for special interests to increase spending and taxes, it impedes the power of special interests.

[FN126]
*Donald J. Boudreaux & A.C. Pritchard, Rewriting the Constitution: An Economic Analysis of the Constitutional Amendment Process, 62 Fordham L. Rev. 111, 123 (1993). The precommitment of the three-fifths rule is much less dramatic than a constitutional precommitment because it can be changed by a majoritarian legislative process rather than a constitutional amendment. Nevertheless, the codification of the precommitment in a legislative rule generates political pressures that militate against its abandonment. Party officials and the public can monitor a member's voting behavior with respect to a clear rule of the House prominently adopted as a formal party position more easily than they can monitor voting behavior with respect to quotidian legislation. Put bluntly, because of the clarity and prominence of the rule, a Republican member of Congress would pay a much higher political price in waiving it than in voting for a tax increase, particularly when such increases can come disguised in many forms -- for instance, as "revenue enhancers."

Even when supported by political considerations other than party discipline, rule-based precommitments in other areas have been kept and are believed to have had beneficial social effects. See, e.g., Harold Hongju Koh, The Fast Track and United States Trade Policy, 18 Brook. J. Int'l L. 143, 163-66 (1992) (discussing manner in which precommitment represented by fast track procedures in international trade has facilitated negotiation of trade treaties).

[FN127]

[FN128] President Bush and Congress in 1990. See Stanley E. Collender, The Guide to the Federal Budget 19-22 (1993) (discussing substantial revisions of Gramm-Rudman).

REV_00160803

From: Lefkowitz, Jay P.
To: <Kavanaugh, Brett M.>
Sent: 3/24/2003 10:50:03 AM
Subject: Re: DOT

Thx
.

-----Original Message-----
From: Kavanaugh, Brett M.
To: Lefkowitz, Jay P.
Sent: Mon Mar 24 10:30:27 2003
Subject: DOT

Our DOT/DOJ legal analysis will be complete this week, including with OLC backup. Will keep you posted and let me know if timing needs change.

From: CN=Tevi Troy/OU=OPD/O=EOP@Exchange [OPD]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/24/2003 7:31:52 AM
Subject: : RE: FW: release of info to media

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Tevi Troy (CN=Tevi Troy/OU=OPD/O=EOP@Exchange [OPD])
CREATION DATE/TIME:24-MAR-2003 12:31:52.00
SUBJECT:: RE: FW: release of info to media
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Yes.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Monday, March 24, 2003 12:11 PM
To: Troy, Tevi
Subject: Re: FW: release of info to media

Was there an EO that created this task force?

From: Tevi Troy/OPD/EOP@Exchange on 03/24/2003 11:58:17 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: KMorison@cns.gov@SMTP@Exchange
Subject: FW: release of info to media

Brett,

Thanks for helping out on this.

Tevi

-----Original Message-----
From: "Morison, Karen" <KMorison@cns.gov>@EOP
Sent: Monday, March 24, 2003 11:27 AM
To: Troy, Tevi
Subject: release of info to media

<< OLE Object: Picture (Device Independent Bitmap) >>
Tevi,

The communications person here at the Corporation has talked to the guy from
Youth Today, so now we know what he is asking for. He wants all kinds of information, among many other things, is a list of the members of the Task Force. He wants our goals, how often we've met, when we will meet, etc., etc. He'll also want, I'm sure, a copy of the first report. Now, since this is a White House Task Force, and there are all kinds of issues related
to that in terms of information released. Before we go down that path, I thought we should really have you all as well as maybe someone from the WH Counsel's office make some decisions about the level of information that should be released. I don't want to get in the middle of other issues (think the Energy Task Force, for example). Can you check on this?

Thanks,

Karen A. Morison

Staff Director

White House Task Force for Disadvantaged Youth

(202) 606-5000 ext. 149

fax (202) 565-2785

<< OLE Object: Picture (Device Independent Bitmap) >> - att1.htm <<
File: att1.htm >>
<< OLE Object: Picture (Device Independent Bitmap) >> - att2.eml <<
File: att2.eml >>

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Tevi Troy/OPD/EOP@Exchange [OPD] <Tevi Troy>
Sent: 3/24/2003 7:35:16 AM
Subject: : RE: FW: release of info to media

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:24-MAR-2003 12:35:16.00
SUBJECT:: RE: FW: release of info to media
TO:Tevi Troy (CN=Tevi Troy/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
End Original ARMS Header

Do you have? If so, can you email or FAX to me (6-5104).

From: Tevi Troy/OPD/EOP@Exchange on 03/24/2003 12:31:39 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE: FW: release of info to media

Yes.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Monday, March 24, 2003 12:11 PM
To: Troy, Tevi
Subject: Re: FW: release of info to media

Was there an EO that created this task force?

From: Tevi Troy/OPD/EOP@Exchange on 03/24/2003 11:58:17 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: KMorison@cns.gov@SMTP@Exchange
Subject: FW: release of info to media

Brett,

Thanks for helping out on this.

Tevi

-----Original Message-----
From: "Morison, Karen" <KMorison@cns.gov>@EOP
Sent: Monday, March 24, 2003 11:27 AM
To: Troy, Tevi
Subject: release of info to media

<< OLE Object: Picture (Device Independent Bitmap) >>
Tevi,

The communications person here at the Corporation has talked to the guy
from

Youth Today, so now we know what he is asking for. He wants all kinds of information, among many other things, is a list of the members of the Task Force. He wants our goals, how often we've met, when we will meet, etc., etc. He'll also want, I'm sure, a copy of the first report. Now, since this is a White House Task Force, and there are all kinds of issues related
to that in terms of information released. Before we go down that path, I thought we should really have you all as well as maybe someone from the WH Counsel's office make some decisions about the level of information that should be released. I don't want to get in the middle of other issues (think the Energy Task Force, for example). Can you check on this?

Thanks,

Karen A. Morison

Staff Director

White House Task Force for Disadvantaged Youth

(202) 606-5000 ext. 149

fax (202) 565-2785

<< OLE Object: Picture (Device Independent Bitmap) >> - att1.htm <<
File: att1.htm >>
<< OLE Object: Picture (Device Independent Bitmap) >> - att2.eml <<
File: att2.eml >>

From: Bumatay, Patrick J.
To: <Walker, Helgard C.>;<Bartolomucci, H. Christopher>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>;<Ullyot, Theodore W.>
Sent: 3/24/2003 11:50:11 AM
Subject: JSC This Week

Good morning,

Just checking to see if you plan on presenting anyone in the JSC binder this week. Please let me know COB today if you will have anyone.

Thanks,
Patrick

From: Troy, Tevi
To: KMorison@cns.gov <Kavanaugh, Brett M.>
CC: KMorison@cns.gov <KMorison@cns.gov>
Sent: 3/24/2003 11:58:17 AM
Subject: FW: release of info to media
Attachments: att1.htm; att2.eml

Brett,

Thanks for helping out on this.

Tevi

-----Original Message-----

From: "Morison, Karen" @EOP

Sent: Monday, March 24, 2003 11:27 AM

To: Troy, Tevi

Subject: release of info to media



Tevi,

The communications person here at the Corporation has talked to the guy from Youth Today, so now we know what he is asking for. He wants all kinds of information, among many other things, is a list of the members of the Task Force. He wants our goals, how often we've met, when we will meet, etc., etc. He'll also want, I'm sure, a copy of the first report. Now, since this is a White House Task Force, and there are all kinds of issues related to that in terms of information released. Before we go down that path, I thought we should really have you all as well as maybe someone from the WH Counsel's office make some decisions about the level of information that should be released. I don't want to get in the middle of other issues (think the Energy Task Force, for example). Can you check on this?

Thanks,

Karen A. Morison

Staff Director

White House Task Force for Disadvantaged Youth

(202) 606-5000 ext. 149

fax (202) 565-2785

 - att1.htm << att1.htm >>

 - att2.eml << att2.eml >>

Tevi,
The communications person here at the Corporation has talked to the guy from Youth Today, so now we know what he is asking for. He wants all kinds of information, among many other things, is a list of the members of the Task Force. He wants our goals, how often we've met, when we will meet, etc., etc. He'll also want, I'm sure, a copy of the first report. Now, since this is a White House Task Force, and there are all kinds of issues related to that in terms of information released. Before we go down that path, I thought we should really have you all as well as maybe someone from the WH Counsel's office make some decisions about the level of information that should be released. I don't want to get in the middle of other issues (think the Energy Task Force, for example). Can you check on this?

Thanks,
Karen A. Morison
Staff Director
White House Task Force for Disadvantaged Youth
(202) 606-5000 ext. 149
fax (202) 565-2785

From: Morison, Karen <KMorison@cns.gov>
To: 'Tevi.Troy@opd.eop.gov'
Sent: 3/24/2003 10:26:49 AM
Subject: release of info to media

Tevi,
The communications person here at the Corporation has talked to the guy from Youth Today, so now we know what he is asking for. He wants all kinds of information, among many other things, is a list of the members of the Task Force. He wants our goals, how often we've met, when we will meet, etc., etc. He'll also want, I'm sure, a copy of the first report. Now, since this is a White House Task Force, and there are all kinds of issues related to that in terms of information released. Before we go down that path, I thought we should really have you all as well as maybe someone from the WH Counsel's office make some decisions about the level of information that should be released. I don't want to get in the middle of other issues (think the Energy Task Force, for example). Can you check on this?

Thanks,
Karen A. Morison
Staff Director
White House Task Force for Disadvantaged Youth
(202) 606-5000 ext. 149
fax (202) 565-2785

From: Kavanaugh, Brett M.
To: <Troy, Tevi>
Sent: 3/24/2003 12:10:32 PM
Subject: Re: FW: release of info to media
Attachments: att1.htm; att2.eml

Was there an EO that created this task force?

From: Tevi Troy/OPD/EOP@Exchange on 03/24/2003 11:58:17 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc: KMorison@cns.gov@SMTP@Exchange

Subject: FW: release of info to media

Brett,

Thanks for helping out on this.

Tevi

-----Original Message-----

From: "Morison, Karen" @EOP

Sent: Monday, March 24, 2003 11:27 AM

To: Troy, Tevi

Subject: release of info to media



Tevi,

The communications person here at the Corporation has talked to the guy from Youth Today, so now we know what he is asking for. He wants all kinds of information, among many other things, is a list of the members of the Task Force. He wants our goals, how often we've met, when we will meet, etc., etc. He'll also want, I'm sure, a copy of the first report. Now, since this is a White House Task Force, and there are all kinds of issues related to that in terms of information released. Before we go down that path, I

thought we should really have you all as well as maybe someone from the WH Counsel's office make some decisions about the level of information that should be released. I don't want to get in the middle of other issues (think the Energy Task Force, for example). Can you check on this?

Thanks,

Karen A. Morison

Staff Director

White House Task Force for Disadvantaged Youth

(202) 606-5000 ext. 149

fax (202) 565-2785

 - att1.htm << att1.htm >>

 - att2.eml << att2.eml >>

Tevi,
The communications person here at the Corporation has talked to the guy from Youth Today, so now we know what he is asking for. He wants all kinds of information, among many other things, is a list of the members of the Task Force. He wants our goals, how often we've met, when we will meet, etc., etc. He'll also want, I'm sure, a copy of the first report. Now, since this is a White House Task Force, and there are all kinds of issues related to that in terms of information released. Before we go down that path, I thought we should really have you all as well as maybe someone from the WH Counsel's office make some decisions about the level of information that should be released. I don't want to get in the middle of other issues (think the Energy Task Force, for example). Can you check on this?

Thanks,
Karen A. Morison
Staff Director
White House Task Force for Disadvantaged Youth
(202) 606-5000 ext. 149
fax (202) 565-2785

From: Morison, Karen <KMorison@cns.gov>
To: 'Tevi.Troy@opd.eop.gov'
Sent: 3/24/2003 10:26:49 AM
Subject: release of info to media

Tevi,
The communications person here at the Corporation has talked to the guy from Youth Today, so now we know what he is asking for. He wants all kinds of information, among many other things, is a list of the members of the Task Force. He wants our goals, how often we've met, when we will meet, etc., etc. He'll also want, I'm sure, a copy of the first report. Now, since this is a White House Task Force, and there are all kinds of issues related to that in terms of information released. Before we go down that path, I thought we should really have you all as well as maybe someone from the WH Counsel's office make some decisions about the level of information that should be released. I don't want to get in the middle of other issues (think the Energy Task Force, for example). Can you check on this?

Thanks,
Karen A. Morison
Staff Director
White House Task Force for Disadvantaged Youth
(202) 606-5000 ext. 149
fax (202) 565-2785

From: Kavanaugh, Brett M.
To: <Troy, Tevi>
Sent: 3/24/2003 12:30:41 PM
Subject: RE: FW: release of info to media

Do you have? If so, can you email or FAX to me (6-5104).

From: Tevi Troy/OPD/EOP@Exchange on 03/24/2003 12:31:39 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: RE: FW: release of info to media

Yes.

-----Original Message-----

From: Kavanaugh, Brett M.

Sent: Monday, March 24, 2003 12:11 PM

To: Troy, Tevi

Subject: Re: FW: release of info to media

Was there an EO that created this task force?

From: Tevi Troy/OPD/EOP@Exchange on 03/24/2003 11:58:17 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc: KMorison@cns.gov@SMTP@Exchange

Subject: FW: release of info to media

Brett,

Thanks for helping out on this.

Tevi

-----Original Message-----

From: "Morison, Karen" @EOP

Sent: Monday, March 24, 2003 11:27 AM

To: Troy, Tevi

Subject: release of info to media

<< OLE Object: Picture (Device Independent Bitmap) >>

Tevi,

The communications person here at the Corporation has talked to the guy from Youth Today, so now we know what he is asking for. He wants all kinds of information, among many other things, is a list of the members of the Task Force. He wants our goals, how often we've met, when we will meet, etc., etc. He'll also want, I'm sure, a copy of the first report. Now, since this is a White House Task Force, and there are all kinds of issues related to that in terms of information released. Before we go down that path, I thought we should really have you all as well as maybe someone from the WH Counsel's office make some decisions about the level of information that should be released. I don't want to get in the middle of other issues (think the Energy Task Force, for example). Can you check on this?

Thanks,

Karen A. Morison

Staff Director

White House Task Force for Disadvantaged Youth

(202) 606-5000 ext. 149

fax (202) 565-2785

<< OLE Object: Picture (Device Independent Bitmap) >> - att1.htm << File: att1.htm >>

<< OLE Object: Picture (Device Independent Bitmap) >> - att2.eml << File: att2.eml >>

From: Troy, Tevi
To: <Kavanaugh, Brett M.>
Sent: 3/24/2003 12:31:39 PM
Subject: RE: FW: release of info to media

Yes.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Monday, March 24, 2003 12:11 PM
To: Troy, Tevi
Subject: Re: FW: release of info to media

Was there an EO that created this task force?

From: Tevi Troy/OPD/EOP@Exchange on 03/24/2003 11:58:17 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: KMorison@cns.gov@SMTP@Exchange
Subject: FW: release of info to media

Brett,

Thanks for helping out on this.

Tevi

-----Original Message-----
From: "Morison, Karen" @EOP
Sent: Monday, March 24, 2003 11:27 AM
To: Troy, Tevi
Subject: release of info to media

<< OLE Object: Picture (Device Independent Bitmap) >>
Tevi,

The communications person here at the Corporation has talked to the guy from Youth Today, so now we know what he is asking for. He wants all kinds of information, among many other things, is a list of the members of the Task Force. He wants our goals, how often we've met, when we will meet, etc., etc. He'll also want, I'm sure, a copy of the first report. Now, since this is a White House Task Force, and there are all kinds of issues related to that in terms of information released. Before we go down that path, I thought we should really have you all as well as maybe someone from the WH Counsel's office make some decisions about the level of information that should be released. I don't want to get in the middle of other issues (think the Energy Task Force, for example). Can you check on this?

Thanks,

Karen A. Morison

Staff Director

White House Task Force for Disadvantaged Youth

(202) 606-5000 ext. 149

fax (202) 565-2785

<< OLE Object: Picture (Device Independent Bitmap) >> - att1.htm << File: att1.htm >>
<< OLE Object: Picture (Device Independent Bitmap) >> - att2.eml << File: att2.eml >>

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@Exchange@EOP [WHO] <David G. Leitch>
Sent: 3/24/2003 10:14:19 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:24-MAR-2003 15:14:19.00
SUBJECT::
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

also, please call me re olc; i still have not talked to judge
```

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/24/2003 10:19:17 AM
Subject: : FW: LRM PTM21 - - VETERANS AFFAIRS Report on S. 50 - Veterans Health Care Funding Guarantee Act
Attachments: P_812ZE003_WHO.TXT_1.doc; P_812ZE003_WHO.TXT_2.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:24-MAR-2003 15:19:17.00
SUBJECT:: FW: LRM PTM21 - - VETERANS AFFAIRS Report on S. 50 - Veterans Health Care Funding Guarantee Act
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

-----Original Message-----
From: Messenger, P. Thaddeus
Sent: Monday, March 24, 2003 2:29 PM
To: dodlrs@osdgc.osd.mil; lrm@hhs.gov; justice.lrm@usdoj.gov; llr@do.treas.gov
Cc: Cleveland, Robin; Carson, Karyn T.; Peroff, Kathleen; Siclari, Mary Jo; Aguilera, Ricardo A.; Waites, Wendell H.; Hustead, Toni S.; Grayton, Arecia A.; Chang, Winifred Y.; Hagen, Kelli A.; Benson, Shalini M.; Ermann, Danny A.; Sastry, Narahari; Bartrum, John J.; Seastrom, Mark R.; Fontenot, Keith J.; Bassano, Amy; Bloomquist, Lauren E.; Schwartz, Mark J.; Foster, James D.; Rodriguez, Justine F.; Crilley, Joseph; Little, Attia; Lee, Sarah S.; Ohs Lrm; Ingle, Edward; Lawlor, Laura S.; Ovp Lrm; Suarez, Aquiles F.; Nec Lrm; Whgc Lrm; Perry, Philip J.; Schneider, Matthew J.; Wood, John F.; Rettman, Rosalyn J.; Cox, Christopher C.; Dove, Stephen W.; Rossman, Elizabeth L.; Lobrano, Lauren C.; Jukes, James J.; Schroeder, Ingrid M.; Messenger, P. Thaddeus
Subject: LRM PTM21 - - VETERANS AFFAIRS Report on S. 50 - Veterans Health Care Funding Guarantee Act

LRM ID: PTM21
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Monday, March 24, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: P. Thaddeus Messenger
PHONE: (202)395-7754 FAX: (202)395-6148
SUBJECT: VETERANS AFFAIRS Report on S. 50 - Veterans Health Care Funding Guarantee Act

DEADLINE: 5:00 p.m. Friday, March 28, 2003
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Attached, please find a draft copy of a VA report regarding S. 50, which would change VA health care funding from a discretionary cost to a mandatory cost. VA does not support this bill. For your reference, a copy of the bill, as introduced in the Senate, is also attached.

Please provide your comments by 5:00 p.m., Friday 28 March 2003. If we do not receive your comments by that time, we will assume you have no objection to the document as drafted.

If you experience difficulty with this LRM, or its attachment, please contact us immediately. To ensure receipt by Agency addressees, the electronic copy of this LRM will be followed by a duplicate copy via facsimile.

Thank you.

DISTRIBUTION LIST

AGENCIES:
029-DEFENSE - Vic Bernson - (703) 697-1305
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773
061-JUSTICE - Jamie E. Brown - (202) 514-2141
118-TREASURY - Thomas M. McGivern - (202) 622-2317

EOP:
NSP LRM
Ricardo A. Aguilera
Wendell H. Waites
VAB LRM
Keith J. Fontenot
Amy Bassano
Lauren E. Bloomquist
Mark J. Schwartz
James D. Foster
Justine F. Rodriguez
Joseph Crilley
Attia Little
Sarah S. Lee
OHS LRM
Edward Ingle
Laura S. Lawlor
OVP LRM
Aquiles F. Suarez
NEC LRM
WHGC LRM
OMBGC LRM
Rosalyn J. Rettman
Christopher C. Cox
Stephen W. Dove
Elizabeth L. Rossman
Lauren C. Lobrano
James J. Jukes
Ingrid M. Schroeder
P. Thaddeus Messenger

LRM ID: PTM21 SUBJECT: VETERANS AFFAIRS Report on S. 50 - Veterans Health Care Funding Guarantee Act
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) faxing us a memo or letter.
Please include the LRM number and subject shown above.

TO: P. Thaddeus Messenger Phone: 395-7754 Fax:
395-6148
Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_812ZE003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_812ZE003_WHO.TXT_2>

The Honorable Tim Johnson
United States Senate
324 Hart Senate Office Building
Washington, DC 20510-4104

Dear Senator Johnson:

I am pleased to present the Department's views on S.50, the "Veterans Health Care Funding Guarantee Act of 2003." The legislation would establish, by formula, the annual level of funding for all programs, activities, and functions (except for grants to states for the construction or acquisition of state homes for veterans) of the Veterans Health Administration (VHA). More specifically, funding for FY 2005 (the first fiscal year covered by the bill) would be automatically established at 120 percent of the amounts obligated by VHA (for all its activities, programs, and functions) for FY 2003. Thereafter, VHA funding would be automatically determined by a fixed formula, which is based on the number of enrollees each year multiplied by a fixed per capita amount. The per capita amount would be adjusted annually in accordance with increases in the Consumer Price Index.

VA does not support the concept of using a fixed formula to determine VHA funding. Although VA recognizes the appeal of such an approach, particularly in these times when the Department finds it is unable to provide care to all veterans who seek enrollment in the system, we believe the approach taken in this and other similar bills would prove to be unworkable and is inappropriate for funding a dynamic health care system, like VA's.

The provision of care evolves continually to reflect advances in state of the art technologies (including pharmaceuticals) and medical practices. It is very difficult to estimate both the costs and savings that may result from such changes. Moreover, patients' health status, demographics, and usage rates are each subject to distinct trends that are difficult to predict. The proposed formula in S. 50 would not take into account any changes in these and other important trends. As such, there is no certainty that the amount of funding dictated by the proposed formula would be adequate to meet the demands that will be placed on VA's health care system in the upcoming years.

Perhaps more importantly, use of an automatic funding mechanism would also diminish the valuable opportunity that members of the Congress and the Executive Branch now have to carry out their responsibility to identify and directly address the health care needs of veterans through the funding process. It might

also tend to depress the Department's incentive to improve its operations and be more efficient.

Finally, VA does not believe this proposal would ensure open enrollment. The Department would still be required to make an annual enrollment decision, and that decision would directly affect the number of enrolled veterans and thus the amount of funding calculated under the formula. Indeed, references to "guaranteed funding" may give the public the false impression that this bill would give VA full funding to enroll all veterans and to furnish care for all their needs, which would not be the case.

We share the desire by many in Congress to ensure stable funding for the Department's health care system, and we look forward to working closely with the Congress to achieve that goal. However, for the many important reasons discussed, the approach taken in S. 50 is not the answer.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's programs.

Sincerely yours,

Anthony J. Principi

3.

The Honorable Tim Johnson

108TH CONGRESS
1ST SESSION

S. 50

To amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 7, 2003

Mr. JOHNSON (for himself, Ms. COLLINS, Mr. REID, Mr. INOUYE, Mr. DORGAN, Mr. HARKIN, Mr. KERRY, Mr. DASCHLE, and Mr. BAUCUS) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Health Care Funding Guarantee Act of 2003".

REV_00160832

SEC. 2. GUARANTEED ADEQUATE FUNDING FOR VETERANS HEALTH CARE.

(a) IN GENERAL.—Chapter 1 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 117. Guaranteed funding for veterans health care

"(a) For each fiscal year, the Secretary of the Treasury shall make available to the Secretary of Veterans Affairs the amount determined under subsection (b) with respect to that fiscal year. Each such amount is available, without fiscal year limitation, for the programs, functions, and activities of the Veterans Health Administration, as specified in subsection (c).

"(b)(1) The amount applicable to fiscal year 2005 under this subsection is the amount equal to 120 percent of the amount obligated by the Department during fiscal year 2003 for the purposes specified in subsection (c).

"(2) The amount applicable to any fiscal year after fiscal year 2005 under this subsection is the amount equal to the product of the following:

"(A) The sum of—

"(i) the number of veterans enrolled in the Department health care system under section 1705 of this title as of July 1 preceding the beginning of such fiscal year; and

REV_00160833

"(ii) the number of persons eligible for health care under chapter 17 of this title who are not covered by clause (i) and who were provided hospital care or medical services under such chapter at any time during the fiscal year preceding such fiscal year.

"(B) The per capita baseline amount, as increased from time to time pursuant to paragraph (3)(B).

"(3)(A) For purposes of paragraph (2)(B), the term 'per capita baseline amount' means the amount equal to—

"(i) the amount specified in paragraph (1), divided by

"(ii) the number of veterans enrolled in the Department health care system under section 1705 of this title as of September 30, 2003.

"(B) With respect to any fiscal year, the Secretary shall provide a percentage increase (rounded to the nearest dollar) in the per capita baseline amount equal to the percentage by which—

"(i) the Consumer Price Index (all Urban Consumers, United States city Average, Medical Care, Not Seasonally Adjusted), published by the Bureau of Labor Statistics of the Department of Labor for the 12-month period ending on the June 30 pre-

REV_00160834

ceding the beginning of the fiscal year for which the increase is made, exceeds

"(ii) such Consumer Price Index for the 12-month period preceding the 12-month period described in clause (i).

"(c)(1) Except as provided in paragraph (2), the purposes for which amounts made available pursuant to subsection (a) shall be all programs, functions, and activities of the Veterans Health Administration.

"(2) Amounts made available pursuant to subsection (a) are not available for grants under subchapter III of chapter 81 of this title.".

(b) REPEAL OF CONSTRUCTION AUTHORIZATION REQUIREMENT.—Section 8104 of title 38, United States Code, is amended to read as follows:

"§ 8104. Additional authorities and limitations

"(a) The Secretary may accept gifts or donations for any of the purposes of this subchapter.

"(b)(1) The Secretary may not obligate funds in an amount in excess of $500,000 from the Advance Planning Fund of the Department toward the design or development of a major medical facility project until—

"(A) the Secretary submits to the committees a report on the proposed obligation; and

REV_00160835

"(B) a period of 30 days has passed after the date on which the report is received by the committees.

"(2) In this subsection, the term 'major medical facility project' means a project for the construction, alteration, or acquisition of a medical facility involving a total expenditure of more than $4,000,000, but such term does not include an acquisition by exchange.".

(c) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 1 of title 38, United States Code, is amended by adding at the end the following new item:

"117. Guaranteed funding for veterans health care.".

(2) The table of sections at the beginning of chapter 81 of such title is amended by striking the item relating to section 8104 and inserting the following new item:

"8104. Additional authorities and limitations.".

(d) EFFECTIVE DATES.—(1) The amendments made by subsections (a) and (c)(1) shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsections (b) and (c)(2) shall take effect on October 1, 2004.

○

REV_00160836

From:	CN=P. Thaddeus Messenger/OU=OMB/O=EOP [OMB]
To:	Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent:	3/24/2003 10:24:47 AM
Subject:	: Re: FW: LRM PTM21 - - VETERANS AFFAIRS Report on S. 50 - Veterans Health Care Funding Guarantee Act
Attachments:	P_ZJ2ZE003_WHO.TXT_1.doc; P_ZJ2ZE003_WHO.TXT_2.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:P. Thaddeus Messenger (CN=P. Thaddeus Messenger/OU=OMB/O=EOP [OMB])
CREATION DATE/TIME:24-MAR-2003 15:24:47.00
SUBJECT:: Re: FW: LRM PTM21 - - VETERANS AFFAIRS Report on S. 50 - Veterans Health Care Funding Guarantee Act
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Thanks, Brett
Thad

Brett M. Kavanaugh
03/24/2003 03:18:41 PM
Record Type: Record

To: Patrick J. Bumatay/WHO/EOP@Exchange, P. Thaddeus Messenger/OMB/EOP@EOP
cc:
bcc:
Subject: Re: FW: LRM PTM21 - - VETERANS AFFAIRS Report on S. 50 - Veterans Health Care Funding Guarantee Act

WHC has no objection to VA's draft letter.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 03/24/2003 03:19:09 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: FW: LRM PTM21 - - VETERANS AFFAIRS Report on S. 50 - Veterans Health Care Funding Guarantee Act

-----Original Message-----
From: Messenger, P. Thaddeus
Sent: Monday, March 24, 2003 2:29 PM
To: dodlrs@osdgc.osd.mil; lrm@hhs.gov; justice.lrm@usdoj.gov; llr@do.treas.gov
Cc: Cleveland, Robin; Carson, Karyn T.; Peroff, Kathleen; Siclari,

Mary Jo; Aguilera, Ricardo A.; Waites, Wendell H.; Hustead, Toni S.; Grayton, Arecia A.; Chang, Winifred Y.; Hagen, Kelli A.; Benson, Shalini M.; Ermann, Danny A.; Sastry, Narahari; Bartrum, John J.; Seastrom, Mark R.; Fontenot, Keith J.; Bassano, Amy; Bloomquist, Lauren E.; Schwartz, Mark J.; Foster, James D.; Rodriguez, Justine F.; Crilley, Joseph; Little, Attia; Lee, Sarah S.; Ohs Lrm; Ingle, Edward; Lawlor, Laura S.; Ovp Lrm; Suarez, Aquiles F.; Nec Lrm; Whgc Lrm; Perry, Philip J.; Schneider, Matthew J.; Wood, John F.; Rettman, Rosalyn J.; Cox, Christopher C.; Dove, Stephen W.; Rossman, Elizabeth L.; Lobrano, Lauren C.; Jukes, James J.; Schroeder, Ingrid M.; Messenger, P. Thaddeus
Subject: LRM PTM21 - - VETERANS AFFAIRS Report on S. 50 - Veterans Health Care Funding Guarantee Act

LRM ID: PTM21
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Monday, March 24, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: P. Thaddeus Messenger
PHONE: (202)395-7754 FAX: (202)395-6148
SUBJECT: VETERANS AFFAIRS Report on S. 50 - Veterans Health Care Funding Guarantee Act

DEADLINE: 5:00 p.m. Friday, March 28, 2003
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Attached, please find a draft copy of a VA report regarding S. 50, which would change VA health care funding from a discretionary cost to a mandatory cost. VA does not support this bill. For your reference, a copy of the bill, as introduced in the Senate, is also attached.

Please provide your comments by 5:00 p.m., Friday 28 March 2003. If we do not receive your comments by that time, we will assume you have no objection to the document as drafted.

If you experience difficulty with this LRM, or its attachment, please contact us immediately. To ensure receipt by Agency addressees, the electronic copy of this LRM will be followed by a duplicate copy via facsimile.

Thank you.

DISTRIBUTION LIST

AGENCIES:
029-DEFENSE - Vic Bernson - (703) 697-1305
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773
061-JUSTICE - Jamie E. Brown - (202) 514-2141
118-TREASURY - Thomas M. McGivern - (202) 622-2317

EOP:
NSP LRM
Ricardo A. Aguilera
Wendell H. Waites
VAB LRM
Keith J. Fontenot
Amy Bassano
Lauren E. Bloomquist
Mark J. Schwartz
James D. Foster
Justine F. Rodriguez
Joseph Crilley
Attia Little
Sarah S. Lee
OHS LRM
Edward Ingle
Laura S. Lawlor
OVP LRM
Aquiles F. Suarez
NEC LRM
WHGC LRM
OMBGC LRM
Rosalyn J. Rettman
Christopher C. Cox
Stephen W. Dove
Elizabeth L. Rossman
Lauren C. Lobrano
James J. Jukes
Ingrid M. Schroeder
P. Thaddeus Messenger

LRM ID: PTM21 SUBJECT: VETERANS AFFAIRS Report on S. 50 -
Veterans Health Care Funding Guarantee Act
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) faxing us a memo or letter.
Please include the LRM number and subject shown above.

TO: P. Thaddeus Messenger Phone: 395-7754 Fax:
395-6148
Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on

the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ZJ2ZE003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ZJ2ZE003_WHO.TXT_2>

The Honorable Tim Johnson
United States Senate
324 Hart Senate Office Building
Washington, DC 20510-4104

Dear Senator Johnson:

I am pleased to present the Department's views on S.50, the "Veterans Health Care Funding Guarantee Act of 2003." The legislation would establish, by formula, the annual level of funding for all programs, activities, and functions (except for grants to states for the construction or acquisition of state homes for veterans) of the Veterans Health Administration (VHA). More specifically, funding for FY 2005 (the first fiscal year covered by the bill) would be automatically established at 120 percent of the amounts obligated by VHA (for all its activities, programs, and functions) for FY 2003. Thereafter, VHA funding would be automatically determined by a fixed formula, which is based on the number of enrollees each year multiplied by a fixed per capita amount. The per capita amount would be adjusted annually in accordance with increases in the Consumer Price Index.

VA does not support the concept of using a fixed formula to determine VHA funding. Although VA recognizes the appeal of such an approach, particularly in these times when the Department finds it is unable to provide care to all veterans who seek enrollment in the system, we believe the approach taken in this and other similar bills would prove to be unworkable and is inappropriate for funding a dynamic health care system, like VA's.

The provision of care evolves continually to reflect advances in state of the art technologies (including pharmaceuticals) and medical practices. It is very difficult to estimate both the costs and savings that may result from such changes. Moreover, patients' health status, demographics, and usage rates are each subject to distinct trends that are difficult to predict. The proposed formula in S. 50 would not take into account any changes in these and other important trends. As such, there is no certainty that the amount of funding dictated by the proposed formula would be adequate to meet the demands that will be placed on VA's health care system in the upcoming years.

Perhaps more importantly, use of an automatic funding mechanism would also diminish the valuable opportunity that members of the Congress and the Executive Branch now have to carry out their responsibility to identify and directly address the health care needs of veterans through the funding process. It might

also tend to depress the Department's incentive to improve its operations and be more efficient.

Finally, VA does not believe this proposal would ensure open enrollment. The Department would still be required to make an annual enrollment decision, and that decision would directly affect the number of enrolled veterans and thus the amount of funding calculated under the formula. Indeed, references to "guaranteed funding" may give the public the false impression that this bill would give VA full funding to enroll all veterans and to furnish care for all their needs, which would not be the case.

We share the desire by many in Congress to ensure stable funding for the Department's health care system, and we look forward to working closely with the Congress to achieve that goal. However, for the many important reasons discussed, the approach taken in S. 50 is not the answer.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's programs.

Sincerely yours,

Anthony J. Principi

3.

The Honorable Tim Johnson

108TH CONGRESS
1ST SESSION

S. 50

To amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 7, 2003

Mr. JOHNSON (for himself, Ms. COLLINS, Mr. REID, Mr. INOUYE, Mr. DORGAN, Mr. HARKIN, Mr. KERRY, Mr. DASCHLE, and Mr. BAUCUS) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Health Care Funding Guarantee Act of 2003".

REV_00160844

SEC. 2. GUARANTEED ADEQUATE FUNDING FOR VETERANS HEALTH CARE.

(a) IN GENERAL.—Chapter 1 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 117. Guaranteed funding for veterans health care

"(a) For each fiscal year, the Secretary of the Treasury shall make available to the Secretary of Veterans Affairs the amount determined under subsection (b) with respect to that fiscal year. Each such amount is available, without fiscal year limitation, for the programs, functions, and activities of the Veterans Health Administration, as specified in subsection (c).

"(b)(1) The amount applicable to fiscal year 2005 under this subsection is the amount equal to 120 percent of the amount obligated by the Department during fiscal year 2003 for the purposes specified in subsection (c).

"(2) The amount applicable to any fiscal year after fiscal year 2005 under this subsection is the amount equal to the product of the following:

"(A) The sum of—

"(i) the number of veterans enrolled in the Department health care system under section 1705 of this title as of July 1 preceding the beginning of such fiscal year; and

REV_00160845

"(ii) the number of persons eligible for health care under chapter 17 of this title who are not covered by clause (i) and who were provided hospital care or medical services under such chapter at any time during the fiscal year preceding such fiscal year.

"(B) The per capita baseline amount, as increased from time to time pursuant to paragraph (3)(B).

"(3)(A) For purposes of paragraph (2)(B), the term 'per capita baseline amount' means the amount equal to—

"(i) the amount specified in paragraph (1), divided by

"(ii) the number of veterans enrolled in the Department health care system under section 1705 of this title as of September 30, 2003.

"(B) With respect to any fiscal year, the Secretary shall provide a percentage increase (rounded to the nearest dollar) in the per capita baseline amount equal to the percentage by which—

"(i) the Consumer Price Index (all Urban Consumers, United States city Average, Medical Care, Not Seasonally Adjusted), published by the Bureau of Labor Statistics of the Department of Labor for the 12-month period ending on the June 30 pre-

REV_00160846

ceding the beginning of the fiscal year for which the increase is made, exceeds

"(ii) such Consumer Price Index for the 12-month period preceding the 12-month period described in clause (i).

"(c)(1) Except as provided in paragraph (2), the purposes for which amounts made available pursuant to subsection (a) shall be all programs, functions, and activities of the Veterans Health Administration.

"(2) Amounts made available pursuant to subsection (a) are not available for grants under subchapter III of chapter 81 of this title.".

(b) REPEAL OF CONSTRUCTION AUTHORIZATION REQUIREMENT.—Section 8104 of title 38, United States Code, is amended to read as follows:

"§ 8104. Additional authorities and limitations

"(a) The Secretary may accept gifts or donations for any of the purposes of this subchapter.

"(b)(1) The Secretary may not obligate funds in an amount in excess of $500,000 from the Advance Planning Fund of the Department toward the design or development of a major medical facility project until—

"(A) the Secretary submits to the committees a report on the proposed obligation; and

REV_00160847

"(B) a period of 30 days has passed after the date on which the report is received by the committees.

"(2) In this subsection, the term 'major medical facility project' means a project for the construction, alteration, or acquisition of a medical facility involving a total expenditure of more than $4,000,000, but such term does not include an acquisition by exchange.".

(c) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 1 of title 38, United States Code, is amended by adding at the end the following new item:

"117. Guaranteed funding for veterans health care.".

(2) The table of sections at the beginning of chapter 81 of such title is amended by striking the item relating to section 8104 and inserting the following new item:

"8104. Additional authorities and limitations.".

(d) EFFECTIVE DATES.—(1) The amendments made by subsections (a) and (c)(1) shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsections (b) and (c)(2) shall take effect on October 1, 2004.

○

REV_00160848

From:	Bumatay, Patrick J.
To:	<Kavanaugh, Brett M.>
Sent:	3/24/2003 3:19:09 PM
Subject:	FW: LRM PTM21 - - VETERANS AFFAIRS Report on S. 50 - Veterans Health Care Funding Guarantee Act
Attachments:	s50- VAFunding- InS.pdf; VA- LonS50- Draft.DOC

-----Original Message-----

From: Messenger, P. Thaddeus

Sent: Monday, March 24, 2003 2:29 PM

To: dodlrs@osdgc.osd.mil; lrm@hhs.gov; justice.lrm@usdoj.gov; llr@do.treas.gov

Cc: Cleveland, Robin; Carson, Karyn T.; Peroff, Kathleen; Siclari, Mary Jo; Aguilera, Ricardo A.; Waites, Wendell H.; Hustead, Toni S.; Grayton, Arecia A.; Chang, Winifred Y.; Hagen, Kelli A.; Benson, Shalini M.; Ermann, Danny A.; Sastry, Narahari; Bartrum, John J.; Seastrom, Mark R.; Fontenot, Keith J.; Bassano, Amy; Bloomquist, Lauren E.; Schwartz, Mark J.; Foster, James D.; Rodriguez, Justine F.; Crilley, Joseph; Little, Attia; Lee, Sarah S.; Ohs Lrm; Ingle, Edward; Lawlor, Laura S.; Ovp Lrm; Suarez, Aquiles F.; Nec Lrm; Whgc Lrm; Perry, Philip J.; Schneider, Matthew J.; Wood, John F.; Rettman, Rosalyn J.; Cox, Christopher C.; Dove, Stephen W.; Rossman, Elizabeth L.; Lobrano, Lauren C.; Jukes, James J.; Schroeder, Ingrid M.; Messenger, P. Thaddeus

Subject: LRM PTM21 - - VETERANS AFFAIRS Report on S. 50 - Veterans Health Care Funding Guarantee Act

LRM ID: PTM21

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Monday, March 24, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: P. Thaddeus Messenger
PHONE: (202)395-7754 FAX: (202)395-6148
SUBJECT: **VETERANS AFFAIRS Report on S. 50 - Veterans Health Care Funding Guarantee Act**

DEADLINE: **5:00 p.m. Friday, March 28, 2003**
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Attached, please find a draft copy of a VA report regarding S. 50, which would change VA health care funding from a discretionary cost to a mandatory cost. VA does not support this bill. For your reference, a copy of the bill, as introduced in the Senate, is also attached.

<< VA- LonS50- Draft.DOC >> << s50- VAFunding- InS.pdf >>

Please provide your comments by 5**:00 p.m., Friday 28 March 2003**. If we do not receive your comments by that time, we will assume you have no objection to the document as drafted.

If you experience difficulty with this LRM, or its attachment, please contact us immediately. To ensure receipt by Agency addressees, the electronic copy of this LRM will be followed by a duplicate copy via facsimile.

Thank you.

DISTRIBUTION LIST

AGENCIES:
029-DEFENSE - Vic Bernson - (703) 697-1305
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773
061-JUSTICE - Jamie E. Brown - (202) 514-2141
118-TREASURY - Thomas M. McGivern - (202) 622-2317

EOP:
NSP LRM
Ricardo A. Aguilera
Wendell H. Waites
VAB LRM
Keith J. Fontenot
Amy Bassano
Lauren E. Bloomquist
Mark J. Schwartz
James D. Foster
Justine F. Rodriguez
Joseph Crilley
Attia Little
Sarah S. Lee
OHS LRM
Edward Ingle
Laura S. Lawlor
OVP LRM
Aquiles F. Suarez
NEC LRM
WHGC LRM
OMBGC LRM
Rosalyn J. Rettman
Christopher C. Cox
Stephen W. Dove
Elizabeth L. Rossman
Lauren C. Lobrano
James J. Jukes
Ingrid M. Schroeder
P. Thaddeus Messenger**LRM ID:** PTM21 **SUBJECT:** VETERANS AFFAIRS Report on S. 50 - Veterans Health Care Funding Guarantee Act

RESPONSE TO

LEGISLATIVE REFERRAL

MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) faxing us a memo or letter.

Please include the LRM number and subject shown above.

TO: P. Thaddeus Messenger Phone: 395-7754 Fax: 395-6148

Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

REV_00160851

The Honorable Tim Johnson
United States Senate
324 Hart Senate Office Building
Washington, DC 20510-4104

Dear Senator Johnson:

I am pleased to present the Department's views on S.50, the "Veterans Health Care Funding Guarantee Act of 2003." The legislation would establish, by formula, the annual level of funding for all programs, activities, and functions (except for grants to states for the construction or acquisition of state homes for veterans) of the Veterans Health Administration (VHA). More specifically, funding for FY 2005 (the first fiscal year covered by the bill) would be automatically established at 120 percent of the amounts obligated by VHA (for all its activities, programs, and functions) for FY 2003. Thereafter, VHA funding would be automatically determined by a fixed formula, which is based on the number of enrollees each year multiplied by a fixed per capita amount. The per capita amount would be adjusted annually in accordance with increases in the Consumer Price Index.

VA does not support the concept of using a fixed formula to determine VHA funding. Although VA recognizes the appeal of such an approach, particularly in these times when the Department finds it is unable to provide care to all veterans who seek enrollment in the system, we believe the approach taken in this and other similar bills would prove to be unworkable and is inappropriate for funding a dynamic health care system, like VA's.

The provision of care evolves continually to reflect advances in state of the art technologies (including pharmaceuticals) and medical practices. It is very difficult to estimate both the costs and savings that may result from such changes. Moreover, patients' health status, demographics, and usage rates are each subject to distinct trends that are difficult to predict. The proposed formula in S. 50 would not take into account any changes in these and other important trends. As such, there is no certainty that the amount of funding dictated by the proposed formula would be adequate to meet the demands that will be placed on VA's health care system in the upcoming years.

Perhaps more importantly, use of an automatic funding mechanism would also diminish the valuable opportunity that members of the Congress and the Executive Branch now have to carry out their responsibility to identify and directly address the health care needs of veterans through the funding process. It might

also tend to depress the Department's incentive to improve its operations and be more efficient.

Finally, VA does not believe this proposal would ensure open enrollment. The Department would still be required to make an annual enrollment decision, and that decision would directly affect the number of enrolled veterans and thus the amount of funding calculated under the formula. Indeed, references to "guaranteed funding" may give the public the false impression that this bill would give VA full funding to enroll all veterans and to furnish care for all their needs, which would not be the case.

We share the desire by many in Congress to ensure stable funding for the Department's health care system, and we look forward to working closely with the Congress to achieve that goal. However, for the many important reasons discussed, the approach taken in S. 50 is not the answer.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's programs.

Sincerely yours,

Anthony J. Principi

3.

The Honorable Tim Johnson

108TH CONGRESS
1ST SESSION

S. 50

To amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 7, 2003

Mr. JOHNSON (for himself, Ms. COLLINS, Mr. REID, Mr. INOUYE, Mr. DORGAN, Mr. HARKIN, Mr. KERRY, Mr. DASCHLE, and Mr. BAUCUS) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Health Care Funding Guarantee Act of 2003".

REV_00160855

SEC. 2. GUARANTEED ADEQUATE FUNDING FOR VETERANS HEALTH CARE.

(a) IN GENERAL.—Chapter 1 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 117. Guaranteed funding for veterans health care

"(a) For each fiscal year, the Secretary of the Treasury shall make available to the Secretary of Veterans Affairs the amount determined under subsection (b) with respect to that fiscal year. Each such amount is available, without fiscal year limitation, for the programs, functions, and activities of the Veterans Health Administration, as specified in subsection (c).

"(b)(1) The amount applicable to fiscal year 2005 under this subsection is the amount equal to 120 percent of the amount obligated by the Department during fiscal year 2003 for the purposes specified in subsection (c).

"(2) The amount applicable to any fiscal year after fiscal year 2005 under this subsection is the amount equal to the product of the following:

"(A) The sum of—

"(i) the number of veterans enrolled in the Department health care system under section 1705 of this title as of July 1 preceding the beginning of such fiscal year; and

REV_00160856

"(ii) the number of persons eligible for health care under chapter 17 of this title who are not covered by clause (i) and who were provided hospital care or medical services under such chapter at any time during the fiscal year preceding such fiscal year.

"(B) The per capita baseline amount, as increased from time to time pursuant to paragraph (3)(B).

"(3)(A) For purposes of paragraph (2)(B), the term 'per capita baseline amount' means the amount equal to—

"(i) the amount specified in paragraph (1), divided by

"(ii) the number of veterans enrolled in the Department health care system under section 1705 of this title as of September 30, 2003.

"(B) With respect to any fiscal year, the Secretary shall provide a percentage increase (rounded to the nearest dollar) in the per capita baseline amount equal to the percentage by which—

"(i) the Consumer Price Index (all Urban Consumers, United States city Average, Medical Care, Not Seasonally Adjusted), published by the Bureau of Labor Statistics of the Department of Labor for the 12-month period ending on the June 30 pre-

REV_00160857

ceding the beginning of the fiscal year for which the increase is made, exceeds

"(ii) such Consumer Price Index for the 12-month period preceding the 12-month period described in clause (i).

"(c)(1) Except as provided in paragraph (2), the purposes for which amounts made available pursuant to subsection (a) shall be all programs, functions, and activities of the Veterans Health Administration.

"(2) Amounts made available pursuant to subsection (a) are not available for grants under subchapter III of chapter 81 of this title.".

(b) REPEAL OF CONSTRUCTION AUTHORIZATION REQUIREMENT.—Section 8104 of title 38, United States Code, is amended to read as follows:

"§ 8104. Additional authorities and limitations

"(a) The Secretary may accept gifts or donations for any of the purposes of this subchapter.

"(b)(1) The Secretary may not obligate funds in an amount in excess of $500,000 from the Advance Planning Fund of the Department toward the design or development of a major medical facility project until—

"(A) the Secretary submits to the committees a report on the proposed obligation; and

REV_00160858

"(B) a period of 30 days has passed after the date on which the report is received by the committees.

"(2) In this subsection, the term 'major medical facility project' means a project for the construction, alteration, or acquisition of a medical facility involving a total expenditure of more than $4,000,000, but such term does not include an acquisition by exchange.".

(c) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 1 of title 38, United States Code, is amended by adding at the end the following new item:

"117. Guaranteed funding for veterans health care.".

(2) The table of sections at the beginning of chapter 81 of such title is amended by striking the item relating to section 8104 and inserting the following new item:

"8104. Additional authorities and limitations.".

(d) EFFECTIVE DATES.—(1) The amendments made by subsections (a) and (c)(1) shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsections (b) and (c)(2) shall take effect on October 1, 2004.

○

REV_00160859

From: Sampson, Kyle
To: <Gonzales, Alberto R.>
CC: <Leitch, David G.>;<Bartolomucci, H. Christopher>;<Kavanaugh, Brett M.>
Sent: 3/24/2003 6:07:56 PM
Subject: Confirmed Today

FYI -- the following Florida Marshals were confirmed today:

Christina Fernandez Pharo of Florida, to be U.S. Marshal for the Southern District of Florida;

Thomas D. Hurlburt, Jr. of Florida, to be U.S. Marshal for the Middle District of Florida; and

Dennis A. Williamson of Florida, to be U.S. Marshal for the Northern District of Florida.

Also confirmed today:

Gregory A. White of Ohio, to be U.S. Attorney for the Northern District of Ohio; and

Richard Z. Winget of Nevada, to be U.S. Marshal for the District of Nevada.

From:	CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To:	James A. Brown/OMB/EOP@EOP [OMB] <James A. Brown>;Patrick J. Bumatay/WHO /EOP@Exchange [WHO] <Patrick J. Bumatay>
Sent:	3/25/2003 4:01:20 AM
Subject:	: Re: FW: LRM JAB29 - - OMB Request for Views on HR205 National Small Business Regulatory Assistance Act of 2003
Attachments:	P_CXSZE003_WHO.TXT_1.doc; P_CXSZE003_WHO.TXT_2; P_CXSZE003_WHO.TXT_3.htm

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:25-MAR-2003 09:01:20.00
SUBJECT:: Re: FW: LRM JAB29 - - OMB Request for Views on HR205 National Small Business Regulatory Assistance Act of 2003
TO:James A. Brown (CN=James A. Brown/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

I anticipate we would take same approach as last year. Defer.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 03/24/2003 06:17:34 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: FW: LRM JAB29 - - OMB Request for Views on HR205 National Small Business Regulatory Assistance Act of 2003

Just a reminder, this was due 10 am today.

-----Original Message-----
From: Brown, James A.
Sent: Tuesday, March 18, 2003 5:13 PM
To: justice.lrm@usdoj.gov; dol-sol-leg@dol.gov; epalrm@epamail.epa.gov; Ceq Lrm; cla@sba.gov; llr@do.treas.gov
Cc: McMillin, Stephen S.; Rhinesmith, Alan B.; Lyon, Randolph M.; Dennis, Yvette M.; Rasetti, Lorenzo; Rostker, David; Hill, Jefferson B.; Noe, Paul R.; Vargas, Veronica; Graham, John; Perry, Philip J.; Schneider, Matthew J.; Wood, John F.; Joseffer, Daryl L.; Addington, David S.; Whgc Lrm; Blum, Mathew C.; Gerich, Michael D.; Arbuckle, Donald R.; Nec Lrm; Lobrano, Lauren C.; Jukes, James J.; Green, Richard E.
Subject: LRM JAB29 - - OMB Request for Views on HR205 National Small Business Regulatory Assistance Act of 2003

- att1.htm
LRM ID: JAB29
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, March 18, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: James A. Brown

PHONE: (202)395-3473 FAX: (202)395-3109
SUBJECT: OMB Request for Views on HR205 National Small Business Regulatory Assistance Act of 2003

DEADLINE: 10:00 A.M. Monday, March 24, 2003
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: There is a possibility that committee or orther action will be taken on this bill next week.

DISTRIBUTION LIST

AGENCIES:
061-JUSTICE - Jamie E. Brown - (202) 514-2141
062-LABOR - Robert A. Shapiro - (202) 693-5500
033-Environmental Protection Agency - Edward Krenik - (202) 564-5200
019-Council on Environmental Quality - Debbie S. Fiddelke - (202) 456-3908
107-Small Business Administration - Richard Spence - (202) 205-6700
118-TREASURY - Thomas M. McGivern - (202) 622-2317

EOP:
Stephen S. McMillin
Alan B. Rhinesmith
Randolph M. Lyon
Yvette M. Dennis
Lorenzo Rasetti
David Rostker
Jefferson B. Hill
Paul R. Noe
Veronica Vargas
John Graham
Philip J. Perry
Matthew J. Schneider
John F. Wood
Daryl L. Joseffer
David S. Addington
WHGC LRM
Mathew C. Blum
Michael D. Gerich
Donald R. Arbuckle
NEC LRM
Lauren C. Lobrano
James J. Jukes
Richard E. Green

LRM ID: JAB29 SUBJECT: OMB Request for Views on HR205 National Small Business Regulatory Assistance Act of 2003
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) faxing us a memo or letter.
Please include the LRM number and subject shown above.

TO: James A. Brown Phone: 395-3473 Fax: 395-3109
Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_CXSZE003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_CXSZE003_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_CXSZE003_WHO.TXT_3>

Document Produced Natively

Document Produced Natively

Jim,

The House Small Business Committee has indicated they may try to bring the attached two SBDC bills to the House floor as soon as this week. Basically, these are the same bills (H.R. 2358 and H.R. 202) that were introduced last year. Hearings were held and you will recall that SBA sent letters expressing serious concerns with the bills. Could you circulate these bills for agency comments requesting a deadline of no later than noon Thursday, March 20. We are trying to pinpoint the exact day this may occur and I will let you know. Thanks in advance for your assistance.

Rainnie Deane
Office of Legislative Affairs
205-6892

From: CN=Paul B. Dyck/OU=WHO/O=EOP [WHO]
To: Susan B. Ralston/WHO/EOP@Exchange@EOP [WHO] <Susan B. Ralston>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/25/2003 2:00:13 AM
Subject: : Boots for Rove

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Paul B. Dyck (CN=Paul B. Dyck/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:25-MAR-2003 07:00:13.00
SUBJECT:: Boots for Rove
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I assume that he can't accept these - is that correct?

---------- Forwarded by Paul B. Dyck/WHO/EOP on 03/25/2003 06:59 AM ----------

court.koenning@harriscountygop.com
03/24/2003 10:39:47 PM
Record Type: Record

To: Paul B. Dyck/WHO/EOP@EOP
cc: Joseph W. Fricks III/WHO/EOP@EOP
Subject: Boots for Rove

Hey guys,
The party wants to give Karl a pair of boots from Rocky Carrol (famous Houston boot maker). First of all can we? The value of the boots will be around $1000 (in my days in the Senate we were limited to gifts of $50 or less).

Secondly would he want them? And thirdly, if he can and if he does what is his boot size?

Thanks,
Court

From:	CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To:	Lisa J. Macecevic/OMB/EOP@EOP [OMB] <Lisa J. Macecevic>;Patrick J. Bumatay/WHO /EOP@Exchange [WHO] <Patrick J. Bumatay>
Sent:	3/25/2003 4:15:33 AM
Subject:	: Re: FW: LRM LJM13 - - TREASURY Draft Bill to establish a permanent, indefinite appropriation to allow the Department of the Treasury to reimburse financial institutions directly for services they provide as depositaries and financial agents of the United Stat
Attachments:	P_VUTZE003_WHO.TXT_1.doc; P_VUTZE003_WHO.TXT_2.doc; P_VUTZE003_WHO.TXT_3.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:25-MAR-2003 09:15:33.00
SUBJECT:: Re: FW: LRM LJM13 - - TREASURY Draft Bill to establish a permanent, indefinite appropriation to allow the Department of the Treasury to reimburse financial institutions directly for services they provide as depositaries and financial agents of the United Stat
TO:Lisa J. Macecevic (CN=Lisa J. Macecevic/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

No objection.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 03/24/2003 06:16:56 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: FW: LRM LJM13 - - TREASURY Draft Bill to establish a permanent, indefinite appropriation to allow the Department of the Treasury to reimburse financial institutions directly for services they provide as depositaries and financial agents of the United Stat

Just a reminder, this is due COB today.

-----Original Message-----
From: MacEcevic, Lisa J.
Sent: Monday, March 17, 2003 4:50 PM
To: Laplaca, Daniel; Schwartz, Mark J.; Rhinesmith, Alan B.; McMillin, Stephen S.; Whgc Lrm; Ovp Lrm; Silverberg, Kristen; Rossman, Elizabeth L.; Dove, Stephen W.; Call, Amy L.; Lobrano, Lauren C.; Perry, Philip J.; Schneider, Matthew J.; Wood, John F.; Keniry, Daniel ; Marsh, Robert ; Ojakli, Ziad ; Burgeson, Christine M.; Cea Lrm; Nec Lrm; Lackey Jr., Joseph F.; Morrall Iii, John F.; Little, Attia; Simms, Pamula L.; Lee, Sarah S.; Bradshaw, Betty I.; Bernhard, Elizabeth A.; Green, Richard E.; Jukes, James J.
Subject: LRM LJM13 - - TREASURY Draft Bill to establish a permanent, indefinite appropriation to allow the Department of the Treasury to reimburse financial institutions directly for services they provide as depositaries and financial agents of the United States.

Please respond with any comments on the attached Treasury draft bill, transmittal letter, and sectional analysis by COB Monday, March 24th. This proposal was in the President's FY 2004 Budget. Thank you.

- treas0010bltr2.doc
- treas0010bbill2.doc
- treas0010bsec2.doc

LRM ID: LJM13
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Monday, March 17, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: Lisa J. Macecevic
PHONE: (202)395-1092 FAX: (202)395-3109
SUBJECT: TREASURY Draft Bill to establish a permanent, indefinite appropriation to allow the Department of the Treasury to reimburse financial institutions directly for services they provide as depositaries and financial agents of the United States.

DEADLINE: COB Monday, March 24, 2003
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Please respond with any comments on the attached Treasury draft bill, transmittal letter, and sectional analysis by COB Monday, March 24th. This proposal was in the President's FY 2004 Budget. Thank you.

DISTRIBUTION LIST

AGENCIES:
-Executive Office of the President - EOP Review Only See Distribution -

EOP:
Daniel LaPlaca
Mark J. Schwartz
Alan B. Rhinesmith
Stephen S. McMillin
WHGC LRM
OVP LRM
Kristen Silverberg
Elizabeth L. Rossman
Stephen W. Dove
Amy L. Call
Lauren C. Lobrano
Philip J. Perry
Matthew J. Schneider
John F. Wood
Daniel J. Keniry
Robert Marsh
Ziad S. Ojakli
Christine M. Burgeson
CEA LRM
NEC LRM
Joseph F. Lackey Jr.
John F. Morrall III
Attia Little
Pamula L. Simms
Sarah S. Lee
Betty I. Bradshaw
Elizabeth A. Bernhard
Richard E. Green
James J. Jukes

LRM ID: LJM13 SUBJECT: TREASURY Draft Bill to establish a

permanent, indefinite appropriation to allow the Department of the Treasury to reimburse financial institutions directly for services they provide as depositaries and financial agents of the United States.

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) faxing us a memo or letter.
Please include the LRM number and subject shown above.

TO: Lisa J. Macecevic Phone: 395-1092 Fax: 395-3109
Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_VUTZE003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_VUTZE003_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_VUTZE003_WHO.TXT_3>

The Honorable Richard B. Cheney
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

Enclosed is a draft bill which would establish a permanent, indefinite appropriation to allow the Department of the Treasury's (Treasury) Financial Management Service (FMS) to reimburse financial institutions directly for services they provide as depositaries and financial agents of the United States. An analysis of the draft bill is also included. This proposal is included in the President's Fiscal Year 2004 Budget, and the pertinent pages are enclosed.

Financial institutions provide various critical services to the United States in their capacity as depositaries and financial agents of the United States, as designated by the Secretary of the Treasury. These services are authorized under numerous statutes including, but not limited to, 12 U.S.C. §§ 90 and 265. The services include the accepting and processing of deposits of public monies, and essential services relating to the disbursement of, and accounting for, those monies. The services support programs which are vital to the government's critical infrastructure and the President's emphasis on expanding E-Government.

The draft bill would allow FMS to change the method of compensating financial institutions for performing services as depositaries and financial agents of the United States from depositing non-interest bearing amounts ("compensating balances") with those financial institutions. The draft bill would establish a permanent, indefinite appropriation, beginning in fiscal year 2004, to allow Treasury to reimburse financial institutions directly for their services as depositaries and financial agents of the United States. Additionally, the bill would permit Treasury to reimburse financial institutions for services rendered prior to fiscal year 2004, thus allowing for a transition to the revised compensation method.

Reimbursement of financial institutions for critical services they perform using a permanent, indefinite appropriation would provide needed permanency for paying financial institutions, improved management of the nation's cash, and greater transparency. Use of a permanent, indefinite appropriation would strengthen Treasury's cash and debt management responsibilities. This is because Treasury would no longer have to dramatically increase or decrease the level of compensating balances when interest rates rise or decline sharply or when the public debt outstanding reaches the statutory debt limit.

The concept of permanent, indefinite appropriations of this type is well established. In fiscal year 1998, a similar provision was enacted establishing a permanent, indefinite appropriation to permit FMS to reimburse Federal Reserve Banks directly for the services they provide as fiscal agents of the United States. (See Public Law 105-61, Title I, 111 Stat. 1276) Enactment of the attached draft bill would provide FMS with the same flexibility in managing the compensation of financial institutions providing services as financial agents of the United States.

It would be appreciated if you would lay the draft bill before the Senate. An identical draft bill has been transmitted to the Speaker of the House of Representatives. We respectfully urge its prompt consideration.

The Office of Management and Budget has advised that this legislative proposal is in accord with the President's program.

Sincerely,

David D. Aufhauser
General Counsel

Enclosures
{tc \l1 "Enclosures}

A BILL

To establish a permanent, indefinite appropriation to allow the Department of the Treasury to reimburse financial institutions directly for services they provide as depositaries and financial agents of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Beginning in fiscal year 2004 and thereafter, there are appropriated to the Secretary of the Treasury such sums as may be necessary to reimburse financial institutions in their capacity as depositaries and financial agents of the United States for all services required or directed by the Secretary of the Treasury, or his designee, to be performed by such financial institutions on behalf of the Treasury or other Federal agencies, including services rendered prior to fiscal year 2004.

FINANCIAL INSTITUTION DEPOSITARY AND FINANCIAL AGENT SERVICES REIMBURSEMENT FUND

Analysis

The draft legislation would establish a permanent, indefinite appropriation to reimburse financial institutions for the services they provide as depositaries and financial agents of the Federal government. The services are provided at the direction of the Secretary of the Treasury, or his designee, and are authorized under numerous statutes, including, but not limited to, 12 U.S.C. §§ 90 and 265. The services include the acceptance and processing of deposits of public monies, as well as services essential to the disbursement of, and accounting for, public monies.

The overall budget effect of this legislative proposal is neutral because the reduction in the interest on the public debt resulting from reduced borrowing needs to fund the compensating balances will be at least equal to the amount that will be expended to pay the financial institutions for their services using a permanent, indefinite appropriation.

From: Kavanaugh, Brett M.
To: <Bumatay, Patrick J.>;<Brown, James A.>
Sent: 3/25/2003 8:56:39 AM
Subject: Re: FW: LRM JAB29 - - OMB Request for Views on HR205 National Small Business Regulatory Assistance Act of 2003
Attachments: att1.htm

I anticipate we would take same approach as last year. Defer.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 03/24/2003 06:17:34 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: FW: LRM JAB29 - - OMB Request for Views on HR205 National Small Business Regulatory Assistance Act of 2003

Just a reminder, this was due 10 am today.

-----Original Message-----

From: Brown, James A.

Sent: Tuesday, March 18, 2003 5:13 PM

To: justice.lrm@usdoj.gov; dol-sol-leg@dol.gov; epalrm@epamail.epa.gov; Ceq Lrm; cla@sba.gov; llr@do.treas.gov

Cc: McMillin, Stephen S.; Rhinesmith, Alan B.; Lyon, Randolph M.; Dennis, Yvette M.; Rasetti, Lorenzo; Rostker, David; Hill, Jefferson B.; Noe, Paul R.; Vargas, Veronica; Graham, John; Perry, Philip J.; Schneider, Matthew J.; Wood, John F.; Joseffer, Daryl L.; Addington, David S.; Whgc Lrm; Blum, Mathew C.; Gerich, Michael D.; Arbuckle, Donald R.; Nec Lrm; Lobrano, Lauren C.; Jukes, James J.; Green, Richard E.

Subject: LRM JAB29 - - OMB Request for Views on HR205 National Small Business Regulatory Assistance Act of 2003

 - att1.htm << att1.htm >>

LRM ID: JAB29

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Tuesday, March 18, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Richard E. Green (for) Assistant Director for Legislative Reference

OMB CONTACT: James A. Brown

PHONE: (202)395-3473 FAX: (202)395-3109

SUBJECT: OMB Request for Views on HR205 National Small Business Regulatory Assistance Act of 2003

DEADLINE: 10:00 A.M. Monday, March 24, 2003

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: There is a possibility that committee or orther action will be taken on this bill next week.

DISTRIBUTION LIST

AGENCIES:

061-JUSTICE - Jamie E. Brown - (202) 514-2141

062-LABOR - Robert A. Shapiro - (202) 693-5500

033-Environmental Protection Agency - Edward Krenik - (202) 564-5200

019-Council on Environmental Quality - Debbie S. Fiddelke - (202) 456-3908

107-Small Business Administration - Richard Spence - (202) 205-6700

118-TREASURY - Thomas M. McGivern - (202) 622-2317

EOP:

Stephen S. McMillin

Alan B. Rhinesmith

Randolph M. Lyon

Yvette M. Dennis

Lorenzo Rasetti

David Rostker

Jefferson B. Hill

Paul R. Noe

Veronica Vargas

John Graham

Philip J. Perry

Matthew J. Schneider

John F. Wood

Daryl L. Joseffer

David S. Addington

WHGC LRM

Mathew C. Blum

Michael D. Gerich

Donald R. Arbuckle

NEC LRM

Lauren C. Lobrano

James J. Jukes

Richard E. Green

LRM ID: JAB29 **SUBJECT:** OMB Request for Views on HR205 National Small Business Regulatory Assistance Act of 2003

RESPONSE TO

LEGISLATIVE REFERRAL

MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) faxing us a memo or letter.

Please include the LRM number and subject shown above.

TO: **James A. Brown Phone: 395-3473 Fax: 395-3109**

Office of Management and Budget

FROM: _____ **(Date)**

_____ **(Name)**

_____ **(Agency)**

_____ **(Telephone)**

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Jim,

The House Small Business Committee has indicated they may try to bring the attached two SBDC bills to the House floor as soon as this week. Basically, these are the same bills (H.R. 2358 and H.R. 202) that were introduced last year. Hearings were held and you will recall that SBA sent letters expressing serious concerns with the bills. Could you circulate these bills for agency comments requesting a deadline of no later than noon Thursday, March 20. We are trying to pinpoint the exact day this may occur and I will let you know. Thanks in advance for your assistance.

Rainnie Deane
Office of Legislative Affairs
205-6892

From: Kavanaugh, Brett M.
To: <Bumatay, Patrick J.>;<MacEcevic, Lisa J.>
Sent: 3/25/2003 9:10:52 AM
Subject: Re: FW: LRM LJM13 - - TREASURY Draft Bill to establish a permanent, indefinite appropriation to allow the Department of the Treasury to reimburse financial institutions directly for services they provide as depositaries and financial agents of the United Stat
Attachments: treas0010bbill2.doc; treas0010bltr2.doc; treas0010bsec2.doc

No objection.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 03/24/2003 06:16:56 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: FW: LRM LJM13 - - TREASURY Draft Bill to establish a permanent, indefinite appropriation to allow the Department of the Treasury to reimburse financial institutions directly for services they provide as depositaries and financial agents of the United Stat

Just a reminder, this is due COB today.

-----Original Message-----

From: MacEcevic, Lisa J.

Sent: Monday, March 17, 2003 4:50 PM

To: Laplaca, Daniel; Schwartz, Mark J.; Rhinesmith, Alan B.; McMillin, Stephen S.; Whgc Lrm; Ovp Lrm; Silverberg, Kristen; Rossman, Elizabeth L.; Dove, Stephen W.; Call, Amy L.; Lobrano, Lauren C.; Perry, Philip J.; Schneider, Matthew J.; Wood, John F.; Keniry, Daniel ; Marsh, Robert ; Ojakli, Ziad ; Burgeson, Christine M.; Cea Lrm; Nec Lrm; Lackey Jr., Joseph F.; Morrall Iii, John F.; Little, Attia; Simms, Pamula L.; Lee, Sarah S.; Bradshaw, Betty I.; Bernhard, Elizabeth A.; Green, Richard E.; Jukes, James J.

Subject: LRM LJM13 - - TREASURY Draft Bill to establish a permanent, indefinite appropriation to allow the Department of the Treasury to reimburse financial institutions directly for services they provide as depositaries and financial agents of the United States.

Please respond with any comments on the attached Treasury draft bill, transmittal letter, and sectional analysis by COB Monday, March 24th. This proposal was in the President's FY 2004 Budget. Thank you.

- treas0010bltr2.doc << treas0010bltr2.doc >>

- treas0010bbill2.doc << treas0010bbill2.doc >>

- treas0010bsec2.doc << treas0010bsec2.doc >>

LRM ID: LJM13

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Monday, March 17, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Richard E. Green (for) Assistant Director for Legislative Reference

OMB CONTACT: Lisa J. Macecevic

PHONE: (202)395-1092 FAX: (202)395-3109

SUBJECT: TREASURY Draft Bill to establish a permanent, indefinite appropriation to allow the Department of the Treasury to reimburse financial institutions directly for services they provide as depositaries and financial agents of the United States.

DEADLINE: COB Monday, March 24, 2003

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Please respond with any comments on the attached Treasury draft bill, transmittal letter, and sectional analysis by COB Monday, March 24th. This proposal was in the President's FY 2004 Budget. Thank you.

DISTRIBUTION LIST

AGENCIES:

-Executive Office of the President - EOP Review Only See Distribution -

EOP:

Daniel LaPlaca

Mark J. Schwartz

Alan B. Rhinesmith

Stephen S. McMillin

WHGC LRM

OVP LRM

Kristen Silverberg

Elizabeth L. Rossman

Stephen W. Dove

Amy L. Call

Lauren C. Lobrano

Philip J. Perry

Matthew J. Schneider

John F. Wood

Daniel J. Keniry

Robert Marsh

Ziad S. Ojakli

Christine M. Burgeson

CEA LRM

NEC LRM

Joseph F. Lackey Jr.

John F. Morrall III

Attia Little

Pamula L. Simms

Sarah S. Lee

Betty I. Bradshaw

Elizabeth A. Bernhard

Richard E. Green

James J. Jukes

LRM ID: LJM13 **SUBJECT:** TREASURY Draft Bill to establish a permanent, indefinite appropriation to allow the Department of the Treasury to reimburse financial institutions directly for services they provide as depositaries and financial agents of the United States.

RESPONSE TO

LEGISLATIVE REFERRAL

MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) faxing us a memo or letter.

Please include the LRM number and subject shown above.

TO: **Lisa J. Macecevic Phone: 395-1092 Fax: 395-3109**

Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

The Honorable Richard B. Cheney
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

Enclosed is a draft bill which would establish a permanent, indefinite appropriation to allow the Department of the Treasury's (Treasury) Financial Management Service (FMS) to reimburse financial institutions directly for services they provide as depositaries and financial agents of the United States. An analysis of the draft bill is also included. This proposal is included in the President's Fiscal Year 2004 Budget, and the pertinent pages are enclosed.

Financial institutions provide various critical services to the United States in their capacity as depositaries and financial agents of the United States, as designated by the Secretary of the Treasury. These services are authorized under numerous statutes including, but not limited to, 12 U.S.C. §§ 90 and 265. The services include the accepting and processing of deposits of public monies, and essential services relating to the disbursement of, and accounting for, those monies. The services support programs which are vital to the government's critical infrastructure and the President's emphasis on expanding E-Government.

The draft bill would allow FMS to change the method of compensating financial institutions for performing services as depositaries and financial agents of the United States from depositing non-interest bearing amounts ("compensating balances") with those financial institutions. The draft bill would establish a permanent, indefinite appropriation, beginning in fiscal year 2004, to allow Treasury to reimburse financial institutions directly for their services as depositaries and financial agents of the United States. Additionally, the bill would permit Treasury to reimburse financial institutions for services rendered prior to fiscal year 2004, thus allowing for a transition to the revised compensation method.

Reimbursement of financial institutions for critical services they perform using a permanent, indefinite appropriation would provide needed permanency for paying financial institutions, improved management of the nation's cash, and greater transparency. Use of a permanent, indefinite appropriation would strengthen Treasury's cash and debt management responsibilities. This is because Treasury would no longer have to dramatically increase or decrease the level of compensating balances when interest rates rise or decline sharply or when the public debt outstanding reaches the statutory debt limit.

The concept of permanent, indefinite appropriations of this type is well established. In fiscal year 1998, a similar provision was enacted establishing a permanent, indefinite appropriation to permit FMS to reimburse Federal Reserve Banks directly for the services they provide as fiscal agents of the United States. (See Public Law 105-61, Title I, 111 Stat. 1276) Enactment of the attached draft bill would provide FMS with the same flexibility in managing the compensation of financial institutions providing services as financial agents of the United States.

It would be appreciated if you would lay the draft bill before the Senate. An identical draft bill has been transmitted to the Speaker of the House of Representatives. We respectfully urge its prompt consideration.

The Office of Management and Budget has advised that this legislative proposal is in accord with the President's program.

Sincerely,

David D. Aufhauser
General Counsel

Enclosures
{tc \l1 "Enclosures}

A BILL

To establish a permanent, indefinite appropriation to allow the Department of the Treasury to reimburse financial institutions directly for services they provide as depositaries and financial agents of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Beginning in fiscal year 2004 and thereafter, there are appropriated to the Secretary of the Treasury such sums as may be necessary to reimburse financial institutions in their capacity as depositaries and financial agents of the United States for all services required or directed by the Secretary of the Treasury, or his designee, to be performed by such financial institutions on behalf of the Treasury or other Federal agencies, including services rendered prior to fiscal year 2004.

FINANCIAL INSTITUTION DEPOSITARY AND FINANCIAL AGENT SERVICES REIMBURSEMENT FUND

Analysis

The draft legislation would establish a permanent, indefinite appropriation to reimburse financial institutions for the services they provide as depositaries and financial agents of the Federal government. The services are provided at the direction of the Secretary of the Treasury, or his designee, and are authorized under numerous statutes, including, but not limited to, 12 U.S.C. §§ 90 and 265. The services include the acceptance and processing of deposits of public monies, as well as services essential to the disbursement of, and accounting for, public monies.

The overall budget effect of this legislative proposal is neutral because the reduction in the interest on the public debt resulting from reduced borrowing needs to fund the compensating balances will be at least equal to the amount that will be expended to pay the financial institutions for their services using a permanent, indefinite appropriation.

From: Kirk Blalock <kblalock@fierce-isakowitz.com>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Kristen Silverberg/WHO /EOP@EOP [WHO] <Kristen Silverberg>;Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>
Sent: 3/25/2003 5:45:53 AM
Subject: : CD AM on Dooley/Cannon - Both bills will be Med Criteria Based

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kirk Blalock <kblalock@fierce-isakowitz.com> (Kirk Blalock <kblalock@fierce-isakowitz.com> [UNKNOWN])
CREATION DATE/TIME:25-MAR-2003 10:45:53.00
SUBJECT:: CD AM on Dooley/Cannon - Both bills will be Med Criteria Based
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
End Original ARMS Header

JUDICIARY
Tort Reform Splits House Asbestos Fix
A rift over tort reform between two House members working to craft a
bipartisan asbestos litigation bill could be a harbinger of things to come
in the closely divided Senate, where negotiations on similar legislation continue to percolate.
Much of the recent focus regarding asbestos reform has been on the Senate, where Judiciary Committee leaders are attempting to forge a legislative consensus, and where Senate Budget Chairman Nickles already has
introduced legislation.
However, legislation to address the asbestos litigation crisis gained
its earliest traction in the House, where the Asbestos Alliance last year
found its legislative champions in Reps. Chris Cannon, R-Utah, and Calvin
Dooley, D-Calif.
The Alliance, which is being led by the National Association of Manufacturers, includes the U.S. Chamber of Commerce, a cross-section of America's leading insurance companies and industry groups, as well as some
prominent plaintiffs' attorneys.
Cannon and Dooley advocated the Alliance's proposal for a bill that uses medical criteria to restrict the right of plaintiffs that are ill from
asbestos exposure to sue, and, up until several weeks ago, the two were expected to introduce a unified, bipartisan bill in the House.
They also had agreed conceptually that the bill should prevent the consolidation of cases and the practice of court shopping -- both elements
backed by the Alliance, NAM Executive Vice President Michael Baroody said
in an interview Monday.
More recently, however, Cannon and Dooley have been pursuing separate
legislative tracks over a split in opinion about "how far" to take the bill
in the area of tort reform.
So while the two legislative offices are still working and

communicating with one another, "right now, we're looking at a two-bill approach in the House," one source said.
While Dooley's preference is to keep the bill as clean as possible, sources said that Cannon, after consultation with GOP leadership both in the House and Senate, is exploring whether to include provisions dealing with such hot buttons as damage awards and the doctrine of joint and several liability.
Cannon chairs the House Judiciary Commercial and Administrative Subcommittee, which has been the venue for other tort reforms that have come through the committee. Tinkering with tort reforms is a perennial favorite of conservative Republicans and often used as a goad in their negotiations with Democrats on any issue that touches on legal reform.
Conventional wisdom is that it makes for a better bargaining position
for the GOP, which knows Democrats are loathe to give on those areas so closely watched by their constituents in the trial bar.
However, the strategy sometimes has backfired, as in the case of the
107th Congress' debate over terrorism reinsurance, which pitted Senate Democrats against House and Senate Republicans over the GOP's ultimately unsuccessful and self-wounding drive to limit punitive damages for businesses.
In last year's informal conference on terrorism insurance, Democrats
ultimately succeeded in blocking more Draconian tort reforms, primarily because the Bush administration reneged on an earlier pledge to stick by congressional Republicans in the fight.
However, House Majority Leader DeLay at the time was said to have secured a commitment that the president would champion certain tort reform
legislation this year.
"We're staying in very close contact with Mr. Cannon -- but we made it
very clear, too, that I and the Democrats I'm working with are going to be
very reluctant to be support for a bill that encompass broader tort reform
issues," Dooley said in an interview last week.
Dooley and Cannon also have not yet reached agreement on the specific
language dealing with venue and mass-consolidated trials, which defendants
believe facilitate a litigation system that awards the unimpaired at the expense of the truly ill.
Democrats in the past have sought to preserve the right of asbestos trial courts to consolidate cases for judicial economy.
"I think we're in the same ballpark," Dooley said. "We're fine with addressing venue and consolidation in a responsible manner, but we'd be reluctant to deal with anything to do with joint and several and any caps
on fees and damages."
He added, "We're continuing to work with Chris Cannon in the hopes that we can introduce a bill together." But, "at this point, its also clear
that if that bill goes beyond dealing with asbestos litigation reform, Democratic support will be significantly reduced."
House Judiciary Committee sources said Cannon has made no definitive
decisions, but noted that he has submitted legislative language for review
by legislative counsel.
The sort of proposal Cannon is envisioning -- which adopts medical criteria for claims, but also seeks to eliminate joint and several liability for asbestos claims and cap non-economic damages -- has been dubbed "Alliance-plus" by insiders.
Although those tort reforms are not formal goals of the Alliance, they
are said to be priorities of its insurance contingent.

A spokeswoman for the American Insurance Association, a key Alliance
member, declined to say whether the insurance industry is pushing for these
reforms in the context of the asbestos litigation bill.
"Insurers are for as much reform in terms of certainty and finality --
and fixing the system as can be achieved this year," she said.
NAM's Baroody said he believes that the diverse legislative goals
within the business community have been over-hyped.
"To the extent there is a disagreement -- I have always believed that
it is less over policy than it is over the political question of how much
is achievable," he said.
Baroody, also chairman of the Asbestos Alliance added, "Finally,
that's going to be decided by people who have the votes."
Nevertheless, the breach between Cannon and Dooley signals that the
asbestos debate will go beyond asbestos claims to a broader political fight
over tort reform, which could foreshadow a partisan standoff in a
House-Senate conference committee setting.
It is a debate that also is likely to surface in the Senate even
before the bill goes to conference, sources said.
Nickles, who was the first lawmaker this year to unveil a bill on
asbestos litigation reform, did include provisions to curb forum shopping
and effectively bar consolidations.
However, Nickles, no fan of the trial bar, did not include any of the
other more-loaded tort reforms -- something that critics dubious of the
'Alliance-plus' strategy said should be a red flag for proponents of the
plan.
Other sources who favor the track Cannon is pursuing noted that labor
and the trial bar rejected Nickles' bill, which was supposed to represent a
compromise in their direction, causing the industry to rethink whether an
even tougher approach is warranted.
Baroody insisted he is not concerned about the split between Cannon
and Dooley, or about the looming legal reform debate.
"What it will demonstrate -- is that there is, on both sides of the
aisle, a willingness to move on this issue this year," he said.
Moreover, the starting place for both bills will be "from the Alliance
perspective of medical criteria and some litigation reform," Baroody
asserted.
Chief executives for companies represented by the Alliance, the
Asbestos Study Group and the AIA, were planning to meet privately with
Senate Judiciary Chairman Hatch this week in what could prove a pivotal
gathering, sources said.
A more-inclusive asbestos "summit" hosted by the Senate Judiciary
panel is in the works, but has not yet been scheduled. By Pamela Barnett

From:	CN=P. Thaddeus Messenger/OU=OMB/O=EOP [OMB]
To:	Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent:	3/25/2003 6:59:56 AM
Subject:	: Re: FW: LRM PTM21 - - VETERANS AFFAIRS Report on S. 50 - Veterans Health Care Funding Guarantee Act
Attachments:	P_B480F003_WHO.TXT_1.doc; P_B480F003_WHO.TXT_2.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:P. Thaddeus Messenger (CN=P. Thaddeus Messenger/OU=OMB/O=EOP [OMB])
CREATION DATE/TIME:25-MAR-2003 11:59:56.00
SUBJECT:: Re: FW: LRM PTM21 - - VETERANS AFFAIRS Report on S. 50 - Veterans Health Care Funding Guarantee Act
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Hi Brett,

You responded to this LRM yesterday afternoon.

I bring this to your attention in case you had thought in either response you were responding to a different LRM, to which you would still need to respond. For instance, I know I still have not received a WHCO reply to another of my VA LRM's (RJP30), so I wonder if one of these responses was intended to answer that LRM.

Please advise,
Thad

Brett M. Kavanaugh
03/25/2003 09:11:58 AM
Record Type: Record

To: Patrick J. Bumatay/WHO/EOP@Exchange, P. Thaddeus Messenger/OMB/EOP@EOP
cc:
bcc:
Subject: Re: FW: LRM PTM21 - - VETERANS AFFAIRS Report on S. 50 - Veterans Health Care Funding Guarantee Act

No objection to VA's response.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 03/24/2003 03:19:09 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: FW: LRM PTM21 - - VETERANS AFFAIRS Report on S. 50 - Veterans Health Care Funding Guarantee Act

-----Original Message-----
From: Messenger, P. Thaddeus
Sent: Monday, March 24, 2003 2:29 PM
To: dodlrs@osdgc.osd.mil; lrm@hhs.gov; justice.lrm@usdoj.gov; llr@do.treas.gov
Cc: Cleveland, Robin; Carson, Karyn T.; Peroff, Kathleen; Siclari, Mary Jo; Aguilera, Ricardo A.; Waites, Wendell H.; Hustead, Toni S.; Grayton, Arecia A.; Chang, Winifred Y.; Hagen, Kelli A.; Benson, Shalini M.; Ermann, Danny A.; Sastry, Narahari; Bartrum, John J.; Seastrom, Mark R.; Fontenot, Keith J.; Bassano, Amy; Bloomquist, Lauren E.; Schwartz, Mark J.; Foster, James D.; Rodriguez, Justine F.; Crilley, Joseph; Little, Attia; Lee, Sarah S.; Ohs Lrm; Ingle, Edward; Lawlor, Laura S.; Ovp Lrm; Suarez, Aquiles F.; Nec Lrm; Whgc Lrm; Perry, Philip J.; Schneider, Matthew J.; Wood, John F.; Rettman, Rosalyn J.; Cox, Christopher C.; Dove, Stephen W.; Rossman, Elizabeth L.; Lobrano, Lauren C.; Jukes, James J.; Schroeder, Ingrid M.; Messenger, P. Thaddeus
Subject: LRM PTM21 - - VETERANS AFFAIRS Report on S. 50 - Veterans Health Care Funding Guarantee Act

LRM ID: PTM21
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Monday, March 24, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: P. Thaddeus Messenger
PHONE: (202)395-7754 FAX: (202)395-6148
SUBJECT: VETERANS AFFAIRS Report on S. 50 - Veterans Health Care Funding Guarantee Act

DEADLINE: 5:00 p.m. Friday, March 28, 2003
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Attached, please find a draft copy of a VA report regarding S. 50, which would change VA health care funding from a discretionary cost to a mandatory cost. VA does not support this bill. For your reference, a copy of the bill, as introduced in the Senate, is also attached.

Please provide your comments by 5:00 p.m., Friday 28 March 2003. If we do not receive your comments by that time, we will assume you have no objection to the document as drafted.

If you experience difficulty with this LRM, or its attachment, please contact us immediately. To ensure receipt by Agency addressees, the electronic copy of this LRM will be followed by a duplicate copy via facsimile.

Thank you.

DISTRIBUTION LIST

AGENCIES:
029-DEFENSE - Vic Bernson - (703) 697-1305
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773
061-JUSTICE - Jamie E. Brown - (202) 514-2141
118-TREASURY - Thomas M. McGivern - (202) 622-2317

EOP:
NSP LRM
Ricardo A. Aguilera
Wendell H. Waites
VAB LRM
Keith J. Fontenot
Amy Bassano
Lauren E. Bloomquist
Mark J. Schwartz
James D. Foster
Justine F. Rodriguez
Joseph Crilley
Attia Little
Sarah S. Lee
OHS LRM
Edward Ingle
Laura S. Lawlor
OVP LRM
Aquiles F. Suarez
NEC LRM
WHGC LRM
OMBGC LRM
Rosalyn J. Rettman
Christopher C. Cox
Stephen W. Dove
Elizabeth L. Rossman
Lauren C. Lobrano
James J. Jukes
Ingrid M. Schroeder
P. Thaddeus Messenger

LRM ID: PTM21 SUBJECT: VETERANS AFFAIRS Report on S. 50 -
Veterans Health Care Funding Guarantee Act
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) faxing us a memo or letter.
Please include the LRM number and subject shown above.

TO: P. Thaddeus Messenger Phone: 395-7754 Fax:
395-6148
Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_B480F003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_B480F003_WHO.TXT_2>

The Honorable Tim Johnson
United States Senate
324 Hart Senate Office Building
Washington, DC 20510-4104

Dear Senator Johnson:

I am pleased to present the Department's views on S.50, the "Veterans Health Care Funding Guarantee Act of 2003." The legislation would establish, by formula, the annual level of funding for all programs, activities, and functions (except for grants to states for the construction or acquisition of state homes for veterans) of the Veterans Health Administration (VHA). More specifically, funding for FY 2005 (the first fiscal year covered by the bill) would be automatically established at 120 percent of the amounts obligated by VHA (for all its activities, programs, and functions) for FY 2003. Thereafter, VHA funding would be automatically determined by a fixed formula, which is based on the number of enrollees each year multiplied by a fixed per capita amount. The per capita amount would be adjusted annually in accordance with increases in the Consumer Price Index.

VA does not support the concept of using a fixed formula to determine VHA funding. Although VA recognizes the appeal of such an approach, particularly in these times when the Department finds it is unable to provide care to all veterans who seek enrollment in the system, we believe the approach taken in this and other similar bills would prove to be unworkable and is inappropriate for funding a dynamic health care system, like VA's.

The provision of care evolves continually to reflect advances in state of the art technologies (including pharmaceuticals) and medical practices. It is very difficult to estimate both the costs and savings that may result from such changes. Moreover, patients' health status, demographics, and usage rates are each subject to distinct trends that are difficult to predict. The proposed formula in S. 50 would not take into account any changes in these and other important trends. As such, there is no certainty that the amount of funding dictated by the proposed formula would be adequate to meet the demands that will be placed on VA's health care system in the upcoming years.

Perhaps more importantly, use of an automatic funding mechanism would also diminish the valuable opportunity that members of the Congress and the Executive Branch now have to carry out their responsibility to identify and directly address the health care needs of veterans through the funding process. It might

also tend to depress the Department's incentive to improve its operations and be more efficient.

Finally, VA does not believe this proposal would ensure open enrollment. The Department would still be required to make an annual enrollment decision, and that decision would directly affect the number of enrolled veterans and thus the amount of funding calculated under the formula. Indeed, references to "guaranteed funding" may give the public the false impression that this bill would give VA full funding to enroll all veterans and to furnish care for all their needs, which would not be the case.

We share the desire by many in Congress to ensure stable funding for the Department's health care system, and we look forward to working closely with the Congress to achieve that goal. However, for the many important reasons discussed, the approach taken in S. 50 is not the answer.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's programs.

Sincerely yours,

Anthony J. Principi

3.

The Honorable Tim Johnson

108TH CONGRESS
1ST SESSION

S. 50

To amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 7, 2003

Mr. JOHNSON (for himself, Ms. COLLINS, Mr. REID, Mr. INOUYE, Mr. DORGAN, Mr. HARKIN, Mr. KERRY, Mr. DASCHLE, and Mr. BAUCUS) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Health Care Funding Guarantee Act of 2003".

REV_00160976

SEC. 2. GUARANTEED ADEQUATE FUNDING FOR VETERANS HEALTH CARE.

(a) IN GENERAL.—Chapter 1 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 117. Guaranteed funding for veterans health care

"(a) For each fiscal year, the Secretary of the Treasury shall make available to the Secretary of Veterans Affairs the amount determined under subsection (b) with respect to that fiscal year. Each such amount is available, without fiscal year limitation, for the programs, functions, and activities of the Veterans Health Administration, as specified in subsection (c).

"(b)(1) The amount applicable to fiscal year 2005 under this subsection is the amount equal to 120 percent of the amount obligated by the Department during fiscal year 2003 for the purposes specified in subsection (c).

"(2) The amount applicable to any fiscal year after fiscal year 2005 under this subsection is the amount equal to the product of the following:

"(A) The sum of—

"(i) the number of veterans enrolled in the Department health care system under section 1705 of this title as of July 1 preceding the beginning of such fiscal year; and

REV_00160977

"(ii) the number of persons eligible for health care under chapter 17 of this title who are not covered by clause (i) and who were provided hospital care or medical services under such chapter at any time during the fiscal year preceding such fiscal year.

"(B) The per capita baseline amount, as increased from time to time pursuant to paragraph (3)(B).

"(3)(A) For purposes of paragraph (2)(B), the term 'per capita baseline amount' means the amount equal to—

"(i) the amount specified in paragraph (1), divided by

"(ii) the number of veterans enrolled in the Department health care system under section 1705 of this title as of September 30, 2003.

"(B) With respect to any fiscal year, the Secretary shall provide a percentage increase (rounded to the nearest dollar) in the per capita baseline amount equal to the percentage by which—

"(i) the Consumer Price Index (all Urban Consumers, United States city Average, Medical Care, Not Seasonally Adjusted), published by the Bureau of Labor Statistics of the Department of Labor for the 12-month period ending on the June 30 pre-

REV_00160978

ceding the beginning of the fiscal year for which the increase is made, exceeds

"(ii) such Consumer Price Index for the 12-month period preceding the 12-month period described in clause (i).

"(c)(1) Except as provided in paragraph (2), the purposes for which amounts made available pursuant to subsection (a) shall be all programs, functions, and activities of the Veterans Health Administration.

"(2) Amounts made available pursuant to subsection (a) are not available for grants under subchapter III of chapter 81 of this title.".

(b) REPEAL OF CONSTRUCTION AUTHORIZATION REQUIREMENT.—Section 8104 of title 38, United States Code, is amended to read as follows:

"§ 8104. Additional authorities and limitations

"(a) The Secretary may accept gifts or donations for any of the purposes of this subchapter.

"(b)(1) The Secretary may not obligate funds in an amount in excess of $500,000 from the Advance Planning Fund of the Department toward the design or development of a major medical facility project until—

"(A) the Secretary submits to the committees a report on the proposed obligation; and

REV_00160979

"(B) a period of 30 days has passed after the date on which the report is received by the committees.

"(2) In this subsection, the term 'major medical facility project' means a project for the construction, alteration, or acquisition of a medical facility involving a total expenditure of more than $4,000,000, but such term does not include an acquisition by exchange.".

(c) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 1 of title 38, United States Code, is amended by adding at the end the following new item:

"117. Guaranteed funding for veterans health care.".

(2) The table of sections at the beginning of chapter 81 of such title is amended by striking the item relating to section 8104 and inserting the following new item:

"8104. Additional authorities and limitations.".

(d) EFFECTIVE DATES.—(1) The amendments made by subsections (a) and (c)(1) shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsections (b) and (c)(2) shall take effect on October 1, 2004.

○

REV_00160980

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: GaryM Stern <garym.stern@nara.gov>
Sent: 3/25/2003 8:07:56 AM
Subject: : Re: Pardon Records

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:25-MAR-2003 13:07:56.00
SUBJECT:: Re: Pardon Records
TO:GaryM Stern <garym.stern@nara.gov> (GaryM Stern <garym.stern@nara.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Who owns pardon records in Ford and Carter libraries?

GaryM Stern <garym.stern@nara.gov>
03/24/2003 05:52:35 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Pardon Records

Paul Colborn informed me about your decision to establish, in effect, a 30 year rule for the DOJ pardon records, in light of the FOIA lawsuit and the pending questions from the Pardon Attorney regarding their Federal Records Act schedule (which currently authorizes transfer to NARA after 25 years). We will work with DOJ to revise the schedule to 30 years to comport with your decision.

However, as we have discussed, I do not understand your decision with respect to federal records necessarily to effect how we process pardon records at pre-PRA Presidential Libraries, i.e., Ford and Carter, which are governed by a donor's deed of gift. Feel free to call if you would like to discuss. Thanks.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Carolyn Nelson/WHO/EOP@Exchange@EOP [WHO] <Carolyn Nelson>
Sent: 3/25/2003 9:24:52 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:25-MAR-2003 14:24:52.00
SUBJECT::
TO:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

reminder that he should call Sens. Cornyn and Sessions.
```

From: FindLaw.com <listadmin@LEGALMINDS.ORG>
To: TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN] <TOPHEADLINES@LEGALMINDS.ORG>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 3/25/2003 10:31:08 AM
Subject: : [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Tue., Mar. 25, 2003

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"FindLaw.com" <listadmin@LEGALMINDS.ORG> ("FindLaw.com" <listadmin@LEGALMINDS.ORG> [UNKNOWN])
CREATION DATE/TIME:25-MAR-2003 15:31:08.00
SUBJECT:: [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Tue., Mar. 25, 2003
TO:TOPHEADLINES@LEGALMINDS.ORG (TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

FINDLAW Tue, Mar 25, 2003

TOP LEGAL NEWS HEADLINES

For all of the day's legal news go to: http://news.findlaw.com

****

Trying to make a full-featured Practice Management System out of Outlook(TM), ACT!(TM), GoldMine(TM), etc? Get your FREE Trial of Time Matters(R), the most widely used, most award-winning practice management system. Your existing data is easily transferred to Time Matters. Use with Outlook or replace Outlook. Get FREE Trial at http://rd.findlaw.com/scripts/nl.pl?url=10154880003_nl

****

SUPREME COURT
Court Clarifies Death-Row Appeal Rules
http://news.findlaw.com/ap/a/w/1154/3-25-2003/20030325094502_22.html

Ohio Suburb Wins Discrimination Case
http://news.findlaw.com/ap/a/w/1154/3-25-2003/20030325084502_19.html

POLITICS
Bush Cites 'Urgent' Need for Money To Fund Iraq War
http://news.findlaw.com/news/s/20030325/iraqusabushdc.html

U.S. Disappointed by Canadian Refusal
http://news.findlaw.com/ap/i/1107/3-25-2003/20030325073002_37.html

LEGAL COMMENTARY
Lawrence v. Texas: Is Discrimination Against Gays & Lesbians Sex Discrimination?
http://writ.news.findlaw.com/grossman/20030325.html

The War As Dragnet Justice
http://writ.news.findlaw.com/ramasastry/20030325.html

How Companies Thwart Competition With The DMCA
http://writ.news.findlaw.com/commentary/20030325_sprigman.html

CIVIL RIGHTS
Report: Military Kicks Out Fewer Gays
http://news.findlaw.com/ap/a/w/1152/3-25-2003/20030325091501_09.html

Arab-Americans Urge Cooperation With FBI
http://news.findlaw.com/ap/o/1110/3-25-2003/20030325023001_01.html

PERSONAL INJURY
Many Suits Still Pending In Beef Cases
http://news.findlaw.com/ap/f/1310/3-25-2003/20030325010005_16.html

IMMIGRATION
Closing Arguments In Tyson Smuggling Case
http://news.findlaw.com/ap/o/1110/3-25-2003/20030325104502_06.html

LABOR AND EMPLOYMENT
Pension Deal May End US Airways' Woes
http://news.findlaw.com/ap/f/1310/3-25-2003/20030325014500_11.html

Delta CEO Mullin Gets $13 Million Package
http://news.findlaw.com/business/s/20030325/airlinesdeltapaydc.html

ENVIRONMENT
Wisconsin Finds Wasting Disease In Elk
http://news.findlaw.com/ap/o/1110/3-25-2003/20030325094502_23.html

CYBERSPACE LAW
Al-Jazeera Site Experiences Hack Attack
http://news.findlaw.com/ap/ht/1700/3-25-2003/20030325094502_08.html

INTELLECTUAL PROPERTY
School Loses Round One Of Patent Fight
http://news.findlaw.com/ap/ht/1700/3-25-2003/20030325010004_01.html

TELECOMMUNICATIONS
Ex-Adelphia Exec Says Firm Nixed Probe
http://news.findlaw.com/ap/f/1310/3-25-2003/20030325010005_10.html

BUSINESS
No Airline Aid In Emergency Spending Plan
http://news.findlaw.com/business/s/20030325/airlinesaiddc.html

NY Stock Exchange May Delist HealthSouth
http://news.findlaw.com/ap/f/1310/3-25-2003/20030325100011_16.html

INTERNATIONAL LAW
Suspect Arrested In Serbia Assassination
http://news.findlaw.com/ap/i/1103/3-25-2003/20030325070004_12.html

Russian Tycoon Berezovsky Caught In U.K.
http://news.findlaw.com/ap/i/1103/3-25-2003/20030325094502_25.html

WAR ON TERRORISM
3rd Man Pleads Guilty in N.Y. Terror Case
http://news.findlaw.com/ap/o/1110/3-25-2003/20030325094502_12.html

Experts: U.S. Not Ready For Toxin Attack

http://news.findlaw.com/ap/o/1500/3-25-2003/20030325021501_40.html

IRAQ
TV: Iraq May Use Chemical Weapons On US In Baghdad
http://news.findlaw.com/news/s/20030325/iraqlinereportdc.html

Iraq Satellite Jamming Devices Destroyed
http://news.findlaw.com/ap/i/1107/3-25-2003/20030325064500_03.html

CRIME & TRIALS
U.S. Lifts FBI Criminal Database Checks
http://news.findlaw.com/ap/a/w/1152/3-25-2003/20030325063001_13.html

Man Charged With Attack On Pregnant Woman
http://news.findlaw.com/ap/o/1110/3-25-2003/20030325094502_24.html

ENTERTAINMENT
'Will & Grace' Lawsuit Over TV Jack Settled
http://news.findlaw.com/entertainment/s/20030325/leisurewillgracedc.html

P. Diddy Reconciles With Ex-Girlfriend
http://news.findlaw.com/ap/e/1403/3-25-2003/20030325033002_21.html

SPORTS
March Madness Leads To Betting Fever
http://news.findlaw.com/sports/s/20030325/ncaabbettingdc.html

Congressman Eyes Tax Breaks For Cyclists
http://news.findlaw.com/ap/a/w/1153/3-25-2003/20030325023002_17.html

****

Online Legal Document Services with LegalZoom!

LegalZoom can help you form a corporation, make a living trust, or file for a trademark, all online! Our services are fast, affordable and guaranteed. Visit our website today at LegalZoom.com or click here:
http://rd.findlaw.com/scripts/nl.pl?url=10456416000_nl

********** West LegalEdcenter *******

Receive updates about NEW ONLINE CLE PROGRAMS

Register with West LegalEdcenter for monthly email updates about new online CLE programs in your practice areas and jurisdictions. West LegalEdcenter currently has more than 1,400 courses, with more added daily!

http://rd.findlaw.com/scripts/nl.pl?url=gen_cle_010402

********** westgroup.com **********

Get FREE ground shipping in the U.S. on all orders.
http://rd.findlaw.com/scripts/nl.pl?url=gen_ads_040102

****

FEEDBACK

We value your comments! Please take a moment to tell us what you think by sending an e-mail to:
mailto:newsletters@findlaw.com?subject=TopHeadlines. Please include

"Top Headlines" in the subject line.

SUBSCRIPTION INFORMATION

To subscribe to a FindLaw Newsletter, visit the FindLaw Newsletter Subscription Center at http://newsletters.findlaw.com

To unsubscribe, go to http://newsletters.findlaw.com/unsubscribe.html

---

ADVERTISING INFORMATION

For more information about advertising in FindLaw Newsletters, please contact us at:

mailto:sales@findlaw.com

FindLaw Top Headlines http://news.findlaw.com

Copyright (c) 2003 FindLaw, Inc.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ken Mehlman/WHO/EOP@EOP [WHO] <Ken Mehlman>
Sent: 3/25/2003 12:41:04 PM
Subject: : Re: Pascagoula Shipyards
Attachments: P_LWV0F003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:25-MAR-2003 17:41:04.00
SUBJECT:: Re: Pascagoula Shipyards
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

It is appropriate to let the Senator know our Administration
position on this and other policy issues and to let him know that that we
also have heard from outside groups who are concerned about it.

Ken Mehlman
03/25/2003 05:29:59 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Pascagoula Shipyards

Can we reach out to Sen. Lott on this, please? I'd like to ask Keith
Hennessey to do this.
---------- Forwarded by Ken Mehlman/WHO/EOP on 03/25/2003
05:29 PM ----------

Monte Byers <MByers@carpenters.org>
03/20/2003 07:03:26 PM
Record Type: Record

To: Ken Mehlman/WHO/EOP@EOP
cc:
Subject: Pascagoula Shipyards

Ken:

Per our conversation, I have attached a brief background on the issue at
the
Pascagoula Shipyard. Any support you could give us with Senator Lott would
be greatly appreciated.

If you, or the staff, have questions, you know how to reach me.

Monte

- pascagoula.doc

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_LWV0F003_WHO.TXT_1>

Northrup
Pascagoula Shipyard

The Issue:

AFL-CIO is putting pressure on Northrup, to put the Asbestos Workers back into the contracts at the Pascagoula Shipyard. This is a direct play by Sweeney to "hurt" the Carpenters. He sent Ron Alt of the AFL-CIO Metal Trades down to pressure Northrup to reinstate the AFL-CIO Metal Trades, and thus the Asbestos workers union, back into the contract at the Northrup yard. This would shift work that has been done by the Carpenters for over a decade, back to the Asbestos workers.

History:

In '91-92, the Navy had a subcontractor performing the asbestos-related work at the shipyard. The Navy wanted to audit the contractor's books. The contractor refused, and ultimately the Navy brought the work "inside," that is, it was performed directly by the shipyard workers rather than a subcontractor. The Asbestos Workers (formally known has the Heat, Frost, Insulators and Asbestos Workers had an agreement with the subcontractor, but when the work came inside it went to the Carpenters.

For over 10 years we've been doing the work for Northrup and by all accounts doing it well.

Now, John Sweeney is trying to medal in the contract in order to squeeze the Carpenters. He's pushing Northrup to "include" the Metal Trades Dept. of the AFL-CIO in the contract. If that happens, then the Asbestos Workers will "grieve" the assignment of work to the Carpenters, through AFL-CIO processes. A board, appointed by Sweeney, will award the work to the Asbestos Workers (total membership 16,000 - 18,000) and show the Building Trades, especially the smaller building trades unions, how he can squeeze the carpenters (total membership 550,000).

In the long run, Sweeney would squeeze the Carpenters in Pascagoula, but also begin building support among the large number of smaller-sized building trades unions to support Sweeney. There's a showdown coming in the Building Trades over whether they will defy Sweeney's attempt to force the Carpenters back into the AFL-CIO.

Follow Up:

Carpenters, through Rich Bond, are reaching out to Senator Lott. It would be great if the administration could support that effort. It would be helpful if they could make it clear to Senator Lott and his staff that from their first-hand experience we're a reasonable, trustworthy union to do business with and that UBC President Doug McCarron takes a very direct and business-like approach to his dealings.

We're asking Senator Lott to call Phil Dur, President of Northrup Pascagoula, phone: 228/935-8034 and/or Den Knectch, Director of Industrial Relations for Northrup Pascagoula, phone: 228/935-1493. Senator Lott knows Mr. Dur, and the shipyard is, of course, not only in his district but where his father worked.

We need as much support as we can muster encouraging Northrup not to let Sweeney subvert a process that has been working well for a decade. We hope Senator Lott will encourage top Northrup leadership to recognize Carpenters as a union they can do business with and encourage management to stick with the process that has served them well and not get caught up in this.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: John B. Wiegmann/NSC/EOP@EOP [NSC] <John B. Wiegmann>
Sent: 3/25/2003 3:46:19 PM
Subject: :

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:25-MAR-2003 20:46:19.00
SUBJECT::
TO:John B. Wiegmann (CN=John B. Wiegmann/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
End Original ARMS Header

By Dana Milbank and Mike Allen
Washington Post Staff Writers
The Bush administration last night issued an order delaying the release of millions of government documents and giving the government new powers to reclassify information that is already in the public domain.
The order, rewriting a Clinton administration directive, allows the government to delay until the end of 2006 documents that otherwise would have been released April 17 under a program of automatic declassification after 25 years. The government now has more discretion to keep information classified indefinitely if it falls within a broad definition of national security.
A key component of the new order removes a Clinton administration provision, from a 1995 order, saying that information should not be classified if there was "significant doubt" that its release would compromise national security. The Bush order removes the "significant doubt" provision, meaning that there will be more of a presumption that material should be classified unless proven harmless.
In addition to the three-year delay in the release of information already scheduled for release under the 25-year automatic declassification, the order exempts various pieces of information from future automatic declassification, including: "information that would assist in the development or use of weapons of mass destruction"; information that would harm "national security emergency preparedness plans or reveal current vulnerabilites"; information "that would impair the applicaiton of state of the art technology within a U.S. weapon system"; and information that would "impair relations between the United States and a foreign government."
A senior administration officials who told reporters about the order in a conference call last night said the three-year postponment of automatic declassification was needed to complete a revew of records or sensitive information; documents will be released as they are cleared, the official said. "The agencies haven't been able to complete the review of everything, which is obviously necessary for national security," the official said. The order gives the government more authority to reclassify information that had been "inappropriately declassified."
The White House released the 10,000 word order at 6:40 p.m. last night, making it difficult for experts in disclosure and government secrets to review the order. Steven Aftergood, director of the Project on Government Secrecy at the Federation of American Scientists, said the order "will slow the declassification process" and "signals a greater affinity for secrecy."
Aftergood, who had seen a draft of the new order, said he was pleased that some of the Clinton order's mechanisms have been ratified by a Republican president. But Aftergood said he was disturbed by provisions that make it easier to reclassify documents that have been declassified, and by the presumptive secrecy for information provided in confidence by a foreign government. "It makes secrecy reflexive rather than intelligent," he said.
In a statement introducing the order, Bush described it as a balance between national security and open government. "Our nation's progress depends on the free flow of information," he wrote. "Nevertheless, throughout our history, the national defense has required that certain information be maintained in confidence in order to protect our citizens,

our democratic institiutions, our homeland security, and our interactions with foreign nations."

The Bush administration has acted to expand executive power and secrecy in a large number of areas, particularly since the 2001 terrorist attacks. For example, it won new protections from congressional oversight in a lawsuit against Congress's General Accounting Office, and it has worked to tighten the release of historical presidential records and documents under the Freedom of Information Act. Bush also has won passage of legislation expanding government surveillance power.

Thomas Blanton, executive director of the private National Security Archive, said the order keeps key parts but of the Clinton reform but sends "one more signal from one high to the bureaucracy to slow down, stall, withhold, stonewall."

"This is an administration that was already tending toward greater secrecy before 9/11," he said. "Now we have a war, which is the ultimate leverage." Blanton said he does not believe the administration's motive is covering up. "This is a matter of theology for them," he said. "They really do believe in their hearts that we the people have made the White House too open and too accountable."

In 1995, President Bill Clinton signed an executive order that removed classified protections from millions of national security documents older than 25 years unless they fell into a narrow category of sensitive information needing continued protection. Before that, documents remained classified indefinitely.

The Bush official who briefed reporters said the order represents a "continuation of automatic declassification...with appropriate modifications." Some civil liberties experts had feared Bush would revoke the automatic declassification authority entirely, rather than modify it to allow more thorough reviews and easier reclassification of information.

From: William Kirk Blalock <kblalock@fierce-isakowitz.com>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Kevin Warsh/OPD /EOP@EOP [OPD] <Kevin Warsh>;Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>
Sent: 3/26/2003 4:21:34 AM
Subject: : Fw: Congress Daily blurb about Hatch meeting

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:William Kirk Blalock <kblalock@fierce-isakowitz.com> ( William Kirk Blalock
<kblalock@fierce-isakowitz.com> [ UNKNOWN ] )
CREATION DATE/TIME:26-MAR-2003 09:21:34.00
SUBJECT:: Fw: Congress Daily blurb about Hatch meeting
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######

See CD story at bottom, will let you know how it goes.
-----Original Message-----
From: "Rochman, Julie" <JRochman@aiadc.org>
Date: Wed, 26 Mar 2003 07:32:25
To:"'Mark Isakowitz'" <misakowitz@fierce-isakowitz.com>,
kblalock@fierce-isakowitz.com
Subject: FW: Congress Daily blurb about Hatch meeting

Sorry, meant to include you the first time...

> -----Original Message-----
> From: Rochman, Julie
> Sent: Wednesday, March 26, 2003 7:32 AM
> To: Asbestos Group
> Cc: Karr, Gary; 'mike heimowitz'
> Subject: Congress Daily blurb about Hatch meeting
>
> Hatch To Meet With Executives Seeking Asbestos Litigation Reform
> Senate Judiciary Chairman Hatch is scheduled to meet for two hours
> today with executives from various industries seeking asbestos litigation
> reform legislation this year.
> The executives and some of their policy and political operatives will
> meet privately with Hatch at the Capitol. The meeting is part of Hatch's
> efforts to derive a consensus among the various business interests and
> defendant companies -- whose unity is seen as a necessary first step to
> legislation.
> Representatives from the Asbestos Study Group, the Asbestos Alliance
> and the American Insurance Association have been invited, and several
> chief executives were scheduled to attend.
> Senate Judiciary ranking member Patrick Leahy, D-Vt., and his staff
> were not slated to be a part of today's meeting, although a spokesman
> Tuesday said Leahy will participate next week in a more inclusive
"summit"
> being organized by Sen. Christopher Dodd, D-Conn.
> That forum is expected to include other stakeholders in the debate,
> including labor, consumer and legal interests.
> Hatch has indicated he wants to mark up asbestos reform legislation by
> the April recess, and sources said they suspect Hatch at today's meeting
> could announce a more definitive timeline for drafting a bill.
> -=-=-=-=-=-=-=-
>
> Julie A. Rochman
```

> SVP, Public Affairs
> American Insurance Association
>

From: CN=Noel J. Francisco/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@Exchange [WHO] <David G. Leitch>
CC: theodore w. ullyot/who/eop@eop [WHO] <theodore w. ullyot>;benjamin a. powell/who/eop@eop [WHO] <benjamin a. powell>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;helgard c. walker/who/eop@eop [WHO] <helgard c. walker>;kyle sampson/who/eop@eop [WHO] <kyle sampson>;jennifer g. newstead/who/eop@eop [WHO] <jennifer g. newstead>;h. christopher bartolomucci/who/eop@eop [WHO] <h. christopher bartolomucci>;patrick j. bumatay/who/eop@exchange [WHO] <patrick j. bumatay>
Sent: 3/26/2003 5:42:21 AM
Subject: : RE: Portfolio changes

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:26-MAR-2003 10:42:21.00
SUBJECT:: RE: Portfolio changes
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
CC:theodore w. ullyot ( CN=theodore w. ullyot/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:benjamin a. powell ( CN=benjamin a. powell/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:brett m. kavanaugh ( CN=brett m. kavanaugh/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:helgard c. walker ( CN=helgard c. walker/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:kyle sampson ( CN=kyle sampson/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:jennifer g. newstead ( CN=jennifer g. newstead/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:h. christopher bartolomucci ( CN=h. christopher bartolomucci/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:patrick j. bumatay ( CN=patrick j. bumatay/OU=who/O=eop@exchange [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I think Ben has that one now.



From: David G. Leitch/WHO/EOP@Exchange on 03/26/2003 10:41:43 AM
Record Type: Record

To: Noel J. Francisco/WHO/EOP@EOP
cc: See the distribution list at the bottom of this message
Subject: RE: Portfolio changes

Still bitter about about the National Education Goals Panel, Noel?

-----Original Message-----
From: Francisco, Noel J.
Sent: Wednesday, March 26, 2003 10:35 AM
To: Leitch, David G.
Cc: Bumatay, Patrick J.; Walker, Helgard C.; Bartolomucci, H.
Christopher; Kavanaugh, Brett M.; Newstead, Jennifer G.; Powell, Benjamin
A.; Sampson, Kyle; Ullyot, Theodore W.
Subject: RE: Portfolio changes

Of course, by tradition, the latter interest is accorded a weight of about
.00000001.
```

From: David G. Leitch/WHO/EOP@Exchange on 03/26/2003 10:34:20 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: RE: Portfolio changes

I will need to balance your interests in dumping barking dogs with our interest in having our new associate counsel come back after the first day.

-----Original Message-----
From: Bumatay, Patrick J.
Sent: Wednesday, March 26, 2003 10:02 AM
To: Walker, Helgard C.; Bartolomucci, H. Christopher; Francisco, Noel J.; Kavanaugh, Brett M.; Newstead, Jennifer G.; Powell, Benjamin A.; Sampson, Kyle; Ullyot, Theodore W.
Cc: Leitch, David G.
Subject: Portfolio changes

As is tradition in this office, whenever an Associate Counsel leaves, everyone tries to ditch the bad parts of their portfolio on the incoming Counsel. We already have some trading going on, but we will entertain any other requests - subject to David Leitch's approval, of course.

Please let me know if you had any requests.

Thanks,
Patrick

Message Sent
To:_____
Patrick J. Bumatay/WHO/EOP@Exchange
Helgard C. Walker/WHO/EOP@EOP
H. Christopher Bartolomucci/WHO/EOP@EOP
Noel J. Francisco/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
Benjamin A. Powell/WHO/EOP@EOP
Kyle Sampson/WHO/EOP@EOP
Theodore W. Ullyot/WHO/EOP@EOP

Message Copied
To:_____
Patrick J. Bumatay/WHO/EOP@Exchange
Helgard C. Walker/WHO/EOP@EOP
H. Christopher Bartolomucci/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
Benjamin A. Powell/WHO/EOP@EOP
Kyle Sampson/WHO/EOP@EOP
Theodore W. Ullyot/WHO/EOP@EOP

From: FindLaw.com <listadmin@LEGALMINDS.ORG>
To: TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN] <TOPHEADLINES@LEGALMINDS.ORG>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 3/26/2003 11:13:40 AM
Subject: : [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Wed., Mar. 26, 2003

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"FindLaw.com" <listadmin@LEGALMINDS.ORG> ( "FindLaw.com" <listadmin@LEGALMINDS.ORG>
[ UNKNOWN ] )
CREATION DATE/TIME:26-MAR-2003 16:13:40.00
SUBJECT:: [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Wed., Mar. 26,
2003
TO:TOPHEADLINES@LEGALMINDS.ORG ( TOPHEADLINES@LEGALMINDS.ORG [ UNKNOWN ] )
READ:UNKNOWN
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

------------------------------------------------------------------------
FINDLAW Wed, Mar 26, 2003
------------------------------------------------------------------------
TOP LEGAL NEWS HEADLINES


For all of the day's legal news go to: http://news.findlaw.com
**********************************************************************

AMICUS ATTORNEY
Every second counts when you bill by the hour. Don't waste valuable
time searching for practice information when you can have it at your
fingertips with AMICUS ATTORNEY - the world's leading practice
management software. Stay on top of your practice and increase your
billable time - effortlessly! Download or order your FREE TRIAL today.
http://rd.findlaw.com/scripts/nl.pl?url=10479744000_nl

**********************************************************************

SUPREME COURT
Supreme Court Protects Legal Aid For Poor
http://news.findlaw.com/ap/a/w/1154/3-26-2003/20030326081501_04.html

Court Appears Divided On Anti-Sodomy Case
http://news.findlaw.com/ap/a/w/1154/3-26-2003/20030326100012_26.html


POLITICS
Congress To Hold Hearings On War Funds
http://news.findlaw.com/ap/a/w/1153/3-26-2003/20030326100011_06.html

Shakeup At Air Force Academy After Rape Scandal
http://news.findlaw.com/news/s/20030326/crimeacademydc.html


LEGAL COMMENTARY
The Texas Sodomy Case: Embracing The Right To Privacy
http://writ.news.findlaw.com/colb/20030326.html

Portraying POWs In The Media
http://writ.news.findlaw.com/commentary/20030326_dworkin.html


CIVIL RIGHTS
Court: Cuban Boy's Kin Can't Sue Reno
```

http://news.findlaw.com/ap/o/1110/3-26-2003/20030326093002_50.html

PERSONAL INJURY
Official Didn't See Shuttle Foam As Risk
http://news.findlaw.com/ap/o/1501/3-26-2003/20030326060001_22.html

PRODUCT LIABILITY
Heart Patients Warned Of Smallpox Vaccine
http://news.findlaw.com/ap/o/1500/3-26-2003/20030326030004_03.html

U.S. Probes Death of Nurse Vaccinated for Smallpox
http://news.findlaw.com/news/s/20030326/healthsmallpoxdc.html

IMMIGRATION
Jury Considers Tyson Immigrant-Labor Case
http://news.findlaw.com/ap/o/1110/3-26-2003/20030326071501_02.html

LABOR AND EMPLOYMENT
One-Third Of Federal Work Force May Quit
http://news.findlaw.com/ap/a/w/1155/3-26-2003/20030326003004_11.html

AMR Union Sees Vote on Concessions Soon
http://news.findlaw.com/business/s/20030326/airlinesamericanunionsdc.html

ENVIRONMENT
Farmers Dealt Setback In 'Got Milk' Case
http://news.findlaw.com/ap/f/1310/3-26-2003/20030326020001_21.html

Dolphins Help Spot Mines In Iraq War
http://news.findlaw.com/ap/i/1107/3-26-2003/20030326061500_27.html

CYBERSPACE LAW
Missouri Lawmaker Creates Virtual Office
http://news.findlaw.com/ap/ht/1700/3-26-2003/20030326023001_20.html

TELECOMMUNICATIONS
Nat'l Do Not Call Sign Up Starts In July
http://news.findlaw.com/ap/ht/1700/3-26-2003/20030326020001_18.html

BUSINESS
Calif. To Get Refund From Power Crisis

http://news.findlaw.com/business/s/20030326/utilitiescaliforniarefundsdc.ht
m
l

Source: HealthSouth CFO To Plead Guilty
http://news.findlaw.com/business/s/20030326/healthhealthsouthowensdc.html

INTERNATIONAL LAW
Interpol Issues Arrest Notice For Peru's Fujimori

http://news.findlaw.com/international/s/20030326/crimefujimoriinterpoldc.ht
m
l

Blair To Press Bush To Agree U.N. Role In Iraq
http://news.findlaw.com/politics/s/20030326/iraqbritaindc.html

WAR ON TERRORISM
Police Say Al Qaeda Suspect Possibly Seen In Tampa
http://news.findlaw.com/news/s/20030326/attacksearchdc.html

U.S. Fights 'Enemy Combatant' Access To Lawyers
http://news.findlaw.com/news/s/20030326/attackpadilladc.html

IRAQ
U.S. Forces Prepare Martial Law For Iraq
http://news.findlaw.com/ap/i/1107/3-26-2003/20030326070005_19.html

Report Says Slain U.S. Soldiers Tried To Surrender
http://news.findlaw.com/news/s/20030326/iraqprisonersusafatedc.html

CRIME & TRIALS
U.S. Soldier Held In Grenade Attack Sent To Germany
http://news.findlaw.com/news/s/20030326/iraqkuwaitattacksuspectdc.html

Va. Police Seek Suspect In Nun Abduction
http://news.findlaw.com/ap/o/1110/3-26-2003/20030326101501_04.html

ENTERTAINMENT
Pa. Lawmaker Proposes Fred Rogers Honor
http://news.findlaw.com/ap/e/1401/3-26-2003/20030326040004_07.html

Pro-War Media Bias Seen By US Antiwar Viewers-Poll
http://news.findlaw.com/entertainment/s/20030326/iraqmediapolldc.html

SPORTS
New Proposal For NFL Playoff Officials
http://news.findlaw.com/sports/s/20030326/nflofficialsdc.html

Guerrero's Three-Game Suspension Cut To Two
http://news.findlaw.com/sports/s/20030326/nlguerrerodc.html

****

Got control? You need AbacusLaw! Over 100,001 users can't possibly be wrong! See for yourself. For the latest color brochure and demo, call toll-free 800-726-3339 or CLICK HERE.
http://rd.findlaw.com/scripts/nl.pl?url=10370880000_nl

********** West LegalEdcenter *******

Receive updates about NEW ONLINE CLE PROGRAMS

Register with West LegalEdcenter for monthly email updates about new online CLE programs in your practice areas and jurisdictions. West LegalEdcenter currently has more than 1,400 courses, with more added daily!

http://rd.findlaw.com/scripts/nl.pl?url=gen_cle_010402

********** westgroup.com **********

Get FREE ground shipping in the U.S. on all orders.
http://rd.findlaw.com/scripts/nl.pl?url=gen_ads_040102

****

FEEDBACK

We value your comments! Please take a moment to tell us what you think by sending an e-mail to: mailto:newsletters@findlaw.com?subject=TopHeadlines. Please include "Top Headlines" in the subject line.

SUBSCRIPTION INFORMATION

To subscribe to a FindLaw Newsletter, visit the FindLaw Newsletter Subscription Center at http://newsletters.findlaw.com

To unsubscribe, go to http://newsletters.findlaw.com/unsubscribe.html

---

ADVERTISING INFORMATION

For more information about advertising in FindLaw Newsletters, please contact us at:

mailto:sales@findlaw.com

FindLaw Top Headlines http://news.findlaw.com

Copyright (c) 2003 FindLaw, Inc.

From: GaryM Stern <garym.stern@nara.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Nancy Smith <nancy.smith@nara.gov>;Jeffrey Landou <jeffrey.landou@nara.gov>
Sent: 3/27/2003 4:57:41 AM
Subject: : Re: 3/21/03 Special Access Notice

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:GaryM Stern <garym.stern@nara.gov> (GaryM Stern <garym.stern@nara.gov> [UNKNOWN])
CREATION DATE/TIME:27-MAR-2003 09:57:41.00
SUBJECT:: Re: 3/21/03 Special Access Notice
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Nancy Smith <nancy.smith@nara.gov> (Nancy Smith <nancy.smith@nara.gov> [UNKNOWN])
READ:UNKNOWN
CC:Jeffrey Landou <jeffrey.landou@nara.gov> (Jeffrey Landou <jeffrey.landou@nara.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Thanks.

>>> <Brett_M._Kavanaugh@who.eop.gov> 3/26/03 5:46:52 PM >>>
I would propose that you provide them to the DOJ attorney to review them first.

(Embedded
image moved GaryM Stern <garym.stern@nara.gov>
to file: 03/26/2003 05:45:40 PM
pic17477.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc: Jeffrey Landou <jeffrey.landou@nara.gov>
Subject: 3/21/03 Special Access Notice

Last week, we sent you an initial notice regarding a court order that was issued
on March 5 for access to Clinton Presidential records, from a Presidential Commission on Holocaust Assets, concerning Nazi era related records on the "Hungarian Gold Train," which is in response to a lawsuit filed by Hungarians
seeking compensation from the U.S. for taking the gold, et al. This case is
being defended by Federal Programs, Civil Division, Main Justice.

We are about to send the 21 day notice to the Clinton representative for him to
review the approximately 5000 pages that are potentially responsive to this request. When his review is complete, it will be your turn.

Our question for you, however, is whether you want to have the DOJ attorney review them first and/or for you, since she is familiar with the case? Or do
you want to review for constitutional privilege before letting DOJ have access?

Please let us know how you want us to proceed. And add this to your list of the
several pending questions I have before you that I would like to discuss. On

this particular question, you can contact me or Jeff Landou on my staff, who's
at 301-837-1899.

Thanks.

*

From: CN=Kevin Warsh/OU=OPD/O=EOP [OPD]
To: Lisa J. Macecevic/OMB/EOP@EOP [OMB] <Lisa J. Macecevic>
CC: richard e. green/omb/eop@eop [OMB] <richard e. green>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;lauren k. allgood/opd/eop@exchange@eop [OPD] <lauren k. allgood>;patrick j. bumatay/who/eop@exchange@eop [WHO] <patrick j. bumatay>
Sent: 3/27/2003 7:54:42 AM
Subject: : Re: NEC and WHC contacts on civil justice issues

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP [ OPD ] )
CREATION DATE/TIME:27-MAR-2003 12:54:42.00
SUBJECT:: Re: NEC and WHC contacts on civil justice issues
TO:Lisa J. Macecevic ( CN=Lisa J. Macecevic/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
CC:richard e. green ( CN=richard e. green/OU=omb/O=eop@eop [ OMB ] )
READ:UNKNOWN
CC:brett m. kavanaugh ( CN=brett m. kavanaugh/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:lauren k. allgood ( CN=lauren k. allgood/OU=opd/O=eop@exchange@eop [ OPD ] )
READ:UNKNOWN
CC:patrick j. bumatay ( CN=patrick j. bumatay/OU=who/O=eop@exchange@eop [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

lisa:

perhaps include the following:

dpc: diana
cos: kristen
whc: brett
nec: kevin

thanks
```

From: CN=Lisa J. Macecevic/OU=OMB/O=EOP [OMB]
To: Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 3/27/2003 9:53:18 AM
Subject: : 03/27 CongressDaily AM - possibility of Senate asbestos bill next month

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Lisa J. Macecevic (CN=Lisa J. Macecevic/OU=OMB/O=EOP [OMB])
CREATION DATE/TIME:27-MAR-2003 14:53:18.00
SUBJECT:: 03/27 CongressDaily AM - possibility of Senate asbestos bill next month
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

FYI --
---------- Forwarded by Lisa J. Macecevic/OMB/EOP on 03/27/2003 02:47 PM ----------

From: Lisa J. Macecevic on 03/27/2003 09:05:52 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: 03/27 CongressDaily AM - possibility of Senate asbestos bill next month

Hatch Lays Out Drafting Plan For Asbestos Litigation Bill
ÿÿÿÿÿSenate Judiciary Chairman Hatch said he plans to begin drafting an asbestos litigation reform bill April 10 and complete it over the Easter recess, with the aim of marking up a bill shortly after the recess, according to sources who met privately with Hatch Wednesday at the Capitol.
ÿÿÿÿÿHatch confirmed in an interview afterwards that he would mark up a bill shortly upon the senators' return from recess.
ÿÿÿÿÿOne source at the meeting, which was comprised of numerous executives of asbestos litigation defendant companies and their insurers, said Hatch made it clear he intends to draft a bill "with or without" the participation of the industry players.
ÿÿÿÿÿEmerging from the meeting, Hatch appeared a bit drained, but upbeat.
ÿÿÿÿÿHe responded to a reporter's question about how he was feeling by saying, "I'm so busy."
ÿÿÿÿÿBut he concurred with other meeting participants that the gathering had proven productive. "We made a lot of progress," he said.
ÿÿÿÿÿHatch is trying to forge consensus among the defendant companies -- which several lawmakers have acknowledged is a necessary precursor to crafting a bill that sweeps in numerous other interest groups with competing priorities.
ÿÿÿÿÿWednesday's gathering brought together executives for companies belonging to the Asbestos Alliance, the Asbestos Study Group and the American Insurance Association -- all of which share the broad goal for more "certainty" in the claims process, but have differing strategies for achieving it.
ÿÿÿÿÿSen. Christopher Dodd, D-Conn., who plans to help broker a deal, is expected to hold a "summit" next week, which will bring in labor, legal and consumer stakeholders, as well as other Senate Democrats, including Judiciary ranking member Patrick Leahy, D-Vt.
ÿÿÿÿÿIn the interview, Hatch numbered Dodd among the Democrats that he said was going to "work with us" to reach an agreement.

ÿÿÿÿÿHe also named Sens. Ben Nelson of Nebraska, Leahy, Thomas Carper of Delaware and Zell Miller of Georgia.
ÿÿÿÿÿMeeting up with Dodd in a hallway of the Capitol, Hatch added with a grin, "We're gonna work together."
ÿÿÿÿÿThe meeting attendee said Hatch had directed the industry representatives to "really get together" and report back to him in the next few days on their progress. "He really took control," the source added.
ÿÿÿÿÿHatch also emphasized the need for any legislation to contain a "strong medical criteria" for the bill, a spokeswoman for the American Insurance Association said.
ÿÿÿÿÿAIA is a key member of the Asbestos Alliance, which is in favor of using medical criteria to screen litigants seeking to file asbestos-related claims in court.
ÿÿÿÿÿShe said that Hatch and other meeting participants appeared to agree that there is a need "to get as much finality and certainty as is achievable, this year." She added extra emphasis to "this year."
ÿÿÿÿÿHatch emphasized in the interview that bipartisan cooperation would be necessary for success -- something Leahy concurred with in an interview earlier Wednesday.
ÿÿÿÿÿIf that is present, a bill can pass. If it is not, "It won't," Leahy said bluntly. By Pamela Barnett

Message Sent
To:_____
Lauren E. Bloomquist/OMB/EOP@EOP
James Boden/OMB/EOP@EOP
Kenneth L. Schwartz/OMB/EOP@EOP
Richard E. Green/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Benjamin A. Powell/WHO /EOP@EOP [WHO] <Benjamin A. Powell>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Noel J. Francisco/WHO /EOP@EOP [WHO] <Noel J. Francisco>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>
Sent: 3/27/2003 11:10:50 AM
Subject: : FW: 2 US Dist. Judges Confirmed

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:27-MAR-2003 16:10:50.00
SUBJECT:: FW: 2 US Dist. Judges Confirmed
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Helgard C. Walker ( CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Okay to appoint?

;-----Original Message-----
From: ; McCathran, William W.;
Sent:;; Thursday, March 27, 2003 4:07 PM
To:;;;; Bumatay, Patrick J.
Cc:;;;; Saunders, G. Timo; Kalbaugh, David E.
Subject:;;;;;;; 2 US Dist. Judges Confirmed

James V. Selna & Philip P. Simon were confirmed by the Senate today -- Ok
to appoint?
```

From: Lefkowitz, Jay P.
To: <Silverberg, Kristen>;<Kavanaugh, Brett M.>;<Bellinger, John B.>;<Perry, Philip J.>
Sent: 3/27/2003 5:40:23 PM
Subject: Re: Draft Victims of International Terrorism Legislation

Will not go anywhere any time soon.

Pls is to see where Congress wants to go first. They will send up reauth bill without any victim comp plan.
.

-----Original Message-----
From: Silverberg, Kristen
To: Lefkowitz, Jay P. ; Kavanaugh, Brett M. ; Bellinger, John B. ; Perry, Philip J.

Sent: Thu Mar 27 17:38:48 2003
Subject: FW: Draft Victims of International Terrorism Legislation

I assume we'll have a discussion before they send this anywhere??

What have we been hearing from the Hill about the vesting?

-----Original Message-----
From: BETTAUERRJ@ms.state.gov@EOP
Sent: Thursday, March 27, 2003 5:35 PM
To: Bellinger, John B.; Wood, John F.; Schacht, Diana L.; Lefkowitz, Jay P.; Dorn, Nancy; Perry, Philip J.; Silverberg, Kristen; Kavanaugh, Brett M.; paul.harris@usdoj.gov; marc.kesselman2@usdoj.gov; david.aufhauser@do.treas.gov; Moore, Holly T.

Cc: BOREKJS@ms.state.gov; SHEAHANN@ms.state.gov; KIMJJ@ms.state.gov; KellerAN@ms.state.gov; STEWARTDP@ms.state.gov; TerryJP@state.gov; WertmanDA@state.gov; FaulknerT@state.gov; GROSHLJ@ms.state.gov; ClodfeMA@ms.state.gov

Subject: Draft Victims of International Terrorism Legislation

<>
Attached is our markup of the redraft of the victims of terrorism
legislation that Jay Lefkowitz provided to Will Taft yesterday.
<>

<> - Compensation for Victims of International Terrorism Act-OMB Draft.doc <>

<> - att2.eml <>

From: CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Monique L. Dilworth/OA/EOP@EOP [OA] <Monique L. Dilworth>;Benjamin A. Powell/WHO /EOP@EOP [WHO] <Benjamin A. Powell>
Sent: 3/28/2003 4:55:52 AM
Subject: : RE: Mock hearing

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:28-MAR-2003 09:55:52.00
SUBJECT:: RE: Mock hearing
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Monique L. Dilworth (CN=Monique L. Dilworth/OU=OA/O=EOP@EOP [OA])
READ:UNKNOWN
CC:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

The mock hearing today was been postponed - since the hearing has been postponed for the end of April. We will let you know when it is reschedule. THANKS!

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Friday, March 28, 2003 9:36 AM
To: Litkenhaus, Colleen
Subject: Mock hearing

Ben Powell is planning to attend mock hearing for our office.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>
CC: Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>
Sent: 3/28/2003 3:57:36 AM
Subject: : Campen moot court

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:28-MAR-2003 08:57:36.00
SUBJECT:: Campen moot court
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Colleen L. has asked the three of us to submit questions to Ben from our
respective areas that could be asked of Tim Campen at his hearing. Ben
then can fire away at the moot.
```

From: CN=Lisa J. Macecevic/OU=OMB/O=EOP [OMB]
To: Kristen Silverberg/WHO/EOP@Exchange@EOP [WHO] <Kristen Silverberg>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Richard E. Green/OMB/EOP@EOP [OMB] <Richard E. Green>
Sent: 3/28/2003 1:17:07 PM
Subject: : DoJ Comment on S274 - Class Action Fairness Act of 2003

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Lisa J. Macecevic (CN=Lisa J. Macecevic/OU=OMB/O=EOP [OMB])
CREATION DATE/TIME:28-MAR-2003 18:17:07.00
SUBJECT:: DoJ Comment on S274 - Class Action Fairness Act of 2003
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Richard E. Green (CN=Richard E. Green/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
End Original ARMS Header

Please see DoJ's comment on the subject bill.

---------- Forwarded by Lisa J. Macecevic/OMB/EOP on 03/28/2003 05:50 PM ----------

We have one observation about S. 274, Class Action Fairness Act of 2003. The bill apparently governs both plaintiff and defendant class actions (since it defines "class action" and "plaintiff class action" as distinct terms), but at various points, it seems to contemplate only plaintiff class actions without so specifying. For example, by their terms, proposed new sections 1713, 1717(b), and 1717(e) of title 28 appear to apply to defendant class actions as well as plaintiff class actions. Is this the intent?

From: Schilling, Andrew <Andrew.Schilling@usdoj.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;'kfeinberg@thefeinberggroup.com' <kfeinberg@thefeinberggroup.com>;Jordan, Bill <Bill.Jordan@usdoj.gov>;Boudreaux, Chad <Chad.Boudreaux@usdoj.gov>;Letter, Douglas <Douglas.Letter@usdoj.gov>;Hunt, Jody <Jody.Hunt@usdoj.gov>;McCallum, Robert <Robert.McCallum@usdoj.gov>;Coffin, Shannen <Shannen.Coffin@usdoj.gov>;Philip J. Perry/OMB/EOP@EOP [OMB] <Philip J. Perry>;'Deborah@thefeinberggroup.com' <Deborah@thefeinberggroup.com>;John F. Wood/OMB/EOP@EOP [OMB] <John F. Wood>;Bloemendal, Katherine <Katherine.Bloemendal@usdoj.gov>;Swingle, Sharon <Sharon.Swingle@usdoj.gov>;Garvey, Vincent <Vincent.Garvey@usdoj.gov>;Harris, Paul (SMO) <Paul.Harris@usdoj.gov>;Keisler, Peter D <Peter.D.Keisler@usdoj.gov>;Blackwell, Craig <Craig.Blackwell@usdoj.gov>
Sent: 3/28/2003 2:31:50 PM
Subject: : Oppsition Briefs
Attachments: P_E4B5F003_WHO.TXT_1; P_E4B5F003_WHO.TXT_2

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Schilling, Andrew" <Andrew.Schilling@usdoj.gov> ( "Schilling, Andrew"
<Andrew.Schilling@usdoj.gov> [ UNKNOWN ] )
CREATION DATE/TIME:28-MAR-2003 19:31:50.00
SUBJECT:: Oppsition Briefs
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:"'kfeinberg@thefeinberggroup.com'" <kfeinberg@thefeinberggroup.com> (
"'kfeinberg@thefeinberggroup.com'" <kfeinberg@thefeinberggroup.com> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Jordan, Bill" <Bill.Jordan@usdoj.gov> ( "Jordan, Bill" <Bill.Jordan@usdoj.gov> [
UNKNOWN ] )
READ:UNKNOWN
TO:"Boudreaux, Chad" <Chad.Boudreaux@usdoj.gov> ( "Boudreaux, Chad"
<Chad.Boudreaux@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Letter, Douglas" <Douglas.Letter@usdoj.gov> ( "Letter, Douglas"
<Douglas.Letter@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Hunt, Jody" <Jody.Hunt@usdoj.gov> ( "Hunt, Jody" <Jody.Hunt@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"McCallum, Robert" <Robert.McCallum@usdoj.gov> ( "McCallum, Robert"
<Robert.McCallum@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Coffin, Shannen" <Shannen.Coffin@usdoj.gov> ( "Coffin, Shannen"
<Shannen.Coffin@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:Philip J. Perry ( CN=Philip J. Perry/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:"'Deborah@thefeinberggroup.com'" <Deborah@thefeinberggroup.com> (
"'Deborah@thefeinberggroup.com'" <Deborah@thefeinberggroup.com> [ UNKNOWN ] )
READ:UNKNOWN
TO:John F. Wood ( CN=John F. Wood/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:"Bloemendal, Katherine" <Katherine.Bloemendal@usdoj.gov> ( "Bloemendal, Katherine"
<Katherine.Bloemendal@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Swingle, Sharon" <Sharon.Swingle@usdoj.gov> ( "Swingle, Sharon"
<Sharon.Swingle@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Garvey, Vincent" <Vincent.Garvey@usdoj.gov> ( "Garvey, Vincent"
<Vincent.Garvey@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Harris, Paul (SMO)" <Paul.Harris@usdoj.gov> ( "Harris, Paul (SMO)"
<Paul.Harris@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:"Keisler, Peter D" <Peter.D.Keisler@usdoj.gov> ( "Keisler, Peter D"
```

<Peter.D.Keisler@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
TO:"Blackwell, Craig" <Craig.Blackwell@usdoj.gov> ("Blackwell, Craig"
<Craig.Blackwell@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Although plaintiffs represented to Judge Hellerstein that they would endeavor to submit only one brief this time, we have received 3 briefs in opposition ot our motion to dismiss: a Joint Brief; a Supplemental Brief submitted on behalf of the Colaio plaintiffs; and a Supplemental Brief submitted on behalf of the Schneider plaintiffs. Attached is the Joint Brief and the Supplemental Colaio Brief. Notwithstanding our agreement among counsel to e-mail the briefs, the Schneider brief was faxed to us (they claimed a technical problem with their e-mail). Accordingly, I am sending a hard copy of that brief to Craig and Shannen by overnight delivery. I will also fax a copy of the Schneider Supplemental brief to anyone else who requests it.

Our papers were served and filed tonight without incident. I am sending hard copies of our final brief to Craig and Shannen (and, of course, to anyone else who requests a copy).

Have a great weekend.

Andrew

- JOINT OPPOSITION BRIEF.PDF - COLAIO SUPPL OPP BRIEF.PDF
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_E4B5F003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_E4B5F003_WHO.TXT_2>

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUNE COLAIO, *et al.*, **Plaintiffs,** **- against -** **KENNETH R. FEINBERG, *et al.*,** **Defendants.**	**03 Civ. 0558 (AKH)**
DONNA M. SMITH, *et ano.*, **Plaintiffs,** **- against -** **JOHN ASHCROFT, *et al.*,** **Defendants.**	**03 Civ. 1040 (AKH)**
CHERYL SCHNEIDER, **Plaintiff,** **- against -** **KENNETH R. FEINBERG, *et al.*,** **Defendants.**	**03 Civ. 1129 (AKH)**

PLAINTIFFS' JOINT MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS

SALANS
Attorneys for Plaintiffs in 03 Civ. 0558
620 Fifth Avenue
New York, NY 10020

KREINDLER & KREINDLER
Attorneys for Plaintiffs in 03 Civ. 1040
100 Park Avenue
New York, NY 10017

LAW FIRM OF AARON J. BRODER & JONATHAN C. REITER
Attorneys for Plaintiff in 03 Civ. 1129
320 Fifth Avenue, Suite 2811
New York, NY 10018

PRELIMINARY STATEMENT....1

STATEMENT OF FACTS....6

The Colaio Complaint....7

The Smith Complaint....11

The Schneider Complaint....12

ARGUMENT....17

THE APPLICABLE LEGAL STANDARDS....17

I. THE SPECIAL MASTER MAY NOT IMPOSE A "NEEDS" TEST TO LIMIT OR IMPOSE A CAP ON COMPENSATION FROM THE FUND....21

A. Defendants Cannot Limit Compensation to September 11 Victims Under the Guise of A Subjective and Arbitrary "Needs" Test....23

1. Section 104.41 of the Regulations and the Special Master's needs test cannot be reconciled with the text or purpose of the Act....23

2. Section 104.41 of the Regulations and the Special Master's needs test are also inconsistent with legislative history of the Act....29

B. The Special Master's Cap on Awards Violates the Statute and Is Arbitrary and Capricious....30

C. Defendants' Suggestion that Plaintiffs Are Seeking to Increase Awards to High Earner Claimants at the Expense of Low Earner Claimants is Inaccurate and Inappropriate....32

D. Defendants' Interpretation of the Act, Not Plaintiffs', Improperly Renders Portions of the Act Superfluous....34

II. THE ACT REQUIRES THE SPECIAL MASTER TO REVIEW CLAIMANTS' PROOF AND DETERMINE "ECONOMIC LOSS" IN ACCORDANCE WITH APPLICABLE STATE LAW....37

A. The Plain Text of the Act Mandates That the Special Master Compute Economic Loss Under Applicable State Law and Render an Award Based on the Same....37

REV_00161160

B. No Other Federal Statute Supports Defendants' Position That the Special Master Has the Authority to Award Less Than Full Economic Damages Under Applicable State Law. 43

C. The Structure of the Act Refutes Defendants' Position That the Special Master May Impose a Cap 45

III. PLAINTIFFS' CLAIMS ARE REVIEWABLE....47

A. Plaintiffs' Claims Are not Precluded....47

B. Plaintiffs Do Not Seek Judicial Review of Individual Awards, and the Special Master's Promulgation of Rules and Methodologies is Ripe for Review. 51

CONCLUSION....65

June Colaio, Victor J. Colaio, Frank John Aquilino, Geraldine Davie, JoAnne Lovett, Nancy N. Pedicini, and Maria A. Waring, Plaintiffs in the action entitled Colaio et al. v. Feinberg et al., 03 Civ. 0558 (AKH), by their attorneys, Salans; Donna M. Smith and Jill I. Rosenblum, Plaintiffs in the action entitled Smith et ano. v. Ashcroft et al., No. 03 Civ. 1040 (AKH), by their attorneys, Kreindler & Kreindler; and Cheryl Schneider, Plaintiff in the action entitled Schneider v. Feinberg et al., 03 Civ. 1129 (AKH), by her attorneys, the Law Firm of Broder & Reiter (collectively, "Plaintiffs") respectfully submit this joint memorandum of law in opposition to the FRCP Rule 12(c) motion to dismiss of the Defendants Kenneth R. Feinberg, Special Master of the September 11th Victim Compensation Fund of 2001 (the "Fund"), John Ashcroft, Attorney General of the United States, and the United States Department of Justice (collectively, "Defendants").[1]

PRELIMINARY STATEMENT

Defendants have conceded, as they must, that the vast majority of "eligible individuals" under Title IV of the Air Transportation Safety and System Stabilization Act, 49 U.S.C. § 40104 (the "Act"), have neither filed claims with the Fund nor filed private tort lawsuits in this Court. The fact that so many September 11 victims have remained on the sidelines with the September 10, 2003 New York wrongful death statute of limitations and the December 21, 2003 Fund deadline looming is striking evidence of the widespread uncertainty and disenchantment with certain aspects of the Defendants' administration of the Fund. September 11 victims are today in a legal no man's land while wanting to initiate the process of receiving compensation for their economic and non-economic losses. The

[1] Plaintiffs in the aforementioned Colaio action (the "Colaio Plaintiffs") are separately serving and filing a supplemental memorandum of law, which addresses those portions of Defendants' motion addressed to certain allegations found solely in the Amended Class Action Complaint in the Colaio action.

REV_00161162

Defendants' response to the victims is a legal diatribe parading as a motion to dismiss Plaintiffs' complaints.

Defendants' motion has a number of recurring themes upon which the Government's and the Special Master's positions are premised. Each such theme is legally unsupportable and demonstrably false, based on the record already compiled before this Court. Defendants seem to be troubled by neither the law nor the facts, since their view of the Act and the Fund stems from the predicate rationale that it is the Government's money, and the Government and the Special Master alone will decide who gets what and why. Because of (i) the plain and unambiguous language of the statute; (ii) the clearly expressed intent of Congress; and (iii) the well-pleaded allegations of the complaints, the Defendants' motion must be denied, and this Court should not be swayed by their misplaced themes.

First, the Defendants engage in a transparent "class warfare" approach which seeks to pit the Plaintiffs against lower-income claimants; the Defendants literally argue that the relief sought in the complaints would somehow be at the expense of deserving lower-income Fund claimants. Not only is the Defendants' attempt to paint the Plaintiffs as greedy and seeking some manner of undeserved windfall from the public coffers shameful, but it is literally not true since the Plaintiffs in the Colaio action span the entire gamut of income levels, marital status, and number of dependents in terms of the decedents represented by those seven Plaintiffs – and the broad-based class on whose behalf they seek to sue under FRCP Rule 23. More fundamentally, there is nothing in the three complaints or in the

positions advocated by the Plaintiffs before this Court that could fairly be construed as limiting or coming at the expense of Fund compensation for claimants whose decedents had lower incomes.[2]

Second, and equally distorting, is the Defendants' effort to portray the Plaintiffs' position as mandating a "mechanistic" approach that would require that "the Fund must provide the maximum award theoretically possible in a state law tort suit . . ." (Def. Mem. at 5.) Again, there is nothing in the three complaints or in the positions advocated by the Plaintiffs seeking to require that the Special Master award individual compensation on the precise basis that is "theoretically possible" in a private civil suit. The Plaintiffs do not take the view that the Fund is some manner of Lotto jackpot which they have the right to win. The Plaintiffs and their attorneys have made it crystal clear that they believe in the important work of the Fund, and that the time has come for the process envisioned in the Act to unfold without pre-rigged rules, regulations and methodologies that are contrary to the letter and spirit of the Act, and which would ordain the outcome of the process for many claimants even before they had the opportunity to present proof of "economic loss" or otherwise advocate their "individual circumstances."

Third, another leitmotif of the motion to dismiss is that the plain and simple statutory language adopted by Congress somehow, and by some convoluted reasoning, does not really mean what it says. Defendants doggedly persist in maintaining that what was really intended by Congress was something separate and apart from what the Act actually says. However, as is self-evident, Congress was entirely capable of drafting and adopting a statute that contained provisions of the sort advanced by

[2] Indeed, the relief sought in the Colaio action would, if granted, virtually guarantee that most lower-income Fund claimants would receive more from the Fund than currently projected in the Special Master's presumptive award charts.

REV_00161164

the Defendants in the challenged rules and regulations, and it did not do so. Moreover, it is abundantly clear that the key issues in dispute were in fact vetted in the halls of Congress, and the legislative branch turned aside several efforts to impose the preordained limitations that the Special Master seeks to visit on the shoulders of the victims of September 11.

Fourth, and remarkably, the Defendants ignore in wholesale fashion the applicable law and the Federal Rules of Civil Procedure with respect to their own Rule 12(c) motion to dismiss. This tactic is similar to the Defendants' answers, which were, and are, a studied exercise in circumlocution and evasiveness. Ignoring hornbook law, the Defendants simply pretend that the well-pleaded allegations of the complaints, which must be deemed true, do not exist and need not be addressed. In fact, where it suits their convenience, Defendants seek to rebut some of the Plaintiffs' allegations, and their brief reads like proposed findings of fact following full discovery, rather than as a motion to dismiss.

* * *

In order to accomplish their sleight-of-hand, the Defendants seize upon, literally, two words in the Act ("individual circumstances") while largely ignoring the rest of the statute and the Special Master's clear obligation to calculate "the extent of the harm, including any economic and noneconomic loss . . . " Act § 405(b)(1)(B). Although Plaintiffs have alleged in each of their complaints that the Special Master has refused to abide by his statutory obligation to "review" and "determine" the harm to the claimant,[3] the Defendants blithely ignore Congress' straightforward

[3] And, there is abundant and irrefutable evidence to this effect that has been submitted by Plaintiffs in support of their simultaneous summary judgment motions.

REV_00161165

directive and seek to replace it with the alleged ability of the Special Master to implement an entirely subjective "needs" test for a substantial percentage of the eligible Fund claimants under the Act.

It is, by this point, equally clear that this "needs" test is little more than a euphemism by which to claim unbridled discretion and thus cloud the imposition of a de facto cap on Fund awards for so-called "high earners" – while portraying himself as the champion of the needy. Defendants are simply wrong. Congress did not instruct the Special Master to employ a "needs" test, and it most certainly rejected any and all "caps"; it did require the Special Master to calculate the harm to the claimant and "the amount of compensation to which the claimant is entitled." To contend, as Defendants do, that the last few words of Section 405(b)(B)(ii) ("individual circumstances of the claimant") trump virtually everything that precedes them is to engage in sophistry.

Defendants similarly seek to read the Act's reference to state law out of the statute. Defendants first construe the provision that economic loss is to be calculated "to the extent recovery for such loss is allowed under applicable State law" (Act § 402(5)) as simply defining the general categories of compensation to those state law would recognize. This is ridiculous since the statutory definition itself contains a long parenthetical that lists the general categories quite thoroughly. Defendants simultaneously argue, however, that they cannot be expected to consider state law at all because it would be too burdensome.[4] Defendants' argument thus nullifies Congress' plainly stated intent that state law be the touchstone of economic loss calculations. That intent is undeniable when one compares the

[4] Defendants assert that if Plaintiffs' challenges are sustained, the ruling will vastly multiply the Special Master's tasks, creating an intolerable burden that will inordinately prolong the Fund process, depriving claimants of expeditious awards. (Defendants' Memorandum of Law in Support of Their Motion to Dismiss ("Def. Mem.") at 5.) No support is given for this argument, and it is no basis for dismissal under Rule 12(c).

statutory definitions of "economic loss" (which explicitly refers to state law) to "noneconomic loss" (which does not).

Lastly, the Defendants make much of their argument that the Fund is voluntary, and that there is supposedly a "choice" to be made if claimants desire to maximize their awards. Apart from the fact that, as evidence adduced on Plaintiffs' own motions makes clear, the "choice" is largely illusory, Defendants again ignore that the Act itself provided the limitations that would exist in seeking compensation from the Fund – such as deduction of collateral offsets, the inability to obtain punitive damages, the lack of judicial review, and (as subsequently imposed by the Special Master's regulations) the substantial limitation on recoveries for non-economic losses.

STATEMENT OF FACTS

Plaintiffs have described the Act and the promulgation of rules, regulations and methodologies pursuant to the Act in detail in their memoranda of law in support of their simultaneous motions for summary judgment. (See Plaintiffs' Memorandum of Law in Support of Motion for Summary Judgment ("Colaio Summ. J. Mem.") at 7-28; Plaintiffs' Joint Memorandum of Law in Support of Rule 56 Motions for Summary Judgment ("Joint Summ. J. Mem.") at 3-7.) In the interest of brevity, the Plaintiffs respectfully refer the Court to the statements of fact contained in those previously submitted memoranda of law and incorporate the same herein by reference.

Although Defendants have denominated their motion a "motion to dismiss" pursuant to Rule 12(c) of the Federal Rules of Civil Procedure, they devote precious little attention to Plaintiffs' complaints in these actions, the allegations of which must, of course, be deemed true for purposes of Defendants' motion. It is, in fact, the three complaints that necessarily frame the factual background of this motion. The complaints in these three actions, while all challenging certain of the Defendants' rules,

regulations and methodologies in implementing the Act, differ in certain material respects. As detailed below, the individual Plaintiffs themselves have different socioeconomic backgrounds, and some Plaintiffs are suing solely on behalf of themselves, while others are suing on behalf of a putative class. Although all three complaints allege and challenge the Special Master's imposition of a "needs" test and a de facto cap on awards to claimants, and the absence of any meaningful administrative guidance as to awards for so-called "high earners," two of the complaints challenge other aspects of the charts, methodologies and criteria used by the Defendants to calculate Fund awards.

The Colaio Complaint

On January 25, 2003, the Colaio Plaintiffs commenced the first action by filing their initial Class Action Complaint. On February 21, 2003, the Colaio Plaintiffs, in accordance with the Court's February 7, 2003 Scheduling Order, filed their Amended Class Action Complaint (the "Colaio Complaint"). The Colaio Complaint sets forth two causes of action: first, that the Defendants' promulgation and adoption of certain rules, regulations and methodologies governing the Special Master's administration of the Fund violate the terms of the Act; and second, that the same rules, regulations and methodologies and administration of the Fund have been arbitrary and capricious, entitling Plaintiffs to relief under the Administrative Procedure Act. (Colaio Complaint ¶¶ 78-88.)

The Colaio Plaintiffs span a broad range of socioeconomic backgrounds. (See id., ¶¶ 11-17.) Two were married to victims who perished at the World Trade Center on September 11th, while five were parents of single victims. Three of the Plaintiffs' decedents earned in excess of

$231,000 annually, but the remaining four Colaio Plaintiffs are personal representatives of decedents who earned less than, and in some instances considerably less than, $100,000.[5]

As detailed in the Colaio Complaint, Plaintiffs seek to represent a class that consists of virtually all "eligible individuals" under the Act who are the personal representatives of decedents who died at the World Trade Center site on September 11. Excluded from the defined class are those victims who were injured but survived at the New York City site and those who were injured or killed at the sites in Arlington, Virginia and Shanksville, Pennsylvania. (Id., ¶¶ 21, 28.)

After describing the Act and the relevant regulatory background, the Colaio Complaint identifies four areas in which the Defendants' rules, regulations, methodologies and administration of the Fund are unlawful: 1) undercompensating for economic loss by basing calculations on after-tax earnings; 2) undercompensating for economic loss for single decedents by application of arbitrary and unreasonable consumption rates; 3) undercompensating for economic loss by using a base level earnings formula that does not reflect economic or financial reality; and 4) failing to develop methodologies and schedules for economic loss compensation for decedents whose average earnings exceeded the United States 2000 98th percentile for individual income, and imposing a de facto, arbitrary, unreasonable cap on individual awards in this category by adopting an unauthorized and undefined "needs" test. (Id., ¶¶ 52-77.)

Contrary to the impression left by Defendants' characterization of the facts, the Colaio Complaint challenges not only regulations formally promulgated pursuant to notice and comment

[5] The diverse socioeconomic backgrounds of the victims represented by the Colaio Plaintiffs puts the lie to Defendants' unsupported (and irrelevant) suggestion that a disproportionate number of Plaintiffs are representatives of high earner decedents. (See, e.g., Def. Mem. at 2.)

rulemaking but also informal rules, criteria, and methodologies adopted and implemented by the Special Master. The Colaio Plaintiffs' first area of challenge is to the Special Master's methodology for calculating awards of economic losses on the basis of after-tax, instead of pre-tax, compensation. (See id., ¶¶ 53-56.) As the Colaio Plaintiffs have alleged, this methodology appears not in the Regulations,[6] but rather in the Special Master's Explanation of Process, published on the Fund website. (Id., ¶ 53.) As further alleged by the Colaio Plaintiffs, the Special Master's use of after-tax earnings to compute awards conflicts with New York law and results in lower awards to virtually all Fund claimants. (Id., ¶¶ 54-55.)

The Colaio Plaintiffs next challenge the Special Master's methodology for computing the consumption rate to be applied to awards to survivors of single victims. (See id., ¶¶ 57-60.) The Colaio Plaintiffs have alleged that the Special Master's published methodology (which does not appear in the Regulations) "reveals a shocking disparity between the consumption rate of a single decedent versus a decedent who was married." (Id., ¶ 57.) This disparity finds no support under state law and results in markedly lower awards to families of single victims. (Id., ¶¶ 58-59.)

The Colaio Complaint further alleges that the Special Master has adopted several methodologies that reduce awards to claimants by disregarding victims' actual earnings histories. The Colaio Plaintiffs allege that the Regulations and the Special Master's informal pronouncements adopt a presumptive policy of using a three-year average of 1998-2000 income data, resulting in lower awards than if data for 1999 to 2000, or 2001 data, were used. (Id., ¶¶ 61-63.) The Colaio Plaintiffs also allege that, in computing awards, the Special Master has adopted a policy of relying on 2000 census

[6] As used herein, the term "Regulations" refers to the Interim Final Rule, as modified by the

(*continued on next page*)

REV_00161170

data for earnings growth rate data, even when an individual victim's own earnings' history data is available. (Id., ¶ 64.) The Colaio Plaintiffs have also alleged that, in making awards, the Special Master has refused to consider a victim's compensation other than salary and bonus. (Id., ¶ 65.)

The final area in which the Colaio Plaintiffs challenge the Special Master's actions is his failure to develop presumed loss charts for victims whose income exceeded the 98th percentile of wage earners and his imposition of a de facto cap on awards. (See id., ¶¶ 67-77.) The Colaio Complaint includes allegations that the Regulations impose an unlawful burden of proving "extraordinary circumstances" to obtain an award in excess of that for the so-called "high earners" (id., ¶ 67), and that the Special Master has interposed a "needs" test that finds no support in the statute (id., ¶¶ 68, 69, 73-76.) The Colaio Plaintiffs have also alleged that the Special Master has unfairly refused to develop any criteria or guidelines governing awards to victims above the 98th percentile or delineating the operation of the Special Master's novel "needs" test. (Id., ¶¶ 70-72.) The Colaio Plaintiffs challenge not only the Regulations' 98th percentile cut-off, but also the Special Master's de facto cap on awards. (Id., ¶ 70.) Specifically, the Colaio Plaintiffs have alleged that the Special Master's de facto cap is in the range of $5 million to $7 million, regardless of the actual economic harm suffered by the claimant. (Id., ¶ 71.) As Plaintiffs have alleged, the Special Master's cap flaunts the will of Congress, which expressly considered and rejected a cap on awards. (Id., ¶ 74.)

The Colaio Complaint seeks a judgment declaring the four challenged rules, regulations, and methodologies unlawful, and an injunction rescinding the same and requiring Defendants to adopt substitutes that are consistent with the Act. (Id. at pp. 31-32.) The Colaio Complaint also requests

---

(*continued from previous page*)
Final Rule, 28 C.F.R. §104.

REV_00161171

certain relief intended to preserve the rights of the class members during the pendency of the litigation, including a declaration that Fund awards rendered prior to the final resolution of the case be deemed interim and subject to possible revision. (Id. at p. 32.) Again, contrary to the mischaracterization advanced by Defendants, the Colaio Complaint does not suggest, let alone mandate, that all prior Fund awards be revised.

The Smith Complaint

Notwithstanding Defendants' sweeping and erroneous assertions that the Special Master has authority to "limit" claimants' awards to amounts less than their proven economic loss, the Smith action ("Smith Complaint") alleges that the following facts are not in dispute:

Plaintiff Donna M. Smith resides in New York and is the widow of James Gregory Smith who was killed in the World Trade Center on September 11, 2001. Plaintiff Jill I. Rosenblum resides in New York and is the widow of Andrew I. Rosenblum who was killed in the World Trade Center on September 11, 2001. (Smith Complaint ¶¶ 1-2.)

Plaintiffs are entitled to receive compensation from the Fund pursuant to the Act for the "economic loss" they and their children have suffered "to the extent recovery for such loss is allowed under applicable [New York] law." (Act § 402(5); Smith Complaint ¶¶ 24, 26.)

James Gregory Smith was 44 years old when he was killed; Andrew I. Rosenblum was 45 years old when he was killed. Each of their annual earnings for each of the three years preceding their deaths substantially exceeded $231,000 per year; each was reasonably likely to receive substantial increases in annual earnings in the future; and each had a work expectancy that would extend well beyond the age of 62. (Smith Complaint ¶¶ 25, 27.)

Under Act § 402(5), Congress defined the "economic loss" recoverable by eligible Fund claimants to mean "any pecuniary loss . . . to the extent recovery for such loss is allowed under applicable State law." (Id., ¶ 13.)

After the enactment of the Act, the Attorney General and Special Master promulgated the Regulations by which the Special Master will determine the amount of individual claimants' Fund awards, including the amount of Plaintiffs' Fund awards. (Id., ¶¶ 18, 19.)

According to the Regulations, the Special Master has concluded that he has the discretion not to award Plaintiffs their full "economic loss . . . to the extent recovery for such loss is allowed under applicable [New York] law." (Id., ¶¶ 35-42.)

The Special Master has concluded that he has the discretion to limit the amount of economic loss recoverable by Fund claimants to such an amount as he decides is appropriate in light of the financial needs and financial circumstances of Fund claimants such as Plaintiffs. (Id., ¶¶ 35-42.)

The Special Master will limit and cap the amount of economic damages he awards Plaintiffs based on what the Special Master determines Plaintiffs need in light of their resources. (Id., ¶¶ 35-42.)

In computing the economic loss of individual Fund claimants, the Special Master will determine the lost future income stream of a decedent based upon the decedent's net after-tax income rather than upon the decedent's gross pre-tax income. (Id., ¶¶ 45-46.)

The Schneider Complaint

The Schneider complaint is an action for a declaratory judgment pursuant to 28 U.S.C. § 2201 *et seq.*, and for further necessary and proper relief, arising from Defendants' stated intention to interpret and apply the Act in a manner inconsistent with the Act's express terms and purposes, creating

substantial doubt that Plaintiff's statutory right to receive all compensation to which she is entitled from the Fund will be recognized and vindicated by Defendants. Plaintiff Schneider specifically alleges that Defendant Special Master Kenneth R. Feinberg has clearly indicated that he will not award Plaintiff the amount of her net economic losses, even as determined, though substantially understated, by his own retained firm of accountants, PriceWaterhouse, indicating that such computations, as well as those of Plaintiff's retained economist, are "moot" or "irrelevant", because, in the Special Master's words, "the numbers are far north of anything that I will pay." Such statements by the Special Master and others, confirm his intention to disregard and effectively nullify the express terms of the Act in determining economic loss and awarding compensation under the Act. Plaintiff Schneider specifically alleges that Defendants have imposed a de facto cap on compensation awards from the Fund.

Plaintiff Cheryl Schneider is the widow and Executrix of the Estate of Ian Schneider, and brings the action in such capacity, as well as individually and on behalf of the next of kin, their three minor children, Rachel, Jacob and Sophie, whose ages on September 11, 2001 were 10, 9 and 7 respectively. Ian Schneider was killed on September 11, 2001 when Tower One of the World Trade Center collapsed. Ian Schneider was employed at Cantor Fitzgerald L.P., where he had spent his entire business career of some 23 years, during which he had risen to the position of Senior Managing Director of the Money Market Instruments Division, and a Partner in Cantor Fitzgerald, L.P. Decedent was 45 years old, in excellent health and had been married to Cheryl Schneider, then age 44, for over 16 years.

The Schneider Complaint further alleges that pursuant to the express invitation of the Special Master, and pursuant to procedures established by him, a detailed preliminary submission of facts and law was made to the Special Master on or about October 9, 2002, including the Report of an

expert economist, Michael Keane, Ph.D., and three volumes of exhibits including tax returns and other pertinent financial data and that the economic loss to the Schneider family computed by said economist in strict compliance with the improperly restrictive methodology set out in the Rules, was in the range of $28,553,513 (utilizing 1998-2000 average annual earnings computed to retirement age 62) to $40,092,833 (utilizing 1998-2000 average annual earnings computed to retirement age 70).

The Schneider Complaint further alleges that the Special Master's own retained firm of economists, PriceWaterhouse LLC, computed plaintiff's net economic loss (after collateral source deductions) to be $14.5-15 million – a fact unique to the Schneider case, and of critical importance in demonstrating that the Special Master intends to nullify crucial portions of the Act.[7] The complaint further alleges that the Special Master has stated that he will not award Plaintiff Schneider her economic losses, even as computed by his own experts, and has characterized his own expert's computations as "moot" and "irrelevant," because the numbers are "far north of anything I will pay." The Special Master has stated that he will award Plaintiff Schneider no more than $4.5-6 million, a mere fraction of her actual, proven, economic losses, despite raising no issue as to the validity of his own expert's computations, or even those of plaintiff's economist, and despite acknowledging that the "individual circumstances of the claimant" were that "no family circumstances were more worthy than this one," that "there are only a handful of cases at Cantor Fitzgerald like this" and "that whatever I do, this case will be at the top."

Based on the Special Master's award of $4.5-6 million, the portion of that amount computed for economic loss, after deducting $650,000 for non-economic loss ($250,000 for pain and

suffering of the decedent, $100,000 for Mrs. Schneider and $100,000 for each of the children), is $3.85 million to $5.35 million. Under either the Plaintiff or the Defendant expert's determinations, the economic loss to the claimant and her 3 children is multiples of the $3.85 - 5.35 million that the Special Master intends to compensate claimant for her economic loss.

Since the minimum economic loss in this case as calculated by PriceWaterhouse, the Defendants' own expert, is $14-$15 million net, after deducting collateral sources, it is perfectly clear that the Special Master's award is in no way related to a determination of economic loss. At $10 million less than the $14-$15 million, it clearly demonstrates a cap or, equally bad, an arbitrary and capricious number out of the blue.

As Plaintiff Schneider has alleged, there is no way -- by any sleight of hand -- with the decedent's $2.5 million average annual earnings under the Special Master's own 3 year averaging formula (1998, 1999 and 2000), that a $3.85 to $5.35 million economic award can be explained. The only explanation for it is what the Special Master himself has stated, that the economic loss computed by the plaintiff's expert and by the Special Master's own expert, were "moot and irrelevant" to him (Affidavit of Cheryl Schneider dated February 21, 2003 ("Schneider Aff."), at ¶ 12) and that "the numbers are far north of anything that I will pay" (Schneider Complaint, at ¶ 65; Schneider Aff., at ¶ 12.)

The Schneider complaint further alleges that the foregoing facts, and others pleaded, indicate that the Special Master intends to nullify the "Victim Compensation" portions of the Act. To

---

(*continued from previous page*)

[7] The PriceWaterhouse report is the subject of a pending motion by the Defendant to quash its production for in camera inspection pursuant to a subpoena served by Plaintiff.

REV_00161176

fully appreciate that, we bring together here those protions of the Act in pertinent part on a single page. We do this so that the simple and clear meaning of the Act is not missed, as follows:

TITLE IV – VICTIM COMPENSATION

402(5) ECONOMIC LOSS.-

> The term "economic loss" means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State Law.

405(b) REVIEW AND DETERMINATION.-

(1) REVIEW.-The Special Master shall review a claim submitted under subsection (a) and determine-

> (B) with respect to a claimant determined to be an eligible individual -
>
> (i) the extent of the harm to the claimant, including any economic and noneconomic losses; and
>
> (ii) the amount of compensation to which the claimant is entitled based on the harm to the claimant, the facts of the claim, and the individual circumstances of the claimant.

Plaintiff Schneider asks the Court to declare her rights, and those of all other eligible claimants to the Fund to be afforded "compensation" in accordance with the Act's express terms, that the de facto cap upon awards imposed by the Special Master be declared invalid, and for other similar relief.

* * *

As the foregoing descriptions make clear, contrary to Defendants' suggestion, the Plaintiffs' complaints do not simply challenge four regulations promulgated pursuant to notice-and-comment rulemaking. (See Def. Mem. at 27.) Although the regulations are implicated in the Plaintiffs'

REV_00161177

complaints, the complaints are also directed at a host of informal charts, methodologies and policy pronouncements made by the Special Master, which are not found in the regulations. (See, e.g., Pl. Fact. Rec., Vol. 1, Final Rule, Statement by Special Master, JC 0091 ("[T]he Special Master's presumed award charts are not part of the Departmen[t] [of Justice's] rulemaking . . . .").)

When consideration is given to the well-pleaded allegations, it is clear beyond peradventure that the Plaintiffs have pleaded sustainable and meritorious claims, and that accordingly, Defendants' motion must be denied.

ARGUMENT

THE APPLICABLE LEGAL STANDARDS

A court deciding a motion for judgment on the pleadings pursuant to Rule 12(c) of the Federal Rules of Civil Procedure must accept as true the allegations of the party opposing the motion. Rivera v. Heyman, 157 F.3d 101, 103 (2d Cir. 1998). The court must view the facts, as alleged in the pleadings, in the light most favorable to the non-moving party and must draw all inferences in favor of that party. Id. at 103. Allegations in the pleadings "should be construed liberally in favor of the plaintiffs." Ad-Hoc Comm. of Baruch Black & Hispanic Alumni Ass'n v. Bernard M. Baruch College, 835 F.2d 980, 982 (2d Cir. 1987).

Indeed, the same standards that are employed under Rule 12(b)(6) for a motion to dismiss a complaint for failure to state a claim are applicable here. See Sheppard v. Beerman, 18 F.3d 147 (2d Cir. 1994). Under these standards, as set forth by the United States Supreme Court, such a motion should not be granted "unless it appears beyond doubt that the plaintiff can prove no set of facts in support of [its] claim which would entitle [plaintiff] to relief." Conley v. Gibson, 355 U.S. 41, 45-46 (1957); Rivera, 157 F.3d at 103. Throughout their brief, Defendants attempt to ignore the Rule 12

standard, arguing their version of the facts and disputing the allegations of Plaintiffs' complaints. (See, e.g., Def. Mem. at 6 ("[C]ontrary to plaintiffs' repeated claims, the Special Master has not imposed any "cap" on awards of compensation."); id. at 49 (accusing Plaintiffs of "mischaracteriz[ing]" the Special Master's "extraordinary circumstances" test).) Defendants cannot prevail on a motion to dismiss by arguing that Plaintiffs' factual allegations are untrue.

Furthermore, in light of the allegations of the complaints in these cases, the Defendants cannot invoke the deferential standard of review articulated in Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837 (1984). As an initial matter, even under Chevron, it is clear that no deference applies when a court reviews agency conduct to determine whether the regulator has violated the enabling legislation. Id. at 842-43; see also Bowen v. Georgetown Univ. Hosp., 488 U.S. 204, 208 (1988); Atlantic City Elec. Co. v. FERC, 295 F.3d 1, 8 (D.C. Cir. 2002). Accordingly, the Court cannot simply defer to the Defendants' interpretation of the statute when evaluating Plaintiffs' allegations that Defendants' rules, regulations, criteria and methodologies violate the Act's clear terms.

As well, a court may defer to a regulator's interpretation of a statute only if the court has determined that the statute at issue is vague or does not speak to the precise question at issue. Chevron, 467 U.S. at 843. Manifestly, the complaints here all allege that the challenged rules, regulations, criteria and methodologies violate plain and unambiguous provisions of the Act. It is equally clear, as a matter of law, that Chevron deference generally applies only when the plaintiff challenges a regulation promulgated pursuant to notice-and-comment rulemaking. See United States v. Mead Corp., 533 U.S. 218, 230 (2001) ("[T]he overwhelming number of cases applying Chevron deference have reviewed the fruits of notice-and-comment rulemaking or formal adjudication."). Plaintiffs do not

simply challenge the Defendant Department of Justice's notice-and-comment rulemaking; they also challenge the Defendant Special Master's informal charts and methodologies as well as his de facto cap on awards to certain September 11 victims, all of which fall outside the Department of Justice Regulations and therefore do not enjoy automatic Chevron deference. (See, e.g., Pl. Fact. Rec., Vol. 1, Final Rule, Statement by Special Master, JC 0091 ("[T]he Special Master's presumed award charts are not part of the Departmen[t] [of Justice's] rulemaking . . . .").)

Although informal agency conduct other than notice-and-comment rulemaking has on rare occasion been accorded Chevron deference, such deference is warranted only where Congress intended the regulator to take "action with the effect of law." Mead Corp., 533 U.S. at 230. Plainly, the informal policy pronouncements at issue cases do not enjoy such a presumption of legality. To the contrary, the Special Master's charts and methodologies are similar to regulator guidelines and policy statements that have routinely been denied Chevron-style deference. See Christensen v. Harris Cty., 529 U.S. 576, 587 (2000) ("Interpretations such as those in opinion letters – like interpretations contained in policy statements, agency manuals, and enforcement guidelines, all of which lack the force of law – do not warrant Chevron-style deference."); Reno v. Koray, 515 U.S. 50, 61 (1995) (holding that Bureau of Prisons internal guideline not "subject to the rigors of the Administrative Procedur[e] Act, including public notice and comment" is entitled to only limited, not Chevron, deference) (citation omitted); EEOC v. Arabian Am. Oil Co., 499 U.S. 244, 256 (1991) (treating EEOC guidelines as not subject to Chevron); Catskill Mountains Chapter of Trout Unlimited, Inc. v. City of New York, 273 F.3d 481, 491 (2d Cir. 2001) (holding that EPA's policy statements, opinion letters, and reports to Congress do not "come close to the sort of formal, binding articulation of an agency's views that would justify Chevron deference"). In this regard, it is also telling that one of the complaints clearly alleges that

REV_00161180

the offending rules and regulations are, in reality, essentially the work product of the Special Master alone, and that his methodologies and policy pronouncements are what really do violence to the Act since he has been careful to avoid promulgating black-and-white rules that are so evidently inconsistent with the provisions of the Act. (Colaio Complaint ¶¶ 44, 67-68.) Thus, Defendants' invocation of Chevron deference is unavailing.

Nor is the standard of review under the Administrative Procedure Act ("APA") as toothless as Defendants suggest. It is obvious, in the first instance, that the Special Master – who is both enfranchised and mandated by the Act – is rather distinct from the commonplace "regulator." In addition, even if the "regulator" is acting within the scope of his authority, the APA comes into play and the court must review whether the substance of the action was arbitrary and capricious. See Chevron, 467 U.S. at 843-44. In determining whether a regulator has acted arbitrarily and capriciously under APA Section 706(2)(A),[8] the court must consider whether the action "was based on a consideration of the relevant factors and whether there has been a clear error of judgment." Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43 (1983) (citations omitted). Moreover, the court's "inquiry into the facts is to be searching and careful." Citizens to Preserve Overton Park, Inc. v. Volpe, 401 U.S. 402, 416 (1971). On this motion to dismiss, where the allegations of the Plaintiffs' complaints must be accepted as true, Defendants cannot sustain their burden of showing that Plaintiffs have failed to state an APA claim.

[8] Section 706(2)(A) of the APA provides in relevant part that a court reviewing an agency's actions shall "hold unlawful and set aside agency action . . . found to be [ ] arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law."

I. THE SPECIAL MASTER MAY NOT IMPOSE A "NEEDS" TEST TO LIMIT OR IMPOSE A CAP ON COMPENSATION FROM THE FUND

The Act specifically provides that "[t]he Special Master shall review a claim submitted under subsection (a) and determine . . . with respect to a claimant determined to be an eligible individual – (i) the extent of the harm to the claimant, including any economic and noneconomic losses; and (ii) the amount of compensation to which the claimant is entitled based on [1] the harm to the claimant, [2] the facts of the claim, and [3] the individual circumstances of the claimant." Act § 405(b)(1)(B) (emphasis added). Defendants argue that, by construing "individual circumstances" to mean the "needs" of a claimant, they have the authority to limit awards to an amount (i) less than what the application of the other two criteria compel, and (ii) regardless of what the required initial calculation of loss reveals. In short, the Defendants' construction of "individual circumstances" eviscerates the economic and non-economic loss criteria, does away with the required computation of losses, and is nothing more than a shroud for the de facto cap on awards that Plaintiffs have alleged in their complaints. (See Colaio Complaint ¶¶ 67-77; Smith Complaint ¶ 42; Schneider Complaint ¶ 13.)

Plaintiffs have clearly alleged that the Special Master has ignored the statute's mandate. In particular, for a significant number of claimants, the Special Master has simply refused to "review" or "determine" the "harm to the claimant," even though Section 405(b) plainly compels him to do so. The Special Master has refused to consider evidence of the claimant's economic loss (one of the components of the "harm to the claimant"), even when that evidence was compiled by his own consultants. (See, e.g., Schneider Complaint ¶¶ 54-78.)

Defendants' focus on "individual circumstances" (and their creation of a "needs" test) cannot save the Special Master's methodology. The Defendants' analysis of "individual circumstances"

subsumes the entire analysis. Whatever discretion the Special Master has to factor individual circumstances into compensation awards, it cannot be the only factor he considers. To permit him to do so would be to allow the "individual circumstances" criterion to swallow and eviscerate the other two criteria specifically enumerated in the statute.

The Special Master's focus on "individual circumstances" and his substitution of a "needs" test lead to absurd results that are contrary to Section 405(b) of the Act. By limiting awards to what the Special Master deems to be a survivor's "needs," the Special Master has imposed a cap on awards. Indeed, he has gone so far as to admit that awards to survivors whose decedents earned over $231,000 shall presumptively be awarded the same amount. (Pl. Fact. Rec., Vol. 1, FAQ 5.7, JC 0242.) Such an outcome plainly reveals that the Special Master's methodology nullifies the Act's mandate that economic harm be reviewed and determined, and then factored into the compensation award. Act § 405(b)(1)(B).

As demonstrated below, the Defendants have improperly construed "individual circumstances" to permit the Special Master to determine the "needs" of the surviving family and limit awards to that amount. Contrary to Defendants' contention, Plaintiffs do not contend that "individual circumstances" should be ignored. Indeed, Plaintiffs have never contended, as Defendants suggest, that the Special Master cannot use the "individual circumstances" criterion to increase an award to permit a survivor to rebuild his/her life after the Special Master has properly reviewed and determined the harm to the survivor and determined that an award based on the economic and noneconomic losses alone is insufficient. By using a "needs" test that is nothing more than a cap on awards, the Special Master has turned the word "individual" in "individual circumstances" on its head, such that awards are made without regard to facts specific and unique to the individual claim.

However, the Special Master construes the term "individual circumstances" Even if the Special Master's "needs" test were lawful (which it is not), it does not support imposition of an arbitrary and subjective cap, and Plaintiffs still state valid claims based on the Special Master's cap. Finally, the hollowness of the "needs" test is revealed by the Special Master's own complete refusal to issue any rules, guidelines, policies, criteria or methodologies as to what such a test consists of or how it is to be applied. Therefore, the "needs" test – at least as currently constituted, i.e., out of thin air – violates the Act and the Defendants' own policies (with which Plaintiffs agree and as Congress intended) that, in the main, Fund compensation awards should be reasonably predictable, consistent, and achievable without placing undue burden of proof on claimants. (Pl. Fact. Rec., Vol. 1, Interim Final Rule, Statement by Special Master, JC 0049.) (See also Def. Mem. at 14.)

A. Defendants Cannot Limit Compensation to September 11 Victims Under the Guise of A Subjective and Arbitrary "Needs" Test.

1. Section 104.41 of the Regulations[9] and the Special Master's needs test cannot be reconciled with the text or purpose of the Act.

The text of the Act reveals that Congress specified the limitations on compensation – the deduction of collateral source payments and the preclusion of punitive damages. See Act § 405(b)(5) and (6). Here too, as with the provisions for the calculation and rendering of awards, the statutory direction is clear and obligatory, *viz*., the Special Master "may not include amounts for punitive damages" and he "shall reduce the amount of compensation" for collateral source amounts. Id. But for these provisions, the Act contains no limits on compensation. It did not escape Congress' notice that

REV_00161184

many of the victims of September 11 were highly paid professionals. (Colaio Complaint ¶ 42.) If Congress had wanted to appropriate only a limited amount of money to compensate September 11 victims and their families through the Fund, it would have done so, as has been done in other statutes. See, e.g., 1998 Crop Loss Disaster Assistance Program, 1999 Appropriations Act § 1102(b), 112 Stat. 2681-42, P.L. 106-31 (1999) (appropriating a limited budget of $1.5 billion to "producers on a farm who have incurred losses in the 1998 crop due to disasters"); Global AIDS and Tuberculosis Relief Act, 22 U.S.C.A. § 6841 (2001) (appropriating $200 million for fiscal years 2001 and 2002 for the fund); Mississippi Flood Act, 18 Stan. 45 (1874) (appropriating $ 190,000 to property owners who incurred property damages due to flood).[10]

Defendants' creation of a limitation based upon needs is also inconsistent with purpose of the Act. Section 403 of the Act provides that: "It is the purpose of this title to provide compensation to any individual (or relatives of a deceased individual) who was physically injured or killed . . . ." Act §

(*continued from previous page*)

[9] Section 104.41 of the Regulations provides, in relevant part: "The individual circumstances of the claimant may include the financial needs or financial resources of the claimant or the victim's dependents and beneficiaries." (Pl. Fact. Rec., Vol. 1, Interim Final Rule, JC 0073.)

[10] As set forth in Plaintiffs' memoranda of law in support of their motions for summary judgment, Congress expressly considered and rejected imposing a cap on individual awards. (Joint Mem. at 13-15; Colaio Mem. at 11-12.) Congress plainly could have imposed caps on individual awards had it seen fit to do so. See, e.g., 42 U.S.C. § 1981a(b)(3)(A) (2002) (Federal anti-discrimination statute caps damages in employment discrimination action to fixed amount based on number of employees in workplace, such as capped at $50,000 if less than 101 employees, capped at $100,000 if less than 201 employees, etc.); Alaska Stat. § 09.17.010 (2002) (capping noneconomic damages at $400,000 in negligence action); Cal. Civ. Code § 3333.2(b) (2003) (capping noneconomic damages at $250,000 in medical malpractice action); Burns Ind. Code Ann. § 34-18-14-3(b) (2002) (capping damages at $250,000 in health care provider malpractice action); Kan. Stat. Ann. § 60-1903(a) (2001) (capping noneconomic damages at $250,000 in personal injury action); La. Rev. Stat. § 40:1299.42(B)(1) (2002) (capping damages at $500,000 in medical malpractice action); Md. Cts. & Jud. Proc. Code Ann. § 11-108(b)(2)(i) (2002) (capping noneconomic damages at $500,000 in personal injury action); Tex. Civ. Prac. & Rm. Code Ann. § 104.003(a)(1) (capping damages at $100,000 in personal injury action against State); W. Va. Code § 55-7B-8 (2003) (capping noneconomic damages at $1,000,000 in medical malpractice action); Wis. Stat. Ann. § 893.80(3) (2002) (capping damages recoverable against volunteer fire company at $50,000).

REV_00161185

403 (emphasis added). This is the "dominating general purpose" of the Act, and the Court must construe the Act in conformity with this purpose.[11] Herman & MacLean v. Huddleston, 459 U.S. 375, 387 n. 23 (1983); see also Manhattan General Equipment Co. v. Commissioner, 297 U.S. 129, 134 (1936) ("A regulation which . . . operates to create a rule out of harmony with the statut[e] is a mere nullity."); SmithKline Beecham Consumer Healthcare, L.P. v. Watson Pharms. Inc., 211 F.3d 21, 28 (2d Cir. 2000) (basic canon of statutory interpretation requires courts "to interpret and apply [statutes and regulations] in a way that preserves the purposes of both and fosters harmony between them").

Congress' choice of the term "compensation" in the Act is significant. "Compensation" means "making whole" – paying "that which is necessary to restore an injured party to his former position." Black's Law Dictionary 283 (6th ed. 1990). To "compensate" is to make "equivalent return to, to recompense, or to pay." Id. Similarly, Webster defines "compensation" as: (1) "the act or principal of compensating"; (2) "that which constitutes, or is regarded as, an equivalent; that which makes good the lack or variation of something else; that which compensates for loss or privation; amends; remuneration; recompense." Webster's Revised Unabridged Dictionary (1998).

In the context of recovery for personal injury or wrongful death, "compensation" is universally held to mean that sum which will make the plaintiff "whole." See Nussbaum v. Gibstein, 138 A.D.2d 193, 205, 531 N.Y.S.2d 276 (2d Dep't. 1988), appeal granted, 72 N.Y.2d 810 (1988), rev'd on other grounds, 73 N.Y.2d 912 (1989) (stating "the underlying purpose of tort damages [is] to compensate for each injury suffered so as to make the injured party whole") (citing McDougald v.

[11] Defendants concede, as they must, that the Act's purpose is to provide "compensation" to the September 11 victims and their families. (Def. Mem. at 1.)

Garber, 132 Misc. 2d 457, 462, 504 N.Y.S.2d 383 (Sup. Ct. 1986) aff'd, 135 A.D.2d 80 (1988), appeal granted on other grounds, 18 F.3d 147 (1994).

Similarly, the word "compensation" appears in the Fifth Amendment, which provides that private property shall not be taken for public use without just compensation. "Just compensation" in this context means the full monetary equivalent of the property taken. Under the Fifth Amendment, the owner is to be put in the same position monetarily as he would have occupied if his property had not been taken. See United States v. Reynolds, 397 U.S. 14 (1970); see also Monongahela Navigation Co. v. United States, 148 U.S. 312, 327 (1893) (compensation to which the owner is entitled is the full and perfect equivalent of the property taken); United States v. Rogers, 257 F. 397, 400, 1919 U.S. App. LEXIS 2214 at *5-6 (8th Cir. 1919), aff'd, 255 U.S. 163 (1921) (the owner shall be put in as good position peculiarly as he would have been if his property had not been taken). The use of a needs test to limit, and in many cases to grossly limit, the recovery of individual claimants thus contravenes the Act's purpose of providing "compensation."[12] Finally, when "compensation" is coupled with the statutory definition of "economic loss" contained in Section 402(5), it is crystal clear what the Act requires and what Congress intended.[13]

---

[12] Notably, Defendants have not cited (and Plaintiffs are not aware of) a single case which construes "individual circumstances of the claimant" to mean that an award of "compensation" can be reduced based upon a claimant's wealth or resources.

[13] Importantly, victim compensation was, in part, the quid pro quo for the federal government's aid to the airline industry and limiting the financial exposure of the airlines (and ultimately others) to their insurance coverage in the aftermath of the attacks. See Act Titles I-II passim; Title IV § 408 at VCF100-0013. The Act retroactively took away substantial state law remedies available to September 11 victims and survivors by restricting their recovery to limited insurance coverage. See Act § 408. Defendants have no right to revise the delicate balance Congress struck by imposing an arbitrary needs test to limit awards. Indeed, such an imposition constitutes an "unauthorized assumption by [the] agency of [a] major policy decision[] properly made by Congress." Bureau of Alcohol, Tobacco and Firearms v. Federal Labor Relations Authority, 464 U.S. 89, 108 (1983) (quoting American Ship Building Co. v. NLRB, 380 U.S. 300, 318 (1965)).

REV_00161187

The Special Master's needs test also cannot be reconciled with the Fund's conceded purpose of providing awards to victims that are "fair, consistent and predictable." (See Def. Mem. at 14.) As noted above, Defendants have articulated no standards or criteria for this amorphous test. This leaves potential claimants with no way of knowing what information to submit in connection with their claims in order to prove their "need." More egregiously, the Special Master's self-proclaimed discretion in applying the undefined needs test is unbounded, and the Special Master is free to apply the needs test arbitrarily; and as the complaints clearly allege, he already has and fully intends to continue to do so. The complete absence of criteria to guide and structure the downward adjustments the Special Master seeks to make using his "needs" test contrasts sharply with the clear and objective criteria articulated by Congress in the Act for reducing awards based on specified collateral sources. See Act §§ 402(4) and 405(b)(6) (identifying specific types of collateral sources to be deducted from awards). Under the Special Master's test, potential claimants have no way to predict the award to which they may be entitled, and there is no guarantee that any individual award will be fair.

Defendants' construction of the Act also leads to illogical results. Section 405(b)(1)(B)(ii) of the Act authorizes the Special Master to determine the "individual circumstances of the claimant." Act § 405(b)(1)(B)(ii) (emphasis added). "Claimant," in turn, is defined to include the "personal representative" of a deceased victim, such as the executor of a decedent's estate. Act § 405(c)(2)(C). In Section 104.41 of the Regulations, Defendants have authorized the Special Master to treat "individual circumstances" as meaning "needs." The "needs" of the "claimant" are patently irrelevant, however, where the claimant is an executor who is unrelated to the deceased victim.

Application of the doctrine of expressio unius est exclusio alterius further demonstrates that Congress did not intend reductions or limits based on what the Special Master decides the

claimants' need. See, e.g., Duke v. University of Texas, 663 F.2d 522, 526 (5th Cir. 1981) ("The maxim embodies a sensible insight into the customary manner in which language is used to communicate ideas. Simply stated, it expresses the learning of common experience that generally when people say one thing they do not mean something else."). Because Congress did provide for reductions based upon collateral source payments (Act § 405 (b)(6)), did invalidate any punitive damages (Act § 405(b)(5)), and did limit air carrier liability (Act § 408), it would have included limits based on "need" or "individual circumstances" if Congress intended those factors to be applied so as to further reduce compensation awards. Mukaddam v. Permanent Mission of Saudi Arabia, 111 F. Supp. 2d 457, 470 n.103 (S.D.N.Y. 2000).

The Act's structure is also proof that Congress did not intend for claimants' "needs" to be used by the Special Master to limit compensation. In drafting the Act, Congress placed the elements that combine to make up claimants' "loss," i.e., all the elements that together add up to the total or gross loss, in Section 405(b)(1)(B). The only offsets to the total loss, i.e., the collateral deductions, are set forth in Section 405(b)(6). Indeed, Section 405(b)(6) is the only place in the statute where the Special Master is authorized to "reduce the amount of compensation determined under paragraph 1(B)(ii)." Act § 405(6). "Individual circumstances" is one of the elements added into the total award in Section 405(b)(1)(B), not one of Section 405(b)(6)'s collateral reductions. If Congress had intended that "individual circumstances" be used to create a "needs" test to "reduce" awards, it would have included "individual circumstances" as a reduction in Section 405(b)(6), not as an addition in Section 405(b)(1)(B).

Limiting awards based upon "need" is also inconsistent with the information claimants are required to submit to secure their awards, namely "information from the claimant concerning any

possible economic and non-economic losses that the claimant suffered" and "information regarding collateral sources." See Act § 405. Congress certainly would have required the Special Master to elicit information concerning claimants' "needs" if Congress intended for a "needs" test to limit compensation.

2. Section 104.41 of the Regulations and the Special Master's needs test are also inconsistent with legislative history of the Act.

The debate leading to the Act's passage further proves that Congress considered and rejected the very same arbitrary limitations that the Special Master seeks to impose via the needs test and the de facto cap. The essentials of the legislative history are set forth in some detail in the Colaio Complaint. The Act "does not cap the damages these families who have lost so much can possibly get." (Admin. Rec., Vol. 1, 147 Cong. Rec. H5899 (Sept. 21, 2001), VCF 100-0065 (Representative Richard Gephardt)). The Act provides "full recovery" without limitation, as "[t]he Treasury of the United States has been opened by the Members of this Congress to ensure that every family will receive just recovery." (Admin. Rec., Vol. 1, 147 Cong. Rec. H5906 (Sept. 21, 2001) (emphasis added), VCF 100-0072 (Representative James Turner).) Congress expected and intended the federal government to "provide compensation above and beyond carrier liability." (147 Cong. Rec. H5908 (Sept. 21, 2001), VCF 100-0074 (Representative Sheila Jackson-Lee).)

Not a single Senator or Representative referred to a "needs" analysis to limit awards. And not a single Senator or Representative suggested during the debates leading up to the Act's passage that the "individual circumstances" language was a license to be employed by the Special Master to reduce drastically the proven value of claimants' "economic loss" or to otherwise excuse him from the obligations squarely placed on him by the Act. Indeed, Defendants' reference to a statement

by Senator Hatch is curious, as Senator Hatch was concerned that without the Fund, September 11 victims would receive only limited compensation in litigation. (Admin. Rec., Vol. 1, 147 Cong. Rec. S9595 (Sept. 21, 2001) (Senator Orrin Hatch); see also Def. Mem. at 9.) Such concerns that claimants receive full and complete compensation cannot be reconciled with Defendants' imposition of an arbitrary "needs" test or the Special Master's de facto cap. In establishing the Fund – while simultaneously seeking to protect the airline industry and others from financial ruin – Congress struck a balance, and an essential component thereof was full and fair compensation for the victims.

B. The Special Master's Cap on Awards Violates the Statute and Is Arbitrary and Capricious.

In their memoranda of law in support of their motions for summary judgment, Plaintiffs have demonstrated conclusively that the Special Master's cap on awards violates the Act and is arbitrary and capricious. (See Joint Mem. at 15-19; Colaio Mem. at 29-41, 47-49, 56-60.) Plaintiffs incorporate these arguments by reference, as they show that the Special Master has no authority to impose an arbitrary and unspecified cap on awards.

However the Special Master construes "individual circumstances," the Act forbids him to use a "needs" test to limit awards to claimants below their proven losses. Plaintiffs have alleged, and Plaintiffs' allegations must be accepted as true for purposes of this motion, that Defendants have imposed an arbitrary cap on awards. (See Colaio Complaint ¶¶ 67-77; Smith Complaint ¶ 42; Schneider Complaint ¶ 13.) The Court must accept as true, for purposes of this motion, that the Special Master has arbitrarily fixed a limit on any individual award in an approximate range of $5 million to $7 million. (See Colaio Complaint ¶ 71 (alleging that cap is a range of $5 million to $7 million); Schneider Complaint ¶ 66 (alleging that the Special Master has admitted he will award no claimant more

that $6 million).) Limiting awards to an amount less than claimants' proven losses imposes a "cap." As Plaintiffs have also alleged, the Special Master has invoked Section 104.41 of the Regulations and the "needs" test to justify the cap he has imposed. (See, e.g., Smith Complaint ¶¶ 36, 41 (alleging that the Special Master has used needs test to limit awards); Schneider Complaint ¶¶ 33-42 (same).) Defendants do not, and cannot, dispute that they have interposed the needs test to limit awards to claimants.

The Defendants' needs test cannot justify the arbitrary cap imposed on awards because the cap is just that: an arbitrary limit imposed across-the-board on all awards, without regard to the individual claimant's circumstances or needs. (See, e.g., Schneider Complaint ¶ 76 (alleging that cap on award was unrelated to evidence submitted to show claimant's individual circumstances).) The Defendants' purported interpretation of "individual circumstances of the claimant" is thus actually a pretext to disregard the individual circumstances of the victim and substitute in its place an arbitrary line in the sand beyond which the Special Master will not go. As if we had gone through the looking glass into wonderland, the meaning of the words "individual circumstances" is thus transformed into its exact opposite.[14] Accordingly, even if the "needs" test could survive scrutiny, the Special Master's cap is entirely divorced from that test and must still fail.

[14] The use of the "needs" test to cap awards and therefore bypass consideration of the victim's circumstances violates Defendants' own regulations. Section 104.43(a) of the Regulations states that the Special Master "shall develop a methodology and publish schedules, tables, or charts that will permit prospective claimants to estimate determinations of loss of earnings or other benefits . . . based upon individual circumstances of the deceased victim." 28 C.F.R. § 104.43(a) (emphasis added). By imposing an arbitrary cap on awards, the Special Master has rendered his own regulation nugatory.

REV_00161192

C. Defendants' Suggestion that Plaintiffs Are Seeking to Increase Awards to High Earner Claimants at the Expense of Low Earner Claimants is Inaccurate and Inappropriate.

Defendants wrongly attempt to prejudice the Court's analysis by suggesting that the Court's ruling will prevent the Special Master from fairly compensating lower-income claimants. (See Def. Mem. at 31, 34-35.) Nothing could be further from the truth. Plaintiffs seek a ruling that the Special Master does not have the power to arbitrarily limit compensation in the way in which the challenged rules, regulations and methodologies do. The Special Master's discretion to increase compensation via the "individual circumstances" route is not at issue and will not be affected by the ruling Plaintiffs seek. Defendants' argument – or perhaps more accurately, their scare tactic – fails immediately because (although the Defendants are cleverly silent on the issue) it is necessarily based on the "logic" that the Fund is a zero-sum game. Thus, Defendants "reason" that giving justified compensation to high earners will prevent the Special Master from addressing the legitimate needs of claimants whose decedents were "cook[s]." (Def. Mem. at n.21.) This is nonsense because, as is admitted, there is no limit on the overall amount of either the Fund or the aggregate of compensation awards ultimately paid out.[15]

Equally specious is Defendants' repeated assertion that Plaintiffs seek to use this Court to require Special Master to compute "mechanical" or "formulaic" calculations and award the "theoretical maximum" that might be achievable in a tort suite under state law. (See Def. Mem. at 3, 5-

[15] Defendants' brief is peppered with references to the "needy" victims who will be robbed of their awards due to the purported relief Plaintiffs seek. For example, Defendants state, "Indeed, plaintiffs' argument that claims previously awarded would have to be re-opened might well require the Special Master to reduce many awards that have already been issued" and "reading the Act (as plaintiffs do) . . . could result in families receiving no compensation at all for decedents who died without substantial resources." (Def. Mem. at 3, 34.)

REV_00161193

6, 31, 32, 40.) Plaintiffs recognize that the Special Master has the authority to evaluate the evidence submitted, make assessments about credibility and reliability of such evidence, and consider uncertainties and other relevant factors in determining decedents' lost income streams and the consequent value of their "economic loss." Everyone understands both that this is an awesome responsibility, and that neither the Act nor the Special Master's mandate is about valuing human life. Plaintiffs trust that all parties to these litigations readily agree that the life of an immigrant dishwasher at the Windows on the World is just as precious, and meant just as much to his or her remaining, grieving family, as did that of a senior, highly paid executive at Aon or Marsh & McClennan or a very successful broker at Cantor Fitzgerald with consistent annual earnings of $1,000,000 or more. The Act is about providing compensation based on clearly delineated criteria that have been applied at common law and in state and federal courts for many generations in the American constraint of civil jurisprudence. Therefore, and for example, while the Special Master can and must make reasoned "fact finding" judgments, he cannot impose across-the-board, undifferentiated value judgments such as: evaluating extraordinary high incomes involves a prohibitary level of speculation (Def. Mem. at 47; high earner decedents would not have continued to contribute to the support of their family (Def. Mem. at 47); and high-earners necessarily retire early because they supposedly have so much money (Def. Mem. at 47.)

In any event, the Defendants' professed concern that basing awards solely on a strict calculation of economic and non-economic losses would result in certain claimants receiving no award from the Fund is a red herring. Any such alleged "inadequacy" of the Fund (and there is no allegation of any such problem in any of the complaints) stems not from the Act, but rather from the Special Master's own arbitrary cap on non-economic losses ($250,000, plus $100,000 for each child), which cap is exclusively his own creation and is nowhere mandated by the Act. The Special Master cannot justify

the use of a needs test by raising the specter that certain claimants will not receive adequate compensation to "rebuild their lives" when that phenomenon, if it exists at all, is a fiction of the Special Master's own creation.

Moreover, assuming arguendo that a literal application of the Act (as distinguished from the Defendants' distorted interpretation of it) necessarily "undercompensated" some claimants, from which the Special Master could derive the power to remedy the situation, it is still an obvious non sequitur to contend that the same translates into an altogether different "authority" to deprive hundreds of other claimants of the compensation to which they are entitled under the Act. This can only be viewed as bootstrapping argument of the highest degree.

D. Defendants' Interpretation of the Act, Not Plaintiffs', Improperly Renders Portions of the Act Superfluous.

Defendants wrongly suggest that Plaintiffs' construction of the Act would render the statute's reference to "individual circumstances" superfluous. (See Def. Mem. at 32.) As noted above, Plaintiffs do not allege that the Special Master cannot consider individual circumstances. Because, as shown above, the individual circumstances of the "claimant" cannot properly be construed to refer to the circumstances of the individual filing the Fund claim where that person is unrelated to the victim (e.g., an executor), consideration of individual circumstances is entirely appropriate where reference is made to the decedent.[16] For example, it is entirely consistent with the text and purpose of the Act for the Special Master to consider any imminent plans that the decedent had to change careers at the time of death when calculating the amount of the award. Such a construction of the phrase "individual

[16] Importantly, the Act defines "claimant" as either the decedent or the person filing a claim on behalf of the decedent. See Act § 405(c)(2). Accordingly, the statute's reference to the individual

(*continued on next page*)

circumstances" is not redundant of the "harm to the claimant" criterion, which ordinarily might not include consideration of such special circumstances.

Moreover, construing the phrase "individual circumstances of the claimant" to refer to the victim's circumstances, and not to impose an unprecedented "needs" test, is consistent with the "legal tradition and meaning of centuries of practice." Molzof v. United States, 502 U.S. 301, 307 (1992) (quoting Morrisette v. United States, 342 U.S. 246, 264 (1952)). In the context of wrongful death claims, "individual circumstances," such as the age of the decedent, the decedent's earnings history and so forth, have always been considered in determining compensation, and the term "individual circumstances" should not be tailored, shaped or twisted into something which is utterly foreign to legal tradition and centuries of practice. ("'[W]here Congress borrows terms of art in which are accumulated the legal tradition and meaning of centuries of practice, it presumably knows and adopts the cluster of ideas that were attached to each borrowed word in the body of learning from which it was taken and the meaning its use will convey to the judicial mind unless otherwise instructed.'") Molzof, 502 U.S. at 307 (quoting Morrisette, 342 U.S. at 263). The addition of a novel "needs" criterion, which plays no part in the traditional understanding of individual circumstances, is violative of the principle of statutory construction the Supreme Court enunciated in Molzof.

In fact, it is the Special Master's own construction of the "individual circumstances" criterion to set a ceiling on awards based on an arbitrary assessment of the claimant's "need" that renders the other two criteria Congress articulated, the harm to the claimant and the facts of the claim,

---

(*continued from previous page*)
circumstances of the "claimant" can be, and obviously must be, construed to mean the circumstances of the deceased victim.

REV_00161196

irrelevant. See Act § 405(b)(1)(B). If, as Plaintiffs have alleged, Defendants are using the "needs" test to impose an arbitrary cap on awards, the consideration of harm to the claimant and the facts of the claim criteria become meaningless. In effect, Congress' mandate that the Special Master review and determine the harm to the claimant (including economic and non-economic losses) and all of the facts of the claim, are simply collapsed into the abyss of an arbitrary limit that bears no relation to the actual elements of compensation and deductions specifically enumerated in the Act. It is thus Defendants, not Plaintiffs, who advocate a construction of the Act that renders certain portions of the statute superfluous, in contravention of the very authorities cited in their brief. See Bell v. Reno, 218 F.3d 86, 91 (2d Cir. 2000) ("It is a well-known canon of statutory construction that, in general, a statute should not be construed so as to render a word or clause inoperative."); Bailey v. United States, 516 U.S. 137, 146 (1995) (same); Potter v. United States, 155 U.S. 438, 446 (1894) (same).[17]

In the end, Defendants' proclivity, in "interpreting" the Act, to tear statutory language from its context and the legislative purpose impermissibly invites the Court to allow the Special Master "to use [the statute's] words as 'empty vessels into which he can pour anything he will' – his caprices, fixed notions, even statesmanlike beliefs in a particular policy." Frankfurter, Some Reflections on the Reading of Statutes, 47 Colum. L. Rev. 527, at 529 (1947) (cited in Def. Mem. at 38.)

[17] Defendants suggest (Def. Mem. at 35 n.23) that reference to the "needs" of the claimant is appropriate because the New York Crime Victims Board permits awards only where the claimant will suffer "financial difficulty" absent an award. That legislation, however, supplements a victim's common law rights and therefore does not trump a victim's right to recovery of all economic losses, without regard to "need." See N.Y. Exec. Law § 631(4) (providing for offset for any payments received by victim from person who committed the crime); Sillato v. Powell, 249 A.D.2d 997, 672 N.Y.S.2d 547 (4th Dep't 1998) (victim recovered compensation from New York Crime Victims Board and damages in litigation against perpetrator of crime).

II. THE ACT REQUIRES THE SPECIAL MASTER TO REVIEW CLAIMANTS' PROOF AND DETERMINE "ECONOMIC LOSS" IN ACCORDANCE WITH APPLICABLE STATE LAW

A. The Plain Text of the Act Mandates That the Special Master Compute Economic Loss Under Applicable State Law and Render an Award Based on the Same.

Despite the Act's crystal-clear definition of "economic loss" as "any pecuniary loss resulting from harm . . . to the extent recovery for such loss is allowed under applicable State law,"[18] Defendants audaciously contend that "nothing in the Act requires the Special Master to consider or apply state law when determining the ultimate award." (Def. Mem. at 35 n.23.) Defendants further admit that New York law requires the use of pre-tax earnings in calculating a wrongful death award (Def. Mem. at 36),[19] but they deny it has any relevance to the Fund. Defendants purposely skew the Act's definition of economic loss by asserting that the "to the extent" language merely refers to "categories" or "types" of economic loss, and means the Special Master is not permitted to compensate for such types of loss that the applicable state law excludes. (Def. Mem. at 37, citing 28 C.F.R.§ 104.42.)

Once again, the plain, unadultered words of the statute belie Defendants' position. It is just silly to argue that the subject language was simply Congress' subliminal direction to seek out state

---

[18] Section 402(5) of the Act provides:

> The term "economic loss" means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law. (Emphasis added.)

[19] Citing Johnson v. Manhattan & Bronx Surface Transit Operating Auth., 71 N.Y.2d 198, 524 N.Y.S.2d 415, 420 (1988).

law(s) simply for the purposes of defining general "categories" when the very definition of economic loss in Section 402(5) contains a long parenthetical delineating those very general "categories." What is also pellucid from reading the statutory definition is that Congress went to considerable length to draft a definition that was about as broad and expansive as one could imagine. This, of course, further undercuts the Defendants' argument that they are free to trump what New York law allows, and to substitute less favorable benchmarks because of some unfound and unauthorized need for complete uniformity.

By defining "economic loss" as "to the extent recovery for such loss is allowed under applicable State law" in Section 402(5), Congress established objective criteria by which the Special Master must determine claimants' awards. Objective legal standards create predictability and consistency, the admitted objectives of the Fund required so that claimants can elect how to proceed. In passing the Act, Congress had the choice of incorporating State law or creating a special federal law to control economic loss determinations. It purposefully chose State law that provided a well established and tested framework for the analysis.[20] Furthermore, by incorporating the "applicable State law" to each claim, Congress selected the law of the State that would be foreseeable from a legal point of view, just as it provided – notwithstanding the creation of a federal claim and an exclusive federal venue (i.e., this Court) for what would ordinarily be a slew of cases that could and would be filed in various state and federal courts – that private tort actions arising out of the September 11

[20] Each of the 50 states has some statutory system under which damages may be awarded for wrongful death, continuing or actually creating a cause of action, and providing a remedy for deaths occurring within the jurisdiction of that state. See generally S. Speiser, C. Krause and J. Madole, Recovery for Wrongful Death 1:13 (CBC 1992). Indeed, it is well known that such a cause of action is a creature of statute. See, e.g., Berner v. British Commonwealth Pacific Airlines, Ltd., 230 F. Supp. 240, 245-46 (S.D.N.Y. 1964).

REV_00161199

crashes would be the law "of the State in which the crash occurred." See Act § 408(b)(2). And presumably, Congress knew that the crashes into the World Trade Center site occurred in the City and State of New York.

Analysis of the Act must begin with its plain meaning. The plain meaning of "to the extent recovery is allowed under applicable State law" is not ambiguous. "Extent" does not mean the exclusion of categories; it means inclusion of amount and/or value. Black's Law Dictionary defines "extent" as "amount; scope, range; magnitude." Black's Law Dictionary (6th ed.) at 583. "Extent" is similarly defined as "a. The range, magnitude or distance over which a thing exceeds . . . . b. The degree to which a thing extends; prosecuted to the full extent of the law." The American Heritage Dictionary of the English Language (3d ed.) (emphasis added). The Random House Dictionary of the English Language Unabridged Edition (1966) gives the etymology of the word "extent" as deriving from the Latin "extendere," meaning to "stretch out; draw out to the full length." (Emphasis added.)

Significantly, passage of the Act was not the first time Congress incorporated State law into a Federal statutory scheme. "In enacting the [Federal] Tort Claims Act, Congress had the choice of incorporating the tort law of the various states or creating a federal tort law for the sole purpose of deciding claims against the Government. . . . In choosing the former, the simpler expedient was adopted." Winston v. United States, 305 F.2d 253, 271 (2d Cir. 1962). Moreover, the Act's use of the phrase "to the extent" is virtually identical to the language in Federal Tort Claims Act ("FTCA"), under which the Government may be held liable for tortious acts committed by its employees acting within the scope of their employment, "under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred." 28 U.S.C. §§ 1346(b)(1), 2674. The FTCA provides that the "United States

shall be liable . . . to the same extent as a private individual under like circumstances." 28 U.S.C. § 2674 (emphasis added).

In Richards v. United States, 369 U.S. 1 (1962), a wrongful death case, the Court held that the FTCA incorporates the "whole law" of the State in which the act or omission occurred. Id. at 11. Richards should likewise control the meaning of Section 402(5) of the Act. The "to the extent" language of the Act incorporates State law on economic loss, just as does the virtually identical language in the FTCA. See Richards, 369 U.S. at 11.[21] Section 405(b)(5) of the Act, however, precludes the Special Master from awarding punitive damages, which are recoverable under New York law. See N.Y. EPTL § 5-4.3(B). If Congress did not incorporate State law, it would not have had to preclude punitive damages. Congress precluded punitive damages in the Act because it had incorporated State law on recoverable economic loss (but not on recoverable noneconomic loss) and wanted to make clear that it was not incorporating State law on punitive damages. The Act is similar to the Federal Tort Claims Act in this regard. Like the Act, the FTCA incorporates State law remedies, but precludes the recovery of punitive damages. See 28 U.S.C. §§ 1346(B), 2674.

[21] See also Negonsott v. Samuels, 507 U.S. 99, 105 (1993) (statutory provision that extends jurisdiction to Kansas courts over offenses committed by or against Native America (WC) reservations "to the same extent as its courts have jurisdiction over offenses committed elsewhere . . . unambiguously confers jurisdiction on Kansas to prosecute all offenses . . . committed against Indians on Indian reservations in accordance with State law."); Reconstruction Finance Corp. v. Beaver County, 328 U.S. 204, 210 (1946) ("The fact that Congress subjected Defense Plant Corporation's properties to local taxes to the same extent according to its value as other real property is taxed' indicated intent to integrate Congressional permission to tax with established local tax assessment and collection machinery"); Independent Ins. Agents v. Board of Governors of the Federal Reserve System, 890 F.2d 1275 (2d Cir. 1989), (in dicta, "Bank subsidiaries may engage in non-bank activities to the extent permitted by their chartering authorities" is unambiguous and would allow the bank to engage in non-banking activities if allowed by their chartering authorities). Other examples exist as well. For instance, in bankruptcy practice, the "extent" of a lien means the scope of the property encompassed by the lien. In re Snow, 270 B.R. 38 (D. Md. 2001).

Defendants argue that using State law standards to calculate economic loss would "present enormous difficulties" and require "complex choice-of-law issues and the particulars of damages of various states." (Def. Mem. at 36.) Defendants offer nothing more than this bare assertion as if it were a self-evident fact. However, nothing indicates it would be more difficult for the Special Master to comply with the Act by determining economic loss in accordance with State law, and once again, such arguments – especially being, as they are, unburdened with any attempt to adduce supporting evidence – are simply not permitted in support of a motion to dismiss. This is, however, typical of the Defendants' "it is because we say it is" position.

But Defendants' argument is a ruse, because even under their interpretation of Section 402(5), the Special Master would have to perform a choice-of-law analysis; he would have to determine the applicable State law governing each claim and also the "particulars of damages" of that law. There is no indication that the Special Master is making any choice of law determinations. In fact, what the complaints allege is that the Special Master completely ignores even Defendants' own tortured reading of Section 402(5) – he is not applying the "economic loss" definition even in the way Defendants interpret it, but rather, making his own extra-legal, "philosophic" decisions. He is imposing his own law and ignoring certain categories of economic loss clearly recognized under state law.[22] Defendants' strained interpretation of Section 402(5) is a sham, an attempt to permit the Special Master to limit damages in direct contravention of the Act.

[22] For example, there is no indication that the Special Master will provide compensation to children for the loss of their parents' nurture, care and guidance, a recognized category of pecuniary loss under New York law. Keneavan v. New York, 120 A.D.2d 24, 507 N.Y.S.2d 193 (2d Dep't 1986), aff'd, 70 N.Y.2d 558, 523 N.Y.S.2d 60 (1987).

The fact that "[d]ifferent states calculate damages differently, and for different reasons" (Def. Mem. at 41)[23] is no reason to ignore the Act's incorporation of State law to determine claimants' proven economic loss "to the extent recovery for such loss is allowed under applicable State law." Act § 402(5) (emphasis added). While Defendants complain about the "burden" this will place on the Special Master, surely "burden" is not a valid excuse to ignore the plain language of the Act and deny the Congressionally mandated full compensation. Similarly, that the tort laws of different States "reflect different state's [sic] public policy choices" (Def. Mem. at 41) does not support the conclusion that Congress could not have intended to have Fund claimants be awarded their proven economic damages under New York law. Defendants suggest that it is presumptively "irrational" for any federal statute to incorporate state law to determine damages. (See Def. Mem. at 43.) In enacting the FTCA, however, "Congress selected a law which had a rational relation to the incident and which the district courts were skilled in applying." Winston v. United States, 305 F.2d at 271. It was likewise "rational" for Congress to intend the incorporation of New York law to determine the World Trade Center claimants' recoverable economic loss under the Fund.

Furthermore, Defendants purposely overstate the choice-of-law complexity. In truth, the Special Master may apply New York law as the "applicable State law" governing the economic loss claims concerning all decedents killed in New York. Section 408(b)(3) of the Act designates New York as the forum state for any civil suit, and Section 408(b)(2) provides that the substantive law to be

[23] Citing as examples wrongful death actions in Tenore v. Nu Car Carriers, Inc., 341 A.2d 613 (N.J. 1975); Kaczkowski v. Bolubasz, 421 A.2d 1027 (Pa. 1980); Charlton v. Jacobs, 619 S.W.2d 498 (Ky. Ct. App. 1981). Plaintiffs do not deny that the individual States have certain differences in their wrongful death laws; that is the nature of our state-federal system. But in passing the Act, Congress explicitly stated that economic loss should be governed by "applicable State law" (emphasis added). Plaintiffs maintain that New York law is the "applicable" State law for the World Trade Center claims.

applied therein "shall be derived from the law, including choice of law principles, of the State in which the crash occurred unless such law is inconsistent with or pre-empted by Federal law." New York's choice-of-law principles dictate use of the "significant contacts" test. Neumeier v. Kuehner 31 N.Y.2d 121, 335 N.Y.S. 2d 64 (1972); Schultz v. Boy Scouts of America, 65 N.Y.2d 189, 491 N.Y.S. 2d 90 (1985); Padula v. Lilarn Props. Corp., 84 N.Y.2d 519, 620 N.Y.S. 2d 310 (1994); Bodea v. Trans Nat'l Express, Inc., 286 A.D.2d 5, 731 N.Y.S. 2d 113 (4th Dep't 2001). Use of that test points indisputably to New York law for all the World Trade Center claims because New York is the lex locus delicti (i.e., the deaths occurred there), all decedents (with the exception of some airline passengers) were employed in New York and paid New York State income taxes, and several of the protected defendants under the Act are domiciled and/or subject to jurisdiction in New York, and regularly engaged in business in New York, e.g., the City of New York, the Port Authority of New York and New Jersey and the airlines. Accordingly, the Special Master can easily comply with Congress' mandate of determining economic loss in accordance with "applicable State law" by applying New York law.

B. No Other Federal Statute Supports Defendants' Position That the Special Master Has the Authority to Award Less Than Full Economic Damages Under Applicable State Law.

Defendants mistakenly point to three protection statutes that immunize teachers, volunteers, and good samaritans from liability as demonstrating that the Special Master is authorized to limit "economic loss."[24] (Def. Mem. at 38-39.) The three statutes to which Defendants call attention,

[24] 20 U.S.C. § 6733(1) (same definition as Section 402(5) of "economic loss" in Liability Protection Act for Teachers), 42 U.S.C. § 238q(e)(2)(b)(ii) (same definition of "economic loss" in

(*continued on next page*)

REV_00161204

however, differ from the Act in a significant way. The use by those statutes of the same definition of economic loss actually cuts against Defendants' argument, because the definition of "economic loss" in the those statutes is not a "limiting provision," but rather broadly defines the losses "to the extent allowed under applicable State law" from which the three protected groups enjoy immunity. The plain text of those statutes defines economic loss broadly as "any pecuniary loss . . . allowed under applicable State law" to establish that the beneficiaries of the statutes enjoy complete immunity from all State damages. Contrary to what Defendants suggest, those provisions do not provide limited categories of damages, and Defendants have cited no case law supporting that theory. Unlike the three liability protection statutes Defendants cite, the Act provides for "compensation," and thus, the overriding purpose of the Act would have to be ignored to accept the reading of defined "economic loss" and "applicable state law" advanced by the Defendants. Quite clearly, the three immunity statutes are both different and provide no support for the "thin air" argument that the Act's definition has nothing at all to do with calculations by the Special Master.

Defendants also rely on United States v. Slevin, 106 F.3d 1086 (2d Cir. 1996), which states that when two statutes use the same language they are "analyzed in the same way." (Def. Mem. at 39, quoting 106 F.3d at 1088.) All the statutes in Slevin dealt with criminal fraud; the common language was "any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises." Id. In short, Slevin deals with a cohesive body

---

(*continued from previous page*)
Liability Protect Act for Good Samaritans); 42 U.S.C. § 14505(1) (same definition of "economic loss" in Liability Protection Act for Volunteers).

of related criminal law on fraud, and it is completely inapposite to the varying statutes Defendants seek to portray as related in this case.

C. The Structure of the Act Refutes Defendants' Position That the Special Master May Impose a Cap.

Defendants' "structure of the Act" argument (Def. Mem. at 39-40) is equally unpersuasive. They contend that the definition of economic loss is essentially immaterial because it is found in the Act's "definitions" section (Act § 402). This ignores the well established rule that statutory definitions of words used elsewhere in the same statute furnish authoritative evidence of legislative intent and therefore are given controlling effect. Benjamin v. Jacobson, 172 F.3d 144, 155 (2d Cir. 1999) ("If the statute includes an explicit statutory definition, we accord that definition controlling weight") (emphasis added); Meese v. Keene, 481 U.S. 465, 484 (1987) (same); Sierra Club v. Clark, 755 F.2d 608, 613 (8th Cir. 1985) ("[S]tatutory definitions of words used elsewhere in same statute furnish such authoritative evidence of legislative intent and meaning that they are usually given controlling effect"); Walling v. Portland Terminal Co., 330 U.S. 148 (1947). The Act's definition thus trumps Defendants' strained misreading of economic loss.

Defendants cite Jones & Laughlin Steel Corp. v. Pfeifer, 462 U.S. 523 (1983), and McNerney v. Secretary, HHS, No. 90-1689V, 1992 WL 120345 (Cl. Ct. May 5, 1992), as somehow undermining the idea that Congress intended to incorporate state law in the operation of the Fund, notwithstanding what the Act explicitly states. These cases too are inapposite, but they initially do underscore the uniqueness of the Act. In Jones & Laughlin, the Supreme Court stated: "[W]e will do no more than is necessary to resolve the case before us. We limit our attention to suits under § 5(b) of the [Workers' Compensation] Act, noting that Congress has provided generally for an award of

damages but has not given specific guidance regarding how they are to be calculated." 462 U.S. at 547 (emphasis added). In the instant case, of course, Congress has stated how Fund awards are to be calculated. In McNerney, arising under the National Childhood Vaccine Injury Act, there had been ex parte contacts between the government and several treating physicians before one physician raised the state-based physician-patient privilege; the federal statute did not address the matter. The McNerney court decided not to recognize that evidentiary privilege, but that decision is certainly no support for ignoring state law in the Act, which expressly makes state law "applicable." Buxkemper v. Secretary, HHS, 32 Fed. Cl. 213 (1994), Van Epps v. Secretary, HHS, 26 Cl. Ct. 650, 652 (1992), and Jelly v. Secretary, HHS, No. 94-646v, 1998 WL 211913 (Ct. Cl. April 6, 1998), also cited by Defendants (Def. Mem. at 42 n.26, 43), also deal with national vaccine programs and are readily distinguishable. First, they are not based on statutes that tie "economic loss" to state law. Second, and equally significantly, all of those cases – cited by Defendants as supposedly proving the Special Master should have license to do as he pleases – have involved federal review. The point Plaintiffs have made and continue to make is that because the Act deprives them of judicial review of the Special Master's decisions, this Court must review the Act and require Defendants to implement it consistent with the text and purpose of the statute.

One reason for Defendants' tortured reading of the definition is that its natural meaning would prevent the Special Master from limiting compensation by a "needs" test. No State's law allows for such an arbitrary limit on compensation, and Defendants have cited none. There is no State law supporting the "needs" test and therefore, it may not be used to limit compensation. The Court should not allow the Special Master's perception of a claimant's (whether that be a third-party executor, a

spouse, or another family member) "needs" to trump a traditional economic loss analysis based on State law.

III. PLAINTIFFS' CLAIMS ARE REVIEWABLE

A. Plaintiffs' Claims Are not Precluded

Defendants argue that, because Act § 405(b)(3) provides that individual awards "shall be final and not subject to judicial review," Plaintiffs cannot challenge the methodologies and procedures promulgated by the Special Master. As their complaints make clear, however, Plaintiffs do not seek to challenge individual award determinations made by the Special Master; indeed, none of the named Plaintiffs have actually filed a claim with the Fund. Rather, the complaints attack the Defendants' rules, regulations, methodologies and administration of the Fund as unlawful and violative of the APA. Defendants do not, and clearly cannot, point to anything in the Act itself or in its legislative history that indicates that judicial review of agency action, the rules, and the regulations was foreclosed to any degree. Thus, they are forced to rely upon the provision – not uncommon in entitlement statutes – precluding judicial review of individual award determinations and to bootstrap that into an argument that this Court is without jurisdictional purview.

At the outset, in cases involving the review of administrative regulations, courts begin "with the strong presumption that Congress intends review of administrative action." Bowen v. Michigan Academy of Family Physicians, 476 U.S. 667, 670 (1986); see also McNary v. Haitian Refugee Ctr., Inc., 498 U.S. 479 (1991); Bartlett v. Bowen, 816 F.2d 695, 699 (D.C. Cir. 1987). "[O]nly upon a showing of 'clear and convincing evidence' of a contrary intent should the courts restrict access to judicial review." Abbott Labs. v. Gardner, 387 U.S. 136, 141 (1967). "The party seeking to preclude review bears the burden of demonstrating Congress' intent to do so." Block v. Community

Nutrition Inst., 467 U.S. 340, 351 (1984). Defendants have pointed to no evidence from the Act (other than § 405(b)(3) itself) that Congress intended to foreclose all review of the statute in question, and therefore cannot carry their burden.

It is well-settled that judicial review of the methods used by an agency is permitted despite the existence of statutory language prohibiting the review of agency decisions on individual cases. See McNary, 498 U.S. 479 (upholding jurisdiction because the complaint at issue "does not challenge any individual determination of any application . . . but rather attacks the manner in which the entire program is being implemented") (quoting Haitian Refugee Ctr., Inc. v. Nelson, 694 F. Supp. 864, 873 (S.D. Fla. 1988)); see also Abdullah v. INS, 184 F.3d 158, 164 (2d Cir. 1999) (construing McNary as holding that "a district court may exercise jurisdiction to adjudicate pattern-or-practice claims against the INS, as opposed to individual denials of status adjustment").

Because Plaintiffs properly challenge the rules, regulations, methodologies, and administration of the Fund, not individual awards, the Act does not foreclose Plaintiffs' challenge. Rather than challenging individual awards made by the Special Master, Plaintiffs challenge the "method, practice, and policy employed in the decision making process," which is permitted even where individual awards cannot be reviewed. See Sierra-Nevada Memorial Miners Hospitals, Inc. v. Sullivan, No. Civ. A. 91-2198, 1993 WL 841091 at *5 (D.D.C. Mar. 31, 1993) (denying defendants' motion to dismiss where plaintiffs challenged the procedures for submitting data to Medicare Board even though statute prohibited review of individual awards). As such, Plaintiffs' claims are not precluded by Act § 405(b)(3)'s mandate that an individual "determination shall be final and not subject to judicial review." The same "preclusive" language has already been construed to allow judicial review of the methodology employed by an agency. In Universal Health Services of McAllen, Inc. v. Sullivan, 770 F.

Supp. 704 (D.D.C. 1991) aff'd, 978 F.2d 745 (D.C. Cir. 1992), the District Court interpreted language of the Medicare Act providing that "[d]ecisions of the Secretary [of Health and Human Services] are final and shall not be subject to judicial review," as permitting judicial review of the Secretary's promulgation of guidelines. Id. at 707. The McAllen court found that the statutory language in question (which is nearly identical to that of the case at bar) referred to "individual . . . determinations," and did not "imply a congressional intent to preclude review of the underlying guidelines." Id. at 710. See also Sierra Nevada, 1993 WL 841091, at *13 ("in light of the "statutory scheme . . . Congress did not intend to preclude judicial review of procedures for submission of corrected wage data . . ."). Accordingly, the language of the Act does not foreclose Plaintiffs' challenge.

The cases upon which Defendants rely offer them no support. In Gutierrez de Martinez v. Lamagno, the Court actually holds that "[n]o persuasive reason for restricting access to judicial review is discernible from the statutory fog we confront here." Gutierrez de Martinez v. Lamagno, 515 U.S. 417, 424 (1995). Defendants cite to three cases in which the courts construe the Veterans Administration ("VA") Act, cases that are distinguishable because that statute is considerably broader than the Act here. Under the VA Act, "Decisions of the Administrator on any question of law or fact concerning a claim for benefits or payments under any law . . . administered by the Veterans' Administration shall be final and conclusive and no other official or any court of the United States shall have power or jurisdiction to review any such decisions." (emphasis added) 38 U.S.C. §211(a), quoted in Johnson v. Robison, 415 U.S. 361, 370 (1974); Walters v. National Ass'n of Radiation Survivors, 473 U.S. 305, 307 (1985) (same); Gott v. Walters, 756 F.2d 902, 915 (D.C. Cir. 1985) (same). Similarly, Paluca v. Secretary of Labor, 813 F.2d 524, 527 (1st Cir. 1987) involved a statute where

judicial review was more broadly foreclosed than under the Act: "The action of the Secretary or his designee in allowing or denying a payment under this subchapter is – (1) final and conclusive for all purposes and with respect to all questions of law and fact; and (2) not subject to review by another official of the United States or by a Court by mandamus or otherwise." 5 U.S.C. § 8128(b) (emphasis added). The narrow language of Act § 405(b)(3) is a far cry from the sweeping, preclusive language in those cases.

Defendants also misplace reliance on cases involving statutes where Congress specifically prohibited review of an agency's methodology, as opposed to individual awards. See American Society of Cataract & Refractive Surgery v. Thompson, 279 F.3d 447, 451-52 (7th Cir. 2002) (holding that the provision of Medicare Act providing "there shall be no administrative or judicial review . . . of . . . the determination of relative values and relative value units," contained a "clear and explicit indication of Congress' intent to prohibit administrative and judicial review" of said methodology); see also Painter v. Shalala, 97 F.3d 1351, 1355 (10th Cir. 1996) (holding that because Medicare Act contained an explicit provision forbidding the review of the "determination of conversion factors," the court had no jurisdiction to review the manner in which the conversion factor was calculated). Notably, the Act does not contain any provision forbidding the review of the Special Master's methodology; instead, it simply (and again, quite clearly) states that a final Fund award is not subject to judicial review.

Likewise, Defendants mistakenly rely on cases involving challenges to specific awards where review of individual awards is prohibited. See Mattes v. Chairman Vietnamese Commandos Compensation Comm'n, 173 F.3d 817 (11th Cir. 1999) (court lacked subject matter jurisdiction to review attorney's claim that he was entitled to a specific fee under the Commandos Compensation Act);

Rhodes v. United States, 760 F.2d 1180 (11th Cir. 1985) (court lacked subject matter jurisdiction to review decision of Secretary of the Army denying motorist's claim); Heckler v. Ringer, 466 U.S. 602, 621 (1984) (Supreme Court lacked jurisdiction to review decisions of the Secretary of Health and Human Services regarding individual claims under the Medicare Act); Califano v. Sanders, 430 U.S. 99, 108 (1977) (Supreme Court lacked jurisdiction to review the final decision of the Secretary of Health, Education, and Welfare on an individual claim for social security benefits).

In sum, the statutory reality that individual awards are not reviewable cuts against Defendants' argument seeking to forestall review of rules, regulations, criteria, and methodologies which make a mockery of the Act they are supposed to implement.

B. Plaintiffs Do Not Seek Judicial Review of Individual Awards, and the Special Master's Promulgation of Rules and Methodologies is Ripe for Review.

Defendants also contend that the Special Master's methodologies and policy pronouncements should not be subject to review because they do not constitute "final agency actions." (Def. Mem. at 67). This is also without merit.

Under the APA, a case is ripe for judicial review only if an agency's conduct constitutes a "final agency action." 5 U.S.C. § 704; see Top Choice Distribs., Inc. v. United States Postal Service, 138 F.3d 463, 466 (2d Cir. 1998). The Supreme Court has set forth a two-part test for identifying a final agency action, and the rulemaking and offending methodologies at issue fall well within that two-part definition. "First, the action must mark the consummation of the agency's decisionmaking process – it must not be of a merely tentative or interlocutory nature. And second, the action must be one by which 'rights or obligations have been determined' or from which 'legal consequences will flow.'" Bennett v. Spear, 520 U.S. 154, 178 (1997) (citations omitted); see also Air Espana v. Brien,

165 F.3d 148, 152 (2d Cir. 1999) ("The problem is best seen in a twofold aspect, requiring us to evaluate both the fitness of the issues for judicial decision and the hardship to the parties of withholding court consideration"). More recently, the Court has articulated the standard in this manner: "the finality requirement is concerned with whether the initial decisionmaker has arrived at a definitive position on the issue that inflicts an actual, concrete injury." Darby v. Cisneros, 509 U.S. 137, 144 (1993).

Both elements of the Supreme Court's test are met here. First, the Special Master's methodologies and policies clearly constitute "definitive positions" on each of the issues raised by Plaintiffs. The explicit language of statements published on the Fund Website, combined with his statements both in public forums and in meetings with "test case" claimants, reflect a consistent determination to adhere to his announced policies pertaining to the use of after-tax earnings, the consumption rates of single victims, the calculation of average earnings and growth rates, and caps on victim awards. Nothing about the Special Master's promulgation of these policies casts them as "tentative" or "interlocutory"; rather, they are binding on all claimants to the Fund. See Bennett, 520 U.S. at 178 (unlike "recommendations" which were "purely advisory" and "in no way binding," regulatory opinion at issue had "direct and appreciable legal consequences" and therefore satisfied the first, "consummation of decisionmaking" element of the finality requirement). In fact, as the Colaio Complaint specifically alleges, the Special Master has engaged in a pattern of gamesmanship with respect to promised guidelines governing Fund awards for so-called "high earners," and has deliberately avoided publishing anything which would meet his own criteria for efficiency, predictability and consistency for Fund claimants above the 98th percentile. (Colaio Complaint ¶¶ 71-77.) Not surprisingly, there is not a hint of things yet to come on this subject from the Defendants' moving papers.

Second, the Special Master's methodologies and policy pronouncements undeniably inflict "an actual, concrete injury." The Special Master's actions establish the limits within which eligible individuals will be compensated, limits that Plaintiffs contend deprive them of the economic compensation to which the Act entitles them.[25] It is undisputed that the Act and private civil suits are mutually exclusive; it is also true the Plaintiffs are rapidly running out of time to make that choice. Defendants' argument that Plaintiffs' case is premature for lack of final agency action would leave Plaintiffs no way out of this Catch-22, by which Defendants would seek to evade judicial scrutiny altogether. Since Plaintiffs have brought this action prior to submitting individual claims and receiving awards, Defendants (wrongly) claim unripeness. Yet, if Plaintiffs brought suit after submitting individual claims and receiving awards, Defendants would surely invoke Section 405(b)(3) of the Act to argue that no judicial review is available once an individual award has been determined.

That the Special Master's conduct subjects Plaintiffs to the daunting choice described above is sufficient to constitute an actual, concrete injury, in satisfaction of the second element of final agency action. See Able v. United States, 88 F.3d 1280, 1290 (2d Cir. 1996) (for purposes of "final agency action" inquiry, plaintiff suffered actual injury from the mere existence of a Department of Defense policy that subjected her to an "impossible choice" even though it had never been applied in her individual case; the "don't ask, don't tell" policy on gays and lesbians in the military would force plaintiff either to reveal her sexual orientation and incur discharge or to conceal her orientation and forego judicial review although she alleged that such concealment violated her constitutional rights). As

[25] Importantly, Plaintiffs have alleged, and Defendants cannot dispute on this motion to dismiss, that the Special Master's offer to consider "extraordinary circumstances" is meaningless and does not provide claimants with the complete compensation to which the Act entitles them. Plaintiffs have further

(*continued on next page*)

REV_00161214

the Second Circuit concluded in Able, the Plaintiffs "would suffer greater hardship if judicial review is withheld than would the government if it is not," and accordingly, the requirement of final agency action "has been met." Able, 88 F.3d at 1290.

(*continued from previous page*)
alleged the gargantuan difference between their "economic loss" as defined in the Act and the Special Master's de facto cap.

CONCLUSION

For all of the foregoing reasons, Defendants' motion to dismiss should be denied in all respects.

Dated: New York, New York
March 28, 2003

SALANS
Attorneys for Plaintiffs June Colaio, Victor J. Colaio, Frank John Aquilino, Geraldine Davie, JoAnne Lovett, Nancy N. Pedicini, and Maria A. Waring

By: _____
John F. Cambria (JC 4098)

620 Fifth Avenue
New York, NY 10020
212-632-5500

KREINDLER & KREINDLER
Attorneys for Plaintiffs Donna Smith and Jill Rosenblum

By: _____
Marc S. Moller, Esq. (MM 0143)
Justin T. Green, Esq. (JG 0318)
Brian J. Alexander, Esq. (BA 9435)
Noah H. Kushlefsky, Esq. (NK 6272)
Vincent I. Parrett, Esq. (VP 5092)

100 Park Avenue
New York, NY 10017
212-687-8181

LAW FIRM OF AARON J. BRODER & JONATHAN C. REITER
Attorneys for Plaintiff Cheryl Schneider

By: _____
Aaron J. Broder (AB 5905)
Jonathan C. Reiter (JR 7522)
320 Fifth Avenue, Suite 2811
New York, NY 10018
212-244-2000

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUNE COLAIO, as Administrator of the Estate of Mark J. Colaio, Deceased, VICTOR J. COLAIO, as Administrator of the Estate of Stephen J. Colaio, Deceased, FRANK JOHN AQUILINO, as Administrator of the Estate of Frank Thomas Aquilino, Deceased, GERALDINE DAVIE, as Administrator of the Estate of Amy O'Doherty, Deceased, JOANNE LOVETT, as Administrator of the Estate of Brian F. Nunez, Deceased, NANCY N. PEDICINI, as Administrator of the Estate of Thomas E. Pedicini, Deceased, and MARIA A. WARING, as Administrator of the Estate of James A. Waring, Deceased, on behalf of themselves and all other similarly situated "eligible individuals" under 49 U.S.C. § 40101, Plaintiffs, - against - KENNETH R. FEINBERG, Special Master of the September 11th Victim Compensation Fund of 2001, JOHN ASHCROFT, Attorney General of the United States, and the UNITED STATES DEPARTMENT OF JUSTICE, Defendants.	03 CV 0558 (AKH)

COLAIO PLAINTIFFS' SUPPLEMENTARY MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS

SALANS
Attorneys for Plaintiffs and the Class
620 Fifth Avenue

REV_00161217

New York, NY 10020
212-632-5500

REV_00161218

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES ii

PRELIMINARY STATEMENT 1

ARGUMENT 3

I. THE REALITY THAT WRONGFUL DEATH AWARDS INVOLVE "PREDICTION" DOES NOT EXCUSE CONDUCT ON THE PART OF THE DEFENDANTS THAT IS ARBITRARY AND CAPRICIOUS. 3

II. IN FOUR WAYS CHALLENGED BY PLAINTIFFS, THE IMPLEMENTATION AND ADMINISTRATION OF THE FUND IS IN VIOLATION OF THE ACT, CONTRARY TO NEW YORK LAW, AND ARBITRARY AND CAPRICIOUS 10

A. Undervaluation of Fund Awards By Calculating Economic Loss On The Basis of After-Tax Earnings 10

B. Use of Arbitrary and Unreasonable Consumption Rates For Persons Not Married at the Time of Their Deaths. 12

C. Undervaluation of Awards By Using "Average Earnings" for Three Years Prior to Death, Disregarding 2001 Annualized Earnings and Excluding Compensation Other Than Salary and Bonus in Awards. 15

D. Failure to Calculate Or Promulgate Rules For Economic Loss Where Decedents' Income Exceeded the 98th Percentile; Imposing a De Facto, Arbitrary and Unreasonable Cap on Individual Awards 17

CONCLUSION 26

TABLE OF AUTHORITIES

Page

CASES

AT&T Corp. v. FCC,
220 F.3d 607 (D.C. Cir. 2000) 18

American Hospital Ass'n v. NLRB,
499 U.S. 606 (1991) 24

Bankers Trust Co. v. R & Z Television of N.Y., Inc.,
4 A.D.2d 690, 164 N.Y.S.2d 488 (2d Dep't 1957) 15, 16

Breckir v. Lewis,
21 A.D.2d 546, 251 N.Y.S.2d 77 (1st Dep't 1964) 21

Catskill Mountains Chapter of Trout Unlimited, Inc. v. City of New York,
273 F.3d 481 (2d Cir. 2001) 9

Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.,
467 U.S. 837 (1984) 9, 17, 18

Christensen v. Harris County,
529 U.S. 576 (2000) 9

Connecticut Nat'l Bank v. OMI Corp.,
928 F.2d 39 (2d Cir. 1991) 13

EEOC v. Arabian American Oil Co.,
499 U.S. 244 (1991) 9

Farrar v. Brooklyn Union Gas Co.,
73 N.Y.2d 802, 537 N.Y.S.2d 26 (1988) 5, 6, 10

FCC v. Schreiber,
381 U.S. 279, 290 (1965) 25

Feldman v. Allegheny Airlines, Inc.,
524 F.2d 384 (2d Cir. 1975) 6

Franchell v. Sims,
73 A.D.2d 1, 424 N.Y.S.2d 959, 963 (4th Dep't 1980) 21, 22

TABLE OF AUTHORITIES

Page

Heckler v. Campbell,
461 U.S. 458 (1983) 25

In re Kaiser,
198 Misc. 582, 100 N.Y.S.2d 218 (Surr. Ct. 1950) 8

In re Muccini,
118 Misc. 2d 38, 460 N.Y.S.2d 680 (Surr. Ct. 1983) 8, 9

Kaczkowski v. Bolubasz,
421 A.2d 1027 (Pa. 1980) 6

Machline v. National Helicopter Corp.,
No. 94 Civ. 8456, 1997 WL 786937 (S.D.N.Y. June 17, 1997) 19, 20, 21

McDougald v. Garber,
132 Misc. 2d 457, 504 N.Y.S.2d 383 (Sup. Ct. 1986) 14

McWeeney v. New York, New Haven & Hartford R.R. Co.,
282 F.2d 34 (2d Cir. 1960) 19, 20

Mono v. Peter Pan Bus Lines, Inc.,
13 F. Supp. 2d 471 (S.D.N.Y. 1998) 6, 7

Natural Resources Defense Council, Inc. v. Muszynski,
268 F.3d 91 (2d Cir. 2001) 18

Norfolk & W. Ry. Co. v. Liepelt,
444 U.S. 490 (1980) 11, 19

Reno v. Flores,
507 U.S. 292 (1993) 25

Reno v. Koray,
515 U.S. 50 (1995) 9

Ritter v. State,
74 Misc. 2d 80, 344 N.Y.S.2d 257 (Ct. Cl. 1972) 15, 16

TABLE OF AUTHORITIES

Page

St. Louis, Iron Mountain & S. Ry. Co. v. Hesterly,
228 U.S. 702 (1913) 11

United States v. Fior D'Italia, Inc.,
536 U.S. 238, 122 S. Ct. 2117 (2002) 7, 8

United States v. Mead Corp.,
533 U.S. 218 (2001) 17, 18

Vermont Yankee Nuclear Power Corp. v. NRDC,
435 U.S. 519 (1978) 25

WorldCom, Inc. v. FCC,
238 F.3d 449 (D.C. Cir. 2001) 18

STATUTES

26 U.S.C. § 6201(a) 8

49 U.S.C. § 40104 ..... passim

45 U.S.C. §§ 51-60 ..... 11, 19

REGULATIONS

28 C.F.R. § 104.33(f)(2) 23

67 Fed. Reg. 11,238 11

OTHER AUTHORITIES

M. RUBEL, R. PATTON & D. NELSON, PATTON-NELSON PERSONAL CONSUMPTION TABLES 1997-98 UPDATE, JOURNAL OF FORENSIC ECONOMICS (2000) 13

Plaintiffs June Colaio, Victor J. Colaio, Frank John Aquilino, Geraldine Davie, JoAnne Lovett, Nancy N. Pedicini and Maria A. Waring ("Plaintiffs" or the "Colaio Plaintiffs") respectfully submit this Supplemental Memorandum of Law in opposition to Defendants' motion to dismiss the Complaint.[1]

PRELIMINARY STATEMENT

In moving to dismiss the Colaio Complaint, Defendants misstate, misconstrue and outright dodge Plaintiffs' allegations. Almost without exception, Defendants simply recite, in ritualistic fashion, "deference" the judiciary ordinarily gives to a regulator or agency in a run-of-the-mill administrative law case. To the extent Defendants attempt to insulate their actions with such incantations, they fail because none of the authorities cited supports what Defendants have done in ignoring the plain meaning of this unique Act,[2] which incorporates "applicable State law," eliminates judicial review of awards, and imposes severe limitations on the only alternative to the Fund, disproportionately low recovery for World Trade Center victims in litigation.[3] To the extent Defendants attempt to justify their actions as somehow "consistent" with New York law, they fail again, because the cases cited do not support the arguments advanced.

Although Defendants spend an inordinate amount of their brief trying to justify their calculation of presumed economic loss up to but not beyond the 98th percentile of U.S. income and denying the existence of any "cap" on Fund awards, it is important to note that the failure to publish presumed awards beyond that point and the imposition of a de facto "cap" was only one of the Colaio

[1] The "Complaint" or "Colaio Complaint" referred to herein is the Amended Class Action Complaint in Colaio *et al.* v. Feinberg *et al.*, No. 03 CV 0558 (AKH), filed February 21, 2003.

[2] Title IV of the Air Transportation Safety and System Stabilization Act of 2001 (the "Act").

Plaintiffs' four challenges.[4] By making that single point the centerpiece of their brief, Defendants strive to portray the Colaio class action as a lawsuit on behalf of a few wealthy individuals. The Complaint speaks for itself: although all of the decedents named in the Complaint were employed by Cantor Fitzgerald or a related company, only a couple of them were "high earners," and the Complaint makes clear that the action is brought on behalf of a class that includes virtually all personal representatives of individuals who perished in the World Trade Center tragedy. (Complaint ¶¶ 21-29.) Every one of those potential claimants is subject to Defendants' same disregard of the wording and intent of the Act.

The Joint Memorandum of Law submitted by the Colaio Plaintiffs together with the plaintiffs in the related Smith and Schneider actions[5] responds to Points I, II, and VI of Defendants' brief. This Supplemental Memorandum of Law addresses Points III and IV of Defendants' brief as it relates to the allegations of the Colaio Complaint. First, we demonstrate that wrongful death awards

---

(*continued from previous page*)

[3] See Complaint ¶ 28.

[4] As the Court is aware from prior briefing submitted by Plaintiffs, the Complaint challenges Defendants' implementation and administration of the Fund in four separate respects, as follows: (a) calculating, limiting and awarding compensation for economic loss on the basis of after-tax earnings in contravention of applicable New York state law; (b) calculating, limiting and awarding compensation for economic loss for decedents who were not married at the time of their deaths by applying arbitrary and unreasonable consumption rates in contravention of applicable New York state law; (c) calculating, limiting and awarding compensation for economic loss for decedents by utilizing as "average earnings" a 1998-2000 three-year income average and disregarding annualized earnings for 2001 and relevant earnings growth rates, and refusing to consider any elements of compensation other than salary and bonus in contravention of applicable New York state law; and (d) failing to calculate, or to promulgate rules and regulations, or to develop methodologies and schedules for awarding compensation for economic loss for decedents whose "average earnings" exceeded the 98th percentile of individual income in the United States in 2000, and by instituting a de facto, arbitrary, and unreasonable cap on any individual Fund award, in contravention of applicable New York state law. (Complaint ¶ 27.)

[5] Smith *et al.* v. Ashcroft, *et al.*, No. 03 CV 1040 (AKH), and Schneider v. Feinberg, *et al.*, No. 03 CV 1129 (AKH).

REV_00161224

always involve a certain amount of "prediction" and "speculation," and that this has been, and is, is acceptable to courts. Accordingly, Defendants' assertion that the uncertainty of economic loss compels their rigid "presumptive award methodology" and "extraordinary circumstances" test is infirm. Second, we address each of Defendants' arguments opposing the Colaio Plaintiffs' four specific challenges to the implementation and administration of the Fund, as alleged in the Complaint, and show that, as a matter of law, Plaintiffs have alleged sustainable causes of action.

Plaintiffs incorporate herein the Statements of Facts contained in both the Joint Memorandum of Law on this motion to dismiss and in their memorandum of law, dated March 14, 2003, previously submitted in support of their own simultaneous motion for summary judgment. Plaintiffs further adopt and incorporate herein the applicable legal standards described in detail at the opening of the Argument section of the Joint Memorandum of Law.

ARGUMENT

I. THE REALITY THAT WRONGFUL DEATH AWARDS INVOLVE "PREDICTION" DOES NOT EXCUSE CONDUCT ON THE PART OF THE DEFENDANTS THAT IS ARBITRARY AND CAPRICIOUS.

Two main points are implicated here. First is the Defendants' transparent, and shameless, attempt to distort the relief sought by Plaintiffs and their position in terms of Fund awards that would be consistent with the Act. Second is the illogical "rationale" advanced by the Defendants in a vain attempt to defend the Special Master's arbitrary 98th percentile only pre-emptive award charts.

Plaintiffs in the Colaio action challenge certain rules, regulations and methodologies adopted by the Defendants and sought to be implemented by them in the administration of the Fund and in the process of determining individual compensation awards therefrom made by Special Master Feinberg. They seek to have the same rescinded and replaced with rules that carry out the purposes of

the Act. Plaintiffs challenge a tiny fraction of the rules, regulations and methodologies of the Fund and the actions of the Special Master even though there are innumerable areas where challenges could be made. As we have stated time and again, Plaintiffs believe in the Fund, appreciate the complexities of the tasks facing the Special Master, and want the process of application and ultimate compensation awards to begin without being hampered by arbitrary and unfair rules which preordain the outcome before a claimant even has the opportunity to adduce proof of loss.[6] Moreover, Plaintiffs – who are and who represent a broad spectrum of income levels and personal/family situations – have never advocated the viewpoint that the Special Master must, in mechanistic fashion, simply calculate and award Fund compensation that is equivalent to the maximum possible compensatory award a claimant might obtain from a court or jury in a successfully prosecuted wrongful death tort action governed by New York law.[7]

In short, the Defendants – seeking vainly to paint the Plaintiffs as desirous of windfall awards at the expense of the U.S. Treasury (as if it were the Special Master's job to balance the federal budget) – have distorted and mischaracterized Plaintiffs' position. It is the Special Master's job to implement regulations that carry out the Act, and that, by his own pronouncement, provide claimants with predictable and consistent awards without imposing undue burdens upon them.

---

[6] As detailed in our summary judgment record and brief, this collective desire is, in any event, mandated by the simple fact that the "choice" of private tort litigation is, for the World Trade Center site victims, entirely illusory.

[7] This, of course, could not be possible in any event since the Act prevents any consideration of punitive damages, and since the rules and regulations thereunder cap non-economic loss and all hedonic damages at $250,000 and limit recovery for dependents to $100,000 per child. Moreover, this gossamer thin argument by the government also goes too far since it seems to be based on the specious thinking that the proof of loss adduced by a wrongful death plaintiff at trial will (assuming liability is proved) automatically be translated to verdict/judgment. A New York wrongful death plaintiff's proof at trial is frequently the subject of countervailing evidence, and courts and juries frequently render verdicts/judgments that are considerably less than the amounts sought.

As to the second point pertaining to so-called "high earners," the position advanced by the Defendants, without citation or authority and seemingly decreed *deus ex machina* by Mr. Feinberg, is itself nothing more than rank speculation. (See Def. Mem. at 48-52.) Initially, while national census percentages and the talismanic 98th percentile may mean something as raw statistics, this Court can take judicial notice of the fact (especially true in New York City) that it is absurd to contend that anything above a $231,000 per annum earnings level is "extraordinary high" income and "involves a level of speculation and uncertainty not present in ordinary cases." There is simply nothing unusual, or any less predictable, about the many thousands and thousands of business people, professionals, brokers, analysts, shop and small business owners (etc., etc., etc.) who have earnings well into the mid- and even upper six figures levels even if, comparatively speaking, they represent a small percentage of the statistical population. Moreover, here again, the Complaint's allegations must be accepted, and it is clear why presumptive award charts have not been promulgated beyond the 98th percentile level: because the Defendants know that the same would readily show awards that extend well beyond the de facto cap the Special Master seeks to impose. (Complaint ¶¶ 70, 71.)

Plaintiffs do not deny that the Special Master's task in every Fund claim involves "prediction" and "a certain amount of speculation," as Defendants suggest. (Def. Mem. at 46.) It is tautological to assert that wrongful death awards involve estimation and prognostication. However, the cases Defendants cite do nothing to detract from the fact that reasonably acceptable prediction is possible. For instance, in Farrar v. Brooklyn Union Gas Co., 73 N.Y.2d 802, 537 N.Y.S.2d 26 (1988) (Def. Mem. at 46),[8] the administrator bringing a wrongful death action claimed that, had the

[8] Miscited by Defendants as 537 N.Y.S.2d 802 (1988).

REV_00161227

deceased lived five years longer, the estate would have been entitled to a federal estate tax credit and no federal estate tax would have been owed; that contention assumed, among other things, that the deceased's tax status would not change and that the tax law itself would not change. New York's highest court held that the non-earned, non-fixed tax credit the administrator was proposing was based on too many future, changeable events. Farrar, 73 N.Y.2d at 803. Nothing in Plaintiffs' Complaint even remotely resembles such a flimsy claim.

Feldman v. Allegheny Airlines, Inc., 524 F.2d 384 (2d Cir. 1975) (Def. Mem. at 46), decided under *Connecticut* law, found error in calculating a young woman's lost earnings without lowering the calculated salary element for the 8-year period during which, the evidence showed, she had intended to work part-time while raising children. 524 F.2d at 388. In Kaczkowski v. Bolubasz, 421 A.2d 1027 (Pa. 1980) (Def. Mem. at 46), the court overruled prior *Pennsylvania* law that had prevented the introduction of evidence of lost potential productivity, stating that "the assertion that productivity factors are too speculative to consider in computing lost future earnings" is "fallacious." 421 A.2d at 1033. Indeed, the Kaczkowski court expressly acknowledged that wrongful death damages involve some speculation, but that the rule is probability, and the law does not require that proof of damages conform to a standard of "mathematical exactness." Id. at 1030.

Mono v. Peter Pan Bus Lines, Inc., 13 F. Supp. 2d 471 (S.D.N.Y. 1998), also cited by Defendants (Def. Mem. at 46), actually proves Plaintiffs' point. The court there stated that under New York law, "pecuniary injuries" – equivalent to "economic loss" in the instant case – is "broadly construed." Id. at 477. The court also recognized that in a wrongful death action, there can never be "certainty" of proof, but "the evidence may be received if there is a sufficient probability of [the] decedent's future earnings," and "expected changes in the decedent's future earnings" are properly

considered "where it is probable that such changes were forthcoming." Id. at 478. At issue in Mono was evidence regarding the decedent's future earnings as a full-time bookkeeper, where although she had been not been working full-time prior to death, the evidence showed her intent to do so in the future, and the predictions of future earnings were "grounded in historical data" about her earning capacity. Id. at 479-80. To the extent this case is relevant to Plaintiffs' claims, it simply shows that what they have offered and can offer as proof of future earnings is of vastly more probative value than the Mono court required.

Plaintiffs understand that they bear some level of evidentiary burden in order to file a claim with the Fund. They further understand that the Special Master is the arbiter of that evidence, and that he is empowered to make decisions on issues presented by the proof. He is not, however, allowed to simply ignore such proof (he "shall review"), and he cannot evade the statutory obligation (he "shall. . . determine. . . the extent of the harm to the claimant. . .").

Defendants also point to the Act's direction to the Special Master to promulgate "procedural and substantive rules" for administering the Act as justifying their methodologies. Ignoring the Act's express incorporation of "applicable State law" in the calculation of "economic loss," Defendants argue that express authority to "determine compensation" "includes" the authority to decide "how to determine compensation." (Def. Mem. at 45.) Defendants' reliance on United States v. Fior D'Italia, Inc., 536 U.S. 238, 122 S. Ct. 2117 (2002), for this proposition is curiously misplaced. It is difficult to imagine how Defendants could seriously propose that this Court look for guidance to Fior D'Italia – neither a wrongful death case nor even a government benefits case – which does not involve a determination of "compensation" at all. Fior D'Italia is a federal tax case in which a restaurant sought a refund on unreported tips, challenging the IRS's use of an average tip percentage from credit card

receipts. 122 S. Ct. at 2117. In other words, the case dealt with financial facts that were unknown because employees had deliberately failed to report or had under-reported their tip income; this is light years away from Plaintiffs' case, in which the decedents' financial information is known and readily available to the Special Master. In fact, the Special Master's forms call for the reporting of that information, and all such information could and would be supplied in applications to the Fund. In any event, the statutory provision on which the Fior D'Italia Court based its initial deference to the IRS – before evaluating the reasonableness of the methodology employed – is a far cry from the unambiguous language of the Act upon which Plaintiffs rest their claims here.[9]

Defendants assert that "[a]lthough New York law does not govern the determination of compensation" – a contention Plaintiffs adamantly dispute – New York wrongful death law "uses presumptive methodologies." (Def. Mem. at 52, n.29, citing In re Kaiser, 198 Misc. 582, 100 N.Y.S.2d 218 (Surr. Ct. 1950), and In re Muccini, 118 Misc. 2d 38, 460 N.Y.S.2d 680 (Surr. Ct. 1983).) Kaiser involved a negotiated settlement of a wrongful death action resulting from a car accident, and the issue was not, as here, the total award, but rather, how the net amount of the settlement should be divided among the decedent's distributees. The court held that the settlement should be distributed to the spouse and next of kin based on the period they might reasonably have looked to the decedent for support; thus, by using the decedent's life expectancy as the denominator and each dependent's respective years of anticipated support as numerators, the court developed a formula for "dividing the pie," as it were. In the instant case, of course, the Fund is an unlimited fund

[9] The Supreme Court relied on 26 U.S.C. § 6201(a), under which the IRS, as delegate of the Secretary of the Treasury, "is authorized and required to make the inquiries, determinations, and assessments of all taxes . . . which have not been duly paid . . . . " See United States v. Fior D'Italia, 122 S. Ct. at 2122.

(Complaint ¶ 31) – not a negotiated settlement fund, and the issue before this Court has nothing to do with internal family splits of any Fund awards. Muccini, also a wrongful death case, likewise involved the seeking of approval for a particular intra-family distribution of a negotiated settlement. In short, neither case has any application here.

Defendants also incant the defense that their presumptive award methodology "easily satisfies" the "extraordinarily deferential standard" of Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837 (1984). (Def. Mem. at 45.) However, as discussed in the Joint Memorandum of Law, Defendants cannot use Chevron to insulate actions not promulgated pursuant to notice-and-comment rulemaking, such as the de facto cap on awards and the use of an average of three-years' prior income discussed below at Points II.C and II.D. The law is well-settled that informal agency action does not enjoy Chevron deference.[10] Even if Chevron deference were appropriate, the Court would still be required to analyze whether the regulation is substantively arbitrary and capricious. See Chevron, 467 U.S. at 844 (even where deference to notice-and-comment rulemaking is appropriate, reviewing court cannot uphold regulation if it is "arbitrary, capricious, or manifestly contrary to the statute"). Each and every one of the challenges Plaintiffs make are to rules, regulations or methodologies – or just plain fiat – that are contrary to the Act.

[10] See, e.g., Christensen v. Harris County, 529 U.S. 576, 587 (2000) ("Interpretations such as those in opinion letters – like interpretations contained in policy statements agency manuals, and enforcement guidelines, all of which lack the force of law – do not warrant Chevron-style deference"); Reno v. Koray, 515 U.S. 50, 61 (1995) (Bureau of Prisons internal guideline not "subject to the rigors of the 'Administrative Procedur[e] Act, including public notice and comment" entitled to only limited, not Chevron, deference) (internal quotation and citation omitted); EEOC v. Arabian American Oil Co., 499 U.S. 244, 256 (1991) (EEOC guidelines not subject to Chevron); Catskill Mountains Chapter of Trout Unlimited, Inc. v. City of New York, 273 F.3d 481, 491 (2d Cir. 2001) (EPA's policy statements, opinion letters and reports to Congress do not "come close to the sort of formal, binding articulation of an agency's views that would justify Chevron deference").

II. IN FOUR WAYS CHALLENGED BY PLAINTIFFS, THE IMPLEMENTATION AND ADMINISTRATION OF THE FUND IS IN VIOLATION OF THE ACT, CONTRARY TO NEW YORK LAW, AND ARBITRARY AND CAPRICIOUS.

A. Undervaluation of Fund Awards By Calculating Economic Loss On The Basis of After-Tax Earnings.

In their Complaint, Plaintiffs allege that New York law requires the use of before-tax earnings in calculating economic loss in a wrongful death action, and that Defendants have consistently violated New York law (and thus, the Act that incorporates it) by using after-tax earnings of a decedent, resulting in significantly lower awards to Fund claimants. (Complaint ¶¶ 53-56.) As an example, Plaintiffs allege that for a claimant whose decedent had average earnings of $225,000, the Special Master's award computed on an after-tax basis is approximately $3,350,000, whereas an award calculated before-tax is approximately $4,475,000. (Complaint ¶ 55.)

Nowhere in their memorandum of law do Defendants cite a single New York case or New York statute supporting their after-tax approach. In fact, Defendants tacitly admit that Plaintiffs' interpretation of New York law is correct, by citing Farrar, 73 N.Y.2d 802. In that case, the New York Court of Appeals expressly stated the well-settled New York law that "future tax liability is not considered when determining pecuniary loss" in a wrongful death action. Id. at 804.

Ignoring New York law, however, Defendants maintain that their after-tax approach is "reasonable" because it has been "specifically approved" by the United States Supreme Court. (Def. Mem. at 54.) Defendants' reliance on Norfolk & W. Ry. Co. v. Liepelt, 444 U.S. 490 (1980), is decidedly off center. Liepelt was a wrongful death action brought in Illinois state court under the Federal Employers' Liability Act ("FELA"), 45 U.S.C. § 51 *et seq.*, which – unlike the Act involved

REV_00161232

here – does not contain a definition of "economic loss" tied to "applicable State law."[11] The Supreme Court in Liepelt held that *in a FELA action*, a state court may not exclude evidence of tax liability. 444 U.S. at 490-91. In the Act under which Plaintiffs assert their claims, not only did Congress incorporate "applicable State law," it also created an exclusive federal cause of action for which this Court will have exclusive jurisdiction and will apply state law unless preempted by or inconsistent with federal law.[12] Act § 408(b)(3). As a matter of law, the provisions of the Act on which Plaintiffs here rely are not inconsistent with or preemptive of New York law. Defendants' weak allusion to Supreme Court authority in an entirely different context is tantamount to an admission of Plaintiffs' allegations.

Instead of using "applicable State law," i.e., New York's law on use of pre-tax earnings in calculating economic loss for wrongful death, the Special Master "elect[ed] to use a 'blended after-tax discount rate[ ]' to compute the present value of awards, and to 'adjust[ ] the discount rate to reflect current yields on mid- to long-term U.S. Treasury securities." (Def. Mem. at 23-24, citing 67 Fed. Reg. at 11,238.) Defendants contend that this approach will involve "more complex computation" but will "better reflect the different ages of the victims the fact that the survivors will receive awards reflecting different assumed future years of life." (Def. Mem. at 24, citing 67 Fed. Reg. at 11, 238.) Given Defendants' blunderbuss attack on Plaintiffs' challenges as necessitating more complex computation (Def. Mem. at 5), the Special Master 's "election" – as if the Act presents him with two or more options from which to choose, which it does not – of this methodology is somewhat

[11] Indeed, the Supreme Court has held that FELA supersedes inconsistent state wrongful death laws, so that if a person is killed while employed under the circumstances FELA provides, an action will lie only under FELA. See St. Louis, Iron Mountain & S. Ry. Co. v. Hesterly, 228 U.S. 702 (1913).

[12] The law to be applied in such a civil action will be the law of the State where the crash occurred – i.e., for World Trade Center victim cases, the law of the State of New York.

REV_00161233

baffling. And, (again) apart from the fact that such disputation of facts is beyond a motion to dismiss, it is telling that Defendants do not even attempt to argue (let alone prove) that the Special Master's "better" method equals or exceeds the before-tax approval mandated by New York law.

B. Use of Arbitrary and Unreasonable Consumption Rates For Persons Not Married at the Time of Their Deaths.

A number of the Plaintiffs' decedents (and many decedents of the putative class members) were single when they died on September 11, 2001. (Complaint ¶ 59.) In their Complaint, Plaintiffs allege that Defendants' methodology for calculating the consumption rate of the decedent, which in turn is used as a factor to calculate "economic loss" (stated by the Act to be governed by "applicable State law") reveals a shocking disparity between the consumption rate of a single decedent versus that of a decedent who was married. (Complaint ¶ 57.) As an example, Plaintiffs allege that under Defendants' methodology, a single decedent with an annual income of $70,000 has a consumption rate of 60.8 percent, whereas a married decedent has a consumption rate of only 17.4 percent, and that Defendants' tabular dichotomy between single and married decedents leads to grossly disproportionate and discriminatory awards from the Fund. (Complaint ¶ 58.)

Defendants appear not to dispute the Complaint's allegations regarding discrimination between single and married decedents.[13] Their brief merely refers to three articles in economics journals. (See Def. Mem. at 55-58.) Only one of these articles, M. Rubel, R. Patton, & D. Nelson, Patton-Nelson Personal Consumption Tables 1997-98 Update, Journal of Forensic Economics, is even

[13] Their Answer provides little guidance since, as with virtually every other allegation, the response of the Defendants is an exercise in avoidance and double-talk.

REV_00161234

mentioned in Defendants' Explanation of Process – and in a footnote, at that.[14] The other two economics articles cited in the text of Defendants' brief are not included in or referenced in any manner in the Explanation of Process (and again, are beyond the pale of a motion to dismiss).

Buried in a footnote, however, Defendants make the assertion that New York law "provides no guidance" in connection with consumption rates. (Def. Mem. at 58 n.35.) Nevertheless, the cases in that footnote prove the very point Plaintiffs have made in their Complaint: that consumption rates cannot be set in an across-the-board fashion, but must depend on the circumstances of each case. Connecticut Nat'l Bank v. OMI Corp., 928 F.2d 39 (2d Cir. 1991), cited by Defendants, was an admiralty action brought in this court for wrongful death. In determining the proper consumption rate for a married individual, Judge Carter considered a fifty-percent rate that had been used in certain other cases but concluded that the facts of the case, including the amount of time the decedent spent away from home, warranted use of a personal consumption rate of twenty-five percent. The Second Circuit affirmed that finding, holding that a consumption rate "is not a rule of law" but a finding of fact. Connecticut Nat'l Bank, 928 F.2d at 47. Nor does McDougald v. Garber, 132 Misc. 2d 457, 504 N.Y.S.2d 383 (Sup. Ct. 1986), aff'd, 135 A.D.2d 80, 524 N.Y.S.2d 192 (1988), aff'd as modified on other grounds, 73 N.Y.2d 246, 538 N.Y.S.2d 937 (1989)[15] support Defendants' use of blind, across-the-board consumption rates. McDougald was not a wrongful death case, but one involving a patient rendered comatose by medical malpractice. In an effort to reduce the jury's award for lost earnings, a defendant argued that the award should have been reduced by a certain consumption rate, but the court held that the trier of fact was free to decide that rate based on the facts adduced, and not

[14] See footnote 8 at VCF 100-0231.

necessarily to accept the rate advocated by the defendant. In other words, both of these cases reject the use of rigid presumptions of consumption rate in favor of a more flexible approach based on the facts.

Defendants' fall-back position is that the high consumption rates challenged by Plaintiffs are merely presumed, and could be altered if the claimant could demonstrate in an individual hearing that the presumed rates should not apply. This is the "Catch-22" Defendants have used throughout the history of the Fund. They turn a blind eye to the statutory fact that once a claim to the Fund is substantially complete, a claimant must waive all civil litigation rights and will have no judicial review of the Special Master's award. Act §§ 405(b)(3), 405(c)(3)(B).

Finally, since the Act and the Special Master's own criteria emphasize that proof burdens for Fund claimants should be minimized, the challenged methodology which discriminates against single claimants has it exactly backwards. If there is to be any across-the-board presumptive consumption rate, it must be on the low end of the range of possibilities, and if the evidence adduced (or not adduced) were to justify a higher rate, the Special Master would be well within his "individual circumstances" discretion to increase the rate and thereby lower the resulting award. The Act, and incorporated New York law, simply do not permit an arbitrarily low starting point and presumption against which a claimant must struggle to receive compensation for economic loss.

(*continued from previous page*)

[15] Miscited by Defendants as 404 N.Y.S.2d 383.

REV_00161236

c. Undervaluation of Awards By Using "Average Earnings" for Three Years Prior to Death, Disregarding 2001 Annualized Earnings and Excluding Compensation Other Than Salary and Bonus in Awards.

Many decedents who were victims at the World Trade Center site worked in the financial services, securities, and related industries, in which forms of compensation other than salary and bonus are commonplace, and many of them were young and died during the first few years of their professional careers, just after beginning to see significant salary increases in the year 2001. (Complaint ¶¶ 64-65.) Plaintiffs allege that the Special Master has ignored comprehensive and irrefutable earnings and growth rate data provided to him on behalf of certain claimants, insisting instead on adhering to national 2000 census data which does not reflect the true experience of earnings growth for many class members. (Complaint ¶ 64.) Plaintiffs have also alleged that the Special Master has refused to include forms of compensation other than salary and bonus in calculating "economic loss." (Complaint ¶ 65.)

Defendants assert, first, that a three-year average gives a "more accurate prediction" of a person's future income. (Def. Mem. at 53.) That bald assertion is followed by only a footnote in which they claim that the Special Master has no obligation to consider New York law, but that in fact New York courts "*routinely* use a decedent's average earnings preceding death to compute future lost earnings." (Def. Mem. at 53 n.31 (emphasis added), citing Ritter v. State, 74 Misc. 2d 80, 344 N.Y.S.2d 257 (Ct. Cl. 1972), and Bankers Trust Co. v. R & Z Television of N.Y., Inc., 4 A.D.2d 690, 164 N.Y.S.2d 488 (2d Dep't 1957), aff'd, 4 N.Y.2d 947, 175 N.Y.S.2d 821 (1958).) The parentheticals attached to these citations suggest that Ritter permits the use of "average weekly earnings" for "three years before" death, and that Bankers Trust permits the use of "average annual income for seven years." In actuality, Bankers Trust contains no such statement, and Defendants have apparently lifted it from a commercial "keynote" that finds no support in the court's written opinion.

REV_00161237

Moreover, Bankers Trust, decided in 1957, has never been cited again in the past 46 years. Ritter, decided in 1972, has been cited four times in the past 31 years, but never for the proposition that use of average income from years prior to death is proper under New York law. The numerous, cohesive, more recent and higher-court authorities Plaintiffs have cited in their own summary judgment motion plainly demonstrate that Ritter and Bankers Trust do not reflect the current law of New York. It goes without saying that given these two cases' lack of subsequent citation, Defendants' statement that New York courts "routinely" "average" past income is wrong and deliberately misleading.

In any event, this Court is required to accept the allegations of the Complaint, and those allegations are clear that incomes for many young decedents were on the rise, so that the three-year average of past years' earnings is not a true reflection of economic loss. Moreover, in responding to the particularized allegations under this heading, Defendants have failed to address Plaintiffs' claims that the Special Master has refused to consider forms of compensation other than salary and bonus. (Complaint ¶ 65.) Accordingly, this Court must accept them as true.

Here again, the Special Master's challenged methodology establishes a presumption that is not consonant with the Act, and then places the burden on the claimant to prove otherwise. Thus, it is hardly an answer to contend, as Defendants do (Def. Mem. at 52-53), that the regulations provide that alternatives to a three-year average not including the most recent year (2001) will be considered if the Special Master deems them to be "appropriate."

D. **Failure to Calculate Or Promulgate Rules For Economic Loss Where Decedents' Income Exceeded the 98th Percentile; Imposing a De Facto, Arbitrary and Unreasonable Cap on Individual Awards.**

The Complaint alleges that a de facto "cap" has been placed on Fund awards and that the Special Master has failed even to compute or calculate economic loss. (Complaint ¶¶ 70, 77.) These allegations must be accepted as true.

Defendants misstate Plaintiffs' attack on the de facto "cap" imposed by the Special Master by suggesting that what Plaintiffs are challenging is the particular percentile at which their rigid "presumed awards" were cut off. Defendants argue that Plaintiffs have challenged "the particular percentage selected (i.e., 98%)" as arbitrary and capricious, but that agencies enjoy "wide discretion" in selecting a numerical or percentage "standard." (Def. Mem. at 48 n.28.) Defendants are wrong in several respects.

First, what Plaintiffs have challenged is the Special Master's failure and refusal to publish presumed award charts for annual incomes that are not extraordinarily high, particularly in the financial and securities industries in New York City. The results of the Special Master's actions are that (a) he has prevented potential claimants from making informed decisions as to whether they should file Fund applications or pursue judicial remedies, and (b) by not publishing such presumed awards, he has clothed the operation of the Fund in secrecy and deception, publicly stating that there is "no cap" on Fund awards, but privately capping awards for so-called "high earners." (Complaint ¶¶ 70, 73.)

Second, as discussed above at Point I, Defendants are not entitled to Chevron deference on this point. Although informal agency conduct other than notice and comment rulemaking can sometimes be subject to Chevron deference, such deference is only warranted where Congress intended for the regulator to take "action with the effect of law." United States v. Mead Corp., 533

U.S. 218, 230 (2001). The Special Master's application of an arbitrary cap on awards cannot reflect the proper exercise of authority granted by Congress, particularly since Congress itself considered and rejected a cap on awards. (Complaint ¶ 42.) Even if Plaintiffs were challenging only the regulation and Chevron-style deference were appropriate, the Court would still be required to analyze whether the regulation is substantively arbitrary and capricious. See Chevron, 467 U.S. at 844 (even where deference to notice-and-comment rulemaking is appropriate, reviewing court cannot uphold regulation if it is "arbitrary, capricious, or manifestly contrary to the statute"). Defendants' 98th percentile presumption and cap on awards fails even under that standard.

At any rate, the case law Defendants cite for their strawman argument that Plaintiffs' attack is on the choice of the 98th percentile as a cut-off point for presumed awards is irrelevant. In AT&T Corp. v. FCC, 220 F.3d 607 (D.C. Cir. 2000), the communications giant attacked the FCC's approval of an application by Bell Atlantic to provide certain services, Bell Atlantic already having received the approval of New York State regulators. AT&T asserted that the FCC had not provided reasoned support for its conclusion that Bell Atlantic had met the required "on-time performance rate." New York's state regulators had advocated 95% as the standard but had also said 90% was acceptable in permitting a competitor to enter the market, and the D.C. Circuit thus did not find the FCC's approval "arbitrary and capricious." 220 F.3d at 627. In Natural Resources Defense Council, Inc. v. Muszynski, 268 F.3d 91 (2d Cir. 2001), a citizens' group challenged the EPA's determination that the amount of phosphorous in New York reservoirs was within a "margin of safety." Id. at 102-03. In WorldCom, Inc. v. FCC, 238 F.3d 449 (D.C. Cir. 2001) (erroneously cited by Defendants as Second Circuit law), long distance providers challenged an FCC order granting local exchange carriers pricing flexibility to guard against the possibility of anticompetitive conduct. The court affirmed the

FCC's determination but, significantly for Plaintiffs' case here, stated that "an agency may not pluck a number out of thin air . . . . " Id. at 461. The Complaint alleges that the Special Master believes he can do just that – and that he has without specifying a precise dollars-and-cents figure. (Complaint ¶ 49.)

Defendants argue that the Special Master is simply "following" a supposed "legally recognized principle" that calculating economic loss for high earners is too "difficult," and therefore, any attempt to employ his "presumed award" methodology "might be wholly inappropriate if mechanically applied to the highest level incomes." (Def. Mem. at 47.) Thus, Defendants leap from the easily understandable proposition that prediction and some level of informed "speculation" are involved in all wrongful death awards into their defensive bunker that where "extraordinarily high incomes" of decedents are at issue, the projection involves a "level of uncertainty" not present in "ordinary" cases. (Def. Mem. at 47.) In support of this contention, Defendants offer isolated sound bytes from two cases, McWeeney v. New York, New Haven & Hartford R.R. Co., 282 F.2d 34 (2d Cir. 1960), overruled on other grounds, Norfolk & W. Ry. v. Liepelt, 444 U.S. 490 (1980), and Machline v. National Helicopter Corp., No. 94 Civ. 8456, 1997 WL 786937 (S.D.N.Y. June 17, 1997). Neither case supports the view that, even in the cases of the highest-earning decedents, facts may be ignored in favor of unsupported "presumed" methodologies.

Significantly, McWeeney was a disability case brought by a railway worker under the Federal Employers' Liability Act, 45 U.S.C. §§ 51-60 (FELA) – not a wrongful death action under New York law. The issue in McWeeney was whether the jury should have been instructed to deduct from any recovery for lost earning power the amount in taxes the injured party would have been required to pay on such earnings. The Second Circuit held such an instruction should not have been given. McWeeney, 282 F.2d at 39. Strictly in dicta, the court speculated that there might be cases in

which "some adjustment" for income taxes should and would be made by a jury even without an instruction, citing incomes in excess of $100,000 (in 1960), where as the income levels rise, the projection of future income is "more conjectural."[16] 282 F.2d at 38-39. Not a word in McWeeney authorizes or even suggests that a judge (or Special Master) should simply throw up his hands and refuse to calculate economic loss for high-earning individuals, and particularly not under New York law.

Similarly, Machline, 1997 WL 786937, does not advance Defendants' argument one iota. In Machline, the decedent had been a rags-to-riches entrepreneur who had created several companies, but most of the "unusual wealth" he had generated was tied up in corporate ventures. Id. at *1. He was not a "conventional wage-earner" and his holdings had a "complex structure." Id. at *1. The decedent drew a very small salary from his wealthy corporate enterprises, and the plaintiff offered only speculation as to whether, at some point in his lifetime, the decedent would have decided to draw a higher salary for himself in lieu of investing further in his corporate enterprises. Id. at *1. The court held that what the decedent could have drawn, as distinguished from what he did draw, was not the basis for calculating pecuniary loss. Id. at *5. Nothing in Machline suggests that, had the deceased drawn a high salary, the court would have had any difficulty calculating pecuniary loss under the New York wrongful death statute. By the same token, nothing in Plaintiffs' Complaint implies that any of their decedents could be compared to Mr. Machline. Indeed, quite the opposite is true for those individuals who were "conventional wage earners" in the financial/securities industry and earned conventionally high salaries.

[16] McWeeney is, of course, completely at odds with New York's current wrongful death law, which prohibits the deduction of deduction of tax liability in computing future earnings. Query, as well, what 1960's $100,000 income level would translate into today.

Defendants disingenuously contend that the presumed award methodology does not suggest a "cap" on awards. (Def. Mem. at 43-45.) They do not concede – nor could they – that any "cap" on awards from the Fund could be consistent with New York law. Indeed, by citing Machline, Defendants implicitly admit that such a contention would be specious. The wealthy decedent in Machline was a Brazilian executive who boarded a helicopter in New York and died when it crashed in New Jersey. The parties to the wrongful death action agreed that the applicable law was that of either New York or New Jersey. Id. at *1. Relying solely on the language of the New York wrongful death statute, Judge Sand approved of the parties' choice of-law agreement, pointing out that Brazil had "a ceiling on allowable recovery in wrongful death cases" which would arguably be against the public policy of New York. Id.

Defendants proceed defensively to add that "even if" a wealthy decedent's future income could be projected with reasonable certainty, "the likelihood that the decedent would have contributed to the support of surviving family members also becomes increasingly speculative . . . ." (Def. Mem. at 48.) Defendants' case law "support" for this consists of Breckir v. Lewis, 21 A.D.2d 546, 251 N.Y.S.2d 77 (1st Dep't 1964), aff'd, 15 N.Y.2d 1027, 260 N.Y.2d 178 (1965), and Franchell v. Sims, 73 A.D.2d 1, 7, 424 N.Y.S.2d 959, 963 (4th Dep't 1980). Breckir is a wrongful death case involving a college student, not yet employed – unlike any of the Colaio Plaintiffs' decedents. The court's decision that the jury's award to her parents for economic loss was too high rests on the absence of evidence of her intent to benefit her well-off parents, the court holding that "[f]ollowing normal developments, there is every reason to believe that before they would want to benefit from her financially she would be married and contributing to her own family." 251 N.Y.S.2d at 80. In Franchell, the court set aside as inadequate a jury verdict to the parents of a 22 year-old high school

graduate who worked as an inspector at a factory. The evidence showed that he worked steadily, that his hourly pay rate was increasing, that he maintained a close relationship with his parents, and that he performed valuable services for them and made generous financial contributions to them. 424 N.Y.S.2d at 961-62. The court stated that although determination of wrongful death loss is "complex" because the loss tends to be "uncertain and problematical," fair compensation to a parent for an adult child's life may properly include probable, or even possible, benefits which might inure to the parents from their child's entire life," and that the decedent's earnings potential to support his parents if they should be in need are among the factors to be considered. Id. at 962.

As their catch-all, fall-back argument, Defendants claim that the presumed awards are not final awards, and to the extent claimants have evidence to present that is contrary to the presumptions, they are free to do so and have the presumed award adjusted accordingly. (Def. Mem. at 45, 49.) This is particularly unpersuasive because Defendants' carefully worded brief states that if claimants "can attempt to demonstrate extraordinary circumstances not adequately addressed" and that the Special Master "may" (not will) modify the award if they actually prove such circumstances. (Def. Mem. at 6, 17.) Defendants' shallow argument cannot surmount the Complaint, in which the Colaio Plaintiffs allege that even when presented with facts contradicting the presumptions, the Special Master ignores the evidence. (Complaint ¶¶ 71.) It also repeats the "Catch-22" trap discussed above.

Defendants' "extraordinary circumstances" test is unsupported and unsupportable. It states that the Special Master, in determining presumptive awards, shall determine whether "[t]he claimant presents extraordinary circumstances not adequately addressed by the presumptive award." 28 C.F.R. § 104.33(f)(2). Under this provision, the burden is on the claimant to present such "extraordinary circumstances." The Complaint alleges that there is no basis in the Act for requiring a

demonstration of extraordinary circumstances by the claimant; and no basis in the Act for placing upon them such a high burden of proof. (Complaint ¶ 67.) Indeed, the Complaint alleges that in passing the Act, Congress understood that there were great disparities in the World Trade Center victims' incomes, and that the recovery on some of their deaths would be far beyond that of others. (Complaint ¶ 42.) Finally, it is, as noted above, simply nonsensical – in light of the New York City class which Plaintiffs seek to represent – to contend that earning more than $231,000 per year is, in and of itself, an "extraordinary circumstance."

In their brief, Defendants contend that "evidence of income beyond the 98th percentile may be considered as part of an 'extraordinary circumstances' determination" (Def. Mem. at 49 (emphasis added)). It is clear beyond cavil that Congress did not seek to punish, nor place extraordinary burdens of proof, on those who dared to be successful in terms of their earnings capacity and history. Regardless of how much higher than $231,000 a decedent's income was, the Special Master's methodology presumes the correct award to be equal to that for $231,000 and places the burden on the claimant to prove otherwise by showing "extraordinary circumstances."[17] The wording, Defendants contend, simply means that some claimants' circumstances may not be "adequately addressed by a simple mathematical formula." (Def. Mem. at 49.) The Complaint, however, alleges that when shown unmistakable evidence of high or extraordinarily high incomes, the Special Master has

[17] Following publication of the Interim Final Rule, comments were submitted on behalf of New York State by James McGuire, counsel to Governor George Pataki, and David Nocenti, counsel to Attorney General Eliot Spitzer. These comments criticized the requirement that a claimant must demonstrate "extraordinary circumstances" in order to qualify for an award above the presumed loss calculations for an income of $231,000, stating: "This burden on the claimants is contrary to law, and must be eliminated." (Admin. Rec., VCF 106-1408.) Based on the plain language of the Act, these officials recommended changing the Rule to provide for calculation of awards above the 98th percentile of income. (Id., 106-1420, 106-1444.)

failed to compute or even to calculate the value of "economic loss" as the Act requires. (Complaint ¶ 70.) The Complaint further alleges a pattern of formal, informal, and publicly reported admissions by the Special Master, all to the effect that he has made a political judgment that there is a cap number beyond which no Fund award will extend. (Complaint §§ 71-77.) And, apart from the well-pleaded allegations, there can be little doubt (as Plaintiffs' record evidence on their own motion demonstrates) by this point that the Special Master's refusal to publish charts for high earners and all the fog about "needs" and "extraordinary circumstances" exist to enforce the arbitrary limitations even as he continues to pronounce that there is no cap.

Defendants rely on American Hospital Ass'n v. NLRB, 499 U.S. 606 (1991) (Def. Mem. at 51), which is easily distinguished. Under the National Labor Relations Act (NLRA), the NLRB is to decide the appropriate bargaining unit "in each case," but the Board issued a rule on hospitals that said that with exceptions, including presentation of "extraordinary circumstances," eight defined employee units were appropriate for acute care hospitals. The Supreme Court compared the rule with the statutory provision and concluded that the natural meaning of "in each case" was in each case where the employer and employees disagreed. 499 U.S. at 606. In the case at bar, the Act directs the Special Master to review each claim and make an award determination based on the factors set forth in Section 405(b)(1)(B), including "economic loss" as defined by "applicable State law." While Plaintiffs recognize that for agencies such as the NLRB some across-the-board rules are helpful in providing guidance to employers and employees, the fact that the NLRB chose the term "extraordinary circumstances" as one instance in which exceptions to its rules for bargaining units could occur hardly justifies the imposition of an "extraordinary circumstances" burden on Fund claimants. Indeed, Defendants' stretching for such citation and authority only underscores the uniqueness of the Fund.

Defendants also assert that under Reno v. Flores, 507 U.S. 292 (1993), federal agencies granted authority to make individualized decisions may establish and rely upon "reasonable presumptions and generic rules." (Def. Mem. at 50.) The Flores decision – which simply said the Immigration and Naturalization Service "need not forswear" the use of reasonable presumptions and generic rules – dealt with an INS regulation regarding custodians for juvenile aliens, and the Court upheld the regulation because it was constitutional and in accord with the language of the statute at issue. Flores, 507 U.S. at 313-315.[18]

In sum, Defendants have failed to provide any cogent argument suporting their deviation from the Act's text and intent.

[18] There is a similar disconnect with the other cases relied on by Defendants: Heckler v. Campbell, 461 U.S. 458 (1983), and Vermont Yankee Nuclear Power Corp. v. NRDC, 435 U.S. 519 (1978). For instance, Vermont Yankee involved the granting of a license to operate a nuclear power plant, and it stands for the proposition that an administrative agency is free to fashion rules of procedure and to "pursue methods of inquiry capable of permitting them to discharge their [ ] duties." 435 U.S. at 543, quoting FCC v. Schreiber, 381 U.S. 279, 290 (1965). In contrast, the instant case involves an agency substituting presumptions for inquiry. Heckler, involving disability under the Social Security Act, simply held that the agency could promulgate medical-vocational guidelines because the determination of the types and numbers of jobs a person with a certain disability could handle was not unique to each claimant and did not require a case-by-case determination. 461 U.S. at 467. Again, this seems very different from the issues raised in the Colaio Complaint.

CONCLUSION

For all the foregoing reasons, Defendants' motion to dismiss the Colaio Complaint should be denied in its entirety.

Dated: New York, New York
March 28, 2003

Respectfully submitted,

SALANS

By: /S/
John F. Cambria (JC-4098)
Attorneys for Plaintiffs and the Class
620 Fifth Avenue
New York, NY 10020
212-632-5500

REV_00161248

From: CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO]

To: Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;Kyle Sampson/WHO /EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jonathan F. Ganter/WHO /EOP@EOP [WHO] <Jonathan F. Ganter>;J. Elizabeth Farrell/WHO/EOP@EOP [WHO] <J. Elizabeth Farrell>;James W. Carroll/WHO/EOP@EOP [WHO] <James W. Carroll>;Hana F. Brilliant/WHO/EOP@EOP [WHO] <Hana F. Brilliant>;H. Christopher Bartolomucci/WHO /EOP@EOP [WHO] <H. Christopher Bartolomucci>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>;David G. Leitch/WHO/EOP@Exchange [WHO] <David G. Leitch>;Tracy Jucas/WHO/EOP@EOP [WHO] <Tracy Jucas>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Patrick J. Bumatay/WHO /EOP@Exchange [WHO] <Patrick J. Bumatay>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>

Sent: 3/29/2003 7:00:17 AM

Subject: : Note about the Judge's schedule

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:29-MAR-2003 12:00:17.00
SUBJECT:: Note about the Judge's schedule
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jonathan F. Ganter ( CN=Jonathan F. Ganter/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:J. Elizabeth Farrell ( CN=J. Elizabeth Farrell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:James W. Carroll ( CN=James W. Carroll/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Hana F. Brilliant ( CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Tracy Jucas ( CN=Tracy Jucas/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
```

READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
End Original ARMS Header

The Judge will depart for Lexington, Virginia tomorrow afternoon to deliver a speech at Washington and Lee Law School on Monday morning. He'll be back in the office;late Monday afternoon.;
;
David Leitch will lead staff meeting in his absence.
;
Thanks!
Carrie

From: Calvert, Chris <Chris.Calvert@usdoj.gov>
To: 'Deborah@thefeinberggroup.com' <Deborah@thefeinberggroup.com>;John F. Wood/OMB /EOP@EOP [OMB] <John F. Wood>;McCallum, Robert <Robert.McCallum@usdoj.gov>;Harris, Paul (SMO) <Paul.Harris@usdoj.gov>;Keisler, Peter D <Peter.D.Keisler@usdoj.gov>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;'kfeinberg@thefeinberggroup.com' <kfeinberg@thefeinberggroup.com>;Philip J. Perry/OMB/EOP@EOP [OMB] <Philip J. Perry>;Jordan, Bill <Bill.Jordan@usdoj.gov>;Bloemendal, Katherine <Katherine.Bloemendal@usdoj.gov>;Boudreaux, Chad <Chad.Boudreaux@usdoj.gov>
CC: 'danita@thefeinberggroup.com' <danita@thefeinberggroup.com>;'dana@thefeinberggroup.com' <dana@thefeinberggroup.com>;Carla B. Stone/OMB/EOP@EOP [OMB] <Carla B. Stone>
Sent: 3/31/2003 4:01:34 AM
Subject: : Schneider Brief
Attachments: P_CLY5F003_WHO.TXT_1.tiff

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Calvert, Chris" <Chris.Calvert@usdoj.gov> ("Calvert, Chris" <Chris.Calvert@usdoj.gov> [UNKNOWN])
CREATION DATE/TIME:31-MAR-2003 09:01:34.00
SUBJECT:: Schneider Brief
TO:"'Deborah@thefeinberggroup.com'" <Deborah@thefeinberggroup.com> (Receipt Notification Requested) (IPM Return Requested) ("'Deborah@thefeinberggroup.com'" <Deborah@thefeinberggroup.com> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN])
READ:UNKNOWN
TO:John F. Wood (CN=John F. Wood/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:"McCallum, Robert" <Robert.McCallum@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) ("McCallum, Robert" <Robert.McCallum@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN])
READ:UNKNOWN
TO:"Harris, Paul (SMO)" <Paul.Harris@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) ("Harris, Paul (SMO)" <Paul.Harris@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN])
READ:UNKNOWN
TO:"Keisler, Peter D" <Peter.D.Keisler@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) ("Keisler, Peter D" <Peter.D.Keisler@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:"'kfeinberg@thefeinberggroup.com'" <kfeinberg@thefeinberggroup.com> (Receipt Notification Requested) (IPM Return Requested) ("'kfeinberg@thefeinberggroup.com'" <kfeinberg@thefeinberggroup.com> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN])
READ:UNKNOWN
TO:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:"Jordan, Bill" <Bill.Jordan@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) ("Jordan, Bill" <Bill.Jordan@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN])
READ:UNKNOWN
TO:"Bloemendal, Katherine" <Katherine.Bloemendal@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) ("Bloemendal, Katherine" <Katherine.Bloemendal@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN])
READ:UNKNOWN
TO:"Boudreaux, Chad" <Chad.Boudreaux@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) ("Boudreaux, Chad" <Chad.Boudreaux@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN])
READ:UNKNOWN
CC:"'danita@thefeinberggroup.com'" <danita@thefeinberggroup.com> (Receipt Notification Requested) (IPM Return Requested) ("'danita@thefeinberggroup.com'" <danita@thefeinberggroup.com> (Receipt Notification Requested) (IPM Return Requested) [

UNKNOWN])
READ:UNKNOWN
CC:"'dana@thefeinberggroup.com'" <dana@thefeinberggroup.com> (Receipt Notification Requested) (IPM Return Requested) ("'dana@thefeinberggroup.com'" <dana@thefeinberggroup.com> (Receipt Notification Requested) (IPM Return Requested) [UNKNOWN])
READ:UNKNOWN
CC:Carla B. Stone (CN=Carla B. Stone/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
End Original ARMS Header

If you have trouble opening the attached brief, please let me know and I'll fax a copy to you. Thank you.

Chris

Chris Calvert
Assistant to Shannen W. Coffin
Deputy Assistant Attorney General
Federal Programs, Civil Division
U.S. Dept. of Justice
Room 3141, Main
Email: chris.calvert@usdoj.gov
Direct Dial: 202.514.5713
FAX: 202.514.8071
- MSFaxConsoleTempPreview-#00000d1c5a724b5f.TIF
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_CLY5F003_WHO.TXT_1>

FACSIMILE COVER SHEET

United States Attorney's Office
Southern District of New York
33 Whitehall Street -- 8th Floor
New York, New York 10004

****

From: **ANDREW W. SCHILLING**
Assistant United States Attorney

Temp. Tel.: **(718) 422-5611**

Temp. Fax: **(718) 422-1783**

No. pages (including cover sheet):

Date: **March 30, 2003**

****

CONFIDENTIAL U.S. ATTORNEY FACSIMILE COMMUNICATION

The information contained in this facsimile message, and any and all accompanying documents, constitute confidential information. This information is the property of the United States Attorney's Office. If you are not the intended recipient of this information, any disclosure, copying, distribution, or taking of any action in reliance on this information is strictly prohibited. If you receive this information in error, please notify us immediately by telephone at the above number and destroy the information.

****

Recipient Name & Affiliation	Telephone	Facsimile
Shannen W. Coffin, Esq. Civil Division		703-461-3054
Craig M. Blackwell, Esq. Senior Trial Counsel U.S. Department of Justice	202-616-0679	202-616-8470
Sharon Swingle, Esq. Civil Division Appellate Staff	(202) 353-2689	(202) 514-9405

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

.....X

CHERYL SCHNEIDER, individually and as the Executrix of the Estate of IAN SCHNEIDER, Deceased, and on behalf of the next of kin,

Plaintiff,

- against -

KENNETH R. FEINBERG, Special Master of the September 11th Victim Compensation Fund of 2001, JOHN ASHCROFT, Attorney General of the United States and the UNITED STATES DEPARTMENT OF JUSTICE,

Defendants.

.....X

03 CIV 1129 (AKH)

PLAINTIFF'S SUPPLEMENTAL MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS

LAW FIRM OF BRODER & REITER
Attorneys for Plaintiff Cheryl Schneider
350 Fifth Avenue, Suite 2811
New York, New York 10118
212-244-2000

REV_00161284

TABLE OF CONTENTS

I PRELIMINARY STATEMENT 1

II DISCUSSION

POINT I: THE ACT CONTAINS NO DELEGATION OF DISCRETION TO DEFENDANTS OF THE KIND THEY CLAIM, AND SUCH A DELEGATION WOULD PRESENT GRAVE CONSTITUTIONAL QUESTIONS IF IT DID 1

A. No principle of "administrative law" shields defendants from the necessity that they demonstrate a proper delegation of the discretion that they claim under the Act, or shields the factual record in this declaratory-judgment action from full, unrestricted use and scrutiny by this Court 9

B. If Defendants' Claim of "Discretion" Were Even Arguably Supportable under the Terms of the Act, and It Is Not, Any Such Attempted Delegation of Power by Congress to These Defendants, or Any of Them, Would Violate Fundamental Principles Governing the Permissibility of Such Delegations of Power 13

C. Well established principles Require this Court to Avoid Defendants' Radical Interpretation of the Act by Instead Interpreting it So as to Exclude Such Claimed Discretion - a Discretion Which, If it Had Been Granted by Congress, Would Inevitably Raise Grave Constitutional Issues 19

III CONCLUSION 24

REV_00161285

PRELIMINARY STATEMENT

Plaintiff Schneider submits the following supplemental memorandum of law, addressing the Constitutional issues raised by the defendants' claim that Congress delegated to them the discretion to impose caps or limitations on compensation under the Act. Plaintiff Schneider also adopts and jointly submits, along with plaintiffs Colaio and Smith, the joint memorandum of law in opposition to defendants' motion to dismiss under F.R.C.P. Rule 12c.

POINT I

THE ACT CONTAINS NO DELEGATION OF DISCRETION TO DEFENDANTS OF THE KIND THEY CLAIM, AND SUCH A DELEGATION WOULD PRESENT GRAVE CONSTITUTIONAL QUESTIONS IF IT DID.

In this Point, we respond to defendants' contention that plaintiff Schneider's "constitutional claims" are "meritless" (Def. Mem., Point V, pp. 58-63). To do so properly, however, we must place such constitutional issues in proper perspective and context, so that they are seen and considered not as abstractions disconnected from the concrete facts and issues of this case, but rather as vital aspects and dimensions of what is at stake in this declaratory-judgment action.

Caps on damages are so clearly and self-evidently political issues as to make them exclusively legislative prerogatives which cannot be delegated to an administrator without violating the Constitutional principle of separation of powers. Moreover, the creation of different categories of claimants, whether they are based upon wealth or any other classification, is similarly a strictly legislative prerogative, and not the province of an administrator. It should

REV_00161286

be self evident that the function of an administrator is to implement the Act as written and to apply it uniformly and consistently to all eligible claimants.

Preliminarily, it should be re-emphasized that the allegations in all three complaints that the defendants have imposed a de facto cap are deemed admitted upon the defendants' motion under Rule 12c. Since defendants admit that they have no legal authority to impose a cap, all of the defendants' arguments upon their Rule 12c motion are immaterial, since the only possible defense to the case is to contest, as an issue of fact, whether they are imposing a cap, which they cannot do under Rule 12c. If defendants are, on the contrary, asking the Court to hold that the awarding of a small fraction of proven economic losses is not a cap, (as a matter of law), but rather a novel, previously unheard of concept of "excessiveness", that preposterous legal position is easily disposed of. As we have pointed out above, a limitation upon actual proven economic losses is the very definition of a cap. Conversely, the awarding of an amount significantly below proven, actual economic losses corresponds to the definition of "inadequacy". Certainly, if, as a matter of fact, the defendants have imposed a cap (which we claim they have), the Court cannot give any "deference" to this action, because defendants themselves admit that the Act does not permit a cap and such action by them is manifestly illegal.

It can be stated beyond peradventure of doubt, that the issue of whether compensation under the Act would be capped or limited was a controversial political issue which was in fact considered by Congress. Indeed, caps on various categories of damages, when explicitly imposed by state legislatures are always highly charged political issues, and have been challenged in court upon a variety of State and Federal Constitutional grounds. Where caps have been sustained, it has been upon the basis that their imposition was a matter of legislative prerogative.

REV_00161287

Until now, no one had ever had the temerity to suggest (much less argue in Court) that an administrator or Special Master possessed, or could be delegated the power to impose a cap. This is the truly novel position urged upon the Court by defendants. We will demonstrate below that there is nothing in the Act to support such a delegation, and moreover, that such a delegation, even if it could conceivably be found in Section 405(b)(1)(B)(ii), would be impermissible under fundamental constitutional doctrine.

As a part of defendants' "discretion" claim, they attempt to justify their cookie-cutter methodologies utilized for the "wealthy" income earners by reliance upon such legal authorities as United States v. Fior D'Italia, 122 S.Ct. 2117 (2002), holding that a statutory provision granting the IRS assessment authority "must simultaneously grant the IRS power to decide how to make that assessment." Further, defendants state that the express statutory delegation to the Special Master of the authority to "determine" compensation necessarily includes the authority to decide how to determine compensation - a contention which is little more than a play on words and which overlooks that the Congress, in § 402(5) of the Act and other provisions, told the Special Master just what is to be included and how he is to make his determinations of award amounts. The Act specifies in exquisite detail not only the elements of damage but the precise methodology for making the award, ie. to compute the "harm" and then make a mathematical deduction of specific collateral sources in arriving at the final award. These definitions of economic loss, the incorporation by reference of state law, the statutory mandate to "review and determine" and the mathematical deduction of collateral sources, are, to utilize Justice Cardozo's phrase, the " essential features of the plan, its very bone and sinew" . (See A.L.A. Schechter Poultry Corp. v U.S., 295 US 495, 554

REV_00161288

(1935).[1] Defendants' claim that they can make an inadequate award, which ignores the actual computed economic losses, and then make a precise mathematical deduction of collateral source compensation is simply unintelligible. It is tantamount to saying that Congress authorized defendants to make a precise mathematical deduction from any number they choose out of the air.

Defendants also attempt to support their claim of "discretion" by relying on authorities sustaining adoption of general rules and methodologies by administrative agencies under appropriate circumstances. For example, they argue that their imposition upon plaintiff Schneider and others in the top two percentile of income earners of an additional burden of proof, requiring them to show "extraordinary circumstances" in order to recover more than the reduced amount otherwise available to them under the defendants' procedures, even though those below that threshold will recover the full amount of their economic loss (less the reduction for collateral source compensation) without having to assume such greater burden. Putting aside for the argument that defendants' imposition of this greater burden of proof enables them to arbitrarily determine the amount of awards to "wealthy" claimants, and

[1] At page 62 of defendants' brief, by selective quotation from Whitman v. American Trucking Associations, Inc., 531 US 457 at 475 (2001), defendants imply that the separation of powers principle and its associated doctrines requiring an "intelligible principle" as well as an express and specific delegation of authority in the first place are somehow outdated. Constitutional scholars and practitioners knowledgeable in this area know otherwise. See, e.g. Rotunda & Nowak, Treatise on Constitutional Law – Substance and Procedure, Section 4.8 (3rd Edition 1999), stating as follows: "Today the Supreme Court will allow Congress to share its legislative power with the executive branch by delegating aspects of that power to executive agencies. Such legislative delegations will be upheld unless Congress abdicates one of its powers to the executive agency or fails to give legislative definition of the scope of the agency's power. (Citations omitted)". See also Tribe, American Constitutional Law, §5-17, at p. 367 (2d Edition 1988) stating: "This is not to say that judicial scrutiny of administrative action has lessened. Indeed, it is at least arguable that the contrary is the case. As Professor Richard Stewart has noted (citation omitted), "Once courts acknowledged the inevitability of broad congressional delegations of power, they had to acknowledge also that administrative and legislative action

REV_00161289

so to utilize their claimed discretion without being held to explicit, known standards of any kind, there is another even more fundamental defect in defendants' resort to general rules and methodologies of this nature. Under Title IV of the Act, the Special Master's primary function is to determine individual claims submitted to him based upon their content and conformity with such statutory requirements as section 402(5) defining "economic loss". No generalized rules, methodologies or assumptions are required in order to make that evaluation and determination regarding each individual claim submitted, and in fact utilization of such procedures can only interfere with the thorough analysis of submitted information concerning each individual claim. Closely related, nothing in the Act authorizes resort to any such generalized, cookie-cutter approaches to the determination of awards. Plaintiff respectfully submits that while defendants may rely on rule-making to resolve certain classes of issues "that do not require case-by-case consideration", they must provide just such case-by-case consideration of those issues that do require it -- first and foremost among them, the determination of individual claims. See, e.g., Heckler v. Campbell, 461 U.S. 458, at 467 (1983) (Defendants Mem., p. 50)

Defendants' assertion of discretion challenged by plaintiff Schneider stands or falls upon these indisputable propositions: First, defendants grudgingly and only tacitly acknowledge – but they do acknowledge and cannot dispute - that there is absolutely no reference anywhere in the Act to the factors central to defendants' claimed discretion, namely, claimants' "needs" or "resources". Second, in the same fashion, defendants also acknowledge – and cannot deny - that defendants' intended use of those factors, or either of them, in exercising such purported discretion to reduce the "economic loss" component of awards to certain "wealthy"

---

could not be equated, and that the legitimacy of administrative actions thus could not be presumed in quite the same way that the legitimacy of electorally-checked legislative could be."

REV_00161290

claimants below the amount calculated in accordance with § 402(5) – and only to those claimants - would contradict and undercut the very definition of "economic loss" in § 402(5).[2] Third, notwithstanding the foregoing, defendants argue vigorously that the Act must be construed to contain a delegation by Congress of the discretion they claim, and they tell this Court that the statutory "evidence" of such delegation is to be found in only one place – the concluding phrase of § 405(b)(1)(B)(ii) of the Act ("the individual circumstances of the claimant").

According to the defendants, they need not prove their contention by such statutory "evidence" alone. Rather, the purportedly probative words of the Congress that defendants strain to rely on from § 405(b)(1)(B)(ii) are to be supplemented, for the purpose of proving what Congress intended, by the defendants' own words, in their own regulation. Thus, now rejecting what the Special Master himself once described as the proper approach to determining compensation under the Act[3], the defendants now say this:

> ". . . [P]laintiffs' suggestion that the Act requires awards based solely upon mechanistic calculations of the decedents' economic and non-economic losses, like many of plaintiffs' other challenges, stems from their wholesale disregard of one of

---

[2] Anticipating, from our experience thus far, that defendants may try to deflect this statement by misstating it, we emphasize that we are speaking here only about what § 402(5) actually says – and not what defendants undoubtedly will claim Congress meant to say or, by the inference they urge from the concluding phrase of § 405(b)(1)(B)(ii) ("the individual circumstances of the claimant"), at least implied.

[3] "[H]ow do we determine compensation under the statute? The statute makes very clear how compensation is to be computed. Take the economic loss suffered by the victim and the surviving family, add to that non-economic loss pain and suffering and emotional distress and then after you get that number, deduct collateral sources of income, life insurance primarily pension social security death benefit worker's comp etc. . . . . That is the award. That is the award." (Colaio Exh. 2, p. 6; this transcript of a New York City Bar Association Meeting, "Conversation with the Special Master – Mr. Feinberg", dated October 1, 2002, is filed in Colaio v. Feinberg, 03 CV 0558 (AKH)

REV_00161291

the principal provisions of the Act, which governs the Special Master's award determinations. Contrary to plaintiffs' suggestion, the Act expressly requires the Special Master to determine compensation not only in light of the economic and noneconomic harm to the claimant, but also in light of claimants' 'individual circumstances.' See Act § 405(b)(1)(B)(ii). Consequently, Congress expressly rejected the notion that the determination of the award should be confined to a mechanical addition of economic and noneconomic losses, and plaintiffs can argue otherwise only by attempting to read out of the statute the additional factors Congress required the Special Master to consider. Moreover, the implementing regulations, which permit the Special Master to 'the financial needs or financial resources of the claimant or the victim's dependents and beneficiaries in determining 'individual circumstances' under the Act, see 28 C.F.R. § 104.41, are eminently reasonable and entitled to deference by this Court. Taken together, these provisions reject the mechanistic formula for determination of awards suggested by plaintiffs and permit considerable discretion to the Special Master in calculating awards." (Def. Mem., pp. 3-4; emphasis added)

What we have just quoted from defendants' brief is, of course, classic "bootstrapping". Recognizing that the inference they would have this Court draw from the concluding phrase in § 405(b)(1)(B)(ii) of the statute is less than compelling, yet by their own admission having nothing else to rely on in the Act itself, these aspiring legislators-cum-administrators have come forward with their own regulation as some sort of support – beyond the statute itself – for their present claim of "discretion", suggesting essentially that what they have put in their

REV_00161292

regulation is what they somehow know the Congress intended to delegate to them but omitted to include in any explicit, specific or recognizable delegation in the statute itself. While this would normally go without saying, it behooves us, in light of the radical and groundless arguments proffered by the defendants, to emphasize that not only as a matter of common sense, but also under the fundamental constitutional principle of separation of powers, which is the foundation of the plaintiff's principal constitutional argument characterized by defendants as "meritless" (Def. Mem., pp. 58-63), an administrator's regulation cannot serve as evidence of the intent of Congress to convey a power to the administrator to adopt that regulation.

Before turning to the merits of the separation-of-powers question as well as the other constitutional issues, there is a preliminary matter to be considered. One example of the subject involved is defendants' assertion, toward the end of the paragraph we have just quoted from defendants' memorandum, that the Court owes defendants a "deference" in evaluating their regulations purportedly implementing the Act. Another example is defendants' contention that the only "record" to be considered in this action is what they refer to as the "administrative record", as distinct from the full factual record concerning plaintiff's allegations of fact in her complaint, including, without limitation, her allegations of the defendant Special Master's admissions of plainly material facts. What these examples represent in common is a fall-back resort to rules, principles and concepts of administrative law as, basically, the defendants' next line of defense, invoking "administrative law" as a device to fend off and otherwise thwart or restrict the full consideration and scrutiny of defendants' assorted claims, including their "discretion" claim, in this action. It is through the prism of such claimed prerogatives and protections accorded to "administrators" -

REV_00161293

including the "deference" owing to administrative agencies by the courts under appropriate circumstances, though certainly not those here, as will be shown – that defendants would have the Court evaluate their interpretation of the Act and the far-reaching "discretion" they claim to find in the Act for themselves. As now demonstrated, contrary to defendants' contentions, their arguments on the merits on both constitutional and other issues presented in this case are not insulated from the full and thorough scrutiny they warrant by any genuine rule, principle or concept of administrative law.

A. No principle of "administrative law" shields defendants from the necessity that they demonstrate a proper delegation of the discretion that they claim under the Act, or shields the factual record in this declaratory-judgment action from full, unrestricted use and scrutiny by this Court

It is a constant refrain in defendants' memorandum that a "deferential" standard must be applied by the Court in evaluating defendants' interpretation of the Act. Although the degree of deference defendants demand ranges from "extreme . . . ." (Def. Mem., p. 28) to "heightened" (Def. Mem., p. 29)[4] to "high . . . ." (Def. Mem., p. 29), and seemingly,

[4] On page 29, defendants cite Natural Resources Defense Council v. Train, 510 F.2d 692 (D.C. Cir. 1975), American Farm Lines, Inc. v. United States, 684 F.2d 697 (10th Cir. 1982), and, as an "accord", Verizon Communications, Inc. v. FCC, 535 U.S. 467, 122 S. Ct. 1646 (2002), all for the proposition that "this customary deference to the agency's interpretation is heightened where, as here, a court is reviewing 'the construction of a new statute by its implementing agency.'" However, defendants fail to point out vital distinctions between those cases (as well as the numerous other administrative-law cases they rely on) and this one, distinctions which militate against any deference being given to defendants regarding the issue of statutory interpretation presented here. Thus, each of those other "implementing agencies" was a major administrative agency of long standing and accumulated administrative and regulatory experience in the area regulated long before enactment of the "new statute". In stark contrast, the defendant Special Master's position was created by the "new statute" and, with all due respect, he has neither

REV_00161294

on occasion, to just plain "deference" (Def. Mem., p. 29) The claim is emphasized for obvious reasons, since defendants' interpretation, without extreme deference amounting to unquestioning acceptance, is otherwise so tenuous, dubious and baseless that no court could responsibly sustain it. Yet defendants overplay even this hand, failing to recognize certain obvious limitations even upon the deferential standard they advocate, and asserting its applicability even where, as in this case, there is no occasion for such deference by the Court at all, but only adherence to and enforcement of a clear and unambiguous statutory mandate. See Chevron, U.S.A., Inc. v. Natural Resources Defense Council, 467 U.S. 837, 842-43 (1984) and Barnhart v. Walton, 535 U.S. 212, 122 S.Ct. 1265, 1268, 1270 (2002), both cited at Def. Mem., pp. 28, 29. Notably, in marked contrast to defendants' interpretation of the phrase "the individual circumstances of the claimant" in § 405(b)(1)(B)(ii) in relation to the statutory definition of "economic loss" in § 402(5), Barnhart approved the Social Security Administration's interpretation of the statutory definition of "disability" partly because the Social Security Administration's interpretation was in complete harmony, in terms of duration, with the express, closely related statutory definition of "impairment" (12 months).

As already noted, even defendants' own argument in support of the delegation of "discretion" that they claim depends on acceptance of their "bootstrap" contention that the regulations they themselves adopted should be "[t]aken together" with their tortured interpretation of the only statutory provision on which they rely (§ 405(b)(1)(B)(ii)) - a

---

expertise nor administrative experience providing him with any unique insight into the task before him. Moreover, each of those other major "implementing agencies" had been established as a permanent, ongoing institution in the regulatory field involved, not, as here, as a temporary administrative appointment selected to administer a single Fund devoted to victims and family members of specific terrorist events occurring only on September 11, 2001.

REV_00161295

contention that should not be accepted for reasons already stated. In any event, their "discretion" claim fails under any deferential standard, because under such authorities as Chevron and Barnhart, defendants cannot establish an ambiguity in the Act on the specific issue of statutory construction presented, namely, whether the "economic loss" component of the awards to certain claimants may be reduced by the defendant Special Master, in his discretion, below amounts calculated in accordance with § 402(5).

Here, to reiterate, the question is whether the phrase "the individual circumstances of the claimant" (§ 405(b)(1)(B)(ii)) is ambiguous as to defendants' specific discretion claim, justifying the importation into the calculation of awards of factors, unmentioned anywhere in the statute, of claimants' "financial need" and "financial resources". Plainly, the Act is not ambiguous in this regard, for it cannot suffice to create an ambiguity that the phrase in § 405(b)(1)(B)(ii) may be said not to exclude the possibility of defendants' interpretation. Rather, the question is whether there is an ambiguity in the statute that would be affirmatively compatible with defendants' interpretation, and here there is none due to the statute's complete silence concerning any factor of "financial need" or "financial resources" central to defendants' interpretation. In other words, the solitary statutory phrase in § 405(b)(1)(B)(ii) on which defendants rely is not, in the words of Justice Frankfurter, an "'empty vessel . . . into which [a judge, or an administrator] . . . can pour anything he will' – his caprices, fixed notions, even statesmanlike beliefs in a particular policy." Frankfurter, Some Reflections on the Reading of Statutes, 47 Colum.L.Rev. 527, at 529 (1947)

In addition to the argument of "deference", the defendant legislators-cum-administrators also seek to rely upon their status as "administrators" in order to support

REV_00161296

their argument that this Court should shut its eyes to the full evidentiary record in this declaratory-judgment action - including to all those facts, among them repeated admissions and inconsistencies on the part of the defendant Special Master, which are alleged by plaintiff Schneider's complaint. According to this prong of defendants' argument as "administrators", neither the plaintiff nor the Court has any right to present or to consider all the relevant facts alleged by plaintiff's complaint, but instead should confine themselves to what defendants characterize as the "administrative record" (Def. Mem., p. 30; see also defendants' Notice of Motion, purporting to rest defendants' present dismissal motion "upon the administrative record filed in this action on February 28, 2003").

Yet in reality, there is no such "administrative record" in this case - unlike the cases cited at page 30 of defendants' memorandum. What defendants filed on February 28 is not an "administrative record" of any "administrative proceeding" at all, there being no administrative proceeding before the defendant Special Master that has been filed or initiated by plaintiff Schneider or, indeed, any of the plaintiffs in these cases. Nor does this Court sit in some appellate capacity here, restricted to what defendants urge to be a limited review of defendants' supposed "administrative record". Plaintiff's challenge is not to any appealable administrative action taken against her by defendants, for she has submitted no claim to the Special Master. Rather, she seeks relief in this Court so that she may decide whether to make such a submission of her claims – a decision that depends largely upon the outcome of her challenge in this action to defendants' publicly-stated intention to disregard the explicit terms and mandate of the Act in the case of those

REV_00161297

claimants whom defendants deem to be not "in need" of the compensation for "economic loss" granted by Congress to the full extent of that grant.

B. If Defendants' Claim of "Discretion" Were Even Arguably Supportable under the Terms of the Act, and It Is Not, Any Such Attempted Delegation of Power by Congress to These Defendants, or Any of Them, Would Violate Fundamental Principles Governing the Permissibility of Such Delegations of Power

At page 62 of their memorandum, defendants seriously misstate plaintiff Schneider's contention regarding their delegation-of-discretion claim. Contrary to what they say there, plaintiff has never argued that "[t]he Act is . . . an unconstitutional delegation of legislative power."[5] Rather, plaintiff's position is that there is no delegation of discretion of the kind claimed by defendants, but that if defendants' contrary argument were sustained, and the "discretion" they claim could be implied from § 405(b)(1)(B)(ii), such "delegation" would inevitably present serious separation-of-powers issues. The reasons for that conclusion are made clear below.

Plainly, for such a significant legislative delegation of discretion to be found, there would have to be not only unambiguous and reliable proof in the statute of the delegation

5 Nor, contrary to defendants' implication commencing at p. 62, has plaintiff contended that Congress failed to provide an "intelligible principle" in the Act. In this connection, she has contended only that the failure of Congress to provide such an intelligible principle with respect to the "discretion" that defendants claim to have been impliedly delegated to them by the Congress - a requisite of such delegations of power by the Congress under fundamental separation-of-powers principles being the articulation of such an intelligible principle regarding the authority or discretion granted - is of course highly revealing of the actual fact, which is that Congress provided no such "intelligible principle" because it delegated no such discretion; and that if somehow such a delegation could be found in defendants' favor, but lacking such an intelligible principle, it would be constitutionally infirm.

REV_00161298

itself, but also explicit and specific guidance by the Congress, also in the statute, as to how, and according to what specific standards, any such discretion is to be reconciled with and applied in satisfying the mandate of Section 402(5)'s definition of "economic loss". Of course, there is nothing of the kind to be found anywhere in this statute – a fact which further belies defendants' claim that they have been delegated such a far-reaching discretion.

Here, accordingly, there is not only a complete failure of proof as to any such delegation. There is a like failure by defendants to identify any statutory "intelligible principle" articulated by the Congress in order to guide and restrain the exercise of the purported discretion these defendants assert. Illustrating the "intelligible principle" requirement is the decision in Mistretta v. U.S., 488 U.S. 361, 371-73, 109 S.Ct. 647, 654-55 (1989), holding in part as follows:

> The nondelegation doctrine is rooted in the principle of separation of powers that underlies our tripartite system of Government. The Constitution provides that "[a]ll legislative Powers herein granted shall be vested in a Congress of the United States," U.S. Const., Art. I, § 1, and we long have insisted that "the integrity and maintenance of the system of government ordained by the Constitution" mandate that Congress generally cannot delegate its legislative power to another Branch. Field v. Clark, 143 U.S. 649, 692, 12 S.Ct. 495, 504 (1892). We also have recognized, however, that the separation-of-powers principle, and the nondelegation doctrine in particular, do not prevent Congress from obtaining the assistance of its coordinate Branches. In a passage now enshrined in our jurisprudence, Chief Justice Taft, writing for the Court, explained our approach to such cooperative ventures: "In determining what [Congress] may do in seeking assistance from another branch, the extent and character **655 of that assistance must be fixed according to common sense and the inherent necessities of the government co-ordination." J.W. Hampton, Jr., & Co. v. U.S., 276 U.S. 394, 406, 48 S.Ct. 348, 351 (1928). So long as Congress "shall lay down by legislative act an intelligible principle to which the person or body authorized to [exercise the delegated authority] is directed to conform, such legislative

REV_00161299

action is not a forbidden delegation of legislative power." Id., at 409, 48 S.Ct., at 352.

Applying this "intelligible principle" test to congressional delegations, our jurisprudence has been driven by a practical understanding that in our increasingly complex society, replete with ever changing and more technical problems, Congress simply cannot do its job absent an ability to delegate power under broad general directives. See Opp Cotton Mills, Inc. v. Administrator, Wage and Hour Div. of Dept. of Labor, 312 U.S. 126, 145, 61 S.Ct. 524, 533 (1941) ("In an increasingly complex society Congress obviously could not perform its functions if it were obliged to find all the facts subsidiary to the basic conclusions which support the defined legislative policy"); see also U.S. v. Robel, 389 U.S. 258, 274, 88 S.Ct. 419, 429 (1967) (opinion concurring in result). "The Constitution has never been regarded as denying to the Congress the necessary resources of flexibility and practicality, which will enable it to perform its function." Panama Refining Co. v. Ryan, 293 U.S. 388, 421, 55 S.Ct. 241, 248 (1935). Accordingly, this Court has deemed it "constitutionally sufficient if Congress clearly delineates the general policy, the public agency which is to apply it, and the boundaries of this delegated authority." American Power & Light Co. v. SEC, 329 U.S. 90, 105, 67 S.Ct. 133, 142 (1946). (Emphasis added)

In this connection, see also Frankfurter, Some Reflections on the Reading of Statutes, 47 Colum.L.Rev. 527, at 533 (1947), stating:

"[Courts] . . . are confined by the nature and scope of the judicial function in its particular exercise in the field of interpretation. They are under the constraints imposed by the judicial function in our democratic society. As a matter of verbal recognition certainly, no one will gainsay that the function in construing a statute is to ascertain the meaning of words used by the legislature. To go beyond it is to usurp a power which our democracy has lodged in its elected legislature. The great judges have constantly admonished their brethren of the need for discipline in observing the limitations. A judge must not rewrite a statute, neither to enlarge nor to contract it. Whatever temptations the statesmanship of policy-making might wisely suggest, construction must eschew interpretation and evisceration. He must not read in by way of creation. He must not read out except to avoid patent nonsense or internal contradiction."

REV_00161300

The complete absence from the statute itself of any such "intelligible principle" with respect to the "discretion" that defendants claim to have been delegated to them by Congress - a requisite of such delegations of power by the Congress under fundamental separation-of-powers principles - is itself confirmation that of course highly revealing of the actual fact. There is no such "intelligible principle" in the statute elaborating any such "discretion" because there is no delegation of any such "discretion" in the statute either.

Nor is there any external circumstance present in these cases that would warrant any inference of a delegation of such discretion by Congress to any of these defendants. We are not dealing here with a more typical claim of inadequate Congressional delegation of discretion to an established administrative agency which, over time, has developed a substantial and unique regulatory expertise concerning the ongoing matters constantly coming before it and which, therefore, might not require great specificity in Congress's statement of the "intelligible principle" intended to guide the exercise of such challenged delegation. See, e.g., J.W. Hampton, Jr., and Co. v. U.S., 276 U.S. 394, 407-09, 48 S.Ct. 348, 351-52 (1928), a ruling also making clear, we emphasize, that no purported delegation of "discretion" as indefinite as the delegation claimed by defendants in the present actions could pass muster even if defendants were "experts" having some unique and specialized knowledge and experience:

> Again, one of the great functions conferred on Congress by the Federal Constitution is the regulation of interstate commerce and rates to be exacted by interstate carriers for the passenger and merchandise traffic. The rates to be fixed are myriad. If Congress were to be required to fix every rate, it would be impossible to exercise the power at all. Therefore, common sense requires that in the fixing of such rates Congress may provide a Commission, as it does, called the Interstate Commerce Commission, to fix those rates, after hearing evidence and argument

REV_00161301

> concerning them from interested parties, all in accord with a general rule that Congress first lays down that rates shall be just and reasonable considering the service given and not discriminatory. As said by this Court in Interstate Commerce Commission v. Goodrich Transit Co., 224 U.S. 194, 214, 32 S.Ct. 436, 441 (1912):
>
> > 'The Congress may not delegate its purely legislative power to a commission, but, having laid down the general rules of action under which a commission shall proceed, it may require of that commission the application of such rules to particular situations and the investigation of facts, with a view to making orders in a particular matter within the rules laid down by the Congress.'

The principle upon which such a power is upheld in state legislation as to fixing railway rates is admirably stated by Judge Mitchell in the case of State v. Chicago, Milwaukee & St. Paul Railway Co., 38 Minn. 281, 298 to 302, 37 N.W. 782 (1888). The learned judge says on page 301 (37 N.W. 788):

> 'If such a power is to be exercised at all, it can only be satisfactorily done by a board or commission, constantly in session, whose time is exclusively given to the subject, and who, after investigation of the facts, can fix rates with reference to the peculiar circumstances of each road, and each particular kind of business, and who can change or modify these rates to suit the ever- varying conditions of traffic. * * * Our Legislature has gone a step further than most others, and vested our commission with full power to determine what rates are equal and reasonable in each particular case. Whether this was wise or not is not for us to say: but in doing so we cannot see that they have transcended their constitutional authority. They have not delegated to the commission any authority or discretion as to what the law shall be- which would not be allowable-but have merely conferred upon it an authority and discretion, to be exercised in the execution of the law, and under and in pursuance of it, which is entirely permissible. The Legislature itself has passed upon the expediency of the law, and what it shall be. The commission is entrusted with no authority or discretion upon these questions.' (Emphasis added)

Thus, in contrast to actions such as J.W. Hampton, Jr., and Co., there is absolutely no reason why, in the actions before this Court, the Congress of the United States could or would have considered any of these defendants to be any more "expert" than members of Congress in determining the applicability, if any, of the extra-statutory factors of "needs" and

REV_00161302

"resources" now divined by these defendants. Moreover, of course, no such delegation would have been permissible in any event without both an express and specific delegation of such "discretion" and a clear and definite statement of the "intelligible principle" of the Congress concerning the power so delegated.

Nor is the question here one of a claimed delegation to an executive officer who has independent constitutional authority concerning the subject matter. Compare Loving v. US, 517 U.S. 748, 771-73, 116 S.Ct. 1737, 1750-51 (1996), stating as follows:

> It does not suffice to say that Congress announced its will to delegate certain authority. Congress as a general rule must also "lay down by legislative act an intelligible principle to which the person or body authorized to [act] is directed to conform." . . . . [Citations omitted] The intelligible- principle rule seeks to enforce the understanding that Congress may not delegate the power to make laws and so may delegate no more than the authority to make policies and rules that implement its statutes. . . . [Citation omitted] Though in 1935 we struck down two delegations for lack of an intelligible principle, A.L.A. Schecter Poultry Corp. v. U.S., 295 U.S. 495, 55 S.Ct. 837 (1935), and Panama Refining Co. v. Ryan, 293 U.S. 388, 55 S.Ct. 241 (1935), we have since upheld, without exception, delegations under standards phrased in sweeping terms. See, *e.g.*, National Broadcasting Co. v. U.S., 319 U.S. 190, 216-217, 225-226, 63 S.Ct 997, 1009-1010 (1943) (upholding delegation to the Federal Communications Commission to regulate radio broadcasting according to "public interest, convenience, or necessity"). Had the delegations here called for the exercise of judgment or discretion that lies beyond the traditional authority of the President, Loving's last argument that Congress failed to provide guiding principles to the President might have more weight. We find no fault, however, with the delegation in this case.
>
> In United States v. Curtis, [32 M.J. 252 (CMA), cert. denied, 502 U.S. 952, 112 S.Ct. 406 (1991)], the Court of Military Appeals discerned a principle limiting the President's discretion to define aggravating factors for capital crimes in Article 36: namely, the directive that regulations the President prescribes must "apply the principles of law ... generally recognized in the trial of criminal cases in the United States district courts, but which may not be contrary to or inconsistent with this chapter," 10 U.S.C. § 836(a). We think, however, that the question to be asked is not whether there was any explicit principle telling the President how to select aggravating factors, but whether any such guidance was needed, given the

REV_00161303

> nature of the delegation and the officer who is to exercise the delegated authority. First, the delegation is set within boundaries the President may not exceed. Second, the delegation here was to the President in his role as Commander in Chief. Perhaps more explicit guidance as to how to select aggravating factors would be necessary if delegation were made to a newly created entity without independent authority in the area. Cf. Mistretta v. U.S., 488 U.S. [361,] at 374-379, 109 S.Ct. [647,] at 656-659 [(1989)] (upholding delegation to the United States Sentencing Commission because of detailed congressional directives channeling agency discretion). The President's duties as Commander in Chief, however, require him to take responsible and continuing action to superintend the military, including the courts-martial. The delegated duty, then, is interlinked with duties already assigned to the President by express terms of the Constitution, and the same limitations on delegation do not apply "where the entity exercising the delegated authority itself possesses independent authority over the subject matter" United States v. Mazurie, 419 U.S. 544, 556-557, 95 S.Ct 710, 717-718 (1975). [Additional citations omitted] (Emphasis added).

Thus, in contrast to actions such as Loving, there can be no suggestion in the actions before this Court that the defendants, or any of them, have any power concerning the matters at issue beyond the power delegated to them by the Congress of the United States. None has independent authority – or as shown above, expertise – concerning any such matters.

Accordingly, no delegation of the far-reaching "discretion" defendants claim in these actions can be found at all, much less one conforming to constitutional requirements.

C. Well established principles Require this Court to Avoid Defendants' Radical Interpretation of the Act by Instead Interpreting it So as to Exclude Such Claimed Discretion - a Discretion Which, If it Had Been Granted by Congress, Would Inevitably Raise Grave Constitutional Issues.

Plainly, even if there were a basis to conclude that the Act does contain an otherwise sufficient and proper delegation of discretion to the defendants of the kind they claim, several grave issues of a constitutional nature would then arise.

REV_00161304

Among them would be issues concerning the clear denial to such claimants of the due process of law, and the assurance of equal justice under the law, guaranteed to them under the Fifth Amendment. See generally, Hampton v. Mow Sun Wong, 426 U.S. 88, 100, 96 S.Ct. 1895, 1903-04 (1976) ("The federal sovereign, like the States, must govern impartially. The concept of equal justice under law is served by the Fifth Amendment's guarantee of due process, as well as by the Equal Protection Clause of the Fourteenth Amendment").

Before addressing the cases cited by defendant, it must be emphasized that we are not dealing in this case with a legislatively determined class. On the contrary, we are dealing here with a class of persons concocted by an administrator without legislative authority or guidance. This distinction is a crucial one, since there is no indication in the Act that Congress intended any such classifications among victims. So for example, in Harris v. McRae, 448, U.S. 297(1980) cited by defendant, the Court considered the constitutionality of the "Hyde" amendment which imposed restrictions upon Medicaid reimbursement of abortions. Here, the issue was the validity of explicit and considered Congressional action, not that of an administrator. Similarly in Woe v. Cuomo, 729 F2d 96, (2d Cir. 1984), the issue was the constitutionality of New York' civil commitment law - again a legislative act. In San Antonio Independent School District v. Rodriguez, 411 US 1 (1973), the issue concerned the constitutionality of Texas' property tax based education system, not the action of any administrator. In United States v. Hirschberg, 988 F2d 1509 (7th Cir. 1993), the Court held that a prosecutor's rebuttal closing argument that defendant's wealth did not mean he was innocent and that the law should apply equally to all people at all economic levels was not plain error. The relevance of this case entirely escapes us. In Black v. Secretary of Health and Human Services, 93 F3d 781 (Fed. Cir. 1996), the Court considered the

REV_00161305

Constitutionality of a $1000 medical expense threshold in the National Vaccine Injury Act-again specific legislation by Congress. Indeed, the quotation in defendant's memorandum at page 60 to the effect that "an eligibility test may be rational even if it does not do a perfect job of selecting those cases that appear to be appropriate subjects of congressional concern" (emphasis added), makes plaintiff's point eloquently. It is for the Congress in the exercise of its legislative capacity to make these kinds of choices and classifications. The concoction of a special class of persons by an administrator, whether they be based upon economic status, or any other factor must be greeted with the utmost skepticism, and the highest degree of judicial scrutiny. Indeed the absence of cases in which an administrator has attempted to define such a class (as defendants have here) is testament to the extraordinary nature of their claimed discretion. While it is true that cases invalidating such delegations are not common, this too speaks volumes about the novel, extraordinary claims made here by the defendants.

In addition, if there were such basis, other due-process issues would arise as well, due to defendants' interpretation of the Act in purported exercise of a discretion claimed to have been granted by Congress, under which defendants would *retroactively* deprive potential claimants upon the Fund of the no-fault alternative which Congress granted them when it effectively denied them their common-law rights to be compensated by all defendants found responsible for the losses they suffered, including airlines. See Section 408(a). These facts, without more, serve to distinguish the situation in this case from those presented in Weinberger v. Salfi, 422 U.S. 749 (1975)(Social Security Benefits) and Supreme Oil Co. v. Metropolitan Trans. Auth., 157 F. 3d 148 (2d Cir. 1998)(Federal Relocation Benefits)-each involving government benefit programs, and not such legislation as the Act, which is designed to compensate victims and their families for deprivation by the Statute itself of

REV_00161306

fundamental litigation rights. Under defendants' present expansive interpretation of their purported discretion, the "wealthier" of those claimants now would be denied not only those common-law rights, as Congress provided, but also the level of compensation expressly granted by the Congress, without restrictions or caps upon any claimant's award based upon his or her "needs" or "resources" - even though, unquestionably, such no-fault compensation was the legislative *quid pro quo* for Congress's own, itself extraordinary *retroactive* alteration and diminution of claimants' fundamental rights. See generally, Bowen v. Georgetown Univ. Hosp., 488 U.S. 204, 208-09, 109 S.Ct. 468, 471-72 (1988):

> Retroactivity is not favored in the law. Thus, congressional enactments and administrative rules will not be construed to have retroactive effect unless their language requires this result. . . . [Citations omitted] By the same principle, a statutory grant of legislative rulemaking authority will not, as a general matter, be understood to encompass the power to promulgate retroactive rules unless that power is conveyed by Congress in express terms. See Brimstone R. Co. v. U.S., 276 U.S. 104, 122, 48 S.Ct. 282, 287 (1928)("The power to require readjustments for the past is drastic. It ... ought not to be extended so as to permit unreasonably harsh action without very plain words"). Even where some substantial justification for retroactive rulemaking is presented, courts should be reluctant to find such authority absent an express statutory grant.

When, as here, such potential constitutional issues are present, the federal courts have consistently applied the sound principle and practice of avoiding interpretations of statutes which raise constitutional issues wherever possible, instead construing those statutes more narrowly so as not to present such constitutional questions. See, e.g., Solid Waste Agency v. U.S. Army Corps of Engineers, 531 U.S. 159, 121 S.Ct. 675 (2001); National Cable Television Ass'n v. U.S., 415 U.S. 336, 342, 94 S.Ct. 1146, 1150 (1974); Kent v. Dulles, 357 U.S. 116, 129, 78 S.Ct. 1113, 1120 (1958).

REV_00161307

And finally, where, as here, defendants have no substantial statutory basis at all for their claim of a far-reaching discretion to fundamentally alter the statutory scheme in the cases of certain "wealthy" individuals, the application of that principle and practice of prudence and restraint is, we respectfully submit, particularly warranted.

REV_00161308

CONCLUSION

For all of the foregoing reasons, and those stated in the joint memorandum of law, Defendants' motion to dismiss should be denied in all respects.

Dated: New York, New York
March 28, 2003

LAW FIRM OF BRODER & REITER

By: Jonathan C. Reiter

Jonathan C. Reiter (JR7522)
Attorneys for Plaintiff
350 Fifth Avenue, Suite 2811
New York, New York 10118
212-244-2000

TO: Andrew Shilling, Esq.
United States Attorney
33 Whitehall Street
8th Floor
New York, New York 10004

John Cambria, Esq.
Salans
620 Fifth Avenue
New York, New York 10020

Mark Molter, Esq.
Kreindler & Kreindler
100 Park Avenue
New York, New York 10017

REV_00161309

From: Kirk Blalock <kblalock@fierce-isakowitz.com>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Kristen Silverberg/WHO /EOP@EOP [WHO] <Kristen Silverberg>;Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>
CC: Leigh Ann Pusey <lpusey@aiadc.org>
Sent: 3/31/2003 4:20:43 AM
Subject: : FYI - In the "so you know" category
Attachments: P_JJ06F003_WHO.TXT_1.html

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kirk Blalock <kblalock@fierce-isakowitz.com> ( Kirk Blalock <kblalock@fierce-
isakowitz.com> [ UNKNOWN ] )
CREATION DATE/TIME:31-MAR-2003 09:20:43.00
SUBJECT:: FYI - In the "so you know" category
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
CC:Leigh Ann Pusey <lpusey@aiadc.org> ( Leigh Ann Pusey <lpusey@aiadc.org> [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Ado Machida has requested that we come over and brief him on asbestos
today at 3pm. Leigh Ann Pusey is going over to do, I however cannot
make it.

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_JJ06F003_WHO.TXT_1>
```

Ado Machida has requested that we come over and brief him on asbestos today at 3pm. Leigh Ann Pusey is going ove r to do, I however cannot make it.

From: CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange [OPD]
To: david.aufhauser@do.treas.gov@SMTP@Exchange [UNKNOWN] <david.aufhauser@do.treas.gov@SMTP@Exchange>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Kristen Silverberg/WHO/EOP@Exchange [WHO] <Kristen Silverberg>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;paul.harris@usdoj.gov@SMTP@Exchange [UNKNOWN] <paul.harris@usdoj.gov@SMTP@Exchange>;Philip J. Perry/OMB/EOP@EOP [OMB] <Philip J. Perry>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;hatamj@ms.state.gov@SMTP@Exchange [UNKNOWN] <hatamj@ms.state.gov@SMTP@Exchange>
CC: marlene.s.boysel@usdoj.gov@SMTP@Exchange [UNKNOWN] <marlene.s.boysel@usdoj.gov@SMTP@Exchange>;Joan Hunerwadel/NSC/EOP@EOP [NSC] <Joan Hunerwadel>;Emily Winland/OPD/EOP@EOP [OPD] <Emily Winland>;elizabeth.vannoy@do.treas.gov@SMTP@Exchange [UNKNOWN] <elizabeth.vannoy@do.treas.gov@SMTP@Exchange>;Jay P. Lefkowitz/OPD/EOP@Exchange [OPD] <Jay P. Lefkowitz>;Carla B. Stone/OMB/EOP@EOP [OMB] <Carla B. Stone>
Sent: 3/31/2003 4:49:00 AM
Subject: : Compensation for Victims of Terrorism Meeting - Wed

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Lauren J. Vestewig ( CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange [ OPD ] )
CREATION DATE/TIME:31-MAR-2003 09:49:00.00
SUBJECT:: Compensation for Victims of Terrorism Meeting - Wed
TO:david.aufhauser@do.treas.gov@SMTP@Exchange ( david.aufhauser@do.treas.gov@SMTP@Exchange
[ UNKNOWN ] )
READ:UNKNOWN
TO:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:paul.harris@usdoj.gov@SMTP@Exchange ( paul.harris@usdoj.gov@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
TO:Philip J. Perry ( CN=Philip J. Perry/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:hatamj@ms.state.gov@SMTP@Exchange ( hatamj@ms.state.gov@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
CC:marlene.s.boysel@usdoj.gov@SMTP@Exchange ( marlene.s.boysel@usdoj.gov@SMTP@Exchange [
UNKNOWN ] )
READ:UNKNOWN
CC:Joan Hunerwadel ( CN=Joan Hunerwadel/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
CC:Emily Winland ( CN=Emily Winland/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
CC:elizabeth.vannoy@do.treas.gov@SMTP@Exchange (
elizabeth.vannoy@do.treas.gov@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
CC:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [ OPD ] )
READ:UNKNOWN
CC:Carla B. Stone ( CN=Carla B. Stone/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
###### End Original ARMS Header ######

There will be a meeting this Wednesday, April 2nd in EEOB room 211 at
3:30pm.; ;Please let me know if you can attend.; If you are coming from
outside of the complex and need to be cleared in, please email me your dob
and ssn.; Thanks!
;
;
```

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]

To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jonathan F. Ganter/WHO/EOP@EOP [WHO] <Jonathan F. Ganter>;J. Elizabeth Farrell/WHO/EOP@EOP [WHO] <J. Elizabeth Farrell>;James W. Carroll/WHO/EOP@EOP [WHO] <James W. Carroll>;Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Carolyn Nelson/WHO/EOP@Exchange [WHO] <Carolyn Nelson>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Tracy Jucas/WHO/EOP@EOP [WHO] <Tracy Jucas>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Patrick J. Bumatay/WHO /EOP@Exchange [WHO] <Patrick J. Bumatay>;Hana F. Brilliant/WHO/EOP@EOP [WHO] <Hana F. Brilliant>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>

Sent: 3/31/2003 5:50:03 AM

Subject: : Updated Counsel assignments

Attachments: F_R686F003_NSC.TXT_1.xlw

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:31-MAR-2003 10:50:03.00
SUBJECT:: Updated Counsel assignments
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jonathan F. Ganter ( CN=Jonathan F. Ganter/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:J. Elizabeth Farrell ( CN=J. Elizabeth Farrell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:James W. Carroll ( CN=James W. Carroll/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tracy Jucas ( CN=Tracy Jucas/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Hana F. Brilliant ( CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
```

TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Attached is a new updated Counsel assignments sheet.; Sorry for any
confusion.
;
Patrick
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <F_R686F003_NSC.TXT_1>

Document Produced Natively

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]

To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jonathan F. Ganter/WHO/EOP@EOP [WHO] <Jonathan F. Ganter>;J. Elizabeth Farrell/WHO/EOP@EOP [WHO] <J. Elizabeth Farrell>;James W. Carroll/WHO/EOP@EOP [WHO] <James W. Carroll>;Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Carolyn Nelson/WHO/EOP@Exchange [WHO] <Carolyn Nelson>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Tracy Jucas/WHO/EOP@EOP [WHO] <Tracy Jucas>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Patrick J. Bumatay/WHO /EOP@Exchange [WHO] <Patrick J. Bumatay>;Hana F. Brilliant/WHO/EOP@EOP [WHO] <Hana F. Brilliant>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>

Sent: 3/31/2003 5:50:06 AM

Subject: : Updated Counsel assignments

Attachments: F_X686F003_NSC.TXT_1.xlw

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:31-MAR-2003 10:50:06.00
SUBJECT:: Updated Counsel assignments
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jonathan F. Ganter ( CN=Jonathan F. Ganter/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:J. Elizabeth Farrell ( CN=J. Elizabeth Farrell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:James W. Carroll ( CN=James W. Carroll/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tracy Jucas ( CN=Tracy Jucas/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Hana F. Brilliant ( CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
```

TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Attached is a new updated Counsel assignments sheet.; Sorry for any
confusion.
;
Patrick
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <F_X686F003_NSC.TXT_1>

Document Produced Natively

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]

To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jonathan F. Ganter/WHO/EOP@EOP [WHO] <Jonathan F. Ganter>;J. Elizabeth Farrell/WHO/EOP@EOP [WHO] <J. Elizabeth Farrell>;James W. Carroll/WHO/EOP@EOP [WHO] <James W. Carroll>;Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Carolyn Nelson/WHO/EOP@Exchange [WHO] <Carolyn Nelson>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Tracy Jucas/WHO/EOP@EOP [WHO] <Tracy Jucas>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Patrick J. Bumatay/WHO /EOP@Exchange [WHO] <Patrick J. Bumatay>;Hana F. Brilliant/WHO/EOP@EOP [WHO] <Hana F. Brilliant>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>

Sent: 3/31/2003 5:50:09 AM

Subject: : Updated Counsel assignments

Attachments: F_0786F003_NSC.TXT_1.xlw

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:31-MAR-2003 10:50:09.00
SUBJECT:: Updated Counsel assignments
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jonathan F. Ganter ( CN=Jonathan F. Ganter/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:J. Elizabeth Farrell ( CN=J. Elizabeth Farrell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:James W. Carroll ( CN=James W. Carroll/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tracy Jucas ( CN=Tracy Jucas/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Hana F. Brilliant ( CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
```

TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Attached is a new updated Counsel assignments sheet.; Sorry for any
confusion.
;
Patrick
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <F_0786F003_NSC.TXT_1>

Document Produced Natively

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]

To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jonathan F. Ganter/WHO/EOP@EOP [WHO] <Jonathan F. Ganter>;J. Elizabeth Farrell/WHO/EOP@EOP [WHO] <J. Elizabeth Farrell>;James W. Carroll/WHO/EOP@EOP [WHO] <James W. Carroll>;Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Carolyn Nelson/WHO/EOP@Exchange [WHO] <Carolyn Nelson>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Tracy Jucas/WHO/EOP@EOP [WHO] <Tracy Jucas>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Patrick J. Bumatay/WHO /EOP@Exchange [WHO] <Patrick J. Bumatay>;Hana F. Brilliant/WHO/EOP@EOP [WHO] <Hana F. Brilliant>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>

Sent: 3/31/2003 5:50:13 AM

Subject: : Updated Counsel assignments

Attachments: F_9786F003_NSC.TXT_1.xlw

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:31-MAR-2003 10:50:13.00
SUBJECT:: Updated Counsel assignments
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jonathan F. Ganter ( CN=Jonathan F. Ganter/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:J. Elizabeth Farrell ( CN=J. Elizabeth Farrell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:James W. Carroll ( CN=James W. Carroll/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tracy Jucas ( CN=Tracy Jucas/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Hana F. Brilliant ( CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
```

TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Attached is a new updated Counsel assignments sheet.; Sorry for any
confusion.
;
Patrick
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <F_9786F003_NSC.TXT_1>

Document Produced Natively

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]

To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jonathan F. Ganter/WHO/EOP@EOP [WHO] <Jonathan F. Ganter>;J. Elizabeth Farrell/WHO/EOP@EOP [WHO] <J. Elizabeth Farrell>;James W. Carroll/WHO/EOP@EOP [WHO] <James W. Carroll>;Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Carolyn Nelson/WHO/EOP@Exchange [WHO] <Carolyn Nelson>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Tracy Jucas/WHO/EOP@EOP [WHO] <Tracy Jucas>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Patrick J. Bumatay/WHO /EOP@Exchange [WHO] <Patrick J. Bumatay>;Hana F. Brilliant/WHO/EOP@EOP [WHO] <Hana F. Brilliant>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>

Sent: 3/31/2003 5:50:16 AM

Subject: : Updated Counsel assignments

Attachments: F_D786F003_NSC.TXT_1.xlw

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:31-MAR-2003 10:50:16.00
SUBJECT:: Updated Counsel assignments
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jonathan F. Ganter ( CN=Jonathan F. Ganter/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:J. Elizabeth Farrell ( CN=J. Elizabeth Farrell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:James W. Carroll ( CN=James W. Carroll/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tracy Jucas ( CN=Tracy Jucas/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Hana F. Brilliant ( CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
```

TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Attached is a new updated Counsel assignments sheet.; Sorry for any
confusion.
;
Patrick
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <F_D786F003_NSC.TXT_1>

Document Produced Natively

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]

To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jonathan F. Ganter/WHO/EOP@EOP [WHO] <Jonathan F. Ganter>;J. Elizabeth Farrell/WHO/EOP@EOP [WHO] <J. Elizabeth Farrell>;James W. Carroll/WHO/EOP@EOP [WHO] <James W. Carroll>;Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Carolyn Nelson/WHO/EOP@Exchange [WHO] <Carolyn Nelson>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Tracy Jucas/WHO/EOP@EOP [WHO] <Tracy Jucas>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Patrick J. Bumatay/WHO /EOP@Exchange [WHO] <Patrick J. Bumatay>;Hana F. Brilliant/WHO/EOP@EOP [WHO] <Hana F. Brilliant>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Helgard C. Walker/WHO/EOP@EOP [WHO] <Helgard C. Walker>

Sent: 3/31/2003 5:50:20 AM

Subject: : Updated Counsel assignments

Attachments: F_N786F003_NSC.TXT_1.xlw

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:31-MAR-2003 10:50:20.00
SUBJECT:: Updated Counsel assignments
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jonathan F. Ganter ( CN=Jonathan F. Ganter/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:J. Elizabeth Farrell ( CN=J. Elizabeth Farrell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:James W. Carroll ( CN=James W. Carroll/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tracy Jucas ( CN=Tracy Jucas/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Hana F. Brilliant ( CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
```

TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Helgard C. Walker (CN=Helgard C. Walker/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Attached is a new updated Counsel assignments sheet.; Sorry for any
confusion.
;
Patrick
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <F_N786F003_NSC.TXT_1>

Document Produced Natively

From:	MacEcevic, Lisa J.
To:	<Kavanaugh, Brett M.>;<Schacht, Diana L.>;<Warsh, Kevin>;<Silverberg, Kristen>;<McMillin, Stephen S.>
CC:	<Green, Richard E.>;<Bloomquist, Lauren E.>;<Boden, James>;<Jukes, James J.>;<Schwartz, Kenneth L.>
Sent:	3/31/2003 10:03:58 AM
Subject:	FYI - Class Action Bills
Attachments:	~~DLNK4.URL; ~~DLNK5.URL; ~~DLNK6.URL; ~~DLNK7.URL; ~~DLNK8.URL; Class Action Bills Descriptions.doc; HR1115 - S 274 Comparison.doc; S 274 - HR1115 Comparison.doc; S 274 - HR2341 Comparison.doc

FYI, here is some basic information on class action bills from the 107th and 108th Congress:

In the 107th - the Senate introduced S. 1712 and the House passed H.R. 2341.

In the 108th - the Senate has introduced S.274 and the House H.R. 1115.

S. 274, which was scheduled to be marked up this morning by the Senate Judiciary Committee, is, for all practical purposes, identical to S.1712 from the 107th.

H.R. 1115 from this Congress is a mix between the last years House bill and the Senate bills.

The Administration issued a SAP strongly supporting H.R. 2341 in March 2002. Here is a link to the SAP: http://www.whitehouse.gov/omb/legislative/sap/107-2/HR2341-r.html

I have attached a side-by-side comparison of S. 274 (as introduced), H.R. 1115 (as introduced), and H.R. 2341 (as passed the House in the 107th), as well as individual comparisons so you can track the exact word changes between the bills if so desired. Also, below, are several recent stories on the topic. (I will update this information if necessary based on what happens in today's markup.) I hope you find this helpful.

Comparison Chart:

<< Class Action Bills Descriptions.doc >>

Red-line, strike-through comparisons of bills one-on-one:

<< S 274 - HR1115 Comparison.doc >> << S 274 - HR2341 Comparison.doc >> << HR1115 - S 274 Comparison.doc >>

CQ TODAY – April 2, 2003

Class Action Lawsuit Measure Aims to Send More Cases to Federal Court

By Keith Perine, CQ Staff

The Republican effort to overhaul tort laws will be on display Thursday when the Senate Judiciary Committee marks up legislation to send more class action lawsuits to federal rather than state courts.

The bill (**S 274**) would make it easier to try the cases in federal courts if more than $2 million is at stake and at least one member of the class of plaintiffs is a citizen of a different state than the defendant.

Some exceptions are possible, such as if a "substantial majority" of the plaintiffs and the primary defendants are citizens of the state in which the lawsuit was filed.

Supporters say the bill is needed to curb civil litigation abuses by plaintiffs' attorneys who file cases in state courts that are perceived as sympathetic to plaintiffs. Opponents say the bill would unfairly raise the bar for defendants

seeking damages from corporations.

The committee is expected to approve the measure. Chairman Orrin G. Hatch , R-Utah, and other bill proponents are trying to line up Democratic support, with an eye toward garnering a filibuster-proof 60-vote majority.

Dianne Feinstein, D-Calif., has been in negotiations with Republicans to narrow the criteria by which civil cases could be transferred to federal courts.

Feinstein, who opposes the bill in its current form, wants to specify that a "substantial majority" of plaintiffs would be defined as two-thirds of the class members. She also is interested in increasing the $2 million threshold.

Richard J. Durbin, D-Ill., who also opposes the bill, said he plans to offer an amendment that would exempt tobacco-related lawsuits. Durbin pointed to a recent Illinois court decision requiring tobacco giant Philip Morris USA to pay $10.1 billion in damages in a civil case.

The measure contains a "consumer class action bill of rights," which includes a provision that would require notices to class members to be detailed and clearly written.

Also on the committee's agenda is a bill (**S 731**) by Joseph R. Biden Jr. , D-Del., that would make it illegal to possess or use authentication features, such as holograms or watermarks, to fake identification documents.

The Judiciary Committee markup is scheduled for 9:30 a.m. in Dirksen 226.

04/02 Congress Daily

Environmentalists are opposed to class action reform legislation that is on tap for markup Thursday by the Senate Judiciary Committee. Clean Water Action, Earthjustice, Environmental Working Group, Friends of the Earth, Greenpeace, Mineral Policy Center, Natural Resources Defense Council, Sierra Club and the U.S. Public Interest Research Group today sent a letter to **Judiciary Chairman Hatch** and ranking member **Patrick Leahy** , D-Vt., saying the pending bill "would not be fair to citizens bringing class action cases based on state environmental or public health protection laws who wish to have their cases heard by their state's courts." They added, "The bill would allow corporate defendants in pollution class actions to remove virtually any type of state environmental law case from state court to federal court, placing such cases in a forum that could be more costly, less timely and disadvantageous to the citizen plaintiffs." A number of civil rights attorneys and organizations issued similar criticisms against the bill last week, saying it would make it more difficult to have federal civil rights cases heard.

04/01 CongressDaily

Senate Judiciary Readies To Mark Up Class Action Reform

Class action reform legislation is slated to be marked up Thursday by the Senate Judiciary Committee, a committee spokeswoman confirmed.

A class action markup will add to a Judiciary Committee agenda already occupied with another -- and some observers would say competing -- legal reform bill pending before the Senate Judiciary Committee: asbestos litigation case management.

This evening, some committee members are slated to meet informally and privately with stakeholders to explore whether a consensus on asbestos litigation reform legislation can be reached this year.

Senate Judiciary Chairman Hatch has said he wants to draft such a bill over the April recess, in preparation for a markup shortly after senators return from the break.

A private meeting last week between Hatch and a number of defendant company executives and their insurers was characterized by some attendants as a rally for unity and action among the executives, who differ on whether to seek streamlined court consideration of asbestos cases, or to move them into a private system like a trust fund.

Tonight's asbestos "summit" organized by Sen. **Christopher Dodd** , D-Conn., which will include senators from both sides of the aisle, is expected to focus more on the substantive differences within the interested parties among industry, labor and the legal sectors.

Hatch in an interview early last month conceded that it would be "difficult" to complete action both on asbestos and class action reform this session, though he suggested it was not impossible.

The Judiciary panel appears poised to report out class action reform legislation Thursday, albeit mostly along party lines.

Judiciary member **Herb Kohl**, D-Wis., along with Sen. **Charles Grassley**, R-Iowa, and Hatch are cosponsors of the pending bill, which sources indicated has been little changed since its introduction.

Senate Judiciary ranking member **Patrick Leahy**, D-Vt., at a July hearing on that class action bill said he would oppose it as drafted.

A number of civil rights attorneys and organizations also have come out against the bill, saying that its key provision to remove most state-law class actions to federal court would make it more difficult to have federal civil rights cases heard.

In an attempt to shore up Democratic support for the bill in the larger Senate, Kohl has been seeking to broker a deal with Judiciary member **Dianne Feinstein**, D-Calif., who indicated she was receptive to trying to reach a compromise.

However, sources recently said that such an agreement remained elusive, but speculated that the committee's action Thursday could prompt a fresh round of negotiations. Other Senate Democrats not on the committee have indicated a desire to be cooperative with Republican leaders both on class action and asbestos reform bills.

Among those is Sen. **Thomas Carper**, D-Del., who is an original cosponsor of the pending class action bill. And although he will not participate in today's asbestos summit, he remains in "close contact" with Hatch on the issue, his spokeswoman said.

In remarks Monday to a conference for investors hosted by Deutsche Bank in New York City, Carper asserted that, "The best way to get the economy moving again -- is to invest in solutions for asbestos litigation, class action reform and bankruptcy reform." *By Pamela Barnett*

CQ TODAY - March 28, 2003.

Class Action Bill Latest Salvo in Lawyer-GOP Battle

By Keith Perine, CQ Staff

Legislation seeking to send more class action lawsuits to federal rather than state courts and impose new requirements on that kind of litigation has marched up the priority list as majority Republicans continue a years-long effort to change the rules of civil tort law.

The class action measure (S 274 << javascript:simplePopup('loadbillcard.do?billNumber=S274&congress=108','billCard',680,430); >>), which the Senate Judiciary Committee is expected to approve April 3, is one of the centerpiece bills for a conservative tort overhaul movement in the 108th Congress being championed by Orrin G. Hatch, R-Utah.

Rather than provoke a single big fight with the well-heeled trial lawyers' lobby, the strategy of majority Republicans has been to pursue their goal incrementally. They are acting on a series of bills that, if passed and signed into law, would make it more difficult for a wide range of would-be plaintiffs to ask juries to redress alleged wrongdoings by doctors, corporations, asbestos manufacturers and the firearms industry.

Separate measures are moving through Congress that propose limiting civil claims related to medical malpractice (**HR 5**); establishing national criteria for claims of asbestos exposure (**S 413** << javascript:simplePopup('loadbillcard.do?billNumber=S413&congress=108','billCard',680,430); >>); and shielding gun manufacturers and sellers from some liability lawsuits (**HR 1036** << javascript:simplePopup('loadbillcard.do?billNumber=HR1036&congress=108','billCard',680,430); >>).

Joe Manero of the Alliance of American Insurers, which favors changes to tort rules, said the strategy makes sense in this year's legislative climate.

"With the current crisis in the Middle East, we're fighting for attention," he said. "We will take progress where we can get it, and if it means doing it one at a time, that's what it means."

The bipartisan class action bill, sponsored by Senate Finance Committee Chairman Charles E. Grassley, R-Iowa, would set criteria intended to steer some class action cases into federal courts.

It also would impose a long list of new rules on civil litigation regarding notices, settlements and attorneys' fees.

Preventing Venue Shopping

Supporters of the legislation say it is needed to prevent venue shopping and other abuses of the civil process by plaintiffs' attorneys. Opponents say it would unfairly raise the bar for defendants seeking damages from deep-pocketed corporations.

"Its advocates basically want to tell every state judge in America, 'We don't trust you . . . the federal government does not trust you to do your job,' " said Association of Trial Lawyers of America spokesman Carlton Carl. He added that wealthy defendants prefer federal courts because cases tend to take longer to wend their way through them.

Backers of the bill say that plaintiffs' attorneys like to take cases to "judicial hellhole" state courts that are overly sympathetic toward plaintiffs' arguments.

"There are a few county courts around the country that are setting national policy," said Matthew Webb, director of legal policy for the U.S. Chamber Institute for Legal Reform.

The legislation would make civil cases eligible to be pushed into federal courts when the amount in dispute exceeded $2 million and any member of the class of plaintiffs was a citizen of a different state than the defendant.

Currently, plaintiff's lawyers can avoid such "removal" to a federal court if individual claims within a class are less than $75,000, or if even one class member lives in the same state as the defendant.

Under the legislation, some exceptions would be made, such as for cases where states themselves, or state officials, are primary defendants, or if the defendant and a "substantial majority" of plaintiffs are citizens of the state in which the case originally was filed.

Also in the bill is a "consumer class action bill of rights" that seems designed to garner Democratic support for the measure.

Under those provisions, courts would only be able to approve some settlements under certain conditions.

Bounties Would Be Banned

For example, courts would not be able to approve proposed settlements if they would result in disproportionate payments to class members based solely on how close to the court they live.

Also, courts could not approve settlements that contain "bounties" for one member of the class.

The measure also would require that written notices to class members be plainly written and include descriptions of the case, the amount of plaintiffs' attorneys' fees, and details of any proposed settlement. The notices also would have to feature a prominent warning about their legal importance.

A similar bill (**HR 1115** << javascript:simplePopup('loadbillcard.do?billNumber=HR1115&congress=108','billCard',680,430); >>) is pending before the House Judiciary Committee. A committee spokesman said that panel probably would not take up that bill before the two-week spring recess scheduled to begin April 11.

Any bill that the 108th Congress might pass probably will be strongly backed by President Bush.

As a condition for allowing terrorism insurance legislation (**PL 107-297** << javascript:simplePopup('loadlawcard.do?lawNumber=297&congress=107','billCard',680,430); >>) to move last year, House Speaker J. Dennis Hastert, R-Ill., extracted a promise from Bush that he would champion tort overhaul.

House/107th	S. 274 - Introduced/108th	H.R. 1115 - Introduced/108th	H.R. 2341 - Passed
Consumer Class Action Bill of Rights and Improved Procedures for Interstate Class Actions (Sec. 3)	1. *Judicial Scrutiny of Coupon and Other Noncash Settlements*: Provide that Federal courts could approve proposed settlements in which class members receive non-cash benefits, but only after a hearing to determine whether the settlement is "fair, reasonable, and adequate." 2. *Protection against Loss by Class Members:* The court could also approve settlements in which any class member is obligated to pay sums to counsel that would result in a net loss to the class member, but only if the court finds that the non-monetary benefits to the class member *substantially* outweigh the monetary loss. 3. *Prohibition Against Discrimination Based on Geographic Location:* Provide that Federal courts could not approve a settlement that provides for larger payments to some class members based solely their being located in closer geographic proximity to the court hearing the case. 4. *Prohibition on Payment of Bounties*: Provide that the court cannot approve a larger share of the award payment to the plaintiff representing the class than that awarded to the other class members, but could approve payments to the representative for reasonable time and costs expended in fulfilling his or her obligations as a class representative. 5. *Clearer and Simpler Settlement Information*: Require that written notices sent by mail or published in print, as well as notices transmitted by television or radio, to class members concerning proposed	1. Same. 2. Same but without "substantially". 3. Same. 4. Minor editorial differences. 5. Minor editorial differences. 6. No provision. 7. No provision as in H.R. 2341. 8. No provision as in H.R. 2341	1. Same. 2. Same but without "substantially". 3. Same 4. Same as H.R. 1115. 5. Same as H.R. 1115. 6. No provision. 7. *Disclosure of Attorney's Fees* (requiring the disclosure of fees to the plaintiffs by the plaintiffs' attorney) 8. *Sunshine in Court Records*: (limiting the sealing, or subjection to a protective order, of such records)

	S. 274 - Introduced/108th	H.R. 1115 - Introduced/108th	H.R. 2341 - Passed
House/107th			
	settlements be written or transmitted in plain, easily understood language. The bill would also provide for a number of additional specific requirements for notices. 6. *Notifications to appropriate Federal and State Officials*: Require, within 10 days after a proposed settlement of a class action is filed in court, each defendant that is participating in the proposed settlement to serve upon the appropriate State official of each State in which a class member resides and the appropriate Federal official, a notice of the proposed settlement. 7. No provision as in H.R. 2341. 8. No provision as in H.R. 2341.		
Federal District Court Jurisdiction for Interstate Class Actions (Sec. 4)	Provide that Federal district courts would have original jurisdiction over any class-action lawsuits where the total claims exceed $2 million if any of the plaintiffs is a citizen of different State from any of the defendants, or either a plaintiff or a defendant resides in a foreign country. However, original jurisdiction would not apply in any action in which: (a) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed and the claims will be governed primarily by the laws of the State in which the action was originally filed; (b) the primary defendants are States, State officials, or other governmental entities against whom the Federal district court may be foreclosed from ordering relief; or (c) the number of plaintiff class members in the aggregate is less than 100. In addition, original jurisdiction would not apply to a class action that solely involves a claim related to certain securities or to the internal affairs or	Minor changes: • Definition of "class certification order" in H.R. 1115 means an order issued by a court approving the treatment of a civil action as a class action. In S. 274, it means …the treatment of some or all aspects of a civil action… • Definition of "class members" in H.R. 1115 means persons who fall within the definition of the proposed or certified class in a class action. In S. 274, it means …persons (named or unnamed)… • In H.R. 1115, original jurisdiction would not apply in which the number of proposed plaintiff class members is less than 100. In S. 274, it would not	Same as H.R. 1115.

	S. 274 - Introduced/108th	H.R. 1115 - Introduced/108th	H.R. 2341 - Passed
House/107th			
	governance of a corporation that arises under the laws of the State in which the corporation is incorporated.	apply in cases in which the number of members *in the aggregate* is less than 100. • In H.R. 1115, original jurisdiction would not apply to a class action brought by shareholders that solely involves a claim related to certain securities or to the internal affairs or governance of a corporation that arises under the laws of the State in which the corporation is incorporated. In S. 274, the distinction of *by shareholder*, is not made.	
Removal of Interstate Class Actions to Federal District Court (Sec. 5)	Provide that a class action could be removed from a State court to a Federal district court by any defendant without the consent of any other defendants; or by any plaintiff class member who is not a named or representative class member without the consent of any other members of the class. However, this authority for removal would not apply to a class action that solely involves a claim related to certain securities or to the internal affairs or governance of a corporation that arises under the laws of the State in which the corporation is incorporated. The Federal courts of appeals would have jurisdiction of appeals from orders of the Federal district courts granting or denying class certification, if notice of appeal is filed within 10 days after entry of the order. All discovery and other proceedings would be suspended while an appeal is pending, unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue	• Again, the distinction of *by shareholder* is not made in S. 274 in regard to situations when the authority for removal from State to Federal district court would not apply. H.R. 1115 provides that the authority for removal would not apply to a class action brought by shareholders… • Both S. 274 and H.R. 1115 state that these provisions apply to any class action before or after the entry of a class certification order in the action, however, H.R. 1115 further states that a plaintiff class member who is not a named representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class	Same as H.R. 1115.

	S. 274 - Introduced/108th	H.R. 1115 - Introduced/108th	H.R. 2341 - Passed House/107th
	prejudice to that party.	member has been entered.	
Report on Class Action Settlements	Require the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the AOUSC, within 12 months of enactment, to report to the House and Senate Judiciary Committees on class action settlements, including (1) recommendations on the best practices that courts can use to ensure that: proposed class action settlements are fair to the class members that the settlements are supposed to benefit; the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and (2) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.	No provision.	Minor change: • The bill specifies that the report would cover class action settlements *in the Federal courts*.
Appeals of Class Action Certification Orders	No provision.	Grants the courts of appeals jurisdiction of appeals from orders of the U.S. district courts granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within ten days after entry of the order.	Same.
Effective Date	Applies to any civil action commenced on or after the date of enactment.	Same.	Same.

S 274 108th Congress-Introduced in Senate (blue, underlined text)
as compared to
HR 1115 108th Congress-Introduced House ~~(red, strikethrough text)~~

To amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants~~, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions~~, and for other purposes.

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Class Action Fairness Act of 2003".

(b) REFERENCE.—Whenever in this Act reference is made to an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Consumer class action bill of rights and improved procedures for interstate class actions.
Sec. 4. Federal district court jurisdiction ~~of~~ for interstate class actions.
Sec. 5. Removal of interstate class actions to Federal district court.
Sec. 6. Report on class action settlements.
~~Sec. 6. Appeals of class action certification orders.~~
Sec. 7. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.— ~~The~~ Congress finds ~~as follows~~ the following:

(1) Class action lawsuits are an important and valuable part of the legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.

(2) Over the past decade, there have been abuses of the class action device that have—

(A) harmed class members with legitimate claims and defendants that have acted responsibly;

(B) adversely affected interstate commerce; and

(C) undermined public respect for ~~the~~ our judicial system ~~in the United States~~.

(3) Class members often receive little or no benefit from class actions, and are sometimes harmed, such as where ~~have been harmed by a number of actions taken by~~

~~plaintiffs' lawyers, which provide little or no benefit to class members as a whole, including —~~

(A) counsel are awarded large fees ~~plaintiffs' lawyers receiving large fees~~, while leaving class members with coupons or other awards of little or no value;

(B) unjustified awards are made to certain plaintiffs at the expense of other class members; and

(C) confusing notices are published ~~the publication of confusing notices~~ that prevent class members from being able to fully understand and effectively exercise their rights.

~~(4) Through the use of artful pleading, plaintiffs are able to avoid litigating class actions in Federal court, forcing businesses and other organizations to defend interstate class action lawsuits in county and State courts where —~~

~~(A) the lawyers, rather than the claimants, are likely to receive the maximum benefit;~~

~~(B) less scrutiny may be given to the merits of the case; and~~

~~(C) defendants are effectively forced into settlements, in order to avoid the possibility of huge judgments that could destabilize their companies.~~

~~(5) These abuses undermine the Federal judicial system, the free flow of interstate commerce, and the intent of the framers of the Constitution in creating diversity jurisdiction, in that county and State courts are —~~

~~(A) handling interstate class actions that affect parties from many States;~~

(4) Abuses in class actions undermine the national judicial system, the free flow of interstate commerce, and the concept of diversity jurisdiction as intended by the framers of the United States Constitution, in that State and local courts are—

(A) keeping cases of national importance out of Federal court;

(B) sometimes acting in ways that demonstrate bias against out-of-State defendants; and

(C) making judgments that impose their view of the law on other States and bind the rights of the residents of those States.

~~(6) Abusive interstate class actions have harmed society as a whole by forcing innocent parties to settle cases rather than risk a huge judgment by a local jury, thereby costing consumers billions of dollars in increased costs to pay for forced settlements and excessive judgments.~~

(b) PURPOSES.—The purposes of this Act are to—

(1) to assure fair and prompt recoveries for class members with legitimate claims;

(2) ~~(3)~~ to restore the intent of the framers of the United States Constitution by providing for Federal court consideration of interstate ~~class actions~~ cases of national importance under diversity jurisdiction; and

~~(2) to protect responsible companies and other institutions against interstate class actions in State courts;~~

(3) ~~(4)~~ to benefit society by encouraging innovation and lowering consumer prices.

SEC. 3. CONSUMER CLASS ACTION BILL OF RIGHTS AND IMPROVED PROCEDURES FOR INTERSTATE CLASS ACTIONS.

(a) IN GENERAL.—Part V is amended by inserting after chapter 113 the following:

"CHAPTER 114—CLASS ACTIONS

"Sec.

"1711 ~~1716~~. Definitions.
"1712 ~~1711~~. Judicial scrutiny of coupon and other noncash settlements.
"1713 ~~1712~~. Protection against loss by class members.
"1714 ~~1713~~. Protection against discrimination based on geographic location.
"1715 ~~1714~~. Prohibition on the payment of bounties.
"1716 ~~1715~~. Clearer and simpler settlement information.
"1717. Notifications to appropriate Federal and State officials.

"§ 1711 ~~1716~~. Definitions

"In this chapter:
"(1) CLASS.—The term 'class' means all of the class members in a class action.
"(2)~~(1)~~ CLASS ACTION.—The term 'class action' means any civil action filed in a district court of the United States ~~pursuant to~~ under rule 23 of the Federal Rules of Civil Procedure or any civil action that is removed to a district court of the United States that was originally filed under a State statute or rule of judicial procedure authorizing an action to be brought by ~~one~~ 1 or more representatives ~~on behalf of a class~~ as a class action.
"(3) ~~(2)~~ CLASS COUNSEL.—The term 'class counsel' means the persons who serve as the attorneys for the class members in a proposed or certified class action.
"(4)~~(3)~~ CLASS MEMBERS.—The term 'class members' means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.
"(5)~~(4)~~ PLAINTIFF CLASS ACTION.—The term 'plaintiff class action' means a class action in which class members are plaintiffs.
"(6)~~(5)~~ PROPOSED SETTLEMENT.—The term 'proposed settlement' means an agreement ~~that resolves claims in a class action,~~ regarding a class action that is subject to court approval and that, if approved, would be binding on some or all ~~the~~ class members.

"§ 1712~~1711~~. Judicial scrutiny of coupon and other noncash settlements

"The court may approve a proposed settlement under which the class members would receive noncash benefits or would otherwise be required to expend funds in order to obtain part or all of the proposed benefits only after a hearing to determine whether, and making a written finding that, the settlement is fair, reasonable, and adequate for class members.

"§ 1713~~1712~~. Protection against loss by class members

"The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court makes a written finding that nonmonetary benefits to the class member substantially outweigh the monetary loss.

"§ 1714~~1713~~. Protection against discrimination based on geographic location

"The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

"§ 1715 ~~1714~~. Prohibition on the payment of bounties

"(a) IN GENERAL.—The court may not approve a proposed settlement that provides for the payment of a greater share of the award to a class representative serving on behalf of a class, on the basis of the formula for distribution to all other class members, than that awarded to the other class members.

"(b) RULE OF CONSTRUCTION.—The limitation in subsection (a) shall not be construed to prohibit ~~any~~ a payment approved by the court for reasonable time or costs that a person was required to expend in fulfilling ~~his or her~~ the obligations of that person as a class representative.

"§ 1716~~1715~~. Clearer and simpler settlement information

"(a) PLAIN ENGLISH REQUIREMENTS.—Any court with jurisdiction over a plaintiff class action shall require that any written notice concerning a proposed settlement of the class action provided to the class through the mail or publication in printed media contain—

"(1) at the beginning of such notice, a statement in 18-point or ~~Times New Roman type or other functionally similar type~~ greater bold type, stating 'LEGAL NOTICE: YOU ARE A PLAINTIFF IN A CLASS ACTION LAWSUIT AND YOUR LEGAL RIGHTS ARE AFFECTED BY THE SETTLEMENT DESCRIBED IN THIS NOTICE.'; ~~and~~

"(2) a short summary written in plain, easily understood language, describing—

"(A) the subject matter of the class action;

"(B) the members of the class;

"(C) the legal consequences of being a member of the class action;

"(D) if the notice is informing class members of a proposed settlement agreement—

"(i) the benefits that will accrue to the class due to the settlement;

"(ii) the rights that class members will lose or waive through the settlement;

"(iii) obligations that will be imposed on the defendants by the settlement;

"(iv) the dollar amount of any attorney's fee class counsel will be seeking, or if not possible, a good faith estimate of the dollar amount of any attorney's fee class counsel will be seeking; and

"(v) an explanation of how any attorney's fee will be calculated and funded; and

"(E) any other material matter.

"(b) TABULAR FORMAT.—Any court with jurisdiction over a plaintiff class action shall require that the information described in subsection (a)—

"(1) be placed in a conspicuous and prominent location on the notice;

"(2) contain clear and concise headings for each item of information; and

"(3) provide a clear and concise form for stating each item of information required to be disclosed under each heading.

"(c) TELEVISION OR RADIO NOTICE.—Any notice provided through television or radio (including transmissions by cable or satellite) to inform the class members in a class action of the right of each member to be excluded from a ~~the~~ class action or a proposed settlement ~~of the class action~~, if such right exists, shall, in plain, easily understood language—

"(1) describe the persons who may potentially become class members in the class action; and

"(2) explain that the failure of a class member to exercise his or her right to be excluded from a class action will result in the person's inclusion in the class action ~~or settlement~~.

"§ 1717. Notifications to appropriate Federal and State officials

"(a) DEFINITIONS.—

"(1) APPROPRIATE FEDERAL OFFICIAL.—In this section, the term 'appropriate Federal official' means—

"(A) the Attorney General of the United States; or

"(B) in any case in which the defendant is a Federal depository institution, a State depository institution, a depository institution holding company, a foreign bank, or a nondepository institution subsidiary of the foregoing (as such terms are defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

"(2) APPROPRIATE STATE OFFICIAL.—In this section, the term 'appropriate State official' means the person in the State who has the primary regulatory or supervisory responsibility with respect to the defendant, or who licenses or otherwise authorizes the defendant to conduct business in the State, if some or all of the matters alleged in the class action are subject to regulation by that person. If there is no primary regulator, supervisor, or licensing authority, or the matters alleged in the class action are not subject to regulation or supervision by that person, then the appropriate State official shall be the State attorney general.

"(b) IN GENERAL.—Not later than 10 days after a proposed settlement of a class action is filed in court, each defendant that is participating in the proposed settlement shall serve upon the appropriate State official of each State in which a class member resides and the appropriate Federal official, a notice of the proposed settlement consisting of—

"(1) a copy of the complaint and any materials filed with the complaint and any amended complaints (except such materials shall not be required to be served if such materials are made electronically available through the Internet and such service includes notice of how to electronically access such material);

"(2) notice of any scheduled judicial hearing in the class action;

"(3) any proposed or final notification to class members of—

"(A)(i) the members' rights to request exclusion from the class action; or

"(ii) if no right to request exclusion exists, a statement that no such right exists; and

"(B) a proposed settlement of a class action;

"(4) any proposed or final class action settlement;

"(5) any settlement or other agreement contemporaneously made between class counsel and counsel for the defendants;

"(6) any final judgment or notice of dismissal;

"(7)(A) if feasible, the names of class members who reside in each State and the estimated proportionate share of the claims of such members to the entire settlement to that State's appropriate State official; or

"(B) if the provision of information under subparagraph (A) is not feasible, a reasonable estimate of the number of class members residing in each State and the estimated proportionate share of the claims of such members to the entire settlement; and

"(8) any written judicial opinion relating to the materials described under subparagraphs (3) through (6).

"(c) DEPOSITORY INSTITUTIONS NOTIFICATION.—

"(1) FEDERAL AND OTHER DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a Federal depository institution, a depository institution holding company, a foreign bank, or a non-depository institution subsidiary of the foregoing, the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

"(2) STATE DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a State depository institution (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the State bank supervisor (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) of the State in which the defendant is incorporated or chartered, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person, and upon the appropriate Federal official.

"(d) FINAL APPROVAL.—An order giving final approval of a proposed settlement may not be issued earlier than 90 days after the later of the dates on which the appropriate Federal official and the appropriate State official are served with the notice required under subsection (b).

"(e) NONCOMPLIANCE IF NOTICE NOT PROVIDED.—

"(1) IN GENERAL.—A class member may refuse to comply with and may choose not to be bound by a settlement agreement or consent decree in a class action if the class member demonstrates that the notice required under subsection (b) has not been provided.

"(2) LIMITATION.—A class member may not refuse to comply with or to be bound by a settlement agreement or consent decree under paragraph (1) if the notice required under subsection (b) was directed to the appropriate Federal official and to either the State attorney general or the person that has primary regulatory, supervisory, or licensing authority over the defendant.

"(3) APPLICATION OF RIGHTS.—The rights created by this subsection shall apply only to class members or any person acting on a class member's behalf, and shall not be construed to limit any other rights affecting a class member's participation in the settlement.

"(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to expand the authority of, or impose any obligations, duties, or responsibilities upon, Federal or State officials.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part V is amended by inserting after the item relating to chapter 113 the following:
"114. Class Actions
1711".

SEC. 4. FEDERAL DISTRICT COURT JURISDICTION ~~OF~~ FOR INTERSTATE CLASS ACTIONS.

(a) APPLICATION OF FEDERAL DIVERSITY JURISDICTION.—Section 1332 is amended—
(1) by redesignating subsection (d) as subsection (e); and
(2) by inserting after subsection (c) the following:
"(d)(1) In this subsection—
"(A) the term 'class' means all of the class members in a class action;
"(B) the term 'class action' means any civil action filed ~~pursuant to~~ under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by ~~one~~ 1 or more representative persons ~~on behalf of a class~~ as a class action;
"(C) the term 'class certification order' means an order issued by a court approving the treatment of some or all aspects of a civil action as a class action; and
"(D) the term 'class members' means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.
"(2) The district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs, and is a class action in which—
"(A) any member of a class of plaintiffs is a citizen of a State different from any defendant;
"(B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or
"(C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.
"(3) Paragraph (2) shall not apply to any civil action in which—
"(A)(i) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed; and
"(ii) the claims asserted therein will be governed primarily by the laws of the State in which the action was originally filed;
"(B) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or
"(C) the number of ~~proposed plaintiff class~~ members of all proposed plaintiff classes in the aggregate is less than 100

"(4) In any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs.

"(5) This subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.

"(6)(A) A district court shall dismiss any civil action that is subject to the jurisdiction of the court solely under this subsection if the court determines the action may not proceed as a class action based on a failure to satisfy the ~~requirements~~ prerequisites of rule 23 of the Federal Rules of Civil Procedure.

"(B) Nothing in subparagraph (A) shall prohibit plaintiffs from filing an amended class action in Federal court or filing an action in State court, except that any such action filed in State court may be removed to the appropriate district court if it is an action of which the district courts of the United States have original jurisdiction.

"(C) In any action that is dismissed under this paragraph and is filed by any of the original named plaintiffs therein in the same State court venue in which the dismissed action was originally filed, the limitations periods on all reasserted claims shall be deemed tolled for the period during which the dismissed class action was pending. The limitations periods on any claims that were asserted in a class action dismissed under this paragraph that are subsequently asserted in an individual action shall be deemed tolled for the period during which the dismissed action was pending.

"(7) Paragraph (2) shall not apply to any class action ~~brought by shareholders~~ that solely involves a claim ~~that relates to —~~

"(A) ~~a claim~~ concerning a covered security as defined under 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(B) that relates to the internal affairs or governance of a corporation or other form of business enterprise and that arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(C) that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).

"(8) For purposes of this subsection and section 1453 of this title, an unincorporated association shall be deemed to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.

"(9)(A) For purposes of this section and section 1453 of this title, a civil action that is not otherwise a class action as defined in paragraph (1)(B) ~~of this subsection~~ shall nevertheless be deemed a class action if—

"(i) ~~"(A)~~ the named plaintiff purports to act for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeks a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general; or

"(ii) ~~"(B)~~ monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact.

"(B)(i) In any ~~such case,~~ civil action described under subparagraph (A)(ii), the persons who allegedly were injured shall be treated as members of a proposed plaintiff class and

the monetary relief that is sought shall be treated as the claims of individual class members.

"(ii) ~~The provisions of~~ Paragraphs (3) and (6) of this subsection and subsections (b)(2) and (d) of section 1453 shall not apply to any civil actions described under subparagraph (A)~~(i).~~

"(iii) ~~The provisions of~~ Paragraph (6) of this subsection, and subsections (b)(2) and (d) of section 1453 shall not apply to any civil actions described under subparagraph (A)(ii). ~~(B).~~".

(b) CONFORMING AMENDMENTS.—

(1) Section 1335(a)(1) is amended by inserting "(a) or (d)" after "1332".

(2) Section 1603(b)(3) is amended by striking "(d)" and inserting "(e)".

SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FEDERAL DISTRICT COURT.

(a) IN GENERAL.—Chapter 89 is amended by adding after section 1452 the following:

"§ 1453. Removal of class actions

"(a) DEFINITIONS.—In this section, the terms 'class', 'class action', 'class certification order', and 'class member' shall have the meanings given such ~~these~~ terms under ~~in~~ section 1332(d)(1).

"(b) IN GENERAL.—A class action may be removed to a district court of the United States in accordance with this chapter, without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed—

"(1) by any defendant without the consent of all defendants; or

"(2) by any plaintiff class member who is not a named or representative class member without the consent of all members of such class.

"(c) WHEN REMOVABLE.—This section shall apply to any class action before or after the entry of a class certification order in the action~~, except that a plaintiff class member who is not a named or representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class member has been entered.~~

"(d) PROCEDURE FOR REMOVAL.— ~~The provisions of~~ Section 1446 relating to a defendant removing a case shall apply to a plaintiff removing a case under this section, except that in the application of subsection (b) of such section the requirement relating to the 30-day filing period shall be met if a plaintiff class member files notice of removal within 30 days after receipt by such class member, through service or otherwise, of the initial written notice of the class action.

"(e) REVIEW OF ORDERS REMANDING CLASS ACTIONS TO STATE COURTS.— ~~The provisions of~~ Section 1447 shall apply to any removal of a case under this section, except that notwithstanding section 1447(d), an order remanding a class action to the State court from which it was removed shall be reviewable by appeal or otherwise.

"(f) EXCEPTION.—This section shall not apply to any class action ~~brought by shareholders~~ that solely involves—

"(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).".

(b) REMOVAL LIMITATION.—Section 1446(b) is amended in the second sentence by inserting "(a)" after "section 1332".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following:
"1453. Removal of class actions.".

SEC. 6. REPORT ON CLASS ACTION SETTLEMENTS.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall prepare and transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report on class action settlements.

(b) CONTENT.—The report under subsection (a) shall contain—

(1) recommendations on the best practices that courts can use to ensure that proposed class action settlements are fair to the class members that the settlements are supposed to benefit;

(2) recommendations on the best practices that courts can use to ensure that—

(A) the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and

(B) the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and

(3) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.

(c) AUTHORITY OF FEDERAL COURTS.—Nothing in this section shall be construed to alter the authority of the Federal courts to supervise attorneys' fees.

~~**SEC. 6. APPEALS OF CLASS ACTION CERTIFICATION ORDERS.**~~

~~(a) IN GENERAL.—Section 1292(a) is amended by inserting after paragraph (3) the following:~~

~~"(4) Orders of the district courts of the United States granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within 10 days after entry of the order.".~~

~~(b) DISCOVERY STAY.—All discovery and other proceedings shall be stayed during the pendency of any appeal taken pursuant to the amendment made by subsection (a), unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue prejudice to that party.~~

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action commenced on or after the date of ~~the~~ enactment of this Act.

S 274 108th Congress-Introduced in Senate (blue, underlined text)
as compared to
HR 2341 107th Congress-Passed House ~~(red, strikethrough text)~~

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Class Action Fairness Act of 2003~~2~~".

(b) REFERENCE.—Whenever in this Act reference is made to an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Consumer class action bill of rights and improved procedures for interstate class actions.
Sec. 4. Federal district court jurisdiction for ~~of~~ interstate class actions.
of interstate class actions.
Sec. 5. Removal of interstate class actions to Federal district court.
~~Sec. 6. Appeals of class action certification orders.~~
Sec. 6~~7~~. Report on class action settlements.
Sec. 7~~8~~. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.— ~~The~~ Congress finds the following:

(1) Class action lawsuits are an important and valuable part of the legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.

(2) Over the past decade, there have been abuses of the class action device that have—

(A) harmed class members with legitimate claims and defendants that have acted responsibly~~, and that have thereby undermined public respect for our judicial system~~;

(B) adversely affected interstate commerce; and

(C) ~~that have thereby~~ undermined public respect for our judicial system.

(3) Class members often receive little or no benefit from class actions, and are sometimes harmed, such as where ~~have been harmed by a number of actions taken by plaintiffs' lawyers, which provide little or no benefit to class members as a whole, including —~~

(A) counsel are awarded large fees, while leaving class members ~~plaintiffs' lawyers receiving large fees, while class members~~ are left with coupons or other awards of little or no value;

(B) unjustified awards are ~~being~~ made to certain plaintiffs at the expense of other class members; and

(C) confusing notices are published that prevent class members ~~the publication of confusing notices that prevent class members~~ from being able to fully understand and effectively exercise their rights.

~~(4) Through the use of artful pleading, plaintiffs are able to avoid litigating class actions in Federal court, forcing businesses and other organizations to defend interstate class action lawsuits in county and State courts where—~~

~~(A) the lawyers, rather than the claimants, are likely to receive the maximum benefit;~~

~~(B) less scrutiny may be given to the merits of the case; and~~

~~(C) defendants are effectively forced into settlements, in order to avoid the possibility of huge judgments that could destabilize their companies.~~

~~(5) These abuses undermine our Federal system and the intent of the framers of the Constitution in creating diversity jurisdiction, in that county and State courts are—~~

~~(A) handling interstate class actions that affect parties from many States;~~

(4) Abuses in class actions undermine the national judicial system, the free flow of interstate commerce, and the concept of diversity jurisdiction as intended by the framers of the United States Constitution, in that State and local courts are—

(A) keeping cases of national importance out of Federal court;

(B) sometimes acting in ways that demonstrate bias against out-of-State defendants; and

(C) making judgments that impose their view of the law on other States and bind the rights of the residents of those States.

~~(6) Abusive interstate class actions have harmed society as a whole by forcing innocent parties to settle cases rather than risk a huge judgment by a local jury, thereby costing consumers billions of dollars in increased costs to pay for forced settlements and excessive judgments.~~

(b) PURPOSES.—The purposes of this Act are to—

(1) ~~to~~ assure fair and prompt recoveries for class members with legitimate claims;

~~(2) to protect responsible companies and other institutions against interstate class actions in State courts;~~

(2)~~(3)~~ ~~to~~ restore the intent of the framers of the United States Constitution by providing for Federal court consideration of interstate cases of national importance under diversity jurisdiction; and

(3)~~(4)~~ ~~to~~ benefit society by encouraging innovation and lowering consumer prices.

SEC. 3. CONSUMER CLASS ACTION BILL OF RIGHTS AND IMPROVED PROCEDURES FOR INTERSTATE CLASS ACTIONS.

(a) IN GENERAL.—Part V is amended by inserting after chapter 113 the following:

"CHAPTER 114—CLASS ACTIONS

"Sec.

"1711~~1718~~. Definitions.

"1712~~1711~~. Judicial scrutiny of coupon and other noncash settlements.
"1713~~1712~~. Protection against loss by class members.
"1714~~1713~~. Protection against discrimination based on geographic location.
"1715~~1714~~. Prohibition on the payment of bounties.
"1716~~1715~~. Clearer and simpler settlement information.
"1717. Notifications to appropriate Federal and State officials.
~~"1716. Disclosure of attorney's fees.~~
~~"1717. Sunshine in court records.~~

"§1711~~1718~~. Definitions

"In this chapter:
"(1) CLASS.—The term 'class' means all of the class members in a class action.
"(2)~~(1)~~ CLASS ACTION.—The term 'class action' means any civil action filed in a district court of the United States under rule 23 of the Federal Rules of Civil Procedure or any civil action that is removed to a district court of the United States that was originally filed under ~~pursuant to~~ a State statute or rule of judicial procedure authorizing an action to be brought by ~~one~~ 1 or more representatives ~~on behalf of~~ as a class action.
"(3)~~(2)~~ CLASS COUNSEL.—The term 'class counsel' means the persons who serve as the attorneys for the class members in a proposed or certified class action.
"(4)~~(3)~~ CLASS MEMBERS.—The term 'class members' means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.
"(5)~~(4)~~ PLAINTIFF CLASS ACTION.—The term 'plaintiff class action' means a class action in which class members are plaintiffs.
"(6)~~(5)~~ PROPOSED SETTLEMENT.—The term 'proposed settlement' means an agreement ~~that resolves claims in~~ regarding a class action that is subject to court approval and that, if approved, would be binding on ~~the~~ some or all class members

"§1712~~1711~~. Judicial scrutiny of coupon and other noncash settlements

"The court may approve a proposed settlement under which the class members would receive noncash benefits or would otherwise be required to expend funds in order to obtain part or all of the proposed benefits only after a hearing to determine whether, and making a written finding that, the settlement is fair, reasonable, and adequate for class members.

"§1713~~1712~~. Protection against loss by class members

"The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court makes a written finding that nonmonetary benefits to the class member substantially outweigh the monetary loss.

"§1714~~1713~~. Protection against discrimination based on geographic location

"The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

"§1715~~1714~~. Prohibition on the payment of bounties

"(a) IN GENERAL.—The court may not approve a proposed settlement that provides for the payment of a greater share of the award to a class representative serving on behalf of a class, on the basis of the formula for distribution to all other class members, than that awarded to the other class members.

"(b) RULE OF CONSTRUCTION.—The limitation in subsection (a) shall not be construed to prohibit ~~any~~ a payment approved by the court for reasonable time or costs that a person was required to expend in fulfilling ~~his or her~~ the obligations of that person as a class representative.

"§1716~~1715~~. Clearer and simpler settlement information

"(a) PLAIN ENGLISH REQUIREMENTS.—Any court with jurisdiction over a plaintiff class action shall require that any written notice concerning a proposed settlement of the class action provided to the class through the mail or publication in printed media contain—

"(1) at the beginning of such notice, a statement in 18-point ~~Times New Roman~~ or greater bold type ~~or other functionally similar type~~, stating 'LEGAL NOTICE: YOU ARE A PLAINTIFF IN A CLASS ACTION LAWSUIT AND YOUR LEGAL RIGHTS ARE AFFECTED BY THE SETTLEMENT DESCRIBED IN THIS NOTICE.';

"(2) a short summary written in plain, easily understood language, describing—

"(A) the subject matter of the class action;

"(B) the members of the class;

"(C) the legal consequences of being a member of the class action;

"(D) if the notice is informing class members of a proposed settlement agreement—

"(i) the benefits that will accrue to the class due to the settlement;

"(ii) the rights that class members will lose or waive through the settlement;

"(iii) obligations that will be imposed on the defendants by the settlement;

"(iv) the dollar amount of any attorney's fee class counsel will be seeking, or if not possible, a good faith estimate of the dollar amount of any attorney's fee class counsel will be seeking; and

"(v) an explanation of how any attorney's fee will be calculated and funded; and

"(E) any other material matter.

"(b) TABULAR FORMAT.—Any court with jurisdiction over a plaintiff class action shall require that the information described in subsection (a)—

"(1) be placed in a conspicuous and prominent location on the notice;

"(2) contain clear and concise headings for each item of information; and

"(3) provide a clear and concise form for stating each item of information required to be disclosed under each heading.

"(c) TELEVISION OR RADIO NOTICE.—Any notice provided through television or radio (including transmissions by cable or satellite) to inform the class members in a class action of the right of each member to be excluded from ~~the~~ a class action or a proposed settlement ~~of the class action~~, if such right exists, shall, in plain, easily understood language—

"(1) describe the persons who may potentially become class members in the class action; and

"(2) explain that the failure of a class member to exercise his or her right to be excluded from a class action will result in the person's inclusion in the class action ~~or settlement~~.

"§ 1717. Notifications to appropriate Federal and State officials

"(a) DEFINITIONS.—

"(1) APPROPRIATE FEDERAL OFFICIAL.—In this section, the term 'appropriate Federal official' means—

"(A) the Attorney General of the United States; or

"(B) in any case in which the defendant is a Federal depository institution, a State depository institution, a depository institution holding company, a foreign bank, or a nondepository institution subsidiary of the foregoing (as such terms are defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

"(2) APPROPRIATE STATE OFFICIAL.—In this section, the term 'appropriate State official' means the person in the State who has the primary regulatory or supervisory responsibility with respect to the defendant, or who licenses or otherwise authorizes the defendant to conduct business in the State, if some or all of the matters alleged in the class action are subject to regulation by that person. If there is no primary regulator, supervisor, or licensing authority, or the matters alleged in the class action are not subject to regulation or supervision by that person, then the appropriate State official shall be the State attorney general.

"(b) IN GENERAL.—Not later than 10 days after a proposed settlement of a class action is filed in court, each defendant that is participating in the proposed settlement shall serve upon the appropriate State official of each State in which a class member resides and the appropriate Federal official, a notice of the proposed settlement consisting of—

"(1) a copy of the complaint and any materials filed with the complaint and any amended complaints (except such materials shall not be required to be served if such materials are made electronically available through the Internet and such service includes notice of how to electronically access such material);

"(2) notice of any scheduled judicial hearing in the class action;

"(3) any proposed or final notification to class members of—

"(A)(i) the members' rights to request exclusion from the class action; or

"(ii) if no right to request exclusion exists, a statement that no such right exists; and

"(B) a proposed settlement of a class action;

"(4) any proposed or final class action settlement;

"(5) any settlement or other agreement contemporaneously made between class counsel and counsel for the defendants;

"(6) any final judgment or notice of dismissal;

"(7)(A) if feasible, the names of class members who reside in each State and the estimated proportionate share of the claims of such members to the entire settlement to that State's appropriate State official; or

"(B) if the provision of information under subparagraph (A) is not feasible, a reasonable estimate of the number of class members residing in each State and the estimated proportionate share of the claims of such members to the entire settlement; and

"(8) any written judicial opinion relating to the materials described under subparagraphs (3) through (6).

"(c) DEPOSITORY INSTITUTIONS NOTIFICATION.—

"(1) FEDERAL AND OTHER DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a Federal depository institution, a depository institution holding company, a foreign bank, or a non-depository institution subsidiary of the foregoing, the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

"(2) STATE DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a State depository institution (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the State bank supervisor (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) of the State in which the defendant is incorporated or chartered, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person, and upon the appropriate Federal official.

"(d) FINAL APPROVAL.—An order giving final approval of a proposed settlement may not be issued earlier than 90 days after the later of the dates on which the appropriate Federal official and the appropriate State official are served with the notice required under subsection (b).

"(e) NONCOMPLIANCE IF NOTICE NOT PROVIDED.—

"(1) IN GENERAL.—A class member may refuse to comply with and may choose not to be bound by a settlement agreement or consent decree in a class action if the class member demonstrates that the notice required under subsection (b) has not been provided.

"(2) LIMITATION.—A class member may not refuse to comply with or to be bound by a settlement agreement or consent decree under paragraph (1) if the notice required under subsection (b) was directed to the appropriate Federal official and to either the State attorney general or the person that has primary regulatory, supervisory, or licensing authority over the defendant.

"(3) APPLICATION OF RIGHTS.—The rights created by this subsection shall apply only to class members or any person acting on a class member's behalf, and shall not be construed to limit any other rights affecting a class member's participation in the settlement.

"(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to expand the authority of, or impose any obligations, duties, or responsibilities upon, Federal or State officials.".

~~**"§ 1716. Disclosure of attorney's fees**~~

~~"Any court with jurisdiction over a plaintiff class action shall require that, if there is a settlement of the class action or a judgment for the plaintiffs, the attorneys for the plaintiffs shall disclose to each plaintiff—~~
~~"(1) at the time when any payment or other award is transmitted to the plaintiff in accordance with the settlement of judgment, or~~
~~"(2) in a case in which no such payment or award is made to a plaintiff, at the time when notice of the final settlement or judgment is transmitted to such plaintiff,~~
~~the full amount of the attorney's fees charged by the attorneys for services rendered in the action.~~

~~**"§ 1717. Sunshine in court records**~~

~~"No order, opinion, or record of the court in the adjudication of a class action, including a record obtained through discovery, whether or not formally filed with the court, may be sealed or subjected to a protective order unless the court makes a finding of fact—~~
~~"(1) that the sealing or protective order is narrowly tailored, consistent with the protection of public health and safety, and is in the public interest; and~~
~~"(2) if the action by the court would prevent the disclosure of information, that disclosing the information is clearly outweighed by a specific and substantial interest in maintaining the confidentiality of such information.~~

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part V is amended by inserting after the item relating to chapter 113 the following:
"114. Class Actions
1711". SEC. 4. FEDERAL DISTRICT COURT JURISDICTION ~~OF~~ FOR INTERSTATE CLASS ACTIONS.

(a) APPLICATION OF FEDERAL DIVERSITY JURISDICTION.—Section 1332 is amended—
(1) by redesignating subsection (d) as subsection (e); and
(2) by inserting after subsection (c) the following:
"(d)(1) In this subsection—
"(A) the term 'class' means all of the class members in a class action;
"(B) the term 'class action' means any civil action filed ~~pursuant to~~ under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by ~~one~~ 1 or more representative persons ~~on behalf of a class~~ as a class action;
"(C) the term 'class certification order' means an order issued by a court approving the treatment of some or all aspects of a civil action as a class action; and

"(D) the term 'class members' means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.

"(2) The district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs, and is a class action in which—

"(A) any member of a class of plaintiffs is a citizen of a State different from any defendant;

"(B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or

"(C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.

"(3) Paragraph (2) shall not apply to any civil action in which—

"(A)(i) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed; and

"(ii) the claims asserted therein will be governed primarily by the laws of the State in which the action was originally filed;

"(B) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or

"(C) the number of ~~proposed plaintiff class~~ members of all proposed plaintiff classes in the aggregate is less than 100.

"(4) In any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs.

"(5) This subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.

"(6)(A) A district court shall dismiss any civil action that is subject to the jurisdiction of the court solely under this subsection if the court determines the action may not proceed as a class action based on a failure to satisfy the ~~requirements~~ prerequisites of rule 23 of the Federal Rules of Civil Procedure.

"(B) Nothing in subparagraph (A) shall prohibit plaintiffs from filing an amended class action in Federal court or filing an action in State court, except that any such action filed in State court may be removed to the appropriate district court if it is an action of which the district courts of the United States have original jurisdiction.

"(C) In any action that is dismissed under this paragraph and is filed by any of the original named plaintiffs therein in the same State court venue in which the dismissed action was originally filed, the limitations periods on all reasserted claims shall be deemed tolled for the period during which the dismissed class action was pending. The limitations periods on any claims that were asserted in a class action dismissed under this paragraph that are subsequently asserted in an individual action shall be deemed tolled for the period during which the dismissed action was pending.

"(7) Paragraph (2) shall not apply to any class action ~~brought by shareholders~~ that solely involves a claim ~~that relates to —~~

"(A) ~~a claim~~ concerning a covered security as defined under 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(B) that relates to the internal affairs or governance of a corporation or other form of business enterprise and that arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(C) that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).

"(8) For purposes of this subsection and section 1453 of this title, an unincorporated association shall be deemed to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.

"(9)(A) For purposes of this section and section 1453 of this title, a civil action that is not otherwise a class action as defined in paragraph (1)(B) ~~of this subsection~~ shall nevertheless be deemed a class action if—

"(i) ~~"(A)~~ the named plaintiff purports to act for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeks a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general; or

"(ii) ~~"(B)~~ monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact.

"(B)(i) In any ~~such case~~ civil action described under subparagraph (A)(ii), the persons who allegedly were injured shall be treated as members of a proposed plaintiff class and the monetary relief that is sought shall be treated as the claims of individual class members.

"(ii) ~~The provisions of p~~Paragraphs (3) and (6) of this subsection and subsections (b)(2) and (d) of section 1453 shall not apply to any civil action~~s~~ described under subparagraph (A)(i).

"(iii) ~~The provisions of p~~Paragraph (6) of this subsection, and subsections (b)(2) and (d) of section 1453 shall not apply to any civil action~~s~~ described under subparagraph (A)(ii) ~~(B)~~.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1335(a)(1) is amended by inserting "(a) or (d)" after "1332".

(2) Section 1603(b)(3) is amended by striking "(d)" and inserting "(e)".

SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FEDERAL DISTRICT COURT.

(a) IN GENERAL.—Chapter 89 is amended by adding after section 1452 the following:

"§ 1453. Removal of class actions

"(a) DEFINITIONS.—In this section, the terms 'class', 'class action', 'class certification order', and 'class member' shall have the meanings given ~~these~~ such terms ~~in~~ under section 1332(d)(1).

"(b) IN GENERAL.—A class action may be removed to a district court of the United States in accordance with this chapter, without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed—

"(1) by any defendant without the consent of all defendants; or

"(2) by any plaintiff class member who is not a named or representative class member without the consent of all members of such class.

"(c) WHEN REMOVABLE.—This section shall apply to any class action before or after the entry of a class certification order in the action~~, except that a plaintiff class member who is not a named or representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class member has been entered~~.

"(d) PROCEDURE FOR REMOVAL.— ~~The provisions of s~~Section 1446 relating to a defendant removing a case shall apply to a plaintiff removing a case under this section, except that in the application of subsection (b) of such section the requirement relating to the 30-day filing period shall be met if a plaintiff class member files notice of removal within 30 days after receipt by such class member, through service or otherwise, of the initial written notice of the class action.

"(e) REVIEW OF ORDERS REMANDING CLASS ACTIONS TO STATE COURTS.— ~~The provisions of s~~Section 1447 shall apply to any removal of a case under this section, except that~~,~~ notwithstanding ~~the provisions of~~ section 1447(d), an order remanding a class action to the State court from which it was removed shall be reviewable by appeal or otherwise.

"(f) EXCEPTION.—This section shall not apply to any class action ~~brought by shareholders~~ that solely involves—

"(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).".

(b) REMOVAL LIMITATION.—Section 1446(b) is amended in the second sentence by inserting "(a)" after "section 1332".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following: "1453. Removal of class actions.".

~~**SEC. 6. APPEALS OF CLASS ACTION CERTIFICATION ORDERS.**~~

~~(a) IN GENERAL.—Section 1292(a) is amended by inserting after paragraph (3) the following:~~

~~"(4) Orders of the district courts of the United States granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within 10 days after entry of the order.".~~

~~(b) DISCOVERY STAY.—All discovery and other proceedings shall be stayed during the pendency of any appeal taken pursuant to the amendment made by subsection (a), unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue prejudice to that party.~~

SEC. 6~~7~~. REPORT ON CLASS ACTION SETTLEMENTS.

(a) IN GENERAL.—Not later than 12 months after the date of ~~the~~ enactment of this Act, the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall prepare and transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report on class action settlements ~~in the Federal courts~~.

(b) CONTENT.—The report under subsection (a) shall contain—

(1) recommendations on the best practices that courts can use to ensure that proposed class action settlements are fair to the class members ~~whom~~ that the settlements are supposed to benefit;

(2) recommendations on the best practices that courts can use to ensure that—

(A) the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and

(B) the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and

(3) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.

(c) AUTHORITY OF FEDERAL COURTS.—Nothing in this section shall be construed to alter the authority of the Federal courts to supervise attorney~~'~~s' fees.

SEC. 7~~8~~. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action commenced on or after the date of ~~the~~ enactment of this Act.

HR 1115 108th Congress-Introduced House (blue, underlined text)
as compared to
HR 2341 107th Congress-Passed House ~~(red, strikethrough text)~~

To amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes.

(a) SHORT TITLE.—This Act may be cited as the "Class Action Fairness Act of 2003~~2~~".
(b) REFERENCE.—Whenever in this Act reference is made to an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.
(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Consumer class action bill of rights and improved procedures for interstate class actions.
Sec. 4. Federal district court jurisdiction of interstate class actions.
Sec. 5. Removal of interstate class actions to Federal district court.
Sec. 6. Appeals of class action certification orders.
Sec. 7~~8~~. Effective date.
~~Sec. 7. Report on class action settlements~~.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds as follows:
(1) Class action lawsuits are an important and valuable part of our legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.

(2) Over the past decade, there have been abuses of the class action device that have—
(A) harmed class members with legitimate claims and defendants that have acted responsibly;
(B) adversely affected interstate commerce; and
(C) undermined public respect for the ~~our~~ judicial system in the United States.
(3) Class members have been harmed by a number of actions taken by plaintiffs' lawyers, which provide little or no benefit to class members as a whole, including—
(A) plaintiffs' lawyers receiving large fees, while class members are left with coupons or other awards of little or no value;
(B) unjustified rewards being made to certain plaintiffs at the expense of other class

members; and
(C) the publication of confusing notices that prevent class members from being able to fully understand and effectively exercise their rights.
(4) Through the use of artful pleading, plaintiffs are able to avoid litigating class actions in Federal court, forcing businesses and other organizations to defend interstate class action lawsuits in county and State courts where—
(A) the lawyers, rather than the claimants, are likely to receive the maximum benefit;
(B) less scrutiny may be given to the merits of the case; and
(C) defendants are effectively forced into settlements, in order to avoid the possibility of huge judgments that could destabilize their companies.
(5) These abuses undermine the ~~our~~ Federal judicial system, the free flow of interstate commerce, and the intent of the framers of the Constitution in creating diversity jurisdiction, in that county and State courts are—
(A) handling interstate class actions that affect parties from many States;
(B) sometimes acting in ways that demonstrate bias against out-of-State defendants; and
(C) making judgments that impose their view of the law on other States and bind the rights of the residents of those States.
(6) Abusive interstate class actions have harmed society as a whole by forcing innocent parties to settle cases rather than risk a huge judgment by a local jury, thereby costing consumers billions of dollars in increased costs to pay for forced settlements and excessive judgments.

(b) PURPOSES.—The purposes of this Act are—
(1) to assure fair and prompt recoveries for class members with legitimate claims;
(2) to protect responsible companies and other institutions against interstate class actions in State courts;
(3) to restore the intent of the framers of the Constitution by providing for Federal court consideration of interstate class actions; and
(4) to benefit society by encouraging innovation and lowering consumer prices.

SEC. 3. CONSUMER CLASS ACTION BILL OF RIGHTS AND IMPROVED PROCEDURES FOR INTERSTATE CLASS ACTIONS.

(a) IN GENERAL.—Part V is amended by inserting after chapter 113 the following:
"CHAPTER 114—CLASS ACTIONS
"Sec.
"1711. Judicial scrutiny of coupon and other noncash settlements.
"1712. Protection against loss by class members.
"1713. Protection against discrimination based on geographic location.
"1714. Prohibition on the payment of bounties.
"1715. Clearer and simpler settlement information.
"1716~~1718~~. Definitions.
~~"1716. Disclosure of attorney's fees.~~
~~"1717. Sunshine in court records.~~

"§ 1711. Judicial scrutiny of coupon and other noncash settlements

"The court may approve a proposed settlement under which the class members would receive noncash benefits or would otherwise be required to expend funds in order to obtain part or all of the proposed benefits only after a hearing to determine whether, and making a written finding that, the settlement is fair, reasonable, and adequate for class members.

"§ 1712. Protection against loss by class members

"The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court makes a written finding that nonmonetary benefits to the class member outweigh the monetary loss.

"§ 1713. Protection against discrimination based on geographic location

"The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

"§ 1714. Prohibition on the payment of bounties

"(a) IN GENERAL.—The court may not approve a proposed settlement that provides for the payment of a greater share of the award to a class representative serving on behalf of a class, on the basis of the formula for distribution to all other class members, than that awarded to the other class members.

"(b) RULE OF CONSTRUCTION.—The limitation in subsection (a) shall not be construed to prohibit any payment approved by the court for reasonable time or costs that a person was required to expend in fulfilling his or her obligations as a class representative.

"§ 1715. Clearer and simpler settlement information

"(a) PLAIN ENGLISH REQUIREMENTS.—Any court with jurisdiction over a plaintiff class action shall require that any written notice concerning a proposed settlement of the class action provided to the class through the mail or publication in printed media contain—

"(1) at the beginning of such notice, a statement in 18-point Times New Roman type or other functionally similar type, stating 'LEGAL NOTICE: YOU ARE A PLAINTIFF IN A CLASS ACTION LAWSUIT AND YOUR LEGAL RIGHTS ARE AFFECTED BY THE SETTLEMENT DESCRIBED IN THIS NOTICE.'; and

"(2) a short summary written in plain, easily understood language, describing—

"(A) the subject matter of the class action;

"(B) the members of the class;

"(C) the legal consequences of being a member of the class;

"(D) if the notice is informing class members of a proposed settlement agreement—
"(i) the benefits that will accrue to the class due to the settlement;
"(ii) the rights that class members will lose or waive through the settlement;
"(iii) obligations that will be imposed on the defendants by the settlement;
"(iv) the dollar amount of any attorney's fee class counsel will be seeking, or if not possible, a good faith estimate of the dollar amount of any attorney's fee class counsel will be seeking; and
"(v) an explanation of how any attorney's fee will be calculated and funded; and
"(E) any other material matter.
"(b) TABULAR FORMAT.—Any court with jurisdiction over a plaintiff class action shall require that the information described in subsection (a)—
"(1) be placed in a conspicuous and prominent location on the notice;
"(2) contain clear and concise headings for each item of information; and
"(3) provide a clear and concise form for stating each item of information required to be disclosed under each heading.
"(c) TELEVISION OR RADIO NOTICE.—Any notice provided through television or radio (including transmissions by cable or satellite) to inform the class members in a class action of the right of each member to be excluded from the class action or a proposed settlement of the class action, if such right exists, shall, in plain, easily understood language—
"(1) describe the persons who may potentially become class members in the class action; and
"(2) explain that the failure of a class member to exercise his or her right to be excluded from a class action will result in the person's inclusion in the class action or settlement.

"§ 1716~~1718~~. Definitions

"In this chapter—
"(1) CLASS ACTION.—The term 'class action' means any civil action filed in a district court of the United States pursuant to rule 23 of the Federal Rules of Civil Procedure or any civil action that is removed to a district court of the United States that was originally filed pursuant to a State statute or rule of judicial procedure authorizing an action to be brought by one or more representatives on behalf of a class.
"(2) CLASS COUNSEL.—The term 'class counsel' means the persons who serve as the attorneys for the class members in a proposed or certified class action.
"(3) CLASS MEMBERS.—The term 'class members' means the persons who fall within the definition of the proposed or certified class in a class action.
"(4) PLAINTIFF CLASS ACTION.—The term 'plaintiff class action' means a class action in which class members are plaintiffs.
"(5) PROPOSED SETTLEMENT.—The term 'proposed settlement' means an agreement that resolves claims in a class action, that is subject to court approval, and that, if approved, would be binding on the class members.".

~~**"§ 1716. Disclosure of attorney's fees**~~

~~"Any court with jurisdiction over a plaintiff class action shall require that, if there is a~~

~~settlement of the class action or a judgment for the plaintiffs, the attorneys for the plaintiffs shall disclose to each plaintiff—~~

~~"(1) at the time when any payment or other award is transmitted to the plaintiff in accordance with the settlement of judgment, or~~

~~"(2) in a case in which no such payment or award is made to a plaintiff, at the time when notice of the final settlement or judgment is transmitted to such plaintiff,~~

~~the full amount of the attorney's fees charged by the attorneys for services rendered in the action.~~

~~**"§ 1717. Sunshine in court records**~~

~~"No order, opinion, or record of the court in the adjudication of a class action, including a record obtained through discovery, whether or not formally filed with the court, may be sealed or subjected to a protective order unless the court makes a finding of fact—~~

~~"(1) that the sealing or protective order is narrowly tailored, consistent with the protection of public health and safety, and is in the public interest; and~~

~~"(2) if the action by the court would prevent the disclosure of information, that disclosing the information is clearly outweighed by a specific and substantial interest in maintaining the confidentiality of such information.~~

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part V is amended by inserting after the item relating to chapter 113 the following:
"114. Class Actions
1711".

SEC. 4. FEDERAL DISTRICT COURT JURISDICTION OF INTERSTATE CLASS ACTIONS.

(a) APPLICATION OF FEDERAL DIVERSITY JURISDICTION.—Section 1332 is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d)(1) In this subsection—

"(A) the term 'class' means all of the class members in a class action;

"(B) the term 'class action' means any civil action filed pursuant to rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by one or more representative persons on behalf of a class;

"(C) the term 'class certification order' means an order issued by a court approving the treatment of a civil action as a class action; and

"(D) the term 'class members' means the persons who fall within the definition of the proposed or certified class in a class action.

"(2) The district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs, and is a class action in which—

"(A) any member of a class of plaintiffs is a citizen of a State different from any

defendant;

"(B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or

"(C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.

"(3) Paragraph (2) shall not apply to any civil action in which—

"(A)(i) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed; and

"(ii) the claims asserted therein will be governed primarily by the laws of the State in which the action was originally filed;

"(B) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or

"(C) the number of proposed plaintiff class members is less than 100.

"(4) In any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs.

"(5) This subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.

"(6)(A) A district court shall dismiss any civil action that is subject to the jurisdiction of the court solely under this subsection if the court determines the action may not proceed as a class action based on a failure to satisfy the requirements of rule 23 of the Federal Rules of Civil Procedure.

"(B) Nothing in subparagraph (A) shall prohibit plaintiffs from filing an amended class action in Federal court or filing an action in State court, except that any such action filed in State court may be removed to the appropriate district court if it is an action of which the district courts of the United States have original jurisdiction.

"(C) In any action that is dismissed under this paragraph and is filed by any of the original named plaintiffs therein in the same State court venue in which the dismissed action was originally filed, the limitations periods on all reasserted claims shall be deemed tolled for the period during which the dismissed class action was pending. The limitations periods on any claims that were asserted in a class action dismissed under this paragraph that are subsequently asserted in an individual action shall be deemed tolled for the period during which the dismissed action was pending.

"(7) Paragraph (2) shall not apply to any class action brought by shareholders that solely involves a claim that relates to—

"(A) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(B) the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(C) the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).

"(8) For purposes of this subsection and section 1453 of this title, an unincorporated association shall be deemed to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.

"(9) For purposes of this section and section 1453 of this title, a civil action that is not otherwise a class action as defined in paragraph (1)(B) of this subsection shall nevertheless be deemed a class action if—

"(A) the named plaintiff purports to act for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeks a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general; or

"(B) monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact.

In any such case, the persons who allegedly were injured shall be treated as members of a proposed plaintiff class and the monetary relief that is sought shall be treated as the claims of individual class members. The provisions of paragraphs (3) and (6) of this subsection and subsections (b)(2) and (d) of section 1453 shall not apply to civil actions described under subparagraph (A). The provisions of paragraph (6) of this subsection, and subsections (b)(2) and (d) of section 1453 shall not apply to civil actions described under subparagraph (B).".

(b) CONFORMING AMENDMENTS.—

(1) Section 1335(a)(1) is amended by inserting "(a) or (d)" after "1332".

(2) Section 1603(b)(3) is amended by striking "(d)" and inserting "(e)".

SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FEDERAL DISTRICT COURT.

(a) IN GENERAL.—Chapter 89 is amended by adding after section 1452 the following:

"§ 1453. Removal of class actions

"(a) DEFINITIONS.—In this section, the terms 'class', 'class action', 'class certification order', and 'class member' have the meanings given these terms in section 1332(d)(1).

"(b) IN GENERAL.—A class action may be removed to a district court of the United States in accordance with this chapter, without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed—

"(1) by any defendant without the consent of all defendants; or

"(2) by any plaintiff class member who is not a named or representative class member without the consent of all members of such class.

"(c) WHEN REMOVABLE.—This section shall apply to any class action before or after the entry of a class certification order in the action, except that a plaintiff class member who is not a named or representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class member has been entered.

"(d) PROCEDURE FOR REMOVAL.—The provisions of section 1446 relating to a defendant removing a case shall apply to a plaintiff removing a case under this section, except that in the application of subsection (b) of such section the requirement relating to the 30-day filing period shall be met if a plaintiff class member files notice of removal

within 30 days after receipt by such class member, through service or otherwise, of the initial written notice of the class action.

"(e) REVIEW OF ORDERS REMANDING CLASS ACTIONS TO STATE COURTS.—The provisions of section 1447 shall apply to any removal of a case under this section, except that, notwithstanding the provisions of section 1447(d), an order remanding a class action to the State court from which it was removed shall be reviewable by appeal or otherwise.

"(f) EXCEPTION.—This section shall not apply to any class action brought by shareholders that solely involves—

"(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).".

(b) REMOVAL LIMITATION.—Section 1446(b) is amended in the second sentence by inserting "(a)" after "section 1332".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following:
"1453. Removal of class actions.".

SEC. 6. APPEALS OF CLASS ACTION CERTIFICATION ORDERS.

(a) IN GENERAL.—Section 1292(a) is amended by inserting after paragraph (3) the following:

"(4) Orders of the district courts of the United States granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within 10 days after entry of the order.".

(b) DISCOVERY STAY.—All discovery and other proceedings shall be stayed during the pendency of any appeal taken pursuant to the amendment made by subsection (a), unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue prejudice to that party.

SEC. 7~~8~~. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action commenced on or after the date of the enactment of this Act.

~~SEC.7. REPORT ON CLASS ACTION SETTLEMENTS.~~

~~(a) IN GENERAL.—Not later than 12 months after the date of the enactment of this~~

~~Act, the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall prepare and transmit to the Committees on the Judiciary of the Senate and House of Representatives a report on class action settlements in the Federal courts.~~

~~(b) CONTENT.—The report under subsection (a) shall contain—~~

~~(1) recommendations on the best practices that courts can use to ensure that proposed class action settlements are fair to the class members whom the settlements are supposed to benefit;~~

~~(2) recommendations on the best practices that courts can use to ensure that—~~

~~(A) the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and~~

~~(B) the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and~~

~~(3) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.~~

~~(c) AUTHORITY OF FEDERAL COURTS.—Nothing in this section shall be construed to alter the authority of the Federal courts to supervise attorney's fees.~~

[InternetShortcut]
URL=javascript:simplePopup('loadbillcard.do?billNumber=S274&congress=108','billCard',680,430);

[InternetShortcut]
URL=javascript:simplePopup('loadbillcard.do?billNumber=S413&congress=108','billCard',680,430);

[InternetShortcut]
URL=javascript:simplePopup('loadbillcard.do?billNumber=HR1036&congress=108','billCard',680,430);

[InternetShortcut]
URL=javascript:simplePopup('loadbillcard.do?billNumber=HR1115&congress=108','billCard',680,430);

[InternetShortcut]
URL=javascript:simplePopup('loadlawcard.do?lawNumber=297&congress=107','billCard',680,430);

From: Kirk Blalock <kblalock@fierce-isakowitz.com>
To: <Schacht, Diana L.>;<Warsh, Kevin>;<Kavanaugh, Brett M.>;<Silverberg, Kristen>
Sent: 3/31/2003 10:36:53 AM
Subject: Asbestos - Hatch proposal components from last weeks meeting/House process/etc.

As you know, Hatch met with the Biz groups from all camps last Wednesday, and proposed a basis for his bill which is as follows (I don't make it up, I just report it):

- creation of a specialized "court" or federally-established resolution body
- apply agreed upon medical criteria to defer frivolous claims. hold jurisdiction on the claim so that those who become impaired are able to easily go to this court and get compensation.
- I think the way to address how the compensation will be paid the legislation would create 2 blue-ribbon Commissions (one for defendants, and one for insurers) to determine upfront and annual allocations among various contributors, to include current defendants, insurance companies, etc. Concerns about disclosing financial and sensitive information . . We would make the financial and all other information provided to the commission confidential and non-disclosable to anyone outside this Commission. I want to make sure that the Insurance companies are only required to pay in an equitable manner. Also, I want to be sure that those defendant companies who have already been targets and paid are not required to pay twice while others get a free-ride.
- Contributions would be flexible based on funding need, but in any case would be subject to an annual cap. So you would all have the necessary certainty you need.
- Qualifying claimants would be paid according to a schedule, either fixed in the legislation, or deferred to an expert appointed body, who shall make the determination and we abide by them. This way, there will be little transaction costs and it limits the ability of the so-called administrative law judges within this "court" to get out of hand.
- we don't need to require companies, whether insurance or otherwise, to give in to a trust fund and hold their reserves there. this approach will allow the insurance companies to hold most of their reserves until the money is need per the allocations. That addresses a major concern some had with the trust fund approach.
- There would be limited judicial review of funding allocation and claimant compensation.
- We would also make provisions for the insurance companies to address concerns of state laws relating to ability to discount.
- Moreover, we will have to ensure that any payments required to be made by this court will be viewed as ordinary income for tax purposes and also as a loss so that the insurance companies will be able to address their reinsurance requirements. will need your help to make sure we effectuate this properly.

As you can see from the outlined points, this system will be very hard to create and seems as if it will have substantial federal involvement. We (insurance companies) are working through the Hatch process to see if we can come to an agreement on his proposal. I believe that Hatch Judiciary Staff (Makun and Rebecca) will be working on writing legislation in

the very near future. We have companies all over the map.

In addition, Dodd will convene a mini-summit of sorts tomorrow at 4:30 pm with all sides present (ie. Insurance, manufacturing, trial bar, labor, consumer, financial, etc).

On the House side Cong. Dooley is soon to introduce the NAM/Alliance Medical Criteria Bill and Cong. Cannon is soon to introduce the AIA enhanced Medical Criteria Bill – both straight Medical Criteria Bills that would utilize the current legal system.

Stay tuned.

From:	Kavanaugh, Brett M.
To:	<Gonzales, Alberto R.>;<Leitch, David G.>;<Brosnahan, Jennifer R.>;<Newstead, Jennifer G.>;<Bartolomucci, H. Christopher>;<Sampson, Kyle>;<Francisco, Noel J.>;<Powell, Benjamin A.>;<Ullyot, Theodore W.>
Sent:	3/31/2003 11:04:33 AM
Subject:	ABA President's statement

From April 2003 ABA Journal:

PRESIDENT'S MESSAGE

MORE AND FASTER—NOW

The Crisis in the Federal Judiciary

BY ALFRED P. CARLTON JR.

Over the years, several partners and friends of mine have been considered for the federal bench. Some became federal judges, and some did not. All faced a conscious decision to limit their income for life and put their practices on hold during almost always protracted and invasive nomination and confirmation proceedings. All had to consider the reality of donning a somewhat monastic lifestyle along with judicial robes.

All had to consider the likelihood of a public life, punctuated by controversy and "no win" judicial decision-making opportunities. As I have matured as a lawyer, the decision-making has gotten closer and closer to home, and I often find myself thinking, "If it were me, what would I do?"

I never really have answered the question but, instead, find myself admiring those who say yes to the sacrifice. And admiring those who say no to the toughest career decision they will ever make. What would you do?

The decision isn't getting any easier. And for those who say yes, life is not getting any easier. In fact, it has become a life that starts with a searing political process, followed by a lifetime of hard work for less pay.

DANGER TO DEMOCRACY

As Chief Justice William H. Rehnquist has said in no uncertain terms to the last three Congresses: There is a crisis in our federal judiciary, constituting a clear and present danger to the uniquely American foundation of our tripartite democracy—an independent judiciary.

The crisis has a dual modality to it, and as the chief has noted in very explicit language, it can only be remedied if the accountable parties—the other two branches —cooperatively and responsibly respond to twin imperatives: expeditious nomination and confirmation, and adequate judicial pay.

As this page is being written, the spectacle of the Miguel Estrada "filibuster" grinds on—a living testament to the

inability of both sides to cooperatively fulfill the grave constitutional duty entrusted to them. But it is illustrative of what can happen to a judicial nominee who gets caught in bare-knuckled partisan kickboxing. This is to say nothing of the secondary effect current intramural disputes will have on a legion of other nominees—all awaiting hearings or confirmation, many for months or even years at a time, having all put professional careers and private lives on hold.

For those who have made it through the process—who put on their robes every day, and go competently and quietly about the business of dispensing American justice—paydays provide a constant reminder of an empty promise made by the American people in Article III, Section 1 of the Constitution: That their pay "shall not be diminished during their continuance in office." cf: *Williams v. U.S.*, 240 F.3d 1019 (D.C. 2001), petition for cert. denied, 535 U.S. 911 (2002) (Breyer, J., dissenting).

THE FACTS ARE PLAIN

It is a fact that the purchasing power of judicial pay has diminished by 25 percent during the past three decades. It is a fact that more federal judges have quit the bench before qualifying for retirement in the last decade than in the preceding 40 years. It is a fact that the National Commission on the Public Service, headed by former Federal Reserve Chairman Paul Volcker, cited federal judicial pay as "the most egregious example of the failure of federal compensation policies." The facts are that the members of the new national accounting industry oversight board will be paid $450,000 per year—and that U.S. district judges make $154,700 a year. Facts aside, it is an outrage.

I have great admiration and sympathy for my friends, each of whom I am sure made the right decision in saying yes or no. But under similar circumstances, I am almost sure that I would have said to myself, "All of that—for what?"

We have told Chief Justice Rehnquist that, at the very least, we at the ABA are listening to him and will do everything we can to rectify this outrageous state of affairs. We lawyers must speak up for our brothers and sisters at the bar who have accepted the challenge. They sacrifice daily to make our third branch the envy of the world. They earn our respect and admiration every day. They deserve our unswerving loyalty and support.

They need to be nominated and confirmed faster. They need to be paid more. And they need more and they need faster—now.

From: CN=Matthew E. Smith/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Susan B. Ralston/WHO /EOP@Exchange [WHO] <Susan B. Ralston>;Catharine A. Ryun/WHO/EOP@EOP [WHO] <Catharine A. Ryun>;Meredith A. Terpeluk/WHO/EOP@EOP [WHO] <Meredith A. Terpeluk>;Colby J. Cooper/NSC/EOP@EOP [NSC] <Colby J. Cooper>
Sent: 3/31/2003 7:32:40 AM
Subject: : Speaking request

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Matthew E. Smith ( CN=Matthew E. Smith/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:31-MAR-2003 12:32:40.00
SUBJECT:: Speaking request
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Susan B. Ralston ( CN=Susan B. Ralston/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Catharine A. Ryun ( CN=Catharine A. Ryun/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Meredith A. Terpeluk ( CN=Meredith A. Terpeluk/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Colby J. Cooper ( CN=Colby J. Cooper/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Wednesday, April 2, 2003
Guests: Pro-Bush Catholic Laity
Time: 2:00 p.m. ) 3:30 p.m.
Location: EEOB Room 450

Invited Speakers:
Dr. Rice or Elliott Abrams
Jim Towey
Karl Rove
Dep. Sec. England
Brett Kavanaugh
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Delrahim, Makan (Judiciary) <Makan_Delrahim@Judiciary.senate.gov>
Sent: 3/31/2003 7:39:00 AM
Subject: : district court judgeships

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:31-MAR-2003 12:39:00.00
SUBJECT:: district court judgeships
TO:"Delrahim, Makan (Judiciary)" <Makan_Delrahim@Judiciary.senate.gov> ( "Delrahim, Makan
(Judiciary)" <Makan_Delrahim@Judiciary.senate.gov> [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

How many are you all planning to add on to the bill this week? We will
make suggestions depending on what number you think is doable and
appropriate.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: mestrada@gibsondunn.com @ inet [UNKNOWN] <mestrada@gibsondunn.com @ inet>
Sent: 3/31/2003 8:33:02 AM
Subject: : fyi

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:31-MAR-2003 13:33:02.00
SUBJECT:: fyi
TO:mestrada@gibsondunn.com @ inet (mestrada@gibsondunn.com @ inet [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 03/31/2003 01:32 PM ----------

"Miranda, Manuel (Frist)" <Manuel_Miranda@frist.senate.gov>
03/31/2003 01:28:05 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Bruce Fein

Confirmation treachery

Bruce Fein

Judicial confirmation treachery is afoot among a fringe of Senate Democrats. It demands an equally bold Senate Republican answer: a Senate vote irrespective of the non-constitutional cloture rule of the Senate and judicial commissions for nominees who attract simple Senate majorities as prescribed by the Constitution. Turn the other cheek is canonical in the New Testament, but it would be foolhardy before the witch's brew of Democrats currently abusing the right of Senate debate. A cynical filibuster has been launched against a vote on President George W. Bush's nomination of Miguel Estrada to the U.S. Court of Appeals for the District of Columbia Circuit. The nominee is a Stradivarius within the professional community: unexcelled academic credentials; celebrated service as a Supreme Court clerk and assistant solicitor general; impressive arguments before the high court in private practice; and, a deluxe rating from the American Bar Association's Committee on the Federal Judiciary, which Senate Democrats themselves have acclaimed as the gold standard for judicial qualifications.
Article II of the Constitution contemplates confirmation of the president's judicial nominees by simple Senate majorities. That threshold of consensus, the Founding Fathers believed, would thwart misuse of the president's appointment power to favor cronies or incompetents; and, check undue executive branch influence over the character of the third branch. The idea of Senate supermajorities for confirmations was rejected for reasons that are threefold: appointing a single federal judge was far less politically momentous than treaty ratifications for which a supermajority requirement was thought proper; the judiciary could become understaffed if a Senate minority were empowered to block nominees; and, a popular consensus over judicial philosophy that found expression in the election of the president and a Senate representing the entire nation should not be frustrated by a minority Senate fringe.
Article I, section 5, clause 2 of the Constitution authorizes,

"Each House [to] determine rules of its proceedings." But those rules cannot defeat companion constitutional provisions. For instance, a rule that refused to count the votes of black or Hispanic-American Members would run afoul of the equal protection component of the due process clause of the Fifth Amendment.

For long years, Senate rules have tolerated unlimited debate as a tactic to shipwreck full Senate consideration of matters within its jurisdiction absent a supermajority vote to close further filibustering. At present, the rule requires a supermajority of 60 senators to invoke cloture. An unwritten rule of the Senate for two centuries, however, was that filibustering was taboo for judicial nominees, at least below the United States Supreme Court, in contrast to legislation or treaties. That filibustering custom recognized that a Senate rule as applied to frustrate the enactment of legislation within its constitutional domain is less constitutionally troublesome than the identical rule as applied to thwart the appointment of judges who operate outside the Senate's jurisdiction and are tasked to check legislative abuses.

The Founding Fathers worried over an excess of legislation. Thus, laws were required to attract majorities in both the House and Senate; and, the president was endowed with a veto that could be overridden only by two-thirds majorities in both chambers.

When the Senate's 60-vote cloture rule torpedoes legislation that would have commanded a simple Senate majority, it generally advances the Constitution's disfavor of new laws. But even filibusters to oppose legislation can be clearly wrongful, as with the morally compelling 1964 Civil Rights Act.

Furthermore, there are self-evident constitutional limits on Senate cloture rules. Suppose the upper chamber emulated the discredited single-member veto of early Polish parliaments with a rule requiring Senate unanimity either to pass legislation or to ratify treaties. That rule would run roughshod over the constitutionally specified majorities needed for laws or treaties enshrined in Article I, section 7, and Article II, section 2, respectively.

The constitutional cloud over cloture rules darkens considerably when extended to judicial nominees. In contrast to legislation, our constitutional architects voiced no concern over either an excess of judgeships or too much judging. Indeed, they generally celebrated independent federal courts and the power of judges to pronounce on the constitutionality of government action - the jewel in our Constitution's crown as acclaimed by both conservative Chief Justice William H. Rehnquist and liberal Associate Justice Ruth Bader Ginsburg.

Thus, filibustering judicial nominees who would be confirmed by a Senate majority works against the constitutional grain. No exception has been recognized for Senate minority opposition turning on judicial philosophy. President Franklin D. Roosevelt, for instance, packed both the lower federal courts and the Supreme Court with hard-core New Dealers without provoking filibusters.

In sum, neither in Senate traditions nor in constitutional law is there a crumb of justification for the fringe Senate Democrat filibustering of the impeccably qualified Mr. Estrada. Sen. Charles Schumer, New York Democrat, exemplifies their duplicity. In one sentence, he maligns Mr. Estrada as a stealth candidate who confounds the Senate duty to make an informed confirmation vote. In the next, he insists that overwhelming evidence proves the nominee is a far-right conservative outside the judicial mainstream who would create a dangerous imbalance on the court of appeals. And in the third, he accuses President Bush of conservative machinations by following the strong advice of former Democrat Solicitors General Archibald Cox and Walter Dellinger in declining to provide the Senate with confidential and legally privileged memoranda authored by then Assistant Solicitor Miguel Estrada. As F. Scott Fitzgerald bemoaned, the mark of a first-rate intelligence in modern times is the ability to keep two opposite ideas in the mind simultaneously yet retain the capability of functioning.

Senate Majority Leader Bill Frist, Tennessee Republican, should arrange for a Senate vote on Mr. Estrada irrespective of the cloture rule. His confirmation would be certain. The Constitution would be honored. And the federal judiciary would no longer be held hostage by a

fringe Democrat minority.

From: Bumatay, Patrick J.
To: <Ullyot, Theodore W.>;<Bartolomucci, H. Christopher>;<Brosnahan, Jennifer R.>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>
Sent: 3/31/2003 2:07:24 PM
Subject: JSC This Week

It's Monday, and that means it's almost JSC (Judicial Selection Committee) time. Please let me know asap if you plan on presenting anyone for this week's JSC.

Thanks,
Patrick

From: Bumatay, Patrick J.
To: <Kavanaugh, Brett M.>
Sent: 3/31/2003 2:33:16 PM
Subject: RE: POTUS book

Yes. I already made those edits.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Monday, March 31, 2003 2:32 PM
To: Bumatay, Patrick J.; Kavanaugh, Brett M.
Subject: Re: POTUS book

I gave them to bart, who was supposed to include them. Did you hear from him?

.

----- Original Message -----
From:Patrick J. Bumatay/WHO/EOP@Exchange
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 03/31/2003 02:08:44 PM
Subject: POTUS book

any comments on the POTUS book I faxed you?

From: Kavanaugh, Brett M.
To: <Snee, Ashley>;<Kavanaugh, Brett M.>
Sent: 3/31/2003 4:16:21 PM
Subject: Re: Op-ed for submission to suitable California paper for publication this week

Yes

.

----- Original Message -----

From:Ashley Snee/WHO/EOP@Exchange

To:Brett M. Kavanaugh/WHO/EOP@EOP

Cc:

Date: 03/31/2003 04:14:04 PM

Subject: RE: Op-ed for submission to suitable California paper for publication this week

Is her hearing still scheduled for tomorrow?

-----Original Message-----

From: Kavanaugh, Brett M.

Sent: Monday, March 31, 2003 12:22 PM

To: Snee, Ashley; Mamo, Jeanie S.; Lisaius, Kenneth A.

Subject: Op-ed for submission to suitable California paper for publication this week

Turnabout Is Not Fair Play

By Vilma Martinez

[Vilma Martinez is a California lawyer and former President of the Mexican American Legal Defense and Educational Fund.]

As a member of Senator Barbara Boxer's committee for screening federal judicial candidates in California during the Clinton Administration, I was proud to recommend Judge Richard Paez for the Ninth Circuit Court of Appeals. President Clinton nominated Judge Paez, but his nomination languished for four years in the Senate, as he was subjected to a campaign of half-truths and cruel caricatures. At the time, California Superior Court Judge Carolyn Kuhl, characteristic of her sense of fairness and respect for an independent judiciary, stepped up to the plate: She wrote letters, made phone calls, and exhorted her fellow Republicans to confirm Judge Paez and other Clinton judicial nominees. Eventually, Judge Paez received an up or down vote and was confirmed.

In June 2001, President Bush nominated Judge Kuhl to the Ninth Circuit. After nearly two years of delay, she finally receives a hearing this week. But some of the groups that supported Judge Paez ironically have turned their fire on Judge Kuhl, apparently to exact payback against Senate Republicans. This turnabout is not fair play. It is the continuation of a vicious cycle that punishes worthy judicial candidates in a misguided effort to use the judiciary to further narrow political ends.

I generally identify myself as a Democrat, am a veteran of civil rights battles, and testified against Judge Robert Bork's nomination to the Supreme Court on the basis of Judge Bork's inadequate judicial temperament for service on the Court. Like others dedicated to the independence of the judiciary, I certainly do not want ideologues serving as judges on our federal courts. That is why I think Judge Kuhl would make a great addition to the Ninth Circuit.

Judge Kuhl is what I think of as an old-fashioned judge. She cares about due process for everyone. In her seven years on the California Superior Court, she has shown that she is careful to hear both sides. She does not try to influence the

outcome of a case to favor one side or the other. She is serious about her oath to follow the law, whatever the result. Judge Kuhl takes as her guide the words of Justice Felix Frankfurter that the highest calling of a judge is to subordinate one's personal views to the law.

Judge Kuhl is in the mainstream of the Los Angeles legal community. She is the first woman to serve as the Supervising Judge of the Civil Department of the Los Angeles Superior Court, a court system that is larger than the entire federal trial court system nationwide. She served as the Supervising Judge of that court's very successful Complex Litigation Program in its experimental phase.

Judge Kuhl is actively supported by both the plaintiffs' and defense bars in Los Angeles. Over a dozen Justices of the California Court of Appeal and approximately 100 judges on the California Superior Court have signed letters in support of Judge Kuhl. Twenty-three women judges signed a letter of support, noting Judge Kuhl's role as a mentor to young woman lawyers and new women judges. Many of these supporters are active Democrats. They know Judge Kuhl and like me they know that she has been and would be a fair judge dedicated to neutrally following the law.

I call on fellow Democrats and our elected leaders to step up to the plate to support Judge Kuhl, just like she went to bat for Judge Paez and other Clinton nominees. It is shameful that her generosity and dedication to an independent judiciary are being repaid by subjecting her to the same sort of calumny that Judge Paez suffered. Until the politicians decide to play fair with judicial candidates, our system of justice will continue to suffer.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Layton Skelly/OPD/EOP@EOP [OPD] <Layton Skelly>
Sent: 3/31/2003 5:17:23 PM
Subject: : Re: Airlines Working Group Meeting

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:31-MAR-2003 22:17:23.00
SUBJECT:: Re: Airlines Working Group Meeting
TO:Layton Skelly (CN=Layton Skelly/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
End Original ARMS Header

Can you ask liz whether the dot-doj antitrust issue is on the agenda. If not, I need to be on hill at a judges hearing. If so, I should talk to her in am.

.

----- Original Message -----
From:Layton Skelly/OPD/EOP
To:joel d. kaplan/who/eop@exchange@eop,
randall s. kroszner/cea/eop@eop,
stephen s. mcmillin/omb/eop@eop,
read.vandewater@ost.dot.gov,
keith hennessey/opd/eop@exchange@eop,
peter.fisher@do.treas.gov @ inet,
ado a. machida/ovp/eop@eop,
hew.pate@usdoj.gov @ inet,
brett m. kavanaugh/who/eop@eop,
kathleen.cooper@mail.doc.gov @ inet,
mark.warshawsky@do.treas.gov @ inet,
jeff.shane@ost.dot.gov @ inet,
Elizabeth S. Dougherty/OPD/EOP@EOP
Cc:lauren j. vestewig/opd/eop@exchange@eop,
eleanor l. gillmor/opd/eop@exchange@eop,
barbara.lucas@ost.dot.gov,
judy.marshall@ost.dot.gov,
lauren k. allgood/opd/eop@exchange@eop,
lisa d. branch/cea/eop@eop,
anna.hart@do.treas.gov,
carla.langjahr@mail.doc.gov,
peggy.ward@usdoj.gov,
jess sharp/opd/eop@eop,
judy.haugh@ost.dot.gov,
Layton Skelly/OPD/EOP@EOP,
Halley M. Roberson/OMB/EOP@EOP
Date: 03/31/2003 10:11:23 AM
Subject: Airlines Working Group Meeting

This meeting is set for 2:00 tomorrow, April 1st, in room 48A. Everyone above will be cleared in. Thank you.

Layton
456-5085

Elizabeth S. Dougherty
03/28/2003 12:44:13 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: Airlines Working Group Meeting

I would like to have an Airlines Working Group meeting Tuesday April 1 at 2:00 pm. Please let me know by email ASAP if you are unable to make this time. An alternative time would be Tuesday at 4:00 pm so it would also be helpful to know whether you are able to make this time. Layton will send a confirming email on Monday with the exact time and location. I may not have copied everyone's assistants on this email, so please forward it if I didn't.

The purpose of the meeting is to follow-up on the meeting with the President last week and discuss competition issues in the industry. I would like to ask you to bring to the meeting your best and boldest ideas about:

1. What, if anything, the Administration could do to improve competition in the industry; and
2. What, if anything the government could/should stop doing to improve competition in the industry.

When you think about competition, you should think not only about the consumer, but also about barriers to new carriers entering the market generally or specific markets.

I do not expect fully formed, vetted proposals, just rough ideas.

Thanks,

Liz Dougherty

Message Sent
To:_____
Joel D. Kaplan/WHO/EOP@Exchange@EOP
Randall S. Kroszner/CEA/EOP@EOP
Stephen S. McMillin/OMB/EOP@EOP
read.vandewater@ost.dot.gov
Keith Hennessey/OPD/EOP@Exchange@EOP
peter.fisher@do.treas.gov @ inet
Ado A. Machida/OVP/EOP@EOP
hew.pate@usdoj.gov @ inet
Brett M. Kavanaugh/WHO/EOP@EOP
kathleen.cooper@mail.doc.gov @ inet
mark.warshawsky@do.treas.gov @ inet
jeff.shane@ost.dot.gov @ inet

Message Copied
To:_____
Lauren J. Vestewig/OPD/EOP@Exchange@EOP
Eleanor L. Gillmor/OPD/EOP@Exchange@EOP
barbara.lucas@ost.dot.gov
judy.marshall@ost.dot.gov
lauren k. allgood/opd/eop@exchange@eop
lisa d. branch/cea/eop@eop
anna.hart@do.treas.gov
carla.langjahr@mail.doc.gov
peggy.ward@usdoj.gov
jess sharp/opd/eop@eop
judy.haugh@ost.dot.gov
Layton Skelly/OPD/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Holly T. Moore/NSC /EOP@EOP [NSC] <Holly T. Moore>
Sent: 3/31/2003 5:25:03 PM
Subject: : Re: vic of terrorism

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:31-MAR-2003 22:25:03.00
SUBJECT:: Re: vic of terrorism
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Holly T. Moore (CN=Holly T. Moore/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
End Original ARMS Header

There is mtg wed at 330.

.

----- Original Message -----
From:Holly T. Moore/NSC/EOP
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 03/31/2003 01:01:16 PM
Subject: vic of terrorism

brett --
i was out on friday. anything happen on the vic of terrorism draft legislation? anyone react to state's suggested changes? many thanks, htm

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Holly T. Moore/NSC /EOP@EOP [NSC] <Holly T. Moore>
Sent: 4/1/2003 4:25:10 AM
Subject: : Re: vic of terrorism

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 1-APR-2003 09:25:10.00
SUBJECT:: Re: vic of terrorism
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Holly T. Moore (CN=Holly T. Moore/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
End Original ARMS Header

Jay lefkowitz assistant.

.

----- Original Message -----
From:Holly T. Moore/NSC/EOP
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 04/01/2003 09:16:31 AM
Subject: Re: vic of terrorism

thanks -- do you mean another meeting like last week's? who should i contact about getting invited? thanks much, h

Brett M. Kavanaugh
03/31/2003 10:24:53 PM
Record Type: Record

To: Holly T. Moore/NSC/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Re: vic of terrorism

There is mtg wed at 330.

.

----- Original Message -----
From:Holly T. Moore/NSC/EOP
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 03/31/2003 01:01:16 PM
Subject: vic of terrorism

brett --
i was out on friday. anything happen on the vic of terrorism draft legislation? anyone react to state's suggested changes? many thanks, htm

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Holly T. Moore/NSC /EOP@EOP [NSC] <Holly T. Moore>
Sent: 4/1/2003 4:25:12 AM
Subject: : Re: vic of terrorism

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 1-APR-2003 09:25:12.00
SUBJECT:: Re: vic of terrorism
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Holly T. Moore (CN=Holly T. Moore/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
End Original ARMS Header

Jay lefkowitz assistant.

.

----- Original Message -----
From:Holly T. Moore/NSC/EOP
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 04/01/2003 09:16:31 AM
Subject: Re: vic of terrorism

thanks -- do you mean another meeting like last week's? who should i contact about getting invited? thanks much, h

Brett M. Kavanaugh
03/31/2003 10:24:53 PM
Record Type: Record

To: Holly T. Moore/NSC/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Re: vic of terrorism

There is mtg wed at 330.

.

----- Original Message -----
From:Holly T. Moore/NSC/EOP
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 03/31/2003 01:01:16 PM
Subject: vic of terrorism

brett --
i was out on friday. anything happen on the vic of terrorism draft legislation? anyone react to state's suggested changes? many thanks, htm

From:	Sampson, Kyle
To:	<Gonzales, Alberto R.>
CC:	<Leitch, David G.>;<Kavanaugh, Brett M.>;<Bartolomucci, H. Christopher>;<Ullyot, Theodore W.>;<Newstead, Jennifer G.>;<Francisco, Noel J.>;<Powell, Benjamin A.>;<Brosnahan, Jennifer R.>
Sent:	4/1/2003 8:35:53 AM
Subject:	Confirmed Last Night/Confirmation Schedule

The following were confirmed last night:

Theresa L. Springmann of Indiana, to be a U.S. District Judge for the Northern District of Indiana, by roll call vote of 93-0; and

McGregor William Scott of California, to be U.S. Attorney for the Eastern District of California, by UC.

The Senate schedule:

They begin debate on the nomination of **Timothy Tymkovich** of Colorado, to be a Judge of the U.S. Circuit of Appeals for the Tenth Circuit, at 10:00 am today. Cloture was filed again on Estrada; the cloture motion will be ready for vote on Wednesday.

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>
CC: Carolyn Nelson/WHO/EOP@Exchange [WHO] <Carolyn Nelson>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>;David G. Leitch/WHO/EOP@Exchange [WHO] <David G. Leitch>
Sent: 4/1/2003 8:09:53 AM
Subject: : RE: Michigan case transcripts

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 1-APR-2003 13:09:53.00
SUBJECT:: RE: Michigan case transcripts
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Carolyn Nelson (CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
CC:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

Okay, I let Ashley know.; I'll ask Rachel if transcripts are being made at the Supreme Court.

;-----Original Message-----
From: ; Francisco, Noel J.;
Sent:;; Tuesday, April 01, 2003 1:03 PM
To:;;;; Bumatay, Patrick J.
Cc:;;;; Leitch, David G.; Kavanaugh, Brett M.; Montiel, Charlotte L.; Nelson, Carolyn
Subject:;;;;;;; Re: Michigan case transcripts

I don't think it's possible that a transcript will be ready that soon.; Patrick, please confirm.; Thanks.

From:;; Patrick J. Bumatay/WHO/EOP@Exchange on 04/01/2003 12:57:48 PM
Record Type:;;; Record

To:;;;; Noel J. Francisco/WHO/EOP@EOP, David G. Leitch/WHO/EOP@Exchange, Brett M. Kavanaugh/WHO/EOP@EOP
cc:;;;; Charlotte L. Montiel/WHO/EOP@Exchange, Carolyn Nelson/WHO/EOP@Exchange
Subject:;;;;;;; Michigan case transcripts

Ashley Snee;is wondering if anyone is working on getting a transcript of today's hearing.; If so, she would like it before Ari's briefing at 2 pm.

;
Please let me know.
;
Thanks,
Patrick

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>
CC: Carolyn Nelson/WHO/EOP@Exchange [WHO] <Carolyn Nelson>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>;David G. Leitch/WHO/EOP@Exchange [WHO] <David G. Leitch>
Sent: 4/1/2003 8:10:00 AM
Subject: : RE: Michigan case transcripts

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 1-APR-2003 13:10:00.00
SUBJECT:: RE: Michigan case transcripts
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Carolyn Nelson (CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
CC:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

Okay, I let Ashley know. I'll ask Rachel if transcripts are being made at the Supreme Court.

-----Original Message-----
From: Francisco, Noel J.
Sent: Tuesday, April 01, 2003 1:03 PM
To: Bumatay, Patrick J.
Cc: Leitch, David G.; Kavanaugh, Brett M.; Montiel, Charlotte L.; Nelson, Carolyn
Subject: Re: Michigan case transcripts

I don't think it's possible that a transcript will be ready that soon. Patrick, please confirm. Thanks.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 04/01/2003 12:57:48 PM
Record Type: Record

To: Noel J. Francisco/WHO/EOP@EOP, David G. Leitch/WHO/EOP@Exchange, Brett M. Kavanaugh/WHO/EOP@EOP
cc: Charlotte L. Montiel/WHO/EOP@Exchange, Carolyn Nelson/WHO/EOP@Exchange
Subject: Michigan case transcripts

Ashley Snee is wondering if anyone is working on getting a transcript of today's hearing. If so, she would like it before Ari's briefing at 2 pm.

Please let me know.

Thanks,
Patrick

From: CN=Noel J. Francisco/OU=WHO/O=EOP [WHO]
To: Alberto R. Gonzales/WHO/EOP@Exchange@EOP [WHO] <Alberto R. Gonzales>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;David G. Leitch/WHO /EOP@Exchange@EOP [WHO] <David G. Leitch>
Sent: 4/1/2003 8:19:59 AM
Subject: : Michigan Talking Points

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 1-APR-2003 13:19:59.00
SUBJECT:: Michigan Talking Points
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Judge -- To the extent Ari is asked about this, I'd advise the following
talking points:

The Administration made its position clear in the briefs that it filed and
at oral argument. The case is now before the Supreme Court. We will
await the Court's guidance.

Thanks,
Noel
```

From: CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [OA]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/1/2003 12:26:19 PM
Subject: : FW: Mail Question

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Adam F. Greenstone (CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [OA])
CREATION DATE/TIME: 1-APR-2003 17:26:19.00
SUBJECT:: FW: Mail Question
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Fyi, regarding my last.

-----Original Message-----
From: Hill, Bartholomew G.
Sent: Tuesday, April 01, 2003 5:06 PM
To: Greenstone, Adam F.
Subject: FW: Mail Question

Information below.

-----Original Message-----
From: Beverly, Jennifer L.
Sent: Tuesday, April 01, 2003 5:04 PM
To: Hill, Bartholomew G.
Subject: Re: Mail Question

Rex Cowdry wants to take his email with him. I believe that it is a similar job just with OPD/NEC rather than with CEA. Thanks, Jennifer

-----Original Message-----
From: Hill, Bartholomew G. <Bartholomew_G._Hill@oa.eop.gov>
To: Beverly, Jennifer L. <jbeverly@oa.eop.gov>
Sent: Tue Apr 01 16:58:58 2003
Subject: FW: Mail Question

Jennifer,
Can you please remind me of the name of the person from CEA who has gone to WHO and wants to take their mail with them? I cannot find the name.
Thanks. Bart

-----Original Message-----
From: Greenstone, Adam F.
Sent: Tuesday, April 01, 2003 4:31 PM
To: Hill, Bartholomew G.
Subject: FW: Mail Question

Bart--What's the person's name?
-----Original Message-----
From: Hill, Bartholomew G.
Sent: Tuesday, March 25, 2003 9:33 AM
To: Greenstone, Adam F.
Subject: Mail Question

Adam,
We have a person who is moving from CEA to WHO and wants to take their mail with them. CEA does not have a General Counsel. Do one of the other Counsels act for them? Can we let this person take their mail to WHO? CEA

Chief of Staff acts as CEA's ethics officer. Would that person be able to make the determination? Thanks. Bart

From: CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [OA]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/1/2003 12:26:19 PM
Subject: : FW: Mail Question

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Adam F. Greenstone (CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [OA])
CREATION DATE/TIME: 1-APR-2003 17:26:19.00
SUBJECT:: FW: Mail Question
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Fyi, regarding my last.

-----Original Message-----
From: Hill, Bartholomew G.
Sent: Tuesday, April 01, 2003 5:06 PM
To: Greenstone, Adam F.
Subject: FW: Mail Question

Information below.

-----Original Message-----
From: Beverly, Jennifer L.
Sent: Tuesday, April 01, 2003 5:04 PM
To: Hill, Bartholomew G.
Subject: Re: Mail Question

Rex Cowdry wants to take his email with him. I believe that it is a similar job just with OPD/NEC rather than with CEA. Thanks, Jennifer

-----Original Message-----
From: Hill, Bartholomew G. <Bartholomew_G._Hill@oa.eop.gov>
To: Beverly, Jennifer L. <jbeverly@oa.eop.gov>
Sent: Tue Apr 01 16:58:58 2003
Subject: FW: Mail Question

Jennifer,
Can you please remind me of the name of the person from CEA who has gone to WHO and wants to take their mail with them? I cannot find the name.
Thanks. Bart

-----Original Message-----
From: Greenstone, Adam F.
Sent: Tuesday, April 01, 2003 4:31 PM
To: Hill, Bartholomew G.
Subject: FW: Mail Question

Bart--What's the person's name?
-----Original Message-----
From: Hill, Bartholomew G.
Sent: Tuesday, March 25, 2003 9:33 AM
To: Greenstone, Adam F.
Subject: Mail Question

Adam,
We have a person who is moving from CEA to WHO and wants to take their mail with them. CEA does not have a General Counsel. Do one of the other Counsels act for them? Can we let this person take their mail to WHO? CEA

Chief of Staff acts as CEA's ethics officer. Would that person be able to make the determination? Thanks. Bart

From: CN=Lisa J. Macecevic/OU=OMB/O=EOP [OMB]
To: Richard E. Green/OMB/EOP@EOP [OMB] <Richard E. Green>;Lauren E. Bloomquist/OMB /EOP@EOP [OMB] <Lauren E. Bloomquist>;Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;James J. Jukes/OMB/EOP@EOP [OMB] <James J. Jukes>;James Boden/OMB /EOP@EOP [OMB] <James Boden>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/2/2003 6:11:38 AM
Subject: : 04/02 CongressDaily AM story - work on asbestos legislation being done

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Lisa J. Macecevic ( CN=Lisa J. Macecevic/OU=OMB/O=EOP [ OMB ] )
CREATION DATE/TIME: 2-APR-2003 11:11:38.00
SUBJECT:: 04/02 CongressDaily AM story - work on asbestos legislation being done
TO:Richard E. Green ( CN=Richard E. Green/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Lauren E. Bloomquist ( CN=Lauren E. Bloomquist/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:James J. Jukes ( CN=James J. Jukes/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:James Boden ( CN=James Boden/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Hatch Drafting New Asbestos Litigation Reform Legislation
ÿÿÿÿÿAides to Senate Judiciary Chairman Hatch were drafting and vetting
new concepts for asbestos litigation reform legislation Tuesday, the rough
outlines of which Hatch sketched at a private meeting last week with
insurance and other business executives.
ÿÿÿÿÿIndustry lobbyists were chewing over Hatch's proposals Tuesday at
various meetings and conference calls around town, as they and other
stakeholders were poised to meet privately with senators that evening to
continue the legislative conversation.
ÿÿÿÿÿThat meeting was organized by Sen. Christopher Dodd, D-Conn., and
included a larger circle of interested players from the insurance
industry, from defendant companies and also from labor, the trial bar and
from the broader legal community.
ÿÿÿÿÿHatch and Senate Democrats publicly and privately have emphasized the
importance of keeping the legislation bipartisan, and sources asserted
that Dodd, Hatch, Senate Judiciary ranking member Patrick Leahy, D-Vt.,
and Sen. Mike DeWine, R-Ohio, already are working closely together.
ÿÿÿÿÿSources said that the Dodd "summit," as it was billed, included some
heated exchanges, including one between representatives for the American
Bar Association and the Association of Trial Lawyers of America, but that
it ended on a positive note.
ÿÿÿÿÿAspects of the Hatch proposal were alluded to, but not directly
discussed during the meeting, several attendees said. One source described
the tenor of the entire discussion as more "philosophical" than
legislative in nature.
ÿÿÿÿÿMany sources agreed that the summit had been somewhat overtaken by
events -- namely Hatch's meeting last week in which he established a new
set of parameters for legislation, which his aides have since been
"furiously" trying to flesh out, one source said.
ÿÿÿÿÿStill, participants welcomed yet another opportunity at Tuesday's
forum to "open up" the process, another source added.
ÿÿÿÿÿReform proponents were even more heartened to see the bipartisan
nature of the meeting, which in addition to Dodd, included Hatch, Leahy
and Sens. Thomas Carper, D-Del., DeWine and Patty Murray, D-Wash.
ÿÿÿÿÿMurray made a pitch for a litigation reform bill to include
```

legislation she authored last year banning the use of asbestos-containing products.

ÿÿÿÿÿAttendees said each of the senators and most summit participants agreed that the current asbestos litigation system is in need of repair and that a legislative solution is required this year -- before the Senate's agenda gives way to the political vagaries of the 2004 election cycle.

ÿÿÿÿÿThe new legislative direction being tested by Hatch encompasses elements of proposals earlier suggested by others, but is meant to provide a way through the stalemate that had hindered consensus.

ÿÿÿÿÿAccording to several sources, the cornerstone of Hatch's plan is the creation of a "specialized court" of federal claims, or a federally established resolution body for dealing with asbestos claims, which in turn could include an administrative component, such as a trust fund.

ÿÿÿÿÿSources said Hatch envisions two "blue-ribbon" commissions, one for defendant companies and one for their insurers, being created to determine annual allocations among the various contributors to a fund that would be used to compensate victims.

ÿÿÿÿÿHatch's plan also calls for limited judicial review of the funding allocation and claimant compensation as determined by that expert body, sources familiar with the plan said.

ÿÿÿÿÿHatch apparently also agrees that some sort of medical criteria would need to be applied to deter frivolous claims and to ensure that the sickest of victims can quickly and easily get compensation; however, sources said the specifics of that criteria remained up in the air.

ÿÿÿÿÿSources said Hatch also is adamant that companies that have been targeted in the past "aren't required to pay twice" and that insurers pay in an "equitable" manner. Contributions would be flexible, based on funding needs and also would be subject to an annual cap, sources said.

ÿÿÿÿÿA Hatch spokeswoman was not available at presstime Tuesday evening to confirm these points.

ÿÿÿÿÿHatch is soliciting interest group input during this exploratory portion of the legislative process, which sources said is a precursor to more formal drafting efforts Hatch has indicated would take place in earnest over the April recess.

ÿÿÿÿÿHatch, who has repeatedly challenged the interested parties to put aside their preconceived notions and disputes over what the legislation ought to look like, is aiming for a May markup.

ÿÿÿÿÿSaid Julie Rochman of the American Insurance Association as she left Tuesday's packed meeting: "The Hill owns this process now, they're driving it. And everybody downtown should be doing everything they can to respond to that." By Pamela Barnett

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Scott McClellan/WHO/EOP@Exchange [WHO] <Scott McClellan>
CC: lawrence a. fleischer/who/eop@exchange [WHO] <lawrence a. fleischer>
Sent: 4/2/2003 4:34:49 AM
Subject: : Re: lardner story in post

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 2-APR-2003 09:34:49.00
SUBJECT:: Re: lardner story in post
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
CC:lawrence a. fleischer (CN=lawrence a. fleischer/OU=who/O=eop@exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

There are 2 types of records in the Executive Branch: federal records (at all the departments and agencies) and Presidential records (mostly at White House).

As to federal records from old Administrations, the current Administration asserts exemptions under FOIA to protect them as appropriate. That was the situation in the pardon record case referenced below. The former President has no voice in that process.

By contrast, Presidential records are shipped off to Presidential libraries and are subject to the Presidential Records Act, which is similar but not identical to FOIA. As to those records, former Presidents do have significant say under the Presidential Records Act and President Bush's executive order. The current President, to be sure, does consider and/or review "Presidential records" proposed for release by former Presidents at the time they are proposed for release, but that has not occurred yet for Clinton "Presidential records," which are being archived and filed at the Clinton Library in Little Rock. (That is a massive project.)

In response to the bolded sentence below, therefore, we can reiterate that former President Clinton will have significant discretion under the statute and President Bush's executive order either (i) to withhold his "Presidential records" consistent with the Constitution and law OR (ii) to release Presidential records as he deems appropriate.

From: Scott McClellan/WHO/EOP@Exchange on 04/02/2003 07:38:22 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: Lawrence A. Fleischer/WHO/EOP@Exchange
Subject: lardner story in post

Brett -- where are we on this issue?; the obvious question is why won't;we release them if Clinton waives his right?
;
Clinton recently waived his right to restrict access to most of the confidential advice he received during his administration. The step will allow historians, scholars and others to have access to the documents within a few years unless Bush, or any successor, vetoes their release.

The 177 pardons and commutations Clinton approved on his last day in office produced an uproar, especially over the clemency he bestowed on

fugitive financier Marc Rich.

The Bush White House has not said whether it would object to the release of the Clinton records as soon as the minimum five-year waiting period prescribed by the Presidential Records Act expires, but lawyers there and at the Justice Department have taken an uncompromising stand in the Judicial Watch litigation. According to their pleadings, the pardon authority is "a core presidential power exclusively entrusted to, and exercised by, the president himself, and the documents generated in the process of developing and providing advice to him are squarely subject to the privilege."

From: CN=Scott Stanzel/OU=WHO/O=EOP [WHO]
To: Ashley Snee/WHO/EOP@Exchange@EOP [WHO] <Ashley Snee>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/2/2003 4:37:26 AM
Subject: : Denver Post editorial

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Scott Stanzel (CN=Scott Stanzel/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 2-APR-2003 09:37:26.00
SUBJECT:: Denver Post editorial
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Why the secrecy?

Wednesday, April 02, 2003 - So, what's the secret, Mr. President?
Citing a need to review "sensitive information," President Bush last week denied public access to millions of documents from the Carter administration for another three years. Originally the files were scheduled to be released later this month.
The president also stripped a Clinton executive order that said, basically, when in doubt, documents should be disclosed to the public. Now the government will err on the side of secrecy.
The administration says withholding the documents is partly a matter of national security.
In times of war, Americans are usually more than willing to oblige. But this doesn't make sense. Existing rules already allowed the Bush administration to keep secret any documents that could jeopardize national security.
So why change the 1995 executive order that automatically declassifies most government documents after 25 years? Count us among the skeptics who wonder if delaying the Carter documents is merely an attempt to create a logjam of paperwork to hold off release of Reagan-era documents.
Many advisers now serving in the Bush administration were regulars in the Reagan years. The delay will keep their words and deeds from the 1980s silent well into what would be Bush's second term and possibly beyond that.
His order, which also allows agencies to reclassify documents they have already declassified, came at 6:40 p.m. Handing out a press release that late - on something that's obviously been discussed for weeks, if not months - is a popular PR ploy to bury the story.
At that late hour, reporters would be forced to scramble for analysis, a savvy White House staff figures. The subsequent report, lacking substance and perspective, likely would be relegated to deep in the paper or newscast, especially when the nation's attention is diverted to the Middle East.
It's just another troubling move deeper into the shadows of democracy. The administration is fond of secrecy, and it's been even more so since the 9/11 terrorist attacks.
Bush has attempted to expand presidential power; has won new protection from congressional oversight; has expanded government surveillance powers; and has worked to tighten the release of historical presidential records.
We understand some documents must remain confidential. The United States cannot expose military secrets to the world to satisfy our open-records laws.
But the laws exist for a reason. The Presidential Records Act of 1978, which says executive documents belong to the government and not the president, was enacted in the dark days that followed the Watergate scandal. President Nixon had argued those papers belonged to him, not the government.
The law was passed because we had learned from our mistakes and didn't

want to repeat them. Let's not make another by shuttering the windows of government and keeping the sunlight out.
Democracy only works when government is open and accountable to the people.

From: Thomas, Ginni <ginni.thomas@heritage.org>
To: Government Relations <GovernmentRelations@heritage.org>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 4/2/2003 8:37:59 AM
Subject: : "Heritage Update" - Recent Publications and Upcoming Events, April 2nd"Heritage Update"
Attachments: P_7UI9F003_WHO.TXT_1.htm

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Thomas, Ginni" <ginni.thomas@heritage.org> ( "Thomas, Ginni"
<ginni.thomas@heritage.org> [ UNKNOWN ] )
CREATION DATE/TIME: 2-APR-2003 13:37:59.00
SUBJECT:: "Heritage Update" - Recent Publications and Upcoming Events, April 2nd"Heritage
Update"
TO:Government Relations <GovernmentRelations@heritage.org> ( Government Relations
<GovernmentRelations@heritage.org> [ UNKNOWN ] )
READ:UNKNOWN
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

<http://www.heritage.org/emails/hidden/heritage_update.gif>
<http://www.heritage.org/> <http://www.heritage.org/research/>
<http://www.heritage.org/press/dailybriefing/>
<http://www.heritage.org/press/events/>


Many new events - see below.

Latest and Greatest:
<http://www.heritage.org/Research/MiddleEast/wm246.cfm> Limit the Role of
the United Nations In Post-War Iraq
<http://www.heritage.org/Research/MiddleEast/wm246.cfm> by Nile
Gardiner

Foreign/Defense Policy: The
<http://www.heritage.org/Research/MiddleEast/wm239.cfm> Bush-Blair Summit:
Iraq, the U.N., and the Future of Europe by Nile Gardiner and John Hulsman

<http://www.heritage.org/Research/MiddleEast/wm242.cfm> Keep the War in
Perspectiv <http://www.heritage.org/Research/MiddleEast/wm242.cfm> e by
James Phillips

Will <http://www.heritage.org/Research/MiddleEast/wm240.cfm> Saddam Use
Chemical Weapons? by Jack Spencer

<http://www.heritage.org/Press/Commentary/ed040103.cfm> Onward, Christian
Pacifists by Joseph Loconte

Perfidy <http://www.heritage.org/Press/Commentary/ed032603b.cfm> in Iraq:
Their Tactics, Our Response by Dana Dillon

Who to <http://www.heritage.org/Press/Commentary/ed022603d.cfm> Watch?
The Iraqi War and the Myth of Media Concentration
<http://www.heritage.org/Press/Commentary/ed022603d.cfm> by James Gattuso


Iraqis <http://www.heritage.org/Press/Commentary/ed040103b.cfm> and
Soldiers Need Time by Rebecca Hagelin
```

The <http://www.heritage.org/Press/Commentary/ed032603.cfm> Other Side of the Story by Rebecca Hagelin

Beyond <http://www.heritage.org/Research/MiddleEast/hl780.cfm> the Middle East: In Search of Energy Security
by The Honorable Conrad Burns

Thank <http://www.heritage.org/Press/Commentary/ed040203a.cfm> You, France by Dr. Edwin Feulner

U.S.-Russian <http://www.heritage.org/Research/MiddleEast/wm247.cfm> Relations Threatened By Iraq Arms Sales by Ariel Cohen

Confronting <http://www.heritage.org/Press/Commentary/032603c.cfm> Kazakhstan's 'Dutch Disease' by Ariel Cohen

Not <http://www.heritage.org/Research/LatinAmerica/wm243.cfm> So Quiet On the Western Front by Stephen Johnson

Don't <http://www.heritage.org/Press/Commentary/ed032603a.cfm> Let Terrorism Take Hold in Nepal
by Dana Robert Dillon and Ha Nguyen

Domestic Policy:
Smoking <http://www.heritage.org/Press/Commentary/ed040203.cfm> Out the Truth by Dr. Edwin Feulner

<http://www.heritage.org/Research/Taxes/wm244.cfm> Senate's Adoption of Breaux Amendment Means Fewer Jobs and Less Economic Growth by Rea Hederman

<http://www.heritage.org/Research/Taxes/bg1640.cfm> Pathway to Economic Growth and Tax Reform: Eliminating the Double Tax on Dividends by Daniel Mitchell, Norbert Michel, and David John

Tax <http://www.heritage.org/Press/Commentary/ed040103a.cfm> Cuts Benefit Economy by Norbert Michel

CBO <http://www.heritage.org/Research/Budget/wm241.cfm> Estimates: Spending Weakens Effects of Pro-Growth Tax Relief by Brian Riedl

National <http://www.heritage.org/Press/Commentary/ED032703.cfm> Security Versus Pork by Brian Riedl

Sentencing <http://www.heritage.org/Research/Crime/test032403.cfm> of Corporate Fraud and White Collar Crime
by Paul Rosenzweig

The <http://www.heritage.org/Research/EnergyandEnvironment/wm245.cfm> Barton Energy Bill: Weighing the Good and Bad by Charli Coon

Time <http://www.heritage.org/Press/Commentary/ed040103c.cfm> to Take Responsibility by Charli Coon

Principles <http://www.heritage.org/Research/Labor/bg1642.cfm> and Reforms for Citizen Service
by Matthew Spalding

Progress <http://www.heritage.org/Research/Education/bg1639.cfm> on School Choice in the State s
<http://www.heritage.org/Research/Education/bg1639.cfm> by Krista Kafer

Upcoming Events: Click
here <http://www.heritage.org/Press/Events/index.cfm> for event details
and RSVP

A Pro-American View from France Featuring: Alain
Madelin, Former Minister and Member of Parliament, France; and Helle Dale,
The Heritage
Foundation.
Friday, April 4th, 12:00 noon - 1:30 p.m.

Black Aces High: Book Event
Featuring: Robert K. Wilcox, Author; and Jack Spencer, The Heritage
Foundation.
Tuesday, April 8th, 4:30p.m. - 5:30 p.m.

The Next Bold Step in Welfare Reform Featuring: Senator
Jim Talent (R-MO) United States Senator; Tripp Baird and Robert Rector,
The Heritage
Foundation. Thursday,
April 10th, 12:00 noon - 1:00 p.m.

A Juggernaut's First Steps? The
Future Of Economic Reform In India Featuring: Dr. S. Narayan,
Finance Secretary and Economic Affairs Secretary, Republic of India; and
Peter Brookes, The Heritage Foundation. Tuesday,
April 15th, 9:30 a.m. - 11:00 a.m.

A Federal Program The Heritage Foundation Supports? Using the Federal
Employee Health Benefits Program as a Model for Health Care Reform
Featuring: Dir. Kay James, Office of Personnel Management; Walt Francis,
Public Policy Network; Bob Moffit and Mike Franc, The Heritage
Foundation. Wednesday, April 16th, 12:00 noon - 1:30 p.m. 311
Cannon House Office Building. Lunch will be
provided Click
<http://www.heritage.org/customcf/rsvp/index.cfm?EventID=041603a&EventDate=
2003-04-16&EventTitle=FEBHP101b> here to RSVP

Government Relations
<http://www.heritage.org/about/staff/michaelfranc.cfm> Michael Franc
Vice President, Government Relations
Contact: 202-608-6064
Executive Branch Relations
<http://www.heritage.org/about/staff/virginiathomas.cfm> Virginia Thomas
Director, Executive Branch Relations
Contact: 202-608-6240
<http://www.heritage.org/About/Staff/GinaHatheway.cfm> Gina Marie Hatheway
Deputy Director of Government Relations, Foreign Policy and Defense
Contact: 202-608-6065
Meredith Karre (<mailto:%20meredith.karre@heritage.org> email)
Deputy Executive Branch Liaison
Contact: 202-608-6058
<http://www.heritage.org/emails/hidden/pres_prior.gif>
<http://www.heritage.org/Research/MiddleEast/iraq/> War in Iraq
The nexus between terrorists and outlaw regimes striving for or possessing
nuclear, chemical weapons of mass destruction is the greatest threat to
the United States and our allies. This "Briefing Room" will be constantly
updated during the military operation to end Saddam Hussein's brutal and
menacing regime in Iraq.
<http://www.heritage.org/research/taxes/taxbriefingroom.cfm> The Economy
The Heritage Foundation's economics team has established this "Briefing

Room" to present timely and accurate research on the tax debate and the President's Economic Growth Plan. Implementing the President's Economic Growth Package could create millions of jobs nationally. To find out how the individual states will fare, click here to see the
<http://www.heritage.org/research/taxes/taxbriefingroom.cfm>
State-by-State Map On Job Growth.
<http://www.heritage.org/research/healthcare/medicarebriefingroom.cfm>
Health Care
Read The Heritage Foundation's suggestions on how to reform Medicare; increase choices, improve care, and expand coverage to the uninsured.
<http://www.heritage.org/emails/hidden/GR_heritageResources.gif>
<http://www.heritage.org/research/features/agenda.cfm> Agenda 2003: Shaping America's Future
The issues facing the 108th Congress, from homeland security to health care to tax reform, present lawmakers with the opportunity to improve all Americans' security and prosperity. To request a copy of Heritage's Agenda 2003 or to <http://www.heritage.org/research/features/agenda.cfm> view excerpts, contact Meredith Karre, Deputy Executive Branch Liaison (
<emailto:%20meredith.karre@heritage.org> email).
<http://www.heritage.org/About/Bookstore/policyexperts2003.cfm> Policy Experts 2003
The essential "who's who" guide to the world of public policy experts and organizations can be ordered by contacting the Heritage Foundation's Publications Department at 1-800-544-4843, by mail at, 214 Massachusetts Avenue NE, Washington, DC 20002, or
<http://www.heritage.org/About/Bookstore/policyexperts2003.cfm> click here to order online.
<http://www.heritage.org/about/community/insider/> The Insider
<http://www.heritage.org/research/features/familydatabase/> Family and Society Database
<http://www.heritage.org/About/Staff/experts.cfm> Heritage Experts
<http://www.heritage.org/press/> Press Room
<http://www.heritage.org/press/events/> Heritage Live Events
- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_7UI9F003_WHO.TXT_1>

Many new events - see below. < /TR>

Latest and Greatest: &nbs p; ; Limit the Role of the United Nations In Post-War Iraq by Nile Gardiner

Foreign/Defense Policy: & nbsp; &n bsp;
<A href="http://www.heritage.org/Research/MiddleEast/wm239.cfm">The Bush-Blair Summit: Iraq, the U.N., and the Future of Europe by Nile Gardiner and John Hulsman

Keep the War in Perspective b y James Phillips

Will Saddam Use Chemical Weapons? by Jack Spencer

Onward, Christian Pacifists by Joseph Loconte

Perfi dy in Iraq: Their Tactics, Our Response & nbsp; by Dana Dillon

Who t o Watch? The Iraqi War and the Myth of Media Concentration by James Gattuso

Iraqi s and Soldiers Need Time by Rebecca Hagelin

The Other Side of the Story by Rebecca Hagelin

Beyond the Middle East: In Search of Energy Security by The Honorable Conrad Burns

Thank You, France by Dr. Edwin Feulner
&nb sp;
U.S.-R ussian Relations Threatened By Iraq Arms Sales by Ariel Cohen

Confron ting Kazakhstan's 'Dutch Disease' by Ariel Cohen

Not So Quiet On the Western Front by Stephen Johnson

Don't Let Terrorism Take Hold in Nepal by Dana Robert Dillon and H a Nguyen

Domestic Policy: & nbsp; &n bsp; &nb sp; Smokin g Out the Truth by Dr. Edwin Feulner

Senate's Adoption of Breaux Amendment Means Fewer Jobs and Less Economic Growth by Rea Hederman

Pathway to Economic Growth and Tax Reform: Eliminating the Double Tax on Dividends   by Daniel Mitchell, Norbert Michel, and David John

Tax Cuts Benefit Economy by Norbert Michel

<FONT size=+0>
CBO Estimates: Spending Weakens Effects of Pro-Growth Tax Relief by Brian Riedl

Nation al Security Versus Pork by Brian Riedl

Senten cing of Corporate Fraud and White Collar Crime by Paul Rosenzweig

The Barton Energy Bill: Weighing the Good and Bad by Charli Coon

Time to Take Responsibility by Charli Coon

Principles and Reforms for Citizen Service by Matthew Spalding

Progre ss on School Choice in the States by Krista Kafer

Upcoming Events: &nb sp; &nbs p; ;
Click here for event details and RSVP

A Pro-American View from France &nbs p; Featuring: **Alain Madelin**, Former Minister and Member o f Parliament, France; and **Helle Dale**, The Heritage Foundation. &n bsp; &nb sp; &nbs p; ; Friday, **April 4th**, 12:00 noon - 1:30 p.m.

Black Aces High: Book Event
Featuring: **Robert K. Wilcox**, Author; and **Jack Spencer**, The Heritage Foundation.
Tuesday, **April 8th**, 4:30p.m. - 5:30 p.m.

The Next Bold Step in **Welfare Reform** Featuring: **Senator Jim Talent (R-MO)** United States Senator; **Tripp Baird** and **Robert Rector**, The Heritage Foundation. &n bsp; &nb sp; &nbs p; ; Thursday, **April 10th**, 12:00 noon - 1:00 p.m.

A Juggernaut's First Steps? & nbsp; & nbsp;
The Future Of **Economic Reform In India** Featuring: **Dr. S. Narayan,** Finance Secretary and Economic Affairs Secretary, Republic of India; and **Peter Brookes**, The Heritage Foundation. &n bsp; &nb sp; Tuesday, **April 15th**, 9:30 a.m. - 11:00 a.m.

A Federal Program The Heritage Foundation Supports? Using the Federal Employee Health Benefits Program as a Model for **Health Care Reform** Featuring: **Dir. Kay James**, Office of

Government Relations

Michael Franc
Vice President, Government Relations
Contact: 202-608-6064

Executive Branch Relations

Virginia Thomas
Director, Executive Branch Relations
Contact: 202-608-6240

Gina Marie Hatheway
Deputy Director of Government Relations, Foreign Policy and Defense
Contact: 202-608-6065

Meredith Karre (email)
Deputy Executive Branch Liaison
Contact: 202-608-6058

War in Iraq
The nexus between terrorist s and outlaw regimes striving for or possessing nuclear, chemical weapons of mass destruction is the greatest threat to the United States and our allies. This "Briefing Room" will be constantly updated during the military operation to end Saddam Hussein's brutal and menacing regime in Iraq.

< FONT color=#294984>The Economy
The Heritage Foundation's economics team has established this "Briefing Room" to present timely and accurate research on the tax debate and the President's Economic Growth Plan. Implementing the President's Economic Growth Package could create millions of jobs nationally. To find out how the individual states will fare, click here to see the < FONT color=#294984>State-by-State Map On Job Growth.

Health Care
Read The Heritage Foundation's suggestions on how to reform Medicare; increase choices,

Personnel Management; **Walt Francis**, Public Policy Network; **Bob Moffit** and **Mike Franc**, The Heritage Foundation. Wednesday, **April 16th**, 12:00 noo n - 1:30 p.m. **311 Cannon** House Office Building. &nbs p; ; *Lunch will be provided* Click here to RSVP ;

&nb sp; &nbs p;

improve care, and expand coverage to the uninsured.



Agenda 2003: Shaping America's Future

The issues facing the 108th Congress, from homeland security to health care to tax reform, present lawmakers with the opportunity to improve all Americans' security and prosperity. To request a copy of Heritage's Agenda 2003 or to view excerpts, contact Meredith Karre, Deputy Executive Branch Liaison (email).

Policy Experts 2003

The essential "who's who" guide to the world of public policy experts and organizations can be ordered by contacting the Heritage Foundation' s Publications Department at 1-800-544-4843, by mail at, 214 Massachusetts Avenue NE, Washington, DC 20002, or click here to order online.

The Insider

Family and Society Database

Heritage Experts

Press Room

Heritage Live Events

From: Stanzel, Scott
To: <Kavanaugh, Brett M.>;<Snee, Ashley>
Sent: 4/2/2003 9:36:38 AM
Subject: Denver Post editorial

Why the secrecy?

Wednesday, April 02, 2003 - So, what's the secret, Mr. President?

Citing a need to review "sensitive information," President Bush last week denied public access to millions of documents from the Carter administration for another three years. Originally the files were scheduled to be released later this month.

The president also stripped a Clinton executive order that said, basically, when in doubt, documents should be disclosed to the public. Now the government will err on the side of secrecy.

The administration says withholding the documents is partly a matter of national security.

In times of war, Americans are usually more than willing to oblige. But this doesn't make sense. Existing rules already allowed the Bush administration to keep secret any documents that could jeopardize national security.

So why change the 1995 executive order that automatically declassifies most government documents after 25 years? Count us among the skeptics who wonder if delaying the Carter documents is merely an attempt to create a logjam of paperwork to hold off release of Reagan-era documents.

Many advisers now serving in the Bush administration were regulars in the Reagan years. The delay will keep their words and deeds from the 1980s silent well into what would be Bush's second term and possibly beyond that.

His order, which also allows agencies to reclassify documents they have already declassified, came at 6:40 p.m. Handing out a press release that late - on something that's obviously been discussed for weeks, if not months - is a popular PR ploy to bury the story.

At that late hour, reporters would be forced to scramble for analysis, a savvy White House staff figures. The subsequent report, lacking substance and perspective, likely would be relegated to deep in the paper or newscast, especially when the nation's attention is diverted to the Middle East.

It's just another troubling move deeper into the shadows of democracy. The administration is fond of secrecy, and it's been even more so since the 9/11 terrorist attacks.

Bush has attempted to expand presidential power; has won new protection from congressional oversight; has expanded government surveillance powers; and has worked to tighten the release of historical presidential records.

We understand some documents must remain confidential. The United States cannot expose military secrets to the world to satisfy our open-records laws.

But the laws exist for a reason. The Presidential Records Act of 1978, which says executive documents belong to the government and not the president, was enacted in the dark days that followed the Watergate scandal. President Nixon had argued those papers belonged to him, not the government.

The law was passed because we had learned from our mistakes and didn't want to repeat them. Let's not make another by shuttering the windows of government and keeping the sunlight out.

Democracy only works when government is open and accountable to the people.

From: CN=Britt Grant/OU=OPD/O=EOP [OPD]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/2/2003 6:01:48 AM
Subject: : Drug Free Cincy

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Britt Grant ( CN=Britt Grant/OU=OPD/O=EOP [ OPD ] )
CREATION DATE/TIME: 2-APR-2003 11:01:48.00
SUBJECT:: Drug Free Cincy
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Hi Brett -- wanted to see if you have an answer for us on whether Bridge
is allowed to take a spot on the host committee per my fax last week.
Thanks, and I hate to bug you, but they need an answer so they can print
their invitation. Thanks!
Britt
```

From: CN=Lisa J. Macecevic/OU=OMB/O=EOP [OMB]
To: Richard E. Green/OMB/EOP@EOP [OMB] <Richard E. Green>;Lauren E. Bloomquist/OMB /EOP@EOP [OMB] <Lauren E. Bloomquist>;Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;James J. Jukes/OMB/EOP@EOP [OMB] <James J. Jukes>;James Boden/OMB /EOP@EOP [OMB] <James Boden>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/2/2003 6:11:38 AM
Subject: : 04/02 CongressDaily AM story - work on asbestos legislation being done

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Lisa J. Macecevic ( CN=Lisa J. Macecevic/OU=OMB/O=EOP [ OMB ] )
CREATION DATE/TIME: 2-APR-2003 11:11:38.00
SUBJECT:: 04/02 CongressDaily AM story - work on asbestos legislation being done
TO:Richard E. Green ( CN=Richard E. Green/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Lauren E. Bloomquist ( CN=Lauren E. Bloomquist/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:James J. Jukes ( CN=James J. Jukes/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:James Boden ( CN=James Boden/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Hatch Drafting New Asbestos Litigation Reform Legislation
ÿÿÿÿÿAides to Senate Judiciary Chairman Hatch were drafting and vetting
new concepts for asbestos litigation reform legislation Tuesday, the rough
outlines of which Hatch sketched at a private meeting last week with
insurance and other business executives.
ÿÿÿÿÿIndustry lobbyists were chewing over Hatch's proposals Tuesday at
various meetings and conference calls around town, as they and other
stakeholders were poised to meet privately with senators that evening to
continue the legislative conversation.
ÿÿÿÿÿThat meeting was organized by Sen. Christopher Dodd, D-Conn., and
included a larger circle of interested players from the insurance
industry, from defendant companies and also from labor, the trial bar and
from the broader legal community.
ÿÿÿÿÿHatch and Senate Democrats publicly and privately have emphasized the
importance of keeping the legislation bipartisan, and sources asserted
that Dodd, Hatch, Senate Judiciary ranking member Patrick Leahy, D-Vt.,
and Sen. Mike DeWine, R-Ohio, already are working closely together.
ÿÿÿÿÿSources said that the Dodd "summit," as it was billed, included some
heated exchanges, including one between representatives for the American
Bar Association and the Association of Trial Lawyers of America, but that
it ended on a positive note.
ÿÿÿÿÿAspects of the Hatch proposal were alluded to, but not directly
discussed during the meeting, several attendees said. One source described
the tenor of the entire discussion as more "philosophical" than
legislative in nature.
ÿÿÿÿÿMany sources agreed that the summit had been somewhat overtaken by
events -- namely Hatch's meeting last week in which he established a new
set of parameters for legislation, which his aides have since been
"furiously" trying to flesh out, one source said.
ÿÿÿÿÿStill, participants welcomed yet another opportunity at Tuesday's
forum to "open up" the process, another source added.
ÿÿÿÿÿReform proponents were even more heartened to see the bipartisan
nature of the meeting, which in addition to Dodd, included Hatch, Leahy
and Sens. Thomas Carper, D-Del., DeWine and Patty Murray, D-Wash.
ÿÿÿÿÿMurray made a pitch for a litigation reform bill to include
```

legislation she authored last year banning the use of asbestos-containing products.
ÿÿÿÿÿAttendees said each of the senators and most summit participants agreed that the current asbestos litigation system is in need of repair and that a legislative solution is required this year -- before the Senate's agenda gives way to the political vagaries of the 2004 election cycle.
ÿÿÿÿÿThe new legislative direction being tested by Hatch encompasses elements of proposals earlier suggested by others, but is meant to provide a way through the stalemate that had hindered consensus.
ÿÿÿÿÿAccording to several sources, the cornerstone of Hatch's plan is the creation of a "specialized court" of federal claims, or a federally established resolution body for dealing with asbestos claims, which in turn could include an administrative component, such as a trust fund.
ÿÿÿÿÿSources said Hatch envisions two "blue-ribbon" commissions, one for defendant companies and one for their insurers, being created to determine annual allocations among the various contributors to a fund that would be used to compensate victims.
ÿÿÿÿÿHatch's plan also calls for limited judicial review of the funding allocation and claimant compensation as determined by that expert body, sources familiar with the plan said.
ÿÿÿÿÿHatch apparently also agrees that some sort of medical criteria would need to be applied to deter frivolous claims and to ensure that the sickest of victims can quickly and easily get compensation; however, sources said the specifics of that criteria remained up in the air.
ÿÿÿÿÿSources said Hatch also is adamant that companies that have been targeted in the past "aren't required to pay twice" and that insurers pay in an "equitable" manner. Contributions would be flexible, based on funding needs and also would be subject to an annual cap, sources said.
ÿÿÿÿÿA Hatch spokeswoman was not available at presstime Tuesday evening to confirm these points.
ÿÿÿÿÿHatch is soliciting interest group input during this exploratory portion of the legislative process, which sources said is a precursor to more formal drafting efforts Hatch has indicated would take place in earnest over the April recess.
ÿÿÿÿÿHatch, who has repeatedly challenged the interested parties to put aside their preconceived notions and disputes over what the legislation ought to look like, is aiming for a May markup.
ÿÿÿÿÿSaid Julie Rochman of the American Insurance Association as she left Tuesday's packed meeting: "The Hill owns this process now, they're driving it. And everybody downtown should be doing everything they can to respond to that." By Pamela Barnett

From: Bumatay, Patrick J.
To: <Kavanaugh, Brett M.>
Sent: 4/2/2003 10:18:02 AM
Subject: FW: LRM IKK32 - - TREASURY Testimony on The President's Proposal to Expand and Simplify Expensing for Small Business
Attachments: tt0024achar.xls; tt0024ates.doc

-----Original Message-----

From: Kho, Irene

Sent: Wednesday, April 02, 2003 10:10 AM

To: cla@sba.gov; dol-solHeg@dol.gov; Cea Lrm; justice.lrm@usdoj.gov

Cc: Nec Lrm; Reardon, Brian; Foster, James D.; Barth, Mary C.; Mahaffie, Robert F.; Schwartz, Mark J.; Rhinesmith, Alan B.; Lyon, Randolph M.; Rasetti, Lorenzo; Dennis, Yvette M.; Rostker, David; Heath, Daniel D.; Whgc Lrm; Ovp Lrm; Dove, Stephen W.; Lobrano, Lauren C.; Allgood, Lauren K.; Swagel, Phillip L.; Foote, Christopher L.; Walsh, Maureen; Sierra, Leticia; McDonald, Katrina A.; McMillin, Stephen S.; Boden, James; Bloomquist, Lauren E.; Green, Richard E.; Jukes, James J.

Subject: LRM IKK32 - - TREASURY Testimony on The President's Proposal to Expand and Simplify Expensing for Small Business

We just received Treasury testimony on the President's proposal to expand and simplify expensing for small business for a hearing before the House Small Business's Tax, Finance, and Exports Subcommittee at 10:00 AM, tomorrow, April 3rd. Please review and provide comments to the attached testimony by 1:00 PM, today, April 2nd. Thank you.

- tt0024ates.doc << tt0024ates.doc >>

- tt0024achar.xls << tt0024achar.xls >>

LRM ID: IKK32

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Wednesday, April 2, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: Irene Kho
PHONE: (202)395-5858 FAX: (202)395-3109
SUBJECT: **TREASURY Testimony on The President's Proposal to Expand and Simplify Expensing for Small Business**

DEADLINE: **1:00 PM Wednesday, April 2, 2003**
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: We just received Treasury testimony on the President's proposal to expand and simplify expensing for small business for a hearing before the House Small Business's Tax, Finance, and Exports Subcommittee at 10:00 AM, tomorrow, April 3rd. Please review and provide comments to the attached testimony by 1:00 PM, today, April 2nd. Thank you.

DISTRIBUTION LIST

AGENCIES:
107-Small Business Administration - Richard Spence - (202) 205-6700
062-LABOR - Robert A. Shapiro - (202) 693-5500
018-Council of Economic Advisers - - (202) 395-5084
061-JUSTICE - Jamie E. Brown - (202) 514-2141

EOP:
NEC LRM
Brian Reardon
James D. Foster
Mary C. Barth
Robert F. Mahaffie
Mark J. Schwartz
Alan B. Rhinesmith
Randolph M. Lyon
Lorenzo Rasetti
Yvette M. Dennis
David Rostker
Daniel D. Heath
WHGC LRM
OVP LRM
Stephen W. Dove
Lauren C. Lobrano
Lauren K. Allgood
Phillip SWAGEL
Christopher L. Foote
Maureen Walsh
Leticia Sierra
Katrina A. McDonald
Stephen S. McMillin
James Boden
Lauren E. Bloomquist**LRM ID:** IKK32 **SUBJECT:** TREASURY Testimony on The President's Proposal to Expand and Simplify Expensing for Small Business

RESPONSE TO

LEGISLATIVE REFERRAL

MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) faxing us a memo or letter.

Please include the LRM number and subject shown above.

TO: Irene Kho Phone: 395-5858 Fax: 395-3109

Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

TESTIMONY OF GREGORY F. JENNER,
DEPUTY ASSISTANT SECRETARY (TAX POLICY),
UNITED STATES DEPARTMENT OF THE TREASURY
BEFORE THE SUBCOMMITTEE ON TAX, FINANCE AND EXPORTS OF THE
HOUSE COMMITTEE ON SMALL BUSINESS
ON SMALL BUSINESS EXPENSING

April 3, 2003

Mr. Chairman, Ranking Member Pascrell, and members of the Subcommittee:

On behalf of the Administration, I would like to thank you for the opportunity to appear before you today regarding the President's proposal to expand and simplify expensing for small business. As you know, the proposed amendment to section 179 of the Internal Revenue Code is a key component of the President's Jobs and Growth package.

Current Law

Under current law, section 179 provides that, for taxable years beginning in 2003, in lieu of depreciation a taxpayer with annual investment below a certain level may elect to deduct up to $25,000 of the cost of qualifying property placed in service for the taxable year. In general, qualifying property includes tangible personal property, purchased for use in the active conduct of a trade or business, which is subject to an allowance for depreciation. Off-the-shelf computer software, however, is excluded from current expensing under section 179 due to its classification as intangible property for purposes of federal income taxation.

The $25,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $200,000. Neither the $25,000 nor the $200,000 amounts are indexed for inflation.

An election under section 179 must be made for each taxable year the expense deduction is claimed for qualifying property. The election must provide certain specific information as required by the statute and the corresponding income tax regulations, and the election must generally be attached to the taxpayer's tax return for the taxable year to which the election applies. Once made, the election can only be revoked with the consent of the Commissioner and current regulations provide that such revocation will only be granted in extraordinary circumstances.

Section 179 is generally viewed as a simplification measure for small business to obtain a current deduction for property used in their trade or business. Current expensing of depreciable assets significantly reduces the administrative complexity that would otherwise exist if such assets were recovered over a number of years under the general

depreciation rules. Section 179 also provides small businesses with a lower cost of capital for their depreciable assets.

Administration's Proposal

In an attempt to increase the tax benefits available to small businesses, simplify tax compliance requirements, reduce record-keeping burdens, and encourage and stimulate investment by small businesses, the Administration has proposed significant modifications to section 179 specifically designed to meet these important policy goals. The Administration's proposal under section 179 would do the following:

(1) triple the maximum dollar amount that may be expensed to $75,000 (from $25,000) for qualifying property placed in service in 2003 and thereafter;
(2) index annually for inflation the amount that can be expensed each year (beginning in 2004);
(3) increase to $325,000 from $200,000 the point at which the benefits of section 179 begin to phase out, effective for qualifying property placed in service in 2003 and thereafter (and index such amount annually for inflation);
(4) include off-the-shelf computer software as qualifying property; and
(5) permit taxpayers to make or revoke expensing elections on amended returns without the consent of the Commissioner.

As you can see Mr. Chairman, this proposal has significance far beyond increasing the amount that can be expensed each year.

The benefits of the Administration's proposal on small business taxpayers as well as the overall economy are many. For example, expensing encourages investment by lowering the after-tax cost of capital purchases compared to claiming annual depreciation deductions. We estimate that for a typical 7-year asset, expensing would reduce its cost of capital from 0.056 (excluding the benefits of the temporary 30 percent partial expensing provision) to 0.041. This benefit is equivalent to an investment tax credit rate of 8.5%, assuming a full basis adjustment. In addition, the Administration's proposal to increase the annual deduction limitation will encourage small businesses to increase their capital investment as a result of the reduced after-tax cost while simultaneously stimulating the economy vis-à-vis an increase in the manufacture of capital goods.

Second, expensing is far simpler than claiming regular depreciation deductions. This is particularly helpful for small taxpayers less able to afford sophisticated tax planning advice. Economic data indicate that of all taxpayers that claimed a section 179 deduction in 1999, 69% of those taxpayers were sole proprietorships or individual farmers. The proposal will further simplify tax compliance requirements by eliminating the often tedious task of depreciating fixed assets over a number of years. The current $25,000 threshold is low enough that taxpayers often are able to expense only a portion of an asset's purchase price. The taxpayer is required to depreciate the balance, which eliminates any simplification benefits. Capital investment for small businesses in particular is likely to be sporadic, varying substantially year by year. One year a business

may make no capital purchases and in the next buy a $50,000 piece of equipment. Under current law, they would receive none of the simplification benefits of expensing. By raising the limit to $75,000, the President's proposal will allow many more taxpayers to avoid the complexity inherent in depreciation.

Third, raising the amount of total investment at which the phase-out begins increases the number of taxpayers eligible for Section 179 expensing, thus simplifying the tax compliance and record keeping burden for a significant number of small business taxpayers. Without this change, the benefits from the proposed increase in the amount that can be expensed from $25,000 to $75,000 would be much more limited.

Fourth, current section 179 precludes off-the-shelf computer software from being expensed. This is confusing and inconvenient to many taxpayers who buy a computer, expense it, but then have to depreciate (amortize) the software they bought to run on the computer. The simplification gains of expensing the computer are largely lost if the software has to be depreciated. Current law also places purchased software at a disadvantage relative to software developed specifically for the taxpayer. Under current law, the cost of packaged software that is purchased "off-the-shelf" is amortized over 36 months whereas costs to develop software are generally permitted to be expensed as incurred. The Administration's proposal to include computer software as qualifying property eligible for immediate expensing will increase the scope of property eligible for current expensing, provide similar treatment relative to developed software, and further simplify the tax compliance burdens of small business.

Finally, current law section 179 does not permit taxpayers to revoke their 179 election on an amended return. While the tax code does not generally allow elections to be made on amended returns, the Administration believes an exception is justified in this instance. Taxpayers, such as small businesses, without the resources to hire experienced tax advisors, are often unaware of the advantages or disadvantages of the increased deduction. Therefore, to permit elections to be made or revoked on an amended return will provide flexibility to these smaller businesses in determining whether the election is to their advantage and will permit the less-advised taxpayers to avail themselves of the benefits offered under section 179.

Usage of Section 179 Under Current Law and Under the Administration's Proposal

Table 1 provides data on the usage of section 179 in 1999 (the most recent year for which data is available) by type of business. It shows that 4.2 million small businesses claimed $26.1 billion in section 179 deductions.[1] Most of these businesses – 61 percent – were sole proprietorships. Twenty-seven percent were corporations (11 percent C corporations and 16 percent subchapter S corporations), 8 percent were farms, and 4 percent were partnerships. Sole proprietorships also claimed the largest amount of section 179 deductions -- $11.2 billion -- followed by corporations with $10.5 billion, farms with $2.9 billion, and partnerships with $1.5 billion.

---

[1] The limit on section 179 deductions was $19,000 in 1999.

While sole proprietorships were the most numerous users of the section 179 deduction, they claimed the smallest amount on average -- $4,400 compared to over $8,000 for all other types of businesses. (Table 1, column 5.) Also, sole proprietorships claiming some expensing had on average the smallest amounts of investment in section 179 property that they did **not** claim for the deduction. (Table 1, column 7.) This is not surprising because sole proprietors are more likely to be providing services and operating in less capital-intensive industries than are other forms of business organization.

Table 2 shows the amount of section 179 deductions claimed broken out by the amount of total investment in section 179 property. It shows that the vast majority of businesses using section 179 make only small amounts of investment, whether or not it is expensed.[2] In 1999, when the maximum deduction allowed under section 179 was $19,000, businesses with an investment of less than $25,000 in property that would qualify for section 179 treatment represented 85 percent of all businesses claiming section 179 and 61 percent of the investment expensed. Businesses investing more than $75,000 in the types of property that could qualify for section 179, on the other hand, represented only 4 percent of all claimants but 10 percent of the section 179 deductions claimed. Not surprisingly, businesses with less than $25,000 of investment in qualifying section 179 property had little investment that they were not already expensing (on average $1,400) and would be less likely to benefit as much from an expansion in section 179 eligibility as would firms already making larger investments in qualifying section 179 property. (See column 7.)

There are at least two ways to examine which businesses would benefit from the Administration's proposal. One way would be to look at businesses who would qualify for larger section 179 deductions under the proposal than under current law, without any changes in their behavior. Another way would be to look at businesses for which the proposal provides an incentive to change their behavior and increase their investment in order to receive more generous treatment than they would under current law. Table 3 takes the former no-change-in behavior approach to benefits, and Table 4 looks at businesses that the proposal might encourage to make larger investments.

At 1999 levels of investment, about one-half million small businesses would have directly benefited if the Administration's proposed deduction and phase-out limits had been in effect rather than current 2003 law. (Table 3) This figure represents businesses that had enough business income and who made enough investment that they could have claimed a larger section 179 deduction under the higher limits of the proposal, with no change in behavior on their part. Interestingly, more of these beneficiaries were S corporations than any other type of business, followed by C corporations. Although a majority of current users of section 179 are sole proprietorships, they represent only 23 percent of the direct beneficiaries.

Businesses who could have claimed higher section 179 deductions under the more generous limits are only one group who would benefit from the Administration's

---

[2] This total amount of investment in property that could qualify for section 179 expensing is referred to here as "potential section 179 investment."

proposal. The more generous provisions also provide incentives for a number of businesses to increase their investment in property qualifying for section 179 expensing. As Table 4 shows, the Administration's proposal provides an incentive for 1.8 million small businesses, or 42 percent of all businesses claiming section 179 deductions, to increase their investment in qualifying section 179 property. (Column 2) These were businesses that had expensed some but less than $75,000 in section 179 property in 1999 and that had adequate business income to qualify for a larger deduction. The proposal would provide an incentive to increase investment to approximately two-thirds of all S corporations and partnerships who currently claim section 179. Because sole proprietorships make up such a large share of the current users of section 179, sole proprietors represent over half of the businesses that would be encouraged to increase their investment. (Column 3)

These measures of the number of small businesses that would benefit from the Administration's proposal – either directly with no change in behavior or by responding to new incentives to increase investment -- are a lower bound on the number of businesses that would be helped by the proposal. These counts do not include firms that will now be able to expense software purchases, which would make or revoke section 179 elections on amended returns, or might for the first time be encouraged by the more generous expensing previsions to purchase qualifying section 179 property. In addition, these figures don't capture the total number of small businesses that in a 5-year period would at some point be able to benefit from expanded eligibility for section 179.

Conclusion

Consequently, Mr. Chairman, the Administration believes that this proposal presents a winning combination of benefits: powerful incentives for small businesses to invest and grow, important simplification, and reduced recordkeeping. With the other components of the President's jobs and growth package, the proposal will improve the climate for small businesses to lead the way to a stronger economy.

Document Produced Natively

From: GaryM Stern <garym.stern@nara.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Catherine Lotrionte/PFIAB/EOP@EOP [PFIAB] <Catherine Lotrionte>;Nancy Smith <nancy.smith@nara.gov>
Sent: 4/2/2003 7:49:25 AM
Subject: : Request by PFIAB for access to their PRA records at NARA

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:GaryM Stern <garym.stern@nara.gov> (GaryM Stern <garym.stern@nara.gov> [UNKNOWN])
CREATION DATE/TIME: 2-APR-2003 12:49:25.00
SUBJECT:: Request by PFIAB for access to their PRA records at NARA
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Catherine Lotrionte (CN=Catherine Lotrionte/OU=PFIAB/O=EOP@EOP [PFIAB])
READ:UNKNOWN
CC:Nancy Smith <nancy.smith@nara.gov> (Nancy Smith <nancy.smith@nara.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

** High Priority **

Brett:
Nancy Smith received a call and e-mail from Catherine Lotrionte, the PFIAB counsel, asking for access to PFIAB records (that are in NARA's legal and custody and are currently maintained by Nancy's staff at Archives 1) per the attached request from General Scowcroft. This report may be in Reagan or Bush Presidential records, and, if so, we would need your approval for this request under ongoing business of the incumbent, 44 USC 2205(2)(B).

To faciliate in the future these requests by PFIAB to its records from former administrations, you might want to write a letter similiar to the one that NARA received from Timothy Flanigan at the beginning of the Bush Administration establishing a routine procedure for NSC asking NARA for NSC Presidential records from former administrations. I can fax you a copy of that letter if you would like.

All we need right now to begin the search for this particular report, and to proceed with a notification of the former President's representative once we have located it, is your authorization, which you can do in response to this e-mail.

Please let either Nancy or me know if you have any questions or concerns.
Thanks.

GARY M. STERN
General Counsel
National Archives and Records Administration
8601 Adelphi Road, Suite 3110
College Park, MD 20740-6001
301-837-1750 (main)
301-837-3026 (direct)
301-837-0293 (fax)
Date: Wed, 02 Apr 2003 12:41:42 -0500
From: "Nancy Smith" <nancy.smith@nara.gov>
Subject: Fwd: Per Our Phone Conversation
To: "GaryM Stern" <garym.stern@nara.gov>
MIME-version: 1.0
Content-type: message/rfc822
Content-transfer-encoding: 7BIT
Received: from webshield2.nara.gov by smtp.nara.gov; Wed, 02 Apr 2003 12:07:24 -0500
Received: from eop151.eop.gov(198.137.241.51) by webshield2.nara.gov via csmap id 18395; Wed, 02 Apr 2003 12:06:20 -0500 (EST)

Received: from CONVERSION-DAEMON by EOP.GOV (PMDF V5.2-33 #41062) id
<01KU927TLNDCAAZDGH@EOP.GOV> for nancy.smith@nara.gov; Wed, 2 Apr 2003
12:07:23 EST
Received: from mhub2.eop.gov ([198.137.241.12]) by EOP.GOV (PMDF V5.2-33
#41062) with ESMTP id <01KU927SB9HEAAZEBQ@EOP.GOV> for
nancy.smith@nara.gov; Wed, 02 Apr 2003 12:07:22 -0500 (EST)
Received: from sgeop03.eop.gov ([165.119.1.37]) by mhub.eop.gov (PMDF
V6.1-1 #41014) with SMTP id <01KU927IC1E2AM5322@mhub.eop.gov> for
nancy.smith@nara.gov; Wed, 02 Apr 2003 12:07:08 -0500 (EST)
Received: by sgeop03.eop.gov(Lotus SMTP MTA v4.6.7 (934.1 12-30-1999)) id
85256CFC.005E080C ; Wed, 02 Apr 2003 12:07:04 -0500
Date: Wed, 02 Apr 2003 12:06:58 -0500
From: Catherine_Lotrionte@pfiab.eop.gov
Subject: Per Our Phone Conversation
To: nancy.smith@nara.gov
Cc: Randy_W._Deitering@pfiab.eop.gov
Message-id: <85256CFC.005E0679.00@sgeop03.eop.gov>
MIME-version: 1.0
Content-type: text/plain; charset=us-ascii
Content-disposition: inline
X-Lotus-FromDomain: EOP
Nancy,
As I mentioned to you on the phone I am presently working on an assignment
from
General Scowcroft related to unauthorized leaks of classified information.
Specifically, relating to proposals for leaks legislation in this area.
I am under the impression that PFIAB has a report on the subject matter.
Could
you assist me in getting any prior reports that might have been done by
PFIAB or
the IOB on the subject.
Thank you,
Catherine Lotrionte
Counsel, PFIAB
(202) 395-9123

From: Leitch, David G.
To: <Kavanaugh, Brett M.>;<Ullyot, Theodore W.>
Sent: 4/2/2003 11:53:52 AM
Subject:
Attachments: UofCspeech.doc

I'd appreciate any thoughts you might have on my speech. I haven't even fully reviewed it yet, but I wanted to get it to you sooner rather than later for any suggestions you might have.

Remarks of David G. Leitch
Deputy Counsel to the President
April 3, 2002
University of Chicago Federalist Society

It's a pleasure to be with you this afternoon. Before coming out to Chicago, I had the opportunity to scan your web page and to review the impressive list of speakers the Federalist Society has brought to the University during this academic year. I must say it's a rather impressive list; I'm not sure who cancelled on you that you ended up with me, but they definitely owe you. But here I am, so let's see if I can provide you with some insights from the Nation's capital, and to leave ample time for your questions and discussion.

Before I turn to those thoughts, however, I did want to note that this law school has been particularly good to the White House Counsel's office under President Bush and his Counsel Alberto Gonzales. From the earliest days of this Administration, Noel Francisco – a 1996 graduate of this institution – has faithfully served as an Associate Counsel to the President with great skill and dedication. Kyle Sampson, also from the class of 1996, began his service to the Administration in Presidential Personnel, and oversaw much of the selection of lawyers in the early days of the Bush term before moving to Counsel's office. And we recently added to our ranks Ted Ullyot, class of 1994, as another Associate Counsel, fresh from a stint as General Counsel of AOL Time Warner – Europe. Many thanks to this institution for training up these three fine lawyers.

REV_00161717

Our office is also grateful to the Federalist Society for its contributions to the legal culture over the past 20 years. In earlier years, a note of thanks to the Society would have been very natural; now that the Society has become something of a bogeyman for attacks from the left, however, one approaches such a courtesy with some trepidation. Given what has been written about the Federalist Society in the past two years, one unfamiliar with its true purpose and contribution would probably be reluctant to venture anywhere near a meeting of such a dangerous organization bent on subverting our Constitutional system.

Fortunately, my experience with this organization is not limited to what I read in recent press, but comes first-hand from attending some of its meetings in DC, personal interaction with its leadership, and working with members of the Society in our office and elsewhere. In light of that experience, I'm happy to say thank you for continuing to contribute to and conduct the important debates concerning our legal system. While the views of individual members of the Federalist Society are always open to debate, it's hard for me to argue with the Society's stated goals – which place a premium on individual liberty, traditional values, and the rule of law.

Perhaps it will seem obvious, but I have to tell you what a thrill and a privilege it is to serve in the White House on a daily basis. Each day brings a wide variety of activity, accomplishments, pride, and emotion. I remain as awed by it today as the first day I entered the White House as a tourist -- and particularly more awed and humbled by being one of the fortunate few who actually work in the White House's West Wing. Because I

REV_00161718

know that even among this distinguished crowd many of you will never have the privilege of experiencing a visit to the White House first hand, I thought it would be worth taking some of my time today to share with you in some detail what it's like to have the West Wing as your place of employment.

In the Counsel's office, our day begins very early. I usually pass through the three gates necessary to reach my parking spot by around 6:30 each morning. At the first gate, I shut off my engine and open my trunk so that a bomb-sniffing dog can do its work. That activity, while somewhat routine by now, always serves as a reminder of the times in which we live, and the significance of the building in which I go to work each day.

While I was not at the White House on September 11, it doesn't take much of an imagination to picture the fear and horror that gripped that building on a day when terrorists targeted some of our most visible landmarks and centers of power. I can tell you that those who were in the building on that day forever changed their perspective on life and death, good and evil, and the war on terror. While Churchill famously described the experience of being shot at without result as exhilarating, it also has a way of focusing one's mind and effort. Certainly our President has demonstrated such focus and resolve against those who would target our nation. Having a dog sniff my car for bombs each morning is simply a small reminder of all that's changed in the last two years.

By the time I pass through the third gate each morning to park my car just a few yards from the entrance to the West Wing, however, I am routinely filled not with fear or

REV_00161719

caution but with awe and inspiration. The West Wing celebrated its 100th anniversary last year, and it boggles the mind to think that I go to work to serve the President each day in the place where so many of the defining moments of our history occurred – including those that gave rise to a resignation and an impeachment of two Presidents in the last three decades. Long before it was a popular TV show, the West Wing was emblazoned on the American mind as the symbolic and actual nerve center of Executive Power under our Constitutional system.

After parking my car, I enter the small ground floor lobby of the West Wing, passing by the latest photos of the President in action at the White House. These "jumbos" are produced as a result of the nearly constant presence of a photographer with the President. As if it weren't obvious enough that working in the White House is a matter of history, one has little opportunity to forget that fact when every meeting in the Oval Office begins with a photographer snapping pictures. The best and most historic of these pictures are hung around the West Wing on a fairly current basis. For example, the first picture inside the door this week and last is a picture of the President, the Vice President, Chief of Staff Andy Card, and CIA Director George Tenet discussing the plans to conduct the first bombing raids on Iraq two weeks ago.

After moving through the lobby, one passes the White House Situation Room on the right. I've only attended a few meetings in that room, but again, one need only think for a moment to imagine the historic events that have occurred in that piece of real estate. Most recently, on the morning of March 19th, the President sat in the Situation Room in

REV_00161720

the basement of the White House surrounded by his war council: the Vice President, Secretary of State, Secretary of Defense, Chairman of the Joint Chiefs of Staff, CIA Director, Chief of Staff and National Security Advisor.

During that morning's meeting the President received a status briefing through video teleconferencing from the Commander of Central Command, General Tommy Franks, and the other area commanders in the Gulf Region. Each area commander gave a short briefing and announced his troops fit and ready to go.

The President asked each whether they had everything necessary to win the war in Iraq. To a man, the answer was yes. After everyone had briefed, the President turned to the largest of the half dozen television monitors and said, "Tommy, I have been fully briefed by the Secretary of Defense. For the sake of the peace of the world, and for the sake of the peace and freedom of the Iraqi people, I hereby give the order to execute Operation Iraqi Freedom."

Pausing, the President said with emotion, "Tommy, may God bless the troops." General Franks replied, "Mr. President, May God Bless America." Franks then smartly saluted the Commander in Chief. The President returned the salute, stood and left the situation room. And so began the latest effort to enforce disarm Saddam Hussein and to enforce the terms of the cease fire embodied in UN Resolution 687 – which coincidentally was passed by the Security Council 12 years ago today. That's only the latest of the many historic events that have occurred in the highly secure situation room.

REV_00161721

From the situation room, the next floor up is the nerve center of the White House -- the Oval Office, the Roosevelt Room, the Cabinet Room, the Press Room, the Chief of Staff's Office, and the National Security Advisor's Office. I proceed to my office on the second floor – usually by taking the stairs, which these days seems to be my only form of exercise. On the second floor, where I work, office space is occupied by Assistants and Deputy Assistants to the President responsible for Economic Policy, Domestic Policy, Communications, Presidential Personnel, and Legislative Affairs.

The White House Counsel's office has a small suite of three rooms in the West Wing, where Judge Gonzales and I work along with three assistants. The remainder of our attorneys and staff work in the Eisenhower Executive Office Building next door to the White House. Although the position of White House Counsel is not nearly as old as the West Wing itself, the office in which Judge Gonzales sits has been occupied by some leading luminaries of the Washington bar – Fred Fielding, Abner Mikva, Lloyd Cutler, and Chuck Ruff – and perhaps most famously, John Dean, President Nixon's lawyer during the Watergate era.

My office – a compact 12 x 15 piece of prime real estate – is just next door to that of the White House Counsel himself. While its occupants have for better or worse not gained the notoriety of their immediate superiors, the office was formerly occupied by Vince Foster, President Clinton's old friend from Arkansas who tragically took his own life after a short stint as Deputy White House Counsel.

REV_00161722

It was as he departed from the very office in which I now work that Mr. Foster was last seen alive, and it was in that office that his now-famous suicide note was found. It was in that note he penned the bitter sentiment that summed up his six months in the Clinton Administration: "In this town ruining people is considered a sport." That chilling assessment – written ten years ago in my office – is a sobering reminder of the pressures and demands of the job; it's certainly not all excitement and glamour. Knowing the very real costs that some have paid to hold this position, I pray each day as I enter the office for God's grace, wisdom, and humility.

My commute usually finds me in my office just before 7 am. Invariably, I find Judge Gonzales already there looking through five morning newspapers. The White House in general – including our office – is keenly aware of each day's news stories both because of the need to respond to charges and allegations and to know the upcoming issues of the day.

On many days, Judge Gonzales heads down to the Oval Office just after 7 am to discuss issues and decisions with the President. As press reports have indicated, Judge Gonzales is remarkably close to the President, and the President places high value on the wise counsel he receives from his long-time friend and counselor. These two men have a long history together. In Texas, Gonzales served as General Counsel to Governor Bush for three years. He then served as Texas' 100th Secretary of State from December 2, 1997 to January 10, 1999. Among his many duties as Secretary of State, Gonzales was a senior

REV_00161723

advisor to then Governor Bush, chief elections officer, and the Governor's lead liaison on Mexico and border issues. After serving as Secretary of State, he was appointed to the Texas Supreme Court in 1999. Upon his election in 2000, President Bush quickly tapped to Judge Gonzales come to Washington and serve as Counsel to the President, and Gonzales readily agreed to this exciting challenge.

By no means a Washington insider at the time of his appointment, Judge Gonzales has certainly proven to be the right man for the job. I did not know Judge Gonzales well when he asked me to come to the White House to serve as his deputy. Based on four months of working closely with him on a daily basis, however, I can say that it has indeed been a high privilege of my legal career to date. He is a phenomenal lawyer, a dedicated public servant, a wise counselor, and an incredibly decent man. He has been a staunch but fair defender of the President's prerogatives, a steady hand on difficult legal issues arising after the events of September 11, 2001, a fierce enforcer of ethical standards in the White House and among presidential appointees, and a wise overseer of the judicial selection process. Under Judge Gonzales' direction, our office is guided by two unwavering principles – strict adherence to the rule of law, and constant attention within the bounds of the law to the question: "What best serves the President?"

Under the direction of White House Chief of Staff Andy Card, senior staff of the White House gathers every morning at 7:30 in the Roosevelt Room, located across the hall from the Oval Office. I am privileged to attend those meetings when Judge Gonzales is unable

REV_00161724

for one reason or another to attend. Each meeting begins with Brad Blakeman, the President's scheduler, announcing the President's public schedule for that day.

Ari Fleischer then ticks off the headlines from newspapers around the country. Often he solicits guidance on how he should respond to a particular story if asked at his daily press briefings. We frequently follow up with Ari following the meeting to discuss particular questions he might receive concerning the legal basis for actions the Administration is taking, or legal positions it might be taking in court.

David Hobbs, the Legislative Director, reports on pending legislation and raises other issues of interest involving the Congress. Following David, we go around the table, reporting as necessary. Dr. Rice, for example, might discuss the latest issue involving events in Iraq. Admiral Abbot, the Acting Homeland Security Advisor might explain the latest homeland threat assessment.

Immediately afterwards, Judge Gonzales and I gather in his office with our staff of 12 lawyers. As you might imagine, the President of the United States is often able to attract the cream of legal talent, and this President is no exception. A reporter for the Washington Post once described the current collection of talent in the Counsel's Office as the best law firm in the country.

One of our lawyers is the designated ethics expert; she handles questions about the appropriate acceptance of gifts, financial disclosures, and conflicts of interest; another

REV_00161725

lawyer is a national security law expert who reports jointly to Dr. Rice and Judge Gonzales on all National Security legal issues, and yet another lawyer reports jointly to Admiral Abbott and the Judge on all legal matters related to Homeland Security.

Another lawyer on our staff serves as Clearance Counsel. He works with the FBI, IRS and other agencies doing the background checks on all White House employees and presidential appointees. No one is employed within the Executive Office of the President or is appointed by the President unless our office clears them for suitability.

The remaining eight lawyers on our staff handle all of the many other legal issues that we have to deal with in the White House, ranging from judicial selection to judicial interpretation of Administration policies, from presidential pardons to protection of presidential power.

After our 8:15 meetings, we begin the real work of the day. As you can imagine, this is quite an interesting time to be serving in the White House, to say the least. Since I was named Deputy Counsel to the President in early December, I've been involved in matters as noteworthy as the University of Michigan affirmative action case – argued earlier this week – treatment and confinement of enemy combatants in the war on terror, the legal basis for the war on Iraq, and the continuing battle over confirmation of the President's judicial nominees.

REV_00161726

It is on this last issue that I'd like to share with you a few more detailed thoughts – particularly in light of the fact that your Professor Cass Sunstein, who is kind enough to join us here today, has recently written a rather provocative article in The American Prospect entitled "The Right Wing Assault." The title – reminiscent of the former First Lady's charge that claims her husband had an affair with an intern were fabricated by a "vast right wing conspiracy" – hints at the premise of the article that there has been afoot for the last quarter century (but only from the right) "a disciplined, carefully orchestrated and quite self-conscious effort . . . [to] radically transform[ ] the federal judiciary."

I would submit respectfully that, like most conspiracy theories, this is quite an overstatement. As one who has participated in the process by which this President selects judges, I can tell you with certainty that it's anything but a carefully-orchestrated or self-conscious effort to transform the federal judiciary. Instead, the process for selecting nominees is one designed to put excellent men and women from diverse backgrounds on the federal bench. And the men and women this President has nominated are a remarkably distinguished group of professionals committed to the rule of law and to our system of justice – not right-wing hacks or ideologues.

Working closely with Senators from both parties, for each vacancy on the federal judiciary, the Administration gathers suggestions of accomplished candidates who might fit the bill for a district or circuit court nomination. After engaging in some due diligence about the personal and professional qualifications of those suggested to us, our office – together with the Department of Justice – generally interviews three nominees for each

REV_00161727

vacancy. From my perspective, these interviews are surprisingly generalized and abstract. We do not ask nominees their views on particular legal or political issues; we do not ask nominees how they would rule on particular cases that might come before them; we do not ask nominees their views on cases that have been decided by the Supreme Court or other federal courts; we do not ask nominees to share with us advice they have given their clients; we do not ask nominees to name cases with which they disagree.

Instead, in our interviews, we seek to gather information about the legal qualifications and personal attributes of the person before us. We ask candidates about their experience as litigators, law professors, prosecutors, and the like; we ask them to describe for us what they think is important in a judge, and to tell us what attributes they possess that they believe would make them a good judge; we ask them whether they would feel obligated to follow controlling precedent; and we ask them what kind of person they are. For each nominee, we also ask a traditional series of probing and personal questions, about their background and personal conduct – including questions about past drug use, arrests, payment of taxes, and the like.

Collectively, these questions give us a good idea of the kind of person we have before us, and of what kind of judge they would be. But the interviews are neither designed nor likely to lead to the type of information that would allow us to orchestrate Professor Sunstein's so-called Right Wing Assault.

REV_00161728

Nor do the results of our process – the men and women the President has actually nominated – provide evidence of a Right Wing Assault on the judiciary. The President announced his first nominations on May 9, 2001, sending to the Senate a diverse group of 11 court of appeals nominees. The group included three women, two African American nominees, and an Hispanic. Two of the 11 were Democrats. And for the first time in history, a President nominated someone who had previously been nominated by a President of a different party but not confirmed. And Judge Roger Gregory today sits with life tenure as the first African American member of the Fourth Circuit.

But I'm not here today to defend every action taken by Republicans in the White House or the Senate with respect to the judicial nominees over the past quarter century. As both the President and Judge Gonzales have said, we fully recognize that some of President Clinton's nominees to the Circuit Courts received unfortunate treatment at the hands of the Senate. And, I'm quick to add, it's also true that some of the first President Bush's nominees were equally mistreated by the Senate in the early 1990s.

I've seen examples of each first hand. Indeed, among my fellow Rehnquist clerks and partners in practice were Allen Snyder – nominated by President Clinton to the DC Circuit yet never receiving a committee vote – and John Roberts – a preeminent appellate lawyer first nominated to the DC Circuit in 1992, and re-nominated in 2001 and again in 2003, who only this year received his first hearing and committee vote, and whose nomination still has not been brought up on the floor of the Senate.

REV_00161729

And of course, anyone who follows these matters is well aware by now of the ongoing filibuster by some Senate Democrats against Miguel Estrada's nomination to the D.C. Circuit. It's really difficult to dispute, by any historical measure, that Estrada is well-qualified to serve on the Court. He is a distinguished appellate practitioner, having argued 15 cases in the US Supreme Court. He is a partner at Gibson Dunn & Crutcher. He served for 4 years in the Solicitor General's office, under both Republican and Democrat SG's. He has been a federal prosecutor, in the Southern District of New York, and clerked in both the Second Circuit and the Supreme Court. On the basis of all of this, the ABA's judicial review committee unanimously gave him its highest ranking – "well qualified."

Were a vote taken today on Estrada's nomination, he would receive at least 55 votes and would be confirmed. But those who oppose his nomination – arguing with little basis that they don't have enough information about him – have succeeded in blocking an up-or-down vote by using the Senate's procedural rules. Knowing they cannot win on the merits, they have opted to block the Senate's ability to fulfill its constitutional advice and consent responsibility.

As a graduate of Duke University and a college basketball fan, the actions of the Senate minority in this matter remind me – during this week of the Final Four – of a game I attended while a student at Duke. In February 1979, our arch-rival the University of North Carolina came to play at Cameron Indoor Stadium. Duke was ranked #1 in the country at the time, and Carolina had a team that was not up to its usual high standards.

REV_00161730

After winning the opening tip, Carolina chose immediately to enter its fabled "four corners" offense – which was essentially a stall. Clearly, the UNC coaching staff had concluded that it could not win if it competed straight up with Duke on that day. Refusing even to take a shot, UNC simply passed the ball around from corner to corner on its offensive end of the court. Duke managed several steals during the 20 minutes of inaction, and the score at halftime was 7-0 Duke.

For long stretches during UNC's first-half stall, the fans in the stands at Cameron shouted "we want basketball." We recognized that Carolina's actions – while well within the rules – were in effect a perversion of the game itself. And not long after this extreme example of the misuse of the rules to pervert the game, the NCAA introduced a shot clock, which prohibits teams that cannot compete from simply stalling the action.

The parallels to the Estrada confirmation are, I hope, obvious. Some Senate Democrats, like the UNC coaching staff, have determined that they cannot win the contest on the merits. Indeed, this much is certain – there is no doubt in anyone's mind that Miguel Estrada would be confirmed if the Senate would hold an up-or-down vote on his nomination. Taking advantage of current rules that permit them to avoid the contest, these members of the Senate have, like the Carolina basketball team, chosen to do just that.

The question then, is whether there is a way out of this conundrum. Those that governed college basketball responded to stalling tactics by adopting rules that force the action.

REV_00161731

And in the context of judicial confirmations, there is a ready rule-based solution that all should find fair and acceptable.

Last year, in fact, the President proposed a series of procedures that we believe would permit fair debate – and resolution – of judicial nominations. These procedures would apply no matter which party controls the White House or the Senate.

In brief, the President proposed that: (1) upon receiving notice of a federal court vacancy or intended retirement, Presidents should submit a nomination to the Senate within 180 days; (2) the Senate Judiciary Committee should hold a hearing within 90 days of receiving a nomination; and (3) the full Senate should hold an up-or-down floor vote within 180 days of receiving a judicial nomination. Adoption of these common sense rules would permit ample time for consideration of nominees and would ensure that both the President and the Senate fulfill their constitutional responsibilities to fill vacancies in our judiciary rather than engage in extended debates about whether or not to have a vote on a particular nominee.

Both the White House and the Senators will win some and lose some under these proposals, but there will be resolution and progress. In the President's view, both the process and the American people – not to mention the judiciary itself – would come out as winners if these fair procedures were adopted. The current system is obviously broken, and the President has proposed a fair and workable solution. And he is living up to his part of the proposed bargain by nominating candidates to the bench within 180

REV_00161732

days of the vacancy or of learning of the vacancy. It would be a vast improvement for all concerned if the Senate would follow suit and agree to hold hearings and votes in timely fashion.

What's more, predicting the outcome of any competition – if that's what this is – is always a dicey proposition. After stalling for the first half of its game with Duke back in 1979, UNC emerged from the locker room and played straight up in the second half, without stalling. Scoring in the second half was 40-40, giving Duke a 7 point margin of victory based on the cushion it had built up in the first half. Perhaps Carolina returned to Chapel Hill that night wondering if it could have prevailed by simply playing basketball.

And just maybe Senators of both parties should wonder if, in the long run, they'd be better off regularizing the procedures and permitting hearings and up or down votes on all judicial nominees within a reasonable period of time. While we recognize that the Senate is of course fully empowered under Article I to "determine the Rules of its Proceedings," I respectfully submit that the Senate itself, the judiciary, the executive, and the nation itself would be well served to adopt the President's proposal.

REV_00161733

From: FindLaw.com <listadmin@LEGALMINDS.ORG>
To: USSC-CASELAW@LEGALMINDS.ORG [UNKNOWN] <USSC-CASELAW@LEGALMINDS.ORG>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 4/2/2003 10:54:44 AM
Subject: : [USSC-CASELAW] FindLaw Daily Opinion Summaries for 04/02/03

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"FindLaw.com" <listadmin@LEGALMINDS.ORG> ("FindLaw.com" <listadmin@LEGALMINDS.ORG> [UNKNOWN])
CREATION DATE/TIME: 2-APR-2003 15:54:44.00
SUBJECT:: [USSC-CASELAW] FindLaw Daily Opinion Summaries for 04/02/03
TO:USSC-CASELAW@LEGALMINDS.ORG (USSC-CASELAW@LEGALMINDS.ORG [UNKNOWN])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

==========

FINDLAW DAILY OPINION SUMMARIES - April 02, 2003
U.S. SUPREME COURT
http://www.findlaw.com/casecode/supreme.html

==========

TABLE OF CONTENTS

ERISA, HEALTH LAW, INSURANCE LAW
* KENTUCKY ASS'N OF HEALTH PLANS, INC. v. MILLER

You May FREELY Redistribute This E-Mail in Whole

=- advertisement =-=-=-/

SOFTWARE TECHNOLOGY

Happy with your legal billing system? If your
initial response is anything less than "absolutely", you owe it
to yourself to check out the latest version of TABS III, the most
widely used legal-specific billing system in the U.S.

Download a FREE demo copy today.
http://rd.findlaw.com/scripts/nl.pl?url=10408896001_nl

=-/

ERISA, HEALTH LAW, INSURANCE LAW

KENTUCKY ASS'N OF HEALTH PLANS, INC. v. MILLER, No. 00-1471
(U.S.S.C. April 02, 2003)
Kentucky's "Any Willing Provider" statutes, related to potential health maintenance organization (HMO) providers, are laws which regulate insurance under 29 U.S.C. section 1144(b)(2)(A), and are saved from ERISA preemption.

To read the full text of this opinion, go to:
http://laws.lp.findlaw.com/us/000/001471.html

==========

Opinion Summaries Archive September 2000 to the Present

Click here to browse or search the archive for specific opinions:
http://caselaw.lp.findlaw.com/casesummary/index.html

=- advertisement =-=-=-/

SAVE 10% ON IBM TECHNOLOGY FOR YOUR FIRM OR HOME

FindLaw users can obtain a special 10% discount on IBM technology products, including laptops, printers, software, and servers. To receive your discount, call 1-800-426-7235 ext. 5022 (mention 'code 5022' to receive your discount) or shop online at: http://rd.findlaw.com/scripts/nl.pl?url=10252476001_nl

=-=-=-=-=-=-=-=-=-=-=-=-=- Accredited Online CLE Programs =-=-=-=-=-=-/

FOURTH ANNUAL SUPREME COURT REVIEW: OCTOBER 2001 TERM
Practising Law Institute brings you this highly informative and intellectually stimulating program which analyzes and debates the leading decisions of the present term of the United States Supreme Court. You won?t want to miss this on-demand program for your MCLE needs.

http://rd.findlaw.com/scripts/nl.pl?url=ussc_cle_1041628367

=- westgroup.com =-=-=-=-=-=-=-=-=-=-=-/

Attorney Client Privilege in the U.S. 2d. The single source for everything you need to make sure that you protect your clients and yourself.
Buy online today or call 1-800-344-4912.

http://rd.findlaw.com/scripts/nl.pl?url=ussc_book_1041628411

=-=-=-=-=-=-=-=-=-=-=-=-=-=-=-=-=-=-=-

From: Sampson, Kyle
To: <Gonzales, Alberto R.>
CC: <Leitch, David G.>;<Kavanaugh, Brett M.>
Sent: 4/2/2003 4:37:30 PM
Subject: CA4 (Va.)

I now am in possession of the Widener letter.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jay P. Lefkowitz/OPD /EOP@EOP [OPD] <Jay P. Lefkowitz>
Sent: 4/2/2003 5:48:16 PM
Subject: : Re: Michigan

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 2-APR-2003 22:48:16.00
SUBJECT:: Re: Michigan
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
End Original ARMS Header

No. Struck down but with oconnor articulating a rationale that allows
race to be a factor so long as limited in duration.

.

----- Original Message -----
From:Jay P. Lefkowitz/OPD/EOP@Exchange
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 04/02/2003 09:19:22 PM
Subject: Michigan

Did you mean to suggest that you think Mich programs are upheld?
.

From: CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO]
To: David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;Alberto R. Gonzales/WHO/EOP@Exchange [WHO] <Alberto R. Gonzales>
Sent: 4/3/2003 3:09:06 AM
Subject: :

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 3-APR-2003 08:09:06.00
SUBJECT::
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

See the item on page A2 of today's WSJ re seizure of Iraqi assets.
.

From: CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO]
To: David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;Alberto R. Gonzales/WHO/EOP@Exchange [WHO] <Alberto R. Gonzales>
Sent: 4/3/2003 3:09:06 AM
Subject: :

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 3-APR-2003 08:09:06.00
SUBJECT::
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

See the item on page A2 of today's WSJ re seizure of Iraqi assets.
.

From: CN=John B. Bellinger/OU=NSC/O=EOP [NSC]
To: Philip J. Perry/OMB/EOP@EOP [OMB] <Philip J. Perry>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Holly T. Moore/NSC /EOP@EOP [NSC] <Holly T. Moore>
Sent: 4/3/2003 7:39:42 AM
Subject: : Hollings Amendment

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP [ NSC ] )
CREATION DATE/TIME: 3-APR-2003 12:39:42.00
SUBJECT:: Hollings Amendment
TO:Philip J. Perry ( CN=Philip J. Perry/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Holly T. Moore ( CN=Holly T. Moore/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Phil: Per discussion, can Holly Moore of our office come down and have a
look at the Hollings Amendment that Dave Addington has spotted? Whom
should she contact? John
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Lauren J. Vestewig/OPD/EOP@Exchange [OPD] <Lauren J. Vestewig>
Sent: 4/3/2003 5:24:36 AM
Subject: : Re: Msg from Brett

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 3-APR-2003 10:24:36.00
SUBJECT:: Re: Msg from Brett
TO:Lauren J. Vestewig (CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
End Original ARMS Header

Did you send this to Jay?

From: Lauren J. Vestewig/OPD/EOP@Exchange on 04/03/2003 10:24:14 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Msg from Brett

He will be a little late to the Victims meeting because he has to do an OPL briefing at 10:30.; He said to start without him.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Holly T. Moore/NSC/EOP@EOP [NSC] <Holly T. Moore>
Sent: 4/3/2003 11:51:03 AM
Subject: : Re: omb

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 3-APR-2003 16:51:03.00
SUBJECT:: Re: omb
TO:Holly T. Moore (CN=Holly T. Moore/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
End Original ARMS Header

great

Holly T. Moore
04/03/2003 04:50:29 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: omb

went to see phil perry. he sent me to rodney bent, i have faxed rodney bent the points and hope to hear back soon. i asserted in my fax to omb that you were fine with the points and saying that the admin opposes. h

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Lisa J. Macecevic/OMB/EOP@EOP [OMB] <Lisa J. Macecevic>
Sent: 4/3/2003 8:48:18 AM
Subject: : Re: FYI - Class Action Bills
Attachments: P_631BF003_WHO.TXT_1.doc; P_631BF003_WHO.TXT_2.doc; P_631BF003_WHO.TXT_3.doc; P_631BF003_WHO.TXT_4.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 3-APR-2003 13:48:18.00
SUBJECT:: Re: FYI - Class Action Bills
TO:Lisa J. Macecevic (CN=Lisa J. Macecevic/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
End Original ARMS Header

This is great. Thanks.

From: Lisa J. Macecevic on 04/03/2003 01:41:25 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: FYI - Class Action Bills

FYI, here is some basic information on class action bills from the 107th and 108th Congress:
In the 107th - the Senate introduced S. 1712 and the House passed H.R. 2341.
In the 108th - the Senate has introduced S.274 and the House H.R. 1115. S. 274, which was scheduled to be marked up this morning by the Senate Judiciary Committee, is, for all practical purposes, identical to S.1712 from the 107th.
H.R. 1115 from this Congress is a mix between the last years House bill and the Senate bills.
The Administration issued a SAP strongly supporting H.R. 2341 in March 2002. Here is a link to the SAP:
http://www.whitehouse.gov/omb/legislative/sap/107-2/HR2341-r.html

I have attached a side-by-side comparison of S. 274 (as introduced), H.R. 1115 (as introduced), and H.R. 2341 (as passed the House in the 107th), as well as individual comparisons so you can track the exact word changes between the bills if so desired. Also, below, are several recent stories on the topic. (I will update this information if necessary based on what happens in today's markup.) I hope you find this helpful.

Comparison Chart:

Red-line, strike-through comparisons of bills one-on-one:

CQ TODAY) April 2, 2003
Class Action Lawsuit Measure Aims to Send More Cases to Federal Court
By Keith Perine, CQ Staff
The Republican effort to overhaul tort laws will be on display Thursday when the Senate Judiciary Committee marks up legislation to send more class action lawsuits to federal rather than state courts.
The bill (Sÿ274) would make it easier to try the cases in federal courts if more than $2 million is at stake and at least one member of the class of plaintiffs is a citizen of a different state than the defendant.

Some exceptions are possible, such as if a "substantial majority" of the plaintiffs and the primary defendants are citizens of the state in which the lawsuit was filed.
Supporters say the bill is needed to curb civil litigation abuses by plaintiffs' attorneys who file cases in state courts that are perceived as sympathetic to plaintiffs. Opponents say the bill would unfairly raise the bar for defendants seeking damages from corporations.
The committee is expected to approve the measure. Chairman Orrin G. Hatch , R-Utah, and other bill proponents are trying to line up Democratic support, with an eye toward garnering a filibuster-proof 60-vote majority.
Dianne Feinstein, D-Calif., has been in negotiations with Republicans to narrow the criteria by which civil cases could be transferred to federal courts.
Feinstein, who opposes the bill in its current form, wants to specify that a "substantial majority" of plaintiffs would be defined as two-thirds of the class members. She also is interested in increasing the $2 million threshold.
Richard J. Durbin, D-Ill., who also opposes the bill, said he plans to offer an amendment that would exempt tobacco-related lawsuits. Durbin pointed to a recent Illinois court decision requiring tobacco giant Philip Morris USA to pay $10.1 billion in damages in a civil case.
The measure contains a "consumer class action bill of rights," which includes a provision that would require notices to class members to be detailed and clearly written.
Also on the committee's agenda is a bill (Sÿ731) by Joseph R. Biden Jr. , D-Del., that would make it illegal to possess or use authentication features, such as holograms or watermarks, to fake identification documents.
The Judiciary Committee markup is scheduled for 9:30 a.m. in Dirksen 226.

04/02 Congress Daily
Environmentalists are opposed to class action reform legislation that is on tap for markup Thursday by the Senate Judiciary Committee. Clean Water Action, Earthjustice, Environmental Working Group, Friends of the Earth, Greenpeace, Mineral Policy Center, Natural Resources Defense Council, Sierra Club and the U.S. Public Interest Research Group today sent a letter to Judiciary Chairman Hatch and ranking member Patrick Leahy , D-Vt., saying the pending bill "would not be fair to citizens bringing class action cases based on state environmental or public health protection laws who wish to have their cases heard by their state's courts." They added, "The bill would allow corporate defendants in pollution class actions to remove virtually any type of state environmental law case from state court to federal court, placing such cases in a forum that could be more costly, less timely and disadvantageous to the citizen plaintiffs." A number of civil rights attorneys and organizations issued similar criticisms against the bill last week, saying it would make it more difficult to have federal civil rights cases heard.

04/01 CongressDaily
Senate Judiciary Readies To Mark Up Class Action Reform
ÿÿÿÿÿClass action reform legislation is slated to be marked up Thursday by the Senate Judiciary Committee, a committee spokeswoman confirmed.
ÿÿÿÿÿA class action markup will add to a Judiciary Committee agenda already occupied with another -- and some observers would say competing -- legal reform bill pending before the Senate Judiciary Committee: asbestos litigation case management.
ÿÿÿÿÿThis evening, some committee members are slated to meet informally and privately with stakeholders to explore whether a consensus on asbestos litigation reform legislation can be reached this year.
ÿÿÿÿÿSenate Judiciary Chairman Hatch has said he wants to draft such a bill over the April recess, in preparation for a markup shortly after senators return from the break.
ÿÿÿÿÿA private meeting last week between Hatch and a number of defendant company executives and their insurers was characterized by some attendants as a rally for unity and action among the executives, who differ on whether to seek streamlined court consideration of asbestos cases, or to move them into a private system like a trust fund.

ÿÿÿÿÿTonight's asbestos "summit" organized by Sen. Christopher Dodd , D-Conn., which will include senators from both sides of the aisle, is expected to focus more on the substantive differences within the interested parties among industry, labor and the legal sectors.
ÿÿÿÿÿHatch in an interview early last month conceded that it would be "difficult" to complete action both on asbestos and class action reform this session, though he suggested it was not impossible.
ÿÿÿÿÿThe Judiciary panel appears poised to report out class action reform legislation Thursday, albeit mostly along party lines.
ÿÿÿÿÿJudiciary member Herb Kohl, D-Wis., along with Sen. Charles Grassley, R-Iowa, and Hatch are cosponsors of the pending bill, which sources indicated has been little changed since its introduction.
ÿÿÿÿÿSenate Judiciary ranking member Patrick Leahy, D-Vt., at a July hearing on that class action bill said he would oppose it as drafted.
ÿÿÿÿÿA number of civil rights attorneys and organizations also have come out against the bill, saying that its key provision to remove most state-law class actions to federal court would make it more difficult to have federal civil rights cases heard.
ÿÿÿÿÿIn an attempt to shore up Democratic support for the bill in the larger Senate, Kohl has been seeking to broker a deal with Judiciary member Dianne Feinstein, D-Calif., who indicated she was receptive to trying to reach a compromise.
ÿÿÿÿÿHowever, sources recently said that such an agreement remained elusive, but speculated that the committee's action Thursday could prompt a fresh round of negotiations. Other Senate Democrats not on the committee have indicated a desire to be cooperative with Republican leaders both on class action and asbestos reform bills.
ÿÿÿÿÿAmong those is Sen. Thomas Carper, D-Del., who is an original cosponsor of the pending class action bill. And although he will not participate in today's asbestos summit, he remains in "close contact" with Hatch on the issue, his spokeswoman said.
ÿÿÿÿÿIn remarks Monday to a conference for investors hosted by Deutsche Bank in New York City, Carper asserted that, "The best way to get the economy moving again -- is to invest in solutions for asbestos litigation, class action reform and bankruptcy reform." By Pamela Barnett

CQ TODAY - March 28, 2003.
Class Action Bill Latest Salvo in Lawyer-GOP Battle
By Keith Perine, CQ Staff
Legislation seeking to send more class action lawsuits to federal rather than state courts and impose new requirements on that kind of litigation has marched up the priority list as majority Republicans continue a years-long effort to change the rules of civil tort law.
The class action measure (Sÿ274), which the Senate Judiciary Committee is expected to approve April 3, is one of the centerpiece bills for a conservative tort overhaul movement in the 108th Congress being championed by Orrin G. Hatch, R-Utah.
Rather than provoke a single big fight with the well-heeled trial lawyers' lobby, the strategy of majority Republicans has been to pursue their goal incrementally. They are acting on a series of bills that, if passed and signed into law, would make it more difficult for a wide range of would-be plaintiffs to ask juries to redress alleged wrongdoings by doctors, corporations, asbestos manufacturers and the firearms industry.
Separate measures are moving through Congress that propose limiting civil claims related to medical malpractice (HRÿ5); establishing national criteria for claims of asbestos exposure (Sÿ413); and shielding gun manufacturers and sellers from some liability lawsuits (HRÿ1036).
Joe Manero of the Alliance of American Insurers, which favors changes to tort rules, said the strategy makes sense in this year's legislative climate.
"With the current crisis in the Middle East, we're fighting for attention," he said. "We will take progress where we can get it, and if it means doing it one at a time, that's what it means."
The bipartisan class action bill, sponsored by Senate Finance Committee Chairman Charles E. Grassley, R-Iowa, would set criteria intended to steer some class action cases into federal courts.
It also would impose a long list of new rules on civil litigation regarding notices, settlements and attorneys' fees.

Preventing Venue Shopping
Supporters of the legislation say it is needed to prevent venue shopping and other abuses of the civil process by plaintiffs' attorneys. Opponents say it would unfairly raise the bar for defendants seeking damages from deep-pocketed corporations.
"Its advocates basically want to tell every state judge in America, 'We don't trust you . . . the federal government does not trust you to do your job,' " said Association of Trial Lawyers of America spokesman Carlton Carl. He added that wealthy defendants prefer federal courts because cases tend to take longer to wend their way through them.
Backers of the bill say that plaintiffs' attorneys like to take cases to "judicial hellhole" state courts that are overly sympathetic toward plaintiffs' arguments.
"There are a few county courts around the country that are setting national policy," said Matthew Webb, director of legal policy for the U.S. Chamber Institute for Legal Reform.
The legislation would make civil cases eligible to be pushed into federal courts when the amount in dispute exceeded $2 million and any member of the class of plaintiffs was a citizen of a different state than the defendant.
Currently, plaintiff's lawyers can avoid such "removal" to a federal court if individual claims within a class are less than $75,000, or if even one class member lives in the same state as the defendant.
Under the legislation, some exceptions would be made, such as for cases where states themselves, or state officials, are primary defendants, or if the defendant and a "substantial majority" of plaintiffs are citizens of the state in which the case originally was filed.
Also in the bill is a "consumer class action bill of rights" that seems designed to garner Democratic support for the measure.
Under those provisions, courts would only be able to approve some settlements under certain conditions.
Bounties Would Be Banned
For example, courts would not be able to approve proposed settlements if they would result in disproportionate payments to class members based solely on how close to the court they live.
Also, courts could not approve settlements that contain "bounties" for one member of the class.
The measure also would require that written notices to class members be plainly written and include descriptions of the case, the amount of plaintiffs' attorneys' fees, and details of any proposed settlement. The notices also would have to feature a prominent warning about their legal importance.
A similar bill (HRÿ1115) is pending before the House Judiciary Committee. A committee spokesman said that panel probably would not take up that bill before the two-week spring recess scheduled to begin April 11.
Any bill that the 108th Congress might pass probably will be strongly backed by President Bush.
As a condition for allowing terrorism insurance legislation (PLÿ107-297) to move last year, House Speaker J. Dennis Hastert, R-Ill., extracted a promise from Bush that he would champion tort overhaul.

Message Sent
To:_____
Brett M. Kavanaugh/WHO/EOP@EOP
Diana L. Schacht/OPD/EOP@EOP
Kevin Warsh/OPD/EOP@EOP
Kristen Silverberg/WHO/EOP@Exchange@EOP
Stephen S. McMillin/OMB/EOP@EOP

Message Copied
To:_____
Richard E. Green/OMB/EOP@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
James Boden/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Kenneth L. Schwartz/OMB/EOP@EOP

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_631BF003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_631BF003_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_631BF003_WHO.TXT_3>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_631BF003_WHO.TXT_4>

House/107th	S. 274 - Introduced/108th	H.R. 1115 - Introduced/108th	H.R. 2341 - Passed
Consumer Class Action Bill of Rights and Improved Procedures for Interstate Class Actions (Sec. 3)	1. *Judicial Scrutiny of Coupon and Other Noncash Settlements*: Provide that Federal courts could approve proposed settlements in which class members receive non-cash benefits, but only after a hearing to determine whether the settlement is "fair, reasonable, and adequate." 2. *Protection against Loss by Class Members:* The court could also approve settlements in which any class member is obligated to pay sums to counsel that would result in a net loss to the class member, but only if the court finds that the non-monetary benefits to the class member *substantially* outweigh the monetary loss. 3. *Prohibition Against Discrimination Based on Geographic Location:* Provide that Federal courts could not approve a settlement that provides for larger payments to some class members based solely their being located in closer geographic proximity to the court hearing the case. 4. *Prohibition on Payment of Bounties*: Provide that the court cannot approve a larger share of the award payment to the plaintiff representing the class than that awarded to the other class members, but could approve payments to the representative for reasonable time and costs expended in fulfilling his or her obligations as a class representative. 5. *Clearer and Simpler Settlement Information*: Require that written notices sent by mail or published in print, as well as notices transmitted by television or radio, to class members concerning proposed	1. Same. 2. Same but without "substantially". 3. Same. 4. Minor editorial differences. 5. Minor editorial differences. 6. No provision. 7. No provision as in H.R. 2341. 8. No provision as in H.R. 2341	1. Same. 2. Same but without "substantially". 3. Same 4. Same as H.R. 1115. 5. Same as H.R. 1115. 6. No provision. 7. *Disclosure of Attorney's Fees* (requiring the disclosure of fees to the plaintiffs by the plaintiffs' attorney) 8. *Sunshine in Court Records*: (limiting the sealing, or subjection to a protective order, of such records)

	S. 274 - Introduced/108th	H.R. 1115 - Introduced/108th	H.R. 2341 - Passed
House/107th			
	settlements be written or transmitted in plain, easily understood language. The bill would also provide for a number of additional specific requirements for notices. 6. *Notifications to appropriate Federal and State Officials*: Require, within 10 days after a proposed settlement of a class action is filed in court, each defendant that is participating in the proposed settlement to serve upon the appropriate State official of each State in which a class member resides and the appropriate Federal official, a notice of the proposed settlement. 7. No provision as in H.R. 2341. 8. No provision as in H.R. 2341.		
Federal District Court Jurisdiction for Interstate Class Actions (Sec. 4)	Provide that Federal district courts would have original jurisdiction over any class-action lawsuits where the total claims exceed $2 million if any of the plaintiffs is a citizen of different State from any of the defendants, or either a plaintiff or a defendant resides in a foreign country. However, original jurisdiction would not apply in any action in which: (a) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed and the claims will be governed primarily by the laws of the State in which the action was originally filed; (b) the primary defendants are States, State officials, or other governmental entities against whom the Federal district court may be foreclosed from ordering relief; or (c) the number of plaintiff class members in the aggregate is less than 100. In addition, original jurisdiction would not apply to a class action that solely involves a claim related to certain securities or to the internal affairs or	Minor changes: • Definition of "class certification order" in H.R. 1115 means an order issued by a court approving the treatment of a civil action as a class action. In S. 274, it means …the treatment of some or all aspects of a civil action… • Definition of "class members" in H.R. 1115 means persons who fall within the definition of the proposed or certified class in a class action. In S. 274, it means …persons (named or unnamed)… • In H.R. 1115, original jurisdiction would not apply in which the number of proposed plaintiff class members is less than 100. In S. 274, it would not	Same as H.R. 1115.

	S. 274 - Introduced/108th	H.R. 1115 - Introduced/108th	H.R. 2341 - Passed
House/107th			
	governance of a corporation that arises under the laws of the State in which the corporation is incorporated.	apply in cases in which the number of members *in the aggregate* is less than 100. • In H.R. 1115, original jurisdiction would not apply to a class action brought by shareholders that solely involves a claim related to certain securities or to the internal affairs or governance of a corporation that arises under the laws of the State in which the corporation is incorporated. In S. 274, the distinction of *by shareholder*, is not made.	
Removal of Interstate Class Actions to Federal District Court (Sec. 5)	Provide that a class action could be removed from a State court to a Federal district court by any defendant without the consent of any other defendants; or by any plaintiff class member who is not a named or representative class member without the consent of any other members of the class. However, this authority for removal would not apply to a class action that solely involves a claim related to certain securities or to the internal affairs or governance of a corporation that arises under the laws of the State in which the corporation is incorporated. The Federal courts of appeals would have jurisdiction of appeals from orders of the Federal district courts granting or denying class certification, if notice of appeal is filed within 10 days after entry of the order. All discovery and other proceedings would be suspended while an appeal is pending, unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue	• Again, the distinction of *by shareholder* is not made in S. 274 in regard to situations when the authority for removal from State to Federal district court would not apply. H.R. 1115 provides that the authority for removal would not apply to a class action brought by shareholders… • Both S. 274 and H.R. 1115 state that these provisions apply to any class action before or after the entry of a class certification order in the action, however, H.R. 1115 further states that a plaintiff class member who is not a named representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class	Same as H.R. 1115.

	S. 274 - Introduced/108th	H.R. 1115 - Introduced/108th	H.R. 2341 - Passed House/107th
	prejudice to that party.	member has been entered.	
Report on Class Action Settlements	Require the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the AOUSC, within 12 months of enactment, to report to the House and Senate Judiciary Committees on class action settlements, including (1) recommendations on the best practices that courts can use to ensure that: proposed class action settlements are fair to the class members that the settlements are supposed to benefit; the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and (2) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.	No provision.	Minor change: • The bill specifies that the report would cover class action settlements *in the Federal courts*.
Appeals of Class Action Certification Orders	No provision.	Grants the courts of appeals jurisdiction of appeals from orders of the U.S. district courts granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within ten days after entry of the order.	Same.
Effective Date	Applies to any civil action commenced on or after the date of enactment.	Same.	Same.

S 274 108th Congress-Introduced in Senate (blue, underlined text)
as compared to
HR 1115 108th Congress-Introduced House ~~(red, strikethrough text)~~

To amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants~~, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions~~, and for other purposes.

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Class Action Fairness Act of 2003".

(b) REFERENCE.—Whenever in this Act reference is made to an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Consumer class action bill of rights and improved procedures for interstate class actions.
Sec. 4. Federal district court jurisdiction ~~of~~ for interstate class actions.
Sec. 5. Removal of interstate class actions to Federal district court.
Sec. 6. Report on class action settlements.
~~Sec. 6. Appeals of class action certification orders.~~
Sec. 7. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.— ~~The~~ Congress finds ~~as follows~~ the following:

(1) Class action lawsuits are an important and valuable part of the legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.

(2) Over the past decade, there have been abuses of the class action device that have—

(A) harmed class members with legitimate claims and defendants that have acted responsibly;

(B) adversely affected interstate commerce; and

(C) undermined public respect for ~~the~~ our judicial system ~~in the United States~~.

(3) Class members often receive little or no benefit from class actions, and are sometimes harmed, such as where ~~have been harmed by a number of actions taken by~~

~~plaintiffs' lawyers, which provide little or no benefit to class members as a whole, including —~~

(A) counsel are awarded large fees ~~plaintiffs' lawyers receiving large fees~~, while leaving class members with coupons or other awards of little or no value;

(B) unjustified awards are made to certain plaintiffs at the expense of other class members; and

(C) confusing notices are published ~~the publication of confusing notices~~ that prevent class members from being able to fully understand and effectively exercise their rights.

~~(4) Through the use of artful pleading, plaintiffs are able to avoid litigating class actions in Federal court, forcing businesses and other organizations to defend interstate class action lawsuits in county and State courts where —~~

~~(A) the lawyers, rather than the claimants, are likely to receive the maximum benefit;~~

~~(B) less scrutiny may be given to the merits of the case; and~~

~~(C) defendants are effectively forced into settlements, in order to avoid the possibility of huge judgments that could destabilize their companies.~~

~~(5) These abuses undermine the Federal judicial system, the free flow of interstate commerce, and the intent of the framers of the Constitution in creating diversity jurisdiction, in that county and State courts are —~~

~~(A) handling interstate class actions that affect parties from many States;~~

(4) Abuses in class actions undermine the national judicial system, the free flow of interstate commerce, and the concept of diversity jurisdiction as intended by the framers of the United States Constitution, in that State and local courts are—

(A) keeping cases of national importance out of Federal court;

(B) sometimes acting in ways that demonstrate bias against out-of-State defendants; and

(C) making judgments that impose their view of the law on other States and bind the rights of the residents of those States.

~~(6) Abusive interstate class actions have harmed society as a whole by forcing innocent parties to settle cases rather than risk a huge judgment by a local jury, thereby costing consumers billions of dollars in increased costs to pay for forced settlements and excessive judgments.~~

(b) PURPOSES.—The purposes of this Act are to—

(1) to assure fair and prompt recoveries for class members with legitimate claims;

(2) ~~(3)~~ to restore the intent of the framers of the United States Constitution by providing for Federal court consideration of interstate ~~class actions~~ cases of national importance under diversity jurisdiction; and

~~(2) to protect responsible companies and other institutions against interstate class actions in State courts;~~

(3) ~~(4)~~ to benefit society by encouraging innovation and lowering consumer prices.

SEC. 3. CONSUMER CLASS ACTION BILL OF RIGHTS AND IMPROVED PROCEDURES FOR INTERSTATE CLASS ACTIONS.

(a) IN GENERAL.—Part V is amended by inserting after chapter 113 the following:

"CHAPTER 114—CLASS ACTIONS

"Sec.

"1711 ~~1716~~. Definitions.
"1712 ~~1711~~. Judicial scrutiny of coupon and other noncash settlements.
"1713 ~~1712~~. Protection against loss by class members.
"1714 ~~1713~~. Protection against discrimination based on geographic location.
"1715 ~~1714~~. Prohibition on the payment of bounties.
"1716 ~~1715~~. Clearer and simpler settlement information.
"1717. Notifications to appropriate Federal and State officials.

"§ 1711 ~~1716~~. Definitions

"In this chapter:
"(1) CLASS.—The term 'class' means all of the class members in a class action.
"(2)~~(1)~~ CLASS ACTION.—The term 'class action' means any civil action filed in a district court of the United States ~~pursuant to~~ under rule 23 of the Federal Rules of Civil Procedure or any civil action that is removed to a district court of the United States that was originally filed under a State statute or rule of judicial procedure authorizing an action to be brought by ~~one~~ 1 or more representatives ~~on behalf of a class~~ as a class action.
"(3) ~~(2)~~ CLASS COUNSEL.—The term 'class counsel' means the persons who serve as the attorneys for the class members in a proposed or certified class action.
"(4)~~(3)~~ CLASS MEMBERS.—The term 'class members' means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.
"(5)~~(4)~~ PLAINTIFF CLASS ACTION.—The term 'plaintiff class action' means a class action in which class members are plaintiffs.
"(6)~~(5)~~ PROPOSED SETTLEMENT.—The term 'proposed settlement' means an agreement ~~that resolves claims in a class action,~~ regarding a class action that is subject to court approval and that, if approved, would be binding on some or all ~~the~~ class members.

"§ 1712~~1711~~. Judicial scrutiny of coupon and other noncash settlements

"The court may approve a proposed settlement under which the class members would receive noncash benefits or would otherwise be required to expend funds in order to obtain part or all of the proposed benefits only after a hearing to determine whether, and making a written finding that, the settlement is fair, reasonable, and adequate for class members.

"§ 1713~~1712~~. Protection against loss by class members

"The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court makes a written finding that nonmonetary benefits to the class member substantially outweigh the monetary loss.

"§ 1714~~1713~~. Protection against discrimination based on geographic location

"The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

"§ 1715 ~~1714~~. Prohibition on the payment of bounties

"(a) IN GENERAL.—The court may not approve a proposed settlement that provides for the payment of a greater share of the award to a class representative serving on behalf of a class, on the basis of the formula for distribution to all other class members, than that awarded to the other class members.

"(b) RULE OF CONSTRUCTION.—The limitation in subsection (a) shall not be construed to prohibit ~~any~~ a payment approved by the court for reasonable time or costs that a person was required to expend in fulfilling ~~his or her~~ the obligations of that person as a class representative.

"§ 1716~~1715~~. Clearer and simpler settlement information

"(a) PLAIN ENGLISH REQUIREMENTS.—Any court with jurisdiction over a plaintiff class action shall require that any written notice concerning a proposed settlement of the class action provided to the class through the mail or publication in printed media contain—

"(1) at the beginning of such notice, a statement in 18-point or ~~Times New Roman type or other functionally similar type~~ greater bold type, stating 'LEGAL NOTICE: YOU ARE A PLAINTIFF IN A CLASS ACTION LAWSUIT AND YOUR LEGAL RIGHTS ARE AFFECTED BY THE SETTLEMENT DESCRIBED IN THIS NOTICE.'; ~~and~~

"(2) a short summary written in plain, easily understood language, describing—

"(A) the subject matter of the class action;

"(B) the members of the class;

"(C) the legal consequences of being a member of the class action;

"(D) if the notice is informing class members of a proposed settlement agreement—

"(i) the benefits that will accrue to the class due to the settlement;

"(ii) the rights that class members will lose or waive through the settlement;

"(iii) obligations that will be imposed on the defendants by the settlement;

"(iv) the dollar amount of any attorney's fee class counsel will be seeking, or if not possible, a good faith estimate of the dollar amount of any attorney's fee class counsel will be seeking; and

"(v) an explanation of how any attorney's fee will be calculated and funded; and

"(E) any other material matter.

"(b) TABULAR FORMAT.—Any court with jurisdiction over a plaintiff class action shall require that the information described in subsection (a)—

"(1) be placed in a conspicuous and prominent location on the notice;

"(2) contain clear and concise headings for each item of information; and

"(3) provide a clear and concise form for stating each item of information required to be disclosed under each heading.

"(c) TELEVISION OR RADIO NOTICE.—Any notice provided through television or radio (including transmissions by cable or satellite) to inform the class members in a class action of the right of each member to be excluded from a ~~the~~ class action or a proposed settlement ~~of the class action~~, if such right exists, shall, in plain, easily understood language—

"(1) describe the persons who may potentially become class members in the class action; and

"(2) explain that the failure of a class member to exercise his or her right to be excluded from a class action will result in the person's inclusion in the class action ~~or settlement~~.

"§ 1717. Notifications to appropriate Federal and State officials

"(a) DEFINITIONS.—

"(1) APPROPRIATE FEDERAL OFFICIAL.—In this section, the term 'appropriate Federal official' means—

"(A) the Attorney General of the United States; or

"(B) in any case in which the defendant is a Federal depository institution, a State depository institution, a depository institution holding company, a foreign bank, or a nondepository institution subsidiary of the foregoing (as such terms are defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

"(2) APPROPRIATE STATE OFFICIAL.—In this section, the term 'appropriate State official' means the person in the State who has the primary regulatory or supervisory responsibility with respect to the defendant, or who licenses or otherwise authorizes the defendant to conduct business in the State, if some or all of the matters alleged in the class action are subject to regulation by that person. If there is no primary regulator, supervisor, or licensing authority, or the matters alleged in the class action are not subject to regulation or supervision by that person, then the appropriate State official shall be the State attorney general.

"(b) IN GENERAL.—Not later than 10 days after a proposed settlement of a class action is filed in court, each defendant that is participating in the proposed settlement shall serve upon the appropriate State official of each State in which a class member resides and the appropriate Federal official, a notice of the proposed settlement consisting of—

"(1) a copy of the complaint and any materials filed with the complaint and any amended complaints (except such materials shall not be required to be served if such materials are made electronically available through the Internet and such service includes notice of how to electronically access such material);

"(2) notice of any scheduled judicial hearing in the class action;

"(3) any proposed or final notification to class members of—

"(A)(i) the members' rights to request exclusion from the class action; or

"(ii) if no right to request exclusion exists, a statement that no such right exists; and

"(B) a proposed settlement of a class action;

"(4) any proposed or final class action settlement;

"(5) any settlement or other agreement contemporaneously made between class counsel and counsel for the defendants;

"(6) any final judgment or notice of dismissal;

"(7)(A) if feasible, the names of class members who reside in each State and the estimated proportionate share of the claims of such members to the entire settlement to that State's appropriate State official; or

"(B) if the provision of information under subparagraph (A) is not feasible, a reasonable estimate of the number of class members residing in each State and the estimated proportionate share of the claims of such members to the entire settlement; and

"(8) any written judicial opinion relating to the materials described under subparagraphs (3) through (6).

"(c) DEPOSITORY INSTITUTIONS NOTIFICATION.—

"(1) FEDERAL AND OTHER DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a Federal depository institution, a depository institution holding company, a foreign bank, or a non-depository institution subsidiary of the foregoing, the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

"(2) STATE DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a State depository institution (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the State bank supervisor (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) of the State in which the defendant is incorporated or chartered, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person, and upon the appropriate Federal official.

"(d) FINAL APPROVAL.—An order giving final approval of a proposed settlement may not be issued earlier than 90 days after the later of the dates on which the appropriate Federal official and the appropriate State official are served with the notice required under subsection (b).

"(e) NONCOMPLIANCE IF NOTICE NOT PROVIDED.—

"(1) IN GENERAL.—A class member may refuse to comply with and may choose not to be bound by a settlement agreement or consent decree in a class action if the class member demonstrates that the notice required under subsection (b) has not been provided.

"(2) LIMITATION.—A class member may not refuse to comply with or to be bound by a settlement agreement or consent decree under paragraph (1) if the notice required under subsection (b) was directed to the appropriate Federal official and to either the State attorney general or the person that has primary regulatory, supervisory, or licensing authority over the defendant.

"(3) APPLICATION OF RIGHTS.—The rights created by this subsection shall apply only to class members or any person acting on a class member's behalf, and shall not be construed to limit any other rights affecting a class member's participation in the settlement.

"(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to expand the authority of, or impose any obligations, duties, or responsibilities upon, Federal or State officials.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part V is amended by inserting after the item relating to chapter 113 the following:
"114. Class Actions
1711".

SEC. 4. FEDERAL DISTRICT COURT JURISDICTION ~~OF~~ FOR INTERSTATE CLASS ACTIONS.

(a) APPLICATION OF FEDERAL DIVERSITY JURISDICTION.—Section 1332 is amended—
(1) by redesignating subsection (d) as subsection (e); and
(2) by inserting after subsection (c) the following:
"(d)(1) In this subsection—
"(A) the term 'class' means all of the class members in a class action;
"(B) the term 'class action' means any civil action filed ~~pursuant to~~ under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by ~~one~~ 1 or more representative persons ~~on behalf of a class~~ as a class action;
"(C) the term 'class certification order' means an order issued by a court approving the treatment of some or all aspects of a civil action as a class action; and
"(D) the term 'class members' means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.
"(2) The district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs, and is a class action in which—
"(A) any member of a class of plaintiffs is a citizen of a State different from any defendant;
"(B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or
"(C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.
"(3) Paragraph (2) shall not apply to any civil action in which—
"(A)(i) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed; and
"(ii) the claims asserted therein will be governed primarily by the laws of the State in which the action was originally filed;
"(B) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or
"(C) the number of ~~proposed plaintiff class~~ members of all proposed plaintiff classes in the aggregate is less than 100

"(4) In any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs.

"(5) This subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.

"(6)(A) A district court shall dismiss any civil action that is subject to the jurisdiction of the court solely under this subsection if the court determines the action may not proceed as a class action based on a failure to satisfy the ~~requirements~~ prerequisites of rule 23 of the Federal Rules of Civil Procedure.

"(B) Nothing in subparagraph (A) shall prohibit plaintiffs from filing an amended class action in Federal court or filing an action in State court, except that any such action filed in State court may be removed to the appropriate district court if it is an action of which the district courts of the United States have original jurisdiction.

"(C) In any action that is dismissed under this paragraph and is filed by any of the original named plaintiffs therein in the same State court venue in which the dismissed action was originally filed, the limitations periods on all reasserted claims shall be deemed tolled for the period during which the dismissed class action was pending. The limitations periods on any claims that were asserted in a class action dismissed under this paragraph that are subsequently asserted in an individual action shall be deemed tolled for the period during which the dismissed action was pending.

"(7) Paragraph (2) shall not apply to any class action ~~brought by shareholders~~ that solely involves a claim ~~that relates to —~~

"(A) ~~a claim~~ concerning a covered security as defined under 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(B) that relates to the internal affairs or governance of a corporation or other form of business enterprise and that arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(C) that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).

"(8) For purposes of this subsection and section 1453 of this title, an unincorporated association shall be deemed to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.

"(9)(A) For purposes of this section and section 1453 of this title, a civil action that is not otherwise a class action as defined in paragraph (1)(B) ~~of this subsection~~ shall nevertheless be deemed a class action if—

"(i) ~~"(A)~~ the named plaintiff purports to act for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeks a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general; or

"(ii) ~~"(B)~~ monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact.

"(B)(i) In any ~~such case,~~ civil action described under subparagraph (A)(ii), the persons who allegedly were injured shall be treated as members of a proposed plaintiff class and

the monetary relief that is sought shall be treated as the claims of individual class members.

"(ii) ~~The provisions of~~ Paragraphs (3) and (6) of this subsection and subsections (b)(2) and (d) of section 1453 shall not apply to any civil actions described under subparagraph (A)~~(i).~~

"(iii) ~~The provisions of~~ Paragraph (6) of this subsection, and subsections (b)(2) and (d) of section 1453 shall not apply to any civil actions described under subparagraph (A)(ii). ~~(B).~~".

(b) CONFORMING AMENDMENTS.—

(1) Section 1335(a)(1) is amended by inserting "(a) or (d)" after "1332".

(2) Section 1603(b)(3) is amended by striking "(d)" and inserting "(e)".

SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FEDERAL DISTRICT COURT.

(a) IN GENERAL.—Chapter 89 is amended by adding after section 1452 the following:

"§ 1453. Removal of class actions

"(a) DEFINITIONS.—In this section, the terms 'class', 'class action', 'class certification order', and 'class member' shall have the meanings given such ~~these~~ terms under ~~in~~ section 1332(d)(1).

"(b) IN GENERAL.—A class action may be removed to a district court of the United States in accordance with this chapter, without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed—

"(1) by any defendant without the consent of all defendants; or

"(2) by any plaintiff class member who is not a named or representative class member without the consent of all members of such class.

"(c) WHEN REMOVABLE.—This section shall apply to any class action before or after the entry of a class certification order in the action~~, except that a plaintiff class member who is not a named or representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class member has been entered.~~

"(d) PROCEDURE FOR REMOVAL.— ~~The provisions of~~ Section 1446 relating to a defendant removing a case shall apply to a plaintiff removing a case under this section, except that in the application of subsection (b) of such section the requirement relating to the 30-day filing period shall be met if a plaintiff class member files notice of removal within 30 days after receipt by such class member, through service or otherwise, of the initial written notice of the class action.

"(e) REVIEW OF ORDERS REMANDING CLASS ACTIONS TO STATE COURTS.— ~~The provisions of~~ Section 1447 shall apply to any removal of a case under this section, except that notwithstanding section 1447(d), an order remanding a class action to the State court from which it was removed shall be reviewable by appeal or otherwise.

"(f) EXCEPTION.—This section shall not apply to any class action ~~brought by shareholders~~ that solely involves—

"(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).".

(b) REMOVAL LIMITATION.—Section 1446(b) is amended in the second sentence by inserting "(a)" after "section 1332".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following:
"1453. Removal of class actions.".

SEC. 6. REPORT ON CLASS ACTION SETTLEMENTS.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall prepare and transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report on class action settlements.

(b) CONTENT.—The report under subsection (a) shall contain—

(1) recommendations on the best practices that courts can use to ensure that proposed class action settlements are fair to the class members that the settlements are supposed to benefit;

(2) recommendations on the best practices that courts can use to ensure that—

(A) the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and

(B) the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and

(3) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.

(c) AUTHORITY OF FEDERAL COURTS.—Nothing in this section shall be construed to alter the authority of the Federal courts to supervise attorneys' fees.

~~**SEC. 6. APPEALS OF CLASS ACTION CERTIFICATION ORDERS.**~~

~~(a) IN GENERAL.—Section 1292(a) is amended by inserting after paragraph (3) the following:~~

~~"(4) Orders of the district courts of the United States granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within 10 days after entry of the order.".~~

~~(b) DISCOVERY STAY.—All discovery and other proceedings shall be stayed during the pendency of any appeal taken pursuant to the amendment made by subsection (a), unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue prejudice to that party.~~

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action commenced on or after the date of ~~the~~ enactment of this Act.

S 274 108th Congress-Introduced in Senate (blue, underlined text)
as compared to
HR 2341 107th Congress-Passed House ~~(red, strikethrough text)~~

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Class Action Fairness Act of 2003~~2~~".

(b) REFERENCE.—Whenever in this Act reference is made to an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Consumer class action bill of rights and improved procedures for interstate class actions.
Sec. 4. Federal district court jurisdiction for ~~of~~ interstate class actions.
of interstate class actions.
Sec. 5. Removal of interstate class actions to Federal district court.
~~Sec. 6. Appeals of class action certification orders.~~
Sec. 6~~7~~. Report on class action settlements.
Sec. 7~~8~~. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.— ~~The~~ Congress finds the following:

(1) Class action lawsuits are an important and valuable part of the legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.

(2) Over the past decade, there have been abuses of the class action device that have—

(A) harmed class members with legitimate claims and defendants that have acted responsibly~~, and that have thereby undermined public respect for our judicial system~~;

(B) adversely affected interstate commerce; and

(C) ~~that have thereby~~ undermined public respect for our judicial system.

(3) Class members often receive little or no benefit from class actions, and are sometimes harmed, such as where ~~have been harmed by a number of actions taken by plaintiffs' lawyers, which provide little or no benefit to class members as a whole, including —~~

(A) counsel are awarded large fees, while leaving class members ~~plaintiffs' lawyers receiving large fees, while class members~~ are left with coupons or other awards of little or no value;

(B) unjustified awards are ~~being~~ made to certain plaintiffs at the expense of other class members; and

(C) confusing notices are published that prevent class members ~~the publication of confusing notices that prevent class members~~ from being able to fully understand and effectively exercise their rights.

~~(4) Through the use of artful pleading, plaintiffs are able to avoid litigating class actions in Federal court, forcing businesses and other organizations to defend interstate class action lawsuits in county and State courts where—~~

~~(A) the lawyers, rather than the claimants, are likely to receive the maximum benefit;~~

~~(B) less scrutiny may be given to the merits of the case; and~~

~~(C) defendants are effectively forced into settlements, in order to avoid the possibility of huge judgments that could destabilize their companies.~~

~~(5) These abuses undermine our Federal system and the intent of the framers of the Constitution in creating diversity jurisdiction, in that county and State courts are—~~

~~(A) handling interstate class actions that affect parties from many States;~~

(4) Abuses in class actions undermine the national judicial system, the free flow of interstate commerce, and the concept of diversity jurisdiction as intended by the framers of the United States Constitution, in that State and local courts are—

(A) keeping cases of national importance out of Federal court;

(B) sometimes acting in ways that demonstrate bias against out-of-State defendants; and

(C) making judgments that impose their view of the law on other States and bind the rights of the residents of those States.

~~(6) Abusive interstate class actions have harmed society as a whole by forcing innocent parties to settle cases rather than risk a huge judgment by a local jury, thereby costing consumers billions of dollars in increased costs to pay for forced settlements and excessive judgments.~~

(b) PURPOSES.—The purposes of this Act are to—

(1) ~~to~~ assure fair and prompt recoveries for class members with legitimate claims;

~~(2) to protect responsible companies and other institutions against interstate class actions in State courts;~~

(2)~~(3)~~ ~~to~~ restore the intent of the framers of the United States Constitution by providing for Federal court consideration of interstate cases of national importance under diversity jurisdiction; and

(3)~~(4)~~ ~~to~~ benefit society by encouraging innovation and lowering consumer prices.

SEC. 3. CONSUMER CLASS ACTION BILL OF RIGHTS AND IMPROVED PROCEDURES FOR INTERSTATE CLASS ACTIONS.

(a) IN GENERAL.—Part V is amended by inserting after chapter 113 the following:

"CHAPTER 114—CLASS ACTIONS

"Sec.

"1711~~1718~~. Definitions.

"1712~~1711~~. Judicial scrutiny of coupon and other noncash settlements.
"1713~~1712~~. Protection against loss by class members.
"1714~~1713~~. Protection against discrimination based on geographic location.
"1715~~1714~~. Prohibition on the payment of bounties.
"1716~~1715~~. Clearer and simpler settlement information.
"1717. Notifications to appropriate Federal and State officials.
~~"1716. Disclosure of attorney's fees.~~
~~"1717. Sunshine in court records.~~

"§1711~~1718~~. Definitions

"In this chapter:
"(1) CLASS.—The term 'class' means all of the class members in a class action.
"(2)~~(1)~~ CLASS ACTION.—The term 'class action' means any civil action filed in a district court of the United States under rule 23 of the Federal Rules of Civil Procedure or any civil action that is removed to a district court of the United States that was originally filed under ~~pursuant to~~ a State statute or rule of judicial procedure authorizing an action to be brought by ~~one~~ 1 or more representatives ~~on behalf of~~ as a class action.
"(3)~~(2)~~ CLASS COUNSEL.—The term 'class counsel' means the persons who serve as the attorneys for the class members in a proposed or certified class action.
"(4)~~(3)~~ CLASS MEMBERS.—The term 'class members' means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.
"(5)~~(4)~~ PLAINTIFF CLASS ACTION.—The term 'plaintiff class action' means a class action in which class members are plaintiffs.
"(6)~~(5)~~ PROPOSED SETTLEMENT.—The term 'proposed settlement' means an agreement ~~that resolves claims in~~ regarding a class action that is subject to court approval and that, if approved, would be binding on ~~the~~ some or all class members

"§1712~~1711~~. Judicial scrutiny of coupon and other noncash settlements

"The court may approve a proposed settlement under which the class members would receive noncash benefits or would otherwise be required to expend funds in order to obtain part or all of the proposed benefits only after a hearing to determine whether, and making a written finding that, the settlement is fair, reasonable, and adequate for class members.

"§1713~~1712~~. Protection against loss by class members

"The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court makes a written finding that nonmonetary benefits to the class member substantially outweigh the monetary loss.

"§1714~~1713~~. Protection against discrimination based on geographic location

"The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

"§1715~~1714~~. Prohibition on the payment of bounties

"(a) IN GENERAL.—The court may not approve a proposed settlement that provides for the payment of a greater share of the award to a class representative serving on behalf of a class, on the basis of the formula for distribution to all other class members, than that awarded to the other class members.

"(b) RULE OF CONSTRUCTION.—The limitation in subsection (a) shall not be construed to prohibit ~~any~~ a payment approved by the court for reasonable time or costs that a person was required to expend in fulfilling ~~his or her~~ the obligations of that person as a class representative.

"§1716~~1715~~. Clearer and simpler settlement information

"(a) PLAIN ENGLISH REQUIREMENTS.—Any court with jurisdiction over a plaintiff class action shall require that any written notice concerning a proposed settlement of the class action provided to the class through the mail or publication in printed media contain—

"(1) at the beginning of such notice, a statement in 18-point ~~Times New Roman~~ or greater bold type ~~or other functionally similar type~~, stating 'LEGAL NOTICE: YOU ARE A PLAINTIFF IN A CLASS ACTION LAWSUIT AND YOUR LEGAL RIGHTS ARE AFFECTED BY THE SETTLEMENT DESCRIBED IN THIS NOTICE.';

"(2) a short summary written in plain, easily understood language, describing—

"(A) the subject matter of the class action;

"(B) the members of the class;

"(C) the legal consequences of being a member of the class action;

"(D) if the notice is informing class members of a proposed settlement agreement—

"(i) the benefits that will accrue to the class due to the settlement;

"(ii) the rights that class members will lose or waive through the settlement;

"(iii) obligations that will be imposed on the defendants by the settlement;

"(iv) the dollar amount of any attorney's fee class counsel will be seeking, or if not possible, a good faith estimate of the dollar amount of any attorney's fee class counsel will be seeking; and

"(v) an explanation of how any attorney's fee will be calculated and funded; and

"(E) any other material matter.

"(b) TABULAR FORMAT.—Any court with jurisdiction over a plaintiff class action shall require that the information described in subsection (a)—

"(1) be placed in a conspicuous and prominent location on the notice;

"(2) contain clear and concise headings for each item of information; and

"(3) provide a clear and concise form for stating each item of information required to be disclosed under each heading.

"(c) TELEVISION OR RADIO NOTICE.—Any notice provided through television or radio (including transmissions by cable or satellite) to inform the class members in a class action of the right of each member to be excluded from ~~the~~ a class action or a proposed settlement ~~of the class action~~, if such right exists, shall, in plain, easily understood language—

"(1) describe the persons who may potentially become class members in the class action; and

"(2) explain that the failure of a class member to exercise his or her right to be excluded from a class action will result in the person's inclusion in the class action ~~or settlement~~.

"§ 1717. Notifications to appropriate Federal and State officials

"(a) DEFINITIONS.—

"(1) APPROPRIATE FEDERAL OFFICIAL.—In this section, the term 'appropriate Federal official' means—

"(A) the Attorney General of the United States; or

"(B) in any case in which the defendant is a Federal depository institution, a State depository institution, a depository institution holding company, a foreign bank, or a nondepository institution subsidiary of the foregoing (as such terms are defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

"(2) APPROPRIATE STATE OFFICIAL.—In this section, the term 'appropriate State official' means the person in the State who has the primary regulatory or supervisory responsibility with respect to the defendant, or who licenses or otherwise authorizes the defendant to conduct business in the State, if some or all of the matters alleged in the class action are subject to regulation by that person. If there is no primary regulator, supervisor, or licensing authority, or the matters alleged in the class action are not subject to regulation or supervision by that person, then the appropriate State official shall be the State attorney general.

"(b) IN GENERAL.—Not later than 10 days after a proposed settlement of a class action is filed in court, each defendant that is participating in the proposed settlement shall serve upon the appropriate State official of each State in which a class member resides and the appropriate Federal official, a notice of the proposed settlement consisting of—

"(1) a copy of the complaint and any materials filed with the complaint and any amended complaints (except such materials shall not be required to be served if such materials are made electronically available through the Internet and such service includes notice of how to electronically access such material);

"(2) notice of any scheduled judicial hearing in the class action;

"(3) any proposed or final notification to class members of—

"(A)(i) the members' rights to request exclusion from the class action; or

"(ii) if no right to request exclusion exists, a statement that no such right exists; and

"(B) a proposed settlement of a class action;

"(4) any proposed or final class action settlement;

"(5) any settlement or other agreement contemporaneously made between class counsel and counsel for the defendants;

"(6) any final judgment or notice of dismissal;

"(7)(A) if feasible, the names of class members who reside in each State and the estimated proportionate share of the claims of such members to the entire settlement to that State's appropriate State official; or

"(B) if the provision of information under subparagraph (A) is not feasible, a reasonable estimate of the number of class members residing in each State and the estimated proportionate share of the claims of such members to the entire settlement; and

"(8) any written judicial opinion relating to the materials described under subparagraphs (3) through (6).

"(c) DEPOSITORY INSTITUTIONS NOTIFICATION.—

"(1) FEDERAL AND OTHER DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a Federal depository institution, a depository institution holding company, a foreign bank, or a non-depository institution subsidiary of the foregoing, the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

"(2) STATE DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a State depository institution (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the State bank supervisor (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) of the State in which the defendant is incorporated or chartered, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person, and upon the appropriate Federal official.

"(d) FINAL APPROVAL.—An order giving final approval of a proposed settlement may not be issued earlier than 90 days after the later of the dates on which the appropriate Federal official and the appropriate State official are served with the notice required under subsection (b).

"(e) NONCOMPLIANCE IF NOTICE NOT PROVIDED.—

"(1) IN GENERAL.—A class member may refuse to comply with and may choose not to be bound by a settlement agreement or consent decree in a class action if the class member demonstrates that the notice required under subsection (b) has not been provided.

"(2) LIMITATION.—A class member may not refuse to comply with or to be bound by a settlement agreement or consent decree under paragraph (1) if the notice required under subsection (b) was directed to the appropriate Federal official and to either the State attorney general or the person that has primary regulatory, supervisory, or licensing authority over the defendant.

"(3) APPLICATION OF RIGHTS.—The rights created by this subsection shall apply only to class members or any person acting on a class member's behalf, and shall not be construed to limit any other rights affecting a class member's participation in the settlement.

"(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to expand the authority of, or impose any obligations, duties, or responsibilities upon, Federal or State officials.".

~~**"§ 1716. Disclosure of attorney's fees**~~

~~"Any court with jurisdiction over a plaintiff class action shall require that, if there is a settlement of the class action or a judgment for the plaintiffs, the attorneys for the plaintiffs shall disclose to each plaintiff—~~
~~"(1) at the time when any payment or other award is transmitted to the plaintiff in accordance with the settlement of judgment, or~~
~~"(2) in a case in which no such payment or award is made to a plaintiff, at the time when notice of the final settlement or judgment is transmitted to such plaintiff,~~
~~the full amount of the attorney's fees charged by the attorneys for services rendered in the action.~~

~~**"§ 1717. Sunshine in court records**~~

~~"No order, opinion, or record of the court in the adjudication of a class action, including a record obtained through discovery, whether or not formally filed with the court, may be sealed or subjected to a protective order unless the court makes a finding of fact—~~
~~"(1) that the sealing or protective order is narrowly tailored, consistent with the protection of public health and safety, and is in the public interest; and~~
~~"(2) if the action by the court would prevent the disclosure of information, that disclosing the information is clearly outweighed by a specific and substantial interest in maintaining the confidentiality of such information.~~

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part V is amended by inserting after the item relating to chapter 113 the following:
"114. Class Actions
1711". SEC. 4. FEDERAL DISTRICT COURT JURISDICTION ~~OF~~ FOR INTERSTATE CLASS ACTIONS.

(a) APPLICATION OF FEDERAL DIVERSITY JURISDICTION.—Section 1332 is amended—
(1) by redesignating subsection (d) as subsection (e); and
(2) by inserting after subsection (c) the following:
"(d)(1) In this subsection—
"(A) the term 'class' means all of the class members in a class action;
"(B) the term 'class action' means any civil action filed ~~pursuant to~~ under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by ~~one~~ 1 or more representative persons ~~on behalf of a class~~ as a class action;
"(C) the term 'class certification order' means an order issued by a court approving the treatment of some or all aspects of a civil action as a class action; and

"(D) the term 'class members' means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.

"(2) The district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs, and is a class action in which—

"(A) any member of a class of plaintiffs is a citizen of a State different from any defendant;

"(B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or

"(C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.

"(3) Paragraph (2) shall not apply to any civil action in which—

"(A)(i) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed; and

"(ii) the claims asserted therein will be governed primarily by the laws of the State in which the action was originally filed;

"(B) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or

"(C) the number of ~~proposed plaintiff class~~ members of all proposed plaintiff classes in the aggregate is less than 100.

"(4) In any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs.

"(5) This subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.

"(6)(A) A district court shall dismiss any civil action that is subject to the jurisdiction of the court solely under this subsection if the court determines the action may not proceed as a class action based on a failure to satisfy the ~~requirements~~ prerequisites of rule 23 of the Federal Rules of Civil Procedure.

"(B) Nothing in subparagraph (A) shall prohibit plaintiffs from filing an amended class action in Federal court or filing an action in State court, except that any such action filed in State court may be removed to the appropriate district court if it is an action of which the district courts of the United States have original jurisdiction.

"(C) In any action that is dismissed under this paragraph and is filed by any of the original named plaintiffs therein in the same State court venue in which the dismissed action was originally filed, the limitations periods on all reasserted claims shall be deemed tolled for the period during which the dismissed class action was pending. The limitations periods on any claims that were asserted in a class action dismissed under this paragraph that are subsequently asserted in an individual action shall be deemed tolled for the period during which the dismissed action was pending.

"(7) Paragraph (2) shall not apply to any class action ~~brought by shareholders~~ that solely involves a claim ~~that relates to —~~

"(A) ~~a claim~~ concerning a covered security as defined under 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(B) that relates to the internal affairs or governance of a corporation or other form of business enterprise and that arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(C) that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).

"(8) For purposes of this subsection and section 1453 of this title, an unincorporated association shall be deemed to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.

"(9)(A) For purposes of this section and section 1453 of this title, a civil action that is not otherwise a class action as defined in paragraph (1)(B) ~~of this subsection~~ shall nevertheless be deemed a class action if—

"(i) ~~"(A)~~ the named plaintiff purports to act for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeks a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general; or

"(ii) ~~"(B)~~ monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact.

"(B)(i) In any ~~such case~~ civil action described under subparagraph (A)(ii), the persons who allegedly were injured shall be treated as members of a proposed plaintiff class and the monetary relief that is sought shall be treated as the claims of individual class members.

"(ii) ~~The provisions of p~~Paragraphs (3) and (6) of this subsection and subsections (b)(2) and (d) of section 1453 shall not apply to any civil action~~s~~ described under subparagraph (A)(i).

"(iii) ~~The provisions of p~~Paragraph (6) of this subsection, and subsections (b)(2) and (d) of section 1453 shall not apply to any civil action~~s~~ described under subparagraph (A)(ii) ~~(B)~~.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1335(a)(1) is amended by inserting "(a) or (d)" after "1332".

(2) Section 1603(b)(3) is amended by striking "(d)" and inserting "(e)".

SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FEDERAL DISTRICT COURT.

(a) IN GENERAL.—Chapter 89 is amended by adding after section 1452 the following:

"§ 1453. Removal of class actions

"(a) DEFINITIONS.—In this section, the terms 'class', 'class action', 'class certification order', and 'class member' shall have the meanings given ~~these~~ such terms ~~in~~ under section 1332(d)(1).

"(b) IN GENERAL.—A class action may be removed to a district court of the United States in accordance with this chapter, without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed—

"(1) by any defendant without the consent of all defendants; or

"(2) by any plaintiff class member who is not a named or representative class member without the consent of all members of such class.

"(c) WHEN REMOVABLE.—This section shall apply to any class action before or after the entry of a class certification order in the action~~, except that a plaintiff class member who is not a named or representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class member has been entered~~.

"(d) PROCEDURE FOR REMOVAL.— ~~The provisions of s~~Section 1446 relating to a defendant removing a case shall apply to a plaintiff removing a case under this section, except that in the application of subsection (b) of such section the requirement relating to the 30-day filing period shall be met if a plaintiff class member files notice of removal within 30 days after receipt by such class member, through service or otherwise, of the initial written notice of the class action.

"(e) REVIEW OF ORDERS REMANDING CLASS ACTIONS TO STATE COURTS.— ~~The provisions of s~~Section 1447 shall apply to any removal of a case under this section, except that~~,~~ notwithstanding ~~the provisions of~~ section 1447(d), an order remanding a class action to the State court from which it was removed shall be reviewable by appeal or otherwise.

"(f) EXCEPTION.—This section shall not apply to any class action ~~brought by shareholders~~ that solely involves—

"(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).".

(b) REMOVAL LIMITATION.—Section 1446(b) is amended in the second sentence by inserting "(a)" after "section 1332".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following:
"1453. Removal of class actions.".

~~**SEC. 6. APPEALS OF CLASS ACTION CERTIFICATION ORDERS.**~~

~~(a) IN GENERAL.—Section 1292(a) is amended by inserting after paragraph (3) the following:~~

~~"(4) Orders of the district courts of the United States granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within 10 days after entry of the order.".~~

~~(b) DISCOVERY STAY.—All discovery and other proceedings shall be stayed during the pendency of any appeal taken pursuant to the amendment made by subsection (a), unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue prejudice to that party.~~

SEC. 6~~7~~. REPORT ON CLASS ACTION SETTLEMENTS.

(a) IN GENERAL.—Not later than 12 months after the date of ~~the~~ enactment of this Act, the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall prepare and transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report on class action settlements ~~in the Federal courts~~.

(b) CONTENT.—The report under subsection (a) shall contain—

(1) recommendations on the best practices that courts can use to ensure that proposed class action settlements are fair to the class members ~~whom~~ that the settlements are supposed to benefit;

(2) recommendations on the best practices that courts can use to ensure that—

(A) the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and

(B) the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and

(3) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.

(c) AUTHORITY OF FEDERAL COURTS.—Nothing in this section shall be construed to alter the authority of the Federal courts to supervise attorney's' fees.

SEC. 7~~8~~. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action commenced on or after the date of ~~the~~ enactment of this Act.

HR 1115 108th Congress-Introduced House (blue, underlined text)
as compared to
HR 2341 107th Congress-Passed House ~~(red, strikethrough text)~~

To amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes.

(a) SHORT TITLE.—This Act may be cited as the "Class Action Fairness Act of 2003~~2~~".
(b) REFERENCE.—Whenever in this Act reference is made to an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.
(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Consumer class action bill of rights and improved procedures for interstate class actions.
Sec. 4. Federal district court jurisdiction of interstate class actions.
Sec. 5. Removal of interstate class actions to Federal district court.
Sec. 6. Appeals of class action certification orders.
Sec. 7~~8~~. Effective date.
~~Sec. 7. Report on class action settlements~~.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds as follows:
(1) Class action lawsuits are an important and valuable part of our legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.

(2) Over the past decade, there have been abuses of the class action device that have—
(A) harmed class members with legitimate claims and defendants that have acted responsibly;
(B) adversely affected interstate commerce; and
(C) undermined public respect for the ~~our~~ judicial system in the United States.
(3) Class members have been harmed by a number of actions taken by plaintiffs' lawyers, which provide little or no benefit to class members as a whole, including—
(A) plaintiffs' lawyers receiving large fees, while class members are left with coupons or other awards of little or no value;
(B) unjustified rewards being made to certain plaintiffs at the expense of other class

members; and
(C) the publication of confusing notices that prevent class members from being able to fully understand and effectively exercise their rights.
(4) Through the use of artful pleading, plaintiffs are able to avoid litigating class actions in Federal court, forcing businesses and other organizations to defend interstate class action lawsuits in county and State courts where—
(A) the lawyers, rather than the claimants, are likely to receive the maximum benefit;
(B) less scrutiny may be given to the merits of the case; and
(C) defendants are effectively forced into settlements, in order to avoid the possibility of huge judgments that could destabilize their companies.
(5) These abuses undermine the ~~our~~ Federal judicial system, the free flow of interstate commerce, and the intent of the framers of the Constitution in creating diversity jurisdiction, in that county and State courts are—
(A) handling interstate class actions that affect parties from many States;
(B) sometimes acting in ways that demonstrate bias against out-of-State defendants; and
(C) making judgments that impose their view of the law on other States and bind the rights of the residents of those States.
(6) Abusive interstate class actions have harmed society as a whole by forcing innocent parties to settle cases rather than risk a huge judgment by a local jury, thereby costing consumers billions of dollars in increased costs to pay for forced settlements and excessive judgments.

(b) PURPOSES.—The purposes of this Act are—
(1) to assure fair and prompt recoveries for class members with legitimate claims;
(2) to protect responsible companies and other institutions against interstate class actions in State courts;
(3) to restore the intent of the framers of the Constitution by providing for Federal court consideration of interstate class actions; and
(4) to benefit society by encouraging innovation and lowering consumer prices.

SEC. 3. CONSUMER CLASS ACTION BILL OF RIGHTS AND IMPROVED PROCEDURES FOR INTERSTATE CLASS ACTIONS.

(a) IN GENERAL.—Part V is amended by inserting after chapter 113 the following:
"CHAPTER 114—CLASS ACTIONS
"Sec.
"1711. Judicial scrutiny of coupon and other noncash settlements.
"1712. Protection against loss by class members.
"1713. Protection against discrimination based on geographic location.
"1714. Prohibition on the payment of bounties.
"1715. Clearer and simpler settlement information.
"1716~~1718~~. Definitions.
~~"1716. Disclosure of attorney's fees.~~
~~"1717. Sunshine in court records.~~

"§ 1711. Judicial scrutiny of coupon and other noncash settlements

"The court may approve a proposed settlement under which the class members would receive noncash benefits or would otherwise be required to expend funds in order to obtain part or all of the proposed benefits only after a hearing to determine whether, and making a written finding that, the settlement is fair, reasonable, and adequate for class members.

"§ 1712. Protection against loss by class members

"The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court makes a written finding that nonmonetary benefits to the class member outweigh the monetary loss.

"§ 1713. Protection against discrimination based on geographic location

"The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

"§ 1714. Prohibition on the payment of bounties

"(a) IN GENERAL.—The court may not approve a proposed settlement that provides for the payment of a greater share of the award to a class representative serving on behalf of a class, on the basis of the formula for distribution to all other class members, than that awarded to the other class members.

"(b) RULE OF CONSTRUCTION.—The limitation in subsection (a) shall not be construed to prohibit any payment approved by the court for reasonable time or costs that a person was required to expend in fulfilling his or her obligations as a class representative.

"§ 1715. Clearer and simpler settlement information

"(a) PLAIN ENGLISH REQUIREMENTS.—Any court with jurisdiction over a plaintiff class action shall require that any written notice concerning a proposed settlement of the class action provided to the class through the mail or publication in printed media contain—

"(1) at the beginning of such notice, a statement in 18-point Times New Roman type or other functionally similar type, stating 'LEGAL NOTICE: YOU ARE A PLAINTIFF IN A CLASS ACTION LAWSUIT AND YOUR LEGAL RIGHTS ARE AFFECTED BY THE SETTLEMENT DESCRIBED IN THIS NOTICE.'; and

"(2) a short summary written in plain, easily understood language, describing—

"(A) the subject matter of the class action;

"(B) the members of the class;

"(C) the legal consequences of being a member of the class;

"(D) if the notice is informing class members of a proposed settlement agreement—
"(i) the benefits that will accrue to the class due to the settlement;
"(ii) the rights that class members will lose or waive through the settlement;
"(iii) obligations that will be imposed on the defendants by the settlement;
"(iv) the dollar amount of any attorney's fee class counsel will be seeking, or if not possible, a good faith estimate of the dollar amount of any attorney's fee class counsel will be seeking; and
"(v) an explanation of how any attorney's fee will be calculated and funded; and
"(E) any other material matter.
"(b) TABULAR FORMAT.—Any court with jurisdiction over a plaintiff class action shall require that the information described in subsection (a)—
"(1) be placed in a conspicuous and prominent location on the notice;
"(2) contain clear and concise headings for each item of information; and
"(3) provide a clear and concise form for stating each item of information required to be disclosed under each heading.
"(c) TELEVISION OR RADIO NOTICE.—Any notice provided through television or radio (including transmissions by cable or satellite) to inform the class members in a class action of the right of each member to be excluded from the class action or a proposed settlement of the class action, if such right exists, shall, in plain, easily understood language—
"(1) describe the persons who may potentially become class members in the class action; and
"(2) explain that the failure of a class member to exercise his or her right to be excluded from a class action will result in the person's inclusion in the class action or settlement.

"§ 1716~~1718~~. Definitions

"In this chapter—
"(1) CLASS ACTION.—The term 'class action' means any civil action filed in a district court of the United States pursuant to rule 23 of the Federal Rules of Civil Procedure or any civil action that is removed to a district court of the United States that was originally filed pursuant to a State statute or rule of judicial procedure authorizing an action to be brought by one or more representatives on behalf of a class.
"(2) CLASS COUNSEL.—The term 'class counsel' means the persons who serve as the attorneys for the class members in a proposed or certified class action.
"(3) CLASS MEMBERS.—The term 'class members' means the persons who fall within the definition of the proposed or certified class in a class action.
"(4) PLAINTIFF CLASS ACTION.—The term 'plaintiff class action' means a class action in which class members are plaintiffs.
"(5) PROPOSED SETTLEMENT.—The term 'proposed settlement' means an agreement that resolves claims in a class action, that is subject to court approval, and that, if approved, would be binding on the class members.".

~~"§ 1716. Disclosure of attorney's fees~~

~~"Any court with jurisdiction over a plaintiff class action shall require that, if there is a~~

~~settlement of the class action or a judgment for the plaintiffs, the attorneys for the plaintiffs shall disclose to each plaintiff—~~

~~"(1) at the time when any payment or other award is transmitted to the plaintiff in accordance with the settlement of judgment, or~~

~~"(2) in a case in which no such payment or award is made to a plaintiff, at the time when notice of the final settlement or judgment is transmitted to such plaintiff,~~

~~the full amount of the attorney's fees charged by the attorneys for services rendered in the action.~~

~~**"§ 1717. Sunshine in court records**~~

~~"No order, opinion, or record of the court in the adjudication of a class action, including a record obtained through discovery, whether or not formally filed with the court, may be sealed or subjected to a protective order unless the court makes a finding of fact—~~

~~"(1) that the sealing or protective order is narrowly tailored, consistent with the protection of public health and safety, and is in the public interest; and~~

~~"(2) if the action by the court would prevent the disclosure of information, that disclosing the information is clearly outweighed by a specific and substantial interest in maintaining the confidentiality of such information.~~

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part V is amended by inserting after the item relating to chapter 113 the following:
"114. Class Actions
1711".

SEC. 4. FEDERAL DISTRICT COURT JURISDICTION OF INTERSTATE CLASS ACTIONS.

(a) APPLICATION OF FEDERAL DIVERSITY JURISDICTION.—Section 1332 is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d)(1) In this subsection—

"(A) the term 'class' means all of the class members in a class action;

"(B) the term 'class action' means any civil action filed pursuant to rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by one or more representative persons on behalf of a class;

"(C) the term 'class certification order' means an order issued by a court approving the treatment of a civil action as a class action; and

"(D) the term 'class members' means the persons who fall within the definition of the proposed or certified class in a class action.

"(2) The district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs, and is a class action in which—

"(A) any member of a class of plaintiffs is a citizen of a State different from any

defendant;

"(B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or

"(C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.

"(3) Paragraph (2) shall not apply to any civil action in which—

"(A)(i) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed; and

"(ii) the claims asserted therein will be governed primarily by the laws of the State in which the action was originally filed;

"(B) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or

"(C) the number of proposed plaintiff class members is less than 100.

"(4) In any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs.

"(5) This subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.

"(6)(A) A district court shall dismiss any civil action that is subject to the jurisdiction of the court solely under this subsection if the court determines the action may not proceed as a class action based on a failure to satisfy the requirements of rule 23 of the Federal Rules of Civil Procedure.

"(B) Nothing in subparagraph (A) shall prohibit plaintiffs from filing an amended class action in Federal court or filing an action in State court, except that any such action filed in State court may be removed to the appropriate district court if it is an action of which the district courts of the United States have original jurisdiction.

"(C) In any action that is dismissed under this paragraph and is filed by any of the original named plaintiffs therein in the same State court venue in which the dismissed action was originally filed, the limitations periods on all reasserted claims shall be deemed tolled for the period during which the dismissed class action was pending. The limitations periods on any claims that were asserted in a class action dismissed under this paragraph that are subsequently asserted in an individual action shall be deemed tolled for the period during which the dismissed action was pending.

"(7) Paragraph (2) shall not apply to any class action brought by shareholders that solely involves a claim that relates to—

"(A) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(B) the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(C) the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).

"(8) For purposes of this subsection and section 1453 of this title, an unincorporated association shall be deemed to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.

"(9) For purposes of this section and section 1453 of this title, a civil action that is not otherwise a class action as defined in paragraph (1)(B) of this subsection shall nevertheless be deemed a class action if—

"(A) the named plaintiff purports to act for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeks a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general; or

"(B) monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact.

In any such case, the persons who allegedly were injured shall be treated as members of a proposed plaintiff class and the monetary relief that is sought shall be treated as the claims of individual class members. The provisions of paragraphs (3) and (6) of this subsection and subsections (b)(2) and (d) of section 1453 shall not apply to civil actions described under subparagraph (A). The provisions of paragraph (6) of this subsection, and subsections (b)(2) and (d) of section 1453 shall not apply to civil actions described under subparagraph (B).".

(b) CONFORMING AMENDMENTS.—

(1) Section 1335(a)(1) is amended by inserting "(a) or (d)" after "1332".

(2) Section 1603(b)(3) is amended by striking "(d)" and inserting "(e)".

SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FEDERAL DISTRICT COURT.

(a) IN GENERAL.—Chapter 89 is amended by adding after section 1452 the following:

"§ 1453. Removal of class actions

"(a) DEFINITIONS.—In this section, the terms 'class', 'class action', 'class certification order', and 'class member' have the meanings given these terms in section 1332(d)(1).

"(b) IN GENERAL.—A class action may be removed to a district court of the United States in accordance with this chapter, without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed—

"(1) by any defendant without the consent of all defendants; or

"(2) by any plaintiff class member who is not a named or representative class member without the consent of all members of such class.

"(c) WHEN REMOVABLE.—This section shall apply to any class action before or after the entry of a class certification order in the action, except that a plaintiff class member who is not a named or representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class member has been entered.

"(d) PROCEDURE FOR REMOVAL.—The provisions of section 1446 relating to a defendant removing a case shall apply to a plaintiff removing a case under this section, except that in the application of subsection (b) of such section the requirement relating to the 30-day filing period shall be met if a plaintiff class member files notice of removal

within 30 days after receipt by such class member, through service or otherwise, of the initial written notice of the class action.

"(e) REVIEW OF ORDERS REMANDING CLASS ACTIONS TO STATE COURTS.—The provisions of section 1447 shall apply to any removal of a case under this section, except that, notwithstanding the provisions of section 1447(d), an order remanding a class action to the State court from which it was removed shall be reviewable by appeal or otherwise.

"(f) EXCEPTION.—This section shall not apply to any class action brought by shareholders that solely involves—

"(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).".

(b) REMOVAL LIMITATION.—Section 1446(b) is amended in the second sentence by inserting "(a)" after "section 1332".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following: "1453. Removal of class actions.".

SEC. 6. APPEALS OF CLASS ACTION CERTIFICATION ORDERS.

(a) IN GENERAL.—Section 1292(a) is amended by inserting after paragraph (3) the following:

"(4) Orders of the district courts of the United States granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within 10 days after entry of the order.".

(b) DISCOVERY STAY.—All discovery and other proceedings shall be stayed during the pendency of any appeal taken pursuant to the amendment made by subsection (a), unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue prejudice to that party.

SEC. 7~~8~~. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action commenced on or after the date of the enactment of this Act.

~~SEC.7. REPORT ON CLASS ACTION SETTLEMENTS.~~

~~(a) IN GENERAL.—Not later than 12 months after the date of the enactment of this~~

~~Act, the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall prepare and transmit to the Committees on the Judiciary of the Senate and House of Representatives a report on class action settlements in the Federal courts.~~

~~(b) CONTENT.—The report under subsection (a) shall contain—~~

~~(1) recommendations on the best practices that courts can use to ensure that proposed class action settlements are fair to the class members whom the settlements are supposed to benefit;~~

~~(2) recommendations on the best practices that courts can use to ensure that—~~

~~(A) the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and~~

~~(B) the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and~~

~~(3) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.~~

~~(c) AUTHORITY OF FEDERAL COURTS.—Nothing in this section shall be construed to alter the authority of the Federal courts to supervise attorney's fees.~~

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Holly T. Moore/NSC/EOP@EOP [NSC] <Holly T. Moore>
Sent: 4/3/2003 11:51:03 AM
Subject: : Re: omb

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 3-APR-2003 16:51:03.00
SUBJECT:: Re: omb
TO:Holly T. Moore (CN=Holly T. Moore/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
End Original ARMS Header

great

Holly T. Moore
04/03/2003 04:50:29 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: omb

went to see phil perry. he sent me to rodney bent, i have faxed rodney bent the points and hope to hear back soon. i asserted in my fax to omb that you were fine with the points and saying that the admin opposes. h

From: CN=Philip J. Perry/OU=OMB/O=EOP [OMB]
To: Jay P. Lefkowitz/OPD/EOP@Exchange@EOP [OPD] <Jay P. Lefkowitz>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/4/2003 5:41:04 AM
Subject: : Allen Amendment

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP [OMB])
CREATION DATE/TIME: 4-APR-2003 10:41:04.00
SUBJECT:: Allen Amendment
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange@EOP [OPD])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

fyi -- This provision is now in the Senate version of the supp:

28 usc 1605 is amended to add as 1605(h) --

Any United States citizen, and their immediate family at the time, shall have a claim for money damages against a foreign state, as authorized by subsection (a)(7), for death or personal injury (including economic damages, solatium, pain and suffering) caused by the foreign state's act of torture, extrajudicial killing, aircraft sabotage, or hostage taking. This subsection abrogates any other provision of law and any international agreement that purports to bar, preclude, terminate, extinguish, or supend the claim. This subsection is retroactive to November 1, 1979.

From: Kirk Blalock <kblalock@fierce-isakowitz.com>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Kevin Warsh/OPD /EOP@EOP [OPD] <Kevin Warsh>;Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>
Sent: 4/4/2003 3:21:56 AM
Subject: : Asbestos article from Congress Daily
Attachments: P_QUUBF003_WHO.TXT_1.html

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kirk Blalock <kblalock@fierce-isakowitz.com> ( Kirk Blalock <kblalock@fierce-
isakowitz.com> [ UNKNOWN ] )
CREATION DATE/TIME: 4-APR-2003 08:21:56.00
SUBJECT:: Asbestos article from Congress Daily
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

JUDICIARY
Fresh Efforts Launched To Reach Asbestos Litigation Agreement
Disparate industry stakeholders in the asbestos litigation debate were poised to meet privately today to try and reach consensus on the ceiling for liability to be borne by defendant companies and insurers under a reform bill being contemplated in the Senate Judiciary Committee.

The meeting was to take place at the headquarters of the National Association of Manufacturers, which leads the Asbestos Alliance of defendant companies.

Although there is currently basic unanimity among senators and key stakeholders in the debate -- including labor, industry and insurers -- that the bill will be based on a trust fund concept, the Alliance has distinguished itself as an advocate for a pure medical criteria bill, which would screen sick from non-sick litigants out of the court system.

Representatives for the trial bar said this week they would not oppose a compensation fund that is "adequately and fairly" funded.

Meanwhile, House Judiciary Commercial and Administrative Law Subcommittee Chairman Chris Cannon, R-Utah, who has been working closely with the Alliance, late Thursday introduced asbestos reform legislation that relies on medical criteria to screen sick from non-sick litigants.

Cannon's bill also contains certain tort reforms, designed to provide the "certainty and finality" that advocates for a private trust argue cannot be had while keeping asbestos claims entrenched in the litigation system.

"Tort reform needs to have a significant place in the discussions," Cannon declared.
"It does not make sense to bankrupt every company in America because somebody might get sick from asbestos," he added.

In an interview Thursday, Cannon said his bill also would contain venue changes designed to cut down on so-called forum shopping. Cannon said he is not seeking to cap damages, however.

Cannon had been working since last year with Rep. Calvin Dooley,

D-Calif., on a bipartisan asbestos litigation reform bill, but the two lawmakers recently parted ways over the inclusion of those tort reforms.

Cannon now is working with fellow Utahan, Senate Judiciary Chairman Hatch, on the legislation, and the two have been keeping each other closely apprised of their efforts, Cannon said.

Dooley intends to offer his own reform proposal, Cannon added. Asked if he thought his more narrow medical criteria bill had been overtaken by the Senate's new focus on a trust fund, Cannon was confident: "Whatever happens, we want to have some pretty clear medical criteria," he said.

Cannon reiterated House Republican leaders' admonition that they will need to see evidence of progress in the Senate before they agree to take up the asbestos legislation.

With respect to a private trust fund, settling on the allocation formula for paying claims, as was expected, has proven to be a challenge for the business community, where defendant companies number in the thousands.

Today's industry meeting was supposed to serve, in part, as a kind of briefing for Alliance members, many of whom were not present at a series of intensive meetings hosted this week in New York City by the Asbestos Study Group, which consist of peripheral defendant companies who have long championed the trust fund concept.

Attendees at those meetings, which included defendant company, insurance and reinsurance representatives, had settled on an upper-most figure for the industry's overall liability, according to sources. It is an amount that labor officials have rejected as insufficient, however.

Sources said the forum also will give officials not represented at earlier meetings a chance to offer input on an allocation formula before it is nailed down and offered up to Hatch, who has said he wants to begin formally drafting a bill beginning mid-April.

One source described the meeting as being part of the industry's response to Hatch's stern directive that "everybody should be talking to everybody. It's an ever-expanding meeting," this source added.

Sen. Christopher Dodd, D-Conn., one of the point men the industry is looking to help shepherd the complex legislation through the Senate, Thursday said the ball was in the industry's court at this point and said he understood they would be reaching some decision this week.

And he emphasized the need for the legislation to be wrapped this year, before the 2004 election season gets under way. Not just this year, but "in the next several months," he said. By Pamela Barnett

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_QUUBF003_WHO.TXT_1>

JUDIC IARY
Fresh Efforts Launched To Reach Asbestos Litigation Agreement
Disparate industry stakeholders in the asbestos litigation debate were poised to meet privately today to try and reach consensus on the ceiling for liability to be borne by defendant companies and insurers under a reform bill being contemplated in the Senate Judiciary Committee.

The meeting was to take place at the headquarters of the National Association of Manufacturers, which leads the Asbestos Alliance of defendant companies.

Although there is currently basic unanimity among senators and key stakeholders in the debate -- including labor, industry and insurers -- that the bill will be based on a trust fund concept, the Alliance has distinguished itself as an advocate for a pure medical criteria bill, which would screen sick from non-sick litigants out of the court system.

Representatives for the trial bar said this week they would not oppose a compensation fund that is "adequately and fairly" funded.

Meanwhile, House Judiciary Commercial and Administrative Law Subcommittee Chairman Chris Cannon, R-Utah, who has been working closely with the Alliance, late Thursday introduced asbestos reform legislation that relies on medical criteria to screen sick from non-sick litigants.

Cannon's bill also contains certain tort reforms, designed to provide the "certainty and finality" that advocates for a private trust argue cannot be had while keeping asbestos claims entrenched in the litigation system.

"Tort reform needs to have a significant place in the discussions," Cannon declared.
"It does not make sense to bankrupt every company in America because somebody might get sick from asbestos," he added.

In an interview Thursday, Cannon said his bill also would contain venue changes designed to cut down on so-called forum shopping. Cannon said he is not seeking to cap damages, however.

Cannon had been working since last year with Rep. Calvin Dooley, D-Calif., on a bipartisan asbestos litigation reform bill, but the two lawmakers recently parted ways over the inclusion of those tort reforms.

Cannon now is working with fellow Utahan, Senate Judiciary Chairman Hatch, on the legislation, and the two have been keeping each other closely apprised of their efforts, Cannon said.

Dooley intends to offer his own reform proposal, Cannon added.
Asked if he thought his more narrow medical criteria bill had been overtaken by the Senate's new focus on a trust fund, Cannon was confident: "Whatever happens, we want to have some pretty clear medical criteria," he said.

Cannon reiterated House Republican leaders' admonition that they will need to see evidence of progress in the Senate before they agree to take up the asbestos legislation.

With respect to a private trust fund, settling on the allocation formula for paying claims, as was expected, has proven to be a challenge for the business community, where defendant companies number in the thousands.

Today's industry meeting was supposed to serve, in part, as a kind of briefing for Alliance members, many of whom were not present at a

series of intensive meetings hosted this week in New York City by the Asbestos Study Group, which consist of peripheral defendant companies who have long championed the trust fund concept.

Attendees at those meetings, which included defendant company, insurance and reinsurance representatives, had settled on an upper-most figure for the industry's overall liability, according to sources. It is an amount that labor officials have rejected as insufficient, however.

Sources said the forum also will give officials not represented at earlier meetings a chance to offer input on an allocation formula before it is nailed down and offered up to Hatch, who has said he wants to begin formally drafting a bill beginning mid-April.

One source described the meeting as being part of the industry's response to Hatch's stern directive that "everybody should be talking to everybody. It's an ever-expanding meeting," this source added.

Sen. Christopher Dodd, D-Conn., one of the point men the industry is looking to help shepherd the complex legislation through the Senate, Thursday said the ball was in the industry's court at this point and said he understood they would be reaching some decision this week.

And he emphasized the need for the legislation to be wrapped this year, before the 2004 election season gets under way. Not just this year, but "in the next several months," he said. By Pamela Barnett

From: CN=Robert T. Blake/OU=OA/O=EOP@Exchange [OA]
To: Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>
CC: David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Desiree T. Sayle/WHO/EOP@EOP [WHO] <Desiree T. Sayle>;Adam F. Greenstone/OA/EOP@Exchange [OA] <Adam F. Greenstone>;David G. Leitch/WHO/EOP@Exchange [WHO] <David G. Leitch>
Sent: 4/4/2003 9:29:20 AM
Subject: : RE: FW: PERS Approval

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Robert T. Blake ( CN=Robert T. Blake/OU=OA/O=EOP@Exchange [ OA ] )
CREATION DATE/TIME: 4-APR-2003 14:29:20.00
SUBJECT:: RE: FW: PERS Approval
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Desiree T. Sayle ( CN=Desiree T. Sayle/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Adam F. Greenstone ( CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
CC:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Confirmed.

We are starting up with just the President and may give the Vice President
the option of joining the system later, and would
provide David Addington full review prior to the addition of the Vice
President. This is from prior discussions with Desiree and
of course this prior plan may be overruled by Desiree.

-----Original Message-----
From: Powell, Benjamin A.
Sent: Friday, April 04, 2003 2:25 PM
To: Blake, Robert T.
Cc: Leitch, David G.; Kavanaugh, Brett M.; Greenstone, Adam F.;
Addington, David S.; Sayle, Desiree T.
Subject: Re: FW: PERS Approval

We have no objection to the new presidential e-mail system that I reviewed
provided that:
1. Senior Staff approves.
2. The entire piece of the system that allowed users to fill out
and submit hardship case forms is removed.
3. I assume Adam has reviewed for OA.

The White House is exempt from the Privacy Act.

(Bob -- one other note -- probably more for Desiree than you, but in any
event -- I don't know the plans for the vice president. I understand that
this "beta" system will only handle president@whitehouse.gov. Any system
involving changes to vice.president@whitehouse.gov should be reviewed by
David Addington.)
```

From: Robert T. Blake/OA/EOP@Exchange on 04/04/2003 02:11:37 PM
Record Type: Record

To: Benjamin A. Powell/WHO/EOP@EOP
cc:
Subject: FW: PERS Approval

Hi Ben, Bob Blake from OA here. I was with Desiree Sayle as part of the PERS demonstration. As part of my check list, I need approval from you (email is sufficient) that
from a GC stand point, we are approved to go forward with putting PERS on-line following senior staff approval.

Also, the question came up on if the White House is exempt from the Privacy Act. This is in regards to our gathering of the DOB for Birthday and Baby's Birth greetings.

Thanks.

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/4/2003 11:56:11 AM
Subject: : FW: LRM PTM29 - - VETERANS AFFAIRS Testimony on Veterans Benefits and Compensation
Attachments: P_ACSCF003_WHO.TXT_1.pdf; P_ACSCF003_WHO.TXT_2.doc; P_ACSCF003_WHO.TXT_3.pdf; P_ACSCF003_WHO.TXT_4.pdf; P_ACSCF003_WHO.TXT_5.pdf; P_ACSCF003_WHO.TXT_6.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 4-APR-2003 16:56:11.00
SUBJECT:: FW: LRM PTM29 - - VETERANS AFFAIRS Testimony on Veterans Benefits and Compensation
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

-----Original Message-----
From: Messenger, P. Thaddeus
Sent: Friday, April 04, 2003 4:28 PM
To: dodlrs@osdgc.osd.mil; lrm@hhs.gov; ogc_legislation@ed.gov; HUD_LRM@hud.gov; justice.lrm@usdoj.gov; dol-sol-leg@dol.gov; state-lrm@state.gov
Cc: Cleveland, Robin; Carson, Karyn T.; Peroff, Kathleen; Siclari, Mary Jo; Hustead, Toni S.; Grayton, Arecia A.; Chang, Winifred Y.; Hagen, Kelli A.; Benson, Shalini M.; Ermann, Danny A.; Sastry, Narahari; Bartrum, John J.; Seastrom, Mark R.; Aguilera, Ricardo A.; Waites, Wendell H.; Reilly, Thomas; Cochran, Norris W.; Fontenot, Keith J.; Hinman, Lindy M.; Stack, Kathryn B.; Werfel, Daniel I.; Redburn, Francis S.; Cramer, Reid B; Bloomquist, Lauren E.; Walsh, Maureen; McDonald, Katrina A.; Kitti, Carole; Kulikowski, James M.; Smalligan, Jack A.; Cianci Hoff, Joanne; Crilley, Joseph; Little, Attia; Lee, Sarah S.; Suarez, Aquiles F.; Halaska, Terrell L.; Gilbert, Alan; Nsc Lrm; Ostp Lrm; Levinson, Rachel E.; Ovp Lrm; Whgc Lrm; Perry, Philip J.; Wood, John F.; Cox, Christopher C.; Dove, Stephen W.; Lobrano, Lauren C.; Jukes, James J.; Schroeder, Ingrid M.; Messenger, P. Thaddeus
Subject: LRM PTM29 - - VETERANS AFFAIRS Testimony on Veterans Benefits and Compensation

LRM ID: PTM29
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Friday, April 4, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: P. Thaddeus Messenger
PHONE: (202)395-7754 FAX: (202)395-6148
SUBJECT: VETERANS AFFAIRS Testimony on Veterans Benefits and Compensation

DEADLINE: 5:00 p.m. Monday, April 7, 2003
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Attached, please find a draft copy of VA (Cooper) testimony for

an April 10th hearing before the Benefits Subcommittee of the House Veterans Affairs Committee. For your reference, copies of each bill's text are also included.

VA supports: (1) H.R. 241 - Veterans Beneficiary Fairness Act; (2) H.R. 761 - Disabled Servicemembers Adapted Housing for Members of the Armed Services; and (3) H.R. 1048 - Disabled Veterans Adaptive Benefits Improvement.

VA does not support (1) H.R. 533 - Agent Orange Veterans' Disabled Children's Benefits Act; (2) H.R. 850 - Former Prisoners of War Special Compensation Act; or (3) H.R. 996 - Disabled Veterans' Return-to-Work Act.

Please provide your comments by 5:00 p.m. on Monday, April 7th. If we do not receive your comments by that time, we will assume you have no objection to the document as drafted.

If you experience difficulty with this LRM, or its attachment, please contact us immediately.

NOTE: Because of the size of this transmission, the electronic copy will not be followed by a duplicate copy via facsimile.

Thank you.

DISTRIBUTION LIST

AGENCIES:
029-DEFENSE - Vic Bernson - (703) 697-1305
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773
030-EDUCATION - Jack Kristy - (202) 401-8313
054-HOUSING & URBAN DEVELOPMENT - Camille Acevedo - (202) 708-1793
061-JUSTICE - Jamie E. Brown - (202) 514-2141
062-LABOR - Robert A. Shapiro - (202) 693-5500
114-STATE - VACANT - (202) 647-4463

EOP:
NSP LRM
VAB LRM
Ricardo A. Aguilera
Wendell H. Waites
Thomas Reilly
Norris W. Cochran
Keith J. Fontenot
Lindy M. Hinman
Kathryn B. Stack
Daniel I. Werfel
Francis S. Redburn
Reid B Cramer
Lauren E. Bloomquist
Maureen Walsh
Katrina A. McDonald
Carole Kitti
James M. Kulikowski
Jack A. Smalligan
Joanne Cianci Hoff
Joseph Crilley
Attia Little
Sarah S. Lee
Aquiles F. Suarez
Terrell L. Halaska
Alan Gilbert
NSC LRM

OSTP LRM
Rachel E. Levinson
OVP LRM
WHGC LRM
OMBGC LRM
Christopher C. Cox
Stephen W. Dove
Lauren C. Lobrano
James J. Jukes
Ingrid M. Schroeder
P. Thaddeus Messenger

LRM ID: PTM29 SUBJECT: VETERANS AFFAIRS Testimony on Veterans Benefits and Compensation
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) faxing us a memo or letter.
Please include the LRM number and subject shown above.

TO: P. Thaddeus Messenger Phone: 395-7754 Fax: 395-6148
Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ACSCF003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ACSCF003_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ACSCF003_WHO.TXT_3>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ACSCF003_WHO.TXT_4>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ACSCF003_WHO.TXT_5>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ACSCF003_WHO.TXT_6>

108TH CONGRESS
1ST SESSION

H. R. 241

To amend title 38, United States Code, to repeal the two-year limitation on the payment of accrued benefits that are due and unpaid by the Secretary of Veterans Affairs upon the death of a veteran or other beneficiary under laws administered by the Secretary.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 8, 2003

Mr. SMITH of New Jersey (for himself and Mr. EVANS) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to repeal the two-year limitation on the payment of accrued benefits that are due and unpaid by the Secretary of Veterans Affairs upon the death of a veteran or other beneficiary under laws administered by the Secretary.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Beneficiary Fairness Act of 2003".

REV_00162127

SEC. 2. PAYMENT OF ACCRUED BENEFITS.

(a) REPEAL OF LIMITATION ON PAYMENT.—Subsection (a) of section 5121 of title 38, United States Code, is amended by striking ''for a period not to exceed two years'' in the matter preceding paragraph (1).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to deaths occurring on or after the date of the enactment of this Act.

○

REV_00162128

108TH CONGRESS

1ST SESSION

H. R. 761

To amend title 38, United States Code, to authorize the Secretary of Veterans' Affairs to provide adapted housing assistance to disabled members of the Armed Forces who remain on active duty pending medical separation.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2003

Mr. EVANS (for himself, Mr. SMITH of New Jersey, Mr. RODRIGUEZ, Mr. FILNER, Mr. RENZI, Ms. CORRINE BROWN of Florida, Mr. REYES, Mr. MICHAUD, Ms. JACKSON-LEE of Texas, Mr. LANGEVIN, and Mr. SANDERS) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to authorize the Secretary of Veterans' Affairs to provide adapted housing assistance to disabled members of the Armed Forces who remain on active duty pending medical separation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Disabled Servicemembers Adapted Housing Assistance Act of 2003".

REV_00162129

SEC. 2. AUTHORIZATION TO PROVIDE ADAPTED HOUSING ASSISTANCE TO CERTAIN DISABLED MEMBERS OF THE ARMED FORCES WHO REMAIN ON ACTIVE DUTY.

Section 2101 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) The Secretary may provide assistance under subsection (a) to a member of the Armed Forces serving on active duty who is suffering from a disability described in paragraph (1), (2), or (3) of that subsection if such disability is the result of an injury incurred or disease contracted in or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under that subsection to veterans eligible for assistance under that subsection and subject to the requirements of the second sentence of that subsection.

"(2) The Secretary may provide assistance under subsection (b) to a member of the Armed Forces serving on active duty who is suffering from a disability described in subparagraph (A) or (B) of paragraph (1) of that subsection if such disability is the result of an injury incurred or disease contracted in or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under such subsection to veterans eligible for assistance under that subsection and subject to the requirements of paragraph (2) of that subsection.".

I

108TH CONGRESS
1ST SESSION

H. R. 1048

To amend title 38, United States Code, to increase the amount of assistance for certain disabled veterans for specially adapted housing and automobile and adaptive equipment.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 2003

Mr. BROWN of South Carolina (for himself, Mr. RODRIGUEZ, Mr. SMITH of New Jersey, and Mr. EVANS) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to increase the amount of assistance for certain disabled veterans for specially adapted housing and automobile and adaptive equipment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Disabled Veterans Adaptive Benefits Improvement Act of 2003".

REV_00162131

SEC. 2. INCREASE IN ASSISTANCE AMOUNT FOR SPECIALLY ADAPTED HOUSING.

Section 2102 of title 38, United States Code, is amended—

(1) in the matter preceding paragraph (1) of subsection (a), by striking "$48,000" and inserting "$50,000"; and

(2) in subsection (b)(2), by striking "$9,250" and inserting "$10,000".

SEC. 3. INCREASE IN AMOUNT OF ASSISTANCE FOR AUTOMOBILE AND ADAPTIVE EQUIPMENT FOR CERTAIN DISABLED VETERANS.

Section 3902(a) of title 38, United States Code, is amended by striking "$9,000" and inserting "$11,000".

○

REV_00162132

108TH CONGRESS
1ST SESSION

H. R. 533

To amend title 38, United States Code, to provide for health benefits and certain other benefits to be furnished by the Department of Veterans Affairs to any individual who has spina bifida and is the natural child of a veteran who, while in military service, was exposed to a herbicide agent.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 2003

Mr. EVANS (for himself, Mr. RODRIGUEZ, Mr. FILNER, Mr. GUTIERREZ, Ms. CORRINE BROWN of Florida, Mr. SNYDER, Mr. MCINTYRE, Mr. SANDERS, Mr. SERRANO, and Mr. WAXMAN) introduced the following bill; which was referred to the Committee on Veterans Affairs

---

A BILL

To amend title 38, United States Code, to provide for health benefits and certain other benefits to be furnished by the Department of Veterans Affairs to any individual who has spina bifida and is the natural child of a veteran who, while in military service, was exposed to a herbicide agent.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the Agent Orange Veterans Disabled Childrens Benefits Act of 2003.

REV_00162133

SEC. 2. EXTENSION OF SPINA BIFIDA BENEFITS FOR CHILDREN OF VETERANS.

(a) ELIGIBLE CHILDREN.Subchapter I of chapter 18 of title 38, United States Code, is amended by inserting before section 1802 the following new section:

1801. Persons eligible for benefits

(a) E LIGIBLE CHILD.An individual is an eligible child for purposes of this subchapter if the individual is suffering from spina bifida and is

(1) a child as defined in section 1821(1) of this title; or

(2) the natural child, regardless of age or marital status, of a parent who performed qualifying herbicide-risk service, if the individual was conceived after the parent performed such service.

(b) Q UALIFYING HERBICIDE-RISK SERVICE.(1) An individual performed qualifying herbicide-risk service if (as determined by the Secretary) the individual, while performing active military, naval, or air service (without regard to the characterization of that individuals service)

(A) served in an area in which a Vietnam-era herbicide agent was used during a period during which such agent was used in that area; or

(B) otherwise was exposed to a Vietnam-era herbicide agent.

REV_00162134

(2) For purposes of paragraph (1), the term Vietnam-era herbicide agent has the meaning given the term herbicide agent in section 1116(a)(3) of this title..

(b) HEALTH CARE.Section 1803(a) of such title is amended by striking a child of a Vietnam veteran who is suffering from spina bifida and inserting an eligible child.

(c) VOCATIONAL TRAINING AND REHABILITATION. Section 1804(a) of such title is amended by striking a child of a Vietnam veteran who is suffering from spina bifida and inserting an eligible child.

(d) MONETARY ALLOWANCE.Section 1805(a) of such title is amended by striking any child of a Vietnam veteran and inserting any eligible child.

(e) CONFORMING AMENDMENTS.

(1) The heading of chapter 18 of such title is amended to read as follows:

CHAPTER 18DISABILITY BENEFITS FOR CHILDREN OF VIETNAM VETERANS AND OTHER VETERANS EXPOSED TO HERBICIDE AGENTS.

(2) The heading of subchapter I of such chapter is amended to read as follows:

REV_00162135

SUBCHAPTER ICHILDREN BORN WITH SPINA BIFIDA.

(3) The table of sections at the beginning of such chapter is amended

(A) by striking the item relating to subchapter I and inserting the following:

SUBCHAPTER I CHILDREN BORN WITH SPINA BIFIDA;

and

(B) by inserting before the item relating to section 1802 the following new item:

1801. Persons eligible for benefits..

(4) The items relating to chapter 18 in the tables of chapters at the beginning of title 38, United States Code, and at the beginning of part II of such title, are amended to read as follows:

18. Disability Benefits for Children of Vietnam Veterans and Other Veterans Exposed to Herbicide Agents ..... 1801.

REV_00162136

I

108TH CONGRESS
1ST SESSION

H. R. 850

To amend title 38, United States Code, to provide special compensation for former prisoners of war, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2003

Mr. SIMPSON (for himself, Mr. COX, Mr. BOEHNER, Mr. DREIER, Mr. HYDE, Mr. KOLBE, Mr. LEACH, Mr. OTTER, Mr. SENSENBRENNER, and Mr. WILSON of South Carolina) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to provide special compensation for former prisoners of war, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Former Prisoners of War Special Compensation Act of 2003".

REV_00162137

SEC. 2. SPECIAL COMPENSATION FOR FORMER PRISONERS OF WAR.

(a) IN GENERAL.—Chapter 11 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER VII—FORMER PRISONERS OF WAR

"§ 1181. Special compensation: former prisoners of war

"(a)(1) The Secretary shall pay monthly to each veteran who is a former prisoner of war and who while a prisoner of war was detained or interned for not less than 30 days special compensation at the rate specified in subsection (b).

"(2) For the purposes of this section, the term 'veteran' includes an individual serving on active duty.

"(b) The rate of special compensation for purposes of this section shall be as follows:

"(1) If the former prisoner of war was detained or interned for a period of not more than 120 days, the monthly amount of special compensation payable shall be $150.

"(2) If the former prisoner of war was detained or interned for a period of more than 120 days and not more than 540 days, the monthly amount of special compensation payable shall be $300.

REV_00162138

"(3) If the former prisoner of war was detained or interned for a period of more than 540 days, the monthly amount of special compensation payable shall be $450.

"(c) If a former prisoner of war was detained or interned on two or more separate occasions, the cumulative length of all occasions of confinement or internment as a prisoner of war shall determine the monthly compensation rate payable under subsection (b).

"§ 1182. Provisions relating to special compensation for former prisoners of war

"(a) Special compensation payable under this subchapter shall be paid in addition to any other payment under the laws of the United States. Amounts paid to an individual under this subchapter shall not be considered to be income or resources for purposes of determining eligibility to receive benefits under any Federal or federally assisted program.

"(b) Special compensation payable under this subchapter shall not be considered to be compensation within the meaning of that term in section 101(13) of this title.

"(c) The provisions of subsection (c) of section 1562 of this title shall apply to special compensation under this subchapter in the same manner as to special pension under that section.".

REV_00162139

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"SUBCHAPTER VII—FORMER PRISONERS OF WAR

"1181. Special compensation: former prisoners of war.
"1182. Provisions relating to special compensation for former prisoners of war.".

SEC. 3. CLARIFICATION OF PROHIBITION ON PAYMENT OF COMPENSATION FOR ALCOHOL OR DRUG-RELATED DISABILITY.

(a) CLARIFICATION.—Sections 1110 and 1131 of title 38, United States Code, are each amended by inserting ", even if the abuse is secondary to a service-connected disability" before the period at the end.

(a) APPLICABILITY.—The amendments made by subsection (a) apply to any claim—

(1) filed on or after the date of the enactment of this Act; or

(2) filed before the date of the enactment of this Act and not finally decided as of that date.

SEC. 4. OUTPATIENT DENTAL CARE FOR ALL FORMER PRISONERS OF WAR.

Section 1712(a)(1)(F) of title 38, United States Code, is amended by striking "and who was detained or interned for a period of not less than 90 days".

○

REV_00162140

108TH CONGRESS
1ST SESSION

H. R. 996

To amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2003

Mr. JONES of North Carolina (for himself, Mr. ROSS, and Ms. HOOLEY of Oregon) introduced the following bill; which was referred to the Committee on Financial Services

---

A BILL

To amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Consumer Rental Purchase Agreement Act".

REV_00162141

SEC. 2. FINDINGS AND DECLARATION OF PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) The rental-purchase industry provides a service that meets and satisfies the demands of many consumers.

(2) Each year, approximately 2,300,000 United States households enter into rental-purchase transactions and over a 5-year period approximately 4,900,000 United States households will do so.

(3) Competition among the various firms engaged in the extension of rental-purchase transactions would be strengthened by informed use of rental-purchase transactions.

(4) The informed use of rental-purchase transactions results from an awareness of the cost thereof by consumers.

(b) PURPOSE.—The purpose of this title is to assure the availability of rental-purchase transactions and to assure simple, meaningful, and consistent disclosure of rental-purchase terms so that consumers will be able to more readily compare the available rental-purchase terms and avoid uninformed use of rental-purchase transactions, and to protect consumers against unfair rental-purchase practices.

REV_00162142

SEC. 3. CONSUMER CREDIT PROTECTION ACT.

The Consumer Credit Protection Act is amended by adding at the end the following new title:

"TITLE X—RENTAL-PURCHASE TRANSACTIONS

"Sec. 1001. Definitions.
"Sec. 1002. Exempted transactions.
"Sec. 1003. General disclosure requirements.
"Sec. 1004. Rental-purchase disclosures.
"Sec. 1005. Other agreement provisions.
"Sec. 1006. Right to acquire ownership.
"Sec. 1007. Prohibited provisions.
"Sec. 1008. Statement of accounts.
"Sec. 1009. Renegotiations and extensions.
"Sec. 1010. Point-of-rental disclosures.
"Sec. 1011. Rental-purchase advertising.
"Sec. 1012. Civil liability.
"Sec. 1013. Additional grounds for civil liability.
"Sec. 1014. Liability of assignees.
"Sec. 1015. Regulations.
"Sec. 1016. Enforcement.
"Sec. 1017. Criminal liability for willful and knowing violation.
"Sec. 1018. Relation to other laws.
"Sec. 1019. Effect on government agencies.
"Sec. 1020. Compliance date.

"SEC. 1001. DEFINITIONS.

"For purposes of this title, the following definitions shall apply:

"(1) ADVERTISEMENT.—The term 'advertisement' means a commercial message in any medium that promotes, directly or indirectly, a rental-purchase agreement but does not include price tags, window signs, or other in-store merchandising aids.

"(2) AGRICULTURAL PURPOSE.—The term 'agricultural purpose' includes—

REV_00162143

"(A) the production, harvest, exhibition, marketing, transformation, processing, or manufacture of agricultural products by a natural person who cultivates plants or propagates or nurtures agricultural products; and

"(B) the acquisition of farmlands, real property with a farm residence, or personal property and services used primarily in farming.

"(3) BOARD.—The term 'Board' means the Board of Governors of the Federal Reserve System.

"(4) CASH PRICE.—The term 'cash price' means the price at which a merchant, in the ordinary course of business, offers to sell for cash the property that is the subject of the rental-purchase transaction.

"(5) CONSUMER.—The term 'consumer' means a natural person who is offered or enters into a rental-purchase agreement.

"(6) DATE OF CONSUMMATION.—The term 'date of consummation' means the date on which a consumer becomes contractually obligated under a rental-purchase agreement.

"(7) INITIAL PAYMENT.—The term 'initial payment' means the amount to be paid before or at the

REV_00162144

consummation of the agreement or the delivery of the property if delivery occurs after consummation, including the rental payment; service, processing, or administrative charges; delivery fee; refundable security deposit; taxes; mandatory fees or charges; and any optional fees or charges agreed to by the consumer.

"(8) MERCHANT.—The term 'merchant' means a person who provides the use of property through a rental-purchase agreement in the ordinary course of business and to whom a consumer's initial payment under the agreement is payable.

"(9) PAYMENT SCHEDULE.—The term 'payment schedule' means the amount and timing of the periodic payments and the total number of all periodic payments that the consumer will make if the consumer acquires ownership of the property by making all periodic payments.

"(10) PERIODIC PAYMENT.—The term 'periodic payment' means the total payment a consumer will make for a specific rental period after the initial payment, including the rental payment, taxes, mandatory fees or charges, and any optional fees or charges agreed to by the consumer.

REV_00162145

"(11) PROPERTY.—The term 'property' means property that is not real property under the laws of the State where the property is located when it is made available under a rental-purchase agreement.

"(12) RENTAL PAYMENT.—The term 'rental payment' means rent required to be paid by a consumer for the possession and use of property for a specific rental period, but does not include taxes or any fees or charges.

"(13) RENTAL PERIOD.—The term 'rental period' means a week, month, or other specific period of time, during which the consumer has a right to possess and use property that is the subject of a rental-purchase agreement after paying the rental payment and any applicable taxes for such period.

"(14) RENTAL-PURCHASE AGREEMENT.—

"(A) IN GENERAL.—The term 'rental-purchase agreement' means a contract in the form of a bailment or lease for the use of property by a consumer for an initial period of 4 months or less, that is renewable with each payment by the consumer, and that permits but does not obligate the consumer to become the owner of the property.

REV_00162146

"(B) EXCLUSIONS.—The term 'rental-purchase agreement' does not include—

"(i) a credit sale (as defined in section 103(g) of the Truth in Lending Act);

"(ii) a consumer lease (as defined in section 181(1) of such Act); or

"(iii) a transaction giving rise to a debt incurred in connection with the business of lending money or a thing of value.

"(15) RENTAL-PURCHASE COST.—

"(A) IN GENERAL.—For purposes of sections 1010 and 1011, the term 'rental-purchase cost' means the sum of all rental payments and mandatory fees or charges imposed by the merchant as a condition of entering into a rental-purchase agreement or acquiring ownership of property under a rental-purchase agreement, such as the following:

"(i) Service, processing, or administrative charge.

"(ii) Fee for an investigation or credit report.

"(iii) Charge for delivery required by the merchant.

REV_00162147

"(B) EXCLUDED ITEMS.—The following fees or charges shall not be taken into account in determining the rental-purchase cost with respect to a rental-purchase transaction:

"(i) Fees and charges prescribed by law, which actually are or will be paid to public officials or government entities, such as sales tax.

"(ii) Fees and charges for optional products and services offered in connection with a rental-purchase agreement.

"(16) STATE.—The term 'State' means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

"(17) TOTAL COST.—The term 'total cost' means the sum of the initial payment and all periodic payments in the payment schedule to be paid by the consumer to acquire ownership of the property that is the subject of the rental-purchase agreement.

"SEC. 1002. EXEMPTED TRANSACTIONS.

"This title shall not apply to rental-purchase agreements primarily for business, commercial, or agricultural

REV_00162148

purposes, or those made with Government agencies or instrumentalities.

"SEC. 1003. GENERAL DISCLOSURE REQUIREMENTS.

"(a) RECIPIENT OF DISCLOSURE.—A merchant shall disclose to any person who will be a signatory to a rental-purchase agreement the information required by sections 1004 and 1005.

"(b) TIMING OF DISCLOSURE.—The disclosures required under sections 1004 and 1005 shall be made before the consummation of the rental-purchase agreement and clearly and conspicuously in writing as part of the rental-purchase agreement to be signed by the consumer.

"(c) CLEARLY AND CONSPICUOUSLY.—As used in this section, the term 'clearly and conspicuously' means that information required to be disclosed to the consumer shall be worded plainly and simply, and appear in a type size, prominence, and location as to be readily noticeable, readable, and comprehensible to an ordinary consumer.

"SEC. 1004. RENTAL-PURCHASE DISCLOSURES.

"(a) IN GENERAL.—For each rental-purchase agreement, the merchant shall disclose to the consumer the following, to the extent applicable:

"(1) The date of the consummation of the rental-purchase transaction and the identities of the merchant and the consumer.

REV_00162149

"(2) A brief description of the rental property, which shall be sufficient to identify the property to the consumer, including an identification or serial number, if applicable, and a statement indicating whether the property is new or used.

"(3) A description of any fee, charge or penalty, in addition to the periodic payment, that the consumer may be required to pay under the agreement, which shall be separately identified by type and amount.

"(4) A clear and conspicuous statement that the transaction is a rental-purchase agreement and that the consumer will not obtain ownership of the property until the consumer has paid the total dollar amount necessary to acquire ownership.

"(5) The amount of any initial payment, which includes the first periodic payment, and the total amount of any fees, taxes, or other charges, required to be paid by the consumer.

"(6) The amount of the cash price of the property that is the subject of the rental-purchase agreement, and, if the agreement involves the rental of 2 or more items as a set (as may be defined by the Board in regulation) a statement of the aggregate cash price of all items shall satisfy this requirement.

REV_00162150

"(7) The amount and timing of periodic payments, and the total number of periodic payments necessary to acquire ownership of the property under the rental-purchase agreement.

"(8) The total cost, using that term, and a brief description, such as 'This is the amount you will pay the merchant if you make all periodic payments to acquire ownership of the property.'.

"(9) A statement of the consumer's right to terminate the agreement without paying any fee or charge not previously due under the agreement by voluntarily surrendering or returning the property in good repair upon expiration of any lease term.

"(10) Substantially the following statement: '**OTHER IMPORTANT TERMS**: See your rental-purchase agreement for additional important information on early termination procedures, purchase option rights, responsibilities for loss, damage or destruction of the property, warranties, maintenance responsibilities, and other charges or penalties you may incur.'.

"(b) FORM OF DISCLOSURE.—The disclosures required by paragraphs (4) through (10) of subsection (a) shall be segregated from other information at the beginning of the rental-purchase agreement and shall contain

REV_00162151

only directly related information, and shall be identified in boldface, upper-case letters as follows: '**IMPORTANT RENTAL-PURCHASE DISCLOSURES**'.

"(c) DISCLOSURE REQUIREMENTS RELATING TO INSURANCE PREMIUMS AND LIABILITY WAIVERS.—

"(1) IN GENERAL.—A merchant shall clearly and conspicuously disclose in writing to the consumer before the consummation of a rental-purchase agreement that the purchase of leased property insurance or liability waiver coverage is not required as a condition for entering into the rental-purchase agreement.

"(2) AFFIRMATIVE WRITTEN REQUEST AFTER COST DISCLOSURE.—A merchant may provide insurance or liability waiver coverage, directly or indirectly, in connection with a rental-purchase transaction only if—

"(A) the merchant clearly and conspicuously discloses to the consumer the cost of each component of such coverage before the consummation of the rental-purchase agreement; and

"(B) the consumer signs an affirmative written request for such coverage after receiving

REV_00162152

the disclosures required under subparagraph (A) of this paragraph and paragraph (1).

"(d) ACCURACY OF DISCLOSURE.—

"(1) IN GENERAL.—The disclosures required to be made under subsection (a) shall be accurate as of the date the disclosures are made, based on the information available to the merchant.

"(2) INFORMATION SUBSEQUENTLY RENDERED INACCURATE.—If information required to be disclosed under subsection (a) is subsequently rendered inaccurate as a result of any agreement between the merchant and the consumer subsequent to the delivery of the required disclosures, the resulting inaccuracy shall not constitute a violation of this title.

"SEC. 1005. OTHER AGREEMENT PROVISIONS.

"(a) IN GENERAL.—Each rental-purchase agreement shall—

"(1) provide a statement specifying whether the merchant or the consumer is responsible for loss, theft, damage, or destruction of the property;

"(2) provide a statement specifying whether the merchant or the consumer is responsible for maintaining or servicing the property, together with a brief description of the responsibility;

REV_00162153

"(3) provide that the consumer may terminate the agreement without paying any charges not previously due under the agreement by voluntarily surrendering or returning the property that is the subject of the agreement upon expiration of any rental period;

"(4) contain a provision for reinstatement of the agreement, which at a minimum—

"(A) permits a consumer who fails to make a timely rental payment to reinstate the agreement, without losing any rights or options which exist under the agreement, by the payment of all past due rental payments and any other charges then due under the agreement and a payment for the next rental period within 7 business days after failing to make a timely rental payment if the consumer pays monthly, or within 3 business days after failing to make a timely rental payment if the consumer pays more frequently than monthly;

"(B) if the consumer returns or voluntarily surrenders the property covered by the agreement, other than through judicial process, during the applicable reinstatement period set forth in subparagraph (A), permits the consumer to

REV_00162154

reinstate the agreement during a period of at least 60 days after the date of the return or surrender of the property by the payment of all amounts previously due under the agreement, any applicable fees, and a payment for the next rental period;

"(C) if the consumer has paid 50 percent or more of the total cost necessary to acquire ownership and returns or voluntarily surrenders the property, other than through judicial process, during the applicable reinstatement period set forth in subparagraph (A), permits the consumer to reinstate the agreement during a period of at least 120 days after the date of the return of the property by the payment of all amounts previously due under the agreement, any applicable fees, and a payment for the next rental period; and

"(D) permits the consumer, upon reinstatement of the agreement to receive the same property, if available, that was the subject of the rental-purchase agreement, or if the same property is not available, a substitute item of comparable quality and condition may be provided to the consumer; except that, the Board

REV_00162155

may, by regulation or order, exempt any independent small business (as defined by the Board by regulation) from the requirement of providing the same or comparable product during the extended reinstatement period provided in subparagraph (C), if the Board determines, taking into account such standards as the Board determines to be appropriate, that the reinstatement right provided in such subparagraph would provide excessive hardship for such independent small business.

''(5) provide a statement specifying the terms under which the consumer shall acquire ownership of the property that is the subject of the rental-purchase agreement either by payment of the total cost to acquire ownership, as provided in section 1006, or by exercise of any early purchase option provided in the rental-purchase agreement;

''(6) provide a statement disclosing that if any part of a manufacturer's express warranty covers the property at the time the consumer acquires ownership of the property, the warranty will be transferred to the consumer if allowed by the terms of the warranty; and

REV_00162156

"(7) provide, to the extent applicable, a description of any grace period for making any periodic payment, the amount of any security deposit, if any, to be paid by the consumer upon initiation of the rental-purchase agreement, and the terms for refund of such security deposit to the consumer upon return, surrender or purchase of the property.

"(b) REPOSSESSION DURING REINSTATEMENT PERIOD.—Subsection (a)(4) shall not be construed so as to prevent a merchant from attempting to repossess property during the reinstatement period pursuant to subsection (a)(4)(A), but such a repossession does not affect the consumer's right to reinstate.

"SEC. 1006. RIGHT TO ACQUIRE OWNERSHIP.

"(a) IN GENERAL.—The consumer shall acquire ownership of the property that is the subject of the rental-purchase agreement, and the rental-purchase agreement shall terminate, upon compliance by the consumer with the requirements of subsection (b) or any early payment option provided in the rental purchase agreement, and upon payment of any past due payments and fees, as permitted in regulation by the Board.

"(b) PAYMENT OF TOTAL COST.—The consumer shall acquire ownership of the rental property upon payment of the total cost of the rental-purchase agreement,

REV_00162157

as such term is defined in section 1001(17), and as disclosed to the consumer in the rental-purchase agreement pursuant to section 1004(a).

"(c) ADDITIONAL FEES PROHIBITED.—A merchant shall not require the consumer to pay, as a condition for acquiring ownership of the property that is the subject of the rental-purchase agreement, any fee or charge in addition to, or in excess of, the regular periodic payments required by subsection (b), or any early purchase option amount provided in the rental-purchase agreement, as applicable. A requirement that the consumer pay an unpaid late charge or other fee or charge which the merchant has previously billed to the consumer shall not constitute an additional fee or charge for purposes of this subsection.

"(d) TRANSFER OF OWNERSHIP RIGHTS.—Upon payment by the consumer of all payments necessary to acquire ownership under subsection (b) or any early purchase option amount provided in the rental-purchase agreement, as appropriate, the merchant shall—

"(1) deliver, or mail to the consumer's last known address, such documents or other instruments, which the Board has determined by regulation, are necessary to acknowledge full ownership by the consumer of the property acquired pursuant to the rental-purchase agreement; and

REV_00162158

"(2) transfer to the consumer the unexpired portion of any warranties provided by the manufacturer, distributor, or seller of the property, which shall apply as if the consumer were the original purchaser of the property, except where such transfer is prohibited by the terms of the warranty.

"SEC. 1007. PROHIBITED PROVISIONS.

"A rental-purchase agreement may not contain—

"(1) a confession of judgment;

"(2) a negotiable instrument;

"(3) a security interest or any other claim of a property interest in any goods, except those goods the use of which is provided by the merchant pursuant to the agreement;

"(4) a wage assignment;

"(5) a provision requiring the waiver of any legal claim or remedy created by this title or other provision of Federal or State law;

"(6) a provision requiring the consumer, in the event the property subject to the rental-purchase agreement is lost, stolen, damaged, or destroyed, to pay an amount in excess of the least of—

"(A) the fair market value of the property, as determined by the Board in regulation;

REV_00162159

"(B) any early purchase option amount provided in the rental-purchase agreement; or

"(C) the actual cost of repair, as appropriate;

"(7) a provision authorizing the merchant, or a person acting on behalf of the merchant, to enter the consumer's dwelling or other premises without obtaining the consumer's consent or to commit any breach of the peace in connection with the repossession of the rental property or the collection of any obligation or alleged obligation of the consumer arising out of the rental-purchase agreement;

"(8) a provision requiring the purchase of insurance or liability damage waiver to cover the property that is the subject of the rental-purchase agreement, except as permitted by the Board in regulation;

"(9) a provision requiring the consumer to pay more than 1 late fee or charge for an unpaid or delinquent periodic payment, regardless of the period in which the payment remains unpaid or delinquent, or to pay a late fee or charge for any periodic payment because a previously assessed late fee has not been paid in full.

REV_00162160

"SEC. 1008. STATEMENT OF ACCOUNTS.

"Upon request of a consumer, a merchant shall provide a statement of the consumer's account. If a consumer requests a statement for an individual account more than 4 times in any 12-month period, the merchant may charge a reasonable fee for the additional statements.

"SEC. 1009. RENEGOTIATIONS AND EXTENSIONS.

"(a) RENEGOTIATIONS.—A renegotiation occurs when a rental-purchase agreement is satisfied and replaced by a new agreement undertaken by the same consumer. A renegotiation requires new disclosures, except as provided in subsection (c).

"(b) EXTENSIONS.—An extension is an agreement by the consumer and the merchant, to continue an existing rental-purchase agreement beyond the original end of the payment schedule, but does not include a continuation that is the result of a renegotiation.

"(c) EXCEPTIONS.—New disclosures are not required for the following, even if they meet the definition of a renegotiation or an extension:

"(1) A reduction in payments.

"(2) A deferment of 1 or more payments.

"(3) The extension of a rental-purchase agreement.

"(4) The substitution of property with property that has a substantially equivalent or greater eco-

REV_00162161

nomic value provided the rental-purchase cost does not increase.

"(5) The deletion of property in a multiple-item agreement.

"(6) A change in rental period provided the rental-purchase cost does not increase.

"(7) An agreement resulting from a court proceeding.

"(8) Any other event described in regulations prescribed by the Board.

"SEC. 1010. POINT-OF-RENTAL DISCLOSURES.

"(a) IN GENERAL.—For any item of property or set of items displayed or offered for rental-purchase, the merchant shall display on or next to the item or set of items a card, tag, or label that clearly and conspicuously discloses the following:

"(1) A brief description of the property.

"(2) Whether the property is new or used.

"(3) The cash price of the property.

"(4) The amount of each rental payment.

"(5) The total number of rental payments necessary to acquire ownership of the property.

"(6) The rental-purchase cost.

"(b) FORM OF DISCLOSURE.—

REV_00162162

"(1) IN GENERAL.—A merchant may make the disclosure required by subsection (a) in the form of a list or catalog which is readily available to the consumer at the point of rental if the merchandise is not displayed in the merchant's showroom or if displaying a card, tag, or label would be impractical due to the size of the merchandise.

"(2) CLEARLY AND CONSPICUOUSLY.—As used in this section, the term 'clearly and conspicuously' means that information required to be disclosed to the consumer shall appear in a type size, prominence, and location as to be noticeable, readable, and comprehensible to an ordinary consumer.

"SEC. 1011. RENTAL-PURCHASE ADVERTISING.

"(a) IN GENERAL.—If an advertisement for a rental-purchase transaction refers to or states the amount of any payment for any specific item or set of items, the merchant making the advertisement shall also clearly and conspicuously state in the advertisement the following for the item, or set of items, advertised:

"(1) The transaction advertised is a rental-purchase agreement.

"(2) The amount, timing, and total number of rental payments necessary to acquire ownership under the rental-purchase agreement.

REV_00162163

"(3) The amount of the rental-purchase cost.

"(4) To acquire ownership of the property the consumer must pay the rental-purchase cost plus applicable taxes.

"(5) Whether the stated payment amount and advertised rental-purchase cost is for new or used property.

"(b) PROHIBITION.—An advertisement for a rental-purchase agreement shall not state or imply that a specific item, or set of items, is available at specific amounts or terms unless the merchant usually and customarily offers, or will offer, the item or set of items at the stated amounts or terms.

"(c) CLEARLY AND CONSPICUOUSLY.—

"(1) IN GENERAL.—For purposes of this section, the term 'clearly and conspicuously' means that required disclosures shall be presented in a type, size, shade, contrast, prominence, location, and manner, as applicable to different mediums for advertising, so as to be readily noticeable and comprehensible to the ordinary consumer.

"(2) REGULATORY GUIDANCE.—The Board shall prescribe regulations on principles and factors to meet the clear and conspicuous standard as appropriate to print, video, audio, and computerized

REV_00162164

advertising, reflecting the principles and factors typically applied in each medium by the Federal Trade Commission.

"(3) LIMITATION.—Nothing contrary to, inconsistent with, or in mitigation of, the required disclosures shall be used in any advertisement in any medium, and no audio, video, or print technique shall be used that is likely to obscure or detract significantly from the communication of the disclosures.

"SEC. 1012. CIVIL LIABILITY.

"(a) IN GENERAL.—Except as otherwise provided in section 1013, any merchant who fails to comply with any requirement of this title with respect to any consumer is liable to such consumer as provided for leases in section 130. For purposes of this section, the term 'creditor' as used in section 130 shall include a 'merchant', as defined in section 1001.

"(b) JURISDICTION OF COURTS; LIMITATION ON ACTIONS.—

"(1) IN GENERAL.—Notwithstanding section 130(e), any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, before the end of the 1-year period beginning on the date the

REV_00162165

last payment was made by the consumer under the rental-purchase agreement.

"(2) RECOUPMENT OR SET-OFF.—This subsection shall not bar a consumer from asserting a violation of this title in an action to collect an obligation arising from a rental-purchase agreement, which was brought after the end of the 1-year period described in paragraph (1) as a matter of defense by recoupment or set-off in such action, except as otherwise provided by State law.

"SEC. 1013. ADDITIONAL GROUNDS FOR CIVIL LIABILITY.

"(a) INDIVIDUAL CASES WITH ACTUAL DAMAGES.—Any merchant who fails to comply with any requirements imposed under section 1010 or 1011 with respect to any consumer who suffers actual damage from the violation shall be liable to such consumer as provided in section 130.

"(b) PATTERN OR PRACTICE OF VIOLATIONS.—If a merchant engages in a pattern or practice of violating any requirement imposed under section 1010 or 1011, the Federal Trade Commission or an appropriate State attorney general, in accordance with section 1016, may initiate an action to enforce sanctions against the merchant, including—

REV_00162166

"(1) an order to cease and desist from such practices; and

"(2) a civil money penalty of such amount as the court may impose, based on such factors as the court may determine to be appropriate.

"SEC. 1014. LIABILITY OF ASSIGNEES.

"(a) ASSIGNEES INCLUDED.—For purposes of section 1013, and this section, the term 'merchant' includes an assignee of a merchant.

"(b) LIABILITIES OF ASSIGNEES.—

"(1) APPARENT VIOLATION.—An action under section 1012 or 1013 for a violation of this title may be brought against an assignee only if the violation is apparent on the face of the rental-purchase agreement to which it relates.

"(2) APPARENT VIOLATION DEFINED.—For purposes of this subsection, a violation that is apparent on the face of a rental-purchase agreement includes, but is not limited to, a disclosure that can be determined to be incomplete or inaccurate from the face of the agreement.

"(3) INVOLUNTARY ASSIGNMENT.—An assignee has no liability in a case in which the assignment is involuntary.

REV_00162167

"(4) RULE OF CONSTRUCTION.—No provision of this section shall be construed as limiting or altering the liability under section 1012 or 1013 of a merchant assigning a rental-purchase agreement.

"(b) PROOF OF DISCLOSURE.—In an action by or against an assignee, the consumer's written acknowledgment of receipt of a disclosure, made as part of the rental-purchase agreement, shall be conclusive proof that the disclosure was made, if the assignee had no knowledge that the disclosure had not been made when the assignee acquired the rental-purchase agreement to which it relates.

"SEC. 1015. REGULATIONS.

"(a) IN GENERAL.—The Board shall prescribe regulations as necessary to carry out the purposes of this title, to prevent its circumvention, and to facilitate compliance with its requirements.

"(b) MODEL DISCLOSURE FORMS.—The Board may publish model disclosure forms and clauses for common rental-purchase agreements to facilitate compliance with the disclosure requirements of this title and to aid the consumer in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures. In devising such forms, the Board shall consider the use by merchants of data processing or similar automated equipment. Nothing in this title may

REV_00162168

be construed to require a merchant to use any such model form or clause prescribed by the Board under this section. A merchant shall be deemed to be in compliance with the requirement to provide disclosure under section 1003(a) if the merchant—

"(1) uses any appropriate model form or clause as published by the Board; or

"(2) uses any such model form or clause and changes it by—

"(A) deleting any information which is not required by this title; or

"(B) rearranging the format, if in making such deletion or rearranging the format, the merchant does not affect the substance, clarity, or meaningful sequence of the disclosure.

"(c) EFFECTIVE DATE OF REGULATIONS.—Any regulation prescribed by the Board, or any amendment or interpretation thereof, shall not be effective before the October 1 that follows the date of publication of the regulation in final form by at least 6 months. The Board may at its discretion lengthen that period of time to permit merchants to adjust to accommodate new requirements. The Board may also shorten that period of time, notwithstanding the first sentence, if it makes a specific finding that such action is necessary to comply with the findings

REV_00162169

of a court or to prevent unfair or deceptive practices. In any case, merchants may comply with any newly prescribed disclosure requirement prior to its effective date.

"SEC. 1016. ENFORCEMENT.

"(a) FEDERAL ENFORCEMENT.—Compliance with the requirements imposed under this title shall be enforced under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), and a violation of any requirements imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements of this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional test in the Federal Trade Commission Act.

"(b) STATE ENFORCEMENT.—

"(1) IN GENERAL.—An action to enforce the requirements imposed by this title may also be brought by the appropriate State attorney general in any appropriate United States district court, or any other court of competent jurisdiction.

"(2) PRIOR WRITTEN NOTICE.—

"(A) IN GENERAL.—The State attorney general shall provide prior written notice of any

REV_00162170

such civil action to the Federal Trade Commission and shall provide the Commission with a copy of the complaint.

"(B) EMERGENCY ACTION.—If prior notice is not feasible, the State attorney general shall provide notice to the Commission immediately upon instituting the action.

"(3) FTC INTERVENTION.—The Commission may—

"(A) intervene in the action;

"(B) upon intervening—

"(i) remove the action to the appropriate United States district court, if it was not originally brought there; and

"(ii) be heard on all matters arising in the action; and

"(C) file a petition for appeal.

"SEC. 1017. CRIMINAL LIABILITY FOR WILLFUL AND KNOWING VIOLATION.

"Whoever willfully and knowingly gives false or inaccurate information or fails to provide information which he is required to disclose under the provisions of this title or any regulation issued thereunder shall be subject to the penalty provisions as provided in section 112.

REV_00162171

"SEC. 1018. RELATION TO OTHER LAWS.

"(a) RELATION TO STATE LAW.—

"(1) NO EFFECT ON CONSISTENT STATE LAWS.—Except as otherwise provided in subsection (b), this title does not annul, alter, or affect in any manner the meaning, scope or applicability of the laws of any State relating to rental-purchase agreements, except to the extent those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency.

"(2) DETERMINATION OF INCONSISTENCY.—Upon its own motion or upon the request of an interested party, which is submitted in accordance with procedures prescribed in regulations of the Board, the Board shall determine whether any such inconsistency exists. If the Board determines that a term or provision of a State law is inconsistent, merchants located in that State need not follow such term or provision and shall incur no liability under the law of that State for failure to follow such term or provision, notwithstanding that such determination is subsequently amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"(3) GREATER PROTECTION UNDER STATE LAW.—Except as provided in subsection (b), for pur-

REV_00162172

poses of this section, a term or provision of a State law is not inconsistent with the provisions of this title if the term or provision affords greater protection and benefit to the consumer than the protection and benefit provided under this title as determined by the Board, on its own motion or upon the petition of any interested party.

"(b) STATE LAWS RELATING TO CHARACTERIZATION OF TRANSACTION.—Notwithstanding the provisions of subsection (a), this title shall supersede any State law to the extent that such law—

"(1) regulates a rental-purchase agreement as a security interest, credit sale, retail installment sale, conditional sale or any other form of consumer credit, or that imputes to a rental-purchase agreement the creation of a debt or extension of credit, or

"(2) requires the disclosure of a percentage rate calculation, including a time-price differential, an annual percentage rate, or an effective annual percentage rate.

"(c) RELATION TO FEDERAL TRADE COMMISSION ACT.—No provision of this title shall be construed as limiting, superseding, or otherwise affecting the applicability of the Federal Trade Commission Act to any merchant or rental-purchase transaction.

REV_00162173

"SEC. 1019. EFFECT ON GOVERNMENT AGENCIES.

"No civil liability or criminal penalty under this title may be imposed on the United States or any of its departments or agencies, any State or political subdivision, or any agency of a State or political subdivision.

"SEC. 1020. COMPLIANCE DATE.

"Compliance with this title shall not be required until 6 months after the date of the enactment of the Consumer Rental Purchase Agreement Act. In any case, merchants may comply with this title at any time after such date of enactment.".

○

REV_00162174

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/4/2003 11:56:26 AM
Subject: : FW: AMENDED: LRM PTM29 - - VETERANS AFFAIRS Testimony on Veterans Benefits and Compensation
Attachments: P_SCSCF003_WHO.TXT_1.doc; P_SCSCF003_WHO.TXT_2.pdf; P_SCSCF003_WHO.TXT_3.doc; P_SCSCF003_WHO.TXT_4.pdf; P_SCSCF003_WHO.TXT_5.pdf; P_SCSCF003_WHO.TXT_6.pdf; P_SCSCF003_WHO.TXT_7.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 4-APR-2003 16:56:26.00
SUBJECT:: FW: AMENDED: LRM PTM29 - - VETERANS AFFAIRS Testimony on Veterans Benefits and Compensation
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

-----Original Message-----
From: Messenger, P. Thaddeus
Sent: Friday, April 04, 2003 4:34 PM
To: Messenger, P. Thaddeus
Cc: dodlrs@osdgc.osd.mil; lrm@hhs.gov; ogc_legislation@ed.gov; hud_lrm@hud.gov; justice.lrm@usdoj.gov; dol-sol-leg@dol.gov; state-lrm@state.gov; Cleveland, Robin; Carson, Karyn T.; Peroff, Kathleen; Siclari, Mary Jo; Hustead, Toni S.; Grayton, Arecia A.; Chang, Winifred Y.; Hagen, Kelli A.; Benson, Shalini M.; Ermann, Danny A.; Sastry, Narahari; Bartrum, John J.; Seastrom, Mark R.; Aguilera, Ricardo A.; Waites, Wendell H.; Reilly, Thomas; Cochran, Norris W.; Fontenot, Keith J.; Hinman, Lindy M.; Stack, Kathryn B.; Werfel, Daniel I.; Redburn, Francis S.; Cramer, Reid B; Bloomquist, Lauren E.; Walsh, Maureen; McDonald, Katrina A.; Kitti, Carole; Kulikowski, James M.; Smalligan, Jack A.; Cianci Hoff, Joanne; Crilley, Joseph; Little, Attia; Lee, Sarah S.; Suarez, Aquiles F.; Halaska, Terrell L.; Gilbert, Alan; Nsc Lrm; Ostp Lrm; Levinson, Rachel E.; Ovp Lrm; Whgc Lrm; Perry, Philip J.; Wood, John F.; Cox, Christopher C.; Dove, Stephen W.; Lobrano, Lauren C.; Jukes, James J.; Schroeder, Ingrid M.
Subject: AMENDED: LRM PTM29 - - VETERANS AFFAIRS Testimony on Veterans Benefits and Compensation

Apologies, the testimony did not attach on the first copy.

PTM

From: P. Thaddeus Messenger on 04/04/2003 04:28:30 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: LRM PTM29 - - VETERANS AFFAIRS Testimony on Veterans Benefits and Compensation

LRM ID: PTM29
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Friday, April 4, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution
below
FROM: Ingrid M. Schroeder (for) Assistant Director for
Legislative Reference
OMB CONTACT: P. Thaddeus Messenger
PHONE: (202)395-7754 FAX: (202)395-6148
SUBJECT: VETERANS AFFAIRS Testimony on Veterans Benefits and
Compensation

DEADLINE: 5:00 p.m. Monday, April 7, 2003
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Attached, please find a draft copy of VA (Cooper) testimony for an April 10th hearing before the Benefits Subcommittee of the House Veterans Affairs Committee. For your reference, copies of each bill's text are also included.

VA supports: (1) H.R. 241 - Veterans Beneficiary Fairness Act; (2) H.R. 761 - Disabled Servicemembers Adapted Housing for Members of the Armed Services; and (3) H.R. 1048 - Disabled Veterans Adaptive Benefits Improvement.

VA does not support (1) H.R. 533 - Agent Orange Veterans' Disabled Children's Benefits Act; (2) H.R. 850 - Former Prisoners of War Special Compensation Act; or (3) H.R. 996 - Disabled Veterans' Return-to-Work Act.

Please provide your comments by 5:00 p.m. on Monday, April 7th. If we do not receive your comments by that time, we will assume you have no objection to the document as drafted.

If you experience difficulty with this LRM, or its attachment, please contact us immediately.

NOTE: Because of the size of this transmission, the electronic copy will not be followed by a duplicate copy via facsimile.

Thank you.

DISTRIBUTION LIST

AGENCIES:
029-DEFENSE - Vic Bernson - (703) 697-1305
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773
030-EDUCATION - Jack Kristy - (202) 401-8313
054-HOUSING & URBAN DEVELOPMENT - Camille Acevedo - (202) 708-1793
061-JUSTICE - Jamie E. Brown - (202) 514-2141
062-LABOR - Robert A. Shapiro - (202) 693-5500
114-STATE - VACANT - (202) 647-4463

EOP:
NSP LRM
VAB LRM
Ricardo A. Aguilera
Wendell H. Waites
Thomas Reilly
Norris W. Cochran
Keith J. Fontenot

Lindy M. Hinman
Kathryn B. Stack
Daniel I. Werfel
Francis S. Redburn
Reid B Cramer
Lauren E. Bloomquist
Maureen Walsh
Katrina A. McDonald
Carole Kitti
James M. Kulikowski
Jack A. Smalligan
Joanne Cianci Hoff
Joseph Crilley
Attia Little
Sarah S. Lee
Aquiles F. Suarez
Terrell L. Halaska
Alan Gilbert
NSC LRM
OSTP LRM
Rachel E. Levinson
OVP LRM
WHGC LRM
OMBGC LRM
Christopher C. Cox
Stephen W. Dove
Lauren C. Lobrano
James J. Jukes
Ingrid M. Schroeder
P. Thaddeus Messenger

LRM ID: PTM29 SUBJECT: VETERANS AFFAIRS Testimony on Veterans Benefits and Compensation
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) faxing us a memo or letter.
Please include the LRM number and subject shown above.

TO: P. Thaddeus Messenger Phone: 395-7754 Fax: 395-6148
Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Sent
To:_____
dodlrs@osdgc.osd.mil
lrm@hhs.gov
ogc_legislation@ed.gov
HUD_LRM@hud.gov
justice.lrm@usdoj.gov
dol-sol-leg@dol.gov
state-lrm@state.gov

Message Copied
To:_____
Robin Cleveland/OMB/EOP@EOP
Karyn T. Carson/OMB/EOP@EOP
Kathleen Peroff/OMB/EOP@EOP
Mary Jo Siclari/OMB/EOP@EOP
Toni S. Hustead/OMB/EOP@EOP
Arecia A. Grayton/OMB/EOP@EOP
Winifred Y. Chang/OMB/EOP@EOP
Kelli A. Hagen/OMB/EOP@EOP
Shalini M. Benson/OMB/EOP@EOP
Danny A. Ermann/OMB/EOP@EOP
Narahari Sastry/OMB/EOP@EOP
John J. Bartrum/OMB/EOP@EOP
Mark R. Seastrom/OMB/EOP@EOP
Ricardo A. Aguilera/OMB/EOP@EOP
Wendell H. Waites/OMB/EOP@EOP
Thomas Reilly/OMB/EOP@EOP
Norris W. Cochran/OMB/EOP@EOP
Keith J. Fontenot/OMB/EOP@EOP
Lindy M. Hinman/OMB/EOP@EOP
Kathryn B. Stack/OMB/EOP@EOP
Daniel I. Werfel/OMB/EOP@EOP
Francis S. Redburn/OMB/EOP@EOP
Reid B Cramer/OMB/EOP@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
Maureen Walsh/OMB/EOP@EOP
Katrina A. McDonald/OMB/EOP@EOP
Carole Kitti/OMB/EOP@EOP
James M. Kulikowski/OMB/EOP@EOP
Jack A. Smalligan/OMB/EOP@EOP
Joanne Cianci Hoff/OMB/EOP@EOP
Joseph Crilley/OMB/EOP@EOP
Attia Little/OMB/EOP@EOP
Sarah S. Lee/OMB/EOP@EOP
Aquiles F. Suarez/OPD/EOP@EOP
Terrell L. Halaska/OPD/EOP@EOP
Alan Gilbert/OPD/EOP@EOP
NSC LRM
OSTP LRM
Rachel E. Levinson/OSTP/EOP@EOP
OVP LRM
WHGC LRM
Philip J. Perry/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Christopher C. Cox/WHO/EOP@Exchange@EOP
Stephen W. Dove/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP

James J. Jukes/OMB/EOP@EOP
Ingrid M. Schroeder/OMB/EOP@EOP
P. Thaddeus Messenger/OMB/EOP@EOP

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_SCSCF003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_SCSCF003_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_SCSCF003_WHO.TXT_3>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_SCSCF003_WHO.TXT_4>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_SCSCF003_WHO.TXT_5>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_SCSCF003_WHO.TXT_6>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_SCSCF003_WHO.TXT_7>

DRAFT

STATEMENT OF

DANIEL L. COOPER,

UNDER SECRETARY FOR BENEFITS,

BEFORE THE

SUBCOMMITTEE ON BENEFITS,

HOUSE COMMITTEE ON VETERANS' AFFAIRS

APRIL 10, 2003

Mr. Chairman and Members of the Committee, thank you for the opportunity to testify today on several bills of great interest to veterans.

H.R. 241

H.R. 241, the "Veterans Beneficiary Fairness Act of 2003," would eliminate a discrepancy regarding the limitation on the period for which retroactive benefits due and unpaid a claimant may be paid to others after the claimant's death. In the interest of fairness, we support enactment of this bill.

Under 38 U.S.C. § 5121, periodic monetary benefits to which an individual was entitled at death under existing ratings or decisions or based on evidence on

file with the Department of Veterans Affairs (VA) at the time of death are paid upon the death of the individual to specified classes of survivors according to a prescribed order of preference. Prior to a recent court decision, VA had construed section 5121 to limit the payment of any benefits under that section to the retroactive period specified in the statute, regardless of whether the payment was based on an existing rating or decision or on evidence on file at the date of death. The retroactive payment period, originally one year, was extended to two years by Public Law 104-275, the "Veterans' Benefits Improvements Act of 1996."

On December 10, 2002, the United States Court of Appeals for Veterans Claims (CAVC) issued its decision in *Bonny v. Principi*, 16 Vet. App. 504 (2002). In that decision, the court held that 38 U.S.C. § 5121(a) specifies two kinds of benefits: benefits that have been awarded to an individual in existing ratings or decisions but not paid prior to the individual's death, and benefits that could be awarded based on evidence in the file at the time of death. The court held that, in the case of the first type of benefits, the statute requires that an eligible survivor is to receive the entire amount of the award; only the latter type of "accrued" benefits is subject to the two-year limitation in 38 U.S.C. § 5121(a). The court based its interpretation of the statute primarily on the punctuation of section 5121(a).

The CAVC's *Bonny* decision has resulted in differing entitlements under section 5121 based on the status of the deceased's claim at the time of his or her death. H.R. 241 would eliminate this distinction by amending section 5121 to

REV_00162181

eliminate the two-year limitation on payment of retroactive benefits for all classes of beneficiaries under that statute.

The distinction the *Bonny* decision draws between the two categories of claimants—those whose claims had been approved and those whose entitlement had yet to be recognized when they died—is really one without a difference. In either case, a claimant's estate is deprived of the value of benefits for which he or she was, in life, eligible. H.R. 241 would remove this inequitable distinction, and we support its enactment.

We estimate the cost of complying with the *Bonny* decision for fiscal year (FY) 2004 to be $ 1.7 million and $18.2 million for the period FY 2004 through FY 2013. We estimate the incremental cost to implement H.R. 241, that is, the difference between the cost of complying with the court's decision and the cost of enactment of H.R. 241, to be $5.9 million for FY 2004 and $65.8 million for the period FY 2004 through FY 2013.

In addition, we note one technical change needed in H.R. 241 should it be enacted. The comma in current section 5121(a) following "existing ratings or decisions" should be deleted to clarify, for purposes of 38 U.S.C. §§ 5121(b) and (c) and 5122, that the term "accrued benefits" includes both benefits that have been awarded to an individual in existing ratings or decisions but not paid prior to the individual's death, as well as benefits that could be awarded based on evidence in the veteran's file at the time of death.

REV_00162182

H.R. 533

H.R. 533, the "Agent Orange Veterans' Disabled Children's Benefits Act of 2003," would amend chapter 18 of title 38, United States Code, to authorize VA to provide a monetary allowance and other benefits to a person suffering from spina bifida who is natural child, regardless of age or marital status, of a parent who performed "qualifying herbicide-risk service," if the person was conceived after such service. A parent would be considered to have performed "qualifying herbicide-risk service" if, while performing active military, naval, or air service, he or she "served in an area in which a Vietnam-era herbicide agent was used during a period during which such agent was used in that area; or . . . otherwise was exposed to a Vietnam-era herbicide agent." The term "Vietnam-era herbicide agent" would be defined by reference to current 38 U.S.C. § 1116(a)(3). VA does not support this bill.

Congress has repeatedly acted since 1979 to ensure that the Federal Government investigates the health effects of exposure to herbicides containing dioxin and compensates veterans who served in the Republic of Vietnam during the Vietnam era and suffered disability as a result of that exposure. Because of the "concern and apprehension among veterans regarding the health effects of herbicides," Congress mandated an epidemiologic study by VA of the effects of exposure to dioxin in the Veterans Health Programs Extension and Improvement Act of 1979. Congress also required VA to review and scientifically analyze literature relating to possible long-term health effects of human exposure to dioxin. In 1981, Congress authorized VA to provide hospital and nursing home

REV_00162183

care to certain veterans exposed during service to dioxin or ionizing radiation for conditions which, although not shown to have resulted from such exposure, are not found to have resulted from a cause other than such exposure. The Veterans' Dioxin and Radiation Exposure Compensation Standards Act of 1984 directed VA to issue regulations to establish guidelines and, where appropriate, standards and criteria for the resolution of benefit claims based on exposure to herbicides containing dioxin in service in the Republic of Vietnam during the Vietnam era. The act also required VA to make specific findings, either positive or negative, regarding service connection as to three diseases, chloracne, porphyria cutanea tarda, and soft-tissue sarcoma.

In 1991, Congress added section 1116 (formerly section 316) to title 38, United States Code, establishing a presumption of service connection, applicable to veterans who served in the Republic of Vietnam during the Vietnam era, for three diseases. The act also called for VA to contract with the National Academy of Sciences to perform a review and evaluation of the scientific evidence regarding the association between disease and exposure to herbicides used in connection with the Vietnam War and each disease suspected of association with such exposure. Congress amended section 1116 in 1994 and 2001 by adding five conditions to the list of diseases presumed to be service connected in Vietnam veterans.

More recently, Congress has enacted legislation to provide a monetary allowance and other benefits to the children of Vietnam veterans who were born with spina bifida, as well as to children with certain other birth defects who are

REV_00162184

the natural children of women veterans who served in the Republic of Vietnam during the Vietnam era.

Congress' legislative enactments indicate its recognition of the unique circumstances of service in Vietnam—circumstances including the special sacrifices made by veterans of that war, and the great uncertainties regarding exposures of individual veterans to aerially applied herbicides. H.R. 533 would extend benefits Congress bestowed upon the affected children of those veterans to children of veterans who did not serve under those circumstances. In addition, H.R. 533's language is so vague as to be almost impossible to administer. Under that language, an individual would be considered to have performed "qualifying herbicide-risk service" if he or she, while performing active service, "served in an area in which a Vietnam-era herbicide agent was used during a period when such agent was used in that area." The vagueness of the terms "area," "was used," and "during a period when" is sure to generate substantial litigation over what Congress intended by this language.

VA estimates that enactment of H.R. 533 would result in PAYGO costs of $60.8 million in FY 2004 and $760.7 million over the ten-year period FY 2004-2013. In addition, VA estimates administrative costs of $357,000 for FY 2004 and $ 1.73 million for the ten-year period FY 2004-2013.

H.R. 761

Mr. Chairman, you also requested our comments on two proposals that would affect the Specially Adapted Housing program authorized by chapter 21 of

REV_00162185

title 38, United States Code. Under current law, veterans who are entitled to compensation for certain permanent and total service-connected disabilities described in section 2101 of title 38 are eligible for a grant to adapt their homes with features made necessary by the nature of their disabilities.

The first proposal, Mr. Chairman, is H.R. 761, the "Disabled Servicemembers Adapted Housing Assistance Act of 2003," which would permit VA to provide Specially Adapted Housing assistance to disabled members of the Armed Forces who remain on active duty pending medical separation. VA favors enactment of H.R. 761.

This bill would permit members of the Armed Forces with the service-connected disabilities described in section 2101 to apply for Specially Adapted Housing benefits and permit VA to process their applications and award benefits without having to wait for the servicemembers to be released from active duty. H.R. 761 could provide some affected veterans the opportunity to move into an adapted home as soon as they are separated from active duty, or at least much sooner than is possible under current law. With this accelerated determination of eligibility and assistance, veterans could avoid continued institutional care, thus improving their quality of life and increasing their independence. This could also reduce the cost to VA of in-patient healthcare for some affected veterans.

Because Specially Adapted Housing grants are a one-time-only benefit, the enactment of this measure should not materially increase either the total number of grants provided under this program or the dollar amount of such

REV_00162186

grants. Rather, H.R. 761 would merely accelerate the payment of this benefit to certain individuals who, under current law, would become entitled to the same benefit upon their release from active duty. Accordingly, VA estimates that the enactment of H.R. 761 would produce insignificant costs or savings.

H.R. 1048

Specially Adapted Housing

The other Specially Adapted Housing proposal is contained in section 2 of H.R. 1048, the "Disabled Veterans Adaptive Benefits Improvement Act of 2003." This section would increase the maximum Specially Adapted Housing grants. VA favors such increases, provided offsetting savings may be found.

Under H.R. 1048, the maximum Specially Adapted Housing grant authorized by section 2101(a) would be increased from $48,000 to $50,000. In addition, the maximum Special Housing Adaptations grant authorized by section 2101(b) would be increased from $9,250 to $10,000. These grants were last increased by Public Law 107-103, enacted December 27, 2001. Increases in the cost of construction since then justify increasing these important benefits.

VA estimates that approximately 600 veterans per year will receive specially adapted housing assistance, of which about 92.5 percent will qualify for the grant authorized by section 2101(a). VA estimates the cost of enacting section 2 of H.R. 1048 would be $1.14 million per year, with a total 10-year cost of $11.4 million.

REV_00162187

Assistance for Automobile and Adaptive Equipment

Section 3 of H.R. 1048 would increase from $9,000 to $11,000 the maximum amount that VA may pay under 38 U.S.C. § 3902(a) to provide or assist in providing an automobile or other conveyance to eligible persons. VA supports enactment of this provision.

The maximum automobile allowance was last increased to the current $9,000 by Public Law 107-103 in 2001. An increase since then in the cost of obtaining automobiles and in the cost of adapting them justifies increasing this benefit so as to preserve its value to deserving veterans.

VA estimates the total benefits cost of both provisions of H.R. 1048 would be $3.3 million for FY 2004 and $33.3 million for the ten-year period FY 2004-2013.

H.R. 850

Special Compensation for Former Prisoners of War

Section 2 of H.R. 850, the "Former Prisoners of War Compensation Act of 2003," would add a new subchapter at the end of chapter 11 of title 38, United States Code, to authorize special compensation for former prisoners of war (POWs). This special compensation would be separate from any service-connected disability compensation or pension to which a former POW may be entitled and is exempted from attachment, execution, or levy in the same manner as special pension paid to recipients of the Medal of Honor pursuant to 38 U.S.C. § 1562(c). The bill would direct the Secretary of Veterans Affairs to pay monthly

REV_00162188

to each former POW, including active duty personnel, special compensation at a rate of payment determined by the cumulative length of confinement or internment as a POW. Thirty days would be the minimum period of confinement for which a former POW would be eligible to receive special compensation. The bill would establish three rates of special compensation based on the length of the period of the former POW's detainment or interment, as follows:

Length of Former POW's Detainment or Interment	Special Compensation Monthly Rate
30-120 days	$150
121-540 days	$300
541 days or more	$450

In the past, former POWs have been entitled to receive a modest lump-sum cash payment, based on their length of internment. Pursuant to the War Claims Act of 1948, codified as amended at 50 U.S.C. Appx. § 2005 (2001), and subsequent amendments, former POWs were entitled to receive a lump sum payment of up to $2.50 per day for World War II veterans, $2.50 per day for Korea veterans, and $5.00 per day for Vietnam veterans.[1] Compensation for former POWs is otherwise limited to the service-connected disability compensation administered by VA pursuant to title 38, United States Code.

[1] Pursuant to 50 U.S.C. Appx. § 2005, WW II veterans were eligible to receive up to $1 for each day held as a POW on which they did not have adequate food rations (subsection (b)) and $1.50 for each day of forced labor or inhumane treatment (subsection (d)); Korea veterans were eligible to receive up to $1 for each day held as a POW on which they did not have adequate food rations (subsection (e)(2)) and $1.50 for each day of forced labor or inhumane treatment (subsection (e)(3)); Vietnam veterans were eligible to receive up to $2 for each day held as a POW on which they did not have adequate food rations (subsection (f)(2)) and $3.00 for each day of forced labor or inhumane treatment (subsection (f)(3)).

REV_00162189

We estimate that approximately 39,029 former POWs are still living. Of that population, 13,631 (34.9%) receive disability compensation, with over half of those rated at 50% disabling or less. The typical former POW is 81 years old, and 88% of all living former POWs were interned during World War II. The following table summarizes basic demographic data for former POWs:

	WWII Europe	WWII Pacific	Korea	Vietnam	Gulf War	Total for All Wars
Number Alive on 1/1/03	29,675	4,477	2,264	595	21	39,029[2]
Average Age[3]	80	84	72	64	39	81
Average Length of Captivity[4]	11.5 mos.	39 mos.	24 mos.	56 mos.	1 mo.	16.5 mos.

We estimate that benefit-costs for the POW portion of the bill would be $139.6 million for FY 2004 and $1.1 billion for FY 2004 through FY 2013. We estimate administrative costs to be an additional one-time cost of $632 thousand in the first year. These amounts are not included in the President's FY 2004 budget request, and the Department cannot support this provision's enactment.

Prohibition Against Compensation for Substance-Abuse Disabilities

Section 3(a) of H.R. 850 would amend 38 U.S.C. §§ 1110 and 1131 to clarify that the prohibition on payment of compensation for a disability that is a

[2] This total includes an additional 1,997 former POWs of World War II who are not categorized under either WWII Europe or WWII Pacific.

[3] Charles A. Stenger, American Prisoners of War . . . Statistical Data Concerning Numbers Captured, Repatriated and Still Alive, January 1, 2003.

[4] Derived from the Department of Defense POW Database, 1984 (except Gulf War).

REV_00162190

result of the veteran's own abuse of alcohol or drugs applies even if the abuse is secondary to a service-connected disability. Section 3(b) would make that amendment applicable to claims filed on or after the date of enactment and to claims filed prior to, but not finally decided as of that date. We strongly support this provision, which is also proposed in the President's budget.

Sections 1110 and 1131 of title 38, United States Code, authorize the payment of compensation for disability resulting from injury or disease incurred or aggravated in line of duty in active service, during a period of war or during other than a period of war, respectively. Sections 1110 and 1131 also currently provide, "but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs." Before their amendment in 1990, the provisions currently codified in sections 1110 and 1131 prohibited compensation "if the disability is the result of the veteran's own willful misconduct." In 1990, they were amended to also prohibit compensation if the disability is a result of the veteran's own alcohol or drug abuse.

VA had long interpreted those provisions to authorize compensation not only for disability immediately resulting from injury or disease incurred or aggravated in service, but also for disability more remotely resulting from such injury or disease. That interpretation is embodied in 38 C.F.R. § 3.310(a), which provides that, generally, disability which is proximately due to or the result of a service-connected disease or injury shall be service connected. Thus, VA does pay, in specific cases, compensation for primary service-connected disability and for secondary service-connected disability. However, consistent with the plain

REV_00162191

meaning of sections 1110 and 1131, if a disability, whether primary or secondary, is a result of the veteran's own alcohol or drug abuse, VA did not pay compensation.

This has changed. On February 2, 2001, a three-judge panel of the United States Court of Appeals for the Federal Circuit interpreted section 1110 as allowing compensation for an alcohol or drug-abuse-related disability arising secondarily from a service-connected disability. *Allen v. Principi*, 237 F.3d 1368, 1370 (Fed. Cir. 2001). More specifically, the panel held that section 1110 "does not preclude compensation for an alcohol or drug abuse disability secondary to a service-connected disability or use of an alcohol or drug abuse disability as evidence of the increased severity of a service-connected disability." *Id.* at 1381. The Government filed a petition for rehearing and rehearing en banc, which the panel and full court denied on October 16, 2001. *Allen v. Principi*, 268 F.3d 1340, 1341 (Fed. Cir. 2001). However, five of the eleven judges who considered the petition for rehearing en banc dissented from the order denying rehearing, opining that the court's interpretation is wrong. 268 F.3d at 1341-42.

We are concerned that payment of additional compensation based on the abuse of alcohol or drugs is contrary to congressional intent and is not in veterans' best interests because it removes an incentive to refrain from debilitating and self-destructive behavior.

The Federal Circuit's interpretation in *Allen* could also greatly increase the amount of compensation VA pays for service-connected disabilities. Under the

REV_00162192

court's interpretation, any veteran with a service-connected disability who abuses alcohol or drugs is potentially eligible for an increased amount of compensation if he or she can offer evidence that the substance abuse is a result of a service-connected disability, *i.e.*, that the substance abuse is a way of coping with the pain or loss the disability causes. Under this interpretation, alcohol or drug abuse disabilities that are secondary to either physical or mental disorders are compensable.

The potential for increased costs is illustrated by mental disorders, which are frequently associated with alcohol and drug abuse. Almost 421,000 veterans are currently receiving compensation for a service-connected mental disability. About 324,000 of those disabilities are currently rated less than 100 percent and could potentially be rated totally disabling on the basis of secondary alcohol or drug abuse. Even if the service connection of disability from alcohol or drug abuse does not result in an increased schedular evaluation, temporary total evaluations could be assigned whenever a veteran is hospitalized for more than twenty-one days for treatment or observation related to the abuse. Even the 97,000 cases of a service-connected mental disability evaluated at 100 percent disabling have potential for increased compensation for secondary alcohol or drug abuse if the statutory criteria for special monthly compensation are met.

The potential increase in compensation does not end there. Under the Federal Circuit's interpretation, VA is required to pay compensation for the secondary effects of the abuse of alcohol or drugs. Once alcohol or drug abuse is service connected as being secondary to another service-connected disability,

REV_00162193

then service connection can be established for any disability that is a result of the service-connected abuse of alcohol or drugs. If alcohol or drug abuse results in a disease, such as cirrhosis of the liver, then that disease would also be service connected and provide a basis for compensation under the court's interpretation.

Of course, an increase in the amount of compensation VA pays for service-connected disabilities will increase the benefit cost of the compensation program. Section 3 of H.R. 850 would avoid those increased costs. Our estimate of savings that would result from enactment of this provision is based on the payment of only basic compensation for alcohol or drug abuse disabilities secondary to service-connected disabilities. We estimate that this provision would result in benefit cost savings of $127 million and administrative cost savings of $44 million in FY 2004 and benefit cost savings of $4.6 billion and administrative cost savings of $97 million for the ten-year period FY 2004 through FY 2013. This amount does not include the savings that would be associated with payment of compensation for temporary total evaluations, special monthly compensation, or compensation for the secondary effects of alcohol or drug abuse.

Dental Care for Former Prisoners of War

Section 4 of H.R. 850 would require VA to provide outpatient dental services and treatment, and related dental appliances, for any non-service-connected dental condition or disability from which a veteran who is a former POW is suffering. Currently, a veteran who is a former POW may receive dental

REV_00162194

benefits for non-service-connected dental conditions or disabilities only if the veteran was incarcerated for 90 days or more. By eliminating the 90-day requirement, section 4 would authorize VA to treat all former POWs the same, regardless of their length of captivity, with respect to dental care for a non-service-connected condition or disability. It would also make the eligibility rules for dental benefits for former POWs the same as for other health-care services for former POWs.

VA has strongly supported similar provisions in the past, and we continue our strong support for this provision. We believe this amendment is needed to ensure that former POWs receive all needed care for conditions that may be attributable to the privations of their service.

Costs resulting from enactment of this provision would be insignificant.

H.R. 966

Mr. Chairman, H.R. 966, the "Disabled Veterans' Return-to-Work Act of 2003," would amend provisions of 38 U.S.C. § 1524 to reinstate a program of vocational training for certain pension recipients that was in place between February 1, 1985, and December 31, 1995. That temporary program, established pursuant to the Veterans' Benefits Improvement Act of 1984, Pub. L. No. 98-543, required the Secretary of Veterans Affairs to determine whether the achievement of a vocational goal was reasonably feasible in the case of certain veterans awarded pension during the program period. If the achievement of such a goal was found to be feasible, these veterans were offered the opportunity to

REV_00162195

pursue programs of vocational training consisting of vocationally oriented and other services and assistance of the same kind provided under the vocational rehabilitation program authorized under chapter 31 of title 38, United States Code. These services and assistance did not include subsistence allowances, loans, or automobile adaptive equipment. Once a program of training was completed, a veteran could also receive employment assistance. The law limited the number of evaluations to be performed to not more than 3,500 veterans during any 12-month period. The initial program period ran from February 1, 1985, to January 31, 1992.

Initially, the law required that a veteran under the age of 50 who was awarded pension during the program period be evaluated with respect to his or her potential for rehabilitation. It required that the evaluation include a personal interview by a VA employee trained in vocational counseling. If the veteran refused to participate in the evaluation, his or her pension was suspended until he or she participated in an evaluation. Subsequent participation in the vocational training itself was voluntary. For a veteran pension recipient 50 years of age or older, the program of vocational training was totally voluntary. If, upon application by such a veteran-pensioner, VA made a preliminary finding on the basis of information in the application that, with the assistance of a vocational training program, the veteran had good potential for achieving employment, VA was authorized, upon the veteran's request, to evaluate the veteran to further determine whether the achievement of a vocational goal was reasonably feasible.

In 1992, Public Law 102-562 eliminated the limitation on the number of

REV_00162196

program participants who may be evaluated annually and amended the program for veterans under age 45, rather than under age 50, who were awarded pension during the program period so as to (A) require the Secretary, based on information on file with VA, to make a preliminary finding whether the veteran, with the assistance of a VA vocational training program, had a good potential for achieving employment; (B) if that potential was found to exist, required the Secretary to solicit from the veteran an application for VA vocational training; and (C) if the veteran applied for training, required the Secretary to provide an evaluation to determine whether the achievement of a vocational goal was reasonably feasible. In addition, the program was opened to veterans age 45 and older who had been awarded pension before the program period. That Public Law also extended the program ending date until December 31, 1995. No further action was taken by Congress, and by operation of law, the program ended on December 31, 1995.

During the period February 1, 1985, through January 31, 1989, VA evaluated approximately 9,468 veterans under the program. Of these, 2,838 were found to be feasible for training. Some 468 veterans participated in programs of vocational training. Sixty-five veterans completed that training. Fifty-eight obtained employment. Between fiscal year 1989 and fiscal year 1992, VA conducted 9,140 evaluations under the program, with 937 veterans participating in training.

H.R. 966 would reinstate the program and provide that a new program period would run for five years beginning on the date of enactment of the Act. In

REV_00162197

addition, it would require the Secretary to ensure that the availability of vocational training under section 1524 be made known through a variety of means, including the Internet and announcements in VA publications and other veterans' publications. Finally, the bill would require the Secretary, within two years after the date of enactment of the Act, to report to the Committees on Veterans' Affairs of the Senate and House on the operation of the program to include an evaluation of the vocational training provided and an analysis of the cost-effectiveness of the training provided, as well as data on the entered-employment rate of veterans pursuing such training.

If H.R. 966 were to be enacted, we estimate that VA would conduct approximately 1,300 record reviews each year, based on new accessions to the pension rolls, to determine whether each veteran so evaluated has good potential for achieving employment. We estimate that the achievement of a vocational goal will be determined to be feasible in about 1/3 (433) of those cases. Of that number, it is estimated that approximately 1/3 of these, 144 veterans, will actually end up participating in the program. In addition, because the program is also available to veterans over age 45 on a voluntary basis, we estimate that an additional 25 participants may participate, for a total of 169 cases per year. Based on those numbers, VA estimates that the enactment of H.R. 966 would cost $3 million for fiscal years 2004 through 2008 and an additional $3.6 million for fiscal years 2009 though 2013, totaling $6.6 million. Administrative costs associated with this bill are expected to be insignificant.

Mr. Chairman, given our experience in administering the temporary

REV_00162198

program during its ten-year duration, and the fact that only a small number of veterans benefited from the program, VA believes that the finite resources available to us for program administration would be best used to support our current program of vocational rehabilitation for service-disabled veterans, as authorized under chapter 31 of title 38, United States Code, especially in light of the current combat activities in Iraq. Thus, the Department does not support the enactment of H.R. 966.

Mr. Chairman, this concludes my statement. I will be pleased to respond to any questions you or the members of the Subcommittee may have.

REV_00162199

108TH CONGRESS
1ST SESSION

H. R. 241

To amend title 38, United States Code, to repeal the two-year limitation on the payment of accrued benefits that are due and unpaid by the Secretary of Veterans Affairs upon the death of a veteran or other beneficiary under laws administered by the Secretary.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 8, 2003

Mr. SMITH of New Jersey (for himself and Mr. EVANS) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to repeal the two-year limitation on the payment of accrued benefits that are due and unpaid by the Secretary of Veterans Affairs upon the death of a veteran or other beneficiary under laws administered by the Secretary.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Beneficiary Fairness Act of 2003".

REV_00162200

SEC. 2. PAYMENT OF ACCRUED BENEFITS.

(a) REPEAL OF LIMITATION ON PAYMENT.—Subsection (a) of section 5121 of title 38, United States Code, is amended by striking ''for a period not to exceed two years'' in the matter preceding paragraph (1).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to deaths occurring on or after the date of the enactment of this Act.

○

REV_00162201

108TH CONGRESS

1ST SESSION

H. R. 761

To amend title 38, United States Code, to authorize the Secretary of Veterans' Affairs to provide adapted housing assistance to disabled members of the Armed Forces who remain on active duty pending medical separation.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2003

Mr. EVANS (for himself, Mr. SMITH of New Jersey, Mr. RODRIGUEZ, Mr. FILNER, Mr. RENZI, Ms. CORRINE BROWN of Florida, Mr. REYES, Mr. MICHAUD, Ms. JACKSON-LEE of Texas, Mr. LANGEVIN, and Mr. SANDERS) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to authorize the Secretary of Veterans' Affairs to provide adapted housing assistance to disabled members of the Armed Forces who remain on active duty pending medical separation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Disabled Servicemembers Adapted Housing Assistance Act of 2003".

REV_00162202

SEC. 2. AUTHORIZATION TO PROVIDE ADAPTED HOUSING ASSISTANCE TO CERTAIN DISABLED MEMBERS OF THE ARMED FORCES WHO REMAIN ON ACTIVE DUTY.

Section 2101 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) The Secretary may provide assistance under subsection (a) to a member of the Armed Forces serving on active duty who is suffering from a disability described in paragraph (1), (2), or (3) of that subsection if such disability is the result of an injury incurred or disease contracted in or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under that subsection to veterans eligible for assistance under that subsection and subject to the requirements of the second sentence of that subsection.

"(2) The Secretary may provide assistance under subsection (b) to a member of the Armed Forces serving on active duty who is suffering from a disability described in subparagraph (A) or (B) of paragraph (1) of that subsection if such disability is the result of an injury incurred or disease contracted in or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under such subsection to veterans eligible for assistance under that subsection and subject to the requirements of paragraph (2) of that subsection.".

I

108TH CONGRESS
1ST SESSION

H. R. 1048

To amend title 38, United States Code, to increase the amount of assistance for certain disabled veterans for specially adapted housing and automobile and adaptive equipment.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 2003

Mr. BROWN of South Carolina (for himself, Mr. RODRIGUEZ, Mr. SMITH of New Jersey, and Mr. EVANS) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to increase the amount of assistance for certain disabled veterans for specially adapted housing and automobile and adaptive equipment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Disabled Veterans Adaptive Benefits Improvement Act of 2003".

REV_00162204

SEC. 2. INCREASE IN ASSISTANCE AMOUNT FOR SPECIALLY ADAPTED HOUSING.

Section 2102 of title 38, United States Code, is amended—

(1) in the matter preceding paragraph (1) of subsection (a), by striking "$48,000" and inserting "$50,000"; and

(2) in subsection (b)(2), by striking "$9,250" and inserting "$10,000".

SEC. 3. INCREASE IN AMOUNT OF ASSISTANCE FOR AUTOMOBILE AND ADAPTIVE EQUIPMENT FOR CERTAIN DISABLED VETERANS.

Section 3902(a) of title 38, United States Code, is amended by striking "$9,000" and inserting "$11,000".

○

REV_00162205

108TH CONGRESS
1ST SESSION

H. R. 533

To amend title 38, United States Code, to provide for health benefits and certain other benefits to be furnished by the Department of Veterans Affairs to any individual who has spina bifida and is the natural child of a veteran who, while in military service, was exposed to a herbicide agent.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 2003

Mr. EVANS (for himself, Mr. RODRIGUEZ, Mr. FILNER, Mr. GUTIERREZ, Ms. CORRINE BROWN of Florida, Mr. SNYDER, Mr. MCINTYRE, Mr. SANDERS, Mr. SERRANO, and Mr. WAXMAN) introduced the following bill; which was referred to the Committee on Veterans Affairs

---

A BILL

To amend title 38, United States Code, to provide for health benefits and certain other benefits to be furnished by the Department of Veterans Affairs to any individual who has spina bifida and is the natural child of a veteran who, while in military service, was exposed to a herbicide agent.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the Agent Orange Veterans Disabled Childrens Benefits Act of 2003.

SEC. 2. EXTENSION OF SPINA BIFIDA BENEFITS FOR CHILDREN OF VETERANS.

(a) ELIGIBLE CHILDREN.Subchapter I of chapter 18 of title 38, United States Code, is amended by inserting before section 1802 the following new section:

1801. Persons eligible for benefits

(a) E LIGIBLE CHILD.An individual is an eligible child for purposes of this subchapter if the individual is suffering from spina bifida and is

(1) a child as defined in section 1821(1) of this title; or

(2) the natural child, regardless of age or marital status, of a parent who performed qualifying herbicide-risk service, if the individual was conceived after the parent performed such service.

(b) Q UALIFYING HERBICIDE-RISK SERVICE.(1) An individual performed qualifying herbicide-risk service if (as determined by the Secretary) the individual, while performing active military, naval, or air service (without regard to the characterization of that individuals service)

(A) served in an area in which a Vietnam-era herbicide agent was used during a period during which such agent was used in that area; or

(B) otherwise was exposed to a Vietnam-era herbicide agent.

REV_00162207

(2) For purposes of paragraph (1), the term Vietnam-era herbicide agent has the meaning given the term herbicide agent in section 1116(a)(3) of this title..

(b) HEALTH CARE.Section 1803(a) of such title is amended by striking a child of a Vietnam veteran who is suffering from spina bifida and inserting an eligible child.

(c) VOCATIONAL TRAINING AND REHABILITATION. Section 1804(a) of such title is amended by striking a child of a Vietnam veteran who is suffering from spina bifida and inserting an eligible child.

(d) MONETARY ALLOWANCE.Section 1805(a) of such title is amended by striking any child of a Vietnam veteran and inserting any eligible child.

(e) CONFORMING AMENDMENTS.

(1) The heading of chapter 18 of such title is amended to read as follows:

CHAPTER 18DISABILITY BENEFITS FOR CHILDREN OF VIETNAM VETERANS AND OTHER VETERANS EXPOSED TO HERBICIDE AGENTS.

(2) The heading of subchapter I of such chapter is amended to read as follows:

REV_00162208

SUBCHAPTER ICHILDREN BORN WITH SPINA BIFIDA.

(3) The table of sections at the beginning of such chapter is amended

(A) by striking the item relating to subchapter I and inserting the following:

SUBCHAPTER I CHILDREN BORN WITH SPINA BIFIDA;

and

(B) by inserting before the item relating to section 1802 the following new item:

1801. Persons eligible for benefits..

(4) The items relating to chapter 18 in the tables of chapters at the beginning of title 38, United States Code, and at the beginning of part II of such title, are amended to read as follows:

18. Disability Benefits for Children of Vietnam Veterans and Other Veterans Exposed to Herbicide Agents ..... 1801.

REV_00162209

I

108TH CONGRESS
1ST SESSION

H. R. 850

To amend title 38, United States Code, to provide special compensation for former prisoners of war, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2003

Mr. SIMPSON (for himself, Mr. COX, Mr. BOEHNER, Mr. DREIER, Mr. HYDE, Mr. KOLBE, Mr. LEACH, Mr. OTTER, Mr. SENSENBRENNER, and Mr. WILSON of South Carolina) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to provide special compensation for former prisoners of war, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Former Prisoners of War Special Compensation Act of 2003".

REV_00162210

SEC. 2. SPECIAL COMPENSATION FOR FORMER PRISONERS OF WAR.

(a) IN GENERAL.—Chapter 11 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER VII—FORMER PRISONERS OF WAR

"§ 1181. Special compensation: former prisoners of war

"(a)(1) The Secretary shall pay monthly to each veteran who is a former prisoner of war and who while a prisoner of war was detained or interned for not less than 30 days special compensation at the rate specified in subsection (b).

"(2) For the purposes of this section, the term 'veteran' includes an individual serving on active duty.

"(b) The rate of special compensation for purposes of this section shall be as follows:

"(1) If the former prisoner of war was detained or interned for a period of not more than 120 days, the monthly amount of special compensation payable shall be $150.

"(2) If the former prisoner of war was detained or interned for a period of more than 120 days and not more than 540 days, the monthly amount of special compensation payable shall be $300.

REV_00162211

"(3) If the former prisoner of war was detained or interned for a period of more than 540 days, the monthly amount of special compensation payable shall be $450.

"(c) If a former prisoner of war was detained or interned on two or more separate occasions, the cumulative length of all occasions of confinement or internment as a prisoner of war shall determine the monthly compensation rate payable under subsection (b).

"§ 1182. Provisions relating to special compensation for former prisoners of war

"(a) Special compensation payable under this subchapter shall be paid in addition to any other payment under the laws of the United States. Amounts paid to an individual under this subchapter shall not be considered to be income or resources for purposes of determining eligibility to receive benefits under any Federal or federally assisted program.

"(b) Special compensation payable under this subchapter shall not be considered to be compensation within the meaning of that term in section 101(13) of this title.

"(c) The provisions of subsection (c) of section 1562 of this title shall apply to special compensation under this subchapter in the same manner as to special pension under that section.".

REV_00162212

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"SUBCHAPTER VII—FORMER PRISONERS OF WAR

"1181. Special compensation: former prisoners of war.
"1182. Provisions relating to special compensation for former prisoners of war.".

SEC. 3. CLARIFICATION OF PROHIBITION ON PAYMENT OF COMPENSATION FOR ALCOHOL OR DRUG-RELATED DISABILITY.

(a) CLARIFICATION.—Sections 1110 and 1131 of title 38, United States Code, are each amended by inserting ", even if the abuse is secondary to a service-connected disability" before the period at the end.

(a) APPLICABILITY.—The amendments made by subsection (a) apply to any claim—

(1) filed on or after the date of the enactment of this Act; or

(2) filed before the date of the enactment of this Act and not finally decided as of that date.

SEC. 4. OUTPATIENT DENTAL CARE FOR ALL FORMER PRISONERS OF WAR.

Section 1712(a)(1)(F) of title 38, United States Code, is amended by striking "and who was detained or interned for a period of not less than 90 days".

○

REV_00162213

I

108TH CONGRESS
1ST SESSION

H. R. 996

To amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2003

Mr. JONES of North Carolina (for himself, Mr. ROSS, and Ms. HOOLEY of Oregon) introduced the following bill; which was referred to the Committee on Financial Services

---

A BILL

To amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Consumer Rental Purchase Agreement Act".

REV_00162214

SEC. 2. FINDINGS AND DECLARATION OF PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) The rental-purchase industry provides a service that meets and satisfies the demands of many consumers.

(2) Each year, approximately 2,300,000 United States households enter into rental-purchase transactions and over a 5-year period approximately 4,900,000 United States households will do so.

(3) Competition among the various firms engaged in the extension of rental-purchase transactions would be strengthened by informed use of rental-purchase transactions.

(4) The informed use of rental-purchase transactions results from an awareness of the cost thereof by consumers.

(b) PURPOSE.—The purpose of this title is to assure the availability of rental-purchase transactions and to assure simple, meaningful, and consistent disclosure of rental-purchase terms so that consumers will be able to more readily compare the available rental-purchase terms and avoid uninformed use of rental-purchase transactions, and to protect consumers against unfair rental-purchase practices.

REV_00162215

SEC. 3. CONSUMER CREDIT PROTECTION ACT.

The Consumer Credit Protection Act is amended by adding at the end the following new title:

"TITLE X—RENTAL-PURCHASE TRANSACTIONS

"Sec. 1001. Definitions.
"Sec. 1002. Exempted transactions.
"Sec. 1003. General disclosure requirements.
"Sec. 1004. Rental-purchase disclosures.
"Sec. 1005. Other agreement provisions.
"Sec. 1006. Right to acquire ownership.
"Sec. 1007. Prohibited provisions.
"Sec. 1008. Statement of accounts.
"Sec. 1009. Renegotiations and extensions.
"Sec. 1010. Point-of-rental disclosures.
"Sec. 1011. Rental-purchase advertising.
"Sec. 1012. Civil liability.
"Sec. 1013. Additional grounds for civil liability.
"Sec. 1014. Liability of assignees.
"Sec. 1015. Regulations.
"Sec. 1016. Enforcement.
"Sec. 1017. Criminal liability for willful and knowing violation.
"Sec. 1018. Relation to other laws.
"Sec. 1019. Effect on government agencies.
"Sec. 1020. Compliance date.

"SEC. 1001. DEFINITIONS.

"For purposes of this title, the following definitions shall apply:

"(1) ADVERTISEMENT.—The term 'advertisement' means a commercial message in any medium that promotes, directly or indirectly, a rental-purchase agreement but does not include price tags, window signs, or other in-store merchandising aids.

"(2) AGRICULTURAL PURPOSE.—The term 'agricultural purpose' includes—

REV_00162216

"(A) the production, harvest, exhibition, marketing, transformation, processing, or manufacture of agricultural products by a natural person who cultivates plants or propagates or nurtures agricultural products; and

"(B) the acquisition of farmlands, real property with a farm residence, or personal property and services used primarily in farming.

"(3) BOARD.—The term 'Board' means the Board of Governors of the Federal Reserve System.

"(4) CASH PRICE.—The term 'cash price' means the price at which a merchant, in the ordinary course of business, offers to sell for cash the property that is the subject of the rental-purchase transaction.

"(5) CONSUMER.—The term 'consumer' means a natural person who is offered or enters into a rental-purchase agreement.

"(6) DATE OF CONSUMMATION.—The term 'date of consummation' means the date on which a consumer becomes contractually obligated under a rental-purchase agreement.

"(7) INITIAL PAYMENT.—The term 'initial payment' means the amount to be paid before or at the

REV_00162217

consummation of the agreement or the delivery of the property if delivery occurs after consummation, including the rental payment; service, processing, or administrative charges; delivery fee; refundable security deposit; taxes; mandatory fees or charges; and any optional fees or charges agreed to by the consumer.

"(8) MERCHANT.—The term 'merchant' means a person who provides the use of property through a rental-purchase agreement in the ordinary course of business and to whom a consumer's initial payment under the agreement is payable.

"(9) PAYMENT SCHEDULE.—The term 'payment schedule' means the amount and timing of the periodic payments and the total number of all periodic payments that the consumer will make if the consumer acquires ownership of the property by making all periodic payments.

"(10) PERIODIC PAYMENT.—The term 'periodic payment' means the total payment a consumer will make for a specific rental period after the initial payment, including the rental payment, taxes, mandatory fees or charges, and any optional fees or charges agreed to by the consumer.

REV_00162218

"(11) PROPERTY.—The term 'property' means property that is not real property under the laws of the State where the property is located when it is made available under a rental-purchase agreement.

"(12) RENTAL PAYMENT.—The term 'rental payment' means rent required to be paid by a consumer for the possession and use of property for a specific rental period, but does not include taxes or any fees or charges.

"(13) RENTAL PERIOD.—The term 'rental period' means a week, month, or other specific period of time, during which the consumer has a right to possess and use property that is the subject of a rental-purchase agreement after paying the rental payment and any applicable taxes for such period.

"(14) RENTAL-PURCHASE AGREEMENT.—

"(A) IN GENERAL.—The term 'rental-purchase agreement' means a contract in the form of a bailment or lease for the use of property by a consumer for an initial period of 4 months or less, that is renewable with each payment by the consumer, and that permits but does not obligate the consumer to become the owner of the property.

REV_00162219

"(B) EXCLUSIONS.—The term 'rental-purchase agreement' does not include—

"(i) a credit sale (as defined in section 103(g) of the Truth in Lending Act);

"(ii) a consumer lease (as defined in section 181(1) of such Act); or

"(iii) a transaction giving rise to a debt incurred in connection with the business of lending money or a thing of value.

"(15) RENTAL-PURCHASE COST.—

"(A) IN GENERAL.—For purposes of sections 1010 and 1011, the term 'rental-purchase cost' means the sum of all rental payments and mandatory fees or charges imposed by the merchant as a condition of entering into a rental-purchase agreement or acquiring ownership of property under a rental-purchase agreement, such as the following:

"(i) Service, processing, or administrative charge.

"(ii) Fee for an investigation or credit report.

"(iii) Charge for delivery required by the merchant.

REV_00162220

"(B) EXCLUDED ITEMS.—The following fees or charges shall not be taken into account in determining the rental-purchase cost with respect to a rental-purchase transaction:

"(i) Fees and charges prescribed by law, which actually are or will be paid to public officials or government entities, such as sales tax.

"(ii) Fees and charges for optional products and services offered in connection with a rental-purchase agreement.

"(16) STATE.—The term 'State' means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

"(17) TOTAL COST.—The term 'total cost' means the sum of the initial payment and all periodic payments in the payment schedule to be paid by the consumer to acquire ownership of the property that is the subject of the rental-purchase agreement.

"SEC. 1002. EXEMPTED TRANSACTIONS.

"This title shall not apply to rental-purchase agreements primarily for business, commercial, or agricultural

REV_00162221

purposes, or those made with Government agencies or instrumentalities.

"SEC. 1003. GENERAL DISCLOSURE REQUIREMENTS.

"(a) RECIPIENT OF DISCLOSURE.—A merchant shall disclose to any person who will be a signatory to a rental-purchase agreement the information required by sections 1004 and 1005.

"(b) TIMING OF DISCLOSURE.—The disclosures required under sections 1004 and 1005 shall be made before the consummation of the rental-purchase agreement and clearly and conspicuously in writing as part of the rental-purchase agreement to be signed by the consumer.

"(c) CLEARLY AND CONSPICUOUSLY.—As used in this section, the term 'clearly and conspicuously' means that information required to be disclosed to the consumer shall be worded plainly and simply, and appear in a type size, prominence, and location as to be readily noticeable, readable, and comprehensible to an ordinary consumer.

"SEC. 1004. RENTAL-PURCHASE DISCLOSURES.

"(a) IN GENERAL.—For each rental-purchase agreement, the merchant shall disclose to the consumer the following, to the extent applicable:

"(1) The date of the consummation of the rental-purchase transaction and the identities of the merchant and the consumer.

REV_00162222

"(2) A brief description of the rental property, which shall be sufficient to identify the property to the consumer, including an identification or serial number, if applicable, and a statement indicating whether the property is new or used.

"(3) A description of any fee, charge or penalty, in addition to the periodic payment, that the consumer may be required to pay under the agreement, which shall be separately identified by type and amount.

"(4) A clear and conspicuous statement that the transaction is a rental-purchase agreement and that the consumer will not obtain ownership of the property until the consumer has paid the total dollar amount necessary to acquire ownership.

"(5) The amount of any initial payment, which includes the first periodic payment, and the total amount of any fees, taxes, or other charges, required to be paid by the consumer.

"(6) The amount of the cash price of the property that is the subject of the rental-purchase agreement, and, if the agreement involves the rental of 2 or more items as a set (as may be defined by the Board in regulation) a statement of the aggregate cash price of all items shall satisfy this requirement.

REV_00162223

"(7) The amount and timing of periodic payments, and the total number of periodic payments necessary to acquire ownership of the property under the rental-purchase agreement.

"(8) The total cost, using that term, and a brief description, such as 'This is the amount you will pay the merchant if you make all periodic payments to acquire ownership of the property.'.

"(9) A statement of the consumer's right to terminate the agreement without paying any fee or charge not previously due under the agreement by voluntarily surrendering or returning the property in good repair upon expiration of any lease term.

"(10) Substantially the following statement: '**OTHER IMPORTANT TERMS**: See your rental-purchase agreement for additional important information on early termination procedures, purchase option rights, responsibilities for loss, damage or destruction of the property, warranties, maintenance responsibilities, and other charges or penalties you may incur.'.

"(b) FORM OF DISCLOSURE.—The disclosures required by paragraphs (4) through (10) of subsection (a) shall be segregated from other information at the beginning of the rental-purchase agreement and shall contain

REV_00162224

only directly related information, and shall be identified in boldface, upper-case letters as follows: '**IMPORTANT RENTAL-PURCHASE DISCLOSURES**'.

"(c) DISCLOSURE REQUIREMENTS RELATING TO INSURANCE PREMIUMS AND LIABILITY WAIVERS.—

"(1) IN GENERAL.—A merchant shall clearly and conspicuously disclose in writing to the consumer before the consummation of a rental-purchase agreement that the purchase of leased property insurance or liability waiver coverage is not required as a condition for entering into the rental-purchase agreement.

"(2) AFFIRMATIVE WRITTEN REQUEST AFTER COST DISCLOSURE.—A merchant may provide insurance or liability waiver coverage, directly or indirectly, in connection with a rental-purchase transaction only if—

"(A) the merchant clearly and conspicuously discloses to the consumer the cost of each component of such coverage before the consummation of the rental-purchase agreement; and

"(B) the consumer signs an affirmative written request for such coverage after receiving

REV_00162225

the disclosures required under subparagraph (A) of this paragraph and paragraph (1).

"(d) ACCURACY OF DISCLOSURE.—

"(1) IN GENERAL.—The disclosures required to be made under subsection (a) shall be accurate as of the date the disclosures are made, based on the information available to the merchant.

"(2) INFORMATION SUBSEQUENTLY RENDERED INACCURATE.—If information required to be disclosed under subsection (a) is subsequently rendered inaccurate as a result of any agreement between the merchant and the consumer subsequent to the delivery of the required disclosures, the resulting inaccuracy shall not constitute a violation of this title.

"SEC. 1005. OTHER AGREEMENT PROVISIONS.

"(a) IN GENERAL.—Each rental-purchase agreement shall—

"(1) provide a statement specifying whether the merchant or the consumer is responsible for loss, theft, damage, or destruction of the property;

"(2) provide a statement specifying whether the merchant or the consumer is responsible for maintaining or servicing the property, together with a brief description of the responsibility;

REV_00162226

"(3) provide that the consumer may terminate the agreement without paying any charges not previously due under the agreement by voluntarily surrendering or returning the property that is the subject of the agreement upon expiration of any rental period;

"(4) contain a provision for reinstatement of the agreement, which at a minimum—

"(A) permits a consumer who fails to make a timely rental payment to reinstate the agreement, without losing any rights or options which exist under the agreement, by the payment of all past due rental payments and any other charges then due under the agreement and a payment for the next rental period within 7 business days after failing to make a timely rental payment if the consumer pays monthly, or within 3 business days after failing to make a timely rental payment if the consumer pays more frequently than monthly;

"(B) if the consumer returns or voluntarily surrenders the property covered by the agreement, other than through judicial process, during the applicable reinstatement period set forth in subparagraph (A), permits the consumer to

REV_00162227

reinstate the agreement during a period of at least 60 days after the date of the return or surrender of the property by the payment of all amounts previously due under the agreement, any applicable fees, and a payment for the next rental period;

"(C) if the consumer has paid 50 percent or more of the total cost necessary to acquire ownership and returns or voluntarily surrenders the property, other than through judicial process, during the applicable reinstatement period set forth in subparagraph (A), permits the consumer to reinstate the agreement during a period of at least 120 days after the date of the return of the property by the payment of all amounts previously due under the agreement, any applicable fees, and a payment for the next rental period; and

"(D) permits the consumer, upon reinstatement of the agreement to receive the same property, if available, that was the subject of the rental-purchase agreement, or if the same property is not available, a substitute item of comparable quality and condition may be provided to the consumer; except that, the Board

REV_00162228

may, by regulation or order, exempt any independent small business (as defined by the Board by regulation) from the requirement of providing the same or comparable product during the extended reinstatement period provided in subparagraph (C), if the Board determines, taking into account such standards as the Board determines to be appropriate, that the reinstatement right provided in such subparagraph would provide excessive hardship for such independent small business.

''(5) provide a statement specifying the terms under which the consumer shall acquire ownership of the property that is the subject of the rental-purchase agreement either by payment of the total cost to acquire ownership, as provided in section 1006, or by exercise of any early purchase option provided in the rental-purchase agreement;

''(6) provide a statement disclosing that if any part of a manufacturer's express warranty covers the property at the time the consumer acquires ownership of the property, the warranty will be transferred to the consumer if allowed by the terms of the warranty; and

REV_00162229

"(7) provide, to the extent applicable, a description of any grace period for making any periodic payment, the amount of any security deposit, if any, to be paid by the consumer upon initiation of the rental-purchase agreement, and the terms for refund of such security deposit to the consumer upon return, surrender or purchase of the property.

"(b) REPOSSESSION DURING REINSTATEMENT PERIOD.—Subsection (a)(4) shall not be construed so as to prevent a merchant from attempting to repossess property during the reinstatement period pursuant to subsection (a)(4)(A), but such a repossession does not affect the consumer's right to reinstate.

"SEC. 1006. RIGHT TO ACQUIRE OWNERSHIP.

"(a) IN GENERAL.—The consumer shall acquire ownership of the property that is the subject of the rental-purchase agreement, and the rental-purchase agreement shall terminate, upon compliance by the consumer with the requirements of subsection (b) or any early payment option provided in the rental purchase agreement, and upon payment of any past due payments and fees, as permitted in regulation by the Board.

"(b) PAYMENT OF TOTAL COST.—The consumer shall acquire ownership of the rental property upon payment of the total cost of the rental-purchase agreement,

REV_00162230

as such term is defined in section 1001(17), and as disclosed to the consumer in the rental-purchase agreement pursuant to section 1004(a).

"(c) ADDITIONAL FEES PROHIBITED.—A merchant shall not require the consumer to pay, as a condition for acquiring ownership of the property that is the subject of the rental-purchase agreement, any fee or charge in addition to, or in excess of, the regular periodic payments required by subsection (b), or any early purchase option amount provided in the rental-purchase agreement, as applicable. A requirement that the consumer pay an unpaid late charge or other fee or charge which the merchant has previously billed to the consumer shall not constitute an additional fee or charge for purposes of this subsection.

"(d) TRANSFER OF OWNERSHIP RIGHTS.—Upon payment by the consumer of all payments necessary to acquire ownership under subsection (b) or any early purchase option amount provided in the rental-purchase agreement, as appropriate, the merchant shall—

"(1) deliver, or mail to the consumer's last known address, such documents or other instruments, which the Board has determined by regulation, are necessary to acknowledge full ownership by the consumer of the property acquired pursuant to the rental-purchase agreement; and

REV_00162231

"(2) transfer to the consumer the unexpired portion of any warranties provided by the manufacturer, distributor, or seller of the property, which shall apply as if the consumer were the original purchaser of the property, except where such transfer is prohibited by the terms of the warranty.

"SEC. 1007. PROHIBITED PROVISIONS.

"A rental-purchase agreement may not contain—

"(1) a confession of judgment;

"(2) a negotiable instrument;

"(3) a security interest or any other claim of a property interest in any goods, except those goods the use of which is provided by the merchant pursuant to the agreement;

"(4) a wage assignment;

"(5) a provision requiring the waiver of any legal claim or remedy created by this title or other provision of Federal or State law;

"(6) a provision requiring the consumer, in the event the property subject to the rental-purchase agreement is lost, stolen, damaged, or destroyed, to pay an amount in excess of the least of—

"(A) the fair market value of the property, as determined by the Board in regulation;

REV_00162232

"(B) any early purchase option amount provided in the rental-purchase agreement; or

"(C) the actual cost of repair, as appropriate;

"(7) a provision authorizing the merchant, or a person acting on behalf of the merchant, to enter the consumer's dwelling or other premises without obtaining the consumer's consent or to commit any breach of the peace in connection with the repossession of the rental property or the collection of any obligation or alleged obligation of the consumer arising out of the rental-purchase agreement;

"(8) a provision requiring the purchase of insurance or liability damage waiver to cover the property that is the subject of the rental-purchase agreement, except as permitted by the Board in regulation;

"(9) a provision requiring the consumer to pay more than 1 late fee or charge for an unpaid or delinquent periodic payment, regardless of the period in which the payment remains unpaid or delinquent, or to pay a late fee or charge for any periodic payment because a previously assessed late fee has not been paid in full.

REV_00162233

"SEC. 1008. STATEMENT OF ACCOUNTS.

"Upon request of a consumer, a merchant shall provide a statement of the consumer's account. If a consumer requests a statement for an individual account more than 4 times in any 12-month period, the merchant may charge a reasonable fee for the additional statements.

"SEC. 1009. RENEGOTIATIONS AND EXTENSIONS.

"(a) RENEGOTIATIONS.—A renegotiation occurs when a rental-purchase agreement is satisfied and replaced by a new agreement undertaken by the same consumer. A renegotiation requires new disclosures, except as provided in subsection (c).

"(b) EXTENSIONS.—An extension is an agreement by the consumer and the merchant, to continue an existing rental-purchase agreement beyond the original end of the payment schedule, but does not include a continuation that is the result of a renegotiation.

"(c) EXCEPTIONS.—New disclosures are not required for the following, even if they meet the definition of a renegotiation or an extension:

"(1) A reduction in payments.

"(2) A deferment of 1 or more payments.

"(3) The extension of a rental-purchase agreement.

"(4) The substitution of property with property that has a substantially equivalent or greater eco-

REV_00162234

nomic value provided the rental-purchase cost does not increase.

"(5) The deletion of property in a multiple-item agreement.

"(6) A change in rental period provided the rental-purchase cost does not increase.

"(7) An agreement resulting from a court proceeding.

"(8) Any other event described in regulations prescribed by the Board.

"SEC. 1010. POINT-OF-RENTAL DISCLOSURES.

"(a) IN GENERAL.—For any item of property or set of items displayed or offered for rental-purchase, the merchant shall display on or next to the item or set of items a card, tag, or label that clearly and conspicuously discloses the following:

"(1) A brief description of the property.

"(2) Whether the property is new or used.

"(3) The cash price of the property.

"(4) The amount of each rental payment.

"(5) The total number of rental payments necessary to acquire ownership of the property.

"(6) The rental-purchase cost.

"(b) FORM OF DISCLOSURE.—

REV_00162235

"(1) IN GENERAL.—A merchant may make the disclosure required by subsection (a) in the form of a list or catalog which is readily available to the consumer at the point of rental if the merchandise is not displayed in the merchant's showroom or if displaying a card, tag, or label would be impractical due to the size of the merchandise.

"(2) CLEARLY AND CONSPICUOUSLY.—As used in this section, the term 'clearly and conspicuously' means that information required to be disclosed to the consumer shall appear in a type size, prominence, and location as to be noticeable, readable, and comprehensible to an ordinary consumer.

"SEC. 1011. RENTAL-PURCHASE ADVERTISING.

"(a) IN GENERAL.—If an advertisement for a rental-purchase transaction refers to or states the amount of any payment for any specific item or set of items, the merchant making the advertisement shall also clearly and conspicuously state in the advertisement the following for the item, or set of items, advertised:

"(1) The transaction advertised is a rental-purchase agreement.

"(2) The amount, timing, and total number of rental payments necessary to acquire ownership under the rental-purchase agreement.

REV_00162236

"(3) The amount of the rental-purchase cost.

"(4) To acquire ownership of the property the consumer must pay the rental-purchase cost plus applicable taxes.

"(5) Whether the stated payment amount and advertised rental-purchase cost is for new or used property.

"(b) PROHIBITION.—An advertisement for a rental-purchase agreement shall not state or imply that a specific item, or set of items, is available at specific amounts or terms unless the merchant usually and customarily offers, or will offer, the item or set of items at the stated amounts or terms.

"(c) CLEARLY AND CONSPICUOUSLY.—

"(1) IN GENERAL.—For purposes of this section, the term 'clearly and conspicuously' means that required disclosures shall be presented in a type, size, shade, contrast, prominence, location, and manner, as applicable to different mediums for advertising, so as to be readily noticeable and comprehensible to the ordinary consumer.

"(2) REGULATORY GUIDANCE.—The Board shall prescribe regulations on principles and factors to meet the clear and conspicuous standard as appropriate to print, video, audio, and computerized

REV_00162237

advertising, reflecting the principles and factors typically applied in each medium by the Federal Trade Commission.

"(3) LIMITATION.—Nothing contrary to, inconsistent with, or in mitigation of, the required disclosures shall be used in any advertisement in any medium, and no audio, video, or print technique shall be used that is likely to obscure or detract significantly from the communication of the disclosures.

"SEC. 1012. CIVIL LIABILITY.

"(a) IN GENERAL.—Except as otherwise provided in section 1013, any merchant who fails to comply with any requirement of this title with respect to any consumer is liable to such consumer as provided for leases in section 130. For purposes of this section, the term 'creditor' as used in section 130 shall include a 'merchant', as defined in section 1001.

"(b) JURISDICTION OF COURTS; LIMITATION ON ACTIONS.—

"(1) IN GENERAL.—Notwithstanding section 130(e), any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, before the end of the 1-year period beginning on the date the

REV_00162238

last payment was made by the consumer under the rental-purchase agreement.

"(2) RECOUPMENT OR SET-OFF.—This subsection shall not bar a consumer from asserting a violation of this title in an action to collect an obligation arising from a rental-purchase agreement, which was brought after the end of the 1-year period described in paragraph (1) as a matter of defense by recoupment or set-off in such action, except as otherwise provided by State law.

"SEC. 1013. ADDITIONAL GROUNDS FOR CIVIL LIABILITY.

"(a) INDIVIDUAL CASES WITH ACTUAL DAMAGES.—Any merchant who fails to comply with any requirements imposed under section 1010 or 1011 with respect to any consumer who suffers actual damage from the violation shall be liable to such consumer as provided in section 130.

"(b) PATTERN OR PRACTICE OF VIOLATIONS.—If a merchant engages in a pattern or practice of violating any requirement imposed under section 1010 or 1011, the Federal Trade Commission or an appropriate State attorney general, in accordance with section 1016, may initiate an action to enforce sanctions against the merchant, including—

REV_00162239

"(1) an order to cease and desist from such practices; and

"(2) a civil money penalty of such amount as the court may impose, based on such factors as the court may determine to be appropriate.

"SEC. 1014. LIABILITY OF ASSIGNEES.

"(a) ASSIGNEES INCLUDED.—For purposes of section 1013, and this section, the term 'merchant' includes an assignee of a merchant.

"(b) LIABILITIES OF ASSIGNEES.—

"(1) APPARENT VIOLATION.—An action under section 1012 or 1013 for a violation of this title may be brought against an assignee only if the violation is apparent on the face of the rental-purchase agreement to which it relates.

"(2) APPARENT VIOLATION DEFINED.—For purposes of this subsection, a violation that is apparent on the face of a rental-purchase agreement includes, but is not limited to, a disclosure that can be determined to be incomplete or inaccurate from the face of the agreement.

"(3) INVOLUNTARY ASSIGNMENT.—An assignee has no liability in a case in which the assignment is involuntary.

REV_00162240

"(4) RULE OF CONSTRUCTION.—No provision of this section shall be construed as limiting or altering the liability under section 1012 or 1013 of a merchant assigning a rental-purchase agreement.

"(b) PROOF OF DISCLOSURE.—In an action by or against an assignee, the consumer's written acknowledgment of receipt of a disclosure, made as part of the rental-purchase agreement, shall be conclusive proof that the disclosure was made, if the assignee had no knowledge that the disclosure had not been made when the assignee acquired the rental-purchase agreement to which it relates.

"SEC. 1015. REGULATIONS.

"(a) IN GENERAL.—The Board shall prescribe regulations as necessary to carry out the purposes of this title, to prevent its circumvention, and to facilitate compliance with its requirements.

"(b) MODEL DISCLOSURE FORMS.—The Board may publish model disclosure forms and clauses for common rental-purchase agreements to facilitate compliance with the disclosure requirements of this title and to aid the consumer in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures. In devising such forms, the Board shall consider the use by merchants of data processing or similar automated equipment. Nothing in this title may

REV_00162241

be construed to require a merchant to use any such model form or clause prescribed by the Board under this section. A merchant shall be deemed to be in compliance with the requirement to provide disclosure under section 1003(a) if the merchant—

"(1) uses any appropriate model form or clause as published by the Board; or

"(2) uses any such model form or clause and changes it by—

"(A) deleting any information which is not required by this title; or

"(B) rearranging the format, if in making such deletion or rearranging the format, the merchant does not affect the substance, clarity, or meaningful sequence of the disclosure.

"(c) EFFECTIVE DATE OF REGULATIONS.—Any regulation prescribed by the Board, or any amendment or interpretation thereof, shall not be effective before the October 1 that follows the date of publication of the regulation in final form by at least 6 months. The Board may at its discretion lengthen that period of time to permit merchants to adjust to accommodate new requirements. The Board may also shorten that period of time, notwithstanding the first sentence, if it makes a specific finding that such action is necessary to comply with the findings

REV_00162242

of a court or to prevent unfair or deceptive practices. In any case, merchants may comply with any newly prescribed disclosure requirement prior to its effective date.

"SEC. 1016. ENFORCEMENT.

"(a) FEDERAL ENFORCEMENT.—Compliance with the requirements imposed under this title shall be enforced under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), and a violation of any requirements imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements of this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional test in the Federal Trade Commission Act.

"(b) STATE ENFORCEMENT.—

"(1) IN GENERAL.—An action to enforce the requirements imposed by this title may also be brought by the appropriate State attorney general in any appropriate United States district court, or any other court of competent jurisdiction.

"(2) PRIOR WRITTEN NOTICE.—

"(A) IN GENERAL.—The State attorney general shall provide prior written notice of any

REV_00162243

such civil action to the Federal Trade Commission and shall provide the Commission with a copy of the complaint.

"(B) EMERGENCY ACTION.—If prior notice is not feasible, the State attorney general shall provide notice to the Commission immediately upon instituting the action.

"(3) FTC INTERVENTION.—The Commission may—

"(A) intervene in the action;

"(B) upon intervening—

"(i) remove the action to the appropriate United States district court, if it was not originally brought there; and

"(ii) be heard on all matters arising in the action; and

"(C) file a petition for appeal.

"SEC. 1017. CRIMINAL LIABILITY FOR WILLFUL AND KNOWING VIOLATION.

"Whoever willfully and knowingly gives false or inaccurate information or fails to provide information which he is required to disclose under the provisions of this title or any regulation issued thereunder shall be subject to the penalty provisions as provided in section 112.

REV_00162244

"SEC. 1018. RELATION TO OTHER LAWS.

"(a) RELATION TO STATE LAW.—

"(1) NO EFFECT ON CONSISTENT STATE LAWS.—Except as otherwise provided in subsection (b), this title does not annul, alter, or affect in any manner the meaning, scope or applicability of the laws of any State relating to rental-purchase agreements, except to the extent those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency.

"(2) DETERMINATION OF INCONSISTENCY.—Upon its own motion or upon the request of an interested party, which is submitted in accordance with procedures prescribed in regulations of the Board, the Board shall determine whether any such inconsistency exists. If the Board determines that a term or provision of a State law is inconsistent, merchants located in that State need not follow such term or provision and shall incur no liability under the law of that State for failure to follow such term or provision, notwithstanding that such determination is subsequently amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"(3) GREATER PROTECTION UNDER STATE LAW.—Except as provided in subsection (b), for pur-

REV_00162245

poses of this section, a term or provision of a State law is not inconsistent with the provisions of this title if the term or provision affords greater protection and benefit to the consumer than the protection and benefit provided under this title as determined by the Board, on its own motion or upon the petition of any interested party.

"(b) STATE LAWS RELATING TO CHARACTERIZATION OF TRANSACTION.—Notwithstanding the provisions of subsection (a), this title shall supersede any State law to the extent that such law—

"(1) regulates a rental-purchase agreement as a security interest, credit sale, retail installment sale, conditional sale or any other form of consumer credit, or that imputes to a rental-purchase agreement the creation of a debt or extension of credit, or

"(2) requires the disclosure of a percentage rate calculation, including a time-price differential, an annual percentage rate, or an effective annual percentage rate.

"(c) RELATION TO FEDERAL TRADE COMMISSION ACT.—No provision of this title shall be construed as limiting, superseding, or otherwise affecting the applicability of the Federal Trade Commission Act to any merchant or rental-purchase transaction.

REV_00162246

"SEC. 1019. EFFECT ON GOVERNMENT AGENCIES.

"No civil liability or criminal penalty under this title may be imposed on the United States or any of its departments or agencies, any State or political subdivision, or any agency of a State or political subdivision.

"SEC. 1020. COMPLIANCE DATE.

"Compliance with this title shall not be required until 6 months after the date of the enactment of the Consumer Rental Purchase Agreement Act. In any case, merchants may comply with this title at any time after such date of enactment.".

○

REV_00162247

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/4/2003 11:57:41 AM
Subject: : FW: Bill Text for H.R. 966
Attachments: P_VESCF003_WHO.TXT_1.doc; P_VESCF003_WHO.TXT_2.pdf; P_VESCF003_WHO.TXT_3.doc; P_VESCF003_WHO.TXT_4.pdf; P_VESCF003_WHO.TXT_5.pdf; P_VESCF003_WHO.TXT_6.pdf; P_VESCF003_WHO.TXT_7.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 4-APR-2003 16:57:41.00
SUBJECT:: FW: Bill Text for H.R. 966
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

-----Original Message-----
From: Messenger, P. Thaddeus
Sent: Friday, April 04, 2003 4:53 PM
To: Messenger, P. Thaddeus
Subject: Bill Text for H.R. 966

H.R. 966 should have been referenced and included in this LRM, rather than H.R. 996.

Apologies for the error; the correct bill text is now attached below.

PTM

From: P. Thaddeus Messenger on 04/04/2003 04:34:05 PM
Record Type: Record

To: P. Thaddeus Messenger/OMB/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: AMENDED: LRM PTM29 - - VETERANS AFFAIRS Testimony on Veterans Benefits and Compensation

Apologies, the testimony did not attach on the first copy.

PTM

From: P. Thaddeus Messenger on 04/04/2003 04:28:30 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: LRM PTM29 - - VETERANS AFFAIRS Testimony on Veterans Benefits and Compensation

LRM ID: PTM29
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Friday, April 4, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: P. Thaddeus Messenger
PHONE: (202)395-7754 FAX: (202)395-6148
SUBJECT: VETERANS AFFAIRS Testimony on Veterans Benefits and Compensation

DEADLINE: 5:00 p.m. Monday, April 7, 2003
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Attached, please find a draft copy of VA (Cooper) testimony for an April 10th hearing before the Benefits Subcommittee of the House Veterans Affairs Committee. For your reference, copies of each bill's text are also included.

VA supports: (1) H.R. 241 - Veterans Beneficiary Fairness Act; (2) H.R. 761 - Disabled Servicemembers Adapted Housing for Members of the Armed Services; and (3) H.R. 1048 - Disabled Veterans Adaptive Benefits Improvement.

VA does not support (1) H.R. 533 - Agent Orange Veterans' Disabled Children's Benefits Act; (2) H.R. 850 - Former Prisoners of War Special Compensation Act; or (3) H.R. 966 - Disabled Veterans' Return-to-Work Act.

\objattph

Please provide your comments by 5:00 p.m. on Monday, April 7th. If we do not receive your comments by that time, we will assume you have no objection to the document as drafted.

If you experience difficulty with this LRM, or its attachment, please contact us immediately.

NOTE: Because of the size of this transmission, the electronic copy will not be followed by a duplicate copy via facsimile.

Thank you.

DISTRIBUTION LIST

AGENCIES:
029-DEFENSE - Vic Bernson - (703) 697-1305
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773
030-EDUCATION - Jack Kristy - (202) 401-8313
054-HOUSING & URBAN DEVELOPMENT - Camille Acevedo - (202) 708-1793
061-JUSTICE - Jamie E. Brown - (202) 514-2141
062-LABOR - Robert A. Shapiro - (202) 693-5500
114-STATE - VACANT - (202) 647-4463

EOP:
NSP LRM
VAB LRM

Ricardo A. Aguilera
Wendell H. Waites
Thomas Reilly
Norris W. Cochran
Keith J. Fontenot
Lindy M. Hinman
Kathryn B. Stack
Daniel I. Werfel
Francis S. Redburn
Reid B Cramer
Lauren E. Bloomquist
Maureen Walsh
Katrina A. McDonald
Carole Kitti
James M. Kulikowski
Jack A. Smalligan
Joanne Cianci Hoff
Joseph Crilley
Attia Little
Sarah S. Lee
Aquiles F. Suarez
Terrell L. Halaska
Alan Gilbert
NSC LRM
OSTP LRM
Rachel E. Levinson
OVP LRM
WHGC LRM
OMBGC LRM
Christopher C. Cox
Stephen W. Dove
Lauren C. Lobrano
James J. Jukes
Ingrid M. Schroeder
P. Thaddeus Messenger

LRM ID: PTM29 SUBJECT: VETERANS AFFAIRS Testimony on Veterans Benefits and Compensation
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) faxing us a memo or letter.
Please include the LRM number and subject shown above.

TO: P. Thaddeus Messenger Phone: 395-7754 Fax: 395-6148
Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Sent
To:_____
dodlrs@osdgc.osd.mil
lrm@hhs.gov
ogc_legislation@ed.gov
HUD_LRM@hud.gov
justice.lrm@usdoj.gov
dol-sol-leg@dol.gov
state-lrm@state.gov

Message Copied
To:_____
Robin Cleveland/OMB/EOP@EOP
Karyn T. Carson/OMB/EOP@EOP
Kathleen Peroff/OMB/EOP@EOP
Mary Jo Siclari/OMB/EOP@EOP
Toni S. Hustead/OMB/EOP@EOP
Arecia A. Grayton/OMB/EOP@EOP
Winifred Y. Chang/OMB/EOP@EOP
Kelli A. Hagen/OMB/EOP@EOP
Shalini M. Benson/OMB/EOP@EOP
Danny A. Ermann/OMB/EOP@EOP
Narahari Sastry/OMB/EOP@EOP
John J. Bartrum/OMB/EOP@EOP
Mark R. Seastrom/OMB/EOP@EOP
Ricardo A. Aguilera/OMB/EOP@EOP
Wendell H. Waites/OMB/EOP@EOP
Thomas Reilly/OMB/EOP@EOP
Norris W. Cochran/OMB/EOP@EOP
Keith J. Fontenot/OMB/EOP@EOP
Lindy M. Hinman/OMB/EOP@EOP
Kathryn B. Stack/OMB/EOP@EOP
Daniel I. Werfel/OMB/EOP@EOP
Francis S. Redburn/OMB/EOP@EOP
Reid B Cramer/OMB/EOP@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
Maureen Walsh/OMB/EOP@EOP
Katrina A. McDonald/OMB/EOP@EOP
Carole Kitti/OMB/EOP@EOP
James M. Kulikowski/OMB/EOP@EOP
Jack A. Smalligan/OMB/EOP@EOP
Joanne Cianci Hoff/OMB/EOP@EOP
Joseph Crilley/OMB/EOP@EOP
Attia Little/OMB/EOP@EOP
Sarah S. Lee/OMB/EOP@EOP
Aquiles F. Suarez/OPD/EOP@EOP
Terrell L. Halaska/OPD/EOP@EOP
Alan Gilbert/OPD/EOP@EOP
NSC LRM
OSTP LRM
Rachel E. Levinson/OSTP/EOP@EOP
OVP LRM
WHGC LRM

Philip J. Perry/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Christopher C. Cox/WHO/EOP@Exchange@EOP
Stephen W. Dove/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Ingrid M. Schroeder/OMB/EOP@EOP
P. Thaddeus Messenger/OMB/EOP@EOP

Message Copied
To:_____
dodlrs@osdgc.osd.mil
lrm@hhs.gov
ogc_legislation@ed.gov
hud_lrm@hud.gov
justice.lrm@usdoj.gov
dol-sol-leg@dol.gov
state-lrm@state.gov
robin cleveland/omb/eop@eop
karyn t. carson/omb/eop@eop
kathleen peroff/omb/eop@eop
mary jo siclari/omb/eop@eop
toni s. hustead/omb/eop@eop
arecia a. grayton/omb/eop@eop
winifred y. chang/omb/eop@eop
kelli a. hagen/omb/eop@eop
shalini m. benson/omb/eop@eop
danny a. ermann/omb/eop@eop
narahari sastry/omb/eop@eop
john j. bartrum/omb/eop@eop
mark r. seastrom/omb/eop@eop
ricardo a. aguilera/omb/eop@eop
wendell h. waites/omb/eop@eop
thomas reilly/omb/eop@eop
norris w. cochran/omb/eop@eop
keith j. fontenot/omb/eop@eop
lindy m. hinman/omb/eop@eop
kathryn b. stack/omb/eop@eop
daniel i. werfel/omb/eop@eop
francis s. redburn/omb/eop@eop
reid b cramer/omb/eop@eop
lauren e. bloomquist/omb/eop@eop
maureen walsh/omb/eop@eop
katrina a. mcdonald/omb/eop@eop
carole kitti/omb/eop@eop
james m. kulikowski/omb/eop@eop
jack a. smalligan/omb/eop@eop
joanne cianci hoff/omb/eop@eop
joseph crilley/omb/eop@eop
attia little/omb/eop@eop
sarah s. lee/omb/eop@eop
aquiles f. suarez/opd/eop@eop
terrell l. halaska/opd/eop@eop
alan gilbert/opd/eop@eop
NSC LRM
OSTP LRM
rachel e. levinson/ostp/eop@eop
OVP LRM
WHGC LRM
philip j. perry/omb/eop@eop
john f. wood/omb/eop@eop
christopher c. cox/who/eop@exchange@eop
stephen w. dove/omb/eop@eop
lauren c. lobrano/omb/eop@eop
james j. jukes/omb/eop@eop
ingrid m. schroeder/omb/eop@eop

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_VESCF003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_VESCF003_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_VESCF003_WHO.TXT_3>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_VESCF003_WHO.TXT_4>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_VESCF003_WHO.TXT_5>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_VESCF003_WHO.TXT_6>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_VESCF003_WHO.TXT_7>

DRAFT

STATEMENT OF

DANIEL L. COOPER,

UNDER SECRETARY FOR BENEFITS,

BEFORE THE

SUBCOMMITTEE ON BENEFITS,

HOUSE COMMITTEE ON VETERANS' AFFAIRS

APRIL 10, 2003

Mr. Chairman and Members of the Committee, thank you for the opportunity to testify today on several bills of great interest to veterans.

H.R. 241

H.R. 241, the "Veterans Beneficiary Fairness Act of 2003," would eliminate a discrepancy regarding the limitation on the period for which retroactive benefits due and unpaid a claimant may be paid to others after the claimant's death. In the interest of fairness, we support enactment of this bill.

Under 38 U.S.C. § 5121, periodic monetary benefits to which an individual was entitled at death under existing ratings or decisions or based on evidence on

file with the Department of Veterans Affairs (VA) at the time of death are paid upon the death of the individual to specified classes of survivors according to a prescribed order of preference. Prior to a recent court decision, VA had construed section 5121 to limit the payment of any benefits under that section to the retroactive period specified in the statute, regardless of whether the payment was based on an existing rating or decision or on evidence on file at the date of death. The retroactive payment period, originally one year, was extended to two years by Public Law 104-275, the "Veterans' Benefits Improvements Act of 1996."

On December 10, 2002, the United States Court of Appeals for Veterans Claims (CAVC) issued its decision in *Bonny v. Principi*, 16 Vet. App. 504 (2002). In that decision, the court held that 38 U.S.C. § 5121(a) specifies two kinds of benefits: benefits that have been awarded to an individual in existing ratings or decisions but not paid prior to the individual's death, and benefits that could be awarded based on evidence in the file at the time of death. The court held that, in the case of the first type of benefits, the statute requires that an eligible survivor is to receive the entire amount of the award; only the latter type of "accrued" benefits is subject to the two-year limitation in 38 U.S.C. § 5121(a). The court based its interpretation of the statute primarily on the punctuation of section 5121(a).

The CAVC's *Bonny* decision has resulted in differing entitlements under section 5121 based on the status of the deceased's claim at the time of his or her death. H.R. 241 would eliminate this distinction by amending section 5121 to

REV_00162255

eliminate the two-year limitation on payment of retroactive benefits for all classes of beneficiaries under that statute.

The distinction the *Bonny* decision draws between the two categories of claimants—those whose claims had been approved and those whose entitlement had yet to be recognized when they died—is really one without a difference. In either case, a claimant's estate is deprived of the value of benefits for which he or she was, in life, eligible. H.R. 241 would remove this inequitable distinction, and we support its enactment.

We estimate the cost of complying with the *Bonny* decision for fiscal year (FY) 2004 to be $ 1.7 million and $18.2 million for the period FY 2004 through FY 2013. We estimate the incremental cost to implement H.R. 241, that is, the difference between the cost of complying with the court's decision and the cost of enactment of H.R. 241, to be $5.9 million for FY 2004 and $65.8 million for the period FY 2004 through FY 2013.

In addition, we note one technical change needed in H.R. 241 should it be enacted. The comma in current section 5121(a) following "existing ratings or decisions" should be deleted to clarify, for purposes of 38 U.S.C. §§ 5121(b) and (c) and 5122, that the term "accrued benefits" includes both benefits that have been awarded to an individual in existing ratings or decisions but not paid prior to the individual's death, as well as benefits that could be awarded based on evidence in the veteran's file at the time of death.

REV_00162256

H.R. 533

H.R. 533, the "Agent Orange Veterans' Disabled Children's Benefits Act of 2003," would amend chapter 18 of title 38, United States Code, to authorize VA to provide a monetary allowance and other benefits to a person suffering from spina bifida who is natural child, regardless of age or marital status, of a parent who performed "qualifying herbicide-risk service," if the person was conceived after such service. A parent would be considered to have performed "qualifying herbicide-risk service" if, while performing active military, naval, or air service, he or she "served in an area in which a Vietnam-era herbicide agent was used during a period during which such agent was used in that area; or . . . otherwise was exposed to a Vietnam-era herbicide agent." The term "Vietnam-era herbicide agent" would be defined by reference to current 38 U.S.C. § 1116(a)(3). VA does not support this bill.

Congress has repeatedly acted since 1979 to ensure that the Federal Government investigates the health effects of exposure to herbicides containing dioxin and compensates veterans who served in the Republic of Vietnam during the Vietnam era and suffered disability as a result of that exposure. Because of the "concern and apprehension among veterans regarding the health effects of herbicides," Congress mandated an epidemiologic study by VA of the effects of exposure to dioxin in the Veterans Health Programs Extension and Improvement Act of 1979. Congress also required VA to review and scientifically analyze literature relating to possible long-term health effects of human exposure to dioxin. In 1981, Congress authorized VA to provide hospital and nursing home

care to certain veterans exposed during service to dioxin or ionizing radiation for conditions which, although not shown to have resulted from such exposure, are not found to have resulted from a cause other than such exposure. The Veterans' Dioxin and Radiation Exposure Compensation Standards Act of 1984 directed VA to issue regulations to establish guidelines and, where appropriate, standards and criteria for the resolution of benefit claims based on exposure to herbicides containing dioxin in service in the Republic of Vietnam during the Vietnam era. The act also required VA to make specific findings, either positive or negative, regarding service connection as to three diseases, chloracne, porphyria cutanea tarda, and soft-tissue sarcoma.

In 1991, Congress added section 1116 (formerly section 316) to title 38, United States Code, establishing a presumption of service connection, applicable to veterans who served in the Republic of Vietnam during the Vietnam era, for three diseases. The act also called for VA to contract with the National Academy of Sciences to perform a review and evaluation of the scientific evidence regarding the association between disease and exposure to herbicides used in connection with the Vietnam War and each disease suspected of association with such exposure. Congress amended section 1116 in 1994 and 2001 by adding five conditions to the list of diseases presumed to be service connected in Vietnam veterans.

More recently, Congress has enacted legislation to provide a monetary allowance and other benefits to the children of Vietnam veterans who were born with spina bifida, as well as to children with certain other birth defects who are

REV_00162258

the natural children of women veterans who served in the Republic of Vietnam during the Vietnam era.

Congress' legislative enactments indicate its recognition of the unique circumstances of service in Vietnam—circumstances including the special sacrifices made by veterans of that war, and the great uncertainties regarding exposures of individual veterans to aerially applied herbicides. H.R. 533 would extend benefits Congress bestowed upon the affected children of those veterans to children of veterans who did not serve under those circumstances. In addition, H.R. 533's language is so vague as to be almost impossible to administer. Under that language, an individual would be considered to have performed "qualifying herbicide-risk service" if he or she, while performing active service, "served in an area in which a Vietnam-era herbicide agent was used during a period when such agent was used in that area." The vagueness of the terms "area," "was used," and "during a period when" is sure to generate substantial litigation over what Congress intended by this language.

VA estimates that enactment of H.R. 533 would result in PAYGO costs of $60.8 million in FY 2004 and $760.7 million over the ten-year period FY 2004-2013. In addition, VA estimates administrative costs of $357,000 for FY 2004 and $ 1.73 million for the ten-year period FY 2004-2013.

H.R. 761

Mr. Chairman, you also requested our comments on two proposals that would affect the Specially Adapted Housing program authorized by chapter 21 of

REV_00162259

title 38, United States Code. Under current law, veterans who are entitled to compensation for certain permanent and total service-connected disabilities described in section 2101 of title 38 are eligible for a grant to adapt their homes with features made necessary by the nature of their disabilities.

The first proposal, Mr. Chairman, is H.R. 761, the "Disabled Servicemembers Adapted Housing Assistance Act of 2003," which would permit VA to provide Specially Adapted Housing assistance to disabled members of the Armed Forces who remain on active duty pending medical separation. VA favors enactment of H.R. 761.

This bill would permit members of the Armed Forces with the service-connected disabilities described in section 2101 to apply for Specially Adapted Housing benefits and permit VA to process their applications and award benefits without having to wait for the servicemembers to be released from active duty. H.R. 761 could provide some affected veterans the opportunity to move into an adapted home as soon as they are separated from active duty, or at least much sooner than is possible under current law. With this accelerated determination of eligibility and assistance, veterans could avoid continued institutional care, thus improving their quality of life and increasing their independence. This could also reduce the cost to VA of in-patient healthcare for some affected veterans.

Because Specially Adapted Housing grants are a one-time-only benefit, the enactment of this measure should not materially increase either the total number of grants provided under this program or the dollar amount of such

REV_00162260

grants. Rather, H.R. 761 would merely accelerate the payment of this benefit to certain individuals who, under current law, would become entitled to the same benefit upon their release from active duty. Accordingly, VA estimates that the enactment of H.R. 761 would produce insignificant costs or savings.

H.R. 1048

Specially Adapted Housing

The other Specially Adapted Housing proposal is contained in section 2 of H.R. 1048, the "Disabled Veterans Adaptive Benefits Improvement Act of 2003." This section would increase the maximum Specially Adapted Housing grants. VA favors such increases, provided offsetting savings may be found.

Under H.R. 1048, the maximum Specially Adapted Housing grant authorized by section 2101(a) would be increased from $48,000 to $50,000. In addition, the maximum Special Housing Adaptations grant authorized by section 2101(b) would be increased from $9,250 to $10,000. These grants were last increased by Public Law 107-103, enacted December 27, 2001. Increases in the cost of construction since then justify increasing these important benefits.

VA estimates that approximately 600 veterans per year will receive specially adapted housing assistance, of which about 92.5 percent will qualify for the grant authorized by section 2101(a). VA estimates the cost of enacting section 2 of H.R. 1048 would be $1.14 million per year, with a total 10-year cost of $11.4 million.

REV_00162261

Assistance for Automobile and Adaptive Equipment

Section 3 of H.R. 1048 would increase from $9,000 to $11,000 the maximum amount that VA may pay under 38 U.S.C. § 3902(a) to provide or assist in providing an automobile or other conveyance to eligible persons. VA supports enactment of this provision.

The maximum automobile allowance was last increased to the current $9,000 by Public Law 107-103 in 2001. An increase since then in the cost of obtaining automobiles and in the cost of adapting them justifies increasing this benefit so as to preserve its value to deserving veterans.

VA estimates the total benefits cost of both provisions of H.R. 1048 would be $3.3 million for FY 2004 and $33.3 million for the ten-year period FY 2004-2013.

H.R. 850

Special Compensation for Former Prisoners of War

Section 2 of H.R. 850, the "Former Prisoners of War Compensation Act of 2003," would add a new subchapter at the end of chapter 11 of title 38, United States Code, to authorize special compensation for former prisoners of war (POWs). This special compensation would be separate from any service-connected disability compensation or pension to which a former POW may be entitled and is exempted from attachment, execution, or levy in the same manner as special pension paid to recipients of the Medal of Honor pursuant to 38 U.S.C. § 1562(c). The bill would direct the Secretary of Veterans Affairs to pay monthly

to each former POW, including active duty personnel, special compensation at a rate of payment determined by the cumulative length of confinement or internment as a POW. Thirty days would be the minimum period of confinement for which a former POW would be eligible to receive special compensation. The bill would establish three rates of special compensation based on the length of the period of the former POW's detainment or interment, as follows:

Length of Former POW's Detainment or Interment	Special Compensation Monthly Rate
30-120 days	$150
121-540 days	$300
541 days or more	$450

In the past, former POWs have been entitled to receive a modest lump-sum cash payment, based on their length of internment. Pursuant to the War Claims Act of 1948, codified as amended at 50 U.S.C. Appx. § 2005 (2001), and subsequent amendments, former POWs were entitled to receive a lump sum payment of up to $2.50 per day for World War II veterans, $2.50 per day for Korea veterans, and $5.00 per day for Vietnam veterans.[1] Compensation for former POWs is otherwise limited to the service-connected disability compensation administered by VA pursuant to title 38, United States Code.

[1] Pursuant to 50 U.S.C. Appx. § 2005, WW II veterans were eligible to receive up to $1 for each day held as a POW on which they did not have adequate food rations (subsection (b)) and $1.50 for each day of forced labor or inhumane treatment (subsection (d)); Korea veterans were eligible to receive up to $1 for each day held as a POW on which they did not have adequate food rations (subsection (e)(2)) and $1.50 for each day of forced labor or inhumane treatment (subsection (e)(3)); Vietnam veterans were eligible to receive up to $2 for each day held as a POW on which they did not have adequate food rations (subsection (f)(2)) and $3.00 for each day of forced labor or inhumane treatment (subsection (f)(3)).

REV_00162263

We estimate that approximately 39,029 former POWs are still living. Of that population, 13,631 (34.9%) receive disability compensation, with over half of those rated at 50% disabling or less. The typical former POW is 81 years old, and 88% of all living former POWs were interned during World War II. The following table summarizes basic demographic data for former POWs:

	WWII Europe	WWII Pacific	Korea	Vietnam	Gulf War	Total for All Wars
Number Alive on 1/1/03	29,675	4,477	2,264	595	21	39,029[2]
Average Age[3]	80	84	72	64	39	81
Average Length of Captivity[4]	11.5 mos.	39 mos.	24 mos.	56 mos.	1 mo.	16.5 mos.

We estimate that benefit-costs for the POW portion of the bill would be $139.6 million for FY 2004 and $1.1 billion for FY 2004 through FY 2013. We estimate administrative costs to be an additional one-time cost of $632 thousand in the first year. These amounts are not included in the President's FY 2004 budget request, and the Department cannot support this provision's enactment.

Prohibition Against Compensation for Substance-Abuse Disabilities

Section 3(a) of H.R. 850 would amend 38 U.S.C. §§ 1110 and 1131 to clarify that the prohibition on payment of compensation for a disability that is a

[2] This total includes an additional 1,997 former POWs of World War II who are not categorized under either WWII Europe or WWII Pacific.

[3] Charles A. Stenger, American Prisoners of War . . . Statistical Data Concerning Numbers Captured, Repatriated and Still Alive, January 1, 2003.

[4] Derived from the Department of Defense POW Database, 1984 (except Gulf War).

REV_00162264

result of the veteran's own abuse of alcohol or drugs applies even if the abuse is secondary to a service-connected disability. Section 3(b) would make that amendment applicable to claims filed on or after the date of enactment and to claims filed prior to, but not finally decided as of that date. We strongly support this provision, which is also proposed in the President's budget.

Sections 1110 and 1131 of title 38, United States Code, authorize the payment of compensation for disability resulting from injury or disease incurred or aggravated in line of duty in active service, during a period of war or during other than a period of war, respectively. Sections 1110 and 1131 also currently provide, "but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs." Before their amendment in 1990, the provisions currently codified in sections 1110 and 1131 prohibited compensation "if the disability is the result of the veteran's own willful misconduct." In 1990, they were amended to also prohibit compensation if the disability is a result of the veteran's own alcohol or drug abuse.

VA had long interpreted those provisions to authorize compensation not only for disability immediately resulting from injury or disease incurred or aggravated in service, but also for disability more remotely resulting from such injury or disease. That interpretation is embodied in 38 C.F.R. § 3.310(a), which provides that, generally, disability which is proximately due to or the result of a service-connected disease or injury shall be service connected. Thus, VA does pay, in specific cases, compensation for primary service-connected disability and for secondary service-connected disability. However, consistent with the plain

REV_00162265

meaning of sections 1110 and 1131, if a disability, whether primary or secondary, is a result of the veteran's own alcohol or drug abuse, VA did not pay compensation.

This has changed. On February 2, 2001, a three-judge panel of the United States Court of Appeals for the Federal Circuit interpreted section 1110 as allowing compensation for an alcohol or drug-abuse-related disability arising secondarily from a service-connected disability. *Allen v. Principi*, 237 F.3d 1368, 1370 (Fed. Cir. 2001). More specifically, the panel held that section 1110 "does not preclude compensation for an alcohol or drug abuse disability secondary to a service-connected disability or use of an alcohol or drug abuse disability as evidence of the increased severity of a service-connected disability." *Id.* at 1381. The Government filed a petition for rehearing and rehearing en banc, which the panel and full court denied on October 16, 2001. *Allen v. Principi*, 268 F.3d 1340, 1341 (Fed. Cir. 2001). However, five of the eleven judges who considered the petition for rehearing en banc dissented from the order denying rehearing, opining that the court's interpretation is wrong. 268 F.3d at 1341-42.

We are concerned that payment of additional compensation based on the abuse of alcohol or drugs is contrary to congressional intent and is not in veterans' best interests because it removes an incentive to refrain from debilitating and self-destructive behavior.

The Federal Circuit's interpretation in *Allen* could also greatly increase the amount of compensation VA pays for service-connected disabilities. Under the

REV_00162266

court's interpretation, any veteran with a service-connected disability who abuses alcohol or drugs is potentially eligible for an increased amount of compensation if he or she can offer evidence that the substance abuse is a result of a service-connected disability, *i.e.*, that the substance abuse is a way of coping with the pain or loss the disability causes. Under this interpretation, alcohol or drug abuse disabilities that are secondary to either physical or mental disorders are compensable.

The potential for increased costs is illustrated by mental disorders, which are frequently associated with alcohol and drug abuse. Almost 421,000 veterans are currently receiving compensation for a service-connected mental disability. About 324,000 of those disabilities are currently rated less than 100 percent and could potentially be rated totally disabling on the basis of secondary alcohol or drug abuse. Even if the service connection of disability from alcohol or drug abuse does not result in an increased schedular evaluation, temporary total evaluations could be assigned whenever a veteran is hospitalized for more than twenty-one days for treatment or observation related to the abuse. Even the 97,000 cases of a service-connected mental disability evaluated at 100 percent disabling have potential for increased compensation for secondary alcohol or drug abuse if the statutory criteria for special monthly compensation are met.

The potential increase in compensation does not end there. Under the Federal Circuit's interpretation, VA is required to pay compensation for the secondary effects of the abuse of alcohol or drugs. Once alcohol or drug abuse is service connected as being secondary to another service-connected disability,

REV_00162267

then service connection can be established for any disability that is a result of the service-connected abuse of alcohol or drugs. If alcohol or drug abuse results in a disease, such as cirrhosis of the liver, then that disease would also be service connected and provide a basis for compensation under the court's interpretation.

Of course, an increase in the amount of compensation VA pays for service-connected disabilities will increase the benefit cost of the compensation program. Section 3 of H.R. 850 would avoid those increased costs. Our estimate of savings that would result from enactment of this provision is based on the payment of only basic compensation for alcohol or drug abuse disabilities secondary to service-connected disabilities. We estimate that this provision would result in benefit cost savings of $127 million and administrative cost savings of $44 million in FY 2004 and benefit cost savings of $4.6 billion and administrative cost savings of $97 million for the ten-year period FY 2004 through FY 2013. This amount does not include the savings that would be associated with payment of compensation for temporary total evaluations, special monthly compensation, or compensation for the secondary effects of alcohol or drug abuse.

Dental Care for Former Prisoners of War

Section 4 of H.R. 850 would require VA to provide outpatient dental services and treatment, and related dental appliances, for any non-service-connected dental condition or disability from which a veteran who is a former POW is suffering. Currently, a veteran who is a former POW may receive dental

REV_00162268

benefits for non-service-connected dental conditions or disabilities only if the veteran was incarcerated for 90 days or more. By eliminating the 90-day requirement, section 4 would authorize VA to treat all former POWs the same, regardless of their length of captivity, with respect to dental care for a non-service-connected condition or disability. It would also make the eligibility rules for dental benefits for former POWs the same as for other health-care services for former POWs.

VA has strongly supported similar provisions in the past, and we continue our strong support for this provision. We believe this amendment is needed to ensure that former POWs receive all needed care for conditions that may be attributable to the privations of their service.

Costs resulting from enactment of this provision would be insignificant.

H.R. 966

Mr. Chairman, H.R. 966, the "Disabled Veterans' Return-to-Work Act of 2003," would amend provisions of 38 U.S.C. § 1524 to reinstate a program of vocational training for certain pension recipients that was in place between February 1, 1985, and December 31, 1995. That temporary program, established pursuant to the Veterans' Benefits Improvement Act of 1984, Pub. L. No. 98-543, required the Secretary of Veterans Affairs to determine whether the achievement of a vocational goal was reasonably feasible in the case of certain veterans awarded pension during the program period. If the achievement of such a goal was found to be feasible, these veterans were offered the opportunity to

REV_00162269

pursue programs of vocational training consisting of vocationally oriented and other services and assistance of the same kind provided under the vocational rehabilitation program authorized under chapter 31 of title 38, United States Code. These services and assistance did not include subsistence allowances, loans, or automobile adaptive equipment. Once a program of training was completed, a veteran could also receive employment assistance. The law limited the number of evaluations to be performed to not more than 3,500 veterans during any 12-month period. The initial program period ran from February 1, 1985, to January 31, 1992.

Initially, the law required that a veteran under the age of 50 who was awarded pension during the program period be evaluated with respect to his or her potential for rehabilitation. It required that the evaluation include a personal interview by a VA employee trained in vocational counseling. If the veteran refused to participate in the evaluation, his or her pension was suspended until he or she participated in an evaluation. Subsequent participation in the vocational training itself was voluntary. For a veteran pension recipient 50 years of age or older, the program of vocational training was totally voluntary. If, upon application by such a veteran-pensioner, VA made a preliminary finding on the basis of information in the application that, with the assistance of a vocational training program, the veteran had good potential for achieving employment, VA was authorized, upon the veteran's request, to evaluate the veteran to further determine whether the achievement of a vocational goal was reasonably feasible.

In 1992, Public Law 102-562 eliminated the limitation on the number of

REV_00162270

program participants who may be evaluated annually and amended the program for veterans under age 45, rather than under age 50, who were awarded pension during the program period so as to (A) require the Secretary, based on information on file with VA, to make a preliminary finding whether the veteran, with the assistance of a VA vocational training program, had a good potential for achieving employment; (B) if that potential was found to exist, required the Secretary to solicit from the veteran an application for VA vocational training; and (C) if the veteran applied for training, required the Secretary to provide an evaluation to determine whether the achievement of a vocational goal was reasonably feasible. In addition, the program was opened to veterans age 45 and older who had been awarded pension before the program period. That Public Law also extended the program ending date until December 31, 1995. No further action was taken by Congress, and by operation of law, the program ended on December 31, 1995.

During the period February 1, 1985, through January 31, 1989, VA evaluated approximately 9,468 veterans under the program. Of these, 2,838 were found to be feasible for training. Some 468 veterans participated in programs of vocational training. Sixty-five veterans completed that training. Fifty-eight obtained employment. Between fiscal year 1989 and fiscal year 1992, VA conducted 9,140 evaluations under the program, with 937 veterans participating in training.

H.R. 966 would reinstate the program and provide that a new program period would run for five years beginning on the date of enactment of the Act. In

REV_00162271

addition, it would require the Secretary to ensure that the availability of vocational training under section 1524 be made known through a variety of means, including the Internet and announcements in VA publications and other veterans' publications. Finally, the bill would require the Secretary, within two years after the date of enactment of the Act, to report to the Committees on Veterans' Affairs of the Senate and House on the operation of the program to include an evaluation of the vocational training provided and an analysis of the cost-effectiveness of the training provided, as well as data on the entered-employment rate of veterans pursuing such training.

If H.R. 966 were to be enacted, we estimate that VA would conduct approximately 1,300 record reviews each year, based on new accessions to the pension rolls, to determine whether each veteran so evaluated has good potential for achieving employment. We estimate that the achievement of a vocational goal will be determined to be feasible in about 1/3 (433) of those cases. Of that number, it is estimated that approximately 1/3 of these, 144 veterans, will actually end up participating in the program. In addition, because the program is also available to veterans over age 45 on a voluntary basis, we estimate that an additional 25 participants may participate, for a total of 169 cases per year. Based on those numbers, VA estimates that the enactment of H.R. 966 would cost $3 million for fiscal years 2004 through 2008 and an additional $3.6 million for fiscal years 2009 though 2013, totaling $6.6 million. Administrative costs associated with this bill are expected to be insignificant.

Mr. Chairman, given our experience in administering the temporary

REV_00162272

program during its ten-year duration, and the fact that only a small number of veterans benefited from the program, VA believes that the finite resources available to us for program administration would be best used to support our current program of vocational rehabilitation for service-disabled veterans, as authorized under chapter 31 of title 38, United States Code, especially in light of the current combat activities in Iraq. Thus, the Department does not support the enactment of H.R. 966.

Mr. Chairman, this concludes my statement. I will be pleased to respond to any questions you or the members of the Subcommittee may have.

REV_00162273

108TH CONGRESS
1ST SESSION

H. R. 241

To amend title 38, United States Code, to repeal the two-year limitation on the payment of accrued benefits that are due and unpaid by the Secretary of Veterans Affairs upon the death of a veteran or other beneficiary under laws administered by the Secretary.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 8, 2003

Mr. SMITH of New Jersey (for himself and Mr. EVANS) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to repeal the two-year limitation on the payment of accrued benefits that are due and unpaid by the Secretary of Veterans Affairs upon the death of a veteran or other beneficiary under laws administered by the Secretary.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Beneficiary Fairness Act of 2003".

REV_00162274

SEC. 2. PAYMENT OF ACCRUED BENEFITS.

(a) REPEAL OF LIMITATION ON PAYMENT.—Subsection (a) of section 5121 of title 38, United States Code, is amended by striking ''for a period not to exceed two years'' in the matter preceding paragraph (1).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to deaths occurring on or after the date of the enactment of this Act.

○

REV_00162275

108TH CONGRESS

1ST SESSION

H. R. 761

To amend title 38, United States Code, to authorize the Secretary of Veterans' Affairs to provide adapted housing assistance to disabled members of the Armed Forces who remain on active duty pending medical separation.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2003

Mr. EVANS (for himself, Mr. SMITH of New Jersey, Mr. RODRIGUEZ, Mr. FILNER, Mr. RENZI, Ms. CORRINE BROWN of Florida, Mr. REYES, Mr. MICHAUD, Ms. JACKSON-LEE of Texas, Mr. LANGEVIN, and Mr. SANDERS) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to authorize the Secretary of Veterans' Affairs to provide adapted housing assistance to disabled members of the Armed Forces who remain on active duty pending medical separation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Disabled Servicemembers Adapted Housing Assistance Act of 2003".

REV_00162276

SEC. 2. AUTHORIZATION TO PROVIDE ADAPTED HOUSING ASSISTANCE TO CERTAIN DISABLED MEMBERS OF THE ARMED FORCES WHO REMAIN ON ACTIVE DUTY.

Section 2101 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) The Secretary may provide assistance under subsection (a) to a member of the Armed Forces serving on active duty who is suffering from a disability described in paragraph (1), (2), or (3) of that subsection if such disability is the result of an injury incurred or disease contracted in or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under that subsection to veterans eligible for assistance under that subsection and subject to the requirements of the second sentence of that subsection.

"(2) The Secretary may provide assistance under subsection (b) to a member of the Armed Forces serving on active duty who is suffering from a disability described in subparagraph (A) or (B) of paragraph (1) of that subsection if such disability is the result of an injury incurred or disease contracted in or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under such subsection to veterans eligible for assistance under that subsection and subject to the requirements of paragraph (2) of that subsection.".

I

108TH CONGRESS
1ST SESSION

H. R. 1048

To amend title 38, United States Code, to increase the amount of assistance for certain disabled veterans for specially adapted housing and automobile and adaptive equipment.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 2003

Mr. BROWN of South Carolina (for himself, Mr. RODRIGUEZ, Mr. SMITH of New Jersey, and Mr. EVANS) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to increase the amount of assistance for certain disabled veterans for specially adapted housing and automobile and adaptive equipment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Disabled Veterans Adaptive Benefits Improvement Act of 2003".

REV_00162278

SEC. 2. INCREASE IN ASSISTANCE AMOUNT FOR SPECIALLY ADAPTED HOUSING.

Section 2102 of title 38, United States Code, is amended—

(1) in the matter preceding paragraph (1) of subsection (a), by striking "$48,000" and inserting "$50,000"; and

(2) in subsection (b)(2), by striking "$9,250" and inserting "$10,000".

SEC. 3. INCREASE IN AMOUNT OF ASSISTANCE FOR AUTOMOBILE AND ADAPTIVE EQUIPMENT FOR CERTAIN DISABLED VETERANS.

Section 3902(a) of title 38, United States Code, is amended by striking "$9,000" and inserting "$11,000".

○

REV_00162279

108TH CONGRESS
1ST SESSION

H. R. 533

To amend title 38, United States Code, to provide for health benefits and certain other benefits to be furnished by the Department of Veterans Affairs to any individual who has spina bifida and is the natural child of a veteran who, while in military service, was exposed to a herbicide agent.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 2003

Mr. EVANS (for himself, Mr. RODRIGUEZ, Mr. FILNER, Mr. GUTIERREZ, Ms. CORRINE BROWN of Florida, Mr. SNYDER, Mr. MCINTYRE, Mr. SANDERS, Mr. SERRANO, and Mr. WAXMAN) introduced the following bill; which was referred to the Committee on Veterans Affairs

---

A BILL

To amend title 38, United States Code, to provide for health benefits and certain other benefits to be furnished by the Department of Veterans Affairs to any individual who has spina bifida and is the natural child of a veteran who, while in military service, was exposed to a herbicide agent.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the Agent Orange Veterans Disabled Childrens Benefits Act of 2003.

REV_00162280

SEC. 2. EXTENSION OF SPINA BIFIDA BENEFITS FOR CHILDREN OF VETERANS.

(a) ELIGIBLE CHILDREN.Subchapter I of chapter 18 of title 38, United States Code, is amended by inserting before section 1802 the following new section:

1801. Persons eligible for benefits

(a) E LIGIBLE CHILD.An individual is an eligible child for purposes of this subchapter if the individual is suffering from spina bifida and is

(1) a child as defined in section 1821(1) of this title; or

(2) the natural child, regardless of age or marital status, of a parent who performed qualifying herbicide-risk service, if the individual was conceived after the parent performed such service.

(b) Q UALIFYING HERBICIDE-RISK SERVICE.(1) An individual performed qualifying herbicide-risk service if (as determined by the Secretary) the individual, while performing active military, naval, or air service (without regard to the characterization of that individuals service)

(A) served in an area in which a Vietnam-era herbicide agent was used during a period during which such agent was used in that area; or

(B) otherwise was exposed to a Vietnam-era herbicide agent.

REV_00162281

(2) For purposes of paragraph (1), the term Vietnam-era herbicide agent has the meaning given the term herbicide agent in section 1116(a)(3) of this title..

(b) HEALTH CARE.Section 1803(a) of such title is amended by striking a child of a Vietnam veteran who is suffering from spina bifida and inserting an eligible child.

(c) VOCATIONAL TRAINING AND REHABILITATION. Section 1804(a) of such title is amended by striking a child of a Vietnam veteran who is suffering from spina bifida and inserting an eligible child.

(d) MONETARY ALLOWANCE.Section 1805(a) of such title is amended by striking any child of a Vietnam veteran and inserting any eligible child.

(e) CONFORMING AMENDMENTS.

(1) The heading of chapter 18 of such title is amended to read as follows:

CHAPTER 18DISABILITY BENEFITS FOR CHILDREN OF VIETNAM VETERANS AND OTHER VETERANS EXPOSED TO HERBICIDE AGENTS.

(2) The heading of subchapter I of such chapter is amended to read as follows:

REV_00162282

SUBCHAPTER ICHILDREN BORN WITH SPINA BIFIDA.

(3) The table of sections at the beginning of such chapter is amended

(A) by striking the item relating to subchapter I and inserting the following:

SUBCHAPTER I CHILDREN BORN WITH SPINA BIFIDA;

and

(B) by inserting before the item relating to section 1802 the following new item:

1801. Persons eligible for benefits..

(4) The items relating to chapter 18 in the tables of chapters at the beginning of title 38, United States Code, and at the beginning of part II of such title, are amended to read as follows:

18. Disability Benefits for Children of Vietnam Veterans and Other Veterans Exposed to Herbicide Agents ..... 1801.

REV_00162283

I

108TH CONGRESS
1ST SESSION

H. R. 850

To amend title 38, United States Code, to provide special compensation for former prisoners of war, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2003

Mr. SIMPSON (for himself, Mr. COX, Mr. BOEHNER, Mr. DREIER, Mr. HYDE, Mr. KOLBE, Mr. LEACH, Mr. OTTER, Mr. SENSENBRENNER, and Mr. WILSON of South Carolina) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to provide special compensation for former prisoners of war, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Former Prisoners of War Special Compensation Act of 2003".

REV_00162284

SEC. 2. SPECIAL COMPENSATION FOR FORMER PRISONERS OF WAR.

(a) IN GENERAL.—Chapter 11 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER VII—FORMER PRISONERS OF WAR

"§ 1181. Special compensation: former prisoners of war

"(a)(1) The Secretary shall pay monthly to each veteran who is a former prisoner of war and who while a prisoner of war was detained or interned for not less than 30 days special compensation at the rate specified in subsection (b).

"(2) For the purposes of this section, the term 'veteran' includes an individual serving on active duty.

"(b) The rate of special compensation for purposes of this section shall be as follows:

"(1) If the former prisoner of war was detained or interned for a period of not more than 120 days, the monthly amount of special compensation payable shall be $150.

"(2) If the former prisoner of war was detained or interned for a period of more than 120 days and not more than 540 days, the monthly amount of special compensation payable shall be $300.

REV_00162285

"(3) If the former prisoner of war was detained or interned for a period of more than 540 days, the monthly amount of special compensation payable shall be $450.

"(c) If a former prisoner of war was detained or interned on two or more separate occasions, the cumulative length of all occasions of confinement or internment as a prisoner of war shall determine the monthly compensation rate payable under subsection (b).

"§ 1182. Provisions relating to special compensation for former prisoners of war

"(a) Special compensation payable under this subchapter shall be paid in addition to any other payment under the laws of the United States. Amounts paid to an individual under this subchapter shall not be considered to be income or resources for purposes of determining eligibility to receive benefits under any Federal or federally assisted program.

"(b) Special compensation payable under this subchapter shall not be considered to be compensation within the meaning of that term in section 101(13) of this title.

"(c) The provisions of subsection (c) of section 1562 of this title shall apply to special compensation under this subchapter in the same manner as to special pension under that section.".

REV_00162286

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"SUBCHAPTER VII—FORMER PRISONERS OF WAR

"1181. Special compensation: former prisoners of war.
"1182. Provisions relating to special compensation for former prisoners of war.".

SEC. 3. CLARIFICATION OF PROHIBITION ON PAYMENT OF COMPENSATION FOR ALCOHOL OR DRUG-RELATED DISABILITY.

(a) CLARIFICATION.—Sections 1110 and 1131 of title 38, United States Code, are each amended by inserting ", even if the abuse is secondary to a service-connected disability" before the period at the end.

(a) APPLICABILITY.—The amendments made by subsection (a) apply to any claim—

(1) filed on or after the date of the enactment of this Act; or

(2) filed before the date of the enactment of this Act and not finally decided as of that date.

SEC. 4. OUTPATIENT DENTAL CARE FOR ALL FORMER PRISONERS OF WAR.

Section 1712(a)(1)(F) of title 38, United States Code, is amended by striking "and who was detained or interned for a period of not less than 90 days".

○

REV_00162287

I

108TH CONGRESS
1ST SESSION

H. R. 966

To amend title 38, United States Code, to reinstate the vocational training program of the Department of Veterans Affairs for certain low-income veterans in receipt of pension from that Department.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2003

Mr. BROWN of South Carolina (for himself, Mr. RODRIGUEZ, Mr. SMITH of New Jersey, and Mr. EVANS) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to reinstate the vocational training program of the Department of Veterans Affairs for certain low-income veterans in receipt of pension from that Department.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Disabled Veterans' Return-to-Work Act of 2003".

REV_00162288

SEC. 2. REINSTATEMENT OF VETERANS VOCATIONAL TRAINING PROGRAM FOR CERTAIN PENSION RECIPIENTS.

(a) ESTABLISHMENT OF NEW PROGRAM PERIOD.—Subsection (a)(3) of section 1524 of title 38, United States Code, is amended by striking ''the period beginning on February 1, 1985, and ending on December 31, 1995'' and inserting ''the five-year period beginning on the date of the enactment of the Disabled Veterans' Return-to-Work Act of 2003''.

(b) CONFORMING AMENDMENT.—Subsection (b)(4) of such section is amended by striking ''December 31, 1995'' and inserting ''the end of the program period''.

(c) OUTREACH.—Such section is further amended by adding at the end the following new subsection:

''(f) The Secretary shall ensure that the availability of vocational training under this section is made known through a variety of means, including the Internet and announcements in Department publications and other veterans' publications.''.

(d) REPORTS.—Such section is further amended by adding at the end the following new subsection:

''(g) Not later than two years after the date of the enactment of the Disabled Veterans' Return-to-Work Act of 2003, and each year thereafter, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate

REV_00162289

and House of Representatives a report on the operation of this section. The report shall set forth an evaluation of the vocational training provided under this section for the period involved, and shall include an analysis of the cost-effectiveness of the vocational training provided under this section as well as data on the entered-employment rate of veterans pursuing such vocational training.''.

(e) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) by striking ''of Veterans Affairs'' in subsection (a)(1); and

(2) by striking ''of this section'' in subsections (a)(2), (b)(1), (b)(4) (both places it appears), (c), (d), and (e).

○

REV_00162290

From: Bumatay, Patrick J.
To: <Kavanaugh, Brett M.>
Sent: 4/4/2003 4:56:20 PM
Subject: FW: LRM PTM29 - - VETERANS AFFAIRS Testimony on Veterans Benefits and Compensation
Attachments: HR241- InH.pdf; HR533- InH.pdf; HR761- InH.doc; HR850- InH.pdf; HR996- InH.pdf; HR1048-InH.pdf

-----Original Message-----

From: Messenger, P. Thaddeus

Sent: Friday, April 04, 2003 4:28 PM

To: dodlrs@osdgc.osd.mil; lrm@hhs.gov; ogc_legislation@ed.gov; HUD_LRM@hud.gov; justice.lrm@usdoj.gov; dol-sol-leg@dol.gov; state-lrm@state.gov

Cc: Cleveland, Robin; Carson, Karyn T.; Peroff, Kathleen; Siclari, Mary Jo; Hustead, Toni S.; Grayton, Arecia A.; Chang, Winifred Y.; Hagen, Kelli A.; Benson, Shalini M.; Ermann, Danny A.; Sastry, Narahari; Bartrum, John J.; Seastrom, Mark R.; Aguilera, Ricardo A.; Waites, Wendell H.; Reilly, Thomas; Cochran, Norris W.; Fontenot, Keith J.; Hinman, Lindy M.; Stack, Kathryn B.; Werfel, Daniel I.; Redburn, Francis S.; Cramer, Reid B; Bloomquist, Lauren E.; Walsh, Maureen; McDonald, Katrina A.; Kitti, Carole; Kulikowski, James M.; Smalligan, Jack A.; Cianci Hoff, Joanne; Crilley, Joseph; Little, Attia; Lee, Sarah S.; Suarez, Aquiles F.; Halaska, Terrell L.; Gilbert, Alan; Nsc Lrm; Ostp Lrm; Levinson, Rachel E.; Ovp Lrm; Whgc Lrm; Perry, Philip J.; Wood, John F.; Cox, Christopher C.; Dove, Stephen W.; Lobrano, Lauren C.; Jukes, James J.; Schroeder, Ingrid M.; Messenger, P. Thaddeus

Subject: LRM PTM29 - - VETERANS AFFAIRS Testimony on Veterans Benefits and Compensation

LRM ID: PTM29

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Friday, April 4, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: P. Thaddeus Messenger
PHONE: (202)395-7754 FAX: (202)395-6148
SUBJECT: **VETERANS AFFAIRS Testimony on Veterans Benefits and Compensation**

DEADLINE: **5:00 p.m. Monday, April 7, 2003**
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Attached, please find a draft copy of VA (Cooper) testimony for an April 10th hearing before the Benefits Subcommittee of the House Veterans Affairs Committee. For your reference, copies of each bill's text are also included.

VA supports: (1) H.R. 241 - Veterans Beneficiary Fairness Act; (2) H.R. 761 - Disabled Servicemembers Adapted Housing for Members of the Armed Services; and (3) H.R. 1048 - Disabled Veterans Adaptive Benefits Improvement.

VA does not support (1) H.R. 533 - Agent Orange Veterans' Disabled Children's Benefits Act; (2) H.R. 850 - Former Prisoners of War Special Compensation Act; or (3) H.R. 996 - Disabled Veterans' Return-to-Work Act.

<<...>> <<...>> <<...>>

<<...>> <<...>> <<...>>

Please provide your comments by 5:00 p.m. on Monday, April 7th. If we do not receive your comments by that time, we will assume you have no objection to the document as drafted.

If you experience difficulty with this LRM, or its attachment, please contact us immediately.

NOTE: Because of the size of this transmission, the electronic copy will not be followed by a duplicate copy via facsimile.

Thank you.

DISTRIBUTION LIST

AGENCIES:
029-DEFENSE - Vic Bernson - (703) 697-1305
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773
030-EDUCATION - Jack Kristy - (202) 401-8313
054-HOUSING & URBAN DEVELOPMENT - Camille Acevedo - (202) 708-1793
061-JUSTICE - Jamie E. Brown - (202) 514-2141
062-LABOR - Robert A. Shapiro - (202) 693-5500
114-STATE - VACANT - (202) 647-4463

EOP:
NSP LRM
VAB LRM
Ricardo A. Aguilera
Wendell H. Waites
Thomas Reilly
Norris W. Cochran
Keith J. Fontenot
Lindy M. Hinman
Kathryn B. Stack
Daniel I. Werfel
Francis S. Redburn
Reid B Cramer
Lauren E. Bloomquist
Maureen Walsh
Katrina A. McDonald
Carole Kitti
James M. Kulikowski
Jack A. Smalligan
Joanne Cianci Hoff
Joseph Crilley
Attia Little
Sarah S. Lee
Aquiles F. Suarez
Terrell L. Halaska
Alan Gilbert
NSC LRM
OSTP LRM
Rachel E. Levinson
OVP LRM
WHGC LRM
OMBGC LRM
Christopher C. Cox
Stephen W. Dove
Lauren C. Lobrano
James J. Jukes
Ingrid M. Schroeder
P. Thaddeus Messenger**LRM ID:** PTM29 **SUBJECT:** VETERANS AFFAIRS Testimony on Veterans Benefits and

Compensation

RESPONSE TO

LEGISLATIVE REFERRAL

MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) faxing us a memo or letter.

Please include the LRM number and subject shown above.

TO: **P. Thaddeus Messenger Phone: 395-7754 Fax: 395-6148**

Office of Management and Budget

FROM: _____ **(Date)**

_____ **(Name)**

_____ **(Agency)**

_____ **(Telephone)**

The following is the response of our agency to your request for views on the above-captioned subject:

_____ **Concur**

_____ **No Objection**

_____ **No Comment**

_____ **See proposed edits on pages** _____

_____ **Other:** _____

_____ **FAX RETURN of** _____ **pages, attached to this response sheet**

I

108TH CONGRESS
1ST SESSION

H. R. 241

To amend title 38, United States Code, to repeal the two-year limitation on the payment of accrued benefits that are due and unpaid by the Secretary of Veterans Affairs upon the death of a veteran or other beneficiary under laws administered by the Secretary.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 8, 2003

Mr. SMITH of New Jersey (for himself and Mr. EVANS) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to repeal the two-year limitation on the payment of accrued benefits that are due and unpaid by the Secretary of Veterans Affairs upon the death of a veteran or other beneficiary under laws administered by the Secretary.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Beneficiary Fairness Act of 2003".

REV_00162295

SEC. 2. PAYMENT OF ACCRUED BENEFITS.

(a) REPEAL OF LIMITATION ON PAYMENT.—Subsection (a) of section 5121 of title 38, United States Code, is amended by striking "for a period not to exceed two years" in the matter preceding paragraph (1).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to deaths occurring on or after the date of the enactment of this Act.

○

REV_00162296

108TH CONGRESS

1ST SESSION

H. R. 761

To amend title 38, United States Code, to authorize the Secretary of Veterans' Affairs to provide adapted housing assistance to disabled members of the Armed Forces who remain on active duty pending medical separation.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2003

Mr. EVANS (for himself, Mr. SMITH of New Jersey, Mr. RODRIGUEZ, Mr. FILNER, Mr. RENZI, Ms. CORRINE BROWN of Florida, Mr. REYES, Mr. MICHAUD, Ms. JACKSON-LEE of Texas, Mr. LANGEVIN, and Mr. SANDERS) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to authorize the Secretary of Veterans' Affairs to provide adapted housing assistance to disabled members of the Armed Forces who remain on active duty pending medical separation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Disabled Servicemembers Adapted Housing Assistance Act of 2003".

REV_00162297

SEC. 2. AUTHORIZATION TO PROVIDE ADAPTED HOUSING ASSISTANCE TO CERTAIN DISABLED MEMBERS OF THE ARMED FORCES WHO REMAIN ON ACTIVE DUTY.

Section 2101 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) The Secretary may provide assistance under subsection (a) to a member of the Armed Forces serving on active duty who is suffering from a disability described in paragraph (1), (2), or (3) of that subsection if such disability is the result of an injury incurred or disease contracted in or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under that subsection to veterans eligible for assistance under that subsection and subject to the requirements of the second sentence of that subsection.

"(2) The Secretary may provide assistance under subsection (b) to a member of the Armed Forces serving on active duty who is suffering from a disability described in subparagraph (A) or (B) of paragraph (1) of that subsection if such disability is the result of an injury incurred or disease contracted in or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under such subsection to veterans eligible for assistance under that subsection and subject to the requirements of paragraph (2) of that subsection.".

I

108TH CONGRESS
1ST SESSION

H. R. 1048

To amend title 38, United States Code, to increase the amount of assistance for certain disabled veterans for specially adapted housing and automobile and adaptive equipment.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 2003

Mr. BROWN of South Carolina (for himself, Mr. RODRIGUEZ, Mr. SMITH of New Jersey, and Mr. EVANS) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to increase the amount of assistance for certain disabled veterans for specially adapted housing and automobile and adaptive equipment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Disabled Veterans Adaptive Benefits Improvement Act of 2003".

REV_00162299

SEC. 2. INCREASE IN ASSISTANCE AMOUNT FOR SPECIALLY ADAPTED HOUSING.

Section 2102 of title 38, United States Code, is amended—

(1) in the matter preceding paragraph (1) of subsection (a), by striking "$48,000" and inserting "$50,000"; and

(2) in subsection (b)(2), by striking "$9,250" and inserting "$10,000".

SEC. 3. INCREASE IN AMOUNT OF ASSISTANCE FOR AUTOMOBILE AND ADAPTIVE EQUIPMENT FOR CERTAIN DISABLED VETERANS.

Section 3902(a) of title 38, United States Code, is amended by striking "$9,000" and inserting "$11,000".

○

REV_00162300

I

108TH CONGRESS
1ST SESSION

H. R. 533

To amend title 38, United States Code, to provide for health benefits and certain other benefits to be furnished by the Department of Veterans Affairs to any individual who has spina bifida and is the natural child of a veteran who, while in military service, was exposed to a herbicide agent.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 2003

Mr. EVANS (for himself, Mr. RODRIGUEZ, Mr. FILNER, Mr. GUTIERREZ, Ms. CORRINE BROWN of Florida, Mr. SNYDER, Mr. MCINTYRE, Mr. SANDERS, Mr. SERRANO, and Mr. WAXMAN) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to provide for health benefits and certain other benefits to be furnished by the Department of Veterans Affairs to any individual who has spina bifida and is the natural child of a veteran who, while in military service, was exposed to a herbicide agent.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Agent Orange Veterans' Disabled Children's Benefits Act of 2003".

REV_00162301

SEC. 2. EXTENSION OF SPINA BIFIDA BENEFITS FOR CHILDREN OF VETERANS.

(a) ELIGIBLE CHILDREN.—Subchapter I of chapter 18 of title 38, United States Code, is amended by inserting before section 1802 the following new section:

"§ 1801. Persons eligible for benefits

"(a) ELIGIBLE CHILD.—An individual is an eligible child for purposes of this subchapter if the individual is suffering from spina bifida and is—

"(1) a child as defined in section 1821(1) of this title; or

"(2) the natural child, regardless of age or marital status, of a parent who performed qualifying herbicide-risk service, if the individual was conceived after the parent performed such service.

"(b) QUALIFYING HERBICIDE-RISK SERVICE.—(1) An individual performed qualifying herbicide-risk service if (as determined by the Secretary) the individual, while performing active military, naval, or air service (without regard to the characterization of that individual's service)—

"(A) served in an area in which a Vietnam-era herbicide agent was used during a period during which such agent was used in that area; or

"(B) otherwise was exposed to a Vietnam-era herbicide agent.

REV_00162302

"(2) For purposes of paragraph (1), the term 'Vietnam-era herbicide agent' has the meaning given the term 'herbicide agent' in section 1116(a)(3) of this title.".

(b) HEALTH CARE.—Section 1803(a) of such title is amended by striking "a child of a Vietnam veteran who is suffering from spina bifida" and inserting "an eligible child".

(c) VOCATIONAL TRAINING AND REHABILITATION.—Section 1804(a) of such title is amended by striking "a child of a Vietnam veteran who is suffering from spina bifida" and inserting "an eligible child".

(d) MONETARY ALLOWANCE.—Section 1805(a) of such title is amended by striking "any child of a Vietnam veteran" and inserting "any eligible child".

(e) CONFORMING AMENDMENTS.—

(1) The heading of chapter 18 of such title is amended to read as follows:

"CHAPTER 18—DISABILITY BENEFITS FOR CHILDREN OF VIETNAM VETERANS AND OTHER VETERANS EXPOSED TO HERBICIDE AGENTS".

(2) The heading of subchapter I of such chapter is amended to read as follows:

REV_00162303

"SUBCHAPTER I—CHILDREN BORN WITH SPINA BIFIDA".

(3) The table of sections at the beginning of such chapter is amended—

(A) by striking the item relating to subchapter I and inserting the following:

"SUBCHAPTER I—CHILDREN BORN WITH SPINA BIFIDA";

and

(B) by inserting before the item relating to section 1802 the following new item:

"1801. Persons eligible for benefits.".

(4) The items relating to chapter 18 in the tables of chapters at the beginning of title 38, United States Code, and at the beginning of part II of such title, are amended to read as follows:

"18. Disability Benefits for Children of Vietnam Veterans and Other Veterans Exposed to Herbicide Agents ..... 1801".

○

REV_00162304

I

108TH CONGRESS
1ST SESSION

H. R. 850

To amend title 38, United States Code, to provide special compensation for former prisoners of war, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2003

Mr. SIMPSON (for himself, Mr. COX, Mr. BOEHNER, Mr. DREIER, Mr. HYDE, Mr. KOLBE, Mr. LEACH, Mr. OTTER, Mr. SENSENBRENNER, and Mr. WILSON of South Carolina) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to provide special compensation for former prisoners of war, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Former Prisoners of War Special Compensation Act of 2003".

REV_00162305

SEC. 2. SPECIAL COMPENSATION FOR FORMER PRISONERS OF WAR.

(a) IN GENERAL.—Chapter 11 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER VII—FORMER PRISONERS OF WAR

"§ 1181. Special compensation: former prisoners of war

"(a)(1) The Secretary shall pay monthly to each veteran who is a former prisoner of war and who while a prisoner of war was detained or interned for not less than 30 days special compensation at the rate specified in subsection (b).

"(2) For the purposes of this section, the term 'veteran' includes an individual serving on active duty.

"(b) The rate of special compensation for purposes of this section shall be as follows:

"(1) If the former prisoner of war was detained or interned for a period of not more than 120 days, the monthly amount of special compensation payable shall be $150.

"(2) If the former prisoner of war was detained or interned for a period of more than 120 days and not more than 540 days, the monthly amount of special compensation payable shall be $300.

REV_00162306

"(3) If the former prisoner of war was detained or interned for a period of more than 540 days, the monthly amount of special compensation payable shall be $450.

"(c) If a former prisoner of war was detained or interned on two or more separate occasions, the cumulative length of all occasions of confinement or internment as a prisoner of war shall determine the monthly compensation rate payable under subsection (b).

"§ 1182. Provisions relating to special compensation for former prisoners of war

"(a) Special compensation payable under this subchapter shall be paid in addition to any other payment under the laws of the United States. Amounts paid to an individual under this subchapter shall not be considered to be income or resources for purposes of determining eligibility to receive benefits under any Federal or federally assisted program.

"(b) Special compensation payable under this subchapter shall not be considered to be compensation within the meaning of that term in section 101(13) of this title.

"(c) The provisions of subsection (c) of section 1562 of this title shall apply to special compensation under this subchapter in the same manner as to special pension under that section.".

REV_00162307

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"SUBCHAPTER VII—FORMER PRISONERS OF WAR

"1181. Special compensation: former prisoners of war.
"1182. Provisions relating to special compensation for former prisoners of war.".

SEC. 3. CLARIFICATION OF PROHIBITION ON PAYMENT OF COMPENSATION FOR ALCOHOL OR DRUG-RELATED DISABILITY.

(a) CLARIFICATION.—Sections 1110 and 1131 of title 38, United States Code, are each amended by inserting ", even if the abuse is secondary to a service-connected disability" before the period at the end.

(a) APPLICABILITY.—The amendments made by subsection (a) apply to any claim—

(1) filed on or after the date of the enactment of this Act; or

(2) filed before the date of the enactment of this Act and not finally decided as of that date.

SEC. 4. OUTPATIENT DENTAL CARE FOR ALL FORMER PRISONERS OF WAR.

Section 1712(a)(1)(F) of title 38, United States Code, is amended by striking "and who was detained or interned for a period of not less than 90 days".

○

REV_00162308

I

108TH CONGRESS
1ST SESSION

H. R. 996

To amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2003

Mr. JONES of North Carolina (for himself, Mr. ROSS, and Ms. HOOLEY of Oregon) introduced the following bill; which was referred to the Committee on Financial Services

---

A BILL

To amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Consumer Rental Purchase Agreement Act".

REV_00162309

SEC. 2. FINDINGS AND DECLARATION OF PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) The rental-purchase industry provides a service that meets and satisfies the demands of many consumers.

(2) Each year, approximately 2,300,000 United States households enter into rental-purchase transactions and over a 5-year period approximately 4,900,000 United States households will do so.

(3) Competition among the various firms engaged in the extension of rental-purchase transactions would be strengthened by informed use of rental-purchase transactions.

(4) The informed use of rental-purchase transactions results from an awareness of the cost thereof by consumers.

(b) PURPOSE.—The purpose of this title is to assure the availability of rental-purchase transactions and to assure simple, meaningful, and consistent disclosure of rental-purchase terms so that consumers will be able to more readily compare the available rental-purchase terms and avoid uninformed use of rental-purchase transactions, and to protect consumers against unfair rental-purchase practices.

REV_00162310

SEC. 3. CONSUMER CREDIT PROTECTION ACT.

The Consumer Credit Protection Act is amended by adding at the end the following new title:

"TITLE X—RENTAL-PURCHASE TRANSACTIONS

"Sec. 1001. Definitions.
"Sec. 1002. Exempted transactions.
"Sec. 1003. General disclosure requirements.
"Sec. 1004. Rental-purchase disclosures.
"Sec. 1005. Other agreement provisions.
"Sec. 1006. Right to acquire ownership.
"Sec. 1007. Prohibited provisions.
"Sec. 1008. Statement of accounts.
"Sec. 1009. Renegotiations and extensions.
"Sec. 1010. Point-of-rental disclosures.
"Sec. 1011. Rental-purchase advertising.
"Sec. 1012. Civil liability.
"Sec. 1013. Additional grounds for civil liability.
"Sec. 1014. Liability of assignees.
"Sec. 1015. Regulations.
"Sec. 1016. Enforcement.
"Sec. 1017. Criminal liability for willful and knowing violation.
"Sec. 1018. Relation to other laws.
"Sec. 1019. Effect on government agencies.
"Sec. 1020. Compliance date.

"SEC. 1001. DEFINITIONS.

"For purposes of this title, the following definitions shall apply:

"(1) ADVERTISEMENT.—The term 'advertisement' means a commercial message in any medium that promotes, directly or indirectly, a rental-purchase agreement but does not include price tags, window signs, or other in-store merchandising aids.

"(2) AGRICULTURAL PURPOSE.—The term 'agricultural purpose' includes—

REV_00162311

"(A) the production, harvest, exhibition, marketing, transformation, processing, or manufacture of agricultural products by a natural person who cultivates plants or propagates or nurtures agricultural products; and

"(B) the acquisition of farmlands, real property with a farm residence, or personal property and services used primarily in farming.

"(3) BOARD.—The term 'Board' means the Board of Governors of the Federal Reserve System.

"(4) CASH PRICE.—The term 'cash price' means the price at which a merchant, in the ordinary course of business, offers to sell for cash the property that is the subject of the rental-purchase transaction.

"(5) CONSUMER.—The term 'consumer' means a natural person who is offered or enters into a rental-purchase agreement.

"(6) DATE OF CONSUMMATION.—The term 'date of consummation' means the date on which a consumer becomes contractually obligated under a rental-purchase agreement.

"(7) INITIAL PAYMENT.—The term 'initial payment' means the amount to be paid before or at the

REV_00162312

consummation of the agreement or the delivery of the property if delivery occurs after consummation, including the rental payment; service, processing, or administrative charges; delivery fee; refundable security deposit; taxes; mandatory fees or charges; and any optional fees or charges agreed to by the consumer.

"(8) MERCHANT.—The term 'merchant' means a person who provides the use of property through a rental-purchase agreement in the ordinary course of business and to whom a consumer's initial payment under the agreement is payable.

"(9) PAYMENT SCHEDULE.—The term 'payment schedule' means the amount and timing of the periodic payments and the total number of all periodic payments that the consumer will make if the consumer acquires ownership of the property by making all periodic payments.

"(10) PERIODIC PAYMENT.—The term 'periodic payment' means the total payment a consumer will make for a specific rental period after the initial payment, including the rental payment, taxes, mandatory fees or charges, and any optional fees or charges agreed to by the consumer.

REV_00162313

"(11) PROPERTY.—The term 'property' means property that is not real property under the laws of the State where the property is located when it is made available under a rental-purchase agreement.

"(12) RENTAL PAYMENT.—The term 'rental payment' means rent required to be paid by a consumer for the possession and use of property for a specific rental period, but does not include taxes or any fees or charges.

"(13) RENTAL PERIOD.—The term 'rental period' means a week, month, or other specific period of time, during which the consumer has a right to possess and use property that is the subject of a rental-purchase agreement after paying the rental payment and any applicable taxes for such period.

"(14) RENTAL-PURCHASE AGREEMENT.—

"(A) IN GENERAL.—The term 'rental-purchase agreement' means a contract in the form of a bailment or lease for the use of property by a consumer for an initial period of 4 months or less, that is renewable with each payment by the consumer, and that permits but does not obligate the consumer to become the owner of the property.

REV_00162314

"(B) EXCLUSIONS.—The term 'rental-purchase agreement' does not include—

"(i) a credit sale (as defined in section 103(g) of the Truth in Lending Act);

"(ii) a consumer lease (as defined in section 181(1) of such Act); or

"(iii) a transaction giving rise to a debt incurred in connection with the business of lending money or a thing of value.

"(15) RENTAL-PURCHASE COST.—

"(A) IN GENERAL.—For purposes of sections 1010 and 1011, the term 'rental-purchase cost' means the sum of all rental payments and mandatory fees or charges imposed by the merchant as a condition of entering into a rental-purchase agreement or acquiring ownership of property under a rental-purchase agreement, such as the following:

"(i) Service, processing, or administrative charge.

"(ii) Fee for an investigation or credit report.

"(iii) Charge for delivery required by the merchant.

REV_00162315

"(B) EXCLUDED ITEMS.—The following fees or charges shall not be taken into account in determining the rental-purchase cost with respect to a rental-purchase transaction:

"(i) Fees and charges prescribed by law, which actually are or will be paid to public officials or government entities, such as sales tax.

"(ii) Fees and charges for optional products and services offered in connection with a rental-purchase agreement.

"(16) STATE.—The term 'State' means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

"(17) TOTAL COST.—The term 'total cost' means the sum of the initial payment and all periodic payments in the payment schedule to be paid by the consumer to acquire ownership of the property that is the subject of the rental-purchase agreement.

"SEC. 1002. EXEMPTED TRANSACTIONS.

"This title shall not apply to rental-purchase agreements primarily for business, commercial, or agricultural

REV_00162316

purposes, or those made with Government agencies or instrumentalities.

"SEC. 1003. GENERAL DISCLOSURE REQUIREMENTS.

"(a) RECIPIENT OF DISCLOSURE.—A merchant shall disclose to any person who will be a signatory to a rental-purchase agreement the information required by sections 1004 and 1005.

"(b) TIMING OF DISCLOSURE.—The disclosures required under sections 1004 and 1005 shall be made before the consummation of the rental-purchase agreement and clearly and conspicuously in writing as part of the rental-purchase agreement to be signed by the consumer.

"(c) CLEARLY AND CONSPICUOUSLY.—As used in this section, the term 'clearly and conspicuously' means that information required to be disclosed to the consumer shall be worded plainly and simply, and appear in a type size, prominence, and location as to be readily noticeable, readable, and comprehensible to an ordinary consumer.

"SEC. 1004. RENTAL-PURCHASE DISCLOSURES.

"(a) IN GENERAL.—For each rental-purchase agreement, the merchant shall disclose to the consumer the following, to the extent applicable:

"(1) The date of the consummation of the rental-purchase transaction and the identities of the merchant and the consumer.

REV_00162317

"(2) A brief description of the rental property, which shall be sufficient to identify the property to the consumer, including an identification or serial number, if applicable, and a statement indicating whether the property is new or used.

"(3) A description of any fee, charge or penalty, in addition to the periodic payment, that the consumer may be required to pay under the agreement, which shall be separately identified by type and amount.

"(4) A clear and conspicuous statement that the transaction is a rental-purchase agreement and that the consumer will not obtain ownership of the property until the consumer has paid the total dollar amount necessary to acquire ownership.

"(5) The amount of any initial payment, which includes the first periodic payment, and the total amount of any fees, taxes, or other charges, required to be paid by the consumer.

"(6) The amount of the cash price of the property that is the subject of the rental-purchase agreement, and, if the agreement involves the rental of 2 or more items as a set (as may be defined by the Board in regulation) a statement of the aggregate cash price of all items shall satisfy this requirement.

REV_00162318

"(7) The amount and timing of periodic payments, and the total number of periodic payments necessary to acquire ownership of the property under the rental-purchase agreement.

"(8) The total cost, using that term, and a brief description, such as 'This is the amount you will pay the merchant if you make all periodic payments to acquire ownership of the property.'.

"(9) A statement of the consumer's right to terminate the agreement without paying any fee or charge not previously due under the agreement by voluntarily surrendering or returning the property in good repair upon expiration of any lease term.

"(10) Substantially the following statement: '**OTHER IMPORTANT TERMS**: See your rental-purchase agreement for additional important information on early termination procedures, purchase option rights, responsibilities for loss, damage or destruction of the property, warranties, maintenance responsibilities, and other charges or penalties you may incur.'.

"(b) FORM OF DISCLOSURE.—The disclosures required by paragraphs (4) through (10) of subsection (a) shall be segregated from other information at the beginning of the rental-purchase agreement and shall contain

REV_00162319

only directly related information, and shall be identified in boldface, upper-case letters as follows: '**IMPORTANT RENTAL-PURCHASE DISCLOSURES**'.

"(c) DISCLOSURE REQUIREMENTS RELATING TO INSURANCE PREMIUMS AND LIABILITY WAIVERS.—

"(1) IN GENERAL.—A merchant shall clearly and conspicuously disclose in writing to the consumer before the consummation of a rental-purchase agreement that the purchase of leased property insurance or liability waiver coverage is not required as a condition for entering into the rental-purchase agreement.

"(2) AFFIRMATIVE WRITTEN REQUEST AFTER COST DISCLOSURE.—A merchant may provide insurance or liability waiver coverage, directly or indirectly, in connection with a rental-purchase transaction only if—

"(A) the merchant clearly and conspicuously discloses to the consumer the cost of each component of such coverage before the consummation of the rental-purchase agreement; and

"(B) the consumer signs an affirmative written request for such coverage after receiving

REV_00162320

the disclosures required under subparagraph (A) of this paragraph and paragraph (1).

"(d) ACCURACY OF DISCLOSURE.—

"(1) IN GENERAL.—The disclosures required to be made under subsection (a) shall be accurate as of the date the disclosures are made, based on the information available to the merchant.

"(2) INFORMATION SUBSEQUENTLY RENDERED INACCURATE.—If information required to be disclosed under subsection (a) is subsequently rendered inaccurate as a result of any agreement between the merchant and the consumer subsequent to the delivery of the required disclosures, the resulting inaccuracy shall not constitute a violation of this title.

"SEC. 1005. OTHER AGREEMENT PROVISIONS.

"(a) IN GENERAL.—Each rental-purchase agreement shall—

"(1) provide a statement specifying whether the merchant or the consumer is responsible for loss, theft, damage, or destruction of the property;

"(2) provide a statement specifying whether the merchant or the consumer is responsible for maintaining or servicing the property, together with a brief description of the responsibility;

REV_00162321

"(3) provide that the consumer may terminate the agreement without paying any charges not previously due under the agreement by voluntarily surrendering or returning the property that is the subject of the agreement upon expiration of any rental period;

"(4) contain a provision for reinstatement of the agreement, which at a minimum—

"(A) permits a consumer who fails to make a timely rental payment to reinstate the agreement, without losing any rights or options which exist under the agreement, by the payment of all past due rental payments and any other charges then due under the agreement and a payment for the next rental period within 7 business days after failing to make a timely rental payment if the consumer pays monthly, or within 3 business days after failing to make a timely rental payment if the consumer pays more frequently than monthly;

"(B) if the consumer returns or voluntarily surrenders the property covered by the agreement, other than through judicial process, during the applicable reinstatement period set forth in subparagraph (A), permits the consumer to

REV_00162322

reinstate the agreement during a period of at least 60 days after the date of the return or surrender of the property by the payment of all amounts previously due under the agreement, any applicable fees, and a payment for the next rental period;

"(C) if the consumer has paid 50 percent or more of the total cost necessary to acquire ownership and returns or voluntarily surrenders the property, other than through judicial process, during the applicable reinstatement period set forth in subparagraph (A), permits the consumer to reinstate the agreement during a period of at least 120 days after the date of the return of the property by the payment of all amounts previously due under the agreement, any applicable fees, and a payment for the next rental period; and

"(D) permits the consumer, upon reinstatement of the agreement to receive the same property, if available, that was the subject of the rental-purchase agreement, or if the same property is not available, a substitute item of comparable quality and condition may be provided to the consumer; except that, the Board

REV_00162323

may, by regulation or order, exempt any independent small business (as defined by the Board by regulation) from the requirement of providing the same or comparable product during the extended reinstatement period provided in subparagraph (C), if the Board determines, taking into account such standards as the Board determines to be appropriate, that the reinstatement right provided in such subparagraph would provide excessive hardship for such independent small business.

''(5) provide a statement specifying the terms under which the consumer shall acquire ownership of the property that is the subject of the rental-purchase agreement either by payment of the total cost to acquire ownership, as provided in section 1006, or by exercise of any early purchase option provided in the rental-purchase agreement;

''(6) provide a statement disclosing that if any part of a manufacturer's express warranty covers the property at the time the consumer acquires ownership of the property, the warranty will be transferred to the consumer if allowed by the terms of the warranty; and

REV_00162324

"(7) provide, to the extent applicable, a description of any grace period for making any periodic payment, the amount of any security deposit, if any, to be paid by the consumer upon initiation of the rental-purchase agreement, and the terms for refund of such security deposit to the consumer upon return, surrender or purchase of the property.

"(b) REPOSSESSION DURING REINSTATEMENT PERIOD.—Subsection (a)(4) shall not be construed so as to prevent a merchant from attempting to repossess property during the reinstatement period pursuant to subsection (a)(4)(A), but such a repossession does not affect the consumer's right to reinstate.

"SEC. 1006. RIGHT TO ACQUIRE OWNERSHIP.

"(a) IN GENERAL.—The consumer shall acquire ownership of the property that is the subject of the rental-purchase agreement, and the rental-purchase agreement shall terminate, upon compliance by the consumer with the requirements of subsection (b) or any early payment option provided in the rental purchase agreement, and upon payment of any past due payments and fees, as permitted in regulation by the Board.

"(b) PAYMENT OF TOTAL COST.—The consumer shall acquire ownership of the rental property upon payment of the total cost of the rental-purchase agreement,

REV_00162325

as such term is defined in section 1001(17), and as disclosed to the consumer in the rental-purchase agreement pursuant to section 1004(a).

"(c) ADDITIONAL FEES PROHIBITED.—A merchant shall not require the consumer to pay, as a condition for acquiring ownership of the property that is the subject of the rental-purchase agreement, any fee or charge in addition to, or in excess of, the regular periodic payments required by subsection (b), or any early purchase option amount provided in the rental-purchase agreement, as applicable. A requirement that the consumer pay an unpaid late charge or other fee or charge which the merchant has previously billed to the consumer shall not constitute an additional fee or charge for purposes of this subsection.

"(d) TRANSFER OF OWNERSHIP RIGHTS.—Upon payment by the consumer of all payments necessary to acquire ownership under subsection (b) or any early purchase option amount provided in the rental-purchase agreement, as appropriate, the merchant shall—

"(1) deliver, or mail to the consumer's last known address, such documents or other instruments, which the Board has determined by regulation, are necessary to acknowledge full ownership by the consumer of the property acquired pursuant to the rental-purchase agreement; and

REV_00162326

"(2) transfer to the consumer the unexpired portion of any warranties provided by the manufacturer, distributor, or seller of the property, which shall apply as if the consumer were the original purchaser of the property, except where such transfer is prohibited by the terms of the warranty.

"SEC. 1007. PROHIBITED PROVISIONS.

"A rental-purchase agreement may not contain—

"(1) a confession of judgment;

"(2) a negotiable instrument;

"(3) a security interest or any other claim of a property interest in any goods, except those goods the use of which is provided by the merchant pursuant to the agreement;

"(4) a wage assignment;

"(5) a provision requiring the waiver of any legal claim or remedy created by this title or other provision of Federal or State law;

"(6) a provision requiring the consumer, in the event the property subject to the rental-purchase agreement is lost, stolen, damaged, or destroyed, to pay an amount in excess of the least of—

"(A) the fair market value of the property, as determined by the Board in regulation;

REV_00162327

"(B) any early purchase option amount provided in the rental-purchase agreement; or

"(C) the actual cost of repair, as appropriate;

"(7) a provision authorizing the merchant, or a person acting on behalf of the merchant, to enter the consumer's dwelling or other premises without obtaining the consumer's consent or to commit any breach of the peace in connection with the repossession of the rental property or the collection of any obligation or alleged obligation of the consumer arising out of the rental-purchase agreement;

"(8) a provision requiring the purchase of insurance or liability damage waiver to cover the property that is the subject of the rental-purchase agreement, except as permitted by the Board in regulation;

"(9) a provision requiring the consumer to pay more than 1 late fee or charge for an unpaid or delinquent periodic payment, regardless of the period in which the payment remains unpaid or delinquent, or to pay a late fee or charge for any periodic payment because a previously assessed late fee has not been paid in full.

REV_00162328

"SEC. 1008. STATEMENT OF ACCOUNTS.

"Upon request of a consumer, a merchant shall provide a statement of the consumer's account. If a consumer requests a statement for an individual account more than 4 times in any 12-month period, the merchant may charge a reasonable fee for the additional statements.

"SEC. 1009. RENEGOTIATIONS AND EXTENSIONS.

"(a) RENEGOTIATIONS.—A renegotiation occurs when a rental-purchase agreement is satisfied and replaced by a new agreement undertaken by the same consumer. A renegotiation requires new disclosures, except as provided in subsection (c).

"(b) EXTENSIONS.—An extension is an agreement by the consumer and the merchant, to continue an existing rental-purchase agreement beyond the original end of the payment schedule, but does not include a continuation that is the result of a renegotiation.

"(c) EXCEPTIONS.—New disclosures are not required for the following, even if they meet the definition of a renegotiation or an extension:

"(1) A reduction in payments.

"(2) A deferment of 1 or more payments.

"(3) The extension of a rental-purchase agreement.

"(4) The substitution of property with property that has a substantially equivalent or greater eco-

REV_00162329

nomic value provided the rental-purchase cost does not increase.

"(5) The deletion of property in a multiple-item agreement.

"(6) A change in rental period provided the rental-purchase cost does not increase.

"(7) An agreement resulting from a court proceeding.

"(8) Any other event described in regulations prescribed by the Board.

"SEC. 1010. POINT-OF-RENTAL DISCLOSURES.

"(a) IN GENERAL.—For any item of property or set of items displayed or offered for rental-purchase, the merchant shall display on or next to the item or set of items a card, tag, or label that clearly and conspicuously discloses the following:

"(1) A brief description of the property.

"(2) Whether the property is new or used.

"(3) The cash price of the property.

"(4) The amount of each rental payment.

"(5) The total number of rental payments necessary to acquire ownership of the property.

"(6) The rental-purchase cost.

"(b) FORM OF DISCLOSURE.—

REV_00162330

"(1) IN GENERAL.—A merchant may make the disclosure required by subsection (a) in the form of a list or catalog which is readily available to the consumer at the point of rental if the merchandise is not displayed in the merchant's showroom or if displaying a card, tag, or label would be impractical due to the size of the merchandise.

"(2) CLEARLY AND CONSPICUOUSLY.—As used in this section, the term 'clearly and conspicuously' means that information required to be disclosed to the consumer shall appear in a type size, prominence, and location as to be noticeable, readable, and comprehensible to an ordinary consumer.

"SEC. 1011. RENTAL-PURCHASE ADVERTISING.

"(a) IN GENERAL.—If an advertisement for a rental-purchase transaction refers to or states the amount of any payment for any specific item or set of items, the merchant making the advertisement shall also clearly and conspicuously state in the advertisement the following for the item, or set of items, advertised:

"(1) The transaction advertised is a rental-purchase agreement.

"(2) The amount, timing, and total number of rental payments necessary to acquire ownership under the rental-purchase agreement.

REV_00162331

"(3) The amount of the rental-purchase cost.

"(4) To acquire ownership of the property the consumer must pay the rental-purchase cost plus applicable taxes.

"(5) Whether the stated payment amount and advertised rental-purchase cost is for new or used property.

"(b) PROHIBITION.—An advertisement for a rental-purchase agreement shall not state or imply that a specific item, or set of items, is available at specific amounts or terms unless the merchant usually and customarily offers, or will offer, the item or set of items at the stated amounts or terms.

"(c) CLEARLY AND CONSPICUOUSLY.—

"(1) IN GENERAL.—For purposes of this section, the term 'clearly and conspicuously' means that required disclosures shall be presented in a type, size, shade, contrast, prominence, location, and manner, as applicable to different mediums for advertising, so as to be readily noticeable and comprehensible to the ordinary consumer.

"(2) REGULATORY GUIDANCE.—The Board shall prescribe regulations on principles and factors to meet the clear and conspicuous standard as appropriate to print, video, audio, and computerized

REV_00162332

advertising, reflecting the principles and factors typically applied in each medium by the Federal Trade Commission.

"(3) LIMITATION.—Nothing contrary to, inconsistent with, or in mitigation of, the required disclosures shall be used in any advertisement in any medium, and no audio, video, or print technique shall be used that is likely to obscure or detract significantly from the communication of the disclosures.

"SEC. 1012. CIVIL LIABILITY.

"(a) IN GENERAL.—Except as otherwise provided in section 1013, any merchant who fails to comply with any requirement of this title with respect to any consumer is liable to such consumer as provided for leases in section 130. For purposes of this section, the term 'creditor' as used in section 130 shall include a 'merchant', as defined in section 1001.

"(b) JURISDICTION OF COURTS; LIMITATION ON ACTIONS.—

"(1) IN GENERAL.—Notwithstanding section 130(e), any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, before the end of the 1-year period beginning on the date the

REV_00162333

last payment was made by the consumer under the rental-purchase agreement.

"(2) RECOUPMENT OR SET-OFF.—This subsection shall not bar a consumer from asserting a violation of this title in an action to collect an obligation arising from a rental-purchase agreement, which was brought after the end of the 1-year period described in paragraph (1) as a matter of defense by recoupment or set-off in such action, except as otherwise provided by State law.

"SEC. 1013. ADDITIONAL GROUNDS FOR CIVIL LIABILITY.

"(a) INDIVIDUAL CASES WITH ACTUAL DAMAGES.—Any merchant who fails to comply with any requirements imposed under section 1010 or 1011 with respect to any consumer who suffers actual damage from the violation shall be liable to such consumer as provided in section 130.

"(b) PATTERN OR PRACTICE OF VIOLATIONS.—If a merchant engages in a pattern or practice of violating any requirement imposed under section 1010 or 1011, the Federal Trade Commission or an appropriate State attorney general, in accordance with section 1016, may initiate an action to enforce sanctions against the merchant, including—

REV_00162334

"(1) an order to cease and desist from such practices; and

"(2) a civil money penalty of such amount as the court may impose, based on such factors as the court may determine to be appropriate.

"SEC. 1014. LIABILITY OF ASSIGNEES.

"(a) ASSIGNEES INCLUDED.—For purposes of section 1013, and this section, the term 'merchant' includes an assignee of a merchant.

"(b) LIABILITIES OF ASSIGNEES.—

"(1) APPARENT VIOLATION.—An action under section 1012 or 1013 for a violation of this title may be brought against an assignee only if the violation is apparent on the face of the rental-purchase agreement to which it relates.

"(2) APPARENT VIOLATION DEFINED.—For purposes of this subsection, a violation that is apparent on the face of a rental-purchase agreement includes, but is not limited to, a disclosure that can be determined to be incomplete or inaccurate from the face of the agreement.

"(3) INVOLUNTARY ASSIGNMENT.—An assignee has no liability in a case in which the assignment is involuntary.

REV_00162335

"(4) RULE OF CONSTRUCTION.—No provision of this section shall be construed as limiting or altering the liability under section 1012 or 1013 of a merchant assigning a rental-purchase agreement.

"(b) PROOF OF DISCLOSURE.—In an action by or against an assignee, the consumer's written acknowledgment of receipt of a disclosure, made as part of the rental-purchase agreement, shall be conclusive proof that the disclosure was made, if the assignee had no knowledge that the disclosure had not been made when the assignee acquired the rental-purchase agreement to which it relates.

"SEC. 1015. REGULATIONS.

"(a) IN GENERAL.—The Board shall prescribe regulations as necessary to carry out the purposes of this title, to prevent its circumvention, and to facilitate compliance with its requirements.

"(b) MODEL DISCLOSURE FORMS.—The Board may publish model disclosure forms and clauses for common rental-purchase agreements to facilitate compliance with the disclosure requirements of this title and to aid the consumer in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures. In devising such forms, the Board shall consider the use by merchants of data processing or similar automated equipment. Nothing in this title may

REV_00162336

be construed to require a merchant to use any such model form or clause prescribed by the Board under this section. A merchant shall be deemed to be in compliance with the requirement to provide disclosure under section 1003(a) if the merchant—

"(1) uses any appropriate model form or clause as published by the Board; or

"(2) uses any such model form or clause and changes it by—

"(A) deleting any information which is not required by this title; or

"(B) rearranging the format, if in making such deletion or rearranging the format, the merchant does not affect the substance, clarity, or meaningful sequence of the disclosure.

"(c) EFFECTIVE DATE OF REGULATIONS.—Any regulation prescribed by the Board, or any amendment or interpretation thereof, shall not be effective before the October 1 that follows the date of publication of the regulation in final form by at least 6 months. The Board may at its discretion lengthen that period of time to permit merchants to adjust to accommodate new requirements. The Board may also shorten that period of time, notwithstanding the first sentence, if it makes a specific finding that such action is necessary to comply with the findings

REV_00162337

of a court or to prevent unfair or deceptive practices. In any case, merchants may comply with any newly prescribed disclosure requirement prior to its effective date.

"SEC. 1016. ENFORCEMENT.

"(a) FEDERAL ENFORCEMENT.—Compliance with the requirements imposed under this title shall be enforced under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), and a violation of any requirements imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements of this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional test in the Federal Trade Commission Act.

"(b) STATE ENFORCEMENT.—

"(1) IN GENERAL.—An action to enforce the requirements imposed by this title may also be brought by the appropriate State attorney general in any appropriate United States district court, or any other court of competent jurisdiction.

"(2) PRIOR WRITTEN NOTICE.—

"(A) IN GENERAL.—The State attorney general shall provide prior written notice of any

REV_00162338

such civil action to the Federal Trade Commission and shall provide the Commission with a copy of the complaint.

"(B) EMERGENCY ACTION.—If prior notice is not feasible, the State attorney general shall provide notice to the Commission immediately upon instituting the action.

"(3) FTC INTERVENTION.—The Commission may—

"(A) intervene in the action;

"(B) upon intervening—

"(i) remove the action to the appropriate United States district court, if it was not originally brought there; and

"(ii) be heard on all matters arising in the action; and

"(C) file a petition for appeal.

"SEC. 1017. CRIMINAL LIABILITY FOR WILLFUL AND KNOWING VIOLATION.

"Whoever willfully and knowingly gives false or inaccurate information or fails to provide information which he is required to disclose under the provisions of this title or any regulation issued thereunder shall be subject to the penalty provisions as provided in section 112.

REV_00162339

"SEC. 1018. RELATION TO OTHER LAWS.

"(a) RELATION TO STATE LAW.—

"(1) NO EFFECT ON CONSISTENT STATE LAWS.—Except as otherwise provided in subsection (b), this title does not annul, alter, or affect in any manner the meaning, scope or applicability of the laws of any State relating to rental-purchase agreements, except to the extent those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency.

"(2) DETERMINATION OF INCONSISTENCY.—Upon its own motion or upon the request of an interested party, which is submitted in accordance with procedures prescribed in regulations of the Board, the Board shall determine whether any such inconsistency exists. If the Board determines that a term or provision of a State law is inconsistent, merchants located in that State need not follow such term or provision and shall incur no liability under the law of that State for failure to follow such term or provision, notwithstanding that such determination is subsequently amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"(3) GREATER PROTECTION UNDER STATE LAW.—Except as provided in subsection (b), for pur-

REV_00162340

poses of this section, a term or provision of a State law is not inconsistent with the provisions of this title if the term or provision affords greater protection and benefit to the consumer than the protection and benefit provided under this title as determined by the Board, on its own motion or upon the petition of any interested party.

"(b) STATE LAWS RELATING TO CHARACTERIZATION OF TRANSACTION.—Notwithstanding the provisions of subsection (a), this title shall supersede any State law to the extent that such law—

"(1) regulates a rental-purchase agreement as a security interest, credit sale, retail installment sale, conditional sale or any other form of consumer credit, or that imputes to a rental-purchase agreement the creation of a debt or extension of credit, or

"(2) requires the disclosure of a percentage rate calculation, including a time-price differential, an annual percentage rate, or an effective annual percentage rate.

"(c) RELATION TO FEDERAL TRADE COMMISSION ACT.—No provision of this title shall be construed as limiting, superseding, or otherwise affecting the applicability of the Federal Trade Commission Act to any merchant or rental-purchase transaction.

REV_00162341

"SEC. 1019. EFFECT ON GOVERNMENT AGENCIES.

"No civil liability or criminal penalty under this title may be imposed on the United States or any of its departments or agencies, any State or political subdivision, or any agency of a State or political subdivision.

"SEC. 1020. COMPLIANCE DATE.

"Compliance with this title shall not be required until 6 months after the date of the enactment of the Consumer Rental Purchase Agreement Act. In any case, merchants may comply with this title at any time after such date of enactment.".

○

REV_00162342

From: Bumatay, Patrick J.
To: <Kavanaugh, Brett M.>
Sent: 4/4/2003 4:56:33 PM
Subject: FW: AMENDED: LRM PTM29 - - VETERANS AFFAIRS Testimony on Veterans Benefits and Compensation
Attachments: HR241- InH.pdf; HR533- InH.pdf; HR761- InH.doc; HR850- InH.pdf; HR996- InH.pdf; HR1048-InH.pdf; VA- TonBenefits- Draft.doc

-----Original Message-----

From: Messenger, P. Thaddeus

Sent: Friday, April 04, 2003 4:34 PM

To: Messenger, P. Thaddeus

Cc: dodlrs@osdgc.osd.mil; lrm@hhs.gov; ogc_legislation@ed.gov; hud_lrm@hud.gov; justice.lrm@usdoj.gov; dol-sol-leg@dol.gov; state-lrm@state.gov; Cleveland, Robin; Carson, Karyn T.; Peroff, Kathleen; Siclari, Mary Jo; Hustead, Toni S.; Grayton, Arecia A.; Chang, Winifred Y.; Hagen, Kelli A.; Benson, Shalini M.; Ermann, Danny A.; Sastry, Narahari; Bartrum, John J.; Seastrom, Mark R.; Aguilera, Ricardo A.; Waites, Wendell H.; Reilly, Thomas; Cochran, Norris W.; Fontenot, Keith J.; Hinman, Lindy M.; Stack, Kathryn B.; Werfel, Daniel I.; Redburn, Francis S.; Cramer, Reid B; Bloomquist, Lauren E.; Walsh, Maureen; McDonald, Katrina A.; Kitti, Carole; Kulikowski, James M.; Smaligan, Jack A.; Cianci Hoff, Joanne; Criley, Joseph; Little, Attia; Lee, Sarah S.; Suarez, Aquiles F.; Halaska, Terrell L.; Gilbert, Alan; Nsc Lrm; Ostp Lrm; Levinson, Rachel E.; Ovp Lrm; Whgc Lrm; Perry, Philip J.; Wood, John F.; Cox, Christopher C.; Dove, Stephen W.; Lobrano, Lauren C.; Jukes, James J.; Schroeder, Ingrid M.

Subject: AMENDED: LRM PTM29 - - VETERANS AFFAIRS Testimony on Veterans Benefits and Compensation

Apologies, the testimony did not attach on the first copy.

PTM

From: P. Thaddeus Messenger on 04/04/2003 04:28:30 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: LRM PTM29 - - VETERANS AFFAIRS Testimony on Veterans Benefits and Compensation

LRM ID: PTM29

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Friday, April 4, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference

OMB CONTACT: P. Thaddeus Messenger

PHONE: (202)395-7754 FAX: (202)395-6148

SUBJECT: **VETERANS AFFAIRS Testimony on Veterans Benefits and Compensation**

DEADLINE: **5:00 p.m. Monday, April 7, 2003**

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Attached, please find a draft copy of VA (Cooper) testimony for an April 10th hearing before the Benefits Subcommittee of the House Veterans Affairs Committee. For your reference, copies of each bill's text are also included.

<<...>>

VA supports: (1) H.R. 241 - Veterans Beneficiary Fairness Act; (2) H.R. 761 - Disabled Servicemembers Adapted Housing for Members of the Armed Services; and (3) H.R. 1048 - Disabled Veterans Adaptive Benefits Improvement.

VA does not support (1) H.R. 533 - Agent Orange Veterans' Disabled Children's Benefits Act; (2) H.R. 850 - Former Prisoners of War Special Compensation Act; or (3) H.R. 996 - Disabled Veterans' Return-to-Work Act.

<<...>> <<...>> <<...>>

<<...>> <<...>> <<...>>

Please provide your comments by 5:00 p.m. on Monday, April 7th. If we do not receive your comments by that time, we will assume you have no objection to the document as drafted.

If you experience difficulty with this LRM, or its attachment, please contact us immediately.

NOTE: Because of the size of this transmission, the electronic copy will not be followed by a duplicate copy via facsimile.

Thank you.

DISTRIBUTION LIST

AGENCIES:

029-DEFENSE - Vic Bernson - (703) 697-1305
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773
030-EDUCATION - Jack Kristy - (202) 401-8313
054-HOUSING & URBAN DEVELOPMENT - Camille Acevedo - (202) 708-1793
061-JUSTICE - Jamie E. Brown - (202) 514-2141
062-LABOR - Robert A. Shapiro - (202) 693-5500
114-STATE - VACANT - (202) 647-4463

EOP:

NSP LRM
VAB LRM
Ricardo A. Aguilera
Wendell H. Waites
Thomas Reilly
Norris W. Cochran
Keith J. Fontenot
Lindy M. Hinman
Kathryn B. Stack
Daniel I. Werfel
Francis S. Redburn

Reid B Cramer
Lauren E. Bloomquist
Maureen Walsh
Katrina A. McDonald
Carole Kitti
James M. Kulikowski
Jack A. Smalligan
Joanne Cianci Hoff
Joseph Crilley
Attia Little
Sarah S. Lee
Aquiles F. Suarez
Terrell L. Halaska
Alan Gilbert
NSC LRM
OSTP LRM
Rachel E. Levinson
OVP LRM
WHGC LRM
OMBGC LRM
Christopher C. Cox
Stephen W. Dove
Lauren C. Lobrano
James J. Jukes
Ingrid M. Schroeder
P. Thaddeus Messenger**LRM ID:** PTM29 **SUBJECT:** VETERANS AFFAIRS Testimony on Veterans Benefits and Compensation

RESPONSE TO

LEGISLATIVE REFERRAL

MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) faxing us a memo or letter.

Please include the LRM number and subject shown above.

TO: **P. Thaddeus Messenger Phone: 395-7754 Fax: 395-6148**

Office of Management and Budget

FROM: _____ **(Date)**

_____ **(Name)**

_____ **(Agency)**

_____ **(Telephone)**

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Sent To:

dodlrs@osdgc.osd.mil
lrm@hhs.gov
ogc_legislation@ed.gov
HUD_LRM@hud.gov
justice.lrm@usdoj.gov
dol-sol-leg@dol.gov
state-lrm@state.gov

Message Copied To:

Robin Cleveland/OMB/EOP@EOP
Karyn T. Carson/OMB/EOP@EOP
Kathleen Peroff/OMB/EOP@EOP
Mary Jo Siclari/OMB/EOP@EOP
Toni S. Hustead/OMB/EOP@EOP
Arecia A. Grayton/OMB/EOP@EOP
Winifred Y. Chang/OMB/EOP@EOP
Kelli A. Hagen/OMB/EOP@EOP
Shalini M. Benson/OMB/EOP@EOP
Danny A. Ermann/OMB/EOP@EOP
Narahari Sastry/OMB/EOP@EOP
John J. Bartrum/OMB/EOP@EOP
Mark R. Seastrom/OMB/EOP@EOP
Ricardo A. Aguilera/OMB/EOP@EOP
Wendell H. Waites/OMB/EOP@EOP
Thomas Reilly/OMB/EOP@EOP
Norris W. Cochran/OMB/EOP@EOP
Keith J. Fontenot/OMB/EOP@EOP
Lindy M. Hinman/OMB/EOP@EOP
Kathryn B. Stack/OMB/EOP@EOP
Daniel I. Werfel/OMB/EOP@EOP
Francis S. Redburn/OMB/EOP@EOP
Reid B Cramer/OMB/EOP@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
Maureen Walsh/OMB/EOP@EOP
Katrina A. McDonald/OMB/EOP@EOP
Carole Kitti/OMB/EOP@EOP
James M. Kulikowski/OMB/EOP@EOP
Jack A. Smalligan/OMB/EOP@EOP

Joanne Cianci Hoff/OMB/EOP@EOP
Joseph Crilley/OMB/EOP@EOP
Attia Little/OMB/EOP@EOP
Sarah S. Lee/OMB/EOP@EOP
Aquiles F. Suarez/OPD/EOP@EOP
Terrell L. Halaska/OPD/EOP@EOP
Alan Gilbert/OPD/EOP@EOP
NSC LRM
OSTP LRM
Rachel E. Levinson/OSTP/EOP@EOP
OVP LRM
WHGC LRM
Philip J. Perry/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Christopher C. Cox/WHO/EOP@Exchange@EOP
Stephen W. Dove/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Ingrid M. Schroeder/OMB/EOP@EOP
P. Thaddeus Messenger/OMB/EOP@EOP

DRAFT

STATEMENT OF

DANIEL L. COOPER,

UNDER SECRETARY FOR BENEFITS,

BEFORE THE

SUBCOMMITTEE ON BENEFITS,

HOUSE COMMITTEE ON VETERANS' AFFAIRS

APRIL 10, 2003

Mr. Chairman and Members of the Committee, thank you for the opportunity to testify today on several bills of great interest to veterans.

H.R. 241

H.R. 241, the "Veterans Beneficiary Fairness Act of 2003," would eliminate a discrepancy regarding the limitation on the period for which retroactive benefits due and unpaid a claimant may be paid to others after the claimant's death. In the interest of fairness, we support enactment of this bill.

Under 38 U.S.C. § 5121, periodic monetary benefits to which an individual was entitled at death under existing ratings or decisions or based on evidence on

file with the Department of Veterans Affairs (VA) at the time of death are paid upon the death of the individual to specified classes of survivors according to a prescribed order of preference. Prior to a recent court decision, VA had construed section 5121 to limit the payment of any benefits under that section to the retroactive period specified in the statute, regardless of whether the payment was based on an existing rating or decision or on evidence on file at the date of death. The retroactive payment period, originally one year, was extended to two years by Public Law 104-275, the "Veterans' Benefits Improvements Act of 1996."

On December 10, 2002, the United States Court of Appeals for Veterans Claims (CAVC) issued its decision in *Bonny v. Principi*, 16 Vet. App. 504 (2002). In that decision, the court held that 38 U.S.C. § 5121(a) specifies two kinds of benefits: benefits that have been awarded to an individual in existing ratings or decisions but not paid prior to the individual's death, and benefits that could be awarded based on evidence in the file at the time of death. The court held that, in the case of the first type of benefits, the statute requires that an eligible survivor is to receive the entire amount of the award; only the latter type of "accrued" benefits is subject to the two-year limitation in 38 U.S.C. § 5121(a). The court based its interpretation of the statute primarily on the punctuation of section 5121(a).

The CAVC's *Bonny* decision has resulted in differing entitlements under section 5121 based on the status of the deceased's claim at the time of his or her death. H.R. 241 would eliminate this distinction by amending section 5121 to

REV_00162349

eliminate the two-year limitation on payment of retroactive benefits for all classes of beneficiaries under that statute.

The distinction the *Bonny* decision draws between the two categories of claimants—those whose claims had been approved and those whose entitlement had yet to be recognized when they died—is really one without a difference. In either case, a claimant's estate is deprived of the value of benefits for which he or she was, in life, eligible. H.R. 241 would remove this inequitable distinction, and we support its enactment.

We estimate the cost of complying with the *Bonny* decision for fiscal year (FY) 2004 to be $ 1.7 million and $18.2 million for the period FY 2004 through FY 2013. We estimate the incremental cost to implement H.R. 241, that is, the difference between the cost of complying with the court's decision and the cost of enactment of H.R. 241, to be $5.9 million for FY 2004 and $65.8 million for the period FY 2004 through FY 2013.

In addition, we note one technical change needed in H.R. 241 should it be enacted. The comma in current section 5121(a) following "existing ratings or decisions" should be deleted to clarify, for purposes of 38 U.S.C. §§ 5121(b) and (c) and 5122, that the term "accrued benefits" includes both benefits that have been awarded to an individual in existing ratings or decisions but not paid prior to the individual's death, as well as benefits that could be awarded based on evidence in the veteran's file at the time of death.

REV_00162350

H.R. 533

H.R. 533, the "Agent Orange Veterans' Disabled Children's Benefits Act of 2003," would amend chapter 18 of title 38, United States Code, to authorize VA to provide a monetary allowance and other benefits to a person suffering from spina bifida who is natural child, regardless of age or marital status, of a parent who performed "qualifying herbicide-risk service," if the person was conceived after such service. A parent would be considered to have performed "qualifying herbicide-risk service" if, while performing active military, naval, or air service, he or she "served in an area in which a Vietnam-era herbicide agent was used during a period during which such agent was used in that area; or . . . otherwise was exposed to a Vietnam-era herbicide agent." The term "Vietnam-era herbicide agent" would be defined by reference to current 38 U.S.C. § 1116(a)(3). VA does not support this bill.

Congress has repeatedly acted since 1979 to ensure that the Federal Government investigates the health effects of exposure to herbicides containing dioxin and compensates veterans who served in the Republic of Vietnam during the Vietnam era and suffered disability as a result of that exposure. Because of the "concern and apprehension among veterans regarding the health effects of herbicides," Congress mandated an epidemiologic study by VA of the effects of exposure to dioxin in the Veterans Health Programs Extension and Improvement Act of 1979. Congress also required VA to review and scientifically analyze literature relating to possible long-term health effects of human exposure to dioxin. In 1981, Congress authorized VA to provide hospital and nursing home

REV_00162351

care to certain veterans exposed during service to dioxin or ionizing radiation for conditions which, although not shown to have resulted from such exposure, are not found to have resulted from a cause other than such exposure. The Veterans' Dioxin and Radiation Exposure Compensation Standards Act of 1984 directed VA to issue regulations to establish guidelines and, where appropriate, standards and criteria for the resolution of benefit claims based on exposure to herbicides containing dioxin in service in the Republic of Vietnam during the Vietnam era. The act also required VA to make specific findings, either positive or negative, regarding service connection as to three diseases, chloracne, porphyria cutanea tarda, and soft-tissue sarcoma.

In 1991, Congress added section 1116 (formerly section 316) to title 38, United States Code, establishing a presumption of service connection, applicable to veterans who served in the Republic of Vietnam during the Vietnam era, for three diseases. The act also called for VA to contract with the National Academy of Sciences to perform a review and evaluation of the scientific evidence regarding the association between disease and exposure to herbicides used in connection with the Vietnam War and each disease suspected of association with such exposure. Congress amended section 1116 in 1994 and 2001 by adding five conditions to the list of diseases presumed to be service connected in Vietnam veterans.

More recently, Congress has enacted legislation to provide a monetary allowance and other benefits to the children of Vietnam veterans who were born with spina bifida, as well as to children with certain other birth defects who are

REV_00162352

the natural children of women veterans who served in the Republic of Vietnam during the Vietnam era.

Congress' legislative enactments indicate its recognition of the unique circumstances of service in Vietnam—circumstances including the special sacrifices made by veterans of that war, and the great uncertainties regarding exposures of individual veterans to aerially applied herbicides. H.R. 533 would extend benefits Congress bestowed upon the affected children of those veterans to children of veterans who did not serve under those circumstances. In addition, H.R. 533's language is so vague as to be almost impossible to administer. Under that language, an individual would be considered to have performed "qualifying herbicide-risk service" if he or she, while performing active service, "served in an area in which a Vietnam-era herbicide agent was used during a period when such agent was used in that area." The vagueness of the terms "area," "was used," and "during a period when" is sure to generate substantial litigation over what Congress intended by this language.

VA estimates that enactment of H.R. 533 would result in PAYGO costs of $60.8 million in FY 2004 and $760.7 million over the ten-year period FY 2004-2013. In addition, VA estimates administrative costs of $357,000 for FY 2004 and $ 1.73 million for the ten-year period FY 2004-2013.

H.R. 761

Mr. Chairman, you also requested our comments on two proposals that would affect the Specially Adapted Housing program authorized by chapter 21 of

REV_00162353

title 38, United States Code. Under current law, veterans who are entitled to compensation for certain permanent and total service-connected disabilities described in section 2101 of title 38 are eligible for a grant to adapt their homes with features made necessary by the nature of their disabilities.

The first proposal, Mr. Chairman, is H.R. 761, the "Disabled Servicemembers Adapted Housing Assistance Act of 2003," which would permit VA to provide Specially Adapted Housing assistance to disabled members of the Armed Forces who remain on active duty pending medical separation. VA favors enactment of H.R. 761.

This bill would permit members of the Armed Forces with the service-connected disabilities described in section 2101 to apply for Specially Adapted Housing benefits and permit VA to process their applications and award benefits without having to wait for the servicemembers to be released from active duty. H.R. 761 could provide some affected veterans the opportunity to move into an adapted home as soon as they are separated from active duty, or at least much sooner than is possible under current law. With this accelerated determination of eligibility and assistance, veterans could avoid continued institutional care, thus improving their quality of life and increasing their independence. This could also reduce the cost to VA of in-patient healthcare for some affected veterans.

Because Specially Adapted Housing grants are a one-time-only benefit, the enactment of this measure should not materially increase either the total number of grants provided under this program or the dollar amount of such

REV_00162354

grants. Rather, H.R. 761 would merely accelerate the payment of this benefit to certain individuals who, under current law, would become entitled to the same benefit upon their release from active duty. Accordingly, VA estimates that the enactment of H.R. 761 would produce insignificant costs or savings.

H.R. 1048

Specially Adapted Housing

The other Specially Adapted Housing proposal is contained in section 2 of H.R. 1048, the "Disabled Veterans Adaptive Benefits Improvement Act of 2003." This section would increase the maximum Specially Adapted Housing grants. VA favors such increases, provided offsetting savings may be found.

Under H.R. 1048, the maximum Specially Adapted Housing grant authorized by section 2101(a) would be increased from $48,000 to $50,000. In addition, the maximum Special Housing Adaptations grant authorized by section 2101(b) would be increased from $9,250 to $10,000. These grants were last increased by Public Law 107-103, enacted December 27, 2001. Increases in the cost of construction since then justify increasing these important benefits.

VA estimates that approximately 600 veterans per year will receive specially adapted housing assistance, of which about 92.5 percent will qualify for the grant authorized by section 2101(a). VA estimates the cost of enacting section 2 of H.R. 1048 would be $1.14 million per year, with a total 10-year cost of $11.4 million.

REV_00162355

Assistance for Automobile and Adaptive Equipment

Section 3 of H.R. 1048 would increase from $9,000 to $11,000 the maximum amount that VA may pay under 38 U.S.C. § 3902(a) to provide or assist in providing an automobile or other conveyance to eligible persons. VA supports enactment of this provision.

The maximum automobile allowance was last increased to the current $9,000 by Public Law 107-103 in 2001. An increase since then in the cost of obtaining automobiles and in the cost of adapting them justifies increasing this benefit so as to preserve its value to deserving veterans.

VA estimates the total benefits cost of both provisions of H.R. 1048 would be $3.3 million for FY 2004 and $33.3 million for the ten-year period FY 2004-2013.

H.R. 850

Special Compensation for Former Prisoners of War

Section 2 of H.R. 850, the "Former Prisoners of War Compensation Act of 2003," would add a new subchapter at the end of chapter 11 of title 38, United States Code, to authorize special compensation for former prisoners of war (POWs). This special compensation would be separate from any service-connected disability compensation or pension to which a former POW may be entitled and is exempted from attachment, execution, or levy in the same manner as special pension paid to recipients of the Medal of Honor pursuant to 38 U.S.C. § 1562(c). The bill would direct the Secretary of Veterans Affairs to pay monthly

REV_00162356

to each former POW, including active duty personnel, special compensation at a rate of payment determined by the cumulative length of confinement or internment as a POW. Thirty days would be the minimum period of confinement for which a former POW would be eligible to receive special compensation. The bill would establish three rates of special compensation based on the length of the period of the former POW's detainment or interment, as follows:

Length of Former POW's Detainment or Interment	Special Compensation Monthly Rate
30-120 days	$150
121-540 days	$300
541 days or more	$450

In the past, former POWs have been entitled to receive a modest lump-sum cash payment, based on their length of internment. Pursuant to the War Claims Act of 1948, codified as amended at 50 U.S.C. Appx. § 2005 (2001), and subsequent amendments, former POWs were entitled to receive a lump sum payment of up to $2.50 per day for World War II veterans, $2.50 per day for Korea veterans, and $5.00 per day for Vietnam veterans.[1] Compensation for former POWs is otherwise limited to the service-connected disability compensation administered by VA pursuant to title 38, United States Code.

[1] Pursuant to 50 U.S.C. Appx. § 2005, WW II veterans were eligible to receive up to $1 for each day held as a POW on which they did not have adequate food rations (subsection (b)) and $1.50 for each day of forced labor or inhumane treatment (subsection (d)); Korea veterans were eligible to receive up to $1 for each day held as a POW on which they did not have adequate food rations (subsection (e)(2)) and $1.50 for each day of forced labor or inhumane treatment (subsection (e)(3)); Vietnam veterans were eligible to receive up to $2 for each day held as a POW on which they did not have adequate food rations (subsection (f)(2)) and $3.00 for each day of forced labor or inhumane treatment (subsection (f)(3)).

REV_00162357

We estimate that approximately 39,029 former POWs are still living. Of that population, 13,631 (34.9%) receive disability compensation, with over half of those rated at 50% disabling or less. The typical former POW is 81 years old, and 88% of all living former POWs were interned during World War II. The following table summarizes basic demographic data for former POWs:

	WWII Europe	WWII Pacific	Korea	Vietnam	Gulf War	Total for All Wars
Number Alive on 1/1/03	29,675	4,477	2,264	595	21	39,029[2]
Average Age[3]	80	84	72	64	39	81
Average Length of Captivity[4]	11.5 mos.	39 mos.	24 mos.	56 mos.	1 mo.	16.5 mos.

We estimate that benefit-costs for the POW portion of the bill would be $139.6 million for FY 2004 and $1.1 billion for FY 2004 through FY 2013. We estimate administrative costs to be an additional one-time cost of $632 thousand in the first year. These amounts are not included in the President's FY 2004 budget request, and the Department cannot support this provision's enactment.

Prohibition Against Compensation for Substance-Abuse Disabilities

Section 3(a) of H.R. 850 would amend 38 U.S.C. §§ 1110 and 1131 to clarify that the prohibition on payment of compensation for a disability that is a

[2] This total includes an additional 1,997 former POWs of World War II who are not categorized under either WWII Europe or WWII Pacific.

[3] Charles A. Stenger, American Prisoners of War . . . Statistical Data Concerning Numbers Captured, Repatriated and Still Alive, January 1, 2003.

[4] Derived from the Department of Defense POW Database, 1984 (except Gulf War).

REV_00162358

result of the veteran's own abuse of alcohol or drugs applies even if the abuse is secondary to a service-connected disability. Section 3(b) would make that amendment applicable to claims filed on or after the date of enactment and to claims filed prior to, but not finally decided as of that date. We strongly support this provision, which is also proposed in the President's budget.

Sections 1110 and 1131 of title 38, United States Code, authorize the payment of compensation for disability resulting from injury or disease incurred or aggravated in line of duty in active service, during a period of war or during other than a period of war, respectively. Sections 1110 and 1131 also currently provide, "but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs." Before their amendment in 1990, the provisions currently codified in sections 1110 and 1131 prohibited compensation "if the disability is the result of the veteran's own willful misconduct." In 1990, they were amended to also prohibit compensation if the disability is a result of the veteran's own alcohol or drug abuse.

VA had long interpreted those provisions to authorize compensation not only for disability immediately resulting from injury or disease incurred or aggravated in service, but also for disability more remotely resulting from such injury or disease. That interpretation is embodied in 38 C.F.R. § 3.310(a), which provides that, generally, disability which is proximately due to or the result of a service-connected disease or injury shall be service connected. Thus, VA does pay, in specific cases, compensation for primary service-connected disability and for secondary service-connected disability. However, consistent with the plain

REV_00162359

meaning of sections 1110 and 1131, if a disability, whether primary or secondary, is a result of the veteran's own alcohol or drug abuse, VA did not pay compensation.

This has changed. On February 2, 2001, a three-judge panel of the United States Court of Appeals for the Federal Circuit interpreted section 1110 as allowing compensation for an alcohol or drug-abuse-related disability arising secondarily from a service-connected disability. *Allen v. Principi*, 237 F.3d 1368, 1370 (Fed. Cir. 2001). More specifically, the panel held that section 1110 "does not preclude compensation for an alcohol or drug abuse disability secondary to a service-connected disability or use of an alcohol or drug abuse disability as evidence of the increased severity of a service-connected disability." *Id.* at 1381. The Government filed a petition for rehearing and rehearing en banc, which the panel and full court denied on October 16, 2001. *Allen v. Principi*, 268 F.3d 1340, 1341 (Fed. Cir. 2001). However, five of the eleven judges who considered the petition for rehearing en banc dissented from the order denying rehearing, opining that the court's interpretation is wrong. 268 F.3d at 1341-42.

We are concerned that payment of additional compensation based on the abuse of alcohol or drugs is contrary to congressional intent and is not in veterans' best interests because it removes an incentive to refrain from debilitating and self-destructive behavior.

The Federal Circuit's interpretation in *Allen* could also greatly increase the amount of compensation VA pays for service-connected disabilities. Under the

REV_00162360

court's interpretation, any veteran with a service-connected disability who abuses alcohol or drugs is potentially eligible for an increased amount of compensation if he or she can offer evidence that the substance abuse is a result of a service-connected disability, *i.e.*, that the substance abuse is a way of coping with the pain or loss the disability causes. Under this interpretation, alcohol or drug abuse disabilities that are secondary to either physical or mental disorders are compensable.

The potential for increased costs is illustrated by mental disorders, which are frequently associated with alcohol and drug abuse. Almost 421,000 veterans are currently receiving compensation for a service-connected mental disability. About 324,000 of those disabilities are currently rated less than 100 percent and could potentially be rated totally disabling on the basis of secondary alcohol or drug abuse. Even if the service connection of disability from alcohol or drug abuse does not result in an increased schedular evaluation, temporary total evaluations could be assigned whenever a veteran is hospitalized for more than twenty-one days for treatment or observation related to the abuse. Even the 97,000 cases of a service-connected mental disability evaluated at 100 percent disabling have potential for increased compensation for secondary alcohol or drug abuse if the statutory criteria for special monthly compensation are met.

The potential increase in compensation does not end there. Under the Federal Circuit's interpretation, VA is required to pay compensation for the secondary effects of the abuse of alcohol or drugs. Once alcohol or drug abuse is service connected as being secondary to another service-connected disability,

REV_00162361

then service connection can be established for any disability that is a result of the service-connected abuse of alcohol or drugs. If alcohol or drug abuse results in a disease, such as cirrhosis of the liver, then that disease would also be service connected and provide a basis for compensation under the court's interpretation.

Of course, an increase in the amount of compensation VA pays for service-connected disabilities will increase the benefit cost of the compensation program. Section 3 of H.R. 850 would avoid those increased costs. Our estimate of savings that would result from enactment of this provision is based on the payment of only basic compensation for alcohol or drug abuse disabilities secondary to service-connected disabilities. We estimate that this provision would result in benefit cost savings of $127 million and administrative cost savings of $44 million in FY 2004 and benefit cost savings of $4.6 billion and administrative cost savings of $97 million for the ten-year period FY 2004 through FY 2013. This amount does not include the savings that would be associated with payment of compensation for temporary total evaluations, special monthly compensation, or compensation for the secondary effects of alcohol or drug abuse.

Dental Care for Former Prisoners of War

Section 4 of H.R. 850 would require VA to provide outpatient dental services and treatment, and related dental appliances, for any non-service-connected dental condition or disability from which a veteran who is a former POW is suffering. Currently, a veteran who is a former POW may receive dental

REV_00162362

benefits for non-service-connected dental conditions or disabilities only if the veteran was incarcerated for 90 days or more. By eliminating the 90-day requirement, section 4 would authorize VA to treat all former POWs the same, regardless of their length of captivity, with respect to dental care for a non-service-connected condition or disability. It would also make the eligibility rules for dental benefits for former POWs the same as for other health-care services for former POWs.

VA has strongly supported similar provisions in the past, and we continue our strong support for this provision. We believe this amendment is needed to ensure that former POWs receive all needed care for conditions that may be attributable to the privations of their service.

Costs resulting from enactment of this provision would be insignificant.

H.R. 966

Mr. Chairman, H.R. 966, the "Disabled Veterans' Return-to-Work Act of 2003," would amend provisions of 38 U.S.C. § 1524 to reinstate a program of vocational training for certain pension recipients that was in place between February 1, 1985, and December 31, 1995. That temporary program, established pursuant to the Veterans' Benefits Improvement Act of 1984, Pub. L. No. 98-543, required the Secretary of Veterans Affairs to determine whether the achievement of a vocational goal was reasonably feasible in the case of certain veterans awarded pension during the program period. If the achievement of such a goal was found to be feasible, these veterans were offered the opportunity to

REV_00162363

pursue programs of vocational training consisting of vocationally oriented and other services and assistance of the same kind provided under the vocational rehabilitation program authorized under chapter 31 of title 38, United States Code. These services and assistance did not include subsistence allowances, loans, or automobile adaptive equipment. Once a program of training was completed, a veteran could also receive employment assistance. The law limited the number of evaluations to be performed to not more than 3,500 veterans during any 12-month period. The initial program period ran from February 1, 1985, to January 31, 1992.

Initially, the law required that a veteran under the age of 50 who was awarded pension during the program period be evaluated with respect to his or her potential for rehabilitation. It required that the evaluation include a personal interview by a VA employee trained in vocational counseling. If the veteran refused to participate in the evaluation, his or her pension was suspended until he or she participated in an evaluation. Subsequent participation in the vocational training itself was voluntary. For a veteran pension recipient 50 years of age or older, the program of vocational training was totally voluntary. If, upon application by such a veteran-pensioner, VA made a preliminary finding on the basis of information in the application that, with the assistance of a vocational training program, the veteran had good potential for achieving employment, VA was authorized, upon the veteran's request, to evaluate the veteran to further determine whether the achievement of a vocational goal was reasonably feasible.

In 1992, Public Law 102-562 eliminated the limitation on the number of

REV_00162364

program participants who may be evaluated annually and amended the program for veterans under age 45, rather than under age 50, who were awarded pension during the program period so as to (A) require the Secretary, based on information on file with VA, to make a preliminary finding whether the veteran, with the assistance of a VA vocational training program, had a good potential for achieving employment; (B) if that potential was found to exist, required the Secretary to solicit from the veteran an application for VA vocational training; and (C) if the veteran applied for training, required the Secretary to provide an evaluation to determine whether the achievement of a vocational goal was reasonably feasible. In addition, the program was opened to veterans age 45 and older who had been awarded pension before the program period. That Public Law also extended the program ending date until December 31, 1995. No further action was taken by Congress, and by operation of law, the program ended on December 31, 1995.

During the period February 1, 1985, through January 31, 1989, VA evaluated approximately 9,468 veterans under the program. Of these, 2,838 were found to be feasible for training. Some 468 veterans participated in programs of vocational training. Sixty-five veterans completed that training. Fifty-eight obtained employment. Between fiscal year 1989 and fiscal year 1992, VA conducted 9,140 evaluations under the program, with 937 veterans participating in training.

H.R. 966 would reinstate the program and provide that a new program period would run for five years beginning on the date of enactment of the Act. In

REV_00162365

addition, it would require the Secretary to ensure that the availability of vocational training under section 1524 be made known through a variety of means, including the Internet and announcements in VA publications and other veterans' publications. Finally, the bill would require the Secretary, within two years after the date of enactment of the Act, to report to the Committees on Veterans' Affairs of the Senate and House on the operation of the program to include an evaluation of the vocational training provided and an analysis of the cost-effectiveness of the training provided, as well as data on the entered-employment rate of veterans pursuing such training.

If H.R. 966 were to be enacted, we estimate that VA would conduct approximately 1,300 record reviews each year, based on new accessions to the pension rolls, to determine whether each veteran so evaluated has good potential for achieving employment. We estimate that the achievement of a vocational goal will be determined to be feasible in about 1/3 (433) of those cases. Of that number, it is estimated that approximately 1/3 of these, 144 veterans, will actually end up participating in the program. In addition, because the program is also available to veterans over age 45 on a voluntary basis, we estimate that an additional 25 participants may participate, for a total of 169 cases per year. Based on those numbers, VA estimates that the enactment of H.R. 966 would cost $3 million for fiscal years 2004 through 2008 and an additional $3.6 million for fiscal years 2009 though 2013, totaling $6.6 million. Administrative costs associated with this bill are expected to be insignificant.

Mr. Chairman, given our experience in administering the temporary

REV_00162366

program during its ten-year duration, and the fact that only a small number of veterans benefited from the program, VA believes that the finite resources available to us for program administration would be best used to support our current program of vocational rehabilitation for service-disabled veterans, as authorized under chapter 31 of title 38, United States Code, especially in light of the current combat activities in Iraq. Thus, the Department does not support the enactment of H.R. 966.

Mr. Chairman, this concludes my statement. I will be pleased to respond to any questions you or the members of the Subcommittee may have.

REV_00162367

I

108TH CONGRESS
1ST SESSION

H. R. 241

To amend title 38, United States Code, to repeal the two-year limitation on the payment of accrued benefits that are due and unpaid by the Secretary of Veterans Affairs upon the death of a veteran or other beneficiary under laws administered by the Secretary.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 8, 2003

Mr. SMITH of New Jersey (for himself and Mr. EVANS) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to repeal the two-year limitation on the payment of accrued benefits that are due and unpaid by the Secretary of Veterans Affairs upon the death of a veteran or other beneficiary under laws administered by the Secretary.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Beneficiary Fairness Act of 2003".

REV_00162368

SEC. 2. PAYMENT OF ACCRUED BENEFITS.

(a) REPEAL OF LIMITATION ON PAYMENT.—Subsection (a) of section 5121 of title 38, United States Code, is amended by striking ''for a period not to exceed two years'' in the matter preceding paragraph (1).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to deaths occurring on or after the date of the enactment of this Act.

○

REV_00162369

108TH CONGRESS

1ST SESSION

H. R. 761

To amend title 38, United States Code, to authorize the Secretary of Veterans' Affairs to provide adapted housing assistance to disabled members of the Armed Forces who remain on active duty pending medical separation.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2003

Mr. EVANS (for himself, Mr. SMITH of New Jersey, Mr. RODRIGUEZ, Mr. FILNER, Mr. RENZI, Ms. CORRINE BROWN of Florida, Mr. REYES, Mr. MICHAUD, Ms. JACKSON-LEE of Texas, Mr. LANGEVIN, and Mr. SANDERS) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to authorize the Secretary of Veterans' Affairs to provide adapted housing assistance to disabled members of the Armed Forces who remain on active duty pending medical separation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Disabled Servicemembers Adapted Housing Assistance Act of 2003".

REV_00162370

SEC. 2. AUTHORIZATION TO PROVIDE ADAPTED HOUSING ASSISTANCE TO CERTAIN DISABLED MEMBERS OF THE ARMED FORCES WHO REMAIN ON ACTIVE DUTY.

Section 2101 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) The Secretary may provide assistance under subsection (a) to a member of the Armed Forces serving on active duty who is suffering from a disability described in paragraph (1), (2), or (3) of that subsection if such disability is the result of an injury incurred or disease contracted in or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under that subsection to veterans eligible for assistance under that subsection and subject to the requirements of the second sentence of that subsection.

"(2) The Secretary may provide assistance under subsection (b) to a member of the Armed Forces serving on active duty who is suffering from a disability described in subparagraph (A) or (B) of paragraph (1) of that subsection if such disability is the result of an injury incurred or disease contracted in or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under such subsection to veterans eligible for assistance under that subsection and subject to the requirements of paragraph (2) of that subsection.".

REV_00162371

I

108TH CONGRESS
1ST SESSION

H. R. 1048

To amend title 38, United States Code, to increase the amount of assistance for certain disabled veterans for specially adapted housing and automobile and adaptive equipment.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 2003

Mr. BROWN of South Carolina (for himself, Mr. RODRIGUEZ, Mr. SMITH of New Jersey, and Mr. EVANS) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to increase the amount of assistance for certain disabled veterans for specially adapted housing and automobile and adaptive equipment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Disabled Veterans Adaptive Benefits Improvement Act of 2003".

REV_00162372

SEC. 2. INCREASE IN ASSISTANCE AMOUNT FOR SPECIALLY ADAPTED HOUSING.

Section 2102 of title 38, United States Code, is amended—

(1) in the matter preceding paragraph (1) of subsection (a), by striking "$48,000" and inserting "$50,000"; and

(2) in subsection (b)(2), by striking "$9,250" and inserting "$10,000".

SEC. 3. INCREASE IN AMOUNT OF ASSISTANCE FOR AUTOMOBILE AND ADAPTIVE EQUIPMENT FOR CERTAIN DISABLED VETERANS.

Section 3902(a) of title 38, United States Code, is amended by striking "$9,000" and inserting "$11,000".

○

REV_00162373

I

108TH CONGRESS
1ST SESSION

H. R. 533

To amend title 38, United States Code, to provide for health benefits and certain other benefits to be furnished by the Department of Veterans Affairs to any individual who has spina bifida and is the natural child of a veteran who, while in military service, was exposed to a herbicide agent.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 2003

Mr. EVANS (for himself, Mr. RODRIGUEZ, Mr. FILNER, Mr. GUTIERREZ, Ms. CORRINE BROWN of Florida, Mr. SNYDER, Mr. MCINTYRE, Mr. SANDERS, Mr. SERRANO, and Mr. WAXMAN) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to provide for health benefits and certain other benefits to be furnished by the Department of Veterans Affairs to any individual who has spina bifida and is the natural child of a veteran who, while in military service, was exposed to a herbicide agent.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Agent Orange Veterans' Disabled Children's Benefits Act of 2003".

REV_00162374

SEC. 2. EXTENSION OF SPINA BIFIDA BENEFITS FOR CHILDREN OF VETERANS.

(a) ELIGIBLE CHILDREN.—Subchapter I of chapter 18 of title 38, United States Code, is amended by inserting before section 1802 the following new section:

"§ 1801. Persons eligible for benefits

"(a) ELIGIBLE CHILD.—An individual is an eligible child for purposes of this subchapter if the individual is suffering from spina bifida and is—

"(1) a child as defined in section 1821(1) of this title; or

"(2) the natural child, regardless of age or marital status, of a parent who performed qualifying herbicide-risk service, if the individual was conceived after the parent performed such service.

"(b) QUALIFYING HERBICIDE-RISK SERVICE.—(1) An individual performed qualifying herbicide-risk service if (as determined by the Secretary) the individual, while performing active military, naval, or air service (without regard to the characterization of that individual's service)—

"(A) served in an area in which a Vietnam-era herbicide agent was used during a period during which such agent was used in that area; or

"(B) otherwise was exposed to a Vietnam-era herbicide agent.

REV_00162375

"(2) For purposes of paragraph (1), the term 'Vietnam-era herbicide agent' has the meaning given the term 'herbicide agent' in section 1116(a)(3) of this title.".

(b) HEALTH CARE.—Section 1803(a) of such title is amended by striking "a child of a Vietnam veteran who is suffering from spina bifida" and inserting "an eligible child".

(c) VOCATIONAL TRAINING AND REHABILITATION.—Section 1804(a) of such title is amended by striking "a child of a Vietnam veteran who is suffering from spina bifida" and inserting "an eligible child".

(d) MONETARY ALLOWANCE.—Section 1805(a) of such title is amended by striking "any child of a Vietnam veteran" and inserting "any eligible child".

(e) CONFORMING AMENDMENTS.—

(1) The heading of chapter 18 of such title is amended to read as follows:

"CHAPTER 18—DISABILITY BENEFITS FOR CHILDREN OF VIETNAM VETERANS AND OTHER VETERANS EXPOSED TO HERBICIDE AGENTS".

(2) The heading of subchapter I of such chapter is amended to read as follows:

REV_00162376

"SUBCHAPTER I—CHILDREN BORN WITH SPINA BIFIDA".

(3) The table of sections at the beginning of such chapter is amended—

(A) by striking the item relating to subchapter I and inserting the following:

"SUBCHAPTER I—CHILDREN BORN WITH SPINA BIFIDA";

and

(B) by inserting before the item relating to section 1802 the following new item:

"1801. Persons eligible for benefits.".

(4) The items relating to chapter 18 in the tables of chapters at the beginning of title 38, United States Code, and at the beginning of part II of such title, are amended to read as follows:

"18. Disability Benefits for Children of Vietnam Veterans and Other Veterans Exposed to Herbicide Agents ..... 1801".

○

REV_00162377

I

108TH CONGRESS
1ST SESSION

H. R. 850

To amend title 38, United States Code, to provide special compensation for former prisoners of war, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2003

Mr. SIMPSON (for himself, Mr. COX, Mr. BOEHNER, Mr. DREIER, Mr. HYDE, Mr. KOLBE, Mr. LEACH, Mr. OTTER, Mr. SENSENBRENNER, and Mr. WILSON of South Carolina) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to provide special compensation for former prisoners of war, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Former Prisoners of War Special Compensation Act of 2003".

REV_00162378

SEC. 2. SPECIAL COMPENSATION FOR FORMER PRISONERS OF WAR.

(a) IN GENERAL.—Chapter 11 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER VII—FORMER PRISONERS OF WAR

"§ 1181. Special compensation: former prisoners of war

"(a)(1) The Secretary shall pay monthly to each veteran who is a former prisoner of war and who while a prisoner of war was detained or interned for not less than 30 days special compensation at the rate specified in subsection (b).

"(2) For the purposes of this section, the term 'veteran' includes an individual serving on active duty.

"(b) The rate of special compensation for purposes of this section shall be as follows:

"(1) If the former prisoner of war was detained or interned for a period of not more than 120 days, the monthly amount of special compensation payable shall be $150.

"(2) If the former prisoner of war was detained or interned for a period of more than 120 days and not more than 540 days, the monthly amount of special compensation payable shall be $300.

REV_00162379

"(3) If the former prisoner of war was detained or interned for a period of more than 540 days, the monthly amount of special compensation payable shall be $450.

"(c) If a former prisoner of war was detained or interned on two or more separate occasions, the cumulative length of all occasions of confinement or internment as a prisoner of war shall determine the monthly compensation rate payable under subsection (b).

"§ 1182. Provisions relating to special compensation for former prisoners of war

"(a) Special compensation payable under this subchapter shall be paid in addition to any other payment under the laws of the United States. Amounts paid to an individual under this subchapter shall not be considered to be income or resources for purposes of determining eligibility to receive benefits under any Federal or federally assisted program.

"(b) Special compensation payable under this subchapter shall not be considered to be compensation within the meaning of that term in section 101(13) of this title.

"(c) The provisions of subsection (c) of section 1562 of this title shall apply to special compensation under this subchapter in the same manner as to special pension under that section.".

REV_00162380

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"SUBCHAPTER VII—FORMER PRISONERS OF WAR

"1181. Special compensation: former prisoners of war.
"1182. Provisions relating to special compensation for former prisoners of war.".

SEC. 3. CLARIFICATION OF PROHIBITION ON PAYMENT OF COMPENSATION FOR ALCOHOL OR DRUG-RELATED DISABILITY.

(a) CLARIFICATION.—Sections 1110 and 1131 of title 38, United States Code, are each amended by inserting ", even if the abuse is secondary to a service-connected disability" before the period at the end.

(a) APPLICABILITY.—The amendments made by subsection (a) apply to any claim—

(1) filed on or after the date of the enactment of this Act; or

(2) filed before the date of the enactment of this Act and not finally decided as of that date.

SEC. 4. OUTPATIENT DENTAL CARE FOR ALL FORMER PRISONERS OF WAR.

Section 1712(a)(1)(F) of title 38, United States Code, is amended by striking "and who was detained or interned for a period of not less than 90 days".

○

REV_00162381

108TH CONGRESS
1ST SESSION

H. R. 996

To amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2003

Mr. JONES of North Carolina (for himself, Mr. ROSS, and Ms. HOOLEY of Oregon) introduced the following bill; which was referred to the Committee on Financial Services

---

A BILL

To amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Consumer Rental Purchase Agreement Act".

REV_00162382

SEC. 2. FINDINGS AND DECLARATION OF PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) The rental-purchase industry provides a service that meets and satisfies the demands of many consumers.

(2) Each year, approximately 2,300,000 United States households enter into rental-purchase transactions and over a 5-year period approximately 4,900,000 United States households will do so.

(3) Competition among the various firms engaged in the extension of rental-purchase transactions would be strengthened by informed use of rental-purchase transactions.

(4) The informed use of rental-purchase transactions results from an awareness of the cost thereof by consumers.

(b) PURPOSE.—The purpose of this title is to assure the availability of rental-purchase transactions and to assure simple, meaningful, and consistent disclosure of rental-purchase terms so that consumers will be able to more readily compare the available rental-purchase terms and avoid uninformed use of rental-purchase transactions, and to protect consumers against unfair rental-purchase practices.

REV_00162383

SEC. 3. CONSUMER CREDIT PROTECTION ACT.

The Consumer Credit Protection Act is amended by adding at the end the following new title:

"TITLE X—RENTAL-PURCHASE TRANSACTIONS

"Sec. 1001. Definitions.
"Sec. 1002. Exempted transactions.
"Sec. 1003. General disclosure requirements.
"Sec. 1004. Rental-purchase disclosures.
"Sec. 1005. Other agreement provisions.
"Sec. 1006. Right to acquire ownership.
"Sec. 1007. Prohibited provisions.
"Sec. 1008. Statement of accounts.
"Sec. 1009. Renegotiations and extensions.
"Sec. 1010. Point-of-rental disclosures.
"Sec. 1011. Rental-purchase advertising.
"Sec. 1012. Civil liability.
"Sec. 1013. Additional grounds for civil liability.
"Sec. 1014. Liability of assignees.
"Sec. 1015. Regulations.
"Sec. 1016. Enforcement.
"Sec. 1017. Criminal liability for willful and knowing violation.
"Sec. 1018. Relation to other laws.
"Sec. 1019. Effect on government agencies.
"Sec. 1020. Compliance date.

"SEC. 1001. DEFINITIONS.

"For purposes of this title, the following definitions shall apply:

"(1) ADVERTISEMENT.—The term 'advertisement' means a commercial message in any medium that promotes, directly or indirectly, a rental-purchase agreement but does not include price tags, window signs, or other in-store merchandising aids.

"(2) AGRICULTURAL PURPOSE.—The term 'agricultural purpose' includes—

REV_00162384

"(A) the production, harvest, exhibition, marketing, transformation, processing, or manufacture of agricultural products by a natural person who cultivates plants or propagates or nurtures agricultural products; and

"(B) the acquisition of farmlands, real property with a farm residence, or personal property and services used primarily in farming.

"(3) BOARD.—The term 'Board' means the Board of Governors of the Federal Reserve System.

"(4) CASH PRICE.—The term 'cash price' means the price at which a merchant, in the ordinary course of business, offers to sell for cash the property that is the subject of the rental-purchase transaction.

"(5) CONSUMER.—The term 'consumer' means a natural person who is offered or enters into a rental-purchase agreement.

"(6) DATE OF CONSUMMATION.—The term 'date of consummation' means the date on which a consumer becomes contractually obligated under a rental-purchase agreement.

"(7) INITIAL PAYMENT.—The term 'initial payment' means the amount to be paid before or at the

REV_00162385

consummation of the agreement or the delivery of the property if delivery occurs after consummation, including the rental payment; service, processing, or administrative charges; delivery fee; refundable security deposit; taxes; mandatory fees or charges; and any optional fees or charges agreed to by the consumer.

"(8) MERCHANT.—The term 'merchant' means a person who provides the use of property through a rental-purchase agreement in the ordinary course of business and to whom a consumer's initial payment under the agreement is payable.

"(9) PAYMENT SCHEDULE.—The term 'payment schedule' means the amount and timing of the periodic payments and the total number of all periodic payments that the consumer will make if the consumer acquires ownership of the property by making all periodic payments.

"(10) PERIODIC PAYMENT.—The term 'periodic payment' means the total payment a consumer will make for a specific rental period after the initial payment, including the rental payment, taxes, mandatory fees or charges, and any optional fees or charges agreed to by the consumer.

REV_00162386

"(11) PROPERTY.—The term 'property' means property that is not real property under the laws of the State where the property is located when it is made available under a rental-purchase agreement.

"(12) RENTAL PAYMENT.—The term 'rental payment' means rent required to be paid by a consumer for the possession and use of property for a specific rental period, but does not include taxes or any fees or charges.

"(13) RENTAL PERIOD.—The term 'rental period' means a week, month, or other specific period of time, during which the consumer has a right to possess and use property that is the subject of a rental-purchase agreement after paying the rental payment and any applicable taxes for such period.

"(14) RENTAL-PURCHASE AGREEMENT.—

"(A) IN GENERAL.—The term 'rental-purchase agreement' means a contract in the form of a bailment or lease for the use of property by a consumer for an initial period of 4 months or less, that is renewable with each payment by the consumer, and that permits but does not obligate the consumer to become the owner of the property.

REV_00162387

"(B) EXCLUSIONS.—The term 'rental-purchase agreement' does not include—

"(i) a credit sale (as defined in section 103(g) of the Truth in Lending Act);

"(ii) a consumer lease (as defined in section 181(1) of such Act); or

"(iii) a transaction giving rise to a debt incurred in connection with the business of lending money or a thing of value.

"(15) RENTAL-PURCHASE COST.—

"(A) IN GENERAL.—For purposes of sections 1010 and 1011, the term 'rental-purchase cost' means the sum of all rental payments and mandatory fees or charges imposed by the merchant as a condition of entering into a rental-purchase agreement or acquiring ownership of property under a rental-purchase agreement, such as the following:

"(i) Service, processing, or administrative charge.

"(ii) Fee for an investigation or credit report.

"(iii) Charge for delivery required by the merchant.

REV_00162388

"(B) EXCLUDED ITEMS.—The following fees or charges shall not be taken into account in determining the rental-purchase cost with respect to a rental-purchase transaction:

"(i) Fees and charges prescribed by law, which actually are or will be paid to public officials or government entities, such as sales tax.

"(ii) Fees and charges for optional products and services offered in connection with a rental-purchase agreement.

"(16) STATE.—The term 'State' means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

"(17) TOTAL COST.—The term 'total cost' means the sum of the initial payment and all periodic payments in the payment schedule to be paid by the consumer to acquire ownership of the property that is the subject of the rental-purchase agreement.

"SEC. 1002. EXEMPTED TRANSACTIONS.

"This title shall not apply to rental-purchase agreements primarily for business, commercial, or agricultural

REV_00162389

purposes, or those made with Government agencies or instrumentalities.

"SEC. 1003. GENERAL DISCLOSURE REQUIREMENTS.

"(a) RECIPIENT OF DISCLOSURE.—A merchant shall disclose to any person who will be a signatory to a rental-purchase agreement the information required by sections 1004 and 1005.

"(b) TIMING OF DISCLOSURE.—The disclosures required under sections 1004 and 1005 shall be made before the consummation of the rental-purchase agreement and clearly and conspicuously in writing as part of the rental-purchase agreement to be signed by the consumer.

"(c) CLEARLY AND CONSPICUOUSLY.—As used in this section, the term 'clearly and conspicuously' means that information required to be disclosed to the consumer shall be worded plainly and simply, and appear in a type size, prominence, and location as to be readily noticeable, readable, and comprehensible to an ordinary consumer.

"SEC. 1004. RENTAL-PURCHASE DISCLOSURES.

"(a) IN GENERAL.—For each rental-purchase agreement, the merchant shall disclose to the consumer the following, to the extent applicable:

"(1) The date of the consummation of the rental-purchase transaction and the identities of the merchant and the consumer.

REV_00162390

"(2) A brief description of the rental property, which shall be sufficient to identify the property to the consumer, including an identification or serial number, if applicable, and a statement indicating whether the property is new or used.

"(3) A description of any fee, charge or penalty, in addition to the periodic payment, that the consumer may be required to pay under the agreement, which shall be separately identified by type and amount.

"(4) A clear and conspicuous statement that the transaction is a rental-purchase agreement and that the consumer will not obtain ownership of the property until the consumer has paid the total dollar amount necessary to acquire ownership.

"(5) The amount of any initial payment, which includes the first periodic payment, and the total amount of any fees, taxes, or other charges, required to be paid by the consumer.

"(6) The amount of the cash price of the property that is the subject of the rental-purchase agreement, and, if the agreement involves the rental of 2 or more items as a set (as may be defined by the Board in regulation) a statement of the aggregate cash price of all items shall satisfy this requirement.

REV_00162391

"(7) The amount and timing of periodic payments, and the total number of periodic payments necessary to acquire ownership of the property under the rental-purchase agreement.

"(8) The total cost, using that term, and a brief description, such as 'This is the amount you will pay the merchant if you make all periodic payments to acquire ownership of the property.'.

"(9) A statement of the consumer's right to terminate the agreement without paying any fee or charge not previously due under the agreement by voluntarily surrendering or returning the property in good repair upon expiration of any lease term.

"(10) Substantially the following statement: '**OTHER IMPORTANT TERMS**: See your rental-purchase agreement for additional important information on early termination procedures, purchase option rights, responsibilities for loss, damage or destruction of the property, warranties, maintenance responsibilities, and other charges or penalties you may incur.'.

"(b) FORM OF DISCLOSURE.—The disclosures required by paragraphs (4) through (10) of subsection (a) shall be segregated from other information at the beginning of the rental-purchase agreement and shall contain

REV_00162392

only directly related information, and shall be identified in boldface, upper-case letters as follows: '**IMPORTANT RENTAL-PURCHASE DISCLOSURES**'.

"(c) DISCLOSURE REQUIREMENTS RELATING TO INSURANCE PREMIUMS AND LIABILITY WAIVERS.—

"(1) IN GENERAL.—A merchant shall clearly and conspicuously disclose in writing to the consumer before the consummation of a rental-purchase agreement that the purchase of leased property insurance or liability waiver coverage is not required as a condition for entering into the rental-purchase agreement.

"(2) AFFIRMATIVE WRITTEN REQUEST AFTER COST DISCLOSURE.—A merchant may provide insurance or liability waiver coverage, directly or indirectly, in connection with a rental-purchase transaction only if—

"(A) the merchant clearly and conspicuously discloses to the consumer the cost of each component of such coverage before the consummation of the rental-purchase agreement; and

"(B) the consumer signs an affirmative written request for such coverage after receiving

REV_00162393

the disclosures required under subparagraph (A) of this paragraph and paragraph (1).

"(d) ACCURACY OF DISCLOSURE.—

"(1) IN GENERAL.—The disclosures required to be made under subsection (a) shall be accurate as of the date the disclosures are made, based on the information available to the merchant.

"(2) INFORMATION SUBSEQUENTLY RENDERED INACCURATE.—If information required to be disclosed under subsection (a) is subsequently rendered inaccurate as a result of any agreement between the merchant and the consumer subsequent to the delivery of the required disclosures, the resulting inaccuracy shall not constitute a violation of this title.

"SEC. 1005. OTHER AGREEMENT PROVISIONS.

"(a) IN GENERAL.—Each rental-purchase agreement shall—

"(1) provide a statement specifying whether the merchant or the consumer is responsible for loss, theft, damage, or destruction of the property;

"(2) provide a statement specifying whether the merchant or the consumer is responsible for maintaining or servicing the property, together with a brief description of the responsibility;

REV_00162394

"(3) provide that the consumer may terminate the agreement without paying any charges not previously due under the agreement by voluntarily surrendering or returning the property that is the subject of the agreement upon expiration of any rental period;

"(4) contain a provision for reinstatement of the agreement, which at a minimum—

"(A) permits a consumer who fails to make a timely rental payment to reinstate the agreement, without losing any rights or options which exist under the agreement, by the payment of all past due rental payments and any other charges then due under the agreement and a payment for the next rental period within 7 business days after failing to make a timely rental payment if the consumer pays monthly, or within 3 business days after failing to make a timely rental payment if the consumer pays more frequently than monthly;

"(B) if the consumer returns or voluntarily surrenders the property covered by the agreement, other than through judicial process, during the applicable reinstatement period set forth in subparagraph (A), permits the consumer to

REV_00162395

reinstate the agreement during a period of at least 60 days after the date of the return or surrender of the property by the payment of all amounts previously due under the agreement, any applicable fees, and a payment for the next rental period;

"(C) if the consumer has paid 50 percent or more of the total cost necessary to acquire ownership and returns or voluntarily surrenders the property, other than through judicial process, during the applicable reinstatement period set forth in subparagraph (A), permits the consumer to reinstate the agreement during a period of at least 120 days after the date of the return of the property by the payment of all amounts previously due under the agreement, any applicable fees, and a payment for the next rental period; and

"(D) permits the consumer, upon reinstatement of the agreement to receive the same property, if available, that was the subject of the rental-purchase agreement, or if the same property is not available, a substitute item of comparable quality and condition may be provided to the consumer; except that, the Board

REV_00162396

may, by regulation or order, exempt any independent small business (as defined by the Board by regulation) from the requirement of providing the same or comparable product during the extended reinstatement period provided in subparagraph (C), if the Board determines, taking into account such standards as the Board determines to be appropriate, that the reinstatement right provided in such subparagraph would provide excessive hardship for such independent small business.

''(5) provide a statement specifying the terms under which the consumer shall acquire ownership of the property that is the subject of the rental-purchase agreement either by payment of the total cost to acquire ownership, as provided in section 1006, or by exercise of any early purchase option provided in the rental-purchase agreement;

''(6) provide a statement disclosing that if any part of a manufacturer's express warranty covers the property at the time the consumer acquires ownership of the property, the warranty will be transferred to the consumer if allowed by the terms of the warranty; and

REV_00162397

"(7) provide, to the extent applicable, a description of any grace period for making any periodic payment, the amount of any security deposit, if any, to be paid by the consumer upon initiation of the rental-purchase agreement, and the terms for refund of such security deposit to the consumer upon return, surrender or purchase of the property.

"(b) REPOSSESSION DURING REINSTATEMENT PERIOD.—Subsection (a)(4) shall not be construed so as to prevent a merchant from attempting to repossess property during the reinstatement period pursuant to subsection (a)(4)(A), but such a repossession does not affect the consumer's right to reinstate.

"SEC. 1006. RIGHT TO ACQUIRE OWNERSHIP.

"(a) IN GENERAL.—The consumer shall acquire ownership of the property that is the subject of the rental-purchase agreement, and the rental-purchase agreement shall terminate, upon compliance by the consumer with the requirements of subsection (b) or any early payment option provided in the rental purchase agreement, and upon payment of any past due payments and fees, as permitted in regulation by the Board.

"(b) PAYMENT OF TOTAL COST.—The consumer shall acquire ownership of the rental property upon payment of the total cost of the rental-purchase agreement,

REV_00162398

as such term is defined in section 1001(17), and as disclosed to the consumer in the rental-purchase agreement pursuant to section 1004(a).

"(c) ADDITIONAL FEES PROHIBITED.—A merchant shall not require the consumer to pay, as a condition for acquiring ownership of the property that is the subject of the rental-purchase agreement, any fee or charge in addition to, or in excess of, the regular periodic payments required by subsection (b), or any early purchase option amount provided in the rental-purchase agreement, as applicable. A requirement that the consumer pay an unpaid late charge or other fee or charge which the merchant has previously billed to the consumer shall not constitute an additional fee or charge for purposes of this subsection.

"(d) TRANSFER OF OWNERSHIP RIGHTS.—Upon payment by the consumer of all payments necessary to acquire ownership under subsection (b) or any early purchase option amount provided in the rental-purchase agreement, as appropriate, the merchant shall—

"(1) deliver, or mail to the consumer's last known address, such documents or other instruments, which the Board has determined by regulation, are necessary to acknowledge full ownership by the consumer of the property acquired pursuant to the rental-purchase agreement; and

REV_00162399

"(2) transfer to the consumer the unexpired portion of any warranties provided by the manufacturer, distributor, or seller of the property, which shall apply as if the consumer were the original purchaser of the property, except where such transfer is prohibited by the terms of the warranty.

"SEC. 1007. PROHIBITED PROVISIONS.

"A rental-purchase agreement may not contain—

"(1) a confession of judgment;

"(2) a negotiable instrument;

"(3) a security interest or any other claim of a property interest in any goods, except those goods the use of which is provided by the merchant pursuant to the agreement;

"(4) a wage assignment;

"(5) a provision requiring the waiver of any legal claim or remedy created by this title or other provision of Federal or State law;

"(6) a provision requiring the consumer, in the event the property subject to the rental-purchase agreement is lost, stolen, damaged, or destroyed, to pay an amount in excess of the least of—

"(A) the fair market value of the property, as determined by the Board in regulation;

REV_00162400

"(B) any early purchase option amount provided in the rental-purchase agreement; or

"(C) the actual cost of repair, as appropriate;

"(7) a provision authorizing the merchant, or a person acting on behalf of the merchant, to enter the consumer's dwelling or other premises without obtaining the consumer's consent or to commit any breach of the peace in connection with the repossession of the rental property or the collection of any obligation or alleged obligation of the consumer arising out of the rental-purchase agreement;

"(8) a provision requiring the purchase of insurance or liability damage waiver to cover the property that is the subject of the rental-purchase agreement, except as permitted by the Board in regulation;

"(9) a provision requiring the consumer to pay more than 1 late fee or charge for an unpaid or delinquent periodic payment, regardless of the period in which the payment remains unpaid or delinquent, or to pay a late fee or charge for any periodic payment because a previously assessed late fee has not been paid in full.

REV_00162401

"SEC. 1008. STATEMENT OF ACCOUNTS.

"Upon request of a consumer, a merchant shall provide a statement of the consumer's account. If a consumer requests a statement for an individual account more than 4 times in any 12-month period, the merchant may charge a reasonable fee for the additional statements.

"SEC. 1009. RENEGOTIATIONS AND EXTENSIONS.

"(a) RENEGOTIATIONS.—A renegotiation occurs when a rental-purchase agreement is satisfied and replaced by a new agreement undertaken by the same consumer. A renegotiation requires new disclosures, except as provided in subsection (c).

"(b) EXTENSIONS.—An extension is an agreement by the consumer and the merchant, to continue an existing rental-purchase agreement beyond the original end of the payment schedule, but does not include a continuation that is the result of a renegotiation.

"(c) EXCEPTIONS.—New disclosures are not required for the following, even if they meet the definition of a renegotiation or an extension:

"(1) A reduction in payments.

"(2) A deferment of 1 or more payments.

"(3) The extension of a rental-purchase agreement.

"(4) The substitution of property with property that has a substantially equivalent or greater eco-

REV_00162402

nomic value provided the rental-purchase cost does not increase.

"(5) The deletion of property in a multiple-item agreement.

"(6) A change in rental period provided the rental-purchase cost does not increase.

"(7) An agreement resulting from a court proceeding.

"(8) Any other event described in regulations prescribed by the Board.

"SEC. 1010. POINT-OF-RENTAL DISCLOSURES.

"(a) IN GENERAL.—For any item of property or set of items displayed or offered for rental-purchase, the merchant shall display on or next to the item or set of items a card, tag, or label that clearly and conspicuously discloses the following:

"(1) A brief description of the property.

"(2) Whether the property is new or used.

"(3) The cash price of the property.

"(4) The amount of each rental payment.

"(5) The total number of rental payments necessary to acquire ownership of the property.

"(6) The rental-purchase cost.

"(b) FORM OF DISCLOSURE.—

REV_00162403

"(1) IN GENERAL.—A merchant may make the disclosure required by subsection (a) in the form of a list or catalog which is readily available to the consumer at the point of rental if the merchandise is not displayed in the merchant's showroom or if displaying a card, tag, or label would be impractical due to the size of the merchandise.

"(2) CLEARLY AND CONSPICUOUSLY.—As used in this section, the term 'clearly and conspicuously' means that information required to be disclosed to the consumer shall appear in a type size, prominence, and location as to be noticeable, readable, and comprehensible to an ordinary consumer.

"SEC. 1011. RENTAL-PURCHASE ADVERTISING.

"(a) IN GENERAL.—If an advertisement for a rental-purchase transaction refers to or states the amount of any payment for any specific item or set of items, the merchant making the advertisement shall also clearly and conspicuously state in the advertisement the following for the item, or set of items, advertised:

"(1) The transaction advertised is a rental-purchase agreement.

"(2) The amount, timing, and total number of rental payments necessary to acquire ownership under the rental-purchase agreement.

REV_00162404

"(3) The amount of the rental-purchase cost.

"(4) To acquire ownership of the property the consumer must pay the rental-purchase cost plus applicable taxes.

"(5) Whether the stated payment amount and advertised rental-purchase cost is for new or used property.

"(b) PROHIBITION.—An advertisement for a rental-purchase agreement shall not state or imply that a specific item, or set of items, is available at specific amounts or terms unless the merchant usually and customarily offers, or will offer, the item or set of items at the stated amounts or terms.

"(c) CLEARLY AND CONSPICUOUSLY.—

"(1) IN GENERAL.—For purposes of this section, the term 'clearly and conspicuously' means that required disclosures shall be presented in a type, size, shade, contrast, prominence, location, and manner, as applicable to different mediums for advertising, so as to be readily noticeable and comprehensible to the ordinary consumer.

"(2) REGULATORY GUIDANCE.—The Board shall prescribe regulations on principles and factors to meet the clear and conspicuous standard as appropriate to print, video, audio, and computerized

REV_00162405

advertising, reflecting the principles and factors typically applied in each medium by the Federal Trade Commission.

"(3) LIMITATION.—Nothing contrary to, inconsistent with, or in mitigation of, the required disclosures shall be used in any advertisement in any medium, and no audio, video, or print technique shall be used that is likely to obscure or detract significantly from the communication of the disclosures.

"SEC. 1012. CIVIL LIABILITY.

"(a) IN GENERAL.—Except as otherwise provided in section 1013, any merchant who fails to comply with any requirement of this title with respect to any consumer is liable to such consumer as provided for leases in section 130. For purposes of this section, the term 'creditor' as used in section 130 shall include a 'merchant', as defined in section 1001.

"(b) JURISDICTION OF COURTS; LIMITATION ON ACTIONS.—

"(1) IN GENERAL.—Notwithstanding section 130(e), any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, before the end of the 1-year period beginning on the date the

REV_00162406

last payment was made by the consumer under the rental-purchase agreement.

"(2) RECOUPMENT OR SET-OFF.—This subsection shall not bar a consumer from asserting a violation of this title in an action to collect an obligation arising from a rental-purchase agreement, which was brought after the end of the 1-year period described in paragraph (1) as a matter of defense by recoupment or set-off in such action, except as otherwise provided by State law.

"SEC. 1013. ADDITIONAL GROUNDS FOR CIVIL LIABILITY.

"(a) INDIVIDUAL CASES WITH ACTUAL DAMAGES.—Any merchant who fails to comply with any requirements imposed under section 1010 or 1011 with respect to any consumer who suffers actual damage from the violation shall be liable to such consumer as provided in section 130.

"(b) PATTERN OR PRACTICE OF VIOLATIONS.—If a merchant engages in a pattern or practice of violating any requirement imposed under section 1010 or 1011, the Federal Trade Commission or an appropriate State attorney general, in accordance with section 1016, may initiate an action to enforce sanctions against the merchant, including—

REV_00162407

"(1) an order to cease and desist from such practices; and

"(2) a civil money penalty of such amount as the court may impose, based on such factors as the court may determine to be appropriate.

"SEC. 1014. LIABILITY OF ASSIGNEES.

"(a) ASSIGNEES INCLUDED.—For purposes of section 1013, and this section, the term 'merchant' includes an assignee of a merchant.

"(b) LIABILITIES OF ASSIGNEES.—

"(1) APPARENT VIOLATION.—An action under section 1012 or 1013 for a violation of this title may be brought against an assignee only if the violation is apparent on the face of the rental-purchase agreement to which it relates.

"(2) APPARENT VIOLATION DEFINED.—For purposes of this subsection, a violation that is apparent on the face of a rental-purchase agreement includes, but is not limited to, a disclosure that can be determined to be incomplete or inaccurate from the face of the agreement.

"(3) INVOLUNTARY ASSIGNMENT.—An assignee has no liability in a case in which the assignment is involuntary.

REV_00162408

"(4) RULE OF CONSTRUCTION.—No provision of this section shall be construed as limiting or altering the liability under section 1012 or 1013 of a merchant assigning a rental-purchase agreement.

"(b) PROOF OF DISCLOSURE.—In an action by or against an assignee, the consumer's written acknowledgment of receipt of a disclosure, made as part of the rental-purchase agreement, shall be conclusive proof that the disclosure was made, if the assignee had no knowledge that the disclosure had not been made when the assignee acquired the rental-purchase agreement to which it relates.

"SEC. 1015. REGULATIONS.

"(a) IN GENERAL.—The Board shall prescribe regulations as necessary to carry out the purposes of this title, to prevent its circumvention, and to facilitate compliance with its requirements.

"(b) MODEL DISCLOSURE FORMS.—The Board may publish model disclosure forms and clauses for common rental-purchase agreements to facilitate compliance with the disclosure requirements of this title and to aid the consumer in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures. In devising such forms, the Board shall consider the use by merchants of data processing or similar automated equipment. Nothing in this title may

REV_00162409

be construed to require a merchant to use any such model form or clause prescribed by the Board under this section. A merchant shall be deemed to be in compliance with the requirement to provide disclosure under section 1003(a) if the merchant—

"(1) uses any appropriate model form or clause as published by the Board; or

"(2) uses any such model form or clause and changes it by—

"(A) deleting any information which is not required by this title; or

"(B) rearranging the format, if in making such deletion or rearranging the format, the merchant does not affect the substance, clarity, or meaningful sequence of the disclosure.

"(c) EFFECTIVE DATE OF REGULATIONS.—Any regulation prescribed by the Board, or any amendment or interpretation thereof, shall not be effective before the October 1 that follows the date of publication of the regulation in final form by at least 6 months. The Board may at its discretion lengthen that period of time to permit merchants to adjust to accommodate new requirements. The Board may also shorten that period of time, notwithstanding the first sentence, if it makes a specific finding that such action is necessary to comply with the findings

REV_00162410

of a court or to prevent unfair or deceptive practices. In any case, merchants may comply with any newly prescribed disclosure requirement prior to its effective date.

"SEC. 1016. ENFORCEMENT.

"(a) FEDERAL ENFORCEMENT.—Compliance with the requirements imposed under this title shall be enforced under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), and a violation of any requirements imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements of this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional test in the Federal Trade Commission Act.

"(b) STATE ENFORCEMENT.—

"(1) IN GENERAL.—An action to enforce the requirements imposed by this title may also be brought by the appropriate State attorney general in any appropriate United States district court, or any other court of competent jurisdiction.

"(2) PRIOR WRITTEN NOTICE.—

"(A) IN GENERAL.—The State attorney general shall provide prior written notice of any

REV_00162411

such civil action to the Federal Trade Commission and shall provide the Commission with a copy of the complaint.

"(B) EMERGENCY ACTION.—If prior notice is not feasible, the State attorney general shall provide notice to the Commission immediately upon instituting the action.

"(3) FTC INTERVENTION.—The Commission may—

"(A) intervene in the action;

"(B) upon intervening—

"(i) remove the action to the appropriate United States district court, if it was not originally brought there; and

"(ii) be heard on all matters arising in the action; and

"(C) file a petition for appeal.

"SEC. 1017. CRIMINAL LIABILITY FOR WILLFUL AND KNOWING VIOLATION.

"Whoever willfully and knowingly gives false or inaccurate information or fails to provide information which he is required to disclose under the provisions of this title or any regulation issued thereunder shall be subject to the penalty provisions as provided in section 112.

REV_00162412

"SEC. 1018. RELATION TO OTHER LAWS.

"(a) RELATION TO STATE LAW.—

"(1) NO EFFECT ON CONSISTENT STATE LAWS.—Except as otherwise provided in subsection (b), this title does not annul, alter, or affect in any manner the meaning, scope or applicability of the laws of any State relating to rental-purchase agreements, except to the extent those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency.

"(2) DETERMINATION OF INCONSISTENCY.—Upon its own motion or upon the request of an interested party, which is submitted in accordance with procedures prescribed in regulations of the Board, the Board shall determine whether any such inconsistency exists. If the Board determines that a term or provision of a State law is inconsistent, merchants located in that State need not follow such term or provision and shall incur no liability under the law of that State for failure to follow such term or provision, notwithstanding that such determination is subsequently amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"(3) GREATER PROTECTION UNDER STATE LAW.—Except as provided in subsection (b), for pur-

REV_00162413

poses of this section, a term or provision of a State law is not inconsistent with the provisions of this title if the term or provision affords greater protection and benefit to the consumer than the protection and benefit provided under this title as determined by the Board, on its own motion or upon the petition of any interested party.

"(b) STATE LAWS RELATING TO CHARACTERIZATION OF TRANSACTION.—Notwithstanding the provisions of subsection (a), this title shall supersede any State law to the extent that such law—

"(1) regulates a rental-purchase agreement as a security interest, credit sale, retail installment sale, conditional sale or any other form of consumer credit, or that imputes to a rental-purchase agreement the creation of a debt or extension of credit, or

"(2) requires the disclosure of a percentage rate calculation, including a time-price differential, an annual percentage rate, or an effective annual percentage rate.

"(c) RELATION TO FEDERAL TRADE COMMISSION ACT.—No provision of this title shall be construed as limiting, superseding, or otherwise affecting the applicability of the Federal Trade Commission Act to any merchant or rental-purchase transaction.

REV_00162414

"SEC. 1019. EFFECT ON GOVERNMENT AGENCIES.

"No civil liability or criminal penalty under this title may be imposed on the United States or any of its departments or agencies, any State or political subdivision, or any agency of a State or political subdivision.

"SEC. 1020. COMPLIANCE DATE.

"Compliance with this title shall not be required until 6 months after the date of the enactment of the Consumer Rental Purchase Agreement Act. In any case, merchants may comply with this title at any time after such date of enactment.".

○

REV_00162415

From: Bumatay, Patrick J.
To: <Kavanaugh, Brett M.>
Sent: 4/4/2003 4:57:54 PM
Subject: FW: Bill Text for H.R. 966
Attachments: HR241- InH.pdf; HR533- InH.pdf; HR761- InH.doc; HR850- InH.pdf; HR966- InH.pdf; HR1048-InH.pdf; VA- TonBenefits- Draft.doc

-----Original Message-----
From: Messenger, P. Thaddeus
Sent: Friday, April 04, 2003 4:53 PM
To: Messenger, P. Thaddeus
Subject: Bill Text for H.R. 966

H.R. 966 should have been referenced and included in this LRM, rather than H.R. 996.

Apologies for the error; the correct bill text is now attached below.

PTM

From: P. Thaddeus Messenger on 04/04/2003 04:34:05 PM
Record Type: Record

To: P. Thaddeus Messenger/OMB/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: AMENDED: LRM PTM29 - - VETERANS AFFAIRS Testimony on Veterans Benefits and Compensation
<<...>>

Apologies, the testimony did not attach on the first copy.

PTM

From: P. Thaddeus Messenger on 04/04/2003 04:28:30 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: LRM PTM29 - - VETERANS AFFAIRS Testimony on Veterans Benefits and Compensation

LRM ID: PTM29

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Friday, April 4, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: P. Thaddeus Messenger
PHONE: (202)395-7754 FAX: (202)395-6148
SUBJECT: **VETERANS AFFAIRS Testimony on Veterans Benefits and Compensation**

DEADLINE: **5:00 p.m. Monday, April 7, 2003**
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Attached, please find a draft copy of VA (Cooper) testimony for an April 10th hearing before the Benefits Subcommittee of the House Veterans Affairs Committee. For your reference, copies of each bill's text are also included.

<<...>>

VA supports: (1) H.R. 241 - Veterans Beneficiary Fairness Act; (2) H.R. 761 - Disabled Servicemembers Adapted Housing for Members of the Armed Services; and (3) H.R. 1048 - Disabled Veterans Adaptive Benefits Improvement.

VA does not support (1) H.R. 533 - Agent Orange Veterans' Disabled Children's Benefits Act; (2) H.R. 850 - Former Prisoners of War Special Compensation Act; or (3) H.R. 966 - Disabled Veterans' Return-to-Work Act.

<<...>> <<...>> <<...>>

<<...>> <<...>> <<...>>

Please provide your comments by 5:00 p.m. on Monday, April 7th. If we do not receive your comments by that time, we will assume you have no objection to the document as drafted.

If you experience difficulty with this LRM, or its attachment, please contact us immediately.

NOTE: Because of the size of this transmission, the electronic copy will not be followed by a duplicate copy via facsimile.

Thank you.

DISTRIBUTION LIST

AGENCIES:
029-DEFENSE - Vic Bernson - (703) 697-1305
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773
030-EDUCATION - Jack Kristy - (202) 401-8313
054-HOUSING & URBAN DEVELOPMENT - Camille Acevedo - (202) 708-1793
061-JUSTICE - Jamie E. Brown - (202) 514-2141
062-LABOR - Robert A. Shapiro - (202) 693-5500
114-STATE - VACANT - (202) 647-4463

EOP:
NSP LRM
VAB LRM
Ricardo A. Aguilera
Wendell H. Waites
Thomas Reilly
Norris W. Cochran
Keith J. Fontenot
Lindy M. Hinman
Kathryn B. Stack
Daniel I. Werfel
Francis S. Redburn
Reid B Cramer
Lauren E. Bloomquist
Maureen Walsh
Katrina A. McDonald
Carole Kitti
James M. Kulikowski
Jack A. Smalligan
Joanne Cianci Hoff
Joseph Crilley
Attia Little
Sarah S. Lee
Aquiles F. Suarez
Terrell L. Halaska
Alan Gilbert
NSC LRM
OSTP LRM
Rachel E. Levinson
OVP LRM
WHGC LRM
OMBGC LRM
Christopher C. Cox
Stephen W. Dove
Lauren C. Lobrano
James J. Jukes
Ingrid M. Schroeder
P. Thaddeus Messenger**LRM ID:** PTM29 **SUBJECT:** VETERANS AFFAIRS Testimony on Veterans Benefits and Compensation

RESPONSE TO

LEGISLATIVE REFERRAL

MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) faxing us a memo or letter.

Please include the LRM number and subject shown above.

TO: P. Thaddeus Messenger Phone: 395-7754 Fax: 395-6148

Office of Management and Budget

FROM: _____ **(Date)**

_____ **(Name)**

_____ **(Agency)**

_____ **(Telephone)**

The following is the response of our agency to your request for views on the above-captioned subject:

_____ **Concur**

_____ **No Objection**

_____ **No Comment**

_____ **See proposed edits on pages** _____

_____ **Other:** _____

_____ **FAX RETURN of** _____ **pages, attached to this response sheet**

Message Sent To:_____

dodlrs@osdgc.osd.mil
lrm@hhs.gov
ogc_legislation@ed.gov
HUD_LRM@hud.gov
justice.lrm@usdoj.gov
dol-sol-leg@dol.gov
state-lrm@state.gov

Message Copied To:_____

Robin Cleveland/OMB/EOP@EOP
Karyn T. Carson/OMB/EOP@EOP
Kathleen Peroff/OMB/EOP@EOP
Mary Jo Siclari/OMB/EOP@EOP
Toni S. Hustead/OMB/EOP@EOP
Arecia A. Grayton/OMB/EOP@EOP
Winifred Y. Chang/OMB/EOP@EOP
Kelli A. Hagen/OMB/EOP@EOP
Shalini M. Benson/OMB/EOP@EOP
Danny A. Ermann/OMB/EOP@EOP
Narahari Sastry/OMB/EOP@EOP
John J. Bartrum/OMB/EOP@EOP
Mark R. Seastrom/OMB/EOP@EOP
Ricardo A. Aguilera/OMB/EOP@EOP
Wendell H. Waites/OMB/EOP@EOP
Thomas Reilly/OMB/EOP@EOP
Norris W. Cochran/OMB/EOP@EOP
Keith J. Fontenot/OMB/EOP@EOP
Lindy M. Hinman/OMB/EOP@EOP
Kathryn B. Stack/OMB/EOP@EOP

Daniel I. Werfel/OMB/EOP@EOP
Francis S. Redburn/OMB/EOP@EOP
Reid B Cramer/OMB/EOP@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
Maureen Walsh/OMB/EOP@EOP
Katrina A. McDonald/OMB/EOP@EOP
Carole Kitti/OMB/EOP@EOP
James M. Kulikowski/OMB/EOP@EOP
Jack A. Smalligan/OMB/EOP@EOP
Joanne Cianci Hoff/OMB/EOP@EOP
Joseph Crilley/OMB/EOP@EOP
Attia Little/OMB/EOP@EOP
Sarah S. Lee/OMB/EOP@EOP
Aquiles F. Suarez/OPD/EOP@EOP
Terrell L. Halaska/OPD/EOP@EOP
Alan Gilbert/OPD/EOP@EOP
NSC LRM
OSTP LRM
Rachel E. Levinson/OSTP/EOP@EOP
OVP LRM
WHGC LRM
Philip J. Perry/OMB/EOP@EOP
John F. Wood/OMB/EOP@EOP
Christopher C. Cox/WHO/EOP@Exchange@EOP
Stephen W. Dove/OMB/EOP@EOP
Lauren C. Lobrano/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
Ingrid M. Schroeder/OMB/EOP@EOP
P. Thaddeus Messenger/OMB/EOP@EOP

Message Copied To:

dodlrs@osdgc.osd.mil
lrm@hhs.gov
ogc_legislation@ed.gov
hud_lrm@hud.gov
justice.lrm@usdoj.gov
dol-sol-leg@dol.gov
state-lrm@state.gov
robin cleveland/omb/eop@eop
karyn t. carson/omb/eop@eop
kathleen peroff/omb/eop@eop
mary jo siclari/omb/eop@eop
toni s. hustead/omb/eop@eop
arecia a. grayton/omb/eop@eop
winifred y. chang/omb/eop@eop
kelli a. hagen/omb/eop@eop
shalini m. benson/omb/eop@eop
danny a. ermann/omb/eop@eop
narahari sastry/omb/eop@eop
john j. bartrum/omb/eop@eop
mark r. seastrom/omb/eop@eop
ricardo a. aguilera/omb/eop@eop
wendell h. waites/omb/eop@eop
thomas reilly/omb/eop@eop
norris w. cochran/omb/eop@eop
keith j. fontenot/omb/eop@eop
lindy m. hinman/omb/eop@eop
kathryn b. stack/omb/eop@eop
daniel i. werfel/omb/eop@eop

francis s. redburn/omb/eop@eop
reid b cramer/omb/eop@eop
lauren e. bloomquist/omb/eop@eop
maureen walsh/omb/eop@eop
katrina a. mcdonald/omb/eop@eop
carole kitti/omb/eop@eop
james m. kulikowski/omb/eop@eop
jack a. smalligan/omb/eop@eop
joanne cianci hoff/omb/eop@eop
joseph crilley/omb/eop@eop
attia little/omb/eop@eop
sarah s. lee/omb/eop@eop
aquiles f. suarez/opd/eop@eop
terrell l. halaska/opd/eop@eop
alan gilbert/opd/eop@eop
NSC LRM
OSTP LRM
rachel e. levinson/ostp/eop@eop
OVP LRM
WHGC LRM
philip j. perry/omb/eop@eop
john f. wood/omb/eop@eop
christopher c. cox/who/eop@exchange@eop
stephen w. dove/omb/eop@eop
lauren c. lobrano/omb/eop@eop
james j. jukes/omb/eop@eop
ingrid m. schroeder/omb/eop@eop

DRAFT

STATEMENT OF

DANIEL L. COOPER,

UNDER SECRETARY FOR BENEFITS,

BEFORE THE

SUBCOMMITTEE ON BENEFITS,

HOUSE COMMITTEE ON VETERANS' AFFAIRS

APRIL 10, 2003

Mr. Chairman and Members of the Committee, thank you for the opportunity to testify today on several bills of great interest to veterans.

H.R. 241

H.R. 241, the "Veterans Beneficiary Fairness Act of 2003," would eliminate a discrepancy regarding the limitation on the period for which retroactive benefits due and unpaid a claimant may be paid to others after the claimant's death. In the interest of fairness, we support enactment of this bill.

Under 38 U.S.C. § 5121, periodic monetary benefits to which an individual was entitled at death under existing ratings or decisions or based on evidence on

file with the Department of Veterans Affairs (VA) at the time of death are paid upon the death of the individual to specified classes of survivors according to a prescribed order of preference. Prior to a recent court decision, VA had construed section 5121 to limit the payment of any benefits under that section to the retroactive period specified in the statute, regardless of whether the payment was based on an existing rating or decision or on evidence on file at the date of death. The retroactive payment period, originally one year, was extended to two years by Public Law 104-275, the "Veterans' Benefits Improvements Act of 1996."

On December 10, 2002, the United States Court of Appeals for Veterans Claims (CAVC) issued its decision in *Bonny v. Principi*, 16 Vet. App. 504 (2002). In that decision, the court held that 38 U.S.C. § 5121(a) specifies two kinds of benefits: benefits that have been awarded to an individual in existing ratings or decisions but not paid prior to the individual's death, and benefits that could be awarded based on evidence in the file at the time of death. The court held that, in the case of the first type of benefits, the statute requires that an eligible survivor is to receive the entire amount of the award; only the latter type of "accrued" benefits is subject to the two-year limitation in 38 U.S.C. § 5121(a). The court based its interpretation of the statute primarily on the punctuation of section 5121(a).

The CAVC's *Bonny* decision has resulted in differing entitlements under section 5121 based on the status of the deceased's claim at the time of his or her death. H.R. 241 would eliminate this distinction by amending section 5121 to

REV_00162423

eliminate the two-year limitation on payment of retroactive benefits for all classes of beneficiaries under that statute.

The distinction the *Bonny* decision draws between the two categories of claimants—those whose claims had been approved and those whose entitlement had yet to be recognized when they died—is really one without a difference. In either case, a claimant's estate is deprived of the value of benefits for which he or she was, in life, eligible. H.R. 241 would remove this inequitable distinction, and we support its enactment.

We estimate the cost of complying with the *Bonny* decision for fiscal year (FY) 2004 to be $ 1.7 million and $18.2 million for the period FY 2004 through FY 2013. We estimate the incremental cost to implement H.R. 241, that is, the difference between the cost of complying with the court's decision and the cost of enactment of H.R. 241, to be $5.9 million for FY 2004 and $65.8 million for the period FY 2004 through FY 2013.

In addition, we note one technical change needed in H.R. 241 should it be enacted. The comma in current section 5121(a) following "existing ratings or decisions" should be deleted to clarify, for purposes of 38 U.S.C. §§ 5121(b) and (c) and 5122, that the term "accrued benefits" includes both benefits that have been awarded to an individual in existing ratings or decisions but not paid prior to the individual's death, as well as benefits that could be awarded based on evidence in the veteran's file at the time of death.

REV_00162424

H.R. 533

H.R. 533, the "Agent Orange Veterans' Disabled Children's Benefits Act of 2003," would amend chapter 18 of title 38, United States Code, to authorize VA to provide a monetary allowance and other benefits to a person suffering from spina bifida who is natural child, regardless of age or marital status, of a parent who performed "qualifying herbicide-risk service," if the person was conceived after such service. A parent would be considered to have performed "qualifying herbicide-risk service" if, while performing active military, naval, or air service, he or she "served in an area in which a Vietnam-era herbicide agent was used during a period during which such agent was used in that area; or . . . otherwise was exposed to a Vietnam-era herbicide agent." The term "Vietnam-era herbicide agent" would be defined by reference to current 38 U.S.C. § 1116(a)(3). VA does not support this bill.

Congress has repeatedly acted since 1979 to ensure that the Federal Government investigates the health effects of exposure to herbicides containing dioxin and compensates veterans who served in the Republic of Vietnam during the Vietnam era and suffered disability as a result of that exposure. Because of the "concern and apprehension among veterans regarding the health effects of herbicides," Congress mandated an epidemiologic study by VA of the effects of exposure to dioxin in the Veterans Health Programs Extension and Improvement Act of 1979. Congress also required VA to review and scientifically analyze literature relating to possible long-term health effects of human exposure to dioxin. In 1981, Congress authorized VA to provide hospital and nursing home

care to certain veterans exposed during service to dioxin or ionizing radiation for conditions which, although not shown to have resulted from such exposure, are not found to have resulted from a cause other than such exposure. The Veterans' Dioxin and Radiation Exposure Compensation Standards Act of 1984 directed VA to issue regulations to establish guidelines and, where appropriate, standards and criteria for the resolution of benefit claims based on exposure to herbicides containing dioxin in service in the Republic of Vietnam during the Vietnam era. The act also required VA to make specific findings, either positive or negative, regarding service connection as to three diseases, chloracne, porphyria cutanea tarda, and soft-tissue sarcoma.

In 1991, Congress added section 1116 (formerly section 316) to title 38, United States Code, establishing a presumption of service connection, applicable to veterans who served in the Republic of Vietnam during the Vietnam era, for three diseases. The act also called for VA to contract with the National Academy of Sciences to perform a review and evaluation of the scientific evidence regarding the association between disease and exposure to herbicides used in connection with the Vietnam War and each disease suspected of association with such exposure. Congress amended section 1116 in 1994 and 2001 by adding five conditions to the list of diseases presumed to be service connected in Vietnam veterans.

More recently, Congress has enacted legislation to provide a monetary allowance and other benefits to the children of Vietnam veterans who were born with spina bifida, as well as to children with certain other birth defects who are

REV_00162426

the natural children of women veterans who served in the Republic of Vietnam during the Vietnam era.

Congress' legislative enactments indicate its recognition of the unique circumstances of service in Vietnam—circumstances including the special sacrifices made by veterans of that war, and the great uncertainties regarding exposures of individual veterans to aerially applied herbicides. H.R. 533 would extend benefits Congress bestowed upon the affected children of those veterans to children of veterans who did not serve under those circumstances. In addition, H.R. 533's language is so vague as to be almost impossible to administer. Under that language, an individual would be considered to have performed "qualifying herbicide-risk service" if he or she, while performing active service, "served in an area in which a Vietnam-era herbicide agent was used during a period when such agent was used in that area." The vagueness of the terms "area," "was used," and "during a period when" is sure to generate substantial litigation over what Congress intended by this language.

VA estimates that enactment of H.R. 533 would result in PAYGO costs of $60.8 million in FY 2004 and $760.7 million over the ten-year period FY 2004-2013. In addition, VA estimates administrative costs of $357,000 for FY 2004 and $ 1.73 million for the ten-year period FY 2004-2013.

H.R. 761

Mr. Chairman, you also requested our comments on two proposals that would affect the Specially Adapted Housing program authorized by chapter 21 of

REV_00162427

title 38, United States Code. Under current law, veterans who are entitled to compensation for certain permanent and total service-connected disabilities described in section 2101 of title 38 are eligible for a grant to adapt their homes with features made necessary by the nature of their disabilities.

The first proposal, Mr. Chairman, is H.R. 761, the "Disabled Servicemembers Adapted Housing Assistance Act of 2003," which would permit VA to provide Specially Adapted Housing assistance to disabled members of the Armed Forces who remain on active duty pending medical separation. VA favors enactment of H.R. 761.

This bill would permit members of the Armed Forces with the service-connected disabilities described in section 2101 to apply for Specially Adapted Housing benefits and permit VA to process their applications and award benefits without having to wait for the servicemembers to be released from active duty. H.R. 761 could provide some affected veterans the opportunity to move into an adapted home as soon as they are separated from active duty, or at least much sooner than is possible under current law. With this accelerated determination of eligibility and assistance, veterans could avoid continued institutional care, thus improving their quality of life and increasing their independence. This could also reduce the cost to VA of in-patient healthcare for some affected veterans.

Because Specially Adapted Housing grants are a one-time-only benefit, the enactment of this measure should not materially increase either the total number of grants provided under this program or the dollar amount of such

REV_00162428

grants. Rather, H.R. 761 would merely accelerate the payment of this benefit to certain individuals who, under current law, would become entitled to the same benefit upon their release from active duty. Accordingly, VA estimates that the enactment of H.R. 761 would produce insignificant costs or savings.

H.R. 1048

Specially Adapted Housing

The other Specially Adapted Housing proposal is contained in section 2 of H.R. 1048, the "Disabled Veterans Adaptive Benefits Improvement Act of 2003." This section would increase the maximum Specially Adapted Housing grants. VA favors such increases, provided offsetting savings may be found.

Under H.R. 1048, the maximum Specially Adapted Housing grant authorized by section 2101(a) would be increased from $48,000 to $50,000. In addition, the maximum Special Housing Adaptations grant authorized by section 2101(b) would be increased from $9,250 to $10,000. These grants were last increased by Public Law 107-103, enacted December 27, 2001. Increases in the cost of construction since then justify increasing these important benefits.

VA estimates that approximately 600 veterans per year will receive specially adapted housing assistance, of which about 92.5 percent will qualify for the grant authorized by section 2101(a). VA estimates the cost of enacting section 2 of H.R. 1048 would be $1.14 million per year, with a total 10-year cost of $11.4 million.

REV_00162429

Assistance for Automobile and Adaptive Equipment

Section 3 of H.R. 1048 would increase from $9,000 to $11,000 the maximum amount that VA may pay under 38 U.S.C. § 3902(a) to provide or assist in providing an automobile or other conveyance to eligible persons. VA supports enactment of this provision.

The maximum automobile allowance was last increased to the current $9,000 by Public Law 107-103 in 2001. An increase since then in the cost of obtaining automobiles and in the cost of adapting them justifies increasing this benefit so as to preserve its value to deserving veterans.

VA estimates the total benefits cost of both provisions of H.R. 1048 would be $3.3 million for FY 2004 and $33.3 million for the ten-year period FY 2004-2013.

H.R. 850

Special Compensation for Former Prisoners of War

Section 2 of H.R. 850, the "Former Prisoners of War Compensation Act of 2003," would add a new subchapter at the end of chapter 11 of title 38, United States Code, to authorize special compensation for former prisoners of war (POWs). This special compensation would be separate from any service-connected disability compensation or pension to which a former POW may be entitled and is exempted from attachment, execution, or levy in the same manner as special pension paid to recipients of the Medal of Honor pursuant to 38 U.S.C. § 1562(c). The bill would direct the Secretary of Veterans Affairs to pay monthly

to each former POW, including active duty personnel, special compensation at a rate of payment determined by the cumulative length of confinement or internment as a POW. Thirty days would be the minimum period of confinement for which a former POW would be eligible to receive special compensation. The bill would establish three rates of special compensation based on the length of the period of the former POW's detainment or interment, as follows:

Length of Former POW's Detainment or Interment	Special Compensation Monthly Rate
30-120 days	$150
121-540 days	$300
541 days or more	$450

In the past, former POWs have been entitled to receive a modest lump-sum cash payment, based on their length of internment. Pursuant to the War Claims Act of 1948, codified as amended at 50 U.S.C. Appx. § 2005 (2001), and subsequent amendments, former POWs were entitled to receive a lump sum payment of up to $2.50 per day for World War II veterans, $2.50 per day for Korea veterans, and $5.00 per day for Vietnam veterans.[1] Compensation for former POWs is otherwise limited to the service-connected disability compensation administered by VA pursuant to title 38, United States Code.

[1] Pursuant to 50 U.S.C. Appx. § 2005, WW II veterans were eligible to receive up to $1 for each day held as a POW on which they did not have adequate food rations (subsection (b)) and $1.50 for each day of forced labor or inhumane treatment (subsection (d)); Korea veterans were eligible to receive up to $1 for each day held as a POW on which they did not have adequate food rations (subsection (e)(2)) and $1.50 for each day of forced labor or inhumane treatment (subsection (e)(3)); Vietnam veterans were eligible to receive up to $2 for each day held as a POW on which they did not have adequate food rations (subsection (f)(2)) and $3.00 for each day of forced labor or inhumane treatment (subsection (f)(3)).

REV_00162431

We estimate that approximately 39,029 former POWs are still living. Of that population, 13,631 (34.9%) receive disability compensation, with over half of those rated at 50% disabling or less. The typical former POW is 81 years old, and 88% of all living former POWs were interned during World War II. The following table summarizes basic demographic data for former POWs:

	WWII Europe	WWII Pacific	Korea	Vietnam	Gulf War	Total for All Wars
Number Alive on 1/1/03	29,675	4,477	2,264	595	21	39,029[2]
Average Age[3]	80	84	72	64	39	81
Average Length of Captivity[4]	11.5 mos.	39 mos.	24 mos.	56 mos.	1 mo.	16.5 mos.

We estimate that benefit-costs for the POW portion of the bill would be $139.6 million for FY 2004 and $1.1 billion for FY 2004 through FY 2013. We estimate administrative costs to be an additional one-time cost of $632 thousand in the first year. These amounts are not included in the President's FY 2004 budget request, and the Department cannot support this provision's enactment.

Prohibition Against Compensation for Substance-Abuse Disabilities

Section 3(a) of H.R. 850 would amend 38 U.S.C. §§ 1110 and 1131 to clarify that the prohibition on payment of compensation for a disability that is a

[2] This total includes an additional 1,997 former POWs of World War II who are not categorized under either WWII Europe or WWII Pacific.

[3] Charles A. Stenger, American Prisoners of War . . . Statistical Data Concerning Numbers Captured, Repatriated and Still Alive, January 1, 2003.

[4] Derived from the Department of Defense POW Database, 1984 (except Gulf War).

REV_00162432

result of the veteran's own abuse of alcohol or drugs applies even if the abuse is secondary to a service-connected disability. Section 3(b) would make that amendment applicable to claims filed on or after the date of enactment and to claims filed prior to, but not finally decided as of that date. We strongly support this provision, which is also proposed in the President's budget.

Sections 1110 and 1131 of title 38, United States Code, authorize the payment of compensation for disability resulting from injury or disease incurred or aggravated in line of duty in active service, during a period of war or during other than a period of war, respectively. Sections 1110 and 1131 also currently provide, "but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs." Before their amendment in 1990, the provisions currently codified in sections 1110 and 1131 prohibited compensation "if the disability is the result of the veteran's own willful misconduct." In 1990, they were amended to also prohibit compensation if the disability is a result of the veteran's own alcohol or drug abuse.

VA had long interpreted those provisions to authorize compensation not only for disability immediately resulting from injury or disease incurred or aggravated in service, but also for disability more remotely resulting from such injury or disease. That interpretation is embodied in 38 C.F.R. § 3.310(a), which provides that, generally, disability which is proximately due to or the result of a service-connected disease or injury shall be service connected. Thus, VA does pay, in specific cases, compensation for primary service-connected disability and for secondary service-connected disability. However, consistent with the plain

REV_00162433

meaning of sections 1110 and 1131, if a disability, whether primary or secondary, is a result of the veteran's own alcohol or drug abuse, VA did not pay compensation.

This has changed. On February 2, 2001, a three-judge panel of the United States Court of Appeals for the Federal Circuit interpreted section 1110 as allowing compensation for an alcohol or drug-abuse-related disability arising secondarily from a service-connected disability. *Allen v. Principi*, 237 F.3d 1368, 1370 (Fed. Cir. 2001). More specifically, the panel held that section 1110 "does not preclude compensation for an alcohol or drug abuse disability secondary to a service-connected disability or use of an alcohol or drug abuse disability as evidence of the increased severity of a service-connected disability." *Id.* at 1381. The Government filed a petition for rehearing and rehearing en banc, which the panel and full court denied on October 16, 2001. *Allen v. Principi*, 268 F.3d 1340, 1341 (Fed. Cir. 2001). However, five of the eleven judges who considered the petition for rehearing en banc dissented from the order denying rehearing, opining that the court's interpretation is wrong. 268 F.3d at 1341-42.

We are concerned that payment of additional compensation based on the abuse of alcohol or drugs is contrary to congressional intent and is not in veterans' best interests because it removes an incentive to refrain from debilitating and self-destructive behavior.

The Federal Circuit's interpretation in *Allen* could also greatly increase the amount of compensation VA pays for service-connected disabilities. Under the

REV_00162434

court's interpretation, any veteran with a service-connected disability who abuses alcohol or drugs is potentially eligible for an increased amount of compensation if he or she can offer evidence that the substance abuse is a result of a service-connected disability, *i.e.*, that the substance abuse is a way of coping with the pain or loss the disability causes. Under this interpretation, alcohol or drug abuse disabilities that are secondary to either physical or mental disorders are compensable.

The potential for increased costs is illustrated by mental disorders, which are frequently associated with alcohol and drug abuse. Almost 421,000 veterans are currently receiving compensation for a service-connected mental disability. About 324,000 of those disabilities are currently rated less than 100 percent and could potentially be rated totally disabling on the basis of secondary alcohol or drug abuse. Even if the service connection of disability from alcohol or drug abuse does not result in an increased schedular evaluation, temporary total evaluations could be assigned whenever a veteran is hospitalized for more than twenty-one days for treatment or observation related to the abuse. Even the 97,000 cases of a service-connected mental disability evaluated at 100 percent disabling have potential for increased compensation for secondary alcohol or drug abuse if the statutory criteria for special monthly compensation are met.

The potential increase in compensation does not end there. Under the Federal Circuit's interpretation, VA is required to pay compensation for the secondary effects of the abuse of alcohol or drugs. Once alcohol or drug abuse is service connected as being secondary to another service-connected disability,

REV_00162435

then service connection can be established for any disability that is a result of the service-connected abuse of alcohol or drugs. If alcohol or drug abuse results in a disease, such as cirrhosis of the liver, then that disease would also be service connected and provide a basis for compensation under the court's interpretation.

Of course, an increase in the amount of compensation VA pays for service-connected disabilities will increase the benefit cost of the compensation program. Section 3 of H.R. 850 would avoid those increased costs. Our estimate of savings that would result from enactment of this provision is based on the payment of only basic compensation for alcohol or drug abuse disabilities secondary to service-connected disabilities. We estimate that this provision would result in benefit cost savings of $127 million and administrative cost savings of $44 million in FY 2004 and benefit cost savings of $4.6 billion and administrative cost savings of $97 million for the ten-year period FY 2004 through FY 2013. This amount does not include the savings that would be associated with payment of compensation for temporary total evaluations, special monthly compensation, or compensation for the secondary effects of alcohol or drug abuse.

Dental Care for Former Prisoners of War

Section 4 of H.R. 850 would require VA to provide outpatient dental services and treatment, and related dental appliances, for any non-service-connected dental condition or disability from which a veteran who is a former POW is suffering. Currently, a veteran who is a former POW may receive dental

REV_00162436

benefits for non-service-connected dental conditions or disabilities only if the veteran was incarcerated for 90 days or more. By eliminating the 90-day requirement, section 4 would authorize VA to treat all former POWs the same, regardless of their length of captivity, with respect to dental care for a non-service-connected condition or disability. It would also make the eligibility rules for dental benefits for former POWs the same as for other health-care services for former POWs.

VA has strongly supported similar provisions in the past, and we continue our strong support for this provision. We believe this amendment is needed to ensure that former POWs receive all needed care for conditions that may be attributable to the privations of their service.

Costs resulting from enactment of this provision would be insignificant.

H.R. 966

Mr. Chairman, H.R. 966, the "Disabled Veterans' Return-to-Work Act of 2003," would amend provisions of 38 U.S.C. § 1524 to reinstate a program of vocational training for certain pension recipients that was in place between February 1, 1985, and December 31, 1995. That temporary program, established pursuant to the Veterans' Benefits Improvement Act of 1984, Pub. L. No. 98-543, required the Secretary of Veterans Affairs to determine whether the achievement of a vocational goal was reasonably feasible in the case of certain veterans awarded pension during the program period. If the achievement of such a goal was found to be feasible, these veterans were offered the opportunity to

REV_00162437

pursue programs of vocational training consisting of vocationally oriented and other services and assistance of the same kind provided under the vocational rehabilitation program authorized under chapter 31 of title 38, United States Code. These services and assistance did not include subsistence allowances, loans, or automobile adaptive equipment. Once a program of training was completed, a veteran could also receive employment assistance. The law limited the number of evaluations to be performed to not more than 3,500 veterans during any 12-month period. The initial program period ran from February 1, 1985, to January 31, 1992.

Initially, the law required that a veteran under the age of 50 who was awarded pension during the program period be evaluated with respect to his or her potential for rehabilitation. It required that the evaluation include a personal interview by a VA employee trained in vocational counseling. If the veteran refused to participate in the evaluation, his or her pension was suspended until he or she participated in an evaluation. Subsequent participation in the vocational training itself was voluntary. For a veteran pension recipient 50 years of age or older, the program of vocational training was totally voluntary. If, upon application by such a veteran-pensioner, VA made a preliminary finding on the basis of information in the application that, with the assistance of a vocational training program, the veteran had good potential for achieving employment, VA was authorized, upon the veteran's request, to evaluate the veteran to further determine whether the achievement of a vocational goal was reasonably feasible.

In 1992, Public Law 102-562 eliminated the limitation on the number of

REV_00162438

program participants who may be evaluated annually and amended the program for veterans under age 45, rather than under age 50, who were awarded pension during the program period so as to (A) require the Secretary, based on information on file with VA, to make a preliminary finding whether the veteran, with the assistance of a VA vocational training program, had a good potential for achieving employment; (B) if that potential was found to exist, required the Secretary to solicit from the veteran an application for VA vocational training; and (C) if the veteran applied for training, required the Secretary to provide an evaluation to determine whether the achievement of a vocational goal was reasonably feasible. In addition, the program was opened to veterans age 45 and older who had been awarded pension before the program period. That Public Law also extended the program ending date until December 31, 1995. No further action was taken by Congress, and by operation of law, the program ended on December 31, 1995.

During the period February 1, 1985, through January 31, 1989, VA evaluated approximately 9,468 veterans under the program. Of these, 2,838 were found to be feasible for training. Some 468 veterans participated in programs of vocational training. Sixty-five veterans completed that training. Fifty-eight obtained employment. Between fiscal year 1989 and fiscal year 1992, VA conducted 9,140 evaluations under the program, with 937 veterans participating in training.

H.R. 966 would reinstate the program and provide that a new program period would run for five years beginning on the date of enactment of the Act. In

REV_00162439

addition, it would require the Secretary to ensure that the availability of vocational training under section 1524 be made known through a variety of means, including the Internet and announcements in VA publications and other veterans' publications. Finally, the bill would require the Secretary, within two years after the date of enactment of the Act, to report to the Committees on Veterans' Affairs of the Senate and House on the operation of the program to include an evaluation of the vocational training provided and an analysis of the cost-effectiveness of the training provided, as well as data on the entered-employment rate of veterans pursuing such training.

If H.R. 966 were to be enacted, we estimate that VA would conduct approximately 1,300 record reviews each year, based on new accessions to the pension rolls, to determine whether each veteran so evaluated has good potential for achieving employment. We estimate that the achievement of a vocational goal will be determined to be feasible in about 1/3 (433) of those cases. Of that number, it is estimated that approximately 1/3 of these, 144 veterans, will actually end up participating in the program. In addition, because the program is also available to veterans over age 45 on a voluntary basis, we estimate that an additional 25 participants may participate, for a total of 169 cases per year. Based on those numbers, VA estimates that the enactment of H.R. 966 would cost $3 million for fiscal years 2004 through 2008 and an additional $3.6 million for fiscal years 2009 though 2013, totaling $6.6 million. Administrative costs associated with this bill are expected to be insignificant.

Mr. Chairman, given our experience in administering the temporary

REV_00162440

program during its ten-year duration, and the fact that only a small number of veterans benefited from the program, VA believes that the finite resources available to us for program administration would be best used to support our current program of vocational rehabilitation for service-disabled veterans, as authorized under chapter 31 of title 38, United States Code, especially in light of the current combat activities in Iraq. Thus, the Department does not support the enactment of H.R. 966.

Mr. Chairman, this concludes my statement. I will be pleased to respond to any questions you or the members of the Subcommittee may have.

REV_00162441

I

108TH CONGRESS
1ST SESSION

H. R. 241

To amend title 38, United States Code, to repeal the two-year limitation on the payment of accrued benefits that are due and unpaid by the Secretary of Veterans Affairs upon the death of a veteran or other beneficiary under laws administered by the Secretary.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 8, 2003

Mr. SMITH of New Jersey (for himself and Mr. EVANS) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to repeal the two-year limitation on the payment of accrued benefits that are due and unpaid by the Secretary of Veterans Affairs upon the death of a veteran or other beneficiary under laws administered by the Secretary.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Beneficiary Fairness Act of 2003".

REV_00162442

SEC. 2. PAYMENT OF ACCRUED BENEFITS.

(a) REPEAL OF LIMITATION ON PAYMENT.—Subsection (a) of section 5121 of title 38, United States Code, is amended by striking ''for a period not to exceed two years'' in the matter preceding paragraph (1).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to deaths occurring on or after the date of the enactment of this Act.

○

REV_00162443

108TH CONGRESS

1ST SESSION

H. R. 761

To amend title 38, United States Code, to authorize the Secretary of Veterans' Affairs to provide adapted housing assistance to disabled members of the Armed Forces who remain on active duty pending medical separation.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2003

Mr. EVANS (for himself, Mr. SMITH of New Jersey, Mr. RODRIGUEZ, Mr. FILNER, Mr. RENZI, Ms. CORRINE BROWN of Florida, Mr. REYES, Mr. MICHAUD, Ms. JACKSON-LEE of Texas, Mr. LANGEVIN, and Mr. SANDERS) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to authorize the Secretary of Veterans' Affairs to provide adapted housing assistance to disabled members of the Armed Forces who remain on active duty pending medical separation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Disabled Servicemembers Adapted Housing Assistance Act of 2003".

REV_00162444

SEC. 2. AUTHORIZATION TO PROVIDE ADAPTED HOUSING ASSISTANCE TO CERTAIN DISABLED MEMBERS OF THE ARMED FORCES WHO REMAIN ON ACTIVE DUTY.

Section 2101 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) The Secretary may provide assistance under subsection (a) to a member of the Armed Forces serving on active duty who is suffering from a disability described in paragraph (1), (2), or (3) of that subsection if such disability is the result of an injury incurred or disease contracted in or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under that subsection to veterans eligible for assistance under that subsection and subject to the requirements of the second sentence of that subsection.

"(2) The Secretary may provide assistance under subsection (b) to a member of the Armed Forces serving on active duty who is suffering from a disability described in subparagraph (A) or (B) of paragraph (1) of that subsection if such disability is the result of an injury incurred or disease contracted in or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under such subsection to veterans eligible for assistance under that subsection and subject to the requirements of paragraph (2) of that subsection.".

REV_00162445

I

108TH CONGRESS
1ST SESSION

H. R. 1048

To amend title 38, United States Code, to increase the amount of assistance for certain disabled veterans for specially adapted housing and automobile and adaptive equipment.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 2003

Mr. BROWN of South Carolina (for himself, Mr. RODRIGUEZ, Mr. SMITH of New Jersey, and Mr. EVANS) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to increase the amount of assistance for certain disabled veterans for specially adapted housing and automobile and adaptive equipment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Disabled Veterans Adaptive Benefits Improvement Act of 2003".

REV_00162446

SEC. 2. INCREASE IN ASSISTANCE AMOUNT FOR SPECIALLY ADAPTED HOUSING.

Section 2102 of title 38, United States Code, is amended—

(1) in the matter preceding paragraph (1) of subsection (a), by striking "$48,000" and inserting "$50,000"; and

(2) in subsection (b)(2), by striking "$9,250" and inserting "$10,000".

SEC. 3. INCREASE IN AMOUNT OF ASSISTANCE FOR AUTOMOBILE AND ADAPTIVE EQUIPMENT FOR CERTAIN DISABLED VETERANS.

Section 3902(a) of title 38, United States Code, is amended by striking "$9,000" and inserting "$11,000".

○

REV_00162447

I

108TH CONGRESS
1ST SESSION

H. R. 533

To amend title 38, United States Code, to provide for health benefits and certain other benefits to be furnished by the Department of Veterans Affairs to any individual who has spina bifida and is the natural child of a veteran who, while in military service, was exposed to a herbicide agent.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 2003

Mr. EVANS (for himself, Mr. RODRIGUEZ, Mr. FILNER, Mr. GUTIERREZ, Ms. CORRINE BROWN of Florida, Mr. SNYDER, Mr. MCINTYRE, Mr. SANDERS, Mr. SERRANO, and Mr. WAXMAN) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to provide for health benefits and certain other benefits to be furnished by the Department of Veterans Affairs to any individual who has spina bifida and is the natural child of a veteran who, while in military service, was exposed to a herbicide agent.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Agent Orange Veterans' Disabled Children's Benefits Act of 2003".

REV_00162448

SEC. 2. EXTENSION OF SPINA BIFIDA BENEFITS FOR CHILDREN OF VETERANS.

(a) ELIGIBLE CHILDREN.—Subchapter I of chapter 18 of title 38, United States Code, is amended by inserting before section 1802 the following new section:

"§ 1801. Persons eligible for benefits

"(a) ELIGIBLE CHILD.—An individual is an eligible child for purposes of this subchapter if the individual is suffering from spina bifida and is—

"(1) a child as defined in section 1821(1) of this title; or

"(2) the natural child, regardless of age or marital status, of a parent who performed qualifying herbicide-risk service, if the individual was conceived after the parent performed such service.

"(b) QUALIFYING HERBICIDE-RISK SERVICE.—(1) An individual performed qualifying herbicide-risk service if (as determined by the Secretary) the individual, while performing active military, naval, or air service (without regard to the characterization of that individual's service)—

"(A) served in an area in which a Vietnam-era herbicide agent was used during a period during which such agent was used in that area; or

"(B) otherwise was exposed to a Vietnam-era herbicide agent.

REV_00162449

"(2) For purposes of paragraph (1), the term 'Vietnam-era herbicide agent' has the meaning given the term 'herbicide agent' in section 1116(a)(3) of this title.".

(b) HEALTH CARE.—Section 1803(a) of such title is amended by striking "a child of a Vietnam veteran who is suffering from spina bifida" and inserting "an eligible child".

(c) VOCATIONAL TRAINING AND REHABILITATION.—Section 1804(a) of such title is amended by striking "a child of a Vietnam veteran who is suffering from spina bifida" and inserting "an eligible child".

(d) MONETARY ALLOWANCE.—Section 1805(a) of such title is amended by striking "any child of a Vietnam veteran" and inserting "any eligible child".

(e) CONFORMING AMENDMENTS.—

(1) The heading of chapter 18 of such title is amended to read as follows:

"CHAPTER 18—DISABILITY BENEFITS FOR CHILDREN OF VIETNAM VETERANS AND OTHER VETERANS EXPOSED TO HERBICIDE AGENTS".

(2) The heading of subchapter I of such chapter is amended to read as follows:

REV_00162450

"SUBCHAPTER I—CHILDREN BORN WITH SPINA BIFIDA".

(3) The table of sections at the beginning of such chapter is amended—

(A) by striking the item relating to subchapter I and inserting the following:

"SUBCHAPTER I—CHILDREN BORN WITH SPINA BIFIDA";

and

(B) by inserting before the item relating to section 1802 the following new item:

"1801. Persons eligible for benefits.".

(4) The items relating to chapter 18 in the tables of chapters at the beginning of title 38, United States Code, and at the beginning of part II of such title, are amended to read as follows:

"18. Disability Benefits for Children of Vietnam Veterans and Other Veterans Exposed to Herbicide Agents ..... 1801".

○

REV_00162451

I

108TH CONGRESS
1ST SESSION

H. R. 850

To amend title 38, United States Code, to provide special compensation for former prisoners of war, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2003

Mr. SIMPSON (for himself, Mr. COX, Mr. BOEHNER, Mr. DREIER, Mr. HYDE, Mr. KOLBE, Mr. LEACH, Mr. OTTER, Mr. SENSENBRENNER, and Mr. WILSON of South Carolina) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to provide special compensation for former prisoners of war, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Former Prisoners of War Special Compensation Act of 2003".

REV_00162452

SEC. 2. SPECIAL COMPENSATION FOR FORMER PRISONERS OF WAR.

(a) IN GENERAL.—Chapter 11 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER VII—FORMER PRISONERS OF WAR

"§1181. Special compensation: former prisoners of war

"(a)(1) The Secretary shall pay monthly to each veteran who is a former prisoner of war and who while a prisoner of war was detained or interned for not less than 30 days special compensation at the rate specified in subsection (b).

"(2) For the purposes of this section, the term 'veteran' includes an individual serving on active duty.

"(b) The rate of special compensation for purposes of this section shall be as follows:

"(1) If the former prisoner of war was detained or interned for a period of not more than 120 days, the monthly amount of special compensation payable shall be $150.

"(2) If the former prisoner of war was detained or interned for a period of more than 120 days and not more than 540 days, the monthly amount of special compensation payable shall be $300.

REV_00162453

"(3) If the former prisoner of war was detained or interned for a period of more than 540 days, the monthly amount of special compensation payable shall be $450.

"(c) If a former prisoner of war was detained or interned on two or more separate occasions, the cumulative length of all occasions of confinement or internment as a prisoner of war shall determine the monthly compensation rate payable under subsection (b).

"§ 1182. Provisions relating to special compensation for former prisoners of war

"(a) Special compensation payable under this subchapter shall be paid in addition to any other payment under the laws of the United States. Amounts paid to an individual under this subchapter shall not be considered to be income or resources for purposes of determining eligibility to receive benefits under any Federal or federally assisted program.

"(b) Special compensation payable under this subchapter shall not be considered to be compensation within the meaning of that term in section 101(13) of this title.

"(c) The provisions of subsection (c) of section 1562 of this title shall apply to special compensation under this subchapter in the same manner as to special pension under that section.".

REV_00162454

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"SUBCHAPTER VII—FORMER PRISONERS OF WAR

"1181. Special compensation: former prisoners of war.
"1182. Provisions relating to special compensation for former prisoners of war.".

SEC. 3. CLARIFICATION OF PROHIBITION ON PAYMENT OF COMPENSATION FOR ALCOHOL OR DRUG-RELATED DISABILITY.

(a) CLARIFICATION.—Sections 1110 and 1131 of title 38, United States Code, are each amended by inserting ", even if the abuse is secondary to a service-connected disability" before the period at the end.

(a) APPLICABILITY.—The amendments made by subsection (a) apply to any claim—

(1) filed on or after the date of the enactment of this Act; or

(2) filed before the date of the enactment of this Act and not finally decided as of that date.

SEC. 4. OUTPATIENT DENTAL CARE FOR ALL FORMER PRISONERS OF WAR.

Section 1712(a)(1)(F) of title 38, United States Code, is amended by striking "and who was detained or interned for a period of not less than 90 days".

○

REV_00162455

I

108TH CONGRESS
1ST SESSION

H. R. 966

To amend title 38, United States Code, to reinstate the vocational training program of the Department of Veterans Affairs for certain low-income veterans in receipt of pension from that Department.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2003

Mr. BROWN of South Carolina (for himself, Mr. RODRIGUEZ, Mr. SMITH of New Jersey, and Mr. EVANS) introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to reinstate the vocational training program of the Department of Veterans Affairs for certain low-income veterans in receipt of pension from that Department.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Disabled Veterans' Return-to-Work Act of 2003".

REV_00162456

SEC. 2. REINSTATEMENT OF VETERANS VOCATIONAL TRAINING PROGRAM FOR CERTAIN PENSION RECIPIENTS.

(a) ESTABLISHMENT OF NEW PROGRAM PERIOD.—Subsection (a)(3) of section 1524 of title 38, United States Code, is amended by striking ''the period beginning on February 1, 1985, and ending on December 31, 1995'' and inserting ''the five-year period beginning on the date of the enactment of the Disabled Veterans' Return-to-Work Act of 2003''.

(b) CONFORMING AMENDMENT.—Subsection (b)(4) of such section is amended by striking ''December 31, 1995'' and inserting ''the end of the program period''.

(c) OUTREACH.—Such section is further amended by adding at the end the following new subsection:

''(f) The Secretary shall ensure that the availability of vocational training under this section is made known through a variety of means, including the Internet and announcements in Department publications and other veterans' publications.''.

(d) REPORTS.—Such section is further amended by adding at the end the following new subsection:

''(g) Not later than two years after the date of the enactment of the Disabled Veterans' Return-to-Work Act of 2003, and each year thereafter, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate

REV_00162457

and House of Representatives a report on the operation of this section. The report shall set forth an evaluation of the vocational training provided under this section for the period involved, and shall include an analysis of the cost-effectiveness of the vocational training provided under this section as well as data on the entered-employment rate of veterans pursuing such vocational training.''.

(e) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) by striking ''of Veterans Affairs'' in subsection (a)(1); and

(2) by striking ''of this section'' in subsections (a)(2), (b)(1), (b)(4) (both places it appears), (c), (d), and (e).

○

REV_00162458

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Lisa J. Macecevic/OMB/EOP@EOP [OMB] <Lisa J. Macecevic>
Sent: 4/7/2003 7:36:40 AM
Subject: : Re: FYI - class action markup scheduled for this Thursday

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 7-APR-2003 11:36:40.00
SUBJECT:: Re: FYI - class action markup scheduled for this Thursday
TO:Lisa J. Macecevic (CN=Lisa J. Macecevic/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
End Original ARMS Header

Has WH agreed to the Feinstein amendment as this story reports?

From: Lisa J. Macecevic on 04/07/2003 11:33:51 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: FYI - class action markup scheduled for this Thursday

from CQ:

On Thursday, the Senate Judiciary Committee is slated to mark up class action reform legislation, which was held over from last week after Democrats complained they had not enough time to examine a new bipartisan compromise.
April 10, 9:30 a.m., 226 Dirksen Bldg. Thursday also marks the deadline Senate Judiciary Chairman Hatch set last month for stakeholder feedback on an asbestos litigation reform bill he is drafting.

Class Action Bill Mark Up Will Include Feinstein Amendment
By Keith Perine, CQ Staff
The Senate Judiciary Committee will try once again to mark up a bill that would establish new rules for class action lawsuits.
The measure, which is expected to be considered April 10, has taken the lead among various pieces of legislation that together represent a conservative tort overhaul movement in the 108th Congress. The panel is expected to approve it.
It originally was scheduled to be marked up at a March 27 committee meeting. At the request of committee Democrats, some of whom fiercely oppose the bill, Senate Judiciary Committee Chairman Orrin G. Hatch, R-Utah, twice has postponed committee action.
The legislation (Sÿ274) would steer many cases that are filed in state courts into federal courts if at least $2 million is at stake and if at least one plaintiff lives in a different state than does the defendant. Some exceptions are possible, such as if a "substantial majority" of plaintiffs and the primary defendants are citizens of the state where the case is originally filed.
The legislation also would mandate that notices to class members be detailed and clearly written, and that courts could not approve settlements that would cause a "bounty" payment to be made to one class member.
Sen. Dianne Feinstein, D-Calif., plans to offer an amendment that would raise the bar for transferring class action cases to federal courts.
The Feinstein amendment, which Hatch supports, would make cases eligible for removal to federal courts only if at least $5 million is at stake. It also would mandate that class action suits would remain in state courts if more than two-thirds of the plaintiffs live in the same state as the

primary defendant.
Business lobbyists pushing for the bill say the White House, which strongly backs the measure, also has accepted the Feinstein language. There already are three Democratic co-sponsors of the bill * including Thomas R. Carper of Delaware, who has been championing it in the Democratic caucus. But Feinstein's support is seen as critical to securing a filibuster-proof 60-vote majority for the bill on the Senate floor. Business lobbyists believe they are already close to that number.
Patrick J. Leahy of Vermont, the committee's ranking Democrat, is expected to offer an amendment that would make it a crime to deliberately conceal or destroy documents and records related to class action cases. The offense would be punishable by a fine and or up to 20 years in prison.
Richard J. Durbin, D-Ill., is expected to offer several amendments, including one that would exempt tobacco-related class action lawsuits.
Depending on the number of amendments offered and the press of other Senate business, the committee might not finish its markup on April 10.
Hatch said on April 2 that he had not yet sought a commitment for floor time for the measure from Senate Majority Leader Bill Frist, R-Tenn.
The committee April 10 also is expected to consider several judicial nominations, as well as a bill (Sÿ731) that would criminalize the possession or use of authentication features * such as watermarks or holograms * to make false identification. That bill originally was scheduled for committee action on April 3.
Source: CQ Today
Round-the-clock coverage of news from Capitol Hill.
¸ 2003 Congressional Quarterly Inc. All Rights Reserved

Message Sent
To:_____
Brett M. Kavanaugh/WHO/EOP@EOP
Kevin Warsh/OPD/EOP@EOP
Diana L. Schacht/OPD/EOP@EOP
Kristen Silverberg/WHO/EOP@Exchange@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
James Boden/OMB/EOP@EOP
Richard E. Green/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP

From: CN=Lisa J. Macecevic/OU=OMB/O=EOP [OMB]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/7/2003 8:01:41 AM
Subject: : Re: FYI - class action markup scheduled for this Thursday

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Lisa J. Macecevic (CN=Lisa J. Macecevic/OU=OMB/O=EOP [OMB])
CREATION DATE/TIME: 7-APR-2003 12:01:41.00
SUBJECT:: Re: FYI - class action markup scheduled for this Thursday
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Would be news to me.

Brett M. Kavanaugh
04/07/2003 11:36:29 AM
Record Type: Record

To: Lisa J. Macecevic/OMB/EOP@EOP
cc:
bcc:
Subject: Re: FYI - class action markup scheduled for this Thursday

Has WH agreed to the Feinstein amendment as this story reports?

From: Lisa J. Macecevic on 04/07/2003 11:33:51 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: FYI - class action markup scheduled for this Thursday

from CQ:

On Thursday, the Senate Judiciary Committee is slated to mark up class action reform legislation, which was held over from last week after Democrats complained they had not enough time to examine a new bipartisan compromise.
April 10, 9:30 a.m., 226 Dirksen Bldg. Thursday also marks the deadline Senate Judiciary Chairman Hatch set last month for stakeholder feedback on an asbestos litigation reform bill he is drafting.

Class Action Bill Mark Up Will Include Feinstein Amendment
By Keith Perine, CQ Staff
The Senate Judiciary Committee will try once again to mark up a bill that would establish new rules for class action lawsuits.
The measure, which is expected to be considered April 10, has taken the lead among various pieces of legislation that together represent a conservative tort overhaul movement in the 108th Congress. The panel is expected to approve it.
It originally was scheduled to be marked up at a March 27 committee meeting. At the request of committee Democrats, some of whom fiercely

oppose the bill, Senate Judiciary Committee Chairman Orrin G. Hatch, R-Utah, twice has postponed committee action.
The legislation (Sÿ274) would steer many cases that are filed in state courts into federal courts if at least $2 million is at stake and if at least one plaintiff lives in a different state than does the defendant. Some exceptions are possible, such as if a "substantial majority" of plaintiffs and the primary defendants are citizens of the state where the case is originally filed.
The legislation also would mandate that notices to class members be detailed and clearly written, and that courts could not approve settlements that would cause a "bounty" payment to be made to one class member.
Sen. Dianne Feinstein, D-Calif., plans to offer an amendment that would raise the bar for transferring class action cases to federal courts.
The Feinstein amendment, which Hatch supports, would make cases eligible for removal to federal courts only if at least $5 million is at stake. It also would mandate that class action suits would remain in state courts if more than two-thirds of the plaintiffs live in the same state as the primary defendant.
Business lobbyists pushing for the bill say the White House, which strongly backs the measure, also has accepted the Feinstein language.
There already are three Democratic co-sponsors of the bill * including Thomas R. Carper of Delaware, who has been championing it in the Democratic caucus. But Feinstein's support is seen as critical to securing a filibuster-proof 60-vote majority for the bill on the Senate floor. Business lobbyists believe they are already close to that number.
Patrick J. Leahy of Vermont, the committee's ranking Democrat, is expected to offer an amendment that would make it a crime to deliberately conceal or destroy documents and records related to class action cases. The offense would be punishable by a fine and or up to 20 years in prison.
Richard J. Durbin, D-Ill., is expected to offer several amendments, including one that would exempt tobacco-related class action lawsuits.
Depending on the number of amendments offered and the press of other Senate business, the committee might not finish its markup on April 10.
Hatch said on April 2 that he had not yet sought a commitment for floor time for the measure from Senate Majority Leader Bill Frist, R-Tenn.
The committee April 10 also is expected to consider several judicial nominations, as well as a bill (Sÿ731) that would criminalize the possession or use of authentication features * such as watermarks or holograms * to make false identification. That bill originally was scheduled for committee action on April 3.
Source: CQ Today
Round-the-clock coverage of news from Capitol Hill.
© 2003 Congressional Quarterly Inc. All Rights Reserved

Message Sent
To:_____
Brett M. Kavanaugh/WHO/EOP@EOP
Kevin Warsh/OPD/EOP@EOP
Diana L. Schacht/OPD/EOP@EOP
Kristen Silverberg/WHO/EOP@Exchange@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
James Boden/OMB/EOP@EOP
Richard E. Green/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP

From: Kavanaugh, Brett M.
To: <Silverberg, Kristen>;<Schacht, Diana L.>
Sent: 4/7/2003 12:17:31 PM
Subject: FYI - class action markup scheduled for this Thursday
Attachments: ~~DLNK0.URL

Did we agree to Feinstein as this article suggests?

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 04/07/2003 12:17 PM ----------

From: Lisa J. Macecevic on 04/07/2003 11:33:51 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: FYI - class action markup scheduled for this Thursday

from CQ:

On Thursday, the Senate Judiciary Committee is slated to mark up class action reform legislation, which was held over from last week after Democrats complained they had not enough time to examine a new bipartisan compromise.

April 10, 9:30 a.m., 226 Dirksen Bldg. Thursday also marks the deadline Senate Judiciary Chairman Hatch set last month for stakeholder feedback on an asbestos litigation reform bill he is drafting.

Class Action Bill Mark Up Will Include Feinstein Amendment

By Keith Perine, CQ Staff

The Senate Judiciary Committee will try once again to mark up a bill that would establish new rules for class action lawsuits.

The measure, which is expected to be considered April 10, has taken the lead among various pieces of legislation that together represent a conservative tort overhaul movement in the 108th Congress. The panel is expected to approve it.

It originally was scheduled to be marked up at a March 27 committee meeting. At the request of committee Democrats, some of whom fiercely oppose the bill, Senate Judiciary Committee Chairman Orrin G. Hatch, R-Utah, twice has postponed committee action.

The legislation (**S 274**) would steer many cases that are filed in state courts into federal courts if at least $2 million is at stake and if at least one plaintiff lives in a different state than does the defendant.

Some exceptions are possible, such as if a "substantial majority" of plaintiffs and the primary defendants are citizens of the state where the case is originally filed.

The legislation also would mandate that notices to class members be detailed and clearly written, and that courts could not approve settlements that would cause a "bounty" payment to be made to one class member.

Sen. Dianne Feinstein, D-Calif., plans to offer an amendment that would raise the bar for transferring class action cases to federal courts.

The Feinstein amendment, which Hatch supports, would make cases eligible for removal to federal courts only if at least $5 million is at stake. It also would mandate that class action suits would remain in state courts if more than two-thirds of the plaintiffs live in the same state as the primary defendant.

Business lobbyists pushing for the bill say the White House, which strongly backs the measure, also has accepted the Feinstein language. There already are three Democratic co-sponsors of the bill — including Thomas R. Carper of Delaware, who has been championing it in the Democratic caucus. But Feinstein's support is seen as critical to securing a filibuster-proof 60-vote majority for the bill on the Senate floor. Business lobbyists believe they are already close to that number.

Patrick J. Leahy of Vermont, the committee's ranking Democrat, is expected to offer an amendment that would make it a crime to deliberately conceal or destroy documents and records related to class action cases. The offense would be punishable by a fine and or up to 20 years in prison.

Richard J. Durbin, D-Ill., is expected to offer several amendments, including one that would exempt tobacco-related class action lawsuits.

Depending on the number of amendments offered and the press of other Senate business, the committee might not finish its markup on April 10.

Hatch said on April 2 that he had not yet sought a commitment for floor time for the measure from Senate Majority Leader Bill Frist, R-Tenn.

The committee April 10 also is expected to consider several judicial nominations, as well as a bill (S 731 <>) that would criminalize the possession or use of authentication features — such as watermarks or holograms — to make false identification. That bill originally was scheduled for committee action on April 3.

Source: **CQ Today**

Round-the-clock coverage of news from Capitol Hill.

© 2003 Congressional Quarterly Inc. All Rights Reserved

Message Sent To:

Brett M. Kavanaugh/WHO/EOP@EOP

Kevin Warsh/OPD/EOP@EOP

Diana L. Schacht/OPD/EOP@EOP

Kristen Silverberg/WHO/EOP@Exchange@EOP

Lauren E. Bloomquist/OMB/EOP@EOP

James Boden/OMB/EOP@EOP

Richard E. Green/OMB/EOP@EOP

James J. Jukes/OMB/EOP@EOP

[InternetShortcut]
URL=javascript:simplePopup('loadbillcard.do?billNumber=S731&congress=108','billCard',680,430);

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Carolyn Nelson/WHO/EOP@Exchange@EOP [WHO] <Carolyn Nelson>
Sent: 4/7/2003 9:10:47 AM
Subject: : do you have direct number for hew pate

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 7-APR-2003 13:10:47.00
SUBJECT:: do you have direct number for hew pate
TO:Carolyn Nelson (CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on
04/07/2003 01:10 PM ----------

Brett M. Kavanaugh
04/07/2003 10:25:54 AM
Record Type: Record

To: Patrick J. Bumatay/WHO/EOP@Exchange@EOP
cc:
Subject: do you have direct number for hew pate

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Jay P. Lefkowitz/OPD/EOP@Exchange [OPD] <Jay P. Lefkowitz>
CC: kristen silverberg/who/eop@exchange [WHO] <kristen silverberg>;diana l. schacht/opd /eop@eop [OPD] <diana l. schacht>;alan gilbert/opd/eop@eop [OPD] <alan gilbert>
Sent: 4/7/2003 9:46:10 AM
Subject: : RE: significant section of Supreme Court opinion today

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 7-APR-2003 13:46:10.00
SUBJECT:: RE: significant section of Supreme Court opinion today
TO:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [ OPD ] )
READ:UNKNOWN
CC:kristen silverberg ( CN=kristen silverberg/OU=who/O=eop@exchange [ WHO ] )
READ:UNKNOWN
CC:diana l. schacht ( CN=diana l. schacht/OU=opd/O=eop@eop [ OPD ] )
READ:UNKNOWN
CC:alan gilbert ( CN=alan gilbert/OU=opd/O=eop@eop [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######

six



From: Jay P. Lefkowitz/OPD/EOP@Exchange on 04/07/2003 01:46:01 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Alan Gilbert/OPD/EOP@EOP,
Kristen Silverberg/WHO/EOP@Exchange, Diana L. Schacht/OPD/EOP@EOP
cc:
Subject: RE: significant section of Supreme Court opinion today

How many Justices signed this portion of the opinion?

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Monday, April 07, 2003 1:34 PM
To: Gilbert, Alan; Lefkowitz, Jay P.; Silverberg, Kristen; Schacht,
Diana L.
Subject: significant section of Supreme Court opinion today

"[F]ew awards exceeding a single-digit ratio between punitive and
compensatory damages, to a significant degree, will satisfy due process. .
. . [R]atios greater than those we have previously upheld may comport
with due process where a particularly egregious act has resulted in only a
small amount of economic damages. . . . The converse is also true,
however. When compensatory damages are substantial, then a lesser ratio,
perhaps only equal to compensatory damages, can reach the outermost limit
of the due process guarantee." The Court later concludes that the $1
million compensatory award in that case was "substantial."

All of this suggests that a 1-to-1 punitive-to-compensatory damages ratio
may now be constitutionally mandated when the compensatory award is
considered "substantial." Important development.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Wendy J. Grubbs/WHO/EOP@Exchange [WHO] <Wendy J. Grubbs>
Sent: 4/7/2003 11:40:30 AM
Subject: : Re: Tech service switched my email

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 7-APR-2003 15:40:30.00
SUBJECT:: Re: Tech service switched my email
TO:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

which one, on what subject?

From: Wendy J. Grubbs/WHO/EOP@Exchange on 04/07/2003 03:39:14 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Tech service switched my email

and I cannot retrieve old docs (for the moment) so please resend Leahy letter. I have to return Bruce's charming call.

From: CN=Layton Skelly/OU=OPD/O=EOP [OPD]
To: Layton Skelly/OPD/EOP@EOP [OPD] <Layton Skelly>
CC: stephanie.wilson@hhs.gov [UNKNOWN] <stephanie.wilson@hhs.gov>;scriver-langford-lat@dol.gov @ inet [UNKNOWN] <scriver-langford-lat@dol.gov @ inet>;dana.ceasar@hhs.gov [UNKNOWN] <dana.ceasar@hhs.gov>;lauren j. vestewig/opd/eop@exchange@eop [OPD] <lauren j. vestewig>;emily winland/opd/eop@eop [OPD] <emily winland>;joyce.b-moore@hhs.gov [UNKNOWN] <joyce.b-moore@hhs.gov>;wendy j. grubbs/who /eop@exchange@eop [WHO] <wendy j. grubbs>;alan gilbert/opd/eop@eop [OPD] <alan gilbert>;jafar.karim@hhs.gov [UNKNOWN] <jafar.karim@hhs.gov>;marc.kesselman@usdoj.gov @ inet [UNKNOWN] <marc.kesselman@usdoj.gov @ inet>;tracy young/who/eop@eop [WHO] <tracy young>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;kristen silverberg/who/eop@exchange@eop [WHO] <kristen silverberg>;ginger g. loper/who /eop@exchange@eop [WHO] <ginger g. loper>;william d. badger/opd/eop@eop [OPD] <william d. badger>;jennifer.young@hhs.gov @ inet [UNKNOWN] <jennifer.young@hhs.gov @ inet>;alex.azar@hhs.gov @ inet [UNKNOWN] <alex.azar@hhs.gov @ inet>;peter.urbanowicz@hhs.gov @ inet [UNKNOWN] <peter.urbanowicz@hhs.gov @ inet>;carla b. stone/omb/eop@eop [OMB] <carla b. stone>;heather.mcnaught@usdoj.gov [UNKNOWN] <heather.mcnaught@usdoj.gov>;india.luckett@hhs.gov [UNKNOWN] <india.luckett@hhs.gov>;stephen m. lineberry/cea/eop@eop [CEA] <stephen m. lineberry>;marty p. smith/opd/eop@eop [OPD] <marty p. smith>;marie.belt@hhs.gov [UNKNOWN] <marie.belt@hhs.gov>;pamela.roller@hhs.gov [UNKNOWN] <pamela.roller@hhs.gov>;philo d. hall/opd/eop@eop [OPD] <philo d. hall>;jay p. lefkowitz/opd /eop@exchange@eop [OPD] <jay p. lefkowitz>;dana ackerly/cea/eop@eop [CEA] <dana ackerly>;brian r. besanceney/who/eop@eop [WHO] <brian r. besanceney>;zurawski-paul@dol.gov @ inet [UNKNOWN] <zurawski-paul@dol.gov @ inet>;thomas c. deleire/cea /eop@eop [CEA] <thomas c. deleire>;philip j. perry/omb/eop@eop [OMB] <philip j. perry>;amy jensen/who/eop@exchange@eop [WHO] <amy jensen>;diana l. schacht/opd /eop@eop [OPD] <diana l. schacht>;john.hoff@hhs.gov @ inet [UNKNOWN] <john.hoff@hhs.gov @ inet>;viet.dinh@usdoj.gov @ inet [UNKNOWN] <viet.dinh@usdoj.gov @ inet>;paula.stannard@hhs.gov @ inet [UNKNOWN] <paula.stannard@hhs.gov @ inet>
Sent: 4/7/2003 12:36:02 PM
Subject: : Weekly Medical Liability CC CANCELLED

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Layton Skelly ( CN=Layton Skelly/OU=OPD/O=EOP [ OPD ] )
CREATION DATE/TIME: 7-APR-2003 16:36:02.00
SUBJECT:: Weekly Medical Liability CC CANCELLED
TO:Layton Skelly ( CN=Layton Skelly/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
CC:stephanie.wilson@hhs.gov ( stephanie.wilson@hhs.gov [ UNKNOWN ] )
READ:UNKNOWN
CC:scriver-langford-lat@dol.gov @ inet ( scriver-langford-lat@dol.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
CC:dana.ceasar@hhs.gov ( dana.ceasar@hhs.gov [ UNKNOWN ] )
READ:UNKNOWN
CC:lauren j. vestewig ( CN=lauren j. vestewig/OU=opd/O=eop@exchange@eop [ OPD ] )
READ:UNKNOWN
CC:emily winland ( CN=emily winland/OU=opd/O=eop@eop [ OPD ] )
READ:UNKNOWN
CC:joyce.b-moore@hhs.gov ( joyce.b-moore@hhs.gov [ UNKNOWN ] )
READ:UNKNOWN
CC:wendy j. grubbs ( CN=wendy j. grubbs/OU=who/O=eop@exchange@eop [ WHO ] )
READ:UNKNOWN
CC:alan gilbert ( CN=alan gilbert/OU=opd/O=eop@eop [ OPD ] )
READ:UNKNOWN
CC:jafar.karim@hhs.gov ( jafar.karim@hhs.gov [ UNKNOWN ] )
READ:UNKNOWN
CC:marc.kesselman@usdoj.gov @ inet ( marc.kesselman@usdoj.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
CC:tracy young ( CN=tracy young/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
```

CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:kristen silverberg (CN=kristen silverberg/OU=who/O=eop@exchange@eop [WHO])
READ:UNKNOWN
CC:ginger g. loper (CN=ginger g. loper/OU=who/O=eop@exchange@eop [WHO])
READ:UNKNOWN
CC:william d. badger (CN=william d. badger/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
CC:jennifer.young@hhs.gov @ inet (jennifer.young@hhs.gov @ inet [UNKNOWN])
READ:UNKNOWN
CC:alex.azar@hhs.gov @ inet (alex.azar@hhs.gov @ inet [UNKNOWN])
READ:UNKNOWN
CC:peter.urbanowicz@hhs.gov @ inet (peter.urbanowicz@hhs.gov @ inet [UNKNOWN])
READ:UNKNOWN
CC:carla b. stone (CN=carla b. stone/OU=omb/O=eop@eop [OMB])
READ:UNKNOWN
CC:heather.mcnaught@usdoj.gov (heather.mcnaught@usdoj.gov [UNKNOWN])
READ:UNKNOWN
CC:india.luckett@hhs.gov (india.luckett@hhs.gov [UNKNOWN])
READ:UNKNOWN
CC:stephen m. lineberry (CN=stephen m. lineberry/OU=cea/O=eop@eop [CEA])
READ:UNKNOWN
CC:marty p. smith (CN=marty p. smith/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
CC:marie.belt@hhs.gov (marie.belt@hhs.gov [UNKNOWN])
READ:UNKNOWN
CC:pamela.roller@hhs.gov (pamela.roller@hhs.gov [UNKNOWN])
READ:UNKNOWN
CC:philo d. hall (CN=philo d. hall/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
CC:jay p. lefkowitz (CN=jay p. lefkowitz/OU=opd/O=eop@exchange@eop [OPD])
READ:UNKNOWN
CC:dana ackerly (CN=dana ackerly/OU=cea/O=eop@eop [CEA])
READ:UNKNOWN
CC:brian r. besanceney (CN=brian r. besanceney/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:zurawski-paul@dol.gov @ inet (zurawski-paul@dol.gov @ inet [UNKNOWN])
READ:UNKNOWN
CC:thomas c. deleire (CN=thomas c. deleire/OU=cea/O=eop@eop [CEA])
READ:UNKNOWN
CC:philip j. perry (CN=philip j. perry/OU=omb/O=eop@eop [OMB])
READ:UNKNOWN
CC:amy jensen (CN=amy jensen/OU=who/O=eop@exchange@eop [WHO])
READ:UNKNOWN
CC:diana l. schacht (CN=diana l. schacht/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
CC:john.hoff@hhs.gov @ inet (john.hoff@hhs.gov @ inet [UNKNOWN])
READ:UNKNOWN
CC:viet.dinh@usdoj.gov @ inet (viet.dinh@usdoj.gov @ inet [UNKNOWN])
READ:UNKNOWN
CC:paula.stannard@hhs.gov @ inet (paula.stannard@hhs.gov @ inet [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

We are actually going to cancel this week's call altogether. If the need arises we might try to reschedule for later this week. Sorry about that! If anyone has anything to pass along to Alan now, please call him directly at 456-7105. Thank you.

Layton Skelly

04/07/2003 04:04:36 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
bcc:
Subject: Weekly Medical Liability CC tomorrow at 11:15

This call has been moved to 11:15 tomorrow. The call-in information is below. Thank you.

Call in: 395-6392
CODE: 935179

Message Sent
To:_____
paula.stannard@hhs.gov @ inet
peter.urbanowicz@hhs.gov @ inet
viet.dinh@usdoj.gov @ inet
alex.azar@hhs.gov @ inet
john.hoff@hhs.gov @ inet
jennifer.young@hhs.gov @ inet
diana l. schacht/opd/eop@eop
william d. badger/opd/eop@eop
amy jensen/who/eop@exchange@eop
ginger g. loper/who/eop@exchange@eop
philip j. perry/omb/eop@eop
kristen silverberg/who/eop@exchange@eop
thomas c. deleire/cea/eop@eop
brett m. kavanaugh/who/eop@eop
zurawski-paul@dol.gov @ inet
tracy young/who/eop@eop
brian r. besanceney/who/eop@eop
marc.kesselman@usdoj.gov @ inet
dana ackerly/cea/eop@eop
jafar.karim@hhs.gov
Jay P. Lefkowitz/OPD/EOP@Exchange@EOP
Alan Gilbert/OPD/EOP@EOP
Philo D. Hall/OPD/EOP@EOP
Wendy J. Grubbs/WHO/EOP@Exchange@EOP

Message Copied
To:_____
pamela.roller@hhs.gov
joyce.b-moore@hhs.gov
marie.belt@hhs.gov
emily winland/opd/eop@eop
marty p. smith/opd/eop@eop
lauren j. vestewig/opd/eop@exchange@eop
stephen m. lineberry/cea/eop@eop
dana.ceasar@hhs.gov
india.luckett@hhs.gov
scriver-langford-lat@dol.gov @ inet
heather.mcnaught@usdoj.gov
stephanie.wilson@hhs.gov
carla b. stone/omb/eop@eop
Layton Skelly/OPD/EOP@EOP

From: Skelly, Layton
To: stephanie.wilson@hhs.gov <Skelly, Layton>
CC: paula.stannard@hhs.gov <paula.stannard@hhs.gov>;peter.urbanowicz@hhs.gov <peter.urbanowicz@hhs.gov>;viet.dinh@usdoj.gov <viet.dinh@usdoj.gov>;alex.azar@hhs.gov <alex.azar@hhs.gov>;john.hoff@hhs.gov <john.hoff@hhs.gov>;jennifer.young@hhs.gov <jennifer.young@hhs.gov>;jennifer.young@hhs.gov <Schacht, Diana L.>;jennifer.young@hhs.gov <Badger, William D.>;jennifer.young@hhs.gov <Jensen, Amy>;jennifer.young@hhs.gov <Loper, Ginger G.>;jennifer.young@hhs.gov <Perry, Philip J.>;jennifer.young@hhs.gov <Silverberg, Kristen>;jennifer.young@hhs.gov <Deleire, Thomas C.>;jennifer.young@hhs.gov <Kavanaugh, Brett M.>;zurawski-paul@dol.gov <zurawski-paul@dol.gov>;zurawski-paul@dol.gov <Young, Tracy>;zurawski-paul@dol.gov <Besanceney, Brian R.>;marc.kesselman@usdoj.gov <marc.kesselman@usdoj.gov>;marc.kesselman@usdoj.gov <Ackerly, Dana>;jafar.karim@hhs.gov <jafar.karim@hhs.gov>;jafar.karim@hhs.gov <Lefkowitz, Jay P.>;jafar.karim@hhs.gov <Gilbert, Alan>;jafar.karim@hhs.gov <Hall, Philo D.>;jafar.karim@hhs.gov <Grubbs, Wendy J.>;pamela.roller@hhs.gov <pamela.roller@hhs.gov>;joyce.b-moore@hhs.gov <joyce.b-moore@hhs.gov>;marie.belt@hhs.gov <marie.belt@hhs.gov>;marie.belt@hhs.gov <Winland, Emily>;marie.belt@hhs.gov <Smith, Marty P.>;marie.belt@hhs.gov <Vestewig, Lauren J.>;marie.belt@hhs.gov <Lineberry, Stephen M.>;dana.ceasar@hhs.gov <dana.ceasar@hhs.gov>;india.luckett@hhs.gov <india.luckett@hhs.gov>;scriver-langford-lat@dol.gov <scriver-langford-lat@dol.gov>;heather.mcnaught@usdoj.gov <heather.mcnaught@usdoj.gov>;stephanie.wilson@hhs.gov <stephanie.wilson@hhs.gov>;stephanie.wilson@hhs.gov <Stone, Carla B.>
Sent: 4/7/2003 4:36:46 PM
Subject: Weekly Medical Liability CC CANCELLED

We are actually going to cancel this week's call altogether. If the need arises we might try to reschedule for later this week. Sorry about that! If anyone has anything to pass along to Alan now, please call him directly at 456-7105. Thank you.

Layton Skelly

04/07/2003 04:04:36 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: See the distribution list at the bottom of this message

bcc:

Subject: Weekly Medical Liability CC tomorrow at 11:15

This call has been moved to 11:15 tomorrow. The call-in information is below. Thank you.

Call in: 395-6392

CODE: 935179

Message Sent To:

paula.stannard@hhs.gov @ inet

peter.urbanowicz@hhs.gov @ inet

viet.dinh@usdoj.gov @ inet

alex.azar@hhs.gov @ inet

john.hoff@hhs.gov @ inet

jennifer.young@hhs.gov @ inet

diana l. schacht/opd/eop@eop

william d. badger/opd/eop@eop

amy jensen/who/eop@exchange@eop

ginger g. loper/who/eop@exchange@eop

philip j. perry/omb/eop@eop

kristen silverberg/who/eop@exchange@eop

thomas c. deleire/cea/eop@eop

brett m. kavanaugh/who/eop@eop

zurawski-paul@dol.gov @ inet

tracy young/who/eop@eop

brian r. besanceney/who/eop@eop

marc.kesselman@usdoj.gov @ inet

dana ackerly/cea/eop@eop

jafar.karim@hhs.gov

Jay P. Lefkowitz/OPD/EOP@Exchange@EOP

Alan Gilbert/OPD/EOP@EOP

Philo D. Hall/OPD/EOP@EOP

Wendy J. Grubbs/WHO/EOP@Exchange@EOP

Message Copied To:

pamela.roller@hhs.gov

joyce.b-moore@hhs.gov

marie.belt@hhs.gov

emily winland/opd/eop@eop

marty p. smith/opd/eop@eop

lauren j. vestewig/opd/eop@exchange@eop

stephen m. lineberry/cea/eop@eop

dana.ceasar@hhs.gov

india.luckett@hhs.gov

scriver-langford-lat@dol.gov @ inet

heather.mcnaught@usdoj.gov

stephanie.wilson@hhs.gov

carla b. stone/omb/eop@eop

Layton Skelly/OPD/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Alan Gilbert/OPD/EOP@EOP [OPD] <Alan Gilbert>;Kristen Silverberg/WHO /EOP@Exchange@EOP [WHO] <Kristen Silverberg>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Jay P. Lefkowitz/OPD/EOP@Exchange@EOP [OPD] <Jay P. Lefkowitz>
Sent: 4/7/2003 5:09:12 PM
Subject: : Tony Mauro re Supreme Court decision

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 7-APR-2003 21:09:12.00
SUBJECT:: Tony Mauro re Supreme Court decision
TO:Alan Gilbert ( CN=Alan Gilbert/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange@EOP [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

The U.S. Supreme Court on Monday handed a major victory to corporate defendants, imposing new limits on punitive damage awards in civil litigation.

By a 6-3 vote in State Farm Mutual Automobile Insurance Co. v. Campbell, No. 01-1289, the high court overturned a $145 million verdict against an insurer -- saying it was out of whack with the $1 million in compensatory damages awarded in the case.

Writing for the majority, Justice Anthony Kennedy said the ratio of punitive damages to compensatory damages almost never should exceed single digits -- a maximum of nine to one, in other words -- and that in many cases punitive damages should not exceed compensatory damages at all.

"Single-digit multipliers are more likely to comport with due process, while still achieving the state's goals of deterrence and retribution, than awards with ratios in the range of 500 to 1 or, in this case, of 145 to 1," wrote Kennedy.

After a decade-long series of rulings on the issue of giant punitive damages awards, the ruling marks the Supreme Court's most explicit statement yet about how big is too big.

In addition, the Court ruled that neither a defendant's wealth nor its out-of-state conduct could be a factor in calculating punitive damages. "A defendant should be punished for the conduct that harmed the plaintiff, not for being an unsavory individual or business," wrote Kennedy.

Kennedy also wrote, "The wealth of a defendant cannot justify an otherwise unconstitutional punitive damage award."

The ruling offered the corporate defense bar a near treasure-trove of helpful language in fighting the large liability awards that have fueled an increasingly potent tort-reform movement.

From: CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD]
To: Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Lisa J. Macecevic/OMB/EOP@EOP [OMB] <Lisa J. Macecevic>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Kristen Silverberg/WHO/EOP@Exchange [WHO] <Kristen Silverberg>
Sent: 4/8/2003 5:35:24 AM
Subject: : Re: 04/08 CongressDaily AM - Class action legislation seen as likely mover over other reform bills

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD])
CREATION DATE/TIME: 8-APR-2003 09:35:24.00
SUBJECT:: Re: 04/08 CongressDaily AM - Class action legislation seen as likely mover over other reform bills
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Lisa J. Macecevic (CN=Lisa J. Macecevic/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

Diana:

Can you pls circulate the language and summary?

Thx
.

-----Original Message-----
From: Silverberg, Kristen <Kristen_Silverberg@who.eop.gov>
To: MacEcevic, Lisa J. <lmacecev@OMB.eop.gov>; Kavanaugh, Brett M. <bkavanau@WHO.eop.gov>; Warsh, Kevin <kwarsh@OPD.eop.gov>; Schacht, Diana L. <dschacht@OPD.eop.gov>; Lefkowitz, Jay P. <Jay_P._Lefkowitz@opd.eop.gov>
Sent: Tue Apr 08 09:29:39 2003
Subject: RE: 04/08 CongressDaily AM - Class action legislation seen as likely mover over other reform bills

I haven't seen it -- I think that Jay may have a copy.;

;;;;;;;; -----Original Message-----
;;;;;;; From: ; MacEcevic, Lisa J.;
;;;;;;; Sent:;; Tuesday, April 08, 2003 9:19 AM
;;;;;;; To:;;;; Kavanaugh, Brett M.; Warsh, Kevin; Schacht, Diana L.; Silverberg, Kristen; Bloomquist, Lauren E.; Boden, James; Schwartz, Kenneth L.; Call, Amy L.
;;;;;;; Cc:;;;; Green, Richard E.; Schroeder, Ingrid M.; Pellicci, Robert J.; Jukes, James J.; Lobrano, Lauren C.
;;;;;;; Subject:;;;;;;; 04/08 CongressDaily AM - Class action legislation seen as likely mover over other reform bills

;;;;;;; Since recent articles have stated that the White House has shown support for the Feinstein-Hatch amendment, do any of you have a copy of it? Thanks, Lisa

;;;;;;; Class Action Claims Top Legal Spot
;;;;;;; ;;;; Class action reform legislation is emerging as the dark horse victor in the first leg of an informal but intense competition among various legal reform bills whose proponents are trying to cast their

measures in the most bipartisan light possible in the closely divided Senate.
;;;;;;; ;;;; With Sen. Dianne Feinstein, D-Calif., and Senate Judiciary Chairman Hatch reaching a compromise in committee last week on class action, the measure has now eclipsed other pending legal reform bills on asbestos litigation and medical malpractice.
;;;;;;; ;;;; Class action now will occupy the place on the Senate schedule that would have gone for debate on medical malpractice legislation -- had a separate deal Feinstein had in the works with Senate Republicans on that front not fallen through last month.
;;;;;;; ;;;; "While we remain hopeful that something on medical malpractice can be worked out, it appears the slowdown in [that negotiation] has, indeed, opened up space for us to move forward on class action reform," said a spokesman for Senate Majority Leader Frist Monday.
;;;;;;; ;;;; He added, "It is our hope to see some floor activity on class action reform in May, but it is not definite."
;;;;;;; ;;;; As asbestos litigation, class action and medical malpractice reforms make their way through the legislative pipeline, a nagging concern for supporters of each this year has been whether one will drain the pool of Democratic goodwill before another makes it to the trough.
;;;;;;; ;;;; Medical malpractice appears to be out of the running, at least for the time being. And although class action and asbestos litigation reform bills do not have identical constituencies, there is plenty of overlap.
;;;;;;; ;;;; But more important is the overlap in perception these bills could hold in the minds of moderate "swing" Democrats, like Feinstein, sources said.
;;;;;;; ;;;; Each bill's success arguably hinges on a willingness by 20 or so Democrats on the Senate floor to lock horns with their powerful constituents in the trial bar.
;;;;;;; ;;;; While some Democrats, such as Sen. Thomas Carper of Delaware, are expected to back both bills, conventional wisdom dictates to observers that most other Democrats are willing to cross those particular allies no more than once this session.
;;;;;;; ;;;; Initially, asbestos litigation reform was widely seen as the more palatable of the two business-backed legal reforms. Earlier this year, Hatch said he was pegging that bill's chances above those of a class action bill, which he suggested would be more at the mercy of the trial bar.
;;;;;;; ;;;; An increasing number of lawmakers, "even Democrats" -- including Judiciary ranking member Patrick Leahy of Vermont -- are coming to grips with the scope of the problem in asbestos litigation, Hatch added in that interview.
;;;;;;; ;;;; The asbestos litigation measure even has elements of the trial bar supporting it, although both that reform and class action reform have the conceptual backing of the broader legal community.
;;;;;;; ;;;; However, the complex asbestos reform bill has yet to be written -- something Hatch has said he plans to do over the April recess -- and it appears susceptible to becoming bogged down among a myriad of conflicting interests.
;;;;;;; ;;;; The Senate Judiciary Committee meets Thursday for a class action reform markup that was originally scheduled for last week. Hatch agreed to a delay after Democrats charged that they had not been given ample time to study the Feinstein language.
;;;;;;; ;;;; Coincidentally, Thursday marks the deadline set by Hatch for when he would accept private sector input on the asbestos litigation bill he is drafting.
;;;;;;; ;;;; Class action lobbyists have yet to lock in the commitments, but are utterly convinced they will have the 60 votes needed to weather any attempted filibuster.
;;;;;;; ;;;; "We definitely believe we're in striking distance of 60-plus votes," said Matt Webb of the U.S. Chamber of Commerce's Institute for Legal Reform. Feinstein's agreement "just puts that much more momentum behind it," he added.
;;;;;;; ;;;; To achieve that, lobbyists have targeted a number of New Democrats and other moderate Democrats as likely cosponsors, or at least supporters, of the legislation.
;;;;;;; ;;;; Among the targeted Democrats is Senate Minority Whip Reid,

who sources forecast will step up as an early cosponsor of the measure once it leaves committee. Reid's office did not confirm that plan.
;;;;;;; ;;;; Moreover, pro-bill sources said the Bush administration privately has signaled its support for the Feinstein-Hatch compromise and appears convinced that class action reform will be the first major legal reform to reach the president's desk this year.
;;;;;;; ;;;; Class action proponents, who began lobbying Feinstein a year ago, were generally elated last month when she backed away from a medical malpractice compromise she had been negotiating with Senate Republicans.
;;;;;;; ;;;; The widespread belief was that, having abandoned that particular legal reform, Feinstein was free to pursue a deal on class action reform.
;;;;;;; ;;;; And she did, striking a deal with Hatch last week that, while narrowing the scope of the pending corporate-backed bill, still would make many class action cases removable from state to federal court, where business thinks it would have a better shake.
;;;;;;; ;;;; But if the conventional wisdom holds true that most Democrats have a limited appetite for legal reform, then Feinstein and other like-minded Democrats are not apt to support asbestos litigation reform, sources surmised.
;;;;;;; ;;;; Not everyone buys that argument, however. "We hope [class action's success] whets their appetite," quipped Joe Manero of the Alliance of American Insurers, whose organization supports both reforms.
;;;;;;; ;;;; "The class action bill is the one right now, ready to go first," added Jeff Peck, a Democratic consultant who has been hired by separate entities to lobby lawmakers on behalf of both reforms.
;;;;;;; ;;;; Peck added that he believes a "consensus bill" on asbestos litigation reform "will have great support as well."
;;;;;;; ;;;; Feinstein's support, strictly speaking, was not needed to get the class action bill out of committee, where a majority of senators already support it.
;;;;;;; ;;;; But her cosponsorship, along with that of Judiciary member Herb Kohl , D-Wis., sends a powerful signal to Democrats of the bipartisan nature of the bill and to Republican leaders about the bill's readiness for prime time, sources said.
;;;;;;; ;;;; The markup delay caused a bit of angst for bill supporters -- among other things it gives Democratic opponents, including Leahy, more time to muster their arguments against the Feinstein compromise -- but it was a wise move on Hatch's part to agree to a delay, they reasoned.
;;;;;;; ;;;; In so doing, Hatch undercut a case some Democrats might try to make that the bill has been tainted by "partisanship" or benefited from the GOP majority riding roughshod over regular order, sources said. By Pamela Barnet

From: CN=Lauren K. Allgood/OU=OPD/O=EOP@Exchange [OPD]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/8/2003 7:42:55 AM
Subject: : RE: Mtg w/ Steve Friedman and Keith Hennessey

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Lauren K. Allgood (CN=Lauren K. Allgood/OU=OPD/O=EOP@Exchange [OPD])
CREATION DATE/TIME: 8-APR-2003 11:42:55.00
SUBJECT:: RE: Mtg w/ Steve Friedman and Keith Hennessey
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Sorry for the change, but Steve wanted to see if you could come at 2pm?

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Tuesday, April 08, 2003 10:34 AM
To: Allgood, Lauren K.
Subject: Re: Mtg w/ Steve Friedman and Keith Hennessey

Can we do 1:45?

From: Lauren K. Allgood/OPD/EOP@Exchange on 04/08/2003 10:22:19 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Mtg w/ Steve Friedman and Keith Hennessey

Steve would like this meeting to happen today if possible. Please let me know when you are available. Thanks.
-----Original Message-----
From: Allgood, Lauren K.
Sent: Tuesday, April 08, 2003 8:07 AM
To: Kavanaugh, Brett M.
Subject: Mtg w/ Steve Friedman and Keith Hennessey

Steve and Keith would like to meet with you sometime today if that's possible regarding airline anti-trust issues.

They are both free between noon and 2pm. What works for you?

Let me know. Thanks!

Lauren

From:	CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO]
To:	Jay P. Lefkowitz/OPD/EOP@Exchange [OPD] <Jay P. Lefkowitz>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Alberto R. Gonzales/WHO/EOP@Exchange [WHO] <Alberto R. Gonzales>
Sent:	4/8/2003 8:17:18 AM
Subject:	:
Attachments:	P_HD7FF003_OPD.TXT_1.gif; P_HD7FF003_OPD.TXT_2.gif; P_HD7FF003_OPD.TXT_3.gif; P_HD7FF003_OPD.TXT_4.gif

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME: 8-APR-2003 12:17:18.00
SUBJECT::
TO:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [ OPD ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Interesting commentary on the generals' brief in Michigan case:
;
E-mail Author <mailto:author@nationalreview.com>
Send to a Friend
<http://www.nationalreview.com/email_friend/email-friend.asp>
<% dim printurl printurl = Request.ServerVariables("URL")%>Print Version
<http://www.nationalreview.com/script/printpage.asp?ref=<%=printurl%>>



April 8, 2003, 9:40 a.m.
The Generals, Brief
The most powerful argument in the Michigan case.

By Peter N. Kirsanow



y far the most persuasive brief in the University of Michigan preference
cases is the so-called "green brief" or "generals' amicus brief."

A constellation of military figures have signed onto a brief in support of
the University of Michigan's preferential admissions program * including
such admired figures as retired generals Norman Schwartzkopf, Hugh
Shelton, and Anthony Zinni.

The generals' brief has captured more attention than perhaps any other
except the one filed by the Bush administration, and it's the one that
most troubles conservatives. After all, it contains arguments supported by
serious men in the most serious occupation.

During last Tuesday's oral arguments before the Supreme Court, Justices
Ginsburg, Stevens, and Souter especially were fascinated by the arguments
set forth in the brief, and peppered advocates with numerous questions
about the points made therein. Rarely has a non-administration amicus had
such an impact.

Liberals have seized upon the brief, according the military a strange new
respect. Ellen Goodman of the Boston Globe, for example, asserts that the
```

brief makes the most effective case in support of preferences in admissions.

Goodman is dead wrong. The generals' brief so persuasively makes the point for striking down preferences at the University of Michigan (and, by extension, elsewhere) that a conspiracy theorist might well be excused for concluding that the brief was actually a malevolent attempt to undermine UM's argument.

The generals' brief effectively outlines the fundamental differences between service academies and other institutions of higher learning and emphatically demonstrates why UM's preference program fails to satisfy either the compelling state interest or the narrow-tailoring prong of strict scrutiny.

Since racial classifications are based upon an immutable physical characteristic, and because of the nation's baleful history with respect to race, the Supreme Court has declared racial classifications pernicious and "odious to a free people whose institutions are founded upon a doctrine of equality." Consequently, post-Bakke jurisprudence requires that racial classifications must further a compelling governmental interest and be narrowly tailored to serve that interest.

Compelling governmental interests supporting the use of racial classifications or preferences are extremely rare. Indeed, except for the criminological benefits of using race in the selection of law-enforcement officers and in the hiring of corrections officers, courts have not looked favorably upon purported the "compelling interests" proffered in support of racial preferences.

The generals' brief argues that a racially diverse officer corps trained to command the nation's racially diverse enlisted ranks is essential to accomplishing the military's mission * protecting national security. There is no more compelling governmental interest. The generals note that today's officer corps is 81 percent white, 8.8 percent black, 4 percent Hispanic, 3.2 percent Asian-American, and .6 percent Native American, whereas the enlisted ranks are 61.7 percent white, 21.7 percent black, 9.6 percent Hispanic, 4 percent Asian-American, and 1.2 percent Native American. In contrast, during the Vietnam War, the ranks of black enlisted men in the Army swelled to between 15 percent and 20 percent, while only 3 percent of Army officers were black. This disparity contributed to low morale, racial polarization, disciplinary problems, and racial violence. Unit cohesion and effectiveness were compromised * at times severely.

The military performs the most important work with which the government is charged; obviously it is a serious matter for its capabilities to be compromised. Racial polarization is not only problematic in the armed forces of a democratic republic, it can cause racial schisms in overall domestic support for military enterprises. This is especially true in today's force, which relies solely on volunteers.

But the above considerations nevertheless clearly demonstrate why the preference programs employed by UM and other non-military colleges fail the compelling governmental interest test. The respective missions of UM and West Point are manifestly light years apart. Producing a well-rounded Theatre Arts graduate may be a laudable mission, but it is hardly on the same level as preventing another 9/11.

The generals try, however, to elevate the importance of non-military preference programs by arguing that since the officer corps also draws from ROTC programs at elite schools, the preference programs at those schools must be preserved to maintain sufficient minority enrollment. This is both a peculiar and attenuated argument. It presumes that ROTC programs at elite schools cannot achieve diversity with a more narrowly tailored, race-neutral program. The Texas and Florida percentage plans refute that notion (we can debate the merits and constitutionality of those at a later time). Further, sizable numbers of officers come from so-called second-tier schools (e.g., Colin Powell, ROTC CUNY) and HBCUs, whereas

ROTC participation at elite schools is often abysmal (and, at Harvard, non-existent).

The generals' brief also shows that the means by which the service academies further the (arguably) compelling governmental interest is far more narrowly tailored than that employed by the University of Michigan, et al. In fact, the academies' admissions programs more closely resemble affirmative action as it was originally conceived * i.e., aggressive recruitment and outreach to expand the pool of minority applicants, before it metastasized into a racial spoils system.

To be sure, the academies do consider race in admissions. But the degree to which race is a factor is tiny at these institutions, compared to UM. As Rich Lowry has noted, a Center for Equal Opportunity analysis shows that whereas a black West Point applicant is twice as likely to be admitted as a similarly situated white applicant, that same black applicant is 174 times more likely to be admitted to UM than his white counterpart. At other schools, this ratio rises to as much as 700 to 1. By any measure, a program that yields such an astonishing differential can hardly be narrowly tailored.

Whether the admissions programs at service academies pass constitutional muster is an inquiry for another day. Because of the distinctions noted above, a Supreme Court decision that struck down UM's programs would not necessarily invalidate those of West Point and Annapolis. But, those same distinctions in effect render the unconstitutionality of UM's programs nearly incontrovertible. Let's see if the Supremes agree.

* Peter N. Kirsanow is a member of the U.S. Commission on Civil Rights <http://www.usccr.gov/>.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_HD7FF003_OPD.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_HD7FF003_OPD.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_HD7FF003_OPD.TXT_3>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_HD7FF003_OPD.TXT_4>

Guest Comment

On NRQ

REV_00162633

.

B

From: CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO]
To: Jay P. Lefkowitz/OPD/EOP@Exchange [OPD] <Jay P. Lefkowitz>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Alberto R. Gonzales/WHO/EOP@Exchange [WHO] <Alberto R. Gonzales>
Sent: 4/8/2003 8:17:21 AM
Subject: :
Attachments: P_SE7FF003_WHO.TXT_1.gif; P_SE7FF003_WHO.TXT_2.gif; P_SE7FF003_WHO.TXT_3.gif; P_SE7FF003_WHO.TXT_4.gif

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 8-APR-2003 12:17:21.00
SUBJECT::
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

Interesting commentary on the generals' brief in Michigan case:
;
E-mail Author <mailto:author@nationalreview.com>
Send to a Friend
<http://www.nationalreview.com/email_friend/email-friend.asp>
<% dim printurl printurl = Request.ServerVariables("URL")%>Print Version
<http://www.nationalreview.com/script/printpage.asp?ref=<%=printurl%>>

April 8, 2003, 9:40 a.m.
The Generals, Brief
The most powerful argument in the Michigan case.

By Peter N. Kirsanow

y far the most persuasive brief in the University of Michigan preference cases is the so-called "green brief" or "generals' amicus brief."

A constellation of military figures have signed onto a brief in support of the University of Michigan's preferential admissions program * including such admired figures as retired generals Norman Schwartzkopf, Hugh Shelton, and Anthony Zinni.

The generals' brief has captured more attention than perhaps any other except the one filed by the Bush administration, and it's the one that most troubles conservatives. After all, it contains arguments supported by serious men in the most serious occupation.

During last Tuesday's oral arguments before the Supreme Court, Justices Ginsburg, Stevens, and Souter especially were fascinated by the arguments set forth in the brief, and peppered advocates with numerous questions about the points made therein. Rarely has a non-administration amicus had such an impact.

Liberals have seized upon the brief, according the military a strange new respect. Ellen Goodman of the Boston Globe, for example, asserts that the

brief makes the most effective case in support of preferences in admissions.

Goodman is dead wrong. The generals' brief so persuasively makes the point for striking down preferences at the University of Michigan (and, by extension, elsewhere) that a conspiracy theorist might well be excused for concluding that the brief was actually a malevolent attempt to undermine UM's argument.

The generals' brief effectively outlines the fundamental differences between service academies and other institutions of higher learning and emphatically demonstrates why UM's preference program fails to satisfy either the compelling state interest or the narrow-tailoring prong of strict scrutiny.

Since racial classifications are based upon an immutable physical characteristic, and because of the nation's baleful history with respect to race, the Supreme Court has declared racial classifications pernicious and "odious to a free people whose institutions are founded upon a doctrine of equality." Consequently, post-Bakke jurisprudence requires that racial classifications must further a compelling governmental interest and be narrowly tailored to serve that interest.

Compelling governmental interests supporting the use of racial classifications or preferences are extremely rare. Indeed, except for the criminological benefits of using race in the selection of law-enforcement officers and in the hiring of corrections officers, courts have not looked favorably upon purported the "compelling interests" proffered in support of racial preferences.

The generals' brief argues that a racially diverse officer corps trained to command the nation's racially diverse enlisted ranks is essential to accomplishing the military's mission * protecting national security. There is no more compelling governmental interest. The generals note that today's officer corps is 81 percent white, 8.8 percent black, 4 percent Hispanic, 3.2 percent Asian-American, and .6 percent Native American, whereas the enlisted ranks are 61.7 percent white, 21.7 percent black, 9.6 percent Hispanic, 4 percent Asian-American, and 1.2 percent Native American. In contrast, during the Vietnam War, the ranks of black enlisted men in the Army swelled to between 15 percent and 20 percent, while only 3 percent of Army officers were black. This disparity contributed to low morale, racial polarization, disciplinary problems, and racial violence. Unit cohesion and effectiveness were compromised * at times severely.

The military performs the most important work with which the government is charged; obviously it is a serious matter for its capabilities to be compromised. Racial polarization is not only problematic in the armed forces of a democratic republic, it can cause racial schisms in overall domestic support for military enterprises. This is especially true in today's force, which relies solely on volunteers.

But the above considerations nevertheless clearly demonstrate why the preference programs employed by UM and other non-military colleges fail the compelling governmental interest test. The respective missions of UM and West Point are manifestly light years apart. Producing a well-rounded Theatre Arts graduate may be a laudable mission, but it is hardly on the same level as preventing another 9/11.

The generals try, however, to elevate the importance of non-military preference programs by arguing that since the officer corps also draws from ROTC programs at elite schools, the preference programs at those schools must be preserved to maintain sufficient minority enrollment. This is both a peculiar and attenuated argument. It presumes that ROTC programs at elite schools cannot achieve diversity with a more narrowly tailored, race-neutral program. The Texas and Florida percentage plans refute that notion (we can debate the merits and constitutionality of those at a later time). Further, sizable numbers of officers come from so-called second-tier schools (e.g., Colin Powell, ROTC CUNY) and HBCUs, whereas

ROTC participation at elite schools is often abysmal (and, at Harvard, non-existent).

The generals' brief also shows that the means by which the service academies further the (arguably) compelling governmental interest is far more narrowly tailored than that employed by the University of Michigan, et al. In fact, the academies' admissions programs more closely resemble affirmative action as it was originally conceived * i.e., aggressive recruitment and outreach to expand the pool of minority applicants, before it metastasized into a racial spoils system.

To be sure, the academies do consider race in admissions. But the degree to which race is a factor is tiny at these institutions, compared to UM. As Rich Lowry has noted, a Center for Equal Opportunity analysis shows that whereas a black West Point applicant is twice as likely to be admitted as a similarly situated white applicant, that same black applicant is 174 times more likely to be admitted to UM than his white counterpart. At other schools, this ratio rises to as much as 700 to 1. By any measure, a program that yields such an astonishing differential can hardly be narrowly tailored.

Whether the admissions programs at service academies pass constitutional muster is an inquiry for another day. Because of the distinctions noted above, a Supreme Court decision that struck down UM's programs would not necessarily invalidate those of West Point and Annapolis. But, those same distinctions in effect render the unconstitutionality of UM's programs nearly incontrovertible. Let's see if the Supremes agree.

* Peter N. Kirsanow is a member of the U.S. Commission on Civil Rights <http://www.usccr.gov/>.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_SE7FF003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_SE7FF003_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_SE7FF003_WHO.TXT_3>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_SE7FF003_WHO.TXT_4>

Guest Comment

On NRQ

REV_00162640

.

B

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brian Reardon/OPD/EOP@EOP [OPD] <Brian Reardon>
Sent: 4/8/2003 9:04:42 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 8-APR-2003 13:04:42.00
SUBJECT::
TO:Brian Reardon ( CN=Brian Reardon/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Addington is ok with "inappropriate."
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>
Sent: 4/8/2003 12:17:24 PM
Subject: : Re: FW: Meeting re. Algiers Accords

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 8-APR-2003 16:17:24.00
SUBJECT:: Re: FW: Meeting re. Algiers Accords
TO:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

i am on the email

From: Charlotte L. Montiel/WHO/EOP@Exchange on 04/08/2003 04:01:55
PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: FW: Meeting re. Algiers Accords

Never mind, David is not going.; Can you cover the meeting for our shop?
;
Charlotte
;
-----Original Message-----
From: Vestewig, Lauren J.
Sent: Tuesday, April 08, 2003 3:53 PM
To: Perry, Philip J.; Wood, John F.; Leitch, David G.; Kavanaugh, Brett
M.; Keniry, Daniel ; Kirk, Matthew ; Cox, Christopher C.; Silverberg,
Kristen
Cc: Lefkowitz, Jay P.; Stone, Carla B.; Montiel, Charlotte L.
Subject: Meeting re. Algiers Accords

There will be a meeting tomorrow at 8:00 in Jay's office re.;the Algiers;
Accords issue.; Will Taft will also join.; I'm sorry for any inconvenience
the early time may cause, but it was the only time we could get everyone
together in the morning.; Please let me know if you can make it.; Thanks
very much.;

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Patrick J. Bumatay/WHO/EOP@Exchange@EOP [WHO] <Patrick J. Bumatay>
Sent: 4/8/2003 12:17:25 PM
Subject: : new

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 8-APR-2003 16:17:25.00
SUBJECT:: new
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Birth: Born as Cuban citizen on April 18, 1934, in San Sebastian,
Spain
(father and mother were both Cuban citizens)

Moved with family from Spain to Cuba: 1939

Immigrated from Cuba to United States: 1943

Naturalized as United States citizen: July 8,
1959, in San Francisco, California
```

From: Nelson, Carolyn

To: wendy keefer <wendy.j.keefer@usdoj.gov>;adam ciongoli <adam.ciongoli@usdoj.gov>;albert brewster <albert.brewster@usdoj.gov>;amy bass <amy.bass@usdoj.gov>;andrew beach <andrew.beach@usdoj.gov>;<Bartolomucci, H. Christopher>;<Bennett, Melissa S.>;<Brilliant, Hana F.>;<Bumatay, Patrick J.>;<Ellison, Kimberly>;evelyn long <evelyn.v.long@usdoj.gov>; <Francisco, Noel J.>;<Gray, Ann>;Grubbs, Wendy J. <wgrubbs@WHO.eop.gov>;Heather McNaught <Heather.McNaught@usdoj.gov.>;<Jones, Alison>;<Kavanaugh, Brett M.>;Kristi Remington <Kristi.I.Remington@usdoj.gov>;<Kyle, Ross M.>;<Leitch, David G.>;<Lockart, Sarah K.>;<McMaster, David>;<Montiel, Charlotte L.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Ralston, Susan B.>;<Sampson, Kyle>;tracy washington <tracy.t.washington@usdoj.gov>;viet dinh <viet.dinh@usdoj.gov>;<Walker, Helgard C.>

Sent: 4/8/2003 5:04:24 PM

Subject: WHJSC is ON for tomorrow

The WHJSC will meet Wednesday, April 9 @ 4:00 pm in the Roosevelt Room.

Thanks, and sorry for the late notice!

From: Nelson, Carolyn

To: wendy keefer <wendy.j.keefer@usdoj.gov>;adam ciongoli <adam.ciongoli@usdoj.gov>;albert brewster <albert.brewster@usdoj.gov>;amy bass <amy.bass@usdoj.gov>;andrew beach <andrew.beach@usdoj.gov>;<Bartolomucci, H. Christopher>;<Bennett, Melissa S.>;<Brilliant, Hana F.>;<Bumatay, Patrick J.>;<Ellison, Kimberly>;evelyn long <evelyn.v.long@usdoj.gov>; <Francisco, Noel J.>;<Gray, Ann>;Grubbs, Wendy J. <wgrubbs@WHO.eop.gov>;Heather McNaught <Heather.McNaught@usdoj.gov>;<Jones, Alison>;<Kavanaugh, Brett M.>;Kristi Remington <Kristi.I.Remington@usdoj.gov>;<Kyle, Ross M.>;<Leitch, David G.>;<Lockart, Sarah K.>;<McMaster, David>;<Montiel, Charlotte L.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Ralston, Susan B.>;<Sampson, Kyle>;tracy washington <tracy.t.washington@usdoj.gov>;viet dinh <viet.dinh@usdoj.gov>;<Walker, Helgard C.>

Sent: 4/8/2003 5:04:24 PM

Subject: WHJSC is ON for tomorrow

The WHJSC will meet Wednesday, April 9 @ 4:00 pm in the Roosevelt Room.

Thanks, and sorry for the late notice!

From: CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO]
To: Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Benjamin A. Powell/WHO /EOP@EOP [WHO] <Benjamin A. Powell>;David G. Leitch/WHO/EOP@Exchange [WHO] <David G. Leitch>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>
Sent: 4/8/2003 1:07:10 PM
Subject: : WHJSC Prep

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME: 8-APR-2003 17:07:10.00
SUBJECT:: WHJSC Prep
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

FYI: prep at 3:45pm in the Judge's Office.
;
Thanks!
;
;
-----Original Message-----
From: Nelson, Carolyn
Sent: Tuesday, April 08, 2003 5:04 PM
To: wendy keefer; adam ciongoli; albert brewster; amy bass; andrew beach;
Bartolomucci, H. Christopher; Bennett, Melissa S.; Brilliant, Hana F.;
Bumatay, Patrick J.; Ellison, Kimberly; evelyn long; Francisco, Noel J.;
Gray, Ann; Grubbs, Wendy J.; Heather McNaught; Jones, Alison ; Kavanaugh,
Brett M.; Kristi Remington; Kyle, Ross M.; Leitch, David G.; Lockart,
Sarah K.; McMaster, David; Montiel, Charlotte L.; Newstead, Jennifer G.;
Powell, Benjamin A.; Ralston, Susan B.; Sampson, Kyle; tracy washington;
viet dinh; Walker, Helgard C.
Subject: WHJSC is ON for tomorrow


The WHJSC will meet Wednesday, April 9 @ 4:00 pm in the Roosevelt Room.
;
Thanks, and sorry for the late notice!
```

From: Nelson, Carolyn
To: <Bartolomucci, H. Christopher>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Leitch, David G.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>;<Ullyot, Theodore W.>;<Brosnahan, Jennifer R.>
Sent: 4/8/2003 5:07:20 PM
Subject: WHJSC Prep

FYI: prep at 3:45pm in the Judge's Office.

Thanks!

-----Original Message-----
From: Nelson, Carolyn
Sent: Tuesday, April 08, 2003 5:04 PM
To: wendy keefer; adam ciongoli; albert brewster; amy bass; andrew beach; Bartolomucci, H. Christopher; Bennett, Melissa S.; Brilliant, Hana F.; Bumatay, Patrick J.; Ellison, Kimberly; evelyn long; Francisco, Noel J.; Gray, Ann; Grubbs, Wendy J.; Heather McNaught; Jones, Alison ; Kavanaugh, Brett M.; Kristi Remington; Kyle, Ross M.; Leitch, David G.; Lockart, Sarah K.; McMaster, David; Montiel, Charlotte L.; Newstead, Jennifer G.; Powell, Benjamin A.; Ralston, Susan B.; Sampson, Kyle; tracy washington; viet dinh; Walker, Helgard C.
Subject: WHJSC is ON for tomorrow

The WHJSC will meet Wednesday, April 9 @ 4:00 pm in the Roosevelt Room.

Thanks, and sorry for the late notice!

From: Gray, Ann
To: <Nelson, Carolyn>;wendy keefer <wendy.j.keefer@usdoj.gov>;adam ciongoli <adam.ciongoli@usdoj.gov>;albert brewster <albert.brewster@usdoj.gov>;amy bass <amy.bass@usdoj.gov>;andrew beach <andrew.beach@usdoj.gov>;<Bartolomucci, H. Christopher>;<Bennett, Melissa S.>;<Brilliant, Hana F.>;<Bumatay, Patrick J.>;<Ellison, Kimberly>;evelyn long <evelyn.v.long@usdoj.gov>;<Francisco, Noel J.>;Grubbs, Wendy J. <wgrubbs@WHO.eop.gov>;Heather McNaught <Heather.McNaught@usdoj.gov>;<Jones, Alison>;<Kavanaugh, Brett M.>;Kristi Remington <Kristi.l.Remington@usdoj.gov>;<Kyle, Ross M.>;<Leitch, David G.>;<Lockart, Sarah K.>;<McMaster, David>;<Montiel, Charlotte L.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Ralston, Susan B.>;<Sampson, Kyle>;tracy washington <tracy.t.washington@usdoj.gov>;viet dinh <viet.dinh@usdoj.gov>; <Walker, Helgard C.>
Sent: 4/8/2003 5:09:04 PM
Subject: RE: WHJSC is ON for tomorrow

great!
-----Original Message-----
From: Nelson, Carolyn
Sent: Tuesday, April 08, 2003 5:04 PM
To: wendy keefer; adam ciongoli; albert brewster; amy bass; andrew beach; Bartolomucci, H. Christopher; Bennett, Melissa S.; Brilliant, Hana F.; Bumatay, Patrick J.; Ellison, Kimberly; evelyn long; Francisco, Noel J.; Gray, Ann ; Grubbs, Wendy J.; Heather McNaught; Jones, Alison ; Kavanaugh, Brett M.; Kristi Remington; Kyle, Ross M.; Leitch, David G.; Lockart, Sarah K.; McMaster, David; Montiel, Charlotte L.; Newstead, Jennifer G.; Powell, Benjamin A.; Ralston, Susan B.; Sampson, Kyle; tracy washington; viet dinh; Walker, Helgard C.
Subject: WHJSC is ON for tomorrow

The WHJSC will meet Wednesday, April 9 @ 4:00 pm in the Roosevelt Room.

Thanks, and sorry for the late notice!

From:	Gray, Ann
To:	<Nelson, Carolyn>;wendy keefer <wendy.j.keefer@usdoj.gov>;adam ciongoli <adam.ciongoli@usdoj.gov>;albert brewster <albert.brewster@usdoj.gov>;amy bass <amy.bass@usdoj.gov>;andrew beach <andrew.beach@usdoj.gov>;<Bartolomucci, H. Christopher>;<Bennett, Melissa S.>;<Brilliant, Hana F.>;<Bumatay, Patrick J.>;<Ellison, Kimberly>;evelyn long <evelyn.v.long@usdoj.gov>;<Francisco, Noel J.>;Grubbs, Wendy J. <wgrubbs@WHO.eop.gov>;Heather McNaught <Heather.McNaught@usdoj.gov.>;<Jones, Alison>;<Kavanaugh, Brett M.>;Kristi Remington <Kristi.l.Remington@usdoj.gov>;<Kyle, Ross M.>;<Leitch, David G.>;<Lockart, Sarah K.>;<McMaster, David>;<Montiel, Charlotte L.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Ralston, Susan B.>;<Sampson, Kyle>;tracy washington <tracy.t.washington@usdoj.gov>;viet dinh <viet.dinh@usdoj.gov>; <Walker, Helgard C.>
Sent:	4/8/2003 5:09:04 PM
Subject:	RE: WHJSC is ON for tomorrow

great!
-----Original Message-----
From: Nelson, Carolyn
Sent: Tuesday, April 08, 2003 5:04 PM
To: wendy keefer; adam ciongoli; albert brewster; amy bass; andrew beach; Bartolomucci, H. Christopher; Bennett, Melissa S.; Brilliant, Hana F.; Bumatay, Patrick J.; Ellison, Kimberly; evelyn long; Francisco, Noel J.; Gray, Ann ; Grubbs, Wendy J.; Heather McNaught; Jones, Alison ; Kavanaugh, Brett M.; Kristi Remington; Kyle, Ross M.; Leitch, David G.; Lockart, Sarah K.; McMaster, David; Montiel, Charlotte L.; Newstead, Jennifer G.; Powell, Benjamin A.; Ralston, Susan B.; Sampson, Kyle; tracy washington; viet dinh; Walker, Helgard C.
Subject: WHJSC is ON for tomorrow

The WHJSC will meet Wednesday, April 9 @ 4:00 pm in the Roosevelt Room.

Thanks, and sorry for the late notice!

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Holly T. Moore/NSC/EOP@EOP [NSC] <Holly T. Moore>
Sent: 4/8/2003 1:18:47 PM
Subject: : Re: more . . . .

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 8-APR-2003 17:18:47.00
SUBJECT:: Re: more . . . .
TO:Holly T. Moore (CN=Holly T. Moore/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
End Original ARMS Header

I will be there

Holly T. Moore
04/08/2003 05:13:03 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, John B. Wiegmann/NSC/EOP@EOP
cc:
Subject: more . . . .

ron bettauer called to say that jay has agreed to a meeting on the vic comp leg at 8 a.m. tomorrow. state plans on having will taft, lisa grosh and jim terry attend. ron, at least, views this meeting as the opportunity to sort not only the vic comp leg stuff out but also calls, etc. brett -- have you heard about the meeting? thanks, htm

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@Exchange@EOP [WHO] <David G. Leitch>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>;Alberto R. Gonzales/WHO /EOP@Exchange@EOP [WHO] <Alberto R. Gonzales>
Sent: 4/8/2003 1:40:24 PM
Subject: : Algiers

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 8-APR-2003 17:40:24.00
SUBJECT:: Algiers
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Leg Affairs, Jay, Phil, Kristen, Taft, myself, and crew are talking again
about this (and victims comp) at 8 in morning. Leg folks want to
underscore to everyone (again) that we will lose.
```

From: CN=Holly T. Moore/OU=NSC/O=EOP [NSC]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/8/2003 2:17:29 PM
Subject: : Re: more . . . .

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Holly T. Moore (CN=Holly T. Moore/OU=NSC/O=EOP [NSC])
CREATION DATE/TIME: 8-APR-2003 18:17:29.00
SUBJECT:: Re: more . . . .
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

do you know where the meeting is? (i am betting that john has been invited but neither he nor jo are here today to see e-mails.) thanks, htm

Brett M. Kavanaugh
04/08/2003 05:18:37 PM
Record Type: Record

To: Holly T. Moore/NSC/EOP@EOP
cc:
bcc:
Subject: Re: more . . . .

I will be there

Holly T. Moore
04/08/2003 05:13:03 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, John B. Wiegmann/NSC/EOP@EOP
cc:
Subject: more . . . .

ron bettauer called to say that jay has agreed to a meeting on the vic comp leg at 8 a.m. tomorrow. state plans on having will taft, lisa grosh and jim terry attend. ron, at least, views this meeting as the opportunity to sort not only the vic comp leg stuff out but also calls, etc. brett -- have you heard about the meeting? thanks, htm

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Stephen Friedman/OPD/EOP@Exchange@EOP [OPD] <Stephen Friedman>
CC: Lauren K. Allgood/OPD/EOP@Exchange@EOP [OPD] <Lauren K. Allgood>
Sent: 4/9/2003 8:54:42 AM
Subject: : follow-up to two questions

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 9-APR-2003 12:54:42.00
SUBJECT:: follow-up to two questions
TO:Stephen Friedman ( CN=Stephen Friedman/OU=OPD/O=EOP@Exchange@EOP [ OPD ] )
READ:UNKNOWN
CC:Lauren K. Allgood ( CN=Lauren K. Allgood/OU=OPD/O=EOP@Exchange@EOP [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

You asked two questions yesterday that I have followed up on.

First, you asked whether DOJ, after having cleared a deal or proposal, can subsequently claim an antitrust violation in the future regarding the same issues that were reviewed in clearing the deal or proposal. The technical answer is yes, but the practical answer is no, in that this virtually never happens according to DOJ.

Second, you asked how long FTC has been applying a standard under Section 5 in a manner consistent with settled antitrust principles, notwithstanding that the FTC (like DOT) has the legal authority to act more broadly. As Tim Muris has informed us, the answer is that FTC, by and large, has been following this approach for the past two decades.

From: CN=Lauren C. Lobrano/OU=OMB/O=EOP [OMB]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/9/2003 8:56:22 AM
Subject: : Re:
Attachments: P_TDUGF003_WHO.TXT_1

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Lauren C. Lobrano (CN=Lauren C. Lobrano/OU=OMB/O=EOP [OMB])
CREATION DATE/TIME: 9-APR-2003 12:56:22.00
SUBJECT:: Re:
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I am releasing the other SAP in a minute

Brett M. Kavanaugh
04/09/2003 12:55:10 PM
Record Type: Record

To: Lauren C. Lobrano/OMB/EOP@EOP
cc:
bcc:
Subject: Re:

how about CARE Act SAP?

Lauren C. Lobrano
04/09/2003 11:49:36 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re:

not yet, I will check.

Brett M. Kavanaugh
04/09/2003 11:49:20 AM
Record Type: Record

To: Lauren C. Lobrano/OMB/EOP@EOP
cc:
Subject:

Do we have final SAP language on gun bill?

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_TDUGF003_WHO.TXT_1>

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

April 9, 2003
(Senate Floor)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

S. 476 - CARE Act of 2003
(Sen. Grassley (R) IA)

The Administration supports Senate passage of S. 476, which contains key elements of the President's agenda to expand charitable giving and to strengthen faith-based and other neighborhood-serving groups to help them better serve Americans in need. S. 476 includes a number of important provisions of the President's faith-based initiative that will address our Nation's charity crisis and expand the important work of faith-based and grassroots groups. The Administration will continue to seek action by Congress to end discrimination against faith-based organizations that seek to work in partnership with the Federal Government in helping those in need.

In particular, the Administration is pleased that S. 476 would stimulate more charitable giving through a number of robust tax incentives, including a provision allowing non-itemizers a deduction for their charitable donations and another provision removing a barrier to charitable contributions from Individual Retirement Accounts. These and certain other incentives are consistent with the President's objective to promote charitable giving across the Nation and to provide relief to taxpayers making contributions to charitable programs. The Administration will work with Congress to make these incentives as effective and robust as possible. In addition, the Administration appreciates that the bill includes a number of conservation tax incentives and looks forward to working with Congress to ensure that these are consistent with the President's Budget.

The Administration also is pleased that this bill would encourage savings by lower income persons through the creation of 300,000 Individual Development Accounts (IDAs).

However, the Administration strongly opposes the bill's proposed $275 million and $1.1 billion increases in funding for the Social Services Block Grant (SSBG) for fiscal years 2003 and 2004 respectively. Compared to FY 2002, this would represent a 16% increase in funding in FY 2003 and a 65% increase in funding in FY 2004. These large increases in SSBG funding far exceed the President's request and would create significant pressure to extend the 2004 level into the future, costing $11 billion over ten years if made permanent.

Additionally, the Administration is concerned about a number of tax provisions in the bill that would unnecessarily complicate the U.S. tax code and would raise significant policy concerns. The Administration looks forward to working with Congress to make appropriate modifications to the bill

that would address our policy concerns.

Finally, the Administration recognizes that this bill reflects many of the legislative proposals contained in the Treasury Department's *Enforcement Proposals for Abusive Tax Avoidance Transactions*, issued on March 20, 2002. The Administration supports the goal of stopping abusive tax avoidance transactions, but it shares the Chairman's concerns regarding the codification of the economic substance doctrine.

In addition, the Administration firmly supports the provisions in the manager's amendment to S. 476 that would authorize a "Compassion Capital Fund" to be established at several Federal agencies to provide technical assistance to small faith-based and community organizations through qualified intermediary organizations, and would authorize funding for grants to provide young mothers and their children access to community-based, adult-supervised group homes.

The Administration looks forward to working with the Congress to address the issues described above, perfect the language in S. 476 regarding certain Constitutional issues, ensure that the legislation avoids inappropriate intrusion into the attorney-client relationship, correct certain issues with tax exempt federally guaranteed obligations, and to continue to move forward this important legislation that meets our shared goal of better serving Americans in need.

Pay-As-You-Go Scoring

The Budget Enforcement Act's pay-as-you-go requirements and discretionary spending caps expired on September 30, 2002. The Administration supports the extension of these budget enforcement mechanisms in a manner that ensures fiscal discipline and is consistent with the President's budget. OMB's cost estimate of this bill currently is under development.

* * * * * * *

From: Kavanaugh, Brett M.
To: <Lefkowitz, Jay P.>
Sent: 4/9/2003 11:29:56 AM
Subject: Re: FW: Points Concerning Allen-Harkin Amendment
Attachments: att2.eml; Points Concerning Allen-Harkin Amendment.doc

good to go

From: Jay P. Lefkowitz/OPD/EOP@Exchange on 04/09/2003 10:51:16 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: FW: Points Concerning Allen-Harkin Amendment

Any edits before we give to leg?

-----Original Message-----

From: BETTAUERRJ@ms.state.gov@EOP

Sent: Wednesday, April 09, 2003 10:33 AM

To: Lefkowitz, Jay P.; Wood, John F.; Moore, Holly T.; Bellinger, John B.; Kavanaugh, Brett M.; Perry, Philip J.; Silverberg, Kristen

Subject: FW: Points Concerning Allen-Harkin Amendment



Apparently this did not get through to you. I'm trying again.

> -----Original Message-----

> From: Bettauer, Ronald J (Internet)

> Sent: Wednesday, April 09, 2003 10:28 AM

> To: 'John_F._Wood@omb.eop.gov'; 'Jay_P._Lefkowitz@oa.eop.gov';

> 'Philip_J._Perry@omb.eop.gov'; 'Kristen_Silverberg@oa.eop.gov';

> 'Brett_M._Kavanaugh@who.eop.gov'; 'holly_t._moore@nsc.eop.gov'; 'John

> Bellinger'

> Cc: Terry, James P(H); Faulkner, Tamara(H); Lisa Grosh; Mark Clodfelter

> Subject: Points Concerning Allen-Harkin Amendment

> Importance: High

>

> Here is the first set of talking points requested at this morning's

> meeting.

> <>

 - Points Concerning Allen-Harkin Amendment.doc <>

 - att2.eml <>

Points Concerning Allen-Harkin Amendment

- The provision will cost the U.S. taxpayer dearly and will have no financial impact on Iran.

- The United States agreed in the 1981 Algiers Accords to prevent suits by the hostages from going forward in exchange for their release from captivity. (The Accords were ratified by President Reagan and received overwhelming bipartisan support on the Hill following extensive hearings.)

- Iran will view the amendment as a blatant U.S. violation of the Accords and will likely sue the United States before the Iran-U.S. Claims Tribunal for any judgment rendered against it in favor of the hostages.

- The hostages have already attempted to bring a suit against Iran for $8 billion. This amendment will permit that suit to go forward.

- The Tribunal could very well issue an award against the United States for any such amount and the U.S. taxpayer will likely end up paying.

- Even if the United States chooses not to pay the Tribunal award, the Algiers Accords expressly make Tribunal awards binding and enforceable against the two government in the courts of any country in the world.

- Iran will therefore attempt to seize U.S. assets anywhere they can find them, including perhaps in the United States, to pay the Tribunal award.

- This amendment also sends the signal to other countries that the United States may break international agreements, and that the President's commitment in executive agreements cannot be relied upon.

Drafted: L/CID:Lisa Grosh x68325
4/9/03

Cleared: L/CID:MClodfelter-ok
L:WTaft-ok

From: BETTAUERRJ@ms.state.gov
To: Jay_P._Lefkowitz@oa.eop.gov; John_F._Wood@omb.eop.gov; holly_t._moore@nsc.eop.gov; John_B._Bellinger@nsc.eop.gov; Brett_M._Kavanaugh@who.eop.gov; Philip_J._Perry@omb.eop.gov; Kristen_Silverberg@oa.eop.gov
Sent: 4/9/2003 10:32:33 AM
Subject: FW: Points Concerning Allen-Harkin Amendment
Importance: High
Attachments: Points Concerning Allen-Harkin Amendment.doc

Apparently this did not get through to you. I'm trying again.

> -----Original Message-----
> From: Bettauer, Ronald J (Internet)
> Sent: Wednesday, April 09, 2003 10:28 AM
> To: 'John_F._Wood@omb.eop.gov'; 'Jay_P._Lefkowitz@oa.eop.gov';
> 'Philip_J._Perry@omb.eop.gov'; 'Kristen_Silverberg@oa.eop.gov';
> 'Brett_M._Kavanaugh@who.eop.gov'; 'holly_t._moore@nsc.eop.gov'; 'John
> Bellinger'
> Cc: Terry, James P(H); Faulkner, Tamara(H); Lisa Grosh; Mark Clodfelter
> Subject: Points Concerning Allen-Harkin Amendment
> Importance: High
>
> Here is the first set of talking points requested at this morning's
> meeting.
> <<Points Concerning Allen-Harkin Amendment.doc>>

Points Concerning Allen-Harkin Amendment

- The provision will cost the U.S. taxpayer dearly and will have no financial impact on Iran.

- The United States agreed in the 1981 Algiers Accords to prevent suits by the hostages from going forward in exchange for their release from captivity. (The Accords were ratified by President Reagan and received overwhelming bipartisan support on the Hill following extensive hearings.)

- Iran will view the amendment as a blatant U.S. violation of the Accords and will likely sue the United States before the Iran-U.S. Claims Tribunal for any judgment rendered against it in favor of the hostages.

- The hostages have already attempted to bring a suit against Iran for $8 billion. This amendment will permit that suit to go forward.

- The Tribunal could very well issue an award against the United States for any such amount and the U.S. taxpayer will likely end up paying.

- Even if the United States chooses not to pay the Tribunal award, the Algiers Accords expressly make Tribunal awards binding and enforceable against the two government in the courts of any country in the world.

- Iran will therefore attempt to seize U.S. assets anywhere they can find them, including perhaps in the United States, to pay the Tribunal award.

- This amendment also sends the signal to other countries that the United States may break international agreements, and that the President's commitment in executive agreements cannot be relied upon.

Drafted: L/CID:Lisa Grosh x68325
4/9/03

Cleared: L/CID:MClodfelter-ok
L:WTaft-ok

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Nancy Dorn/OMB/EOP@EOP [OMB] <Nancy Dorn>
CC: John F. Wood/OMB/EOP@EOP [OMB] <John F. Wood>;jay p. lefkowitz/opd /eop@exchange@eop [OPD] <jay p. lefkowitz>
Sent: 4/9/2003 7:36:11 AM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 9-APR-2003 11:36:11.00
SUBJECT:: Re:
TO:Nancy Dorn (CN=Nancy Dorn/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:John F. Wood (CN=John F. Wood/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:jay p. lefkowitz (CN=jay p. lefkowitz/OU=opd/O=eop@exchange@eop [OPD])
READ:UNKNOWN
End Original ARMS Header

I am not working on any language. Not sure what John was referring to.

Nancy Dorn
04/09/2003 11:33:25 AM
Record Type: Record

To: Jay P. Lefkowitz/OPD/EOP@Exchange@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject:

John Wood filled me in on the discussion this am on victims of terrorism. We are strongly objecting to inclusion of the Allen or other asset lang in the supp (as well as any other extraneous stuff). We do not want "second degree " type language breathing any additional life into these provisions. Also, whatever lang brett is working on needs to be circulated for review.
Thanks.

From: CN=Lauren C. Lobrano/OU=OMB/O=EOP [OMB]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/9/2003 7:49:49 AM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Lauren C. Lobrano (CN=Lauren C. Lobrano/OU=OMB/O=EOP [OMB])
CREATION DATE/TIME: 9-APR-2003 11:49:49.00
SUBJECT:: Re:
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

not yet, I will check.

Brett M. Kavanaugh
04/09/2003 11:49:20 AM
Record Type: Record

To: Lauren C. Lobrano/OMB/EOP@EOP
cc:
Subject:

Do we have final SAP language on gun bill?

From: CN=Christopher C. Cox/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Nancy Dorn/OMB/EOP@EOP [OMB] <Nancy Dorn>;John F. Wood/OMB/EOP@EOP [OMB] <John F. Wood>;Matthew Kirk/WHO/EOP@Exchange [WHO] <Matthew Kirk>;Lauren J. Vestewig/OPD/EOP@Exchange [OPD] <Lauren J. Vestewig>;Philip J. Perry/OMB/EOP@EOP [OMB] <Philip J. Perry>;Daniel Keniry/WHO/EOP@Exchange [UNKNOWN] <Daniel Keniry>;Kristen Silverberg/WHO/EOP@Exchange [WHO] <Kristen Silverberg>;Jay P. Lefkowitz/OPD/EOP@Exchange [OPD] <Jay P. Lefkowitz>
Sent: 4/9/2003 12:13:20 PM
Subject: : Re: Meeting re. Algiers Accords

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Christopher C. Cox ( CN=Christopher C. Cox/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME: 9-APR-2003 16:13:20.00
SUBJECT:: Re: Meeting re. Algiers Accords
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Nancy Dorn ( CN=Nancy Dorn/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
CC:John F. Wood ( CN=John F. Wood/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
CC:Matthew Kirk ( CN=Matthew Kirk/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
CC:Lauren J. Vestewig ( CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange [ OPD ] )
READ:UNKNOWN
CC:Philip J. Perry ( CN=Philip J. Perry/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
CC:Daniel Keniry ( CN=Daniel Keniry/OU=WHO/O=EOP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
CC:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
CC:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Thanks Brett. We could probably accomplish this with a conf call. Who
else, if anyone, would need to participate?
```

From: CN=Holly T. Moore/OU=NSC/O=EOP [NSC]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/9/2003 12:32:31 PM
Subject: : tribunal liability

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Holly T. Moore ( CN=Holly T. Moore/OU=NSC/O=EOP [ NSC ] )
CREATION DATE/TIME: 9-APR-2003 16:32:31.00
SUBJECT:: tribunal liability
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

ron bettauer will be in his office for the next half hour and available to
discuss how tribunal liability would work. let me know when and i will
get him on. (may also end up with lisa or mark, but can't find them right
now.)
```

From: Wood, John F.
To: <Wood, John F.>
CC: <Lefkowitz, Jay P.>;<Cox, Christopher C.>;<Vestewig, Lauren J.>;<Silverberg, Kristen>;<Kirk, Matthew>;<Keniry, Daniel>;<Kavanaugh, Brett M.>;<Perry, Philip J.>;<Dorn, Nancy>;<Moore, Holly T.>
Sent: 4/9/2003 12:40:38 PM
Subject: RE: Meeting re. Algiers Accords

The first bullet could say something like:

* The amendment would give victims of terrorism the ability to sue Iran in U.S. courts. This would be contrary to the U.S.'s obligation under the 1981 Algiers Accords to prohibit such suits.

John F. Wood

04/09/2003 12:10:28 PM

Record Type: Record

To: Jay P. Lefkowitz/OPD/EOP@Exchange

cc: See the distribution list at the bottom of this message

bcc: Records Management@EOP

Subject: RE: Meeting re. Algiers Accords

The first bullet re Allen-Harken should probably tell what the amendment does. We have such a bullet re the TRIA amendment.

From: Jay P. Lefkowitz/OPD/EOP@Exchange on 04/09/2003 11:36:31 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: RE: Meeting re. Algiers Accords

Here are the two one-pagers. If anyone has specific edits, let's get them circulating quickly:

Points Concerning Allen-Harkin Amendment:

* The provision will cost the U.S. taxpayer dearly and will have no financial impact on Iran.

* The United States agreed in the 1981 Algiers Accords to prevent suits by the hostages from going forward in exchange for their release from captivity. (The Accords were ratified by President Reagan and received overwhelming bipartisan support on the Hill following extensive hearings.)

* Iran will view the amendment as a blatant U.S. violation of the Accords and will likely sue the United States before the Iran-U.S. Claims Tribunal for any judgment rendered against it in favor of the hostages.

* The hostages have already attempted to bring a suit against Iran for $8 billion. This amendment will permit that suit to go forward.

* The Tribunal could very well issue an award against the United States for any such amount and the U.S. taxpayer will likely end up paying.

* Even if the United States chooses not to pay the Tribunal award, the Algiers Accords expressly make Tribunal awards binding and enforceable against the two government in the courts of any country in the world.

* Iran will therefore attempt to seize U.S. assets anywhere they can find them, including perhaps in the United States, to pay the Tribunal award.

* This amendment also sends the signal to other countries that the United States may break international agreements, and that the President's commitment in executive agreements cannot be relied upon.

Points Concerning Amendment to the Terrorism Risk Insurance Act:

* The amendment would expand the definition of "blocked asset" under TRIA to include any property or assets that are regulated and

licensed.

* While TRIA made a very limited exception to the important principle of the separate legal status of states and the entities they own, this amendment would greatly expand the effect of this exception.

* It would make regulated and licensed assets of separate entities, which have not been blocked, available to pay judgments against the states.

* The amendment will eliminate the current flexibility the Executive Branch has in imposing and managing sanctions regimes.

* Sanctions are generally not eliminated all at once. They are subject to a variety of regulation and licensing, including general licenses, which have the effect of gradually undoing certain aspects of sanctions programs.

* The amendment would interfere substantially with U.S. foreign policy objectives, as it would make normalization with any new regimes of these states very difficult.

* For example, this amendment will make it difficult for any new Iraqi government to do business in the United States. Any of its state-owned entities that attempt to bring assets into the United States or do business here, subject to regulation or license, would have its assets seized to pay for the wrongs perpetrated by the prior regime.

* It could also increase taxpayer costs for reconstruction of Iraq.

* The amendment would encourage reciprocal legal measures, holding U.S. entities liable for conduct of the United States worldwide.

-----Original Message-----

From: Cox, Christopher C.

Sent: Wednesday, April 09, 2003 11:32 AM

To: Vestewig, Lauren J.; Silverberg, Kristen; Kirk, Matthew ; Keniry, Daniel ; Kavanaugh, Brett M.; Wood, John F.; Perry, Philip J.

Cc: Stone, Carla B.; Lefkowitz, Jay P.

Subject: Re: Meeting re. Algiers Accords

Can anyone offer a status update on the one-pager we discussed?

Message Sent To:

Christopher C. Cox/WHO/EOP@Exchange

Lauren J. Vestewig/OPD/EOP@Exchange

Kristen Silverberg/WHO/EOP@Exchange

Matthew Kirk/WHO/EOP@Exchange

Daniel Keniry/WHO/EOP@Exchange

Brett M. Kavanaugh/WHO/EOP@EOP

John F. Wood/OMB/EOP@EOP

Philip J. Perry/OMB/EOP@EOP

Nancy Dorn/OMB/EOP@EOP

Message Copied To:

christopher c. cox/who/eop@exchange

lauren j. vestewig/opd/eop@exchange

kristen silverberg/who/eop@exchange

matthew kirk/who/eop@exchange

daniel keniry/who/eop@exchange

brett m. kavanaugh/who/eop@eop

philip j. perry/omb/eop@eop

nancy dorn/omb/eop@eop

From:	Lobrano, Lauren C.
To:	<Pelletier, Eric C.>;<Wolff, Candida P.>;<Allen, Michael>;<Andricos, George M.>;<Atkin, Chelsey>;<Bonner, Frank>;<Burgeson, Christine M.>;<Burrell, Christina L.>;<Call, Amy L.>;<Chadwick, Kirsten>;<Conway, Thais C.>;<Cox, Christopher C.>;<Dove, Stephen W.>;<Fiddelke, Debbie S.>;<Gartland, Lavin>;Grubbs, Wendy J. <wgrubbs@WHO.eop.gov>; <Harrelson, Leah J.>;<Hobbs, David W.>;<Holbrook, Ashley>;<Holt, David F.>;<Ingols, Adam B.>;<Jensen, Amy>;<Jones, Alison>;<Keniry, Daniel>;<Kirk, Matthew>;<Kratovil, Lindley>; <Liang, Elan>;<Lobrano, Lauren C.>;<Loper, Ginger G.>;<Manning, Brooke H.>;<Marsh, Robert>;<McCarthy, Daniel>;<Morden, Christine E.>;<Nichols, Julie L.>;<O'Brien, Maureen R.>;<O'Hollaren, Sean B.>;<Ojakli, Ziad>;<Rossman, Elizabeth L.>;<Rowan, Peter M.>;sara_nokes@vp.senate.gov <sara_nokes@vp.senate.gov>;sara_nokes@vp.senate.gov <West, Christal R.>;sara_nokes@vp.senate.gov <Wilkie, Robert L.>;sara_nokes@vp.senate.gov <Ingols, Adam B.>;sara_nokes@vp.senate.gov <Hobbs, David W.>;sara_nokes@vp.senate.gov <Oxford, John>;sara_nokes@vp.senate.gov <Douglas, Penny G.>;sara_nokes@vp.senate.gov <Kavanaugh, Brett M.>;sara_nokes@vp.senate.gov <Goldman, Adam B.>;sara_nokes@vp.senate.gov <Mehlman, Ken>;sara_nokes@vp.senate.gov <Malphrus, Garry>
Sent:	4/9/2003 12:56:20 PM
Subject:	SAP Release - H.R. 1036, Protection of Lawful Commerce in Arms Act
Attachments:	H.R. 1036, Protection of Lawful Commerce in Arms Act SAP.pdf

April 9, 2003

(House Floor)

STATEMENT OF ADMINISTRATION POLICY
(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)
H.R. 1036 - Protection of Lawful Commerce in Arms Act
(Rep. Stearns (R) Florida and 251 cosponsors)

The Administration strongly supports House passage of H.R. 1036. The manufacturer or seller of a legal, non-defective product should not be held liable for the criminal or unlawful misuse of that product by others. H.R. 1036 would help prevent abuse of the legal system and help curb the growing problem of frivolous lawsuits in the United States. At the same time, the legislation would carefully preserve the right of individuals to have their day in court with civil liability actions. These civil actions are enumerated in the bill and respect the traditional role of the States in our Federal system with regard to such actions.

******

<>

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

April 9, 2003
(House Floor)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 1036 - Protection of Lawful Commerce in Arms Act

(Rep. Stearns (R) Florida and 251 cosponsors)

The Administration strongly supports House passage of H.R. 1036. The manufacturer or seller of a legal, non-defective product should not be held liable for the criminal or unlawful misuse of that product by others. H.R. 1036 would help prevent abuse of the legal system and help curb the growing problem of frivolous lawsuits in the United States. At the same time, the legislation would carefully preserve the right of individuals to have their day in court with civil liability actions. These civil actions are enumerated in the bill and respect the traditional role of the States in our Federal system with regard to such actions.

******

From:	Bumatay, Patrick J.
To:	<Ullyot, Theodore W.>;<Bartolomucci, H. Christopher>;<Brosnahan, Jennifer R.>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>
Sent:	4/9/2003 3:19:02 PM
Subject:	JSC Prep CANCELLED

JSC PREP is cancelled. Please be at the Roosevelt at 4 pm for the regular JSC meeting.

Thanks

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Christopher C. Cox/WHO/EOP@Exchange [WHO] <Christopher C. Cox>
CC: nancy dorn/omb/eop@eop [OMB] <nancy dorn>;john f. wood/omb/eop@eop [OMB] <john f. wood>;matthew kirk/who/eop@exchange [WHO] <matthew kirk>;lauren j. vestewig/opd /eop@exchange [OPD] <lauren j. vestewig>;philip j. perry/omb/eop@eop [OMB] <philip j. perry>;daniel keniry/who/eop@exchange [UNKNOWN] <daniel keniry>;kristen silverberg/who /eop@exchange [WHO] <kristen silverberg>;jay p. lefkowitz/opd/eop@exchange [OPD] <jay p. lefkowitz>
Sent: 4/9/2003 11:54:58 AM
Subject: : Re: Meeting re. Algiers Accords

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 9-APR-2003 15:54:58.00
SUBJECT:: Re: Meeting re. Algiers Accords
TO:Christopher C. Cox ( CN=Christopher C. Cox/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
CC:nancy dorn ( CN=nancy dorn/OU=omb/O=eop@eop [ OMB ] )
READ:UNKNOWN
CC:john f. wood ( CN=john f. wood/OU=omb/O=eop@eop [ OMB ] )
READ:UNKNOWN
CC:matthew kirk ( CN=matthew kirk/OU=who/O=eop@exchange [ WHO ] )
READ:UNKNOWN
CC:lauren j. vestewig ( CN=lauren j. vestewig/OU=opd/O=eop@exchange [ OPD ] )
READ:UNKNOWN
CC:philip j. perry ( CN=philip j. perry/OU=omb/O=eop@eop [ OMB ] )
READ:UNKNOWN
CC:daniel keniry ( CN=daniel keniry/OU=who/O=eop@exchange [ UNKNOWN ] )
READ:UNKNOWN
CC:kristen silverberg ( CN=kristen silverberg/OU=who/O=eop@exchange [ WHO ] )
READ:UNKNOWN
CC:jay p. lefkowitz ( CN=jay p. lefkowitz/OU=opd/O=eop@exchange [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Is it Pederlin? Happy to be part of a team or just to call someone. Are
we calling or meeting?




From: Christopher C. Cox/WHO/EOP@Exchange on 04/09/2003 03:51:28 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Re: Meeting re. Algiers Accords

Ok, just came out of a meeting with speaker staff. The TRIA language,
which does not appear in either bill, will not be pushed by the speaker.
They will cite that they simply cannot anticipate the full impact.

As for allen, the speaker has constituent interest and he "will not be
bound by a bad deal of a different admin. Moreover, someone needs to stand
up for families whose rights were dealt away by carter. " We are not in a
good spot on this one. The ONLY argument that has any traction is the
Treasury exposure. Can I get someone who would be willing to "lawyer up"
```

the spkr staff? Specifically, I need someone who can explain exactly how US Treasury could be on the hook for these claims.

Message Sent
To:_____
Jay P. Lefkowitz/OPD/EOP@Exchange
Lauren J. Vestewig/OPD/EOP@Exchange
Kristen Silverberg/WHO/EOP@Exchange
Matthew Kirk/WHO/EOP@Exchange
Daniel Keniry/WHO/EOP@Exchange
Brett M. Kavanaugh/WHO/EOP@EOP
John F. Wood/OMB/EOP@EOP
Philip J. Perry/OMB/EOP@EOP
Nancy Dorn/OMB/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Christopher C. Cox/WHO /EOP@EOP [WHO] <Christopher C. Cox>
CC: Nancy Dorn/OMB/EOP@EOP [OMB] <Nancy Dorn>;John F. Wood/OMB/EOP@EOP [OMB] <John F. Wood>;Matthew Kirk/WHO/EOP@Exchange [WHO] <Matthew Kirk>;Lauren J. Vestewig/OPD/EOP@Exchange [OPD] <Lauren J. Vestewig>;Philip J. Perry/OMB/EOP@EOP [OMB] <Philip J. Perry>;Daniel Keniry/WHO/EOP@Exchange [UNKNOWN] <Daniel Keniry>;Kristen Silverberg/WHO/EOP@Exchange [WHO] <Kristen Silverberg>;Jay P. Lefkowitz/OPD/EOP@Exchange [OPD] <Jay P. Lefkowitz>
Sent: 4/9/2003 12:20:34 PM
Subject: : Re: Meeting re. Algiers Accords

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 9-APR-2003 16:20:34.00
SUBJECT:: Re: Meeting re. Algiers Accords
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Christopher C. Cox ( CN=Christopher C. Cox/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Nancy Dorn ( CN=Nancy Dorn/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
CC:John F. Wood ( CN=John F. Wood/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
CC:Matthew Kirk ( CN=Matthew Kirk/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
CC:Lauren J. Vestewig ( CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange [ OPD ] )
READ:UNKNOWN
CC:Philip J. Perry ( CN=Philip J. Perry/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
CC:Daniel Keniry ( CN=Daniel Keniry/OU=WHO/O=EOP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
CC:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
CC:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Anyone who wants on. I am talking to state lawyers shortly to get some
more answers on operation of iran claims tribunal.

.

----- Original Message -----
From:Christopher C. Cox/WHO/EOP@Exchange
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:Jay P. Lefkowitz/OPD/EOP@Exchange,
Lauren J. Vestewig/OPD/EOP@Exchange,
Kristen Silverberg/WHO/EOP@Exchange,
Matthew Kirk/WHO/EOP@Exchange,
Daniel Keniry/WHO/EOP@Exchange,
John F. Wood/OMB/EOP@EOP,
Philip J. Perry/OMB/EOP@EOP,
Nancy Dorn/OMB/EOP@EOP
Date: 04/09/2003 04:11:05 PM
Subject: Re: Meeting re. Algiers Accords

Thanks Brett. We could probably accomplish this with a conf call. Who
else, if anyone, would need to participate?
```

From: Kavanaugh, Brett M.
To: <Cox, Christopher C.>
Sent: 4/9/2003 4:45:15 PM
Subject: Re: Meeting re. Algiers Accords

what time is call?

From: Christopher C. Cox/WHO/EOP@Exchange on 04/09/2003 04:11:05 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc: See the distribution list at the bottom of this message

Subject: Re: Meeting re. Algiers Accords

Thanks Brett. We could probably accomplish this with a conf call. Who else, if anyone, would need to participate?

Message Copied To:

Jay P. Lefkowitz/OPD/EOP@Exchange

Lauren J. Vestewig/OPD/EOP@Exchange

Kristen Silverberg/WHO/EOP@Exchange

Matthew Kirk/WHO/EOP@Exchange

Daniel Keniry/WHO/EOP@Exchange

John F. Wood/OMB/EOP@EOP

Philip J. Perry/OMB/EOP@EOP

Nancy Dorn/OMB/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Julie Myers <Julie.Myers@usdoj.gov>
Sent: 4/9/2003 1:38:14 PM
Subject: : Re: Any chance you have a few minutes today or tomorrow

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 9-APR-2003 17:38:14.00
SUBJECT:: Re: Any chance you have a few minutes today or tomorrow
TO:Julie Myers <Julie.Myers@usdoj.gov> (Julie Myers <Julie.Myers@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

call today

Julie Myers <Julie.Myers@usdoj.gov>
04/08/2003 01:17:06 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Any chance you have a few minutes today or tomorrow

Date: 04/08/2003 01:17 pm -0400 (Tuesday)
From: Julie Myers
To: Brett_M._Kavanaugh@who.eop.gov
Subject: Any chance you have a few minutes today or tomorrow

to continue that career counseling session we started a days ago?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Julie Myers <Julie.Myers@usdoj.gov>
Sent: 4/9/2003 1:39:49 PM
Subject: : Re: Any chance you have a few minutes today or tomorrow

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 9-APR-2003 17:39:49.00
SUBJECT:: Re: Any chance you have a few minutes today or tomorrow
TO:Julie Myers <Julie.Myers@usdoj.gov> (Julie Myers <Julie.Myers@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

tonight

Julie Myers <Julie.Myers@usdoj.gov>
04/08/2003 01:17:06 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Any chance you have a few minutes today or tomorrow

Date: 04/08/2003 01:17 pm -0400 (Tuesday)
From: Julie Myers
To: Brett_M._Kavanaugh@who.eop.gov
Subject: Any chance you have a few minutes today or tomorrow

to continue that career counseling session we started a days ago?

From: CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO]

To: Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Benjamin A. Powell/WHO /EOP@EOP [WHO] <Benjamin A. Powell>;Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jonathan F. Ganter/WHO/EOP@EOP [WHO] <Jonathan F. Ganter>;J. Elizabeth Farrell/WHO/EOP@EOP [WHO] <J. Elizabeth Farrell>;James W. Carroll/WHO/EOP@EOP [WHO] <James W. Carroll>;Hana F. Brilliant/WHO/EOP@EOP [WHO] <Hana F. Brilliant>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Tracy Jucas/WHO /EOP@EOP [WHO] <Tracy Jucas>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>;John B. Bellinger/NSC /EOP@EOP [NSC] <John B. Bellinger>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>

CC: David G. Leitch/WHO/EOP@Exchange [WHO] <David G. Leitch>

Sent: 4/10/2003 5:57:49 AM

Subject: : Note about the Judge's schedule

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:10-APR-2003 09:57:49.00
SUBJECT:: Note about the Judge's schedule
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jonathan F. Ganter ( CN=Jonathan F. Ganter/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:J. Elizabeth Farrell ( CN=J. Elizabeth Farrell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:James W. Carroll ( CN=James W. Carroll/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Hana F. Brilliant ( CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tracy Jucas ( CN=Tracy Jucas/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
CC:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange [ WHO ] )
```

READ:UNKNOWN
End Original ARMS Header

The Judge will out of the office tomorrow, Friday, April 11. If you have issues to discuss with him before his departure this evening, please let me know.
;
Thanks!
Carrie

From: CN=Carrie B. Loy/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/10/2003 7:18:06 AM
Subject: : Schedule C Briefing
Attachments: P_1X6IF003_WHO.TXT_1.doc; P_1X6IF003_WHO.TXT_2.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carrie B. Loy (CN=Carrie B. Loy/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-APR-2003 11:18:06.00
SUBJECT:: Schedule C Briefing
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

USDA raised some concerns on the cost and nature of this event. Do you see any potential problems? (Typically each agency covers the cost)

---------- Forwarded by Carrie B. Loy/WHO/EOP on 04/10/2003 11:16 AM ----------

"Becker, Amanda G." <AGBECKER@opm.gov>
04/08/2003 11:45:01 AM
Record Type: Record

To: Ali H. Tulbah/WHO/EOP@EOP, Carrie B. Loy/WHO/EOP@EOP
cc:
Subject: FW: Schedule C Briefing

We still have lots of slots to fill for the upcoming Schedule C Briefing.ÿ I have sent the notice and information out to all the White House Liaisons.ÿ Any assistance you can offer to get the word out would be greatly appreciated.ÿ I've also attached an invitation and registration form.

Thanks,
Amanda
ÿ

A Schedule C Briefing is being planned for you at the Ronald Reagan Building on April 15th from 9::00 a.m. to 4:45 p.m. (registration and continental breakfast beginning at 8:15 a.m.). We will have speakers from the White House, National Security Council, and Homeland Security who will discuss issues of importance to you. The session includes a great lunch and a reception to follow the session.ÿ The investment for your attendance is $395. Please call Shirley Sewell at the US Office of Personnel Management to register for this event. Shirley can be reached at (202) 606-1632 or sesewell@opm.gov. This is an event that you won't want to miss.

ÿ

-- Even though this E-Mail has been scanned and found clean of
-- known viruses, OPM can not guarantee this message is virus free.

-- This message was automatically generated.
-------------------------------do

- INVITL~1.doc
- PARTIN~1.doc

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_1X6IF003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_1X6IF003_WHO.TXT_2>

March 7, 2003

Dear Colleague,

I am pleased to invite you to the Bush Administration's series of executive briefings for new Schedule C appointees to learn about the President's Management Agenda, his vision and values, and to discuss the unique challenges you face with your new responsibilities. As a Schedule C appointee, you will play a key role in turning President Bush's principles of a citizen-centered, results-oriented and market-based government into reality.

The U.S. Office of Personnel Management (OPM) conducts these programs with the White House. The next session will be held **April 15, 2003.**

These sessions for new appointees provide an overview of executive branch priorities and a unique opportunity to interact with a broad range of policymakers. You may have heard from your colleagues about our previous briefings that included presentations from Cabinet Secretaries, top advisors to the President, including his National Security Advisor, and the Vice President. Though particular officials are not available for each briefing, you will be provided insights and information on domestic and foreign policy issues from the Administration's most knowledgeable individuals.

The program is held at the Ronald Reagan Building. A swearing-in ceremony and reception, in your honor, conclude the program.

To accept my invitation, please register with the Office of Executive Resources Management by April 4, 2003. In the past, these programs have filled prior to the deadline, so send in your form right away. Enclosed are program and registration information.

Sincerely,

Kay Coles James
Director

Enclosures

Information Sheet

BRIEFING FOR NEW SCHEDULE C APPOINTEES

APRIL 15, 2003

WHEN **APRIL 15,** 9:00 am - 6:00 pm . Registration check-in and continental breakfast begin at 8:15 am.

WHERE Amphitheater at the Ronald Reagan Building ♦1300 Pennsylvania Avenue, NW, Washington, DC 20004.

WHAT The keynote address will be delivered by a senior Bush Administration official, followed by presentations on Ethics, Hatch Act, and high-priority issues for the Administration. Speakers will include prominent Administration officials and White House staff. **Plan to be there. It is a program that you won't want to miss!**

HOW TO REGISTER Fax your registration form and payment information to OPM at 202-606-0557 or 202-606-2126. We accept: Government-issued purchase cards or an agency Training Authorization Form (contact your training office for forms) and must receive all payment information by the first day of the briefing.

REGISTRATION DEADLINE **April 4, 2003, at 4:00 p.m.** or when we reach 200 nominations, whichever occurs first. **Programs are very popular and tend to fill-up quickly**. We will fax a confirmation notice of your registration to the number you provide us. OPM staff can only confirm your registration. We can not accept registrations received after the closing date or once we reach our limit.

CONFIRMATION NOTICES confirming your registration will be sent via fax or email by the Office of Personnel Management. A confirmation from your agency's training office does not mean you are registered with OPM. If you do not receive a notice from OPM by APRIL 15, please call 202-606-1632, we will gladly fax or email another one.

COST $395. This includes conference materials, continental breakfast, luncheon, coffee breaks, and an evening reception.

CANCELLATIONS Written cancellations or substitutions must be received by the registration closing date. If you cancel after that date, OPM will bill you for the full registration fee. Email requests to Shirley Sewell at sesewell@opm.gov or fax to 202-606-2126.

SWEARING-IN CEREMONY & RECEPTION The program concludes with a Federal Judge administering the oath of office, followed by a reception in your honor from 5:00 pm until 6:00 pm. If you wish, a photographer will take your picture with the officiating judge and your certificate. Business attire is appropriate. Due to limited space, family members and/or friends can not attend.

SPECIAL NEEDS Please tell us as soon as possible if you have any special needs. We are happy to provide interpreters and accommodate special diets, but must know in advance to prepare for your needs.

LOCAL TRANSPORTATION The Ronald Reagan Building is accessible via the Metrorail system (subway). We highly recommend using the subway, as commercial parking in the surrounding area is expensive and limited. To use the Metrorail, take the Blue or Orange line to Federal Triangle Station. As you exit the station, the Reagan Building is directly in front of you, across the plaza.

HOTELS Please contact your White House Liaison for hotels located near the Ronald Reagan Building and Metro stations

GENERAL CONFERENCE INFORMATION

For additional information, please call 202-606-1632.

Registration Form

U.S. Office of Personnel Management=s Schedule C Briefing
Washington, DC April 15, 2003

IMPORTANT: To ensure accurate registration, please print clearly (or type) and complete the form in its entirety.

NAME:
last *first* *middle initial*

NAME TO APPEAR ON CERTIFICATE:

TITLE:

DEPARTMENT:

AGENCY:

OFFICE ADDRESS:

CITY, STATE, ZIP:

DATE OF BIRTH: *(MM/DD/YY)* SOCIAL SECURITY NUMBER:

PHONE: FAX:

EMAIL:

SPECIAL NEEDS (ie: interpreter, diet, etc):

PLAN TO ATTEND EVENING RECEPTION: θ YES θ NO
(ceremony & reception limited to Schedule C appointee only)

PAYMENT INFORMATION (select one)

□ CREDIT CARD (Gov=t issued ONLY) □ TRAINING AUTHORIZATION FORM

IDENTIFY VENDOR ON ALL PAYMENT METHODS AS:
U.S. OFFICE OF PERSONNEL MANAGEMENT $ OFFICE OF EXECUTIVE RESOURCES MANAGEMENT
1900 E STREET, NW, Room 6484 $ WASHINGTON, DC 20415-5100
OPM Tax ID Number: 521136517
(NOTE: IF PAYMENT IS BY ONE OF THE GOVERNMENT PAYMENT METHODS, ATTACH OFFICIAL PAYMENT DOCUMENT.)

BRIEFING COST: $395.00 | PURCHASE ORDER NUMBER:

CREDIT CARD NUMBER: EXP. DATE:

CARDHOLDER'S NAME & SIGNATURE:

CARDHOLDER'S PHONE: | FAX:

CARDHOLDER'S BILLING ADDRESS:

A receipt will be faxed within 30 days from program date

Written cancellations or substitutions must be received by APRIL 4. Cancellations after this date will be billed for the full registration fee. Email requests to SESEWELL@opm.gov

REV_00162806

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Carrie B. Loy/WHO/EOP@EOP [WHO] <Carrie B. Loy>
Sent: 4/10/2003 7:21:20 AM
Subject: : Re: Schedule C Briefing
Attachments: P_477IF003_WHO.TXT_1.doc; P_477IF003_WHO.TXT_2.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-APR-2003 11:21:20.00
SUBJECT:: Re: Schedule C Briefing
TO:Carrie B. Loy (CN=Carrie B. Loy/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

what does that cost cover? Who is invited?

Carrie B. Loy
04/10/2003 11:17:50 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Schedule C Briefing

USDA raised some concerns on the cost and nature of this event. Do you see any potential problems? (Typically each agency covers the cost)

---------- Forwarded by Carrie B. Loy/WHO/EOP on 04/10/2003 11:16 AM ----------

"Becker, Amanda G." <AGBECKER@opm.gov>
04/08/2003 11:45:01 AM
Record Type: Record

To: Ali H. Tulbah/WHO/EOP@EOP, Carrie B. Loy/WHO/EOP@EOP
cc:
Subject: FW: Schedule C Briefing

We still have lots of slots to fill for the upcoming Schedule C Briefing.ÿ I have sent the notice and information out to all the White House Liaisons.ÿ Any assistance you can offer to get the word out would be greatly appreciated.ÿ I've also attached an invitation and registration form.

Thanks,
Amanda
ÿ

A Schedule C Briefing is being planned for you at the Ronald Reagan Building on April 15th from 9::00 a.m. to 4:45 p.m. (registration and continental breakfast beginning at 8:15 a.m.). We will have speakers from the White House, National Security Council, and Homeland Security who will

discuss issues of importance to you. The session includes a great lunch and a reception to follow the session.ÿ The investment for your attendance is $395. Please call Shirley Sewell at the US Office of Personnel Management to register for this event. Shirley can be reached at (202) 606-1632 or sesewell@opm.gov. This is an event that you won't want to miss.

ÿ

-- Even though this E-Mail has been scanned and found clean of
-- known viruses, OPM can not guarantee this message is virus free.

-- This message was automatically generated.
---do

- INVITL~1.doc
- PARTIN~1.doc

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_477IF003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_477IF003_WHO.TXT_2>

March 7, 2003

Dear Colleague,

I am pleased to invite you to the Bush Administration's series of executive briefings for new Schedule C appointees to learn about the President's Management Agenda, his vision and values, and to discuss the unique challenges you face with your new responsibilities. As a Schedule C appointee, you will play a key role in turning President Bush's principles of a citizen-centered, results-oriented and market-based government into reality.

The U.S. Office of Personnel Management (OPM) conducts these programs with the White House. The next session will be held **April 15, 2003.**

These sessions for new appointees provide an overview of executive branch priorities and a unique opportunity to interact with a broad range of policymakers. You may have heard from your colleagues about our previous briefings that included presentations from Cabinet Secretaries, top advisors to the President, including his National Security Advisor, and the Vice President. Though particular officials are not available for each briefing, you will be provided insights and information on domestic and foreign policy issues from the Administration's most knowledgeable individuals.

The program is held at the Ronald Reagan Building. A swearing-in ceremony and reception, in your honor, conclude the program.

To accept my invitation, please register with the Office of Executive Resources Management by April 4, 2003. In the past, these programs have filled prior to the deadline, so send in your form right away. Enclosed are program and registration information.

Sincerely,

Kay Coles James
Director

Enclosures

Information Sheet

BRIEFING FOR NEW SCHEDULE C APPOINTEES

APRIL 15, 2003

WHEN **APRIL 15,** 9:00 am - 6:00 pm . Registration check-in and continental breakfast begin at 8:15 am.

WHERE Amphitheater at the Ronald Reagan Building ♦1300 Pennsylvania Avenue, NW, Washington, DC 20004.

WHAT The keynote address will be delivered by a senior Bush Administration official, followed by presentations on Ethics, Hatch Act, and high-priority issues for the Administration. Speakers will include prominent Administration officials and White House staff. **Plan to be there. It is a program that you won't want to miss!**

HOW TO REGISTER Fax your registration form and payment information to OPM at 202-606-0557 or 202-606-2126. We accept: Government-issued purchase cards or an agency Training Authorization Form (contact your training office for forms) and must receive all payment information by the first day of the briefing.

REGISTRATION DEADLINE **April 4, 2003, at 4:00 p.m.** or when we reach 200 nominations, whichever occurs first. **Programs are very popular and tend to fill-up quickly**. We will fax a confirmation notice of your registration to the number you provide us. OPM staff can only confirm your registration. We can not accept registrations received after the closing date or once we reach our limit.

CONFIRMATION NOTICES confirming your registration will be sent via fax or email by the Office of Personnel Management. A confirmation from your agency's training office does not mean you are registered with OPM. If you do not receive a notice from OPM by APRIL 15, please call 202-606-1632, we will gladly fax or email another one.

COST $395. This includes conference materials, continental breakfast, luncheon, coffee breaks, and an evening reception.

CANCELLATIONS Written cancellations or substitutions must be received by the registration closing date. If you cancel after that date, OPM will bill you for the full registration fee. Email requests to Shirley Sewell at sesewell@opm.gov or fax to 202-606-2126.

SWEARING-IN CEREMONY & RECEPTION The program concludes with a Federal Judge administering the oath of office, followed by a reception in your honor from 5:00 pm until 6:00 pm. If you wish, a photographer will take your picture with the officiating judge and your certificate. Business attire is appropriate. Due to limited space, family members and/or friends can not attend.

SPECIAL NEEDS Please tell us as soon as possible if you have any special needs. We are happy to provide interpreters and accommodate special diets, but must know in advance to prepare for your needs.

LOCAL TRANSPORTATION The Ronald Reagan Building is accessible via the Metrorail system (subway). We highly recommend using the subway, as commercial parking in the surrounding area is expensive and limited. To use the Metrorail, take the Blue or Orange line to Federal Triangle Station. As you exit the station, the Reagan Building is directly in front of you, across the plaza.

HOTELS Please contact your White House Liaison for hotels located near the Ronald Reagan Building and Metro stations

GENERAL CONFERENCE INFORMATION

For additional information, please call 202-606-1632.

Registration Form

U.S. Office of Personnel Management=s Schedule C Briefing
Washington, DC April 15, 2003

IMPORTANT: To ensure accurate registration, please print clearly (or type) and complete the form in its entirety.

NAME:
last *first* *middle initial*

NAME TO APPEAR ON CERTIFICATE:

TITLE:

DEPARTMENT:

AGENCY:

OFFICE ADDRESS:

CITY, STATE, ZIP:

DATE OF BIRTH: *(MM/DD/YY)* SOCIAL SECURITY NUMBER:

PHONE: FAX:

EMAIL:

SPECIAL NEEDS (ie: interpreter, diet, etc):

PLAN TO ATTEND EVENING RECEPTION: θ YES θ NO
(ceremony & reception limited to Schedule C appointee only)

PAYMENT INFORMATION (select one)

□ CREDIT CARD (Gov=t issued ONLY) □ TRAINING AUTHORIZATION FORM

IDENTIFY VENDOR ON ALL PAYMENT METHODS AS:
U.S. OFFICE OF PERSONNEL MANAGEMENT $ OFFICE OF EXECUTIVE RESOURCES MANAGEMENT
1900 E STREET, NW, Room 6484 $ WASHINGTON, DC 20415-5100
OPM Tax ID Number: 521136517
(NOTE: IF PAYMENT IS BY ONE OF THE GOVERNMENT PAYMENT METHODS, ATTACH OFFICIAL PAYMENT DOCUMENT.)

BRIEFING COST: $395.00 | PURCHASE ORDER NUMBER:

CREDIT CARD NUMBER: EXP. DATE:

CARDHOLDER'S NAME & SIGNATURE:

CARDHOLDER'S PHONE: | FAX:

CARDHOLDER'S BILLING ADDRESS:

A receipt will be faxed within 30 days from program date

Written cancellations or substitutions must be received by APRIL 4. Cancellations after this date will be billed for the full registration fee. Email requests to SESEWELL@opm.gov

REV_00162811

From: CN=Carrie B. Loy/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/10/2003 7:26:32 AM
Subject: : Re: Schedule C Briefing
Attachments: P_IK7IF003_WHO.TXT_1.doc; P_IK7IF003_WHO.TXT_2.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carrie B. Loy (CN=Carrie B. Loy/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-APR-2003 11:26:32.00
SUBJECT:: Re: Schedule C Briefing
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

All schedule c appointees are invited to attend. The cost will cover a plaque, lunch, reception and the costs to use the Ronald Reagan facility.

Brett M. Kavanaugh
04/10/2003 11:21:02 AM
Record Type: Record

To: Carrie B. Loy/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Schedule C Briefing

what does that cost cover? Who is invited?

Carrie B. Loy
04/10/2003 11:17:50 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Schedule C Briefing

USDA raised some concerns on the cost and nature of this event. Do you see any potential problems? (Typically each agency covers the cost)

---------- Forwarded by Carrie B. Loy/WHO/EOP on 04/10/2003 11:16 AM ----------

"Becker, Amanda G." <AGBECKER@opm.gov>
04/08/2003 11:45:01 AM
Record Type: Record

To: Ali H. Tulbah/WHO/EOP@EOP, Carrie B. Loy/WHO/EOP@EOP
cc:
Subject: FW: Schedule C Briefing

We still have lots of slots to fill for the upcoming Schedule C Briefing.ÿ
I have sent the notice and information out to all the White House
Liaisons.ÿ Any assistance you can offer to get the word out would be
greatly appreciated.ÿ I've also attached an invitation and registration
form.

Thanks,
Amanda
ÿ

A Schedule C Briefing is being planned for you at the Ronald Reagan
Building on April 15th from 9::00 a.m. to 4:45 p.m. (registration and
continental breakfast beginning at 8:15 a.m.). We will have speakers from
the White House, National Security Council, and Homeland Security who will
discuss issues of importance to you. The session includes a great lunch
and a reception to follow the session.ÿ The investment for your attendance
is $395. Please call Shirley Sewell at the US Office of Personnel
Management to register for this event. Shirley can be reached at (202)
606-1632 or sesewell@opm.gov. This is an event that you won't want to
miss.

ÿ

-- Even though this E-Mail has been scanned and found clean of
-- known viruses, OPM can not guarantee this message is virus free.

-- This message was automatically generated.
--------------------------------do

- INVITL~1.doc
- PARTIN~1.doc

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_IK7IF003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_IK7IF003_WHO.TXT_2>

March 7, 2003

Dear Colleague,

I am pleased to invite you to the Bush Administration's series of executive briefings for new Schedule C appointees to learn about the President's Management Agenda, his vision and values, and to discuss the unique challenges you face with your new responsibilities. As a Schedule C appointee, you will play a key role in turning President Bush's principles of a citizen-centered, results-oriented and market-based government into reality.

The U.S. Office of Personnel Management (OPM) conducts these programs with the White House. The next session will be held **April 15, 2003.**

These sessions for new appointees provide an overview of executive branch priorities and a unique opportunity to interact with a broad range of policymakers. You may have heard from your colleagues about our previous briefings that included presentations from Cabinet Secretaries, top advisors to the President, including his National Security Advisor, and the Vice President. Though particular officials are not available for each briefing, you will be provided insights and information on domestic and foreign policy issues from the Administration's most knowledgeable individuals.

The program is held at the Ronald Reagan Building. A swearing-in ceremony and reception, in your honor, conclude the program.

To accept my invitation, please register with the Office of Executive Resources Management by April 4, 2003. In the past, these programs have filled prior to the deadline, so send in your form right away. Enclosed are program and registration information.

Sincerely,

Kay Coles James
Director

Enclosures

Information Sheet

BRIEFING FOR NEW SCHEDULE C APPOINTEES

APRIL 15, 2003

WHEN **APRIL 15,** 9:00 am - 6:00 pm . Registration check-in and continental breakfast begin at 8:15 am.

WHERE Amphitheater at the Ronald Reagan Building ♦1300 Pennsylvania Avenue, NW, Washington, DC 20004.

WHAT The keynote address will be delivered by a senior Bush Administration official, followed by presentations on Ethics, Hatch Act, and high-priority issues for the Administration. Speakers will include prominent Administration officials and White House staff. **Plan to be there. It is a program that you won't want to miss!**

HOW TO REGISTER Fax your registration form and payment information to OPM at 202-606-0557 or 202-606-2126. We accept: Government-issued purchase cards or an agency Training Authorization Form (contact your training office for forms) and must receive all payment information by the first day of the briefing.

REGISTRATION DEADLINE **April 4, 2003, at 4:00 p.m.** or when we reach 200 nominations, whichever occurs first. **Programs are very popular and tend to fill-up quickly**. We will fax a confirmation notice of your registration to the number you provide us. OPM staff can only confirm your registration. We can not accept registrations received after the closing date or once we reach our limit.

CONFIRMATION NOTICES confirming your registration will be sent via fax or email by the Office of Personnel Management. A confirmation from your agency's training office does not mean you are registered with OPM. If you do not receive a notice from OPM by APRIL 15, please call 202-606-1632, we will gladly fax or email another one.

COST $395. This includes conference materials, continental breakfast, luncheon, coffee breaks, and an evening reception.

CANCELLATIONS Written cancellations or substitutions must be received by the registration closing date. If you cancel after that date, OPM will bill you for the full registration fee. Email requests to Shirley Sewell at sesewell@opm.gov or fax to 202-606-2126.

SWEARING-IN CEREMONY & RECEPTION The program concludes with a Federal Judge administering the oath of office, followed by a reception in your honor from 5:00 pm until 6:00 pm. If you wish, a photographer will take your picture with the officiating judge and your certificate. Business attire is appropriate. Due to limited space, family members and/or friends can not attend.

SPECIAL NEEDS Please tell us as soon as possible if you have any special needs. We are happy to provide interpreters and accommodate special diets, but must know in advance to prepare for your needs.

LOCAL TRANSPORTATION The Ronald Reagan Building is accessible via the Metrorail system (subway). We highly recommend using the subway, as commercial parking in the surrounding area is expensive and limited. To use the Metrorail, take the Blue or Orange line to Federal Triangle Station. As you exit the station, the Reagan Building is directly in front of you, across the plaza.

HOTELS Please contact your White House Liaison for hotels located near the Ronald Reagan Building and Metro stations

GENERAL CONFERENCE INFORMATION

For additional information, please call 202-606-1632.

Registration Form

U.S. Office of Personnel Management=s Schedule C Briefing
Washington, DC April 15, 2003

IMPORTANT: To ensure accurate registration, please print clearly (or type) and complete the form in its entirety.

NAME:
last *first* *middle initial*

NAME TO APPEAR ON CERTIFICATE:

TITLE:

DEPARTMENT:

AGENCY:

OFFICE ADDRESS:

CITY, STATE, ZIP:

DATE OF BIRTH: *(MM/DD/YY)* SOCIAL SECURITY NUMBER:

PHONE: FAX:

EMAIL:

SPECIAL NEEDS (ie: interpreter, diet, etc):

PLAN TO ATTEND EVENING RECEPTION: θ YES θ NO
(ceremony & reception limited to Schedule C appointee only)

PAYMENT INFORMATION (select one)

□ CREDIT CARD (Gov=t issued ONLY) □ TRAINING AUTHORIZATION FORM

IDENTIFY VENDOR ON ALL PAYMENT METHODS AS:
U.S. OFFICE OF PERSONNEL MANAGEMENT $ OFFICE OF EXECUTIVE RESOURCES MANAGEMENT
1900 E STREET, NW, Room 6484 $ WASHINGTON, DC 20415-5100
OPM Tax ID Number: 521136517
(NOTE: IF PAYMENT IS BY ONE OF THE GOVERNMENT PAYMENT METHODS, ATTACH OFFICIAL PAYMENT DOCUMENT.)

BRIEFING COST: $395.00 | PURCHASE ORDER NUMBER:

CREDIT CARD NUMBER: EXP. DATE:

CARDHOLDER'S NAME & SIGNATURE:

CARDHOLDER'S PHONE: | FAX:

CARDHOLDER'S BILLING ADDRESS:

A receipt will be faxed within 30 days from program date

Written cancellations or substitutions must be received by APRIL 4. Cancellations after this date will be billed for the full registration fee. Email requests to SESEWELL@opm.gov

REV_00162816

From: CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD]
To: Christopher C. Cox/WHO/EOP@Exchange [WHO] <Christopher C. Cox>;Daniel Keniry/WHO /EOP@Exchange [UNKNOWN] <Daniel Keniry>
CC: Nancy Dorn/OMB/EOP@EOP [OMB] <Nancy Dorn>;Joshua B. Bolten/WHO/EOP@Exchange [WHO] <Joshua B. Bolten>;Mitchell Daniels/OMB/EOP@EOP [OMB] <Mitchell Daniels>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/10/2003 12:30:28 PM
Subject: : Algiers Accord abrogation

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [ OPD ] )
CREATION DATE/TIME:10-APR-2003 16:30:28.00
SUBJECT:: Algiers Accord abrogation
TO:Christopher C. Cox ( CN=Christopher C. Cox/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Daniel Keniry ( CN=Daniel Keniry/OU=WHO/O=EOP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
CC:Nancy Dorn ( CN=Nancy Dorn/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
CC:Joshua B. Bolten ( CN=Joshua B. Bolten/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
CC:Mitchell Daniels ( CN=Mitchell Daniels/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
CC:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Dan or Chris -- Can you pls provide a leg;update on any developments
related to this issue?
;
thanks
```

From: Kavanaugh, Brett M.
To: <Gonzales, Alberto R.>;<Leitch, David G.>;<Brosnahan, Jennifer R.>;<Newstead, Jennifer G.>;<Bartolomucci, H. Christopher>;<Sampson, Kyle>;<Francisco, Noel J.>;<Powell, Benjamin A.>;<Ullyot, Theodore W.>
Sent: 4/10/2003 2:33:36 PM
Subject: vote on Deborah Cook is possible today

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>
Sent: 4/10/2003 5:03:21 PM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-APR-2003 21:03:21.00
SUBJECT:: Re:
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
End Original ARMS Header

Interesting question. They have been dual-status for some time
with copies maintained in both SS and WH, but we have been considering
having all copies produced to WH. I will elaborate in morning.

David S. Addington
04/10/2003 07:28:56 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject:

Brett:

It was my impression (which may be wrong) that the Workers and Visitors
Enstry System (WAVES) is a U.S. Secret Service records system and that
therefore the WAVES records are Federal Records Act records and are
subject to FOIA, rather than being Presidential Records Act records and
non-FOIAble. Do you know?

From: Matal, Joe (Judiciary) <Joe_Matal@Judiciary.senate.gov>
To: brian.a.benczkowski@usdoj.gov [UNKNOWN] <brian.a.benczkowski@usdoj.gov>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/10/2003 2:07:00 PM
Subject: : Kyl-Cornyn mass tort fees bill
Attachments: P_QXXIF003_WHO.TXT_1.html; P_QXXIF003_WHO.TXT_2.pdf; P_QXXIF003_WHO.TXT_3; P_QXXIF003_WHO.TXT_4; P_QXXIF003_WHO.TXT_5

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Matal, Joe (Judiciary)" <Joe_Matal@Judiciary.senate.gov> ( "Matal, Joe
(Judiciary)" <Joe_Matal@Judiciary.senate.gov> [ UNKNOWN ] )
CREATION DATE/TIME:10-APR-2003 18:07:00.00
SUBJECT:: Kyl-Cornyn mass tort fees bill
TO:brian.a.benczkowski@usdoj.gov ( brian.a.benczkowski@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Senators Kyl and Cornyn today introduced ISCRAA, a bill to apply an
attorneys fee formula in lawsuits resulting in judgments greater than
$100 million. ISCRAA would allow attorneys to receive fees of up to
500% of reasonable hourly rates. Because it applies to continuing fee
payments from the state tobacco litigation settlement, ISCRAA would
restore income with a present value of approximately $9 billion to the
states. Attached please find: 1. a one-page summary of the bill; 2. a
chart detailing how much each state can expect to recover from the
tobacco settlement fee awards under the bill; 3. a footnoted version of
Senator Kyl's speech introducing the bill; 4. and the bill itself.

Joe Matal
Counsel to Senator Kyl
202-224-4076
- att1.htm - MCG03_283.pdf - ISCRAAOnePage.pdf - ISCRAAStateRecoveryChart2.pdf -
ISCRAAKylFloorSpeech.pdf
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_QXXIF003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_QXXIF003_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_QXXIF003_WHO.TXT_3>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_QXXIF003_WHO.TXT_4>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_QXXIF003_WHO.TXT_5>
```

Senators Kyl and Cornyn today introduced ISCRAA, a bill to apply an attorney s fee formula in lawsuits resulting in judgments greater than $100 million. ISCRAA would allow attorneys to receive fees of up to 500% of reasonable hourly rates. Because it applies to continuing fee payments from the state tobacco litigation settlement, ISCRAA would restore income with a present value of approximately $9 billion to the states. Attached please find: 1. a one-page summary of the bill; 2. a chart detailing how much each state can expect to recover from the tobacco settlement fee awards under the bill; 3. a footnoted version of Senator Kyl's speech introducing the bill; 4. and the bill itself.

Joe Matal
Counsel to Senator Kyl
202-224-4076

108TH CONGRESS
1ST SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

Mr. KYL (for himself and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to apply an excise tax to excessive attorneys fees for legal judgments, settlements, or agreements that operate as a tax.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intermediate Sanctions Compensatory Revenue Adjustment Act of 2003" (ISCRAA).

SEC. 2. EXCISE TAXES ON EXCESS FEE TRANSACTIONS OF CERTAIN ATTORNEYS.

(a) IN GENERAL.—Subchapter D of chapter 42 of the Internal Revenue Code of 1986 (relating to failure by cer-

REV_00162833

tain charitable organizations to meet certain qualification requirements) is amended by adding at the end the following new section:

"SEC. 4959. TAXES ON EXCESS FEE TRANSACTIONS.

"(a) INITIAL TAXES.—There is hereby imposed on the collecting attorney in each excess fee transaction a tax equal to 5 percent of the excess fee. The tax imposed by this paragraph shall be paid by any collecting attorney referred to in subsection (f)(1) with respect to such transaction.

"(b) ADDITIONAL TAX ON THE COLLECTING ATTORNEY.—In any case in which a tax is imposed by subsection (a) on an excess fee transaction and the excess fee involved in such transaction is not corrected within the taxable period, there is hereby imposed a tax equal to 200 percent of the excess fee involved. The tax imposed by this paragraph shall be paid by any collecting attorney referred to in subsection (f)(1) with respect to such transaction.

"(c) EXCESS FEE TRANSACTION; EXCESS FEE.—For purposes of this section—

"(1) EXCESS FEE TRANSACTION.—

"(A) IN GENERAL.—The term 'excess fee transaction' means any transaction in which a fee is provided by an applicable plaintiff (including payments resulting from litigation on

REV_00162834

behalf of an applicable plaintiff determined on an hourly or percentage basis, whether such fee is paid from the applicable plaintiff's recovery, pursuant to a separately negotiated agreement, or in any other manner), directly or indirectly, to or for the use of any collecting attorney with respect to such applicable plaintiff if the amount of the fee provided exceeds the value of the services received in exchange therefor or subsection (g)(1) applies.

"(B) DETERMINATION OF VALUE.—For purposes of subparagraph (A), in determining whether the amount of the fee provided exceeds the value of the services received in exchange therefor, the value of the services shall be the sum of—

"(i) the reasonable expenses incurred by the collecting attorney in the course of the representation of the applicable plaintiff, and

"(ii) a reasonable fee based on—

"(I) the number of hours of non-duplicative, professional quality legal work provided by the collecting attorney of material value to the outcome

REV_00162835

of the representation of the applicable plaintiff, taking into account the factors described in subparagraphs (B) and (D) of subsection (h)(2),

"(II) reasonable hourly rates for the individuals performing such work based on hourly rates charged by other attorneys for the rendition of comparable services, including rates charged by adversary defense counsel in the representation, taking into account the factors described in subparagraphs (A), (C), (E), and (G) of subsection (h)(2), and

"(III) to the extent such items are not taken into account in establishing the reasonable hourly rates under subclause (II), an appropriate adjustment rate determined in accordance with subparagraph (C) to compensate the collecting attorney for periods of substantial risk of non-payment of fees and for skillful or innovative services which increase the

REV_00162836

amount of the applicable plaintiff's recovery.

"(C) ADJUSTMENT RATE.—

"(i) IN GENERAL.—For purposes of this paragraph, an appropriate adjustment rate is a percentage of the reasonable hourly rate under subparagraph (B)(ii)(II) which is added to the amount of such rate and which is not more than the sum of one risk percentage and one skill percentage described in clauses (ii) and (iii), respectively.

"(ii) RISK PERCENTAGE.—For purposes of this subparagraph, the term 'risk percentage' means a percentage rate that is proportional to the collecting attorney's risk of nonrecovery of fees and which is—

"(I) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees, not more than 100 percent,

"(II) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees and devoted more than 8,000 hours of legal

REV_00162837

work (as described in subparagraph (B)(ii)(I)) and more than 2 years to the case before resolution of all claims, not more than 200 percent, or

"(III) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees and devoted more than 15,000 hours of legal work (as described in subparagraph (B)(ii)(I)) and more than 4 years to the case before resolution of all claims, not more than 300 percent.

"(iii) SKILL PERCENTAGE.—For purposes of this subparagraph, the term 'skill percentage' means, in the case of a collecting attorney who has demonstrated exceptionally skillful or innovative legal service which generated a recovery for the applicable plaintiff substantially greater than the typical recovery in similar cases, a percentage rate that is proportional to the increase in the applicable plaintiff's recovery and that is not more than 100 percent.

"(iv) LIMITATION.—An appropriate adjustment rate shall not increase the col-

REV_00162838

lecting attorney's fee above an amount that is proportional to the applicable plaintiff's recovery.

"(D) COURT APPROVAL OF FEES.—Fee payments approved by any court shall be presumed to not be in excess of the value of the services received in exchange therefor if the court approving the fee—

"(i) did not approve an adjustment rate greater than that determined to be appropriate under subparagraph (C) in a case where such fee included an adjustment rate, and

"(ii) obtained and relied upon a report of a legal auditing firm with respect to such fee in accordance with the procedures in subsection (h).

"(2) EXCESS FEE.—The term 'excess fee' means the excess referred to in paragraph (1)(A).

"(d) JOINT AND SEVERAL LIABILITY.—For purposes of this section, if more than 1 person is liable for any tax imposed by subsection (a), all such persons shall be jointly and severally liable for such tax.

"(e) APPLICABLE PLAINTIFF.—For purposes of this section, the term 'applicable plaintiff' means any person

REV_00162839

represented by a collecting attorney with respect to a claim described in subsection (f)(1).

"(f) OTHER DEFINITIONS AND RULES.—For purposes of this section—

"(1) COLLECTING ATTORNEY.—The term 'collecting attorney' means any person engaged in the practice of law who represents—

"(A) any governmental entity, including any State, municipality, or political subdivision of a State, or any person acting on such entity's behalf, including pursuant to Federal or State Qui Tam statutes, in a claim for recoupment of payments made or to be made by such entity to or on behalf of any natural person by reason, directly or indirectly, of a breach of duty that causes damage to such natural person,

"(B) any organization described in paragraph (3) or (4) of section 501(c) and exempt from tax under section 501(a), in a claim for damages based on a breach of duty, whether civil or criminal, causing damage to such organization,

"(C) any natural person seeking to recover damages in a claim based on breaches of duty,

REV_00162840

whether civil or criminal, causing damage to such natural person, or

"(D) any assignee or other holder of claims described in subparagraph (A), (B), or (C),

when 1 or more of such claims, whether or not joined in 1 action, involve the same or a coordinated group of plaintiff's attorneys or similarly situated defendants, arise out of the same transaction or set of facts or involve substantially similar liability issues, and result in settlements or judgments aggregating at least $100,000,000.

"(2) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any excess fee transaction, the period beginning with the date on which the transaction occurs and ending 90 days after the earliest of—

"(A) the date of the mailing of a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a), or

"(B) the date on which the tax imposed by subsection (a) is assessed.

"(3) CORRECTION.—

"(A) GENERAL RULE.—Any excess fee transaction is corrected by undoing the excess

REV_00162841

fee to the extent possible and taking any additional measures necessary to place the applicable plaintiff in a financial position not worse than that in which such plaintiff would be if the collecting attorney were dealing under the highest fiduciary standards.

"(B) PAYMENT OF EXCESS FEES.—

"(i) IN GENERAL.—Except as provided in clause (ii), a collecting attorney corrects an excess fee transaction by paying any excess fees plus interest to the applicable plaintiff.

"(ii) CERTAIN SETTLEMENTS.—In the case of excess fees arising from or related to that certain Master Settlement Agreement of November 23, 1998, and other, concluded Settlement Agreements based on State health care expenditures pursuant to title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), including lawsuits involving the States of Florida, Minnesota, Mississippi, and Texas, the collecting attorney corrects an excess fee transaction by paying any excess fees plus interest to

REV_00162842

the 50 States in proportion to each State's share of the United States population.

"(C) NO WAIVER OF FEE.—No collecting attorney may avoid imposition of any tax imposed by this section by transferring any portion of the excess fee or refusing to accept any portion of the excess fee.

"(g) DISCLOSURE REQUIREMENTS.—

"(1) TREATMENT AS EXCESS FEE.—Any fee provided after the date of the enactment of this subsection by an applicable plaintiff (including payments resulting from litigation on behalf of an applicable plaintiff determined on an hourly or percentage basis, whether such fee is paid from the applicable plaintiff's recovery, pursuant to a separately negotiated agreement, or in any other manner), directly or indirectly, to or for the use of any collecting attorney with respect to such applicable plaintiff shall be deemed to be an excess fee provided in an excess fee transaction unless the disclosure requirements described in paragraph (2) are met.

"(2) CONTENTS OF STATEMENT.—The disclosure requirements of this paragraph are met for any taxable year in which a collecting attorney receives

REV_00162843

any fees with respect to a claim described in subsection (f)(1), if such collecting attorney—

"(A) includes in the return of tax for such taxable year a statement including the information described in subsection (c)(1) with respect to such claim, and

"(B) provides a statement including the information described in subsection (c)(1) to the applicable plaintiff prior to the deadline (including extensions) for filing such return.

"(h) LEGAL AUDITING FIRM.—

"(1) IN GENERAL.—In any case before a Federal district court or a State court in which the court approves fees paid to a collecting attorney, the court shall seek bids from legal auditing firms with a specialty in reviewing attorney billings and select 1 such legal auditing firm to review the billing records submitted by the collecting attorney, under the same standards the firm would use if it were hired by a private party to review legal bills submitted to the party, for the reasonableness of such attorney's billing patterns and practices. The court shall require the collecting attorney to submit billing records, cost records, and any other information sought by such firm in its review.

REV_00162844

"(2) REVIEW BY LEGAL AUDITING FIRM.—In reviewing the billing records and work performed by the collecting attorney, the legal auditing firm shall address all relevant matters, including—

"(A) the hourly rates of the collecting attorney compared with the prevailing market rates for the services rendered by the collecting attorney,

"(B) the number of hours worked by the collecting attorney on the case compared with other cases that the collecting attorney worked on during the same period,

"(C) whether the collecting attorney performed tasks that could have been performed by attorneys with lower billing rates,

"(D) whether the collecting attorney used appropriate billing methodology, including keeping contemporaneous time records and using appropriate billing time increments,

"(E) whether particular tasks were staffed appropriately,

"(F) whether the costs and expenses submitted by the collecting attorney were reasonable,

REV_00162845

"(G) whether the collecting attorney exercised billing judgment, and

"(H) any other matters normally addressed by the legal auditing firm when reviewing attorney billings for private clients.

"(3) FILING OF REPORT; RESPONSE; BURDEN OF PROOF.—The court shall set a date for the filing of the report of the legal auditing firm, and allow the collecting attorney or any applicable plaintiff to respond to the report within a reasonable time period. The report shall be presumed correct unless rebutted by the collecting attorney or any applicable plaintiff by clear and convincing evidence.

"(4) FEE FOR LEGAL AUDITING FIRM.—The fee for the report of the legal auditing firm shall be paid from the collecting attorney's fee award, the applicable plaintiff's recovery, or both in a manner determined by the court.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations to prevent avoidance of the purposes of this section and regulations requiring recordkeeping and information reporting.".

(b) CONFORMING AND CLERICAL AMENDMENTS.—

REV_00162846

(1) Subsections (a), (b), and (c) of section 4963 of the Internal Revenue Code of 1986 are each amended by inserting "4959," after "4958,".

(2) Subsection (e) of section 6213 of such Code is amended by inserting "4959 (relating to excess fee transactions)," before "4971".

(3) Paragraphs (2) and (3) of section 7422(g) of such Code are each amended by inserting "4959," after "4958,".

(4) The heading for subchapter D of chapter 42 of such Code is amended to read as follows:

"Subchapter D—Failure by Certain Charitable Organizations and Persons to Meet Certain Qualification Requirements and Fiduciary Standards.".

(5) The table of subchapters for chapter 42 of such Code is amended by striking the item relating to subchapter D and inserting the following:

"SUBCHAPTER D. Failure by certain charitable organizations and persons to meet certain qualification requirements and fiduciary standards.".

(6) The table of sections for subchapter D of chapter 42 of such Code is amended by adding at the end the following new item:

"Sec. 4959. Taxes on excess fee transactions.".

REV_00162847

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to excess fees paid on or after June 1, 2002.

SEC. 3. DECLARATORY JUDGMENTS RELATING TO EXCISE TAXES ON EXCESS FEE TRANSACTIONS OF CERTAIN ATTORNEYS.

(a) IN GENERAL.—Subchapter B of chapter 76 of the Internal Revenue Code of 1986 (relating to judicial proceedings) is amended by redesignating section 7437 as section 7438 and by inserting after section 7436 the following new section:

"SEC. 7437. DECLARATORY JUDGMENTS RELATING TO TAX ON EXCESS FEE TRANSACTIONS.

"(a) IN GENERAL.—In a case of actual controversy involving—

"(1) a determination by the Secretary or the collecting attorney with respect to the imposition of the excise tax on excess fee transactions on such collecting attorney under section 4959, or

"(2) a failure by the Secretary or the collecting attorney to make such a determination,

upon the filing of an appropriate pleading by an applicable plaintiff, the Tax Court may make a declaration with respect to such determination or failure. Any such declara-

REV_00162848

tion shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(b) DEFERENTIAL REVIEW.—If a collecting attorney's fee has been approved by a court in accordance with section 4959(c)(1)(D) or by the Secretary pursuant to section 4959, the Tax Court shall review the fee only for an abuse of discretion.

"(c) LEGAL AUDITING FIRM.—In any petition for a declaration referred to in subsection (a):

"(1) NO PREVIOUS REPORT.—If a report by a legal auditing firm that meets the requirements of section 4959(h) has not been previously produced and relied on by another court, the Tax Court shall hire such a legal auditing firm and rely on its report pursuant to the procedures in section 4959(h).

"(2) SECOND REPORT.—

"(A) IN GENERAL.—If a report by a legal auditing firm has been approved by a court in accordance with section 4959, the Tax Court shall hire a second legal auditing firm upon the request of the petitioner.

"(B) FEE FOR REPORT.—The Tax Court may direct the petitioner to pay the fee for any report of a legal auditing firm provided pursuant to subparagraph (A).

REV_00162849

"(d) TIME FOR BRINGING ACTION.—No proceeding may be initiated under this section by any person until 90 days after such person first notifies the Secretary of the excess fee transaction with respect to which the proceeding relates.

"(e) DEFINITIONS.—For purposes of this section, any term used in this section and also in section 4959 shall have the meaning given such term by section 4959.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 7437 and by inserting the following new items:

"Sec. 7437. Declaratory judgments relating to tax on excess fee transactions.
"Sec. 7438. Cross references.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions after the date of the enactment of this Act.

REV_00162850

_____ISCRAA: The Kyl-Cornyn Bill to Enforce Fiduciary Attorney Fee Standards in Mass Tort Litigation

The Intermediate Sanctions Compensatory Revenue Adjustment Act (ISCRAA) limits attorneys fees to no more than 500% of reasonable hourly rates in lawsuits resulting in judgments greater than $100 million. ISCRAA uses an existing provision of the tax code to enforce basic, universally accepted fiduciary standards governing the award of attorneys fees. To avoid punitive tax rates, an attorney would be required to restore the excessive portion of any fee to the client. Because ISCRAA applies to current and future fees paid pursuant to the state Medicaid tobacco litigation settlement, ISCRAA will restore approximately $9 billion to the states.

ISCRAA's Benefits:

- **Limiting speculative, fee-driven mass tort litigation.** The current mass-tort litigation crisis is driven in large part by the enormous and unethical fees commanded by some plaintiffs attorneys. Because their fees are so grossly disproportionate to their actual efforts, these lawyers can pursue even speculative lawsuits that lack a legitimate foundation – even only an occasional victory produces massive profits. By requiring that fees be proportional to attorneys' actual work, ISCRAA inevitably will limit this type of litigation. To prevent evasion of its standards, ISCRAA also aggregates identical claims when brought against common defendants – thereby limiting the coercive effects of this type of litigation.

- **Protecting Fiduciary Interests.** Attorneys long have been acknowledged to be fiduciaries who occupy a position of trust in their dealings with their clients. One obligation that flows from this status, universally recognized in the ethics rules of all 50 states, is the attorney's duty to not charge an unreasonable or excessive fee. Thus courts traditionally have read a reasonableness requirement into every attorneys fee contract.

- **Protecting Interstate Commerce.** Because of the large size of the litigations to which it applies, ISCRAA unquestionably is an appropriate exercise of Congress's power to regulate and protect interstate commerce. Experts have estimated that ISCRAA probably will apply to only 15-20 litigations a year. $100 million is a standard threshold used by the federal government to determine whether an economic transaction significantly impacts interstate commerce.

- **Guaranteeing Mass-Tort Plaintiffs Access to Counsel**. ISCRAA's fee formula is as generous as the most liberal limits adopted by state courts, and considerably more generous than the limits that federal courts have applied in $100 million cases. ISCRAA protects fiduciary interests, while providing plaintiffs lawyers with ample incentive to provide high-quality legal representation in large lawsuits.

ISCRAA: RESTITUTION TO THE STATES

Under the terms of the November 1998 Master Settlement Agreement (MSA) between the states and tobacco companies, $500 million in cigarette taxes is set aside every year to pay the plaintiffs' attorneys who chose to have their fees awarded in arbitration. Because extraordinarily high fees were awarded by the arbitrators – estimated to total $15 billion – the $500-million-a-year income stream (which is not adjusted for inflation) may have to be paid in perpetuity. In addition to this annuity, the MSA also sets aside an additional $1.25 billion in cigarette taxes to compensate those lawyers who choose to forego arbitration and negotiate their fees directly with the tobacco companies.

The present value of the $500-million-a-year fee stream – discounting all future payments for the time value of money – has been conservatively estimated at just over $8 billion. Current and future payments from the $1.25 billion fee fund are less certain, since the grants made from that fund and their disbursement schedule have been kept obscure from the public. Because ISCRAA's effective date is June 1, 2002, ISCRAA will probably recoup for the states an additional $1 billion above the present value of future $500 million-a-year payments. ISCRAA does not affect the first three-and-a-half years of fees paid under the MSA. Because these payments almost certainly are adequate to pay all reasonable fees incurred in the litigation, ISCRAA would restore to the states virtually all fees paid after its effective date. Thus the net present value of the sums that ISCRAA would provide to the states can conservatively be estimated at $9 billion.

By restoring these excess fee payments to the states' MSA escrow account and returning them to the states on a per capita basis, ISCRAA guarantees every state a very substantial recovery. Based on the estimates that I have described, even our nation's smallest state, Wyoming, would recoup at least $15 million in tobacco fee payments, and other small states, such as North Dakota, would receive approximately $20 million. On the other hand, our nation's largest state, California, can expect to recoup at least $1 billion. Other large states would also see generous returns: Florida, $511 million; Illinois, $397 million; Michigan, $318 million; New York, $607 million; Ohio, $363 million; and Texas, $667 million.

Here is how much each state can expect to recover:

United States	*$9 billion*
Alabama	142,220,272
Alaska	20,049,569
Arizona	164,079,935
Arkansas	85,496,543
California	1,083,230,642
Colorado	137,556,275
Connecticut	108,911,511
Delaware	25,059,883
District of Columbia	18,294,706
Florida	511,123,686
Georgia	261,806,474
Hawaii	38,745,502
Idaho	41,381,203
Illinois	397,174,614
Indiana	194,456,664
Iowa	93,585,167
Kansas	85,976,825
Kentucky	129,257,603
Louisiana	142,919,876
Maine	40,772,615
Maryland	169,384,021
Massachusetts	203,046,997
Michigan	317,835,940
Minnesota	157,327,166
Mississippi	90,973,451
Missouri	178,937,382
Montana	28,852,605
Nebraska	54,726,966
Nevada	63,905,164
New Hampshire	39,520,996
New Jersey	269,094,724
New Mexico	58,173,915
New York	606,875,689
North Carolina	257,420,675
North Dakota	20,537,847
Ohio	363,078,559
Oklahoma	110,353,478
Oregon	109,417,889
Pennsylvania	392,753,669
Rhode Island	33,525,716
South Carolina	128,305,961
South Dakota	24,140,253
Tennessee	181,945,847

Texas	666,850,647
Utah	71,417,756
Vermont	19,470,563
Virginia	226,374,115
Washington	188,496,659
West Virginia	57,831,660
Wisconsin	171,532,756
Wyoming	15,791,372

SENATOR KYL
INTRODUCTION OF ISCRAA

Mr. KYL: I rise today to introduce the Intermediate Sanctions Compensatory Revenue Adjustment Act of 2003 (ISCRAA). This legislation will restore to the states billions of dollars in revenue due to them from a massive lawsuit recently conducted on their behalf – the tobacco-related Medicaid expenses litigation. ISCRAA amends an existing provision of the federal tax code in order to enforce basic, universally accepted fiduciary standards governing the award of attorneys fees. By applying these standards to the attorneys who represented the states in the tobacco settlement, ISCRAA reasonably can be expected to restore to the states income with a present value of approximately $9 billion. I have included at the end of my statement a chart detailing how much each state can expect to recover.

ISCRAA's tax formula is borrowed from the 1996 Tax Act's Intermediate Sanctions Tax (IST), which applies a two-step excise tax to any excessive or unreasonable compensation that the managers of a trust pay to themselves from the assets of the trust. The IST framework encourages the trustee to restore the excessive portion of any fee to the trust – when he does so, the IST's punitive taxes do not apply.

ISCRAA extends the IST to another type of trust relationship: that between a lawyer and his client. ISCRAA applies the IST tax formula to any unreasonable or excessive income that a lawyer collects from litigation resulting in a judgment or settlement in excess of $100 million. To avoid IST taxes, an attorney must restore the excessive portion of the fee to the client.

As my colleague Senator CORNYN will explain today, the ethical and legal abuses that resulted from the 1998 state tobacco settlement make the need for this legislation manifest. Senator CORNYN also will discuss the law of attorneys' fiduciary obligations, which establishes that a fee award is the property of the client – and that any unethical fee must be restored to the client, regardless of how the fee award is structured.

I will discuss today how ISCRAA will affect massive litigations generally. In order to gauge the reasonableness of a lawyer's fee award, ISCRAA adopts and codifies a liberal version of the lodestar-multiplier system. As I will later explain in greater detail, ISCRAA allows fee multipliers of up to 500% of reasonable hourly rates. This limit is as generous as the most liberal limits adopted by state courts, and considerably more generous than the limits that federal courts have applied in $100 million cases. ISCRAA's fee formula guarantees that attorneys' fiduciary obligations will be respected, while providing plaintiffs lawyers with ample incentive to provide high-quality legal representation in these types of cases.

Massive Litigations and the Prospect of Tax Farming

Federal supervision of fee awards resulting from $100 million litigations is appropriate for several reasons. First, because of their shear size, these types of lawsuits inevitably operate as a tax on the consuming public. Few defendants actually can afford to pay such judgments with

cash on hand. Instead, the affected industries simply will raise the prices that they charge to their customers.

This is exactly what has happened in the state Medicaid tobacco settlement – according to the leading proponents of that litigation. The first state attorney general to file suit against the tobacco companies has admitted that "what always happens in these cases is the industry passes the costs to the consumer."[1] Other commentators agree that this has occurred in the tobacco litigation. As one law-review article notes, "the [tobacco] settlement * * * is a tax because it's a set of payments made by tobacco companies that depend on how many packs they sell; in short, it looks like a tax and quacks like a tax."[2]

Because of the way that these massive judgments typically are satisfied, it is particularly important to ensure that attorneys are paid in proportion to the services that they provided – rather than solely on the basis of the size of the recovery. Again, the state tobacco settlement highlights the nature of the problem. As two of the leading academic commentators have noted, it is "very troubl[ing]" that under that agreement, "a group of private citizens [are] getting paid a percentage of a tax increase they helped pass."[3] The shear size of the tobacco settlement – and the fact that attorneys fees were based on this size, rather than on the attorneys' actual efforts – has given the fee awards an uncanny resemblance to the medieval practice of tax farming. In all but name, the government has licensed a group of private individuals to collect a tax from the consuming public.

I would emphasize at this point that ISCRAA is not an attack on the state tobacco lawsuits. The bill does not pass judgment on the merits or the appropriateness of this type of litigation. ISCRAA simply is designed to ensure that when such lawsuits are brought on the public's behalf, the public receive its fair share of the proceeds. If a state chooses to seek compensatory revenue from industry for past harms, then the resulting tax on the public – minus the reasonable value of the legal services actually provided – must go to the state treasury.

---

[1]Michael Moore, Attorney General of Mississippi (quoted in *Law Firms Reap $1.4 Billion*, THE SUN HERALD (Biloxi, MS), July 30, 1999, Page A1). *See also* Margaret A. Little, *A Most Dangerous Indiscretion: the Legal, Economic, and Political Legacy of the Governments' Tobacco Litigation*, 33 U. CONN. L. REV. 1143, 1180 (2001) ("We did not take this case for fees, nor did we intend to raise taxes or put the states in partnership with tobacco. There is a danger that this is happening, though, and I'm not sure how to stop it") (quoting Richard Scruggs, Mississippi tobacco plaintiffs lawyer).

[2]Margaret A. Little, *A Most Dangerous Indiscretion: the Legal, Economic, and Political Legacy of the Governments' Tobacco Litigation*, 33 U. CONN. L. REV. 1143, 1180 (2001).

[3]Jeremy Bulow & Paul Klemperer, *The Tobacco Deal*, BROOKINGS PAPERS ON ECONOMIC ACTIVITY, January 1, 1998.

REV_00162856

$100 Million Lawsuits Are Different

There are several reasons why $100 million is an appropriate threshold for applying ISCRAA's fee formula. First, the courts themselves have indicated that fee agreements based primarily on the size of the recovery tend to become unreasonable when judgements reach this size. As one court has stated, "in much smaller cases, a fee award of 33% does not present the danger of providing the plaintiff's counsel with the windfall that would accompany a 'megafund' settlement of $100 million or upwards. But it is quite different when the figures hit the really big time."[4] Or as the Third Circuit notes, "courts have generally decreased the percentage awarded [for attorneys fees] as the amount recovered increases, and $100 million seems to be the informal marker of a 'very large' settlement."[5]

The logic of avoiding judgment-based awards in these very large cases is straightforward. As one court explains, "it is not 150 times more difficult to prepare, try, and settle a $150 million case than it is to try a $1 million case, but the application of a percentage comparable to that in a smaller case may yield an award 150 times greater."[6] Thus (according to another court) "there is considerable merit" to disallowing standard percentage awards as the "size of the [recovery] fund increases. In many instances the increase [in the recovery] is merely a factor of the size of the class and has no direct relationship to the efforts of counsel."[7]

It also bears mention that because of its $100 million threshold, ISCRAA applies to a fairly limited universe of cases. As courts have remarked, "there are few so-called 'megafund' cases with settlements over $100 million."[8] In 2001, the U.S. Court of Appeals for the Third Circuit

---

[4] *In re Synthroid Marketing Litig.*, 110 F.Supp.2d 676, 684 (N.D. Ill. 2000) (*rev'd on other grounds, In the Matter of Synthroid Marketing Litig.*, 264 F.3d 712 (7th Cir. 2001)).

[5] *In re Cendant Corp. PRIDES Litig.*, 243 F.3d 722, 736 n.19 (3d Cir. 2001). *See also* Herbert P. Newberg, NEWBERG ON CLASS ACTIONS, § 14.03 at 190 (1985) ("the fee percentage would be significantly more modest as the common fund recovery begins to reach recoveries approaching or exceeding $100 million").

[6] *In re Synthroid Marketing Litig.*, 201 F.Supp.2d 861 (N.D. Ill. 2002). *See also Goldberger v Integrated Resources, Inc.*, 209 F.3d 43, 52 (2d Cir. 2000) ("Obviously, it is not ten times more difficult to prepare, and try or settle a 10 million dollar case as it is to try a 1 million dollar case").

[7] *In re Unisys Corp. Retiree Medical Benefits ERISA Litig.*, 886 F.Supp 445, 464 (E.D.Pa. 1995).

[8] *In re Synthroid Marketing Litig.*, 201 F.Supp.2d 861, 864 (N.D. Ill. 2002). Initial research reveals that in cases where the fund is between $100 and $200 million, fees typically range from 4%-10%." *See also In re Unisys Corp. Retiree Medical Benefits ERISA*

REV_00162857

attempted to catalogue all common-fund cases in federal court that resulted in recoveries greater than $100 million. Though such litigations have been more frequent in recent years, the Third Circuit identified only 22 such cases since 1985. *See in re Cendant Corp. PRIDES Litig.*, 243 F.3d 722, 737 (3d Cir. 2001).

ISCRAA is somewhat broader than the criteria that *Cendant Corp.* employed to collect cases. ISCRAA is not limited to common-fund cases – it also applies to judgments won on behalf of tax-exempt entities or even single individuals. ISCRAA also applies to cases brought in state court, and it aggregates identical claims that are brought against common defendants in separate actions, in order to prevent evasion of its limits through the subdivision of actions. Nevertheless, ISCRAA's scope remains fairly narrow. An academic specialist who is familiar with developments in this field has reviewed the bill and concluded that because of its "relatively high threshold," ISCRAA probably would apply only to about 15-20 litigations per year. I will include a copy of this professor's letter to me in the congressional record.

Finally, a $100 million threshold also is appropriate because it limits ISCRAA's reach to litigations that are a natural subject of congress's authority to regulate interstate commerce. It is well-established that "Congress' commerce authority includes the power to regulate * * * those [economic] activities that substantially affect interstate commerce." *United States v. Morrison*, 529 U.S. 598, 609 (2000). *See also United States v. Lopez*, 514 U.S. 549 (1995). Both the executive and the legislative branches previously have identified $100 million as guideline for determining whether a matter has a significant impact on interstate commerce. *See, e.g.* Executive Order 12866; Congressional Review Act, 5 U.S.C. § 804(2); Unfunded Mandates Act, 2 U.S.C. § 1532(a). Because it is limited to litigations of this size, ISCRAA is consistent with congress's power and obligation to protect the flow of commerce between states.

Guaranteeing Adequate Incentives to Plaintiffs' Lawyers

Another point that I would like to emphasize today is that ISCRAA is not an anti-plaintiffs' lawyer bill. It is not stingy toward trial attorneys. ISCRAA is carefully designed to protect fiduciary interests while providing plaintiffs' lawyers with ample incentives to provide high-quality legal representation in large litigations. ISCRAA's fee formula is as generous as the limits set by the most liberal state courts that engage in meaningful review of attorneys fees, and is considerably more generous than the federal courts' practices in $100 million cases. Moreover, the multiplier criteria that ISCRAA employs universally are recognized as legitimate prerequisites for a contingency fee – even by trial lawyers' professional associations.

Federal courts primarily rely on two systems for calculating attorneys fees in cases (such as class actions) in which they are required to set "reasonable fees:" the percentage method and the lodestar-multiplier method. The percentage method, as its name implies, calculates fees as a

---

Litig., 886 F.Supp 445, 462 (E.D.Pa. 1995) ("The number of cases involving a common fund in the neighborhood of [$100 million] is relatively small").

REV_00162858

percentage of the total recovery. The lodestar system, by contrast, requires a court to first calculate a fee based on the number of hours that the lawyer worked multiplied by prevailing hourly rates (the "lodestar"). The court then multiplies this lodestar fee again in order to reward the attorney for the risk of nonpayment of fees that he assumed and for any exceptional services that he provided.

Over the last thirty years, courts have moved back and forth between these two systems.[9] Only a few courts make lodestar-multipliers the *exclusive* means of awarding attorneys fees. But as one academic commentator has noted, "lodestar, or hours-based methods, have been adopted in every [federal judicial] circuit."[10]

And more importantly, in large-recovery cases, there has been very little difference between lodestar and percentage systems. This is because even when courts apply a percentage to calculate fees, and as judgements become very large, courts typically also calculate a reasonable lodestar in order to determine what constitutes a reasonable percentage. Thus, again, as the Third Circuit notes, "courts have generally decreased the percentage awarded as the amount recovered increases, and $100 million seems to be the informal marker of a 'very large' settlement."[11]

Courts have been wary of awarding fees based on percentages alone. As one state supreme court explains:

> "to begin the assessment by arbitrarily picking a percentage amount without any reliance on a cognizable structure invites decisions that are nonobjective and inconsistent. What constitutes a reasonable percentage may differ from one judge to another depending on each judge's predilections, background, and geographical location in the state."[12]

Thus "courts that employ the percentage approach appear to be motivated in part by a lodestar dynamic. Because courts are reluctant to give fee awards totally incommensurate with the efforts

---

[9] *See In re Cendant Corp. PRIDES Litig.*, 243 F.3d 722 (3d Cir. 2001).

[10] Janet Cooper Alexander, *Do the Merits Matter? A Study of Settlements in Securities Class Actions*, 43 STANFORD L. REV. 497, 538 n.160 (1991) (citing cases). *See also Goldberger v. Integrated Resources, Inc.*, 209 F.3d 43, 49 (2d Cir. 2000) (noting that in addition to Second Circuit, "six other circuits have reaffirmed that district courts enjoy the discretion to use either the lodestar or the percentage method") (citing cases).

[11] *In re Cendant Corp. PRIDES Litig.*, 243 F.3d 722, 736 n.19 (3d Cir. 2001).

[12] *Kuhnlein v. Dep't of Revenue*, 662 So.2d 309, 313 (Fla. 1995).

REV_00162859

of the attorneys, percentage awards generally decrease as the amount of the recovery increases."[13]

One result of the cross-use of the lodestar and percentage systems is that even when courts use the percentage system, those awards overwhelmingly tend to reflect a reasonable lodestar multiplier. Therefore, even percentage-based cases tend to provide evidence of the range of multipliers that the courts consider to be reasonable.

In 2001, the Third Circuit "set forth a chart of fee awards given in federal courts since 1985 in class actions in which the settlement fund exceeded $100 million and in which the percentage of recovery method was used."[14] (*Cendant Corp.*) The court identified 17 such cases. In almost every case, the Third Circuit could calculate the multiplier that was used, and "the lodestar multiplier in those cases never exceeded 2.99." And in the direct lodestar-multiplier cases that court identified, the multiplier ranged from 1.2 to 3.25.[15]

Other courts, surveying smaller cases than the $100 million recoveries examined in *Cendant Corp.*, have identified larger multipliers. One federal district court has "observe[d] that in virtually every case where the court notes a lodestar but awards fees based upon a percentage, the lodestar multiplier converted from this percentage is in the range of 1 to 4."[16] Another federal district court has found that "the range of lodestar multipliers in large and complicated class actions runs from a low of 2.26 to a high of 4.5."[17]

By contrast, some courts have declared that they would allow only lower multipliers. One federal court has stated that "only in the most exceptional circumstances would this court award a multiplier of 3 or greater. * * * this court believes that lodestars enhanced by multipliers less

---

[13] *In re Unisys Corp. Retiree Medical Benefits ERISA Litig.*, 886 F.Supp 445, 463 (E.D.Pa. 1995). *See also Goldberger v Integrated Resources, Inc.*, 209 F.3d 43, 50 (2d Cir. 2000) ("the lodestar remains useful as a baseline even if the percentage method is chosen. Indeed, we encourage the practice of requiring documentation of hours as a 'cross check' on the reasonableness of the requested percentage").

[14] *In re Cendant Corp. PRIDES Litig.*, 243 F.3d 722, 737 (3d Cir. 2001).

[15] *See id.* at 737 n.22.

[16] *In re Unisys Corp. Retiree Medical Benefits ERISA Litig.*, 886 F.Supp 445, 464 n.36 (E.D.Pa. 1995).

[17] *Behrens v. Wometco Enterprises, Inc.*, 118 F.R.D. 534, 549 (S.D.Fla.1988).

REV_00162860

than 3 should adequately compensate even the most talented counsel."[18] And the Seventh Circuit has suggested that "it may be that a doubling of the lodestar would provide a sensible ceiling."[19]

On the other hand, the Florida Supreme Court – which is generally regarded as one of the more plaintiff-friendly courts in the United States – has announced that:

> "we set the maximum multiplier available in this common-fund category of cases at 5. * * * * [A] multiplier which increases fees to five times the accepted hourly rate is sufficient to alleviate the contingency risk factor involved and attract high level counsel to common fund cases while producing a fee that remains within the bounds of reasonableness. We emphasize that 5 is a maximum multiplier."[20]

ISCRAA adopts this more liberal standard. It allows fees as high as 500% of reasonable hourly rates. ISCRAA awards multipliers based on two criteria: it allows up to 300% to be added onto the amount of reasonable hourly fees if a case that involved a substantial risk of nonrecovery of fees, and allows an additional 100% add-on if the attorney provided exceptional services that improved the plaintiff's recovery.

The criteria that ISCRAA employs universally are recognized as necessary prerequisites to the legitimacy of a contingency fee. "Courts in general have insisted that a contingent fee be truly contingent. The typically elevated fee reflecting the risk to the lawyer of receiving no fee will be permitted only if the representation indeed involves a significant degree of risk." Charles W. Wolfram, MODERN LEGAL ETHICS § 9.4, at 532 (1986). The risk requirement has been recognized ever since contingency fees first were allowed in the United States. The American Bar Association even noted at that time that "a contract for a contingent fee, where sanctioned by law, should be reasonable under all the circumstances of the case, including the risk and uncertainty of the compensation." ABA CANONS OF PROFESSIONAL ETHICS, Canon 13 (1908). Indeed, even the professional associations of plaintiffs' attorneys have, at times, acknowledged that contingent fees should be based on an actual contingency. In a guide to its members, the Association of Trial Lawyers of America has "recommend[ed]" that attorneys "exercise sound judgment in using a percentage in the contingent fee contract that is commensurate with the risk, cost and effort required." ATLA, KEYS TO THE COURTHOUSE: QUICK FACTS ON THE CONTINGENCY FEE SYSTEM 13 (1994).

The criteria that ISCRAA employs are universally accepted – and the limits that it sets should be universally acceptable. ISCRAA is not intended to *alter* the considered standards of any

---

[18] *In re Unisys Corp. Retiree Medical Benefits ERISA Litig.*, 886 F.Supp 445, 482 (E.D.Pa. 1995).

[19] *Skelton v. General Motors Corp.*, 860 F.2d 250, 258 (7th Cir. 1988).

[20] *Kuhnlein v. Dep't of Revenue*, 662 So.2d 309, 315 (Fla. 1995) (emphasis in original).

REV_00162861

jurisdiction. Rather, it is intended to *enforce* those standards – and to correct the occasional extreme outlier. Because ISCRAA incorporates a fee formula that is substantially more liberal than the usual practices of the federal courts in $100 million cases, we can be confident that high-quality legal representation will remain available to plaintiffs in these large litigations. *See, e.g. in re Sumitomo Copper Litig.*, 74 F. Supp. 2d 393 (S.D.N.Y. 1999) (RICO and Commodities Exchange Act case resulting in $116 million recovery; attorneys reviewed millions of pages of documents located throughout the world, many requiring translation from Japanese; federal district court awards multiplier of 250% for total fee of $32 million).

Fiduciary Restraints on Attorney Fee Contracts

Another issue that I will address today is the argument – occasionally raised in opposition to proposals to limit attorneys fees – that such restrictions violate attorneys' rights to freedom of contract.

The first principle to keep in mind when questions of attorneys fees are considered is that "a fiduciary relationship exists as a matter of law between attorney and client."[21] (Illinois Supreme Court.) As one academic commentator has noted:

> "[I]t is uncontroverted today that a lawyer is a fiduciary for, and therefore has a duty to deal fairly with, the client. * * * * Lawyers are fiduciaries because retention of an attorney to exercise 'professional judgement' on the client's behalf necessarily involves reposing trust and confidence in the attorney. Exercising professional judgment requires that the lawyer advance the client's interests as the client would define them if the client were well-informed."[22]

The lawyer's status as fiduciary places limits on his dealings with his client – including with regard to his fee. "An attorney's freedom to contract with a client is subject to the constraints of ethical considerations."[23] (New Jersey Supreme Court.) "In setting fees, lawyers are fiduciaries who owe their clients greater duties than are owed under the general law of contracts."[24] (Massachusetts Appeals Court.) "As a result of lawyers' special role in the legal system,

---

[21]*Gaffney v. Harmon*, 90 N.E.2d 785, 788 (Ill. 1950). *See also* Charles Wolfram, MODERN LEGAL ETHICS § 4.1, at 146 (1986) ("the designation of 'fiduciary,' * * * surely attaches to the [lawyer-client] relationship").

[22]Lester Brickman, "Contingent Fees Without Contingencies: Hamlet Without the Prince of Denmark?," 37 U.C.L.A. L. REV. 29, 45-46 (1989).

[23]*Cohen v. Radio-Electronics Officers Union, Dist. 3*, 679 A.2d 1188, 1195-96 (N.J. 1996).

[24]*Garnick & Scudder, P.C. v. Dolinsky*, 701 N.E.2d 357, 358 (Mass. App. 1998).

REV_00162862

contracts between lawyer and client receive special scrutiny. * * * * While freedom of contract is the guiding principle underlying contract law, contractual freedom is muted in the lawyer-client and lawyer-lawyer contexts."[25] (Joseph M. Perillo, law professor.)

The unique status of attorney fee contracts has led courts to reject analogies between such agreements and other business or service contracts. Perhaps the fullest exposition is provided by the Arizona Supreme Court:

> "We realize that business contracts may be enforced between those in equal bargaining capacities, even though they turn out to be unfair, inequitable or harsh. However, *a fee agreement between lawyer and client is not an ordinary business contract*. The profession has both an obligation of public service and duties to clients which transcend ordinary business relationships and prohibit the lawyer from taking advantage of the client. Thus, in fixing and collecting fees the profession must remember that it is a branch of the administration of justice and not a mere money getting trade.' ABA CANONS OF PROFESSIONAL ETHICS, Canon 12."[26]

The same principle has been identified by the Florida Supreme Court:

> "*There is but little analogy between the elements that control the determination of a lawyer's fee and those which determine the compensation of skilled craftsmen in other fields*. Lawyers are officers of the court. The court is an instrument of society for the administration of justice. Justice should be administered economically, efficiently, and expeditiously. The attorney's fee is, therefore, a very important factor in the administration of justice, and if it is not determined with proper relation to that fact it results in a species of social malpractice that undermines the confidence of the public in the bench and bar. It does more than that. It brings the court into disrepute and destroys its power to perform adequately the function of its creation."[27]

In order to protect the lawyer's public role and to enforce his fiduciary obligations, the courts read a reasonableness requirement into every attorney fee contract. "[T]he requirement that a fee

---

[25]Joesph M. Perillo, *The Law of Lawyers' Contracts is Different*, 67 FORDHAM L. REV. 443, 445 (1998).

[26]*In the Matter of Swartz*, 686 P.2d 1236, 1243 (Ariz. 1984) (emphasis added).

[27]*Kuhnlein v. Department of Revenue*, 662 So.2d 309, 313 (Fla. 1995) (emphasis added). *See also Gruber & Coabella, P.A. v. Erickson*, 784 A.2d 758, 760 (N.J.Sup.Ct. 2001) ("Attorneys have never had the right to enforce contractual provisions for more than a fair and reasonable fee. They are not businessmen entitled to charge what the traffic will bear").

REV_00162863

be reasonable in amount overrides the terms of the contract, so that an 'unreasonable' fee cannot be recovered, even if agreed to by the client." G. Hazard, Jr. & W. Hodes, THE LAW OF LAWYERING 1. 5:205 *Fee Litigation and Arbitration* 120 (1998 Supp.).

As one court has stated,

> "[A]n attorney is only entitled to fees which are fair and just and which adequately compensate him for his services. This is true *no matter what fee is specified in the contract*, because an attorney, as a fiduciary, cannot bind his client to pay a greater compensation for his services than the attorney would have the right to demand if no contract had been made. Therefore, as a matter of public policy, *reasonableness is an implied term* in every contract for attorney's fees."[28]

Finally, when assessing whether a fee is reasonable, courts ask whether the fee is proportional to the services that were actually provided. "Fees must be reasonably proportional to the services rendered and the situation presented."[29] (Arizona Supreme Court.) "If an attorney's fee is grossly disproportionate to the services rendered and is charged to a client who lacks full information about all of the relevant circumstances, the fee is 'clearly excessive' * * * even though the client consented to such fee."[30] (West Virginia Supreme Court.)

Because attorneys are fiduciaries, they simply do not have complete freedom of contract in negotiating their fees. An attorney's dealings with his client always must reflect that the client comes to him in a position of trust – and therefore, the attorney's fee always must be reasonable. ISCRAA will help ensure that this important obligation is respected.

ISCRAA's Effective Date

Another subject that I would like to address today is ISCRAA's effective date. ISCRAA applies to attorney fee payments received after June 1, 2002. This effective date is appropriate under the circumstances of the state tobacco settlement for several reasons: first, Congress routinely enacts major tax legislation with effective dates that look back much further than does ISCRAA. The

---

[28] *Missouri ex rel. Chase Resorts, Inc. v. Campbell*, 913 S.W.2d 832 (Mo. App. 1996) (emphasis added). *See also* G. Hazard, ETHICS IN THE PRACTICE OF LAW 99 (1978) ("A contract for a [legal] fee is, under general principles of law, a contract between a fiduciary and his protected dependent * * * [and] it is unenforceable unless its terms are fair to the client"); *Trinkle v. Leeney*, 650 N.E.2d 749, 754 (Ind.Ct.App.1995) ("Under no circumstances is a lawyer entitled to more than the reasonable value of his or her services. [Moreover,] [r]easonable fees are not necessarily determined by the terms of the attorney-client contract").

[29] *In the Matter of Struthers*, 877 P.2d 789, 796 (Ariz. 1994).

[30] *Committee on Legal Ethics v. Tatterson*, 352 S.E.2d 107, 113 (W. Va. 1986).

REV_00162864

Supreme Court has "repeatedly upheld [such moderately] retroactive tax legislation against a due process challenge." *United States v. Carlton*, 512 U.S. 26, 30-31 (1994); *see id.* at 33 (upholding tax whose "actual retroactive effect * * * extended for a period only slightly greater than one year").

Second, ISCRAA is not even truly retroactive. ISCRAA does not change the *substantive* law governing attorneys fee awards. Rather, it simply enforces established, *pre-existing* fiduciary standards that already bind every attorney in every state. The MODEL RULES OF PROFESSIONAL CONDUCT, at Rule 1.5(a), contain a clear, direct command that "a lawyer's fee shall be reasonable." Similarly, the MODEL CODE OF PROFESSIONAL RESPONSIBILITY, at DR 2-106, directs that an attorney "shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee." The Model Code further explains that an attorneys fee is "clearly excessive when, after a review of the facts, a lawyer of ordinary prudence would be left with a definite and firm conviction that the fee is in excess of a reasonable fee." Finally, as academic commentators point out, in addition to the model rules, "*all state rules of professional conduct* prohibit attorneys from charging excessive fees."[31] (Emphasis added.)

As I described earlier, to enforce fiduciary standards, ISCRAA codifies and applies a very generous version of the fee multiplier system, allowing attorneys fees as high as 500% of reasonable hourly rates. This is considerably more generous than what federal courts typically allow in large-judgment cases. No attorney can be heard to complain that he is subjected to a law that is more generous than his existing fiduciary obligations.

Further, none of the tobacco-settlement attorneys can reasonably maintain that they have a vested right to see their fiduciary duties to the states go unenforced. Nevertheless, in order to be fair to all parties, ISCRAA's excise taxes are applied only to fees that were paid after June 1, 2002. By this date, all of the tobacco lawyers *twice* had received notice from George W. Bush that he intended to enact legislation to enforce their fiduciary obligations. In February 2000, then-candidate Bush promised that he would "extend[] the 'excess benefits' provision of the tax code to private lawyers who contract with states and municipalities," with "the reasonableness of the fees * * * [to] be determined by the standard judicial 'lodestar' method." And as early as February 2001, the current Administration announced that it anticipated providing "additional public health resources for the States from the President's proposal to extend fiduciary responsibilities to the representatives of States in tobacco lawsuits." *See* A BLUEPRINT FOR NEW BEGINNINGS: A RESPONSIBLE BUDGET FOR AMERICA'S PRIORITIES 80, Office of Management and Budget, February 28, 2001.

Under ISCRAA, all of the attorneys who participated in the state tobacco settlement still will be very liberally compensated. Because ISCRAA does not apply to the first three-and-a-half years

---

[31]Vonde M. Smith Hitch, *Ethics and the Reasonableness of Contingency Fees: A Survey of State and Federal Law Addressing the Reasonableness of Costs as They Relate to Contingency Fee Agreements*, 29 LAND & WATER L. REV. 215, 218 n.22 (1994).

REV_00162865

of fee payments under the settlement, it exempts the first two-and-a-half *billion* dollars that these lawyers received. Every one of the tobacco lawyers will have more than enough money left to pay for the yachts, luxury cars, and vacation homes that were purchased with the tobacco proceeds. ISCRAA might simply be described as the one-yacht-per-lawyer rule.

State Recovery of Excess MSA Payments

But most importantly, because ISCRAA applies to the last year's worth of tobacco fee payments, and to all future payments, it will return a substantial amount of funds to the states – money that already should belong to the states under any reasonable interpretation of fiduciary standards. It is critical that these funds be restored in this time of widespread fiscal crisis. Today a large number of the states face massive budget deficits that threaten their ability to provide health care to the indigent, to fully fund public education, and to guarantee adequate and effective law enforcement. When such needs risk going unmet, fee abuses that cost the states billions of dollars simply can no longer be ignored. The states must receive their fair share of the tobacco settlement proceeds – funds that are badly needed to support basic public services.

Under the terms of the November 1998 Master Settlement Agreement (MSA) between the states and tobacco companies, $500 million in cigarette taxes is set aside every year to pay the attorneys who chose to have their fees awarded in arbitration. Because extraordinarily high fees were awarded by the arbitrators – estimated to total $15 billion – the $500-million-a-year income stream (which is not adjusted for inflation) may have to be paid in perpetuity. In addition to this annuity, the MSA also sets aside an additional $1.25 billion in cigarette taxes to compensate those lawyers who choose to forego arbitration and negotiate their fees directly with the tobacco companies.

The present value of the $500-million-a-year fee stream – discounting all future payments for the time value of money – has been conservatively estimated at just over $8 billion. Current and future payments from the $1.25 billion fee fund are less certain, since the grants made from that fund and their disbursement schedule have been kept obscure from the public. Because ISCRAA's effective date is June 1, 2002, ISCRAA will probably recoup for the states an additional $1 billion above the present value of future $500 million-a-year payments. ISCRAA does not affect the first three-and-a-half years of fees paid under the MSA. Because these payments almost certainly are adequate to pay all reasonable fees incurred in the litigation, ISCRAA would restore to the states virtually all fees paid after its effective date. Thus the net present value of the sums that ISCRAA would provide to the states can conservatively be estimated at $9 billion.

By restoring these excess fee payments to the states' MSA escrow account and returning them to the states on a per capita basis, ISCRAA guarantees every state a very substantial recovery. Based on the estimates that I have described, even our nation's smallest state, Wyoming, would recoup at least $15 million in tobacco fee payments, and other small states, such as North Dakota, would receive approximately $20 million. On the other hand, our nation's largest state,

REV_00162866

California, can expect to recoup at least $1 billion. Other large states would also see generous returns: Florida, $511 million; Illinois, $397 million; Michigan, $318 million; New York, $607 million; Ohio, $363 million; and Texas, $667 million.

Here is how much each state can expect to recover:

REV_00162867

United States	*$9 billion*
Alabama	142,220,272
Alaska	20,049,569
Arizona	164,079,935
Arkansas	85,496,543
California	1,083,230,642
Colorado	137,556,275
Connecticut	108,911,511
Delaware	25,059,883
District of Columbia	18,294,706
Florida	511,123,686
Georgia	261,806,474
Hawaii	38,745,502
Idaho	41,381,203
Illinois	397,174,614
Indiana	194,456,664
Iowa	93,585,167
Kansas	85,976,825
Kentucky	129,257,603
Louisiana	142,919,876
Maine	40,772,615
Maryland	169,384,021
Massachusetts	203,046,997
Michigan	317,835,940
Minnesota	157,327,166
Mississippi	90,973,451
Missouri	178,937,382
Montana	28,852,605
Nebraska	54,726,966
Nevada	63,905,164
New Hampshire	39,520,996
New Jersey	269,094,724
New Mexico	58,173,915
New York	606,875,689
North Carolina	257,420,675
North Dakota	20,537,847
Ohio	363,078,559
Oklahoma	110,353,478
Oregon	109,417,889
Pennsylvania	392,753,669
Rhode Island	33,525,716
South Carolina	128,305,961

REV_00162868

South Dakota	24,140,253
Tennessee	181,945,847
Texas	666,850,647
Utah	71,417,756
Vermont	19,470,563
Virginia	226,374,115
Washington	188,496,659
West Virginia	57,831,660
Wisconsin	171,532,756
Wyoming	15,791,372

REV_00162869

From: CN=David S. Addington/OU=OVP/O=EOP [OVP]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/10/2003 3:29:14 PM
Subject: :

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP [OVP])
CREATION DATE/TIME:10-APR-2003 19:29:14.00
SUBJECT::
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett:

It was my impression (which may be wrong) that the Workers and Visitors Enstry System (WAVES) is a U.S. Secret Service records system and that therefore the WAVES records are Federal Records Act records and are subject to FOIA, rather than being Presidential Records Act records and non-FOIAble. Do you know?

From:	Kavanaugh, Brett M.
To:	<Lefkowitz, Jay P.>;<Schacht, Diana L.>;<Silverberg, Kristen>
Sent:	4/10/2003 10:02:25 PM
Subject:	Kyl-Cornyn mass tort fees bill
Attachments:	att1.htm; ISCRAAKylFloorSpeech.pdf; ISCRAAOnePage.pdf; ISCRAAStateRecoveryChart2.pdf; MCG03_283.pdf

Jay and Diana: We have discussed this issue previously.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 04/10/2003 10:02 PM ----------

"Matal, Joe (Judiciary)"

04/10/2003 05:59:58 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, brian.a.benczkowski@usdoj.gov

cc:

Subject: Kyl-Cornyn mass tort fees bill

Senators Kyl and Cornyn today introduced ISCRAA, a bill to apply an attorneys fee formula in lawsuits resulting in judgments greater than $100 million. ISCRAA would allow attorneys to receive fees of up to 500% of reasonable hourly rates. Because it applies to continuing fee payments from the state tobacco litigation settlement, ISCRAA would restore income with a present value of approximately $9 billion to the states. Attached please find: 1. a one-page summary of the bill; 2. a chart detailing how much each state can expect to recover from the tobacco settlement fee awards under the bill; 3. a footnoted version of Senator Kyl's speech introducing the bill; 4. and the bill itself.

Joe Matal

Counsel to Senator Kyl

202-224-4076

- att1.htm <>

- MCG03_283.pdf <>

- ISCRAAOnePage.pdf <>

- ISCRAAStateRecoveryChart2.pdf <>

- ISCRAAKylFloorSpeech.pdf <>

Senators Kyl and Cornyn today introduced ISCRAA, a bill to apply an attorneys fee formula in lawsuits resulting in judgments greater than $100 million. ISCRAA would allow attorneys to receive fees of up to 500% of reasonable hourly rates. Because it applies to continuing fee payments from the state tobacco litigation settlement, ISCRAA would restore income with a present value of approximately $9 billion to the states. Attached please find: 1. a one-page summary of the bill; 2. a chart detailing how much each state can expect to recover from the tobacco settlement fee awards under the bill; 3. a footnoted version of Senator Kyl's speech introducing the bill; 4. and the bill itself.

Joe Matal
Counsel to Senator Kyl
202-224-4076

108TH CONGRESS
1ST SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

Mr. KYL (for himself and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to apply an excise tax to excessive attorneys fees for legal judgments, settlements, or agreements that operate as a tax.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intermediate Sanctions Compensatory Revenue Adjustment Act of 2003" (ISCRAA).

SEC. 2. EXCISE TAXES ON EXCESS FEE TRANSACTIONS OF CERTAIN ATTORNEYS.

(a) IN GENERAL.—Subchapter D of chapter 42 of the Internal Revenue Code of 1986 (relating to failure by cer-

REV_00162879

tain charitable organizations to meet certain qualification requirements) is amended by adding at the end the following new section:

"SEC. 4959. TAXES ON EXCESS FEE TRANSACTIONS.

"(a) INITIAL TAXES.—There is hereby imposed on the collecting attorney in each excess fee transaction a tax equal to 5 percent of the excess fee. The tax imposed by this paragraph shall be paid by any collecting attorney referred to in subsection (f)(1) with respect to such transaction.

"(b) ADDITIONAL TAX ON THE COLLECTING ATTORNEY.—In any case in which a tax is imposed by subsection (a) on an excess fee transaction and the excess fee involved in such transaction is not corrected within the taxable period, there is hereby imposed a tax equal to 200 percent of the excess fee involved. The tax imposed by this paragraph shall be paid by any collecting attorney referred to in subsection (f)(1) with respect to such transaction.

"(c) EXCESS FEE TRANSACTION; EXCESS FEE.—For purposes of this section—

"(1) EXCESS FEE TRANSACTION.—

"(A) IN GENERAL.—The term 'excess fee transaction' means any transaction in which a fee is provided by an applicable plaintiff (including payments resulting from litigation on

REV_00162880

behalf of an applicable plaintiff determined on an hourly or percentage basis, whether such fee is paid from the applicable plaintiff's recovery, pursuant to a separately negotiated agreement, or in any other manner), directly or indirectly, to or for the use of any collecting attorney with respect to such applicable plaintiff if the amount of the fee provided exceeds the value of the services received in exchange therefor or subsection (g)(1) applies.

"(B) DETERMINATION OF VALUE.—For purposes of subparagraph (A), in determining whether the amount of the fee provided exceeds the value of the services received in exchange therefor, the value of the services shall be the sum of—

"(i) the reasonable expenses incurred by the collecting attorney in the course of the representation of the applicable plaintiff, and

"(ii) a reasonable fee based on—

"(I) the number of hours of non-duplicative, professional quality legal work provided by the collecting attorney of material value to the outcome

REV_00162881

of the representation of the applicable plaintiff, taking into account the factors described in subparagraphs (B) and (D) of subsection (h)(2),

"(II) reasonable hourly rates for the individuals performing such work based on hourly rates charged by other attorneys for the rendition of comparable services, including rates charged by adversary defense counsel in the representation, taking into account the factors described in subparagraphs (A), (C), (E), and (G) of subsection (h)(2), and

"(III) to the extent such items are not taken into account in establishing the reasonable hourly rates under subclause (II), an appropriate adjustment rate determined in accordance with subparagraph (C) to compensate the collecting attorney for periods of substantial risk of non-payment of fees and for skillful or innovative services which increase the

REV_00162882

amount of the applicable plaintiff's recovery.

"(C) ADJUSTMENT RATE.—

"(i) IN GENERAL.—For purposes of this paragraph, an appropriate adjustment rate is a percentage of the reasonable hourly rate under subparagraph (B)(ii)(II) which is added to the amount of such rate and which is not more than the sum of one risk percentage and one skill percentage described in clauses (ii) and (iii), respectively.

"(ii) RISK PERCENTAGE.—For purposes of this subparagraph, the term 'risk percentage' means a percentage rate that is proportional to the collecting attorney's risk of nonrecovery of fees and which is—

"(I) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees, not more than 100 percent,

"(II) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees and devoted more than 8,000 hours of legal

REV_00162883

work (as described in subparagraph (B)(ii)(I)) and more than 2 years to the case before resolution of all claims, not more than 200 percent, or

"(III) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees and devoted more than 15,000 hours of legal work (as described in subparagraph (B)(ii)(I)) and more than 4 years to the case before resolution of all claims, not more than 300 percent.

"(iii) SKILL PERCENTAGE.—For purposes of this subparagraph, the term 'skill percentage' means, in the case of a collecting attorney who has demonstrated exceptionally skillful or innovative legal service which generated a recovery for the applicable plaintiff substantially greater than the typical recovery in similar cases, a percentage rate that is proportional to the increase in the applicable plaintiff's recovery and that is not more than 100 percent.

"(iv) LIMITATION.—An appropriate adjustment rate shall not increase the col-

REV_00162884

lecting attorney's fee above an amount that is proportional to the applicable plaintiff's recovery.

"(D) COURT APPROVAL OF FEES.—Fee payments approved by any court shall be presumed to not be in excess of the value of the services received in exchange therefor if the court approving the fee—

"(i) did not approve an adjustment rate greater than that determined to be appropriate under subparagraph (C) in a case where such fee included an adjustment rate, and

"(ii) obtained and relied upon a report of a legal auditing firm with respect to such fee in accordance with the procedures in subsection (h).

"(2) EXCESS FEE.—The term 'excess fee' means the excess referred to in paragraph (1)(A).

"(d) JOINT AND SEVERAL LIABILITY.—For purposes of this section, if more than 1 person is liable for any tax imposed by subsection (a), all such persons shall be jointly and severally liable for such tax.

"(e) APPLICABLE PLAINTIFF.—For purposes of this section, the term 'applicable plaintiff' means any person

REV_00162885

represented by a collecting attorney with respect to a claim described in subsection (f)(1).

"(f) OTHER DEFINITIONS AND RULES.—For purposes of this section—

"(1) COLLECTING ATTORNEY.—The term 'collecting attorney' means any person engaged in the practice of law who represents—

"(A) any governmental entity, including any State, municipality, or political subdivision of a State, or any person acting on such entity's behalf, including pursuant to Federal or State Qui Tam statutes, in a claim for recoupment of payments made or to be made by such entity to or on behalf of any natural person by reason, directly or indirectly, of a breach of duty that causes damage to such natural person,

"(B) any organization described in paragraph (3) or (4) of section 501(c) and exempt from tax under section 501(a), in a claim for damages based on a breach of duty, whether civil or criminal, causing damage to such organization,

"(C) any natural person seeking to recover damages in a claim based on breaches of duty,

REV_00162886

whether civil or criminal, causing damage to such natural person, or

"(D) any assignee or other holder of claims described in subparagraph (A), (B), or (C),

when 1 or more of such claims, whether or not joined in 1 action, involve the same or a coordinated group of plaintiff's attorneys or similarly situated defendants, arise out of the same transaction or set of facts or involve substantially similar liability issues, and result in settlements or judgments aggregating at least $100,000,000.

"(2) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any excess fee transaction, the period beginning with the date on which the transaction occurs and ending 90 days after the earliest of—

"(A) the date of the mailing of a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a), or

"(B) the date on which the tax imposed by subsection (a) is assessed.

"(3) CORRECTION.—

"(A) GENERAL RULE.—Any excess fee transaction is corrected by undoing the excess

REV_00162887

fee to the extent possible and taking any additional measures necessary to place the applicable plaintiff in a financial position not worse than that in which such plaintiff would be if the collecting attorney were dealing under the highest fiduciary standards.

"(B) PAYMENT OF EXCESS FEES.—

"(i) IN GENERAL.—Except as provided in clause (ii), a collecting attorney corrects an excess fee transaction by paying any excess fees plus interest to the applicable plaintiff.

"(ii) CERTAIN SETTLEMENTS.—In the case of excess fees arising from or related to that certain Master Settlement Agreement of November 23, 1998, and other, concluded Settlement Agreements based on State health care expenditures pursuant to title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), including lawsuits involving the States of Florida, Minnesota, Mississippi, and Texas, the collecting attorney corrects an excess fee transaction by paying any excess fees plus interest to

REV_00162888

the 50 States in proportion to each State's share of the United States population.

"(C) NO WAIVER OF FEE.—No collecting attorney may avoid imposition of any tax imposed by this section by transferring any portion of the excess fee or refusing to accept any portion of the excess fee.

"(g) DISCLOSURE REQUIREMENTS.—

"(1) TREATMENT AS EXCESS FEE.—Any fee provided after the date of the enactment of this subsection by an applicable plaintiff (including payments resulting from litigation on behalf of an applicable plaintiff determined on an hourly or percentage basis, whether such fee is paid from the applicable plaintiff's recovery, pursuant to a separately negotiated agreement, or in any other manner), directly or indirectly, to or for the use of any collecting attorney with respect to such applicable plaintiff shall be deemed to be an excess fee provided in an excess fee transaction unless the disclosure requirements described in paragraph (2) are met.

"(2) CONTENTS OF STATEMENT.—The disclosure requirements of this paragraph are met for any taxable year in which a collecting attorney receives

REV_00162889

any fees with respect to a claim described in subsection (f)(1), if such collecting attorney—

"(A) includes in the return of tax for such taxable year a statement including the information described in subsection (c)(1) with respect to such claim, and

"(B) provides a statement including the information described in subsection (c)(1) to the applicable plaintiff prior to the deadline (including extensions) for filing such return.

"(h) LEGAL AUDITING FIRM.—

"(1) IN GENERAL.—In any case before a Federal district court or a State court in which the court approves fees paid to a collecting attorney, the court shall seek bids from legal auditing firms with a specialty in reviewing attorney billings and select 1 such legal auditing firm to review the billing records submitted by the collecting attorney, under the same standards the firm would use if it were hired by a private party to review legal bills submitted to the party, for the reasonableness of such attorney's billing patterns and practices. The court shall require the collecting attorney to submit billing records, cost records, and any other information sought by such firm in its review.

REV_00162890

"(2) REVIEW BY LEGAL AUDITING FIRM.—In reviewing the billing records and work performed by the collecting attorney, the legal auditing firm shall address all relevant matters, including—

"(A) the hourly rates of the collecting attorney compared with the prevailing market rates for the services rendered by the collecting attorney,

"(B) the number of hours worked by the collecting attorney on the case compared with other cases that the collecting attorney worked on during the same period,

"(C) whether the collecting attorney performed tasks that could have been performed by attorneys with lower billing rates,

"(D) whether the collecting attorney used appropriate billing methodology, including keeping contemporaneous time records and using appropriate billing time increments,

"(E) whether particular tasks were staffed appropriately,

"(F) whether the costs and expenses submitted by the collecting attorney were reasonable,

REV_00162891

"(G) whether the collecting attorney exercised billing judgment, and

"(H) any other matters normally addressed by the legal auditing firm when reviewing attorney billings for private clients.

"(3) FILING OF REPORT; RESPONSE; BURDEN OF PROOF.—The court shall set a date for the filing of the report of the legal auditing firm, and allow the collecting attorney or any applicable plaintiff to respond to the report within a reasonable time period. The report shall be presumed correct unless rebutted by the collecting attorney or any applicable plaintiff by clear and convincing evidence.

"(4) FEE FOR LEGAL AUDITING FIRM.—The fee for the report of the legal auditing firm shall be paid from the collecting attorney's fee award, the applicable plaintiff's recovery, or both in a manner determined by the court.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations to prevent avoidance of the purposes of this section and regulations requiring recordkeeping and information reporting.".

(b) CONFORMING AND CLERICAL AMENDMENTS.—

REV_00162892

(1) Subsections (a), (b), and (c) of section 4963 of the Internal Revenue Code of 1986 are each amended by inserting "4959," after "4958,".

(2) Subsection (e) of section 6213 of such Code is amended by inserting "4959 (relating to excess fee transactions)," before "4971".

(3) Paragraphs (2) and (3) of section 7422(g) of such Code are each amended by inserting "4959," after "4958,".

(4) The heading for subchapter D of chapter 42 of such Code is amended to read as follows:

"Subchapter D—Failure by Certain Charitable Organizations and Persons to Meet Certain Qualification Requirements and Fiduciary Standards.".

(5) The table of subchapters for chapter 42 of such Code is amended by striking the item relating to subchapter D and inserting the following:

"SUBCHAPTER D. Failure by certain charitable organizations and persons to meet certain qualification requirements and fiduciary standards.".

(6) The table of sections for subchapter D of chapter 42 of such Code is amended by adding at the end the following new item:

"Sec. 4959. Taxes on excess fee transactions.".

REV_00162893

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to excess fees paid on or after June 1, 2002.

SEC. 3. DECLARATORY JUDGMENTS RELATING TO EXCISE TAXES ON EXCESS FEE TRANSACTIONS OF CERTAIN ATTORNEYS.

(a) IN GENERAL.—Subchapter B of chapter 76 of the Internal Revenue Code of 1986 (relating to judicial proceedings) is amended by redesignating section 7437 as section 7438 and by inserting after section 7436 the following new section:

"SEC. 7437. DECLARATORY JUDGMENTS RELATING TO TAX ON EXCESS FEE TRANSACTIONS.

"(a) IN GENERAL.—In a case of actual controversy involving—

"(1) a determination by the Secretary or the collecting attorney with respect to the imposition of the excise tax on excess fee transactions on such collecting attorney under section 4959, or

"(2) a failure by the Secretary or the collecting attorney to make such a determination,

upon the filing of an appropriate pleading by an applicable plaintiff, the Tax Court may make a declaration with respect to such determination or failure. Any such declara-

REV_00162894

tion shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(b) DEFERENTIAL REVIEW.—If a collecting attorney's fee has been approved by a court in accordance with section 4959(c)(1)(D) or by the Secretary pursuant to section 4959, the Tax Court shall review the fee only for an abuse of discretion.

"(c) LEGAL AUDITING FIRM.—In any petition for a declaration referred to in subsection (a):

"(1) NO PREVIOUS REPORT.—If a report by a legal auditing firm that meets the requirements of section 4959(h) has not been previously produced and relied on by another court, the Tax Court shall hire such a legal auditing firm and rely on its report pursuant to the procedures in section 4959(h).

"(2) SECOND REPORT.—

"(A) IN GENERAL.—If a report by a legal auditing firm has been approved by a court in accordance with section 4959, the Tax Court shall hire a second legal auditing firm upon the request of the petitioner.

"(B) FEE FOR REPORT.—The Tax Court may direct the petitioner to pay the fee for any report of a legal auditing firm provided pursuant to subparagraph (A).

REV_00162895

"(d) TIME FOR BRINGING ACTION.—No proceeding may be initiated under this section by any person until 90 days after such person first notifies the Secretary of the excess fee transaction with respect to which the proceeding relates.

"(e) DEFINITIONS.—For purposes of this section, any term used in this section and also in section 4959 shall have the meaning given such term by section 4959.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 7437 and by inserting the following new items:

"Sec. 7437. Declaratory judgments relating to tax on excess fee transactions.
"Sec. 7438. Cross references.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions after the date of the enactment of this Act.

REV_00162896

_____ISCRAA: The Kyl-Cornyn Bill to Enforce Fiduciary Attorney Fee Standards in Mass Tort Litigation

The Intermediate Sanctions Compensatory Revenue Adjustment Act (ISCRAA) limits attorneys fees to no more than 500% of reasonable hourly rates in lawsuits resulting in judgments greater than $100 million. ISCRAA uses an existing provision of the tax code to enforce basic, universally accepted fiduciary standards governing the award of attorneys fees. To avoid punitive tax rates, an attorney would be required to restore the excessive portion of any fee to the client. Because ISCRAA applies to current and future fees paid pursuant to the state Medicaid tobacco litigation settlement, ISCRAA will restore approximately $9 billion to the states.

ISCRAA's Benefits:

- **Limiting speculative, fee-driven mass tort litigation.** The current mass-tort litigation crisis is driven in large part by the enormous and unethical fees commanded by some plaintiffs attorneys. Because their fees are so grossly disproportionate to their actual efforts, these lawyers can pursue even speculative lawsuits that lack a legitimate foundation – even only an occasional victory produces massive profits. By requiring that fees be proportional to attorneys' actual work, ISCRAA inevitably will limit this type of litigation. To prevent evasion of its standards, ISCRAA also aggregates identical claims when brought against common defendants – thereby limiting the coercive effects of this type of litigation.

- **Protecting Fiduciary Interests.** Attorneys long have been acknowledged to be fiduciaries who occupy a position of trust in their dealings with their clients. One obligation that flows from this status, universally recognized in the ethics rules of all 50 states, is the attorney's duty to not charge an unreasonable or excessive fee. Thus courts traditionally have read a reasonableness requirement into every attorneys fee contract.

- **Protecting Interstate Commerce.** Because of the large size of the litigations to which it applies, ISCRAA unquestionably is an appropriate exercise of Congress's power to regulate and protect interstate commerce. Experts have estimated that ISCRAA probably will apply to only 15-20 litigations a year. $100 million is a standard threshold used by the federal government to determine whether an economic transaction significantly impacts interstate commerce.

- **Guaranteeing Mass-Tort Plaintiffs Access to Counsel**. ISCRAA's fee formula is as generous as the most liberal limits adopted by state courts, and considerably more generous than the limits that federal courts have applied in $100 million cases. ISCRAA protects fiduciary interests, while providing plaintiffs lawyers with ample incentive to provide high-quality legal representation in large lawsuits.

ISCRAA: RESTITUTION TO THE STATES

Under the terms of the November 1998 Master Settlement Agreement (MSA) between the states and tobacco companies, $500 million in cigarette taxes is set aside every year to pay the plaintiffs' attorneys who chose to have their fees awarded in arbitration. Because extraordinarily high fees were awarded by the arbitrators – estimated to total $15 billion – the $500-million-a-year income stream (which is not adjusted for inflation) may have to be paid in perpetuity. In addition to this annuity, the MSA also sets aside an additional $1.25 billion in cigarette taxes to compensate those lawyers who choose to forego arbitration and negotiate their fees directly with the tobacco companies.

The present value of the $500-million-a-year fee stream – discounting all future payments for the time value of money – has been conservatively estimated at just over $8 billion. Current and future payments from the $1.25 billion fee fund are less certain, since the grants made from that fund and their disbursement schedule have been kept obscure from the public. Because ISCRAA's effective date is June 1, 2002, ISCRAA will probably recoup for the states an additional $1 billion above the present value of future $500 million-a-year payments. ISCRAA does not affect the first three-and-a-half years of fees paid under the MSA. Because these payments almost certainly are adequate to pay all reasonable fees incurred in the litigation, ISCRAA would restore to the states virtually all fees paid after its effective date. Thus the net present value of the sums that ISCRAA would provide to the states can conservatively be estimated at $9 billion.

By restoring these excess fee payments to the states' MSA escrow account and returning them to the states on a per capita basis, ISCRAA guarantees every state a very substantial recovery. Based on the estimates that I have described, even our nation's smallest state, Wyoming, would recoup at least $15 million in tobacco fee payments, and other small states, such as North Dakota, would receive approximately $20 million. On the other hand, our nation's largest state, California, can expect to recoup at least $1 billion. Other large states would also see generous returns: Florida, $511 million; Illinois, $397 million; Michigan, $318 million; New York, $607 million; Ohio, $363 million; and Texas, $667 million.

Here is how much each state can expect to recover:

United States	*$9 billion*
Alabama	142,220,272
Alaska	20,049,569
Arizona	164,079,935
Arkansas	85,496,543
California	1,083,230,642
Colorado	137,556,275
Connecticut	108,911,511
Delaware	25,059,883
District of Columbia	18,294,706
Florida	511,123,686
Georgia	261,806,474
Hawaii	38,745,502
Idaho	41,381,203
Illinois	397,174,614
Indiana	194,456,664
Iowa	93,585,167
Kansas	85,976,825
Kentucky	129,257,603
Louisiana	142,919,876
Maine	40,772,615
Maryland	169,384,021
Massachusetts	203,046,997
Michigan	317,835,940
Minnesota	157,327,166
Mississippi	90,973,451
Missouri	178,937,382
Montana	28,852,605
Nebraska	54,726,966
Nevada	63,905,164
New Hampshire	39,520,996
New Jersey	269,094,724
New Mexico	58,173,915
New York	606,875,689
North Carolina	257,420,675
North Dakota	20,537,847
Ohio	363,078,559
Oklahoma	110,353,478
Oregon	109,417,889
Pennsylvania	392,753,669
Rhode Island	33,525,716
South Carolina	128,305,961
South Dakota	24,140,253
Tennessee	181,945,847

Texas	666,850,647
Utah	71,417,756
Vermont	19,470,563
Virginia	226,374,115
Washington	188,496,659
West Virginia	57,831,660
Wisconsin	171,532,756
Wyoming	15,791,372

SENATOR KYL
INTRODUCTION OF ISCRAA

Mr. KYL: I rise today to introduce the Intermediate Sanctions Compensatory Revenue Adjustment Act of 2003 (ISCRAA). This legislation will restore to the states billions of dollars in revenue due to them from a massive lawsuit recently conducted on their behalf – the tobacco-related Medicaid expenses litigation. ISCRAA amends an existing provision of the federal tax code in order to enforce basic, universally accepted fiduciary standards governing the award of attorneys fees. By applying these standards to the attorneys who represented the states in the tobacco settlement, ISCRAA reasonably can be expected to restore to the states income with a present value of approximately $9 billion. I have included at the end of my statement a chart detailing how much each state can expect to recover.

ISCRAA's tax formula is borrowed from the 1996 Tax Act's Intermediate Sanctions Tax (IST), which applies a two-step excise tax to any excessive or unreasonable compensation that the managers of a trust pay to themselves from the assets of the trust. The IST framework encourages the trustee to restore the excessive portion of any fee to the trust – when he does so, the IST's punitive taxes do not apply.

ISCRAA extends the IST to another type of trust relationship: that between a lawyer and his client. ISCRAA applies the IST tax formula to any unreasonable or excessive income that a lawyer collects from litigation resulting in a judgment or settlement in excess of $100 million. To avoid IST taxes, an attorney must restore the excessive portion of the fee to the client.

As my colleague Senator CORNYN will explain today, the ethical and legal abuses that resulted from the 1998 state tobacco settlement make the need for this legislation manifest. Senator CORNYN also will discuss the law of attorneys' fiduciary obligations, which establishes that a fee award is the property of the client – and that any unethical fee must be restored to the client, regardless of how the fee award is structured.

I will discuss today how ISCRAA will affect massive litigations generally. In order to gauge the reasonableness of a lawyer's fee award, ISCRAA adopts and codifies a liberal version of the lodestar-multiplier system. As I will later explain in greater detail, ISCRAA allows fee multipliers of up to 500% of reasonable hourly rates. This limit is as generous as the most liberal limits adopted by state courts, and considerably more generous than the limits that federal courts have applied in $100 million cases. ISCRAA's fee formula guarantees that attorneys' fiduciary obligations will be respected, while providing plaintiffs lawyers with ample incentive to provide high-quality legal representation in these types of cases.

Massive Litigations and the Prospect of Tax Farming

Federal supervision of fee awards resulting from $100 million litigations is appropriate for several reasons. First, because of their shear size, these types of lawsuits inevitably operate as a tax on the consuming public. Few defendants actually can afford to pay such judgments with

cash on hand. Instead, the affected industries simply will raise the prices that they charge to their customers.

This is exactly what has happened in the state Medicaid tobacco settlement – according to the leading proponents of that litigation. The first state attorney general to file suit against the tobacco companies has admitted that "what always happens in these cases is the industry passes the costs to the consumer."[1] Other commentators agree that this has occurred in the tobacco litigation. As one law-review article notes, "the [tobacco] settlement * * * is a tax because it's a set of payments made by tobacco companies that depend on how many packs they sell; in short, it looks like a tax and quacks like a tax."[2]

Because of the way that these massive judgments typically are satisfied, it is particularly important to ensure that attorneys are paid in proportion to the services that they provided – rather than solely on the basis of the size of the recovery. Again, the state tobacco settlement highlights the nature of the problem. As two of the leading academic commentators have noted, it is "very troubl[ing]" that under that agreement, "a group of private citizens [are] getting paid a percentage of a tax increase they helped pass."[3] The shear size of the tobacco settlement – and the fact that attorneys fees were based on this size, rather than on the attorneys' actual efforts – has given the fee awards an uncanny resemblance to the medieval practice of tax farming. In all but name, the government has licensed a group of private individuals to collect a tax from the consuming public.

I would emphasize at this point that ISCRAA is not an attack on the state tobacco lawsuits. The bill does not pass judgment on the merits or the appropriateness of this type of litigation. ISCRAA simply is designed to ensure that when such lawsuits are brought on the public's behalf, the public receive its fair share of the proceeds. If a state chooses to seek compensatory revenue from industry for past harms, then the resulting tax on the public – minus the reasonable value of the legal services actually provided – must go to the state treasury.

---

[1]Michael Moore, Attorney General of Mississippi (quoted in *Law Firms Reap $1.4 Billion*, THE SUN HERALD (Biloxi, MS), July 30, 1999, Page A1). *See also* Margaret A. Little, *A Most Dangerous Indiscretion: the Legal, Economic, and Political Legacy of the Governments' Tobacco Litigation*, 33 U. CONN. L. REV. 1143, 1180 (2001) ("We did not take this case for fees, nor did we intend to raise taxes or put the states in partnership with tobacco. There is a danger that this is happening, though, and I'm not sure how to stop it") (quoting Richard Scruggs, Mississippi tobacco plaintiffs lawyer).

[2]Margaret A. Little, *A Most Dangerous Indiscretion: the Legal, Economic, and Political Legacy of the Governments' Tobacco Litigation*, 33 U. CONN. L. REV. 1143, 1180 (2001).

[3]Jeremy Bulow & Paul Klemperer, *The Tobacco Deal*, BROOKINGS PAPERS ON ECONOMIC ACTIVITY, January 1, 1998.

REV_00162902

$100 Million Lawsuits Are Different

There are several reasons why $100 million is an appropriate threshold for applying ISCRAA's fee formula. First, the courts themselves have indicated that fee agreements based primarily on the size of the recovery tend to become unreasonable when judgements reach this size. As one court has stated, "in much smaller cases, a fee award of 33% does not present the danger of providing the plaintiff's counsel with the windfall that would accompany a 'megafund' settlement of $100 million or upwards. But it is quite different when the figures hit the really big time."[4] Or as the Third Circuit notes, "courts have generally decreased the percentage awarded [for attorneys fees] as the amount recovered increases, and $100 million seems to be the informal marker of a 'very large' settlement."[5]

The logic of avoiding judgment-based awards in these very large cases is straightforward. As one court explains, "it is not 150 times more difficult to prepare, try, and settle a $150 million case than it is to try a $1 million case, but the application of a percentage comparable to that in a smaller case may yield an award 150 times greater."[6] Thus (according to another court) "there is considerable merit" to disallowing standard percentage awards as the "size of the [recovery] fund increases. In many instances the increase [in the recovery] is merely a factor of the size of the class and has no direct relationship to the efforts of counsel."[7]

It also bears mention that because of its $100 million threshold, ISCRAA applies to a fairly limited universe of cases. As courts have remarked, "there are few so-called 'megafund' cases with settlements over $100 million."[8] In 2001, the U.S. Court of Appeals for the Third Circuit

---

[4] *In re Synthroid Marketing Litig.*, 110 F.Supp.2d 676, 684 (N.D. Ill. 2000) (*rev'd on other grounds, In the Matter of Synthroid Marketing Litig.*, 264 F.3d 712 (7th Cir. 2001)).

[5] *In re Cendant Corp. PRIDES Litig.*, 243 F.3d 722, 736 n.19 (3d Cir. 2001). *See also* Herbert P. Newberg, NEWBERG ON CLASS ACTIONS, § 14.03 at 190 (1985) ("the fee percentage would be significantly more modest as the common fund recovery begins to reach recoveries approaching or exceeding $100 million").

[6] *In re Synthroid Marketing Litig.*, 201 F.Supp.2d 861 (N.D. Ill. 2002). *See also Goldberger v Integrated Resources, Inc.*, 209 F.3d 43, 52 (2d Cir. 2000) ("Obviously, it is not ten times more difficult to prepare, and try or settle a 10 million dollar case as it is to try a 1 million dollar case").

[7] *In re Unisys Corp. Retiree Medical Benefits ERISA Litig.*, 886 F.Supp 445, 464 (E.D.Pa. 1995).

[8] *In re Synthroid Marketing Litig.*, 201 F.Supp.2d 861, 864 (N.D. Ill. 2002). Initial research reveals that in cases where the fund is between $100 and $200 million, fees typically range from 4%-10%." *See also In re Unisys Corp. Retiree Medical Benefits ERISA*

REV_00162903

attempted to catalogue all common-fund cases in federal court that resulted in recoveries greater than $100 million. Though such litigations have been more frequent in recent years, the Third Circuit identified only 22 such cases since 1985. *See in re Cendant Corp. PRIDES Litig.*, 243 F.3d 722, 737 (3d Cir. 2001).

ISCRAA is somewhat broader than the criteria that *Cendant Corp.* employed to collect cases. ISCRAA is not limited to common-fund cases – it also applies to judgments won on behalf of tax-exempt entities or even single individuals. ISCRAA also applies to cases brought in state court, and it aggregates identical claims that are brought against common defendants in separate actions, in order to prevent evasion of its limits through the subdivision of actions. Nevertheless, ISCRAA's scope remains fairly narrow. An academic specialist who is familiar with developments in this field has reviewed the bill and concluded that because of its "relatively high threshold," ISCRAA probably would apply only to about 15-20 litigations per year. I will include a copy of this professor's letter to me in the congressional record.

Finally, a $100 million threshold also is appropriate because it limits ISCRAA's reach to litigations that are a natural subject of congress's authority to regulate interstate commerce. It is well-established that "Congress' commerce authority includes the power to regulate * * * those [economic] activities that substantially affect interstate commerce." *United States v. Morrison*, 529 U.S. 598, 609 (2000). *See also United States v. Lopez*, 514 U.S. 549 (1995). Both the executive and the legislative branches previously have identified $100 million as guideline for determining whether a matter has a significant impact on interstate commerce. *See, e.g.* Executive Order 12866; Congressional Review Act, 5 U.S.C. § 804(2); Unfunded Mandates Act, 2 U.S.C. § 1532(a). Because it is limited to litigations of this size, ISCRAA is consistent with congress's power and obligation to protect the flow of commerce between states.

Guaranteeing Adequate Incentives to Plaintiffs' Lawyers

Another point that I would like to emphasize today is that ISCRAA is not an anti-plaintiffs' lawyer bill. It is not stingy toward trial attorneys. ISCRAA is carefully designed to protect fiduciary interests while providing plaintiffs' lawyers with ample incentives to provide high-quality legal representation in large litigations. ISCRAA's fee formula is as generous as the limits set by the most liberal state courts that engage in meaningful review of attorneys fees, and is considerably more generous than the federal courts' practices in $100 million cases. Moreover, the multiplier criteria that ISCRAA employs universally are recognized as legitimate prerequisites for a contingency fee – even by trial lawyers' professional associations.

Federal courts primarily rely on two systems for calculating attorneys fees in cases (such as class actions) in which they are required to set "reasonable fees:" the percentage method and the lodestar-multiplier method. The percentage method, as its name implies, calculates fees as a

---

Litig., 886 F.Supp 445, 462 (E.D.Pa. 1995) ("The number of cases involving a common fund in the neighborhood of [$100 million] is relatively small").

REV_00162904

percentage of the total recovery. The lodestar system, by contrast, requires a court to first calculate a fee based on the number of hours that the lawyer worked multiplied by prevailing hourly rates (the "lodestar"). The court then multiplies this lodestar fee again in order to reward the attorney for the risk of nonpayment of fees that he assumed and for any exceptional services that he provided.

Over the last thirty years, courts have moved back and forth between these two systems.[9] Only a few courts make lodestar-multipliers the *exclusive* means of awarding attorneys fees. But as one academic commentator has noted, "lodestar, or hours-based methods, have been adopted in every [federal judicial] circuit."[10]

And more importantly, in large-recovery cases, there has been very little difference between lodestar and percentage systems. This is because even when courts apply a percentage to calculate fees, and as judgements become very large, courts typically also calculate a reasonable lodestar in order to determine what constitutes a reasonable percentage. Thus, again, as the Third Circuit notes, "courts have generally decreased the percentage awarded as the amount recovered increases, and $100 million seems to be the informal marker of a 'very large' settlement."[11]

Courts have been wary of awarding fees based on percentages alone. As one state supreme court explains:

> "to begin the assessment by arbitrarily picking a percentage amount without any reliance on a cognizable structure invites decisions that are nonobjective and inconsistent. What constitutes a reasonable percentage may differ from one judge to another depending on each judge's predilections, background, and geographical location in the state."[12]

Thus "courts that employ the percentage approach appear to be motivated in part by a lodestar dynamic. Because courts are reluctant to give fee awards totally incommensurate with the efforts

---

[9] *See In re Cendant Corp. PRIDES Litig.*, 243 F.3d 722 (3d Cir. 2001).

[10] Janet Cooper Alexander, *Do the Merits Matter? A Study of Settlements in Securities Class Actions*, 43 STANFORD L. REV. 497, 538 n.160 (1991) (citing cases). *See also Goldberger v. Integrated Resources, Inc.*, 209 F.3d 43, 49 (2d Cir. 2000) (noting that in addition to Second Circuit, "six other circuits have reaffirmed that district courts enjoy the discretion to use either the lodestar or the percentage method") (citing cases).

[11] *In re Cendant Corp. PRIDES Litig.*, 243 F.3d 722, 736 n.19 (3d Cir. 2001).

[12] *Kuhnlein v. Dep't of Revenue*, 662 So.2d 309, 313 (Fla. 1995).

REV_00162905

of the attorneys, percentage awards generally decrease as the amount of the recovery increases."[13]

One result of the cross-use of the lodestar and percentage systems is that even when courts use the percentage system, those awards overwhelmingly tend to reflect a reasonable lodestar multiplier. Therefore, even percentage-based cases tend to provide evidence of the range of multipliers that the courts consider to be reasonable.

In 2001, the Third Circuit "set forth a chart of fee awards given in federal courts since 1985 in class actions in which the settlement fund exceeded $100 million and in which the percentage of recovery method was used."[14] (*Cendant Corp.*) The court identified 17 such cases. In almost every case, the Third Circuit could calculate the multiplier that was used, and "the lodestar multiplier in those cases never exceeded 2.99." And in the direct lodestar-multiplier cases that court identified, the multiplier ranged from 1.2 to 3.25.[15]

Other courts, surveying smaller cases than the $100 million recoveries examined in *Cendant Corp.*, have identified larger multipliers. One federal district court has "observe[d] that in virtually every case where the court notes a lodestar but awards fees based upon a percentage, the lodestar multiplier converted from this percentage is in the range of 1 to 4."[16] Another federal district court has found that "the range of lodestar multipliers in large and complicated class actions runs from a low of 2.26 to a high of 4.5."[17]

By contrast, some courts have declared that they would allow only lower multipliers. One federal court has stated that "only in the most exceptional circumstances would this court award a multiplier of 3 or greater. * * * this court believes that lodestars enhanced by multipliers less

---

[13] *In re Unisys Corp. Retiree Medical Benefits ERISA Litig.*, 886 F.Supp 445, 463 (E.D.Pa. 1995). *See also Goldberger v Integrated Resources, Inc.*, 209 F.3d 43, 50 (2d Cir. 2000) ("the lodestar remains useful as a baseline even if the percentage method is chosen. Indeed, we encourage the practice of requiring documentation of hours as a 'cross check' on the reasonableness of the requested percentage").

[14] *In re Cendant Corp. PRIDES Litig.*, 243 F.3d 722, 737 (3d Cir. 2001).

[15] *See id.* at 737 n.22.

[16] *In re Unisys Corp. Retiree Medical Benefits ERISA Litig.*, 886 F.Supp 445, 464 n.36 (E.D.Pa. 1995).

[17] *Behrens v. Wometco Enterprises, Inc.*, 118 F.R.D. 534, 549 (S.D.Fla.1988).

REV_00162906

than 3 should adequately compensate even the most talented counsel."[18] And the Seventh Circuit has suggested that "it may be that a doubling of the lodestar would provide a sensible ceiling."[19]

On the other hand, the Florida Supreme Court – which is generally regarded as one of the more plaintiff-friendly courts in the United States – has announced that:

> "we set the maximum multiplier available in this common-fund category of cases at 5. * * * * [A] multiplier which increases fees to five times the accepted hourly rate is sufficient to alleviate the contingency risk factor involved and attract high level counsel to common fund cases while producing a fee that remains within the bounds of reasonableness. We emphasize that 5 is a maximum multiplier."[20]

ISCRAA adopts this more liberal standard. It allows fees as high as 500% of reasonable hourly rates. ISCRAA awards multipliers based on two criteria: it allows up to 300% to be added onto the amount of reasonable hourly fees if a case that involved a substantial risk of nonrecovery of fees, and allows an additional 100% add-on if the attorney provided exceptional services that improved the plaintiff's recovery.

The criteria that ISCRAA employs universally are recognized as necessary prerequisites to the legitimacy of a contingency fee. "Courts in general have insisted that a contingent fee be truly contingent. The typically elevated fee reflecting the risk to the lawyer of receiving no fee will be permitted only if the representation indeed involves a significant degree of risk." Charles W. Wolfram, MODERN LEGAL ETHICS § 9.4, at 532 (1986). The risk requirement has been recognized ever since contingency fees first were allowed in the United States. The American Bar Association even noted at that time that "a contract for a contingent fee, where sanctioned by law, should be reasonable under all the circumstances of the case, including the risk and uncertainty of the compensation." ABA CANONS OF PROFESSIONAL ETHICS, Canon 13 (1908). Indeed, even the professional associations of plaintiffs' attorneys have, at times, acknowledged that contingent fees should be based on an actual contingency. In a guide to its members, the Association of Trial Lawyers of America has "recommend[ed]" that attorneys "exercise sound judgment in using a percentage in the contingent fee contract that is commensurate with the risk, cost and effort required." ATLA, KEYS TO THE COURTHOUSE: QUICK FACTS ON THE CONTINGENCY FEE SYSTEM 13 (1994).

The criteria that ISCRAA employs are universally accepted – and the limits that it sets should be universally acceptable. ISCRAA is not intended to *alter* the considered standards of any

---

[18] *In re Unisys Corp. Retiree Medical Benefits ERISA Litig.*, 886 F.Supp 445, 482 (E.D.Pa. 1995).

[19] *Skelton v. General Motors Corp.*, 860 F.2d 250, 258 (7th Cir. 1988).

[20] *Kuhnlein v. Dep't of Revenue*, 662 So.2d 309, 315 (Fla. 1995) (emphasis in original).

REV_00162907

jurisdiction. Rather, it is intended to *enforce* those standards – and to correct the occasional extreme outlier. Because ISCRAA incorporates a fee formula that is substantially more liberal than the usual practices of the federal courts in $100 million cases, we can be confident that high-quality legal representation will remain available to plaintiffs in these large litigations. *See, e.g. in re Sumitomo Copper Litig.*, 74 F. Supp. 2d 393 (S.D.N.Y. 1999) (RICO and Commodities Exchange Act case resulting in $116 million recovery; attorneys reviewed millions of pages of documents located throughout the world, many requiring translation from Japanese; federal district court awards multiplier of 250% for total fee of $32 million).

Fiduciary Restraints on Attorney Fee Contracts

Another issue that I will address today is the argument – occasionally raised in opposition to proposals to limit attorneys fees – that such restrictions violate attorneys' rights to freedom of contract.

The first principle to keep in mind when questions of attorneys fees are considered is that "a fiduciary relationship exists as a matter of law between attorney and client."[21] (Illinois Supreme Court.) As one academic commentator has noted:

> "[I]t is uncontroverted today that a lawyer is a fiduciary for, and therefore has a duty to deal fairly with, the client. * * * * Lawyers are fiduciaries because retention of an attorney to exercise 'professional judgement' on the client's behalf necessarily involves reposing trust and confidence in the attorney. Exercising professional judgment requires that the lawyer advance the client's interests as the client would define them if the client were well-informed."[22]

The lawyer's status as fiduciary places limits on his dealings with his client – including with regard to his fee. "An attorney's freedom to contract with a client is subject to the constraints of ethical considerations."[23] (New Jersey Supreme Court.) "In setting fees, lawyers are fiduciaries who owe their clients greater duties than are owed under the general law of contracts."[24] (Massachusetts Appeals Court.) "As a result of lawyers' special role in the legal system,

---

[21]*Gaffney v. Harmon*, 90 N.E.2d 785, 788 (Ill. 1950). *See also* Charles Wolfram, MODERN LEGAL ETHICS § 4.1, at 146 (1986) ("the designation of 'fiduciary,' * * * surely attaches to the [lawyer-client] relationship").

[22]Lester Brickman, "Contingent Fees Without Contingencies: Hamlet Without the Prince of Denmark?," 37 U.C.L.A. L. REV. 29, 45-46 (1989).

[23]*Cohen v. Radio-Electronics Officers Union, Dist. 3*, 679 A.2d 1188, 1195-96 (N.J. 1996).

[24]*Garnick & Scudder, P.C. v. Dolinsky*, 701 N.E.2d 357, 358 (Mass. App. 1998).

REV_00162908

contracts between lawyer and client receive special scrutiny. * * * * While freedom of contract is the guiding principle underlying contract law, contractual freedom is muted in the lawyer-client and lawyer-lawyer contexts."[25] (Joseph M. Perillo, law professor.)

The unique status of attorney fee contracts has led courts to reject analogies between such agreements and other business or service contracts. Perhaps the fullest exposition is provided by the Arizona Supreme Court:

> "We realize that business contracts may be enforced between those in equal bargaining capacities, even though they turn out to be unfair, inequitable or harsh. However, *a fee agreement between lawyer and client is not an ordinary business contract*. The profession has both an obligation of public service and duties to clients which transcend ordinary business relationships and prohibit the lawyer from taking advantage of the client. Thus, in fixing and collecting fees the profession must remember that it is a branch of the administration of justice and not a mere money getting trade.' ABA CANONS OF PROFESSIONAL ETHICS, Canon 12."[26]

The same principle has been identified by the Florida Supreme Court:

> "*There is but little analogy between the elements that control the determination of a lawyer's fee and those which determine the compensation of skilled craftsmen in other fields*. Lawyers are officers of the court. The court is an instrument of society for the administration of justice. Justice should be administered economically, efficiently, and expeditiously. The attorney's fee is, therefore, a very important factor in the administration of justice, and if it is not determined with proper relation to that fact it results in a species of social malpractice that undermines the confidence of the public in the bench and bar. It does more than that. It brings the court into disrepute and destroys its power to perform adequately the function of its creation."[27]

In order to protect the lawyer's public role and to enforce his fiduciary obligations, the courts read a reasonableness requirement into every attorney fee contract. "[T]he requirement that a fee

---

[25]Joesph M. Perillo, *The Law of Lawyers' Contracts is Different*, 67 FORDHAM L. REV. 443, 445 (1998).

[26]*In the Matter of Swartz*, 686 P.2d 1236, 1243 (Ariz. 1984) (emphasis added).

[27]*Kuhnlein v. Department of Revenue*, 662 So.2d 309, 313 (Fla. 1995) (emphasis added). *See also Gruber & Coabella, P.A. v. Erickson*, 784 A.2d 758, 760 (N.J.Sup.Ct. 2001) ("Attorneys have never had the right to enforce contractual provisions for more than a fair and reasonable fee. They are not businessmen entitled to charge what the traffic will bear").

REV_00162909

be reasonable in amount overrides the terms of the contract, so that an 'unreasonable' fee cannot be recovered, even if agreed to by the client." G. Hazard, Jr. & W. Hodes, THE LAW OF LAWYERING 1. 5:205 *Fee Litigation and Arbitration* 120 (1998 Supp.).

As one court has stated,

> "[A]n attorney is only entitled to fees which are fair and just and which adequately compensate him for his services. This is true *no matter what fee is specified in the contract*, because an attorney, as a fiduciary, cannot bind his client to pay a greater compensation for his services than the attorney would have the right to demand if no contract had been made. Therefore, as a matter of public policy, *reasonableness is an implied term* in every contract for attorney's fees."[28]

Finally, when assessing whether a fee is reasonable, courts ask whether the fee is proportional to the services that were actually provided. "Fees must be reasonably proportional to the services rendered and the situation presented."[29] (Arizona Supreme Court.) "If an attorney's fee is grossly disproportionate to the services rendered and is charged to a client who lacks full information about all of the relevant circumstances, the fee is 'clearly excessive' * * * even though the client consented to such fee."[30] (West Virginia Supreme Court.)

Because attorneys are fiduciaries, they simply do not have complete freedom of contract in negotiating their fees. An attorney's dealings with his client always must reflect that the client comes to him in a position of trust – and therefore, the attorney's fee always must be reasonable. ISCRAA will help ensure that this important obligation is respected.

ISCRAA's Effective Date

Another subject that I would like to address today is ISCRAA's effective date. ISCRAA applies to attorney fee payments received after June 1, 2002. This effective date is appropriate under the circumstances of the state tobacco settlement for several reasons: first, Congress routinely enacts major tax legislation with effective dates that look back much further than does ISCRAA. The

---

[28] *Missouri ex rel. Chase Resorts, Inc. v. Campbell*, 913 S.W.2d 832 (Mo. App. 1996) (emphasis added). *See also* G. Hazard, ETHICS IN THE PRACTICE OF LAW 99 (1978) ("A contract for a [legal] fee is, under general principles of law, a contract between a fiduciary and his protected dependent * * * [and] it is unenforceable unless its terms are fair to the client"); *Trinkle v. Leeney*, 650 N.E.2d 749, 754 (Ind.Ct.App.1995) ("Under no circumstances is a lawyer entitled to more than the reasonable value of his or her services. [Moreover,] [r]easonable fees are not necessarily determined by the terms of the attorney-client contract").

[29] *In the Matter of Struthers*, 877 P.2d 789, 796 (Ariz. 1994).

[30] *Committee on Legal Ethics v. Tatterson*, 352 S.E.2d 107, 113 (W. Va. 1986).

REV_00162910

Supreme Court has "repeatedly upheld [such moderately] retroactive tax legislation against a due process challenge." *United States v. Carlton*, 512 U.S. 26, 30-31 (1994); *see id.* at 33 (upholding tax whose "actual retroactive effect * * * extended for a period only slightly greater than one year").

Second, ISCRAA is not even truly retroactive. ISCRAA does not change the *substantive* law governing attorneys fee awards. Rather, it simply enforces established, *pre-existing* fiduciary standards that already bind every attorney in every state. The MODEL RULES OF PROFESSIONAL CONDUCT, at Rule 1.5(a), contain a clear, direct command that "a lawyer's fee shall be reasonable." Similarly, the MODEL CODE OF PROFESSIONAL RESPONSIBILITY, at DR 2-106, directs that an attorney "shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee." The Model Code further explains that an attorneys fee is "clearly excessive when, after a review of the facts, a lawyer of ordinary prudence would be left with a definite and firm conviction that the fee is in excess of a reasonable fee." Finally, as academic commentators point out, in addition to the model rules, "*all state rules of professional conduct* prohibit attorneys from charging excessive fees."[31] (Emphasis added.)

As I described earlier, to enforce fiduciary standards, ISCRAA codifies and applies a very generous version of the fee multiplier system, allowing attorneys fees as high as 500% of reasonable hourly rates. This is considerably more generous than what federal courts typically allow in large-judgment cases. No attorney can be heard to complain that he is subjected to a law that is more generous than his existing fiduciary obligations.

Further, none of the tobacco-settlement attorneys can reasonably maintain that they have a vested right to see their fiduciary duties to the states go unenforced. Nevertheless, in order to be fair to all parties, ISCRAA's excise taxes are applied only to fees that were paid after June 1, 2002. By this date, all of the tobacco lawyers *twice* had received notice from George W. Bush that he intended to enact legislation to enforce their fiduciary obligations. In February 2000, then-candidate Bush promised that he would "extend[] the 'excess benefits' provision of the tax code to private lawyers who contract with states and municipalities," with "the reasonableness of the fees * * * [to] be determined by the standard judicial 'lodestar' method." And as early as February 2001, the current Administration announced that it anticipated providing "additional public health resources for the States from the President's proposal to extend fiduciary responsibilities to the representatives of States in tobacco lawsuits." *See* A BLUEPRINT FOR NEW BEGINNINGS: A RESPONSIBLE BUDGET FOR AMERICA'S PRIORITIES 80, Office of Management and Budget, February 28, 2001.

Under ISCRAA, all of the attorneys who participated in the state tobacco settlement still will be very liberally compensated. Because ISCRAA does not apply to the first three-and-a-half years

---

[31]Vonde M. Smith Hitch, *Ethics and the Reasonableness of Contingency Fees: A Survey of State and Federal Law Addressing the Reasonableness of Costs as They Relate to Contingency Fee Agreements*, 29 LAND & WATER L. REV. 215, 218 n.22 (1994).

REV_00162911

of fee payments under the settlement, it exempts the first two-and-a-half *billion* dollars that these lawyers received. Every one of the tobacco lawyers will have more than enough money left to pay for the yachts, luxury cars, and vacation homes that were purchased with the tobacco proceeds. ISCRAA might simply be described as the one-yacht-per-lawyer rule.

State Recovery of Excess MSA Payments

But most importantly, because ISCRAA applies to the last year's worth of tobacco fee payments, and to all future payments, it will return a substantial amount of funds to the states – money that already should belong to the states under any reasonable interpretation of fiduciary standards. It is critical that these funds be restored in this time of widespread fiscal crisis. Today a large number of the states face massive budget deficits that threaten their ability to provide health care to the indigent, to fully fund public education, and to guarantee adequate and effective law enforcement. When such needs risk going unmet, fee abuses that cost the states billions of dollars simply can no longer be ignored. The states must receive their fair share of the tobacco settlement proceeds – funds that are badly needed to support basic public services.

Under the terms of the November 1998 Master Settlement Agreement (MSA) between the states and tobacco companies, $500 million in cigarette taxes is set aside every year to pay the attorneys who chose to have their fees awarded in arbitration. Because extraordinarily high fees were awarded by the arbitrators – estimated to total $15 billion – the $500-million-a-year income stream (which is not adjusted for inflation) may have to be paid in perpetuity. In addition to this annuity, the MSA also sets aside an additional $1.25 billion in cigarette taxes to compensate those lawyers who choose to forego arbitration and negotiate their fees directly with the tobacco companies.

The present value of the $500-million-a-year fee stream – discounting all future payments for the time value of money – has been conservatively estimated at just over $8 billion. Current and future payments from the $1.25 billion fee fund are less certain, since the grants made from that fund and their disbursement schedule have been kept obscure from the public. Because ISCRAA's effective date is June 1, 2002, ISCRAA will probably recoup for the states an additional $1 billion above the present value of future $500 million-a-year payments. ISCRAA does not affect the first three-and-a-half years of fees paid under the MSA. Because these payments almost certainly are adequate to pay all reasonable fees incurred in the litigation, ISCRAA would restore to the states virtually all fees paid after its effective date. Thus the net present value of the sums that ISCRAA would provide to the states can conservatively be estimated at $9 billion.

By restoring these excess fee payments to the states' MSA escrow account and returning them to the states on a per capita basis, ISCRAA guarantees every state a very substantial recovery. Based on the estimates that I have described, even our nation's smallest state, Wyoming, would recoup at least $15 million in tobacco fee payments, and other small states, such as North Dakota, would receive approximately $20 million. On the other hand, our nation's largest state,

REV_00162912

California, can expect to recoup at least $1 billion. Other large states would also see generous returns: Florida, $511 million; Illinois, $397 million; Michigan, $318 million; New York, $607 million; Ohio, $363 million; and Texas, $667 million.

Here is how much each state can expect to recover:

REV_00162913

United States	*$9 billion*
Alabama	142,220,272
Alaska	20,049,569
Arizona	164,079,935
Arkansas	85,496,543
California	1,083,230,642
Colorado	137,556,275
Connecticut	108,911,511
Delaware	25,059,883
District of Columbia	18,294,706
Florida	511,123,686
Georgia	261,806,474
Hawaii	38,745,502
Idaho	41,381,203
Illinois	397,174,614
Indiana	194,456,664
Iowa	93,585,167
Kansas	85,976,825
Kentucky	129,257,603
Louisiana	142,919,876
Maine	40,772,615
Maryland	169,384,021
Massachusetts	203,046,997
Michigan	317,835,940
Minnesota	157,327,166
Mississippi	90,973,451
Missouri	178,937,382
Montana	28,852,605
Nebraska	54,726,966
Nevada	63,905,164
New Hampshire	39,520,996
New Jersey	269,094,724
New Mexico	58,173,915
New York	606,875,689
North Carolina	257,420,675
North Dakota	20,537,847
Ohio	363,078,559
Oklahoma	110,353,478
Oregon	109,417,889
Pennsylvania	392,753,669
Rhode Island	33,525,716
South Carolina	128,305,961

REV_00162914

South Dakota	24,140,253
Tennessee	181,945,847
Texas	666,850,647
Utah	71,417,756
Vermont	19,470,563
Virginia	226,374,115
Washington	188,496,659
West Virginia	57,831,660
Wisconsin	171,532,756
Wyoming	15,791,372

REV_00162915

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Kristen Silverberg/WHO /EOP@Exchange@EOP [WHO] <Kristen Silverberg>;Jay P. Lefkowitz/OPD /EOP@Exchange@EOP [OPD] <Jay P. Lefkowitz>
Sent: 4/10/2003 6:17:28 PM
Subject: : Kyl-Cornyn mass tort fees bill
Attachments: P_ZZ2JF003_WHO.TXT_1.html; P_ZZ2JF003_WHO.TXT_2.pdf; P_ZZ2JF003_WHO.TXT_3; P_ZZ2JF003_WHO.TXT_4; P_ZZ2JF003_WHO.TXT_5

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-APR-2003 22:17:28.00
SUBJECT:: Kyl-Cornyn mass tort fees bill
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange@EOP [OPD])
READ:UNKNOWN
End Original ARMS Header

Jay and Diana: We have discussed this issue previously.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 04/10/2003 10:02 PM ----------

"Matal, Joe (Judiciary)" <Joe_Matal@Judiciary.senate.gov>
04/10/2003 05:59:58 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, brian.a.benczkowski@usdoj.gov
cc:
Subject: Kyl-Cornyn mass tort fees bill

Senators Kyl and Cornyn today introduced ISCRAA, a bill to apply an attorneys fee formula in lawsuits resulting in judgments greater than $100 million. ISCRAA would allow attorneys to receive fees of up to 500% of reasonable hourly rates. Because it applies to continuing fee payments from the state tobacco litigation settlement, ISCRAA would restore income with a present value of approximately $9 billion to the states. Attached please find: 1. a one-page summary of the bill; 2. a chart detailing how much each state can expect to recover from the tobacco settlement fee awards under the bill; 3. a footnoted version of Senator Kyl's speech introducing the bill; 4. and the bill itself.

Joe Matal
Counsel to Senator Kyl
202-224-4076

- att1.htm
- MCG03_283.pdf
- ISCRAAOnePage.pdf
- ISCRAAStateRecoveryChart2.pdf
- ISCRAAKylFloorSpeech.pdf

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ZZ2JF003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ZZ2JF003_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ZZ2JF003_WHO.TXT_3>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ZZ2JF003_WHO.TXT_4>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ZZ2JF003_WHO.TXT_5>

Senators Kyl and Cornyn today introduced ISCRAA, a bill to apply an attorney s fee formula in lawsuits resulting in judgments greater than $100 million. ISCRAA would allow attorneys to receive fees of up to 500% of reasonable hourly rates. Because it applies to continuing fee payments from the state tobacco litigation settlement, ISCRAA would restore income with a present value of approximately $9 billion to the states. Attached please find: 1. a one-page summary of the bill; 2. a chart detailing how much each state can expect to recover from the tobacco settlement fee awards under the bill; 3. a footnoted version of Senator Kyl's speech introducing the bill; 4. and the bill itself.

Joe Matal
Counsel to Senator Kyl
202-224-4076

108TH CONGRESS
1ST SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

Mr. KYL (for himself and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to apply an excise tax to excessive attorneys fees for legal judgments, settlements, or agreements that operate as a tax.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intermediate Sanctions Compensatory Revenue Adjustment Act of 2003" (ISCRAA).

SEC. 2. EXCISE TAXES ON EXCESS FEE TRANSACTIONS OF CERTAIN ATTORNEYS.

(a) IN GENERAL.—Subchapter D of chapter 42 of the Internal Revenue Code of 1986 (relating to failure by cer-

REV_00162919

tain charitable organizations to meet certain qualification requirements) is amended by adding at the end the following new section:

"SEC. 4959. TAXES ON EXCESS FEE TRANSACTIONS.

"(a) INITIAL TAXES.—There is hereby imposed on the collecting attorney in each excess fee transaction a tax equal to 5 percent of the excess fee. The tax imposed by this paragraph shall be paid by any collecting attorney referred to in subsection (f)(1) with respect to such transaction.

"(b) ADDITIONAL TAX ON THE COLLECTING ATTORNEY.—In any case in which a tax is imposed by subsection (a) on an excess fee transaction and the excess fee involved in such transaction is not corrected within the taxable period, there is hereby imposed a tax equal to 200 percent of the excess fee involved. The tax imposed by this paragraph shall be paid by any collecting attorney referred to in subsection (f)(1) with respect to such transaction.

"(c) EXCESS FEE TRANSACTION; EXCESS FEE.—For purposes of this section—

"(1) EXCESS FEE TRANSACTION.—

"(A) IN GENERAL.—The term 'excess fee transaction' means any transaction in which a fee is provided by an applicable plaintiff (including payments resulting from litigation on

REV_00162920

behalf of an applicable plaintiff determined on an hourly or percentage basis, whether such fee is paid from the applicable plaintiff's recovery, pursuant to a separately negotiated agreement, or in any other manner), directly or indirectly, to or for the use of any collecting attorney with respect to such applicable plaintiff if the amount of the fee provided exceeds the value of the services received in exchange therefor or subsection (g)(1) applies.

"(B) DETERMINATION OF VALUE.—For purposes of subparagraph (A), in determining whether the amount of the fee provided exceeds the value of the services received in exchange therefor, the value of the services shall be the sum of—

"(i) the reasonable expenses incurred by the collecting attorney in the course of the representation of the applicable plaintiff, and

"(ii) a reasonable fee based on—

"(I) the number of hours of non-duplicative, professional quality legal work provided by the collecting attorney of material value to the outcome

REV_00162921

of the representation of the applicable plaintiff, taking into account the factors described in subparagraphs (B) and (D) of subsection (h)(2),

"(II) reasonable hourly rates for the individuals performing such work based on hourly rates charged by other attorneys for the rendition of comparable services, including rates charged by adversary defense counsel in the representation, taking into account the factors described in subparagraphs (A), (C), (E), and (G) of subsection (h)(2), and

"(III) to the extent such items are not taken into account in establishing the reasonable hourly rates under subclause (II), an appropriate adjustment rate determined in accordance with subparagraph (C) to compensate the collecting attorney for periods of substantial risk of non-payment of fees and for skillful or innovative services which increase the

REV_00162922

amount of the applicable plaintiff's recovery.

"(C) ADJUSTMENT RATE.—

"(i) IN GENERAL.—For purposes of this paragraph, an appropriate adjustment rate is a percentage of the reasonable hourly rate under subparagraph (B)(ii)(II) which is added to the amount of such rate and which is not more than the sum of one risk percentage and one skill percentage described in clauses (ii) and (iii), respectively.

"(ii) RISK PERCENTAGE.—For purposes of this subparagraph, the term 'risk percentage' means a percentage rate that is proportional to the collecting attorney's risk of nonrecovery of fees and which is—

"(I) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees, not more than 100 percent,

"(II) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees and devoted more than 8,000 hours of legal

REV_00162923

work (as described in subparagraph (B)(ii)(I)) and more than 2 years to the case before resolution of all claims, not more than 200 percent, or

"(III) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees and devoted more than 15,000 hours of legal work (as described in subparagraph (B)(ii)(I)) and more than 4 years to the case before resolution of all claims, not more than 300 percent.

"(iii) SKILL PERCENTAGE.—For purposes of this subparagraph, the term 'skill percentage' means, in the case of a collecting attorney who has demonstrated exceptionally skillful or innovative legal service which generated a recovery for the applicable plaintiff substantially greater than the typical recovery in similar cases, a percentage rate that is proportional to the increase in the applicable plaintiff's recovery and that is not more than 100 percent.

"(iv) LIMITATION.—An appropriate adjustment rate shall not increase the col-

REV_00162924

lecting attorney's fee above an amount that is proportional to the applicable plaintiff's recovery.

"(D) COURT APPROVAL OF FEES.—Fee payments approved by any court shall be presumed to not be in excess of the value of the services received in exchange therefor if the court approving the fee—

"(i) did not approve an adjustment rate greater than that determined to be appropriate under subparagraph (C) in a case where such fee included an adjustment rate, and

"(ii) obtained and relied upon a report of a legal auditing firm with respect to such fee in accordance with the procedures in subsection (h).

"(2) EXCESS FEE.—The term 'excess fee' means the excess referred to in paragraph (1)(A).

"(d) JOINT AND SEVERAL LIABILITY.—For purposes of this section, if more than 1 person is liable for any tax imposed by subsection (a), all such persons shall be jointly and severally liable for such tax.

"(e) APPLICABLE PLAINTIFF.—For purposes of this section, the term 'applicable plaintiff' means any person

REV_00162925

represented by a collecting attorney with respect to a claim described in subsection (f)(1).

"(f) OTHER DEFINITIONS AND RULES.—For purposes of this section—

"(1) COLLECTING ATTORNEY.—The term 'collecting attorney' means any person engaged in the practice of law who represents—

"(A) any governmental entity, including any State, municipality, or political subdivision of a State, or any person acting on such entity's behalf, including pursuant to Federal or State Qui Tam statutes, in a claim for recoupment of payments made or to be made by such entity to or on behalf of any natural person by reason, directly or indirectly, of a breach of duty that causes damage to such natural person,

"(B) any organization described in paragraph (3) or (4) of section 501(c) and exempt from tax under section 501(a), in a claim for damages based on a breach of duty, whether civil or criminal, causing damage to such organization,

"(C) any natural person seeking to recover damages in a claim based on breaches of duty,

REV_00162926

whether civil or criminal, causing damage to such natural person, or

"(D) any assignee or other holder of claims described in subparagraph (A), (B), or (C),

when 1 or more of such claims, whether or not joined in 1 action, involve the same or a coordinated group of plaintiff's attorneys or similarly situated defendants, arise out of the same transaction or set of facts or involve substantially similar liability issues, and result in settlements or judgments aggregating at least $100,000,000.

"(2) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any excess fee transaction, the period beginning with the date on which the transaction occurs and ending 90 days after the earliest of—

"(A) the date of the mailing of a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a), or

"(B) the date on which the tax imposed by subsection (a) is assessed.

"(3) CORRECTION.—

"(A) GENERAL RULE.—Any excess fee transaction is corrected by undoing the excess

REV_00162927

fee to the extent possible and taking any additional measures necessary to place the applicable plaintiff in a financial position not worse than that in which such plaintiff would be if the collecting attorney were dealing under the highest fiduciary standards.

"(B) PAYMENT OF EXCESS FEES.—

"(i) IN GENERAL.—Except as provided in clause (ii), a collecting attorney corrects an excess fee transaction by paying any excess fees plus interest to the applicable plaintiff.

"(ii) CERTAIN SETTLEMENTS.—In the case of excess fees arising from or related to that certain Master Settlement Agreement of November 23, 1998, and other, concluded Settlement Agreements based on State health care expenditures pursuant to title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), including lawsuits involving the States of Florida, Minnesota, Mississippi, and Texas, the collecting attorney corrects an excess fee transaction by paying any excess fees plus interest to

REV_00162928

the 50 States in proportion to each State's share of the United States population.

"(C) NO WAIVER OF FEE.—No collecting attorney may avoid imposition of any tax imposed by this section by transferring any portion of the excess fee or refusing to accept any portion of the excess fee.

"(g) DISCLOSURE REQUIREMENTS.—

"(1) TREATMENT AS EXCESS FEE.—Any fee provided after the date of the enactment of this subsection by an applicable plaintiff (including payments resulting from litigation on behalf of an applicable plaintiff determined on an hourly or percentage basis, whether such fee is paid from the applicable plaintiff's recovery, pursuant to a separately negotiated agreement, or in any other manner), directly or indirectly, to or for the use of any collecting attorney with respect to such applicable plaintiff shall be deemed to be an excess fee provided in an excess fee transaction unless the disclosure requirements described in paragraph (2) are met.

"(2) CONTENTS OF STATEMENT.—The disclosure requirements of this paragraph are met for any taxable year in which a collecting attorney receives

REV_00162929

any fees with respect to a claim described in subsection (f)(1), if such collecting attorney—

"(A) includes in the return of tax for such taxable year a statement including the information described in subsection (c)(1) with respect to such claim, and

"(B) provides a statement including the information described in subsection (c)(1) to the applicable plaintiff prior to the deadline (including extensions) for filing such return.

"(h) LEGAL AUDITING FIRM.—

"(1) IN GENERAL.—In any case before a Federal district court or a State court in which the court approves fees paid to a collecting attorney, the court shall seek bids from legal auditing firms with a specialty in reviewing attorney billings and select 1 such legal auditing firm to review the billing records submitted by the collecting attorney, under the same standards the firm would use if it were hired by a private party to review legal bills submitted to the party, for the reasonableness of such attorney's billing patterns and practices. The court shall require the collecting attorney to submit billing records, cost records, and any other information sought by such firm in its review.

REV_00162930

"(2) REVIEW BY LEGAL AUDITING FIRM.—In reviewing the billing records and work performed by the collecting attorney, the legal auditing firm shall address all relevant matters, including—

"(A) the hourly rates of the collecting attorney compared with the prevailing market rates for the services rendered by the collecting attorney,

"(B) the number of hours worked by the collecting attorney on the case compared with other cases that the collecting attorney worked on during the same period,

"(C) whether the collecting attorney performed tasks that could have been performed by attorneys with lower billing rates,

"(D) whether the collecting attorney used appropriate billing methodology, including keeping contemporaneous time records and using appropriate billing time increments,

"(E) whether particular tasks were staffed appropriately,

"(F) whether the costs and expenses submitted by the collecting attorney were reasonable,

REV_00162931

"(G) whether the collecting attorney exercised billing judgment, and

"(H) any other matters normally addressed by the legal auditing firm when reviewing attorney billings for private clients.

"(3) FILING OF REPORT; RESPONSE; BURDEN OF PROOF.—The court shall set a date for the filing of the report of the legal auditing firm, and allow the collecting attorney or any applicable plaintiff to respond to the report within a reasonable time period. The report shall be presumed correct unless rebutted by the collecting attorney or any applicable plaintiff by clear and convincing evidence.

"(4) FEE FOR LEGAL AUDITING FIRM.—The fee for the report of the legal auditing firm shall be paid from the collecting attorney's fee award, the applicable plaintiff's recovery, or both in a manner determined by the court.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations to prevent avoidance of the purposes of this section and regulations requiring recordkeeping and information reporting.".

(b) CONFORMING AND CLERICAL AMENDMENTS.—

REV_00162932

(1) Subsections (a), (b), and (c) of section 4963 of the Internal Revenue Code of 1986 are each amended by inserting "4959," after "4958,".

(2) Subsection (e) of section 6213 of such Code is amended by inserting "4959 (relating to excess fee transactions)," before "4971".

(3) Paragraphs (2) and (3) of section 7422(g) of such Code are each amended by inserting "4959," after "4958,".

(4) The heading for subchapter D of chapter 42 of such Code is amended to read as follows:

"Subchapter D—Failure by Certain Charitable Organizations and Persons to Meet Certain Qualification Requirements and Fiduciary Standards.".

(5) The table of subchapters for chapter 42 of such Code is amended by striking the item relating to subchapter D and inserting the following:

"SUBCHAPTER D. Failure by certain charitable organizations and persons to meet certain qualification requirements and fiduciary standards.".

(6) The table of sections for subchapter D of chapter 42 of such Code is amended by adding at the end the following new item:

"Sec. 4959. Taxes on excess fee transactions.".

REV_00162933

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to excess fees paid on or after June 1, 2002.

SEC. 3. DECLARATORY JUDGMENTS RELATING TO EXCISE TAXES ON EXCESS FEE TRANSACTIONS OF CERTAIN ATTORNEYS.

(a) IN GENERAL.—Subchapter B of chapter 76 of the Internal Revenue Code of 1986 (relating to judicial proceedings) is amended by redesignating section 7437 as section 7438 and by inserting after section 7436 the following new section:

"SEC. 7437. DECLARATORY JUDGMENTS RELATING TO TAX ON EXCESS FEE TRANSACTIONS.

"(a) IN GENERAL.—In a case of actual controversy involving—

"(1) a determination by the Secretary or the collecting attorney with respect to the imposition of the excise tax on excess fee transactions on such collecting attorney under section 4959, or

"(2) a failure by the Secretary or the collecting attorney to make such a determination,

upon the filing of an appropriate pleading by an applicable plaintiff, the Tax Court may make a declaration with respect to such determination or failure. Any such declara-

REV_00162934

tion shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(b) DEFERENTIAL REVIEW.—If a collecting attorney's fee has been approved by a court in accordance with section 4959(c)(1)(D) or by the Secretary pursuant to section 4959, the Tax Court shall review the fee only for an abuse of discretion.

"(c) LEGAL AUDITING FIRM.—In any petition for a declaration referred to in subsection (a):

"(1) NO PREVIOUS REPORT.—If a report by a legal auditing firm that meets the requirements of section 4959(h) has not been previously produced and relied on by another court, the Tax Court shall hire such a legal auditing firm and rely on its report pursuant to the procedures in section 4959(h).

"(2) SECOND REPORT.—

"(A) IN GENERAL.—If a report by a legal auditing firm has been approved by a court in accordance with section 4959, the Tax Court shall hire a second legal auditing firm upon the request of the petitioner.

"(B) FEE FOR REPORT.—The Tax Court may direct the petitioner to pay the fee for any report of a legal auditing firm provided pursuant to subparagraph (A).

REV_00162935

"(d) TIME FOR BRINGING ACTION.—No proceeding may be initiated under this section by any person until 90 days after such person first notifies the Secretary of the excess fee transaction with respect to which the proceeding relates.

"(e) DEFINITIONS.—For purposes of this section, any term used in this section and also in section 4959 shall have the meaning given such term by section 4959.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 7437 and by inserting the following new items:

"Sec. 7437. Declaratory judgments relating to tax on excess fee transactions.
"Sec. 7438. Cross references.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions after the date of the enactment of this Act.

REV_00162936

_____ISCRAA: The Kyl-Cornyn Bill to Enforce Fiduciary Attorney Fee Standards in Mass Tort Litigation

The Intermediate Sanctions Compensatory Revenue Adjustment Act (ISCRAA) limits attorneys fees to no more than 500% of reasonable hourly rates in lawsuits resulting in judgments greater than $100 million. ISCRAA uses an existing provision of the tax code to enforce basic, universally accepted fiduciary standards governing the award of attorneys fees. To avoid punitive tax rates, an attorney would be required to restore the excessive portion of any fee to the client. Because ISCRAA applies to current and future fees paid pursuant to the state Medicaid tobacco litigation settlement, ISCRAA will restore approximately $9 billion to the states.

ISCRAA's Benefits:

- **Limiting speculative, fee-driven mass tort litigation.** The current mass-tort litigation crisis is driven in large part by the enormous and unethical fees commanded by some plaintiffs attorneys. Because their fees are so grossly disproportionate to their actual efforts, these lawyers can pursue even speculative lawsuits that lack a legitimate foundation – even only an occasional victory produces massive profits. By requiring that fees be proportional to attorneys' actual work, ISCRAA inevitably will limit this type of litigation. To prevent evasion of its standards, ISCRAA also aggregates identical claims when brought against common defendants – thereby limiting the coercive effects of this type of litigation.

- **Protecting Fiduciary Interests.** Attorneys long have been acknowledged to be fiduciaries who occupy a position of trust in their dealings with their clients. One obligation that flows from this status, universally recognized in the ethics rules of all 50 states, is the attorney's duty to not charge an unreasonable or excessive fee. Thus courts traditionally have read a reasonableness requirement into every attorneys fee contract.

- **Protecting Interstate Commerce.** Because of the large size of the litigations to which it applies, ISCRAA unquestionably is an appropriate exercise of Congress's power to regulate and protect interstate commerce. Experts have estimated that ISCRAA probably will apply to only 15-20 litigations a year. $100 million is a standard threshold used by the federal government to determine whether an economic transaction significantly impacts interstate commerce.

- **Guaranteeing Mass-Tort Plaintiffs Access to Counsel**. ISCRAA's fee formula is as generous as the most liberal limits adopted by state courts, and considerably more generous than the limits that federal courts have applied in $100 million cases. ISCRAA protects fiduciary interests, while providing plaintiffs lawyers with ample incentive to provide high-quality legal representation in large lawsuits.

ISCRAA: RESTITUTION TO THE STATES

Under the terms of the November 1998 Master Settlement Agreement (MSA) between the states and tobacco companies, $500 million in cigarette taxes is set aside every year to pay the plaintiffs' attorneys who chose to have their fees awarded in arbitration. Because extraordinarily high fees were awarded by the arbitrators – estimated to total $15 billion – the $500-million-a-year income stream (which is not adjusted for inflation) may have to be paid in perpetuity. In addition to this annuity, the MSA also sets aside an additional $1.25 billion in cigarette taxes to compensate those lawyers who choose to forego arbitration and negotiate their fees directly with the tobacco companies.

The present value of the $500-million-a-year fee stream – discounting all future payments for the time value of money – has been conservatively estimated at just over $8 billion. Current and future payments from the $1.25 billion fee fund are less certain, since the grants made from that fund and their disbursement schedule have been kept obscure from the public. Because ISCRAA's effective date is June 1, 2002, ISCRAA will probably recoup for the states an additional $1 billion above the present value of future $500 million-a-year payments. ISCRAA does not affect the first three-and-a-half years of fees paid under the MSA. Because these payments almost certainly are adequate to pay all reasonable fees incurred in the litigation, ISCRAA would restore to the states virtually all fees paid after its effective date. Thus the net present value of the sums that ISCRAA would provide to the states can conservatively be estimated at $9 billion.

By restoring these excess fee payments to the states' MSA escrow account and returning them to the states on a per capita basis, ISCRAA guarantees every state a very substantial recovery. Based on the estimates that I have described, even our nation's smallest state, Wyoming, would recoup at least $15 million in tobacco fee payments, and other small states, such as North Dakota, would receive approximately $20 million. On the other hand, our nation's largest state, California, can expect to recoup at least $1 billion. Other large states would also see generous returns: Florida, $511 million; Illinois, $397 million; Michigan, $318 million; New York, $607 million; Ohio, $363 million; and Texas, $667 million.

Here is how much each state can expect to recover:

United States	*$9 billion*
Alabama	142,220,272
Alaska	20,049,569
Arizona	164,079,935
Arkansas	85,496,543
California	1,083,230,642
Colorado	137,556,275
Connecticut	108,911,511
Delaware	25,059,883
District of Columbia	18,294,706
Florida	511,123,686
Georgia	261,806,474
Hawaii	38,745,502
Idaho	41,381,203
Illinois	397,174,614
Indiana	194,456,664
Iowa	93,585,167
Kansas	85,976,825
Kentucky	129,257,603
Louisiana	142,919,876
Maine	40,772,615
Maryland	169,384,021
Massachusetts	203,046,997
Michigan	317,835,940
Minnesota	157,327,166
Mississippi	90,973,451
Missouri	178,937,382
Montana	28,852,605
Nebraska	54,726,966
Nevada	63,905,164
New Hampshire	39,520,996
New Jersey	269,094,724
New Mexico	58,173,915
New York	606,875,689
North Carolina	257,420,675
North Dakota	20,537,847
Ohio	363,078,559
Oklahoma	110,353,478
Oregon	109,417,889
Pennsylvania	392,753,669
Rhode Island	33,525,716
South Carolina	128,305,961
South Dakota	24,140,253
Tennessee	181,945,847

Texas	666,850,647
Utah	71,417,756
Vermont	19,470,563
Virginia	226,374,115
Washington	188,496,659
West Virginia	57,831,660
Wisconsin	171,532,756
Wyoming	15,791,372

SENATOR KYL
INTRODUCTION OF ISCRAA

Mr. KYL: I rise today to introduce the Intermediate Sanctions Compensatory Revenue Adjustment Act of 2003 (ISCRAA). This legislation will restore to the states billions of dollars in revenue due to them from a massive lawsuit recently conducted on their behalf – the tobacco-related Medicaid expenses litigation. ISCRAA amends an existing provision of the federal tax code in order to enforce basic, universally accepted fiduciary standards governing the award of attorneys fees. By applying these standards to the attorneys who represented the states in the tobacco settlement, ISCRAA reasonably can be expected to restore to the states income with a present value of approximately $9 billion. I have included at the end of my statement a chart detailing how much each state can expect to recover.

ISCRAA's tax formula is borrowed from the 1996 Tax Act's Intermediate Sanctions Tax (IST), which applies a two-step excise tax to any excessive or unreasonable compensation that the managers of a trust pay to themselves from the assets of the trust. The IST framework encourages the trustee to restore the excessive portion of any fee to the trust – when he does so, the IST's punitive taxes do not apply.

ISCRAA extends the IST to another type of trust relationship: that between a lawyer and his client. ISCRAA applies the IST tax formula to any unreasonable or excessive income that a lawyer collects from litigation resulting in a judgment or settlement in excess of $100 million. To avoid IST taxes, an attorney must restore the excessive portion of the fee to the client.

As my colleague Senator CORNYN will explain today, the ethical and legal abuses that resulted from the 1998 state tobacco settlement make the need for this legislation manifest. Senator CORNYN also will discuss the law of attorneys' fiduciary obligations, which establishes that a fee award is the property of the client – and that any unethical fee must be restored to the client, regardless of how the fee award is structured.

I will discuss today how ISCRAA will affect massive litigations generally. In order to gauge the reasonableness of a lawyer's fee award, ISCRAA adopts and codifies a liberal version of the lodestar-multiplier system. As I will later explain in greater detail, ISCRAA allows fee multipliers of up to 500% of reasonable hourly rates. This limit is as generous as the most liberal limits adopted by state courts, and considerably more generous than the limits that federal courts have applied in $100 million cases. ISCRAA's fee formula guarantees that attorneys' fiduciary obligations will be respected, while providing plaintiffs lawyers with ample incentive to provide high-quality legal representation in these types of cases.

Massive Litigations and the Prospect of Tax Farming

Federal supervision of fee awards resulting from $100 million litigations is appropriate for several reasons. First, because of their shear size, these types of lawsuits inevitably operate as a tax on the consuming public. Few defendants actually can afford to pay such judgments with

cash on hand. Instead, the affected industries simply will raise the prices that they charge to their customers.

This is exactly what has happened in the state Medicaid tobacco settlement – according to the leading proponents of that litigation. The first state attorney general to file suit against the tobacco companies has admitted that "what always happens in these cases is the industry passes the costs to the consumer."[1] Other commentators agree that this has occurred in the tobacco litigation. As one law-review article notes, "the [tobacco] settlement * * * is a tax because it's a set of payments made by tobacco companies that depend on how many packs they sell; in short, it looks like a tax and quacks like a tax."[2]

Because of the way that these massive judgments typically are satisfied, it is particularly important to ensure that attorneys are paid in proportion to the services that they provided – rather than solely on the basis of the size of the recovery. Again, the state tobacco settlement highlights the nature of the problem. As two of the leading academic commentators have noted, it is "very troubl[ing]" that under that agreement, "a group of private citizens [are] getting paid a percentage of a tax increase they helped pass."[3] The shear size of the tobacco settlement – and the fact that attorneys fees were based on this size, rather than on the attorneys' actual efforts – has given the fee awards an uncanny resemblance to the medieval practice of tax farming. In all but name, the government has licensed a group of private individuals to collect a tax from the consuming public.

I would emphasize at this point that ISCRAA is not an attack on the state tobacco lawsuits. The bill does not pass judgment on the merits or the appropriateness of this type of litigation. ISCRAA simply is designed to ensure that when such lawsuits are brought on the public's behalf, the public receive its fair share of the proceeds. If a state chooses to seek compensatory revenue from industry for past harms, then the resulting tax on the public – minus the reasonable value of the legal services actually provided – must go to the state treasury.

---

[1]Michael Moore, Attorney General of Mississippi (quoted in *Law Firms Reap $1.4 Billion*, THE SUN HERALD (Biloxi, MS), July 30, 1999, Page A1). *See also* Margaret A. Little, *A Most Dangerous Indiscretion: the Legal, Economic, and Political Legacy of the Governments' Tobacco Litigation*, 33 U. CONN. L. REV. 1143, 1180 (2001) ("We did not take this case for fees, nor did we intend to raise taxes or put the states in partnership with tobacco. There is a danger that this is happening, though, and I'm not sure how to stop it") (quoting Richard Scruggs, Mississippi tobacco plaintiffs lawyer).

[2]Margaret A. Little, *A Most Dangerous Indiscretion: the Legal, Economic, and Political Legacy of the Governments' Tobacco Litigation*, 33 U. CONN. L. REV. 1143, 1180 (2001).

[3]Jeremy Bulow & Paul Klemperer, *The Tobacco Deal*, BROOKINGS PAPERS ON ECONOMIC ACTIVITY, January 1, 1998.

REV_00162942

$100 Million Lawsuits Are Different

There are several reasons why $100 million is an appropriate threshold for applying ISCRAA's fee formula. First, the courts themselves have indicated that fee agreements based primarily on the size of the recovery tend to become unreasonable when judgements reach this size. As one court has stated, "in much smaller cases, a fee award of 33% does not present the danger of providing the plaintiff's counsel with the windfall that would accompany a 'megafund' settlement of $100 million or upwards. But it is quite different when the figures hit the really big time."[4] Or as the Third Circuit notes, "courts have generally decreased the percentage awarded [for attorneys fees] as the amount recovered increases, and $100 million seems to be the informal marker of a 'very large' settlement."[5]

The logic of avoiding judgment-based awards in these very large cases is straightforward. As one court explains, "it is not 150 times more difficult to prepare, try, and settle a $150 million case than it is to try a $1 million case, but the application of a percentage comparable to that in a smaller case may yield an award 150 times greater."[6] Thus (according to another court) "there is considerable merit" to disallowing standard percentage awards as the "size of the [recovery] fund increases. In many instances the increase [in the recovery] is merely a factor of the size of the class and has no direct relationship to the efforts of counsel."[7]

It also bears mention that because of its $100 million threshold, ISCRAA applies to a fairly limited universe of cases. As courts have remarked, "there are few so-called 'megafund' cases with settlements over $100 million."[8] In 2001, the U.S. Court of Appeals for the Third Circuit

---

[4] *In re Synthroid Marketing Litig.*, 110 F.Supp.2d 676, 684 (N.D. Ill. 2000) (*rev'd on other grounds, In the Matter of Synthroid Marketing Litig.*, 264 F.3d 712 (7th Cir. 2001)).

[5] *In re Cendant Corp. PRIDES Litig.*, 243 F.3d 722, 736 n.19 (3d Cir. 2001). *See also* Herbert P. Newberg, NEWBERG ON CLASS ACTIONS, § 14.03 at 190 (1985) ("the fee percentage would be significantly more modest as the common fund recovery begins to reach recoveries approaching or exceeding $100 million").

[6] *In re Synthroid Marketing Litig.*, 201 F.Supp.2d 861 (N.D. Ill. 2002). *See also Goldberger v Integrated Resources, Inc.*, 209 F.3d 43, 52 (2d Cir. 2000) ("Obviously, it is not ten times more difficult to prepare, and try or settle a 10 million dollar case as it is to try a 1 million dollar case").

[7] *In re Unisys Corp. Retiree Medical Benefits ERISA Litig.*, 886 F.Supp 445, 464 (E.D.Pa. 1995).

[8] *In re Synthroid Marketing Litig.*, 201 F.Supp.2d 861, 864 (N.D. Ill. 2002). Initial research reveals that in cases where the fund is between $100 and $200 million, fees typically range from 4%-10%." *See also In re Unisys Corp. Retiree Medical Benefits ERISA*

REV_00162943

attempted to catalogue all common-fund cases in federal court that resulted in recoveries greater than $100 million. Though such litigations have been more frequent in recent years, the Third Circuit identified only 22 such cases since 1985. *See in re Cendant Corp. PRIDES Litig.*, 243 F.3d 722, 737 (3d Cir. 2001).

ISCRAA is somewhat broader than the criteria that *Cendant Corp.* employed to collect cases. ISCRAA is not limited to common-fund cases – it also applies to judgments won on behalf of tax-exempt entities or even single individuals. ISCRAA also applies to cases brought in state court, and it aggregates identical claims that are brought against common defendants in separate actions, in order to prevent evasion of its limits through the subdivision of actions. Nevertheless, ISCRAA's scope remains fairly narrow. An academic specialist who is familiar with developments in this field has reviewed the bill and concluded that because of its "relatively high threshold," ISCRAA probably would apply only to about 15-20 litigations per year. I will include a copy of this professor's letter to me in the congressional record.

Finally, a $100 million threshold also is appropriate because it limits ISCRAA's reach to litigations that are a natural subject of congress's authority to regulate interstate commerce. It is well-established that "Congress' commerce authority includes the power to regulate * * * those [economic] activities that substantially affect interstate commerce." *United States v. Morrison*, 529 U.S. 598, 609 (2000). *See also United States v. Lopez*, 514 U.S. 549 (1995). Both the executive and the legislative branches previously have identified $100 million as guideline for determining whether a matter has a significant impact on interstate commerce. *See, e.g.* Executive Order 12866; Congressional Review Act, 5 U.S.C. § 804(2); Unfunded Mandates Act, 2 U.S.C. § 1532(a). Because it is limited to litigations of this size, ISCRAA is consistent with congress's power and obligation to protect the flow of commerce between states.

Guaranteeing Adequate Incentives to Plaintiffs' Lawyers

Another point that I would like to emphasize today is that ISCRAA is not an anti-plaintiffs' lawyer bill. It is not stingy toward trial attorneys. ISCRAA is carefully designed to protect fiduciary interests while providing plaintiffs' lawyers with ample incentives to provide high-quality legal representation in large litigations. ISCRAA's fee formula is as generous as the limits set by the most liberal state courts that engage in meaningful review of attorneys fees, and is considerably more generous than the federal courts' practices in $100 million cases. Moreover, the multiplier criteria that ISCRAA employs universally are recognized as legitimate prerequisites for a contingency fee – even by trial lawyers' professional associations.

Federal courts primarily rely on two systems for calculating attorneys fees in cases (such as class actions) in which they are required to set "reasonable fees:" the percentage method and the lodestar-multiplier method. The percentage method, as its name implies, calculates fees as a

---

Litig., 886 F.Supp 445, 462 (E.D.Pa. 1995) ("The number of cases involving a common fund in the neighborhood of [$100 million] is relatively small").

REV_00162944

percentage of the total recovery. The lodestar system, by contrast, requires a court to first calculate a fee based on the number of hours that the lawyer worked multiplied by prevailing hourly rates (the "lodestar"). The court then multiplies this lodestar fee again in order to reward the attorney for the risk of nonpayment of fees that he assumed and for any exceptional services that he provided.

Over the last thirty years, courts have moved back and forth between these two systems.[9] Only a few courts make lodestar-multipliers the *exclusive* means of awarding attorneys fees. But as one academic commentator has noted, "lodestar, or hours-based methods, have been adopted in every [federal judicial] circuit."[10]

And more importantly, in large-recovery cases, there has been very little difference between lodestar and percentage systems. This is because even when courts apply a percentage to calculate fees, and as judgements become very large, courts typically also calculate a reasonable lodestar in order to determine what constitutes a reasonable percentage. Thus, again, as the Third Circuit notes, "courts have generally decreased the percentage awarded as the amount recovered increases, and $100 million seems to be the informal marker of a 'very large' settlement."[11]

Courts have been wary of awarding fees based on percentages alone. As one state supreme court explains:

> "to begin the assessment by arbitrarily picking a percentage amount without any reliance on a cognizable structure invites decisions that are nonobjective and inconsistent. What constitutes a reasonable percentage may differ from one judge to another depending on each judge's predilections, background, and geographical location in the state."[12]

Thus "courts that employ the percentage approach appear to be motivated in part by a lodestar dynamic. Because courts are reluctant to give fee awards totally incommensurate with the efforts

---

[9] *See In re Cendant Corp. PRIDES Litig.*, 243 F.3d 722 (3d Cir. 2001).

[10] Janet Cooper Alexander, *Do the Merits Matter? A Study of Settlements in Securities Class Actions*, 43 STANFORD L. REV. 497, 538 n.160 (1991) (citing cases). *See also Goldberger v. Integrated Resources, Inc.*, 209 F.3d 43, 49 (2d Cir. 2000) (noting that in addition to Second Circuit, "six other circuits have reaffirmed that district courts enjoy the discretion to use either the lodestar or the percentage method") (citing cases).

[11] *In re Cendant Corp. PRIDES Litig.*, 243 F.3d 722, 736 n.19 (3d Cir. 2001).

[12] *Kuhnlein v. Dep't of Revenue*, 662 So.2d 309, 313 (Fla. 1995).

REV_00162945

of the attorneys, percentage awards generally decrease as the amount of the recovery increases."[13]

One result of the cross-use of the lodestar and percentage systems is that even when courts use the percentage system, those awards overwhelmingly tend to reflect a reasonable lodestar multiplier. Therefore, even percentage-based cases tend to provide evidence of the range of multipliers that the courts consider to be reasonable.

In 2001, the Third Circuit "set forth a chart of fee awards given in federal courts since 1985 in class actions in which the settlement fund exceeded $100 million and in which the percentage of recovery method was used."[14] (*Cendant Corp.*) The court identified 17 such cases. In almost every case, the Third Circuit could calculate the multiplier that was used, and "the lodestar multiplier in those cases never exceeded 2.99." And in the direct lodestar-multiplier cases that court identified, the multiplier ranged from 1.2 to 3.25.[15]

Other courts, surveying smaller cases than the $100 million recoveries examined in *Cendant Corp.*, have identified larger multipliers. One federal district court has "observe[d] that in virtually every case where the court notes a lodestar but awards fees based upon a percentage, the lodestar multiplier converted from this percentage is in the range of 1 to 4."[16] Another federal district court has found that "the range of lodestar multipliers in large and complicated class actions runs from a low of 2.26 to a high of 4.5."[17]

By contrast, some courts have declared that they would allow only lower multipliers. One federal court has stated that "only in the most exceptional circumstances would this court award a multiplier of 3 or greater. * * * this court believes that lodestars enhanced by multipliers less

---

[13] *In re Unisys Corp. Retiree Medical Benefits ERISA Litig.*, 886 F.Supp 445, 463 (E.D.Pa. 1995). *See also Goldberger v Integrated Resources, Inc.*, 209 F.3d 43, 50 (2d Cir. 2000) ("the lodestar remains useful as a baseline even if the percentage method is chosen. Indeed, we encourage the practice of requiring documentation of hours as a 'cross check' on the reasonableness of the requested percentage").

[14] *In re Cendant Corp. PRIDES Litig.*, 243 F.3d 722, 737 (3d Cir. 2001).

[15] *See id.* at 737 n.22.

[16] *In re Unisys Corp. Retiree Medical Benefits ERISA Litig.*, 886 F.Supp 445, 464 n.36 (E.D.Pa. 1995).

[17] *Behrens v. Wometco Enterprises, Inc.*, 118 F.R.D. 534, 549 (S.D.Fla.1988).

REV_00162946

than 3 should adequately compensate even the most talented counsel."[18] And the Seventh Circuit has suggested that "it may be that a doubling of the lodestar would provide a sensible ceiling."[19]

On the other hand, the Florida Supreme Court – which is generally regarded as one of the more plaintiff-friendly courts in the United States – has announced that:

> "we set the maximum multiplier available in this common-fund category of cases at 5. * * * * [A] multiplier which increases fees to five times the accepted hourly rate is sufficient to alleviate the contingency risk factor involved and attract high level counsel to common fund cases while producing a fee that remains within the bounds of reasonableness. We emphasize that 5 is a maximum multiplier."[20]

ISCRAA adopts this more liberal standard. It allows fees as high as 500% of reasonable hourly rates. ISCRAA awards multipliers based on two criteria: it allows up to 300% to be added onto the amount of reasonable hourly fees if a case that involved a substantial risk of nonrecovery of fees, and allows an additional 100% add-on if the attorney provided exceptional services that improved the plaintiff's recovery.

The criteria that ISCRAA employs universally are recognized as necessary prerequisites to the legitimacy of a contingency fee. "Courts in general have insisted that a contingent fee be truly contingent. The typically elevated fee reflecting the risk to the lawyer of receiving no fee will be permitted only if the representation indeed involves a significant degree of risk." Charles W. Wolfram, MODERN LEGAL ETHICS § 9.4, at 532 (1986). The risk requirement has been recognized ever since contingency fees first were allowed in the United States. The American Bar Association even noted at that time that "a contract for a contingent fee, where sanctioned by law, should be reasonable under all the circumstances of the case, including the risk and uncertainty of the compensation." ABA CANONS OF PROFESSIONAL ETHICS, Canon 13 (1908). Indeed, even the professional associations of plaintiffs' attorneys have, at times, acknowledged that contingent fees should be based on an actual contingency. In a guide to its members, the Association of Trial Lawyers of America has "recommend[ed]" that attorneys "exercise sound judgment in using a percentage in the contingent fee contract that is commensurate with the risk, cost and effort required." ATLA, KEYS TO THE COURTHOUSE: QUICK FACTS ON THE CONTINGENCY FEE SYSTEM 13 (1994).

The criteria that ISCRAA employs are universally accepted – and the limits that it sets should be universally acceptable. ISCRAA is not intended to *alter* the considered standards of any

---

[18] *In re Unisys Corp. Retiree Medical Benefits ERISA Litig.*, 886 F.Supp 445, 482 (E.D.Pa. 1995).

[19] *Skelton v. General Motors Corp.*, 860 F.2d 250, 258 (7th Cir. 1988).

[20] *Kuhnlein v. Dep't of Revenue*, 662 So.2d 309, 315 (Fla. 1995) (emphasis in original).

REV_00162947

jurisdiction. Rather, it is intended to *enforce* those standards – and to correct the occasional extreme outlier. Because ISCRAA incorporates a fee formula that is substantially more liberal than the usual practices of the federal courts in $100 million cases, we can be confident that high-quality legal representation will remain available to plaintiffs in these large litigations. *See, e.g. in re Sumitomo Copper Litig.*, 74 F. Supp. 2d 393 (S.D.N.Y. 1999) (RICO and Commodities Exchange Act case resulting in $116 million recovery; attorneys reviewed millions of pages of documents located throughout the world, many requiring translation from Japanese; federal district court awards multiplier of 250% for total fee of $32 million).

Fiduciary Restraints on Attorney Fee Contracts

Another issue that I will address today is the argument – occasionally raised in opposition to proposals to limit attorneys fees – that such restrictions violate attorneys' rights to freedom of contract.

The first principle to keep in mind when questions of attorneys fees are considered is that "a fiduciary relationship exists as a matter of law between attorney and client."[21] (Illinois Supreme Court.) As one academic commentator has noted:

> "[I]t is uncontroverted today that a lawyer is a fiduciary for, and therefore has a duty to deal fairly with, the client. * * * * Lawyers are fiduciaries because retention of an attorney to exercise 'professional judgement' on the client's behalf necessarily involves reposing trust and confidence in the attorney. Exercising professional judgment requires that the lawyer advance the client's interests as the client would define them if the client were well-informed."[22]

The lawyer's status as fiduciary places limits on his dealings with his client – including with regard to his fee. "An attorney's freedom to contract with a client is subject to the constraints of ethical considerations."[23] (New Jersey Supreme Court.) "In setting fees, lawyers are fiduciaries who owe their clients greater duties than are owed under the general law of contracts."[24] (Massachusetts Appeals Court.) "As a result of lawyers' special role in the legal system,

---

[21]*Gaffney v. Harmon*, 90 N.E.2d 785, 788 (Ill. 1950). *See also* Charles Wolfram, MODERN LEGAL ETHICS § 4.1, at 146 (1986) ("the designation of 'fiduciary,' * * * surely attaches to the [lawyer-client] relationship").

[22]Lester Brickman, "Contingent Fees Without Contingencies: Hamlet Without the Prince of Denmark?," 37 U.C.L.A. L. REV. 29, 45-46 (1989).

[23]*Cohen v. Radio-Electronics Officers Union, Dist. 3*, 679 A.2d 1188, 1195-96 (N.J. 1996).

[24]*Garnick & Scudder, P.C. v. Dolinsky*, 701 N.E.2d 357, 358 (Mass. App. 1998).

REV_00162948

contracts between lawyer and client receive special scrutiny. * * * * While freedom of contract is the guiding principle underlying contract law, contractual freedom is muted in the lawyer-client and lawyer-lawyer contexts."[25] (Joseph M. Perillo, law professor.)

The unique status of attorney fee contracts has led courts to reject analogies between such agreements and other business or service contracts. Perhaps the fullest exposition is provided by the Arizona Supreme Court:

> "We realize that business contracts may be enforced between those in equal bargaining capacities, even though they turn out to be unfair, inequitable or harsh. However, *a fee agreement between lawyer and client is not an ordinary business contract*. The profession has both an obligation of public service and duties to clients which transcend ordinary business relationships and prohibit the lawyer from taking advantage of the client. Thus, in fixing and collecting fees the profession must remember that it is a branch of the administration of justice and not a mere money getting trade.' ABA CANONS OF PROFESSIONAL ETHICS, Canon 12."[26]

The same principle has been identified by the Florida Supreme Court:

> "*There is but little analogy between the elements that control the determination of a lawyer's fee and those which determine the compensation of skilled craftsmen in other fields*. Lawyers are officers of the court. The court is an instrument of society for the administration of justice. Justice should be administered economically, efficiently, and expeditiously. The attorney's fee is, therefore, a very important factor in the administration of justice, and if it is not determined with proper relation to that fact it results in a species of social malpractice that undermines the confidence of the public in the bench and bar. It does more than that. It brings the court into disrepute and destroys its power to perform adequately the function of its creation."[27]

In order to protect the lawyer's public role and to enforce his fiduciary obligations, the courts read a reasonableness requirement into every attorney fee contract. "[T]he requirement that a fee

---

[25]Joesph M. Perillo, *The Law of Lawyers' Contracts is Different*, 67 FORDHAM L. REV. 443, 445 (1998).

[26]*In the Matter of Swartz*, 686 P.2d 1236, 1243 (Ariz. 1984) (emphasis added).

[27]*Kuhnlein v. Department of Revenue*, 662 So.2d 309, 313 (Fla. 1995) (emphasis added). *See also Gruber & Coabella, P.A. v. Erickson*, 784 A.2d 758, 760 (N.J.Sup.Ct. 2001) ("Attorneys have never had the right to enforce contractual provisions for more than a fair and reasonable fee. They are not businessmen entitled to charge what the traffic will bear").

REV_00162949

be reasonable in amount overrides the terms of the contract, so that an 'unreasonable' fee cannot be recovered, even if agreed to by the client." G. Hazard, Jr. & W. Hodes, THE LAW OF LAWYERING 1. 5:205 *Fee Litigation and Arbitration* 120 (1998 Supp.).

As one court has stated,

> "[A]n attorney is only entitled to fees which are fair and just and which adequately compensate him for his services. This is true *no matter what fee is specified in the contract*, because an attorney, as a fiduciary, cannot bind his client to pay a greater compensation for his services than the attorney would have the right to demand if no contract had been made. Therefore, as a matter of public policy, *reasonableness is an implied term* in every contract for attorney's fees."[28]

Finally, when assessing whether a fee is reasonable, courts ask whether the fee is proportional to the services that were actually provided. "Fees must be reasonably proportional to the services rendered and the situation presented."[29] (Arizona Supreme Court.) "If an attorney's fee is grossly disproportionate to the services rendered and is charged to a client who lacks full information about all of the relevant circumstances, the fee is 'clearly excessive' * * * even though the client consented to such fee."[30] (West Virginia Supreme Court.)

Because attorneys are fiduciaries, they simply do not have complete freedom of contract in negotiating their fees. An attorney's dealings with his client always must reflect that the client comes to him in a position of trust – and therefore, the attorney's fee always must be reasonable. ISCRAA will help ensure that this important obligation is respected.

ISCRAA's Effective Date

Another subject that I would like to address today is ISCRAA's effective date. ISCRAA applies to attorney fee payments received after June 1, 2002. This effective date is appropriate under the circumstances of the state tobacco settlement for several reasons: first, Congress routinely enacts major tax legislation with effective dates that look back much further than does ISCRAA. The

---

[28] *Missouri ex rel. Chase Resorts, Inc. v. Campbell*, 913 S.W.2d 832 (Mo. App. 1996) (emphasis added). *See also* G. Hazard, ETHICS IN THE PRACTICE OF LAW 99 (1978) ("A contract for a [legal] fee is, under general principles of law, a contract between a fiduciary and his protected dependent * * * [and] it is unenforceable unless its terms are fair to the client"); *Trinkle v. Leeney*, 650 N.E.2d 749, 754 (Ind.Ct.App.1995) ("Under no circumstances is a lawyer entitled to more than the reasonable value of his or her services. [Moreover,] [r]easonable fees are not necessarily determined by the terms of the attorney-client contract").

[29] *In the Matter of Struthers*, 877 P.2d 789, 796 (Ariz. 1994).

[30] *Committee on Legal Ethics v. Tatterson*, 352 S.E.2d 107, 113 (W. Va. 1986).

REV_00162950

Supreme Court has "repeatedly upheld [such moderately] retroactive tax legislation against a due process challenge." *United States v. Carlton*, 512 U.S. 26, 30-31 (1994); *see id.* at 33 (upholding tax whose "actual retroactive effect * * * extended for a period only slightly greater than one year").

Second, ISCRAA is not even truly retroactive. ISCRAA does not change the *substantive* law governing attorneys fee awards. Rather, it simply enforces established, *pre-existing* fiduciary standards that already bind every attorney in every state. The MODEL RULES OF PROFESSIONAL CONDUCT, at Rule 1.5(a), contain a clear, direct command that "a lawyer's fee shall be reasonable." Similarly, the MODEL CODE OF PROFESSIONAL RESPONSIBILITY, at DR 2-106, directs that an attorney "shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee." The Model Code further explains that an attorneys fee is "clearly excessive when, after a review of the facts, a lawyer of ordinary prudence would be left with a definite and firm conviction that the fee is in excess of a reasonable fee." Finally, as academic commentators point out, in addition to the model rules, "*all state rules of professional conduct* prohibit attorneys from charging excessive fees."[31] (Emphasis added.)

As I described earlier, to enforce fiduciary standards, ISCRAA codifies and applies a very generous version of the fee multiplier system, allowing attorneys fees as high as 500% of reasonable hourly rates. This is considerably more generous than what federal courts typically allow in large-judgment cases. No attorney can be heard to complain that he is subjected to a law that is more generous than his existing fiduciary obligations.

Further, none of the tobacco-settlement attorneys can reasonably maintain that they have a vested right to see their fiduciary duties to the states go unenforced. Nevertheless, in order to be fair to all parties, ISCRAA's excise taxes are applied only to fees that were paid after June 1, 2002. By this date, all of the tobacco lawyers *twice* had received notice from George W. Bush that he intended to enact legislation to enforce their fiduciary obligations. In February 2000, then-candidate Bush promised that he would "extend[] the 'excess benefits' provision of the tax code to private lawyers who contract with states and municipalities," with "the reasonableness of the fees * * * [to] be determined by the standard judicial 'lodestar' method." And as early as February 2001, the current Administration announced that it anticipated providing "additional public health resources for the States from the President's proposal to extend fiduciary responsibilities to the representatives of States in tobacco lawsuits." *See* A BLUEPRINT FOR NEW BEGINNINGS: A RESPONSIBLE BUDGET FOR AMERICA'S PRIORITIES 80, Office of Management and Budget, February 28, 2001.

Under ISCRAA, all of the attorneys who participated in the state tobacco settlement still will be very liberally compensated. Because ISCRAA does not apply to the first three-and-a-half years

---

[31]Vonde M. Smith Hitch, *Ethics and the Reasonableness of Contingency Fees: A Survey of State and Federal Law Addressing the Reasonableness of Costs as They Relate to Contingency Fee Agreements*, 29 LAND & WATER L. REV. 215, 218 n.22 (1994).

REV_00162951

of fee payments under the settlement, it exempts the first two-and-a-half *billion* dollars that these lawyers received. Every one of the tobacco lawyers will have more than enough money left to pay for the yachts, luxury cars, and vacation homes that were purchased with the tobacco proceeds. ISCRAA might simply be described as the one-yacht-per-lawyer rule.

State Recovery of Excess MSA Payments

But most importantly, because ISCRAA applies to the last year's worth of tobacco fee payments, and to all future payments, it will return a substantial amount of funds to the states – money that already should belong to the states under any reasonable interpretation of fiduciary standards. It is critical that these funds be restored in this time of widespread fiscal crisis. Today a large number of the states face massive budget deficits that threaten their ability to provide health care to the indigent, to fully fund public education, and to guarantee adequate and effective law enforcement. When such needs risk going unmet, fee abuses that cost the states billions of dollars simply can no longer be ignored. The states must receive their fair share of the tobacco settlement proceeds – funds that are badly needed to support basic public services.

Under the terms of the November 1998 Master Settlement Agreement (MSA) between the states and tobacco companies, $500 million in cigarette taxes is set aside every year to pay the attorneys who chose to have their fees awarded in arbitration. Because extraordinarily high fees were awarded by the arbitrators – estimated to total $15 billion – the $500-million-a-year income stream (which is not adjusted for inflation) may have to be paid in perpetuity. In addition to this annuity, the MSA also sets aside an additional $1.25 billion in cigarette taxes to compensate those lawyers who choose to forego arbitration and negotiate their fees directly with the tobacco companies.

The present value of the $500-million-a-year fee stream – discounting all future payments for the time value of money – has been conservatively estimated at just over $8 billion. Current and future payments from the $1.25 billion fee fund are less certain, since the grants made from that fund and their disbursement schedule have been kept obscure from the public. Because ISCRAA's effective date is June 1, 2002, ISCRAA will probably recoup for the states an additional $1 billion above the present value of future $500 million-a-year payments. ISCRAA does not affect the first three-and-a-half years of fees paid under the MSA. Because these payments almost certainly are adequate to pay all reasonable fees incurred in the litigation, ISCRAA would restore to the states virtually all fees paid after its effective date. Thus the net present value of the sums that ISCRAA would provide to the states can conservatively be estimated at $9 billion.

By restoring these excess fee payments to the states' MSA escrow account and returning them to the states on a per capita basis, ISCRAA guarantees every state a very substantial recovery. Based on the estimates that I have described, even our nation's smallest state, Wyoming, would recoup at least $15 million in tobacco fee payments, and other small states, such as North Dakota, would receive approximately $20 million. On the other hand, our nation's largest state,

REV_00162952

California, can expect to recoup at least $1 billion. Other large states would also see generous returns: Florida, $511 million; Illinois, $397 million; Michigan, $318 million; New York, $607 million; Ohio, $363 million; and Texas, $667 million.

Here is how much each state can expect to recover:

REV_00162953

United States	*$9 billion*
Alabama	142,220,272
Alaska	20,049,569
Arizona	164,079,935
Arkansas	85,496,543
California	1,083,230,642
Colorado	137,556,275
Connecticut	108,911,511
Delaware	25,059,883
District of Columbia	18,294,706
Florida	511,123,686
Georgia	261,806,474
Hawaii	38,745,502
Idaho	41,381,203
Illinois	397,174,614
Indiana	194,456,664
Iowa	93,585,167
Kansas	85,976,825
Kentucky	129,257,603
Louisiana	142,919,876
Maine	40,772,615
Maryland	169,384,021
Massachusetts	203,046,997
Michigan	317,835,940
Minnesota	157,327,166
Mississippi	90,973,451
Missouri	178,937,382
Montana	28,852,605
Nebraska	54,726,966
Nevada	63,905,164
New Hampshire	39,520,996
New Jersey	269,094,724
New Mexico	58,173,915
New York	606,875,689
North Carolina	257,420,675
North Dakota	20,537,847
Ohio	363,078,559
Oklahoma	110,353,478
Oregon	109,417,889
Pennsylvania	392,753,669
Rhode Island	33,525,716
South Carolina	128,305,961

REV_00162954

South Dakota	24,140,253
Tennessee	181,945,847
Texas	666,850,647
Utah	71,417,756
Vermont	19,470,563
Virginia	226,374,115
Washington	188,496,659
West Virginia	57,831,660
Wisconsin	171,532,756
Wyoming	15,791,372

REV_00162955

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Matthew E. Smith/WHO/EOP@EOP [WHO] <Matthew E. Smith>;Tim Goeglein/WHO /EOP@EOP [WHO] <Tim Goeglein>
Sent: 4/10/2003 6:26:01 PM
Subject: : for wide distribution

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:10-APR-2003 22:26:01.00
SUBJECT:: for wide distribution
TO:Matthew E. Smith (CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Supreme Court Justice Warns on Nominees

By ANNE GEARAN
The Associated Press
Thursday, April 10, 2003; 8:10 PM
CHARLOTTESVILLE, Va. - The increasingly fractious and partisan climate surrounding nominees for federal judgeships may damage the court system, and both political parties are to blame, Supreme Court Justice Anthony M. Kennedy said Thursday.
The Supreme Court cannot tell the Senate how to handle judicial nominations, Kennedy acknowledged during remarks to law students at the University of Virginia.
"But they had better start thinking about the dangers to judicial independence from insisting on nominees that have particular views," Kennedy said.
"They are politically elected and act in a political way," said Kennedy, who was nominated for the high court by President Reagan. But "there should be a recognition that a good judge can be willing to change his mind or change her mind."
Kennedy was asked specifically about the Senate filibuster of one of President Bush's nominees for a seat on a federal appeals court. Democrats are trying to put off a vote on the nominee, lawyer Miguel Estrada, but Kennedy said the real problem is broader.
"What's going on now, there's a lot of fingerpointing, 'Oh, the Democrats are holding this up,'" Kennedy said. "Both parties have been guilty of this, there's some payback going on here, but I think it's time for them to come together."
The bitter partisanship surrounding the failed nomination of Robert Bork to the Supreme Court ultimately led to Kennedy's own easy confirmation as a consensus candidate in 1988. The nomination process became even more fraught in 1991, when Clarence Thomas was accused of sexual harassment during his marathon confirmation hearings. He in turn called the process a "high-tech lynching."
The nomination battles over lower federal judges play out with far less public scrutiny, but many lawyers and politicians see the Estrada impasse as a dress rehearsal for a political fight over any vacancy on the Supreme Court.
None of the current nine justices has announced plans to retire, and Kennedy did not address that possibility Thursday.
Kennedy took questions from students after giving an informal talk about the high court.
Kennedy told the students that the court's oral arguments are the first chance for one justice to hear what a colleague thinks of a particular case.
"We don't talk about the cases beforehand," he said.
Each side gets just 30 minutes to present its case, but that is frequently enough to change justices' minds, Kennedy said. He seemed to recognize the plight of many lawyers who argue before the court, and quickly find

themselves outgunned by rapid-fire questioning from the bench.
"Wen interrupt and sometimes behave rather badly, " Kennedy said. "We're what's called a hot bench in the trade."

From: GaryM Stern <garym.stern@nara.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/11/2003 7:49:39 AM
Subject: : Pending Notices

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:GaryM Stern <garym.stern@nara.gov> (GaryM Stern <garym.stern@nara.gov> [UNKNOWN]
)
CREATION DATE/TIME:11-APR-2003 11:49:39.00
SUBJECT:: Pending Notices
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

** High Priority **

See message from John Laster below. In short, the two pending Reagan notices do include some P5.

The pending Bush notices don't mention P5 because they are still within the 12 year period, and, therefore, we are withholding all P5.

I hope that clarifies your question. Let me know if you need any additional information.

>>> John Laster 4/11/03 11:44:20 AM >>>
Gary:

In response to Brett's question, we did inform him in the letter dated 1/28/03 that NLMS 2002-024 included 73 pages of P5 material. Copies of this material (along with all other material proposed for opening in this notice) were delivered to his office on that day.

Also, we did inform him in the letter dated 11/18/02 that NLMS 2002-046 included 220 pages of P5 material. Copies of this material were delivered to his office that same day.

The rest of the notices that are currently pending at the White House (with the exception of a final privilege call for the 74 pages and 15:38 minutes of videotape for NLMS 2002-023) are Bush Presidential records and are still closed under P2 and/or P5.

Let me know if you need anything else.

John

From: Bartolomucci, H. Christopher
To: <Leitch, David G.>;<Kavanaugh, Brett M.>
Sent: 4/11/2003 9:03:11 AM
Subject: FW: regarding the nomination

The attached article from today's Arkansas Democrat-Gazette says:

<< A spokesman for Pryor said he would still vote to confirm Holmes. "The senator has said, 'hey, I might not agree with everything he says and believes, but I see him as a smart and accomplished lawyer, and that's what he's going on,'" said Roddell Mollineau. >>

---------- Forwarded by H. Christopher Bartolomucci/WHO/EOP on 04/11/2003 09:03 AM ----------

Leon Holmes

04/11/2003 08:54:06 AM

Record Type: Record

To: H. Christopher Bartolomucci/WHO/EOP@EOP

cc:

Subject: FW: regarding the nomination

-----Original Message-----

From: Leon Holmes

Sent: Friday, April 11, 2003 7:06 AM

To: Andrew Emrich

Cc: Leon Holmes

Subject: regarding the nomination

Forwarded article from Arkansas Online ...

Senators delay LR lawyer's judgeship confirmationBY KEVIN FREKING

ARKANSAS DEMOCRAT-GAZETTE

WASHINGTON - The confirmation of Leon Holmes as a United States district judge hit a roadblock Thursday, when a

Republican senator asked that a vote be delayed so that he could study comments Holmes has made on abortion and the role of women in society.

Holmes, a Little Rock lawyer, has been an avowed opponent of abortion, but has told the committee that he would follow the law of the land on abortion issues.

Four Democratic senators on the Senate Judiciary Committee attacked some of Holmes' comments and writings as "extremist."

In particular, senators had trouble with a statement about abortion that a Democratic staff member said Holmes made in December 1980: "Concern for rape victims is a red herring, because conceptions from rape occur with the same frequency as snow in Miami."

Said Sen. Charles Schumer, D-N.Y., "According to the weather almanac we've consulted, it has snowed in Miami exactly once in the last 100 years. According to a study published in the American Journal of Obstetrics and Gynecology, over 32,000 women a year become pregnant as a result of rape or incest.

"These 32,000 women a year aren't a myth. They aren't, to use Mr. Holmes' words, a red herring. They are real women, in real pain, making traumatic decisions about whether to give birth to their tormentors' children."

Sens. Diane Feinstein, D-Calif., and Richard Durbin, D-Ill., also cited comments they attributed to Holmes in his legal writings and commentary, which had been reviewed by Judiciary Committee staff members.

After the three Democratic senators had voiced their opposition to Holmes, Sen. Arlen Specter, R-Pa., said he was unaware that any controversial nominations were up for a vote Thursday and asked that more time be allowed to study Holmes' record. The committee chairman, Sen. Orrin Hatch, R-Utah, granted that request.

President Bush nominated Holmes as district judge for the Eastern District of Arkansas on the 2002 recommendation of Republican Sen. Tim Hutchinson, who lost his re-election bid to Democrat Mark Pryor.

Both Pryor and Arkansas' senior senator, Democrat Blanche Lincoln, have strongly supported Holmes, as have members of the Arkansas legal profession, including some who support abortion rights.

But Lincoln said Thursday that she needed to take a second look at the nomination. "Of course I was not aware of these public remarks at the time I met with Leon Holmes and agreed to support him," Lincoln said in a statement. "I have asked him to address them personally with me, and I will have a further statement at that time."

A spokesman for Pryor said he would still vote to confirm Holmes.

"The senator has said, 'hey, I might not agree with everything he says and believes, but I see him as a smart and accomplished lawyer, and that's what he's going on,'" said Roddell Mollineau.

Holmes said he could not comment on the day's events. He referred a reporter to a Justice Department spokesman who could not be reached late Thursday.

District Court nominations are rarely controversial. Senators usually give much more scrutiny to nominees to U.S. Courts of Appeal and the Supreme Court. It appeared that would be the case with Holmes nomination, too, because he had such strong backing from both Arkansas senators. But Thursday's events clearly has altered that momentum, a few Democratic staff members said.

Durbin, in particular, raised a concern about a comment that Holmes made in the April 12, 1997, issue of Arkansas Catholic.

In an article written with his wife, Susan, Holmes advanced the positions that "the wife is to subordinate herself to her husband" and "the woman is to place herself under the authority of the man."

Durbin said Holmes would have to adjudicate cases involving sexual discrimination, and that the committee needs to consider whether he comes to the job with a biased perspective.

Republican staff members countered the criticism by releasing several letters from members of the Arkansas legal profession who said they endorsed Holmes' confirmation, regardless of whether he agreed with them on the issue of abortion.

"I heartily recommend Mr. Holmes to you," wrote Cathleen Compton of the Little Rock law firm of Dudley & Compton. "While he and I differ dramatically on the pro-choice, pro-life issue, I am fully confident he will do his duty as the law and facts of a given case require."

This story was published Friday, April 11, 2003

From: CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;David G. Leitch/WHO /EOP@Exchange@EOP [WHO] <David G. Leitch>
Sent: 4/11/2003 5:06:35 AM
Subject: : FW: regarding the nomination

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:11-APR-2003 09:06:35.00
SUBJECT:: FW: regarding the nomination
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

The attached article from today's Arkansas Democrat-Gazette says:

<< A spokesman for Pryor said he would still vote to confirm Holmes. "The senator has said, 'hey, I might not agree with everything he says and believes, but I see him as a smart and accomplished lawyer, and that's what he's going on,'" said Roddell Mollineau. >>

---------- Forwarded by H. Christopher Bartolomucci/WHO/EOP on 04/11/2003 09:03 AM ----------

Leon Holmes <LHolmes@qgtb.com>
04/11/2003 08:54:06 AM
Record Type: Record

To: H. Christopher Bartolomucci/WHO/EOP@EOP
cc:
Subject: FW: regarding the nomination

-----Original Message-----
From: Leon Holmes
Sent: Friday, April 11, 2003 7:06 AM
To: Andrew Emrich
Cc: Leon Holmes
Subject: regarding the nomination

Forwarded article from Arkansas Online ...

Senators delay LR lawyer's judgeship confirmationBY KEVIN FREKING
ARKANSAS DEMOCRAT-GAZETTE

WASHINGTON - The confirmation of Leon Holmes as a United States district judge hit a roadblock Thursday, when a Republican senator asked that a vote be delayed so that he could study comments Holmes has made on abortion and the role of women in society.
Holmes, a Little Rock lawyer, has been an avowed opponent of abortion, but has told the committee that he would follow the law of the land on abortion issues.
Four Democratic senators on the Senate Judiciary Committee attacked some of Holmes' comments and writings as "extremist."
In particular, senators had trouble with a statement about abortion that a Democratic staff member said Holmes made in December 1980: "Concern

for rape victims is a red herring, because conceptions from rape occur with the same frequency as snow in Miami."
Said Sen. Charles Schumer, D-N.Y., "According to the weather almanac we've consulted, it has snowed in Miami exactly once in the last 100 years. According to a study published in the American Journal of Obstetrics and Gynecology, over 32,000 women a year become pregnant as a result of rape or incest.
"These 32,000 women a year aren't a myth. They aren't, to use Mr. Holmes' words, a red herring. They are real women, in real pain, making traumatic decisions about whether to give birth to their tormentors' children."
Sens. Diane Feinstein, D-Calif., and Richard Durbin, D-Ill., also cited comments they attributed to Holmes in his legal writings and commentary, which had been reviewed by Judiciary Committee staff members.
After the three Democratic senators had voiced their opposition to Holmes, Sen. Arlen Specter, R-Pa., said he was unaware that any controversial nominations were up for a vote Thursday and asked that more time be allowed to study Holmes' record. The committee chairman, Sen. Orrin Hatch, R-Utah, granted that request.
President Bush nominated Holmes as district judge for the Eastern District of Arkansas on the 2002 recommendation of Republican Sen. Tim Hutchinson, who lost his re-election bid to Democrat Mark Pryor.
Both Pryor and Arkansas' senior senator, Democrat Blanche Lincoln, have strongly supported Holmes, as have members of the Arkansas legal profession, including some who support abortion rights.
But Lincoln said Thursday that she needed to take a second look at the nomination. "Of course I was not aware of these public remarks at the time I met with Leon Holmes and agreed to support him," Lincoln said in a statement. "I have asked him to address them personally with me, and I will have a further statement at that time."
A spokesman for Pryor said he would still vote to confirm Holmes.
"The senator has said, 'hey, I might not agree with everything he says and believes, but I see him as a smart and accomplished lawyer, and that's what he's going on,'" said Roddell Mollineau.
Holmes said he could not comment on the day's events. He referred a reporter to a Justice Department spokesman who could not be reached late Thursday.
District Court nominations are rarely controversial. Senators usually give much more scrutiny to nominees to U.S. Courts of Appeal and the Supreme Court. It appeared that would be the case with Holmes nomination, too, because he had such strong backing from both Arkansas senators. But Thursday's events clearly has altered that momentum, a few Democratic staff members said.
Durbin, in particular, raised a concern about a comment that Holmes made in the April 12, 1997, issue of Arkansas Catholic.
In an article written with his wife, Susan, Holmes advanced the positions that "the wife is to subordinate herself to her husband" and "the woman is to place herself under the authority of the man."
Durbin said Holmes would have to adjudicate cases involving sexual discrimination, and that the committee needs to consider whether he comes to the job with a biased perspective.
Republican staff members countered the criticism by releasing several letters from members of the Arkansas legal profession who said they endorsed Holmes' confirmation, regardless of whether he agreed with them on the issue of abortion.
"I heartily recommend Mr. Holmes to you," wrote Cathleen Compton of the Little Rock law firm of Dudley & Compton. "While he and I differ dramatically on the pro-choice, pro-life issue, I am fully confident he will do his duty as the law and facts of a given case require."

This story was published Friday, April 11, 2003

From: Kavanaugh, Brett M.
To: <Grubbs, Wendy J.>
Sent: 4/11/2003 9:07:33 AM
Subject: FW: regarding the nomination

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 04/11/2003 09:07 AM ----------

H. Christopher Bartolomucci

04/11/2003 09:06:17 AM

Record Type: Record

To: David G. Leitch/WHO/EOP@Exchange@EOP, Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: FW: regarding the nomination

The attached article from today's Arkansas Democrat-Gazette says:

<< A spokesman for Pryor said he would still vote to confirm Holmes. "The senator has said, 'hey, I might not agree with everything he says and believes, but I see him as a smart and accomplished lawyer, and that's what he's going on,'" said Roddell Mollineau. >>

---------- Forwarded by H. Christopher Bartolomucci/WHO/EOP on 04/11/2003 09:03 AM ----------

Leon Holmes

04/11/2003 08:54:06 AM

Record Type: Record

To: H. Christopher Bartolomucci/WHO/EOP@EOP

cc:

Subject: FW: regarding the nomination

-----Original Message-----

From: Leon Holmes

Sent: Friday, April 11, 2003 7:06 AM

To: Andrew Emrich

Cc: Leon Holmes

Subject: regarding the nomination

Forwarded article from Arkansas Online ...

Senators delay LR lawyer's judgeship confirmationBY KEVIN FREKING

ARKANSAS DEMOCRAT-GAZETTE

WASHINGTON - The confirmation of Leon Holmes as a United States district judge hit a roadblock Thursday, when a Republican senator asked that a vote be delayed so that he could study comments Holmes has made on abortion and the role of women in society.

Holmes, a Little Rock lawyer, has been an avowed opponent of abortion, but has told the committee that he would follow the law of the land on abortion issues.

Four Democratic senators on the Senate Judiciary Committee attacked some of Holmes' comments and writings as "extremist."

In particular, senators had trouble with a statement about abortion that a Democratic staff member said Holmes made in December 1980: "Concern for rape victims is a red herring, because conceptions from rape occur with the same frequency as snow in Miami."

Said Sen. Charles Schumer, D-N.Y., "According to the weather almanac we've consulted, it has snowed in Miami exactly once in the last 100 years. According to a study published in the American Journal of Obstetrics and Gynecology, over 32,000 women a year become pregnant as a result of rape or incest.

"These 32,000 women a year aren't a myth. They aren't, to use Mr. Holmes' words, a red herring. They are real women, in real pain, making traumatic decisions about whether to give birth to their tormentors' children."

Sens. Diane Feinstein, D-Calif., and Richard Durbin, D-Ill., also cited comments they attributed to Holmes in his legal writings and commentary, which had been reviewed by Judiciary Committee staff members.

After the three Democratic senators had voiced their opposition to Holmes, Sen. Arlen Specter, R-Pa., said he was unaware that any controversial nominations were up for a vote Thursday and asked that more time be allowed to study Holmes' record. The committee chairman, Sen. Orrin Hatch, R-Utah, granted that request.

President Bush nominated Holmes as district judge for the Eastern District of Arkansas on the 2002 recommendation of Republican Sen. Tim Hutchinson, who lost his re-election bid to Democrat Mark Pryor.

Both Pryor and Arkansas' senior senator, Democrat Blanche Lincoln, have strongly supported Holmes, as have members of the Arkansas legal profession, including some who support abortion rights.

But Lincoln said Thursday that she needed to take a second look at the nomination. "Of course I was not aware of these public remarks at the time I met with Leon Holmes and agreed to support him," Lincoln said in a statement. "I have asked him to address them personally with me, and I will have a further statement at that time."

A spokesman for Pryor said he would still vote to confirm Holmes.

"The senator has said, 'hey, I might not agree with everything he says and believes, but I see him as a smart and accomplished lawyer, and that's what he's going on,'" said Roddell Mollineau.

Holmes said he could not comment on the day's events. He referred a reporter to a Justice Department spokesman who

could not be reached late Thursday.

District Court nominations are rarely controversial. Senators usually give much more scrutiny to nominees to U.S. Courts of Appeal and the Supreme Court. It appeared that would be the case with Holmes nomination, too, because he had such strong backing from both Arkansas senators. But Thursday's events clearly has altered that momentum, a few Democratic staff members said.

Durbin, in particular, raised a concern about a comment that Holmes made in the April 12, 1997, issue of Arkansas Catholic.

In an article written with his wife, Susan, Holmes advanced the positions that "the wife is to subordinate herself to her husband" and "the woman is to place herself under the authority of the man."

Durbin said Holmes would have to adjudicate cases involving sexual discrimination, and that the committee needs to consider whether he comes to the job with a biased perspective.

Republican staff members countered the criticism by releasing several letters from members of the Arkansas legal profession who said they endorsed Holmes' confirmation, regardless of whether he agreed with them on the issue of abortion.

"I heartily recommend Mr. Holmes to you," wrote Cathleen Compton of the Little Rock law firm of Dudley & Compton. "While he and I differ dramatically on the pro-choice, pro-life issue, I am fully confident he will do his duty as the law and facts of a given case require."

This story was published Friday, April 11, 2003

From: Bumatay, Patrick J.
To: <Kavanaugh, Brett M.>
Sent: 4/11/2003 10:53:26 AM
Subject: FW: LRM OGG29 - - TREASURY Draft Bill on Federal Deposit Insurance Reform
Attachments: treas0015abill.doc

-----Original Message-----

From: Gonzalez, Oscar

Sent: Friday, April 11, 2003 10:49 AM

To: Smythe, Augustine T.; Trinh, Catherine V.; McMillin, Stephen S.; Roberson, Halley M.; Rhinesmith, Alan B.; Schwartz, Mark J.; Grippando, Hester C.; Schwartz, Kenneth L.; Lyon, Randolph M.; Reaud, Beatrice A.; Hunt, Alexander T.; Hill, Jefferson B.; Lee, Sarah S.; Perry, Philip J.; Wood, John F.; Luczynski, Kimberley S.; Rettman, Rosalyn J.; Rossman, Elizabeth L.; Lobrano, Lauren C.; Call, Amy L.; Dove, Stephen W.; Kirk, Matthew ; Marsh, Robert ; Foster, James D.; Rodriguez, Justine F.; Whgc Lrm; Ovp Lrm; Nec Lrm; Warsh, Kevin; Cea Lrm; Kroszner, Randall S.; Silverberg, Kristen; Kaplan, Joel; Jukes, James J.; Green, Richard E.

Subject: LRM OGG29 - - TREASURY Draft Bill on Federal Deposit Insurance Reform

We are seeking your review of a draft bill on Federal deposit insurance reform. A transmittal letter will be circulated for clearance shortly that would be signed by Treasury, the Federal Reserve, FDIC, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision. According to Treasury, although the attached language is intended as technical drafting assistance for the Senate Banking Committee, their plan is that the letter will specifically endorse legislative action on this language. Also, please note that Treasury has not provided a sectional analysis of the bill. **Please provide comments by no later than 12:00 P.M. Monday, April 14th.**

LRM ID: OGG29

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Friday, April 11, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: Oscar Gonzalez
PHONE: (202)395-3923 FAX: (202)395-3109
SUBJECT: **TREASURY Draft Bill on Federal Deposit Insurance Reform**

DEADLINE: **12:00 P.M. Monday, April 14, 2003**
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: We are seeking your review of a draft bill on Federal deposit insurance reform. A transmittal letter will be circulated for clearance shortly that would be signed by Treasury, the Federal Reserve, FDIC, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision. According to Treasury, although the attached language is intended as technical drafting assistance for the Senate Banking Committee, their plan is that the letter will specifically endorse legislative action on this language. Also, please note that Treasury has not provided a sectional analysis of the bill. **Please provide comments by no later than 12:00 P.M. Monday, April 14th.**

DISTRIBUTION LIST

AGENCIES:
061-JUSTICE - Jamie E. Brown - (202) 514-2141
025-COMMERCE - Michael A. Levitt - (202) 482-3151

EOP:
Augustine T. Smythe
Catherine V. Trinh
Stephen S. McMillin
Halley M. Roberson
Alan B. Rhinesmith
Mark J. Schwartz
Hester C. Grippando
Kenneth L. Schwartz
Randolph M. Lyon
Beatrice A. Reaud
Alexander T. Hunt
Jefferson B. Hill
Sarah S. Lee
Philip J. Perry
John F. Wood
Kimberley S. Luczynski
Rosalyn J. Rettman
Elizabeth L. Rossman
Lauren C. Lobrano
Amy L. Call
Stephen W. Dove
Matthew Kirk
Robert Marsh
James D. Foster
Justine F. Rodriguez
WHGC LRM
OVP LRM
NEC LRM
Kevin Warsh
CEA LRM
Randall S. Kroszner
Kristen Silverberg
Joel D. Kaplan
James J. Jukes
Richard E. Green**LRM ID:** OGG29 **SUBJECT:** TREASURY Draft Bill on Federal Deposit Insurance Reform

RESPONSE TO

LEGISLATIVE REFERRAL

MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) faxing us a memo or letter.

Please include the LRM number and subject shown above.

TO: Oscar Gonzalez Phone: 395-3923 Fax: 395-3109

Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

- treas0015abill.doc <>

DRAFT 4-04-03

A BILL

To reform the federal deposit insurance system and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as "The Federal Deposit Insurance Reform Act of 2003".

SEC. 2 MERGER OF DEPOSIT INSURANCE FUNDS

(a) IN GENERAL-

(1) ESTABLISHMENT OF DEPOSIT INSURANCE FUND – There is established a fund to be known as the Deposit Insurance Fund.

(2) MERGER – The Bank Insurance Fund and the Savings Association Insurance Fund shall be merged into the Deposit Insurance Fund.

(3) DISPOSITION OF ASSETS AND LIABILITIES – All assets and liabilities of the Bank Insurance Fund and the Savings Association Insurance Fund shall be transferred to the Deposit Insurance Fund.

(4) NO SEPARATE EXISTENCE – The separate existence of the Bank Insurance Fund and the Savings Association Insurance Fund shall cease.

(b) REPEAL OF OUTDATED MERGER PROVISION – Section 2704 of P.L. 104-208 (the Deposit Insurance Funds Act of 1996) (12 U.S.C. 1821 note) is repealed.

(c) EFFECTIVE DATE- This section shall be effective on the first day of the first calendar quarter that begins after the end of the 90-day period beginning on the date of enactment of this Act.

SEC. 3 ASSESSMENTS; DESIGNATED RESERVE RATIO

(a) Section 7(b)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)) is amended as follows:

(1) By striking clause (i) and inserting the following:

"

(i) IN GENERAL.

(I) SENSE OF CONGRESS - It is the sense of the Congress that the Corporation should assess each insured depository institution for the benefits of federal deposit insurance;

(II) ASSESSMENTS - After considering the factors in clause (ii), the Board of Directors shall set assessments

for insured depository institutions in accordance with this section. "

(2) By striking clause (iii) "LIMITATION ON ASSESSMENT".

(3) By redesignating existing clause (iv) as clause (iii) and amending it as follows:

"(iii) DESIGNATED RESERVE RATIO DEFINED- (I) IN GENERAL-- The designated reserve ratio of the Deposit Insurance Fund for each year shall be-

(aa) 1.25 percent of estimated insured deposits; or
(bb) a percentage between 1.15 percent and 1.50 percent of estimated insured deposits, as the Board of Directors determines is justified for that year, taking into account the factors in subclause (II).
(II) FACTORS - In establishing the designated reserve ratio under subclause (I), the Board of Directors shall take into account -

(aa) the risk of losses to the Deposit Insurance Fund during that year and future years;
(bb)economic conditions generally affecting or likely to affect insured depository institutions with the goal of allowing the designated reserve ratio to increase under more favorable economic conditions and to decrease under less favorable economic conditions;
(cc) the desirability of avoiding sharp swings in the assessment rates of insured depository institutions; and
(dd) other factors that the Board of Directors deems appropriate."

(4) By adding the following new clause (iv) and striking existing clause (v):

"(iv) NOTICE AND COMMENT- The Board may determine the designated reserve ratio pursuant to clause (iii)(I)(bb) of this subparagraph only by regulation after notice and public comment and no more than once annually."

(c) EFFECTIVE DATE – The amendments made by this section shall take effect on the date that the final regulations required under section 6 of this Act become effective.

SEC. 4 RAISING THE RESERVE RATIO TO THE DESIGNATED RESERVE RATIO

(a) Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended as follows:

(1) By striking existing subparagraph (B) and redesignating existing subparagraph (C) as subparagraph (B).

(2) By redesignating subparagraph (E) as subparagraph (C) and amending it as follows:

" (C) MINIMUM ASSESSMENTS - The Corporation shall design the risk-based assessment system for the Deposit Insurance Fund so that, if the Corporation has borrowings outstanding on behalf of the Fund under section 14(a) or (b) of the Federal Deposit Insurance Act (12 U.S.C. § 1824(a) and (b)), or if the Board of Directors is required to set assessment rates pursuant to paragraph (3)(A)(ii) of this subsection, the minimum assessment rate in the risk-based assessment system, after application of any assessment credits provided under section 7(e)(2), shall be no less than 5 basis points for each insured depository institution."

(3) By striking subparagraphs (F) and (G) and redesignating existing subparagraph (H) as subparagraph (E).

(b) Section 7(b)(3)(A)-(C) of the Federal Deposit Insurance Act (12 U.S.C. § 1817(b)(3)(A)-(C)) is amended to read as follows:

"(3) SPECIAL RULE FOR RECAPITALIZING UNDERCAPITALIZED FUND

(A) IN GENERAL – If the reserve ratio of the deposit insurance fund is less than the lower bound of the range for the designated reserve ratio under paragraph (2)(A)(iii)(I)(bb), the Board of Directors shall set assessment rates -

(i) that are sufficient to increase the reserve ratio for the Fund to the lower bound of the range for the designated reserve ratio not later than 1 year after such rates are set; or

(ii) in accordance with a recapitalization schedule promulgated by the Corporation under subparagraph (B).

(B) RECAPITALIZATION SCHEDULES. For purposes of subparagraph (A)(ii), the Corporation shall, by regulation, promulgate and implement a schedule that specifies, at semiannual intervals, target reserve ratios for the Fund, culminating in a reserve ratio equal to the lower bound of the range for the designated reserve ratio not later than 6 years after the date on which the recapitalization schedule is implemented."

(c) EFFECTIVE DATE – The amendments made by this section shall take effect on the date that the final regulations required under section 6 of this Act become effective.

REV_00162999

SEC. 5 ASSESSMENT CREDITS AND CASH REBATES

(a) Section 7(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. § 1817(e)(2)) is amended to read as follows:

"(2) ASSESSMENT CREDITS

(A) IN GENERAL - The Corporation shall establish, by regulation, criteria and procedures for providing insured depository institutions with the credits described in subparagraphs (B) and (C) to offset the institution's deposit insurance assessments that become due for assessment periods after the effective date of regulations implementing assessments pursuant to this Act.

(B) TRANSITION CREDITS –

(i) DETERMINATION OF TRANSITION CREDIT FOR ELIGIBLE INSTITUTIONS - The Board of Directors shall determine the amount of transition credit to be provided to each eligible institution based on the assessment base of the institution as of December 31, 1996, as compared to the combined aggregate assessment base of all eligible institutions as of that date, as well as other factors that the Board may determine to be appropriate.

(ii) AGGREGATE AMOUNT - The aggregate amount of transition credits available to all eligible institutions under this subparagraph (B) shall be equal to 9 basis points of the combined assessment base of the Bank Insurance Fund and the Savings Association Insurance Fund as of December 31, 2002.

(iii) ELIGIBLE INSTITUTION DEFINED – For purposes of this subparagraph, an eligible institution is an insured depository institution that (I) was in existence on December 31, 1996 and paid a federal deposit insurance assessment prior to that date; or (II) is a successor to any insured depository institution described in subclause (I).

(C) (i) ADDITIONAL CREDITS – In addition to the transition credits authorized by subparagraph (B), if as of the most recent quarter for which information is available at such time that assessments are set for each assessment period, the reserve ratio exceeds the greater of the designated reserve ratio or 1.25 percent of reserves to estimated insured deposits, the Board of Directors may provide credits to insured depository institutions for assessment periods beginning on, or after, the first assessment period to which a transition credit under subparagraph (B) applies. In establishing any additional credit for each institution and the aggregate amount of such credit, the Board of Directors shall take into account:

(I) the factors under subsection (b)(2) for setting assessments and for setting the designated reserve ratio;

(II) the ratio of the assessment base of each insured depository institution (including any predecessor) as of December 31, 1996 to

the assessment base of all insured depository institutions as of that date;

(III) previous assessments levied with respect to an insured depository institution (including any predecessor) to the Deposit Insurance Fund (and any predecessor deposit insurance fund) on or after January 1, 1997;

(IV) that portion of assessments levied with respect to an insured depository institution (including any predecessor) that reflects higher levels of risk assumed by such institution; and

(V) such other factors as the Board may determine to be appropriate.

(ii) CASH REBATES IN LIEU OF ASSESSMENT CREDITS-- The Corporation may, in its sole discretion, elect to provide cash rebates in lieu of all or part of any assessment credits that would otherwise have been provided under this subparagraph, but only if the reserve ratio of the Deposit Insurance Fund exceeds the upper bound of the range for the designated reserve ratio under subsection (b)(2)(A)(iii)(I)(bb) and would remain above the upper bound after any such cash rebate.

(D) APPLICATION OF CREDIT –For credits authorized under subparagraphs (B) or (C),

(i) the Board of Directors may suspend or limit the use of such credits if, as of the most recent quarter for which information is available at such time that assessments are set for each assessment period, the reserve ratio of the Deposit Insurance Fund is below the lower bound of the range for the designated reserve ratio under subsection (b)(2)(A)(iii)(I)(bb); and

(ii) the amount of any credit that may be applied in an assessment period against the assessment on an insured depository institution that –

(I) exhibits financial, operational, or compliance weaknesses ranging from moderately severe to unsatisfactory, or

(II) is not adequately capitalized (as defined in section 38),

as of the date the risk-based assessment classification is made pursuant to the Corporation's regulations implementing the risk-based assessment system under subsection (b), may not exceed the amount calculated by applying to that depository institution the average assessment rate on all insured depository institutions for such assessment period.

(E) CHALLENGES TO CREDIT AMOUNTS – The regulations required by subparagraph (A) shall include procedures allowing an insured depository institution a reasonable opportunity to challenge administratively the amount of its credit or cash rebate under this paragraph. The Corporation's determination of the amount of any credit or

cash rebate following any such challenge shall be final and not subject to judicial review."

(b) EFFECTIVE DATE – The amendments made by this section shall take effect on the date that the final regulations required under section 6 of this Act become effective.

SEC. 6. REGULATIONS REQUIRED

(a) IN GENERAL.-Not later than 270 days after the date of enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation shall prescribe final regulations, after notice and opportunity for comment, to implement sections 3, 4, and 5 of this Act and the amendments made by these sections.

(b) RULE OF CONSTRUCTION.-No provision of this Act or any amendment made by this Act shall be construed as affecting the authority of the Corporation to set or collect deposit insurance assessments before the effective date of the final regulations prescribed under subsection (a).

SEC. 7 ASSESSMENT BASE STUDY

ASSESSMENT BASE STUDY AND REPORT- Within one year of the date of enactment of this Act, the Corporation shall complete a study of the Deposit Insurance Fund assessment base and shall report to Congress.

(a) STUDY - In conducting the assessment base study, the Federal Deposit Insurance Corporation shall

(1) consult with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System, and

(2) take into account, among other factors, the risks posed to the Deposit Insurance Fund by the composition of insured depository institution liabilities.

(b) REPORT – The Corporation's report to Congress shall include recommendations for any changes in the assessment base and the Corporation's plans for implementing such changes.

SEC. 8 ASSESSMENTS-RELATED RECORDS RETENTION AND STATUTE OF LIMITATIONS.

(a) Records Retention. –

Paragraph (5) of section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended to read as follows:

"(5) Records to be maintained by insured depository institution. – Each insured depository institution shall maintain all records that the Corporation may require for verifying the correctness of the institution's assessments until the later of–

(A) 3 years from the due date of each assessment payment; or
(B) the date of the final determination of any dispute between the insured depository institution and the Corporation over the amount of any assessment.".

(b) Statute of Limitations for Assessment Actions. –

Subsection (g) of section 7 (12 U.S.C. 1817)) is amended to read as follows:

"(g) Statute of Limitations for Assessment Actions. – Notwithstanding any other provision in Federal law, or the law of any State:

(1) Any action by an insured depository institution to recover from the Corporation the overpaid amount of any assessment shall be brought within 3 years from the date the assessment payment was due.

(2) Any action by the Corporation to recover from an insured depository institution the underpaid amount of any assessment shall be brought within 3 years from the date the assessment payment was due, subject only to the exception in paragraph (3).

(3) If an insured depository institution has made a false or fraudulent statement with intent to evade any or all of its assessment, the Corporation shall have 3 years from the date of discovery of the false or fraudulent statement in which to bring an action to recover the underpaid amount.

(4) The limitations periods set forth in this subsection may be tolled to allow for administrative review by the Corporation of any assessment claim, pursuant to regulations prescribed by the Corporation establishing procedures for resolving such claims.

(5) Assessment and deposit information contained in records no longer required to be maintained pursuant to subsection (b)(5) shall be considered conclusive and not subject to change.

(6) This section shall not apply to the underpaid or overpaid amount of any assessment if payment of that assessment became due before the effective date of this subsection.".

SEC. 9. LATE PAYMENT FEES FOR FAILURE TO PAY ASSESSMENTS.

Subsection (h) of section 18 of the Federal Deposit Insurance Act (12 U.S.C. § 1828) is amended to read as follows:

"(h) Late Payment Fees. – Any insured depository institution which fails or refuses to pay any assessment shall be subject to a late payment fee of 1 percent of the required assessment for each day the violation continues after the payment was due. The Corporation may, in its sole discretion, waive all or part of any late payment fee upon a finding that good cause prevented the timely payment of the assessment. This subsection shall not be applicable under the circumstances stated in the proviso of subsection (b).".

SEC. 10. EMPLOYEE BENEFIT PLANS.

Section 11(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)) is amended by striking subparagraph (D) and inserting the following:

"(D) COVERAGE FOR CERTAIN EMPLOYEE BENEFIT PLAN DEPOSITS. –

(i) PROHIBITION ON ACCEPTANCE OF BENEFIT PLAN DEPOSITS. -- An insured depository institution may accept employee benefit plan deposits only if the institution is:
(I) well capitalized, or
(II) adequately capitalized and has received a waiver under section 29(c).

(ii) PASS-THROUGH INSURANCE. -- Notwithstanding the requirements of clause (i), the Corporation shall provide pass-through deposit insurance for the deposits of any employee benefit plan.

(iii) DEFINITIONS. -- For purposes of this subparagraph, the following definitions shall apply:

(I) CAPITAL STANDARDS- The terms `well capitalized' and `adequately capitalized' have the same meanings as in section 38.

(II) EMPLOYEE BENEFIT PLAN- The term `employee benefit plan' has the same meaning as in paragraph (8)(B)(ii), and includes any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

(III) PASS-THROUGH DEPOSIT INSURANCE. -- The term `pass-through deposit insurance' means, with respect to an employee benefit plan, deposit insurance coverage provided on a pro rata basis to the participants in, or beneficiaries of, the plan in accordance with the interest of each participant or beneficiary.".

SEC. 11– TECHNICAL AND CONFORMING AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT RELATING TO THE MERGER OF THE DEPOSIT INSURANCE FUNDS.

(a) IN GENERAL- The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 3 (12 U.S.C. 1813)—

(A) in subsection (a)(1),
(i) by striking " 'bank'---(A) means" and inserting "'bank' means";
(ii) by striking "insured branch;" and inserting "insured branch." and
(iii) by striking subparagraph (B); and

(B) by revising subsection (y) as follows:

"The term "deposit insurance fund" means the Deposit Insurance Fund established under section 11(a)(4).";

(2) in section 5(b)(5) (12 U.S.C. 1815(b)(5)), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund," and inserting "the Deposit Insurance Fund,";

(3) in section 5(c)(4), by striking "deposit insurance fund" and inserting "Deposit Insurance Fund";

(4) in section 5(d) (12 U.S.C. 1815(d)), by striking paragraphs (2) and (3);

(5) in section 5(d)(1) (12 U.S.C. 1815(d)(1))—

(A) in subparagraph (A), by striking "reserve ratios in the Bank Insurance Fund and the Savings Association Insurance Fund as required by section 7" and inserting "the reserve ratio of the Deposit Insurance Fund";

(B) by striking subparagraph (B) and inserting the following:

"(2) FEE CREDITED TO THE DEPOSIT INSURANCE FUND- The fee paid by the depository institution under paragraph (1) shall be credited to the Deposit Insurance Fund.";

(C) by striking "(1) UNINSURED INSTITUTIONS- "; and

(D) by redesignating subparagraphs (A) and (C) as paragraphs (1) and (3), respectively, and moving the left margins 2 ems to the left;

(6) in section 5(e) (12 U.S.C. 1815(e))—

(A) in paragraph (5)(A), by striking "Bank Insurance Fund or the Savings Association Insurance Fund' and inserting `Deposit Insurance Fund";

(B) by striking paragraph (6); and

(C) by redesignating paragraphs (7), (8), and (9) as paragraphs (6), (7), and (8), respectively;

(7) in section 6(5) (12 U.S.C. 1816(5)), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(8) in section 7(b) (12 U.S.C. 1817(b))—

(A) in paragraph (1)(C), by striking "deposit insurance fund" each place that term appears and inserting "Deposit Insurance Fund";

(B) in paragraph (1)(D), by striking "each deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

(C) in paragraph (6)—

(i) by striking "any such assessment" and inserting "any such assessment is necessary";
(ii) by striking subparagraph (B);
(iii) in subparagraph (A)—
(I) by striking "(A) is necessary—";
(II) by striking "Bank Insurance Fund members" and inserting "insured depository institutions"; and
(III) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively, and moving the margins 2 ems to the left; and
(iv) in subparagraph (C) (as so redesignated)—
(I) by inserting "that" before `the Corporation'; and
(II) by striking "; and" and inserting a period;

(9) in section 7(j)(7)(F) (12 U.S.C. 1817(j)(7)(F)), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(10) in section 8(t)(2)(C) (12 U.S.C. 1818(t)(2)(C)), by striking "deposit insurance fund" and inserting "Deposit Insurance Fund";

(11) in section 11 (12 U.S.C. 1821)—

(A) by striking "deposit insurance fund" each place that term appears and inserting "Deposit Insurance Fund";

(B) by striking paragraph (4) of subsection (a) and inserting the following new paragraph:

"(4) DEPOSIT INSURANCE FUND-

"(A) ESTABLISHMENT- There is established the Deposit Insurance Fund, which the Corporation shall—

"(i) maintain and administer;

"(ii) use to carry out its insurance purposes, in the manner provided by this subsection; and

"(iii) invest in accordance with section 13(a).

"(B) USES- The Deposit Insurance Fund shall be available to the Corporation for use with respect to insured depository institutions the deposits of which are insured by the Deposit Insurance Fund.

"(C) LIMITATION ON USE- Notwithstanding any provision of law other than section 13(c)(4)(G), the Deposit Insurance Fund shall not be used in any manner to benefit any shareholder or affiliate (other than an insured depository institution that receives assistance in accordance with the provisions of this Act) of—

"(i) any insured depository institution for which the Corporation has been appointed conservator or receiver, in connection with any type of resolution by the Corporation;

"(ii) any other insured depository institution in default or in danger of default, in connection with any type of resolution by the Corporation; or

"(iii) any insured depository institution, in connection with the provision of assistance under this section or section 13 with respect to such institution, except that this clause shall not prohibit any assistance to any insured depository institution that is not in default, or that is not in danger of default, that is acquiring (as defined in section 13(f)(8)(B)) another insured depository institution.

"(D) DEPOSITS- All amounts assessed against insured depository institutions by the Corporation shall be deposited into the Deposit Insurance Fund.";

(C) by striking paragraphs (5), (6), and (7) of subsection (a); and

(D) by redesignating paragraph (8) of subsection (a) as paragraph (5);

(12) in section 11(f)(1) (12 U.S.C. 1821(f)(1)), by striking `, except that--' and all that follows through the end of the paragraph and inserting a period;

(13) in section 11(i)(3) (12 U.S.C. 1821(i)(3))—

REV_00163007

(A) by striking subparagraph (B);

(B) by redesignating subparagraph (C) as subparagraph (B); and

(C) in subparagraph (B) (as so redesignated), by striking "subparagraphs (A) and (B)" and inserting "subparagraph (A)";

(14) in section 11(p)(2)(B) (12 U.S.C. 1821(p)(2)(B)), by striking "institution, any" and inserting "institution, the";

(15) in section 11A(a) (12 U.S.C. 1821a(a))—

(A) in paragraph (2), by striking "LIABILITIES- " and all that follows through "Except" and inserting "LIABILITIES- Except";

(B) by striking paragraph (2)(B); and

(C) in paragraph (3), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "the Deposit Insurance Fund";

(16) in section 11A(b) (12 U.S.C. 1821a(b)), by striking paragraph (4);

(17) in section 11A(f) (12 U.S.C. 1821a(f)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(18) in section 12(f)(4)(E)(iv) (12 U.S.C. 1822(f)(4)(E)(iv)), by striking "Federal deposit insurance funds" and inserting "the Deposit Insurance Fund (or any predecessor deposit insurance fund)";

(19) in section 13 (12 U.S.C. 1823)—

(A) by striking "deposit insurance fund" each place that term appears and inserting "Deposit Insurance Fund";

(B) in subsection (a)(1), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund";

(C) in subsection (c)(4)(E)--

(i) in the subparagraph heading, by striking "FUNDS" and inserting "FUND"; and
(ii) in clause (i), by striking "any insurance fund" and inserting "the Deposit Insurance Fund";

(D) in subsection (c)(4)(G)(ii)--

(i) by striking "appropriate insurance fund" and inserting "Deposit Insurance Fund";
(ii) by striking "the members of the insurance fund (of which such institution is a member)" and inserting "insured depository institutions";
(iii) by striking "each member's" and inserting "each insured depository institution's"; and
(iv) by striking "the member's" each place that term appears and inserting "the institution's";

(E) in subsection (c), by striking paragraph (11);

(F) in subsection (h), by striking "Bank Insurance Fund' and inserting "Deposit Insurance Fund";

(G) in subsection (k)(4)(B)(i), by striking "Savings Association Insurance Fund member" and inserting "savings association"; and

(H) in subsection (k)(5)(A), by striking "Savings Association Insurance Fund members" and inserting "savings associations";

(20) in section 14(a) (12 U.S.C. 1824(a)), in the 5th sentence—

(A) by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

(B) by striking "each such fund" and inserting "the Deposit Insurance Fund";

(21) in section 14(b) (12 U.S.C. 1824(b)), by striking "Bank Insurance Fund or Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(22) in section 14(c) (12 U.S.C. 1824(c)), by striking paragraph (3);

(23) in section 14(d) (12 U.S.C. 1824(d))—

(A) by striking "Bank Insurance Fund member" each place that term appears and inserting "insured depository institution";

(B) by striking "Bank Insurance Fund members" each place that term appears and inserting "insured depository institutions";

(C) by striking "Bank Insurance Fund" each place that term appears (other than in connection with a reference to a term amended by subparagraph (A) or (B) of this paragraph) and inserting "Deposit Insurance Fund";

(D) by striking the subsection heading and inserting the following:

"(d) BORROWING FOR THE DEPOSIT INSURANCE FUND FROM INSURED DEPOSITORY INSTITUTIONS- ";

(E) in paragraph (3), in the paragraph heading, by striking "BIF" and inserting "THE DEPOSIT INSURANCE FUND"; and

(F) in paragraph (5), in the paragraph heading, by striking "BIF MEMBERS" and inserting "INSURED DEPOSITORY INSTITUTIONS";

(24) in section 14 (12 U.S.C. 1824), by adding at the end the following new subsection:

"(e) BORROWING FOR THE DEPOSIT INSURANCE FUND FROM FEDERAL HOME LOAN BANKS-

"(1) IN GENERAL- The Corporation may borrow from the Federal home loan banks, with the concurrence of the Federal Housing Finance Board, such funds as the Corporation considers necessary for the use of the Deposit Insurance Fund.

"(2) TERMS AND CONDITIONS- Any loan from any Federal home loan bank under paragraph (1) to the Deposit Insurance Fund shall--

"(A) bear a rate of interest of not less than the current marginal cost of funds to that bank, taking into account the maturities involved;

"(B) be adequately secured, as determined by the Federal Housing Finance Board;

"(C) be a direct liability of the Deposit Insurance Fund; and

"(D) be subject to the limitations of section 15(c).";

(25) in section 15(c)(5) (12 U.S.C. 1825(c)(5))—

(A) by striking "the Bank Insurance Fund or Savings Association Insurance Fund, respectively" each place that term appears and inserting "the Deposit Insurance Fund"; and

(B) in subparagraph (B), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund, respectively' and inserting `the Deposit Insurance Fund";

(26) in section 17(a) (12 U.S.C. 1827(a))—

(A) in the subsection heading, by striking "BIF, SAIF," and inserting "THE DEPOSIT INSURANCE FUND"; and

(B) in paragraph (1)—

REV_00163010

(i) by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," each place that term appears and inserting "the Deposit Insurance Fund"; and
(ii) in subparagraph (D), by striking "each insurance fund" and inserting "the Deposit Insurance Fund";

(27) in section 17(d) (12 U.S.C. 1827(d)), by striking ", the Bank Insurance Fund, the Savings Association Insurance Fund," each place that term appears and inserting "the Deposit Insurance Fund";

(28) Subsection (a) of section 18 (12 U.S.C. 1828) is amended to read as follows:

"(a) INSURANCE LOGO. –

(1) INSURED DEPOSITORY INSTITUTIONS. -- Each insured depository institution shall display at each place of business maintained by that institution a sign or signs relating to the insurance of the deposits of the institution, in accordance with regulations to be prescribed by the Corporation. The sign shall include a statement that insured deposits are backed by the full faith and credit of the United States government.

(2) REGULATIONS. -- The Corporation shall prescribe regulations to carry out this subsection, including regulations governing the substance of signs required by paragraph (1) and the manner of display or use of such signs.

(3) PENALTIES. -- For each day that an insured depository institution continues to violate this subsection or any regulation issued under this subsection, it shall be subject to a penalty of not more than $100, which the Corporation may recover for its use.".

(29) in section 18(m)(3) (12 U.S.C. 1828(m)(3))—

(A) by striking "Savings Association Insurance Fund" in the 1st sentence of subparagraph (A) and inserting "Deposit Insurance Fund";

(B) by striking "Savings Association Insurance Fund member" in the last sentence of subparagraph (A) and inserting "savings association"; and

(C) by striking "Savings Association Insurance Fund or the Bank Insurance Fund" in subparagraph (C) and inserting "Deposit Insurance Fund";

(30) in section 18(o) (12 U.S.C. 1828(o)), by striking "deposit insurance funds" and "deposit insurance fund" each place those terms appear and inserting "Deposit Insurance Fund";

(31) in section 18(p) (12 U.S.C. 1828(p)), by striking "deposit insurance funds" and inserting "Deposit Insurance Fund";

(32) in section 24 (12 U.S.C. 1831a)—

(A) in subsections (a)(1) and (d)(1)(A), by striking "appropriate deposit insurance fund" each place that term appears and inserting "Deposit Insurance Fund";

(B) in subsection (e)(2)(A), by striking "risk to" and all that follows through the period and inserting "risk to the Deposit Insurance Fund."; and

(C) in subsections (e)(2)(B)(ii) and (f)(6)(B), by striking "the insurance fund of which such bank is a member" each place that term appears and inserting "the Deposit Insurance Fund";

(33) in section 28 (12 U.S.C. 1831e), by striking "affected deposit insurance fund" each place that term appears and inserting "Deposit Insurance Fund";

(34) by striking section 31 (12 U.S.C. 1831h);

(35) in section 36(i)(3) (12 U.S.C. 1831m(i)(3)), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(36) in section 37(a)(1)(C) (12 U.S.C. 1831n(a)(1)(C)), by striking "insurance funds" and inserting "Deposit Insurance Fund";

(37) in section 38 (12 U.S.C. 1831o), by striking "the deposit insurance fund" each place that term appears and inserting "the Deposit Insurance Fund";

(38) in section 38(a) (12 U.S.C. 1831o(a)), in the subsection heading, by striking "FUNDS" and inserting "FUND";

(39) in section 38(k) (12 U.S.C. 1831o(k))—

(A) in paragraph (1), by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund";

(B) in paragraph (2), by striking "A deposit insurance fund" and inserting "The Deposit Insurance Fund"; and

(C) in paragraphs (2)(A) and (3)(B), by striking "the deposit insurance fund's outlays" each place that term appears and inserting "the outlays of the Deposit Insurance Fund"; and

(40) in section 38(o) (12 U.S.C. 1831o(o))—

(A) by striking "ASSOCIATIONS- " and all that follows through "Subsections (e)(2)" and inserting "ASSOCIATIONS- Subsections (e)(2)";

(B) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively, and moving the margins 2 ems to the left; and

(C) in paragraph (1) (as so redesignated), by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and moving the margins 2 ems to the left.

(b) EFFECTIVE DATE- This section shall be effective on the first day of the first calendar quarter that begins after the end of the 90-day period beginning on the date of enactment of this Act.

SEC. 12 ADDITIONAL TECHNICAL AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT TO ELIMINATE REQUIREMENT OF SEMIANNUAL ASSESSMENTS.

(a)Paragraph (3) of section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(3)) is amended by striking the 3d sentence and inserting the following: "Such reports of condition shall be the basis for the certified statements to be filed pursuant to subsection (c).".

(b) Subparagraphs (B)(ii) and (C) of section 7(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)) are each amended by striking "semiannual" where such term appears in each such subparagraph.

(c) Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended in subparagraph (B) as redesignated by section 4(a)(1) of the draft bill, by striking "semiannual".

(d) Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by striking paragraph (4) and redesignating paragraphs (5), (6), and (7), as amended, as paragraphs (4), (5), and (6) respectively.

(e) Section 7(b)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(6)), as redesignated, is amended by striking "semiannual".

(f) Section 7(c) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c)) is amended--

(A) in paragraph (1)(A), by striking "semiannual";

(B) in paragraph (2)(A), by striking "semiannual"; and

(C) in paragraph (3), by striking "semiannual period" and inserting "initial assessment period".

(g) Section 8(p) of the Federal Deposit Insurance Act (12 U.S.C. 1818(p)) is amended by striking "semiannual".

(h) Section 8(q) of the Federal Deposit Insurance Act (12 U.S.C. 1818(q)) is amended by striking "semiannual period" and inserting "assessment period".

(i) Section 13(c)(4)(G)(ii)(II) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)(G)(ii)(II)) is amended by striking "semiannual period" and inserting "assessment period".

SEC. 13– OTHER TECHNICAL AND CONFORMING AMENDMENTS RELATING TO THE MERGER OF THE DEPOSIT INSURANCE FUNDS.

(a) SECTION 5136 OF THE REVISED STATUTES- The paragraph designated the `Eleventh' of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended in the 5th sentence, by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund".

(b) INVESTMENTS PROMOTING PUBLIC WELFARE; LIMITATIONS ON AGGREGATE INVESTMENTS- The 23d undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338a) is amended in the 4th sentence, by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund".

(c) ADVANCES TO CRITICALLY UNDERCAPITALIZED DEPOSITORY INSTITUTIONS- Section 10B(b)(3)(A)(ii) of the Federal Reserve Act (12 U.S.C. 347b(b)(3)(A)(ii)) is amended by striking "any deposit insurance fund in" and inserting "the Deposit Insurance Fund of".

(d) AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985- Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended—

> (1) by striking "Bank Insurance Fund" and inserting "Deposit Insurance Fund"; and
> (2) by striking "Federal Deposit Insurance Corporation, Savings Association Insurance Fund (51-4066-0-3-373);"
> .

(e) AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT- The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended—

> (1) in section 11(k) (12 U.S.C. 1431(k))—
>
> > (A) in the subsection heading, by striking "SAIF" and inserting "THE DEPOSIT INSURANCE FUND"; and

(B) by striking "Savings Association Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund";

(2) in section 21 (12 U.S.C. 1441)—

(A) in subsection (f)(2), by striking ", except that" and all that follows through the end of the paragraph and inserting a period; and

(B) in subsection (k), by striking paragraph (4);

(3) in section 21A(b)(4)(B) (12 U.S.C. 1441a(b)(4)(B)), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(4) in section 21A(b)(6)(B) (12 U.S.C. 1441a(b)(6)(B))—

(A) in the subparagraph heading, by striking "SAIF-INSURED BANKS" and inserting "CHARTER CONVERSIONS"; and

(B) by striking "Savings Association Insurance Fund member" and inserting "savings association";

(5) in section 21A(b)(10)(A)(iv)(II) (12 U.S.C. 1441a(b)(10)(A)(iv)(II)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(6) in section 21A(n)(6)(E)(iv) (12 U.S.C. 1441(n)(6)(E)(iv)), by striking "Federal deposit insurance funds" and inserting "the Deposit Insurance Fund";

(7) in section 21B(e) (12 U.S.C. 1441b(e))—

(A) in paragraph (5), by inserting "as of the date of funding" after "Savings Association Insurance Fund members" each place that term appears; and

(B) by striking paragraphs (7) and (8); and

(8) in section 21B(k) (12 U.S.C. 1441b(k))—

(A) by inserting before the colon ", the following definitions shall apply";

(B) by striking paragraph (8); and

(C) by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively.

(f) AMENDMENTS TO THE HOME OWNERS' LOAN ACT- The Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended—

(1) in section 5 (12 U.S.C. 1464)—

(A) in subsection (c)(5)(A), by striking "that is a member of the Bank Insurance Fund";

(B) in subsection (c)(6), by striking "As used in this subsection—" and inserting "For purposes of this subsection, the following definitions shall apply:";

(C) in subsection (o)(1), by striking "that is a Bank Insurance Fund member";

(D) in subsection (o)(2)(A), by striking "a Bank Insurance Fund member until such time as it changes its status to a Savings Association Insurance Fund member" and inserting "insured by the Deposit Insurance Fund";

(E) in subsection (t)(5)(D)(iii)(II), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(F) in subsection (t)(7)(C)(i)(I), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund"; and

(G) in subsection (v)(2)(A)(i), by striking "the Savings Association Insurance Fund" and inserting "or the Deposit Insurance Fund"; and

(2) in section 10 (12 U.S.C. 1467a)—

(A) in subsection (c)(6)(D), by striking "this title" and inserting "this Act";

(B) in subsection (e)(1)(B), by striking "Savings Association Insurance Fund or Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(C) in the second sentence of subsection (e)(2), by striking "Savings Association Insurance Fund or the Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(D) in subsection (e)(4)(B), by striking "subsection (1)" and inserting subsection (l)";

(E) in the first sentence of subsection (g)(3)(A), by striking "(5) of this section" and inserting "(5) of this subsection";

(F) in subsection (i), by redesignating paragraph (5) as paragraph (4);

(G) in subsection (m)(3), by striking subparagraph (E) and by redesignating subparagraphs (F), (G), and (H) as subparagraphs (E), (F), and (G), respectively;
(H) in subsection (m)(7)(A), by striking "during period" and inserting "during the period"; and

(I) in subsection (o)(3)(D), by striking "sections 5(s) and (t) of this Act" and inserting "subsections (s) and (t) of section 5".

(g) AMENDMENTS TO THE NATIONAL HOUSING ACT- The National Housing Act (12 U.S.C. 1701 et seq.) is amended—

(1) in section 317(b)(1)(B) (12 U.S.C. 1723i(b)(1)(B)), by striking "Bank Insurance Fund for banks or through the Savings Association Insurance Fund for savings associations" and inserting : "Deposit Insurance Fund"; and

(2) in section 536(b)(1)(B)(ii) (12 U.S.C. 1735f-14(b)(1)(B)(ii)), by striking "Bank Insurance Fund for banks and through the Savings Association Insurance Fund for savings associations" and inserting "Deposit Insurance Fund".

(h) AMENDMENTS TO THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989- The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note) is amended—

(1) in section 951(b)(3)(B) (12 U.S.C. 1833a(b)(3)(B)), by inserting "and after the merger of such funds, the Deposit Insurance Fund," after "the Savings Association Insurance Fund,"; and

(2) in section 1112(c)(1)(B) (12 U.S.C. 3341(c)(1)(B)), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund".

(i) AMENDMENT TO THE BANK HOLDING COMPANY ACT OF 1956- The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended—

(1) in section 2(j)(2) (12 U.S.C. 1841(j)(2)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

(2) in section 3(d)(1)(D)(iii) (12 U.S.C. 1842(d)(1)(D)(iii)), by striking "appropriate deposit insurance fund" and inserting "Deposit Insurance Fund".

(j) AMENDMENTS TO THE GRAMM-LEACH-BLILEY ACT- Section 114 of the Gramm-Leach-Bliley Act (12 U.S.C. 1828a) is amended by striking "any Federal deposit insurance fund" in subsection (a)(1)(B), paragraphs (2)(B) and (4)(B) of subsection (b), and subsection (c)(1)(B), each place that term appears and inserting "the Deposit Insurance Fund".

REV_00163017

(k) EFFECTIVE DATE- This section shall be effective on the first day of the first calendar quarter that begins after the end of the 90-day period beginning on the date of enactment of this Act.

From: Ullyot, Theodore W.
To: <Gonzales, Alberto R.>
CC: <Leitch, David G.>;<Kavanaugh, Brett M.>;<Bartolomucci, H. Christopher>;<Newstead, Jennifer G.>;<Francisco, Noel J.>;<Sampson, Kyle>;<Powell, Benjamin A.>;<Brosnahan, Jennifer R.>
Sent: 4/11/2003 11:15:39 AM
Subject: Byron York on Michigan (specifically on the consultation letter)

---------- Forwarded by Theodore W. Ullyot/WHO/EOP on 04/11/2003 11:15 AM ----------

Margot Stallard

04/11/2003 11:08:36 AM

Record Type: Record

To: viet.dinh@usdoj.gov, Theodore W. Ullyot/WHO/EOP@EOP

cc:

Subject: From Judge Saad

Judge Saad asked me to send the following article by Byron York in today's edition of The Hill.

BYRON YORK

Democrats complain, but they refuse to be consulted

Listen to Democrats discuss the Bush administration's judicial nominations and you'll hear endless complaints that the White House is determined to appoint right-wing ideologues to the federal bench — and doesn't care what Senate Democrats think.

"We're not asked to give advice," Sen. Charles Schumer (D-N.Y.) groused last year. "A lot of these troubles, I think, could be avoided if there was more consultation between the White House and the Senate."

Maybe — and maybe not. Just look at one of the most contentious of the current judicial battles, the fight between the White House and Michigan Democratic senators Carl Levin and Debbie Stabenow over the 6th Circuit Court of Appeals.

Last month Levin and Stabenow used their "blue slip" power to block four — four — Bush nominees to the 6th Circuit (for good measure, they blocked Bush's only Michigan nominee to the lower federal district court, too).

It's a fight that goes back to the Clinton administration, when the Democratic White House nominated two women, Kathleen McCree Lewis and Helene White (who just happens to be married to Carl Levin's cousin), to places on the 6th Circuit. Neither nomination was acted on by the GOP-controlled Senate. That wasn't terribly unusual; a few years before, the Democratic-controlled Senate failed to act on two of the first President Bush's 6th Circuit nominations from Michigan. But, no matter. Levin was very, very angry that his cousin's wife had not been given a hearing or a confirmation vote.

So when the new President Bush came into office, Levin, along with Stabenow, demanded that the president renominate Lewis and White. Bush declined, although in an unprecedented gesture of goodwill, he did renominate two of Clinton's other choices.

In the months that followed, Levin complained that the White House was "not that interested in consultation" over lover judicial nominations. But a newly released chronology of contacts between the White House and the senators reveals that the Bush administration virtually bent over backwards soliciting Levin's views.

The chronology, contained in a March 28 letter from White House counsel Alberto Gonzales to Judiciary Committee Chairman Orrin Hatch (R-Utah), outlines a long-running series of attempts to engage Levin on the nominations issue.

It began in early April 2001, when Levin and Stabenow first demanded that Bush renominate the two failed Clinton nominees. "Nominating others in their stead would .. be inconsistent with your stated goal of bipartisanship," the senators wrote the president. The White House promised to consider Lewis and White but said the president would make his own decisions.

The next month, on May 17, Levin and Stabenow went to the White House,

where Gonzales gave them a list of prospective nominees and asked for the senators' comments. Levin told Gonzales he would not respond until "the larger issue" was resolved.

A week later, Gonzales again asked Levin for feedback on the potential nominees, but got no response. On June 7, Gonzales asked again. Still no answer. On June 15, he asked yet again. Nothing. He asked again on June 21, and again on July 9, and again on August 8. He got no response until August 10, when Levin told him nothing had changed. On August 14, the White House formally notified Levin that Lewis and White would not be renominated.

On August 22, Levin demanded that Bush create a bipartisan commission to select circuit court judges. Bush said no, arguing (correctly) that such an arrangement would be an unprecedented surrender of presidential power.

On October 9, Gonzales met with Levin, and on October 31, the White House made one last request for his views. Levin again refused, and on November 8, 2001, Bush sent his judicial choices to the Senate.

"After several months, with no sign of progress, and having received no specific objections to any of the individuals in question, the president proceeded with his nominations," Gonzales wrote in his recent letter to Hatch. "I believe that any reasonable observer would agree that the ... White House engaged in appropriate consultations with respect to the ... Michigan judicial nominees."

Yes, any reasonable observer would agree. But not Carl Levin and Debbie Stabenow. In coming months, you'll undoubtedly hear Democrats complain that the White House has not consulted them about judicial nominations. When you do, just remember the case of the Michigan judges.

Byron York is a White House correspondent for National Review. His column appears in The Hill each Wednesday.

Margot Stallard
Secretary to Judge Saad
(248) 358-3783

From: Gonzalez, Oscar
To: <Kavanaugh, Brett M.>
CC: <Bumatay, Patrick J.>
Sent: 4/11/2003 11:24:37 AM
Subject: Re: FW: LRM OGG29 - - TREASURY Draft Bill on Federal Deposit Insurance Reform
Attachments: treas0015abill.doc

Treasury continues to tell us that there is no sectional analysis of the bill and that they do not have any kind of summary to provide us. Our understanding is that this is coming from Assistant Secretary for Financial Institutions Wayne Abernathy. We also understand that Kevin Warsh in NEC is the lead Wite House staff person on this issue.

Brett M. Kavanaugh

04/11/2003 10:58:53 AM

Record Type: Record

To: Patrick J. Bumatay/WHO/EOP@Exchange, Oscar Gonzalez/OMB/EOP@EOP

cc:

bcc:

Subject: Re: FW: LRM OGG29 - - TREASURY Draft Bill on Federal Deposit Insurance Reform

is there any kind of summary? hard to know from just the section cites what this does.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 04/11/2003 10:53:26 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: FW: LRM OGG29 - - TREASURY Draft Bill on Federal Deposit Insurance Reform

-----Original Message-----

From: Gonzalez, Oscar

Sent: Friday, April 11, 2003 10:49 AM

To: Smythe, Augustine T.; Trinh, Catherine V.; McMillin, Stephen S.; Roberson, Halley M.; Rhinesmith, Alan B.; Schwartz, Mark J.; Grippando, Hester C.; Schwartz, Kenneth L.; Lyon, Randolph M.; Reaud, Beatrice A.; Hunt, Alexander T.; Hill, Jefferson B.; Lee, Sarah S.; Perry, Philip J.; Wood, John F.; Luczynski, Kimberley S.; Rettman, Rosalyn J.; Rossman, Elizabeth L.; Lobrano, Lauren C.; Call, Amy L.; Dove, Stephen W.; Kirk, Matthew ; Marsh, Robert ; Foster, James D.; Rodriguez, Justine F.; Whgc Lrm; Ovp Lrm; Nec Lrm; Warsh, Kevin; Cea Lrm; Kroszner, Randall S.; Silverberg, Kristen; Kaplan, Joel; Jukes, James J.; Green, Richard E.

Subject: LRM OGG29 - - TREASURY Draft Bill on Federal Deposit Insurance Reform

We are seeking your review of a draft bill on Federal deposit insurance reform. A transmittal letter will be circulated for clearance shortly that would be signed by Treasury, the Federal Reserve, FDIC, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision. According to Treasury, although the attached language is intended as technical drafting assistance for the Senate Banking Committee, their plan is that the letter will specifically endorse legislative action on this language. Also, please note that Treasury has not provided a sectional analysis of the bill. **Please provide comments by no later than 12:00 P.M. Monday, April 14th.**

LRM ID: OGG29

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Friday, April 11, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Richard E. Green (for) Assistant Director for Legislative Reference

OMB CONTACT: Oscar Gonzalez

PHONE: (202)395-3923 FAX: (202)395-3109

SUBJECT: **TREASURY Draft Bill on Federal Deposit Insurance Reform**

DEADLINE: **12:00 P.M. Monday, April 14, 2003**

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: We are seeking your review of a draft bill on Federal deposit insurance reform. A transmittal letter will be circulated for clearance shortly that would be signed by Treasury, the Federal Reserve, FDIC, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision. According to Treasury, although the attached language is intended as technical drafting assistance for the Senate Banking Committee, their plan is that the letter will specifically endorse legislative action on this language. Also, please note that Treasury has not provided a sectional analysis of the bill. **Please provide comments by no later than 12:00 P.M. Monday, April 14th.**

DISTRIBUTION LIST

AGENCIES:

061-JUSTICE - Jamie E. Brown - (202) 514-2141

025-COMMERCE - Michael A. Levitt - (202) 482-3151

EOP:

Augustine T. Smythe

Catherine V. Trinh

Stephen S. McMillin

Halley M. Roberson

Alan B. Rhinesmith

Mark J. Schwartz

Hester C. Grippando

Kenneth L. Schwartz

Randolph M. Lyon

Beatrice A. Reaud

Alexander T. Hunt

Jefferson B. Hill

Sarah S. Lee

Philip J. Perry

John F. Wood

Kimberley S. Luczynski

Rosalyn J. Rettman

Elizabeth L. Rossman

Lauren C. Lobrano

Amy L. Call

Stephen W. Dove

Matthew Kirk

Robert Marsh

James D. Foster

Justine F. Rodriguez

WHGC LRM

OVP LRM

NEC LRM

Kevin Warsh

CEA LRM

Randall S. Kroszner

Kristen Silverberg

Joel D. Kaplan

James J. Jukes

Richard E. Green

LRM ID: OGG29 **SUBJECT:** TREASURY Draft Bill on Federal Deposit Insurance Reform

RESPONSE TO

LEGISLATIVE REFERRAL

MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) faxing us a memo or letter.

Please include the LRM number and subject shown above.

TO: **Oscar Gonzalez Phone: 395-3923 Fax: 395-3109**

Office of Management and Budget

FROM: _____ **(Date)**

_____ **(Name)**

_____ **(Agency)**

_____ **(Telephone)**

The following is the response of our agency to your request for views on the above-captioned subject:

_____ **Concur**

_____ **No Objection**

_____ **No Comment**

_____ **See proposed edits on pages** _____

_____ **Other:** _____

_____ FAX RETURN of _____ pages, attached to this response sheet

- treas0015abill.doc <>

DRAFT 4-04-03

A BILL

To reform the federal deposit insurance system and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as "The Federal Deposit Insurance Reform Act of 2003".

SEC. 2 MERGER OF DEPOSIT INSURANCE FUNDS

(a) IN GENERAL-

(1) ESTABLISHMENT OF DEPOSIT INSURANCE FUND – There is established a fund to be known as the Deposit Insurance Fund.

(2) MERGER – The Bank Insurance Fund and the Savings Association Insurance Fund shall be merged into the Deposit Insurance Fund.

(3) DISPOSITION OF ASSETS AND LIABILITIES – All assets and liabilities of the Bank Insurance Fund and the Savings Association Insurance Fund shall be transferred to the Deposit Insurance Fund.

(4) NO SEPARATE EXISTENCE – The separate existence of the Bank Insurance Fund and the Savings Association Insurance Fund shall cease.

(b) REPEAL OF OUTDATED MERGER PROVISION – Section 2704 of P.L. 104-208 (the Deposit Insurance Funds Act of 1996) (12 U.S.C. 1821 note) is repealed.

(c) EFFECTIVE DATE- This section shall be effective on the first day of the first calendar quarter that begins after the end of the 90-day period beginning on the date of enactment of this Act.

SEC. 3 ASSESSMENTS; DESIGNATED RESERVE RATIO

(a) Section 7(b)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)) is amended as follows:

(1) By striking clause (i) and inserting the following:

"

(i) IN GENERAL.

(I) SENSE OF CONGRESS - It is the sense of the Congress that the Corporation should assess each insured depository institution for the benefits of federal deposit insurance;

(II) ASSESSMENTS - After considering the factors in clause (ii), the Board of Directors shall set assessments

for insured depository institutions in accordance with this section. "

(2) By striking clause (iii) "LIMITATION ON ASSESSMENT".

(3) By redesignating existing clause (iv) as clause (iii) and amending it as follows:

"(iii) DESIGNATED RESERVE RATIO DEFINED- (I) IN GENERAL-- The designated reserve ratio of the Deposit Insurance Fund for each year shall be-

(aa) 1.25 percent of estimated insured deposits; or
(bb) a percentage between 1.15 percent and 1.50 percent of estimated insured deposits, as the Board of Directors determines is justified for that year, taking into account the factors in subclause (II).
(II) FACTORS - In establishing the designated reserve ratio under subclause (I), the Board of Directors shall take into account -

(aa) the risk of losses to the Deposit Insurance Fund during that year and future years;
(bb)economic conditions generally affecting or likely to affect insured depository institutions with the goal of allowing the designated reserve ratio to increase under more favorable economic conditions and to decrease under less favorable economic conditions;
(cc) the desirability of avoiding sharp swings in the assessment rates of insured depository institutions; and
(dd) other factors that the Board of Directors deems appropriate."

(4) By adding the following new clause (iv) and striking existing clause (v):

"(iv) NOTICE AND COMMENT- The Board may determine the designated reserve ratio pursuant to clause (iii)(I)(bb) of this subparagraph only by regulation after notice and public comment and no more than once annually."

(c) EFFECTIVE DATE – The amendments made by this section shall take effect on the date that the final regulations required under section 6 of this Act become effective.

SEC. 4 RAISING THE RESERVE RATIO TO THE DESIGNATED RESERVE RATIO

(a) Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended as follows:

(1) By striking existing subparagraph (B) and redesignating existing subparagraph (C) as subparagraph (B).

(2) By redesignating subparagraph (E) as subparagraph (C) and amending it as follows:

" (C) MINIMUM ASSESSMENTS - The Corporation shall design the risk-based assessment system for the Deposit Insurance Fund so that, if the Corporation has borrowings outstanding on behalf of the Fund under section 14(a) or (b) of the Federal Deposit Insurance Act (12 U.S.C. § 1824(a) and (b)), or if the Board of Directors is required to set assessment rates pursuant to paragraph (3)(A)(ii) of this subsection, the minimum assessment rate in the risk-based assessment system, after application of any assessment credits provided under section 7(e)(2), shall be no less than 5 basis points for each insured depository institution."

(3) By striking subparagraphs (F) and (G) and redesignating existing subparagraph (H) as subparagraph (E).

(b) Section 7(b)(3)(A)-(C) of the Federal Deposit Insurance Act (12 U.S.C. § 1817(b)(3)(A)-(C)) is amended to read as follows:

"(3) SPECIAL RULE FOR RECAPITALIZING UNDERCAPITALIZED FUND

(A) IN GENERAL – If the reserve ratio of the deposit insurance fund is less than the lower bound of the range for the designated reserve ratio under paragraph (2)(A)(iii)(I)(bb), the Board of Directors shall set assessment rates -

(i) that are sufficient to increase the reserve ratio for the Fund to the lower bound of the range for the designated reserve ratio not later than 1 year after such rates are set; or

(ii) in accordance with a recapitalization schedule promulgated by the Corporation under subparagraph (B).

(B) RECAPITALIZATION SCHEDULES. For purposes of subparagraph (A)(ii), the Corporation shall, by regulation, promulgate and implement a schedule that specifies, at semiannual intervals, target reserve ratios for the Fund, culminating in a reserve ratio equal to the lower bound of the range for the designated reserve ratio not later than 6 years after the date on which the recapitalization schedule is implemented."

(c) EFFECTIVE DATE – The amendments made by this section shall take effect on the date that the final regulations required under section 6 of this Act become effective.

SEC. 5 ASSESSMENT CREDITS AND CASH REBATES

(a) Section 7(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. § 1817(e)(2)) is amended to read as follows:

"(2) ASSESSMENT CREDITS

(A) IN GENERAL - The Corporation shall establish, by regulation, criteria and procedures for providing insured depository institutions with the credits described in subparagraphs (B) and (C) to offset the institution's deposit insurance assessments that become due for assessment periods after the effective date of regulations implementing assessments pursuant to this Act.

(B) TRANSITION CREDITS –

(i) DETERMINATION OF TRANSITION CREDIT FOR ELIGIBLE INSTITUTIONS - The Board of Directors shall determine the amount of transition credit to be provided to each eligible institution based on the assessment base of the institution as of December 31, 1996, as compared to the combined aggregate assessment base of all eligible institutions as of that date, as well as other factors that the Board may determine to be appropriate.

(ii) AGGREGATE AMOUNT - The aggregate amount of transition credits available to all eligible institutions under this subparagraph (B) shall be equal to 9 basis points of the combined assessment base of the Bank Insurance Fund and the Savings Association Insurance Fund as of December 31, 2002.

(iii) ELIGIBLE INSTITUTION DEFINED – For purposes of this subparagraph, an eligible institution is an insured depository institution that (I) was in existence on December 31, 1996 and paid a federal deposit insurance assessment prior to that date; or (II) is a successor to any insured depository institution described in subclause (I).

(C) (i) ADDITIONAL CREDITS – In addition to the transition credits authorized by subparagraph (B), if as of the most recent quarter for which information is available at such time that assessments are set for each assessment period, the reserve ratio exceeds the greater of the designated reserve ratio or 1.25 percent of reserves to estimated insured deposits, the Board of Directors may provide credits to insured depository institutions for assessment periods beginning on, or after, the first assessment period to which a transition credit under subparagraph (B) applies. In establishing any additional credit for each institution and the aggregate amount of such credit, the Board of Directors shall take into account:

(I) the factors under subsection (b)(2) for setting assessments and for setting the designated reserve ratio;

(II) the ratio of the assessment base of each insured depository institution (including any predecessor) as of December 31, 1996 to

REV_00163035

the assessment base of all insured depository institutions as of that date;

(III) previous assessments levied with respect to an insured depository institution (including any predecessor) to the Deposit Insurance Fund (and any predecessor deposit insurance fund) on or after January 1, 1997;

(IV) that portion of assessments levied with respect to an insured depository institution (including any predecessor) that reflects higher levels of risk assumed by such institution; and

(V) such other factors as the Board may determine to be appropriate.

(ii) CASH REBATES IN LIEU OF ASSESSMENT CREDITS-- The Corporation may, in its sole discretion, elect to provide cash rebates in lieu of all or part of any assessment credits that would otherwise have been provided under this subparagraph, but only if the reserve ratio of the Deposit Insurance Fund exceeds the upper bound of the range for the designated reserve ratio under subsection (b)(2)(A)(iii)(I)(bb) and would remain above the upper bound after any such cash rebate.

(D) APPLICATION OF CREDIT –For credits authorized under subparagraphs (B) or (C),

(i) the Board of Directors may suspend or limit the use of such credits if, as of the most recent quarter for which information is available at such time that assessments are set for each assessment period, the reserve ratio of the Deposit Insurance Fund is below the lower bound of the range for the designated reserve ratio under subsection (b)(2)(A)(iii)(I)(bb); and

(ii) the amount of any credit that may be applied in an assessment period against the assessment on an insured depository institution that –

(I) exhibits financial, operational, or compliance weaknesses ranging from moderately severe to unsatisfactory, or

(II) is not adequately capitalized (as defined in section 38),

as of the date the risk-based assessment classification is made pursuant to the Corporation's regulations implementing the risk-based assessment system under subsection (b), may not exceed the amount calculated by applying to that depository institution the average assessment rate on all insured depository institutions for such assessment period.

(E) CHALLENGES TO CREDIT AMOUNTS – The regulations required by subparagraph (A) shall include procedures allowing an insured depository institution a reasonable opportunity to challenge administratively the amount of its credit or cash rebate under this paragraph. The Corporation's determination of the amount of any credit or

REV_00163036

cash rebate following any such challenge shall be final and not subject to judicial review."

(b) EFFECTIVE DATE – The amendments made by this section shall take effect on the date that the final regulations required under section 6 of this Act become effective.

SEC. 6. REGULATIONS REQUIRED

(a) IN GENERAL.-Not later than 270 days after the date of enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation shall prescribe final regulations, after notice and opportunity for comment, to implement sections 3, 4, and 5 of this Act and the amendments made by these sections.

(b) RULE OF CONSTRUCTION.-No provision of this Act or any amendment made by this Act shall be construed as affecting the authority of the Corporation to set or collect deposit insurance assessments before the effective date of the final regulations prescribed under subsection (a).

SEC. 7 ASSESSMENT BASE STUDY

ASSESSMENT BASE STUDY AND REPORT- Within one year of the date of enactment of this Act, the Corporation shall complete a study of the Deposit Insurance Fund assessment base and shall report to Congress.

(a) STUDY - In conducting the assessment base study, the Federal Deposit Insurance Corporation shall

(1) consult with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System, and

(2) take into account, among other factors, the risks posed to the Deposit Insurance Fund by the composition of insured depository institution liabilities.

(b) REPORT – The Corporation's report to Congress shall include recommendations for any changes in the assessment base and the Corporation's plans for implementing such changes.

SEC. 8 ASSESSMENTS-RELATED RECORDS RETENTION AND STATUTE OF LIMITATIONS.

(a) Records Retention. –

Paragraph (5) of section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended to read as follows:

"(5) Records to be maintained by insured depository institution. – Each insured depository institution shall maintain all records that the Corporation may require for verifying the correctness of the institution's assessments until the later of–

(A) 3 years from the due date of each assessment payment; or
(B) the date of the final determination of any dispute between the insured depository institution and the Corporation over the amount of any assessment.".

(b) Statute of Limitations for Assessment Actions. –

Subsection (g) of section 7 (12 U.S.C. 1817)) is amended to read as follows:

"(g) Statute of Limitations for Assessment Actions. – Notwithstanding any other provision in Federal law, or the law of any State:

(1) Any action by an insured depository institution to recover from the Corporation the overpaid amount of any assessment shall be brought within 3 years from the date the assessment payment was due.

(2) Any action by the Corporation to recover from an insured depository institution the underpaid amount of any assessment shall be brought within 3 years from the date the assessment payment was due, subject only to the exception in paragraph (3).

(3) If an insured depository institution has made a false or fraudulent statement with intent to evade any or all of its assessment, the Corporation shall have 3 years from the date of discovery of the false or fraudulent statement in which to bring an action to recover the underpaid amount.

(4) The limitations periods set forth in this subsection may be tolled to allow for administrative review by the Corporation of any assessment claim, pursuant to regulations prescribed by the Corporation establishing procedures for resolving such claims.

(5) Assessment and deposit information contained in records no longer required to be maintained pursuant to subsection (b)(5) shall be considered conclusive and not subject to change.

(6) This section shall not apply to the underpaid or overpaid amount of any assessment if payment of that assessment became due before the effective date of this subsection.".

SEC. 9. LATE PAYMENT FEES FOR FAILURE TO PAY ASSESSMENTS.

Subsection (h) of section 18 of the Federal Deposit Insurance Act (12 U.S.C. § 1828) is amended to read as follows:

"(h) Late Payment Fees. – Any insured depository institution which fails or refuses to pay any assessment shall be subject to a late payment fee of 1 percent of the required assessment for each day the violation continues after the payment was due. The Corporation may, in its sole discretion, waive all or part of any late payment fee upon a finding that good cause prevented the timely payment of the assessment. This subsection shall not be applicable under the circumstances stated in the proviso of subsection (b).".

SEC. 10. EMPLOYEE BENEFIT PLANS.

Section 11(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)) is amended by striking subparagraph (D) and inserting the following:

"(D) COVERAGE FOR CERTAIN EMPLOYEE BENEFIT PLAN DEPOSITS. –

(i) PROHIBITION ON ACCEPTANCE OF BENEFIT PLAN DEPOSITS. -- An insured depository institution may accept employee benefit plan deposits only if the institution is:
(I) well capitalized, or
(II) adequately capitalized and has received a waiver under section 29(c).

(ii) PASS-THROUGH INSURANCE. -- Notwithstanding the requirements of clause (i), the Corporation shall provide pass-through deposit insurance for the deposits of any employee benefit plan.

(iii) DEFINITIONS. -- For purposes of this subparagraph, the following definitions shall apply:

(I) CAPITAL STANDARDS- The terms `well capitalized' and `adequately capitalized' have the same meanings as in section 38.

(II) EMPLOYEE BENEFIT PLAN- The term `employee benefit plan' has the same meaning as in paragraph (8)(B)(ii), and includes any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

(III) PASS-THROUGH DEPOSIT INSURANCE. -- The term `pass-through deposit insurance' means, with respect to an employee benefit plan, deposit insurance coverage provided on a pro rata basis to the participants in, or beneficiaries of, the plan in accordance with the interest of each participant or beneficiary.".

SEC. 11– TECHNICAL AND CONFORMING AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT RELATING TO THE MERGER OF THE DEPOSIT INSURANCE FUNDS.

(a) IN GENERAL- The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 3 (12 U.S.C. 1813)—

(A) in subsection (a)(1),
(i) by striking " 'bank'---(A) means" and inserting "'bank' means";
(ii) by striking "insured branch;" and inserting "insured branch." and
(iii) by striking subparagraph (B); and

(B) by revising subsection (y) as follows:

"The term "deposit insurance fund" means the Deposit Insurance Fund established under section 11(a)(4).";

(2) in section 5(b)(5) (12 U.S.C. 1815(b)(5)), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund," and inserting "the Deposit Insurance Fund,";

(3) in section 5(c)(4), by striking "deposit insurance fund" and inserting "Deposit Insurance Fund";

(4) in section 5(d) (12 U.S.C. 1815(d)), by striking paragraphs (2) and (3);

(5) in section 5(d)(1) (12 U.S.C. 1815(d)(1))—

(A) in subparagraph (A), by striking "reserve ratios in the Bank Insurance Fund and the Savings Association Insurance Fund as required by section 7" and inserting "the reserve ratio of the Deposit Insurance Fund";

(B) by striking subparagraph (B) and inserting the following:

"(2) FEE CREDITED TO THE DEPOSIT INSURANCE FUND- The fee paid by the depository institution under paragraph (1) shall be credited to the Deposit Insurance Fund.";

(C) by striking "(1) UNINSURED INSTITUTIONS- "; and

(D) by redesignating subparagraphs (A) and (C) as paragraphs (1) and (3), respectively, and moving the left margins 2 ems to the left;

(6) in section 5(e) (12 U.S.C. 1815(e))—

(A) in paragraph (5)(A), by striking "Bank Insurance Fund or the Savings Association Insurance Fund' and inserting `Deposit Insurance Fund";

(B) by striking paragraph (6); and

(C) by redesignating paragraphs (7), (8), and (9) as paragraphs (6), (7), and (8), respectively;

(7) in section 6(5) (12 U.S.C. 1816(5)), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(8) in section 7(b) (12 U.S.C. 1817(b))—

(A) in paragraph (1)(C), by striking "deposit insurance fund" each place that term appears and inserting "Deposit Insurance Fund";

(B) in paragraph (1)(D), by striking "each deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

(C) in paragraph (6)—

(i) by striking "any such assessment" and inserting "any such assessment is necessary";
(ii) by striking subparagraph (B);
(iii) in subparagraph (A)—
(I) by striking "(A) is necessary—";
(II) by striking "Bank Insurance Fund members" and inserting "insured depository institutions"; and
(III) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively, and moving the margins 2 ems to the left; and
(iv) in subparagraph (C) (as so redesignated)—
(I) by inserting "that" before `the Corporation'; and
(II) by striking "; and" and inserting a period;

(9) in section 7(j)(7)(F) (12 U.S.C. 1817(j)(7)(F)), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(10) in section 8(t)(2)(C) (12 U.S.C. 1818(t)(2)(C)), by striking "deposit insurance fund" and inserting "Deposit Insurance Fund";

(11) in section 11 (12 U.S.C. 1821)—

(A) by striking "deposit insurance fund" each place that term appears and inserting "Deposit Insurance Fund";

REV_00163041

(B) by striking paragraph (4) of subsection (a) and inserting the following new paragraph:

"(4) DEPOSIT INSURANCE FUND-

"(A) ESTABLISHMENT- There is established the Deposit Insurance Fund, which the Corporation shall—

"(i) maintain and administer;

"(ii) use to carry out its insurance purposes, in the manner provided by this subsection; and

"(iii) invest in accordance with section 13(a).

"(B) USES- The Deposit Insurance Fund shall be available to the Corporation for use with respect to insured depository institutions the deposits of which are insured by the Deposit Insurance Fund.

"(C) LIMITATION ON USE- Notwithstanding any provision of law other than section 13(c)(4)(G), the Deposit Insurance Fund shall not be used in any manner to benefit any shareholder or affiliate (other than an insured depository institution that receives assistance in accordance with the provisions of this Act) of—

"(i) any insured depository institution for which the Corporation has been appointed conservator or receiver, in connection with any type of resolution by the Corporation;

"(ii) any other insured depository institution in default or in danger of default, in connection with any type of resolution by the Corporation; or

"(iii) any insured depository institution, in connection with the provision of assistance under this section or section 13 with respect to such institution, except that this clause shall not prohibit any assistance to any insured depository institution that is not in default, or that is not in danger of default, that is acquiring (as defined in section 13(f)(8)(B)) another insured depository institution.

"(D) DEPOSITS- All amounts assessed against insured depository institutions by the Corporation shall be deposited into the Deposit Insurance Fund.";

(C) by striking paragraphs (5), (6), and (7) of subsection (a); and

(D) by redesignating paragraph (8) of subsection (a) as paragraph (5);

(12) in section 11(f)(1) (12 U.S.C. 1821(f)(1)), by striking `, except that--' and all that follows through the end of the paragraph and inserting a period;

(13) in section 11(i)(3) (12 U.S.C. 1821(i)(3))—

REV_00163042

(A) by striking subparagraph (B);

(B) by redesignating subparagraph (C) as subparagraph (B); and

(C) in subparagraph (B) (as so redesignated), by striking "subparagraphs (A) and (B)" and inserting "subparagraph (A)";

(14) in section 11(p)(2)(B) (12 U.S.C. 1821(p)(2)(B)), by striking "institution, any" and inserting "institution, the";

(15) in section 11A(a) (12 U.S.C. 1821a(a))—

(A) in paragraph (2), by striking "LIABILITIES- " and all that follows through "Except" and inserting "LIABILITIES- Except";

(B) by striking paragraph (2)(B); and

(C) in paragraph (3), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "the Deposit Insurance Fund";

(16) in section 11A(b) (12 U.S.C. 1821a(b)), by striking paragraph (4);

(17) in section 11A(f) (12 U.S.C. 1821a(f)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(18) in section 12(f)(4)(E)(iv) (12 U.S.C. 1822(f)(4)(E)(iv)), by striking "Federal deposit insurance funds" and inserting "the Deposit Insurance Fund (or any predecessor deposit insurance fund)";

(19) in section 13 (12 U.S.C. 1823)—

(A) by striking "deposit insurance fund" each place that term appears and inserting "Deposit Insurance Fund";

(B) in subsection (a)(1), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund";

(C) in subsection (c)(4)(E)--

(i) in the subparagraph heading, by striking "FUNDS" and inserting "FUND"; and
(ii) in clause (i), by striking "any insurance fund" and inserting "the Deposit Insurance Fund";

(D) in subsection (c)(4)(G)(ii)--

(i) by striking "appropriate insurance fund" and inserting "Deposit Insurance Fund";
(ii) by striking "the members of the insurance fund (of which such institution is a member)" and inserting "insured depository institutions";
(iii) by striking "each member's" and inserting "each insured depository institution's"; and
(iv) by striking "the member's" each place that term appears and inserting "the institution's";

(E) in subsection (c), by striking paragraph (11);

(F) in subsection (h), by striking "Bank Insurance Fund' and inserting "Deposit Insurance Fund";

(G) in subsection (k)(4)(B)(i), by striking "Savings Association Insurance Fund member" and inserting "savings association"; and

(H) in subsection (k)(5)(A), by striking "Savings Association Insurance Fund members" and inserting "savings associations";

(20) in section 14(a) (12 U.S.C. 1824(a)), in the 5th sentence—

(A) by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

(B) by striking "each such fund" and inserting "the Deposit Insurance Fund";

(21) in section 14(b) (12 U.S.C. 1824(b)), by striking "Bank Insurance Fund or Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(22) in section 14(c) (12 U.S.C. 1824(c)), by striking paragraph (3);

(23) in section 14(d) (12 U.S.C. 1824(d))—

(A) by striking "Bank Insurance Fund member" each place that term appears and inserting "insured depository institution";

(B) by striking "Bank Insurance Fund members" each place that term appears and inserting "insured depository institutions";

(C) by striking "Bank Insurance Fund" each place that term appears (other than in connection with a reference to a term amended by subparagraph (A) or (B) of this paragraph) and inserting "Deposit Insurance Fund";

REV_00163044

(D) by striking the subsection heading and inserting the following:

"(d) BORROWING FOR THE DEPOSIT INSURANCE FUND FROM INSURED DEPOSITORY INSTITUTIONS- ";

(E) in paragraph (3), in the paragraph heading, by striking "BIF" and inserting "THE DEPOSIT INSURANCE FUND"; and

(F) in paragraph (5), in the paragraph heading, by striking "BIF MEMBERS" and inserting "INSURED DEPOSITORY INSTITUTIONS";

(24) in section 14 (12 U.S.C. 1824), by adding at the end the following new subsection:

"(e) BORROWING FOR THE DEPOSIT INSURANCE FUND FROM FEDERAL HOME LOAN BANKS-

"(1) IN GENERAL- The Corporation may borrow from the Federal home loan banks, with the concurrence of the Federal Housing Finance Board, such funds as the Corporation considers necessary for the use of the Deposit Insurance Fund.

"(2) TERMS AND CONDITIONS- Any loan from any Federal home loan bank under paragraph (1) to the Deposit Insurance Fund shall--

"(A) bear a rate of interest of not less than the current marginal cost of funds to that bank, taking into account the maturities involved;

"(B) be adequately secured, as determined by the Federal Housing Finance Board;

"(C) be a direct liability of the Deposit Insurance Fund; and

"(D) be subject to the limitations of section 15(c).";

(25) in section 15(c)(5) (12 U.S.C. 1825(c)(5))—

(A) by striking "the Bank Insurance Fund or Savings Association Insurance Fund, respectively" each place that term appears and inserting "the Deposit Insurance Fund"; and

(B) in subparagraph (B), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund, respectively' and inserting `the Deposit Insurance Fund";

(26) in section 17(a) (12 U.S.C. 1827(a))—

(A) in the subsection heading, by striking "BIF, SAIF," and inserting "THE DEPOSIT INSURANCE FUND"; and

(B) in paragraph (1)—

REV_00163045

(i) by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," each place that term appears and inserting "the Deposit Insurance Fund"; and
(ii) in subparagraph (D), by striking "each insurance fund" and inserting "the Deposit Insurance Fund";

(27) in section 17(d) (12 U.S.C. 1827(d)), by striking ", the Bank Insurance Fund, the Savings Association Insurance Fund," each place that term appears and inserting "the Deposit Insurance Fund";

(28) Subsection (a) of section 18 (12 U.S.C. 1828) is amended to read as follows:

"(a) INSURANCE LOGO. –

(1) INSURED DEPOSITORY INSTITUTIONS. -- Each insured depository institution shall display at each place of business maintained by that institution a sign or signs relating to the insurance of the deposits of the institution, in accordance with regulations to be prescribed by the Corporation. The sign shall include a statement that insured deposits are backed by the full faith and credit of the United States government.

(2) REGULATIONS. -- The Corporation shall prescribe regulations to carry out this subsection, including regulations governing the substance of signs required by paragraph (1) and the manner of display or use of such signs.

(3) PENALTIES. -- For each day that an insured depository institution continues to violate this subsection or any regulation issued under this subsection, it shall be subject to a penalty of not more than $100, which the Corporation may recover for its use.".

(29) in section 18(m)(3) (12 U.S.C. 1828(m)(3))—

(A) by striking "Savings Association Insurance Fund" in the 1st sentence of subparagraph (A) and inserting "Deposit Insurance Fund";

(B) by striking "Savings Association Insurance Fund member" in the last sentence of subparagraph (A) and inserting "savings association"; and

(C) by striking "Savings Association Insurance Fund or the Bank Insurance Fund" in subparagraph (C) and inserting "Deposit Insurance Fund";

(30) in section 18(o) (12 U.S.C. 1828(o)), by striking "deposit insurance funds" and "deposit insurance fund" each place those terms appear and inserting "Deposit Insurance Fund";

REV_00163046

(31) in section 18(p) (12 U.S.C. 1828(p)), by striking "deposit insurance funds" and inserting "Deposit Insurance Fund";

(32) in section 24 (12 U.S.C. 1831a)—

(A) in subsections (a)(1) and (d)(1)(A), by striking "appropriate deposit insurance fund" each place that term appears and inserting "Deposit Insurance Fund";

(B) in subsection (e)(2)(A), by striking "risk to" and all that follows through the period and inserting "risk to the Deposit Insurance Fund."; and

(C) in subsections (e)(2)(B)(ii) and (f)(6)(B), by striking "the insurance fund of which such bank is a member" each place that term appears and inserting "the Deposit Insurance Fund";

(33) in section 28 (12 U.S.C. 1831e), by striking "affected deposit insurance fund" each place that term appears and inserting "Deposit Insurance Fund";

(34) by striking section 31 (12 U.S.C. 1831h);

(35) in section 36(i)(3) (12 U.S.C. 1831m(i)(3)), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(36) in section 37(a)(1)(C) (12 U.S.C. 1831n(a)(1)(C)), by striking "insurance funds" and inserting "Deposit Insurance Fund";

(37) in section 38 (12 U.S.C. 1831o), by striking "the deposit insurance fund" each place that term appears and inserting "the Deposit Insurance Fund";

(38) in section 38(a) (12 U.S.C. 1831o(a)), in the subsection heading, by striking "FUNDS" and inserting "FUND";

(39) in section 38(k) (12 U.S.C. 1831o(k))—

(A) in paragraph (1), by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund";

(B) in paragraph (2), by striking "A deposit insurance fund" and inserting "The Deposit Insurance Fund"; and

(C) in paragraphs (2)(A) and (3)(B), by striking "the deposit insurance fund's outlays" each place that term appears and inserting "the outlays of the Deposit Insurance Fund"; and

REV_00163047

(40) in section 38(o) (12 U.S.C. 1831o(o))—

(A) by striking "ASSOCIATIONS- " and all that follows through "Subsections (e)(2)" and inserting "ASSOCIATIONS- Subsections (e)(2)";

(B) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively, and moving the margins 2 ems to the left; and

(C) in paragraph (1) (as so redesignated), by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and moving the margins 2 ems to the left.

(b) EFFECTIVE DATE- This section shall be effective on the first day of the first calendar quarter that begins after the end of the 90-day period beginning on the date of enactment of this Act.

SEC. 12 ADDITIONAL TECHNICAL AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT TO ELIMINATE REQUIREMENT OF SEMIANNUAL ASSESSMENTS.

(a)Paragraph (3) of section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(3)) is amended by striking the 3d sentence and inserting the following: "Such reports of condition shall be the basis for the certified statements to be filed pursuant to subsection (c).".

(b) Subparagraphs (B)(ii) and (C) of section 7(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)) are each amended by striking "semiannual" where such term appears in each such subparagraph.

(c) Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended in subparagraph (B) as redesignated by section 4(a)(1) of the draft bill, by striking "semiannual".

(d) Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by striking paragraph (4) and redesignating paragraphs (5), (6), and (7), as amended, as paragraphs (4), (5), and (6) respectively.

(e) Section 7(b)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(6)), as redesignated, is amended by striking "semiannual".

(f) Section 7(c) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c)) is amended--

(A) in paragraph (1)(A), by striking "semiannual";

(B) in paragraph (2)(A), by striking "semiannual"; and

(C) in paragraph (3), by striking "semiannual period" and inserting "initial assessment period".

REV_00163048

(g) Section 8(p) of the Federal Deposit Insurance Act (12 U.S.C. 1818(p)) is amended by striking "semiannual".

(h) Section 8(q) of the Federal Deposit Insurance Act (12 U.S.C. 1818(q)) is amended by striking "semiannual period" and inserting "assessment period".

(i) Section 13(c)(4)(G)(ii)(II) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)(G)(ii)(II)) is amended by striking "semiannual period" and inserting "assessment period".

SEC. 13– OTHER TECHNICAL AND CONFORMING AMENDMENTS RELATING TO THE MERGER OF THE DEPOSIT INSURANCE FUNDS.

(a) SECTION 5136 OF THE REVISED STATUTES- The paragraph designated the `Eleventh' of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended in the 5th sentence, by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund".

(b) INVESTMENTS PROMOTING PUBLIC WELFARE; LIMITATIONS ON AGGREGATE INVESTMENTS- The 23d undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338a) is amended in the 4th sentence, by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund".

(c) ADVANCES TO CRITICALLY UNDERCAPITALIZED DEPOSITORY INSTITUTIONS- Section 10B(b)(3)(A)(ii) of the Federal Reserve Act (12 U.S.C. 347b(b)(3)(A)(ii)) is amended by striking "any deposit insurance fund in" and inserting "the Deposit Insurance Fund of".

(d) AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985- Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended—

> (1) by striking "Bank Insurance Fund" and inserting "Deposit Insurance Fund"; and
> (2) by striking "Federal Deposit Insurance Corporation, Savings Association Insurance Fund (51-4066-0-3-373);"
> .

(e) AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT- The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended—

> (1) in section 11(k) (12 U.S.C. 1431(k))—
>
> > (A) in the subsection heading, by striking "SAIF" and inserting "THE DEPOSIT INSURANCE FUND"; and

REV_00163049

(B) by striking "Savings Association Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund";

(2) in section 21 (12 U.S.C. 1441)—

(A) in subsection (f)(2), by striking ", except that" and all that follows through the end of the paragraph and inserting a period; and

(B) in subsection (k), by striking paragraph (4);

(3) in section 21A(b)(4)(B) (12 U.S.C. 1441a(b)(4)(B)), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(4) in section 21A(b)(6)(B) (12 U.S.C. 1441a(b)(6)(B))—

(A) in the subparagraph heading, by striking "SAIF-INSURED BANKS" and inserting "CHARTER CONVERSIONS"; and

(B) by striking "Savings Association Insurance Fund member" and inserting "savings association";

(5) in section 21A(b)(10)(A)(iv)(II) (12 U.S.C. 1441a(b)(10)(A)(iv)(II)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(6) in section 21A(n)(6)(E)(iv) (12 U.S.C. 1441(n)(6)(E)(iv)), by striking "Federal deposit insurance funds" and inserting "the Deposit Insurance Fund";

(7) in section 21B(e) (12 U.S.C. 1441b(e))—

(A) in paragraph (5), by inserting "as of the date of funding" after "Savings Association Insurance Fund members" each place that term appears; and

(B) by striking paragraphs (7) and (8); and

(8) in section 21B(k) (12 U.S.C. 1441b(k))—

(A) by inserting before the colon ", the following definitions shall apply";

(B) by striking paragraph (8); and

(C) by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively.

REV_00163050

(f) AMENDMENTS TO THE HOME OWNERS' LOAN ACT- The Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended—

(1) in section 5 (12 U.S.C. 1464)—

(A) in subsection (c)(5)(A), by striking "that is a member of the Bank Insurance Fund";

(B) in subsection (c)(6), by striking "As used in this subsection—" and inserting "For purposes of this subsection, the following definitions shall apply:";

(C) in subsection (o)(1), by striking "that is a Bank Insurance Fund member";

(D) in subsection (o)(2)(A), by striking "a Bank Insurance Fund member until such time as it changes its status to a Savings Association Insurance Fund member" and inserting "insured by the Deposit Insurance Fund";

(E) in subsection (t)(5)(D)(iii)(II), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(F) in subsection (t)(7)(C)(i)(I), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund"; and

(G) in subsection (v)(2)(A)(i), by striking "the Savings Association Insurance Fund" and inserting "or the Deposit Insurance Fund"; and

(2) in section 10 (12 U.S.C. 1467a)—

(A) in subsection (c)(6)(D), by striking "this title" and inserting "this Act";

(B) in subsection (e)(1)(B), by striking "Savings Association Insurance Fund or Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(C) in the second sentence of subsection (e)(2), by striking "Savings Association Insurance Fund or the Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(D) in subsection (e)(4)(B), by striking "subsection (1)" and inserting subsection (l)";

(E) in the first sentence of subsection (g)(3)(A), by striking "(5) of this section" and inserting "(5) of this subsection";

(F) in subsection (i), by redesignating paragraph (5) as paragraph (4);

(G) in subsection (m)(3), by striking subparagraph (E) and by redesignating subparagraphs (F), (G), and (H) as subparagraphs (E), (F), and (G), respectively;
(H) in subsection (m)(7)(A), by striking "during period" and inserting "during the period"; and

(I) in subsection (o)(3)(D), by striking "sections 5(s) and (t) of this Act" and inserting "subsections (s) and (t) of section 5".

(g) AMENDMENTS TO THE NATIONAL HOUSING ACT- The National Housing Act (12 U.S.C. 1701 et seq.) is amended—

(1) in section 317(b)(1)(B) (12 U.S.C. 1723i(b)(1)(B)), by striking "Bank Insurance Fund for banks or through the Savings Association Insurance Fund for savings associations" and inserting : "Deposit Insurance Fund"; and

(2) in section 536(b)(1)(B)(ii) (12 U.S.C. 1735f-14(b)(1)(B)(ii)), by striking "Bank Insurance Fund for banks and through the Savings Association Insurance Fund for savings associations" and inserting "Deposit Insurance Fund".

(h) AMENDMENTS TO THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989- The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note) is amended—

(1) in section 951(b)(3)(B) (12 U.S.C. 1833a(b)(3)(B)), by inserting "and after the merger of such funds, the Deposit Insurance Fund," after "the Savings Association Insurance Fund,"; and

(2) in section 1112(c)(1)(B) (12 U.S.C. 3341(c)(1)(B)), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund".

(i) AMENDMENT TO THE BANK HOLDING COMPANY ACT OF 1956- The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended—

(1) in section 2(j)(2) (12 U.S.C. 1841(j)(2)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

(2) in section 3(d)(1)(D)(iii) (12 U.S.C. 1842(d)(1)(D)(iii)), by striking "appropriate deposit insurance fund" and inserting "Deposit Insurance Fund".

(j) AMENDMENTS TO THE GRAMM-LEACH-BLILEY ACT- Section 114 of the Gramm-Leach-Bliley Act (12 U.S.C. 1828a) is amended by striking "any Federal deposit insurance fund" in subsection (a)(1)(B), paragraphs (2)(B) and (4)(B) of subsection (b), and subsection (c)(1)(B), each place that term appears and inserting "the Deposit Insurance Fund".

REV_00163052

(k) EFFECTIVE DATE- This section shall be effective on the first day of the first calendar quarter that begins after the end of the 90-day period beginning on the date of enactment of this Act.

From: CN=Theodore W. Ullyot/OU=WHO/O=EOP [WHO]
To: H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>
CC: jennifer r. brosnahan/who/eop@eop [WHO] <jennifer r. brosnahan>;jennifer g. newstead/who /eop@eop [WHO] <jennifer g. newstead>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;benjamin a. powell/who/eop@eop [WHO] <benjamin a. powell>;kyle sampson/who /eop@eop [WHO] <kyle sampson>;noel j. francisco/who/eop@eop [WHO] <noel j. francisco>
Sent: 4/11/2003 8:01:42 AM
Subject: : Re: good website

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Theodore W. Ullyot (CN=Theodore W. Ullyot/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:11-APR-2003 12:01:42.00
SUBJECT:: Re: good website
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:jennifer r. brosnahan (CN=jennifer r. brosnahan/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:jennifer g. newstead (CN=jennifer g. newstead/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:benjamin a. powell (CN=benjamin a. powell/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:kyle sampson (CN=kyle sampson/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:noel j. francisco (CN=noel j. francisco/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

This is fantastic. I especially like the "'Roasting Stomach' BBQ Apron," available for $21.95.

H. Christopher Bartolomucci
04/11/2003 11:25:13 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: good website

www.welovetheiraqiinformationminister.com

Message Sent
To:_____
Noel J. Francisco/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Kyle Sampson/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
Benjamin A. Powell/WHO/EOP@EOP
Theodore W. Ullyot/WHO/EOP@EOP

Jennifer R. Brosnahan/WHO/EOP@EOP

From: Snee, Ashley
To: <Bumatay, Patrick J.>;<Donnan, Elizabeth H.>
CC: <Kavanaugh, Brett M.>
Sent: 4/11/2003 3:18:16 PM
Subject: Re: Carlos Bea

Liz, Please coordinate with Patrick on the judicial nominee for today. Thanks!
.

-----Original Message-----
From: Bumatay, Patrick J.
To: Snee, Ashley
CC: Kavanaugh, Brett M.
Sent: Fri Apr 11 12:53:19 2003
Subject: Carlos Bea

Ashley,

We just gave the go ahead to the Clerk's office to send up the nomination of Carlos Bea. Attached is his bio and support contact list. let me know if you need anything.

Thanks,
Patrick

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Katherine M. Walters/WHO/EOP@EOP [WHO] <Katherine M. Walters>
Sent: 4/11/2003 11:59:32 AM
Subject: : Re: GOPAC

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:11-APR-2003 15:59:32.00
SUBJECT:: Re: GOPAC
TO:Katherine M. Walters (CN=Katherine M. Walters/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

No one from WH should be guest speaker at GOPAC. Karen is a different story since she is not a government employee. Thanks.

Katherine M. Walters
04/08/2003 10:09:17 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: GOPAC

JC Watts has invited Ken to speak to the GOPAC Conference on April 28th. I have tentatively scheduled a time, but wanted to make sure that they were not the same situation as the RGA. Ken thought they might be. They would also like our help in finding a speaker for the keynote dinner. They have asked for Karl or Karen.

From: Kavanaugh, Brett M.
To: <Gonzales, Alberto R.>;<Leitch, David G.>
Sent: 4/11/2003 4:54:05 PM
Subject: class action

good news and a long time in coming over last several years . . .

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 04/11/2003 04:54 PM ----------

Diana L. Schacht

04/11/2003 04:53:39 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: class action

Senate Judiciary reported out the class action bill today by vote of 12-7. The Feintein amendment was adopted.

Message Sent To:

Margaret M. Spellings/OPD/EOP@Exchange@EOP

Jay P. Lefkowitz/OPD/EOP@Exchange@EOP

Brett M. Kavanaugh/WHO/EOP@EOP

Kristen Silverberg/WHO/EOP@Exchange@EOP

Kevin Warsh/OPD/EOP@EOP

From: Comisac, RenaJohnson \(Judiciary\) <Rena_Johnson_Comisac@Judiciary.senate.gov>
To: jamie.e.brown@usdoj.gov <jamie.e.brown@usdoj.gov>;jamie.e.brown@usdoj.gov <Grubbs, Wendy J.>;jamie.e.brown@usdoj.gov <Kavanaugh, Brett M.>;brian.a.benczkowski@usdoj.gov <brian.a.benczkowski@usdoj.gov>;Remington, Kristi L <Kristi.L.Remington@usdoj.gov>
Sent: 4/11/2003 5:24:03 PM
Subject: Transcript of Yesterday's Markup
Attachments: 0410sjux.rtf

COMMITTEE BUSINESS

- - -

THURSDAY, APRIL 10, 2003

United States Senate,

Committee on the Judiciary,

Washington, D.C.

The Committee met, pursuant to notice, at 10:10 a.m., in room SD-226, Dirksen Senate Office Building, Hon. Orrin G. Hatch, Chairman of the Committee, presiding.

Present: Senators Hatch, Grassley, Specter, Kyl, DeWine, Craig, Chambliss, Cornyn, Leahy, Kennedy, Kohl, Feinstein, Feingold, Schumer, and Durbin.

Chairman Hatch. Let us get going this morning. We have enough people here to at least start talking.

We have decided the way to break some of the logjams on these judges is to bring Roberts back into the Committee for a one-day appearance, with the understanding that he could be put on the very next markup even if it is a very short time, with no put-over for a week, and we vote on him.

But Cook will have a right to be up at any time thereafter. In other words, from this day on, within a week, on the floor. She can be called up right after the Roberts' hearing, the day after if the majority leader wants to.

Let me just think what else there was to that. Mr. Sutton will be brought up tomorrow. Senator Harkin will be given

opportunity to make whatever statements he desires and then we will vote on Sutton when we come back, as I understand it.

We are going to recess for just a second or two. We will be right back.

[The Committee was recessed from 10:13 a.m. to 10:20 a.m.]

Chairman Hatch. I would like to welcome everybody to this markup. We have several important matters on today's agenda including five nominations that I would like to have voted on today. They are: J. Leon Holmes to be District Judge for the Eastern District of Arkansas; Cecilia Altonaga to be District Judge for the Southern District of Florida; Patricia Minaldi to be District Judge for the Western District of Louisiana; Susan Braden and Charles Lettow to be Judges for the Court of Federal Claims.

I am also looking forward to picking up where we left off last week on S. 274, the Bipartisan Class Action Fairness Act.

Is there any objection to these four judges? Senator Feinstein.

First let me have the ranking member make any remarks. He is allowed to say a few words here, isn't he?

Senator Leahy. Just to help speed things up, I will hold off my opening statement till after we have voted on the judges. My understanding was Patricia Minaldi was being held over. We were going to have votes on--

Chairman Hatch. We will hold Patricia Minaldi.

Senator Leahy. We were going to have actual votes on the other four.

Chairman Hatch. That is right. The Senator is correct.

Senator Leahy. Then I will make my opening statement after we have done that. I know how difficult it is to hold 10 people here.

Chairman Hatch. The clerk will call the roll on J. Leon Holmes.

I am sorry. Excuse me. Senator Feinstein. I am sorry. I apologize.

Senator Feinstein. Let me begin, Mr. Chairman, by saying that I have never voted against a district judge, and in reading this record and listening to the comments that this man has made, I do not see how anyone can divine from these comments that he has either the temperament or the wisdom to be a judge. Frankly, I was shocked by some of them. Let me read a couple.

In 1980 he wrote a letter to the editor stating that abortion should not be available to rape victims because conceptions from rape occur with the same frequency as snow in Miami. That may be a smart kind of statement to make, but nonetheless, I think it shows what is beneath the surface. He co-wrote an article in which he stated that, "The wife is to subordinate herself to her husband," and "The woman is to place herself under the authority of the man." How could I ever vote for this man to be a judge?

In a recent article written with his son, Jeremy, he argues that, "Christianity in principle cannot accept subordination to the political authorities, for the end to which it directs men is higher than the end of the political order." He wrote that, "The abortion issue is the simplest issue this country has faced since slavery was made unconstitutional, and it deserves the same response."

He wrote a column attempting to recast the Lincoln-Douglas presidential debates in the 1850s as equivalent to the abortion debate, and stated that Douglas was "pro-choice on the slavery issue." He has compared abortion to the Holocaust, writing, "The pro-abortionists counsel us to respond to these problems by abandoning what little morality our society still recognizes. This was attempted by one highly-sophisticated historically christian nation in our century, Nazi Germany."

I have a very hard time seeing where this man has the temperament to take his personal views out of his judicial conduct. How could I as a woman ever bring a case before a man that says in everything I do I must be subordinate to the man? So if that is the case, it would leave 50 percent of our population out from any kind of fair decisionmaking. So I guess all things have a first, and I will cast my first "no" vote on a district court judge.

Senator Schumer. Mr. Chairman?

Chairman Hatch. The Senator from New York.

Senator Schumer. Mr. Chairman, I feel the exact same way as Senator Feinstein. I am just amazed that this man is being nominated for district court judge. Again, me too. You give the benefit of the doubt on district court judges. I cannot think of one we have contested. Just look at my record. It is similar to all of us. Are we being obstructionist? We voted for 111 of 116 judges. I have voted for judge after judge who disagrees with my views on choice or the Commerce Clause of the First Amendment or the Second Amendment. We are not trying to have any kind of litmus test here, but sometimes you get someone who is so far off the deep end, that it is just amazing to me that this man has gotten this far. I find it hard to believe that we are nominating him here. I think it shows what some of us have been trying to say, that some of these nominees are so extreme, can we not do better? Can we not be consistent with what the President and the majority party believe, but not have someone who is so far off the deep end, this man is an embarrassment to be nominated. He is going to make a laughingstock, not of those of us who are opposing him, but of those who are supporting him, to say that--and I just want to get the quote exactly right--he said that, "Rape leads to pregnancy about as often as snow falls in Miami." It is not just insulting. I mean this guy just makes it up as he goes along. We checked the almanac. It snowed in Miami once in the last hundred years.

32,000 women became pregnant last year because of rape, 32,000. Imagine the anguish of each one of them, of each of their families. Now, we can have a debate on what the consequence of that should be, but the man is so blinded by his ideology he does not even look at the facts. These are real women. They are in pain. They have to make traumatic decisions. I am sure many of those women who were raped are not for abortion, and to take their agony, that is not 32,000 total, that is 32,000 a year. Then maybe you say, well, maybe that was a flip comment, but he does it over and over again as Senator Feinstein noted. He said that it's a woman's duty to subordinate herself to her husband and to place herself under the authority of the man. We have had a series of nominees who have done things that just show such disrespect for women.

I asked him some written questions. I asked him if a woman, who was advancing a battered woman's defense against her husband lacked confidence in his impartiality, and he said he does not see why anything he has written would justify any concern that he could not be impartial. Not only does this nominee refuse to disavow. We asked him would he disavow his assertion that women are bound to subordinate themselves to me. He did not. So these are not slips of the tongue. These are not little mistakes in an otherwise distinguished career. This is a pattern of thought to which he clings.

If a woman were in a legal dispute with a man and my case

were assigned to Mr. Holmes, should he be confirmed, I would be worried if I were a woman in a dispute with a man. There is more to be worried about. He believes that the Supreme Court rulings banning prayer in public schools, those compelling public school busing, those guaranteeing a woman's right to choose, constituted a revolution, and he accused the judges behind those rulings of being authoritarians. He has defended and endorsed Booker T. Washington's view--this is 2003--that slavery was a consequence of divine providence designed to teach white people how to be more Christ-like. He is saying that the Almighty said that slavery was a good thing.

What is going on here? Have we lost all sense of reality? I do not know why this man was nominated. But this goes off the deep end. He said that in all the cases in history he would have wanted to argue, the creation case is right there at the top of the list. I am not sure why since John Scopes was convicted back in 1920 whenever, but I guess he thinks he could have done a better job of defending a law that bans the teaching of evolution in our public schools, and he has not disavowed any of these views. He has continued to stand by them. In one sense I admire that. We are not getting somebody in this case who refuses to tell us what he thinks, but the bottom line is what he thinks is so bad.

That is one of the reasons we want to know people's views because there are going to be a few nominees that are off the

deep end, and it is not enough in a case like this for him to say, I will follow the law, and we just march like soldiers and say any time any potential nominee utters that mantra, then we say, yes, sir, and approve it. That is not what we should be doing here. That is not some elixir that banishes all of these views.

I want to work with you. I want to support most judges, even when I don't agree with them. I don't like judges on the far left as well as the far right, and my own Judicial Committee has knocked out judges like that when they have been here. This guy is so far off the deep end, that can't we call a halt to this at some point?

Chairman Hatch. If I could just respond. I have to admit I am concerned about some of those comments. Mr. Holmes has taken public stands on many issues while in private life and certainly had a right to do so as an American citizen, and I would encourage all of our citizens to express themselves freely in this democratic process, and I think we all recognize that these are divisive issues about which many persons feel strongly, very strongly on both sides. The issue today is not whether one view is right or wrong but whether Mr. Holmes is able to set aside his personal views, whatever they may be, and act as a judge should act.

Let me make a few points in this regard, and then I have a suggestion for the Committee. Mr. Holmes had unqualified

support from his Democratic home State Senators, Senators Lincoln and Pryor. He has unqualified support from the Arkansas Democrat Gazette, and numerous Democratic and pro-choice lawyers. This all represents strong testimony of his ability to remain objective once a judge. Senator Lincoln testified at the hearing that Mr. Holmes is trusted, he is respected by his friends and colleagues. She looked at his skills, his experience, his intellect and ability to understand and apply the law, and she expressed her conviction that he is able to apply the law fairly and without bias.

Senator Pryor has known Mr. Holmes since 1986. He has worked with him. He has testified Mr. Holmes has a reputation for being one of Arkansas's best attorneys. Senator Pryor talked about Mr. Holmes, they cited his qualifications, his ability to administer justice in a fair manner and above all his integrity. Most striking are the letters that the Committee has received from pro-choice attorneys, both men and women throughout Arkansas, who strongly believe that Mr. Holmes will fairly adjudicate any case including abortion cases that come before him. They personally attest to his integrity and character and commitment to following the law.

For example, Beth Deere, at attorney with Mr. Holmes' prior firm, Williams and Anderson, she wrote the Committee, quote, "I am proud to be a Democrat. I am also proud to recommend Leon Holmes as Federal District Judge even though he and I disagree

on issues including a woman's right to choose," unquote. She concludes, quote, "Mr. Holmes is shot through with integrity. He will, I believe, uphold and apply the law with the utmost care and diligence," unquote.

Eileen Woods Harrison, a self-described pro-choice Democrat and a former administrative law judge with the Arkansas Workers Compensation Commission, had the opportunity to observe Mr. Holmes' legal work firsthand when he represented the opposing side in a lawsuit that she filed. She writes, quote, "I commend Mr. Holmes to you. He is a brilliant man and a great lawyer and a fine person. Mr. Holmes conducted himself in the most professional and ethical manner throughout my case. I gained a great respect for him during the course of the litigation."

I will put copies of those letters in the record.

[The letters follow:]

Chairman Hatch. Now, his former law partner, Philip Anderson, is a recent past President of the American Bar Association. He strongly supports Holmes, even though he disagrees with him on some of these issue. Now, Mr. Anderson has written the Committee, quote, "Mr. Holmes is a person or rock solid integrity and sterling character. He is compassionate and even-handed. He has an innate sense of fairness. He is temperamentally suited for the bench. In short, he has all of the qualities that one would hope to find in a Federal judge," unquote.

I will submit that as a copy for the record as well, without objection.

In addition to these attorneys, Mr. Holmes' local newspaper, the Arkansas Democrat Gazette has heartily endorsed him. What is interesting about this endorsement is that it was announced before he was even nominated. In endorsing Holmes the Democrat Gazette Editorial Board reviewed a list of seven district court candidates former Senator Hutchinson had submitted to the White House for consideration. Out of that, quote, "impressive list of possibles," unquote, the newspaper wrote, "One name stood out. One name was reminiscent of Judge Richard S. Arnold, formerly Chief Judge on the Eighth Circuit Court of Appeals." Now to quote the editorial, speaking of Judge Arnold, quote, "His is the kind of light that illuminates, not just flares. It isn't agreeing or disagreeing with where

Judge Arnold has come out on a legal question that educates, but seeing how he got there. Great judges are like that," unquote.

The editorial continues, quote, "The same light settled on one name. The name might as well have been in italics, Leon Holmes," unquote. Quote, "What distinguishes Mr. Holmes is the rare blend of qualities he brings to the law, intellect, scholarship, conviction and detachment," unquote. The editorial concludes, quote, "Their politics and their approach to many aspects of the law may be different, yet Richard Arnold and Leon Holmes cast the same illuminating light," unquote.

I might add that Judge Arnold was appointed by President Carter to the U.S. District Court in Arkansas, and then the Eighth Circuit Court of Appeals, and is often mentioned as a U.S. Supreme Court candidate.

Now let me just add to that, during the Clinton years.

Senator Specter. Mr. Chairman, may I interrupt you for just a moment?

Chairman Hatch. Yes.

Senator Specter. As I had mentioned to you before we started, I have to go to chair another hearing at 11:00, and while we are hearing this matter, I had been advised by staff that the five nominees were all noncontroversial. I know this nominee has been held over for a week, but I would suggest that we hold him over beyond so we can examine this.

Chairman Hatch. If the Senator would just hold in abeyance that request, let me just finish here, because I have a suggestion.

Senator Durbin. Mr. Chairman, I want to be recognized too.

Chairman Hatch. Of course. Let me just end this because this bothers me too. I can say that I was Chairman during six years of President Clinton's administration, and I can tell you that Judge Arnold was really at the top of the list for the Supreme Court, there is no question. And I think the only reason--maybe I shouldn't comment on that. It was a legitimate reason by the President. There was only one reason why he wasn't chosen, and that was a concern about age and health. I certainly told the President that I would support him, that I thought he was an excellent judge. Well, they are comparing this man with Judge Arnold, so apparently the people in Arkansas know a lot more than we do.

Let me just make a suggestion to us. I would be happy to put him over for a week at the request of Senator Specter, but I think there is a way of resolving this perhaps, and that is, if you are willing, to report him out without recommendation, and then we all go to the Arkansas Senators, and they will have to move his nomination on the floor if they want to continue to push him.

We could do that or we can put him over for a week and study

it a little bit more, but I am concerned about some of those remarks, but everything I hear about the man is that he is a person of inestimable legal ability, intellect, capacity, decency, honor. The fact that he has made some of these statements that are very questionable in my eyes, as has been explained by my colleagues, I have to rely a lot on the two Democrat Senators and I might add the vetting of the administration, and the fact that the American Bar Association gives him a well-qualified rating, a majority well-qualified rating, and I certainly want to rely on the home State Senators here if I can.

Senator Durbin. Mr. Chairman?

Senator Leahy. I would like to say something too.

Chairman Hatch. Senator Leahy first and then Senator Durbin.

Senator Leahy. Just briefly, if I might--

Senator Schumer. Mr. Chairman, before we begin, could I just ask unanimous consent that my entire record--that my statement be put into the record.

Chairman Hatch. Without objection. We will put statements of anybody in the record without objection.

Senator Schumer. I don't need my entire record to be in the record.

[Laughter.]

2 [The prepared statement of Senator Schumer follows:]

REV_00163076

Senator Leahy. Mr. Chairman, I apologize for stepping out. I have trouble with nosebleeds, not that you give them to me, I want to hasten to add.

Chairman Hatch. I would never claim that.

Senator Leahy. But if this is going to be put over I have a longer statement. I was listening to Senator Feinstein and Senator Schumer earlier, and one thing that stuck in my mind, and it also stuck in my mind last night as I was reading over some of the report on this--and I appreciate the concern of the Senator from Pennsylvania in wanting to look at it further. I would urge all Senators to. There is almost a flippant disregard of the question of rape. It brought me back to a memory, and I won't identify the victim any more closely than this because she was a juvenile at the time. It was a case I had as a young prosecutor, of a young woman, teenage, well under 16, where you would be an adult, she had been raped and did become pregnant, a very violent rape by a family member. The trauma, enormous trauma to this young woman, and I know that it took her years to get over this. I doubt if she ever fully got over it, but I know what she went through and what her family went through. The Senator from California is absolutely right in talking about these kind of issues. There seems almost sometimes, people sort of take this, well, rape, that is that. Unless you spent some time working with rape victims, as I have and several others around this table have, as horrible as it

is, I don't think especially we men can fully grasp what a terrible traumatic event this is.

What bothers me so much with Mr. Holmes, of course everybody has a right to say whatever they want, but what he says seems to reflect a cavalier attitude to such a terrible, terrible traumatic incident. That bothers me. I don't mind that somebody disagrees with me on choice questions or a whole lot of other issues, assuming that they are going to be sensitive to people who hold differing views. But when you have something which appears to be a cavalier attitude toward what is a horrendous crime. We have had people here that I have been very much against who seemed very much concerned about property crimes, but not concerned about something that goes way beyond any property crime. So if this is going to be held over, I will speak further on it, but I wanted to compliment the Senator from California and the Senator from New York for their comments.

Chairman Hatch. If we are going to hold them over, could we reserve our comments for the next time, or do you really need to speak today, Senator? Senator Durbin.

Senator Durbin. Mr. Chairman, I will make it brief because I think this is the right thing to do, to hold him over. Words count in life and in the law particularly, and the words of a judge will determine the outcome of a trial and the rights of the parties in the courtroom, and the words of Leon Holmes convict him of insensitivity to some of the most basic values

and issues that come before a Federal Court.

I know that we disagree, Mr. Holmes and I, on the issue of abortion, but I can certainly tell you that of the 115 nominees from President Bush, the vast majority of them don't hold the same position that I do on the issue of abortion, and yet I have given the President his nominees. But Mr. Holmes' views reach a much different level. Let me give you a specific illustration.

I asked Leon Holmes in a written question whether he would recuse himself as a Federal District Court Judge if any of the eight different anti-abortion organizations that he has represented as an attorney would come before him in the court. He refused. He will not recuse himself when these organizations that he has represented as an attorney come before him in the court. Nor is he willing to commit to recusing himself on any type of abortion cases, despite his long history.

I also asked a question which is not a trick question. It has become boilerplate. I asked Mr. Holmes to name three Supreme Court cases with which he disagreed. I hope that you will read his response, and I would like to read it. "As a citizen I am troubled by the Supreme Court decisions in Dred Scott, Buck v. Bell," which is a case of involuntary sterilization by the State, "and Roe v. Wade, because in my view, each of those decisions failed to respect the dignity and worth of the human person."

How can a person make that statement about Roe v. Wade and then quickly add that, "I will apply this law with objectivity." I think it is almost impossible.

Let me tell you, when you go into the specific issues that have been raised here, he did say, in fairness to Mr. Holmes--and I don't know if you have seen this, Mr. Chairman; you should, and I am certain that you will quote it back to me at some future point. But when he was asked about this statement, about the likelihood of rape victims conceiving, and was quoted as saying, "Because conceptions from rape occur with the same frequency as snow in Miami," he said, and I quote, "I have to acknowledge that my own rhetoric, particularly when I first became involved in the issue in 1980 and perhaps some years thereafter, but sometimes has been unduly strident and inflammatory. The sentence about rape victims which was made in a letter to an editor in 1980 is particularly troublesome to me from a distance of 23 years later. Regardless of the merits of the issue, the articulation in that sentence reflects an insensitivity for which there is no excuse and for which I apologize."

That was part of his response to me, and that should be part of the record.

Chairman Hatch. Without objection, that will be made part of the record.

[The information follows:]

/ COMMITTEE INSERT

REV_00163080

Chairman Hatch. I appreciate you bringing that out.

Senator Durbin. But I do want to make another point, and my last point. When I asked him specifically about this statement that he made, that a wife is to subordinate herself to her husband and the woman is to place herself under the authority of the man, I am very troubled by his response to me. And his response, which I will make a part of the record, says that the article that I mentioned was a discussion of the historic teachings of the Catholic Church and is based on the sacramental theology of the Catholic Church. "In my view these teachings ennoble and dignify both men and women. They do not demean either." He goes on to explain that this was in the context of ordaining priests and so forth, but I will tell you, as a person with a Catholic background, that is a troubling statement for him to make. I don't believe that that type of statement, which reflects a narrow view of Catholic theology, should be used to in any way justify a statement which by contemporary standards should not be followed by any Federal District Court Judge in any State.

I will close by saying this: I am certain that of the millions of people in Arkansas and the thousands of attorneys in Arkansas, and maybe the thousands of Republican attorneys in Arkansas, there has to be a nominee that can be brought forward that can do that State proud. Mr. Holmes is not such a nominee.

Chairman Hatch. With that, we will put him over for a week, and I suggest that every member of the Committee chat with the two Senators from Arkansas, and hopefully they will be able to persuade us that the Arkansas Gazette is right and all of these others are right as well. But I have to admit I think probably most people have made some inappropriate statements during their lifetime that they wish they hadn't. I know I have, and especially in your younger years. There is no question about it. But let us look at it. I am troubled by the same statements that you are, and on the other hand, I do place great weight on the two Senators and also on the people down in Arkansas, and especially those who have worked with him in the courts and so forth. We are going to put him over.

What is would like to do is move to a vote on Susan G. Braden at this point. Is that okay with you, or do you want me--

Senator Specter. Mr. Chairman, I am going to have to leave to chair a hearing at 11 o'clock, and I would ask if we might take up a very brief amendment under the class action case. Senator Feinstein are prepared to offer and speak just a minute or two.

Chairman Hatch. Is there any objection?

Senator Schumer. Mr. Chairman, I have no objection. I just have a statement that I want to make before we go to the two Court of Federal Claims nominees, but I can wait.

Chairman Hatch. Then we will take that out of turn and

the Senator can bring up his amendment.

Senator Specter. Thank you, Mr. Chairman, and thank you all. Senator Feinstein and I are moving to strike on page 19, lines 18 through 25, and on page 20, lines 1 through 7. These are additions to this class action bill, and I have had considerable comment, and Senator Feinstein advises me that she has also. These matters do not relate to class actions, but the (i) relates to private attorneys general, somebody who initiates a suit on behalf of other unnamed people, and (ii) refers to mass tort claims, which again doesn't involve class actions.

I support this class action bill for reasons that I have discussed before, but these are add-ons, and have not been considered by the Committee, and would make really very, very material changes.

[Mr. Specter's Amendment follows:]

Senator Feinstein. Mr. Chairman, may I speak?

I would like to add my voice of support to what Senator Specter has said. I believe he is absolutely correct. This came to our attention late yesterday. I didn't catch it on my reading of the bill, and it has apparently been added to the bill a year or so ago. It was not in the original bill. It is really directed at California law, although other jurisdictions which have similar law it may be applied against. This law allows individuals to sue on behalf of a general public in lieu of the attorney general, so they are called private attorney general actions, and what they do is they allow individual groups or local district attorneys or Government officials or even individual consumers to sue corporations on behalf of the people of the State. These suits are generally to recover illegally gained profits or to enforce California law against companies that do business in my State. As Senator Specter said, they are not class actions, and this is a class action bill. But the bill essentially deems these suits to be class actions, and therefore moves many of them to Federal Court even if the plaintiffs are all in California.

Now, this is of great concern to me. Yesterday my staff, Mr. Chairman, worked with your staff to see if something could be worked out, but at this point it hasn't happened. Let me give you an example. If a California consumer sued Enron on behalf of the general public in an attempt to force Enron to

disgorge illegally gotten profits and return that money to the Government of California, this bill would not change anything. While your staff was unwilling to agree to a compromise, which I understand because of the lateness of the hour, I just can't let this go ahead. As you know, I am prepared to support this bill with a diversity amendment that I will propose. But this is a direct strike against State law in a way that puts a whole category of actions that are not now class actions into the class action arena. In a sense it is an overreach, and I don't think it belongs in this bill.

Chairman Hatch. If I could comment, frankly, these are representative actions that are a little bit different from class actions, but in all honesty, it means that the out-of-state plaintiffs can't remove to Federal Court. I see very little difference. I see every reason to want to be able to do that, but I am prepared to vote on it.

Senator Grassley. Could I ask?

Chairman Hatch. Senator Grassley.

Senator Grassley. The impression here is that this is something new to this bill? This was in this bill that last--it wasn't in the bill three congresses ago.

Senator Feinstein. That is correct.

Senator Grassley. It was in this bill the last Congress.

Senator Feinstein. Correct.

Senator Grassley. And it has been in the bill all this

year, so what is this story about you don't know what is in the bill?

Senator Feinstein. The story is I read the bill twice, and I am sorry I didn't catch it. It was brought to our attention yesterday by numerous phone calls by a whole host of organizations. I try to do my homework. I have read the bill. We just didn't catch it.

Senator Grassley. Well, I would like to have amendments filed so we know about them. This is the first time we have seen this amendment.

Chairman Hatch. Are there any other comments? Senator Kyl.

Senator Kyl. Mr. Chairman, as I understand it, our Committee procedures are to circulate amendments in advance, and I don't have any idea what this amendment is. I am familiar with the provision in the bill. I am happy to vote. Apparently it is pretty important, and I would like to try to understand what the issue is.

Chairman Hatch. I wonder if you could make a good faith effort between now and the floor to resolve this to satisfy you, because I hate to take it out right now. It has been in there. Frankly, I can see a reason for it being in there. I don't really think it conflicts with California law. I really believe that it can be beneficial, but I will work in good faith to try and resolve it with you.

Senator Kyl. Mr. Chairman, might I just say, most states, under common law, had a provision like this. I don't know whether there are differences between California law and Arizona law, for example, but this is not unique to California.

Chairman Hatch. I would be happy to work--

Senator Kyl. There has always been a private attorneys general kind of action that can be taken.

Senator Specter. Mr. Chairman, the difference is that it confers Federal Court jurisdiction. This is a class action bill, and there has been general agreement that we need reform on class actions, but these provisions do not relate to class actions. They are not class actions, and (ii) is a provision for mass torts, and there is great concern about overburdening the Federal Courts. Where you have class actions we have had reasons to remove to the Federal Courts, and there has been a defeat of that when one plaintiff is a citizen of the same State as the defendant; diversity falls. That has been really a subterfuge to move a lot of cases to very questionable jurisdictions, but there has been no showing that on mass tort cases that that problem exists.

And on the private attorneys general, that is a very complex area. I used to be in the field as a district attorney as to bringing those actions. It is very hard. There has to be a showing of failure or refusal to act before, and some generalized public interest and a failure by the public official

to act. But these are very, very important issues, and I don't think anybody has to apologize for not noticing all of the provisions of this complex bill. With what we have to do around here, we focus on it when we can, and it frequently is at the last minute. Other people read the bills and call the matters to our attention. I commend Senator Feinstein for reading the bill twice. I haven't read it once.

[Laughter.]

Senator Specter. I would like to take polygraphs as to how many people have read this bill.

[Laughter.]

Chairman Hatch. Well, we don't want to start that.

[Laughter.]

Chairman Hatch. Let me just say, before I turn to Senator Feinstein, that you still have to have diversity of citizenship. You still have to have 100 or more, and you still have to meet the requisite monetary amounts.

Senator Specter. No, Mr. Chairman, you don't have to have diversity. This confers Federal jurisdiction without diversity.

Chairman Hatch. I don't believe it does.

Senator Specter. Without diversity, where somebody makes a representation they are representing a lot of people with similar interests. And you don't have to have diversity if you have 100 or more people on what is a mass tort. That is the

point. Diversity goes, and I think it ought to go on class actions for what has happened.

Chairman Hatch. You still have to have an out-of-state defendant. That is diversity. I think diversity does apply. But look, I am willing to work with you, and it may be that we just take it out.

Senator Feinstein. And I really appreciate that, but let me say this. As you know, we have worked on the diversity provisions. I think we have worked something out hopefully which will gain the acceptance of the supporters of this bill, and I have taken a lot of flak to support this bill.

Chairman Hatch. Yes, you have.

Senator Feinstein. I cannot support it with this in it, and I cannot vote for it in this Committee with this in it.

Chairman Hatch. Then we will strike--

Senator Feinstein. I have even the district attorneys opposed to this section.

Chairman Hatch. Okay. Let me solve it this way. We will strike the provision, but we will between here and the floor. We will reverse the order. Instead of leaving it in and working together, we will work between here and the floor together to see if we can come up with language that will be more satisfactory because I do want the distinguished Senator to be a supporter of this bill.

Senator Specter. How about two distinguished--or how

about one distinguished Senator and one other Senator?

[Laughter.]

Chairman Hatch. I want two very distinguished Senators, along with everybody else, to be supportive of this bill. I will try to be a little more accurate in the future on those type of things, especially on--

Senator Leahy. I am not sure what we have done.

Chairman Hatch. Well, I move to strike the provision. Is there any objection?

Senator Leahy. Does that mean you accept the Specter/Feinstein amendment?

Chairman Hatch. I accept the language. He moved to strike. I accept the language. Is there any objection? Without objection, the provision will be stricken.

Now, let us go back to these judges and then let us get to the bill. The clerk will call the roll on--

Senator Schumer. Mr. Chairman, I have a comment, as I mentioned earlier on the Court of Federal Claims nominees.

Chairman Hatch. Will the Senator be quite short on this?

Senator Schumer. I will try to be short. It is an important point.

Chairman Hatch. Because if he is not going to be, I would like to just go to the bill and we will wait. But go ahead.

Senator Schumer. Well, I will be less than 5 minutes. Is that short enough?

Chairman Hatch. Not for me, but I guess I have to--

[Laughter.]

Senator Schumer. For me that is short, for another nondistinguished Senator.

What I would like to talk about here today is the Court of Federal Claims. It is of real importance to the property rights movement, and environmental protection concerns, one on your side of the aisle, one on ours. And the court's rulings have a profound impact on the enforcement of environmental protection laws and regulations. I am not going to get into a fight today over what is happening ideologically on this CFC, because in my mind there is a bigger question.

I was reviewing the records of the four recent nominees to the CFC, and I asked my staff why we need a Court of Federal Claims at all. We were discussing the court, and it seems the work the CFC does is done by district court judges around the country. I asked my staff to explain the value of having a specialty court that doesn't do anything at all. Well, maybe I need to get better staff, but they couldn't the question.

[Laughter.]

Senator Schumer. So we started looking a little deeper and we learned some facts about this court. I just wish my colleagues, Mr. Chairman, would look at this chart. The average Federal District Court Judge carries 355 cases at a given time. The CFC, with the current staffing, it has 24

judges, each one carries 24--oh, it is up there. They are better than I thought.

[Laughter.]

Senator Leahy. You are lucky to have them.

Senator Schumer. I sure am.

Anyway, the average CFC under current staffing, 24, if we add these new nominees, the pending nominees, the average judge will have 19 cases. Now, a few of them are complicated cases; they are not run-of-the-mill Federal District Court cases, but many of them on the district court are just as complicated if not more. So it doesn't begin to explain the disparity.

Then we did a little sleuthing, and we learned that no one is burning the midnight oil over at the CFC. It has been described to us by some who have served there as one of the cushiest places to work in Washington. Now, I have no problem with people getting their work done and going home to their families, but I do have a problem with Government wasting taxpayers' money. If we confirm these CFC nominees the President has sent us, the average caseload, as I mentioned, drops to 19 cases a judge. That is compared to 355 on the district court. They will barely have to come to the office at all.

Senator Grassley actually did research a few years back, and each Federal judgeship, according to his research, costs the taxpayers one million dollars a year, and that was a while

ago, so probably the number has risen. As we continue to work out the details of the budget and we scrape for every extra dollar, I say there is an irony here. I believe in job creation, but this is going a little bit too far.

So I would just like to say that we have argued we shouldn't add a new judge a while ago to the D.C. Circuit. Many of my colleagues, Senator Grassley, Senator Sessions, Senator Kyl, had called for hearings about why we had to fill vacancies a year or two ago. Let us have some bipartisan agreement here. Let us not force the Treasury to spend money on these judges unless we really need them.

The Washington Post, which my friend from Utah quotes favorably time and time again when it comes to judges, editorialized yesterday in favor of abolishing the CFC. I don't know whether that is the right thing to do, but we should consider it.

The nominees here today have the votes to pass on the merits. I don't want anything I say to be taken the wrong way, because under normal circumstances they get my vote, but I don't know we are adding two more judges to a court that doesn't have hardly a caseload at all right now.

In my State of New York we desperately need Customs and Border Agents and DEA agents in Plattsburg. Those are vacant. I suggest we table these nominations, and that maybe Senator Sessions and I, on the Court Subcommittee, work to schedule

hearings about whether we need these judges or we need these courts. We might be able to save some millions of dollars if we just hold off a few weeks and examine the situation, and that is what I would like us to do, whether you are for or against these nominees.

[The prepared statement of Senator Schumer follows:]

Chairman Hatch. All right. Senator.

Senator DeWine. Could I ask a question to my colleague? Do those figures factor in senior status?

Senator Schumer. Yes, they do.

Senator DeWine. So you have taken out senior status; those do not include senior status?

Senator Schumer. No, they include senior status.

Senator DeWine. So they do include senior status?

Senator Schumer. Yes.

Senator DeWine. I have not done any of the research that you have done at all. It would seem to me that probably the best way to compare it would be apples to apples, would be if we factored out senior status in both district and--

Senator Schumer. I will be happy to do that.

Senator DeWine. I think that would be an interesting comparison as well. Senior status, they do do work.

Senator Schumer. Yes, no question.

Senator DeWine. What is hard to figure is some senior judges do a certain percent, and others do a different percentage, and so that makes it different.

Senator Schumer. Well, I would just say we factored it in on both sides, so we are not comparing apples and oranges. Maybe oranges and oranges is better than apples, apples. I would be happy to entertain that.

Senator DeWine. It would be interesting to see it both

ways.

Senator Schumer. The disparity is so great, that I doubt it is going to change it too much.

So what I would like to do, Mr. Chairman, and I am not trying to be--

Chairman Hatch. If the Senator would hold his motions, let us have Senator Leahy make his remarks.

Senator Schumer. Okay, thanks.

Senator Leahy. I will be very brief. I will put my statement in the record, but the Senator from Ohio raises a good question. If these nominees pass out of here today, maybe we ought to, before we have any vote on the floor, either have a hearing on what the caseload is or just have the Republican and Democratic staff work together to get those exact numbers for us, because the question comes to my mind. The numbers that I have seen certainly establish what a number of senators in this Committee have said in both parties, that we ought to just get rid of the court. I think the Washington Post has called it a court of extravagance. An academic expert who specializes delivered a paper examining its redundant--and then he said--and incoherent caseload, speaking about mainly the same kind of numbers. Senator Sessions and Senator Grassley have both argued that vacancies should not be filled because of the million dollar a year cost to add a judge.

I wonder if perhaps though what may have motivated the

White House more than anything else, we have always handled this in a bipartisan fashion, these judges. As the Chairman remembers, I worked with the White House under President Clinton to put in a staff member of his, then brought up, when I was a chairman, nominated another staff member of his to it. President Clinton had followed a bipartisan example we used before he renominated Christine Miller, who was a Reagan appointee, a Republican, to the Court of Federal Claims. That has usually been done. The current White House, the first one in six presidents I have served here with, has stopped doing that. I am not quite sure where, but maybe that is why we suddenly have these people up here. I wish somebody at the White House was brought in to talk to us on these issues. They seem unwilling. But maybe that is why we have them. The Democrats are summarily kicked off. The Republicans are put into these million dollar a year cost positions, and it is unfortunate that the procedures have not been followed the way they have always, at least in the 29 years I have been here, with both Republican and Democratic presidents have been followed, but the White House has decided that. It also doesn't obviate the issue that we have before us of whether we need to spend a million dollars for what one said an in coherent system, but I will Post article in the record.

Chairman Hatch. The statement is in the record.

[The prepared statement of Senator Leahy follows:]

Chairman Hatch. I am not going to spend any more time on this. I will just say one thing about it.

Senator Kyl. Well, Mr. Chairman, if you are going to say one more thing, could I say 30 seconds worth?

Chairman Hatch. Okay.

Senator Kyl. Go ahead.

Chairman Hatch. In a letter to the editor of the Washington Post yesterday the president of the Court of Claims Bar Association made a very strong point. He said that the docket of the court, quote, "consists of more than 4,000 cases, opinions by the judges are recognized as well written and well considered, and reflecting of the complexity of the caseload. Those practicing before the court know that its judges are busy." Now, this is a letter from an attorney who actually practices before the Court, who took direct issue with the Post recommendation.

Look, it is obvious to me that the criticism of the courts--

Senator Leahy. Is he sucking up to the court?

Chairman Hatch. Never know.

Senator Schumer. Wanted the judges to see his letter.

[Laughter.]

Chairman Hatch. I will put the letter in the record. Since he is literally the president of the Court of Claims Bar Association, I would give him a little more deference than saying he is sucking up to the court. But in any event, it is

apparent that you are not going to.

[Laughter.]

Chairman Hatch. But in any event, I want to vote on these two nominees. We will give 30 seconds to Senator Kyl and then we will vote.

Senator Kyl. Thank you, Mr. Chairman. As you know, I have thought for some time we have one too many judges on the D.C. Circuit Court of Appeals. I also believe that we are almost of unanimous opinion that we are woefully short of staffing our district and in particular our circuit courts. The Ninth Circuit is either 8 or 10 judges short, according to everybody's consensus. So if we are going to take a look at these courts, I submit that we finally take a look at adding judges to those circuits where everyone agrees they are short.

Chairman Hatch. Well, I am going to try to do that.

If the clerk would call the roll on Susan G. Braden to be judge for the Court of Federal Claims.

Senator DeWine. Mr. Chairman, I have a written statement I would like to put in the record.

Chairman Hatch. It will be in the record.

5A [The prepared statement of Senator DeWine follows:]

REV_00163099

Senator Schumer. I had a motion to table.

Chairman Hatch. The Senator's motion to table of Susan G. Braden. An aye vote would be to table the Braden nomination; a no vote will be against tabling. I recommend that we vote no. The clerk will call the roll.

The Clerk. Mr. Grassley?

Senator Grassley. No.

The Clerk. Mr. Specter?

Chairman Hatch. No, by proxy.

The Clerk. Mr. Kyl?

Senator Kyl. No.

The Clerk. Mr. DeWine?

Senator DeWine. No.

The Clerk. Mr. Sessions?

Chairman Hatch. No, by proxy.

The Clerk. Mr. Graham?

Chairman Hatch. No, by proxy.

The Clerk. Mr. Craig?

Chairman Hatch. No, by proxy.

The Clerk. Mr. Chambliss?

Senator Chambliss. No.

The Clerk. Mr. Cornyn?

Senator Cornyn. No.

The Clerk. Mr. Leahy?

Senator Leahy. Aye.

The Clerk. Mr. Kennedy?

Senator Leahy. Aye, by proxy.

The Clerk. Mr. Biden?

Senator Leahy. Pass.

The Clerk. Mr. Kohl?

Senator Leahy. Mr. Kohl passes.

The Clerk. Mrs. Feinstein?

Senator Feinstein. Aye.

The Clerk. Mr. Feingold?

Senator Feingold. Aye.

The Clerk. Mr. Schumer?

Senator Schumer. Aye.

The Clerk. Mr. Durbin?

Senator Durbin. Aye.

The Clerk. Mr. Edwards?

Senator Leahy. Aye, by proxy.

The Clerk. Mr. Chairman?

Chairman Hatch. No.

The Clerk. Mr. Chairman, the votes are 7 yeas, 10 nays.

Chairman Hatch. The motion fails. The motion--

Senator Chambliss. Mr. Chairman, can I ask a question before we vote? Are these newly-created positions, or are we filling two vacancies?

Chairman Hatch. We are filling two vacancies.

Senator Chambliss. Thank you.

Chairman Hatch. The clerk will call the roll on Susan G. Braden to be Judge for the Court of Federal Claims.

The Clerk. Mr. Grassley?

Senator Grassley. Aye.

The Clerk. Mr. Specter?

Chairman Hatch. Aye, by proxy.

The Clerk. Mr. Kyl?

Senator Kyl. Aye.

The Clerk. Mr. DeWine?

Senator DeWine. Aye.

The Clerk. Mr. Sessions?

Chairman Hatch. Aye, by proxy.

The Clerk. Mr. Graham?

Chairman Hatch. Aye, by proxy.

The Clerk. Mr. Craig?

Chairman Hatch. Aye, by proxy.

The Clerk. Mr. Chambliss?

Senator Chambliss. Aye.

The Clerk. Mr. Cornyn?

Senator Cornyn. Aye.

The Clerk. Mr. Leahy?

Senator Leahy. Pass.

The Clerk. Mr. Kennedy?

Senator Leahy. Mr. Kennedy also passes.

The Clerk. Mr. Biden?

Senator Leahy. Mr. Biden passes.

The Clerk. Mr. Kohl?

Senator Leahy. Aye, by proxy.

The Clerk. Mrs. Feinstein?

Senator Feinstein. Aye.

The Clerk. Mr. Feingold?

Senator Feingold. Pass.

The Clerk. Mr. Schumer?

Senator Schumer. Pass.

The Clerk. Mr. Durbin?

Senator Durbin. No.

The Clerk. Mr. Edwards?

Senator Leahy. Mr. Edwards passes.

The Clerk. Mr. Chairman?

Chairman Hatch. Aye.

The Clerk. Mr. Chairman, the votes are 12 yeas and 1 nay.

Chairman Hatch. She will be reported to the floor.

The clerk will now call the roll on the motion to table Charles F. Lettow, if that is correct, Senator Schumer's motion. A vote to table would be aye. A vote against tabling will be no. I recommend a no vote.

Senator Leahy. Mr. Chairman, I just--

Chairman Hatch. You will stipulate the same two votes? That will be fine. We will accept that.

Then the clerk will call the roll on--

Senator Leahy. Mr. Chairman, could I just--

Chairman Hatch. Senator Leahy?

Senator Leahy. I understand that we should have been voting "present" and not "pass." So I would ask consent to change it.

Chairman Hatch. Without objection.

Senator Feingold. Mr. Chairman, I assume that applies to the others who voted "pass?"

Chairman Hatch. Yes, to everybody.

The clerk will call the roll on Charles F. Lettow to be Judge for the Court of Federal Claims.

Senator Leahy. Sorry about that.

The Clerk. Mr. Grassley?

Senator Grassley. Yes, for going to the floor.

The Clerk. Mr. Specter?

Chairman Hatch. Aye, by proxy.

The Clerk. Mr. Kyl?

Senator Kyl. Aye.

The Clerk. Mr. DeWine?

Senator DeWine. Aye.

The Clerk. Mr. Sessions?

Chairman Hatch. Aye, by proxy.

The Clerk. Mr. Graham?

Chairman Hatch. Aye, by proxy.

The Clerk. Mr. Craig?

Chairman Hatch. Aye, by proxy.

The Clerk. Mr. Chambliss?

Senator Chambliss. Aye.

The Clerk. Mr. Cornyn?

Senator Cornyn. Aye.

The Clerk. Mr. Leahy?

Senator Leahy. Present.

The Clerk. Mr. Kennedy?

Senator Leahy. Present by proxy.

The Clerk. Mr. Biden?

Senator Leahy. Pass.

The Clerk. Mr. Kohl?

Senator Leahy. Aye by proxy.

The Clerk. Mrs. Feinstein?

Senator Feinstein. Aye.

The Clerk. Mr. Feingold?

Senator Feingold. Present.

The Clerk. Mr. Schumer?

Senator Schumer. Present by being present.

[Laughter.]

The Clerk. Mr. Durbin?

Senator Durbin. No.

The Clerk. Mr. Edwards?

Senator Edwards. Present.

The Clerk. Mr. Chairman?

Chairman Hatch. Aye.

The Clerk. Mr. Chairman, the votes are 12 yeas, 1 nay.

Chairman Hatch. Mr. Lettow will be reported to the floor.

The clerk will now call the roll in Cecilia M. Altonaga to be United States District Judge for the Seventh District of Florida.

The Clerk. Mr. Grassley?

Senator Grassley. Aye.

The Clerk. Mr. Specter?

Chairman Hatch. Aye, by proxy.

The Clerk. Mr. Kyl?

Senator Kyl. Aye.

The Clerk. Mr. DeWine?

Senator DeWine. Aye.

The Clerk. Mr. Sessions?

Chairman Hatch. Aye, by proxy.

The Clerk. Mr. Graham?

Chairman Hatch. Aye, by proxy.

The Clerk. Mr. Craig?

Chairman Hatch. Aye, by proxy.

The Clerk. Mr. Chambliss?

Senator Chambliss. Aye.

The Clerk. Mr. Cornyn?

Senator Cornyn. Aye.

The Clerk. Mr. Leahy?

Senator Leahy. Aye.

The Clerk. Mr. Kennedy?

Senator Leahy. Aye, by proxy.

The Clerk. Mr. Biden?

Senator Leahy. Aye, by proxy.

The Clerk. Mr. Kohl?

Senator Leahy. Aye by proxy.

The Clerk. Mrs. Feinstein?

Senator Feinstein. Aye.

The Clerk. Mr. Feingold?

Senator Feingold. Aye.

The Clerk. Mr. Schumer?

Senator Leahy. Aye, by proxy.

The Clerk. Mr. Durbin?

Senator Durbin. Aye.

The Clerk. Mr. Edwards?

Senator Edwards. Aye, by proxy.

The Clerk. Mr. Chairman?

Chairman Hatch. Aye.

The Clerk. Mr. Chairman, the votes are 19 yeas and no nays.

Chairman Hatch. She will be reported to the floor then.

Senator Leahy. Mr. Chairman?

Chairman Hatch. Senator Leahy?

Senator Leahy. I want to commend both Senator Graham and

Senator Nelson of Florida for their efforts on this nominee. She becomes the first Cuban-American woman ever reported to be a Federal Judge. I suspect she will get through the Senate very easily. I would ask again that we move forward on the nomination of Judge Edward Prado to be the circuit judge. We have cleared all Democrats that said they have no objection to go forward on that.

He was reported unanimously out of this Committee and I would urge the Republican leadership to allow him to go forward. We have cleared it on our side of the aisle.

But I did especially want to commend not only Cecilia Altonaga, but also the Senators who worked closely with the White House and with the bar and others in Florida to bring her forward. She was in her hearing and is a very impressive person.

Chairman Hatch. All right. We will now move to S. 224, The Class Action Fairness Act of 2003. I won't make an opening statement, other than to say that this is a good bill. It is much-needed legislation to curb class action abuses that are all too rampant. I will put the rest of my statement in the record.

[The prepared statement of Chairman Hatch follows:]

/ COMMITTEE INSERT

Chairman Hatch. I will turn to Senator Leahy.

Senator Leahy. Mr. Chairman, I find difficulty with this even though there have been real efforts on the parts of the Senators on both sides to improve it. I would oppose it because I don't think it is fair. I think it makes it harder for citizens to protect themselves against violations of State civil rights and consumer, health and environmental protection laws. I think it puts those cases out of convenient State courts and into Federal courts with a lot of barriers.

I joined, I think it was two weeks ago now, with Senators Kennedy, Biden, Feingold, Durbin and Edwards in requesting a hearing on class action litigation to see if we could get some consensus on this subject in a way that could help both defendants and plaintiffs.

While my letter went unanswered, I would ask consent that it be made part of the record.

Chairman Hatch. Without objection.

[The letter follows:]

/ COMMITTEE INSERT

Senator Leahy. The reason for that was I was hoping the Committee could do a deliberate, careful review of information from parties actually involved in class action litigation, and we could get some idea of the benefits and burdens of such things. Instead, we are going ahead with legislation that really has failed to pass the Senate in recent years.

But I do want to acknowledge the hard work and dedication displayed by the Senator from California. She made a comment this morning about having read the bill. The Senator from California has a well-deserved reputation for not only reading the bills, but reading transcripts of hearings. And it is something I would commend to others on both sides. She undertook an enormous task in attempting through her amendment to rectify some of the harms created by S. 274, and I think she deserves our respect for that.

But at its core, I worry that S. 274 deprives citizens of the right to sue on State law claims in their own State courts if the principal defendant is a citizen of another State, even if that defendant has a substantial presence in the plaintiff's home State, and even if the harm was done in the plaintiff's home State. I don't think that the amendments take care of that.

I know that there has been a great deal of effort also by my friend from Wisconsin, Senator Kohl, and his efforts are appreciated.

I think some special interest groups--and the distinguished Chairman always likes to talk about special interest groups--I think some are distorting the state of class action litigation by relying on a few anecdotes in an ends-oriented attempt to bring class action cases. But that is all the more reason for having a hearing, have something where we find out what is fact and what is fiction.

We can and we should necessary steps to correct problems in class action litigation, and there are some. But if you simply shove most suits into Federal courts and then you have one-sided rules, that doesn't really correct the problems that are faced by both plaintiffs and defendants.

Let's not forget that in 50 States, the State-based tort system remains one of the greatest and most powerful vehicles for justice anywhere in the world. I think of when the Soviet Union broke up and they started dealing with how you put together a real court system. I remember so many of those people coming to see me, as they did a number of other people around this table. They came to my own State of Vermont and they looked at our court system. They looked at the court systems in numerous other States and they were amazed at how well it works.

I recall one who sat in my office, from the Duma, who said, I have one question for you. We have heard that there are actually cases where somebody sues the government and the government loses. I said, yes, it happens all the time. He

said, you mean you don't fire the judge and do it over again? I said, no, that is the integrity and independence of our courts.

And, of course, in class actions that is how we get people who can band together; ordinary people can band together and bring it--defrauded investors, deceived consumers, victims of defective products, environmental torts. That is what happens.

I am old enough to remember the civil rights battles of the 1950s and 1960s, and the impact of class actions in validating basic rights through our courts. Brown v. Board of Education was the culmination of appeals from four class action cases, three from Federal court decisions in Kansas, South Carolina and Virginia, but one from the State Supreme Court of Delaware.

Interestingly enough, what happened is only the State Supreme Court of Delaware got the case right by deciding for the African American plaintiffs. They knew they were constrained by the existing Supreme Court law, but they held that the segregated schools of Delaware violated the 14th Amendment. Before any Federal court did so, a State court rejected separate and unequal schools, and then a unanimous U.S. Supreme Court upheld that.

Many civil rights advocates, including the Lawyers' Committee for Civil Rights Under Law, the Leadership Conference on Civil Rights, the Mexican American Legal Defense and

Education Fund, the National Asian Pacific Legal Consortium, have written opposing this.

These civil rights advocates concluded that this legislation would discourage civil rights class actions, impose substantial barriers to settling class actions, and render Federal courts unable to provide swift and effective administration of justice.

I will place in the record their letter, if there is no objection.

Chairman Hatch. Without objection.

[The letter follows:]

/ COMMITTEE INSERT

Senator Leahy. Now, defense lawyers get paid by the hour, and are usually well paid. If you don't consolidate procedures, I am afraid that a lot of people aren't going to be able to afford lawyers. Plaintiffs' lawyers in this type of setting tend to work without pay for the possibility of obtaining some of the proceeds, if successful. It may well prove uneconomical for counsel to take on government or corporate defendants if they have to do it on a case-by-case basis.

You know, if you cheat a whole lot of people by just a little, it is still cheating. If you cheat by a cent or two on a gallon of gas when any one of us fills up or car, it doesn't cost very much, but it can be millions of dollars by the time you get done. If you cheat just a little bit on your phone bill or cable bill or whatever else, it may not cost the individual very much, but if you add it up, it gets into millions of dollars.

Class actions made it possible for individual tobacco victims to band together. It allows stockholders and small investors to join together. Think of the Firestone Tire debacle. A national tire recall was started, in part, from the disclosure of internal corporate documents on consumer complaints of tire defects, and then filing of litigation against Bridgestone/Firestone.

Then the plaintiffs' attorneys turned this over to the National Highway Traffic Safety Administration, and months

later 6.5 million tires were recalled based on what was found in these plaintiff suits. But that was after 101 fatalities, 400 injuries, and 2,226 consumer complaints. As Time magazine pointed out at the time, it is doubtful that the internal corporate consumer complaint information would have ever seen the light of day if they hadn't had civil discovery.

So when you are talking about protecting consumers, investors and employees, whether it is in Enron, WorldCom or other corporate scandals, these rights aren't going to be protected in S. 274. This is not going to make corporate America more accountable. In fact, I think it undercuts Congress' other efforts to make companies more responsible.

Legislation that makes it more difficult for the victims of corporate wrongdoing--the kind of wrongdoing we saw in Enron and WorldCom and all--things that make it more difficult to join together and to make them accountable ought to be just the opposite of what we want to do.

I would include a letter from the Consumers Union, the Consumer Federation of America and U.S. PIRG, if I might, Mr. Chairman, in the record.

Chairman Hatch. Without objection.

[The letter follows:]

/ COMMITTEE INSERT

Senator Leahy. Last year, a group of investors recovered millions in lost investments under State corporate fraud laws. In Baptist Foundation of Arizona v. Arthur Andersen, mostly elderly investors banded together to successfully recoup $217 million from Arthur Andersen for questionable accounting things. That is just one example of how State-based class action litigation can hold corporate wrongdoers accountable.

I am concerned what it might do for those who want to stop pollution and other environmental damage. It will remove almost important environmental class actions from State to Federal court. It denies the State courts the ability to act.

This sort of runs roughshod over any question of States' rights. I think of the situation in Alabama, in Anniston, Alabama, when the Monsanto Company manufactured PCBs from 1929 to 1971. For 40 years, they dumped them, untreated and unfiltered, into the streams and landfills of Anniston. It caused enormous environmental and health damage. It wasn't until the residents sued in State court that they were able to recover. We have got a State court that handled it and this Act would say "get out of there."

The Judicial Conference, headed by Chief Justice Rehnquist, wrote a letter dated March 26, 2003, opposing this bill because its provisions would add substantially to the workload of the Federal courts, inconsistent with the principles of federalism. Chief Justice Rehnquist's letter

singled out serious environmental disasters as an example of class actions that should remain in the State courts.

Mr. Chairman, I will put the rest of my statement in the record, but I am really concerned that what we are doing is telling the States, you know, you guys are all incompetent, all 50 States, and we here on the Senate Judiciary Committee know better. I can't accept that.

[The prepared statement of Senator Leahy follows:]

Chairman Hatch. We will take Senator Kohl's speech and then we are going to go to amendments, and we will go the Feinstein amendment first.

Senator Kohl?

Senator Kohl. Thank you, Mr. Chairman, for agreeing to mark up the Class Action Fairness Act. This legislation addresses several problems in class action litigation--perhaps most importantly, unfair and abusive settlements that short-change plaintiff class members. In class action cases, consumers often get the short end of the stick, recovering coupons or pocket change, while their lawyers oftentimes reap millions of dollars.

Our remedy is straightforward. Class action notices should be written in plain English so consumers understand their rights and responsibilities. State attorneys generals should be notified of proposed class action settlements to stop abusive cases, if they so choose. And a class action consumer bill of rights will help limit coupon and other unfair settlements.

Finally, we allow many class action lawsuits to be removed to Federal court. I believe this makes sense. These are oftentimes national cases affecting consumers in all 50 States. If the court rules were being drafted today, these are the types of cases that we would want and expect to be tried in Federal court.

No one can argue with a straight face that the class action

process is not in serious need of reform. Take, for example, a big class action suit against Blockbuster Video. Consumer plaintiffs received coupons for one dollar off their next rental, while their lawyers received over $9 million.

Or consider Martha Preston, from Wisconsin, who was a member of the Bank of Boston case. When her class action suit was over, Mrs. Preston had technically won the case, but she ended up owing $75 to her lawyers and defending a lawsuit that her own lawyers filed against her in State court.

We do not claim that this bill is perfect. We have stated repeatedly that we are agreeable to other proposals which attempt to keep more cases in State court. The main sponsors of this bill have worked very closely with Senator Feinstein on her suggestions to do just that, and we are pleased that we have been able to reach a consensus that makes important improvements to the bill.

With Senator Feinstein's changes and the consumer protections in our bill, we are confident that we have gone a long way toward correcting the imbalance that tilts the benefits of class action lawsuits away from consumers that such cases are intended to protect.

One final point, Mr. Chairman. I would like to discuss another court reform proposal that I support and that a bipartisan majority of this Committee has supported in the past. The Sunshine in Litigation Act ensures that judges review secret

settlements with an eye toward whether the information being kept secret may affect public health and safety.

For example, consumers did not know for years about the hidden dangers of Bridgestone/Firestone tires. In those cases, the defendant insisted as a part of the settlement on secrecy provisions which hid harmful product defects and then led to dozens more injuries.

So, Mr. Chairman, I am introducing this legislation today and I ask that a hearing from you on this important issue be granted.

I thank you very much.

Senator Feingold. Mr. Chairman?

Senator Feinstein. Mr. Chairman?

Chairman Hatch. Senator Feingold, I think, was next.

Senator Feinstein. I beg your pardon?

Chairman Hatch. Senator Feingold wanted to say a few words.

Senator Feingold. Mr. Chairman, I will oppose S. 274, the Class Action Fairness Act, and the main reason is that I, just like the ranking member, don't think it is fair. I don't think it is fair to citizens who are injured by corporate wrongdoers and are entitled to prompt and fair resolution of their claims in a court of law.

I don't think it is fair to our State courts, which are treated by this bill as if they cannot be trusted to issue fair

judgments in cases brought before them. I don't think it is fair to State legislatures, which are entitled to have the laws that they pass to protect their citizens interpreted and applied by their own courts. So, Mr. Chairman, I think this bill is not only mis-named; it is bad policy and it should be defeated.

I want to note first that the Committee is holding this markup, as was mentioned before, without the benefit of a hearing during this Congress. There was a hearing held last summer, chaired by Senator Leahy, but Senator Leahy and a number of other members of the Committee believe that the Committee would benefit from another hearing. We requested that a hearing be held in a letter to the Chairman. There are a number of members who are new to the Committee and this is not exactly the same bill that was reviewed in the hearing last year.

I am disappointed that we are in such a rush in April of the first year of this Congress that we cannot observe the normal legislative process and have a hearing on a major piece of legislation before marking it up. Why not give this bill the consideration it deserves?

Now, I would like to make a few comments on the bill before us. Make no mistake, by loosening the requirements for Federal diversity jurisdiction over class actions, Senate bill 274 will result in nearly all class actions being removed to Federal court, and this is actually a radical change in our Federal system of justice.

We have 50 States in this country, Mr. Chairman, with their own laws and courts. State courts are an integral part of our system of justice. They have worked well for our entire history as a Nation. It is hard to imagine why this Committee, which includes many ardent defenders of federalism and the prerogatives of State courts and State lawmakers, would support this wholesale stripping of jurisdiction from the States over class actions. In my opinion, the need for such a radical step has not been demonstrated.

Yes, of course, there are abuses in some class action suits. Some of the most disturbing have to do with class action settlements that offer only discount coupons to the members of the class and a big pay-off to the plaintiffs' lawyers. But those abuses have occurred, Mr. Chairman, in Federal cases as well as State class actions. This bill does nothing to address those problems. It just moves them all to the Federal court.

Mr. Chairman, class actions are an extremely important tool in our justice system. They allow plaintiffs with very small claims to band together to seek redress. Lawsuits are expensive, so without the opportunity to pursue a class action, a single plaintiff in many cases simply cannot afford his or her day in court. But with a class action, justice can be done and compensation can be obtained.

There are three possible outcomes if this bill goes into effect. Either the State courts will be deluged with

individual claims, since class actions can no longer be maintained there, or there will be a huge increase in the workload of the Federal courts, or many injured people will simply never get redress for their injuries. I don't think any of these three choices are acceptable.

Particularly troubling is the increase in the workload of the Federal courts. As we talked about in an earlier part of this proceeding this morning, these courts are already overloaded. This Committee had led the way in bringing and more litigation to the Federal courts, particularly criminal cases. Criminal cases, of course, take precedence in the Federal courts because of the Speedy Trial Act.

So the net result of removing virtually all class actions to the Federal court will be to actually delay these cases. There is an old saying with which I am sure we are all familiar: justice delayed is justice denied. I hope my colleagues will think about that aphorism before voting for this bill. St the very least, we should provide in the bill some priority to class certification motions brought in Federal class actions.

Some in the business community have expressed concern about resolving nationwide class actions, like some of the tobacco litigation, in a single State court, and I can understand why that would seem unfair to some. But this bill doesn't just address that situation; it goes well beyond that. It also prevents a group of plaintiffs who are all from the same

State from pursuing a class action in their own State courts even if one defendant is from another State.

Proponents of this bill have chosen a remedy that goes far beyond the alleged problem. That raises questions about what the intent behind the bill really is.

Mr. Chairman, there are a number of amendments scheduled to be offered that will ease some of the harshness of the bill. One that I will propose will carve out from the bill class actions that raise claims under State consumer protection laws. This will allow State courts to interpret and apply the laws that their legislatures have passed to protect their citizens.

Another amendment that I intend to offer deals with a catch-22 that is set up for this bill for class actions that are removed to Federal court under the new lenient diversity jurisdiction rules, but then dismissed because for some reason the class cannot be certified under Rule 23.

The bill now provides that such cases will just be dismissed. If the plaintiffs re-file in State court, they can again be removed and again dismissed. This kind or revolving door or merry-go-round situation could actually prevent injured people from ever having their cases heard. My amendment would prohibit subsequent removals of a case that is removed, but then remanded for failure to satisfy Rule 23.

I have further remarks to make concerning the Feinstein amendment when it is offered. I just want to note now that

having examined it over the last week--and I do appreciate the chairman having given us that additional time to look at it--none of what I would have said about this bill is lessened by that amendment.

I know that the Senator from California means well, but I think her amendment quite possibly makes this bill worse by providing more uncertainty and more opportunities for delay that will keep injured people from having their day in court. In any event, it certainly does not change this bill in a significant enough way to make the bill acceptable, at least to me.

Mr. Chairman, I would have preferred to have had a hearing on the bill and the Feinstein amendment, and to have a chance to examine it carefully in the Committee, but I look forward to this debate and to acting on these amendments. It seems clear that this unfair Class Action Fairness Act will emerge from the Committee, but I believe that it should not be enacted.

Thank you, Mr. Chairman.

Chairman Hatch. Thank you, Senator.

Let me just make an announcement to the Committee. AOL is hosting a reception right here in this room at 4:30 for Shawn Bentley, who has served this Committee very, very well in the intellectual property area, but all other areas as well. So I hope we can get a lot of you to come to that reception tonight.

We will go to Senator Cornyn next.

Senator Cornyn. Mr. Chairman, I have a written statement which I would ask be made part of the record.

Chairman Hatch. Without objection.

[The prepared statement of Senator Cornyn follows:]

Senator Cornyn. I do want to say just a couple of things about this bill. I am pleased to be a cosponsor. I enthusiastically support it. If it were up to me, the bill would go much further than it goes now, but I understand the necessity of gaining consensus on the bill and I think it makes an important step in the right direction.

I believe Senator Kohl just a few moments ago identified some of those important steps, but I want to congratulate and commend Senator Grassley for his hard work and perseverance, as well as everyone, including the Chairman, who have worked to move this bill forward.

The reality of this bill is not that class actions will be prevented, but merely that they will get the sort of meaningful review, and especially appellate review, that is so important to assuring that they serve their intended purpose.

Class action litigation does serve an important purpose, and I think we are all familiar with that, allowing the aggregation of relatively small claims and being able to find some lawyer who will be willing to take it on in order to vindicate the rights of the persons who have been harmed.

But the reality of modern class action litigation today is that--well, I think it was a country and western song where, to paraphrase, the lawyers get the gold mine and the consumer gets the shift. That is what happens today in much class action litigation, and my own experience, as I will just mention very

briefly, is some proof of that.

When I served for seven years on the Texas Supreme Court, we would get class action cases from time to time. The very last case we got that I wrote the majority opinion on, nine to zero, involved a claim for economic loss due to the existence of side-saddle gasoline pickup trucks on GMC vehicles.

General Motors figured out one way they could avoid any further litigation would be to agree to something that frankly would enrich the lawyers, who got $9.5 million in cold hard cash. The consumers got a coupon, redeemable upon the purchase of a new GMC pickup truck. It was a great marketing device for General Motors. They figured they would make the best they could out of a bad situation.

But the truth is many consumers who got the coupon were unable to use those, and so they were virtually worthless. And so what drives modern class action litigation today is in too many cases, not all, but in too many cases, entrepreneurial lawyers who are taking advantage of the current system to get rich and consumers don't get any meaningful relief. That is a travesty. It is a perversion of our civil justice system, and I believe this bill, although it doesn't go as far as I would like, is a demonstrable improvement.

For example, I don't see any reason why, in class action litigation, the rules shouldn't be people who want to litigate ought to opt in rather than opt out. Of course, class members

are supposed to get notice. But as we all know, human nature being what it is, many class members aren't even aware that they have somehow become a member of a class and their rights litigated, in essence, or resolved by a settlement until they get some notice in the mail or they get a coupon or something else that has really no meaning and no value.

So I do support this legislation. I appreciate your letting me have these few moments to express my views on it. As we go to the floor, if there is debate, I will hope to participate in that. In the meantime, I don't think some of the statements that have been made about this being somehow the end of the world as we know it or that big corporations will romp and stomp on the rights of consumers or, as one Senator said last week, class action litigation is necessary to save the soul of corporate America--I don't think those sorts of outrageous comments have any relationship to reality.

With that, I yield. Thank you.

Chairman Hatch. Senator Durbin.

Senator Durbin. Thank you, Mr. Chairman.

Mr. Chairman, the mission of this Senate Judiciary Committee is clear. Time and again we are locking the courthouse doors so that consumers, average taxpayers and the less financially articulate in our society are denied their day in court.

Second, we are appointing men and women to the bench so

biased in favor of the entrenched and powerful, that if any citizen makes it to the court, they will be dispatched empty handed.

This law before us is a double-header win for our gilded Committee. We lock the doors of State courts so that the sick, the injured, the victims of discrimination, the victims of exploitation, are denied their day in court. And then we relegate those lucky few who make it to the Federal courts to the wisdom and compassion of those styptic-hearted nominees that parade through this Committee every week.

When I first started practicing law in Springfield, Illinois my firm represented a railroad. The first motion we would always file in State suits was to remove the case to Federal court. We wanted to sent our fate to the loving arms of the Federal District Court Judge we knew and loved, and we as a railroad would go into his chambers to argue our motion. He kept a bowl of lemon drops on his desk. He invited us to have one. And then as we argued the motion, he would suck loudly on the lemon drops and stare at the ceiling, and you knew that you only had as much time to argue the motion as he had to finish the lemon drop. And when the sucking noise stopped, he wheeled around, faced us, and ruled for the railroad every single time. That was our forum shopping, and it worked without fail, and that is exactly what this bill is all about. We want to force these class actions into the loving arms of the more

conservative judiciary in the Federal Courts.

I listened a while ago when Senator Kyl was talking about the enormous caseload in the Federal Courts. I am sorry he is not here. I may be wrong, but doesn't this law result, won't it result in more cases being sent to Federal Courts? I think it might. But frankly, we have to accept the obvious. There are class action cases that are frivolous. They should be limited, but this bill will eliminate class actions that are worthy, cases asserting the rights of an aggrieved group which no single member of the group could or would pursue. Who wants this bill? I think it is fairly obvious. Phillip Morris, gun manufacturers, polluters, pharmaceutical companies, every insurance company in America, the National Association of Manufacturers, the Financial Services Roundtable and some Republican State Attorneys General.

Now, who opposes the bill? This is an interesting list. Turns out the Judicial Conference. Well, that would be Chief Justice William Rehnquist. Why would he oppose this bill? Because we are channeling these class action cases into an already glutted docket in the Federal Courts. The American Heart Association opposes it, the Lung Association. The list just goes on and on, and I will submit it for the record.

I know the fate of this bill. With two Democrats co-sponsoring it, it is going to come sailing out of this Committee, and there will be more to follow. I think we are

going to get this wonderful idea from the House soon that we are going to absolve gun manufacturers from civil liability. This is truly a gilded age for this Congress. I think this bill is consistent with that, and I am sorry that it is going to be reporting out of this Committee, but not with my vote.

[The list follows:]

Senator Kennedy. Mr. Chairman?

Chairman Hatch. Senator Kennedy.

Senator Kennedy. Mr. Chairman, I want to say amen to what my friend from Illinois has pointed out. This is in a long line of activities that the Congress have been undertaking for some period of time. We found that it wasn't long ago we had regulatory reform to undermine the protection of consumers. We have regulatory reform. I can remember the day when a law firm that was being paid by major utilities in the State of Virginia came on up and briefed staff here in the Judiciary Committee room, and the next day we marked up the regulatory reform bill, which would have effectively undermined the protections for health and safety that were being provided by the Federal Government, and it was reported out, and came within one vote of getting cloture. It would have been passed, which would have undermined the food and safety laws, occupational health and safety laws, environmental safety laws, the whole range of different regulatory, the attempt to undermine it.

Secondly, we had the activities of the administration, once they recognized that they couldn't do that, to cut back on the support for the enforcement of these kinds of protections that were out there in terms of protecting consumers, and we saw the battles that took place as we saw the undermining, the targeting of resources that were out there to protect consumers. They don't want to have regulations that are going to be out there

protecting, and they want to effectively close the courts. They want it both ways. This isn't, just as the Senator pointed out, a singular kind of activity. This is a continuum, a continuum. And this legislation falls into that category. Consumers beware, my friends, because this is a continued march that has been undertaken for a number of years and will continue, and whether we like it or not--and I do--the trial bar is the one bar that is strong enough to be able to try and protect consumers, protect consumers. They are about the last institution that is out there that stands between the exploitation of consumers in so many instances involving life and death and people being maimed and the protection of consumers. The history will reflect it.

Now, I regret that once again we are being asked to act on a proposal which makes drastic changes in an important area without the preparation information that the proposal deserves. The bill before us reflects a one-side approach of a difficult problem, and ignores the pleas of the Judicial Conference, the United States; represents the judges will have to interpret and apply the law, who are asking us to stop and think this through more thoroughly, pays too little attention to the years of thoughtful work of the advisory committee on civil rules on this issue, which goes to the heart of one of the most serious problems, collusive settlements. And once again, as with the gun carry bill, the proposal is a serious intrusion in State

prerogative, in State institutions. It is a mystery that colleagues who say they are defenders of the States' rights are the first in line to intrude on the states' rights at the request of the special interest groups.

If we could genuinely work together, we could probably reach a consensus, make needed improvements in class action cases, probably get agreement on Section 3 of the bill, and Section 6 in a matter of days. If we are serious about Section 6, we want to know how the judges feel about the issue, why does the bill ignore the advice that they have already given us?

So I commend Senator Feinstein for her efforts to begin the process of accommodation and cooperation, but it is too important a subject to try to handle on a last-minute basis. Her amendment provides one approach, that we need the opinion of the judges and other experts on the implication and possible unintended consequence before we adopt it, so let us take the time to do it right. If we act on the bill now, I will be offering amendments to make two necessary changes, to exempt civil rights actions and exempt actions against gun manufacturers. In both of these areas State laws and State courts have much to contribute, and the rights of the public cannot be fully protected without access to the State courts as well as the Federal courts.

I am going to just take a moment, Mr. Chairman, on a matter that has been before this Committee, and which the Committee has

taken action in a conference in this past week, and probably will be a matter that will be on the floor of the Senate probably this afternoon. That is the Amber bill, the Amber bill in terms of protecting abducted children.

As you remember, Mr. Chairman, the Senate passed the Amber bill on September 10th, 2002, and once again January 21st, 2003. So the Senate passed this legislation virtually unanimously without any kind of controversy, and it should be law, it should be law. But it was held up in the House of Representatives. It has been held up in the House of Representatives. In the last few moments of the floor consideration of the Amber bill the managers of the bill took what is called the Feeney Amendment, with 20 minutes of debate, which effectively undermines all of the sentencing and Sentencing Guidelines that had been set up by this Committee years ago, years and years ago, took a great deal of time and bipartisan support.

I notified and indicated to the Chair that we were hopeful that we could work out some kind of procedures. If the concern was about the amount of sentencing time that was given to those found guilty, we ought to deal with those particular issues, and we were prepared to deal with those in the conference. We had suggested in the conference that we refer this matter to the Sentencing Commission for 180 days to let them get a review, and then we would be able to take action whether we wanted to accept those kinds of requirements, or we could have gone back

and increased the penalties. Those requests were denied.

In the course of the conference I requested that this Committee, under the chairmanship of Senator Graham, who is the Chairman of the Crime Subcommittee, hold specific hearings, and that we would agree to reporting out recommendations at that time, and that we could go to the floor of the United States Senate and have a debate on this, and then move ahead in a timely way. That was rejected. That was rejected.

Then you announced, Mr. Chairman, that you had a compromise. You labeled it as such and presented it as such, as restricting all of the various sentencing requirements, only to be limited to the provisions dealing with child abductions. That was a misrepresentation, a gross misrepresentation of what was in the proposal that was advanced in that conference.

It was only at 2 o'clock in the morning when the staff found out just how bad, that they began to bring about even alterations and changes. It still violates that. I believe it exceeds the scope of the conference itself in a number of different ways, changing the makeup of the requirements with regards to the Sentencing Commission membership, which was never even debated or talked about.

The sentencing changes in guidelines were a result of the 1968 Brown Commission report that was done about the growth of crime in this country. They had a number of recommendations. One of the recommendations was the recodification of the criminal

code. We did that on two different occasions. The House failed to do that. It will not be recodified for 200 more years. It has never been recodified. They made recommendations about the Police death benefit programs, which started off at 15, $25,000, is now up to $250,000, worthwhile. And they made the recommendations that we get busy in terms of the disparity in sentencing that was taking place in the Federal Courts and notoriously in the State courts. They believed that without that, that a key element in terms of crime was the fact that both criminal and victims alike has such little confidence in the sentencing provisions.

In the 1970s I introduced legislation; 1980s Senator Biden had legislation. And we passed that with the help and the assistance of the Reagan Administration, which you were a part of, Senator Thurmond was a part of in a bipartisan effort, and it has been put in place.

Chairman Hatch. Would the Senator yield for just one minute?

Senator Kennedy. Yes, I will.

Chairman Hatch. When we agreed to put this over for a week, we did so under the good faith that we would resolve this matter, and that we would vote on the amendments today.

Senator Kennedy. Mr. Chairman, I reclaim my time.

Chairman Hatch. No, let me--

Senator Kennedy. No, I haven't--

Chairman Hatch. I want to put through your bill. I want to

put your resolution through, because we have one minute, and I will put it through for you. I will show you some courtesy that I am not being shown.

Senator Kennedy. Well, I object then. You don't have to do me any courtesy. I am not in here to be pandered to by the Chairman of it. I am looking out after the people that are interested in fairness in the court systems and in the sentencing provisions. So you don't have to be nice to me, Mr. Chairman.

Chairman Hatch. I am not trying to be nice to you. I just want to do it.

Senator Kennedy. Well, I am going to continue. I am going to continue.

Chairman Hatch. You are going to continue for one minute more, and then I am going to recess the Committee because somebody on your side has violated good faith after last week and after my good faith in doing this.

Senator Kennedy. Mr. Chairman--

Chairman Hatch. You go ahead. You have the time for another minute.

Senator Kennedy. I have the time for one minute, and I will tell the Chair that I was the one, and I will tell you why. Because I had been notified that the Amber bill will be on the floor of the United States Senate starting at noontime, and I feel that the Amber bill, which is a bill that is relevant to

this Committee, that the sentencing provisions that have been put in there are absolutely outrageous and irresponsible, and I am going to meet my obligation to meet you on the floor of the United States Senate, and without that kind of protection, I wouldn't have that chance to do it. I would have thought fairness and justice would have said that you would have recessed this Committee for the consideration of that, and since you have shown so little kind of consideration for a matter that is before the Committee, then I took those steps and I have objected to it. I have objected to it.

I will look forward to continuing this debate and discussion on the floor of the United States Senate as soon as the Amber bill comes to the floor.

Chairman Hatch. Thank you, Senator.

We have 30 seconds left. I move that the resolution by Senator Kennedy and Senator Stevens, recognizing the 100th anniversary of the Laborers' International Union, be passed. Is there any objection?

[No response.]

Chairman Hatch. Without objection, we pass it.

9 [The resolution follows:]

REV_00163140

Chairman Hatch. Now, let me just say one other thing. I didn't know that was coming up at 12 noon, but I am darn glad it has. I can tell you one this. I was the one who took that doggone problem of sentencing and worked it out to apply only to children--

Senator Kennedy. That is not true.

Chairman Hatch. Yes, it is true.

Senator Kennedy. No, it is not.

Chairman Hatch. And sexual matters, no question about it.

Senator Kennedy. No, it is not true.

Chairman Hatch. It is true. And I will tell you this, I worked hard to try and accommodate the distinguished Senator, not tried to hurt him. I am disappointed that he feels the way he does. He has a right to feel that way if he wants to, but I made a good faith effort to resolve that in conference, and I think I did. Now, we will debate it on the floor. I didn't know it was coming up at 12:00, but I would be willing to ask the majority leader to put it off for a while until we resolve this matter.

Senator Kennedy. Mr. Chairman, you brought that compromise up and dropped it in front of the conference, and then presented it as a compromise. What kind of activity is that? You dropped that out there and said, "This represents a compromise." The idea that these provisions only apply to children in this crime is absolutely, categorically false, and your representation of that was false on that. If that had been the kind of case, you

would have had an agreement, you would have had an agreement for me, but you exceeded that, and there is chapter and verse on that matter. It has exceeded the scope, and we will wait for an opinion of the parliamentarian on that.

Chairman Hatch. I am sorry the Senator is disappointed in that, but like all conferences, we do have amendments at conferences, and this was an amendment that was trying to accommodate the Senator.

Now, look, I am sorry I disappointed you.

Senator Kennedy. I would ask for regular order, Mr. Chairman, because I will either--if you are going to talk, I would like to reclaim my time.

Chairman Hatch. Regular order. The Committee is recessed until further notice, and we will wait till the end of the session today, and then the Committee will meet again or tomorrow morning. I will call the Committee to order.

[Whereupon, at 12:03 p.m., the Committee was recessed until Chairman's call.]

From: Bumatay, Patrick J.
To: <Kavanaugh, Brett M.>
Sent: 4/11/2003 5:37:55 PM
Subject: FW: LRM OGG30 - - TREASURY Letter on Draft Bill on Federal Deposit Insurance Reform
Attachments: draftletter2.doc

-----Original Message-----

From: Gonzalez, Oscar

Sent: Friday, April 11, 2003 5:35 PM

To: Smythe, Augustine T.; Trinh, Catherine V.; McMillin, Stephen S.; Roberson, Halley M.; Rhinesmith, Alan B.; Redburn, Francis S.; Schwartz, Mark J.; Grippando, Hester C.; Schwartz, Kenneth L.; Lyon, Randolph M.; Reaud, Beatrice A.; Hunt, Alexander T.; Hill, Jefferson B.; Lee, Sarah S.; Perry, Philip J.; Wood, John F.; Luczynski, Kimberley S.; Rettman, Rosalyn J.; Rossman, Elizabeth L.; Lobrano, Lauren C.; Call, Amy L.; Dove, Stephen W.; Kirk, Matthew ; Marsh, Robert ; Foster, James D.; Rodriguez, Justine F.; Whgc Lrm; Ovp Lrm; Nec Lrm; Warsh, Kevin; Cea Lrm; Kroszner, Randall S.; Silverberg, Kristen; Kaplan, Joel; Jukes, James J.; Green, Richard E.

Subject: LRM OGG30 - - TREASURY Letter on Draft Bill on Federal Deposit Insurance Reform

We are seeking your review of a draft transmittal letter to go along with the draft bill on Federal deposit insurance reform that we circulated earlier as LRM OGG29. The letter would be signed by Treasury, the Federal Reserve, FDIC, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision. **Please provide comments by no later than 12:00 P.M. Tuesday, April 15th.**

LRM ID: OGG30

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Friday, April 11, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: Oscar Gonzalez
PHONE: (202)395-3923 FAX: (202)395-3109
SUBJECT: **TREASURY Letter on Draft Bill on Federal Deposit Insurance Reform**

DEADLINE: **12:00 P.M. Tuesday, April 15, 2003**
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: We are seeking your review of a draft transmittal letter to go along with the draft bill on Federal deposit insurance reform that we circulated earlier as LRM OGG29. The letter would be signed by Treasury, the Federal Reserve, FDIC, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision. **Please provide comments by no later than 12:00 P.M. Tuesday, April 15th.**

DISTRIBUTION LIST

AGENCIES:
061-JUSTICE - Jamie E. Brown - (202) 514-2141
025-COMMERCE - Michael A. Levitt - (202) 482-3151

EOP:
Augustine T. Smythe
Catherine V. Trinh
Stephen S. McMillin
Halley M. Roberson
Alan B. Rhinesmith
Francis S. Redburn
Mark J. Schwartz
Hester C. Grippando
Kenneth L. Schwartz
Randolph M. Lyon
Beatrice A. Reaud
Alexander T. Hunt
Jefferson B. Hill
Sarah S. Lee
Philip J. Perry
John F. Wood
Kimberley S. Luczynski
Rosalyn J. Rettman
Elizabeth L. Rossman
Lauren C. Lobrano
Amy L. Call
Stephen W. Dove
Matthew Kirk
Robert Marsh
James D. Foster
Justine F. Rodriguez
WHGC LRM
OVP LRM
NEC LRM
Kevin Warsh
CEA LRM
Randall S. Kroszner
Kristen Silverberg
Joel D. Kaplan
James J. Jukes
Richard E. Green**LRM ID:** OGG30 **SUBJECT:** TREASURY Letter on Draft Bill on Federal Deposit Insurance Reform

RESPONSE TO

LEGISLATIVE REFERRAL

MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) faxing us a memo or letter.

Please include the LRM number and subject shown above.

TO: Oscar Gonzalez Phone: 395-3923 Fax: 395-3109

Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

- draftletter2.doc <>

DRAFT

The Honorable Richard C. Shelby
Chairman
Committee on Banking, Housing, and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Chairman Shelby:

During the recent hearing before your committee, you asked us to work in cooperation to develop legislative language on deposit insurance reform that would best reflect the consensus presented in our testimonies. The enclosed draft bill is the successful result of those efforts.

As you noted at the hearing, we began with a great deal of agreement on the important elements of reform and also some less important differences. But in a strong cooperative spirit, each of us went to some lengths to understand and accommodate each other's views.

The draft legislative language that we are submitting to you represents a consensus of the interests and concerns expressed by the five agencies. And while we each have our preferences as we presented in our testimony, each of us would be pleased to see the bill we submit to you today enacted into law.

Thank you for giving us the opportunity to advance the cause of real deposit insurance reform. We look forward to working with you and the Congress on this important matter in the days ahead.

Sincerely,

[To be signed by the Treasury, Federal Reserve, FDIC, OCC, and OTS]

Enclosure

From: Kavanaugh, Brett M.
To: <Bumatay, Patrick J.>;<Gonzalez, Oscar>
Sent: 4/11/2003 6:04:18 PM
Subject: Re: FW: LRM OGG30 - - TREASURY Letter on Draft Bill on Federal Deposit Insurance Reform
Attachments: draftletter2.doc

I don't think the letter should imply, as it does, the different agencies in the Executive Branch disagree and had to compromise, etc.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 04/11/2003 05:37:55 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: FW: LRM OGG30 - - TREASURY Letter on Draft Bill on Federal Deposit Insurance Reform

-----Original Message-----

From: Gonzalez, Oscar

Sent: Friday, April 11, 2003 5:35 PM

To: Smythe, Augustine T.; Trinh, Catherine V.; McMillin, Stephen S.; Roberson, Halley M.; Rhinesmith, Alan B.; Redburn, Francis S.; Schwartz, Mark J.; Grippando, Hester C.; Schwartz, Kenneth L.; Lyon, Randolph M.; Reaud, Beatrice A.; Hunt, Alexander T.; Hill, Jefferson B.; Lee, Sarah S.; Perry, Philip J.; Wood, John F.; Luczynski, Kimberley S.; Rettman, Rosalyn J.; Rossman, Elizabeth L.; Lobrano, Lauren C.; Call, Amy L.; Dove, Stephen W.; Kirk, Matthew ; Marsh, Robert ; Foster, James D.; Rodriguez, Justine F.; Whgc Lrm; Ovp Lrm; Nec Lrm; Warsh, Kevin; Cea Lrm; Kroszner, Randall S.; Silverberg, Kristen; Kaplan, Joel; Jukes, James J.; Green, Richard E.

Subject: LRM OGG30 - - TREASURY Letter on Draft Bill on Federal Deposit Insurance Reform

We are seeking your review of a draft transmittal letter to go along with the draft bill on Federal deposit insurance reform that we circulated earlier as LRM OGG29. The letter would be signed by Treasury, the Federal Reserve, FDIC, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision. **Please provide comments by no later than 12:00 P.M. Tuesday, April 15th.**

LRM ID: OGG30

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Friday, April 11, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Richard E. Green (for) Assistant Director for Legislative Reference

OMB CONTACT: Oscar Gonzalez

PHONE: (202)395-3923 FAX: (202)395-3109

SUBJECT: **TREASURY Letter on Draft Bill on Federal Deposit Insurance Reform**

DEADLINE: **12:00 P.M. Tuesday, April 15, 2003**

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: We are seeking your review of a draft transmittal letter to go along with the draft bill on Federal deposit insurance reform that we circulated earlier as LRM OGG29. The letter would be signed by Treasury, the Federal Reserve, FDIC, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision. **Please provide comments by no later than 12:00 P.M. Tuesday, April 15th.**

DISTRIBUTION LIST

AGENCIES:

061-JUSTICE - Jamie E. Brown - (202) 514-2141

025-COMMERCE - Michael A. Levitt - (202) 482-3151

EOP:

Augustine T. Smythe

Catherine V. Trinh

Stephen S. McMillin

Halley M. Roberson

Alan B. Rhinesmith

Francis S. Redburn

Mark J. Schwartz

Hester C. Grippando

Kenneth L. Schwartz

Randolph M. Lyon

Beatrice A. Reaud

Alexander T. Hunt

Jefferson B. Hill

Sarah S. Lee

Philip J. Perry

John F. Wood

Kimberley S. Luczynski

Rosalyn J. Rettman

Elizabeth L. Rossman

Lauren C. Lobrano

Amy L. Call

Stephen W. Dove

Matthew Kirk

Robert Marsh

James D. Foster

Justine F. Rodriguez

WHGC LRM

OVP LRM

NEC LRM

Kevin Warsh

CEA LRM

Randall S. Kroszner

Kristen Silverberg

Joel D. Kaplan

James J. Jukes

Richard E. Green

LRM ID: OGG30 **SUBJECT:** TREASURY Letter on Draft Bill on Federal Deposit Insurance Reform

RESPONSE TO

LEGISLATIVE REFERRAL

MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) faxing us a memo or letter.

Please include the LRM number and subject shown above.

TO: Oscar Gonzalez Phone: 395-3923 Fax: 395-3109

Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

- draftletter2.doc <>

DRAFT

The Honorable Richard C. Shelby
Chairman
Committee on Banking, Housing, and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Chairman Shelby:

During the recent hearing before your committee, you asked us to work in cooperation to develop legislative language on deposit insurance reform that would best reflect the consensus presented in our testimonies. The enclosed draft bill is the successful result of those efforts.

As you noted at the hearing, we began with a great deal of agreement on the important elements of reform and also some less important differences. But in a strong cooperative spirit, each of us went to some lengths to understand and accommodate each other's views.

The draft legislative language that we are submitting to you represents a consensus of the interests and concerns expressed by the five agencies. And while we each have our preferences as we presented in our testimony, each of us would be pleased to see the bill we submit to you today enacted into law.

Thank you for giving us the opportunity to advance the cause of real deposit insurance reform. We look forward to working with you and the Congress on this important matter in the days ahead.

Sincerely,

[To be signed by the Treasury, Federal Reserve, FDIC, OCC, and OTS]

Enclosure

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jennifer R. Brosnahan/WHO /EOP@EOP [WHO] <Jennifer R. Brosnahan>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>
Sent: 4/14/2003 8:10:08 AM
Subject: : JSC

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:14-APR-2003 12:10:08.00
SUBJECT:: JSC
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

It's Monday, and that means JSC is coming up.;
;
anyone planning;to present someone?; please let me know asap.
```

From: Kavanaugh, Brett M.
To: <Miers, Harriet>
Sent: 4/14/2003 9:14:10 AM
Subject: PRA/personal records

This e-mail is to confirm that personal notes sent by the President, including personal notes sent to members of his staff, are not considered Presidential records. That principle applies even if the notes express the President's personal gratitude for the employee's official work.

From: CN=Daryl L. Joseffer/OU=OMB/O=EOP [OMB]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Jay P. Lefkowitz/OPD/EOP@Exchange@EOP [OPD] <Jay P. Lefkowitz>
Sent: 4/14/2003 5:23:31 AM
Subject: : Re: DOT Antitrust Issue

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Daryl L. Joseffer (CN=Daryl L. Joseffer/OU=OMB/O=EOP [OMB])
CREATION DATE/TIME:14-APR-2003 09:23:31.00
SUBJECT:: Re: DOT Antitrust Issue
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange@EOP [OPD])
READ:UNKNOWN
End Original ARMS Header

Thanks, Brett. That's what I thought.

Brett M. Kavanaugh
04/14/2003 07:26:10 AM
Record Type: Record

To: Daryl L. Joseffer/OMB/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP,
Noel J. Francisco/WHO/EOP@EOP
cc:
Subject: Re: DOT Antitrust Issue

Olc has looked at this recently. Not aware of any old memos.

.

----- Original Message -----
From:Daryl L. Joseffer/OMB/EOP
To:Brett M. Kavanaugh/WHO/EOP@EOP,
Noel J. Francisco/WHO/EOP@EOP
Cc:
Date: 04/13/2003 02:33:29 PM
Subject: DOT Antitrust Issue

Do you know whether WHC or OLC ever issued a memo on DOT's Section
411 authority during the prior Bush Administration, especially a memo
indicating that DOT would not bring enforcement actions against conduct
permitted by the other antitrust laws? I don't know of such a memo, but
Jay is hoping there might be one.

---------- Forwarded by Daryl L. Joseffer/OMB/EOP on
04/13/2003 02:30 PM ----------

Daryl L. Joseffer
04/13/2003 01:47:02 PM

Record Type: Record

To: Jay P. Lefkowitz/OPD/EOP@Exchange
cc:
bcc: Records Management@EOP
Subject: Re: Query

Not that I know of, and I'm pretty sure I'd know if there was one. I'll check with WHC and OLC to confirm.

From: Jay P. Lefkowitz/OPD/EOP@Exchange on 04/13/2003 01:44:19 PM
Record Type: Record

To: Daryl L. Joseffer/OMB/EOP@EOP
cc:
Subject: Re: Query

But I there an olc or whc memo to that effect during 41?
.

-----Original Message-----
From: Joseffer, Daryl L. <djoseffe@OMB.eop.gov>
To: Lefkowitz, Jay P. <Jay_P._Lefkowitz@opd.eop.gov>
Sent: Sun Apr 13 13:39:44 2003
Subject: Re: Query

;;;;;;; ;;;;;;; The other possible example is that during DOJ,s monopolization investigation of American Airlines, DOT deferred issuing final competition guidelines relating to predatory conduct by dominant hub carriers, and eventually shelved its proposed guidelines after DOJ filed its lawsuit.; Although Hew Pate uses this example, I think it is much weaker than the certificate-transfer policy.; DOT delayed in part because of strong opposition to its proposed guidelines, and while DOT never issued final guidelines, it did issue findings and conclusions in) you guessed it) January 2001 suggesting that DOT would consider bringing section 411 enforcement actions against future price decreases that do not satisfy the definition of &predatory pricing8 under the antitrust laws.

;;;;;;; ;;;;;;; The shorter answer is that yes, the DOT opinion is the only good example that Hew has been able to identify.; This is not entirely surprising, because DOT (like FTC) has institutional, public relations, and legal incentives not to state in writing that it has a policy of not using its section 411 authority to go beyond the Sherman and Clayton Acts.

;;;;;;; From:;; Jay P. Lefkowitz/OPD/EOP@Exchange on 04/11/2003 10:49:34 PM
;;;;;;; Record Type:;;; Record

;;;;;;; To:;;;; Daryl L. Joseffer/OMB/EOP@EOP
;;;;;;; cc:;;;;
;;;;;;; Subject:;;;;;;; Query

;;;;;;; Was that one dot opinion the only reference to a 41 policy of deference to DOJ on 411 issues?

;;;;;;; Thx
;;;;;;; .

From: Bumatay, Patrick J.
To: <Ullyot, Theodore W.>;<Bartolomucci, H. Christopher>;<Brosnahan, Jennifer R.>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>
Sent: 4/14/2003 12:10:15 PM
Subject: JSC

It's Monday, and that means JSC is coming up.

anyone planning to present someone? please let me know asap.

From: FindLaw.com <listadmin@LEGALMINDS.ORG>
To: TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN] <TOPHEADLINES@LEGALMINDS.ORG>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 4/14/2003 1:42:04 PM
Subject: : [TOPHEADLINES] Top Legal Headlines: Today's top Legal Stories - Mon., Apr. 14, 2003

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"FindLaw.com" <listadmin@LEGALMINDS.ORG> ( "FindLaw.com" <listadmin@LEGALMINDS.ORG>
[ UNKNOWN ] )
CREATION DATE/TIME:14-APR-2003 17:42:04.00
SUBJECT:: [TOPHEADLINES] Top Legal Headlines: Today's top Legal Stories - Mon., Apr. 14,
2003
TO:TOPHEADLINES@LEGALMINDS.ORG ( TOPHEADLINES@LEGALMINDS.ORG [ UNKNOWN ] )
READ:UNKNOWN
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

------------------------------------------------------------------------
FINDLAW Mon, Apr 14, 2003
------------------------------------------------------------------------
TOP LEGAL NEWS HEADLINES


For all of the day's legal news go to: http://news.findlaw.com
**********************************************************************

AMICUS ATTORNEY
Every second counts when you bill by the hour. Don't waste valuable
time searching for practice information when you can have it at your
fingertips with AMICUS ATTORNEY - the world's leading practice
management software. Stay on top of your practice and increase your
billable time - effortlessly! Download or order your FREE TRIAL today.
http://rd.findlaw.com/scripts/nl.pl?url=10479744000_nl

**********************************************************************

POLITICS
U.S. Ratchets Up Pressure On Syria
http://news.findlaw.com/politics/s/20030414/iraqsyriapowelldc.html

Poll Finds Opposition To More Tax Cuts
http://news.findlaw.com/ap/o/1110/4-14-2003/20030414013003_02.html


LEGAL COMMENTARY
Liberation And Looting: Examining The Ransacking
Of Iraq's National Museum
http://writ.news.findlaw.com/mariner/20030414.html

Baghdad: Last Stop For Preemption?
http://writ.news.findlaw.com/commentary/20030412_spiro.html


CIVIL RIGHTS
New Patient Privacy Rules To Take Effect
http://news.findlaw.com/ap/o/1500/4-14-2003/20030414044500_08.html


PERSONAL INJURY
Lawsuit Claims Church Abused 23 Victims
http://news.findlaw.com/ap/o/1110/4-14-2003/20030414091501_08.html
```

LABOR AND EMPLOYMENT
ChevronTexaco Slashes Its Top Exec's Bonus

<http://news.findlaw.com/business/s/20030414/energychevrontexacocompensatio
n
dc.html>

Reliant Resources Chairman, CEO Resigns
http://news.findlaw.com/ap/f/1310/4-14-2003/20030414100006_27.html

ENVIRONMENT
EU Bans Trawling For Cod In Baltic Sea
http://news.findlaw.com/ap/f/1310/4-14-2003/20030414090001_02.html

London Police Issue Alert on Escaped Owl
http://news.findlaw.com/ap/o/fe/1120/4-14-2003/20030414061500_04.html

CYBERSPACE LAW
WSJ: Microsoft Courted By Vivendi To Buy Music Unit

http://news.findlaw.com/entertainment/s/20030414/mediavivendireportdc.html

BUSINESS
AOL-TW Execs Accused Of Insider Trading
http://news.findlaw.com/business/s/20030414/mediaaolsuitdc.html

Pfizer Says FTC Clears Pharmacia Deal
http://news.findlaw.com/business/s/20030414/healthpharmaciapfizerdc.html

WORLDCOM
WorldCom Files Reorganization Plan
http://news.findlaw.com/business/s/20030414/worldcomreorganizationdc.html

INTERNATIONAL LAW
China Lauds U.S. Human Rights Decision
http://news.findlaw.com/ap/i/1104/4-14-2003/20030414103005_16.html

Violent Crime Rate Still High In Chechnya
http://news.findlaw.com/ap/i/1103/4-14-2003/20030414051500_24.html

WAR ON TERRORISM
Pakistan Convicts 4 In U.S. Consulate Bomb
http://news.findlaw.com/ap/i/1104/4-14-2003/20030414044500_10.html

Veterinarians On Lookout For Bioterror
http://news.findlaw.com/ap/o/1110/4-14-2003/20030414113006_46.html

IRAQ
Lawlessness On Decline In Baghdad
http://news.findlaw.com/ap/i/1107/4-14-2003/20030414011501_07.html

Rumsfeld Says Syria Conducts Chemical Arms Tests
http://news.findlaw.com/politics/s/20030414/iraqusasyriarumsfelddc.html

Syria Denies Having Chemical Weapons, Saddam Link

http://news.findlaw.com/international/s/20030414/iraqusabritainsyriadc.html

CRIME & TRIALS
Bouncer Killed In New York Smoking Ban Scuffle

http://news.findlaw.com/news/s/20030414/crimesmokingdc.html

Feds Say Changes Since Waco Have Helped
http://news.findlaw.com/ap/o/1110/4-14-2003/20030414060001_6.html

ENTERTAINMENT
Sean Penn's Stolen Car Found, Guns Missing
http://news.findlaw.com/ap/e/1402/4-14-2003/20030414113006_38.html

Lewinsky To Host Dating Reality Show
http://news.findlaw.com/ap/e/1401/4-14-2003/20030414041500_10.html

****

** SAVE TIME: Pay Federal Taxes with EFTPS-ONLINE.
The Electronic Federal Tax Payment System is a FREE, SECURE, & EASY service offered by the U.S. Treasury Department to give taxpayers a convenient way to make federal tax payments 24 hours a day, 7 days a week.

Visit EFTPS at: http://rd.findlaw.com/scripts/nl.pl?url=10478880004_nl

** West LegalEdcenter *******

Receive updates about NEW ONLINE CLE PROGRAMS

Register with West LegalEdcenter for monthly email updates about new online CLE programs in your practice areas and jurisdictions. West LegalEdcenter currently has more than 1,400 courses, with more added daily!

http://rd.findlaw.com/scripts/nl.pl?url=gen_cle_010402

** west.thomson.com *********

Come shop over 5,000 law books, legal forms, Westlaw resources, textbooks, and more--right from your desktop.
http://rd.findlaw.com/scripts/nl.pl?url=gen_ads_040102

****

FEEDBACK

We value your comments! Please take a moment to tell us what you think by sending an e-mail to:
mailto:newsletters@findlaw.com?subject=TopHeadlines. Please include "Top Headlines" in the subject line.

SUBSCRIPTION INFORMATION

To subscribe to a FindLaw Newsletter, visit the FindLaw Newsletter Subscription Center at http://newsletters.findlaw.com

To unsubscribe, go to http://newsletters.findlaw.com/unsubscribe.html
---
ADVERTISING INFORMATION

For more information about advertising in FindLaw Newsletters, please contact us at:

mailto:sales@findlaw.com

FindLaw Top Headlines http://news.findlaw.com
Copyright (c) 2003 FindLaw, Inc.

From: Kavanaugh, Brett M.
To: <Nelson, Carolyn>
Sent: 4/15/2003 9:16:43 AM
Subject: Mich. letter

Do we have PDF of letter to Michigan Senators, including with letter to Hatch attached.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 04/15/2003 09:16 AM ----------

"Adam.Charnes@usdoj.gov"

04/15/2003 09:15:15 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: Mich. letter

Do you have a pdf of the judge's letter to the Mich. senators? if not, could you fax a copy to 353-9163? Thanks.

From: CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/15/2003 5:21:57 AM
Subject: : Re: is waldman's paperwork in?

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:15-APR-2003 09:21:57.00
SUBJECT:: Re: is waldman's paperwork in?
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I will check. He was still working on it yesterday.

Brett M. Kavanaugh
04/15/2003 09:19:50 AM
Record Type: Record

To: H. Christopher Bartolomucci/WHO/EOP@EOP
cc:
Subject: is waldman's paperwork in?

From: CN=Brian Bravo/OU=WHO/O=EOP@Exchange [WHO]
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 4/15/2003 10:55:22 AM
Subject: : TRANSCRIPT - Defense Department Briefing with Secretary Rumsfeld and Gen. Myers 04/15/03

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:15-APR-2003 14:55:22.00
SUBJECT:: TRANSCRIPT - Defense Department Briefing with Secretary Rumsfeld and Gen. Myers 04/15/03
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

DEFENSE DEPARTMENT OPERATIONAL UPDATE BRIEFING
BRIEFERS: SECRETARY OF DEFENSE DONALD RUMSFELD; JOINT CHIEFS OF STAFF CHAIRMAN GENERAL RICHARD MYERS

PENTAGON BRIEFING ROOM, ARLINGTON, VIRGINIA
1:32 P.M. EDT, TUESDAY, APRIL 15, 2003

;

SEC. RUMSFELD: Good afternoon.

;;;;;; We are very grateful that seven American prisoners of war in Iraq have been recovered. But even as we celebrate, we note that there are still four U.S. service members whose whereabouts are unknown; and a number of a coalition POWs that are still missing from 1991, a number of Kuwaitis and one American. We'll continue to work to find them until all have been accounted for.

;;;;;; Coalition forces now control Saddam Hussein's hometown of Tikrit, and only a few Iraqi cities remain contested. Our forces are now going back to the smaller cities and towns they initially bypassed, to deal with any regime forces that may remain. We'll continue these efforts until Saddam Hussein's regime has been removed from every corner of Iraq.

;;;;;; Once conditions on the ground permit, the civil administration team will deploy to Baghdad. Even before they do so, the coalition is beginning to hold regional meetings with free Iraqis from all walks of life to discuss the way ahead. The purpose is to begin a dialogue with Iraqis on the future of their country, to build momentum for the formation of an Iraqi interim authority, and to help pave the way for a free Iraqi government that will eventually be chosen by the Iraqi people.

;;;;;; The first of these meetings was held today, in Nasiriyah. It is noteworthy that even before the coalition's civil administration team has arrived in Baghdad, they are meeting with free Iraqis to discuss handing over authority to the Iraqi people. It underscores our intention to give responsibility for governance of that country to Iraqis as quickly as is possible.

;;;;;; The makeup and responsibilities of an Iraqi interim authority will be up to the Iraqi people, but we envision that it could take on at least two main tasks. First, it could allow Iraqis to have an immediate role in the administration of their country, including responsibility for running a number of the ministries. Second, it could take responsibility for laying the foundations of a new Iraqi government, including formation of a draft constitution, the reform of the legal system, economic reform, electoral planning and the outlines of a bill of rights, to assure a just system that guarantees that all Iraqis -- diverse population has a voice in the governance of their country.

;;;;;; The specific institutions of a new Iraqi government will be decided by Iraqis. A free society should really not be imposed from the outside. We can help by bringing Iraqis together and by helping to create conditions of stability and security that are necessary for a free society to take root. But building a free Iraq is the right -- and indeed the responsibility -- of the Iraqi people.

;;;;;; Moreover, a free society is about more than just elections or specific institutions of government. Free nations across the world have different institutions that reflect their unique cultures and their traditions. What they share in common are certain principles that undergird those institutions: freedom of speech, freedom of religion, individual rights, equal justice under law, checks and balances, protecting minorities against the tyranny of the majority, and ultimately a government that is chosen by and answers to the people.

;;;;;; The interim authority will be a stepping stone in that process. This much is certain: it will be temporary. It will be large, involving Iraqis from all walks of life. And it will be open to participation by new leaders from across the country as they emerge from the shadow of Saddam Hussein's repression. It will evolve, to use the American phrase, from the "big tent" approach.

;;;;;; These meetings will help set in motion a process that will lead to an Iraqi government that does not threaten its neighbors or the world with weapons of mass destruction, that does not support terrorist networks, that guarantees the rights of religious and ethnic groups, that permits political freedom, individual liberty and rule of law to prevail so that no Iraqi is forced to live in terror or fear.

;;;;;; General Myers.

;;;;;; GEN. MYERS: Thank you, Mr. Secretary.

;;;;;; Well, General Brooks gave a complete brief this morning, so I don't have anything to add from an operational viewpoint.

;;;;;; On behalf of all of us in uniform, I would like to add our welcome home to the seven former POWs. We are very proud of them and wish them a joyful reunion with their families.

;;;;;; My congratulations go to the Marines who rescued them. Thank you for bringing them home. And as the secretary said, you can be sure that we will continue to look and hunt for those that are still missing.

;;;;;; I'd also like to add my condolences to the families of those service members killed in combat-related actions or accidents over the past few days. I think it reminds us the battlefield is still a dangerous place, and we need to maintain our focus on our day-to-day operations.

;;;;;; And with that, we'll take questions.

;;;;;; SEC. RUMSFELD: Yes?

;;;;;; Q Mr. Secretary, there's an oil pipeline that runs from Iraq to Syria, through which traders say, despite denials from Damascus and Baghdad, that up to 200,000 barrels a day has flowed for several years, making millions of dollars for both countries in violation of the oil-for-food program. There are reports that the U.S. military has disabled or perhaps destroyed that pipeline. Can you clarify that or give us any information on that?

;;;;;; SEC. RUMSFELD: I am sure that no coalition forces destroyed a pipeline. We don't -- we have preserved infrastructure in that country. I am hopeful that they have shut it off, and I have heard that that has happened. But I cannot assure you that all illegal oil flowing from Iraq into Syria is shut off; I just hope it is.

;;;;;; Q General?

;;;;;; Q Mr. Secretary, there have been --

;;;;;; GEN. MYERS: I was going to say, just to back -- just to add a little bit to what the secretary said, they would not destroy the pipeline or any of the other infrastructure, whether it's oil or other infrastructure. They did it with the -- upon the technical advice of engineers.

;;;;;; Q Well, so they -- you say they have not destroyed it, but have they shut it off?

;;;;;; SEC. RUMSFELD: And I answered.

;;;;;; Q You say there were reports of that.

;;;;;; SEC. RUMSFELD: I said we have been told that they have shut off a pipeline. Whether it's the only one, and whether that has completely stopped the flow of oil between Iraq and Syria, I cannot tell you. We do not have perfect knowledge. We do know that they were instructed to shut it down, and they have told us that they have.

;;;;;; Q Mr. Secretary?

;;;;;; Q Thank you.

;;;;;; Q Mr. Secretary?

;;;;;; Q Now that there's no longer a need for no-fly zones over the north and the south of Iraq, what's the future of the U.S. military presence in Turkey and in Saudi Arabia?

;;;;;; SEC. RUMSFELD: We have, with the Turkish government, discontinued the Turkish no-fly zone.

;;;;;; Q As of when?

;;;;;; SEC. RUMSFELD: Yesterday or the day before.

;;;;;; GEN. MYERS: You announced it, I think, up here.

;;;;;; SEC. RUMSFELD: Did I?

;;;;;; GEN. MYERS: The end of Operation Northern Watch. And the assets there that were supporting it have redeployed.

;;;;;; Q Mr. Secretary, there has been --

;;;;;; SEC. RUMSFELD: Let me finish. The southern no-fly zone we're still flying out of, obviously, although it's not in a no-fly-zone mode. We're doing what we do, our folks are. The subject of a footprint for the United States post-Iraq is something that we're discussing and considering, and we don't have any announcements to make on it. But that will take some time to sort through.

;;;;;; Q But the Incirlik operation has been not only closed down, but all the aircraft have left, I understand --

;;;;;; SEC. RUMSFELD: No, all we said was that the Operation Northern Watch has been shut down and the assets that were there for that sole purpose have been redeployed.

;;;;;; Q So there are still U.S. assets --

;;;;;; SEC. RUMSFELD: I didn't say that. I've said --

;;;;;; Q (Off mike.)

;;;;;; SEC. RUMSFELD: I don't know why this is hard. We have shut down Operation Northern Watch. The assets that were there for that purpose have been redeployed. We have not made final decisions with respect to the footprint of the United States in that part of the world, and won't for some months.

;;;;;; Q Mr. Secretary, there's been some tough talk by you and by Secretary Powell and by the president about Syria, and --

;;;;;; Q (Sneeze.)

;;;;;; Q Bless you.

;;;;;; SEC. RUMSFELD: My goodness gracious. (Laughter.)

;;;;;; Q -- saying, in effect, to Syria to cease and desist aiding and abetting those of the Saddam regime and also in building or harboring weapons of mass destruction.

;;;;;; The bottom-line question is, specifically -- underline the word "specifically" -- how does the Bush administration intend to make that happen? How can you prevent Syria from doing these things?

;;;;;; SEC. RUMSFELD: I don't have anything else to add on that. The president's spoken on it. Secretary Powell has spoken on it. I'll leave that to them.

;;;;;; Q But you haven't said anything on --

;;;;;; Q You mentioned a missing American pilot from '91. I'm assuming that's Captain Scott Speicher. Can you update us on the progress that's being made, or lack of it, in trying to account for him?

;;;;;; SEC. RUMSFELD: If and when we have anything to announce, we will. We, needless to say, have teams of people who have very much focused on the question of prisoners of war.

;;;;;; They've had some good success thus far. We are working on the problems and hoping that we'll have success. But we have nothing that we can report.

;;;;;; Q Mr. Secretary?

;;;;;; Q Mr. Secretary?

;;;;;; SEC. RUMSFELD: Yes? Yes, Andrea?

;;;;;; Q Mr. Secretary, given there was a lot of talk about needing to have a -- before the war, having a lighter, more mobile, faster- deploying force, and given the rapid, record speed that the 3rd Infantry --

;;;;;; SEC. RUMSFELD: You think we ought to slow down? Is that --

;;;;;; (Soft laughter.)

;;;;;; Q That's not my question. That's not my question.

;;;;;; SEC. RUMSFELD: Just checking.

;;;;;; Q Given the record speed that the 3rd Infantry, you know, got to Baghdad from Kuwait, would you say, first of all, do you now -- is that lighter, more mobile, faster force now a reality? And if it is, is that because of something that you and your -- and this administration has done, or was that started before this present administration and -- or is it a combination of both?

;;;;;; SEC. RUMSFELD: Well, first, I would say that the 3rd Infantry Division and the Marines and the other forces and units and elements that have been doing such a wonderful job in Iraq have all performed exceedingly well, including the Special Operations people and the Navy and the air assets.

;;;;;; The phrase you used of swifter or more agile or faster are things that militaries have been striving for, for decades. Hundreds of years they've been trying to learn to do things better than they've done them in the past. And my impression is that the armed forces of the United States had been focused on improving themselves for some time, are today and will be in the future. And I think that looking for kind of demarcation you've suggested really is kind of chasing the wrong rabbit.

;;;;;; Yes, Pam?

;;;;;; Q I understand that as troops are moving through, they're bringing much-needed medical care and some surprise to folks that they're coming across. However, in Baghdad there remain a great number of people who are seriously hurt, some of them from the bombing, and aren't getting proper medical care, according to reports that are coming out there and pictures that we've seen.

;;;;;; At the same time there's a hospital ship that has 800 empty beds, and I'm wondering if there's any consideration being given to moving some of the folks, maybe the worst cases, in the Baghdad hospitals down there for more appropriate care -- special burn care, amputations.

;;;;;; SEC. RUMSFELD: The hospital -- I don't know which ship you're talking about, but I know one hospital ship has some, I believe, 307 Iraqi people that they have taken aboard and are providing first class medical treatment for. The medical situation as of the 13th -- today is the 15th, two days ago -- in Baghdad the hospitals do have a heavy load. Jordan announced a plan to send a field hospital into the Baghdad area this week. Medical supplies have been flown into Baghdad last night -- on the night of the 12th for distribution by the ICRC. And the -- there is a massive effort, bringing people in.

;;;;;; The UAE has also announced that it is receiving individuals who need medical assistance, Iraqi citizens who need medical assistance. And that process is taking place.

;;;;;; Q (Off mike) -- no plans to fill up those empty beds on the hospital ship.

;;;;;; SEC. RUMSFELD: I don't know what empty beds you're talking about. The --

;;;;;; Q It's a thousand -- it's a thousand-bed hospital ship, and the last briefing we had, there were about 200 beds full.

;;;;;; SEC. RUMSFELD: Yeah. I just happen not to know --

;;;;;; GEN. MYERS: I think as a general rule we're making medical care available wherever we have it, and, you know, if it's appropriate. I would say since the 13th -- a couple of additional items. They opened two additional hospitals in north-central Baghdad that are under U.S. control and security. And the ICRC opened up the big 1,200-bed Titin (sp) hospital in Baghdad as well. The secretary said lots of medical supplies coming in, lots of help from several countries to help with the medical situation.

;;;;;; SEC. RUMSFELD: The medical situation -- you've got to remember two things. One is that hospitals and schools and mosques were used as headquarters for the Ba'ath Party and for the Iraqi military. And there was a lot of damage done to hospitals and schools and mosques as a result of that decision on their part -- their decision.

;;;;;; Every day that has gone by since the United States has been in that

country, the medical situation has gotten better than it was the day before.

;;;;;; Q Mr. Secretary?

;;;;;; SEC. RUMSFELD: And that will continue on a -- at an increased rate in the days and weeks ahead.

;;;;;; Yes?

;;;;;; Q Mr. Secretary, the meeting at Ur outside of Nasiriyah was boycotted by Shi'a groups, subjected to protest --

;;;;;; SEC. RUMSFELD: It was also attended by a very large number of people.

;;;;;; Q Well, you described the tent approach that the U.S. would like to see.

;;;;;; SEC. RUMSFELD: (Inaudible.) (Soft laughter.)

;;;;;; Q What is the answer to the boycott? How do you get the groups that are boycotting inside the tent?

;;;;;; SEC. RUMSFELD: Well, you don't. We don't. What's going to happen is it's going to get sorted out on the ground, and that's fine. People demonstrate in the United States and boycott political rallies and things; that's what free people do. And it ought not to come as a surprise.

;;;;;; Our attitude about it is is that the Iraqis are going to have to sort this out. There ought to be a big tent; everyone who subscribes to the principles that I indicated in my opening statement today ought to be able to participate. What's going to happen is as that happens, they'll have meetings. And if you do something, somebody's not going to like it; that's certain in life. It's also true if you don't do something, somebody's not going to like it. But the fact is, if you do do something, somebody's not going to like it, and that's what's happening.

;;;;;; So, someone will come up and say something and somebody else, as happens in democracies, in free systems -- somebody's going to say, "I don't agree with that." And they'll either say it from inside the tent or outside the tent. And what's going to happen is that over each week that goes by, people are going to see that this is going to be a process that's going to go forward, it's going to include everyone in that country that wants to participate, based on fundamental principles that I've indicated, and they'll find that they've got a much better chance of affecting it from inside than they do from outside.

;;;;;; And therefore, you say, "What are you going to do about it?" What's going to happen is the Iraqi people will do something about it. If they don't want those people in and those people don't subscribe to the principles that we've set forth, and indeed, that the Iraqis have set forth -- I just read this e-mail on the statement they made, which is very interesting and very positive, in my view -- then they'll stay out, and that's life. Some people do that. Some people don't vote in our country.

;;;;;; On the other hand, if they decide they want to have an influence and an effect on it, they'll decide to become a part of that process. And it's an interim process, it's a temporary process, and it's moving through phases towards a more permanent government. And then they'll have a chance to do that, and that's a good thing.

;;;;;; Q Mr. Secretary, how confident are you that Iraq still has Scud missiles? And during your evaluation of the battle damage assessments of your bombing in the western part of Iraq, have you found any sort of evidence there?

;;;;;; SEC. RUMSFELD: Not to my knowledge.

;;;;;; Q None at all? Not even like shells or anything like that?

;;;;;; SEC. RUMSFELD: (Mocking) "Please? A little?" (Laughter.) A half of one, is that what you want?

;;;;;; Q (Off mike) -- launchers or anything like that?

;;;;;; SEC. RUMSFELD: Look -- look, there are still people shooting and getting killed in that country. The western area where the Scud baskets were is enormous! It's enormous! And people are -- there's a handful of people out there -- Americans. I mean, there are just not large numbers of special operators out there. They went out there, they went to the Scud baskets, they were successful in dealing with the people that were out there doing things. And now we're in a stage where, as the fighting starts to end and die down, there will be opportunities for individuals to then look around and see what they find.

;;;;;; Q Mr. Secretary, you had mentioned earlier that you're still looking at a decision to be made on what size of footprint the U.S. would have in the region. Would you just clarify to make certain that -- you've always said that the U.S. will certainly leave Iraq. I would presume by that you're not saying in Iraq but in the region?

;;;;;; SEC. RUMSFELD: I'm just stating a fact, that right now we have forces in Iraq. Our first choice is to begin drawing them down, and we have been doing that. A carrier battle group, it's already been announced, is leaving. There will be other forces that will be drawn down over time.

;;;;;; We have forces in other parts of that region -- and I spoke of a region, not a country -- and we will be looking at what that footprint ought to be going forward, and it's not something that we've come to closure on.

;;;;;; Yes?

;;;;;; Q Mr. Secretary, in your opening statement you talked about the political future of Iraq and letting the Iraqis decide. Are there, however, any specific conditions that we're attaching, such as bans on a particular party or an individual, or a particular size of an army or the type of weapons that they might have?

;;;;;; SEC. RUMSFELD: What we have said is fairly simple, and we've repeated it and repeated it from the outset, that Iraq ought to be a single country, and if people want to participate who think they ought to divide up that country into pieces, then we don't care -- we'd prefer they not participate. It ought to be a country that doesn't have weapons of mass destruction and doesn't threaten its neighbors, and if there are people who think it ought to, then our preference is that they not participate.

;;;;;; It ought to be a country that sets itself on a path towards a government that is responsive to the people and respectful of minorities and different -- the diversity in the country, of religious diversity and ethnic diversity. And if people want to have a different kind of government, then we'd prefer they not participate.

;;;;;; Beyond that, we would -- we'd also prefer that people not participate who basically don't represent Iraq, but who think they represent some of the neighboring countries. And that would -- that's an unhelpful thing, it seems to me.

;;;;;; So those are basically the standards. And they're not complicated, and they're not restrictive. They allow for a great deal of variety and diversity within those basics.

;;;;;; Q Who, if I may follow, would do the vetting of those conditions?

;;;;;; SEC. RUMSFELD: Oh, we just keep repeating the conditions, and the people will do the vetting. People on the ground know these folks. They know the bad ones. And yeah, the -- I mean, we'll -- you did ask about parties. There's no question but that this country's got to go through a de-Ba'athification process. The Ba'ath Party is not -- does not fit the conditions that I've described. We know what they think. And therefore we know that they ought not to be participants. And we would be hopeful that that's the case.

;;;;;; Yes, sir.

;;;;;; Q Mr. Secretary, who is going to control Kirkuk and Mosul, since there is a lot of concern in Ankara, Turkey? In the meantime, any communication with the Turkish government vis-a-vis to the Kurdish people of northern Iraq? And above all, how do you comment on the cooperation which has been announced among Turkey, Syria and Iran vis- a-vis to the -- (inaudible)?

;;;;;; SEC. RUMSFELD: You want to respond on that?

;;;;;; GEN. MYERS: The situation that we have in northern Iraq with respect to coordination and cooperation with the Turkish military is that as soon as we had U.S. forces in Kirkuk and in Mosul, that we invited in immediately Turkish military liaison officers so we could establish together the ground truth in those areas. As you know, rumors start fairly frequently, and somebody has to establish the ground truth. And that's why we are in northern Iraq with U.S. forces and with Turkish liaison forces. That seems to be working very well. I've talked to General Jones, our EUCOM commander, today, who had been talking to General Ozkok in Turkey, the chief of the Defense staff there, who is, I think -- can be reported as pleased with this level of cooperation. And we think that's gone a long way to sort of dispelling some of the rumors that have come out of northern Iraq. The situation in Kirkuk is calm. The peshmerga are out of there. The situation in Mosul is a little less calm, but still very stable. And that continues.

;;;;;; Q Mr. Secretary, on the issue of follow-on forces, you've said that this plan has been flexible from the beginning and that there were other forces in the pipeline, that you could turn off the spigot, if you will. Have you decided to turn off the spigot?

;;;;;; SEC. RUMSFELD: Yes.

;;;;;; Q And how so, sir?

;;;;;; SEC. RUMSFELD: One of the elements that was in the queue has been taken out of the queue, and we still have other forces that are flowing in. In some cases they'll be additive; in some cases they'll be replacing other forces over time. And in some cases, portions of elements may not go. Portions would go.

;;;;;; We're also on a very active effort to attract and encourage other countries to offer forces for the phase four stabilization process. We've had good luck, good fortune. I was on the phone today with ministers of defense of the U.K. and of Poland and talking to them about the process. We all will be coordinating through the CENTCOM liaison people and talking to other countries about forces that they may want to offer up to provide for a stabilization period so that, over a period of time, we'll be able to have the kind of security environment that is safe and allows a country to fashion a new government and a new approach to how they want to live their lives.

;;;;;; Q If I could follow. General Myers, we've heard about the naval assets and the Air Force assets pulling out. What about ground forces pulling out?

;;;;;; GEN. MYERS: I think the secretary covered that. Some of the reason that the forces that continue to flow are flowing is with a look towards

in the future, to be determined by Central Command and by the secretary, on when you might replace some forces that have been there for some time yet. So that's all part of the planning that Central Command is doing right now.

;;;;;; SEC. RUMSFELD: Jamie?

;;;;;; Q Mr. Secretary, as impressive as the U.S. military operation has been, no military plan is perfect. Would you concede in retrospect that perhaps the plan failed to adequately protect Iraq's antiquities, particularly the looting, providing enough security for the museum in Baghdad?

;;;;;; SEC. RUMSFELD: Looting is an unfortunate thing. Human beings are not perfect. We've seen looting in this country. We've seen riots at soccer games in various countries around the world. We've seen destruction after athletic events in our own country.

;;;;;; No one likes it. No one allows it. It happens, and it's unfortunate. And to the extent it can be stopped, it should be stopped. To the extent it happens in a war zone, it's difficult to stop.

;;;;;; The United States is concerned about the museum in Baghdad, and the president and the secretary of the State and I have all talked about it, and we are in the process of offering rewards for people who will bring things back or to assist us in finding where those things might be. And I would suspect that over time we'll find that a number of things were in fact hidden prior to the conflict. That's what most people in -- run -- who run museums do prior to a conflict which was obviously well telegraphed in advance.

;;;;;; But to try to lay off the fact of that unfortunate activity on a defect in a war plan -- it strikes me as a stretch.

;;;;;; Q But weren't you urged specifically by scholars and others about the danger to that museum? And weren't you urged to provide a greater level of protection and security in the initial phases of the operation?

;;;;;; SEC. RUMSFELD: Not to my knowledge. It may very well have been, but certainly the targeting people were well aware of where it was, and they certainly avoided targeting it, and it was not hit by any U.S. -- this was -- whatever damage was done was done from the ground.

;;;;;; GEN. MYERS: And we did get advice on archaeological sites around Baghdad and in fact I think it was the Archaeological -- American Archaeological Association -- I believe that's the correct title -- wrote the secretary of some concerns. Those were passed to Central Command, and those sites around Baghdad were obviously -- we tried to avoid hitting those. To my knowledge, we didn't hit any of them.

;;;;;; Can I say this -- can I say this -- a bit on the plan piece? You know, some have suggested, "Well, gee, you should have delayed combat operations to protect against looting, or you should have had more forces, should have waited till more forces arrived." To that I would say this: The best way to ensure fewer casualties on coalition side and fewer civilian casualties is to have combat operations proceed as quickly as possible and not prolong them. And so it gets back to the -- a matter of priorities. And we're dealing with some of those issues that you just brought up, Jamie, but the first thing you have to deal with is loss of life, and that's what we dealt with. And if you remember, when some of that looting was going on, people were being killed, people were being wounded, as I made reference to in my opening remarks.

;;;;;; So I think it's, as much as anything else, a matter of priorities.

;;;;;; SEC. RUMSFELD: Yes?

;;;;;; Q Mr. Secretary, you said that you had taken one element, one unit

out of the queue to replace or reinforce the troops you now have. Can you describe your evolving philosophy of the kind of forces you now want in? It would seem that heavy armor is less and less necessary. So why are -- what have you taken out of the queue, and sort of what is your thinking at this moment as you begin to reassess what is in that queue and what you may need in terms of the type of things?

;;;;;; SEC. RUMSFELD: Well, this is a process that involves the Central Command, and they make an assessment of what they see on the ground and what they think they need, and then they discuss it with General Myers and with me. And over a period of days, we discuss the various elements of it. One element is how many foreign forces do we think we're going to be able to attract to come in and give us some assistance, because that affects the number of U.S. forces that we need. What's the mix of forces you need -- land, sea, air? What are the kinds of capabilities? Do you need heavy tanks or do you need people more engaged in peacekeeping type activities?

;;;;;; And as the nature of the conflict winds down, which it most assuredly is, the need for certain types of things declines and the need for other types of things increases. And it is something that we talk about each day. We've been doing it almost continuously for some months now, first as to what ought to go in, and then what ought to come out. And it's not easy. There is no formula for it, and it depends on changing circumstances almost from day to day.

;;;;;; Q What have you removed from the queue?

;;;;;; SEC. RUMSFELD: (Aside) Do we -- do we -- announced anything?

;;;;;; Q First Cavalry?

;;;;;; GEN. MYERS: I don't know, have we announced --

;;;;;; STAFF: First Cav acknowledged they had a deployment order, sir, from previously.

;;;;;; MORE

;;;;;; SEC. RUMSFELD: They had an earlier deployment order and that they no longer do.

;;;;;; STAFF: That hasn't been --

;;;;;; SEC. RUMSFELD: That hasn't been announced? Then we'll not announce that. (Laughter.)

;;;;;; Yes? (Laughs.)

;;;;;; Q What's your latest thinking on whether the senior Iraqi leadership had some kind of plan in place for a particular moment when U.S. forces arrived in Baghdad, and that's the reason that they all disappeared so suddenly and collectively, as if that plan was implemented?

;;;;;; SEC. RUMSFELD: I think we'll learn more about that as we go along. I think that the -- this is speculation, but I would speculate that they very likely expected Gulf War II, a long air war that would give them time to do whatever they thought they wanted to do, leave or take cover and what have you, followed at some distance by a ground war, and probably a massive ground war, probably including the 4th Infantry Division, which was still up in the Mediterranean. And it's entirely possible when people are interviewed after this is all over that we'll find that they did not expect a ground war to start before an air war and they did not expect a ground war to start without the 4th Infantry Division while it was still up in the Mediterranean. I also suspect that they didn't expect the first air attack that took place the day before the ground war began on the Dora Farms. But one can't know these things; you can't climb into their minds and know what they were thinking.

;;;;;; But we do know that because of the way General Franks conducted the conflict, a lot of bad things didn't happen. The oil wells were not set afire like they were last time. We don't have massive internally displaced people. We don't have a million refugees flooding into neighboring countries. We didn't have high collateral damage because we didn't have a long air war. We had precision weapons instead of dumb bombs. The ground war went so much faster, that the opportunity for people to reorganize and to reconstitute forces in areas where they could provide a more aggressive defense didn't exist; they were passed very rapidly.

;;;;;; MORE So there were a lot of things that -- there wasn't time to use ballistic missiles in the western part of the country to attack neighboring countries as happened last time. There's just a whole list of things that didn't go wrong, that could have been terrible and didn't happen, because of the way that General Franks and his team conducted that. They did a superb job.

;;;;;; Q And what would that tell you about their whereabouts right now?

;;;;;; SEC. RUMSFELD: Not much. They're either dead or alive.

;;;;;; Q Mr. Secretary, what are the concerns, Mr. Secretary, that former Iraqi regime leaders attempting to flee to Syria may not only be seeking a safe haven in Syria but may be attempting to set up a base of operations to plot and launch any kind of future terrorist attacks against U.S. targets or Iraq?

;;;;;; SEC. RUMSFELD: Oh, I think that there is no question there are going to be some people who will escape out of that country. It's got porous borders and they'll go in many different directions. We'll find some of them. Some countries will cooperate in helping us to find them, and they will be pleased they did; and others may not be helpful. But life goes on.

;;;;;; Q But given -- if I could follow up, but given Syria's support for terrorism, is there a concern that Iraqis could in fact -- former regime leaders could use Syria as a haven from which to plot and carry out terrorist attacks?

;;;;;; SEC. RUMSFELD: The -- I don't have anything else to say about Syria. The president's been discussing it. Secretary Powell's been discussing it. I've discussed it. And I don't know what one can add. Obviously, the people in Iraq who ran that government are on our list.

;;;;;; And we'd like to have them. And we'll get a lot of them. We may even get most of them over time. And life will go on.

;;;;;; Tom?

;;;;;; Q Mr. Secretary, each of the armed services has a very formal lessons learned process that within weeks or months they'll roll out. I'm curious where you stand today, sir, what lessons you learned about how the American military does its job that you think were good, things that need to be improved. Have you personally learned anything from this war that will influence how you conduct business in the months ahead?

;;;;;; And General Myers, if you could take a whack at that, I'd be grateful.

;;;;;; SEC. RUMSFELD: First of all -- I don't want to say that it would be a mistake for the services to engage in service-centric lessons learned. But to some extent, I will say it. This was not a war fought by the Army or the Navy or the Air Force. It was -- or the Marines. It was a war that's been fought by joint forces under excellent leadership. And there isn't any one service that could have done what was done. It was the force multiplier, the leverage that was achieved by the combined -- joint and combined effort between the United States and Great Britain and Poland and other countries. Therefore the lessons learned will be looked at not by

service alone, but by the Joint Forces Command and others, who will do a very thorough job.

;;;;;; It started almost when the war started, the lessons learned process. When Dick and I meet every day with the people in the Central Command, sitting off the side you can see people who are on the lessons learned team. And they've been doing it in real time, at General Franks' instance and at Ed Giambastiani's instance. And it will be a good thing, and it will be valuable, and it will save lives and save money and improve the capability of the armed forces of the United States considerably.

;;;;;; Have I learned things? You bet. But --

;;;;;; Q Such as?

;;;;;; SEC. RUMSFELD: -- I'll save those things for another time.

;;;;;; Q (Laughs.)

;;;;;; SEC. RUMSFELD: General Myers?

;;;;;; GEN. MYERS: I'm going to save mine for another time as well. (Laughter.)

;;;;;; But there are lots of them, and as the secretary said, this process was started even before conflict began. It had senior mentors involved, as well as military people. And Admiral Giambastiani down in Joint Forces Command is overall responsible to gather the lessons learned that we'll see and the secretary will see. And he's also going to try to pull together the service lessons learned into that so we have, you know, a fairly good composite picture, and inform us how to proceed in the future.

;;;;;; SEC. RUMSFELD: And they'll relate to both war-fighting as well as the process of getting there, the flow of forces and how that works. There's -- this department's got a lot of areas that we can improve, and we're working like the dickens trying to improve it and trying to make it more efficient, more effective, so that it best serves the American people and our values and our principles.

;;;;;; Thank you very much.

;;;;;; Q Mr. Secretary, has the war been won? Has the war been won, Mr. Secretary?

;;;;;; SEC. RUMSFELD: I'll let you know, Bill. (Subdued laughter.)

END.

;

From: CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO]
To: Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Benjamin A. Powell/WHO /EOP@EOP [WHO] <Benjamin A. Powell>;David G. Leitch/WHO/EOP@Exchange [WHO] <David G. Leitch>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>
Sent: 4/16/2003 10:49:47 AM
Subject: : NO PREP TODAY

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:16-APR-2003 14:49:47.00
SUBJECT:: NO PREP TODAY
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Just to clarify, there will not be prep prior to today's JSC meeting.
We're still on for the Roosevelt Room at 4pm for JSC.
;
Thanks!
```

From: CN=John B. Bellinger/OU=NSC/O=EOP [NSC]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/16/2003 8:32:40 AM
Subject: : What is the problem now?! I thought DoJ and State had agreed!

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP [ NSC ] )
CREATION DATE/TIME:16-APR-2003 12:32:40.00
SUBJECT:: What is the problem now?! I thought DoJ and State had agreed!
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: craig.blackwell@usdoj.gov <craig.blackwell@usdoj.gov>
Sent: 4/16/2003 8:58:43 AM
Subject: : RE: PRA Case
Attachments: P_AT1OF003_WHO.TXT_1.wpd

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:16-APR-2003 12:58:43.00
SUBJECT:: RE: PRA Case
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:"craig.blackwell@usdoj.gov" <craig.blackwell@usdoj.gov> ("craig.blackwell@usdoj.gov" <craig.blackwell@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Did you have any comments on these??

Brett M. Kavanaugh
04/15/2003 06:24:51 PM
Record Type: Record

To: "Craig.Blackwell@usdoj.gov" <Craig.Blackwell@usdoj.gov>
cc:
bcc: Records Management@EOP
Subject: RE: PRA Case

let's discuss. how about:
-- delete "in Simi Valley, California."
-- change sentence beginning "The Executive Office of the President" to "Representatives of the incumbent President have indicated that the incumbent Administration intends either to concur or not to concur in the former President's assertion of privilege after final judicial resolution of plaintiffs' challenge to the executive order."
-- delete sentence beginning "We will inform . . ."

"Craig.Blackwell@usdoj.gov" <Craig.Blackwell
04/15/2003 06:08:12 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE: PRA Case

Brett-attached is a draft notice re the remaining records. Please let me know as soon as you can whether it looks OK. Would like to file tomorrow.
Craig

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Tuesday, April 15, 2003 10:50 AM
To: Coffin, Shannen
Cc: Blackwell, Craig
Subject: Re: PRA Case

got your vm and accept recommendation. Do you have any thoughts about
below
draft letter to NARA:

April __, 2003

Dear Mr. Stern:

Consistent with the Constitution, the Presidential Records Act, and
Executive Order 13233, this letter is to confirm that President Bush
concurs in
and independently asserts the __ privileges that also were asserted by
President
Reagan over a limited number of pages (___) of former President Reagan

- notice2.wpd

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_AT1OF003_WHO.TXT_1>

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN HISTORICAL ASSOCIATION, et al., Plaintiffs,	)	
v.	)	No. 1:01CV02447 (CKK)
NATIONAL ARCHIVES AND RECORDS ADMINISTRATION, et al., Defendants.	)	

NOTICE WITH RESPECT TO CERTAIN RECORDS

Defendants, National Archives and Records Administration and John W. Carlin, Archivist of the United States, hereby provide notice with respect to certain records referenced in plaintiffs' supplemental statement of undisputed facts in support of their motion for summary judgment. In their supplemental statement, plaintiffs noted that 1,654 pages of Reagan presidential records and video segments totaling approximately 15 minutes in length "have been subject to the review process called for by Executive Order 13,233, and have been withheld by the Archives pending completion of that process." See Supplemental Statement at ¶ 3. These records are not subject to plaintiffs' complaint (including their request for a mandatory injunction), and we have not endeavored to provide the Court with updates with respect to the status of these records during the course of their review by former President Reagan and President Bush. Nevertheless, so that the record is clear, we wish to inform the Court that, during the review process, neither former President Reagan nor President Bush asserted a constitutional privilege over 1,580 of the 1,654 pages. These 1,580 pages are available at the Reagan Library in Simi Valley, California. We wish to further inform the Court that, during the review process, former President Reagan asserted constitutional privilege over the remaining 74 pages and the video segments. The Executive Office of the President is continuing to examine

REV_00163224

these records in accordance with Executive Order 13,233. We will inform the Court when review of these records is complete.

Respectfully submitted,

ROBERT D. McCALLUM, Jr.
Assistant Attorney General

ROSCOE C. HOWARD, JR.
United States Attorney

CRAIG M. BLACKWELL, D.C. Bar No. 438758
Senior Trial Counsel
U.S. Department of Justice
Ben Franklin Station
P.O. Box 883
Washington, D.C. 20044
Tel: (202) 616-0679
Fax: (202) 616-8470

Attorneys for Defendants

Date: April –, 2003

REV_00163225

CERTIFICATE OF SERVICE

I certify that on April –, 2003, I caused copies of the foregoing "Notice With Respect To Records Formerly Under Review" to be served by first-class mail, postage prepaid, and by facsimile, on:

Scott L. Nelson
Public Citizen Litigation Group
1600 20th Street, N.W.
Washington, DC 20009
fax: (202) 588-7795

Craig M. Blackwell

REV_00163226

From:	CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To:	Irene Kho/OMB/EOP@EOP [OMB] <Irene Kho>;Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>
Sent:	4/16/2003 1:01:24 PM
Subject:	: Re: FW: FW: LRM IKK41 - - COMMERCE Report on HR49 Internet Tax Nondiscrimination Act
Attachments:	P_1FGOF003_WHO.TXT_1.doc; P_1FGOF003_WHO.TXT_2.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:16-APR-2003 17:01:24.00
SUBJECT:: Re: FW: FW: LRM IKK41 - - COMMERCE Report on HR49 Internet Tax Nondiscrimination Act
TO:Irene Kho (CN=Irene Kho/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

WHC has no objections.

-----Original Message-----
From: Kho, Irene
Sent: Wednesday, April 16, 2003 4:45 PM
To: Ostp Lrm; llr@do.treas.gov; justice.lrm@usdoj.gov; state-lrm@state.gov; cla@sba.gov; laffairs@ustr.gov
Cc: Nec Lrm; Whgc Lrm; Ovp Lrm; Cea Lrm; Malphrus, Garry; Schacht, Diana L.; Mahaffie, Robert F.; Schwartz, Mark J.; Bloomquist, Lauren E.; Boden, James; Dennis, Yvette M.; Lyon, Randolph M.; Stauffer, Anne R.; Kulikowski, James M.; Durant, Catherine; Casella, Michael; Green, Richard E.; Jukes, James J.; Foster, James D.; Russell, Richard M.; Silverberg, Kristen; Lobrano, Lauren C.; Chadwick, Kirsten; Lobrano, Lauren C.; Luczynski, Kimberley S.; Wood, John F.; Perry, Philip J.; McMillin, Stephen S.; Rust, Kathryn E.; Barrales, Ruben S.; MacEcevic, Lisa J.; Schroeder, Ingrid M.
Subject: LRM IKK41 - - COMMERCE Report on HR49 Internet Tax Nondiscrimination Act

Attached is a Commerce letter supporting H.R. 49. Please review and provide comments by
3:00 PM on Tuesday, April 22nd. For your convenience, also attached is a bill text of H.R. 49.

- internet tax.doc

LRM ID: IKK41
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Wednesday, April 16, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Richard E. Green (for) Assistant Director for
Legislative Reference
OMB CONTACT: Irene Kho
PHONE: (202)395-5858 FAX: (202)395-3109
SUBJECT: COMMERCE Report on HR49 Internet Tax Nondiscrimination
Act

DEADLINE: 3:00 PM Tuesday, April 22, 2003
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Attached is a Commerce letter supporting H.R. 49. Please review and provide comments by
3:00 PM on Tuesday, April 22nd. For your convenience, also attached is a bill text of H.R. 49.

DISTRIBUTION LIST

AGENCIES:
095-Office of Science and Technology Policy - Maureen O'Brien - (202) 456-6037
118-TREASURY - Richard S. Carro - (202) 622-0650
61-JUSTICE - Robert Raben - (202) 514-2141
114-STATE - Paul Rademacher - (202) 647-4463
107-Small Business Administration - Jane P. Merkin - (202) 205-6700
128-US Trade Representative - Carmen Suro-Bredie - (202) 395-3475

EOP:
NEC LRM
WHGC LRM
OVP LRM
CEA LRM
Garry Malphrus
Diana L. Schacht
Carlos E. Bonilla
Robert F. Mahaffie
Mark J. Schwartz
Lauren E. Bloomquist
James Boden
Yvette M. Dennis
Randolph M. Lyon
Anne R. Stauffer
James M. Kulikowski
Catherine Durant
Michael Casella
Richard E. Green
James J. Jukes
James D. Foster
Richard M. Russell
Kristen Silverberg
Lauren C. Lobrano
Kirsten A. Chadwick
Lauren C. Lobrano
Kimberley S. Luczynski
John F. Wood
Philip J. Perry
Stephen S. McMillin
Kathryn E. Rust
Ruben S. Barrales
Lisa J. Macecevic
Ingrid M. Schroeder

LRM ID: IKK41 SUBJECT: COMMERCE Report on HR49 Internet Tax Nondiscrimination Act

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) faxing us a memo or letter.
Please include the LRM number and subject shown above.

TO: Irene Kho Phone: 395-5858 Fax: 395-3109
Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_1FGOF003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_1FGOF003_WHO.TXT_2>

DRAFT DRAFT DRAFT

The Honorable Christopher Cox
United States House of Representatives
2402 Russell House Office Building
Washington, DC 20515

Dear Representative Cox:

I want to commend you for your laudable efforts to extend the moratorium on Internet access and discriminatory taxes through H.R. 49, the "Internet Tax Nondiscrimination Act."

The Internet is an innovative force that opens the vast potential economic and social benefits of e-commence and enables such applications as distance learning, telemedicine, and precision farming. Government must do its part to make access to these services affordable. It should not raise costs through additional taxation. As the President stated at the Waco Economic Forum in 2002, "We will continue to work to prevent new access taxes on broadband technology. If you want something to be used more, you don't tax it."

I encourage Congress to act expeditiously to send legislation to extend the moratorium the President's desk before it expires on November 1 of this year. Thank you again for your outstanding leadership on this important issue to both current and future national economic growth. If you should have any further questions or concerns, please feel free to contact me at (202) 482-2112, or Brenda Becker, Assistant Secretary for Legislative and Intergovernmental Affairs, at (202) 482-3663.

Sincerely,

Donald L. Evans

108TH CONGRESS
1ST SESSION

H. R. 49

To permanently extend the moratorium enacted by the Internet Tax Freedom Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 2003

Mr. COX (for himself, Mr. CALVERT, Mr. CANNON, Mr. CHABOT, Mr. CUNNINGHAM, Mr. TOM DAVIS of Virginia, Mr. DREIER, Mr. FLAKE, Mr. GOODLATTE, Mr. HERGER, Mr. HYDE, Mr. ISSA, Mr. MCKEON, Mr. GARY G. MILLER of California, Mr. OSE, Mr. PENCE, Mr. PLATTS, Mr. POMBO, Mr. ROHRABACHER, Mr. WELDON of Florida, Mr. DOOLITTLE, Mrs. MUSGRAVE, Ms. GINNY BROWN-WAITE of Florida, Mr. SWEENEY, Mr. FRANKS of Arizona, Mr. KING of Iowa, Mr. MCCOTTER, Mr. BLUMENAUER, Mr. ROYCE, Mr. TANCREDO, Mr. BLUNT, Mr. DICKS, Mr. LEWIS of California, and Mr. BEAUPREZ) introduced the following bill; which was referred to the Committee on the Judiciary

---

A BILL

To permanently extend the moratorium enacted by the Internet Tax Freedom Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Internet Tax Nondiscrimination Act".

REV_00163231

SEC. 2. PERMANENT EXTENSION OF INTERNET TAX FREEDOM ACT MORATORIUM.

(a) PERMANENT EXTENSION; INTERNET ACCESS TAXES.—Section 1101 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended—

(1) by striking "taxes during the period beginning on October 1, 1998, and ending on November 1, 2003—" and inserting "taxes after September 30, 1998:";

(2) by striking paragraph (1) of subsection (a) and inserting the following:

"(1) Taxes on Internet access.",

(3) by striking "multiple" in paragraph (2) of subsection (a) and inserting "Multiple";

(4) by striking subsection (d); and

(5) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(b) CONFORMING AMENDMENT.—Section 1104(10) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking "unless" and all that follows through "1998".

○

REV_00163232

From: FindLaw.com <listadmin@LEGALMINDS.ORG>
To: TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN] <TOPHEADLINES@LEGALMINDS.ORG>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 4/16/2003 2:00:56 PM
Subject: : [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Wed., Apr. 16, 2003

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"FindLaw.com" <listadmin@LEGALMINDS.ORG> ( "FindLaw.com" <listadmin@LEGALMINDS.ORG>
[ UNKNOWN ] )
CREATION DATE/TIME:16-APR-2003 18:00:56.00
SUBJECT:: [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Wed., Apr. 16,
2003
TO:TOPHEADLINES@LEGALMINDS.ORG ( TOPHEADLINES@LEGALMINDS.ORG [ UNKNOWN ] )
READ:UNKNOWN
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

------------------------------------------------------------------------
FINDLAW Wed, Apr 16, 2003
------------------------------------------------------------------------
TOP LEGAL NEWS HEADLINES


For all of the day's legal news go to: http://news.findlaw.com
**********************************************************************

AMICUS ATTORNEY
Every second counts when you bill by the hour. Don't waste valuable
time searching for practice information when you can have it at your
fingertips with AMICUS ATTORNEY - the world's leading practice
management software. Stay on top of your practice and increase your
billable time - effortlessly! Download or order your FREE TRIAL today.
http://rd.findlaw.com/scripts/nl.pl?url=10479744000_nl

**********************************************************************

SUPREME COURT
Supreme Court Remains Secretive Place
http://news.findlaw.com/ap/a/w/1154/4-16-2003/20030416004501_07.html


POLITICS
Bush Signs $80B Spending Bill for Iraq War
http://news.findlaw.com/ap/a/w/1151/4-16-2003/20030416103005_04.html

Pelosi Starts Well As Democratic Leader
http://news.findlaw.com/ap/a/w/1153/4-16-2003/20030416121502_41.html


LEGAL COMMENTARY
A Multi-Stage Process for Post-War Iraq
http://writ.news.findlaw.com/dorf/20030416.html


CIVIL RIGHTS
Gay Man Can Sue As Spouse of Deceased
http://news.findlaw.com/ap/o/1110/4-16-2003/20030416013004_02.html


PERSONAL INJURY
N.H. Priest on Trial in Molestation Case
http://news.findlaw.com/ap/o/1110/4-16-2003/20030416030003_05.html
```

State Farm Issues Cameras to Customers
http://news.findlaw.com/ap/f/1310/4-16-2003/20030416110005_05.html

PRODUCT LIABILITY
Newly-Designed Cars Do Better in Crashes
http://news.findlaw.com/ap/o/1110/4-16-2003/20030416080011_46.html

Sony Recalls Cyber-Shot Digital Cameras
http://news.findlaw.com/ap/f/1310/4-16-2003/20030416061501_24.html

MICROSOFT
Microsoft Settles Fla. Class Action Suit
http://news.findlaw.com/ap/ht/1700/4-16-2003/20030416063011_34.html

LABOR AND EMPLOYMENT
Maytag Plans to Cut 500 Jobs
http://news.findlaw.com/ap/f/1310/4-16-2003/20030416061501_22.html

Back to Ballot for American Attendants
http://news.findlaw.com/news/s/20030416/airlinesamericandc.html

ENVIRONMENT
China Let SARS Death Toll Climb-U.S. Official
[copy link and paste in browser window]
http://news.findlaw.com/international/s/20030416/healthpneumoniausadc.html

CYBERSPACE LAW
Prankster Web Site Draws Wal-Mart Ire
http://news.findlaw.com/ap/ht/1700/4-16-2003/20030416063011_23.html

TELECOMMUNICATIONS
FCC Head Won't Delay Media Ownership Vote
http://news.findlaw.com/ap/a/w/1155/4-16-2003/20030416083004_23.html

Wireless Cos. Fight Rule on Phone Numbers
http://news.findlaw.com/ap/ht/1700/4-16-2003/20030416063011_28.html

BUSINESS
Court Rejects H&R Block Settlement
[copy link and paste in browser window]

http://news.findlaw.com/business/s/20030416/financialhrblocksettlementdc.ht
m
l

Drug Makers Agree to Settlement
http://news.findlaw.com/ap/o/1500/4-16-2003/20030416071502_18.html

ENRON
Enron Corp. Art Goes on the Block
http://news.findlaw.com/ap/f/1310/4-16-2003/20030416084502_20.html

INTERNATIONAL LAW
U.S., North Korea to Begin Nuclear Talks
http://news.findlaw.com/ap/i/1104/4-16-2003/20030416071502_16.html

U.N. Body Debates Cuba Rights Crackdown
http://news.findlaw.com/ap/i/1102/4-16-2003/20030416033001_3.html

WAR ON TERRORISM
U.S. Says Abu Abbas Not Immune Under 1995 Deal
http://news.findlaw.com/news/s/20030416/iraqabbasimmunitydc.html

Terror Alert Falls From Orange to Yellow
http://news.findlaw.com/ap/a/w/1152/4-16-2003/20030416074502_26.html

IRAQ
U.S. Urges U.N. to Lift Iraq Economic Sanctions
http://news.findlaw.com/international/s/20030416/iraqusaundc.html

Troops Find Terror Training Camp in Iraq
http://news.findlaw.com/ap/i/1107/4-16-2003/20030416101501_17.html

CRIME & TRIALS
Calif. Lab Begins Testing Found Bodies
http://news.findlaw.com/ap/o/1110/4-16-2003/20030416031500_02.html

Texas Man Gets Death Penalty Reprieve
http://news.findlaw.com/ap/o/1110/4-16-2003/20030416014500_10.html

ENTERTAINMENT
Tha Row Removed from Wrongful-Death Suit
http://news.findlaw.com/entertainment/s/20030416/musiclawsuitdc.html

U.S. Producer Bing Wins Libel Payout from UK Paper
http://news.findlaw.com/entertainment/s/20030416/peoplebingdc.html

SPORTS
Chaney Inks Contract Extension With Knicks
http://news.findlaw.com/sports/s/20030416/nbachaneydc.html

WORLDCOM
Ex-WorldCom CFO Hit With Fraud Charges
http://news.findlaw.com/ap/f/1310/4-16-2003/20030416101501_15.html

****

Syngence LLC

Dramatically reduce class action discovery document management costs by using artificial intelligence to create discovery databases up to 30 times faster and at less than half the cost. Plus, the power of Synthetix(TM) to easily locate supporting evidence is built in. Call 1-800-SYNGENCE. http://rd.findlaw.com/scripts/nl.pl?url=10488384001_nl

********** West LegalEdcenter *******

Receive updates about NEW ONLINE CLE PROGRAMS

Register with West LegalEdcenter for monthly email updates about new online CLE programs in your practice areas and jurisdictions. West LegalEdcenter currently has more than 1,400 courses, with more added daily!

http://rd.findlaw.com/scripts/nl.pl?url=gen_cle_010402

********** west.thomson.com *********

Come shop over 5,000 law books, legal forms, Westlaw resources, textbooks, and more--right from your desktop.

http://rd.findlaw.com/scripts/nl.pl?url=gen_ads_040102

****

FEEDBACK

We value your comments! Please take a moment to tell us what you think by sending an e-mail to:
mailto:newsletters@findlaw.com?subject=TopHeadlines. Please include "Top Headlines" in the subject line.

SUBSCRIPTION INFORMATION

To subscribe to a FindLaw Newsletter, visit the FindLaw Newsletter Subscription Center at http://newsletters.findlaw.com

To unsubscribe, go to http://newsletters.findlaw.com/unsubscribe.html
---
ADVERTISING INFORMATION

For more information about advertising in FindLaw Newsletters, please contact us at:

mailto:sales@findlaw.com

FindLaw Top Headlines http://news.findlaw.com
Copyright (c) 2003 FindLaw, Inc.

From: Nelson, Carolyn
To: <Bartolomucci, H. Christopher>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Leitch, David G.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>;<Ullyot, Theodore W.>;<Brosnahan, Jennifer R.>
Sent: 4/16/2003 2:49:56 PM
Subject: NO PREP TODAY

Just to clarify, there will not be prep prior to today's JSC meeting. We're still on for the Roosevelt Room at 4pm for JSC.

Thanks!

From: Bumatay, Patrick J.
To: <Kavanaugh, Brett M.>
Sent: 4/16/2003 4:54:53 PM
Subject: FW: FW: LRM IKK41 - - COMMERCE Report on HR49 Internet Tax Nondiscrimination Act
Attachments: hr49.pdf; internet tax.doc

Can you cover this for Ted who is recusing himself from this?

-----Original Message-----
From: Ullyot, Theodore W.
Sent: Wednesday, April 16, 2003 4:52 PM
To: Bumatay, Patrick J.
Subject: Re: FW: LRM IKK41 - - COMMERCE Report on HR49 Internet Tax Nondiscrimination Act

Patrick: Out of an abundance of caution, I am going to consider myself barred from working on this issue because of potential implications for AOL Time Warner. Can you please reassign it? Thanks.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 04/16/2003 04:50:55 PM
Record Type: Record

To: Theodore W. Ullyot/WHO/EOP@EOP
cc:
Subject: FW: LRM IKK41 - - COMMERCE Report on HR49 Internet Tax Nondiscrimination Act

-----Original Message-----
From: Kho, Irene
Sent: Wednesday, April 16, 2003 4:45 PM
To: Ostp Lrm; lr@do.treas.gov; justice.lrm@usdoj.gov; state-lrm@state.gov; cla@sba.gov; laffairs@ustr.gov
Cc: Nec Lrm; Whgc Lrm; Ovp Lrm; Cea Lrm; Malphrus, Garry; Schacht, Diana L.; Mahaffie, Robert F.; Schwartz, Mark J.; Bloomquist, Lauren E.; Boden, James; Dennis, Yvette M.; Lyon, Randolph M.; Stauffer, Anne R.; Kulikowski, James M.; Durant, Catherine; Casella, Michael; Green, Richard E.; Jukes, James J.; Foster, James D.; Russell, Richard M.; Silverberg, Kristen; Lobrano, Lauren C.; Chadwick, Kirsten; Lobrano, Lauren C.; Luczynski, Kimberley S.; Wood, John F.; Perry, Philip J.; McMillin, Stephen S.; Rust, Kathryn E.; Barrales, Ruben S.; MacEcevic, Lisa J.; Schroeder, Ingrid M.
Subject: LRM IKK41 - - COMMERCE Report on HR49 Internet Tax Nondiscrimination Act

Attached is a Commerce letter supporting H.R. 49. Please review and provide comments by 3:00 PM on Tuesday, April 22nd. For your convenience, also attached is a bill text of H.R. 49.

- internet tax.doc <>

<>

LRM ID: IKK41

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Wednesday, April 16, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: Irene Kho
PHONE: (202)395-5858 FAX: (202)395-3109
SUBJECT: **COMMERCE Report on HR49 Internet Tax Nondiscrimination Act**

DEADLINE: **3:00 PM Tuesday, April 22, 2003**
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Attached is a Commerce letter supporting H.R. 49. Please review and provide comments by 3:00 PM on Tuesday, April 22nd. For your convenience, also attached is a bill text of H.R. 49.

DISTRIBUTION LIST

AGENCIES:
095-Office of Science and Technology Policy - Maureen O'Brien - (202) 456-6037
118-TREASURY - Richard S. Carro - (202) 622-0650
61-JUSTICE - Robert Raben - (202) 514-2141
114-STATE - Paul Rademacher - (202) 647-4463
107-Small Business Administration - Jane P. Merkin - (202) 205-6700
128-US Trade Representative - Carmen Suro-Bredie - (202) 395-3475

EOP:
NEC LRM
WHGC LRM
OVP LRM
CEA LRM
Garry Malphrus
Diana L. Schacht
Carlos E. Bonilla
Robert F. Mahaffie
Mark J. Schwartz
Lauren E. Bloomquist
James Boden
Yvette M. Dennis
Randolph M. Lyon
Anne R. Stauffer
James M. Kulikowski
Catherine Durant
Michael Casella
Richard E. Green
James J. Jukes
James D. Foster
Richard M. Russell
Kristen Silverberg
Lauren C. Lobrano
Kirsten A. Chadwick
Lauren C. Lobrano
Kimberley S. Luczynski

John F. Wood
Philip J. Perry
Stephen S. McMillin
Kathryn E. Rust
Ruben S. Barrales
Lisa J. Macecevic
Ingrid M. Schroeder
LRM ID: IKK41 **SUBJECT:** COMMERCE Report on HR49 Internet Tax Nondiscrimination Act

RESPONSE TO

LEGISLATIVE REFERRAL

MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) faxing us a memo or letter.

Please include the LRM number and subject shown above.

TO: **Irene Kho Phone: 395-5858 Fax: 395-3109**

Office of Management and Budget

FROM: _____ **(Date)**

_____ **(Name)**

_____ **(Agency)**

_____ **(Telephone)**

The following is the response of our agency to your request for views on the above-captioned subject:

_____ **Concur**

_____ **No Objection**

_____ **No Comment**

_____ **See proposed edits on pages** _____

_____ **Other:** _____

_____ **FAX RETURN of** _____ **pages, attached to this response sheet**

DRAFT DRAFT DRAFT

The Honorable Christopher Cox
United States House of Representatives
2402 Russell House Office Building
Washington, DC 20515

Dear Representative Cox:

I want to commend you for your laudable efforts to extend the moratorium on Internet access and discriminatory taxes through H.R. 49, the "Internet Tax Nondiscrimination Act."

The Internet is an innovative force that opens the vast potential economic and social benefits of e-commence and enables such applications as distance learning, telemedicine, and precision farming. Government must do its part to make access to these services affordable. It should not raise costs through additional taxation. As the President stated at the Waco Economic Forum in 2002, "We will continue to work to prevent new access taxes on broadband technology. If you want something to be used more, you don't tax it."

I encourage Congress to act expeditiously to send legislation to extend the moratorium the President's desk before it expires on November 1 of this year. Thank you again for your outstanding leadership on this important issue to both current and future national economic growth. If you should have any further questions or concerns, please feel free to contact me at (202) 482-2112, or Brenda Becker, Assistant Secretary for Legislative and Intergovernmental Affairs, at (202) 482-3663.

Sincerely,

Donald L. Evans

I

108TH CONGRESS
1ST SESSION

H. R. 49

To permanently extend the moratorium enacted by the Internet Tax Freedom Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 2003

Mr. COX (for himself, Mr. CALVERT, Mr. CANNON, Mr. CHABOT, Mr. CUNNINGHAM, Mr. TOM DAVIS of Virginia, Mr. DREIER, Mr. FLAKE, Mr. GOODLATTE, Mr. HERGER, Mr. HYDE, Mr. ISSA, Mr. MCKEON, Mr. GARY G. MILLER of California, Mr. OSE, Mr. PENCE, Mr. PLATTS, Mr. POMBO, Mr. ROHRABACHER, Mr. WELDON of Florida, Mr. DOOLITTLE, Mrs. MUSGRAVE, Ms. GINNY BROWN-WAITE of Florida, Mr. SWEENEY, Mr. FRANKS of Arizona, Mr. KING of Iowa, Mr. MCCOTTER, Mr. BLUMENAUER, Mr. ROYCE, Mr. TANCREDO, Mr. BLUNT, Mr. DICKS, Mr. LEWIS of California, and Mr. BEAUPREZ) introduced the following bill; which was referred to the Committee on the Judiciary

---

A BILL

To permanently extend the moratorium enacted by the Internet Tax Freedom Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Internet Tax Nondiscrimination Act".

REV_00163249

SEC. 2. PERMANENT EXTENSION OF INTERNET TAX FREEDOM ACT MORATORIUM.

(a) PERMANENT EXTENSION; INTERNET ACCESS TAXES.—Section 1101 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended—

(1) by striking "taxes during the period beginning on October 1, 1998, and ending on November 1, 2003—" and inserting "taxes after September 30, 1998:";

(2) by striking paragraph (1) of subsection (a) and inserting the following:

"(1) Taxes on Internet access.",

(3) by striking "multiple" in paragraph (2) of subsection (a) and inserting "Multiple";

(4) by striking subsection (d); and

(5) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(b) CONFORMING AMENDMENT.—Section 1104(10) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking "unless" and all that follows through "1998".

○

REV_00163250

From: CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [OA]
To: Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/16/2003 1:22:06 PM
Subject: : RE: FW: PERS Approval

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Adam F. Greenstone (CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [OA])
CREATION DATE/TIME:16-APR-2003 17:22:06.00
SUBJECT:: RE: FW: PERS Approval
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I've reviewed the revisions on hard copy printouts from Bob Blake and it looks fine.; All the references to the hardship form have been removed.; Only thought I have is that you could consider generally revising the White House Internet Privacy Policy to address use of information collected for greetings.; (See proposed text in red.)

;

White House Website Privacy and Security Policy

En Espa¤ol

Thank you for visiting the White House Website and reviewing our privacy policy. Our privacy policy is clear: We will collect no personal information about you when you visit our website unless you choose to provide that information to us.

Here is how we handle information about your visit to our website:

White House Internet Security Policy

For site security purposes and to ensure that this service remains available to all users, this government computer system employs software programs to monitor network traffic to identify unauthorized attempts to upload or change information, or otherwise cause damage.

Unauthorized attempts to upload information or change information on this service are strictly prohibited and may be punishable under the Computer Fraud and Abuse Act of 1986 and the National Information Infrastructure Protection Act.

Information Collected and Stored Automatically

If you do nothing during your visit but browse through the website, read pages, or download information, we will gather and store certain information about your visit automatically. This information does not identify you personally. We automatically collect and store only the following information about your visit:

The Internet domain (for example, "xcompany.com" if you use a private Internet access account, or "yourschool.edu" if you connect from a university's domain) and IP address (an IP address is a number that is automatically assigned to your computer whenever you are surfing the Web) from which you access our website;

The type of browser and operating system used to access our site;
The date and time you access our site;
The pages you visit; and

If you linked to the White House website from another website, the address of that website.
We use this information to help us make our site more useful to visitors -- to learn about the number of visitors to our site and the types of technology our visitors use. We do not track or record information about individuals and their visits.

If You Send Us Personal Information

If you choose to provide us with personal information by sending an e-mail to the President or someone else in the White House, or by filling out a form with your personal information and submitting it through our website, we use that information to respond to your message and to help us provide you with information that you request. If you submit your resume through our website, we use your personal identification information only in considering your application for employment; If you request a greeting through our website, we will use information about individuals you submit only to process your request.; We do not collect personal information for any other purposes. The information you provide is not given to any private organizations or private persons. The White House does not collect or use information for commercial marketing.

We would share your e-mail with another federal government agency only if your inquiry related to that agency or if we were required to do so by law. The Presidential Records Act requires us to maintain some documents, including e-mails, received by the White House and requires public disclosure of some of these documents twelve years after President Bush leaves office. In addition, we would release documents, including e-mails, if required to do so by a congressional or judicial subpoena.

If you submit resume information through the Presidential Personnel Application, this information will be shared only with White House employees involved in making hiring decisions and, if you express interest in employment with a federal executive agency other than the White House, with officials responsible for making hiring decisions in that agency. We are required by the Presidential Records Act to maintain your resume as a record, but your personal resume information is not subject to public disclosure under the Act.

Links to Other Sites

Our website has links to the websites of many other federal agencies. In a few cases, we link to private organizations, with their permission. Before leaving the White House website, a page will appear informing you that you are leaving our server. Once you link to another site, you are subject to the privacy policy of the new site.

En Espa¤ol

;
;

;-----Original Message-----
From: ; Powell, Benjamin A.;
Sent:;; Friday, April 04, 2003 2:25 PM
To:;;;; Blake, Robert T.
Cc:;;;; Leitch, David G.; Kavanaugh, Brett M.; Greenstone, Adam F.; Addington, David S.; Sayle, Desiree T.
Subject:;;;;;;; Re: FW: PERS Approval

We have no objection to the new presidential e-mail system that I reviewed provided that:
;;;;;;; 1.; Senior Staff approves.
;;;;;;; 2.; The entire piece of the system that allowed users to fill out and submit hardship case forms is removed.
;;;;;;; 3.; I assume Adam has reviewed for OA.

The White House is exempt from the Privacy Act.

(Bob -- one other note -- probably more for Desiree than you, but in any event -- I don't know the plans for the vice president.; I understand that this "beta" system will only handle president@whitehouse.gov.; Any system involving changes to vice.president@whitehouse.gov should be reviewed by David Addington.)

From:;; Robert T. Blake/OA/EOP@Exchange on 04/04/2003 02:11:37 PM
Record Type:;;; Record

To:;;;; Benjamin A. Powell/WHO/EOP@EOP
cc:;;;;
Subject:;;;;;;; FW: PERS Approval

Hi Ben, Bob Blake from OA here.; I was with Desiree Sayle as part of the PERS demonstration.; As part of my check list, I need approval from you (email is sufficient) that

from a GC stand point, we are approved to go forward with putting PERS on-line following senior staff approval.;;;
;
Also, the question came up on if the White House is exempt from the Privacy Act.; This is in regards to our gathering of the DOB for Birthday and Baby's Birth greetings.

;
;Thanks.

From: Greenstone, Adam F.
To: <Powell, Benjamin A.>
CC: <Kavanaugh, Brett M.>
Sent: 4/16/2003 5:22:28 PM
Subject: RE: FW: PERS Approval

I've reviewed the revisions on hard copy printouts from Bob Blake and it looks fine. All the references to the hardship form have been removed. Only thought I have is that you could consider generally revising the White House Internet Privacy Policy to address use of information collected for greetings. (See proposed text in red.)

White House Website Privacy and Security Policy

En Español

Thank you for visiting the White House Website and reviewing our privacy policy. Our privacy policy is clear: We will collect no personal information about you when you visit our website unless you choose to provide that information to us.

Here is how we handle information about your visit to our website:

White House Internet Security Policy

For site security purposes and to ensure that this service remains available to all users, this government computer system employs software programs to monitor network traffic to identify unauthorized attempts to upload or change information, or otherwise cause damage.

Unauthorized attempts to upload information or change information on this service are strictly prohibited and may be punishable under the Computer Fraud and Abuse Act of 1986 and the National Information Infrastructure Protection Act.

Information Collected and Stored Automatically

If you do nothing during your visit but browse through the website, read pages, or download information, we will gather and store certain information about your visit automatically. This information does not identify you personally. We automatically collect and store only the following information about your visit:

The Internet domain (for example, "xcompany.com" if you use a private Internet access account, or "yourschool.edu" if you connect from a university's domain) and IP address (an IP address is a number that is automatically assigned to your computer whenever you are surfing the Web) from which you access our website;

The type of browser and operating system used to access our site;
The date and time you access our site;
The pages you visit; and
If you linked to the White House website from another website, the address of that website.
We use this information to help us make our site more useful to visitors -- to learn about the number of visitors to our site and the types of technology our visitors use. We do not track or record information about individuals and their visits.

If You Send Us Personal Information

If you choose to provide us with personal information by sending an e-mail to the President or someone else in the White House, or by filling out a form with your personal information and submitting it through our website, we use that information to respond to your message and to help us provide you with information that you request. If you submit your resume through our website, we use your personal identification information only in considering your application for employment. If you request a greeting through our website, we will use information about individuals you submit only to process your request. We do not collect personal information for any other purposes. The information you provide is not given to any private organizations or private persons. The White House does not collect or use information for commercial marketing.

We would share your e-mail with another federal government agency only if your inquiry related to that agency or if we were required to do so by law. The Presidential Records Act requires us to maintain some documents, including e-mails, received

by the White House and requires public disclosure of some of these documents twelve years after President Bush leaves office. In addition, we would release documents, including e-mails, if required to do so by a congressional or judicial subpoena.

If you submit resume information through the Presidential Personnel Application, this information will be shared only with White House employees involved in making hiring decisions and, if you express interest in employment with a federal executive agency other than the White House, with officials responsible for making hiring decisions in that agency. We are required by the Presidential Records Act to maintain your resume as a record, but your personal resume information is not subject to public disclosure under the Act.

Links to Other Sites

Our website has links to the websites of many other federal agencies. In a few cases, we link to private organizations, with their permission. Before leaving the White House website, a page will appear informing you that you are leaving our server. Once you link to another site, you are subject to the privacy policy of the new site.

En Español

-----Original Message-----

From: Powell, Benjamin A.

Sent: Friday, April 04, 2003 2:25 PM

To: Blake, Robert T.

Cc: Leitch, David G.; Kavanaugh, Brett M.; Greenstone, Adam F.; Addington, David S.; Sayle, Desiree T.

Subject: Re: FW: PERS Approval

We have no objection to the new presidential e-mail system that I reviewed provided that:

1. Senior Staff approves.
2. The entire piece of the system that allowed users to fill out and submit hardship case forms is removed.
3. I assume Adam has reviewed for OA.

The White House is exempt from the Privacy Act.

(Bob -- one other note -- probably more for Desiree than you, but in any event -- I don't know the plans for the vice president. I understand that this "beta" system will only handle president@whitehouse.gov. Any system involving changes to vice.president@whitehouse.gov should be reviewed by David Addington.)

From: Robert T. Blake/OA/EOP@Exchange on 04/04/2003 02:11:37 PM
Record Type: Record

To: Benjamin A. Powell/WHO/EOP@EOP
cc:
Subject: FW: PERS Approval

Hi Ben, Bob Blake from OA here. I was with Desiree Sayle as part of the PERS demonstration. As part of my check list, I need approval from you (email is sufficient) that

from a GC stand point, we are approved to go forward with putting PERS on-line following senior staff approval.

Also, the question came up on if the White House is exempt from the Privacy Act. This is in regards to our gathering of the DOB for Birthday and Baby's Birth greetings.

Thanks.

From: CN=Layton Skelly/OU=OPD/O=EOP [OPD]

To: Stephen S. McMillin/OMB/EOP@EOP [OMB] <Stephen S. McMillin>;kirk.vantine@ost.dot.gov [UNKNOWN] <kirk.vantine@ost.dot.gov>;Joel D. Kaplan/WHO/EOP@Exchange@EOP [WHO] <Joel D. Kaplan>;Elan Liang/WHO/EOP@Exchange@EOP [WHO] <Elan Liang>;Robert N. Collender/CEA/EOP@EOP [CEA] <Robert N. Collender>;findlay-cameron@dol.gov [UNKNOWN] <findlay-cameron@dol.gov>;hew.pate@usdoj.gov @ inet [UNKNOWN] <hew.pate@usdoj.gov @ inet>;cesar conda/ovp/eop@eop [OVP] <cesar conda>;david g. leitch/who/eop@exchange@eop [WHO] <david g. leitch>;randall s. kroszner/cea/eop@eop [CEA] <randall s. kroszner>;michael.jackson@ost.dot.gov @ inet [UNKNOWN] <michael.jackson@ost.dot.gov @ inet>;margaret m. spellings/opd/eop@exchange@eop [OPD] <margaret m. spellings>;Jeff.Shane@ost.dot.gov [UNKNOWN] <Jeff.Shane@ost.dot.gov>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Mark.Warshawsky@do.treas.gov [UNKNOWN] <Mark.Warshawsky@do.treas.gov>;Sean B. O'Hollaren/WHO/EOP@Exchange@EOP [WHO] <Sean B. O'Hollaren>;Read.VandeWater@ost.dot.gov [UNKNOWN] <Read.VandeWater@ost.dot.gov>;richard falkenrath/who/eop@eop [WHO] <richard falkenrath>;charles d. mcgrath jr/ovp/eop@eop [OVP] <charles d. mcgrath jr>;nancy dorn/omb /eop@eop [OMB] <nancy dorn>;peter.fisher@do.treas.gov @ inet [UNKNOWN] <peter.fisher@do.treas.gov @ inet>;keith hennessey/opd/eop@exchange@eop [OPD] <keith hennessey>;jay p. lefkowitz/opd/eop@exchange@eop [OPD] <jay p. lefkowitz>;elizabeth s. dougherty/opd/eop@eop [OPD] <elizabeth s. dougherty>

CC: Judy.Haugh@ost.dot.gov [UNKNOWN] <Judy.Haugh@ost.dot.gov>;Cheryl.Permenter@ost.dot.gov [UNKNOWN] <Cheryl.Permenter@ost.dot.gov>;guerra-lyanna@dol.gov [UNKNOWN] <guerra-lyanna@dol.gov>;jennifer h. gibbs/ovp/eop@eop [OVP] <jennifer h. gibbs>;marsha.valentic@do.treas.gov [UNKNOWN] <marsha.valentic@do.treas.gov>;lauren k. allgood/opd/eop@exchange@eop [OPD] <lauren k. allgood>;lauren j. vestewig/opd /eop@exchange@eop [OPD] <lauren j. vestewig>;Halley M. Roberson/OMB/EOP@EOP [OMB] <Halley M. Roberson>;Christina.Lewis@ost.dot.gov [UNKNOWN] <Christina.Lewis@ost.dot.gov>;Layton Skelly/OPD/EOP@EOP [OPD] <Layton Skelly>;gloria.jenkins@usdoj.gov [UNKNOWN] <gloria.jenkins@usdoj.gov>;bessie m. weaver/omb/eop@eop [OMB] <bessie m. weaver>;lisa d. branch/cea/eop@eop [CEA] <lisa d. branch>;barbara.lucas@ost.dot.gov [UNKNOWN] <barbara.lucas@ost.dot.gov>;eleanor l. gillmor/opd/eop@exchange@eop [OPD] <eleanor l. gillmor>

Sent: 4/16/2003 2:26:25 PM

Subject: : Re: Airline Deputies Meeting, Friday the 25th

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Layton Skelly ( CN=Layton Skelly/OU=OPD/O=EOP [ OPD ] )
CREATION DATE/TIME:16-APR-2003 18:26:25.00
SUBJECT:: Re: Airline Deputies Meeting, Friday the 25th
TO:Stephen S. McMillin ( CN=Stephen S. McMillin/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:kirk.vantine@ost.dot.gov ( kirk.vantine@ost.dot.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Joel D. Kaplan ( CN=Joel D. Kaplan/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Elan Liang ( CN=Elan Liang/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Robert N. Collender ( CN=Robert N. Collender/OU=CEA/O=EOP@EOP [ CEA ] )
READ:UNKNOWN
TO:findlay-cameron@dol.gov ( findlay-cameron@dol.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:hew.pate@usdoj.gov @ inet ( hew.pate@usdoj.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:cesar conda ( CN=cesar conda/OU=ovp/O=eop@eop [ OVP ] )
READ:UNKNOWN
TO:david g. leitch ( CN=david g. leitch/OU=who/O=eop@exchange@eop [ WHO ] )
READ:UNKNOWN
TO:randall s. kroszner ( CN=randall s. kroszner/OU=cea/O=eop@eop [ CEA ] )
READ:UNKNOWN
```

TO:michael.jackson@ost.dot.gov @ inet (michael.jackson@ost.dot.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:margaret m. spellings (CN=margaret m. spellings/OU=opd/O=eop@exchange@eop [OPD])
READ:UNKNOWN
TO:Jeff.Shane@ost.dot.gov (Jeff.Shane@ost.dot.gov [UNKNOWN])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Mark.Warshawsky@do.treas.gov (Mark.Warshawsky@do.treas.gov [UNKNOWN])
READ:UNKNOWN
TO:Sean B. O'Hollaren (CN=Sean B. O'Hollaren/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Read.VandeWater@ost.dot.gov (Read.VandeWater@ost.dot.gov [UNKNOWN])
READ:UNKNOWN
TO:richard falkenrath (CN=richard falkenrath/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
TO:charles d. mcgrath jr (CN=charles d. mcgrath jr/OU=ovp/O=eop@eop [OVP])
READ:UNKNOWN
TO:nancy dorn (CN=nancy dorn/OU=omb/O=eop@eop [OMB])
READ:UNKNOWN
TO:peter.fisher@do.treas.gov @ inet (peter.fisher@do.treas.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:keith hennessey (CN=keith hennessey/OU=opd/O=eop@exchange@eop [OPD])
READ:UNKNOWN
TO:jay p. lefkowitz (CN=jay p. lefkowitz/OU=opd/O=eop@exchange@eop [OPD])
READ:UNKNOWN
TO:elizabeth s. dougherty (CN=elizabeth s. dougherty/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
CC:Judy.Haugh@ost.dot.gov (Judy.Haugh@ost.dot.gov [UNKNOWN])
READ:UNKNOWN
CC:Cheryl.Permenter@ost.dot.gov (Cheryl.Permenter@ost.dot.gov [UNKNOWN])
READ:UNKNOWN
CC:guerra-lyanna@dol.gov (guerra-lyanna@dol.gov [UNKNOWN])
READ:UNKNOWN
CC:jennifer h. gibbs (CN=jennifer h. gibbs/OU=ovp/O=eop@eop [OVP])
READ:UNKNOWN
CC:marsha.valentic@do.treas.gov (marsha.valentic@do.treas.gov [UNKNOWN])
READ:UNKNOWN
CC:lauren k. allgood (CN=lauren k. allgood/OU=opd/O=eop@exchange@eop [OPD])
READ:UNKNOWN
CC:lauren j. vestewig (CN=lauren j. vestewig/OU=opd/O=eop@exchange@eop [OPD])
READ:UNKNOWN
CC:Halley M. Roberson (CN=Halley M. Roberson/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Christina.Lewis@ost.dot.gov (Christina.Lewis@ost.dot.gov [UNKNOWN])
READ:UNKNOWN
CC:Layton Skelly (CN=Layton Skelly/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
CC:gloria.jenkins@usdoj.gov (gloria.jenkins@usdoj.gov [UNKNOWN])
READ:UNKNOWN
CC:bessie m. weaver (CN=bessie m. weaver/OU=omb/O=eop@eop [OMB])
READ:UNKNOWN
CC:lisa d. branch (CN=lisa d. branch/OU=cea/O=eop@eop [CEA])
READ:UNKNOWN
CC:barbara.lucas@ost.dot.gov (barbara.lucas@ost.dot.gov [UNKNOWN])
READ:UNKNOWN
CC:eleanor l. gillmor (CN=eleanor l. gillmor/OU=opd/O=eop@exchange@eop [OPD])
READ:UNKNOWN
End Original ARMS Header

The Airline Deputies meeting has been set for 8:30 am on Friday, April 25th in room 476 EEOB.

Thank you,
Layton
456-5085

Layton Skelly

04/16/2003 04:02:11 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: Airline Deputies Meeting, Friday the 25th

Please let me know ASAP when you are available to attend the Airline Deputies meeting next Friday, the 25th. Thank you.

Layton

Message Sent
To:_____
Elizabeth S. Dougherty/OPD/EOP@EOP
Margaret M. Spellings/OPD/EOP@Exchange@EOP
Jay P. Lefkowitz/OPD/EOP@Exchange@EOP
michael.jackson@ost.dot.gov @ inet
Keith Hennessey/OPD/EOP@Exchange@EOP
Randall S. Kroszner/CEA/EOP@EOP
David W. Hobbs/WHO/EOP@Exchange@EOP
peter.fisher@do.treas.gov @ inet
David G. Leitch/WHO/EOP@Exchange@EOP
Nancy Dorn/OMB/EOP@EOP
Cesar Conda/OVP/EOP@EOP
Charles D. McGrath Jr/OVP/EOP@EOP
hew.pate@usdoj.gov @ inet
Richard Falkenrath/WHO/EOP@EOP

Message Copied
To:_____
Eleanor L. Gillmor/OPD/EOP@Exchange@EOP
Lauren J. Vestewig/OPD/EOP@Exchange@EOP
barbara.lucas@ost.dot.gov
Lauren K. Allgood/OPD/EOP@Exchange@EOP
Lisa D. Branch/CEA/EOP@EOP
Adam B. Ingols/WHO/EOP@Exchange@EOP
anna.hart@do.treas.gov
Bessie M. Weaver/OMB/EOP@EOP
Jennifer H. Gibbs/OVP/EOP@EOP
gloria.jenkins@usdoj.gov
Layton Skelly/OPD/EOP@EOP

From:	CN=Emily Winland/OU=OPD/O=EOP [OPD]
To:	Kristen Silverberg/WHO/EOP@Exchange@EOP [WHO] <Kristen Silverberg>;Adam B. Goldman/WHO/EOP@EOP [WHO] <Adam B. Goldman>;Cesar Conda/OVP/EOP@EOP [OVP] <Cesar Conda>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>
CC:	Marie K. Fishpaw/OVP/EOP@EOP [OVP] <Marie K. Fishpaw>;Lauren J. Vestewig/OPD /EOP@Exchange@EOP [OPD] <Lauren J. Vestewig>;Marty P. Smith/OPD/EOP@EOP [OPD] <Marty P. Smith>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>
Sent:	4/17/2003 4:31:46 AM
Subject:	: Tort Reform Meeting
Attachments:	P_T5UOF003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Emily Winland ( CN=Emily Winland/OU=OPD/O=EOP [ OPD ] )
CREATION DATE/TIME:17-APR-2003 08:31:46.00
SUBJECT:: Tort Reform Meeting
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Adam B. Goldman ( CN=Adam B. Goldman/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Cesar Conda ( CN=Cesar Conda/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
CC:Marie K. Fishpaw ( CN=Marie K. Fishpaw/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
CC:Lauren J. Vestewig ( CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange@EOP [ OPD ] )
READ:UNKNOWN
CC:Marty P. Smith ( CN=Marty P. Smith/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
CC:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######

There will be a meeting next Friday April 25th at 2:00pm in Jay
Lefkowitz's office re: (1) asbestos reform and (2) S. 887, mass tort
legal fee reform. Please let me know if you are able to attend. Attached
you will find a copy of S. 887 in preparation for the meeting.

thanks,
Emily
6-6534

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_T5UOF003_WHO.TXT_1>
```

S 887 IS

108th CONGRESS
1st Session
S. 887

To amend the Internal Revenue Code of 1986 to apply an excise tax to excessive attorneys fees for legal judgments, settlements, or agreements that operate as a tax.

IN THE SENATE OF THE UNITED STATES

April 10, 2003

Mr. KYL (for himself and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on Finance

---

A BILL

To amend the Internal Revenue Code of 1986 to apply an excise tax to excessive attorneys fees for legal judgments, settlements, or agreements that operate as a tax.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Intermediate Sanctions Compensatory Revenue Adjustment Act of 2003' (ISCRAA).

SEC. 2. EXCISE TAXES ON EXCESS FEE TRANSACTIONS OF CERTAIN ATTORNEYS.

(a) IN GENERAL- Subchapter D of chapter 42 of the Internal Revenue Code of 1986 (relating to failure by certain charitable organizations to meet certain qualification requirements) is amended by adding at the end the following new section:

`SEC. 4959. TAXES ON EXCESS FEE TRANSACTIONS.

`(a) INITIAL TAXES- There is hereby imposed on the collecting attorney in each excess fee transaction a tax equal to 5 percent of the excess fee. The tax imposed by this paragraph shall be paid by any collecting attorney referred to in subsection (f)(1) with respect to such transaction.

`(b) ADDITIONAL TAX ON THE COLLECTING ATTORNEY- In any case in which a tax is imposed by subsection (a) on an excess fee transaction and the excess fee involved in such transaction is not corrected within the taxable period, there is hereby imposed a tax equal to 200 percent of the excess fee involved. The tax imposed by this paragraph shall be paid by any collecting attorney referred to in subsection (f)(1) with respect to such transaction.

`(c) EXCESS FEE TRANSACTION; EXCESS FEE- For purposes of this section--

`(1) EXCESS FEE TRANSACTION-

`(A) IN GENERAL- The term `excess fee transaction' means any transaction in which a fee is provided by an applicable plaintiff (including payments resulting from litigation on behalf of an applicable plaintiff

determined on an hourly or percentage basis, whether such fee is paid from the applicable plaintiff's recovery, pursuant to a separately negotiated agreement, or in any other manner), directly or indirectly, to or for the use of any collecting attorney with respect to such applicable plaintiff if the amount of the fee provided exceeds the value of the services received in exchange therefor or subsection (g)(1) applies.

`(B) DETERMINATION OF VALUE- For purposes of subparagraph (A), in determining whether the amount of the fee provided exceeds the value of the services received in exchange therefor, the value of the services shall be the sum of--

`(i) the reasonable expenses incurred by the collecting attorney in the course of the representation of the applicable plaintiff, and

`(ii) a reasonable fee based on--

`(I) the number of hours of non-duplicative, professional quality legal work provided by the collecting attorney of material value to the outcome of the representation of the applicable plaintiff, taking into account the factors described in subparagraphs (B) and (D) of subsection (h)(2),

`(II) reasonable hourly rates for the individuals performing such work based on hourly rates charged by other attorneys for the rendition of comparable services, including rates charged by adversary defense counsel in the representation, taking into account the factors described in subparagraphs (A), (C), (E), and (G) of subsection (h)(2), and

`(III) to the extent such items are not taken into account in establishing the reasonable hourly rates under subclause (II), an appropriate adjustment rate determined in accordance with subparagraph (C) to compensate the collecting attorney for periods of substantial risk of non-payment of fees and for skillful or innovative services which increase the amount of the applicable plaintiff's recovery.

`(C) ADJUSTMENT RATE-

`(i) IN GENERAL- For purposes of this paragraph, an appropriate adjustment rate is a percentage of the reasonable hourly rate under subparagraph (B)(ii)(II) which is added to the amount of such rate and which is not more than the sum of one risk percentage and one skill percentage described in clauses (ii) and (iii), respectively.

`(ii) RISK PERCENTAGE- For purposes of this subparagraph, the term `risk percentage' means a percentage rate that is proportional to the collecting attorney's risk of nonrecovery of fees and which is--

`(I) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees, not more than 100 percent,

`(II) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees and devoted more than 8,000 hours of legal

work (as described in subparagraph (B)(ii)(I)) and more than 2 years to the case before resolution of all claims, not more than 200 percent, or

`(III) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees and devoted more than 15,000 hours of legal work (as described in subparagraph (B)(ii)(I)) and more than 4 years to the case before resolution of all claims, not more than 300 percent.

`(iii) SKILL PERCENTAGE- For purposes of this subparagraph, the term `skill percentage' means, in the case of a collecting attorney who has demonstrated exceptionally skillful or innovative legal service which generated a recovery for the applicable plaintiff substantially greater than the typical recovery in similar cases, a percentage rate that is proportional to the increase in the applicable plaintiff's recovery and that is not more than 100 percent.

`(iv) LIMITATION- An appropriate adjustment rate shall not increase the collecting attorney's fee above an amount that is proportional to the applicable plaintiff's recovery.

`(D) COURT APPROVAL OF FEES- Fee payments approved by any court shall be presumed to not be in excess of the value of the services received in exchange therefor if the court approving the fee--

`(i) did not approve an adjustment rate greater than that determined to be appropriate under subparagraph (C) in a case where such fee included an adjustment rate, and

`(ii) obtained and relied upon a report of a legal auditing firm with respect to such fee in accordance with the procedures in subsection (h).

`(2) EXCESS FEE- The term `excess fee' means the excess referred to in paragraph (1)(A).

`(d) JOINT AND SEVERAL LIABILITY- For purposes of this section, if more than 1 person is liable for any tax imposed by subsection (a), all such persons shall be jointly and severally liable for such tax.

`(e) APPLICABLE PLAINTIFF- For purposes of this section, the term `applicable plaintiff' means any person represented by a collecting attorney with respect to a claim described in subsection (f)(1).

`(f) OTHER DEFINITIONS AND RULES- For purposes of this section--

`(1) COLLECTING ATTORNEY- The term `collecting attorney' means any person engaged in the practice of law who represents--

`(A) any governmental entity, including any State, municipality, or political subdivision of a State, or any person acting on such entity's behalf, including pursuant to Federal or State Qui Tam statutes, in a claim for recoupment of payments made or to be made by such entity to or on

behalf of any natural person by reason, directly or indirectly, of a breach of duty that causes damage to such natural person,

`(B) any organization described in paragraph (3) or (4) of section 501(c) and exempt from tax under section 501(a), in a claim for damages based on a breach of duty, whether civil or criminal, causing damage to such organization,

`(C) any natural person seeking to recover damages in a claim based on breaches of duty, whether civil or criminal, causing damage to such natural person, or

`(D) any assignee or other holder of claims described in subparagraph (A), (B), or (C),

when 1 or more of such claims, whether or not joined in 1 action, involve the same or a coordinated group of plaintiff's attorneys or similarly situated defendants, arise out of the same transaction or set of facts or involve substantially similar liability issues, and result in settlements or judgments aggregating at least $100,000,000.

`(2) TAXABLE PERIOD- The term `taxable period' means, with respect to any excess fee transaction, the period beginning with the date on which the transaction occurs and ending 90 days after the earliest of--

`(A) the date of the mailing of a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a), or

`(B) the date on which the tax imposed by subsection (a) is assessed.

`(3) CORRECTION-

`(A) GENERAL RULE- Any excess fee transaction is corrected by undoing the excess fee to the extent possible and taking any additional measures necessary to place the applicable plaintiff in a financial position not worse than that in which such plaintiff would be if the collecting attorney were dealing under the highest fiduciary standards.

`(B) PAYMENT OF EXCESS FEES-

`(i) IN GENERAL- Except as provided in clause (ii), a collecting attorney corrects an excess fee transaction by paying any excess fees plus interest to the applicable plaintiff.

`(ii) CERTAIN SETTLEMENTS- In the case of excess fees arising from or related to that certain Master Settlement Agreement of November 23, 1998, and other, concluded Settlement Agreements based on State health care expenditures pursuant to title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), including lawsuits involving the States of Florida, Minnesota, Mississippi, and Texas, the collecting attorney corrects an excess fee transaction by paying any excess fees plus interest to the 50 States in proportion to each State's share of the United States population.

`(C) NO WAIVER OF FEE- No collecting attorney may avoid imposition of any tax imposed by this section by transferring any portion of the excess fee or refusing to accept any portion of the excess fee.

`(g) DISCLOSURE REQUIREMENTS-

`(1) TREATMENT AS EXCESS FEE- Any fee provided after the date of the enactment of this subsection by an applicable plaintiff (including payments resulting from litigation on behalf of an applicable plaintiff determined on an hourly or percentage basis, whether such fee is paid from the applicable plaintiff's recovery, pursuant to a separately negotiated agreement, or in any other manner), directly or indirectly, to or for the use of any collecting attorney with respect to such applicable plaintiff shall be deemed to be an excess fee provided in an excess fee transaction unless the disclosure requirements described in paragraph (2) are met.

`(2) CONTENTS OF STATEMENT- The disclosure requirements of this paragraph are met for any taxable year in which a collecting attorney receives any fees with respect to a claim described in subsection (f)(1), if such collecting attorney--

`(A) includes in the return of tax for such taxable year a statement including the information described in subsection (c)(1) with respect to such claim, and

`(B) provides a statement including the information described in subsection (c)(1) to the applicable plaintiff prior to the deadline (including extensions) for filing such return.

`(h) LEGAL AUDITING FIRM-

`(1) IN GENERAL- In any case before a Federal district court or a State court in which the court approves fees paid to a collecting attorney, the court shall seek bids from legal auditing firms with a specialty in reviewing attorney billings and select 1 such legal auditing firm to review the billing records submitted by the collecting attorney, under the same standards the firm would use if it were hired by a private party to review legal bills submitted to the party, for the reasonableness of such attorney's billing patterns and practices. The court shall require the collecting attorney to submit billing records, cost records, and any other information sought by such firm in its review.

`(2) REVIEW BY LEGAL AUDITING FIRM- In reviewing the billing records and work performed by the collecting attorney, the legal auditing firm shall address all relevant matters, including--

`(A) the hourly rates of the collecting attorney compared with the prevailing market rates for the services rendered by the collecting attorney,

`(B) the number of hours worked by the collecting attorney on the case compared with other cases that the collecting attorney worked on during the same period,

`(C) whether the collecting attorney performed tasks that could have been performed by attorneys with lower billing rates,

`(D) whether the collecting attorney used appropriate billing methodology, including keeping contemporaneous time records and using appropriate billing time increments,

`(E) whether particular tasks were staffed appropriately,

`(F) whether the costs and expenses submitted by the collecting attorney were reasonable,

`(G) whether the collecting attorney exercised billing judgment, and

`(H) any other matters normally addressed by the legal auditing firm when reviewing attorney billings for private clients.

`(3) FILING OF REPORT; RESPONSE; BURDEN OF PROOF- The court shall set a date for the filing of the report of the legal auditing firm, and allow the collecting attorney or any applicable plaintiff to respond to the report within a reasonable time period. The report shall be presumed correct unless rebutted by the collecting attorney or any applicable plaintiff by clear and convincing evidence.

`(4) FEE FOR LEGAL AUDITING FIRM- The fee for the report of the legal auditing firm shall be paid from the collecting attorney's fee award, the applicable plaintiff's recovery, or both in a manner determined by the court.

`(i) REGULATIONS- The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations to prevent avoidance of the purposes of this section and regulations requiring recordkeeping and information reporting.'.

(b) CONFORMING AND CLERICAL AMENDMENTS-

(1) Subsections (a), (b), and (c) of section 4963 of the Internal Revenue Code of 1986 are each amended by inserting `4959,' after `4958,'.

(2) Subsection (e) of section 6213 of such Code is amended by inserting `4959 (relating to excess fee transactions),' before `4971'.

(3) Paragraphs (2) and (3) of section 7422(g) of such Code are each amended by inserting `4959,' after `4958,'.

(4) The heading for subchapter D of chapter 42 of such Code is amended to read as follows:

`Subchapter D--Failure by Certain Charitable Organizations and Persons to Meet Certain Qualification Requirements and Fiduciary Standards'.

(5) The table of subchapters for chapter 42 of such Code is amended by striking the item relating to subchapter D and inserting the following:

`SUBCHAPTER D. Failure by certain charitable organizations and persons to meet certain qualification requirements and fiduciary standards'.

(6) The table of sections for subchapter D of chapter 42 of such Code is amended by adding at the end the following new item:

`Sec. 4959. Taxes on excess fee transactions.'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to excess fees paid on or after June 1, 2002.

SEC. 3. DECLARATORY JUDGMENTS RELATING TO EXCISE TAXES ON EXCESS FEE TRANSACTIONS OF CERTAIN ATTORNEYS.

(a) IN GENERAL- Subchapter B of chapter 76 of the Internal Revenue Code of 1986 (relating to judicial proceedings) is amended by redesignating section 7437 as section 7438 and by inserting after section 7436 the following new section:

`SEC. 7437. DECLARATORY JUDGMENTS RELATING TO TAX ON EXCESS FEE TRANSACTIONS.

`(a) IN GENERAL- In a case of actual controversy involving--

`(1) a determination by the Secretary or the collecting attorney with respect to the imposition of the excise tax on excess fee transactions on such collecting attorney under section 4959, or

`(2) a failure by the Secretary or the collecting attorney to make such a determination,

upon the filing of an appropriate pleading by an applicable plaintiff, the Tax Court may make a declaration with respect to such determination or failure. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

`(b) DEFERENTIAL REVIEW- If a collecting attorney's fee has been approved by a court in accordance with section 4959(c)(1)(D) or by the Secretary pursuant to section 4959, the Tax Court shall review the fee only for an abuse of discretion.

`(c) LEGAL AUDITING FIRM- In any petition for a declaration referred to in subsection (a):

`(1) NO PREVIOUS REPORT- If a report by a legal auditing firm that meets the requirements of section 4959(h) has not been previously produced and relied on by another court, the Tax Court shall hire such a legal auditing firm and rely on its report pursuant to the procedures in section 4959(h).

`(2) SECOND REPORT-

`(A) IN GENERAL- If a report by a legal auditing firm has been approved by a court in accordance with section 4959, the Tax Court shall hire a second legal auditing firm upon the request of the petitioner.

`(B) FEE FOR REPORT- The Tax Court may direct the petitioner to pay the fee for any report of a legal auditing firm provided pursuant to subparagraph (A).

`(d) TIME FOR BRINGING ACTION- No proceeding may be initiated under this section by any person until 90 days after such person first notifies the Secretary of the excess fee transaction with respect to which the proceeding relates.

`(e) DEFINITIONS- For purposes of this section, any term used in this section and also in section 4959 shall have the meaning given such term by section 4959.'.

(b) CLERICAL AMENDMENT- The table of sections for subchapter B of chapter 76 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 7437 and by inserting the following new items:

`Sec. 7437. Declaratory judgments relating to tax on excess fee transactions.

`Sec. 7438. Cross references.'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to actions after the date of the enactment of this Act.

END

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: m.edward.whelan@usdoj.gov @ inet [UNKNOWN] <m.edward.whelan@usdoj.gov @ inet>
Sent: 4/17/2003 4:44:57 AM
Subject: :
Attachments: P_GNUOF003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:17-APR-2003 08:44:57.00
SUBJECT::
TO:m.edward.whelan@usdoj.gov @ inet ( m.edward.whelan@usdoj.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Can you all give me preliminary informal thoughts on this by
mid-next-week? Thanks.




ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_GNUOF003_WHO.TXT_1>
```

S 887 IS

108th CONGRESS
1st Session
S. 887

To amend the Internal Revenue Code of 1986 to apply an excise tax to excessive attorneys fees for legal judgments, settlements, or agreements that operate as a tax.

IN THE SENATE OF THE UNITED STATES

April 10, 2003

Mr. KYL (for himself and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on Finance

---

A BILL

To amend the Internal Revenue Code of 1986 to apply an excise tax to excessive attorneys fees for legal judgments, settlements, or agreements that operate as a tax.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Intermediate Sanctions Compensatory Revenue Adjustment Act of 2003' (ISCRAA).

SEC. 2. EXCISE TAXES ON EXCESS FEE TRANSACTIONS OF CERTAIN ATTORNEYS.

(a) IN GENERAL- Subchapter D of chapter 42 of the Internal Revenue Code of 1986 (relating to failure by certain charitable organizations to meet certain qualification requirements) is amended by adding at the end the following new section:

`SEC. 4959. TAXES ON EXCESS FEE TRANSACTIONS.

`(a) INITIAL TAXES- There is hereby imposed on the collecting attorney in each excess fee transaction a tax equal to 5 percent of the excess fee. The tax imposed by this paragraph shall be paid by any collecting attorney referred to in subsection (f)(1) with respect to such transaction.

`(b) ADDITIONAL TAX ON THE COLLECTING ATTORNEY- In any case in which a tax is imposed by subsection (a) on an excess fee transaction and the excess fee involved in such transaction is not corrected within the taxable period, there is hereby imposed a tax equal to 200 percent of the excess fee involved. The tax imposed by this paragraph shall be paid by any collecting attorney referred to in subsection (f)(1) with respect to such transaction.

`(c) EXCESS FEE TRANSACTION; EXCESS FEE- For purposes of this section--

`(1) EXCESS FEE TRANSACTION-

`(A) IN GENERAL- The term `excess fee transaction' means any transaction in which a fee is provided by an applicable plaintiff (including payments resulting from litigation on behalf of an applicable plaintiff

determined on an hourly or percentage basis, whether such fee is paid from the applicable plaintiff's recovery, pursuant to a separately negotiated agreement, or in any other manner), directly or indirectly, to or for the use of any collecting attorney with respect to such applicable plaintiff if the amount of the fee provided exceeds the value of the services received in exchange therefor or subsection (g)(1) applies.

`(B) DETERMINATION OF VALUE- For purposes of subparagraph (A), in determining whether the amount of the fee provided exceeds the value of the services received in exchange therefor, the value of the services shall be the sum of--

`(i) the reasonable expenses incurred by the collecting attorney in the course of the representation of the applicable plaintiff, and

`(ii) a reasonable fee based on--

`(I) the number of hours of non-duplicative, professional quality legal work provided by the collecting attorney of material value to the outcome of the representation of the applicable plaintiff, taking into account the factors described in subparagraphs (B) and (D) of subsection (h)(2),

`(II) reasonable hourly rates for the individuals performing such work based on hourly rates charged by other attorneys for the rendition of comparable services, including rates charged by adversary defense counsel in the representation, taking into account the factors described in subparagraphs (A), (C), (E), and (G) of subsection (h)(2), and

`(III) to the extent such items are not taken into account in establishing the reasonable hourly rates under subclause (II), an appropriate adjustment rate determined in accordance with subparagraph (C) to compensate the collecting attorney for periods of substantial risk of non-payment of fees and for skillful or innovative services which increase the amount of the applicable plaintiff's recovery.

`(C) ADJUSTMENT RATE-

`(i) IN GENERAL- For purposes of this paragraph, an appropriate adjustment rate is a percentage of the reasonable hourly rate under subparagraph (B)(ii)(II) which is added to the amount of such rate and which is not more than the sum of one risk percentage and one skill percentage described in clauses (ii) and (iii), respectively.

`(ii) RISK PERCENTAGE- For purposes of this subparagraph, the term `risk percentage' means a percentage rate that is proportional to the collecting attorney's risk of nonrecovery of fees and which is--

`(I) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees, not more than 100 percent,

`(II) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees and devoted more than 8,000 hours of legal

work (as described in subparagraph (B)(ii)(I)) and more than 2 years to the case before resolution of all claims, not more than 200 percent, or

`(III) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees and devoted more than 15,000 hours of legal work (as described in subparagraph (B)(ii)(I)) and more than 4 years to the case before resolution of all claims, not more than 300 percent.

`(iii) SKILL PERCENTAGE- For purposes of this subparagraph, the term `skill percentage' means, in the case of a collecting attorney who has demonstrated exceptionally skillful or innovative legal service which generated a recovery for the applicable plaintiff substantially greater than the typical recovery in similar cases, a percentage rate that is proportional to the increase in the applicable plaintiff's recovery and that is not more than 100 percent.

`(iv) LIMITATION- An appropriate adjustment rate shall not increase the collecting attorney's fee above an amount that is proportional to the applicable plaintiff's recovery.

`(D) COURT APPROVAL OF FEES- Fee payments approved by any court shall be presumed to not be in excess of the value of the services received in exchange therefor if the court approving the fee--

`(i) did not approve an adjustment rate greater than that determined to be appropriate under subparagraph (C) in a case where such fee included an adjustment rate, and

`(ii) obtained and relied upon a report of a legal auditing firm with respect to such fee in accordance with the procedures in subsection (h).

`(2) EXCESS FEE- The term `excess fee' means the excess referred to in paragraph (1)(A).

`(d) JOINT AND SEVERAL LIABILITY- For purposes of this section, if more than 1 person is liable for any tax imposed by subsection (a), all such persons shall be jointly and severally liable for such tax.

`(e) APPLICABLE PLAINTIFF- For purposes of this section, the term `applicable plaintiff' means any person represented by a collecting attorney with respect to a claim described in subsection (f)(1).

`(f) OTHER DEFINITIONS AND RULES- For purposes of this section--

`(1) COLLECTING ATTORNEY- The term `collecting attorney' means any person engaged in the practice of law who represents--

`(A) any governmental entity, including any State, municipality, or political subdivision of a State, or any person acting on such entity's behalf, including pursuant to Federal or State Qui Tam statutes, in a claim for recoupment of payments made or to be made by such entity to or on

behalf of any natural person by reason, directly or indirectly, of a breach of duty that causes damage to such natural person,

`(B) any organization described in paragraph (3) or (4) of section 501(c) and exempt from tax under section 501(a), in a claim for damages based on a breach of duty, whether civil or criminal, causing damage to such organization,

`(C) any natural person seeking to recover damages in a claim based on breaches of duty, whether civil or criminal, causing damage to such natural person, or

`(D) any assignee or other holder of claims described in subparagraph (A), (B), or (C),

when 1 or more of such claims, whether or not joined in 1 action, involve the same or a coordinated group of plaintiff's attorneys or similarly situated defendants, arise out of the same transaction or set of facts or involve substantially similar liability issues, and result in settlements or judgments aggregating at least $100,000,000.

`(2) TAXABLE PERIOD- The term `taxable period' means, with respect to any excess fee transaction, the period beginning with the date on which the transaction occurs and ending 90 days after the earliest of--

`(A) the date of the mailing of a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a), or

`(B) the date on which the tax imposed by subsection (a) is assessed.

`(3) CORRECTION-

`(A) GENERAL RULE- Any excess fee transaction is corrected by undoing the excess fee to the extent possible and taking any additional measures necessary to place the applicable plaintiff in a financial position not worse than that in which such plaintiff would be if the collecting attorney were dealing under the highest fiduciary standards.

`(B) PAYMENT OF EXCESS FEES-

`(i) IN GENERAL- Except as provided in clause (ii), a collecting attorney corrects an excess fee transaction by paying any excess fees plus interest to the applicable plaintiff.

`(ii) CERTAIN SETTLEMENTS- In the case of excess fees arising from or related to that certain Master Settlement Agreement of November 23, 1998, and other, concluded Settlement Agreements based on State health care expenditures pursuant to title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), including lawsuits involving the States of Florida, Minnesota, Mississippi, and Texas, the collecting attorney corrects an excess fee transaction by paying any excess fees plus interest to the 50 States in proportion to each State's share of the United States population.

`(C) NO WAIVER OF FEE- No collecting attorney may avoid imposition of any tax imposed by this section by transferring any portion of the excess fee or refusing to accept any portion of the excess fee.

`(g) DISCLOSURE REQUIREMENTS-

`(1) TREATMENT AS EXCESS FEE- Any fee provided after the date of the enactment of this subsection by an applicable plaintiff (including payments resulting from litigation on behalf of an applicable plaintiff determined on an hourly or percentage basis, whether such fee is paid from the applicable plaintiff's recovery, pursuant to a separately negotiated agreement, or in any other manner), directly or indirectly, to or for the use of any collecting attorney with respect to such applicable plaintiff shall be deemed to be an excess fee provided in an excess fee transaction unless the disclosure requirements described in paragraph (2) are met.

`(2) CONTENTS OF STATEMENT- The disclosure requirements of this paragraph are met for any taxable year in which a collecting attorney receives any fees with respect to a claim described in subsection (f)(1), if such collecting attorney--

`(A) includes in the return of tax for such taxable year a statement including the information described in subsection (c)(1) with respect to such claim, and

`(B) provides a statement including the information described in subsection (c)(1) to the applicable plaintiff prior to the deadline (including extensions) for filing such return.

`(h) LEGAL AUDITING FIRM-

`(1) IN GENERAL- In any case before a Federal district court or a State court in which the court approves fees paid to a collecting attorney, the court shall seek bids from legal auditing firms with a specialty in reviewing attorney billings and select 1 such legal auditing firm to review the billing records submitted by the collecting attorney, under the same standards the firm would use if it were hired by a private party to review legal bills submitted to the party, for the reasonableness of such attorney's billing patterns and practices. The court shall require the collecting attorney to submit billing records, cost records, and any other information sought by such firm in its review.

`(2) REVIEW BY LEGAL AUDITING FIRM- In reviewing the billing records and work performed by the collecting attorney, the legal auditing firm shall address all relevant matters, including--

`(A) the hourly rates of the collecting attorney compared with the prevailing market rates for the services rendered by the collecting attorney,

`(B) the number of hours worked by the collecting attorney on the case compared with other cases that the collecting attorney worked on during the same period,

`(C) whether the collecting attorney performed tasks that could have been performed by attorneys with lower billing rates,

`(D) whether the collecting attorney used appropriate billing methodology, including keeping contemporaneous time records and using appropriate billing time increments,

`(E) whether particular tasks were staffed appropriately,

`(F) whether the costs and expenses submitted by the collecting attorney were reasonable,

`(G) whether the collecting attorney exercised billing judgment, and

`(H) any other matters normally addressed by the legal auditing firm when reviewing attorney billings for private clients.

`(3) FILING OF REPORT; RESPONSE; BURDEN OF PROOF- The court shall set a date for the filing of the report of the legal auditing firm, and allow the collecting attorney or any applicable plaintiff to respond to the report within a reasonable time period. The report shall be presumed correct unless rebutted by the collecting attorney or any applicable plaintiff by clear and convincing evidence.

`(4) FEE FOR LEGAL AUDITING FIRM- The fee for the report of the legal auditing firm shall be paid from the collecting attorney's fee award, the applicable plaintiff's recovery, or both in a manner determined by the court.

`(i) REGULATIONS- The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations to prevent avoidance of the purposes of this section and regulations requiring recordkeeping and information reporting.'.

(b) CONFORMING AND CLERICAL AMENDMENTS-

(1) Subsections (a), (b), and (c) of section 4963 of the Internal Revenue Code of 1986 are each amended by inserting `4959,' after `4958,'.

(2) Subsection (e) of section 6213 of such Code is amended by inserting `4959 (relating to excess fee transactions),' before `4971'.

(3) Paragraphs (2) and (3) of section 7422(g) of such Code are each amended by inserting `4959,' after `4958,'.

(4) The heading for subchapter D of chapter 42 of such Code is amended to read as follows:

`Subchapter D--Failure by Certain Charitable Organizations and Persons to Meet Certain Qualification Requirements and Fiduciary Standards'.

(5) The table of subchapters for chapter 42 of such Code is amended by striking the item relating to subchapter D and inserting the following:

`SUBCHAPTER D. Failure by certain charitable organizations and persons to meet certain qualification requirements and fiduciary standards'.

(6) The table of sections for subchapter D of chapter 42 of such Code is amended by adding at the end the following new item:

`Sec. 4959. Taxes on excess fee transactions.'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to excess fees paid on or after June 1, 2002.

SEC. 3. DECLARATORY JUDGMENTS RELATING TO EXCISE TAXES ON EXCESS FEE TRANSACTIONS OF CERTAIN ATTORNEYS.

(a) IN GENERAL- Subchapter B of chapter 76 of the Internal Revenue Code of 1986 (relating to judicial proceedings) is amended by redesignating section 7437 as section 7438 and by inserting after section 7436 the following new section:

`SEC. 7437. DECLARATORY JUDGMENTS RELATING TO TAX ON EXCESS FEE TRANSACTIONS.

`(a) IN GENERAL- In a case of actual controversy involving--

`(1) a determination by the Secretary or the collecting attorney with respect to the imposition of the excise tax on excess fee transactions on such collecting attorney under section 4959, or

`(2) a failure by the Secretary or the collecting attorney to make such a determination,

upon the filing of an appropriate pleading by an applicable plaintiff, the Tax Court may make a declaration with respect to such determination or failure. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

`(b) DEFERENTIAL REVIEW- If a collecting attorney's fee has been approved by a court in accordance with section 4959(c)(1)(D) or by the Secretary pursuant to section 4959, the Tax Court shall review the fee only for an abuse of discretion.

`(c) LEGAL AUDITING FIRM- In any petition for a declaration referred to in subsection (a):

`(1) NO PREVIOUS REPORT- If a report by a legal auditing firm that meets the requirements of section 4959(h) has not been previously produced and relied on by another court, the Tax Court shall hire such a legal auditing firm and rely on its report pursuant to the procedures in section 4959(h).

`(2) SECOND REPORT-

`(A) IN GENERAL- If a report by a legal auditing firm has been approved by a court in accordance with section 4959, the Tax Court shall hire a second legal auditing firm upon the request of the petitioner.

`(B) FEE FOR REPORT- The Tax Court may direct the petitioner to pay the fee for any report of a legal auditing firm provided pursuant to subparagraph (A).

`(d) TIME FOR BRINGING ACTION- No proceeding may be initiated under this section by any person until 90 days after such person first notifies the Secretary of the excess fee transaction with respect to which the proceeding relates.

`(e) DEFINITIONS- For purposes of this section, any term used in this section and also in section 4959 shall have the meaning given such term by section 4959.'.

(b) CLERICAL AMENDMENT- The table of sections for subchapter B of chapter 76 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 7437 and by inserting the following new items:

`Sec. 7437. Declaratory judgments relating to tax on excess fee transactions.

`Sec. 7438. Cross references.'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to actions after the date of the enactment of this Act.

END

From: Kirk Blalock <kblalock@fierce-isakowitz.com>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Kevin Warsh/OPD /EOP@EOP [OPD] <Kevin Warsh>;Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>
Sent: 4/17/2003 6:39:20 AM
Subject: : Asbestos Congressional Recess Advertising and Grassroots
Attachments: P_V03PF003_OPD.TXT_1.html; P_V03PF003_OPD.TXT_2.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kirk Blalock <kblalock@fierce-isakowitz.com> (Kirk Blalock <kblalock@fierce-isakowitz.com> [UNKNOWN])
CREATION DATE/TIME:17-APR-2003 10:39:20.00
SUBJECT:: Asbestos Congressional Recess Advertising and Grassroots
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
End Original ARMS Header

During this congressional recess, we are working to heighten the sense of urgency for enactment of asbestos litigation reform legislation. As part of this effort, we are buying full-page ads in the major daily papers. Although the actual ad buy is relatively spare, we will leverage and amplify the content of the paid media with earned media (e.g., outreach to key reporters and editorial boards at papers which have not yet editorialized on the subject), as well as direct grassroots contacts.

The papers in which the ads will be running April 22:

* CA: Orange County Register, San Francisco Chronicle, San Jose Mercury News, Sacramento Bee, Fresno Bee
* CT: Hartford Courant, New Haven Register, Stamford Advocate/Greenwich Times
* DE: Wilmington New Journal
* OK: Tulsa World, Oklahoman
* UT: Salt Lake Tribune/Deseret News
* WI: Milwaukee Journal Sentinel, Wisconsin State Journal/Capital Times, Appleton Post Crescent
* VT: Burlington Free Press

Taglines on the ad either will urge members to stand up for asbestos litigation reform, praise them for working for reform or thank them for their leadership. A draft sample ad is attached FYI. The signatories will comprise a balanced representation of members of our third-party grassroots coalitions in each state where we have them; in the other states, signatories will be national third-party organizations we have recruited.

- att1.htm - Asbestos04-15.pdf
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_V03PF003_OPD.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_V03PF003_OPD.TXT_2>

Dur ing this congressional recess, we are working to heighten the sense of urgency for enactment of asbestos litigation reform legislation. As part of this effort, we are buying full-page ads in the major daily papers. Although the actual ad buy is relatively spare, we will leverage and amplify the content of the paid media with earned media (e.g., outreach to key reporters and editorial boards at papers which have not yet editorialized on the subject), as well as direct grassroots contacts.

The papers in which the ads will be running April 22:

- CA: Orange County Register, San Francisco Chronicle, San Jose Mercury News, Sacramento Bee, Fresno Bee
- CT: Hartford Courant, New Haven Register, Stamf ord Advocate/Greenwich Times
- DE: Wilmington New Journal
- OK: Tulsa World, Oklahoman
- UT: Salt Lake Tribune/Deseret News
- WI: Milwaukee Journal Sentinel, Wisconsin State Journa l/Capital Times, Appleton Post Crescent
- VT: Burlington Free Press

Taglines on the ad either will urge members to stand up for asbestos litigation reform, praise them for working for reform or thank them for their leadership. A draft sample ad is attached FYI. The signatories will comprise a balanced representation of members of our third-party grassroots coalitions in each state where we have them; in the other states, signatories will be national third-party organizations we have recruited.

We Believe in Delaware. We Believe in Asbestos Litigation Reform.

We believe in a strong and thriving economy.

We believe in growing businesses, good jobs and a secure retirement.

We believe in helping sick people.

This is why groups and leaders in Delaware are concerned about the asbestos litigation epidemic. Hundreds of thousands of asbestos cases clog America's courts, exacting a staggering toll on our economy. Lost jobs. Busted retirement plans. Bankrupt businesses. Most of these cases are filed by people encouraged to sue even though they aren't sick from asbestos. That's right. You don't have to be sick from asbestos to file a claim in our current system. This means that communities, businesses and people who are truly sick from asbestos are waiting for help they desperately need. Senator Tom Carper is helping. He is working in Congress to pass Asbestos Litigation Reform, establishing real medical standards that will ensure available money goes directly to help sick people most in need. Asbestos Litigation Reform will strengthen our economy, stabilize 401(k) retirement plans and protect jobs in Delaware. Most importantly, it will help grant real asbestos victims the justice they urgently need, and deserve. We believe Asbestos Litigation Reform is an urgent priority for Delaware, and for America.

LOREM IPSUM • DOLOR SIT • AMET CONSECTETUER • ADIPISCING ELIT SED • DIAM NONUMMY NIBH EUISMOD • TINCIDUNT UT LAOREET • DOLORE MAGNA • ALIQUAM ERAT • VOLUTPAT UT • WISI ENIM AD MINIM VENIAM • QUIS NOSTRUD • EXERCI TATION • ULLAMCORPER SU CIPIT LOBORTIS NISL • UT ALIQUIP EX EA COMMODO • CONSEQUAT DUIS AUTEM • VEL EUM IRIURE DOLOR • IN HENDRERIT IN VULPUTATE VELIT ESSE • MOLESTIE CONSEQUAT • VEL ILLUM • MOLESTIE CONSEQUAT

We praise Senator Tom Carper for his commitment to Asbestos Litigation Reform.

To learn more visit www.commonsensenow.net

Paid for by Citizens for Asbestos Reform

REV_00163286

We Believe in Delaware. We Believe in Asbestos Litigation Reform.

Lorem Ipsum • dolor sit • amet consectetuer • adipiscing elit sed • diam nonummy nibh • euismod • tincidunt ut laoreet dolore magna • aliquam erat • volutpat ut • wisi enim ad min veniam • quis nostrud • exerci tation • ullamcorper su cipit lobortis nisl • ut aliquip ex • ea commodo consequat Duis autem vel eum iriure dolor • in hendrerit in vulputate velit esse • molestie consequat • vel illum • molestie consequat

We believe in a strong and thriving economy.

We believe in growing businesses, good jobs and a secure retirement.

We believe in helping sick people.

This is why groups and leaders in Delaware are concerned about the asbestos litigation epidemic. Hundreds of thousands of asbestos cases clog America's courts, exacting a staggering toll on our economy. Lost jobs. Busted retirement plans. Bankrupt businesses. Most of these cases are filed by people encouraged to sue even though they aren't sick from asbestos. That's right. You don't have to be sick from asbestos to file a claim in our current system.

This means that communities, businesses and people who are truly sick from asbestos are waiting for help they desperately need. Senator Tom Carper is helping. He is working in Congress to pass Asbestos Litigation Reform, establishing real medical standards that will ensure available money goes directly to help sick people most in need. Asbestos Litigation Reform will strengthen our economy, stabilize 401(k) retirement plans and protect jobs in Delaware. Most importantly, it will help grant real asbestos victims the justice they urgently need, and deserve. We believe Asbestos Litigation Reform is an urgent priority for Delaware, and for America.

We praise Senator Tom Carper for his commitment to Asbestos Litigation Reform.

To learn more visit www.commonsensenow.net

Paid for by Citizens for Asbestos Reform

REV_00163287

From: CN=Kevin Warsh/OU=OPD/O=EOP [OPD]
To: Lisa J. Macecevic/OMB/EOP@EOP [OMB] <Lisa J. Macecevic>
CC: brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>
Sent: 4/17/2003 7:32:40 AM
Subject: : Re: LRM OGG29 - - TREASURY Draft Bill on Federal Deposit Insurance Reform

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP [OPD])
CREATION DATE/TIME:17-APR-2003 11:32:40.00
SUBJECT:: Re: LRM OGG29 - - TREASURY Draft Bill on Federal Deposit Insurance Reform
TO:Lisa J. Macecevic (CN=Lisa J. Macecevic/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

lisa:

i believe it is ok, but we should confirm with treasury.

thanks.

--kevin

From: CN=Lisa J. Macecevic/OU=OMB/O=EOP [OMB]
To: Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>
CC: brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>
Sent: 4/17/2003 7:39:34 AM
Subject: : Re: LRM OGG29 - - TREASURY Draft Bill on Federal Deposit Insurance Reform

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Lisa J. Macecevic (CN=Lisa J. Macecevic/OU=OMB/O=EOP [OMB])
CREATION DATE/TIME:17-APR-2003 11:39:34.00
SUBJECT:: Re: LRM OGG29 - - TREASURY Draft Bill on Federal Deposit Insurance Reform
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

Thanks. I'm going to pass it back to Treasury and see what they think.

Kevin Warsh
04/17/2003 11:32:25 AM
Record Type: Record

To: Lisa J. Macecevic/OMB/EOP@EOP
cc: brett m. kavanaugh/who/eop@eop
Subject: Re: LRM OGG29 - - TREASURY Draft Bill on Federal Deposit Insurance Reform

lisa:

i believe it is ok, but we should confirm with treasury.

thanks.

--kevin

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>
Sent: 4/17/2003 1:36:52 PM
Subject: : ok on Muris from our end; let's discuss details

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:17-APR-2003 17:36:52.00
SUBJECT:: ok on Muris from our end; let's discuss details
TO:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: Comisac, RenaJohnson (Judiciary) <Rena_Johnson_Comisac@Judiciary.senate.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/17/2003 9:49:47 AM
Subject: : Ronald Whyte
Attachments: P_GNEPF003_WHO.TXT_1.html

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Comisac, RenaJohnson (Judiciary)" <Rena_Johnson_Comisac@Judiciary.senate.gov> (
"Comisac, RenaJohnson (Judiciary)" <Rena_Johnson_Comisac@Judiciary.senate.gov> [UNKNOWN]
)
CREATION DATE/TIME:17-APR-2003 13:49:47.00
SUBJECT:: Ronald Whyte
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Senator Hatch has received a request from the Santa Clara County Trial Lawyers Association to help secure a letter of congratulations from President Bush for Whyte, a district judge in California appointed by Bush I, whom the Association is honoring. We are doing some research over here on Whyte and the Association, which I'll be glad to pass along if you'd like it. If you send me your fax number, I'll send you a copy of the letter. Thanks.

CONFIDENTIALITY NOTE: The information contained in this e-mail is legally privileged and confidential information intended only for the use of the individuals or entities named as addressees. If you, the reader of this message, are not the intended recipient, you are hereby notified that any dissemination, distribution, publication, or copying of this message is strictly prohibited. If you have received this message in error, please forgive the inconvenience, immediately notify the sender, and delete the original message without keeping a copy.

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_GNEPF003_WHO.TXT_1>

Senator Hatch has received a request from the Santa Clara County Trial Lawyers Association to help secure a letter of congratulations from President Bush for Whyte, a district judge in California appointed by Bush I, whom the Association is honoring. We are doing some research o ver here on Whyte and the Association, which I'll be glad to pass along if you'd like it. If you send me your fax number, I'll send you a copy of the letter. Thanks.

CONFIDENTIALITY NOTE: The information contained in this e-mail is legally privileged and confidential information intended only for the use of the individuals or entities named as addressees. If you, the reader of this message, are not the intended recipient, you are hereby notified that any dissemination, distribution, publication, or copying of this message is strictly prohibited. If you have received this message in error, please forgive the inconvenience, immediately notify the sender, and delete the original message without keeping a copy.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Kyle Sampson/WHO /EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;David G. Leitch/WHO/EOP@Exchange@EOP [WHO] <David G. Leitch>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;H. Christopher Bartolomucci/WHO /EOP@EOP [WHO] <H. Christopher Bartolomucci>;Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;Alberto R. Gonzales/WHO/EOP@Exchange@EOP [WHO] <Alberto R. Gonzales>
Sent: 4/17/2003 10:39:51 AM
Subject: : Las Vegas Review Journal editorial on Sen. Reid and filibusters

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:17-APR-2003 14:39:51.00
SUBJECT:: Las Vegas Review Journal editorial on Sen. Reid and filibusters
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Theodore W. Ullyot (CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jennifer R. Brosnahan (CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

EDITORIAL: Not enough hours

As the nomination of Miguel Estrada to a federal appeals court in Washington, D.C., languishes in a filibuster, another judicial appointee is mired in partisan quicksand: Texas Supreme Court Justice Priscilla Owen.

Justice Owen was selected in May 2001 to fill a vacancy on the 5th U.S. Circuit Court of Appeals. Her appointment seemed dead in the water last fall, when the Democratic-led Senate Judiciary Committee rejected her on a party-line vote. But after the November election, when control of the Senate (and its committees) switched to the Republicans, the newly constituted Judiciary Committee approved Justice Owen's nomination and sent it to the Senate for a floor vote.

And so the stalling began anew. Last week, when Republicans tried to compel senators to vote up-or-down on the nomination -- some 23 months after the justice's name was first submitted -- Democrats again went into the capital's version of the Four Corners delay. Sen. Robert Bennett, R-Utah, made a suggestion that after Democrats and Republicans each received 10 hours to debate Ms. Owen's qualifications a confirmation vote would follow.

Nevada's own Harry Reid, D-Beltway, said no. "There is not a number (of hours) in the universe that would be sufficient," Sen. Reid said.

The reason for Democrats' opposition: an opinion authored by Justice Owen upholding a Texas law that requires any minor who seeks an abortion to notify one of her parents.

Is this alone sufficient grounds to disqualify Justice Owen for a federal appellate court? The American Bar Association must think not, since its Standing Committee on the Federal Judiciary considers her "well qualified."

But any formal discussion of this appointment has been stifled for now, as Sen. Reid -- who's also point man for the filibuster stalling Mr. Estrada -- remains captive of narrow special interests whose views are far from those of the mainstream.

It's a shameful exhibition of partisan politics.

From: Viet.Dinh@usdoj.gov
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/17/2003 10:59:01 AM
Subject: : Re: Fisher -- 3rd

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Viet.Dinh@usdoj.gov" <Viet.Dinh@usdoj.gov> ("Viet.Dinh@usdoj.gov"
<Viet.Dinh@usdoj.gov> [UNKNOWN])
CREATION DATE/TIME:17-APR-2003 14:59:01.00
SUBJECT:: Re: Fisher -- 3rd
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

This message is a Read Receipt Notification

Your Message : Re: Fisher -- 3rd
Was Read By : Viet.Dinh@usdoj.gov
On : Thu, 17 Apr 2003 14:57:34 -0400

From: Sheila.Joy@usdoj.gov
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/17/2003 11:20:02 AM
Subject: : RE: Fisher -- 3rd

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Sheila.Joy@usdoj.gov" <Sheila.Joy@usdoj.gov> ( "Sheila.Joy@usdoj.gov"
<Sheila.Joy@usdoj.gov> [ UNKNOWN ] )
CREATION DATE/TIME:17-APR-2003 15:20:02.00
SUBJECT:: RE: Fisher -- 3rd
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

This message is a Read Receipt Notification

Your Message : RE: Fisher -- 3rd
Was Read By : Sheila.Joy@usdoj.gov
On : Thu, 17 Apr 2003 15:17:44 -0400
```

From: CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/17/2003 3:36:11 PM
Subject: : Re: tort issues

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD])
CREATION DATE/TIME:17-APR-2003 19:36:11.00
SUBJECT:: Re: tort issues
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Oh. Always last to know.

But yes, we should discuss fda issues, asbestos, current status on class action and med liab bills, and the latest -- the kyl cornyn proposal on fees, which if you don't have, I can send you.;;

Have a good Easter.
.

-----Original Message-----
From: Kavanaugh, Brett M. <bkavanau@WHO.eop.gov>
To: Lefkowitz, Jay P. <Jay_P._Lefkowitz@opd.eop.gov>
Sent: Thu Apr 17 19:21:40 2003
Subject: Re: tort issues

;;;;;;; a tort reform we are having in your office next friday

;;;;;;; From:;; Jay P. Lefkowitz/OPD/EOP@Exchange on 04/17/2003 07:10:14 PM
;;;;;;; Record Type:;;; Record

;;;;;;; To:;;;; Brett M. Kavanaugh/WHO/EOP@EOP
;;;;;;; cc:;;;;
;;;;;;; Subject:;;;;;;; Re: tort issues

;;;;;;; At which mtg?
;;;;;;; .

;;;;;;; -----Original Message-----
;;;;;;; From: Kavanaugh, Brett M. <bkavanau@WHO.eop.gov>
;;;;;;; To: Lefkowitz, Jay P. <Jay_P._Lefkowitz@opd.eop.gov>
;;;;;;; Sent: Thu Apr 17 18:55:15 2003
;;;;;;; Subject: tort issues

;;;;;;; seems to me that we may need also to discuss fda preemption/better way either at this meeting or at some other time.

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jennifer R. Brosnahan/WHO /EOP@EOP [WHO] <Jennifer R. Brosnahan>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>
Sent: 4/17/2003 11:47:08 AM
Subject: : FW: Radar Update for Week of April 21
Attachments: P_WWLPF003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:17-APR-2003 15:47:08.00
SUBJECT:: FW: Radar Update for Week of April 21
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jennifer R. Brosnahan (CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Theodore W. Ullyot (CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

-----Original Message-----
From: Vargas, Veronica
Sent: Thursday, April 17, 2003 3:44 PM
To: Graham, John; Noe, Paul R.; Anderson, David R.; Besanceney, Brian R.; Bumatay, Patrick J.; Burgeson, Christine M.; Clark, Alicia P.; Conda, Cesar; Cooney, Phil; Daniels, Mitchell; DeFrancis, Suzy; Dorn, Nancy; Dove, Stephen W.; Duffy, Trent D.; Goldman, Adam B.; Hennessey, Keith; Ingle, Edward; Joseffer, Daryl L.; Kaplan, Joel; Lawlor, Laura S.; Luczynski, Kimberley S.; Lundberg, Stephanie J.; MacHida, Ado A.; Murphy, Daniel J.; Oxford, John; Parell, Christie; Pelletier, Eric C.; Perry, Philip J.; Rossman, Elizabeth L.; Schlapp, Matthew A.; Silverberg, Kristen; Stolpe, Elizabeth A.; Swagel, Phillip L.; Toth, Michael C.; Troy, Tevi; Waters, James A.; Wood, John F.; Weaver, Bessie M.
Cc: Arbuckle, Donald R.; Allen, Bryon P.
Subject: Radar Update for Week of April 21

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_WWLPF003_WHO.TXT_1>

Rules Likely to be Cleared, Withdrawn or Returned during the Week of April 21

*USDA-FSA	FINAL RULE. Bioenergy Program; 2002 Farm Bill Regulations
*USDA-FSA	FINAL RULE. Conservation Reserve Program; 2002 Farm Bill Regulations
USDA-APHIS	PROPOSED RULE. Importation of Solid Wood Packing Material
USDA-FNS	PROPOSED RULE. Vehicle and Maximum Excess Shelter Expense Deduction Provisions of the Agriculture, Rural Development, Food & Drug Administration and Related Agencies Appropriations Act of 2001
ED-OSERS	NOTICE. Disability and Rehabilitation Research Projects
ED-OSERS	NOTICE. Improving Information on Disability in Media, Disability and Rehabilitation Research projects Program
ED-OSERS	NOTICE. National Institute on Disability and Rehabilitation Research Projects
ED-OSERS	NOTICE. Rehabilitation Research Training Center
ED-OSERS	NOTICE. Technical Assistance Resource Center on Parenting with a Disability, Disability and Rehabilitation research Projects Program
*HHS-CMS	PROPOSED RULE. Inpatient Rehabilitation Prospective Payment System
*HHS-CMS	PROPOSED RULE. Skilled Nursing Facilities Prospective Payment System
*HHS-FDA	PROPOSED RULE. Establishment and Maintenance of Records Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002
HHS-ACF	FINAL RULE. Child Support Enforcement Program; State Plan Approval and Grant Procedures, State Plan Requirements, Standards for Program Operations, Federal Financial Participation
HHS-CMS	INTERIM FINAL RULE. State High Risk Pool Grant Program

* Probable Media Interest

*DHS-TSA	INTERIM FINAL RULE. Security Threat Assessment for Individuals Applying for a Hazardous Materials Endorsement for a Commercial Drivers License
*HUD-OH	NOTICE. Non-Proprietary Data Submitted by the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac)
HUD-OH	INTERIM FINAL RULE. Distribution of Tax Credit Proceeds
HUD-PIH	INTERIM FINAL RULE. Minimum Funding Under the Indian Housing Block Grant Program
HUD-PIH	NOTICE. Public Housing Assessment System; Introduction to PHA Grading
HUD-PIH	NOTICE. Public Housing Assessment System; Financial Condition Grading Process
HUD-PIH	NOTICE. Public housing Assessment System; Management Operation Grading Process
HUD-PIH	NOTICE. Public Housing Assessment System; Resident Services and Satisfaction Grading Process
HUD-PIH	NOTICE. Public housing Assessment System; Physical Condition Grading Process
DOI-FWS	PROPOSED RULE. Migratory Bird Hunting; Proposed 2003-04 Migratory Game Bird Hunting Regulations with Requests for Indian Tribal Proposals
*DOL-OSHA	INTERIM FINAL RULE. Procedures of handling Discrimination Complaints Under the Corporate and Criminal Fraud Accountability Act, Title VIII of Sarbanes-Oxley Act of 2002
*DOT-FMCSA	INTERIM FINAL RULE. Limitations on the Issuance of Commercial Driver's Licenses with a Hazardous Materials Endorsement
DOT-FAA	FINAL RULE. Certification of Airports
DOT-FAA	PROPOSED RULE. False and Misleading Statements Regarding Aircraft Products, Parts, and Materials

REV_00163340

DOT-FAA	PROPOSED RULE. Training in the Recognition of hazardous Material
VA	PROPOSED RULE. National Cemetery Administration; State Cemetery Grants Program
*EPA	NOTICE. 6-year Review of Existing National Primary Drinking Water Regulations Standards
OPM	INTERIM FINAL RULE. Excepted Service—Temporary Organizations
*PBGC	PROPOSED RULE. Benefits Payable in Terminate Single-Employer Plans; Limitations on Guaranteed Benefits
SSA	FINAL RULE. Claimant Identification Pilot Projects
SSA	PRERULE. Revised Medical Criteria for Evaluating Immune System Disorders

REV_00163341

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Catherine Lotrionte/PFIAB/EOP@EOP [PFIAB] <Catherine Lotrionte>
Sent: 4/17/2003 12:22:46 PM
Subject: : please call me if you would like to discuss your issue

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:17-APR-2003 16:22:46.00
SUBJECT:: please call me if you would like to discuss your issue
TO:Catherine Lotrionte ( CN=Catherine Lotrionte/OU=PFIAB/O=EOP@EOP [ PFIAB ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: Kavanaugh, Brett M.
To: <Lefkowitz, Jay P.>
Sent: 4/17/2003 7:39:43 PM
Subject: Re: tort issues

thanks. i have kyl-cornyn stuff from kyl's office.

From: Jay P. Lefkowitz/OPD/EOP@Exchange on 04/17/2003 07:35:32 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: Re: tort issues

Oh. Always last to know.

But yes, we should discuss fda issues, asbestos, current status on class action and med liab bills, and the latest -- the kyl cornyn proposal on fees, which if you don't have, I can send you.

Have a good Easter.

.

-----Original Message-----

From: Kavanaugh, Brett M.

To: Lefkowitz, Jay P.

Sent: Thu Apr 17 19:21:40 2003

Subject: Re: tort issues

a tort reform we are having in your office next friday

From: Jay P. Lefkowitz/OPD/EOP@Exchange on 04/17/2003 07:10:14 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: Re: tort issues

At which mtg?

.

-----Original Message-----

From: Kavanaugh, Brett M.

To: Lefkowitz, Jay P.

Sent: Thu Apr 17 18:55:15 2003

Subject: tort issues

seems to me that we may need also to discuss fda preemption/better way either at this meeting or at some other time.

From: CN=PostMaster/O=EOP [OA]

To: Linda Springer/OMB/EOP [OMB] <Linda Springer>;Thomas A. Shannon Jr./NSC/EOP [NSC] <Thomas A. Shannon Jr.>;Tevi Troy/WHO/EOP@Exchange [WHO] <Tevi Troy>;Stephen J. Yates/OVP/EOP [OVP] <Stephen J. Yates>;Candida P. Wolff/OVP/EOP [OVP] <Candida P. Wolff>;Daniel K. Wilmot/OVP/EOP [OVP] <Daniel K. Wilmot>;Jocelyn White/WHF/EOP [OPM] <Jocelyn White>;Lezlee J. Westine/WHO/EOP [WHO] <Lezlee J. Westine>;Peter H. Wehner/WHO/EOP [WHO] <Peter H. Wehner>;Paul A. Wedderien/NSC/EOP [NSC] <Paul A. Wedderien>;Kevin Warsh/OPD/EOP [OPD] <Kevin Warsh>;John P. Walters/ONDCP/EOP [ONDCP] <John P. Walters>;Theodore W. Ullyot/WHO/EOP [WHO] <Theodore W. Ullyot>;Richard J. Tubb/WHO/EOP [WHO] <Richard J. Tubb>;Jim Towey/WHO/EOP [WHO] <Jim Towey>;Karin B. Torgerson/WHO/EOP@Exchange [WHO] <Karin B. Torgerson>;Catherine W. Tobias/OVP/EOP [OVP] <Catherine W. Tobias>;Jeffrey G. Thompson/OA/EOP@Exchange [OA] <Jeffrey G. Thompson>;Phillip L. Swagel/CEA/EOP [CEA] <Phillip L. Swagel>;Jose G. Suarez/WHO/EOP [WHO] <Jose G. Suarez>;Aquiles F. Suarez/OPD/EOP [OPD] <Aquiles F. Suarez>;Angela B. Styles/OMB/EOP [OMB] <Angela B. Styles>;Mary K. Sturtevant/NSC/EOP [NSC] <Mary K. Sturtevant>;Margaret M. Spellings/OPD /EOP@Exchange [OPD] <Margaret M. Spellings>;Deborah A. Spagnoli/WHO/EOP [WHO] <Deborah A. Spagnoli>;Mary A. Solberg/ONDCP/EOP [ONDCP] <Mary A. Solberg>;Carlos Solari/OA/EOP [OA] <Carlos Solari>;Augustine T. Smythe/OMB/EOP [OMB] <Augustine T. Smythe>;Kristen Silverberg/WHO/EOP@Exchange [WHO] <Kristen Silverberg>;Faryar Shirzad/NSC/EOP [NSC] <Faryar Shirzad>;Scott N. Sforza/WHO/EOP [WHO] <Scott N. Sforza>;Matthew Scully/WHO/EOP [WHO] <Matthew Scully>;Gregory L. Schulte/NSC/EOP [NSC] <Gregory L. Schulte>;Howard A. Schmidt/NSC/EOP [NSC] <Howard A. Schmidt>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Daniel Schecter/ONDCP/EOP [ONDCP] <Daniel Schecter>;Diana L. Schacht/OPD/EOP [OPD] <Diana L. Schacht>;Desiree T. Sayle/WHO/EOP [WHO] <Desiree T. Sayle>;Kyle Sampson/WHO/EOP [WHO] <Kyle Sampson>;Richard M. Russell/OSTP/EOP [OSTP] <Richard M. Russell>;Peter M. Rowan/OVP/EOP [OVP] <Peter M. Rowan>;Karl C. Rove/WHO /EOP@Exchange [WHO] <Karl C. Rove>;Thomas J. Ridge/WHO/EOP [WHO] <Thomas J. Ridge>;Condoleezza Rice/NSC/EOP [NSC] <Condoleezza Rice>;Otto Reich/NSC/EOP [NSC] <Otto Reich>;Brian Reardon/OPD/EOP [OPD] <Brian Reardon>;Dina Powell/WHO /EOP@Exchange [WHO] <Dina Powell>;Benjamin A. Powell/WHO/EOP [WHO] <Benjamin A. Powell>;Philip J. Perry/OMB/EOP [OMB] <Philip J. Perry>;Anna M. Perez/NSC/EOP [NSC] <Anna M. Perez>;Eric C. Pelletier/WHO/EOP@Exchange [WHO] <Eric C. Pelletier>;Marcus Peacock/OMB/EOP [OMB] <Marcus Peacock>;Neil S. Patel/OVP/EOP [OVP] <Neil S. Patel>;Joseph F. O'Neill/OPD/EOP [OPD] <Joseph F. O'Neill>;Kathie L. Olsen/OSTP/EOP [OSTP] <Kathie L. Olsen>;Sean C. O'Keefe/OMB/EOP [OMB] <Sean C. O'Keefe>;Ziad S. Ojakli/WHO/EOP@Exchange [WHO] <Ziad S. Ojakli>;Sean B. O'Hollaren/WHO /EOP@Exchange [WHO] <Sean B. O'Hollaren>;Kevin M. O'Donovan/OVP/EOP [OVP] <Kevin M. O'Donovan>;Claire M. O'Donnell/OVP/EOP [OVP] <Claire M. O'Donnell>;Julie L. Nichols/OVP/EOP [OVP] <Julie L. Nichols>;Jennifer G. Newstead/WHO/EOP [WHO] <Jennifer G. Newstead>;John F. Newell/WHO/EOP [WHO] <John F. Newell>;Noam M. Neusner/WHO/EOP [WHO] <Noam M. Neusner>;Edmund C. Moy/WHO/EOP [WHO] <Edmund C. Moy>;Manson O. Morris/OVP/EOP [OVP] <Manson O. Morris>;James F. Moriarty/NSC/EOP [NSC] <James F. Moriarty>;Brian D. Montgomery/WHO/EOP@Exchange [WHO] <Brian D. Montgomery>;Paul D. Montanus/WHO/EOP [WHO] <Paul D. Montanus>;Michael H. Miller/WHO/EOP@Exchange [WHO] <Michael H. Miller>;Franklin C. Miller/NSC/EOP [NSC] <Franklin C. Miller>;Harriet Miers/WHO/EOP@Exchange [WHO] <Harriet Miers>;Ken Mehlman/WHO/EOP [WHO] <Ken Mehlman>;Edward McNally/WHO/EOP [WHO] <Edward McNally>;Robert C. McNally/OPD/EOP [OPD] <Robert C. McNally>;Stephen S. McMillin/OMB/EOP [OMB] <Stephen S. McMillin>;Charles D. McGrath Jr/OVP/EOP [OVP] <Charles D. McGrath Jr>;Brian V. McCormack/OVP/EOP [OVP] <Brian V. McCormack>;John P. McConnell/WHO/EOP [WHO] <John P. McConnell>;Scott McClellan/WHO/EOP@Exchange [WHO] <Scott McClellan>;James M. McAllister/WHO/EOP [WHO] <James M. McAllister>;Catherine J. Martin/OVP/EOP [OVP] <Catherine J. Martin>;Christopher M. Marston/ONDCP/EOP [ONDCP] <Christopher M. Marston>;Robert Marsh/WHO /EOP@Exchange [WHO] <Robert Marsh>;John H. Marburger/OSTP/EOP [OSTP] <John H. Marburger>;John F. Maisto/NSC/EOP [NSC] <John F. Maisto>;Robin A. MacLean/WHO /EOP@Exchange [WHO] <Robin A. MacLean>;Ado A. Machida/OVP/EOP [OVP] <Ado A. Machida>;Andrew Lundquist/NSC/EOP [NSC] <Andrew Lundquist>;Stephanie J. Lundberg/OVP/EOP [OVP] <Stephanie J. Lundberg>;Ginger G. Loper/WHO/EOP@Exchange [

WHO] <Ginger G. Loper>;Deborah A. Loewer/NSC/EOP [NSC] <Deborah A. Loewer>;Colleen Litkenhaus/WHO/EOP@Exchange [WHO] <Colleen Litkenhaus>;Lewis Libby/OVP/EOP [OVP] <Lewis Libby>;Elan Liang/WHO/EOP@Exchange [WHO] <Elan Liang>;David G. Leitch/WHO /EOP@Exchange [WHO] <David G. Leitch>;Jay P. Lefkowitz/OPD/EOP@Exchange [OPD] <Jay P. Lefkowitz>;Laura S. Lawlor/WHO/EOP [WHO] <Laura S. Lawlor>;William Lang/WHO/EOP [WHO] <William Lang>;Paul B. Kurtz/NSC/EOP [NSC] <Paul B. Kurtz>;David Kuo/WHO/EOP [WHO] <David Kuo>;Carol R. Kuntz/OVP/EOP [OVP] <Carol R. Kuntz>;Jeffrey Kuhlman/WHO/EOP [WHO] <Jeffrey Kuhlman>;Randall S. Kroszner/CEA/EOP [CEA] <Randall S. Kroszner>;Lindsey C. Kozberg/WHO/EOP [WHO] <Lindsey C. Kozberg>;Frank G. Klotz/NSC/EOP [NSC] <Frank G. Klotz>;Elizabeth W. Kleppe/OVP/EOP [OVP] <Elizabeth W. Kleppe>;Matthew Kirk/WHO/EOP@Exchange [WHO] <Matthew Kirk>;Zalmay M. Khalilzad/NSC/EOP [NSC] <Zalmay M. Khalilzad>;Daniel J. Keniry/WHO /EOP@Exchange [WHO] <Daniel J. Keniry>;James M. Kelly/WHO/EOP [WHO] <James M. Kelly>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Joel D. Kaplan/WHO /EOP@Exchange [WHO] <Joel D. Kaplan>;Robert G. Joseph/NSC/EOP [NSC] <Robert G. Joseph>;Nathaniel Johnson/OVP/EOP [OVP] <Nathaniel Johnson>;Clay Johnson III/WHO /EOP@Exchange [WHO] <Clay Johnson III>;Gregory J. Jenkins/WHO/EOP [WHO] <Gregory J. Jenkins>;Reuben Jeffery/OPD/EOP [OPD] <Reuben Jeffery>;Barry S. Jackson/WHO/EOP [WHO] <Barry S. Jackson>;Edward Ingle/WHO/EOP [WHO] <Edward Ingle>;Daniel D. Faoro/OA/EOP@Exchange [OA] <Daniel D. Faoro>;Jennifer R. Brosnahan/WHO/EOP [WHO] <Jennifer R. Brosnahan>;Gregory C. Huffman/WHO/EOP [WHO] <Gregory C. Huffman>;Lewis Hofmann/WHO/EOP [WHO] <Lewis Hofmann>;David W. Hobbs/WHO/EOP@Exchange [WHO] <David W. Hobbs>;Israel Hernandez/WHO/EOP@Exchange [WHO] <Israel Hernandez>;Keith Hennessey/OPD/EOP@Exchange [OPD] <Keith Hennessey>;Debra Heiden/OVP/EOP [OVP] <Debra Heiden>;John P. Hannah/OVP/EOP [OVP] <John P. Hannah>;Terrell L. Halaska/OPD/EOP [OPD] <Terrell L. Halaska>;Joseph W. Hagin/WHO/EOP@Exchange [WHO] <Joseph W. Hagin>;Stephen J. Hadley/NSC/EOP [NSC] <Stephen J. Hadley>;Wendy J. Grubbs/WHO/EOP@Exchange [WHO] <Wendy J. Grubbs>;John Graham/OMB/EOP [OMB] <John Graham>;John A. Gordon/NSC/EOP [NSC] <John A. Gordon>;Alberto R. Gonzales/WHO /EOP@Exchange [WHO] <Alberto R. Gonzales>;Adam B. Goldman/WHO/EOP [WHO] <Adam B. Goldman>;Tim Goeglein/WHO/EOP [WHO] <Tim Goeglein>;Alan Gilbert/OPD/EOP [OPD] <Alan Gilbert>;Michael J. Gerson/WHO/EOP@Exchange [WHO] <Michael J. Gerson>;Kelley Gannon/WHO/EOP [WHO] <Kelley Gannon>;Linda M. Gambatesa/WHO/EOP@Exchange [WHO] <Linda M. Gambatesa>;Stephen Friedman/OPD/EOP@Exchange [OPD] <Stephen Friedman>;Daniel Fried/NSC/EOP [NSC] <Daniel Fried>;Jendayi E. Frazer/NSC/EOP [NSC] <Jendayi E. Frazer>;Noel J. Francisco/WHO/EOP [WHO] <Noel J. Francisco>;Lawrence A. Fleischer/WHO/EOP@Exchange [WHO] <Lawrence A. Fleischer>;Catherine S. Fenton/WHO /EOP@Exchange [WHO] <Catherine S. Fenton>;Richard Falkenrath/WHO/EOP [WHO] <Richard Falkenrath>;Nanette Everson/WHO/EOP [WHO] <Nanette Everson>;Mark Everson/OMB/EOP [OMB] <Mark Everson>;Sandra K. Evans/OA/EOP@Exchange [OA] <Sandra K. Evans>;Ashley Estes/WHO/EOP@Exchange [WHO] <Ashley Estes>;Tucker A. Eskew/WHO/EOP [WHO] <Tucker A. Eskew>;Gary R. Edson/NSC/EOP [NSC] <Gary R. Edson>;Eric S. Edelman/OVP/EOP [OVP] <Eric S. Edelman>;Elizabeth S. Dougherty/OPD/EOP [OPD] <Elizabeth S. Dougherty>;Nancy Dorn/OMB/EOP [OMB] <Nancy Dorn>;Diana C. Donnelly/WHO/EOP@Exchange [WHO] <Diana C. Donnelly>;Nicolle Devenish/WHO/EOP [WHO] <Nicolle Devenish>;Suzy DeFrancis/WHO/EOP@Exchange [WHO] <Suzy DeFrancis>;Mitchell Daniels/OMB/EOP [OMB] <Mitchell Daniels>;James F. Daniel/OA /EOP@Exchange [OA] <James F. Daniel>;John J. Daly/WHO/EOP [WHO] <John J. Daly>;Stacia L. Cropper/OA/EOP@Exchange [OA] <Stacia L. Cropper>;Barry Crane/ONDCP/EOP [ONDCP] <Barry Crane>;Christopher C. Cox/WHO/EOP@Exchange [WHO] <Christopher C. Cox>;Phil Cooney/CEQ/EOP [CEQ] <Phil Cooney>;Rebecca Contreras/WHO/EOP [WHO] <Rebecca Contreras>;Charles Conner/OPD/EOP [OPD] <Charles Conner>;James Connaughton/CEQ/EOP [CEQ] <James Connaughton>;Cesar Conda/OVP/EOP [OVP] <Cesar Conda>;Robin Cleveland/OMB/EOP [OMB] <Robin Cleveland>;Alicia P. Clark/WHO/EOP [WHO] <Alicia P. Clark>;Frank Cilluffo/WHO/EOP [WHO] <Frank Cilluffo>;Ronald I. Christie/OPD/EOP [OPD] <Ronald I. Christie>;Kirsten A. Chadwick/WHO/EOP@Exchange [WHO] <Kirsten A. Chadwick>;Andrew H. Card/WHO /EOP@Exchange [WHO] <Andrew H. Card>;James C. Capretta/OMB/EOP [OMB] <James C. Capretta>;Tim Campen/OA/EOP@Exchange [UNKNOWN] <Tim Campen>;William Cameron/WHO/EOP [WHO] <William Cameron>;Scott Burns/ONDCP/EOP [ONDCP] <Scott Burns>;Christine M. Burgeson/WHO/EOP@Exchange [WHO] <Christine M. Burgeson>;Jonathan W. Burks/WHO/EOP@Exchange [WHO] <Jonathan W. Burks>;Katja Bullock/WHO/EOP [WHO] <Katja Bullock>;Claire E. Buchan/WHO/EOP@Exchange [WHO]

<Claire E. Buchan>;John M. Bridgeland/OPD/EOP [OPD] <John M. Bridgeland>;Joshua B. Bolten/WHO/EOP@Exchange [WHO] <Joshua B. Bolten>;Bradley A. Blakeman/WHO /EOP@Exchange [WHO] <Bradley A. Blakeman>;Charles P. Blahous/OPD/EOP [OPD] <Charles P. Blahous>;Stephen E. Biegun/NSC/EOP [NSC] <Stephen E. Biegun>;Rebecca A. Beynon/WHO/EOP [WHO] <Rebecca A. Beynon>;Todd W. Beyer/WHO/EOP [WHO] <Todd W. Beyer>;Brian R. Besanceney/WHO/EOP [WHO] <Brian R. Besanceney>;Janet L. Berman/OVP/EOP [OVP] <Janet L. Berman>;Kenneth Bernard/WHO/EOP [WHO] <Kenneth Bernard>;John B. Bellinger/NSC/EOP [NSC] <John B. Bellinger>;H. Christopher Bartolomucci/WHO/EOP [WHO] <H. Christopher Bartolomucci>;Daniel J. Bartlett/WHO /EOP@Exchange [WHO] <Daniel J. Bartlett>;Andrea G. Barthwell/ONDCP/EOP [ONDCP] <Andrea G. Barthwell>;Ruben S. Barrales/WHO/EOP [WHO] <Ruben S. Barrales>;Andrea G. Ball/WHO/EOP@Exchange [WHO] <Andrea G. Ball>;William D. Badger/OPD/EOP [OPD] <William D. Badger>;Jackie Arends/WHO/EOP [WHO] <Jackie Arends>;Richard E. Antaya/WHO/EOP [WHO] <Richard E. Antaya>;George M. Andricos/NSC/EOP [NSC] <George M. Andricos>;Penrose C. Albright/OSTP/EOP [OSTP] <Penrose C. Albright>;Michael Allen/WHO/EOP [WHO] <Michael Allen>;David S. Addington/OVP/EOP [OVP] <David S. Addington>;Elliott Abrams/NSC/EOP [NSC] <Elliott Abrams>;Charles S. Abbot/WHO/EOP [WHO] <Charles S. Abbot>;Jon Spaner/WHO/EOP [WHO] <Jon Spaner>;Shelley Reese/WHO/EOP [WHO] <Shelley Reese>;Deborah Severn/NSC/EOP [NSC] <Deborah Severn>;Allison L. Riepenhoff/WHO/EOP@Exchange [WHO] <Allison L. Riepenhoff>;Gina M. Wolford/NSC/EOP [NSC] <Gina M. Wolford>;Harry W. Wolff/WHO/EOP@Exchange [WHO] <Harry W. Wolff>;Alexian T. Wines/NSC/EOP [NSC] <Alexian T. Wines>;Patricia Williams/WHO/EOP [WHO] <Patricia Williams>;Nikkya G. Williams/NSC/EOP [NSC] <Nikkya G. Williams>;Jared B. Weinstein/WHO/EOP@Exchange [WHO] <Jared B. Weinstein>;Matthew C. Waxman/NSC/EOP [NSC] <Matthew C. Waxman>;Lauren J. Vestewig/OPD/EOP@Exchange [OPD] <Lauren J. Vestewig>;Erin A. Vargo/WHO/EOP [WHO] <Erin A. Vargo>;Tanya T. Turner/WHO/EOP@Exchange [WHO] <Tanya T. Turner>;Terrill G. Tucker/NSC/EOP [NSC] <Terrill G. Tucker>;Anne Trenolone/WHO/EOP@Exchange [WHO] <Anne Trenolone>;David L. Travers/NSC/EOP [NSC] <David L. Travers>;Carol J. Thompson/OPD/EOP [OPD] <Carol J. Thompson>;Julieanne H. Thomas/WHO/EOP [WHO] <Julieanne H. Thomas>;Susan L. Sterner/WHO/EOP [WHO] <Susan L. Sterner>;Ashley Snee/WHO/EOP@Exchange [WHO] <Ashley Snee>;Robert E. Schubert/NSC/EOP [NSC] <Robert E. Schubert>;Noelia Rodriguez/WHO/EOP@Exchange [WHO] <Noelia Rodriguez>;Maurice C. Robinson/NSC/EOP [NSC] <Maurice C. Robinson>;Mark Robinson/NSC/EOP [NSC] <Mark Robinson>;Krista L. Ritacco/WHO/EOP@Exchange [WHO] <Krista L. Ritacco>;January M. Riecke/WHO /EOP@Exchange [WHO] <January M. Riecke>;Katherine A. Rhodes/WHO/EOP@Exchange [WHO] <Katherine A. Rhodes>;Tim Reynolds/WHO/EOP@Exchange [WHO] <Tim Reynolds>;David Reyes/NSC/EOP [NSC] <David Reyes>;Susan B. Ralston/WHO /EOP@Exchange [WHO] <Susan B. Ralston>;A. Morgan Middlemas/WHO/EOP [WHO] <A. Morgan Middlemas>;Lauren McCord/WHO/EOP@Exchange [WHO] <Lauren McCord>;Barbara B. Knight/WHO/EOP@Exchange [WHO] <Barbara B. Knight>;Clare Pritchett/WHO /EOP@Exchange [WHO] <Clare Pritchett>;Suzanne Primoff/WHO/EOP [WHO] <Suzanne Primoff>;John I. Pray/NSC/EOP [NSC] <John I. Pray>;Sarah Penny/WHO/EOP@Exchange [WHO] <Sarah Penny>;Richard S. Paulus/WHO/EOP@Exchange [WHO] <Richard S. Paulus>;Joyce A. Parker/WHO/EOP [WHO] <Joyce A. Parker>;Christie Parell/WHO/EOP [WHO] <Christie Parell>;Edward J. Padinske/NSC/EOP [NSC] <Edward J. Padinske>;Eric H. Otto/OPD/EOP@Exchange [OPD] <Eric H. Otto>;Carolyn Nelson/WHO/EOP@Exchange [WHO] <Carolyn Nelson>;Lee B. Mynatt/NSC/EOP [NSC] <Lee B. Mynatt>;Steven Myers/NSC/EOP [NSC] <Steven Myers>;Paul L. Morse/WHO/EOP@Exchange [WHO] <Paul L. Morse>;Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>;Cathy L. Millison/NSC/EOP [NSC] <Cathy L. Millison>;Sonya E. Medina/WHO/EOP@Exchange [WHO] <Sonya E. Medina>;Vickie A. McQuade/WHO/EOP@Exchange [WHO] <Vickie A. McQuade>;Sara B. McIntosh/WHO/EOP@Exchange [WHO] <Sara B. McIntosh>;Peter A. McCauley/NSC/EOP [NSC] <Peter A. McCauley>;Daniel M. McCarthy/WHO/EOP@Exchange [WHO] <Daniel M. McCarthy>;Thomas S. Marsh/NSC/EOP [NSC] <Thomas S. Marsh>;Elizabeth Liptock/WHO/EOP@Exchange [WHO] <Elizabeth Liptock>;Lindsey M. Lineweaver/WHO/EOP@Exchange [WHO] <Lindsey M. Lineweaver>;Laura E. Lineberry/NSC/EOP [NSC] <Laura E. Lineberry>;Adam L. Levine/WHO/EOP@Exchange [WHO] <Adam L. Levine>;Sang W. Lee/NSC/EOP [NSC] <Sang W. Lee>;David L. Lee/NSC/EOP [NSC] <David L. Lee>;Elliott M. Langer/NSC/EOP [NSC] <Elliott M. Langer>;Ross M. Kyle/WHO/EOP@Exchange [WHO] <Ross M. Kyle>;Jennie M. Koch/NSC/EOP [NSC] <Jennie M. Koch>;Jennifer M. Katzaman/WHO/EOP [WHO] <Jennifer M. Katzaman>;Alexander S. Joves/NSC/EOP [NSC] <Alexander S. Joves>;M. Kay Joshi/NSC/EOP [NSC] <M. Kay

Joshi>;Megan R. Johnston/WHO/EOP@Exchange [WHO] <Megan R. Johnston>;Sydney R. Johnson/WHO/EOP@Exchange [WHO] <Sydney R. Johnson>;Clarence C. Johnson/NSC/EOP [NSC] <Clarence C. Johnson>;Melanie A. Jackson/WHO/EOP@Exchange [WHO] <Melanie A. Jackson>;Marilyn R. Jacanin/WHO/EOP@Exchange [WHO] <Marilyn R. Jacanin>;Joseph Clancy/WHO/EOP [WHO] <Joseph Clancy>;Elizabeth H. Donnan/WHO/EOP [WHO] <Elizabeth H. Donnan>;Theresa M. Hunter/NSC/EOP [NSC] <Theresa M. Hunter>;Taylor A. Hughes/WHO/EOP@Exchange [WHO] <Taylor A. Hughes>;Jason C. Hubbard/NSC/EOP [NSC] <Jason C. Hubbard>;Jeffrey P. Houle/NSC/EOP [NSC] <Jeffrey P. Houle>;David F. Holt/WHO /EOP@Exchange [WHO] <David F. Holt>;Ashley Holbrook/WHO/EOP@Exchange [WHO] <Ashley Holbrook>;Josephine L. Hirsch/WHO/EOP@Exchange [WHO] <Josephine L. Hirsch>;Jane C. Heishman/NSC/EOP [NSC] <Jane C. Heishman>;Anne Heiligenstein/WHO /EOP@Exchange [WHO] <Anne Heiligenstein>;Elizabeth A. Hearn/NSC/EOP [NSC] <Elizabeth A. Hearn>;Leah J. Harrelson/WHO/EOP@Exchange [WHO] <Leah J. Harrelson>;Robert C. Hargis/NSC/EOP [NSC] <Robert C. Hargis>;Mary Ann Hanusa/WHO/EOP [WHO] <Mary Ann Hanusa>;Mary A. Haines/NSC/EOP [NSC] <Mary A. Haines>;Henry C. Hager/WHO /EOP@Exchange [WHO] <Henry C. Hager>;Katharina M. Hager/WHO/EOP [WHO] <Katharina M. Hager>;Albert J. Guarnieri/NSC/EOP [NSC] <Albert J. Guarnieri>;Andrew W. Green/NSC/EOP [NSC] <Andrew W. Green>;Emily S. Gray/WHO/EOP@Exchange [WHO] <Emily S. Gray>;Wendy E. Gray/NSC/EOP [NSC] <Wendy E. Gray>;Ann Gray/WHO /EOP@Exchange [WHO] <Ann Gray>;Britt Grant/OPD/EOP [OPD] <Britt Grant>;Blake Gottesman/WHO/EOP@Exchange [WHO] <Blake Gottesman>;Georgia D. Godfrey/WHO /EOP@Exchange [WHO] <Georgia D. Godfrey>;Eleanor L. Gillmor/OPD/EOP@Exchange [OPD] <Eleanor L. Gillmor>;Dorothy C. Garvin/WHO/EOP@Exchange [WHO] <Dorothy C. Garvin>;Jenna R. Galyean/NSC/EOP [NSC] <Jenna R. Galyean>;Joachim D. Fuchs/NSC/EOP [NSC] <Joachim D. Fuchs>;Restituto M. Francisco/OA/EOP [OA] <Restituto M. Francisco>;Julian M. Flannery/WHO/EOP@Exchange [WHO] <Julian M. Flannery>;Barbara J. Finn/OA/EOP [OA] <Barbara J. Finn>;Kara G. Figg/WHO/EOP@Exchange [WHO] <Kara G. Figg>;Jeanie L. Figg/WHO/EOP@Exchange [WHO] <Jeanie L. Figg>;Jennifer N. Field/OA/EOP [OA] <Jennifer N. Field>;Douglas M. Erdahl/NSC/EOP [NSC] <Douglas M. Erdahl>;Ruth E. Elliott/NSC/EOP [NSC] <Ruth E. Elliott>;Kady Dunlap/WHO/EOP@Exchange [WHO] <Kady Dunlap>;Eric A. Draper/WHO/EOP@Exchange [WHO] <Eric A. Draper>;Penny G. Douglas/WHO/EOP@Exchange [WHO] <Penny G. Douglas>;Joan R. Doty/WHO /EOP@Exchange [WHO] <Joan R. Doty>;Reed Dickens/WHO/EOP@Exchange [WHO] <Reed Dickens>;Josh Deckard/WHO/EOP@Exchange [WHO] <Josh Deckard>;Colin Crosby/NSC/EOP [NSC] <Colin Crosby>;Lynn A. Crable/WHO/EOP [WHO] <Lynn A. Crable>;Jean Cooper/OPD/EOP@Exchange [OPD] <Jean Cooper>;Colby J. Cooper/NSC/EOP [NSC] <Colby J. Cooper>;Carolyn E. Cleveland/WHO/EOP@Exchange [WHO] <Carolyn E. Cleveland>;Christal R. West/WHO/EOP@Exchange [WHO] <Christal R. West>;Shane P. Chambers/WHO/EOP [WHO] <Shane P. Chambers>;Lois A. Cassano/WHO/EOP@Exchange [WHO] <Lois A. Cassano>;Pamela R. Casey/WHO/EOP [WHO] <Pamela R. Casey>;Anne E. Campbell/WHO/EOP@Exchange [WHO] <Anne E. Campbell>;Regina L. Cain/WHO/EOP [WHO] <Regina L. Cain>;Janice L. Burmeister/WHO/EOP [WHO] <Janice L. Burmeister>;Johnathan C. Bunting/NSC/EOP [NSC] <Johnathan C. Bunting>;Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>;Marko R. Broz/NSC/EOP [NSC] <Marko R. Broz>;Katherine A. Brown/NSC/EOP [NSC] <Katherine A. Brown>;Debra S. Brown/WHO/EOP@Exchange [WHO] <Debra S. Brown>;Bonnie S. Broadwick/NSC/EOP [NSC] <Bonnie S. Broadwick>;Gary E. Bresnahan/NSC/EOP [NSC] <Gary E. Bresnahan>;Brian Bravo/WHO/EOP@Exchange [WHO] <Brian Bravo>;Denise Bradley/WHO/EOP@Exchange [WHO] <Denise Bradley>;David R. Bohrer/OVP/EOP [OVP] <David R. Bohrer>;H. Andrew Boerstling/NSC/EOP [NSC] <H. Andrew Boerstling>;Jeff Blair/NSC/EOP [NSC] <Jeff Blair>;Debra D. Bird/WHO/EOP@Exchange [WHO] <Debra D. Bird>;Melissa S. Bennett/WHO /EOP@Exchange [WHO] <Melissa S. Bennett>;Cheryl E. Barnett/NSC/EOP [NSC] <Cheryl E. Barnett>;Tiffany L. Barfield/WHO/EOP@Exchange [WHO] <Tiffany L. Barfield>;Mitchell P. Backfield/NSC/EOP [NSC] <Mitchell P. Backfield>;Chelsey Atkin/WHO/EOP@Exchange [WHO] <Chelsey Atkin>;Lauren K. Allgood/OPD/EOP@Exchange [OPD] <Lauren K. Allgood>

Sent: 4/18/2003 4:49:10 AM

Subject: : POSTMASTER: Mess Holiday Hours

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
```

CREATION DATE/TIME:18-APR-2003 08:49:10.00
SUBJECT:: POSTMASTER: Mess Holiday Hours
TO:Linda Springer (CN=Linda Springer/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Thomas A. Shannon Jr. (CN=Thomas A. Shannon Jr./OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tevi Troy (CN=Tevi Troy/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Stephen J. Yates (CN=Stephen J. Yates/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Candida P. Wolff (CN=Candida P. Wolff/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Daniel K. Wilmot (CN=Daniel K. Wilmot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jocelyn White (CN=Jocelyn White/OU=WHF/O=EOP [OPM])
READ:UNKNOWN
TO:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul A. Wedderien (CN=Paul A. Wedderien/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:John P. Walters (CN=John P. Walters/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Theodore W. Ullyot (CN=Theodore W. Ullyot/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard J. Tubb (CN=Richard J. Tubb/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Karin B. Torgerson (CN=Karin B. Torgerson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Catherine W. Tobias (CN=Catherine W. Tobias/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jeffrey G. Thompson (CN=Jeffrey G. Thompson/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
TO:Phillip L. Swagel (CN=Phillip L. Swagel/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Jose G. Suarez (CN=Jose G. Suarez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Aquiles F. Suarez (CN=Aquiles F. Suarez/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Angela B. Styles (CN=Angela B. Styles/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary A. Solberg (CN=Mary A. Solberg/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Carlos Solari (CN=Carlos Solari/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Augustine T. Smythe (CN=Augustine T. Smythe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Faryar Shirzad (CN=Faryar Shirzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Matthew Scully (CN=Matthew Scully/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gregory L. Schulte (CN=Gregory L. Schulte/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Howard A. Schmidt (CN=Howard A. Schmidt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel Schecter (CN=Daniel Schecter/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard M. Russell (CN=Richard M. Russell/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Peter M. Rowan (CN=Peter M. Rowan/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Thomas J. Ridge (CN=Thomas J. Ridge/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Otto Reich (CN=Otto Reich/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian Reardon (CN=Brian Reardon/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric C. Pelletier (CN=Eric C. Pelletier/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Marcus Peacock (CN=Marcus Peacock/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Neil S. Patel (CN=Neil S. Patel/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Joseph F. O'Neill (CN=Joseph F. O'Neill/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Kathie L. Olsen (CN=Kathie L. Olsen/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Sean C. O'Keefe (CN=Sean C. O'Keefe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Sean B. O'Hollaren (CN=Sean B. O'Hollaren/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Kevin M. O'Donovan (CN=Kevin M. O'Donovan/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Claire M. O'Donnell (CN=Claire M. O'Donnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Julie L. Nichols (CN=Julie L. Nichols/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John F. Newell (CN=John F. Newell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Noam M. Neusner (CN=Noam M. Neusner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Manson O. Morris (CN=Manson O. Morris/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Paul D. Montanus (CN=Paul D. Montanus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen S. McMillin (CN=Stephen S. McMillin/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Charles D. McGrath Jr (CN=Charles D. McGrath Jr/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:James M. McAllister (CN=James M. McAllister/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine J. Martin (CN=Catherine J. Martin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Christopher M. Marston (CN=Christopher M. Marston/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:John H. Marburger (CN=John H. Marburger/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Maisto (CN=John F. Maisto/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin A. MacLean (CN=Robin A. MacLean/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Ado A. Machida (CN=Ado A. Machida/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Andrew Lundquist (CN=Andrew Lundquist/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Stephanie J. Lundberg (CN=Stephanie J. Lundberg/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Deborah A. Loewer (CN=Deborah A. Loewer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elan Liang (CN=Elan Liang/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Laura S. Lawlor (CN=Laura S. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:William Lang (CN=William Lang/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Carol R. Kuntz (CN=Carol R. Kuntz/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jeffrey Kuhlman (CN=Jeffrey Kuhlman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Randall S. Kroszner (CN=Randall S. Kroszner/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Lindsey C. Kozberg (CN=Lindsey C. Kozberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Frank G. Klotz (CN=Frank G. Klotz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Nathaniel Johnson (CN=Nathaniel Johnson/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Gregory J. Jenkins (CN=Gregory J. Jenkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Reuben Jeffery (CN=Reuben Jeffery/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel D. Faoro (CN=Daniel D. Faoro/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
TO:Jennifer R. Brosnahan (CN=Jennifer R. Brosnahan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gregory C. Huffman (CN=Gregory C. Huffman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lewis Hofmann (CN=Lewis Hofmann/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Debra Heiden (CN=Debra Heiden/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John P. Hannah (CN=John P. Hannah/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Terrell L. Halaska (CN=Terrell L. Halaska/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:John Graham (CN=John Graham/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:John A. Gordon (CN=John A. Gordon/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Adam B. Goldman (CN=Adam B. Goldman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Stephen Friedman (CN=Stephen Friedman/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Everson (CN=Mark Everson/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Sandra K. Evans (CN=Sandra K. Evans/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric S. Edelman (CN=Eric S. Edelman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Nancy Dorn (CN=Nancy Dorn/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Diana C. Donnelly (CN=Diana C. Donnelly/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Suzy DeFrancis (CN=Suzy DeFrancis/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:James F. Daniel (CN=James F. Daniel/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
TO:John J. Daly (CN=John J. Daly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stacia L. Cropper (CN=Stacia L. Cropper/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
TO:Barry Crane (CN=Barry Crane/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Christopher C. Cox (CN=Christopher C. Cox/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:James Connaughton (CN=James Connaughton/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Cesar Conda (CN=Cesar Conda/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robin Cleveland (CN=Robin Cleveland/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Frank Cilluffo (CN=Frank Cilluffo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:James C. Capretta (CN=James C. Capretta/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Tim Campen (CN=Tim Campen/OU=OA/O=EOP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:William Cameron (CN=William Cameron/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott Burns (CN=Scott Burns/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Christine M. Burgeson (CN=Christine M. Burgeson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jonathan W. Burks (CN=Jonathan W. Burks/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen E. Biegun (CN=Stephen E. Biegun/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Todd W. Beyer (CN=Todd W. Beyer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brian R. Besanceney (CN=Brian R. Besanceney/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Janet L. Berman (CN=Janet L. Berman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Kenneth Bernard (CN=Kenneth Bernard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Andrea G. Barthwell (CN=Andrea G. Barthwell/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:William D. Badger (CN=William D. Badger/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard E. Antaya (CN=Richard E. Antaya/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Penrose C. Albright (CN=Penrose C. Albright/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Michael Allen (CN=Michael Allen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jon Spaner (CN=Jon Spaner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Shelley Reese (CN=Shelley Reese/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Deborah Severn (CN=Deborah Severn/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Allison L. Riepenhoff (CN=Allison L. Riepenhoff/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Gina M. Wolford (CN=Gina M. Wolford/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harry W. Wolff (CN=Harry W. Wolff/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Alexian T. Wines (CN=Alexian T. Wines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patricia Williams (CN=Patricia Williams/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nikkya G. Williams (CN=Nikkya G. Williams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jared B. Weinstein (CN=Jared B. Weinstein/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Matthew C. Waxman (CN=Matthew C. Waxman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lauren J. Vestewig (CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Erin A. Vargo (CN=Erin A. Vargo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tanya T. Turner (CN=Tanya T. Turner/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Terrill G. Tucker (CN=Terrill G. Tucker/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anne Trenolone (CN=Anne Trenolone/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:David L. Travers (CN=David L. Travers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Carol J. Thompson (CN=Carol J. Thompson/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Julieanne H. Thomas (CN=Julieanne H. Thomas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan L. Sterner (CN=Susan L. Sterner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Robert E. Schubert (CN=Robert E. Schubert/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noelia Rodriguez (CN=Noelia Rodriguez/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Maurice C. Robinson (CN=Maurice C. Robinson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mark Robinson (CN=Mark Robinson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN

TO:January M. Riecke (CN=January M. Riecke/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Katherine A. Rhodes (CN=Katherine A. Rhodes/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Tim Reynolds (CN=Tim Reynolds/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:David Reyes (CN=David Reyes/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:A. Morgan Middlemas (CN=A. Morgan Middlemas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lauren McCord (CN=Lauren McCord/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Barbara B. Knight (CN=Barbara B. Knight/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Clare Pritchett (CN=Clare Pritchett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Suzanne Primoff (CN=Suzanne Primoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John I. Pray (CN=John I. Pray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah Penny (CN=Sarah Penny/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Richard S. Paulus (CN=Richard S. Paulus/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Joyce A. Parker (CN=Joyce A. Parker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christie Parell (CN=Christie Parell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward J. Padinske (CN=Edward J. Padinske/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric H. Otto (CN=Eric H. Otto/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Carolyn Nelson (CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Lee B. Mynatt (CN=Lee B. Mynatt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Steven Myers (CN=Steven Myers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Paul L. Morse (CN=Paul L. Morse/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Cathy L. Millison (CN=Cathy L. Millison/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sonya E. Medina (CN=Sonya E. Medina/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Vickie A. McQuade (CN=Vickie A. McQuade/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Sara B. McIntosh (CN=Sara B. McIntosh/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Peter A. McCauley (CN=Peter A. McCauley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel M. McCarthy (CN=Daniel M. McCarthy/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Thomas S. Marsh (CN=Thomas S. Marsh/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth Liptock (CN=Elizabeth Liptock/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Lindsey M. Lineweaver (CN=Lindsey M. Lineweaver/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Laura E. Lineberry (CN=Laura E. Lineberry/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Adam L. Levine (CN=Adam L. Levine/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Sang W. Lee (CN=Sang W. Lee/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:David L. Lee (CN=David L. Lee/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elliott M. Langer (CN=Elliott M. Langer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ross M. Kyle (CN=Ross M. Kyle/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jennie M. Koch (CN=Jennie M. Koch/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jennifer M. Katzaman (CN=Jennifer M. Katzaman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Alexander S. Joves (CN=Alexander S. Joves/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:M. Kay Joshi (CN=M. Kay Joshi/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Megan R. Johnston (CN=Megan R. Johnston/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Sydney R. Johnson (CN=Sydney R. Johnson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Clarence C. Johnson (CN=Clarence C. Johnson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Melanie A. Jackson (CN=Melanie A. Jackson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Marilyn R. Jacanin (CN=Marilyn R. Jacanin/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Joseph Clancy (CN=Joseph Clancy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elizabeth H. Donnan (CN=Elizabeth H. Donnan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Theresa M. Hunter (CN=Theresa M. Hunter/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Taylor A. Hughes (CN=Taylor A. Hughes/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jason C. Hubbard (CN=Jason C. Hubbard/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jeffrey P. Houle (CN=Jeffrey P. Houle/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David F. Holt (CN=David F. Holt/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Ashley Holbrook (CN=Ashley Holbrook/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Josephine L. Hirsch (CN=Josephine L. Hirsch/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jane C. Heishman (CN=Jane C. Heishman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anne Heiligenstein (CN=Anne Heiligenstein/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Elizabeth A. Hearn (CN=Elizabeth A. Hearn/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Leah J. Harrelson (CN=Leah J. Harrelson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Robert C. Hargis (CN=Robert C. Hargis/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary Ann Hanusa (CN=Mary Ann Hanusa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary A. Haines (CN=Mary A. Haines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Henry C. Hager (CN=Henry C. Hager/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Katharina M. Hager (CN=Katharina M. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Albert J. Guarnieri (CN=Albert J. Guarnieri/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Andrew W. Green (CN=Andrew W. Green/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Emily S. Gray (CN=Emily S. Gray/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Wendy E. Gray (CN=Wendy E. Gray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Britt Grant (CN=Britt Grant/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Georgia D. Godfrey (CN=Georgia D. Godfrey/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Dorothy C. Garvin (CN=Dorothy C. Garvin/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jenna R. Galyean (CN=Jenna R. Galyean/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Joachim D. Fuchs (CN=Joachim D. Fuchs/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Restituto M. Francisco (CN=Restituto M. Francisco/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Julian M. Flannery (CN=Julian M. Flannery/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Barbara J. Finn (CN=Barbara J. Finn/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jeanie L. Figg (CN=Jeanie L. Figg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jennifer N. Field (CN=Jennifer N. Field/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Douglas M. Erdahl (CN=Douglas M. Erdahl/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ruth E. Elliott (CN=Ruth E. Elliott/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kady Dunlap (CN=Kady Dunlap/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Eric A. Draper (CN=Eric A. Draper/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Penny G. Douglas (CN=Penny G. Douglas/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Joan R. Doty (CN=Joan R. Doty/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Reed Dickens (CN=Reed Dickens/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Josh Deckard (CN=Josh Deckard/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Colin Crosby (CN=Colin Crosby/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lynn A. Crable (CN=Lynn A. Crable/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jean Cooper (CN=Jean Cooper/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Colby J. Cooper (CN=Colby J. Cooper/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Christal R. West (CN=Christal R. West/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Shane P. Chambers (CN=Shane P. Chambers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lois A. Cassano (CN=Lois A. Cassano/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Pamela R. Casey (CN=Pamela R. Casey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne E. Campbell (CN=Anne E. Campbell/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Regina L. Cain (CN=Regina L. Cain/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Janice L. Burmeister (CN=Janice L. Burmeister/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Johnathan C. Bunting (CN=Johnathan C. Bunting/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Marko R. Broz (CN=Marko R. Broz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Katherine A. Brown (CN=Katherine A. Brown/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Debra S. Brown (CN=Debra S. Brown/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Bonnie S. Broadwick (CN=Bonnie S. Broadwick/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gary E. Bresnahan (CN=Gary E. Bresnahan/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Denise Bradley (CN=Denise Bradley/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:David R. Bohrer (CN=David R. Bohrer/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:H. Andrew Boerstling (CN=H. Andrew Boerstling/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jeff Blair (CN=Jeff Blair/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Cheryl E. Barnett (CN=Cheryl E. Barnett/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Mitchell P. Backfield (CN=Mitchell P. Backfield/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Chelsey Atkin (CN=Chelsey Atkin/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Lauren K. Allgood (CN=Lauren K. Allgood/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
End Original ARMS Header

Mess Holiday Hours

In observance of the Holiday, the White House Mess will close for business at 3:00 PM on Friday, April 18 and remain closed through Sunday, April 20. Normal business hours will resume at 6:45 AM on Monday, April 21. If the need arises, necessary arrangements will be made to meet any unforeseen demands.

We apologize for any inconvenience.

Thank you.
#00287

MANAGEMENT AND ADMINISTRATION

From: CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/18/2003 5:59:18 AM
Subject: : RE: 2 issues

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:18-APR-2003 09:59:18.00
SUBJECT:: RE: 2 issues
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Perfect! Thanks!

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Friday, April 18, 2003 9:58 AM
To: Litkenhaus, Colleen
Subject: RE: 2 issues

On 1, they tell me that the vast majority of Ellipse parking is already reserved for WH parkers. They also tell me there is no legal problem with sectioning off spaces for 150 WH parkers as requested. (For security reasons, the Ellipse is closed to public parkers, which then makes it available for WH parkers.)

From: Colleen Litkenhaus/WHO/EOP@Exchange on 04/17/2003 07:07:05 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE: 2 issues

1. We haven't decided how to resolve the Ellipse parking problem. I am still wondering if it is an option to section off some of the Ellipse for WH parkers. Could potentially be 150 parkers.

2. The IRS issue had to do with the Travel Office and the Press. I'll ask Eric Terrell about it again on Monday.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Thursday, April 17, 2003 5:50 PM
To: Litkenhaus, Colleen
Subject: 2 issues

1. Parking: Interior tells me that Anne Bowman Smith has been helping on this and that it is all but resolved. Is that accurate?
2. Greenstone does not think there are any action items now on the IRS issue. (Does this relate to parking and W2's?) If you disagree, let me know.

From: CN=Jeanie S. Mamo/OU=WHO/O=EOP [WHO]
To: Ashley Snee/WHO/EOP@Exchange@EOP [WHO] <Ashley Snee>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/18/2003 7:11:33 AM
Subject: : Raleigh N&O (4/18/03) re: Edwards on trail in Iowa (see coments on litmus tests for judges.. FYI)

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jeanie S. Mamo (CN=Jeanie S. Mamo/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-APR-2003 11:11:33.00
SUBJECT:: Raleigh N&O (4/18/03) re: Edwards on trail in Iowa (see coments on litmus tests for judges.. FYI)
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Friday, April 18, 2003 12:00AM EDT

ÿUNDER THE DOME Edwards on trail in Iowa

By ROB CHRISTENSEN AND JOHN WAGNER, Staff Writers
Raleigh (NC) News & Observer
U.S. Sen. John Edwards said Thursday that if elected president he would not apply a "litmus test" on abortion to his nominees to the U.S. Supreme Court and other judicial posts.
The North Carolina Democrat made his comments during a breakfast in Waterloo, Iowa, that kicked off a day of campaigning in the nation's first presidential caucus state. He was responding to a question from an activist about recent comments on the subject by rival 2004 candidate, U.S. Sen. John Kerry of Massachusetts.
Edwards said he believes strongly in reproductive choice, but he said, "I would not apply any single litmus to any candidates." Edwards said a candidate's views on abortion would be one of several factors considered.
Earlier this month, Kerry told a group of female Democrats that if elected president he would nominate to the high court only supporters of abortion rights under its Roe v. Wade decision.
During Edwards' six-city swing Thursday, he also stepped up criticism of President Bush as out of touch on the economy.
During a luncheon that drew more than 100 people to Davenport, Edwards praised the economic stewardship of President Clinton and said Bush had put the country "back in that deficit ditch."
"He's walking around in the Rose Garden promoting budget-busting tax cuts while people out here in the real world are hurting," Edwards said.
Also noteworthy about Thursday's time on the trail: Edwards, who supports the war against Iraq, said he thinks the U.S. should approach the threat of Syria through diplomacy.
"Syria does have a very bad history," including the harboring of terrorists, Edwards said. "But at the end of the day, this is something that should be dealt with diplomatically."
He called Iraq "a unique case."

From: Bumatay, Patrick J.
To: <Kavanaugh, Brett M.>
Sent: 4/18/2003 8:33:26 AM
Subject: RE: who has this in our office -- LRM JDB10 - - Signing Statement on HR1584 Clean Diamond Trade Act

Is there an issue?

-----Original Message-----

From: Kavanaugh, Brett M.

Sent: Thursday, April 17, 2003 7:28 PM

To: Bumatay, Patrick J.; Nelson, Carolyn

Subject: who has this in our office – LRM JDB10 - - Signing Statement on HR1584 Clean Diamond Trade Act

From: CN=PostMaster/O=EOP [OA]

To: Linda Springer/OMB/EOP [OMB] <Linda Springer>;Thomas A. Shannon Jr./NSC/EOP [NSC] <Thomas A. Shannon Jr.>;Tevi Troy/WHO/EOP@Exchange [WHO] <Tevi Troy>;Stephen J. Yates/OVP/EOP [OVP] <Stephen J. Yates>;Candida P. Wolff/OVP/EOP [OVP] <Candida P. Wolff>;Daniel K. Wilmot/OVP/EOP [OVP] <Daniel K. Wilmot>;Jocelyn White/WHF/EOP [OPM] <Jocelyn White>;Lezlee J. Westine/WHO/EOP [WHO] <Lezlee J. Westine>;Peter H. Wehner/WHO/EOP [WHO] <Peter H. Wehner>;Paul A. Wedderien/NSC/EOP [NSC] <Paul A. Wedderien>;Kevin Warsh/OPD/EOP [OPD] <Kevin Warsh>;John P. Walters/ONDCP/EOP [ONDCP] <John P. Walters>;Theodore W. Ullyot/WHO/EOP [WHO] <Theodore W. Ullyot>;Richard J. Tubb/WHO/EOP [WHO] <Richard J. Tubb>;Jim Towey/WHO/EOP [WHO] <Jim Towey>;Karin B. Torgerson/WHO/EOP@Exchange [WHO] <Karin B. Torgerson>;Catherine W. Tobias/OVP/EOP [OVP] <Catherine W. Tobias>;Jeffrey G. Thompson/OA/EOP@Exchange [OA] <Jeffrey G. Thompson>;Phillip L. Swagel/CEA/EOP [CEA] <Phillip L. Swagel>;Jose G. Suarez/WHO/EOP [WHO] <Jose G. Suarez>;Aquiles F. Suarez/OPD/EOP [OPD] <Aquiles F. Suarez>;Angela B. Styles/OMB/EOP [OMB] <Angela B. Styles>;Mary K. Sturtevant/NSC/EOP [NSC] <Mary K. Sturtevant>;Margaret M. Spellings/OPD /EOP@Exchange [OPD] <Margaret M. Spellings>;Deborah A. Spagnoli/WHO/EOP [WHO] <Deborah A. Spagnoli>;Mary A. Solberg/ONDCP/EOP [ONDCP] <Mary A. Solberg>;Carlos Solari/OA/EOP [OA] <Carlos Solari>;Augustine T. Smythe/OMB/EOP [OMB] <Augustine T. Smythe>;Kristen Silverberg/WHO/EOP@Exchange [WHO] <Kristen Silverberg>;Faryar Shirzad/NSC/EOP [NSC] <Faryar Shirzad>;Scott N. Sforza/WHO/EOP [WHO] <Scott N. Sforza>;Matthew Scully/WHO/EOP [WHO] <Matthew Scully>;Gregory L. Schulte/NSC/EOP [NSC] <Gregory L. Schulte>;Howard A. Schmidt/NSC/EOP [NSC] <Howard A. Schmidt>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Daniel Schecter/ONDCP/EOP [ONDCP] <Daniel Schecter>;Diana L. Schacht/OPD/EOP [OPD] <Diana L. Schacht>;Desiree T. Sayle/WHO/EOP [WHO] <Desiree T. Sayle>;Kyle Sampson/WHO/EOP [WHO] <Kyle Sampson>;Richard M. Russell/OSTP/EOP [OSTP] <Richard M. Russell>;Peter M. Rowan/OVP/EOP [OVP] <Peter M. Rowan>;Karl C. Rove/WHO /EOP@Exchange [WHO] <Karl C. Rove>;Thomas J. Ridge/WHO/EOP [WHO] <Thomas J. Ridge>;Condoleezza Rice/NSC/EOP [NSC] <Condoleezza Rice>;Otto Reich/NSC/EOP [NSC] <Otto Reich>;Brian Reardon/OPD/EOP [OPD] <Brian Reardon>;Dina Powell/WHO /EOP@Exchange [WHO] <Dina Powell>;Benjamin A. Powell/WHO/EOP [WHO] <Benjamin A. Powell>;Philip J. Perry/OMB/EOP [OMB] <Philip J. Perry>;Anna M. Perez/NSC/EOP [NSC] <Anna M. Perez>;Eric C. Pelletier/WHO/EOP@Exchange [WHO] <Eric C. Pelletier>;Marcus Peacock/OMB/EOP [OMB] <Marcus Peacock>;Neil S. Patel/OVP/EOP [OVP] <Neil S. Patel>;Joseph F. O'Neill/OPD/EOP [OPD] <Joseph F. O'Neill>;Kathie L. Olsen/OSTP/EOP [OSTP] <Kathie L. Olsen>;Sean C. O'Keefe/OMB/EOP [OMB] <Sean C. O'Keefe>;Ziad S. Ojakli/WHO/EOP@Exchange [WHO] <Ziad S. Ojakli>;Sean B. O'Hollaren/WHO /EOP@Exchange [WHO] <Sean B. O'Hollaren>;Kevin M. O'Donovan/OVP/EOP [OVP] <Kevin M. O'Donovan>;Claire M. O'Donnell/OVP/EOP [OVP] <Claire M. O'Donnell>;Julie L. Nichols/OVP/EOP [OVP] <Julie L. Nichols>;Jennifer G. Newstead/WHO/EOP [WHO] <Jennifer G. Newstead>;John F. Newell/WHO/EOP [WHO] <John F. Newell>;Noam M. Neusner/WHO/EOP [WHO] <Noam M. Neusner>;Edmund C. Moy/WHO/EOP [WHO] <Edmund C. Moy>;Manson O. Morris/OVP/EOP [OVP] <Manson O. Morris>;James F. Moriarty/NSC/EOP [NSC] <James F. Moriarty>;Brian D. Montgomery/WHO/EOP@Exchange [WHO] <Brian D. Montgomery>;Paul D. Montanus/WHO/EOP [WHO] <Paul D. Montanus>;Michael H. Miller/WHO/EOP@Exchange [WHO] <Michael H. Miller>;Franklin C. Miller/NSC/EOP [NSC] <Franklin C. Miller>;Harriet Miers/WHO/EOP@Exchange [WHO] <Harriet Miers>;Ken Mehlman/WHO/EOP [WHO] <Ken Mehlman>;Edward McNally/WHO/EOP [WHO] <Edward McNally>;Robert C. McNally/OPD/EOP [OPD] <Robert C. McNally>;Stephen S. McMillin/OMB/EOP [OMB] <Stephen S. McMillin>;Charles D. McGrath Jr/OVP/EOP [OVP] <Charles D. McGrath Jr>;Brian V. McCormack/OVP/EOP [OVP] <Brian V. McCormack>;John P. McConnell/WHO/EOP [WHO] <John P. McConnell>;Scott McClellan/WHO/EOP@Exchange [WHO] <Scott McClellan>;James M. McAllister/WHO/EOP [WHO] <James M. McAllister>;Catherine J. Martin/OVP/EOP [OVP] <Catherine J. Martin>;Christopher M. Marston/ONDCP/EOP [ONDCP] <Christopher M. Marston>;Robert Marsh/WHO /EOP@Exchange [WHO] <Robert Marsh>;John H. Marburger/OSTP/EOP [OSTP] <John H. Marburger>;John F. Maisto/NSC/EOP [NSC] <John F. Maisto>;Robin A. MacLean/WHO /EOP@Exchange [WHO] <Robin A. MacLean>;Ado A. Machida/OVP/EOP [OVP] <Ado A. Machida>;Andrew Lundquist/NSC/EOP [NSC] <Andrew Lundquist>;Stephanie J. Lundberg/OVP/EOP [OVP] <Stephanie J. Lundberg>;Ginger G. Loper/WHO/EOP@Exchange [

WHO] <Ginger G. Loper>;Deborah A. Loewer/NSC/EOP [NSC] <Deborah A. Loewer>;Colleen Litkenhaus/WHO/EOP@Exchange [WHO] <Colleen Litkenhaus>;Lewis Libby/OVP/EOP [OVP] <Lewis Libby>;Elan Liang/WHO/EOP@Exchange [WHO] <Elan Liang>;David G. Leitch/WHO /EOP@Exchange [WHO] <David G. Leitch>;Jay P. Lefkowitz/OPD/EOP@Exchange [OPD] <Jay P. Lefkowitz>;Laura S. Lawlor/WHO/EOP [WHO] <Laura S. Lawlor>;William Lang/WHO/EOP [WHO] <William Lang>;Paul B. Kurtz/NSC/EOP [NSC] <Paul B. Kurtz>;David Kuo/WHO/EOP [WHO] <David Kuo>;Carol R. Kuntz/OVP/EOP [OVP] <Carol R. Kuntz>;Jeffrey Kuhlman/WHO/EOP [WHO] <Jeffrey Kuhlman>;Randall S. Kroszner/CEA/EOP [CEA] <Randall S. Kroszner>;Lindsey C. Kozberg/WHO/EOP [WHO] <Lindsey C. Kozberg>;Frank G. Klotz/NSC/EOP [NSC] <Frank G. Klotz>;Elizabeth W. Kleppe/OVP/EOP [OVP] <Elizabeth W. Kleppe>;Matthew Kirk/WHO/EOP@Exchange [WHO] <Matthew Kirk>;Zalmay M. Khalilzad/NSC/EOP [NSC] <Zalmay M. Khalilzad>;Daniel J. Keniry/WHO /EOP@Exchange [WHO] <Daniel J. Keniry>;James M. Kelly/WHO/EOP [WHO] <James M. Kelly>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Joel D. Kaplan/WHO /EOP@Exchange [WHO] <Joel D. Kaplan>;Robert G. Joseph/NSC/EOP [NSC] <Robert G. Joseph>;Nathaniel Johnson/OVP/EOP [OVP] <Nathaniel Johnson>;Clay Johnson III/WHO /EOP@Exchange [WHO] <Clay Johnson III>;Gregory J. Jenkins/WHO/EOP [WHO] <Gregory J. Jenkins>;Reuben Jeffery/OPD/EOP [OPD] <Reuben Jeffery>;Barry S. Jackson/WHO/EOP [WHO] <Barry S. Jackson>;Edward Ingle/WHO/EOP [WHO] <Edward Ingle>;Daniel D. Faoro/OA/EOP@Exchange [OA] <Daniel D. Faoro>;Jennifer R. Brosnahan/WHO/EOP [WHO] <Jennifer R. Brosnahan>;Gregory C. Huffman/WHO/EOP [WHO] <Gregory C. Huffman>;Lewis Hofmann/WHO/EOP [WHO] <Lewis Hofmann>;David W. Hobbs/WHO/EOP@Exchange [WHO] <David W. Hobbs>;Israel Hernandez/WHO/EOP@Exchange [WHO] <Israel Hernandez>;Keith Hennessey/OPD/EOP@Exchange [OPD] <Keith Hennessey>;Debra Heiden/OVP/EOP [OVP] <Debra Heiden>;John P. Hannah/OVP/EOP [OVP] <John P. Hannah>;Terrell L. Halaska/OPD/EOP [OPD] <Terrell L. Halaska>;Joseph W. Hagin/WHO/EOP@Exchange [WHO] <Joseph W. Hagin>;Stephen J. Hadley/NSC/EOP [NSC] <Stephen J. Hadley>;Wendy J. Grubbs/WHO/EOP@Exchange [WHO] <Wendy J. Grubbs>;John Graham/OMB/EOP [OMB] <John Graham>;John A. Gordon/NSC/EOP [NSC] <John A. Gordon>;Alberto R. Gonzales/WHO /EOP@Exchange [WHO] <Alberto R. Gonzales>;Adam B. Goldman/WHO/EOP [WHO] <Adam B. Goldman>;Tim Goeglein/WHO/EOP [WHO] <Tim Goeglein>;Alan Gilbert/OPD/EOP [OPD] <Alan Gilbert>;Michael J. Gerson/WHO/EOP@Exchange [WHO] <Michael J. Gerson>;Kelley Gannon/WHO/EOP [WHO] <Kelley Gannon>;Linda M. Gambatesa/WHO/EOP@Exchange [WHO] <Linda M. Gambatesa>;Stephen Friedman/OPD/EOP@Exchange [OPD] <Stephen Friedman>;Daniel Fried/NSC/EOP [NSC] <Daniel Fried>;Jendayi E. Frazer/NSC/EOP [NSC] <Jendayi E. Frazer>;Noel J. Francisco/WHO/EOP [WHO] <Noel J. Francisco>;Lawrence A. Fleischer/WHO/EOP@Exchange [WHO] <Lawrence A. Fleischer>;Catherine S. Fenton/WHO /EOP@Exchange [WHO] <Catherine S. Fenton>;Richard Falkenrath/WHO/EOP [WHO] <Richard Falkenrath>;Nanette Everson/WHO/EOP [WHO] <Nanette Everson>;Mark Everson/OMB/EOP [OMB] <Mark Everson>;Sandra K. Evans/OA/EOP@Exchange [OA] <Sandra K. Evans>;Ashley Estes/WHO/EOP@Exchange [WHO] <Ashley Estes>;Tucker A. Eskew/WHO/EOP [WHO] <Tucker A. Eskew>;Gary R. Edson/NSC/EOP [NSC] <Gary R. Edson>;Eric S. Edelman/OVP/EOP [OVP] <Eric S. Edelman>;Elizabeth S. Dougherty/OPD/EOP [OPD] <Elizabeth S. Dougherty>;Nancy Dorn/OMB/EOP [OMB] <Nancy Dorn>;Diana C. Donnelly/WHO/EOP@Exchange [WHO] <Diana C. Donnelly>;Nicolle Devenish/WHO/EOP [WHO] <Nicolle Devenish>;Suzy DeFrancis/WHO/EOP@Exchange [WHO] <Suzy DeFrancis>;Mitchell Daniels/OMB/EOP [OMB] <Mitchell Daniels>;James F. Daniel/OA /EOP@Exchange [OA] <James F. Daniel>;John J. Daly/WHO/EOP [WHO] <John J. Daly>;Stacia L. Cropper/OA/EOP@Exchange [OA] <Stacia L. Cropper>;Barry Crane/ONDCP/EOP [ONDCP] <Barry Crane>;Christopher C. Cox/WHO/EOP@Exchange [WHO] <Christopher C. Cox>;Phil Cooney/CEQ/EOP [CEQ] <Phil Cooney>;Rebecca Contreras/WHO/EOP [WHO] <Rebecca Contreras>;Charles Conner/OPD/EOP [OPD] <Charles Conner>;James Connaughton/CEQ/EOP [CEQ] <James Connaughton>;Cesar Conda/OVP/EOP [OVP] <Cesar Conda>;Robin Cleveland/OMB/EOP [OMB] <Robin Cleveland>;Alicia P. Clark/WHO/EOP [WHO] <Alicia P. Clark>;Frank Cilluffo/WHO/EOP [WHO] <Frank Cilluffo>;Ronald I. Christie/OPD/EOP [OPD] <Ronald I. Christie>;Kirsten A. Chadwick/WHO/EOP@Exchange [WHO] <Kirsten A. Chadwick>;Andrew H. Card/WHO /EOP@Exchange [WHO] <Andrew H. Card>;James C. Capretta/OMB/EOP [OMB] <James C. Capretta>;Tim Campen/OA/EOP@Exchange [UNKNOWN] <Tim Campen>;William Cameron/WHO/EOP [WHO] <William Cameron>;Scott Burns/ONDCP/EOP [ONDCP] <Scott Burns>;Christine M. Burgeson/WHO/EOP@Exchange [WHO] <Christine M. Burgeson>;Jonathan W. Burks/WHO/EOP@Exchange [WHO] <Jonathan W. Burks>;Katja Bullock/WHO/EOP [WHO] <Katja Bullock>;Claire E. Buchan/WHO/EOP@Exchange [WHO]

<Claire E. Buchan>;John M. Bridgeland/OPD/EOP [OPD] <John M. Bridgeland>;Joshua B. Bolten/WHO/EOP@Exchange [WHO] <Joshua B. Bolten>;Bradley A. Blakeman/WHO /EOP@Exchange [WHO] <Bradley A. Blakeman>;Charles P. Blahous/OPD/EOP [OPD] <Charles P. Blahous>;Stephen E. Biegun/NSC/EOP [NSC] <Stephen E. Biegun>;Rebecca A. Beynon/WHO/EOP [WHO] <Rebecca A. Beynon>;Todd W. Beyer/WHO/EOP [WHO] <Todd W. Beyer>;Brian R. Besanceney/WHO/EOP [WHO] <Brian R. Besanceney>;Janet L. Berman/OVP/EOP [OVP] <Janet L. Berman>;Kenneth Bernard/WHO/EOP [WHO] <Kenneth Bernard>;John B. Bellinger/NSC/EOP [NSC] <John B. Bellinger>;H. Christopher Bartolomucci/WHO/EOP [WHO] <H. Christopher Bartolomucci>;Daniel J. Bartlett/WHO /EOP@Exchange [WHO] <Daniel J. Bartlett>;Andrea G. Barthwell/ONDCP/EOP [ONDCP] <Andrea G. Barthwell>;Ruben S. Barrales/WHO/EOP [WHO] <Ruben S. Barrales>;Andrea G. Ball/WHO/EOP@Exchange [WHO] <Andrea G. Ball>;William D. Badger/OPD/EOP [OPD] <William D. Badger>;Jackie Arends/WHO/EOP [WHO] <Jackie Arends>;Richard E. Antaya/WHO/EOP [WHO] <Richard E. Antaya>;George M. Andricos/NSC/EOP [NSC] <George M. Andricos>;Penrose C. Albright/OSTP/EOP [OSTP] <Penrose C. Albright>;Michael Allen/WHO/EOP [WHO] <Michael Allen>;David S. Addington/OVP/EOP [OVP] <David S. Addington>;Elliott Abrams/NSC/EOP [NSC] <Elliott Abrams>;Charles S. Abbot/WHO/EOP [WHO] <Charles S. Abbot>;Jon Spaner/WHO/EOP [WHO] <Jon Spaner>;Shelley Reese/WHO/EOP [WHO] <Shelley Reese>;Deborah Severn/NSC/EOP [NSC] <Deborah Severn>;Allison L. Riepenhoff/WHO/EOP@Exchange [WHO] <Allison L. Riepenhoff>;Gina M. Wolford/NSC/EOP [NSC] <Gina M. Wolford>;Harry W. Wolff/WHO/EOP@Exchange [WHO] <Harry W. Wolff>;Alexian T. Wines/NSC/EOP [NSC] <Alexian T. Wines>;Patricia Williams/WHO/EOP [WHO] <Patricia Williams>;Nikkya G. Williams/NSC/EOP [NSC] <Nikkya G. Williams>;Jared B. Weinstein/WHO/EOP@Exchange [WHO] <Jared B. Weinstein>;Matthew C. Waxman/NSC/EOP [NSC] <Matthew C. Waxman>;Lauren J. Vestewig/OPD/EOP@Exchange [OPD] <Lauren J. Vestewig>;Erin A. Vargo/WHO/EOP [WHO] <Erin A. Vargo>;Tanya T. Turner/WHO/EOP@Exchange [WHO] <Tanya T. Turner>;Terrill G. Tucker/NSC/EOP [NSC] <Terrill G. Tucker>;Anne Trenolone/WHO/EOP@Exchange [WHO] <Anne Trenolone>;David L. Travers/NSC/EOP [NSC] <David L. Travers>;Carol J. Thompson/OPD/EOP [OPD] <Carol J. Thompson>;Julieanne H. Thomas/WHO/EOP [WHO] <Julieanne H. Thomas>;Susan L. Sterner/WHO/EOP [WHO] <Susan L. Sterner>;Ashley Snee/WHO/EOP@Exchange [WHO] <Ashley Snee>;Robert E. Schubert/NSC/EOP [NSC] <Robert E. Schubert>;Noelia Rodriguez/WHO/EOP@Exchange [WHO] <Noelia Rodriguez>;Maurice C. Robinson/NSC/EOP [NSC] <Maurice C. Robinson>;Mark Robinson/NSC/EOP [NSC] <Mark Robinson>;Krista L. Ritacco/WHO/EOP@Exchange [WHO] <Krista L. Ritacco>;January M. Riecke/WHO /EOP@Exchange [WHO] <January M. Riecke>;Katherine A. Rhodes/WHO/EOP@Exchange [WHO] <Katherine A. Rhodes>;Tim Reynolds/WHO/EOP@Exchange [WHO] <Tim Reynolds>;David Reyes/NSC/EOP [NSC] <David Reyes>;Susan B. Ralston/WHO /EOP@Exchange [WHO] <Susan B. Ralston>;A. Morgan Middlemas/WHO/EOP [WHO] <A. Morgan Middlemas>;Lauren McCord/WHO/EOP@Exchange [WHO] <Lauren McCord>;Barbara B. Knight/WHO/EOP@Exchange [WHO] <Barbara B. Knight>;Clare Pritchett/WHO /EOP@Exchange [WHO] <Clare Pritchett>;Suzanne Primoff/WHO/EOP [WHO] <Suzanne Primoff>;John I. Pray/NSC/EOP [NSC] <John I. Pray>;Sarah Penny/WHO/EOP@Exchange [WHO] <Sarah Penny>;Richard S. Paulus/WHO/EOP@Exchange [WHO] <Richard S. Paulus>;Joyce A. Parker/WHO/EOP [WHO] <Joyce A. Parker>;Christie Parell/WHO/EOP [WHO] <Christie Parell>;Edward J. Padinske/NSC/EOP [NSC] <Edward J. Padinske>;Eric H. Otto/OPD/EOP@Exchange [OPD] <Eric H. Otto>;Carolyn Nelson/WHO/EOP@Exchange [WHO] <Carolyn Nelson>;Lee B. Mynatt/NSC/EOP [NSC] <Lee B. Mynatt>;Steven Myers/NSC/EOP [NSC] <Steven Myers>;Paul L. Morse/WHO/EOP@Exchange [WHO] <Paul L. Morse>;Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>;Cathy L. Millison/NSC/EOP [NSC] <Cathy L. Millison>;Sonya E. Medina/WHO/EOP@Exchange [WHO] <Sonya E. Medina>;Vickie A. McQuade/WHO/EOP@Exchange [WHO] <Vickie A. McQuade>;Sara B. McIntosh/WHO/EOP@Exchange [WHO] <Sara B. McIntosh>;Peter A. McCauley/NSC/EOP [NSC] <Peter A. McCauley>;Daniel M. McCarthy/WHO/EOP@Exchange [WHO] <Daniel M. McCarthy>;Thomas S. Marsh/NSC/EOP [NSC] <Thomas S. Marsh>;Elizabeth Liptock/WHO/EOP@Exchange [WHO] <Elizabeth Liptock>;Lindsey M. Lineweaver/WHO/EOP@Exchange [WHO] <Lindsey M. Lineweaver>;Laura E. Lineberry/NSC/EOP [NSC] <Laura E. Lineberry>;Adam L. Levine/WHO/EOP@Exchange [WHO] <Adam L. Levine>;Sang W. Lee/NSC/EOP [NSC] <Sang W. Lee>;David L. Lee/NSC/EOP [NSC] <David L. Lee>;Elliott M. Langer/NSC/EOP [NSC] <Elliott M. Langer>;Ross M. Kyle/WHO/EOP@Exchange [WHO] <Ross M. Kyle>;Jennie M. Koch/NSC/EOP [NSC] <Jennie M. Koch>;Jennifer M. Katzaman/WHO/EOP [WHO] <Jennifer M. Katzaman>;Alexander S. Joves/NSC/EOP [NSC] <Alexander S. Joves>;M. Kay Joshi/NSC/EOP [NSC] <M. Kay

Joshi>;Megan R. Johnston/WHO/EOP@Exchange [WHO] <Megan R. Johnston>;Sydney R. Johnson/WHO/EOP@Exchange [WHO] <Sydney R. Johnson>;Clarence C. Johnson/NSC/EOP [NSC] <Clarence C. Johnson>;Melanie A. Jackson/WHO/EOP@Exchange [WHO] <Melanie A. Jackson>;Marilyn R. Jacanin/WHO/EOP@Exchange [WHO] <Marilyn R. Jacanin>;Joseph Clancy/WHO/EOP [WHO] <Joseph Clancy>;Elizabeth H. Donnan/WHO/EOP [WHO] <Elizabeth H. Donnan>;Theresa M. Hunter/NSC/EOP [NSC] <Theresa M. Hunter>;Taylor A. Hughes/WHO/EOP@Exchange [WHO] <Taylor A. Hughes>;Jason C. Hubbard/NSC/EOP [NSC] <Jason C. Hubbard>;Jeffrey P. Houle/NSC/EOP [NSC] <Jeffrey P. Houle>;David F. Holt/WHO /EOP@Exchange [WHO] <David F. Holt>;Ashley Holbrook/WHO/EOP@Exchange [WHO] <Ashley Holbrook>;Josephine L. Hirsch/WHO/EOP@Exchange [WHO] <Josephine L. Hirsch>;Jane C. Heishman/NSC/EOP [NSC] <Jane C. Heishman>;Anne Heiligenstein/WHO /EOP@Exchange [WHO] <Anne Heiligenstein>;Elizabeth A. Hearn/NSC/EOP [NSC] <Elizabeth A. Hearn>;Leah J. Harrelson/WHO/EOP@Exchange [WHO] <Leah J. Harrelson>;Robert C. Hargis/NSC/EOP [NSC] <Robert C. Hargis>;Mary Ann Hanusa/WHO/EOP [WHO] <Mary Ann Hanusa>;Mary A. Haines/NSC/EOP [NSC] <Mary A. Haines>;Henry C. Hager/WHO /EOP@Exchange [WHO] <Henry C. Hager>;Katharina M. Hager/WHO/EOP [WHO] <Katharina M. Hager>;Albert J. Guarnieri/NSC/EOP [NSC] <Albert J. Guarnieri>;Andrew W. Green/NSC/EOP [NSC] <Andrew W. Green>;Emily S. Gray/WHO/EOP@Exchange [WHO] <Emily S. Gray>;Wendy E. Gray/NSC/EOP [NSC] <Wendy E. Gray>;Ann Gray/WHO /EOP@Exchange [WHO] <Ann Gray>;Britt Grant/OPD/EOP [OPD] <Britt Grant>;Blake Gottesman/WHO/EOP@Exchange [WHO] <Blake Gottesman>;Georgia D. Godfrey/WHO /EOP@Exchange [WHO] <Georgia D. Godfrey>;Eleanor L. Gillmor/OPD/EOP@Exchange [OPD] <Eleanor L. Gillmor>;Dorothy C. Garvin/WHO/EOP@Exchange [WHO] <Dorothy C. Garvin>;Jenna R. Galyean/NSC/EOP [NSC] <Jenna R. Galyean>;Joachim D. Fuchs/NSC/EOP [NSC] <Joachim D. Fuchs>;Restituto M. Francisco/OA/EOP [OA] <Restituto M. Francisco>;Julian M. Flannery/WHO/EOP@Exchange [WHO] <Julian M. Flannery>;Barbara J. Finn/OA/EOP [OA] <Barbara J. Finn>;Kara G. Figg/WHO/EOP@Exchange [WHO] <Kara G. Figg>;Jeanie L. Figg/WHO/EOP@Exchange [WHO] <Jeanie L. Figg>;Jennifer N. Field/OA/EOP [OA] <Jennifer N. Field>;Douglas M. Erdahl/NSC/EOP [NSC] <Douglas M. Erdahl>;Ruth E. Elliott/NSC/EOP [NSC] <Ruth E. Elliott>;Kady Dunlap/WHO/EOP@Exchange [WHO] <Kady Dunlap>;Eric A. Draper/WHO/EOP@Exchange [WHO] <Eric A. Draper>;Penny G. Douglas/WHO/EOP@Exchange [WHO] <Penny G. Douglas>;Joan R. Doty/WHO /EOP@Exchange [WHO] <Joan R. Doty>;Reed Dickens/WHO/EOP@Exchange [WHO] <Reed Dickens>;Josh Deckard/WHO/EOP@Exchange [WHO] <Josh Deckard>;Colin Crosby/NSC/EOP [NSC] <Colin Crosby>;Lynn A. Crable/WHO/EOP [WHO] <Lynn A. Crable>;Jean Cooper/OPD/EOP@Exchange [OPD] <Jean Cooper>;Colby J. Cooper/NSC/EOP [NSC] <Colby J. Cooper>;Carolyn E. Cleveland/WHO/EOP@Exchange [WHO] <Carolyn E. Cleveland>;Christal R. West/WHO/EOP@Exchange [WHO] <Christal R. West>;Shane P. Chambers/WHO/EOP [WHO] <Shane P. Chambers>;Lois A. Cassano/WHO/EOP@Exchange [WHO] <Lois A. Cassano>;Pamela R. Casey/WHO/EOP [WHO] <Pamela R. Casey>;Anne E. Campbell/WHO/EOP@Exchange [WHO] <Anne E. Campbell>;Regina L. Cain/WHO/EOP [WHO] <Regina L. Cain>;Janice L. Burmeister/WHO/EOP [WHO] <Janice L. Burmeister>;Johnathan C. Bunting/NSC/EOP [NSC] <Johnathan C. Bunting>;Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>;Marko R. Broz/NSC/EOP [NSC] <Marko R. Broz>;Katherine A. Brown/NSC/EOP [NSC] <Katherine A. Brown>;Debra S. Brown/WHO/EOP@Exchange [WHO] <Debra S. Brown>;Bonnie S. Broadwick/NSC/EOP [NSC] <Bonnie S. Broadwick>;Gary E. Bresnahan/NSC/EOP [NSC] <Gary E. Bresnahan>;Brian Bravo/WHO/EOP@Exchange [WHO] <Brian Bravo>;Denise Bradley/WHO/EOP@Exchange [WHO] <Denise Bradley>;David R. Bohrer/OVP/EOP [OVP] <David R. Bohrer>;H. Andrew Boerstling/NSC/EOP [NSC] <H. Andrew Boerstling>;Jeff Blair/NSC/EOP [NSC] <Jeff Blair>;Debra D. Bird/WHO/EOP@Exchange [WHO] <Debra D. Bird>;Melissa S. Bennett/WHO /EOP@Exchange [WHO] <Melissa S. Bennett>;Cheryl E. Barnett/NSC/EOP [NSC] <Cheryl E. Barnett>;Tiffany L. Barfield/WHO/EOP@Exchange [WHO] <Tiffany L. Barfield>;Mitchell P. Backfield/NSC/EOP [NSC] <Mitchell P. Backfield>;Chelsey Atkin/WHO/EOP@Exchange [WHO] <Chelsey Atkin>;Lauren K. Allgood/OPD/EOP@Exchange [OPD] <Lauren K. Allgood>

Sent: 4/18/2003 4:49:10 AM

Subject: : POSTMASTER: Mess Holiday Hours

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
```

CREATION DATE/TIME:18-APR-2003 08:49:10.00
SUBJECT:: POSTMASTER: Mess Holiday Hours
TO:Linda Springer (CN=Linda Springer/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Thomas A. Shannon Jr. (CN=Thomas A. Shannon Jr./OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tevi Troy (CN=Tevi Troy/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Stephen J. Yates (CN=Stephen J. Yates/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Candida P. Wolff (CN=Candida P. Wolff/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Daniel K. Wilmot (CN=Daniel K. Wilmot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jocelyn White (CN=Jocelyn White/OU=WHF/O=EOP [OPM])
READ:UNKNOWN
TO:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul A. Wedderien (CN=Paul A. Wedderien/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:John P. Walters (CN=John P. Walters/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Theodore W. Ullyot (CN=Theodore W. Ullyot/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard J. Tubb (CN=Richard J. Tubb/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Karin B. Torgerson (CN=Karin B. Torgerson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Catherine W. Tobias (CN=Catherine W. Tobias/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jeffrey G. Thompson (CN=Jeffrey G. Thompson/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
TO:Phillip L. Swagel (CN=Phillip L. Swagel/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Jose G. Suarez (CN=Jose G. Suarez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Aquiles F. Suarez (CN=Aquiles F. Suarez/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Angela B. Styles (CN=Angela B. Styles/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary A. Solberg (CN=Mary A. Solberg/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Carlos Solari (CN=Carlos Solari/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Augustine T. Smythe (CN=Augustine T. Smythe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Faryar Shirzad (CN=Faryar Shirzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Matthew Scully (CN=Matthew Scully/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gregory L. Schulte (CN=Gregory L. Schulte/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Howard A. Schmidt (CN=Howard A. Schmidt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel Schecter (CN=Daniel Schecter/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard M. Russell (CN=Richard M. Russell/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Peter M. Rowan (CN=Peter M. Rowan/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Thomas J. Ridge (CN=Thomas J. Ridge/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Otto Reich (CN=Otto Reich/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian Reardon (CN=Brian Reardon/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric C. Pelletier (CN=Eric C. Pelletier/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Marcus Peacock (CN=Marcus Peacock/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Neil S. Patel (CN=Neil S. Patel/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Joseph F. O'Neill (CN=Joseph F. O'Neill/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Kathie L. Olsen (CN=Kathie L. Olsen/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Sean C. O'Keefe (CN=Sean C. O'Keefe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Sean B. O'Hollaren (CN=Sean B. O'Hollaren/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Kevin M. O'Donovan (CN=Kevin M. O'Donovan/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Claire M. O'Donnell (CN=Claire M. O'Donnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Julie L. Nichols (CN=Julie L. Nichols/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John F. Newell (CN=John F. Newell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Noam M. Neusner (CN=Noam M. Neusner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Manson O. Morris (CN=Manson O. Morris/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Paul D. Montanus (CN=Paul D. Montanus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen S. McMillin (CN=Stephen S. McMillin/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Charles D. McGrath Jr (CN=Charles D. McGrath Jr/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:James M. McAllister (CN=James M. McAllister/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine J. Martin (CN=Catherine J. Martin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Christopher M. Marston (CN=Christopher M. Marston/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:John H. Marburger (CN=John H. Marburger/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Maisto (CN=John F. Maisto/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin A. MacLean (CN=Robin A. MacLean/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Ado A. Machida (CN=Ado A. Machida/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Andrew Lundquist (CN=Andrew Lundquist/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Stephanie J. Lundberg (CN=Stephanie J. Lundberg/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Deborah A. Loewer (CN=Deborah A. Loewer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elan Liang (CN=Elan Liang/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Laura S. Lawlor (CN=Laura S. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:William Lang (CN=William Lang/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Carol R. Kuntz (CN=Carol R. Kuntz/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jeffrey Kuhlman (CN=Jeffrey Kuhlman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Randall S. Kroszner (CN=Randall S. Kroszner/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Lindsey C. Kozberg (CN=Lindsey C. Kozberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Frank G. Klotz (CN=Frank G. Klotz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Nathaniel Johnson (CN=Nathaniel Johnson/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Gregory J. Jenkins (CN=Gregory J. Jenkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Reuben Jeffery (CN=Reuben Jeffery/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel D. Faoro (CN=Daniel D. Faoro/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
TO:Jennifer R. Brosnahan (CN=Jennifer R. Brosnahan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gregory C. Huffman (CN=Gregory C. Huffman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lewis Hofmann (CN=Lewis Hofmann/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Debra Heiden (CN=Debra Heiden/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John P. Hannah (CN=John P. Hannah/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Terrell L. Halaska (CN=Terrell L. Halaska/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:John Graham (CN=John Graham/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:John A. Gordon (CN=John A. Gordon/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Adam B. Goldman (CN=Adam B. Goldman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Stephen Friedman (CN=Stephen Friedman/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Everson (CN=Mark Everson/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Sandra K. Evans (CN=Sandra K. Evans/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric S. Edelman (CN=Eric S. Edelman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Nancy Dorn (CN=Nancy Dorn/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Diana C. Donnelly (CN=Diana C. Donnelly/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Suzy DeFrancis (CN=Suzy DeFrancis/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:James F. Daniel (CN=James F. Daniel/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
TO:John J. Daly (CN=John J. Daly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stacia L. Cropper (CN=Stacia L. Cropper/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
TO:Barry Crane (CN=Barry Crane/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Christopher C. Cox (CN=Christopher C. Cox/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:James Connaughton (CN=James Connaughton/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Cesar Conda (CN=Cesar Conda/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robin Cleveland (CN=Robin Cleveland/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Frank Cilluffo (CN=Frank Cilluffo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:James C. Capretta (CN=James C. Capretta/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Tim Campen (CN=Tim Campen/OU=OA/O=EOP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:William Cameron (CN=William Cameron/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott Burns (CN=Scott Burns/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Christine M. Burgeson (CN=Christine M. Burgeson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jonathan W. Burks (CN=Jonathan W. Burks/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen E. Biegun (CN=Stephen E. Biegun/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Todd W. Beyer (CN=Todd W. Beyer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brian R. Besanceney (CN=Brian R. Besanceney/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Janet L. Berman (CN=Janet L. Berman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Kenneth Bernard (CN=Kenneth Bernard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Andrea G. Barthwell (CN=Andrea G. Barthwell/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:William D. Badger (CN=William D. Badger/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard E. Antaya (CN=Richard E. Antaya/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Penrose C. Albright (CN=Penrose C. Albright/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Michael Allen (CN=Michael Allen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jon Spaner (CN=Jon Spaner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Shelley Reese (CN=Shelley Reese/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Deborah Severn (CN=Deborah Severn/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Allison L. Riepenhoff (CN=Allison L. Riepenhoff/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Gina M. Wolford (CN=Gina M. Wolford/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harry W. Wolff (CN=Harry W. Wolff/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Alexian T. Wines (CN=Alexian T. Wines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patricia Williams (CN=Patricia Williams/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nikkya G. Williams (CN=Nikkya G. Williams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jared B. Weinstein (CN=Jared B. Weinstein/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Matthew C. Waxman (CN=Matthew C. Waxman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lauren J. Vestewig (CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Erin A. Vargo (CN=Erin A. Vargo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tanya T. Turner (CN=Tanya T. Turner/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Terrill G. Tucker (CN=Terrill G. Tucker/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anne Trenolone (CN=Anne Trenolone/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:David L. Travers (CN=David L. Travers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Carol J. Thompson (CN=Carol J. Thompson/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Julieanne H. Thomas (CN=Julieanne H. Thomas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan L. Sterner (CN=Susan L. Sterner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Robert E. Schubert (CN=Robert E. Schubert/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noelia Rodriguez (CN=Noelia Rodriguez/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Maurice C. Robinson (CN=Maurice C. Robinson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mark Robinson (CN=Mark Robinson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN

TO:January M. Riecke (CN=January M. Riecke/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Katherine A. Rhodes (CN=Katherine A. Rhodes/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Tim Reynolds (CN=Tim Reynolds/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:David Reyes (CN=David Reyes/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:A. Morgan Middlemas (CN=A. Morgan Middlemas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lauren McCord (CN=Lauren McCord/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Barbara B. Knight (CN=Barbara B. Knight/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Clare Pritchett (CN=Clare Pritchett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Suzanne Primoff (CN=Suzanne Primoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John I. Pray (CN=John I. Pray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah Penny (CN=Sarah Penny/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Richard S. Paulus (CN=Richard S. Paulus/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Joyce A. Parker (CN=Joyce A. Parker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christie Parell (CN=Christie Parell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward J. Padinske (CN=Edward J. Padinske/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric H. Otto (CN=Eric H. Otto/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Carolyn Nelson (CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Lee B. Mynatt (CN=Lee B. Mynatt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Steven Myers (CN=Steven Myers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Paul L. Morse (CN=Paul L. Morse/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Cathy L. Millison (CN=Cathy L. Millison/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sonya E. Medina (CN=Sonya E. Medina/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Vickie A. McQuade (CN=Vickie A. McQuade/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Sara B. McIntosh (CN=Sara B. McIntosh/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Peter A. McCauley (CN=Peter A. McCauley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel M. McCarthy (CN=Daniel M. McCarthy/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Thomas S. Marsh (CN=Thomas S. Marsh/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth Liptock (CN=Elizabeth Liptock/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Lindsey M. Lineweaver (CN=Lindsey M. Lineweaver/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Laura E. Lineberry (CN=Laura E. Lineberry/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Adam L. Levine (CN=Adam L. Levine/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Sang W. Lee (CN=Sang W. Lee/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:David L. Lee (CN=David L. Lee/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elliott M. Langer (CN=Elliott M. Langer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ross M. Kyle (CN=Ross M. Kyle/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jennie M. Koch (CN=Jennie M. Koch/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jennifer M. Katzaman (CN=Jennifer M. Katzaman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Alexander S. Joves (CN=Alexander S. Joves/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:M. Kay Joshi (CN=M. Kay Joshi/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Megan R. Johnston (CN=Megan R. Johnston/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Sydney R. Johnson (CN=Sydney R. Johnson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Clarence C. Johnson (CN=Clarence C. Johnson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Melanie A. Jackson (CN=Melanie A. Jackson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Marilyn R. Jacanin (CN=Marilyn R. Jacanin/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Joseph Clancy (CN=Joseph Clancy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elizabeth H. Donnan (CN=Elizabeth H. Donnan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Theresa M. Hunter (CN=Theresa M. Hunter/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Taylor A. Hughes (CN=Taylor A. Hughes/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jason C. Hubbard (CN=Jason C. Hubbard/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jeffrey P. Houle (CN=Jeffrey P. Houle/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David F. Holt (CN=David F. Holt/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Ashley Holbrook (CN=Ashley Holbrook/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Josephine L. Hirsch (CN=Josephine L. Hirsch/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jane C. Heishman (CN=Jane C. Heishman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anne Heiligenstein (CN=Anne Heiligenstein/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Elizabeth A. Hearn (CN=Elizabeth A. Hearn/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Leah J. Harrelson (CN=Leah J. Harrelson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Robert C. Hargis (CN=Robert C. Hargis/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary Ann Hanusa (CN=Mary Ann Hanusa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary A. Haines (CN=Mary A. Haines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Henry C. Hager (CN=Henry C. Hager/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Katharina M. Hager (CN=Katharina M. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Albert J. Guarnieri (CN=Albert J. Guarnieri/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Andrew W. Green (CN=Andrew W. Green/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Emily S. Gray (CN=Emily S. Gray/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Wendy E. Gray (CN=Wendy E. Gray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Britt Grant (CN=Britt Grant/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Georgia D. Godfrey (CN=Georgia D. Godfrey/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Dorothy C. Garvin (CN=Dorothy C. Garvin/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jenna R. Galyean (CN=Jenna R. Galyean/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Joachim D. Fuchs (CN=Joachim D. Fuchs/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Restituto M. Francisco (CN=Restituto M. Francisco/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Julian M. Flannery (CN=Julian M. Flannery/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Barbara J. Finn (CN=Barbara J. Finn/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jeanie L. Figg (CN=Jeanie L. Figg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jennifer N. Field (CN=Jennifer N. Field/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Douglas M. Erdahl (CN=Douglas M. Erdahl/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ruth E. Elliott (CN=Ruth E. Elliott/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kady Dunlap (CN=Kady Dunlap/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Eric A. Draper (CN=Eric A. Draper/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Penny G. Douglas (CN=Penny G. Douglas/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Joan R. Doty (CN=Joan R. Doty/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Reed Dickens (CN=Reed Dickens/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Josh Deckard (CN=Josh Deckard/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Colin Crosby (CN=Colin Crosby/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lynn A. Crable (CN=Lynn A. Crable/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jean Cooper (CN=Jean Cooper/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Colby J. Cooper (CN=Colby J. Cooper/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Christal R. West (CN=Christal R. West/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Shane P. Chambers (CN=Shane P. Chambers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lois A. Cassano (CN=Lois A. Cassano/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Pamela R. Casey (CN=Pamela R. Casey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne E. Campbell (CN=Anne E. Campbell/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Regina L. Cain (CN=Regina L. Cain/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Janice L. Burmeister (CN=Janice L. Burmeister/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Johnathan C. Bunting (CN=Johnathan C. Bunting/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Marko R. Broz (CN=Marko R. Broz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Katherine A. Brown (CN=Katherine A. Brown/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Debra S. Brown (CN=Debra S. Brown/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Bonnie S. Broadwick (CN=Bonnie S. Broadwick/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gary E. Bresnahan (CN=Gary E. Bresnahan/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Denise Bradley (CN=Denise Bradley/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:David R. Bohrer (CN=David R. Bohrer/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:H. Andrew Boerstling (CN=H. Andrew Boerstling/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jeff Blair (CN=Jeff Blair/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Cheryl E. Barnett (CN=Cheryl E. Barnett/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Mitchell P. Backfield (CN=Mitchell P. Backfield/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Chelsey Atkin (CN=Chelsey Atkin/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Lauren K. Allgood (CN=Lauren K. Allgood/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
End Original ARMS Header

Mess Holiday Hours

In observance of the Holiday, the White House Mess will close for business at 3:00 PM on Friday, April 18 and remain closed through Sunday, April 20. Normal business hours will resume at 6:45 AM on Monday, April 21. If the need arises, necessary arrangements will be made to meet any unforeseen demands.

We apologize for any inconvenience.

Thank you.
#00287

MANAGEMENT AND ADMINISTRATION

From: CN=PostMaster/O=EOP [OA]

To: Linda Springer/OMB/EOP [OMB] <Linda Springer>;Thomas A. Shannon Jr./NSC/EOP [NSC] <Thomas A. Shannon Jr.>;Tevi Troy/WHO/EOP@Exchange [WHO] <Tevi Troy>;Stephen J. Yates/OVP/EOP [OVP] <Stephen J. Yates>;Candida P. Wolff/OVP/EOP [OVP] <Candida P. Wolff>;Daniel K. Wilmot/OVP/EOP [OVP] <Daniel K. Wilmot>;Jocelyn White/WHF/EOP [OPM] <Jocelyn White>;Lezlee J. Westine/WHO/EOP [WHO] <Lezlee J. Westine>;Peter H. Wehner/WHO/EOP [WHO] <Peter H. Wehner>;Paul A. Wedderien/NSC/EOP [NSC] <Paul A. Wedderien>;Kevin Warsh/OPD/EOP [OPD] <Kevin Warsh>;John P. Walters/ONDCP/EOP [ONDCP] <John P. Walters>;Theodore W. Ullyot/WHO/EOP [WHO] <Theodore W. Ullyot>;Richard J. Tubb/WHO/EOP [WHO] <Richard J. Tubb>;Jim Towey/WHO/EOP [WHO] <Jim Towey>;Karin B. Torgerson/WHO/EOP@Exchange [WHO] <Karin B. Torgerson>;Catherine W. Tobias/OVP/EOP [OVP] <Catherine W. Tobias>;Jeffrey G. Thompson/OA/EOP@Exchange [OA] <Jeffrey G. Thompson>;Phillip L. Swagel/CEA/EOP [CEA] <Phillip L. Swagel>;Jose G. Suarez/WHO/EOP [WHO] <Jose G. Suarez>;Aquiles F. Suarez/OPD/EOP [OPD] <Aquiles F. Suarez>;Angela B. Styles/OMB/EOP [OMB] <Angela B. Styles>;Mary K. Sturtevant/NSC/EOP [NSC] <Mary K. Sturtevant>;Margaret M. Spellings/OPD /EOP@Exchange [OPD] <Margaret M. Spellings>;Deborah A. Spagnoli/WHO/EOP [WHO] <Deborah A. Spagnoli>;Mary A. Solberg/ONDCP/EOP [ONDCP] <Mary A. Solberg>;Carlos Solari/OA/EOP [OA] <Carlos Solari>;Augustine T. Smythe/OMB/EOP [OMB] <Augustine T. Smythe>;Kristen Silverberg/WHO/EOP@Exchange [WHO] <Kristen Silverberg>;Faryar Shirzad/NSC/EOP [NSC] <Faryar Shirzad>;Scott N. Sforza/WHO/EOP [WHO] <Scott N. Sforza>;Matthew Scully/WHO/EOP [WHO] <Matthew Scully>;Gregory L. Schulte/NSC/EOP [NSC] <Gregory L. Schulte>;Howard A. Schmidt/NSC/EOP [NSC] <Howard A. Schmidt>;Matthew A. Schlapp/WHO/EOP [WHO] <Matthew A. Schlapp>;Daniel Schecter/ONDCP/EOP [ONDCP] <Daniel Schecter>;Diana L. Schacht/OPD/EOP [OPD] <Diana L. Schacht>;Desiree T. Sayle/WHO/EOP [WHO] <Desiree T. Sayle>;Kyle Sampson/WHO/EOP [WHO] <Kyle Sampson>;Richard M. Russell/OSTP/EOP [OSTP] <Richard M. Russell>;Peter M. Rowan/OVP/EOP [OVP] <Peter M. Rowan>;Karl C. Rove/WHO /EOP@Exchange [WHO] <Karl C. Rove>;Thomas J. Ridge/WHO/EOP [WHO] <Thomas J. Ridge>;Condoleezza Rice/NSC/EOP [NSC] <Condoleezza Rice>;Otto Reich/NSC/EOP [NSC] <Otto Reich>;Brian Reardon/OPD/EOP [OPD] <Brian Reardon>;Dina Powell/WHO /EOP@Exchange [WHO] <Dina Powell>;Benjamin A. Powell/WHO/EOP [WHO] <Benjamin A. Powell>;Philip J. Perry/OMB/EOP [OMB] <Philip J. Perry>;Anna M. Perez/NSC/EOP [NSC] <Anna M. Perez>;Eric C. Pelletier/WHO/EOP@Exchange [WHO] <Eric C. Pelletier>;Marcus Peacock/OMB/EOP [OMB] <Marcus Peacock>;Neil S. Patel/OVP/EOP [OVP] <Neil S. Patel>;Joseph F. O'Neill/OPD/EOP [OPD] <Joseph F. O'Neill>;Kathie L. Olsen/OSTP/EOP [OSTP] <Kathie L. Olsen>;Sean C. O'Keefe/OMB/EOP [OMB] <Sean C. O'Keefe>;Ziad S. Ojakli/WHO/EOP@Exchange [WHO] <Ziad S. Ojakli>;Sean B. O'Hollaren/WHO /EOP@Exchange [WHO] <Sean B. O'Hollaren>;Kevin M. O'Donovan/OVP/EOP [OVP] <Kevin M. O'Donovan>;Claire M. O'Donnell/OVP/EOP [OVP] <Claire M. O'Donnell>;Julie L. Nichols/OVP/EOP [OVP] <Julie L. Nichols>;Jennifer G. Newstead/WHO/EOP [WHO] <Jennifer G. Newstead>;John F. Newell/WHO/EOP [WHO] <John F. Newell>;Noam M. Neusner/WHO/EOP [WHO] <Noam M. Neusner>;Edmund C. Moy/WHO/EOP [WHO] <Edmund C. Moy>;Manson O. Morris/OVP/EOP [OVP] <Manson O. Morris>;James F. Moriarty/NSC/EOP [NSC] <James F. Moriarty>;Brian D. Montgomery/WHO/EOP@Exchange [WHO] <Brian D. Montgomery>;Paul D. Montanus/WHO/EOP [WHO] <Paul D. Montanus>;Michael H. Miller/WHO/EOP@Exchange [WHO] <Michael H. Miller>;Franklin C. Miller/NSC/EOP [NSC] <Franklin C. Miller>;Harriet Miers/WHO/EOP@Exchange [WHO] <Harriet Miers>;Ken Mehlman/WHO/EOP [WHO] <Ken Mehlman>;Edward McNally/WHO/EOP [WHO] <Edward McNally>;Robert C. McNally/OPD/EOP [OPD] <Robert C. McNally>;Stephen S. McMillin/OMB/EOP [OMB] <Stephen S. McMillin>;Charles D. McGrath Jr/OVP/EOP [OVP] <Charles D. McGrath Jr>;Brian V. McCormack/OVP/EOP [OVP] <Brian V. McCormack>;John P. McConnell/WHO/EOP [WHO] <John P. McConnell>;Scott McClellan/WHO/EOP@Exchange [WHO] <Scott McClellan>;James M. McAllister/WHO/EOP [WHO] <James M. McAllister>;Catherine J. Martin/OVP/EOP [OVP] <Catherine J. Martin>;Christopher M. Marston/ONDCP/EOP [ONDCP] <Christopher M. Marston>;Robert Marsh/WHO /EOP@Exchange [WHO] <Robert Marsh>;John H. Marburger/OSTP/EOP [OSTP] <John H. Marburger>;John F. Maisto/NSC/EOP [NSC] <John F. Maisto>;Robin A. MacLean/WHO /EOP@Exchange [WHO] <Robin A. MacLean>;Ado A. Machida/OVP/EOP [OVP] <Ado A. Machida>;Andrew Lundquist/NSC/EOP [NSC] <Andrew Lundquist>;Stephanie J. Lundberg/OVP/EOP [OVP] <Stephanie J. Lundberg>;Ginger G. Loper/WHO/EOP@Exchange [

WHO] <Ginger G. Loper>;Deborah A. Loewer/NSC/EOP [NSC] <Deborah A. Loewer>;Colleen Litkenhaus/WHO/EOP@Exchange [WHO] <Colleen Litkenhaus>;Lewis Libby/OVP/EOP [OVP] <Lewis Libby>;Elan Liang/WHO/EOP@Exchange [WHO] <Elan Liang>;David G. Leitch/WHO /EOP@Exchange [WHO] <David G. Leitch>;Jay P. Lefkowitz/OPD/EOP@Exchange [OPD] <Jay P. Lefkowitz>;Laura S. Lawlor/WHO/EOP [WHO] <Laura S. Lawlor>;William Lang/WHO/EOP [WHO] <William Lang>;Paul B. Kurtz/NSC/EOP [NSC] <Paul B. Kurtz>;David Kuo/WHO/EOP [WHO] <David Kuo>;Carol R. Kuntz/OVP/EOP [OVP] <Carol R. Kuntz>;Jeffrey Kuhlman/WHO/EOP [WHO] <Jeffrey Kuhlman>;Randall S. Kroszner/CEA/EOP [CEA] <Randall S. Kroszner>;Lindsey C. Kozberg/WHO/EOP [WHO] <Lindsey C. Kozberg>;Frank G. Klotz/NSC/EOP [NSC] <Frank G. Klotz>;Elizabeth W. Kleppe/OVP/EOP [OVP] <Elizabeth W. Kleppe>;Matthew Kirk/WHO/EOP@Exchange [WHO] <Matthew Kirk>;Zalmay M. Khalilzad/NSC/EOP [NSC] <Zalmay M. Khalilzad>;Daniel J. Keniry/WHO /EOP@Exchange [WHO] <Daniel J. Keniry>;James M. Kelly/WHO/EOP [WHO] <James M. Kelly>;Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>;Joel D. Kaplan/WHO /EOP@Exchange [WHO] <Joel D. Kaplan>;Robert G. Joseph/NSC/EOP [NSC] <Robert G. Joseph>;Nathaniel Johnson/OVP/EOP [OVP] <Nathaniel Johnson>;Clay Johnson III/WHO /EOP@Exchange [WHO] <Clay Johnson III>;Gregory J. Jenkins/WHO/EOP [WHO] <Gregory J. Jenkins>;Reuben Jeffery/OPD/EOP [OPD] <Reuben Jeffery>;Barry S. Jackson/WHO/EOP [WHO] <Barry S. Jackson>;Edward Ingle/WHO/EOP [WHO] <Edward Ingle>;Daniel D. Faoro/OA/EOP@Exchange [OA] <Daniel D. Faoro>;Jennifer R. Brosnahan/WHO/EOP [WHO] <Jennifer R. Brosnahan>;Gregory C. Huffman/WHO/EOP [WHO] <Gregory C. Huffman>;Lewis Hofmann/WHO/EOP [WHO] <Lewis Hofmann>;David W. Hobbs/WHO/EOP@Exchange [WHO] <David W. Hobbs>;Israel Hernandez/WHO/EOP@Exchange [WHO] <Israel Hernandez>;Keith Hennessey/OPD/EOP@Exchange [OPD] <Keith Hennessey>;Debra Heiden/OVP/EOP [OVP] <Debra Heiden>;John P. Hannah/OVP/EOP [OVP] <John P. Hannah>;Terrell L. Halaska/OPD/EOP [OPD] <Terrell L. Halaska>;Joseph W. Hagin/WHO/EOP@Exchange [WHO] <Joseph W. Hagin>;Stephen J. Hadley/NSC/EOP [NSC] <Stephen J. Hadley>;Wendy J. Grubbs/WHO/EOP@Exchange [WHO] <Wendy J. Grubbs>;John Graham/OMB/EOP [OMB] <John Graham>;John A. Gordon/NSC/EOP [NSC] <John A. Gordon>;Alberto R. Gonzales/WHO /EOP@Exchange [WHO] <Alberto R. Gonzales>;Adam B. Goldman/WHO/EOP [WHO] <Adam B. Goldman>;Tim Goeglein/WHO/EOP [WHO] <Tim Goeglein>;Alan Gilbert/OPD/EOP [OPD] <Alan Gilbert>;Michael J. Gerson/WHO/EOP@Exchange [WHO] <Michael J. Gerson>;Kelley Gannon/WHO/EOP [WHO] <Kelley Gannon>;Linda M. Gambatesa/WHO/EOP@Exchange [WHO] <Linda M. Gambatesa>;Stephen Friedman/OPD/EOP@Exchange [OPD] <Stephen Friedman>;Daniel Fried/NSC/EOP [NSC] <Daniel Fried>;Jendayi E. Frazer/NSC/EOP [NSC] <Jendayi E. Frazer>;Noel J. Francisco/WHO/EOP [WHO] <Noel J. Francisco>;Lawrence A. Fleischer/WHO/EOP@Exchange [WHO] <Lawrence A. Fleischer>;Catherine S. Fenton/WHO /EOP@Exchange [WHO] <Catherine S. Fenton>;Richard Falkenrath/WHO/EOP [WHO] <Richard Falkenrath>;Nanette Everson/WHO/EOP [WHO] <Nanette Everson>;Mark Everson/OMB/EOP [OMB] <Mark Everson>;Sandra K. Evans/OA/EOP@Exchange [OA] <Sandra K. Evans>;Ashley Estes/WHO/EOP@Exchange [WHO] <Ashley Estes>;Tucker A. Eskew/WHO/EOP [WHO] <Tucker A. Eskew>;Gary R. Edson/NSC/EOP [NSC] <Gary R. Edson>;Eric S. Edelman/OVP/EOP [OVP] <Eric S. Edelman>;Elizabeth S. Dougherty/OPD/EOP [OPD] <Elizabeth S. Dougherty>;Nancy Dorn/OMB/EOP [OMB] <Nancy Dorn>;Diana C. Donnelly/WHO/EOP@Exchange [WHO] <Diana C. Donnelly>;Nicolle Devenish/WHO/EOP [WHO] <Nicolle Devenish>;Suzy DeFrancis/WHO/EOP@Exchange [WHO] <Suzy DeFrancis>;Mitchell Daniels/OMB/EOP [OMB] <Mitchell Daniels>;James F. Daniel/OA /EOP@Exchange [OA] <James F. Daniel>;John J. Daly/WHO/EOP [WHO] <John J. Daly>;Stacia L. Cropper/OA/EOP@Exchange [OA] <Stacia L. Cropper>;Barry Crane/ONDCP/EOP [ONDCP] <Barry Crane>;Christopher C. Cox/WHO/EOP@Exchange [WHO] <Christopher C. Cox>;Phil Cooney/CEQ/EOP [CEQ] <Phil Cooney>;Rebecca Contreras/WHO/EOP [WHO] <Rebecca Contreras>;Charles Conner/OPD/EOP [OPD] <Charles Conner>;James Connaughton/CEQ/EOP [CEQ] <James Connaughton>;Cesar Conda/OVP/EOP [OVP] <Cesar Conda>;Robin Cleveland/OMB/EOP [OMB] <Robin Cleveland>;Alicia P. Clark/WHO/EOP [WHO] <Alicia P. Clark>;Frank Cilluffo/WHO/EOP [WHO] <Frank Cilluffo>;Ronald I. Christie/OPD/EOP [OPD] <Ronald I. Christie>;Kirsten A. Chadwick/WHO/EOP@Exchange [WHO] <Kirsten A. Chadwick>;Andrew H. Card/WHO /EOP@Exchange [WHO] <Andrew H. Card>;James C. Capretta/OMB/EOP [OMB] <James C. Capretta>;Tim Campen/OA/EOP@Exchange [UNKNOWN] <Tim Campen>;William Cameron/WHO/EOP [WHO] <William Cameron>;Scott Burns/ONDCP/EOP [ONDCP] <Scott Burns>;Christine M. Burgeson/WHO/EOP@Exchange [WHO] <Christine M. Burgeson>;Jonathan W. Burks/WHO/EOP@Exchange [WHO] <Jonathan W. Burks>;Katja Bullock/WHO/EOP [WHO] <Katja Bullock>;Claire E. Buchan/WHO/EOP@Exchange [WHO]

<Claire E. Buchan>;John M. Bridgeland/OPD/EOP [OPD] <John M. Bridgeland>;Joshua B. Bolten/WHO/EOP@Exchange [WHO] <Joshua B. Bolten>;Bradley A. Blakeman/WHO /EOP@Exchange [WHO] <Bradley A. Blakeman>;Charles P. Blahous/OPD/EOP [OPD] <Charles P. Blahous>;Stephen E. Biegun/NSC/EOP [NSC] <Stephen E. Biegun>;Rebecca A. Beynon/WHO/EOP [WHO] <Rebecca A. Beynon>;Todd W. Beyer/WHO/EOP [WHO] <Todd W. Beyer>;Brian R. Besanceney/WHO/EOP [WHO] <Brian R. Besanceney>;Janet L. Berman/OVP/EOP [OVP] <Janet L. Berman>;Kenneth Bernard/WHO/EOP [WHO] <Kenneth Bernard>;John B. Bellinger/NSC/EOP [NSC] <John B. Bellinger>;H. Christopher Bartolomucci/WHO/EOP [WHO] <H. Christopher Bartolomucci>;Daniel J. Bartlett/WHO /EOP@Exchange [WHO] <Daniel J. Bartlett>;Andrea G. Barthwell/ONDCP/EOP [ONDCP] <Andrea G. Barthwell>;Ruben S. Barrales/WHO/EOP [WHO] <Ruben S. Barrales>;Andrea G. Ball/WHO/EOP@Exchange [WHO] <Andrea G. Ball>;William D. Badger/OPD/EOP [OPD] <William D. Badger>;Jackie Arends/WHO/EOP [WHO] <Jackie Arends>;Richard E. Antaya/WHO/EOP [WHO] <Richard E. Antaya>;George M. Andricos/NSC/EOP [NSC] <George M. Andricos>;Penrose C. Albright/OSTP/EOP [OSTP] <Penrose C. Albright>;Michael Allen/WHO/EOP [WHO] <Michael Allen>;David S. Addington/OVP/EOP [OVP] <David S. Addington>;Elliott Abrams/NSC/EOP [NSC] <Elliott Abrams>;Charles S. Abbot/WHO/EOP [WHO] <Charles S. Abbot>;Jon Spaner/WHO/EOP [WHO] <Jon Spaner>;Shelley Reese/WHO/EOP [WHO] <Shelley Reese>;Deborah Severn/NSC/EOP [NSC] <Deborah Severn>;Allison L. Riepenhoff/WHO/EOP@Exchange [WHO] <Allison L. Riepenhoff>;Gina M. Wolford/NSC/EOP [NSC] <Gina M. Wolford>;Harry W. Wolff/WHO/EOP@Exchange [WHO] <Harry W. Wolff>;Alexian T. Wines/NSC/EOP [NSC] <Alexian T. Wines>;Patricia Williams/WHO/EOP [WHO] <Patricia Williams>;Nikkya G. Williams/NSC/EOP [NSC] <Nikkya G. Williams>;Jared B. Weinstein/WHO/EOP@Exchange [WHO] <Jared B. Weinstein>;Matthew C. Waxman/NSC/EOP [NSC] <Matthew C. Waxman>;Lauren J. Vestewig/OPD/EOP@Exchange [OPD] <Lauren J. Vestewig>;Erin A. Vargo/WHO/EOP [WHO] <Erin A. Vargo>;Tanya T. Turner/WHO/EOP@Exchange [WHO] <Tanya T. Turner>;Terrill G. Tucker/NSC/EOP [NSC] <Terrill G. Tucker>;Anne Trenolone/WHO/EOP@Exchange [WHO] <Anne Trenolone>;David L. Travers/NSC/EOP [NSC] <David L. Travers>;Carol J. Thompson/OPD/EOP [OPD] <Carol J. Thompson>;Julieanne H. Thomas/WHO/EOP [WHO] <Julieanne H. Thomas>;Susan L. Sterner/WHO/EOP [WHO] <Susan L. Sterner>;Ashley Snee/WHO/EOP@Exchange [WHO] <Ashley Snee>;Robert E. Schubert/NSC/EOP [NSC] <Robert E. Schubert>;Noelia Rodriguez/WHO/EOP@Exchange [WHO] <Noelia Rodriguez>;Maurice C. Robinson/NSC/EOP [NSC] <Maurice C. Robinson>;Mark Robinson/NSC/EOP [NSC] <Mark Robinson>;Krista L. Ritacco/WHO/EOP@Exchange [WHO] <Krista L. Ritacco>;January M. Riecke/WHO /EOP@Exchange [WHO] <January M. Riecke>;Katherine A. Rhodes/WHO/EOP@Exchange [WHO] <Katherine A. Rhodes>;Tim Reynolds/WHO/EOP@Exchange [WHO] <Tim Reynolds>;David Reyes/NSC/EOP [NSC] <David Reyes>;Susan B. Ralston/WHO /EOP@Exchange [WHO] <Susan B. Ralston>;A. Morgan Middlemas/WHO/EOP [WHO] <A. Morgan Middlemas>;Lauren McCord/WHO/EOP@Exchange [WHO] <Lauren McCord>;Barbara B. Knight/WHO/EOP@Exchange [WHO] <Barbara B. Knight>;Clare Pritchett/WHO /EOP@Exchange [WHO] <Clare Pritchett>;Suzanne Primoff/WHO/EOP [WHO] <Suzanne Primoff>;John I. Pray/NSC/EOP [NSC] <John I. Pray>;Sarah Penny/WHO/EOP@Exchange [WHO] <Sarah Penny>;Richard S. Paulus/WHO/EOP@Exchange [WHO] <Richard S. Paulus>;Joyce A. Parker/WHO/EOP [WHO] <Joyce A. Parker>;Christie Parell/WHO/EOP [WHO] <Christie Parell>;Edward J. Padinske/NSC/EOP [NSC] <Edward J. Padinske>;Eric H. Otto/OPD/EOP@Exchange [OPD] <Eric H. Otto>;Carolyn Nelson/WHO/EOP@Exchange [WHO] <Carolyn Nelson>;Lee B. Mynatt/NSC/EOP [NSC] <Lee B. Mynatt>;Steven Myers/NSC/EOP [NSC] <Steven Myers>;Paul L. Morse/WHO/EOP@Exchange [WHO] <Paul L. Morse>;Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>;Cathy L. Millison/NSC/EOP [NSC] <Cathy L. Millison>;Sonya E. Medina/WHO/EOP@Exchange [WHO] <Sonya E. Medina>;Vickie A. McQuade/WHO/EOP@Exchange [WHO] <Vickie A. McQuade>;Sara B. McIntosh/WHO/EOP@Exchange [WHO] <Sara B. McIntosh>;Peter A. McCauley/NSC/EOP [NSC] <Peter A. McCauley>;Daniel M. McCarthy/WHO/EOP@Exchange [WHO] <Daniel M. McCarthy>;Thomas S. Marsh/NSC/EOP [NSC] <Thomas S. Marsh>;Elizabeth Liptock/WHO/EOP@Exchange [WHO] <Elizabeth Liptock>;Lindsey M. Lineweaver/WHO/EOP@Exchange [WHO] <Lindsey M. Lineweaver>;Laura E. Lineberry/NSC/EOP [NSC] <Laura E. Lineberry>;Adam L. Levine/WHO/EOP@Exchange [WHO] <Adam L. Levine>;Sang W. Lee/NSC/EOP [NSC] <Sang W. Lee>;David L. Lee/NSC/EOP [NSC] <David L. Lee>;Elliott M. Langer/NSC/EOP [NSC] <Elliott M. Langer>;Ross M. Kyle/WHO/EOP@Exchange [WHO] <Ross M. Kyle>;Jennie M. Koch/NSC/EOP [NSC] <Jennie M. Koch>;Jennifer M. Katzaman/WHO/EOP [WHO] <Jennifer M. Katzaman>;Alexander S. Joves/NSC/EOP [NSC] <Alexander S. Joves>;M. Kay Joshi/NSC/EOP [NSC] <M. Kay

Joshi>;Megan R. Johnston/WHO/EOP@Exchange [WHO] <Megan R. Johnston>;Sydney R. Johnson/WHO/EOP@Exchange [WHO] <Sydney R. Johnson>;Clarence C. Johnson/NSC/EOP [NSC] <Clarence C. Johnson>;Melanie A. Jackson/WHO/EOP@Exchange [WHO] <Melanie A. Jackson>;Marilyn R. Jacanin/WHO/EOP@Exchange [WHO] <Marilyn R. Jacanin>;Joseph Clancy/WHO/EOP [WHO] <Joseph Clancy>;Elizabeth H. Donnan/WHO/EOP [WHO] <Elizabeth H. Donnan>;Theresa M. Hunter/NSC/EOP [NSC] <Theresa M. Hunter>;Taylor A. Hughes/WHO/EOP@Exchange [WHO] <Taylor A. Hughes>;Jason C. Hubbard/NSC/EOP [NSC] <Jason C. Hubbard>;Jeffrey P. Houle/NSC/EOP [NSC] <Jeffrey P. Houle>;David F. Holt/WHO /EOP@Exchange [WHO] <David F. Holt>;Ashley Holbrook/WHO/EOP@Exchange [WHO] <Ashley Holbrook>;Josephine L. Hirsch/WHO/EOP@Exchange [WHO] <Josephine L. Hirsch>;Jane C. Heishman/NSC/EOP [NSC] <Jane C. Heishman>;Anne Heiligenstein/WHO /EOP@Exchange [WHO] <Anne Heiligenstein>;Elizabeth A. Hearn/NSC/EOP [NSC] <Elizabeth A. Hearn>;Leah J. Harrelson/WHO/EOP@Exchange [WHO] <Leah J. Harrelson>;Robert C. Hargis/NSC/EOP [NSC] <Robert C. Hargis>;Mary Ann Hanusa/WHO/EOP [WHO] <Mary Ann Hanusa>;Mary A. Haines/NSC/EOP [NSC] <Mary A. Haines>;Henry C. Hager/WHO /EOP@Exchange [WHO] <Henry C. Hager>;Katharina M. Hager/WHO/EOP [WHO] <Katharina M. Hager>;Albert J. Guarnieri/NSC/EOP [NSC] <Albert J. Guarnieri>;Andrew W. Green/NSC/EOP [NSC] <Andrew W. Green>;Emily S. Gray/WHO/EOP@Exchange [WHO] <Emily S. Gray>;Wendy E. Gray/NSC/EOP [NSC] <Wendy E. Gray>;Ann Gray/WHO /EOP@Exchange [WHO] <Ann Gray>;Britt Grant/OPD/EOP [OPD] <Britt Grant>;Blake Gottesman/WHO/EOP@Exchange [WHO] <Blake Gottesman>;Georgia D. Godfrey/WHO /EOP@Exchange [WHO] <Georgia D. Godfrey>;Eleanor L. Gillmor/OPD/EOP@Exchange [OPD] <Eleanor L. Gillmor>;Dorothy C. Garvin/WHO/EOP@Exchange [WHO] <Dorothy C. Garvin>;Jenna R. Galyean/NSC/EOP [NSC] <Jenna R. Galyean>;Joachim D. Fuchs/NSC/EOP [NSC] <Joachim D. Fuchs>;Restituto M. Francisco/OA/EOP [OA] <Restituto M. Francisco>;Julian M. Flannery/WHO/EOP@Exchange [WHO] <Julian M. Flannery>;Barbara J. Finn/OA/EOP [OA] <Barbara J. Finn>;Kara G. Figg/WHO/EOP@Exchange [WHO] <Kara G. Figg>;Jeanie L. Figg/WHO/EOP@Exchange [WHO] <Jeanie L. Figg>;Jennifer N. Field/OA/EOP [OA] <Jennifer N. Field>;Douglas M. Erdahl/NSC/EOP [NSC] <Douglas M. Erdahl>;Ruth E. Elliott/NSC/EOP [NSC] <Ruth E. Elliott>;Kady Dunlap/WHO/EOP@Exchange [WHO] <Kady Dunlap>;Eric A. Draper/WHO/EOP@Exchange [WHO] <Eric A. Draper>;Penny G. Douglas/WHO/EOP@Exchange [WHO] <Penny G. Douglas>;Joan R. Doty/WHO /EOP@Exchange [WHO] <Joan R. Doty>;Reed Dickens/WHO/EOP@Exchange [WHO] <Reed Dickens>;Josh Deckard/WHO/EOP@Exchange [WHO] <Josh Deckard>;Colin Crosby/NSC/EOP [NSC] <Colin Crosby>;Lynn A. Crable/WHO/EOP [WHO] <Lynn A. Crable>;Jean Cooper/OPD/EOP@Exchange [OPD] <Jean Cooper>;Colby J. Cooper/NSC/EOP [NSC] <Colby J. Cooper>;Carolyn E. Cleveland/WHO/EOP@Exchange [WHO] <Carolyn E. Cleveland>;Christal R. West/WHO/EOP@Exchange [WHO] <Christal R. West>;Shane P. Chambers/WHO/EOP [WHO] <Shane P. Chambers>;Lois A. Cassano/WHO/EOP@Exchange [WHO] <Lois A. Cassano>;Pamela R. Casey/WHO/EOP [WHO] <Pamela R. Casey>;Anne E. Campbell/WHO/EOP@Exchange [WHO] <Anne E. Campbell>;Regina L. Cain/WHO/EOP [WHO] <Regina L. Cain>;Janice L. Burmeister/WHO/EOP [WHO] <Janice L. Burmeister>;Johnathan C. Bunting/NSC/EOP [NSC] <Johnathan C. Bunting>;Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>;Marko R. Broz/NSC/EOP [NSC] <Marko R. Broz>;Katherine A. Brown/NSC/EOP [NSC] <Katherine A. Brown>;Debra S. Brown/WHO/EOP@Exchange [WHO] <Debra S. Brown>;Bonnie S. Broadwick/NSC/EOP [NSC] <Bonnie S. Broadwick>;Gary E. Bresnahan/NSC/EOP [NSC] <Gary E. Bresnahan>;Brian Bravo/WHO/EOP@Exchange [WHO] <Brian Bravo>;Denise Bradley/WHO/EOP@Exchange [WHO] <Denise Bradley>;David R. Bohrer/OVP/EOP [OVP] <David R. Bohrer>;H. Andrew Boerstling/NSC/EOP [NSC] <H. Andrew Boerstling>;Jeff Blair/NSC/EOP [NSC] <Jeff Blair>;Debra D. Bird/WHO/EOP@Exchange [WHO] <Debra D. Bird>;Melissa S. Bennett/WHO /EOP@Exchange [WHO] <Melissa S. Bennett>;Cheryl E. Barnett/NSC/EOP [NSC] <Cheryl E. Barnett>;Tiffany L. Barfield/WHO/EOP@Exchange [WHO] <Tiffany L. Barfield>;Mitchell P. Backfield/NSC/EOP [NSC] <Mitchell P. Backfield>;Chelsey Atkin/WHO/EOP@Exchange [WHO] <Chelsey Atkin>;Lauren K. Allgood/OPD/EOP@Exchange [OPD] <Lauren K. Allgood>

Sent: 4/18/2003 4:49:10 AM

Subject: : POSTMASTER: Mess Holiday Hours

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
```

CREATION DATE/TIME:18-APR-2003 08:49:10.00
SUBJECT:: POSTMASTER: Mess Holiday Hours
TO:Linda Springer (CN=Linda Springer/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Thomas A. Shannon Jr. (CN=Thomas A. Shannon Jr./OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tevi Troy (CN=Tevi Troy/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Stephen J. Yates (CN=Stephen J. Yates/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Candida P. Wolff (CN=Candida P. Wolff/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Daniel K. Wilmot (CN=Daniel K. Wilmot/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jocelyn White (CN=Jocelyn White/OU=WHF/O=EOP [OPM])
READ:UNKNOWN
TO:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul A. Wedderien (CN=Paul A. Wedderien/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:John P. Walters (CN=John P. Walters/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Theodore W. Ullyot (CN=Theodore W. Ullyot/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard J. Tubb (CN=Richard J. Tubb/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Karin B. Torgerson (CN=Karin B. Torgerson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Catherine W. Tobias (CN=Catherine W. Tobias/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jeffrey G. Thompson (CN=Jeffrey G. Thompson/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
TO:Phillip L. Swagel (CN=Phillip L. Swagel/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Jose G. Suarez (CN=Jose G. Suarez/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Aquiles F. Suarez (CN=Aquiles F. Suarez/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Angela B. Styles (CN=Angela B. Styles/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Deborah A. Spagnoli (CN=Deborah A. Spagnoli/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary A. Solberg (CN=Mary A. Solberg/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Carlos Solari (CN=Carlos Solari/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Augustine T. Smythe (CN=Augustine T. Smythe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Faryar Shirzad (CN=Faryar Shirzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Matthew Scully (CN=Matthew Scully/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gregory L. Schulte (CN=Gregory L. Schulte/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Howard A. Schmidt (CN=Howard A. Schmidt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel Schecter (CN=Daniel Schecter/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard M. Russell (CN=Richard M. Russell/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Peter M. Rowan (CN=Peter M. Rowan/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Thomas J. Ridge (CN=Thomas J. Ridge/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Otto Reich (CN=Otto Reich/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian Reardon (CN=Brian Reardon/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric C. Pelletier (CN=Eric C. Pelletier/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Marcus Peacock (CN=Marcus Peacock/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Neil S. Patel (CN=Neil S. Patel/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Joseph F. O'Neill (CN=Joseph F. O'Neill/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Kathie L. Olsen (CN=Kathie L. Olsen/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Sean C. O'Keefe (CN=Sean C. O'Keefe/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Sean B. O'Hollaren (CN=Sean B. O'Hollaren/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Kevin M. O'Donovan (CN=Kevin M. O'Donovan/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Claire M. O'Donnell (CN=Claire M. O'Donnell/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Julie L. Nichols (CN=Julie L. Nichols/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John F. Newell (CN=John F. Newell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Noam M. Neusner (CN=Noam M. Neusner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Manson O. Morris (CN=Manson O. Morris/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Paul D. Montanus (CN=Paul D. Montanus/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen S. McMillin (CN=Stephen S. McMillin/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Charles D. McGrath Jr (CN=Charles D. McGrath Jr/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:James M. McAllister (CN=James M. McAllister/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Catherine J. Martin (CN=Catherine J. Martin/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Christopher M. Marston (CN=Christopher M. Marston/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:John H. Marburger (CN=John H. Marburger/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:John F. Maisto (CN=John F. Maisto/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Robin A. MacLean (CN=Robin A. MacLean/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Ado A. Machida (CN=Ado A. Machida/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Andrew Lundquist (CN=Andrew Lundquist/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Stephanie J. Lundberg (CN=Stephanie J. Lundberg/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Deborah A. Loewer (CN=Deborah A. Loewer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elan Liang (CN=Elan Liang/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Laura S. Lawlor (CN=Laura S. Lawlor/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:William Lang (CN=William Lang/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Carol R. Kuntz (CN=Carol R. Kuntz/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Jeffrey Kuhlman (CN=Jeffrey Kuhlman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Randall S. Kroszner (CN=Randall S. Kroszner/OU=CEA/O=EOP [CEA])
READ:UNKNOWN
TO:Lindsey C. Kozberg (CN=Lindsey C. Kozberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Frank G. Klotz (CN=Frank G. Klotz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth W. Kleppe (CN=Elizabeth W. Kleppe/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Nathaniel Johnson (CN=Nathaniel Johnson/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Gregory J. Jenkins (CN=Gregory J. Jenkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Reuben Jeffery (CN=Reuben Jeffery/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel D. Faoro (CN=Daniel D. Faoro/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
TO:Jennifer R. Brosnahan (CN=Jennifer R. Brosnahan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gregory C. Huffman (CN=Gregory C. Huffman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lewis Hofmann (CN=Lewis Hofmann/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Debra Heiden (CN=Debra Heiden/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:John P. Hannah (CN=John P. Hannah/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Terrell L. Halaska (CN=Terrell L. Halaska/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:John Graham (CN=John Graham/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:John A. Gordon (CN=John A. Gordon/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Adam B. Goldman (CN=Adam B. Goldman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Stephen Friedman (CN=Stephen Friedman/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mark Everson (CN=Mark Everson/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Sandra K. Evans (CN=Sandra K. Evans/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric S. Edelman (CN=Eric S. Edelman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Nancy Dorn (CN=Nancy Dorn/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Diana C. Donnelly (CN=Diana C. Donnelly/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Suzy DeFrancis (CN=Suzy DeFrancis/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:James F. Daniel (CN=James F. Daniel/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
TO:John J. Daly (CN=John J. Daly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Stacia L. Cropper (CN=Stacia L. Cropper/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
TO:Barry Crane (CN=Barry Crane/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Christopher C. Cox (CN=Christopher C. Cox/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:James Connaughton (CN=James Connaughton/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
TO:Cesar Conda (CN=Cesar Conda/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Robin Cleveland (CN=Robin Cleveland/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Frank Cilluffo (CN=Frank Cilluffo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:James C. Capretta (CN=James C. Capretta/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Tim Campen (CN=Tim Campen/OU=OA/O=EOP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:William Cameron (CN=William Cameron/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Scott Burns (CN=Scott Burns/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Christine M. Burgeson (CN=Christine M. Burgeson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jonathan W. Burks (CN=Jonathan W. Burks/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Stephen E. Biegun (CN=Stephen E. Biegun/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Todd W. Beyer (CN=Todd W. Beyer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Brian R. Besanceney (CN=Brian R. Besanceney/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Janet L. Berman (CN=Janet L. Berman/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Kenneth Bernard (CN=Kenneth Bernard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Andrea G. Barthwell (CN=Andrea G. Barthwell/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:William D. Badger (CN=William D. Badger/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Richard E. Antaya (CN=Richard E. Antaya/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Penrose C. Albright (CN=Penrose C. Albright/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
TO:Michael Allen (CN=Michael Allen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jon Spaner (CN=Jon Spaner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Shelley Reese (CN=Shelley Reese/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Deborah Severn (CN=Deborah Severn/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Allison L. Riepenhoff (CN=Allison L. Riepenhoff/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Gina M. Wolford (CN=Gina M. Wolford/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Harry W. Wolff (CN=Harry W. Wolff/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Alexian T. Wines (CN=Alexian T. Wines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patricia Williams (CN=Patricia Williams/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Nikkya G. Williams (CN=Nikkya G. Williams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jared B. Weinstein (CN=Jared B. Weinstein/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Matthew C. Waxman (CN=Matthew C. Waxman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lauren J. Vestewig (CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Erin A. Vargo (CN=Erin A. Vargo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Tanya T. Turner (CN=Tanya T. Turner/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Terrill G. Tucker (CN=Terrill G. Tucker/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anne Trenolone (CN=Anne Trenolone/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:David L. Travers (CN=David L. Travers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Carol J. Thompson (CN=Carol J. Thompson/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Julieanne H. Thomas (CN=Julieanne H. Thomas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Susan L. Sterner (CN=Susan L. Sterner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Robert E. Schubert (CN=Robert E. Schubert/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Noelia Rodriguez (CN=Noelia Rodriguez/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Maurice C. Robinson (CN=Maurice C. Robinson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mark Robinson (CN=Mark Robinson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN

TO:January M. Riecke (CN=January M. Riecke/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Katherine A. Rhodes (CN=Katherine A. Rhodes/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Tim Reynolds (CN=Tim Reynolds/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:David Reyes (CN=David Reyes/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:A. Morgan Middlemas (CN=A. Morgan Middlemas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lauren McCord (CN=Lauren McCord/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Barbara B. Knight (CN=Barbara B. Knight/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Clare Pritchett (CN=Clare Pritchett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Suzanne Primoff (CN=Suzanne Primoff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:John I. Pray (CN=John I. Pray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sarah Penny (CN=Sarah Penny/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Richard S. Paulus (CN=Richard S. Paulus/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Joyce A. Parker (CN=Joyce A. Parker/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Christie Parell (CN=Christie Parell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Edward J. Padinske (CN=Edward J. Padinske/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Eric H. Otto (CN=Eric H. Otto/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Carolyn Nelson (CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Lee B. Mynatt (CN=Lee B. Mynatt/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Steven Myers (CN=Steven Myers/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Paul L. Morse (CN=Paul L. Morse/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Cathy L. Millison (CN=Cathy L. Millison/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Sonya E. Medina (CN=Sonya E. Medina/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Vickie A. McQuade (CN=Vickie A. McQuade/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Sara B. McIntosh (CN=Sara B. McIntosh/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Peter A. McCauley (CN=Peter A. McCauley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Daniel M. McCarthy (CN=Daniel M. McCarthy/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Thomas S. Marsh (CN=Thomas S. Marsh/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elizabeth Liptock (CN=Elizabeth Liptock/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Lindsey M. Lineweaver (CN=Lindsey M. Lineweaver/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Laura E. Lineberry (CN=Laura E. Lineberry/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Adam L. Levine (CN=Adam L. Levine/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Sang W. Lee (CN=Sang W. Lee/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:David L. Lee (CN=David L. Lee/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Elliott M. Langer (CN=Elliott M. Langer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ross M. Kyle (CN=Ross M. Kyle/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jennie M. Koch (CN=Jennie M. Koch/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jennifer M. Katzaman (CN=Jennifer M. Katzaman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Alexander S. Joves (CN=Alexander S. Joves/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:M. Kay Joshi (CN=M. Kay Joshi/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Megan R. Johnston (CN=Megan R. Johnston/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Sydney R. Johnson (CN=Sydney R. Johnson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Clarence C. Johnson (CN=Clarence C. Johnson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Melanie A. Jackson (CN=Melanie A. Jackson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Marilyn R. Jacanin (CN=Marilyn R. Jacanin/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Joseph Clancy (CN=Joseph Clancy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Elizabeth H. Donnan (CN=Elizabeth H. Donnan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Theresa M. Hunter (CN=Theresa M. Hunter/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Taylor A. Hughes (CN=Taylor A. Hughes/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jason C. Hubbard (CN=Jason C. Hubbard/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jeffrey P. Houle (CN=Jeffrey P. Houle/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:David F. Holt (CN=David F. Holt/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Ashley Holbrook (CN=Ashley Holbrook/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Josephine L. Hirsch (CN=Josephine L. Hirsch/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jane C. Heishman (CN=Jane C. Heishman/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Anne Heiligenstein (CN=Anne Heiligenstein/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Elizabeth A. Hearn (CN=Elizabeth A. Hearn/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Leah J. Harrelson (CN=Leah J. Harrelson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Robert C. Hargis (CN=Robert C. Hargis/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Mary Ann Hanusa (CN=Mary Ann Hanusa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Mary A. Haines (CN=Mary A. Haines/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Henry C. Hager (CN=Henry C. Hager/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Katharina M. Hager (CN=Katharina M. Hager/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Albert J. Guarnieri (CN=Albert J. Guarnieri/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Andrew W. Green (CN=Andrew W. Green/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Emily S. Gray (CN=Emily S. Gray/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Wendy E. Gray (CN=Wendy E. Gray/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

TO:Ann Gray (CN=Ann Gray/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Britt Grant (CN=Britt Grant/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Georgia D. Godfrey (CN=Georgia D. Godfrey/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Dorothy C. Garvin (CN=Dorothy C. Garvin/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jenna R. Galyean (CN=Jenna R. Galyean/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Joachim D. Fuchs (CN=Joachim D. Fuchs/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Restituto M. Francisco (CN=Restituto M. Francisco/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Julian M. Flannery (CN=Julian M. Flannery/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Barbara J. Finn (CN=Barbara J. Finn/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jeanie L. Figg (CN=Jeanie L. Figg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jennifer N. Field (CN=Jennifer N. Field/OU=OA/O=EOP [OA])
READ:UNKNOWN
TO:Douglas M. Erdahl (CN=Douglas M. Erdahl/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Ruth E. Elliott (CN=Ruth E. Elliott/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Kady Dunlap (CN=Kady Dunlap/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Eric A. Draper (CN=Eric A. Draper/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Penny G. Douglas (CN=Penny G. Douglas/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Joan R. Doty (CN=Joan R. Doty/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Reed Dickens (CN=Reed Dickens/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Josh Deckard (CN=Josh Deckard/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Colin Crosby (CN=Colin Crosby/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Lynn A. Crable (CN=Lynn A. Crable/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Jean Cooper (CN=Jean Cooper/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Colby J. Cooper (CN=Colby J. Cooper/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Christal R. West (CN=Christal R. West/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Shane P. Chambers (CN=Shane P. Chambers/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Lois A. Cassano (CN=Lois A. Cassano/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Pamela R. Casey (CN=Pamela R. Casey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Anne E. Campbell (CN=Anne E. Campbell/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Regina L. Cain (CN=Regina L. Cain/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
TO:Janice L. Burmeister (CN=Janice L. Burmeister/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO:Johnathan C. Bunting (CN=Johnathan C. Bunting/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Marko R. Broz (CN=Marko R. Broz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Katherine A. Brown (CN=Katherine A. Brown/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Debra S. Brown (CN=Debra S. Brown/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Bonnie S. Broadwick (CN=Bonnie S. Broadwick/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Gary E. Bresnahan (CN=Gary E. Bresnahan/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Brian Bravo (CN=Brian Bravo/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Denise Bradley (CN=Denise Bradley/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:David R. Bohrer (CN=David R. Bohrer/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
TO:H. Andrew Boerstling (CN=H. Andrew Boerstling/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Jeff Blair (CN=Jeff Blair/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Cheryl E. Barnett (CN=Cheryl E. Barnett/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Tiffany L. Barfield (CN=Tiffany L. Barfield/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Mitchell P. Backfield (CN=Mitchell P. Backfield/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
TO:Chelsey Atkin (CN=Chelsey Atkin/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Lauren K. Allgood (CN=Lauren K. Allgood/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
End Original ARMS Header

Mess Holiday Hours

In observance of the Holiday, the White House Mess will close for business at 3:00 PM on Friday, April 18 and remain closed through Sunday, April 20. Normal business hours will resume at 6:45 AM on Monday, April 21. If the need arises, necessary arrangements will be made to meet any unforeseen demands.

We apologize for any inconvenience.

Thank you.
#00287

MANAGEMENT AND ADMINISTRATION

From: CN=Randy W. Deitering/OU=PFIAB/O=EOP [PFIAB]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Catherine Lotrionte/PFIAB/EOP@EOP [PFIAB] <Catherine Lotrionte>
Sent: 4/18/2003 5:25:58 AM
Subject: : Re: Access to PFIAB Records

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Randy W. Deitering (CN=Randy W. Deitering/OU=PFIAB/O=EOP [PFIAB])
CREATION DATE/TIME:18-APR-2003 09:25:58.00
SUBJECT:: Re: Access to PFIAB Records
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Catherine Lotrionte (CN=Catherine Lotrionte/OU=PFIAB/O=EOP@EOP [PFIAB])
READ:UNKNOWN
End Original ARMS Header

In the past when PFIAB required access to archived records, we simply called or sent a note to Nancy Smith advising her of that need, the name of the person who would be showing up, at her door and the general reason: need to research personnel, ethics or security issue re: past member or staff; need to research past Board work/findings on a particular sunstantive issue; need to verify or previous Board membership; etc.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Randy W. Deitering/PFIAB/EOP@EOP [PFIAB] <Randy W. Deitering>
CC: catherine lotrionte/pfiab/eop@eop [PFIAB] <catherine lotrionte>
Sent: 4/18/2003 5:41:26 AM
Subject: : Re: Access to PFIAB Records

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-APR-2003 09:41:26.00
SUBJECT:: Re: Access to PFIAB Records
TO:Randy W. Deitering (CN=Randy W. Deitering/OU=PFIAB/O=EOP@EOP [PFIAB])
READ:UNKNOWN
CC:catherine lotrionte (CN=catherine lotrionte/OU=pfiab/O=eop@eop [PFIAB])
READ:UNKNOWN
End Original ARMS Header

And what would then happen?

Randy W. Deitering
04/18/2003 09:25:38 AM
Record Type: Record

To: Catherine Lotrionte/PFIAB/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Re: Access to PFIAB Records

In the past when PFIAB required access to archived records, we simply called or sent a note to Nancy Smith advising her of that need, the name of the person who would be showing up, at her door and the general reason: need to research personnel, ethics or security issue re: past member or staff; need to research past Board work/findings on a particular sunstantive issue; need to verify or previous Board membership; etc.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Randy W. Deitering/PFIAB/EOP@EOP [PFIAB] <Randy W. Deitering>
CC: catherine lotrionte/pfiab/eop@eop [PFIAB] <catherine lotrionte>
Sent: 4/18/2003 5:41:26 AM
Subject: : Re: Access to PFIAB Records

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:18-APR-2003 09:41:26.00
SUBJECT:: Re: Access to PFIAB Records
TO:Randy W. Deitering (CN=Randy W. Deitering/OU=PFIAB/O=EOP@EOP [PFIAB])
READ:UNKNOWN
CC:catherine lotrionte (CN=catherine lotrionte/OU=pfiab/O=eop@eop [PFIAB])
READ:UNKNOWN
End Original ARMS Header

And what would then happen?

Randy W. Deitering
04/18/2003 09:25:38 AM
Record Type: Record

To: Catherine Lotrionte/PFIAB/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Re: Access to PFIAB Records

In the past when PFIAB required access to archived records, we simply called or sent a note to Nancy Smith advising her of that need, the name of the person who would be showing up, at her door and the general reason: need to research personnel, ethics or security issue re: past member or staff; need to research past Board work/findings on a particular sunstantive issue; need to verify or previous Board membership; etc.

From: CN=Randy W. Deitering/OU=PFIAB/O=EOP [PFIAB]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/18/2003 7:02:09 AM
Subject: : Re: Access to PFIAB Records

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Randy W. Deitering ( CN=Randy W. Deitering/OU=PFIAB/O=EOP [ PFIAB ] )
CREATION DATE/TIME:18-APR-2003 11:02:09.00
SUBJECT:: Re: Access to PFIAB Records
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

We would be granted access.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Catherine Lotrionte/PFIAB/EOP@EOP [PFIAB] <Catherine Lotrionte>
CC: Randy W. Deitering/PFIAB/EOP@EOP [PFIAB] <Randy W. Deitering>
Sent: 4/18/2003 12:17:34 PM
Subject: : fyi: letter was FAXed to you and Gary Stern

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:18-APR-2003 16:17:34.00
SUBJECT:: fyi: letter was FAXed to you and Gary Stern
TO:Catherine Lotrionte ( CN=Catherine Lotrionte/OU=PFIAB/O=EOP@EOP [ PFIAB ] )
READ:UNKNOWN
CC:Randy W. Deitering ( CN=Randy W. Deitering/OU=PFIAB/O=EOP@EOP [ PFIAB ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: CN=McGavock D. Reed/OU=OMB/O=EOP [OMB]
To: rosemary.hart@usdoj.gov @ inet [UNKNOWN] <rosemary.hart@usdoj.gov @ inet>
CC: G. Timothy Saunders/WHO/EOP@EOP [WHO] <G. Timothy Saunders>;Harriet Miers/WHO /EOP@Exchange@EOP [WHO] <Harriet Miers>;Jonathan W. Burks/WHO /EOP@Exchange@EOP [WHO] <Jonathan W. Burks>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/18/2003 12:35:08 PM
Subject: : Timing Question Concerning EOs that extend other EOs

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:McGavock D. Reed ( CN=McGavock D. Reed/OU=OMB/O=EOP [ OMB ] )
CREATION DATE/TIME:18-APR-2003 16:35:08.00
SUBJECT:: Timing Question Concerning EOs that extend other EOs
TO:rosemary.hart@usdoj.gov @ inet ( rosemary.hart@usdoj.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
CC:G. Timothy Saunders ( CN=G. Timothy Saunders/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Harriet Miers ( CN=Harriet Miers/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
CC:Jonathan W. Burks ( CN=Jonathan W. Burks/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Rosemary,

Would you have a moment on Tuesday afternoon when I could
conference you, Brett, Tim, and maybe Harriet or Jonathan in to talk about
the timing question concerning EOs that extend other EOs and expiration
dates?

I want to be sure that I am giving the WH Staff Secretary and the
Clerk's Office the most accurate information and the greatest flexibility
to work within the President's busy schedule.

Thank you, Mac
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Randy W. Deitering/PFIAB/EOP@EOP [PFIAB] <Randy W. Deitering>
CC: Catherine Lotrionte/PFIAB/EOP@EOP [PFIAB] <Catherine Lotrionte>
Sent: 4/21/2003 6:46:40 AM
Subject: : declass

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:21-APR-2003 10:46:40.00
SUBJECT:: declass
TO:Randy W. Deitering ( CN=Randy W. Deitering/OU=PFIAB/O=EOP@EOP [ PFIAB ] )
READ:UNKNOWN
CC:Catherine Lotrionte ( CN=Catherine Lotrionte/OU=PFIAB/O=EOP@EOP [ PFIAB ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

Bill Leary, who is expert on the declass eo, will call you about your declass issue. Let me know if you have any questions. Thx.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Craig.Blackwell@usdoj.gov <Craig.Blackwell@usdoj.gov>
Sent: 4/21/2003 4:44:16 AM
Subject: : RE:
Attachments: P_II6RF003_WHO.TXT_1.wpd

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-APR-2003 08:44:16.00
SUBJECT:: RE:
TO:"Craig.Blackwell@usdoj.gov" <Craig.Blackwell@usdoj.gov> ("Craig.Blackwell@usdoj.gov" <Craig.Blackwell@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

have given to Mintz and will let you know. thanks. one question. Is it possible to add a sentence giving the Court the total number of pages from the Reagan Library that have been cleared for public access since the EO went into effect. Gary should have latest numbers on that, and it may be helpful for context.

"Craig.Blackwell@usdoj.gov" <Craig.Blackwell
04/21/2003 08:16:14 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE:

Final draft attached.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov [mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Friday, April 18, 2003 6:07 PM
To: Blackwell, Craig
Cc: Coffin, Shannen
Subject:

Mintz called. He was fine, but he is out of town and wanted us to send a copy
of the filing to him. Let's discuss Monday a.m. and get it done Monday. Thanks
for patience.

- notice2.wpd

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_II6RF003_WHO.TXT_1>

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN HISTORICAL ASSOCIATION, et al., Plaintiffs,	)	
v.	)	No. 1:01CV02447 (CKK)
NATIONAL ARCHIVES AND RECORDS ADMINISTRATION, et al., Defendants.	)	

NOTICE WITH RESPECT TO CERTAIN RECORDS

Defendants, National Archives and Records Administration and John W. Carlin, Archivist of the United States, hereby provide notice with respect to certain records referenced in plaintiffs' supplemental statement of undisputed facts in support of their motion for summary judgment. In their supplemental statement, plaintiffs noted that 1,654 pages of Reagan presidential records and video segments totaling approximately 15 minutes in length "have been subject to the review process called for by Executive Order 13,233, and have been withheld by the Archives pending completion of that process." See Supplemental Statement at ¶ 3. These records are not subject to plaintiffs' complaint (including their request for a mandatory injunction), and we have not endeavored to provide the Court with updates with respect to the status of these records during the course of their review by former President Reagan and President Bush. Nevertheless, so that the record is clear, we wish to inform the Court that, during the review process, neither former President Reagan nor President Bush asserted a constitutional privilege over 1,580 of the 1,654 pages. These 1,580 pages are available at the Reagan Library. We wish to further inform the Court that, during the review process, former President Reagan asserted constitutional privilege over the remaining 74 pages and the video segments. The incumbent Administration currently has this matter under review in accordance

REV_00163474

with Executive Order 13,233.

Respectfully submitted,

ROBERT D. McCALLUM, Jr.
Assistant Attorney General

ROSCOE C. HOWARD, JR.
United States Attorney

CRAIG M. BLACKWELL, D.C. Bar No. 438758
Senior Trial Counsel
U.S. Department of Justice
Ben Franklin Station
P.O. Box 883
Washington, D.C. 20044
Tel: (202) 616-0679
Fax: (202) 616-8470

Attorneys for Defendants

Date: April 17, 2003

REV_00163475

CERTIFICATE OF SERVICE

I certify that on April 17, 2003, I caused copies of the foregoing "Notice With Respect To Certain Records" to be served by first-class mail, postage prepaid, and by facsimile, on:

Scott L. Nelson
Public Citizen Litigation Group
1600 20th Street, N.W.
Washington, DC 20009
fax: (202) 588-7795

_____

Craig M. Blackwell

REV_00163476

From: Bumatay, Patrick J.
To: <Ullyot, Theodore W.>;<Bartolomucci, H. Christopher>;<Brosnahan, Jennifer R.>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>
Sent: 4/21/2003 9:02:50 AM
Subject: JSC This Week

Good morning,

Hope the Easter bunny visited you all yesterday.

anyone have anything for JSC this week?

Thanks,
Patrick

From: Kavanaugh, Brett M.
To: <Bumatay, Patrick J.>
Sent: 4/21/2003 9:05:30 AM
Subject: Re: JSC This Week

D Maryland district court

From: Patrick J. Bumatay/WHO/EOP@Exchange on 04/21/2003 09:02:50 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: JSC This Week

Good morning,

Hope the Easter bunny visited you all yesterday.

anyone have anything for JSC this week?

Thanks,

Patrick

Message Sent To:

Theodore W. Ullyot/WHO/EOP@EOP

H. Christopher Bartolomucci/WHO/EOP@EOP

Jennifer R. Brosnahan/WHO/EOP@EOP

Noel J. Francisco/WHO/EOP@EOP

Brett M. Kavanaugh/WHO/EOP@EOP

Jennifer G. Newstead/WHO/EOP@EOP

Benjamin A. Powell/WHO/EOP@EOP

Kyle Sampson/WHO/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: John Laster <John.Laster@nara.gov>
Sent: 4/21/2003 5:13:55 AM
Subject: : Re: notices

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-APR-2003 09:13:55.00
SUBJECT:: Re: notices
TO:John Laster <John.Laster@nara.gov> (John Laster <John.Laster@nara.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

John, can you re-FAX me the 73 pages of P5 described in 2002-024 to 202-456-5104. (We have copies of the 74 pages described in 2002-023 and the 220 pages in 2002-046.) Thanks.

John Laster <John.Laster@nara.gov>
04/21/2003 08:51:16 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: GaryM Stern <garym.stern@nara.gov>, Nancy Smith <nancy.smith@nara.gov>
Subject: Re: notices

Mr. Kavanaugh:

Gary Stern asked me to respond to your question concerning notification cases NLMS 2003-012 (44,767 pages), NLMS 2003-024 (93 pages), and NLMS 2003-025 (49 pages). None of the material proposed for opening in these three notifications contains P5 and/or P2 material. All 44,909 pages proposed for opening are Bush Presidential records and have been reviewed for all PRA restrictions as well as FOIA exemptions.

Please let us know if you need any additional information.

John

>>> <Brett_M._Kavanaugh@who.eop.gov> 04/18/03 05:55PM >>>
Can I confirm that there were no p5 in notice 2003-12, 2003-24, and 2003-25, all Bush Presidential records. Thanks. We should be able to clear
these and the others Monday.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Jan E. Williams/WHO/EOP@EOP [WHO] <Jan E. Williams>
Sent: 4/21/2003 5:14:39 AM
Subject: : Re: OLC opinion

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-APR-2003 09:14:39.00
SUBJECT:: Re: OLC opinion
TO:Jan E. Williams (CN=Jan E. Williams/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

No, conversation will not happen until tomorrow. We can try to get Kyle on the telephone if you have a problem with that.

Jan E. Williams

04/21/2003 09:12:48 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: katja bullock/who/eop@eop
bcc:
Subject: Re: OLC opinion

is that conversation going to happen early today? we plan on announcing tomorrow.

Brett M. Kavanaugh
04/21/2003 09:05:05 AM
Record Type: Record

To: Jan E. Williams/WHO/EOP@EOP
cc: katja bullock/who/eop@eop
bcc:
Subject: Re: OLC opinion

That is not the issue at this point. Kyle wants to talk to Judge and me about this.

Jan E. Williams

04/21/2003 09:04:12 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc: Katja Bullock/WHO/EOP@EOP
Subject: OLC opinion

when can we except to get the OLC opinion?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: GaryM Stern <garym.stern@nara.gov>
Sent: 4/21/2003 5:23:26 AM
Subject: : Re: notices

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-APR-2003 09:23:26.00
SUBJECT:: Re: notices
TO:GaryM Stern <garym.stern@nara.gov> (GaryM Stern <garym.stern@nara.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

I also am trying to get the FOIA issue resolved on that one-page
designation of rep. Thanks.

GaryM Stern <garym.stern@nara.gov>
04/21/2003 09:16:51 AM
Record Type: Record

To: John Laster <John.Laster@nara.gov>, Brett M. Kavanaugh/WHO/EOP@EOP
cc: Nancy Smith <nancy.smith@nara.gov>
Subject: Re: notices

Thanks Brett. I just got the fax, and am forwarding it to Nancy and John.

We also got the fax on PFIAB.

>>> <Brett_M._Kavanaugh@who.eop.gov> 4/21/03 9:11:45 AM >>>
Thanks. A FAX to Gary is on its way indicating that the President
will not
assert a privilege on any of those or on 2003-026. We also intend to wrap
up
2002-024 and 2002-046 today.

(Embedded
image moved John Laster <John.Laster@nara.gov>
to file: 04/21/2003 08:51:16 AM
pic20956.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc: GaryM Stern <garym.stern@nara.gov>, Nancy Smith
<nancy.smith@nara.gov>
Subject: Re: notices

Mr. Kavanaugh:

Gary Stern asked me to respond to your question concerning notification cases
NLMS 2003-012 (44,767 pages), NLMS 2003-024 (93 pages), and NLMS 2003-025 (49
pages). None of the material proposed for opening in these three notifications
contains P5 and/or P2 material. All 44,909 pages proposed for opening are Bush
Presidential records and have been reviewed for all PRA restrictions as well as
FOIA exemptions.

Please let us know if you need any additional information.

John

>>> <Brett_M._Kavanaugh@who.eop.gov> 04/18/03 05:55PM >>>
Can I confirm that there were no p5 in notice 2003-12, 2003-24, and
2003-25, all Bush Presidential records. Thanks. We should be able to clear
these and the others Monday.

From: GaryM Stern <garym.stern@nara.gov>
To: Adam F. Greenstone/OA/EOP@EOP [OA] <Adam F. Greenstone>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/21/2003 6:23:10 AM
Subject: : OA/NARA Meeting Agenda
Attachments: P_VYBRF003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:GaryM Stern <garym.stern@nara.gov> ( GaryM Stern <garym.stern@nara.gov> [ UNKNOWN ]
)
CREATION DATE/TIME:21-APR-2003 10:23:10.00
SUBJECT:: OA/NARA Meeting Agenda
TO:Adam F. Greenstone ( CN=Adam F. Greenstone/OU=OA/O=EOP@EOP [ OA ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Adam, here is the proposed agenda that we cleared through you sometime
back. We do not expect to go into detail on most of these things at this
initial meeting, but thought it would be useful to have a list of what we
have on our minds. Which is why I have kept in number 4, even if some of
that is more appropriate for a meeting folks in the White House Office.

I am cc'ing Brett, in case you're interested in joining in on this
meeting, which is at 11:30 Tuesday (tomorrow), at Jackson Place Towers
(726 Jackson Place) in the Lincoln Room, on the second floor.

See you tomorrow.

- E-Recor3.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_VYBRF003_WHO.TXT_1>
```

OA/NARA Meeting
April 22, 2003

1) Electronic Records Management for the EOP: NARA/EOP Partnership

2) Enterprise Architecture Review

   a) Inventory of all Systems, or only OA supported systems?
   b) How do systems fit into architecture?
   c) NARA role with inventory
   d) NARA role for systems not supported by OA, e.g.:
      i) Does OA support any of the Office of Homeland Security systems?
      ii) Does OA support any classified systems?

3) E-Records Management: ARMS Redesign and Other RM Tools

   a) Differentiating PRA and FRA
   b) Removing Nonrecord Option
   c) Separating permanent, temporary (for federal records), and non-record
      i) Segregation of bulk email from rest of ARMS (create new bucket)
   d) Including word processing, spreadsheets, etc.
   e) Keeping out Classified Information
   f) Recycling Backup Tapes
   g) Interim measures (customizing present move to Microsoft Outlook)

4) Other Systems: Upgrades and Other Issues

   a) White House Web Site
      i) Periodic "Snapshots"
   b) Correspondence Database
   c) Daily Diary
   d) Gift Database
   e) Photo Database
   f) WHORM Database
   g) Other?

REV_00163498

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: GaryM Stern <garym.stern@nara.gov>
CC: adam f. greenstone/oa/eop@eop [OA] <adam f. greenstone>
Sent: 4/21/2003 6:28:13 AM
Subject: : Re: OA/NARA Meeting Agenda
Attachments: P_DACRF003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-APR-2003 10:28:13.00
SUBJECT:: Re: OA/NARA Meeting Agenda
TO:GaryM Stern <garym.stern@nara.gov> (GaryM Stern <garym.stern@nara.gov> [UNKNOWN])
READ:UNKNOWN
CC:adam f. greenstone (CN=adam f. greenstone/OU=oa/O=eop@eop [OA])
READ:UNKNOWN
End Original ARMS Header

I will not join this meeting, but see that there are a lot of interesting topics in #4 that we should be involved in when they are considered ripe.

GaryM Stern <garym.stern@nara.gov>
04/21/2003 10:21:23 AM
Record Type: Record

To: Adam F. Greenstone/OA/EOP@EOP
cc: Brett M. Kavanaugh/WHO/EOP@EOP
Subject: OA/NARA Meeting Agenda

Adam, here is the proposed agenda that we cleared through you sometime back. We do not expect to go into detail on most of these things at this initial meeting, but thought it would be useful to have a list of what we have on our minds. Which is why I have kept in number 4, even if some of that is more appropriate for a meeting folks in the White House Office.

I am cc'ing Brett, in case you're interested in joining in on this meeting, which is at 11:30 Tuesday (tomorrow), at Jackson Place Towers (726 Jackson Place) in the Lincoln Room, on the second floor.

See you tomorrow.

- E-Recor3.doc

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_DACRF003_WHO.TXT_1>

OA/NARA Meeting
April 22, 2003

1) Electronic Records Management for the EOP: NARA/EOP Partnership

2) Enterprise Architecture Review

   a) Inventory of all Systems, or only OA supported systems?
   b) How do systems fit into architecture?
   c) NARA role with inventory
   d) NARA role for systems not supported by OA, e.g.:
      i) Does OA support any of the Office of Homeland Security systems?
      ii) Does OA support any classified systems?

3) E-Records Management: ARMS Redesign and Other RM Tools

   a) Differentiating PRA and FRA
   b) Removing Nonrecord Option
   c) Separating permanent, temporary (for federal records), and non-record
      i) Segregation of bulk email from rest of ARMS (create new bucket)
   d) Including word processing, spreadsheets, etc.
   e) Keeping out Classified Information
   f) Recycling Backup Tapes
   g) Interim measures (customizing present move to Microsoft Outlook)

4) Other Systems: Upgrades and Other Issues

   a) White House Web Site
      i) Periodic "Snapshots"
   b) Correspondence Database
   c) Daily Diary
   d) Gift Database
   e) Photo Database
   f) WHORM Database
   g) Other?

REV_00163502

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: GaryM Stern <garym.stern@nara.gov>
CC: adam f. greenstone/oa/eop@eop [OA] <adam f. greenstone>
Sent: 4/21/2003 6:28:13 AM
Subject: : Re: OA/NARA Meeting Agenda
Attachments: F_DACRF003_OA.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-APR-2003 10:28:13.00
SUBJECT:: Re: OA/NARA Meeting Agenda
TO:GaryM Stern <garym.stern@nara.gov> (GaryM Stern <garym.stern@nara.gov> [UNKNOWN])
READ:UNKNOWN
CC:adam f. greenstone (CN=adam f. greenstone/OU=oa/O=eop@eop [OA])
READ:UNKNOWN
End Original ARMS Header

I will not join this meeting, but see that there are a lot of interesting topics in #4 that we should be involved in when they are considered ripe.

GaryM Stern <garym.stern@nara.gov>
04/21/2003 10:21:23 AM
Record Type: Record

To: Adam F. Greenstone/OA/EOP@EOP
cc: Brett M. Kavanaugh/WHO/EOP@EOP
Subject: OA/NARA Meeting Agenda

Adam, here is the proposed agenda that we cleared through you sometime back. We do not expect to go into detail on most of these things at this initial meeting, but thought it would be useful to have a list of what we have on our minds. Which is why I have kept in number 4, even if some of that is more appropriate for a meeting folks in the White House Office.

I am cc'ing Brett, in case you're interested in joining in on this meeting, which is at 11:30 Tuesday (tomorrow), at Jackson Place Towers (726 Jackson Place) in the Lincoln Room, on the second floor.

See you tomorrow.

- E-Recor3.doc

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <F_DACRF003_OA.TXT_1>

OA/NARA Meeting
April 22, 2003

1) Electronic Records Management for the EOP: NARA/EOP Partnership

2) Enterprise Architecture Review

   a) Inventory of all Systems, or only OA supported systems?
   b) How do systems fit into architecture?
   c) NARA role with inventory
   d) NARA role for systems not supported by OA, e.g.:
      i) Does OA support any of the Office of Homeland Security systems?
      ii) Does OA support any classified systems?

3) E-Records Management: ARMS Redesign and Other RM Tools

   a) Differentiating PRA and FRA
   b) Removing Nonrecord Option
   c) Separating permanent, temporary (for federal records), and non-record
      i) Segregation of bulk email from rest of ARMS (create new bucket)
   d) Including word processing, spreadsheets, etc.
   e) Keeping out Classified Information
   f) Recycling Backup Tapes
   g) Interim measures (customizing present move to Microsoft Outlook)

4) Other Systems: Upgrades and Other Issues

   a) White House Web Site
      i) Periodic "Snapshots"
   b) Correspondence Database
   c) Daily Diary
   d) Gift Database
   e) Photo Database
   f) WHORM Database
   g) Other?

REV_00163504

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: William H. Leary/NSC/EOP@EOP [NSC] <William H. Leary>
Sent: 4/21/2003 6:38:21 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:21-APR-2003 10:38:21.00
SUBJECT::
TO:William H. Leary ( CN=William H. Leary/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I sent you some Reagan records for you to review quickly if you can.
These have been declassified; the question is whether you have any concern
about them.
```

From: Bumatay, Patrick J.
To: <Kavanaugh, Brett M.>
Sent: 4/21/2003 10:42:53 AM
Subject: FW: FW: LRM IKK43 - - REVISED COMMERCE Report on HR49 Internet Tax Nondiscrimination Act
Attachments: internettax2003OMB.doc

-----Original Message-----
From: Ullyot, Theodore W.
Sent: Monday, April 21, 2003 9:42 AM
To: Bumatay, Patrick J.
Subject: Re: FW: LRM IKK43 - - REVISED COMMERCE Report on HR49 Internet Tax Nondiscrimination Act

Patrick: I think you had reassigned this one to another Associate Counsel.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 04/18/2003 08:25:01 AM
Record Type: Record

To: Theodore W. Ullyot/WHO/EOP@EOP
cc:
Subject: FW: LRM IKK43 - - REVISED COMMERCE Report on HR49 Internet Tax Nondiscrimination Act

-----Original Message-----
From: Kho, Irene
Sent: Thursday, April 17, 2003 5:32 PM
To: Ostp Lrm; lr@do.treas.gov; justice.lrm@usdoj.gov; state-lrm@state.gov; cla@sba.gov; laffairs@ustr.gov
Cc: Nec Lrm; Whgc Lrm; Ovp Lrm; Cea Lrm; Malphrus, Garry; Schacht, Diana L.; Mahaffie, Robert F.; Schwartz, Mark J.; Bloomquist, Lauren E.; Boden, James; Dennis, Yvette M.; Lyon, Randolph M.; Stauffer, Anne R.; Kulikowski, James M.; Durant, Catherine; Casella, Michael; Green, Richard E.; Jukes, James J.; Foster, James D.; Russell, Richard M.; Silverberg, Kristen; Lobrano, Lauren C.; Chadwick, Kirsten; Lobrano, Lauren C.; Luczynski, Kimberley S.; Wood, John F.; Perry, Philip J.; McMillin, Stephen S.; Rust, Kathryn E.; Barrales, Ruben S.; MacEcevic, Lisa J.; Schroeder, Ingrid M.
Subject: LRM IKK43 - - REVISED COMMERCE Report on HR49 Internet Tax Nondiscrimination Act

Attached is a REVISED Commerce letter on H.R. 49. Please review and provide comments by 2:00 PM on Wednesday, April 23nd. Thank you.

- internettax2003OMB.doc <>

LRM ID: IKK43

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Thursday, April 17, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: Irene Kho
PHONE: (202)395-5858 FAX: (202)395-3109
SUBJECT: **REVISED COMMERCE Report on HR49 Internet Tax Nondiscrimination Act**

DEADLINE: **2:00 PM Wednesday, April 23, 2003**
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Attached is a REVISED Commerce letter supporting H.R. 49. Please review and provide comments by 2:00 PM on Wednesday, April 23nd.

DISTRIBUTION LIST

AGENCIES:
095-Office of Science and Technology Policy - Maureen O'Brien - (202) 456-6037
118-TREASURY - Richard S. Carro - (202) 622-0650
61-JUSTICE - Robert Raben - (202) 514-2141
114-STATE - Paul Rademacher - (202) 647-4463
107-Small Business Administration - Jane P. Merkin - (202) 205-6700
128-US Trade Representative - Carmen Suro-Bredie - (202) 395-3475

EOP:
NEC LRM
WHGC LRM
OVP LRM
CEA LRM
Garry Malphrus
Diana L. Schacht
Carlos E. Bonilla
Robert F. Mahaffie
Mark J. Schwartz
Lauren E. Bloomquist
James Boden
Yvette M. Dennis
Randolph M. Lyon
Anne R. Stauffer
James M. Kulikowski
Catherine Durant
Michael Casella
Richard E. Green
James J. Jukes
James D. Foster
Richard M. Russell
Kristen Silverberg
Lauren C. Lobrano
Kirsten A. Chadwick
Lauren C. Lobrano
Kimberley S. Luczynski

John F. Wood
Philip J. Perry
Stephen S. McMillin
Kathryn E. Rust
Ruben S. Barrales
Lisa J. Macecevic
Ingrid M. Schroeder
LRM ID: IKK43 **SUBJECT:** REVISED COMMERCE Report on HR49 Internet Tax Nondiscrimination Act

RESPONSE TO

LEGISLATIVE REFERRAL

MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) faxing us a memo or letter.

Please include the LRM number and subject shown above.

TO: **Irene Kho Phone: 395-5858 Fax: 395-3109**

Office of Management and Budget

FROM: _____ **(Date)**

_____ **(Name)**

_____ **(Agency)**

_____ **(Telephone)**

The following is the response of our agency to your request for views on the above-captioned subject:

_____ **Concur**

_____ **No Objection**

_____ **No Comment**

_____ **See proposed edits on pages** _____

_____ **Other:** _____

_____ **FAX RETURN of** _____ **pages, attached to this response sheet**

DRAFT DRAFT DRAFT

The Honorable Christopher Cox
United States House of Representatives
2402 Russell House Office Building
Washington, DC 20515

Dear Representative Cox:

I want to commend you for your laudable efforts to extend the moratorium on Internet access and discriminatory taxes on electronic commerce through H.R. 49, the "Internet Tax Nondiscrimination Act."

The Internet is an innovative force that opens vast potential economic and social benefits of e-commence and enables such applications as distance learning, telemedicine, e-business, e-government and precision farming. The next-generation, broadband Internet offers even greater impact, and this Administration is making aggressive deployment of broadband networks a priority. In this regard, government must not slow the roll-out or usage of Internet services by establishing administrative barriers or imposing additional taxation. As the President stated at the Waco Economic Forum in 2002, "If you want something to be used more, you don't tax it."

I encourage Congress to expeditiously pass legislation to extend the moratorium before it expires on November 1 of this year. Thank you again for your outstanding leadership on this important issue. If you should have any further questions or concerns, please feel free to contact me at (202) 482-2112, or Brenda Becker, Assistant Secretary for Legislative and Intergovernmental Affairs, at (202) 482-3663.

Sincerely,

Donald L. Evans

From: CN=William H. Leary/OU=NSC/O=EOP [NSC]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/21/2003 7:12:57 AM
Subject: : RE: Urgent Department of State need for Clinton White House materials on Middle East

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:William H. Leary (CN=William H. Leary/OU=NSC/O=EOP [NSC])
CREATION DATE/TIME:21-APR-2003 11:12:57.00
SUBJECT:: RE: Urgent Department of State need for Clinton White House mater ials on Middle East
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett,

Paul Claussen is at home, but he will be calling you.

From: CN=Noel J. Francisco/OU=WHO/O=EOP [WHO]
To: Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>
CC: jennifer r. brosnahan/who/eop@eop [WHO] <jennifer r. brosnahan>;kyle sampson/who /eop@eop [WHO] <kyle sampson>;jennifer g. newstead/who/eop@eop [WHO] <jennifer g. newstead>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;jonathan f. ganter/who/eop@eop [WHO] <jonathan f. ganter>;james w. carroll/who/eop@eop [WHO] <james w. carroll>;theodore w. ullyot/who/eop@eop [WHO] <theodore w. ullyot>;benjamin a. powell/who/eop@eop [WHO] <benjamin a. powell>;edward mcnally/who/eop@eop [WHO] <edward mcnally>;alberto r. gonzales/who/eop@exchange [WHO] <alberto r. gonzales>;nanette everson/who/eop@eop [WHO] <nanette everson>;h. christopher bartolomucci/who/eop@eop [WHO] <h. christopher bartolomucci>
Sent: 4/21/2003 11:28:32 AM
Subject: : Re: update on our marathon runners

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:21-APR-2003 15:28:32.00
SUBJECT:: Re: update on our marathon runners
TO:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
CC:jennifer r. brosnahan ( CN=jennifer r. brosnahan/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:kyle sampson ( CN=kyle sampson/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:jennifer g. newstead ( CN=jennifer g. newstead/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:brett m. kavanaugh ( CN=brett m. kavanaugh/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:jonathan f. ganter ( CN=jonathan f. ganter/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:james w. carroll ( CN=james w. carroll/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:theodore w. ullyot ( CN=theodore w. ullyot/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:benjamin a. powell ( CN=benjamin a. powell/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:edward mcnally ( CN=edward mcnally/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:alberto r. gonzales ( CN=alberto r. gonzales/OU=who/O=eop@exchange [ WHO ] )
READ:UNKNOWN
CC:nanette everson ( CN=nanette everson/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:h. christopher bartolomucci ( CN=h. christopher bartolomucci/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I believe that with my sprint into my house this morning (I forgot my ID
badge), I have now also completed half of a marathon -- my time has been
approximately 33 years and 8 months, give or take a few hours.



From: Charlotte L. Montiel/WHO/EOP@Exchange on 04/21/2003 03:22:55
PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: update on our marathon runners

Carrie and Allison have now;completed half of the marathon.; Carrie;was;at
2 hours, 20 minutes, and 56 seconds at the halfway mark!
```

Message Sent
To:_____
H. Christopher Bartolomucci/WHO/EOP@EOP
James W. Carroll/WHO/EOP@EOP
Nanette Everson/WHO/EOP@EOP
Noel J. Francisco/WHO/EOP@EOP
Jonathan F. Ganter/WHO/EOP@EOP
Alberto R. Gonzales/WHO/EOP@Exchange
Brett M. Kavanaugh/WHO/EOP@EOP
Edward McNally/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
Benjamin A. Powell/WHO/EOP@EOP
Kyle Sampson/WHO/EOP@EOP
Theodore W. Ullyot/WHO/EOP@EOP
Jennifer R. Brosnahan/WHO/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>
Sent: 4/21/2003 12:54:36 PM
Subject: : Re: Judical emergency, emergencies or crisis?

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-APR-2003 16:54:36.00
SUBJECT:: Re: Judical emergency, emergencies or crisis?
TO:Theodore W. Ullyot (CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

ok, I would just make sure the exact number is right. It's sometimes better to use something like "more than 30" unless you are 100% sure.

Theodore W. Ullyot
04/21/2003 04:43:48 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Judical emergency, emergencies or crisis?

Ok, we'll go with "vacancy crisis."

FYI, he wanted to put in some examples or details re judges getting through in the final year of a presidency. I discussed it with him in detail, explaining that 1992, which is the year at issue, is actually full of (34) examples of judges nominated and confirmed in the final year, but that 1996 and 2000 are not as good. He said that he understands, but still does want to put in some detail. So I will mention the 34 figure for 1992.

Also, you will be happy to learn that the Judge said "I don't care one way or the other about how we end the letter -- with an invitation for proposals or not -- so if you want to leave it out I'm OK with that." And I have now changed it to just conclude "Thank you again for your letter."

Brett M. Kavanaugh
04/21/2003 04:38:04 PM
Record Type: Record

To: Theodore W. Ullyot/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Judical emergency, emergencies or crisis?

we use both terms

Theodore W. Ullyot
04/21/2003 04:23:12 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Judical emergency, emergencies or crisis?

Brett: The Judge has made an edit to the letter that would have us refer to the "vacancy crisis in the Sixth Circuit" -- but he asked me to confirm if that's true. Is "crisis" a term that we use, or do we usually say "judicial emergency" (or "emergencies" -- when several seats involved, i.e. one emergency per seat)?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: William H. Leary/NSC/EOP@EOP [NSC] <William H. Leary>
Sent: 4/21/2003 10:17:25 AM
Subject: : Re: declass

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-APR-2003 14:17:25.00
SUBJECT:: Re: declass
TO:William H. Leary (CN=William H. Leary/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
End Original ARMS Header

are you comfortable with this?
---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 04/21/2003 02:14 PM ----------

Catherine Lotrionte
04/21/2003 02:12:34 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: randy w. deitering/pfiab/eop@eop, Alison L. Massagli/PFIAB/EOP@EOP
bcc:
Subject: Re: declass

Brett:
I spoke to Bill Leary. Based upon our conversation, my understanding about E.O. 12958 and PFIAB's responsibility with respect to the review & declassification of documents that PFIAB has is the following:
1. For those documents that were part of the NRO declassification review project . . . these documents will be subject to automatic declassification when they are 50 years or older.
2. For the rest of PFIAB documents at NARA that are 25 years or older (not included in the NRO review) . . . . these documents fall under the requirements of the EO and are subject to automatic declassifcation in 2006. (systematic declassification reviews procedures need to be put in place by PFIAB for these documents)
3. For the specific "on demand" requests that PFIAB receives from outside archivists and researchers to review & declassify PFIAB documents . . . . these documents are also subject to the EO and its automatic declassification deadlines. (mandatory declassification review procedures need to be put in place by PFIAB for these documents)

Overall, PFIAB is subject to the EO and the ISOO guidelines for deadlines for automatics declassification both for the sytematic reviews and the mandatory review requests.

If this doesn't sound right to you then we should dicuss. Otherwise, based upon what Bill said PFIAB will be moving forward to set up a review and declassification system in order to comply with the EO and ISOO guidelines.

Regards,
CL

Brett M. Kavanaugh
04/21/2003 10:46:19 AM
Record Type: Record

To: Randy W. Deitering/PFIAB/EOP@EOP
cc: Catherine Lotrionte/PFIAB/EOP@EOP
Subject: declass

Bill Leary, who is expert on the declass eo, will call you about your declass issue. Let me know if you have any questions. Thx.

From: CN=Catherine Lotrionte/OU=PFIAB/O=EOP [PFIAB]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: randy w. deitering/pfiab/eop@eop [PFIAB] <randy w. deitering>
Sent: 4/21/2003 10:17:31 AM
Subject: : Re: fyi: letter was FAXed to you and Gary Stern

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Catherine Lotrionte (CN=Catherine Lotrionte/OU=PFIAB/O=EOP [PFIAB])
CREATION DATE/TIME:21-APR-2003 14:17:31.00
SUBJECT:: Re: fyi: letter was FAXed to you and Gary Stern
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:randy w. deitering (CN=randy w. deitering/OU=pfiab/O=eop@eop [PFIAB])
READ:UNKNOWN
End Original ARMS Header

Thanks. I got it.

Brett M. Kavanaugh
04/18/2003 04:13:39 PM
Record Type: Record

To: Catherine Lotrionte/PFIAB/EOP@EOP
cc: Randy W. Deitering/PFIAB/EOP@EOP
Subject: fyi: letter was FAXed to you and Gary Stern

From: CN=McGavock D. Reed/OU=OMB/O=EOP [OMB]
To: Rosemary.Hart@usdoj.gov @ inet [UNKNOWN] <Rosemary.Hart@usdoj.gov @ inet>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jonathan W. Burks/WHO /EOP@Exchange@EOP [WHO] <Jonathan W. Burks>
Sent: 4/21/2003 2:32:24 PM
Subject: : RE: Timing Question Concerning EOs that extend other EOs

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:McGavock D. Reed (CN=McGavock D. Reed/OU=OMB/O=EOP [OMB])
CREATION DATE/TIME:21-APR-2003 18:32:24.00
SUBJECT:: RE: Timing Question Concerning EOs that extend other EOs
TO:Rosemary.Hart@usdoj.gov @ inet (Rosemary.Hart@usdoj.gov @ inet [UNKNOWN])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Jonathan W. Burks (CN=Jonathan W. Burks/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Rosemary, How about Wednesday afternoon at 4:00 o'clock. Thank you, Mac
---------- Forwarded by McGavock D. Reed/OMB/EOP on 04/21/2003 06:06 PM ----------

"Rosemary.Hart@usdoj.gov" <Rosemary.Hart
04/21/2003 06:01:18 PM
Record Type: Record

To: McGavock D. Reed/OMB/EOP@EOP
cc:
Subject: RE: Timing Question Concerning EOs that extend other EOs

Mac: I have to go over to the State Department tomorrow by 9:30 to continue the review of documents for the Balkans EO - I may be there for several hours. I then have the 4:30-5:30 meeting for the Iraq assistance/sanctions memorandum. Do you think we could have our conference call on Wednesday or Thursday instead of tomorrow? Thanks, Rosemary

-----Original Message-----
From: McGavock_D._Reed@omb.eop.gov [mailto:McGavock_D._Reed@omb.eop.gov]
Sent: Friday, April 18, 2003 4:35 PM
To: Hart, Rosemary
Cc: Brett_M._Kavanaugh@who.eop.gov; Harriet_Miers@oa.eop.gov; Jonathan_W._Burks@oa.eop.gov; G._Timothy_Saunders@who.eop.gov
Subject: Timing Question Concerning EOs that extend other EOs

Rosemary,

Would you have a moment on Tuesday afternoon when I could conference you,
Brett, Tim, and maybe Harriet or Jonathan in to talk about the timing question
concerning EOs that extend other EOs and expiration dates?

I want to be sure that I am giving the WH Staff Secretary and the Clerk's
Office the most accurate information and the greatest flexibility to work within
the President's busy schedule.

Thank you, Mac

From: Seidel, Rebecca (Judiciary) <Rebecca_Seidel@Judiciary.senate.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/21/2003 2:52:01 PM
Subject: : FW: FW: RECENT UPDATE

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Seidel, Rebecca (Judiciary)" <Rebecca_Seidel@Judiciary.senate.gov> ("Seidel, Rebecca (Judiciary)" <Rebecca_Seidel@Judiciary.senate.gov> [UNKNOWN])
CREATION DATE/TIME:21-APR-2003 18:52:01.00
SUBJECT:: FW: FW: RECENT UPDATE
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

The previous email was not meant to be cryptic or evasive, just not sure how much to put in an email. We can chat if you want more info.

CONFIDENTIALITY NOTE:

The information contained in this e-mail is legally privileged and confidential information intended only for the use of the individuals or entities named as addressees.; If you, the reader of this message, are not the intended recipient, you are hereby notified that any dissemination, distribution, publication, or copying of this message is strictly prohibited.; If you have received this message in error, please forgive the inconvenience, immediately notify the sender, and delete the original message without keeping a copy.

-----Original Message-----
From: Seidel, Rebecca (Judiciary)
Sent: Monday, April 21, 2003 6:24 PM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Subject: RE: FW: RECENT UPDATE

Just got out of a meeting with Tom Swanton of Specter's office a little while ago. It was not encouraging - we are meeting again tomorrow. If you want more info, feel free to call me 224-7986

CONFIDENTIALITY NOTE:

The information contained in this e-mail is legally privileged and confidential information intended only for the use of the individuals or entities named as addressees.; If you, the reader of this message, are not the intended recipient, you are hereby notified that any dissemination, distribution, publication, or copying of this message is strictly prohibited.; If you have received this message in error, please forgive the inconvenience, immediately notify the sender, and delete the original message without keeping a copy.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Monday, April 21, 2003 3:18 PM
To: Seidel, Rebecca (Judiciary)
Subject: Re: FW: RECENT UPDATE

It was good. What's up with Specter?

(Embedded
image moved "Seidel, Rebecca (Judiciary)"
to file: <Rebecca_Seidel@Judiciary.senate.gov>
pic01148.pcx) 04/21/2003 01:52:28 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: FW: RECENT UPDATE

I had RSVP'd to attend, sorry I missed this, was tied up in another
meeting. Had
no idea you would also present! Would've rearranged my schedule! :)
How'd it go?

CONFIDENTIALITY NOTE:

The information contained in this e-mail is legally privileged and
confidential
information intended only for the use of the individuals or entities named
as
addressees.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Catherine Lotrionte/PFIAB/EOP@EOP [PFIAB] <Catherine Lotrionte>
CC: alison l. massagli/pfiab/eop@eop [PFIAB] <alison l. massagli>;randy w. deitering/pfiab /eop@eop [PFIAB] <randy w. deitering>
Sent: 4/21/2003 11:24:16 AM
Subject: : Re: declass

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-APR-2003 15:24:16.00
SUBJECT:: Re: declass
TO:Catherine Lotrionte (CN=Catherine Lotrionte/OU=PFIAB/O=EOP@EOP [PFIAB])
READ:UNKNOWN
CC:alison l. massagli (CN=alison l. massagli/OU=pfiab/O=eop@eop [PFIAB])
READ:UNKNOWN
CC:randy w. deitering (CN=randy w. deitering/OU=pfiab/O=eop@eop [PFIAB])
READ:UNKNOWN
End Original ARMS Header

This is correct. Thanks for your help and please keep me posted.

Catherine Lotrionte
04/21/2003 02:12:34 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: randy w. deitering/pfiab/eop@eop, Alison L. Massagli/PFIAB/EOP@EOP
bcc:
Subject: Re: declass

Brett:
I spoke to Bill Leary. Based upon our conversation, my understanding about E.O. 12958 and PFIAB's responsibility with respect to the review & declassification of documents that PFIAB has is the following:
1. For those documents that were part of the NRO declassification review project . . . these documents will be subject to automatic declassification when they are 50 years or older.
2. For the rest of PFIAB documents at NARA that are 25 years or older (not included in the NRO review) . . . . these documents fall under the requirements of the EO and are subject to automatic declassifcation in 2006. (systematic declassification reviews procedures need to be put in place by PFIAB for these documents)
3. For the specific "on demand" requests that PFIAB receives from outside archivists and researchers to review & declassify PFIAB documents . . . . these documents are also subject to the EO and its automatic declassification deadlines. (mandatory declassification review procedures need to be put in place by PFIAB for these documents)

Overall, PFIAB is subject to the EO and the ISOO guidelines for deadlines for automatics declassification both for the sytematic reviews and the mandatory review requests.

If this doesn't sound right to you then we should dicuss. Otherwise, based upon what Bill said PFIAB will be moving forward to set up a review and declassification system in order to comply with the EO and ISOO guidelines.

Regards,
CL

Brett M. Kavanaugh
04/21/2003 10:46:19 AM
Record Type: Record

To: Randy W. Deitering/PFIAB/EOP@EOP
cc: Catherine Lotrionte/PFIAB/EOP@EOP
Subject: declass

Bill Leary, who is expert on the declass eo, will call you about your declass issue. Let me know if you have any questions. Thx.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Elizabeth S. Dougherty/OPD/EOP@EOP [OPD] <Elizabeth S. Dougherty>
Sent: 4/21/2003 11:27:32 AM
Subject: : any further NMB work needed?

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:21-APR-2003 15:27:32.00
SUBJECT:: any further NMB work needed?
TO:Elizabeth S. Dougherty ( CN=Elizabeth S. Dougherty/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

From: Francisco, Noel J.
To: <Montiel, Charlotte L.>
CC: <Bartolomucci, H. Christopher>;<Carroll, James W.>;<Everson, Nanette>;<Ganter, Jonathan F.>;<Gonzales, Alberto R.>;<Kavanaugh, Brett M.>;<McNally, Edward>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>;<Ullyot, Theodore W.>;<Brosnahan, Jennifer R.>
Sent: 4/21/2003 3:28:13 PM
Subject: Re: update on our marathon runners

I believe that with my sprint into my house this morning (I forgot my ID badge), I have now also completed half of a marathon -- my time has been approximately 33 years and 8 months, give or take a few hours.

From: Charlotte L. Montiel/WHO/EOP@Exchange on 04/21/2003 03:22:55 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: update on our marathon runners

Carrie and Allison have now completed half of the marathon. Carrie was at 2 hours, 20 minutes, and 56 seconds at the halfway mark!

Message Sent To:

H. Christopher Bartolomucci/WHO/EOP@EOP

James W. Carroll/WHO/EOP@EOP

Nanette Everson/WHO/EOP@EOP

Noel J. Francisco/WHO/EOP@EOP

Jonathan F. Ganter/WHO/EOP@EOP

Alberto R. Gonzales/WHO/EOP@Exchange

Brett M. Kavanaugh/WHO/EOP@EOP

Edward McNally/WHO/EOP@EOP

Jennifer G. Newstead/WHO/EOP@EOP

Benjamin A. Powell/WHO/EOP@EOP

Kyle Sampson/WHO/EOP@EOP

Theodore W. Ullyot/WHO/EOP@EOP

Jennifer R. Brosnahan/WHO/EOP@EOP

From: Craig.Blackwell@usdoj.gov
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Shannen.Coffin@usdoj.gov <Shannen.Coffin@usdoj.gov>
Sent: 4/21/2003 12:35:25 PM
Subject: : RE:
Attachments: P_ISXRF003_WHO.TXT_1.wpd

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Craig.Blackwell@usdoj.gov" <Craig.Blackwell@usdoj.gov> (
"Craig.Blackwell@usdoj.gov" <Craig.Blackwell@usdoj.gov> [UNKNOWN])
CREATION DATE/TIME:21-APR-2003 16:35:25.00
SUBJECT:: RE:
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:"Shannen.Coffin@usdoj.gov" <Shannen.Coffin@usdoj.gov> (Receipt Notification Requested)
(IPM Return Requested) ("Shannen.Coffin@usdoj.gov" <Shannen.Coffin@usdoj.gov> (Receipt
Notification Requested) (IPM Return Requested) [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

final attached. will file as soon as Brett clears.

Craig

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Monday, April 21, 2003 10:04 AM
To: Blackwell, Craig
Subject: RE:

Reagan rep asked what exactly we had said in our filings that
requires this
unusual notice to the Court. Can you point me to the relevant language
and FAX
it to 456-5104? Thanks.

(Embedded
image moved "Craig.Blackwell@usdoj.gov" <Craig.Blackwell
to file: 04/21/2003 09:48:36 AM
pic16792.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: RE:

i don't see why not. let me talk to Gary and get the numbers.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Monday, April 21, 2003 8:44 AM
To: Blackwell, Craig
Subject: RE:

have given to Mintz and will let you know. thanks. one question. Is it possible to add a sentence giving the Court the total number of pages from the Reagan Library that have been cleared for public access since the EO went into effect. Gary should have latest numbers on that, and it may be helpful for context.

(Embedded image moved "Craig.Blackwell@usdoj.gov" <Craig.Blackwell to file: 04/21/2003 08:16:14 AM pic32158.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: RE:

Final draft attached.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Friday, April 18, 2003 6:07 PM
To: Blackwell, Craig
Cc: Coffin, Shannen
Subject:

Mintz called. He was fine, but he is out of town and wanted us to send a copy of the filing to him. Let's discuss Monday a.m. and get it done Monday. Thanks for patience.

- notice2.wpd

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ISXRF003_WHO.TXT_1>

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN HISTORICAL ASSOCIATION, et al., Plaintiffs,	)	
v.	)	No. 1:01CV02447 (CKK)
NATIONAL ARCHIVES AND RECORDS ADMINISTRATION, et al., Defendants.	)	

NOTICE WITH RESPECT TO PROCESSING OF RECORDS

Defendants, National Archives and Records Administration and John W. Carlin, Archivist of the United States, hereby provide this notice to generally update the Court with respect to processing of presidential records of former President Reagan under Executive Order 13,233. Since Executive Order 13,233 went into effect in November 2001, more than 164,000 pages of Reagan presidential records have been released in full or in part. No privilege was asserted by former President Reagan over these pages or any portions thereof (portions of these pages were redacted pursuant to non-privilege-related Freedom of Information Act exemptions), and President Bush concurred in the decision to authorize access under Executive Order 13,233. Since Executive Order 13,233 went into effect, former President Reagan has asserted privilege over 74 pages of Reagan presidential records and video segments totaling approximately 15 minutes in length. These records and video segments are a subset of the materials described in paragraph 3 of plaintiffs' supplemental statement of undisputed facts in support of their motion for summary judgment (the remaining records described in that paragraph have been released). The incumbent Administration is reviewing those 74 pages and video segments, as well as certain other pending requests as to which no privilege was asserted by former President Reagan, in accordance with Executive Order 13,233, including under § 4 of that Order. Finally, since

REV_00163564

Executive Order 13,233 went into effect, more than 1,700 pages of George H.W. Bush vice-presidential records have been released in full or in part. No privilege was asserted by former Vice President Bush over these pages or any portions thereof (portions of these pages were redacted pursuant to non-privilege-related Freedom of Information Act exemptions), and President Bush concurred in the decision to authorize access under Executive Order 13,233.

Respectfully submitted,

ROBERT D. MCCALLUM, JR.
Assistant Attorney General

ROSCOE C. HOWARD, JR.
United States Attorney

CRAIG M. BLACKWELL, D.C. Bar No. 438758
Senior Trial Counsel
U.S. Department of Justice
Ben Franklin Station
P.O. Box 883
Washington, D.C. 20044
Tel: (202) 616-0679
Fax: (202) 616-8470

Attorneys for Defendants

Date: April 21, 2003

REV_00163565

CERTIFICATE OF SERVICE

I certify that on April 21, 2003, I caused copies of the foregoing "Notice With Respect To Certain Records" to be served by first-class mail, postage prepaid, and by facsimile, on:

Scott L. Nelson
Public Citizen Litigation Group
1600 20th Street, N.W.
Washington, DC 20009
fax: (202) 588-7795

_____

Craig M. Blackwell

REV_00163566

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>
Sent: 4/21/2003 12:38:23 PM
Subject: : Re: Judical emergency, emergencies or crisis?

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-APR-2003 16:38:23.00
SUBJECT:: Re: Judical emergency, emergencies or crisis?
TO:Theodore W. Ullyot (CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

we use both terms

Theodore W. Ullyot
04/21/2003 04:23:12 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Judical emergency, emergencies or crisis?

Brett: The Judge has made an edit to the letter that would have us refer to the "vacancy crisis in the Sixth Circuit" -- but he asked me to confirm if that's true. Is "crisis" a term that we use, or do we usually say "judicial emergency" (or "emergencies" -- when several seats involved, i.e. one emergency per seat)?

From: Estes, Ashley
To: <Kavanaugh, Brett M.>
Sent: 4/21/2003 4:44:46 PM
Subject: RE:

Do you feel ok about it?

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Monday, April 21, 2003 4:41 PM
To: Estes, Ashley
Subject: Re:

i did. it will not be me.

From: Ashley Estes/WHO/EOP@Exchange on 04/21/2003 08:59:56 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject:

are you going to talk to the judge today?

From: Kavanaugh, Brett M.
To: rosemary.hart@usdoj.gov <Reed, McGavock D.>
CC: rosemary.hart@usdoj.gov <rosemary.hart@usdoj.gov>;rosemary.hart@usdoj.gov <Burks, Jonathan W.>
Sent: 4/21/2003 6:35:33 PM
Subject: RE: Timing Question Concerning EOs that extend other EOs

Is a meeting necessary? Aren't the basic answers: (1) a temporally limited executive order expires at the end of the last day specified in the order, just like CR's; and (2) that said, we should try to be clear up front in drafting orders to specify the precise time when the order expires so that future Exec Branch officials need not go through this same drill and to avoid general confusion?

McGavock D. Reed

04/21/2003 06:07:53 PM

Record Type: Record

To: Rosemary.Hart@usdoj.gov @ inet

cc: Jonathan W. Burks/WHO/EOP@Exchange@EOP, Brett M. Kavanaugh/WHO/EOP@EOP

Subject: RE: Timing Question Concerning EOs that extend other EOs

Rosemary, How about Wednesday afternoon at 4:00 o'clock. Thank you, Mac

---------- Forwarded by McGavock D. Reed/OMB/EOP on 04/21/2003 06:06 PM ----------

"Rosemary.Hart@usdoj.gov"

04/21/2003 06:01:18 PM

Record Type: Record

To: McGavock D. Reed/OMB/EOP@EOP

cc:

Subject: RE: Timing Question Concerning EOs that extend other EOs

Mac: I have to go over to the State Department tomorrow by 9:30 to continue the review of documents for the Balkans EO - I may be there for several hours. I then have the 4:30-5:30 meeting for the Iraq assistance/sanctions

memorandum. Do you think we could have our conference call on Wednesday or Thursday instead of tomorrow? Thanks,

Rosemary

-----Original Message-----

From: McGavock_D._Reed@omb.eop.gov [mailto:McGavock_D._Reed@omb.eop.gov]

Sent: Friday, April 18, 2003 4:35 PM

To: Hart, Rosemary

Cc: Brett_M._Kavanaugh@who.eop.gov; Harriet_Miers@oa.eop.gov;

Jonathan_W._Burks@oa.eop.gov; G._Timothy_Saunders@who.eop.gov

Subject: Timing Question Concerning EOs that extend other EOs

Rosemary,

Would you have a moment on Tuesday afternoon when I could conference you, Brett, Tim, and maybe Harriet or Jonathan in to talk about the timing question concerning EOs that extend other EOs and expiration dates?

I want to be sure that I am giving the WH Staff Secretary and the Clerk's Office the most accurate information and the greatest flexibility to work within the President's busy schedule.

Thank you, Mac

From:	CN=Noel J. Francisco/OU=WHO/O=EOP [WHO]
To:	David G. Leitch/WHO/EOP@Exchange [WHO] <David G. Leitch>
CC:	brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;david s. addington/ovp /eop@eop [OVP] <david s. addington>;alberto r. gonzales/who/eop@exchange [WHO] <alberto r. gonzales>
Sent:	4/22/2003 3:52:02 AM
Subject:	: Re: Pocket vetos

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:22-APR-2003 07:52:02.00
SUBJECT:: Re: Pocket vetos
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:david s. addington (CN=david s. addington/OU=ovp/O=eop@eop [OVP])
READ:UNKNOWN
CC:alberto r. gonzales (CN=alberto r. gonzales/OU=who/O=eop@exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

I don't think we have a formal policy on the matter.

From: David G. Leitch/WHO/EOP@Exchange on 04/22/2003 07:24:24 AM
Record Type: Record

To: Alberto R. Gonzales/WHO/EOP@Exchange, Brett M. Kavanaugh/WHO/EOP@EOP, Noel J. Francisco/WHO/EOP@EOP, David S. Addington/OVP/EOP@EOP
cc:
Subject: Pocket vetos

In one of the many comments flying around on the proposed Pocket Veto of the Clean Diamonds bill, OLA states:;
;
3. The Administration has yet to define its "pocket veto" policy. Although a pocket veto is certainly within constitutiional limits during a two week adjournment of the Congress, most Adminstrations, including the last two, have notiifed Congress in advance that the pocket veto would only be used after sine die adjournment.
;
Have we looked at this issue?; If not, I would like to consult with OLC so that we know what posture we're in not just for purposes of this bill but for upcoming adjournments.;

;

;

From: CN=Courtney S. Elwood/OU=OVP/O=EOP [OVP]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/22/2003 9:46:28 AM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Courtney S. Elwood (CN=Courtney S. Elwood/OU=OVP/O=EOP [OVP])
CREATION DATE/TIME:22-APR-2003 13:46:28.00
SUBJECT:: Re:
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Thanks for the materials. I see that the Horowitz proposal was one of the proposals that was originally discussed by the tort reform group, but it fell out of the process between the initial meeting of the group (1/8/2002) and the final memo (2/27/2002). Having reviewed your docs, do you recall what happened to that idea? Do you still have the memo/document where the pros and cons of each proposal were listed?

Brett M. Kavanaugh
04/22/2003 11:56:06 AM
Record Type: Record

To: Courtney S. Elwood/OVP/EOP@EOP
cc:
bcc:
Subject: Re:

sure, I will dig out some stuff and have it delivered.

Courtney S. Elwood
04/22/2003 11:42:49 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re:

Yeah, I understand. Would you mind, however, if I took a look at the memos that Jay's office prepared during that tort reform exercise?

Brett M. Kavanaugh
04/22/2003 11:40:39 AM
Record Type: Record

To: Courtney S. Elwood/OVP/EOP@EOP
cc:
bcc:
Subject: Re:

yes, I have mine and my current files on class action and medical liability, but nothing in there looks like your stuff.

Courtney S. Elwood
04/22/2003 11:37:16 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re:

Thanks. Did you find your tort reform materials by chance? I again looked through Jen's files and didn't find my files. Perhaps I gave them to you (although I have no specific recollection of that) and they were archived -- in which case, I guess they are gone forever.

Brett M. Kavanaugh
04/22/2003 11:30:01 AM
Record Type: Record

To: Courtney S. Elwood/OVP/EOP@EOP
cc:
Subject:

I went through my file cabinets and did not see anything that looked like your tort reform file.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Craig.Blackwell@usdoj.gov <Craig.Blackwell@usdoj.gov>
Sent: 4/22/2003 7:39:08 AM
Subject: : RE:
Attachments: P_RWPSF003_WHO.TXT_1.wpd

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:22-APR-2003 11:39:08.00
SUBJECT:: RE:
TO:"Craig.Blackwell@usdoj.gov" <Craig.Blackwell@usdoj.gov> ("Craig.Blackwell@usdoj.gov" <Craig.Blackwell@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Left message for him and will let you know as soon as I hear.

"Craig.Blackwell@usdoj.gov" <Craig.Blackwell
04/21/2003 04:34:08 PM
Record Type: Record

To: "Shannen.Coffin@usdoj.gov" <Shannen.Coffin@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested), Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE:

final attached. will file as soon as Brett clears.

Craig

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov [mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Monday, April 21, 2003 10:04 AM
To: Blackwell, Craig
Subject: RE:

Reagan rep asked what exactly we had said in our filings that requires this
unusual notice to the Court. Can you point me to the relevant language and FAX
it to 456-5104? Thanks.

(Embedded
image moved "Craig.Blackwell@usdoj.gov" <Craig.Blackwell
to file: 04/21/2003 09:48:36 AM
pic16792.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: RE:

i don't see why not. let me talk to Gary and get the numbers.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Monday, April 21, 2003 8:44 AM
To: Blackwell, Craig
Subject: RE:

have given to Mintz and will let you know. thanks. one question. Is it
possible to add a sentence giving the Court the total number of pages from
the
Reagan Library that have been cleared for public access since the EO went
into
effect. Gary should have latest numbers on that, and it may be helpful for
context.

(Embedded
image moved "Craig.Blackwell@usdoj.gov" <Craig.Blackwell
to file: 04/21/2003 08:16:14 AM
pic32158.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: RE:

Final draft attached.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Friday, April 18, 2003 6:07 PM
To: Blackwell, Craig
Cc: Coffin, Shannen
Subject:

Mintz called. He was fine, but he is out of town and wanted us to send a copy
of the filing to him. Let's discuss Monday a.m. and get it done Monday.
Thanks
for patience.

- notice2.wpd

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_RWPSF003_WHO.TXT_1>

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN HISTORICAL ASSOCIATION, et al., Plaintiffs,	)	
v.	)	No. 1:01CV02447 (CKK)
NATIONAL ARCHIVES AND RECORDS ADMINISTRATION, et al., Defendants.	)	

NOTICE WITH RESPECT TO PROCESSING OF RECORDS

Defendants, National Archives and Records Administration and John W. Carlin, Archivist of the United States, hereby provide this notice to generally update the Court with respect to processing of presidential records of former President Reagan under Executive Order 13,233. Since Executive Order 13,233 went into effect in November 2001, more than 164,000 pages of Reagan presidential records have been released in full or in part. No privilege was asserted by former President Reagan over these pages or any portions thereof (portions of these pages were redacted pursuant to non-privilege-related Freedom of Information Act exemptions), and President Bush concurred in the decision to authorize access under Executive Order 13,233. Since Executive Order 13,233 went into effect, former President Reagan has asserted privilege over 74 pages of Reagan presidential records and video segments totaling approximately 15 minutes in length. These records and video segments are a subset of the materials described in paragraph 3 of plaintiffs' supplemental statement of undisputed facts in support of their motion for summary judgment (the remaining records described in that paragraph have been released). The incumbent Administration is reviewing those 74 pages and video segments, as well as certain other pending requests as to which no privilege was asserted by former President Reagan, in accordance with Executive Order 13,233, including under § 4 of that Order. Finally, since

REV_00163619

Executive Order 13,233 went into effect, more than 1,700 pages of George H.W. Bush vice-presidential records have been released in full or in part. No privilege was asserted by former Vice President Bush over these pages or any portions thereof (portions of these pages were redacted pursuant to non-privilege-related Freedom of Information Act exemptions), and President Bush concurred in the decision to authorize access under Executive Order 13,233.

Respectfully submitted,

ROBERT D. MCCALLUM, JR.
Assistant Attorney General

ROSCOE C. HOWARD, JR.
United States Attorney

CRAIG M. BLACKWELL, D.C. Bar No. 438758
Senior Trial Counsel
U.S. Department of Justice
Ben Franklin Station
P.O. Box 883
Washington, D.C. 20044
Tel: (202) 616-0679
Fax: (202) 616-8470

Attorneys for Defendants

Date: April 21, 2003

REV_00163620

CERTIFICATE OF SERVICE

I certify that on April 21, 2003, I caused copies of the foregoing "Notice With Respect To Certain Records" to be served by first-class mail, postage prepaid, and by facsimile, on:

Scott L. Nelson
Public Citizen Litigation Group
1600 20th Street, N.W.
Washington, DC 20009
fax: (202) 588-7795

_____

Craig M. Blackwell

REV_00163621

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Wiley, Ladd (HHS/OS) <Ladd.Wiley@hhs.gov>
Sent: 4/22/2003 11:00:55 AM
Subject: : RE: FW: 60+ Request

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:22-APR-2003 15:00:55.00
SUBJECT:: RE: FW: 60+ Request
TO:"Wiley, Ladd (HHS/OS)" <Ladd.Wiley@hhs.gov> ("Wiley, Ladd (HHS/OS)"
<Ladd.Wiley@hhs.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

This is not a problem under 2 USC 441i(d)-(e). Please confirm that your
ethics counsel agrees.

"Wiley, Ladd (HHS/OS)" <Ladd.Wiley@hhs.gov>
04/17/2003 04:11:37 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE: FW: 60+ Request

$1,000 per seat or $10,000 per table.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Thursday, April 17, 2003 3:33 PM
To: Wiley, Ladd (HHS/OS)
Subject: RE: FW: 60+ Request

How much are they charging?

(Embedded
image moved "Wiley, Ladd (HHS/OS)" <Ladd.Wiley@hhs.gov>
to file: 04/17/2003 03:26:48 PM
pic26858.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: RE: FW: 60+ Request

Yes it is a fundraiser for the 60+ organization, but not a political fundraiser.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Thursday, April 17, 2003 3:25 PM
To: Wiley, Ladd (HHS/OS)
Subject: Re: FW: 60+ Request

quick q: Is the event a fundraiser?

(Embedded
image moved "Wiley, Ladd (HHS/OS)" <Ladd.Wiley@hhs.gov>
to file: 04/17/2003 03:17:31 PM
pic12062.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: FW: 60+ Request

Brett,

The organization 60+ is a 501(c)(4), which has been supportive of administration policies in the past. They would like Secretary Thompson to headline a speech in his official capacity. Normally, we would just approve
it as an official event.

I just wanted to make sure that 501(c)(4) weren't impacted by the McCain Feingold law. Any ideas or anyone to whom you could refer me?

> -----Original Message-----
> From: Wood, Robert (HHS/OS)
> Sent: Wednesday, April 09, 2003 10:05 AM
> To: Karim, Jafar (HHS/OS); Wiley, Ladd (HHS/OS)
> Subject: RE: 60+ Request
>
> lets discuss.
>
> -----Original Message-----
> From: Karim, Jafar (HHS/OS)
> Sent: Tuesday, April 08, 2003 5:07 PM
> To: Wood, Robert (HHS/OS)
> Cc: Schofield, Regina (HHS/OS)
> Subject: FW: 60+ Request
>
> Bob:
>
> I'm redirecting this inquiry to you per Laura's suggestion. Bob Martin

> has called a couple of times to see if TGT could keynote an event
> described below. I know this is a way off, but the WH is asking if we
> could agree to do this. Bob is hoping for a date ASAP. They have a
> number of groups that are going to help sponsor the event, they just need
> a headliner. Please let me know if you have any questions about this. I
> can run the legal traps. For numerous reasons, I think this is worth
> considering as a priority. Feel free to let me know if you'd like to
> discuss. Thanks.
>
> - Jaf
>
> -----Original Message-----
> From: Karim, Jafar (HHS/OS)
> Sent: Tuesday, March 25, 2003 2:29 PM
> To: Lawlor, Laura (HHS/OS)
> Cc: Schofield, Regina (HHS/OS)
> Subject: 60+ Request
>
> Laura:
>
> Getting back to you on the request of 60 Plus to have the Secretary as a
> keynote speaker for a fundraiser they would like to hold in the coming
> months. Jim Martin, the group's executive director, indicated that the
> date is not yet certain. Regina advised, however, that we decide
> internally whether the the Secretary would make this a priority should
the
> dates all work out. I'd be happy to discuss in detail some of the
factors
> to consider in determining the importance of this event. Below are some
> factors for your consideration.
>
> What: 60 Plus fundraiser; two-tiered event w/
> reception & photo op, then remarks to the group during a dinner
> Where: TBD, but the organization seeks a Hill
> location such as the Washington Court Hotel (on the Senate side)
> Date Options: June 3, 4, 5, 10, 11, 12
>
> Other Facts:
>
> * 60+ organized as a 501(c)4, a not-for-profit association, allowing
> it to conduct issue advocacy but not candidate endorsements.
>
> * Fundraiser: never had a fundraiser before; will get House and
> Senate members to attend; a member of the Admin was going to do last
year,
> but scheduling conflicts prevented that from happening.
>
> * Roger Zion, a 4 term house member from IN and a UW graduate is the
> organization's president; according to Jim, he and TGT have met and got
> along well.
>
> * The group is keen on promoting the preventive health care message.
>
> * Want TGT to headline; they are seeking Karl Rove as a "special
> guest"; reception beforehand.
>
> * The organization has approximately 25,000 members.
>
> Please let mek know if you have any thoughts or questions. Thanks.
>
> - Jafar
>
> Jafar Karim
> Office of White House Liaison
> US Department of Health and Human Services
> 200 Independence Avenue, SW
> Room 610E, Humphrey Building
> Washington, DC 20201

> Phone: 202/690-6625
> Fax: 202/401-1948
> jafar.karim@hhs.gov
>

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Craig.Blackwell@usdoj.gov <Craig.Blackwell@usdoj.gov>
Sent: 4/22/2003 11:09:56 AM
Subject: : RE:
Attachments: P_CYZSF003_WHO.TXT_1.wpd

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:22-APR-2003 15:09:56.00
SUBJECT:: RE:
TO:"Craig.Blackwell@usdoj.gov" <Craig.Blackwell@usdoj.gov> ("Craig.Blackwell@usdoj.gov" <Craig.Blackwell@usdoj.gov> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

We and Reagan rep have signed off. File when you see fit. Thanks for patience.

"Craig.Blackwell@usdoj.gov" <Craig.Blackwell
04/22/2003 12:04:57 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE:

changes made

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov [mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Tuesday, April 22, 2003 11:39 AM
To: Blackwell, Craig
Subject: RE:

Left message for him and will let you know as soon as I hear.

(Embedded image moved "Craig.Blackwell@usdoj.gov" <Craig.Blackwell to file: 04/21/2003 04:34:08 PM pic01270.pcx)

Record Type: Record

To: "Shannen.Coffin@usdoj.gov" <Shannen.Coffin@usdoj.gov> (Receipt

Notification Requested) (IPM Return Requested), Brett M.
Kavanaugh/WHO/EOP@EOP

cc:
Subject: RE:

final attached. will file as soon as Brett clears.

Craig

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Monday, April 21, 2003 10:04 AM
To: Blackwell, Craig
Subject: RE:

Reagan rep asked what exactly we had said in our filings that
requires this
unusual notice to the Court. Can you point me to the relevant language
and FAX
it to 456-5104? Thanks.

(Embedded
image moved "Craig.Blackwell@usdoj.gov" <Craig.Blackwell
to file: 04/21/2003 09:48:36 AM
pic16792.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: RE:

i don't see why not. let me talk to Gary and get the numbers.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Monday, April 21, 2003 8:44 AM
To: Blackwell, Craig
Subject: RE:

have given to Mintz and will let you know. thanks. one question. Is it
possible to add a sentence giving the Court the total number of pages from
the
Reagan Library that have been cleared for public access since the EO went
into

effect. Gary should have latest numbers on that, and it may be helpful for
context.

(Embedded
image moved "Craig.Blackwell@usdoj.gov" <Craig.Blackwell
to file: 04/21/2003 08:16:14 AM
pic32158.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: RE:

Final draft attached.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Friday, April 18, 2003 6:07 PM
To: Blackwell, Craig
Cc: Coffin, Shannen
Subject:

Mintz called. He was fine, but he is out of town and wanted us to send a
copy
of the filing to him. Let's discuss Monday a.m. and get it done Monday.
Thanks
for patience.

- notice2.wpd

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_CYZSF003_WHO.TXT_1>

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN HISTORICAL ASSOCIATION, et al., Plaintiffs,	)	
v.	)	No. 1:01CV02447 (CKK)
NATIONAL ARCHIVES AND RECORDS ADMINISTRATION, et al., Defendants.	)	

NOTICE WITH RESPECT TO PROCESSING OF RECORDS

Defendants, National Archives and Records Administration and John W. Carlin, Archivist of the United States, hereby provide this notice to generally update the Court with respect to processing of presidential records of former President Reagan under Executive Order 13,233. Since Executive Order 13,233 went into effect in November 2001, more than 164,000 pages of Reagan presidential records have been released in full or in part, including the approximately 68,000 pages of Reagan presidential records that were the subject of plaintiffs' complaint and their request for a mandatory injunction. No privilege was asserted by former President Reagan over these pages or any portions thereof (portions of these pages were redacted pursuant to non-privilege-related Freedom of Information Act exemptions), and President Bush concurred in the decision to authorize access under Executive Order 13,233. Since Executive Order 13,233 went into effect, former President Reagan has asserted privilege over 74 pages of Reagan presidential records and video segments totaling approximately 15 minutes in length. These records and video segments – which are not subject to plaintiffs' complaint (including their request for a mandatory injunction) – are a subset of the materials described in paragraph 3 of plaintiffs' supplemental statement of undisputed facts in support of their motion for summary judgment (the remaining records described in that paragraph have been released). The

REV_00163630

incumbent Administration is reviewing those 74 pages and video segments, as well as certain other pending requested records as to which no privilege was asserted by former President Reagan, in accordance with Executive Order 13,233, including § 4 of that Order. Finally, since Executive Order 13,233 went into effect, more than 1,700 pages of George H.W. Bush vice-presidential records have been released in full or in part. No privilege was asserted by former Vice President Bush over these pages or any portions thereof (portions of these pages were redacted pursuant to non-privilege-related Freedom of Information Act exemptions), and President Bush concurred in the decision to authorize access under Executive Order 13,233.

Respectfully submitted,

ROBERT D. MCCALLUM, JR.
Assistant Attorney General

ROSCOE C. HOWARD, JR.
United States Attorney

CRAIG M. BLACKWELL, D.C. Bar No. 438758
Senior Trial Counsel
U.S. Department of Justice
Ben Franklin Station
P.O. Box 883
Washington, D.C. 20044
Tel: (202) 616-0679
Fax: (202) 616-8470

Attorneys for Defendants

Date: April 21, 2003

REV_00163631

CERTIFICATE OF SERVICE

I certify that on April 21, 2003, I caused copies of the foregoing "Notice With Respect To Certain Records" to be served by first-class mail, postage prepaid, and by facsimile, on:

Scott L. Nelson
Public Citizen Litigation Group
1600 20th Street, N.W.
Washington, DC 20009
fax: (202) 588-7795

_____

Craig M. Blackwell

REV_00163632

From: CN=Jess Sharp/OU=OPD/O=EOP [OPD]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/22/2003 11:48:06 AM
Subject: : Re: bankruptcy

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jess Sharp (CN=Jess Sharp/OU=OPD/O=EOP [OPD])
CREATION DATE/TIME:22-APR-2003 15:48:06.00
SUBJECT:: Re: bankruptcy
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Cool. Thanks Brett. Any way to zero in on whether and or why some bankruptcy judges arguably allow an airline out of bankruptcy too soon? What is the standard or test that a debtor must meet to be released? Is there some judgement of feasibility?

Brett M. Kavanaugh
04/22/2003 03:44:12 PM
Record Type: Record

To: Jess Sharp/OPD/EOP@EOP
cc:
bcc:
Subject: Re: bankruptcy

It was a very weak standard that allowed debtors pretty much carte blanche to reject contracts, as the standard was intepreted by the Supreme Court. The day the Supreme Court decision came out offering this interpretation, the unions went nuts and persuaded Congress to quickly pass legislation we now have.

Jess Sharp
04/22/2003 11:35:38 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: bankruptcy

Brett - Thank you so much for looking into this. So from a legal standpoint the '84 change has made it more difficult for airlines to cut its labor costs in bankruptcy. What exactly was the pre-'84 procedure? Did bankruptcy provide total protection to the debtor, allowing it to simply declare a contract void?

Brett M. Kavanaugh
04/21/2003 03:04:08 PM

Record Type: Record

To: Jess Sharp/OPD/EOP@EOP
cc:
bcc:
Subject: Re: bankruptcy

I can talk about your first question when you want.

It certainly appears that the amendment to the Bankruptcy Code in 1984, which undermined the Bildisco decision, has hindered the ability of airlines to reject collective bargaining agreements when in bankruptcy. The statute set forth a 3-part test that courts must apply before allowing a debtor to reject a CBA. (Note that this is not an airline-only carve-out.) Beyond the requirements of the statutory test itself, an added problem is that the standards used by courts in applying this test to assess when and under what circumstances a collective bargaining agreement may be rejected are vague and unpredictable. Indeed, there is a circuit split between the Second and Third Circuits on one key issue (the application of the "necessary" standard), with the Second Circuit granting the debtor more flexibility in modifying or rejecting a collective bargaining agreement.

I cannot describe with certainty the economic ramifications of all of this, but the ability of a debtor to reject collective bargaining agreements was significantly circumscribed by the 1984 statutory amendment; moreover, the standards outlined in the statute have caused great uncertainty in the courts. I am sure the airlines have described this to you in some depth. I would be happy to write this up in any form you wish.

Jess Sharp
04/17/2003 03:32:26 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: bankruptcy

We're looking into this as part of our effort to understand possible impediments to the health of the industry. I just need an understanding of how airline collective bargaining contracts are protected under bankruptcy law. My understanding is that pre-1984, labor contracts were the same as any other contract once an airline went into bankruptcy. They could be abrogated or rewritten by the company fairly easily. Since 1984 the labor contracts have been treated differently. Airlines must go to the bankruptcy judge to amend its contracts and 20 years of case law governs the judges ability to approve those amendments.
Does this restriction - that I think is a carve out for airline unions - seem to unnecessarily hamper their ability to cut labor costs in bankruptcy. Are their barriers to liquidation - could a bankruptcy judge force an airline to stay in business because of "public interest" even though its viability is in question? Do airlines emerge too weak because of the interference or rulings of bankruptcy judges? These are very subjective obviously, but could probably be explored if I had a better understanding of where the pressure points are in an airline bankruptcy.

Thanks a lot Brett.

Jess

Brett M. Kavanaugh

04/17/2003 03:06:17 PM
Record Type: Record

To: Jess Sharp/OPD/EOP@EOP
cc:
bcc:
Subject: Re: bankruptcy

I can dig into this. What do you need to
know?

Jess Sharp
04/16/2003 03:49:21 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: bankruptcy

I'm digging around for as much info as I can on bankruptcy law as it pertains to airlines. Are you the man to talk to? I know you've been in some of our airline meetings, but I didn't know if your angle was only anti trust. Thanks Brett.

Jess

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Wendy J. Grubbs/WHO/EOP@Exchange [WHO] <Wendy J. Grubbs>;Ross M. Kyle/WHO/EOP@Exchange [WHO] <Ross M. Kyle>;Barry S. Jackson/WHO/EOP@EOP [WHO] <Barry S. Jackson>;Ann Gray/WHO/EOP@Exchange [WHO] <Ann Gray>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;David McMaster/WHO/EOP@EOP [WHO] <David McMaster>;Alison Jones/WHO/EOP@Exchange [WHO] <Alison Jones>;Kimberly Ellison/WHO/EOP@EOP [WHO] <Kimberly Ellison>;David G. Leitch/WHO/EOP@Exchange [WHO] <David G. Leitch>
Sent: 4/22/2003 1:23:42 PM
Subject: : Judicial Selection Meeting

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:22-APR-2003 17:23:42.00
SUBJECT:: Judicial Selection Meeting
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Wendy J. Grubbs ( CN=Wendy J. Grubbs/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Ross M. Kyle ( CN=Ross M. Kyle/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Barry S. Jackson ( CN=Barry S. Jackson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Ann Gray ( CN=Ann Gray/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David McMaster ( CN=David McMaster/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alison Jones ( CN=Alison Jones/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Kimberly Ellison ( CN=Kimberly Ellison/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

WHJSC Selection Meeting is ON for tomorrow April 23, 2003 at 4 pm in the
Roosevelt Room.
;
Thanks
```

From: Bumatay, Patrick J.
To: <Ullyot, Theodore W.>;<Bartolomucci, H. Christopher>;<Brosnahan, Jennifer R.>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>
CC: <Montiel, Charlotte L.>
Sent: 4/22/2003 5:25:00 PM
Subject: JSC Prep

NO JSC Prep tomorrow.

From: CN=Blake Gottesman/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/22/2003 4:00:51 PM
Subject: : RE:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:22-APR-2003 20:00:51.00
SUBJECT:: RE:
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

got it - thanks.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Tuesday, April 22, 2003 7:59 PM
To: Gottesman, Blake
Subject: RE:

I told Judge about AF1 idea, and he agreed that was good. So consider it approved by Counsel's office.

From: Blake Gottesman/WHO/EOP@Exchange on 04/22/2003 07:58:46 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE:

yes; still parked - but i think it's w/ joe, not you. i'll check and let you know.

re: recording potus activities on af1 for diarist, do i need to wait for official approval (memo or e-mail) before i move forward on it?

thanks,
blake

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Friday, April 18, 2003 11:21 AM
To: Gottesman, Blake
Subject:

Is the WHCA taping issue still parked? Anything we need to do? thx.

From: CN=Nanette Everson/OU=WHO/O=EOP [WHO]
To: Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>
CC: kyle sampson/who/eop@eop [WHO] <kyle sampson>;jennifer g. newstead/who/eop@eop [WHO] <jennifer g. newstead>;nanette everson/who/eop@eop [WHO] <nanette everson>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;benjamin a. powell/who/eop@eop [WHO] <benjamin a. powell>;noel j. francisco/who/eop@eop [WHO] <noel j. francisco>;h. christopher bartolomucci/who/eop@eop [WHO] <h. christopher bartolomucci>;jennifer r. brosnahan/who/eop@eop [WHO] <jennifer r. brosnahan>
Sent: 4/23/2003 7:00:31 AM
Subject: : Re: staff

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:23-APR-2003 11:00:31.00
SUBJECT:: Re: staff
TO:Theodore W. Ullyot (CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:kyle sampson (CN=kyle sampson/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:jennifer g. newstead (CN=jennifer g. newstead/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:nanette everson (CN=nanette everson/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:benjamin a. powell (CN=benjamin a. powell/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:noel j. francisco (CN=noel j. francisco/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:h. christopher bartolomucci (CN=h. christopher bartolomucci/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:jennifer r. brosnahan (CN=jennifer r. brosnahan/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

Poor Jenny, that will teach her to ask.

Theodore W. Ullyot
04/23/2003 10:53:24 AM
Record Type: Record

To: Jennifer R. Brosnahan/WHO/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: staff

I believe the Rookie -- a/k/a New Girl, a/k/a Jenny Brosnahan -- is responsible for bringing in appropriate gifts for our Administrative Professionals.

Jennifer R. Brosnahan
04/23/2003 10:48:03 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: staff

I have a rookie question: Do people observe "Administrative Professionals' Day" (aka Secretaries' Day) around here? I noticed that it is today, and although my preference is to ignore it and find other ways to express appreciation throughout the year, I didn't want to inadvertently give offense by failing to do something nice for those who work with us. It occurs to me that, unlike the career secretaries at law firms or elsewhere in government, our staff may not even be aware of this occasion... Any thoughts?

Message Sent
To:_____
Brett M. Kavanaugh/WHO/EOP@EOP
H. Christopher Bartolomucci/WHO/EOP@EOP
Nanette Everson/WHO/EOP@EOP
Noel J. Francisco/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
Benjamin A. Powell/WHO/EOP@EOP
Kyle Sampson/WHO/EOP@EOP
Theodore W. Ullyot/WHO/EOP@EOP

Message Copied
To:_____
brett m. kavanaugh/who/eop@eop
h. christopher bartolomucci/who/eop@eop
nanette everson/who/eop@eop
noel j. francisco/who/eop@eop
jennifer g. newstead/who/eop@eop
benjamin a. powell/who/eop@eop
kyle sampson/who/eop@eop

From: CN=Diana L. Schacht/OU=OPD/O=EOP [OPD]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/23/2003 4:35:25 AM
Subject: : Re: Seeking reassurance - - is there any to be had?
Attachments: P_DKNTF003_OPD.TXT_1.htm

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
CREATION DATE/TIME:23-APR-2003 08:35:25.00
SUBJECT:: Re: Seeking reassurance - - is there any to be had?
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Don't you hate that little game -- do they think we each think we're the only people they talk to?

Brett M. Kavanaugh
04/23/2003 08:33:20 AM
Record Type: Record

To: Diana L. Schacht/OPD/EOP@EOP
cc:
bcc:
Subject: Re: Seeking reassurance - - is there any to be had?

He apparently sent the precise same email to multiple people. I responded to him.

Diana L. Schacht
04/23/2003 08:19:53 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Seeking reassurance - - is there any to be had?

Brett, do you have any insights for Bob?
---------- Forwarded by Diana L. Schacht/OPD/EOP on 04/23/2003 08:19 AM ----------

Robert McConnell <RMcConnell@hyi-usa.com>
04/22/2003 02:56:24 PM
Record Type: Record

To: Diana L. Schacht/OPD/EOP@EOP
cc:
Subject: Seeking reassurance - - is there any to be had?

Before the completion of the Senate Judiciary Committee markup of S. 274,

the class action reform proposal, and the beginning of the current congressional recess I had started developing a sick feeling that "our" collective commitment and determination to wage and win the critical war on judicial nominations was loosing enthusiasm in the Senate. There were off hand comments, seemingly missed opportunities to press the case - - signs here and there.

I hoped my feeling was more a product of the influence of difficult efforts to deal with last minute speed bumps in the S. 274 markup than a real deflation of enthusiasm. In my view the cause is so important - - critical to the winning and survival of "our" agenda - - and so winnable and, perhaps for the first time in decades, a cause with the potential for political advantages - - that I assumed I would see things differently when I returned from a week off.

Now, however, catching up on reading, etc., I have seen Bob Novak's reference of last week.

Any thoughts, reassurances, ideas, corrections?

GOP tiring of judicial confirmation battles
Robert Novak (archive <
http://www.townhall.com/columnists/robertnovak/archive.shtml>)

April 19, 2003 | <
http://www.townhall.com/columnists/robertnovak/printrn20030419.shtml>
printer friendly version Print | <
http://www.townhall.com/columnists/robertnovak/rn20030419.shtml#> email to a friend Send

<http://www.townhall.com/graphics1/columnists/Novak.gif>

WASHINGTON -- Senate Republicans are tiring of the battle to confirm contested judicial nominees, indicating that Sen. Edward M. Kennedy's Democratic plan to prevent President Bush from shaping the federal judiciary is succeeding.

Weekly meetings of Republican senators produce increased grumbling. The complaining senators ask the White House and the Republican leadership why they should keep fighting to confirm as appellate judges Washington, D.C., lawyer Miguel Estrada and Texas Supreme Court Justice Priscilla Owen. Not only liberal GOP senators but also some old guard committee chairmen claim this fight is neither important nor politically prudent.

Kennedy's unprecedented plan to block Bush's judicial selections always has been based on the theory that Republican senators soon would tire of the struggle.

Bob
Work 202-828-1228
Cell 202-258-2806
robert.mcconnell@hyi-usa.com

<http://images.dailyinbox.com/images/flag.gif>

- att1.htm

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_DKNTF003_OPD.TXT_1>

Before the completion of the Senate Judiciary Committee markup of S. 274, the class action reform proposal, and the beginning of the current congressional recess I had started developing a sick feeling that "our" collective commitment and determination to wage and win the critical war on judicial nominations was loosing enthusiasm in the Senate. There were off hand comments, seemingly missed opportunitie s to press the case - - signs here and there.

I hoped my feeling was more a product of the influence of difficult efforts to deal with last minute speed bumps in the S. 274 markup than a real deflation of enthusiasm. In my vie w the cause is so important - - critical to the winning and survival of "our" agenda - - and so winnable and, perhaps for the first time in decades, a cause with the potential for political advantages - - that I assumed I woul d see things differently when I returned from a week off.

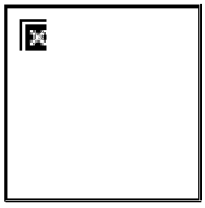
Now, however, catching up on reading, etc., I have seen Bob Novak's reference of last week.

Any thoughts, reassurances, ideas, corrections?

GOP tiring of judicial confirmation battles

Robert Novak (archive)

April 19, 2003 | Print | email to a friend Send



WASHINGTON -- Senate Republicans are tiring of the battle to confirm contested judicial nominees, indicating that Sen. Edward M. Kennedy's Democrati c plan to prevent President Bush from shaping the federal judiciary is succeeding.

Weekly meetings of Republican senators produce increased grumbling. The complaining senators ask the White House and the Republican leadership why they should keep fighting to confirm as appellate judges Washington, D.C., lawyer Miguel Estrada and Texas Supreme Court Justice Priscilla Owen. Not only liberal GOP senators but also some old guard committee chairmen claim this fight is neither important nor politically prudent.

Kennedy's unprecedented plan to block Bush's judicial selections always has been based on the theory that Republican senators soon would tire of the struggle.

Bob
Work 202-828-1228
Cell 202-258-2806
robert.mcconnell@hyi-usa.com



From: CN=Noel J. Francisco/OU=WHO/O=EOP [WHO]
To: Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>
CC: kyle sampson/who/eop@eop [WHO] <kyle sampson>;jennifer g. newstead/who/eop@eop [WHO] <jennifer g. newstead>;nanette everson/who/eop@eop [WHO] <nanette everson>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;benjamin a. powell/who/eop@eop [WHO] <benjamin a. powell>;noel j. francisco/who/eop@eop [WHO] <noel j. francisco>;h. christopher bartolomucci/who/eop@eop [WHO] <h. christopher bartolomucci>;jennifer r. brosnahan/who/eop@eop [WHO] <jennifer r. brosnahan>
Sent: 4/23/2003 6:55:28 AM
Subject: : Re: staff

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:23-APR-2003 10:55:28.00
SUBJECT:: Re: staff
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:kyle sampson ( CN=kyle sampson/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:jennifer g. newstead ( CN=jennifer g. newstead/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:nanette everson ( CN=nanette everson/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:brett m. kavanaugh ( CN=brett m. kavanaugh/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:benjamin a. powell ( CN=benjamin a. powell/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:noel j. francisco ( CN=noel j. francisco/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:h. christopher bartolomucci ( CN=h. christopher bartolomucci/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:jennifer r. brosnahan ( CN=jennifer r. brosnahan/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

As well as for taking the heat should any be offended. In other words, I
fully support Jenny giving out gifts on our behalf, unless anyone takes
offense, in which case I had nothing to do with it.




Theodore W. Ullyot
04/23/2003 10:53:24 AM
Record Type: Record

To: Jennifer R. Brosnahan/WHO/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: staff

I believe the Rookie -- a/k/a New Girl, a/k/a Jenny Brosnahan -- is
responsible for bringing in appropriate gifts for our Administrative
Professionals.




Jennifer R. Brosnahan
04/23/2003 10:48:03 AM
```

Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: staff

I have a rookie question: Do people observe "Administrative Professionals' Day" (aka Secretaries' Day) around here? I noticed that it is today, and although my preference is to ignore it and find other ways to express appreciation throughout the year, I didn't want to inadvertently give offense by failing to do something nice for those who work with us. It occurs to me that, unlike the career secretaries at law firms or elsewhere in government, our staff may not even be aware of this occasion... Any thoughts?

Message Sent
To:_____
Brett M. Kavanaugh/WHO/EOP@EOP
H. Christopher Bartolomucci/WHO/EOP@EOP
Nanette Everson/WHO/EOP@EOP
Noel J. Francisco/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
Benjamin A. Powell/WHO/EOP@EOP
Kyle Sampson/WHO/EOP@EOP
Theodore W. Ullyot/WHO/EOP@EOP

Message Copied
To:_____
brett m. kavanaugh/who/eop@eop
h. christopher bartolomucci/who/eop@eop
nanette everson/who/eop@eop
noel j. francisco/who/eop@eop
jennifer g. newstead/who/eop@eop
benjamin a. powell/who/eop@eop
kyle sampson/who/eop@eop

From:	CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To:	Erin P. Hassing/OMB/EOP@EOP [OMB] <Erin P. Hassing>;Patrick J. Bumatay/WHO /EOP@Exchange [WHO] <Patrick J. Bumatay>
Sent:	4/23/2003 10:51:18 AM
Subject:	: Re: FW: LRM EPH39 - - Request for Views on HR1244 Air Traffic Controller Retirement Reform Act of 2003
Attachments:	P_MLDUF003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:23-APR-2003 14:51:18.00
SUBJECT:: Re: FW: LRM EPH39 - - Request for Views on HR1244 Air Traffic Controller Retirement Reform Act of 2003
TO:Erin P. Hassing (CN=Erin P. Hassing/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

No comments/objections.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 04/22/2003 04:48:16 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: FW: LRM EPH39 - - Request for Views on HR1244 Air Traffic Controller Retirement Reform Act of 2003

-----Original Message-----
From: Hassing, Erin P.
Sent: Tuesday, April 22, 2003 4:40 PM
To: dot.legislation@ost.dot.gov; ola@opm.gov; dodlrs@osdgc.osd.mil
Cc: Whgc Lrm; Ovp Lrm; Matlack, Larry R.; Fairhall, Lisa B.; Uher, Lauren; Schwartz, Kenneth L.; Mertens, Steven M.; Doherty, Clare C.; Benson, Meredith G.; Balis, Ellen J.; Waites, Wendell H.; Lobrano, Lauren C.; Dove, Stephen W.; Dougherty, Elizabeth S.; Sharp, Jess; Schroeder, Ingrid M.; Green, Richard E.; Brown, James A.; Jukes, James J.; McMillin, Stephen S.; Roberson, Halley M.; Liang, Elan; Marsh, Robert
Subject: LRM EPH39 - - Request for Views on HR1244 Air Traffic Controller Retirement Reform Act of 2003

LRM ID: EPH39
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, April 22, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Ingrid M. Schroeder (for) Assistant Director for
Legislative Reference
OMB CONTACT: Erin P. Hassing
PHONE: (202)395-3459 FAX: (202)395-6148
SUBJECT: Request for Views on HR1244 Air Traffic Controller
Retirement Reform Act of 2003

DEADLINE: Noon Thursday, April 24, 2003
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Please review the attached bill and submit all comments no later than Noon, Thursday April 24th. OMB staff has been advised that the bill may be brought to the House floor as early as next week.

DISTRIBUTION LIST

AGENCIES:
117 & 340-TRANSPORTATION - Tom Herlihy - (202) 366-4687
092-Office of Personnel Management - Harry Wolf - (202) 606-1424
029-DEFENSE - Vic Bernson - (703) 697-1305

EOP:
WHGC LRM
OVP LRM
Larry R. Matlack
Lisa B. Fairhall
Lauren Uher
Kenneth L. Schwartz
Steven M. Mertens
Clare C. Doherty
Meredith G. Benson
Ellen J. Balis
Wendell H. Waites
Lauren C. Lobrano
Stephen W. Dove
Elizabeth S. Dougherty
Jess Sharp
Ingrid M. Schroeder
Richard E. Green
James A. Brown
James J. Jukes

LRM ID: EPH39 SUBJECT: Request for Views on HR1244 Air Traffic Controller Retirement Reform Act of 2003
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) faxing us a memo or letter.
Please include the LRM number and subject shown above.

TO: Erin P. Hassing Phone: 395-3459 Fax: 395-6148
Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_MLDUF003_WHO.TXT_1>

HR 1244 IH

108th CONGRESS
1st Session
H. R. 1244

To amend title 5, United States Code, to provide that service performed by an air traffic controller who is transferred or promoted to a supervisory or staff position continue to be treated as controller service for retirement purposes.

IN THE HOUSE OF REPRESENTATIVES

March 12, 2003

Mr. OBERSTAR introduced the following bill; which was referred to the Committee on Government Reform

---

A BILL

To amend title 5, United States Code, to provide that service performed by an air traffic controller who is transferred or promoted to a supervisory or staff position continue to be treated as controller service for retirement purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Air Traffic Controller Retirement Reform Act of 2003'.

SEC. 2. DEFINITION OF AIR TRAFFIC CONTROLLER.

(a) Civil Service Retirement System- Section 8331 of title 5, United States Code, is amended--

(1) by striking `and' at the end of paragraph (27);
(2) by striking the period at the end of paragraph (28) and inserting `; and'; and
(3) by adding at the end the following:
`(29) `air traffic controller' or `controller' means--
`(A) a controller within the meaning of section 2109(1); and
`(B) a civilian employee of the Department of Transportation or the Department of Defense holding a supervisory, managerial, executive, technical, semiprofessional, or professional position for which experience as a controller (within the meaning of section 2109(1)) is a prerequisite.'.

(b) Federal Employees' Retirement System- Section 8401 of title 5, United States Code, is amended--

(1) by striking `and' at the end of paragraph (33);
(2) by striking the period at the end of paragraph (34) and inserting `; and'; and
(3) by adding at the end the following:
`(35) `air traffic controller' or `controller' means--
`(A) a controller within the meaning of section 2109(1); and
`(B) a civilian employee of the Department of Transportation or the Department of Defense holding a supervisory, managerial, executive, technical, semiprofessional, or professional position for which experience as a controller (within the meaning of section 2109(1)) is a prerequisite.'.

(c) Mandatory Separation Treatment Not Affected-
(1) Civil service retirement system- Section 8335(a) of title 5, United States Code, is amended by adding at the end the following: `For purposes of this subsection, the term `air traffic controller' or `controller' has the meaning given to it under section 8331(29)(A).'.
(2) Federal employees' retirement system- Section 8425(a) of title 5, United States Code, is amended by adding at the end the following: `For purposes of this subsection, the term `air traffic controller' or `controller' has the meaning given to it under section 8401(35)(A).'.

SEC. 3. EFFECTIVE DATE.

(a) In Genera- This Act and the amendments made by this Act--
(1) shall take effect on the 60th day after the date of the enactment of this Act; and
(2) shall apply with respect to--
(A) any annuity entitlement to which is based on an individual's separation from service occurring on or after that 60th day; and
(B) any service performed by any such individual before, on, or after that 60th day, subject to subsection (b).

(b) Deposit Required for Certain Prior Service To Be Creditable as Controller Service-
(1)Deposit requirement- For purposes of determining eligibility for immediate retirement under section 8412(e), the amendment made by section 2(b) shall, with respect to any service described in paragraph (2), be disregarded unless thee is deposited into the Civil Service Retirement and Disability Fund, with respect to such service, in such time, form, and manner as the Office of Personnel Management by regulation requires, an amount equal to the amount by which--
(A) the deductions from pay which would have been required for such service if the amendments made by this Act had been in effect when such service was performed, exceeds
(B) the unrefunded deductions or deposits actually made under subchapter II of chapter 84 of such title 5 with respect to such service.
The amount under the preceding sentence shall include interest, computed under paragraphs (2) and (3) of section 8334(e) of such title 5.
(2) Prior service described- This subsection applies with respect to any service performed by an individual, before the 60th day following the date of the

enactment of this Act, as an employee described in section 8401(35)(B) of such title 5 (as set forth in section 2(b)).

END

From: FindLaw.com <listadmin@LEGALMINDS.ORG>
To: TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN] <TOPHEADLINES@LEGALMINDS.ORG>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 4/23/2003 12:14:24 PM
Subject: : [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Wed., Apr. 23, 2003

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"FindLaw.com" <listadmin@LEGALMINDS.ORG> ( "FindLaw.com" <listadmin@LEGALMINDS.ORG>
[ UNKNOWN ] )
CREATION DATE/TIME:23-APR-2003 16:14:24.00
SUBJECT:: [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Wed., Apr. 23,
2003
TO:TOPHEADLINES@LEGALMINDS.ORG ( TOPHEADLINES@LEGALMINDS.ORG [ UNKNOWN ] )
READ:UNKNOWN
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

------------------------------------------------------------------------
FINDLAW Wed, Apr 23, 2003
------------------------------------------------------------------------
TOP LEGAL NEWS HEADLINES


For all of the day's legal news go to: http://news.findlaw.com
**********************************************************************

AMICUS ATTORNEY
Every second counts when you bill by the hour. Don't waste valuable
time searching for practice information when you can have it at your
fingertips with AMICUS ATTORNEY - the world's leading practice
management software. Stay on top of your practice and increase your
billable time - effortlessly! Download or order your FREE TRIAL today.
http://rd.findlaw.com/scripts/nl.pl?url=10479744000_nl

**********************************************************************

SUPREME COURT
Court Rejects Appeal Limits For Inmates
http://news.findlaw.com/ap/a/w/1154/4-23-2003/20030423081501_03.html

Supreme Court To Consider Nike Ad Case
http://news.findlaw.com/business/s/20030423/courtnikedc.html


POLITICS
Sen. Santorum Defends Remarks In Gay Court Case
http://news.findlaw.com/politics/s/20030423/politicssantorumdc.html

Audit: NYC Transit Agency Hid Millions
http://news.findlaw.com/ap/o/1110/4-23-2003/20030423061502_24.html


LEGAL COMMENTARY
The Right To Pray: The Israeli Supreme Court Denies Women
At The Western Wall
http://writ.news.findlaw.com/colb/20030423.html
```

Affirmative Action & Group Identity In Iraq
http://writ.news.findlaw.com/commentary/20030423_leavitt.html

CIVIL RIGHTS
L.A. County To Settle Suit Over Arrests
http://news.findlaw.com/ap/o/1110/4-23-2003/20030423070005_19.html

Man Accuses Detroit Police Of Profiling
http://news.findlaw.com/ap/o/1110/4-23-2003/20030423094502_03.html

PERSONAL INJURY
WHO Issues Travel Warning Due To SARS
http://news.findlaw.com/ap/o/1500/4-23-2003/20030423061501_18.html

Mass. Court Caps $4.1M Malpractice Award
http://news.findlaw.com/ap/o/1110/4-23-2003/20030423061502_31.html

LABOR AND EMPLOYMENT
American Pilots Reconsidering OK On Cuts
http://news.findlaw.com/ap/f/1310/4-23-2003/20030423074501_16.html

N.Y. Building Workers OK Tentative Deal
http://news.findlaw.com/ap/f/1310/4-23-2003/20030423020004_05.html

ENVIRONMENT
Thirty Dead Tigers Found At Calif. Home
http://news.findlaw.com/ap/o/1110/4-23-2003/20030423054501_5.html

GUNS
Gun Co. Held Partially Liable In Shooting
http://news.findlaw.com/ap/o/1110/4-23-2003/20030423031501_09.html

CYBERSPACE LAW
Music Labels Sue Napster's Money Backers
http://news.findlaw.com/ap/ht/1700/4-23-2003/20030423080003_25.html

INTELLECTUAL PROPERTY
Feds Charge Man in Movie Piracy Case
http://news.findlaw.com/ap/f/1310/4-23-2003/20030423040001_25.html

BUSINESS
Ex-CSFB Banker Hit With Criminal Charges

http://news.findlaw.com/business/s/20030423/financialquattronechargesdc.htm
l

Report: Banker To Face Obstruction Charge
http://news.findlaw.com/ap/f/1310/4-23-2003/20030423034501_07.html

INTERNATIONAL LAW
Chirac's Wife Seeks Dismissal Of Lawsuit
http://news.findlaw.com/ap/i/1103/4-23-2003/20030423080002_23.html

War Crimes Prosecutor Vows To Win Trust

http://news.findlaw.com/ap/i/1107/4-23-2003/20030423011501_03.html

WAR ON TERRORISM
Moussaoui Seeks Access To Gov't Documents
http://news.findlaw.com/ap/o/1110/4-23-2003/20030423081502_12.html

IRAQ
Fox News Engineer Charged With Smuggling
http://news.findlaw.com/ap/i/1107/4-23-2003/20030423084501_19.html

U.S. Rejects UN Inspectors Despite Iraq Resolutions
http://news.findlaw.com/international/s/20030423/iraquninspectionsdc.html

CRIME & TRIALS
Court Halts Convicted Killer's Execution
http://news.findlaw.com/ap/o/1110/4-23-2003/20030423091501_03.html

Ex-Student Sentenced in Prom Bomb Plot
http://news.findlaw.com/ap/o/1110/4-23-2003/20030423021500_1.html

ENTERTAINMENT
Calif. Man Arrested In Alleged Pirating Scheme
http://news.findlaw.com/entertainment/s/20030423/crimepiratedc.html

'Mortal Kombat' Ad Attacked For Violent Imagery
http://news.findlaw.com/entertainment/s/20030423/leisurekombatdc.html

SPORTS
Utah Officials Again Face Olympics 'Bribery' Trial
http://news.findlaw.com/news/s/20030423/olympicsutahdc.html

Asian Marathons Postponed Due To SARS
http://news.findlaw.com/sports/s/20030423/swimmingsarsdc.html

****

Got control? You need AbacusLaw! Over 100,001 users can't possibly be wrong! See for yourself. For the latest color brochure and demo, call toll-free 800-726-3339 or CLICK HERE.
http://rd.findlaw.com/scripts/nl.pl?url=10486656000_nl

********** West LegalEdcenter *******

Receive updates about NEW ONLINE CLE PROGRAMS

Register with West LegalEdcenter for monthly email updates about new online CLE programs in your practice areas and jurisdictions. West LegalEdcenter currently has more than 1,400 courses, with more added daily!

http://rd.findlaw.com/scripts/nl.pl?url=gen_cle_010402

********** west.thomson.com *********

Come shop over 5,000 law books, legal forms, Westlaw resources, textbooks, and more--right from your desktop.
http://rd.findlaw.com/scripts/nl.pl?url=gen_ads_040102

****

FEEDBACK

We value your comments! Please take a moment to tell us what you think by sending an e-mail to: mailto:newsletters@findlaw.com?subject=TopHeadlines. Please include "Top Headlines" in the subject line.

SUBSCRIPTION INFORMATION

To subscribe to a FindLaw Newsletter, visit the FindLaw Newsletter Subscription Center at http://newsletters.findlaw.com

To unsubscribe, go to http://newsletters.findlaw.com/unsubscribe.html

---

ADVERTISING INFORMATION

For more information about advertising in FindLaw Newsletters, please contact us at:

mailto:sales@findlaw.com

FindLaw Top Headlines http://news.findlaw.com

Copyright (c) 2003 FindLaw, Inc.

From: Kavanaugh, Brett M.
To: <Leitch, David G.>
Sent: 4/23/2003 5:43:54 PM
Subject: Fw: JSC Rule

For future jsc mtgs, I will include a status of all unfilled vacancies, and nom dates, for front of book.

.

----- Original Message -----

From:Patrick J. Bumatay/WHO/EOP@Exchange

To:Theodore W. Ullyot/WHO/EOP@EOP,

H. Christopher Bartolomucci/WHO/EOP@EOP,

Jennifer R. Brosnahan/WHO/EOP@EOP,

Noel J. Francisco/WHO/EOP@EOP,

Brett M. Kavanaugh/WHO/EOP@EOP,

Jennifer G. Newstead/WHO/EOP@EOP,

Benjamin A. Powell/WHO/EOP@EOP,

Kyle Sampson/WHO/EOP@EOP

Cc:

Date: 04/23/2003 05:16:29 PM

Subject: JSC Rule

Per David Leitch, everytime you want to present a vacancy for the JSC meeting, I will need the nomination date according to the President's Timely Nomination Plan.

Thanks

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@EOP [WHO] <David G. Leitch>
Sent: 4/23/2003 1:44:22 PM
Subject: : Fw: JSC Rule

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:23-APR-2003 17:44:22.00
SUBJECT:: Fw: JSC Rule
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

For future jsc mtgs, I will include a status of all unfilled vacancies,
and nom dates, for front of book.

.

----- Original Message -----
From:Patrick J. Bumatay/WHO/EOP@Exchange
To:Theodore W. Ullyot/WHO/EOP@EOP,
H. Christopher Bartolomucci/WHO/EOP@EOP,
Jennifer R. Brosnahan/WHO/EOP@EOP,
Noel J. Francisco/WHO/EOP@EOP,
Brett M. Kavanaugh/WHO/EOP@EOP,
Jennifer G. Newstead/WHO/EOP@EOP,
Benjamin A. Powell/WHO/EOP@EOP,
Kyle Sampson/WHO/EOP@EOP
Cc:
Date: 04/23/2003 05:16:29 PM
Subject: JSC Rule

Per David Leitch, everytime you want to present a vacancy for the JSC
meeting, I will need the nomination date according to the President's
Timely Nomination Plan.
;
Thanks

From: Kirk Blalock <kblalock@fierce-isakowitz.com>
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>;Kevin Warsh/OPD /EOP@EOP [OPD] <Kevin Warsh>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>
Sent: 4/24/2003 5:10:30 AM
Subject: : New York Times: Asbestos Agreement Near - This story is much more positive than reality!
Attachments: P_0Z2VF003_OPD.TXT_1.html

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kirk Blalock <kblalock@fierce-isakowitz.com> ( Kirk Blalock <kblalock@fierce-
isakowitz.com> [ UNKNOWN ] )
CREATION DATE/TIME:24-APR-2003 09:10:30.00
SUBJECT:: New York Times: Asbestos Agreement Near - This story is much more positive than
reality!
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

April 24, 2003
Asbestos Accord Said to Be Near
By ALEX BERENSON

Companies, insurers, unions and Democratic and Republican senators are nearing an agreement in principle to end all asbestos lawsuits and instead pay people with asbestos-related diseases from a national privately financed trust, according to people from all sides who have participated in the talks.

The trust, which would be subject to approval by Congress and President Bush, would pay more than $100 billion to hundreds of thousands of asbestos victims over the next 30 years. It would stop the flood of asbestos lawsuits, 200,000 in the last two years alone, that have strained businesses and the court system.

It would be the second-largest lawsuit settlement ever, exceeded only by tobacco companies' agreement in 1998 to pay states $246 billion for their Medicaid spending on victims of cigarette smoking.

Many details of the trust remain to be worked out, including the exact size of payments to victims and who will pay if the trust unexpectedly runs short of money, and the negotiations could still stall.

Unlike the fund Congress created to compensate victims of the Sept. 11 attacks, an asbestos trust would not allow people to opt out and sue instead. All new and existing claims would be settled through the trust, which would largely or entirely be financed by businesses and insurers, people involved in the talks said. Victims would receive payments more quickly, while businesses would avoid the risk of huge verdicts. And both sides would pay much less to lawyers, who now receive more than half of all the money spent on asbestos litigation, studies say.

Efforts to reduce the rights of asbestos claimants to sue have repeatedly failed in the past. In addition, the law creating a trust would be complicated, and complexity is generally the enemy of legislation. So some experts on asbestos said a trust had little chance of becoming law.

But negotiators for all sides said they disagreed. Democrats and Republicans in Congress seem to agree that the number of asbestos lawsuits has become a crisis, and a trust is the only concept with significant bipartisan support.

In addition, Frederick M. Baron, an influential trial lawyer who has participated in the negotiations, said that the Association of Trial Lawyers of America would not oppose a trust if it offers payments similar to the net amounts, after lawyers' fees, that victims now receive in lawsuits.

Some lawyers will fiercely oppose a trust. But if their lobby stands aside, and unions, companies and insurers can reach a deal, the legislation could pass, Mr. Baron said.

While it might seem surprising that the trial lawyers' group is not fighting a trust, the group has been on the defensive since Republicans gained control of the Senate, and asbestos lawsuits have become particularly controversial.

"A national trust is the best solution," said David Austern, president of an asbestos trust fund that resolves claims against the Johns-Manville Corporation, once the leading maker of asbestos.

Mr. Austern who has watched efforts to resolve asbestos lawsuits since 1988, when he became counsel for the Manville trust, said he thought the trust had a better-than-even chance of becoming law. (Mr. Austern has consulted with Senate staff members, as well as a group of large companies, about the proposed trust. He said he had not been paid for the consulting.)

Creating a trust is a priority for many big businesses, especially manufacturers. Companies worry that they will have to pay hundreds of billions of dollars in claims unless Congress limits lawsuits against them from people who were exposed to asbestos but are not sick. Their concerns have grown in the last two years, after a spate of very large verdicts against companies that did not make asbestos but used it in their factories or products.

Already, lawsuits have forced into bankruptcy almost 70 companies, some of which were only peripherally connected to asbestos. Most American companies stopped using asbestos decades ago, but the number of lawsuits continues to rise. About 700,000 claims have been filed, including 200,000 in the last two years.

At the same time, the trust would ensure that tens of thousands of people who will die over the next 30 years from exposure to asbestos, as well as many others sickened by exposure, will be compensated.

Under the current system of lawsuits, some people who are sick or dying from asbestos exposure receive little money if their exposure happens to have come from companies that are already in bankruptcy. Others, including some who are not sick, get millions of dollars from sympathetic juries.

Most of the money in the trust would go to the sickest people, with the largest payments exceeding $1 million. People who have been exposed to asbestos but are not sick might get up to $1,000, although business groups would prefer much less. The level of payments to people who are not sick is crucial, because if it is set too high, millions of people may apply for payments, draining the trust of money it needs to compensate sick people, said Stephen Carroll, a senior economist at the Rand Institute for Civil Justice who has studied asbestos suits.

While more than half the money paid in the current system goes to plaintiff and defense lawyers, the trust under discussion would pay nearly all its money to victims if they are new claimants. But lawyers who represent people who have already filed claims would receive their

standard fees of up to 40 percent of any settlement, meaning those claimants would cost the fund more.

People involved in the discussions say companies that made asbestos or used it in their products, as well as insurance companies, have together offered to pay $90 billion over the next 25 years to pay claims. Insurers and companies would each pay for half its cost. The government might also contribute a nominal amount, or help pay for medical monitoring of people who have been exposed to asbestos but are not sick.

Since the trust's principal would accumulate interest over time, the fund would pay out more than $100 billion in all. That figure is less than half as much as analysts forecast that companies and insurers would eventually spend to resolve asbestos claims under the current system. But because much of the money goes to lawyers under the current system, the companies say, victims would do as well. Trial lawyers say companies and insurers will have to contribute more than $100 billion so that victims do not lose out.

The efforts to build a trust have gained momentum since a meeting on April 1 that included senators and top representatives from the major interest groups. Staff members for Senator Orrin G. Hatch, Republican of Utah and chairman of the Senate Judiciary Committee, and Senator Patrick J. Leahy of Vermont, the committee's ranking Democrat, are meeting regularly to hammer out details. Mr. Hatch has said that he would like to introduce legislation next month, people involved in the talks say.

Proponents of a trust have focused on the Senate because it has killed asbestos bills in the past andthey assume that if a bill passes the Senate with the endorsement of business, it will clear the House and be signed by the president. A White House spokeswoman said any legislation would be reviewed.

"Right now everyone's at the table," said Ed Pagano, an aide to Senator Leahy.
Barry B. Direnfeld, a lawyer who represents the Asbestos Study Group, an association of about a dozen large companies, including General Electric and General Motors, that strongly favors a trust, said: "We are close to an agreement. Now we're wrestling with the tough decisions to make it a reality."

Still, efforts to end asbestos litigation have foundered in the past, and this plan faces many hurdles. Although they have reached broad agreement on financing, businesses and insurers have not yet decided exactly how much each company would pay or how such assessments would be determined.

Nor has business agreed with labor on how much money the trust would pay to different types of victims, a factor that will determine the overall size of the trust.

The A.F.L.-C.I.O. believes that the $90 billion that companies and insurers have offered is inadequate, said Damon Silvers, the union's associate general counsel.

Another potential complication is that one of the biggest beneficiaries of any such settlement could be Halliburton, the oil services company, which faces asbestos suits that have depressed its stock price. Because Vice President Dick Cheney was chairman of the company, any settlement that benefits Halliburton may be criticized by Democrats.

"The trust creates a number of problems, " said Lester Brickman, a professor at Yeshiva University and an expert on asbestos who is not involved in the talks. "The complexity of it, the decisions about who contributes and how much."

But Mr. Silvers said the disagreement over the size of payments can be resolved. "We can see far clearer than we could a few weeks ago that

there's a meeting point on the financial numbers," he said. "We think
there's a win-win number."

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_0Z2VF003_OPD.TXT_1>

April 24, 2003

Asbestos Accord Said to Be Near

By ALEX BERENSON

Companies, insurers, unions and Democratic and Republican senators are nearing an agreement in principle to end all asbestos lawsuits and instead pay people with asbestos-related diseases from a national privately financed trust, according to people from all sides who have participated in the talks.

The trust, which would be subject to approval by Congress and President Bush, would pay more than $100 billion to hundreds of thousands of asbestos victims over the next 30 years. It would stop the flood of asbestos lawsuits, 200,000 in the last two years alone, that have strained businesses and the court system.

It would be the second-largest lawsuit settlement ever, exceeded only by tobacco companies' agreement in 1998 to pay states $246 billion for their Medicaid spending on victims of cigarette smoking.

Many details of the trust remain to be worked out, including the exact size of payments to victims and who will pay if the trust unexpectedly runs short of money, and the negotiations could still stall.

Unlike the fund Congress created to compensate victims of the Sept. 11 attacks, an asbestos trust would not allow people to opt out and sue instead. All new and existing claims would be settled through the trust, which would largely or entirely be financed by businesses and insurers, people involved in the talks said. Victims would receive payments more quickly, while businesses would avoid the risk of huge verdicts. And both sides would pay much less to lawyers, who now receive more than half of all the money spent on asbestos litigation, studies say.

Efforts to reduce the rights of asbestos claimants to sue have repeatedly failed in the past. In addition, the law creating a trust would be complicated, and complexity is generally the enemy of legislation. So some experts on asbestos said a trust had little chance of becoming law.

But negotiators for all sides said they disagreed. Democrats and Republicans in Congress seem to agree that the number of asbestos lawsuits has become a crisis, and a trust is the only concept with significant bipartisan support.

In addition, Frederick M. Baron, an influential trial lawyer who has participated in the negotiations, said that the Association of Trial Lawyers of America would not oppose a trust if it offers payments similar to the net amounts, after lawyers' fees, that victims now receive in lawsuits.

Some lawyers will fiercely oppose a trust. But if their lobby stands aside, and unions, companies and insurers can reach a deal, the legislation could pass, Mr. Baron said.

While it might seem surprising that the trial lawyers' group is not fighting a trust, the group has been on the defensive since Republicans gained control of the Senate, and asbestos lawsuits have become particularly controversial.

"A national trust is the best solution," said David Austern, president of an asbestos trust fund that resolves claims against the Johns-Manville Corporation, once the leading maker of asbestos.

Mr. Austern who has watched efforts to resolve asbestos lawsuits since 1988, when he became counsel for the Manville trust, said he thought the trust had a better-than-even chance of becoming law. (Mr. Austern has consulted with Senate staff members, as well as a group of large companies, about the proposed trust. He said he had not been paid for the consulting.)

Creating a trust is a priority for many big businesses, especially manufacturers. Compan ies worry that they will have to pay hundreds of billions of dollars in claims unless Congress limits lawsuits against them from people who were exposed to asbestos but are not sick. Their concerns have grown in the last two years, after a spate of very large verdicts against companies that did not make asbestos but used it in their factories or products.

Already, lawsuits have forced into bankruptcy almost 70 companies, some of which were only peripherally connected to asbestos. Most American companies stopped using asbestos decades ago, but the number of lawsuits continues to rise. About 700,000 claims have been filed, including 200,000 in the last two years.

At the same time, the trust would ensure that tens of thousands of people who will die over the next 30 years from exposure to asbestos, as well as many others sickened by exposure, will be compensated.

Under the current system of lawsuits, some people who are sick or dying from asbestos exposure receive little money if their exposure happens to have come from companies that are already in bankruptcy. Others, including some who are not sick, get millions of dollars from sympathetic juries.

Most of the money in the trust would go to the sickest people, with the largest payments exceeding $1 million. People who have been exposed to asbestos but are not sick might get up to $1,000, although business groups would prefer much less. The level of payments to people who are not sick is crucial, because if it is set too high, millions of people may apply for payments, draining the trust of money it needs to compensate sick people, said Stephen Carroll, a senior economist at the Rand Institute for Civil Justice who has studied asbestos suits.

While more than half the money paid in the current system goes to plaintiff and defense lawyers, the trust under discussion would pay nearly all its money to victims if they are new claimants. But lawyers who represent people who have already filed claims would receive their standard fees of up to 40 percent of any settlement, meaning those claimants would cost the fund more.

People involved in the discussions say companies that made asbestos or used it in their products, as well as insurance companies, have together offered to pay $90 billion over the next 25 years to pay claims. Insurers and companies would each pay for half its cost. The government might also contribute a nominal amount, or help pay for medical monitoring of people who have been exposed to asbestos but are not sick.

Since the trust's principal would accumulate interest over time, the fund would pay out more than $100 billion in all. That figure is less than half as much as analysts forecast that companies and insurers would eventually spend to resolve asbestos claims under the current system. But because much of the money goes to lawyers under the current system, the companies say, victims would do as well. Trial lawyers say companies and insurers will have to contribute more than $100 billion so that victims do not lose out.

The efforts to build a trust have gained momentum since a meeting on April 1 that included senators and top representatives from the major interest groups. Staff members for Senator Orrin G. Hatch, Republican of Utah and chairman of the Senate Judiciary Committee, and Senator Patrick J. Leahy of Vermo nt, the committee's ranking Democrat, are meeting regularly to hammer out details. Mr. Hatch has said that he would like to introduce legislation next month, people involved in the talks say.

Proponent s of a trust have focused on the Senate because it has killed asbestos bills in the past andthey assume that if a bill passes the Senate with the endorsement of business, it will clear the House and be signed by the president. A White House spokeswoman said any legislation would be reviewed.

"Rig ht now everyone's at the table," said Ed Pagano, an aide to Senator Leahy. **Barry B. Direnfeld, a lawyer who represents the Asbestos Study Group, an association of about a dozen large companies, including General**

Electric and General Motors, that strongly favors a trust, said: "We are close to an agreement. Now we're wrestling with the tough decisions to make it a reality."

Still, efforts to end asbestos litigation have foundered in the past, and this plan faces many hurdles. Although they have reached broad agreement on financing, businesses and insurers have not yet decided exactly how much each company would pay or how such assessments would be determined.

Nor has business agreed with labor on how much money the trust would pay to different types of victims, a factor that will determine the overall size of the trust. < /span>

The A.F.L.-C.I.O. believes that the $90 billion that companies and insurers have offered is inadequate, said Damon Silvers, the union's associate general counsel.

Another potential complication is that one of the biggest beneficiaries of any such settlement could be Halliburton, the oil services company, which faces asbestos suits that have depressed its stock price. Because Vice President Dick Cheney was chairman of the company, any settlement that benefits Halliburton may be criticized by Democrats.

"The trust creates a number of problems, " said Lester Brickman, a professor at Yeshiva University and an expert on asbestos who is not involved in the talks. "The complexity of it, the decisions about who contributes and how much."

But Mr. Silvers said the disagreement over the size of payments can be resolved. "We can see far clearer than we could a few weeks ago that there's a meeting point on the financial numbers," he said. "We think there's a win-win number."

From: Kirk Blalock <kblalock@fierce-isakowitz.com>
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>;Kevin Warsh/OPD /EOP@EOP [OPD] <Kevin Warsh>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>
Sent: 4/24/2003 5:10:30 AM
Subject: : New York Times: Asbestos Agreement Near - This story is much more positive than reality!
Attachments: P_0Z2VF003_WHO.TXT_1.html

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kirk Blalock <kblalock@fierce-isakowitz.com> ( Kirk Blalock <kblalock@fierce-
isakowitz.com> [ UNKNOWN ] )
CREATION DATE/TIME:24-APR-2003 09:10:30.00
SUBJECT:: New York Times: Asbestos Agreement Near - This story is much more positive than
reality!
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

April 24, 2003
Asbestos Accord Said to Be Near
By ALEX BERENSON

Companies, insurers, unions and Democratic and Republican senators are nearing an agreement in principle to end all asbestos lawsuits and instead pay people with asbestos-related diseases from a national privately financed trust, according to people from all sides who have participated in the talks.

The trust, which would be subject to approval by Congress and President Bush, would pay more than $100 billion to hundreds of thousands of asbestos victims over the next 30 years. It would stop the flood of asbestos lawsuits, 200,000 in the last two years alone, that have strained businesses and the court system.

It would be the second-largest lawsuit settlement ever, exceeded only by tobacco companies' agreement in 1998 to pay states $246 billion for their Medicaid spending on victims of cigarette smoking.

Many details of the trust remain to be worked out, including the exact size of payments to victims and who will pay if the trust unexpectedly runs short of money, and the negotiations could still stall.

Unlike the fund Congress created to compensate victims of the Sept. 11 attacks, an asbestos trust would not allow people to opt out and sue instead. All new and existing claims would be settled through the trust, which would largely or entirely be financed by businesses and insurers, people involved in the talks said. Victims would receive payments more quickly, while businesses would avoid the risk of huge verdicts. And both sides would pay much less to lawyers, who now receive more than half of all the money spent on asbestos litigation, studies say.

Efforts to reduce the rights of asbestos claimants to sue have repeatedly failed in the past. In addition, the law creating a trust would be complicated, and complexity is generally the enemy of legislation. So some experts on asbestos said a trust had little chance of becoming law.

But negotiators for all sides said they disagreed. Democrats and Republicans in Congress seem to agree that the number of asbestos lawsuits has become a crisis, and a trust is the only concept with significant bipartisan support.

In addition, Frederick M. Baron, an influential trial lawyer who has participated in the negotiations, said that the Association of Trial Lawyers of America would not oppose a trust if it offers payments similar to the net amounts, after lawyers' fees, that victims now receive in lawsuits.

Some lawyers will fiercely oppose a trust. But if their lobby stands aside, and unions, companies and insurers can reach a deal, the legislation could pass, Mr. Baron said.

While it might seem surprising that the trial lawyers' group is not fighting a trust, the group has been on the defensive since Republicans gained control of the Senate, and asbestos lawsuits have become particularly controversial.

"A national trust is the best solution," said David Austern, president of an asbestos trust fund that resolves claims against the Johns-Manville Corporation, once the leading maker of asbestos.

Mr. Austern who has watched efforts to resolve asbestos lawsuits since 1988, when he became counsel for the Manville trust, said he thought the trust had a better-than-even chance of becoming law. (Mr. Austern has consulted with Senate staff members, as well as a group of large companies, about the proposed trust. He said he had not been paid for the consulting.)

Creating a trust is a priority for many big businesses, especially manufacturers. Companies worry that they will have to pay hundreds of billions of dollars in claims unless Congress limits lawsuits against them from people who were exposed to asbestos but are not sick. Their concerns have grown in the last two years, after a spate of very large verdicts against companies that did not make asbestos but used it in their factories or products.

Already, lawsuits have forced into bankruptcy almost 70 companies, some of which were only peripherally connected to asbestos. Most American companies stopped using asbestos decades ago, but the number of lawsuits continues to rise. About 700,000 claims have been filed, including 200,000 in the last two years.

At the same time, the trust would ensure that tens of thousands of people who will die over the next 30 years from exposure to asbestos, as well as many others sickened by exposure, will be compensated.

Under the current system of lawsuits, some people who are sick or dying from asbestos exposure receive little money if their exposure happens to have come from companies that are already in bankruptcy. Others, including some who are not sick, get millions of dollars from sympathetic juries.

Most of the money in the trust would go to the sickest people, with the largest payments exceeding $1 million. People who have been exposed to asbestos but are not sick might get up to $1,000, although business groups would prefer much less. The level of payments to people who are not sick is crucial, because if it is set too high, millions of people may apply for payments, draining the trust of money it needs to compensate sick people, said Stephen Carroll, a senior economist at the Rand Institute for Civil Justice who has studied asbestos suits.

While more than half the money paid in the current system goes to plaintiff and defense lawyers, the trust under discussion would pay nearly all its money to victims if they are new claimants. But lawyers who represent people who have already filed claims would receive their

standard fees of up to 40 percent of any settlement, meaning those claimants would cost the fund more.

People involved in the discussions say companies that made asbestos or used it in their products, as well as insurance companies, have together offered to pay $90 billion over the next 25 years to pay claims. Insurers and companies would each pay for half its cost. The government might also contribute a nominal amount, or help pay for medical monitoring of people who have been exposed to asbestos but are not sick.

Since the trust's principal would accumulate interest over time, the fund would pay out more than $100 billion in all. That figure is less than half as much as analysts forecast that companies and insurers would eventually spend to resolve asbestos claims under the current system. But because much of the money goes to lawyers under the current system, the companies say, victims would do as well. Trial lawyers say companies and insurers will have to contribute more than $100 billion so that victims do not lose out.

The efforts to build a trust have gained momentum since a meeting on April 1 that included senators and top representatives from the major interest groups. Staff members for Senator Orrin G. Hatch, Republican of Utah and chairman of the Senate Judiciary Committee, and Senator Patrick J. Leahy of Vermont, the committee's ranking Democrat, are meeting regularly to hammer out details. Mr. Hatch has said that he would like to introduce legislation next month, people involved in the talks say.

Proponents of a trust have focused on the Senate because it has killed asbestos bills in the past andthey assume that if a bill passes the Senate with the endorsement of business, it will clear the House and be signed by the president. A White House spokeswoman said any legislation would be reviewed.

"Right now everyone's at the table," said Ed Pagano, an aide to Senator Leahy.
Barry B. Direnfeld, a lawyer who represents the Asbestos Study Group, an association of about a dozen large companies, including General Electric and General Motors, that strongly favors a trust, said: "We are close to an agreement. Now we're wrestling with the tough decisions to make it a reality."

Still, efforts to end asbestos litigation have foundered in the past, and this plan faces many hurdles. Although they have reached broad agreement on financing, businesses and insurers have not yet decided exactly how much each company would pay or how such assessments would be determined.

Nor has business agreed with labor on how much money the trust would pay to different types of victims, a factor that will determine the overall size of the trust.

The A.F.L.-C.I.O. believes that the $90 billion that companies and insurers have offered is inadequate, said Damon Silvers, the union's associate general counsel.

Another potential complication is that one of the biggest beneficiaries of any such settlement could be Halliburton, the oil services company, which faces asbestos suits that have depressed its stock price. Because Vice President Dick Cheney was chairman of the company, any settlement that benefits Halliburton may be criticized by Democrats.

"The trust creates a number of problems, " said Lester Brickman, a professor at Yeshiva University and an expert on asbestos who is not involved in the talks. "The complexity of it, the decisions about who contributes and how much."

But Mr. Silvers said the disagreement over the size of payments can be resolved. "We can see far clearer than we could a few weeks ago that

there's a meeting point on the financial numbers," he said. "We think
there's a win-win number."

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_0Z2VF003_WHO.TXT_1>

April 24, 2003

Asbestos Accord Said to Be Near

By ALEX BERENSON

Companies, insurers, unions and Democratic and Republican senators are nearing an agreement in principle to end all asbestos lawsuits and instead pay people with asbestos-related diseases from a national privately financed trust, according to people from all sides who have participated in the talks.

The trust, which would be subject to approval by Congress and President Bush, would pay more than $100 billion to hundreds of thousands of asbestos victims over the next 30 years. It would stop the flood of asbestos lawsuits, 200,000 in the last two years alone, that have strained businesses and the court system.

It would be the second-largest lawsuit settlement ever, exceeded only by tobacco companies' agreement in 1998 to pay states $246 billion for their Medicaid spending on victims of cigarette smoking.

Many details of the trust remain to be worked out, including the exact size of payments to victims and who will pay if the trust unexpectedly runs short of money, and the negotiations could still stall.

Unlike the fund Congress created to compensate victims of the Sept. 11 attacks, an asbestos trust would not allow people to opt out and sue instead. All new and existing claims would be settled through the trust, which would largely or entirely be financed by businesses and insurers, people involved in the talks said. Victims would receive payments more quickly, while businesses would avoid the risk of huge verdicts. And both sides would pay much less to lawyers, who now receive more than half of all the money spent on asbestos litigation, studies say.

Efforts to reduce the rights of asbestos claimants to sue have repeatedly failed in the past. In addition, the law creating a trust would be complicated, and complexity is generally the enemy of legislation. So some experts on asbestos said a trust had little chance of becoming law.

But negotiators for all sides said they disagreed. Democrats and Republicans in Congress seem to agree that the number of asbestos lawsuits has become a crisis, and a trust is the only concept with significant bipartisan support.

In addition, Frederick M. Baron, an influential trial lawyer who has participated in the negotiations, said that the Association of Trial Lawyers of America would not oppose a trust if it offers payments similar to the net amounts, after lawyers' fees, that victims now receive in lawsuits.

Some lawyers will fiercely oppose a trust. But if their lobby stands aside, and unions, companies and insurers can reach a deal, the legislation could pass, Mr. Baron said.

While it might seem surprising that the trial lawyers' group is not fighting a trust, the group has been on the defensive since Republicans gained control of the Senate, and asbestos lawsuits have become particularly controversial.

"A national trust is the best solution," said David Austern, president of an asbestos trust fund that resolves claims against the Johns-Manville Corporation, once the leading maker of asbestos.

Mr. Austern who has watched efforts to resolve asbestos lawsuits since 1988, when he became counsel for the Manville trust, said he thought the trust had a better-than-even chance of becoming law. (Mr. Austern has consulted with Senate staff members, as well as a group of large companies, about the proposed trust. He said he had not been paid for the consulting.)

Creating a trust is a priority for many big businesses, especially manufacturers. Compan ies worry that they will have to pay hundreds of billions of dollars in claims unless Congress limits lawsuits against them from people who were exposed to asbestos but are not sick. Their concerns have grown in the last two years, after a spate of very large verdicts against companies that did not make asbestos but used it in their factories or products.

Already, lawsuits have forced into bankruptcy almost 70 companies, some of which were only peripherally connected to asbestos. Most American companies stopped using asbestos decades ago, but the number of lawsuits continues to rise. About 700,000 claims have been filed, including 200,000 in the last two years.

At the same time, the trust would ensure that tens of thousands of people who will die over the next 30 years from exposure to asbestos, as well as many others sickened by exposure, will be compensated.

Under the current system of lawsuits, some people who are sick or dying from asbestos exposure receive little money if their exposure happens to have come from companies that are already in bankruptcy. Others, including some who are not sick, get millions of dollars from sympathetic juries.

Most of the money in the trust would go to the sickest people, with the largest payments exceeding $1 million. People who have been exposed to asbestos but are not sick might get up to $1,000, although business groups would prefer much less. The level of payments to people who are not sick is crucial, because if it is set too high, millions of people may apply for payments, draining the trust of money it needs to compensate sick people, said Stephen Carroll, a senior economist at the Rand Institute for Civil Justice who has studied asbestos suits.

While more than half the money paid in the current system goes to plaintiff and defense lawyers, the trust under discussion would pay nearly all its money to victims if they are new claimants. But lawyers who represent people who have already filed claims would receive their standard fees of up to 40 percent of any settlement, meaning those claimants would cost the fund more.

People involved in the discussions say companies that made asbestos or used it in their products, as well as insurance companies, have together offered to pay $90 billion over the next 25 years to pay claims. Insurers and companies would each pay for half its cost. The government might also contribute a nominal amount, or help pay for medical monitoring of people who have been exposed to asbestos but are not sick.

Since the trust's principal would accumulate interest over time, the fund would pay out more than $100 billion in all. That figure is less than half as much as analysts forecast that companies and insurers would eventually spend to resolve asbestos claims under the current system. But because much of the money goes to lawyers under the current system, the companies say, victims would do as well. Trial lawyers say companies and insurers will have to contribute more than $100 billion so that victims do not lose out.

The efforts to build a trust have gained momentum since a meeting on April 1 that included senators and top representatives from the major interest groups. Staff members for Senator Orrin G. Hatch, Republican of Utah and chairman of the Senate Judiciary Committee, and Senator Patrick J. Leahy of Vermo nt, the committee's ranking Democrat, are meeting regularly to hammer out details. Mr. Hatch has said that he would like to introduce legislation next month, people involved in the talks say.

Proponent s of a trust have focused on the Senate because it has killed asbestos bills in the past andthey assume that if a bill passes the Senate with the endorsement of business, it will clear the House and be signed by the president. A White House spokeswoman said any legislation would be reviewed.

"Rig ht now everyone's at the table," said Ed Pagano, an aide to Senator Leahy. **Barry B. Direnfeld, a lawyer who represents the Asbestos Study Group, an association of about a dozen large companies, including General**

Electric and General Motors, that strongly favors a trust, said: "We are close to an agreement. Now we're wrestling with the tough decisions to make it a reality."

Still, efforts to end asbestos litigation have foundered in the past, and this plan faces many hurdles. Although they have reached broad agreement on financing, businesses and insurers have not yet decided exactly how much each company would pay or how such assessments would be determined.

Nor has business agreed with labor on how much money the trust would pay to different types of victims, a factor that will determine the overall size of the trust. < /span>

The A.F.L.-C.I.O. believes that the $90 billion that companies and insurers have offered is inadequate, said Damon Silvers, the union's associate general counsel.

Another potential complication is that one of the biggest beneficiaries of any such settlement could be Halliburton, the oil services company, which faces asbestos suits that have depressed its stock price. Because Vice President Dick Cheney was chairman of the company, any settlement that benefits Halliburton may be criticized by Democrats.

"The trust creates a number of problems, " said Lester Brickman, a professor at Yeshiva University and an expert on asbestos who is not involved in the talks. "The complexity of it, the decisions about who contributes and how much."

But Mr. Silvers said the disagreement over the size of payments can be resolved. "We can see far clearer than we could a few weeks ago that there's a meeting point on the financial numbers," he said. "We think there's a win-win number."

From: Miers, Harriet
To: <Kavanaugh, Brett M.>
Sent: 4/24/2003 10:43:29 AM
Subject: FW: Letters for approval - congrats - debbie

-----Original Message-----
From: Miers, Harriet
Sent: Thursday, April 24, 2003 10:43 AM
To: Rawson, Kimberly D.
Subject: RE: Letters for approval - congrats - debbie

I don't know what vetting of this occurred but generally we do not endorse organizations and we really are going on the line and saying this organization is wonderful in a difficult industry--one where there are great opportunities for allegations of problems. It needs to be thoroughly checked out that the President should be on record commending this organization setting it up as a model. We also have no familiarity with the award that I know. Is it an award that we recognize year to year?

-----Original Message-----
From: Rawson, Kimberly D.
Sent: Thursday, April 24, 2003 10:36 AM
To: Miers, Harriet
Subject: RE: Letters for approval - congrats - debbie

Good Morning -
Regarding this letter, it is on Mr. Kavanaugh's desk; however, Jon Ganter, in Kavanaugh's office, and I were just curious as to why you had suggested it go through their office - then we will know for future reference.

Thank you very much!
Kimberly

<< File: CONGRATULATIONS.LehighValleyHospital.AwardRecipient.4.16.03.doc >>

From: Harriet Miers/WHO/EOP@Exchange on 04/21/2003 08:30:22 PM
Record Type: Record

To: Kimberly D. Rawson/WHO/EOP@EOP
cc:
Subject: RE: Letters for approval - congrats - debbie

Letter is fine but has to be cleared by counsel if it has not been.

-----Original Message-----
From: Rawson, Kimberly D.
Sent: Friday, April 18, 2003 2:48 PM
To: Miers, Harriet
Subject: Letters for approval - congrats - debbie

Hi Harriet -
Hope you were/are able to get some good R & R time while you are in the great state of Texas!!

I have several letters for your approval - but no rush for today (if you are checking your email), just by Monday noonish - if possible, please Ma'am.

Here is the first of the letters - Thank you very much!!
Kimberly

---------- Forwarded by Kimberly D. Rawson/WHO/EOP on 04/18/2003 02:48 PM ----------

<< OLE Object: Picture (Device Independent Bitmap) >>
Deborah J. Eng
04/16/2003 03:59:22 PM
Record Type: Record

To: Kimberly D. Rawson/WHO/EOP@EOP
cc:
Subject: is this letter ok?

<< File: CONGRATULATIONS.LehighValleyHospital.AwardRecipient.4.16.03.doc >>

From: CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/24/2003 1:48:27 PM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
CREATION DATE/TIME:24-APR-2003 17:48:27.00
SUBJECT:: Re:
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Hi Brett! I am so sorry -- you should have been invited in the first instance!! The meeting is at 8:30 in 476. The agenda is to discuss options for airline policy changes. There will be a brief options paper, but it may not be distributed until the meeting tomorrow (hopefully later tonight though). Thanks for your help on Bankruptcy and NMB! I have a follow-up antitrust question, but I will write a separate email.

Brett M. Kavanaugh
04/24/2003 11:48:36 AM
Record Type: Record

To: Elizabeth S. Dougherty/OPD/EOP@EOP
cc:
Subject:

Jay told me to come to deputies meeting tomorrow. where and when? any paper? agenda?

From: Kirk Blalock <kblalock@fierce-isakowitz.com>
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>;Kevin Warsh/OPD /EOP@EOP [OPD] <Kevin Warsh>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>
Sent: 4/24/2003 11:22:59 AM
Subject: : Congress Daily Today
Attachments: P_8KRVF003_OPD.TXT_1.html

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kirk Blalock <kblalock@fierce-isakowitz.com> ( Kirk Blalock <kblalock@fierce-
isakowitz.com> [ UNKNOWN ] )
CREATION DATE/TIME:24-APR-2003 15:22:59.00
SUBJECT:: Congress Daily Today
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

JUDICIARY
Asbestos Litigation Talks Continue As Deal Remains Elusive
There is no deal yet on asbestos litigation reform legislation, congressional and industry sources participating in the negotiations said today. Meetings are ongoing and negotiators are "working hard," they said, but contrary to a published report today that proclaimed an accord was close at hand, sources on all sides of the issue said that is not the case. That does not mean the involved parties are not optimistic, or are at least maintaining a public facade of optimism. Key parties in labor, industry and senators on both sides of the aisle agreed several weeks ago to make a good faith effort to pursue the trust fund concept as a means for settling a flood of asbestos claims. In that respect, and in the context of the bitter disputes that punctuated past congressional debates on asbestos reform, "we're closer now than we've ever been," one source remarked. However, negotiators' effort to put meat on the conceptual framework continues. The Senate Judiciary Committee "still plans a May markup, and I think that's the time you'll see people coming together to say this is what we're going to work off of," predicted one source.

Senate Judiciary Chairman Hatch before the start of the April recess also said he planned to have the formal drafting of the asbestos litigation bill wrapped up by the time senators returned. However, sources privy to the negotiations said the talks and drafting, while productive, remain largely in the conceptual stage, and there is little possibility of formal legislative language being nailed down by the week's end. Indeed, several sources said negotiators with the AFL-CIO, who are representing the interests of the larger labor community, planned to submit its version of medical criteria to the committee Friday. "What we're trying to get [resolved] are the big structural issues and the money issues. It doesn't mean we can't get there," said Damon Silvers, associate general counsel of the AFL-CIO said. "It means we have a lot of hard work in front of us." Sources concurred that many of the tough questions relating to the construction of the trust fund, the medical criteria used to establish access to that fund, the individual case values, and the allocation of payments among defendant companies and their insurers -- in short, the thorniest of issues, remain unresolved.

Another key unresolved issue centers on the finality of the settlement and whether asbestos victims would be guaranteed ample

compensation even if the trust fund were to go bankrupt. That is apt to constitute a contentious fight, inasmuch as it raises the question of whether the federal government, or perhaps the private sector, would be on the hook for paying those asbestos claims. That is likely to "be the last issue to be solved," Silvers predicted. "Victims cannot be the ones to bear that risk," he added. "If Hatch wants to do a consensus bill, [he has to] figure out a way to solve this problem. A federal backstop is the simplest way to do it." -- by Pamela Barnett

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_8KRVF003_OPD.TXT_1>

JUDICIARY

Asbestos Litigation Talks Continue As Deal Remains Elusive

There is no deal yet on asbestos litigation reform legislation, congressional and industry sources participating in the negotiations said today. Meetings are ongoing and negotiators are "working hard," they said, but contrary to a published report today that proclaimed an accord was close at hand, sources on all sides of the issue said that is not the case. That does not mean the involved parties are not optimistic, or are at least maintaining a public facade of optimism. Key parties in labor, industry and senators on both sides of the aisle agreed several weeks ago to make a good faith effort to pursue the trust fund concept as a means for settling a flood of asbestos claims. In that respect, and in the context of the bitter disputes that punctuated past congressional debates on asbestos reform, "we're closer now than we've ever been," one source remarked. However, negotiators' effort to put meat on the conceptual framework continues. The Senate Judiciary Committee &quo t;still plans a May markup, and I think that's the time you'll see people coming together to say this is what we're going to work off of," predicted one source.

Senate Judiciary Chairman Hatch before the start of the April recess also said he planned to have the formal drafting of the asbestos litigation bill wrapped up by the time senators returned. However, sources privy to the negotiations said the talks and drafting, while productive, remain largely in the conceptual stage, and there is little possibility of formal legislative language being nailed down by the week's end. Indeed, several sources said negotiators with the AFL-CIO, who are representing the interests of the larger labor community, planned to submit its version of medical criteria to the committee Friday. "What we're trying to get [resolved] are the big structural issues and the money issues. It doesn't mean we can't get there," said Damon Silvers, associate general counsel of the AFL-CIO said. "It means we have a lot of hard work in front of us." Sources concurred that many of the tough questions relating to the construction of the trust fund, the medical criteria used to establish access to that fund, the individual case values, and the allocation of payments among defendant companies and their insurers -- in short, the thorniest of issues, remain unresolved.

Another key unresolved issue centers on the finality of the settlement and whether asbestos victims would be guaranteed ample compensation even if the trust fund were to go bankrupt. That is apt to c onstitute a contentious fight, inasmuch as it raises the question of whether the federal government, or perhaps the private sector, would be on the hook for paying those asbestos claims. That is likely to "be the last issue to be solved," Silvers predicted. "Victims cannot be the ones to bear that risk," he added. "If Hatch wants to do a consensus bill, [he has to] figure out a way to solve this problem. A federal backstop is the simplest way to do it." -- by Pamela Barnett

From: CN=Jess Sharp/OU=OPD/O=EOP [OPD]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/24/2003 2:42:41 PM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jess Sharp (CN=Jess Sharp/OU=OPD/O=EOP [OPD])
CREATION DATE/TIME:24-APR-2003 18:42:41.00
SUBJECT:: Re:
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Anything on the difficulty of emerging from bankruptcy? Is there some feasibility standard that jusges look to that may be sof in some jurisdictions?

Brett M. Kavanaugh
04/24/2003 05:27:00 PM
Record Type: Record

To: Jess Sharp/OPD/EOP@EOP
cc:
Subject:

Not sure this warrants discussion at a meeting, but tried to simplify:

Bankruptcy Code

Background

Chapter 11 of the Bankruptcy Code allows financially troubled companies to stay in business by giving them time to reorganize their finances. Several sections of the Code are especially relevant to airline bankruptcies. Of most relevance to the labor issue, Section 1113 allows debtors to modify existing labor contracts under certain circumstances with court approval. The statute imposes an affirmative duty on employers to bargain with the union before modifying or rejecting any contracts or agreements. The debtor must then show that the change is &necessary8 to save the airline from liquidation. There are two problems with this provision: (i) the standard is vague; and (ii) there is a circuit split over the meaning of the standard, with the Third Circuit allowing rejection only if necessary to prevent immediate liquidation and the Second Circuit allowing rejection if necessary to complete the reorganization process successfully.

Discussion

The airlines have not proposed changes to the bankruptcy laws or expressed concern about the operation of the process. However, as part of an overall package of legislative reforms, it may be beneficial to ensure a clearer standard under Section 1113 for airline bankruptcies to avoid the current confusion and uncertainty over the standard. As to the contents of the standard, the Second Circuit standard, which more readily allows airlines to reject labor contracts, is preferable to the Third Circuit standard and is consistent with the purposes of the bankruptcy laws.

From: CN=Emily Winland/OU=OPD/O=EOP [OPD]
To: Emily Winland/OPD/EOP@EOP [OPD] <Emily Winland>
CC: diana l. schacht/opd/eop@eop [OPD] <diana l. schacht>;heather.mcnaught@usdoj.gov [UNKNOWN] <heather.mcnaught@usdoj.gov>;marty p. smith/opd/eop@eop [OPD] <marty p. smith>;ado a. machida/ovp/eop@eop [OVP] <ado a. machida>;david.aufhauser@do.treas.gov @ inet [UNKNOWN] <david.aufhauser@do.treas.gov @ inet>;kristen silverberg/who /eop@exchange@eop [WHO] <kristen silverberg>;adam b. goldman/who/eop@eop [WHO] <adam b. goldman>;betty.vannoy@do.treas.gov @ inet [UNKNOWN] <betty.vannoy@do.treas.gov @ inet>;marie k. fishpaw/ovp/eop@eop [OVP] <marie k. fishpaw>;lauren j. vestewig/opd/eop@exchange@eop [OPD] <lauren j. vestewig>;courtney s. elwood/ovp/eop@eop [OVP] <courtney s. elwood>;viet.dinh@usdoj.gov @ inet [UNKNOWN] <viet.dinh@usdoj.gov @ inet>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;kevin warsh/opd/eop@eop [OPD] <kevin warsh>
Sent: 4/25/2003 4:39:47 AM
Subject: : Tort Reform Meeting @ 1:45pm ROOM CHANGE

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Emily Winland ( CN=Emily Winland/OU=OPD/O=EOP [ OPD ] )
CREATION DATE/TIME:25-APR-2003 08:39:47.00
SUBJECT:: Tort Reform Meeting @ 1:45pm ROOM CHANGE
TO:Emily Winland ( CN=Emily Winland/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
CC:diana l. schacht ( CN=diana l. schacht/OU=opd/O=eop@eop [ OPD ] )
READ:UNKNOWN
CC:heather.mcnaught@usdoj.gov ( heather.mcnaught@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
CC:marty p. smith ( CN=marty p. smith/OU=opd/O=eop@eop [ OPD ] )
READ:UNKNOWN
CC:ado a. machida ( CN=ado a. machida/OU=ovp/O=eop@eop [ OVP ] )
READ:UNKNOWN
CC:david.aufhauser@do.treas.gov @ inet ( david.aufhauser@do.treas.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
CC:kristen silverberg ( CN=kristen silverberg/OU=who/O=eop@exchange@eop [ WHO ] )
READ:UNKNOWN
CC:adam b. goldman ( CN=adam b. goldman/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:betty.vannoy@do.treas.gov @ inet ( betty.vannoy@do.treas.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
CC:marie k. fishpaw ( CN=marie k. fishpaw/OU=ovp/O=eop@eop [ OVP ] )
READ:UNKNOWN
CC:lauren j. vestewig ( CN=lauren j. vestewig/OU=opd/O=eop@exchange@eop [ OPD ] )
READ:UNKNOWN
CC:courtney s. elwood ( CN=courtney s. elwood/OU=ovp/O=eop@eop [ OVP ] )
READ:UNKNOWN
CC:viet.dinh@usdoj.gov @ inet ( viet.dinh@usdoj.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
CC:brett m. kavanaugh ( CN=brett m. kavanaugh/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:kevin warsh ( CN=kevin warsh/OU=opd/O=eop@eop [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######

This meeting will now be in Room 211, EEOB.

thanks,
Emily
```

Emily Winland
04/24/2003 06:11:29 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: Tort Reform Meeting will be @ 1:45pm tomorrow

The meeting to discuss Tort Reform will have to begin at 1:45pm tomorrow (instead of 2:00pm). It will still be held in Jay Lefkowitz's office. I am sorry for the short notice, and any inconvenience.

thanks,
Emily
456-6534

Message Sent
To:
Kevin Warsh/OPD/EOP@EOP
Adam B. Goldman/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Kristen Silverberg/WHO/EOP@Exchange@EOP
Viet.Dinh@usdoj.gov @ inet
David.Aufhauser@us.treas.gov @ inet
Courtney S. Elwood/OVP/EOP@EOP
Ado A. Machida/OVP/EOP@EOP

Message Copied
To:
Lauren J. Vestewig/OPD/EOP@Exchange@EOP
Marty P. Smith/OPD/EOP@EOP
Marie K. Fishpaw/OVP/EOP@EOP
heather.mcnaught@usdoj.gov
elizabeth_vannoy@do.treas.gov @ inet
Diana L. Schacht/OPD/EOP@EOP

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jennifer R. Brosnahan/WHO /EOP@EOP [WHO] <Jennifer R. Brosnahan>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>
Sent: 4/25/2003 5:42:42 AM
Subject: : FW: Radar Update for Week of April 28
Attachments: P_C7GWF003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:25-APR-2003 09:42:42.00
SUBJECT:: FW: Radar Update for Week of April 28
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

FYI -
-----Original Message-----
From: Vargas, Veronica
Sent: Friday, April 25, 2003 9:29 AM
To: Graham, John; Noe, Paul R.; Anderson, David R.; Besanceney,
Brian R.; Bumatay, Patrick J.; Burgeson, Christine M.; Clark, Alicia P.;
Conda, Cesar; Cooney, Phil; Daniels, Mitchell; DeFrancis, Suzy; Dove,
Stephen W.; Duffy, Trent D.; Goldman, Adam B.; Hennessey, Keith; Ingle,
Edward; Joseffer, Daryl L.; Kaplan, Joel; Lawlor, Laura S.; Luczynski,
Kimberley S.; Lundberg, Stephanie J.; MacHida, Ado A.; Murphy, Daniel J.;
Oxford, John; Parell, Christie; Pelletier, Eric C.; Perry, Philip J.;
Rossman, Elizabeth L.; Schlapp, Matthew A.; Silverberg, Kristen; Stolpe,
Elizabeth A.; Swagel, Phillip L.; Toth, Michael C.; Troy, Tevi; Waters,
James A.; Wood, John F.; Weaver, Bessie M.
Cc: Arbuckle, Donald R.; Allen, Bryon P.
Subject: Radar Update for Week of April 28

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_C7GWF003_WHO.TXT_1>
```

Rules Likely to be Cleared, Withdrawn or Returned during the Week of April 28

*USDA-FNS	PROPOSED RULE. Vehicle and Maximum Excess Shelter Expense Deduction Provisions of the Agriculture, Rural Development, Food & Drug Administration and Related Agencies Appropriations Act of 2001
*USDA-FSA	INTERIM FINAL RULE. 2002 Farm Bill Regulations; Conservation Reserve Program
USDA-FNS	FINAL RULE. Food Stamp Program; Electronic Benefits Transfer Systems Interoperability and Portability
USDA-FSA	FINAL RULE. Bioenergy Program; 2002 Farm Bill Regulations
*HHS-CMS	PROPOSED RULE. Inpatient Hospital Prospective Payment System
*HHS-CMS	PROPOSED RULE. Inpatient Rehabilitation Hospital Prospective Payment System
*HHS-CMS	PROPOSED RULE. Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities
*HHS-FDA	PROPOSED RULE. Establishment and Maintenance of Records under the Public Health Security and Bioterrorism Preparedness and Response Act of 2003
HHS-CMS	FINAL RULE. Medicaid Program; Grants to States for Operation of Qualified High Risk Pools
HHS-FDA	PROPOSED RULE. Administrative Detention of Food for Human or Animal Consumption under the public Health Security and Bioterrorism Preparedness and Response Act of 2002
*HUD-OH	NOTICE. Non-Proprietary Data Submitted by the Feral National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac)
HUD-OSEC	HOME Investment Partnerships Program; American Dream Down-Payment Initiative
HUD-PIH	NOTICE. Public Housing Assessment System; Introduction to Grading

* Probable Media Interes

HUD-PIH	NOTICE. Public Housing Assessment System; Financial Condition Grading Process
HUD-PIH	NOTICE. Public Housing Assessment System; Management Operation Grading Process
HUD-PIH	NOTICE. Public Housing Assessment System; Resident Service and Satisfaction Grading Process
HUD-PIH	NOTICE. Public Housing Assessment System; Physical Condition Grading Process
DOI-FWS	PROPOSED RULE. Migratory Bird Hunting; Proposed 2003-04 Migratory Game Bird Hunting Regulations with Requests for Indian Tribal Proposals
*DOL-OSHA	INTERIM FINAL RULE. Procedures for Handling Discrimination Complaints under the Corporate and Criminal Fraud Accountability Act
DOL-EBSA	PROPOSED RULE. Health Care Continuation Coverage
DOT-FAA	PROPOSED RULE. Training in Recognition of Hazardous Material
EPA-WATER	NOTICE. 6-Year Review of Existing National Primary Drinking Water Regulations Standards
OGE	FINAL RULE. Privacy Act Rules
*PBGC	PROPOSED RULE. Benefits Payable in Terminated Single-Employer Plans; Limitations on Guaranteed Benefits

REV_00163834

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jennifer R. Brosnahan/WHO /EOP@EOP [WHO] <Jennifer R. Brosnahan>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>
Sent: 4/25/2003 5:42:55 AM
Subject: : FW: Radar Update for Week of April 28
Attachments: P_B8GWF003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:25-APR-2003 09:42:55.00
SUBJECT:: FW: Radar Update for Week of April 28
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

FYI -
-----Original Message-----
From: Vargas, Veronica
Sent: Friday, April 25, 2003 9:29 AM
To: Graham, John; Noe, Paul R.; Anderson, David R.; Besanceney,
Brian R.; Bumatay, Patrick J.; Burgeson, Christine M.; Clark, Alicia P.;
Conda, Cesar; Cooney, Phil; Daniels, Mitchell; DeFrancis, Suzy; Dove,
Stephen W.; Duffy, Trent D.; Goldman, Adam B.; Hennessey, Keith; Ingle,
Edward; Joseffer, Daryl L.; Kaplan, Joel; Lawlor, Laura S.; Luczynski,
Kimberley S.; Lundberg, Stephanie J.; MacHida, Ado A.; Murphy, Daniel J.;
Oxford, John; Parell, Christie; Pelletier, Eric C.; Perry, Philip J.;
Rossman, Elizabeth L.; Schlapp, Matthew A.; Silverberg, Kristen; Stolpe,
Elizabeth A.; Swagel, Phillip L.; Toth, Michael C.; Troy, Tevi; Waters,
James A.; Wood, John F.; Weaver, Bessie M.
Cc: Arbuckle, Donald R.; Allen, Bryon P.
Subject: Radar Update for Week of April 28

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_B8GWF003_WHO.TXT_1>
```

Rules Likely to be Cleared, Withdrawn or Returned during the Week of April 28

*USDA-FNS	PROPOSED RULE. Vehicle and Maximum Excess Shelter Expense Deduction Provisions of the Agriculture, Rural Development, Food & Drug Administration and Related Agencies Appropriations Act of 2001
*USDA-FSA	INTERIM FINAL RULE. 2002 Farm Bill Regulations; Conservation Reserve Program
USDA-FNS	FINAL RULE. Food Stamp Program; Electronic Benefits Transfer Systems Interoperability and Portability
USDA-FSA	FINAL RULE. Bioenergy Program; 2002 Farm Bill Regulations
*HHS-CMS	PROPOSED RULE. Inpatient Hospital Prospective Payment System
*HHS-CMS	PROPOSED RULE. Inpatient Rehabilitation Hospital Prospective Payment System
*HHS-CMS	PROPOSED RULE. Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities
*HHS-FDA	PROPOSED RULE. Establishment and Maintenance of Records under the Public Health Security and Bioterrorism Preparedness and Response Act of 2003
HHS-CMS	FINAL RULE. Medicaid Program; Grants to States for Operation of Qualified High Risk Pools
HHS-FDA	PROPOSED RULE. Administrative Detention of Food for Human or Animal Consumption under the public Health Security and Bioterrorism Preparedness and Response Act of 2002
*HUD-OH	NOTICE. Non-Proprietary Data Submitted by the Feral National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac)
HUD-OSEC	HOME Investment Partnerships Program; American Dream Down-Payment Initiative
HUD-PIH	NOTICE. Public Housing Assessment System; Introduction to Grading

* Probable Media Interes

HUD-PIH	NOTICE. Public Housing Assessment System; Financial Condition Grading Process
HUD-PIH	NOTICE. Public Housing Assessment System; Management Operation Grading Process
HUD-PIH	NOTICE. Public Housing Assessment System; Resident Service and Satisfaction Grading Process
HUD-PIH	NOTICE. Public Housing Assessment System; Physical Condition Grading Process
DOI-FWS	PROPOSED RULE. Migratory Bird Hunting; Proposed 2003-04 Migratory Game Bird Hunting Regulations with Requests for Indian Tribal Proposals
*DOL-OSHA	INTERIM FINAL RULE. Procedures for Handling Discrimination Complaints under the Corporate and Criminal Fraud Accountability Act
DOL-EBSA	PROPOSED RULE. Health Care Continuation Coverage
DOT-FAA	PROPOSED RULE. Training in Recognition of Hazardous Material
EPA-WATER	NOTICE. 6-Year Review of Existing National Primary Drinking Water Regulations Standards
OGE	FINAL RULE. Privacy Act Rules
*PBGC	PROPOSED RULE. Benefits Payable in Terminated Single-Employer Plans; Limitations on Guaranteed Benefits

REV_00163837

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jennifer R. Brosnahan/WHO /EOP@EOP [WHO] <Jennifer R. Brosnahan>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>
Sent: 4/25/2003 6:00:58 AM
Subject: : FW: Radar Update for Week of April 28
Attachments: P_EJHWF003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:25-APR-2003 10:00:58.00
SUBJECT:: FW: Radar Update for Week of April 28
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

FYI -
;-----Original Message-----
From: ; Vargas, Veronica;
Sent:;; Friday, April 25, 2003 9:29 AM
To:;;;; Graham, John; Noe, Paul R.; Anderson, David R.; Besanceney, Brian
R.; Bumatay, Patrick J.; Burgeson, Christine M.; Clark, Alicia P.; Conda,
Cesar; Cooney, Phil; Daniels, Mitchell; DeFrancis, Suzy; Dove, Stephen W.;
Duffy, Trent D.; Goldman, Adam B.; Hennessey, Keith; Ingle, Edward;
Joseffer, Daryl L.; Kaplan, Joel; Lawlor, Laura S.; Luczynski, Kimberley
S.; Lundberg, Stephanie J.; MacHida, Ado A.; Murphy, Daniel J.; Oxford,
John; Parell, Christie; Pelletier, Eric C.; Perry, Philip J.; Rossman,
Elizabeth L.; Schlapp, Matthew A.; Silverberg, Kristen; Stolpe, Elizabeth
A.; Swagel, Phillip L.; Toth, Michael C.; Troy, Tevi; Waters, James A.;
Wood, John F.; Weaver, Bessie M.

Cc:;;;; Arbuckle, Donald R.; Allen, Bryon P.
Subject:;;;;;;; Radar Update for Week of April 28

<<Radar Update 4-28.doc>>
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_EJHWF003_WHO.TXT_1>
```

Rules Likely to be Cleared, Withdrawn or Returned during the Week of April 28

*USDA-FNS	PROPOSED RULE. Vehicle and Maximum Excess Shelter Expense Deduction Provisions of the Agriculture, Rural Development, Food & Drug Administration and Related Agencies Appropriations Act of 2001
*USDA-FSA	INTERIM FINAL RULE. 2002 Farm Bill Regulations; Conservation Reserve Program
USDA-FNS	FINAL RULE. Food Stamp Program; Electronic Benefits Transfer Systems Interoperability and Portability
USDA-FSA	FINAL RULE. Bioenergy Program; 2002 Farm Bill Regulations
*HHS-CMS	PROPOSED RULE. Inpatient Hospital Prospective Payment System
*HHS-CMS	PROPOSED RULE. Inpatient Rehabilitation Hospital Prospective Payment System
*HHS-CMS	PROPOSED RULE. Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities
*HHS-FDA	PROPOSED RULE. Establishment and Maintenance of Records under the Public Health Security and Bioterrorism Preparedness and Response Act of 2003
HHS-CMS	FINAL RULE. Medicaid Program; Grants to States for Operation of Qualified High Risk Pools
HHS-FDA	PROPOSED RULE. Administrative Detention of Food for Human or Animal Consumption under the public Health Security and Bioterrorism Preparedness and Response Act of 2002
*HUD-OH	NOTICE. Non-Proprietary Data Submitted by the Feral National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac)
HUD-OSEC	HOME Investment Partnerships Program; American Dream Down-Payment Initiative
HUD-PIH	NOTICE. Public Housing Assessment System; Introduction to Grading

* Probable Media Interes

HUD-PIH	NOTICE. Public Housing Assessment System; Financial Condition Grading Process
HUD-PIH	NOTICE. Public Housing Assessment System; Management Operation Grading Process
HUD-PIH	NOTICE. Public Housing Assessment System; Resident Service and Satisfaction Grading Process
HUD-PIH	NOTICE. Public Housing Assessment System; Physical Condition Grading Process
DOI-FWS	PROPOSED RULE. Migratory Bird Hunting; Proposed 2003-04 Migratory Game Bird Hunting Regulations with Requests for Indian Tribal Proposals
*DOL-OSHA	INTERIM FINAL RULE. Procedures for Handling Discrimination Complaints under the Corporate and Criminal Fraud Accountability Act
DOL-EBSA	PROPOSED RULE. Health Care Continuation Coverage
DOT-FAA	PROPOSED RULE. Training in Recognition of Hazardous Material
EPA-WATER	NOTICE. 6-Year Review of Existing National Primary Drinking Water Regulations Standards
OGE	FINAL RULE. Privacy Act Rules
*PBGC	PROPOSED RULE. Benefits Payable in Terminated Single-Employer Plans; Limitations on Guaranteed Benefits

REV_00163842

From: Leitch, David G.
To: <Kavanaugh, Brett M.>;<Lefkowitz, Jay P.>
Sent: 4/25/2003 10:14:19 AM
Subject: RE: 411 issue

He's apparently giving a speech this morning.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Friday, April 25, 2003 10:12 AM
To: Lefkowitz, Jay P.
Cc: Leitch, David G.
Subject: Re: 411 issue

I also left message for Hew.

From: Jay P. Lefkowitz/OPD/EOP@Exchange on 04/25/2003 09:35:36 AM
Record Type: Record

To: David G. Leitch/WHO/EOP@Exchange, Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: 411 issue

Now that the issue is going to the potus, can you help me formulate very clearly the specific issue we will ask him to decide and then provide the text of the short deference to DOJ directive he would sign?

.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Viet.Dinh@usdoj.gov [UNKNOWN] <Viet.Dinh@usdoj.gov>
CC: adam.charnes@usdoj.gov [UNKNOWN] <adam.charnes@usdoj.gov>;david g. leitch/who /eop@eop [WHO] <david g. leitch>
Sent: 4/25/2003 10:40:04 AM
Subject: : Re: FW: 4th Cir.
Attachments: P_YCZWF003_WHO.TXT_1.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:25-APR-2003 14:40:04.00
SUBJECT:: Re: FW: 4th Cir.
TO:Viet.Dinh@usdoj.gov (Viet.Dinh@usdoj.gov [UNKNOWN])
READ:UNKNOWN
CC:adam.charnes@usdoj.gov (adam.charnes@usdoj.gov [UNKNOWN])
READ:UNKNOWN
CC:david g. leitch (CN=david g. leitch/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

Attached in pdf. You all had reviewed draft of same and it was then parked for a week and then sent.

"Viet.Dinh@usdoj.gov" <Viet.Dinh
04/25/2003 02:37:47 PM
Record Type: Record

To: David G. Leitch/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc: "Adam.Charnes@usdoj.gov" <Adam.Charnes@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
Subject: FW: 4th Cir.

copy of letter? thanks

-----Original Message-----
From: Charnes, Adam
Sent: Friday, April 25, 2003 12:22 PM
To: Dinh, Viet; Remington, Kristi L; Benczkowski, Brian A
Subject: 4th Cir.

Did anyone know about the referenced Gonzales letter?
http://newsobserver.com/news/story/2486882p-2311678c.html

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_YCZWF003_WHO.TXT_1>

THE WHITE HOUSE

WASHINGTON

April 23, 2003

Dear Senators Allen, Dole, Edwards, Mikulski, Sarbanes, and Warner:

I write about the status of the four vacancies on the U.S. Court of Appeals for the Fourth Circuit.

There are 15 authorized seats on the Court of Appeals. Federal law imposes only one requirement for allocation of seats within a circuit -- that each State have at least one judge. Each State in a circuit often has a number of judges sitting in that State that corresponds at least roughly to the State's percentage of the overall population in the circuit or to the percentage of the circuit's caseload that arises from that State. To be sure, such geographic balance is not established in law or binding on the President or Senate. And there often are deviations in some circuits for a variety of historical and other reasons. (I would note, in addition, that judges can move from one State to another State in the circuit after their appointment, as has happened on some occasions in the past.) But this measure is generally a rough baseline for assessing the geographic allocation of seats within a circuit.

Based on this measure, of the 15 authorized seats, it appears that the allocation would roughly resemble the following: North Carolina: 4 or 5, Virginia: 4 or 5, South Carolina: 2 or 3, Maryland: 2 or 3, and West Virginia: 1 or 2. As of now, taking into account that Judge Widener recently notified the President of his intended retirement, the Fourth Circuit is significantly out of geographic balance:

	Baseline Allocation	Current Number of Judges
North Carolina:	4 or 5	0
Virginia:	4 or 5	3
South Carolina	2 or 3	4
Maryland:	2 or 3	2
West Virginia:	1 or 2	2

There are four current vacancies on the Court. The four judges who previously occupied these seats maintained their chambers in North Carolina, Virginia, and Maryland (which is why I have sent this letter to you as the Senators from those States). Judge Terry Boyle of North Carolina was nominated for one vacancy in May 2001. For the three additional vacancies, the President intends to nominate well-qualified and well-respected individuals in a manner that will bring the circuit closer to geographic balance, recognizing that it would take several years and additional vacancies for the circuit to achieve balance and recognizing further that absolute geographic balance is neither legally nor historically required. In particular, the President intends to nominate two such individuals on Monday, April 28 -- one who currently lives in Virginia and has strong roots in and ties to both Virginia and North Carolina and one who currently lives in North Carolina and has served on the state judiciary in North Carolina. Both

are African-American, and their confirmations by the Senate will further dismantle an historic barrier. For the last remaining vacancy, the President would intend to submit a nomination no later than September 2003, consistent with the President's commitment to submit nominations within 180 days of receiving notice of an intended retirement or vacancy.

I remain disappointed that Judge Boyle's nomination has been pending for two years. But I am pleased that we otherwise have been able to consult extensively and work cooperatively on other circuit and district nominees in Virginia, North Carolina, and Maryland. Please feel free to contact me at any time with your thoughts regarding the Fourth Circuit or other issues of concern to you.

Sincerely,

Alberto R. Gonzales
Counsel to the President

The Honorable George Allen
The Honorable Elizabeth Dole
The Honorable John R. Edwards
The Honorable Barbara A. Mikulski
The Honorable Paul S. Sarbanes
The Honorable John W. Warner
United States Senate
Washington, D.C. 20510

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@Exchange@EOP [WHO] <David G. Leitch>;Kyle Sampson/WHO /EOP@EOP [WHO] <Kyle Sampson>;Alberto R. Gonzales/WHO/EOP@Exchange@EOP [WHO] <Alberto R. Gonzales>
Sent: 4/25/2003 9:18:56 AM
Subject: : from Charlotte paper re CA4

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:25-APR-2003 13:18:56.00
SUBJECT:: from Charlotte paper re CA4
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Bush to nominate Raleigh lawyer
Selection would break impasse in 4th Circuit

By JOHN WAGNER, Washington Correspondent

WASHINGTON -- President Bush on Monday intends to nominate Raleigh lawyer Allyson Duncan to serve on the U.S. 4th Circuit Court of Appeals, according to aides in North Carolina Senate offices who have been notified of the White House's plans.

Duncan's name first surfaced publicly in January in a news report in which U.S. Sen. John Edwards, a North Carolina Democrat, said he would likely support her nomination.

Duncan, a black Republican, is a former state appeals court judge and is president-elect of the N.C. Bar Association.

Her confirmation would end a long-running impasse that has kept North Carolina from having any judges on the 4th Circuit, which hears cases from five Southeastern states.

The court is the last stop for federal cases from those states before the U.S. Supreme Court.

In a letter sent this week both to Edwards and U.S. Sen. Elizabeth Dole, a North Carolina Republican, White House Counsel Alberto Gonzales said Bush plans Monday to nominate two African-Americans for the 4th Circuit, including "one who currently lives in North Carolina and has served on the state judiciary in North Carolina."

Mike Briggs, Edwards' press secretary, said his office has been notified that Duncan is Bush's choice.

Gonzales describes the second nominee as someone "who currently lives in Virginia and has strong roots in and ties to both Virginia and North Carolina." The identity of that individual could not be learned Thursday.

In his letter, Gonzales notes that ideally North Carolina should have four or five judges on the 15-member 4th Circuit and that he considers the panel "significantly out of geographic balance."

There are four vacancies on the court.

Feuding between North Carolina's senators has kept the state from having a judge on the panel since 1999. Under Senate tradition, senators have effective veto power over nominees from their states.

The nomination to the 4th Circuit of another North Carolinian, U.S. District Court Judge Terrence Boyle, has been stalled since May 2001.

Edwards has not consented to the nomination, partly in response to the blockage of a string of North Carolina nominees by U.S. Sen. Jesse Helms, Dole's Republican predecessor, during the Clinton administration.

After Duncan is nominated, it is unclear how quickly she will get a confirmation hearing.

Mary Brown Brewer, a spokeswoman for Dole, said the senator prefers that Boyle be granted a hearing first since he was nominated first.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: david g. leitch/who/eop@exchange@eop [WHO] <david g. leitch>;kyle sampson/who/eop@eop [WHO] <kyle sampson>;alberto r. gonzales/who/eop@exchange@eop [WHO] <alberto r. gonzales>
Sent: 4/25/2003 9:20:08 AM
Subject: : actually that was Raleigh paper -- note reference to Judge's CA4 letter in article

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:25-APR-2003 13:20:08.00
SUBJECT:: actually that was Raleigh paper -- note reference to Judge's CA4 letter in article
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:david g. leitch (CN=david g. leitch/OU=who/O=eop@exchange@eop [WHO])
READ:UNKNOWN
CC:kyle sampson (CN=kyle sampson/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:alberto r. gonzales (CN=alberto r. gonzales/OU=who/O=eop@exchange@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett M. Kavanaugh
04/25/2003 01:18:32 PM
Record Type: Record

To: Alberto R. Gonzales/WHO/EOP@Exchange@EOP, David G. Leitch/WHO/EOP@Exchange@EOP, Kyle Sampson/WHO/EOP@EOP
cc:
Subject: from Charlotte paper re CA4

Bush to nominate Raleigh lawyer
Selection would break impasse in 4th Circuit

By JOHN WAGNER, Washington Correspondent

WASHINGTON -- President Bush on Monday intends to nominate Raleigh lawyer Allyson Duncan to serve on the U.S. 4th Circuit Court of Appeals, according to aides in North Carolina Senate offices who have been notified of the White House's plans.
Duncan's name first surfaced publicly in January in a news report in which U.S. Sen. John Edwards, a North Carolina Democrat, said he would likely support her nomination.
Duncan, a black Republican, is a former state appeals court judge and is president-elect of the N.C. Bar Association.
Her confirmation would end a long-running impasse that has kept North Carolina from having any judges on the 4th Circuit, which hears cases from five Southeastern states.
The court is the last stop for federal cases from those states before the U.S. Supreme Court.
In a letter sent this week both to Edwards and U.S. Sen. Elizabeth Dole, a North Carolina Republican, White House Counsel Alberto Gonzales said Bush plans Monday to nominate two African-Americans for the 4th Circuit, including "one who currently lives in North Carolina and has served on the state judiciary in North Carolina."
Mike Briggs, Edwards' press secretary, said his office has been notified that Duncan is Bush's choice.
Gonzales describes the second nominee as someone "who currently lives in Virginia and has strong roots in and ties to both Virginia and North Carolina." The identity of that individual could not be learned Thursday.
In his letter, Gonzales notes that ideally North Carolina should have four or five judges on the 15-member 4th Circuit and that he considers the

panel "significantly out of geographic balance."
There are four vacancies on the court.
Feuding between North Carolina's senators has kept the state from having a judge on the panel since 1999. Under Senate tradition, senators have effective veto power over nominees from their states.
The nomination to the 4th Circuit of another North Carolinian, U.S. District Court Judge Terrence Boyle, has been stalled since May 2001. Edwards has not consented to the nomination, partly in response to the blockage of a string of North Carolina nominees by U.S. Sen. Jesse Helms, Dole's Republican predecessor, during the Clinton administration.
After Duncan is nominated, it is unclear how quickly she will get a confirmation hearing.
Mary Brown Brewer, a spokeswoman for Dole, said the senator prefers that Boyle be granted a hearing first since he was nominated first.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Jeanie S. Mamo/WHO/EOP@EOP [WHO] <Jeanie S. Mamo>;Ashley Snee/WHO /EOP@Exchange@EOP [WHO] <Ashley Snee>
Sent: 4/25/2003 9:47:00 AM
Subject: : from Raleigh paper re CA4 -- pretty decent from our perspective given coming MD issue

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:25-APR-2003 13:47:00.00
SUBJECT:: from Raleigh paper re CA4 -- pretty decent from our perspective given coming MD issue
TO:Jeanie S. Mamo (CN=Jeanie S. Mamo/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Bush to nominate Raleigh lawyer
Selection would break impasse in 4th Circuit

By JOHN WAGNER, Washington Correspondent

WASHINGTON -- President Bush on Monday intends to nominate Raleigh lawyer Allyson Duncan to serve on the U.S. 4th Circuit Court of Appeals, according to aides in North Carolina Senate offices who have been notified of the White House's plans.
Duncan's name first surfaced publicly in January in a news report in which U.S. Sen. John Edwards, a North Carolina Democrat, said he would likely support her nomination.
Duncan, a black Republican, is a former state appeals court judge and is president-elect of the N.C. Bar Association.
Her confirmation would end a long-running impasse that has kept North Carolina from having any judges on the 4th Circuit, which hears cases from five Southeastern states.
The court is the last stop for federal cases from those states before the U.S. Supreme Court.
In a letter sent this week both to Edwards and U.S. Sen. Elizabeth Dole, a North Carolina Republican, White House Counsel Alberto Gonzales said Bush plans Monday to nominate two African-Americans for the 4th Circuit, including "one who currently lives in North Carolina and has served on the state judiciary in North Carolina."
Mike Briggs, Edwards' press secretary, said his office has been notified that Duncan is Bush's choice.
Gonzales describes the second nominee as someone "who currently lives in Virginia and has strong roots in and ties to both Virginia and North Carolina." The identity of that individual could not be learned Thursday.
In his letter, Gonzales notes that ideally North Carolina should have four or five judges on the 15-member 4th Circuit and that he considers the panel "significantly out of geographic balance."
There are four vacancies on the court.
Feuding between North Carolina's senators has kept the state from having a judge on the panel since 1999. Under Senate tradition, senators have effective veto power over nominees from their states.
The nomination to the 4th Circuit of another North Carolinian, U.S. District Court Judge Terrence Boyle, has been stalled since May 2001.
Edwards has not consented to the nomination, partly in response to the blockage of a string of North Carolina nominees by U.S. Sen. Jesse Helms, Dole's Republican predecessor, during the Clinton administration.
After Duncan is nominated, it is unclear how quickly she will get a confirmation hearing.
Mary Brown Brewer, a spokeswoman for Dole, said the senator prefers that Boyle be granted a hearing first since he was nominated first.

From: CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/25/2003 9:48:33 AM
Subject: :
Attachments: P_YBWWF003_WHO.TXT_1.pdf

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:25-APR-2003 13:48:33.00
SUBJECT::
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

;
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_YBWWF003_WHO.TXT_1>
```

THE WHITE HOUSE

WASHINGTON

April 23, 2003

Dear Senators Allen, Dole, Edwards, Mikulski, Sarbanes, and Warner:

I write about the status of the four vacancies on the U.S. Court of Appeals for the Fourth Circuit.

There are 15 authorized seats on the Court of Appeals. Federal law imposes only one requirement for allocation of seats within a circuit -- that each State have at least one judge. Each State in a circuit often has a number of judges sitting in that State that corresponds at least roughly to the State's percentage of the overall population in the circuit or to the percentage of the circuit's caseload that arises from that State. To be sure, such geographic balance is not established in law or binding on the President or Senate. And there often are deviations in some circuits for a variety of historical and other reasons. (I would note, in addition, that judges can move from one State to another State in the circuit after their appointment, as has happened on some occasions in the past.) But this measure is generally a rough baseline for assessing the geographic allocation of seats within a circuit.

Based on this measure, of the 15 authorized seats, it appears that the allocation would roughly resemble the following: North Carolina: 4 or 5, Virginia: 4 or 5, South Carolina: 2 or 3, Maryland: 2 or 3, and West Virginia: 1 or 2. As of now, taking into account that Judge Widener recently notified the President of his intended retirement, the Fourth Circuit is significantly out of geographic balance:

	Baseline Allocation	Current Number of Judges
North Carolina:	4 or 5	0
Virginia:	4 or 5	3
South Carolina	2 or 3	4
Maryland:	2 or 3	2
West Virginia:	1 or 2	2

There are four current vacancies on the Court. The four judges who previously occupied these seats maintained their chambers in North Carolina, Virginia, and Maryland (which is why I have sent this letter to you as the Senators from those States). Judge Terry Boyle of North Carolina was nominated for one vacancy in May 2001. For the three additional vacancies, the President intends to nominate well-qualified and well-respected individuals in a manner that will bring the circuit closer to geographic balance, recognizing that it would take several years and additional vacancies for the circuit to achieve balance and recognizing further that absolute geographic balance is neither legally nor historically required. In particular, the President intends to nominate two such individuals on Monday, April 28 -- one who currently lives in Virginia and has strong roots in and ties to both Virginia and North Carolina and one who currently lives in North Carolina and has served on the state judiciary in North Carolina. Both

are African-American, and their confirmations by the Senate will further dismantle an historic barrier. For the last remaining vacancy, the President would intend to submit a nomination no later than September 2003, consistent with the President's commitment to submit nominations within 180 days of receiving notice of an intended retirement or vacancy.

I remain disappointed that Judge Boyle's nomination has been pending for two years. But I am pleased that we otherwise have been able to consult extensively and work cooperatively on other circuit and district nominees in Virginia, North Carolina, and Maryland. Please feel free to contact me at any time with your thoughts regarding the Fourth Circuit or other issues of concern to you.

Sincerely,

Alberto R. Gonzales
Counsel to the President

The Honorable George Allen
The Honorable Elizabeth Dole
The Honorable John R. Edwards
The Honorable Barbara A. Mikulski
The Honorable Paul S. Sarbanes
The Honorable John W. Warner
United States Senate
Washington, D.C. 20510

From: Nelson, Carolyn
To: <Kavanaugh, Brett M.>
Sent: 4/25/2003 1:48:55 PM
Subject:
Attachments: Judges letter 4th Circuit 4 23 03.pdf

THE WHITE HOUSE

WASHINGTON

April 23, 2003

Dear Senators Allen, Dole, Edwards, Mikulski, Sarbanes, and Warner:

I write about the status of the four vacancies on the U.S. Court of Appeals for the Fourth Circuit.

There are 15 authorized seats on the Court of Appeals. Federal law imposes only one requirement for allocation of seats within a circuit -- that each State have at least one judge. Each State in a circuit often has a number of judges sitting in that State that corresponds at least roughly to the State's percentage of the overall population in the circuit or to the percentage of the circuit's caseload that arises from that State. To be sure, such geographic balance is not established in law or binding on the President or Senate. And there often are deviations in some circuits for a variety of historical and other reasons. (I would note, in addition, that judges can move from one State to another State in the circuit after their appointment, as has happened on some occasions in the past.) But this measure is generally a rough baseline for assessing the geographic allocation of seats within a circuit.

Based on this measure, of the 15 authorized seats, it appears that the allocation would roughly resemble the following: North Carolina: 4 or 5, Virginia: 4 or 5, South Carolina: 2 or 3, Maryland: 2 or 3, and West Virginia: 1 or 2. As of now, taking into account that Judge Widener recently notified the President of his intended retirement, the Fourth Circuit is significantly out of geographic balance:

	Baseline Allocation	Current Number of Judges
North Carolina:	4 or 5	0
Virginia:	4 or 5	3
South Carolina	2 or 3	4
Maryland:	2 or 3	2
West Virginia:	1 or 2	2

There are four current vacancies on the Court. The four judges who previously occupied these seats maintained their chambers in North Carolina, Virginia, and Maryland (which is why I have sent this letter to you as the Senators from those States). Judge Terry Boyle of North Carolina was nominated for one vacancy in May 2001. For the three additional vacancies, the President intends to nominate well-qualified and well-respected individuals in a manner that will bring the circuit closer to geographic balance, recognizing that it would take several years and additional vacancies for the circuit to achieve balance and recognizing further that absolute geographic balance is neither legally nor historically required. In particular, the President intends to nominate two such individuals on Monday, April 28 -- one who currently lives in Virginia and has strong roots in and ties to both Virginia and North Carolina and one who currently lives in North Carolina and has served on the state judiciary in North Carolina. Both

are African-American, and their confirmations by the Senate will further dismantle an historic barrier. For the last remaining vacancy, the President would intend to submit a nomination no later than September 2003, consistent with the President's commitment to submit nominations within 180 days of receiving notice of an intended retirement or vacancy.

I remain disappointed that Judge Boyle's nomination has been pending for two years. But I am pleased that we otherwise have been able to consult extensively and work cooperatively on other circuit and district nominees in Virginia, North Carolina, and Maryland. Please feel free to contact me at any time with your thoughts regarding the Fourth Circuit or other issues of concern to you.

Sincerely,

Alberto R. Gonzales
Counsel to the President

The Honorable George Allen
The Honorable Elizabeth Dole
The Honorable John R. Edwards
The Honorable Barbara A. Mikulski
The Honorable Paul S. Sarbanes
The Honorable John W. Warner
United States Senate
Washington, D.C. 20510

REV_00163880

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>
Sent: 4/25/2003 9:48:57 AM
Subject: :
Attachments: P_LCWWF003_WHO.TXT_1.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:25-APR-2003 13:48:57.00
SUBJECT::
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 04/25/2003 01:48 PM ----------

From: Carolyn Nelson/WHO/EOP@Exchange on 04/25/2003 01:48:55 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject:

;

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_LCWWF003_WHO.TXT_1>

THE WHITE HOUSE

WASHINGTON

April 23, 2003

Dear Senators Allen, Dole, Edwards, Mikulski, Sarbanes, and Warner:

I write about the status of the four vacancies on the U.S. Court of Appeals for the Fourth Circuit.

There are 15 authorized seats on the Court of Appeals. Federal law imposes only one requirement for allocation of seats within a circuit -- that each State have at least one judge. Each State in a circuit often has a number of judges sitting in that State that corresponds at least roughly to the State's percentage of the overall population in the circuit or to the percentage of the circuit's caseload that arises from that State. To be sure, such geographic balance is not established in law or binding on the President or Senate. And there often are deviations in some circuits for a variety of historical and other reasons. (I would note, in addition, that judges can move from one State to another State in the circuit after their appointment, as has happened on some occasions in the past.) But this measure is generally a rough baseline for assessing the geographic allocation of seats within a circuit.

Based on this measure, of the 15 authorized seats, it appears that the allocation would roughly resemble the following: North Carolina: 4 or 5, Virginia: 4 or 5, South Carolina: 2 or 3, Maryland: 2 or 3, and West Virginia: 1 or 2. As of now, taking into account that Judge Widener recently notified the President of his intended retirement, the Fourth Circuit is significantly out of geographic balance:

	Baseline Allocation	Current Number of Judges
North Carolina:	4 or 5	0
Virginia:	4 or 5	3
South Carolina	2 or 3	4
Maryland:	2 or 3	2
West Virginia:	1 or 2	2

There are four current vacancies on the Court. The four judges who previously occupied these seats maintained their chambers in North Carolina, Virginia, and Maryland (which is why I have sent this letter to you as the Senators from those States). Judge Terry Boyle of North Carolina was nominated for one vacancy in May 2001. For the three additional vacancies, the President intends to nominate well-qualified and well-respected individuals in a manner that will bring the circuit closer to geographic balance, recognizing that it would take several years and additional vacancies for the circuit to achieve balance and recognizing further that absolute geographic balance is neither legally nor historically required. In particular, the President intends to nominate two such individuals on Monday, April 28 -- one who currently lives in Virginia and has strong roots in and ties to both Virginia and North Carolina and one who currently lives in North Carolina and has served on the state judiciary in North Carolina. Both

are African-American, and their confirmations by the Senate will further dismantle an historic barrier. For the last remaining vacancy, the President would intend to submit a nomination no later than September 2003, consistent with the President's commitment to submit nominations within 180 days of receiving notice of an intended retirement or vacancy.

I remain disappointed that Judge Boyle's nomination has been pending for two years. But I am pleased that we otherwise have been able to consult extensively and work cooperatively on other circuit and district nominees in Virginia, North Carolina, and Maryland. Please feel free to contact me at any time with your thoughts regarding the Fourth Circuit or other issues of concern to you.

Sincerely,

Alberto R. Gonzales
Counsel to the President

The Honorable George Allen
The Honorable Elizabeth Dole
The Honorable John R. Edwards
The Honorable Barbara A. Mikulski
The Honorable Paul S. Sarbanes
The Honorable John W. Warner
United States Senate
Washington, D.C. 20510

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/25/2003 2:07:08 PM
Subject: : FW: LRM PTM39 - - VETERANS AFFAIRS Testimony on Three Benefits Bills
Attachments: P_K6CXF003_WHO.TXT_1.doc; P_K6CXF003_WHO.TXT_2.pdf; P_K6CXF003_WHO.TXT_3.pdf; P_K6CXF003_WHO.TXT_4.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:25-APR-2003 18:07:08.00
SUBJECT:: FW: LRM PTM39 - - VETERANS AFFAIRS Testimony on Three Benefits Bills
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

-----Original Message-----
From: Hassing, Erin P.
Sent: Friday, April 25, 2003 5:54 PM
To: dodlrs@osdgc.osd.mil; CLRM@doc.gov; ogc_legislation@ed.gov; ocl@ios.doi.gov; justice.lrm@usdoj.gov; dol-sol-leg@dol.gov; cla@sba.gov; info@jwod.gov
Cc: Cleveland, Robin; Peroff, Kathleen; Carson, Karyn T.; Siclari, Mary Jo; Hustead, Toni S.; Benson, Shalini M.; Chang, Winifred Y.; Seastrom, Mark R.; Hagen, Kelli A.; Sastry, Narahari; Ermann, Danny A.; Costello, Daniel J.; Grayton, Arecia A.; Aguilera, Ricardo A.; Waites, Wendell H.; Goldberg, Robert H.; Morales, Gloria L.; McVay, William; Lyon, Randolph M.; Rasetti, Lorenzo; Stack, Kathryn B.; Rowe, David; Irwin, Janet E.; Bloomquist, Lauren E.; Walsh, Maureen; Kitti, Carole; McDonald, Katrina A.; Dennis, Yvette M.; Shea, Robert J.; Conley, Sheila; Ramsey, Terrill W.; Styles, Angela B.; Gerich, Michael D.; Blum, Mathew C.; Alesi, Susan E.; Crilley, Joseph; Lee, Sarah S.; Suarez, Aquiles F.; Cea Lrm; Nec Lrm; Ovp Lrm; Perry, Philip J.; Wood, John F.; Luczynski, Kimberley S.; Whgc Lrm; Cox, Christopher C.; Dove, Stephen W.; Lobrano, Lauren C.; Jukes, James J.; Schroeder, Ingrid M.; Messenger, P. Thaddeus; Hassing, Erin P.; Newman, Kimberly A.; Halaska, Terrell L.; Justesen, Troy; Liu, Lin
Subject: LRM PTM39 - - VETERANS AFFAIRS Testimony on Three Benefits Bills

LRM ID: PTM39
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Friday, April 25, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: Erin P. Hassing
PHONE: (202)395-3459 FAX: (202)395-6148
SUBJECT: VETERANS AFFAIRS Testimony on Three Benefits Bills

DEADLINE: 5:00 PM. Monday, April 28, 2003
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Attached for your review, please find draft VA (Mackay) testimony for an April 30th hearing before the House Veterans' Affairs

Committee, Subcommittee on Benefits. Please note that OMB's Office of Federal Procurement Policy (Styles) will also appear at this hearing. A representative from the Small Business Administration will attend the hearing to answer questions. For your convenience, a copy of each of the bills discussed is also attached.

(10 pp.) (7 pp.) (22 pp.) (29 pp.)

Please provide your comments by 5:00 p.m. Monday, April 28th. This deadline is firm. If we do not receive your comments by that time, we will assume you have no objection to the document as drafted.

If you experience difficulty with this LRM, or its attachment, please contact us immediately.
Thank you.

DISTRIBUTION LIST

AGENCIES:
029-DEFENSE - Vic Bernson - (703) 697-1305
025-COMMERCE - Michael A. Levitt - (202) 482-3151
030-EDUCATION - Jack Kristy - (202) 401-8313
059-INTERIOR - Jane Lyder - (202) 208-4371
061-JUSTICE - Jamie E. Brown - (202) 514-2141
062-LABOR - Robert A. Shapiro - (202) 693-5500
107-Small Business Administration - Richard Spence - (202) 205-6700
098-Committee for Purchase From Blind or Severely Disabled - John Heyer - (703) 603-0665

EOP:
Robin Cleveland
Kathleen Peroff
Karyn T. Carson
Mary Jo Siclari
Toni S. Hustead
Shalini M. Benson
Winifred Y. Chang
Mark R. Seastrom
Kelli A. Hagen
Narahari Sastry
Danny A. Ermann
Daniel J. Costello
Arecia A. Grayton
Ricardo A. Aguilera
Wendell H. Waites
Robert H. Goldberg
Gloria L. Morales
William McVay
Randolph M. Lyon
Lorenzo Rasetti
Kathryn B. Stack
David Rowe
Janet E. Irwin
Lauren E. Bloomquist
Maureen Walsh
Carole Kitti
Katrina A. McDonald
Yvette M. Dennis
Robert J. Shea
Sheila Conley
Terrill W. Ramsey
Angela B. Styles
Michael D. Gerich
Mathew C. Blum
Susan E. Alesi
Joseph Crilley
Sarah S. Lee

Aquiles F. Suarez
CEA LRM
NEC LRM
OVP LRM
Philip J. Perry
John Wood
Kimberley S. Luczynski
WHGC LRM
Christopher C. Cox
Stephen W. Dove
Lauren C. Lobrano
James J. Jukes
Ingrid M. Schroeder
P. Thaddeus Messenger
Erin P. Hassing
Kimberly A. Newman
Terrell L. Halaska
Troy Justesen
Lin Liu

LRM ID: PTM39 SUBJECT: VETERANS AFFAIRS Testimony on Three Benefits Bills
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) faxing us a memo or letter.
Please include the LRM number and subject shown above.

TO: Erin P. Hassing Phone: 395-3459 Fax: 395-6148
Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_K6CXF003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_K6CXF003_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_K6CXF003_WHO.TXT_3>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_K6CXF003_WHO.TXT_4>

DRAFT

Statement of Honorable Leo S. Mackay, Jr., Ph.D.
DEPUTY SECRETARY OF VETERANS AFFAIRS

BEFORE THE HOUSE COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON BENEFITS

APRIL 30, 2003

Mr. Chairman and Members of the Subcommittee, thank you for providing me the opportunity to testify before you this morning on three measures affecting Department of Veterans Affairs education and vocational rehabilitation programs and small-business opportunities for veterans. The three bills on today's hearing agenda include: H.R. 1460, the "Veterans Entrepreneurship Act of 2003"; H.R. 1716, the "Veterans Earn and Learn Act"; and H.R. 1712, the "Veterans Federal Procurement Opportunity Act of 2003." VA supports a majority of the proposals set forth in these measures.

Before I discuss the bills the Subcommittee is considering today, I would like to note that, although the Budget Enforcements Act's pay-as-you-go requirements and discretionary spending caps expired on September 30, 2002, the Administration supports the extension of these budget enforcement mechanisms in a manner that ensures fiscal discipline and is consistent with the President's budget. As you know, these measures would affect direct spending and receipts and, therefore, the support VA expresses for the bills is contingent on accommodating the provisions within the overall budget submitted by the President.

H.R. 1460 – "Veterans Entrepreneurship Act of 2003"

Mr. Chairman, section 2 of H.R. 1460 would amend provisions of title 38, United States Code, to permit veterans to use VA educational assistance benefits to enroll in non-degree, non-credit business "entrepreneurship" courses offered by small business development centers or offered by the National Veterans Small Business Development Corporation. Specifically, section 2 of the bill would provide that State approving agencies may approve non-credit courses of business education that enable or assist persons to start or enhance small business enterprises. "Qualified providers" of such entrepreneurship courses would include small business development centers, as defined by section 21 of the Small Business Act, and the National Veterans Business Development Corporation. A person would not be considered by VA as already qualified for the objective of a program of education offered by a qualified provider of an entrepreneurship course solely because he or she is the owner or operator of a business. These amendments apply to courses approved by State approval agencies after the date of enactment of the Act.

Veterans would receive several benefits from such courses. Some veterans are not willing or able to complete a degree program. This program offers a viable alternative to a complete degree program for those wishing to start a small business. Moreover, veterans who take advantage of these courses are more likely to succeed as small-business entrepreneurs. The potential for

positive effects on the economy, with enhanced competition and creativity within the marketplace, is significant. The bill's provision for oversight of these courses by State Approving Agencies should ensure program quality. For these reasons, we strongly support enactment of this provision.

Enactment of this section would result in a cost of $1.5 million in fiscal year 2004 and a ten-year total cost of $32 million.

Section 3 of H.R. 1460 would amend 38 U.S.C. § 3104 to provide that, for purposes of pursuing a program of vocational rehabilitation under chapter 31 of title 38, United States Code, a disabled veteran may establish "self-employment" in a small business enterprise as a vocational goal without regard to any requirement of unemployability.

Current law permits us to serve veterans with the most severe service-connected disabilities who require self employment and/or homebound training in order to achieve an acceptable level of vocational rehabilitation. We are also able to provide limited assistance to other veterans with employment handicaps.

Mr. Chairman, last month the Department established a new advisory committee, the Vocational Rehabilitation and Employment (VR&E) Task Force, and charged it with conducting an independent review of the VR&E program. Among other responsibilities, it will evaluate eligibility criteria for vocational

rehabilitation services under VA's program, and report its recommendations to the Secretary. We are asking the Task Force to evaluate the merits of the change in law proposed by section 3 of H.R. 1460, and will be furnishing you our official views once we have the benefit of that advice.

Enactment of this section would result in a cost of $750,000 in fiscal year 2004 and a ten-year total cost of $101 million.

Section 4 of H.R. 1460 would authorize a contracting officer to make sole source awards to small business concerns owned and controlled by service-disabled veterans (SDVBs) if such business is determined to be capable of performing the contract, award can be made at a fair price, there is no reasonable expectation that two or more SDVBs would submit offers, and certain dollar thresholds are not exceeded. It would also authorize contracting officers to restrict competition to SDVBs if there is a reasonable expectation that at least two SDVBs will submit offers and award can be made at a fair market price. The Administrator of the Small Business Administration would have the authority to appeal contracting officers' decisions not to award a contract opportunity to SDVBs to the Secretary of the department or agency head. This law would not supercede any other preference under law for prison-made (Federal Prison Industries) products or products made by the blind or disabled (JWOD).

VA supports section 4 of H.R. 1460. Providing business opportunities to veterans who own small businesses is altogether consistent with VA's mission to serve our Nation's veterans and will help VA and the Nation honor its commitment to them.

We estimate the total cost associated with enactment of H.R. 1460 to be $2.25 million for fiscal year 2004 and $133 million over ten years.

H.R. 1716 – "Veterans Earn and Learn Act"

Mr. Chairman, H.R. 1716 would amend title 38, United States Code, to improve VA educational assistance programs for apprenticeship and other on-job training.

Section 2 of the bill would modify the computation of on-job training and apprenticeship benefit entitlements under chapters 34 and 35 of title 38, United States Code, to be the same as the entitlement charged under chapters 30 and 32, of that title, as well as under the chapter 1606, title 10 U.S.C. program. This would provide needed uniformity in calculating use of entitlement for such training regardless of the benefit chapter under which a student is eligible, resulting in greater equity for veterans.

Section 3 of the bill would establish an incentive payment for program participants who finish their apprenticeship training early by requiring VA to pay the trainee a lump-sum payment for the months of VA entitlement remaining that would have ordinarily been needed to complete the apprenticeship. We believe the incentive would motivate competent individuals to complete their apprenticeship training sooner, thereby resulting in a more efficient use of benefits.

Section 4 of the bill would increase the monthly VA benefit for trainees who simultaneously pursue apprenticeships or on-job training and related classroom instruction (whether or not the trainee was pursuing the academic instruction as a requirement of the apprenticeship or voluntarily under the trainee's own initiative). Currently, education benefits for apprenticeship and on-the-job training start at 75 percent of the benefit rate payable for full-time institutional training and these job training benefits decrease in stages as the individual progresses through the training program. This section would pay the full-time institutional rate for periods when the individual is in required classroom courses while also in the job training program. It will also allow individuals who voluntarily enroll in related courses to receive an increase based on the combined training, but not to exceed the full-time institutional rate. We support this proposal.

Section 5 of the bill would codify VA's authority to pay benefits for competency-based apprenticeships. It would require VA to take into consideration the approximate term of the program recommended in registered apprenticeship program standards recognized by the Secretary of Labor. Apprenticeships offered in industries that choose not to register with the Secretary of Labor, and that are approved for veterans' training by a state approving agency, would continue to be available. It would also authorize VA to use up to $3 million to develop the computer systems and procedures needed to carry out the above provisions of the bill. Current law permits approval of only time-based, fixed length apprenticeships. The 1990's saw a steady move away from time-based apprenticeships toward competency-based apprenticeships. We support this change as it would bring approval of apprenticeships into the 21st century and allow VA to pay educational assistance to more veterans.

Section 6 of the bill would require VA to establish a pilot program to furnish on-job benefits to claims adjudicators training in its disability compensation, dependency and indemnity (DIC), and pension programs. The pilot program would permit on-the-job training programs of up to 3 years to be approved for claims adjudicators who handle VA's Compensation and Pension programs. VA supports this program for claims adjudicators. Based on our past experience, the duration of this type of training would be approximately two years.

Section 7 of the bill would require coordination of information among the Departments of Veterans Affairs, Defense, and Labor with respect to on-job training. The Secretary of Defense would be required to furnish to the Secretary of Veterans Affairs information concerning each registered apprenticeship pursued by the servicemember during his or her active duty service. It would also require the Secretary of Veterans Affairs, in conjunction with the Secretary of Labor, to encourage and assist states and private organizations to accord credit to servicemembers for skills in any related apprenticeship the servicemember may pursue in civilian life. We believe such level of coordination would be beneficial so that veterans can receive full credit for their military training and not have to unnecessarily repeat training they received while on active duty.

We estimate the benefits cost associated with enactment of H.R. 1716 to be $47.7 million for fiscal year 2004 and $548.4 million over ten years.

H.R. 1712 – "Veterans Federal Procurement Opportunity Act of 2003"

Mr. Chairman, H.R. 1712 would require the Administrator of the Small Business Administration (SBA) to establish a development program for small business concerns owned and controlled by service disabled veterans similar to the Section 8(a) program for small business in general, where SBA executes a contract with an agency and subcontracts the work to the small business. The

bill reauthorizes the National Veterans Business Development Corporation, first created in 1999, and adds reporting and planning requirements such as 5 year strategic and financial plans. The Corporation was created to expand the provision of and improve access to technical assistance regarding entrepreneurship for the Nation's veterans.

The bill sets a Government-wide goal of 28 percent for prime contracts awarded to small business concerns. It further breaks that goal down to 3 percent for veteran-owned, 3 percent for service-disabled-veteran-owned, 3 percent for HUBZone, 5 percent for socially and economically disadvantaged, and 5 percent for women-owned. Double counting of small businesses that meet more than one criterion is prohibited. Beginning in Fiscal Year 2004, for any agency that failed to meet the goals, funding would be restricted in the following fiscal year for awards solely to the specific subcategories of small businesses (whether prime contracts or approved subcontracting plans). This would be phased in for the various categories of small businesses between FY's 2004 and 2008.

The bill would allow an agency to restrict competition to specific categories of small businesses to meet the procurement goals. The bill would require in negotiated procurements that agencies include evaluation factors regarding small business subcontracting plans.

VA supports the provisions of section 4 of H.R. 1712 that would establish a goal of 3 percent for award of contracts to veteran-owned small businesses. As you may be aware, VA has established its own internal goal for award to veterans. However, I am concerned with other provisions of section 4 and section 5 that would raise the small business goal, prohibit double counting of acquisitions, restrict the use of appropriations, and mandate the use of certain evaluation factors in negotiated acquisitions. The Government is already struggling to meet its current goals, and raising those goals would not be beneficial. Prohibiting double counting would have the effect of raising the thresholds further and making it that much more difficult for agencies to meet their goals. Furthermore, the provisions of section 4 that place restrictions on the use of funds in the case of agency failure to meet goals would create a quota system for award of contracts to socioeconomic groups. That, and the evaluation factor mandate, removes the flexibility agencies need to be able to successfully carry out their missions.

Mr. Chairman, that concludes my testimony.

I

108TH CONGRESS
1ST SESSION

H. R. 1460

To amend title 38, United States Code, to permit the use of education benefits under such title for certain entrepreneurship courses, to permit veterans enrolled in a vocational rehabilitation program under chapter 31 of such title to have self-employment as a vocational goal, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 27, 2003

Mr. RENZI (for himself, Mr. SMITH of New Jersey, Mr. EVANS, Mr. BROWN of South Carolina, Mr. MANZULLO, Mr. BEAUPREZ, and Mr. MICHAUD) introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

A BILL

To amend title 38, United States Code, to permit the use of education benefits under such title for certain entrepreneurship courses, to permit veterans enrolled in a vocational rehabilitation program under chapter 31 of such title to have self-employment as a vocational goal, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

REV_00163898

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Entrepreneurship Act of 2003".

SEC. 2. AUTHORIZATION FOR STATE APPROVING AGENCIES TO APPROVE CERTAIN ENTREPRENEURSHIP COURSES.

(a) APPROVAL OF ENTREPRENEURSHIP COURSES.—Section 3675 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) A State approving agency may approve the entrepreneurship courses offered by a qualified provider of entrepreneurship courses.

"(2) For purposes of this subsection, the term 'entrepreneurship course' means a non-degree, non-credit course of business education that enables or assists a person to start or enhance a small business enterprise.

"(3) Subsection (a) and paragraphs (1) and (2) of subsection (b) do not apply to—

"(A) an entrepreneurship course offered by a qualified provider of entrepreneurship courses; and

"(B) a qualified provider of entrepreneurship courses by reason of such provider offering one or more entrepreneurship courses.".

(b) BUSINESS OWNERS NOT TREATED AS ALREADY QUALIFIED.—Section 3471 of such title is amended by inserting before the last sentence the following: "The Sec-

REV_00163899

retary shall not treat a person as already qualified for the objective of a program of education offered by a qualified provider of entrepreneurship courses solely because such person is the owner or operator of a business.''.

(c) INCLUSION OF ENTREPRENEURSHIP COURSES IN DEFINITION OF PROGRAM OF EDUCATION.—Subsection (b) of section 3452 of such title is amended by adding at the end the following: ''Such term also includes any course, or combination of courses, offered by a qualified provider of entrepreneurship courses.''

(d) INCLUSION OF QUALIFIED PROVIDER OF ENTREPRENEURSHIP COURSES IN DEFINITION OF EDUCATIONAL INSTITUTION.—Subsection (c) of section 3452 of such title is amended by adding at the end the following: ''Such term also includes any qualified provider of entrepreneurship courses.''.

(e) DEFINITION OF QUALIFIED PROVIDER OF ENTREPRENEURSHIP COURSES.—Section 3452 of such title is further amended by adding at the end the following new subsection:

''(h) The term 'qualified provider of entrepreneurship courses' means—

''(1) a small business development center described in section 21 of the Small Business Act (15 U.S.C. 648), and

REV_00163900

"(2) the National Veterans Business Development Corporation (established under section 33 of such Act (15 U.S.C. 657c)) insofar as the Corporation offers or sponsors an entrepreneurship course (as defined in section 3675(c)(2) of this title).".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to courses approved by State approving agencies after the date of the enactment of this Act.

SEC. 3. ESTABLISHMENT OF SELF-EMPLOYMENT AS A VOCATIONAL GOAL FOR VETERANS RECEIVING VOCATIONAL REHABILITATION.

Section 3104 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c) Any person entitled to a rehabilitation program under this chapter may establish self-employment as a vocational goal without regard to any requirement that the person be unemployable.".

SEC. 4. PROCUREMENT PROGRAM FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

REV_00163901

"SEC. 36. PROCUREMENT PROGRAM FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.

"(a) SOLE SOURCE CONTRACTS.—In accordance with this section and not withstanding any other provision of law, a contracting officer may award a sole source contract to any small business concern owned and controlled by service-disabled veterans if—

"(1) such concern is determined to be a responsible contractor with respect to performance of such contract opportunity and the contracting officer does not have a reasonable expectation that 2 or more small business concerns owned and controlled by service-disabled veterans will submit offers for the contracting opportunity;

"(2) the anticipated award price of the contract (including options) will not exceed—

"(A) $5,000,000, in the case of a contract opportunity assigned a standard industrial classification code for manufacturing; or

"(B) $3,000,000, in the case of any other contract opportunity; and

"(3) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price.

REV_00163902

"(b) RESTRICTED COMPETITION.—In accordance with this section and not withstanding any other provision of law, a contracting officer may award contracts on the basis of competition restricted to small business concerns owned and controlled by service-disabled veterans if the contracting officer has a reasonable expectation that not less than 2 small business concerns owned and controlled by service-disabled veterans will submit offers and that the award can be made at a fair market price.

"(c) APPEAL BY ADMINISTRATOR.—Not later than 5 days after the date on which the Administration is notified of a contracting officer's decision not to award a contract opportunity under this section to a small business concern owned and controlled by service-disabled veterans, the Administrator may notify the contracting officer of the intent to appeal the contracting officer's decision, and within 15 days of such date the Administrator may file a written request for reconsideration of the contracting officer's decision with the Secretary of the department or agency head.

"(d) RELATIONSHIP TO OTHER CONTRACTING PREFERENCES.—A procurement may not be made from a source on the basis of a preference provided under subsection (a) or (b) if the procurement would otherwise be made from a different source under section 4124 or 4125

REV_00163903

of title 18, United States Code, or the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.).

"(e) ENFORCEMENT; PENALTIES.—Rules similar to the rules of paragraphs (5) and (6) of section 8(m) shall apply for purposes of this section.

"(f) CONTRACTING OFFICER.—For purposes of this section, the term 'contracting officer' has the meaning given such term in section 27(f)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(f)(5))."

○

REV_00163904

I

108TH CONGRESS
1ST SESSION

H. R. 1716

To amend title 38, United States Code, to improve educational assistance programs of the Department of Veterans Affairs for apprenticeship or other on-job training, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 2003

Mr. SMITH of New Jersey (for himself, Mr. EVANS, Mr. BROWN of South Carolina, and Mr. MICHAUD) introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

A BILL

To amend title 38, United States Code, to improve educational assistance programs of the Department of Veterans Affairs for apprenticeship or other on-job training, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans Earn and Learn Act".

REV_00163905

(b) FINDINGS.—Congress makes the following findings:

(1) Educational assistance programs for veterans for apprenticeship and on-job training of the Department of Veterans Affairs assist employers to hire and retain skilled workers.

(2) These programs establish a link between training afforded to servicemembers while serving in the Armed Forces and training available in civilian settings for purposes of occupational licensing and credentialing.

(3) These programs develop a more highly educated and productive work force.

(c) REFERENCES TO TITLE 38, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. MODIFICATION OF BENEFIT ENTITLEMENT CHARGES FOR CERTAIN ON-JOB TRAINING PROGRAMS.

(a) VETERANS' EDUCATIONAL ASSISTANCE AND SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSIST-

REV_00163906

ANCE.—Section 3687 is amended by adding at the end the following new subsection:

"(e)(1) For each month that an individual (as defined in paragraph (3)) is paid a training assistance allowance under subsection (a), the entitlement of the individual shall be charged at a percentage rate (rounded to the nearest percent) that is equal to the ratio of—

"(A) such training assistance allowance for the period of months involved, to

"(B) the applicable monthly educational assistance allowance payable to the individual for such period of months.".

"(2) For any month in which an individual fails to complete 120 hours of training, the entitlement otherwise chargeable under paragraph (1) shall be reduced in the same proportion as the monthly training assistance allowance payable is reduced under subsection (b)(3).

"(3) In this section, the term 'individual' means—

"(A) an eligible veteran for purposes of chapter 34 of this title who is entitled, under chapter 30 or 34 of this title, as the case may be, to monthly educational assistance allowances payable under section 3015(e) of this title, or

"(B) an eligible person for purposes chapter 35 of this title, who is entitled, under section 3510 of

REV_00163907

this title, to monthly educational assistance allowances payable under section 3532(a) of this title as the case may be.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to months beginning on or after the date that is 1 year after the date of the enactment of this Act.

SEC. 3. INCENTIVE PAYMENT FOR EARLY COMPLETION OF APPRENTICESHIP TRAINING.

(a) MONTGOMERY GI BILL.—(1) Section 3032(c) is amended by adding at the end the following new paragraph:

''(4)(A) In the case of an individual who successfully completes a full-time program of apprenticeship before entitlement to monthly educational assistance allowance payable under this subsection for that program is exhausted, the Secretary shall pay to the individual a lump-sum amount equal to the difference between—

''(i) the total amount of educational assistance allowances that could have been paid to the individual under this subsection for the successful completion of that program, and

''(ii) the amount of educational assistance allowance paid to the individual for the program under this subsection.

REV_00163908

"(B) In the case of a lump sum payment paid to an individual under subparagraph (A), the individual's entitlement under this chapter (and chapter 34 of this title, if applicable) shall be charged at the applicable rate under paragraph (3).".

(2) Paragraph (1) of such section is amended by striking "Except as provided in paragraph (2)" and inserting "Subject to the succeeding provisions".

(b) POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE.—(1) Section 3233 is amended by adding at the end the following new subsection:

"(e)(1) In the case of an individual who successfully completes a full-time program of apprenticeship before entitlement to monthly benefit payment payable under this section for that program is exhausted, the Secretary shall pay to the individual a lump-sum amount equal to the difference between—

"(A) the total amount of monthly benefit payments that could have been paid to the individual under this section for the successful completion of that program, and

"(B) the amount of monthly benefit payments paid to the individual for the program under this section.

REV_00163909

"(2) In the case of a lump sum payment paid to an individual under paragraph (1), the individual's entitlement under this chapter shall be charged at the applicable rate under subsections (c) and (d)."

(2) Subsection (a) of such section is amended by striking "Except as provided in subsection (b)" and inserting "Subject to the succeeding provisions".

(c) VETERANS' EDUCATIONAL ASSISTANCE AND SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.—Section 3687, as amended by section 2(a), is further amended by adding at the end the following new subsection:

"(f)(1) In the case of an individual (as defined in subsection (e)(3) who successfully completes a full-time program of apprenticeship before entitlement to monthly educational assistance allowance payable for that program is exhausted, the Secretary shall pay to the individual a lump-sum amount equal to the difference between—

"(A) the total amount of educational assistance allowances that could have been paid to the individual under subsection (a) for the successful completion of that program, and

"(B) the amount of educational assistance allowance paid to the individual for the program under subsection (a).

REV_00163910

"(2) In the case of a lump sum payment paid to an individual under paragraph (1), the entitlement of the individual under chapter 30, 34, or 35 of this title, as the case may be, shall be charged at the applicable rate under subsection (e).".

(d) SELECTED RESERVE MONTGOMERY GI BILL.—(1) Section 16131(d) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) In the case of an individual who successfully completes a full-time program of apprenticeship before entitlement to monthly educational assistance allowance payable under this subsection for that program is exhausted, the Secretary shall pay to the individual a lump-sum amount equal to the difference between—

"(i) the total amount of educational assistance allowances that could have been paid to the individual under this subsection for the successful completion of that program, and

"(ii) the amount of educational assistance allowance paid to the individual for the program under this subsection.

"(B) In the case of a lump sum payment paid to an individual under subparagraph (A), the individual's enti-

REV_00163911

tlement under this chapter shall be charged at the applicable rate under paragraph (3).''.

(2) Paragraph (1) of such section is amended by striking ''Except as provided in paragraph (2)'' and inserting ''Subject to the succeeding provisions of this subsection''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to programs of training beginning on or after the date of the enactment of this Act.

SEC. 4. INCREASE IN BENEFIT FOR INDIVIDUALS PURSUING APPRENTICESHIP OR ON-JOB TRAINING AND RELATED POSTSECONDARY CLASSROOM EDUCATION TRAINING.

(a) MONTGOMERY GI BILL.—Section 3032(c), as amended by section 3(a), is further amended by adding at the end the following new paragraph:

''(5)(A) In the case of an individual pursuing a full-time program of apprenticeship or other on-job training under this chapter who, as a requirement of such program, is enrolled in a course of classroom instruction approved under subchapter I of chapter 36 of this title, notwithstanding the preceding provisions of this subsection, the amount of the monthly educational assistance allowance payable to the individual for each month (or fraction thereof) the individual is enrolled in such course is the

REV_00163912

amount payable under section 3015 of this title to an individual pursuing a program of education on a full-time basis.

"(B)(i) Subject to clause (ii), in the case of an individual pursuing a full-time program of apprenticeship or other on-job training under this chapter who has voluntarily enrolled in a course of classroom instruction approved under subchapter I of chapter 36 of this title that is related to such program, notwithstanding the preceding provisions of this subsection, the amount of the monthly educational assistance allowance payable to the individual under this subsection shall be increased for each month (or fraction thereof) the individual is enrolled in such course by an amount equal to the applicable reduced rate established by the Secretary under section 3015 of this title for an approved program of education pursued on less than a full-time basis.

"(ii) In no case may the amount of the monthly educational assistance allowance payable to the individual under clause (i) exceed the amount payable under such section 3015 to an individual pursuing a program of education on a full-time basis.

"(C)(i) In the case of a monthly educational assistance allowance paid to an individual under subparagraph (A) for a month, the individual's entitlement under this

REV_00163913

chapter for that month shall be charged at the rate that otherwise would apply but for this subsection.

"(ii) In the case of a monthly educational assistance allowance paid to an individual under subparagraph (B) for a month, the charge to the individual's entitlement for that month shall be increased proportionately in accordance with the increase in payment under subparagraph (B).

"(iii) Any such charge to the individual's entitlement shall be reduced proportionately in accordance with the reduction in payment under paragraph (2).".

(b) POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE.—(1) Section 3233, as amended by section 3(b), is further amended by adding at the end the following new subsection:

"(f)(1) In the case of an individual pursuing a full-time program of apprenticeship or other on-job training under this chapter who, as a requirement of such program, is enrolled in a course of classroom instruction approved under subchapter I of chapter 36 of this title, notwithstanding the preceding provisions of this section, the amount of the monthly benefit payment payable to the individual for each month (or fraction thereof) the individual is enrolled in such course is the amount payable under

REV_00163914

section 3231 of this title to that individual pursuing a program of education on a full-time basis.

"(2)(A) Subject to subparagraph (B), in the case of an individual pursuing a full-time program of apprenticeship or other on-job training under this chapter who has voluntarily enrolled in a course of classroom instruction approved under subchapter I of chapter 36 of this title that is related to such program, notwithstanding the preceding provisions of this section, the amount of the monthly benefit payment payable to the individual under this section shall be increased for each month (or fraction thereof) the individual is enrolled in such course by an amount equal to the applicable reduced rate established by the Secretary under section 3231 of this title for an approved program of education pursued on less than a full-time basis.

"(B) In no case may the amount of the monthly benefit payment payable to the individual under subparagraph (A) exceed the amount payable under section 3231 of this title to an individual pursuing a program of education on a full-time basis.

"(3)(A) In the case of a monthly benefit payment paid to an individual under paragraph (1) for a month, the individual's entitlement under this chapter for that

REV_00163915

month shall be charged at the rate that otherwise would apply but for this section.

"(B) In the case of a monthly benefit payment paid to an individual under paragraph (2) for a month, the charge to the individual's entitlement for that month shall be increased proportionately in accordance with the increase in payment under paragraph (2).

"(C) Any such charge to the individual's entitlement shall be reduced proportionately in accordance with the reduction in payment under paragraph (2).".

(2) Section 3231(a)(2) is amended—

(A) by striking "(2) Except as provided in paragraph (5)(E) of this subsection and in subsection (e) of this section" and inserting "(2)(A) Except as provided in subparagraph (B), paragraph (5)(E),"; and

(B) by adding at the end the following new subparagraph:

"(B) The Secretary shall prescribe regulations for appropriately reduced rates of the amount of the monthly payment otherwise applicable under subparagraph (A) for programs of educational or vocational assistance pursued on less than a full-time basis.".

(c) VETERANS' EDUCATIONAL ASSISTANCE AND SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSIST-

REV_00163916

ANCE.—Section 3687, as amended by section 3(c), is further amended by adding at the end the following new subsection:

"(g)(1) In the case of an individual (as defined in subsection (e)(3)) pursuing a full-time program of apprenticeship or other on-job training who, as a requirement of such program, is enrolled in a course of classroom instruction approved under subchapter I, notwithstanding the preceding provisions of this section, the amount of the monthly training assistance allowance payable to the individual for each month (or fraction thereof) the individual is enrolled in such course is the amount of educational assistance allowance payable under section 3015(e) of this title or under section 3532(a) of this title, as the case may be, who is pursuing a program of education on a full-time basis.

"(2)(A) Subject to subparagraph (B), in the case of an individual pursuing a full-time program of apprenticeship or other on-job training, as the case may be, who has voluntarily enrolled in a course of classroom instruction approved under subchapter I that is related to such program, notwithstanding the preceding provisions of this section, the amount of the monthly training assistance allowance payable to the individual under this section shall be increased for each month (or fraction thereof) the indi-

REV_00163917

vidual is enrolled in such course by an amount equal to the applicable reduced rate established by the Secretary under section 3015 of this title, or section 3532(a), as the case may be, for an approved program of education pursued on less than a full-time basis.

"(B) In no case may the amount of the monthly benefit payment payable to the individual under subparagraph (A) exceed the amount of educational assistance allowance payable to the individual under section 3015(e) of this or under section 3532(a) of this title, as the case may be, who is pursuing a program of education on a full-time basis.

"(3)(A) In the case of a monthly benefit payment paid to an individual under paragraph (1) for a month, the entitlement of the individual under chapter 30, 34, or 35 of this title for that month shall be charged at the rate that otherwise would apply but for this section.

"(B) In the case of a monthly benefit payment paid to an individual under paragraph (2) for a month, the charge to the entitlement of the individual under chapter 30, 34, or 35 of this title for that month shall be increased proportionately in accordance with the increase in payment under paragraph (2).

REV_00163918

"(C) Any such charge to the entitlement of the individual shall be reduced proportionately in accordance with the reduction in payment under paragraph (2).".

(d) SELECTED RESERVE MONTGOMERY GI BILL.—Section 16131 of title 10, United States Code, as amended by section 3(d), is further amended by adding at the end the following new paragraph:

"(5)(A) In the case of an individual pursuing a full-time program of apprenticeship or other on-job training under this chapter who, as a requirement of such program, is enrolled in a course of classroom instruction approved under subchapter I of chapter 36 of title 38, notwithstanding the preceding provisions of this subsection, the amount of the monthly educational assistance allowance payable to the individual for each month (or fraction thereof) the individual is enrolled in such course is the amount payable under subsection (b) to an individual pursuing a program of education on a full-time basis.

"(B)(i) Subject to clause (ii), in the case of an individual pursuing a full-time program of apprenticeship or other on-job training under this chapter who has voluntarily enrolled in a course of classroom instruction approved under subchapter I of chapter 36 of title 38 that is related to such program, notwithstanding the preceding provisions of this subsection, the amount of the monthly

REV_00163919

educational assistance allowance payable to the individual under this subsection shall be increased for each month (or fraction thereof) the individual is enrolled in such course by an amount equal to the applicable reduced rate established by the Secretary under subsection (b) for an approved program of education pursued on less than a full-time basis.

"(ii) In no case may the amount of the monthly educational assistance allowance payable to the individual under clause (i) exceed the amount payable under subsection (b) to an individual pursuing a program of education on a full-time basis.

"(C)(i) In the case of a monthly educational assistance allowance paid to an individual under subparagraph (A) for a month, the individual's entitlement under this chapter for that month shall be charged at the rate that otherwise would apply but for this subsection.

"(ii) In the case of a monthly educational assistance allowance paid to an individual under subparagraph (B) for a month, the charge to the individual's entitlement for that month shall be increased proportionately in accordance with the increase in payment under subparagraph (B).

REV_00163920

"(iii) Any such charge to the individual's entitlement shall be reduced proportionately in accordance with the reduction in payment under paragraph (2).".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to months beginning on or after the date that is 1 year after the date of the enactment of this Act.

SEC. 5. AUTHORITY FOR COMPETENCY-BASED APPRENTICESHIP PROGRAMS.

(a) IN GENERAL.—Section 3672(c) is amended—

(1) by striking "(1)" and "(2)" and inserting, "(A)" and "(B)" respectively;

(2) by inserting "(1)" after "(c)"; and

(3) by adding at the end the following new paragraphs:

"(2) The period of a program of apprenticeship may be determined based upon a specific period of time (commonly referred to as a 'time-based program'), based upon the demonstration of successful mastery of skills (commonly referred to as a 'competency-based program'), or based upon a combination thereof.

"(3)(A) In the case of a competency-based program of apprenticeship, in determining the period of such a program, the Secretary shall take into consideration the approximate term of the program recommended in registered

REV_00163921

apprenticeship program standards recognized by the Secretary of Labor.

"(B) The sponsor of a competency-based program of apprenticeship shall provide notice to the Secretary of any such standards that may apply to the program and the proposed approximate period of training under the program.

"(4) The Secretary of Labor shall notify the Secretary upon the successful completion of a program of apprenticeship by a veteran, eligible veteran, or eligible person, as the case may be.".

(b) INCREASED USE OF APPRENTICESHIPS.—Section 3672(d)(1) is amended by adding at the end the following new sentence: "The Secretary of Labor shall provide such assistance and services to the Secretary, and to State approving agencies, to increase the use of apprenticeships.".

(c) ON-JOB TRAINING.—Section 3677 is amended by adding at the end the following new subsection:

"(d)(1) The sponsor of any program of training on the job shall submit notice to the Secretary upon the successful completion of the program by the veteran, eligible veteran, or eligible person, as the case may be.

"(2) The term 'training on the job' includes training commonly referred to as 'on-job learning'.".

REV_00163922

(d) FUNDING FOR DEPARTMENT COMPUTER SYSTEM MODIFICATIONS.—From amounts appropriated to the Department of Veterans Affairs for fiscal year 2004 for readjustment benefits, the Secretary of Veterans Affairs shall use an amount not to exceed $3,000,000 to modify computer systems and to develop procedures required to carry out the amendments made by subsection (a) and sections 2, 3, and 4.

SEC. 6. PILOT PROGRAM TO PROVIDE ON-JOB BENEFITS TO TRAIN DEPARTMENT OF VETERANS AFFAIRS' CLAIMS ADJUDICATORS.

Section 3677, as amended by section 5(c), is further amended by adding at the end the following new subsection:

"(e)(1) The Secretary shall conduct a pilot program under which, the Secretary shall operate a program of training on the job under this section for a period (notwithstanding subsection (c)(2)) of up to three years in duration to train employees of the Department to become qualified adjudicators of claims for compensation, dependency and indemnity compensation, and pension.

"(2) Amounts of educational assistance, monthly benefit payments, and training assistance allowance under chapters 30, 31, 32, 34, and 35 of this title, as the case

REV_00163923

may be, shall be payable to such employees during each month of training under the program.

"(3)(A) Not later than 3 years after the implementation of the pilot project, the Secretary shall submit to Congress an initial report on the pilot project. The report shall include an assessment of the usefulness of the program in recruiting and retaining of personnel of the Department as well as an assessment of the value of the program as a training program.

"(B) Not later than 18 months after the date on which the initial report under subparagraph (A) is submitted, the Secretary shall submit to Congress a final report on the pilot project. The final report shall include recommendations of the Secretary with respect to continuation of the pilot project and with respect to expansion of the types of claims for which the extended period of on the job training is available to train such employees.

"(4) The pilot project shall terminate 5 years after the date of the implementation of the project.".

SEC. 7. REQUIREMENT FOR COORDINATION OF DATA AMONG THE DEPARTMENTS OF VETERANS AFFAIRS, DEFENSE, AND LABOR WITH RESPECT TO ON-JOB TRAINING.

Section 3694 is amended—

REV_00163924

(1) by striking "In carrying out" and inserting "(a) IN GENERAL.—In carrying out"; and

(2) by adding at the end the following new subsection:

"(b) COORDINATION OF INFORMATION AMONG THE DEPARTMENTS OF VETERANS AFFAIRS, DEFENSE, AND LABOR WITH RESPECT TO ON-JOB TRAINING.—At the time of a servicemember's discharge or release from active duty service, the Secretary of Defense shall furnish to the Secretary such pertinent information concerning each registered apprenticeship pursued by the servicemember during the period of active duty service of the servicemember. The Secretary, in conjunction with the Secretary of Labor, shall encourage and assist States and private organizations to give credit to servicemembers for the registered apprenticeship program so pursued in the case of any related apprenticeship program the servicemember may pursue as a civilian.".

SEC. 8. TECHNICAL AND CONFORMING AMENDMENTS.

(a) DEFINITION OF TRAINING ESTABLISHMENT.—Section 3452(e) is amended by striking "or any State apprenticeship agency, or any State board of vocational education, or any joint apprenticeship committee, or the Bureau of Apprenticeship and Training established pursuant to the Act of August 16, 1937, popularly known as the

REV_00163925

"National Apprenticeship Act" (29 U.S.C. 50 et seq.)," and inserting "any State board of vocational education, any Federal or State apprenticeship registration agency, any joint apprenticeship committee established pursuant to the Act of August 16, 1937, popularly known as the 'National Apprenticeship Act' (29 U.S.C. 50 et seq.),".

(b) CLARIFICATION OF APPLICABLE APPRENTICESHIP STANDARDS.—(1) Section 3672(c), as amended by section 5(a), is amended in subparagraph (A) by inserting "apprenticeship" before "standards".

(2) Section 3672(d)(1) is amended by striking "of programs of training on the job (including programs of apprenticeship)" and inserting "of apprenticeship and on the job training programs".

(c) JOB TRAINING AND PLACEMENT FUNCTIONS OF THE DEPARTMENT.—(1) Section 4102A, as amended by section 4(a) of the Jobs for Veterans Act (Public Law 107–288; 116 Stat. 2038), is amended by striking "October 1, 2002" in subsection (c)(2)(B)(ii) and inserting "October 1, 2003".

(2) The amendment made by paragraph (1) shall take effect as if included in the enactment of section 4(a) of the Jobs for Veterans Act (Public Law 107–288; 116 Stat. 2038).

○

REV_00163926

I

108TH CONGRESS
1ST SESSION

H. R. 1712

To amend the Small Business Act to establish a development program for small business concerns owned and controlled by qualified service-disabled veterans, to reauthorize the programs of the National Veterans Business Development Corporation, to establish a Government-wide procurement goal for small business concerns owned and controlled by veterans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 2003

Mr. EVANS (for himself, Mr. FILNER, Mr. MICHAUD, and Ms. HOOLEY of Oregon) introduced the following bill; which was referred to the Committee on Small Business

---

A BILL

To amend the Small Business Act to establish a development program for small business concerns owned and controlled by qualified service-disabled veterans, to reauthorize the programs of the National Veterans Business Development Corporation, to establish a Government-wide procurement goal for small business concerns owned and controlled by veterans, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

REV_00163927

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Veterans Federal Procurement Opportunity Act of 2003''.

SEC. 2. DEVELOPMENT PROGRAM FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY QUALIFIED SERVICE-DISABLED VETERANS.

(a) ESTABLISHMENT OF PROGRAM.—The Small Business Act (15 U.S.C. 631 et seq.) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

''SEC. 36. DEVELOPMENT PROGRAM FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY QUALIFIED SERVICE-DISABLED VETERANS.

''(a) IN GENERAL.—In accordance with this section, the Administrator shall establish a development program for small business concerns owned and controlled by qualified service-disabled veterans. The program established under this section shall be similar to the program described in sections 7(j) and 8(a).

''(b) ASSISTANCE AND SERVICES; RULES.—The program established under this section shall provide assistance and services, and be governed by rules, similar to the assistance and services provided under, and rules described in, subsections (a)(20) and (j) of section 7 and section 8(a).

''(c) DEFINITIONS.—For purposes of this section:

REV_00163928

"(1) QUALIFIED SERVICE-DISABLED VETERAN.—The term 'qualified service-disabled veteran' means a service-disabled veteran who is economically disadvantaged within the meaning of section 8(a)(6), except that, solely for purposes of determining personal income under this section, no amount received by such veteran by reason of such veteran's service-connected disability or service as a member of the Armed Forces shall be taken into account in determining whether such veteran is economically disadvantaged.

"(2) SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY QUALIFIED SERVICE-DISABLED VETERANS.—The term 'small business concern owned and controlled by qualified service-disabled veterans' has the meaning given the term 'small business concern owned and controlled by service-disabled veterans' in section 3(q)(2), except that 'qualified service-disabled veteran' shall be substituted for 'service-disabled veteran'.".

(b) CONFORMING AMENDMENT.—Section 16(d)(1)(B) of the Small Business Act (15 U.S.C. 645(d)(1)(B)) is amended by inserting "or 36" after "section 8(a)".

REV_00163929

SEC. 3. REAUTHORIZATION OF PROGRAMS OF THE NATIONAL VETERANS BUSINESS DEVELOPMENT CORPORATION AND THE ADVISORY COMMITTEE ON VETERANS AFFAIRS.

(a) REAUTHORIZATION OF PROGRAMS OF NATIONAL VETERANS BUSINESS DEVELOPMENT CORPORATION.—Subsection (k) of section 33 of the Small Business Act (15 U.S.C. 657c(k)) is amended by striking paragraphs (1) and (2) and inserting the following new paragraphs:

"(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated to the Corporation to carry out this section—

"(A) $2,000,000 for each of fiscal years 2003 and 2004; and

"(B) $1,000,000 for each of fiscal years 2005 and 2006.

"(2) MATCHING REQUIREMENT.—The amount made available to the Corporation for any fiscal year may not exceed the amount that the Corporation certifies that it will provide for that fiscal year from sources other than the Federal Government.".

(b) NATIONAL VETERANS BUSINESS DEVELOPMENT CORPORATION REPORTS.—Subsection (g) of section 33 of the Small Business Act (15 U.S.C. 657c(g)) is amended to read as follows:

"(g) REPORTS.—

REV_00163930

"(1) ANNUAL REPORT.—On or before October 1 of each year, the Board of Directors shall transmit to the President, the Committees on Veterans Affairs of the House of Representatives and of the Senate, the Committee on Small Business of the House of Representatives, and the Committee on Small Business and Entrepreneurship of the Senate a report describing the activities and accomplishments of the Corporation for the preceding year. Such report shall include—

"(A) the Corporation's findings regarding the efforts of Federal, State, and private organizations to assist veterans in the formation and expansion of small business concerns;

"(B) a description of the progress made by the Corporation during such year in achieving its specified annual performance goals and objectives; and

"(C) any revisions to annual performance goals or indicators required to achieve specified strategic goals and objectives.

"(2) 5-YEAR STRATEGIC PLAN.—On or before October 1, 2003, and every 5 years thereafter, the Board of Directors shall transmit to the President, the Committees on Veterans Affairs of the House of

REV_00163931

Representatives and of the Senate, the Committee on Small Business of the House of Representatives, and the Committee on Small Business and Entrepreneurship of the Senate a report describing the strategic objectives of the Corporation for the 5-year period beginning on such date. Such report shall include—

"(A) a comprehensive mission statement covering the major functions and operations of the Corporation;

"(B) the general outcome related strategic goals and objectives for each of the major functions and operations of the Corporation;

"(C) a description of the means and strategies, addressing both financial and non-financial resources, to be employed by the Corporation to achieve those specified strategic goals and objectives;

"(D) a description of the annual output and outcome related performance strategies, with associated performance goals and indicators, to be employed by the Corporation to help achieve the general goals and objectives contained in the strategic plan;

REV_00163932

"(E) an identification of key factors that could affect the achievement of the Corporations general goals and objectives; and

"(F) a description of the program evaluations and performance indicators to be used by the Corporation to assess its achievement of strategic and annual performance goals and objectives.

"(3) 5-YEAR BUSINESS PLAN.—On or before October 1, 2003, and every 5 years thereafter, the Board of Directors shall transmit to the President, the Committees on Veterans Affairs of the House of Representatives and of the Senate, the Committee on Small Business of the House of Representatives, and the Committee on Small Business and Entrepreneurship of the Senate a report describing the financial objectives of the Corporation for the 5-year period beginning on such date. Such report shall include a description of the specific plans to be implemented to achieve such objectives and the requirements of paragraphs (2) and (3) of subsection (k) and to provide for the long-term financial viability of the Corporation.

"(4) AUDITED FINANCIAL STATEMENTS.—On or before October 1, 2003, and every 2 years there-

REV_00163933

after, the Board of Directors shall transmit to the President, the Committees on Veterans Affairs of the House of Representatives and of the Senate, the Committee on Small Business of the House of Representatives, and the Committee on Small Business and Entrepreneurship of the Senate an audited financial statement of the Corporation. Such statement shall be prepared by an independent external auditor and shall be conducted in accordance with generally accepted government auditing standards.''.

(c) ADVISORY COMMITTEE ON VETERANS BUSINESS AFFAIRS.—Subsection (h) of section 203 of the Veterans Entrepreneurship and Small Business Development Act of 1999 is amended by striking ''2004'' and inserting ''2009''.

SEC. 4. ESTABLISHMENT OF GOVERNMENT-WIDE PROCUREMENT GOAL FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY VETERANS; AUTHORIZATION OF RESTRICTED COMPETITION TO ACHIEVE GOALS; ETC.

(a) IN GENERAL.—Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended to read as follows:

''(g) GOVERNMENT-WIDE AND AGENCY SMALL BUSINESS PROCUREMENT GOALS.—

REV_00163934

"(1) ESTABLISHMENT BY PRESIDENT OF GOVERNMENT-WIDE GOALS.—The President shall annually establish Government-wide goals for procurement contracts awarded to each specified category of small business concerns.

"(2) SMALL BUSINESS CONCERNS.—The Government-wide goal for participation by small business concerns in prime contracts or applicable subcontracts shall be established at not less than 28 percent of the total value of all prime contract awards for each fiscal year.

"(3) SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY VETERANS.—The Government-wide goal for participation by small business concerns owned and controlled by veterans in prime contracts or applicable subcontracts shall be established at not less than 3 percent of the total value of all prime contract awards for each fiscal year.

"(4) SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.—The Government-wide goal for participation by small business concerns owned and controlled by service-disabled veterans in prime contracts or applicable subcontracts shall be established at not less than 3

REV_00163935

percent of the total value of all prime contract awards for each fiscal year.

"(5) QUALIFIED HUBZONE SMALL BUSINESS CONCERNS.—The Government-wide goal for participation by qualified HUBZone small business concerns in prime contracts or applicable subcontracts shall be established at not less than 3 percent of the total value of all prime contract awards for each fiscal year.

"(6) SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The Government-wide goal for participation by small business concerns owned and controlled by socially and economically disadvantaged individuals in prime contracts or applicable subcontracts shall be established at not less than 5 percent of the total value of all prime contract awards for each fiscal year.

"(7) SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY WOMEN.—The Government-wide goal for participation by small business concerns owned and controlled by women in prime contracts or applicable subcontracts shall be established at not less than 5 percent of the total value of all prime contract awards for each fiscal year.

REV_00163936

"(8) AGENCY GOALS.—

"(A) IN GENERAL.—Each Federal agency shall have annual goals that present, for that agency, the maximum practicable opportunity for each specified category of small business concerns to perform prime contracts let by such agency and subcontracts under such prime contracts.

"(B) NOT LESS THAN GOVERNMENT-WIDE GOALS.—No Federal agency may have an agency goal under subparagraph (A) which is less than the corresponding Government-wide goal established by the President under paragraph (1).

"(C) PROCEDURE FOR ESTABLISHMENT.—Each year, the Administration and the head of each Federal agency shall jointly establish the goals described in subparagraph (A) for such agency. Whenever the Administration and the head of any Federal agency fail to agree on established goals, the disagreement shall be submitted to the Administrator of the Office of Federal Procurement Policy for final determination.

REV_00163937

"(D) EXPANSION OF PARTICIPATION.—For the purpose of establishing goals under this paragraph, the head of each Federal agency shall make consistent efforts to annually expand participation by small business concerns from each industry category in procurement contracts of the agency, including participation by each specified category of small business concerns. The head of each Federal agency, in attempting to attain such participation, shall consider—

"(i) contracts awarded as the result of unrestricted competition;

"(ii) contracts awarded as the result of restricted competition under this section and under the programs established under sections 8(a), 31, and 36; and

"(iii) subcontracts awarded pursuant to subcontracting plans required under paragraphs (4) or (5) of section 8(d).

"(9) DOUBLE COUNTING PROHIBITED.—In the case of a small business concern that is part of more than 1 specified subcategory of small business concerns, with respect to any prime contract or subcontract awarded to such concern, a Federal agency

REV_00163938

shall treat such concern as part of only 1 such specified subcategory for purposes of this subsection.

"(10) RESTRICTION ON USE OF FUNDS IN CASE OF FAILURE TO ACHIEVE GOALS.—

"(A) IN GENERAL.—In the case of fiscal year 2004 and each fiscal year thereafter, if an agency fails to meet the Government-wide goal established under this subsection for such fiscal year with respect to any specified subcategory of small business concerns, the applicable amount of any amounts appropriated or otherwise made available to such agency for the following fiscal year shall be used only for—

"(i) procurements under any prime contract awarded to such specified subcategory of small business concerns, and

"(ii) that portion of procurements under any prime contract (with respect to which a subcontracting plan is required under paragraph (4) or (5)) which is attributable to the goal for the utilization as subcontractors of such specified subcategory of small business concerns under such plan.

REV_00163939

"(B) APPLICABLE AMOUNT.—For purposes of this paragraph, the term 'applicable amount' means, with respect to any agency that fails to meet a Government-wide goal for a fiscal year with respect to any specified subcategory of small business concerns, the applicable percentage for such fiscal year of the total value of all prime contract awards made by such agency for such fiscal year.

"(C) APPLICABLE PERCENTAGE.—For purposes of this paragraph:

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'applicable percentage' means, with respect to any specified subcategory of small business concerns, the Government-wide percentage goal for participation by such specified subcategory of small business concerns for the fiscal year.

"(ii) TRANSITION RULES.—In the case of fiscal years 2004 through 2008:

"(I) 3 PERCENT GOALS.—With respect to small business concerns owned and controlled by veterans, small business concerns owned and

REV_00163940

controlled by service-disabled veterans, and qualified HUBZone small business concerns, the applicable percentage shall be determined in accordance with the following table:

"In the case of fiscal year:	The applicable percentage is:
2004	0.5%
2005	1%
2006	1.5%
2007	2%
2008	2.5%.

"(II) 5 PERCENT GOALS.—With respect to small business concerns owned and controlled by socially and economically disadvantaged individuals and small business concerns owned and controlled by women, the applicable percentage shall be determined in accordance with the following table:

"In the case of fiscal year:	The applicable percentage is:
2004	1%
2005	2%
2006	3%
2007	4%
2008	5%.

"(11) RESTRICTED COMPETITION TO ACHIEVE GOALS.—

"(A) IN GENERAL.—In accordance with this paragraph, a contracting officer may re-

REV_00163941

strict competition for any contract for the procurement of goods or services by the Federal Government to any specified category of small business concerns, if—

"(i) the contracting officer has a reasonable expectation that two or more small business concerns of such category will submit offers for the contract;

"(ii) the anticipated award price of the contract (including options) does not exceed the simplified acquisition threshold;

"(iii) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price;

"(iv) the award of such contract to a small business concern of such category will not result in the agency exceeding the greater of the Government-wide goal or the agency goal under this subsection with respect to such category; and

"(v) each of the concerns—

"(I) is certified by the Administrator or any person or entity approved by the Administrator as a

REV_00163942

small business concern of such category; or

"(II) certifies to the contracting officer that it is a small business concern of such category and provides adequate documentation, in accordance with standards established by the Administration, to support such certification.

"(B) RELATIONSHIP TO OTHER CONTRACTING PREFERENCES.—A procurement shall not be made from a source on the basis of a preference provided in subparagraph (A), if the procurement would otherwise be made from a different source under section 4124 or 4125 of title 18, United States Code, or the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.).

"(C) VERIFICATION OF ELIGIBILITY.—In carrying out this paragraph, the Administrator shall establish procedures relating to—

"(i) the filing, investigation, and disposition by the Administration of any challenge to the eligibility of a small business concern to receive assistance under this

REV_00163943

paragraph (including a challenge, filed by an interested party, relating to the veracity of a certification referred to in subparagraph (A)(v)); and

"(ii) verification by the Administrator of the accuracy of any certification made or information provided under subparagraph (A)(v).

"(D) EXAMINATIONS.—The procedures established under subparagraph (C) may provide for program examinations (including random program examinations) by the Administrator of any small business concern certified under subparagraph (A)(v).

"(E) PROVISION OF DATA.—Upon the request of the Administrator, the head of any Federal agency shall promptly provide to the Administrator such information as the Administrator determines to be necessary to carry out this paragraph.

"(F) PENALTIES.—In addition to the penalties described in section 16(d), any small business concern that is determined by the Administrator to have misrepresented the status of that concern as part of a specified category of

REV_00163944

small business concerns for purposes of this paragraph shall be subject to—

"(i) section 1001 of title 18, United States Code; and

"(ii) sections 3729 through 3733 of title 31, United States Code.

"(G) CONTRACTING OFFICER.—For purposes of this paragraph, the term 'contracting officer' has the meaning given such term in section 27(f)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(f)(5)).

"(12) APPLICABLE SUBCONTRACTS.—For purposes of this subsection, the term 'applicable subcontract' means any subcontract under a contract that is subject to the requirements of paragraph (4) or (5) of section 8(d).".

(b) CONFORMING AMENDMENTS.—Section 15(h)(2) of the Small Business Act (15 U.S.C. 644(h)(2)) is amended by striking subparagraphs (D), (E), and (F), and inserting the following new subparagraphs:

"(D) The total number and dollar value of prime contracts awarded to each specified category of small business concerns through—

"(i) noncompetitive negotiation;

REV_00163945

"(ii) competition restricted to such specified category; and

"(iii) unrestricted competition.

"(E) The total number and dollar value of applicable subcontracts (as defined in subsection (g)(12)) awarded to each specified category of small business concerns.

"(F) The information described in subparagraphs (D) and (E) stated separately with respect to each agency.".

SEC. 5. REQUIREMENTS RELATED TO SUBCONTRACTING PLANS.

(a) FACTORS FOR EVALUATING OFFERS.—Subparagraph (G) of section 8(d)(4) of the Small Business Act (15 U.S.C. 637(d)(4)) is amended to read as follows:

"(G) In the case of any contract that is awarded pursuant to the negotiated method of procurement, the following shall be treated as significant factors for purposes of evaluating offers for any such contract:

"(i) A factor that is based on the extent to which the subcontracting plan for small business participation in the performance of the contract exceeds the requirement described in paragraph (6)(A).

REV_00163946

"(ii) A factor that is based on the extent to which the subcontracting plan provides for the use of small business concerns with respect to which the contractor is serving as a mentor under a mentoring program established by the agency.

"(iii) A factor that is based on the extent to which the offeror attained applicable goals for small business participation in the performance of past and current contracts.".

(b) MINIMUM GOAL.—Subparagraph (A) of section 8(d)(6) of the Small Business Act (15 U.S.C. 637(d)(6)) is amended to read as follows:

"(A) percentage goals for the utilization as subcontractors of each specified category of small business concerns (determined in accordance with the requirement of section 15(g)(9)), which goal for the utilization of small business concerns shall be not less than the percentage goal established under section 15(g)(2);".

(c) REQUIRED PENALTY FOR MATERIAL BREACH.—Paragraph (8) of section 8(d) of the Small Business Act (15 U.S.C. 637(d)(8)) is amended by adding at the end the following: "If a contracting officer finds the prime contractor or any subcontractor to be in material breach under this paragraph, such prime contractor shall pay a

REV_00163947

penalty in an amount determined by such officer, except that such penalty shall not be less than 10 percent of the total dollar value of the contract under which the prime contractor or subcontractor is in material breach. Rules similar to the rules of paragraph (4)(F)(ii) shall apply for purposes of the preceding sentence. Notwithstanding any other provision of law, the amount of any penalty collected under this paragraph shall be paid over to the agency that let the contract and may be retained and used by such agency for any operating expense of the agency.''.

SEC. 6. DEFINITIONS.

(a) SERVICE-DISABLED VETERAN.—

(1) IN GENERAL.—Paragraph (1) of section 3(q) of the Small Business Act (15 U.S.C. 632(q)(1)) is amended to read as follows:

''(1) SERVICE-DISABLED VETERAN.—The term 'service-disabled veteran' means any veteran with a disability that is—

''(A) service-connected (as defined in section 101(16) of title 38, United States Code); and

''(B) rated at 10 percent or more disabling by the Secretary of Veterans Affairs or, in the case of a disability not rated by the Secretary of Veterans Affairs, by the Secretary concerned

REV_00163948

(as defined in section 101(25) of title 38, United States Code).".

(2) TRANSITION RULE.—A small business concern that is receiving assistance under this Act (or if fully approved to receive such assistance) on the date of the enactment of this Act shall not cease to qualify for such assistance solely because of the amendment made by paragraph (1). The preceding sentence shall not make such concern eligible for any other assistance.

(b) SPECIFIED CATEGORIES AND SUBCATEGORIES OF SMALL BUSINESS CONCERNS.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following new subsections:

"(r) SPECIFIED CATEGORY OF SMALL BUSINESS CONCERNS.—For purposes of this Act, each of following is a specified category of small business concerns:

"(1) Small business concerns owned and controlled by veterans.

"(2) Small business concerns owned and controlled by service-disabled veterans.

"(3) Qualified HUBZone small business concerns.

REV_00163949

"(4) Small business concerns owned and controlled by socially and economically disadvantaged individuals.

"(5) Small business concerns owned and controlled by women.

"(6) Small business concerns.

"(s) SPECIFIED SUBCATEGORIES OF SMALL BUSINESS CONCERNS.—For purposes of this Act, each specified category of small business concerns described in paragraphs (1) through (5) of subsection (r) is a specified subcategory of small business concerns.".

SEC. 7. UNIFORM APPLICATION OF DEFINITIONS OF SPECIFIED CATEGORIES AND SUBCATEGORIES OF SMALL BUSINESS CONCERNS.

(a) IN GENERAL.—

(1) Section 8(d)(1) of the Small Business Act (15 U.S.C. 637(d)(1)) is amended—

(A) in the first sentence, by striking "small business concerns" the first place it appears and all that follows through "women," and inserting "each specified category of small business concerns"; and

(B) in the second sentence, by striking "small business concerns" the first place it appears and all that follows through "women"

REV_00163950

and inserting "each specified category of small business concerns".

(2) Paragraphs (4)(D), (4)(E), (6)(C), (6)(F), and (10)(B) of section 8(d) of the Small Business Act (15 U.S.C. 637(d)) are each amended by striking "small business concerns" the first place it appears and all that follows through "women" and inserting "each specified category of small business concerns".

(3) Paragraphs (1) and (2)(A) of section 15(h) of the Small Business Act (15 U.S.C. 644(h)) are each amended by striking "small business concerns" the first place it appears and all that follows through "women" and inserting "each specified category of small business concerns".

(4) Section 16(d)(1) of the Small Business Act (15 U.S.C. 645(d)(1)) is amended by striking "as a 'small business concern'" and all that follows through "women'," and inserting "as being part of any specified category of small business concerns".

(5) Section 16(e) of the Small Business Act (15 U.S.C. 645(e)) is amended by striking "as a 'small business concern'" and all that follows through "women'" and inserting "as being part of any specified category of small business concerns".

REV_00163951

(b) APPLICATION TO CONTRACT CLAUSES.—

(1) IN GENERAL.—Section 8(d)(3) of the Small Business Act (15 U.S.C. 637(d)(3)) is amended—

(A) in the first and second sentences of subparagraph (A), by striking "small business concerns" the first place it appears in each sentence and all that follows through "women" and inserting "each specified category of small business concerns";

(B) by striking subparagraphs (C), (D), (E), (F), and (G); and

(C) by inserting after subparagraph (B) the following new subparagraphs:

"(C) As used in this contract, the term 'specified category of small business concerns' has the meaning given such term pursuant to section 3 of the Small Business Act and relevant regulations promulgated thereto.

"(D) The contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, other minorities, and any other individual found to be disadvantaged by the Administra-

REV_00163952

tion pursuant to section 8(a) of the Small Business Act.

"(E) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as being part of any specified category of small business concerns.".

(2) DEFINITION OF SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—Section 3 of the Small Business Act (15 U.S.C. 632) is further amended by adding at the end the following new subsection:

"(t) SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—For purposes of this Act:

"(1) IN GENERAL.—The term 'small business concern owned and controlled by socially and economically disadvantaged individuals' means a small business concern—

"(A) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned business, at least 51 percent of the stock

REV_00163953

of which is owned by one or more socially and economically disadvantaged individuals; and

"(B) whose management and daily business operations are controlled by one or more of such individuals.".

"(2) APPLICATION OF DEFINITION BY PERSONS OTHER THAN THE ADMINISTRATION.—Any individual or entity (other than the Administration) shall presume for purposes of carrying out any program that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, other minorities, and any other individual found to be disadvantaged by the Administration pursuant to section 8(a).".

(3) TREATMENT OF REFERENCES TO DEFINITIONS.—Any reference in a law, regulation, or other document of the United States to the meaning or definition given to the term "small business concern owned and controlled by socially and economically disadvantaged individuals", "small business concern owned and controlled by women", "small business concern owned and controlled by veterans", or "qualified HUBZone small business concern" in section 8(d)(3) of the Small Business Act (15 U.S.C.

REV_00163954

637(d)(3)) (as in effect on the day before the date of the enactment of this Act) shall be treated as a reference to the meaning or definition given such term in section 3 of the Small Business Act (as amended by this Act).

○

REV_00163955

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Jess Sharp/OPD/EOP@EOP [OPD] <Jess Sharp>
Sent: 4/25/2003 10:38:50 AM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:25-APR-2003 14:38:50.00
SUBJECT:: Re:
TO:Jess Sharp (CN=Jess Sharp/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
End Original ARMS Header

From Tim Muris:

Section 411 of the Federal Aviation Act, currently codified as 49 U.S.C. Section 41712, authorizes the Department of Transportation (DOT) to prohibit unfair and deceptive practices and unfair methods of competition by airlines and ticket agents in air transportation and the sale of air transportation. This provision's key language is identical to Section 5 of the Federal Trade Commission Act, 15 U.S.C. Section 45, which proscribes "[u]nfair methods of competition . . . and unfair or deceptive acts or practices."

The Supreme Court long has recognized that the ban on "unfair methods of competition" in Section 5 of the Federal Trade Commission Act permits the FTC to proscribe behavior not already condemned by cases interpreting the Sherman Act or the Clayton Act. See Federal Trade Commission v. Sperry & Hutchinson Co., 405 U.S. 233, 239 (1972); Federal Trade Commission v. Motion Picture Advertising Services Co., 344 U.S. 392, 394-95 (1953); Federal Trade Commission v. Cement Institute, 333 U.S. 683, 708 (1948); see also ABA Section of Antitrust Law, Antitrust Law Developments 608-15 (5th ed. 2002) (describing efforts by FTC to apply Section 5 to practices that do not violate the other antitrust laws). Since 1981, however, there have been few instances in which the Commission has premised a competition case upon the capacity of Section 5 to reach beyond prevailing judicial interpretations of the other antitrust statutes. The agency's modern enforcement practice routinely has been to anchor its antitrust complaints in theories grounded in Sherman Act or Clayton Act case law. See, e.g., Toys "R" Us, 126 F.T.C. 415 (1998), aff'd, 221 F.3d 928 (7th Cir. 2000).

Two factors account for this development. The first is the growing awareness among academics and practitioners that the Sherman Act and Clayton Act are sufficiently flexible to redress conduct that poses genuine danger to consumer welfare. Given the adaptability inherent in the Sherman and Clayton Acts, there has been little perceived urgency to invoke Section 5 as a separate basis for establishing liability.

The second reason is the broad consensus inside and outside the Commission that FTC efforts to apply the distinctive authority of Section 5 seldom have succeeded. Experience with FTC antitrust cases initiated in the 1970s played a key role in shaping this perspective. In the 1970s, the FTC frequently relied on Section 5 to attack behavior and industry structure outside the scope of existing Sherman Act and Clayton Act jurisprudence. Representative matters included challenges to the "maintenance of a noncompetitive market structure," see Kellogg Co., 99 F.T.C. 8 (1982), Exxon Corp., 98 F.T.C. 453 (1981); a refusal to deal in which the alleged anticompetitive effects of the challenged behavior fell outside the market in which the defendant competed, see Reuben H. Donnelley Corp., 95 F.T.C. 1 (1980), enforcement denied sub nom. Official Airline Guides, Inc. v. Federal Trade Commission, 630 F.2d 920 (2d Cir. 1980); and the parallel, noncollusive adoption of various facilitating practices, see Ethyl Corp., 101 F.T.C. 425 (1983),

enforcement denied sub nom. E.I. DuPont de Nemours & Co. v. Federal Trade Commission, 729 F.2d 128 (2d Cir. 1984). In some instances, such as the Exxon and Kellogg shared monopoly prosecutions, the Commission declined to find liability and dismissed its complaint. When respondents sought review of FTC decisions finding liability under Section 5 theories, the courts of appeals typically refused to endorse the Commission's position (e.g., Official Airline Guides and Ethyl) and often raised questions about the FTC's ability to articulate principles that properly would delimit the application of Section 5.

As a group, the matters described immediately above have induced caution within the Commission about using Section 5 to address business phenomena standing outside the ambit of Sherman Act or Clayton Act jurisprudence. As its antitrust enforcement policy has evolved over the past two decades, the Commission has relied upon the distinctive powers of Section 5 only when the conduct at issue involves demonstrable, direct injury to consumers or poses a high likelihood of imposing such harm to consumers. This authority has been used very sparingly. In any event, it bears no relation to the competitor-protection theories that DOT uses under its "unfair methods" jurisprudence.

Jess Sharp
04/25/2003 02:27:38 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject:

Do you know what the relationship is between DOJ and FTC on antitrust matters? It seems to come up a lot in our discussions on DOJ/DOT.

From: Nelson, Carolyn
To: <Kavanaugh, Brett M.>
Sent: 4/25/2003 2:41:13 PM
Subject: May 9 POTUS Judges event

Do you have details about the May 9 POTUS event (ie: list of invitees, etc.)? Jeannie Figg would like to discuss particulars with us early next week.

From: Kavanaugh, Brett M.
To: <Nelson, Carolyn>
Sent: 4/25/2003 3:06:35 PM
Subject: Re: May 9 POTUS Judges event

no

From: Carolyn Nelson/WHO/EOP@Exchange on 04/25/2003 02:41:13 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: May 9 POTUS Judges event

Do you have details about the May 9 POTUS event (ie: list of invitees, etc.)? Jeannie Figg would like to discuss particulars with us early next week.

From: Robert McConnell <RMcConnell@hyi-usa.com>
To: Lewis Libby/OVP/EOP@EOP [OVP] <Lewis Libby>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/28/2003 7:35:43 AM
Subject: : Request

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Robert McConnell <RMcConnell@hyi-usa.com> (Robert McConnell <RMcConnell@hyi-usa.com> [UNKNOWN])
CREATION DATE/TIME:28-APR-2003 11:35:43.00
SUBJECT:: Request
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Thisÿis a straightforward request. However, the required information for you to make a "permanent" commitment is not available now and I am only asking for you to express a willingness to agree to participate in the subject program if eventual schedules permit.

Basics

The U.S.-Ukraine Foundation is preparing a proposal for a U.S.-Ukraine Policy Dialog Exchange that would be sponsored by the Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs at the Department of State.ÿ If the proposal is accepted the dialogue will be conducted through four working groups and there will be no more than two meetings involving your participation over a two-year period.

The Request

Would you agree to consider participating in the dialogue exchange if the U.S.-Ukraine Foundation's proposal is accepted and dates for a "dialogue" can be accomodated in your schedule

---

Background

The Foundation's proposal targets the NATO-Ukraine Action Plan as the overall agenda to be addressed in this dialog, which addresses key issues that impact Ukraine's democratic and market-oriented development and its eventual integration into the Euro-Atlantic community.

This dialog will be organized along four working groups - internal politics and governance, informational issues (independent media), foreign policy and security, and economic and business issues.

To date, several well-know DC institutions have agreed to participate and we expect favorable responses from several others in the next couple of days.

The two-year program envisions two meetings held in Washington and two in Kyiv attended by 15 participants from each country. The purpose of the program is to advance constructive dialog and enhance relationships among experts in the United States and Ukraine by providing an on-going forum through which they can freely exchange ideas and discuss issues and concerns of mutual interest in the context of the bilateral relationship

between the two nations. The proposal calls for meetings with government and private sector experts in each of the focus areas.

Politics, Governance

ú democratic and electoral institutions

ú rule of law, independent judicial authority

ú continued development and strengthening of civil society

ú fundamental human rights and freedoms of citizens

ú balance of power between the three branches of the government administrative reform

ú civilian control over the Armed Forces and the whole Security Sector

ú corruption, money laundering and illegal economic activities

Foreign and Security policy

ú proliferation of Weapons of Mass Destruction

ú essential deepening of relations between Ukraine and NATO

ú update Ukraine's foreign and security policy to reflect its goal of full Euro-Atlantic integration

ú reformation of State security structures to reflect the Euro-Atlantic Policy of Ukraine

ú contribution to regional stability and security, including enhancement of Ukraine's

ú contribution to the international cooperation on conflict settlement and peacekeeping

ú peacekeeping operations

ú international arms control obligations

ú civil-military relations

ú international cooperation on conflict, including the international fight against terrorism (Partnership Action Plan against Terrorism)

ú border and export controls

ú money laundering

Economic issues

úÿÿÿÿÿÿÿÿÿ economic growth, including budget deficit, inflation, draft laws on tax concessions

úÿÿÿÿÿÿÿÿÿ accession to the WTO

úÿÿÿÿÿÿÿÿÿ environment

úÿÿÿÿÿÿÿÿÿ Jackson-Vanik

úÿÿÿÿÿÿÿÿÿ U.S.-Ukraine trade issues

úÿÿÿÿÿÿÿÿÿ economic cooperation between Ukraine and NATO and Partner countries

úÿÿÿÿÿÿÿÿÿ reforms in Defense Economics, to further Ukraine's goal of

integration into Euro-Atlantic structures

úÿÿÿÿÿÿÿÿÿ business environment/small & medium sized businesses

úÿÿÿÿÿÿÿÿÿ economic and structural reforms, as recommended the World Bank, the International Monetary Fund (IMF) and other international institutions,

úÿÿÿÿÿÿÿÿÿ privatization

úÿÿÿÿÿÿÿÿÿ corruption

úÿÿÿÿÿÿÿÿÿ transparency in government procurement

úÿÿÿÿÿÿÿÿÿ land reform

úÿÿÿÿÿÿÿÿÿ intellectual property rights & economic rights and freedoms of citizens in all forms

úÿÿÿÿÿÿÿÿÿ establishment of a middle class

úÿÿÿÿÿÿÿÿÿ disparity between high and low income population

úÿÿÿÿÿÿÿÿÿ elimination of poverty

úÿÿÿÿÿÿÿÿÿ energy supply

Information issues

úÿÿÿÿÿÿÿÿÿ Article 19 of the Universal Declaration of Human Rights, and Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms

úÿÿÿÿÿÿÿÿÿ guarantees to the freedom of thought and speech, freedom of the press, free expression of opinions and convictions, and access to information

úÿÿÿÿÿÿÿÿÿ free gathering, publication and broadcast of information by the media

úÿÿÿÿÿÿÿÿÿ legislation on eliminating obstacles to activities of the media

úÿÿÿÿÿÿÿÿÿ Resolution 59 (1) of the United Nations

úÿÿÿÿÿÿÿÿÿ NATO-Ukraine cooperation on information issues, including the Parliamentary dimension

úÿÿÿÿÿÿÿÿÿ cooperation with relevant international organizations, in particular the Council of Europe and the OSCE

úÿÿÿÿÿÿÿÿÿ public understanding of NATO through NATO-Ukraine cooperation in the field of information, including through cooperation with the NATO Information and Documentation Centre (NIDC)

So, I write to ask if you would agree to participate in this program if the Foundation proposal is accepted and eventual times for the dialogues, etc. can be accommodated in your schedule?

ÿ

Bob
Work 202-828-1228
Cell 202-258-2806
robert.mcconnell@hyi-usa.com

[IMAGE]
ÿ

From: CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [WHO]
To: Jay P. Lefkowitz/OPD/EOP@Exchange [OPD] <Jay P. Lefkowitz>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Melissa S. Bennett/WHO/EOP@Exchange [WHO] <Melissa S. Bennett>
CC: Lauren J. Vestewig/OPD/EOP@Exchange [OPD] <Lauren J. Vestewig>;Ross M. Kyle/WHO /EOP@Exchange [WHO] <Ross M. Kyle>
Sent: 4/28/2003 3:55:01 AM
Subject: : RE: Letter from Sec. Card for Juergen Schrempp

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:28-APR-2003 07:55:01.00
SUBJECT:: RE: Letter from Sec. Card for Juergen Schrempp
TO:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [ OPD ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Melissa S. Bennett ( CN=Melissa S. Bennett/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
CC:Lauren J. Vestewig ( CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange [ OPD ] )
READ:UNKNOWN
CC:Ross M. Kyle ( CN=Ross M. Kyle/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

WHC should review as well.

(Marc's explanation why the letter is needed doesn't make sense to me.
Who wrote the draft letter?)

-----Original Message-----
From: Bennett, Melissa S.
Sent: Monday, April 28, 2003 7:04 AM
To: Lefkowitz, Jay P.
Cc: Silverberg, Kristen; Kyle, Ross M.; Vestewig, Lauren J.
Subject: FW: Letter from Sec. Card for Juergen Schrempp


Jay:

Please let me your thoughts on this.

Thanks.
MB
-----Original Message-----
From: Thompson, Carol J.
Sent: Saturday, April 26, 2003 4:48 PM
To: Lefkowitz, Jay P.; Bennett, Melissa S.
Subject: Letter from Sec. Card for Juergen Schrempp

<< File: Daimler Letter.doc >>

Melissa, Jurgen Schrempp, Chair of Daimler Chrysler, is coming from
Germany to join the meeting with the President in the Roosevelt Room on
Tuesday, 29. Because Schrempp is missing an important board meeting, he
is asking to get a letter signed by the Chief to assure his board that the
reason for missing his meeting is as imporant as it is. I am told that
Schrempp and Andy know each other well. Marc Lampkin left you a voicemail
to this effect today.

I've attached a draft letter that can be edited as you wish. Can you
check w/the Chief and see if he is willing to sign this letter? They want
to fax it to the board on Monday so that it will get to the board by the
time of the meeting on Tuesday morning.
```

Thanks and let me know if you need additional information. ct

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Jay P. Lefkowitz/OPD/EOP@Exchange [OPD] <Jay P. Lefkowitz>
Sent: 4/28/2003 5:15:04 AM
Subject: : Re: judges

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:28-APR-2003 09:15:04.00
SUBJECT:: Re: judges
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
End Original ARMS Header

Event has been formally approved for May 9 in morning in Rose Garden. I am not sure what other time may have been reserved on calendar. May 9 is the 2-year anniversary of his initial 11 nominations, including Estrada and Owen. He will speak on judges, vacancy crisis, confirmation process, judicial independence (which is theme of Law Day this year), etc. Some of the content depends on action in Senate this week. Invitees will be various Senators, bar leaders, etc. Basic ideas are continued advocacy for his well-qualified nominees on the merits and for a fair and cosntitutional Senate process.

From: Jay P. Lefkowitz/OPD/EOP@Exchange on 04/28/2003 09:09:35 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: judges

we have tentative time on calendar in coming weeks for two different sets of Judges remarks.
;
what do you have in mind?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@Exchange@EOP [WHO] <David G. Leitch>;Alberto R. Gonzales/WHO/EOP@Exchange@EOP [WHO] <Alberto R. Gonzales>
Sent: 4/28/2003 5:52:47 AM
Subject: : interesting story re Sup Ct process

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:28-APR-2003 09:52:47.00
SUBJECT:: interesting story re Sup Ct process
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Washington Times
April 27, 2003
Forthcoming clash for the court
By James L. Swanson

At the Supreme Court of the United States, October Term 2002 is drawing to a close. The justices hear their last oral arguments on April 30, and in late June they will take to the bench for the last time to announce their final opinions of the term. Court watchers await decisions in several important cases, including free-speech and affirmative-action issues, which may not come down until the last day of the term. But that is not the only reason why court watchers have circled the last week in June on the calendar. That is when oddsmakers are betting on the retirement of at least one member of the court.

For months, pundits have speculated that Chief Justice William H. Rehnquist, Justice Sandra Day O'Connor or Justice John Paul Stevens will step down this year. Why?

Because justices traditionally retire under the political party that appointed them, and this is the last chance for these three Republican appointees to retire during President Bush's first term with the assurance that he can fill a vacancy before the 2004 election.

Because, in the case of the chief justice, he has, in three decades of service, gone from lone dissenter to leader of the court's return to the first principles of limited government and federalism, and will go down as one of the most important chief justices in history.

Because, in the case of Justice O'Connor, the press spread rumors that she wanted to retire.

Because, in the case of Justice Stevens, he is 83 years old.

It is impossible to know whether these or any other members of the Supreme Court are planning to retire this year. Many self-styled experts have embarrassed themselves by attempting to predict a justice's vote in a single case, let alone a retirement from the bench. Nor is this to suggest that any of the nine justices should retire. The performance of the oldest justice (John Paul Stevens) to the youngest (Clarence Thomas), of the longest serving (William H. Rehnquist) to the briefest (Stephen Breyer) reveals that all remain able and engaged. Their written opinions confirm that none has suffered an intellectual decline. One may disagree with their views, but not their competence to serve. If a retirement comes, it will occur because the justice wants to step down, not because he or she has to.

It might not happen until the end of June. But it could also happen

tomorrow. Justices Potter Stewart, Warren E. Burger and Thurgood Marshall waited until the end of their final terms and made June announcements. But Byron White and Harry Blackmun announced their retirements early, on March 3, 1993, and April 6, 1994, respectively, to give President Clinton ample time to nominate their successors, Ruth Bader Ginsburg and Stephen Breyer, and to win Senate confirmation by, in both cases, the beginning of August.

Although it is impossible to know if or when a vacancy will occur, one thing is easy to predict: how Democrats will respond to Mr. Bush's first nomination of a Supreme Court justice. Senate Democrats, in combination with a cabal of special interest groups, intend to politicize the Supreme Court and oppose any Bush nominee, regardless of who the nominee is. History, both recent and reaching back to the Reagan and first Bush presidencies, offers little encouragement that the Senate will conduct itself professionally and responsibly.

The pattern emerged over time: the Democrats' defeat of Judge Robert H. Bork's nomination to the court in 1987; their near-killing of Judge Clarence Thomas' nomination in 1991; their rage against the Supreme Court for "handing" the presidency to the Republicans in the 2000 election; the notorious Washington Post op-ed by Abner Mikva (former Clinton White House counsel and retired U.S. Court of Appeals judge) calling on the Senate to block any Supreme Court nominations by President Bush; their bottling up superbly qualified appellate court nominees for nearly two years on the Democratic-controlled Senate Judiciary Committee; their obsession with Roe vs. Wade and their imposition of ideological litmus tests; their celebration of the American Bar Association seal of approval as the "gold standard" - until the ABA began giving many of Mr. Bush's nominees the highest possible rating; their filibustering of the nomination of Miguel Estrada to the U.S. Court of Appeals in Washington to prevent an up or down vote even after a majority of senators announced that they will vote to confirm him; their threatened filibuster against Texas Supreme Court Justice Priscilla Owen for a seat on the 5th U.S. Circuit Court of Appeals.

That history, and more, exposes what Democrats will do to fight a Bush Supreme Court nomination. The attack will be waged on two fronts, one substantive, the other procedural.

The substantive attack will have six parts.

Retirement day blitzkrieg. If the retiring justice is a Republican, and gives the White House advance, confidential notice of his or her intention to retire, as Chief Justice Warren Burger did in 1986, the president will have an opportunity to announce a retirement and a nomination on the same day. Within one hour of that nomination, a leading Democratic senator, probably Tom Daschle, Edward Kennedy, Patrick Leahy or Chares Schumer, will attack the nominee's character, integrity or competence. (Recall Mr. Kennedy's outburst within 45 minutes of President Reagan's nomination of Judge Bork: "Robert Bork's America is a land in which women would be forced into back-alley abortions, blacks would sit at segregated lunch counters, rogue policemen could break down citizen's doors in midnight raids, school children could not be taught about evolution, writers and artists could be censured at the whim of government." Sundry left wing "public interest" (actually, special interest) groups will join the chorus. The purpose of the first day blitzkrieg is to set the president and the nominee reeling on their heels and destroy the momentum of the nomination. The blitzkrieg aims to spin that night's TV coverage and the next morning's newspaper stories.

The paper blizzard. Within hours of the nomination, senators and special interest groups will inundate the press with letters, reports, memos and even small books that purport to expose the unfitness of the nominee. In many cases, those scripts have already been written. For more than two years, Democrats have been doing "opposition research," as though preparing for a political campaign, to uncover damaging

information on the 10 to 15 people rumored to be on the president's short list for the court. The purpose of the paper blizzard is to turn public opinion against the nominee long before the Senate Judiciary Committee even convenes a hearing on the nomination.

The indictment. The paper blizzard will include some or all of the following accusations: The nominee is not "sensitive" to the rights of women, children, black Americans and other racial minorities, the disabled, workers, unions, farmers, native Americans and others. The nominee is "out of the mainstream" of the American legal tradition; is too "right wing"; is even "radical." (Democrats perfected their use of those smear tactics against Judge Bork, stooping so low as to suggest he might not believe in God. Apparently a godless conservative is even more dangerous than a god-fearing one.) With much hand-wringing, Democrats will cry crocodile tears, sighing "if only the president had nominated a moderate conservative, we would be delighted to confirm him or her." If the nominee does not have an extensive body of scholarly writings, Democrats will tar him as a "stealth" candidate who possesses hidden and alarming views. If, on the other hand, the nominee has written extensively, those writings will be denounced as "out of the mainstream." (Remember that phrase). If the nominee believes in a color-blind society and equal treatment under the laws, and questions the constitutionality of race-conscious policies called affirmative action by some, then of course the nominee is a "racist" who will want to "turn back the clock" on civil rights, overturn Brown vs. Board of Education, repeal the 13th, 14th and 15th Amendments, and reintroduce slavery.

Beyond attacking the nominee personally, the paper blizzard will suggest that he or she represents a so-called transformative appointment who will upset the alleged delicate balance of the court. Some Democrats will seek cover by claiming that they have nothing against the nominee, he or she is just the wrong person at the wrong time for the best interests of the court and the country.

Rancorous hearings. Mr. Bush's first nominee to the court should not expect a cordial reception from Democrats on the Judiciary Committee. They will attempt to grill the nominee for three to six days. They will ask hundreds of questions. Many hostile witnesses will be called. Special interest groups will haunt the hearing room and loiter in the halls, murmuring against the nominee and handing out attack literature.

The partisan committee vote. For the Democrats, the hearings are mainly for show and to posture before the cameras for their constituencies and the left-wing special interest groups. They will have already decided their vote before the hearing begins or the nominee speaks one word. Of course that vote is "no." Because Republicans are a majority on the committee, the nomination will be reported to the Senate favorably by a party-line vote.

The Senate vote. Once the Judiciary Committee reports the nomination to the full Senate, Democrats opposing the nomination will continue to fight it on the floor by insisting on a lengthy debate. Then they will try to persuade their colleagues to vote against the nominee. Ultimately they will lose. The president's nominee will be confirmed because the Republican majority, plus a number of responsible Democrats, will vote to confirm him. If there is a vote, that is.

Along with their substantive attack on the nominee, Democrats will mount a procedural attack. That plan has two elements.

Delay the Judiciary Committee hearing. Upon making a nomination, the president will ask Judiciary Committee Chairman Orrin Hatch to schedule hearings by early July, with the goal of having a Senate floor vote by late July or early August. Democrats on the committee will vigorously oppose that goal and attempt to delay the hearing until September. They will bleat that there must be no "rush to judgment," and

claim that they require months to "study" the nominee. Their ability to stall Judge Bork's hearings until September contributed to the nomination's defeat. Democrats and the special interest groups had all summer to mobilize their onslaught against Judge Bork. The White House failed to anticipate the viciousness of the assault and was taken off guard. Because the Republicans now control the committee, the Democrats will find it harder to stall the hearings.

The filibuster trump card. When all else fails to cow the president's nominee into withdrawing, when the Democrats have been unable to stall the Judiciary Committee hearing, when they can't stop the committee from reporting the nomination favorably to the full Senate, after they fail to turn mainstream America against the nominee, when they count heads and discover that a majority of senators, including many Democrats, intend to vote to confirm the president's nominee, look for the leaders of the opposition to play their favorite, anti-democratic, Democratic trump card - the filibuster. Democrats challenged the president on Miguel Estrada, and they believe they have found the president wanting. Although Mr. Bush has called Mr. Estrada one of his most important appellate nominees, the White House has, for the past two years, been unable to confirm him. The Democrats' successful filibuster against Miguel Estrada, the first ever against a nominee to a U.S. Court of Appeals, has emboldened them to challenge Mr. Bush when he makes his first nomination to the High Court. The Democrats have paid no price for their Estrada filibuster. Look for them to test the president again.

Yes, that is the worst-case scenario, and it may not unfold. In any event, if there is a vacancy on the court, the nominee must be treated civilly, fairly and allowed an up or down vote by the full Senate, as the Constitution contemplates. The president had better be prepared for a fight. His opponents are certainly ready. If the president prevents the politicization of nominations to the lower federal courts, and to the U.S. Supreme Court, he will win the most important domestic battle of his first term. If he loses that battle, he may not get a second chance.

James L. Swanson, editor in chief of the Cato Institute's "Supreme Court Review," was on the Department of Justice Office of Legal Counsel team that staffed the nomination and confirmation hearings of Judge Robert H. Bork for the Supreme Court.

From: CN=Lisa J. Macecevic/OU=OMB/O=EOP [OMB]
To: James J. Jukes/OMB/EOP@EOP [OMB] <James J. Jukes>;Kenneth L. Schwartz/OMB /EOP@EOP [OMB] <Kenneth L. Schwartz>;Lauren E. Bloomquist/OMB/EOP@EOP [OMB] <Lauren E. Bloomquist>;Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Richard E. Green/OMB/EOP@EOP [OMB] <Richard E. Green>;James Boden/OMB/EOP@EOP [OMB] <James Boden>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/28/2003 5:59:54 AM
Subject: : 04/28 CongressDaily AM blurb on asbestos and class action

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Lisa J. Macecevic (CN=Lisa J. Macecevic/OU=OMB/O=EOP [OMB])
CREATION DATE/TIME:28-APR-2003 09:59:54.00
SUBJECT:: 04/28 CongressDaily AM blurb on asbestos and class action
TO:James J. Jukes (CN=James J. Jukes/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Kenneth L. Schwartz (CN=Kenneth L. Schwartz/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Lauren E. Bloomquist (CN=Lauren E. Bloomquist/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Richard E. Green (CN=Richard E. Green/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:James Boden (CN=James Boden/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

The Senate Judiciary Committee's closed-door discussions with labor and industry over asbestos litigation reform legislation are expected to continue this week.

ÿÿÿÿÿThose talks began before the spring recess and remained the focus of some intense negotiating over the last two weeks. Sources maintain that Senate Judiciary Chairman Hatch remains intent on marking up a bill by May.

ÿÿÿÿÿAs of late last week, several outstanding pieces of the legislation had yet to be resolved, although sources said they were optimistic that a deal remains "doable," as one source close to the talks put it.

ÿÿÿÿÿClass action reform legislation, which is tentatively slated for floor action in May, also remains the subject of private debate. The bill was reported out of the Senate Judiciary Committee before the spring recess, but included an amendment offered by Sen. Arlen Specter, R-Pa., that some bill supporters believe undermines the intent of the legislation.

ÿÿÿÿÿMeanwhile, pressure remains on pro-bill lobbyists between now and May to gather cosponsors and commitments of floor support from Democrats. About a dozen or so would be needed to ensure a cloture-proof majority for the bill.

ÿÿÿÿÿBusiness and insurance lobbyists have targeted numerous Democrats as possible cosponsors, including Senate Minority Whip Reid , who before the spring recess said he had made no decisions on that score. Lobbyists also had planned to mount vigorous campaigns on behalf of the class action legislation within the home states of targeted senators over the spring work period.

From: Kavanaugh, Brett M.
To: <Grubbs, Wendy J.>;<Snee, Ashley>;<Mamo, Jeanie S.>;rena_johnson_comisac@judiciary.senate.gov <rena_johnson_comisac@judiciary.senate.gov>;alex_dahl@Judiciary.senate.gov <alex_dahl@Judiciary.senate.gov>
Sent: 4/28/2003 10:20:33 AM
Subject: in case you do not have, here is pdf of letter from Judge Gonzales last week on Fourth Circuit
Attachments: Judges letter 4th Circuit 4 23 03.pdf

<>

THE WHITE HOUSE

WASHINGTON

April 23, 2003

Dear Senators Allen, Dole, Edwards, Mikulski, Sarbanes, and Warner:

I write about the status of the four vacancies on the U.S. Court of Appeals for the Fourth Circuit.

There are 15 authorized seats on the Court of Appeals. Federal law imposes only one requirement for allocation of seats within a circuit -- that each State have at least one judge. Each State in a circuit often has a number of judges sitting in that State that corresponds at least roughly to the State's percentage of the overall population in the circuit or to the percentage of the circuit's caseload that arises from that State. To be sure, such geographic balance is not established in law or binding on the President or Senate. And there often are deviations in some circuits for a variety of historical and other reasons. (I would note, in addition, that judges can move from one State to another State in the circuit after their appointment, as has happened on some occasions in the past.) But this measure is generally a rough baseline for assessing the geographic allocation of seats within a circuit.

Based on this measure, of the 15 authorized seats, it appears that the allocation would roughly resemble the following: North Carolina: 4 or 5, Virginia: 4 or 5, South Carolina: 2 or 3, Maryland: 2 or 3, and West Virginia: 1 or 2. As of now, taking into account that Judge Widener recently notified the President of his intended retirement, the Fourth Circuit is significantly out of geographic balance:

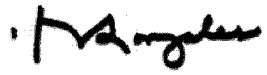
	Baseline Allocation	Current Number of Judges
North Carolina:	4 or 5	0
Virginia:	4 or 5	3
South Carolina	2 or 3	4
Maryland:	2 or 3	2
West Virginia:	1 or 2	2

There are four current vacancies on the Court. The four judges who previously occupied these seats maintained their chambers in North Carolina, Virginia, and Maryland (which is why I have sent this letter to you as the Senators from those States). Judge Terry Boyle of North Carolina was nominated for one vacancy in May 2001. For the three additional vacancies, the President intends to nominate well-qualified and well-respected individuals in a manner that will bring the circuit closer to geographic balance, recognizing that it would take several years and additional vacancies for the circuit to achieve balance and recognizing further that absolute geographic balance is neither legally nor historically required. In particular, the President intends to nominate two such individuals on Monday, April 28 -- one who currently lives in Virginia and has strong roots in and ties to both Virginia and North Carolina and one who currently lives in North Carolina and has served on the state judiciary in North Carolina. Both

are African-American, and their confirmations by the Senate will further dismantle an historic barrier. For the last remaining vacancy, the President would intend to submit a nomination no later than September 2003, consistent with the President's commitment to submit nominations within 180 days of receiving notice of an intended retirement or vacancy.

I remain disappointed that Judge Boyle's nomination has been pending for two years. But I am pleased that we otherwise have been able to consult extensively and work cooperatively on other circuit and district nominees in Virginia, North Carolina, and Maryland. Please feel free to contact me at any time with your thoughts regarding the Fourth Circuit or other issues of concern to you.

Sincerely,



Alberto R. Gonzales
Counsel to the President

The Honorable George Allen
The Honorable Elizabeth Dole
The Honorable John R. Edwards
The Honorable Barbara A. Mikulski
The Honorable Paul S. Sarbanes
The Honorable John W. Warner
United States Senate
Washington, D.C. 20510

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: rena_johnson_comisac@judiciary.senate.gov [UNKNOWN] <rena_johnson_comisac@judiciary.senate.gov>;Ashley Snee/WHO/EOP@Exchange@EOP [WHO] <Ashley Snee>;alex_dahl@Judiciary.senate.gov [UNKNOWN] <alex_dahl@Judiciary.senate.gov>;Jeanie S. Mamo/WHO/EOP@EOP [WHO] <Jeanie S. Mamo>;Wendy J. Grubbs/WHO/EOP@Exchange [WHO] <Wendy J. Grubbs>
Sent: 4/28/2003 6:21:00 AM
Subject: : in case you do not have, here is pdf of letter from Judge Gonzales last week on Fourth Circuit
Attachments: P_NM3YF003_WHO.TXT_1.pdf

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:28-APR-2003 10:21:00.00
SUBJECT:: in case you do not have, here is pdf of letter from Judge Gonzales last week on
Fourth Circuit
TO:rena_johnson_comisac@judiciary.senate.gov ( rena_johnson_comisac@judiciary.senate.gov [
UNKNOWN ] )
READ:UNKNOWN
TO:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:alex_dahl@Judiciary.senate.gov ( alex_dahl@Judiciary.senate.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Jeanie S. Mamo ( CN=Jeanie S. Mamo/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Wendy J. Grubbs ( CN=Wendy J. Grubbs/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_NM3YF003_WHO.TXT_1>
```

THE WHITE HOUSE

WASHINGTON

April 23, 2003

Dear Senators Allen, Dole, Edwards, Mikulski, Sarbanes, and Warner:

I write about the status of the four vacancies on the U.S. Court of Appeals for the Fourth Circuit.

There are 15 authorized seats on the Court of Appeals. Federal law imposes only one requirement for allocation of seats within a circuit -- that each State have at least one judge. Each State in a circuit often has a number of judges sitting in that State that corresponds at least roughly to the State's percentage of the overall population in the circuit or to the percentage of the circuit's caseload that arises from that State. To be sure, such geographic balance is not established in law or binding on the President or Senate. And there often are deviations in some circuits for a variety of historical and other reasons. (I would note, in addition, that judges can move from one State to another State in the circuit after their appointment, as has happened on some occasions in the past.) But this measure is generally a rough baseline for assessing the geographic allocation of seats within a circuit.

Based on this measure, of the 15 authorized seats, it appears that the allocation would roughly resemble the following: North Carolina: 4 or 5, Virginia: 4 or 5, South Carolina: 2 or 3, Maryland: 2 or 3, and West Virginia: 1 or 2. As of now, taking into account that Judge Widener recently notified the President of his intended retirement, the Fourth Circuit is significantly out of geographic balance:

	Baseline Allocation	Current Number of Judges
North Carolina:	4 or 5	0
Virginia:	4 or 5	3
South Carolina	2 or 3	4
Maryland:	2 or 3	2
West Virginia:	1 or 2	2

There are four current vacancies on the Court. The four judges who previously occupied these seats maintained their chambers in North Carolina, Virginia, and Maryland (which is why I have sent this letter to you as the Senators from those States). Judge Terry Boyle of North Carolina was nominated for one vacancy in May 2001. For the three additional vacancies, the President intends to nominate well-qualified and well-respected individuals in a manner that will bring the circuit closer to geographic balance, recognizing that it would take several years and additional vacancies for the circuit to achieve balance and recognizing further that absolute geographic balance is neither legally nor historically required. In particular, the President intends to nominate two such individuals on Monday, April 28 -- one who currently lives in Virginia and has strong roots in and ties to both Virginia and North Carolina and one who currently lives in North Carolina and has served on the state judiciary in North Carolina. Both

are African-American, and their confirmations by the Senate will further dismantle an historic barrier. For the last remaining vacancy, the President would intend to submit a nomination no later than September 2003, consistent with the President's commitment to submit nominations within 180 days of receiving notice of an intended retirement or vacancy.

I remain disappointed that Judge Boyle's nomination has been pending for two years. But I am pleased that we otherwise have been able to consult extensively and work cooperatively on other circuit and district nominees in Virginia, North Carolina, and Maryland. Please feel free to contact me at any time with your thoughts regarding the Fourth Circuit or other issues of concern to you.

Sincerely,

Alberto R. Gonzales
Counsel to the President

The Honorable George Allen
The Honorable Elizabeth Dole
The Honorable John R. Edwards
The Honorable Barbara A. Mikulski
The Honorable Paul S. Sarbanes
The Honorable John W. Warner
United States Senate
Washington, D.C. 20510

From: CN=Layton Skelly/OU=OPD/O=EOP [OPD]

To: jafar.karim@hhs.gov [UNKNOWN] <jafar.karim@hhs.gov>;rex cowdry/opd/eop@eop [OPD] <rex cowdry>;marc.kesselman@usdoj.gov @ inet [UNKNOWN] <marc.kesselman@usdoj.gov @ inet>;tracy young/who/eop@eop [WHO] <tracy young>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;kristen silverberg/who/eop@exchange@eop [WHO] <kristen silverberg>;jay p. lefkowitz/opd/eop@exchange@eop [OPD] <jay p. lefkowitz>;ginger g. loper/who/eop@exchange@eop [WHO] <ginger g. loper>;diana l. schacht/opd/eop@eop [OPD] <diana l. schacht>;john.hoff@hhs.gov @ inet [UNKNOWN] <john.hoff@hhs.gov @ inet>;viet.dinh@usdoj.gov @ inet [UNKNOWN] <viet.dinh@usdoj.gov @ inet>;paula.stannard@hhs.gov @ inet [UNKNOWN] <paula.stannard@hhs.gov @ inet>;alan gilbert/opd/eop@eop [OPD] <alan gilbert>;hzucker@osophs.dhhs.gov [UNKNOWN] <hzucker@osophs.dhhs.gov>;dana ackerly/cea/eop@eop [CEA] <dana ackerly>;brian r. besanceney/who/eop@eop [WHO] <brian r. besanceney>;zurawski-paul@dol.gov @ inet [UNKNOWN] <zurawski-paul@dol.gov @ inet>;thomas c. deleire/cea/eop@eop [CEA] <thomas c. deleire>;philip j. perry/omb/eop@eop [OMB] <philip j. perry>;wendy j. grubbs/who/eop@eop [WHO] <wendy j. grubbs>;amy jensen/who/eop@exchange@eop [WHO] <amy jensen>;jennifer.young@hhs.gov @ inet [UNKNOWN] <jennifer.young@hhs.gov @ inet>;alex.azar@hhs.gov @ inet [UNKNOWN] <alex.azar@hhs.gov @ inet>;peter.urbanowicz@hhs.gov @ inet [UNKNOWN] <peter.urbanowicz@hhs.gov @ inet>;philo d. hall/opd/eop@eop [OPD] <philo d. hall>;Layton Skelly/OPD/EOP@EOP [OPD] <Layton Skelly>

CC: stephen m. lineberry/who/eop@eop [WHO] <stephen m. lineberry>;hrobowski-rosita@dol.gov [UNKNOWN] <hrobowski-rosita@dol.gov>;stephanie.wilson@hhs.gov [UNKNOWN] <stephanie.wilson@hhs.gov>;scriver-langford-lat@dol.gov @ inet [UNKNOWN] <scriver-langford-lat@dol.gov @ inet>;dana.ceasar@hhs.gov [UNKNOWN] <dana.ceasar@hhs.gov>;emily winland/opd/eop@eop [OPD] <emily winland>;joyce.b-moore@hhs.gov [UNKNOWN] <joyce.b-moore@hhs.gov>;tcordaro@osophs.dhhs.gov [UNKNOWN] <tcordaro@osophs.dhhs.gov>;carla b. stone/omb/eop@eop [OMB] <carla b. stone>;heather.mcnaught@usdoj.gov [UNKNOWN] <heather.mcnaught@usdoj.gov>;india.luckett@hhs.gov [UNKNOWN] <india.luckett@hhs.gov>;lauren j. vestewig/opd/eop@exchange@eop [OPD] <lauren j. vestewig>;marie.belt@hhs.gov [UNKNOWN] <marie.belt@hhs.gov>;pamela.roller@hhs.gov [UNKNOWN] <pamela.roller@hhs.gov>

Sent: 4/28/2003 10:24:43 AM

Subject: : CC: Weekly Medical Liability Working Group

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Layton Skelly ( CN=Layton Skelly/OU=OPD/O=EOP [ OPD ] )
CREATION DATE/TIME:28-APR-2003 14:24:43.00
SUBJECT:: CC: Weekly Medical Liability Working Group
TO:jafar.karim@hhs.gov ( jafar.karim@hhs.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:rex cowdry ( CN=rex cowdry/OU=opd/O=eop@eop [ OPD ] )
READ:UNKNOWN
TO:marc.kesselman@usdoj.gov @ inet ( marc.kesselman@usdoj.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:tracy young ( CN=tracy young/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
TO:brett m. kavanaugh ( CN=brett m. kavanaugh/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
TO:kristen silverberg ( CN=kristen silverberg/OU=who/O=eop@exchange@eop [ WHO ] )
READ:UNKNOWN
TO:jay p. lefkowitz ( CN=jay p. lefkowitz/OU=opd/O=eop@exchange@eop [ OPD ] )
READ:UNKNOWN
TO:ginger g. loper ( CN=ginger g. loper/OU=who/O=eop@exchange@eop [ WHO ] )
READ:UNKNOWN
TO:diana l. schacht ( CN=diana l. schacht/OU=opd/O=eop@eop [ OPD ] )
READ:UNKNOWN
TO:john.hoff@hhs.gov @ inet ( john.hoff@hhs.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:viet.dinh@usdoj.gov @ inet ( viet.dinh@usdoj.gov @ inet [ UNKNOWN ] )
```

READ:UNKNOWN
TO:paula.stannard@hhs.gov @ inet (paula.stannard@hhs.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:alan gilbert (CN=alan gilbert/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
TO:hzucker@osophs.dhhs.gov (hzucker@osophs.dhhs.gov [UNKNOWN])
READ:UNKNOWN
TO:dana ackerly (CN=dana ackerly/OU=cea/O=eop@eop [CEA])
READ:UNKNOWN
TO:brian r. besanceney (CN=brian r. besanceney/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
TO:zurawski-paul@dol.gov @ inet (zurawski-paul@dol.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:thomas c. deleire (CN=thomas c. deleire/OU=cea/O=eop@eop [CEA])
READ:UNKNOWN
TO:philip j. perry (CN=philip j. perry/OU=omb/O=eop@eop [OMB])
READ:UNKNOWN
TO:wendy j. grubbs (CN=wendy j. grubbs/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
TO:amy jensen (CN=amy jensen/OU=who/O=eop@exchange@eop [WHO])
READ:UNKNOWN
TO:jennifer.young@hhs.gov @ inet (jennifer.young@hhs.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:alex.azar@hhs.gov @ inet (alex.azar@hhs.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:peter.urbanowicz@hhs.gov @ inet (peter.urbanowicz@hhs.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:philo d. hall (CN=philo d. hall/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
TO:Layton Skelly (CN=Layton Skelly/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
CC:stephen m. lineberry (CN=stephen m. lineberry/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:hrobowski-rosita@dol.gov (hrobowski-rosita@dol.gov [UNKNOWN])
READ:UNKNOWN
CC:stephanie.wilson@hhs.gov (stephanie.wilson@hhs.gov [UNKNOWN])
READ:UNKNOWN
CC:scriver-langford-lat@dol.gov @ inet (scriver-langford-lat@dol.gov @ inet [UNKNOWN])
READ:UNKNOWN
CC:dana.ceasar@hhs.gov (dana.ceasar@hhs.gov [UNKNOWN])
READ:UNKNOWN
CC:emily winland (CN=emily winland/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
CC:joyce.b-moore@hhs.gov (joyce.b-moore@hhs.gov [UNKNOWN])
READ:UNKNOWN
CC:tcordaro@osophs.dhhs.gov (tcordaro@osophs.dhhs.gov [UNKNOWN])
READ:UNKNOWN
CC:carla b. stone (CN=carla b. stone/OU=omb/O=eop@eop [OMB])
READ:UNKNOWN
CC:heather.mcnaught@usdoj.gov (heather.mcnaught@usdoj.gov [UNKNOWN])
READ:UNKNOWN
CC:india.luckett@hhs.gov (india.luckett@hhs.gov [UNKNOWN])
READ:UNKNOWN
CC:lauren j. vestewig (CN=lauren j. vestewig/OU=opd/O=eop@exchange@eop [OPD])
READ:UNKNOWN
CC:marie.belt@hhs.gov (marie.belt@hhs.gov [UNKNOWN])
READ:UNKNOWN
CC:pamela.roller@hhs.gov (pamela.roller@hhs.gov [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

The Medical Liability Working Group meeting will be a conference call
tomorrow at 10:00 a.m. The call in information is below:

Call in: 395-6392
CODE: 828027

Thank you,

Layton
456-5085

Layton Skelly

04/21/2003 01:33:17 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: Weekly Medical Liability Working Group

This is to remind everyone that there WILL be a medical liability working group meeting tomorrow at 10:00 in room 476 EEOB.

If you have not attended one of these meetings in person before, please send me your clearance information so you can get into the building. Thank you.

Layton
456-5085
Message Sent
To:_____
alan gilbert/opd/eop@eop
philo d. hall/opd/eop@eop
paula.stannard@hhs.gov @ inet
peter.urbanowicz@hhs.gov @ inet
viet.dinh@usdoj.gov @ inet
alex.azar@hhs.gov @ inet
john.hoff@hhs.gov @ inet
jennifer.young@hhs.gov @ inet
diana l. schacht/opd/eop@eop
amy jensen/who/eop@exchange@eop
ginger g. loper/who/eop@exchange@eop
wendy j. grubbs/who/eop@eop
jay p. lefkowitz/opd/eop@exchange@eop
philip j. perry/omb/eop@eop
kristen silverberg/who/eop@exchange@eop
thomas c. deleire/cea/eop@eop
brett m. kavanaugh/who/eop@eop
zurawski-paul@dol.gov @ inet
tracy young/who/eop@eop
brian r. besanceney/who/eop@eop
marc.kesselman@usdoj.gov @ inet
dana ackerly/cea/eop@eop
rex cowdry/opd/eop@eop
hzucker@osophs.dhhs.gov

Message Copied
To:_____
pamela.roller@hhs.gov
joyce.b-moore@hhs.gov
marie.belt@hhs.gov
emily winland/opd/eop@eop
lauren j. vestewig/opd/eop@exchange@eop
dana.ceasar@hhs.gov
india.luckett@hhs.gov
scriver-langford-lat@dol.gov @ inet
heather.mcnaught@usdoj.gov
stephanie.wilson@hhs.gov

carla b. stone/omb/eop@eop
hrobowski-rosita@dol.gov
tcordaro@osophs.dhhs.gov
Layton Skelly/OPD/EOP@EOP
Stephen M. Lineberry/WHO/EOP@EOP

From:	CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To:	Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent:	4/28/2003 6:46:32 AM
Subject:	: FW: Heads-Up on DOT and DHS Rules for Security Threat Assessments Affecting Truck Drivers
Attachments:	P_I56YF003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:28-APR-2003 10:46:32.00
SUBJECT:: FW: Heads-Up on DOT and DHS Rules for Security Threat Assessments Affecting Truck Drivers
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

-----Original Message-----
From: Chuckerel, Mary M.
Sent: Friday, April 25, 2003 11:02 AM
To: Aidekman, David; Arbuckle, Donald R.; Bartlett, Daniel J.; Besanceney, Brian R.; Bumatay, Patrick J.; Call, Amy L.; Conda, Cesar; Cullinan, Nancy L; DeFrancis, Suzy; Dougherty, Elizabeth S.; Dove, Stephen W.; Duffy, Trent D.; Fleischer, Lawrence A.; Goldman, Adam B.; Greene, William; Hennessey, Keith; Hobbs, David W.; Ingle, Edward; Joseffer, Daryl L.; Kaplan, Joel; Lefkowitz, Jay P.; Libby, Lewis; MacHida, Ado A.; McMillin, Stephen S.; Murphy, Daniel J.; Oxford, John; Pelletier, Eric C.; Perry, Philip J.; Rossman, Elizabeth L.; Schlapp, Matthew A.; Schwartz, Kenneth L.; Silverberg, Kristen; Swagel, Phillip L.; Troy, Tevi; Weaver, Bessie M.; Wood, John F.; Anderson, Catherine S.; Stroech, Kenneth; Brecht-clark, Jan
Cc: Jones, Lisa M.; Ritacco, Krista L.; Thompson, Carol J.; McQuade, Vickie A.; Williams, Alice H.; Ingwell, Carmen M.; Vestewig, Lauren J.; Mayfield, Jennifer H.; Bennett, Melissa S.; Garvin, Dorothy C; Allgood, Lauren K.; Silverman, Garrette; Roberson, Halley M.
Subject: Heads-Up on DOT and DHS Rules for Security Threat Assessments Affecting Truck Drivers

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_I56YF003_WHO.TXT_1>

April 25, 2003

MEMORANDUM FOR ANDREW CARD

THROUGH: Mitchell E. Daniels, Jr.

FROM: Donald R. Arbuckle

SUBJECT: Heads-Up on DOT and DHS Rules for Security Threat Assessments Affecting Truck Drivers

We have concluded review of DOT and DHS interim final rules to implement Patriot Act provisions that require background checks for those drivers with endorsements to their licenses permitting them to transport hazardous materials. These rules also respond to the Safe Explosives Act, which authorized DOJ to levy potential criminal penalties on persons who transport explosives; this provision has caused great concern in the transportation industry. However, with the issuance of DOT and DHS rules to require background checks, DOT will "occupy the field", superceding DOJ's authority to impose criminal penalties for activities affecting transportation in commerce.

This rule will apply to 3.5 million drivers. Because TSA will not be able to conduct fingerprint-based background checks on all drivers immediately, TSA will initially conduct name-based security threat assessments, including criminal checks and terrorist-watch-list checks. Four months after the rules are issued, current drivers will become disqualified for hazmat endorsements if they fail certain criteria such as criminal history and citizenship. After six months, drivers must submit fingerprints when applying for new or renewal hazmat endorsements. The rules allow an individual to appeal a TSA security threat determination or request waivers from the disqualification criteria.

The rules may generate some press attention. There are also likely to be complaints, during the start-up period, from the States as well as the trucking industry, concerning the disqualification procedures as well as job dislocations that may be caused by the rules.

Please let me know if you have any questions.

cc: David Aidekman
Katherine Anderson
Don Arbuckle
Dan Bartlett
Brian Besanceney
Jan Brecht Clark
Patrick Bumatay
Amy Call
Cesar Conda
Nancy Cullinan
Suzy DeFrancis
Liz Dougherty
Stephen Dove
Trent Duffy
Ari Fleischer
Adam Goldman
Bill Greene
Keith Hennessey
David Hobbs
Ed Ingle
Daryl Joseffer
Joel Kaplan
Jay Lefkowitz
Lewis Libby
Ado Machida
Steve McMillin
Dan Murphy
John Oxford
Eric Pelletier
Phil Perry
Beth Rossman
Matt Schlapp
Ken Schwartz
Kristen Silverberg
Kenneth Stroech
Phillip Swagel
Tevi Troy
Bess Weaver
John Wood

From: Bumatay, Patrick J.
To: <Ullyot, Theodore W.>;<Bartolomucci, H. Christopher>;<Brosnahan, Jennifer R.>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>
Sent: 4/28/2003 11:44:08 AM
Subject: JSC this week

Please let me know if you plan on presenting anyone at the JSC meeting this week.

Thank you.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Lana Dickey/WHO/EOP [WHO] <Lana Dickey>
Sent: 4/28/2003 12:13:09 PM
Subject: RECEIVED: Law Day

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:28-APR-2003 16:13:09.00
SUBJECT:RECEIVED: Law Day
TO:Lana Dickey ( CN=Lana Dickey/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

RETURN RECEIPT

Your Document:
Law Day
was successfully received by:
CN=Brett M. Kavanaugh/OU=WHO/O=EOP
at:
04/28/2003 04:12:43 PM
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@Exchange@EOP [WHO] <David G. Leitch>;Alberto R. Gonzales/WHO/EOP@Exchange@EOP [WHO] <Alberto R. Gonzales>
Sent: 4/28/2003 12:24:38 PM
Subject: :

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:28-APR-2003 16:24:38.00
SUBJECT::
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

fyi.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 04/28/2003 04:24 PM ----------

From: Wendy J. Grubbs/WHO/EOP@Exchange on 04/28/2003 04:23:44 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Re: why don't they just confirm Prado and get it over with

I know. Heard about it early this am. We will likely vote on prado fairly soon.
.

From: Mehlman, Ken
To: scastillo@rnchq.org <Rodriguez, Leonard B.>
CC: <Kavanaugh, Brett M.>;<Viana, Mercedes M.>;scastillo@rnchq.org <scastillo@rnchq.org>;scastillo@rnchq.org <Rodriguez, Noelia>
Sent: 4/28/2003 1:13:19 PM
Subject: Re: Hispanic media training

Or could we have Adam Levine do this?

Leonard B. Rodriguez

04/28/2003 09:46:24 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc: Mercedes M. Viana/WHO/EOP@EOP, Ken Mehlman/WHO/EOP@EOP, scastillo@rnchq.org @ inet, Noelia Rodriguez/WHO/EOP@Exchange@EOP

Subject: Hispanic media training

Brett-

Following our Hispanic appointees conference call, the following inquiry below came to our attention.

Mercy has been talking with Nicolle in making this happen. Is it possible to coordinate this training at the RNC???

Q:

Possibly hold a media training for all Hispanic Spokespersons (with special emphasis on Spanish-language interviews) and mid and/or high

level Adminstration officials often called to do Spanish-language interviews.

I have had the benefit of getting some media training at work and have found it to be quite helpful. It has made me pretty confident and able

when called to do an interview in Spanish. I now even sometimes coach and brief other attorneys for Spanish and English mainstream interviews.

From: CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/28/2003 1:30:01 PM
Subject: : FW: 334-7215 if the Judge sees any mistakes

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:28-APR-2003 17:30:01.00
SUBJECT:: FW: 334-7215 if the Judge sees any mistakes
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Please don,t forward

-----Original Message-----
From: Mike Allen [mailto:allenm@washpost.com]
Sent: Monday, April 28, 2003 5:03 PM
To: Snee, Ashley
Subject: 334-7215 if the Judge sees any mistakes

The White House counsel, Alberto R. Gonzales, is kidded even within the West Wing about his ability to coyly hide his views and emotions until late in a debate or when he has his client--President Bush--to himself. The soft-spoken Texan even emulates Bush,s technique of letting subordinates argue competing points of view in front of him, then surprising them with his arbitration as if he were a court handing down an opinion.

But administration officials said that as inscrutable as Gonzales prides himself on being, he has left a clear stamp on his office by providing Bush with the legal grounding for an aggressive assertion of executive authority in disputes with Congress and government power in the war on terrorism.

&We push the envelope, but never beyond what the Constitution permits, in my judgment,8 Gonzales said in a rare interview.

Well before the terrorists attacks in the seventh month of his presidency, Bush made it clear that his administration would push to reestablish many of the powers that he believed presidents had unwisely ceded to Congress since Watergate. He resisted sending documents or witnesses to Capitol Hill, imposed vast new restrictions on access to the papers of former presidents and rapidly filled the confirmation pipeline with hard-core conservative candidates for judgeships.

As Bush refocused his administration around the war on terrorism, he issued orders making himself the personal arbiter of which terrorist suspects will be subject to military tribunals, and limiting the rights of captives from the war in Afghanistan and detainees in terrorism cases, some of whom were held for long periods without charges or access to lawyers.

Courts have not immediately overturned any of Bush,s major decisions, but Gonzales acknowledges that could eventually happen.

&We do believe very strongly in the protection of civil liberties, but there is a competing interest of the protection of the national security of this country,8 Gonzales said. &The key for the government is to try find the appropriate balance. We think we find that. But ultimately, quite frankly, it is going to be up to the courts to tell us if we,ve made the right decision.8

Gonzalez is known around the West wing as &The Judge8 for his brief service as a Bush appointee on the Texas Supreme Court. People involved in vetting Bush,s potential nominees for the U.S. Supreme Court say Gonzales

has a strong chance of one day being called &Justice8 if, as expected, Bush has the chance to fill an opening or two.
Bush,s aides have made no secret of their thirst to put the first Hispanic on the high court. And Gonzales, 47, has a long and quietly comfortable relationship with Bush, who made him counsel in the Texas governor,s office, then appointed him Texas secretary of state and a justice on the state Supreme Court before bringing him to Washington.
A note of considerable drama has been added to Gonzales,s prospects for the high court by the objections of several powerful conservatives, including some high-level appointees in the Justice Department. These critics, several of whom have expressed their reservations to the White House privately, regard Gonzales as insufficiently conservative, or at least are suspicious about how committed he really is to their most important issues, including the elimination of affirmative action.
&The judge follows the model of treating the president as his client,8 an associate said. &He is not as conservative as a lot of people around Bush, but Bush is not as conservative as some of the people around him.8
Democrats on the Senate Judiciary Committee tried to bolster the impression of Gonzales as a moderate during a confirmation hearing last year for one of Bush,s appellate court nominees, Texas Supreme Court Justice Patricia Owen, who was blocked and was renominated this year. The Democrats used dissenting, moderate-sounding quotations from Gonzales to try to portray Owen as being too conservative for the court,s mainstream.
Many conservatives were disappointed that Bush did not issue a sweeping condemnation of affirmative action when he weighed in against the University of Michigan,s race-conscious admissions system earlier this year. Sources involved in the process said Gonzales played a crucial role in convincing Bush to take the narrow of calling Michigan,s system unconstitutional but remaining silent on the broader question of affirmative action.
&It took five or six meetings before the judge showed where he was,8 said a senior administration official who participated in the decision. & But his view was the one that the staff coalesced around. It was taken to the president and he eventually approved it.8
The conservatives, biggest complaint is that in 2000, Gonzales voted with the majority of the Texas Supreme Court to narrowly construe a law Bush had championed requiring a minor to get parental permission before an abortion. Opponents of the decision, which split the court, said it would make it easy for girls to qualify for exceptions to the law. Steven Goode, a law professor at the University of Texas, said Gonzales was &a middle-of-the-road conservative who was less disposed toward business interests than the more conservative members of the court.8
White House officials said that in addition to serving as a moderating influence in the affirmative-action case, Gonzales played a similar role during debate over the status of captured combatants at Guantanamo Bay Naval Base in Cuba who had fought for Afghanistan,s Taliban regime. The administration originally denied them the protections a prisoner of war would receive under the Geneva Conventions.
&That bothered the judge,8 said a person involved in the case.
Protests flowing in from around the world and Bush reversed himself, declaring that the principles of the Geneva Conventions would apply to Taliban soldiers but not to members of the al Qaeda terrorist network.
Nevertheless, a private group called Human Rights Watch has concluded that the Geneva Conventions are being ignored or applied narrowly, with enemy combatants being held without charges or access to lawyers. &The U.S. has a history of being a leading proponent of the laws of armed conflict,8 said James D. Ross, the group,s senior legal adviser. &This administration is ignoring that.8
Several of the administration,s Gonzales-guided decisions have been upheld by courts. In January, the U.S. Court of Appeals for the Fourth Circuit, in Richmond, ruled that a wartime president can indefinitely detain U.S. citizens captured as enemy combatants and deny them access to lawyers. Steven G. Calabresi, a Northwestern University law professor and Federal Society founder, said Bush,s approach looks reasonable compared to President Harry Truman,s decision during the Korean War to try to seize steel mills, which was overturned by the Supreme Court.
A few conservative leaders said opposition to Gonzales appears to be waning, partly because Bush,s inner circle has made it clear that they

have heard the objections, and have assured critics that Gonzales would not be the automatic first choice for a Supreme Court vacancy.
Members said Gonzales was well-received when he spoke to the conservative Federalist Society, hotbed of his critics. The speech drew 250, a heavy attendance for the society,s luncheon events. One conservative leader praised Gonzales for putting on a tuxedo and attending the group,s 20th anniversary gala in November, even though he was not a speaker.
&Conservatives have been burned by uncertainty and unpredictability in the past, so they,re a lot less willing to cut any slack with someone like Judge Gonzales who has less of a clear record on many issues,8 said one well-known conservative who refused to be identified. &One of the things you hear is that he,s not comfortable with conservatives, but I don,t think that,s ultimately true.8
For now, Gonzales is clearly comfortable with only audience that counts: Bush. Gonzales is one of the very few aides who meets with Bush alone, and he recently recalled standing quietly on the Truman Balcony, thinking how far they had come together.
Bush,s style gives his counsel considerable sway. &He delegates a lot,8 Gonzales said. &We have the ability to make to make decisions that have to be made and not burden him with those decisions, but to exercise good judgment in going to him with decisions that he needs to make and he needs to be aware of.8
A.E. Dick Howard, a constitutional law professor at the University of Virginia, said Gonzales,s record on the Texas Supreme Court was in the mold of Justice Sandra Day O,Connor, a moderate conservative who emphasizes a fact-based approach to cases, while his record as White House counsel suggested more the approach of Justice Antonin Scalia, who is more disposed to an expansive view of government power.
&Which is the real Alberto Gonzales?8 Howard asked. &If he gets on the Supreme Court, we,ll find out.8

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>
Sent: 4/28/2003 9:31:19 AM
Subject: : RE: press bios

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:28-APR-2003 13:31:19.00
SUBJECT:: RE: press bios
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

are you sure

From: Patrick J. Bumatay/WHO/EOP@Exchange on 04/28/2003 01:26:37 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE: press bios

Attorney reviewed individually.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Monday, April 28, 2003 12:54 PM
To: Bumatay, Patrick J.
Subject: Re: press bios

Have individual attorneys reviewed these; or has someone reviewed all of them as a group??

From: Patrick J. Bumatay/WHO/EOP@Exchange on 04/28/2003 12:46:57 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: press bios

<< File: Robert Conrad.doc >> << File: Brent McKnight.doc >> << File: Claude Allen.doc >> << File: Daniel Ryan.doc >> << File: Dora Irizarry.doc >> << File: Duncan, Allyson bio.doc >> << File: Gary Sharpe.doc >> << File: Glen Conrad.doc >> << File: James Browning.doc >> << File: Jay Waldman.doc >> << File: Kim Gibson.doc >> << File: Lonny Suko.doc >> << File: Mark Filip.doc >> << File: Mike Fisher.doc >> << File: Robert Brack.doc >>

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>
Sent: 4/28/2003 9:35:01 AM
Subject: : RE: press bios

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:28-APR-2003 13:35:01.00
SUBJECT:: RE: press bios
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

no, i will review quickly

From: Patrick J. Bumatay/WHO/EOP@Exchange on 04/28/2003 01:35:02 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE: press bios

I did not get confirmations back on all of them. Want me to make sure I
do?

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Monday, April 28, 2003 1:31 PM
To: Bumatay, Patrick J.
Subject: RE: press bios

are you sure

From: Patrick J. Bumatay/WHO/EOP@Exchange on 04/28/2003 01:26:37 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE: press bios

Attorney reviewed individually.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Monday, April 28, 2003 12:54 PM
To: Bumatay, Patrick J.
Subject: Re: press bios

Have individual attorneys reviewed these; or has someone reviewed all of
them as a group??

From: Patrick J. Bumatay/WHO/EOP@Exchange on 04/28/2003 12:46:57 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: press bios

<< File: Robert Conrad.doc >> << File: Brent McKnight.doc >> << File: Claude Allen.doc >> << File: Daniel Ryan.doc >> << File: Dora Irizarry.doc >> << File: Duncan, Allyson bio.doc >> << File: Gary Sharpe.doc >> << File: Glen Conrad.doc >> << File: James Browning.doc >> << File: Jay Waldman.doc >> << File: Kim Gibson.doc >> << File: Lonny Suko.doc >> << File: Mark Filip.doc >> << File: Mike Fisher.doc >> << File: Robert Brack.doc >>

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Carolyn Nelson/WHO/EOP@EOP [WHO] <Carolyn Nelson>
Sent: 4/28/2003 1:52:12 PM
Subject: : Fw: 334-7215 if the Judge sees any mistakes

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:28-APR-2003 17:52:12.00
SUBJECT:: Fw: 334-7215 if the Judge sees any mistakes
TO:Carolyn Nelson (CN=Carolyn Nelson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

.

----- Original Message -----
From:Ashley Snee/WHO/EOP@Exchange
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 04/28/2003 05:29:59 PM
Subject: FW: 334-7215 if the Judge sees any mistakes

Please don,t forward

-----Original Message-----
From: Mike Allen [mailto:allenm@washpost.com]
Sent: Monday, April 28, 2003 5:03 PM
To: Snee, Ashley
Subject: 334-7215 if the Judge sees any mistakes

The White House counsel, Alberto R. Gonzales, is kidded even within the West Wing about his ability to coyly hide his views and emotions until late in a debate or when he has his client--President Bush--to himself. The soft-spoken Texan even emulates Bush,s technique of letting subordinates argue competing points of view in front of him, then surprising them with his arbitration as if he were a court handing down an opinion.

But administration officials said that as inscrutable as Gonzales prides himself on being, he has left a clear stamp on his office by providing Bush with the legal grounding for an aggressive assertion of executive authority in disputes with Congress and government power in the war on terrorism.

&We push the envelope, but never beyond what the Constitution permits, in my judgment,8 Gonzales said in a rare interview.

Well before the terrorists attacks in the seventh month of his presidency, Bush made it clear that his administration would push to reestablish many of the powers that he believed presidents had unwisely ceded to Congress since Watergate. He resisted sending documents or witnesses to Capitol Hill, imposed vast new restrictions on access to the papers of former presidents and rapidly filled the confirmation pipeline with hard-core conservative candidates for judgeships.

As Bush refocused his administration around the war on terrorism, he issued orders making himself the personal arbiter of which terrorist suspects will be subject to military tribunals, and limiting the rights of captives from the war in Afghanistan and detainees in terrorism cases, some of whom were held for long periods without charges or access to lawyers.

Courts have not immediately overturned any of Bush,s major decisions, but Gonzales acknowledges that could eventually happen.

&We do believe very strongly in the protection of civil liberties, but there is a competing interest of the protection of the national security of this country,8 Gonzales said. &The key for the government is to try find the appropriate balance. We think we find that. But ultimately, quite frankly, it is going to be up to the courts to tell us if we,ve made the right decision.8

Gonzalez is known around the West wing as &The Judge8 for his brief service as a Bush appointee on the Texas Supreme Court. People involved in vetting Bush,s potential nominees for the U.S. Supreme Court say Gonzales has a strong chance of one day being called &Justice8 if, as expected, Bush has the chance to fill an opening or two.

Bush,s aides have made no secret of their thirst to put the first Hispanic on the high court. And Gonzales, 47, has a long and quietly comfortable relationship with Bush, who made him counsel in the Texas governor,s office, then appointed him Texas secretary of state and a justice on the state Supreme Court before bringing him to Washington.

A note of considerable drama has been added to Gonzales,s prospects for the high court by the objections of several powerful conservatives, including some high-level appointees in the Justice Department. These critics, several of whom have expressed their reservations to the White House privately, regard Gonzales as insufficiently conservative, or at least are suspicious about how committed he really is to their most important issues, including the elimination of affirmative action.

&The judge follows the model of treating the president as his client,8 an associate said. &He is not as conservative as a lot of people around Bush, but Bush is not as conservative as some of the people around him.8

Democrats on the Senate Judiciary Committee tried to bolster the impression of Gonzales as a moderate during a confirmation hearing last year for one of Bush,s appellate court nominees, Texas Supreme Court Justice Patricia Owen, who was blocked and was renominated this year. The Democrats used dissenting, moderate-sounding quotations from Gonzales to try to portray Owen as being too conservative for the court,s mainstream.

Many conservatives were disappointed that Bush did not issue a sweeping condemnation of affirmative action when he weighed in against the University of Michigan,s race-conscious admissions system earlier this year. Sources involved in the process said Gonzales played a crucial role in convincing Bush to take the narrow of calling Michigan,s system unconstitutional but remaining silent on the broader question of affirmative action.

&It took five or six meetings before the judge showed where he was,8 said a senior administration official who participated in the decision. & But his view was the one that the staff coalesced around. It was taken to the president and he eventually approved it.8

The conservatives, biggest complaint is that in 2000, Gonzales voted with the majority of the Texas Supreme Court to narrowly construe a law Bush had championed requiring a minor to get parental permission before an abortion. Opponents of the decision, which split the court, said it would make it easy for girls to qualify for exceptions to the law. Steven Goode, a law professor at the University of Texas, said Gonzales was &a middle-of-the-road conservative who was less disposed toward business interests than the more conservative members of the court.8

White House officials said that in addition to serving as a moderating influence in the affirmative-action case, Gonzales played a similar role during debate over the status of captured combatants at Guantanamo Bay Naval Base in Cuba who had fought for Afghanistan,s Taliban regime. The administration originally denied them the protections a prisoner of war would receive under the Geneva Conventions.

&That bothered the judge,8 said a person involved in the case.

Protests flowing in from around the world and Bush reversed himself, declaring that the principles of the Geneva Conventions would apply to Taliban soldiers but not to members of the al Qaeda terrorist network.

Nevertheless, a private group called Human Rights Watch has concluded that the Geneva Conventions are being ignored or applied narrowly, with enemy combatants being held without charges or access to lawyers. &The U.S. has a history of being a leading proponent of the laws of armed conflict,8 said James D. Ross, the group,s senior legal adviser. &This administration is ignoring that.8

Several of the administration,s Gonzales-guided decisions have been

upheld by courts. In January, the U.S. Court of Appeals for the Fourth Circuit, in Richmond, ruled that a wartime president can indefinitely detain U.S. citizens captured as enemy combatants and deny them access to lawyers. Steven G. Calabresi, a Northwestern University law professor and Federal Society founder, said Bush,s approach looks reasonable compared to President Harry Truman,s decision during the Korean War to try to seize steel mills, which was overturned by the Supreme Court.

A few conservative leaders said opposition to Gonzales appears to be waning, partly because Bush,s inner circle has made it clear that they have heard the objections, and have assured critics that Gonzales would not be the automatic first choice for a Supreme Court vacancy.

Members said Gonzales was well-received when he spoke to the conservative Federalist Society, hotbed of his critics. The speech drew 250, a heavy attendance for the society,s luncheon events. One conservative leader praised Gonzales for putting on a tuxedo and attending the group,s 20th anniversary gala in November, even though he was not a speaker.

&Conservatives have been burned by uncertainty and unpredictability in the past, so they,re a lot less willing to cut any slack with someone like Judge Gonzales who has less of a clear record on many issues,8 said one well-known conservative who refused to be identified. &One of the things you hear is that he,s not comfortable with conservatives, but I don,t think that,s ultimately true.8

For now, Gonzales is clearly comfortable with only audience that counts: Bush. Gonzales is one of the very few aides who meets with Bush alone, and he recently recalled standing quietly on the Truman Balcony, thinking how far they had come together.

Bush,s style gives his counsel considerable sway. &He delegates a lot,8 Gonzales said. &We have the ability to make to make decisions that have to be made and not burden him with those decisions, but to exercise good judgment in going to him with decisions that he needs to make and he needs to be aware of.8

A.E. Dick Howard, a constitutional law professor at the University of Virginia, said Gonzales,s record on the Texas Supreme Court was in the mold of Justice Sandra Day O,Connor, a moderate conservative who emphasizes a fact-based approach to cases, while his record as White House counsel suggested more the approach of Justice Antonin Scalia, who is more disposed to an expansive view of government power.

&Which is the real Alberto Gonzales?8 Howard asked. &If he gets on the Supreme Court, we,ll find out.8

From: FindLaw.com <listadmin@LEGALMINDS.ORG>
To: TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN] <TOPHEADLINES@LEGALMINDS.ORG>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 4/28/2003 3:11:34 PM
Subject: : [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Mon, Apr 28, 2003

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"FindLaw.com" <listadmin@LEGALMINDS.ORG> ( "FindLaw.com" <listadmin@LEGALMINDS.ORG>
[ UNKNOWN ] )
CREATION DATE/TIME:28-APR-2003 19:11:34.00
SUBJECT:: [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Mon, Apr 28, 2003
TO:TOPHEADLINES@LEGALMINDS.ORG ( TOPHEADLINES@LEGALMINDS.ORG [ UNKNOWN ] )
READ:UNKNOWN
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

------------------------------------------------------------------------
FINDLAW Mon, Apr 28, 2003
------------------------------------------------------------------------
TOP LEGAL NEWS HEADLINES


For all of the day's legal news go to: http://news.findlaw.com
**********************************************************************

No commute. No traffic. No travel.

Concord Law School's online LL.M. in Health Law delivers innovative,
practice-oriented curriculum taught by expert faculty from around the
country without the hassles associated with attending courses. Take
advantage of Concord's part-time, affordable program to enhance your
practice or change your focus. Visit
http://rd.findlaw.com/scripts/nl.pl?url=10360512003_nl

**********************************************************************

SUPREME COURT
State Abortion Law Challenge Rejected by High Court
http://news.findlaw.com/news/s/20030428/courtabortiondc.html

Supreme Court Rejects Appeal On Ten Commandments
http://news.findlaw.com/news/s/20030428/courtcommandmentsdc.html


POLITICS
Senate Expected To OK Bush Judge Nominee
http://news.findlaw.com/ap/a/w/1153/4-28-2003/20030428103003_34.html

Powell Says U.S. Reviewing Cuba Policy
http://news.findlaw.com/politics/s/20030428/cubapowelldc.html


LEGAL COMMENTARY
Anti-Trespassing Laws: If They're Too Broad,
Do They Violate The First Amendment?
http://writ.news.findlaw.com/hilden/20030428.html

Time, Rethinking, & Amendment: Finding The Right Gov't For Iraq
http://writ.news.findlaw.com/hamilton/20030426.html


PERSONAL INJURY
```

NYC Tourist With SARS Symptoms Detained
http://news.findlaw.com/ap/o/1500/4-28-2003/20030428041500_01.html

Missing NYC Teen Found Dead In Waterway
http://news.findlaw.com/ap/o/1110/4-28-2003/20030428001324_0656.html

IMMIGRATION
Should Illegals Be Given Driver's Licenses?
http://news.findlaw.com/csmonitor/s/20030428/28apr2003090132.html

LABOR AND EMPLOYMENT
Ford CEO Gets $21.5 Million In Options
http://news.findlaw.com/business/s/20030428/autosfordproxydc.html

Overtime-Pay System Gets An Overdue Federal Upgrade
http://news.findlaw.com/csmonitor/s/20030428/28apr2003090103.html

ENVIRONMENT
Great Lakes Study: Reduce Emissions
http://news.findlaw.com/ap/o/1500/4-28-2003/20030428071501_15.html

Poachers In Peru Still Killing Dolphins
http://news.findlaw.com/ap/i/1102/4-28-2003/20030428070001_19.html

CYBERSPACE LAW
Apple Launching New Music Store Service
http://news.findlaw.com/ap/ht/1700/4-28-2003/20030428104500_06.html

Fight Against Song-Swapping to Go on Despite Defeat
http://news.findlaw.com/entertainment/s/20030428/mediamusicinternetdc
..html

TELECOMMUNICATIONS
FCC Chief Touts Ownership Rule Change
http://news.findlaw.com/ap/a/w/1155/4-28-2003/20030428101501_15.html

BUSINESS
Regulators Reach $1.4 Billion Settlement
http://news.findlaw.com/news/s/20030428/financialsettlementdc.html

MasterCard Settles Debit Card Suit
http://news.findlaw.com/ap/f/1310/4-28-2003/20030428063001_18.html

INTERNATIONAL LAW
Ethnic Attacks in Congo Kill At Least 120
http://news.findlaw.com/ap/i/1105/4-28-2003/20030428063001_17.html

Canada To Tighten Airport Screening, Face The WHO
http://news.findlaw.com/international/s/20030428/sarscanadadc.html

WAR ON TERRORISM
Papers: Documents Show Iraq-Al Qaida Link
http://news.findlaw.com/ap/i/1107/4-28-2003/20030428000657_0149.html

Bomb Injures 11 At Indonesia Airport
http://news.findlaw.com/ap/i/1104/4-28-2003/20030428001052_0373.html

IRAQ
U.S. Said to Find Iraq Nerve Gas Evidence

http://news.findlaw.com/ap/i/1107/4-28-2003/20030428001446_0807.html

Iraqi Inspections Liaison Surrenders
http://news.findlaw.com/ap/i/1107/4-28-2003/20030428033002_07.html

CRIME & TRIALS
Detective: Sniper Suspect Was Read Rights
http://news.findlaw.com/ap/o/1110/4-28-2003/20030428083002_20.html

Senators Seek Probe Of FBI Informants
http://news.findlaw.com/ap/a/w/1152/4-28-2003/20030428071501_19.html

ENTERTAINMENT
Foxx Pleads Innocent in Alleged Fight
http://news.findlaw.com/ap/e/1402/4-28-2003/20030428111501_02.html

Banfield Lashes Out at Own Network
http://news.findlaw.com/entertainment/s/20030428/televisionbanfielddc
..html

SPORTS
SARS Disrupts Sporting Calendar
http://news.findlaw.com/international/s/20030428/sarsdc.html

****

Founded in 1983, Rimkus Consulting Group, Inc. has provided
engineering, technical, business, and environmental consulting services
to law firms, insurance carriers, and corporations in 50 states and
over 40 countries. Rimkus Consulting Group, Inc. is dedicated to
providing a service of uncompromising quality and integrity to its
clients.
http://rd.findlaw.com/scripts/nl.pl?url=10474560000_nl

********** West LegalEdcenter *******

Receive updates about NEW ONLINE CLE PROGRAMS

Register with West LegalEdcenter for monthly email updates about new
online CLE programs in your practice areas and jurisdictions. West
LegalEdcenter currently has more than 1,400 courses, with more added
daily!

http://rd.findlaw.com/scripts/nl.pl?url=gen_cle_010402

********** West Group.com ***********

Come shop over 5,000 law books, legal forms, Westlaw resources,
textbooks, and more--right from your desktop.
http://rd.findlaw.com/scripts/nl.pl?url=gen_ads_040102

****

FEEDBACK

We value your comments! Please take a moment to tell us what you think
by sending an e-mail to:
mailto:newsletters@findlaw.com?subject=TopHeadlines. Please include
"Top Headlines" in the subject line.

SUBSCRIPTION INFORMATION

To subscribe to a FindLaw Newsletter, visit the FindLaw Newsletter Subscription Center at http://newsletters.findlaw.com

To unsubscribe, go to http://newsletters.findlaw.com/unsubscribe.html

---

ADVERTISING INFORMATION

For more information about advertising in FindLaw Newsletters, please contact us at:

mailto:sales@findlaw.com

FindLaw Top Headlines http://news.findlaw.com

Copyright (c) 2003 FindLaw, Inc.

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/28/2003 12:10:31 PM
Subject: : FW: LRM PTM39 - - VETERANS AFFAIRS Testimony on Three Benefits Bills
Attachments: P_NARYF003_WHO.TXT_1.doc; P_NARYF003_WHO.TXT_2.pdf; P_NARYF003_WHO.TXT_3.pdf; P_NARYF003_WHO.TXT_4.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:28-APR-2003 16:10:31.00
SUBJECT:: FW: LRM PTM39 - - VETERANS AFFAIRS Testimony on Three Benefits Bills
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Just a reminder, this is due at 5 pm today.

-----Original Message-----
From: Hassing, Erin P.
Sent: Friday, April 25, 2003 5:54 PM
To: dodlrs@osdgc.osd.mil; CLRM@doc.gov; ogc_legislation@ed.gov; ocl@ios.doi.gov; justice.lrm@usdoj.gov; dol-sol-leg@dol.gov; cla@sba.gov; info@jwod.gov
Cc: Cleveland, Robin; Peroff, Kathleen; Carson, Karyn T.; Siclari, Mary Jo; Hustead, Toni S.; Benson, Shalini M.; Chang, Winifred Y.; Seastrom, Mark R.; Hagen, Kelli A.; Sastry, Narahari; Ermann, Danny A.; Costello, Daniel J.; Grayton, Arecia A.; Aguilera, Ricardo A.; Waites, Wendell H.; Goldberg, Robert H.; Morales, Gloria L.; McVay, William; Lyon, Randolph M.; Rasetti, Lorenzo; Stack, Kathryn B.; Rowe, David; Irwin, Janet E.; Bloomquist, Lauren E.; Walsh, Maureen; Kitti, Carole; McDonald, Katrina A.; Dennis, Yvette M.; Shea, Robert J.; Conley, Sheila; Ramsey, Terrill W.; Styles, Angela B.; Gerich, Michael D.; Blum, Mathew C.; Alesi, Susan E.; Crilley, Joseph; Lee, Sarah S.; Suarez, Aquiles F.; Cea Lrm; Nec Lrm; Ovp Lrm; Perry, Philip J.; Wood, John F.; Luczynski, Kimberley S.; Whgc Lrm; Cox, Christopher C.; Dove, Stephen W.; Lobrano, Lauren C.; Jukes, James J.; Schroeder, Ingrid M.; Messenger, P. Thaddeus; Hassing, Erin P.; Newman, Kimberly A.; Halaska, Terrell L.; Justesen, Troy; Liu, Lin
Subject: LRM PTM39 - - VETERANS AFFAIRS Testimony on Three Benefits Bills

LRM ID: PTM39
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Friday, April 25, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: Erin P. Hassing
PHONE: (202)395-3459 FAX: (202)395-6148
SUBJECT: VETERANS AFFAIRS Testimony on Three Benefits Bills

DEADLINE: 5:00 PM. Monday, April 28, 2003
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Attached for your review, please find draft VA (Mackay) testimony for an April 30th hearing before the House Veterans' Affairs Committee, Subcommittee on Benefits. Please note that OMB's Office of Federal Procurement Policy (Styles) will also appear at this hearing. A representative from the Small Business Administration will attend the hearing to answer questions. For your convenience, a copy of each of the bills discussed is also attached.

(10 pp.) (7 pp.) (22 pp.) (29 pp.)

Please provide your comments by 5:00 p.m. Monday, April 28th. This deadline is firm. If we do not receive your comments by that time, we will assume you have no objection to the document as drafted.

If you experience difficulty with this LRM, or its attachment, please contact us immediately.
Thank you.

DISTRIBUTION LIST

AGENCIES:
029-DEFENSE - Vic Bernson - (703) 697-1305
025-COMMERCE - Michael A. Levitt - (202) 482-3151
030-EDUCATION - Jack Kristy - (202) 401-8313
059-INTERIOR - Jane Lyder - (202) 208-4371
061-JUSTICE - Jamie E. Brown - (202) 514-2141
062-LABOR - Robert A. Shapiro - (202) 693-5500
107-Small Business Administration - Richard Spence - (202) 205-6700
098-Committee for Purchase From Blind or Severely Disabled - John Heyer - (703) 603-0665

EOP:
Robin Cleveland
Kathleen Peroff
Karyn T. Carson
Mary Jo Siclari
Toni S. Hustead
Shalini M. Benson
Winifred Y. Chang
Mark R. Seastrom
Kelli A. Hagen
Narahari Sastry
Danny A. Ermann
Daniel J. Costello
Arecia A. Grayton
Ricardo A. Aguilera
Wendell H. Waites
Robert H. Goldberg
Gloria L. Morales
William McVay
Randolph M. Lyon
Lorenzo Rasetti
Kathryn B. Stack
David Rowe
Janet E. Irwin
Lauren E. Bloomquist
Maureen Walsh
Carole Kitti
Katrina A. McDonald
Yvette M. Dennis
Robert J. Shea
Sheila Conley
Terrill W. Ramsey
Angela B. Styles
Michael D. Gerich
Mathew C. Blum
Susan E. Alesi

Joseph Crilley
Sarah S. Lee
Aquiles F. Suarez
CEA LRM
NEC LRM
OVP LRM
Philip J. Perry
John Wood
Kimberley S. Luczynski
WHGC LRM
Christopher C. Cox
Stephen W. Dove
Lauren C. Lobrano
James J. Jukes
Ingrid M. Schroeder
P. Thaddeus Messenger
Erin P. Hassing
Kimberly A. Newman
Terrell L. Halaska
Troy Justesen
Lin Liu

LRM ID: PTM39 SUBJECT: VETERANS AFFAIRS Testimony on Three Benefits Bills
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) faxing us a memo or letter.
Please include the LRM number and subject shown above.

TO: Erin P. Hassing Phone: 395-3459 Fax: 395-6148
Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_NARYF003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_NARYF003_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_NARYF003_WHO.TXT_3>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_NARYF003_WHO.TXT_4>

DRAFT

Statement of Honorable Leo S. Mackay, Jr., Ph.D.
DEPUTY SECRETARY OF VETERANS AFFAIRS

BEFORE THE HOUSE COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON BENEFITS

APRIL 30, 2003

Mr. Chairman and Members of the Subcommittee, thank you for providing me the opportunity to testify before you this morning on three measures affecting Department of Veterans Affairs education and vocational rehabilitation programs and small-business opportunities for veterans. The three bills on today's hearing agenda include: H.R. 1460, the "Veterans Entrepreneurship Act of 2003"; H.R. 1716, the "Veterans Earn and Learn Act"; and H.R. 1712, the "Veterans Federal Procurement Opportunity Act of 2003." VA supports a majority of the proposals set forth in these measures.

Before I discuss the bills the Subcommittee is considering today, I would like to note that, although the Budget Enforcements Act's pay-as-you-go requirements and discretionary spending caps expired on September 30, 2002, the Administration supports the extension of these budget enforcement mechanisms in a manner that ensures fiscal discipline and is consistent with the President's budget. As you know, these measures would affect direct spending and receipts and, therefore, the support VA expresses for the bills is contingent on accommodating the provisions within the overall budget submitted by the President.

H.R. 1460 – "Veterans Entrepreneurship Act of 2003"

Mr. Chairman, section 2 of H.R. 1460 would amend provisions of title 38, United States Code, to permit veterans to use VA educational assistance benefits to enroll in non-degree, non-credit business "entrepreneurship" courses offered by small business development centers or offered by the National Veterans Small Business Development Corporation. Specifically, section 2 of the bill would provide that State approving agencies may approve non-credit courses of business education that enable or assist persons to start or enhance small business enterprises. "Qualified providers" of such entrepreneurship courses would include small business development centers, as defined by section 21 of the Small Business Act, and the National Veterans Business Development Corporation. A person would not be considered by VA as already qualified for the objective of a program of education offered by a qualified provider of an entrepreneurship course solely because he or she is the owner or operator of a business. These amendments apply to courses approved by State approval agencies after the date of enactment of the Act.

Veterans would receive several benefits from such courses. Some veterans are not willing or able to complete a degree program. This program offers a viable alternative to a complete degree program for those wishing to start a small business. Moreover, veterans who take advantage of these courses are more likely to succeed as small-business entrepreneurs. The potential for

positive effects on the economy, with enhanced competition and creativity within the marketplace, is significant. The bill's provision for oversight of these courses by State Approving Agencies should ensure program quality. For these reasons, we strongly support enactment of this provision.

Enactment of this section would result in a cost of $1.5 million in fiscal year 2004 and a ten-year total cost of $32 million.

Section 3 of H.R. 1460 would amend 38 U.S.C. § 3104 to provide that, for purposes of pursuing a program of vocational rehabilitation under chapter 31 of title 38, United States Code, a disabled veteran may establish "self-employment" in a small business enterprise as a vocational goal without regard to any requirement of unemployability.

Current law permits us to serve veterans with the most severe service-connected disabilities who require self employment and/or homebound training in order to achieve an acceptable level of vocational rehabilitation. We are also able to provide limited assistance to other veterans with employment handicaps.

Mr. Chairman, last month the Department established a new advisory committee, the Vocational Rehabilitation and Employment (VR&E) Task Force, and charged it with conducting an independent review of the VR&E program. Among other responsibilities, it will evaluate eligibility criteria for vocational

rehabilitation services under VA's program, and report its recommendations to the Secretary. We are asking the Task Force to evaluate the merits of the change in law proposed by section 3 of H.R. 1460, and will be furnishing you our official views once we have the benefit of that advice.

Enactment of this section would result in a cost of $750,000 in fiscal year 2004 and a ten-year total cost of $101 million.

Section 4 of H.R. 1460 would authorize a contracting officer to make sole source awards to small business concerns owned and controlled by service-disabled veterans (SDVBs) if such business is determined to be capable of performing the contract, award can be made at a fair price, there is no reasonable expectation that two or more SDVBs would submit offers, and certain dollar thresholds are not exceeded. It would also authorize contracting officers to restrict competition to SDVBs if there is a reasonable expectation that at least two SDVBs will submit offers and award can be made at a fair market price. The Administrator of the Small Business Administration would have the authority to appeal contracting officers' decisions not to award a contract opportunity to SDVBs to the Secretary of the department or agency head. This law would not supercede any other preference under law for prison-made (Federal Prison Industries) products or products made by the blind or disabled (JWOD).

VA supports section 4 of H.R. 1460. Providing business opportunities to veterans who own small businesses is altogether consistent with VA's mission to serve our Nation's veterans and will help VA and the Nation honor its commitment to them.

We estimate the total cost associated with enactment of H.R. 1460 to be $2.25 million for fiscal year 2004 and $133 million over ten years.

H.R. 1716 – "Veterans Earn and Learn Act"

Mr. Chairman, H.R. 1716 would amend title 38, United States Code, to improve VA educational assistance programs for apprenticeship and other on-job training.

Section 2 of the bill would modify the computation of on-job training and apprenticeship benefit entitlements under chapters 34 and 35 of title 38, United States Code, to be the same as the entitlement charged under chapters 30 and 32, of that title, as well as under the chapter 1606, title 10 U.S.C. program. This would provide needed uniformity in calculating use of entitlement for such training regardless of the benefit chapter under which a student is eligible, resulting in greater equity for veterans.

Section 3 of the bill would establish an incentive payment for program participants who finish their apprenticeship training early by requiring VA to pay the trainee a lump-sum payment for the months of VA entitlement remaining that would have ordinarily been needed to complete the apprenticeship. We believe the incentive would motivate competent individuals to complete their apprenticeship training sooner, thereby resulting in a more efficient use of benefits.

Section 4 of the bill would increase the monthly VA benefit for trainees who simultaneously pursue apprenticeships or on-job training and related classroom instruction (whether or not the trainee was pursuing the academic instruction as a requirement of the apprenticeship or voluntarily under the trainee's own initiative). Currently, education benefits for apprenticeship and on-the-job training start at 75 percent of the benefit rate payable for full-time institutional training and these job training benefits decrease in stages as the individual progresses through the training program. This section would pay the full-time institutional rate for periods when the individual is in required classroom courses while also in the job training program. It will also allow individuals who voluntarily enroll in related courses to receive an increase based on the combined training, but not to exceed the full-time institutional rate. We support this proposal.

Section 5 of the bill would codify VA's authority to pay benefits for competency-based apprenticeships. It would require VA to take into consideration the approximate term of the program recommended in registered apprenticeship program standards recognized by the Secretary of Labor. Apprenticeships offered in industries that choose not to register with the Secretary of Labor, and that are approved for veterans' training by a state approving agency, would continue to be available. It would also authorize VA to use up to $3 million to develop the computer systems and procedures needed to carry out the above provisions of the bill. Current law permits approval of only time-based, fixed length apprenticeships. The 1990's saw a steady move away from time-based apprenticeships toward competency-based apprenticeships. We support this change as it would bring approval of apprenticeships into the 21st century and allow VA to pay educational assistance to more veterans.

Section 6 of the bill would require VA to establish a pilot program to furnish on-job benefits to claims adjudicators training in its disability compensation, dependency and indemnity (DIC), and pension programs. The pilot program would permit on-the-job training programs of up to 3 years to be approved for claims adjudicators who handle VA's Compensation and Pension programs. VA supports this program for claims adjudicators. Based on our past experience, the duration of this type of training would be approximately two years.

Section 7 of the bill would require coordination of information among the Departments of Veterans Affairs, Defense, and Labor with respect to on-job training. The Secretary of Defense would be required to furnish to the Secretary of Veterans Affairs information concerning each registered apprenticeship pursued by the servicemember during his or her active duty service. It would also require the Secretary of Veterans Affairs, in conjunction with the Secretary of Labor, to encourage and assist states and private organizations to accord credit to servicemembers for skills in any related apprenticeship the servicemember may pursue in civilian life. We believe such level of coordination would be beneficial so that veterans can receive full credit for their military training and not have to unnecessarily repeat training they received while on active duty.

We estimate the benefits cost associated with enactment of H.R. 1716 to be $47.7 million for fiscal year 2004 and $548.4 million over ten years.

H.R. 1712 – "Veterans Federal Procurement Opportunity Act of 2003"

Mr. Chairman, H.R. 1712 would require the Administrator of the Small Business Administration (SBA) to establish a development program for small business concerns owned and controlled by service disabled veterans similar to the Section 8(a) program for small business in general, where SBA executes a contract with an agency and subcontracts the work to the small business. The

bill reauthorizes the National Veterans Business Development Corporation, first created in 1999, and adds reporting and planning requirements such as 5 year strategic and financial plans. The Corporation was created to expand the provision of and improve access to technical assistance regarding entrepreneurship for the Nation's veterans.

The bill sets a Government-wide goal of 28 percent for prime contracts awarded to small business concerns. It further breaks that goal down to 3 percent for veteran-owned, 3 percent for service-disabled-veteran-owned, 3 percent for HUBZone, 5 percent for socially and economically disadvantaged, and 5 percent for women-owned. Double counting of small businesses that meet more than one criterion is prohibited. Beginning in Fiscal Year 2004, for any agency that failed to meet the goals, funding would be restricted in the following fiscal year for awards solely to the specific subcategories of small businesses (whether prime contracts or approved subcontracting plans). This would be phased in for the various categories of small businesses between FY's 2004 and 2008.

The bill would allow an agency to restrict competition to specific categories of small businesses to meet the procurement goals. The bill would require in negotiated procurements that agencies include evaluation factors regarding small business subcontracting plans.

VA supports the provisions of section 4 of H.R. 1712 that would establish a goal of 3 percent for award of contracts to veteran-owned small businesses. As you may be aware, VA has established its own internal goal for award to veterans. However, I am concerned with other provisions of section 4 and section 5 that would raise the small business goal, prohibit double counting of acquisitions, restrict the use of appropriations, and mandate the use of certain evaluation factors in negotiated acquisitions. The Government is already struggling to meet its current goals, and raising those goals would not be beneficial. Prohibiting double counting would have the effect of raising the thresholds further and making it that much more difficult for agencies to meet their goals. Furthermore, the provisions of section 4 that place restrictions on the use of funds in the case of agency failure to meet goals would create a quota system for award of contracts to socioeconomic groups. That, and the evaluation factor mandate, removes the flexibility agencies need to be able to successfully carry out their missions.

Mr. Chairman, that concludes my testimony.

108TH CONGRESS
1ST SESSION

H. R. 1460

To amend title 38, United States Code, to permit the use of education benefits under such title for certain entrepreneurship courses, to permit veterans enrolled in a vocational rehabilitation program under chapter 31 of such title to have self-employment as a vocational goal, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 27, 2003

Mr. RENZI (for himself, Mr. SMITH of New Jersey, Mr. EVANS, Mr. BROWN of South Carolina, Mr. MANZULLO, Mr. BEAUPREZ, and Mr. MICHAUD) introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

A BILL

To amend title 38, United States Code, to permit the use of education benefits under such title for certain entrepreneurship courses, to permit veterans enrolled in a vocational rehabilitation program under chapter 31 of such title to have self-employment as a vocational goal, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

REV_00164081

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Entrepreneurship Act of 2003".

SEC. 2. AUTHORIZATION FOR STATE APPROVING AGENCIES TO APPROVE CERTAIN ENTREPRENEURSHIP COURSES.

(a) APPROVAL OF ENTREPRENEURSHIP COURSES.—Section 3675 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) A State approving agency may approve the entrepreneurship courses offered by a qualified provider of entrepreneurship courses.

"(2) For purposes of this subsection, the term 'entrepreneurship course' means a non-degree, non-credit course of business education that enables or assists a person to start or enhance a small business enterprise.

"(3) Subsection (a) and paragraphs (1) and (2) of subsection (b) do not apply to—

"(A) an entrepreneurship course offered by a qualified provider of entrepreneurship courses; and

"(B) a qualified provider of entrepreneurship courses by reason of such provider offering one or more entrepreneurship courses.".

(b) BUSINESS OWNERS NOT TREATED AS ALREADY QUALIFIED.—Section 3471 of such title is amended by inserting before the last sentence the following: "The Sec-

REV_00164082

retary shall not treat a person as already qualified for the objective of a program of education offered by a qualified provider of entrepreneurship courses solely because such person is the owner or operator of a business.''.

(c) INCLUSION OF ENTREPRENEURSHIP COURSES IN DEFINITION OF PROGRAM OF EDUCATION.—Subsection (b) of section 3452 of such title is amended by adding at the end the following: ''Such term also includes any course, or combination of courses, offered by a qualified provider of entrepreneurship courses.''

(d) INCLUSION OF QUALIFIED PROVIDER OF ENTREPRENEURSHIP COURSES IN DEFINITION OF EDUCATIONAL INSTITUTION.—Subsection (c) of section 3452 of such title is amended by adding at the end the following: ''Such term also includes any qualified provider of entrepreneurship courses.''.

(e) DEFINITION OF QUALIFIED PROVIDER OF ENTREPRENEURSHIP COURSES.—Section 3452 of such title is further amended by adding at the end the following new subsection:

''(h) The term 'qualified provider of entrepreneurship courses' means—

''(1) a small business development center described in section 21 of the Small Business Act (15 U.S.C. 648), and

REV_00164083

"(2) the National Veterans Business Development Corporation (established under section 33 of such Act (15 U.S.C. 657c)) insofar as the Corporation offers or sponsors an entrepreneurship course (as defined in section 3675(c)(2) of this title).".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to courses approved by State approving agencies after the date of the enactment of this Act.

SEC. 3. ESTABLISHMENT OF SELF-EMPLOYMENT AS A VOCATIONAL GOAL FOR VETERANS RECEIVING VOCATIONAL REHABILITATION.

Section 3104 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c) Any person entitled to a rehabilitation program under this chapter may establish self-employment as a vocational goal without regard to any requirement that the person be unemployable.".

SEC. 4. PROCUREMENT PROGRAM FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

REV_00164084

"SEC. 36. PROCUREMENT PROGRAM FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.

"(a) SOLE SOURCE CONTRACTS.—In accordance with this section and not withstanding any other provision of law, a contracting officer may award a sole source contract to any small business concern owned and controlled by service-disabled veterans if—

"(1) such concern is determined to be a responsible contractor with respect to performance of such contract opportunity and the contracting officer does not have a reasonable expectation that 2 or more small business concerns owned and controlled by service-disabled veterans will submit offers for the contracting opportunity;

"(2) the anticipated award price of the contract (including options) will not exceed—

"(A) $5,000,000, in the case of a contract opportunity assigned a standard industrial classification code for manufacturing; or

"(B) $3,000,000, in the case of any other contract opportunity; and

"(3) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price.

REV_00164085

"(b) RESTRICTED COMPETITION.—In accordance with this section and not withstanding any other provision of law, a contracting officer may award contracts on the basis of competition restricted to small business concerns owned and controlled by service-disabled veterans if the contracting officer has a reasonable expectation that not less than 2 small business concerns owned and controlled by service-disabled veterans will submit offers and that the award can be made at a fair market price.

"(c) APPEAL BY ADMINISTRATOR.—Not later than 5 days after the date on which the Administration is notified of a contracting officer's decision not to award a contract opportunity under this section to a small business concern owned and controlled by service-disabled veterans, the Administrator may notify the contracting officer of the intent to appeal the contracting officer's decision, and within 15 days of such date the Administrator may file a written request for reconsideration of the contracting officer's decision with the Secretary of the department or agency head.

"(d) RELATIONSHIP TO OTHER CONTRACTING PREFERENCES.—A procurement may not be made from a source on the basis of a preference provided under subsection (a) or (b) if the procurement would otherwise be made from a different source under section 4124 or 4125

REV_00164086

of title 18, United States Code, or the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.).

"(e) ENFORCEMENT; PENALTIES.—Rules similar to the rules of paragraphs (5) and (6) of section 8(m) shall apply for purposes of this section.

"(f) CONTRACTING OFFICER.—For purposes of this section, the term 'contracting officer' has the meaning given such term in section 27(f)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(f)(5))."

○

REV_00164087

I

108TH CONGRESS
1ST SESSION

H. R. 1716

To amend title 38, United States Code, to improve educational assistance programs of the Department of Veterans Affairs for apprenticeship or other on-job training, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 2003

Mr. SMITH of New Jersey (for himself, Mr. EVANS, Mr. BROWN of South Carolina, and Mr. MICHAUD) introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

A BILL

To amend title 38, United States Code, to improve educational assistance programs of the Department of Veterans Affairs for apprenticeship or other on-job training, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans Earn and Learn Act".

REV_00164088

(b) FINDINGS.—Congress makes the following findings:

(1) Educational assistance programs for veterans for apprenticeship and on-job training of the Department of Veterans Affairs assist employers to hire and retain skilled workers.

(2) These programs establish a link between training afforded to servicemembers while serving in the Armed Forces and training available in civilian settings for purposes of occupational licensing and credentialing.

(3) These programs develop a more highly educated and productive work force.

(c) REFERENCES TO TITLE 38, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. MODIFICATION OF BENEFIT ENTITLEMENT CHARGES FOR CERTAIN ON-JOB TRAINING PROGRAMS.

(a) VETERANS' EDUCATIONAL ASSISTANCE AND SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSIST-

REV_00164089

ANCE.—Section 3687 is amended by adding at the end the following new subsection:

"(e)(1) For each month that an individual (as defined in paragraph (3)) is paid a training assistance allowance under subsection (a), the entitlement of the individual shall be charged at a percentage rate (rounded to the nearest percent) that is equal to the ratio of—

"(A) such training assistance allowance for the period of months involved, to

"(B) the applicable monthly educational assistance allowance payable to the individual for such period of months.".

"(2) For any month in which an individual fails to complete 120 hours of training, the entitlement otherwise chargeable under paragraph (1) shall be reduced in the same proportion as the monthly training assistance allowance payable is reduced under subsection (b)(3).

"(3) In this section, the term 'individual' means—

"(A) an eligible veteran for purposes of chapter 34 of this title who is entitled, under chapter 30 or 34 of this title, as the case may be, to monthly educational assistance allowances payable under section 3015(e) of this title, or

"(B) an eligible person for purposes chapter 35 of this title, who is entitled, under section 3510 of

REV_00164090

this title, to monthly educational assistance allowances payable under section 3532(a) of this title as the case may be.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to months beginning on or after the date that is 1 year after the date of the enactment of this Act.

SEC. 3. INCENTIVE PAYMENT FOR EARLY COMPLETION OF APPRENTICESHIP TRAINING.

(a) MONTGOMERY GI BILL.—(1) Section 3032(c) is amended by adding at the end the following new paragraph:

''(4)(A) In the case of an individual who successfully completes a full-time program of apprenticeship before entitlement to monthly educational assistance allowance payable under this subsection for that program is exhausted, the Secretary shall pay to the individual a lump-sum amount equal to the difference between—

''(i) the total amount of educational assistance allowances that could have been paid to the individual under this subsection for the successful completion of that program, and

''(ii) the amount of educational assistance allowance paid to the individual for the program under this subsection.

REV_00164091

"(B) In the case of a lump sum payment paid to an individual under subparagraph (A), the individual's entitlement under this chapter (and chapter 34 of this title, if applicable) shall be charged at the applicable rate under paragraph (3).".

(2) Paragraph (1) of such section is amended by striking "Except as provided in paragraph (2)" and inserting "Subject to the succeeding provisions".

(b) POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE.—(1) Section 3233 is amended by adding at the end the following new subsection:

"(e)(1) In the case of an individual who successfully completes a full-time program of apprenticeship before entitlement to monthly benefit payment payable under this section for that program is exhausted, the Secretary shall pay to the individual a lump-sum amount equal to the difference between—

"(A) the total amount of monthly benefit payments that could have been paid to the individual under this section for the successful completion of that program, and

"(B) the amount of monthly benefit payments paid to the individual for the program under this section.

REV_00164092

"(2) In the case of a lump sum payment paid to an individual under paragraph (1), the individual's entitlement under this chapter shall be charged at the applicable rate under subsections (c) and (d)."

(2) Subsection (a) of such section is amended by striking "Except as provided in subsection (b)" and inserting "Subject to the succeeding provisions".

(c) VETERANS' EDUCATIONAL ASSISTANCE AND SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.—Section 3687, as amended by section 2(a), is further amended by adding at the end the following new subsection:

"(f)(1) In the case of an individual (as defined in subsection (e)(3) who successfully completes a full-time program of apprenticeship before entitlement to monthly educational assistance allowance payable for that program is exhausted, the Secretary shall pay to the individual a lump-sum amount equal to the difference between—

"(A) the total amount of educational assistance allowances that could have been paid to the individual under subsection (a) for the successful completion of that program, and

"(B) the amount of educational assistance allowance paid to the individual for the program under subsection (a).

REV_00164093

"(2) In the case of a lump sum payment paid to an individual under paragraph (1), the entitlement of the individual under chapter 30, 34, or 35 of this title, as the case may be, shall be charged at the applicable rate under subsection (e).".

(d) SELECTED RESERVE MONTGOMERY GI BILL.—(1) Section 16131(d) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) In the case of an individual who successfully completes a full-time program of apprenticeship before entitlement to monthly educational assistance allowance payable under this subsection for that program is exhausted, the Secretary shall pay to the individual a lump-sum amount equal to the difference between—

"(i) the total amount of educational assistance allowances that could have been paid to the individual under this subsection for the successful completion of that program, and

"(ii) the amount of educational assistance allowance paid to the individual for the program under this subsection.

"(B) In the case of a lump sum payment paid to an individual under subparagraph (A), the individual's enti-

REV_00164094

tlement under this chapter shall be charged at the applicable rate under paragraph (3).''.

(2) Paragraph (1) of such section is amended by striking ''Except as provided in paragraph (2)'' and inserting ''Subject to the succeeding provisions of this subsection''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to programs of training beginning on or after the date of the enactment of this Act.

SEC. 4. INCREASE IN BENEFIT FOR INDIVIDUALS PURSUING APPRENTICESHIP OR ON-JOB TRAINING AND RELATED POSTSECONDARY CLASSROOM EDUCATION TRAINING.

(a) MONTGOMERY GI BILL.—Section 3032(c), as amended by section 3(a), is further amended by adding at the end the following new paragraph:

''(5)(A) In the case of an individual pursuing a full-time program of apprenticeship or other on-job training under this chapter who, as a requirement of such program, is enrolled in a course of classroom instruction approved under subchapter I of chapter 36 of this title, notwithstanding the preceding provisions of this subsection, the amount of the monthly educational assistance allowance payable to the individual for each month (or fraction thereof) the individual is enrolled in such course is the

REV_00164095

amount payable under section 3015 of this title to an individual pursuing a program of education on a full-time basis.

"(B)(i) Subject to clause (ii), in the case of an individual pursuing a full-time program of apprenticeship or other on-job training under this chapter who has voluntarily enrolled in a course of classroom instruction approved under subchapter I of chapter 36 of this title that is related to such program, notwithstanding the preceding provisions of this subsection, the amount of the monthly educational assistance allowance payable to the individual under this subsection shall be increased for each month (or fraction thereof) the individual is enrolled in such course by an amount equal to the applicable reduced rate established by the Secretary under section 3015 of this title for an approved program of education pursued on less than a full-time basis.

"(ii) In no case may the amount of the monthly educational assistance allowance payable to the individual under clause (i) exceed the amount payable under such section 3015 to an individual pursuing a program of education on a full-time basis.

"(C)(i) In the case of a monthly educational assistance allowance paid to an individual under subparagraph (A) for a month, the individual's entitlement under this

REV_00164096

chapter for that month shall be charged at the rate that otherwise would apply but for this subsection.

"(ii) In the case of a monthly educational assistance allowance paid to an individual under subparagraph (B) for a month, the charge to the individual's entitlement for that month shall be increased proportionately in accordance with the increase in payment under subparagraph (B).

"(iii) Any such charge to the individual's entitlement shall be reduced proportionately in accordance with the reduction in payment under paragraph (2).".

(b) POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE.—(1) Section 3233, as amended by section 3(b), is further amended by adding at the end the following new subsection:

"(f)(1) In the case of an individual pursuing a full-time program of apprenticeship or other on-job training under this chapter who, as a requirement of such program, is enrolled in a course of classroom instruction approved under subchapter I of chapter 36 of this title, notwithstanding the preceding provisions of this section, the amount of the monthly benefit payment payable to the individual for each month (or fraction thereof) the individual is enrolled in such course is the amount payable under

REV_00164097

section 3231 of this title to that individual pursuing a program of education on a full-time basis.

"(2)(A) Subject to subparagraph (B), in the case of an individual pursuing a full-time program of apprenticeship or other on-job training under this chapter who has voluntarily enrolled in a course of classroom instruction approved under subchapter I of chapter 36 of this title that is related to such program, notwithstanding the preceding provisions of this section, the amount of the monthly benefit payment payable to the individual under this section shall be increased for each month (or fraction thereof) the individual is enrolled in such course by an amount equal to the applicable reduced rate established by the Secretary under section 3231 of this title for an approved program of education pursued on less than a full-time basis.

"(B) In no case may the amount of the monthly benefit payment payable to the individual under subparagraph (A) exceed the amount payable under section 3231 of this title to an individual pursuing a program of education on a full-time basis.

"(3)(A) In the case of a monthly benefit payment paid to an individual under paragraph (1) for a month, the individual's entitlement under this chapter for that

REV_00164098

month shall be charged at the rate that otherwise would apply but for this section.

"(B) In the case of a monthly benefit payment paid to an individual under paragraph (2) for a month, the charge to the individual's entitlement for that month shall be increased proportionately in accordance with the increase in payment under paragraph (2).

"(C) Any such charge to the individual's entitlement shall be reduced proportionately in accordance with the reduction in payment under paragraph (2).".

(2) Section 3231(a)(2) is amended—

(A) by striking "(2) Except as provided in paragraph (5)(E) of this subsection and in subsection (e) of this section" and inserting "(2)(A) Except as provided in subparagraph (B), paragraph (5)(E),"; and

(B) by adding at the end the following new subparagraph:

"(B) The Secretary shall prescribe regulations for appropriately reduced rates of the amount of the monthly payment otherwise applicable under subparagraph (A) for programs of educational or vocational assistance pursued on less than a full-time basis.".

(c) VETERANS' EDUCATIONAL ASSISTANCE AND SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSIST-

REV_00164099

ANCE.—Section 3687, as amended by section 3(c), is further amended by adding at the end the following new subsection:

"(g)(1) In the case of an individual (as defined in subsection (e)(3)) pursuing a full-time program of apprenticeship or other on-job training who, as a requirement of such program, is enrolled in a course of classroom instruction approved under subchapter I, notwithstanding the preceding provisions of this section, the amount of the monthly training assistance allowance payable to the individual for each month (or fraction thereof) the individual is enrolled in such course is the amount of educational assistance allowance payable under section 3015(e) of this title or under section 3532(a) of this title, as the case may be, who is pursuing a program of education on a full-time basis.

"(2)(A) Subject to subparagraph (B), in the case of an individual pursuing a full-time program of apprenticeship or other on-job training, as the case may be, who has voluntarily enrolled in a course of classroom instruction approved under subchapter I that is related to such program, notwithstanding the preceding provisions of this section, the amount of the monthly training assistance allowance payable to the individual under this section shall be increased for each month (or fraction thereof) the indi-

REV_00164100

vidual is enrolled in such course by an amount equal to the applicable reduced rate established by the Secretary under section 3015 of this title, or section 3532(a), as the case may be, for an approved program of education pursued on less than a full-time basis.

"(B) In no case may the amount of the monthly benefit payment payable to the individual under subparagraph (A) exceed the amount of educational assistance allowance payable to the individual under section 3015(e) of this or under section 3532(a) of this title, as the case may be, who is pursuing a program of education on a full-time basis.

"(3)(A) In the case of a monthly benefit payment paid to an individual under paragraph (1) for a month, the entitlement of the individual under chapter 30, 34, or 35 of this title for that month shall be charged at the rate that otherwise would apply but for this section.

"(B) In the case of a monthly benefit payment paid to an individual under paragraph (2) for a month, the charge to the entitlement of the individual under chapter 30, 34, or 35 of this title for that month shall be increased proportionately in accordance with the increase in payment under paragraph (2).

REV_00164101

"(C) Any such charge to the entitlement of the individual shall be reduced proportionately in accordance with the reduction in payment under paragraph (2).".

(d) SELECTED RESERVE MONTGOMERY GI BILL.—Section 16131 of title 10, United States Code, as amended by section 3(d), is further amended by adding at the end the following new paragraph:

"(5)(A) In the case of an individual pursuing a full-time program of apprenticeship or other on-job training under this chapter who, as a requirement of such program, is enrolled in a course of classroom instruction approved under subchapter I of chapter 36 of title 38, notwithstanding the preceding provisions of this subsection, the amount of the monthly educational assistance allowance payable to the individual for each month (or fraction thereof) the individual is enrolled in such course is the amount payable under subsection (b) to an individual pursuing a program of education on a full-time basis.

"(B)(i) Subject to clause (ii), in the case of an individual pursuing a full-time program of apprenticeship or other on-job training under this chapter who has voluntarily enrolled in a course of classroom instruction approved under subchapter I of chapter 36 of title 38 that is related to such program, notwithstanding the preceding provisions of this subsection, the amount of the monthly

REV_00164102

educational assistance allowance payable to the individual under this subsection shall be increased for each month (or fraction thereof) the individual is enrolled in such course by an amount equal to the applicable reduced rate established by the Secretary under subsection (b) for an approved program of education pursued on less than a full-time basis.

"(ii) In no case may the amount of the monthly educational assistance allowance payable to the individual under clause (i) exceed the amount payable under subsection (b) to an individual pursuing a program of education on a full-time basis.

"(C)(i) In the case of a monthly educational assistance allowance paid to an individual under subparagraph (A) for a month, the individual's entitlement under this chapter for that month shall be charged at the rate that otherwise would apply but for this subsection.

"(ii) In the case of a monthly educational assistance allowance paid to an individual under subparagraph (B) for a month, the charge to the individual's entitlement for that month shall be increased proportionately in accordance with the increase in payment under subparagraph (B).

REV_00164103

"(iii) Any such charge to the individual's entitlement shall be reduced proportionately in accordance with the reduction in payment under paragraph (2).".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to months beginning on or after the date that is 1 year after the date of the enactment of this Act.

SEC. 5. AUTHORITY FOR COMPETENCY-BASED APPRENTICESHIP PROGRAMS.

(a) IN GENERAL.—Section 3672(c) is amended—

(1) by striking "(1)" and "(2)" and inserting, "(A)" and "(B)" respectively;

(2) by inserting "(1)" after "(c)"; and

(3) by adding at the end the following new paragraphs:

"(2) The period of a program of apprenticeship may be determined based upon a specific period of time (commonly referred to as a 'time-based program'), based upon the demonstration of successful mastery of skills (commonly referred to as a 'competency-based program'), or based upon a combination thereof.

"(3)(A) In the case of a competency-based program of apprenticeship, in determining the period of such a program, the Secretary shall take into consideration the approximate term of the program recommended in registered

REV_00164104

apprenticeship program standards recognized by the Secretary of Labor.

"(B) The sponsor of a competency-based program of apprenticeship shall provide notice to the Secretary of any such standards that may apply to the program and the proposed approximate period of training under the program.

"(4) The Secretary of Labor shall notify the Secretary upon the successful completion of a program of apprenticeship by a veteran, eligible veteran, or eligible person, as the case may be.".

(b) INCREASED USE OF APPRENTICESHIPS.—Section 3672(d)(1) is amended by adding at the end the following new sentence: "The Secretary of Labor shall provide such assistance and services to the Secretary, and to State approving agencies, to increase the use of apprenticeships.".

(c) ON-JOB TRAINING.—Section 3677 is amended by adding at the end the following new subsection:

"(d)(1) The sponsor of any program of training on the job shall submit notice to the Secretary upon the successful completion of the program by the veteran, eligible veteran, or eligible person, as the case may be.

"(2) The term 'training on the job' includes training commonly referred to as 'on-job learning'.".

REV_00164105

(d) FUNDING FOR DEPARTMENT COMPUTER SYSTEM MODIFICATIONS.—From amounts appropriated to the Department of Veterans Affairs for fiscal year 2004 for readjustment benefits, the Secretary of Veterans Affairs shall use an amount not to exceed $3,000,000 to modify computer systems and to develop procedures required to carry out the amendments made by subsection (a) and sections 2, 3, and 4.

SEC. 6. PILOT PROGRAM TO PROVIDE ON-JOB BENEFITS TO TRAIN DEPARTMENT OF VETERANS AFFAIRS' CLAIMS ADJUDICATORS.

Section 3677, as amended by section 5(c), is further amended by adding at the end the following new subsection:

"(e)(1) The Secretary shall conduct a pilot program under which, the Secretary shall operate a program of training on the job under this section for a period (notwithstanding subsection (c)(2)) of up to three years in duration to train employees of the Department to become qualified adjudicators of claims for compensation, dependency and indemnity compensation, and pension.

"(2) Amounts of educational assistance, monthly benefit payments, and training assistance allowance under chapters 30, 31, 32, 34, and 35 of this title, as the case

REV_00164106

may be, shall be payable to such employees during each month of training under the program.

"(3)(A) Not later than 3 years after the implementation of the pilot project, the Secretary shall submit to Congress an initial report on the pilot project. The report shall include an assessment of the usefulness of the program in recruiting and retaining of personnel of the Department as well as an assessment of the value of the program as a training program.

"(B) Not later than 18 months after the date on which the initial report under subparagraph (A) is submitted, the Secretary shall submit to Congress a final report on the pilot project. The final report shall include recommendations of the Secretary with respect to continuation of the pilot project and with respect to expansion of the types of claims for which the extended period of on the job training is available to train such employees.

"(4) The pilot project shall terminate 5 years after the date of the implementation of the project.".

SEC. 7. REQUIREMENT FOR COORDINATION OF DATA AMONG THE DEPARTMENTS OF VETERANS AFFAIRS, DEFENSE, AND LABOR WITH RESPECT TO ON-JOB TRAINING.

Section 3694 is amended—

REV_00164107

(1) by striking "In carrying out" and inserting "(a) IN GENERAL.—In carrying out"; and

(2) by adding at the end the following new subsection:

"(b) COORDINATION OF INFORMATION AMONG THE DEPARTMENTS OF VETERANS AFFAIRS, DEFENSE, AND LABOR WITH RESPECT TO ON-JOB TRAINING.—At the time of a servicemember's discharge or release from active duty service, the Secretary of Defense shall furnish to the Secretary such pertinent information concerning each registered apprenticeship pursued by the servicemember during the period of active duty service of the servicemember. The Secretary, in conjunction with the Secretary of Labor, shall encourage and assist States and private organizations to give credit to servicemembers for the registered apprenticeship program so pursued in the case of any related apprenticeship program the servicemember may pursue as a civilian.".

SEC. 8. TECHNICAL AND CONFORMING AMENDMENTS.

(a) DEFINITION OF TRAINING ESTABLISHMENT.—Section 3452(e) is amended by striking "or any State apprenticeship agency, or any State board of vocational education, or any joint apprenticeship committee, or the Bureau of Apprenticeship and Training established pursuant to the Act of August 16, 1937, popularly known as the

REV_00164108

"National Apprenticeship Act" (29 U.S.C. 50 et seq.)," and inserting "any State board of vocational education, any Federal or State apprenticeship registration agency, any joint apprenticeship committee established pursuant to the Act of August 16, 1937, popularly known as the 'National Apprenticeship Act' (29 U.S.C. 50 et seq.),".

(b) CLARIFICATION OF APPLICABLE APPRENTICESHIP STANDARDS.—(1) Section 3672(c), as amended by section 5(a), is amended in subparagraph (A) by inserting "apprenticeship" before "standards".

(2) Section 3672(d)(1) is amended by striking "of programs of training on the job (including programs of apprenticeship)" and inserting "of apprenticeship and on the job training programs".

(c) JOB TRAINING AND PLACEMENT FUNCTIONS OF THE DEPARTMENT.—(1) Section 4102A, as amended by section 4(a) of the Jobs for Veterans Act (Public Law 107–288; 116 Stat. 2038), is amended by striking "October 1, 2002" in subsection (c)(2)(B)(ii) and inserting "October 1, 2003".

(2) The amendment made by paragraph (1) shall take effect as if included in the enactment of section 4(a) of the Jobs for Veterans Act (Public Law 107–288; 116 Stat. 2038).

○

REV_00164109

I

108TH CONGRESS
1ST SESSION

H. R. 1712

To amend the Small Business Act to establish a development program for small business concerns owned and controlled by qualified service-disabled veterans, to reauthorize the programs of the National Veterans Business Development Corporation, to establish a Government-wide procurement goal for small business concerns owned and controlled by veterans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 2003

Mr. EVANS (for himself, Mr. FILNER, Mr. MICHAUD, and Ms. HOOLEY of Oregon) introduced the following bill; which was referred to the Committee on Small Business

---

A BILL

To amend the Small Business Act to establish a development program for small business concerns owned and controlled by qualified service-disabled veterans, to reauthorize the programs of the National Veterans Business Development Corporation, to establish a Government-wide procurement goal for small business concerns owned and controlled by veterans, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

REV_00164110

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Veterans Federal Procurement Opportunity Act of 2003''.

SEC. 2. DEVELOPMENT PROGRAM FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY QUALIFIED SERVICE-DISABLED VETERANS.

(a) ESTABLISHMENT OF PROGRAM.—The Small Business Act (15 U.S.C. 631 et seq.) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

''SEC. 36. DEVELOPMENT PROGRAM FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY QUALIFIED SERVICE-DISABLED VETERANS.

''(a) IN GENERAL.—In accordance with this section, the Administrator shall establish a development program for small business concerns owned and controlled by qualified service-disabled veterans. The program established under this section shall be similar to the program described in sections 7(j) and 8(a).

''(b) ASSISTANCE AND SERVICES; RULES.—The program established under this section shall provide assistance and services, and be governed by rules, similar to the assistance and services provided under, and rules described in, subsections (a)(20) and (j) of section 7 and section 8(a).

''(c) DEFINITIONS.—For purposes of this section:

REV_00164111

"(1) QUALIFIED SERVICE-DISABLED VETERAN.—The term 'qualified service-disabled veteran' means a service-disabled veteran who is economically disadvantaged within the meaning of section 8(a)(6), except that, solely for purposes of determining personal income under this section, no amount received by such veteran by reason of such veteran's service-connected disability or service as a member of the Armed Forces shall be taken into account in determining whether such veteran is economically disadvantaged.

"(2) SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY QUALIFIED SERVICE-DISABLED VETERANS.—The term 'small business concern owned and controlled by qualified service-disabled veterans' has the meaning given the term 'small business concern owned and controlled by service-disabled veterans' in section 3(q)(2), except that 'qualified service-disabled veteran' shall be substituted for 'service-disabled veteran'.".

(b) CONFORMING AMENDMENT.—Section 16(d)(1)(B) of the Small Business Act (15 U.S.C. 645(d)(1)(B)) is amended by inserting "or 36" after "section 8(a)".

REV_00164112

SEC. 3. REAUTHORIZATION OF PROGRAMS OF THE NATIONAL VETERANS BUSINESS DEVELOPMENT CORPORATION AND THE ADVISORY COMMITTEE ON VETERANS AFFAIRS.

(a) REAUTHORIZATION OF PROGRAMS OF NATIONAL VETERANS BUSINESS DEVELOPMENT CORPORATION.—Subsection (k) of section 33 of the Small Business Act (15 U.S.C. 657c(k)) is amended by striking paragraphs (1) and (2) and inserting the following new paragraphs:

"(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated to the Corporation to carry out this section—

"(A) $2,000,000 for each of fiscal years 2003 and 2004; and

"(B) $1,000,000 for each of fiscal years 2005 and 2006.

"(2) MATCHING REQUIREMENT.—The amount made available to the Corporation for any fiscal year may not exceed the amount that the Corporation certifies that it will provide for that fiscal year from sources other than the Federal Government.".

(b) NATIONAL VETERANS BUSINESS DEVELOPMENT CORPORATION REPORTS.—Subsection (g) of section 33 of the Small Business Act (15 U.S.C. 657c(g)) is amended to read as follows:

"(g) REPORTS.—

REV_00164113

"(1) ANNUAL REPORT.—On or before October 1 of each year, the Board of Directors shall transmit to the President, the Committees on Veterans Affairs of the House of Representatives and of the Senate, the Committee on Small Business of the House of Representatives, and the Committee on Small Business and Entrepreneurship of the Senate a report describing the activities and accomplishments of the Corporation for the preceding year. Such report shall include—

"(A) the Corporation's findings regarding the efforts of Federal, State, and private organizations to assist veterans in the formation and expansion of small business concerns;

"(B) a description of the progress made by the Corporation during such year in achieving its specified annual performance goals and objectives; and

"(C) any revisions to annual performance goals or indicators required to achieve specified strategic goals and objectives.

"(2) 5-YEAR STRATEGIC PLAN.—On or before October 1, 2003, and every 5 years thereafter, the Board of Directors shall transmit to the President, the Committees on Veterans Affairs of the House of

REV_00164114

Representatives and of the Senate, the Committee on Small Business of the House of Representatives, and the Committee on Small Business and Entrepreneurship of the Senate a report describing the strategic objectives of the Corporation for the 5-year period beginning on such date. Such report shall include—

"(A) a comprehensive mission statement covering the major functions and operations of the Corporation;

"(B) the general outcome related strategic goals and objectives for each of the major functions and operations of the Corporation;

"(C) a description of the means and strategies, addressing both financial and non-financial resources, to be employed by the Corporation to achieve those specified strategic goals and objectives;

"(D) a description of the annual output and outcome related performance strategies, with associated performance goals and indicators, to be employed by the Corporation to help achieve the general goals and objectives contained in the strategic plan;

REV_00164115

"(E) an identification of key factors that could affect the achievement of the Corporations general goals and objectives; and

"(F) a description of the program evaluations and performance indicators to be used by the Corporation to assess its achievement of strategic and annual performance goals and objectives.

"(3) 5-YEAR BUSINESS PLAN.—On or before October 1, 2003, and every 5 years thereafter, the Board of Directors shall transmit to the President, the Committees on Veterans Affairs of the House of Representatives and of the Senate, the Committee on Small Business of the House of Representatives, and the Committee on Small Business and Entrepreneurship of the Senate a report describing the financial objectives of the Corporation for the 5-year period beginning on such date. Such report shall include a description of the specific plans to be implemented to achieve such objectives and the requirements of paragraphs (2) and (3) of subsection (k) and to provide for the long-term financial viability of the Corporation.

"(4) AUDITED FINANCIAL STATEMENTS.—On or before October 1, 2003, and every 2 years there-

REV_00164116

after, the Board of Directors shall transmit to the President, the Committees on Veterans Affairs of the House of Representatives and of the Senate, the Committee on Small Business of the House of Representatives, and the Committee on Small Business and Entrepreneurship of the Senate an audited financial statement of the Corporation. Such statement shall be prepared by an independent external auditor and shall be conducted in accordance with generally accepted government auditing standards.''.

(c) ADVISORY COMMITTEE ON VETERANS BUSINESS AFFAIRS.—Subsection (h) of section 203 of the Veterans Entrepreneurship and Small Business Development Act of 1999 is amended by striking ''2004'' and inserting ''2009''.

SEC. 4. ESTABLISHMENT OF GOVERNMENT-WIDE PROCUREMENT GOAL FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY VETERANS; AUTHORIZATION OF RESTRICTED COMPETITION TO ACHIEVE GOALS; ETC.

(a) IN GENERAL.—Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended to read as follows:

''(g) GOVERNMENT-WIDE AND AGENCY SMALL BUSINESS PROCUREMENT GOALS.—

REV_00164117

"(1) ESTABLISHMENT BY PRESIDENT OF GOVERNMENT-WIDE GOALS.—The President shall annually establish Government-wide goals for procurement contracts awarded to each specified category of small business concerns.

"(2) SMALL BUSINESS CONCERNS.—The Government-wide goal for participation by small business concerns in prime contracts or applicable subcontracts shall be established at not less than 28 percent of the total value of all prime contract awards for each fiscal year.

"(3) SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY VETERANS.—The Government-wide goal for participation by small business concerns owned and controlled by veterans in prime contracts or applicable subcontracts shall be established at not less than 3 percent of the total value of all prime contract awards for each fiscal year.

"(4) SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.—The Government-wide goal for participation by small business concerns owned and controlled by service-disabled veterans in prime contracts or applicable subcontracts shall be established at not less than 3

REV_00164118

percent of the total value of all prime contract awards for each fiscal year.

"(5) QUALIFIED HUBZONE SMALL BUSINESS CONCERNS.—The Government-wide goal for participation by qualified HUBZone small business concerns in prime contracts or applicable subcontracts shall be established at not less than 3 percent of the total value of all prime contract awards for each fiscal year.

"(6) SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The Government-wide goal for participation by small business concerns owned and controlled by socially and economically disadvantaged individuals in prime contracts or applicable subcontracts shall be established at not less than 5 percent of the total value of all prime contract awards for each fiscal year.

"(7) SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY WOMEN.—The Government-wide goal for participation by small business concerns owned and controlled by women in prime contracts or applicable subcontracts shall be established at not less than 5 percent of the total value of all prime contract awards for each fiscal year.

REV_00164119

"(8) AGENCY GOALS.—

"(A) IN GENERAL.—Each Federal agency shall have annual goals that present, for that agency, the maximum practicable opportunity for each specified category of small business concerns to perform prime contracts let by such agency and subcontracts under such prime contracts.

"(B) NOT LESS THAN GOVERNMENT-WIDE GOALS.—No Federal agency may have an agency goal under subparagraph (A) which is less than the corresponding Government-wide goal established by the President under paragraph (1).

"(C) PROCEDURE FOR ESTABLISHMENT.—Each year, the Administration and the head of each Federal agency shall jointly establish the goals described in subparagraph (A) for such agency. Whenever the Administration and the head of any Federal agency fail to agree on established goals, the disagreement shall be submitted to the Administrator of the Office of Federal Procurement Policy for final determination.

REV_00164120

"(D) EXPANSION OF PARTICIPATION.—For the purpose of establishing goals under this paragraph, the head of each Federal agency shall make consistent efforts to annually expand participation by small business concerns from each industry category in procurement contracts of the agency, including participation by each specified category of small business concerns. The head of each Federal agency, in attempting to attain such participation, shall consider—

"(i) contracts awarded as the result of unrestricted competition;

"(ii) contracts awarded as the result of restricted competition under this section and under the programs established under sections 8(a), 31, and 36; and

"(iii) subcontracts awarded pursuant to subcontracting plans required under paragraphs (4) or (5) of section 8(d).

"(9) DOUBLE COUNTING PROHIBITED.—In the case of a small business concern that is part of more than 1 specified subcategory of small business concerns, with respect to any prime contract or subcontract awarded to such concern, a Federal agency

REV_00164121

shall treat such concern as part of only 1 such specified subcategory for purposes of this subsection.

"(10) RESTRICTION ON USE OF FUNDS IN CASE OF FAILURE TO ACHIEVE GOALS.—

"(A) IN GENERAL.—In the case of fiscal year 2004 and each fiscal year thereafter, if an agency fails to meet the Government-wide goal established under this subsection for such fiscal year with respect to any specified subcategory of small business concerns, the applicable amount of any amounts appropriated or otherwise made available to such agency for the following fiscal year shall be used only for—

"(i) procurements under any prime contract awarded to such specified subcategory of small business concerns, and

"(ii) that portion of procurements under any prime contract (with respect to which a subcontracting plan is required under paragraph (4) or (5)) which is attributable to the goal for the utilization as subcontractors of such specified subcategory of small business concerns under such plan.

REV_00164122

"(B) APPLICABLE AMOUNT.—For purposes of this paragraph, the term 'applicable amount' means, with respect to any agency that fails to meet a Government-wide goal for a fiscal year with respect to any specified subcategory of small business concerns, the applicable percentage for such fiscal year of the total value of all prime contract awards made by such agency for such fiscal year.

"(C) APPLICABLE PERCENTAGE.—For purposes of this paragraph:

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'applicable percentage' means, with respect to any specified subcategory of small business concerns, the Government-wide percentage goal for participation by such specified subcategory of small business concerns for the fiscal year.

"(ii) TRANSITION RULES.—In the case of fiscal years 2004 through 2008:

"(I) 3 PERCENT GOALS.—With respect to small business concerns owned and controlled by veterans, small business concerns owned and

REV_00164123

controlled by service-disabled veterans, and qualified HUBZone small business concerns, the applicable percentage shall be determined in accordance with the following table:

"In the case of fiscal year:	The applicable percentage is:
2004	0.5%
2005	1%
2006	1.5%
2007	2%
2008	2.5%.

"(II) 5 PERCENT GOALS.—With respect to small business concerns owned and controlled by socially and economically disadvantaged individuals and small business concerns owned and controlled by women, the applicable percentage shall be determined in accordance with the following table:

"In the case of fiscal year:	The applicable percentage is:
2004	1%
2005	2%
2006	3%
2007	4%
2008	5%.

"(11) RESTRICTED COMPETITION TO ACHIEVE GOALS.—

"(A) IN GENERAL.—In accordance with this paragraph, a contracting officer may re-

REV_00164124

strict competition for any contract for the procurement of goods or services by the Federal Government to any specified category of small business concerns, if—

"(i) the contracting officer has a reasonable expectation that two or more small business concerns of such category will submit offers for the contract;

"(ii) the anticipated award price of the contract (including options) does not exceed the simplified acquisition threshold;

"(iii) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price;

"(iv) the award of such contract to a small business concern of such category will not result in the agency exceeding the greater of the Government-wide goal or the agency goal under this subsection with respect to such category; and

"(v) each of the concerns—

"(I) is certified by the Administrator or any person or entity approved by the Administrator as a

REV_00164125

small business concern of such category; or

"(II) certifies to the contracting officer that it is a small business concern of such category and provides adequate documentation, in accordance with standards established by the Administration, to support such certification.

"(B) RELATIONSHIP TO OTHER CONTRACTING PREFERENCES.—A procurement shall not be made from a source on the basis of a preference provided in subparagraph (A), if the procurement would otherwise be made from a different source under section 4124 or 4125 of title 18, United States Code, or the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.).

"(C) VERIFICATION OF ELIGIBILITY.—In carrying out this paragraph, the Administrator shall establish procedures relating to—

"(i) the filing, investigation, and disposition by the Administration of any challenge to the eligibility of a small business concern to receive assistance under this

REV_00164126

paragraph (including a challenge, filed by an interested party, relating to the veracity of a certification referred to in subparagraph (A)(v)); and

"(ii) verification by the Administrator of the accuracy of any certification made or information provided under subparagraph (A)(v).

"(D) EXAMINATIONS.—The procedures established under subparagraph (C) may provide for program examinations (including random program examinations) by the Administrator of any small business concern certified under subparagraph (A)(v).

"(E) PROVISION OF DATA.—Upon the request of the Administrator, the head of any Federal agency shall promptly provide to the Administrator such information as the Administrator determines to be necessary to carry out this paragraph.

"(F) PENALTIES.—In addition to the penalties described in section 16(d), any small business concern that is determined by the Administrator to have misrepresented the status of that concern as part of a specified category of

REV_00164127

small business concerns for purposes of this paragraph shall be subject to—

"(i) section 1001 of title 18, United States Code; and

"(ii) sections 3729 through 3733 of title 31, United States Code.

"(G) CONTRACTING OFFICER.—For purposes of this paragraph, the term 'contracting officer' has the meaning given such term in section 27(f)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(f)(5)).

"(12) APPLICABLE SUBCONTRACTS.—For purposes of this subsection, the term 'applicable subcontract' means any subcontract under a contract that is subject to the requirements of paragraph (4) or (5) of section 8(d).".

(b) CONFORMING AMENDMENTS.—Section 15(h)(2) of the Small Business Act (15 U.S.C. 644(h)(2)) is amended by striking subparagraphs (D), (E), and (F), and inserting the following new subparagraphs:

"(D) The total number and dollar value of prime contracts awarded to each specified category of small business concerns through—

"(i) noncompetitive negotiation;

REV_00164128

"(ii) competition restricted to such specified category; and

"(iii) unrestricted competition.

"(E) The total number and dollar value of applicable subcontracts (as defined in subsection (g)(12)) awarded to each specified category of small business concerns.

"(F) The information described in subparagraphs (D) and (E) stated separately with respect to each agency.".

SEC. 5. REQUIREMENTS RELATED TO SUBCONTRACTING PLANS.

(a) FACTORS FOR EVALUATING OFFERS.—Subparagraph (G) of section 8(d)(4) of the Small Business Act (15 U.S.C. 637(d)(4)) is amended to read as follows:

"(G) In the case of any contract that is awarded pursuant to the negotiated method of procurement, the following shall be treated as significant factors for purposes of evaluating offers for any such contract:

"(i) A factor that is based on the extent to which the subcontracting plan for small business participation in the performance of the contract exceeds the requirement described in paragraph (6)(A).

REV_00164129

"(ii) A factor that is based on the extent to which the subcontracting plan provides for the use of small business concerns with respect to which the contractor is serving as a mentor under a mentoring program established by the agency.

"(iii) A factor that is based on the extent to which the offeror attained applicable goals for small business participation in the performance of past and current contracts.".

(b) MINIMUM GOAL.—Subparagraph (A) of section 8(d)(6) of the Small Business Act (15 U.S.C. 637(d)(6)) is amended to read as follows:

"(A) percentage goals for the utilization as subcontractors of each specified category of small business concerns (determined in accordance with the requirement of section 15(g)(9)), which goal for the utilization of small business concerns shall be not less than the percentage goal established under section 15(g)(2);".

(c) REQUIRED PENALTY FOR MATERIAL BREACH.—Paragraph (8) of section 8(d) of the Small Business Act (15 U.S.C. 637(d)(8)) is amended by adding at the end the following: "If a contracting officer finds the prime contractor or any subcontractor to be in material breach under this paragraph, such prime contractor shall pay a

REV_00164130

penalty in an amount determined by such officer, except that such penalty shall not be less than 10 percent of the total dollar value of the contract under which the prime contractor or subcontractor is in material breach. Rules similar to the rules of paragraph (4)(F)(ii) shall apply for purposes of the preceding sentence. Notwithstanding any other provision of law, the amount of any penalty collected under this paragraph shall be paid over to the agency that let the contract and may be retained and used by such agency for any operating expense of the agency.''.

SEC. 6. DEFINITIONS.

(a) SERVICE-DISABLED VETERAN.—

(1) IN GENERAL.—Paragraph (1) of section 3(q) of the Small Business Act (15 U.S.C. 632(q)(1)) is amended to read as follows:

''(1) SERVICE-DISABLED VETERAN.—The term 'service-disabled veteran' means any veteran with a disability that is—

''(A) service-connected (as defined in section 101(16) of title 38, United States Code); and

''(B) rated at 10 percent or more disabling by the Secretary of Veterans Affairs or, in the case of a disability not rated by the Secretary of Veterans Affairs, by the Secretary concerned

REV_00164131

(as defined in section 101(25) of title 38, United States Code).".

(2) TRANSITION RULE.—A small business concern that is receiving assistance under this Act (or if fully approved to receive such assistance) on the date of the enactment of this Act shall not cease to qualify for such assistance solely because of the amendment made by paragraph (1). The preceding sentence shall not make such concern eligible for any other assistance.

(b) SPECIFIED CATEGORIES AND SUBCATEGORIES OF SMALL BUSINESS CONCERNS.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following new subsections:

"(r) SPECIFIED CATEGORY OF SMALL BUSINESS CONCERNS.—For purposes of this Act, each of following is a specified category of small business concerns:

"(1) Small business concerns owned and controlled by veterans.

"(2) Small business concerns owned and controlled by service-disabled veterans.

"(3) Qualified HUBZone small business concerns.

REV_00164132

"(4) Small business concerns owned and controlled by socially and economically disadvantaged individuals.

"(5) Small business concerns owned and controlled by women.

"(6) Small business concerns.

"(s) SPECIFIED SUBCATEGORIES OF SMALL BUSINESS CONCERNS.—For purposes of this Act, each specified category of small business concerns described in paragraphs (1) through (5) of subsection (r) is a specified subcategory of small business concerns.".

SEC. 7. UNIFORM APPLICATION OF DEFINITIONS OF SPECIFIED CATEGORIES AND SUBCATEGORIES OF SMALL BUSINESS CONCERNS.

(a) IN GENERAL.—

(1) Section 8(d)(1) of the Small Business Act (15 U.S.C. 637(d)(1)) is amended—

(A) in the first sentence, by striking "small business concerns" the first place it appears and all that follows through "women," and inserting "each specified category of small business concerns"; and

(B) in the second sentence, by striking "small business concerns" the first place it appears and all that follows through "women"

REV_00164133

and inserting "each specified category of small business concerns".

(2) Paragraphs (4)(D), (4)(E), (6)(C), (6)(F), and (10)(B) of section 8(d) of the Small Business Act (15 U.S.C. 637(d)) are each amended by striking "small business concerns" the first place it appears and all that follows through "women" and inserting "each specified category of small business concerns".

(3) Paragraphs (1) and (2)(A) of section 15(h) of the Small Business Act (15 U.S.C. 644(h)) are each amended by striking "small business concerns" the first place it appears and all that follows through "women" and inserting "each specified category of small business concerns".

(4) Section 16(d)(1) of the Small Business Act (15 U.S.C. 645(d)(1)) is amended by striking "as a 'small business concern'" and all that follows through "women'," and inserting "as being part of any specified category of small business concerns".

(5) Section 16(e) of the Small Business Act (15 U.S.C. 645(e)) is amended by striking "as a 'small business concern'" and all that follows through "women'" and inserting "as being part of any specified category of small business concerns".

REV_00164134

(b) APPLICATION TO CONTRACT CLAUSES.—

(1) IN GENERAL.—Section 8(d)(3) of the Small Business Act (15 U.S.C. 637(d)(3)) is amended—

(A) in the first and second sentences of subparagraph (A), by striking "small business concerns" the first place it appears in each sentence and all that follows through "women" and inserting "each specified category of small business concerns";

(B) by striking subparagraphs (C), (D), (E), (F), and (G); and

(C) by inserting after subparagraph (B) the following new subparagraphs:

"(C) As used in this contract, the term 'specified category of small business concerns' has the meaning given such term pursuant to section 3 of the Small Business Act and relevant regulations promulgated thereto.

"(D) The contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, other minorities, and any other individual found to be disadvantaged by the Administra-

REV_00164135

tion pursuant to section 8(a) of the Small Business Act.

"(E) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as being part of any specified category of small business concerns.".

(2) DEFINITION OF SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—Section 3 of the Small Business Act (15 U.S.C. 632) is further amended by adding at the end the following new subsection:

"(t) SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—For purposes of this Act:

"(1) IN GENERAL.—The term 'small business concern owned and controlled by socially and economically disadvantaged individuals' means a small business concern—

"(A) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned business, at least 51 percent of the stock

REV_00164136

of which is owned by one or more socially and economically disadvantaged individuals; and

"(B) whose management and daily business operations are controlled by one or more of such individuals.".

"(2) APPLICATION OF DEFINITION BY PERSONS OTHER THAN THE ADMINISTRATION.—Any individual or entity (other than the Administration) shall presume for purposes of carrying out any program that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, other minorities, and any other individual found to be disadvantaged by the Administration pursuant to section 8(a).".

(3) TREATMENT OF REFERENCES TO DEFINITIONS.—Any reference in a law, regulation, or other document of the United States to the meaning or definition given to the term "small business concern owned and controlled by socially and economically disadvantaged individuals", "small business concern owned and controlled by women", "small business concern owned and controlled by veterans", or "qualified HUBZone small business concern" in section 8(d)(3) of the Small Business Act (15 U.S.C.

REV_00164137

637(d)(3)) (as in effect on the day before the date of the enactment of this Act) shall be treated as a reference to the meaning or definition given such term in section 3 of the Small Business Act (as amended by this Act).

○

REV_00164138

From: CN=John F. Wood/OU=OMB/O=EOP [OMB]
To: Jay P. Lefkowitz/OPD/EOP@Exchange@EOP [OPD] <Jay P. Lefkowitz>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Philip J. Perry/OMB/EOP@EOP [OMB] <Philip J. Perry>
Sent: 4/28/2003 1:32:01 PM
Subject: : Victims of int'l terrorism

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:John F. Wood ( CN=John F. Wood/OU=OMB/O=EOP [ OMB ] )
CREATION DATE/TIME:28-APR-2003 17:32:01.00
SUBJECT:: Victims of int'l terrorism
TO:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange@EOP [ OPD ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Philip J. Perry ( CN=Philip J. Perry/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I had not seen Haynes' letter on this until today. In light of that
letter (which opposes inclusion of military members in the proposal), I
have added the Sec. of Defense to the consultation list and changed the
military exclusion to exclude all military personnel on active duty. I
will have LRD circulate this version per Jay's request.
```

From: Lefkowitz, Jay P.
To: <Wood, John F.>;<Perry, Philip J.>;<Kavanaugh, Brett M.>
Sent: 4/28/2003 5:34:55 PM
Subject: Re: Victims of int'l terrorism

Thx
.

-----Original Message-----
From: Wood, John F.
To: Perry, Philip J. : Lefkowitz, Jay P. : Kavanaugh, Brett M.

Sent: Mon Apr 28 17:29:41 2003
Subject: Victims of int'l terrorism

I had not seen Haynes' letter on this until today. In light of that letter (which opposes inclusion of military members in the proposal), I have added the Sec. of Defense to the consultation list and changed the military exclusion to exclude all military personnel on active duty. I will have LRD circulate this version per Jay's request.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: John F. Wood/OMB/EOP@EOP [OMB] <John F. Wood>
CC: jay p. lefkowitz/opd/eop@exchange@eop [OPD] <jay p. lefkowitz>;philip j. perry/omb/eop@eop [OMB] <philip j. perry>
Sent: 4/28/2003 1:36:01 PM
Subject: : Re: Victims of int'l terrorism

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:28-APR-2003 17:36:01.00
SUBJECT:: Re: Victims of int'l terrorism
TO:John F. Wood ( CN=John F. Wood/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
CC:jay p. lefkowitz ( CN=jay p. lefkowitz/OU=opd/O=eop@exchange@eop [ OPD ] )
READ:UNKNOWN
CC:philip j. perry ( CN=philip j. perry/OU=omb/O=eop@eop [ OMB ] )
READ:UNKNOWN
###### End Original ARMS Header ######

thx. can you fax me letter to 6-5104
```

```
John F. Wood
04/28/2003 05:31:27 PM
Record Type: Record

To: Philip J. Perry/OMB/EOP@EOP, Jay P.
Lefkowitz/OPD/EOP@Exchange@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Victims of int'l terrorism

I had not seen Haynes' letter on this until today. In light of that
letter (which opposes inclusion of military members in the proposal), I
have added the Sec. of Defense to the consultation list and changed the
military exclusion to exclude all military personnel on active duty. I
will have LRD circulate this version per Jay's request.
```

From: Kristi.L.Remington@usdoj.gov
To: 'ckuhl@LASuperiorCourt.org' <ckuhl@LASuperiorCourt.org>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/28/2003 1:39:07 PM
Subject: : RE: Responses to Second Set of Schumer Questions

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Kristi.L.Remington@usdoj.gov" <Kristi.L.Remington@usdoj.gov> (
"Kristi.L.Remington@usdoj.gov" <Kristi.L.Remington@usdoj.gov> [ UNKNOWN ] )
CREATION DATE/TIME:28-APR-2003 17:39:07.00
SUBJECT:: RE: Responses to Second Set of Schumer Questions
TO:"'ckuhl@LASuperiorCourt.org'" <ckuhl@LASuperiorCourt.org> (Receipt Notification
Requested) (IPM Return Requested) ( "'ckuhl@LASuperiorCourt.org'"
<ckuhl@LASuperiorCourt.org> (Receipt Notification Requested) (IPM Return Requested) [
UNKNOWN ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I didn't get the attached document.

-----Original Message-----
From: ckuhl@LASuperiorCourt.org [mailto:ckuhl@LASuperiorCourt.org]
Sent: Monday, April 28, 2003 4:58 PM
To: Remington, Kristi L; Brett_M._Kavanaugh@who.eop.gov
Subject: Responses to Second Set of Schumer Questions


For your comments. Is the part about John Phillips too snippy?
```

From: Comisac, RenaJohnson (Judiciary) <Rena_Johnson_Comisac@Judiciary.senate.gov>
To: Wendy J. Grubbs/WHO/EOP@Exchange [WHO] <Wendy J. Grubbs>;Nancy.Scottfinan@usdoj.gov [UNKNOWN] <Nancy.Scottfinan@usdoj.gov>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;brian.a.benczkowski@usdoj.gov [UNKNOWN] <brian.a.benczkowski@usdoj.gov>;Jamie.E.Brown@usdoj.gov [UNKNOWN] <Jamie.E.Brown@usdoj.gov>
Sent: 4/28/2003 1:45:02 PM
Subject: : FW: Notice of Executive Business Meeting: Thursday, May 1, 2003
Attachments: P_T9YYF003_WHO.TXT_1.html; P_T9YYF003_WHO.TXT_2.wpd

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Comisac, RenaJohnson (Judiciary)" <Rena_Johnson_Comisac@Judiciary.senate.gov> (
"Comisac, RenaJohnson (Judiciary)" <Rena_Johnson_Comisac@Judiciary.senate.gov> [ UNKNOWN ]
)
CREATION DATE/TIME:28-APR-2003 17:45:02.00
SUBJECT:: FW: Notice of Executive Business Meeting: Thursday, May 1, 2003
TO:Wendy J. Grubbs ( CN=Wendy J. Grubbs/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Nancy.Scottfinan@usdoj.gov ( Nancy.Scottfinan@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:brian.a.benczkowski@usdoj.gov ( brian.a.benczkowski@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Jamie.E.Brown@usdoj.gov ( Jamie.E.Brown@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

-----Original Message-----
From: Butterfield, Jane (Judiciary)
Sent: Monday, April 28, 2003 5:35 PM
To: Sebold, Linda (Secretary); Dean, Ken (Secretary); Hauck, David
(SAA); Klutts, Chad (Secretary); Miller Reporting
(milrepco@millerreporting.com); Miranda, Manuel (Frist); Wikner, Brian
(Judiciary); Butterfield, Jane (Judiciary); Carroll, Kurt (Judiciary);
Turner, Roslyne (Judiciary); Pomerance, Lilah (Schumer); Carle, David
(Leahy); Fleek, Susanne (Leahy); Gordon, Robert (Edwards); Jones,
Stephanie (Edwards); Lackey, Miles (Edwards); Payne-Funk, Matt (Leahy);
Skocki, Stan (DeWine); Cobb, Susan (Hatch); Janzen, Stormie (Sessions);
Knight, Patricia (Hatch); Maier, Elizabeth (Kyl); Nuebel, Kathy
(Grassley); Thomas Swanton (thomas_swanton@specter.senate.gov); Frank
Brown (frank_brown@specter.senate.gov); Glazewski, Tim (Kyl); Larry
Kosten (larry_kosten@specter.senate.gov); Mark Heilbrun
(mark_heilbrun@specter.senate.gov); Singh Seema
(seema_singh@specter.senate.gov); Sonia Acosta
(sonia_acosta@kohl.senate.gov); Morcombe, Cecilia (Judiciary); Marmion,
Preble (Judiciary); Mohle, Heinz (Judiciary); Tapia, Margarita
(Judiciary); Bradley, Ellen (L. Graham); Cernok, Jill (Kyl); Cricks,
Alison; Farr, MaryBeth (Chambliss); Gumerson, Katie (RPC); Hale, Carrie
(DeWine); Higgins, Meaghan (Cornyn); Jafari, Beth (Cornyn); Jodi Lindley
(jodi_lindley@craig.senate.gov); Montoya, Ruth (Hatch); Shimp, Leah
(Grassley); Trevor Miller (trevor_miller@feingold.senate.gov); Anderson,
Kathy (Durbin); Arlene Branca (arlene_branca@kohl.senate.gov); Bar,
Alexis (Edwards); Dowd, John (Leahy); Hart Hazard
(hart_hazard@biden.senate.gov); Hawkins, Julia (Feinstein); Magarik,
Tamar (Feinstein); Mary Murphy (mary_murphy@feingold.senate.gov);
McDonald, Kevin (Leahy); Molly Buford (molly_buford@biden.senate.gov);
Nicholas, Elizabeth (Edwards); Schumer Scheduling
(Scheduling@schumer.senate.gov); Tom Wyler
(tom_wyler@feingold.senate.gov); Judiciary, Schumer2 (Judiciary);
Bauerly, Cynthia (Judiciary); Berman, Jeff (Judiciary); Flood, James
(Judiciary); Judiciary, Schumer1 (Judiciary); Terrell, Louisa
(Judiciary); Judiciary, Biden1 (Judiciary); Lee, Marcia (Judiciary);
MacBride, Neil (Judiciary); Meyer, Jonathan (Judiciary); Robinson, Tonya
```

(Judiciary); Rosen, Eric (Judiciary); Zubrensky, Michael (Judiciary); Kang, Chris (Judiciary); Keam, Mark (Judiciary); Longley, Michael (Judiciary); Zogby, Joseph (Judiciary); White, Kirsten (Judiciary); Busansky, Alex (Judiciary); Judiciary, Feingold1 (Judiciary); Khera, Farhana (Judiciary); Schiff, Bob (Judiciary); Strickland, LaVita (Judiciary); Hantman, David (Judiciary); Hughes, Dempsey (Judiciary); Judiciary, Feinstein1 (Judiciary); Judiciary, Feinstein2 (Judiciary); Knapp, Jason (Feinstein); Lamberti, Matthew (Judiciary); Oscherwitz, Tom (Judiciary); Toone, Robert (Judiciary); Flug, James (Judiciary); Johnson, Olati (Judiciary); Judiciary, Kennedy1 (Judiciary); Judiciary, Kennedy2 (Judiciary); Judiciary, Kennedy3 (Judiciary); Judiciary, Kennedy4 (Judiciary); Kaguyutan, Janice (Judiciary); Olavarria, Esther (Judiciary); Phillips, Richard (Judiciary); Sessoms, Julia (Judiciary); Schwantes, Jonathan (Judiciary); Arends, Ross (Judiciary); Bloom, Seth (Judiciary); Judiciary, Kohl1 (Judiciary); Miller, Jeffrey (Judiciary); Nonna, Caroline (Judiciary); Reder, Elizabeth (Judiciary); Winski, John (Judiciary); Arfa, Rachel (Judiciary); Berry, Jessica (Judiciary); Cohen, Bruce (Judiciary); Davies, Susan (Judiciary); Demaine, Linda (Judiciary); DeOreo, Mary (Judiciary); Dettelbach, Steven (Judiciary); Eichner, Leesa (Judiciary); Fine, Daniel (Judiciary); Graves, Lisa (Judiciary); Greenfeld, Helaine (Judiciary); Huebner, Ben (Judiciary); Katzman, Julie (Judiciary); Lafayette, Ed (Judiciary); Lucius, Kristine (Judiciary); Lynch, Tim (Judiciary); Magner, Tara (Judiciary); McCormack, Blythe (Judiciary); McKennerney, Christina (Judiciary); Neises, Eric (Judiciary); Pagano, Edward (Judiciary); Parry, Liz (Judiciary); Toomajian, Phil (Judiciary); Smith, William (Judiciary); Barnes, Cindy (Judiciary); Judiciary, Sessions1 (Judiciary); Judiciary, Sessions2 (Judiciary); Pai, Ajit (Judiciary); Sander, Andrea (Judiciary); Poindexter, Martha Scott (Chambliss); McLean, Camila (Chambliss); Ho, James (Judiciary); Brooke Roberts; Taylor, Steve (Judiciary); Blackwell, Robin (Judiciary); Fortier, Evelyn (Judiciary); Jones, Bill (Judiciary); Judiciary, DeWine1 (Judiciary); Judiciary, DeWine2 (Judiciary); Judiciary, DeWine3 (Judiciary); Levitas, Peter (Judiciary); Galyean, James (L. Graham); Reed, Matt (Judiciary); Groover, Chad (Judiciary); Judiciary, Grassley1 (Judiciary); Judiciary, Grassley2 (Judiciary); Judiciary, Grassley4 (Judiciary); Lari, Rita (Judiciary); Augustine, Rene (Judiciary); Best, David (Judiciary); Bloemendal, Katherine (Judiciary); Bunker, Matt (Judiciary); Caramanica, Jessica (Judiciary); Castle, William (Judiciary); Comisac, RenaJohnson (Judiciary); Dahl, Alex (Judiciary); Delrahim, Makan (Judiciary); Eskelsen, Jon (Judiciary); Friedrich, Dabney (Judiciary); Green, Tanya (Judiciary); Greissing, John (Judiciary); Haywood, Amy (Judiciary); Higginbotham, Ryan (Judiciary); Johnson, Jacob (Judiciary); LeBon, Cherylyn (Judiciary); Lehman, Ted (Judiciary); Lundell, Jason (Judiciary); O'Connor, Reed (Judiciary); O'Scannlain, Kevin (Judiciary); Prior, Swen (Judiciary); Seidel, Rebecca (Judiciary); Snell, BethAnn (Judiciary); Soliemanzadeh, Payam (Judiciary); Stahl, Katie (Judiciary); Volkov, Michael (Judiciary); Wagner, Jennifer (Judiciary); Matal, Joe (Judiciary); Higgins, Stephen (Judiciary); Judiciary, kylintern1 (Judiciary); Judiciary, kylintern2 (Judiciary); Letourneau, Matthew (Judiciary); Judiciary, VictoriaS (Judiciary); Judiciary, AnnaG (Judiciary); Judiciary, JonF (Judiciary); Judiciary, MargueriteM (Judiciary); Judiciary, MattG (Judiciary); Judiciary, SheilaB (Judiciary); Millette, Martin (Judiciary); Artim, Bruce (Judiciary); Campbell, Chris (Judiciary); Carlson, Mark (Judiciary); DeLoatche, Patricia (Judiciary); Kim, Harold (Judiciary); Judiciary, TylerH (Judiciary); Judiciary, BarrH (Judiciary); Judiciary, DanT (Judiciary); Judiciary, EricJ (Judiciary); Judiciary, IsaacH (Judiciary); Judiciary, JeremyJ (Judiciary); Judiciary, JeremyN (Judiciary); Judiciary, KristenW (Judiciary); Judiciary, NicoleO (Judiciary)
Subject: Notice of Executive Business Meeting: Thursday, May 1, 2003

April 28, 2003

NOTICE OF EXECUTIVE BUSINESS MEETING

An Executive Business Meeting has been scheduled by the Senate Committee on the Judiciary for Thursday, May 1, 2003, at 9:30 a.m., in the Senate Dirksen Building, Room 226.

By order of the Chairman

- att1.htm - NotMay12003full.wpd
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_T9YYF003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_T9YYF003_WHO.TXT_2>

-----Original Message-----
From: Butterfield, Jane (Judiciary)
Sent: Monday, April 28, 2003 5:35 PM
To: Sebold, Linda (Secretary); Dean, Ken (Secretary); Hauck, David (SAA); Klutts, Chad (Secretary); Miller Reporting (milrepco@millerreporting.com); Miranda, Manuel (Frist); Wikner, Brian (Judiciary); Butterfield, Jane (Judiciary); Carroll, Kurt (Judiciary); Tu rner, Roslyne (Judiciary); Pomerance, Lilah (Schumer); Carle, David (Leahy); Fleek, Susanne (Leahy); Gordon, Robert (Edwards); Jones, Stephanie (Edwards); Lackey, Miles (Edwards); Payne-Funk, Matt (Leahy); Skocki, Stan (DeWine); Cobb, Susan (Hatch); Janzen, Stormie (Sessions); Knight, Patricia (Hatch); Maier, Elizabeth (Kyl); Nuebel, Kathy (Grassley); Thomas Swanton (thomas_swanton@specter.senate.gov); Frank Brown (frank_brown@specter.senate.gov); Glazewski, Tim (Kyl); Larry Kosten (larry_kosten@specter.senate.gov); Mark Heilbrun (mark_heilbrun@specter.senate.gov); Singh Seema (seema_singh@specter.senate.gov); Sonia Acosta (sonia_acosta@kohl.senate.gov); Morcombe, Cecilia (Judiciary); Marmion, Preble (Judiciary); Mohle, Heinz (Judiciary); Tapia, Margarita (Judiciary); Bradley, Ellen (L. Graham); Cernok, Jill (Kyl); Cricks, Alison; Farr, MaryBeth (Chambliss); Gumerson, Katie (RPC); Hale, Carrie (DeWine); Higgins, Meaghan (Cornyn); Jafari, Beth (Cornyn); Jodi Lindley (jodi_lindley@craig.senate.gov); Montoya, Ruth (Hatch); Shimp, Leah (Grassley); Trevor Miller (trevor_miller@feingold.senate.gov); Anderson, Kathy (Durbin); Arlene Branca (arlene_branca@kohl.senate.gov); Bar, Alexis (Edwards); Dowd, John (Leahy); Hart Hazard (hart_hazard@biden.senate.gov); Hawkins, Julia (Feinstein); Magarik, Tamar (Feinstein); Mary Murphy (mary_murphy@feingold.senate.gov); McDonald, Kevin (Leahy); Molly Buford (molly_buford@biden.senate.gov); Nicholas, Elizabeth (Edwards); Schumer Scheduling (Scheduling@schumer.senate.gov); Tom Wyler (tom_wyler@feingold.senate.gov); Judiciary, Schumer2 (Judiciary); Bauerly, Cynthia (Judiciary); Berman, Jeff (Judiciary); Flood, James (Judiciary); Judiciary, Schumer1 (Judiciary); Terrell, Louisa (Judiciary); Judiciary, Biden1 (Judiciary); Lee, Marcia (Judiciary); MacBride, Neil (Judiciary); Meyer, Jonathan (Judiciary); Robinson, Tonya (Judiciary); Rosen, Eric (Judiciary); Zubrensky, Michael (Judiciary); Kang, Chris (Judiciary); Keam, Mark (Judiciary); Longley, Michael (Judiciary); Zogby, Joseph (Judiciary); White, Kirsten (Judiciary); Busansky, Alex (Judiciary); Judiciary, Feingold1 (Judiciary); Khera, Farhana (Judiciary); Schiff, Bob (Judiciary); Strickland, LaVita (Judiciary); Hantman, David (Judiciary); Hughes, Dempsey (Judiciary); Judiciary, Feinstein1 (Judiciary); Judiciary, Feinstein2 (Judiciary); Knapp, Jason (Feinstein); Lamberti, Matthew (Judiciary); Oscherwitz, Tom (Judiciary); Toone, Robert (Judiciary); Flug, James (Judiciary); Johnson, Olati (Judiciary); Judiciary, Kennedy1 (Judiciary); Judiciary, Kennedy2 (Judiciary); Judiciary, Kennedy3 (Judiciary); Judiciary, Kennedy4 (Judiciary); Kaguyutan, Janice (Judiciary); Olavarria, Esther (Judiciary); Phillips, Richard (Judiciary); Sessoms, Julia (Judiciary); Schwantes, Jonathan (Judiciary); Arends, Ross (Judiciary); Bloom, Seth (Judiciary); Judiciary, Kohl1 (Judiciary); Miller, Jeffrey (Judiciary); Nonna, Caroline (Judiciary); Reder, Elizabeth (Judiciary); Winski, John (Judiciary); Arfa, Rachel (Judiciary); Berry, Jessica (Judiciary); Cohen, Bruce (Judiciary); Davies, Susan (Judiciary); Demaine, Linda (Judiciary); DeOreo, Mary (Judiciary); Dettelbach, Steven (Judiciary); Eichner, Leesa (Judiciary); Fine, Daniel (Judiciary); Graves, Lisa (Judiciary); Greenfeld, Helaine (Judiciary); Huebner, Ben (Judiciary); Katzman, Julie (Judiciary); Lafayette, Ed (Judiciary); Lucius, Kristine (Judiciary); Lynch, Tim (Judiciary); Magner, Tara (Judiciary); McCormack, Blythe (Judiciary); McKennerney, Christina (Judiciary); Neises, Eric (Judiciary); Pagano, Edward (Judiciary); Parry, Liz (Judiciary); Toomajian, Phil (Judiciary); Smith, William (Judiciary); Barnes, Cindy (Judiciary); Judiciary, Sessions1 (Judiciary); Judiciary, Sessions2 (Judiciary); Pai, Ajit (Judiciary); Sander, Andrea (Judiciary); Poindexter, Martha Scott (Chambliss); McLean, Camila (Chambliss); Ho, James (Judiciary); Brooke Roberts; Taylor, Steve (Judiciary); Blackwell, Robin (Judiciary); Fortier, Evelyn (Judiciary); Jones, Bill (Judiciary); Judiciary, DeWine1 (Judiciary); Judiciary, DeWine2 (Judiciary); Judiciary, DeWine3 (Judiciary); Levitas, Peter (Judiciary); Galyean, James (L. Graham); Reed, Matt (Judiciary); Groover, Chad (Judiciary); Judiciary, Grassley1 (Judiciary); Judiciary, Grassley2 (Judiciary); Judiciary, Grassley4 (Judiciary); Lari, Rita (Judiciary); Augustine, Rene (Judiciary); Best, David (Judiciary); Bloemendal, Katherine (Judiciary); Bunker, Matt (Judiciary); Caramanica, Jessica (Judiciary); Castle, William (Judiciary); Comisac, RenaJohnson (Judiciary); Dahl, Alex (Judiciary); Delrahim, Makan (Judiciary); Eskelsen, Jon (Judiciary); Friedrich, Dabney (Judiciary); Green, Tanya (Judiciary); Greissing, John (Judiciary); Haywood, Amy (Judiciary); Higginbotham, Ryan (Judiciary); Johnson, Jacob (Judiciary); LeBon, Cherylyn (Judiciary); Lehman, Ted (Judiciary); Lundell, Jason (Judiciary); O'Connor, Reed (Judiciary); O'Scannlain, Kevin (Judiciary); Prior, Swen (Judiciary); Seidel, Rebecca (Judiciary); Snell, BethAnn (Judiciary); Soliemanzadeh, Payam (Judiciary); Stahl, Katie (Judiciary); Volkov, Michael (Judiciary); Wagner, Jennifer (Judiciary); Matal, Joe (Judiciary); Higgins, Stephen (Judiciary); Judiciary, kylintern1 (Judiciary); Judiciary, kylintern2 (Judiciary); Letourneau, Matthew (Judiciary); Judiciary, VictoriaS (Judiciary); Judiciary, AnnaG (Judiciary); Judiciary, JonF (Judiciary); Judiciary, MargueriteM (Judiciary); Judiciary, MattG (Judiciary); Judiciary, SheilaB (Judiciary); Millette, Martin (Judiciary); Artim, Bruce (Judiciary); Campbell, Chris (Judiciary); Carlson, Mark (Judiciary); DeLoatche, Patricia (Judiciary); Kim, Harold (Judiciary); Judiciary, TylerH (Judiciary); Judiciary, BarrH (Judiciary); Judiciary, DanT (Judiciary); Judiciary, EricJ (Judiciary); Judiciary, IsaacH (Judiciary); Judiciary, JeremyJ (Judiciary); Judiciary, JeremyN (Judiciary); Judiciary, KristenW (Judiciary); Judiciary, NicoleO (Judiciary)
Subject: Notice of Executive Business Meeting: Thursday, May 1, 2003

April 28, 2003

NOTICE OF EXECUTIVE BUSINESS MEETING

& nbsp; An Executive Business Meeting has been scheduled by the Senate Committee on the Judiciary for Thursday, May 1, 2003, at 9:30 a.m., in the <font size=4>Senate Dirksen<font size=4> Building , Room 226.

B y order of the Chairman

April 28, 2003

NOTICE OF EXECUTIVE BUSINESS MEETING

An Executive Business Meeting has been scheduled by the Senate Committee on the Judiciary for Thursday, May 1, 2003, at 9:30 a.m., in the Senate Dirksen Building, Room 226.

By order of the Chairman

From: CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO]
To: Jonathan F. Ganter/WHO/EOP@EOP [WHO] <Jonathan F. Ganter>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/28/2003 2:54:18 PM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:28-APR-2003 18:54:18.00
SUBJECT::
TO:Jonathan F. Ganter ( CN=Jonathan F. Ganter/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Do either one of you have the Ginsburg hearing transcripts that were in my
office?;
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Berenson, Bradford <bberenson@sidley.com>
Sent: 4/28/2003 3:41:53 PM
Subject: : have any press called you re Claude Allen? please have attached ready
Attachments: P_PK2ZF003_WHO.TXT_1.pdf

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:28-APR-2003 19:41:53.00
SUBJECT:: have any press called you re Claude Allen? please have attached ready
TO:"Berenson, Bradford" <bberenson@sidley.com> ( "Berenson, Bradford"
<bberenson@sidley.com> [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_PK2ZF003_WHO.TXT_1>
```

THE WHITE HOUSE

WASHINGTON

April 23, 2003

Dear Senators Allen, Dole, Edwards, Mikulski, Sarbanes, and Warner:

I write about the status of the four vacancies on the U.S. Court of Appeals for the Fourth Circuit.

There are 15 authorized seats on the Court of Appeals. Federal law imposes only one requirement for allocation of seats within a circuit -- that each State have at least one judge. Each State in a circuit often has a number of judges sitting in that State that corresponds at least roughly to the State's percentage of the overall population in the circuit or to the percentage of the circuit's caseload that arises from that State. To be sure, such geographic balance is not established in law or binding on the President or Senate. And there often are deviations in some circuits for a variety of historical and other reasons. (I would note, in addition, that judges can move from one State to another State in the circuit after their appointment, as has happened on some occasions in the past.) But this measure is generally a rough baseline for assessing the geographic allocation of seats within a circuit.

Based on this measure, of the 15 authorized seats, it appears that the allocation would roughly resemble the following: North Carolina: 4 or 5, Virginia: 4 or 5, South Carolina: 2 or 3, Maryland: 2 or 3, and West Virginia: 1 or 2. As of now, taking into account that Judge Widener recently notified the President of his intended retirement, the Fourth Circuit is significantly out of geographic balance:

	Baseline Allocation	Current Number of Judges
North Carolina:	4 or 5	0
Virginia:	4 or 5	3
South Carolina	2 or 3	4
Maryland:	2 or 3	2
West Virginia:	1 or 2	2

There are four current vacancies on the Court. The four judges who previously occupied these seats maintained their chambers in North Carolina, Virginia, and Maryland (which is why I have sent this letter to you as the Senators from those States). Judge Terry Boyle of North Carolina was nominated for one vacancy in May 2001. For the three additional vacancies, the President intends to nominate well-qualified and well-respected individuals in a manner that will bring the circuit closer to geographic balance, recognizing that it would take several years and additional vacancies for the circuit to achieve balance and recognizing further that absolute geographic balance is neither legally nor historically required. In particular, the President intends to nominate two such individuals on Monday, April 28 -- one who currently lives in Virginia and has strong roots in and ties to both Virginia and North Carolina and one who currently lives in North Carolina and has served on the state judiciary in North Carolina. Both

are African-American, and their confirmations by the Senate will further dismantle an historic barrier. For the last remaining vacancy, the President would intend to submit a nomination no later than September 2003, consistent with the President's commitment to submit nominations within 180 days of receiving notice of an intended retirement or vacancy.

I remain disappointed that Judge Boyle's nomination has been pending for two years. But I am pleased that we otherwise have been able to consult extensively and work cooperatively on other circuit and district nominees in Virginia, North Carolina, and Maryland. Please feel free to contact me at any time with your thoughts regarding the Fourth Circuit or other issues of concern to you.

Sincerely,

Alberto R. Gonzales
Counsel to the President

The Honorable George Allen
The Honorable Elizabeth Dole
The Honorable John R. Edwards
The Honorable Barbara A. Mikulski
The Honorable Paul S. Sarbanes
The Honorable John W. Warner
United States Senate
Washington, D.C. 20510

From: CN=Layton Skelly/OU=OPD/O=EOP [OPD]

To: hzucker@osophs.dhhs.gov [UNKNOWN] <hzucker@osophs.dhhs.gov>;dana ackerly/cea /eop@eop [CEA] <dana ackerly>;brian r. besanceney/who/eop@eop [WHO] <brian r. besanceney>;zurawski-paul@dol.gov @ inet [UNKNOWN] <zurawski-paul@dol.gov @ inet>;thomas c. deleire/cea/eop@eop [CEA] <thomas c. deleire>;philip j. perry/omb/eop@eop [OMB] <philip j. perry>;wendy j. grubbs/who/eop@eop [WHO] <wendy j. grubbs>;amy jensen/who/eop@exchange@eop [WHO] <amy jensen>;jennifer.young@hhs.gov @ inet [UNKNOWN] <jennifer.young@hhs.gov @ inet>;alex.azar@hhs.gov @ inet [UNKNOWN] <alex.azar@hhs.gov @ inet>;peter.urbanowicz@hhs.gov @ inet [UNKNOWN] <peter.urbanowicz@hhs.gov @ inet>;philo d. hall/opd/eop@eop [OPD] <philo d. hall>;jafar.karim@hhs.gov [UNKNOWN] <jafar.karim@hhs.gov>;rex cowdry/opd/eop@eop [OPD] <rex cowdry>;marc.kesselman@usdoj.gov @ inet [UNKNOWN] <marc.kesselman@usdoj.gov @ inet>;tracy young/who/eop@eop [WHO] <tracy young>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;kristen silverberg/who /eop@exchange@eop [WHO] <kristen silverberg>;jay p. lefkowitz/opd/eop@exchange@eop [OPD] <jay p. lefkowitz>;ginger g. loper/who/eop@exchange@eop [WHO] <ginger g. loper>;diana l. schacht/opd/eop@eop [OPD] <diana l. schacht>;john.hoff@hhs.gov @ inet [UNKNOWN] <john.hoff@hhs.gov @ inet>;viet.dinh@usdoj.gov @ inet [UNKNOWN] <viet.dinh@usdoj.gov @ inet>;paula.stannard@hhs.gov @ inet [UNKNOWN] <paula.stannard@hhs.gov @ inet>;alan gilbert/opd/eop@eop [OPD] <alan gilbert>

CC: stephen m. lineberry/who/eop@eop [WHO] <stephen m. lineberry>;hrobowski-rosita@dol.gov [UNKNOWN] <hrobowski-rosita@dol.gov>;stephanie.wilson@hhs.gov [UNKNOWN] <stephanie.wilson@hhs.gov>;scriver-langford-lat@dol.gov @ inet [UNKNOWN] <scriver-langford-lat@dol.gov @ inet>;dana.ceasar@hhs.gov [UNKNOWN] <dana.ceasar@hhs.gov>;emily winland/opd/eop@eop [OPD] <emily winland>;joyce.b-moore@hhs.gov [UNKNOWN] <joyce.b-moore@hhs.gov>;tcordaro@osophs.dhhs.gov [UNKNOWN] <tcordaro@osophs.dhhs.gov>;carla b. stone/omb/eop@eop [OMB] <carla b. stone>;heather.mcnaught@usdoj.gov [UNKNOWN] <heather.mcnaught@usdoj.gov>;india.luckett@hhs.gov [UNKNOWN] <india.luckett@hhs.gov>;lauren j. vestewig/opd/eop@exchange@eop [OPD] <lauren j. vestewig>;marie.belt@hhs.gov [UNKNOWN] <marie.belt@hhs.gov>;pamela.roller@hhs.gov [UNKNOWN] <pamela.roller@hhs.gov>

Sent: 4/29/2003 6:17:23 AM

Subject: : Re: CC: Weekly Medical Liability Working Group

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Layton Skelly ( CN=Layton Skelly/OU=OPD/O=EOP [ OPD ] )
CREATION DATE/TIME:29-APR-2003 10:17:23.00
SUBJECT:: Re: CC: Weekly Medical Liability Working Group
TO:hzucker@osophs.dhhs.gov ( hzucker@osophs.dhhs.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:dana ackerly ( CN=dana ackerly/OU=cea/O=eop@eop [ CEA ] )
READ:UNKNOWN
TO:brian r. besanceney ( CN=brian r. besanceney/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
TO:zurawski-paul@dol.gov @ inet ( zurawski-paul@dol.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:thomas c. deleire ( CN=thomas c. deleire/OU=cea/O=eop@eop [ CEA ] )
READ:UNKNOWN
TO:philip j. perry ( CN=philip j. perry/OU=omb/O=eop@eop [ OMB ] )
READ:UNKNOWN
TO:wendy j. grubbs ( CN=wendy j. grubbs/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
TO:amy jensen ( CN=amy jensen/OU=who/O=eop@exchange@eop [ WHO ] )
READ:UNKNOWN
TO:jennifer.young@hhs.gov @ inet ( jennifer.young@hhs.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:alex.azar@hhs.gov @ inet ( alex.azar@hhs.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:peter.urbanowicz@hhs.gov @ inet ( peter.urbanowicz@hhs.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
```

TO:philo d. hall (CN=philo d. hall/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
TO:jafar.karim@hhs.gov (jafar.karim@hhs.gov [UNKNOWN])
READ:UNKNOWN
TO:rex cowdry (CN=rex cowdry/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
TO:marc.kesselman@usdoj.gov @ inet (marc.kesselman@usdoj.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:tracy young (CN=tracy young/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
TO:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
TO:kristen silverberg (CN=kristen silverberg/OU=who/O=eop@exchange@eop [WHO])
READ:UNKNOWN
TO:jay p. lefkowitz (CN=jay p. lefkowitz/OU=opd/O=eop@exchange@eop [OPD])
READ:UNKNOWN
TO:ginger g. loper (CN=ginger g. loper/OU=who/O=eop@exchange@eop [WHO])
READ:UNKNOWN
TO:diana l. schacht (CN=diana l. schacht/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
TO:john.hoff@hhs.gov @ inet (john.hoff@hhs.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:viet.dinh@usdoj.gov @ inet (viet.dinh@usdoj.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:paula.stannard@hhs.gov @ inet (paula.stannard@hhs.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:alan gilbert (CN=alan gilbert/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
CC:stephen m. lineberry (CN=stephen m. lineberry/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:hrobowski-rosita@dol.gov (hrobowski-rosita@dol.gov [UNKNOWN])
READ:UNKNOWN
CC:stephanie.wilson@hhs.gov (stephanie.wilson@hhs.gov [UNKNOWN])
READ:UNKNOWN
CC:scriver-langford-lat@dol.gov @ inet (scriver-langford-lat@dol.gov @ inet [UNKNOWN])
READ:UNKNOWN
CC:dana.ceasar@hhs.gov (dana.ceasar@hhs.gov [UNKNOWN])
READ:UNKNOWN
CC:emily winland (CN=emily winland/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
CC:joyce.b-moore@hhs.gov (joyce.b-moore@hhs.gov [UNKNOWN])
READ:UNKNOWN
CC:tcordaro@osophs.dhhs.gov (tcordaro@osophs.dhhs.gov [UNKNOWN])
READ:UNKNOWN
CC:carla b. stone (CN=carla b. stone/OU=omb/O=eop@eop [OMB])
READ:UNKNOWN
CC:heather.mcnaught@usdoj.gov (heather.mcnaught@usdoj.gov [UNKNOWN])
READ:UNKNOWN
CC:india.luckett@hhs.gov (india.luckett@hhs.gov [UNKNOWN])
READ:UNKNOWN
CC:lauren j. vestewig (CN=lauren j. vestewig/OU=opd/O=eop@exchange@eop [OPD])
READ:UNKNOWN
CC:marie.belt@hhs.gov (marie.belt@hhs.gov [UNKNOWN])
READ:UNKNOWN
CC:pamela.roller@hhs.gov (pamela.roller@hhs.gov [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Apparently my first email did not get through to anyone, so I apologize if
you got on the call. We decided to cancel the call for this week. We
will reconvene next week. Thank you.

Layton

Layton Skelly

04/28/2003 02:24:15 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
bcc:
Subject: CC: Weekly Medical Liability Working Group

The Medical Liability Working Group meeting will be a conference call tomorrow at 10:00 a.m. The call in information is below:

Call in: 395-6392
CODE: 828027

Thank you,

Layton
456-5085

Layton Skelly

04/21/2003 01:33:17 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: Weekly Medical Liability Working Group

This is to remind everyone that there WILL be a medical liability working group meeting tomorrow at 10:00 in room 476 EEOB.

If you have not attended one of these meetings in person before, please send me your clearance information so you can get into the building. Thank you.

Layton
456-5085
Message Sent
To:_____
alan gilbert/opd/eop@eop
philo d. hall/opd/eop@eop
paula.stannard@hhs.gov @ inet
peter.urbanowicz@hhs.gov @ inet
viet.dinh@usdoj.gov @ inet
alex.azar@hhs.gov @ inet
john.hoff@hhs.gov @ inet
jennifer.young@hhs.gov @ inet
diana l. schacht/opd/eop@eop
amy jensen/who/eop@exchange@eop
ginger g. loper/who/eop@exchange@eop
wendy j. grubbs/who/eop@eop
jay p. lefkowitz/opd/eop@exchange@eop
philip j. perry/omb/eop@eop
kristen silverberg/who/eop@exchange@eop
thomas c. deleire/cea/eop@eop
brett m. kavanaugh/who/eop@eop
zurawski-paul@dol.gov @ inet

tracy young/who/eop@eop
brian r. besanceney/who/eop@eop
marc.kesselman@usdoj.gov @ inet
dana ackerly/cea/eop@eop
rex cowdry/opd/eop@eop
hzucker@osophs.dhhs.gov

Message Copied
To:_____
pamela.roller@hhs.gov
joyce.b-moore@hhs.gov
marie.belt@hhs.gov
emily winland/opd/eop@eop
lauren j. vestewig/opd/eop@exchange@eop
dana.ceasar@hhs.gov
india.luckett@hhs.gov
scriver-langford-lat@dol.gov @ inet
heather.mcnaught@usdoj.gov
stephanie.wilson@hhs.gov
carla b. stone/omb/eop@eop
hrobowski-rosita@dol.gov
tcordaro@osophs.dhhs.gov
Layton Skelly/OPD/EOP@EOP
Stephen M. Lineberry/WHO/EOP@EOP

Message Sent
To:_____
Layton Skelly/OPD/EOP@EOP
alan gilbert/opd/eop@eop
philo d. hall/opd/eop@eop
paula.stannard@hhs.gov @ inet
peter.urbanowicz@hhs.gov @ inet
viet.dinh@usdoj.gov @ inet
alex.azar@hhs.gov @ inet
john.hoff@hhs.gov @ inet
jennifer.young@hhs.gov @ inet
diana l. schacht/opd/eop@eop
amy jensen/who/eop@exchange@eop
ginger g. loper/who/eop@exchange@eop
wendy j. grubbs/who/eop@eop
jay p. lefkowitz/opd/eop@exchange@eop
philip j. perry/omb/eop@eop
kristen silverberg/who/eop@exchange@eop
thomas c. deleire/cea/eop@eop
brett m. kavanaugh/who/eop@eop
zurawski-paul@dol.gov @ inet
tracy young/who/eop@eop
brian r. besanceney/who/eop@eop
marc.kesselman@usdoj.gov @ inet
dana ackerly/cea/eop@eop
rex cowdry/opd/eop@eop
hzucker@osophs.dhhs.gov
jafar.karim@hhs.gov

Message Copied
To:_____
pamela.roller@hhs.gov
joyce.b-moore@hhs.gov
marie.belt@hhs.gov
emily winland/opd/eop@eop
lauren j. vestewig/opd/eop@exchange@eop
dana.ceasar@hhs.gov
india.luckett@hhs.gov
scriver-langford-lat@dol.gov @ inet
heather.mcnaught@usdoj.gov
stephanie.wilson@hhs.gov
carla b. stone/omb/eop@eop

hrobowski-rosita@dol.gov
tcordaro@osophs.dhhs.gov
stephen m. lineberry/who/eop@eop

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ben Wittes <wittesb@washpost.com>
Sent: 4/29/2003 8:17:26 AM
Subject: : Re: 4th Circuit Md./Va. seat
Attachments: P_5SRZF003_WHO.TXT_1.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:29-APR-2003 12:17:26.00
SUBJECT:: Re: 4th Circuit Md./Va. seat
TO:Ben Wittes <wittesb@washpost.com> (Ben Wittes <wittesb@washpost.com> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

This should help explain. Please call.

Ben Wittes <wittesb@washpost.com>
04/29/2003 12:10:34 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: 4th Circuit Md./Va. seat

I'm interested in the issue of the 4th Circuit Md./Va. seat. Irrespective of Mr. Allen's merits, the moving of this seat seems pretty aggressive to me. On the other hand, I understand that y'all have had real trouble finding names the Md. senators would do business over. I know that both you and Keisler were discussed and that one or the other of the Md. senators said no. Are there others as well? Can you give me any kind of sense of why, in your judgment, this step was necessary?

_____
Benjamin Wittes
Editorial Writer
The Washington Post
1150 15th Street, NW
Washington DC 20071
phone: 202-334-4134
fax: 202-334-5269

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_5SRZF003_WHO.TXT_1>

THE WHITE HOUSE

WASHINGTON

April 23, 2003

Dear Senators Allen, Dole, Edwards, Mikulski, Sarbanes, and Warner:

I write about the status of the four vacancies on the U.S. Court of Appeals for the Fourth Circuit.

There are 15 authorized seats on the Court of Appeals. Federal law imposes only one requirement for allocation of seats within a circuit -- that each State have at least one judge. Each State in a circuit often has a number of judges sitting in that State that corresponds at least roughly to the State's percentage of the overall population in the circuit or to the percentage of the circuit's caseload that arises from that State. To be sure, such geographic balance is not established in law or binding on the President or Senate. And there often are deviations in some circuits for a variety of historical and other reasons. (I would note, in addition, that judges can move from one State to another State in the circuit after their appointment, as has happened on some occasions in the past.) But this measure is generally a rough baseline for assessing the geographic allocation of seats within a circuit.

Based on this measure, of the 15 authorized seats, it appears that the allocation would roughly resemble the following: North Carolina: 4 or 5, Virginia: 4 or 5, South Carolina: 2 or 3, Maryland: 2 or 3, and West Virginia: 1 or 2. As of now, taking into account that Judge Widener recently notified the President of his intended retirement, the Fourth Circuit is significantly out of geographic balance:

	Baseline Allocation	Current Number of Judges
North Carolina:	4 or 5	0
Virginia:	4 or 5	3
South Carolina	2 or 3	4
Maryland:	2 or 3	2
West Virginia:	1 or 2	2

There are four current vacancies on the Court. The four judges who previously occupied these seats maintained their chambers in North Carolina, Virginia, and Maryland (which is why I have sent this letter to you as the Senators from those States). Judge Terry Boyle of North Carolina was nominated for one vacancy in May 2001. For the three additional vacancies, the President intends to nominate well-qualified and well-respected individuals in a manner that will bring the circuit closer to geographic balance, recognizing that it would take several years and additional vacancies for the circuit to achieve balance and recognizing further that absolute geographic balance is neither legally nor historically required. In particular, the President intends to nominate two such individuals on Monday, April 28 -- one who currently lives in Virginia and has strong roots in and ties to both Virginia and North Carolina and one who currently lives in North Carolina and has served on the state judiciary in North Carolina. Both

are African-American, and their confirmations by the Senate will further dismantle an historic barrier. For the last remaining vacancy, the President would intend to submit a nomination no later than September 2003, consistent with the President's commitment to submit nominations within 180 days of receiving notice of an intended retirement or vacancy.

I remain disappointed that Judge Boyle's nomination has been pending for two years. But I am pleased that we otherwise have been able to consult extensively and work cooperatively on other circuit and district nominees in Virginia, North Carolina, and Maryland. Please feel free to contact me at any time with your thoughts regarding the Fourth Circuit or other issues of concern to you.

Sincerely,

Alberto R. Gonzales
Counsel to the President

The Honorable George Allen
The Honorable Elizabeth Dole
The Honorable John R. Edwards
The Honorable Barbara A. Mikulski
The Honorable Paul S. Sarbanes
The Honorable John W. Warner
United States Senate
Washington, D.C. 20510

From: CN=Ashley Estes/OU=WHO/O=EOP@Exchange [WHO]
To: Colleen Litkenhaus/WHO/EOP@Exchange [WHO] <Colleen Litkenhaus>
CC: Blake Gottesman/WHO/EOP@Exchange [WHO] <Blake Gottesman>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/29/2003 7:26:02 AM
Subject: : this is the most exciting thing i've seen today!

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Ashley Estes ( CN=Ashley Estes/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:29-APR-2003 11:26:02.00
SUBJECT:: this is the most exciting thing i've seen today!
TO:Colleen Litkenhaus ( CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
CC:Blake Gottesman ( CN=Blake Gottesman/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

http://www.eop.gov/WHMO/whm/menuapr28.htm
<http://www.eop.gov/WHMO/whm/menuapr28.htm>
```

From: Kavanaugh, Brett M.
To: <Leitch, David G.>
CC: <Gonzales, Alberto R.>
Sent: 4/29/2003 11:30:00 AM
Subject: Re: sutton vote at noon; we are preparing statement by President

No, one statement, he has the votes.

From: David G. Leitch/WHO/EOP@Exchange on 04/29/2003 11:30:34 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Alberto R. Gonzales/WHO/EOP@Exchange

cc:

Subject: Re: sutton vote at noon; we are preparing statement by President

Are e preparing 2 alternaivw statements?

.

-----Original Message-----

From: Kavanaugh, Brett M.

To: Gonzales, Alberto R. ; Leitch, David G.

Sent: Tue Apr 29 11:23:21 2003

Subject: sutton vote at noon; we are preparing statement by President

From: Kavanaugh, Brett M.
To: <Leitch, David G.>
CC: <Gonzales, Alberto R.>
Sent: 4/29/2003 11:47:47 AM
Subject: RE: sutton vote at noon; we are preparing statement by President

recall that he received 2 D votes in committee, which is ordinarily an indicator that he likely would get 10-15 on floor; that said, Daschle/Reid are making big push.

From: David G. Leitch/WHO/EOP@Exchange on 04/29/2003 11:46:14 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc: Alberto R. Gonzales/WHO/EOP@Exchange

Subject: RE: sutton vote at noon; we are preparing statement by President

Good!

-----Original Message-----

From: Kavanaugh, Brett M.

Sent: Tuesday, April 29, 2003 11:30 AM

To: Leitch, David G.

Cc: Gonzales, Alberto R.

Subject: Re: sutton vote at noon; we are preparing statement by President

No, one statement, he has the votes.

From: David G. Leitch/WHO/EOP@Exchange on 04/29/2003 11:30:34 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Alberto R. Gonzales/WHO/EOP@Exchange

cc:

Subject: Re: sutton vote at noon; we are preparing statement by President

Are e preparing 2 alternaiww statements?

.

-----Original Message-----

From: Kavanaugh, Brett M.

To: Gonzales, Alberto R. ; Leitch, David G.

Sent: Tue Apr 29 11:23:21 2003

Subject: sutton vote at noon; we are preparing statement by President

From:	Newstead, Jennifer G.
To:	<Kavanaugh, Brett M.>;<Bartolomucci, H. Christopher>;<Sampson, Kyle>;<Brosnahan, Jennifer R.>;<Francisco, Noel J.>;<Powell, Benjamin A.>;<Ullyot, Theodore W.>
CC:	<Bumatay, Patrick J.>
Sent:	4/29/2003 12:05:07 PM
Subject:	Amber Alert bill / signing statement

David Leitch would like to know if anyone in our office has worked on, or is working on, an issue in the Amber Alert bill which involves taking sentencing discretion away from judges -- this has been a subject of debate in the press. There is apparently a signing statement going around on the bill.

Please let me know -- thanks

Jen

From: Kavanaugh, Brett M.
To: <Leitch, David G.>
Sent: 4/29/2003 12:08:18 PM
Subject: RE: sutton vote at noon; we are preparing statement by President

amend that; he had only 1 D vote in committee: feinstein

From: David G. Leitch/WHO/EOP@Exchange on 04/29/2003 11:54:38 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc: Alberto R. Gonzales/WHO/EOP@Exchange

Subject: RE: sutton vote at noon; we are preparing statement by President

I was mostly joking, but let's hope it holds.

-----Original Message-----

From: Kavanaugh, Brett M.

Sent: Tuesday, April 29, 2003 11:48 AM

To: Leitch, David G.

Cc: Gonzales, Alberto R.

Subject: RE: sutton vote at noon; we are preparing statement by President

recall that he received 2 D votes in committee, which is ordinarily an indicator that he likely would get 10-15 on floor; that said, Daschle/Reid are making big push.

From: David G. Leitch/WHO/EOP@Exchange on 04/29/2003 11:46:14 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc: Alberto R. Gonzales/WHO/EOP@Exchange

Subject: RE: sutton vote at noon; we are preparing statement by President

Good!

-----Original Message-----

From: Kavanaugh, Brett M.

Sent: Tuesday, April 29, 2003 11:30 AM

To: Leitch, David G.

Cc: Gonzales, Alberto R.

Subject: Re: sutton vote at noon; we are preparing statement by President

No, one statement, he has the votes.

From: David G. Leitch/WHO/EOP@Exchange on 04/29/2003 11:30:34 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Alberto R. Gonzales/WHO/EOP@Exchange

cc:

Subject: Re: sutton vote at noon; we are preparing statement by President

Are e preparing 2 alternaivw statements?

.

-----Original Message-----

From: Kavanaugh, Brett M.

To: Gonzales, Alberto R. ; Leitch, David G.

Sent: Tue Apr 29 11:23:21 2003

Subject: sutton vote at noon; we are preparing statement by President

From: Kavanaugh, Brett M.
To: <Newstead, Jennifer G.>
CC: <Leitch, David G.>
Sent: 4/29/2003 12:09:35 PM
Subject: Re: Amber Alert bill / signing statement

No; I sure hope no one out there is proposing to say anything negative about that positive aspect of the bill.

Jennifer G. Newstead

04/29/2003 12:07:54 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: Patrick J. Bumatay/WHO/EOP@Exchange@EOP

Subject: Amber Alert bill / signing statement

David Leitch would like to know if anyone in our office has worked on, or is working on, an issue in the Amber Alert bill which involves taking sentencing discretion away from judges -- this has been a subject of debate in the press. There is apparently a signing statement going around on the bill.

Please let me know -- thanks

Jen

Message Sent To:

Brett M. Kavanaugh/WHO/EOP@EOP

H. Christopher Bartolomucci/WHO/EOP@EOP

Kyle Sampson/WHO/EOP@EOP

Jennifer R. Brosnahan/WHO/EOP@EOP

Noel J. Francisco/WHO/EOP@EOP

Benjamin A. Powell/WHO/EOP@EOP

Theodore W. Ullyot/WHO/EOP@EOP

From: CN=Jenica Baldwin/OU=WHO/O=EOP [WHO]
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO]), Joseph F. O'Neill (Joseph F. O'Neill/OPD/EOP [OPD]), pam.olson@do.treas.gov (pam.olson@do.treas.gov [UNKNOWN])
Sent: 4/29/2003 1:19:48 PM
Subject: : Corporate Council on Africa
Attachments: P_L0B0G003_OPD.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jenica Baldwin ( CN=Jenica Baldwin/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:29-APR-2003 17:19:48.00
SUBJECT:: Corporate Council on Africa
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Joseph F. O'Neill ( CN=Joseph F. O'Neill/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
BCC:pam.olson@do.treas.gov ( pam.olson@do.treas.gov [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

We would love to have you all speak at the briefing on May 9, 2003 in room
450.
Please let me know if you can come.

Thank you,
Jenica Baldwin
Office of Public Liaison
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_L0B0G003_OPD.TXT_1>
```

INVITATION TO SPEAK TODAY'S DATE: 04/30/2003

TO: Joseph O'Neill
Director of the Office of National AIDS Policy

Brett Kavanaugh
Special Assistant to the President
Associate Counsel

Pamela Olson
Assistant Secretary for Tax Policy
Department of Treasury

FROM: Lezlee Westine
Deputy Assistant to the President
Director of the Office of Public Liaison

REQUEST: White House Briefing for the Corporate Council on Africa and Liberty Education Forum

BACKGROUND:

Corporate Council on Africa:

The Corporate Council on Africa (CCA), established in 1992, is at the forefront of strengthening and facilitating the commercial relationship between the United States and the African continent. CCA works closely with governments, multilateral groups and business to improve the African continent's trade and investment climate, and to raise the profile of Africa in the US business community.

CCA programs are designed to bring together potential business partners and raise Africa's investment profile in the US by developing critical contacts and business relationships and providing a forum for the exchange of information and ideas.

Liberty Education Forum

Liberty Education Forum (LEF) was originally established to provide a non-partisan education and research component to complement the work of the Log Cabin Republicans. But with a full-scale launching on July 21, 2001, the Liberty Education Forum is a brand new educational think tank - based in Washington, D.C. - that is dedicated to new ideas and new directions for the gay community, with a centrist approach. The mission of the Liberty Education Forum is to work toward achieving individual freedom and fairness for gay Americans by applying the principles of

	individual rights, individual responsibilities, free markets and limited government. The Log Cabin Republicans are a part of the White House Judicial Coalition as well as the AIDS Coalition.
DATE AND TIME:	Friday, May 9. 2003 10:00am – 11:00am
LOCATION:	Old Executive Office Building, Room 450
SIZE AND TYPE OF AUDIENCE:	100 -125 members of the Corporate Council on Africa and the Liberty Education Forum.
PROPOSED OUTLINE OF EVENT:	Standard White House Briefing, Remarks and Question/Answer 10:00am – 10:20am Joseph O'Neill 10:20am – 10:40am Pamela Olsen 10:40am – 11:00am Brett Kavanaugh * Schedule open to Change*
MEDIA:	Closed
STAFF CONTACT:	Jenica Baldwin X66641

From: MailRouter [SYS]
To: Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/29/2003 10:09:17 AM
Subject: DELIVERY FAILURE: Recipient user name wendy j. grubbs/who/eop (wendy j. grubbs/who /eop@eop) not unique. Several matches found in Name & Address Book.

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES NONDELIVERY RECEIPT )
CREATOR:MailRouter ( MailRouter [ SYS ] )
CREATION DATE/TIME:29-APR-2003 14:09:17.00
SUBJECT:DELIVERY FAILURE: Recipient user name wendy j. grubbs/who/eop (wendy j. grubbs/who
/eop@eop) not unique. Several matches found in Name & Address Book.
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

DELIVERY FAILURE REPORT

Your Document:
RE: Tomorrow: TX delegation
could not be delivered to:
CN=wendy j. grubbs/OU=who/O=eop@eop
because:
Recipient user name wendy j. grubbs/who/eop (wendy j. grubbs/who/eop@eop) not unique.
Several matches found in Name & Address Book.
Routing Path:
CN=Mail2/O=EOP;CN=Mail2/O=EOP
```

From: CN=Jeanie S. Mamo/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/29/2003 2:17:44 PM
Subject: : Re: Patrick: From now on, let's label the "supporter contact lists" just as "contact lists"

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jeanie S. Mamo ( CN=Jeanie S. Mamo/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:29-APR-2003 18:17:44.00
SUBJECT:: Re: Patrick: From now on, let's label the "supporter contact lists" just as
"contact lists"
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Murphy's Law --- unfortunately ... :(
```

From: CN=Julian M. Flannery/OU=WHO/O=EOP@Exchange [WHO]
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 4/29/2003 11:43:02 AM
Subject: :

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Julian M. Flannery ( CN=Julian M. Flannery/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:29-APR-2003 15:43:02.00
SUBJECT::
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

;
```

From:	CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To:	Karen N. Blank/OMB/EOP@EOP [OMB] <Karen N. Blank>;Patrick J. Bumatay/WHO /EOP@Exchange [WHO] <Patrick J. Bumatay>
Sent:	4/29/2003 4:29:09 PM
Subject:	: Re: FW: COMMENTS DUE NOON TUESDAY (4/29) -- REVISED TREASURY Testimony on Pensions (LRM KNB29)
Attachments:	P_LSH0G003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:29-APR-2003 20:29:09.00
SUBJECT:: Re: FW: COMMENTS DUE NOON TUESDAY (4/29) -- REVISED TREASURY Testimony on Pensions (LRM KNB29)
TO:Karen N. Blank (CN=Karen N. Blank/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

WHC does not object.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 04/28/2003 06:03:19 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: FW: COMMENTS DUE NOON TUESDAY (4/29) -- REVISED TREASURY Testimony on Pensions (LRM KNB29)

-----Original Message-----
From: Blank, Karen N.
Sent: Monday, April 28, 2003 5:46 PM
To: Capretta, James C.; Matlack, Larry R.; Walsh, Maureen; McDonald, Katrina A.; Balis, Ellen J.; Smalligan, Jack A.; Seeley, Melissa M.; Hanson-kilbride, Jennifer; Schwartz, Mark J.; Mahaffie, Robert F.; Gillis, Ursula S.; Fairhall, Lisa B.; Uher, Lauren; Noe, S. A.; Boden, James; Bloomquist, Lauren E.; Lyon, Randolph M.; Dennis, Yvette M.; Grippando, Hester C.; Rasetti, Lorenzo; Foster, James D.; Wasserman, Mark A.; Jacobson, Laurence R.; Falkenheim, Michael C.; Rodriguez, Justine F.; Park, Sangkyun; Cea Lrm; Dougherty, Elizabeth S.; Sharp, Jess; Conley, Sheila; Shea, Robert J.; Nec Lrm; Reardon, Brian; Hennessey, Keith; Blahous, Charles P.; Ovp Lrm; Whgc Lrm; Aitken, Steven D.; Perry, Philip J.; Wood, John F.; Dove, Stephen W.; Lobrano, Lauren C.; Chadwick, Kirsten; Hustead, Toni S.; Morrall Iii, John F.; Shapiro, Stuart; Lackey Jr., Joseph F.; Little, Attia; Simms, Pamula L.; Barth, Mary C.; Kilpatrick, Robert W.; Vyas, Hitesh; Crilley, Joseph; Ingle, Edward; Jukes, James J.; Schroeder, Ingrid M.; Everson, Mark; Springer, Linda; Kupfer, Jeffrey F.
Subject: COMMENTS DUE NOON TUESDAY (4/29) -- REVISED TREASURY Testimony on Pensions (LRM KNB29)

Comments on the attached REVISED Treasury testimony are due by NOON on TUESDAY, April 29. This deadline is FIRM. Thanks.

- tt0029arev.doc

Note: Revised Treasury testimony for a hearing on Wednesday (4/30) before the House Ways & Means subcommittee on Select Revenue Measures. The focus

of the testimony, as revised, is the need to strengthen Americans, retirement security by measuring accurately pension liabilities. The Treasury witness is Under Secretary Steven Fisher.

The original Treasury testimony for this hearing was circulated on 4/25 as LRM KNB25.

LRM ID: KNB29
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Monday, April 28, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: Karen N. Blank
PHONE: (202)395-7363 FAX: (202)395-6148
SUBJECT: REVISED TREASURY Testimony on Pension Plan Funding and the 30-year Treasury rate and HR1776

DEADLINE: NOON Tuesday, April 29, 2003
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: REVISED Treasury testimony for a 4/30 hearing before the House Ways & Means subcommittee on Select Revenue Measures. The focus of the hearing is to discuss the funding rules related to defined benefit pension plans and evaluate proposals for replacing the 30-year Treasury rate that is used in pension plans calculations. The Treasury witness is Under Secretary Steven Fisher.

DISTRIBUTION LIST

AGENCIES:
062-LABOR - Robert A. Shapiro - (202) 693-5500
097-Pension Benefit Guaranty Corporation - Gail Sevin - (202) 326-4080
110-Social Security Administration - Robert M. Wilson - (202) 358-6030
025-COMMERCE - Michael A. Levitt - (202) 482-3151
107-Small Business Administration - Richard Spence - (202) 205-6700
092-Office of Personnel Management - Harry Wolf - (202) 606-1424
061-JUSTICE - Jamie E. Brown - (202) 514-2141

EOP:
James C. Capretta
Larry R. Matlack
Maureen Walsh
Katrina A. McDonald
Ellen J. Balis
Jack A. Smalligan
Melissa M. Seeley
Jennifer Hanson-Kilbride
Mark J. Schwartz
Robert F. Mahaffie
Ursula S. Gillis
Lisa B. Fairhall
Lauren Uher
S. A. Noe
James Boden
Lauren E. Bloomquist

Randolph M. Lyon
Yvette M. Dennis
Hester C. Grippando
Lorenzo Rasetti
James D. Foster
Mark A. Wasserman
Laurence R. Jacobson
Michael C. Falkenheim
Justine F. Rodriguez
Sangkyun Park
CEA LRM
Elizabeth S. Dougherty
Jess Sharp
Sheila Conley
Robert J. Shea
NEC LRM
Brian Reardon
Keith Hennessey
Charles P. Blahous
OVP LRM
WHGC LRM
Steven D. Aitken
Philip J. Perry
John F. Wood
Stephen W. Dove
Lauren C. Lobrano
Kirsten A. Chadwick
Toni S. Hustead
John F. Morrall III
Stuart Shapiro
Joseph F. Lackey Jr.
Attia Little
Pamula L. Simms
Mary C. Barth
Robert W. Kilpatrick
Hitesh Vyas
Joseph Crilley
Edward Ingle
James J. Jukes
Ingrid M. Schroeder
Mark Everson
Linda Springer
Jeffrey F. Kupfer

LRM ID: KNB29 SUBJECT: REVISED TREASURY Testimony on Pension Plan Funding and the 30-year Treasury rate and HR1776
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) faxing us a memo or letter.
Please include the LRM number and subject shown above.

TO: Karen N. Blank Phone: 395-7363 Fax: 395-6148
Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_LSH0G003_WHO.TXT_1>

MEASURING PENSION LIABILITIES

Testimony of the Honorable Peter R. Fisher
Under Secretary for Domestic Finance
U.S. Department of the Treasury

Before the
Subcommittee on Select Revenue Measures
Committee on Ways and Means
United States House of Representatives

April 30, 2003

Chairman McCrery, Ranking Member McNulty, and members of the Committee, I appreciate this opportunity to discuss with you the need to strengthen Americans' retirement security by measuring accurately pension liabilities.

There is a pension funding problem in America today. Although Wall Street firms estimate that current pension underfunding runs to hundreds of billions of dollars, the markets do not have accurate, timely data on corporate pension liabilities. The absence of a clear picture of the extent of defined benefit pension underfunding creates a cloud of uncertainty in equity markets. Moreover, without an accurate measure of liabilities, the minimum funding rules, which rely upon an accurate measurement of pension liabilities, could lead to insufficient (or excessive) funding of pension promises.

To deal with this challenge, an important step is to develop a more accurate, reliable, and timely measure of pension liabilities.

As we go about this task, we must remember that behind all the technical details we will discuss is the retirement security of hardworking Americans. Our ultimate goal must be to improve pension security for workers and retirees by strengthening the financial health of the voluntary defined benefit pension system that they rely upon. That system is complex, with many interdependent parts. Achieving our objective of secure pensions requires that those pensions be well-funded, that plan sponsors be able and willing to support the defined benefit system, and that the Pension Benefit Guaranty Corporation's financial integrity be assured. All three of these groups have an interest in a sustainable program, so all have an interest in getting to the right solution. In addition, any changes we undertake need to be implemented in a manner that promotes the stability and resiliency of our financial system and financial markets.

Before proceeding, let me first note that H.R. 1776, the Pension Preservation and Savings Expansion Act of 2003, recognizes the urgency of pension reform and of promoting retirement security. Its chief sponsors, Congressmen Portman and Cardin, are to be commended for their leadership in this complex, but critical area of public policy. I

REV_00164235

would also note that H.R. 1000, the Pension Security Act of 2003, introduced by Rep. Boehner advances principles for improving the defined contribution system that the President set forth last year. My testimony, however, will focus just on the issue of measuring pension liabilities.

In our view, overall pension reform that will lead to more secure pensions for American workers and retirees requires three steps: first, develop a more accurate, reliable, and timely measure of pension liabilities; second, fix the pension funding rules; and third, establish transition rules so as to avoid an abrupt change in firms' funding plans.

The predicate step to making pensions more secure is to develop a more precise measurement of pension liabilities. My testimony today will focus on this critical step and, in particular, on the issue of replacing the 30-year Treasury rate as the discount rate used in measuring pension liabilities. As I will explain, it is critical that Congress develop an appropriate, permanent replacement for the 30-year Treasury rate in measuring pension liabilities. However, there are many critical questions that need to be answered before settling upon that replacement. Thus, to give firms the certainty they need to plan for their short-term pension funding obligations, we recommend extending the current temporary corridor for two more years. At the same time, we need to begin work immediately on getting to that permanent replacement and to dealing with other problems with the current system.

Discounting Future Pension Benefit Payments to Today's Dollars

Making pensions more secure requires a more precise measurement of pension liabilities. The amount of pension liabilities determines a plan sponsor's annual funding obligation. Without a reliable measure of pension liabilities, plan sponsors may not contribute sufficient funds to their pension plan – or may contribute more than they need to for the obligations undertaken.

In addition, without accurate, reliable measures neither plan beneficiaries, investors, nor the Pension Benefit Guaranty Corporation know how big the pension obligation may be for a given firm. Investors that do not have a clear picture of a company's pension liabilities factor that uncertainty into their credit evaluation of the firm, raising its borrowing costs and lowering its stock price.

In order to get to a more accurate measure of pension liabilities, we need to agree on how to discount future benefit payments to today's dollars. After describing why this is so, I will then describe why we believe that we should be working towards a permanent replacement for the 30-year Treasury rate in measuring pension liabilities.

<u>Using a Discount Rate to Measure Pension Liabilities</u>

REV_00164236

Pension liabilities are measured as the discounted present value of the future benefit payments to be made to a pension plan's participants. These future benefit payments depend upon numerous factors, including the terms of the particular plan and actuarial and mortality assumptions about plan participants.

To get the present value – that is, the cost in today's dollars of these future payments – those future payments must be "discounted" by some interest rate to show how many dollars today are equivalent to those payments in the future. As the interest rate that is used to discount future benefit payments declines, the value of those liabilities increases.

A simple example explains this concept. Suppose someone was offered the choice between $100 today and $110 a year from now. If that person could invest $100 today at a 10 percent annual return, the two offers would have the same economic value. If however, interest rates were lower and the person could only earn 5 percent annually, the offers would not have the same economic value. Instead, the person would need to be offered $104.76 today for the offers to be economically equivalent. Thus as interest rates decline, the amount of money a pension plan needs today (to have in discounted present value terms the amount of money needed to make future benefit payments) increases.

Background on the Use of the 30-Year Treasury Rate

Federal law sets minimum funding rules for private pension plans. These rules reflect the complex actuarial work needed to determine the amount of assets that a plan should hold to meet its benefit obligations many years into the future. One of the most important of these rules is the interest rate for discounting pension liabilities. Since 1987, the law has used the yield on 30-year Treasury bonds as the basis for this interest rate. The measurement of a pension plan's liabilities calculated using this rate is the basis for the federal "backstop" funding rules applied to underfunded pension plans.

Congress chose the 30-year Treasury rate as an approximation of interest rates used in the group annuity market. In other words, Congress wanted a discount rate that would reflect how much an insurance company would charge a pension plan to assume responsibility for the plan's benefit obligations.

Although additional refinements have occurred since 1987, the rate on the 30-year Treasury bond continues to play a prominent role in determining pension liabilities for funding purposes. Until recently, pension plans could determine the value of their pension liabilities using any rate between 90 percent and 105 percent of the four-year moving average of the yield on 30-year Treasury bonds. As I will explain shortly, last year, Congress temporarily increased the upper end of this corridor to 120 percent. Note that the upper end of the corridor produces a larger discount rate and hence a smaller measured liability and a smaller funding requirement. The lower end of the corridor produces the reverse – a larger measured liability and hence greater required funding.

REV_00164237

However, the Treasury Department does not believe that using the 30-year Treasury bond rate produces an accurate measurement of pension liabilities.

Why We Need to Replace the 30-Year Rate in Measuring Pension Liabilities

The discontinuation of the issuance of the 30-Year bond – which was part of much needed changes in Treasury financing of government debt – makes replacement of the 30-year rate in pension law necessary. However, we believe that regardless of whether the discontinuation had occurred or not, there was already growing evidence and concern that the 30-year Treasury was becoming less relevant as a benchmark for use in pension calculations.

One reason the 30-year Treasury has become less relevant is because of changes in pensions themselves. The lengthy time structure of the 30-year bond makes it less and less relevant when compared to the shortening time structure of the payments of many defined benefit pension plans. This shortened time structure is the consequence of the increasing average age of active and terminated deferred participants and the increased proportion of participants represented by retirees. Using a long-term rate to discount all pension obligations understates the true cost of obligations that will be paid sooner whenever the yield curve is upward sloping (as is true now and is generally the case).

In addition, changes in the Treasury bond market and in financial markets more broadly have made the 30-year Treasury rate less reflective of the cost of group annuities and less accurate as a benchmark for pension liabilities. The difference between the Treasury yield curve and a high-grade corporate bond curve is not fixed, and that spread is wider today than it was in 1987.

In response to these concerns, last year Congress provided for a temporary expansion of the upper range of the allowable corridor surrounding the 30-year Treasury for calculating the interest rate used to determine current liability. This temporary change expires at the end of this year. In the absence of a permanent replacement or an extension of last year's expansion of the upper range, the law will "snap back" to 105 percent as the upper end of the corridor.

Such an outcome would, in our view, increase the discrepancy between the discount rate mandated in the law and that used to price group annuities. And since minimum funding rules are based upon measured (current) liabilities, a discount rate that further distorts that measurement will also distort the funding requirements.

Consequently, we believe that Congress should take action this year to avoid this "snap back." And, since firms need to make plans now for the funding contributions they will make next year, we also believe that Congress needs to act quickly on this matter.

Finding a Permanent Replacement for the 30-year Treasury Rate

We need to get to a permanent replacement for the 30-year Treasury rate in computing pension liabilities.

H.R. 1776 offers a permanent replacement for the 30-year Treasury with a measure based upon long-term high-quality corporate bond rates. We believe that moving from a Treasury full faith and credit discount rate to one based on rates on high-quality long-term corporate bonds could improve the accuracy of measuring pension liabilities. Pension benefit promises made by private sponsors are not without risk since pension sponsors, unlike the Federal government, can and do go out of business. We think that this risk should be reflected in the computation of pension liabilities. We also understand that high-grade corporate bond rates are used in group annuity pricing.

Before Congress selects any permanent replacement for the 30-year Treasury rate, however, it will be necessary to consider several key issues, including the following.

First, different pension plans have different benefit payment schedules, some with quite immediate payment requirements and others whose expected payments are distant in the future. We know that the yields available on financial instruments are different for these different maturities; typically yields relevant to closer maturities are lower. Thus the question arises whether an accurate present value measurement of these different benefit payments – some made in the near-term and some in the distant future – should be discounted at rates appropriate to their respective timing.

Both economic theory and current practice in fixed-income markets suggest that the most accurate way to measure the present value of a stream of future cash flows would be to match the cash flows occurring at a particular time with a discount rate that reflects the interest rate on a portfolio of financial instruments with the same maturity date. In this way, the discount rates used would be reflecting the time structure of the cash flows. In principle, an accurate measurement of pension liabilities, which is the present value of a series of benefit payments to be made over time, could be more accurately measured if the discount rate used was related to the time structure of those benefit payments.

Thus, we suggest it would be important to consider whether and how to reflect the time structure of a pension plan's future benefit payments in determining the appropriate discount rate to use.

Second, under current law, the measurement of both assets and liabilities involve "smoothing" techniques, as do the funding requirements. Properly measured, pension liabilities are the cost in today's prices of meeting a pension plan's future obligations. If a pension plan's obligations were to be settled today in the group annuity market, their value would be determined using today's interest rates rather than an average of rates over the past several years, which is the current practice.

REV_00164239

Using current, unsmoothed interest rates would promote transparency. An accountant or analyst evaluating a pension plan can readily determine the funded status of the plan if asset values are expressed at current market prices and liabilities are computed using current unsmoothed discount rates. When either or both of these measures are smoothed, however, it is very difficult to determine the plan's funded status with any degree of certainty. While there may be sound reasons to measure current interest rates for discounting purposes using something other than the spot rates on a particular trading day, the current practice of using a four-year average of interest rates raises important questions as to the accuracy of the resulting liability measurement.

Thus, we suggest that consideration be given to whether continuing this practice advances the ultimate objective. It may be that there are compelling arguments to allow for some smoothing with respect to the funding contributions that plan sponsors make to their pension plans. We need to carefully review whether four-year smoothing of the discount rate used for purposes of measuring a pension plan's liabilities continues to make sense.

Third, under current law, pension liabilities are calculated using one discount rate but lump sum payments made by pension plans are calculated using a different discount rate. The pension liability measurement we are discussing is the basis for funding contributions to be made by plan sponsors – some of which will ultimately fund workers' annuity pension payments but some of which will be paid to workers in the form of a lump sum. Thus, we suggest that it would be worth considering whether and how a permanent replacement for the 30-year Treasury rate in measuring pension liabilities should relate to any possible changes in the discount rate used to calculate lump sum payments.

To this point, my remarks have focused on issues to consider in selecting a permanent replacement discount rate for measuring pension liabilities. While these issues are critical to the goal of achieving an accurate measurement of those liabilities, there are additional issues unrelated to the discount rate replacement that should also be considered.

Thus, we suggest that, in the process of working towards a more accurate measurement of pension liabilities, the mortality table and the retirement assumptions that underlie the computation of current liability also be evaluated. There is also the question of whether a sponsor in computing current liability should be allowed to recognize that some retirees opt for lump sums rather than annuities at retirement. Under current law current liability assumes that all retirees take their retirement in the form of an annuity. These questions require further study.

I believe that we all need to consider the issues that I have just described to ensure that any permanent replacement to the 30-year Treasury rate results in an accurate measurement of pension liabilities. The consequence of failing to replace the 30-year Treasury rate with an appropriate discount rate methodology will lead to inaccurate measurement of pension liabilities. Such an outcome, in turn, will lead to under- or over-

REV_00164240

funding of pension plans. The former outcome would make pensions less secure for workers and retirees. The latter outcome could place an undue burden on plan sponsors by shifting more corporate funds to the pension plan than are necessary to fund the company's pension obligations.

Interim Steps

Companies have told us that they need to know what their cash requirements are for funding next year's funding obligation by the end of the second quarter of this year, but further work is needed to define an accurate measurement of pension liability. While we have considered alternatives to the discount rate methodology proposed in H.R. 1776, we are not yet to the point of offering a specific replacement. Yet we agree with those who say that quick congressional action on modifying current law is essential, both because in the absence of such action the law reverts to a discount rate methodology that would be even more distorting than the current rate and because plan sponsors need certainty soon in order to plan for next year's funding requirements.

To that end, we recommend that Congress enact legislation before the end of this June to extend the short-term interest rate corridor relief that Congress provided in 2002. We would propose that, for plan years beginning in 2004 and 2005, the upper bound of the interest rate corridor for the deficit reduction contribution continue to be 120 percent of the 4-year weighted average of the yield on 30-year Treasury securities.

During the time offered by the two year extension, we would look forward to working with Congress and pension stakeholders to work through the complex but critical issues I have described that must be addressed to ensure accurate pension liability measurement and, more importantly, advance our ultimate objective of making pensions more secure.

The change in the method of determining pension liabilities may result in changes in the annual contribution amounts, so transition relief will be required. In addition, these changes may lead us to consider changes in the current funding rules which would increase the security of the pension promises made to America's workers and their families.

I would like to stress the need for quick action on this temporary extension of the corridor. This action is needed to give companies time to budget for next year's funding obligation. At the same time, however, we must also move quickly to deal with the complex questions I have outlined in my testimony. We need to work expeditiously to come up with a permanent solution, not just for how best to measure liabilities but also for the funding rule changes that are needed. The testimony you are about to receive from PBGC's Executive Director Steve Kandarian illustrates the urgency of the work before us. We look forward working with you to advance this interim solution and to satisfy the long-term need for accuracy in the measurement of pension liabilities.

Conclusion

Defined benefit pensions are a valuable benefit and the cornerstone of many workers' retirement security. Recent financial market trends have exposed underlying weaknesses in the system, weaknesses that must be corrected if that system is to remain viable in the long run. It will take considerable time and effort to fix the system. Developing acceptable solutions will also require the cooperation and flexibility of all interested parties.

While we must avoid unnecessary delay, the seriousness of current pension problems and the complexity of the defined benefit system suggest that repairing the system will require time for study and for consensus building. That is why we recommend that Congress, rather than making a permanent replacement for the 30-year Treasury rate this year, extend for an additional two year period the temporary increase of the pension discount rate used to compute current liability.

During this two year period government, industry, and participants will have adequate time to develop a set of consistent coherent proposals that will insure that pension funding is adequate, that pension demands on firm finances are reasonable and that the financial integrity of the pension insurance system will be maintained for the workers and retirees that are counting on it for their retirement security. [To paraphrase Robert Frost, we have promises to keep, but we still have some miles to go before we can sleep. -- WA]

REV_00164242

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Erin P. Hassing/OMB/EOP@EOP [OMB] <Erin P. Hassing>;Patrick J. Bumatay/WHO /EOP@Exchange [WHO] <Patrick J. Bumatay>
Sent: 4/29/2003 4:31:04 PM
Subject: : Re: FW: LRM PTM39 - - VETERANS AFFAIRS Testimony on Three Benefits Bills
Attachments: P_7TH0G003_WHO.TXT_1.doc; P_7TH0G003_WHO.TXT_2.pdf; P_7TH0G003_WHO.TXT_3.pdf; P_7TH0G003_WHO.TXT_4.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:29-APR-2003 20:31:04.00
SUBJECT:: Re: FW: LRM PTM39 - - VETERANS AFFAIRS Testimony on Three Benefits Bills
TO:Erin P. Hassing (CN=Erin P. Hassing/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

For your records, we had no objection.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 04/25/2003 06:06:00 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: FW: LRM PTM39 - - VETERANS AFFAIRS Testimony on Three Benefits Bills

-----Original Message-----
From: Hassing, Erin P.
Sent: Friday, April 25, 2003 5:54 PM
To: dodlrs@osdgc.osd.mil; CLRM@doc.gov; ogc_legislation@ed.gov; ocl@ios.doi.gov; justice.lrm@usdoj.gov; dol-sol-leg@dol.gov; cla@sba.gov; info@jwod.gov
Cc: Cleveland, Robin; Peroff, Kathleen; Carson, Karyn T.; Siclari, Mary Jo; Hustead, Toni S.; Benson, Shalini M.; Chang, Winifred Y.; Seastrom, Mark R.; Hagen, Kelli A.; Sastry, Narahari; Ermann, Danny A.; Costello, Daniel J.; Grayton, Arecia A.; Aguilera, Ricardo A.; Waites, Wendell H.; Goldberg, Robert H.; Morales, Gloria L.; McVay, William; Lyon, Randolph M.; Rasetti, Lorenzo; Stack, Kathryn B.; Rowe, David; Irwin, Janet E.; Bloomquist, Lauren E.; Walsh, Maureen; Kitti, Carole; McDonald, Katrina A.; Dennis, Yvette M.; Shea, Robert J.; Conley, Sheila; Ramsey, Terrill W.; Styles, Angela B.; Gerich, Michael D.; Blum, Mathew C.; Alesi, Susan E.; Crilley, Joseph; Lee, Sarah S.; Suarez, Aquiles F.; Cea Lrm; Nec Lrm; Ovp Lrm; Perry, Philip J.; Wood, John F.; Luczynski, Kimberley S.; Whgc Lrm; Cox, Christopher C.; Dove, Stephen W.; Lobrano, Lauren C.; Jukes, James J.; Schroeder, Ingrid M.; Messenger, P. Thaddeus; Hassing, Erin P.; Newman, Kimberly A.; Halaska, Terrell L.; Justesen, Troy; Liu, Lin
Subject: LRM PTM39 - - VETERANS AFFAIRS Testimony on Three Benefits Bills

LRM ID: PTM39
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Friday, April 25, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference
OMB CONTACT: Erin P. Hassing
PHONE: (202)395-3459 FAX: (202)395-6148
SUBJECT: VETERANS AFFAIRS Testimony on Three Benefits Bills

DEADLINE: 5:00 PM. Monday, April 28, 2003
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Attached for your review, please find draft VA (Mackay) testimony for an April 30th hearing before the House Veterans' Affairs Committee, Subcommittee on Benefits. Please note that OMB's Office of Federal Procurement Policy (Styles) will also appear at this hearing. A representative from the Small Business Administration will attend the hearing to answer questions. For your convenience, a copy of each of the bills discussed is also attached.

(10 pp.) (7 pp.) (22 pp.) (29 pp.)

Please provide your comments by 5:00 p.m. Monday, April 28th. This deadline is firm. If we do not receive your comments by that time, we will assume you have no objection to the document as drafted.

If you experience difficulty with this LRM, or its attachment, please contact us immediately.
Thank you.

DISTRIBUTION LIST

AGENCIES:
029-DEFENSE - Vic Bernson - (703) 697-1305
025-COMMERCE - Michael A. Levitt - (202) 482-3151
030-EDUCATION - Jack Kristy - (202) 401-8313
059-INTERIOR - Jane Lyder - (202) 208-4371
061-JUSTICE - Jamie E. Brown - (202) 514-2141
062-LABOR - Robert A. Shapiro - (202) 693-5500
107-Small Business Administration - Richard Spence - (202) 205-6700
098-Committee for Purchase From Blind or Severely Disabled - John Heyer - (703) 603-0665

EOP:
Robin Cleveland
Kathleen Peroff
Karyn T. Carson
Mary Jo Siclari
Toni S. Hustead
Shalini M. Benson
Winifred Y. Chang
Mark R. Seastrom
Kelli A. Hagen
Narahari Sastry
Danny A. Ermann
Daniel J. Costello
Arecia A. Grayton
Ricardo A. Aguilera
Wendell H. Waites
Robert H. Goldberg
Gloria L. Morales
William McVay

Randolph M. Lyon
Lorenzo Rasetti
Kathryn B. Stack
David Rowe
Janet E. Irwin
Lauren E. Bloomquist
Maureen Walsh
Carole Kitti
Katrina A. McDonald
Yvette M. Dennis
Robert J. Shea
Sheila Conley
Terrill W. Ramsey
Angela B. Styles
Michael D. Gerich
Mathew C. Blum
Susan E. Alesi
Joseph Crilley
Sarah S. Lee
Aquiles F. Suarez
CEA LRM
NEC LRM
OVP LRM
Philip J. Perry
John Wood
Kimberley S. Luczynski
WHGC LRM
Christopher C. Cox
Stephen W. Dove
Lauren C. Lobrano
James J. Jukes
Ingrid M. Schroeder
P. Thaddeus Messenger
Erin P. Hassing
Kimberly A. Newman
Terrell L. Halaska
Troy Justesen
Lin Liu

LRM ID: PTM39 SUBJECT: VETERANS AFFAIRS Testimony on Three Benefits Bills
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) faxing us a memo or letter.
Please include the LRM number and subject shown above.

TO: Erin P. Hassing Phone: 395-3459 Fax: 395-6148
Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_7TH0G003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_7TH0G003_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_7TH0G003_WHO.TXT_3>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_7TH0G003_WHO.TXT_4>

DRAFT

Statement of Honorable Leo S. Mackay, Jr., Ph.D.
DEPUTY SECRETARY OF VETERANS AFFAIRS

BEFORE THE HOUSE COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON BENEFITS

APRIL 30, 2003

Mr. Chairman and Members of the Subcommittee, thank you for providing me the opportunity to testify before you this morning on three measures affecting Department of Veterans Affairs education and vocational rehabilitation programs and small-business opportunities for veterans. The three bills on today's hearing agenda include: H.R. 1460, the "Veterans Entrepreneurship Act of 2003"; H.R. 1716, the "Veterans Earn and Learn Act"; and H.R. 1712, the "Veterans Federal Procurement Opportunity Act of 2003." VA supports a majority of the proposals set forth in these measures.

Before I discuss the bills the Subcommittee is considering today, I would like to note that, although the Budget Enforcements Act's pay-as-you-go requirements and discretionary spending caps expired on September 30, 2002, the Administration supports the extension of these budget enforcement mechanisms in a manner that ensures fiscal discipline and is consistent with the President's budget. As you know, these measures would affect direct spending and receipts and, therefore, the support VA expresses for the bills is contingent on accommodating the provisions within the overall budget submitted by the President.

H.R. 1460 – "Veterans Entrepreneurship Act of 2003"

Mr. Chairman, section 2 of H.R. 1460 would amend provisions of title 38, United States Code, to permit veterans to use VA educational assistance benefits to enroll in non-degree, non-credit business "entrepreneurship" courses offered by small business development centers or offered by the National Veterans Small Business Development Corporation. Specifically, section 2 of the bill would provide that State approving agencies may approve non-credit courses of business education that enable or assist persons to start or enhance small business enterprises. "Qualified providers" of such entrepreneurship courses would include small business development centers, as defined by section 21 of the Small Business Act, and the National Veterans Business Development Corporation. A person would not be considered by VA as already qualified for the objective of a program of education offered by a qualified provider of an entrepreneurship course solely because he or she is the owner or operator of a business. These amendments apply to courses approved by State approval agencies after the date of enactment of the Act.

Veterans would receive several benefits from such courses. Some veterans are not willing or able to complete a degree program. This program offers a viable alternative to a complete degree program for those wishing to start a small business. Moreover, veterans who take advantage of these courses are more likely to succeed as small-business entrepreneurs. The potential for

positive effects on the economy, with enhanced competition and creativity within the marketplace, is significant. The bill's provision for oversight of these courses by State Approving Agencies should ensure program quality. For these reasons, we strongly support enactment of this provision.

Enactment of this section would result in a cost of $1.5 million in fiscal year 2004 and a ten-year total cost of $32 million.

Section 3 of H.R. 1460 would amend 38 U.S.C. § 3104 to provide that, for purposes of pursuing a program of vocational rehabilitation under chapter 31 of title 38, United States Code, a disabled veteran may establish "self-employment" in a small business enterprise as a vocational goal without regard to any requirement of unemployability.

Current law permits us to serve veterans with the most severe service-connected disabilities who require self employment and/or homebound training in order to achieve an acceptable level of vocational rehabilitation. We are also able to provide limited assistance to other veterans with employment handicaps.

Mr. Chairman, last month the Department established a new advisory committee, the Vocational Rehabilitation and Employment (VR&E) Task Force, and charged it with conducting an independent review of the VR&E program. Among other responsibilities, it will evaluate eligibility criteria for vocational

rehabilitation services under VA's program, and report its recommendations to the Secretary. We are asking the Task Force to evaluate the merits of the change in law proposed by section 3 of H.R. 1460, and will be furnishing you our official views once we have the benefit of that advice.

Enactment of this section would result in a cost of $750,000 in fiscal year 2004 and a ten-year total cost of $101 million.

Section 4 of H.R. 1460 would authorize a contracting officer to make sole source awards to small business concerns owned and controlled by service-disabled veterans (SDVBs) if such business is determined to be capable of performing the contract, award can be made at a fair price, there is no reasonable expectation that two or more SDVBs would submit offers, and certain dollar thresholds are not exceeded. It would also authorize contracting officers to restrict competition to SDVBs if there is a reasonable expectation that at least two SDVBs will submit offers and award can be made at a fair market price. The Administrator of the Small Business Administration would have the authority to appeal contracting officers' decisions not to award a contract opportunity to SDVBs to the Secretary of the department or agency head. This law would not supercede any other preference under law for prison-made (Federal Prison Industries) products or products made by the blind or disabled (JWOD).

VA supports section 4 of H.R. 1460. Providing business opportunities to veterans who own small businesses is altogether consistent with VA's mission to serve our Nation's veterans and will help VA and the Nation honor its commitment to them.

We estimate the total cost associated with enactment of H.R. 1460 to be $2.25 million for fiscal year 2004 and $133 million over ten years.

H.R. 1716 – "Veterans Earn and Learn Act"

Mr. Chairman, H.R. 1716 would amend title 38, United States Code, to improve VA educational assistance programs for apprenticeship and other on-job training.

Section 2 of the bill would modify the computation of on-job training and apprenticeship benefit entitlements under chapters 34 and 35 of title 38, United States Code, to be the same as the entitlement charged under chapters 30 and 32, of that title, as well as under the chapter 1606, title 10 U.S.C. program. This would provide needed uniformity in calculating use of entitlement for such training regardless of the benefit chapter under which a student is eligible, resulting in greater equity for veterans.

Section 3 of the bill would establish an incentive payment for program participants who finish their apprenticeship training early by requiring VA to pay the trainee a lump-sum payment for the months of VA entitlement remaining that would have ordinarily been needed to complete the apprenticeship. We believe the incentive would motivate competent individuals to complete their apprenticeship training sooner, thereby resulting in a more efficient use of benefits.

Section 4 of the bill would increase the monthly VA benefit for trainees who simultaneously pursue apprenticeships or on-job training and related classroom instruction (whether or not the trainee was pursuing the academic instruction as a requirement of the apprenticeship or voluntarily under the trainee's own initiative). Currently, education benefits for apprenticeship and on-the-job training start at 75 percent of the benefit rate payable for full-time institutional training and these job training benefits decrease in stages as the individual progresses through the training program. This section would pay the full-time institutional rate for periods when the individual is in required classroom courses while also in the job training program. It will also allow individuals who voluntarily enroll in related courses to receive an increase based on the combined training, but not to exceed the full-time institutional rate. We support this proposal.

Section 5 of the bill would codify VA's authority to pay benefits for competency-based apprenticeships. It would require VA to take into consideration the approximate term of the program recommended in registered apprenticeship program standards recognized by the Secretary of Labor. Apprenticeships offered in industries that choose not to register with the Secretary of Labor, and that are approved for veterans' training by a state approving agency, would continue to be available. It would also authorize VA to use up to $3 million to develop the computer systems and procedures needed to carry out the above provisions of the bill. Current law permits approval of only time-based, fixed length apprenticeships. The 1990's saw a steady move away from time-based apprenticeships toward competency-based apprenticeships. We support this change as it would bring approval of apprenticeships into the 21st century and allow VA to pay educational assistance to more veterans.

Section 6 of the bill would require VA to establish a pilot program to furnish on-job benefits to claims adjudicators training in its disability compensation, dependency and indemnity (DIC), and pension programs. The pilot program would permit on-the-job training programs of up to 3 years to be approved for claims adjudicators who handle VA's Compensation and Pension programs. VA supports this program for claims adjudicators. Based on our past experience, the duration of this type of training would be approximately two years.

Section 7 of the bill would require coordination of information among the Departments of Veterans Affairs, Defense, and Labor with respect to on-job training. The Secretary of Defense would be required to furnish to the Secretary of Veterans Affairs information concerning each registered apprenticeship pursued by the servicemember during his or her active duty service. It would also require the Secretary of Veterans Affairs, in conjunction with the Secretary of Labor, to encourage and assist states and private organizations to accord credit to servicemembers for skills in any related apprenticeship the servicemember may pursue in civilian life. We believe such level of coordination would be beneficial so that veterans can receive full credit for their military training and not have to unnecessarily repeat training they received while on active duty.

We estimate the benefits cost associated with enactment of H.R. 1716 to be $47.7 million for fiscal year 2004 and $548.4 million over ten years.

H.R. 1712 – "Veterans Federal Procurement Opportunity Act of 2003"

Mr. Chairman, H.R. 1712 would require the Administrator of the Small Business Administration (SBA) to establish a development program for small business concerns owned and controlled by service disabled veterans similar to the Section 8(a) program for small business in general, where SBA executes a contract with an agency and subcontracts the work to the small business. The

bill reauthorizes the National Veterans Business Development Corporation, first created in 1999, and adds reporting and planning requirements such as 5 year strategic and financial plans. The Corporation was created to expand the provision of and improve access to technical assistance regarding entrepreneurship for the Nation's veterans.

The bill sets a Government-wide goal of 28 percent for prime contracts awarded to small business concerns. It further breaks that goal down to 3 percent for veteran-owned, 3 percent for service-disabled-veteran-owned, 3 percent for HUBZone, 5 percent for socially and economically disadvantaged, and 5 percent for women-owned. Double counting of small businesses that meet more than one criterion is prohibited. Beginning in Fiscal Year 2004, for any agency that failed to meet the goals, funding would be restricted in the following fiscal year for awards solely to the specific subcategories of small businesses (whether prime contracts or approved subcontracting plans). This would be phased in for the various categories of small businesses between FY's 2004 and 2008.

The bill would allow an agency to restrict competition to specific categories of small businesses to meet the procurement goals. The bill would require in negotiated procurements that agencies include evaluation factors regarding small business subcontracting plans.

VA supports the provisions of section 4 of H.R. 1712 that would establish a goal of 3 percent for award of contracts to veteran-owned small businesses. As you may be aware, VA has established its own internal goal for award to veterans. However, I am concerned with other provisions of section 4 and section 5 that would raise the small business goal, prohibit double counting of acquisitions, restrict the use of appropriations, and mandate the use of certain evaluation factors in negotiated acquisitions. The Government is already struggling to meet its current goals, and raising those goals would not be beneficial. Prohibiting double counting would have the effect of raising the thresholds further and making it that much more difficult for agencies to meet their goals. Furthermore, the provisions of section 4 that place restrictions on the use of funds in the case of agency failure to meet goals would create a quota system for award of contracts to socioeconomic groups. That, and the evaluation factor mandate, removes the flexibility agencies need to be able to successfully carry out their missions.

Mr. Chairman, that concludes my testimony.

108TH CONGRESS
1ST SESSION

H. R. 1460

To amend title 38, United States Code, to permit the use of education benefits under such title for certain entrepreneurship courses, to permit veterans enrolled in a vocational rehabilitation program under chapter 31 of such title to have self-employment as a vocational goal, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 27, 2003

Mr. RENZI (for himself, Mr. SMITH of New Jersey, Mr. EVANS, Mr. BROWN of South Carolina, Mr. MANZULLO, Mr. BEAUPREZ, and Mr. MICHAUD) introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

A BILL

To amend title 38, United States Code, to permit the use of education benefits under such title for certain entrepreneurship courses, to permit veterans enrolled in a vocational rehabilitation program under chapter 31 of such title to have self-employment as a vocational goal, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

REV_00164257

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Entrepreneurship Act of 2003".

SEC. 2. AUTHORIZATION FOR STATE APPROVING AGENCIES TO APPROVE CERTAIN ENTREPRENEURSHIP COURSES.

(a) APPROVAL OF ENTREPRENEURSHIP COURSES.—Section 3675 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) A State approving agency may approve the entrepreneurship courses offered by a qualified provider of entrepreneurship courses.

"(2) For purposes of this subsection, the term 'entrepreneurship course' means a non-degree, non-credit course of business education that enables or assists a person to start or enhance a small business enterprise.

"(3) Subsection (a) and paragraphs (1) and (2) of subsection (b) do not apply to—

"(A) an entrepreneurship course offered by a qualified provider of entrepreneurship courses; and

"(B) a qualified provider of entrepreneurship courses by reason of such provider offering one or more entrepreneurship courses.".

(b) BUSINESS OWNERS NOT TREATED AS ALREADY QUALIFIED.—Section 3471 of such title is amended by inserting before the last sentence the following: "The Sec-

REV_00164258

retary shall not treat a person as already qualified for the objective of a program of education offered by a qualified provider of entrepreneurship courses solely because such person is the owner or operator of a business.''.

(c) INCLUSION OF ENTREPRENEURSHIP COURSES IN DEFINITION OF PROGRAM OF EDUCATION.—Subsection (b) of section 3452 of such title is amended by adding at the end the following: ''Such term also includes any course, or combination of courses, offered by a qualified provider of entrepreneurship courses.''

(d) INCLUSION OF QUALIFIED PROVIDER OF ENTREPRENEURSHIP COURSES IN DEFINITION OF EDUCATIONAL INSTITUTION.—Subsection (c) of section 3452 of such title is amended by adding at the end the following: ''Such term also includes any qualified provider of entrepreneurship courses.''.

(e) DEFINITION OF QUALIFIED PROVIDER OF ENTREPRENEURSHIP COURSES.—Section 3452 of such title is further amended by adding at the end the following new subsection:

''(h) The term 'qualified provider of entrepreneurship courses' means—

''(1) a small business development center described in section 21 of the Small Business Act (15 U.S.C. 648), and

REV_00164259

"(2) the National Veterans Business Development Corporation (established under section 33 of such Act (15 U.S.C. 657c)) insofar as the Corporation offers or sponsors an entrepreneurship course (as defined in section 3675(c)(2) of this title).".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to courses approved by State approving agencies after the date of the enactment of this Act.

SEC. 3. ESTABLISHMENT OF SELF-EMPLOYMENT AS A VOCATIONAL GOAL FOR VETERANS RECEIVING VOCATIONAL REHABILITATION.

Section 3104 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c) Any person entitled to a rehabilitation program under this chapter may establish self-employment as a vocational goal without regard to any requirement that the person be unemployable.".

SEC. 4. PROCUREMENT PROGRAM FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

REV_00164260

"SEC. 36. PROCUREMENT PROGRAM FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.

"(a) SOLE SOURCE CONTRACTS.—In accordance with this section and not withstanding any other provision of law, a contracting officer may award a sole source contract to any small business concern owned and controlled by service-disabled veterans if—

"(1) such concern is determined to be a responsible contractor with respect to performance of such contract opportunity and the contracting officer does not have a reasonable expectation that 2 or more small business concerns owned and controlled by service-disabled veterans will submit offers for the contracting opportunity;

"(2) the anticipated award price of the contract (including options) will not exceed—

"(A) $5,000,000, in the case of a contract opportunity assigned a standard industrial classification code for manufacturing; or

"(B) $3,000,000, in the case of any other contract opportunity; and

"(3) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price.

REV_00164261

"(b) RESTRICTED COMPETITION.—In accordance with this section and not withstanding any other provision of law, a contracting officer may award contracts on the basis of competition restricted to small business concerns owned and controlled by service-disabled veterans if the contracting officer has a reasonable expectation that not less than 2 small business concerns owned and controlled by service-disabled veterans will submit offers and that the award can be made at a fair market price.

"(c) APPEAL BY ADMINISTRATOR.—Not later than 5 days after the date on which the Administration is notified of a contracting officer's decision not to award a contract opportunity under this section to a small business concern owned and controlled by service-disabled veterans, the Administrator may notify the contracting officer of the intent to appeal the contracting officer's decision, and within 15 days of such date the Administrator may file a written request for reconsideration of the contracting officer's decision with the Secretary of the department or agency head.

"(d) RELATIONSHIP TO OTHER CONTRACTING PREFERENCES.—A procurement may not be made from a source on the basis of a preference provided under subsection (a) or (b) if the procurement would otherwise be made from a different source under section 4124 or 4125

REV_00164262

of title 18, United States Code, or the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.).

"(e) ENFORCEMENT; PENALTIES.—Rules similar to the rules of paragraphs (5) and (6) of section 8(m) shall apply for purposes of this section.

"(f) CONTRACTING OFFICER.—For purposes of this section, the term 'contracting officer' has the meaning given such term in section 27(f)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(f)(5))."

○

REV_00164263

I

108TH CONGRESS
1ST SESSION

H. R. 1716

To amend title 38, United States Code, to improve educational assistance programs of the Department of Veterans Affairs for apprenticeship or other on-job training, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 2003

Mr. SMITH of New Jersey (for himself, Mr. EVANS, Mr. BROWN of South Carolina, and Mr. MICHAUD) introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

A BILL

To amend title 38, United States Code, to improve educational assistance programs of the Department of Veterans Affairs for apprenticeship or other on-job training, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans Earn and Learn Act".

REV_00164264

(b) FINDINGS.—Congress makes the following findings:

(1) Educational assistance programs for veterans for apprenticeship and on-job training of the Department of Veterans Affairs assist employers to hire and retain skilled workers.

(2) These programs establish a link between training afforded to servicemembers while serving in the Armed Forces and training available in civilian settings for purposes of occupational licensing and credentialing.

(3) These programs develop a more highly educated and productive work force.

(c) REFERENCES TO TITLE 38, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. MODIFICATION OF BENEFIT ENTITLEMENT CHARGES FOR CERTAIN ON-JOB TRAINING PROGRAMS.

(a) VETERANS' EDUCATIONAL ASSISTANCE AND SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSIST-

REV_00164265

ANCE.—Section 3687 is amended by adding at the end the following new subsection:

"(e)(1) For each month that an individual (as defined in paragraph (3)) is paid a training assistance allowance under subsection (a), the entitlement of the individual shall be charged at a percentage rate (rounded to the nearest percent) that is equal to the ratio of—

"(A) such training assistance allowance for the period of months involved, to

"(B) the applicable monthly educational assistance allowance payable to the individual for such period of months.".

"(2) For any month in which an individual fails to complete 120 hours of training, the entitlement otherwise chargeable under paragraph (1) shall be reduced in the same proportion as the monthly training assistance allowance payable is reduced under subsection (b)(3).

"(3) In this section, the term 'individual' means—

"(A) an eligible veteran for purposes of chapter 34 of this title who is entitled, under chapter 30 or 34 of this title, as the case may be, to monthly educational assistance allowances payable under section 3015(e) of this title, or

"(B) an eligible person for purposes chapter 35 of this title, who is entitled, under section 3510 of

REV_00164266

this title, to monthly educational assistance allowances payable under section 3532(a) of this title as the case may be.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to months beginning on or after the date that is 1 year after the date of the enactment of this Act.

SEC. 3. INCENTIVE PAYMENT FOR EARLY COMPLETION OF APPRENTICESHIP TRAINING.

(a) MONTGOMERY GI BILL.—(1) Section 3032(c) is amended by adding at the end the following new paragraph:

''(4)(A) In the case of an individual who successfully completes a full-time program of apprenticeship before entitlement to monthly educational assistance allowance payable under this subsection for that program is exhausted, the Secretary shall pay to the individual a lump-sum amount equal to the difference between—

''(i) the total amount of educational assistance allowances that could have been paid to the individual under this subsection for the successful completion of that program, and

''(ii) the amount of educational assistance allowance paid to the individual for the program under this subsection.

REV_00164267

"(B) In the case of a lump sum payment paid to an individual under subparagraph (A), the individual's entitlement under this chapter (and chapter 34 of this title, if applicable) shall be charged at the applicable rate under paragraph (3).".

(2) Paragraph (1) of such section is amended by striking "Except as provided in paragraph (2)" and inserting "Subject to the succeeding provisions".

(b) POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE.—(1) Section 3233 is amended by adding at the end the following new subsection:

"(e)(1) In the case of an individual who successfully completes a full-time program of apprenticeship before entitlement to monthly benefit payment payable under this section for that program is exhausted, the Secretary shall pay to the individual a lump-sum amount equal to the difference between—

"(A) the total amount of monthly benefit payments that could have been paid to the individual under this section for the successful completion of that program, and

"(B) the amount of monthly benefit payments paid to the individual for the program under this section.

REV_00164268

"(2) In the case of a lump sum payment paid to an individual under paragraph (1), the individual's entitlement under this chapter shall be charged at the applicable rate under subsections (c) and (d)."

(2) Subsection (a) of such section is amended by striking "Except as provided in subsection (b)" and inserting "Subject to the succeeding provisions".

(c) VETERANS' EDUCATIONAL ASSISTANCE AND SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.—Section 3687, as amended by section 2(a), is further amended by adding at the end the following new subsection:

"(f)(1) In the case of an individual (as defined in subsection (e)(3) who successfully completes a full-time program of apprenticeship before entitlement to monthly educational assistance allowance payable for that program is exhausted, the Secretary shall pay to the individual a lump-sum amount equal to the difference between—

"(A) the total amount of educational assistance allowances that could have been paid to the individual under subsection (a) for the successful completion of that program, and

"(B) the amount of educational assistance allowance paid to the individual for the program under subsection (a).

REV_00164269

"(2) In the case of a lump sum payment paid to an individual under paragraph (1), the entitlement of the individual under chapter 30, 34, or 35 of this title, as the case may be, shall be charged at the applicable rate under subsection (e).".

(d) SELECTED RESERVE MONTGOMERY GI BILL.—(1) Section 16131(d) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) In the case of an individual who successfully completes a full-time program of apprenticeship before entitlement to monthly educational assistance allowance payable under this subsection for that program is exhausted, the Secretary shall pay to the individual a lump-sum amount equal to the difference between—

"(i) the total amount of educational assistance allowances that could have been paid to the individual under this subsection for the successful completion of that program, and

"(ii) the amount of educational assistance allowance paid to the individual for the program under this subsection.

"(B) In the case of a lump sum payment paid to an individual under subparagraph (A), the individual's enti-

REV_00164270

tlement under this chapter shall be charged at the applicable rate under paragraph (3).''.

(2) Paragraph (1) of such section is amended by striking ''Except as provided in paragraph (2)'' and inserting ''Subject to the succeeding provisions of this subsection''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to programs of training beginning on or after the date of the enactment of this Act.

SEC. 4. INCREASE IN BENEFIT FOR INDIVIDUALS PURSUING APPRENTICESHIP OR ON-JOB TRAINING AND RELATED POSTSECONDARY CLASSROOM EDUCATION TRAINING.

(a) MONTGOMERY GI BILL.—Section 3032(c), as amended by section 3(a), is further amended by adding at the end the following new paragraph:

''(5)(A) In the case of an individual pursuing a full-time program of apprenticeship or other on-job training under this chapter who, as a requirement of such program, is enrolled in a course of classroom instruction approved under subchapter I of chapter 36 of this title, notwithstanding the preceding provisions of this subsection, the amount of the monthly educational assistance allowance payable to the individual for each month (or fraction thereof) the individual is enrolled in such course is the

REV_00164271

amount payable under section 3015 of this title to an individual pursuing a program of education on a full-time basis.

"(B)(i) Subject to clause (ii), in the case of an individual pursuing a full-time program of apprenticeship or other on-job training under this chapter who has voluntarily enrolled in a course of classroom instruction approved under subchapter I of chapter 36 of this title that is related to such program, notwithstanding the preceding provisions of this subsection, the amount of the monthly educational assistance allowance payable to the individual under this subsection shall be increased for each month (or fraction thereof) the individual is enrolled in such course by an amount equal to the applicable reduced rate established by the Secretary under section 3015 of this title for an approved program of education pursued on less than a full-time basis.

"(ii) In no case may the amount of the monthly educational assistance allowance payable to the individual under clause (i) exceed the amount payable under such section 3015 to an individual pursuing a program of education on a full-time basis.

"(C)(i) In the case of a monthly educational assistance allowance paid to an individual under subparagraph (A) for a month, the individual's entitlement under this

REV_00164272

chapter for that month shall be charged at the rate that otherwise would apply but for this subsection.

"(ii) In the case of a monthly educational assistance allowance paid to an individual under subparagraph (B) for a month, the charge to the individual's entitlement for that month shall be increased proportionately in accordance with the increase in payment under subparagraph (B).

"(iii) Any such charge to the individual's entitlement shall be reduced proportionately in accordance with the reduction in payment under paragraph (2).".

(b) POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE.—(1) Section 3233, as amended by section 3(b), is further amended by adding at the end the following new subsection:

"(f)(1) In the case of an individual pursuing a full-time program of apprenticeship or other on-job training under this chapter who, as a requirement of such program, is enrolled in a course of classroom instruction approved under subchapter I of chapter 36 of this title, notwithstanding the preceding provisions of this section, the amount of the monthly benefit payment payable to the individual for each month (or fraction thereof) the individual is enrolled in such course is the amount payable under

REV_00164273

section 3231 of this title to that individual pursuing a program of education on a full-time basis.

"(2)(A) Subject to subparagraph (B), in the case of an individual pursuing a full-time program of apprenticeship or other on-job training under this chapter who has voluntarily enrolled in a course of classroom instruction approved under subchapter I of chapter 36 of this title that is related to such program, notwithstanding the preceding provisions of this section, the amount of the monthly benefit payment payable to the individual under this section shall be increased for each month (or fraction thereof) the individual is enrolled in such course by an amount equal to the applicable reduced rate established by the Secretary under section 3231 of this title for an approved program of education pursued on less than a full-time basis.

"(B) In no case may the amount of the monthly benefit payment payable to the individual under subparagraph (A) exceed the amount payable under section 3231 of this title to an individual pursuing a program of education on a full-time basis.

"(3)(A) In the case of a monthly benefit payment paid to an individual under paragraph (1) for a month, the individual's entitlement under this chapter for that

REV_00164274

month shall be charged at the rate that otherwise would apply but for this section.

"(B) In the case of a monthly benefit payment paid to an individual under paragraph (2) for a month, the charge to the individual's entitlement for that month shall be increased proportionately in accordance with the increase in payment under paragraph (2).

"(C) Any such charge to the individual's entitlement shall be reduced proportionately in accordance with the reduction in payment under paragraph (2).".

(2) Section 3231(a)(2) is amended—

(A) by striking "(2) Except as provided in paragraph (5)(E) of this subsection and in subsection (e) of this section" and inserting "(2)(A) Except as provided in subparagraph (B), paragraph (5)(E),"; and

(B) by adding at the end the following new subparagraph:

"(B) The Secretary shall prescribe regulations for appropriately reduced rates of the amount of the monthly payment otherwise applicable under subparagraph (A) for programs of educational or vocational assistance pursued on less than a full-time basis.".

(c) VETERANS' EDUCATIONAL ASSISTANCE AND SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSIST-

REV_00164275

ANCE.—Section 3687, as amended by section 3(c), is further amended by adding at the end the following new subsection:

"(g)(1) In the case of an individual (as defined in subsection (e)(3)) pursuing a full-time program of apprenticeship or other on-job training who, as a requirement of such program, is enrolled in a course of classroom instruction approved under subchapter I, notwithstanding the preceding provisions of this section, the amount of the monthly training assistance allowance payable to the individual for each month (or fraction thereof) the individual is enrolled in such course is the amount of educational assistance allowance payable under section 3015(e) of this title or under section 3532(a) of this title, as the case may be, who is pursuing a program of education on a full-time basis.

"(2)(A) Subject to subparagraph (B), in the case of an individual pursuing a full-time program of apprenticeship or other on-job training, as the case may be, who has voluntarily enrolled in a course of classroom instruction approved under subchapter I that is related to such program, notwithstanding the preceding provisions of this section, the amount of the monthly training assistance allowance payable to the individual under this section shall be increased for each month (or fraction thereof) the indi-

REV_00164276

vidual is enrolled in such course by an amount equal to the applicable reduced rate established by the Secretary under section 3015 of this title, or section 3532(a), as the case may be, for an approved program of education pursued on less than a full-time basis.

"(B) In no case may the amount of the monthly benefit payment payable to the individual under subparagraph (A) exceed the amount of educational assistance allowance payable to the individual under section 3015(e) of this or under section 3532(a) of this title, as the case may be, who is pursuing a program of education on a full-time basis.

"(3)(A) In the case of a monthly benefit payment paid to an individual under paragraph (1) for a month, the entitlement of the individual under chapter 30, 34, or 35 of this title for that month shall be charged at the rate that otherwise would apply but for this section.

"(B) In the case of a monthly benefit payment paid to an individual under paragraph (2) for a month, the charge to the entitlement of the individual under chapter 30, 34, or 35 of this title for that month shall be increased proportionately in accordance with the increase in payment under paragraph (2).

REV_00164277

"(C) Any such charge to the entitlement of the individual shall be reduced proportionately in accordance with the reduction in payment under paragraph (2).".

(d) SELECTED RESERVE MONTGOMERY GI BILL.—Section 16131 of title 10, United States Code, as amended by section 3(d), is further amended by adding at the end the following new paragraph:

"(5)(A) In the case of an individual pursuing a full-time program of apprenticeship or other on-job training under this chapter who, as a requirement of such program, is enrolled in a course of classroom instruction approved under subchapter I of chapter 36 of title 38, notwithstanding the preceding provisions of this subsection, the amount of the monthly educational assistance allowance payable to the individual for each month (or fraction thereof) the individual is enrolled in such course is the amount payable under subsection (b) to an individual pursuing a program of education on a full-time basis.

"(B)(i) Subject to clause (ii), in the case of an individual pursuing a full-time program of apprenticeship or other on-job training under this chapter who has voluntarily enrolled in a course of classroom instruction approved under subchapter I of chapter 36 of title 38 that is related to such program, notwithstanding the preceding provisions of this subsection, the amount of the monthly

REV_00164278

educational assistance allowance payable to the individual under this subsection shall be increased for each month (or fraction thereof) the individual is enrolled in such course by an amount equal to the applicable reduced rate established by the Secretary under subsection (b) for an approved program of education pursued on less than a full-time basis.

"(ii) In no case may the amount of the monthly educational assistance allowance payable to the individual under clause (i) exceed the amount payable under subsection (b) to an individual pursuing a program of education on a full-time basis.

"(C)(i) In the case of a monthly educational assistance allowance paid to an individual under subparagraph (A) for a month, the individual's entitlement under this chapter for that month shall be charged at the rate that otherwise would apply but for this subsection.

"(ii) In the case of a monthly educational assistance allowance paid to an individual under subparagraph (B) for a month, the charge to the individual's entitlement for that month shall be increased proportionately in accordance with the increase in payment under subparagraph (B).

REV_00164279

"(iii) Any such charge to the individual's entitlement shall be reduced proportionately in accordance with the reduction in payment under paragraph (2).".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to months beginning on or after the date that is 1 year after the date of the enactment of this Act.

SEC. 5. AUTHORITY FOR COMPETENCY-BASED APPRENTICESHIP PROGRAMS.

(a) IN GENERAL.—Section 3672(c) is amended—

(1) by striking "(1)" and "(2)" and inserting, "(A)" and "(B)" respectively;

(2) by inserting "(1)" after "(c)"; and

(3) by adding at the end the following new paragraphs:

"(2) The period of a program of apprenticeship may be determined based upon a specific period of time (commonly referred to as a 'time-based program'), based upon the demonstration of successful mastery of skills (commonly referred to as a 'competency-based program'), or based upon a combination thereof.

"(3)(A) In the case of a competency-based program of apprenticeship, in determining the period of such a program, the Secretary shall take into consideration the approximate term of the program recommended in registered

REV_00164280

apprenticeship program standards recognized by the Secretary of Labor.

"(B) The sponsor of a competency-based program of apprenticeship shall provide notice to the Secretary of any such standards that may apply to the program and the proposed approximate period of training under the program.

"(4) The Secretary of Labor shall notify the Secretary upon the successful completion of a program of apprenticeship by a veteran, eligible veteran, or eligible person, as the case may be.".

(b) INCREASED USE OF APPRENTICESHIPS.—Section 3672(d)(1) is amended by adding at the end the following new sentence: "The Secretary of Labor shall provide such assistance and services to the Secretary, and to State approving agencies, to increase the use of apprenticeships.".

(c) ON-JOB TRAINING.—Section 3677 is amended by adding at the end the following new subsection:

"(d)(1) The sponsor of any program of training on the job shall submit notice to the Secretary upon the successful completion of the program by the veteran, eligible veteran, or eligible person, as the case may be.

"(2) The term 'training on the job' includes training commonly referred to as 'on-job learning'.".

REV_00164281

(d) FUNDING FOR DEPARTMENT COMPUTER SYSTEM MODIFICATIONS.—From amounts appropriated to the Department of Veterans Affairs for fiscal year 2004 for readjustment benefits, the Secretary of Veterans Affairs shall use an amount not to exceed $3,000,000 to modify computer systems and to develop procedures required to carry out the amendments made by subsection (a) and sections 2, 3, and 4.

SEC. 6. PILOT PROGRAM TO PROVIDE ON-JOB BENEFITS TO TRAIN DEPARTMENT OF VETERANS AFFAIRS' CLAIMS ADJUDICATORS.

Section 3677, as amended by section 5(c), is further amended by adding at the end the following new subsection:

"(e)(1) The Secretary shall conduct a pilot program under which, the Secretary shall operate a program of training on the job under this section for a period (notwithstanding subsection (c)(2)) of up to three years in duration to train employees of the Department to become qualified adjudicators of claims for compensation, dependency and indemnity compensation, and pension.

"(2) Amounts of educational assistance, monthly benefit payments, and training assistance allowance under chapters 30, 31, 32, 34, and 35 of this title, as the case

REV_00164282

may be, shall be payable to such employees during each month of training under the program.

"(3)(A) Not later than 3 years after the implementation of the pilot project, the Secretary shall submit to Congress an initial report on the pilot project. The report shall include an assessment of the usefulness of the program in recruiting and retaining of personnel of the Department as well as an assessment of the value of the program as a training program.

"(B) Not later than 18 months after the date on which the initial report under subparagraph (A) is submitted, the Secretary shall submit to Congress a final report on the pilot project. The final report shall include recommendations of the Secretary with respect to continuation of the pilot project and with respect to expansion of the types of claims for which the extended period of on the job training is available to train such employees.

"(4) The pilot project shall terminate 5 years after the date of the implementation of the project.".

SEC. 7. REQUIREMENT FOR COORDINATION OF DATA AMONG THE DEPARTMENTS OF VETERANS AFFAIRS, DEFENSE, AND LABOR WITH RESPECT TO ON-JOB TRAINING.

Section 3694 is amended—

REV_00164283

(1) by striking "In carrying out" and inserting "(a) IN GENERAL.—In carrying out"; and

(2) by adding at the end the following new subsection:

"(b) COORDINATION OF INFORMATION AMONG THE DEPARTMENTS OF VETERANS AFFAIRS, DEFENSE, AND LABOR WITH RESPECT TO ON-JOB TRAINING.—At the time of a servicemember's discharge or release from active duty service, the Secretary of Defense shall furnish to the Secretary such pertinent information concerning each registered apprenticeship pursued by the servicemember during the period of active duty service of the servicemember. The Secretary, in conjunction with the Secretary of Labor, shall encourage and assist States and private organizations to give credit to servicemembers for the registered apprenticeship program so pursued in the case of any related apprenticeship program the servicemember may pursue as a civilian.".

SEC. 8. TECHNICAL AND CONFORMING AMENDMENTS.

(a) DEFINITION OF TRAINING ESTABLISHMENT.—Section 3452(e) is amended by striking "or any State apprenticeship agency, or any State board of vocational education, or any joint apprenticeship committee, or the Bureau of Apprenticeship and Training established pursuant to the Act of August 16, 1937, popularly known as the

REV_00164284

"National Apprenticeship Act" (29 U.S.C. 50 et seq.)," and inserting "any State board of vocational education, any Federal or State apprenticeship registration agency, any joint apprenticeship committee established pursuant to the Act of August 16, 1937, popularly known as the 'National Apprenticeship Act' (29 U.S.C. 50 et seq.),".

(b) CLARIFICATION OF APPLICABLE APPRENTICESHIP STANDARDS.—(1) Section 3672(c), as amended by section 5(a), is amended in subparagraph (A) by inserting "apprenticeship" before "standards".

(2) Section 3672(d)(1) is amended by striking "of programs of training on the job (including programs of apprenticeship)" and inserting "of apprenticeship and on the job training programs".

(c) JOB TRAINING AND PLACEMENT FUNCTIONS OF THE DEPARTMENT.—(1) Section 4102A, as amended by section 4(a) of the Jobs for Veterans Act (Public Law 107–288; 116 Stat. 2038), is amended by striking "October 1, 2002" in subsection (c)(2)(B)(ii) and inserting "October 1, 2003".

(2) The amendment made by paragraph (1) shall take effect as if included in the enactment of section 4(a) of the Jobs for Veterans Act (Public Law 107–288; 116 Stat. 2038).

○

REV_00164285

108TH CONGRESS
1ST SESSION

H. R. 1712

To amend the Small Business Act to establish a development program for small business concerns owned and controlled by qualified service-disabled veterans, to reauthorize the programs of the National Veterans Business Development Corporation, to establish a Government-wide procurement goal for small business concerns owned and controlled by veterans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 2003

Mr. EVANS (for himself, Mr. FILNER, Mr. MICHAUD, and Ms. HOOLEY of Oregon) introduced the following bill; which was referred to the Committee on Small Business

---

A BILL

To amend the Small Business Act to establish a development program for small business concerns owned and controlled by qualified service-disabled veterans, to reauthorize the programs of the National Veterans Business Development Corporation, to establish a Government-wide procurement goal for small business concerns owned and controlled by veterans, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

REV_00164286

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Veterans Federal Procurement Opportunity Act of 2003''.

SEC. 2. DEVELOPMENT PROGRAM FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY QUALIFIED SERVICE-DISABLED VETERANS.

(a) ESTABLISHMENT OF PROGRAM.—The Small Business Act (15 U.S.C. 631 et seq.) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

''SEC. 36. DEVELOPMENT PROGRAM FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY QUALIFIED SERVICE-DISABLED VETERANS.

''(a) IN GENERAL.—In accordance with this section, the Administrator shall establish a development program for small business concerns owned and controlled by qualified service-disabled veterans. The program established under this section shall be similar to the program described in sections 7(j) and 8(a).

''(b) ASSISTANCE AND SERVICES; RULES.—The program established under this section shall provide assistance and services, and be governed by rules, similar to the assistance and services provided under, and rules described in, subsections (a)(20) and (j) of section 7 and section 8(a).

''(c) DEFINITIONS.—For purposes of this section:

REV_00164287

"(1) QUALIFIED SERVICE-DISABLED VETERAN.—The term 'qualified service-disabled veteran' means a service-disabled veteran who is economically disadvantaged within the meaning of section 8(a)(6), except that, solely for purposes of determining personal income under this section, no amount received by such veteran by reason of such veteran's service-connected disability or service as a member of the Armed Forces shall be taken into account in determining whether such veteran is economically disadvantaged.

"(2) SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY QUALIFIED SERVICE-DISABLED VETERANS.—The term 'small business concern owned and controlled by qualified service-disabled veterans' has the meaning given the term 'small business concern owned and controlled by service-disabled veterans' in section 3(q)(2), except that 'qualified service-disabled veteran' shall be substituted for 'service-disabled veteran'.".

(b) CONFORMING AMENDMENT.—Section 16(d)(1)(B) of the Small Business Act (15 U.S.C. 645(d)(1)(B)) is amended by inserting "or 36" after "section 8(a)".

REV_00164288

SEC. 3. REAUTHORIZATION OF PROGRAMS OF THE NATIONAL VETERANS BUSINESS DEVELOPMENT CORPORATION AND THE ADVISORY COMMITTEE ON VETERANS AFFAIRS.

(a) REAUTHORIZATION OF PROGRAMS OF NATIONAL VETERANS BUSINESS DEVELOPMENT CORPORATION.—Subsection (k) of section 33 of the Small Business Act (15 U.S.C. 657c(k)) is amended by striking paragraphs (1) and (2) and inserting the following new paragraphs:

"(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated to the Corporation to carry out this section—

"(A) $2,000,000 for each of fiscal years 2003 and 2004; and

"(B) $1,000,000 for each of fiscal years 2005 and 2006.

"(2) MATCHING REQUIREMENT.—The amount made available to the Corporation for any fiscal year may not exceed the amount that the Corporation certifies that it will provide for that fiscal year from sources other than the Federal Government.".

(b) NATIONAL VETERANS BUSINESS DEVELOPMENT CORPORATION REPORTS.—Subsection (g) of section 33 of the Small Business Act (15 U.S.C. 657c(g)) is amended to read as follows:

"(g) REPORTS.—

REV_00164289

"(1) ANNUAL REPORT.—On or before October 1 of each year, the Board of Directors shall transmit to the President, the Committees on Veterans Affairs of the House of Representatives and of the Senate, the Committee on Small Business of the House of Representatives, and the Committee on Small Business and Entrepreneurship of the Senate a report describing the activities and accomplishments of the Corporation for the preceding year. Such report shall include—

"(A) the Corporation's findings regarding the efforts of Federal, State, and private organizations to assist veterans in the formation and expansion of small business concerns;

"(B) a description of the progress made by the Corporation during such year in achieving its specified annual performance goals and objectives; and

"(C) any revisions to annual performance goals or indicators required to achieve specified strategic goals and objectives.

"(2) 5-YEAR STRATEGIC PLAN.—On or before October 1, 2003, and every 5 years thereafter, the Board of Directors shall transmit to the President, the Committees on Veterans Affairs of the House of

REV_00164290

Representatives and of the Senate, the Committee on Small Business of the House of Representatives, and the Committee on Small Business and Entrepreneurship of the Senate a report describing the strategic objectives of the Corporation for the 5-year period beginning on such date. Such report shall include—

"(A) a comprehensive mission statement covering the major functions and operations of the Corporation;

"(B) the general outcome related strategic goals and objectives for each of the major functions and operations of the Corporation;

"(C) a description of the means and strategies, addressing both financial and non-financial resources, to be employed by the Corporation to achieve those specified strategic goals and objectives;

"(D) a description of the annual output and outcome related performance strategies, with associated performance goals and indicators, to be employed by the Corporation to help achieve the general goals and objectives contained in the strategic plan;

REV_00164291

"(E) an identification of key factors that could affect the achievement of the Corporations general goals and objectives; and

"(F) a description of the program evaluations and performance indicators to be used by the Corporation to assess its achievement of strategic and annual performance goals and objectives.

"(3) 5-YEAR BUSINESS PLAN.—On or before October 1, 2003, and every 5 years thereafter, the Board of Directors shall transmit to the President, the Committees on Veterans Affairs of the House of Representatives and of the Senate, the Committee on Small Business of the House of Representatives, and the Committee on Small Business and Entrepreneurship of the Senate a report describing the financial objectives of the Corporation for the 5-year period beginning on such date. Such report shall include a description of the specific plans to be implemented to achieve such objectives and the requirements of paragraphs (2) and (3) of subsection (k) and to provide for the long-term financial viability of the Corporation.

"(4) AUDITED FINANCIAL STATEMENTS.—On or before October 1, 2003, and every 2 years there-

REV_00164292

after, the Board of Directors shall transmit to the President, the Committees on Veterans Affairs of the House of Representatives and of the Senate, the Committee on Small Business of the House of Representatives, and the Committee on Small Business and Entrepreneurship of the Senate an audited financial statement of the Corporation. Such statement shall be prepared by an independent external auditor and shall be conducted in accordance with generally accepted government auditing standards.''.

(c) ADVISORY COMMITTEE ON VETERANS BUSINESS AFFAIRS.—Subsection (h) of section 203 of the Veterans Entrepreneurship and Small Business Development Act of 1999 is amended by striking ''2004'' and inserting ''2009''.

SEC. 4. ESTABLISHMENT OF GOVERNMENT-WIDE PROCUREMENT GOAL FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY VETERANS; AUTHORIZATION OF RESTRICTED COMPETITION TO ACHIEVE GOALS; ETC.

(a) IN GENERAL.—Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended to read as follows:

''(g) GOVERNMENT-WIDE AND AGENCY SMALL BUSINESS PROCUREMENT GOALS.—

REV_00164293

"(1) ESTABLISHMENT BY PRESIDENT OF GOVERNMENT-WIDE GOALS.—The President shall annually establish Government-wide goals for procurement contracts awarded to each specified category of small business concerns.

"(2) SMALL BUSINESS CONCERNS.—The Government-wide goal for participation by small business concerns in prime contracts or applicable subcontracts shall be established at not less than 28 percent of the total value of all prime contract awards for each fiscal year.

"(3) SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY VETERANS.—The Government-wide goal for participation by small business concerns owned and controlled by veterans in prime contracts or applicable subcontracts shall be established at not less than 3 percent of the total value of all prime contract awards for each fiscal year.

"(4) SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.—The Government-wide goal for participation by small business concerns owned and controlled by service-disabled veterans in prime contracts or applicable subcontracts shall be established at not less than 3

REV_00164294

percent of the total value of all prime contract awards for each fiscal year.

"(5) QUALIFIED HUBZONE SMALL BUSINESS CONCERNS.—The Government-wide goal for participation by qualified HUBZone small business concerns in prime contracts or applicable subcontracts shall be established at not less than 3 percent of the total value of all prime contract awards for each fiscal year.

"(6) SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The Government-wide goal for participation by small business concerns owned and controlled by socially and economically disadvantaged individuals in prime contracts or applicable subcontracts shall be established at not less than 5 percent of the total value of all prime contract awards for each fiscal year.

"(7) SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY WOMEN.—The Government-wide goal for participation by small business concerns owned and controlled by women in prime contracts or applicable subcontracts shall be established at not less than 5 percent of the total value of all prime contract awards for each fiscal year.

REV_00164295

"(8) AGENCY GOALS.—

"(A) IN GENERAL.—Each Federal agency shall have annual goals that present, for that agency, the maximum practicable opportunity for each specified category of small business concerns to perform prime contracts let by such agency and subcontracts under such prime contracts.

"(B) NOT LESS THAN GOVERNMENT-WIDE GOALS.—No Federal agency may have an agency goal under subparagraph (A) which is less than the corresponding Government-wide goal established by the President under paragraph (1).

"(C) PROCEDURE FOR ESTABLISHMENT.—Each year, the Administration and the head of each Federal agency shall jointly establish the goals described in subparagraph (A) for such agency. Whenever the Administration and the head of any Federal agency fail to agree on established goals, the disagreement shall be submitted to the Administrator of the Office of Federal Procurement Policy for final determination.

REV_00164296

"(D) EXPANSION OF PARTICIPATION.—For the purpose of establishing goals under this paragraph, the head of each Federal agency shall make consistent efforts to annually expand participation by small business concerns from each industry category in procurement contracts of the agency, including participation by each specified category of small business concerns. The head of each Federal agency, in attempting to attain such participation, shall consider—

"(i) contracts awarded as the result of unrestricted competition;

"(ii) contracts awarded as the result of restricted competition under this section and under the programs established under sections 8(a), 31, and 36; and

"(iii) subcontracts awarded pursuant to subcontracting plans required under paragraphs (4) or (5) of section 8(d).

"(9) DOUBLE COUNTING PROHIBITED.—In the case of a small business concern that is part of more than 1 specified subcategory of small business concerns, with respect to any prime contract or subcontract awarded to such concern, a Federal agency

REV_00164297

shall treat such concern as part of only 1 such specified subcategory for purposes of this subsection.

"(10) RESTRICTION ON USE OF FUNDS IN CASE OF FAILURE TO ACHIEVE GOALS.—

"(A) IN GENERAL.—In the case of fiscal year 2004 and each fiscal year thereafter, if an agency fails to meet the Government-wide goal established under this subsection for such fiscal year with respect to any specified subcategory of small business concerns, the applicable amount of any amounts appropriated or otherwise made available to such agency for the following fiscal year shall be used only for—

"(i) procurements under any prime contract awarded to such specified subcategory of small business concerns, and

"(ii) that portion of procurements under any prime contract (with respect to which a subcontracting plan is required under paragraph (4) or (5)) which is attributable to the goal for the utilization as subcontractors of such specified subcategory of small business concerns under such plan.

REV_00164298

"(B) APPLICABLE AMOUNT.—For purposes of this paragraph, the term 'applicable amount' means, with respect to any agency that fails to meet a Government-wide goal for a fiscal year with respect to any specified subcategory of small business concerns, the applicable percentage for such fiscal year of the total value of all prime contract awards made by such agency for such fiscal year.

"(C) APPLICABLE PERCENTAGE.—For purposes of this paragraph:

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'applicable percentage' means, with respect to any specified subcategory of small business concerns, the Government-wide percentage goal for participation by such specified subcategory of small business concerns for the fiscal year.

"(ii) TRANSITION RULES.—In the case of fiscal years 2004 through 2008:

"(I) 3 PERCENT GOALS.—With respect to small business concerns owned and controlled by veterans, small business concerns owned and

REV_00164299

controlled by service-disabled veterans, and qualified HUBZone small business concerns, the applicable percentage shall be determined in accordance with the following table:

"In the case of fiscal year:	The applicable percentage is:
2004	0.5%
2005	1%
2006	1.5%
2007	2%
2008	2.5%.

"(II) 5 PERCENT GOALS.—With respect to small business concerns owned and controlled by socially and economically disadvantaged individuals and small business concerns owned and controlled by women, the applicable percentage shall be determined in accordance with the following table:

"In the case of fiscal year:	The applicable percentage is:
2004	1%
2005	2%
2006	3%
2007	4%
2008	5%.

"(11) RESTRICTED COMPETITION TO ACHIEVE GOALS.—

"(A) IN GENERAL.—In accordance with this paragraph, a contracting officer may re-

REV_00164300

strict competition for any contract for the procurement of goods or services by the Federal Government to any specified category of small business concerns, if—

"(i) the contracting officer has a reasonable expectation that two or more small business concerns of such category will submit offers for the contract;

"(ii) the anticipated award price of the contract (including options) does not exceed the simplified acquisition threshold;

"(iii) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price;

"(iv) the award of such contract to a small business concern of such category will not result in the agency exceeding the greater of the Government-wide goal or the agency goal under this subsection with respect to such category; and

"(v) each of the concerns—

"(I) is certified by the Administrator or any person or entity approved by the Administrator as a

REV_00164301

small business concern of such category; or

"(II) certifies to the contracting officer that it is a small business concern of such category and provides adequate documentation, in accordance with standards established by the Administration, to support such certification.

"(B) RELATIONSHIP TO OTHER CONTRACTING PREFERENCES.—A procurement shall not be made from a source on the basis of a preference provided in subparagraph (A), if the procurement would otherwise be made from a different source under section 4124 or 4125 of title 18, United States Code, or the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.).

"(C) VERIFICATION OF ELIGIBILITY.—In carrying out this paragraph, the Administrator shall establish procedures relating to—

"(i) the filing, investigation, and disposition by the Administration of any challenge to the eligibility of a small business concern to receive assistance under this

REV_00164302

paragraph (including a challenge, filed by an interested party, relating to the veracity of a certification referred to in subparagraph (A)(v)); and

"(ii) verification by the Administrator of the accuracy of any certification made or information provided under subparagraph (A)(v).

"(D) EXAMINATIONS.—The procedures established under subparagraph (C) may provide for program examinations (including random program examinations) by the Administrator of any small business concern certified under subparagraph (A)(v).

"(E) PROVISION OF DATA.—Upon the request of the Administrator, the head of any Federal agency shall promptly provide to the Administrator such information as the Administrator determines to be necessary to carry out this paragraph.

"(F) PENALTIES.—In addition to the penalties described in section 16(d), any small business concern that is determined by the Administrator to have misrepresented the status of that concern as part of a specified category of

REV_00164303

small business concerns for purposes of this paragraph shall be subject to—

"(i) section 1001 of title 18, United States Code; and

"(ii) sections 3729 through 3733 of title 31, United States Code.

"(G) CONTRACTING OFFICER.—For purposes of this paragraph, the term 'contracting officer' has the meaning given such term in section 27(f)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(f)(5)).

"(12) APPLICABLE SUBCONTRACTS.—For purposes of this subsection, the term 'applicable subcontract' means any subcontract under a contract that is subject to the requirements of paragraph (4) or (5) of section 8(d).".

(b) CONFORMING AMENDMENTS.—Section 15(h)(2) of the Small Business Act (15 U.S.C. 644(h)(2)) is amended by striking subparagraphs (D), (E), and (F), and inserting the following new subparagraphs:

"(D) The total number and dollar value of prime contracts awarded to each specified category of small business concerns through—

"(i) noncompetitive negotiation;

REV_00164304

"(ii) competition restricted to such specified category; and

"(iii) unrestricted competition.

"(E) The total number and dollar value of applicable subcontracts (as defined in subsection (g)(12)) awarded to each specified category of small business concerns.

"(F) The information described in subparagraphs (D) and (E) stated separately with respect to each agency.".

SEC. 5. REQUIREMENTS RELATED TO SUBCONTRACTING PLANS.

(a) FACTORS FOR EVALUATING OFFERS.—Subparagraph (G) of section 8(d)(4) of the Small Business Act (15 U.S.C. 637(d)(4)) is amended to read as follows:

"(G) In the case of any contract that is awarded pursuant to the negotiated method of procurement, the following shall be treated as significant factors for purposes of evaluating offers for any such contract:

"(i) A factor that is based on the extent to which the subcontracting plan for small business participation in the performance of the contract exceeds the requirement described in paragraph (6)(A).

REV_00164305

"(ii) A factor that is based on the extent to which the subcontracting plan provides for the use of small business concerns with respect to which the contractor is serving as a mentor under a mentoring program established by the agency.

"(iii) A factor that is based on the extent to which the offeror attained applicable goals for small business participation in the performance of past and current contracts.".

(b) MINIMUM GOAL.—Subparagraph (A) of section 8(d)(6) of the Small Business Act (15 U.S.C. 637(d)(6)) is amended to read as follows:

"(A) percentage goals for the utilization as subcontractors of each specified category of small business concerns (determined in accordance with the requirement of section 15(g)(9)), which goal for the utilization of small business concerns shall be not less than the percentage goal established under section 15(g)(2);".

(c) REQUIRED PENALTY FOR MATERIAL BREACH.—Paragraph (8) of section 8(d) of the Small Business Act (15 U.S.C. 637(d)(8)) is amended by adding at the end the following: "If a contracting officer finds the prime contractor or any subcontractor to be in material breach under this paragraph, such prime contractor shall pay a

REV_00164306

penalty in an amount determined by such officer, except that such penalty shall not be less than 10 percent of the total dollar value of the contract under which the prime contractor or subcontractor is in material breach. Rules similar to the rules of paragraph (4)(F)(ii) shall apply for purposes of the preceding sentence. Notwithstanding any other provision of law, the amount of any penalty collected under this paragraph shall be paid over to the agency that let the contract and may be retained and used by such agency for any operating expense of the agency.''.

SEC. 6. DEFINITIONS.

(a) SERVICE-DISABLED VETERAN.—

(1) IN GENERAL.—Paragraph (1) of section 3(q) of the Small Business Act (15 U.S.C. 632(q)(1)) is amended to read as follows:

''(1) SERVICE-DISABLED VETERAN.—The term 'service-disabled veteran' means any veteran with a disability that is—

''(A) service-connected (as defined in section 101(16) of title 38, United States Code); and

''(B) rated at 10 percent or more disabling by the Secretary of Veterans Affairs or, in the case of a disability not rated by the Secretary of Veterans Affairs, by the Secretary concerned

REV_00164307

(as defined in section 101(25) of title 38, United States Code).".

(2) TRANSITION RULE.—A small business concern that is receiving assistance under this Act (or if fully approved to receive such assistance) on the date of the enactment of this Act shall not cease to qualify for such assistance solely because of the amendment made by paragraph (1). The preceding sentence shall not make such concern eligible for any other assistance.

(b) SPECIFIED CATEGORIES AND SUBCATEGORIES OF SMALL BUSINESS CONCERNS.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following new subsections:

"(r) SPECIFIED CATEGORY OF SMALL BUSINESS CONCERNS.—For purposes of this Act, each of following is a specified category of small business concerns:

"(1) Small business concerns owned and controlled by veterans.

"(2) Small business concerns owned and controlled by service-disabled veterans.

"(3) Qualified HUBZone small business concerns.

REV_00164308

"(4) Small business concerns owned and controlled by socially and economically disadvantaged individuals.

"(5) Small business concerns owned and controlled by women.

"(6) Small business concerns.

"(s) SPECIFIED SUBCATEGORIES OF SMALL BUSINESS CONCERNS.—For purposes of this Act, each specified category of small business concerns described in paragraphs (1) through (5) of subsection (r) is a specified subcategory of small business concerns.".

SEC. 7. UNIFORM APPLICATION OF DEFINITIONS OF SPECIFIED CATEGORIES AND SUBCATEGORIES OF SMALL BUSINESS CONCERNS.

(a) IN GENERAL.—

(1) Section 8(d)(1) of the Small Business Act (15 U.S.C. 637(d)(1)) is amended—

(A) in the first sentence, by striking "small business concerns" the first place it appears and all that follows through "women," and inserting "each specified category of small business concerns"; and

(B) in the second sentence, by striking "small business concerns" the first place it appears and all that follows through "women"

REV_00164309

and inserting "each specified category of small business concerns".

(2) Paragraphs (4)(D), (4)(E), (6)(C), (6)(F), and (10)(B) of section 8(d) of the Small Business Act (15 U.S.C. 637(d)) are each amended by striking "small business concerns" the first place it appears and all that follows through "women" and inserting "each specified category of small business concerns".

(3) Paragraphs (1) and (2)(A) of section 15(h) of the Small Business Act (15 U.S.C. 644(h)) are each amended by striking "small business concerns" the first place it appears and all that follows through "women" and inserting "each specified category of small business concerns".

(4) Section 16(d)(1) of the Small Business Act (15 U.S.C. 645(d)(1)) is amended by striking "as a 'small business concern'" and all that follows through "women'," and inserting "as being part of any specified category of small business concerns".

(5) Section 16(e) of the Small Business Act (15 U.S.C. 645(e)) is amended by striking "as a 'small business concern'" and all that follows through "women'" and inserting "as being part of any specified category of small business concerns".

REV_00164310

(b) APPLICATION TO CONTRACT CLAUSES.—

(1) IN GENERAL.—Section 8(d)(3) of the Small Business Act (15 U.S.C. 637(d)(3)) is amended—

(A) in the first and second sentences of subparagraph (A), by striking "small business concerns" the first place it appears in each sentence and all that follows through "women" and inserting "each specified category of small business concerns";

(B) by striking subparagraphs (C), (D), (E), (F), and (G); and

(C) by inserting after subparagraph (B) the following new subparagraphs:

"(C) As used in this contract, the term 'specified category of small business concerns' has the meaning given such term pursuant to section 3 of the Small Business Act and relevant regulations promulgated thereto.

"(D) The contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, other minorities, and any other individual found to be disadvantaged by the Administra-

REV_00164311

tion pursuant to section 8(a) of the Small Business Act.

"(E) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as being part of any specified category of small business concerns.".

(2) DEFINITION OF SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—Section 3 of the Small Business Act (15 U.S.C. 632) is further amended by adding at the end the following new subsection:

"(t) SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—For purposes of this Act:

"(1) IN GENERAL.—The term 'small business concern owned and controlled by socially and economically disadvantaged individuals' means a small business concern—

"(A) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned business, at least 51 percent of the stock

REV_00164312

of which is owned by one or more socially and economically disadvantaged individuals; and

"(B) whose management and daily business operations are controlled by one or more of such individuals.".

"(2) APPLICATION OF DEFINITION BY PERSONS OTHER THAN THE ADMINISTRATION.—Any individual or entity (other than the Administration) shall presume for purposes of carrying out any program that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, other minorities, and any other individual found to be disadvantaged by the Administration pursuant to section 8(a).".

(3) TREATMENT OF REFERENCES TO DEFINITIONS.—Any reference in a law, regulation, or other document of the United States to the meaning or definition given to the term "small business concern owned and controlled by socially and economically disadvantaged individuals", "small business concern owned and controlled by women", "small business concern owned and controlled by veterans", or "qualified HUBZone small business concern" in section 8(d)(3) of the Small Business Act (15 U.S.C.

REV_00164313

637(d)(3)) (as in effect on the day before the date of the enactment of this Act) shall be treated as a reference to the meaning or definition given such term in section 3 of the Small Business Act (as amended by this Act).

○

REV_00164314

From: Kirk Blalock <kblalock@fierce-isakowitz.com>
To: Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>
Sent: 4/30/2003 3:17:58 AM
Subject: : Congress Daily AM - Asbestos
Attachments: P_CIM0G003_WHO.TXT_1.html

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kirk Blalock <kblalock@fierce-isakowitz.com> (Kirk Blalock <kblalock@fierce-isakowitz.com> [UNKNOWN])
CREATION DATE/TIME:30-APR-2003 07:17:58.00
SUBJECT:: Congress Daily AM - Asbestos
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
End Original ARMS Header

Hatch Warns Labor, Industry to Reach Asbestos Agreement

Senate Judiciary Chairman Hatch warned Tuesday that he planned to press ahead with a May markup of asbestos litigation reform legislation - regardless of whether labor and industry had worked out their differences on an allocation formula for compensating victims.

Negotiations between those parties over funding have been ongoing since before the April recess, but have yet to yield an agreement.

"There will be a bill," Hatch said in an interview. "We're going ahead, one way or the other."

He added, "Business and labor have got to get together." If they do not, the status quo will prevail "as far as I'm concerned," Hatch said. However, Hatch said he believes labor has the most to loose under that scenario. "This is a big, big thing," he said.

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_CIM0G003_WHO.TXT_1>

Hatch Warns Labor, Industry to Reach Asbestos Agreement

Senate Judiciary Chairman Hatch warned Tuesday that he planned to press ahead with a May markup of asbestos litigation reform legislation – regardless of whether labor and industry had worked out the ir differences on an allocation formula for compensating victims.

Negotiations between those parties over funding have been ongoing since before the April recess, but have yet to yield an agreement.

"There will be a bill," Hatch said in an intervi ew. "We're going ahead, one way or the other."

He added, "Business and labor have got to get together." If they do not, the status quo will prevail "as far as I'm concerned," Hatch said. However, Hatch said he believes labor has the most to loose under that scenario. "This is a big, big thing," he said.

From: CN=Lisa J. Macecevic/OU=OMB/O=EOP [OMB]
To: James J. Jukes/OMB/EOP@EOP [OMB] <James J. Jukes>;Kenneth L. Schwartz/OMB /EOP@EOP [OMB] <Kenneth L. Schwartz>;Lauren E. Bloomquist/OMB/EOP@EOP [OMB] <Lauren E. Bloomquist>;Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Richard E. Green/OMB/EOP@EOP [OMB] <Richard E. Green>;James Boden/OMB/EOP@EOP [OMB] <James Boden>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/30/2003 4:45:25 AM
Subject: : 04/30 CongressDaily AM and CQ stories on asbestos

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Lisa J. Macecevic (CN=Lisa J. Macecevic/OU=OMB/O=EOP [OMB])
CREATION DATE/TIME:30-APR-2003 08:45:25.00
SUBJECT:: 04/30 CongressDaily AM and CQ stories on asbestos
TO:James J. Jukes (CN=James J. Jukes/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Kenneth L. Schwartz (CN=Kenneth L. Schwartz/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Lauren E. Bloomquist (CN=Lauren E. Bloomquist/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Richard E. Green (CN=Richard E. Green/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:James Boden (CN=James Boden/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Hatch Warns Labor, Industry To Reach Asbestos Agreement
ÿÿÿÿÿSenate Judiciary Chairman Hatch warned Tuesday that he planned to press ahead with a May markup of asbestos litigation reform legislation -- regardless of whether labor and industry had worked out their differences on an allocation formula for compensating victims.
ÿÿÿÿÿNegotiations between those parties over funding have been ongoing since before the April recess, but have yet to yield an agreement.
ÿÿÿÿÿ"There will be a bill," Hatch said in an interview. "We're going ahead, one way or the other."
ÿÿÿÿÿHe added, "Business and labor have got to get together." If they do not, the status quo will prevail "as far as I'm concerned," Hatch said.
However, Hatch said he believes labor has the most to lose under that scenario. "This is a big, big thing," he said.

CQ TODAY
April 29, 2003) 7:23 p.m.
Prodded by Hatch, Negotiators Closer to Asbestos Deal
By Keith Perine, CQ Staff
Business lobbyists are nearing agreement on a key element of a prospective bill to rein in the crush of lawsuits related to asbestos exposure, knowing that Senate Judiciary Committee Chairman Orrin G. Hatch is vowing to proceed with legislation with or without them.
The lobbyists are debating how companies facing liability claims would contribute to a fund for claims payments. If they reach an agreement * and strike a separate deal with labor officials on medical criteria for claims payments and on payment amounts * the fund probably will be a central feature of legislation being drafted by Hatch, R-Utah.
If they do not, Hatch has made it clear he will act anyway * and he repeated those sentiments in his strongest terms yet on Tuesday.
"We're going to do it one way or another," Hatch said. "If [business lobbyists or labor officials] want to kill the bill, they can live with

the situation the rest of their lives as far as I'm concerned."
House Republican leaders are waiting for the Senate to act first.
Businesses and their insurers want Congress to define how much they have to pay in claims related to asbestos exposure. The substance, which has been linked to lung cancer and other diseases, was long used as insulation. The total cost of past and future claims could run as high as $265 billion.
Hatch has outlined an approach that calls for a special tribunal, consisting of perhaps five judges, that would administer claims lodged by individuals who meet defined medical criteria.
Business lobbyists are discussing whether to press for bill language that would prevent a sick claimant from receiving compensation for asbestos exposure, then suing in federal or state court for the same illness on different grounds, such as exposure to silica, a form of silicon used to make glass, ceramics and other substances.
The Asbestos Study Group, which includes General Electric Co. and General Motors Corp., earlier this month proposed a $90 billion fund, to be initially funded by $5 billion in annual payments split evenly between defendant companies and insurers. Labor officials say the $90 billion figure is too low, but prefer to concentrate on medical criteria and individual payment amounts.
"From the victim's perspective, we don't really care what the big number [in the fund] is," said Damon Silvers, associate general counsel at the AFL-CIO.
The study group and a committee of members of the Asbestos Alliance, another business coalition that includes ExxonMobil Corp. and The Hartford Financial Services Group, have tentatively agreed on how to allocate the initial $2.5 billion annual payment from defendant companies.
Six Tiers
The corporations would be placed into six tiers based on their total legal and insurance costs related to asbestos. Within five of the six tiers, companies would be further grouped into three subcategories based on their gross revenues.
For example, companies that have more than $75 million in asbestos-related costs would have to contribute either $15 million, $20 million or $25 million in the first year of the fund, depending on individual company revenue.
The sixth tier would consist of defendants that have filed for bankruptcy but which have not received a judge's approval for a creditor repayment plan.
Despite Hatch's expressed intent, substantial disagreement persists among the defendant companies. Small and mid-sized firms are worried that they will have to contribute a disproportionate share to the fund. The plan would allow companies to appeal the size of their trust fund payments.
Business lobbyists hope they can at least come to a general agreement on the plan on Thursday.
If business and labor cannot agree on the details of a fund, Hatch's bill probably will mandate that independent commissions set company and insurer contributions.
Source: CQ Today
Round-the-clock coverage of news from Capitol Hill.
. 2003 Congressional Quarterly Inc. All Rights Reserved

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Collister W. Johnson/WHO/EOP@EOP [WHO] <Collister W. Johnson>
Sent: 4/30/2003 5:22:30 AM
Subject: : Re: Fletcher mailer with POTUS quote...
Attachments: P_NXS0G003_WHO.TXT_1.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:30-APR-2003 09:22:30.00
SUBJECT:: Re: Fletcher mailer with POTUS quote...
TO:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Approved.

Collister W. Johnson
04/30/2003 08:33:14 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Fletcher mailer with POTUS quote...

Brett -
note the quote from POTUS - approval?

c

---------- Forwarded by Collister W. Johnson/WHO/EOP on 04/30/2003 08:33 AM ----------

Daniel Groves <daniel@fletcher2003.com>
04/29/2003 08:26:41 PM
Record Type: Record

To: cjohnson@georgewbush.com, Collister W. Johnson/WHO/EOP@EOP
cc:
Subject: Fletcher mailer with POTUS quote...

Here is a first draft of the mailer where we use the quote you and I discussed some time ago. Need to get this to the printer by tomorrow. We'll make edits, but this will be our use of the quote.

<<Mail 4 - Healthcare.pdf>>

Thank you,

DANIEL GROVES
Campaign Manager
Fletcher for Governor
P.O. Box 910504
Lexington, KY 40591-0504
859.296.6761
859.296.2578 fax

daniel@fletcher2003.com

- Mail 4 - Healthcare.pdf

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_NXS0G003_WHO.TXT_1>

REV_00164354

EFHealthcarePostcard 4/29/03 4:31 PM Page 1

Restoring hope.

Kentucky's health services budget is over $8,000,000,000. Yet thousands and thousands of hard working Kentuckians can't afford insurance. Many literally can't afford to get sick! Others can't afford to buy the medicines they desperately need to get well.

This is intolerable . . . But the story gets even worse.

Thanks to jackpot justice and misguided decisions out of Frankfort, local hospitals are struggling and qualified doctors are leaving Kentucky because it's too expensive to practice here. And every time an obstetrician leaves the state, 140 women are suddenly without care. In less than ten years, over 45 health insurance carriers have been driven out of our state, eliminating competition. The result: raised prices and less healthcare availability for all of us. The number of uninsured just grows and grows.

Our healthcare situation is now a crisis. And it won't improve without strong leadership and determined action.

Dr. Ernie Fletcher is just the leader we urgently need. As a respected physician, he knows first-hand all sides of this complicated issue. That's why President George W. Bush asked Dr. Fletcher to lead the fight for patients' rights and affordable healthcare in Congress.

As our Governor, Ernie Fletcher will finally bring commonsense solutions to make healthcare available and affordable for all working families.

Vote Ernie Fletcher, a doctor who will heal healthcare for all of us, on May 20th.

Fletcher for Governor
P.O. Box 910504
Lexington, KY 40591-0504

PRESORTED
STANDARD
U.S. POSTAGE
PAID
Permit No. 850
Lexington, KY

©Copyright the John Grotta Company, 2003

May 2003						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

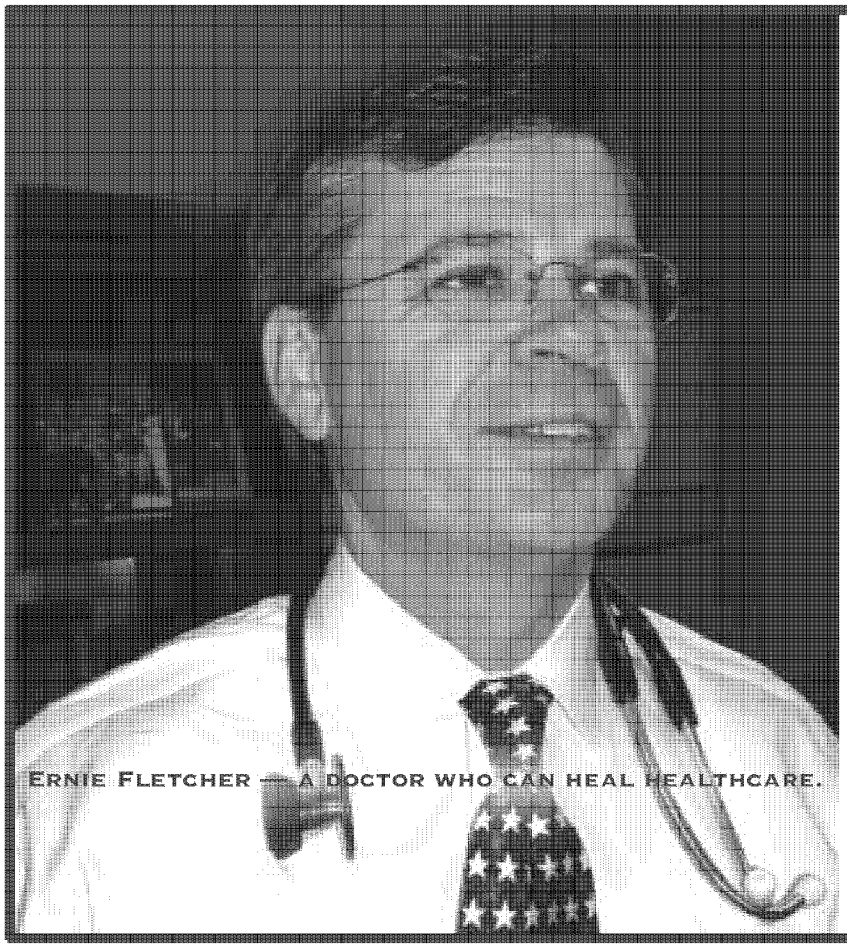
859.296.6761

www.fletcher2003.com

Paid for by the Friends of Ernie Fletcher, P.O. Box 910504, Lexington, KY 40591-0504

EFHealthcarePostcard 4/29/03 4:31 PM Page 2

REV_00164355



"I appreciate the bold leadership and hard work of Congressman Fletcher to make patient protections a reality for all Americans, after years of gridlock."

President George W. Bush
The White House
August 2, 2001

From: CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [WHO]
To: Brian Reardon/OPD/EOP@EOP [OPD] <Brian Reardon>
CC: Jeffrey F. Kupfer/WHO/EOP@Exchange [WHO] <Jeffrey F. Kupfer>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;jt.young@do.treas.gov@SMTP@Exchange [UNKNOWN] <jt.young@do.treas.gov@SMTP@Exchange>;Keith Hennessey/OPD /EOP@Exchange [OPD] <Keith Hennessey>
Sent: 4/30/2003 6:22:33 AM
Subject: : RE: debt ceiling question

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:30-APR-2003 10:22:33.00
SUBJECT:: RE: debt ceiling question
TO:Brian Reardon ( CN=Brian Reardon/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
CC:Jeffrey F. Kupfer ( CN=Jeffrey F. Kupfer/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:jt.young@do.treas.gov@SMTP@Exchange ( jt.young@do.treas.gov@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
CC:Keith Hennessey ( CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Is Treasury prepared to do an extension until 2/04?;

;-----Original Message-----
From: ; Reardon, Brian;
Sent:;; Wednesday, April 30, 2003 10:20 AM
To:;;;; Silverberg, Kristen
Cc:;;;; Hennessey, Keith; Kavanaugh, Brett M.; jt.young@do.treas.gov;
Kupfer, Jeffrey F.
Subject:;;;;;;; RE: debt ceiling question

We hit mid-May (15th or 16th).;
We will need a longer period at that point.; Brett is talking to Treasury
LC about the rationale.
An extension to 2/04 would get us to the end of May.
We met with Hastert and Frist staff on Monday. Senate understands they
need to take up Gephardt Rule bill and move it before the 16th.; They just
did a whip check on opposing all amendments to the house reported bill.;
we have three targets from that list -- chafee, snowe, mccain.;




From:;; Kristen Silverberg/WHO/EOP@Exchange on 04/30/2003 10:06:15
AM
Record Type:;;; Record

To:;;;; Brian Reardon/OPD/EOP@EOP, Keith
Hennessey/OPD/EOP@Exchange
cc:;;;; Brett M. Kavanaugh/WHO/EOP@EOP,
jt.young@do.treas.gov@SMTP@Exchange, Jeffrey F. Kupfer/WHO/EOP@Exchange
Subject:;;;;;;; RE: debt ceiling question

What is the status on debt ceiling?; When do we hit?; When will we
need a longer debt suspension period?; How long will that debt suspension
period take us?; What's your plan for getting a bill?;

;-----Original Message-----
From: ; Reardon, Brian;
```

Sent:;; Tuesday, April 01, 2003 9:57 AM
To:;;;; Silverberg, Kristen
Cc:;;;; Kavanaugh, Brett M.; Hennessey, Keith; jt.young@do.treas.gov
Subject:;;;;;;;; Re: debt ceiling question

Frist will talk to Stevens today or tomorrow about putting a "place holder" in the supplemental so a debt ceiling increase can be added in conference.;

Meanwhile, Treasury has the following draft prepared to declare a three month debt suspension period at the end of the week.; This would provide enough room to get us into late May or early June.; If Congress fails to act, Treasury GC is prepared to make a second declaration through the end of the session.

April 3, 2003

;

The Honorable J. Dennis Hastert

Speaker of the House

U.S.House of Representatives

Washington, D.C.20515

;

Dear Mr. Speaker:

;

;;;;;;;;;;; I am notifying you, as required under 5 U.S.C. õ 8348 (l)(2) that by reason of the public debt limit, it is my determination that I will be unable to invest fully the portion of the Civil Service Retirement and Disability Fund (CSRDF) not immediately required to pay beneficiaries.; For purposes of this statute, I have determined that a "debt issuance suspension period" will begin as early as April 3, 2003; but no later than April 11, 2003and will last until July 11, 2003.; Therefore, during the debt issuance suspension period, the Treasury Department will suspend additional investments of amounts credited to the CSRDF and redeem a portion of the investments held by the CSRDF, as authorized by law.; Beneficiaries will be fully protected and will suffer no adverse consequences.; The governing statute requires that the Treasury restore all due interest and principal to these funds as soon as this can be done without exceeding the public debt limit.

;

;;;;;;;;;;; Even though the debt issuance suspension period will last until July 11th, the investment suspensions and redemptions may only provide debt issuance capacity under the statutory debt limit until the latter half of May or early June.; I know that you share the President's and my commitment to maintaining the full faith and credit of the U.S.government. Together we must continue working to enact an increase in the statutory debt limit as quickly as possible to avoid any negative repercussions at home or abroad during this critical time.

;

;;;
;;;; Sincerely,

;

;

;

;;;
;;;; John W. Snow

From:;; Kristen Silverberg/WHO/EOP@Exchange on 04/01/2003 08:24:05
AM
Record Type:;;; Record

To:;;;; Brian Reardon/OPD/EOP@EOP, Keith
Hennessey/OPD/EOP@Exchange
cc:;;;;
Subject:;;;;;;; debt ceiling question

Are we in good shape on the debt ceiling?; Is leadership preparing
to put it on the supp and, if so, in what amount?

From: Kavanaugh, Brett M.
To: JT.Young@do.treas.gov <JT.Young@do.treas.gov>;JT.Young@do.treas.gov <Kupfer, Jeffrey F.>
CC: <Silverberg, Kristen>;<Reardon, Brian>;<Hennessey, Keith>;jt.young@do.treas.gov <jt.young@do.treas.gov>
Sent: 4/30/2003 10:32:47 AM
Subject: RE: debt ceiling question
Attachments: att1.htm

That relates to my question: How many months/years worth of suspension period would be necessary? Asking just as a reference point.

JT.Young@do.treas.gov

04/30/2003 10:26:40 AM

Record Type: Record

To: Kristen Silverberg/WHO/EOP@EOP, Brian Reardon/OPD/EOP@EOP

cc: Keith Hennessey/OPD/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP, JT.Young@do.treas.gov, KUPFER_J@who.eop.gov

Subject: RE: debt ceiling question

Please read my email. The 7-month extension could possibly get us through the recess but only just and then we would need $70 B by June 3. Really anything beyond the recess is impossible because you would be justifying years' worth of suspension.

-----Original Message-----

From: Silverberg, Kristen [mailto:Kristen_Silverberg@who.eop.gov]

Sent: Wednesday, April 30, 2003 10:23 AM

To: Reardon, Brian

Cc: Hennessey, Keith; Kavanaugh, Brett M.; jt.young@do.treas.gov; Kupfer,

Jeffrey F.

Subject: RE: debt ceiling question

Is Treasury prepared to do an extension until 2/04?

-----Original Message-----

From: Reardon, Brian

Sent: Wednesday, April 30, 2003 10:20 AM

To: Silverberg, Kristen

Cc: Hennessey, Keith; Kavanaugh, Brett M.; jt.young@do.treas.gov;

Kupfer, Jeffrey F.

Subject: RE: debt ceiling question

We hit mid-May (15th or 16th).

We will need a longer period at that point. Brett is talking to Treasury LC

about the rationale.

An extension to 2/04 would get us to the end of May.

We met with Hastert and Frist staff on Monday. Senate understands they need

to take up Gephardt Rule bill and move it before the 16th. They just did a

whip check on opposing all amendments to the house reported bill. we have

three targets from that list -- chafee, snowe, mccain.

From: Kristen Silverberg/WHO/EOP@Exchange on 04/30/2003 10:06:15 AM

Record Type: Record

To: Brian Reardon/OPD/EOP@EOP, Keith Hennessey/OPD/EOP@Exchange

cc: Brett M. Kavanaugh/WHO/EOP@EOP, jt.young@do.treas.gov@SMTP@Exchange,

Jeffrey F. Kupfer/WHO/EOP@Exchange

Subject: RE: debt ceiling question

What is the status on debt ceiling? When do we hit? When will we need a

longer debt suspension period? How long will that debt suspension period

take us? What's your plan for getting a bill?

-----Original Message-----

From: Reardon, Brian

Sent: Tuesday, April 01, 2003 9:57 AM

To: Silverberg, Kristen

Cc: Kavanaugh, Brett M.; Hennessey, Keith; jt.young@do.treas.gov

Subject: Re: debt ceiling question

Frist will talk to Stevens today or tomorrow about putting a "place holder" in the supplemental so a debt ceiling increase can be added in conference. Meanwhile, Treasury has the following draft prepared to declare a three month debt suspension period at the end of the week. This would provide enough room to get us into late May or early June. If Congress fails to act, Treasury GC is prepared to make a second declaration through the end of the session.

April 3, 2003

The Honorable J. Dennis Hastert

Speaker of the House

U.S.House of Representatives

Washington, D.C.20515

Dear Mr. Speaker:

I am notifying you, as required under 5 U.S.C. § 8348 (l)(2) that by reason of the public debt limit, it is my determination that I will be unable to invest fully the portion of the Civil Service Retirement and Disability Fund (CSRDF) not immediately required to pay beneficiaries. For purposes of this statute, I have determined that a "debt issuance suspension period" will begin as early as April 3, 2003 but no later than April 11, 2003and will last until July 11, 2003. Therefore, during the debt issuance

suspension period, the Treasury Department will suspend additional investments of amounts credited to the CSRDF and redeem a portion of the investments held by the CSRDF, as authorized by law. Beneficiaries will be fully protected and will suffer no adverse consequences. The governing statute requires that the Treasury restore all due interest and principal to these funds as soon as this can be done without exceeding the public debt limit.

Even though the debt issuance suspension period will last until July 11th, the investment suspensions and redemptions may only provide debt issuance capacity under the statutory debt limit until the latter half of May or early June. I know that you share the President's and my commitment to maintaining the full faith and credit of the U.S.government. Together we must continue working to enact an increase in the statutory debt limit as quickly as possible to avoid any negative repercussions at home or abroad during this critical time.

Sincerely,

John

W. Snow

From: Kristen Silverberg/WHO/EOP@Exchange on 04/01/2003 08:24:05 AM

Record Type: Record

To: Brian Reardon/OPD/EOP@EOP, Keith Hennessey/OPD/EOP@Exchange

cc:

Subject: debt ceiling question

Are we in good shape on the debt ceiling? Is leadership preparing to put it on the supp and, if so, in what amount?

- att1.htm <>

Please read my email. The 7-month extension could possibly get us through the recess but only just and then we would need $70 B by June 3. Really anything beyond the recess is impossible because you would be justifying years' worth of suspension.

-----Original Message-----
From: Silverberg, Kristen [mailto:Kristen_Silverberg@who.eop.gov]
Sent: Wednesday, April 30, 2003 10:23 AM
To: Reardon, Brian
Cc: Hennessey, Keith; Kavanaugh, Brett M.; jt.young@do.treas.gov; Kupfer, Jeffrey F.
Subject: RE: debt ceiling question

Is Treasury prepared to do an extension until 2/04?

-----Original Message-----
From: Reardon, Brian
Sent: Wednesday, April 30, 2003 10:20 AM
To: Silverberg, Kristen
Cc: Hennessey, Keith; Kavanaugh, Brett M.; jt.young@do.treas.gov; Kupfer, Jeffrey F.
Subject: RE: debt ceiling question

We hit mid-May (15th or 16th).
We will need a longer period at that point. Brett is talking to Treasury LC about the rationale.
An extension to 2/04 would get us to the end of May.
We met with Hastert and Frist staff on Monday. Senate understands they need to take up Gephardt Rule bill and move it before the 16th. They just did a whip check on opposing all amendments to the house reported bill. we have three targets from that list -- chafee, snowe, mccain.

From: Kristen Silverberg/WHO/EOP@Exchange on 04/30/2003 10:06:15 AM
Record Type: Record

To: Brian Reardon/OPD/EOP@EOP, Keith Hennessey/OPD/EOP@Exchange
cc: Brett M. Kavanaugh/WHO/EOP@EOP, jt.young@do.treas.gov@SMTP@Exchange, Jeffrey F. Kupfer/WHO/EOP@Exchange
Subject: RE: debt ceiling question

What is the status on debt ceiling? When do we hit? When will we need a longer debt suspension period? How long will that debt suspension period take us? What's your plan for getting a bill?

-----Original Message-----
From: Reardon, Brian
Sent: Tuesday, April 01, 2003 9:57 AM
To: Silverberg, Kristen
Cc: Kavanaugh, Brett M.; Hennessey, Keith; jt.young@do.treas.gov
Subject: Re: debt ceiling question

Frist will talk to Stevens today or tomorrow about putting a "place holder" in the supplemental so a debt ceiling increase can be added in conference.

Meanwhile, Treasury has the following draft prepared to declare a three month debt suspension period at the end of the week. This would provide enough room to get us

into late May or early June. If Congress fails to act, Treasury GC is prepared to make a second declaration through the end of the session.

April 3, 2003

The Honorable J. Dennis Hastert

Speaker of the House

U.S.House of Representatives

Washington, D.C.20515

Dear Mr. Speaker:

I am notifying you, as required under 5 U.S.C. § 8348 (l)(2) that by reason of the public debt limit, it is my determination that I will be unable to invest fully the portion of the Civil Service Retirement and Disability Fund (CSRDF) not immediately required to pay beneficiaries. For purposes of this statute, I have determined that a "debt issuance suspension period" will begin as early as April 3, 2003 but no later than April 11, 2003and will last until July 11, 2003. Therefore, during the debt issuance suspension period, the Treasury Department will suspend additional investments of amounts credited to the CSRDF and redeem a portion of the investments held by the CSRDF, as authorized by law. Beneficiaries will be fully protected and will suffer no adverse consequences. The governing statute requires that the Treasury restore all due interest and principal to these funds as soon as this can be done without exceeding the public debt limit.

Even though the debt issuance suspension period will last until July 11th, the investment suspensions and redemptions may only provide debt issuance capacity under the statutory debt limit until the latter half of May or early June. I know that you share the President's and my commitment to maintaining the full faith and credit of the U.S.government. Together we must continue working to enact an increase in the statutory debt limit as quickly as possible to avoid any negative repercussions at home or abroad during this critical time.

Sincerely,

John W. Snow

From: Kristen Silverberg/WHO/EOP@Exchange on 04/01/2003 08:24:05 AM
Record Type: Record

To: Brian Reardon/OPD/EOP@EOP, Keith Hennessey/OPD/EOP@Exchange
cc:
Subject: debt ceiling question

Are we in good shape on the debt ceiling? Is leadership preparing to put it on the supp and, if so, in what amount?

From: CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO]
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 4/30/2003 12:17:03 PM
Subject: : STAFF MEETING ON FOR TOMORROW

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:30-APR-2003 16:17:03.00
SUBJECT:: STAFF MEETING ON FOR TOMORROW
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Brett Kavanaugh will;be commanding the meeting;per the Judge's request.
;
Thanks!!
```

From: CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO]
To: Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Charlotte L. Montiel/WHO /EOP@Exchange [WHO] <Charlotte L. Montiel>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>;Theodore W. Ullyot/WHO /EOP@EOP [WHO] <Theodore W. Ullyot>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;James W. Carroll/WHO/EOP@EOP [WHO] <James W. Carroll>;Hana F. Brilliant/WHO/EOP@EOP [WHO] <Hana F. Brilliant>;John B. Bellinger/NSC /EOP@EOP [NSC] <John B. Bellinger>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>
Sent: 4/30/2003 12:26:15 PM
Subject: : STAFF MEETING ON FOR TOMORROW

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:30-APR-2003 16:26:15.00
SUBJECT:: STAFF MEETING ON FOR TOMORROW
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:James W. Carroll ( CN=James W. Carroll/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Hana F. Brilliant ( CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Usual time, in the Judge's office.
;
Thanks!
```

From: Bartolomucci, H. Christopher
To: <Leitch, David G.>;<Kavanaugh, Brett M.>
Sent: 4/30/2003 1:38:19 PM
Subject: Fw: Newdow PDF
Attachments: NEWDOW APP (N... ORDER 4_18_0.pdf; Newdow.Pet.aa.pdf

.

----- Original Message -----

From:

To:H. Christopher Bartolomucci/WHO/EOP@EOP

Cc:

Date: 04/30/2003 01:26:12 PM

Subject: FW: Newdow PDF

Chris: Attached please find our Cert. Petition in the Newdow Pledge case, which the SG's office is filing today.

-----Original Message-----

From: Millett, Patricia A

Sent: Wednesday, April 30, 2003 1:00 PM

To: Nielson, Howard; Sturgill, Lowell; Soni, Sushma; Loeb, Robert; Katsas, Gregory; Door, Kristin; Kopp, Robert; Treene, Eric; Johnson, Steffen; Hirt, Theodore; simonl@dodgc.osd.mil; Clement, Paul D

Subject: FW: Newdow PDF

Importance: High

Attached are PDF versions of the petition and appendix we are filing today in the Newdow case. Thanks very much for everyone's help.

Lowell: can you please forward the email to Chris Bartolomucci, since I don't have his email address?

-----Original Message-----

From: Lubin, Candy P

Sent: Wednesday, April 30, 2003 8:51 AM

To: Millett, Patricia A

Subject: Newdow PDF

- NEWDOW APP (N... ORDER 4_18_0.pdf - Newdow.Pet.aa.pdf

No.

In the Supreme Court of the United States

UNITED STATES OF AMERICA, PETITIONER

v.

MICHAEL A. NEWDOW, ET AL

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

APPENDIX TO THE PETITION FOR A WRIT OF CERTIORARI

THEODORE B. OLSON
Solicitor General
Counsel of Record

ROBERT D. MCCALLUM, JR.
Assistant Attorney General

PAUL D. CLEMENT
Deputy Solicitor General

PATRICIA A. MILLETT
Assistant to the Solicitor General

ROBERT M. LOEB
LOWELL V. STURGILL
SUSHMA SONI
Attorneys

Department of Justice
Washington, D.C. 20530-0001
(202) 514–2217

REV_00164413

TABLE OF CONTENTS

	Page
Appendix A (court of appeals amended opinion on rehearing, filed: Feb. 28, 2003)	1a
Appendix B (court of appeals original opinion, filed: June 26, 2002)	25a
Appendix C (court of appeals order on rehearing en banc, filed: Feb. 28, 2003)	59a
Appendix D (court of appeals opinion on standing, filed: Dec. 4, 2002)	89a
Appendix E (court of appeals order denying intervention, filed: Dec. 4, 2000)	99a
Appendix F (court of appeals miscellaneous order, filed: Dec. 4, 2000)	108a
Appendix G (district court order, filed: July 21, 2002)	110a
Appendix H (magistrate judge's findings and recommendation, filed: May 25, 2000)	111a
Appendix I (constitutional and statutory provisions)	113a

REV_00164414

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 00-16423
D.C. No. CV 00-00495-MLS/PAN

MICHAEL A. NEWDOW, PLAINTIFF-APPELLANT

v.

U.S. CONGRESS; UNITED STATES OF AMERICA; GEORGE W. BUSH,* PRESIDENT OF THE UNITED STATES; STATE OF CALIFORNIA; ELK GROVE UNIFIED SCHOOL DISTRICT; DAVID W. GORDON, SUPERINTENDENT EGUSD; SACRAMENTO CITY UNIFIED SCHOOL DISTRICT; JIM SWEENEY, SUPERINTENDENT SCUSD, DEFENDANTS-APPELLEES

Appeal from the United States District Court for the Eastern District of California, Milton L. Schwartz, Senior Judge, Presiding

---

Argued and Submitted: March 14, 2002
Filed: June 26, 2002
Amended: February 28, 2003

---

* George W. Bush is substituted for his predecessor, William Jefferson Clinton, as President of the United States. Fed. R. App. P. 43(c)(2).

REV_00164415

AMENDED OPINION AND AMENDED CONCURRENCE/DISSENT

Before: ALFRED T. GOODWIN, STEPHEN REINHARDT and FERDINAND F. FERNANDEZ, Circuit Judges.

Opinion by Judge Goodwin; Partial Concurrence and Partial Dissent by Judge Fernandez

GOODWIN, Circuit Judge:

Michael Newdow appeals pro se a judgment dismissing his challenge to the constitutionality of the words "under God" in the Pledge of Allegiance to the Flag. Newdow argues that the addition of these words by a 1954 federal statute to the previous version of the Pledge of Allegiance (which made no reference to God) and the daily recitation in the classroom of the Pledge of Allegiance, with the added words included, by his daughter's public school teacher are violations of the Establishment Clause of the First Amendment to the United States Constitution.

FACTUAL AND PROCEDURAL BACKGROUND

Newdow is an atheist whose daughter attends public elementary school in the Elk Grove Unified School District ("EGUSD") in California. In accordance with state law and a school district rule, EGUSD teachers begin each school day by leading their students in a recitation of the Pledge of Allegiance ("the Pledge"). The California Education Code requires that public schools begin each school day with "appropriate patriotic exercises" and that "[t]he giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy" this requirement. Cal. Educ. Code § 52720

REV_00164416

(1989) (hereinafter "California statute").[1] To implement the California statute, the school district that Newdow's daughter attends has promulgated a policy that states, in pertinent part: "Each elementary school class [shall] recite the pledge of allegiance to the flag once each day." The classmates of Newdow's daughter in the EGUSD are led by their teacher in reciting the Pledge codified in federal law. On June 22, 1942, Congress first codified the Pledge as "I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one Nation indivisible, with liberty and justice for all." Pub. L. No. 623, Ch. 435, § 7, 56 Stat. 380 (1942) (codified at 36 U.S.C. § 1972). On June 14, 1954, Congress amended Section 1972 to add the words "under God" after the word "Nation." Pub. L. No. 396, Ch. 297, 68 Stat. 249 (1954) ("1954 Act"). The Pledge is currently codified as "I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all." 4 U.S.C. § 4 (1998) (Title 36 was revised and recodified by Pub. L. No. 105-225, § 2(a), 112 Stat. 1494 (1998). Section 172 was abolished, and the Pledge is now found in Title 4.)

---

[1] The relevant portion of California Education Code § 52720 reads:

> In every public elementary school each day during the school year at the beginning of the first regularly scheduled class or activity period at which the majority of the pupils of the school normally begin the schoolday, there shall be conducted appropriate patriotic exercises. The giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy the requirements of this section.

REV_00164417

Newdow does not allege that his daughter's teacher or school district requires his daughter to participate in reciting the Pledge.[2] Rather, he claims that his daughter is injured when she is compelled to "watch and listen as her state-employed teacher in her state-run school leads her classmates in a ritual proclaiming that there is a God, and that our's [sic] is 'one nation under God.'" Newdow's complaint in the district court challenged the constitutionality, under the First Amendment, of the 1954 Act, the California statute, and the school district's policy requiring teachers to lead willing students in recitation of the Pledge. He sought declaratory and injunctive relief, but did not seek damages.

The school districts and their superintendents (collectively, "school district defendants") filed a Federal Rule of Civil Procedure 12(b)(6) motion to dismiss for failure to state a claim. Magistrate Judge Peter A. Nowinski held a hearing at which the school district defendants requested that the court rule only on the constitutionality of the Pledge, and defer any ruling on sovereign immunity. The United States Congress, the United States, and the President of the United States (collectively, "the federal defendants") joined in the motion to dismiss filed by the school district defendants. The magistrate judge reported findings and a

---

[2] Compelling students to recite the Pledge was held to be a First Amendment violation in *West Virginia State Board of Education* v. *Barnette*, 319 U.S. 624, 642 (1943) ("[T]he action of the local authorities in compelling the flag salute and pledge transcends constitutional limitations on their power and invades the sphere of intellect and spirit which it is the purpose of the First Amendment to our Constitution to reserve from all official control."). *Barnette* was decided before the 1954 Act added the words "under God" to the Pledge.

REV_00164418

recommendation that the district court hold that the daily Pledge ceremony in the schools did not violate the Establishment Clause. District Judge Edward J. Schwartz approved the recommendation and entered a judgment of dismissal. This appeal followed.

DISCUSSION

A. Jurisdiction

Newdow asks the district court to order the President of the United States ("the President") to "alter, modify or repeal" the Pledge by removing the words "under God"; and to order the United States Congress ("Congress") "immediately to act to remove the words 'under God' from the Pledge." The President, however, is not an appropriate defendant in an action challenging the constitutionality of a federal statute. *See Franklin* v. *Massachusetts*, 505 U.S. 788, 802-03 (1992) (plurality) (observing that a court of the United States " 'has no jurisdiction of a bill to enjoin the President in the performance of his official duties' ") (quoting *Mississippi* v. *Johnson*, 71 U.S. 475 (1866)).

Similarly, in light of the Speech and Debate Clause of the Constitution, Art. I, § 6, cl. 1, the federal courts lack jurisdiction to issue orders directing Congress to enact or amend legislation. *See Eastland* v. *United States Servicemen's Fund*, 421 U.S. 491, 503 (1975). Because the words that amended the Pledge were enacted into law by statute, the district court may not direct Congress to delete those words any more than it may order the President to take such action. All this, of course, is aside from the fact that the President has no authority to amend a statute or declare a law unconstitutional, those functions being reserved to Congress and the federal judiciary respectively.

REV_00164419

Newdow nevertheless argues that because the 1954 Act violates the Establishment Clause, Congress should not be protected by the Speech and Debate Clause. This argument misses the jurisdictional, or separation of powers, point. As the Court held in *Eastland*, in determining whether or not the acts of members of Congress are protected by the Speech and Debate Clause, the court looks solely to whether or not the acts fall within the legitimate legislative sphere; if they do, Congress is protected by the absolute prohibition of the Clause against being "questioned in any other Place." *Id.* at 501. "If the mere allegation that a valid legislative act was undertaken for an unworthy purpose would lift the protection of the Clause, then the Clause simply would not provide the protection historically undergirding it." *Id.* at 508-09.

B. The State of California as a defendant

The State of California did not join in the motion to dismiss or otherwise participate in the district court proceedings. It did, however, *sub silentio*, receive the benefit of the district court's ruling dismissing the complaint. Accordingly, a reversal of the order would result in the reinstatement of the complaint against the state. With respect to the validity of the California statute, however, unlike in the case of the Congressional enactment and the school district policy, no arguments, legal or otherwise, were advanced by the parties in the district court. Thus, we do not address separately the validity of the California statute.

C. Standing

Article III standing is a jurisdictional issue. *See United States* v. *Viltrakis*, 108 F.3d 1159, 1160 (9th Cir. 1997). Accordingly, it "may be raised at any stage of

REV_00164420

the proceedings, including for the first time on appeal." *See A-Z Intern.* v. *Phillips*, 179 F.3d 1187, 1190-91 (9th Cir. 1999). To satisfy standing requirements, a plaintiff must prove that "(1) it has suffered an 'injury in fact' that is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical; (2) the injury is fairly traceable to the challenged action of the defendant; and (3) it is likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision." *Friends of the Earth, Inc.* v. *Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 180-81 (2000) (citing *Lujan* v. *Defenders of Wildlife*, 504 U.S. 555, 560-561 (1992)).

Newdow has standing as a parent to challenge a practice that interferes with his right to direct the religious education of his daughter. "Parents have a right to direct the religious upbringing of their children and, on that basis, have standing to protect their right." *Doe* v. *Madison Sch. Dist. No. 321*, 177 F.3d 789, 795 (9th Cir. 1999) (en banc); *see also Grove* v. *Mead Sch. Dist. No. 354*, 753 F.2d 1528, 1532 (9th Cir. 1985) ("Appellants have standing to challenge alleged violations of the establishment clause of the First Amendment if they are directly affected by use of [the challenged book] in the English curriculum. [Appellant] has standing as a parent whose right to direct the religious training of her child is allegedly affected.") (citation omitted).

Newdow has standing to challenge the EGUSD's policy and practice regarding the recitation of the Pledge because his daughter is currently enrolled in elementary school in the EGUSD. However, Newdow has no standing to challenge the SCUSD's policy and practice because his daughter is not currently a student

REV_00164421

there. The SCUSD and its superintendent have not caused Newdow or his daughter an "injury in fact" that is "actual or imminent, not conjectural or hypothetical." *Laidlaw,* 528 U.S. at 180 (citing *Lujan,* 504 U.S. at 560-561).

D. Establishment Clause

The Establishment Clause of the First Amendment states that "Congress shall make no law respecting an establishment of religion," U.S. Const. Amend. I, a provision that "the Fourteenth Amendment makes applicable with full force to the States and their school districts." *Lee* v. *Weisman,* 505 U.S. 577, 580 (1992). Over the last three decades, the Supreme Court has used three interrelated tests to analyze alleged violations of the Establishment Clause in the realm of public education: the three-prong test set forth in *Lemon* v. *Kurtzman,* 403 U.S. 602, 612-13 (1971); the "endorsement" test, first articulated by Justice O'Connor in her concurring opinion in *Lynch* v. *Donnelly,* 465 U.S. 668 (1984), and later adopted by a majority of the Court in *County of Allegheny* v. *ACLU,* 492 U.S. 573 (1989); and the "coercion" test first used by the Court in *Lee.*

In 1971, in the context of unconstitutional state aid to nonpublic schools, the Supreme Court in *Lemon* set forth the following test for evaluating alleged Establishment Clause violations. To survive the "*Lemon* test," the government conduct in question (1) must have a secular purpose, (2) must have a principal or primary effect that neither advances nor inhibits religion, and (3) must not foster an excessive government entanglement with religion. *Lemon,* 403 U.S. at 612-13. The Supreme Court applied the *Lemon* test to

REV_00164422

every Establishment case it decided between 1971 and 1984, with the exception of *Marsh* v. *Chambers*, 463 U.S. 783 (1983), the case upholding legislative prayer.[3] *See Wallace*, 472 U.S. at 63 (Powell, J., concurring).

In the 1984 *Lynch* case, which upheld the inclusion of a nativity scene in a city's Christmas display, Justice O'Connor wrote a concurring opinion in order to suggest a "clarification" of Establishment Clause jurisprudence. 465 U.S. at 687 (O'Connor, J., concurring).

Justice O'Connor's "endorsement" test effectively collapsed the first two prongs of the *Lemon* test:

> The Establishment Clause prohibits government from making adherence to a religion relevant in any way to a person's standing in the political community. Government can run afoul of that prohibition in two principal ways. One is excessive entanglement with religious institutions . . . . The second and more direct infringement is government endorsement or disapproval of religion. Endorsement sends a message to nonadherents that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community.

Id. at 687-88 (O'Connor, J., concurring).

---

[3] In *Marsh*, the Court "held that the Nebraska Legislature's practice of opening each day's session with a prayer by a chaplain paid by the State did not violate the Establishment Clause of the First Amendment. [The] holding was based upon the historical acceptance of the practice that had become 'part of the fabric of our society.'" *Wallace*, 472 U.S. at 63 n. 4 (Powell, J., concurring) (quoting *Marsh*, 463 U.S. at 792).

REV_00164423

The Court formulated the "coercion test" when it held unconstitutional the practice of including invocations and benedictions in the form of "nonsectarian" prayers at public school graduation ceremonies. *Lee*, 505 U.S. at 599. Declining to reconsider the validity of the *Lemon* test, the Court in *Lee* found it unnecessary to apply the *Lemon* test to find the challenged practices unconstitutional. *Id.* at 587. Rather, it relied on the principle that "at a minimum, the Constitution guarantees that government may not coerce anyone to support or participate in religion or its exercise, or otherwise to act in a way which establishes a state religion or religious faith, or tends to do so." *Id.* (citations and internal quotation marks omitted). The Court first examined the degree of school involvement in the prayer, and found that "the graduation prayers bore the imprint of the State and thus put school-age children who objected in an untenable position." *Id.* at 590. The next issue the Court considered was "the position of the students, both those who desired the prayer and she who did not." *Id.* Noting that "there are heightened concerns with protecting freedom of conscience from subtle coercive pressure in the elementary and secondary public schools," *id.* at 592, the Court held that the school district's supervision and control of the graduation ceremony put impermissible pressure on students to participate in, or at least show respect during, the prayer, *id.* at 593. The Court concluded that primary and secondary school children may not be placed in the dilemma of either participating in a religious ceremony or protesting. *Id.* at 594.

Finally, in its most recent school prayer case, the Supreme Court applied the *Lemon* test, the endorsement test, and the coercion test to strike down a school

REV_00164424

district's policy of permitting student-led "invocations" before high school football games. *See Santa Fe*, 530 U.S. at 310-16. Citing *Lee*, the Court held that "the delivery of a pregame prayer has the improper effect of coercing those present to participate in an act of religious worship." *Id.* at 312. Applying the *Lemon* test, the Court found that the school district policy was facially unconstitutional because it did not have a secular purpose. *Id.* at 314-16. The Court also used language associated with the endorsement test. *Id.* at 315 ("[T]his policy was implemented with the purpose of endorsing school prayer."); *id.* at 317 ("Government efforts to endorse religion cannot evade constitutional reproach based solely on the remote possibility that those attempts may fail.").

We are free to apply any or all of the three tests, and to invalidate any measure that fails any one of them. Because we conclude that the school district policy impermissibly coerces a religious act and accordingly hold the policy unconstitutional, we need not consider whether the policy fails the endorsement test or the *Lemon* test as well.

In the context of the Pledge, the statement that the United States is a nation "under God" is a profession of a religious belief, namely, a belief in monotheism. The recitation that ours is a nation "under God" is not a mere acknowledgment that many Americans believe in a deity. Nor is it merely descriptive of the undeniable historical significance of religion in the founding of the Republic. Rather, the phrase "one nation under God" in the context of the Pledge is normative. To recite the Pledge is not to describe the United States; instead, it is to swear allegiance to the values for which the flag stands: unity, indivisibility, liberty, justice, and—since

REV_00164425

1954—monotheism. A profession that we are a nation "under God" is identical, for Establishment Clause purposes, to a profession that we are a nation "under Jesus," a nation "under Vishnu," a nation "under Zeus," or a nation "under no god," because none of these professions can be neutral with respect to religion. The school district's practice of teacher-led recitation of the Pledge aims to inculcate in students a respect for the ideals set forth in the Pledge, including the religious values it incorporates.

The Supreme Court recognized the normative and ideological nature of the Pledge in *Barnette*, 319 U.S. 624. There, the Court held unconstitutional a school district's wartime policy of punishing students who refused to recite the Pledge and salute the flag. *Id.* at 642. The Court noted that the school district was compelling the students "to declare a belief," *id.* at 631, and "requir[ing] the individual to communicate by word and sign his acceptance of the political ideas [the flag] . . . bespeaks," *id.* at 633. "[T]he compulsory flag salute and pledge requires affirmation of a belief and an attitude of mind." *Id.* The Court emphasized that the political concepts articulated in the Pledge[4] were idealistic, not descriptive: "'[L]iberty and justice for all,' if it must be accepted as descriptive of the present order rather than an ideal, might to some seem an overstatement." *Id.* at 634 n.14. The Court concluded that: "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force

---

[4] *Barnette* was decided before "under God" was added, and thus the Court's discussion was limited to the political ideals contained in the Pledge.

REV_00164426

citizens to confess by word or act their faith therein." *Id.* at 642.

The school district's policy here, like the school's action in *Lee*, places students in the untenable position of choosing between participating in an exercise with religious content or protesting. The defendants argue that the religious content of "one nation under God" is minimal. To an atheist or a believer in non-Judeo-Christian religions or philosophies, however, this phrase may reasonably appear to be an attempt to enforce a "religious orthodoxy" of monotheism, and is therefore impermissible. As the Court observed with respect to the graduation prayer in *Lee*: "What to most believers may seem nothing more than a reasonable request that the nonbeliever respect their religious practices, in a school context may appear to the non-believer or dissenter to be an attempt to employ the machinery of the State to enforce a religious orthodoxy." *Lee*, 505 U.S. at 592.

The coercive effect of the policy here is particularly pronounced in the school setting given the age and impressionability of schoolchildren, and their understanding that they are required to adhere to the norms set by their school, their teacher and their fellow students.[5] Furthermore, under *Lee*, non-compulsory participation is no basis for distinguishing Barnette [*sic*] from the case at bar because, even without a

---

[5] The "subtle and indirect" social pressure which permeates the classroom also renders more acute the message sent to non-believing school-children that they are outsiders. *See Lee*, 505 U.S. at 592-93 (stating that "the risk of indirect coercion" from prayer exercises is particularly "pronounced" in elementary and secondary public school because students are subjected to peer pressure and public pressure which is "as real as any overt compulsion").

REV_00164427

recitation requirement for each child, the mere presence in the classroom every day as peers recite the statement "one nation under God" has a coercive effect.[6] The coercive effect of the Pledge is also made even more apparent when we consider the legislative history of the Act that introduced the phrase "under God." These words were designed to be recited daily in school classrooms. President Eisenhower, during the Act's signing ceremony, stated: "From this day forward, the millions of our school children will daily proclaim in every city and town, every village and rural schoolhouse, the dedication of our Nation and our people to the Almighty." 100 Cong. Rec. 8618 (1954) (statement of Sen. Ferguson incorporating signing statement of President Eisenhower).[7] All in all, there can be little doubt that under the controlling Supreme

---

[6] The objection to the Pledge in *Barnette*, like in the case at bar, was based upon a religious ground. The Pledge in the classroom context imposes upon schoolchildren the constitutionally unacceptable choice between participating and protesting. Recognizing the severity of the effect of this form of coercion on children, the Supreme Court in *Lee* stated, "the State may not, consistent with the Establishment Clause, place primary and secondary school children in this position." 505 U.S. at 593.

[7] In addition, the legislative history of the 1954 Act makes it plain that the sponsors of the amendment knew about and capitalized on the state laws and school district rules that mandate recitation of the Pledge. The legislation's House sponsor, Representative Louis C. Rabaut, testified at the Congressional hearing that "the children of our land, in the daily recitation of the pledge in school, will be daily impressed with a true understanding of our way of life and its origins." This statement was incorporated into the report of the House Judiciary Committee. H.R. Rep. No. 83-1693, at 3 (1954), *reprinted in* 1954 U.S.C.C.A.N 2339, 2341.

REV_00164428

Court cases the school district's policy fails the coercion test.[8]

The Supreme Court has addressed the Pledge in passing, and we owe due deference to its dicta. *See United States* v. *Baird*, 85 F.3d 450, 453 (9th Cir. 1996). Our opinion, however, is not inconsistent with this dicta. In *Allegheny*, the Court noted that it had "considered in dicta the motto and the pledge, characterizing them as consistent with the proposition that government may not communicate an endorsement of religious belief." 492 U.S. at 602-03. And in *Lynch*, the Court observed that students recited the pledge daily, but only to support its point that there is a long tradition of "official acknowledgment" of religion. 465 U.S. at 674, 676. Neither of these two references speaks to the issue here. We may assume *arguendo* that public officials do not unconstitutionally endorse religion when they recite the Pledge, yet it does not follow that schools may coerce impressionable young schoolchildren to recite it, or even to stand mute while it is being recited by their classmates.

Our decision is not inconsistent with *Engel*, which approved of encouraging students to "recit[e] historical documents such as the Declaration of Independence

---

[8] In *Aronow* v. *United States*, 432 F.2d 242 (9th Cir. 1970), this court, without reaching the question of standing, upheld the inscription of the phrase "In God We Trust" on our coins and currency. *But cf. Wooley* v. *Maynard*, 430 U.S. 705, 722 (1977) (Rehnquist, J., dissenting) (stating that the majority's holding leads logically to the conclusion that "In God We Trust" is an unconstitutional affirmation of belief). In any event, *Aronow* is distinguishable in many ways from the present case. The most important distinction is that school children are not coerced into reciting or otherwise actively led to participating in an endorsement of the markings on the money in circulation.

REV_00164429

which contain references to the Deity or . . . sing[ ] officially espoused anthems which include the composer's professions of faith in a Supreme Being." 370 U.S. at 435 n.21. The Pledge differs from the Declaration and the anthem in that its reference to God, in textual and historical context, is not merely a reflection of the author's profession of faith. It is, by design, an affirmation by the person reciting it. "I pledge" is a performative statement. *See* J.L. Austin, *How to Do Things with Words* (J.O. Urmsson & Marina Sbisa eds., Harvard Univ. Press 1975) (1962). To pledge allegiance to something is to alter one's moral relationship to it, and not merely to repeat the words of an historical document or anthem.

The only other United States Court of Appeals to consider the issue is the Seventh Circuit, which held in *Sherman* v. *Community Consolidated School District 21*, 980 F.2d 437 (7th Cir. 1992), that a policy similar to the one before us regarding the recitation of the Pledge of Allegiance containing the words "one nation under God" was constitutional. The *Sherman* court first stated that:

> If as *Barnette* holds no state may require anyone to recite the Pledge, and if as the prayer cases hold the recitation by a teacher or rabbi of unwelcome words is coercion, then the Pledge of Allegiance becomes unconstitutional under all circumstances, just as no school may read from a holy scripture at the start of class.

980 F.2d at 444. It then concludes, however, that this reasoning is flawed because the First Amendment "[does] not establish general rules about speech or schools; [it] call[s] for religion to be treated differently."

REV_00164430

Id. We have some difficulty understanding this statement; we do not believe that the Constitution prohibits compulsory patriotism as in *Barnette,* but permits compulsory religion as in this case. If government-endorsed religion is to be treated differently from government-endorsed patriotism, the treatment must be less favorable, not more.

The Seventh Circuit makes an even more serious error, however. It not only refuses to apply the *Lemon* test because of the Supreme Court's criticism of that test in *Lee,* but it also fails to apply the coercion test from *Lee.* Circuit courts are not free to ignore Supreme Court precedent in this manner. *Rodriguez de Quijas* v. *Shearson/Am. Exp., Inc.,* 490 U.S. 477, 484 (1989) ("If a precedent of this Court has direct application in a case, yet appears to rest on reasons rejected in some other line of decisions, the Court of Appeals should follow the case which directly controls, leaving to this Court the prerogative of overruling its own decisions."). Instead of applying any of the tests announced by the Supreme Court, the Seventh Circuit simply frames the question as follows: "Must ceremonial references in civic life to a deity be understood as prayer, or support for all monotheistic religions, to the exclusion of atheists and those who worship multiple gods?" 980 F.2d at 445. For the reasons we have already explained, this question is simply not dispositive of whether the school district policy impermissibly coerces a religious act.

In light of Supreme Court precedent, we hold that the school district's policy and practice of teacher-led recitation of the Pledge, with the inclusion of the added words "under God," violates the Establishment Clause.

REV_00164431

In addition to the relief that Newdow seeks against the school district—relief to which he is entitled—Newdow seeks a declaration as to the constitutionality of the 1954 Act. The district court did not discuss that question because it dismissed Newdow's complaint on the basis of its holding that the school district's policy did not violate the First Amendment. Given our contrary holding, we must consider whether to grant Newdow's claim for declaratory relief as to the Act. Normally, whether to decide a claim for declaratory judgment is left to the discretion of the district court. 28 U.S.C. § 2201(a); *see also Government Employees Ins. Co.* v. *Dizol*, 133 F.3d 1220, 1222-23 (9th Cir. 1998). We doubt that, given the relief to which we decide Newdow is entitled, the district court would have exercised its discretionary power to resolve, in the present case, the additional issue as to which Newdow seeks declaratory relief. Accordingly, we decline to reach that issue here.

The judgment of dismissal is vacated with respect to Newdow's claim that the school district's Pledge policy violates the Establishment Clause and the cause is remanded for further proceedings consistent with our holding. Plaintiff is to recover costs on this appeal.

REVERSED and REMANDED.

REV_00164432

FERNANDEZ, Circuit Judge, concurring and dissenting:

I concur in parts A, B and C of the majority opinion, but dissent as to part D.

We are asked to hold that inclusion of the phrase "under God" in this nation's Pledge of Allegiance violates the religion clauses of the Constitution of the United States. We should do no such thing. We should, instead, recognize that those clauses were not designed to drive religious expression out of public thought; they were written to avoid discrimination.[1]

We can run through some or all of the tests and concepts which have floated to the surface from time to time. Were we to do so, the one that appeals most to me, the one I think to be correct, is the concept that what the religion clauses of the First Amendment require is neutrality; that those clauses are, in effect, an early kind of equal protection provision and assure that government will neither discriminate for nor discriminate against a religion or religions. *See Gentala* v. *City of Tucson*, 244 F.3d 1065, 1083-86 (9th Cir.) (en banc) (Fernandez, J., dissenting), *cert. granted and judgment vacated by* 534, U.S. 946, 122 S. Ct. 340, 151 L. Ed. 2d 256 (2001); *Goehring* v. *Brophy*, 94 F.3d 1294, 1306-07 (9th Cir. 1996) (Fernandez, J., concurring). But, legal world abstractions and ruminations aside, when all is said and done, the danger that "under God" in our

---

[1] Although the majority now formally limits itself to holding that it is unconstitutional to recite the Pledge in public classrooms, its message that something is constitutionally infirm about the Pledge itself abides and remains a clear and present danger to all similar public expressions of reverence. At the very least, it deprives children in public schools of the benefits derived from those expressions.

REV_00164433

Pledge of Allegiance will tend to bring about a theocracy or suppress somebody's beliefs is so minuscule as to be de minimis. The danger that phrase presents to our First Amendment freedoms is picayune at most.

Judges, including Supreme Court Justices, have recognized the lack of danger in that and similar expressions for decades, if not for centuries, as have presidents[2] and members of our Congress. *See, e.g.*, *County of Allegheny* v. *ACLU*, 492 U.S. 573, 602-03, 672-73, 109 S. Ct. 3086, 3106, 3143, 106 L. Ed. 2d 472 (1989); *Wallace* v. *Jaffree*, 472 U.S. 38, 78 n.5, 105 S. Ct. 2479, 2501 n.5, 86 L. Ed. 2d 29 (1985); *Lynch* v. *Donnelly*, 465 U.S. 668, 676, 693, 716, 104 S. Ct. 1355, 1361, 1369, 1382, 79 L. Ed. 2d 604 (1984); *Abington Sch. Dist.* v. *Schempp*, 374 U.S. 203, 306-08, 83 S. Ct. 1560, 1615-16, 10 L. Ed. 2d 844 (1963);[3] *Separation of Church & State Comm.* v. *City of Eugene*, 93 F.3d 617, 622 (9th Cir. 1996) (O'Scannlain, J., concurring); *Gaylor* v. *United States*, 74 F.3d 214, 217-18 (10th Cir. 1996); *Sherman* v. *Cmty Consol. Sch. Dist. 21*, 980 F.2d 437, 445-48 (7th Cir. 1992); *O'Hair* v. *Murray*, 588 F.2d 1144, 1144 (5th Cir. 1978) (per curiam); *Aronow* v. *United States*, 432 F.2d 242, 243-44 (9th Cir. 1970); *cf. Marsh* v.

---

[2] *See, e.g., Lee* v. *Weisman*, 505 U.S. 577, 632-35, 112 S. Ct. 2649, 2679-80, 120 L. Ed. 2d 467 (1992) (Scalia, J., dissenting).

[3] The citations to the four preceding Supreme Court opinions are to majority opinions, concurring opinions, and dissents. Because my point is that a number of Justices have recognized the lack of danger and because I hope to avoid untoward complication in the setting out of the citations, I have not designated which Justices have joined in which opinion. All in all, however, perusing those opinions indicates that Chief Justice Burger, Chief Justice Rehnquist, and Justices Harlan, Brennan, White, Goldberg, Marshall, Blackmun, Powell, Stevens, O'Connor, Scalia, and Kennedy have so recognized.

REV_00164434

Chambers, 463 U.S. 783, 795, 103 S. Ct. 3330, 3338, 77 L. Ed. 2d 1019 (1983) (legislative prayer). I think it is worth stating a little more about two of the cases which I have just cited. In *County of Allegheny*, 492 U.S. at 602-03, 109 S. Ct. at 3106, the Supreme Court had this to say: "Our previous opinions have considered in dicta the motto and the pledge, characterizing them as consistent with the proposition that government may not communicate an endorsement of religious belief." The Seventh Circuit, reacting in part to that statement, has wisely expressed the following thought:

> Plaintiffs observe that the Court sometimes changes its tune when it confronts a subject directly. True enough, but an inferior court had best respect what the majority says rather than read between the lines. If the Court proclaims that a practice is consistent with the establishment clause, we take its assurances seriously. If the Justices are just pulling our leg, let them say so.

Sherman, 980 F.2d at 448.

Some, who rather choke on the notion of de minimis, have resorted to the euphemism "ceremonial deism." *See, e.g.*, *Lynch*, 465 U.S. at 716, 104 S. Ct. at 1382 (Brennan, J., dissenting). But whatever it is called (I care not), it comes to this: such phrases as "In God We Trust," or "under God" have no tendency to establish a religion in this country or to suppress anyone's exercise, or non-exercise, of religion, except in the fevered eye of persons who most fervently would like to drive all tincture of religion out of the public life of our polity. Those expressions have not caused any real harm of that sort over the years since 1791, and are not likely to

REV_00164435

do so in the future.[4] As I see it, that is not because they are drained of meaning.[5] Rather, as I have already indicated, it is because their tendency to establish religion (or affect its exercise) is exiguous. I recognize that some people may not feel good about hearing the phrases recited in their presence, but, then, others might not feel good if they are omitted. At any rate, the Constitution is a practical and balanced charter for the just governance of a free people in a vast territory. Thus, although we do feel good when we contemplate the effects of its inspiring phrasing and majestic promises, it is not primarily a feel-good prescription.[6] In *West Virginia Board of Education* v. *Barnette*, 319 U.S. 624, 630, 642, 63 S. Ct. 1178, 1181, 1187, 87 L. Ed. 1628 (1943), for example, the Supreme Court did not say that the Pledge could not be recited in the presence of Jehovah's Witness children; it merely said that they did not have to recite it.[7] That fully protected their con-

---

[4] They have not led us down the long path to kulturkampf or worse. Those who are somehow beset by residual doubts and fears should find comfort in the reflection that no baleful religious effects have been generated by the existence of similar references to a deity throughout our history. More specifically, it is difficult to detect any signs of incipient theocracy springing up since the Pledge was amended in 1954.

[5] *See also Sherman*, 980 F.2d at 448 (Manion, J., concurring) ("A civic reference to God does not become permissible . . . only when . . . it is sapped of religious significance." The Pledge is constitutional and "[w]e need not drain the meaning from the reference [to God] to reach this conclusion."

[6] We, by the way, indicated as much in *American Family Ass'n, Inc.* v. *City and County of San Francisco*, 277 F.3d 1114, 1125-26 (9th Cir. 2002), which involved governmental conduct that was much more questionable than adoption of the phrase "under God." *See id.* at 1126-28 (Noonan, J., dissenting).

[7] I recognize that the Pledge did not then contain the phrase "under God."

REV_00164436

stitutional rights by precluding the government from trenching upon "the sphere of intellect and spirit." *Id.* at 642, 63 S. Ct. at 1187. As the Court pointed out, their religiously based refusal "to participate in the ceremony [would] not interfere with or deny rights of others to do so." *Id.* at 630, 63 S. Ct. at 1181. We should not permit Newdow's feel-good concept to change that balance.

My reading of the stelliscript suggests that upon Newdow's theory of our Constitution, accepted by my colleagues today, we will soon find ourselves prohibited from using our album of patriotic songs in many public settings. "God Bless America" and "America The Beautiful" will be gone for sure, and while use of the first three stanzas of "The Star Spangled Banner" will still be permissible, we will be precluded from straying into the fourth.[8] And currency beware! Judges can accept those results if they limit themselves to elements and tests, while failing to look at the good sense and principles that animated those tests in the first place. But they do so at the price of removing a vestige of the awe all of us, including our children, must feel at the immenseness of the universe and our own small place within it, as well as the wonder we must feel at the good fortune of our country. That will cool the febrile nerves of a few at the cost of removing the healthy glow conferred upon many citizens when the forbidden verses, or phrases, are uttered, read, or seen.

In short, I cannot accept the eliding of the simple phrase "under God" from our Pledge of Allegiance in any setting, when it is obvious that its tendency to

---

[8] Nor will we be able to stray into the fourth stanza of "My Country 'Tis of Thee" for that matter.

REV_00164437

establish religion in this country or to interfere with the free exercise (or non-exercise) of religion is de minimis.[9]

Thus, I respectfully concur in part and dissent in part.

---

[9] Lest I be misunderstood, I must emphasize that to decide this case it is not necessary to say, and I do not say, that there is such a thing as a de minimis constitutional violation. What I do say is that the de minimis tendency of the Pledge to establish a religion or to interfere with its free exercise is no constitutional violation at all. By the way, I am not the first to apply the de minimis concept to this area of the law. *See, e.g.*, *Mitchell* v. *Helms*, 530 U.S. 793, 861, 120 S. Ct. 2530, 2569, 147 L. Ed. 2d 660 (2000) (O'Connor, J., concurring) (evidence of improper use of funds was de minimis and did not affect constitutional inquiry); *Lee* v. *Weisman*, 505 U.S. 577, 630-31, 112 S. Ct. 2649, 2678, 120 L. Ed. 2d 467 (1992) (Souter, J. concurring) (establishment case; Madison recognized there is a difference between trivial and serious in constitutional practice, and pointed to the legal aphorism de minimis); *Lynch* v. *Donnelly*, 465 U.S. 668, 678, 104 S. Ct. 1355, 1361-62, 79 L. Ed. 2d 604 (1984) (not all government conduct which gives special recognition to religion is unconstitutional; where the benefit is indirect or remote, it is not unconstitutional); *School District of Abington* v. *Schempp*, 374 U.S. 203, 308, 83 S. Ct. 1560, 1616, 10 L. Ed. 2d 844 (1963) (Goldburg, J., concurring) ("the measure of constitutional adjudication is the ability and willingness to distinguish between real threat and mere shadow."); *Rapier* v. *Harris*, 172 F.3d 999, 1006 n.4 (7th Cir. 1999) ("De minimis burdens on free exercise are not of constitutional dimension); *Van Zandt* v. *Thompson*, 839 F.2d 1215, 1222 (7th Cir. 1988) (legislative prayer room would have a de minimis effect on advancement of religion); *Walsh* v. *La. High Sch. Athletic Ass'n*, 616 F.2d 152, 158 (5th Cir. 1980) (de minimis burden on free exercise results in rejection of First Amendment challenge); *Marsa* v. *Wernik*, 430 A.2d 888, 899 (N.J. 1981) (in an establishment case where impact of practice de minimis, it is unobjectionable); *see also Peck* v. *Upshur County Bd. of Educ.*, 155 F.3d 274, 288-89 (4th Cir. 1998) (if a genuine threat of establishing religion becomes apparent, it is soon enough to address the issue).

REV_00164438

APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 00-16423
D.C. No. CV 00-00495-MLS/PAN

MICHAEL A. NEWDOW, PLAINTIFF-APPELLANT

v.

U.S. CONGRESS; UNITED STATES OF AMERICA; WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES; STATE OF CALIFORNIA; ELK GROVE UNIFIED SCHOOL DISTRICT; DAVID W. GORDON, SUPERINTENDENT EGUSD; SACRAMENTO CITY UNIFIED SCHOOL DISTRICT; JIM SWEENEY, SUPERINTENDENT SCUSD, DEFENDANTS-APPELLEES

Appeal from the United States District Court for the Eastern District of California, Milton J. Schwartz, Senior Judge, Presiding

---

Argued and Submitted: March 14, 2002
Filed: June 26, 2002

Before: GOODWIN, REINHARDT and FERNANDEZ, Circuit Judges.

REV_00164439

Partial Concurrence and Partial Dissent by Judge FERNANDEZ.

OPINION

GOODWIN, Circuit Judge:

Michael Newdow appeals a judgment dismissing his challenge to the constitutionality of the words "under God" in the Pledge of Allegiance to the Flag. Newdow argues that the addition of these words by a 1954 federal statute to the previous version of the Pledge of Allegiance (which made no reference to God) and the daily recitation in the classroom of the Pledge of Allegiance, with the added words included, by his daughter's public school teacher are violations of the Establishment Clause of the First Amendment to the United States Constitution.

FACTUAL AND PROCEDURAL BACKGROUND

Newdow is an atheist whose daughter attends public elementary school in the Elk Grove Unified School District ("EGUSD") in California. In accordance with state law and a school district rule, EGUSD teachers begin each school day by leading their students in a recitation of the Pledge of Allegiance ("the Pledge"). The California Education Code requires that public schools begin each school day with "appropriate patriotic exercises" and that "[t]he giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy" this requirement. Cal. Educ. Code § 52720

REV_00164440

(1989) (hereinafter "California statute").[1] To implement the California statute, the school district that Newdow's daughter attends has promulgated a policy that states, in pertinent part: "Each elementary school class [shall] recite the pledge of allegiance to the flag once each day."[2]

The classmates of Newdow's daughter in the EGUSD are led by their teacher in reciting the Pledge codified in federal law. On June 22, 1942, Congress first codified the Pledge as "I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one Nation indivisible, with liberty and justice for all." Pub. L. No. 623, Ch. 435, § 7, 56 Stat. 380 (1942) (codified at 36 U.S.C. § 1972). On June 14, 1954, Congress amended Section 1972 to add the words "under God" after the word "Nation." Pub. L. No. 396, Ch. 297, 68 Stat. 249 (1954) ("1954 Act"). The Pledge is currently codified as "I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with

---

[1] The relevant portion of California Education Code § 52720 reads:

> In every public elementary school each day during the school year at the beginning of the first regularly scheduled class or activity period at which the majority of the pupils of the school normally begin the schoolday, there shall be conducted appropriate patriotic exercises. The giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy the requirements of this section.

[2] The SCUSD, the school district that Newdow claims his daughter may in the future attend, has promulgated a similar rule: "Each school shall conduct patriotic exercises daily. . . . The Pledge of Allegiance to the flag will fulfill this requirement." However, as discussed *infra*, Newdow lacks standing to challenge the SCUSD's rule requiring recitation of the Pledge.

REV_00164441

liberty and justice for all." 4 U.S.C. § 4 (1998) (Title 36 was revised and recodified by Pub. L. No. 105-225, § 2(a), 112 Stat. 1494 (1998). Section 172 was abolished, and the Pledge is now found in Title 4.)

Newdow does not allege that his daughter's teacher or school district requires his daughter to participate in reciting the Pledge.[3] Rather, he claims that his daughter is injured when she is compelled to "watch and listen as her state-employed teacher in her state-run school leads her classmates in a ritual proclaiming that there is a God, and that our's [sic] is 'one nation under God.'"

Newdow's complaint in the district court challenged the constitutionality, under the First Amendment, of the 1954 Act, the California statute, and the school district's policy requiring teachers to lead willing students in recitation of the Pledge. He sought declaratory and injunctive relief, but did not seek damages.

The school districts and their superintendents (collectively, "school district defendants") filed a Federal Rule of Civil Procedure 12(b)(6) motion to dismiss for failure to state a claim. Magistrate Judge Peter A. Nowinski held a hearing at which the school district defendants requested that the court rule only on the constitutionality of the Pledge, and defer any ruling on sover-

---

[3] Compelling students to recite the Pledge was held to be a First Amendment violation in *West Virginia State Board of Education* v. *Barnette*, 319 U.S. 624, 642, 63 S. Ct. 1178, 87 L. Ed. 1628 (1943) ("[T]he action of the local authorities in compelling the flag salute and pledge transcends constitutional limitations on their power and invades the sphere of intellect and spirit which it is the purpose of the First Amendment to our Constitution to reserve from all official control."). *Barnette* was decided before the 1954 Act added the words "under God" to the Pledge.

REV_00164442

eign immunity. The United States Congress, the United States, and the President of the United States (collectively, "the federal defendants") joined in the motion to dismiss filed by the school district defendants. The magistrate judge reported findings and a recommendation; District Judge Edward J. Schwartz approved the recommendation and entered a judgment of dismissal. This appeal followed.

DISCUSSION

A. Jurisdiction

Newdow asks the district court to order the President of the United States ("the President") to "alter, modify or repeal" the Pledge by removing the words "under God"; and to order the United States Congress ("Congress") "immediately to act to remove the words 'under God' from the Pledge." The President, however, is not an appropriate defendant in an action challenging the constitutionality of a federal statute. *See Franklin v. Massachusetts*, 505 U.S. 788, 802-03, 112 S. Ct. 2767, 120 L.Ed.2d 636 (1992) (plurality) (observing that a court of the United States " 'has no jurisdiction of a bill to enjoin the President in the performance of his official duties' ") (quoting *Mississippi v. Johnson*, 71 U.S. 475, 501, 18 L.Ed. 437 (1866)).

Similarly, in light of the Speech and Debate Clause of the Constitution, Art. I, § 6, cl. 1, the federal courts lack jurisdiction to issue orders directing Congress to enact or amend legislation. *See Eastland v. United States Servicemen's Fund*, 421 U.S. 491, 503, 95 S. Ct. 1813, 44 L.Ed.2d 324 (1975). Because the words that amended the Pledge were enacted into law by statute, the district court may not direct Congress to delete those words any more than it may order the President to take

REV_00164443

such action. All this, of course, is aside from the fact that the President has no authority to amend a statute or declare a law unconstitutional, those functions being reserved to Congress and the federal judiciary respectively.

Newdow nevertheless argues that because the 1954 Act violates the Establishment Clause, Congress should not be protected by the Speech and Debate Clause. This argument misses the jurisdictional, or separation of powers, point. As the Court held in *Eastland*, in determining whether or not the acts of members of Congress are protected by the Speech and Debate Clause, the court looks solely to whether or not the acts fall within the legitimate legislative sphere; if they do, Congress is protected by the absolute prohibition of the Clause against being "questioned in any other Place." *Id.* at 501. "If the mere allegation that a valid legislative act was undertaken for an unworthy purpose would lift the protection of the Clause, then the Clause simply would not provide the protection historically undergirding it." *Id.* at 508-09, 95 S. Ct. 1813. Although the district court lacks jurisdiction over the President and the Congress, the question of the constitutionality of the 1954 Act remains before us. While the court correctly dismissed the claim against those parties, it survives against others.

B. The State of California as a defendant

The State of California did not join in the motion to dismiss or otherwise participate in the district court proceedings. It did, however, *sub silentio*, receive the benefit of the district court's ruling dismissing the complaint. Accordingly, a reversal of the order would result in the reinstatement of the complaint against the state. With respect to the validity of the California

REV_00164444

statute, however, unlike in the case of the Congressional enactment and the school district policy, no arguments, legal or otherwise, were advanced by the parties either below or here. Thus, we do not address separately the validity of the California statute.

C. Standing

Article III standing is a jurisdictional issue. *See United States v. Viltrakis*, 108 F.3d 1159, 1160 (9th Cir. 1997). Accordingly, it "may be raised at any stage of the proceedings, including for the first time on appeal." *See A-Z Intern. v. Phillips*, 179 F.3d 1187, 1190-91 (9th Cir. 1999). To satisfy standing requirements, a plaintiff must prove that "(1) it has suffered an 'injury in fact' that is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical; (2) the injury is fairly traceable to the challenged action of the defendant; and (3) it is likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision." *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 180-81, 120 S. Ct. 693, 145 L.Ed.2d 610 (2000) (citing *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-561, 112 S. Ct. 2130, 119 L.Ed.2d 351 (1992)).

Newdow has standing as a parent to challenge a practice that interferes with his right to direct the religious education of his daughter. "Parents have a right to direct the religious upbringing of their children and, on that basis, have standing to protect their right." *Doe v. Madison Sch. Dist. No. 321*, 177 F.3d 789, 795 (9th Cir. 1999) (en banc); *see also Grove v. Mead Sch. Dist. No. 354*, 753 F.2d 1528, 1532 (9th Cir. 1985) ("Appellants have standing to challenge alleged violations of the establishment clause of the First Amendment if they are directly affected by use of [the challenged book] in

REV_00164445

the English curriculum. [Appellant] has standing as a parent whose right to direct the religious training of her child is allegedly affected.") (citation omitted).

Newdow has standing to challenge the EGUSD's policy and practice regarding the recitation of the Pledge because his daughter is currently enrolled in elementary school in the EGUSD. However, Newdow has no standing to challenge the SCUSD's policy and practice because his daughter is not currently a student there. The SCUSD and its superintendent have not caused Newdow or his daughter an "injury in fact" that is "actual or imminent, not conjectural or hypothetical." *Laidlaw*, 528 U.S. at 180, 120 S. Ct. 693 (citing *Lujan*, 504 U.S. at 560- 561, 112 S. Ct. 2130).

The final question of standing relates to the 1954 Act. Specifically, has Newdow suffered an "injury in fact" that is "fairly traceable" to the enactment of the 1954 Act? *Id.*

We begin our inquiry by noting the general rule that the standing requirements for an action brought under the Establishment Clause are the same as for any other action. *Valley Forge Christian Coll. v. Americans United for Separation of Church and State, Inc.*, 454 U.S. 464, 488-90, 102 S. Ct. 752, 70 L.Ed.2d 700 (1982). "The requirement of standing focuses on the party seeking to get his complaint before a federal court and not on the issues he wishes to have adjudicated. Moreover, we know of no principled basis on which to create a hierarchy of constitutional values or a complementary 'sliding scale' of standing which might permit respondents to invoke the judicial power of the United States." *Id.* at 484, 102 S. Ct. 752 (citation and internal quotation marks omitted). In *Valley Forge*, an organization dedicated to the separation of church and state

REV_00164446

brought suit challenging the federal government's grant of surplus federal property to a church-related college. The suit alleged that this grant of real property, without any financial payment by the college, was a violation of the Establishment Clause. The Supreme Court found that the plaintiff had standing neither as a taxpayer, *see id.* at 479-80, 102 S. Ct. 752, nor as a party personally injured as a consequence of the alleged unconstitutional action, *see id.* at 484-86, 102 S. Ct. 752. The "psychological consequence presumably produced by observation of conduct with which one disagrees . . . . is not an injury sufficient to confer standing under Art. III, even though the disagreement is phrased in constitutional terms." *Id.* at 485-86, 102 S. Ct. 752. The Court emphasized that "'[t]he assumption that if respondents have no standing to sue, no one would have standing, is not a reason to find standing.'" *Id.* at 489, 102 S. Ct. 752 (quoting *Schlesinger v. Reservists Comm. to Stop the War*, 418 U.S. 208, 227, 94 S. Ct. 2925, 41 L.Ed.2d 706 (1974)).

While *Valley Forge* remains good law, the Supreme Court in more recent opinions has indirectly broadened the notion of Establishment Clause standing in public education cases by holding that the mere enactment of a statute may constitute an Establishment Clause violation. In *Wallace v. Jaffree*, 472 U.S. 38, 105 S. Ct. 2479, 86 L.Ed.2d 29 (1985), the Court considered an Establishment Clause challenge to an Alabama statute that originally had authorized a one-minute period of silence in public schools "for meditation," but was later amended to authorize a period of silence "for meditation or voluntary prayer." *Id.* at 40-42, 105 S. Ct. 2479. Although the previous form of the statute specifically allowed students to use the moment of silence for

REV_00164447

"meditation," silent prayer was always an option. "[I]t is undisputed that at the time of the enactment of [the amended statute] there was no governmental practice impeding students from silently praying for one minute at the beginning of each schoolday." *Id.* at 57 n.45, 105 S. Ct. 2479. Nor were students, under the amended form of the statute, compelled to use the allotted time for prayer. In sum, the amendment to the Alabama statute had no discernible effect on public school students other than to inform them that the state was encouraging them to engage in prayer during their daily moment of silence. Because the Supreme Court has repeatedly held that standing is a jurisdictional requirement, the existence of which each federal court must determine for itself, *see Lujan*, 504 U.S. at 559-561, 112 S. Ct. 2130; *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 230-31, 110 S. Ct. 596, 107 L.Ed.2d 603 (1990), we may presume that in *Wallace* the Court examined the standing question before deciding the merits, and that the Court determined that the schoolchildren's parents had standing to challenge the amended Alabama statute.

Our reading of *Wallace* is supported by *Santa Fe Independent School District v. Doe*, 530 U.S. 290, 120 S. Ct. 2266, 147 L.Ed.2d 295 (2000), where the Court upheld a facial challenge to a school district's policy of permitting, but not requiring, prayer initiated and led by a student at high school football games. Noting that "the Constitution also requires that we keep in mind 'the myriad, subtle ways in which the Establishment Clause values can be eroded,'" *id.* at 314, 120 S. Ct. 2266 (quoting *Lynch v. Donnelly*, 465 U.S. 668, 104 S. Ct. 1355, 79 L.Ed.2d 604, 694 (1984) (O'Connor, J., concurring)), the Court held that the "mere passage by

REV_00164448

the District of a policy that has the purpose and perception of government establishment of religion," *id.*, violated the Establishment Clause. "[T]he *simple enactment* of this policy, with the purpose and perception of school endorsement of student prayer, was a constitutional violation." *Id.* at 316, 120 S. Ct. 2266 (emphasis added).

In *Wallace* and *Santa Fe*, the Court looked at the language of each statute, the context in which the statute was enacted, and its legislative history to determine that the challenged statute caused an injury in violation of the Establishment Clause. "We refuse to turn a blind eye to the context in which this policy arose, and that context quells any doubt that this policy was implemented with the purpose of endorsing school prayer." *Id.* at 315, 120 S. Ct. 2266. Justice O'Connor's concurrence in *Wallace* noted that whether a statute actually conveys a message of endorsement of religion is "not entirely a question of fact . . . . The relevant issue is whether an objective observer, acquainted with the text, legislative history, and implementation of the statute, would perceive it as state endorsement of prayer in public schools." 472 U.S. at 76, 105 S. Ct. 2479 (O'Connor, J., concurring in judgment). In *Santa Fe*, "[t]he text and history of this policy . . . reinforce our objective student's perception that the prayer is, in actuality, encouraged by the school." 530 U.S. at 308, 120 S. Ct. 2266. In evaluating the purpose of the school district policy, the Court found "most striking . . . the evolution of the current policy." *Id.* at 309, 120 S. Ct. 2266. In *Wallace*, a review of the legislative history led the Court to conclude that enactment of the amended statute "was not motivated by any clearly secular purpose—indeed, the statute had *no* secular purpose."

REV_00164449

472 U.S. at 56, 105 S. Ct. 2479; *see also id.* at 57-60, 105 S. Ct. 2479.

Operating within the above-described legal landscape, we now turn to the question initially posed, namely, does Newdow have standing to challenge the 1954 Act? Initially, we note that the 1954 statute challenged by Newdow is similar to the Alabama statute struck down in *Wallace*. Neither statute works the traditional type of "injury in fact" that is implicated when a statute compels or prohibits certain activity, nor do the amendments brought about by these statutes lend themselves to "as-applied" constitutional review. Nevertheless, the Court in *Wallace*, at least implicitly, determined that the schoolchildren's parents had standing to attack the challenged statute. Moreover, the legislative history of the 1954 Act shows that the "under God" language was not meant to sit passively in the federal code unbeknownst to the public; rather, the sponsors of the amendment knew about and capitalized on the state laws and school district rules that mandate recitation of the Pledge. The legislation's House sponsor, Representative Louis C. Rabaut, testified at the Congressional hearing that "the children of our land, in the daily recitation of the pledge in school, will be daily impressed with a true understanding of our way of life and its origins," and this statement was incorporated into the report of the House Judiciary Committee. H.R. Rep. No. 83-1693, at 3 (1954), *reprinted in* 1954 U.S.C.C.A.N. 2339, 2341. Taken within its context, the 1954 addendum was designed to result in the recitation of the words "under God" in school classrooms throughout the land on a daily basis, and therefore constituted as much of an injury-in-fact as the policies considered in *Wallace* and

REV_00164450

Santa Fe. As discussed earlier, Newdow has standing as a parent to challenge a practice that interferes with his right to direct the religious education of his daughter. The mere enactment of the 1954 Act in its particular context constitutes a religious recitation policy that interferes with Newdow's right to direct the religious education of his daughter. Accordingly, we hold that Newdow has standing to challenge the 1954 Act.

D. Establishment Clause

The Establishment Clause of the First Amendment states that "Congress shall make no law respecting an establishment of religion," U.S. Const. amend. I, a provision that "the Fourteenth Amendment makes applicable with full force to the States and their school districts." *Lee v. Weisman*, 505 U.S. 577, 580, 112 S. Ct. 2649, 120 L.Ed.2d 467 (1992). Over the last three decades, the Supreme Court has used three interrelated tests to analyze alleged violations of the Establishment Clause in the realm of public education: the three-prong test set forth in *Lemon v. Kurtzman*, 403 U.S. 602, 612-13, 91 S. Ct. 2105, 29 L.Ed.2d 745 (1971); the "endorsement" test, first articulated by Justice O'Connor in her concurring opinion in *Lynch*, and later adopted by a majority of the Court in *County of Allegheny v. ACLU*, 492 U.S. 573, 109 S. Ct. 3086, 106 L.Ed.2d 472 (1989); and the "coercion" test first used by the Court in *Lee*.

In 1971, in the context of unconstitutional state aid to nonpublic schools, the Supreme Court in *Lemon* set forth the following test for evaluating alleged Establishment Clause violations. To survive the "*Lemon* test," the government conduct in question (1) must have a secular purpose, (2) must have a principal or

REV_00164451

primary effect that neither advances nor inhibits religion, and (3) must not foster an excessive government entanglement with religion. *Lemon*, 403 U.S. at 612-13, 91 S. Ct. 2105. The Supreme Court applied the *Lemon* test to every Establishment case it decided between 1971 and 1984, with the exception of *Marsh v. Chambers*, 463 U.S. 783, 103 S. Ct. 3330, 77 L.Ed.2d 1019 (1983), the case upholding legislative prayer.[4] *See Wallace*, 472 U.S. at 63, 105 S. Ct. 2479 (Powell, J., concurring).

In the 1984 *Lynch* case, which upheld the inclusion of a nativity scene in a city's Christmas display, Justice O'Connor wrote a concurring opinion in order to suggest a "clarification" of Establishment Clause jurisprudence. 465 U.S. at 687, 104 S. Ct. 1355 (O'Connor, J., concurring). Justice O'Connor's "endorsement" test effectively collapsed the first two prongs of the *Lemon* test:

> The Establishment Clause prohibits government from making adherence to a religion relevant in any way to a person's standing in the political community. Government can run afoul of that prohibition in two principal ways. One is excessive entanglement with religious institutions. . . . The second and more direct infringement is government endorsement or disapproval of religion. Endorsement sends a message to nonadherents that they are

---

[4] In *Marsh*, the Court "held that the Nebraska Legislature's practice of opening each day's session with a prayer by a chaplain paid by the State did not violate the Establishment Clause of the First Amendment. [The] holding was based upon the historical acceptance of the practice that had become 'part of the fabric of our society.'" *Wallace*, 472 U.S. at 63 n.4, 105 S. Ct. 2479 (Powell, J., concurring) (quoting *Marsh*, 463 U.S. at 792, 103 S. Ct. 3330).

REV_00164452

> outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community.

Id. at 687-88, 91 S. Ct. 2105 (O'Connor, J., concurring).

The Court formulated the "coercion test" when it held unconstitutional the practice of including invocations and benedictions in the form of "nonsectarian" prayers at public school graduation ceremonies. *Lee*, 505 U.S. at 599, 112 S. Ct. 2649. Declining to reconsider the validity of the *Lemon* test, the Court in *Lee* found it unnecessary to apply the *Lemon* test to find the challenged practices unconstitutional. *Id.* at 587, 112 S. Ct. 2649. Rather, it relied on the principle that "at a minimum, the Constitution guarantees that government may not coerce anyone to support or participate in religion or its exercise, or otherwise to act in a way which establishes a state religion or religious faith, or tends to do so." *Id.* (citations and internal quotation marks omitted).[5] The Court first examined the degree

---

[5] Although this formulation is referred to as the "coercion" test, it should be noted that coercion is not a *necessary* element in finding an Establishment Clause violation. "The Establishment Clause, unlike the Free Exercise Clause, does not depend upon any showing of direct governmental compulsion. . . ." *Engel v. Vitale*, 370 U.S. 421, 430, 82 S. Ct. 1261, 8 L.Ed.2d 601 (1962). "[T]his court has never relied on coercion alone as the touchstone of Establishment Clause analysis. To require a showing of coercion, even indirect coercion, as an essential element of an Establishment Clause violation would make the free Exercise Clause a redundancy." *Allegheny*, 492 U.S. at 628, 109 S. Ct. 3086 (O'Connor, J., concurring). "Over the years, this Court has declared the invalidity of many noncoercive state laws and practices conveying a message of religious endorsement." *Lee*, 505 U.S. at 618, 112 S. Ct. 2649 (Souter, J., concurring).

REV_00164453

of school involvement in the prayer, and found that "the graduation prayers bore the imprint of the State and thus put school-age children who objected in an untenable position." *Id.* at 590. The next issue the Court considered was "the position of the students, both those who desired the prayer and she who did not." *Id.* Noting that "there are heightened concerns with protecting freedom of conscience from subtle coercive pressure in the elementary and secondary public schools," *id.* at 592, 112 S. Ct. 2649, the Court held that the school district's supervision and control of the graduation ceremony put impermissible pressure on students to participate in, or at least show respect during, the prayer, *id.* at 593, 112 S. Ct. 2649. The Court concluded that primary and secondary school children may not be placed in the dilemma of either participating in a religious ceremony or protesting. *Id.* at 594, 112 S. Ct. 2649.

Finally, in its most recent school prayer case, the Supreme Court applied the *Lemon* test, the endorsement test, and the coercion test to strike down a school district's policy of permitting student-led "invocations" before high school football games. *See Santa Fe*, 530 U.S. at 310-16, 120 S. Ct. 2266. Citing *Lee*, the Court held that "the delivery of a pregame prayer has the improper effect of coercing those present to participate in an act of religious worship." *Id.* at 312, 120 S. Ct. 2266. Applying the *Lemon* test, the Court found that the school district policy was facially unconstitutional because it did not have a secular purpose. *Id.* at 314-16. The Court also used language associated with the endorsement test. *Id.* at 315, 120 S. Ct. 2266 ("[T]his policy was implemented with the purpose of endorsing school prayer."); *id.* at 317, 120 S. Ct. 2266 ("Govern-

REV_00164454

ment efforts to endorse religion cannot evade constitutional reproach based solely on the remote possibility that those attempts may fail.").

We are free to apply any or all of the three tests, and to invalidate any measure that fails any one of them. The Supreme Court has not repudiated *Lemon;* in *Santa Fe,* it found that the application of each of the three tests provided an independent ground for invalidating the statute at issue in that case; and in *Lee,* the Court invalidated the policy solely on the basis of the coercion test. Although this court has typically applied the *Lemon* test to alleged Establishment Clause violations, *see, e.g., Am. Family Ass'n, Inc. v. City and County of San Francisco,* 277 F.3d 1114, 1120-21 (9th Cir. 2002), we are not required to apply it if a practice fails one of the other tests. Nevertheless, for purposes of completeness, we will analyze the school district policy and the 1954 Act under all three tests.

We first consider whether the 1954 Act and the EGUSD's policy of teacher-led Pledge recitation survive the endorsement test. The magistrate judge found that "the ceremonial reference to God in the pledge does not convey endorsement of particular religious beliefs." Supreme Court precedent does not support that conclusion.

In the context of the Pledge, the statement that the United States is a nation "under God" is an endorsement of religion. It is a profession of a religious belief, namely, a belief in monotheism. The recitation that ours is a nation "under God" is not a mere acknowledgment that many Americans believe in a deity. Nor is it merely descriptive of the undeniable historical significance of religion in the founding of the Republic. Rather, the phrase "one nation under God" in the

REV_00164455

context of the Pledge is normative. To recite the Pledge is not to describe the United States; instead, it is to swear allegiance to the values for which the flag stands: unity, indivisibility, liberty, justice, and—since 1954—monotheism. The text of the official Pledge, codified in federal law, impermissibly takes a position with respect to the purely religious question of the existence and identity of God. A profession that we are a nation "under God" is identical, for Establishment Clause purposes, to a profession that we are a nation "under Jesus," a nation "under Vishnu," a nation "under Zeus," or a nation "under no god," because none of these professions can be neutral with respect to religion. "[T]he government must pursue a course of complete neutrality toward religion." *Wallace*, 472 U.S. at 60, 105 S. Ct. 2479. Furthermore, the school district's practice of teacher-led recitation of the Pledge aims to inculcate in students a respect for the ideals set forth in the Pledge, and thus amounts to state endorsement of these ideals. Although students cannot be forced to participate in recitation of the Pledge, the school district is nonetheless conveying a message of state endorsement of a religious belief when it requires public school teachers to recite, and lead the recitation of, the current form of the Pledge.

The Supreme Court recognized the normative and ideological nature of the Pledge in *Barnette*, 319 U.S. 624, 63 S. Ct. 1178, 87 L.Ed. 1628. There, the Court held unconstitutional a school district's wartime policy of punishing students who refused to recite the Pledge and salute the flag. *Id.* at 642, 63 S. Ct. 1178. The Court noted that the school district was compelling the students "to declare a belief," *id.* at 631, 63 S. Ct. 1178, and "requir[ing] the individual to communicate by word

REV_00164456

and sign his acceptance of the political ideas [the flag] . . . bespeaks," *id.* at 633, 63 S. Ct. 1178. "[T]he compulsory flag salute and pledge requires affirmation of a belief and an attitude of mind." *Id.* The Court emphasized that the political concepts articulated in the Pledge[6] were idealistic, not descriptive: "'[L]iberty and justice for all,' if it must be accepted as descriptive of the present order rather than an ideal, might to some seem an overstatement." *Id.* at 634 n. 14, 63 S. Ct. 1178. The Court concluded that: "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein." *Id.* at 642, 63 S. Ct. 1178.

The Pledge, as currently codified, is an impermissible government endorsement of religion because it sends a message to unbelievers "that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community." *Lynch*, 465 U.S. at 688, 104 S. Ct. 1355 (O'Connor, J., concurring). Justice Kennedy, in his dissent in *Allegheny*, agreed:

> [B]y statute, the Pledge of Allegiance to the Flag describes the United States as 'one nation under God.' To be sure, no one is obligated to recite this phrase, . . . but it borders on sophistry to suggest that the reasonable atheist would not feel less than a full member of the political community every time

---

[6] *Barnette* was decided before "under God" was added, and thus the Court's discussion was limited to the political ideals contained in the Pledge.

REV_00164457

> his fellow Americans recited, as part of their expression of patriotism and love for country, a phrase he believed to be false.

Allegheny, 492 U.S. at 672, 109 S. Ct. 3086 (Kennedy, J., dissenting) (citations and internal quotation marks omitted).[7] Consequently, the policy and the Act fail the endorsement test.

Similarly, the policy and the Act fail the coercion test. Just as in *Lee*, the policy and the Act place students in the untenable position of choosing between participating in an exercise with religious content or protesting. As the Court observed with respect to the graduation prayer in that case: "What to most believers may seem nothing more than a reasonable request that the nonbeliever respect their religious practices, in a school context may appear to the nonbeliever or dissenter to be an attempt to employ the machinery of the State to enforce a religious orthodoxy." *Lee*, 505 U.S. at 592, 112 S. Ct. 2649. Although the defendants argue that the religious content of "one nation under God" is minimal, to an atheist or a believer in certain non-Judeo-Christian religions or philosophies, it may reasonably appear to be an attempt to enforce a "religious orthodoxy" of monotheism, and is therefore impermissible. The coercive effect of this policy is particularly pronounced in the school setting given the age and impressionability of schoolchildren, and their understanding that they are required to adhere to the norms set by their school, their teacher and their fellow students.[8] Furthermore, under *Lee*, the fact that

---

[7] For Justice Kennedy, this result was a reason to reject the endorsement test.

[8] The "subtle and indirect" social pressure which permeates the classroom also renders more acute the message sent to non-

REV_00164458

students are not required to participate is no basis for distinguishing *Barnette* from the case at bar because, even without a recitation requirement for each child, the mere fact that a pupil is required to listen every day to the statement "one nation under God" has a coercive effect.[9] The coercive effect of the Act is apparent from its context and legislative history, which indicate that the Act was designed to result in the daily recitation of the words "under God" in school classrooms. President Eisenhower, during the Act's signing ceremony, stated: "From this day forward, the millions of our school children will daily proclaim in every city and town, every village and rural schoolhouse, the dedication of our Nation and our people to the Almighty." 100 Cong. Rec. 8618 (1954) (statement of Sen. Ferguson incorporating signing statement of President Eisenhower). Therefore, the policy and the Act fail the coercion test.[10]

---

believing schoolchildren that they are outsiders. *See Lee*, 505 U.S. at 592-93, 112 S. Ct. 2649 (stating that "the risk of indirect coercion" from prayer exercises is particularly "pronounced" in elementary and secondary public school because students are subjected to peer pressure and public pressure which is "as real as any overt compulsion").

[9] The objection to the Pledge in *Barnette*, like in the case at bar, was based upon a religious ground. The Pledge in the classroom context imposes upon schoolchildren the constitutionally unacceptable choice between participating and protesting. Recognizing the severity of the effect of this form of coercion on children, the Supreme Court in *Lee* stated, "the State may not, consistent with the Establishment Clause, place primary and secondary school children in this position." 505 U.S. at 593, 112 S. Ct. 2649.

[10] In *Aronow v. United States*, 432 F.2d 242 (9th Cir. 1970), this court, without reaching the question of standing, upheld the inscription of the phrase "In God We Trust" on our coins and currency. *But cf. Wooley v. Maynard*, 430 U.S. 705, 722, 97 S. Ct.

REV_00164459

Finally we turn to the *Lemon* test, the first prong of which asks if the challenged policy has a secular purpose. Historically, the primary purpose of the 1954 Act was to advance religion, in conflict with the first prong of the *Lemon* test. The federal defendants "do not dispute that the words 'under God' were intended" "to recognize a Supreme Being," at a time when the government was publicly inveighing against atheistic communism. Nonetheless, the federal defendants argue that the Pledge must be considered as a whole when assessing whether it has a secular purpose. They claim that the Pledge has the secular purpose of "solemnizing public occasions, expressing confidence in the future, and encouraging the recognition of what is worthy of appreciation in society." *Lynch*, 465 U.S. at 693, 104 S. Ct. 1355.

The flaw in defendants' argument is that it looks at the text of the Pledge "as a whole," and glosses over the 1954 Act. The problem with this approach is apparent when one considers the Court's analysis in *Wallace*. There, the Court struck down Alabama's statute mandating a moment of silence for "meditation or voluntary prayer" not because the final version "as a whole" lacked a primary secular purpose, but because the state legislature had amended the statute specifically and solely to add the words "or voluntary prayer." 472 U.S. at 59-60, 105 S. Ct. 2479.

1428, 51 L.Ed.2d 752 (1977) (Rehnquist, J., dissenting) (stating that the majority's holding leads logically to the conclusion that "In God We Trust" is an unconstitutional affirmation of belief). In any event, *Aronow* is distinguishable in many ways from the present case. The most important distinction is that school children are not coerced into reciting or otherwise actively led to participating in an endorsement of the markings on the money in circulation.

REV_00164460

By analogy to *Wallace*, we apply the purpose prong of the *Lemon* test to the amendment that added the words "under God" to the Pledge, not to the Pledge in its final version. As was the case with the amendment to the Alabama statute in *Wallace*, the legislative history of the 1954 Act reveals that the Act's *sole* purpose was to advance religion, in order to differentiate the United States from nations under communist rule." [T]he First Amendment requires that a statute must be invalidated if it is entirely motivated by a purpose to advance religion." *Id.* at 56, 105 S. Ct. 2479 (citations omitted) (applying the *Lemon* test). As the legislative history of the 1954 Act sets forth:

> At this moment of our history the principles underlying our American Government and the American way of life are under attack by a system whose philosophy is at direct odds with our own. Our American Government is founded on the concept of the individuality and the dignity of the human being. Underlying this concept is the belief that the human person is important because he was created by God and endowed by Him with certain inalienable rights which no civil authority may usurp. The inclusion of God in our pledge therefore would further acknowledge the dependence of our people and our Government upon the moral directions of the Creator. At the same time it would serve to deny the atheistic and materialistic concepts of communism with its attendant subservience of the individual.

H.R. Rep. No. 83-1693, at 1-2 (1954), *reprinted in* 1954 U.S.C.C.A.N. 2339, 2340. This language reveals that the purpose of the 1954 Act was to take a position on the question of theism, namely, to support the existence and moral authority of God, while "deny[ing] . . .

REV_00164461

atheistic and materialistic concepts." *Id.* Such a purpose runs counter to the Establishment Clause, which prohibits the government's endorsement or advancement not only of one particular religion at the expense of other religions, but also of religion at the expense of atheism.

> [T]he Court has unambiguously concluded that the individual freedom of conscience protected by the First Amendment embraces the right to select any religious faith or none at all. This conclusion derives support not only from the interest in respecting the individual's freedom of conscience, but also from the conviction that religious beliefs worthy of respect are the product of a free and voluntary choice by the faithful, and from recognition of the fact that the political interest in forestalling intolerance extends beyond intolerance among Christian sects—or even intolerance among "religions"—to encompass intolerance of the disbeliever and the uncertain.

Wallace, 472 U.S. at 52-54, 105 S. Ct. 2479.

In language that attempts to prevent future constitutional challenges, the sponsors of the 1954 Act expressly disclaimed a religious purpose. "This is not an act establishing a religion. . . . A distinction must be made between the existence of a religion as an institution and a belief in the sovereignty of God. The phrase 'under God' recognizes only the guidance of God in our national affairs." H.R. Rep. No. 83-1693, at 3 (1954), *reprinted in* 1954 U.S.C.C.A.N. 2339, 2341-42. This alleged distinction is irrelevant for constitutional purposes. The Act's affirmation of "a belief in the sovereignty of God" and its recognition of "the guidance of God" are endorsements by the government of reli-

REV_00164462

gious beliefs. The Establishment Clause is not limited to "religion as an institution"; this is clear from cases such as *Santa Fe*, where the Court struck down student-initiated and student-led prayer at high school football games. 530 U.S. at 310-16, 120 S. Ct. 2266. The Establishment Clause guards not only against the establishment of "religion as an institution," but also against the endorsement of religious ideology by the government. Because the Act fails the purpose prong of *Lemon*, we need not examine the other prongs. *Lemon*, 403 U.S. at 612-14, 91 S. Ct. 2105.

Similarly, the school district policy also fails the *Lemon* test. Although it survives the first prong of *Lemon* because, as even Newdow concedes, the school district had the secular purpose of fostering patriotism in enacting the policy, the policy fails the second prong. As explained by this court in *Kreisner v. City of San Diego*, 1 F.3d 775, 782 (9th Cir. 1993), and by the Supreme Court in *School District of Grand Rapids v. Ball*, 473 U.S. 373, 390, 105 S. Ct. 3216, 87 L.Ed.2d 267 (1985), the second *Lemon* prong asks "whether the challenged government action is sufficiently likely to be perceived by adherents of the controlling denominations as an endorsement, and by the nonadherents as a disapproval, of their individual religious choices."[11] *Ball*, 473

---

[11] Although *Ball* was overruled in part by *Agostini* v. *Felton*, 521 U.S. 203, 236, 117 S. Ct. 1997, 138 L.Ed.2d 391 (1997), as the Court stated in *Agostini*, *Ball*'s statement of the general principles and relevant tests to be used in determining what constitutes an Establishment Clause violation remain intact; only the underlying factual assumptions and presumptions have changed. In particular, the Court rejected the following three core assumptions of *Ball*:

REV_00164463

U.S. at 390, 105 S. Ct. 3216. Given the age and impressionability of schoolchildren, as discussed above, particularly within the confined environment of the classroom, the policy is highly likely to convey an impermissible message of endorsement to some and disapproval to others of their beliefs regarding the existence of a monotheistic God. Therefore the policy fails the effects prong of *Lemon*, and fails the *Lemon* test. In sum, both the policy and the Act fail the *Lemon* test as well as the endorsement and coercion tests.[12]

> (i) any public employee who works on the premises of a religious school is presumed to inculcate religion in her work; (ii) the presence of public employees on private school premises creates a symbolic union between church and state; and (iii) any and all public aid that directly aids the educational function of religious schools impermissibly finances religious indoctrination, even if the aid reaches such schools as a consequence of private decisionmaking.

Agostini, 521 U.S. at 222, 117 S. Ct. 1997. Therefore, *Ball*'s restatement of the second prong of *Lemon* remains valid even after *Agostini*.

[12] We recognize that the Supreme Court has occasionally commented in dicta that the presence of "one nation under God" in the Pledge of Allegiance is constitutional. *See Allegheny*, 492 U.S. at 602-03, 109 S. Ct. 3086; *Lynch*, 465 U.S. at 676, 104 S. Ct. 1355; *id.* at 693, 104 S. Ct. 1355 (O'Connor, J., concurring); *Abington Sch. Dist. v. Schempp*, 374 U.S. 203, 303-04, 83 S. Ct. 1560, 10 L.Ed.2d 844 (1963) (Brennan, J., concurring); *id.* at 306-08, 83 S. Ct. 1560 (Goldberg, J., joined by Harlan, J., concurring); *Engel*, 370 U.S. at 435 n. 21, 82 S. Ct. 1261. However, the Court has never been presented with the question directly, and has always clearly refrained from deciding it. Accordingly, it has never applied any of the three tests to the Act or to any school policy regarding the recitation of the Pledge. That task falls to us, although the final word, as always, remains with the Supreme Court.

REV_00164464

The only other United States Court of Appeals to consider the issue is the Seventh Circuit, which held in *Sherman v. Community Consolidated School District 21*, 980 F.2d 437 (7th Cir. 1992), that a policy similar to the one before us regarding the recitation of the Pledge of Allegiance containing the words "one nation under God" was constitutional. The *Sherman* court first stated that:

> If as *Barnette* holds no state may require anyone to recite the Pledge, and if as the prayer cases hold the recitation by a teacher or rabbi of unwelcome words is coercion, then the Pledge of Allegiance becomes unconstitutional under all circumstances, just as no school may read from a holy scripture at the start of class.

980 F.2d at 444. It then concludes, however, that this reasoning is flawed because the First Amendment "[does] not establish general rules about speech or schools; [it] call[s] for religion to be treated differently." *Id.* We have some difficulty understanding this statement; we do not believe that the Constitution prohibits compulsory patriotism as in *Barnette*, but permits compulsory religion as in this case. If government-endorsed religion is to be treated differently from government-endorsed patriotism, the treatment must be less favorable, not more.

The Seventh Circuit makes an even more serious error, however. It not only refuses to apply the *Lemon* test because of the Supreme Court's criticism of that test in *Lee*, but it also fails to apply the coercion test from *Lee* or the endorsement test from *Lynch*. Circuit courts are not free to ignore Supreme Court precedent in this manner. *Rodriguez de Quijas v. Shearson/Am. Exp., Inc.*, 490 U.S. 477, 484, 109 S. Ct. 1917, 104 L.Ed.2d 526 (1989) ("If a precedent of this Court has direct application in a case, yet appears to rest on reasons rejected in some other line of decisions, the Court of Appeals should follow the case which directly controls, leaving to this Court the prerogative of overruling its own decisions."). Instead of applying any of the tests announced by the Supreme Court, the Seventh Circuit simply frames the question as follows: "Must ceremonial references in civic life to a deity be understood as prayer, or support for all monotheistic religions, to the exclusion of atheists and those who worship multiple gods?" 980 F.2d at 445. Relying in part on Supreme Court dicta regarding the Pledge, the court answers this question in the negative, determining that "under God" is a statement

REV_00164465

In conclusion, we hold that (1) the 1954 Act adding the words "under God" to the Pledge, and (2) EGUSD's policy and practice of teacher-led recitation of the Pledge, with the added words included, violate the Establishment Clause. The judgment of dismissal is vacated with respect to these two claims, and the cause is remanded for further proceedings consistent with our holding. Plaintiff is to recover costs on this appeal.

REVERSED AND REMANDED.

---

which, taken within its context in the Pledge, is devoid of any significant religious content, and therefore constitutional. *Id.* at 447-48. At the very least, as discussed above in the text, the Supreme Court requires that any policy alleged to be an Establishment Clause violation must be held to the scrutiny of the established tests. Our application of *all* of the tests compels the conclusion that the policy and the Act challenged here violate the Establishment Clause of the Constitution. Thus, we must respectfully differ from the Seventh Circuit.

REV_00164466

FERNANDEZ, Circuit Judge, concurring and dissenting:

I concur in parts A, B and C[1] of the majority opinion, but dissent as to part D.

We are asked to hold that inclusion of the phrase "under God" in this nation's Pledge of Allegiance violates the religion clauses of the Constitution of the United States. We should do no such thing. We should, instead, recognize that those clauses were not designed to drive religious expression out of public thought; they were written to avoid discrimination.

We can run through the litany of tests and concepts which have floated to the surface from time to time. Were we to do so, the one that appeals most to me, the one I think to be correct, is the concept that what the religion clauses of the First Amendment require is neutrality; that those clauses are, in effect, an early kind of equal protection provision and assure that government will neither discriminate for nor discriminate against a religion or religions. *See Gentala v. City of Tucson*, 244 F.3d 1065, 1083-86 (9th Cir.) (en banc) (Fernandez, J., dissenting), *cert. granted and judgment vacated by* 534 U.S. 946, 122 S. Ct. 340, 151 L.Ed.2d 256 (2001); *Goehring v. Brophy*, 94 F.3d 1294,

---

[1] I admit, however, to serious misgivings about standing to attack 4 U.S.C. § 4 itself. Congress has not compelled anyone to do anything. It surely has not directed that the Pledge be recited in class; only the California authorities have done that. Even if a general lack of standing to directly attack 4 U.S.C. § 4 would deprive federal courts of the opportunity to strike "under God" from that statute, any lament would be no more than a complaint about the limits on federal judges' constitutional power. Nonetheless, that ultimately makes little difference to the resolution of the First Amendment issue in this case.

REV_00164467

1306-07 (9th Cir. 1996) (Fernandez, J., concurring). But, legal world abstractions and ruminations aside, when all is said and done, the danger that "under God" in our Pledge of Allegiance will tend to bring about a theocracy or suppress somebody's beliefs is so minuscule as to be de minimis. The danger that phrase presents to our First Amendment freedoms is picayune at most.

Judges, including Supreme Court Justices, have recognized the lack of danger in that and similar expressions for decades, if not for centuries, as have presidents[2] and members of our Congress. *See, e.g., County of Allegheny v. ACLU*, 492 U.S. 573, 602-03, 672-73, 109 S. Ct. 3086, 3106, 3143, 106 L.Ed.2d 472 (1989); *Wallace v. Jaffree*, 472 U.S. 38, 78 n. 5, 105 S. Ct. 2479, 86 L.Ed.2d 29 (1985); *Lynch v. Donnelly*, 465 U.S. 668, 676, 693, 716, 104 S. Ct. 1355, 1361, 79 L.Ed.2d 604 (1984); *Abington Sch. Dist. v. Schempp*, 374 U.S. 203, 306-08, 83 S. Ct. 1560, 1615-16, 10 L.Ed.2d 844 (1963);[3] *Separation of Church & State Comm. v. City of Eugene*, 93 F.3d 617, 622 (9th Cir. 1996) (O'Scannlain, J., concurring); *Gaylor v. United States*, 74 F.3d 214, 217-18 (10th Cir. 1996); *Sherman v. Cmty Consol. Sch. Dist. 21*, 980 F.2d 437, 445-48 (7th Cir. 1992); *O'Hair v.*

---

[2] *See, e.g., Lee v. Weisman*, 505 U.S. 577, 632-35, 112 S. Ct. 2649, 120 L.Ed.2d 467 (1992) (Scalia, J., dissenting).

[3] The citations to the four preceding Supreme Court opinions are to majority opinions, concurring opinions, and dissents. Because my point is that a number of Justices have recognized the lack of danger and because I hope to avoid untoward complication in the setting out of the citations, I have not designated which Justices have joined in which opinion. All in all, however, perusing those opinions indicates that Chief Justice Burger, Chief Justice Rehnquist, and Justices Harlan, Brennan, White, Goldberg, Marshall, Blackmun, Powell, Stevens, O'Connor, Scalia, and Kennedy have so recognized.

REV_00164468

Murray, 588 F.2d 1144, 1144 (5th Cir. 1979) (per curiam); *Aronow v. United States*, 432 F.2d 242, 243-44 (9th Cir. 1970); *cf. Marsh v. Chambers*, 463 U.S. 783, 795, 103 S. Ct. 3330, 77 L.Ed.2d 1019 (1983) (legislative prayer). I think it is worth stating a little more about two of the cases which I have just cited. In *County of Allegheny*, 492 U.S. at 602-03, 109 S. Ct. at 3106, the Supreme Court had this to say: "Our previous opinions have considered in dicta the motto and the pledge, characterizing them as consistent with the proposition that government may not communicate an endorsement of religious belief." The Seventh Circuit, reacting in part to that statement, has wisely expressed the following thought:

> Plaintiffs observe that the Court sometimes changes its tune when it confronts a subject directly. True enough, but an inferior court had best respect what the majority says rather than read between the lines. If the Court proclaims that a practice is consistent with the establishment clause, we take its assurances seriously. If the Justices are just pulling our leg, let them say so.

Sherman, 980 F.2d at 448.

Some, who rather choke on the notion of de minimis, have resorted to the euphemism "ceremonial deism." *See, e.g., Lynch*, 465 U.S. at 716, 104 S. Ct. at 1382 (Brennan, J., dissenting). But whatever it is called (I care not), it comes to this: such phrases as "In God We Trust," or "under God" have no tendency to establish a religion in this country or to suppress anyone's exercise, or non-exercise, of religion, except in the fevered eye of persons who most fervently would like to drive all tincture of religion out of the public life of our polity.

REV_00164469

Those expressions have not caused any real harm of that sort over the years since 1791, and are not likely to do so in the future.[4] As I see it, that is not because they are drained of meaning.[5] Rather, as I have already indicated, it is because their tendency to establish religion (or affect its exercise) is exiguous. I recognize that some people may not feel good about hearing the phrases recited in their presence, but, then, others might not feel good if they are omitted. At any rate, the Constitution is a practical and balanced charter for the just governance of a free people in a vast territory. Thus, although we do feel good when we contemplate the effects of its inspiring phrasing and majestic promises, it is not primarily a feel-good prescription.[6] In *West Virginia Board of Education v. Barnette*, 319 U.S. 624, 630, 642, 63 S. Ct. 1178, 1181, 1187, 87 L.Ed. 1628 (1943), for example, the Supreme Court did not say that the Pledge could not be recited in the presence of Jehovah's Witness children; it merely said that they did not have to recite it.[7] That fully protected their con-

---

[4] They have not led us down the long path to kulturkampf or worse. Those who are somehow beset by residual doubts and fears should find comfort in the reflection that no baleful religious effects have been generated by the existence of similar references to a deity throughout our history. More specifically, it is difficult to detect any signs of incipient theocracy springing up since the Pledge was amended in 1954.

[5] *See also Sherman*, 980 F.2d at 448 (Manion, J., concurring).

[6] We, by the way, indicated as much in *American Family Ass'n, Inc. v. City and County of San Francisco*, 277 F.3d 1114, 1125-26 (9th Cir. 2002), which involved governmental conduct that was much more questionable than adoption of the phrase "under God." *See id.* at 1126-28 (Noonan, J., dissenting).

[7] I recognize that the Pledge did not then contain the phrase "under God."

REV_00164470

stitutional rights by precluding the government from trenching upon "the sphere of intellect and spirit." *Id.* at 642, 63 S. Ct. at 1187. As the Court pointed out, their religiously based refusal "to participate in the ceremony [would] not interfere with or deny rights of others to do so." *Id.* at 630, 63 S. Ct. at 1181. We should not permit Newdow's feel-good concept to change that balance.

My reading of the stelliscript suggests that upon Newdow's theory of our Constitution, accepted by my colleagues today, we will soon find ourselves prohibited from using our album of patriotic songs in many public settings. "God Bless America" and "America the Beautiful" will be gone for sure, and while use of the first three stanzas of "The Star Spangled Banner" will still be permissible, we will be precluded from straying into the fourth.[8] And currency beware! Judges can accept those results if they limit themselves to elements and tests, while failing to look at the good sense and principles that animated those tests in the first place. But they do so at the price of removing a vestige of the awe we all must feel at the immenseness of the universe and our own small place within it, as well as the wonder we must feel at the good fortune of our country. That will cool the febrile nerves of a few at the cost of removing the healthy glow conferred upon many citizens when the forbidden verses, or phrases, are uttered, read, or seen.

In short, I cannot accept the eliding of the simple phrase "under God" from our Pledge of Allegiance, when it is obvious that its tendency to establish religion

---

[8] Nor will we be able to stray into the fourth stanza of "My Country 'Tis of Thee" for that matter.

REV_00164471

in this country or to interfere with the free exercise (or non-exercise) of religion is de minimis.[9]

Thus, I respectfully concur in part and dissent in part.

[9] Lest I be misunderstood, I must emphasize that to decide this case it is not necessary to say, and I do not say, that there is such a thing as a de minimis constitutional violation. What I do say is that the de minimis tendency of the Pledge to establish a religion or to interfere with its free exercise is no constitutional violation at all.

REV_00164472

APPENDIX C

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 00-16423
D.C. No. CV 00-00495-MLS/PAN

MICHAEL A. NEWDOW, PLAINTIFF-APPELLANT

v.

U.S. CONGRESS; UNITED STATES OF AMERICA; GEORGE W. BUSH,* PRESIDENT OF THE UNITED STATES; STATE OF CALIFORNIA; ELK GROVE UNIFIED SCHOOL DISTRICT; DAVID W. GORDON, SUPERINTENDENT EGUSD; SACRAMENTO CITY UNIFIED SCHOOL DISTRICT; JIM SWEENEY, SUPERINTENDENT SCUSD, DEFENDANTS-APPELLEES

Appeal from the United States District Court for the Eastern District of California, Milton L. Schwartz, Senior Judge, Presiding

Argued and Submitted: March 14, 2002
Filed: June 26, 2002
Amended: February 28, 2003

ORDER

The opinion filed June 26, 2002, is ordered amended. The Clerk is instructed to file the amended opinion with

* George W. Bush is substituted for his predecessor, William Jefferson Clinton, as President of the United States. Fed. R. App. P. 43(c)(2).

REV_00164473

Judge Fernandez's amended concurrence/dissent. Judge Reinhardt's concurrence in the order denying rehearing en banc, along with Judge O'Scannlain's and Judge McKeown's dissent from that order shall also be filed.

The Clerk is also instructed not to accept for filing any new petitions for rehearing and petitions for rehearing en banc in this case.

With the opinion thus amended, the panel has voted unanimously to deny the petitions for rehearing.

The full court has been advised of the petitions for rehearing en banc. An active judge requested a vote on whether to rehear the matter en banc. The matter failed to receive a majority of the votes of the non-recused active judges in favor of en banc consideration. Fed. R. App. P. 35.

The petitions for rehearing are DENIED and the petitions for rehearing en banc are DENIED.

REINHARDT, Circuit Judge, concurring in the order:

My views as to the merits of this issue are set forth in the amended majority opinion authored by Judge Goodwin, and I adhere to them fully. I write separately for two reasons unrelated to the contents of that opinion. I write first to comment on the separate dissent to the denial of rehearing en banc authored by Judge McKeown and joined in by Judges Hawkins, Thomas, and Rawlinson, in which my colleagues appear to express the view that a case should be reheard en banc whenever it involves "a question of exceptional importance." FED. R. APP. P. 35(a)(2).[1] Second, I am

[1] While the brief separate dissent is deliberately opaque and uninformative, I would suspect that not all of its signatories

REV_00164474

compelled to register my strong disagreement with one particularly unfortunate aspect of Judge O'Scannlain's principal dissent that reflects a serious misconception of fundamental constitutional principles and the proper role of the federal judiciary.

I

As to the first question, I disagree with the notion that the importance of an issue is a sufficient reason to take a case en banc, either under the Rule or as a matter of judicial policy. Rule 35(a) advises this court of its *discretionary* power to order that a case already decided by a three-judge panel be reheard by the full court. Specifically, the rule begins by stating that a "majority of the circuit judges who are in regular active service *may* order that an appeal or other proceeding be heard or reheard by the court of appeals en banc." FED. R. APP. P. 35(a) (emphasis added). Subsection two guides such discretionary consideration by stating that one compelling reason to grant rehearing en banc is the "exceptional importance" of a particular case.

The most reasonable construction of the Rule is that this court should rehear a case en banc when it is *both* of exceptional importance *and* the decision *requires correctio*n. *See United States* v. *Burdeau,* 180 F.3d 1091, 1092 (9th Cir. 1999) (Tashima, J., concurring in the order denying rehearing en banc) ("Subject to rare exceptions. . . . we should review the statements in three[-]judge panel opinions only to 'determine whether the [panel's] legal error resulted in an erroneous

---

believe that the general rule they appear to advocate should apply regardless of the "correctness" of the panel opinion. The concept that "exceptional importance" is, without more, a sufficient reason for en banc review is, however, shared by at least several members of the Court and accordingly merits some discussion.

REV_00164475

judgment . . . .'") (quoting *Chevron U.S.A. Inc.* v. *Natural Res. Def. Council*, 467 U.S. 837, 842 (1984)). A decision may warrant correction because a three-judge panel has reached a result or adopted a legal rule or principle that conflicts with our existing circuit law or that the majority of our court believes is incorrect and needs further review. The fact that three-judge panels often decide cases of exceptional importance, whether it be the constitutionality of a state's decision to execute an individual who may be innocent, the existence or non-existence of a fundamental right, or the ability of the Congress to require the states to comply with federal law—an issue that some of us thought had been settled by the successful end to the Civil War—is an unremarkable, but undeniably important, aspect of our appellate system. *See* Tracey E. George, *The Dynamics and Determinants of the Decision to Grant En Banc Review*, 74 WASH. L. REV. 213, 218 (1999) (stating that three-judge panels "representing and acting on behalf of the whole court" is a "basic tenet of our intermediate appellate system"). Unless reconsidered en banc, a decision of a three-judge panel *is* a decision of our court and speaks for our court. Moreover, it ordinarily constitutes the final judicial decision.[2]

To rehear a case en banc *simply* on the basis that it involves an important issue would undermine the three-

---

[2] While the Supreme Court unquestionably has the authority to review any or all of the decisions of the Court of Appeals, the Court has elected to hear a remarkably small number of cases in recent years. For example, in the 2001 term, of the 7,852 case filings, the Court heard argument in 88 cases, and disposed of 85 in 76 signed opinions. *See* Supreme Court of the United States, *2002 Year-End Report on the Federal Judiciary*, *at* http://www.supremecourtus.gov/publicinfo/year-end/2002year-endreport.html.

REV_00164476

judge panel system and create an impractical and crushing burden on what otherwise should be, as Rule 35(a) suggests, an exceptional occurrence. *See* FED. R. APP. P. 35(a) ("An en banc hearing or rehearing is not favored . . . ."). According to statistics kept by the Clerk of the court, in 2002 this court decided 5,190 cases on the merits, more than 98% of which were finally decided by three-judge panels. These decisions are not measures of "rough justice," later to be refined by the en banc court. Unless they decide issues of exceptional importance erroneously, create a direct intra-circuit split, or unless the interests of justice require that the decision be corrected, the opinions of three-judge panels should constitute the final action of this court.

II

I also feel compelled to discuss a disturbingly wrong-headed approach to constitutional law manifested in the dissent authored by Judge O'Scannlain. The dissent suggests that this court should be able to conclude that the panel's holding was erroneous by observing the "public and political reaction" to its decision. Dissent at 2783. This is not the first time that the magnitude of the political response regarding an issue has distracted certain members of this court. An equally disturbing misunderstanding of the nature of our Constitution and the role of the federal judiciary was manifested in *Coalition for Econ. Equity* v. *Wilson*, 122 F.3d 692 (9th Cir. 1997), a case involving a California initiative on the subject of affirmative action. There, the three-judge panel, in a case that unfortunately was not taken en banc, notwithstanding its exceptional importance, made the following remarkable statement: "A system which permits one judge to block with the stroke of a pen what 4,736,180 state residents voted to enact as law

REV_00164477

tests the integrity of our constitutional democracy." *Id.* at 699 (O'Scannlain, J.).

The Bill of Rights is, of course, intended to protect the rights of those in the minority against the temporary passions of a majority which might wish to limit their freedoms or liberties. As Justice Jackson recognized:

> The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections.

W. Va. State Bd. of Educ. v. *Barnette*, 319 U.S. 624, 638 (1943). It is the highest calling of federal judges to invoke the Constitution to repudiate unlawful majoritarian actions and, when necessary, to strike down statutes that would infringe on fundamental rights, whether such statutes are adopted by legislatures or by popular vote. The constitutional system that vests such power in an independent judiciary does not "test[ ] the integrity of . . . democracy." It makes democracy vital, and is one of our proudest heritages.

Moreover, Article III judges are by constitutional design insulated from the political pressures governing members of the other two branches of government. We are given life tenure and a secured salary so that, in our unique capacity to "say what the law is," *Marbury* v. *Madison*, 5 U.S. (1 Cranch) 137, 177 (1803), we may decide constitutional issues without regard to popular

REV_00164478

vote, political consequence, or the prospect of future career advancement.[3] Most federal judges do not question the wisdom of this approach. When the federal judiciary is so firmly separated by constitutional structure from the direct influence of politics, we must not undermine that structure by allowing political pressures, polls, or "focus groups" to influence our opinions, even indirectly.

This is not to say that federal judges should be completely sequestered from the attitudes of the nation we serve, even though our service is accomplished not through channeling popular sentiment but through strict adherence to established constitutional principles. The Constitution contemplates occasions when we must be responsive to *long-term* societal trends—when determining, for example, that which is "cruel and unusual," *see Hudson* v. *McMillian*, 503 U.S. 1, 9 (1992), whether in the execution of the mentally retarded, *see Atkins* v. *Virginia*, 536 U.S. 304, ___, 122 S. Ct. 2242, 2247 (2002), or the execution of juvenile offenders, *see In re Stanford*, 123 S.Ct. 472, 474 (2002) (Stevens, J., dissenting from the denial of an application for an original writ of habeas corpus). This broader long-term

---

[3] Alexander Hamilton was admirably cognizant of the danger of relying on temporary political whimsy:

> This independence of the judges is equally requisite to guard the Constitution and the rights of individuals from the effects of those ill humors which the arts of designing men, or the influence of particular conjectures, sometimes disseminate among the people themselves, and which, though they speedily give place to better information, and more deliberate reflection, have a tendency, in the meantime, to occasion dangerous innovations in the government, and serious oppressions of the minor party in the community.

THE FEDERALIST NO. 78, at 437 (Alexander Hamilton) (Clinton Rossiter ed., 1999).

REV_00164479

social conscience, however, is a matter far different from responding to particular immediate political pressures. We may not—we must not—allow public sentiment or outcry to guide our decisions. It is particularly important that we understand the nature of our obligations and the strength of our constitutional principles in times of national crisis; it is then that our freedoms and our liberties are in the greatest peril. Any suggestion, whenever or wherever made, that federal judges should be encouraged by the approval of the majority or deterred by popular disfavor is fundamentally inconsistent with the Constitution and must be firmly rejected.

REV_00164480

O'SCANNLAIN, Circuit Judge, with whom KLEINFELD, GOULD, TALLMAN, RAWLINSON, and CLIFTON, Circuit Judges, join, dissenting from the denial of rehearing en banc:

Last June, a two-judge majority of a three-judge panel of this court ruled that the Pledge of Allegiance was unconstitutional simply because of the presence of two offending words: "under God." It was an exercise in judicial legerdemain which, not surprisingly, produced a public outcry across the nation. Since that time we, as a court, have had the opportunity to order reconsideration of that decision en banc, yet a majority of the 24 active judges eligible to vote has decided not to do so. While there are, no doubt, varied and plausible reasons why this result occurred, I respectfully conclude that our court has made a serious mistake and thus must dissent from its order denying reconsideration.

I

While I cannot say that a randomly selected 11-judge panel would have ruled differently, I believe that neither the June 2002 version, *Newdow* v. *United States Congress*, 292 F.3d 597 (9th Cir. 2002) ("*Newdow* I"), nor today's slightly revised version, ___ F.3d ___ ("*Newdow II*") to essentially the same effect, is defensible. We should have reheard *Newdow I* en banc, not because it was controversial, but because it was wrong, very wrong—wrong because reciting the Pledge of Allegiance is simply not "a religious act" as the two-judge majority asserts, wrong as a matter of Supreme Court precedent properly understood, wrong because it set up a direct conflict with the law of another circuit,

REV_00164481

and wrong as a matter of common sense.[1] We should have given 11 judges a chance to determine whether the two-judge majority opinion truly reflects the law of the Ninth Circuit.[2] Reciting the Pledge of Allegiance cannot possibly be an "establishment of religion" under *any* reasonable interpretation of the Constitution.[3]

Perhaps in an effort to avoid ultimate Supreme Court review, *Newdow II* which replaces it, avoids expressly reaching the technical question of the constitutionality of the 1954 Act. Fundamentally, however, the amended decision is every bit as bold as its predecessor. It bans

---

[1] Judge Reinhardt's protestations to the contrary notwithstanding, I, too, believe that "[o]ur judicial charge is to stand above the inflamed passions of the public." *Dazo* v. *Globe Airport Sec. Serv.*, 295 F.3d 934, 943 (9th Cir. 2002) (O'Scannlain, J., concurring and dissenting). My disagreement with the panel majority has nothing to do with bending to the will of an outraged populace, and everything to do with the fact that Judge Goodwin and Judge Reinhardt misinterpret the Constitution and 40 years of Supreme Court precedent. That most people understand this makes the decision no less wrong. It doesn't take an Article III judge to recognize that the voluntary recitation of the Pledge of Allegiance in public school does not violate the First Amendment.

[2] This case presents the classic situation required for our court to rehear a case en banc. En banc consideration would have allowed us to correct the error of a prior panel's decision with respect to the Pledge *and* resolve a constitutional question of exceptional importance that affects the lives of millions of school children who reside within the geographical boundaries of the Ninth Circuit. *See* Fed. R. App. P. 35(a). The exceptional importance of this case reinforces the need for correction of the panel's mistaken view of our Constitution.

[3] U.S. Const. Amend. I. ("Congress shall make no law respecting an *establishment of religion,* or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.") (emphasis added).

REV_00164482

the voluntary recitation of the Pledge of Allegiance in the public schools of the nine western states thereby directly affecting over 9.6 million students,[4] necessarily *implies* that both an Act of Congress[5] and a California law[6] are unconstitutional, clearly conflicts with the Seventh Circuit's decision in *Sherman* v. *Cmty. Consol. Sch. Dist. 21 of Wheeling Township*, 980 F.2d 437 (1992), and threatens cash-strapped school districts and underpaid teachers with the specter of civil actions for money damages pursuant to 42 U.S.C. § 1983.

Newdow I, the subject of our en banc vote, no longer exists; it was withdrawn after the en banc call failed. The panel majority has evolved to this extent: in *Newdow I* the Pledge was unconstitutional for everybody; in *Newdow II* the Pledge is only unconstitutional for public school children and teachers. The remainder of this dissent is directed entirely to *Newdow II*, which, as shall be demonstrated, differs little from *Newdow I* in its central holding. With grim insistence, the majority in *Newdow II* continues to stand by its original error—that voluntary recitation of the Pledge of Alle-

---

[4] *See* U.S. Dep't of Ed., Nat'l Ctr. for Ed. Statistics, available at http://nces.ed.gov/pubs2002/snf_report/table_01_1.asp. The approximate figure is for the school year 2000-01, comprising the states of Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon and Washington,

[5] 4 U.S.C. § 4 ("The Pledge of Allegiance to the Flag: 'I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.' ").

[6] Cal. Educ. Code § 52720. This section provides that "at the beginning of the first regularly scheduled class or activity period . . . there shall be conducted appropriate patriotic exercises. The giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy the requirements of this section."

REV_00164483

giance in public school violates the Establishment Clause because, according to the two-judge panel majority, it is "a religious act." *Newdow II*, ___ F.3d at ___. Common sense would seem to dictate otherwise, as the public and political reaction should by now have made clear. If reciting the Pledge is truly "a religious act" in violation of the Establishment Clause, then so is the recitation of the Constitution[7] itself, the Declaration of Independence,[8] the Gettysburg Address,[9] the National Motto,[10] or the singing of the National Anthem.[11] Such an assertion would make hypocrites out of the Founders, and would have the effect of

---

[7] U.S. Const. Art. VII. ("Year of *our Lord*") (emphasis added).

[8] The Declaration of Independence contains multiple references to God. The founders claimed the right to "dissolve the political bands" based on "the Laws of Nature and of *Nature's God*." The most famous passage, of course, is that "all men are created equal, that they are endowed by *their Creator* with certain unalienable Rights." Subsequently, the signatories "appeal[ ] to the *Supreme Judge of the world* to rectify their intentions."

[9] On November 19, 1863, President Lincoln declared "that this Nation, *under* God, shall have a new birth of freedom—and that Government of the people, by the people, for the people, shall not perish from the earth."

[10] *See* 36 U.S.C. § 302. (" '*In God* we trust' is the national motto.") (emphasis added).

[11] *See* 36 U.S.C. § 301(a) ("The composition consisting of the words and music known as the Star-Spangled Banner is the national anthem."). In fact, the Anthem is much more explicitly religious in content than the Pledge, and much more than a 'mere' profession of the *composer's* faith in a Supreme Being, as the majority would have it. *See Newdow II*, ___ F.3d at ___. Consider the following passage from the fourth stanza: "Blest with victory and peace, may the *heaven-rescued* land, Praise *the Power* that hath made and preserved us a nation. Then conquer we must, when our cause is just, And this be our motto: '*In God* is our trust.' "(emphasis added).

REV_00164484

driving any and all references to our religious heritage out of our schools, and eventually out of our public life.

II

The *Newdow II* majority's primary legal argument is that the Supreme Court's decision in *Lee* v. *Weisman*, 505 U.S. 577 (1992), a school prayer case, controls the outcome of this case. In fact, rather than merely following *Lee* and its predecessors, the two-judge panel majority makes a radical departure from *Lee* and the cases it purports to apply. To understand why this is so, an examination of the Supreme Court's school prayer decisions which culminate in *Lee* is in order.

A

1

The fountainhead of all school prayer cases is *Engel* v. *Vitale*, 370 U.S. 421 (1962). In *Engel* the Court considered a school policy whereby children were directed to say aloud a prayer composed by state officials. The Court found that this practice was inconsistent with the Establishment Clause, reasoning that "[the] program of daily classroom invocation of God's blessings as prescribed in the Regents' prayer is a religious activity. It is a solemn avowal of divine faith and supplication for the blessings of the Almighty. The nature of such a prayer has always been religious." *Id.* at 424-25. The Court concluded by stating that the state should leave prayer, "that purely religious function, to the people themselves." *Id.* at 435. In a footnote, it reasoned as follows:

> There is of course nothing in the decision reached here that is inconsistent with the fact that school children and others are officially encouraged to

REV_00164485

> express love for our country by reciting historical documents such as the Declaration of Independence which contain references to the Deity or by singing officially espoused anthems which include the composer's professions of faith in a Supreme Being, or with the fact that there are many manifestations in our public life of belief in God. Such patriotic or ceremonial occasions bear no true resemblance to the unquestioned religious exercise that the State of New York has sponsored in this instance.

Id. at 435 n.21. The Court drew an explicit distinction between patriotic invocations of God on the one hand, and prayer, an "unquestioned religious exercise," on the other. Concurring, Justice Douglas wrote that the narrow question presented was whether the state "oversteps the bounds when it finances a religious exercise." *Id.* at 439 (Douglas, J., concurring). Justice Douglas noted that the Pledge of Allegiance, "like . . . prayer, recognizes the existence of a Supreme Being." *Id.* at 440 n.5. However, he noted that the House Report recommending the addition of the words "under God" to the Pledge stated that those words "in no way run contrary to the First Amendment but recognize 'only the guidance of God in our national affairs.'" *Id.* (quoting H.R. Rep. No. 1693, 83d Cong., 2d Sess., p. 3).

2

The following year, the Supreme Court decided *Abington School Dist.* v. *Schempp*, 374 U.S. 203 (1963). In that case, the Court considered the constitutionality of a Pennsylvania statute requiring that "[a]t least ten verses from the Holy Bible shall be read, without comment, at the opening of each public school on each school day." *Id.* at 205. The practice in public schools

REV_00164486

was for a teacher or student volunteer to read the required Bible verses each morning. This in turn was followed by a recitation of the Lord's prayer. Finally, the class would recite the Pledge of Allegiance to the Flag. *Id.* at 207-08. The Court struck down the Bible reading and the practice of reciting the Lord's prayer as a state prescribed "religious ceremony," *id.* at 223, but said nothing about the practice of reciting the Pledge.

As in *Engel*, the Court took pains to point to the character of the exercises it found wanting. The Court reasoned that "reading . . . the verses . . . possesses a devotional and religious character and constitutes in effect a religious observance. The devotional and religious nature of the morning exercises is made all the more apparent by the fact that the Bible reading is followed immediately by a recital in unison by the pupils of the Lord's prayer." *Id.* at 210. "The pervading religious character of the ceremony," wrote Justice Clark, "cannot be gainsaid," and led to the conclusion that the exercises violated the Establishment Clause. *Id.* at 224.

The concurring opinions in *Schempp* were all to the same effect. Justice Douglas agreed with the majority's conclusion that the practices at issue violated the Establishment Clause because "the State is conducting a religious exercise." *Id.* at 229 (Douglas, J., concurring). In a lengthy concurrence, Justice Brennan wrote that "[t]he religious nature of the exercises here challenged seems plain." *Id.* at 266 (Brennan, J., concurring). After surveying the history of devotional exercises in American public schools, Justice Brennan stated that "the panorama of history permits no other conclusion than that daily prayers and Bible readings in

REV_00164487

the public schools have always been designed to be, and have been regarded as, essentially religious exercises." *Id.* at 277-78. For Justice Brennan, "religious exercises in the public schools present a unique problem" but "not every involvement of religion in public life violates the Establishment Clause." *Id.* at 294. He warned that "[a]ny attempt to impose rigid limits upon the mention of God . . . in the classroom would be fraught with dangers." *Id.* at 301. Specifically, he wrote that "[t]he reference to divinity in the revised pledge of allegiance . . . may merely recognize the historical fact that our Nation was believed to have been founded 'under God.' Thus reciting the pledge may be no more of a religious exercise than the reading aloud of Lincoln's Gettysburg Address, which contains an allusion to the same historical fact." *Id.* at 304.

Justice Goldberg also wrote separately, stating that "the clearly religious practices presented in these cases are . . . wholly compelling." *Id.* at 305 (Goldberg, J., concurring). He reasoned that "[t]he pervasive religiosity and direct governmental involvement inhering in the prescription of prayer and Bible reading in the public schools . . . cannot realistically be termed simply accommodation." *Id.* at 307. Like Justice Brennan, Justice Goldberg cautioned that the decision "does not mean that all incidents of government which import of the religious are therefore and without more banned by the strictures of the Establishment Clause." *Id.* at 307-08. He then quoted in full the passage from *Engel* which drew a distinction between patriotic invocations of God, and unquestioned religious exercises that give rise to Establishment Clause violations. *Id.*

REV_00164488

3

The next case in this line is *Wallace* v. *Jaffree*, 472 U.S. 38 (1985). That case considered the constitutionality of an Alabama statute authorizing a 1-minute period of silence in public schools "for meditation or voluntary prayer." *Id.* at 40. The Court found that "[t]he wholly religious character" of the challenged law was "plainly evident from its text." *Id.* at 58. The legislature's one and only purpose in enacting the law was "to return prayer to the public schools." *Id.* at 59-60. Justice Powell's separate concurrence was "prompted by Alabama's persistence in attempting to institute state-sponsored prayer in the public schools." *Id.* at 62 (Powell, J., concurring). Justice O'Connor wrote separately to suggest that moment-of-silence statutes were not "a religious exercise," and therefore were constitutional. *Id.* at 72 (O'Connor, J., concurring). Justice O'Connor wrote further that "the words 'under God' in the Pledge . . . serve as an acknowledgment of religion with 'the legitimate secular purposes of solemnizing public occasions, [and] expressing confidence in the future.'" *Id.* at 78 n.5 (quoting *Lynch* v. *Donnelly*, 465 U.S. 668, 693 (O'Connor, J., concurring)) (alterations in original). In contrast, the Alabama statute at issue was very different from the Pledge—the state had "intentionally crossed the line [by] affirmatively endorsing the particular religious practice of prayer." *Id.* at 84.

4

Finally, there is the Supreme Court's decision in *Lee* v. *Weisman*. The issue presented was "whether including clerical members who offer prayers as part of the official school graduation ceremony" is consistent

REV_00164489

with the Establishment Clause. 505 U.S. at 580. The graduating students entered as a group in a processional, after which "the students stood for the Pledge of Allegiance and remained standing during the rabbi's prayers." *Id.* at 583. Justice Kennedy wrote that "the significance of the prayers lies . . . at the heart of [the] case." *Id.* He framed the inquiry as follows:

> These dominant facts mark and control the confines of our decision: State officials direct the performance of a formal religious exercise at promotional and graduation ceremonies for secondary schools. Even for those students who object to the religious exercise their attendance and participation in the state-sponsored religious activity are in a fair and real sense obligatory, though the school district does not require attendance as a condition for receipt of the diploma.

Id. at 586.

The Court in *Lee* concluded that *Engel* and its progeny controlled the outcome, writing that "[c]onducting this formal religious observance conflicts with settled rules pertaining to prayer exercises for students." *Id.* at 587. As in *Engel*, *Schempp*, and *Wallace*, the crucial factor was the nature of the exercise in which the students were asked to participate. Time and again the Court went out of its way to stress the nature of the exercise, writing that prayer was "an overt religious exercise," *id.* at 588, and that "prayer exercises in public schools carry a particular risk of indirect coercion." *Id.* at 592. The practice was unconstitutional because "the State has in every practical sense compelled attendance and participation in an explicit re-

REV_00164490

ligious exercise at an event of singular importance to every student." *Id.* at 598. Just like the decisions in *Engel* and *Schempp*, the Court in *Lee* took pains to stress the confines of its holding, concluding that "[w]e do not hold that every state action implicating religion is invalid if one or a few citizens find it offensive," *id.* at 597, and that "[a] relentless and all-pervasive attempt to exclude religion from every aspect of public life could itself become inconsistent with the Constitution." *Id.* at 598.

B

Two fundamental principles may therefore be derived from the school prayer cases culminating in *Lee*.

1

Formal religious observances are prohibited in public schools because of the danger that they may effect an establishment of religion. *See Engel*, 370 U.S. at 424-25 ("[D]aily classroom invocation of God's blessings . . . is a religious activity."); *Schempp*, 374 U.S. at 210 (Bible reading followed by the Lord's prayer "possesses a devotional and religious character and constitutes in effect a religious observance."); *Wallace*, 472 U.S. at 58 (Prayer is of a "wholly religious character."); *Lee*, 505 U.S. at 586 (Prayer written by state officials constitutes a "formal religious exercise"). In each of these cases, the Court took pains to stress that not every reference to God in public schools was prohibited. *See Engel*, 370 U.S. at 435 n.21 ("patriotic or ceremonial occasions" which contain "references to the Deity" bear "no true resemblance to the unquestioned religious exercise" of prayer); *Schempp*, 374 U.S. at 301 (Brennan, J., concurring) ("Any attempt to impose rigid limits upon the

REV_00164491

mention of God . . . in the classroom would be fraught with dangers."); *Wallace*, 472 U.S. at 78 n.5 (O'Connor, J., concurring) ("the words 'under God' in the Pledge" are not unconstitutional); *Lee*, 505 U.S. at 598 ("A relentless and all-pervasive attempt to exclude religion . . . could itself become inconsistent with the Constitution.").

2

Once it is established that the state is sanctioning a formal religious exercise, then the fact that the students are not *required* to participate in the formal devotional exercises does not prevent those exercises from being unconstitutional. *See Engel*, 370 U.S. at 431 ("[T]he indirect coercive pressure upon religious minorities to conform" to the prayer exercises "is plain."); *Schempp*, 374 U.S. at 210-11 ("The fact that some pupils, or theoretically all pupils, might be excused from attendance at the exercises does not mitigate the obligatory nature of the ceremony."); *Wallace*, 472 U.S. at 57 (State-sanctioned *voluntary* prayer in public schools violates Establishment Clause); *Lee*, 505 U.S. at 592 ("[P]rayer exercises in public schools carry a particular risk of indirect coercion."). To be sure, *Lee* is the Court's most elaborate pronouncement with respect to indirect coercion. It identifies the circumstances in which indirect coercion may be said to be unconstitutional: when the government directs "the performance of a formal religious exercise" in such a way as to oblige the participation of objectors. *Lee*, 505 U.S. at 586.

III

No court, state or federal, has *ever* held, even now, that the Supreme Court's school prayer cases apply

REV_00164492

outside a context of state-sanctioned formal religious observances. But *Newdow II* finesses all that, and the sleight of hand the majority uses becomes immediately apparent: obfuscate the nature of the exercise at issue and emphasize indirect coercion. The panel majority simply ignores, because they are inconvenient, the "dominant and controlling facts" in *Lee* and its predecessors: that Establishment Clause violations in public schools are triggered only when "State officials direct the performance of a *formal religious exercis*e." 505 U.S. at 586 (emphasis added); *see also Schempp*, 374 U.S. at 210 ("devotional . . . religious observance" prohibited); *Wallace*, 472 U.S. at 58 (activities of a "wholly religious character" prohibited).

A

To avoid a flagrant inconsistency with *Lee*, and with 40 years of Supreme Court precedent, the two-judge panel majority must first examine whether the act of pledging allegiance is "a religious act." As the Seventh Circuit in *Sherman* framed it, "Does 'under God' make the Pledge a prayer, whose recitation violates the establishment clause of the first amendment?" 980 F.2d at 445. That court answered the question in the negative; the *Newdow II* majority, in conclusory fashion, simply *assumes* the affirmative. ___ F.3d at ___ ("[W]e conclude that the school district policy impermissibly coerces *a religious act*.") (emphasis added).

This assertion belies common sense. Most assuredly, to pledge allegiance to flag and country is a *patriotic* act. After the public and political reaction last summer, it is difficult to believe that anyone can continue to think otherwise. The fact the Pledge is infused with an undoubtedly religious reference does not change the

REV_00164493

nature of the act itself. The California statute under which the school district promulgated its policy is entitled "[d]aily performance of *patriotic exercises* in public schools." Cal. Educ. Code § 52720 (emphasis added). The Pledge is recited not just in schools but also at various official events and public ceremonies, including perhaps the most patriotic of occasions—naturalization ceremonies. Generally, the Pledge is recited while standing, facing a United States flag, with the right hand held over the heart, much like the National Anthem. *See* 4 U.S.C. § 4 (articulating proper procedure for reciting Pledge); 36 U.S.C. § 301 (during anthem "all present . . . should stand at attention facing the flag with the right hand over the heart."). Whatever one thinks of the normative values underlying the Pledge, they are unquestionably patriotic in nature. Indeed, it is precisely because of the Pledge's explicitly patriotic nature that in 1943 the Supreme Court ruled that no one is *required* to Pledge allegiance against their will. *West Virginia* v. *Barnette*, 319 U.S. 624, 642 (1943).

In contrast, to pray is to speak directly to God, with bowed head, on bended knee, or some other reverent disposition. It is a solemn and humble approach to the divine in order to give thanks, to petition, to praise, to supplicate, or to ask for guidance. Communal prayer, by definition, is an even more forceful and profound experience for those present. Little wonder that the Supreme Court has recognized the "unique problem" and "particular risk" posed by school prayer to non-participating students. *Lee*, 505 U.S. at 592 ("[P]rayer exercises in public schools carry a particular risk of indirect coercion."); *Schempp*, 374 U.S. at 294 (Brennan,

REV_00164494

J., concurring) (noting that prayers in public schools "present a unique problem").

Not only does the panel majority's conclusion that pledging allegiance is "a religious act" defy common sense, it contradicts our 200-year history and tradition of patriotic references to God. The Supreme Court has insisted that interpretations of the Establishment Clause must comport "with what history reveals was the contemporaneous understanding of its guarantees." *Lynch*, 465 U.S. at 673; *see also Schempp*, 374 U.S. at 294 ("[T]he line we must draw between the permissible and the impermissible is one which accords with history and faithfully reflects the understanding of the Founding Fathers.") (Brennan, J., concurring).

The majority's unpersuasive and problematic disclaimers notwithstanding, *Newdow II* precipitates a "war with our national tradition," *McCollum* v. *Bd. of Ed.*, 333 U.S. 203, 211 (1948), and as Judge Fernandez so eloquently points out in dissent, only the purest exercise in sophistry could save multiple references to our religious heritage in our national life from *Newdow II*'s axe. Of course, the Constitution itself explicitly mentions God, as does the Declaration of Independence, the document which marked us as a separate people. The Gettysburg Address, inconveniently for the majority, contains the *same precise phrase*—"under God"—found to constitute an Establishment Clause violation in the Pledge.[12] After *Newdow II*, are we to suppose that, were a school to permit—not require—the recitation of the Constitution, the Declaration of Independence, or the Gettysburg Address in public schools, that too would violate the Constitution? Were

---

[12] *See infra* footnote 9.

REV_00164495

the "founders of the United States . . . unable to understand their own handiwork[?]" *Sherman*, 980 F.2d at 445. Indeed, the recitation of the Declaration of Independence would seem to be the better candidate for the chopping block than the Pledge, since the Pledge does not require anyone to acknowledge the *personal* relationship with God to which the Declaration speaks.[13] So too with our National Anthem and our National Motto.

Our national celebration of Thanksgiving dates back to President Washington, which Congress stated was "to be observed by acknowledgment with grateful hearts, the many and signal favours of Almighty God." *Lynch*, 465 U.S. at 675 n.2. Congress made Thanksgiving a permanent holiday in 1941,[14] and Christmas has been a national holiday since 1894.[15] Are pere [*sic*] Newdow's constitutional rights violated when his daughter is told not to attend school on Thanksgiving? On Christmas day? Must school outings to federal courts be prohibited, lest the children be unduly influenced by the dreaded intonation "God save these United States and this honorable Court"?[16] A theory of the Establishment Clause that would have the effect of driving out of our public life the multiple references to

---

[13] *See infra* footnote 8.

[14] *See* 5 U.S.C. § 6103(a).

[15] *See id.*

[16] Indeed, even our own court's formal announcement to open sessions contains the offending word: "Hear ye! hear ye! All persons having business with the honorable, the United States Court of Appeals for the Ninth Circuit will now draw near, give your attention and you will be heard, for this court is now in session. *God save* these United States and this honorable Court." (emphasis added).

REV_00164496

the Divine that run through our laws, our rituals, and our ceremonies is no theory at all.

B

As if all of this were not enough, the Supreme Court has gone out of its way to make it plain that the Pledge itself passes constitutional muster. In two of the school prayer cases, the Court noted without so much as a hint of disapproval the fact that the students, in addition to being subject to formal religious observances, *also* recited the Pledge of Allegiance. *See Schempp*, 374 U.S. at 207-08 (noting that the practice in public schools consisted of Bible reading and recitation of the Lord's prayer, followed by recitation of the Pledge); *Lee*, 505 U.S. at 583 (noting that "the students stood for the Pledge of Allegiance and remained standing during the rabbi's prayers.").

Several other Supreme Court cases contain explicit references to the constitutionality of the Pledge. *See Engel*, 370 U.S. at 440 n.5 (Douglas, J., concurring) ("[The Pledge] in no way run[s] contrary to the First Amendment") (quoting H.R. Rep. No. 1693, 83d Cong., 2d Sess., p. 3); *Schempp*, 374 U.S. at 304 (Brennan, J., concurring) ("[R]eciting the pledge may be no more of a religious exercise than the reading aloud of Lincolns' Gettysburg Address."); *Wallace*, 472 U.S. at 78 n.5 (O'Connor, J., concurring) ("[T]he words 'under God' in the Pledge . . . serve as an acknowledgment of religion."); *Co. of Allegheny* v. *ACLU*, 492 U.S. 573, 602-03 (Blackmun, J., for the court) ("Our previous opinions have considered in dicta . . . the pledge, characterizing [it] as consistent with the proposition that government may not communicate an endorsement of religious belief."); *Lynch* v. *Donnelly*, 465 U.S. 668,

REV_00164497

676 (1984) (Burger, C.J., for the court) ("Other examples of reference to our religious heritage are found . . . in the language 'One nation under God,' as part of the Pledge of Allegiance to the American flag. That pledge is recited by many thousands of public school children—and adults—every year.").

The panel majority's answer to these myriad statements from our high court is summarily to dismiss them as dicta. However, "dicta of the Supreme Court have a weight that is greater than ordinary judicial dicta as prophecy of what that Court might hold. We should not blandly shrug them off because they were not a holding." *Zal* v. *Steppe*, 968 F.2d 924, 935 (9th Cir. 1992) (Noonan, J., concurring and dissenting in part); *see also United States* v. *Baird*, 85 F.3d 450, 453 (9th Cir. 1996) ("[W]e treat Supreme Court dicta with due deference.").[17]

---

[17] Other courts have, unremarkably enough, not been so flippant when it comes to considering consistent Supreme Court dicta on this issue. *See Sherman*, 980 F.2d at 448 ("[A]n inferior court had best respect what the majority says rather than read between the lines. If the Court proclaims that a practice is consistent with the establishment clause, we take its assurances seriously. If the Justices are just pulling our leg, let them say so."); *Gaylor* v. *United States*, 74 F.3d 214, 217 (10th Cir. 1996) ("[T]his court considers itself bound by Supreme Court dicta almost as firmly as by the Court's outright holdings, particularly when the dicta is recent and not enfeebled by later statements."); *ACLU* v. *Capital Square Review*, 243 F.3d 289, 301 n.10 (6th Cir. 2001) ("We should . . . be amazed if the Supreme Court were now to question the constitutionality of the [revised Pledge]"). Indeed, the unanimity on this point relative to *Newdow II* is striking.

REV_00164498

C

The *Newdow II* majority, then, finds itself caught between a rock and a hard place—the recitation of the Pledge is not a formal religious act, while patriotic invocations of God do not give rise to Establishment Clause violations. It nonetheless manages to skirt these obstacles to reach its indirect coercion analysis. *Newdow II*'s conclusory foray into the social sciences is a case study, an advertisement, for why it is that the Supreme Court has anchored coercion analysis only to those situations where "formal religious exercises" take place in our public schools. The panel majority seeks to protect dissenters at the risk of courting some unpopularity, but this is not the test. "[O]ffense alone does not in every case show a violation . . . . and sometimes to endure social isolation or even anger may be the price of conscience or nonconformity." *Lee*, 505 U.S. at 597-98. The *Newdow II* majority's expansive application of the coercion test is ill-suited to a society as diverse as ours, since almost *every* cultural practice is bound to offend *someone's* sensibilities. In affording Michael Newdow the right to impose his views on others, *Newdow II* affords him a right to be fastidiously intolerant and self-indulgent. In granting him this supposed right, moreover, the two-judge panel majority has not eliminated feelings of discomfort and isolation, it has simply shifted them from one group to another.

Newdow II's psychological ipse dixit is also delivered without reference or regard to our collective experience in the half-century since the passage of the offending statute. In that time, generations of Americans have grown up reciting the Pledge, religious tolerance and diversity has flourished in this country, and we have become a beacon for other nations in this regard. As

REV_00164499

Judge Fernandez observes, "it is difficult to detect any signs of incipient theocracy springing up since the Pledge was amended in 1954." *Newdow II* ___ F.3d at ___ n.4 (Fernandez, J., dissenting).

IV

In fairness to the *Newdow II* panel majority, its professed "neutrality" does have some plausible basis in the case law of the Supreme Court, which has undoubtedly constructed a "fractured and incoherent doctrinal path" in the Establishment Clause area, broadly speaking. *Sep. of Church and State Comm.* v. *City of Eugene*, 93 F.3d 617, 622 (9th Cir. 1996) (O'Scannlain, J., concurring). Indeed, its Establishment Clause cases sometimes "more closely resemble ad hoc Delphic pronouncements than models of guiding legal principles." *Ingebretsen* v. *Jackson Pub. Sch. Dist.*, 88 F.3d 274, 282 (5th Cir. 1996) (Jones, J., dissenting from denial of rehearing en banc). Supreme Court Justices themselves have recognized that if some of its reasoning "were to be applied logically, it would lead to the elimination" of many cherished, long-standing practices. *Co. of Allegheny*, 492 U.S. at 674 n.10 (Kennedy, J., dissenting).

With respect to the issue presented in *this* case, however, the Supreme Court has displayed remarkable consistency—patriotic invocations of God simply have no tendency to establish a state religion. Even Justice Brennan, that most stalwart of separationists, recognized that *some* official acknowledgment of God is appropriate "if the government is not to adopt a stilted indifference to the religious life of the people." *Lynch*, 465 U.S. at 714 (Brennan, J., dissenting). The decision reached in *Newdow II* does precisely that: it adopts a

REV_00164500

stilted indifference to our past and present realities as a predominantly religious people.

But *Newdow II* goes further, and confers a favored status on atheism in our public life. In a society with a pervasive public sector, our public schools are a most important means for transmitting ideas and values to future generations. The silence the majority commands is *not* neutral—it itself conveys a powerful message, and creates a distorted impression about the place of religion in our national life. The absolute prohibition on any mention of God in our schools creates a bias *against* religion. The panel majority cannot credibly advance the notion that *Newdow II* is neutral with respect to belief versus non-belief; it affirmatively favors the latter to the former. One wonders, then, does atheism become the default religion protected by the Establishment Clause?

In short, a lack of clarity in the Supreme Court's Establishment Clause cases generally does not help to explain or to justify the panel majority's decision with respect to *this* particular issue. Put simply, the panel was asked to decide whether the recitation of the Pledge of Allegiance in public schools amounted to a government establishment of religion. The answer to that question is clearly, obviously, no. We made a grave error in failing to take *Newdow I* en banc, and we have failed to correct that error ourselves. Now we have *Newdow II*. Perhaps the Supreme Court will have the opportunity to correct the error for us. I must respectfully dissent from the order denying reconsideration en banc.

REV_00164501

McKEOWN, Circuit Judge, with whom HAWKINS, THOMAS, and RAWLINSON, Circuit Judges, join, dissenting from the denial of rehearing en banc:

The recitation of the Pledge of Allegiance by school children presents a constitutional question of exceptional importance that merits reconsideration by the en banc court. *See* Fed. R. App. P. 35(a)(2) (en banc hearing appropriate when "the proceeding involves a question of exceptional importance"). Although not every case of exceptional importance can or should be reheard en banc, this is a case that should be reheard. I respectfully dissent from the court's decision to deny rehearing en banc.

REV_00164502

APPENDIX D

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 00-16423

MICHAEL A. NEWDOW, PLAINTIFF-APPELLANT

v.

U.S. CONGRESS; UNITED STATES OF AMERICA; GEORGE W. BUSH,* PRESIDENT OF THE UNITED STATES; STATE OF CALIFORNIA; ELK GROVE UNIFIED SCHOOL DISTRICT; DAVID W. GORDON, SUPERINTENDENT EGUSD; SACRAMENTO CITY UNIFIED SCHOOL DISTRICT; JIM SWEENEY, SUPERINTENDENT SCUSD, DEFENDANTS-APPELLEES

Dec. 4, 2002

ORDER

Before: GOODWIN, REINHARDT and FERNANDEZ, Circuit Judges.

Order by Judge GOODWIN; Concurrence by Judge FERNANDEZ.

GOODWIN, Circuit Judge.

After we issued our June 26, 2002 opinion in this case, Sandra Banning, the mother of Michael Newdow's

---

* George W. Bush is substituted for his predecessor, William Jefferson Clinton, as President of the United States. Fed. R. App. P. 43(c)(2).

REV_00164503

daughter, filed a motion for leave to intervene, in order to, *inter alia*, challenge Newdow's standing to maintain this action. Banning attached to her motion as an exhibit a copy of a February 6, 2002 California Superior Court custody order. That order awarded Banning "sole legal custody" of the child. We have carefully reconsidered the question of Newdow's Article III standing in light of this custody order and affirm our holding that he has standing as a parent to continue to pursue his claim in federal court.

I. FACTUAL AND PROCEDURAL BACKGROUND

When this case first reached us from the district court, no legal custody question or order had been disclosed to the federal courts. Newdow had alleged in the district court that he was the father, and had custody of the minor child. The record now indicates that Newdow and Banning formed a family consisting of an unmarried man, an unmarried woman, and their biological minor child, who lived together part of the time and lived in separate homes in Florida and California, from time to time, with informal visiting arrangements. This informal arrangement apparently was not subject to any custody order until February 6, 2002, after Newdow had appealed from the dismissal of the action he had commenced in federal district court to challenge on Establishment Clause grounds the practice of reciting the pledge of allegiance in the public elementary school his child attends.

On February 6, the California Superior Court entered an order containing the following language:

> The child's mother, Ms. Banning, to have *sole* legal custody as to the rights and responsibilities to make decisions relating to the health, education and

REV_00164504

> welfare of [the child]. Specifically, both parents shall consult with one another on substantial decisions relating to non-emergency major medical care, dental, optometry, psychological and educational needs of [the child]. If mutual agreement is not reached in the above, then Ms. Banning may exercise legal control of [the child] that is not specifically prohibited or inconsistent with the physical custody order. The father shall have access to all of [the child's] school and medical records.

Thereafter, Newdow, alleging "changed circumstances," filed a motion in the Superior Court for a modification of the custody order, seeking, *inter alia*, joint legal custody with Banning of their child.

On September 25, 2002, the Superior Court (Judge Mize) entered an *in personam* order enjoining Newdow from pleading his daughter as an unnamed party or representing her as a "next friend" in this lawsuit. The United States promptly filed a motion, which we have granted, to enlarge the record to include the state court transcript of the September 25 hearing before Judge Mize. That transcript contemplates a full trial in the future on Newdow's motion for modification of the February 6 custody order.

Judge Mize appropriately reserved to this court, however, the question of Newdow's Article III standing in federal court. Newdow no longer claims to represent his child, but asserts that he retains standing in his own right as a parent to challenge alleged unconstitutional state action affecting his child while she attends public school in the Elk Grove Unified School District (EGUSD).

REV_00164505

II. DISCUSSION

Our original opinion in this case holds that a parent has Article III standing to challenge on Establishment Clause grounds state action affecting his child in public school. *See Newdow* v. *U.S. Congress*, 292 F.3d 597, 602 (9th Cir. 2002) (citing *Doe* v. *Madison Sch. Dist. No. 321*, 177 F.3d 789, 795 (9th Cir. 1999) (en banc) and *Grove* v. *Mead Sch. Dist. No. 354*, 753 F.2d 1528, 1532 (9th Cir. 1985)). Banning's motion for leave to intervene presents a question of first impression in this Circuit which we are required to consider, even though raised for the first time on appeal. *See United States* v. *Viltrakis*, 108 F.3d 1159, 1160 (9th Cir. 1997) ("[T]he jurisdictional issue of standing can be raised at any time."). Does the grant of sole legal custody to Banning deprive Newdow, as a noncustodial parent, of Article III standing to object to unconstitutional government action affecting his child?

A Seventh Circuit decision, *Navin* v. *Park Ridge School District 64*, 270 F.3d 1147 (7th Cir. 2001) (per curiam), addresses a noncustodial parent's standing to challenge a school's educational plan for his disabled child under the Individuals with Disabilities Education Act (IDEA). Though not controlling, the Seventh Circuit's reasoning in *Navin* illustrates a useful method of analysis for the standing question presented here. The divorce decree in that case had granted the mother sole legal custody of her son. The Illinois Marriage and Dissolution of Marriage Act provided that the legal custodian may determine, absent an agreement by the parties to the contrary, "the child's uprising, including but not limited to, his education, health care and religious training." *See* 750 IL CH § 5/608(a). Contending that tutoring for his dyslexic son was being provided by

REV_00164506

a "crossing guard supervisor with no skill (or at least no certification) in educating dyslexic youths," the father in *Navin* had asked for an administrative hearing under the IDEA and filed suit in federal court when the hearing officer terminated the proceeding without addressing the merits. 270 F.3d at 1148. The district court dismissed the father's suit, holding that as a noncustodial parent, he had no standing to challenge action affecting his child in school. *Id.*

The Seventh Circuit held, however, that noncustodial parents do not automatically lack standing under the IDEA. *Id.* at 1149. Instead, the court of appeals explained that whether the noncustodial father in *Navin* had standing depended on the parental rights granted or reserved to him in the divorce decree in light of the mother's assertion of her rights so granted or reserved:

> If the decree had wiped out all of [the noncustodial father's] parental rights, it would have left him with no claim under the IDEA. But this is not what the divorce decree does. The district court did not analyze its language, but it is in the record and shows that [the noncustodial father] retains some important rights, including the opportunity to be informed about and remain involved in the education of his son. If [the father and mother] disagree about educational decisions, then [the mother's] view prevails—unless under state law the school district's view prevails over *either* parent's wishes, and in that event [the father's] rights under the decree to influence the school's choices are even more important.

270 F.3d at 1149-1150 (internal citations omitted) (emphasis in original). Accordingly, the Seventh Circuit

REV_00164507

remanded the case to the district court, instructing it to "decide whether [the father's] claims [were] incompatible, *not* with the divorce decree itself, but with [the mother's] use of her rights under the decree." *Navin*, 270 F.3d at 1149-1150 (emphasis in original).

Navin's general approach to the problem of noncustodial parental standing is sound. We hold that a noncustodial parent, who retains some parental rights, may have standing to maintain a federal lawsuit to the extent that his assertion of retained parental rights under state law is not legally incompatible with the custodial parent's assertion of rights. This holding assumes, of course, that the noncustodial parent can establish an injury in fact that is fairly traceable to the challenged action, and it is likely that the injury will be redressed by a favorable decision. *See Friends of the Earth* v. *Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 180-81, 120 S. Ct. 693, 145 L. Ed. 2d 610 (2000). Having already held that Newdow satisfies those Article III requirements, *see Newdow*, 292 F.3d at 603-05, we now turn to the question of whether he retains standing despite Banning's opposition as sole legal custodian to his maintaining this lawsuit.[1]

The February 6 custody order governing Banning's and Newdow's respective parental decision-making power remains operative and plainly does not strip Newdow of all of his parental rights. Rather, that order establishes that Newdow retains rights with respect to his daughter's education and general welfare. He has

---

[1] It is unclear to us exactly what relief Banning seeks. In her motion papers, at times Banning appears to object only to Newdow's appearance as "next friend" of their daughter. At other places, she also seems to object to Newdow's standing in his own right.

REV_00164508

the right to consult with Banning regarding substantial non-emergency decisions (with Banning having ultimate decision-making power), as well as the right to inspect his daughter's school and medical records regardless of Banning's position.

California state courts have recognized that noncustodial parents maintain the right to expose and educate their children to their individual religious views, even if those religious views contradict those of the custodial parent or offend her.[2] *See Murga* v. *Petersen*, 103 Cal. App.3d 498, 163 Cal. Rptr. 79 (1980). As the *Murga* court noted, it was following the "*majority of American jurisdictions*" in refusing to place restraints on a noncustodial parent who wished to expose his children to his particular religious views, absent a clear, affirmative showing that these religious activities would be harmful to the children. *Id.* at 504-05, 163 Cal. Rptr. 79 (emphasis added). The principle of nonintervention, the court noted, "reflects the protected nature of religious activities and expressions of belief, as well as the proscription against preferring one religion over another." *Id.* at 505, 163 Cal. Rptr. 79. It is not only the court that must not interfere; even more so, the state and federal government may not seek to indoctrinate the child with their religious views, particularly over the objection of *either* parent.

Murga was the basis for a later California state court decision, *In re Mentry*, 142 Cal. App.3d 260, 190 Cal. Rptr. 843 (1983), that reversed a restraining order against a noncustodial father that forbade him from

---

[2] As the Supreme Court has acknowledged, recognized religions exist that do not teach a belief in God, e.g., secular humanism. *Torcaso* v. *Watkins*, 367 U.S. 488, 495 n.11, 81 S. Ct. 1680, 6 L. Ed. 2d 982 (1961).

REV_00164509

engaging his children in any religious activities other than those approved by the custodial mother. The *Mentry* court stated that "the concept of family privacy embodies not simply a policy of *minimum state intervention* but also a presumption of parental autonomy. Many of the purposes served by this presumption become *more important after dissolution* [of the marriage or relationship] than they were before." 142 Cal. App.3d at 268, 190 Cal. Rptr. 843 (emphasis added). The type of "*minimum state* intervention" discussed in *Mentry* surely does not permit official state indoctrination of an impressionable child on a daily basis with an official view of religion contrary to the express wishes of *either* a custodial or noncustodial parent. We conclude that Newdow retains sufficient parental rights to support his standing here.

The next question, then, is whether Banning's status as sole legal custodian empowers her to employ state law to defeat Newdow's standing. "'Sole legal custody' means that one parent shall have the right and the responsibility to make the decisions relating to the health, education, and welfare of a child." Cal. Fam. Code § 3006. Thus, Newdow cannot disrupt Banning's choice of schools for their daughter. And, as Judge Mize's September 25 order makes clear, Newdow cannot name his daughter as a party to a lawsuit against Banning's wishes.

Judge Mize, however, appropriately declined to rule on whether Newdow has standing in his own right as a parent to maintain this case in federal court. We hold that Banning has no power, even as sole legal custodian, to insist that her child be subjected to unconstitutional state action. Newdow's assertion of his retained parental rights in this case, therefore, simply cannot be

REV_00164510

legally incompatible with any power Banning may hold pursuant to the custody order. Further, Ms. Banning may not consent to unconstitutional government action in derogation of Newdow's rights or waive Newdow's right to enforce his constitutional interests. Neither Banning's personal opinion regarding the Constitution nor her state court award of legal custody is determinative of Newdow's legal rights to protect *his own* interests.

When school teachers lead a recitation of the Pledge of Allegiance according to school district policy, they present a message by *the state* endorsing not just religion generally, but a monotheistic religion organized "under God." While Newdow cannot expect the entire community surrounding his daughter to participate in, let alone agree with, his choice of atheism and his daughter's exposure to his views, he can expect to be free from the government's endorsing a particular view of religion and unconstitutionally indoctrinating his impressionable young daughter on a daily basis in that official view. The pledge to a nation "under God," with its imprimatur of governmental sanction, provides the message to Newdow's young daughter not only that non-believers, or believers in non-Judeo-Christian religions, are outsiders, but more specifically that her *father's* beliefs are those of an outsider, and necessarily inferior to what she is exposed to in the classroom. Just as the foundational principle of the Freedom of Speech Clause in the First Amendment tolerates unpopular and even despised ideas, *see Cohen* v. *California*, 403 U.S. 15, 91 S. Ct. 1780, 29 L. Ed. 2d 284 (1971), so does the principle underlying the Establishment Clause pro-

REV_00164511

tect unpopular and despised minorities from government sponsored religious orthodoxy tied to government services. *See Santa Fe Independent Sch. Dist.* v. *Doe*, 530 U.S. 290, 120 S. Ct. 2266, 147 L. Ed. 2d 295 (2000); *Lee* v. *Weisman*, 505 U.S. 577, 112 S. Ct. 2649, 120 L. Ed. 2d 467 (1992). Accordingly, we affirm Newdow's standing to challenge on Establishment Clause grounds the EGUSD's practice of requiring his daughter to attend daily recitations of the 1954 version of the Pledge of Allegiance.

Banning's motion for leave to intervene is DENIED because she has no protectable interest at stake in this action.

FERNANDEZ, Circuit Judge, concurring:

I concur in the order, but write separately to emphasize that in this order we decide that Newdow's legal status under California law vis-à-vis his daughter does not deprive him of standing. Despite the order's allusions to the merits of the controversy, we decide nothing but that narrow standing issue.[1] Leastwise, I join nothing other than the narrow decision that the orders of the California courts have not deprived Newdow of standing.

---

[1] For my view on the merits question, see *Newdow* v. *U.S. Congress*, 292 F.3d 597, 612-15 (9th Cir. 2002) (Fernandez, J., concurring and dissenting.)

REV_00164512

APPENDIX E

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 00-16423

MICHAEL A. NEWDOW, PLAINTIFF-APPELLANT

v.

U.S. CONGRESS; UNITED STATES OF AMERICA; GEORGE W. BUSH, PRESIDENT OF THE UNITED STATES; STATE OF CALIFORNIA; ELK GROVE UNIFIED SCHOOL DISTRICT; DAVID W. GORDON, SUPERINTENDENT EGUSD; SACRAMENTO CITY UNIFIED SCHOOL DISTRICT; JIM SWEENEY, SUPERINTENDENT SCUSD, DEFENDANTS-APPELLEES

Dec. 4, 2002

ORDER

Before: GOODWIN, REINHARDT and FERNANDEZ, Circuit Judges.

FERNANDEZ, Circuit Judge.

Once we ruled on the merits of this case,[1] the United States Senate sought to intervene as a party and in that capacity to file a petition for rehearing and a petition for rehearing en banc. We deny the Motion to Intervene, but note our willingness to accept the petition and accompanying brief as an amicus brief, if the Senate

[1] *Newdow* v. *U.S. Congress*, 292 F.3d 597 (9th Cir. 2002).

REV_00164513

consents to the latter use of its filing. Because of the respect that we owe to and have for the Senate, we are constrained to explain the reasons for our denial of intervention.

Initially, of course, we lay aside the usual intervention rule. *See* Fed. R. Civ. P. 24(a)(2). This case is more in line with Fed. R. Civ. P. 24(a)(1), which allows intervention as of right "when a statute of the United States confers an unconditional right to intervene." There is a special statute that applies to this motion. As relevant here, the statute first provides that the Senate Legal Counsel shall intervene or appear as amicus "when directed to do so by a resolution adopted by the Senate." 2 U.S.C. § 288b(c). There was a resolution here. *See* Senate Resolution 292, 107th Cong., 2d Sess. (2002), 148 Cong. Rec. S6105-06 (2002). The statute goes on to provide that Counsel shall intervene upon appropriate direction when "the powers and responsibilities of Congress under the Constitution of the United States are placed in issue," but should only do so if there is standing. *See* 2 U.S.C. § 288e(a). It then states:

> Permission to intervene as a party or to appear as amicus curiae under § 288e of this title shall be of right and may be denied by a court only upon an express finding that such intervention or appearance is untimely and would significantly delay the pending action or that standing to intervene has not been established under section 2 of article III of the Constitution of the United States.

2 U.S.C. § 288*l* (a).

Because the Senate waited until we had already ruled on the merits of this case on appeal, it would be

REV_00164514

possible, even accurate, to hold that the attempt to intervene is untimely. However, under the circumstances we are unable to hold that the proposed intervention to seek rehearing or en banc review would "significantly delay" the action. Especially is that true when, as here, some of the current parties to the action have themselves already sought both types of review. We must, therefore, turn our attention to the second exception in § 288*l*(a)—does the Senate have constitutional standing? To put it more precisely: does the Senate have constitutional standing to intervene in every case where the constitutionality of a United States statute is challenged? Because we determine that the answer to that question is no and because there is nothing about the statute at hand that would distinguish it from other statutes, the Senate does not have standing in this case.

Let it first be said that the issue is not whether the United States has standing to appear in support of the constitutionality of the statute in question. Nobody doubts that it does. *See* 28 U.S.C. § 2403(a). In fact, in this case it did appear for "the Congress of the United States; the United States of America; and William J. Clinton, President of the United States."[2] The question is whether the Senate, as a separate part of the government, has standing to intervene to support statutes on its own behalf, and not really as a representative of the United States itself. We need not, and do not,

---

[2] Perhaps it should also be recognized that "the three branches are but 'coordinate parts of one government,'" and in that sense there can be no doubt that the legislature is already represented here anyway. *See United States* v. *Providence Journal Co.*, 485 U.S. 693, 701, 108 S. Ct. 1502, 1507, 99 L. Ed. 2d 785 (1988) (internal citation omitted).

REV_00164515

decide whether Congress could designate the Senate Legal Counsel, upon a separate resolution of the Senate alone, to appear as the defender of all statutes on behalf of the United States itself. A law of that type might well have its own constitutional problems; it might even trench on the prerogatives of the executive branch of the United States, which has the authority to execute the laws of this country. *See* U.S. Const. art. II, § 3. At any rate, that has not occurred here. As already stated, a separate statute confers *that* authority upon the executive branch, and here the Senate seeks to appear to represent itself alone.

As the intervention statute at hand expressly recognizes, the Senate must show that it does have constitutional standing to intervene. That means at the very least that it must show that it has "suffered an 'injury in fact'—an invasion of a legally protected interest which is . . . concrete and particularized." *Lujan* v. *Defenders of Wildlife*, 504 U.S. 555, 560, 112 S. Ct. 2130, 2136, 119 L. Ed.2d 351 (1992); *see also Raines* v. *Byrd*, 521 U.S. 811, 818-20, 117 S. Ct. 2312, 2317-18, 138 L. Ed. 2d 849 (1997). That concrete and particularized harm is lacking in this case because no harm beyond frustration of a general desire to see the law enforced as written has been shown here.

In so stating, we are aware that there have been a number of cases wherein Senate intervention has been allowed without any particular remark or detailed consideration. *See, e.g., INS* v. *Chadha*, 462 U.S. 919, 930 n.5, 103 S. Ct. 2764, 2773 n.5, 77 L. Ed. 2d 317 (1983); *Lear Siegler, Inc., Energy Prod. Div.* v. *Lehman*, 893 F.2d 205, 206 (9th Cir. 1990) (en banc); *In re Benny*, 812 F.2d 1133, 1135 (9th Cir. 1987); *see also Bowsher* v. *Synar*, 478 U.S. 714, 106 S. Ct. 3181, 92 L.

REV_00164516

Ed. 2d 583 (1986). But those cases are not really apposite because they were of a character that directly (particularly) implicated the authority of Congress within our scheme of government, and the scope and reach of its ability to allocate power among the three branches. Thus, *Chadha*, 462 U.S. at 956-58, 103 S. Ct. at 2787, is a case that dealt with individual houses of Congress assuming the authority to review and veto executive decisions regarding the deportation of aliens. It, thus, implicated separation of powers doctrine and the whole scheme of our government. *Lear Siegler* dealt with whether Congress could allocate to a legislative agent—The Comptroller General—the authority to delay the procurement actions of the executive branch of the government. *See Lear Siegler, Inc., Energy Prod. Div.* v. *Lehman*, 842 F.2d 1102, 1105-06 (9th Cir. 1988), *vacated on other grounds*, *Lear Siegler*, 893 F.2d at 208; *see also Bowsher*, 478 U.S. at 717, 106 S. Ct. at 3183. Finally, in *Benny*, 812 F.2d at 1141-42, the issue was whether Congress had the authority to prospectively extend the term of office of bankruptcy judges. In other words, in each of these cases the courts were dealing with a statute addressing legislative action regarding allocation of authority within the government, as opposed to action applying that authority to the behavior of the citizenry in general. The issues were the kind that intimately affected Congress's own place within our constitutional scheme.

More closely on point are cases which speak to the standing of legislators to bring actions, where their institutional power as members of the legislature is not being challenged. In *Raines*, 521 U.S. at 814-16, 117 S. Ct. at 2315-16, for example, a number of members of the Senate and House of Representatives sued pursuant to

REV_00164517

a provision of the Line Item Veto Act which declared that any member of Congress could challenge the Act. *See*, 2 U.S.C. § 692(a)(1). The Court declared that they had "alleged no injury to themselves as individuals . . ., the institutional injury they allege is wholly abstract and widely dispersed . . ., and their attempt to litigate this dispute at this time and in this form is contrary to historical experience." *Id.* at 829, 117 S. Ct. at 2322. The Court did point out that they did not actually represent their separate houses of Congress and those houses actually opposed them, but did not indicate precisely how that affected their standing.[3] *Id.* The Court distinguished an earlier case wherein state legislators were accorded standing because their votes would have been deprived of all validity if an allegedly improper person were able to vote. *See Coleman* v. *Miller*, 307 U.S. 433, 438, 59 S.Ct. 972, 975, 83 L. Ed. 1385 (1939). Thus, at least as to individual legislators, there is no standing unless their own institutional position, as opposed to their position as a member of the body politic, is affected.

The District of Columbia Circuit has followed the same approach. In 1977, a congressman sued the director of the Central Intelligence Agency partly on the basis that when that agency misused its budget, his vote as a congressman was impaired. *See Harrington* v. *Bush*, 553 F.2d 190, 204 (D.C. Cir. 1977). The court found that he lacked standing, and that a contrary rule would amount to giving him "a roving commission to obtain judicial relief under most circumstances." *Id.* at

---

[3] Of course, the Line Item Veto Act dealt with the allocation of power between the legislative and executive branches. *See* 2 U.S.C. §§ 691-692. However, the Senate was content to appear as *amicus curiae*. *Raines*, 521 U.S. at 813 n.*, 117 S. Ct. 2312.

REV_00164518

214. Along the way, the court noted that "his specific rights, interests and prerogatives lie in the power to make laws. As we have noted, this power has not been invaded, diminished, diluted, or injured by the challenged actions in this case." *Id.* at 213. A like result was reached when a member of Congress sued to prevent alleged misuse of federal funds by a national commission. *See Hansen* v. *Nat'l Comm'n. on the Observance of Int'l Women's Year*, 628 F.2d 533 (9th Cir. 1980). We said: "The injury alleged by appellant is an injury which he suffers along with all other citizens of the United States. He has not presented any facts which show he has sustained or is imminently in danger of sustaining an actual personal injury." *Id.* at 534. Thus, he had no standing. *Id.* And, when faced with a claim by congressmen that the military was using its budget to finance combat in other countries, despite laws prohibiting that, the Fourth Circuit had this to say: "Once a bill has become law, however, their interest is indistinguishable from that of any other citizen. They cannot claim dilution of their legislative voting power because the legislation they favored became law." *Harrington* v. *Schlesinger*, 528 F.2d 455, 459 (4th Cir. 1975). The court was no more impressed with the claim that their legislative duties would somehow be affected. *See id.* Other cases have sounded the same note. *See, e.g., Baird* v. *Norton*, 266 F.3d 408, 411-12 (6th Cir. 2001); *Chenoweth* v. *Clinton*, 181 F.3d 112, 112-13, 117 (D.C. Cir. 1999), *cert. denied*, 529 U.S. 1012, 120 S. Ct. 1286, 146 L. Ed. 2d 233 (2000); *Daughtrey* v. *Carter*, 584 F.2d 1050, 1057-58 (D.C. Cir. 1978); *Metcalf* v. *Nat'l Petroleum Council*, 553 F.2d 176, 187-89 (D.C. Cir. 1977).

REV_00164519

These observations also apply to the Senate as a whole, when it seeks to have a roving commission to enter every case involving the constitutionality of statutes it has enacted. In those instances, its own "powers and responsibilities" are not really under attack. Once the Senate has approved a proposed bill, the House of Representatives agrees, and the President has signed the measure, it becomes public law. A public law, after enactment, is not the Senate's any more than it is the law of any other citizen or group of citizens in the United States. It is a law of the United States of America, and the government is already represented in this case by the Attorney General. Of course, every time a statute is not followed or is declared unconstitutional, the votes of legislators are mooted and the power of the legislature is circumscribed in a sense, but that is no more than a facet of the generalized harm that occurs to the government as a whole. By the same token, the President's signing of the legislation is also nullified, judges, who might have felt otherwise, are bound by the decision, and citizens who relied upon or desired to have the law enforced are disappointed.[4] Moreover, if the separate houses of Congress have standing, a challenger of a law would have to contend with fighting the United States itself, and separately defending himself against the Senate and the House of

[4] All of this is underscored by the Senate's suggestion that it should have standing because it opens its daily sessions with the Pledge of Allegiance. That, of course, is an assertion that could be made by countless other organizations, governmental and otherwise, not to mention thousands of United States citizens.

REV_00164520

Representatives, each of which would be able to appear as a separate litigating party in the case.[5]

Therefore, the motion of the Senate to intervene is DENIED. However, if the Senate wishes to have us deem its proposed brief to be an amicus brief and to consider it on that basis, we will do that. It should inform us of its desire in that regard within 30 days after the filing of this order.

---

[5] In principle, he might also have to separately contend against the President, whose ability to effectively sign the law in question can be said to have been affected. We see little other than mischief arising from a system of intervention as unregulated as that. Constitutional standing doctrine is the apotropaion for that threatened malady. It must be applied here.

REV_00164521

APPENDIX F

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 00-16423

MICHAEL A. NEWDOW, PLAINTIFF-APPELLANT

v.

U.S. CONGRESS; UNITED STATES OF AMERICA; GEORGE W. BUSH,* PRESIDENT OF THE UNITED STATES; STATE OF CALIFORNIA; ELK GROVE, UNIFIED SCHOOL DISTRICT; DAVID W. GORDON, SUPERINTENDENT EGUSD; SACRAMENTO CITY UNIFIED SCHOOL DISTRICT; JIM SWEENEY, SUPERINTENDENT SCUSD, DEFENDANTS-APPELLEES

Dec. 4, 2002

ORDER

Before: GOODWIN, REINHARDT and FERNANDEZ, Circuit Judges.

Sandra Banning's motion for leave to intervene is DENIED.

The State of California's purported appearance in this appeal is rejected, and its purported petition for

* George W. Bush is substituted for his predecessor, William Jefferson Clinton, as President of the United States. Fed. R. App. P. 43(c)(2).

REV_00164522

rehearing with suggestion for rehearing en banc, filed July 25, 2002, is ORDERED STRICKEN.

Newdow's motion for judicial notice is DENIED.

Newdow's motion for sanctions against Banning's attorneys is DENIED.

Sandra Banning's application for leave to file sur-response to Newdow's motion for sanctions IS DENIED.

Newdow's motion to file response to federal and state defendants' supplemental briefs is DENIED.

REV_00164523

APPENDIX G

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CIV S-00-0495 MLS PAN PS

REV. DR. MICHAEL A. NEWDOW, PLAINTIFF

v.

THE CONGRESS OF THE UNITED STATES, ET AL., DEFENDANTS

[Filed July 21, 2000]

ORDER

This matter was referred to the Honorable Peter A. Nowinski, United States Magistrate Judge, pursuant to 28 U.S.C. §§ 636, et seq., and Local Rule 72-302. On May 25, 2000, Judge Nowinski recommended that plaintiff's complaint be dismissed. Plaintiff has filed objections to the findings and recommendation.

The court has reviewed the file and finds the findings and recommendation to be supported by the record and by the magistrate judge's analysis. Accordingly, IT IS HEREBY ORDERED that:

1. The Findings and Recommendation filed May 25, 2000, are adopted in full; and

2. Plaintiff's complaint is dismissed.

DATE: July 21, 2000.

/s/ illegible signature
UNITED STATES DISTRICT JUDGE

REV_00164524

APPENDIX H

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

CIV S-00-0495 MLS PAN PS

REV. DR. MICHAEL A. NEWDOW, PLAINTIFF

v.

THE CONGRESS OF THE UNITED STATES,
ET AL., DEFENDANTS

[Filed: May 25, 2000]

FINDINGS AND RECOMMENDATION

On March 8, 2000, plaintiff filed a complaint alleging defendants Elk Grove School District and Sacramento City Unified School District violate the Establishment Clause of the First Amendment by requiring teachers [to] lead morning classes in recitation of the pledge of allegiance. Defendant school districts move to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim.

The only federal Court of Appeal directly to address this issue held that schools may lead the pledge of allegiance without violating the First Amendment so long as pupils are not compelled to participate, because the ceremonial reference to God in the pledge does not convey endorsement of particular religious beliefs. *Sherman* v. *Community Consolidated School District*, 980 F.2d 437, 442-448 (11th Cir. 1992). While the

REV_00164525

Supreme Court has not directly addressed the issue, it has noted that its "previous opinions have considered in dicta the motto ['In God We Trust'] and the pledge [of allegiance], characterizing them as consistent with the proposition that government may not communicate an endorsement of religious belief." *County of Allegheny* v. *American Civil Liberties Union*, 492 U.S. 573, 602-03 (1989); *see also id.* at 625 (O'Connor, J., concurring); *Lynch* v. *Donnelly*, 465 U.S. 668, 693 (1984) (O'Connor, J., concurring); *id.* at 716-17 (Brennan, J., dissenting); *School District of Abington Township* v. *Schempp*, 374 U.S. 203, 303 (1963) (Brennan, J., concurring); *Engel* v. *Vitale*, 370 U.S. 421, 449-50 (1962) (Stewart, J., dissenting). Two Courts of Appeal have stated, also in dicta, that the pledge is not an endorsement of religion. *See Chandler* v. *James*, 180 F.3d 1254, 1262 (11th Cir. 1999); *Separation of Church and State Committee* v. *City of Eugene*, 93 F.3d 617, 622 (9th Cir. 1996).

The Seventh Circuit's decision in *Sherman* and the statements in dicta noted above, while not binding on this court, are persuasive and directly on point. Whether the court employs the test set forth in *Lemon* v. *Kurtzman*, 403 U.S. 602, 612-613 (1971), or the more recent endorsement test, *see Allegheny*, *supra*, 492 U.S. at 593-594, the Pledge does not violate the Establishment Clause of the First Amendment. Accordingly, I recommend plaintiff's complaint be dismissed.

Dated: May 25, 2000.

/s/ illegible signature
PETER A. NOWINSKI
United States Magistrate
Judge

REV_00164526

APPENDIX I

CONSTITUTIONAL AND STATUTORY PROVISIONS

1. The First Amendment to the United States Constitution provides:

> Congress shall make no law respecting an establishment of religion; or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

2. Section 4 of Title 4 U.S.C. provides:

Pledge of allegiance to the flag; manner of delivery

The Pledge of Allegiance to the Flag, "I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.", should be rendered by standing at attention facing the flag with the right hand over the heart. When not in uniform men should remove their headdress with their right hand and hold it at the left shoulder, the hand being over the heart. Persons in uniform should remain silent, face the flag, and render the military salute.

REV_00164527

No.

In the Supreme Court of the United States

UNITED STATES OF AMERICA, PETITIONER

v.

MICHAEL A. NEWDOW, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

THEODORE B. OLSON
Solicitor General
Counsel of Record

ROBERT D. MCCALLUM, JR.
Assistant Attorney General

PAUL D. CLEMENT
Deputy Solicitor General

GREGORY G. KATSAS
Deputy Assistant Attorney General

PATRICIA A. MILLETT
Assistant to the Solicitor General

ROBERT M. LOEB
LOWELL V. STURGILL JR.
SUSHMA SONI
Attorneys

Department of Justice
Washington, D.C. 20530-0001
(202) 514-2217

REV_00164528

QUESTIONS PRESENTED

1. Whether the inclusion of the phrase "under God" in the Pledge of Allegiance to the United States Flag violates the Establishment Clause of the First Amendment.

2. Whether a noncustodial parent, who lacks the legal authority to determine his child's education or religious upbringing, has Article III standing to challenge educational practices undertaken by the school in which the custodial parent has chosen to place the child.

REV_00164529

PARTIES TO THE PROCEEDING

The respondents are Michael A. Newdow, who was the plaintiff below, and the Elk Grove Unified School District and its Superintendent, David W. Gordon, who were defendants below. The Complaint also named as defendants the United States Congress, President George W. Bush,* the Sacramento City Unified School District, and its superintendent, Jim Sweeney. All of those defendants were dismissed from the case by the court of appeals. App., *infra*, 5a-8a. The Complaint also named the State of California as a defendant, but the State did not participate in the district court proceedings or in the court of appeals, until the rehearing stage, at which point the court of appeals rejected the State's appearance. *Id.* at 6a. The motions of Sandra Banning, the mother of respondent Newdow's child, and the United States Senate to intervene were denied by the court of appeals. *Id.* at 99a-109a.

---

* The Complaint originally listed President William J. Clinton as a defendant. Pursuant to Federal Rule of Appellate Procedure 43(c)(2), President Bush was substituted as his successor in office.

REV_00164530

TABLE OF CONTENTS

	Page
Opinions below	1
Jurisdiction	2
Constitutional and statutory provisions involved	3
Statement	3
Reasons for granting the petition	13
Conclusion	30

TABLE OF AUTHORITIES

Cases:

Aronow v. *United States*, 432 F.2d 242 (9th Cir. 1970)	24
Bivens v. *Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971)	2
Burge v. *City & County of San Francisco*, 262 P.2d 6 (Cal. 1953)	27
County of Allegheny v. *ACLU*, 492 U.S. 573 (1989)	*passim*
District of Columbia Court of Appeals v. *Feldman*, 460 U.S. 462 (1983)	27
Engel v. *Vitale*, 370 U.S. 421 (1962)	16, 17, 19, 21
FDIC v. *Meyer*, 510 U.S. 471 (1994)	2
Franklin v. *Massachusetts*, 505 U.S. 788 (1992)	7
Ganulin v. *United States*, 71 F. Supp. 2d 824 (S.D. Ohio 1999), aff'd, 238 F.3d 420 (6th Cir. 2000), cert. denied, 532 U.S. 973 (2001)	24
Gaylor v. *United States*, 74 F.3d 214 (10th Cir.), cert. denied, 517 U.S. 1211 (1996)	24
Lee v. *Weisman*, 505 U.S. 577 (1992)	8, 17, 26
Lemon v. *Kurtzman*, 403 U.S. 602 (1971)	8
Local 28 of the Sheet Metal Workers' Int'l Ass'n v. *EEOC*, 478 U.S. 421 (1986)	20
Lynch v. *Donnelly*, 465 U.S. 668 (1984)	*passim*
Marsh v. *Chambers*, 463 U.S. 783 (1983)	16

REV_00164531

Cases—Continued: Page

Michael H. v. *Gerald D.*, 491 U.S. 110 (1989) 27
Navin v. *Park Ridge Sch. Dist.*, 270 F.3d 1147 (7th Cir. 2001) 27, 28
O'Hair v. *Murray*, 588 F.2d 1144 (5th Cir.), cert. denied, 442 U.S. 930 (1979) 24
Opinion of the Justices, 228 A.2d 161 (N.H. 1967) 24
Pierce v. *Society of Sisters*, 268 U.S. 510 (1925) 26, 28
Rooker v. *Fidelity Trust Co.*, 263 U.S. 413 (1923) 27
Santa Fe Indep. Sch. Dist. v. *Doe*, 530 U.S. 290 (2000) 26
Schaffer v. *Clinton*, 240 F.3d 878 (10th Cir.), cert. denied, 534 U.S. 992 (2001) 29
School Dist. of Abington Township v. *Schempp*, 374 U.S. 203 (1963) 7, 15, 16, 18, 21
Seminole Tribe v. *Florida*, 517 U.S. 44 (1996) 19
Sherman v. *Community Consol. Sch. Dist. 21*, 980 F.3d 437 (7th Cir. 1992), cert. denied, 508 U.S. 950 (1993) 7, 9-10, 14, 24
Steel Co. v. *Citizens for a Better Env't*, 523 U.S. 83 (1998) 25, 26
Valley Forge Christian Coll. v. *Americans United for Separation of Church & State, Inc.*, 454 U.S. 464 (1982) 29
Wallace v. *Jaffree*, 472 U.S. 38 (1985) 18, 23
West Virginia State Bd. of Educ. v. *Barnette*, 319 U.S. 624 (1943) 28
Wisconsin v. *Yoder*, 406 U.S. 205 (1972) 26
Wooley v. *Maynard*, 430 U.S. 705 (1977) 28
Zelman v. *Simmons-Harris*, 536 U.S. 639 (2002) 22-23
Zobrest v. *Catalina Foothills Sch. Dist.*, 509 U.S. 1 (1993) 26
Zorach v. *Clauson*, 343 U.S. 306 (1952) 5, 15, 17, 21

REV_00164532

Constitution and statutes:	Page
U.S. Const.:	
Art. I, § 6, Cl. 1 (Speech and Debate Clause)	7
Art. III	11, 26, 29
Amend. I	2, 3
Establishment Clause	*passim*
Free Exercise Clause	6
Act of June 22, 1942, ch. 435, § 7, 56 Stat. 380	3
Act of June 14, 1954, ch. 297, § 7, 68 Stat. 249	3
Act of Nov. 13, 2002, Pub. L. No. 107-293, 116 Stat. 2059	5
Administrative Procedure Act, 5 U.S.C. 552	2
Federal Tort Claims Act:	
28 U.S.C. 1346	2
28 U.S.C. 1402	2
28 U.S.C. 2671 *et seq.*	2
Individuals with Disabilities Education Act, 20 U.S.C. 1415	27
4 U.S.C. 4	3, 21
5 U.S.C. 6103	24
28 U.S.C. 2403(a)	2
31 U.S.C. 324	15
36 U.S.C. 302	15, 23
Cal. Educ. Code § 52720 (West 1989)	5
Miscellaneous:	
H.R. Rep. No. 2047, 77th Cong., 2d Sess. (1942)	3
H.R. Rep. No. 1693, 83d Cong., 2d Sess. (1954)	3, 4, 5
S. Rep. No. 1477, 77th Cong., 2d Sess. (1942)	3
S. Rep. No. 1287, 83d Cong., 2d Sess. (1954)	3-4, 5
U.S. Decl. of Indep., 1 U.S.C. at XLIII	23

REV_00164533

In the Supreme Court of the United States

No.

UNITED STATES OF AMERICA, PETITIONER

v.

MICHAEL A. NEWDOW, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

The Solicitor General, on behalf of the United States of America, respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit in this case.

OPINIONS BELOW

The amended opinion of the court of appeals on rehearing (App., *infra*, 1a-24a) is reported at 321 F.3d 772. The original opinion of the court of appeals (App., *infra*, 25a-58a) is reported at 292 F.3d 597, and the court's subsequent opinion on standing (App., *infra*, 89a-98a) is reported at 313 F.3d 500. The opinion and orders of the court denying intervention (App., *infra*, 99a-109a) are reported at 313 F.3d 495 and 313 F.3d 506. The order of the district court (App., *infra*, 110a), adopting the Findings and Recommendation of

REV_00164534

the magistrate judge that the case be dismissed (App., *infra*, 111a-112a), is unreported.

JURISDICTION

The court of appeals entered its original judgment on June 26, 2002. The court issued an amended opinion on rehearing on February 28, 2003. The court of appeals issued an order staying its mandate on March 4, 2003. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

No federal statute waives the sovereign immunity of the United States of America from a suit for declaratory or injunctive relief under the First Amendment, and thus the jurisdictional basis for respondent Newdow's suit against the United States is unclear.[1] However, the absence of such a waiver is without jurisdictional consequence in this case because the United States could have, and should hereby be deemed to have, intervened as of right in this action against the school district and its superintendent to defend the constitutionality of the Pledge of Allegiance against Newdow's facial and as-applied challenges. See 28 U.S.C. 2403(a).[2]

---

[1] Other than a separate claim against the President in his official capacity, Newdow did not sue an officer or an agency of the United States, so his claim does not appear to fall within the scope of either *Bivens* v. *Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), or the Administrative Procedure Act, 5 U.S.C. 552. Nor is his federal constitutional claim cognizable under the Federal Tort Claims Act, 28 U.S.C. 1346, 1402, 2671 *et seq.* See *FDIC* v. *Meyer*, 510 U.S. 471, 477 (1994).

[2] Newdow's as-applied challenge to the recitation of the Pledge in elementary schools calls into question the federal government's practice under which the nearly 2500 military dependents attending its four schools within the Ninth Circuit are led in a voluntary recitation of the Pledge of Allegiance daily.

REV_00164535

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The First Amendment to the United States Constitution provides, in relevant part, that "Congress shall make no law respecting an establishment of religion. * * *"

Section 4 of Title 4 of the United States Code provides that the Pledge of Allegiance to the United States Flag shall be: "I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all."

STATEMENT

1. In 1942, as part of an overall effort to "codify and emphasize existing rules and customs pertaining to the display and use of the flag of the United States of America," Congress enacted a Pledge of Allegiance to the United States flag. H.R. Rep. No. 2047, 77th Cong., 2d Sess. 1 (1942); S. Rep. No. 1477, 77th Cong., 2d Sess. 1 (1942). As originally enacted, the Pledge of Allegiance read: "I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one Nation indivisible, with liberty and justice for all." Act of June 22, 1942, ch. 435, § 7, 56 Stat. 380.

Twelve years later, Congress amended the Pledge of Allegiance by adding the words "under God" after the word "Nation." Act of June 14, 1954, ch. 297, § 7, 68 Stat. 249. Accordingly, the Pledge now reads: "I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all." 4 U.S.C. 4.

In amending the Pledge, the Committee Reports noted that, "[f]rom the time of our earliest history our peoples and our institutions have reflected the traditional concept that our Nation was founded on a fundamental belief in God." H.R. Rep. No. 1693, 83d Cong., 2d Sess. 2 (1954); see also S.

REV_00164536

Rep. No. 1287, 83d Cong., 2d Sess. 2 (1954) ("Our forefathers recognized and gave voice to the fundamental truth that a government deriving its powers from the consent of the governed must look to God for divine leadership. * * * Throughout our history, the statements of our great national leaders have been filled with references to God."). Both Reports traced the numerous references to God in historical documents central to the founding and preservation of the United States, from the Mayflower Compact to the Declaration of Independence to President Lincoln's Gettysburg Address, the latter having employed the same reference to a "Nation[] under God." H.R. Rep. No. 1693, *supra*, at 2; S. Rep. No. 1287, *supra*, at 2.

The Reports further explained that the amendment would highlight a foundational difference between the United States and Communist nations: "Our American Government is founded on the concept of the individuality and the dignity of the human being" and "[u]nderlying this concept is the belief that the human person is important because he was created by God and endowed by Him with certain inalienable rights which no civil authority may usurp." H.R. Rep. No. 1693, *supra*, at 1-2; see also S. Rep. No. 1287, *supra*, at 2. As amended, the Pledge would thus textually reject the "communis[t]" philosophy "with its attendant subservience of the individual." H.R. Rep. No. 1693, *supra*, at 2; see also S. Rep. No. 1287, *supra*, at 2 ("The spiritual bankruptcy of the Communists is one of our strongest weapons in the struggle for men's minds and this resolution gives us a new means of using that weapon."). The House Report further noted that, through "daily recitation of the pledge in school," "the children of our land * * * will be daily impressed with a true understanding of our way of life and its origins," so that "[a]s they grow and advance in this understanding, they will assume the responsibilities of self-government equipped

REV_00164537

to carry on the traditions that have been given to us." H.R. Rep. No. 1693, *supra*, at 3.

Both the Senate and House Reports expressed the view that, under controlling precedent from this Court, the amendment "is not an act establishing a religion or one interfering with the 'free exercise' of religion." H.R. Rep. No. 1693, *supra*, at 3 (citing *Zorach* v. *Clauson*, 343 U.S. 306 (1952)); see also S. Rep. No. 1287, *supra*, at 2.[3]

2. California law requires that each public elementary school in the State "conduct[] * * * appropriate patriotic exercises" at the beginning of the school day. Cal. Educ. Code § 52720 (West 1989). The law provides that "[t]he giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy the requirements of this section." *Ibid.* In satisfaction of that statutory requirement, respondent Elk Grove Unified School District (Elk Grove) has adopted a policy that directs each of its elementary schools to "recite the pledge of allegiance to the flag once each day." App., *infra*, 27a. No child is compelled to join in reciting the Pledge. *Id.* at 28a.

Respondent Michael Newdow is the noncustodial father of a child enrolled in a public elementary school within the jurisdiction of respondent Elk Grove. App., *infra*, 2a, 90a-91a. In the school that Newdow's daughter attends, the teacher leads the students in reciting the Pledge of Allegiance daily. *Id.* at 3a.

The child's mother has "*sole* legal custody as to the rights and responsibilities to make decisions relating to the health, education and welfare of" the child. App., *infra*, 90a-91a. While Newdow, who was never married to the child's

---

[3] Following the court of appeals' decision in the instant case, Congress reaffirmed the content of the Pledge of Allegiance and Congress's view that the legislation is constitutional. Act of Nov. 13, 2002, Pub. L. No. 107-293, 116 Stat. 2059.

REV_00164538

mother, retains limited visitation rights, the right to access the child's school and medical records, and the right to "consult" on "substantial" decisions pertaining to the child's "educational needs," if the parents disagree, the child's mother "may exercise legal control of" the child as long as it "is not specifically prohibited or inconsistent with the physical custody order." *Id.* at 91a.

In March 2000, Newdow filed suit against the President, the United States Congress, the United States of America, the State of California, and two California school districts and their superintendents, seeking a declaration that the 1954 statute adding the words "under God" to the Pledge is "facially unconstitutional" under the Establishment and Free Exercise Clauses of the First Amendment. Compl. 6, 36; App., *infra*, 4a-5a. He also sought injunctive relief requiring Congress and the President to remove those words from the Pledge and prohibiting California schools from leading students in reciting the Pledge. Compl. 37; App., *infra*, 4a-5a. The Complaint explains that Newdow's child is "an unnamed plaintiff whom he represents as 'next friend.'" Compl. 3. The Complaint asserts that the recitation of the Pledge in his child's school "results in the daily indoctrination of the Elk Grove Unified School District's students—including Plaintiff's daughter—with religious dogma," *id.* at 18-19, and that such actions "infringe[]" upon Newdow's "unrestricted right to inculcate in his daughter— free from governmental interference—the atheistic beliefs he finds persuasive." *Id.* at 20; see also *id.* at 36. The Complaint further asserts that Newdow's "position as the father of a child attending the State's public schools grants him standing in this matter in his own right and on behalf of his daughter." *Id.* at 26.

The district court dismissed the complaint for failure to state a claim, relying on numerous decisions of this Court expressly addressing the Pledge and describing it as con-

REV_00164539

sistent with the Establishment Clause, as well as on a decision of the Seventh Circuit rejecting a similar challenge to the Pledge. App., *infra*, 110a-112a (adopting magistrate judge's Findings and Recommendation, which cites *County of Allegheny* v. *ACLU*, 492 U.S. 573 (1989); *id.* at 625 (O'Connor, J., concurring); *Lynch* v. *Donnelly*, 465 U.S. 668 (1984); *School Dist. of Abington Township* v. *Schempp*, 374 U.S. 203 (1963) (Brennan, J., concurring); *Sherman* v. *Community Consol. Sch. Dist. 21*, 980 F.2d 437 (7th Cir. 1992), cert. denied, 508 U.S. 950 (1993)).

3. a. A divided panel of the Ninth Circuit affirmed in part and reversed in part. App., *infra*, 25a-58a. As an initial matter, all three members of the panel agreed that the President and Congress should be dismissed from the lawsuit, on the grounds that the President is not a proper defendant for challenging the constitutionality of a federal law under *Franklin* v. *Massachusetts*, 505 U.S. 788 (1992) (plurality opinion), and that the Congress cannot be sued under the Speech and Debate Clause, U.S. Const. Art. I, § 6, Cl. 1. See App., *infra*, 29a-30a; *id.* at 53a (Fernandez, J., concurring and dissenting). The court also ruled that Newdow lacked standing to file suit against the Sacramento City Unified School District and its superintendent "because his daughter is not currently a student there." *Id.* at 32a.

The court did conclude, however, that Newdow has standing to challenge Elk Grove's policy of reciting the Pledge "because his daughter is currently enrolled in elementary school" in Elk Grove. App., *infra*, 32a. In addition, a majority of the court concluded that Newdow has standing in his own right to challenge the facial constitutionality of the 1954 Act amending the Pledge because "the mere enactment of a statute may constitute an Establishment Clause violation," *id.* at 33a, and the 1954 Act amounts to a "religious recitation

REV_00164540

policy that interferes with Newdow's right to direct the religious education of his daughter." *Id.* at 37a.[4]

b. Turning to the merits of Newdow's complaint, the majority held that, with the addition of the phrase "under God," the Pledge of Allegiance violates the Establishment Clause. App., *infra*, 37a-42a. The majority began by explaining that this Court has adopted three different tests to analyze Establishment Clause violations (*id.* at 37a)—the three-prong test outlined in *Lemon* v. *Kurtzman*, 403 U.S. 602 (1971); the "endorsement test," *County of Allegheny*, *supra*; and the "coercion" test, *Lee* v. *Weisman*, 505 U.S. 577 (1992)—and that the court of appeals was "free to apply any or all of the three tests, and to invalidate any measure that fails any one of them." App., *infra*, 41a.

The majority held that the 1954 Act and the school district policy failed the "endorsement test" both because the Pledge's reference to God "is a profession of a religious belief, namely, a belief in monotheism" and because it "impermissibly takes a position with respect to the purely religious question of the existence and identity of God." App., *infra*, 41a-42a. The majority further concluded that the 1954 Act and the school district's policy fail the "coercion test" because "the mere fact that a pupil is required to listen every day to the statement 'one nation under God' has a coercive effect." *Id.* at 45a.

Finally, the majority concluded that the Pledge fails the *Lemon* test because it has the purpose of advancing religion. App., *infra*, 46a. In so holding, the majority rejected the United States' argument that the Pledge should be looked at "as a whole," and concluded that the "*sole* purpose" of the 1954 Act was to "advance religion, in order to differentiate

---

[4] The court did not address the constitutionality of the California law requiring patriotic exercises in elementary school classrooms. App., *infra*, 30a-31a.

REV_00164541

the United States from nations under communist rule." *Id.* at 46a-47a. The majority further concluded that Elk Grove's policy ran afoul of the *Lemon* test because it "convey[s] an impermissible message of endorsement to some and disapproval to others of their beliefs regarding the existence of a monotheistic God." *Id.* at 50a.

The majority dismissed in a footnote the numerous statements by this Court and its Members expressly addressing the Pledge and affirming its constitutionality as "dicta" that was announced without "appl[ying] any of the three tests to the Act." App., *infra*, 50a-51a n.12. The majority also expressly disagreed with the analysis and conclusion of the Seventh Circuit in *Sherman*, *supra*, which upheld the Pledge against a similar Establishment Clause challenge. *Ibid.*

c. Judge Fernandez dissented. App., *infra*, 52a-58a. Judge Fernandez first expressed his "serious misgivings" about the majority's conclusion that Newdow had standing to challenge the facial constitutionality of the 1954 Act, but ultimately concluded that the question "makes little difference to the resolution of the First Amendment issue in this case." *Id.* at 53a n.1. With respect to the Establishment Clause challenge, Judge Fernandez explained that "such phrases as 'In God We Trust,' or 'under God' have no tendency to establish a religion in this country or to suppress anyone's exercise, or non-exercise, of religion, except in the fevered eye of persons who most fervently would like to drive all tincture of religion out of the public life of our polity." *Id.* at 55a. Judge Fernandez also noted that this Court has repeatedly indicated that the Pledge's text, as amended, does not violate the Establishment Clause, and he agreed with the Seventh Circuit that the court of appeals should "respect" those assurances: "If the Court proclaims that a practice is consistent with the establishment clause, we take its assurances seriously. If the Justices are just pulling our leg, let them say so." *Ibid.* (quoting *Sherman*,

REV_00164542

980 F.2d at 448). Finally, Judge Fernandez accused the majority of confining itself to legal "elements and tests, while failing to look at the good sense and principles that animated those tests in the first place." *Id.* at 57a; see also *id.* at 57a n.8 (noting that the majority's holding would preclude use of many patriotic songs, such as "God Bless America," "America the Beautiful," "The Star Spangled Banner," and "My Country 'Tis of Thee," in public ceremonial occasions).

d. While the case was pending on the United States' and Elk Grove's petitions for rehearing and rehearing en banc, the mother of Newdow's child notified the court that Newdow lacked legal custody of the child and legal control over the child's educational and religious upbringing. She further advised that, as the custodial parent, she "wish[es] for her child to be able to recite the Pledge at school exactly as it stands." Banning C.A. Mot. to Intervene 10. The United States then filed a motion to enlarge the record and a supplemental brief arguing that Newdow lacks standing to prosecute his challenge to the Pledge on its face or as applied by Elk Grove.

The court of appeals issued a separate decision holding that Newdow has standing to prosecute his constitutional challenge to the Pledge. App., *infra*, 89a-98a. The court concluded that, while Newdow no longer could prosecute the action on behalf of or to vindicate the interests of his child, Newdow continued to have standing in his own right to challenge "unconstitutional government action affecting his child." *Id.* at 92a. The court noted that the custody agreement does not strip Newdow of all of his parental rights, because he retains the "the right to inspect his daughter's school and medical records" and the "right to consult" on educational decisions, albeit with the mother "having ultimate decision-making power." *Id.* at 95a. The court then reasoned that, because California law recognizes a right in

REV_00164543

noncustodial parents to "expose" their children to their beliefs and values, Newdow was injured because state law "surely does not permit official state indoctrination of an impressionable child on a daily basis with an official view of religion contrary to the express wishes of *either* a custodial or noncustodial parent." *Id.* at 96a. The court further reasoned that Newdow has standing because the mother "has no power, even as sole legal custodian, to insist that her child be subjected to unconstitutional state action." *Ibid.* Because the Pledge, in the court's view, "provides the message to Newdow's young daughter" that "her *father's* beliefs are those of an outsider, and necessarily inferior to what she is exposed to in the classroom," the court concluded that Newdow has suffered a legally cognizable injury that provides him with Article III standing. *Id.* at 97a.[5]

4. a. The court issued an amended opinion on rehearing. App., *infra*, 1a-24a. In its amended opinion, the court limited its Establishment Clause holding to the Pledge's use by Elk Grove in its schools. *Id.* at 18a. With respect to Newdow's challenge to the facial constitutionality of the Pledge, the court of appeals vacated the district court's decision in favor of the United States and remanded "for further proceedings consistent with our holding." *Ibid.*

In addition, the court amended its decision to hold only that Elk Grove's policy violated the coercion test, and did not address either the "endorsement test" or the *Lemon* test. App., *infra*, 11a. The panel, however, concluded that the recitation of the Pledge violated the coercion test for the same reasons that the original opinion found a violation of the endorsement test. Compare *id.* at 11a-13a, with *id.* at 41a-43a.

---

[5] Judge Fernandez concurred in the judgment on standing, but not in the majority's "allusions to the merits of the controversy." App., *infra*, 98a.

REV_00164544

The court also elaborated on its rejection of the numerous statements in this Court's opinions affirming the constitutionality of the Pledge and similar official acknowledgments of the Nation's religious heritage. The court assumed that "public officials do not unconstitutionally endorse religion when they recite the Pledge," but that schools nevertheless could not "coerce impressionable young schoolchildren to recite it, or even to stand mute while it is being recited by their classmates." App., *infra*, 15a. The court also purported to distinguish references to God in the Pledge from those in the Declaration of Independence and National Anthem on the ground that the pledge "is a performative statement." *Id.* at 16a; see also *ibid.* ("To pledge allegiance to something is to alter one's moral relationship to it, and not merely to repeat the words of an historical document or anthem.").

Judge Fernandez dissented from the court's Establishment Clause holding for the same reasons discussed in his initial dissenting opinion. App., *infra*, 19a-24a. Judge Fernandez also noted that, although the majority "now formally limits itself to holding that it is unconstitutional to recite the Pledge in public classrooms, its message that something is constitutionally infirm about the Pledge itself abides and remains a clear and present danger to all similar public expressions of reverence." *Id.* at 19a n.1.

b. Judge O'Scannlain, joined by Judges Kleinfeld, Gould, Tallman, Rawlinson, and Clifton, filed a lengthy dissent from the court of appeals' denial of rehearing en banc. App., *infra*, 67a-87a. He described the panel opinion as

> wrong, very wrong—wrong because reciting the Pledge of Allegiance is simply not "a religious act" as the two-judge majority asserts, wrong as a matter of Supreme Court precedent properly understood, wrong because it

REV_00164545

> set up a direct conflict with the law of another circuit, and wrong as a matter of common sense.

Id. at 67a-68a (footnote omitted). Judge O'Scannlain stressed that this Court consistently has distinguished between "patriotic invocations of God on the one hand," and public school "prayer, an 'unquestioned religious exercise.'" *Id.* at 72a. Judge O'Scannlain further noted that, until the panel's decision here, "[n]o court, state or federal, has *ever* held, even now, that the Supreme Court's school prayer cases apply outside a context of state-sanctioned formal religious observances." *Id.* at 78a-79a. Finally, Judge O'Scannlain noted that, while the panel "adopts a stilted indifference to our past and present realities as a predominantly religious people," *id.* at 86a-87a, "the Supreme Court has displayed remarkable consistency—patriotic invocations of God simply have no tendency to establish a state religion," *id.* at 86a.

Judges McKeown, Hawkins, Thomas, and Rawlinson separately dissented from the denial of rehearing en banc on the ground that the case "presents a constitutional question of exceptional importance" that should be heard by the court en banc. App., *infra*, 88a.

REASONS FOR GRANTING THE PETITION

Two decisions of this Court have said without qualification that the Pledge of Allegiance is constitutional. Numerous other opinions, joined in by at least twelve Justices of this Court, have likewise expressly addressed and affirmed the constitutionality of the Pledge of Allegiance notwithstanding its reference to God. No Justice has expressed the view that the Pledge violates the Establishment Clause. The court of appeals, however, dismissed those majority and separate opinions as unconsidered dicta. But a fair reading of this Court's decisions demonstrates that those consistent and oft-repeated statements stand as a fixed lodestar in this Court's

REV_00164546

Establishment Clause jurisprudence that has informed and directed the resolution of a number of the Court's cases. They reflect a point of exceptional unity and consistent agreement among Members of this Court within Establishment Clause jurisprudence. Whatever else the Establishment Clause may prohibit, this Court's precedents make clear that it does not forbid the government from officially acknowledging the religious heritage, foundation, and character of this Nation. That is what the reference to God in the Pledge of Allegiance does. The Pledge is therefore constitutional, as the Seventh Circuit held when confronted with the same Establishment Clause challenge. Because the court of appeals' error is so manifestly contrary to precedent, the Court may wish to consider summary reversal of the decision below.

1. This Court's review is warranted because the court of appeals' holding conflicts with repeated opinions of this Court and of individual Justices consistently explaining that the Pledge of Allegiance, and similar official acknowledgments of the Nation's religious heritage and character, do not violate the Establishment Clause. The holding below is also in direct conflict with the Seventh Circuit's decision in *Sherman* v. *Community Consolidated School District 21*, 980 F.2d 437 (1992), cert. denied, 508 U.S. 950 (1993), which rejected the same Establishment Clause challenge to the Pledge.

a. The court of appeals' decision is irreconcilable with this Court's repeated assurances that the Pledge of Allegiance, with its reference to God, comports with the strictures of the Establishment Clause. In *Lynch* v. *Donnelly*, 465 U.S. 668 (1984), the Court held that a city did not violate the Establishment Clause by including a nativity scene as part of a Christmas display. In upholding the display, the Court reasoned that "[t]here is an unbroken history of official acknowledgment by all three branches of government

REV_00164547

of the role of religion in American life from at least 1789." *Id.* at 674. The Court noted that its own opinions had "asserted pointedly" that "[w]e are a religious people whose institutions presuppose a Supreme Being." *Id.* at 675 (quoting *Zorach* v. *Clauson*, 343 U.S. 306, 313 (1952), and citing *School Dist. of Abington Township* v. *Schempp*, 374 U.S. 203, 213 (1963)). The Court further reasoned that "examples of reference to our religious heritage are found * * * in the language "One nation under God," as part of the Pledge of Allegiance to the American flag," which "is recited by many thousands of public school children—and adults—every year." *Lynch*, 465 U.S. at 676; see also *ibid.* (referring favorably to the National Motto, "In God We Trust," 36 U.S.C. 302, which appears on all United States currency, 31 U.S.C. 324).

Explaining that such official acknowledgments of our Nation's religious heritage do not "establish[] a religion or religious faith, or tend[] to do so," *Lynch*, 465 U.S. at 678, the Court concluded that the City's inclusion of a creche in its Christmas display likewise permissibly "depicts the historical origins of this traditional event long recognized as a National Holiday," *id.* at 680. To hold otherwise, the Court explained, would lead to the conclusion that "a host of other forms of taking official note of Christmas, and of our religious heritage, are equally offensive to the Constitution." *Id.* at 686. "[P]ublic acknowledgment of the [Nation's] religious heritage long officially recognized by the three constitutional branches of government," the Court concluded, render "farfetched" "[a]ny notion that these symbols pose a real danger of establishment of a state church." *Ibid.*

In *County of Allegheny* v. *ACLU*, 492 U.S. 573 (1989), the Court invalidated the display of a creche at a county courthouse, but sustained the inclusion of a menorah as part of a holiday display. In so holding, the Court reaffirmed *Lynch*'s approval of the reference to God in the Pledge, noting that

REV_00164548

all of the Justices in *Lynch* viewed the Pledge as "consistent with the proposition that government may not communicate an endorsement of religious belief." *Id.* at 602-603 (citations omitted). The Court then used the Pledge and the general holiday display approved in *Lynch* as benchmarks for what the Establishment Clause permits, *ibid.* On that basis, the Court concluded that the display of the creche by itself was unconstitutional because, unlike the Pledge, it gave "praise to God in [sectarian] Christian terms." *Id.* at 598; see also *id.* at 603 (finding an "obvious distinction" between the Pledge and the display of the creche).

Furthermore, while not referring specifically to the Pledge of Allegiance, the Court, in *Marsh* v. *Chambers*, 463 U.S. 783 (1983), upheld the historic practice of legislative prayer as "a tolerable acknowledgment of beliefs widely held among the people of this country." *Id.* at 792. In so holding, the Court discussed numerous other examples of constitutionally permissible religious references in official life "that form 'part of the fabric of our society,'" *ibid.*, such as "God save the United States and this Honorable Court," which "occurs at all sessions of this Court," *id.* at 786. The Court also repeated its recognition that "[w]e are a religious people whose institutions presuppose a Supreme Being." *Id.* at 792.

Likewise, in *Abington Township*, *supra*, the Court explained, in the course of invalidating laws requiring Bible-reading in public schools, that "our national life reflects a religious people," and noted the numerous permissible public references to God in historical documents and ceremonial practices, such as oaths ending with "So help me God." 374 U.S. at 213.

Finally, in *Engel* v. *Vitale*, 370 U.S. 421 (1962), in the course of invalidating official school prayers, the Court stressed:

REV_00164549

> There is of course nothing in the decision reached here that is inconsistent with the fact that school children and others are officially encouraged to express love for our country by reciting historical documents such as the Declaration of Independence which contain references to the Deity or by singing officially espoused anthems which include the composer's professions of faith in a Supreme Being, or with the fact that there are many manifestations in our public life of belief in God. Such patriotic or ceremonial occasions bear no true resemblance to the unquestioned religious exercise [official prayer] that the State of New York has sponsored in this instance.

Id. at 435 n.21.

In sum, this Court has repeatedly refused to "press the concept of separation of Church and State to * * * extremes" and to condemn as unconstitutional the "references to the Almighty that run through our laws, our public rituals, [and] our ceremonies." *Zorach*, 343 U.S. at 313.

b. The opinions of individual Justices have cemented as common ground the proposition that the Pledge of Allegiance, and similar acknowledgments of the Nation's religious heritage and character, are constitutionally permissible. See *Lee* v. *Weisman*, 505 U.S. 577, 633-635 (1992) (Scalia, J., dissenting, joined by Rehnquist, C.J., and White & Thomas, JJ.) (noting long historical practice, consistent with the Establishment Clause, of official references to God); *id.* at 638-639 (noting that the Court's invalidation of graduation prayer did not extend to the practice of also saying the Pledge of Allegiance at graduations); *County of Allegheny*, 492 U.S. at 623, 625 (O'Connor, J., concurring) ("government recognition and acknowledgment of the role of religion in the lives of our citizens" serve the "secular purposes of 'solemnizing public occasions, expressing confidence in the future

REV_00164550

and encouraging the recognition of what is worthy of appreciation in society'"; in addition, because of their "history and ubiquity, such government acknowledgments of religion are not understood as conveying an endorsement of particular religious beliefs") (internal quotation marks omitted); *id.* at 657 (Stevens, J., concurring in part and dissenting in part, joined by Brennan & Marshall, JJ.) ("Government policies of * * * acknowledgment, and support for religion are an accepted part of our political and cultural heritage."); *id.* at 674 n.10 (Kennedy, J., concurring in part and dissenting in part, joined by Rehnquist, C.J., and White & Scalia, JJ.) (explaining that the Court "will not proscribe" "the reference to God in the Pledge of Allegiance" and similar acknowledgments of religious culture); *Wallace* v. *Jaffree*, 472 U.S. 38, 78 n.5 (1985) (O'Connor, J., concurring) (same view as in *County of Allegheny*, with specific reference to the Pledge of Allegiance); *id.* at 88 (Burger, C.J., dissenting) (the argument that the Pledge of Allegiance, with its reference to God, violates the Establishment Clause "would of course make a mockery of our decisionmaking in Establishment Clause cases"); *Lynch*, 465 U.S. at 693 (O'Connor, J., concurring) (same view as in *County of Allegheny* with respect to "In God We Trust" and "God save the United States and this honorable court"); *Abington Township*, 374 U.S. at 304 (Brennan, J., concurring) ("The reference to divinity in the revised pledge of allegiance, for example, may merely recognize the historical fact that our Nation was believed to have been founded 'under God.' Thus reciting the pledge may be no more of a religious exercise than the reading aloud of Lincoln's Gettysburg Address, which contains an allusion to the same historical fact."); *id.* at 303 (The Pledge and similar acknowledgments of religion are "interwoven * * * so deeply into the fabric of our civil polity" that their "use may not present that type of involvement which the First Amendment prohibits."); *id.* at

REV_00164551

307-308 (Goldberg, J., concurring, joined by Harlan, J.) ("[T]oday's decision does not mean that all incidents of government which import of the religious are therefore and without more banned by the strictures of the Establishment Clause," citing to divine references in the Declaration of Independence and the National Anthem); *Engel*, 370 U.S. at 449 (Stewart, J., dissenting) (citing as consistent with the Establishment Clause the then recently amended Pledge of Allegiance, the National Motto "In God We Trust," and the National Day of Prayer).

c. The court of appeals dismissed that overwhelming and consistent authority as "dicta" that was "not inconsistent" with its invalidation of the Pledge. App., *infra*, 15a. While the court of appeals is correct that none of those cases involved direct challenges to the Pledge, it fundamentally erred in disregarding this Court's consistent statements validating the Pledge. That is because, "[w]hen an opinion issues for the Court, it is not only the result but also those portions of the opinion necessary to that result by which we are bound." *Seminole Tribe* v. *Florida*, 517 U.S. 44, 67 (1996). The Court's analysis of the Pledge and similar official acknowledgments of religion in *Lynch* and *County of Allegheny* were not "mere *obiter dicta*" that the court of appeals was free to disregard. *Id.* at 66. They were components of the "well-established rationale upon which the Court based the results of its earlier decisions." *Id.* at 66-67. Those references articulated the constitutional baseline for permissible official acknowledgments of religion under the Establishment Clause against which the governmental practices at issue in each of those cases were then measured. Indeed, for decades, the Court and individual Justices "have grounded [their] decisions in the oft-repeated understanding," *id.* at 67,

REV_00164552

that the Pledge of Allegiance, and similar references, are constitutional.[6]

The court of appeals' failure to recognize the analytical import of this Court's past decisions and statements underlies its erroneous conclusion that recitation of the Pledge of Allegiance in schools violates the Establishment Clause. First, in concluding that the Pledge results in unconstitutional coercion, the court of appeals failed to come to grips with this Court's repeated recognition that the Establishment Clause permits such historic, ubiquitous, and ceremonial acknowledgments of our Nation's religious character and heritage. See *Lynch*, 465 U.S. at 675, 677 (concluding that the words "under God" in the Pledge are an "acknowledgment of our religious heritage" similar to the "official references to the value and invocation of Divine guidance in deliberations and pronouncements of the Founding Fathers" that are "replete" in our nation's history). Such references are not reasonably and objectively understood as coercing individuals into silent assent to any particular religious doctrine. Rather, the Pledge is "consistent with the proposition that government may not communicate an endorsement of religious belief," *County of Allegheny*, 492 U.S. at 602-603, because the ceremonial reference to God acknowledges the undeniable historical facts that the Nation was founded by individuals who believed in God, that the Constitution's protection of individual rights and autonomy reflects those religious convictions, and that the Nation

---

[6] See also *County of Allegheny*, 492 U.S. at 668 (Kennedy, J., concurring in part and dissenting in part) ("As a general rule, the principle of *stare decisis* directs us to adhere not only to the holdings of our prior cases, but also to their explications of the governing rules of law."); *Local 28 of the Sheet Metal Workers' Int'l Ass'n* v. *EEOC*, 478 U.S. 421, 490 (1986) (O'Connor, J., concurring) ("Although technically dicta, * * * an important part of the Court's rationale for the result [that] it reache[s] * * * is entitled to greater weight.").

REV_00164553

continues as a matter of demographic and cultural fact to be a predominantly "religious people whose institutions presuppose a Supreme Being." *Zorach*, 343 U.S. at 313.

Second, as Judge O'Scannlain explained in his dissent from the denial of rehearing en banc, App., *infra*, 69a-71a, 79a-83a, the court of appeals' decision proceeds from the faulty premise that the Pledge's acknowledgment of the Nation's religious heritage is the functional equivalent of prayer or a religious act like Bible reading. The decisions of this Court and individual Justices outlined above repeatedly admonish that not every reference to God amounts to impermissible government-endorsed religious exercise, and expressly refer to the Pledge and similar ceremonial references in contradistinction to formal religious exercises like prayer and Bible reading. See, *e.g.*, *Lynch*, *supra*; *Abington Township*, *supra*; *Engel*, *supra*. The Pledge is no more of a coercive religious exercise than the requirement at the opening of federal courts that individuals stand while a court official announces "God save the United States and this honorable Court."

Third, the court of appeals erred in analyzing the phrase "under God" in isolation. In the court's view, pledging allegiance to the phrase "under God" compelled an endorsement of monotheism in the same manner as phrases like "under Jesus," "under Vishnu," or "under Zeus." App., *infra*, 12a. But Congress did not enact a pledge consisting just of the words "under God," and the school district does not lead students in reciting only the phrase "under God." Nor did Congress enact a pledge to God. Individuals pledge allegiance to "the Flag of the United States of America," and "to the Republic for which it stands." 4 U.S.C. 4. The remainder of the Pledge then describes the culture and character of that Republic—a unified Country, composed of individual States yet indivisible as a Nation, founded for the purposes of promoting liberty and justice for all, *and*

REV_00164554

founded by individuals who believed (and populated predominantly by people who continue to believe) that the Nation's character and destiny were rooted in the Divine.

In analyzing only Newdow's discomfiture with the phrase "under God," without considering its larger context, the court of appeals "plainly erred." *Lynch*, 465 U.S. at 680. In *Lynch*, this Court stressed that the Establishment Clause analysis looks at religious symbols and references in context, rather than "focusing almost exclusively on the" religious symbol alone. *Ibid.* The *Lynch* Court accordingly did not ask whether the government's display of a creche—a clearly religious symbol—was permissible. The Court analyzed whether the overall message conveyed by a display that included both that religious and other secular symbols of the Christmas holiday season conveyed a message of endorsement, and concluded that it did not. *Id.* at 680-686. The presence of the creche, the Court concluded, properly "depict[ed] the historical origins of this traditional event," *id.* at 680, and permissibly took "official note of Christmas, and of our religious heritage," *id.* at 686.

Likewise, in *County of Allegheny*, the Court analyzed and upheld the "combined display" during the winter holiday season of a Christmas tree, Liberty sign, and menorah. 492 U.S. at 616. The Court thus looked at the content of the display as a whole, rather than focusing on the presence of the menorah and the religious message that the menorah alone conveys. *Id.* at 616-620.

That Congress added the phrase "under God" to a preexisting Pledge does not change the analysis. The city government in *County of Allegheny* had likewise added the menorah, after the fact, to a preexisting holiday display. *Id.* at 581-582. Yet this Court trained its constitutional analysis on the display as a whole, rather than scrutinizing the message conveyed by each component as it was added seriatim. *Id.* at 616-620 & n.64; see also *Zelman* v. *Simmons-Harris*,

REV_00164555

536 U.S. 639, 655-657 (2002) (noting that the Establishment Clause inquiry must consider all relevant programs, not just the specific program challenged); *id.* at 672-676 (O'Connor, J., concurring) (same); *Wallace*, 472 U.S. at 78 n.5 (O'Connor, J., concurring) (later addition of "under God" to Pledge does not violate the Establishment Clause because it "serve[s] as an acknowledgment of religion with the 'legitimate secular purpose of solemnizing public occasions, [and] expressing confidence in the future'").

The court of appeals attempted to distinguish the Pledge from other references to God in public life on the ground that the Pledge is "a performative statement," rather than simply "a reflection of [an] author's profession of faith." App., *infra*, 16a. As an initial matter, this Court's pronouncements have made no such distinction, consistently grouping the Pledge with the Motto, National Anthem, the Declaration of Independence, and similar public references, some of which frequently involve public performance (*e.g.*, the National Anthem) and some of which do not.

More importantly, the distinction makes no sense. With respect to "impressionable young schoolchildren," *id.* at 15a, there simply is no coherent or discernible "performative" difference between having them say the Pledge, rather than memorize and recite the National Motto ("In God *We Trust*"), 36 U.S.C. 302 (emphasis added), the Declaration of Independence, 1 U.S.C. at XLIII ("We hold these truths to be self-evident, that all men * * * are endowed by their Creator with certain unalienable Rights * * *."), or the Gettysburg Address ("[W]e here highly resolve * * * that this nation, under God, shall have a new birth of freedom."). Indeed, the court of appeals' approach leads to the curious conclusion that the recitation of Bible passages or long-established prayers in public schools, which would require students "merely to repeat the words of an historical document," App., *infra*, 16a, trenches less upon Establishment

REV_00164556

Clause principles than the Pledge's two-word acknowledgment of the Nation's religious heritage. That conclusion cannot be reconciled with this Court's precedent or established analytical principles guiding Establishment Clause jurisprudence.

d. This Court's review is warranted because the Ninth Circuit's decision squarely conflicts with the Seventh Circuit's decision in *Sherman* v. *Community Consolidated School District 21*, *supra*, that the Pledge of Allegiance may constitutionally be recited in public elementary schools. Unlike the court of appeals here, the Seventh Circuit placed significant weight on this Court's repeated approval of the Pledge and similar official acknowledgments of religion, and concluded that the lower federal courts must "take [the Supreme Court's] assurances seriously." 980 F.2d at 448. Indeed, the Ninth Circuit acknowledged that its decision creates an inter-circuit conflict and that the courts' differing decisions were the product of different modes of analyzing Establishment Clause challenges to such official acknowledgments of religion. App., *infra*, 16a-17a. This Court's authoritative resolution of the question is therefore necessary.[7]

---

[7] The Ninth Circuit's decision is also in considerable tension with court of appeals' decisions upholding analogous acknowledgments of the Nation's religious history and character. See *Gaylor* v. *United States*, 74 F.3d 214 (10th Cir.) (upholding against Establishment Clause challenge the National Motto, "In God We Trust," and its imprint on all currency), cert. denied, 517 U.S. 1211 (1996); *O'Hair* v. *Murray*, 588 F.2d 1144 (5th Cir.) (upholding National Motto), cert. denied, 442 U.S. 930 (1979); *Aronow* v. *United States*, 432 F.2d 242 (9th Cir. 1970) (same); *Ganulin* v. *United States*, 71 F. Supp. 2d 824 (S.D. Ohio 1999) (upholding constitutionality of 5 U.S.C. 6103, which makes Christmas Day a paid federal holiday), aff'd, 238 F.3d 420 (6th Cir. 2000), cert. denied, 532 U.S. 973 (2001); *Opinion of the Justices*, 228 A.2d 161 (N.H. 1967) (posting of plaques in all public school classrooms bearing the National Motto, "In God We Trust," would not violate the Establishment Clause).

REV_00164557

e. The question presented is one of great importance. An Act of Congress has been held unconstitutional as applied in one of its most important contexts. See *Lynch*, 465 U.S. at 676; pp. 4-5, *supra*; App., *infra*, 14a & n.7. Furthermore, the impact of the decision below is potentially far-reaching. In addition to the practice at federally operated schools for military dependents, see n.2, *supra*, public schools within each of the 50 States lead students in voluntary recitations of the Pledge of Allegiance, see Idaho C.A. Amicus Curiae Br. 9-13 (citing state laws). It is untenable that a national Pledge of Allegiance to a national flag would have a different content depending on the judicial circuit in which it is uttered. Absent this Court's review, 9.6 million students in nine States (App., *infra*, 69a) will recite an abridged version of the Pledge, while the nearly 37 million students in the rest of the Country will recite the Pledge that Congress enacted. Students in the Ninth Circuit will also learn a different Pledge in school than they recite at other public and private events. The Pledge cannot serve its purpose of unifying and commonly celebrating the national identity unless it is one Pledge with one content for all citizens at all points in their lives. There is no reason to tolerate such disruption and disharmony in the schools of this Nation. The Pledge of Allegiance is constitutional. This Court has repeatedly said so, and federal and state schools have acted in reliance on those assurances. The Ninth Circuit's disregard of this Court's decisions and their underlying analytical principles merits review.

2. The issue of Newdow's standing to bring his constitutional challenge is a necessarily antecedent question that this Court would need to address were it to grant review. See *Steel Co.* v. *Citizens for a Better Env't*, 523 U.S. 83, 94 (1998). Although it is the court of appeals' erroneous ruling on the merits that warrants this Court's review, the court of appeals also committed three errors in concluding that

REV_00164558

Newdow's status as a noncustodial parent did not deprive him of standing to challenge an educational practice at his child's school.[8]

First, and most fundamentally, Newdow has not suffered the invasion of any legally protected interest. A number of this Court's Establishment Clause cases have involved lawsuits by parents challenging practices or policies in public schools. See, *e.g.*, *Santa Fe Indep. Sch. Dist.* v. *Doe*, 530 U.S. 290 (2000); *Zobrest* v. *Catalina Foothills Sch. Dist.*, 509 U.S. 1 (1993); *Lee* v. *Weisman*, 505 U.S. 577 (1992); *Wisconsin* v. *Yoder*, 406 U.S. 205 (1972). In all of those cases, however, the parents had the legal right to sue as next friend to vindicate their children's legal interests and to protect the parents' own constitutional rights to direct and control the religious and educational upbringing of their children, see *Pierce* v. *Society of Sisters*, 268 U.S. 510, 534-535 (1925).

Newdow can assert neither right. He has no legal right to sue as his child's next friend, or otherwise seek to vindicate his child's legal interests, as the court of appeals recognized. App., *infra*, 96a. That prerogative rests exclusively with the mother, who has sole legal custody. *Ibid.* While Newdow retains the right to "consult" with the mother on educational decisions and to have "access" to the child's educational records, *id.* at 91a, Newdow does not allege that Elk Grove's

---

[8] While the standing issue is necessarily antecedent to the merits of the Establishment Clause analysis, see *Steel Co.*, *supra*, this Petition presents the Establishment Clause issue first because the court of appeals' erroneous constitutional judgment clearly merits this Court's review. Whether or not the Ninth Circuit's erroneous standing analysis would independently merit an exercise of this Court' s certiorari jurisdiction, it does not pose a barrier to review in this case. The Ninth Circuit's standing analysis is closely intertwined with its flawed Establishment Clause ruling, and the decision below, which not only erroneously invalidates the Pledge of Allegiance, but did so at the behest of a party without Article III standing, should not be allowed to stand.

REV_00164559

use of the Pledge in its schools interferes with either of those rights. Nor, contrary to the court of appeals' opinion, does Newdow have any right "to direct the religious education of his daughter." *Id.* at 7a. The custody order granted sole control over the child's "health, education and welfare" to the mother. *Id.* at 90a-91a. And the mother has made clear that she "wants her daughter to recite the Pledge as it stands as part of her education," Banning C.A. Mot. to Intervene 10.[9]

Where, as here, the two parents disagree on an educational practice, the decision of the custodial parent controls and Newdow has no right to overturn it. If, as the noncustodial parent, Newdow believes the mother's educational decisions are causing harm to the child, the proper remedy is for him to resort to family court and seek a modification of the custody agreement. He cannot use federal litigation to circumvent that state-law process or to modify a state-law custody judgment. See *District of Columbia Court of Appeals* v. *Feldman*, 460 U.S. 462, 482 (1983); *Rooker* v. *Fidelity Trust Co.*, 263 U.S. 413 (1923).[10]

---

[9] See also *Burge* v. *City & County of San Francisco*, 262 P.2d 6, 12 (Cal. 1953) (status as custodial parent "embrace[s] the sum of parental rights with respect to the rearing of a child, including its care. It includes the right * * * to direct his activities and make decisions regarding his care and control, education, health, and religion."); cf. *Michael H.* v. *Gerald D.*, 491 U.S. 110, 122-129 (1989).

[10] In apparent recognition of that limitation, the United States understands that Newdow has filed a motion in California Superior Court to alter the custody arrangement. That motion remains pending with a hearing date scheduled for July 31, 2003.

The court of appeals relied (App., *infra*, 92a-94a) on the Seventh Circuit's decision in *Navin* v. *Park Ridge School District*, 270 F.3d 1147 (2001) (per curiam), which held that a noncustodial father *might* be able to sue to enforce his son's rights under the Individuals with Disabilities Education Act, 20 U.S.C. 1415. In that case, however, the court concluded that the divorce decree did not strip the father of his parental interest in

REV_00164560

Second, the court of appeals placed weight upon Newdow's residual right, under California law, to "expose" his child to his views. App., *infra*, 95a. But, again, Newdow has not alleged that Elk Grove or the United States has denied him any opportunity to expose his child to his particular viewpoints.

The court of appeals went further, however, and held that Newdow has a right not to have his message to his child interrupted or diluted by the government's educational practices. But, especially when that speech occurs with the consent of the custodial parent, the right of the non-custodial parent to "expose" the child to his views does not entitle that parent to close off all other views. Public schools routinely instruct students about evolution, war, and other matters with which some parents may disagree on religious, political, or moral grounds. What the Constitution protects, in those circumstances, is the parents' right to instill their own views in their children and to place them in a private school that is more consonant with their beliefs. See *Pierce*, *supra*.[11]

The court of appeals further erred in suggesting that Newdow's limited state-law right was somehow enhanced by that court's erroneous conclusion that his Establishment Clause challenge was meritorious. The court repeatedly

---

ensuring the quality of his child's education. 270 F.3d at 1149. The court stressed, moreover, that the noncustodial parent could not use federal law "to upset choices committed to [the mother] by the state court," *id.* at 1150, which is exactly what Newdow's lawsuit attempts to do.

[11] Cf. *West Virginia State Bd. of Educ.* v. *Barnette*, 319 U.S. 624, 630 (1943) (holding only that children whose parents have religious objections to the content of the Pledge have a right not to participate in its recitation in a classroom, where their refusal "does not interfere with or deny rights of others to do so"); *Wooley* v. *Maynard*, 430 U.S. 705, 717 (1977) (the government "may legitimately" "communicate to others an official view as to proper appreciation of history, state pride, and individualism," as long as individuals are not forced to "becom[e] the courier for such message[s]").

REV_00164561

couched Newdow's purported Article III injury in terms of a right not to have his daughter "subjected to *unconstitutional* state action" and "official state indoctrination of * * * an official view of religion." App., *infra*, 96a (emphasis added). See also *id.* at 97a (the mother "may not consent to *unconstitutional* government action in derogation of Newdow's rights") (emphasis added).

That approach, however, confuses the standing inquiry with the ultimate question on the merits. The type of injury that Article III requires must be discernible separate and apart from the ultimate resolution of the case. The plaintiff must identify some action by the opposing party that affects the plaintiff's particularized, individual rights concretely and imminently—regardless of whether that action ultimately is found to be lawful or not. "The requirement of standing 'focuses on the party seeking to get his complaint before a federal court and not on the issues he wishes to have adjudicated." *Valley Forge Christian Coll.* v. *Americans United for Separation of Church & State, Inc.*, 454 U.S. 464, 484 (1982); see also *Schaffer* v. *Clinton*, 240 F.3d 878, 883 (10th Cir.) (denying standing where it "revolves around the asserted unconstitutionality of the [conduct as that] is a statement of [plaintiff's] view of the merits * * * and no more"), cert. denied, 534 U.S. 992 (2001).

Third, even if Newdow possesses some federal right not to have his message of atheism affected by his child's exposure to the Pledge, the court of appeals' limited invalidation of the Pledge in elementary schools does not redress that injury. Newdow's child remains subject to exposure to the Pledge in a wide variety of other assemblies and settings, public or private. In addition, the child's mother could place the child in private school where the official governmental Pledge could be recited daily. Unless the Establishment Clause compels courts to root out every reference to religion in public life, the relief ordered by the court here is incapable of

REV_00164562

inoculating Newdow's message of atheism against any perceived dilution.

CONCLUSION

The petition for a writ of certiorari should be granted. The Court may wish to consider summary reversal of the court of appeals' judgment.

Respectfully submitted.

THEODORE B. OLSON
Solicitor General
ROBERT D. MCCALLUM, JR.
Assistant Attorney General
PAUL D. CLEMENT
Deputy Solicitor General
GREGORY G. KATSAS
Deputy Assistant Attorney General
PATRICIA A. MILLETT
Assistant to the Solicitor General
ROBERT M. LOEB
LOWELL V. STURGILL JR.
SUSHMA SONI
Attorneys

APRIL 2003

REV_00164563

From: CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;David G. Leitch/WHO /EOP@EOP [WHO] <David G. Leitch>
Sent: 4/30/2003 9:38:54 AM
Subject: : Fw: Newdow PDF
Attachments: P_FC91G003_WHO.TXT_1.pdf; P_FC91G003_WHO.TXT_2.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:30-APR-2003 13:38:54.00
SUBJECT:: Fw: Newdow PDF
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

.

----- Original Message -----
From:<Lowell.Sturgill@usdoj.gov>
To:H. Christopher Bartolomucci/WHO/EOP@EOP
Cc:
Date: 04/30/2003 01:26:12 PM
Subject: FW: Newdow PDF

Chris: Attached please find our Cert. Petition in the Newdow Pledge case, which the SG's office is filing today.

-----Original Message-----
From: Millett, Patricia A
Sent: Wednesday, April 30, 2003 1:00 PM
To: Nielson, Howard; Sturgill, Lowell; Soni, Sushma; Loeb, Robert; Katsas, Gregory; Door, Kristin; Kopp, Robert; Treene, Eric; Johnson, Steffen; Hirt, Theodore; simonl@dodgc.osd.mil; Clement, Paul D
Subject: FW: Newdow PDF
Importance: High

Attached are PDF versions of the petition and appendix we are filing today in the Newdow case. Thanks very much for everyone's help.

Lowell: can you please forward the email to Chris Bartolomucci, since I don't have his email address?

-----Original Message-----
From: Lubin, Candy P
Sent: Wednesday, April 30, 2003 8:51 AM
To: Millett, Patricia A
Subject: Newdow PDF

- NEWDOW APP (N... ORDER 4_18_0.pdf - Newdow.Pet.aa.pdf
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_FC91G003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_FC91G003_WHO.TXT_2>

No.

In the Supreme Court of the United States

UNITED STATES OF AMERICA, PETITIONER

v.

MICHAEL A. NEWDOW, ET AL

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

APPENDIX TO THE PETITION FOR A WRIT OF CERTIORARI

THEODORE B. OLSON
Solicitor General
Counsel of Record

ROBERT D. MCCALLUM, JR.
Assistant Attorney General

PAUL D. CLEMENT
Deputy Solicitor General

PATRICIA A. MILLETT
Assistant to the Solicitor General

ROBERT M. LOEB
LOWELL V. STURGILL
SUSHMA SONI
Attorneys

Department of Justice
Washington, D.C. 20530-0001
(202) 514–2217

REV_00164565

TABLE OF CONTENTS

	Page
Appendix A (court of appeals amended opinion on rehearing, filed: Feb. 28, 2003)	1a
Appendix B (court of appeals original opinion, filed: June 26, 2002)	25a
Appendix C (court of appeals order on rehearing en banc, filed: Feb. 28, 2003)	59a
Appendix D (court of appeals opinion on standing, filed: Dec. 4, 2002)	89a
Appendix E (court of appeals order denying intervention, filed: Dec. 4, 2000)	99a
Appendix F (court of appeals miscellaneous order, filed: Dec. 4, 2000)	108a
Appendix G (district court order, filed: July 21, 2002)	110a
Appendix H (magistrate judge's findings and recommendation, filed: May 25, 2000)	111a
Appendix I (constitutional and statutory provisions)	113a

REV_00164566

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 00-16423
D.C. No. CV 00-00495-MLS/PAN

MICHAEL A. NEWDOW, PLAINTIFF-APPELLANT

v.

U.S. CONGRESS; UNITED STATES OF AMERICA; GEORGE W. BUSH,* PRESIDENT OF THE UNITED STATES; STATE OF CALIFORNIA; ELK GROVE UNIFIED SCHOOL DISTRICT; DAVID W. GORDON, SUPERINTENDENT EGUSD; SACRAMENTO CITY UNIFIED SCHOOL DISTRICT; JIM SWEENEY, SUPERINTENDENT SCUSD, DEFENDANTS-APPELLEES

Appeal from the United States District Court for the Eastern District of California, Milton L. Schwartz, Senior Judge, Presiding

---

Argued and Submitted: March 14, 2002
Filed: June 26, 2002
Amended: February 28, 2003

---

* George W. Bush is substituted for his predecessor, William Jefferson Clinton, as President of the United States. Fed. R. App. P. 43(c)(2).

REV_00164567

AMENDED OPINION AND AMENDED CONCURRENCE/DISSENT

Before: ALFRED T. GOODWIN, STEPHEN REINHARDT and FERDINAND F. FERNANDEZ, Circuit Judges.

Opinion by Judge Goodwin; Partial Concurrence and Partial Dissent by Judge Fernandez

GOODWIN, Circuit Judge:

Michael Newdow appeals pro se a judgment dismissing his challenge to the constitutionality of the words "under God" in the Pledge of Allegiance to the Flag. Newdow argues that the addition of these words by a 1954 federal statute to the previous version of the Pledge of Allegiance (which made no reference to God) and the daily recitation in the classroom of the Pledge of Allegiance, with the added words included, by his daughter's public school teacher are violations of the Establishment Clause of the First Amendment to the United States Constitution.

FACTUAL AND PROCEDURAL BACKGROUND

Newdow is an atheist whose daughter attends public elementary school in the Elk Grove Unified School District ("EGUSD") in California. In accordance with state law and a school district rule, EGUSD teachers begin each school day by leading their students in a recitation of the Pledge of Allegiance ("the Pledge"). The California Education Code requires that public schools begin each school day with "appropriate patriotic exercises" and that "[t]he giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy" this requirement. Cal. Educ. Code § 52720

REV_00164568

(1989) (hereinafter "California statute").[1] To implement the California statute, the school district that Newdow's daughter attends has promulgated a policy that states, in pertinent part: "Each elementary school class [shall] recite the pledge of allegiance to the flag once each day." The classmates of Newdow's daughter in the EGUSD are led by their teacher in reciting the Pledge codified in federal law. On June 22, 1942, Congress first codified the Pledge as "I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one Nation indivisible, with liberty and justice for all." Pub. L. No. 623, Ch. 435, § 7, 56 Stat. 380 (1942) (codified at 36 U.S.C. § 1972). On June 14, 1954, Congress amended Section 1972 to add the words "under God" after the word "Nation." Pub. L. No. 396, Ch. 297, 68 Stat. 249 (1954) ("1954 Act"). The Pledge is currently codified as "I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all." 4 U.S.C. § 4 (1998) (Title 36 was revised and recodified by Pub. L. No. 105-225, § 2(a), 112 Stat. 1494 (1998). Section 172 was abolished, and the Pledge is now found in Title 4.)

---

[1] The relevant portion of California Education Code § 52720 reads:

> In every public elementary school each day during the school year at the beginning of the first regularly scheduled class or activity period at which the majority of the pupils of the school normally begin the schoolday, there shall be conducted appropriate patriotic exercises. The giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy the requirements of this section.

REV_00164569

Newdow does not allege that his daughter's teacher or school district requires his daughter to participate in reciting the Pledge.[2] Rather, he claims that his daughter is injured when she is compelled to "watch and listen as her state-employed teacher in her state-run school leads her classmates in a ritual proclaiming that there is a God, and that our's [sic] is 'one nation under God.'" Newdow's complaint in the district court challenged the constitutionality, under the First Amendment, of the 1954 Act, the California statute, and the school district's policy requiring teachers to lead willing students in recitation of the Pledge. He sought declaratory and injunctive relief, but did not seek damages.

The school districts and their superintendents (collectively, "school district defendants") filed a Federal Rule of Civil Procedure 12(b)(6) motion to dismiss for failure to state a claim. Magistrate Judge Peter A. Nowinski held a hearing at which the school district defendants requested that the court rule only on the constitutionality of the Pledge, and defer any ruling on sovereign immunity. The United States Congress, the United States, and the President of the United States (collectively, "the federal defendants") joined in the motion to dismiss filed by the school district defendants. The magistrate judge reported findings and a

---

[2] Compelling students to recite the Pledge was held to be a First Amendment violation in *West Virginia State Board of Education* v. *Barnette*, 319 U.S. 624, 642 (1943) ("[T]he action of the local authorities in compelling the flag salute and pledge transcends constitutional limitations on their power and invades the sphere of intellect and spirit which it is the purpose of the First Amendment to our Constitution to reserve from all official control."). *Barnette* was decided before the 1954 Act added the words "under God" to the Pledge.

REV_00164570

recommendation that the district court hold that the daily Pledge ceremony in the schools did not violate the Establishment Clause. District Judge Edward J. Schwartz approved the recommendation and entered a judgment of dismissal. This appeal followed.

DISCUSSION

A. Jurisdiction

Newdow asks the district court to order the President of the United States ("the President") to "alter, modify or repeal" the Pledge by removing the words "under God"; and to order the United States Congress ("Congress") "immediately to act to remove the words 'under God' from the Pledge." The President, however, is not an appropriate defendant in an action challenging the constitutionality of a federal statute. *See Franklin* v. *Massachusetts*, 505 U.S. 788, 802-03 (1992) (plurality) (observing that a court of the United States " 'has no jurisdiction of a bill to enjoin the President in the performance of his official duties' ") (quoting *Mississippi* v. *Johnson*, 71 U.S. 475 (1866)).

Similarly, in light of the Speech and Debate Clause of the Constitution, Art. I, § 6, cl. 1, the federal courts lack jurisdiction to issue orders directing Congress to enact or amend legislation. *See Eastland* v. *United States Servicemen's Fund*, 421 U.S. 491, 503 (1975). Because the words that amended the Pledge were enacted into law by statute, the district court may not direct Congress to delete those words any more than it may order the President to take such action. All this, of course, is aside from the fact that the President has no authority to amend a statute or declare a law unconstitutional, those functions being reserved to Congress and the federal judiciary respectively.

REV_00164571

Newdow nevertheless argues that because the 1954 Act violates the Establishment Clause, Congress should not be protected by the Speech and Debate Clause. This argument misses the jurisdictional, or separation of powers, point. As the Court held in *Eastland*, in determining whether or not the acts of members of Congress are protected by the Speech and Debate Clause, the court looks solely to whether or not the acts fall within the legitimate legislative sphere; if they do, Congress is protected by the absolute prohibition of the Clause against being "questioned in any other Place." *Id.* at 501. "If the mere allegation that a valid legislative act was undertaken for an unworthy purpose would lift the protection of the Clause, then the Clause simply would not provide the protection historically undergirding it." *Id.* at 508-09.

B. The State of California as a defendant

The State of California did not join in the motion to dismiss or otherwise participate in the district court proceedings. It did, however, *sub silentio*, receive the benefit of the district court's ruling dismissing the complaint. Accordingly, a reversal of the order would result in the reinstatement of the complaint against the state. With respect to the validity of the California statute, however, unlike in the case of the Congressional enactment and the school district policy, no arguments, legal or otherwise, were advanced by the parties in the district court. Thus, we do not address separately the validity of the California statute.

C. Standing

Article III standing is a jurisdictional issue. *See United States* v. *Viltrakis*, 108 F.3d 1159, 1160 (9th Cir. 1997). Accordingly, it "may be raised at any stage of

REV_00164572

the proceedings, including for the first time on appeal." *See A-Z Intern.* v. *Phillips*, 179 F.3d 1187, 1190-91 (9th Cir. 1999). To satisfy standing requirements, a plaintiff must prove that "(1) it has suffered an 'injury in fact' that is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical; (2) the injury is fairly traceable to the challenged action of the defendant; and (3) it is likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision." *Friends of the Earth, Inc.* v. *Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 180-81 (2000) (citing *Lujan* v. *Defenders of Wildlife*, 504 U.S. 555, 560-561 (1992)).

Newdow has standing as a parent to challenge a practice that interferes with his right to direct the religious education of his daughter. "Parents have a right to direct the religious upbringing of their children and, on that basis, have standing to protect their right." *Doe* v. *Madison Sch. Dist. No. 321*, 177 F.3d 789, 795 (9th Cir. 1999) (en banc); *see also Grove* v. *Mead Sch. Dist. No. 354*, 753 F.2d 1528, 1532 (9th Cir. 1985) ("Appellants have standing to challenge alleged violations of the establishment clause of the First Amendment if they are directly affected by use of [the challenged book] in the English curriculum. [Appellant] has standing as a parent whose right to direct the religious training of her child is allegedly affected.") (citation omitted).

Newdow has standing to challenge the EGUSD's policy and practice regarding the recitation of the Pledge because his daughter is currently enrolled in elementary school in the EGUSD. However, Newdow has no standing to challenge the SCUSD's policy and practice because his daughter is not currently a student

REV_00164573

there. The SCUSD and its superintendent have not caused Newdow or his daughter an "injury in fact" that is "actual or imminent, not conjectural or hypothetical." *Laidlaw,* 528 U.S. at 180 (citing *Lujan,* 504 U.S. at 560-561).

D. Establishment Clause

The Establishment Clause of the First Amendment states that "Congress shall make no law respecting an establishment of religion," U.S. Const. Amend. I, a provision that "the Fourteenth Amendment makes applicable with full force to the States and their school districts." *Lee* v. *Weisman,* 505 U.S. 577, 580 (1992). Over the last three decades, the Supreme Court has used three interrelated tests to analyze alleged violations of the Establishment Clause in the realm of public education: the three-prong test set forth in *Lemon* v. *Kurtzman,* 403 U.S. 602, 612-13 (1971); the "endorsement" test, first articulated by Justice O'Connor in her concurring opinion in *Lynch* v. *Donnelly,* 465 U.S. 668 (1984), and later adopted by a majority of the Court in *County of Allegheny* v. *ACLU,* 492 U.S. 573 (1989); and the "coercion" test first used by the Court in *Lee.*

In 1971, in the context of unconstitutional state aid to nonpublic schools, the Supreme Court in *Lemon* set forth the following test for evaluating alleged Establishment Clause violations. To survive the "*Lemon* test," the government conduct in question (1) must have a secular purpose, (2) must have a principal or primary effect that neither advances nor inhibits religion, and (3) must not foster an excessive government entanglement with religion. *Lemon,* 403 U.S. at 612-13. The Supreme Court applied the *Lemon* test to

REV_00164574

every Establishment case it decided between 1971 and 1984, with the exception of *Marsh* v. *Chambers*, 463 U.S. 783 (1983), the case upholding legislative prayer.[3] *See Wallace*, 472 U.S. at 63 (Powell, J., concurring).

In the 1984 *Lynch* case, which upheld the inclusion of a nativity scene in a city's Christmas display, Justice O'Connor wrote a concurring opinion in order to suggest a "clarification" of Establishment Clause jurisprudence. 465 U.S. at 687 (O'Connor, J., concurring).

Justice O'Connor's "endorsement" test effectively collapsed the first two prongs of the *Lemon* test:

> The Establishment Clause prohibits government from making adherence to a religion relevant in any way to a person's standing in the political community. Government can run afoul of that prohibition in two principal ways. One is excessive entanglement with religious institutions . . . . The second and more direct infringement is government endorsement or disapproval of religion. Endorsement sends a message to nonadherents that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community.

Id. at 687-88 (O'Connor, J., concurring).

---

[3] In *Marsh*, the Court "held that the Nebraska Legislature's practice of opening each day's session with a prayer by a chaplain paid by the State did not violate the Establishment Clause of the First Amendment. [The] holding was based upon the historical acceptance of the practice that had become 'part of the fabric of our society.'" *Wallace*, 472 U.S. at 63 n. 4 (Powell, J., concurring) (quoting *Marsh*, 463 U.S. at 792).

REV_00164575

The Court formulated the "coercion test" when it held unconstitutional the practice of including invocations and benedictions in the form of "nonsectarian" prayers at public school graduation ceremonies. *Lee*, 505 U.S. at 599. Declining to reconsider the validity of the *Lemon* test, the Court in *Lee* found it unnecessary to apply the *Lemon* test to find the challenged practices unconstitutional. *Id.* at 587. Rather, it relied on the principle that "at a minimum, the Constitution guarantees that government may not coerce anyone to support or participate in religion or its exercise, or otherwise to act in a way which establishes a state religion or religious faith, or tends to do so." *Id.* (citations and internal quotation marks omitted). The Court first examined the degree of school involvement in the prayer, and found that "the graduation prayers bore the imprint of the State and thus put school-age children who objected in an untenable position." *Id.* at 590. The next issue the Court considered was "the position of the students, both those who desired the prayer and she who did not." *Id.* Noting that "there are heightened concerns with protecting freedom of conscience from subtle coercive pressure in the elementary and secondary public schools," *id.* at 592, the Court held that the school district's supervision and control of the graduation ceremony put impermissible pressure on students to participate in, or at least show respect during, the prayer, *id.* at 593. The Court concluded that primary and secondary school children may not be placed in the dilemma of either participating in a religious ceremony or protesting. *Id.* at 594.

Finally, in its most recent school prayer case, the Supreme Court applied the *Lemon* test, the endorsement test, and the coercion test to strike down a school

REV_00164576

district's policy of permitting student-led "invocations" before high school football games. *See Santa Fe*, 530 U.S. at 310-16. Citing *Lee*, the Court held that "the delivery of a pregame prayer has the improper effect of coercing those present to participate in an act of religious worship." *Id.* at 312. Applying the *Lemon* test, the Court found that the school district policy was facially unconstitutional because it did not have a secular purpose. *Id.* at 314-16. The Court also used language associated with the endorsement test. *Id.* at 315 ("[T]his policy was implemented with the purpose of endorsing school prayer."); *id.* at 317 ("Government efforts to endorse religion cannot evade constitutional reproach based solely on the remote possibility that those attempts may fail.").

We are free to apply any or all of the three tests, and to invalidate any measure that fails any one of them. Because we conclude that the school district policy impermissibly coerces a religious act and accordingly hold the policy unconstitutional, we need not consider whether the policy fails the endorsement test or the *Lemon* test as well.

In the context of the Pledge, the statement that the United States is a nation "under God" is a profession of a religious belief, namely, a belief in monotheism. The recitation that ours is a nation "under God" is not a mere acknowledgment that many Americans believe in a deity. Nor is it merely descriptive of the undeniable historical significance of religion in the founding of the Republic. Rather, the phrase "one nation under God" in the context of the Pledge is normative. To recite the Pledge is not to describe the United States; instead, it is to swear allegiance to the values for which the flag stands: unity, indivisibility, liberty, justice, and—since

REV_00164577

1954—monotheism. A profession that we are a nation "under God" is identical, for Establishment Clause purposes, to a profession that we are a nation "under Jesus," a nation "under Vishnu," a nation "under Zeus," or a nation "under no god," because none of these professions can be neutral with respect to religion. The school district's practice of teacher-led recitation of the Pledge aims to inculcate in students a respect for the ideals set forth in the Pledge, including the religious values it incorporates.

The Supreme Court recognized the normative and ideological nature of the Pledge in *Barnette*, 319 U.S. 624. There, the Court held unconstitutional a school district's wartime policy of punishing students who refused to recite the Pledge and salute the flag. *Id.* at 642. The Court noted that the school district was compelling the students "to declare a belief," *id.* at 631, and "requir[ing] the individual to communicate by word and sign his acceptance of the political ideas [the flag] . . . bespeaks," *id.* at 633. "[T]he compulsory flag salute and pledge requires affirmation of a belief and an attitude of mind." *Id.* The Court emphasized that the political concepts articulated in the Pledge[4] were idealistic, not descriptive: "'[L]iberty and justice for all,' if it must be accepted as descriptive of the present order rather than an ideal, might to some seem an overstatement." *Id.* at 634 n.14. The Court concluded that: "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force

---

[4] *Barnette* was decided before "under God" was added, and thus the Court's discussion was limited to the political ideals contained in the Pledge.

REV_00164578

citizens to confess by word or act their faith therein." *Id.* at 642.

The school district's policy here, like the school's action in *Lee*, places students in the untenable position of choosing between participating in an exercise with religious content or protesting. The defendants argue that the religious content of "one nation under God" is minimal. To an atheist or a believer in non-Judeo-Christian religions or philosophies, however, this phrase may reasonably appear to be an attempt to enforce a "religious orthodoxy" of monotheism, and is therefore impermissible. As the Court observed with respect to the graduation prayer in *Lee*: "What to most believers may seem nothing more than a reasonable request that the nonbeliever respect their religious practices, in a school context may appear to the non-believer or dissenter to be an attempt to employ the machinery of the State to enforce a religious orthodoxy." *Lee*, 505 U.S. at 592.

The coercive effect of the policy here is particularly pronounced in the school setting given the age and impressionability of schoolchildren, and their understanding that they are required to adhere to the norms set by their school, their teacher and their fellow students.[5] Furthermore, under *Lee*, non-compulsory participation is no basis for distinguishing Barnette [*sic*] from the case at bar because, even without a

---

[5] The "subtle and indirect" social pressure which permeates the classroom also renders more acute the message sent to non-believing school-children that they are outsiders. *See Lee*, 505 U.S. at 592-93 (stating that "the risk of indirect coercion" from prayer exercises is particularly "pronounced" in elementary and secondary public school because students are subjected to peer pressure and public pressure which is "as real as any overt compulsion").

REV_00164579

recitation requirement for each child, the mere presence in the classroom every day as peers recite the statement "one nation under God" has a coercive effect.[6] The coercive effect of the Pledge is also made even more apparent when we consider the legislative history of the Act that introduced the phrase "under God." These words were designed to be recited daily in school classrooms. President Eisenhower, during the Act's signing ceremony, stated: "From this day forward, the millions of our school children will daily proclaim in every city and town, every village and rural schoolhouse, the dedication of our Nation and our people to the Almighty." 100 Cong. Rec. 8618 (1954) (statement of Sen. Ferguson incorporating signing statement of President Eisenhower).[7] All in all, there can be little doubt that under the controlling Supreme

---

[6] The objection to the Pledge in *Barnette*, like in the case at bar, was based upon a religious ground. The Pledge in the classroom context imposes upon schoolchildren the constitutionally unacceptable choice between participating and protesting. Recognizing the severity of the effect of this form of coercion on children, the Supreme Court in *Lee* stated, "the State may not, consistent with the Establishment Clause, place primary and secondary school children in this position." 505 U.S. at 593.

[7] In addition, the legislative history of the 1954 Act makes it plain that the sponsors of the amendment knew about and capitalized on the state laws and school district rules that mandate recitation of the Pledge. The legislation's House sponsor, Representative Louis C. Rabaut, testified at the Congressional hearing that "the children of our land, in the daily recitation of the pledge in school, will be daily impressed with a true understanding of our way of life and its origins." This statement was incorporated into the report of the House Judiciary Committee. H.R. Rep. No. 83-1693, at 3 (1954), *reprinted in* 1954 U.S.C.C.A.N 2339, 2341.

REV_00164580

Court cases the school district's policy fails the coercion test.[8]

The Supreme Court has addressed the Pledge in passing, and we owe due deference to its dicta. *See United States* v. *Baird*, 85 F.3d 450, 453 (9th Cir. 1996). Our opinion, however, is not inconsistent with this dicta. In *Allegheny*, the Court noted that it had "considered in dicta the motto and the pledge, characterizing them as consistent with the proposition that government may not communicate an endorsement of religious belief." 492 U.S. at 602-03. And in *Lynch*, the Court observed that students recited the pledge daily, but only to support its point that there is a long tradition of "official acknowledgment" of religion. 465 U.S. at 674, 676. Neither of these two references speaks to the issue here. We may assume *arguendo* that public officials do not unconstitutionally endorse religion when they recite the Pledge, yet it does not follow that schools may coerce impressionable young schoolchildren to recite it, or even to stand mute while it is being recited by their classmates.

Our decision is not inconsistent with *Engel*, which approved of encouraging students to "recit[e] historical documents such as the Declaration of Independence

---

[8] In *Aronow* v. *United States*, 432 F.2d 242 (9th Cir. 1970), this court, without reaching the question of standing, upheld the inscription of the phrase "In God We Trust" on our coins and currency. *But cf. Wooley* v. *Maynard*, 430 U.S. 705, 722 (1977) (Rehnquist, J., dissenting) (stating that the majority's holding leads logically to the conclusion that "In God We Trust" is an unconstitutional affirmation of belief). In any event, *Aronow* is distinguishable in many ways from the present case. The most important distinction is that school children are not coerced into reciting or otherwise actively led to participating in an endorsement of the markings on the money in circulation.

REV_00164581

which contain references to the Deity or . . . sing[ ] officially espoused anthems which include the composer's professions of faith in a Supreme Being." 370 U.S. at 435 n.21. The Pledge differs from the Declaration and the anthem in that its reference to God, in textual and historical context, is not merely a reflection of the author's profession of faith. It is, by design, an affirmation by the person reciting it. "I pledge" is a performative statement. *See* J.L. Austin, *How to Do Things with Words* (J.O. Urmsson & Marina Sbisa eds., Harvard Univ. Press 1975) (1962). To pledge allegiance to something is to alter one's moral relationship to it, and not merely to repeat the words of an historical document or anthem.

The only other United States Court of Appeals to consider the issue is the Seventh Circuit, which held in *Sherman* v. *Community Consolidated School District 21*, 980 F.2d 437 (7th Cir. 1992), that a policy similar to the one before us regarding the recitation of the Pledge of Allegiance containing the words "one nation under God" was constitutional. The *Sherman* court first stated that:

> If as *Barnette* holds no state may require anyone to recite the Pledge, and if as the prayer cases hold the recitation by a teacher or rabbi of unwelcome words is coercion, then the Pledge of Allegiance becomes unconstitutional under all circumstances, just as no school may read from a holy scripture at the start of class.

980 F.2d at 444. It then concludes, however, that this reasoning is flawed because the First Amendment "[does] not establish general rules about speech or schools; [it] call[s] for religion to be treated differently."

REV_00164582

Id. We have some difficulty understanding this statement; we do not believe that the Constitution prohibits compulsory patriotism as in *Barnette,* but permits compulsory religion as in this case. If government-endorsed religion is to be treated differently from government-endorsed patriotism, the treatment must be less favorable, not more.

The Seventh Circuit makes an even more serious error, however. It not only refuses to apply the *Lemon* test because of the Supreme Court's criticism of that test in *Lee,* but it also fails to apply the coercion test from *Lee.* Circuit courts are not free to ignore Supreme Court precedent in this manner. *Rodriguez de Quijas* v. *Shearson/Am. Exp., Inc.,* 490 U.S. 477, 484 (1989) ("If a precedent of this Court has direct application in a case, yet appears to rest on reasons rejected in some other line of decisions, the Court of Appeals should follow the case which directly controls, leaving to this Court the prerogative of overruling its own decisions."). Instead of applying any of the tests announced by the Supreme Court, the Seventh Circuit simply frames the question as follows: "Must ceremonial references in civic life to a deity be understood as prayer, or support for all monotheistic religions, to the exclusion of atheists and those who worship multiple gods?" 980 F.2d at 445. For the reasons we have already explained, this question is simply not dispositive of whether the school district policy impermissibly coerces a religious act.

In light of Supreme Court precedent, we hold that the school district's policy and practice of teacher-led recitation of the Pledge, with the inclusion of the added words "under God," violates the Establishment Clause.

REV_00164583

In addition to the relief that Newdow seeks against the school district—relief to which he is entitled—Newdow seeks a declaration as to the constitutionality of the 1954 Act. The district court did not discuss that question because it dismissed Newdow's complaint on the basis of its holding that the school district's policy did not violate the First Amendment. Given our contrary holding, we must consider whether to grant Newdow's claim for declaratory relief as to the Act. Normally, whether to decide a claim for declaratory judgment is left to the discretion of the district court. 28 U.S.C. § 2201(a); *see also Government Employees Ins. Co.* v. *Dizol*, 133 F.3d 1220, 1222-23 (9th Cir. 1998). We doubt that, given the relief to which we decide Newdow is entitled, the district court would have exercised its discretionary power to resolve, in the present case, the additional issue as to which Newdow seeks declaratory relief. Accordingly, we decline to reach that issue here.

The judgment of dismissal is vacated with respect to Newdow's claim that the school district's Pledge policy violates the Establishment Clause and the cause is remanded for further proceedings consistent with our holding. Plaintiff is to recover costs on this appeal.

REVERSED and REMANDED.

REV_00164584

FERNANDEZ, Circuit Judge, concurring and dissenting:

I concur in parts A, B and C of the majority opinion, but dissent as to part D.

We are asked to hold that inclusion of the phrase "under God" in this nation's Pledge of Allegiance violates the religion clauses of the Constitution of the United States. We should do no such thing. We should, instead, recognize that those clauses were not designed to drive religious expression out of public thought; they were written to avoid discrimination.[1]

We can run through some or all of the tests and concepts which have floated to the surface from time to time. Were we to do so, the one that appeals most to me, the one I think to be correct, is the concept that what the religion clauses of the First Amendment require is neutrality; that those clauses are, in effect, an early kind of equal protection provision and assure that government will neither discriminate for nor discriminate against a religion or religions. *See Gentala* v. *City of Tucson*, 244 F.3d 1065, 1083-86 (9th Cir.) (en banc) (Fernandez, J., dissenting), *cert. granted and judgment vacated by* 534, U.S. 946, 122 S. Ct. 340, 151 L. Ed. 2d 256 (2001); *Goehring* v. *Brophy*, 94 F.3d 1294, 1306-07 (9th Cir. 1996) (Fernandez, J., concurring). But, legal world abstractions and ruminations aside, when all is said and done, the danger that "under God" in our

---

[1] Although the majority now formally limits itself to holding that it is unconstitutional to recite the Pledge in public classrooms, its message that something is constitutionally infirm about the Pledge itself abides and remains a clear and present danger to all similar public expressions of reverence. At the very least, it deprives children in public schools of the benefits derived from those expressions.

REV_00164585

Pledge of Allegiance will tend to bring about a theocracy or suppress somebody's beliefs is so minuscule as to be de minimis. The danger that phrase presents to our First Amendment freedoms is picayune at most.

Judges, including Supreme Court Justices, have recognized the lack of danger in that and similar expressions for decades, if not for centuries, as have presidents[2] and members of our Congress. *See, e.g.*, *County of Allegheny* v. *ACLU*, 492 U.S. 573, 602-03, 672-73, 109 S. Ct. 3086, 3106, 3143, 106 L. Ed. 2d 472 (1989); *Wallace* v. *Jaffree*, 472 U.S. 38, 78 n.5, 105 S. Ct. 2479, 2501 n.5, 86 L. Ed. 2d 29 (1985); *Lynch* v. *Donnelly*, 465 U.S. 668, 676, 693, 716, 104 S. Ct. 1355, 1361, 1369, 1382, 79 L. Ed. 2d 604 (1984); *Abington Sch. Dist.* v. *Schempp*, 374 U.S. 203, 306-08, 83 S. Ct. 1560, 1615-16, 10 L. Ed. 2d 844 (1963);[3] *Separation of Church & State Comm.* v. *City of Eugene*, 93 F.3d 617, 622 (9th Cir. 1996) (O'Scannlain, J., concurring); *Gaylor* v. *United States*, 74 F.3d 214, 217-18 (10th Cir. 1996); *Sherman* v. *Cmty Consol. Sch. Dist. 21*, 980 F.2d 437, 445-48 (7th Cir. 1992); *O'Hair* v. *Murray*, 588 F.2d 1144, 1144 (5th Cir. 1978) (per curiam); *Aronow* v. *United States*, 432 F.2d 242, 243-44 (9th Cir. 1970); *cf. Marsh* v.

---

[2] *See, e.g., Lee* v. *Weisman*, 505 U.S. 577, 632-35, 112 S. Ct. 2649, 2679-80, 120 L. Ed. 2d 467 (1992) (Scalia, J., dissenting).

[3] The citations to the four preceding Supreme Court opinions are to majority opinions, concurring opinions, and dissents. Because my point is that a number of Justices have recognized the lack of danger and because I hope to avoid untoward complication in the setting out of the citations, I have not designated which Justices have joined in which opinion. All in all, however, perusing those opinions indicates that Chief Justice Burger, Chief Justice Rehnquist, and Justices Harlan, Brennan, White, Goldberg, Marshall, Blackmun, Powell, Stevens, O'Connor, Scalia, and Kennedy have so recognized.

REV_00164586

Chambers, 463 U.S. 783, 795, 103 S. Ct. 3330, 3338, 77 L. Ed. 2d 1019 (1983) (legislative prayer). I think it is worth stating a little more about two of the cases which I have just cited. In *County of Allegheny*, 492 U.S. at 602-03, 109 S. Ct. at 3106, the Supreme Court had this to say: "Our previous opinions have considered in dicta the motto and the pledge, characterizing them as consistent with the proposition that government may not communicate an endorsement of religious belief." The Seventh Circuit, reacting in part to that statement, has wisely expressed the following thought:

> Plaintiffs observe that the Court sometimes changes its tune when it confronts a subject directly. True enough, but an inferior court had best respect what the majority says rather than read between the lines. If the Court proclaims that a practice is consistent with the establishment clause, we take its assurances seriously. If the Justices are just pulling our leg, let them say so.

Sherman, 980 F.2d at 448.

Some, who rather choke on the notion of de minimis, have resorted to the euphemism "ceremonial deism." *See, e.g.*, *Lynch*, 465 U.S. at 716, 104 S. Ct. at 1382 (Brennan, J., dissenting). But whatever it is called (I care not), it comes to this: such phrases as "In God We Trust," or "under God" have no tendency to establish a religion in this country or to suppress anyone's exercise, or non-exercise, of religion, except in the fevered eye of persons who most fervently would like to drive all tincture of religion out of the public life of our polity. Those expressions have not caused any real harm of that sort over the years since 1791, and are not likely to

REV_00164587

do so in the future.[4] As I see it, that is not because they are drained of meaning.[5] Rather, as I have already indicated, it is because their tendency to establish religion (or affect its exercise) is exiguous. I recognize that some people may not feel good about hearing the phrases recited in their presence, but, then, others might not feel good if they are omitted. At any rate, the Constitution is a practical and balanced charter for the just governance of a free people in a vast territory. Thus, although we do feel good when we contemplate the effects of its inspiring phrasing and majestic promises, it is not primarily a feel-good prescription.[6] In *West Virginia Board of Education* v. *Barnette*, 319 U.S. 624, 630, 642, 63 S. Ct. 1178, 1181, 1187, 87 L. Ed. 1628 (1943), for example, the Supreme Court did not say that the Pledge could not be recited in the presence of Jehovah's Witness children; it merely said that they did not have to recite it.[7] That fully protected their con-

---

[4] They have not led us down the long path to kulturkampf or worse. Those who are somehow beset by residual doubts and fears should find comfort in the reflection that no baleful religious effects have been generated by the existence of similar references to a deity throughout our history. More specifically, it is difficult to detect any signs of incipient theocracy springing up since the Pledge was amended in 1954.

[5] *See also Sherman*, 980 F.2d at 448 (Manion, J., concurring) ("A civic reference to God does not become permissible . . . only when . . . it is sapped of religious significance." The Pledge is constitutional and "[w]e need not drain the meaning from the reference [to God] to reach this conclusion."

[6] We, by the way, indicated as much in *American Family Ass'n, Inc.* v. *City and County of San Francisco*, 277 F.3d 1114, 1125-26 (9th Cir. 2002), which involved governmental conduct that was much more questionable than adoption of the phrase "under God." *See id.* at 1126-28 (Noonan, J., dissenting).

[7] I recognize that the Pledge did not then contain the phrase "under God."

REV_00164588

stitutional rights by precluding the government from trenching upon "the sphere of intellect and spirit." *Id.* at 642, 63 S. Ct. at 1187. As the Court pointed out, their religiously based refusal "to participate in the ceremony [would] not interfere with or deny rights of others to do so." *Id.* at 630, 63 S. Ct. at 1181. We should not permit Newdow's feel-good concept to change that balance.

My reading of the stelliscript suggests that upon Newdow's theory of our Constitution, accepted by my colleagues today, we will soon find ourselves prohibited from using our album of patriotic songs in many public settings. "God Bless America" and "America The Beautiful" will be gone for sure, and while use of the first three stanzas of "The Star Spangled Banner" will still be permissible, we will be precluded from straying into the fourth.[8] And currency beware! Judges can accept those results if they limit themselves to elements and tests, while failing to look at the good sense and principles that animated those tests in the first place. But they do so at the price of removing a vestige of the awe all of us, including our children, must feel at the immenseness of the universe and our own small place within it, as well as the wonder we must feel at the good fortune of our country. That will cool the febrile nerves of a few at the cost of removing the healthy glow conferred upon many citizens when the forbidden verses, or phrases, are uttered, read, or seen.

In short, I cannot accept the eliding of the simple phrase "under God" from our Pledge of Allegiance in any setting, when it is obvious that its tendency to

---

[8] Nor will we be able to stray into the fourth stanza of "My Country 'Tis of Thee" for that matter.

REV_00164589

establish religion in this country or to interfere with the free exercise (or non-exercise) of religion is de minimis.[9]

Thus, I respectfully concur in part and dissent in part.

---

[9] Lest I be misunderstood, I must emphasize that to decide this case it is not necessary to say, and I do not say, that there is such a thing as a de minimis constitutional violation. What I do say is that the de minimis tendency of the Pledge to establish a religion or to interfere with its free exercise is no constitutional violation at all. By the way, I am not the first to apply the de minimis concept to this area of the law. *See, e.g.*, *Mitchell* v. *Helms*, 530 U.S. 793, 861, 120 S. Ct. 2530, 2569, 147 L. Ed. 2d 660 (2000) (O'Connor, J., concurring) (evidence of improper use of funds was de minimis and did not affect constitutional inquiry); *Lee* v. *Weisman*, 505 U.S. 577, 630-31, 112 S. Ct. 2649, 2678, 120 L. Ed. 2d 467 (1992) (Souter, J. concurring) (establishment case; Madison recognized there is a difference between trivial and serious in constitutional practice, and pointed to the legal aphorism de minimis); *Lynch* v. *Donnelly*, 465 U.S. 668, 678, 104 S. Ct. 1355, 1361-62, 79 L. Ed. 2d 604 (1984) (not all government conduct which gives special recognition to religion is unconstitutional; where the benefit is indirect or remote, it is not unconstitutional); *School District of Abington* v. *Schempp*, 374 U.S. 203, 308, 83 S. Ct. 1560, 1616, 10 L. Ed. 2d 844 (1963) (Goldburg, J., concurring) ("the measure of constitutional adjudication is the ability and willingness to distinguish between real threat and mere shadow."); *Rapier* v. *Harris*, 172 F.3d 999, 1006 n.4 (7th Cir. 1999) ("De minimis burdens on free exercise are not of constitutional dimension); *Van Zandt* v. *Thompson*, 839 F.2d 1215, 1222 (7th Cir. 1988) (legislative prayer room would have a de minimis effect on advancement of religion); *Walsh* v. *La. High Sch. Athletic Ass'n*, 616 F.2d 152, 158 (5th Cir. 1980) (de minimis burden on free exercise results in rejection of First Amendment challenge); *Marsa* v. *Wernik*, 430 A.2d 888, 899 (N.J. 1981) (in an establishment case where impact of practice de minimis, it is unobjectionable); *see also Peck* v. *Upshur County Bd. of Educ.*, 155 F.3d 274, 288-89 (4th Cir. 1998) (if a genuine threat of establishing religion becomes apparent, it is soon enough to address the issue).

REV_00164590

APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 00-16423
D.C. No. CV 00-00495-MLS/PAN

MICHAEL A. NEWDOW, PLAINTIFF-APPELLANT

v.

U.S. CONGRESS; UNITED STATES OF AMERICA; WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES; STATE OF CALIFORNIA; ELK GROVE UNIFIED SCHOOL DISTRICT; DAVID W. GORDON, SUPERINTENDENT EGUSD; SACRAMENTO CITY UNIFIED SCHOOL DISTRICT; JIM SWEENEY, SUPERINTENDENT SCUSD, DEFENDANTS-APPELLEES

Appeal from the United States District Court for the Eastern District of California, Milton J. Schwartz, Senior Judge, Presiding

---

Argued and Submitted: March 14, 2002
Filed: June 26, 2002

Before: GOODWIN, REINHARDT and FERNANDEZ, Circuit Judges.

REV_00164591

Partial Concurrence and Partial Dissent by Judge FERNANDEZ.

OPINION

GOODWIN, Circuit Judge:

Michael Newdow appeals a judgment dismissing his challenge to the constitutionality of the words "under God" in the Pledge of Allegiance to the Flag. Newdow argues that the addition of these words by a 1954 federal statute to the previous version of the Pledge of Allegiance (which made no reference to God) and the daily recitation in the classroom of the Pledge of Allegiance, with the added words included, by his daughter's public school teacher are violations of the Establishment Clause of the First Amendment to the United States Constitution.

FACTUAL AND PROCEDURAL BACKGROUND

Newdow is an atheist whose daughter attends public elementary school in the Elk Grove Unified School District ("EGUSD") in California. In accordance with state law and a school district rule, EGUSD teachers begin each school day by leading their students in a recitation of the Pledge of Allegiance ("the Pledge"). The California Education Code requires that public schools begin each school day with "appropriate patriotic exercises" and that "[t]he giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy" this requirement. Cal. Educ. Code § 52720

REV_00164592

(1989) (hereinafter "California statute").[1] To implement the California statute, the school district that Newdow's daughter attends has promulgated a policy that states, in pertinent part: "Each elementary school class [shall] recite the pledge of allegiance to the flag once each day."[2]

The classmates of Newdow's daughter in the EGUSD are led by their teacher in reciting the Pledge codified in federal law. On June 22, 1942, Congress first codified the Pledge as "I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one Nation indivisible, with liberty and justice for all." Pub. L. No. 623, Ch. 435, § 7, 56 Stat. 380 (1942) (codified at 36 U.S.C. § 1972). On June 14, 1954, Congress amended Section 1972 to add the words "under God" after the word "Nation." Pub. L. No. 396, Ch. 297, 68 Stat. 249 (1954) ("1954 Act"). The Pledge is currently codified as "I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with

---

[1] The relevant portion of California Education Code § 52720 reads:

> In every public elementary school each day during the school year at the beginning of the first regularly scheduled class or activity period at which the majority of the pupils of the school normally begin the schoolday, there shall be conducted appropriate patriotic exercises. The giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy the requirements of this section.

[2] The SCUSD, the school district that Newdow claims his daughter may in the future attend, has promulgated a similar rule: "Each school shall conduct patriotic exercises daily. . . . The Pledge of Allegiance to the flag will fulfill this requirement." However, as discussed *infra*, Newdow lacks standing to challenge the SCUSD's rule requiring recitation of the Pledge.

REV_00164593

liberty and justice for all." 4 U.S.C. § 4 (1998) (Title 36 was revised and recodified by Pub. L. No. 105-225, § 2(a), 112 Stat. 1494 (1998). Section 172 was abolished, and the Pledge is now found in Title 4.)

Newdow does not allege that his daughter's teacher or school district requires his daughter to participate in reciting the Pledge.[3] Rather, he claims that his daughter is injured when she is compelled to "watch and listen as her state-employed teacher in her state-run school leads her classmates in a ritual proclaiming that there is a God, and that our's [sic] is 'one nation under God.'"

Newdow's complaint in the district court challenged the constitutionality, under the First Amendment, of the 1954 Act, the California statute, and the school district's policy requiring teachers to lead willing students in recitation of the Pledge. He sought declaratory and injunctive relief, but did not seek damages.

The school districts and their superintendents (collectively, "school district defendants") filed a Federal Rule of Civil Procedure 12(b)(6) motion to dismiss for failure to state a claim. Magistrate Judge Peter A. Nowinski held a hearing at which the school district defendants requested that the court rule only on the constitutionality of the Pledge, and defer any ruling on sover-

---

[3] Compelling students to recite the Pledge was held to be a First Amendment violation in *West Virginia State Board of Education* v. *Barnette*, 319 U.S. 624, 642, 63 S. Ct. 1178, 87 L. Ed. 1628 (1943) ("[T]he action of the local authorities in compelling the flag salute and pledge transcends constitutional limitations on their power and invades the sphere of intellect and spirit which it is the purpose of the First Amendment to our Constitution to reserve from all official control."). *Barnette* was decided before the 1954 Act added the words "under God" to the Pledge.

REV_00164594

eign immunity. The United States Congress, the United States, and the President of the United States (collectively, "the federal defendants") joined in the motion to dismiss filed by the school district defendants. The magistrate judge reported findings and a recommendation; District Judge Edward J. Schwartz approved the recommendation and entered a judgment of dismissal. This appeal followed.

DISCUSSION

A. Jurisdiction

Newdow asks the district court to order the President of the United States ("the President") to "alter, modify or repeal" the Pledge by removing the words "under God"; and to order the United States Congress ("Congress") "immediately to act to remove the words 'under God' from the Pledge." The President, however, is not an appropriate defendant in an action challenging the constitutionality of a federal statute. *See Franklin v. Massachusetts*, 505 U.S. 788, 802-03, 112 S. Ct. 2767, 120 L.Ed.2d 636 (1992) (plurality) (observing that a court of the United States " 'has no jurisdiction of a bill to enjoin the President in the performance of his official duties' ") (quoting *Mississippi v. Johnson*, 71 U.S. 475, 501, 18 L.Ed. 437 (1866)).

Similarly, in light of the Speech and Debate Clause of the Constitution, Art. I, § 6, cl. 1, the federal courts lack jurisdiction to issue orders directing Congress to enact or amend legislation. *See Eastland v. United States Servicemen's Fund*, 421 U.S. 491, 503, 95 S. Ct. 1813, 44 L.Ed.2d 324 (1975). Because the words that amended the Pledge were enacted into law by statute, the district court may not direct Congress to delete those words any more than it may order the President to take

REV_00164595

such action. All this, of course, is aside from the fact that the President has no authority to amend a statute or declare a law unconstitutional, those functions being reserved to Congress and the federal judiciary respectively.

Newdow nevertheless argues that because the 1954 Act violates the Establishment Clause, Congress should not be protected by the Speech and Debate Clause. This argument misses the jurisdictional, or separation of powers, point. As the Court held in *Eastland*, in determining whether or not the acts of members of Congress are protected by the Speech and Debate Clause, the court looks solely to whether or not the acts fall within the legitimate legislative sphere; if they do, Congress is protected by the absolute prohibition of the Clause against being "questioned in any other Place." *Id.* at 501. "If the mere allegation that a valid legislative act was undertaken for an unworthy purpose would lift the protection of the Clause, then the Clause simply would not provide the protection historically undergirding it." *Id.* at 508-09, 95 S. Ct. 1813. Although the district court lacks jurisdiction over the President and the Congress, the question of the constitutionality of the 1954 Act remains before us. While the court correctly dismissed the claim against those parties, it survives against others.

B. The State of California as a defendant

The State of California did not join in the motion to dismiss or otherwise participate in the district court proceedings. It did, however, *sub silentio*, receive the benefit of the district court's ruling dismissing the complaint. Accordingly, a reversal of the order would result in the reinstatement of the complaint against the state. With respect to the validity of the California

REV_00164596

statute, however, unlike in the case of the Congressional enactment and the school district policy, no arguments, legal or otherwise, were advanced by the parties either below or here. Thus, we do not address separately the validity of the California statute.

C. Standing

Article III standing is a jurisdictional issue. *See United States v. Viltrakis*, 108 F.3d 1159, 1160 (9th Cir. 1997). Accordingly, it "may be raised at any stage of the proceedings, including for the first time on appeal." *See A-Z Intern. v. Phillips*, 179 F.3d 1187, 1190-91 (9th Cir. 1999). To satisfy standing requirements, a plaintiff must prove that "(1) it has suffered an 'injury in fact' that is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical; (2) the injury is fairly traceable to the challenged action of the defendant; and (3) it is likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision." *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 180-81, 120 S. Ct. 693, 145 L.Ed.2d 610 (2000) (citing *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-561, 112 S. Ct. 2130, 119 L.Ed.2d 351 (1992)).

Newdow has standing as a parent to challenge a practice that interferes with his right to direct the religious education of his daughter. "Parents have a right to direct the religious upbringing of their children and, on that basis, have standing to protect their right." *Doe v. Madison Sch. Dist. No. 321*, 177 F.3d 789, 795 (9th Cir. 1999) (en banc); *see also Grove v. Mead Sch. Dist. No. 354*, 753 F.2d 1528, 1532 (9th Cir. 1985) ("Appellants have standing to challenge alleged violations of the establishment clause of the First Amendment if they are directly affected by use of [the challenged book] in

REV_00164597

the English curriculum. [Appellant] has standing as a parent whose right to direct the religious training of her child is allegedly affected.") (citation omitted).

Newdow has standing to challenge the EGUSD's policy and practice regarding the recitation of the Pledge because his daughter is currently enrolled in elementary school in the EGUSD. However, Newdow has no standing to challenge the SCUSD's policy and practice because his daughter is not currently a student there. The SCUSD and its superintendent have not caused Newdow or his daughter an "injury in fact" that is "actual or imminent, not conjectural or hypothetical." *Laidlaw*, 528 U.S. at 180, 120 S. Ct. 693 (citing *Lujan*, 504 U.S. at 560- 561, 112 S. Ct. 2130).

The final question of standing relates to the 1954 Act. Specifically, has Newdow suffered an "injury in fact" that is "fairly traceable" to the enactment of the 1954 Act? *Id.*

We begin our inquiry by noting the general rule that the standing requirements for an action brought under the Establishment Clause are the same as for any other action. *Valley Forge Christian Coll. v. Americans United for Separation of Church and State, Inc.*, 454 U.S. 464, 488-90, 102 S. Ct. 752, 70 L.Ed.2d 700 (1982). "The requirement of standing focuses on the party seeking to get his complaint before a federal court and not on the issues he wishes to have adjudicated. Moreover, we know of no principled basis on which to create a hierarchy of constitutional values or a complementary 'sliding scale' of standing which might permit respondents to invoke the judicial power of the United States." *Id.* at 484, 102 S. Ct. 752 (citation and internal quotation marks omitted). In *Valley Forge*, an organization dedicated to the separation of church and state

REV_00164598

brought suit challenging the federal government's grant of surplus federal property to a church-related college. The suit alleged that this grant of real property, without any financial payment by the college, was a violation of the Establishment Clause. The Supreme Court found that the plaintiff had standing neither as a taxpayer, *see id.* at 479-80, 102 S. Ct. 752, nor as a party personally injured as a consequence of the alleged unconstitutional action, *see id.* at 484-86, 102 S. Ct. 752. The "psychological consequence presumably produced by observation of conduct with which one disagrees . . . . is not an injury sufficient to confer standing under Art. III, even though the disagreement is phrased in constitutional terms." *Id.* at 485-86, 102 S. Ct. 752. The Court emphasized that "'[t]he assumption that if respondents have no standing to sue, no one would have standing, is not a reason to find standing.'" *Id.* at 489, 102 S. Ct. 752 (quoting *Schlesinger v. Reservists Comm. to Stop the War*, 418 U.S. 208, 227, 94 S. Ct. 2925, 41 L.Ed.2d 706 (1974)).

While *Valley Forge* remains good law, the Supreme Court in more recent opinions has indirectly broadened the notion of Establishment Clause standing in public education cases by holding that the mere enactment of a statute may constitute an Establishment Clause violation. In *Wallace v. Jaffree*, 472 U.S. 38, 105 S. Ct. 2479, 86 L.Ed.2d 29 (1985), the Court considered an Establishment Clause challenge to an Alabama statute that originally had authorized a one-minute period of silence in public schools "for meditation," but was later amended to authorize a period of silence "for meditation or voluntary prayer." *Id.* at 40-42, 105 S. Ct. 2479. Although the previous form of the statute specifically allowed students to use the moment of silence for

REV_00164599

"meditation," silent prayer was always an option. "[I]t is undisputed that at the time of the enactment of [the amended statute] there was no governmental practice impeding students from silently praying for one minute at the beginning of each schoolday." *Id.* at 57 n.45, 105 S. Ct. 2479. Nor were students, under the amended form of the statute, compelled to use the allotted time for prayer. In sum, the amendment to the Alabama statute had no discernible effect on public school students other than to inform them that the state was encouraging them to engage in prayer during their daily moment of silence. Because the Supreme Court has repeatedly held that standing is a jurisdictional requirement, the existence of which each federal court must determine for itself, *see Lujan*, 504 U.S. at 559-561, 112 S. Ct. 2130; *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 230-31, 110 S. Ct. 596, 107 L.Ed.2d 603 (1990), we may presume that in *Wallace* the Court examined the standing question before deciding the merits, and that the Court determined that the schoolchildren's parents had standing to challenge the amended Alabama statute.

Our reading of *Wallace* is supported by *Santa Fe Independent School District v. Doe*, 530 U.S. 290, 120 S. Ct. 2266, 147 L.Ed.2d 295 (2000), where the Court upheld a facial challenge to a school district's policy of permitting, but not requiring, prayer initiated and led by a student at high school football games. Noting that "the Constitution also requires that we keep in mind 'the myriad, subtle ways in which the Establishment Clause values can be eroded,'" *id.* at 314, 120 S. Ct. 2266 (quoting *Lynch v. Donnelly*, 465 U.S. 668, 104 S. Ct. 1355, 79 L.Ed.2d 604, 694 (1984) (O'Connor, J., concurring)), the Court held that the "mere passage by

REV_00164600

the District of a policy that has the purpose and perception of government establishment of religion," *id.*, violated the Establishment Clause. "[T]he *simple enactment* of this policy, with the purpose and perception of school endorsement of student prayer, was a constitutional violation." *Id.* at 316, 120 S. Ct. 2266 (emphasis added).

In *Wallace* and *Santa Fe*, the Court looked at the language of each statute, the context in which the statute was enacted, and its legislative history to determine that the challenged statute caused an injury in violation of the Establishment Clause. "We refuse to turn a blind eye to the context in which this policy arose, and that context quells any doubt that this policy was implemented with the purpose of endorsing school prayer." *Id.* at 315, 120 S. Ct. 2266. Justice O'Connor's concurrence in *Wallace* noted that whether a statute actually conveys a message of endorsement of religion is "not entirely a question of fact . . . . The relevant issue is whether an objective observer, acquainted with the text, legislative history, and implementation of the statute, would perceive it as state endorsement of prayer in public schools." 472 U.S. at 76, 105 S. Ct. 2479 (O'Connor, J., concurring in judgment). In *Santa Fe*, "[t]he text and history of this policy . . . reinforce our objective student's perception that the prayer is, in actuality, encouraged by the school." 530 U.S. at 308, 120 S. Ct. 2266. In evaluating the purpose of the school district policy, the Court found "most striking . . . the evolution of the current policy." *Id.* at 309, 120 S. Ct. 2266. In *Wallace*, a review of the legislative history led the Court to conclude that enactment of the amended statute "was not motivated by any clearly secular purpose—indeed, the statute had *no* secular purpose."

REV_00164601

472 U.S. at 56, 105 S. Ct. 2479; *see also id.* at 57-60, 105 S. Ct. 2479.

Operating within the above-described legal landscape, we now turn to the question initially posed, namely, does Newdow have standing to challenge the 1954 Act? Initially, we note that the 1954 statute challenged by Newdow is similar to the Alabama statute struck down in *Wallace*. Neither statute works the traditional type of "injury in fact" that is implicated when a statute compels or prohibits certain activity, nor do the amendments brought about by these statutes lend themselves to "as-applied" constitutional review. Nevertheless, the Court in *Wallace*, at least implicitly, determined that the schoolchildren's parents had standing to attack the challenged statute. Moreover, the legislative history of the 1954 Act shows that the "under God" language was not meant to sit passively in the federal code unbeknownst to the public; rather, the sponsors of the amendment knew about and capitalized on the state laws and school district rules that mandate recitation of the Pledge. The legislation's House sponsor, Representative Louis C. Rabaut, testified at the Congressional hearing that "the children of our land, in the daily recitation of the pledge in school, will be daily impressed with a true understanding of our way of life and its origins," and this statement was incorporated into the report of the House Judiciary Committee. H.R. Rep. No. 83-1693, at 3 (1954), *reprinted in* 1954 U.S.C.C.A.N. 2339, 2341. Taken within its context, the 1954 addendum was designed to result in the recitation of the words "under God" in school classrooms throughout the land on a daily basis, and therefore constituted as much of an injury-in-fact as the policies considered in *Wallace* and

REV_00164602

Santa Fe. As discussed earlier, Newdow has standing as a parent to challenge a practice that interferes with his right to direct the religious education of his daughter. The mere enactment of the 1954 Act in its particular context constitutes a religious recitation policy that interferes with Newdow's right to direct the religious education of his daughter. Accordingly, we hold that Newdow has standing to challenge the 1954 Act.

D. Establishment Clause

The Establishment Clause of the First Amendment states that "Congress shall make no law respecting an establishment of religion," U.S. Const. amend. I, a provision that "the Fourteenth Amendment makes applicable with full force to the States and their school districts." *Lee v. Weisman*, 505 U.S. 577, 580, 112 S. Ct. 2649, 120 L.Ed.2d 467 (1992). Over the last three decades, the Supreme Court has used three interrelated tests to analyze alleged violations of the Establishment Clause in the realm of public education: the three-prong test set forth in *Lemon v. Kurtzman*, 403 U.S. 602, 612-13, 91 S. Ct. 2105, 29 L.Ed.2d 745 (1971); the "endorsement" test, first articulated by Justice O'Connor in her concurring opinion in *Lynch*, and later adopted by a majority of the Court in *County of Allegheny v. ACLU*, 492 U.S. 573, 109 S. Ct. 3086, 106 L.Ed.2d 472 (1989); and the "coercion" test first used by the Court in *Lee*.

In 1971, in the context of unconstitutional state aid to nonpublic schools, the Supreme Court in *Lemon* set forth the following test for evaluating alleged Establishment Clause violations. To survive the "*Lemon* test," the government conduct in question (1) must have a secular purpose, (2) must have a principal or

REV_00164603

primary effect that neither advances nor inhibits religion, and (3) must not foster an excessive government entanglement with religion. *Lemon*, 403 U.S. at 612-13, 91 S. Ct. 2105. The Supreme Court applied the *Lemon* test to every Establishment case it decided between 1971 and 1984, with the exception of *Marsh v. Chambers*, 463 U.S. 783, 103 S. Ct. 3330, 77 L.Ed.2d 1019 (1983), the case upholding legislative prayer.[4] *See Wallace*, 472 U.S. at 63, 105 S. Ct. 2479 (Powell, J., concurring).

In the 1984 *Lynch* case, which upheld the inclusion of a nativity scene in a city's Christmas display, Justice O'Connor wrote a concurring opinion in order to suggest a "clarification" of Establishment Clause jurisprudence. 465 U.S. at 687, 104 S. Ct. 1355 (O'Connor, J., concurring). Justice O'Connor's "endorsement" test effectively collapsed the first two prongs of the *Lemon* test:

> The Establishment Clause prohibits government from making adherence to a religion relevant in any way to a person's standing in the political community. Government can run afoul of that prohibition in two principal ways. One is excessive entanglement with religious institutions. . . . The second and more direct infringement is government endorsement or disapproval of religion. Endorsement sends a message to nonadherents that they are

---

[4] In *Marsh*, the Court "held that the Nebraska Legislature's practice of opening each day's session with a prayer by a chaplain paid by the State did not violate the Establishment Clause of the First Amendment. [The] holding was based upon the historical acceptance of the practice that had become 'part of the fabric of our society.'" *Wallace*, 472 U.S. at 63 n.4, 105 S. Ct. 2479 (Powell, J., concurring) (quoting *Marsh*, 463 U.S. at 792, 103 S. Ct. 3330).

REV_00164604

> outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community.

Id. at 687-88, 91 S. Ct. 2105 (O'Connor, J., concurring).

The Court formulated the "coercion test" when it held unconstitutional the practice of including invocations and benedictions in the form of "nonsectarian" prayers at public school graduation ceremonies. *Lee*, 505 U.S. at 599, 112 S. Ct. 2649. Declining to reconsider the validity of the *Lemon* test, the Court in *Lee* found it unnecessary to apply the *Lemon* test to find the challenged practices unconstitutional. *Id.* at 587, 112 S. Ct. 2649. Rather, it relied on the principle that "at a minimum, the Constitution guarantees that government may not coerce anyone to support or participate in religion or its exercise, or otherwise to act in a way which establishes a state religion or religious faith, or tends to do so." *Id.* (citations and internal quotation marks omitted).[5] The Court first examined the degree

---

[5] Although this formulation is referred to as the "coercion" test, it should be noted that coercion is not a *necessary* element in finding an Establishment Clause violation. "The Establishment Clause, unlike the Free Exercise Clause, does not depend upon any showing of direct governmental compulsion. . . ." *Engel v. Vitale*, 370 U.S. 421, 430, 82 S. Ct. 1261, 8 L.Ed.2d 601 (1962). "[T]his court has never relied on coercion alone as the touchstone of Establishment Clause analysis. To require a showing of coercion, even indirect coercion, as an essential element of an Establishment Clause violation would make the free Exercise Clause a redundancy." *Allegheny*, 492 U.S. at 628, 109 S. Ct. 3086 (O'Connor, J., concurring). "Over the years, this Court has declared the invalidity of many noncoercive state laws and practices conveying a message of religious endorsement." *Lee*, 505 U.S. at 618, 112 S. Ct. 2649 (Souter, J., concurring).

REV_00164605

of school involvement in the prayer, and found that "the graduation prayers bore the imprint of the State and thus put school-age children who objected in an untenable position." *Id.* at 590. The next issue the Court considered was "the position of the students, both those who desired the prayer and she who did not." *Id.* Noting that "there are heightened concerns with protecting freedom of conscience from subtle coercive pressure in the elementary and secondary public schools," *id.* at 592, 112 S. Ct. 2649, the Court held that the school district's supervision and control of the graduation ceremony put impermissible pressure on students to participate in, or at least show respect during, the prayer, *id.* at 593, 112 S. Ct. 2649. The Court concluded that primary and secondary school children may not be placed in the dilemma of either participating in a religious ceremony or protesting. *Id.* at 594, 112 S. Ct. 2649.

Finally, in its most recent school prayer case, the Supreme Court applied the *Lemon* test, the endorsement test, and the coercion test to strike down a school district's policy of permitting student-led "invocations" before high school football games. *See Santa Fe*, 530 U.S. at 310-16, 120 S. Ct. 2266. Citing *Lee*, the Court held that "the delivery of a pregame prayer has the improper effect of coercing those present to participate in an act of religious worship." *Id.* at 312, 120 S. Ct. 2266. Applying the *Lemon* test, the Court found that the school district policy was facially unconstitutional because it did not have a secular purpose. *Id.* at 314-16. The Court also used language associated with the endorsement test. *Id.* at 315, 120 S. Ct. 2266 ("[T]his policy was implemented with the purpose of endorsing school prayer."); *id.* at 317, 120 S. Ct. 2266 ("Govern-

REV_00164606

ment efforts to endorse religion cannot evade constitutional reproach based solely on the remote possibility that those attempts may fail.").

We are free to apply any or all of the three tests, and to invalidate any measure that fails any one of them. The Supreme Court has not repudiated *Lemon;* in *Santa Fe,* it found that the application of each of the three tests provided an independent ground for invalidating the statute at issue in that case; and in *Lee,* the Court invalidated the policy solely on the basis of the coercion test. Although this court has typically applied the *Lemon* test to alleged Establishment Clause violations, *see, e.g., Am. Family Ass'n, Inc. v. City and County of San Francisco,* 277 F.3d 1114, 1120-21 (9th Cir. 2002), we are not required to apply it if a practice fails one of the other tests. Nevertheless, for purposes of completeness, we will analyze the school district policy and the 1954 Act under all three tests.

We first consider whether the 1954 Act and the EGUSD's policy of teacher-led Pledge recitation survive the endorsement test. The magistrate judge found that "the ceremonial reference to God in the pledge does not convey endorsement of particular religious beliefs." Supreme Court precedent does not support that conclusion.

In the context of the Pledge, the statement that the United States is a nation "under God" is an endorsement of religion. It is a profession of a religious belief, namely, a belief in monotheism. The recitation that ours is a nation "under God" is not a mere acknowledgment that many Americans believe in a deity. Nor is it merely descriptive of the undeniable historical significance of religion in the founding of the Republic. Rather, the phrase "one nation under God" in the

REV_00164607

context of the Pledge is normative. To recite the Pledge is not to describe the United States; instead, it is to swear allegiance to the values for which the flag stands: unity, indivisibility, liberty, justice, and—since 1954—monotheism. The text of the official Pledge, codified in federal law, impermissibly takes a position with respect to the purely religious question of the existence and identity of God. A profession that we are a nation "under God" is identical, for Establishment Clause purposes, to a profession that we are a nation "under Jesus," a nation "under Vishnu," a nation "under Zeus," or a nation "under no god," because none of these professions can be neutral with respect to religion. "[T]he government must pursue a course of complete neutrality toward religion." *Wallace*, 472 U.S. at 60, 105 S. Ct. 2479. Furthermore, the school district's practice of teacher-led recitation of the Pledge aims to inculcate in students a respect for the ideals set forth in the Pledge, and thus amounts to state endorsement of these ideals. Although students cannot be forced to participate in recitation of the Pledge, the school district is nonetheless conveying a message of state endorsement of a religious belief when it requires public school teachers to recite, and lead the recitation of, the current form of the Pledge.

The Supreme Court recognized the normative and ideological nature of the Pledge in *Barnette*, 319 U.S. 624, 63 S. Ct. 1178, 87 L.Ed. 1628. There, the Court held unconstitutional a school district's wartime policy of punishing students who refused to recite the Pledge and salute the flag. *Id.* at 642, 63 S. Ct. 1178. The Court noted that the school district was compelling the students "to declare a belief," *id.* at 631, 63 S. Ct. 1178, and "requir[ing] the individual to communicate by word

REV_00164608

and sign his acceptance of the political ideas [the flag] . . . bespeaks," *id.* at 633, 63 S. Ct. 1178. "[T]he compulsory flag salute and pledge requires affirmation of a belief and an attitude of mind." *Id.* The Court emphasized that the political concepts articulated in the Pledge[6] were idealistic, not descriptive: "'[L]iberty and justice for all,' if it must be accepted as descriptive of the present order rather than an ideal, might to some seem an overstatement." *Id.* at 634 n. 14, 63 S. Ct. 1178. The Court concluded that: "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein." *Id.* at 642, 63 S. Ct. 1178.

The Pledge, as currently codified, is an impermissible government endorsement of religion because it sends a message to unbelievers "that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community." *Lynch*, 465 U.S. at 688, 104 S. Ct. 1355 (O'Connor, J., concurring). Justice Kennedy, in his dissent in *Allegheny*, agreed:

> [B]y statute, the Pledge of Allegiance to the Flag describes the United States as 'one nation under God.' To be sure, no one is obligated to recite this phrase, . . . but it borders on sophistry to suggest that the reasonable atheist would not feel less than a full member of the political community every time

---

[6] *Barnette* was decided before "under God" was added, and thus the Court's discussion was limited to the political ideals contained in the Pledge.

REV_00164609

> his fellow Americans recited, as part of their expression of patriotism and love for country, a phrase he believed to be false.

Allegheny, 492 U.S. at 672, 109 S. Ct. 3086 (Kennedy, J., dissenting) (citations and internal quotation marks omitted).[7] Consequently, the policy and the Act fail the endorsement test.

Similarly, the policy and the Act fail the coercion test. Just as in *Lee*, the policy and the Act place students in the untenable position of choosing between participating in an exercise with religious content or protesting. As the Court observed with respect to the graduation prayer in that case: "What to most believers may seem nothing more than a reasonable request that the nonbeliever respect their religious practices, in a school context may appear to the nonbeliever or dissenter to be an attempt to employ the machinery of the State to enforce a religious orthodoxy." *Lee*, 505 U.S. at 592, 112 S. Ct. 2649. Although the defendants argue that the religious content of "one nation under God" is minimal, to an atheist or a believer in certain non-Judeo-Christian religions or philosophies, it may reasonably appear to be an attempt to enforce a "religious orthodoxy" of monotheism, and is therefore impermissible. The coercive effect of this policy is particularly pronounced in the school setting given the age and impressionability of schoolchildren, and their understanding that they are required to adhere to the norms set by their school, their teacher and their fellow students.[8] Furthermore, under *Lee*, the fact that

---

[7] For Justice Kennedy, this result was a reason to reject the endorsement test.

[8] The "subtle and indirect" social pressure which permeates the classroom also renders more acute the message sent to non-

REV_00164610

students are not required to participate is no basis for distinguishing *Barnette* from the case at bar because, even without a recitation requirement for each child, the mere fact that a pupil is required to listen every day to the statement "one nation under God" has a coercive effect.[9] The coercive effect of the Act is apparent from its context and legislative history, which indicate that the Act was designed to result in the daily recitation of the words "under God" in school classrooms. President Eisenhower, during the Act's signing ceremony, stated: "From this day forward, the millions of our school children will daily proclaim in every city and town, every village and rural schoolhouse, the dedication of our Nation and our people to the Almighty." 100 Cong. Rec. 8618 (1954) (statement of Sen. Ferguson incorporating signing statement of President Eisenhower). Therefore, the policy and the Act fail the coercion test.[10]

---

believing schoolchildren that they are outsiders. *See Lee*, 505 U.S. at 592-93, 112 S. Ct. 2649 (stating that "the risk of indirect coercion" from prayer exercises is particularly "pronounced" in elementary and secondary public school because students are subjected to peer pressure and public pressure which is "as real as any overt compulsion").

[9] The objection to the Pledge in *Barnette*, like in the case at bar, was based upon a religious ground. The Pledge in the classroom context imposes upon schoolchildren the constitutionally unacceptable choice between participating and protesting. Recognizing the severity of the effect of this form of coercion on children, the Supreme Court in *Lee* stated, "the State may not, consistent with the Establishment Clause, place primary and secondary school children in this position." 505 U.S. at 593, 112 S. Ct. 2649.

[10] In *Aronow v. United States*, 432 F.2d 242 (9th Cir. 1970), this court, without reaching the question of standing, upheld the inscription of the phrase "In God We Trust" on our coins and currency. *But cf. Wooley v. Maynard*, 430 U.S. 705, 722, 97 S. Ct.

REV_00164611

Finally we turn to the *Lemon* test, the first prong of which asks if the challenged policy has a secular purpose. Historically, the primary purpose of the 1954 Act was to advance religion, in conflict with the first prong of the *Lemon* test. The federal defendants "do not dispute that the words 'under God' were intended" "to recognize a Supreme Being," at a time when the government was publicly inveighing against atheistic communism. Nonetheless, the federal defendants argue that the Pledge must be considered as a whole when assessing whether it has a secular purpose. They claim that the Pledge has the secular purpose of "solemnizing public occasions, expressing confidence in the future, and encouraging the recognition of what is worthy of appreciation in society." *Lynch*, 465 U.S. at 693, 104 S. Ct. 1355.

The flaw in defendants' argument is that it looks at the text of the Pledge "as a whole," and glosses over the 1954 Act. The problem with this approach is apparent when one considers the Court's analysis in *Wallace*. There, the Court struck down Alabama's statute mandating a moment of silence for "meditation or voluntary prayer" not because the final version "as a whole" lacked a primary secular purpose, but because the state legislature had amended the statute specifically and solely to add the words "or voluntary prayer." 472 U.S. at 59-60, 105 S. Ct. 2479.

1428, 51 L.Ed.2d 752 (1977) (Rehnquist, J., dissenting) (stating that the majority's holding leads logically to the conclusion that "In God We Trust" is an unconstitutional affirmation of belief). In any event, *Aronow* is distinguishable in many ways from the present case. The most important distinction is that school children are not coerced into reciting or otherwise actively led to participating in an endorsement of the markings on the money in circulation.

REV_00164612

By analogy to *Wallace*, we apply the purpose prong of the *Lemon* test to the amendment that added the words "under God" to the Pledge, not to the Pledge in its final version. As was the case with the amendment to the Alabama statute in *Wallace*, the legislative history of the 1954 Act reveals that the Act's *sole* purpose was to advance religion, in order to differentiate the United States from nations under communist rule." [T]he First Amendment requires that a statute must be invalidated if it is entirely motivated by a purpose to advance religion." *Id.* at 56, 105 S. Ct. 2479 (citations omitted) (applying the *Lemon* test). As the legislative history of the 1954 Act sets forth:

> At this moment of our history the principles underlying our American Government and the American way of life are under attack by a system whose philosophy is at direct odds with our own. Our American Government is founded on the concept of the individuality and the dignity of the human being. Underlying this concept is the belief that the human person is important because he was created by God and endowed by Him with certain inalienable rights which no civil authority may usurp. The inclusion of God in our pledge therefore would further acknowledge the dependence of our people and our Government upon the moral directions of the Creator. At the same time it would serve to deny the atheistic and materialistic concepts of communism with its attendant subservience of the individual.

H.R. Rep. No. 83-1693, at 1-2 (1954), *reprinted in* 1954 U.S.C.C.A.N. 2339, 2340. This language reveals that the purpose of the 1954 Act was to take a position on the question of theism, namely, to support the existence and moral authority of God, while "deny[ing] . . .

REV_00164613

atheistic and materialistic concepts." *Id.* Such a purpose runs counter to the Establishment Clause, which prohibits the government's endorsement or advancement not only of one particular religion at the expense of other religions, but also of religion at the expense of atheism.

> [T]he Court has unambiguously concluded that the individual freedom of conscience protected by the First Amendment embraces the right to select any religious faith or none at all. This conclusion derives support not only from the interest in respecting the individual's freedom of conscience, but also from the conviction that religious beliefs worthy of respect are the product of a free and voluntary choice by the faithful, and from recognition of the fact that the political interest in forestalling intolerance extends beyond intolerance among Christian sects—or even intolerance among "religions"—to encompass intolerance of the disbeliever and the uncertain.

Wallace, 472 U.S. at 52-54, 105 S. Ct. 2479.

In language that attempts to prevent future constitutional challenges, the sponsors of the 1954 Act expressly disclaimed a religious purpose. "This is not an act establishing a religion. . . . A distinction must be made between the existence of a religion as an institution and a belief in the sovereignty of God. The phrase 'under God' recognizes only the guidance of God in our national affairs." H.R. Rep. No. 83-1693, at 3 (1954), *reprinted in* 1954 U.S.C.C.A.N. 2339, 2341-42. This alleged distinction is irrelevant for constitutional purposes. The Act's affirmation of "a belief in the sovereignty of God" and its recognition of "the guidance of God" are endorsements by the government of reli-

REV_00164614

gious beliefs. The Establishment Clause is not limited to "religion as an institution"; this is clear from cases such as *Santa Fe*, where the Court struck down student-initiated and student-led prayer at high school football games. 530 U.S. at 310-16, 120 S. Ct. 2266. The Establishment Clause guards not only against the establishment of "religion as an institution," but also against the endorsement of religious ideology by the government. Because the Act fails the purpose prong of *Lemon*, we need not examine the other prongs. *Lemon*, 403 U.S. at 612-14, 91 S. Ct. 2105.

Similarly, the school district policy also fails the *Lemon* test. Although it survives the first prong of *Lemon* because, as even Newdow concedes, the school district had the secular purpose of fostering patriotism in enacting the policy, the policy fails the second prong. As explained by this court in *Kreisner v. City of San Diego*, 1 F.3d 775, 782 (9th Cir. 1993), and by the Supreme Court in *School District of Grand Rapids v. Ball*, 473 U.S. 373, 390, 105 S. Ct. 3216, 87 L.Ed.2d 267 (1985), the second *Lemon* prong asks "whether the challenged government action is sufficiently likely to be perceived by adherents of the controlling denominations as an endorsement, and by the nonadherents as a disapproval, of their individual religious choices."[11] *Ball*, 473

---

[11] Although *Ball* was overruled in part by *Agostini* v. *Felton*, 521 U.S. 203, 236, 117 S. Ct. 1997, 138 L.Ed.2d 391 (1997), as the Court stated in *Agostini*, *Ball*'s statement of the general principles and relevant tests to be used in determining what constitutes an Establishment Clause violation remain intact; only the underlying factual assumptions and presumptions have changed. In particular, the Court rejected the following three core assumptions of *Ball*:

REV_00164615

U.S. at 390, 105 S. Ct. 3216. Given the age and impressionability of schoolchildren, as discussed above, particularly within the confined environment of the classroom, the policy is highly likely to convey an impermissible message of endorsement to some and disapproval to others of their beliefs regarding the existence of a monotheistic God. Therefore the policy fails the effects prong of *Lemon*, and fails the *Lemon* test. In sum, both the policy and the Act fail the *Lemon* test as well as the endorsement and coercion tests.[12]

> (i) any public employee who works on the premises of a religious school is presumed to inculcate religion in her work; (ii) the presence of public employees on private school premises creates a symbolic union between church and state; and (iii) any and all public aid that directly aids the educational function of religious schools impermissibly finances religious indoctrination, even if the aid reaches such schools as a consequence of private decisionmaking.

Agostini, 521 U.S. at 222, 117 S. Ct. 1997. Therefore, *Ball*'s restatement of the second prong of *Lemon* remains valid even after *Agostini*.

[12] We recognize that the Supreme Court has occasionally commented in dicta that the presence of "one nation under God" in the Pledge of Allegiance is constitutional. *See Allegheny*, 492 U.S. at 602-03, 109 S. Ct. 3086; *Lynch*, 465 U.S. at 676, 104 S. Ct. 1355; *id.* at 693, 104 S. Ct. 1355 (O'Connor, J., concurring); *Abington Sch. Dist. v. Schempp*, 374 U.S. 203, 303-04, 83 S. Ct. 1560, 10 L.Ed.2d 844 (1963) (Brennan, J., concurring); *id.* at 306-08, 83 S. Ct. 1560 (Goldberg, J., joined by Harlan, J., concurring); *Engel*, 370 U.S. at 435 n. 21, 82 S. Ct. 1261. However, the Court has never been presented with the question directly, and has always clearly refrained from deciding it. Accordingly, it has never applied any of the three tests to the Act or to any school policy regarding the recitation of the Pledge. That task falls to us, although the final word, as always, remains with the Supreme Court.

REV_00164616

The only other United States Court of Appeals to consider the issue is the Seventh Circuit, which held in *Sherman v. Community Consolidated School District 21*, 980 F.2d 437 (7th Cir. 1992), that a policy similar to the one before us regarding the recitation of the Pledge of Allegiance containing the words "one nation under God" was constitutional. The *Sherman* court first stated that:

> If as *Barnette* holds no state may require anyone to recite the Pledge, and if as the prayer cases hold the recitation by a teacher or rabbi of unwelcome words is coercion, then the Pledge of Allegiance becomes unconstitutional under all circumstances, just as no school may read from a holy scripture at the start of class.

980 F.2d at 444. It then concludes, however, that this reasoning is flawed because the First Amendment "[does] not establish general rules about speech or schools; [it] call[s] for religion to be treated differently." *Id.* We have some difficulty understanding this statement; we do not believe that the Constitution prohibits compulsory patriotism as in *Barnette*, but permits compulsory religion as in this case. If government-endorsed religion is to be treated differently from government-endorsed patriotism, the treatment must be less favorable, not more.

The Seventh Circuit makes an even more serious error, however. It not only refuses to apply the *Lemon* test because of the Supreme Court's criticism of that test in *Lee*, but it also fails to apply the coercion test from *Lee* or the endorsement test from *Lynch*. Circuit courts are not free to ignore Supreme Court precedent in this manner. *Rodriguez de Quijas v. Shearson/Am. Exp., Inc.*, 490 U.S. 477, 484, 109 S. Ct. 1917, 104 L.Ed.2d 526 (1989) ("If a precedent of this Court has direct application in a case, yet appears to rest on reasons rejected in some other line of decisions, the Court of Appeals should follow the case which directly controls, leaving to this Court the prerogative of overruling its own decisions."). Instead of applying any of the tests announced by the Supreme Court, the Seventh Circuit simply frames the question as follows: "Must ceremonial references in civic life to a deity be understood as prayer, or support for all monotheistic religions, to the exclusion of atheists and those who worship multiple gods?" 980 F.2d at 445. Relying in part on Supreme Court dicta regarding the Pledge, the court answers this question in the negative, determining that "under God" is a statement

REV_00164617

In conclusion, we hold that (1) the 1954 Act adding the words "under God" to the Pledge, and (2) EGUSD's policy and practice of teacher-led recitation of the Pledge, with the added words included, violate the Establishment Clause. The judgment of dismissal is vacated with respect to these two claims, and the cause is remanded for further proceedings consistent with our holding. Plaintiff is to recover costs on this appeal.

REVERSED AND REMANDED.

---

which, taken within its context in the Pledge, is devoid of any significant religious content, and therefore constitutional. *Id.* at 447-48. At the very least, as discussed above in the text, the Supreme Court requires that any policy alleged to be an Establishment Clause violation must be held to the scrutiny of the established tests. Our application of *all* of the tests compels the conclusion that the policy and the Act challenged here violate the Establishment Clause of the Constitution. Thus, we must respectfully differ from the Seventh Circuit.

REV_00164618

FERNANDEZ, Circuit Judge, concurring and dissenting:

I concur in parts A, B and C[1] of the majority opinion, but dissent as to part D.

We are asked to hold that inclusion of the phrase "under God" in this nation's Pledge of Allegiance violates the religion clauses of the Constitution of the United States. We should do no such thing. We should, instead, recognize that those clauses were not designed to drive religious expression out of public thought; they were written to avoid discrimination.

We can run through the litany of tests and concepts which have floated to the surface from time to time. Were we to do so, the one that appeals most to me, the one I think to be correct, is the concept that what the religion clauses of the First Amendment require is neutrality; that those clauses are, in effect, an early kind of equal protection provision and assure that government will neither discriminate for nor discriminate against a religion or religions. *See Gentala v. City of Tucson*, 244 F.3d 1065, 1083-86 (9th Cir.) (en banc) (Fernandez, J., dissenting), *cert. granted and judgment vacated by* 534 U.S. 946, 122 S. Ct. 340, 151 L.Ed.2d 256 (2001); *Goehring v. Brophy*, 94 F.3d 1294,

---

[1] I admit, however, to serious misgivings about standing to attack 4 U.S.C. § 4 itself. Congress has not compelled anyone to do anything. It surely has not directed that the Pledge be recited in class; only the California authorities have done that. Even if a general lack of standing to directly attack 4 U.S.C. § 4 would deprive federal courts of the opportunity to strike "under God" from that statute, any lament would be no more than a complaint about the limits on federal judges' constitutional power. Nonetheless, that ultimately makes little difference to the resolution of the First Amendment issue in this case.

REV_00164619

1306-07 (9th Cir. 1996) (Fernandez, J., concurring). But, legal world abstractions and ruminations aside, when all is said and done, the danger that "under God" in our Pledge of Allegiance will tend to bring about a theocracy or suppress somebody's beliefs is so minuscule as to be de minimis. The danger that phrase presents to our First Amendment freedoms is picayune at most.

Judges, including Supreme Court Justices, have recognized the lack of danger in that and similar expressions for decades, if not for centuries, as have presidents[2] and members of our Congress. *See, e.g., County of Allegheny v. ACLU*, 492 U.S. 573, 602-03, 672-73, 109 S. Ct. 3086, 3106, 3143, 106 L.Ed.2d 472 (1989); *Wallace v. Jaffree*, 472 U.S. 38, 78 n. 5, 105 S. Ct. 2479, 86 L.Ed.2d 29 (1985); *Lynch v. Donnelly*, 465 U.S. 668, 676, 693, 716, 104 S. Ct. 1355, 1361, 79 L.Ed.2d 604 (1984); *Abington Sch. Dist. v. Schempp*, 374 U.S. 203, 306-08, 83 S. Ct. 1560, 1615-16, 10 L.Ed.2d 844 (1963);[3] *Separation of Church & State Comm. v. City of Eugene*, 93 F.3d 617, 622 (9th Cir. 1996) (O'Scannlain, J., concurring); *Gaylor v. United States*, 74 F.3d 214, 217-18 (10th Cir. 1996); *Sherman v. Cmty Consol. Sch. Dist. 21*, 980 F.2d 437, 445-48 (7th Cir. 1992); *O'Hair v.*

---

[2] *See, e.g., Lee v. Weisman*, 505 U.S. 577, 632-35, 112 S. Ct. 2649, 120 L.Ed.2d 467 (1992) (Scalia, J., dissenting).

[3] The citations to the four preceding Supreme Court opinions are to majority opinions, concurring opinions, and dissents. Because my point is that a number of Justices have recognized the lack of danger and because I hope to avoid untoward complication in the setting out of the citations, I have not designated which Justices have joined in which opinion. All in all, however, perusing those opinions indicates that Chief Justice Burger, Chief Justice Rehnquist, and Justices Harlan, Brennan, White, Goldberg, Marshall, Blackmun, Powell, Stevens, O'Connor, Scalia, and Kennedy have so recognized.

REV_00164620

Murray, 588 F.2d 1144, 1144 (5th Cir. 1979) (per curiam); *Aronow v. United States*, 432 F.2d 242, 243-44 (9th Cir. 1970); *cf. Marsh v. Chambers*, 463 U.S. 783, 795, 103 S. Ct. 3330, 77 L.Ed.2d 1019 (1983) (legislative prayer). I think it is worth stating a little more about two of the cases which I have just cited. In *County of Allegheny*, 492 U.S. at 602-03, 109 S. Ct. at 3106, the Supreme Court had this to say: "Our previous opinions have considered in dicta the motto and the pledge, characterizing them as consistent with the proposition that government may not communicate an endorsement of religious belief." The Seventh Circuit, reacting in part to that statement, has wisely expressed the following thought:

> Plaintiffs observe that the Court sometimes changes its tune when it confronts a subject directly. True enough, but an inferior court had best respect what the majority says rather than read between the lines. If the Court proclaims that a practice is consistent with the establishment clause, we take its assurances seriously. If the Justices are just pulling our leg, let them say so.

Sherman, 980 F.2d at 448.

Some, who rather choke on the notion of de minimis, have resorted to the euphemism "ceremonial deism." *See, e.g., Lynch*, 465 U.S. at 716, 104 S. Ct. at 1382 (Brennan, J., dissenting). But whatever it is called (I care not), it comes to this: such phrases as "In God We Trust," or "under God" have no tendency to establish a religion in this country or to suppress anyone's exercise, or non-exercise, of religion, except in the fevered eye of persons who most fervently would like to drive all tincture of religion out of the public life of our polity.

REV_00164621

Those expressions have not caused any real harm of that sort over the years since 1791, and are not likely to do so in the future.[4] As I see it, that is not because they are drained of meaning.[5] Rather, as I have already indicated, it is because their tendency to establish religion (or affect its exercise) is exiguous. I recognize that some people may not feel good about hearing the phrases recited in their presence, but, then, others might not feel good if they are omitted. At any rate, the Constitution is a practical and balanced charter for the just governance of a free people in a vast territory. Thus, although we do feel good when we contemplate the effects of its inspiring phrasing and majestic promises, it is not primarily a feel-good prescription.[6] In *West Virginia Board of Education v. Barnette*, 319 U.S. 624, 630, 642, 63 S. Ct. 1178, 1181, 1187, 87 L.Ed. 1628 (1943), for example, the Supreme Court did not say that the Pledge could not be recited in the presence of Jehovah's Witness children; it merely said that they did not have to recite it.[7] That fully protected their con-

---

[4] They have not led us down the long path to kulturkampf or worse. Those who are somehow beset by residual doubts and fears should find comfort in the reflection that no baleful religious effects have been generated by the existence of similar references to a deity throughout our history. More specifically, it is difficult to detect any signs of incipient theocracy springing up since the Pledge was amended in 1954.

[5] *See also Sherman*, 980 F.2d at 448 (Manion, J., concurring).

[6] We, by the way, indicated as much in *American Family Ass'n, Inc. v. City and County of San Francisco*, 277 F.3d 1114, 1125-26 (9th Cir. 2002), which involved governmental conduct that was much more questionable than adoption of the phrase "under God." *See id.* at 1126-28 (Noonan, J., dissenting).

[7] I recognize that the Pledge did not then contain the phrase "under God."

REV_00164622

stitutional rights by precluding the government from trenching upon "the sphere of intellect and spirit." *Id.* at 642, 63 S. Ct. at 1187. As the Court pointed out, their religiously based refusal "to participate in the ceremony [would] not interfere with or deny rights of others to do so." *Id.* at 630, 63 S. Ct. at 1181. We should not permit Newdow's feel-good concept to change that balance.

My reading of the stelliscript suggests that upon Newdow's theory of our Constitution, accepted by my colleagues today, we will soon find ourselves prohibited from using our album of patriotic songs in many public settings. "God Bless America" and "America the Beautiful" will be gone for sure, and while use of the first three stanzas of "The Star Spangled Banner" will still be permissible, we will be precluded from straying into the fourth.[8] And currency beware! Judges can accept those results if they limit themselves to elements and tests, while failing to look at the good sense and principles that animated those tests in the first place. But they do so at the price of removing a vestige of the awe we all must feel at the immenseness of the universe and our own small place within it, as well as the wonder we must feel at the good fortune of our country. That will cool the febrile nerves of a few at the cost of removing the healthy glow conferred upon many citizens when the forbidden verses, or phrases, are uttered, read, or seen.

In short, I cannot accept the eliding of the simple phrase "under God" from our Pledge of Allegiance, when it is obvious that its tendency to establish religion

---

[8] Nor will we be able to stray into the fourth stanza of "My Country 'Tis of Thee" for that matter.

REV_00164623

in this country or to interfere with the free exercise (or non-exercise) of religion is de minimis.[9]

Thus, I respectfully concur in part and dissent in part.

[9] Lest I be misunderstood, I must emphasize that to decide this case it is not necessary to say, and I do not say, that there is such a thing as a de minimis constitutional violation. What I do say is that the de minimis tendency of the Pledge to establish a religion or to interfere with its free exercise is no constitutional violation at all.

REV_00164624

APPENDIX C

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 00-16423
D.C. No. CV 00-00495-MLS/PAN

MICHAEL A. NEWDOW, PLAINTIFF-APPELLANT

v.

U.S. CONGRESS; UNITED STATES OF AMERICA; GEORGE W. BUSH,* PRESIDENT OF THE UNITED STATES; STATE OF CALIFORNIA; ELK GROVE UNIFIED SCHOOL DISTRICT; DAVID W. GORDON, SUPERINTENDENT EGUSD; SACRAMENTO CITY UNIFIED SCHOOL DISTRICT; JIM SWEENEY, SUPERINTENDENT SCUSD, DEFENDANTS-APPELLEES

Appeal from the United States District Court for the Eastern District of California, Milton L. Schwartz, Senior Judge, Presiding

Argued and Submitted: March 14, 2002
Filed: June 26, 2002
Amended: February 28, 2003

ORDER

The opinion filed June 26, 2002, is ordered amended. The Clerk is instructed to file the amended opinion with

* George W. Bush is substituted for his predecessor, William Jefferson Clinton, as President of the United States. Fed. R. App. P. 43(c)(2).

REV_00164625

Judge Fernandez's amended concurrence/dissent. Judge Reinhardt's concurrence in the order denying rehearing en banc, along with Judge O'Scannlain's and Judge McKeown's dissent from that order shall also be filed.

The Clerk is also instructed not to accept for filing any new petitions for rehearing and petitions for rehearing en banc in this case.

With the opinion thus amended, the panel has voted unanimously to deny the petitions for rehearing.

The full court has been advised of the petitions for rehearing en banc. An active judge requested a vote on whether to rehear the matter en banc. The matter failed to receive a majority of the votes of the non-recused active judges in favor of en banc consideration. Fed. R. App. P. 35.

The petitions for rehearing are DENIED and the petitions for rehearing en banc are DENIED.

REINHARDT, Circuit Judge, concurring in the order:

My views as to the merits of this issue are set forth in the amended majority opinion authored by Judge Goodwin, and I adhere to them fully. I write separately for two reasons unrelated to the contents of that opinion. I write first to comment on the separate dissent to the denial of rehearing en banc authored by Judge McKeown and joined in by Judges Hawkins, Thomas, and Rawlinson, in which my colleagues appear to express the view that a case should be reheard en banc whenever it involves "a question of exceptional importance." FED. R. APP. P. 35(a)(2).[1] Second, I am

[1] While the brief separate dissent is deliberately opaque and uninformative, I would suspect that not all of its signatories

REV_00164626

compelled to register my strong disagreement with one particularly unfortunate aspect of Judge O'Scannlain's principal dissent that reflects a serious misconception of fundamental constitutional principles and the proper role of the federal judiciary.

I

As to the first question, I disagree with the notion that the importance of an issue is a sufficient reason to take a case en banc, either under the Rule or as a matter of judicial policy. Rule 35(a) advises this court of its *discretionary* power to order that a case already decided by a three-judge panel be reheard by the full court. Specifically, the rule begins by stating that a "majority of the circuit judges who are in regular active service *may* order that an appeal or other proceeding be heard or reheard by the court of appeals en banc." FED. R. APP. P. 35(a) (emphasis added). Subsection two guides such discretionary consideration by stating that one compelling reason to grant rehearing en banc is the "exceptional importance" of a particular case.

The most reasonable construction of the Rule is that this court should rehear a case en banc when it is *both* of exceptional importance *and* the decision *requires correctio*n. *See United States* v. *Burdeau,* 180 F.3d 1091, 1092 (9th Cir. 1999) (Tashima, J., concurring in the order denying rehearing en banc) ("Subject to rare exceptions. . . . we should review the statements in three[-]judge panel opinions only to 'determine whether the [panel's] legal error resulted in an erroneous

---

believe that the general rule they appear to advocate should apply regardless of the "correctness" of the panel opinion. The concept that "exceptional importance" is, without more, a sufficient reason for en banc review is, however, shared by at least several members of the Court and accordingly merits some discussion.

REV_00164627

judgment . . . .'") (quoting *Chevron U.S.A. Inc.* v. *Natural Res. Def. Council*, 467 U.S. 837, 842 (1984)). A decision may warrant correction because a three-judge panel has reached a result or adopted a legal rule or principle that conflicts with our existing circuit law or that the majority of our court believes is incorrect and needs further review. The fact that three-judge panels often decide cases of exceptional importance, whether it be the constitutionality of a state's decision to execute an individual who may be innocent, the existence or non-existence of a fundamental right, or the ability of the Congress to require the states to comply with federal law—an issue that some of us thought had been settled by the successful end to the Civil War—is an unremarkable, but undeniably important, aspect of our appellate system. *See* Tracey E. George, *The Dynamics and Determinants of the Decision to Grant En Banc Review*, 74 WASH. L. REV. 213, 218 (1999) (stating that three-judge panels "representing and acting on behalf of the whole court" is a "basic tenet of our intermediate appellate system"). Unless reconsidered en banc, a decision of a three-judge panel *is* a decision of our court and speaks for our court. Moreover, it ordinarily constitutes the final judicial decision.[2]

To rehear a case en banc *simply* on the basis that it involves an important issue would undermine the three-

---

[2] While the Supreme Court unquestionably has the authority to review any or all of the decisions of the Court of Appeals, the Court has elected to hear a remarkably small number of cases in recent years. For example, in the 2001 term, of the 7,852 case filings, the Court heard argument in 88 cases, and disposed of 85 in 76 signed opinions. *See* Supreme Court of the United States, *2002 Year-End Report on the Federal Judiciary*, *at* http://www.supremecourtus.gov/publicinfo/year-end/2002year-endreport.html.

REV_00164628

judge panel system and create an impractical and crushing burden on what otherwise should be, as Rule 35(a) suggests, an exceptional occurrence. *See* FED. R. APP. P. 35(a) ("An en banc hearing or rehearing is not favored . . . ."). According to statistics kept by the Clerk of the court, in 2002 this court decided 5,190 cases on the merits, more than 98% of which were finally decided by three-judge panels. These decisions are not measures of "rough justice," later to be refined by the en banc court. Unless they decide issues of exceptional importance erroneously, create a direct intra-circuit split, or unless the interests of justice require that the decision be corrected, the opinions of three-judge panels should constitute the final action of this court.

II

I also feel compelled to discuss a disturbingly wrong-headed approach to constitutional law manifested in the dissent authored by Judge O'Scannlain. The dissent suggests that this court should be able to conclude that the panel's holding was erroneous by observing the "public and political reaction" to its decision. Dissent at 2783. This is not the first time that the magnitude of the political response regarding an issue has distracted certain members of this court. An equally disturbing misunderstanding of the nature of our Constitution and the role of the federal judiciary was manifested in *Coalition for Econ. Equity* v. *Wilson*, 122 F.3d 692 (9th Cir. 1997), a case involving a California initiative on the subject of affirmative action. There, the three-judge panel, in a case that unfortunately was not taken en banc, notwithstanding its exceptional importance, made the following remarkable statement: "A system which permits one judge to block with the stroke of a pen what 4,736,180 state residents voted to enact as law

REV_00164629

tests the integrity of our constitutional democracy." *Id.* at 699 (O'Scannlain, J.).

The Bill of Rights is, of course, intended to protect the rights of those in the minority against the temporary passions of a majority which might wish to limit their freedoms or liberties. As Justice Jackson recognized:

> The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections.

W. Va. State Bd. of Educ. v. *Barnette*, 319 U.S. 624, 638 (1943). It is the highest calling of federal judges to invoke the Constitution to repudiate unlawful majoritarian actions and, when necessary, to strike down statutes that would infringe on fundamental rights, whether such statutes are adopted by legislatures or by popular vote. The constitutional system that vests such power in an independent judiciary does not "test[ ] the integrity of . . . democracy." It makes democracy vital, and is one of our proudest heritages.

Moreover, Article III judges are by constitutional design insulated from the political pressures governing members of the other two branches of government. We are given life tenure and a secured salary so that, in our unique capacity to "say what the law is," *Marbury* v. *Madison*, 5 U.S. (1 Cranch) 137, 177 (1803), we may decide constitutional issues without regard to popular

REV_00164630

vote, political consequence, or the prospect of future career advancement.[3] Most federal judges do not question the wisdom of this approach. When the federal judiciary is so firmly separated by constitutional structure from the direct influence of politics, we must not undermine that structure by allowing political pressures, polls, or "focus groups" to influence our opinions, even indirectly.

This is not to say that federal judges should be completely sequestered from the attitudes of the nation we serve, even though our service is accomplished not through channeling popular sentiment but through strict adherence to established constitutional principles. The Constitution contemplates occasions when we must be responsive to *long-term* societal trends—when determining, for example, that which is "cruel and unusual," *see Hudson* v. *McMillian*, 503 U.S. 1, 9 (1992), whether in the execution of the mentally retarded, *see Atkins* v. *Virginia*, 536 U.S. 304, ___, 122 S. Ct. 2242, 2247 (2002), or the execution of juvenile offenders, *see In re Stanford*, 123 S.Ct. 472, 474 (2002) (Stevens, J., dissenting from the denial of an application for an original writ of habeas corpus). This broader long-term

---

[3] Alexander Hamilton was admirably cognizant of the danger of relying on temporary political whimsy:

> This independence of the judges is equally requisite to guard the Constitution and the rights of individuals from the effects of those ill humors which the arts of designing men, or the influence of particular conjectures, sometimes disseminate among the people themselves, and which, though they speedily give place to better information, and more deliberate reflection, have a tendency, in the meantime, to occasion dangerous innovations in the government, and serious oppressions of the minor party in the community.

THE FEDERALIST NO. 78, at 437 (Alexander Hamilton) (Clinton Rossiter ed., 1999).

REV_00164631

social conscience, however, is a matter far different from responding to particular immediate political pressures. We may not—we must not—allow public sentiment or outcry to guide our decisions. It is particularly important that we understand the nature of our obligations and the strength of our constitutional principles in times of national crisis; it is then that our freedoms and our liberties are in the greatest peril. Any suggestion, whenever or wherever made, that federal judges should be encouraged by the approval of the majority or deterred by popular disfavor is fundamentally inconsistent with the Constitution and must be firmly rejected.

REV_00164632

O'SCANNLAIN, Circuit Judge, with whom KLEINFELD, GOULD, TALLMAN, RAWLINSON, and CLIFTON, Circuit Judges, join, dissenting from the denial of rehearing en banc:

Last June, a two-judge majority of a three-judge panel of this court ruled that the Pledge of Allegiance was unconstitutional simply because of the presence of two offending words: "under God." It was an exercise in judicial legerdemain which, not surprisingly, produced a public outcry across the nation. Since that time we, as a court, have had the opportunity to order reconsideration of that decision en banc, yet a majority of the 24 active judges eligible to vote has decided not to do so. While there are, no doubt, varied and plausible reasons why this result occurred, I respectfully conclude that our court has made a serious mistake and thus must dissent from its order denying reconsideration.

I

While I cannot say that a randomly selected 11-judge panel would have ruled differently, I believe that neither the June 2002 version, *Newdow* v. *United States Congress*, 292 F.3d 597 (9th Cir. 2002) ("*Newdow* I"), nor today's slightly revised version, ___ F.3d ___ ("*Newdow II*") to essentially the same effect, is defensible. We should have reheard *Newdow I* en banc, not because it was controversial, but because it was wrong, very wrong—wrong because reciting the Pledge of Allegiance is simply not "a religious act" as the two-judge majority asserts, wrong as a matter of Supreme Court precedent properly understood, wrong because it set up a direct conflict with the law of another circuit,

REV_00164633

and wrong as a matter of common sense.[1] We should have given 11 judges a chance to determine whether the two-judge majority opinion truly reflects the law of the Ninth Circuit.[2] Reciting the Pledge of Allegiance cannot possibly be an "establishment of religion" under *any* reasonable interpretation of the Constitution.[3]

Perhaps in an effort to avoid ultimate Supreme Court review, *Newdow II* which replaces it, avoids expressly reaching the technical question of the constitutionality of the 1954 Act. Fundamentally, however, the amended decision is every bit as bold as its predecessor. It bans

---

[1] Judge Reinhardt's protestations to the contrary notwithstanding, I, too, believe that "[o]ur judicial charge is to stand above the inflamed passions of the public." *Dazo* v. *Globe Airport Sec. Serv.*, 295 F.3d 934, 943 (9th Cir. 2002) (O'Scannlain, J., concurring and dissenting). My disagreement with the panel majority has nothing to do with bending to the will of an outraged populace, and everything to do with the fact that Judge Goodwin and Judge Reinhardt misinterpret the Constitution and 40 years of Supreme Court precedent. That most people understand this makes the decision no less wrong. It doesn't take an Article III judge to recognize that the voluntary recitation of the Pledge of Allegiance in public school does not violate the First Amendment.

[2] This case presents the classic situation required for our court to rehear a case en banc. En banc consideration would have allowed us to correct the error of a prior panel's decision with respect to the Pledge *and* resolve a constitutional question of exceptional importance that affects the lives of millions of school children who reside within the geographical boundaries of the Ninth Circuit. *See* Fed. R. App. P. 35(a). The exceptional importance of this case reinforces the need for correction of the panel's mistaken view of our Constitution.

[3] U.S. Const. Amend. I. ("Congress shall make no law respecting an *establishment of religion,* or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.") (emphasis added).

REV_00164634

the voluntary recitation of the Pledge of Allegiance in the public schools of the nine western states thereby directly affecting over 9.6 million students,[4] necessarily *implies* that both an Act of Congress[5] and a California law[6] are unconstitutional, clearly conflicts with the Seventh Circuit's decision in *Sherman* v. *Cmty. Consol. Sch. Dist. 21 of Wheeling Township*, 980 F.2d 437 (1992), and threatens cash-strapped school districts and underpaid teachers with the specter of civil actions for money damages pursuant to 42 U.S.C. § 1983.

Newdow I, the subject of our en banc vote, no longer exists; it was withdrawn after the en banc call failed. The panel majority has evolved to this extent: in *Newdow I* the Pledge was unconstitutional for everybody; in *Newdow II* the Pledge is only unconstitutional for public school children and teachers. The remainder of this dissent is directed entirely to *Newdow II*, which, as shall be demonstrated, differs little from *Newdow I* in its central holding. With grim insistence, the majority in *Newdow II* continues to stand by its original error—that voluntary recitation of the Pledge of Alle-

---

[4] *See* U.S. Dep't of Ed., Nat'l Ctr. for Ed. Statistics, available at http://nces.ed.gov/pubs2002/snf_report/table_01_1.asp. The approximate figure is for the school year 2000-01, comprising the states of Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon and Washington,

[5] 4 U.S.C. § 4 ("The Pledge of Allegiance to the Flag: 'I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.' ").

[6] Cal. Educ. Code § 52720. This section provides that "at the beginning of the first regularly scheduled class or activity period . . . there shall be conducted appropriate patriotic exercises. The giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy the requirements of this section."

REV_00164635

giance in public school violates the Establishment Clause because, according to the two-judge panel majority, it is "a religious act." *Newdow II*, ___ F.3d at ___. Common sense would seem to dictate otherwise, as the public and political reaction should by now have made clear. If reciting the Pledge is truly "a religious act" in violation of the Establishment Clause, then so is the recitation of the Constitution[7] itself, the Declaration of Independence,[8] the Gettysburg Address,[9] the National Motto,[10] or the singing of the National Anthem.[11] Such an assertion would make hypocrites out of the Founders, and would have the effect of

---

[7] U.S. Const. Art. VII. ("Year of *our Lord*") (emphasis added).

[8] The Declaration of Independence contains multiple references to God. The founders claimed the right to "dissolve the political bands" based on "the Laws of Nature and of *Nature's God*." The most famous passage, of course, is that "all men are created equal, that they are endowed by *their Creator* with certain unalienable Rights." Subsequently, the signatories "appeal[ ] to the *Supreme Judge of the world* to rectify their intentions."

[9] On November 19, 1863, President Lincoln declared "that this Nation, *under God*, shall have a new birth of freedom—and that Government of the people, by the people, for the people, shall not perish from the earth."

[10] *See* 36 U.S.C. § 302. (" '*In God* we trust' is the national motto.") (emphasis added).

[11] *See* 36 U.S.C. § 301(a) ("The composition consisting of the words and music known as the Star-Spangled Banner is the national anthem."). In fact, the Anthem is much more explicitly religious in content than the Pledge, and much more than a 'mere' profession of the *composer's* faith in a Supreme Being, as the majority would have it. *See Newdow II*, ___ F.3d at ___. Consider the following passage from the fourth stanza: "Blest with victory and peace, may the *heaven-rescued* land, Praise *the Power* that hath made and preserved us a nation. Then conquer we must, when our cause is just, And this be our motto: '*In God* is our trust.' "(emphasis added).

REV_00164636

driving any and all references to our religious heritage out of our schools, and eventually out of our public life.

II

The *Newdow II* majority's primary legal argument is that the Supreme Court's decision in *Lee* v. *Weisman*, 505 U.S. 577 (1992), a school prayer case, controls the outcome of this case. In fact, rather than merely following *Lee* and its predecessors, the two-judge panel majority makes a radical departure from *Lee* and the cases it purports to apply. To understand why this is so, an examination of the Supreme Court's school prayer decisions which culminate in *Lee* is in order.

A

1

The fountainhead of all school prayer cases is *Engel* v. *Vitale*, 370 U.S. 421 (1962). In *Engel* the Court considered a school policy whereby children were directed to say aloud a prayer composed by state officials. The Court found that this practice was inconsistent with the Establishment Clause, reasoning that "[the] program of daily classroom invocation of God's blessings as prescribed in the Regents' prayer is a religious activity. It is a solemn avowal of divine faith and supplication for the blessings of the Almighty. The nature of such a prayer has always been religious." *Id.* at 424-25. The Court concluded by stating that the state should leave prayer, "that purely religious function, to the people themselves." *Id.* at 435. In a footnote, it reasoned as follows:

> There is of course nothing in the decision reached here that is inconsistent with the fact that school children and others are officially encouraged to

REV_00164637

> express love for our country by reciting historical documents such as the Declaration of Independence which contain references to the Deity or by singing officially espoused anthems which include the composer's professions of faith in a Supreme Being, or with the fact that there are many manifestations in our public life of belief in God. Such patriotic or ceremonial occasions bear no true resemblance to the unquestioned religious exercise that the State of New York has sponsored in this instance.

Id. at 435 n.21. The Court drew an explicit distinction between patriotic invocations of God on the one hand, and prayer, an "unquestioned religious exercise," on the other. Concurring, Justice Douglas wrote that the narrow question presented was whether the state "oversteps the bounds when it finances a religious exercise." *Id.* at 439 (Douglas, J., concurring). Justice Douglas noted that the Pledge of Allegiance, "like . . . prayer, recognizes the existence of a Supreme Being." *Id.* at 440 n.5. However, he noted that the House Report recommending the addition of the words "under God" to the Pledge stated that those words "in no way run contrary to the First Amendment but recognize 'only the guidance of God in our national affairs.'" *Id.* (quoting H.R. Rep. No. 1693, 83d Cong., 2d Sess., p. 3).

2

The following year, the Supreme Court decided *Abington School Dist.* v. *Schempp*, 374 U.S. 203 (1963). In that case, the Court considered the constitutionality of a Pennsylvania statute requiring that "[a]t least ten verses from the Holy Bible shall be read, without comment, at the opening of each public school on each school day." *Id.* at 205. The practice in public schools

REV_00164638

was for a teacher or student volunteer to read the required Bible verses each morning. This in turn was followed by a recitation of the Lord's prayer. Finally, the class would recite the Pledge of Allegiance to the Flag. *Id.* at 207-08. The Court struck down the Bible reading and the practice of reciting the Lord's prayer as a state prescribed "religious ceremony," *id.* at 223, but said nothing about the practice of reciting the Pledge.

As in *Engel*, the Court took pains to point to the character of the exercises it found wanting. The Court reasoned that "reading . . . the verses . . . possesses a devotional and religious character and constitutes in effect a religious observance. The devotional and religious nature of the morning exercises is made all the more apparent by the fact that the Bible reading is followed immediately by a recital in unison by the pupils of the Lord's prayer." *Id.* at 210. "The pervading religious character of the ceremony," wrote Justice Clark, "cannot be gainsaid," and led to the conclusion that the exercises violated the Establishment Clause. *Id.* at 224.

The concurring opinions in *Schempp* were all to the same effect. Justice Douglas agreed with the majority's conclusion that the practices at issue violated the Establishment Clause because "the State is conducting a religious exercise." *Id.* at 229 (Douglas, J., concurring). In a lengthy concurrence, Justice Brennan wrote that "[t]he religious nature of the exercises here challenged seems plain." *Id.* at 266 (Brennan, J., concurring). After surveying the history of devotional exercises in American public schools, Justice Brennan stated that "the panorama of history permits no other conclusion than that daily prayers and Bible readings in

REV_00164639

the public schools have always been designed to be, and have been regarded as, essentially religious exercises." *Id.* at 277-78. For Justice Brennan, "religious exercises in the public schools present a unique problem" but "not every involvement of religion in public life violates the Establishment Clause." *Id.* at 294. He warned that "[a]ny attempt to impose rigid limits upon the mention of God . . . in the classroom would be fraught with dangers." *Id.* at 301. Specifically, he wrote that "[t]he reference to divinity in the revised pledge of allegiance . . . may merely recognize the historical fact that our Nation was believed to have been founded 'under God.' Thus reciting the pledge may be no more of a religious exercise than the reading aloud of Lincoln's Gettysburg Address, which contains an allusion to the same historical fact." *Id.* at 304.

Justice Goldberg also wrote separately, stating that "the clearly religious practices presented in these cases are . . . wholly compelling." *Id.* at 305 (Goldberg, J., concurring). He reasoned that "[t]he pervasive religiosity and direct governmental involvement inhering in the prescription of prayer and Bible reading in the public schools . . . cannot realistically be termed simply accommodation." *Id.* at 307. Like Justice Brennan, Justice Goldberg cautioned that the decision "does not mean that all incidents of government which import of the religious are therefore and without more banned by the strictures of the Establishment Clause." *Id.* at 307-08. He then quoted in full the passage from *Engel* which drew a distinction between patriotic invocations of God, and unquestioned religious exercises that give rise to Establishment Clause violations. *Id.*

REV_00164640

3

The next case in this line is *Wallace* v. *Jaffree*, 472 U.S. 38 (1985). That case considered the constitutionality of an Alabama statute authorizing a 1-minute period of silence in public schools "for meditation or voluntary prayer." *Id.* at 40. The Court found that "[t]he wholly religious character" of the challenged law was "plainly evident from its text." *Id.* at 58. The legislature's one and only purpose in enacting the law was "to return prayer to the public schools." *Id.* at 59-60. Justice Powell's separate concurrence was "prompted by Alabama's persistence in attempting to institute state-sponsored prayer in the public schools." *Id.* at 62 (Powell, J., concurring). Justice O'Connor wrote separately to suggest that moment-of-silence statutes were not "a religious exercise," and therefore were constitutional. *Id.* at 72 (O'Connor, J., concurring). Justice O'Connor wrote further that "the words 'under God' in the Pledge . . . serve as an acknowledgment of religion with 'the legitimate secular purposes of solemnizing public occasions, [and] expressing confidence in the future.'" *Id.* at 78 n.5 (quoting *Lynch* v. *Donnelly*, 465 U.S. 668, 693 (O'Connor, J., concurring)) (alterations in original). In contrast, the Alabama statute at issue was very different from the Pledge—the state had "intentionally crossed the line [by] affirmatively endorsing the particular religious practice of prayer." *Id.* at 84.

4

Finally, there is the Supreme Court's decision in *Lee* v. *Weisman*. The issue presented was "whether including clerical members who offer prayers as part of the official school graduation ceremony" is consistent

REV_00164641

with the Establishment Clause. 505 U.S. at 580. The graduating students entered as a group in a processional, after which "the students stood for the Pledge of Allegiance and remained standing during the rabbi's prayers." *Id.* at 583. Justice Kennedy wrote that "the significance of the prayers lies . . . at the heart of [the] case." *Id.* He framed the inquiry as follows:

> These dominant facts mark and control the confines of our decision: State officials direct the performance of a formal religious exercise at promotional and graduation ceremonies for secondary schools. Even for those students who object to the religious exercise their attendance and participation in the state-sponsored religious activity are in a fair and real sense obligatory, though the school district does not require attendance as a condition for receipt of the diploma.

Id. at 586.

The Court in *Lee* concluded that *Engel* and its progeny controlled the outcome, writing that "[c]onducting this formal religious observance conflicts with settled rules pertaining to prayer exercises for students." *Id.* at 587. As in *Engel*, *Schempp*, and *Wallace*, the crucial factor was the nature of the exercise in which the students were asked to participate. Time and again the Court went out of its way to stress the nature of the exercise, writing that prayer was "an overt religious exercise," *id.* at 588, and that "prayer exercises in public schools carry a particular risk of indirect coercion." *Id.* at 592. The practice was unconstitutional because "the State has in every practical sense compelled attendance and participation in an explicit re-

REV_00164642

ligious exercise at an event of singular importance to every student." *Id.* at 598. Just like the decisions in *Engel* and *Schempp*, the Court in *Lee* took pains to stress the confines of its holding, concluding that "[w]e do not hold that every state action implicating religion is invalid if one or a few citizens find it offensive," *id.* at 597, and that "[a] relentless and all-pervasive attempt to exclude religion from every aspect of public life could itself become inconsistent with the Constitution." *Id.* at 598.

B

Two fundamental principles may therefore be derived from the school prayer cases culminating in *Lee*.

1

Formal religious observances are prohibited in public schools because of the danger that they may effect an establishment of religion. *See Engel*, 370 U.S. at 424-25 ("[D]aily classroom invocation of God's blessings . . . is a religious activity."); *Schempp*, 374 U.S. at 210 (Bible reading followed by the Lord's prayer "possesses a devotional and religious character and constitutes in effect a religious observance."); *Wallace*, 472 U.S. at 58 (Prayer is of a "wholly religious character."); *Lee*, 505 U.S. at 586 (Prayer written by state officials constitutes a "formal religious exercise"). In each of these cases, the Court took pains to stress that not every reference to God in public schools was prohibited. *See Engel*, 370 U.S. at 435 n.21 ("patriotic or ceremonial occasions" which contain "references to the Deity" bear "no true resemblance to the unquestioned religious exercise" of prayer); *Schempp*, 374 U.S. at 301 (Brennan, J., concurring) ("Any attempt to impose rigid limits upon the

REV_00164643

mention of God . . . in the classroom would be fraught with dangers."); *Wallace*, 472 U.S. at 78 n.5 (O'Connor, J., concurring) ("the words 'under God' in the Pledge" are not unconstitutional); *Lee*, 505 U.S. at 598 ("A relentless and all-pervasive attempt to exclude religion . . . could itself become inconsistent with the Constitution.").

2

Once it is established that the state is sanctioning a formal religious exercise, then the fact that the students are not *required* to participate in the formal devotional exercises does not prevent those exercises from being unconstitutional. *See Engel*, 370 U.S. at 431 ("[T]he indirect coercive pressure upon religious minorities to conform" to the prayer exercises "is plain."); *Schempp*, 374 U.S. at 210-11 ("The fact that some pupils, or theoretically all pupils, might be excused from attendance at the exercises does not mitigate the obligatory nature of the ceremony."); *Wallace*, 472 U.S. at 57 (State-sanctioned *voluntary* prayer in public schools violates Establishment Clause); *Lee*, 505 U.S. at 592 ("[P]rayer exercises in public schools carry a particular risk of indirect coercion."). To be sure, *Lee* is the Court's most elaborate pronouncement with respect to indirect coercion. It identifies the circumstances in which indirect coercion may be said to be unconstitutional: when the government directs "the performance of a formal religious exercise" in such a way as to oblige the participation of objectors. *Lee*, 505 U.S. at 586.

III

No court, state or federal, has *ever* held, even now, that the Supreme Court's school prayer cases apply

REV_00164644

outside a context of state-sanctioned formal religious observances. But *Newdow II* finesses all that, and the sleight of hand the majority uses becomes immediately apparent: obfuscate the nature of the exercise at issue and emphasize indirect coercion. The panel majority simply ignores, because they are inconvenient, the "dominant and controlling facts" in *Lee* and its predecessors: that Establishment Clause violations in public schools are triggered only when "State officials direct the performance of a *formal religious exercis*e." 505 U.S. at 586 (emphasis added); *see also Schempp*, 374 U.S. at 210 ("devotional . . . religious observance" prohibited); *Wallace*, 472 U.S. at 58 (activities of a "wholly religious character" prohibited).

A

To avoid a flagrant inconsistency with *Lee*, and with 40 years of Supreme Court precedent, the two-judge panel majority must first examine whether the act of pledging allegiance is "a religious act." As the Seventh Circuit in *Sherman* framed it, "Does 'under God' make the Pledge a prayer, whose recitation violates the establishment clause of the first amendment?" 980 F.2d at 445. That court answered the question in the negative; the *Newdow II* majority, in conclusory fashion, simply *assumes* the affirmative. ___ F.3d at ___ ("[W]e conclude that the school district policy impermissibly coerces *a religious act*.") (emphasis added).

This assertion belies common sense. Most assuredly, to pledge allegiance to flag and country is a *patriotic* act. After the public and political reaction last summer, it is difficult to believe that anyone can continue to think otherwise. The fact the Pledge is infused with an undoubtedly religious reference does not change the

REV_00164645

nature of the act itself. The California statute under which the school district promulgated its policy is entitled "[d]aily performance of *patriotic exercises* in public schools." Cal. Educ. Code § 52720 (emphasis added). The Pledge is recited not just in schools but also at various official events and public ceremonies, including perhaps the most patriotic of occasions—naturalization ceremonies. Generally, the Pledge is recited while standing, facing a United States flag, with the right hand held over the heart, much like the National Anthem. *See* 4 U.S.C. § 4 (articulating proper procedure for reciting Pledge); 36 U.S.C. § 301 (during anthem "all present . . . should stand at attention facing the flag with the right hand over the heart."). Whatever one thinks of the normative values underlying the Pledge, they are unquestionably patriotic in nature. Indeed, it is precisely because of the Pledge's explicitly patriotic nature that in 1943 the Supreme Court ruled that no one is *required* to Pledge allegiance against their will. *West Virginia* v. *Barnette*, 319 U.S. 624, 642 (1943).

In contrast, to pray is to speak directly to God, with bowed head, on bended knee, or some other reverent disposition. It is a solemn and humble approach to the divine in order to give thanks, to petition, to praise, to supplicate, or to ask for guidance. Communal prayer, by definition, is an even more forceful and profound experience for those present. Little wonder that the Supreme Court has recognized the "unique problem" and "particular risk" posed by school prayer to non-participating students. *Lee*, 505 U.S. at 592 ("[P]rayer exercises in public schools carry a particular risk of indirect coercion."); *Schempp*, 374 U.S. at 294 (Brennan,

REV_00164646

J., concurring) (noting that prayers in public schools "present a unique problem").

Not only does the panel majority's conclusion that pledging allegiance is "a religious act" defy common sense, it contradicts our 200-year history and tradition of patriotic references to God. The Supreme Court has insisted that interpretations of the Establishment Clause must comport "with what history reveals was the contemporaneous understanding of its guarantees." *Lynch*, 465 U.S. at 673; *see also Schempp*, 374 U.S. at 294 ("[T]he line we must draw between the permissible and the impermissible is one which accords with history and faithfully reflects the understanding of the Founding Fathers.") (Brennan, J., concurring).

The majority's unpersuasive and problematic disclaimers notwithstanding, *Newdow II* precipitates a "war with our national tradition," *McCollum* v. *Bd. of Ed.*, 333 U.S. 203, 211 (1948), and as Judge Fernandez so eloquently points out in dissent, only the purest exercise in sophistry could save multiple references to our religious heritage in our national life from *Newdow II*'s axe. Of course, the Constitution itself explicitly mentions God, as does the Declaration of Independence, the document which marked us as a separate people. The Gettysburg Address, inconveniently for the majority, contains the *same precise phrase*—"under God"—found to constitute an Establishment Clause violation in the Pledge.[12] After *Newdow II*, are we to suppose that, were a school to permit—not require—the recitation of the Constitution, the Declaration of Independence, or the Gettysburg Address in public schools, that too would violate the Constitution? Were

---

[12] *See infra* footnote 9.

REV_00164647

the "founders of the United States . . . unable to understand their own handiwork[?]" *Sherman*, 980 F.2d at 445. Indeed, the recitation of the Declaration of Independence would seem to be the better candidate for the chopping block than the Pledge, since the Pledge does not require anyone to acknowledge the *personal* relationship with God to which the Declaration speaks.[13] So too with our National Anthem and our National Motto.

Our national celebration of Thanksgiving dates back to President Washington, which Congress stated was "to be observed by acknowledgment with grateful hearts, the many and signal favours of Almighty God." *Lynch*, 465 U.S. at 675 n.2. Congress made Thanksgiving a permanent holiday in 1941,[14] and Christmas has been a national holiday since 1894.[15] Are pere [*sic*] Newdow's constitutional rights violated when his daughter is told not to attend school on Thanksgiving? On Christmas day? Must school outings to federal courts be prohibited, lest the children be unduly influenced by the dreaded intonation "God save these United States and this honorable Court"?[16] A theory of the Establishment Clause that would have the effect of driving out of our public life the multiple references to

---

[13] *See infra* footnote 8.

[14] *See* 5 U.S.C. § 6103(a).

[15] *See id.*

[16] Indeed, even our own court's formal announcement to open sessions contains the offending word: "Hear ye! hear ye! All persons having business with the honorable, the United States Court of Appeals for the Ninth Circuit will now draw near, give your attention and you will be heard, for this court is now in session. *God save* these United States and this honorable Court." (emphasis added).

REV_00164648

the Divine that run through our laws, our rituals, and our ceremonies is no theory at all.

B

As if all of this were not enough, the Supreme Court has gone out of its way to make it plain that the Pledge itself passes constitutional muster. In two of the school prayer cases, the Court noted without so much as a hint of disapproval the fact that the students, in addition to being subject to formal religious observances, *also* recited the Pledge of Allegiance. *See Schempp*, 374 U.S. at 207-08 (noting that the practice in public schools consisted of Bible reading and recitation of the Lord's prayer, followed by recitation of the Pledge); *Lee*, 505 U.S. at 583 (noting that "the students stood for the Pledge of Allegiance and remained standing during the rabbi's prayers.").

Several other Supreme Court cases contain explicit references to the constitutionality of the Pledge. *See Engel*, 370 U.S. at 440 n.5 (Douglas, J., concurring) ("[The Pledge] in no way run[s] contrary to the First Amendment") (quoting H.R. Rep. No. 1693, 83d Cong., 2d Sess., p. 3); *Schempp*, 374 U.S. at 304 (Brennan, J., concurring) ("[R]eciting the pledge may be no more of a religious exercise than the reading aloud of Lincolns' Gettysburg Address."); *Wallace*, 472 U.S. at 78 n.5 (O'Connor, J., concurring) ("[T]he words 'under God' in the Pledge . . . serve as an acknowledgment of religion."); *Co. of Allegheny* v. *ACLU*, 492 U.S. 573, 602-03 (Blackmun, J., for the court) ("Our previous opinions have considered in dicta . . . the pledge, characterizing [it] as consistent with the proposition that government may not communicate an endorsement of religious belief."); *Lynch* v. *Donnelly*, 465 U.S. 668,

REV_00164649

676 (1984) (Burger, C.J., for the court) ("Other examples of reference to our religious heritage are found . . . in the language 'One nation under God,' as part of the Pledge of Allegiance to the American flag. That pledge is recited by many thousands of public school children—and adults—every year.").

The panel majority's answer to these myriad statements from our high court is summarily to dismiss them as dicta. However, "dicta of the Supreme Court have a weight that is greater than ordinary judicial dicta as prophecy of what that Court might hold. We should not blandly shrug them off because they were not a holding." *Zal* v. *Steppe*, 968 F.2d 924, 935 (9th Cir. 1992) (Noonan, J., concurring and dissenting in part); *see also United States* v. *Baird*, 85 F.3d 450, 453 (9th Cir. 1996) ("[W]e treat Supreme Court dicta with due deference.").[17]

---

[17] Other courts have, unremarkably enough, not been so flippant when it comes to considering consistent Supreme Court dicta on this issue. *See Sherman*, 980 F.2d at 448 ("[A]n inferior court had best respect what the majority says rather than read between the lines. If the Court proclaims that a practice is consistent with the establishment clause, we take its assurances seriously. If the Justices are just pulling our leg, let them say so."); *Gaylor* v. *United States*, 74 F.3d 214, 217 (10th Cir. 1996) ("[T]his court considers itself bound by Supreme Court dicta almost as firmly as by the Court's outright holdings, particularly when the dicta is recent and not enfeebled by later statements."); *ACLU* v. *Capital Square Review*, 243 F.3d 289, 301 n.10 (6th Cir. 2001) ("We should . . . be amazed if the Supreme Court were now to question the constitutionality of the [revised Pledge]"). Indeed, the unanimity on this point relative to *Newdow II* is striking.

REV_00164650

C

The *Newdow II* majority, then, finds itself caught between a rock and a hard place—the recitation of the Pledge is not a formal religious act, while patriotic invocations of God do not give rise to Establishment Clause violations. It nonetheless manages to skirt these obstacles to reach its indirect coercion analysis. *Newdow II*'s conclusory foray into the social sciences is a case study, an advertisement, for why it is that the Supreme Court has anchored coercion analysis only to those situations where "formal religious exercises" take place in our public schools. The panel majority seeks to protect dissenters at the risk of courting some unpopularity, but this is not the test. "[O]ffense alone does not in every case show a violation . . . . and sometimes to endure social isolation or even anger may be the price of conscience or nonconformity." *Lee*, 505 U.S. at 597-98. The *Newdow II* majority's expansive application of the coercion test is ill-suited to a society as diverse as ours, since almost *every* cultural practice is bound to offend *someone's* sensibilities. In affording Michael Newdow the right to impose his views on others, *Newdow II* affords him a right to be fastidiously intolerant and self-indulgent. In granting him this supposed right, moreover, the two-judge panel majority has not eliminated feelings of discomfort and isolation, it has simply shifted them from one group to another.

Newdow II's psychological ipse dixit is also delivered without reference or regard to our collective experience in the half-century since the passage of the offending statute. In that time, generations of Americans have grown up reciting the Pledge, religious tolerance and diversity has flourished in this country, and we have become a beacon for other nations in this regard. As

REV_00164651

Judge Fernandez observes, "it is difficult to detect any signs of incipient theocracy springing up since the Pledge was amended in 1954." *Newdow II* ___ F.3d at ___ n.4 (Fernandez, J., dissenting).

IV

In fairness to the *Newdow II* panel majority, its professed "neutrality" does have some plausible basis in the case law of the Supreme Court, which has undoubtedly constructed a "fractured and incoherent doctrinal path" in the Establishment Clause area, broadly speaking. *Sep. of Church and State Comm.* v. *City of Eugene*, 93 F.3d 617, 622 (9th Cir. 1996) (O'Scannlain, J., concurring). Indeed, its Establishment Clause cases sometimes "more closely resemble ad hoc Delphic pronouncements than models of guiding legal principles." *Ingebretsen* v. *Jackson Pub. Sch. Dist.*, 88 F.3d 274, 282 (5th Cir. 1996) (Jones, J., dissenting from denial of rehearing en banc). Supreme Court Justices themselves have recognized that if some of its reasoning "were to be applied logically, it would lead to the elimination" of many cherished, long-standing practices. *Co. of Allegheny*, 492 U.S. at 674 n.10 (Kennedy, J., dissenting).

With respect to the issue presented in *this* case, however, the Supreme Court has displayed remarkable consistency—patriotic invocations of God simply have no tendency to establish a state religion. Even Justice Brennan, that most stalwart of separationists, recognized that *some* official acknowledgment of God is appropriate "if the government is not to adopt a stilted indifference to the religious life of the people." *Lynch*, 465 U.S. at 714 (Brennan, J., dissenting). The decision reached in *Newdow II* does precisely that: it adopts a

REV_00164652

stilted indifference to our past and present realities as a predominantly religious people.

But *Newdow II* goes further, and confers a favored status on atheism in our public life. In a society with a pervasive public sector, our public schools are a most important means for transmitting ideas and values to future generations. The silence the majority commands is *not* neutral—it itself conveys a powerful message, and creates a distorted impression about the place of religion in our national life. The absolute prohibition on any mention of God in our schools creates a bias *against* religion. The panel majority cannot credibly advance the notion that *Newdow II* is neutral with respect to belief versus non-belief; it affirmatively favors the latter to the former. One wonders, then, does atheism become the default religion protected by the Establishment Clause?

In short, a lack of clarity in the Supreme Court's Establishment Clause cases generally does not help to explain or to justify the panel majority's decision with respect to *this* particular issue. Put simply, the panel was asked to decide whether the recitation of the Pledge of Allegiance in public schools amounted to a government establishment of religion. The answer to that question is clearly, obviously, no. We made a grave error in failing to take *Newdow I* en banc, and we have failed to correct that error ourselves. Now we have *Newdow II*. Perhaps the Supreme Court will have the opportunity to correct the error for us. I must respectfully dissent from the order denying reconsideration en banc.

REV_00164653

McKEOWN, Circuit Judge, with whom HAWKINS, THOMAS, and RAWLINSON, Circuit Judges, join, dissenting from the denial of rehearing en banc:

The recitation of the Pledge of Allegiance by school children presents a constitutional question of exceptional importance that merits reconsideration by the en banc court. *See* Fed. R. App. P. 35(a)(2) (en banc hearing appropriate when "the proceeding involves a question of exceptional importance"). Although not every case of exceptional importance can or should be reheard en banc, this is a case that should be reheard. I respectfully dissent from the court's decision to deny rehearing en banc.

REV_00164654

APPENDIX D

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 00-16423

MICHAEL A. NEWDOW, PLAINTIFF-APPELLANT

v.

U.S. CONGRESS; UNITED STATES OF AMERICA; GEORGE W. BUSH,* PRESIDENT OF THE UNITED STATES; STATE OF CALIFORNIA; ELK GROVE UNIFIED SCHOOL DISTRICT; DAVID W. GORDON, SUPERINTENDENT EGUSD; SACRAMENTO CITY UNIFIED SCHOOL DISTRICT; JIM SWEENEY, SUPERINTENDENT SCUSD, DEFENDANTS-APPELLEES

Dec. 4, 2002

ORDER

Before: GOODWIN, REINHARDT and FERNANDEZ, Circuit Judges.

Order by Judge GOODWIN; Concurrence by Judge FERNANDEZ.

GOODWIN, Circuit Judge.

After we issued our June 26, 2002 opinion in this case, Sandra Banning, the mother of Michael Newdow's

---

* George W. Bush is substituted for his predecessor, William Jefferson Clinton, as President of the United States. Fed. R. App. P. 43(c)(2).

REV_00164655

daughter, filed a motion for leave to intervene, in order to, *inter alia*, challenge Newdow's standing to maintain this action. Banning attached to her motion as an exhibit a copy of a February 6, 2002 California Superior Court custody order. That order awarded Banning "sole legal custody" of the child. We have carefully reconsidered the question of Newdow's Article III standing in light of this custody order and affirm our holding that he has standing as a parent to continue to pursue his claim in federal court.

I. FACTUAL AND PROCEDURAL BACKGROUND

When this case first reached us from the district court, no legal custody question or order had been disclosed to the federal courts. Newdow had alleged in the district court that he was the father, and had custody of the minor child. The record now indicates that Newdow and Banning formed a family consisting of an unmarried man, an unmarried woman, and their biological minor child, who lived together part of the time and lived in separate homes in Florida and California, from time to time, with informal visiting arrangements. This informal arrangement apparently was not subject to any custody order until February 6, 2002, after Newdow had appealed from the dismissal of the action he had commenced in federal district court to challenge on Establishment Clause grounds the practice of reciting the pledge of allegiance in the public elementary school his child attends.

On February 6, the California Superior Court entered an order containing the following language:

> The child's mother, Ms. Banning, to have *sole* legal custody as to the rights and responsibilities to make decisions relating to the health, education and

REV_00164656

> welfare of [the child]. Specifically, both parents shall consult with one another on substantial decisions relating to non-emergency major medical care, dental, optometry, psychological and educational needs of [the child]. If mutual agreement is not reached in the above, then Ms. Banning may exercise legal control of [the child] that is not specifically prohibited or inconsistent with the physical custody order. The father shall have access to all of [the child's] school and medical records.

Thereafter, Newdow, alleging "changed circumstances," filed a motion in the Superior Court for a modification of the custody order, seeking, *inter alia*, joint legal custody with Banning of their child.

On September 25, 2002, the Superior Court (Judge Mize) entered an *in personam* order enjoining Newdow from pleading his daughter as an unnamed party or representing her as a "next friend" in this lawsuit. The United States promptly filed a motion, which we have granted, to enlarge the record to include the state court transcript of the September 25 hearing before Judge Mize. That transcript contemplates a full trial in the future on Newdow's motion for modification of the February 6 custody order.

Judge Mize appropriately reserved to this court, however, the question of Newdow's Article III standing in federal court. Newdow no longer claims to represent his child, but asserts that he retains standing in his own right as a parent to challenge alleged unconstitutional state action affecting his child while she attends public school in the Elk Grove Unified School District (EGUSD).

REV_00164657

II. DISCUSSION

Our original opinion in this case holds that a parent has Article III standing to challenge on Establishment Clause grounds state action affecting his child in public school. *See Newdow* v. *U.S. Congress*, 292 F.3d 597, 602 (9th Cir. 2002) (citing *Doe* v. *Madison Sch. Dist. No. 321*, 177 F.3d 789, 795 (9th Cir. 1999) (en banc) and *Grove* v. *Mead Sch. Dist. No. 354*, 753 F.2d 1528, 1532 (9th Cir. 1985)). Banning's motion for leave to intervene presents a question of first impression in this Circuit which we are required to consider, even though raised for the first time on appeal. *See United States* v. *Viltrakis*, 108 F.3d 1159, 1160 (9th Cir. 1997) ("[T]he jurisdictional issue of standing can be raised at any time."). Does the grant of sole legal custody to Banning deprive Newdow, as a noncustodial parent, of Article III standing to object to unconstitutional government action affecting his child?

A Seventh Circuit decision, *Navin* v. *Park Ridge School District 64*, 270 F.3d 1147 (7th Cir. 2001) (per curiam), addresses a noncustodial parent's standing to challenge a school's educational plan for his disabled child under the Individuals with Disabilities Education Act (IDEA). Though not controlling, the Seventh Circuit's reasoning in *Navin* illustrates a useful method of analysis for the standing question presented here. The divorce decree in that case had granted the mother sole legal custody of her son. The Illinois Marriage and Dissolution of Marriage Act provided that the legal custodian may determine, absent an agreement by the parties to the contrary, "the child's uprising, including but not limited to, his education, health care and religious training." *See* 750 IL CH § 5/608(a). Contending that tutoring for his dyslexic son was being provided by

REV_00164658

a "crossing guard supervisor with no skill (or at least no certification) in educating dyslexic youths," the father in *Navin* had asked for an administrative hearing under the IDEA and filed suit in federal court when the hearing officer terminated the proceeding without addressing the merits. 270 F.3d at 1148. The district court dismissed the father's suit, holding that as a noncustodial parent, he had no standing to challenge action affecting his child in school. *Id.*

The Seventh Circuit held, however, that noncustodial parents do not automatically lack standing under the IDEA. *Id.* at 1149. Instead, the court of appeals explained that whether the noncustodial father in *Navin* had standing depended on the parental rights granted or reserved to him in the divorce decree in light of the mother's assertion of her rights so granted or reserved:

> If the decree had wiped out all of [the noncustodial father's] parental rights, it would have left him with no claim under the IDEA. But this is not what the divorce decree does. The district court did not analyze its language, but it is in the record and shows that [the noncustodial father] retains some important rights, including the opportunity to be informed about and remain involved in the education of his son. If [the father and mother] disagree about educational decisions, then [the mother's] view prevails—unless under state law the school district's view prevails over *either* parent's wishes, and in that event [the father's] rights under the decree to influence the school's choices are even more important.

270 F.3d at 1149-1150 (internal citations omitted) (emphasis in original). Accordingly, the Seventh Circuit

REV_00164659

remanded the case to the district court, instructing it to "decide whether [the father's] claims [were] incompatible, *not* with the divorce decree itself, but with [the mother's] use of her rights under the decree." *Navin*, 270 F.3d at 1149-1150 (emphasis in original).

Navin's general approach to the problem of noncustodial parental standing is sound. We hold that a noncustodial parent, who retains some parental rights, may have standing to maintain a federal lawsuit to the extent that his assertion of retained parental rights under state law is not legally incompatible with the custodial parent's assertion of rights. This holding assumes, of course, that the noncustodial parent can establish an injury in fact that is fairly traceable to the challenged action, and it is likely that the injury will be redressed by a favorable decision. *See Friends of the Earth* v. *Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 180-81, 120 S. Ct. 693, 145 L. Ed. 2d 610 (2000). Having already held that Newdow satisfies those Article III requirements, *see Newdow*, 292 F.3d at 603-05, we now turn to the question of whether he retains standing despite Banning's opposition as sole legal custodian to his maintaining this lawsuit.[1]

The February 6 custody order governing Banning's and Newdow's respective parental decision-making power remains operative and plainly does not strip Newdow of all of his parental rights. Rather, that order establishes that Newdow retains rights with respect to his daughter's education and general welfare. He has

---

[1] It is unclear to us exactly what relief Banning seeks. In her motion papers, at times Banning appears to object only to Newdow's appearance as "next friend" of their daughter. At other places, she also seems to object to Newdow's standing in his own right.

REV_00164660

the right to consult with Banning regarding substantial non-emergency decisions (with Banning having ultimate decision-making power), as well as the right to inspect his daughter's school and medical records regardless of Banning's position.

California state courts have recognized that noncustodial parents maintain the right to expose and educate their children to their individual religious views, even if those religious views contradict those of the custodial parent or offend her.[2] *See Murga* v. *Petersen*, 103 Cal. App.3d 498, 163 Cal. Rptr. 79 (1980). As the *Murga* court noted, it was following the "*majority of American jurisdictions*" in refusing to place restraints on a noncustodial parent who wished to expose his children to his particular religious views, absent a clear, affirmative showing that these religious activities would be harmful to the children. *Id.* at 504-05, 163 Cal. Rptr. 79 (emphasis added). The principle of nonintervention, the court noted, "reflects the protected nature of religious activities and expressions of belief, as well as the proscription against preferring one religion over another." *Id.* at 505, 163 Cal. Rptr. 79. It is not only the court that must not interfere; even more so, the state and federal government may not seek to indoctrinate the child with their religious views, particularly over the objection of *either* parent.

Murga was the basis for a later California state court decision, *In re Mentry*, 142 Cal. App.3d 260, 190 Cal. Rptr. 843 (1983), that reversed a restraining order against a noncustodial father that forbade him from

---

[2] As the Supreme Court has acknowledged, recognized religions exist that do not teach a belief in God, e.g., secular humanism. *Torcaso* v. *Watkins*, 367 U.S. 488, 495 n.11, 81 S. Ct. 1680, 6 L. Ed. 2d 982 (1961).

REV_00164661

engaging his children in any religious activities other than those approved by the custodial mother. The *Mentry* court stated that "the concept of family privacy embodies not simply a policy of *minimum state intervention* but also a presumption of parental autonomy. Many of the purposes served by this presumption become *more important after dissolution* [of the marriage or relationship] than they were before." 142 Cal. App.3d at 268, 190 Cal. Rptr. 843 (emphasis added). The type of "*minimum state* intervention" discussed in *Mentry* surely does not permit official state indoctrination of an impressionable child on a daily basis with an official view of religion contrary to the express wishes of *either* a custodial or noncustodial parent. We conclude that Newdow retains sufficient parental rights to support his standing here.

The next question, then, is whether Banning's status as sole legal custodian empowers her to employ state law to defeat Newdow's standing. "'Sole legal custody' means that one parent shall have the right and the responsibility to make the decisions relating to the health, education, and welfare of a child." Cal. Fam. Code § 3006. Thus, Newdow cannot disrupt Banning's choice of schools for their daughter. And, as Judge Mize's September 25 order makes clear, Newdow cannot name his daughter as a party to a lawsuit against Banning's wishes.

Judge Mize, however, appropriately declined to rule on whether Newdow has standing in his own right as a parent to maintain this case in federal court. We hold that Banning has no power, even as sole legal custodian, to insist that her child be subjected to unconstitutional state action. Newdow's assertion of his retained parental rights in this case, therefore, simply cannot be

REV_00164662

legally incompatible with any power Banning may hold pursuant to the custody order. Further, Ms. Banning may not consent to unconstitutional government action in derogation of Newdow's rights or waive Newdow's right to enforce his constitutional interests. Neither Banning's personal opinion regarding the Constitution nor her state court award of legal custody is determinative of Newdow's legal rights to protect *his own* interests.

When school teachers lead a recitation of the Pledge of Allegiance according to school district policy, they present a message by *the state* endorsing not just religion generally, but a monotheistic religion organized "under God." While Newdow cannot expect the entire community surrounding his daughter to participate in, let alone agree with, his choice of atheism and his daughter's exposure to his views, he can expect to be free from the government's endorsing a particular view of religion and unconstitutionally indoctrinating his impressionable young daughter on a daily basis in that official view. The pledge to a nation "under God," with its imprimatur of governmental sanction, provides the message to Newdow's young daughter not only that non-believers, or believers in non-Judeo-Christian religions, are outsiders, but more specifically that her *father's* beliefs are those of an outsider, and necessarily inferior to what she is exposed to in the classroom. Just as the foundational principle of the Freedom of Speech Clause in the First Amendment tolerates unpopular and even despised ideas, *see Cohen* v. *California*, 403 U.S. 15, 91 S. Ct. 1780, 29 L. Ed. 2d 284 (1971), so does the principle underlying the Establishment Clause pro-

REV_00164663

tect unpopular and despised minorities from government sponsored religious orthodoxy tied to government services. *See Santa Fe Independent Sch. Dist.* v. *Doe*, 530 U.S. 290, 120 S. Ct. 2266, 147 L. Ed. 2d 295 (2000); *Lee* v. *Weisman*, 505 U.S. 577, 112 S. Ct. 2649, 120 L. Ed. 2d 467 (1992). Accordingly, we affirm Newdow's standing to challenge on Establishment Clause grounds the EGUSD's practice of requiring his daughter to attend daily recitations of the 1954 version of the Pledge of Allegiance.

Banning's motion for leave to intervene is DENIED because she has no protectable interest at stake in this action.

FERNANDEZ, Circuit Judge, concurring:

I concur in the order, but write separately to emphasize that in this order we decide that Newdow's legal status under California law vis-à-vis his daughter does not deprive him of standing. Despite the order's allusions to the merits of the controversy, we decide nothing but that narrow standing issue.[1] Leastwise, I join nothing other than the narrow decision that the orders of the California courts have not deprived Newdow of standing.

---

[1] For my view on the merits question, see *Newdow* v. *U.S. Congress*, 292 F.3d 597, 612-15 (9th Cir. 2002) (Fernandez, J., concurring and dissenting.)

REV_00164664

APPENDIX E

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 00-16423

MICHAEL A. NEWDOW, PLAINTIFF-APPELLANT

v.

U.S. CONGRESS; UNITED STATES OF AMERICA; GEORGE W. BUSH, PRESIDENT OF THE UNITED STATES; STATE OF CALIFORNIA; ELK GROVE UNIFIED SCHOOL DISTRICT; DAVID W. GORDON, SUPERINTENDENT EGUSD; SACRAMENTO CITY UNIFIED SCHOOL DISTRICT; JIM SWEENEY, SUPERINTENDENT SCUSD, DEFENDANTS-APPELLEES

Dec. 4, 2002

ORDER

Before: GOODWIN, REINHARDT and FERNANDEZ, Circuit Judges.

FERNANDEZ, Circuit Judge.

Once we ruled on the merits of this case,[1] the United States Senate sought to intervene as a party and in that capacity to file a petition for rehearing and a petition for rehearing en banc. We deny the Motion to Intervene, but note our willingness to accept the petition and accompanying brief as an amicus brief, if the Senate

[1] *Newdow* v. *U.S. Congress*, 292 F.3d 597 (9th Cir. 2002).

REV_00164665

consents to the latter use of its filing. Because of the respect that we owe to and have for the Senate, we are constrained to explain the reasons for our denial of intervention.

Initially, of course, we lay aside the usual intervention rule. *See* Fed. R. Civ. P. 24(a)(2). This case is more in line with Fed. R. Civ. P. 24(a)(1), which allows intervention as of right "when a statute of the United States confers an unconditional right to intervene." There is a special statute that applies to this motion. As relevant here, the statute first provides that the Senate Legal Counsel shall intervene or appear as amicus "when directed to do so by a resolution adopted by the Senate." 2 U.S.C. § 288b(c). There was a resolution here. *See* Senate Resolution 292, 107th Cong., 2d Sess. (2002), 148 Cong. Rec. S6105-06 (2002). The statute goes on to provide that Counsel shall intervene upon appropriate direction when "the powers and responsibilities of Congress under the Constitution of the United States are placed in issue," but should only do so if there is standing. *See* 2 U.S.C. § 288e(a). It then states:

> Permission to intervene as a party or to appear as amicus curiae under § 288e of this title shall be of right and may be denied by a court only upon an express finding that such intervention or appearance is untimely and would significantly delay the pending action or that standing to intervene has not been established under section 2 of article III of the Constitution of the United States.

2 U.S.C. § 288*l* (a).

Because the Senate waited until we had already ruled on the merits of this case on appeal, it would be

REV_00164666

possible, even accurate, to hold that the attempt to intervene is untimely. However, under the circumstances we are unable to hold that the proposed intervention to seek rehearing or en banc review would "significantly delay" the action. Especially is that true when, as here, some of the current parties to the action have themselves already sought both types of review. We must, therefore, turn our attention to the second exception in § 288*l*(a)—does the Senate have constitutional standing? To put it more precisely: does the Senate have constitutional standing to intervene in every case where the constitutionality of a United States statute is challenged? Because we determine that the answer to that question is no and because there is nothing about the statute at hand that would distinguish it from other statutes, the Senate does not have standing in this case.

Let it first be said that the issue is not whether the United States has standing to appear in support of the constitutionality of the statute in question. Nobody doubts that it does. *See* 28 U.S.C. § 2403(a). In fact, in this case it did appear for "the Congress of the United States; the United States of America; and William J. Clinton, President of the United States."[2] The question is whether the Senate, as a separate part of the government, has standing to intervene to support statutes on its own behalf, and not really as a representative of the United States itself. We need not, and do not,

---

[2] Perhaps it should also be recognized that "the three branches are but 'coordinate parts of one government,'" and in that sense there can be no doubt that the legislature is already represented here anyway. *See United States* v. *Providence Journal Co.*, 485 U.S. 693, 701, 108 S. Ct. 1502, 1507, 99 L. Ed. 2d 785 (1988) (internal citation omitted).

REV_00164667

decide whether Congress could designate the Senate Legal Counsel, upon a separate resolution of the Senate alone, to appear as the defender of all statutes on behalf of the United States itself. A law of that type might well have its own constitutional problems; it might even trench on the prerogatives of the executive branch of the United States, which has the authority to execute the laws of this country. *See* U.S. Const. art. II, § 3. At any rate, that has not occurred here. As already stated, a separate statute confers *that* authority upon the executive branch, and here the Senate seeks to appear to represent itself alone.

As the intervention statute at hand expressly recognizes, the Senate must show that it does have constitutional standing to intervene. That means at the very least that it must show that it has "suffered an 'injury in fact'—an invasion of a legally protected interest which is . . . concrete and particularized." *Lujan* v. *Defenders of Wildlife*, 504 U.S. 555, 560, 112 S. Ct. 2130, 2136, 119 L. Ed.2d 351 (1992); *see also Raines* v. *Byrd*, 521 U.S. 811, 818-20, 117 S. Ct. 2312, 2317-18, 138 L. Ed. 2d 849 (1997). That concrete and particularized harm is lacking in this case because no harm beyond frustration of a general desire to see the law enforced as written has been shown here.

In so stating, we are aware that there have been a number of cases wherein Senate intervention has been allowed without any particular remark or detailed consideration. *See, e.g., INS* v. *Chadha*, 462 U.S. 919, 930 n.5, 103 S. Ct. 2764, 2773 n.5, 77 L. Ed. 2d 317 (1983); *Lear Siegler, Inc., Energy Prod. Div.* v. *Lehman*, 893 F.2d 205, 206 (9th Cir. 1990) (en banc); *In re Benny*, 812 F.2d 1133, 1135 (9th Cir. 1987); *see also Bowsher* v. *Synar*, 478 U.S. 714, 106 S. Ct. 3181, 92 L.

REV_00164668

Ed. 2d 583 (1986). But those cases are not really apposite because they were of a character that directly (particularly) implicated the authority of Congress within our scheme of government, and the scope and reach of its ability to allocate power among the three branches. Thus, *Chadha*, 462 U.S. at 956-58, 103 S. Ct. at 2787, is a case that dealt with individual houses of Congress assuming the authority to review and veto executive decisions regarding the deportation of aliens. It, thus, implicated separation of powers doctrine and the whole scheme of our government. *Lear Siegler* dealt with whether Congress could allocate to a legislative agent—The Comptroller General—the authority to delay the procurement actions of the executive branch of the government. *See Lear Siegler, Inc., Energy Prod. Div.* v. *Lehman*, 842 F.2d 1102, 1105-06 (9th Cir. 1988), *vacated on other grounds*, *Lear Siegler*, 893 F.2d at 208; *see also Bowsher*, 478 U.S. at 717, 106 S. Ct. at 3183. Finally, in *Benny*, 812 F.2d at 1141-42, the issue was whether Congress had the authority to prospectively extend the term of office of bankruptcy judges. In other words, in each of these cases the courts were dealing with a statute addressing legislative action regarding allocation of authority within the government, as opposed to action applying that authority to the behavior of the citizenry in general. The issues were the kind that intimately affected Congress's own place within our constitutional scheme.

More closely on point are cases which speak to the standing of legislators to bring actions, where their institutional power as members of the legislature is not being challenged. In *Raines*, 521 U.S. at 814-16, 117 S. Ct. at 2315-16, for example, a number of members of the Senate and House of Representatives sued pursuant to

REV_00164669

a provision of the Line Item Veto Act which declared that any member of Congress could challenge the Act. *See*, 2 U.S.C. § 692(a)(1). The Court declared that they had "alleged no injury to themselves as individuals . . ., the institutional injury they allege is wholly abstract and widely dispersed . . ., and their attempt to litigate this dispute at this time and in this form is contrary to historical experience." *Id.* at 829, 117 S. Ct. at 2322. The Court did point out that they did not actually represent their separate houses of Congress and those houses actually opposed them, but did not indicate precisely how that affected their standing.[3] *Id.* The Court distinguished an earlier case wherein state legislators were accorded standing because their votes would have been deprived of all validity if an allegedly improper person were able to vote. *See Coleman* v. *Miller*, 307 U.S. 433, 438, 59 S.Ct. 972, 975, 83 L. Ed. 1385 (1939). Thus, at least as to individual legislators, there is no standing unless their own institutional position, as opposed to their position as a member of the body politic, is affected.

The District of Columbia Circuit has followed the same approach. In 1977, a congressman sued the director of the Central Intelligence Agency partly on the basis that when that agency misused its budget, his vote as a congressman was impaired. *See Harrington* v. *Bush*, 553 F.2d 190, 204 (D.C. Cir. 1977). The court found that he lacked standing, and that a contrary rule would amount to giving him "a roving commission to obtain judicial relief under most circumstances." *Id.* at

---

[3] Of course, the Line Item Veto Act dealt with the allocation of power between the legislative and executive branches. *See* 2 U.S.C. §§ 691-692. However, the Senate was content to appear as *amicus curiae*. *Raines*, 521 U.S. at 813 n.*, 117 S. Ct. 2312.

REV_00164670

214. Along the way, the court noted that "his specific rights, interests and prerogatives lie in the power to make laws. As we have noted, this power has not been invaded, diminished, diluted, or injured by the challenged actions in this case." *Id.* at 213. A like result was reached when a member of Congress sued to prevent alleged misuse of federal funds by a national commission. *See Hansen* v. *Nat'l Comm'n. on the Observance of Int'l Women's Year*, 628 F.2d 533 (9th Cir. 1980). We said: "The injury alleged by appellant is an injury which he suffers along with all other citizens of the United States. He has not presented any facts which show he has sustained or is imminently in danger of sustaining an actual personal injury." *Id.* at 534. Thus, he had no standing. *Id.* And, when faced with a claim by congressmen that the military was using its budget to finance combat in other countries, despite laws prohibiting that, the Fourth Circuit had this to say: "Once a bill has become law, however, their interest is indistinguishable from that of any other citizen. They cannot claim dilution of their legislative voting power because the legislation they favored became law." *Harrington* v. *Schlesinger*, 528 F.2d 455, 459 (4th Cir. 1975). The court was no more impressed with the claim that their legislative duties would somehow be affected. *See id.* Other cases have sounded the same note. *See, e.g., Baird* v. *Norton*, 266 F.3d 408, 411-12 (6th Cir. 2001); *Chenoweth* v. *Clinton*, 181 F.3d 112, 112-13, 117 (D.C. Cir. 1999), *cert. denied*, 529 U.S. 1012, 120 S. Ct. 1286, 146 L. Ed. 2d 233 (2000); *Daughtrey* v. *Carter*, 584 F.2d 1050, 1057-58 (D.C. Cir. 1978); *Metcalf* v. *Nat'l Petroleum Council*, 553 F.2d 176, 187-89 (D.C. Cir. 1977).

REV_00164671

These observations also apply to the Senate as a whole, when it seeks to have a roving commission to enter every case involving the constitutionality of statutes it has enacted. In those instances, its own "powers and responsibilities" are not really under attack. Once the Senate has approved a proposed bill, the House of Representatives agrees, and the President has signed the measure, it becomes public law. A public law, after enactment, is not the Senate's any more than it is the law of any other citizen or group of citizens in the United States. It is a law of the United States of America, and the government is already represented in this case by the Attorney General. Of course, every time a statute is not followed or is declared unconstitutional, the votes of legislators are mooted and the power of the legislature is circumscribed in a sense, but that is no more than a facet of the generalized harm that occurs to the government as a whole. By the same token, the President's signing of the legislation is also nullified, judges, who might have felt otherwise, are bound by the decision, and citizens who relied upon or desired to have the law enforced are disappointed.[4] Moreover, if the separate houses of Congress have standing, a challenger of a law would have to contend with fighting the United States itself, and separately defending himself against the Senate and the House of

[4] All of this is underscored by the Senate's suggestion that it should have standing because it opens its daily sessions with the Pledge of Allegiance. That, of course, is an assertion that could be made by countless other organizations, governmental and otherwise, not to mention thousands of United States citizens.

REV_00164672

Representatives, each of which would be able to appear as a separate litigating party in the case.[5]

Therefore, the motion of the Senate to intervene is DENIED. However, if the Senate wishes to have us deem its proposed brief to be an amicus brief and to consider it on that basis, we will do that. It should inform us of its desire in that regard within 30 days after the filing of this order.

---

[5] In principle, he might also have to separately contend against the President, whose ability to effectively sign the law in question can be said to have been affected. We see little other than mischief arising from a system of intervention as unregulated as that. Constitutional standing doctrine is the apotropaion for that threatened malady. It must be applied here.

REV_00164673

APPENDIX F

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 00-16423

MICHAEL A. NEWDOW, PLAINTIFF-APPELLANT

v.

U.S. CONGRESS; UNITED STATES OF AMERICA; GEORGE W. BUSH,* PRESIDENT OF THE UNITED STATES; STATE OF CALIFORNIA; ELK GROVE, UNIFIED SCHOOL DISTRICT; DAVID W. GORDON, SUPERINTENDENT EGUSD; SACRAMENTO CITY UNIFIED SCHOOL DISTRICT; JIM SWEENEY, SUPERINTENDENT SCUSD, DEFENDANTS-APPELLEES

Dec. 4, 2002

ORDER

Before: GOODWIN, REINHARDT and FERNANDEZ, Circuit Judges.

Sandra Banning's motion for leave to intervene is DENIED.

The State of California's purported appearance in this appeal is rejected, and its purported petition for

* George W. Bush is substituted for his predecessor, William Jefferson Clinton, as President of the United States. Fed. R. App. P. 43(c)(2).

REV_00164674

rehearing with suggestion for rehearing en banc, filed July 25, 2002, is ORDERED STRICKEN.

Newdow's motion for judicial notice is DENIED.

Newdow's motion for sanctions against Banning's attorneys is DENIED.

Sandra Banning's application for leave to file sur-response to Newdow's motion for sanctions IS DENIED.

Newdow's motion to file response to federal and state defendants' supplemental briefs is DENIED.

REV_00164675

APPENDIX G

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CIV S-00-0495 MLS PAN PS

REV. DR. MICHAEL A. NEWDOW, PLAINTIFF

v.

THE CONGRESS OF THE UNITED STATES, ET AL., DEFENDANTS

[Filed July 21, 2000]

ORDER

This matter was referred to the Honorable Peter A. Nowinski, United States Magistrate Judge, pursuant to 28 U.S.C. §§ 636, et seq., and Local Rule 72-302. On May 25, 2000, Judge Nowinski recommended that plaintiff's complaint be dismissed. Plaintiff has filed objections to the findings and recommendation.

The court has reviewed the file and finds the findings and recommendation to be supported by the record and by the magistrate judge's analysis. Accordingly, IT IS HEREBY ORDERED that:

1. The Findings and Recommendation filed May 25, 2000, are adopted in full; and

2. Plaintiff's complaint is dismissed.

DATE: July 21, 2000.

/s/ illegible signature
UNITED STATES DISTRICT JUDGE

REV_00164676

APPENDIX H

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

CIV S-00-0495 MLS PAN PS

REV. DR. MICHAEL A. NEWDOW, PLAINTIFF

v.

THE CONGRESS OF THE UNITED STATES,
ET AL., DEFENDANTS

[Filed: May 25, 2000]

FINDINGS AND RECOMMENDATION

On March 8, 2000, plaintiff filed a complaint alleging defendants Elk Grove School District and Sacramento City Unified School District violate the Establishment Clause of the First Amendment by requiring teachers [to] lead morning classes in recitation of the pledge of allegiance. Defendant school districts move to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim.

The only federal Court of Appeal directly to address this issue held that schools may lead the pledge of allegiance without violating the First Amendment so long as pupils are not compelled to participate, because the ceremonial reference to God in the pledge does not convey endorsement of particular religious beliefs. *Sherman* v. *Community Consolidated School District*, 980 F.2d 437, 442-448 (11th Cir. 1992). While the

REV_00164677

Supreme Court has not directly addressed the issue, it has noted that its "previous opinions have considered in dicta the motto ['In God We Trust'] and the pledge [of allegiance], characterizing them as consistent with the proposition that government may not communicate an endorsement of religious belief." *County of Allegheny* v. *American Civil Liberties Union*, 492 U.S. 573, 602-03 (1989); *see also id.* at 625 (O'Connor, J., concurring); *Lynch* v. *Donnelly*, 465 U.S. 668, 693 (1984) (O'Connor, J., concurring); *id.* at 716-17 (Brennan, J., dissenting); *School District of Abington Township* v. *Schempp*, 374 U.S. 203, 303 (1963) (Brennan, J., concurring); *Engel* v. *Vitale*, 370 U.S. 421, 449-50 (1962) (Stewart, J., dissenting). Two Courts of Appeal have stated, also in dicta, that the pledge is not an endorsement of religion. *See Chandler* v. *James*, 180 F.3d 1254, 1262 (11th Cir. 1999); *Separation of Church and State Committee* v. *City of Eugene*, 93 F.3d 617, 622 (9th Cir. 1996).

The Seventh Circuit's decision in *Sherman* and the statements in dicta noted above, while not binding on this court, are persuasive and directly on point. Whether the court employs the test set forth in *Lemon* v. *Kurtzman*, 403 U.S. 602, 612-613 (1971), or the more recent endorsement test, *see Allegheny*, *supra*, 492 U.S. at 593-594, the Pledge does not violate the Establishment Clause of the First Amendment. Accordingly, I recommend plaintiff's complaint be dismissed.

Dated: May 25, 2000.

/s/ illegible signature
PETER A. NOWINSKI
United States Magistrate
Judge

REV_00164678

APPENDIX I

CONSTITUTIONAL AND STATUTORY PROVISIONS

1. The First Amendment to the United States Constitution provides:

> Congress shall make no law respecting an establishment of religion; or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

2. Section 4 of Title 4 U.S.C. provides:

Pledge of allegiance to the flag; manner of delivery

The Pledge of Allegiance to the Flag, "I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.", should be rendered by standing at attention facing the flag with the right hand over the heart. When not in uniform men should remove their headdress with their right hand and hold it at the left shoulder, the hand being over the heart. Persons in uniform should remain silent, face the flag, and render the military salute.

REV_00164679

No.

In the Supreme Court of the United States

UNITED STATES OF AMERICA, PETITIONER

v.

MICHAEL A. NEWDOW, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

THEODORE B. OLSON
Solicitor General
Counsel of Record

ROBERT D. MCCALLUM, JR.
Assistant Attorney General

PAUL D. CLEMENT
Deputy Solicitor General

GREGORY G. KATSAS
Deputy Assistant Attorney General

PATRICIA A. MILLETT
Assistant to the Solicitor General

ROBERT M. LOEB
LOWELL V. STURGILL JR.
SUSHMA SONI
Attorneys

Department of Justice
Washington, D.C. 20530-0001
(202) 514-2217

REV_00164680

QUESTIONS PRESENTED

1. Whether the inclusion of the phrase "under God" in the Pledge of Allegiance to the United States Flag violates the Establishment Clause of the First Amendment.

2. Whether a noncustodial parent, who lacks the legal authority to determine his child's education or religious upbringing, has Article III standing to challenge educational practices undertaken by the school in which the custodial parent has chosen to place the child.

REV_00164681

PARTIES TO THE PROCEEDING

The respondents are Michael A. Newdow, who was the plaintiff below, and the Elk Grove Unified School District and its Superintendent, David W. Gordon, who were defendants below. The Complaint also named as defendants the United States Congress, President George W. Bush,* the Sacramento City Unified School District, and its superintendent, Jim Sweeney. All of those defendants were dismissed from the case by the court of appeals. App., *infra*, 5a-8a. The Complaint also named the State of California as a defendant, but the State did not participate in the district court proceedings or in the court of appeals, until the rehearing stage, at which point the court of appeals rejected the State's appearance. *Id.* at 6a. The motions of Sandra Banning, the mother of respondent Newdow's child, and the United States Senate to intervene were denied by the court of appeals. *Id.* at 99a-109a.

---

* The Complaint originally listed President William J. Clinton as a defendant. Pursuant to Federal Rule of Appellate Procedure 43(c)(2), President Bush was substituted as his successor in office.

REV_00164682

TABLE OF CONTENTS

	Page
Opinions below	1
Jurisdiction	2
Constitutional and statutory provisions involved	3
Statement	3
Reasons for granting the petition	13
Conclusion	30

TABLE OF AUTHORITIES

Cases:

Aronow v. *United States*, 432 F.2d 242 (9th Cir. 1970)	24
Bivens v. *Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971)	2
Burge v. *City & County of San Francisco*, 262 P.2d 6 (Cal. 1953)	27
County of Allegheny v. *ACLU*, 492 U.S. 573 (1989)	*passim*
District of Columbia Court of Appeals v. *Feldman*, 460 U.S. 462 (1983)	27
Engel v. *Vitale*, 370 U.S. 421 (1962)	16, 17, 19, 21
FDIC v. *Meyer*, 510 U.S. 471 (1994)	2
Franklin v. *Massachusetts*, 505 U.S. 788 (1992)	7
Ganulin v. *United States*, 71 F. Supp. 2d 824 (S.D. Ohio 1999), aff'd, 238 F.3d 420 (6th Cir. 2000), cert. denied, 532 U.S. 973 (2001)	24
Gaylor v. *United States*, 74 F.3d 214 (10th Cir.), cert. denied, 517 U.S. 1211 (1996)	24
Lee v. *Weisman*, 505 U.S. 577 (1992)	8, 17, 26
Lemon v. *Kurtzman*, 403 U.S. 602 (1971)	8
Local 28 of the Sheet Metal Workers' Int'l Ass'n v. *EEOC*, 478 U.S. 421 (1986)	20
Lynch v. *Donnelly*, 465 U.S. 668 (1984)	*passim*
Marsh v. *Chambers*, 463 U.S. 783 (1983)	16

REV_00164683

Cases—Continued: Page

Michael H. v. *Gerald D.*, 491 U.S. 110 (1989) 27
Navin v. *Park Ridge Sch. Dist.*, 270 F.3d 1147 (7th Cir. 2001) 27, 28
O'Hair v. *Murray*, 588 F.2d 1144 (5th Cir.), cert. denied, 442 U.S. 930 (1979) 24
Opinion of the Justices, 228 A.2d 161 (N.H. 1967) 24
Pierce v. *Society of Sisters*, 268 U.S. 510 (1925) 26, 28
Rooker v. *Fidelity Trust Co.*, 263 U.S. 413 (1923) 27
Santa Fe Indep. Sch. Dist. v. *Doe*, 530 U.S. 290 (2000) 26
Schaffer v. *Clinton*, 240 F.3d 878 (10th Cir.), cert. denied, 534 U.S. 992 (2001) 29
School Dist. of Abington Township v. *Schempp*, 374 U.S. 203 (1963) 7, 15, 16, 18, 21
Seminole Tribe v. *Florida*, 517 U.S. 44 (1996) 19
Sherman v. *Community Consol. Sch. Dist. 21*, 980 F.3d 437 (7th Cir. 1992), cert. denied, 508 U.S. 950 (1993) 7, 9-10, 14, 24
Steel Co. v. *Citizens for a Better Env't*, 523 U.S. 83 (1998) 25, 26
Valley Forge Christian Coll. v. *Americans United for Separation of Church & State, Inc.*, 454 U.S. 464 (1982) 29
Wallace v. *Jaffree*, 472 U.S. 38 (1985) 18, 23
West Virginia State Bd. of Educ. v. *Barnette*, 319 U.S. 624 (1943) 28
Wisconsin v. *Yoder*, 406 U.S. 205 (1972) 26
Wooley v. *Maynard*, 430 U.S. 705 (1977) 28
Zelman v. *Simmons-Harris*, 536 U.S. 639 (2002) 22-23
Zobrest v. *Catalina Foothills Sch. Dist.*, 509 U.S. 1 (1993) 26
Zorach v. *Clauson*, 343 U.S. 306 (1952) 5, 15, 17, 21

REV_00164684

Constitution and statutes:	Page
U.S. Const.:	
Art. I, § 6, Cl. 1 (Speech and Debate Clause)	7
Art. III	11, 26, 29
Amend. I	2, 3
Establishment Clause	*passim*
Free Exercise Clause	6
Act of June 22, 1942, ch. 435, § 7, 56 Stat. 380	3
Act of June 14, 1954, ch. 297, § 7, 68 Stat. 249	3
Act of Nov. 13, 2002, Pub. L. No. 107-293, 116 Stat. 2059	5
Administrative Procedure Act, 5 U.S.C. 552	2
Federal Tort Claims Act:	
28 U.S.C. 1346	2
28 U.S.C. 1402	2
28 U.S.C. 2671 *et seq.*	2
Individuals with Disabilities Education Act, 20 U.S.C. 1415	27
4 U.S.C. 4	3, 21
5 U.S.C. 6103	24
28 U.S.C. 2403(a)	2
31 U.S.C. 324	15
36 U.S.C. 302	15, 23
Cal. Educ. Code § 52720 (West 1989)	5
Miscellaneous:	
H.R. Rep. No. 2047, 77th Cong., 2d Sess. (1942)	3
H.R. Rep. No. 1693, 83d Cong., 2d Sess. (1954)	3, 4, 5
S. Rep. No. 1477, 77th Cong., 2d Sess. (1942)	3
S. Rep. No. 1287, 83d Cong., 2d Sess. (1954)	3-4, 5
U.S. Decl. of Indep., 1 U.S.C. at XLIII	23

REV_00164685

In the Supreme Court of the United States

No.

UNITED STATES OF AMERICA, PETITIONER

v.

MICHAEL A. NEWDOW, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

The Solicitor General, on behalf of the United States of America, respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit in this case.

OPINIONS BELOW

The amended opinion of the court of appeals on rehearing (App., *infra*, 1a-24a) is reported at 321 F.3d 772. The original opinion of the court of appeals (App., *infra*, 25a-58a) is reported at 292 F.3d 597, and the court's subsequent opinion on standing (App., *infra*, 89a-98a) is reported at 313 F.3d 500. The opinion and orders of the court denying intervention (App., *infra*, 99a-109a) are reported at 313 F.3d 495 and 313 F.3d 506. The order of the district court (App., *infra*, 110a), adopting the Findings and Recommendation of

REV_00164686

the magistrate judge that the case be dismissed (App., *infra*, 111a-112a), is unreported.

JURISDICTION

The court of appeals entered its original judgment on June 26, 2002. The court issued an amended opinion on rehearing on February 28, 2003. The court of appeals issued an order staying its mandate on March 4, 2003. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

No federal statute waives the sovereign immunity of the United States of America from a suit for declaratory or injunctive relief under the First Amendment, and thus the jurisdictional basis for respondent Newdow's suit against the United States is unclear.[1] However, the absence of such a waiver is without jurisdictional consequence in this case because the United States could have, and should hereby be deemed to have, intervened as of right in this action against the school district and its superintendent to defend the constitutionality of the Pledge of Allegiance against Newdow's facial and as-applied challenges. See 28 U.S.C. 2403(a).[2]

---

[1] Other than a separate claim against the President in his official capacity, Newdow did not sue an officer or an agency of the United States, so his claim does not appear to fall within the scope of either *Bivens* v. *Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), or the Administrative Procedure Act, 5 U.S.C. 552. Nor is his federal constitutional claim cognizable under the Federal Tort Claims Act, 28 U.S.C. 1346, 1402, 2671 *et seq.* See *FDIC* v. *Meyer*, 510 U.S. 471, 477 (1994).

[2] Newdow's as-applied challenge to the recitation of the Pledge in elementary schools calls into question the federal government's practice under which the nearly 2500 military dependents attending its four schools within the Ninth Circuit are led in a voluntary recitation of the Pledge of Allegiance daily.

REV_00164687

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The First Amendment to the United States Constitution provides, in relevant part, that "Congress shall make no law respecting an establishment of religion. * * *"

Section 4 of Title 4 of the United States Code provides that the Pledge of Allegiance to the United States Flag shall be: "I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all."

STATEMENT

1. In 1942, as part of an overall effort to "codify and emphasize existing rules and customs pertaining to the display and use of the flag of the United States of America," Congress enacted a Pledge of Allegiance to the United States flag. H.R. Rep. No. 2047, 77th Cong., 2d Sess. 1 (1942); S. Rep. No. 1477, 77th Cong., 2d Sess. 1 (1942). As originally enacted, the Pledge of Allegiance read: "I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one Nation indivisible, with liberty and justice for all." Act of June 22, 1942, ch. 435, § 7, 56 Stat. 380.

Twelve years later, Congress amended the Pledge of Allegiance by adding the words "under God" after the word "Nation." Act of June 14, 1954, ch. 297, § 7, 68 Stat. 249. Accordingly, the Pledge now reads: "I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all." 4 U.S.C. 4.

In amending the Pledge, the Committee Reports noted that, "[f]rom the time of our earliest history our peoples and our institutions have reflected the traditional concept that our Nation was founded on a fundamental belief in God." H.R. Rep. No. 1693, 83d Cong., 2d Sess. 2 (1954); see also S.

REV_00164688

Rep. No. 1287, 83d Cong., 2d Sess. 2 (1954) ("Our forefathers recognized and gave voice to the fundamental truth that a government deriving its powers from the consent of the governed must look to God for divine leadership. * * * Throughout our history, the statements of our great national leaders have been filled with references to God."). Both Reports traced the numerous references to God in historical documents central to the founding and preservation of the United States, from the Mayflower Compact to the Declaration of Independence to President Lincoln's Gettysburg Address, the latter having employed the same reference to a "Nation[] under God." H.R. Rep. No. 1693, *supra*, at 2; S. Rep. No. 1287, *supra*, at 2.

The Reports further explained that the amendment would highlight a foundational difference between the United States and Communist nations: "Our American Government is founded on the concept of the individuality and the dignity of the human being" and "[u]nderlying this concept is the belief that the human person is important because he was created by God and endowed by Him with certain inalienable rights which no civil authority may usurp." H.R. Rep. No. 1693, *supra*, at 1-2; see also S. Rep. No. 1287, *supra*, at 2. As amended, the Pledge would thus textually reject the "communis[t]" philosophy "with its attendant subservience of the individual." H.R. Rep. No. 1693, *supra*, at 2; see also S. Rep. No. 1287, *supra*, at 2 ("The spiritual bankruptcy of the Communists is one of our strongest weapons in the struggle for men's minds and this resolution gives us a new means of using that weapon."). The House Report further noted that, through "daily recitation of the pledge in school," "the children of our land * * * will be daily impressed with a true understanding of our way of life and its origins," so that "[a]s they grow and advance in this understanding, they will assume the responsibilities of self-government equipped

REV_00164689

to carry on the traditions that have been given to us." H.R. Rep. No. 1693, *supra*, at 3.

Both the Senate and House Reports expressed the view that, under controlling precedent from this Court, the amendment "is not an act establishing a religion or one interfering with the 'free exercise' of religion." H.R. Rep. No. 1693, *supra*, at 3 (citing *Zorach* v. *Clauson*, 343 U.S. 306 (1952)); see also S. Rep. No. 1287, *supra*, at 2.[3]

2. California law requires that each public elementary school in the State "conduct[] * * * appropriate patriotic exercises" at the beginning of the school day. Cal. Educ. Code § 52720 (West 1989). The law provides that "[t]he giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy the requirements of this section." *Ibid.* In satisfaction of that statutory requirement, respondent Elk Grove Unified School District (Elk Grove) has adopted a policy that directs each of its elementary schools to "recite the pledge of allegiance to the flag once each day." App., *infra*, 27a. No child is compelled to join in reciting the Pledge. *Id.* at 28a.

Respondent Michael Newdow is the noncustodial father of a child enrolled in a public elementary school within the jurisdiction of respondent Elk Grove. App., *infra*, 2a, 90a-91a. In the school that Newdow's daughter attends, the teacher leads the students in reciting the Pledge of Allegiance daily. *Id.* at 3a.

The child's mother has "*sole* legal custody as to the rights and responsibilities to make decisions relating to the health, education and welfare of" the child. App., *infra*, 90a-91a. While Newdow, who was never married to the child's

---

[3] Following the court of appeals' decision in the instant case, Congress reaffirmed the content of the Pledge of Allegiance and Congress's view that the legislation is constitutional. Act of Nov. 13, 2002, Pub. L. No. 107-293, 116 Stat. 2059.

REV_00164690

mother, retains limited visitation rights, the right to access the child's school and medical records, and the right to "consult" on "substantial" decisions pertaining to the child's "educational needs," if the parents disagree, the child's mother "may exercise legal control of" the child as long as it "is not specifically prohibited or inconsistent with the physical custody order." *Id.* at 91a.

In March 2000, Newdow filed suit against the President, the United States Congress, the United States of America, the State of California, and two California school districts and their superintendents, seeking a declaration that the 1954 statute adding the words "under God" to the Pledge is "facially unconstitutional" under the Establishment and Free Exercise Clauses of the First Amendment. Compl. 6, 36; App., *infra*, 4a-5a. He also sought injunctive relief requiring Congress and the President to remove those words from the Pledge and prohibiting California schools from leading students in reciting the Pledge. Compl. 37; App., *infra*, 4a-5a. The Complaint explains that Newdow's child is "an unnamed plaintiff whom he represents as 'next friend.'" Compl. 3. The Complaint asserts that the recitation of the Pledge in his child's school "results in the daily indoctrination of the Elk Grove Unified School District's students—including Plaintiff's daughter—with religious dogma," *id.* at 18-19, and that such actions "infringe[]" upon Newdow's "unrestricted right to inculcate in his daughter— free from governmental interference—the atheistic beliefs he finds persuasive." *Id.* at 20; see also *id.* at 36. The Complaint further asserts that Newdow's "position as the father of a child attending the State's public schools grants him standing in this matter in his own right and on behalf of his daughter." *Id.* at 26.

The district court dismissed the complaint for failure to state a claim, relying on numerous decisions of this Court expressly addressing the Pledge and describing it as con-

REV_00164691

sistent with the Establishment Clause, as well as on a decision of the Seventh Circuit rejecting a similar challenge to the Pledge. App., *infra*, 110a-112a (adopting magistrate judge's Findings and Recommendation, which cites *County of Allegheny* v. *ACLU*, 492 U.S. 573 (1989); *id.* at 625 (O'Connor, J., concurring); *Lynch* v. *Donnelly*, 465 U.S. 668 (1984); *School Dist. of Abington Township* v. *Schempp*, 374 U.S. 203 (1963) (Brennan, J., concurring); *Sherman* v. *Community Consol. Sch. Dist. 21*, 980 F.2d 437 (7th Cir. 1992), cert. denied, 508 U.S. 950 (1993)).

3. a. A divided panel of the Ninth Circuit affirmed in part and reversed in part. App., *infra*, 25a-58a. As an initial matter, all three members of the panel agreed that the President and Congress should be dismissed from the lawsuit, on the grounds that the President is not a proper defendant for challenging the constitutionality of a federal law under *Franklin* v. *Massachusetts*, 505 U.S. 788 (1992) (plurality opinion), and that the Congress cannot be sued under the Speech and Debate Clause, U.S. Const. Art. I, § 6, Cl. 1. See App., *infra*, 29a-30a; *id.* at 53a (Fernandez, J., concurring and dissenting). The court also ruled that Newdow lacked standing to file suit against the Sacramento City Unified School District and its superintendent "because his daughter is not currently a student there." *Id.* at 32a.

The court did conclude, however, that Newdow has standing to challenge Elk Grove's policy of reciting the Pledge "because his daughter is currently enrolled in elementary school" in Elk Grove. App., *infra*, 32a. In addition, a majority of the court concluded that Newdow has standing in his own right to challenge the facial constitutionality of the 1954 Act amending the Pledge because "the mere enactment of a statute may constitute an Establishment Clause violation," *id.* at 33a, and the 1954 Act amounts to a "religious recitation

REV_00164692

policy that interferes with Newdow's right to direct the religious education of his daughter." *Id.* at 37a.[4]

b. Turning to the merits of Newdow's complaint, the majority held that, with the addition of the phrase "under God," the Pledge of Allegiance violates the Establishment Clause. App., *infra*, 37a-42a. The majority began by explaining that this Court has adopted three different tests to analyze Establishment Clause violations (*id.* at 37a)—the three-prong test outlined in *Lemon* v. *Kurtzman*, 403 U.S. 602 (1971); the "endorsement test," *County of Allegheny*, *supra*; and the "coercion" test, *Lee* v. *Weisman*, 505 U.S. 577 (1992)—and that the court of appeals was "free to apply any or all of the three tests, and to invalidate any measure that fails any one of them." App., *infra*, 41a.

The majority held that the 1954 Act and the school district policy failed the "endorsement test" both because the Pledge's reference to God "is a profession of a religious belief, namely, a belief in monotheism" and because it "impermissibly takes a position with respect to the purely religious question of the existence and identity of God." App., *infra*, 41a-42a. The majority further concluded that the 1954 Act and the school district's policy fail the "coercion test" because "the mere fact that a pupil is required to listen every day to the statement 'one nation under God' has a coercive effect." *Id.* at 45a.

Finally, the majority concluded that the Pledge fails the *Lemon* test because it has the purpose of advancing religion. App., *infra*, 46a. In so holding, the majority rejected the United States' argument that the Pledge should be looked at "as a whole," and concluded that the "*sole* purpose" of the 1954 Act was to "advance religion, in order to differentiate

---

[4] The court did not address the constitutionality of the California law requiring patriotic exercises in elementary school classrooms. App., *infra*, 30a-31a.

REV_00164693

the United States from nations under communist rule." *Id.* at 46a-47a. The majority further concluded that Elk Grove's policy ran afoul of the *Lemon* test because it "convey[s] an impermissible message of endorsement to some and disapproval to others of their beliefs regarding the existence of a monotheistic God." *Id.* at 50a.

The majority dismissed in a footnote the numerous statements by this Court and its Members expressly addressing the Pledge and affirming its constitutionality as "dicta" that was announced without "appl[ying] any of the three tests to the Act." App., *infra*, 50a-51a n.12. The majority also expressly disagreed with the analysis and conclusion of the Seventh Circuit in *Sherman*, *supra*, which upheld the Pledge against a similar Establishment Clause challenge. *Ibid.*

c. Judge Fernandez dissented. App., *infra*, 52a-58a. Judge Fernandez first expressed his "serious misgivings" about the majority's conclusion that Newdow had standing to challenge the facial constitutionality of the 1954 Act, but ultimately concluded that the question "makes little difference to the resolution of the First Amendment issue in this case." *Id.* at 53a n.1. With respect to the Establishment Clause challenge, Judge Fernandez explained that "such phrases as 'In God We Trust,' or 'under God' have no tendency to establish a religion in this country or to suppress anyone's exercise, or non-exercise, of religion, except in the fevered eye of persons who most fervently would like to drive all tincture of religion out of the public life of our polity." *Id.* at 55a. Judge Fernandez also noted that this Court has repeatedly indicated that the Pledge's text, as amended, does not violate the Establishment Clause, and he agreed with the Seventh Circuit that the court of appeals should "respect" those assurances: "If the Court proclaims that a practice is consistent with the establishment clause, we take its assurances seriously. If the Justices are just pulling our leg, let them say so." *Ibid.* (quoting *Sherman*,

REV_00164694

980 F.2d at 448). Finally, Judge Fernandez accused the majority of confining itself to legal "elements and tests, while failing to look at the good sense and principles that animated those tests in the first place." *Id.* at 57a; see also *id.* at 57a n.8 (noting that the majority's holding would preclude use of many patriotic songs, such as "God Bless America," "America the Beautiful," "The Star Spangled Banner," and "My Country 'Tis of Thee," in public ceremonial occasions).

d. While the case was pending on the United States' and Elk Grove's petitions for rehearing and rehearing en banc, the mother of Newdow's child notified the court that Newdow lacked legal custody of the child and legal control over the child's educational and religious upbringing. She further advised that, as the custodial parent, she "wish[es] for her child to be able to recite the Pledge at school exactly as it stands." Banning C.A. Mot. to Intervene 10. The United States then filed a motion to enlarge the record and a supplemental brief arguing that Newdow lacks standing to prosecute his challenge to the Pledge on its face or as applied by Elk Grove.

The court of appeals issued a separate decision holding that Newdow has standing to prosecute his constitutional challenge to the Pledge. App., *infra*, 89a-98a. The court concluded that, while Newdow no longer could prosecute the action on behalf of or to vindicate the interests of his child, Newdow continued to have standing in his own right to challenge "unconstitutional government action affecting his child." *Id.* at 92a. The court noted that the custody agreement does not strip Newdow of all of his parental rights, because he retains the "the right to inspect his daughter's school and medical records" and the "right to consult" on educational decisions, albeit with the mother "having ultimate decision-making power." *Id.* at 95a. The court then reasoned that, because California law recognizes a right in

REV_00164695

noncustodial parents to "expose" their children to their beliefs and values, Newdow was injured because state law "surely does not permit official state indoctrination of an impressionable child on a daily basis with an official view of religion contrary to the express wishes of *either* a custodial or noncustodial parent." *Id.* at 96a. The court further reasoned that Newdow has standing because the mother "has no power, even as sole legal custodian, to insist that her child be subjected to unconstitutional state action." *Ibid.* Because the Pledge, in the court's view, "provides the message to Newdow's young daughter" that "her *father's* beliefs are those of an outsider, and necessarily inferior to what she is exposed to in the classroom," the court concluded that Newdow has suffered a legally cognizable injury that provides him with Article III standing. *Id.* at 97a.[5]

4. a. The court issued an amended opinion on rehearing. App., *infra*, 1a-24a. In its amended opinion, the court limited its Establishment Clause holding to the Pledge's use by Elk Grove in its schools. *Id.* at 18a. With respect to Newdow's challenge to the facial constitutionality of the Pledge, the court of appeals vacated the district court's decision in favor of the United States and remanded "for further proceedings consistent with our holding." *Ibid.*

In addition, the court amended its decision to hold only that Elk Grove's policy violated the coercion test, and did not address either the "endorsement test" or the *Lemon* test. App., *infra*, 11a. The panel, however, concluded that the recitation of the Pledge violated the coercion test for the same reasons that the original opinion found a violation of the endorsement test. Compare *id.* at 11a-13a, with *id.* at 41a-43a.

---

[5] Judge Fernandez concurred in the judgment on standing, but not in the majority's "allusions to the merits of the controversy." App., *infra*, 98a.

REV_00164696

The court also elaborated on its rejection of the numerous statements in this Court's opinions affirming the constitutionality of the Pledge and similar official acknowledgments of the Nation's religious heritage. The court assumed that "public officials do not unconstitutionally endorse religion when they recite the Pledge," but that schools nevertheless could not "coerce impressionable young schoolchildren to recite it, or even to stand mute while it is being recited by their classmates." App., *infra*, 15a. The court also purported to distinguish references to God in the Pledge from those in the Declaration of Independence and National Anthem on the ground that the pledge "is a performative statement." *Id.* at 16a; see also *ibid.* ("To pledge allegiance to something is to alter one's moral relationship to it, and not merely to repeat the words of an historical document or anthem.").

Judge Fernandez dissented from the court's Establishment Clause holding for the same reasons discussed in his initial dissenting opinion. App., *infra*, 19a-24a. Judge Fernandez also noted that, although the majority "now formally limits itself to holding that it is unconstitutional to recite the Pledge in public classrooms, its message that something is constitutionally infirm about the Pledge itself abides and remains a clear and present danger to all similar public expressions of reverence." *Id.* at 19a n.1.

b. Judge O'Scannlain, joined by Judges Kleinfeld, Gould, Tallman, Rawlinson, and Clifton, filed a lengthy dissent from the court of appeals' denial of rehearing en banc. App., *infra*, 67a-87a. He described the panel opinion as

> wrong, very wrong—wrong because reciting the Pledge of Allegiance is simply not "a religious act" as the two-judge majority asserts, wrong as a matter of Supreme Court precedent properly understood, wrong because it

REV_00164697

> set up a direct conflict with the law of another circuit, and wrong as a matter of common sense.

Id. at 67a-68a (footnote omitted). Judge O'Scannlain stressed that this Court consistently has distinguished between "patriotic invocations of God on the one hand," and public school "prayer, an 'unquestioned religious exercise.'" *Id.* at 72a. Judge O'Scannlain further noted that, until the panel's decision here, "[n]o court, state or federal, has *ever* held, even now, that the Supreme Court's school prayer cases apply outside a context of state-sanctioned formal religious observances." *Id.* at 78a-79a. Finally, Judge O'Scannlain noted that, while the panel "adopts a stilted indifference to our past and present realities as a predominantly religious people," *id.* at 86a-87a, "the Supreme Court has displayed remarkable consistency—patriotic invocations of God simply have no tendency to establish a state religion," *id.* at 86a.

Judges McKeown, Hawkins, Thomas, and Rawlinson separately dissented from the denial of rehearing en banc on the ground that the case "presents a constitutional question of exceptional importance" that should be heard by the court en banc. App., *infra*, 88a.

REASONS FOR GRANTING THE PETITION

Two decisions of this Court have said without qualification that the Pledge of Allegiance is constitutional. Numerous other opinions, joined in by at least twelve Justices of this Court, have likewise expressly addressed and affirmed the constitutionality of the Pledge of Allegiance notwithstanding its reference to God. No Justice has expressed the view that the Pledge violates the Establishment Clause. The court of appeals, however, dismissed those majority and separate opinions as unconsidered dicta. But a fair reading of this Court's decisions demonstrates that those consistent and oft-repeated statements stand as a fixed lodestar in this Court's

REV_00164698

Establishment Clause jurisprudence that has informed and directed the resolution of a number of the Court's cases. They reflect a point of exceptional unity and consistent agreement among Members of this Court within Establishment Clause jurisprudence. Whatever else the Establishment Clause may prohibit, this Court's precedents make clear that it does not forbid the government from officially acknowledging the religious heritage, foundation, and character of this Nation. That is what the reference to God in the Pledge of Allegiance does. The Pledge is therefore constitutional, as the Seventh Circuit held when confronted with the same Establishment Clause challenge. Because the court of appeals' error is so manifestly contrary to precedent, the Court may wish to consider summary reversal of the decision below.

1. This Court's review is warranted because the court of appeals' holding conflicts with repeated opinions of this Court and of individual Justices consistently explaining that the Pledge of Allegiance, and similar official acknowledgments of the Nation's religious heritage and character, do not violate the Establishment Clause. The holding below is also in direct conflict with the Seventh Circuit's decision in *Sherman* v. *Community Consolidated School District 21*, 980 F.2d 437 (1992), cert. denied, 508 U.S. 950 (1993), which rejected the same Establishment Clause challenge to the Pledge.

a. The court of appeals' decision is irreconcilable with this Court's repeated assurances that the Pledge of Allegiance, with its reference to God, comports with the strictures of the Establishment Clause. In *Lynch* v. *Donnelly*, 465 U.S. 668 (1984), the Court held that a city did not violate the Establishment Clause by including a nativity scene as part of a Christmas display. In upholding the display, the Court reasoned that "[t]here is an unbroken history of official acknowledgment by all three branches of government

REV_00164699

of the role of religion in American life from at least 1789." *Id.* at 674. The Court noted that its own opinions had "asserted pointedly" that "[w]e are a religious people whose institutions presuppose a Supreme Being." *Id.* at 675 (quoting *Zorach* v. *Clauson*, 343 U.S. 306, 313 (1952), and citing *School Dist. of Abington Township* v. *Schempp*, 374 U.S. 203, 213 (1963)). The Court further reasoned that "examples of reference to our religious heritage are found * * * in the language "One nation under God," as part of the Pledge of Allegiance to the American flag," which "is recited by many thousands of public school children—and adults—every year." *Lynch*, 465 U.S. at 676; see also *ibid.* (referring favorably to the National Motto, "In God We Trust," 36 U.S.C. 302, which appears on all United States currency, 31 U.S.C. 324).

Explaining that such official acknowledgments of our Nation's religious heritage do not "establish[] a religion or religious faith, or tend[] to do so," *Lynch*, 465 U.S. at 678, the Court concluded that the City's inclusion of a creche in its Christmas display likewise permissibly "depicts the historical origins of this traditional event long recognized as a National Holiday," *id.* at 680. To hold otherwise, the Court explained, would lead to the conclusion that "a host of other forms of taking official note of Christmas, and of our religious heritage, are equally offensive to the Constitution." *Id.* at 686. "[P]ublic acknowledgment of the [Nation's] religious heritage long officially recognized by the three constitutional branches of government," the Court concluded, render "farfetched" "[a]ny notion that these symbols pose a real danger of establishment of a state church." *Ibid.*

In *County of Allegheny* v. *ACLU*, 492 U.S. 573 (1989), the Court invalidated the display of a creche at a county courthouse, but sustained the inclusion of a menorah as part of a holiday display. In so holding, the Court reaffirmed *Lynch*'s approval of the reference to God in the Pledge, noting that

REV_00164700

all of the Justices in *Lynch* viewed the Pledge as "consistent with the proposition that government may not communicate an endorsement of religious belief." *Id.* at 602-603 (citations omitted). The Court then used the Pledge and the general holiday display approved in *Lynch* as benchmarks for what the Establishment Clause permits, *ibid.* On that basis, the Court concluded that the display of the creche by itself was unconstitutional because, unlike the Pledge, it gave "praise to God in [sectarian] Christian terms." *Id.* at 598; see also *id.* at 603 (finding an "obvious distinction" between the Pledge and the display of the creche).

Furthermore, while not referring specifically to the Pledge of Allegiance, the Court, in *Marsh* v. *Chambers*, 463 U.S. 783 (1983), upheld the historic practice of legislative prayer as "a tolerable acknowledgment of beliefs widely held among the people of this country." *Id.* at 792. In so holding, the Court discussed numerous other examples of constitutionally permissible religious references in official life "that form 'part of the fabric of our society,'" *ibid.*, such as "God save the United States and this Honorable Court," which "occurs at all sessions of this Court," *id.* at 786. The Court also repeated its recognition that "[w]e are a religious people whose institutions presuppose a Supreme Being." *Id.* at 792.

Likewise, in *Abington Township*, *supra*, the Court explained, in the course of invalidating laws requiring Bible-reading in public schools, that "our national life reflects a religious people," and noted the numerous permissible public references to God in historical documents and ceremonial practices, such as oaths ending with "So help me God." 374 U.S. at 213.

Finally, in *Engel* v. *Vitale*, 370 U.S. 421 (1962), in the course of invalidating official school prayers, the Court stressed:

REV_00164701

> There is of course nothing in the decision reached here that is inconsistent with the fact that school children and others are officially encouraged to express love for our country by reciting historical documents such as the Declaration of Independence which contain references to the Deity or by singing officially espoused anthems which include the composer's professions of faith in a Supreme Being, or with the fact that there are many manifestations in our public life of belief in God. Such patriotic or ceremonial occasions bear no true resemblance to the unquestioned religious exercise [official prayer] that the State of New York has sponsored in this instance.

Id. at 435 n.21.

In sum, this Court has repeatedly refused to "press the concept of separation of Church and State to * * * extremes" and to condemn as unconstitutional the "references to the Almighty that run through our laws, our public rituals, [and] our ceremonies." *Zorach*, 343 U.S. at 313.

b. The opinions of individual Justices have cemented as common ground the proposition that the Pledge of Allegiance, and similar acknowledgments of the Nation's religious heritage and character, are constitutionally permissible. See *Lee* v. *Weisman*, 505 U.S. 577, 633-635 (1992) (Scalia, J., dissenting, joined by Rehnquist, C.J., and White & Thomas, JJ.) (noting long historical practice, consistent with the Establishment Clause, of official references to God); *id.* at 638-639 (noting that the Court's invalidation of graduation prayer did not extend to the practice of also saying the Pledge of Allegiance at graduations); *County of Allegheny*, 492 U.S. at 623, 625 (O'Connor, J., concurring) ("government recognition and acknowledgment of the role of religion in the lives of our citizens" serve the "secular purposes of 'solemnizing public occasions, expressing confidence in the future

REV_00164702

and encouraging the recognition of what is worthy of appreciation in society'"; in addition, because of their "history and ubiquity, such government acknowledgments of religion are not understood as conveying an endorsement of particular religious beliefs") (internal quotation marks omitted); *id.* at 657 (Stevens, J., concurring in part and dissenting in part, joined by Brennan & Marshall, JJ.) ("Government policies of * * * acknowledgment, and support for religion are an accepted part of our political and cultural heritage."); *id.* at 674 n.10 (Kennedy, J., concurring in part and dissenting in part, joined by Rehnquist, C.J., and White & Scalia, JJ.) (explaining that the Court "will not proscribe" "the reference to God in the Pledge of Allegiance" and similar acknowledgments of religious culture); *Wallace* v. *Jaffree*, 472 U.S. 38, 78 n.5 (1985) (O'Connor, J., concurring) (same view as in *County of Allegheny*, with specific reference to the Pledge of Allegiance); *id.* at 88 (Burger, C.J., dissenting) (the argument that the Pledge of Allegiance, with its reference to God, violates the Establishment Clause "would of course make a mockery of our decisionmaking in Establishment Clause cases"); *Lynch*, 465 U.S. at 693 (O'Connor, J., concurring) (same view as in *County of Allegheny* with respect to "In God We Trust" and "God save the United States and this honorable court"); *Abington Township*, 374 U.S. at 304 (Brennan, J., concurring) ("The reference to divinity in the revised pledge of allegiance, for example, may merely recognize the historical fact that our Nation was believed to have been founded 'under God.' Thus reciting the pledge may be no more of a religious exercise than the reading aloud of Lincoln's Gettysburg Address, which contains an allusion to the same historical fact."); *id.* at 303 (The Pledge and similar acknowledgments of religion are "interwoven * * * so deeply into the fabric of our civil polity" that their "use may not present that type of involvement which the First Amendment prohibits."); *id.* at

REV_00164703

307-308 (Goldberg, J., concurring, joined by Harlan, J.) ("[T]oday's decision does not mean that all incidents of government which import of the religious are therefore and without more banned by the strictures of the Establishment Clause," citing to divine references in the Declaration of Independence and the National Anthem); *Engel*, 370 U.S. at 449 (Stewart, J., dissenting) (citing as consistent with the Establishment Clause the then recently amended Pledge of Allegiance, the National Motto "In God We Trust," and the National Day of Prayer).

c. The court of appeals dismissed that overwhelming and consistent authority as "dicta" that was "not inconsistent" with its invalidation of the Pledge. App., *infra*, 15a. While the court of appeals is correct that none of those cases involved direct challenges to the Pledge, it fundamentally erred in disregarding this Court's consistent statements validating the Pledge. That is because, "[w]hen an opinion issues for the Court, it is not only the result but also those portions of the opinion necessary to that result by which we are bound." *Seminole Tribe* v. *Florida*, 517 U.S. 44, 67 (1996). The Court's analysis of the Pledge and similar official acknowledgments of religion in *Lynch* and *County of Allegheny* were not "mere *obiter dicta*" that the court of appeals was free to disregard. *Id.* at 66. They were components of the "well-established rationale upon which the Court based the results of its earlier decisions." *Id.* at 66-67. Those references articulated the constitutional baseline for permissible official acknowledgments of religion under the Establishment Clause against which the governmental practices at issue in each of those cases were then measured. Indeed, for decades, the Court and individual Justices "have grounded [their] decisions in the oft-repeated understanding," *id.* at 67,

REV_00164704

that the Pledge of Allegiance, and similar references, are constitutional.[6]

The court of appeals' failure to recognize the analytical import of this Court's past decisions and statements underlies its erroneous conclusion that recitation of the Pledge of Allegiance in schools violates the Establishment Clause. First, in concluding that the Pledge results in unconstitutional coercion, the court of appeals failed to come to grips with this Court's repeated recognition that the Establishment Clause permits such historic, ubiquitous, and ceremonial acknowledgments of our Nation's religious character and heritage. See *Lynch*, 465 U.S. at 675, 677 (concluding that the words "under God" in the Pledge are an "acknowledgment of our religious heritage" similar to the "official references to the value and invocation of Divine guidance in deliberations and pronouncements of the Founding Fathers" that are "replete" in our nation's history). Such references are not reasonably and objectively understood as coercing individuals into silent assent to any particular religious doctrine. Rather, the Pledge is "consistent with the proposition that government may not communicate an endorsement of religious belief," *County of Allegheny*, 492 U.S. at 602-603, because the ceremonial reference to God acknowledges the undeniable historical facts that the Nation was founded by individuals who believed in God, that the Constitution's protection of individual rights and autonomy reflects those religious convictions, and that the Nation

---

[6] See also *County of Allegheny*, 492 U.S. at 668 (Kennedy, J., concurring in part and dissenting in part) ("As a general rule, the principle of *stare decisis* directs us to adhere not only to the holdings of our prior cases, but also to their explications of the governing rules of law."); *Local 28 of the Sheet Metal Workers' Int'l Ass'n* v. *EEOC*, 478 U.S. 421, 490 (1986) (O'Connor, J., concurring) ("Although technically dicta, * * * an important part of the Court's rationale for the result [that] it reache[s] * * * is entitled to greater weight.").

REV_00164705

continues as a matter of demographic and cultural fact to be a predominantly "religious people whose institutions presuppose a Supreme Being." *Zorach*, 343 U.S. at 313.

Second, as Judge O'Scannlain explained in his dissent from the denial of rehearing en banc, App., *infra*, 69a-71a, 79a-83a, the court of appeals' decision proceeds from the faulty premise that the Pledge's acknowledgment of the Nation's religious heritage is the functional equivalent of prayer or a religious act like Bible reading. The decisions of this Court and individual Justices outlined above repeatedly admonish that not every reference to God amounts to impermissible government-endorsed religious exercise, and expressly refer to the Pledge and similar ceremonial references in contradistinction to formal religious exercises like prayer and Bible reading. See, *e.g.*, *Lynch*, *supra*; *Abington Township*, *supra*; *Engel*, *supra*. The Pledge is no more of a coercive religious exercise than the requirement at the opening of federal courts that individuals stand while a court official announces "God save the United States and this honorable Court."

Third, the court of appeals erred in analyzing the phrase "under God" in isolation. In the court's view, pledging allegiance to the phrase "under God" compelled an endorsement of monotheism in the same manner as phrases like "under Jesus," "under Vishnu," or "under Zeus." App., *infra*, 12a. But Congress did not enact a pledge consisting just of the words "under God," and the school district does not lead students in reciting only the phrase "under God." Nor did Congress enact a pledge to God. Individuals pledge allegiance to "the Flag of the United States of America," and "to the Republic for which it stands." 4 U.S.C. 4. The remainder of the Pledge then describes the culture and character of that Republic—a unified Country, composed of individual States yet indivisible as a Nation, founded for the purposes of promoting liberty and justice for all, *and*

REV_00164706

founded by individuals who believed (and populated predominantly by people who continue to believe) that the Nation's character and destiny were rooted in the Divine.

In analyzing only Newdow's discomfiture with the phrase "under God," without considering its larger context, the court of appeals "plainly erred." *Lynch*, 465 U.S. at 680. In *Lynch*, this Court stressed that the Establishment Clause analysis looks at religious symbols and references in context, rather than "focusing almost exclusively on the" religious symbol alone. *Ibid.* The *Lynch* Court accordingly did not ask whether the government's display of a creche—a clearly religious symbol—was permissible. The Court analyzed whether the overall message conveyed by a display that included both that religious and other secular symbols of the Christmas holiday season conveyed a message of endorsement, and concluded that it did not. *Id.* at 680-686. The presence of the creche, the Court concluded, properly "depict[ed] the historical origins of this traditional event," *id.* at 680, and permissibly took "official note of Christmas, and of our religious heritage," *id.* at 686.

Likewise, in *County of Allegheny*, the Court analyzed and upheld the "combined display" during the winter holiday season of a Christmas tree, Liberty sign, and menorah. 492 U.S. at 616. The Court thus looked at the content of the display as a whole, rather than focusing on the presence of the menorah and the religious message that the menorah alone conveys. *Id.* at 616-620.

That Congress added the phrase "under God" to a preexisting Pledge does not change the analysis. The city government in *County of Allegheny* had likewise added the menorah, after the fact, to a preexisting holiday display. *Id.* at 581-582. Yet this Court trained its constitutional analysis on the display as a whole, rather than scrutinizing the message conveyed by each component as it was added seriatim. *Id.* at 616-620 & n.64; see also *Zelman* v. *Simmons-Harris*,

REV_00164707

536 U.S. 639, 655-657 (2002) (noting that the Establishment Clause inquiry must consider all relevant programs, not just the specific program challenged); *id.* at 672-676 (O'Connor, J., concurring) (same); *Wallace*, 472 U.S. at 78 n.5 (O'Connor, J., concurring) (later addition of "under God" to Pledge does not violate the Establishment Clause because it "serve[s] as an acknowledgment of religion with the 'legitimate secular purpose of solemnizing public occasions, [and] expressing confidence in the future'").

The court of appeals attempted to distinguish the Pledge from other references to God in public life on the ground that the Pledge is "a performative statement," rather than simply "a reflection of [an] author's profession of faith." App., *infra*, 16a. As an initial matter, this Court's pronouncements have made no such distinction, consistently grouping the Pledge with the Motto, National Anthem, the Declaration of Independence, and similar public references, some of which frequently involve public performance (*e.g.*, the National Anthem) and some of which do not.

More importantly, the distinction makes no sense. With respect to "impressionable young schoolchildren," *id.* at 15a, there simply is no coherent or discernible "performative" difference between having them say the Pledge, rather than memorize and recite the National Motto ("In God *We Trust*"), 36 U.S.C. 302 (emphasis added), the Declaration of Independence, 1 U.S.C. at XLIII ("We hold these truths to be self-evident, that all men * * * are endowed by their Creator with certain unalienable Rights * * *."), or the Gettysburg Address ("[W]e here highly resolve * * * that this nation, under God, shall have a new birth of freedom."). Indeed, the court of appeals' approach leads to the curious conclusion that the recitation of Bible passages or long-established prayers in public schools, which would require students "merely to repeat the words of an historical document," App., *infra*, 16a, trenches less upon Establishment

REV_00164708

Clause principles than the Pledge's two-word acknowledgment of the Nation's religious heritage. That conclusion cannot be reconciled with this Court's precedent or established analytical principles guiding Establishment Clause jurisprudence.

d. This Court's review is warranted because the Ninth Circuit's decision squarely conflicts with the Seventh Circuit's decision in *Sherman* v. *Community Consolidated School District 21*, *supra*, that the Pledge of Allegiance may constitutionally be recited in public elementary schools. Unlike the court of appeals here, the Seventh Circuit placed significant weight on this Court's repeated approval of the Pledge and similar official acknowledgments of religion, and concluded that the lower federal courts must "take [the Supreme Court's] assurances seriously." 980 F.2d at 448. Indeed, the Ninth Circuit acknowledged that its decision creates an inter-circuit conflict and that the courts' differing decisions were the product of different modes of analyzing Establishment Clause challenges to such official acknowledgments of religion. App., *infra*, 16a-17a. This Court's authoritative resolution of the question is therefore necessary.[7]

---

[7] The Ninth Circuit's decision is also in considerable tension with court of appeals' decisions upholding analogous acknowledgments of the Nation's religious history and character. See *Gaylor* v. *United States*, 74 F.3d 214 (10th Cir.) (upholding against Establishment Clause challenge the National Motto, "In God We Trust," and its imprint on all currency), cert. denied, 517 U.S. 1211 (1996); *O'Hair* v. *Murray*, 588 F.2d 1144 (5th Cir.) (upholding National Motto), cert. denied, 442 U.S. 930 (1979); *Aronow* v. *United States*, 432 F.2d 242 (9th Cir. 1970) (same); *Ganulin* v. *United States*, 71 F. Supp. 2d 824 (S.D. Ohio 1999) (upholding constitutionality of 5 U.S.C. 6103, which makes Christmas Day a paid federal holiday), aff'd, 238 F.3d 420 (6th Cir. 2000), cert. denied, 532 U.S. 973 (2001); *Opinion of the Justices*, 228 A.2d 161 (N.H. 1967) (posting of plaques in all public school classrooms bearing the National Motto, "In God We Trust," would not violate the Establishment Clause).

REV_00164709

e. The question presented is one of great importance. An Act of Congress has been held unconstitutional as applied in one of its most important contexts. See *Lynch*, 465 U.S. at 676; pp. 4-5, *supra*; App., *infra*, 14a & n.7. Furthermore, the impact of the decision below is potentially far-reaching. In addition to the practice at federally operated schools for military dependents, see n.2, *supra*, public schools within each of the 50 States lead students in voluntary recitations of the Pledge of Allegiance, see Idaho C.A. Amicus Curiae Br. 9-13 (citing state laws). It is untenable that a national Pledge of Allegiance to a national flag would have a different content depending on the judicial circuit in which it is uttered. Absent this Court's review, 9.6 million students in nine States (App., *infra*, 69a) will recite an abridged version of the Pledge, while the nearly 37 million students in the rest of the Country will recite the Pledge that Congress enacted. Students in the Ninth Circuit will also learn a different Pledge in school than they recite at other public and private events. The Pledge cannot serve its purpose of unifying and commonly celebrating the national identity unless it is one Pledge with one content for all citizens at all points in their lives. There is no reason to tolerate such disruption and disharmony in the schools of this Nation. The Pledge of Allegiance is constitutional. This Court has repeatedly said so, and federal and state schools have acted in reliance on those assurances. The Ninth Circuit's disregard of this Court's decisions and their underlying analytical principles merits review.

2. The issue of Newdow's standing to bring his constitutional challenge is a necessarily antecedent question that this Court would need to address were it to grant review. See *Steel Co.* v. *Citizens for a Better Env't*, 523 U.S. 83, 94 (1998). Although it is the court of appeals' erroneous ruling on the merits that warrants this Court's review, the court of appeals also committed three errors in concluding that

REV_00164710

Newdow's status as a noncustodial parent did not deprive him of standing to challenge an educational practice at his child's school.[8]

First, and most fundamentally, Newdow has not suffered the invasion of any legally protected interest. A number of this Court's Establishment Clause cases have involved lawsuits by parents challenging practices or policies in public schools. See, *e.g.*, *Santa Fe Indep. Sch. Dist.* v. *Doe*, 530 U.S. 290 (2000); *Zobrest* v. *Catalina Foothills Sch. Dist.*, 509 U.S. 1 (1993); *Lee* v. *Weisman*, 505 U.S. 577 (1992); *Wisconsin* v. *Yoder*, 406 U.S. 205 (1972). In all of those cases, however, the parents had the legal right to sue as next friend to vindicate their children's legal interests and to protect the parents' own constitutional rights to direct and control the religious and educational upbringing of their children, see *Pierce* v. *Society of Sisters*, 268 U.S. 510, 534-535 (1925).

Newdow can assert neither right. He has no legal right to sue as his child's next friend, or otherwise seek to vindicate his child's legal interests, as the court of appeals recognized. App., *infra*, 96a. That prerogative rests exclusively with the mother, who has sole legal custody. *Ibid.* While Newdow retains the right to "consult" with the mother on educational decisions and to have "access" to the child's educational records, *id.* at 91a, Newdow does not allege that Elk Grove's

---

[8] While the standing issue is necessarily antecedent to the merits of the Establishment Clause analysis, see *Steel Co.*, *supra*, this Petition presents the Establishment Clause issue first because the court of appeals' erroneous constitutional judgment clearly merits this Court's review. Whether or not the Ninth Circuit's erroneous standing analysis would independently merit an exercise of this Court' s certiorari jurisdiction, it does not pose a barrier to review in this case. The Ninth Circuit's standing analysis is closely intertwined with its flawed Establishment Clause ruling, and the decision below, which not only erroneously invalidates the Pledge of Allegiance, but did so at the behest of a party without Article III standing, should not be allowed to stand.

REV_00164711

use of the Pledge in its schools interferes with either of those rights. Nor, contrary to the court of appeals' opinion, does Newdow have any right "to direct the religious education of his daughter." *Id.* at 7a. The custody order granted sole control over the child's "health, education and welfare" to the mother. *Id.* at 90a-91a. And the mother has made clear that she "wants her daughter to recite the Pledge as it stands as part of her education," Banning C.A. Mot. to Intervene 10.[9]

Where, as here, the two parents disagree on an educational practice, the decision of the custodial parent controls and Newdow has no right to overturn it. If, as the noncustodial parent, Newdow believes the mother's educational decisions are causing harm to the child, the proper remedy is for him to resort to family court and seek a modification of the custody agreement. He cannot use federal litigation to circumvent that state-law process or to modify a state-law custody judgment. See *District of Columbia Court of Appeals* v. *Feldman*, 460 U.S. 462, 482 (1983); *Rooker* v. *Fidelity Trust Co.*, 263 U.S. 413 (1923).[10]

---

[9] See also *Burge* v. *City & County of San Francisco*, 262 P.2d 6, 12 (Cal. 1953) (status as custodial parent "embrace[s] the sum of parental rights with respect to the rearing of a child, including its care. It includes the right * * * to direct his activities and make decisions regarding his care and control, education, health, and religion."); cf. *Michael H.* v. *Gerald D.*, 491 U.S. 110, 122-129 (1989).

[10] In apparent recognition of that limitation, the United States understands that Newdow has filed a motion in California Superior Court to alter the custody arrangement. That motion remains pending with a hearing date scheduled for July 31, 2003.

The court of appeals relied (App., *infra*, 92a-94a) on the Seventh Circuit's decision in *Navin* v. *Park Ridge School District*, 270 F.3d 1147 (2001) (per curiam), which held that a noncustodial father *might* be able to sue to enforce his son's rights under the Individuals with Disabilities Education Act, 20 U.S.C. 1415. In that case, however, the court concluded that the divorce decree did not strip the father of his parental interest in

REV_00164712

Second, the court of appeals placed weight upon Newdow's residual right, under California law, to "expose" his child to his views. App., *infra*, 95a. But, again, Newdow has not alleged that Elk Grove or the United States has denied him any opportunity to expose his child to his particular viewpoints.

The court of appeals went further, however, and held that Newdow has a right not to have his message to his child interrupted or diluted by the government's educational practices. But, especially when that speech occurs with the consent of the custodial parent, the right of the non-custodial parent to "expose" the child to his views does not entitle that parent to close off all other views. Public schools routinely instruct students about evolution, war, and other matters with which some parents may disagree on religious, political, or moral grounds. What the Constitution protects, in those circumstances, is the parents' right to instill their own views in their children and to place them in a private school that is more consonant with their beliefs. See *Pierce*, *supra*.[11]

The court of appeals further erred in suggesting that Newdow's limited state-law right was somehow enhanced by that court's erroneous conclusion that his Establishment Clause challenge was meritorious. The court repeatedly

---

ensuring the quality of his child's education. 270 F.3d at 1149. The court stressed, moreover, that the noncustodial parent could not use federal law "to upset choices committed to [the mother] by the state court," *id.* at 1150, which is exactly what Newdow's lawsuit attempts to do.

[11] Cf. *West Virginia State Bd. of Educ.* v. *Barnette*, 319 U.S. 624, 630 (1943) (holding only that children whose parents have religious objections to the content of the Pledge have a right not to participate in its recitation in a classroom, where their refusal "does not interfere with or deny rights of others to do so"); *Wooley* v. *Maynard*, 430 U.S. 705, 717 (1977) (the government "may legitimately" "communicate to others an official view as to proper appreciation of history, state pride, and individualism," as long as individuals are not forced to "becom[e] the courier for such message[s]").

REV_00164713

couched Newdow's purported Article III injury in terms of a right not to have his daughter "subjected to *unconstitutional* state action" and "official state indoctrination of * * * an official view of religion." App., *infra*, 96a (emphasis added). See also *id.* at 97a (the mother "may not consent to *unconstitutional* government action in derogation of Newdow's rights") (emphasis added).

That approach, however, confuses the standing inquiry with the ultimate question on the merits. The type of injury that Article III requires must be discernible separate and apart from the ultimate resolution of the case. The plaintiff must identify some action by the opposing party that affects the plaintiff's particularized, individual rights concretely and imminently—regardless of whether that action ultimately is found to be lawful or not. "The requirement of standing 'focuses on the party seeking to get his complaint before a federal court and not on the issues he wishes to have adjudicated." *Valley Forge Christian Coll.* v. *Americans United for Separation of Church & State, Inc.*, 454 U.S. 464, 484 (1982); see also *Schaffer* v. *Clinton*, 240 F.3d 878, 883 (10th Cir.) (denying standing where it "revolves around the asserted unconstitutionality of the [conduct as that] is a statement of [plaintiff's] view of the merits * * * and no more"), cert. denied, 534 U.S. 992 (2001).

Third, even if Newdow possesses some federal right not to have his message of atheism affected by his child's exposure to the Pledge, the court of appeals' limited invalidation of the Pledge in elementary schools does not redress that injury. Newdow's child remains subject to exposure to the Pledge in a wide variety of other assemblies and settings, public or private. In addition, the child's mother could place the child in private school where the official governmental Pledge could be recited daily. Unless the Establishment Clause compels courts to root out every reference to religion in public life, the relief ordered by the court here is incapable of

REV_00164714

inoculating Newdow's message of atheism against any perceived dilution.

CONCLUSION

The petition for a writ of certiorari should be granted. The Court may wish to consider summary reversal of the court of appeals' judgment.

Respectfully submitted.

THEODORE B. OLSON
Solicitor General
ROBERT D. MCCALLUM, JR.
Assistant Attorney General
PAUL D. CLEMENT
Deputy Solicitor General
GREGORY G. KATSAS
Deputy Assistant Attorney General
PATRICIA A. MILLETT
Assistant to the Solicitor General
ROBERT M. LOEB
LOWELL V. STURGILL JR.
SUSHMA SONI
Attorneys

APRIL 2003

REV_00164715

From: Kavanaugh, Brett M.
To: <Snee, Ashley>
Sent: 4/30/2003 2:58:02 PM
Subject: Newdow (pledge case) cert petition by United States PDF
Attachments: NEWDOW APP (N... ORDER 4_18_0.pdf; Newdow.Pet.aa.pdf

<> <>

No.

In the Supreme Court of the United States

UNITED STATES OF AMERICA, PETITIONER

v.

MICHAEL A. NEWDOW, ET AL

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

APPENDIX TO THE PETITION FOR A WRIT OF CERTIORARI

THEODORE B. OLSON
Solicitor General
Counsel of Record

ROBERT D. MCCALLUM, JR.
Assistant Attorney General

PAUL D. CLEMENT
Deputy Solicitor General

PATRICIA A. MILLETT
Assistant to the Solicitor General

ROBERT M. LOEB
LOWELL V. STURGILL
SUSHMA SONI
Attorneys

Department of Justice
Washington, D.C. 20530-0001
(202) 514–2217

REV_00164718

TABLE OF CONTENTS

	Page
Appendix A (court of appeals amended opinion on rehearing, filed: Feb. 28, 2003)	1a
Appendix B (court of appeals original opinion, filed: June 26, 2002)	25a
Appendix C (court of appeals order on rehearing en banc, filed: Feb. 28, 2003)	59a
Appendix D (court of appeals opinion on standing, filed: Dec. 4, 2002)	89a
Appendix E (court of appeals order denying intervention, filed: Dec. 4, 2000)	99a
Appendix F (court of appeals miscellaneous order, filed: Dec. 4, 2000)	108a
Appendix G (district court order, filed: July 21, 2002)	110a
Appendix H (magistrate judge's findings and recommendation, filed: May 25, 2000)	111a
Appendix I (constitutional and statutory provisions)	113a

REV_00164719

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 00-16423
D.C. No. CV 00-00495-MLS/PAN

MICHAEL A. NEWDOW, PLAINTIFF-APPELLANT

v.

U.S. CONGRESS; UNITED STATES OF AMERICA; GEORGE W. BUSH,* PRESIDENT OF THE UNITED STATES; STATE OF CALIFORNIA; ELK GROVE UNIFIED SCHOOL DISTRICT; DAVID W. GORDON, SUPERINTENDENT EGUSD; SACRAMENTO CITY UNIFIED SCHOOL DISTRICT; JIM SWEENEY, SUPERINTENDENT SCUSD, DEFENDANTS-APPELLEES

Appeal from the United States District Court for the Eastern District of California, Milton L. Schwartz, Senior Judge, Presiding

---

Argued and Submitted: March 14, 2002
Filed: June 26, 2002
Amended: February 28, 2003

---

* George W. Bush is substituted for his predecessor, William Jefferson Clinton, as President of the United States. Fed. R. App. P. 43(c)(2).

REV_00164720

AMENDED OPINION AND AMENDED CONCURRENCE/DISSENT

Before: ALFRED T. GOODWIN, STEPHEN REINHARDT and FERDINAND F. FERNANDEZ, Circuit Judges.

Opinion by Judge Goodwin; Partial Concurrence and Partial Dissent by Judge Fernandez

GOODWIN, Circuit Judge:

Michael Newdow appeals pro se a judgment dismissing his challenge to the constitutionality of the words "under God" in the Pledge of Allegiance to the Flag. Newdow argues that the addition of these words by a 1954 federal statute to the previous version of the Pledge of Allegiance (which made no reference to God) and the daily recitation in the classroom of the Pledge of Allegiance, with the added words included, by his daughter's public school teacher are violations of the Establishment Clause of the First Amendment to the United States Constitution.

FACTUAL AND PROCEDURAL BACKGROUND

Newdow is an atheist whose daughter attends public elementary school in the Elk Grove Unified School District ("EGUSD") in California. In accordance with state law and a school district rule, EGUSD teachers begin each school day by leading their students in a recitation of the Pledge of Allegiance ("the Pledge"). The California Education Code requires that public schools begin each school day with "appropriate patriotic exercises" and that "[t]he giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy" this requirement. Cal. Educ. Code § 52720

REV_00164721

(1989) (hereinafter "California statute").[1] To implement the California statute, the school district that Newdow's daughter attends has promulgated a policy that states, in pertinent part: "Each elementary school class [shall] recite the pledge of allegiance to the flag once each day." The classmates of Newdow's daughter in the EGUSD are led by their teacher in reciting the Pledge codified in federal law. On June 22, 1942, Congress first codified the Pledge as "I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one Nation indivisible, with liberty and justice for all." Pub. L. No. 623, Ch. 435, § 7, 56 Stat. 380 (1942) (codified at 36 U.S.C. § 1972). On June 14, 1954, Congress amended Section 1972 to add the words "under God" after the word "Nation." Pub. L. No. 396, Ch. 297, 68 Stat. 249 (1954) ("1954 Act"). The Pledge is currently codified as "I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all." 4 U.S.C. § 4 (1998) (Title 36 was revised and recodified by Pub. L. No. 105-225, § 2(a), 112 Stat. 1494 (1998). Section 172 was abolished, and the Pledge is now found in Title 4.)

---

[1] The relevant portion of California Education Code § 52720 reads:

> In every public elementary school each day during the school year at the beginning of the first regularly scheduled class or activity period at which the majority of the pupils of the school normally begin the schoolday, there shall be conducted appropriate patriotic exercises. The giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy the requirements of this section.

REV_00164722

Newdow does not allege that his daughter's teacher or school district requires his daughter to participate in reciting the Pledge.[2] Rather, he claims that his daughter is injured when she is compelled to "watch and listen as her state-employed teacher in her state-run school leads her classmates in a ritual proclaiming that there is a God, and that our's [sic] is 'one nation under God.'" Newdow's complaint in the district court challenged the constitutionality, under the First Amendment, of the 1954 Act, the California statute, and the school district's policy requiring teachers to lead willing students in recitation of the Pledge. He sought declaratory and injunctive relief, but did not seek damages.

The school districts and their superintendents (collectively, "school district defendants") filed a Federal Rule of Civil Procedure 12(b)(6) motion to dismiss for failure to state a claim. Magistrate Judge Peter A. Nowinski held a hearing at which the school district defendants requested that the court rule only on the constitutionality of the Pledge, and defer any ruling on sovereign immunity. The United States Congress, the United States, and the President of the United States (collectively, "the federal defendants") joined in the motion to dismiss filed by the school district defendants. The magistrate judge reported findings and a

---

[2] Compelling students to recite the Pledge was held to be a First Amendment violation in *West Virginia State Board of Education* v. *Barnette*, 319 U.S. 624, 642 (1943) ("[T]he action of the local authorities in compelling the flag salute and pledge transcends constitutional limitations on their power and invades the sphere of intellect and spirit which it is the purpose of the First Amendment to our Constitution to reserve from all official control."). *Barnette* was decided before the 1954 Act added the words "under God" to the Pledge.

REV_00164723

recommendation that the district court hold that the daily Pledge ceremony in the schools did not violate the Establishment Clause. District Judge Edward J. Schwartz approved the recommendation and entered a judgment of dismissal. This appeal followed.

DISCUSSION

A. Jurisdiction

Newdow asks the district court to order the President of the United States ("the President") to "alter, modify or repeal" the Pledge by removing the words "under God"; and to order the United States Congress ("Congress") "immediately to act to remove the words 'under God' from the Pledge." The President, however, is not an appropriate defendant in an action challenging the constitutionality of a federal statute. *See Franklin* v. *Massachusetts*, 505 U.S. 788, 802-03 (1992) (plurality) (observing that a court of the United States " 'has no jurisdiction of a bill to enjoin the President in the performance of his official duties' ") (quoting *Mississippi* v. *Johnson*, 71 U.S. 475 (1866)).

Similarly, in light of the Speech and Debate Clause of the Constitution, Art. I, § 6, cl. 1, the federal courts lack jurisdiction to issue orders directing Congress to enact or amend legislation. *See Eastland* v. *United States Servicemen's Fund*, 421 U.S. 491, 503 (1975). Because the words that amended the Pledge were enacted into law by statute, the district court may not direct Congress to delete those words any more than it may order the President to take such action. All this, of course, is aside from the fact that the President has no authority to amend a statute or declare a law unconstitutional, those functions being reserved to Congress and the federal judiciary respectively.

REV_00164724

Newdow nevertheless argues that because the 1954 Act violates the Establishment Clause, Congress should not be protected by the Speech and Debate Clause. This argument misses the jurisdictional, or separation of powers, point. As the Court held in *Eastland*, in determining whether or not the acts of members of Congress are protected by the Speech and Debate Clause, the court looks solely to whether or not the acts fall within the legitimate legislative sphere; if they do, Congress is protected by the absolute prohibition of the Clause against being "questioned in any other Place." *Id.* at 501. "If the mere allegation that a valid legislative act was undertaken for an unworthy purpose would lift the protection of the Clause, then the Clause simply would not provide the protection historically undergirding it." *Id.* at 508-09.

B. The State of California as a defendant

The State of California did not join in the motion to dismiss or otherwise participate in the district court proceedings. It did, however, *sub silentio*, receive the benefit of the district court's ruling dismissing the complaint. Accordingly, a reversal of the order would result in the reinstatement of the complaint against the state. With respect to the validity of the California statute, however, unlike in the case of the Congressional enactment and the school district policy, no arguments, legal or otherwise, were advanced by the parties in the district court. Thus, we do not address separately the validity of the California statute.

C. Standing

Article III standing is a jurisdictional issue. *See United States* v. *Viltrakis*, 108 F.3d 1159, 1160 (9th Cir. 1997). Accordingly, it "may be raised at any stage of

REV_00164725

the proceedings, including for the first time on appeal." *See A-Z Intern.* v. *Phillips*, 179 F.3d 1187, 1190-91 (9th Cir. 1999). To satisfy standing requirements, a plaintiff must prove that "(1) it has suffered an 'injury in fact' that is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical; (2) the injury is fairly traceable to the challenged action of the defendant; and (3) it is likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision." *Friends of the Earth, Inc.* v. *Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 180-81 (2000) (citing *Lujan* v. *Defenders of Wildlife*, 504 U.S. 555, 560-561 (1992)).

Newdow has standing as a parent to challenge a practice that interferes with his right to direct the religious education of his daughter. "Parents have a right to direct the religious upbringing of their children and, on that basis, have standing to protect their right." *Doe* v. *Madison Sch. Dist. No. 321*, 177 F.3d 789, 795 (9th Cir. 1999) (en banc); *see also Grove* v. *Mead Sch. Dist. No. 354*, 753 F.2d 1528, 1532 (9th Cir. 1985) ("Appellants have standing to challenge alleged violations of the establishment clause of the First Amendment if they are directly affected by use of [the challenged book] in the English curriculum. [Appellant] has standing as a parent whose right to direct the religious training of her child is allegedly affected.") (citation omitted).

Newdow has standing to challenge the EGUSD's policy and practice regarding the recitation of the Pledge because his daughter is currently enrolled in elementary school in the EGUSD. However, Newdow has no standing to challenge the SCUSD's policy and practice because his daughter is not currently a student

REV_00164726

there. The SCUSD and its superintendent have not caused Newdow or his daughter an "injury in fact" that is "actual or imminent, not conjectural or hypothetical." *Laidlaw,* 528 U.S. at 180 (citing *Lujan,* 504 U.S. at 560-561).

D. Establishment Clause

The Establishment Clause of the First Amendment states that "Congress shall make no law respecting an establishment of religion," U.S. Const. Amend. I, a provision that "the Fourteenth Amendment makes applicable with full force to the States and their school districts." *Lee* v. *Weisman,* 505 U.S. 577, 580 (1992). Over the last three decades, the Supreme Court has used three interrelated tests to analyze alleged violations of the Establishment Clause in the realm of public education: the three-prong test set forth in *Lemon* v. *Kurtzman,* 403 U.S. 602, 612-13 (1971); the "endorsement" test, first articulated by Justice O'Connor in her concurring opinion in *Lynch* v. *Donnelly,* 465 U.S. 668 (1984), and later adopted by a majority of the Court in *County of Allegheny* v. *ACLU,* 492 U.S. 573 (1989); and the "coercion" test first used by the Court in *Lee.*

In 1971, in the context of unconstitutional state aid to nonpublic schools, the Supreme Court in *Lemon* set forth the following test for evaluating alleged Establishment Clause violations. To survive the "*Lemon* test," the government conduct in question (1) must have a secular purpose, (2) must have a principal or primary effect that neither advances nor inhibits religion, and (3) must not foster an excessive government entanglement with religion. *Lemon,* 403 U.S. at 612-13. The Supreme Court applied the *Lemon* test to

REV_00164727

every Establishment case it decided between 1971 and 1984, with the exception of *Marsh* v. *Chambers*, 463 U.S. 783 (1983), the case upholding legislative prayer.[3] *See Wallace*, 472 U.S. at 63 (Powell, J., concurring).

In the 1984 *Lynch* case, which upheld the inclusion of a nativity scene in a city's Christmas display, Justice O'Connor wrote a concurring opinion in order to suggest a "clarification" of Establishment Clause jurisprudence. 465 U.S. at 687 (O'Connor, J., concurring).

Justice O'Connor's "endorsement" test effectively collapsed the first two prongs of the *Lemon* test:

> The Establishment Clause prohibits government from making adherence to a religion relevant in any way to a person's standing in the political community. Government can run afoul of that prohibition in two principal ways. One is excessive entanglement with religious institutions . . . . The second and more direct infringement is government endorsement or disapproval of religion. Endorsement sends a message to nonadherents that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community.

Id. at 687-88 (O'Connor, J., concurring).

---

[3] In *Marsh*, the Court "held that the Nebraska Legislature's practice of opening each day's session with a prayer by a chaplain paid by the State did not violate the Establishment Clause of the First Amendment. [The] holding was based upon the historical acceptance of the practice that had become 'part of the fabric of our society.'" *Wallace*, 472 U.S. at 63 n. 4 (Powell, J., concurring) (quoting *Marsh*, 463 U.S. at 792).

REV_00164728

The Court formulated the "coercion test" when it held unconstitutional the practice of including invocations and benedictions in the form of "nonsectarian" prayers at public school graduation ceremonies. *Lee*, 505 U.S. at 599. Declining to reconsider the validity of the *Lemon* test, the Court in *Lee* found it unnecessary to apply the *Lemon* test to find the challenged practices unconstitutional. *Id.* at 587. Rather, it relied on the principle that "at a minimum, the Constitution guarantees that government may not coerce anyone to support or participate in religion or its exercise, or otherwise to act in a way which establishes a state religion or religious faith, or tends to do so." *Id.* (citations and internal quotation marks omitted). The Court first examined the degree of school involvement in the prayer, and found that "the graduation prayers bore the imprint of the State and thus put school-age children who objected in an untenable position." *Id.* at 590. The next issue the Court considered was "the position of the students, both those who desired the prayer and she who did not." *Id.* Noting that "there are heightened concerns with protecting freedom of conscience from subtle coercive pressure in the elementary and secondary public schools," *id.* at 592, the Court held that the school district's supervision and control of the graduation ceremony put impermissible pressure on students to participate in, or at least show respect during, the prayer, *id.* at 593. The Court concluded that primary and secondary school children may not be placed in the dilemma of either participating in a religious ceremony or protesting. *Id.* at 594.

Finally, in its most recent school prayer case, the Supreme Court applied the *Lemon* test, the endorsement test, and the coercion test to strike down a school

REV_00164729

district's policy of permitting student-led "invocations" before high school football games. *See Santa Fe*, 530 U.S. at 310-16. Citing *Lee*, the Court held that "the delivery of a pregame prayer has the improper effect of coercing those present to participate in an act of religious worship." *Id.* at 312. Applying the *Lemon* test, the Court found that the school district policy was facially unconstitutional because it did not have a secular purpose. *Id.* at 314-16. The Court also used language associated with the endorsement test. *Id.* at 315 ("[T]his policy was implemented with the purpose of endorsing school prayer."); *id.* at 317 ("Government efforts to endorse religion cannot evade constitutional reproach based solely on the remote possibility that those attempts may fail.").

We are free to apply any or all of the three tests, and to invalidate any measure that fails any one of them. Because we conclude that the school district policy impermissibly coerces a religious act and accordingly hold the policy unconstitutional, we need not consider whether the policy fails the endorsement test or the *Lemon* test as well.

In the context of the Pledge, the statement that the United States is a nation "under God" is a profession of a religious belief, namely, a belief in monotheism. The recitation that ours is a nation "under God" is not a mere acknowledgment that many Americans believe in a deity. Nor is it merely descriptive of the undeniable historical significance of religion in the founding of the Republic. Rather, the phrase "one nation under God" in the context of the Pledge is normative. To recite the Pledge is not to describe the United States; instead, it is to swear allegiance to the values for which the flag stands: unity, indivisibility, liberty, justice, and—since

REV_00164730

1954—monotheism. A profession that we are a nation "under God" is identical, for Establishment Clause purposes, to a profession that we are a nation "under Jesus," a nation "under Vishnu," a nation "under Zeus," or a nation "under no god," because none of these professions can be neutral with respect to religion. The school district's practice of teacher-led recitation of the Pledge aims to inculcate in students a respect for the ideals set forth in the Pledge, including the religious values it incorporates.

The Supreme Court recognized the normative and ideological nature of the Pledge in *Barnette*, 319 U.S. 624. There, the Court held unconstitutional a school district's wartime policy of punishing students who refused to recite the Pledge and salute the flag. *Id.* at 642. The Court noted that the school district was compelling the students "to declare a belief," *id.* at 631, and "requir[ing] the individual to communicate by word and sign his acceptance of the political ideas [the flag] . . . bespeaks," *id.* at 633. "[T]he compulsory flag salute and pledge requires affirmation of a belief and an attitude of mind." *Id.* The Court emphasized that the political concepts articulated in the Pledge[4] were idealistic, not descriptive: "'[L]iberty and justice for all,' if it must be accepted as descriptive of the present order rather than an ideal, might to some seem an overstatement." *Id.* at 634 n.14. The Court concluded that: "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force

---

[4] *Barnette* was decided before "under God" was added, and thus the Court's discussion was limited to the political ideals contained in the Pledge.

REV_00164731

citizens to confess by word or act their faith therein." *Id.* at 642.

The school district's policy here, like the school's action in *Lee*, places students in the untenable position of choosing between participating in an exercise with religious content or protesting. The defendants argue that the religious content of "one nation under God" is minimal. To an atheist or a believer in non-Judeo-Christian religions or philosophies, however, this phrase may reasonably appear to be an attempt to enforce a "religious orthodoxy" of monotheism, and is therefore impermissible. As the Court observed with respect to the graduation prayer in *Lee*: "What to most believers may seem nothing more than a reasonable request that the nonbeliever respect their religious practices, in a school context may appear to the non-believer or dissenter to be an attempt to employ the machinery of the State to enforce a religious orthodoxy." *Lee*, 505 U.S. at 592.

The coercive effect of the policy here is particularly pronounced in the school setting given the age and impressionability of schoolchildren, and their understanding that they are required to adhere to the norms set by their school, their teacher and their fellow students.[5] Furthermore, under *Lee*, non-compulsory participation is no basis for distinguishing Barnette [*sic*] from the case at bar because, even without a

---

[5] The "subtle and indirect" social pressure which permeates the classroom also renders more acute the message sent to non-believing school-children that they are outsiders. *See Lee*, 505 U.S. at 592-93 (stating that "the risk of indirect coercion" from prayer exercises is particularly "pronounced" in elementary and secondary public school because students are subjected to peer pressure and public pressure which is "as real as any overt compulsion").

REV_00164732

recitation requirement for each child, the mere presence in the classroom every day as peers recite the statement "one nation under God" has a coercive effect.[6] The coercive effect of the Pledge is also made even more apparent when we consider the legislative history of the Act that introduced the phrase "under God." These words were designed to be recited daily in school classrooms. President Eisenhower, during the Act's signing ceremony, stated: "From this day forward, the millions of our school children will daily proclaim in every city and town, every village and rural schoolhouse, the dedication of our Nation and our people to the Almighty." 100 Cong. Rec. 8618 (1954) (statement of Sen. Ferguson incorporating signing statement of President Eisenhower).[7] All in all, there can be little doubt that under the controlling Supreme

---

[6] The objection to the Pledge in *Barnette*, like in the case at bar, was based upon a religious ground. The Pledge in the classroom context imposes upon schoolchildren the constitutionally unacceptable choice between participating and protesting. Recognizing the severity of the effect of this form of coercion on children, the Supreme Court in *Lee* stated, "the State may not, consistent with the Establishment Clause, place primary and secondary school children in this position." 505 U.S. at 593.

[7] In addition, the legislative history of the 1954 Act makes it plain that the sponsors of the amendment knew about and capitalized on the state laws and school district rules that mandate recitation of the Pledge. The legislation's House sponsor, Representative Louis C. Rabaut, testified at the Congressional hearing that "the children of our land, in the daily recitation of the pledge in school, will be daily impressed with a true understanding of our way of life and its origins." This statement was incorporated into the report of the House Judiciary Committee. H.R. Rep. No. 83-1693, at 3 (1954), *reprinted in* 1954 U.S.C.C.A.N 2339, 2341.

REV_00164733

Court cases the school district's policy fails the coercion test.[8]

The Supreme Court has addressed the Pledge in passing, and we owe due deference to its dicta. *See United States* v. *Baird*, 85 F.3d 450, 453 (9th Cir. 1996). Our opinion, however, is not inconsistent with this dicta. In *Allegheny*, the Court noted that it had "considered in dicta the motto and the pledge, characterizing them as consistent with the proposition that government may not communicate an endorsement of religious belief." 492 U.S. at 602-03. And in *Lynch*, the Court observed that students recited the pledge daily, but only to support its point that there is a long tradition of "official acknowledgment" of religion. 465 U.S. at 674, 676. Neither of these two references speaks to the issue here. We may assume *arguendo* that public officials do not unconstitutionally endorse religion when they recite the Pledge, yet it does not follow that schools may coerce impressionable young schoolchildren to recite it, or even to stand mute while it is being recited by their classmates.

Our decision is not inconsistent with *Engel*, which approved of encouraging students to "recit[e] historical documents such as the Declaration of Independence

---

[8] In *Aronow* v. *United States*, 432 F.2d 242 (9th Cir. 1970), this court, without reaching the question of standing, upheld the inscription of the phrase "In God We Trust" on our coins and currency. *But cf. Wooley* v. *Maynard*, 430 U.S. 705, 722 (1977) (Rehnquist, J., dissenting) (stating that the majority's holding leads logically to the conclusion that "In God We Trust" is an unconstitutional affirmation of belief). In any event, *Aronow* is distinguishable in many ways from the present case. The most important distinction is that school children are not coerced into reciting or otherwise actively led to participating in an endorsement of the markings on the money in circulation.

REV_00164734

which contain references to the Deity or . . . sing[ ] officially espoused anthems which include the composer's professions of faith in a Supreme Being." 370 U.S. at 435 n.21. The Pledge differs from the Declaration and the anthem in that its reference to God, in textual and historical context, is not merely a reflection of the author's profession of faith. It is, by design, an affirmation by the person reciting it. "I pledge" is a performative statement. *See* J.L. Austin, *How to Do Things with Words* (J.O. Urmsson & Marina Sbisa eds., Harvard Univ. Press 1975) (1962). To pledge allegiance to something is to alter one's moral relationship to it, and not merely to repeat the words of an historical document or anthem.

The only other United States Court of Appeals to consider the issue is the Seventh Circuit, which held in *Sherman* v. *Community Consolidated School District 21*, 980 F.2d 437 (7th Cir. 1992), that a policy similar to the one before us regarding the recitation of the Pledge of Allegiance containing the words "one nation under God" was constitutional. The *Sherman* court first stated that:

> If as *Barnette* holds no state may require anyone to recite the Pledge, and if as the prayer cases hold the recitation by a teacher or rabbi of unwelcome words is coercion, then the Pledge of Allegiance becomes unconstitutional under all circumstances, just as no school may read from a holy scripture at the start of class.

980 F.2d at 444. It then concludes, however, that this reasoning is flawed because the First Amendment "[does] not establish general rules about speech or schools; [it] call[s] for religion to be treated differently."

REV_00164735

Id. We have some difficulty understanding this statement; we do not believe that the Constitution prohibits compulsory patriotism as in *Barnette,* but permits compulsory religion as in this case. If government-endorsed religion is to be treated differently from government-endorsed patriotism, the treatment must be less favorable, not more.

The Seventh Circuit makes an even more serious error, however. It not only refuses to apply the *Lemon* test because of the Supreme Court's criticism of that test in *Lee,* but it also fails to apply the coercion test from *Lee.* Circuit courts are not free to ignore Supreme Court precedent in this manner. *Rodriguez de Quijas* v. *Shearson/Am. Exp., Inc.,* 490 U.S. 477, 484 (1989) ("If a precedent of this Court has direct application in a case, yet appears to rest on reasons rejected in some other line of decisions, the Court of Appeals should follow the case which directly controls, leaving to this Court the prerogative of overruling its own decisions."). Instead of applying any of the tests announced by the Supreme Court, the Seventh Circuit simply frames the question as follows: "Must ceremonial references in civic life to a deity be understood as prayer, or support for all monotheistic religions, to the exclusion of atheists and those who worship multiple gods?" 980 F.2d at 445. For the reasons we have already explained, this question is simply not dispositive of whether the school district policy impermissibly coerces a religious act.

In light of Supreme Court precedent, we hold that the school district's policy and practice of teacher-led recitation of the Pledge, with the inclusion of the added words "under God," violates the Establishment Clause.

REV_00164736

In addition to the relief that Newdow seeks against the school district—relief to which he is entitled—Newdow seeks a declaration as to the constitutionality of the 1954 Act. The district court did not discuss that question because it dismissed Newdow's complaint on the basis of its holding that the school district's policy did not violate the First Amendment. Given our contrary holding, we must consider whether to grant Newdow's claim for declaratory relief as to the Act. Normally, whether to decide a claim for declaratory judgment is left to the discretion of the district court. 28 U.S.C. § 2201(a); *see also Government Employees Ins. Co.* v. *Dizol*, 133 F.3d 1220, 1222-23 (9th Cir. 1998). We doubt that, given the relief to which we decide Newdow is entitled, the district court would have exercised its discretionary power to resolve, in the present case, the additional issue as to which Newdow seeks declaratory relief. Accordingly, we decline to reach that issue here.

The judgment of dismissal is vacated with respect to Newdow's claim that the school district's Pledge policy violates the Establishment Clause and the cause is remanded for further proceedings consistent with our holding. Plaintiff is to recover costs on this appeal.

REVERSED and REMANDED.

REV_00164737

FERNANDEZ, Circuit Judge, concurring and dissenting:

I concur in parts A, B and C of the majority opinion, but dissent as to part D.

We are asked to hold that inclusion of the phrase "under God" in this nation's Pledge of Allegiance violates the religion clauses of the Constitution of the United States. We should do no such thing. We should, instead, recognize that those clauses were not designed to drive religious expression out of public thought; they were written to avoid discrimination.[1]

We can run through some or all of the tests and concepts which have floated to the surface from time to time. Were we to do so, the one that appeals most to me, the one I think to be correct, is the concept that what the religion clauses of the First Amendment require is neutrality; that those clauses are, in effect, an early kind of equal protection provision and assure that government will neither discriminate for nor discriminate against a religion or religions. *See Gentala* v. *City of Tucson*, 244 F.3d 1065, 1083-86 (9th Cir.) (en banc) (Fernandez, J., dissenting), *cert. granted and judgment vacated by* 534, U.S. 946, 122 S. Ct. 340, 151 L. Ed. 2d 256 (2001); *Goehring* v. *Brophy*, 94 F.3d 1294, 1306-07 (9th Cir. 1996) (Fernandez, J., concurring). But, legal world abstractions and ruminations aside, when all is said and done, the danger that "under God" in our

---

[1] Although the majority now formally limits itself to holding that it is unconstitutional to recite the Pledge in public classrooms, its message that something is constitutionally infirm about the Pledge itself abides and remains a clear and present danger to all similar public expressions of reverence. At the very least, it deprives children in public schools of the benefits derived from those expressions.

REV_00164738

Pledge of Allegiance will tend to bring about a theocracy or suppress somebody's beliefs is so minuscule as to be de minimis. The danger that phrase presents to our First Amendment freedoms is picayune at most.

Judges, including Supreme Court Justices, have recognized the lack of danger in that and similar expressions for decades, if not for centuries, as have presidents[2] and members of our Congress. *See, e.g.*, *County of Allegheny* v. *ACLU*, 492 U.S. 573, 602-03, 672-73, 109 S. Ct. 3086, 3106, 3143, 106 L. Ed. 2d 472 (1989); *Wallace* v. *Jaffree*, 472 U.S. 38, 78 n.5, 105 S. Ct. 2479, 2501 n.5, 86 L. Ed. 2d 29 (1985); *Lynch* v. *Donnelly*, 465 U.S. 668, 676, 693, 716, 104 S. Ct. 1355, 1361, 1369, 1382, 79 L. Ed. 2d 604 (1984); *Abington Sch. Dist.* v. *Schempp*, 374 U.S. 203, 306-08, 83 S. Ct. 1560, 1615-16, 10 L. Ed. 2d 844 (1963);[3] *Separation of Church & State Comm.* v. *City of Eugene*, 93 F.3d 617, 622 (9th Cir. 1996) (O'Scannlain, J., concurring); *Gaylor* v. *United States*, 74 F.3d 214, 217-18 (10th Cir. 1996); *Sherman* v. *Cmty Consol. Sch. Dist. 21*, 980 F.2d 437, 445-48 (7th Cir. 1992); *O'Hair* v. *Murray*, 588 F.2d 1144, 1144 (5th Cir. 1978) (per curiam); *Aronow* v. *United States*, 432 F.2d 242, 243-44 (9th Cir. 1970); *cf. Marsh* v.

---

[2] *See, e.g., Lee* v. *Weisman*, 505 U.S. 577, 632-35, 112 S. Ct. 2649, 2679-80, 120 L. Ed. 2d 467 (1992) (Scalia, J., dissenting).

[3] The citations to the four preceding Supreme Court opinions are to majority opinions, concurring opinions, and dissents. Because my point is that a number of Justices have recognized the lack of danger and because I hope to avoid untoward complication in the setting out of the citations, I have not designated which Justices have joined in which opinion. All in all, however, perusing those opinions indicates that Chief Justice Burger, Chief Justice Rehnquist, and Justices Harlan, Brennan, White, Goldberg, Marshall, Blackmun, Powell, Stevens, O'Connor, Scalia, and Kennedy have so recognized.

REV_00164739

Chambers, 463 U.S. 783, 795, 103 S. Ct. 3330, 3338, 77 L. Ed. 2d 1019 (1983) (legislative prayer). I think it is worth stating a little more about two of the cases which I have just cited. In *County of Allegheny*, 492 U.S. at 602-03, 109 S. Ct. at 3106, the Supreme Court had this to say: "Our previous opinions have considered in dicta the motto and the pledge, characterizing them as consistent with the proposition that government may not communicate an endorsement of religious belief." The Seventh Circuit, reacting in part to that statement, has wisely expressed the following thought:

> Plaintiffs observe that the Court sometimes changes its tune when it confronts a subject directly. True enough, but an inferior court had best respect what the majority says rather than read between the lines. If the Court proclaims that a practice is consistent with the establishment clause, we take its assurances seriously. If the Justices are just pulling our leg, let them say so.

Sherman, 980 F.2d at 448.

Some, who rather choke on the notion of de minimis, have resorted to the euphemism "ceremonial deism." *See, e.g.*, *Lynch*, 465 U.S. at 716, 104 S. Ct. at 1382 (Brennan, J., dissenting). But whatever it is called (I care not), it comes to this: such phrases as "In God We Trust," or "under God" have no tendency to establish a religion in this country or to suppress anyone's exercise, or non-exercise, of religion, except in the fevered eye of persons who most fervently would like to drive all tincture of religion out of the public life of our polity. Those expressions have not caused any real harm of that sort over the years since 1791, and are not likely to

REV_00164740

do so in the future.[4] As I see it, that is not because they are drained of meaning.[5] Rather, as I have already indicated, it is because their tendency to establish religion (or affect its exercise) is exiguous. I recognize that some people may not feel good about hearing the phrases recited in their presence, but, then, others might not feel good if they are omitted. At any rate, the Constitution is a practical and balanced charter for the just governance of a free people in a vast territory. Thus, although we do feel good when we contemplate the effects of its inspiring phrasing and majestic promises, it is not primarily a feel-good prescription.[6] In *West Virginia Board of Education* v. *Barnette*, 319 U.S. 624, 630, 642, 63 S. Ct. 1178, 1181, 1187, 87 L. Ed. 1628 (1943), for example, the Supreme Court did not say that the Pledge could not be recited in the presence of Jehovah's Witness children; it merely said that they did not have to recite it.[7] That fully protected their con-

---

[4] They have not led us down the long path to kulturkampf or worse. Those who are somehow beset by residual doubts and fears should find comfort in the reflection that no baleful religious effects have been generated by the existence of similar references to a deity throughout our history. More specifically, it is difficult to detect any signs of incipient theocracy springing up since the Pledge was amended in 1954.

[5] *See also Sherman*, 980 F.2d at 448 (Manion, J., concurring) ("A civic reference to God does not become permissible . . . only when . . . it is sapped of religious significance." The Pledge is constitutional and "[w]e need not drain the meaning from the reference [to God] to reach this conclusion."

[6] We, by the way, indicated as much in *American Family Ass'n, Inc.* v. *City and County of San Francisco*, 277 F.3d 1114, 1125-26 (9th Cir. 2002), which involved governmental conduct that was much more questionable than adoption of the phrase "under God." *See id.* at 1126-28 (Noonan, J., dissenting).

[7] I recognize that the Pledge did not then contain the phrase "under God."

REV_00164741

stitutional rights by precluding the government from trenching upon "the sphere of intellect and spirit." *Id.* at 642, 63 S. Ct. at 1187. As the Court pointed out, their religiously based refusal "to participate in the ceremony [would] not interfere with or deny rights of others to do so." *Id.* at 630, 63 S. Ct. at 1181. We should not permit Newdow's feel-good concept to change that balance.

My reading of the stelliscript suggests that upon Newdow's theory of our Constitution, accepted by my colleagues today, we will soon find ourselves prohibited from using our album of patriotic songs in many public settings. "God Bless America" and "America The Beautiful" will be gone for sure, and while use of the first three stanzas of "The Star Spangled Banner" will still be permissible, we will be precluded from straying into the fourth.[8] And currency beware! Judges can accept those results if they limit themselves to elements and tests, while failing to look at the good sense and principles that animated those tests in the first place. But they do so at the price of removing a vestige of the awe all of us, including our children, must feel at the immenseness of the universe and our own small place within it, as well as the wonder we must feel at the good fortune of our country. That will cool the febrile nerves of a few at the cost of removing the healthy glow conferred upon many citizens when the forbidden verses, or phrases, are uttered, read, or seen.

In short, I cannot accept the eliding of the simple phrase "under God" from our Pledge of Allegiance in any setting, when it is obvious that its tendency to

---

[8] Nor will we be able to stray into the fourth stanza of "My Country 'Tis of Thee" for that matter.

REV_00164742

establish religion in this country or to interfere with the free exercise (or non-exercise) of religion is de minimis.[9]

Thus, I respectfully concur in part and dissent in part.

---

[9] Lest I be misunderstood, I must emphasize that to decide this case it is not necessary to say, and I do not say, that there is such a thing as a de minimis constitutional violation. What I do say is that the de minimis tendency of the Pledge to establish a religion or to interfere with its free exercise is no constitutional violation at all. By the way, I am not the first to apply the de minimis concept to this area of the law. *See, e.g.*, *Mitchell* v. *Helms*, 530 U.S. 793, 861, 120 S. Ct. 2530, 2569, 147 L. Ed. 2d 660 (2000) (O'Connor, J., concurring) (evidence of improper use of funds was de minimis and did not affect constitutional inquiry); *Lee* v. *Weisman*, 505 U.S. 577, 630-31, 112 S. Ct. 2649, 2678, 120 L. Ed. 2d 467 (1992) (Souter, J. concurring) (establishment case; Madison recognized there is a difference between trivial and serious in constitutional practice, and pointed to the legal aphorism de minimis); *Lynch* v. *Donnelly*, 465 U.S. 668, 678, 104 S. Ct. 1355, 1361-62, 79 L. Ed. 2d 604 (1984) (not all government conduct which gives special recognition to religion is unconstitutional; where the benefit is indirect or remote, it is not unconstitutional); *School District of Abington* v. *Schempp*, 374 U.S. 203, 308, 83 S. Ct. 1560, 1616, 10 L. Ed. 2d 844 (1963) (Goldburg, J., concurring) ("the measure of constitutional adjudication is the ability and willingness to distinguish between real threat and mere shadow."); *Rapier* v. *Harris*, 172 F.3d 999, 1006 n.4 (7th Cir. 1999) ("De minimis burdens on free exercise are not of constitutional dimension); *Van Zandt* v. *Thompson*, 839 F.2d 1215, 1222 (7th Cir. 1988) (legislative prayer room would have a de minimis effect on advancement of religion); *Walsh* v. *La. High Sch. Athletic Ass'n*, 616 F.2d 152, 158 (5th Cir. 1980) (de minimis burden on free exercise results in rejection of First Amendment challenge); *Marsa* v. *Wernik*, 430 A.2d 888, 899 (N.J. 1981) (in an establishment case where impact of practice de minimis, it is unobjectionable); *see also Peck* v. *Upshur County Bd. of Educ.*, 155 F.3d 274, 288-89 (4th Cir. 1998) (if a genuine threat of establishing religion becomes apparent, it is soon enough to address the issue).

REV_00164743

APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 00-16423
D.C. No. CV 00-00495-MLS/PAN

MICHAEL A. NEWDOW, PLAINTIFF-APPELLANT

v.

U.S. CONGRESS; UNITED STATES OF AMERICA; WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES; STATE OF CALIFORNIA; ELK GROVE UNIFIED SCHOOL DISTRICT; DAVID W. GORDON, SUPERINTENDENT EGUSD; SACRAMENTO CITY UNIFIED SCHOOL DISTRICT; JIM SWEENEY, SUPERINTENDENT SCUSD, DEFENDANTS-APPELLEES

Appeal from the United States District Court for the Eastern District of California, Milton J. Schwartz, Senior Judge, Presiding

---

Argued and Submitted: March 14, 2002
Filed: June 26, 2002

Before: GOODWIN, REINHARDT and FERNANDEZ, Circuit Judges.

REV_00164744

Partial Concurrence and Partial Dissent by Judge FERNANDEZ.

OPINION

GOODWIN, Circuit Judge:

Michael Newdow appeals a judgment dismissing his challenge to the constitutionality of the words "under God" in the Pledge of Allegiance to the Flag. Newdow argues that the addition of these words by a 1954 federal statute to the previous version of the Pledge of Allegiance (which made no reference to God) and the daily recitation in the classroom of the Pledge of Allegiance, with the added words included, by his daughter's public school teacher are violations of the Establishment Clause of the First Amendment to the United States Constitution.

FACTUAL AND PROCEDURAL BACKGROUND

Newdow is an atheist whose daughter attends public elementary school in the Elk Grove Unified School District ("EGUSD") in California. In accordance with state law and a school district rule, EGUSD teachers begin each school day by leading their students in a recitation of the Pledge of Allegiance ("the Pledge"). The California Education Code requires that public schools begin each school day with "appropriate patriotic exercises" and that "[t]he giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy" this requirement. Cal. Educ. Code § 52720

REV_00164745

(1989) (hereinafter "California statute").[1] To implement the California statute, the school district that Newdow's daughter attends has promulgated a policy that states, in pertinent part: "Each elementary school class [shall] recite the pledge of allegiance to the flag once each day."[2]

The classmates of Newdow's daughter in the EGUSD are led by their teacher in reciting the Pledge codified in federal law. On June 22, 1942, Congress first codified the Pledge as "I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one Nation indivisible, with liberty and justice for all." Pub. L. No. 623, Ch. 435, § 7, 56 Stat. 380 (1942) (codified at 36 U.S.C. § 1972). On June 14, 1954, Congress amended Section 1972 to add the words "under God" after the word "Nation." Pub. L. No. 396, Ch. 297, 68 Stat. 249 (1954) ("1954 Act"). The Pledge is currently codified as "I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with

---

[1] The relevant portion of California Education Code § 52720 reads:

> In every public elementary school each day during the school year at the beginning of the first regularly scheduled class or activity period at which the majority of the pupils of the school normally begin the schoolday, there shall be conducted appropriate patriotic exercises. The giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy the requirements of this section.

[2] The SCUSD, the school district that Newdow claims his daughter may in the future attend, has promulgated a similar rule: "Each school shall conduct patriotic exercises daily. . . . The Pledge of Allegiance to the flag will fulfill this requirement." However, as discussed *infra*, Newdow lacks standing to challenge the SCUSD's rule requiring recitation of the Pledge.

REV_00164746

liberty and justice for all." 4 U.S.C. § 4 (1998) (Title 36 was revised and recodified by Pub. L. No. 105-225, § 2(a), 112 Stat. 1494 (1998). Section 172 was abolished, and the Pledge is now found in Title 4.)

Newdow does not allege that his daughter's teacher or school district requires his daughter to participate in reciting the Pledge.[3] Rather, he claims that his daughter is injured when she is compelled to "watch and listen as her state-employed teacher in her state-run school leads her classmates in a ritual proclaiming that there is a God, and that our's [sic] is 'one nation under God.'"

Newdow's complaint in the district court challenged the constitutionality, under the First Amendment, of the 1954 Act, the California statute, and the school district's policy requiring teachers to lead willing students in recitation of the Pledge. He sought declaratory and injunctive relief, but did not seek damages.

The school districts and their superintendents (collectively, "school district defendants") filed a Federal Rule of Civil Procedure 12(b)(6) motion to dismiss for failure to state a claim. Magistrate Judge Peter A. Nowinski held a hearing at which the school district defendants requested that the court rule only on the constitutionality of the Pledge, and defer any ruling on sover-

---

[3] Compelling students to recite the Pledge was held to be a First Amendment violation in *West Virginia State Board of Education* v. *Barnette*, 319 U.S. 624, 642, 63 S. Ct. 1178, 87 L. Ed. 1628 (1943) ("[T]he action of the local authorities in compelling the flag salute and pledge transcends constitutional limitations on their power and invades the sphere of intellect and spirit which it is the purpose of the First Amendment to our Constitution to reserve from all official control."). *Barnette* was decided before the 1954 Act added the words "under God" to the Pledge.

REV_00164747

eign immunity. The United States Congress, the United States, and the President of the United States (collectively, "the federal defendants") joined in the motion to dismiss filed by the school district defendants. The magistrate judge reported findings and a recommendation; District Judge Edward J. Schwartz approved the recommendation and entered a judgment of dismissal. This appeal followed.

DISCUSSION

A. Jurisdiction

Newdow asks the district court to order the President of the United States ("the President") to "alter, modify or repeal" the Pledge by removing the words "under God"; and to order the United States Congress ("Congress") "immediately to act to remove the words 'under God' from the Pledge." The President, however, is not an appropriate defendant in an action challenging the constitutionality of a federal statute. *See Franklin v. Massachusetts*, 505 U.S. 788, 802-03, 112 S. Ct. 2767, 120 L.Ed.2d 636 (1992) (plurality) (observing that a court of the United States " 'has no jurisdiction of a bill to enjoin the President in the performance of his official duties' ") (quoting *Mississippi v. Johnson*, 71 U.S. 475, 501, 18 L.Ed. 437 (1866)).

Similarly, in light of the Speech and Debate Clause of the Constitution, Art. I, § 6, cl. 1, the federal courts lack jurisdiction to issue orders directing Congress to enact or amend legislation. *See Eastland v. United States Servicemen's Fund*, 421 U.S. 491, 503, 95 S. Ct. 1813, 44 L.Ed.2d 324 (1975). Because the words that amended the Pledge were enacted into law by statute, the district court may not direct Congress to delete those words any more than it may order the President to take

REV_00164748

such action. All this, of course, is aside from the fact that the President has no authority to amend a statute or declare a law unconstitutional, those functions being reserved to Congress and the federal judiciary respectively.

Newdow nevertheless argues that because the 1954 Act violates the Establishment Clause, Congress should not be protected by the Speech and Debate Clause. This argument misses the jurisdictional, or separation of powers, point. As the Court held in *Eastland*, in determining whether or not the acts of members of Congress are protected by the Speech and Debate Clause, the court looks solely to whether or not the acts fall within the legitimate legislative sphere; if they do, Congress is protected by the absolute prohibition of the Clause against being "questioned in any other Place." *Id.* at 501. "If the mere allegation that a valid legislative act was undertaken for an unworthy purpose would lift the protection of the Clause, then the Clause simply would not provide the protection historically undergirding it." *Id.* at 508-09, 95 S. Ct. 1813. Although the district court lacks jurisdiction over the President and the Congress, the question of the constitutionality of the 1954 Act remains before us. While the court correctly dismissed the claim against those parties, it survives against others.

B. The State of California as a defendant

The State of California did not join in the motion to dismiss or otherwise participate in the district court proceedings. It did, however, *sub silentio*, receive the benefit of the district court's ruling dismissing the complaint. Accordingly, a reversal of the order would result in the reinstatement of the complaint against the state. With respect to the validity of the California

REV_00164749

statute, however, unlike in the case of the Congressional enactment and the school district policy, no arguments, legal or otherwise, were advanced by the parties either below or here. Thus, we do not address separately the validity of the California statute.

C. Standing

Article III standing is a jurisdictional issue. *See United States v. Viltrakis*, 108 F.3d 1159, 1160 (9th Cir. 1997). Accordingly, it "may be raised at any stage of the proceedings, including for the first time on appeal." *See A-Z Intern. v. Phillips*, 179 F.3d 1187, 1190-91 (9th Cir. 1999). To satisfy standing requirements, a plaintiff must prove that "(1) it has suffered an 'injury in fact' that is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical; (2) the injury is fairly traceable to the challenged action of the defendant; and (3) it is likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision." *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 180-81, 120 S. Ct. 693, 145 L.Ed.2d 610 (2000) (citing *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-561, 112 S. Ct. 2130, 119 L.Ed.2d 351 (1992)).

Newdow has standing as a parent to challenge a practice that interferes with his right to direct the religious education of his daughter. "Parents have a right to direct the religious upbringing of their children and, on that basis, have standing to protect their right." *Doe v. Madison Sch. Dist. No. 321*, 177 F.3d 789, 795 (9th Cir. 1999) (en banc); *see also Grove v. Mead Sch. Dist. No. 354*, 753 F.2d 1528, 1532 (9th Cir. 1985) ("Appellants have standing to challenge alleged violations of the establishment clause of the First Amendment if they are directly affected by use of [the challenged book] in

REV_00164750

the English curriculum. [Appellant] has standing as a parent whose right to direct the religious training of her child is allegedly affected.") (citation omitted).

Newdow has standing to challenge the EGUSD's policy and practice regarding the recitation of the Pledge because his daughter is currently enrolled in elementary school in the EGUSD. However, Newdow has no standing to challenge the SCUSD's policy and practice because his daughter is not currently a student there. The SCUSD and its superintendent have not caused Newdow or his daughter an "injury in fact" that is "actual or imminent, not conjectural or hypothetical." *Laidlaw*, 528 U.S. at 180, 120 S. Ct. 693 (citing *Lujan*, 504 U.S. at 560- 561, 112 S. Ct. 2130).

The final question of standing relates to the 1954 Act. Specifically, has Newdow suffered an "injury in fact" that is "fairly traceable" to the enactment of the 1954 Act? *Id.*

We begin our inquiry by noting the general rule that the standing requirements for an action brought under the Establishment Clause are the same as for any other action. *Valley Forge Christian Coll. v. Americans United for Separation of Church and State, Inc.*, 454 U.S. 464, 488-90, 102 S. Ct. 752, 70 L.Ed.2d 700 (1982). "The requirement of standing focuses on the party seeking to get his complaint before a federal court and not on the issues he wishes to have adjudicated. Moreover, we know of no principled basis on which to create a hierarchy of constitutional values or a complementary 'sliding scale' of standing which might permit respondents to invoke the judicial power of the United States." *Id.* at 484, 102 S. Ct. 752 (citation and internal quotation marks omitted). In *Valley Forge*, an organization dedicated to the separation of church and state

REV_00164751

brought suit challenging the federal government's grant of surplus federal property to a church-related college. The suit alleged that this grant of real property, without any financial payment by the college, was a violation of the Establishment Clause. The Supreme Court found that the plaintiff had standing neither as a taxpayer, *see id.* at 479-80, 102 S. Ct. 752, nor as a party personally injured as a consequence of the alleged unconstitutional action, *see id.* at 484-86, 102 S. Ct. 752. The "psychological consequence presumably produced by observation of conduct with which one disagrees . . . . is not an injury sufficient to confer standing under Art. III, even though the disagreement is phrased in constitutional terms." *Id.* at 485-86, 102 S. Ct. 752. The Court emphasized that "'[t]he assumption that if respondents have no standing to sue, no one would have standing, is not a reason to find standing.'" *Id.* at 489, 102 S. Ct. 752 (quoting *Schlesinger v. Reservists Comm. to Stop the War*, 418 U.S. 208, 227, 94 S. Ct. 2925, 41 L.Ed.2d 706 (1974)).

While *Valley Forge* remains good law, the Supreme Court in more recent opinions has indirectly broadened the notion of Establishment Clause standing in public education cases by holding that the mere enactment of a statute may constitute an Establishment Clause violation. In *Wallace v. Jaffree*, 472 U.S. 38, 105 S. Ct. 2479, 86 L.Ed.2d 29 (1985), the Court considered an Establishment Clause challenge to an Alabama statute that originally had authorized a one-minute period of silence in public schools "for meditation," but was later amended to authorize a period of silence "for meditation or voluntary prayer." *Id.* at 40-42, 105 S. Ct. 2479. Although the previous form of the statute specifically allowed students to use the moment of silence for

REV_00164752

"meditation," silent prayer was always an option. "[I]t is undisputed that at the time of the enactment of [the amended statute] there was no governmental practice impeding students from silently praying for one minute at the beginning of each schoolday." *Id.* at 57 n.45, 105 S. Ct. 2479. Nor were students, under the amended form of the statute, compelled to use the allotted time for prayer. In sum, the amendment to the Alabama statute had no discernible effect on public school students other than to inform them that the state was encouraging them to engage in prayer during their daily moment of silence. Because the Supreme Court has repeatedly held that standing is a jurisdictional requirement, the existence of which each federal court must determine for itself, *see Lujan*, 504 U.S. at 559-561, 112 S. Ct. 2130; *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 230-31, 110 S. Ct. 596, 107 L.Ed.2d 603 (1990), we may presume that in *Wallace* the Court examined the standing question before deciding the merits, and that the Court determined that the schoolchildren's parents had standing to challenge the amended Alabama statute.

Our reading of *Wallace* is supported by *Santa Fe Independent School District v. Doe*, 530 U.S. 290, 120 S. Ct. 2266, 147 L.Ed.2d 295 (2000), where the Court upheld a facial challenge to a school district's policy of permitting, but not requiring, prayer initiated and led by a student at high school football games. Noting that "the Constitution also requires that we keep in mind 'the myriad, subtle ways in which the Establishment Clause values can be eroded,'" *id.* at 314, 120 S. Ct. 2266 (quoting *Lynch v. Donnelly*, 465 U.S. 668, 104 S. Ct. 1355, 79 L.Ed.2d 604, 694 (1984) (O'Connor, J., concurring)), the Court held that the "mere passage by

REV_00164753

the District of a policy that has the purpose and perception of government establishment of religion," *id.*, violated the Establishment Clause. "[T]he *simple enactment* of this policy, with the purpose and perception of school endorsement of student prayer, was a constitutional violation." *Id.* at 316, 120 S. Ct. 2266 (emphasis added).

In *Wallace* and *Santa Fe*, the Court looked at the language of each statute, the context in which the statute was enacted, and its legislative history to determine that the challenged statute caused an injury in violation of the Establishment Clause. "We refuse to turn a blind eye to the context in which this policy arose, and that context quells any doubt that this policy was implemented with the purpose of endorsing school prayer." *Id.* at 315, 120 S. Ct. 2266. Justice O'Connor's concurrence in *Wallace* noted that whether a statute actually conveys a message of endorsement of religion is "not entirely a question of fact . . . . The relevant issue is whether an objective observer, acquainted with the text, legislative history, and implementation of the statute, would perceive it as state endorsement of prayer in public schools." 472 U.S. at 76, 105 S. Ct. 2479 (O'Connor, J., concurring in judgment). In *Santa Fe*, "[t]he text and history of this policy . . . reinforce our objective student's perception that the prayer is, in actuality, encouraged by the school." 530 U.S. at 308, 120 S. Ct. 2266. In evaluating the purpose of the school district policy, the Court found "most striking . . . the evolution of the current policy." *Id.* at 309, 120 S. Ct. 2266. In *Wallace*, a review of the legislative history led the Court to conclude that enactment of the amended statute "was not motivated by any clearly secular purpose—indeed, the statute had *no* secular purpose."

REV_00164754

472 U.S. at 56, 105 S. Ct. 2479; *see also id.* at 57-60, 105 S. Ct. 2479.

Operating within the above-described legal landscape, we now turn to the question initially posed, namely, does Newdow have standing to challenge the 1954 Act? Initially, we note that the 1954 statute challenged by Newdow is similar to the Alabama statute struck down in *Wallace*. Neither statute works the traditional type of "injury in fact" that is implicated when a statute compels or prohibits certain activity, nor do the amendments brought about by these statutes lend themselves to "as-applied" constitutional review. Nevertheless, the Court in *Wallace*, at least implicitly, determined that the schoolchildren's parents had standing to attack the challenged statute. Moreover, the legislative history of the 1954 Act shows that the "under God" language was not meant to sit passively in the federal code unbeknownst to the public; rather, the sponsors of the amendment knew about and capitalized on the state laws and school district rules that mandate recitation of the Pledge. The legislation's House sponsor, Representative Louis C. Rabaut, testified at the Congressional hearing that "the children of our land, in the daily recitation of the pledge in school, will be daily impressed with a true understanding of our way of life and its origins," and this statement was incorporated into the report of the House Judiciary Committee. H.R. Rep. No. 83-1693, at 3 (1954), *reprinted in* 1954 U.S.C.C.A.N. 2339, 2341. Taken within its context, the 1954 addendum was designed to result in the recitation of the words "under God" in school classrooms throughout the land on a daily basis, and therefore constituted as much of an injury-in-fact as the policies considered in *Wallace* and

REV_00164755

Santa Fe. As discussed earlier, Newdow has standing as a parent to challenge a practice that interferes with his right to direct the religious education of his daughter. The mere enactment of the 1954 Act in its particular context constitutes a religious recitation policy that interferes with Newdow's right to direct the religious education of his daughter. Accordingly, we hold that Newdow has standing to challenge the 1954 Act.

D. Establishment Clause

The Establishment Clause of the First Amendment states that "Congress shall make no law respecting an establishment of religion," U.S. Const. amend. I, a provision that "the Fourteenth Amendment makes applicable with full force to the States and their school districts." *Lee v. Weisman*, 505 U.S. 577, 580, 112 S. Ct. 2649, 120 L.Ed.2d 467 (1992). Over the last three decades, the Supreme Court has used three interrelated tests to analyze alleged violations of the Establishment Clause in the realm of public education: the three-prong test set forth in *Lemon v. Kurtzman*, 403 U.S. 602, 612-13, 91 S. Ct. 2105, 29 L.Ed.2d 745 (1971); the "endorsement" test, first articulated by Justice O'Connor in her concurring opinion in *Lynch*, and later adopted by a majority of the Court in *County of Allegheny v. ACLU*, 492 U.S. 573, 109 S. Ct. 3086, 106 L.Ed.2d 472 (1989); and the "coercion" test first used by the Court in *Lee*.

In 1971, in the context of unconstitutional state aid to nonpublic schools, the Supreme Court in *Lemon* set forth the following test for evaluating alleged Establishment Clause violations. To survive the "*Lemon* test," the government conduct in question (1) must have a secular purpose, (2) must have a principal or

REV_00164756

primary effect that neither advances nor inhibits religion, and (3) must not foster an excessive government entanglement with religion. *Lemon*, 403 U.S. at 612-13, 91 S. Ct. 2105. The Supreme Court applied the *Lemon* test to every Establishment case it decided between 1971 and 1984, with the exception of *Marsh v. Chambers*, 463 U.S. 783, 103 S. Ct. 3330, 77 L.Ed.2d 1019 (1983), the case upholding legislative prayer.[4] *See Wallace*, 472 U.S. at 63, 105 S. Ct. 2479 (Powell, J., concurring).

In the 1984 *Lynch* case, which upheld the inclusion of a nativity scene in a city's Christmas display, Justice O'Connor wrote a concurring opinion in order to suggest a "clarification" of Establishment Clause jurisprudence. 465 U.S. at 687, 104 S. Ct. 1355 (O'Connor, J., concurring). Justice O'Connor's "endorsement" test effectively collapsed the first two prongs of the *Lemon* test:

> The Establishment Clause prohibits government from making adherence to a religion relevant in any way to a person's standing in the political community. Government can run afoul of that prohibition in two principal ways. One is excessive entanglement with religious institutions. . . . The second and more direct infringement is government endorsement or disapproval of religion. Endorsement sends a message to nonadherents that they are

---

[4] In *Marsh*, the Court "held that the Nebraska Legislature's practice of opening each day's session with a prayer by a chaplain paid by the State did not violate the Establishment Clause of the First Amendment. [The] holding was based upon the historical acceptance of the practice that had become 'part of the fabric of our society.'" *Wallace*, 472 U.S. at 63 n.4, 105 S. Ct. 2479 (Powell, J., concurring) (quoting *Marsh*, 463 U.S. at 792, 103 S. Ct. 3330).

REV_00164757

> outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community.

Id. at 687-88, 91 S. Ct. 2105 (O'Connor, J., concurring).

The Court formulated the "coercion test" when it held unconstitutional the practice of including invocations and benedictions in the form of "nonsectarian" prayers at public school graduation ceremonies. *Lee*, 505 U.S. at 599, 112 S. Ct. 2649. Declining to reconsider the validity of the *Lemon* test, the Court in *Lee* found it unnecessary to apply the *Lemon* test to find the challenged practices unconstitutional. *Id.* at 587, 112 S. Ct. 2649. Rather, it relied on the principle that "at a minimum, the Constitution guarantees that government may not coerce anyone to support or participate in religion or its exercise, or otherwise to act in a way which establishes a state religion or religious faith, or tends to do so." *Id.* (citations and internal quotation marks omitted).[5] The Court first examined the degree

---

[5] Although this formulation is referred to as the "coercion" test, it should be noted that coercion is not a *necessary* element in finding an Establishment Clause violation. "The Establishment Clause, unlike the Free Exercise Clause, does not depend upon any showing of direct governmental compulsion. . . ." *Engel v. Vitale*, 370 U.S. 421, 430, 82 S. Ct. 1261, 8 L.Ed.2d 601 (1962). "[T]his court has never relied on coercion alone as the touchstone of Establishment Clause analysis. To require a showing of coercion, even indirect coercion, as an essential element of an Establishment Clause violation would make the free Exercise Clause a redundancy." *Allegheny*, 492 U.S. at 628, 109 S. Ct. 3086 (O'Connor, J., concurring). "Over the years, this Court has declared the invalidity of many noncoercive state laws and practices conveying a message of religious endorsement." *Lee*, 505 U.S. at 618, 112 S. Ct. 2649 (Souter, J., concurring).

REV_00164758

of school involvement in the prayer, and found that "the graduation prayers bore the imprint of the State and thus put school-age children who objected in an untenable position." *Id.* at 590. The next issue the Court considered was "the position of the students, both those who desired the prayer and she who did not." *Id.* Noting that "there are heightened concerns with protecting freedom of conscience from subtle coercive pressure in the elementary and secondary public schools," *id.* at 592, 112 S. Ct. 2649, the Court held that the school district's supervision and control of the graduation ceremony put impermissible pressure on students to participate in, or at least show respect during, the prayer, *id.* at 593, 112 S. Ct. 2649. The Court concluded that primary and secondary school children may not be placed in the dilemma of either participating in a religious ceremony or protesting. *Id.* at 594, 112 S. Ct. 2649.

Finally, in its most recent school prayer case, the Supreme Court applied the *Lemon* test, the endorsement test, and the coercion test to strike down a school district's policy of permitting student-led "invocations" before high school football games. *See Santa Fe*, 530 U.S. at 310-16, 120 S. Ct. 2266. Citing *Lee*, the Court held that "the delivery of a pregame prayer has the improper effect of coercing those present to participate in an act of religious worship." *Id.* at 312, 120 S. Ct. 2266. Applying the *Lemon* test, the Court found that the school district policy was facially unconstitutional because it did not have a secular purpose. *Id.* at 314-16. The Court also used language associated with the endorsement test. *Id.* at 315, 120 S. Ct. 2266 ("[T]his policy was implemented with the purpose of endorsing school prayer."); *id.* at 317, 120 S. Ct. 2266 ("Govern-

REV_00164759

ment efforts to endorse religion cannot evade constitutional reproach based solely on the remote possibility that those attempts may fail.").

We are free to apply any or all of the three tests, and to invalidate any measure that fails any one of them. The Supreme Court has not repudiated *Lemon;* in *Santa Fe,* it found that the application of each of the three tests provided an independent ground for invalidating the statute at issue in that case; and in *Lee,* the Court invalidated the policy solely on the basis of the coercion test. Although this court has typically applied the *Lemon* test to alleged Establishment Clause violations, *see, e.g., Am. Family Ass'n, Inc. v. City and County of San Francisco,* 277 F.3d 1114, 1120-21 (9th Cir. 2002), we are not required to apply it if a practice fails one of the other tests. Nevertheless, for purposes of completeness, we will analyze the school district policy and the 1954 Act under all three tests.

We first consider whether the 1954 Act and the EGUSD's policy of teacher-led Pledge recitation survive the endorsement test. The magistrate judge found that "the ceremonial reference to God in the pledge does not convey endorsement of particular religious beliefs." Supreme Court precedent does not support that conclusion.

In the context of the Pledge, the statement that the United States is a nation "under God" is an endorsement of religion. It is a profession of a religious belief, namely, a belief in monotheism. The recitation that ours is a nation "under God" is not a mere acknowledgment that many Americans believe in a deity. Nor is it merely descriptive of the undeniable historical significance of religion in the founding of the Republic. Rather, the phrase "one nation under God" in the

REV_00164760

context of the Pledge is normative. To recite the Pledge is not to describe the United States; instead, it is to swear allegiance to the values for which the flag stands: unity, indivisibility, liberty, justice, and—since 1954—monotheism. The text of the official Pledge, codified in federal law, impermissibly takes a position with respect to the purely religious question of the existence and identity of God. A profession that we are a nation "under God" is identical, for Establishment Clause purposes, to a profession that we are a nation "under Jesus," a nation "under Vishnu," a nation "under Zeus," or a nation "under no god," because none of these professions can be neutral with respect to religion. "[T]he government must pursue a course of complete neutrality toward religion." *Wallace*, 472 U.S. at 60, 105 S. Ct. 2479. Furthermore, the school district's practice of teacher-led recitation of the Pledge aims to inculcate in students a respect for the ideals set forth in the Pledge, and thus amounts to state endorsement of these ideals. Although students cannot be forced to participate in recitation of the Pledge, the school district is nonetheless conveying a message of state endorsement of a religious belief when it requires public school teachers to recite, and lead the recitation of, the current form of the Pledge.

The Supreme Court recognized the normative and ideological nature of the Pledge in *Barnette*, 319 U.S. 624, 63 S. Ct. 1178, 87 L.Ed. 1628. There, the Court held unconstitutional a school district's wartime policy of punishing students who refused to recite the Pledge and salute the flag. *Id.* at 642, 63 S. Ct. 1178. The Court noted that the school district was compelling the students "to declare a belief," *id.* at 631, 63 S. Ct. 1178, and "requir[ing] the individual to communicate by word

REV_00164761

and sign his acceptance of the political ideas [the flag] . . . bespeaks," *id.* at 633, 63 S. Ct. 1178. "[T]he compulsory flag salute and pledge requires affirmation of a belief and an attitude of mind." *Id.* The Court emphasized that the political concepts articulated in the Pledge[6] were idealistic, not descriptive: "'[L]iberty and justice for all,' if it must be accepted as descriptive of the present order rather than an ideal, might to some seem an overstatement." *Id.* at 634 n. 14, 63 S. Ct. 1178. The Court concluded that: "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein." *Id.* at 642, 63 S. Ct. 1178.

The Pledge, as currently codified, is an impermissible government endorsement of religion because it sends a message to unbelievers "that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community." *Lynch*, 465 U.S. at 688, 104 S. Ct. 1355 (O'Connor, J., concurring). Justice Kennedy, in his dissent in *Allegheny*, agreed:

> [B]y statute, the Pledge of Allegiance to the Flag describes the United States as 'one nation under God.' To be sure, no one is obligated to recite this phrase, . . . but it borders on sophistry to suggest that the reasonable atheist would not feel less than a full member of the political community every time

---

[6] *Barnette* was decided before "under God" was added, and thus the Court's discussion was limited to the political ideals contained in the Pledge.

REV_00164762

> his fellow Americans recited, as part of their expression of patriotism and love for country, a phrase he believed to be false.

Allegheny, 492 U.S. at 672, 109 S. Ct. 3086 (Kennedy, J., dissenting) (citations and internal quotation marks omitted).[7] Consequently, the policy and the Act fail the endorsement test.

Similarly, the policy and the Act fail the coercion test. Just as in *Lee*, the policy and the Act place students in the untenable position of choosing between participating in an exercise with religious content or protesting. As the Court observed with respect to the graduation prayer in that case: "What to most believers may seem nothing more than a reasonable request that the nonbeliever respect their religious practices, in a school context may appear to the nonbeliever or dissenter to be an attempt to employ the machinery of the State to enforce a religious orthodoxy." *Lee*, 505 U.S. at 592, 112 S. Ct. 2649. Although the defendants argue that the religious content of "one nation under God" is minimal, to an atheist or a believer in certain non-Judeo-Christian religions or philosophies, it may reasonably appear to be an attempt to enforce a "religious orthodoxy" of monotheism, and is therefore impermissible. The coercive effect of this policy is particularly pronounced in the school setting given the age and impressionability of schoolchildren, and their understanding that they are required to adhere to the norms set by their school, their teacher and their fellow students.[8] Furthermore, under *Lee*, the fact that

---

[7] For Justice Kennedy, this result was a reason to reject the endorsement test.

[8] The "subtle and indirect" social pressure which permeates the classroom also renders more acute the message sent to non-

REV_00164763

students are not required to participate is no basis for distinguishing *Barnette* from the case at bar because, even without a recitation requirement for each child, the mere fact that a pupil is required to listen every day to the statement "one nation under God" has a coercive effect.[9] The coercive effect of the Act is apparent from its context and legislative history, which indicate that the Act was designed to result in the daily recitation of the words "under God" in school classrooms. President Eisenhower, during the Act's signing ceremony, stated: "From this day forward, the millions of our school children will daily proclaim in every city and town, every village and rural schoolhouse, the dedication of our Nation and our people to the Almighty." 100 Cong. Rec. 8618 (1954) (statement of Sen. Ferguson incorporating signing statement of President Eisenhower). Therefore, the policy and the Act fail the coercion test.[10]

---

believing schoolchildren that they are outsiders. *See Lee*, 505 U.S. at 592-93, 112 S. Ct. 2649 (stating that "the risk of indirect coercion" from prayer exercises is particularly "pronounced" in elementary and secondary public school because students are subjected to peer pressure and public pressure which is "as real as any overt compulsion").

[9] The objection to the Pledge in *Barnette*, like in the case at bar, was based upon a religious ground. The Pledge in the classroom context imposes upon schoolchildren the constitutionally unacceptable choice between participating and protesting. Recognizing the severity of the effect of this form of coercion on children, the Supreme Court in *Lee* stated, "the State may not, consistent with the Establishment Clause, place primary and secondary school children in this position." 505 U.S. at 593, 112 S. Ct. 2649.

[10] In *Aronow v. United States*, 432 F.2d 242 (9th Cir. 1970), this court, without reaching the question of standing, upheld the inscription of the phrase "In God We Trust" on our coins and currency. *But cf. Wooley v. Maynard*, 430 U.S. 705, 722, 97 S. Ct.

REV_00164764

Finally we turn to the *Lemon* test, the first prong of which asks if the challenged policy has a secular purpose. Historically, the primary purpose of the 1954 Act was to advance religion, in conflict with the first prong of the *Lemon* test. The federal defendants "do not dispute that the words 'under God' were intended" "to recognize a Supreme Being," at a time when the government was publicly inveighing against atheistic communism. Nonetheless, the federal defendants argue that the Pledge must be considered as a whole when assessing whether it has a secular purpose. They claim that the Pledge has the secular purpose of "solemnizing public occasions, expressing confidence in the future, and encouraging the recognition of what is worthy of appreciation in society." *Lynch*, 465 U.S. at 693, 104 S. Ct. 1355.

The flaw in defendants' argument is that it looks at the text of the Pledge "as a whole," and glosses over the 1954 Act. The problem with this approach is apparent when one considers the Court's analysis in *Wallace*. There, the Court struck down Alabama's statute mandating a moment of silence for "meditation or voluntary prayer" not because the final version "as a whole" lacked a primary secular purpose, but because the state legislature had amended the statute specifically and solely to add the words "or voluntary prayer." 472 U.S. at 59-60, 105 S. Ct. 2479.

1428, 51 L.Ed.2d 752 (1977) (Rehnquist, J., dissenting) (stating that the majority's holding leads logically to the conclusion that "In God We Trust" is an unconstitutional affirmation of belief). In any event, *Aronow* is distinguishable in many ways from the present case. The most important distinction is that school children are not coerced into reciting or otherwise actively led to participating in an endorsement of the markings on the money in circulation.

REV_00164765

By analogy to *Wallace*, we apply the purpose prong of the *Lemon* test to the amendment that added the words "under God" to the Pledge, not to the Pledge in its final version. As was the case with the amendment to the Alabama statute in *Wallace*, the legislative history of the 1954 Act reveals that the Act's *sole* purpose was to advance religion, in order to differentiate the United States from nations under communist rule." [T]he First Amendment requires that a statute must be invalidated if it is entirely motivated by a purpose to advance religion." *Id.* at 56, 105 S. Ct. 2479 (citations omitted) (applying the *Lemon* test). As the legislative history of the 1954 Act sets forth:

> At this moment of our history the principles underlying our American Government and the American way of life are under attack by a system whose philosophy is at direct odds with our own. Our American Government is founded on the concept of the individuality and the dignity of the human being. Underlying this concept is the belief that the human person is important because he was created by God and endowed by Him with certain inalienable rights which no civil authority may usurp. The inclusion of God in our pledge therefore would further acknowledge the dependence of our people and our Government upon the moral directions of the Creator. At the same time it would serve to deny the atheistic and materialistic concepts of communism with its attendant subservience of the individual.

H.R. Rep. No. 83-1693, at 1-2 (1954), *reprinted in* 1954 U.S.C.C.A.N. 2339, 2340. This language reveals that the purpose of the 1954 Act was to take a position on the question of theism, namely, to support the existence and moral authority of God, while "deny[ing] . . .

REV_00164766

atheistic and materialistic concepts." *Id.* Such a purpose runs counter to the Establishment Clause, which prohibits the government's endorsement or advancement not only of one particular religion at the expense of other religions, but also of religion at the expense of atheism.

> [T]he Court has unambiguously concluded that the individual freedom of conscience protected by the First Amendment embraces the right to select any religious faith or none at all. This conclusion derives support not only from the interest in respecting the individual's freedom of conscience, but also from the conviction that religious beliefs worthy of respect are the product of a free and voluntary choice by the faithful, and from recognition of the fact that the political interest in forestalling intolerance extends beyond intolerance among Christian sects—or even intolerance among "religions"—to encompass intolerance of the disbeliever and the uncertain.

Wallace, 472 U.S. at 52-54, 105 S. Ct. 2479.

In language that attempts to prevent future constitutional challenges, the sponsors of the 1954 Act expressly disclaimed a religious purpose. "This is not an act establishing a religion. . . . A distinction must be made between the existence of a religion as an institution and a belief in the sovereignty of God. The phrase 'under God' recognizes only the guidance of God in our national affairs." H.R. Rep. No. 83-1693, at 3 (1954), *reprinted in* 1954 U.S.C.C.A.N. 2339, 2341-42. This alleged distinction is irrelevant for constitutional purposes. The Act's affirmation of "a belief in the sovereignty of God" and its recognition of "the guidance of God" are endorsements by the government of reli-

REV_00164767

gious beliefs. The Establishment Clause is not limited to "religion as an institution"; this is clear from cases such as *Santa Fe*, where the Court struck down student-initiated and student-led prayer at high school football games. 530 U.S. at 310-16, 120 S. Ct. 2266. The Establishment Clause guards not only against the establishment of "religion as an institution," but also against the endorsement of religious ideology by the government. Because the Act fails the purpose prong of *Lemon*, we need not examine the other prongs. *Lemon*, 403 U.S. at 612-14, 91 S. Ct. 2105.

Similarly, the school district policy also fails the *Lemon* test. Although it survives the first prong of *Lemon* because, as even Newdow concedes, the school district had the secular purpose of fostering patriotism in enacting the policy, the policy fails the second prong. As explained by this court in *Kreisner v. City of San Diego*, 1 F.3d 775, 782 (9th Cir. 1993), and by the Supreme Court in *School District of Grand Rapids v. Ball*, 473 U.S. 373, 390, 105 S. Ct. 3216, 87 L.Ed.2d 267 (1985), the second *Lemon* prong asks "whether the challenged government action is sufficiently likely to be perceived by adherents of the controlling denominations as an endorsement, and by the nonadherents as a disapproval, of their individual religious choices."[11] *Ball*, 473

---

[11] Although *Ball* was overruled in part by *Agostini* v. *Felton*, 521 U.S. 203, 236, 117 S. Ct. 1997, 138 L.Ed.2d 391 (1997), as the Court stated in *Agostini*, *Ball*'s statement of the general principles and relevant tests to be used in determining what constitutes an Establishment Clause violation remain intact; only the underlying factual assumptions and presumptions have changed. In particular, the Court rejected the following three core assumptions of *Ball*:

REV_00164768

U.S. at 390, 105 S. Ct. 3216. Given the age and impressionability of schoolchildren, as discussed above, particularly within the confined environment of the classroom, the policy is highly likely to convey an impermissible message of endorsement to some and disapproval to others of their beliefs regarding the existence of a monotheistic God. Therefore the policy fails the effects prong of *Lemon*, and fails the *Lemon* test. In sum, both the policy and the Act fail the *Lemon* test as well as the endorsement and coercion tests.[12]

> (i) any public employee who works on the premises of a religious school is presumed to inculcate religion in her work; (ii) the presence of public employees on private school premises creates a symbolic union between church and state; and (iii) any and all public aid that directly aids the educational function of religious schools impermissibly finances religious indoctrination, even if the aid reaches such schools as a consequence of private decisionmaking.

Agostini, 521 U.S. at 222, 117 S. Ct. 1997. Therefore, *Ball*'s restatement of the second prong of *Lemon* remains valid even after *Agostini*.

[12] We recognize that the Supreme Court has occasionally commented in dicta that the presence of "one nation under God" in the Pledge of Allegiance is constitutional. *See Allegheny*, 492 U.S. at 602-03, 109 S. Ct. 3086; *Lynch*, 465 U.S. at 676, 104 S. Ct. 1355; *id.* at 693, 104 S. Ct. 1355 (O'Connor, J., concurring); *Abington Sch. Dist. v. Schempp*, 374 U.S. 203, 303-04, 83 S. Ct. 1560, 10 L.Ed.2d 844 (1963) (Brennan, J., concurring); *id.* at 306-08, 83 S. Ct. 1560 (Goldberg, J., joined by Harlan, J., concurring); *Engel*, 370 U.S. at 435 n. 21, 82 S. Ct. 1261. However, the Court has never been presented with the question directly, and has always clearly refrained from deciding it. Accordingly, it has never applied any of the three tests to the Act or to any school policy regarding the recitation of the Pledge. That task falls to us, although the final word, as always, remains with the Supreme Court.

REV_00164769

The only other United States Court of Appeals to consider the issue is the Seventh Circuit, which held in *Sherman v. Community Consolidated School District 21*, 980 F.2d 437 (7th Cir. 1992), that a policy similar to the one before us regarding the recitation of the Pledge of Allegiance containing the words "one nation under God" was constitutional. The *Sherman* court first stated that:

> If as *Barnette* holds no state may require anyone to recite the Pledge, and if as the prayer cases hold the recitation by a teacher or rabbi of unwelcome words is coercion, then the Pledge of Allegiance becomes unconstitutional under all circumstances, just as no school may read from a holy scripture at the start of class.

980 F.2d at 444. It then concludes, however, that this reasoning is flawed because the First Amendment "[does] not establish general rules about speech or schools; [it] call[s] for religion to be treated differently." *Id.* We have some difficulty understanding this statement; we do not believe that the Constitution prohibits compulsory patriotism as in *Barnette*, but permits compulsory religion as in this case. If government-endorsed religion is to be treated differently from government-endorsed patriotism, the treatment must be less favorable, not more.

The Seventh Circuit makes an even more serious error, however. It not only refuses to apply the *Lemon* test because of the Supreme Court's criticism of that test in *Lee*, but it also fails to apply the coercion test from *Lee* or the endorsement test from *Lynch*. Circuit courts are not free to ignore Supreme Court precedent in this manner. *Rodriguez de Quijas v. Shearson/Am. Exp., Inc.*, 490 U.S. 477, 484, 109 S. Ct. 1917, 104 L.Ed.2d 526 (1989) ("If a precedent of this Court has direct application in a case, yet appears to rest on reasons rejected in some other line of decisions, the Court of Appeals should follow the case which directly controls, leaving to this Court the prerogative of overruling its own decisions."). Instead of applying any of the tests announced by the Supreme Court, the Seventh Circuit simply frames the question as follows: "Must ceremonial references in civic life to a deity be understood as prayer, or support for all monotheistic religions, to the exclusion of atheists and those who worship multiple gods?" 980 F.2d at 445. Relying in part on Supreme Court dicta regarding the Pledge, the court answers this question in the negative, determining that "under God" is a statement

REV_00164770

In conclusion, we hold that (1) the 1954 Act adding the words "under God" to the Pledge, and (2) EGUSD's policy and practice of teacher-led recitation of the Pledge, with the added words included, violate the Establishment Clause. The judgment of dismissal is vacated with respect to these two claims, and the cause is remanded for further proceedings consistent with our holding. Plaintiff is to recover costs on this appeal.

REVERSED AND REMANDED.

---

which, taken within its context in the Pledge, is devoid of any significant religious content, and therefore constitutional. *Id.* at 447-48. At the very least, as discussed above in the text, the Supreme Court requires that any policy alleged to be an Establishment Clause violation must be held to the scrutiny of the established tests. Our application of *all* of the tests compels the conclusion that the policy and the Act challenged here violate the Establishment Clause of the Constitution. Thus, we must respectfully differ from the Seventh Circuit.

REV_00164771

FERNANDEZ, Circuit Judge, concurring and dissenting:

I concur in parts A, B and C[1] of the majority opinion, but dissent as to part D.

We are asked to hold that inclusion of the phrase "under God" in this nation's Pledge of Allegiance violates the religion clauses of the Constitution of the United States. We should do no such thing. We should, instead, recognize that those clauses were not designed to drive religious expression out of public thought; they were written to avoid discrimination.

We can run through the litany of tests and concepts which have floated to the surface from time to time. Were we to do so, the one that appeals most to me, the one I think to be correct, is the concept that what the religion clauses of the First Amendment require is neutrality; that those clauses are, in effect, an early kind of equal protection provision and assure that government will neither discriminate for nor discriminate against a religion or religions. *See Gentala v. City of Tucson*, 244 F.3d 1065, 1083-86 (9th Cir.) (en banc) (Fernandez, J., dissenting), *cert. granted and judgment vacated by* 534 U.S. 946, 122 S. Ct. 340, 151 L.Ed.2d 256 (2001); *Goehring v. Brophy*, 94 F.3d 1294,

---

[1] I admit, however, to serious misgivings about standing to attack 4 U.S.C. § 4 itself. Congress has not compelled anyone to do anything. It surely has not directed that the Pledge be recited in class; only the California authorities have done that. Even if a general lack of standing to directly attack 4 U.S.C. § 4 would deprive federal courts of the opportunity to strike "under God" from that statute, any lament would be no more than a complaint about the limits on federal judges' constitutional power. Nonetheless, that ultimately makes little difference to the resolution of the First Amendment issue in this case.

REV_00164772

1306-07 (9th Cir. 1996) (Fernandez, J., concurring). But, legal world abstractions and ruminations aside, when all is said and done, the danger that "under God" in our Pledge of Allegiance will tend to bring about a theocracy or suppress somebody's beliefs is so minuscule as to be de minimis. The danger that phrase presents to our First Amendment freedoms is picayune at most.

Judges, including Supreme Court Justices, have recognized the lack of danger in that and similar expressions for decades, if not for centuries, as have presidents[2] and members of our Congress. *See, e.g., County of Allegheny v. ACLU*, 492 U.S. 573, 602-03, 672-73, 109 S. Ct. 3086, 3106, 3143, 106 L.Ed.2d 472 (1989); *Wallace v. Jaffree*, 472 U.S. 38, 78 n. 5, 105 S. Ct. 2479, 86 L.Ed.2d 29 (1985); *Lynch v. Donnelly*, 465 U.S. 668, 676, 693, 716, 104 S. Ct. 1355, 1361, 79 L.Ed.2d 604 (1984); *Abington Sch. Dist. v. Schempp*, 374 U.S. 203, 306-08, 83 S. Ct. 1560, 1615-16, 10 L.Ed.2d 844 (1963);[3] *Separation of Church & State Comm. v. City of Eugene*, 93 F.3d 617, 622 (9th Cir. 1996) (O'Scannlain, J., concurring); *Gaylor v. United States*, 74 F.3d 214, 217-18 (10th Cir. 1996); *Sherman v. Cmty Consol. Sch. Dist. 21*, 980 F.2d 437, 445-48 (7th Cir. 1992); *O'Hair v.*

---

[2] *See, e.g., Lee v. Weisman*, 505 U.S. 577, 632-35, 112 S. Ct. 2649, 120 L.Ed.2d 467 (1992) (Scalia, J., dissenting).

[3] The citations to the four preceding Supreme Court opinions are to majority opinions, concurring opinions, and dissents. Because my point is that a number of Justices have recognized the lack of danger and because I hope to avoid untoward complication in the setting out of the citations, I have not designated which Justices have joined in which opinion. All in all, however, perusing those opinions indicates that Chief Justice Burger, Chief Justice Rehnquist, and Justices Harlan, Brennan, White, Goldberg, Marshall, Blackmun, Powell, Stevens, O'Connor, Scalia, and Kennedy have so recognized.

REV_00164773

Murray, 588 F.2d 1144, 1144 (5th Cir. 1979) (per curiam); *Aronow v. United States*, 432 F.2d 242, 243-44 (9th Cir. 1970); *cf. Marsh v. Chambers*, 463 U.S. 783, 795, 103 S. Ct. 3330, 77 L.Ed.2d 1019 (1983) (legislative prayer). I think it is worth stating a little more about two of the cases which I have just cited. In *County of Allegheny*, 492 U.S. at 602-03, 109 S. Ct. at 3106, the Supreme Court had this to say: "Our previous opinions have considered in dicta the motto and the pledge, characterizing them as consistent with the proposition that government may not communicate an endorsement of religious belief." The Seventh Circuit, reacting in part to that statement, has wisely expressed the following thought:

> Plaintiffs observe that the Court sometimes changes its tune when it confronts a subject directly. True enough, but an inferior court had best respect what the majority says rather than read between the lines. If the Court proclaims that a practice is consistent with the establishment clause, we take its assurances seriously. If the Justices are just pulling our leg, let them say so.

Sherman, 980 F.2d at 448.

Some, who rather choke on the notion of de minimis, have resorted to the euphemism "ceremonial deism." *See, e.g., Lynch*, 465 U.S. at 716, 104 S. Ct. at 1382 (Brennan, J., dissenting). But whatever it is called (I care not), it comes to this: such phrases as "In God We Trust," or "under God" have no tendency to establish a religion in this country or to suppress anyone's exercise, or non-exercise, of religion, except in the fevered eye of persons who most fervently would like to drive all tincture of religion out of the public life of our polity.

REV_00164774

Those expressions have not caused any real harm of that sort over the years since 1791, and are not likely to do so in the future.[4] As I see it, that is not because they are drained of meaning.[5] Rather, as I have already indicated, it is because their tendency to establish religion (or affect its exercise) is exiguous. I recognize that some people may not feel good about hearing the phrases recited in their presence, but, then, others might not feel good if they are omitted. At any rate, the Constitution is a practical and balanced charter for the just governance of a free people in a vast territory. Thus, although we do feel good when we contemplate the effects of its inspiring phrasing and majestic promises, it is not primarily a feel-good prescription.[6] In *West Virginia Board of Education v. Barnette*, 319 U.S. 624, 630, 642, 63 S. Ct. 1178, 1181, 1187, 87 L.Ed. 1628 (1943), for example, the Supreme Court did not say that the Pledge could not be recited in the presence of Jehovah's Witness children; it merely said that they did not have to recite it.[7] That fully protected their con-

---

[4] They have not led us down the long path to kulturkampf or worse. Those who are somehow beset by residual doubts and fears should find comfort in the reflection that no baleful religious effects have been generated by the existence of similar references to a deity throughout our history. More specifically, it is difficult to detect any signs of incipient theocracy springing up since the Pledge was amended in 1954.

[5] *See also Sherman*, 980 F.2d at 448 (Manion, J., concurring).

[6] We, by the way, indicated as much in *American Family Ass'n, Inc. v. City and County of San Francisco*, 277 F.3d 1114, 1125-26 (9th Cir. 2002), which involved governmental conduct that was much more questionable than adoption of the phrase "under God." *See id.* at 1126-28 (Noonan, J., dissenting).

[7] I recognize that the Pledge did not then contain the phrase "under God."

REV_00164775

stitutional rights by precluding the government from trenching upon "the sphere of intellect and spirit." *Id.* at 642, 63 S. Ct. at 1187. As the Court pointed out, their religiously based refusal "to participate in the ceremony [would] not interfere with or deny rights of others to do so." *Id.* at 630, 63 S. Ct. at 1181. We should not permit Newdow's feel-good concept to change that balance.

My reading of the stelliscript suggests that upon Newdow's theory of our Constitution, accepted by my colleagues today, we will soon find ourselves prohibited from using our album of patriotic songs in many public settings. "God Bless America" and "America the Beautiful" will be gone for sure, and while use of the first three stanzas of "The Star Spangled Banner" will still be permissible, we will be precluded from straying into the fourth.[8] And currency beware! Judges can accept those results if they limit themselves to elements and tests, while failing to look at the good sense and principles that animated those tests in the first place. But they do so at the price of removing a vestige of the awe we all must feel at the immenseness of the universe and our own small place within it, as well as the wonder we must feel at the good fortune of our country. That will cool the febrile nerves of a few at the cost of removing the healthy glow conferred upon many citizens when the forbidden verses, or phrases, are uttered, read, or seen.

In short, I cannot accept the eliding of the simple phrase "under God" from our Pledge of Allegiance, when it is obvious that its tendency to establish religion

---

[8] Nor will we be able to stray into the fourth stanza of "My Country 'Tis of Thee" for that matter.

REV_00164776

in this country or to interfere with the free exercise (or non-exercise) of religion is de minimis.[9]

Thus, I respectfully concur in part and dissent in part.

[9] Lest I be misunderstood, I must emphasize that to decide this case it is not necessary to say, and I do not say, that there is such a thing as a de minimis constitutional violation. What I do say is that the de minimis tendency of the Pledge to establish a religion or to interfere with its free exercise is no constitutional violation at all.

REV_00164777

APPENDIX C

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 00-16423
D.C. No. CV 00-00495-MLS/PAN

MICHAEL A. NEWDOW, PLAINTIFF-APPELLANT

v.

U.S. CONGRESS; UNITED STATES OF AMERICA; GEORGE W. BUSH,* PRESIDENT OF THE UNITED STATES; STATE OF CALIFORNIA; ELK GROVE UNIFIED SCHOOL DISTRICT; DAVID W. GORDON, SUPERINTENDENT EGUSD; SACRAMENTO CITY UNIFIED SCHOOL DISTRICT; JIM SWEENEY, SUPERINTENDENT SCUSD, DEFENDANTS-APPELLEES

Appeal from the United States District Court for the Eastern District of California, Milton L. Schwartz, Senior Judge, Presiding

Argued and Submitted: March 14, 2002
Filed: June 26, 2002
Amended: February 28, 2003

ORDER

The opinion filed June 26, 2002, is ordered amended. The Clerk is instructed to file the amended opinion with

* George W. Bush is substituted for his predecessor, William Jefferson Clinton, as President of the United States. Fed. R. App. P. 43(c)(2).

REV_00164778

Judge Fernandez's amended concurrence/dissent. Judge Reinhardt's concurrence in the order denying rehearing en banc, along with Judge O'Scannlain's and Judge McKeown's dissent from that order shall also be filed.

The Clerk is also instructed not to accept for filing any new petitions for rehearing and petitions for rehearing en banc in this case.

With the opinion thus amended, the panel has voted unanimously to deny the petitions for rehearing.

The full court has been advised of the petitions for rehearing en banc. An active judge requested a vote on whether to rehear the matter en banc. The matter failed to receive a majority of the votes of the non-recused active judges in favor of en banc consideration. Fed. R. App. P. 35.

The petitions for rehearing are DENIED and the petitions for rehearing en banc are DENIED.

REINHARDT, Circuit Judge, concurring in the order:

My views as to the merits of this issue are set forth in the amended majority opinion authored by Judge Goodwin, and I adhere to them fully. I write separately for two reasons unrelated to the contents of that opinion. I write first to comment on the separate dissent to the denial of rehearing en banc authored by Judge McKeown and joined in by Judges Hawkins, Thomas, and Rawlinson, in which my colleagues appear to express the view that a case should be reheard en banc whenever it involves "a question of exceptional importance." FED. R. APP. P. 35(a)(2).[1] Second, I am

[1] While the brief separate dissent is deliberately opaque and uninformative, I would suspect that not all of its signatories

REV_00164779

compelled to register my strong disagreement with one particularly unfortunate aspect of Judge O'Scannlain's principal dissent that reflects a serious misconception of fundamental constitutional principles and the proper role of the federal judiciary.

I

As to the first question, I disagree with the notion that the importance of an issue is a sufficient reason to take a case en banc, either under the Rule or as a matter of judicial policy. Rule 35(a) advises this court of its *discretionary* power to order that a case already decided by a three-judge panel be reheard by the full court. Specifically, the rule begins by stating that a "majority of the circuit judges who are in regular active service *may* order that an appeal or other proceeding be heard or reheard by the court of appeals en banc." FED. R. APP. P. 35(a) (emphasis added). Subsection two guides such discretionary consideration by stating that one compelling reason to grant rehearing en banc is the "exceptional importance" of a particular case.

The most reasonable construction of the Rule is that this court should rehear a case en banc when it is *both* of exceptional importance *and* the decision *requires correctio*n. *See United States* v. *Burdeau,* 180 F.3d 1091, 1092 (9th Cir. 1999) (Tashima, J., concurring in the order denying rehearing en banc) ("Subject to rare exceptions. . . . we should review the statements in three[-]judge panel opinions only to 'determine whether the [panel's] legal error resulted in an erroneous

---

believe that the general rule they appear to advocate should apply regardless of the "correctness" of the panel opinion. The concept that "exceptional importance" is, without more, a sufficient reason for en banc review is, however, shared by at least several members of the Court and accordingly merits some discussion.

REV_00164780

judgment . . . .'") (quoting *Chevron U.S.A. Inc.* v. *Natural Res. Def. Council*, 467 U.S. 837, 842 (1984)). A decision may warrant correction because a three-judge panel has reached a result or adopted a legal rule or principle that conflicts with our existing circuit law or that the majority of our court believes is incorrect and needs further review. The fact that three-judge panels often decide cases of exceptional importance, whether it be the constitutionality of a state's decision to execute an individual who may be innocent, the existence or non-existence of a fundamental right, or the ability of the Congress to require the states to comply with federal law—an issue that some of us thought had been settled by the successful end to the Civil War—is an unremarkable, but undeniably important, aspect of our appellate system. *See* Tracey E. George, *The Dynamics and Determinants of the Decision to Grant En Banc Review*, 74 WASH. L. REV. 213, 218 (1999) (stating that three-judge panels "representing and acting on behalf of the whole court" is a "basic tenet of our intermediate appellate system"). Unless reconsidered en banc, a decision of a three-judge panel *is* a decision of our court and speaks for our court. Moreover, it ordinarily constitutes the final judicial decision.[2]

To rehear a case en banc *simply* on the basis that it involves an important issue would undermine the three-

---

[2] While the Supreme Court unquestionably has the authority to review any or all of the decisions of the Court of Appeals, the Court has elected to hear a remarkably small number of cases in recent years. For example, in the 2001 term, of the 7,852 case filings, the Court heard argument in 88 cases, and disposed of 85 in 76 signed opinions. *See* Supreme Court of the United States, *2002 Year-End Report on the Federal Judiciary*, *at* http://www.supremecourtus.gov/publicinfo/year-end/2002year-endreport.html.

REV_00164781

judge panel system and create an impractical and crushing burden on what otherwise should be, as Rule 35(a) suggests, an exceptional occurrence. *See* FED. R. APP. P. 35(a) ("An en banc hearing or rehearing is not favored . . . ."). According to statistics kept by the Clerk of the court, in 2002 this court decided 5,190 cases on the merits, more than 98% of which were finally decided by three-judge panels. These decisions are not measures of "rough justice," later to be refined by the en banc court. Unless they decide issues of exceptional importance erroneously, create a direct intra-circuit split, or unless the interests of justice require that the decision be corrected, the opinions of three-judge panels should constitute the final action of this court.

II

I also feel compelled to discuss a disturbingly wrong-headed approach to constitutional law manifested in the dissent authored by Judge O'Scannlain. The dissent suggests that this court should be able to conclude that the panel's holding was erroneous by observing the "public and political reaction" to its decision. Dissent at 2783. This is not the first time that the magnitude of the political response regarding an issue has distracted certain members of this court. An equally disturbing misunderstanding of the nature of our Constitution and the role of the federal judiciary was manifested in *Coalition for Econ. Equity* v. *Wilson*, 122 F.3d 692 (9th Cir. 1997), a case involving a California initiative on the subject of affirmative action. There, the three-judge panel, in a case that unfortunately was not taken en banc, notwithstanding its exceptional importance, made the following remarkable statement: "A system which permits one judge to block with the stroke of a pen what 4,736,180 state residents voted to enact as law

REV_00164782

tests the integrity of our constitutional democracy." *Id.* at 699 (O'Scannlain, J.).

The Bill of Rights is, of course, intended to protect the rights of those in the minority against the temporary passions of a majority which might wish to limit their freedoms or liberties. As Justice Jackson recognized:

> The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections.

W. Va. State Bd. of Educ. v. *Barnette*, 319 U.S. 624, 638 (1943). It is the highest calling of federal judges to invoke the Constitution to repudiate unlawful majoritarian actions and, when necessary, to strike down statutes that would infringe on fundamental rights, whether such statutes are adopted by legislatures or by popular vote. The constitutional system that vests such power in an independent judiciary does not "test[ ] the integrity of . . . democracy." It makes democracy vital, and is one of our proudest heritages.

Moreover, Article III judges are by constitutional design insulated from the political pressures governing members of the other two branches of government. We are given life tenure and a secured salary so that, in our unique capacity to "say what the law is," *Marbury* v. *Madison*, 5 U.S. (1 Cranch) 137, 177 (1803), we may decide constitutional issues without regard to popular

REV_00164783

vote, political consequence, or the prospect of future career advancement.[3] Most federal judges do not question the wisdom of this approach. When the federal judiciary is so firmly separated by constitutional structure from the direct influence of politics, we must not undermine that structure by allowing political pressures, polls, or "focus groups" to influence our opinions, even indirectly.

This is not to say that federal judges should be completely sequestered from the attitudes of the nation we serve, even though our service is accomplished not through channeling popular sentiment but through strict adherence to established constitutional principles. The Constitution contemplates occasions when we must be responsive to *long-term* societal trends—when determining, for example, that which is "cruel and unusual," *see Hudson* v. *McMillian*, 503 U.S. 1, 9 (1992), whether in the execution of the mentally retarded, *see Atkins* v. *Virginia*, 536 U.S. 304, ___, 122 S. Ct. 2242, 2247 (2002), or the execution of juvenile offenders, *see In re Stanford*, 123 S.Ct. 472, 474 (2002) (Stevens, J., dissenting from the denial of an application for an original writ of habeas corpus). This broader long-term

---

[3] Alexander Hamilton was admirably cognizant of the danger of relying on temporary political whimsy:

> This independence of the judges is equally requisite to guard the Constitution and the rights of individuals from the effects of those ill humors which the arts of designing men, or the influence of particular conjectures, sometimes disseminate among the people themselves, and which, though they speedily give place to better information, and more deliberate reflection, have a tendency, in the meantime, to occasion dangerous innovations in the government, and serious oppressions of the minor party in the community.

THE FEDERALIST NO. 78, at 437 (Alexander Hamilton) (Clinton Rossiter ed., 1999).

REV_00164784

social conscience, however, is a matter far different from responding to particular immediate political pressures. We may not—we must not—allow public sentiment or outcry to guide our decisions. It is particularly important that we understand the nature of our obligations and the strength of our constitutional principles in times of national crisis; it is then that our freedoms and our liberties are in the greatest peril. Any suggestion, whenever or wherever made, that federal judges should be encouraged by the approval of the majority or deterred by popular disfavor is fundamentally inconsistent with the Constitution and must be firmly rejected.

REV_00164785

O'SCANNLAIN, Circuit Judge, with whom KLEINFELD, GOULD, TALLMAN, RAWLINSON, and CLIFTON, Circuit Judges, join, dissenting from the denial of rehearing en banc:

Last June, a two-judge majority of a three-judge panel of this court ruled that the Pledge of Allegiance was unconstitutional simply because of the presence of two offending words: "under God." It was an exercise in judicial legerdemain which, not surprisingly, produced a public outcry across the nation. Since that time we, as a court, have had the opportunity to order reconsideration of that decision en banc, yet a majority of the 24 active judges eligible to vote has decided not to do so. While there are, no doubt, varied and plausible reasons why this result occurred, I respectfully conclude that our court has made a serious mistake and thus must dissent from its order denying reconsideration.

I

While I cannot say that a randomly selected 11-judge panel would have ruled differently, I believe that neither the June 2002 version, *Newdow* v. *United States Congress*, 292 F.3d 597 (9th Cir. 2002) ("*Newdow* I"), nor today's slightly revised version, ___ F.3d ___ ("*Newdow II*") to essentially the same effect, is defensible. We should have reheard *Newdow I* en banc, not because it was controversial, but because it was wrong, very wrong—wrong because reciting the Pledge of Allegiance is simply not "a religious act" as the two-judge majority asserts, wrong as a matter of Supreme Court precedent properly understood, wrong because it set up a direct conflict with the law of another circuit,

REV_00164786

and wrong as a matter of common sense.[1] We should have given 11 judges a chance to determine whether the two-judge majority opinion truly reflects the law of the Ninth Circuit.[2] Reciting the Pledge of Allegiance cannot possibly be an "establishment of religion" under *any* reasonable interpretation of the Constitution.[3]

Perhaps in an effort to avoid ultimate Supreme Court review, *Newdow II* which replaces it, avoids expressly reaching the technical question of the constitutionality of the 1954 Act. Fundamentally, however, the amended decision is every bit as bold as its predecessor. It bans

---

[1] Judge Reinhardt's protestations to the contrary notwithstanding, I, too, believe that "[o]ur judicial charge is to stand above the inflamed passions of the public." *Dazo* v. *Globe Airport Sec. Serv.*, 295 F.3d 934, 943 (9th Cir. 2002) (O'Scannlain, J., concurring and dissenting). My disagreement with the panel majority has nothing to do with bending to the will of an outraged populace, and everything to do with the fact that Judge Goodwin and Judge Reinhardt misinterpret the Constitution and 40 years of Supreme Court precedent. That most people understand this makes the decision no less wrong. It doesn't take an Article III judge to recognize that the voluntary recitation of the Pledge of Allegiance in public school does not violate the First Amendment.

[2] This case presents the classic situation required for our court to rehear a case en banc. En banc consideration would have allowed us to correct the error of a prior panel's decision with respect to the Pledge *and* resolve a constitutional question of exceptional importance that affects the lives of millions of school children who reside within the geographical boundaries of the Ninth Circuit. *See* Fed. R. App. P. 35(a). The exceptional importance of this case reinforces the need for correction of the panel's mistaken view of our Constitution.

[3] U.S. Const. Amend. I. ("Congress shall make no law respecting an *establishment of religion,* or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.") (emphasis added).

REV_00164787

the voluntary recitation of the Pledge of Allegiance in the public schools of the nine western states thereby directly affecting over 9.6 million students,[4] necessarily *implies* that both an Act of Congress[5] and a California law[6] are unconstitutional, clearly conflicts with the Seventh Circuit's decision in *Sherman* v. *Cmty. Consol. Sch. Dist. 21 of Wheeling Township*, 980 F.2d 437 (1992), and threatens cash-strapped school districts and underpaid teachers with the specter of civil actions for money damages pursuant to 42 U.S.C. § 1983.

Newdow I, the subject of our en banc vote, no longer exists; it was withdrawn after the en banc call failed. The panel majority has evolved to this extent: in *Newdow I* the Pledge was unconstitutional for everybody; in *Newdow II* the Pledge is only unconstitutional for public school children and teachers. The remainder of this dissent is directed entirely to *Newdow II*, which, as shall be demonstrated, differs little from *Newdow I* in its central holding. With grim insistence, the majority in *Newdow II* continues to stand by its original error—that voluntary recitation of the Pledge of Alle-

---

[4] *See* U.S. Dep't of Ed., Nat'l Ctr. for Ed. Statistics, available at http://nces.ed.gov/pubs2002/snf_report/table_01_1.asp. The approximate figure is for the school year 2000-01, comprising the states of Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon and Washington,

[5] 4 U.S.C. § 4 ("The Pledge of Allegiance to the Flag: 'I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.' ").

[6] Cal. Educ. Code § 52720. This section provides that "at the beginning of the first regularly scheduled class or activity period . . . there shall be conducted appropriate patriotic exercises. The giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy the requirements of this section."

REV_00164788

giance in public school violates the Establishment Clause because, according to the two-judge panel majority, it is "a religious act." *Newdow II*, ___ F.3d at ___. Common sense would seem to dictate otherwise, as the public and political reaction should by now have made clear. If reciting the Pledge is truly "a religious act" in violation of the Establishment Clause, then so is the recitation of the Constitution[7] itself, the Declaration of Independence,[8] the Gettysburg Address,[9] the National Motto,[10] or the singing of the National Anthem.[11] Such an assertion would make hypocrites out of the Founders, and would have the effect of

---

[7] U.S. Const. Art. VII. ("Year of *our Lord*") (emphasis added).

[8] The Declaration of Independence contains multiple references to God. The founders claimed the right to "dissolve the political bands" based on "the Laws of Nature and of *Nature's God*." The most famous passage, of course, is that "all men are created equal, that they are endowed by *their Creator* with certain unalienable Rights." Subsequently, the signatories "appeal[ ] to the *Supreme Judge of the world* to rectify their intentions."

[9] On November 19, 1863, President Lincoln declared "that this Nation, *under God*, shall have a new birth of freedom—and that Government of the people, by the people, for the people, shall not perish from the earth."

[10] *See* 36 U.S.C. § 302. (" '*In God* we trust' is the national motto.") (emphasis added).

[11] *See* 36 U.S.C. § 301(a) ("The composition consisting of the words and music known as the Star-Spangled Banner is the national anthem."). In fact, the Anthem is much more explicitly religious in content than the Pledge, and much more than a 'mere' profession of the *composer's* faith in a Supreme Being, as the majority would have it. *See Newdow II*, ___ F.3d at ___. Consider the following passage from the fourth stanza: "Blest with victory and peace, may the *heaven-rescued* land, Praise *the Power* that hath made and preserved us a nation. Then conquer we must, when our cause is just, And this be our motto: '*In God* is our trust.' "(emphasis added).

REV_00164789

driving any and all references to our religious heritage out of our schools, and eventually out of our public life.

II

The *Newdow II* majority's primary legal argument is that the Supreme Court's decision in *Lee* v. *Weisman*, 505 U.S. 577 (1992), a school prayer case, controls the outcome of this case. In fact, rather than merely following *Lee* and its predecessors, the two-judge panel majority makes a radical departure from *Lee* and the cases it purports to apply. To understand why this is so, an examination of the Supreme Court's school prayer decisions which culminate in *Lee* is in order.

A

1

The fountainhead of all school prayer cases is *Engel* v. *Vitale*, 370 U.S. 421 (1962). In *Engel* the Court considered a school policy whereby children were directed to say aloud a prayer composed by state officials. The Court found that this practice was inconsistent with the Establishment Clause, reasoning that "[the] program of daily classroom invocation of God's blessings as prescribed in the Regents' prayer is a religious activity. It is a solemn avowal of divine faith and supplication for the blessings of the Almighty. The nature of such a prayer has always been religious." *Id.* at 424-25. The Court concluded by stating that the state should leave prayer, "that purely religious function, to the people themselves." *Id.* at 435. In a footnote, it reasoned as follows:

> There is of course nothing in the decision reached here that is inconsistent with the fact that school children and others are officially encouraged to

REV_00164790

> express love for our country by reciting historical documents such as the Declaration of Independence which contain references to the Deity or by singing officially espoused anthems which include the composer's professions of faith in a Supreme Being, or with the fact that there are many manifestations in our public life of belief in God. Such patriotic or ceremonial occasions bear no true resemblance to the unquestioned religious exercise that the State of New York has sponsored in this instance.

Id. at 435 n.21. The Court drew an explicit distinction between patriotic invocations of God on the one hand, and prayer, an "unquestioned religious exercise," on the other. Concurring, Justice Douglas wrote that the narrow question presented was whether the state "oversteps the bounds when it finances a religious exercise." *Id.* at 439 (Douglas, J., concurring). Justice Douglas noted that the Pledge of Allegiance, "like . . . prayer, recognizes the existence of a Supreme Being." *Id.* at 440 n.5. However, he noted that the House Report recommending the addition of the words "under God" to the Pledge stated that those words "in no way run contrary to the First Amendment but recognize 'only the guidance of God in our national affairs.'" *Id.* (quoting H.R. Rep. No. 1693, 83d Cong., 2d Sess., p. 3).

2

The following year, the Supreme Court decided *Abington School Dist.* v. *Schempp*, 374 U.S. 203 (1963). In that case, the Court considered the constitutionality of a Pennsylvania statute requiring that "[a]t least ten verses from the Holy Bible shall be read, without comment, at the opening of each public school on each school day." *Id.* at 205. The practice in public schools

REV_00164791

was for a teacher or student volunteer to read the required Bible verses each morning. This in turn was followed by a recitation of the Lord's prayer. Finally, the class would recite the Pledge of Allegiance to the Flag. *Id.* at 207-08. The Court struck down the Bible reading and the practice of reciting the Lord's prayer as a state prescribed "religious ceremony," *id.* at 223, but said nothing about the practice of reciting the Pledge.

As in *Engel*, the Court took pains to point to the character of the exercises it found wanting. The Court reasoned that "reading . . . the verses . . . possesses a devotional and religious character and constitutes in effect a religious observance. The devotional and religious nature of the morning exercises is made all the more apparent by the fact that the Bible reading is followed immediately by a recital in unison by the pupils of the Lord's prayer." *Id.* at 210. "The pervading religious character of the ceremony," wrote Justice Clark, "cannot be gainsaid," and led to the conclusion that the exercises violated the Establishment Clause. *Id.* at 224.

The concurring opinions in *Schempp* were all to the same effect. Justice Douglas agreed with the majority's conclusion that the practices at issue violated the Establishment Clause because "the State is conducting a religious exercise." *Id.* at 229 (Douglas, J., concurring). In a lengthy concurrence, Justice Brennan wrote that "[t]he religious nature of the exercises here challenged seems plain." *Id.* at 266 (Brennan, J., concurring). After surveying the history of devotional exercises in American public schools, Justice Brennan stated that "the panorama of history permits no other conclusion than that daily prayers and Bible readings in

REV_00164792

the public schools have always been designed to be, and have been regarded as, essentially religious exercises." *Id.* at 277-78. For Justice Brennan, "religious exercises in the public schools present a unique problem" but "not every involvement of religion in public life violates the Establishment Clause." *Id.* at 294. He warned that "[a]ny attempt to impose rigid limits upon the mention of God . . . in the classroom would be fraught with dangers." *Id.* at 301. Specifically, he wrote that "[t]he reference to divinity in the revised pledge of allegiance . . . may merely recognize the historical fact that our Nation was believed to have been founded 'under God.' Thus reciting the pledge may be no more of a religious exercise than the reading aloud of Lincoln's Gettysburg Address, which contains an allusion to the same historical fact." *Id.* at 304.

Justice Goldberg also wrote separately, stating that "the clearly religious practices presented in these cases are . . . wholly compelling." *Id.* at 305 (Goldberg, J., concurring). He reasoned that "[t]he pervasive religiosity and direct governmental involvement inhering in the prescription of prayer and Bible reading in the public schools . . . cannot realistically be termed simply accommodation." *Id.* at 307. Like Justice Brennan, Justice Goldberg cautioned that the decision "does not mean that all incidents of government which import of the religious are therefore and without more banned by the strictures of the Establishment Clause." *Id.* at 307-08. He then quoted in full the passage from *Engel* which drew a distinction between patriotic invocations of God, and unquestioned religious exercises that give rise to Establishment Clause violations. *Id.*

REV_00164793

3

The next case in this line is *Wallace* v. *Jaffree*, 472 U.S. 38 (1985). That case considered the constitutionality of an Alabama statute authorizing a 1-minute period of silence in public schools "for meditation or voluntary prayer." *Id.* at 40. The Court found that "[t]he wholly religious character" of the challenged law was "plainly evident from its text." *Id.* at 58. The legislature's one and only purpose in enacting the law was "to return prayer to the public schools." *Id.* at 59-60. Justice Powell's separate concurrence was "prompted by Alabama's persistence in attempting to institute state-sponsored prayer in the public schools." *Id.* at 62 (Powell, J., concurring). Justice O'Connor wrote separately to suggest that moment-of-silence statutes were not "a religious exercise," and therefore were constitutional. *Id.* at 72 (O'Connor, J., concurring). Justice O'Connor wrote further that "the words 'under God' in the Pledge . . . serve as an acknowledgment of religion with 'the legitimate secular purposes of solemnizing public occasions, [and] expressing confidence in the future.'" *Id.* at 78 n.5 (quoting *Lynch* v. *Donnelly*, 465 U.S. 668, 693 (O'Connor, J., concurring)) (alterations in original). In contrast, the Alabama statute at issue was very different from the Pledge—the state had "intentionally crossed the line [by] affirmatively endorsing the particular religious practice of prayer." *Id.* at 84.

4

Finally, there is the Supreme Court's decision in *Lee* v. *Weisman*. The issue presented was "whether including clerical members who offer prayers as part of the official school graduation ceremony" is consistent

REV_00164794

with the Establishment Clause. 505 U.S. at 580. The graduating students entered as a group in a processional, after which "the students stood for the Pledge of Allegiance and remained standing during the rabbi's prayers." *Id.* at 583. Justice Kennedy wrote that "the significance of the prayers lies . . . at the heart of [the] case." *Id.* He framed the inquiry as follows:

> These dominant facts mark and control the confines of our decision: State officials direct the performance of a formal religious exercise at promotional and graduation ceremonies for secondary schools. Even for those students who object to the religious exercise their attendance and participation in the state-sponsored religious activity are in a fair and real sense obligatory, though the school district does not require attendance as a condition for receipt of the diploma.

Id. at 586.

The Court in *Lee* concluded that *Engel* and its progeny controlled the outcome, writing that "[c]onducting this formal religious observance conflicts with settled rules pertaining to prayer exercises for students." *Id.* at 587. As in *Engel*, *Schempp*, and *Wallace*, the crucial factor was the nature of the exercise in which the students were asked to participate. Time and again the Court went out of its way to stress the nature of the exercise, writing that prayer was "an overt religious exercise," *id.* at 588, and that "prayer exercises in public schools carry a particular risk of indirect coercion." *Id.* at 592. The practice was unconstitutional because "the State has in every practical sense compelled attendance and participation in an explicit re-

REV_00164795

ligious exercise at an event of singular importance to every student." *Id.* at 598. Just like the decisions in *Engel* and *Schempp*, the Court in *Lee* took pains to stress the confines of its holding, concluding that "[w]e do not hold that every state action implicating religion is invalid if one or a few citizens find it offensive," *id.* at 597, and that "[a] relentless and all-pervasive attempt to exclude religion from every aspect of public life could itself become inconsistent with the Constitution." *Id.* at 598.

B

Two fundamental principles may therefore be derived from the school prayer cases culminating in *Lee*.

1

Formal religious observances are prohibited in public schools because of the danger that they may effect an establishment of religion. *See Engel*, 370 U.S. at 424-25 ("[D]aily classroom invocation of God's blessings . . . is a religious activity."); *Schempp*, 374 U.S. at 210 (Bible reading followed by the Lord's prayer "possesses a devotional and religious character and constitutes in effect a religious observance."); *Wallace*, 472 U.S. at 58 (Prayer is of a "wholly religious character."); *Lee*, 505 U.S. at 586 (Prayer written by state officials constitutes a "formal religious exercise"). In each of these cases, the Court took pains to stress that not every reference to God in public schools was prohibited. *See Engel*, 370 U.S. at 435 n.21 ("patriotic or ceremonial occasions" which contain "references to the Deity" bear "no true resemblance to the unquestioned religious exercise" of prayer); *Schempp*, 374 U.S. at 301 (Brennan, J., concurring) ("Any attempt to impose rigid limits upon the

REV_00164796

mention of God . . . in the classroom would be fraught with dangers."); *Wallace*, 472 U.S. at 78 n.5 (O'Connor, J., concurring) ("the words 'under God' in the Pledge" are not unconstitutional); *Lee*, 505 U.S. at 598 ("A relentless and all-pervasive attempt to exclude religion . . . could itself become inconsistent with the Constitution.").

2

Once it is established that the state is sanctioning a formal religious exercise, then the fact that the students are not *required* to participate in the formal devotional exercises does not prevent those exercises from being unconstitutional. *See Engel*, 370 U.S. at 431 ("[T]he indirect coercive pressure upon religious minorities to conform" to the prayer exercises "is plain."); *Schempp*, 374 U.S. at 210-11 ("The fact that some pupils, or theoretically all pupils, might be excused from attendance at the exercises does not mitigate the obligatory nature of the ceremony."); *Wallace*, 472 U.S. at 57 (State-sanctioned *voluntary* prayer in public schools violates Establishment Clause); *Lee*, 505 U.S. at 592 ("[P]rayer exercises in public schools carry a particular risk of indirect coercion."). To be sure, *Lee* is the Court's most elaborate pronouncement with respect to indirect coercion. It identifies the circumstances in which indirect coercion may be said to be unconstitutional: when the government directs "the performance of a formal religious exercise" in such a way as to oblige the participation of objectors. *Lee*, 505 U.S. at 586.

III

No court, state or federal, has *ever* held, even now, that the Supreme Court's school prayer cases apply

REV_00164797

outside a context of state-sanctioned formal religious observances. But *Newdow II* finesses all that, and the sleight of hand the majority uses becomes immediately apparent: obfuscate the nature of the exercise at issue and emphasize indirect coercion. The panel majority simply ignores, because they are inconvenient, the "dominant and controlling facts" in *Lee* and its predecessors: that Establishment Clause violations in public schools are triggered only when "State officials direct the performance of a *formal religious exercis*e." 505 U.S. at 586 (emphasis added); *see also Schempp*, 374 U.S. at 210 ("devotional . . . religious observance" prohibited); *Wallace*, 472 U.S. at 58 (activities of a "wholly religious character" prohibited).

A

To avoid a flagrant inconsistency with *Lee*, and with 40 years of Supreme Court precedent, the two-judge panel majority must first examine whether the act of pledging allegiance is "a religious act." As the Seventh Circuit in *Sherman* framed it, "Does 'under God' make the Pledge a prayer, whose recitation violates the establishment clause of the first amendment?" 980 F.2d at 445. That court answered the question in the negative; the *Newdow II* majority, in conclusory fashion, simply *assumes* the affirmative. ___ F.3d at ___ ("[W]e conclude that the school district policy impermissibly coerces *a religious act*.") (emphasis added).

This assertion belies common sense. Most assuredly, to pledge allegiance to flag and country is a *patriotic* act. After the public and political reaction last summer, it is difficult to believe that anyone can continue to think otherwise. The fact the Pledge is infused with an undoubtedly religious reference does not change the

REV_00164798

nature of the act itself. The California statute under which the school district promulgated its policy is entitled "[d]aily performance of *patriotic exercises* in public schools." Cal. Educ. Code § 52720 (emphasis added). The Pledge is recited not just in schools but also at various official events and public ceremonies, including perhaps the most patriotic of occasions—naturalization ceremonies. Generally, the Pledge is recited while standing, facing a United States flag, with the right hand held over the heart, much like the National Anthem. *See* 4 U.S.C. § 4 (articulating proper procedure for reciting Pledge); 36 U.S.C. § 301 (during anthem "all present . . . should stand at attention facing the flag with the right hand over the heart."). Whatever one thinks of the normative values underlying the Pledge, they are unquestionably patriotic in nature. Indeed, it is precisely because of the Pledge's explicitly patriotic nature that in 1943 the Supreme Court ruled that no one is *required* to Pledge allegiance against their will. *West Virginia* v. *Barnette*, 319 U.S. 624, 642 (1943).

In contrast, to pray is to speak directly to God, with bowed head, on bended knee, or some other reverent disposition. It is a solemn and humble approach to the divine in order to give thanks, to petition, to praise, to supplicate, or to ask for guidance. Communal prayer, by definition, is an even more forceful and profound experience for those present. Little wonder that the Supreme Court has recognized the "unique problem" and "particular risk" posed by school prayer to non-participating students. *Lee*, 505 U.S. at 592 ("[P]rayer exercises in public schools carry a particular risk of indirect coercion."); *Schempp*, 374 U.S. at 294 (Brennan,

REV_00164799

J., concurring) (noting that prayers in public schools "present a unique problem").

Not only does the panel majority's conclusion that pledging allegiance is "a religious act" defy common sense, it contradicts our 200-year history and tradition of patriotic references to God. The Supreme Court has insisted that interpretations of the Establishment Clause must comport "with what history reveals was the contemporaneous understanding of its guarantees." *Lynch*, 465 U.S. at 673; *see also Schempp*, 374 U.S. at 294 ("[T]he line we must draw between the permissible and the impermissible is one which accords with history and faithfully reflects the understanding of the Founding Fathers.") (Brennan, J., concurring).

The majority's unpersuasive and problematic disclaimers notwithstanding, *Newdow II* precipitates a "war with our national tradition," *McCollum* v. *Bd. of Ed.*, 333 U.S. 203, 211 (1948), and as Judge Fernandez so eloquently points out in dissent, only the purest exercise in sophistry could save multiple references to our religious heritage in our national life from *Newdow II*'s axe. Of course, the Constitution itself explicitly mentions God, as does the Declaration of Independence, the document which marked us as a separate people. The Gettysburg Address, inconveniently for the majority, contains the *same precise phrase*—"under God"—found to constitute an Establishment Clause violation in the Pledge.[12] After *Newdow II*, are we to suppose that, were a school to permit—not require—the recitation of the Constitution, the Declaration of Independence, or the Gettysburg Address in public schools, that too would violate the Constitution? Were

---

[12] *See infra* footnote 9.

REV_00164800

the "founders of the United States . . . unable to understand their own handiwork[?]" *Sherman*, 980 F.2d at 445. Indeed, the recitation of the Declaration of Independence would seem to be the better candidate for the chopping block than the Pledge, since the Pledge does not require anyone to acknowledge the *personal* relationship with God to which the Declaration speaks.[13] So too with our National Anthem and our National Motto.

Our national celebration of Thanksgiving dates back to President Washington, which Congress stated was "to be observed by acknowledgment with grateful hearts, the many and signal favours of Almighty God." *Lynch*, 465 U.S. at 675 n.2. Congress made Thanksgiving a permanent holiday in 1941,[14] and Christmas has been a national holiday since 1894.[15] Are pere [*sic*] Newdow's constitutional rights violated when his daughter is told not to attend school on Thanksgiving? On Christmas day? Must school outings to federal courts be prohibited, lest the children be unduly influenced by the dreaded intonation "God save these United States and this honorable Court"?[16] A theory of the Establishment Clause that would have the effect of driving out of our public life the multiple references to

---

[13] *See infra* footnote 8.

[14] *See* 5 U.S.C. § 6103(a).

[15] *See id.*

[16] Indeed, even our own court's formal announcement to open sessions contains the offending word: "Hear ye! hear ye! All persons having business with the honorable, the United States Court of Appeals for the Ninth Circuit will now draw near, give your attention and you will be heard, for this court is now in session. *God save* these United States and this honorable Court." (emphasis added).

REV_00164801

the Divine that run through our laws, our rituals, and our ceremonies is no theory at all.

B

As if all of this were not enough, the Supreme Court has gone out of its way to make it plain that the Pledge itself passes constitutional muster. In two of the school prayer cases, the Court noted without so much as a hint of disapproval the fact that the students, in addition to being subject to formal religious observances, *also* recited the Pledge of Allegiance. *See Schempp*, 374 U.S. at 207-08 (noting that the practice in public schools consisted of Bible reading and recitation of the Lord's prayer, followed by recitation of the Pledge); *Lee*, 505 U.S. at 583 (noting that "the students stood for the Pledge of Allegiance and remained standing during the rabbi's prayers.").

Several other Supreme Court cases contain explicit references to the constitutionality of the Pledge. *See Engel*, 370 U.S. at 440 n.5 (Douglas, J., concurring) ("[The Pledge] in no way run[s] contrary to the First Amendment") (quoting H.R. Rep. No. 1693, 83d Cong., 2d Sess., p. 3); *Schempp*, 374 U.S. at 304 (Brennan, J., concurring) ("[R]eciting the pledge may be no more of a religious exercise than the reading aloud of Lincolns' Gettysburg Address."); *Wallace*, 472 U.S. at 78 n.5 (O'Connor, J., concurring) ("[T]he words 'under God' in the Pledge . . . serve as an acknowledgment of religion."); *Co. of Allegheny* v. *ACLU*, 492 U.S. 573, 602-03 (Blackmun, J., for the court) ("Our previous opinions have considered in dicta . . . the pledge, characterizing [it] as consistent with the proposition that government may not communicate an endorsement of religious belief."); *Lynch* v. *Donnelly*, 465 U.S. 668,

REV_00164802

676 (1984) (Burger, C.J., for the court) ("Other examples of reference to our religious heritage are found . . . in the language 'One nation under God,' as part of the Pledge of Allegiance to the American flag. That pledge is recited by many thousands of public school children—and adults—every year.").

The panel majority's answer to these myriad statements from our high court is summarily to dismiss them as dicta. However, "dicta of the Supreme Court have a weight that is greater than ordinary judicial dicta as prophecy of what that Court might hold. We should not blandly shrug them off because they were not a holding." *Zal* v. *Steppe*, 968 F.2d 924, 935 (9th Cir. 1992) (Noonan, J., concurring and dissenting in part); *see also United States* v. *Baird*, 85 F.3d 450, 453 (9th Cir. 1996) ("[W]e treat Supreme Court dicta with due deference.").[17]

---

[17] Other courts have, unremarkably enough, not been so flippant when it comes to considering consistent Supreme Court dicta on this issue. *See Sherman*, 980 F.2d at 448 ("[A]n inferior court had best respect what the majority says rather than read between the lines. If the Court proclaims that a practice is consistent with the establishment clause, we take its assurances seriously. If the Justices are just pulling our leg, let them say so."); *Gaylor* v. *United States*, 74 F.3d 214, 217 (10th Cir. 1996) ("[T]his court considers itself bound by Supreme Court dicta almost as firmly as by the Court's outright holdings, particularly when the dicta is recent and not enfeebled by later statements."); *ACLU* v. *Capital Square Review*, 243 F.3d 289, 301 n.10 (6th Cir. 2001) ("We should . . . be amazed if the Supreme Court were now to question the constitutionality of the [revised Pledge]"). Indeed, the unanimity on this point relative to *Newdow II* is striking.

REV_00164803

C

The *Newdow II* majority, then, finds itself caught between a rock and a hard place—the recitation of the Pledge is not a formal religious act, while patriotic invocations of God do not give rise to Establishment Clause violations. It nonetheless manages to skirt these obstacles to reach its indirect coercion analysis. *Newdow II*'s conclusory foray into the social sciences is a case study, an advertisement, for why it is that the Supreme Court has anchored coercion analysis only to those situations where "formal religious exercises" take place in our public schools. The panel majority seeks to protect dissenters at the risk of courting some unpopularity, but this is not the test. "[O]ffense alone does not in every case show a violation . . . . and sometimes to endure social isolation or even anger may be the price of conscience or nonconformity." *Lee*, 505 U.S. at 597-98. The *Newdow II* majority's expansive application of the coercion test is ill-suited to a society as diverse as ours, since almost *every* cultural practice is bound to offend *someone's* sensibilities. In affording Michael Newdow the right to impose his views on others, *Newdow II* affords him a right to be fastidiously intolerant and self-indulgent. In granting him this supposed right, moreover, the two-judge panel majority has not eliminated feelings of discomfort and isolation, it has simply shifted them from one group to another.

Newdow II's psychological ipse dixit is also delivered without reference or regard to our collective experience in the half-century since the passage of the offending statute. In that time, generations of Americans have grown up reciting the Pledge, religious tolerance and diversity has flourished in this country, and we have become a beacon for other nations in this regard. As

REV_00164804

Judge Fernandez observes, "it is difficult to detect any signs of incipient theocracy springing up since the Pledge was amended in 1954." *Newdow II* ___ F.3d at ___ n.4 (Fernandez, J., dissenting).

IV

In fairness to the *Newdow II* panel majority, its professed "neutrality" does have some plausible basis in the case law of the Supreme Court, which has undoubtedly constructed a "fractured and incoherent doctrinal path" in the Establishment Clause area, broadly speaking. *Sep. of Church and State Comm.* v. *City of Eugene*, 93 F.3d 617, 622 (9th Cir. 1996) (O'Scannlain, J., concurring). Indeed, its Establishment Clause cases sometimes "more closely resemble ad hoc Delphic pronouncements than models of guiding legal principles." *Ingebretsen* v. *Jackson Pub. Sch. Dist.*, 88 F.3d 274, 282 (5th Cir. 1996) (Jones, J., dissenting from denial of rehearing en banc). Supreme Court Justices themselves have recognized that if some of its reasoning "were to be applied logically, it would lead to the elimination" of many cherished, long-standing practices. *Co. of Allegheny*, 492 U.S. at 674 n.10 (Kennedy, J., dissenting).

With respect to the issue presented in *this* case, however, the Supreme Court has displayed remarkable consistency—patriotic invocations of God simply have no tendency to establish a state religion. Even Justice Brennan, that most stalwart of separationists, recognized that *some* official acknowledgment of God is appropriate "if the government is not to adopt a stilted indifference to the religious life of the people." *Lynch*, 465 U.S. at 714 (Brennan, J., dissenting). The decision reached in *Newdow II* does precisely that: it adopts a

REV_00164805

stilted indifference to our past and present realities as a predominantly religious people.

But *Newdow II* goes further, and confers a favored status on atheism in our public life. In a society with a pervasive public sector, our public schools are a most important means for transmitting ideas and values to future generations. The silence the majority commands is *not* neutral—it itself conveys a powerful message, and creates a distorted impression about the place of religion in our national life. The absolute prohibition on any mention of God in our schools creates a bias *against* religion. The panel majority cannot credibly advance the notion that *Newdow II* is neutral with respect to belief versus non-belief; it affirmatively favors the latter to the former. One wonders, then, does atheism become the default religion protected by the Establishment Clause?

In short, a lack of clarity in the Supreme Court's Establishment Clause cases generally does not help to explain or to justify the panel majority's decision with respect to *this* particular issue. Put simply, the panel was asked to decide whether the recitation of the Pledge of Allegiance in public schools amounted to a government establishment of religion. The answer to that question is clearly, obviously, no. We made a grave error in failing to take *Newdow I* en banc, and we have failed to correct that error ourselves. Now we have *Newdow II*. Perhaps the Supreme Court will have the opportunity to correct the error for us. I must respectfully dissent from the order denying reconsideration en banc.

REV_00164806

McKEOWN, Circuit Judge, with whom HAWKINS, THOMAS, and RAWLINSON, Circuit Judges, join, dissenting from the denial of rehearing en banc:

The recitation of the Pledge of Allegiance by school children presents a constitutional question of exceptional importance that merits reconsideration by the en banc court. *See* Fed. R. App. P. 35(a)(2) (en banc hearing appropriate when "the proceeding involves a question of exceptional importance"). Although not every case of exceptional importance can or should be reheard en banc, this is a case that should be reheard. I respectfully dissent from the court's decision to deny rehearing en banc.

REV_00164807

APPENDIX D

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 00-16423

MICHAEL A. NEWDOW, PLAINTIFF-APPELLANT

v.

U.S. CONGRESS; UNITED STATES OF AMERICA; GEORGE W. BUSH,* PRESIDENT OF THE UNITED STATES; STATE OF CALIFORNIA; ELK GROVE UNIFIED SCHOOL DISTRICT; DAVID W. GORDON, SUPERINTENDENT EGUSD; SACRAMENTO CITY UNIFIED SCHOOL DISTRICT; JIM SWEENEY, SUPERINTENDENT SCUSD, DEFENDANTS-APPELLEES

Dec. 4, 2002

ORDER

Before: GOODWIN, REINHARDT and FERNANDEZ, Circuit Judges.

Order by Judge GOODWIN; Concurrence by Judge FERNANDEZ.

GOODWIN, Circuit Judge.

After we issued our June 26, 2002 opinion in this case, Sandra Banning, the mother of Michael Newdow's

---

* George W. Bush is substituted for his predecessor, William Jefferson Clinton, as President of the United States. Fed. R. App. P. 43(c)(2).

REV_00164808

daughter, filed a motion for leave to intervene, in order to, *inter alia*, challenge Newdow's standing to maintain this action. Banning attached to her motion as an exhibit a copy of a February 6, 2002 California Superior Court custody order. That order awarded Banning "sole legal custody" of the child. We have carefully reconsidered the question of Newdow's Article III standing in light of this custody order and affirm our holding that he has standing as a parent to continue to pursue his claim in federal court.

I. FACTUAL AND PROCEDURAL BACKGROUND

When this case first reached us from the district court, no legal custody question or order had been disclosed to the federal courts. Newdow had alleged in the district court that he was the father, and had custody of the minor child. The record now indicates that Newdow and Banning formed a family consisting of an unmarried man, an unmarried woman, and their biological minor child, who lived together part of the time and lived in separate homes in Florida and California, from time to time, with informal visiting arrangements. This informal arrangement apparently was not subject to any custody order until February 6, 2002, after Newdow had appealed from the dismissal of the action he had commenced in federal district court to challenge on Establishment Clause grounds the practice of reciting the pledge of allegiance in the public elementary school his child attends.

On February 6, the California Superior Court entered an order containing the following language:

> The child's mother, Ms. Banning, to have *sole* legal custody as to the rights and responsibilities to make decisions relating to the health, education and

REV_00164809

> welfare of [the child]. Specifically, both parents shall consult with one another on substantial decisions relating to non-emergency major medical care, dental, optometry, psychological and educational needs of [the child]. If mutual agreement is not reached in the above, then Ms. Banning may exercise legal control of [the child] that is not specifically prohibited or inconsistent with the physical custody order. The father shall have access to all of [the child's] school and medical records.

Thereafter, Newdow, alleging "changed circumstances," filed a motion in the Superior Court for a modification of the custody order, seeking, *inter alia*, joint legal custody with Banning of their child.

On September 25, 2002, the Superior Court (Judge Mize) entered an *in personam* order enjoining Newdow from pleading his daughter as an unnamed party or representing her as a "next friend" in this lawsuit. The United States promptly filed a motion, which we have granted, to enlarge the record to include the state court transcript of the September 25 hearing before Judge Mize. That transcript contemplates a full trial in the future on Newdow's motion for modification of the February 6 custody order.

Judge Mize appropriately reserved to this court, however, the question of Newdow's Article III standing in federal court. Newdow no longer claims to represent his child, but asserts that he retains standing in his own right as a parent to challenge alleged unconstitutional state action affecting his child while she attends public school in the Elk Grove Unified School District (EGUSD).

REV_00164810

II. DISCUSSION

Our original opinion in this case holds that a parent has Article III standing to challenge on Establishment Clause grounds state action affecting his child in public school. *See Newdow* v. *U.S. Congress*, 292 F.3d 597, 602 (9th Cir. 2002) (citing *Doe* v. *Madison Sch. Dist. No. 321*, 177 F.3d 789, 795 (9th Cir. 1999) (en banc) and *Grove* v. *Mead Sch. Dist. No. 354*, 753 F.2d 1528, 1532 (9th Cir. 1985)). Banning's motion for leave to intervene presents a question of first impression in this Circuit which we are required to consider, even though raised for the first time on appeal. *See United States* v. *Viltrakis*, 108 F.3d 1159, 1160 (9th Cir. 1997) ("[T]he jurisdictional issue of standing can be raised at any time."). Does the grant of sole legal custody to Banning deprive Newdow, as a noncustodial parent, of Article III standing to object to unconstitutional government action affecting his child?

A Seventh Circuit decision, *Navin* v. *Park Ridge School District 64*, 270 F.3d 1147 (7th Cir. 2001) (per curiam), addresses a noncustodial parent's standing to challenge a school's educational plan for his disabled child under the Individuals with Disabilities Education Act (IDEA). Though not controlling, the Seventh Circuit's reasoning in *Navin* illustrates a useful method of analysis for the standing question presented here. The divorce decree in that case had granted the mother sole legal custody of her son. The Illinois Marriage and Dissolution of Marriage Act provided that the legal custodian may determine, absent an agreement by the parties to the contrary, "the child's uprising, including but not limited to, his education, health care and religious training." *See* 750 IL CH § 5/608(a). Contending that tutoring for his dyslexic son was being provided by

REV_00164811

a "crossing guard supervisor with no skill (or at least no certification) in educating dyslexic youths," the father in *Navin* had asked for an administrative hearing under the IDEA and filed suit in federal court when the hearing officer terminated the proceeding without addressing the merits. 270 F.3d at 1148. The district court dismissed the father's suit, holding that as a noncustodial parent, he had no standing to challenge action affecting his child in school. *Id.*

The Seventh Circuit held, however, that noncustodial parents do not automatically lack standing under the IDEA. *Id.* at 1149. Instead, the court of appeals explained that whether the noncustodial father in *Navin* had standing depended on the parental rights granted or reserved to him in the divorce decree in light of the mother's assertion of her rights so granted or reserved:

> If the decree had wiped out all of [the noncustodial father's] parental rights, it would have left him with no claim under the IDEA. But this is not what the divorce decree does. The district court did not analyze its language, but it is in the record and shows that [the noncustodial father] retains some important rights, including the opportunity to be informed about and remain involved in the education of his son. If [the father and mother] disagree about educational decisions, then [the mother's] view prevails—unless under state law the school district's view prevails over *either* parent's wishes, and in that event [the father's] rights under the decree to influence the school's choices are even more important.

270 F.3d at 1149-1150 (internal citations omitted) (emphasis in original). Accordingly, the Seventh Circuit

REV_00164812

remanded the case to the district court, instructing it to "decide whether [the father's] claims [were] incompatible, *not* with the divorce decree itself, but with [the mother's] use of her rights under the decree." *Navin*, 270 F.3d at 1149-1150 (emphasis in original).

Navin's general approach to the problem of noncustodial parental standing is sound. We hold that a noncustodial parent, who retains some parental rights, may have standing to maintain a federal lawsuit to the extent that his assertion of retained parental rights under state law is not legally incompatible with the custodial parent's assertion of rights. This holding assumes, of course, that the noncustodial parent can establish an injury in fact that is fairly traceable to the challenged action, and it is likely that the injury will be redressed by a favorable decision. *See Friends of the Earth* v. *Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 180-81, 120 S. Ct. 693, 145 L. Ed. 2d 610 (2000). Having already held that Newdow satisfies those Article III requirements, *see Newdow*, 292 F.3d at 603-05, we now turn to the question of whether he retains standing despite Banning's opposition as sole legal custodian to his maintaining this lawsuit.[1]

The February 6 custody order governing Banning's and Newdow's respective parental decision-making power remains operative and plainly does not strip Newdow of all of his parental rights. Rather, that order establishes that Newdow retains rights with respect to his daughter's education and general welfare. He has

---

[1] It is unclear to us exactly what relief Banning seeks. In her motion papers, at times Banning appears to object only to Newdow's appearance as "next friend" of their daughter. At other places, she also seems to object to Newdow's standing in his own right.

REV_00164813

the right to consult with Banning regarding substantial non-emergency decisions (with Banning having ultimate decision-making power), as well as the right to inspect his daughter's school and medical records regardless of Banning's position.

California state courts have recognized that noncustodial parents maintain the right to expose and educate their children to their individual religious views, even if those religious views contradict those of the custodial parent or offend her.[2] *See Murga* v. *Petersen*, 103 Cal. App.3d 498, 163 Cal. Rptr. 79 (1980). As the *Murga* court noted, it was following the "*majority of American jurisdictions*" in refusing to place restraints on a noncustodial parent who wished to expose his children to his particular religious views, absent a clear, affirmative showing that these religious activities would be harmful to the children. *Id.* at 504-05, 163 Cal. Rptr. 79 (emphasis added). The principle of nonintervention, the court noted, "reflects the protected nature of religious activities and expressions of belief, as well as the proscription against preferring one religion over another." *Id.* at 505, 163 Cal. Rptr. 79. It is not only the court that must not interfere; even more so, the state and federal government may not seek to indoctrinate the child with their religious views, particularly over the objection of *either* parent.

Murga was the basis for a later California state court decision, *In re Mentry*, 142 Cal. App.3d 260, 190 Cal. Rptr. 843 (1983), that reversed a restraining order against a noncustodial father that forbade him from

---

[2] As the Supreme Court has acknowledged, recognized religions exist that do not teach a belief in God, e.g., secular humanism. *Torcaso* v. *Watkins*, 367 U.S. 488, 495 n.11, 81 S. Ct. 1680, 6 L. Ed. 2d 982 (1961).

REV_00164814

engaging his children in any religious activities other than those approved by the custodial mother. The *Mentry* court stated that "the concept of family privacy embodies not simply a policy of *minimum state intervention* but also a presumption of parental autonomy. Many of the purposes served by this presumption become *more important after dissolution* [of the marriage or relationship] than they were before." 142 Cal. App.3d at 268, 190 Cal. Rptr. 843 (emphasis added). The type of "*minimum state* intervention" discussed in *Mentry* surely does not permit official state indoctrination of an impressionable child on a daily basis with an official view of religion contrary to the express wishes of *either* a custodial or noncustodial parent. We conclude that Newdow retains sufficient parental rights to support his standing here.

The next question, then, is whether Banning's status as sole legal custodian empowers her to employ state law to defeat Newdow's standing. "'Sole legal custody' means that one parent shall have the right and the responsibility to make the decisions relating to the health, education, and welfare of a child." Cal. Fam. Code § 3006. Thus, Newdow cannot disrupt Banning's choice of schools for their daughter. And, as Judge Mize's September 25 order makes clear, Newdow cannot name his daughter as a party to a lawsuit against Banning's wishes.

Judge Mize, however, appropriately declined to rule on whether Newdow has standing in his own right as a parent to maintain this case in federal court. We hold that Banning has no power, even as sole legal custodian, to insist that her child be subjected to unconstitutional state action. Newdow's assertion of his retained parental rights in this case, therefore, simply cannot be

REV_00164815

legally incompatible with any power Banning may hold pursuant to the custody order. Further, Ms. Banning may not consent to unconstitutional government action in derogation of Newdow's rights or waive Newdow's right to enforce his constitutional interests. Neither Banning's personal opinion regarding the Constitution nor her state court award of legal custody is determinative of Newdow's legal rights to protect *his own* interests.

When school teachers lead a recitation of the Pledge of Allegiance according to school district policy, they present a message by *the state* endorsing not just religion generally, but a monotheistic religion organized "under God." While Newdow cannot expect the entire community surrounding his daughter to participate in, let alone agree with, his choice of atheism and his daughter's exposure to his views, he can expect to be free from the government's endorsing a particular view of religion and unconstitutionally indoctrinating his impressionable young daughter on a daily basis in that official view. The pledge to a nation "under God," with its imprimatur of governmental sanction, provides the message to Newdow's young daughter not only that non-believers, or believers in non-Judeo-Christian religions, are outsiders, but more specifically that her *father's* beliefs are those of an outsider, and necessarily inferior to what she is exposed to in the classroom. Just as the foundational principle of the Freedom of Speech Clause in the First Amendment tolerates unpopular and even despised ideas, *see Cohen* v. *California*, 403 U.S. 15, 91 S. Ct. 1780, 29 L. Ed. 2d 284 (1971), so does the principle underlying the Establishment Clause pro-

REV_00164816

tect unpopular and despised minorities from government sponsored religious orthodoxy tied to government services. *See Santa Fe Independent Sch. Dist.* v. *Doe*, 530 U.S. 290, 120 S. Ct. 2266, 147 L. Ed. 2d 295 (2000); *Lee* v. *Weisman*, 505 U.S. 577, 112 S. Ct. 2649, 120 L. Ed. 2d 467 (1992). Accordingly, we affirm Newdow's standing to challenge on Establishment Clause grounds the EGUSD's practice of requiring his daughter to attend daily recitations of the 1954 version of the Pledge of Allegiance.

Banning's motion for leave to intervene is DENIED because she has no protectable interest at stake in this action.

FERNANDEZ, Circuit Judge, concurring:

I concur in the order, but write separately to emphasize that in this order we decide that Newdow's legal status under California law vis-à-vis his daughter does not deprive him of standing. Despite the order's allusions to the merits of the controversy, we decide nothing but that narrow standing issue.[1] Leastwise, I join nothing other than the narrow decision that the orders of the California courts have not deprived Newdow of standing.

---

[1] For my view on the merits question, see *Newdow* v. *U.S. Congress*, 292 F.3d 597, 612-15 (9th Cir. 2002) (Fernandez, J., concurring and dissenting.)

REV_00164817

APPENDIX E

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 00-16423

MICHAEL A. NEWDOW, PLAINTIFF-APPELLANT

v.

U.S. CONGRESS; UNITED STATES OF AMERICA; GEORGE W. BUSH, PRESIDENT OF THE UNITED STATES; STATE OF CALIFORNIA; ELK GROVE UNIFIED SCHOOL DISTRICT; DAVID W. GORDON, SUPERINTENDENT EGUSD; SACRAMENTO CITY UNIFIED SCHOOL DISTRICT; JIM SWEENEY, SUPERINTENDENT SCUSD, DEFENDANTS-APPELLEES

Dec. 4, 2002

ORDER

Before: GOODWIN, REINHARDT and FERNANDEZ, Circuit Judges.

FERNANDEZ, Circuit Judge.

Once we ruled on the merits of this case,[1] the United States Senate sought to intervene as a party and in that capacity to file a petition for rehearing and a petition for rehearing en banc. We deny the Motion to Intervene, but note our willingness to accept the petition and accompanying brief as an amicus brief, if the Senate

[1] *Newdow* v. *U.S. Congress*, 292 F.3d 597 (9th Cir. 2002).

REV_00164818

consents to the latter use of its filing. Because of the respect that we owe to and have for the Senate, we are constrained to explain the reasons for our denial of intervention.

Initially, of course, we lay aside the usual intervention rule. *See* Fed. R. Civ. P. 24(a)(2). This case is more in line with Fed. R. Civ. P. 24(a)(1), which allows intervention as of right "when a statute of the United States confers an unconditional right to intervene." There is a special statute that applies to this motion. As relevant here, the statute first provides that the Senate Legal Counsel shall intervene or appear as amicus "when directed to do so by a resolution adopted by the Senate." 2 U.S.C. § 288b(c). There was a resolution here. *See* Senate Resolution 292, 107th Cong., 2d Sess. (2002), 148 Cong. Rec. S6105-06 (2002). The statute goes on to provide that Counsel shall intervene upon appropriate direction when "the powers and responsibilities of Congress under the Constitution of the United States are placed in issue," but should only do so if there is standing. *See* 2 U.S.C. § 288e(a). It then states:

> Permission to intervene as a party or to appear as amicus curiae under § 288e of this title shall be of right and may be denied by a court only upon an express finding that such intervention or appearance is untimely and would significantly delay the pending action or that standing to intervene has not been established under section 2 of article III of the Constitution of the United States.

2 U.S.C. § 288*l* (a).

Because the Senate waited until we had already ruled on the merits of this case on appeal, it would be

REV_00164819

possible, even accurate, to hold that the attempt to intervene is untimely. However, under the circumstances we are unable to hold that the proposed intervention to seek rehearing or en banc review would "significantly delay" the action. Especially is that true when, as here, some of the current parties to the action have themselves already sought both types of review. We must, therefore, turn our attention to the second exception in § 288*l*(a)—does the Senate have constitutional standing? To put it more precisely: does the Senate have constitutional standing to intervene in every case where the constitutionality of a United States statute is challenged? Because we determine that the answer to that question is no and because there is nothing about the statute at hand that would distinguish it from other statutes, the Senate does not have standing in this case.

Let it first be said that the issue is not whether the United States has standing to appear in support of the constitutionality of the statute in question. Nobody doubts that it does. *See* 28 U.S.C. § 2403(a). In fact, in this case it did appear for "the Congress of the United States; the United States of America; and William J. Clinton, President of the United States."[2] The question is whether the Senate, as a separate part of the government, has standing to intervene to support statutes on its own behalf, and not really as a representative of the United States itself. We need not, and do not,

---

[2] Perhaps it should also be recognized that "the three branches are but 'coordinate parts of one government,'" and in that sense there can be no doubt that the legislature is already represented here anyway. *See United States* v. *Providence Journal Co.*, 485 U.S. 693, 701, 108 S. Ct. 1502, 1507, 99 L. Ed. 2d 785 (1988) (internal citation omitted).

REV_00164820

decide whether Congress could designate the Senate Legal Counsel, upon a separate resolution of the Senate alone, to appear as the defender of all statutes on behalf of the United States itself. A law of that type might well have its own constitutional problems; it might even trench on the prerogatives of the executive branch of the United States, which has the authority to execute the laws of this country. *See* U.S. Const. art. II, § 3. At any rate, that has not occurred here. As already stated, a separate statute confers *that* authority upon the executive branch, and here the Senate seeks to appear to represent itself alone.

As the intervention statute at hand expressly recognizes, the Senate must show that it does have constitutional standing to intervene. That means at the very least that it must show that it has "suffered an 'injury in fact'—an invasion of a legally protected interest which is . . . concrete and particularized." *Lujan* v. *Defenders of Wildlife*, 504 U.S. 555, 560, 112 S. Ct. 2130, 2136, 119 L. Ed.2d 351 (1992); *see also Raines* v. *Byrd*, 521 U.S. 811, 818-20, 117 S. Ct. 2312, 2317-18, 138 L. Ed. 2d 849 (1997). That concrete and particularized harm is lacking in this case because no harm beyond frustration of a general desire to see the law enforced as written has been shown here.

In so stating, we are aware that there have been a number of cases wherein Senate intervention has been allowed without any particular remark or detailed consideration. *See, e.g., INS* v. *Chadha*, 462 U.S. 919, 930 n.5, 103 S. Ct. 2764, 2773 n.5, 77 L. Ed. 2d 317 (1983); *Lear Siegler, Inc., Energy Prod. Div.* v. *Lehman*, 893 F.2d 205, 206 (9th Cir. 1990) (en banc); *In re Benny*, 812 F.2d 1133, 1135 (9th Cir. 1987); *see also Bowsher* v. *Synar*, 478 U.S. 714, 106 S. Ct. 3181, 92 L.

REV_00164821

Ed. 2d 583 (1986). But those cases are not really apposite because they were of a character that directly (particularly) implicated the authority of Congress within our scheme of government, and the scope and reach of its ability to allocate power among the three branches. Thus, *Chadha*, 462 U.S. at 956-58, 103 S. Ct. at 2787, is a case that dealt with individual houses of Congress assuming the authority to review and veto executive decisions regarding the deportation of aliens. It, thus, implicated separation of powers doctrine and the whole scheme of our government. *Lear Siegler* dealt with whether Congress could allocate to a legislative agent—The Comptroller General—the authority to delay the procurement actions of the executive branch of the government. *See Lear Siegler, Inc., Energy Prod. Div.* v. *Lehman*, 842 F.2d 1102, 1105-06 (9th Cir. 1988), *vacated on other grounds*, *Lear Siegler*, 893 F.2d at 208; *see also Bowsher*, 478 U.S. at 717, 106 S. Ct. at 3183. Finally, in *Benny*, 812 F.2d at 1141-42, the issue was whether Congress had the authority to prospectively extend the term of office of bankruptcy judges. In other words, in each of these cases the courts were dealing with a statute addressing legislative action regarding allocation of authority within the government, as opposed to action applying that authority to the behavior of the citizenry in general. The issues were the kind that intimately affected Congress's own place within our constitutional scheme.

More closely on point are cases which speak to the standing of legislators to bring actions, where their institutional power as members of the legislature is not being challenged. In *Raines*, 521 U.S. at 814-16, 117 S. Ct. at 2315-16, for example, a number of members of the Senate and House of Representatives sued pursuant to

REV_00164822

a provision of the Line Item Veto Act which declared that any member of Congress could challenge the Act. *See*, 2 U.S.C. § 692(a)(1). The Court declared that they had "alleged no injury to themselves as individuals . . ., the institutional injury they allege is wholly abstract and widely dispersed . . ., and their attempt to litigate this dispute at this time and in this form is contrary to historical experience." *Id.* at 829, 117 S. Ct. at 2322. The Court did point out that they did not actually represent their separate houses of Congress and those houses actually opposed them, but did not indicate precisely how that affected their standing.[3] *Id.* The Court distinguished an earlier case wherein state legislators were accorded standing because their votes would have been deprived of all validity if an allegedly improper person were able to vote. *See Coleman* v. *Miller*, 307 U.S. 433, 438, 59 S.Ct. 972, 975, 83 L. Ed. 1385 (1939). Thus, at least as to individual legislators, there is no standing unless their own institutional position, as opposed to their position as a member of the body politic, is affected.

The District of Columbia Circuit has followed the same approach. In 1977, a congressman sued the director of the Central Intelligence Agency partly on the basis that when that agency misused its budget, his vote as a congressman was impaired. *See Harrington* v. *Bush*, 553 F.2d 190, 204 (D.C. Cir. 1977). The court found that he lacked standing, and that a contrary rule would amount to giving him "a roving commission to obtain judicial relief under most circumstances." *Id.* at

---

[3] Of course, the Line Item Veto Act dealt with the allocation of power between the legislative and executive branches. *See* 2 U.S.C. §§ 691-692. However, the Senate was content to appear as *amicus curiae*. *Raines*, 521 U.S. at 813 n.*, 117 S. Ct. 2312.

REV_00164823

214. Along the way, the court noted that "his specific rights, interests and prerogatives lie in the power to make laws. As we have noted, this power has not been invaded, diminished, diluted, or injured by the challenged actions in this case." *Id.* at 213. A like result was reached when a member of Congress sued to prevent alleged misuse of federal funds by a national commission. *See Hansen* v. *Nat'l Comm'n. on the Observance of Int'l Women's Year*, 628 F.2d 533 (9th Cir. 1980). We said: "The injury alleged by appellant is an injury which he suffers along with all other citizens of the United States. He has not presented any facts which show he has sustained or is imminently in danger of sustaining an actual personal injury." *Id.* at 534. Thus, he had no standing. *Id.* And, when faced with a claim by congressmen that the military was using its budget to finance combat in other countries, despite laws prohibiting that, the Fourth Circuit had this to say: "Once a bill has become law, however, their interest is indistinguishable from that of any other citizen. They cannot claim dilution of their legislative voting power because the legislation they favored became law." *Harrington* v. *Schlesinger*, 528 F.2d 455, 459 (4th Cir. 1975). The court was no more impressed with the claim that their legislative duties would somehow be affected. *See id.* Other cases have sounded the same note. *See, e.g., Baird* v. *Norton*, 266 F.3d 408, 411-12 (6th Cir. 2001); *Chenoweth* v. *Clinton*, 181 F.3d 112, 112-13, 117 (D.C. Cir. 1999), *cert. denied*, 529 U.S. 1012, 120 S. Ct. 1286, 146 L. Ed. 2d 233 (2000); *Daughtrey* v. *Carter*, 584 F.2d 1050, 1057-58 (D.C. Cir. 1978); *Metcalf* v. *Nat'l Petroleum Council*, 553 F.2d 176, 187-89 (D.C. Cir. 1977).

REV_00164824

These observations also apply to the Senate as a whole, when it seeks to have a roving commission to enter every case involving the constitutionality of statutes it has enacted. In those instances, its own "powers and responsibilities" are not really under attack. Once the Senate has approved a proposed bill, the House of Representatives agrees, and the President has signed the measure, it becomes public law. A public law, after enactment, is not the Senate's any more than it is the law of any other citizen or group of citizens in the United States. It is a law of the United States of America, and the government is already represented in this case by the Attorney General. Of course, every time a statute is not followed or is declared unconstitutional, the votes of legislators are mooted and the power of the legislature is circumscribed in a sense, but that is no more than a facet of the generalized harm that occurs to the government as a whole. By the same token, the President's signing of the legislation is also nullified, judges, who might have felt otherwise, are bound by the decision, and citizens who relied upon or desired to have the law enforced are disappointed.[4] Moreover, if the separate houses of Congress have standing, a challenger of a law would have to contend with fighting the United States itself, and separately defending himself against the Senate and the House of

[4] All of this is underscored by the Senate's suggestion that it should have standing because it opens its daily sessions with the Pledge of Allegiance. That, of course, is an assertion that could be made by countless other organizations, governmental and otherwise, not to mention thousands of United States citizens.

REV_00164825

Representatives, each of which would be able to appear as a separate litigating party in the case.[5]

Therefore, the motion of the Senate to intervene is DENIED. However, if the Senate wishes to have us deem its proposed brief to be an amicus brief and to consider it on that basis, we will do that. It should inform us of its desire in that regard within 30 days after the filing of this order.

---

[5] In principle, he might also have to separately contend against the President, whose ability to effectively sign the law in question can be said to have been affected. We see little other than mischief arising from a system of intervention as unregulated as that. Constitutional standing doctrine is the apotropaion for that threatened malady. It must be applied here.

REV_00164826

APPENDIX F

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 00-16423

MICHAEL A. NEWDOW, PLAINTIFF-APPELLANT

v.

U.S. CONGRESS; UNITED STATES OF AMERICA; GEORGE W. BUSH,* PRESIDENT OF THE UNITED STATES; STATE OF CALIFORNIA; ELK GROVE, UNIFIED SCHOOL DISTRICT; DAVID W. GORDON, SUPERINTENDENT EGUSD; SACRAMENTO CITY UNIFIED SCHOOL DISTRICT; JIM SWEENEY, SUPERINTENDENT SCUSD, DEFENDANTS-APPELLEES

Dec. 4, 2002

ORDER

Before: GOODWIN, REINHARDT and FERNANDEZ, Circuit Judges.

Sandra Banning's motion for leave to intervene is DENIED.

The State of California's purported appearance in this appeal is rejected, and its purported petition for

* George W. Bush is substituted for his predecessor, William Jefferson Clinton, as President of the United States. Fed. R. App. P. 43(c)(2).

REV_00164827

rehearing with suggestion for rehearing en banc, filed July 25, 2002, is ORDERED STRICKEN.

Newdow's motion for judicial notice is DENIED.

Newdow's motion for sanctions against Banning's attorneys is DENIED.

Sandra Banning's application for leave to file sur-response to Newdow's motion for sanctions IS DENIED.

Newdow's motion to file response to federal and state defendants' supplemental briefs is DENIED.

REV_00164828

APPENDIX G

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CIV S-00-0495 MLS PAN PS

REV. DR. MICHAEL A. NEWDOW, PLAINTIFF

v.

THE CONGRESS OF THE UNITED STATES, ET AL., DEFENDANTS

[Filed July 21, 2000]

ORDER

This matter was referred to the Honorable Peter A. Nowinski, United States Magistrate Judge, pursuant to 28 U.S.C. §§ 636, et seq., and Local Rule 72-302. On May 25, 2000, Judge Nowinski recommended that plaintiff's complaint be dismissed. Plaintiff has filed objections to the findings and recommendation.

The court has reviewed the file and finds the findings and recommendation to be supported by the record and by the magistrate judge's analysis. Accordingly, IT IS HEREBY ORDERED that:

1. The Findings and Recommendation filed May 25, 2000, are adopted in full; and

2. Plaintiff's complaint is dismissed.

DATE: July 21, 2000.

/s/ illegible signature
UNITED STATES DISTRICT JUDGE

APPENDIX H

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

CIV S-00-0495 MLS PAN PS

REV. DR. MICHAEL A. NEWDOW, PLAINTIFF

v.

THE CONGRESS OF THE UNITED STATES,
ET AL., DEFENDANTS

[Filed: May 25, 2000]

FINDINGS AND RECOMMENDATION

On March 8, 2000, plaintiff filed a complaint alleging defendants Elk Grove School District and Sacramento City Unified School District violate the Establishment Clause of the First Amendment by requiring teachers [to] lead morning classes in recitation of the pledge of allegiance. Defendant school districts move to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim.

The only federal Court of Appeal directly to address this issue held that schools may lead the pledge of allegiance without violating the First Amendment so long as pupils are not compelled to participate, because the ceremonial reference to God in the pledge does not convey endorsement of particular religious beliefs. *Sherman* v. *Community Consolidated School District*, 980 F.2d 437, 442-448 (11th Cir. 1992). While the

REV_00164830

Supreme Court has not directly addressed the issue, it has noted that its "previous opinions have considered in dicta the motto ['In God We Trust'] and the pledge [of allegiance], characterizing them as consistent with the proposition that government may not communicate an endorsement of religious belief." *County of Allegheny* v. *American Civil Liberties Union*, 492 U.S. 573, 602-03 (1989); *see also id.* at 625 (O'Connor, J., concurring); *Lynch* v. *Donnelly*, 465 U.S. 668, 693 (1984) (O'Connor, J., concurring); *id.* at 716-17 (Brennan, J., dissenting); *School District of Abington Township* v. *Schempp*, 374 U.S. 203, 303 (1963) (Brennan, J., concurring); *Engel* v. *Vitale*, 370 U.S. 421, 449-50 (1962) (Stewart, J., dissenting). Two Courts of Appeal have stated, also in dicta, that the pledge is not an endorsement of religion. *See Chandler* v. *James*, 180 F.3d 1254, 1262 (11th Cir. 1999); *Separation of Church and State Committee* v. *City of Eugene*, 93 F.3d 617, 622 (9th Cir. 1996).

The Seventh Circuit's decision in *Sherman* and the statements in dicta noted above, while not binding on this court, are persuasive and directly on point. Whether the court employs the test set forth in *Lemon* v. *Kurtzman*, 403 U.S. 602, 612-613 (1971), or the more recent endorsement test, *see Allegheny*, *supra*, 492 U.S. at 593-594, the Pledge does not violate the Establishment Clause of the First Amendment. Accordingly, I recommend plaintiff's complaint be dismissed.

Dated: May 25, 2000.

/s/ illegible signature
PETER A. NOWINSKI
United States Magistrate
Judge

REV_00164831

APPENDIX I

CONSTITUTIONAL AND STATUTORY PROVISIONS

1. The First Amendment to the United States Constitution provides:

> Congress shall make no law respecting an establishment of religion; or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

2. Section 4 of Title 4 U.S.C. provides:

Pledge of allegiance to the flag; manner of delivery

The Pledge of Allegiance to the Flag, "I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.", should be rendered by standing at attention facing the flag with the right hand over the heart. When not in uniform men should remove their headdress with their right hand and hold it at the left shoulder, the hand being over the heart. Persons in uniform should remain silent, face the flag, and render the military salute.

REV_00164832

No.

In the Supreme Court of the United States

UNITED STATES OF AMERICA, PETITIONER

v.

MICHAEL A. NEWDOW, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

THEODORE B. OLSON
Solicitor General
Counsel of Record

ROBERT D. MCCALLUM, JR.
Assistant Attorney General

PAUL D. CLEMENT
Deputy Solicitor General

GREGORY G. KATSAS
Deputy Assistant Attorney General

PATRICIA A. MILLETT
Assistant to the Solicitor General

ROBERT M. LOEB
LOWELL V. STURGILL JR.
SUSHMA SONI
Attorneys

Department of Justice
Washington, D.C. 20530-0001
(202) 514-2217

REV_00164833

QUESTIONS PRESENTED

1. Whether the inclusion of the phrase "under God" in the Pledge of Allegiance to the United States Flag violates the Establishment Clause of the First Amendment.

2. Whether a noncustodial parent, who lacks the legal authority to determine his child's education or religious upbringing, has Article III standing to challenge educational practices undertaken by the school in which the custodial parent has chosen to place the child.

REV_00164834

PARTIES TO THE PROCEEDING

The respondents are Michael A. Newdow, who was the plaintiff below, and the Elk Grove Unified School District and its Superintendent, David W. Gordon, who were defendants below. The Complaint also named as defendants the United States Congress, President George W. Bush,* the Sacramento City Unified School District, and its superintendent, Jim Sweeney. All of those defendants were dismissed from the case by the court of appeals. App., *infra*, 5a-8a. The Complaint also named the State of California as a defendant, but the State did not participate in the district court proceedings or in the court of appeals, until the rehearing stage, at which point the court of appeals rejected the State's appearance. *Id.* at 6a. The motions of Sandra Banning, the mother of respondent Newdow's child, and the United States Senate to intervene were denied by the court of appeals. *Id.* at 99a-109a.

---

* The Complaint originally listed President William J. Clinton as a defendant. Pursuant to Federal Rule of Appellate Procedure 43(c)(2), President Bush was substituted as his successor in office.

REV_00164835

TABLE OF CONTENTS

	Page
Opinions below	1
Jurisdiction	2
Constitutional and statutory provisions involved	3
Statement	3
Reasons for granting the petition	13
Conclusion	30

TABLE OF AUTHORITIES

Cases:

Aronow v. *United States*, 432 F.2d 242 (9th Cir. 1970)	24
Bivens v. *Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971)	2
Burge v. *City & County of San Francisco*, 262 P.2d 6 (Cal. 1953)	27
County of Allegheny v. *ACLU*, 492 U.S. 573 (1989)	*passim*
District of Columbia Court of Appeals v. *Feldman*, 460 U.S. 462 (1983)	27
Engel v. *Vitale*, 370 U.S. 421 (1962)	16, 17, 19, 21
FDIC v. *Meyer*, 510 U.S. 471 (1994)	2
Franklin v. *Massachusetts*, 505 U.S. 788 (1992)	7
Ganulin v. *United States*, 71 F. Supp. 2d 824 (S.D. Ohio 1999), aff'd, 238 F.3d 420 (6th Cir. 2000), cert. denied, 532 U.S. 973 (2001)	24
Gaylor v. *United States*, 74 F.3d 214 (10th Cir.), cert. denied, 517 U.S. 1211 (1996)	24
Lee v. *Weisman*, 505 U.S. 577 (1992)	8, 17, 26
Lemon v. *Kurtzman*, 403 U.S. 602 (1971)	8
Local 28 of the Sheet Metal Workers' Int'l Ass'n v. *EEOC*, 478 U.S. 421 (1986)	20
Lynch v. *Donnelly*, 465 U.S. 668 (1984)	*passim*
Marsh v. *Chambers*, 463 U.S. 783 (1983)	16

REV_00164836

Cases—Continued: Page

Michael H. v. *Gerald D.*, 491 U.S. 110 (1989) 27
Navin v. *Park Ridge Sch. Dist.*, 270 F.3d 1147 (7th Cir. 2001) 27, 28
O'Hair v. *Murray*, 588 F.2d 1144 (5th Cir.), cert. denied, 442 U.S. 930 (1979) 24
Opinion of the Justices, 228 A.2d 161 (N.H. 1967) 24
Pierce v. *Society of Sisters*, 268 U.S. 510 (1925) 26, 28
Rooker v. *Fidelity Trust Co.*, 263 U.S. 413 (1923) 27
Santa Fe Indep. Sch. Dist. v. *Doe*, 530 U.S. 290 (2000) 26
Schaffer v. *Clinton*, 240 F.3d 878 (10th Cir.), cert. denied, 534 U.S. 992 (2001) 29
School Dist. of Abington Township v. *Schempp*, 374 U.S. 203 (1963) 7, 15, 16, 18, 21
Seminole Tribe v. *Florida*, 517 U.S. 44 (1996) 19
Sherman v. *Community Consol. Sch. Dist. 21*, 980 F.3d 437 (7th Cir. 1992), cert. denied, 508 U.S. 950 (1993) 7, 9-10, 14, 24
Steel Co. v. *Citizens for a Better Env't*, 523 U.S. 83 (1998) 25, 26
Valley Forge Christian Coll. v. *Americans United for Separation of Church & State, Inc.*, 454 U.S. 464 (1982) 29
Wallace v. *Jaffree*, 472 U.S. 38 (1985) 18, 23
West Virginia State Bd. of Educ. v. *Barnette*, 319 U.S. 624 (1943) 28
Wisconsin v. *Yoder*, 406 U.S. 205 (1972) 26
Wooley v. *Maynard*, 430 U.S. 705 (1977) 28
Zelman v. *Simmons-Harris*, 536 U.S. 639 (2002) 22-23
Zobrest v. *Catalina Foothills Sch. Dist.*, 509 U.S. 1 (1993) 26
Zorach v. *Clauson*, 343 U.S. 306 (1952) 5, 15, 17, 21

REV_00164837

Constitution and statutes:	Page
U.S. Const.:	
Art. I, § 6, Cl. 1 (Speech and Debate Clause)	7
Art. III	11, 26, 29
Amend. I	2, 3
Establishment Clause	*passim*
Free Exercise Clause	6
Act of June 22, 1942, ch. 435, § 7, 56 Stat. 380	3
Act of June 14, 1954, ch. 297, § 7, 68 Stat. 249	3
Act of Nov. 13, 2002, Pub. L. No. 107-293, 116 Stat. 2059	5
Administrative Procedure Act, 5 U.S.C. 552	2
Federal Tort Claims Act:	
28 U.S.C. 1346	2
28 U.S.C. 1402	2
28 U.S.C. 2671 *et seq.*	2
Individuals with Disabilities Education Act, 20 U.S.C. 1415	27
4 U.S.C. 4	3, 21
5 U.S.C. 6103	24
28 U.S.C. 2403(a)	2
31 U.S.C. 324	15
36 U.S.C. 302	15, 23
Cal. Educ. Code § 52720 (West 1989)	5
Miscellaneous:	
H.R. Rep. No. 2047, 77th Cong., 2d Sess. (1942)	3
H.R. Rep. No. 1693, 83d Cong., 2d Sess. (1954)	3, 4, 5
S. Rep. No. 1477, 77th Cong., 2d Sess. (1942)	3
S. Rep. No. 1287, 83d Cong., 2d Sess. (1954)	3-4, 5
U.S. Decl. of Indep., 1 U.S.C. at XLIII	23

REV_00164838

In the Supreme Court of the United States

No.

UNITED STATES OF AMERICA, PETITIONER

v.

MICHAEL A. NEWDOW, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

The Solicitor General, on behalf of the United States of America, respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit in this case.

OPINIONS BELOW

The amended opinion of the court of appeals on rehearing (App., *infra*, 1a-24a) is reported at 321 F.3d 772. The original opinion of the court of appeals (App., *infra*, 25a-58a) is reported at 292 F.3d 597, and the court's subsequent opinion on standing (App., *infra*, 89a-98a) is reported at 313 F.3d 500. The opinion and orders of the court denying intervention (App., *infra*, 99a-109a) are reported at 313 F.3d 495 and 313 F.3d 506. The order of the district court (App., *infra*, 110a), adopting the Findings and Recommendation of

REV_00164839

the magistrate judge that the case be dismissed (App., *infra*, 111a-112a), is unreported.

JURISDICTION

The court of appeals entered its original judgment on June 26, 2002. The court issued an amended opinion on rehearing on February 28, 2003. The court of appeals issued an order staying its mandate on March 4, 2003. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

No federal statute waives the sovereign immunity of the United States of America from a suit for declaratory or injunctive relief under the First Amendment, and thus the jurisdictional basis for respondent Newdow's suit against the United States is unclear.[1] However, the absence of such a waiver is without jurisdictional consequence in this case because the United States could have, and should hereby be deemed to have, intervened as of right in this action against the school district and its superintendent to defend the constitutionality of the Pledge of Allegiance against Newdow's facial and as-applied challenges. See 28 U.S.C. 2403(a).[2]

---

[1] Other than a separate claim against the President in his official capacity, Newdow did not sue an officer or an agency of the United States, so his claim does not appear to fall within the scope of either *Bivens* v. *Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), or the Administrative Procedure Act, 5 U.S.C. 552. Nor is his federal constitutional claim cognizable under the Federal Tort Claims Act, 28 U.S.C. 1346, 1402, 2671 *et seq.* See *FDIC* v. *Meyer*, 510 U.S. 471, 477 (1994).

[2] Newdow's as-applied challenge to the recitation of the Pledge in elementary schools calls into question the federal government's practice under which the nearly 2500 military dependents attending its four schools within the Ninth Circuit are led in a voluntary recitation of the Pledge of Allegiance daily.

REV_00164840

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The First Amendment to the United States Constitution provides, in relevant part, that "Congress shall make no law respecting an establishment of religion. * * *"

Section 4 of Title 4 of the United States Code provides that the Pledge of Allegiance to the United States Flag shall be: "I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all."

STATEMENT

1. In 1942, as part of an overall effort to "codify and emphasize existing rules and customs pertaining to the display and use of the flag of the United States of America," Congress enacted a Pledge of Allegiance to the United States flag. H.R. Rep. No. 2047, 77th Cong., 2d Sess. 1 (1942); S. Rep. No. 1477, 77th Cong., 2d Sess. 1 (1942). As originally enacted, the Pledge of Allegiance read: "I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one Nation indivisible, with liberty and justice for all." Act of June 22, 1942, ch. 435, § 7, 56 Stat. 380.

Twelve years later, Congress amended the Pledge of Allegiance by adding the words "under God" after the word "Nation." Act of June 14, 1954, ch. 297, § 7, 68 Stat. 249. Accordingly, the Pledge now reads: "I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all." 4 U.S.C. 4.

In amending the Pledge, the Committee Reports noted that, "[f]rom the time of our earliest history our peoples and our institutions have reflected the traditional concept that our Nation was founded on a fundamental belief in God." H.R. Rep. No. 1693, 83d Cong., 2d Sess. 2 (1954); see also S.

REV_00164841

Rep. No. 1287, 83d Cong., 2d Sess. 2 (1954) ("Our forefathers recognized and gave voice to the fundamental truth that a government deriving its powers from the consent of the governed must look to God for divine leadership. * * * Throughout our history, the statements of our great national leaders have been filled with references to God."). Both Reports traced the numerous references to God in historical documents central to the founding and preservation of the United States, from the Mayflower Compact to the Declaration of Independence to President Lincoln's Gettysburg Address, the latter having employed the same reference to a "Nation[] under God." H.R. Rep. No. 1693, *supra*, at 2; S. Rep. No. 1287, *supra*, at 2.

The Reports further explained that the amendment would highlight a foundational difference between the United States and Communist nations: "Our American Government is founded on the concept of the individuality and the dignity of the human being" and "[u]nderlying this concept is the belief that the human person is important because he was created by God and endowed by Him with certain inalienable rights which no civil authority may usurp." H.R. Rep. No. 1693, *supra*, at 1-2; see also S. Rep. No. 1287, *supra*, at 2. As amended, the Pledge would thus textually reject the "communis[t]" philosophy "with its attendant subservience of the individual." H.R. Rep. No. 1693, *supra*, at 2; see also S. Rep. No. 1287, *supra*, at 2 ("The spiritual bankruptcy of the Communists is one of our strongest weapons in the struggle for men's minds and this resolution gives us a new means of using that weapon."). The House Report further noted that, through "daily recitation of the pledge in school," "the children of our land * * * will be daily impressed with a true understanding of our way of life and its origins," so that "[a]s they grow and advance in this understanding, they will assume the responsibilities of self-government equipped

REV_00164842

to carry on the traditions that have been given to us." H.R. Rep. No. 1693, *supra*, at 3.

Both the Senate and House Reports expressed the view that, under controlling precedent from this Court, the amendment "is not an act establishing a religion or one interfering with the 'free exercise' of religion." H.R. Rep. No. 1693, *supra*, at 3 (citing *Zorach* v. *Clauson*, 343 U.S. 306 (1952)); see also S. Rep. No. 1287, *supra*, at 2.[3]

2. California law requires that each public elementary school in the State "conduct[] * * * appropriate patriotic exercises" at the beginning of the school day. Cal. Educ. Code § 52720 (West 1989). The law provides that "[t]he giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy the requirements of this section." *Ibid.* In satisfaction of that statutory requirement, respondent Elk Grove Unified School District (Elk Grove) has adopted a policy that directs each of its elementary schools to "recite the pledge of allegiance to the flag once each day." App., *infra*, 27a. No child is compelled to join in reciting the Pledge. *Id.* at 28a.

Respondent Michael Newdow is the noncustodial father of a child enrolled in a public elementary school within the jurisdiction of respondent Elk Grove. App., *infra*, 2a, 90a-91a. In the school that Newdow's daughter attends, the teacher leads the students in reciting the Pledge of Allegiance daily. *Id.* at 3a.

The child's mother has "*sole* legal custody as to the rights and responsibilities to make decisions relating to the health, education and welfare of" the child. App., *infra*, 90a-91a. While Newdow, who was never married to the child's

---

[3] Following the court of appeals' decision in the instant case, Congress reaffirmed the content of the Pledge of Allegiance and Congress's view that the legislation is constitutional. Act of Nov. 13, 2002, Pub. L. No. 107-293, 116 Stat. 2059.

REV_00164843

mother, retains limited visitation rights, the right to access the child's school and medical records, and the right to "consult" on "substantial" decisions pertaining to the child's "educational needs," if the parents disagree, the child's mother "may exercise legal control of" the child as long as it "is not specifically prohibited or inconsistent with the physical custody order." *Id.* at 91a.

In March 2000, Newdow filed suit against the President, the United States Congress, the United States of America, the State of California, and two California school districts and their superintendents, seeking a declaration that the 1954 statute adding the words "under God" to the Pledge is "facially unconstitutional" under the Establishment and Free Exercise Clauses of the First Amendment. Compl. 6, 36; App., *infra*, 4a-5a. He also sought injunctive relief requiring Congress and the President to remove those words from the Pledge and prohibiting California schools from leading students in reciting the Pledge. Compl. 37; App., *infra*, 4a-5a. The Complaint explains that Newdow's child is "an unnamed plaintiff whom he represents as 'next friend.'" Compl. 3. The Complaint asserts that the recitation of the Pledge in his child's school "results in the daily indoctrination of the Elk Grove Unified School District's students—including Plaintiff's daughter—with religious dogma," *id.* at 18-19, and that such actions "infringe[]" upon Newdow's "unrestricted right to inculcate in his daughter— free from governmental interference—the atheistic beliefs he finds persuasive." *Id.* at 20; see also *id.* at 36. The Complaint further asserts that Newdow's "position as the father of a child attending the State's public schools grants him standing in this matter in his own right and on behalf of his daughter." *Id.* at 26.

The district court dismissed the complaint for failure to state a claim, relying on numerous decisions of this Court expressly addressing the Pledge and describing it as con-

REV_00164844

sistent with the Establishment Clause, as well as on a decision of the Seventh Circuit rejecting a similar challenge to the Pledge. App., *infra*, 110a-112a (adopting magistrate judge's Findings and Recommendation, which cites *County of Allegheny* v. *ACLU*, 492 U.S. 573 (1989); *id.* at 625 (O'Connor, J., concurring); *Lynch* v. *Donnelly*, 465 U.S. 668 (1984); *School Dist. of Abington Township* v. *Schempp*, 374 U.S. 203 (1963) (Brennan, J., concurring); *Sherman* v. *Community Consol. Sch. Dist. 21*, 980 F.2d 437 (7th Cir. 1992), cert. denied, 508 U.S. 950 (1993)).

3. a. A divided panel of the Ninth Circuit affirmed in part and reversed in part. App., *infra*, 25a-58a. As an initial matter, all three members of the panel agreed that the President and Congress should be dismissed from the lawsuit, on the grounds that the President is not a proper defendant for challenging the constitutionality of a federal law under *Franklin* v. *Massachusetts*, 505 U.S. 788 (1992) (plurality opinion), and that the Congress cannot be sued under the Speech and Debate Clause, U.S. Const. Art. I, § 6, Cl. 1. See App., *infra*, 29a-30a; *id.* at 53a (Fernandez, J., concurring and dissenting). The court also ruled that Newdow lacked standing to file suit against the Sacramento City Unified School District and its superintendent "because his daughter is not currently a student there." *Id.* at 32a.

The court did conclude, however, that Newdow has standing to challenge Elk Grove's policy of reciting the Pledge "because his daughter is currently enrolled in elementary school" in Elk Grove. App., *infra*, 32a. In addition, a majority of the court concluded that Newdow has standing in his own right to challenge the facial constitutionality of the 1954 Act amending the Pledge because "the mere enactment of a statute may constitute an Establishment Clause violation," *id.* at 33a, and the 1954 Act amounts to a "religious recitation

REV_00164845

policy that interferes with Newdow's right to direct the religious education of his daughter." *Id.* at 37a.[4]

b. Turning to the merits of Newdow's complaint, the majority held that, with the addition of the phrase "under God," the Pledge of Allegiance violates the Establishment Clause. App., *infra*, 37a-42a. The majority began by explaining that this Court has adopted three different tests to analyze Establishment Clause violations (*id.* at 37a)—the three-prong test outlined in *Lemon* v. *Kurtzman*, 403 U.S. 602 (1971); the "endorsement test," *County of Allegheny*, *supra*; and the "coercion" test, *Lee* v. *Weisman*, 505 U.S. 577 (1992)—and that the court of appeals was "free to apply any or all of the three tests, and to invalidate any measure that fails any one of them." App., *infra*, 41a.

The majority held that the 1954 Act and the school district policy failed the "endorsement test" both because the Pledge's reference to God "is a profession of a religious belief, namely, a belief in monotheism" and because it "impermissibly takes a position with respect to the purely religious question of the existence and identity of God." App., *infra*, 41a-42a. The majority further concluded that the 1954 Act and the school district's policy fail the "coercion test" because "the mere fact that a pupil is required to listen every day to the statement 'one nation under God' has a coercive effect." *Id.* at 45a.

Finally, the majority concluded that the Pledge fails the *Lemon* test because it has the purpose of advancing religion. App., *infra*, 46a. In so holding, the majority rejected the United States' argument that the Pledge should be looked at "as a whole," and concluded that the "*sole* purpose" of the 1954 Act was to "advance religion, in order to differentiate

---

[4] The court did not address the constitutionality of the California law requiring patriotic exercises in elementary school classrooms. App., *infra*, 30a-31a.

REV_00164846

the United States from nations under communist rule." *Id.* at 46a-47a. The majority further concluded that Elk Grove's policy ran afoul of the *Lemon* test because it "convey[s] an impermissible message of endorsement to some and disapproval to others of their beliefs regarding the existence of a monotheistic God." *Id.* at 50a.

The majority dismissed in a footnote the numerous statements by this Court and its Members expressly addressing the Pledge and affirming its constitutionality as "dicta" that was announced without "appl[ying] any of the three tests to the Act." App., *infra*, 50a-51a n.12. The majority also expressly disagreed with the analysis and conclusion of the Seventh Circuit in *Sherman*, *supra*, which upheld the Pledge against a similar Establishment Clause challenge. *Ibid.*

c. Judge Fernandez dissented. App., *infra*, 52a-58a. Judge Fernandez first expressed his "serious misgivings" about the majority's conclusion that Newdow had standing to challenge the facial constitutionality of the 1954 Act, but ultimately concluded that the question "makes little difference to the resolution of the First Amendment issue in this case." *Id.* at 53a n.1. With respect to the Establishment Clause challenge, Judge Fernandez explained that "such phrases as 'In God We Trust,' or 'under God' have no tendency to establish a religion in this country or to suppress anyone's exercise, or non-exercise, of religion, except in the fevered eye of persons who most fervently would like to drive all tincture of religion out of the public life of our polity." *Id.* at 55a. Judge Fernandez also noted that this Court has repeatedly indicated that the Pledge's text, as amended, does not violate the Establishment Clause, and he agreed with the Seventh Circuit that the court of appeals should "respect" those assurances: "If the Court proclaims that a practice is consistent with the establishment clause, we take its assurances seriously. If the Justices are just pulling our leg, let them say so." *Ibid.* (quoting *Sherman*,

REV_00164847

980 F.2d at 448). Finally, Judge Fernandez accused the majority of confining itself to legal "elements and tests, while failing to look at the good sense and principles that animated those tests in the first place." *Id.* at 57a; see also *id.* at 57a n.8 (noting that the majority's holding would preclude use of many patriotic songs, such as "God Bless America," "America the Beautiful," "The Star Spangled Banner," and "My Country 'Tis of Thee," in public ceremonial occasions).

d. While the case was pending on the United States' and Elk Grove's petitions for rehearing and rehearing en banc, the mother of Newdow's child notified the court that Newdow lacked legal custody of the child and legal control over the child's educational and religious upbringing. She further advised that, as the custodial parent, she "wish[es] for her child to be able to recite the Pledge at school exactly as it stands." Banning C.A. Mot. to Intervene 10. The United States then filed a motion to enlarge the record and a supplemental brief arguing that Newdow lacks standing to prosecute his challenge to the Pledge on its face or as applied by Elk Grove.

The court of appeals issued a separate decision holding that Newdow has standing to prosecute his constitutional challenge to the Pledge. App., *infra*, 89a-98a. The court concluded that, while Newdow no longer could prosecute the action on behalf of or to vindicate the interests of his child, Newdow continued to have standing in his own right to challenge "unconstitutional government action affecting his child." *Id.* at 92a. The court noted that the custody agreement does not strip Newdow of all of his parental rights, because he retains the "the right to inspect his daughter's school and medical records" and the "right to consult" on educational decisions, albeit with the mother "having ultimate decision-making power." *Id.* at 95a. The court then reasoned that, because California law recognizes a right in

REV_00164848

noncustodial parents to "expose" their children to their beliefs and values, Newdow was injured because state law "surely does not permit official state indoctrination of an impressionable child on a daily basis with an official view of religion contrary to the express wishes of *either* a custodial or noncustodial parent." *Id.* at 96a. The court further reasoned that Newdow has standing because the mother "has no power, even as sole legal custodian, to insist that her child be subjected to unconstitutional state action." *Ibid.* Because the Pledge, in the court's view, "provides the message to Newdow's young daughter" that "her *father's* beliefs are those of an outsider, and necessarily inferior to what she is exposed to in the classroom," the court concluded that Newdow has suffered a legally cognizable injury that provides him with Article III standing. *Id.* at 97a.[5]

4. a. The court issued an amended opinion on rehearing. App., *infra*, 1a-24a. In its amended opinion, the court limited its Establishment Clause holding to the Pledge's use by Elk Grove in its schools. *Id.* at 18a. With respect to Newdow's challenge to the facial constitutionality of the Pledge, the court of appeals vacated the district court's decision in favor of the United States and remanded "for further proceedings consistent with our holding." *Ibid.*

In addition, the court amended its decision to hold only that Elk Grove's policy violated the coercion test, and did not address either the "endorsement test" or the *Lemon* test. App., *infra*, 11a. The panel, however, concluded that the recitation of the Pledge violated the coercion test for the same reasons that the original opinion found a violation of the endorsement test. Compare *id.* at 11a-13a, with *id.* at 41a-43a.

---

[5] Judge Fernandez concurred in the judgment on standing, but not in the majority's "allusions to the merits of the controversy." App., *infra*, 98a.

REV_00164849

The court also elaborated on its rejection of the numerous statements in this Court's opinions affirming the constitutionality of the Pledge and similar official acknowledgments of the Nation's religious heritage. The court assumed that "public officials do not unconstitutionally endorse religion when they recite the Pledge," but that schools nevertheless could not "coerce impressionable young schoolchildren to recite it, or even to stand mute while it is being recited by their classmates." App., *infra*, 15a. The court also purported to distinguish references to God in the Pledge from those in the Declaration of Independence and National Anthem on the ground that the pledge "is a performative statement." *Id.* at 16a; see also *ibid.* ("To pledge allegiance to something is to alter one's moral relationship to it, and not merely to repeat the words of an historical document or anthem.").

Judge Fernandez dissented from the court's Establishment Clause holding for the same reasons discussed in his initial dissenting opinion. App., *infra*, 19a-24a. Judge Fernandez also noted that, although the majority "now formally limits itself to holding that it is unconstitutional to recite the Pledge in public classrooms, its message that something is constitutionally infirm about the Pledge itself abides and remains a clear and present danger to all similar public expressions of reverence." *Id.* at 19a n.1.

b. Judge O'Scannlain, joined by Judges Kleinfeld, Gould, Tallman, Rawlinson, and Clifton, filed a lengthy dissent from the court of appeals' denial of rehearing en banc. App., *infra*, 67a-87a. He described the panel opinion as

> wrong, very wrong—wrong because reciting the Pledge of Allegiance is simply not "a religious act" as the two-judge majority asserts, wrong as a matter of Supreme Court precedent properly understood, wrong because it

REV_00164850

> set up a direct conflict with the law of another circuit, and wrong as a matter of common sense.

Id. at 67a-68a (footnote omitted). Judge O'Scannlain stressed that this Court consistently has distinguished between "patriotic invocations of God on the one hand," and public school "prayer, an 'unquestioned religious exercise.'" *Id.* at 72a. Judge O'Scannlain further noted that, until the panel's decision here, "[n]o court, state or federal, has *ever* held, even now, that the Supreme Court's school prayer cases apply outside a context of state-sanctioned formal religious observances." *Id.* at 78a-79a. Finally, Judge O'Scannlain noted that, while the panel "adopts a stilted indifference to our past and present realities as a predominantly religious people," *id.* at 86a-87a, "the Supreme Court has displayed remarkable consistency—patriotic invocations of God simply have no tendency to establish a state religion," *id.* at 86a.

Judges McKeown, Hawkins, Thomas, and Rawlinson separately dissented from the denial of rehearing en banc on the ground that the case "presents a constitutional question of exceptional importance" that should be heard by the court en banc. App., *infra*, 88a.

REASONS FOR GRANTING THE PETITION

Two decisions of this Court have said without qualification that the Pledge of Allegiance is constitutional. Numerous other opinions, joined in by at least twelve Justices of this Court, have likewise expressly addressed and affirmed the constitutionality of the Pledge of Allegiance notwithstanding its reference to God. No Justice has expressed the view that the Pledge violates the Establishment Clause. The court of appeals, however, dismissed those majority and separate opinions as unconsidered dicta. But a fair reading of this Court's decisions demonstrates that those consistent and oft-repeated statements stand as a fixed lodestar in this Court's

REV_00164851

Establishment Clause jurisprudence that has informed and directed the resolution of a number of the Court's cases. They reflect a point of exceptional unity and consistent agreement among Members of this Court within Establishment Clause jurisprudence. Whatever else the Establishment Clause may prohibit, this Court's precedents make clear that it does not forbid the government from officially acknowledging the religious heritage, foundation, and character of this Nation. That is what the reference to God in the Pledge of Allegiance does. The Pledge is therefore constitutional, as the Seventh Circuit held when confronted with the same Establishment Clause challenge. Because the court of appeals' error is so manifestly contrary to precedent, the Court may wish to consider summary reversal of the decision below.

1. This Court's review is warranted because the court of appeals' holding conflicts with repeated opinions of this Court and of individual Justices consistently explaining that the Pledge of Allegiance, and similar official acknowledgments of the Nation's religious heritage and character, do not violate the Establishment Clause. The holding below is also in direct conflict with the Seventh Circuit's decision in *Sherman* v. *Community Consolidated School District 21*, 980 F.2d 437 (1992), cert. denied, 508 U.S. 950 (1993), which rejected the same Establishment Clause challenge to the Pledge.

a. The court of appeals' decision is irreconcilable with this Court's repeated assurances that the Pledge of Allegiance, with its reference to God, comports with the strictures of the Establishment Clause. In *Lynch* v. *Donnelly*, 465 U.S. 668 (1984), the Court held that a city did not violate the Establishment Clause by including a nativity scene as part of a Christmas display. In upholding the display, the Court reasoned that "[t]here is an unbroken history of official acknowledgment by all three branches of government

REV_00164852

of the role of religion in American life from at least 1789." *Id.* at 674. The Court noted that its own opinions had "asserted pointedly" that "[w]e are a religious people whose institutions presuppose a Supreme Being." *Id.* at 675 (quoting *Zorach* v. *Clauson*, 343 U.S. 306, 313 (1952), and citing *School Dist. of Abington Township* v. *Schempp*, 374 U.S. 203, 213 (1963)). The Court further reasoned that "examples of reference to our religious heritage are found * * * in the language "One nation under God," as part of the Pledge of Allegiance to the American flag," which "is recited by many thousands of public school children—and adults—every year." *Lynch*, 465 U.S. at 676; see also *ibid.* (referring favorably to the National Motto, "In God We Trust," 36 U.S.C. 302, which appears on all United States currency, 31 U.S.C. 324).

Explaining that such official acknowledgments of our Nation's religious heritage do not "establish[] a religion or religious faith, or tend[] to do so," *Lynch*, 465 U.S. at 678, the Court concluded that the City's inclusion of a creche in its Christmas display likewise permissibly "depicts the historical origins of this traditional event long recognized as a National Holiday," *id.* at 680. To hold otherwise, the Court explained, would lead to the conclusion that "a host of other forms of taking official note of Christmas, and of our religious heritage, are equally offensive to the Constitution." *Id.* at 686. "[P]ublic acknowledgment of the [Nation's] religious heritage long officially recognized by the three constitutional branches of government," the Court concluded, render "farfetched" "[a]ny notion that these symbols pose a real danger of establishment of a state church." *Ibid.*

In *County of Allegheny* v. *ACLU*, 492 U.S. 573 (1989), the Court invalidated the display of a creche at a county courthouse, but sustained the inclusion of a menorah as part of a holiday display. In so holding, the Court reaffirmed *Lynch*'s approval of the reference to God in the Pledge, noting that

REV_00164853

all of the Justices in *Lynch* viewed the Pledge as "consistent with the proposition that government may not communicate an endorsement of religious belief." *Id.* at 602-603 (citations omitted). The Court then used the Pledge and the general holiday display approved in *Lynch* as benchmarks for what the Establishment Clause permits, *ibid.* On that basis, the Court concluded that the display of the creche by itself was unconstitutional because, unlike the Pledge, it gave "praise to God in [sectarian] Christian terms." *Id.* at 598; see also *id.* at 603 (finding an "obvious distinction" between the Pledge and the display of the creche).

Furthermore, while not referring specifically to the Pledge of Allegiance, the Court, in *Marsh* v. *Chambers*, 463 U.S. 783 (1983), upheld the historic practice of legislative prayer as "a tolerable acknowledgment of beliefs widely held among the people of this country." *Id.* at 792. In so holding, the Court discussed numerous other examples of constitutionally permissible religious references in official life "that form 'part of the fabric of our society,'" *ibid.*, such as "God save the United States and this Honorable Court," which "occurs at all sessions of this Court," *id.* at 786. The Court also repeated its recognition that "[w]e are a religious people whose institutions presuppose a Supreme Being." *Id.* at 792.

Likewise, in *Abington Township*, *supra*, the Court explained, in the course of invalidating laws requiring Bible-reading in public schools, that "our national life reflects a religious people," and noted the numerous permissible public references to God in historical documents and ceremonial practices, such as oaths ending with "So help me God." 374 U.S. at 213.

Finally, in *Engel* v. *Vitale*, 370 U.S. 421 (1962), in the course of invalidating official school prayers, the Court stressed:

REV_00164854

> There is of course nothing in the decision reached here that is inconsistent with the fact that school children and others are officially encouraged to express love for our country by reciting historical documents such as the Declaration of Independence which contain references to the Deity or by singing officially espoused anthems which include the composer's professions of faith in a Supreme Being, or with the fact that there are many manifestations in our public life of belief in God. Such patriotic or ceremonial occasions bear no true resemblance to the unquestioned religious exercise [official prayer] that the State of New York has sponsored in this instance.

Id. at 435 n.21.

In sum, this Court has repeatedly refused to "press the concept of separation of Church and State to * * * extremes" and to condemn as unconstitutional the "references to the Almighty that run through our laws, our public rituals, [and] our ceremonies." *Zorach*, 343 U.S. at 313.

b. The opinions of individual Justices have cemented as common ground the proposition that the Pledge of Allegiance, and similar acknowledgments of the Nation's religious heritage and character, are constitutionally permissible. See *Lee* v. *Weisman*, 505 U.S. 577, 633-635 (1992) (Scalia, J., dissenting, joined by Rehnquist, C.J., and White & Thomas, JJ.) (noting long historical practice, consistent with the Establishment Clause, of official references to God); *id.* at 638-639 (noting that the Court's invalidation of graduation prayer did not extend to the practice of also saying the Pledge of Allegiance at graduations); *County of Allegheny*, 492 U.S. at 623, 625 (O'Connor, J., concurring) ("government recognition and acknowledgment of the role of religion in the lives of our citizens" serve the "secular purposes of 'solemnizing public occasions, expressing confidence in the future

REV_00164855

and encouraging the recognition of what is worthy of appreciation in society'"; in addition, because of their "history and ubiquity, such government acknowledgments of religion are not understood as conveying an endorsement of particular religious beliefs") (internal quotation marks omitted); *id.* at 657 (Stevens, J., concurring in part and dissenting in part, joined by Brennan & Marshall, JJ.) ("Government policies of * * * acknowledgment, and support for religion are an accepted part of our political and cultural heritage."); *id.* at 674 n.10 (Kennedy, J., concurring in part and dissenting in part, joined by Rehnquist, C.J., and White & Scalia, JJ.) (explaining that the Court "will not proscribe" "the reference to God in the Pledge of Allegiance" and similar acknowledgments of religious culture); *Wallace* v. *Jaffree*, 472 U.S. 38, 78 n.5 (1985) (O'Connor, J., concurring) (same view as in *County of Allegheny*, with specific reference to the Pledge of Allegiance); *id.* at 88 (Burger, C.J., dissenting) (the argument that the Pledge of Allegiance, with its reference to God, violates the Establishment Clause "would of course make a mockery of our decisionmaking in Establishment Clause cases"); *Lynch*, 465 U.S. at 693 (O'Connor, J., concurring) (same view as in *County of Allegheny* with respect to "In God We Trust" and "God save the United States and this honorable court"); *Abington Township*, 374 U.S. at 304 (Brennan, J., concurring) ("The reference to divinity in the revised pledge of allegiance, for example, may merely recognize the historical fact that our Nation was believed to have been founded 'under God.' Thus reciting the pledge may be no more of a religious exercise than the reading aloud of Lincoln's Gettysburg Address, which contains an allusion to the same historical fact."); *id.* at 303 (The Pledge and similar acknowledgments of religion are "interwoven * * * so deeply into the fabric of our civil polity" that their "use may not present that type of involvement which the First Amendment prohibits."); *id.* at

REV_00164856

307-308 (Goldberg, J., concurring, joined by Harlan, J.) ("[T]oday's decision does not mean that all incidents of government which import of the religious are therefore and without more banned by the strictures of the Establishment Clause," citing to divine references in the Declaration of Independence and the National Anthem); *Engel*, 370 U.S. at 449 (Stewart, J., dissenting) (citing as consistent with the Establishment Clause the then recently amended Pledge of Allegiance, the National Motto "In God We Trust," and the National Day of Prayer).

c. The court of appeals dismissed that overwhelming and consistent authority as "dicta" that was "not inconsistent" with its invalidation of the Pledge. App., *infra*, 15a. While the court of appeals is correct that none of those cases involved direct challenges to the Pledge, it fundamentally erred in disregarding this Court's consistent statements validating the Pledge. That is because, "[w]hen an opinion issues for the Court, it is not only the result but also those portions of the opinion necessary to that result by which we are bound." *Seminole Tribe* v. *Florida*, 517 U.S. 44, 67 (1996). The Court's analysis of the Pledge and similar official acknowledgments of religion in *Lynch* and *County of Allegheny* were not "mere *obiter dicta*" that the court of appeals was free to disregard. *Id.* at 66. They were components of the "well-established rationale upon which the Court based the results of its earlier decisions." *Id.* at 66-67. Those references articulated the constitutional baseline for permissible official acknowledgments of religion under the Establishment Clause against which the governmental practices at issue in each of those cases were then measured. Indeed, for decades, the Court and individual Justices "have grounded [their] decisions in the oft-repeated understanding," *id.* at 67,

REV_00164857

that the Pledge of Allegiance, and similar references, are constitutional.[6]

The court of appeals' failure to recognize the analytical import of this Court's past decisions and statements underlies its erroneous conclusion that recitation of the Pledge of Allegiance in schools violates the Establishment Clause. First, in concluding that the Pledge results in unconstitutional coercion, the court of appeals failed to come to grips with this Court's repeated recognition that the Establishment Clause permits such historic, ubiquitous, and ceremonial acknowledgments of our Nation's religious character and heritage. See *Lynch*, 465 U.S. at 675, 677 (concluding that the words "under God" in the Pledge are an "acknowledgment of our religious heritage" similar to the "official references to the value and invocation of Divine guidance in deliberations and pronouncements of the Founding Fathers" that are "replete" in our nation's history). Such references are not reasonably and objectively understood as coercing individuals into silent assent to any particular religious doctrine. Rather, the Pledge is "consistent with the proposition that government may not communicate an endorsement of religious belief," *County of Allegheny*, 492 U.S. at 602-603, because the ceremonial reference to God acknowledges the undeniable historical facts that the Nation was founded by individuals who believed in God, that the Constitution's protection of individual rights and autonomy reflects those religious convictions, and that the Nation

---

[6] See also *County of Allegheny*, 492 U.S. at 668 (Kennedy, J., concurring in part and dissenting in part) ("As a general rule, the principle of *stare decisis* directs us to adhere not only to the holdings of our prior cases, but also to their explications of the governing rules of law."); *Local 28 of the Sheet Metal Workers' Int'l Ass'n* v. *EEOC*, 478 U.S. 421, 490 (1986) (O'Connor, J., concurring) ("Although technically dicta, * * * an important part of the Court's rationale for the result [that] it reache[s] * * * is entitled to greater weight.").

REV_00164858

continues as a matter of demographic and cultural fact to be a predominantly "religious people whose institutions presuppose a Supreme Being." *Zorach*, 343 U.S. at 313.

Second, as Judge O'Scannlain explained in his dissent from the denial of rehearing en banc, App., *infra*, 69a-71a, 79a-83a, the court of appeals' decision proceeds from the faulty premise that the Pledge's acknowledgment of the Nation's religious heritage is the functional equivalent of prayer or a religious act like Bible reading. The decisions of this Court and individual Justices outlined above repeatedly admonish that not every reference to God amounts to impermissible government-endorsed religious exercise, and expressly refer to the Pledge and similar ceremonial references in contradistinction to formal religious exercises like prayer and Bible reading. See, *e.g.*, *Lynch*, *supra*; *Abington Township*, *supra*; *Engel*, *supra*. The Pledge is no more of a coercive religious exercise than the requirement at the opening of federal courts that individuals stand while a court official announces "God save the United States and this honorable Court."

Third, the court of appeals erred in analyzing the phrase "under God" in isolation. In the court's view, pledging allegiance to the phrase "under God" compelled an endorsement of monotheism in the same manner as phrases like "under Jesus," "under Vishnu," or "under Zeus." App., *infra*, 12a. But Congress did not enact a pledge consisting just of the words "under God," and the school district does not lead students in reciting only the phrase "under God." Nor did Congress enact a pledge to God. Individuals pledge allegiance to "the Flag of the United States of America," and "to the Republic for which it stands." 4 U.S.C. 4. The remainder of the Pledge then describes the culture and character of that Republic—a unified Country, composed of individual States yet indivisible as a Nation, founded for the purposes of promoting liberty and justice for all, *and*

REV_00164859

founded by individuals who believed (and populated predominantly by people who continue to believe) that the Nation's character and destiny were rooted in the Divine.

In analyzing only Newdow's discomfiture with the phrase "under God," without considering its larger context, the court of appeals "plainly erred." *Lynch*, 465 U.S. at 680. In *Lynch*, this Court stressed that the Establishment Clause analysis looks at religious symbols and references in context, rather than "focusing almost exclusively on the" religious symbol alone. *Ibid.* The *Lynch* Court accordingly did not ask whether the government's display of a creche—a clearly religious symbol—was permissible. The Court analyzed whether the overall message conveyed by a display that included both that religious and other secular symbols of the Christmas holiday season conveyed a message of endorsement, and concluded that it did not. *Id.* at 680-686. The presence of the creche, the Court concluded, properly "depict[ed] the historical origins of this traditional event," *id.* at 680, and permissibly took "official note of Christmas, and of our religious heritage," *id.* at 686.

Likewise, in *County of Allegheny*, the Court analyzed and upheld the "combined display" during the winter holiday season of a Christmas tree, Liberty sign, and menorah. 492 U.S. at 616. The Court thus looked at the content of the display as a whole, rather than focusing on the presence of the menorah and the religious message that the menorah alone conveys. *Id.* at 616-620.

That Congress added the phrase "under God" to a preexisting Pledge does not change the analysis. The city government in *County of Allegheny* had likewise added the menorah, after the fact, to a preexisting holiday display. *Id.* at 581-582. Yet this Court trained its constitutional analysis on the display as a whole, rather than scrutinizing the message conveyed by each component as it was added seriatim. *Id.* at 616-620 & n.64; see also *Zelman* v. *Simmons-Harris*,

REV_00164860

536 U.S. 639, 655-657 (2002) (noting that the Establishment Clause inquiry must consider all relevant programs, not just the specific program challenged); *id.* at 672-676 (O'Connor, J., concurring) (same); *Wallace*, 472 U.S. at 78 n.5 (O'Connor, J., concurring) (later addition of "under God" to Pledge does not violate the Establishment Clause because it "serve[s] as an acknowledgment of religion with the 'legitimate secular purpose of solemnizing public occasions, [and] expressing confidence in the future'").

The court of appeals attempted to distinguish the Pledge from other references to God in public life on the ground that the Pledge is "a performative statement," rather than simply "a reflection of [an] author's profession of faith." App., *infra*, 16a. As an initial matter, this Court's pronouncements have made no such distinction, consistently grouping the Pledge with the Motto, National Anthem, the Declaration of Independence, and similar public references, some of which frequently involve public performance (*e.g.*, the National Anthem) and some of which do not.

More importantly, the distinction makes no sense. With respect to "impressionable young schoolchildren," *id.* at 15a, there simply is no coherent or discernible "performative" difference between having them say the Pledge, rather than memorize and recite the National Motto ("In God *We Trust*"), 36 U.S.C. 302 (emphasis added), the Declaration of Independence, 1 U.S.C. at XLIII ("We hold these truths to be self-evident, that all men * * * are endowed by their Creator with certain unalienable Rights * * *."), or the Gettysburg Address ("[W]e here highly resolve * * * that this nation, under God, shall have a new birth of freedom."). Indeed, the court of appeals' approach leads to the curious conclusion that the recitation of Bible passages or long-established prayers in public schools, which would require students "merely to repeat the words of an historical document," App., *infra*, 16a, trenches less upon Establishment

REV_00164861

Clause principles than the Pledge's two-word acknowledgment of the Nation's religious heritage. That conclusion cannot be reconciled with this Court's precedent or established analytical principles guiding Establishment Clause jurisprudence.

d. This Court's review is warranted because the Ninth Circuit's decision squarely conflicts with the Seventh Circuit's decision in *Sherman* v. *Community Consolidated School District 21*, *supra*, that the Pledge of Allegiance may constitutionally be recited in public elementary schools. Unlike the court of appeals here, the Seventh Circuit placed significant weight on this Court's repeated approval of the Pledge and similar official acknowledgments of religion, and concluded that the lower federal courts must "take [the Supreme Court's] assurances seriously." 980 F.2d at 448. Indeed, the Ninth Circuit acknowledged that its decision creates an inter-circuit conflict and that the courts' differing decisions were the product of different modes of analyzing Establishment Clause challenges to such official acknowledgments of religion. App., *infra*, 16a-17a. This Court's authoritative resolution of the question is therefore necessary.[7]

---

[7] The Ninth Circuit's decision is also in considerable tension with court of appeals' decisions upholding analogous acknowledgments of the Nation's religious history and character. See *Gaylor* v. *United States*, 74 F.3d 214 (10th Cir.) (upholding against Establishment Clause challenge the National Motto, "In God We Trust," and its imprint on all currency), cert. denied, 517 U.S. 1211 (1996); *O'Hair* v. *Murray*, 588 F.2d 1144 (5th Cir.) (upholding National Motto), cert. denied, 442 U.S. 930 (1979); *Aronow* v. *United States*, 432 F.2d 242 (9th Cir. 1970) (same); *Ganulin* v. *United States*, 71 F. Supp. 2d 824 (S.D. Ohio 1999) (upholding constitutionality of 5 U.S.C. 6103, which makes Christmas Day a paid federal holiday), aff'd, 238 F.3d 420 (6th Cir. 2000), cert. denied, 532 U.S. 973 (2001); *Opinion of the Justices*, 228 A.2d 161 (N.H. 1967) (posting of plaques in all public school classrooms bearing the National Motto, "In God We Trust," would not violate the Establishment Clause).

REV_00164862

e. The question presented is one of great importance. An Act of Congress has been held unconstitutional as applied in one of its most important contexts. See *Lynch*, 465 U.S. at 676; pp. 4-5, *supra*; App., *infra*, 14a & n.7. Furthermore, the impact of the decision below is potentially far-reaching. In addition to the practice at federally operated schools for military dependents, see n.2, *supra*, public schools within each of the 50 States lead students in voluntary recitations of the Pledge of Allegiance, see Idaho C.A. Amicus Curiae Br. 9-13 (citing state laws). It is untenable that a national Pledge of Allegiance to a national flag would have a different content depending on the judicial circuit in which it is uttered. Absent this Court's review, 9.6 million students in nine States (App., *infra*, 69a) will recite an abridged version of the Pledge, while the nearly 37 million students in the rest of the Country will recite the Pledge that Congress enacted. Students in the Ninth Circuit will also learn a different Pledge in school than they recite at other public and private events. The Pledge cannot serve its purpose of unifying and commonly celebrating the national identity unless it is one Pledge with one content for all citizens at all points in their lives. There is no reason to tolerate such disruption and disharmony in the schools of this Nation. The Pledge of Allegiance is constitutional. This Court has repeatedly said so, and federal and state schools have acted in reliance on those assurances. The Ninth Circuit's disregard of this Court's decisions and their underlying analytical principles merits review.

2. The issue of Newdow's standing to bring his constitutional challenge is a necessarily antecedent question that this Court would need to address were it to grant review. See *Steel Co.* v. *Citizens for a Better Env't*, 523 U.S. 83, 94 (1998). Although it is the court of appeals' erroneous ruling on the merits that warrants this Court's review, the court of appeals also committed three errors in concluding that

REV_00164863

Newdow's status as a noncustodial parent did not deprive him of standing to challenge an educational practice at his child's school.[8]

First, and most fundamentally, Newdow has not suffered the invasion of any legally protected interest. A number of this Court's Establishment Clause cases have involved lawsuits by parents challenging practices or policies in public schools. See, *e.g.*, *Santa Fe Indep. Sch. Dist.* v. *Doe*, 530 U.S. 290 (2000); *Zobrest* v. *Catalina Foothills Sch. Dist.*, 509 U.S. 1 (1993); *Lee* v. *Weisman*, 505 U.S. 577 (1992); *Wisconsin* v. *Yoder*, 406 U.S. 205 (1972). In all of those cases, however, the parents had the legal right to sue as next friend to vindicate their children's legal interests and to protect the parents' own constitutional rights to direct and control the religious and educational upbringing of their children, see *Pierce* v. *Society of Sisters*, 268 U.S. 510, 534-535 (1925).

Newdow can assert neither right. He has no legal right to sue as his child's next friend, or otherwise seek to vindicate his child's legal interests, as the court of appeals recognized. App., *infra*, 96a. That prerogative rests exclusively with the mother, who has sole legal custody. *Ibid.* While Newdow retains the right to "consult" with the mother on educational decisions and to have "access" to the child's educational records, *id.* at 91a, Newdow does not allege that Elk Grove's

---

[8] While the standing issue is necessarily antecedent to the merits of the Establishment Clause analysis, see *Steel Co.*, *supra*, this Petition presents the Establishment Clause issue first because the court of appeals' erroneous constitutional judgment clearly merits this Court's review. Whether or not the Ninth Circuit's erroneous standing analysis would independently merit an exercise of this Court' s certiorari jurisdiction, it does not pose a barrier to review in this case. The Ninth Circuit's standing analysis is closely intertwined with its flawed Establishment Clause ruling, and the decision below, which not only erroneously invalidates the Pledge of Allegiance, but did so at the behest of a party without Article III standing, should not be allowed to stand.

REV_00164864

use of the Pledge in its schools interferes with either of those rights. Nor, contrary to the court of appeals' opinion, does Newdow have any right "to direct the religious education of his daughter." *Id.* at 7a. The custody order granted sole control over the child's "health, education and welfare" to the mother. *Id.* at 90a-91a. And the mother has made clear that she "wants her daughter to recite the Pledge as it stands as part of her education," Banning C.A. Mot. to Intervene 10.[9]

Where, as here, the two parents disagree on an educational practice, the decision of the custodial parent controls and Newdow has no right to overturn it. If, as the noncustodial parent, Newdow believes the mother's educational decisions are causing harm to the child, the proper remedy is for him to resort to family court and seek a modification of the custody agreement. He cannot use federal litigation to circumvent that state-law process or to modify a state-law custody judgment. See *District of Columbia Court of Appeals* v. *Feldman*, 460 U.S. 462, 482 (1983); *Rooker* v. *Fidelity Trust Co.*, 263 U.S. 413 (1923).[10]

---

[9] See also *Burge* v. *City & County of San Francisco*, 262 P.2d 6, 12 (Cal. 1953) (status as custodial parent "embrace[s] the sum of parental rights with respect to the rearing of a child, including its care. It includes the right * * * to direct his activities and make decisions regarding his care and control, education, health, and religion."); cf. *Michael H.* v. *Gerald D.*, 491 U.S. 110, 122-129 (1989).

[10] In apparent recognition of that limitation, the United States understands that Newdow has filed a motion in California Superior Court to alter the custody arrangement. That motion remains pending with a hearing date scheduled for July 31, 2003.

The court of appeals relied (App., *infra*, 92a-94a) on the Seventh Circuit's decision in *Navin* v. *Park Ridge School District*, 270 F.3d 1147 (2001) (per curiam), which held that a noncustodial father *might* be able to sue to enforce his son's rights under the Individuals with Disabilities Education Act, 20 U.S.C. 1415. In that case, however, the court concluded that the divorce decree did not strip the father of his parental interest in

REV_00164865

Second, the court of appeals placed weight upon Newdow's residual right, under California law, to "expose" his child to his views. App., *infra*, 95a. But, again, Newdow has not alleged that Elk Grove or the United States has denied him any opportunity to expose his child to his particular viewpoints.

The court of appeals went further, however, and held that Newdow has a right not to have his message to his child interrupted or diluted by the government's educational practices. But, especially when that speech occurs with the consent of the custodial parent, the right of the non-custodial parent to "expose" the child to his views does not entitle that parent to close off all other views. Public schools routinely instruct students about evolution, war, and other matters with which some parents may disagree on religious, political, or moral grounds. What the Constitution protects, in those circumstances, is the parents' right to instill their own views in their children and to place them in a private school that is more consonant with their beliefs. See *Pierce*, *supra*.[11]

The court of appeals further erred in suggesting that Newdow's limited state-law right was somehow enhanced by that court's erroneous conclusion that his Establishment Clause challenge was meritorious. The court repeatedly

---

ensuring the quality of his child's education. 270 F.3d at 1149. The court stressed, moreover, that the noncustodial parent could not use federal law "to upset choices committed to [the mother] by the state court," *id.* at 1150, which is exactly what Newdow's lawsuit attempts to do.

[11] Cf. *West Virginia State Bd. of Educ.* v. *Barnette*, 319 U.S. 624, 630 (1943) (holding only that children whose parents have religious objections to the content of the Pledge have a right not to participate in its recitation in a classroom, where their refusal "does not interfere with or deny rights of others to do so"); *Wooley* v. *Maynard*, 430 U.S. 705, 717 (1977) (the government "may legitimately" "communicate to others an official view as to proper appreciation of history, state pride, and individualism," as long as individuals are not forced to "becom[e] the courier for such message[s]").

REV_00164866

couched Newdow's purported Article III injury in terms of a right not to have his daughter "subjected to *unconstitutional* state action" and "official state indoctrination of * * * an official view of religion." App., *infra*, 96a (emphasis added). See also *id.* at 97a (the mother "may not consent to *unconstitutional* government action in derogation of Newdow's rights") (emphasis added).

That approach, however, confuses the standing inquiry with the ultimate question on the merits. The type of injury that Article III requires must be discernible separate and apart from the ultimate resolution of the case. The plaintiff must identify some action by the opposing party that affects the plaintiff's particularized, individual rights concretely and imminently—regardless of whether that action ultimately is found to be lawful or not. "The requirement of standing 'focuses on the party seeking to get his complaint before a federal court and not on the issues he wishes to have adjudicated." *Valley Forge Christian Coll.* v. *Americans United for Separation of Church & State, Inc.*, 454 U.S. 464, 484 (1982); see also *Schaffer* v. *Clinton*, 240 F.3d 878, 883 (10th Cir.) (denying standing where it "revolves around the asserted unconstitutionality of the [conduct as that] is a statement of [plaintiff's] view of the merits * * * and no more"), cert. denied, 534 U.S. 992 (2001).

Third, even if Newdow possesses some federal right not to have his message of atheism affected by his child's exposure to the Pledge, the court of appeals' limited invalidation of the Pledge in elementary schools does not redress that injury. Newdow's child remains subject to exposure to the Pledge in a wide variety of other assemblies and settings, public or private. In addition, the child's mother could place the child in private school where the official governmental Pledge could be recited daily. Unless the Establishment Clause compels courts to root out every reference to religion in public life, the relief ordered by the court here is incapable of

REV_00164867

inoculating Newdow's message of atheism against any perceived dilution.

CONCLUSION

The petition for a writ of certiorari should be granted. The Court may wish to consider summary reversal of the court of appeals' judgment.

Respectfully submitted.

THEODORE B. OLSON
Solicitor General
ROBERT D. MCCALLUM, JR.
Assistant Attorney General
PAUL D. CLEMENT
Deputy Solicitor General
GREGORY G. KATSAS
Deputy Assistant Attorney General
PATRICIA A. MILLETT
Assistant to the Solicitor General
ROBERT M. LOEB
LOWELL V. STURGILL JR.
SUSHMA SONI
Attorneys

APRIL 2003

REV_00164868

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ashley Snee/WHO/EOP@Exchange@EOP [WHO] <Ashley Snee>
Sent: 4/30/2003 10:58:59 AM
Subject: : Newdow (pledge case) cert petition by United States PDF
Attachments: P_RIE1G003_WHO.TXT_1.pdf; P_RIE1G003_WHO.TXT_2.pdf

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:30-APR-2003 14:58:59.00
SUBJECT:: Newdow (pledge case) cert petition by United States PDF
TO:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_RIE1G003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_RIE1G003_WHO.TXT_2>
```

No.

In the Supreme Court of the United States

UNITED STATES OF AMERICA, PETITIONER

v.

MICHAEL A. NEWDOW, ET AL

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

APPENDIX TO THE PETITION FOR A WRIT OF CERTIORARI

THEODORE B. OLSON
Solicitor General
Counsel of Record

ROBERT D. MCCALLUM, JR.
Assistant Attorney General

PAUL D. CLEMENT
Deputy Solicitor General

PATRICIA A. MILLETT
Assistant to the Solicitor General

ROBERT M. LOEB
LOWELL V. STURGILL
SUSHMA SONI
Attorneys

Department of Justice
Washington, D.C. 20530-0001
(202) 514–2217

REV_00164870

TABLE OF CONTENTS

	Page
Appendix A (court of appeals amended opinion on rehearing, filed: Feb. 28, 2003)	1a
Appendix B (court of appeals original opinion, filed: June 26, 2002)	25a
Appendix C (court of appeals order on rehearing en banc, filed: Feb. 28, 2003)	59a
Appendix D (court of appeals opinion on standing, filed: Dec. 4, 2002)	89a
Appendix E (court of appeals order denying intervention, filed: Dec. 4, 2000)	99a
Appendix F (court of appeals miscellaneous order, filed: Dec. 4, 2000)	108a
Appendix G (district court order, filed: July 21, 2002)	110a
Appendix H (magistrate judge's findings and recommendation, filed: May 25, 2000)	111a
Appendix I (constitutional and statutory provisions)	113a

REV_00164871

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 00-16423
D.C. No. CV 00-00495-MLS/PAN

MICHAEL A. NEWDOW, PLAINTIFF-APPELLANT

v.

U.S. CONGRESS; UNITED STATES OF AMERICA; GEORGE W. BUSH,* PRESIDENT OF THE UNITED STATES; STATE OF CALIFORNIA; ELK GROVE UNIFIED SCHOOL DISTRICT; DAVID W. GORDON, SUPERINTENDENT EGUSD; SACRAMENTO CITY UNIFIED SCHOOL DISTRICT; JIM SWEENEY, SUPERINTENDENT SCUSD, DEFENDANTS-APPELLEES

Appeal from the United States District Court for the Eastern District of California, Milton L. Schwartz, Senior Judge, Presiding

---

Argued and Submitted: March 14, 2002
Filed: June 26, 2002
Amended: February 28, 2003

---

* George W. Bush is substituted for his predecessor, William Jefferson Clinton, as President of the United States. Fed. R. App. P. 43(c)(2).

REV_00164872

AMENDED OPINION AND AMENDED CONCURRENCE/DISSENT

Before: ALFRED T. GOODWIN, STEPHEN REINHARDT and FERDINAND F. FERNANDEZ, Circuit Judges.

Opinion by Judge Goodwin; Partial Concurrence and Partial Dissent by Judge Fernandez

GOODWIN, Circuit Judge:

Michael Newdow appeals pro se a judgment dismissing his challenge to the constitutionality of the words "under God" in the Pledge of Allegiance to the Flag. Newdow argues that the addition of these words by a 1954 federal statute to the previous version of the Pledge of Allegiance (which made no reference to God) and the daily recitation in the classroom of the Pledge of Allegiance, with the added words included, by his daughter's public school teacher are violations of the Establishment Clause of the First Amendment to the United States Constitution.

FACTUAL AND PROCEDURAL BACKGROUND

Newdow is an atheist whose daughter attends public elementary school in the Elk Grove Unified School District ("EGUSD") in California. In accordance with state law and a school district rule, EGUSD teachers begin each school day by leading their students in a recitation of the Pledge of Allegiance ("the Pledge"). The California Education Code requires that public schools begin each school day with "appropriate patriotic exercises" and that "[t]he giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy" this requirement. Cal. Educ. Code § 52720

REV_00164873

(1989) (hereinafter "California statute").[1] To implement the California statute, the school district that Newdow's daughter attends has promulgated a policy that states, in pertinent part: "Each elementary school class [shall] recite the pledge of allegiance to the flag once each day." The classmates of Newdow's daughter in the EGUSD are led by their teacher in reciting the Pledge codified in federal law. On June 22, 1942, Congress first codified the Pledge as "I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one Nation indivisible, with liberty and justice for all." Pub. L. No. 623, Ch. 435, § 7, 56 Stat. 380 (1942) (codified at 36 U.S.C. § 1972). On June 14, 1954, Congress amended Section 1972 to add the words "under God" after the word "Nation." Pub. L. No. 396, Ch. 297, 68 Stat. 249 (1954) ("1954 Act"). The Pledge is currently codified as "I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all." 4 U.S.C. § 4 (1998) (Title 36 was revised and recodified by Pub. L. No. 105-225, § 2(a), 112 Stat. 1494 (1998). Section 172 was abolished, and the Pledge is now found in Title 4.)

---

[1] The relevant portion of California Education Code § 52720 reads:

> In every public elementary school each day during the school year at the beginning of the first regularly scheduled class or activity period at which the majority of the pupils of the school normally begin the schoolday, there shall be conducted appropriate patriotic exercises. The giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy the requirements of this section.

REV_00164874

Newdow does not allege that his daughter's teacher or school district requires his daughter to participate in reciting the Pledge.[2] Rather, he claims that his daughter is injured when she is compelled to "watch and listen as her state-employed teacher in her state-run school leads her classmates in a ritual proclaiming that there is a God, and that our's [sic] is 'one nation under God.'" Newdow's complaint in the district court challenged the constitutionality, under the First Amendment, of the 1954 Act, the California statute, and the school district's policy requiring teachers to lead willing students in recitation of the Pledge. He sought declaratory and injunctive relief, but did not seek damages.

The school districts and their superintendents (collectively, "school district defendants") filed a Federal Rule of Civil Procedure 12(b)(6) motion to dismiss for failure to state a claim. Magistrate Judge Peter A. Nowinski held a hearing at which the school district defendants requested that the court rule only on the constitutionality of the Pledge, and defer any ruling on sovereign immunity. The United States Congress, the United States, and the President of the United States (collectively, "the federal defendants") joined in the motion to dismiss filed by the school district defendants. The magistrate judge reported findings and a

---

[2] Compelling students to recite the Pledge was held to be a First Amendment violation in *West Virginia State Board of Education* v. *Barnette*, 319 U.S. 624, 642 (1943) ("[T]he action of the local authorities in compelling the flag salute and pledge transcends constitutional limitations on their power and invades the sphere of intellect and spirit which it is the purpose of the First Amendment to our Constitution to reserve from all official control."). *Barnette* was decided before the 1954 Act added the words "under God" to the Pledge.

REV_00164875

recommendation that the district court hold that the daily Pledge ceremony in the schools did not violate the Establishment Clause. District Judge Edward J. Schwartz approved the recommendation and entered a judgment of dismissal. This appeal followed.

DISCUSSION

A. Jurisdiction

Newdow asks the district court to order the President of the United States ("the President") to "alter, modify or repeal" the Pledge by removing the words "under God"; and to order the United States Congress ("Congress") "immediately to act to remove the words 'under God' from the Pledge." The President, however, is not an appropriate defendant in an action challenging the constitutionality of a federal statute. *See Franklin* v. *Massachusetts*, 505 U.S. 788, 802-03 (1992) (plurality) (observing that a court of the United States " 'has no jurisdiction of a bill to enjoin the President in the performance of his official duties' ") (quoting *Mississippi* v. *Johnson*, 71 U.S. 475 (1866)).

Similarly, in light of the Speech and Debate Clause of the Constitution, Art. I, § 6, cl. 1, the federal courts lack jurisdiction to issue orders directing Congress to enact or amend legislation. *See Eastland* v. *United States Servicemen's Fund*, 421 U.S. 491, 503 (1975). Because the words that amended the Pledge were enacted into law by statute, the district court may not direct Congress to delete those words any more than it may order the President to take such action. All this, of course, is aside from the fact that the President has no authority to amend a statute or declare a law unconstitutional, those functions being reserved to Congress and the federal judiciary respectively.

REV_00164876

Newdow nevertheless argues that because the 1954 Act violates the Establishment Clause, Congress should not be protected by the Speech and Debate Clause. This argument misses the jurisdictional, or separation of powers, point. As the Court held in *Eastland*, in determining whether or not the acts of members of Congress are protected by the Speech and Debate Clause, the court looks solely to whether or not the acts fall within the legitimate legislative sphere; if they do, Congress is protected by the absolute prohibition of the Clause against being "questioned in any other Place." *Id.* at 501. "If the mere allegation that a valid legislative act was undertaken for an unworthy purpose would lift the protection of the Clause, then the Clause simply would not provide the protection historically undergirding it." *Id.* at 508-09.

B. The State of California as a defendant

The State of California did not join in the motion to dismiss or otherwise participate in the district court proceedings. It did, however, *sub silentio*, receive the benefit of the district court's ruling dismissing the complaint. Accordingly, a reversal of the order would result in the reinstatement of the complaint against the state. With respect to the validity of the California statute, however, unlike in the case of the Congressional enactment and the school district policy, no arguments, legal or otherwise, were advanced by the parties in the district court. Thus, we do not address separately the validity of the California statute.

C. Standing

Article III standing is a jurisdictional issue. *See United States* v. *Viltrakis*, 108 F.3d 1159, 1160 (9th Cir. 1997). Accordingly, it "may be raised at any stage of

REV_00164877

the proceedings, including for the first time on appeal." *See A-Z Intern.* v. *Phillips*, 179 F.3d 1187, 1190-91 (9th Cir. 1999). To satisfy standing requirements, a plaintiff must prove that "(1) it has suffered an 'injury in fact' that is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical; (2) the injury is fairly traceable to the challenged action of the defendant; and (3) it is likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision." *Friends of the Earth, Inc.* v. *Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 180-81 (2000) (citing *Lujan* v. *Defenders of Wildlife*, 504 U.S. 555, 560-561 (1992)).

Newdow has standing as a parent to challenge a practice that interferes with his right to direct the religious education of his daughter. "Parents have a right to direct the religious upbringing of their children and, on that basis, have standing to protect their right." *Doe* v. *Madison Sch. Dist. No. 321*, 177 F.3d 789, 795 (9th Cir. 1999) (en banc); *see also Grove* v. *Mead Sch. Dist. No. 354*, 753 F.2d 1528, 1532 (9th Cir. 1985) ("Appellants have standing to challenge alleged violations of the establishment clause of the First Amendment if they are directly affected by use of [the challenged book] in the English curriculum. [Appellant] has standing as a parent whose right to direct the religious training of her child is allegedly affected.") (citation omitted).

Newdow has standing to challenge the EGUSD's policy and practice regarding the recitation of the Pledge because his daughter is currently enrolled in elementary school in the EGUSD. However, Newdow has no standing to challenge the SCUSD's policy and practice because his daughter is not currently a student

REV_00164878

there. The SCUSD and its superintendent have not caused Newdow or his daughter an "injury in fact" that is "actual or imminent, not conjectural or hypothetical." *Laidlaw,* 528 U.S. at 180 (citing *Lujan,* 504 U.S. at 560-561).

D. Establishment Clause

The Establishment Clause of the First Amendment states that "Congress shall make no law respecting an establishment of religion," U.S. Const. Amend. I, a provision that "the Fourteenth Amendment makes applicable with full force to the States and their school districts." *Lee* v. *Weisman,* 505 U.S. 577, 580 (1992). Over the last three decades, the Supreme Court has used three interrelated tests to analyze alleged violations of the Establishment Clause in the realm of public education: the three-prong test set forth in *Lemon* v. *Kurtzman,* 403 U.S. 602, 612-13 (1971); the "endorsement" test, first articulated by Justice O'Connor in her concurring opinion in *Lynch* v. *Donnelly,* 465 U.S. 668 (1984), and later adopted by a majority of the Court in *County of Allegheny* v. *ACLU,* 492 U.S. 573 (1989); and the "coercion" test first used by the Court in *Lee.*

In 1971, in the context of unconstitutional state aid to nonpublic schools, the Supreme Court in *Lemon* set forth the following test for evaluating alleged Establishment Clause violations. To survive the "*Lemon* test," the government conduct in question (1) must have a secular purpose, (2) must have a principal or primary effect that neither advances nor inhibits religion, and (3) must not foster an excessive government entanglement with religion. *Lemon,* 403 U.S. at 612-13. The Supreme Court applied the *Lemon* test to

REV_00164879

every Establishment case it decided between 1971 and 1984, with the exception of *Marsh* v. *Chambers*, 463 U.S. 783 (1983), the case upholding legislative prayer.[3] *See Wallace*, 472 U.S. at 63 (Powell, J., concurring).

In the 1984 *Lynch* case, which upheld the inclusion of a nativity scene in a city's Christmas display, Justice O'Connor wrote a concurring opinion in order to suggest a "clarification" of Establishment Clause jurisprudence. 465 U.S. at 687 (O'Connor, J., concurring).

Justice O'Connor's "endorsement" test effectively collapsed the first two prongs of the *Lemon* test:

> The Establishment Clause prohibits government from making adherence to a religion relevant in any way to a person's standing in the political community. Government can run afoul of that prohibition in two principal ways. One is excessive entanglement with religious institutions . . . . The second and more direct infringement is government endorsement or disapproval of religion. Endorsement sends a message to nonadherents that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community.

Id. at 687-88 (O'Connor, J., concurring).

---

[3] In *Marsh*, the Court "held that the Nebraska Legislature's practice of opening each day's session with a prayer by a chaplain paid by the State did not violate the Establishment Clause of the First Amendment. [The] holding was based upon the historical acceptance of the practice that had become 'part of the fabric of our society.'" *Wallace*, 472 U.S. at 63 n. 4 (Powell, J., concurring) (quoting *Marsh*, 463 U.S. at 792).

REV_00164880

The Court formulated the "coercion test" when it held unconstitutional the practice of including invocations and benedictions in the form of "nonsectarian" prayers at public school graduation ceremonies. *Lee*, 505 U.S. at 599. Declining to reconsider the validity of the *Lemon* test, the Court in *Lee* found it unnecessary to apply the *Lemon* test to find the challenged practices unconstitutional. *Id.* at 587. Rather, it relied on the principle that "at a minimum, the Constitution guarantees that government may not coerce anyone to support or participate in religion or its exercise, or otherwise to act in a way which establishes a state religion or religious faith, or tends to do so." *Id.* (citations and internal quotation marks omitted). The Court first examined the degree of school involvement in the prayer, and found that "the graduation prayers bore the imprint of the State and thus put school-age children who objected in an untenable position." *Id.* at 590. The next issue the Court considered was "the position of the students, both those who desired the prayer and she who did not." *Id.* Noting that "there are heightened concerns with protecting freedom of conscience from subtle coercive pressure in the elementary and secondary public schools," *id.* at 592, the Court held that the school district's supervision and control of the graduation ceremony put impermissible pressure on students to participate in, or at least show respect during, the prayer, *id.* at 593. The Court concluded that primary and secondary school children may not be placed in the dilemma of either participating in a religious ceremony or protesting. *Id.* at 594.

Finally, in its most recent school prayer case, the Supreme Court applied the *Lemon* test, the endorsement test, and the coercion test to strike down a school

REV_00164881

district's policy of permitting student-led "invocations" before high school football games. *See Santa Fe*, 530 U.S. at 310-16. Citing *Lee*, the Court held that "the delivery of a pregame prayer has the improper effect of coercing those present to participate in an act of religious worship." *Id.* at 312. Applying the *Lemon* test, the Court found that the school district policy was facially unconstitutional because it did not have a secular purpose. *Id.* at 314-16. The Court also used language associated with the endorsement test. *Id.* at 315 ("[T]his policy was implemented with the purpose of endorsing school prayer."); *id.* at 317 ("Government efforts to endorse religion cannot evade constitutional reproach based solely on the remote possibility that those attempts may fail.").

We are free to apply any or all of the three tests, and to invalidate any measure that fails any one of them. Because we conclude that the school district policy impermissibly coerces a religious act and accordingly hold the policy unconstitutional, we need not consider whether the policy fails the endorsement test or the *Lemon* test as well.

In the context of the Pledge, the statement that the United States is a nation "under God" is a profession of a religious belief, namely, a belief in monotheism. The recitation that ours is a nation "under God" is not a mere acknowledgment that many Americans believe in a deity. Nor is it merely descriptive of the undeniable historical significance of religion in the founding of the Republic. Rather, the phrase "one nation under God" in the context of the Pledge is normative. To recite the Pledge is not to describe the United States; instead, it is to swear allegiance to the values for which the flag stands: unity, indivisibility, liberty, justice, and—since

REV_00164882

1954—monotheism. A profession that we are a nation "under God" is identical, for Establishment Clause purposes, to a profession that we are a nation "under Jesus," a nation "under Vishnu," a nation "under Zeus," or a nation "under no god," because none of these professions can be neutral with respect to religion. The school district's practice of teacher-led recitation of the Pledge aims to inculcate in students a respect for the ideals set forth in the Pledge, including the religious values it incorporates.

The Supreme Court recognized the normative and ideological nature of the Pledge in *Barnette*, 319 U.S. 624. There, the Court held unconstitutional a school district's wartime policy of punishing students who refused to recite the Pledge and salute the flag. *Id.* at 642. The Court noted that the school district was compelling the students "to declare a belief," *id.* at 631, and "requir[ing] the individual to communicate by word and sign his acceptance of the political ideas [the flag] . . . bespeaks," *id.* at 633. "[T]he compulsory flag salute and pledge requires affirmation of a belief and an attitude of mind." *Id.* The Court emphasized that the political concepts articulated in the Pledge[4] were idealistic, not descriptive: "'[L]iberty and justice for all,' if it must be accepted as descriptive of the present order rather than an ideal, might to some seem an overstatement." *Id.* at 634 n.14. The Court concluded that: "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force

---

[4] *Barnette* was decided before "under God" was added, and thus the Court's discussion was limited to the political ideals contained in the Pledge.

REV_00164883

citizens to confess by word or act their faith therein." *Id.* at 642.

The school district's policy here, like the school's action in *Lee*, places students in the untenable position of choosing between participating in an exercise with religious content or protesting. The defendants argue that the religious content of "one nation under God" is minimal. To an atheist or a believer in non-Judeo-Christian religions or philosophies, however, this phrase may reasonably appear to be an attempt to enforce a "religious orthodoxy" of monotheism, and is therefore impermissible. As the Court observed with respect to the graduation prayer in *Lee*: "What to most believers may seem nothing more than a reasonable request that the nonbeliever respect their religious practices, in a school context may appear to the non-believer or dissenter to be an attempt to employ the machinery of the State to enforce a religious orthodoxy." *Lee*, 505 U.S. at 592.

The coercive effect of the policy here is particularly pronounced in the school setting given the age and impressionability of schoolchildren, and their understanding that they are required to adhere to the norms set by their school, their teacher and their fellow students.[5] Furthermore, under *Lee*, non-compulsory participation is no basis for distinguishing Barnette [*sic*] from the case at bar because, even without a

---

[5] The "subtle and indirect" social pressure which permeates the classroom also renders more acute the message sent to non-believing school-children that they are outsiders. *See Lee*, 505 U.S. at 592-93 (stating that "the risk of indirect coercion" from prayer exercises is particularly "pronounced" in elementary and secondary public school because students are subjected to peer pressure and public pressure which is "as real as any overt compulsion").

REV_00164884

recitation requirement for each child, the mere presence in the classroom every day as peers recite the statement "one nation under God" has a coercive effect.[6] The coercive effect of the Pledge is also made even more apparent when we consider the legislative history of the Act that introduced the phrase "under God." These words were designed to be recited daily in school classrooms. President Eisenhower, during the Act's signing ceremony, stated: "From this day forward, the millions of our school children will daily proclaim in every city and town, every village and rural schoolhouse, the dedication of our Nation and our people to the Almighty." 100 Cong. Rec. 8618 (1954) (statement of Sen. Ferguson incorporating signing statement of President Eisenhower).[7] All in all, there can be little doubt that under the controlling Supreme

---

[6] The objection to the Pledge in *Barnette*, like in the case at bar, was based upon a religious ground. The Pledge in the classroom context imposes upon schoolchildren the constitutionally unacceptable choice between participating and protesting. Recognizing the severity of the effect of this form of coercion on children, the Supreme Court in *Lee* stated, "the State may not, consistent with the Establishment Clause, place primary and secondary school children in this position." 505 U.S. at 593.

[7] In addition, the legislative history of the 1954 Act makes it plain that the sponsors of the amendment knew about and capitalized on the state laws and school district rules that mandate recitation of the Pledge. The legislation's House sponsor, Representative Louis C. Rabaut, testified at the Congressional hearing that "the children of our land, in the daily recitation of the pledge in school, will be daily impressed with a true understanding of our way of life and its origins." This statement was incorporated into the report of the House Judiciary Committee. H.R. Rep. No. 83-1693, at 3 (1954), *reprinted in* 1954 U.S.C.C.A.N 2339, 2341.

REV_00164885

Court cases the school district's policy fails the coercion test.[8]

The Supreme Court has addressed the Pledge in passing, and we owe due deference to its dicta. *See United States* v. *Baird*, 85 F.3d 450, 453 (9th Cir. 1996). Our opinion, however, is not inconsistent with this dicta. In *Allegheny*, the Court noted that it had "considered in dicta the motto and the pledge, characterizing them as consistent with the proposition that government may not communicate an endorsement of religious belief." 492 U.S. at 602-03. And in *Lynch*, the Court observed that students recited the pledge daily, but only to support its point that there is a long tradition of "official acknowledgment" of religion. 465 U.S. at 674, 676. Neither of these two references speaks to the issue here. We may assume *arguendo* that public officials do not unconstitutionally endorse religion when they recite the Pledge, yet it does not follow that schools may coerce impressionable young schoolchildren to recite it, or even to stand mute while it is being recited by their classmates.

Our decision is not inconsistent with *Engel*, which approved of encouraging students to "recit[e] historical documents such as the Declaration of Independence

---

[8] In *Aronow* v. *United States*, 432 F.2d 242 (9th Cir. 1970), this court, without reaching the question of standing, upheld the inscription of the phrase "In God We Trust" on our coins and currency. *But cf. Wooley* v. *Maynard*, 430 U.S. 705, 722 (1977) (Rehnquist, J., dissenting) (stating that the majority's holding leads logically to the conclusion that "In God We Trust" is an unconstitutional affirmation of belief). In any event, *Aronow* is distinguishable in many ways from the present case. The most important distinction is that school children are not coerced into reciting or otherwise actively led to participating in an endorsement of the markings on the money in circulation.

REV_00164886

which contain references to the Deity or . . . sing[ ] officially espoused anthems which include the composer's professions of faith in a Supreme Being." 370 U.S. at 435 n.21. The Pledge differs from the Declaration and the anthem in that its reference to God, in textual and historical context, is not merely a reflection of the author's profession of faith. It is, by design, an affirmation by the person reciting it. "I pledge" is a performative statement. *See* J.L. Austin, *How to Do Things with Words* (J.O. Urmsson & Marina Sbisa eds., Harvard Univ. Press 1975) (1962). To pledge allegiance to something is to alter one's moral relationship to it, and not merely to repeat the words of an historical document or anthem.

The only other United States Court of Appeals to consider the issue is the Seventh Circuit, which held in *Sherman* v. *Community Consolidated School District 21*, 980 F.2d 437 (7th Cir. 1992), that a policy similar to the one before us regarding the recitation of the Pledge of Allegiance containing the words "one nation under God" was constitutional. The *Sherman* court first stated that:

> If as *Barnette* holds no state may require anyone to recite the Pledge, and if as the prayer cases hold the recitation by a teacher or rabbi of unwelcome words is coercion, then the Pledge of Allegiance becomes unconstitutional under all circumstances, just as no school may read from a holy scripture at the start of class.

980 F.2d at 444. It then concludes, however, that this reasoning is flawed because the First Amendment "[does] not establish general rules about speech or schools; [it] call[s] for religion to be treated differently."

REV_00164887

Id. We have some difficulty understanding this statement; we do not believe that the Constitution prohibits compulsory patriotism as in *Barnette,* but permits compulsory religion as in this case. If government-endorsed religion is to be treated differently from government-endorsed patriotism, the treatment must be less favorable, not more.

The Seventh Circuit makes an even more serious error, however. It not only refuses to apply the *Lemon* test because of the Supreme Court's criticism of that test in *Lee,* but it also fails to apply the coercion test from *Lee.* Circuit courts are not free to ignore Supreme Court precedent in this manner. *Rodriguez de Quijas* v. *Shearson/Am. Exp., Inc.,* 490 U.S. 477, 484 (1989) ("If a precedent of this Court has direct application in a case, yet appears to rest on reasons rejected in some other line of decisions, the Court of Appeals should follow the case which directly controls, leaving to this Court the prerogative of overruling its own decisions."). Instead of applying any of the tests announced by the Supreme Court, the Seventh Circuit simply frames the question as follows: "Must ceremonial references in civic life to a deity be understood as prayer, or support for all monotheistic religions, to the exclusion of atheists and those who worship multiple gods?" 980 F.2d at 445. For the reasons we have already explained, this question is simply not dispositive of whether the school district policy impermissibly coerces a religious act.

In light of Supreme Court precedent, we hold that the school district's policy and practice of teacher-led recitation of the Pledge, with the inclusion of the added words "under God," violates the Establishment Clause.

REV_00164888

In addition to the relief that Newdow seeks against the school district—relief to which he is entitled—Newdow seeks a declaration as to the constitutionality of the 1954 Act. The district court did not discuss that question because it dismissed Newdow's complaint on the basis of its holding that the school district's policy did not violate the First Amendment. Given our contrary holding, we must consider whether to grant Newdow's claim for declaratory relief as to the Act. Normally, whether to decide a claim for declaratory judgment is left to the discretion of the district court. 28 U.S.C. § 2201(a); *see also Government Employees Ins. Co.* v. *Dizol*, 133 F.3d 1220, 1222-23 (9th Cir. 1998). We doubt that, given the relief to which we decide Newdow is entitled, the district court would have exercised its discretionary power to resolve, in the present case, the additional issue as to which Newdow seeks declaratory relief. Accordingly, we decline to reach that issue here.

The judgment of dismissal is vacated with respect to Newdow's claim that the school district's Pledge policy violates the Establishment Clause and the cause is remanded for further proceedings consistent with our holding. Plaintiff is to recover costs on this appeal.

REVERSED and REMANDED.

REV_00164889

FERNANDEZ, Circuit Judge, concurring and dissenting:

I concur in parts A, B and C of the majority opinion, but dissent as to part D.

We are asked to hold that inclusion of the phrase "under God" in this nation's Pledge of Allegiance violates the religion clauses of the Constitution of the United States. We should do no such thing. We should, instead, recognize that those clauses were not designed to drive religious expression out of public thought; they were written to avoid discrimination.[1]

We can run through some or all of the tests and concepts which have floated to the surface from time to time. Were we to do so, the one that appeals most to me, the one I think to be correct, is the concept that what the religion clauses of the First Amendment require is neutrality; that those clauses are, in effect, an early kind of equal protection provision and assure that government will neither discriminate for nor discriminate against a religion or religions. *See Gentala* v. *City of Tucson*, 244 F.3d 1065, 1083-86 (9th Cir.) (en banc) (Fernandez, J., dissenting), *cert. granted and judgment vacated by* 534, U.S. 946, 122 S. Ct. 340, 151 L. Ed. 2d 256 (2001); *Goehring* v. *Brophy*, 94 F.3d 1294, 1306-07 (9th Cir. 1996) (Fernandez, J., concurring). But, legal world abstractions and ruminations aside, when all is said and done, the danger that "under God" in our

---

[1] Although the majority now formally limits itself to holding that it is unconstitutional to recite the Pledge in public classrooms, its message that something is constitutionally infirm about the Pledge itself abides and remains a clear and present danger to all similar public expressions of reverence. At the very least, it deprives children in public schools of the benefits derived from those expressions.

REV_00164890

Pledge of Allegiance will tend to bring about a theocracy or suppress somebody's beliefs is so minuscule as to be de minimis. The danger that phrase presents to our First Amendment freedoms is picayune at most.

Judges, including Supreme Court Justices, have recognized the lack of danger in that and similar expressions for decades, if not for centuries, as have presidents[2] and members of our Congress. *See, e.g.*, *County of Allegheny* v. *ACLU*, 492 U.S. 573, 602-03, 672-73, 109 S. Ct. 3086, 3106, 3143, 106 L. Ed. 2d 472 (1989); *Wallace* v. *Jaffree*, 472 U.S. 38, 78 n.5, 105 S. Ct. 2479, 2501 n.5, 86 L. Ed. 2d 29 (1985); *Lynch* v. *Donnelly*, 465 U.S. 668, 676, 693, 716, 104 S. Ct. 1355, 1361, 1369, 1382, 79 L. Ed. 2d 604 (1984); *Abington Sch. Dist.* v. *Schempp*, 374 U.S. 203, 306-08, 83 S. Ct. 1560, 1615-16, 10 L. Ed. 2d 844 (1963);[3] *Separation of Church & State Comm.* v. *City of Eugene*, 93 F.3d 617, 622 (9th Cir. 1996) (O'Scannlain, J., concurring); *Gaylor* v. *United States*, 74 F.3d 214, 217-18 (10th Cir. 1996); *Sherman* v. *Cmty Consol. Sch. Dist. 21*, 980 F.2d 437, 445-48 (7th Cir. 1992); *O'Hair* v. *Murray*, 588 F.2d 1144, 1144 (5th Cir. 1978) (per curiam); *Aronow* v. *United States*, 432 F.2d 242, 243-44 (9th Cir. 1970); *cf. Marsh* v.

---

[2] *See, e.g., Lee* v. *Weisman*, 505 U.S. 577, 632-35, 112 S. Ct. 2649, 2679-80, 120 L. Ed. 2d 467 (1992) (Scalia, J., dissenting).

[3] The citations to the four preceding Supreme Court opinions are to majority opinions, concurring opinions, and dissents. Because my point is that a number of Justices have recognized the lack of danger and because I hope to avoid untoward complication in the setting out of the citations, I have not designated which Justices have joined in which opinion. All in all, however, perusing those opinions indicates that Chief Justice Burger, Chief Justice Rehnquist, and Justices Harlan, Brennan, White, Goldberg, Marshall, Blackmun, Powell, Stevens, O'Connor, Scalia, and Kennedy have so recognized.

REV_00164891

Chambers, 463 U.S. 783, 795, 103 S. Ct. 3330, 3338, 77 L. Ed. 2d 1019 (1983) (legislative prayer). I think it is worth stating a little more about two of the cases which I have just cited. In *County of Allegheny*, 492 U.S. at 602-03, 109 S. Ct. at 3106, the Supreme Court had this to say: "Our previous opinions have considered in dicta the motto and the pledge, characterizing them as consistent with the proposition that government may not communicate an endorsement of religious belief." The Seventh Circuit, reacting in part to that statement, has wisely expressed the following thought:

> Plaintiffs observe that the Court sometimes changes its tune when it confronts a subject directly. True enough, but an inferior court had best respect what the majority says rather than read between the lines. If the Court proclaims that a practice is consistent with the establishment clause, we take its assurances seriously. If the Justices are just pulling our leg, let them say so.

Sherman, 980 F.2d at 448.

Some, who rather choke on the notion of de minimis, have resorted to the euphemism "ceremonial deism." *See, e.g.*, *Lynch*, 465 U.S. at 716, 104 S. Ct. at 1382 (Brennan, J., dissenting). But whatever it is called (I care not), it comes to this: such phrases as "In God We Trust," or "under God" have no tendency to establish a religion in this country or to suppress anyone's exercise, or non-exercise, of religion, except in the fevered eye of persons who most fervently would like to drive all tincture of religion out of the public life of our polity. Those expressions have not caused any real harm of that sort over the years since 1791, and are not likely to

REV_00164892

do so in the future.[4] As I see it, that is not because they are drained of meaning.[5] Rather, as I have already indicated, it is because their tendency to establish religion (or affect its exercise) is exiguous. I recognize that some people may not feel good about hearing the phrases recited in their presence, but, then, others might not feel good if they are omitted. At any rate, the Constitution is a practical and balanced charter for the just governance of a free people in a vast territory. Thus, although we do feel good when we contemplate the effects of its inspiring phrasing and majestic promises, it is not primarily a feel-good prescription.[6] In *West Virginia Board of Education* v. *Barnette*, 319 U.S. 624, 630, 642, 63 S. Ct. 1178, 1181, 1187, 87 L. Ed. 1628 (1943), for example, the Supreme Court did not say that the Pledge could not be recited in the presence of Jehovah's Witness children; it merely said that they did not have to recite it.[7] That fully protected their con-

---

[4] They have not led us down the long path to kulturkampf or worse. Those who are somehow beset by residual doubts and fears should find comfort in the reflection that no baleful religious effects have been generated by the existence of similar references to a deity throughout our history. More specifically, it is difficult to detect any signs of incipient theocracy springing up since the Pledge was amended in 1954.

[5] *See also Sherman*, 980 F.2d at 448 (Manion, J., concurring) ("A civic reference to God does not become permissible . . . only when . . . it is sapped of religious significance." The Pledge is constitutional and "[w]e need not drain the meaning from the reference [to God] to reach this conclusion."

[6] We, by the way, indicated as much in *American Family Ass'n, Inc.* v. *City and County of San Francisco*, 277 F.3d 1114, 1125-26 (9th Cir. 2002), which involved governmental conduct that was much more questionable than adoption of the phrase "under God." *See id.* at 1126-28 (Noonan, J., dissenting).

[7] I recognize that the Pledge did not then contain the phrase "under God."

REV_00164893

stitutional rights by precluding the government from trenching upon "the sphere of intellect and spirit." *Id.* at 642, 63 S. Ct. at 1187. As the Court pointed out, their religiously based refusal "to participate in the ceremony [would] not interfere with or deny rights of others to do so." *Id.* at 630, 63 S. Ct. at 1181. We should not permit Newdow's feel-good concept to change that balance.

My reading of the stelliscript suggests that upon Newdow's theory of our Constitution, accepted by my colleagues today, we will soon find ourselves prohibited from using our album of patriotic songs in many public settings. "God Bless America" and "America The Beautiful" will be gone for sure, and while use of the first three stanzas of "The Star Spangled Banner" will still be permissible, we will be precluded from straying into the fourth.[8] And currency beware! Judges can accept those results if they limit themselves to elements and tests, while failing to look at the good sense and principles that animated those tests in the first place. But they do so at the price of removing a vestige of the awe all of us, including our children, must feel at the immenseness of the universe and our own small place within it, as well as the wonder we must feel at the good fortune of our country. That will cool the febrile nerves of a few at the cost of removing the healthy glow conferred upon many citizens when the forbidden verses, or phrases, are uttered, read, or seen.

In short, I cannot accept the eliding of the simple phrase "under God" from our Pledge of Allegiance in any setting, when it is obvious that its tendency to

---

[8] Nor will we be able to stray into the fourth stanza of "My Country 'Tis of Thee" for that matter.

REV_00164894

establish religion in this country or to interfere with the free exercise (or non-exercise) of religion is de minimis.[9]

Thus, I respectfully concur in part and dissent in part.

---

[9] Lest I be misunderstood, I must emphasize that to decide this case it is not necessary to say, and I do not say, that there is such a thing as a de minimis constitutional violation. What I do say is that the de minimis tendency of the Pledge to establish a religion or to interfere with its free exercise is no constitutional violation at all. By the way, I am not the first to apply the de minimis concept to this area of the law. *See, e.g.*, *Mitchell* v. *Helms*, 530 U.S. 793, 861, 120 S. Ct. 2530, 2569, 147 L. Ed. 2d 660 (2000) (O'Connor, J., concurring) (evidence of improper use of funds was de minimis and did not affect constitutional inquiry); *Lee* v. *Weisman*, 505 U.S. 577, 630-31, 112 S. Ct. 2649, 2678, 120 L. Ed. 2d 467 (1992) (Souter, J. concurring) (establishment case; Madison recognized there is a difference between trivial and serious in constitutional practice, and pointed to the legal aphorism de minimis); *Lynch* v. *Donnelly*, 465 U.S. 668, 678, 104 S. Ct. 1355, 1361-62, 79 L. Ed. 2d 604 (1984) (not all government conduct which gives special recognition to religion is unconstitutional; where the benefit is indirect or remote, it is not unconstitutional); *School District of Abington* v. *Schempp*, 374 U.S. 203, 308, 83 S. Ct. 1560, 1616, 10 L. Ed. 2d 844 (1963) (Goldburg, J., concurring) ("the measure of constitutional adjudication is the ability and willingness to distinguish between real threat and mere shadow."); *Rapier* v. *Harris*, 172 F.3d 999, 1006 n.4 (7th Cir. 1999) ("De minimis burdens on free exercise are not of constitutional dimension); *Van Zandt* v. *Thompson*, 839 F.2d 1215, 1222 (7th Cir. 1988) (legislative prayer room would have a de minimis effect on advancement of religion); *Walsh* v. *La. High Sch. Athletic Ass'n*, 616 F.2d 152, 158 (5th Cir. 1980) (de minimis burden on free exercise results in rejection of First Amendment challenge); *Marsa* v. *Wernik*, 430 A.2d 888, 899 (N.J. 1981) (in an establishment case where impact of practice de minimis, it is unobjectionable); *see also Peck* v. *Upshur County Bd. of Educ.*, 155 F.3d 274, 288-89 (4th Cir. 1998) (if a genuine threat of establishing religion becomes apparent, it is soon enough to address the issue).

REV_00164895

APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 00-16423
D.C. No. CV 00-00495-MLS/PAN

MICHAEL A. NEWDOW, PLAINTIFF-APPELLANT

v.

U.S. CONGRESS; UNITED STATES OF AMERICA; WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES; STATE OF CALIFORNIA; ELK GROVE UNIFIED SCHOOL DISTRICT; DAVID W. GORDON, SUPERINTENDENT EGUSD; SACRAMENTO CITY UNIFIED SCHOOL DISTRICT; JIM SWEENEY, SUPERINTENDENT SCUSD, DEFENDANTS-APPELLEES

Appeal from the United States District Court for the Eastern District of California, Milton J. Schwartz, Senior Judge, Presiding

---

Argued and Submitted: March 14, 2002
Filed: June 26, 2002

Before: GOODWIN, REINHARDT and FERNANDEZ, Circuit Judges.

REV_00164896

Partial Concurrence and Partial Dissent by Judge FERNANDEZ.

OPINION

GOODWIN, Circuit Judge:

Michael Newdow appeals a judgment dismissing his challenge to the constitutionality of the words "under God" in the Pledge of Allegiance to the Flag. Newdow argues that the addition of these words by a 1954 federal statute to the previous version of the Pledge of Allegiance (which made no reference to God) and the daily recitation in the classroom of the Pledge of Allegiance, with the added words included, by his daughter's public school teacher are violations of the Establishment Clause of the First Amendment to the United States Constitution.

FACTUAL AND PROCEDURAL BACKGROUND

Newdow is an atheist whose daughter attends public elementary school in the Elk Grove Unified School District ("EGUSD") in California. In accordance with state law and a school district rule, EGUSD teachers begin each school day by leading their students in a recitation of the Pledge of Allegiance ("the Pledge"). The California Education Code requires that public schools begin each school day with "appropriate patriotic exercises" and that "[t]he giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy" this requirement. Cal. Educ. Code § 52720

REV_00164897

(1989) (hereinafter "California statute").[1] To implement the California statute, the school district that Newdow's daughter attends has promulgated a policy that states, in pertinent part: "Each elementary school class [shall] recite the pledge of allegiance to the flag once each day."[2]

The classmates of Newdow's daughter in the EGUSD are led by their teacher in reciting the Pledge codified in federal law. On June 22, 1942, Congress first codified the Pledge as "I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one Nation indivisible, with liberty and justice for all." Pub. L. No. 623, Ch. 435, § 7, 56 Stat. 380 (1942) (codified at 36 U.S.C. § 1972). On June 14, 1954, Congress amended Section 1972 to add the words "under God" after the word "Nation." Pub. L. No. 396, Ch. 297, 68 Stat. 249 (1954) ("1954 Act"). The Pledge is currently codified as "I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with

---

[1] The relevant portion of California Education Code § 52720 reads:

> In every public elementary school each day during the school year at the beginning of the first regularly scheduled class or activity period at which the majority of the pupils of the school normally begin the schoolday, there shall be conducted appropriate patriotic exercises. The giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy the requirements of this section.

[2] The SCUSD, the school district that Newdow claims his daughter may in the future attend, has promulgated a similar rule: "Each school shall conduct patriotic exercises daily. . . . The Pledge of Allegiance to the flag will fulfill this requirement." However, as discussed *infra*, Newdow lacks standing to challenge the SCUSD's rule requiring recitation of the Pledge.

REV_00164898

liberty and justice for all." 4 U.S.C. § 4 (1998) (Title 36 was revised and recodified by Pub. L. No. 105-225, § 2(a), 112 Stat. 1494 (1998). Section 172 was abolished, and the Pledge is now found in Title 4.)

Newdow does not allege that his daughter's teacher or school district requires his daughter to participate in reciting the Pledge.[3] Rather, he claims that his daughter is injured when she is compelled to "watch and listen as her state-employed teacher in her state-run school leads her classmates in a ritual proclaiming that there is a God, and that our's [sic] is 'one nation under God.'"

Newdow's complaint in the district court challenged the constitutionality, under the First Amendment, of the 1954 Act, the California statute, and the school district's policy requiring teachers to lead willing students in recitation of the Pledge. He sought declaratory and injunctive relief, but did not seek damages.

The school districts and their superintendents (collectively, "school district defendants") filed a Federal Rule of Civil Procedure 12(b)(6) motion to dismiss for failure to state a claim. Magistrate Judge Peter A. Nowinski held a hearing at which the school district defendants requested that the court rule only on the constitutionality of the Pledge, and defer any ruling on sover-

---

[3] Compelling students to recite the Pledge was held to be a First Amendment violation in *West Virginia State Board of Education* v. *Barnette*, 319 U.S. 624, 642, 63 S. Ct. 1178, 87 L. Ed. 1628 (1943) ("[T]he action of the local authorities in compelling the flag salute and pledge transcends constitutional limitations on their power and invades the sphere of intellect and spirit which it is the purpose of the First Amendment to our Constitution to reserve from all official control."). *Barnette* was decided before the 1954 Act added the words "under God" to the Pledge.

REV_00164899

eign immunity. The United States Congress, the United States, and the President of the United States (collectively, "the federal defendants") joined in the motion to dismiss filed by the school district defendants. The magistrate judge reported findings and a recommendation; District Judge Edward J. Schwartz approved the recommendation and entered a judgment of dismissal. This appeal followed.

DISCUSSION

A. Jurisdiction

Newdow asks the district court to order the President of the United States ("the President") to "alter, modify or repeal" the Pledge by removing the words "under God"; and to order the United States Congress ("Congress") "immediately to act to remove the words 'under God' from the Pledge." The President, however, is not an appropriate defendant in an action challenging the constitutionality of a federal statute. *See Franklin v. Massachusetts*, 505 U.S. 788, 802-03, 112 S. Ct. 2767, 120 L.Ed.2d 636 (1992) (plurality) (observing that a court of the United States " 'has no jurisdiction of a bill to enjoin the President in the performance of his official duties' ") (quoting *Mississippi v. Johnson*, 71 U.S. 475, 501, 18 L.Ed. 437 (1866)).

Similarly, in light of the Speech and Debate Clause of the Constitution, Art. I, § 6, cl. 1, the federal courts lack jurisdiction to issue orders directing Congress to enact or amend legislation. *See Eastland v. United States Servicemen's Fund*, 421 U.S. 491, 503, 95 S. Ct. 1813, 44 L.Ed.2d 324 (1975). Because the words that amended the Pledge were enacted into law by statute, the district court may not direct Congress to delete those words any more than it may order the President to take

REV_00164900

such action. All this, of course, is aside from the fact that the President has no authority to amend a statute or declare a law unconstitutional, those functions being reserved to Congress and the federal judiciary respectively.

Newdow nevertheless argues that because the 1954 Act violates the Establishment Clause, Congress should not be protected by the Speech and Debate Clause. This argument misses the jurisdictional, or separation of powers, point. As the Court held in *Eastland*, in determining whether or not the acts of members of Congress are protected by the Speech and Debate Clause, the court looks solely to whether or not the acts fall within the legitimate legislative sphere; if they do, Congress is protected by the absolute prohibition of the Clause against being "questioned in any other Place." *Id.* at 501. "If the mere allegation that a valid legislative act was undertaken for an unworthy purpose would lift the protection of the Clause, then the Clause simply would not provide the protection historically undergirding it." *Id.* at 508-09, 95 S. Ct. 1813. Although the district court lacks jurisdiction over the President and the Congress, the question of the constitutionality of the 1954 Act remains before us. While the court correctly dismissed the claim against those parties, it survives against others.

B. The State of California as a defendant

The State of California did not join in the motion to dismiss or otherwise participate in the district court proceedings. It did, however, *sub silentio*, receive the benefit of the district court's ruling dismissing the complaint. Accordingly, a reversal of the order would result in the reinstatement of the complaint against the state. With respect to the validity of the California

REV_00164901

statute, however, unlike in the case of the Congressional enactment and the school district policy, no arguments, legal or otherwise, were advanced by the parties either below or here. Thus, we do not address separately the validity of the California statute.

C. Standing

Article III standing is a jurisdictional issue. *See United States v. Viltrakis*, 108 F.3d 1159, 1160 (9th Cir. 1997). Accordingly, it "may be raised at any stage of the proceedings, including for the first time on appeal." *See A-Z Intern. v. Phillips*, 179 F.3d 1187, 1190-91 (9th Cir. 1999). To satisfy standing requirements, a plaintiff must prove that "(1) it has suffered an 'injury in fact' that is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical; (2) the injury is fairly traceable to the challenged action of the defendant; and (3) it is likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision." *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 180-81, 120 S. Ct. 693, 145 L.Ed.2d 610 (2000) (citing *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-561, 112 S. Ct. 2130, 119 L.Ed.2d 351 (1992)).

Newdow has standing as a parent to challenge a practice that interferes with his right to direct the religious education of his daughter. "Parents have a right to direct the religious upbringing of their children and, on that basis, have standing to protect their right." *Doe v. Madison Sch. Dist. No. 321*, 177 F.3d 789, 795 (9th Cir. 1999) (en banc); *see also Grove v. Mead Sch. Dist. No. 354*, 753 F.2d 1528, 1532 (9th Cir. 1985) ("Appellants have standing to challenge alleged violations of the establishment clause of the First Amendment if they are directly affected by use of [the challenged book] in

REV_00164902

the English curriculum. [Appellant] has standing as a parent whose right to direct the religious training of her child is allegedly affected.") (citation omitted).

Newdow has standing to challenge the EGUSD's policy and practice regarding the recitation of the Pledge because his daughter is currently enrolled in elementary school in the EGUSD. However, Newdow has no standing to challenge the SCUSD's policy and practice because his daughter is not currently a student there. The SCUSD and its superintendent have not caused Newdow or his daughter an "injury in fact" that is "actual or imminent, not conjectural or hypothetical." *Laidlaw*, 528 U.S. at 180, 120 S. Ct. 693 (citing *Lujan*, 504 U.S. at 560- 561, 112 S. Ct. 2130).

The final question of standing relates to the 1954 Act. Specifically, has Newdow suffered an "injury in fact" that is "fairly traceable" to the enactment of the 1954 Act? *Id.*

We begin our inquiry by noting the general rule that the standing requirements for an action brought under the Establishment Clause are the same as for any other action. *Valley Forge Christian Coll. v. Americans United for Separation of Church and State, Inc.*, 454 U.S. 464, 488-90, 102 S. Ct. 752, 70 L.Ed.2d 700 (1982). "The requirement of standing focuses on the party seeking to get his complaint before a federal court and not on the issues he wishes to have adjudicated. Moreover, we know of no principled basis on which to create a hierarchy of constitutional values or a complementary 'sliding scale' of standing which might permit respondents to invoke the judicial power of the United States." *Id.* at 484, 102 S. Ct. 752 (citation and internal quotation marks omitted). In *Valley Forge*, an organization dedicated to the separation of church and state

REV_00164903

brought suit challenging the federal government's grant of surplus federal property to a church-related college. The suit alleged that this grant of real property, without any financial payment by the college, was a violation of the Establishment Clause. The Supreme Court found that the plaintiff had standing neither as a taxpayer, *see id.* at 479-80, 102 S. Ct. 752, nor as a party personally injured as a consequence of the alleged unconstitutional action, *see id.* at 484-86, 102 S. Ct. 752. The "psychological consequence presumably produced by observation of conduct with which one disagrees . . . . is not an injury sufficient to confer standing under Art. III, even though the disagreement is phrased in constitutional terms." *Id.* at 485-86, 102 S. Ct. 752. The Court emphasized that "'[t]he assumption that if respondents have no standing to sue, no one would have standing, is not a reason to find standing.'" *Id.* at 489, 102 S. Ct. 752 (quoting *Schlesinger v. Reservists Comm. to Stop the War*, 418 U.S. 208, 227, 94 S. Ct. 2925, 41 L.Ed.2d 706 (1974)).

While *Valley Forge* remains good law, the Supreme Court in more recent opinions has indirectly broadened the notion of Establishment Clause standing in public education cases by holding that the mere enactment of a statute may constitute an Establishment Clause violation. In *Wallace v. Jaffree*, 472 U.S. 38, 105 S. Ct. 2479, 86 L.Ed.2d 29 (1985), the Court considered an Establishment Clause challenge to an Alabama statute that originally had authorized a one-minute period of silence in public schools "for meditation," but was later amended to authorize a period of silence "for meditation or voluntary prayer." *Id.* at 40-42, 105 S. Ct. 2479. Although the previous form of the statute specifically allowed students to use the moment of silence for

REV_00164904

"meditation," silent prayer was always an option. "[I]t is undisputed that at the time of the enactment of [the amended statute] there was no governmental practice impeding students from silently praying for one minute at the beginning of each schoolday." *Id.* at 57 n.45, 105 S. Ct. 2479. Nor were students, under the amended form of the statute, compelled to use the allotted time for prayer. In sum, the amendment to the Alabama statute had no discernible effect on public school students other than to inform them that the state was encouraging them to engage in prayer during their daily moment of silence. Because the Supreme Court has repeatedly held that standing is a jurisdictional requirement, the existence of which each federal court must determine for itself, *see Lujan*, 504 U.S. at 559-561, 112 S. Ct. 2130; *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 230-31, 110 S. Ct. 596, 107 L.Ed.2d 603 (1990), we may presume that in *Wallace* the Court examined the standing question before deciding the merits, and that the Court determined that the schoolchildren's parents had standing to challenge the amended Alabama statute.

Our reading of *Wallace* is supported by *Santa Fe Independent School District v. Doe*, 530 U.S. 290, 120 S. Ct. 2266, 147 L.Ed.2d 295 (2000), where the Court upheld a facial challenge to a school district's policy of permitting, but not requiring, prayer initiated and led by a student at high school football games. Noting that "the Constitution also requires that we keep in mind 'the myriad, subtle ways in which the Establishment Clause values can be eroded,'" *id.* at 314, 120 S. Ct. 2266 (quoting *Lynch v. Donnelly*, 465 U.S. 668, 104 S. Ct. 1355, 79 L.Ed.2d 604, 694 (1984) (O'Connor, J., concurring)), the Court held that the "mere passage by

REV_00164905

the District of a policy that has the purpose and perception of government establishment of religion," *id.*, violated the Establishment Clause. "[T]he *simple enactment* of this policy, with the purpose and perception of school endorsement of student prayer, was a constitutional violation." *Id.* at 316, 120 S. Ct. 2266 (emphasis added).

In *Wallace* and *Santa Fe*, the Court looked at the language of each statute, the context in which the statute was enacted, and its legislative history to determine that the challenged statute caused an injury in violation of the Establishment Clause. "We refuse to turn a blind eye to the context in which this policy arose, and that context quells any doubt that this policy was implemented with the purpose of endorsing school prayer." *Id.* at 315, 120 S. Ct. 2266. Justice O'Connor's concurrence in *Wallace* noted that whether a statute actually conveys a message of endorsement of religion is "not entirely a question of fact . . . . The relevant issue is whether an objective observer, acquainted with the text, legislative history, and implementation of the statute, would perceive it as state endorsement of prayer in public schools." 472 U.S. at 76, 105 S. Ct. 2479 (O'Connor, J., concurring in judgment). In *Santa Fe*, "[t]he text and history of this policy . . . reinforce our objective student's perception that the prayer is, in actuality, encouraged by the school." 530 U.S. at 308, 120 S. Ct. 2266. In evaluating the purpose of the school district policy, the Court found "most striking . . . the evolution of the current policy." *Id.* at 309, 120 S. Ct. 2266. In *Wallace*, a review of the legislative history led the Court to conclude that enactment of the amended statute "was not motivated by any clearly secular purpose—indeed, the statute had *no* secular purpose."

REV_00164906

472 U.S. at 56, 105 S. Ct. 2479; *see also id.* at 57-60, 105 S. Ct. 2479.

Operating within the above-described legal landscape, we now turn to the question initially posed, namely, does Newdow have standing to challenge the 1954 Act? Initially, we note that the 1954 statute challenged by Newdow is similar to the Alabama statute struck down in *Wallace*. Neither statute works the traditional type of "injury in fact" that is implicated when a statute compels or prohibits certain activity, nor do the amendments brought about by these statutes lend themselves to "as-applied" constitutional review. Nevertheless, the Court in *Wallace*, at least implicitly, determined that the schoolchildren's parents had standing to attack the challenged statute. Moreover, the legislative history of the 1954 Act shows that the "under God" language was not meant to sit passively in the federal code unbeknownst to the public; rather, the sponsors of the amendment knew about and capitalized on the state laws and school district rules that mandate recitation of the Pledge. The legislation's House sponsor, Representative Louis C. Rabaut, testified at the Congressional hearing that "the children of our land, in the daily recitation of the pledge in school, will be daily impressed with a true understanding of our way of life and its origins," and this statement was incorporated into the report of the House Judiciary Committee. H.R. Rep. No. 83-1693, at 3 (1954), *reprinted in* 1954 U.S.C.C.A.N. 2339, 2341. Taken within its context, the 1954 addendum was designed to result in the recitation of the words "under God" in school classrooms throughout the land on a daily basis, and therefore constituted as much of an injury-in-fact as the policies considered in *Wallace* and

REV_00164907

Santa Fe. As discussed earlier, Newdow has standing as a parent to challenge a practice that interferes with his right to direct the religious education of his daughter. The mere enactment of the 1954 Act in its particular context constitutes a religious recitation policy that interferes with Newdow's right to direct the religious education of his daughter. Accordingly, we hold that Newdow has standing to challenge the 1954 Act.

D. Establishment Clause

The Establishment Clause of the First Amendment states that "Congress shall make no law respecting an establishment of religion," U.S. Const. amend. I, a provision that "the Fourteenth Amendment makes applicable with full force to the States and their school districts." *Lee v. Weisman*, 505 U.S. 577, 580, 112 S. Ct. 2649, 120 L.Ed.2d 467 (1992). Over the last three decades, the Supreme Court has used three interrelated tests to analyze alleged violations of the Establishment Clause in the realm of public education: the three-prong test set forth in *Lemon v. Kurtzman*, 403 U.S. 602, 612-13, 91 S. Ct. 2105, 29 L.Ed.2d 745 (1971); the "endorsement" test, first articulated by Justice O'Connor in her concurring opinion in *Lynch*, and later adopted by a majority of the Court in *County of Allegheny v. ACLU*, 492 U.S. 573, 109 S. Ct. 3086, 106 L.Ed.2d 472 (1989); and the "coercion" test first used by the Court in *Lee*.

In 1971, in the context of unconstitutional state aid to nonpublic schools, the Supreme Court in *Lemon* set forth the following test for evaluating alleged Establishment Clause violations. To survive the "*Lemon* test," the government conduct in question (1) must have a secular purpose, (2) must have a principal or

REV_00164908

primary effect that neither advances nor inhibits religion, and (3) must not foster an excessive government entanglement with religion. *Lemon*, 403 U.S. at 612-13, 91 S. Ct. 2105. The Supreme Court applied the *Lemon* test to every Establishment case it decided between 1971 and 1984, with the exception of *Marsh v. Chambers*, 463 U.S. 783, 103 S. Ct. 3330, 77 L.Ed.2d 1019 (1983), the case upholding legislative prayer.[4] *See Wallace*, 472 U.S. at 63, 105 S. Ct. 2479 (Powell, J., concurring).

In the 1984 *Lynch* case, which upheld the inclusion of a nativity scene in a city's Christmas display, Justice O'Connor wrote a concurring opinion in order to suggest a "clarification" of Establishment Clause jurisprudence. 465 U.S. at 687, 104 S. Ct. 1355 (O'Connor, J., concurring). Justice O'Connor's "endorsement" test effectively collapsed the first two prongs of the *Lemon* test:

> The Establishment Clause prohibits government from making adherence to a religion relevant in any way to a person's standing in the political community. Government can run afoul of that prohibition in two principal ways. One is excessive entanglement with religious institutions. . . . The second and more direct infringement is government endorsement or disapproval of religion. Endorsement sends a message to nonadherents that they are

---

[4] In *Marsh*, the Court "held that the Nebraska Legislature's practice of opening each day's session with a prayer by a chaplain paid by the State did not violate the Establishment Clause of the First Amendment. [The] holding was based upon the historical acceptance of the practice that had become 'part of the fabric of our society.'" *Wallace*, 472 U.S. at 63 n.4, 105 S. Ct. 2479 (Powell, J., concurring) (quoting *Marsh*, 463 U.S. at 792, 103 S. Ct. 3330).

REV_00164909

> outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community.

Id. at 687-88, 91 S. Ct. 2105 (O'Connor, J., concurring).

The Court formulated the "coercion test" when it held unconstitutional the practice of including invocations and benedictions in the form of "nonsectarian" prayers at public school graduation ceremonies. *Lee*, 505 U.S. at 599, 112 S. Ct. 2649. Declining to reconsider the validity of the *Lemon* test, the Court in *Lee* found it unnecessary to apply the *Lemon* test to find the challenged practices unconstitutional. *Id.* at 587, 112 S. Ct. 2649. Rather, it relied on the principle that "at a minimum, the Constitution guarantees that government may not coerce anyone to support or participate in religion or its exercise, or otherwise to act in a way which establishes a state religion or religious faith, or tends to do so." *Id.* (citations and internal quotation marks omitted).[5] The Court first examined the degree

---

[5] Although this formulation is referred to as the "coercion" test, it should be noted that coercion is not a *necessary* element in finding an Establishment Clause violation. "The Establishment Clause, unlike the Free Exercise Clause, does not depend upon any showing of direct governmental compulsion. . . ." *Engel v. Vitale*, 370 U.S. 421, 430, 82 S. Ct. 1261, 8 L.Ed.2d 601 (1962). "[T]his court has never relied on coercion alone as the touchstone of Establishment Clause analysis. To require a showing of coercion, even indirect coercion, as an essential element of an Establishment Clause violation would make the free Exercise Clause a redundancy." *Allegheny*, 492 U.S. at 628, 109 S. Ct. 3086 (O'Connor, J., concurring). "Over the years, this Court has declared the invalidity of many noncoercive state laws and practices conveying a message of religious endorsement." *Lee*, 505 U.S. at 618, 112 S. Ct. 2649 (Souter, J., concurring).

REV_00164910

of school involvement in the prayer, and found that "the graduation prayers bore the imprint of the State and thus put school-age children who objected in an untenable position." *Id.* at 590. The next issue the Court considered was "the position of the students, both those who desired the prayer and she who did not." *Id.* Noting that "there are heightened concerns with protecting freedom of conscience from subtle coercive pressure in the elementary and secondary public schools," *id.* at 592, 112 S. Ct. 2649, the Court held that the school district's supervision and control of the graduation ceremony put impermissible pressure on students to participate in, or at least show respect during, the prayer, *id.* at 593, 112 S. Ct. 2649. The Court concluded that primary and secondary school children may not be placed in the dilemma of either participating in a religious ceremony or protesting. *Id.* at 594, 112 S. Ct. 2649.

Finally, in its most recent school prayer case, the Supreme Court applied the *Lemon* test, the endorsement test, and the coercion test to strike down a school district's policy of permitting student-led "invocations" before high school football games. *See Santa Fe*, 530 U.S. at 310-16, 120 S. Ct. 2266. Citing *Lee*, the Court held that "the delivery of a pregame prayer has the improper effect of coercing those present to participate in an act of religious worship." *Id.* at 312, 120 S. Ct. 2266. Applying the *Lemon* test, the Court found that the school district policy was facially unconstitutional because it did not have a secular purpose. *Id.* at 314-16. The Court also used language associated with the endorsement test. *Id.* at 315, 120 S. Ct. 2266 ("[T]his policy was implemented with the purpose of endorsing school prayer."); *id.* at 317, 120 S. Ct. 2266 ("Govern-

REV_00164911

ment efforts to endorse religion cannot evade constitutional reproach based solely on the remote possibility that those attempts may fail.").

We are free to apply any or all of the three tests, and to invalidate any measure that fails any one of them. The Supreme Court has not repudiated *Lemon;* in *Santa Fe,* it found that the application of each of the three tests provided an independent ground for invalidating the statute at issue in that case; and in *Lee,* the Court invalidated the policy solely on the basis of the coercion test. Although this court has typically applied the *Lemon* test to alleged Establishment Clause violations, *see, e.g., Am. Family Ass'n, Inc. v. City and County of San Francisco,* 277 F.3d 1114, 1120-21 (9th Cir. 2002), we are not required to apply it if a practice fails one of the other tests. Nevertheless, for purposes of completeness, we will analyze the school district policy and the 1954 Act under all three tests.

We first consider whether the 1954 Act and the EGUSD's policy of teacher-led Pledge recitation survive the endorsement test. The magistrate judge found that "the ceremonial reference to God in the pledge does not convey endorsement of particular religious beliefs." Supreme Court precedent does not support that conclusion.

In the context of the Pledge, the statement that the United States is a nation "under God" is an endorsement of religion. It is a profession of a religious belief, namely, a belief in monotheism. The recitation that ours is a nation "under God" is not a mere acknowledgment that many Americans believe in a deity. Nor is it merely descriptive of the undeniable historical significance of religion in the founding of the Republic. Rather, the phrase "one nation under God" in the

REV_00164912

context of the Pledge is normative. To recite the Pledge is not to describe the United States; instead, it is to swear allegiance to the values for which the flag stands: unity, indivisibility, liberty, justice, and—since 1954—monotheism. The text of the official Pledge, codified in federal law, impermissibly takes a position with respect to the purely religious question of the existence and identity of God. A profession that we are a nation "under God" is identical, for Establishment Clause purposes, to a profession that we are a nation "under Jesus," a nation "under Vishnu," a nation "under Zeus," or a nation "under no god," because none of these professions can be neutral with respect to religion. "[T]he government must pursue a course of complete neutrality toward religion." *Wallace*, 472 U.S. at 60, 105 S. Ct. 2479. Furthermore, the school district's practice of teacher-led recitation of the Pledge aims to inculcate in students a respect for the ideals set forth in the Pledge, and thus amounts to state endorsement of these ideals. Although students cannot be forced to participate in recitation of the Pledge, the school district is nonetheless conveying a message of state endorsement of a religious belief when it requires public school teachers to recite, and lead the recitation of, the current form of the Pledge.

The Supreme Court recognized the normative and ideological nature of the Pledge in *Barnette*, 319 U.S. 624, 63 S. Ct. 1178, 87 L.Ed. 1628. There, the Court held unconstitutional a school district's wartime policy of punishing students who refused to recite the Pledge and salute the flag. *Id.* at 642, 63 S. Ct. 1178. The Court noted that the school district was compelling the students "to declare a belief," *id.* at 631, 63 S. Ct. 1178, and "requir[ing] the individual to communicate by word

REV_00164913

and sign his acceptance of the political ideas [the flag] . . . bespeaks," *id.* at 633, 63 S. Ct. 1178. "[T]he compulsory flag salute and pledge requires affirmation of a belief and an attitude of mind." *Id.* The Court emphasized that the political concepts articulated in the Pledge[6] were idealistic, not descriptive: "'[L]iberty and justice for all,' if it must be accepted as descriptive of the present order rather than an ideal, might to some seem an overstatement." *Id.* at 634 n. 14, 63 S. Ct. 1178. The Court concluded that: "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein." *Id.* at 642, 63 S. Ct. 1178.

The Pledge, as currently codified, is an impermissible government endorsement of religion because it sends a message to unbelievers "that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community." *Lynch*, 465 U.S. at 688, 104 S. Ct. 1355 (O'Connor, J., concurring). Justice Kennedy, in his dissent in *Allegheny*, agreed:

> [B]y statute, the Pledge of Allegiance to the Flag describes the United States as 'one nation under God.' To be sure, no one is obligated to recite this phrase, . . . but it borders on sophistry to suggest that the reasonable atheist would not feel less than a full member of the political community every time

---

[6] *Barnette* was decided before "under God" was added, and thus the Court's discussion was limited to the political ideals contained in the Pledge.

REV_00164914

> his fellow Americans recited, as part of their expression of patriotism and love for country, a phrase he believed to be false.

Allegheny, 492 U.S. at 672, 109 S. Ct. 3086 (Kennedy, J., dissenting) (citations and internal quotation marks omitted).[7] Consequently, the policy and the Act fail the endorsement test.

Similarly, the policy and the Act fail the coercion test. Just as in *Lee*, the policy and the Act place students in the untenable position of choosing between participating in an exercise with religious content or protesting. As the Court observed with respect to the graduation prayer in that case: "What to most believers may seem nothing more than a reasonable request that the nonbeliever respect their religious practices, in a school context may appear to the nonbeliever or dissenter to be an attempt to employ the machinery of the State to enforce a religious orthodoxy." *Lee*, 505 U.S. at 592, 112 S. Ct. 2649. Although the defendants argue that the religious content of "one nation under God" is minimal, to an atheist or a believer in certain non-Judeo-Christian religions or philosophies, it may reasonably appear to be an attempt to enforce a "religious orthodoxy" of monotheism, and is therefore impermissible. The coercive effect of this policy is particularly pronounced in the school setting given the age and impressionability of schoolchildren, and their understanding that they are required to adhere to the norms set by their school, their teacher and their fellow students.[8] Furthermore, under *Lee*, the fact that

---

[7] For Justice Kennedy, this result was a reason to reject the endorsement test.

[8] The "subtle and indirect" social pressure which permeates the classroom also renders more acute the message sent to non-

REV_00164915

students are not required to participate is no basis for distinguishing *Barnette* from the case at bar because, even without a recitation requirement for each child, the mere fact that a pupil is required to listen every day to the statement "one nation under God" has a coercive effect.[9] The coercive effect of the Act is apparent from its context and legislative history, which indicate that the Act was designed to result in the daily recitation of the words "under God" in school classrooms. President Eisenhower, during the Act's signing ceremony, stated: "From this day forward, the millions of our school children will daily proclaim in every city and town, every village and rural schoolhouse, the dedication of our Nation and our people to the Almighty." 100 Cong. Rec. 8618 (1954) (statement of Sen. Ferguson incorporating signing statement of President Eisenhower). Therefore, the policy and the Act fail the coercion test.[10]

---

believing schoolchildren that they are outsiders. *See Lee*, 505 U.S. at 592-93, 112 S. Ct. 2649 (stating that "the risk of indirect coercion" from prayer exercises is particularly "pronounced" in elementary and secondary public school because students are subjected to peer pressure and public pressure which is "as real as any overt compulsion").

[9] The objection to the Pledge in *Barnette*, like in the case at bar, was based upon a religious ground. The Pledge in the classroom context imposes upon schoolchildren the constitutionally unacceptable choice between participating and protesting. Recognizing the severity of the effect of this form of coercion on children, the Supreme Court in *Lee* stated, "the State may not, consistent with the Establishment Clause, place primary and secondary school children in this position." 505 U.S. at 593, 112 S. Ct. 2649.

[10] In *Aronow v. United States*, 432 F.2d 242 (9th Cir. 1970), this court, without reaching the question of standing, upheld the inscription of the phrase "In God We Trust" on our coins and currency. *But cf. Wooley v. Maynard*, 430 U.S. 705, 722, 97 S. Ct.

REV_00164916

Finally we turn to the *Lemon* test, the first prong of which asks if the challenged policy has a secular purpose. Historically, the primary purpose of the 1954 Act was to advance religion, in conflict with the first prong of the *Lemon* test. The federal defendants "do not dispute that the words 'under God' were intended" "to recognize a Supreme Being," at a time when the government was publicly inveighing against atheistic communism. Nonetheless, the federal defendants argue that the Pledge must be considered as a whole when assessing whether it has a secular purpose. They claim that the Pledge has the secular purpose of "solemnizing public occasions, expressing confidence in the future, and encouraging the recognition of what is worthy of appreciation in society." *Lynch*, 465 U.S. at 693, 104 S. Ct. 1355.

The flaw in defendants' argument is that it looks at the text of the Pledge "as a whole," and glosses over the 1954 Act. The problem with this approach is apparent when one considers the Court's analysis in *Wallace*. There, the Court struck down Alabama's statute mandating a moment of silence for "meditation or voluntary prayer" not because the final version "as a whole" lacked a primary secular purpose, but because the state legislature had amended the statute specifically and solely to add the words "or voluntary prayer." 472 U.S. at 59-60, 105 S. Ct. 2479.

1428, 51 L.Ed.2d 752 (1977) (Rehnquist, J., dissenting) (stating that the majority's holding leads logically to the conclusion that "In God We Trust" is an unconstitutional affirmation of belief). In any event, *Aronow* is distinguishable in many ways from the present case. The most important distinction is that school children are not coerced into reciting or otherwise actively led to participating in an endorsement of the markings on the money in circulation.

REV_00164917

By analogy to *Wallace*, we apply the purpose prong of the *Lemon* test to the amendment that added the words "under God" to the Pledge, not to the Pledge in its final version. As was the case with the amendment to the Alabama statute in *Wallace*, the legislative history of the 1954 Act reveals that the Act's *sole* purpose was to advance religion, in order to differentiate the United States from nations under communist rule." [T]he First Amendment requires that a statute must be invalidated if it is entirely motivated by a purpose to advance religion." *Id.* at 56, 105 S. Ct. 2479 (citations omitted) (applying the *Lemon* test). As the legislative history of the 1954 Act sets forth:

> At this moment of our history the principles underlying our American Government and the American way of life are under attack by a system whose philosophy is at direct odds with our own. Our American Government is founded on the concept of the individuality and the dignity of the human being. Underlying this concept is the belief that the human person is important because he was created by God and endowed by Him with certain inalienable rights which no civil authority may usurp. The inclusion of God in our pledge therefore would further acknowledge the dependence of our people and our Government upon the moral directions of the Creator. At the same time it would serve to deny the atheistic and materialistic concepts of communism with its attendant subservience of the individual.

H.R. Rep. No. 83-1693, at 1-2 (1954), *reprinted in* 1954 U.S.C.C.A.N. 2339, 2340. This language reveals that the purpose of the 1954 Act was to take a position on the question of theism, namely, to support the existence and moral authority of God, while "deny[ing] . . .

REV_00164918

atheistic and materialistic concepts." *Id.* Such a purpose runs counter to the Establishment Clause, which prohibits the government's endorsement or advancement not only of one particular religion at the expense of other religions, but also of religion at the expense of atheism.

> [T]he Court has unambiguously concluded that the individual freedom of conscience protected by the First Amendment embraces the right to select any religious faith or none at all. This conclusion derives support not only from the interest in respecting the individual's freedom of conscience, but also from the conviction that religious beliefs worthy of respect are the product of a free and voluntary choice by the faithful, and from recognition of the fact that the political interest in forestalling intolerance extends beyond intolerance among Christian sects—or even intolerance among "religions"—to encompass intolerance of the disbeliever and the uncertain.

Wallace, 472 U.S. at 52-54, 105 S. Ct. 2479.

In language that attempts to prevent future constitutional challenges, the sponsors of the 1954 Act expressly disclaimed a religious purpose. "This is not an act establishing a religion. . . . A distinction must be made between the existence of a religion as an institution and a belief in the sovereignty of God. The phrase 'under God' recognizes only the guidance of God in our national affairs." H.R. Rep. No. 83-1693, at 3 (1954), *reprinted in* 1954 U.S.C.C.A.N. 2339, 2341-42. This alleged distinction is irrelevant for constitutional purposes. The Act's affirmation of "a belief in the sovereignty of God" and its recognition of "the guidance of God" are endorsements by the government of reli-

REV_00164919

gious beliefs. The Establishment Clause is not limited to "religion as an institution"; this is clear from cases such as *Santa Fe*, where the Court struck down student-initiated and student-led prayer at high school football games. 530 U.S. at 310-16, 120 S. Ct. 2266. The Establishment Clause guards not only against the establishment of "religion as an institution," but also against the endorsement of religious ideology by the government. Because the Act fails the purpose prong of *Lemon*, we need not examine the other prongs. *Lemon*, 403 U.S. at 612-14, 91 S. Ct. 2105.

Similarly, the school district policy also fails the *Lemon* test. Although it survives the first prong of *Lemon* because, as even Newdow concedes, the school district had the secular purpose of fostering patriotism in enacting the policy, the policy fails the second prong. As explained by this court in *Kreisner v. City of San Diego*, 1 F.3d 775, 782 (9th Cir. 1993), and by the Supreme Court in *School District of Grand Rapids v. Ball*, 473 U.S. 373, 390, 105 S. Ct. 3216, 87 L.Ed.2d 267 (1985), the second *Lemon* prong asks "whether the challenged government action is sufficiently likely to be perceived by adherents of the controlling denominations as an endorsement, and by the nonadherents as a disapproval, of their individual religious choices."[11] *Ball*, 473

---

[11] Although *Ball* was overruled in part by *Agostini* v. *Felton*, 521 U.S. 203, 236, 117 S. Ct. 1997, 138 L.Ed.2d 391 (1997), as the Court stated in *Agostini*, *Ball*'s statement of the general principles and relevant tests to be used in determining what constitutes an Establishment Clause violation remain intact; only the underlying factual assumptions and presumptions have changed. In particular, the Court rejected the following three core assumptions of *Ball*:

REV_00164920

U.S. at 390, 105 S. Ct. 3216. Given the age and impressionability of schoolchildren, as discussed above, particularly within the confined environment of the classroom, the policy is highly likely to convey an impermissible message of endorsement to some and disapproval to others of their beliefs regarding the existence of a monotheistic God. Therefore the policy fails the effects prong of *Lemon*, and fails the *Lemon* test. In sum, both the policy and the Act fail the *Lemon* test as well as the endorsement and coercion tests.[12]

> (i) any public employee who works on the premises of a religious school is presumed to inculcate religion in her work; (ii) the presence of public employees on private school premises creates a symbolic union between church and state; and (iii) any and all public aid that directly aids the educational function of religious schools impermissibly finances religious indoctrination, even if the aid reaches such schools as a consequence of private decisionmaking.

Agostini, 521 U.S. at 222, 117 S. Ct. 1997. Therefore, *Ball*'s restatement of the second prong of *Lemon* remains valid even after *Agostini*.

[12] We recognize that the Supreme Court has occasionally commented in dicta that the presence of "one nation under God" in the Pledge of Allegiance is constitutional. *See Allegheny*, 492 U.S. at 602-03, 109 S. Ct. 3086; *Lynch*, 465 U.S. at 676, 104 S. Ct. 1355; *id.* at 693, 104 S. Ct. 1355 (O'Connor, J., concurring); *Abington Sch. Dist. v. Schempp*, 374 U.S. 203, 303-04, 83 S. Ct. 1560, 10 L.Ed.2d 844 (1963) (Brennan, J., concurring); *id.* at 306-08, 83 S. Ct. 1560 (Goldberg, J., joined by Harlan, J., concurring); *Engel*, 370 U.S. at 435 n. 21, 82 S. Ct. 1261. However, the Court has never been presented with the question directly, and has always clearly refrained from deciding it. Accordingly, it has never applied any of the three tests to the Act or to any school policy regarding the recitation of the Pledge. That task falls to us, although the final word, as always, remains with the Supreme Court.

REV_00164921

The only other United States Court of Appeals to consider the issue is the Seventh Circuit, which held in *Sherman v. Community Consolidated School District 21*, 980 F.2d 437 (7th Cir. 1992), that a policy similar to the one before us regarding the recitation of the Pledge of Allegiance containing the words "one nation under God" was constitutional. The *Sherman* court first stated that:

> If as *Barnette* holds no state may require anyone to recite the Pledge, and if as the prayer cases hold the recitation by a teacher or rabbi of unwelcome words is coercion, then the Pledge of Allegiance becomes unconstitutional under all circumstances, just as no school may read from a holy scripture at the start of class.

980 F.2d at 444. It then concludes, however, that this reasoning is flawed because the First Amendment "[does] not establish general rules about speech or schools; [it] call[s] for religion to be treated differently." *Id.* We have some difficulty understanding this statement; we do not believe that the Constitution prohibits compulsory patriotism as in *Barnette*, but permits compulsory religion as in this case. If government-endorsed religion is to be treated differently from government-endorsed patriotism, the treatment must be less favorable, not more.

The Seventh Circuit makes an even more serious error, however. It not only refuses to apply the *Lemon* test because of the Supreme Court's criticism of that test in *Lee*, but it also fails to apply the coercion test from *Lee* or the endorsement test from *Lynch*. Circuit courts are not free to ignore Supreme Court precedent in this manner. *Rodriguez de Quijas v. Shearson/Am. Exp., Inc.*, 490 U.S. 477, 484, 109 S. Ct. 1917, 104 L.Ed.2d 526 (1989) ("If a precedent of this Court has direct application in a case, yet appears to rest on reasons rejected in some other line of decisions, the Court of Appeals should follow the case which directly controls, leaving to this Court the prerogative of overruling its own decisions."). Instead of applying any of the tests announced by the Supreme Court, the Seventh Circuit simply frames the question as follows: "Must ceremonial references in civic life to a deity be understood as prayer, or support for all monotheistic religions, to the exclusion of atheists and those who worship multiple gods?" 980 F.2d at 445. Relying in part on Supreme Court dicta regarding the Pledge, the court answers this question in the negative, determining that "under God" is a statement

REV_00164922

In conclusion, we hold that (1) the 1954 Act adding the words "under God" to the Pledge, and (2) EGUSD's policy and practice of teacher-led recitation of the Pledge, with the added words included, violate the Establishment Clause. The judgment of dismissal is vacated with respect to these two claims, and the cause is remanded for further proceedings consistent with our holding. Plaintiff is to recover costs on this appeal.

REVERSED AND REMANDED.

---

which, taken within its context in the Pledge, is devoid of any significant religious content, and therefore constitutional. *Id.* at 447-48. At the very least, as discussed above in the text, the Supreme Court requires that any policy alleged to be an Establishment Clause violation must be held to the scrutiny of the established tests. Our application of *all* of the tests compels the conclusion that the policy and the Act challenged here violate the Establishment Clause of the Constitution. Thus, we must respectfully differ from the Seventh Circuit.

REV_00164923

FERNANDEZ, Circuit Judge, concurring and dissenting:

I concur in parts A, B and C[1] of the majority opinion, but dissent as to part D.

We are asked to hold that inclusion of the phrase "under God" in this nation's Pledge of Allegiance violates the religion clauses of the Constitution of the United States. We should do no such thing. We should, instead, recognize that those clauses were not designed to drive religious expression out of public thought; they were written to avoid discrimination.

We can run through the litany of tests and concepts which have floated to the surface from time to time. Were we to do so, the one that appeals most to me, the one I think to be correct, is the concept that what the religion clauses of the First Amendment require is neutrality; that those clauses are, in effect, an early kind of equal protection provision and assure that government will neither discriminate for nor discriminate against a religion or religions. *See Gentala v. City of Tucson*, 244 F.3d 1065, 1083-86 (9th Cir.) (en banc) (Fernandez, J., dissenting), *cert. granted and judgment vacated by* 534 U.S. 946, 122 S. Ct. 340, 151 L.Ed.2d 256 (2001); *Goehring v. Brophy*, 94 F.3d 1294,

---

[1] I admit, however, to serious misgivings about standing to attack 4 U.S.C. § 4 itself. Congress has not compelled anyone to do anything. It surely has not directed that the Pledge be recited in class; only the California authorities have done that. Even if a general lack of standing to directly attack 4 U.S.C. § 4 would deprive federal courts of the opportunity to strike "under God" from that statute, any lament would be no more than a complaint about the limits on federal judges' constitutional power. Nonetheless, that ultimately makes little difference to the resolution of the First Amendment issue in this case.

REV_00164924

1306-07 (9th Cir. 1996) (Fernandez, J., concurring). But, legal world abstractions and ruminations aside, when all is said and done, the danger that "under God" in our Pledge of Allegiance will tend to bring about a theocracy or suppress somebody's beliefs is so minuscule as to be de minimis. The danger that phrase presents to our First Amendment freedoms is picayune at most.

Judges, including Supreme Court Justices, have recognized the lack of danger in that and similar expressions for decades, if not for centuries, as have presidents[2] and members of our Congress. *See, e.g., County of Allegheny v. ACLU*, 492 U.S. 573, 602-03, 672-73, 109 S. Ct. 3086, 3106, 3143, 106 L.Ed.2d 472 (1989); *Wallace v. Jaffree*, 472 U.S. 38, 78 n. 5, 105 S. Ct. 2479, 86 L.Ed.2d 29 (1985); *Lynch v. Donnelly*, 465 U.S. 668, 676, 693, 716, 104 S. Ct. 1355, 1361, 79 L.Ed.2d 604 (1984); *Abington Sch. Dist. v. Schempp*, 374 U.S. 203, 306-08, 83 S. Ct. 1560, 1615-16, 10 L.Ed.2d 844 (1963);[3] *Separation of Church & State Comm. v. City of Eugene*, 93 F.3d 617, 622 (9th Cir. 1996) (O'Scannlain, J., concurring); *Gaylor v. United States*, 74 F.3d 214, 217-18 (10th Cir. 1996); *Sherman v. Cmty Consol. Sch. Dist. 21*, 980 F.2d 437, 445-48 (7th Cir. 1992); *O'Hair v.*

---

[2] *See, e.g., Lee v. Weisman*, 505 U.S. 577, 632-35, 112 S. Ct. 2649, 120 L.Ed.2d 467 (1992) (Scalia, J., dissenting).

[3] The citations to the four preceding Supreme Court opinions are to majority opinions, concurring opinions, and dissents. Because my point is that a number of Justices have recognized the lack of danger and because I hope to avoid untoward complication in the setting out of the citations, I have not designated which Justices have joined in which opinion. All in all, however, perusing those opinions indicates that Chief Justice Burger, Chief Justice Rehnquist, and Justices Harlan, Brennan, White, Goldberg, Marshall, Blackmun, Powell, Stevens, O'Connor, Scalia, and Kennedy have so recognized.

REV_00164925

Murray, 588 F.2d 1144, 1144 (5th Cir. 1979) (per curiam); *Aronow v. United States*, 432 F.2d 242, 243-44 (9th Cir. 1970); *cf. Marsh v. Chambers*, 463 U.S. 783, 795, 103 S. Ct. 3330, 77 L.Ed.2d 1019 (1983) (legislative prayer). I think it is worth stating a little more about two of the cases which I have just cited. In *County of Allegheny*, 492 U.S. at 602-03, 109 S. Ct. at 3106, the Supreme Court had this to say: "Our previous opinions have considered in dicta the motto and the pledge, characterizing them as consistent with the proposition that government may not communicate an endorsement of religious belief." The Seventh Circuit, reacting in part to that statement, has wisely expressed the following thought:

> Plaintiffs observe that the Court sometimes changes its tune when it confronts a subject directly. True enough, but an inferior court had best respect what the majority says rather than read between the lines. If the Court proclaims that a practice is consistent with the establishment clause, we take its assurances seriously. If the Justices are just pulling our leg, let them say so.

Sherman, 980 F.2d at 448.

Some, who rather choke on the notion of de minimis, have resorted to the euphemism "ceremonial deism." *See, e.g., Lynch*, 465 U.S. at 716, 104 S. Ct. at 1382 (Brennan, J., dissenting). But whatever it is called (I care not), it comes to this: such phrases as "In God We Trust," or "under God" have no tendency to establish a religion in this country or to suppress anyone's exercise, or non-exercise, of religion, except in the fevered eye of persons who most fervently would like to drive all tincture of religion out of the public life of our polity.

REV_00164926

Those expressions have not caused any real harm of that sort over the years since 1791, and are not likely to do so in the future.[4] As I see it, that is not because they are drained of meaning.[5] Rather, as I have already indicated, it is because their tendency to establish religion (or affect its exercise) is exiguous. I recognize that some people may not feel good about hearing the phrases recited in their presence, but, then, others might not feel good if they are omitted. At any rate, the Constitution is a practical and balanced charter for the just governance of a free people in a vast territory. Thus, although we do feel good when we contemplate the effects of its inspiring phrasing and majestic promises, it is not primarily a feel-good prescription.[6] In *West Virginia Board of Education v. Barnette*, 319 U.S. 624, 630, 642, 63 S. Ct. 1178, 1181, 1187, 87 L.Ed. 1628 (1943), for example, the Supreme Court did not say that the Pledge could not be recited in the presence of Jehovah's Witness children; it merely said that they did not have to recite it.[7] That fully protected their con-

---

[4] They have not led us down the long path to kulturkampf or worse. Those who are somehow beset by residual doubts and fears should find comfort in the reflection that no baleful religious effects have been generated by the existence of similar references to a deity throughout our history. More specifically, it is difficult to detect any signs of incipient theocracy springing up since the Pledge was amended in 1954.

[5] *See also Sherman*, 980 F.2d at 448 (Manion, J., concurring).

[6] We, by the way, indicated as much in *American Family Ass'n, Inc. v. City and County of San Francisco*, 277 F.3d 1114, 1125-26 (9th Cir. 2002), which involved governmental conduct that was much more questionable than adoption of the phrase "under God." *See id.* at 1126-28 (Noonan, J., dissenting).

[7] I recognize that the Pledge did not then contain the phrase "under God."

REV_00164927

stitutional rights by precluding the government from trenching upon "the sphere of intellect and spirit." *Id.* at 642, 63 S. Ct. at 1187. As the Court pointed out, their religiously based refusal "to participate in the ceremony [would] not interfere with or deny rights of others to do so." *Id.* at 630, 63 S. Ct. at 1181. We should not permit Newdow's feel-good concept to change that balance.

My reading of the stelliscript suggests that upon Newdow's theory of our Constitution, accepted by my colleagues today, we will soon find ourselves prohibited from using our album of patriotic songs in many public settings. "God Bless America" and "America the Beautiful" will be gone for sure, and while use of the first three stanzas of "The Star Spangled Banner" will still be permissible, we will be precluded from straying into the fourth.[8] And currency beware! Judges can accept those results if they limit themselves to elements and tests, while failing to look at the good sense and principles that animated those tests in the first place. But they do so at the price of removing a vestige of the awe we all must feel at the immenseness of the universe and our own small place within it, as well as the wonder we must feel at the good fortune of our country. That will cool the febrile nerves of a few at the cost of removing the healthy glow conferred upon many citizens when the forbidden verses, or phrases, are uttered, read, or seen.

In short, I cannot accept the eliding of the simple phrase "under God" from our Pledge of Allegiance, when it is obvious that its tendency to establish religion

---

[8] Nor will we be able to stray into the fourth stanza of "My Country 'Tis of Thee" for that matter.

REV_00164928

in this country or to interfere with the free exercise (or non-exercise) of religion is de minimis.[9]

Thus, I respectfully concur in part and dissent in part.

[9] Lest I be misunderstood, I must emphasize that to decide this case it is not necessary to say, and I do not say, that there is such a thing as a de minimis constitutional violation. What I do say is that the de minimis tendency of the Pledge to establish a religion or to interfere with its free exercise is no constitutional violation at all.

REV_00164929

APPENDIX C

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 00-16423
D.C. No. CV 00-00495-MLS/PAN

MICHAEL A. NEWDOW, PLAINTIFF-APPELLANT

v.

U.S. CONGRESS; UNITED STATES OF AMERICA; GEORGE W. BUSH,* PRESIDENT OF THE UNITED STATES; STATE OF CALIFORNIA; ELK GROVE UNIFIED SCHOOL DISTRICT; DAVID W. GORDON, SUPERINTENDENT EGUSD; SACRAMENTO CITY UNIFIED SCHOOL DISTRICT; JIM SWEENEY, SUPERINTENDENT SCUSD, DEFENDANTS-APPELLEES

Appeal from the United States District Court for the Eastern District of California, Milton L. Schwartz, Senior Judge, Presiding

Argued and Submitted: March 14, 2002
Filed: June 26, 2002
Amended: February 28, 2003

ORDER

The opinion filed June 26, 2002, is ordered amended. The Clerk is instructed to file the amended opinion with

* George W. Bush is substituted for his predecessor, William Jefferson Clinton, as President of the United States. Fed. R. App. P. 43(c)(2).

REV_00164930

Judge Fernandez's amended concurrence/dissent. Judge Reinhardt's concurrence in the order denying rehearing en banc, along with Judge O'Scannlain's and Judge McKeown's dissent from that order shall also be filed.

The Clerk is also instructed not to accept for filing any new petitions for rehearing and petitions for rehearing en banc in this case.

With the opinion thus amended, the panel has voted unanimously to deny the petitions for rehearing.

The full court has been advised of the petitions for rehearing en banc. An active judge requested a vote on whether to rehear the matter en banc. The matter failed to receive a majority of the votes of the non-recused active judges in favor of en banc consideration. Fed. R. App. P. 35.

The petitions for rehearing are DENIED and the petitions for rehearing en banc are DENIED.

REINHARDT, Circuit Judge, concurring in the order:

My views as to the merits of this issue are set forth in the amended majority opinion authored by Judge Goodwin, and I adhere to them fully. I write separately for two reasons unrelated to the contents of that opinion. I write first to comment on the separate dissent to the denial of rehearing en banc authored by Judge McKeown and joined in by Judges Hawkins, Thomas, and Rawlinson, in which my colleagues appear to express the view that a case should be reheard en banc whenever it involves "a question of exceptional importance." FED. R. APP. P. 35(a)(2).[1] Second, I am

[1] While the brief separate dissent is deliberately opaque and uninformative, I would suspect that not all of its signatories

REV_00164931

compelled to register my strong disagreement with one particularly unfortunate aspect of Judge O'Scannlain's principal dissent that reflects a serious misconception of fundamental constitutional principles and the proper role of the federal judiciary.

I

As to the first question, I disagree with the notion that the importance of an issue is a sufficient reason to take a case en banc, either under the Rule or as a matter of judicial policy. Rule 35(a) advises this court of its *discretionary* power to order that a case already decided by a three-judge panel be reheard by the full court. Specifically, the rule begins by stating that a "majority of the circuit judges who are in regular active service *may* order that an appeal or other proceeding be heard or reheard by the court of appeals en banc." FED. R. APP. P. 35(a) (emphasis added). Subsection two guides such discretionary consideration by stating that one compelling reason to grant rehearing en banc is the "exceptional importance" of a particular case.

The most reasonable construction of the Rule is that this court should rehear a case en banc when it is *both* of exceptional importance *and* the decision *requires correctio*n. *See United States* v. *Burdeau,* 180 F.3d 1091, 1092 (9th Cir. 1999) (Tashima, J., concurring in the order denying rehearing en banc) ("Subject to rare exceptions. . . . we should review the statements in three[-]judge panel opinions only to 'determine whether the [panel's] legal error resulted in an erroneous

---

believe that the general rule they appear to advocate should apply regardless of the "correctness" of the panel opinion. The concept that "exceptional importance" is, without more, a sufficient reason for en banc review is, however, shared by at least several members of the Court and accordingly merits some discussion.

REV_00164932

judgment . . . .'") (quoting *Chevron U.S.A. Inc.* v. *Natural Res. Def. Council*, 467 U.S. 837, 842 (1984)). A decision may warrant correction because a three-judge panel has reached a result or adopted a legal rule or principle that conflicts with our existing circuit law or that the majority of our court believes is incorrect and needs further review. The fact that three-judge panels often decide cases of exceptional importance, whether it be the constitutionality of a state's decision to execute an individual who may be innocent, the existence or non-existence of a fundamental right, or the ability of the Congress to require the states to comply with federal law—an issue that some of us thought had been settled by the successful end to the Civil War—is an unremarkable, but undeniably important, aspect of our appellate system. *See* Tracey E. George, *The Dynamics and Determinants of the Decision to Grant En Banc Review*, 74 WASH. L. REV. 213, 218 (1999) (stating that three-judge panels "representing and acting on behalf of the whole court" is a "basic tenet of our intermediate appellate system"). Unless reconsidered en banc, a decision of a three-judge panel *is* a decision of our court and speaks for our court. Moreover, it ordinarily constitutes the final judicial decision.[2]

To rehear a case en banc *simply* on the basis that it involves an important issue would undermine the three-

---

[2] While the Supreme Court unquestionably has the authority to review any or all of the decisions of the Court of Appeals, the Court has elected to hear a remarkably small number of cases in recent years. For example, in the 2001 term, of the 7,852 case filings, the Court heard argument in 88 cases, and disposed of 85 in 76 signed opinions. *See* Supreme Court of the United States, *2002 Year-End Report on the Federal Judiciary*, *at* http://www.supremecourtus.gov/publicinfo/year-end/2002year-endreport.html.

REV_00164933

judge panel system and create an impractical and crushing burden on what otherwise should be, as Rule 35(a) suggests, an exceptional occurrence. *See* FED. R. APP. P. 35(a) ("An en banc hearing or rehearing is not favored . . . ."). According to statistics kept by the Clerk of the court, in 2002 this court decided 5,190 cases on the merits, more than 98% of which were finally decided by three-judge panels. These decisions are not measures of "rough justice," later to be refined by the en banc court. Unless they decide issues of exceptional importance erroneously, create a direct intra-circuit split, or unless the interests of justice require that the decision be corrected, the opinions of three-judge panels should constitute the final action of this court.

II

I also feel compelled to discuss a disturbingly wrong-headed approach to constitutional law manifested in the dissent authored by Judge O'Scannlain. The dissent suggests that this court should be able to conclude that the panel's holding was erroneous by observing the "public and political reaction" to its decision. Dissent at 2783. This is not the first time that the magnitude of the political response regarding an issue has distracted certain members of this court. An equally disturbing misunderstanding of the nature of our Constitution and the role of the federal judiciary was manifested in *Coalition for Econ. Equity* v. *Wilson*, 122 F.3d 692 (9th Cir. 1997), a case involving a California initiative on the subject of affirmative action. There, the three-judge panel, in a case that unfortunately was not taken en banc, notwithstanding its exceptional importance, made the following remarkable statement: "A system which permits one judge to block with the stroke of a pen what 4,736,180 state residents voted to enact as law

REV_00164934

tests the integrity of our constitutional democracy." *Id.* at 699 (O'Scannlain, J.).

The Bill of Rights is, of course, intended to protect the rights of those in the minority against the temporary passions of a majority which might wish to limit their freedoms or liberties. As Justice Jackson recognized:

> The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections.

W. Va. State Bd. of Educ. v. *Barnette*, 319 U.S. 624, 638 (1943). It is the highest calling of federal judges to invoke the Constitution to repudiate unlawful majoritarian actions and, when necessary, to strike down statutes that would infringe on fundamental rights, whether such statutes are adopted by legislatures or by popular vote. The constitutional system that vests such power in an independent judiciary does not "test[ ] the integrity of . . . democracy." It makes democracy vital, and is one of our proudest heritages.

Moreover, Article III judges are by constitutional design insulated from the political pressures governing members of the other two branches of government. We are given life tenure and a secured salary so that, in our unique capacity to "say what the law is," *Marbury* v. *Madison*, 5 U.S. (1 Cranch) 137, 177 (1803), we may decide constitutional issues without regard to popular

REV_00164935

vote, political consequence, or the prospect of future career advancement.[3] Most federal judges do not question the wisdom of this approach. When the federal judiciary is so firmly separated by constitutional structure from the direct influence of politics, we must not undermine that structure by allowing political pressures, polls, or "focus groups" to influence our opinions, even indirectly.

This is not to say that federal judges should be completely sequestered from the attitudes of the nation we serve, even though our service is accomplished not through channeling popular sentiment but through strict adherence to established constitutional principles. The Constitution contemplates occasions when we must be responsive to *long-term* societal trends—when determining, for example, that which is "cruel and unusual," *see Hudson* v. *McMillian*, 503 U.S. 1, 9 (1992), whether in the execution of the mentally retarded, *see Atkins* v. *Virginia*, 536 U.S. 304, ___, 122 S. Ct. 2242, 2247 (2002), or the execution of juvenile offenders, *see In re Stanford*, 123 S.Ct. 472, 474 (2002) (Stevens, J., dissenting from the denial of an application for an original writ of habeas corpus). This broader long-term

---

[3] Alexander Hamilton was admirably cognizant of the danger of relying on temporary political whimsy:

> This independence of the judges is equally requisite to guard the Constitution and the rights of individuals from the effects of those ill humors which the arts of designing men, or the influence of particular conjectures, sometimes disseminate among the people themselves, and which, though they speedily give place to better information, and more deliberate reflection, have a tendency, in the meantime, to occasion dangerous innovations in the government, and serious oppressions of the minor party in the community.

THE FEDERALIST NO. 78, at 437 (Alexander Hamilton) (Clinton Rossiter ed., 1999).

REV_00164936

social conscience, however, is a matter far different from responding to particular immediate political pressures. We may not—we must not—allow public sentiment or outcry to guide our decisions. It is particularly important that we understand the nature of our obligations and the strength of our constitutional principles in times of national crisis; it is then that our freedoms and our liberties are in the greatest peril. Any suggestion, whenever or wherever made, that federal judges should be encouraged by the approval of the majority or deterred by popular disfavor is fundamentally inconsistent with the Constitution and must be firmly rejected.

REV_00164937

O'SCANNLAIN, Circuit Judge, with whom KLEINFELD, GOULD, TALLMAN, RAWLINSON, and CLIFTON, Circuit Judges, join, dissenting from the denial of rehearing en banc:

Last June, a two-judge majority of a three-judge panel of this court ruled that the Pledge of Allegiance was unconstitutional simply because of the presence of two offending words: "under God." It was an exercise in judicial legerdemain which, not surprisingly, produced a public outcry across the nation. Since that time we, as a court, have had the opportunity to order reconsideration of that decision en banc, yet a majority of the 24 active judges eligible to vote has decided not to do so. While there are, no doubt, varied and plausible reasons why this result occurred, I respectfully conclude that our court has made a serious mistake and thus must dissent from its order denying reconsideration.

I

While I cannot say that a randomly selected 11-judge panel would have ruled differently, I believe that neither the June 2002 version, *Newdow* v. *United States Congress*, 292 F.3d 597 (9th Cir. 2002) ("*Newdow* I"), nor today's slightly revised version, ___ F.3d ___ ("*Newdow II*") to essentially the same effect, is defensible. We should have reheard *Newdow I* en banc, not because it was controversial, but because it was wrong, very wrong—wrong because reciting the Pledge of Allegiance is simply not "a religious act" as the two-judge majority asserts, wrong as a matter of Supreme Court precedent properly understood, wrong because it set up a direct conflict with the law of another circuit,

REV_00164938

and wrong as a matter of common sense.[1] We should have given 11 judges a chance to determine whether the two-judge majority opinion truly reflects the law of the Ninth Circuit.[2] Reciting the Pledge of Allegiance cannot possibly be an "establishment of religion" under *any* reasonable interpretation of the Constitution.[3]

Perhaps in an effort to avoid ultimate Supreme Court review, *Newdow II* which replaces it, avoids expressly reaching the technical question of the constitutionality of the 1954 Act. Fundamentally, however, the amended decision is every bit as bold as its predecessor. It bans

---

[1] Judge Reinhardt's protestations to the contrary notwithstanding, I, too, believe that "[o]ur judicial charge is to stand above the inflamed passions of the public." *Dazo* v. *Globe Airport Sec. Serv.*, 295 F.3d 934, 943 (9th Cir. 2002) (O'Scannlain, J., concurring and dissenting). My disagreement with the panel majority has nothing to do with bending to the will of an outraged populace, and everything to do with the fact that Judge Goodwin and Judge Reinhardt misinterpret the Constitution and 40 years of Supreme Court precedent. That most people understand this makes the decision no less wrong. It doesn't take an Article III judge to recognize that the voluntary recitation of the Pledge of Allegiance in public school does not violate the First Amendment.

[2] This case presents the classic situation required for our court to rehear a case en banc. En banc consideration would have allowed us to correct the error of a prior panel's decision with respect to the Pledge *and* resolve a constitutional question of exceptional importance that affects the lives of millions of school children who reside within the geographical boundaries of the Ninth Circuit. *See* Fed. R. App. P. 35(a). The exceptional importance of this case reinforces the need for correction of the panel's mistaken view of our Constitution.

[3] U.S. Const. Amend. I. ("Congress shall make no law respecting an *establishment of religion,* or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.") (emphasis added).

REV_00164939

the voluntary recitation of the Pledge of Allegiance in the public schools of the nine western states thereby directly affecting over 9.6 million students,[4] necessarily *implies* that both an Act of Congress[5] and a California law[6] are unconstitutional, clearly conflicts with the Seventh Circuit's decision in *Sherman* v. *Cmty. Consol. Sch. Dist. 21 of Wheeling Township*, 980 F.2d 437 (1992), and threatens cash-strapped school districts and underpaid teachers with the specter of civil actions for money damages pursuant to 42 U.S.C. § 1983.

Newdow I, the subject of our en banc vote, no longer exists; it was withdrawn after the en banc call failed. The panel majority has evolved to this extent: in *Newdow I* the Pledge was unconstitutional for everybody; in *Newdow II* the Pledge is only unconstitutional for public school children and teachers. The remainder of this dissent is directed entirely to *Newdow II*, which, as shall be demonstrated, differs little from *Newdow I* in its central holding. With grim insistence, the majority in *Newdow II* continues to stand by its original error—that voluntary recitation of the Pledge of Alle-

---

[4] *See* U.S. Dep't of Ed., Nat'l Ctr. for Ed. Statistics, available at http://nces.ed.gov/pubs2002/snf_report/table_01_1.asp. The approximate figure is for the school year 2000-01, comprising the states of Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon and Washington,

[5] 4 U.S.C. § 4 ("The Pledge of Allegiance to the Flag: 'I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.' ").

[6] Cal. Educ. Code § 52720. This section provides that "at the beginning of the first regularly scheduled class or activity period . . . there shall be conducted appropriate patriotic exercises. The giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy the requirements of this section."

REV_00164940

giance in public school violates the Establishment Clause because, according to the two-judge panel majority, it is "a religious act." *Newdow II*, ___ F.3d at ___. Common sense would seem to dictate otherwise, as the public and political reaction should by now have made clear. If reciting the Pledge is truly "a religious act" in violation of the Establishment Clause, then so is the recitation of the Constitution[7] itself, the Declaration of Independence,[8] the Gettysburg Address,[9] the National Motto,[10] or the singing of the National Anthem.[11] Such an assertion would make hypocrites out of the Founders, and would have the effect of

---

[7] U.S. Const. Art. VII. ("Year of *our Lord*") (emphasis added).

[8] The Declaration of Independence contains multiple references to God. The founders claimed the right to "dissolve the political bands" based on "the Laws of Nature and of *Nature's God*." The most famous passage, of course, is that "all men are created equal, that they are endowed by *their Creator* with certain unalienable Rights." Subsequently, the signatories "appeal[ ] to the *Supreme Judge of the world* to rectify their intentions."

[9] On November 19, 1863, President Lincoln declared "that this Nation, *under God*, shall have a new birth of freedom—and that Government of the people, by the people, for the people, shall not perish from the earth."

[10] *See* 36 U.S.C. § 302. (" '*In God* we trust' is the national motto.") (emphasis added).

[11] *See* 36 U.S.C. § 301(a) ("The composition consisting of the words and music known as the Star-Spangled Banner is the national anthem."). In fact, the Anthem is much more explicitly religious in content than the Pledge, and much more than a 'mere' profession of the *composer's* faith in a Supreme Being, as the majority would have it. *See Newdow II*, ___ F.3d at ___. Consider the following passage from the fourth stanza: "Blest with victory and peace, may the *heaven-rescued* land, Praise *the Power* that hath made and preserved us a nation. Then conquer we must, when our cause is just, And this be our motto: '*In God* is our trust.' "(emphasis added).

REV_00164941

driving any and all references to our religious heritage out of our schools, and eventually out of our public life.

II

The *Newdow II* majority's primary legal argument is that the Supreme Court's decision in *Lee* v. *Weisman*, 505 U.S. 577 (1992), a school prayer case, controls the outcome of this case. In fact, rather than merely following *Lee* and its predecessors, the two-judge panel majority makes a radical departure from *Lee* and the cases it purports to apply. To understand why this is so, an examination of the Supreme Court's school prayer decisions which culminate in *Lee* is in order.

A

1

The fountainhead of all school prayer cases is *Engel* v. *Vitale*, 370 U.S. 421 (1962). In *Engel* the Court considered a school policy whereby children were directed to say aloud a prayer composed by state officials. The Court found that this practice was inconsistent with the Establishment Clause, reasoning that "[the] program of daily classroom invocation of God's blessings as prescribed in the Regents' prayer is a religious activity. It is a solemn avowal of divine faith and supplication for the blessings of the Almighty. The nature of such a prayer has always been religious." *Id.* at 424-25. The Court concluded by stating that the state should leave prayer, "that purely religious function, to the people themselves." *Id.* at 435. In a footnote, it reasoned as follows:

> There is of course nothing in the decision reached here that is inconsistent with the fact that school children and others are officially encouraged to

REV_00164942

> express love for our country by reciting historical documents such as the Declaration of Independence which contain references to the Deity or by singing officially espoused anthems which include the composer's professions of faith in a Supreme Being, or with the fact that there are many manifestations in our public life of belief in God. Such patriotic or ceremonial occasions bear no true resemblance to the unquestioned religious exercise that the State of New York has sponsored in this instance.

Id. at 435 n.21. The Court drew an explicit distinction between patriotic invocations of God on the one hand, and prayer, an "unquestioned religious exercise," on the other. Concurring, Justice Douglas wrote that the narrow question presented was whether the state "oversteps the bounds when it finances a religious exercise." *Id.* at 439 (Douglas, J., concurring). Justice Douglas noted that the Pledge of Allegiance, "like . . . prayer, recognizes the existence of a Supreme Being." *Id.* at 440 n.5. However, he noted that the House Report recommending the addition of the words "under God" to the Pledge stated that those words "in no way run contrary to the First Amendment but recognize 'only the guidance of God in our national affairs.'" *Id.* (quoting H.R. Rep. No. 1693, 83d Cong., 2d Sess., p. 3).

2

The following year, the Supreme Court decided *Abington School Dist.* v. *Schempp*, 374 U.S. 203 (1963). In that case, the Court considered the constitutionality of a Pennsylvania statute requiring that "[a]t least ten verses from the Holy Bible shall be read, without comment, at the opening of each public school on each school day." *Id.* at 205. The practice in public schools

REV_00164943

was for a teacher or student volunteer to read the required Bible verses each morning. This in turn was followed by a recitation of the Lord's prayer. Finally, the class would recite the Pledge of Allegiance to the Flag. *Id.* at 207-08. The Court struck down the Bible reading and the practice of reciting the Lord's prayer as a state prescribed "religious ceremony," *id.* at 223, but said nothing about the practice of reciting the Pledge.

As in *Engel*, the Court took pains to point to the character of the exercises it found wanting. The Court reasoned that "reading . . . the verses . . . possesses a devotional and religious character and constitutes in effect a religious observance. The devotional and religious nature of the morning exercises is made all the more apparent by the fact that the Bible reading is followed immediately by a recital in unison by the pupils of the Lord's prayer." *Id.* at 210. "The pervading religious character of the ceremony," wrote Justice Clark, "cannot be gainsaid," and led to the conclusion that the exercises violated the Establishment Clause. *Id.* at 224.

The concurring opinions in *Schempp* were all to the same effect. Justice Douglas agreed with the majority's conclusion that the practices at issue violated the Establishment Clause because "the State is conducting a religious exercise." *Id.* at 229 (Douglas, J., concurring). In a lengthy concurrence, Justice Brennan wrote that "[t]he religious nature of the exercises here challenged seems plain." *Id.* at 266 (Brennan, J., concurring). After surveying the history of devotional exercises in American public schools, Justice Brennan stated that "the panorama of history permits no other conclusion than that daily prayers and Bible readings in

REV_00164944

the public schools have always been designed to be, and have been regarded as, essentially religious exercises." *Id.* at 277-78. For Justice Brennan, "religious exercises in the public schools present a unique problem" but "not every involvement of religion in public life violates the Establishment Clause." *Id.* at 294. He warned that "[a]ny attempt to impose rigid limits upon the mention of God . . . in the classroom would be fraught with dangers." *Id.* at 301. Specifically, he wrote that "[t]he reference to divinity in the revised pledge of allegiance . . . may merely recognize the historical fact that our Nation was believed to have been founded 'under God.' Thus reciting the pledge may be no more of a religious exercise than the reading aloud of Lincoln's Gettysburg Address, which contains an allusion to the same historical fact." *Id.* at 304.

Justice Goldberg also wrote separately, stating that "the clearly religious practices presented in these cases are . . . wholly compelling." *Id.* at 305 (Goldberg, J., concurring). He reasoned that "[t]he pervasive religiosity and direct governmental involvement inhering in the prescription of prayer and Bible reading in the public schools . . . cannot realistically be termed simply accommodation." *Id.* at 307. Like Justice Brennan, Justice Goldberg cautioned that the decision "does not mean that all incidents of government which import of the religious are therefore and without more banned by the strictures of the Establishment Clause." *Id.* at 307-08. He then quoted in full the passage from *Engel* which drew a distinction between patriotic invocations of God, and unquestioned religious exercises that give rise to Establishment Clause violations. *Id.*

REV_00164945

3

The next case in this line is *Wallace* v. *Jaffree*, 472 U.S. 38 (1985). That case considered the constitutionality of an Alabama statute authorizing a 1-minute period of silence in public schools "for meditation or voluntary prayer." *Id.* at 40. The Court found that "[t]he wholly religious character" of the challenged law was "plainly evident from its text." *Id.* at 58. The legislature's one and only purpose in enacting the law was "to return prayer to the public schools." *Id.* at 59-60. Justice Powell's separate concurrence was "prompted by Alabama's persistence in attempting to institute state-sponsored prayer in the public schools." *Id.* at 62 (Powell, J., concurring). Justice O'Connor wrote separately to suggest that moment-of-silence statutes were not "a religious exercise," and therefore were constitutional. *Id.* at 72 (O'Connor, J., concurring). Justice O'Connor wrote further that "the words 'under God' in the Pledge . . . serve as an acknowledgment of religion with 'the legitimate secular purposes of solemnizing public occasions, [and] expressing confidence in the future.'" *Id.* at 78 n.5 (quoting *Lynch* v. *Donnelly*, 465 U.S. 668, 693 (O'Connor, J., concurring)) (alterations in original). In contrast, the Alabama statute at issue was very different from the Pledge—the state had "intentionally crossed the line [by] affirmatively endorsing the particular religious practice of prayer." *Id.* at 84.

4

Finally, there is the Supreme Court's decision in *Lee* v. *Weisman*. The issue presented was "whether including clerical members who offer prayers as part of the official school graduation ceremony" is consistent

REV_00164946

with the Establishment Clause. 505 U.S. at 580. The graduating students entered as a group in a processional, after which "the students stood for the Pledge of Allegiance and remained standing during the rabbi's prayers." *Id.* at 583. Justice Kennedy wrote that "the significance of the prayers lies . . . at the heart of [the] case." *Id.* He framed the inquiry as follows:

> These dominant facts mark and control the confines of our decision: State officials direct the performance of a formal religious exercise at promotional and graduation ceremonies for secondary schools. Even for those students who object to the religious exercise their attendance and participation in the state-sponsored religious activity are in a fair and real sense obligatory, though the school district does not require attendance as a condition for receipt of the diploma.

Id. at 586.

The Court in *Lee* concluded that *Engel* and its progeny controlled the outcome, writing that "[c]onducting this formal religious observance conflicts with settled rules pertaining to prayer exercises for students." *Id.* at 587. As in *Engel*, *Schempp*, and *Wallace*, the crucial factor was the nature of the exercise in which the students were asked to participate. Time and again the Court went out of its way to stress the nature of the exercise, writing that prayer was "an overt religious exercise," *id.* at 588, and that "prayer exercises in public schools carry a particular risk of indirect coercion." *Id.* at 592. The practice was unconstitutional because "the State has in every practical sense compelled attendance and participation in an explicit re-

REV_00164947

ligious exercise at an event of singular importance to every student." *Id.* at 598. Just like the decisions in *Engel* and *Schempp*, the Court in *Lee* took pains to stress the confines of its holding, concluding that "[w]e do not hold that every state action implicating religion is invalid if one or a few citizens find it offensive," *id.* at 597, and that "[a] relentless and all-pervasive attempt to exclude religion from every aspect of public life could itself become inconsistent with the Constitution." *Id.* at 598.

B

Two fundamental principles may therefore be derived from the school prayer cases culminating in *Lee*.

1

Formal religious observances are prohibited in public schools because of the danger that they may effect an establishment of religion. *See Engel*, 370 U.S. at 424-25 ("[D]aily classroom invocation of God's blessings . . . is a religious activity."); *Schempp*, 374 U.S. at 210 (Bible reading followed by the Lord's prayer "possesses a devotional and religious character and constitutes in effect a religious observance."); *Wallace*, 472 U.S. at 58 (Prayer is of a "wholly religious character."); *Lee*, 505 U.S. at 586 (Prayer written by state officials constitutes a "formal religious exercise"). In each of these cases, the Court took pains to stress that not every reference to God in public schools was prohibited. *See Engel*, 370 U.S. at 435 n.21 ("patriotic or ceremonial occasions" which contain "references to the Deity" bear "no true resemblance to the unquestioned religious exercise" of prayer); *Schempp*, 374 U.S. at 301 (Brennan, J., concurring) ("Any attempt to impose rigid limits upon the

REV_00164948

mention of God . . . in the classroom would be fraught with dangers."); *Wallace*, 472 U.S. at 78 n.5 (O'Connor, J., concurring) ("the words 'under God' in the Pledge" are not unconstitutional); *Lee*, 505 U.S. at 598 ("A relentless and all-pervasive attempt to exclude religion . . . could itself become inconsistent with the Constitution.").

2

Once it is established that the state is sanctioning a formal religious exercise, then the fact that the students are not *required* to participate in the formal devotional exercises does not prevent those exercises from being unconstitutional. *See Engel*, 370 U.S. at 431 ("[T]he indirect coercive pressure upon religious minorities to conform" to the prayer exercises "is plain."); *Schempp*, 374 U.S. at 210-11 ("The fact that some pupils, or theoretically all pupils, might be excused from attendance at the exercises does not mitigate the obligatory nature of the ceremony."); *Wallace*, 472 U.S. at 57 (State-sanctioned *voluntary* prayer in public schools violates Establishment Clause); *Lee*, 505 U.S. at 592 ("[P]rayer exercises in public schools carry a particular risk of indirect coercion."). To be sure, *Lee* is the Court's most elaborate pronouncement with respect to indirect coercion. It identifies the circumstances in which indirect coercion may be said to be unconstitutional: when the government directs "the performance of a formal religious exercise" in such a way as to oblige the participation of objectors. *Lee*, 505 U.S. at 586.

III

No court, state or federal, has *ever* held, even now, that the Supreme Court's school prayer cases apply

REV_00164949

outside a context of state-sanctioned formal religious observances. But *Newdow II* finesses all that, and the sleight of hand the majority uses becomes immediately apparent: obfuscate the nature of the exercise at issue and emphasize indirect coercion. The panel majority simply ignores, because they are inconvenient, the "dominant and controlling facts" in *Lee* and its predecessors: that Establishment Clause violations in public schools are triggered only when "State officials direct the performance of a *formal religious exercis*e." 505 U.S. at 586 (emphasis added); *see also Schempp*, 374 U.S. at 210 ("devotional . . . religious observance" prohibited); *Wallace*, 472 U.S. at 58 (activities of a "wholly religious character" prohibited).

A

To avoid a flagrant inconsistency with *Lee*, and with 40 years of Supreme Court precedent, the two-judge panel majority must first examine whether the act of pledging allegiance is "a religious act." As the Seventh Circuit in *Sherman* framed it, "Does 'under God' make the Pledge a prayer, whose recitation violates the establishment clause of the first amendment?" 980 F.2d at 445. That court answered the question in the negative; the *Newdow II* majority, in conclusory fashion, simply *assumes* the affirmative. ___ F.3d at ___ ("[W]e conclude that the school district policy impermissibly coerces *a religious act*.") (emphasis added).

This assertion belies common sense. Most assuredly, to pledge allegiance to flag and country is a *patriotic* act. After the public and political reaction last summer, it is difficult to believe that anyone can continue to think otherwise. The fact the Pledge is infused with an undoubtedly religious reference does not change the

REV_00164950

nature of the act itself. The California statute under which the school district promulgated its policy is entitled "[d]aily performance of *patriotic exercises* in public schools." Cal. Educ. Code § 52720 (emphasis added). The Pledge is recited not just in schools but also at various official events and public ceremonies, including perhaps the most patriotic of occasions—naturalization ceremonies. Generally, the Pledge is recited while standing, facing a United States flag, with the right hand held over the heart, much like the National Anthem. *See* 4 U.S.C. § 4 (articulating proper procedure for reciting Pledge); 36 U.S.C. § 301 (during anthem "all present . . . should stand at attention facing the flag with the right hand over the heart."). Whatever one thinks of the normative values underlying the Pledge, they are unquestionably patriotic in nature. Indeed, it is precisely because of the Pledge's explicitly patriotic nature that in 1943 the Supreme Court ruled that no one is *required* to Pledge allegiance against their will. *West Virginia* v. *Barnette*, 319 U.S. 624, 642 (1943).

In contrast, to pray is to speak directly to God, with bowed head, on bended knee, or some other reverent disposition. It is a solemn and humble approach to the divine in order to give thanks, to petition, to praise, to supplicate, or to ask for guidance. Communal prayer, by definition, is an even more forceful and profound experience for those present. Little wonder that the Supreme Court has recognized the "unique problem" and "particular risk" posed by school prayer to non-participating students. *Lee*, 505 U.S. at 592 ("[P]rayer exercises in public schools carry a particular risk of indirect coercion."); *Schempp*, 374 U.S. at 294 (Brennan,

REV_00164951

J., concurring) (noting that prayers in public schools "present a unique problem").

Not only does the panel majority's conclusion that pledging allegiance is "a religious act" defy common sense, it contradicts our 200-year history and tradition of patriotic references to God. The Supreme Court has insisted that interpretations of the Establishment Clause must comport "with what history reveals was the contemporaneous understanding of its guarantees." *Lynch*, 465 U.S. at 673; *see also Schempp*, 374 U.S. at 294 ("[T]he line we must draw between the permissible and the impermissible is one which accords with history and faithfully reflects the understanding of the Founding Fathers.") (Brennan, J., concurring).

The majority's unpersuasive and problematic disclaimers notwithstanding, *Newdow II* precipitates a "war with our national tradition," *McCollum* v. *Bd. of Ed.*, 333 U.S. 203, 211 (1948), and as Judge Fernandez so eloquently points out in dissent, only the purest exercise in sophistry could save multiple references to our religious heritage in our national life from *Newdow II*'s axe. Of course, the Constitution itself explicitly mentions God, as does the Declaration of Independence, the document which marked us as a separate people. The Gettysburg Address, inconveniently for the majority, contains the *same precise phrase*—"under God"—found to constitute an Establishment Clause violation in the Pledge.[12] After *Newdow II*, are we to suppose that, were a school to permit—not require—the recitation of the Constitution, the Declaration of Independence, or the Gettysburg Address in public schools, that too would violate the Constitution? Were

---

[12] *See infra* footnote 9.

REV_00164952

the "founders of the United States . . . unable to understand their own handiwork[?]" *Sherman*, 980 F.2d at 445. Indeed, the recitation of the Declaration of Independence would seem to be the better candidate for the chopping block than the Pledge, since the Pledge does not require anyone to acknowledge the *personal* relationship with God to which the Declaration speaks.[13] So too with our National Anthem and our National Motto.

Our national celebration of Thanksgiving dates back to President Washington, which Congress stated was "to be observed by acknowledgment with grateful hearts, the many and signal favours of Almighty God." *Lynch*, 465 U.S. at 675 n.2. Congress made Thanksgiving a permanent holiday in 1941,[14] and Christmas has been a national holiday since 1894.[15] Are pere [*sic*] Newdow's constitutional rights violated when his daughter is told not to attend school on Thanksgiving? On Christmas day? Must school outings to federal courts be prohibited, lest the children be unduly influenced by the dreaded intonation "God save these United States and this honorable Court"?[16] A theory of the Establishment Clause that would have the effect of driving out of our public life the multiple references to

---

[13] *See infra* footnote 8.

[14] *See* 5 U.S.C. § 6103(a).

[15] *See id.*

[16] Indeed, even our own court's formal announcement to open sessions contains the offending word: "Hear ye! hear ye! All persons having business with the honorable, the United States Court of Appeals for the Ninth Circuit will now draw near, give your attention and you will be heard, for this court is now in session. *God save* these United States and this honorable Court." (emphasis added).

REV_00164953

the Divine that run through our laws, our rituals, and our ceremonies is no theory at all.

B

As if all of this were not enough, the Supreme Court has gone out of its way to make it plain that the Pledge itself passes constitutional muster. In two of the school prayer cases, the Court noted without so much as a hint of disapproval the fact that the students, in addition to being subject to formal religious observances, *also* recited the Pledge of Allegiance. *See Schempp*, 374 U.S. at 207-08 (noting that the practice in public schools consisted of Bible reading and recitation of the Lord's prayer, followed by recitation of the Pledge); *Lee*, 505 U.S. at 583 (noting that "the students stood for the Pledge of Allegiance and remained standing during the rabbi's prayers.").

Several other Supreme Court cases contain explicit references to the constitutionality of the Pledge. *See Engel*, 370 U.S. at 440 n.5 (Douglas, J., concurring) ("[The Pledge] in no way run[s] contrary to the First Amendment") (quoting H.R. Rep. No. 1693, 83d Cong., 2d Sess., p. 3); *Schempp*, 374 U.S. at 304 (Brennan, J., concurring) ("[R]eciting the pledge may be no more of a religious exercise than the reading aloud of Lincolns' Gettysburg Address."); *Wallace*, 472 U.S. at 78 n.5 (O'Connor, J., concurring) ("[T]he words 'under God' in the Pledge . . . serve as an acknowledgment of religion."); *Co. of Allegheny* v. *ACLU*, 492 U.S. 573, 602-03 (Blackmun, J., for the court) ("Our previous opinions have considered in dicta . . . the pledge, characterizing [it] as consistent with the proposition that government may not communicate an endorsement of religious belief."); *Lynch* v. *Donnelly*, 465 U.S. 668,

REV_00164954

676 (1984) (Burger, C.J., for the court) ("Other examples of reference to our religious heritage are found . . . in the language 'One nation under God,' as part of the Pledge of Allegiance to the American flag. That pledge is recited by many thousands of public school children—and adults—every year.").

The panel majority's answer to these myriad statements from our high court is summarily to dismiss them as dicta. However, "dicta of the Supreme Court have a weight that is greater than ordinary judicial dicta as prophecy of what that Court might hold. We should not blandly shrug them off because they were not a holding." *Zal* v. *Steppe*, 968 F.2d 924, 935 (9th Cir. 1992) (Noonan, J., concurring and dissenting in part); *see also United States* v. *Baird*, 85 F.3d 450, 453 (9th Cir. 1996) ("[W]e treat Supreme Court dicta with due deference.").[17]

---

[17] Other courts have, unremarkably enough, not been so flippant when it comes to considering consistent Supreme Court dicta on this issue. *See Sherman*, 980 F.2d at 448 ("[A]n inferior court had best respect what the majority says rather than read between the lines. If the Court proclaims that a practice is consistent with the establishment clause, we take its assurances seriously. If the Justices are just pulling our leg, let them say so."); *Gaylor* v. *United States*, 74 F.3d 214, 217 (10th Cir. 1996) ("[T]his court considers itself bound by Supreme Court dicta almost as firmly as by the Court's outright holdings, particularly when the dicta is recent and not enfeebled by later statements."); *ACLU* v. *Capital Square Review*, 243 F.3d 289, 301 n.10 (6th Cir. 2001) ("We should . . . be amazed if the Supreme Court were now to question the constitutionality of the [revised Pledge]"). Indeed, the unanimity on this point relative to *Newdow II* is striking.

REV_00164955

C

The *Newdow II* majority, then, finds itself caught between a rock and a hard place—the recitation of the Pledge is not a formal religious act, while patriotic invocations of God do not give rise to Establishment Clause violations. It nonetheless manages to skirt these obstacles to reach its indirect coercion analysis. *Newdow II*'s conclusory foray into the social sciences is a case study, an advertisement, for why it is that the Supreme Court has anchored coercion analysis only to those situations where "formal religious exercises" take place in our public schools. The panel majority seeks to protect dissenters at the risk of courting some unpopularity, but this is not the test. "[O]ffense alone does not in every case show a violation . . . . and sometimes to endure social isolation or even anger may be the price of conscience or nonconformity." *Lee*, 505 U.S. at 597-98. The *Newdow II* majority's expansive application of the coercion test is ill-suited to a society as diverse as ours, since almost *every* cultural practice is bound to offend *someone's* sensibilities. In affording Michael Newdow the right to impose his views on others, *Newdow II* affords him a right to be fastidiously intolerant and self-indulgent. In granting him this supposed right, moreover, the two-judge panel majority has not eliminated feelings of discomfort and isolation, it has simply shifted them from one group to another.

Newdow II's psychological ipse dixit is also delivered without reference or regard to our collective experience in the half-century since the passage of the offending statute. In that time, generations of Americans have grown up reciting the Pledge, religious tolerance and diversity has flourished in this country, and we have become a beacon for other nations in this regard. As

REV_00164956

Judge Fernandez observes, "it is difficult to detect any signs of incipient theocracy springing up since the Pledge was amended in 1954." *Newdow II* ___ F.3d at ___ n.4 (Fernandez, J., dissenting).

IV

In fairness to the *Newdow II* panel majority, its professed "neutrality" does have some plausible basis in the case law of the Supreme Court, which has undoubtedly constructed a "fractured and incoherent doctrinal path" in the Establishment Clause area, broadly speaking. *Sep. of Church and State Comm.* v. *City of Eugene*, 93 F.3d 617, 622 (9th Cir. 1996) (O'Scannlain, J., concurring). Indeed, its Establishment Clause cases sometimes "more closely resemble ad hoc Delphic pronouncements than models of guiding legal principles." *Ingebretsen* v. *Jackson Pub. Sch. Dist.*, 88 F.3d 274, 282 (5th Cir. 1996) (Jones, J., dissenting from denial of rehearing en banc). Supreme Court Justices themselves have recognized that if some of its reasoning "were to be applied logically, it would lead to the elimination" of many cherished, long-standing practices. *Co. of Allegheny*, 492 U.S. at 674 n.10 (Kennedy, J., dissenting).

With respect to the issue presented in *this* case, however, the Supreme Court has displayed remarkable consistency—patriotic invocations of God simply have no tendency to establish a state religion. Even Justice Brennan, that most stalwart of separationists, recognized that *some* official acknowledgment of God is appropriate "if the government is not to adopt a stilted indifference to the religious life of the people." *Lynch*, 465 U.S. at 714 (Brennan, J., dissenting). The decision reached in *Newdow II* does precisely that: it adopts a

REV_00164957

stilted indifference to our past and present realities as a predominantly religious people.

But *Newdow II* goes further, and confers a favored status on atheism in our public life. In a society with a pervasive public sector, our public schools are a most important means for transmitting ideas and values to future generations. The silence the majority commands is *not* neutral—it itself conveys a powerful message, and creates a distorted impression about the place of religion in our national life. The absolute prohibition on any mention of God in our schools creates a bias *against* religion. The panel majority cannot credibly advance the notion that *Newdow II* is neutral with respect to belief versus non-belief; it affirmatively favors the latter to the former. One wonders, then, does atheism become the default religion protected by the Establishment Clause?

In short, a lack of clarity in the Supreme Court's Establishment Clause cases generally does not help to explain or to justify the panel majority's decision with respect to *this* particular issue. Put simply, the panel was asked to decide whether the recitation of the Pledge of Allegiance in public schools amounted to a government establishment of religion. The answer to that question is clearly, obviously, no. We made a grave error in failing to take *Newdow I* en banc, and we have failed to correct that error ourselves. Now we have *Newdow II*. Perhaps the Supreme Court will have the opportunity to correct the error for us. I must respectfully dissent from the order denying reconsideration en banc.

REV_00164958

McKEOWN, Circuit Judge, with whom HAWKINS, THOMAS, and RAWLINSON, Circuit Judges, join, dissenting from the denial of rehearing en banc:

The recitation of the Pledge of Allegiance by school children presents a constitutional question of exceptional importance that merits reconsideration by the en banc court. *See* Fed. R. App. P. 35(a)(2) (en banc hearing appropriate when "the proceeding involves a question of exceptional importance"). Although not every case of exceptional importance can or should be reheard en banc, this is a case that should be reheard. I respectfully dissent from the court's decision to deny rehearing en banc.

REV_00164959

APPENDIX D

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 00-16423

MICHAEL A. NEWDOW, PLAINTIFF-APPELLANT

v.

U.S. CONGRESS; UNITED STATES OF AMERICA; GEORGE W. BUSH,* PRESIDENT OF THE UNITED STATES; STATE OF CALIFORNIA; ELK GROVE UNIFIED SCHOOL DISTRICT; DAVID W. GORDON, SUPERINTENDENT EGUSD; SACRAMENTO CITY UNIFIED SCHOOL DISTRICT; JIM SWEENEY, SUPERINTENDENT SCUSD, DEFENDANTS-APPELLEES

Dec. 4, 2002

ORDER

Before: GOODWIN, REINHARDT and FERNANDEZ, Circuit Judges.

Order by Judge GOODWIN; Concurrence by Judge FERNANDEZ.

GOODWIN, Circuit Judge.

After we issued our June 26, 2002 opinion in this case, Sandra Banning, the mother of Michael Newdow's

---

* George W. Bush is substituted for his predecessor, William Jefferson Clinton, as President of the United States. Fed. R. App. P. 43(c)(2).

REV_00164960

daughter, filed a motion for leave to intervene, in order to, *inter alia*, challenge Newdow's standing to maintain this action. Banning attached to her motion as an exhibit a copy of a February 6, 2002 California Superior Court custody order. That order awarded Banning "sole legal custody" of the child. We have carefully reconsidered the question of Newdow's Article III standing in light of this custody order and affirm our holding that he has standing as a parent to continue to pursue his claim in federal court.

I. FACTUAL AND PROCEDURAL BACKGROUND

When this case first reached us from the district court, no legal custody question or order had been disclosed to the federal courts. Newdow had alleged in the district court that he was the father, and had custody of the minor child. The record now indicates that Newdow and Banning formed a family consisting of an unmarried man, an unmarried woman, and their biological minor child, who lived together part of the time and lived in separate homes in Florida and California, from time to time, with informal visiting arrangements. This informal arrangement apparently was not subject to any custody order until February 6, 2002, after Newdow had appealed from the dismissal of the action he had commenced in federal district court to challenge on Establishment Clause grounds the practice of reciting the pledge of allegiance in the public elementary school his child attends.

On February 6, the California Superior Court entered an order containing the following language:

> The child's mother, Ms. Banning, to have *sole* legal custody as to the rights and responsibilities to make decisions relating to the health, education and

REV_00164961

> welfare of [the child]. Specifically, both parents shall consult with one another on substantial decisions relating to non-emergency major medical care, dental, optometry, psychological and educational needs of [the child]. If mutual agreement is not reached in the above, then Ms. Banning may exercise legal control of [the child] that is not specifically prohibited or inconsistent with the physical custody order. The father shall have access to all of [the child's] school and medical records.

Thereafter, Newdow, alleging "changed circumstances," filed a motion in the Superior Court for a modification of the custody order, seeking, *inter alia*, joint legal custody with Banning of their child.

On September 25, 2002, the Superior Court (Judge Mize) entered an *in personam* order enjoining Newdow from pleading his daughter as an unnamed party or representing her as a "next friend" in this lawsuit. The United States promptly filed a motion, which we have granted, to enlarge the record to include the state court transcript of the September 25 hearing before Judge Mize. That transcript contemplates a full trial in the future on Newdow's motion for modification of the February 6 custody order.

Judge Mize appropriately reserved to this court, however, the question of Newdow's Article III standing in federal court. Newdow no longer claims to represent his child, but asserts that he retains standing in his own right as a parent to challenge alleged unconstitutional state action affecting his child while she attends public school in the Elk Grove Unified School District (EGUSD).

REV_00164962

II. DISCUSSION

Our original opinion in this case holds that a parent has Article III standing to challenge on Establishment Clause grounds state action affecting his child in public school. *See Newdow* v. *U.S. Congress*, 292 F.3d 597, 602 (9th Cir. 2002) (citing *Doe* v. *Madison Sch. Dist. No. 321*, 177 F.3d 789, 795 (9th Cir. 1999) (en banc) and *Grove* v. *Mead Sch. Dist. No. 354*, 753 F.2d 1528, 1532 (9th Cir. 1985)). Banning's motion for leave to intervene presents a question of first impression in this Circuit which we are required to consider, even though raised for the first time on appeal. *See United States* v. *Viltrakis*, 108 F.3d 1159, 1160 (9th Cir. 1997) ("[T]he jurisdictional issue of standing can be raised at any time."). Does the grant of sole legal custody to Banning deprive Newdow, as a noncustodial parent, of Article III standing to object to unconstitutional government action affecting his child?

A Seventh Circuit decision, *Navin* v. *Park Ridge School District 64*, 270 F.3d 1147 (7th Cir. 2001) (per curiam), addresses a noncustodial parent's standing to challenge a school's educational plan for his disabled child under the Individuals with Disabilities Education Act (IDEA). Though not controlling, the Seventh Circuit's reasoning in *Navin* illustrates a useful method of analysis for the standing question presented here. The divorce decree in that case had granted the mother sole legal custody of her son. The Illinois Marriage and Dissolution of Marriage Act provided that the legal custodian may determine, absent an agreement by the parties to the contrary, "the child's uprising, including but not limited to, his education, health care and religious training." *See* 750 IL CH § 5/608(a). Contending that tutoring for his dyslexic son was being provided by

REV_00164963

a "crossing guard supervisor with no skill (or at least no certification) in educating dyslexic youths," the father in *Navin* had asked for an administrative hearing under the IDEA and filed suit in federal court when the hearing officer terminated the proceeding without addressing the merits. 270 F.3d at 1148. The district court dismissed the father's suit, holding that as a noncustodial parent, he had no standing to challenge action affecting his child in school. *Id.*

The Seventh Circuit held, however, that noncustodial parents do not automatically lack standing under the IDEA. *Id.* at 1149. Instead, the court of appeals explained that whether the noncustodial father in *Navin* had standing depended on the parental rights granted or reserved to him in the divorce decree in light of the mother's assertion of her rights so granted or reserved:

> If the decree had wiped out all of [the noncustodial father's] parental rights, it would have left him with no claim under the IDEA. But this is not what the divorce decree does. The district court did not analyze its language, but it is in the record and shows that [the noncustodial father] retains some important rights, including the opportunity to be informed about and remain involved in the education of his son. If [the father and mother] disagree about educational decisions, then [the mother's] view prevails—unless under state law the school district's view prevails over *either* parent's wishes, and in that event [the father's] rights under the decree to influence the school's choices are even more important.

270 F.3d at 1149-1150 (internal citations omitted) (emphasis in original). Accordingly, the Seventh Circuit

REV_00164964

remanded the case to the district court, instructing it to "decide whether [the father's] claims [were] incompatible, *not* with the divorce decree itself, but with [the mother's] use of her rights under the decree." *Navin*, 270 F.3d at 1149-1150 (emphasis in original).

Navin's general approach to the problem of noncustodial parental standing is sound. We hold that a noncustodial parent, who retains some parental rights, may have standing to maintain a federal lawsuit to the extent that his assertion of retained parental rights under state law is not legally incompatible with the custodial parent's assertion of rights. This holding assumes, of course, that the noncustodial parent can establish an injury in fact that is fairly traceable to the challenged action, and it is likely that the injury will be redressed by a favorable decision. *See Friends of the Earth* v. *Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 180-81, 120 S. Ct. 693, 145 L. Ed. 2d 610 (2000). Having already held that Newdow satisfies those Article III requirements, *see Newdow*, 292 F.3d at 603-05, we now turn to the question of whether he retains standing despite Banning's opposition as sole legal custodian to his maintaining this lawsuit.[1]

The February 6 custody order governing Banning's and Newdow's respective parental decision-making power remains operative and plainly does not strip Newdow of all of his parental rights. Rather, that order establishes that Newdow retains rights with respect to his daughter's education and general welfare. He has

---

[1] It is unclear to us exactly what relief Banning seeks. In her motion papers, at times Banning appears to object only to Newdow's appearance as "next friend" of their daughter. At other places, she also seems to object to Newdow's standing in his own right.

REV_00164965

the right to consult with Banning regarding substantial non-emergency decisions (with Banning having ultimate decision-making power), as well as the right to inspect his daughter's school and medical records regardless of Banning's position.

California state courts have recognized that noncustodial parents maintain the right to expose and educate their children to their individual religious views, even if those religious views contradict those of the custodial parent or offend her.[2] *See Murga* v. *Petersen*, 103 Cal. App.3d 498, 163 Cal. Rptr. 79 (1980). As the *Murga* court noted, it was following the "*majority of American jurisdictions*" in refusing to place restraints on a noncustodial parent who wished to expose his children to his particular religious views, absent a clear, affirmative showing that these religious activities would be harmful to the children. *Id.* at 504-05, 163 Cal. Rptr. 79 (emphasis added). The principle of nonintervention, the court noted, "reflects the protected nature of religious activities and expressions of belief, as well as the proscription against preferring one religion over another." *Id.* at 505, 163 Cal. Rptr. 79. It is not only the court that must not interfere; even more so, the state and federal government may not seek to indoctrinate the child with their religious views, particularly over the objection of *either* parent.

Murga was the basis for a later California state court decision, *In re Mentry*, 142 Cal. App.3d 260, 190 Cal. Rptr. 843 (1983), that reversed a restraining order against a noncustodial father that forbade him from

---

[2] As the Supreme Court has acknowledged, recognized religions exist that do not teach a belief in God, e.g., secular humanism. *Torcaso* v. *Watkins*, 367 U.S. 488, 495 n.11, 81 S. Ct. 1680, 6 L. Ed. 2d 982 (1961).

REV_00164966

engaging his children in any religious activities other than those approved by the custodial mother. The *Mentry* court stated that "the concept of family privacy embodies not simply a policy of *minimum state intervention* but also a presumption of parental autonomy. Many of the purposes served by this presumption become *more important after dissolution* [of the marriage or relationship] than they were before." 142 Cal. App.3d at 268, 190 Cal. Rptr. 843 (emphasis added). The type of "*minimum state* intervention" discussed in *Mentry* surely does not permit official state indoctrination of an impressionable child on a daily basis with an official view of religion contrary to the express wishes of *either* a custodial or noncustodial parent. We conclude that Newdow retains sufficient parental rights to support his standing here.

The next question, then, is whether Banning's status as sole legal custodian empowers her to employ state law to defeat Newdow's standing. "'Sole legal custody' means that one parent shall have the right and the responsibility to make the decisions relating to the health, education, and welfare of a child." Cal. Fam. Code § 3006. Thus, Newdow cannot disrupt Banning's choice of schools for their daughter. And, as Judge Mize's September 25 order makes clear, Newdow cannot name his daughter as a party to a lawsuit against Banning's wishes.

Judge Mize, however, appropriately declined to rule on whether Newdow has standing in his own right as a parent to maintain this case in federal court. We hold that Banning has no power, even as sole legal custodian, to insist that her child be subjected to unconstitutional state action. Newdow's assertion of his retained parental rights in this case, therefore, simply cannot be

REV_00164967

legally incompatible with any power Banning may hold pursuant to the custody order. Further, Ms. Banning may not consent to unconstitutional government action in derogation of Newdow's rights or waive Newdow's right to enforce his constitutional interests. Neither Banning's personal opinion regarding the Constitution nor her state court award of legal custody is determinative of Newdow's legal rights to protect *his own* interests.

When school teachers lead a recitation of the Pledge of Allegiance according to school district policy, they present a message by *the state* endorsing not just religion generally, but a monotheistic religion organized "under God." While Newdow cannot expect the entire community surrounding his daughter to participate in, let alone agree with, his choice of atheism and his daughter's exposure to his views, he can expect to be free from the government's endorsing a particular view of religion and unconstitutionally indoctrinating his impressionable young daughter on a daily basis in that official view. The pledge to a nation "under God," with its imprimatur of governmental sanction, provides the message to Newdow's young daughter not only that non-believers, or believers in non-Judeo-Christian religions, are outsiders, but more specifically that her *father's* beliefs are those of an outsider, and necessarily inferior to what she is exposed to in the classroom. Just as the foundational principle of the Freedom of Speech Clause in the First Amendment tolerates unpopular and even despised ideas, *see Cohen* v. *California*, 403 U.S. 15, 91 S. Ct. 1780, 29 L. Ed. 2d 284 (1971), so does the principle underlying the Establishment Clause pro-

REV_00164968

tect unpopular and despised minorities from government sponsored religious orthodoxy tied to government services. *See Santa Fe Independent Sch. Dist.* v. *Doe*, 530 U.S. 290, 120 S. Ct. 2266, 147 L. Ed. 2d 295 (2000); *Lee* v. *Weisman*, 505 U.S. 577, 112 S. Ct. 2649, 120 L. Ed. 2d 467 (1992). Accordingly, we affirm Newdow's standing to challenge on Establishment Clause grounds the EGUSD's practice of requiring his daughter to attend daily recitations of the 1954 version of the Pledge of Allegiance.

Banning's motion for leave to intervene is DENIED because she has no protectable interest at stake in this action.

FERNANDEZ, Circuit Judge, concurring:

I concur in the order, but write separately to emphasize that in this order we decide that Newdow's legal status under California law vis-à-vis his daughter does not deprive him of standing. Despite the order's allusions to the merits of the controversy, we decide nothing but that narrow standing issue.[1] Leastwise, I join nothing other than the narrow decision that the orders of the California courts have not deprived Newdow of standing.

---

[1] For my view on the merits question, see *Newdow* v. *U.S. Congress*, 292 F.3d 597, 612-15 (9th Cir. 2002) (Fernandez, J., concurring and dissenting.)

REV_00164969

APPENDIX E

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 00-16423

MICHAEL A. NEWDOW, PLAINTIFF-APPELLANT

v.

U.S. CONGRESS; UNITED STATES OF AMERICA; GEORGE W. BUSH, PRESIDENT OF THE UNITED STATES; STATE OF CALIFORNIA; ELK GROVE UNIFIED SCHOOL DISTRICT; DAVID W. GORDON, SUPERINTENDENT EGUSD; SACRAMENTO CITY UNIFIED SCHOOL DISTRICT; JIM SWEENEY, SUPERINTENDENT SCUSD, DEFENDANTS-APPELLEES

Dec. 4, 2002

ORDER

Before: GOODWIN, REINHARDT and FERNANDEZ, Circuit Judges.

FERNANDEZ, Circuit Judge.

Once we ruled on the merits of this case,[1] the United States Senate sought to intervene as a party and in that capacity to file a petition for rehearing and a petition for rehearing en banc. We deny the Motion to Intervene, but note our willingness to accept the petition and accompanying brief as an amicus brief, if the Senate

[1] *Newdow* v. *U.S. Congress*, 292 F.3d 597 (9th Cir. 2002).

REV_00164970

consents to the latter use of its filing. Because of the respect that we owe to and have for the Senate, we are constrained to explain the reasons for our denial of intervention.

Initially, of course, we lay aside the usual intervention rule. *See* Fed. R. Civ. P. 24(a)(2). This case is more in line with Fed. R. Civ. P. 24(a)(1), which allows intervention as of right "when a statute of the United States confers an unconditional right to intervene." There is a special statute that applies to this motion. As relevant here, the statute first provides that the Senate Legal Counsel shall intervene or appear as amicus "when directed to do so by a resolution adopted by the Senate." 2 U.S.C. § 288b(c). There was a resolution here. *See* Senate Resolution 292, 107th Cong., 2d Sess. (2002), 148 Cong. Rec. S6105-06 (2002). The statute goes on to provide that Counsel shall intervene upon appropriate direction when "the powers and responsibilities of Congress under the Constitution of the United States are placed in issue," but should only do so if there is standing. *See* 2 U.S.C. § 288e(a). It then states:

> Permission to intervene as a party or to appear as amicus curiae under § 288e of this title shall be of right and may be denied by a court only upon an express finding that such intervention or appearance is untimely and would significantly delay the pending action or that standing to intervene has not been established under section 2 of article III of the Constitution of the United States.

2 U.S.C. § 288*l* (a).

Because the Senate waited until we had already ruled on the merits of this case on appeal, it would be

REV_00164971

possible, even accurate, to hold that the attempt to intervene is untimely. However, under the circumstances we are unable to hold that the proposed intervention to seek rehearing or en banc review would "significantly delay" the action. Especially is that true when, as here, some of the current parties to the action have themselves already sought both types of review. We must, therefore, turn our attention to the second exception in § 288*l*(a)—does the Senate have constitutional standing? To put it more precisely: does the Senate have constitutional standing to intervene in every case where the constitutionality of a United States statute is challenged? Because we determine that the answer to that question is no and because there is nothing about the statute at hand that would distinguish it from other statutes, the Senate does not have standing in this case.

Let it first be said that the issue is not whether the United States has standing to appear in support of the constitutionality of the statute in question. Nobody doubts that it does. *See* 28 U.S.C. § 2403(a). In fact, in this case it did appear for "the Congress of the United States; the United States of America; and William J. Clinton, President of the United States."[2] The question is whether the Senate, as a separate part of the government, has standing to intervene to support statutes on its own behalf, and not really as a representative of the United States itself. We need not, and do not,

---

[2] Perhaps it should also be recognized that "the three branches are but 'coordinate parts of one government,'" and in that sense there can be no doubt that the legislature is already represented here anyway. *See United States* v. *Providence Journal Co.*, 485 U.S. 693, 701, 108 S. Ct. 1502, 1507, 99 L. Ed. 2d 785 (1988) (internal citation omitted).

REV_00164972

decide whether Congress could designate the Senate Legal Counsel, upon a separate resolution of the Senate alone, to appear as the defender of all statutes on behalf of the United States itself. A law of that type might well have its own constitutional problems; it might even trench on the prerogatives of the executive branch of the United States, which has the authority to execute the laws of this country. *See* U.S. Const. art. II, § 3. At any rate, that has not occurred here. As already stated, a separate statute confers *that* authority upon the executive branch, and here the Senate seeks to appear to represent itself alone.

As the intervention statute at hand expressly recognizes, the Senate must show that it does have constitutional standing to intervene. That means at the very least that it must show that it has "suffered an 'injury in fact'—an invasion of a legally protected interest which is . . . concrete and particularized." *Lujan* v. *Defenders of Wildlife*, 504 U.S. 555, 560, 112 S. Ct. 2130, 2136, 119 L. Ed.2d 351 (1992); *see also Raines* v. *Byrd*, 521 U.S. 811, 818-20, 117 S. Ct. 2312, 2317-18, 138 L. Ed. 2d 849 (1997). That concrete and particularized harm is lacking in this case because no harm beyond frustration of a general desire to see the law enforced as written has been shown here.

In so stating, we are aware that there have been a number of cases wherein Senate intervention has been allowed without any particular remark or detailed consideration. *See, e.g., INS* v. *Chadha*, 462 U.S. 919, 930 n.5, 103 S. Ct. 2764, 2773 n.5, 77 L. Ed. 2d 317 (1983); *Lear Siegler, Inc., Energy Prod. Div.* v. *Lehman*, 893 F.2d 205, 206 (9th Cir. 1990) (en banc); *In re Benny*, 812 F.2d 1133, 1135 (9th Cir. 1987); *see also Bowsher* v. *Synar*, 478 U.S. 714, 106 S. Ct. 3181, 92 L.

REV_00164973

Ed. 2d 583 (1986). But those cases are not really apposite because they were of a character that directly (particularly) implicated the authority of Congress within our scheme of government, and the scope and reach of its ability to allocate power among the three branches. Thus, *Chadha*, 462 U.S. at 956-58, 103 S. Ct. at 2787, is a case that dealt with individual houses of Congress assuming the authority to review and veto executive decisions regarding the deportation of aliens. It, thus, implicated separation of powers doctrine and the whole scheme of our government. *Lear Siegler* dealt with whether Congress could allocate to a legislative agent—The Comptroller General—the authority to delay the procurement actions of the executive branch of the government. *See Lear Siegler, Inc., Energy Prod. Div.* v. *Lehman*, 842 F.2d 1102, 1105-06 (9th Cir. 1988), *vacated on other grounds*, *Lear Siegler*, 893 F.2d at 208; *see also Bowsher*, 478 U.S. at 717, 106 S. Ct. at 3183. Finally, in *Benny*, 812 F.2d at 1141-42, the issue was whether Congress had the authority to prospectively extend the term of office of bankruptcy judges. In other words, in each of these cases the courts were dealing with a statute addressing legislative action regarding allocation of authority within the government, as opposed to action applying that authority to the behavior of the citizenry in general. The issues were the kind that intimately affected Congress's own place within our constitutional scheme.

More closely on point are cases which speak to the standing of legislators to bring actions, where their institutional power as members of the legislature is not being challenged. In *Raines*, 521 U.S. at 814-16, 117 S. Ct. at 2315-16, for example, a number of members of the Senate and House of Representatives sued pursuant to

REV_00164974

a provision of the Line Item Veto Act which declared that any member of Congress could challenge the Act. *See*, 2 U.S.C. § 692(a)(1). The Court declared that they had "alleged no injury to themselves as individuals . . ., the institutional injury they allege is wholly abstract and widely dispersed . . ., and their attempt to litigate this dispute at this time and in this form is contrary to historical experience." *Id.* at 829, 117 S. Ct. at 2322. The Court did point out that they did not actually represent their separate houses of Congress and those houses actually opposed them, but did not indicate precisely how that affected their standing.[3] *Id.* The Court distinguished an earlier case wherein state legislators were accorded standing because their votes would have been deprived of all validity if an allegedly improper person were able to vote. *See Coleman* v. *Miller*, 307 U.S. 433, 438, 59 S.Ct. 972, 975, 83 L. Ed. 1385 (1939). Thus, at least as to individual legislators, there is no standing unless their own institutional position, as opposed to their position as a member of the body politic, is affected.

The District of Columbia Circuit has followed the same approach. In 1977, a congressman sued the director of the Central Intelligence Agency partly on the basis that when that agency misused its budget, his vote as a congressman was impaired. *See Harrington* v. *Bush*, 553 F.2d 190, 204 (D.C. Cir. 1977). The court found that he lacked standing, and that a contrary rule would amount to giving him "a roving commission to obtain judicial relief under most circumstances." *Id.* at

---

[3] Of course, the Line Item Veto Act dealt with the allocation of power between the legislative and executive branches. *See* 2 U.S.C. §§ 691-692. However, the Senate was content to appear as *amicus curiae*. *Raines*, 521 U.S. at 813 n.*, 117 S. Ct. 2312.

REV_00164975

214. Along the way, the court noted that "his specific rights, interests and prerogatives lie in the power to make laws. As we have noted, this power has not been invaded, diminished, diluted, or injured by the challenged actions in this case." *Id.* at 213. A like result was reached when a member of Congress sued to prevent alleged misuse of federal funds by a national commission. *See Hansen* v. *Nat'l Comm'n. on the Observance of Int'l Women's Year*, 628 F.2d 533 (9th Cir. 1980). We said: "The injury alleged by appellant is an injury which he suffers along with all other citizens of the United States. He has not presented any facts which show he has sustained or is imminently in danger of sustaining an actual personal injury." *Id.* at 534. Thus, he had no standing. *Id.* And, when faced with a claim by congressmen that the military was using its budget to finance combat in other countries, despite laws prohibiting that, the Fourth Circuit had this to say: "Once a bill has become law, however, their interest is indistinguishable from that of any other citizen. They cannot claim dilution of their legislative voting power because the legislation they favored became law." *Harrington* v. *Schlesinger*, 528 F.2d 455, 459 (4th Cir. 1975). The court was no more impressed with the claim that their legislative duties would somehow be affected. *See id.* Other cases have sounded the same note. *See, e.g., Baird* v. *Norton*, 266 F.3d 408, 411-12 (6th Cir. 2001); *Chenoweth* v. *Clinton*, 181 F.3d 112, 112-13, 117 (D.C. Cir. 1999), *cert. denied*, 529 U.S. 1012, 120 S. Ct. 1286, 146 L. Ed. 2d 233 (2000); *Daughtrey* v. *Carter*, 584 F.2d 1050, 1057-58 (D.C. Cir. 1978); *Metcalf* v. *Nat'l Petroleum Council*, 553 F.2d 176, 187-89 (D.C. Cir. 1977).

REV_00164976

These observations also apply to the Senate as a whole, when it seeks to have a roving commission to enter every case involving the constitutionality of statutes it has enacted. In those instances, its own "powers and responsibilities" are not really under attack. Once the Senate has approved a proposed bill, the House of Representatives agrees, and the President has signed the measure, it becomes public law. A public law, after enactment, is not the Senate's any more than it is the law of any other citizen or group of citizens in the United States. It is a law of the United States of America, and the government is already represented in this case by the Attorney General. Of course, every time a statute is not followed or is declared unconstitutional, the votes of legislators are mooted and the power of the legislature is circumscribed in a sense, but that is no more than a facet of the generalized harm that occurs to the government as a whole. By the same token, the President's signing of the legislation is also nullified, judges, who might have felt otherwise, are bound by the decision, and citizens who relied upon or desired to have the law enforced are disappointed.[4] Moreover, if the separate houses of Congress have standing, a challenger of a law would have to contend with fighting the United States itself, and separately defending himself against the Senate and the House of

[4] All of this is underscored by the Senate's suggestion that it should have standing because it opens its daily sessions with the Pledge of Allegiance. That, of course, is an assertion that could be made by countless other organizations, governmental and otherwise, not to mention thousands of United States citizens.

REV_00164977

Representatives, each of which would be able to appear as a separate litigating party in the case.[5]

Therefore, the motion of the Senate to intervene is DENIED. However, if the Senate wishes to have us deem its proposed brief to be an amicus brief and to consider it on that basis, we will do that. It should inform us of its desire in that regard within 30 days after the filing of this order.

---

[5] In principle, he might also have to separately contend against the President, whose ability to effectively sign the law in question can be said to have been affected. We see little other than mischief arising from a system of intervention as unregulated as that. Constitutional standing doctrine is the apotropaion for that threatened malady. It must be applied here.

REV_00164978

APPENDIX F

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 00-16423

MICHAEL A. NEWDOW, PLAINTIFF-APPELLANT

v.

U.S. CONGRESS; UNITED STATES OF AMERICA; GEORGE W. BUSH,* PRESIDENT OF THE UNITED STATES; STATE OF CALIFORNIA; ELK GROVE, UNIFIED SCHOOL DISTRICT; DAVID W. GORDON, SUPERINTENDENT EGUSD; SACRAMENTO CITY UNIFIED SCHOOL DISTRICT; JIM SWEENEY, SUPERINTENDENT SCUSD, DEFENDANTS-APPELLEES

Dec. 4, 2002

ORDER

Before: GOODWIN, REINHARDT and FERNANDEZ, Circuit Judges.

Sandra Banning's motion for leave to intervene is DENIED.

The State of California's purported appearance in this appeal is rejected, and its purported petition for

* George W. Bush is substituted for his predecessor, William Jefferson Clinton, as President of the United States. Fed. R. App. P. 43(c)(2).

REV_00164979

rehearing with suggestion for rehearing en banc, filed July 25, 2002, is ORDERED STRICKEN.

Newdow's motion for judicial notice is DENIED.

Newdow's motion for sanctions against Banning's attorneys is DENIED.

Sandra Banning's application for leave to file sur-response to Newdow's motion for sanctions IS DENIED.

Newdow's motion to file response to federal and state defendants' supplemental briefs is DENIED.

REV_00164980

APPENDIX G

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CIV S-00-0495 MLS PAN PS

REV. DR. MICHAEL A. NEWDOW, PLAINTIFF

v.

THE CONGRESS OF THE UNITED STATES, ET AL., DEFENDANTS

[Filed July 21, 2000]

ORDER

This matter was referred to the Honorable Peter A. Nowinski, United States Magistrate Judge, pursuant to 28 U.S.C. §§ 636, et seq., and Local Rule 72-302. On May 25, 2000, Judge Nowinski recommended that plaintiff's complaint be dismissed. Plaintiff has filed objections to the findings and recommendation.

The court has reviewed the file and finds the findings and recommendation to be supported by the record and by the magistrate judge's analysis. Accordingly, IT IS HEREBY ORDERED that:

1. The Findings and Recommendation filed May 25, 2000, are adopted in full; and

2. Plaintiff's complaint is dismissed.

DATE: July 21, 2000.

/s/ illegible signature
UNITED STATES DISTRICT JUDGE

REV_00164981

APPENDIX H

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

CIV S-00-0495 MLS PAN PS

REV. DR. MICHAEL A. NEWDOW, PLAINTIFF

v.

THE CONGRESS OF THE UNITED STATES,
ET AL., DEFENDANTS

[Filed: May 25, 2000]

FINDINGS AND RECOMMENDATION

On March 8, 2000, plaintiff filed a complaint alleging defendants Elk Grove School District and Sacramento City Unified School District violate the Establishment Clause of the First Amendment by requiring teachers [to] lead morning classes in recitation of the pledge of allegiance. Defendant school districts move to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim.

The only federal Court of Appeal directly to address this issue held that schools may lead the pledge of allegiance without violating the First Amendment so long as pupils are not compelled to participate, because the ceremonial reference to God in the pledge does not convey endorsement of particular religious beliefs. *Sherman* v. *Community Consolidated School District*, 980 F.2d 437, 442-448 (11th Cir. 1992). While the

REV_00164982

Supreme Court has not directly addressed the issue, it has noted that its "previous opinions have considered in dicta the motto ['In God We Trust'] and the pledge [of allegiance], characterizing them as consistent with the proposition that government may not communicate an endorsement of religious belief." *County of Allegheny* v. *American Civil Liberties Union*, 492 U.S. 573, 602-03 (1989); *see also id.* at 625 (O'Connor, J., concurring); *Lynch* v. *Donnelly*, 465 U.S. 668, 693 (1984) (O'Connor, J., concurring); *id.* at 716-17 (Brennan, J., dissenting); *School District of Abington Township* v. *Schempp*, 374 U.S. 203, 303 (1963) (Brennan, J., concurring); *Engel* v. *Vitale*, 370 U.S. 421, 449-50 (1962) (Stewart, J., dissenting). Two Courts of Appeal have stated, also in dicta, that the pledge is not an endorsement of religion. *See Chandler* v. *James*, 180 F.3d 1254, 1262 (11th Cir. 1999); *Separation of Church and State Committee* v. *City of Eugene*, 93 F.3d 617, 622 (9th Cir. 1996).

The Seventh Circuit's decision in *Sherman* and the statements in dicta noted above, while not binding on this court, are persuasive and directly on point. Whether the court employs the test set forth in *Lemon* v. *Kurtzman*, 403 U.S. 602, 612-613 (1971), or the more recent endorsement test, *see Allegheny*, *supra*, 492 U.S. at 593-594, the Pledge does not violate the Establishment Clause of the First Amendment. Accordingly, I recommend plaintiff's complaint be dismissed.

Dated: May 25, 2000.

/s/ illegible signature
PETER A. NOWINSKI
United States Magistrate
Judge

REV_00164983

APPENDIX I

CONSTITUTIONAL AND STATUTORY PROVISIONS

1. The First Amendment to the United States Constitution provides:

> Congress shall make no law respecting an establishment of religion; or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

2. Section 4 of Title 4 U.S.C. provides:

Pledge of allegiance to the flag; manner of delivery

The Pledge of Allegiance to the Flag, "I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.", should be rendered by standing at attention facing the flag with the right hand over the heart. When not in uniform men should remove their headdress with their right hand and hold it at the left shoulder, the hand being over the heart. Persons in uniform should remain silent, face the flag, and render the military salute.

REV_00164984

No.

In the Supreme Court of the United States

UNITED STATES OF AMERICA, PETITIONER

v.

MICHAEL A. NEWDOW, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

THEODORE B. OLSON
Solicitor General
Counsel of Record

ROBERT D. MCCALLUM, JR.
Assistant Attorney General

PAUL D. CLEMENT
Deputy Solicitor General

GREGORY G. KATSAS
Deputy Assistant Attorney General

PATRICIA A. MILLETT
Assistant to the Solicitor General

ROBERT M. LOEB
LOWELL V. STURGILL JR.
SUSHMA SONI
Attorneys

Department of Justice
Washington, D.C. 20530-0001
(202) 514-2217

REV_00164985

QUESTIONS PRESENTED

1. Whether the inclusion of the phrase "under God" in the Pledge of Allegiance to the United States Flag violates the Establishment Clause of the First Amendment.

2. Whether a noncustodial parent, who lacks the legal authority to determine his child's education or religious upbringing, has Article III standing to challenge educational practices undertaken by the school in which the custodial parent has chosen to place the child.

REV_00164986

PARTIES TO THE PROCEEDING

The respondents are Michael A. Newdow, who was the plaintiff below, and the Elk Grove Unified School District and its Superintendent, David W. Gordon, who were defendants below. The Complaint also named as defendants the United States Congress, President George W. Bush,* the Sacramento City Unified School District, and its superintendent, Jim Sweeney. All of those defendants were dismissed from the case by the court of appeals. App., *infra*, 5a-8a. The Complaint also named the State of California as a defendant, but the State did not participate in the district court proceedings or in the court of appeals, until the rehearing stage, at which point the court of appeals rejected the State's appearance. *Id.* at 6a. The motions of Sandra Banning, the mother of respondent Newdow's child, and the United States Senate to intervene were denied by the court of appeals. *Id.* at 99a-109a.

---

* The Complaint originally listed President William J. Clinton as a defendant. Pursuant to Federal Rule of Appellate Procedure 43(c)(2), President Bush was substituted as his successor in office.

REV_00164987

TABLE OF CONTENTS

	Page
Opinions below	1
Jurisdiction	2
Constitutional and statutory provisions involved	3
Statement	3
Reasons for granting the petition	13
Conclusion	30

TABLE OF AUTHORITIES

Cases:

Aronow v. *United States*, 432 F.2d 242 (9th Cir. 1970)	24
Bivens v. *Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971)	2
Burge v. *City & County of San Francisco*, 262 P.2d 6 (Cal. 1953)	27
County of Allegheny v. *ACLU*, 492 U.S. 573 (1989)	*passim*
District of Columbia Court of Appeals v. *Feldman*, 460 U.S. 462 (1983)	27
Engel v. *Vitale*, 370 U.S. 421 (1962)	16, 17, 19, 21
FDIC v. *Meyer*, 510 U.S. 471 (1994)	2
Franklin v. *Massachusetts*, 505 U.S. 788 (1992)	7
Ganulin v. *United States*, 71 F. Supp. 2d 824 (S.D. Ohio 1999), aff'd, 238 F.3d 420 (6th Cir. 2000), cert. denied, 532 U.S. 973 (2001)	24
Gaylor v. *United States*, 74 F.3d 214 (10th Cir.), cert. denied, 517 U.S. 1211 (1996)	24
Lee v. *Weisman*, 505 U.S. 577 (1992)	8, 17, 26
Lemon v. *Kurtzman*, 403 U.S. 602 (1971)	8
Local 28 of the Sheet Metal Workers' Int'l Ass'n v. *EEOC*, 478 U.S. 421 (1986)	20
Lynch v. *Donnelly*, 465 U.S. 668 (1984)	*passim*
Marsh v. *Chambers*, 463 U.S. 783 (1983)	16

REV_00164988

Cases—Continued: Page

Michael H. v. *Gerald D.*, 491 U.S. 110 (1989) 27
Navin v. *Park Ridge Sch. Dist.*, 270 F.3d 1147 (7th Cir. 2001) 27, 28
O'Hair v. *Murray*, 588 F.2d 1144 (5th Cir.), cert. denied, 442 U.S. 930 (1979) 24
Opinion of the Justices, 228 A.2d 161 (N.H. 1967) 24
Pierce v. *Society of Sisters*, 268 U.S. 510 (1925) 26, 28
Rooker v. *Fidelity Trust Co.*, 263 U.S. 413 (1923) 27
Santa Fe Indep. Sch. Dist. v. *Doe*, 530 U.S. 290 (2000) 26
Schaffer v. *Clinton*, 240 F.3d 878 (10th Cir.), cert. denied, 534 U.S. 992 (2001) 29
School Dist. of Abington Township v. *Schempp*, 374 U.S. 203 (1963) 7, 15, 16, 18, 21
Seminole Tribe v. *Florida*, 517 U.S. 44 (1996) 19
Sherman v. *Community Consol. Sch. Dist. 21*, 980 F.3d 437 (7th Cir. 1992), cert. denied, 508 U.S. 950 (1993) 7, 9-10, 14, 24
Steel Co. v. *Citizens for a Better Env't*, 523 U.S. 83 (1998) 25, 26
Valley Forge Christian Coll. v. *Americans United for Separation of Church & State, Inc.*, 454 U.S. 464 (1982) 29
Wallace v. *Jaffree*, 472 U.S. 38 (1985) 18, 23
West Virginia State Bd. of Educ. v. *Barnette*, 319 U.S. 624 (1943) 28
Wisconsin v. *Yoder*, 406 U.S. 205 (1972) 26
Wooley v. *Maynard*, 430 U.S. 705 (1977) 28
Zelman v. *Simmons-Harris*, 536 U.S. 639 (2002) 22-23
Zobrest v. *Catalina Foothills Sch. Dist.*, 509 U.S. 1 (1993) 26
Zorach v. *Clauson*, 343 U.S. 306 (1952) 5, 15, 17, 21

REV_00164989

Constitution and statutes:	Page
U.S. Const.:	
Art. I, § 6, Cl. 1 (Speech and Debate Clause)	7
Art. III	11, 26, 29
Amend. I	2, 3
Establishment Clause	*passim*
Free Exercise Clause	6
Act of June 22, 1942, ch. 435, § 7, 56 Stat. 380	3
Act of June 14, 1954, ch. 297, § 7, 68 Stat. 249	3
Act of Nov. 13, 2002, Pub. L. No. 107-293, 116 Stat. 2059	5
Administrative Procedure Act, 5 U.S.C. 552	2
Federal Tort Claims Act:	
28 U.S.C. 1346	2
28 U.S.C. 1402	2
28 U.S.C. 2671 *et seq.*	2
Individuals with Disabilities Education Act, 20 U.S.C. 1415	27
4 U.S.C. 4	3, 21
5 U.S.C. 6103	24
28 U.S.C. 2403(a)	2
31 U.S.C. 324	15
36 U.S.C. 302	15, 23
Cal. Educ. Code § 52720 (West 1989)	5
Miscellaneous:	
H.R. Rep. No. 2047, 77th Cong., 2d Sess. (1942)	3
H.R. Rep. No. 1693, 83d Cong., 2d Sess. (1954)	3, 4, 5
S. Rep. No. 1477, 77th Cong., 2d Sess. (1942)	3
S. Rep. No. 1287, 83d Cong., 2d Sess. (1954)	3-4, 5
U.S. Decl. of Indep., 1 U.S.C. at XLIII	23

REV_00164990

In the Supreme Court of the United States

No.

UNITED STATES OF AMERICA, PETITIONER

v.

MICHAEL A. NEWDOW, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

The Solicitor General, on behalf of the United States of America, respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit in this case.

OPINIONS BELOW

The amended opinion of the court of appeals on rehearing (App., *infra*, 1a-24a) is reported at 321 F.3d 772. The original opinion of the court of appeals (App., *infra*, 25a-58a) is reported at 292 F.3d 597, and the court's subsequent opinion on standing (App., *infra*, 89a-98a) is reported at 313 F.3d 500. The opinion and orders of the court denying intervention (App., *infra*, 99a-109a) are reported at 313 F.3d 495 and 313 F.3d 506. The order of the district court (App., *infra*, 110a), adopting the Findings and Recommendation of

REV_00164991

the magistrate judge that the case be dismissed (App., *infra*, 111a-112a), is unreported.

JURISDICTION

The court of appeals entered its original judgment on June 26, 2002. The court issued an amended opinion on rehearing on February 28, 2003. The court of appeals issued an order staying its mandate on March 4, 2003. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

No federal statute waives the sovereign immunity of the United States of America from a suit for declaratory or injunctive relief under the First Amendment, and thus the jurisdictional basis for respondent Newdow's suit against the United States is unclear.[1] However, the absence of such a waiver is without jurisdictional consequence in this case because the United States could have, and should hereby be deemed to have, intervened as of right in this action against the school district and its superintendent to defend the constitutionality of the Pledge of Allegiance against Newdow's facial and as-applied challenges. See 28 U.S.C. 2403(a).[2]

---

[1] Other than a separate claim against the President in his official capacity, Newdow did not sue an officer or an agency of the United States, so his claim does not appear to fall within the scope of either *Bivens* v. *Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), or the Administrative Procedure Act, 5 U.S.C. 552. Nor is his federal constitutional claim cognizable under the Federal Tort Claims Act, 28 U.S.C. 1346, 1402, 2671 *et seq.* See *FDIC* v. *Meyer*, 510 U.S. 471, 477 (1994).

[2] Newdow's as-applied challenge to the recitation of the Pledge in elementary schools calls into question the federal government's practice under which the nearly 2500 military dependents attending its four schools within the Ninth Circuit are led in a voluntary recitation of the Pledge of Allegiance daily.

REV_00164992

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The First Amendment to the United States Constitution provides, in relevant part, that "Congress shall make no law respecting an establishment of religion. * * *"

Section 4 of Title 4 of the United States Code provides that the Pledge of Allegiance to the United States Flag shall be: "I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all."

STATEMENT

1. In 1942, as part of an overall effort to "codify and emphasize existing rules and customs pertaining to the display and use of the flag of the United States of America," Congress enacted a Pledge of Allegiance to the United States flag. H.R. Rep. No. 2047, 77th Cong., 2d Sess. 1 (1942); S. Rep. No. 1477, 77th Cong., 2d Sess. 1 (1942). As originally enacted, the Pledge of Allegiance read: "I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one Nation indivisible, with liberty and justice for all." Act of June 22, 1942, ch. 435, § 7, 56 Stat. 380.

Twelve years later, Congress amended the Pledge of Allegiance by adding the words "under God" after the word "Nation." Act of June 14, 1954, ch. 297, § 7, 68 Stat. 249. Accordingly, the Pledge now reads: "I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all." 4 U.S.C. 4.

In amending the Pledge, the Committee Reports noted that, "[f]rom the time of our earliest history our peoples and our institutions have reflected the traditional concept that our Nation was founded on a fundamental belief in God." H.R. Rep. No. 1693, 83d Cong., 2d Sess. 2 (1954); see also S.

REV_00164993

Rep. No. 1287, 83d Cong., 2d Sess. 2 (1954) ("Our forefathers recognized and gave voice to the fundamental truth that a government deriving its powers from the consent of the governed must look to God for divine leadership. * * * Throughout our history, the statements of our great national leaders have been filled with references to God."). Both Reports traced the numerous references to God in historical documents central to the founding and preservation of the United States, from the Mayflower Compact to the Declaration of Independence to President Lincoln's Gettysburg Address, the latter having employed the same reference to a "Nation[] under God." H.R. Rep. No. 1693, *supra*, at 2; S. Rep. No. 1287, *supra*, at 2.

The Reports further explained that the amendment would highlight a foundational difference between the United States and Communist nations: "Our American Government is founded on the concept of the individuality and the dignity of the human being" and "[u]nderlying this concept is the belief that the human person is important because he was created by God and endowed by Him with certain inalienable rights which no civil authority may usurp." H.R. Rep. No. 1693, *supra*, at 1-2; see also S. Rep. No. 1287, *supra*, at 2. As amended, the Pledge would thus textually reject the "communis[t]" philosophy "with its attendant subservience of the individual." H.R. Rep. No. 1693, *supra*, at 2; see also S. Rep. No. 1287, *supra*, at 2 ("The spiritual bankruptcy of the Communists is one of our strongest weapons in the struggle for men's minds and this resolution gives us a new means of using that weapon."). The House Report further noted that, through "daily recitation of the pledge in school," "the children of our land * * * will be daily impressed with a true understanding of our way of life and its origins," so that "[a]s they grow and advance in this understanding, they will assume the responsibilities of self-government equipped

REV_00164994

to carry on the traditions that have been given to us." H.R. Rep. No. 1693, *supra*, at 3.

Both the Senate and House Reports expressed the view that, under controlling precedent from this Court, the amendment "is not an act establishing a religion or one interfering with the 'free exercise' of religion." H.R. Rep. No. 1693, *supra*, at 3 (citing *Zorach* v. *Clauson*, 343 U.S. 306 (1952)); see also S. Rep. No. 1287, *supra*, at 2.[3]

2. California law requires that each public elementary school in the State "conduct[] * * * appropriate patriotic exercises" at the beginning of the school day. Cal. Educ. Code § 52720 (West 1989). The law provides that "[t]he giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy the requirements of this section." *Ibid.* In satisfaction of that statutory requirement, respondent Elk Grove Unified School District (Elk Grove) has adopted a policy that directs each of its elementary schools to "recite the pledge of allegiance to the flag once each day." App., *infra*, 27a. No child is compelled to join in reciting the Pledge. *Id.* at 28a.

Respondent Michael Newdow is the noncustodial father of a child enrolled in a public elementary school within the jurisdiction of respondent Elk Grove. App., *infra*, 2a, 90a-91a. In the school that Newdow's daughter attends, the teacher leads the students in reciting the Pledge of Allegiance daily. *Id.* at 3a.

The child's mother has "*sole* legal custody as to the rights and responsibilities to make decisions relating to the health, education and welfare of" the child. App., *infra*, 90a-91a. While Newdow, who was never married to the child's

---

[3] Following the court of appeals' decision in the instant case, Congress reaffirmed the content of the Pledge of Allegiance and Congress's view that the legislation is constitutional. Act of Nov. 13, 2002, Pub. L. No. 107-293, 116 Stat. 2059.

REV_00164995

mother, retains limited visitation rights, the right to access the child's school and medical records, and the right to "consult" on "substantial" decisions pertaining to the child's "educational needs," if the parents disagree, the child's mother "may exercise legal control of" the child as long as it "is not specifically prohibited or inconsistent with the physical custody order." *Id.* at 91a.

In March 2000, Newdow filed suit against the President, the United States Congress, the United States of America, the State of California, and two California school districts and their superintendents, seeking a declaration that the 1954 statute adding the words "under God" to the Pledge is "facially unconstitutional" under the Establishment and Free Exercise Clauses of the First Amendment. Compl. 6, 36; App., *infra*, 4a-5a. He also sought injunctive relief requiring Congress and the President to remove those words from the Pledge and prohibiting California schools from leading students in reciting the Pledge. Compl. 37; App., *infra*, 4a-5a. The Complaint explains that Newdow's child is "an unnamed plaintiff whom he represents as 'next friend.'" Compl. 3. The Complaint asserts that the recitation of the Pledge in his child's school "results in the daily indoctrination of the Elk Grove Unified School District's students—including Plaintiff's daughter—with religious dogma," *id.* at 18-19, and that such actions "infringe[]" upon Newdow's "unrestricted right to inculcate in his daughter— free from governmental interference—the atheistic beliefs he finds persuasive." *Id.* at 20; see also *id.* at 36. The Complaint further asserts that Newdow's "position as the father of a child attending the State's public schools grants him standing in this matter in his own right and on behalf of his daughter." *Id.* at 26.

The district court dismissed the complaint for failure to state a claim, relying on numerous decisions of this Court expressly addressing the Pledge and describing it as con-

REV_00164996

sistent with the Establishment Clause, as well as on a decision of the Seventh Circuit rejecting a similar challenge to the Pledge. App., *infra*, 110a-112a (adopting magistrate judge's Findings and Recommendation, which cites *County of Allegheny* v. *ACLU*, 492 U.S. 573 (1989); *id.* at 625 (O'Connor, J., concurring); *Lynch* v. *Donnelly*, 465 U.S. 668 (1984); *School Dist. of Abington Township* v. *Schempp*, 374 U.S. 203 (1963) (Brennan, J., concurring); *Sherman* v. *Community Consol. Sch. Dist. 21*, 980 F.2d 437 (7th Cir. 1992), cert. denied, 508 U.S. 950 (1993)).

3. a. A divided panel of the Ninth Circuit affirmed in part and reversed in part. App., *infra*, 25a-58a. As an initial matter, all three members of the panel agreed that the President and Congress should be dismissed from the lawsuit, on the grounds that the President is not a proper defendant for challenging the constitutionality of a federal law under *Franklin* v. *Massachusetts*, 505 U.S. 788 (1992) (plurality opinion), and that the Congress cannot be sued under the Speech and Debate Clause, U.S. Const. Art. I, § 6, Cl. 1. See App., *infra*, 29a-30a; *id.* at 53a (Fernandez, J., concurring and dissenting). The court also ruled that Newdow lacked standing to file suit against the Sacramento City Unified School District and its superintendent "because his daughter is not currently a student there." *Id.* at 32a.

The court did conclude, however, that Newdow has standing to challenge Elk Grove's policy of reciting the Pledge "because his daughter is currently enrolled in elementary school" in Elk Grove. App., *infra*, 32a. In addition, a majority of the court concluded that Newdow has standing in his own right to challenge the facial constitutionality of the 1954 Act amending the Pledge because "the mere enactment of a statute may constitute an Establishment Clause violation," *id.* at 33a, and the 1954 Act amounts to a "religious recitation

REV_00164997

policy that interferes with Newdow's right to direct the religious education of his daughter." *Id.* at 37a.[4]

b. Turning to the merits of Newdow's complaint, the majority held that, with the addition of the phrase "under God," the Pledge of Allegiance violates the Establishment Clause. App., *infra*, 37a-42a. The majority began by explaining that this Court has adopted three different tests to analyze Establishment Clause violations (*id.* at 37a)—the three-prong test outlined in *Lemon* v. *Kurtzman*, 403 U.S. 602 (1971); the "endorsement test," *County of Allegheny*, *supra*; and the "coercion" test, *Lee* v. *Weisman*, 505 U.S. 577 (1992)—and that the court of appeals was "free to apply any or all of the three tests, and to invalidate any measure that fails any one of them." App., *infra*, 41a.

The majority held that the 1954 Act and the school district policy failed the "endorsement test" both because the Pledge's reference to God "is a profession of a religious belief, namely, a belief in monotheism" and because it "impermissibly takes a position with respect to the purely religious question of the existence and identity of God." App., *infra*, 41a-42a. The majority further concluded that the 1954 Act and the school district's policy fail the "coercion test" because "the mere fact that a pupil is required to listen every day to the statement 'one nation under God' has a coercive effect." *Id.* at 45a.

Finally, the majority concluded that the Pledge fails the *Lemon* test because it has the purpose of advancing religion. App., *infra*, 46a. In so holding, the majority rejected the United States' argument that the Pledge should be looked at "as a whole," and concluded that the "*sole* purpose" of the 1954 Act was to "advance religion, in order to differentiate

---

[4] The court did not address the constitutionality of the California law requiring patriotic exercises in elementary school classrooms. App., *infra*, 30a-31a.

REV_00164998

the United States from nations under communist rule." *Id.* at 46a-47a. The majority further concluded that Elk Grove's policy ran afoul of the *Lemon* test because it "convey[s] an impermissible message of endorsement to some and disapproval to others of their beliefs regarding the existence of a monotheistic God." *Id.* at 50a.

The majority dismissed in a footnote the numerous statements by this Court and its Members expressly addressing the Pledge and affirming its constitutionality as "dicta" that was announced without "appl[ying] any of the three tests to the Act." App., *infra*, 50a-51a n.12. The majority also expressly disagreed with the analysis and conclusion of the Seventh Circuit in *Sherman*, *supra*, which upheld the Pledge against a similar Establishment Clause challenge. *Ibid.*

c. Judge Fernandez dissented. App., *infra*, 52a-58a. Judge Fernandez first expressed his "serious misgivings" about the majority's conclusion that Newdow had standing to challenge the facial constitutionality of the 1954 Act, but ultimately concluded that the question "makes little difference to the resolution of the First Amendment issue in this case." *Id.* at 53a n.1. With respect to the Establishment Clause challenge, Judge Fernandez explained that "such phrases as 'In God We Trust,' or 'under God' have no tendency to establish a religion in this country or to suppress anyone's exercise, or non-exercise, of religion, except in the fevered eye of persons who most fervently would like to drive all tincture of religion out of the public life of our polity." *Id.* at 55a. Judge Fernandez also noted that this Court has repeatedly indicated that the Pledge's text, as amended, does not violate the Establishment Clause, and he agreed with the Seventh Circuit that the court of appeals should "respect" those assurances: "If the Court proclaims that a practice is consistent with the establishment clause, we take its assurances seriously. If the Justices are just pulling our leg, let them say so." *Ibid.* (quoting *Sherman*,

REV_00164999

980 F.2d at 448). Finally, Judge Fernandez accused the majority of confining itself to legal "elements and tests, while failing to look at the good sense and principles that animated those tests in the first place." *Id.* at 57a; see also *id.* at 57a n.8 (noting that the majority's holding would preclude use of many patriotic songs, such as "God Bless America," "America the Beautiful," "The Star Spangled Banner," and "My Country 'Tis of Thee," in public ceremonial occasions).

d. While the case was pending on the United States' and Elk Grove's petitions for rehearing and rehearing en banc, the mother of Newdow's child notified the court that Newdow lacked legal custody of the child and legal control over the child's educational and religious upbringing. She further advised that, as the custodial parent, she "wish[es] for her child to be able to recite the Pledge at school exactly as it stands." Banning C.A. Mot. to Intervene 10. The United States then filed a motion to enlarge the record and a supplemental brief arguing that Newdow lacks standing to prosecute his challenge to the Pledge on its face or as applied by Elk Grove.

The court of appeals issued a separate decision holding that Newdow has standing to prosecute his constitutional challenge to the Pledge. App., *infra*, 89a-98a. The court concluded that, while Newdow no longer could prosecute the action on behalf of or to vindicate the interests of his child, Newdow continued to have standing in his own right to challenge "unconstitutional government action affecting his child." *Id.* at 92a. The court noted that the custody agreement does not strip Newdow of all of his parental rights, because he retains the "the right to inspect his daughter's school and medical records" and the "right to consult" on educational decisions, albeit with the mother "having ultimate decision-making power." *Id.* at 95a. The court then reasoned that, because California law recognizes a right in

REV_00165000

noncustodial parents to "expose" their children to their beliefs and values, Newdow was injured because state law "surely does not permit official state indoctrination of an impressionable child on a daily basis with an official view of religion contrary to the express wishes of *either* a custodial or noncustodial parent." *Id.* at 96a. The court further reasoned that Newdow has standing because the mother "has no power, even as sole legal custodian, to insist that her child be subjected to unconstitutional state action." *Ibid.* Because the Pledge, in the court's view, "provides the message to Newdow's young daughter" that "her *father's* beliefs are those of an outsider, and necessarily inferior to what she is exposed to in the classroom," the court concluded that Newdow has suffered a legally cognizable injury that provides him with Article III standing. *Id.* at 97a.[5]

4. a. The court issued an amended opinion on rehearing. App., *infra*, 1a-24a. In its amended opinion, the court limited its Establishment Clause holding to the Pledge's use by Elk Grove in its schools. *Id.* at 18a. With respect to Newdow's challenge to the facial constitutionality of the Pledge, the court of appeals vacated the district court's decision in favor of the United States and remanded "for further proceedings consistent with our holding." *Ibid.*

In addition, the court amended its decision to hold only that Elk Grove's policy violated the coercion test, and did not address either the "endorsement test" or the *Lemon* test. App., *infra*, 11a. The panel, however, concluded that the recitation of the Pledge violated the coercion test for the same reasons that the original opinion found a violation of the endorsement test. Compare *id.* at 11a-13a, with *id.* at 41a-43a.

---

[5] Judge Fernandez concurred in the judgment on standing, but not in the majority's "allusions to the merits of the controversy." App., *infra*, 98a.

REV_00165001

The court also elaborated on its rejection of the numerous statements in this Court's opinions affirming the constitutionality of the Pledge and similar official acknowledgments of the Nation's religious heritage. The court assumed that "public officials do not unconstitutionally endorse religion when they recite the Pledge," but that schools nevertheless could not "coerce impressionable young schoolchildren to recite it, or even to stand mute while it is being recited by their classmates." App., *infra*, 15a. The court also purported to distinguish references to God in the Pledge from those in the Declaration of Independence and National Anthem on the ground that the pledge "is a performative statement." *Id.* at 16a; see also *ibid.* ("To pledge allegiance to something is to alter one's moral relationship to it, and not merely to repeat the words of an historical document or anthem.").

Judge Fernandez dissented from the court's Establishment Clause holding for the same reasons discussed in his initial dissenting opinion. App., *infra*, 19a-24a. Judge Fernandez also noted that, although the majority "now formally limits itself to holding that it is unconstitutional to recite the Pledge in public classrooms, its message that something is constitutionally infirm about the Pledge itself abides and remains a clear and present danger to all similar public expressions of reverence." *Id.* at 19a n.1.

b. Judge O'Scannlain, joined by Judges Kleinfeld, Gould, Tallman, Rawlinson, and Clifton, filed a lengthy dissent from the court of appeals' denial of rehearing en banc. App., *infra*, 67a-87a. He described the panel opinion as

> wrong, very wrong—wrong because reciting the Pledge of Allegiance is simply not "a religious act" as the two-judge majority asserts, wrong as a matter of Supreme Court precedent properly understood, wrong because it

REV_00165002

> set up a direct conflict with the law of another circuit, and wrong as a matter of common sense.

Id. at 67a-68a (footnote omitted). Judge O'Scannlain stressed that this Court consistently has distinguished between "patriotic invocations of God on the one hand," and public school "prayer, an 'unquestioned religious exercise.'" *Id.* at 72a. Judge O'Scannlain further noted that, until the panel's decision here, "[n]o court, state or federal, has *ever* held, even now, that the Supreme Court's school prayer cases apply outside a context of state-sanctioned formal religious observances." *Id.* at 78a-79a. Finally, Judge O'Scannlain noted that, while the panel "adopts a stilted indifference to our past and present realities as a predominantly religious people," *id.* at 86a-87a, "the Supreme Court has displayed remarkable consistency—patriotic invocations of God simply have no tendency to establish a state religion," *id.* at 86a.

Judges McKeown, Hawkins, Thomas, and Rawlinson separately dissented from the denial of rehearing en banc on the ground that the case "presents a constitutional question of exceptional importance" that should be heard by the court en banc. App., *infra*, 88a.

REASONS FOR GRANTING THE PETITION

Two decisions of this Court have said without qualification that the Pledge of Allegiance is constitutional. Numerous other opinions, joined in by at least twelve Justices of this Court, have likewise expressly addressed and affirmed the constitutionality of the Pledge of Allegiance notwithstanding its reference to God. No Justice has expressed the view that the Pledge violates the Establishment Clause. The court of appeals, however, dismissed those majority and separate opinions as unconsidered dicta. But a fair reading of this Court's decisions demonstrates that those consistent and oft-repeated statements stand as a fixed lodestar in this Court's

REV_00165003

Establishment Clause jurisprudence that has informed and directed the resolution of a number of the Court's cases. They reflect a point of exceptional unity and consistent agreement among Members of this Court within Establishment Clause jurisprudence. Whatever else the Establishment Clause may prohibit, this Court's precedents make clear that it does not forbid the government from officially acknowledging the religious heritage, foundation, and character of this Nation. That is what the reference to God in the Pledge of Allegiance does. The Pledge is therefore constitutional, as the Seventh Circuit held when confronted with the same Establishment Clause challenge. Because the court of appeals' error is so manifestly contrary to precedent, the Court may wish to consider summary reversal of the decision below.

1. This Court's review is warranted because the court of appeals' holding conflicts with repeated opinions of this Court and of individual Justices consistently explaining that the Pledge of Allegiance, and similar official acknowledgments of the Nation's religious heritage and character, do not violate the Establishment Clause. The holding below is also in direct conflict with the Seventh Circuit's decision in *Sherman* v. *Community Consolidated School District 21*, 980 F.2d 437 (1992), cert. denied, 508 U.S. 950 (1993), which rejected the same Establishment Clause challenge to the Pledge.

a. The court of appeals' decision is irreconcilable with this Court's repeated assurances that the Pledge of Allegiance, with its reference to God, comports with the strictures of the Establishment Clause. In *Lynch* v. *Donnelly*, 465 U.S. 668 (1984), the Court held that a city did not violate the Establishment Clause by including a nativity scene as part of a Christmas display. In upholding the display, the Court reasoned that "[t]here is an unbroken history of official acknowledgment by all three branches of government

REV_00165004

of the role of religion in American life from at least 1789." *Id.* at 674. The Court noted that its own opinions had "asserted pointedly" that "[w]e are a religious people whose institutions presuppose a Supreme Being." *Id.* at 675 (quoting *Zorach* v. *Clauson*, 343 U.S. 306, 313 (1952), and citing *School Dist. of Abington Township* v. *Schempp*, 374 U.S. 203, 213 (1963)). The Court further reasoned that "examples of reference to our religious heritage are found * * * in the language "One nation under God," as part of the Pledge of Allegiance to the American flag," which "is recited by many thousands of public school children—and adults—every year." *Lynch*, 465 U.S. at 676; see also *ibid.* (referring favorably to the National Motto, "In God We Trust," 36 U.S.C. 302, which appears on all United States currency, 31 U.S.C. 324).

Explaining that such official acknowledgments of our Nation's religious heritage do not "establish[] a religion or religious faith, or tend[] to do so," *Lynch*, 465 U.S. at 678, the Court concluded that the City's inclusion of a creche in its Christmas display likewise permissibly "depicts the historical origins of this traditional event long recognized as a National Holiday," *id.* at 680. To hold otherwise, the Court explained, would lead to the conclusion that "a host of other forms of taking official note of Christmas, and of our religious heritage, are equally offensive to the Constitution." *Id.* at 686. "[P]ublic acknowledgment of the [Nation's] religious heritage long officially recognized by the three constitutional branches of government," the Court concluded, render "farfetched" "[a]ny notion that these symbols pose a real danger of establishment of a state church." *Ibid.*

In *County of Allegheny* v. *ACLU*, 492 U.S. 573 (1989), the Court invalidated the display of a creche at a county courthouse, but sustained the inclusion of a menorah as part of a holiday display. In so holding, the Court reaffirmed *Lynch*'s approval of the reference to God in the Pledge, noting that

REV_00165005

all of the Justices in *Lynch* viewed the Pledge as "consistent with the proposition that government may not communicate an endorsement of religious belief." *Id.* at 602-603 (citations omitted). The Court then used the Pledge and the general holiday display approved in *Lynch* as benchmarks for what the Establishment Clause permits, *ibid.* On that basis, the Court concluded that the display of the creche by itself was unconstitutional because, unlike the Pledge, it gave "praise to God in [sectarian] Christian terms." *Id.* at 598; see also *id.* at 603 (finding an "obvious distinction" between the Pledge and the display of the creche).

Furthermore, while not referring specifically to the Pledge of Allegiance, the Court, in *Marsh* v. *Chambers*, 463 U.S. 783 (1983), upheld the historic practice of legislative prayer as "a tolerable acknowledgment of beliefs widely held among the people of this country." *Id.* at 792. In so holding, the Court discussed numerous other examples of constitutionally permissible religious references in official life "that form 'part of the fabric of our society,'" *ibid.*, such as "God save the United States and this Honorable Court," which "occurs at all sessions of this Court," *id.* at 786. The Court also repeated its recognition that "[w]e are a religious people whose institutions presuppose a Supreme Being." *Id.* at 792.

Likewise, in *Abington Township*, *supra*, the Court explained, in the course of invalidating laws requiring Bible-reading in public schools, that "our national life reflects a religious people," and noted the numerous permissible public references to God in historical documents and ceremonial practices, such as oaths ending with "So help me God." 374 U.S. at 213.

Finally, in *Engel* v. *Vitale*, 370 U.S. 421 (1962), in the course of invalidating official school prayers, the Court stressed:

REV_00165006

> There is of course nothing in the decision reached here that is inconsistent with the fact that school children and others are officially encouraged to express love for our country by reciting historical documents such as the Declaration of Independence which contain references to the Deity or by singing officially espoused anthems which include the composer's professions of faith in a Supreme Being, or with the fact that there are many manifestations in our public life of belief in God. Such patriotic or ceremonial occasions bear no true resemblance to the unquestioned religious exercise [official prayer] that the State of New York has sponsored in this instance.

Id. at 435 n.21.

In sum, this Court has repeatedly refused to "press the concept of separation of Church and State to * * * extremes" and to condemn as unconstitutional the "references to the Almighty that run through our laws, our public rituals, [and] our ceremonies." *Zorach*, 343 U.S. at 313.

b. The opinions of individual Justices have cemented as common ground the proposition that the Pledge of Allegiance, and similar acknowledgments of the Nation's religious heritage and character, are constitutionally permissible. See *Lee* v. *Weisman*, 505 U.S. 577, 633-635 (1992) (Scalia, J., dissenting, joined by Rehnquist, C.J., and White & Thomas, JJ.) (noting long historical practice, consistent with the Establishment Clause, of official references to God); *id.* at 638-639 (noting that the Court's invalidation of graduation prayer did not extend to the practice of also saying the Pledge of Allegiance at graduations); *County of Allegheny*, 492 U.S. at 623, 625 (O'Connor, J., concurring) ("government recognition and acknowledgment of the role of religion in the lives of our citizens" serve the "secular purposes of 'solemnizing public occasions, expressing confidence in the future

REV_00165007

and encouraging the recognition of what is worthy of appreciation in society'"; in addition, because of their "history and ubiquity, such government acknowledgments of religion are not understood as conveying an endorsement of particular religious beliefs") (internal quotation marks omitted); *id.* at 657 (Stevens, J., concurring in part and dissenting in part, joined by Brennan & Marshall, JJ.) ("Government policies of * * * acknowledgment, and support for religion are an accepted part of our political and cultural heritage."); *id.* at 674 n.10 (Kennedy, J., concurring in part and dissenting in part, joined by Rehnquist, C.J., and White & Scalia, JJ.) (explaining that the Court "will not proscribe" "the reference to God in the Pledge of Allegiance" and similar acknowledgments of religious culture); *Wallace* v. *Jaffree*, 472 U.S. 38, 78 n.5 (1985) (O'Connor, J., concurring) (same view as in *County of Allegheny*, with specific reference to the Pledge of Allegiance); *id.* at 88 (Burger, C.J., dissenting) (the argument that the Pledge of Allegiance, with its reference to God, violates the Establishment Clause "would of course make a mockery of our decisionmaking in Establishment Clause cases"); *Lynch*, 465 U.S. at 693 (O'Connor, J., concurring) (same view as in *County of Allegheny* with respect to "In God We Trust" and "God save the United States and this honorable court"); *Abington Township*, 374 U.S. at 304 (Brennan, J., concurring) ("The reference to divinity in the revised pledge of allegiance, for example, may merely recognize the historical fact that our Nation was believed to have been founded 'under God.' Thus reciting the pledge may be no more of a religious exercise than the reading aloud of Lincoln's Gettysburg Address, which contains an allusion to the same historical fact."); *id.* at 303 (The Pledge and similar acknowledgments of religion are "interwoven * * * so deeply into the fabric of our civil polity" that their "use may not present that type of involvement which the First Amendment prohibits."); *id.* at

REV_00165008

307-308 (Goldberg, J., concurring, joined by Harlan, J.) ("[T]oday's decision does not mean that all incidents of government which import of the religious are therefore and without more banned by the strictures of the Establishment Clause," citing to divine references in the Declaration of Independence and the National Anthem); *Engel*, 370 U.S. at 449 (Stewart, J., dissenting) (citing as consistent with the Establishment Clause the then recently amended Pledge of Allegiance, the National Motto "In God We Trust," and the National Day of Prayer).

c. The court of appeals dismissed that overwhelming and consistent authority as "dicta" that was "not inconsistent" with its invalidation of the Pledge. App., *infra*, 15a. While the court of appeals is correct that none of those cases involved direct challenges to the Pledge, it fundamentally erred in disregarding this Court's consistent statements validating the Pledge. That is because, "[w]hen an opinion issues for the Court, it is not only the result but also those portions of the opinion necessary to that result by which we are bound." *Seminole Tribe* v. *Florida*, 517 U.S. 44, 67 (1996). The Court's analysis of the Pledge and similar official acknowledgments of religion in *Lynch* and *County of Allegheny* were not "mere *obiter dicta*" that the court of appeals was free to disregard. *Id.* at 66. They were components of the "well-established rationale upon which the Court based the results of its earlier decisions." *Id.* at 66-67. Those references articulated the constitutional baseline for permissible official acknowledgments of religion under the Establishment Clause against which the governmental practices at issue in each of those cases were then measured. Indeed, for decades, the Court and individual Justices "have grounded [their] decisions in the oft-repeated understanding," *id.* at 67,

REV_00165009

that the Pledge of Allegiance, and similar references, are constitutional.[6]

The court of appeals' failure to recognize the analytical import of this Court's past decisions and statements underlies its erroneous conclusion that recitation of the Pledge of Allegiance in schools violates the Establishment Clause. First, in concluding that the Pledge results in unconstitutional coercion, the court of appeals failed to come to grips with this Court's repeated recognition that the Establishment Clause permits such historic, ubiquitous, and ceremonial acknowledgments of our Nation's religious character and heritage. See *Lynch*, 465 U.S. at 675, 677 (concluding that the words "under God" in the Pledge are an "acknowledgment of our religious heritage" similar to the "official references to the value and invocation of Divine guidance in deliberations and pronouncements of the Founding Fathers" that are "replete" in our nation's history). Such references are not reasonably and objectively understood as coercing individuals into silent assent to any particular religious doctrine. Rather, the Pledge is "consistent with the proposition that government may not communicate an endorsement of religious belief," *County of Allegheny*, 492 U.S. at 602-603, because the ceremonial reference to God acknowledges the undeniable historical facts that the Nation was founded by individuals who believed in God, that the Constitution's protection of individual rights and autonomy reflects those religious convictions, and that the Nation

---

[6] See also *County of Allegheny*, 492 U.S. at 668 (Kennedy, J., concurring in part and dissenting in part) ("As a general rule, the principle of *stare decisis* directs us to adhere not only to the holdings of our prior cases, but also to their explications of the governing rules of law."); *Local 28 of the Sheet Metal Workers' Int'l Ass'n* v. *EEOC*, 478 U.S. 421, 490 (1986) (O'Connor, J., concurring) ("Although technically dicta, * * * an important part of the Court's rationale for the result [that] it reache[s] * * * is entitled to greater weight.").

REV_00165010

continues as a matter of demographic and cultural fact to be a predominantly "religious people whose institutions presuppose a Supreme Being." *Zorach*, 343 U.S. at 313.

Second, as Judge O'Scannlain explained in his dissent from the denial of rehearing en banc, App., *infra*, 69a-71a, 79a-83a, the court of appeals' decision proceeds from the faulty premise that the Pledge's acknowledgment of the Nation's religious heritage is the functional equivalent of prayer or a religious act like Bible reading. The decisions of this Court and individual Justices outlined above repeatedly admonish that not every reference to God amounts to impermissible government-endorsed religious exercise, and expressly refer to the Pledge and similar ceremonial references in contradistinction to formal religious exercises like prayer and Bible reading. See, *e.g.*, *Lynch*, *supra*; *Abington Township*, *supra*; *Engel*, *supra*. The Pledge is no more of a coercive religious exercise than the requirement at the opening of federal courts that individuals stand while a court official announces "God save the United States and this honorable Court."

Third, the court of appeals erred in analyzing the phrase "under God" in isolation. In the court's view, pledging allegiance to the phrase "under God" compelled an endorsement of monotheism in the same manner as phrases like "under Jesus," "under Vishnu," or "under Zeus." App., *infra*, 12a. But Congress did not enact a pledge consisting just of the words "under God," and the school district does not lead students in reciting only the phrase "under God." Nor did Congress enact a pledge to God. Individuals pledge allegiance to "the Flag of the United States of America," and "to the Republic for which it stands." 4 U.S.C. 4. The remainder of the Pledge then describes the culture and character of that Republic—a unified Country, composed of individual States yet indivisible as a Nation, founded for the purposes of promoting liberty and justice for all, *and*

REV_00165011

founded by individuals who believed (and populated predominantly by people who continue to believe) that the Nation's character and destiny were rooted in the Divine.

In analyzing only Newdow's discomfiture with the phrase "under God," without considering its larger context, the court of appeals "plainly erred." *Lynch*, 465 U.S. at 680. In *Lynch*, this Court stressed that the Establishment Clause analysis looks at religious symbols and references in context, rather than "focusing almost exclusively on the" religious symbol alone. *Ibid.* The *Lynch* Court accordingly did not ask whether the government's display of a creche—a clearly religious symbol—was permissible. The Court analyzed whether the overall message conveyed by a display that included both that religious and other secular symbols of the Christmas holiday season conveyed a message of endorsement, and concluded that it did not. *Id.* at 680-686. The presence of the creche, the Court concluded, properly "depict[ed] the historical origins of this traditional event," *id.* at 680, and permissibly took "official note of Christmas, and of our religious heritage," *id.* at 686.

Likewise, in *County of Allegheny*, the Court analyzed and upheld the "combined display" during the winter holiday season of a Christmas tree, Liberty sign, and menorah. 492 U.S. at 616. The Court thus looked at the content of the display as a whole, rather than focusing on the presence of the menorah and the religious message that the menorah alone conveys. *Id.* at 616-620.

That Congress added the phrase "under God" to a preexisting Pledge does not change the analysis. The city government in *County of Allegheny* had likewise added the menorah, after the fact, to a preexisting holiday display. *Id.* at 581-582. Yet this Court trained its constitutional analysis on the display as a whole, rather than scrutinizing the message conveyed by each component as it was added seriatim. *Id.* at 616-620 & n.64; see also *Zelman* v. *Simmons-Harris*,

REV_00165012

536 U.S. 639, 655-657 (2002) (noting that the Establishment Clause inquiry must consider all relevant programs, not just the specific program challenged); *id.* at 672-676 (O'Connor, J., concurring) (same); *Wallace*, 472 U.S. at 78 n.5 (O'Connor, J., concurring) (later addition of "under God" to Pledge does not violate the Establishment Clause because it "serve[s] as an acknowledgment of religion with the 'legitimate secular purpose of solemnizing public occasions, [and] expressing confidence in the future'").

The court of appeals attempted to distinguish the Pledge from other references to God in public life on the ground that the Pledge is "a performative statement," rather than simply "a reflection of [an] author's profession of faith." App., *infra*, 16a. As an initial matter, this Court's pronouncements have made no such distinction, consistently grouping the Pledge with the Motto, National Anthem, the Declaration of Independence, and similar public references, some of which frequently involve public performance (*e.g.*, the National Anthem) and some of which do not.

More importantly, the distinction makes no sense. With respect to "impressionable young schoolchildren," *id.* at 15a, there simply is no coherent or discernible "performative" difference between having them say the Pledge, rather than memorize and recite the National Motto ("In God *We Trust*"), 36 U.S.C. 302 (emphasis added), the Declaration of Independence, 1 U.S.C. at XLIII ("We hold these truths to be self-evident, that all men * * * are endowed by their Creator with certain unalienable Rights * * *."), or the Gettysburg Address ("[W]e here highly resolve * * * that this nation, under God, shall have a new birth of freedom."). Indeed, the court of appeals' approach leads to the curious conclusion that the recitation of Bible passages or long-established prayers in public schools, which would require students "merely to repeat the words of an historical document," App., *infra*, 16a, trenches less upon Establishment

REV_00165013

Clause principles than the Pledge's two-word acknowledgment of the Nation's religious heritage. That conclusion cannot be reconciled with this Court's precedent or established analytical principles guiding Establishment Clause jurisprudence.

d. This Court's review is warranted because the Ninth Circuit's decision squarely conflicts with the Seventh Circuit's decision in *Sherman* v. *Community Consolidated School District 21*, *supra*, that the Pledge of Allegiance may constitutionally be recited in public elementary schools. Unlike the court of appeals here, the Seventh Circuit placed significant weight on this Court's repeated approval of the Pledge and similar official acknowledgments of religion, and concluded that the lower federal courts must "take [the Supreme Court's] assurances seriously." 980 F.2d at 448. Indeed, the Ninth Circuit acknowledged that its decision creates an inter-circuit conflict and that the courts' differing decisions were the product of different modes of analyzing Establishment Clause challenges to such official acknowledgments of religion. App., *infra*, 16a-17a. This Court's authoritative resolution of the question is therefore necessary.[7]

---

[7] The Ninth Circuit's decision is also in considerable tension with court of appeals' decisions upholding analogous acknowledgments of the Nation's religious history and character. See *Gaylor* v. *United States*, 74 F.3d 214 (10th Cir.) (upholding against Establishment Clause challenge the National Motto, "In God We Trust," and its imprint on all currency), cert. denied, 517 U.S. 1211 (1996); *O'Hair* v. *Murray*, 588 F.2d 1144 (5th Cir.) (upholding National Motto), cert. denied, 442 U.S. 930 (1979); *Aronow* v. *United States*, 432 F.2d 242 (9th Cir. 1970) (same); *Ganulin* v. *United States*, 71 F. Supp. 2d 824 (S.D. Ohio 1999) (upholding constitutionality of 5 U.S.C. 6103, which makes Christmas Day a paid federal holiday), aff'd, 238 F.3d 420 (6th Cir. 2000), cert. denied, 532 U.S. 973 (2001); *Opinion of the Justices*, 228 A.2d 161 (N.H. 1967) (posting of plaques in all public school classrooms bearing the National Motto, "In God We Trust," would not violate the Establishment Clause).

REV_00165014

e. The question presented is one of great importance. An Act of Congress has been held unconstitutional as applied in one of its most important contexts. See *Lynch*, 465 U.S. at 676; pp. 4-5, *supra*; App., *infra*, 14a & n.7. Furthermore, the impact of the decision below is potentially far-reaching. In addition to the practice at federally operated schools for military dependents, see n.2, *supra*, public schools within each of the 50 States lead students in voluntary recitations of the Pledge of Allegiance, see Idaho C.A. Amicus Curiae Br. 9-13 (citing state laws). It is untenable that a national Pledge of Allegiance to a national flag would have a different content depending on the judicial circuit in which it is uttered. Absent this Court's review, 9.6 million students in nine States (App., *infra*, 69a) will recite an abridged version of the Pledge, while the nearly 37 million students in the rest of the Country will recite the Pledge that Congress enacted. Students in the Ninth Circuit will also learn a different Pledge in school than they recite at other public and private events. The Pledge cannot serve its purpose of unifying and commonly celebrating the national identity unless it is one Pledge with one content for all citizens at all points in their lives. There is no reason to tolerate such disruption and disharmony in the schools of this Nation. The Pledge of Allegiance is constitutional. This Court has repeatedly said so, and federal and state schools have acted in reliance on those assurances. The Ninth Circuit's disregard of this Court's decisions and their underlying analytical principles merits review.

2. The issue of Newdow's standing to bring his constitutional challenge is a necessarily antecedent question that this Court would need to address were it to grant review. See *Steel Co.* v. *Citizens for a Better Env't*, 523 U.S. 83, 94 (1998). Although it is the court of appeals' erroneous ruling on the merits that warrants this Court's review, the court of appeals also committed three errors in concluding that

REV_00165015

Newdow's status as a noncustodial parent did not deprive him of standing to challenge an educational practice at his child's school.[8]

First, and most fundamentally, Newdow has not suffered the invasion of any legally protected interest. A number of this Court's Establishment Clause cases have involved lawsuits by parents challenging practices or policies in public schools. See, *e.g.*, *Santa Fe Indep. Sch. Dist.* v. *Doe*, 530 U.S. 290 (2000); *Zobrest* v. *Catalina Foothills Sch. Dist.*, 509 U.S. 1 (1993); *Lee* v. *Weisman*, 505 U.S. 577 (1992); *Wisconsin* v. *Yoder*, 406 U.S. 205 (1972). In all of those cases, however, the parents had the legal right to sue as next friend to vindicate their children's legal interests and to protect the parents' own constitutional rights to direct and control the religious and educational upbringing of their children, see *Pierce* v. *Society of Sisters*, 268 U.S. 510, 534-535 (1925).

Newdow can assert neither right. He has no legal right to sue as his child's next friend, or otherwise seek to vindicate his child's legal interests, as the court of appeals recognized. App., *infra*, 96a. That prerogative rests exclusively with the mother, who has sole legal custody. *Ibid.* While Newdow retains the right to "consult" with the mother on educational decisions and to have "access" to the child's educational records, *id.* at 91a, Newdow does not allege that Elk Grove's

---

[8] While the standing issue is necessarily antecedent to the merits of the Establishment Clause analysis, see *Steel Co.*, *supra*, this Petition presents the Establishment Clause issue first because the court of appeals' erroneous constitutional judgment clearly merits this Court's review. Whether or not the Ninth Circuit's erroneous standing analysis would independently merit an exercise of this Court' s certiorari jurisdiction, it does not pose a barrier to review in this case. The Ninth Circuit's standing analysis is closely intertwined with its flawed Establishment Clause ruling, and the decision below, which not only erroneously invalidates the Pledge of Allegiance, but did so at the behest of a party without Article III standing, should not be allowed to stand.

REV_00165016

use of the Pledge in its schools interferes with either of those rights. Nor, contrary to the court of appeals' opinion, does Newdow have any right "to direct the religious education of his daughter." *Id.* at 7a. The custody order granted sole control over the child's "health, education and welfare" to the mother. *Id.* at 90a-91a. And the mother has made clear that she "wants her daughter to recite the Pledge as it stands as part of her education," Banning C.A. Mot. to Intervene 10.[9]

Where, as here, the two parents disagree on an educational practice, the decision of the custodial parent controls and Newdow has no right to overturn it. If, as the noncustodial parent, Newdow believes the mother's educational decisions are causing harm to the child, the proper remedy is for him to resort to family court and seek a modification of the custody agreement. He cannot use federal litigation to circumvent that state-law process or to modify a state-law custody judgment. See *District of Columbia Court of Appeals* v. *Feldman*, 460 U.S. 462, 482 (1983); *Rooker* v. *Fidelity Trust Co.*, 263 U.S. 413 (1923).[10]

---

[9] See also *Burge* v. *City & County of San Francisco*, 262 P.2d 6, 12 (Cal. 1953) (status as custodial parent "embrace[s] the sum of parental rights with respect to the rearing of a child, including its care. It includes the right * * * to direct his activities and make decisions regarding his care and control, education, health, and religion."); cf. *Michael H.* v. *Gerald D.*, 491 U.S. 110, 122-129 (1989).

[10] In apparent recognition of that limitation, the United States understands that Newdow has filed a motion in California Superior Court to alter the custody arrangement. That motion remains pending with a hearing date scheduled for July 31, 2003.

The court of appeals relied (App., *infra*, 92a-94a) on the Seventh Circuit's decision in *Navin* v. *Park Ridge School District*, 270 F.3d 1147 (2001) (per curiam), which held that a noncustodial father *might* be able to sue to enforce his son's rights under the Individuals with Disabilities Education Act, 20 U.S.C. 1415. In that case, however, the court concluded that the divorce decree did not strip the father of his parental interest in

REV_00165017

Second, the court of appeals placed weight upon Newdow's residual right, under California law, to "expose" his child to his views. App., *infra*, 95a. But, again, Newdow has not alleged that Elk Grove or the United States has denied him any opportunity to expose his child to his particular viewpoints.

The court of appeals went further, however, and held that Newdow has a right not to have his message to his child interrupted or diluted by the government's educational practices. But, especially when that speech occurs with the consent of the custodial parent, the right of the non-custodial parent to "expose" the child to his views does not entitle that parent to close off all other views. Public schools routinely instruct students about evolution, war, and other matters with which some parents may disagree on religious, political, or moral grounds. What the Constitution protects, in those circumstances, is the parents' right to instill their own views in their children and to place them in a private school that is more consonant with their beliefs. See *Pierce*, *supra*.[11]

The court of appeals further erred in suggesting that Newdow's limited state-law right was somehow enhanced by that court's erroneous conclusion that his Establishment Clause challenge was meritorious. The court repeatedly

---

ensuring the quality of his child's education. 270 F.3d at 1149. The court stressed, moreover, that the noncustodial parent could not use federal law "to upset choices committed to [the mother] by the state court," *id.* at 1150, which is exactly what Newdow's lawsuit attempts to do.

[11] Cf. *West Virginia State Bd. of Educ.* v. *Barnette*, 319 U.S. 624, 630 (1943) (holding only that children whose parents have religious objections to the content of the Pledge have a right not to participate in its recitation in a classroom, where their refusal "does not interfere with or deny rights of others to do so"); *Wooley* v. *Maynard*, 430 U.S. 705, 717 (1977) (the government "may legitimately" "communicate to others an official view as to proper appreciation of history, state pride, and individualism," as long as individuals are not forced to "becom[e] the courier for such message[s]").

REV_00165018

couched Newdow's purported Article III injury in terms of a right not to have his daughter "subjected to *unconstitutional* state action" and "official state indoctrination of * * * an official view of religion." App., *infra*, 96a (emphasis added). See also *id.* at 97a (the mother "may not consent to *unconstitutional* government action in derogation of Newdow's rights") (emphasis added).

That approach, however, confuses the standing inquiry with the ultimate question on the merits. The type of injury that Article III requires must be discernible separate and apart from the ultimate resolution of the case. The plaintiff must identify some action by the opposing party that affects the plaintiff's particularized, individual rights concretely and imminently—regardless of whether that action ultimately is found to be lawful or not. "The requirement of standing 'focuses on the party seeking to get his complaint before a federal court and not on the issues he wishes to have adjudicated." *Valley Forge Christian Coll.* v. *Americans United for Separation of Church & State, Inc.*, 454 U.S. 464, 484 (1982); see also *Schaffer* v. *Clinton*, 240 F.3d 878, 883 (10th Cir.) (denying standing where it "revolves around the asserted unconstitutionality of the [conduct as that] is a statement of [plaintiff's] view of the merits * * * and no more"), cert. denied, 534 U.S. 992 (2001).

Third, even if Newdow possesses some federal right not to have his message of atheism affected by his child's exposure to the Pledge, the court of appeals' limited invalidation of the Pledge in elementary schools does not redress that injury. Newdow's child remains subject to exposure to the Pledge in a wide variety of other assemblies and settings, public or private. In addition, the child's mother could place the child in private school where the official governmental Pledge could be recited daily. Unless the Establishment Clause compels courts to root out every reference to religion in public life, the relief ordered by the court here is incapable of

REV_00165019

inoculating Newdow's message of atheism against any perceived dilution.

CONCLUSION

The petition for a writ of certiorari should be granted. The Court may wish to consider summary reversal of the court of appeals' judgment.

Respectfully submitted.

THEODORE B. OLSON
Solicitor General
ROBERT D. MCCALLUM, JR.
Assistant Attorney General
PAUL D. CLEMENT
Deputy Solicitor General
GREGORY G. KATSAS
Deputy Assistant Attorney General
PATRICIA A. MILLETT
Assistant to the Solicitor General
ROBERT M. LOEB
LOWELL V. STURGILL JR.
SUSHMA SONI
Attorneys

APRIL 2003

REV_00165020

From: Kavanaugh, Brett M.
To: <Grubbs, Wendy J.>;<Snee, Ashley>;<Goeglein, Tim>;<Smith, Matthew E.>;<Schlapp, Matthew A.>
Sent: 4/30/2003 3:31:56 PM
Subject: important op-ed of support for Carolyn Kuhl

April 30, 2003

NOMINEE DOESN'T DESERVE CALUMNY HEAPED ON HER

Forum Column

By Vilma S. Martinez

As a member of Sen. Barbara Boxer's judicial screening committee during the Clinton administration, I was proud to recommend Judge Richard Paez for the 9th U.S. Circuit Court of Appeals. President Clinton nominated Paez, but his nomination languished for four years, and he was subjected to a campaign of half-truths and cruel caricatures.

California Superior Court Judge Carolyn Kuhl, characteristic of her sense of fairness and respect for an independent judiciary, stepped up to the plate. She wrote letters, made phone calls and exhorted her fellow Republicans to confirm Paez and other Clinton nominees.

Now that President Bush has nominated Kuhl to the 9th Circuit, many of the groups that supported Paez, ironically, have turned their fire on Kuhl, apparently to exact payback against Senate Republicans. This turnabout is not fair play. It is the continuation of a vicious cycle that punishes worthy judicial candidates in a misguided effort to use the judiciary to further narrow political ends.

I generally identify myself as a Democrat, am a veteran of civil rights battles and testified against Judge Robert Bork's nomination to the U.S. Supreme Court (on the basis of his inadequate judicial temperament). Like others dedicated to the independence of our judiciary, I certainly do not want ideologues serving as judges on our federal courts. That is why I think that Kuhl would make a great addition to the 9th Circuit.

Kuhl has served for seven years on the Los Angeles County Superior Court. Before that, she and I were law partners for nine years. Kuhl is what

I think of as an "old fashioned" judge. She cares about due process for everyone. In her seven years on the Superior Court, she has shown that she is careful to hear both sides. She does not try to influence the outcome of a case to favor one side or the other. She is serious about her oath to follow the law, whatever the result. Kuhl takes as her guide the words of Justice Felix Frankfurter that the highest calling of a judge is to subordinate the judge's personal views to the law.

Kuhl hardly can be described as being on "the fringe" of the Los Angeles legal community. She is the first woman to serve as the supervising judge of the civil departments of the Los Angeles Superior Court, a court system that is larger than the entire federal trial court nationwide. She served as the supervising judge of that court's very successful complex litigation program in its experimental phase.

Both the plaintiff and defense bars in Los Angeles actively support Kuhl, even though she primarily represented defendants when she practiced law. California Supreme Court Justice Carlos Moreno, more than a dozen justices of the Court of Appeal and almost 100 judges of the Superior Court (including more than 25 women) have signed letters in support of Kuhl. Many of these supporters are active Democrats. They know Kuhl and, like me, they know that she has not been, and would not be, a result-oriented judge.

Prof. Erwin Chemerinsky recently argued, in the pages of this publication, that the battle over judges that was so unfair to nominees of Clinton should continue against Bush's nominees. "Look Closely," Forum, April 17. He also takes the position that candidates for judicial office should be judged by who their clients are and what positions they took on behalf of those clients.

The Los Angeles County Bar Association strongly disagrees. In its March 28 letter to the members of the Senate Judiciary Committee, the County Bar stated: "The recent trend in attacking the qualifications of judicial candidates on the basis of positions advocated on behalf of clients is misguided ... . [W]e urge that the Judiciary Committee give due consideration to those issues that are critical to assessing a nominees'

qualifications - the nominees' professional abilities, intelligence, integrity, experience and judicial temperament - and not to those positions taken by nominees on behalf of their clients."

The letter explains that because of a lawyer's responsibility to explore and present all arguments that may advance a client's cause, "neither the identity of a lawyer's clients nor the zealous advocacy of their causes necessarily provides any insight into the lawyer's personal beliefs, nor do they necessarily provide any indication of how a nominee may view a particular case presented to him or her as a judge." The letter also notes that the type of personal attacks on candidates that have become common may discourage candidates from pursuing judicial nominations and discourage lawyers from taking on unpopular or controversial clients or causes.

I call on fellow members of the bar, both Democrats and Republicans, to step up to the plate to support Kuhl, just like she went to bat for Paez and other Clinton nominees. It is shameful that her generosity and dedication to an independent judiciary are being repaid with the same sort of calumny that Paez suffered. Until the politicians decide to play fair with judicial candidates, our system of justice will suffer grievously.

Vilma S. Martinez has been a partner at Munger, Tolles & Olson for 20 years. Previously, she served as president and general counsel of the Mexican American Legal Defense and Educational Fund.

From: Snee, Ashley
To: <Kavanaugh, Brett M.>
Sent: 4/30/2003 3:50:59 PM
Subject: RE: important op-ed of support for Carolyn Kuhl

Did this run?

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Wednesday, April 30, 2003 3:32 PM
To: Grubbs, Wendy J.; Snee, Ashley; Goeglein, Tim; Smith, Matthew E.; Schlapp, Matthew A.
Subject: important op-ed of support for Carolyn Kuhl

April 30, 2003

NOMINEE DOESN'T DESERVE CALUMNY HEAPED ON HER
Forum Column

By Vilma S. Martinez

As a member of Sen. Barbara Boxer's judicial screening committee during the Clinton administration, I was proud to recommend Judge Richard Paez for the 9th U.S. Circuit Court of Appeals. President Clinton nominated Paez, but his nomination languished for four years, and he was subjected to a campaign of half-truths and cruel caricatures.

California Superior Court Judge Carolyn Kuhl, characteristic of her sense of fairness and respect for an independent judiciary, stepped up to the plate. She wrote letters, made phone calls and exhorted her fellow Republicans to confirm Paez and other Clinton nominees.

Now that President Bush has nominated Kuhl to the 9th Circuit, many of the groups that supported Paez, ironically, have turned their fire on Kuhl, apparently to exact payback against Senate Republicans. This turnabout is not fair play. It is the continuation of a vicious cycle that punishes worthy judicial candidates in a misguided effort to use the judiciary to further narrow political ends.

I generally identify myself as a Democrat, am a veteran of civil rights battles and testified against Judge Robert Bork's nomination to the U.S. Supreme Court (on the basis of his inadequate judicial temperament). Like others dedicated to the independence of our judiciary, I certainly do not want ideologues serving as judges on our federal courts. That is why I think that Kuhl would make a great addition to the 9th Circuit.

Kuhl has served for seven years on the Los Angeles County Superior Court. Before that, she and I were law partners for nine years. Kuhl is what I think of as an "old fashioned" judge. She cares about due process for everyone. In her seven years on the Superior Court, she has shown that she is careful to hear both sides. She does not try to influence the outcome of a case to favor one side or the other. She is serious about her oath to follow the law, whatever the result. Kuhl takes as her guide the words of Justice Felix Frankfurter that the highest calling of a judge is to subordinate the judge's personal views to the law.

Kuhl hardly can be described as being on "the fringe" of the Los Angeles legal community. She is the first woman to serve as the supervising judge of the civil departments of the Los Angeles Superior Court, a court system that is larger than the entire federal trial court nationwide. She served as the supervising judge of that court's very successful complex litigation program in its experimental phase.

Both the plaintiff and defense bars in Los Angeles actively support Kuhl, even though she primarily represented defendants when she practiced

law. California Supreme Court Justice Carlos Moreno, more than a dozen justices of the Court of Appeal and almost 100 judges of the Superior Court (including more than 25 women) have signed letters in support of Kuhl. Many of these supporters are active Democrats. They know Kuhl and, like me, they know that she has not been, and would not be, a result-oriented judge.

Prof. Erwin Chemerinsky recently argued, in the pages of this publication, that the battle over judges that was so unfair to nominees of Clinton should continue against Bush's nominees. "Look Closely," Forum, April 17. He also takes the position that candidates for judicial office should be judged by who their clients are and what positions they took on behalf of those clients.

The Los Angeles County Bar Association strongly disagrees. In its March 28 letter to the members of the Senate Judiciary Committee, the County Bar stated: "The recent trend in attacking the qualifications of judicial candidates on the basis of positions advocated on behalf of clients is misguided ... . [W]e urge that the Judiciary Committee give due consideration to those issues that are critical to assessing a nominees' qualifications - the nominees' professional abilities, intelligence, integrity, experience and judicial temperament - and not to those positions taken by nominees on behalf of their clients."

The letter explains that because of a lawyer's responsibility to explore and present all arguments that may advance a client's cause, "neither the identity of a lawyer's clients nor the zealous advocacy of their causes necessarily provides any insight into the lawyer's personal beliefs, nor do they necessarily provide any indication of how a nominee may view a particular case presented to him or her as a judge." The letter also notes that the type of personal attacks on candidates that have become common may discourage candidates from pursuing judicial nominations and discourage lawyers from taking on unpopular or controversial clients or causes.

I call on fellow members of the bar, both Democrats and Republicans, to step up to the plate to support Kuhl, just like she went to bat for Paez and other Clinton nominees. It is shameful that her generosity and dedication to an independent judiciary are being repaid with the same sort of calumny that Paez suffered. Until the politicians decide to play fair with judicial candidates, our system of justice will suffer grievously.

Vilma S. Martinez has been a partner at Munger, Tolles & Olson for 20 years. Previously, she served as president and general counsel of the Mexican American Legal Defense and Educational Fund.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ashley Snee/WHO/EOP@Exchange [WHO] <Ashley Snee>
Sent: 4/30/2003 11:51:09 AM
Subject: : RE: important op-ed of support for Carolyn Kuhl

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:30-APR-2003 15:51:09.00
SUBJECT:: RE: important op-ed of support for Carolyn Kuhl
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

It ran today in LA Daily Journal (legal daily newspaper).

From: Ashley Snee/WHO/EOP@Exchange on 04/30/2003 03:50:59 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE: important op-ed of support for Carolyn Kuhl

Did this run?

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Wednesday, April 30, 2003 3:32 PM
To: Grubbs, Wendy J.; Snee, Ashley; Goeglein, Tim; Smith, Matthew E.; Schlapp, Matthew A.
Subject: important op-ed of support for Carolyn Kuhl

April 30, 2003

NOMINEE DOESN'T DESERVE CALUMNY HEAPED ON HER
Forum Column

By Vilma S. Martinez

As a member of Sen. Barbara Boxer's judicial screening committee during the Clinton administration, I was proud to recommend Judge Richard Paez for the 9th U.S. Circuit Court of Appeals. President Clinton nominated Paez, but his nomination languished for four years, and he was subjected to a campaign of half-truths and cruel caricatures.

California Superior Court Judge Carolyn Kuhl, characteristic of her sense of fairness and respect for an independent judiciary, stepped up to the plate. She wrote letters, made phone calls and exhorted her fellow Republicans to confirm Paez and other Clinton nominees.

Now that President Bush has nominated Kuhl to the 9th Circuit, many of the groups that supported Paez, ironically, have turned their fire on Kuhl, apparently to exact payback against Senate Republicans. This turnabout is not fair play. It is the continuation of a vicious cycle that punishes worthy judicial candidates in a misguided effort to use the judiciary to further narrow political ends.

I generally identify myself as a Democrat, am a veteran of civil

rights battles and testified against Judge Robert Bork's nomination to the U.S. Supreme Court (on the basis of his inadequate judicial temperament). Like others dedicated to the independence of our judiciary, I certainly do not want ideologues serving as judges on our federal courts. That is why I think that Kuhl would make a great addition to the 9th Circuit.

Kuhl has served for seven years on the Los Angeles County Superior Court. Before that, she and I were law partners for nine years. Kuhl is what I think of as an "old fashioned" judge. She cares about due process for everyone. In her seven years on the Superior Court, she has shown that she is careful to hear both sides. She does not try to influence the outcome of a case to favor one side or the other. She is serious about her oath to follow the law, whatever the result. Kuhl takes as her guide the words of Justice Felix Frankfurter that the highest calling of a judge is to subordinate the judge's personal views to the law.

Kuhl hardly can be described as being on "the fringe" of the Los Angeles legal community. She is the first woman to serve as the supervising judge of the civil departments of the Los Angeles Superior Court, a court system that is larger than the entire federal trial court nationwide. She served as the supervising judge of that court's very successful complex litigation program in its experimental phase.

Both the plaintiff and defense bars in Los Angeles actively support Kuhl, even though she primarily represented defendants when she practiced law. California Supreme Court Justice Carlos Moreno, more than a dozen justices of the Court of Appeal and almost 100 judges of the Superior Court (including more than 25 women) have signed letters in support of Kuhl. Many of these supporters are active Democrats. They know Kuhl and, like me, they know that she has not been, and would not be, a result-oriented judge.

Prof. Erwin Chemerinsky recently argued, in the pages of this publication, that the battle over judges that was so unfair to nominees of Clinton should continue against Bush's nominees. "Look Closely," Forum, April 17. He also takes the position that candidates for judicial office should be judged by who their clients are and what positions they took on behalf of those clients.

The Los Angeles County Bar Association strongly disagrees. In its March 28 letter to the members of the Senate Judiciary Committee, the County Bar stated: "The recent trend in attacking the qualifications of judicial candidates on the basis of positions advocated on behalf of clients is misguided ... . [W]e urge that the Judiciary Committee give due consideration to those issues that are critical to assessing a nominees' qualifications - the nominees' professional abilities, intelligence, integrity, experience and judicial temperament - and not to those positions taken by nominees on behalf of their clients."

The letter explains that because of a lawyer's responsibility to explore and present all arguments that may advance a client's cause, "neither the identity of a lawyer's clients nor the zealous advocacy of their causes necessarily provides any insight into the lawyer's personal beliefs, nor do they necessarily provide any indication of how a nominee may view a particular case presented to him or her as a judge." The letter also notes that the type of personal attacks on candidates that have become common may discourage candidates from pursuing judicial nominations and discourage lawyers from taking on unpopular or controversial clients or causes.

I call on fellow members of the bar, both Democrats and Republicans, to step up to the plate to support Kuhl, just like she went to bat for Paez and other Clinton nominees. It is shameful that her generosity and

dedication to an independent judiciary are being repaid with the same sort of calumny that Paez suffered. Until the politicians decide to play fair with judicial candidates, our system of justice will suffer grievously.

Vilma S. Martinez has been a partner at Munger, Tolles & Olson for 20 years.
Previously, she served as president and general counsel of the Mexican American Legal Defense and Educational Fund.

REV_00165029

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]

To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jonathan F. Ganter/WHO/EOP@EOP [WHO] <Jonathan F. Ganter>;J. Elizabeth Farrell/WHO/EOP@EOP [WHO] <J. Elizabeth Farrell>;James W. Carroll/WHO/EOP@EOP [WHO] <James W. Carroll>;Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Carolyn Nelson/WHO/EOP@Exchange [WHO] <Carolyn Nelson>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Tracy Jucas/WHO /EOP@EOP [WHO] <Tracy Jucas>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>;Hana F. Brilliant/WHO /EOP@EOP [WHO] <Hana F. Brilliant>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>

Sent: 4/30/2003 11:58:35 AM

Subject: : Lawrence S. Coogler - aBA

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:30-APR-2003 15:58:35.00
SUBJECT:: Lawrence S. Coogler - aBA
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jonathan F. Ganter ( CN=Jonathan F. Ganter/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:J. Elizabeth Farrell ( CN=J. Elizabeth Farrell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:James W. Carroll ( CN=James W. Carroll/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tracy Jucas ( CN=Tracy Jucas/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Hana F. Brilliant ( CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
```

READ:UNKNOWN
End Original ARMS Header

Lawrence S. Coogler, USDC, Northern District of Alabama, is unanimously rated "Qualified" by the ABA.
;
Patrick

From: CN=Karin B. Torgerson/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 4/30/2003 1:35:18 PM
Subject: : lawday.prc
Attachments: P_1CS1G003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Karin B. Torgerson ( CN=Karin B. Torgerson/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:30-APR-2003 17:35:18.00
SUBJECT:: lawday.prc
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

This is Harriet's re-write.; Would you mind looking through it again?; I
will also.; Please send any comments back to me.; Thanks
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_1CS1G003_WHO.TXT_1>
```

LAW DAY, U.S.A., 2003

- - - - - - -

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

America was founded on the ideals of liberty and equality for all, and the Framers of the Constitution created three branches of the national Government to uphold these principles. ~~One of these branches~~The third branch, the Judicial, is responsible for administering justice fairly and ~~efficiently~~impartially ~~and ensuring that the Constitution is followed~~. On Law Day, we recognize the ~~merits~~ achievements of our Nation's legal system and our independent Judiciary ~~in maintaining "checks and balances"~~ and in sustaining the rights and liberties we cherish.

George Washington ~~once~~ wrote, "The administration of justice is the firmest pillar of government." Our Judicial branch upholds the rule of law in our society and strengthens our democracy. Under the Constitution, judges ~~have been~~are granted the ~~significant~~olemn responsibility of providing fair and impartial resolution ~~when disputes arise or when individuals are charged with breaking the law~~of criminal and civil disputes.~~.~~

This year's Law Day theme, "Independent Courts Protect Our Liberties," focuses on one of the ~~most important tenets~~foundations ~~—~~ of our ~~legal~~constitutional system: judicial independence providing in the federal system by life tenure and

an assured level of compensation.~~.~~ ~~In order to~~It ~~also r~~reminds us that in order to~~–~~ ensure ~~fairness and~~ equality for all citizens and fairness in the judicial process, our judges must serve as impartial arbiters who do not have a stake in their decisions or seek to achieve a biased~~the~~ outcome or particular result ~~of~~in the ~~court decisions~~cases they oversee.

~~Judicial independence upholds the separation of powers among our three branches of Government, and helps ensure that lawmakers create laws that do not favor one individual over another.~~ Our constitutional system of separation of powers places ~~By applying~~ careful limits on the powers of judges and separates~~ingseparating~~ the responsibilities of making laws and ~~applying~~interpreting laws between the ~~J~~Legislative and ~~j~~Judicial legislative and judicial branches.~~, our Constitution assures that no one branch of government holds too much power.~~ ~~J~~Judicial independence provides ~~eserves this separation of powers by providing~~ Federal judges the autonomy to make decisions unfettered by influences from the executive and legislative branches. ~~legal system encourages integrity and fulfills the promises of the Constitution~~In this way, we are assured that are laws will be ~~drafted fairly,~~ interpreted justly~~,~~ and applied with uniformity.

~~State systems provide for judicial independence by modeling their own systems after the Federal division of power and through their ethical cannons.~~

~~Because judges enjoy autonomy once they are appointed, it is~~ Our Nation's judges must be ~~crucial that~~ men and women of exemplary character,~~.~~ ~~are selected. The~~Both the nomination process of our

Formatted: Indent: First line: 0", Tab stops: 3.25", Centered

~~federal system and the election process utilized by many of our States nomination and confirmation process must should strive to identify capable yet humble~~well-qualified ~~individuals~~ with wisdom, experience, good temperament, and a willingness to work hard. They must be juris~~energy~~ who will honor the public office

with which they are entrusted. and who will by resisting temptation and following the letter of the law. To fulfill this requirementwork towards this goal, my Administration will continue to nominate federal judges with impeccable credentials and extraordinary skill and experience from diverse backgrounds, with impeccable credentials, who will uphold the highest standards of justice and equality.

Formatted: Tab stops: 3.25", Centered

This Law Day, we recognize the vital role of independent judges in upholding justice in courts throughout our land, and we resolve to continue to support and strengthen the Judicial branch, and thereby that sustains our lives and our preservinge our rights and liberties.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, in accordance with Public Law 87-20, as amended, do hereby proclaim May 1, 2003, as Law Day, U.S.A. I call upon all the people of the United States to observe this day with appropriate ceremonies and activities. I also call upon Government officials to display the flag of the United States in support of this national observance.

IN WITNESS WHEREOF, I have hereunto set my hand this

day of , in the year of our Lord two thousand three, and of the Independence of the United States of America the two hundred and twenty-seventh.

From: CN=Lisa J. Macecevic/OU=OMB/O=EOP [OMB]
To: James J. Jukes/OMB/EOP@EOP [OMB] <James J. Jukes>;Kenneth L. Schwartz/OMB /EOP@EOP [OMB] <Kenneth L. Schwartz>;Lauren E. Bloomquist/OMB/EOP@EOP [OMB] <Lauren E. Bloomquist>;Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Richard E. Green/OMB/EOP@EOP [OMB] <Richard E. Green>;James Boden/OMB/EOP@EOP [OMB] <James Boden>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/1/2003 4:41:27 AM
Subject: : CongressDaily AM on Sen. Judiciary Ctte-approved amendment to S. 274 (Class Action Fairness Act)

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Lisa J. Macecevic (CN=Lisa J. Macecevic/OU=OMB/O=EOP [OMB])
CREATION DATE/TIME: 1-MAY-2003 08:41:27.00
SUBJECT:: CongressDaily AM on Sen. Judiciary Ctte-approved amendment to S. 274 (Class Action Fairness Act)
TO:James J. Jukes (CN=James J. Jukes/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Kenneth L. Schwartz (CN=Kenneth L. Schwartz/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Lauren E. Bloomquist (CN=Lauren E. Bloomquist/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Richard E. Green (CN=Richard E. Green/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:James Boden (CN=James Boden/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

See blue at bottom for another hint on possible timing.

Class Action Amendment Provokes A Storm Among Biz Groups
ÿÿÿÿÿAs reported out of the Senate Judiciary Committee last month, class action reform legislation cosponsored by Judiciary Chairman Hatch and Sen. Dianne Feinstein, D-Calif., and others grants federal courts original jurisdiction over certain civil actions brought as a class.
ÿÿÿÿÿBut a key exception included in the measure threatens to undermine business' main goal of funneling most class actions into federal court, and the interests are doggedly seeking to strip it out as the bill goes to the Senate floor.
ÿÿÿÿÿInserted in committee at the behest of Sen. Arlen Specter, R-Pa., and cosponsored by Feinstein, the provision would exempt from the bill both certain "case consolidations," which legal experts have described as being essentially class actions by a different name, and also "private attorney general" actions, which allow individual citizens to sue companies on behalf of the government or the public at large.
ÿÿÿÿÿThe first portion of that amendment, the effect of which would be to exempt a significant number of de facto class action lawsuits from the bill's reach, including in states considered favorable to plaintiffs such as Mississippi, is causing business lobbyists considerable heartburn.
ÿÿÿÿÿAlthough not willing to say so publicly, some have said privately that the amendment "guts" the bill. Sources said Hatch is communicating with Specter to try to determine exactly what Specter's intentions were with the amendment and to narrow it accordingly as the bill moves to the floor.
ÿÿÿÿÿ"It is clear -- Sen. Specter is very much willing to work with Sen. Hatch to really work [out] what his amendment is going do," said Matt Webb of the U.S. Chamber of Commerce's Institute for Legal Reform.
ÿÿÿÿÿWebb declined to say what would become of industry support for the

measure if that provision remains intact, however. "I think there's a way to bridge that gap," Webb said. "That's a bridge we'll cross when we get there."

ÿÿÿÿÿVictor Schwartz, counsel for the American Tort Reform Association, said he believes the effect of Specter's amendment was "inadvertent."

ÿÿÿÿÿ"What he does is a technical thing, but it's a very important thing," Schwartz said. "But case consolidations that are really class actions should be within the letter and the spirit of the [new federal] law," he added.

ÿÿÿÿÿPublic Citizen, which agrees that some sort of class action reform is needed, nevertheless insists the Chamber's real agenda in the underlying bill is to make it harder for consumers to prevail, by funneling their cases to federal judges that are inclined to interpret state law conservatively.

ÿÿÿÿÿAsked by CongressDaily Tuesday whether he was amenable to altering his amendment, Specter said only that he was willing to take a look at anyone's suggested revisions.

ÿÿÿÿÿBy most counts, the business and insurance industry-dominated Class Action Coalition, led by the U.S. Chamber of Commerce, is around three votes shy of the 60 votes needed to filibuster-proof the reform bill in the Senate.

ÿÿÿÿÿSenate Majority Leader Frist has expressed an interest in having that bill on that floor this month, although Senate sources this week expressed doubt that a pre-Memorial Day timetable is an achievable goal, given the crush of other legislative business. By Pamela Barnett

From: CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [WHO]
To: Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;Kyle Sampson/WHO /EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jonathan F. Ganter/WHO/EOP@EOP [WHO] <Jonathan F. Ganter>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>;J. Elizabeth Farrell/WHO/EOP@EOP [WHO] <J. Elizabeth Farrell>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Carolyn Nelson/WHO/EOP@Exchange [WHO] <Carolyn Nelson>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Tracy Jucas/WHO /EOP@EOP [WHO] <Tracy Jucas>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;James W. Carroll/WHO/EOP@EOP [WHO] <James W. Carroll>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>
Sent: 5/1/2003 6:52:46 AM
Subject: : breakfast for Hana

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME: 1-MAY-2003 10:52:46.00
SUBJECT:: breakfast for Hana
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jonathan F. Ganter ( CN=Jonathan F. Ganter/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:J. Elizabeth Farrell ( CN=J. Elizabeth Farrell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tracy Jucas ( CN=Tracy Jucas/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:James W. Carroll ( CN=James W. Carroll/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Tomorrow is Hana's last day so we will have a breakfast for her after
staff meeting to bid her farewell.; If you would like to bring food,
juice, or money please email me what you are bringing.; Thanks!
```

From: CN=Lisa J. Macecevic/OU=OMB/O=EOP [OMB]
To: James J. Jukes/OMB/EOP@EOP [OMB] <James J. Jukes>;Kenneth L. Schwartz/OMB /EOP@EOP [OMB] <Kenneth L. Schwartz>;Lauren E. Bloomquist/OMB/EOP@EOP [OMB] <Lauren E. Bloomquist>;Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Richard E. Green/OMB/EOP@EOP [OMB] <Richard E. Green>;James Boden/OMB/EOP@EOP [OMB] <James Boden>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/1/2003 4:41:27 AM
Subject: : CongressDaily AM on Sen. Judiciary Ctte-approved amendment to S. 274 (Class Action Fairness Act)

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Lisa J. Macecevic (CN=Lisa J. Macecevic/OU=OMB/O=EOP [OMB])
CREATION DATE/TIME: 1-MAY-2003 08:41:27.00
SUBJECT:: CongressDaily AM on Sen. Judiciary Ctte-approved amendment to S. 274 (Class Action Fairness Act)
TO:James J. Jukes (CN=James J. Jukes/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Kenneth L. Schwartz (CN=Kenneth L. Schwartz/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Lauren E. Bloomquist (CN=Lauren E. Bloomquist/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Richard E. Green (CN=Richard E. Green/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:James Boden (CN=James Boden/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

See blue at bottom for another hint on possible timing.

Class Action Amendment Provokes A Storm Among Biz Groups
ÿÿÿÿÿAs reported out of the Senate Judiciary Committee last month, class action reform legislation cosponsored by Judiciary Chairman Hatch and Sen. Dianne Feinstein, D-Calif., and others grants federal courts original jurisdiction over certain civil actions brought as a class.
ÿÿÿÿÿBut a key exception included in the measure threatens to undermine business' main goal of funneling most class actions into federal court, and the interests are doggedly seeking to strip it out as the bill goes to the Senate floor.
ÿÿÿÿÿInserted in committee at the behest of Sen. Arlen Specter, R-Pa., and cosponsored by Feinstein, the provision would exempt from the bill both certain "case consolidations," which legal experts have described as being essentially class actions by a different name, and also "private attorney general" actions, which allow individual citizens to sue companies on behalf of the government or the public at large.
ÿÿÿÿÿThe first portion of that amendment, the effect of which would be to exempt a significant number of de facto class action lawsuits from the bill's reach, including in states considered favorable to plaintiffs such as Mississippi, is causing business lobbyists considerable heartburn.
ÿÿÿÿÿAlthough not willing to say so publicly, some have said privately that the amendment "guts" the bill. Sources said Hatch is communicating with Specter to try to determine exactly what Specter's intentions were with the amendment and to narrow it accordingly as the bill moves to the floor.
ÿÿÿÿÿ"It is clear -- Sen. Specter is very much willing to work with Sen. Hatch to really work [out] what his amendment is going do," said Matt Webb of the U.S. Chamber of Commerce's Institute for Legal Reform.
ÿÿÿÿÿWebb declined to say what would become of industry support for the

measure if that provision remains intact, however. "I think there's a way to bridge that gap," Webb said. "That's a bridge we'll cross when we get there."

ÿÿÿÿÿVictor Schwartz, counsel for the American Tort Reform Association, said he believes the effect of Specter's amendment was "inadvertent."

ÿÿÿÿÿ"What he does is a technical thing, but it's a very important thing," Schwartz said. "But case consolidations that are really class actions should be within the letter and the spirit of the [new federal] law," he added.

ÿÿÿÿÿPublic Citizen, which agrees that some sort of class action reform is needed, nevertheless insists the Chamber's real agenda in the underlying bill is to make it harder for consumers to prevail, by funneling their cases to federal judges that are inclined to interpret state law conservatively.

ÿÿÿÿÿAsked by CongressDaily Tuesday whether he was amenable to altering his amendment, Specter said only that he was willing to take a look at anyone's suggested revisions.

ÿÿÿÿÿBy most counts, the business and insurance industry-dominated Class Action Coalition, led by the U.S. Chamber of Commerce, is around three votes shy of the 60 votes needed to filibuster-proof the reform bill in the Senate.

ÿÿÿÿÿSenate Majority Leader Frist has expressed an interest in having that bill on that floor this month, although Senate sources this week expressed doubt that a pre-Memorial Day timetable is an achievable goal, given the crush of other legislative business. By Pamela Barnett

From: Kavanaugh, Brett M.
To: <Vestewig, Lauren J.>
Sent: 5/1/2003 9:55:49 AM
Subject: Re: Meeting re. Kyl-Cornyn

who from VP's office?

From: Lauren J. Vestewig/OPD/EOP@Exchange on 05/01/2003 09:20:26 AM

Record Type: Record

To: Diana L. Schacht/OPD/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP

cc: Emily Winland/OPD/EOP@EOP

Subject: Meeting re. Kyl-Cornyn

The VP's office is coming to meet with Jay re. K-C tomorrow at 3:45. Can you join?

From: CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange [OPD]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/1/2003 6:08:55 AM
Subject: : RE: Meeting re. Kyl-Cornyn

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Lauren J. Vestewig (CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange [OPD])
CREATION DATE/TIME: 1-MAY-2003 10:08:55.00
SUBJECT:: RE: Meeting re. Kyl-Cornyn
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Cesar, Courtney and Ado

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Thursday, May 01, 2003 9:56 AM
To: Vestewig, Lauren J.
Subject: Re: Meeting re. Kyl-Cornyn

who from VP's office?

From: Lauren J. Vestewig/OPD/EOP@Exchange on 05/01/2003 09:20:26 AM
Record Type: Record

To: Diana L. Schacht/OPD/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc: Emily Winland/OPD/EOP@EOP
Subject: Meeting re. Kyl-Cornyn

The VP's office is coming to meet with Jay re. K-C tomorrow at 3:45. Can you join?

From: Miranda, Manuel (Frist) <Manuel_Miranda@frist.senate.gov>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Wendy J. Grubbs/WHO /EOP@EOP [WHO] <Wendy J. Grubbs>
Sent: 5/1/2003 10:57:43 AM
Subject: : Principal's
Attachments: P_1OT2G003_WHO.TXT_1.html

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Miranda, Manuel (Frist)" <Manuel_Miranda@frist.senate.gov> ( "Miranda, Manuel
(Frist)" <Manuel_Miranda@frist.senate.gov> [ UNKNOWN ] )
CREATION DATE/TIME: 1-MAY-2003 14:57:43.00
SUBJECT:: Principal's
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Wendy J. Grubbs ( CN=Wendy J. Grubbs/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I am leaving it to you to invite your principal's. Is that OK?
- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_1OT2G003_WHO.TXT_1>
```

I am leaving it to you to invite your principal's. Is that OK?

From: CN=Wendy J. Grubbs/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/1/2003 7:08:58 AM
Subject: : Re: who are the 4 who did not vote? which D's voted for cloture?

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Wendy J. Grubbs ( CN=Wendy J. Grubbs/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME: 1-MAY-2003 11:08:58.00
SUBJECT:: Re: who are the 4 who did not vote? which D's voted for cloture?
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Missing: kerry. Graham. Lieb. And one r: inhofe.
.
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: m.edward.whelan@usdoj.gov @ inet [UNKNOWN] <m.edward.whelan@usdoj.gov @ inet>
Sent: 5/1/2003 12:44:10 PM
Subject: : Constitution Subcommittee hearing briefing materials
Attachments: P_EH03G003_WHO.TXT_1

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 1-MAY-2003 16:44:10.00
SUBJECT:: Constitution Subcommittee hearing briefing materials
TO:m.edward.whelan@usdoj.gov @ inet (m.edward.whelan@usdoj.gov @ inet [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Pass on Nick as well. From Cornyn. Close hold.
- Const Subcomm Filibusters.pdf

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_EH03G003_WHO.TXT_1>

May 1, 2003

Judicial Nominations, Filibusters, and the Constitution:

What Happens When a Majority Is Denied the Opportunity to Express its Consent?

REV_00165176

Table of Contents

Issue Presented 3
Defining the Issue 4
Range of constitutional theories 7

Amending the Senate Rules 11
Proposals to Amend the Senate Rules 12
History of Majority Rule in the Senate 14
Frequency of Attempted Filibusters 19
The Dark History of the Filibuster 20

Filibusters and the Constitution
Majority vs. supermajority voting rules in the Constitution 21
Extraconstitutional supermajority voting rules 24
Prominent Democrats Who Call ALL Filibusters Unconstitutional 25
Filibustering Legislation vs. Nominations 26
Absence of Filibuster Practice Against Nominations 29
Judges confirmed with less than 60 votes 30
Litigation against supermajority vote requirements 31

Rulemaking and the Constitution 33
History of Majority Rule to Change Senate Rules 35

REV_00165177

Issue Presented

"To vote without debating is perilous,
but **to debate and never vote is imbecile**."
– Senator Henry Cabot Lodge (1893)

"Filibustering originally referred to
mercenary warfare intended to destabilize a government."
– Catherine Fisk & Erwin Chemerinsky,
The Filibuster, 49 Stan. L. Rev. 181, 187 n.26 (1996)

"The Senate of the United States is the only legislative body in the world which cannot act when its majority is ready for action. A little group of willful men, representing no opinion but their own, have rendered the great Government of the United States helpless and contemptible.

The remedy? There is but one remedy. The only remedy is that the rules of the Senate shall be so altered that it can act."
– President Woodrow Wilson,
The New York Times, Mar. 5, 1917

The United States Senate is currently facing an unprecedented blockade of the President's judicial nominees. Never in the history of this nation has a majority of the Senate, when fully prepared to exercise its constitutional function to express its consent to a judicial nominee, been denied the opportunity to do so. This memorandum will explore the constitutional questions that arise out of the current crisis – a crisis in which a minority of Senators are arguably trying to change the Constitution by establishing a 60-vote requirement to confirm judicial nominees – and discuss potential solutions.

At a minimum, the current controversy clearly demonstrates that the judicial confirmation process is badly broken, and that the Senate needs a fresh start. The current crisis presents serious constitutional issues which the Senate should explore. But even if no constitutional or other legal problems with the current use of the Senate Rules to obstruct judicial nominations are ultimately identified, at the very least it is a gross abuse of the Rules, one that turns the filibuster into a tool of obstruction – just as the worst lawyers in our nation abuse our litigation system and use otherwise legitimate discovery tactics as tools of harassment. Obstruction by Senators and harassment by lawyers alike are intolerable in a fair and just society, and the American people rightfully demand a stop to both.

REV_00165178

Defining the Issue

The constitutional issue presented by the current controversy is simply this:

Can a minority of Senators use the Senate Rules to prevent a majority of the Senate from exercising its constitutional function to consent to a judicial nominee, when the majority is fully prepared to do so?

The Senate clearly has the power to make its own rules. Article I, Section 5 states that "[e]ach House may determine the Rules of its Proceedings." But that power is not unlimited. As the Supreme Court unanimously held in *United States v. Ballin* (1892), "[t]he constitution empowers each house to determine its rules of proceedings. It may not by its rules ignore constitutional restraints or violate fundamental rights, and there should be a reasonable relation between the mode or method of proceeding established by the rule and the result which is sought to be attained." Therefore, the question is whether the Senate can constitutionally establish a rule under which a majority can be prevented from expressing its consent to a judicial nominee as contemplated under Article II of the Constitution.

It is important that we not be distracted by what is not at issue in this controversy:

- ***The number of filibusters that have occurred in the past.*** The issue is not whether a filibuster is constitutional or not. The issue is whether a filibuster may be used specifically to prevent a majority of the Senate from exercising its constitutional authority to consent to a judicial nominee, when it is fully prepared and motivated to do so. A group of Senators may decide to filibuster in a situation in which there is no majority prepared to exercise its constitutional powers. Such a filibuster would not raise any constitutional questions whatsoever.

- ***The number of cloture votes taken in the past.*** Cloture is simply a parliamentary procedure by which the Senate may place a time limit on debate. Cloture votes thus have little to do with the constitutional issue presented here.

- ***Filibusters of legislation.*** Filibusters of legislation involve constitutionally and structurally different government powers than filibusters of judicial nominees. There is also a significantly broader tradition and practice to support filibusters of legislation than filibusters

REV_00165179

of judicial nominees. Evidence of the former therefore cannot be used to justify the latter.

- ***Senate Judiciary Committee procedures.*** Delay or rejection of a judicial nominee by the Senate Judiciary Committee (whether through the blue slip, through a committee vote of rejection, or through committee delay) does not directly implicate the constitutional issues addressed by this memorandum. What is at issue here is the power of a majority of the entire Senate to express its consent to a judicial nominee. Delay or rejection by the Senate Judiciary Committee does not raise constitutional questions. (A majority of the Senate can adopt a resolution of discharge pursuant to Senate Rule XVII to bring before the entire Senate a judicial nomination being held by the Senate Judiciary Committee.)

To fully appreciate the constitutional issues presented by the current controversy, one needs a precise understanding of the relevant terminology and concepts:

- ***The Fundamental Constitutional Principle of Majority Rule.*** Although the Constitution does not explicitly state that a majority of the Senate is required to consent to nominees (or to make rules or to enact legislation, for that matter), it has long been understood that majority rule is implied. As the Supreme Court unanimously held in *United States v. Ballin* (1892), "the general rule of all parliamentary bodies is that, when a quorum is present, the act of a majority of the quorum is the act of the body. This has been the rule for all time, except so far as in any given case the terms of the organic act under which the body is assembled have prescribed specific limitations." Moreover, had the Founders intended for the Senate to set supermajority requirements for the confirmation of nominees, it presumably would have done so explicitly – as it did with respect to the authorization of treaties, the proposal of constitutional amendments, or the overturning of presidential vetoes of legislation.

- ***The Right to Debate.*** The Senate has long operated under a tradition of extended debate. That tradition of debate is not without limit, however. Indeed, according to section 17 of Thomas Jefferson's *Manual of Parliamentary Procedure*, which informally governed the Senate in the early Congresses, "[n]o one is to speak impertinently or beside the question, superfluously or tediously."

REV_00165180

- ***Previous Question.*** For nearly the first two decades of Congress, the Senate operated under a rule in which a majority of Senators could force an immediate vote on a matter by approving a "motion for the previous question." This rule was operative from 1789 to 1806.

- ***Cloture.*** Cloture is a procedure provided by Senate Rule XXII under which sixty Senators may impose a 30-hour time limit on further debate. Thus, cloture is simply a parliamentary procedure to place limits on debates. A vote for cloture is not necessarily a vote in support of a particular matter, and a vote against cloture is not necessarily an act of obstruction. Refusal to invoke cloture therefore is not *per se* an offense against the majority's will on the underlying matter.

- ***Filibuster.*** An act of filibuster is likewise not a *per se* offense against majority will. There may not be a majority prepared to support a matter. Even if there is a majority prepared to support a matter, there may be a majority that wishes to allow debate at least for a certain period of time, just as a majority may vote for cloture even if only a minority supports the underlying matter.

REV_00165181

Range of constitutional theories

There are a number of possible viewpoints on the current controversy. *Under any of these viewpoints, however, the case for reform seems strong.* The varying viewpoints are listed here, in increasing order of hostility to filibusters of judicial nominations:

1. **Filibusters of judicial nominations, although an arguably legitimate tool for the minority to ensure an adequate opportunity to debate, are objectionable when they are abused.**

   It is one thing for filibusters to be used to ensure adequate debate on a nomination. It is quite another thing, however, for filibusters to be used simply to ***change the Constitution*** *and impose a 60-vote standard to confirm judicial nominees – which is precisely what is going on today.*

   Senate Democrats have made clear that the real purpose of the current use of filibusters against judicial nominees is to permit the minority party to establish, at will, a 60-vote standard for confirmation. For example, on April 8, ***Senator Harry Reid*** *objected to any time agreement for any number of hours of debate followed by a vote on Justice Owen, stating that, "[s]peaking for the Senator from Nevada, there is not a number in the universe that would be sufficient."*

2. **Filibusters of judicial nominees are not only objectionable, but raise serious constitutional questions. Under the Constitution, a majority of the Senate has the constitutional power to express its consent to judicial nominees, regardless of what Senate Rules may provide.**

   The Constitution implicitly establishes a majority vote requirement for Senate confirmation of judicial nominations. In contrast, the Constitution expressly provides for supermajority vote requirements when the Founders believed that such requirements were appropriate. Therefore, any attempt to use the Senate Rules to impose a supermajority requirement for the confirmation of judges raises serious constitutional questions.

REV_00165182

Unlike the enactment of legislation, the filibustering of judicial nominations lacks historical practice or pedigree. Indeed, only once in U.S. history has a majority of the Senate ever been prevented from consenting to a judicial nominee. That one example, ***Justice Abe Fortas****, is a poor precedent because Fortas suffered under a cloud of ethical and other controversies, his nomination was opposed by a bipartisan coalition of Senators, and President Johnson quickly withdrew his nomination after the first attempt to impose time limits on debate. There is no evidence that a majority was actually prepared to exercise its constitutional function to consent to Fortas over bipartisan opposition and despite serious ethical allegations.*

Only twice has a majority of the Senate been prevented from consenting to an executive branch nominee: the 1994 nomination of ***Sam Brown*** *to be Ambassador to the Conference on Security and Cooperation in Europe, and the 1995 nomination of* ***Dr. Henry Foster*** *to be Surgeon General. Importantly, neither case involved critical positions in our nation's government which might have motivated a majority to press its constitutional right to consent to executive branch nominees.*

The filibustering of judicial nominations raises greater constitutional concerns than the filibustering of legislation or even executive nominations. Congress exercises primary control and responsibility in the area of legislation. With respect to nominations, by contrast, the Senate is intruding upon an executive function, and traditional separation of powers analysis has always dictated that Congressional incursions into executive functions be construed narrowly in the absence of clear text. Filibusters of judicial nominations additionally poses a threat to judicial independence by increasing the politicization of the courts. Accordingly, judicial filibusters, even more so than filibusters of legislation or of executive nominations, are especially dubious, because they alone present this trifecta of constitutional concerns.

3. **All filibusters, whether applied to legislation or nominations, raise serious constitutional questions.**

The most aggressive opponents of filibusters – which include prominent Democrats like ***Lloyd Cutler*** *and* ***Senators Lieberman,***

REV_00165183

Daschle, and Harkin – *have argued that all filibusters are constitutionally problematic, because the Constitution dictates a majority rule for legislation and nominations alike, and no Senate rule can be used to prevent a majority from exercising those constitutional functions, regardless of historical practice. Such individuals typically point out that, during the Founding Era, debate could be ended in the Senate by majority vote, through a motion for the previous question – a practice that lasted in the Senate for nearly two decades.*

This constitutional theory has even been the cause of litigation, although no court has ever addressed the issue on the merits.

It is unlikely that a majority of the Senate will coalesce around this position. Some members who may be willing to forego opportunities to filibuster judicial nominees may not be willing to forego opportunities to filibuster legislation. That said, it may be useful to point out that prominent Democrats adopt this view. After all, it would be very difficult to argue the inverse position: that filibusters of legislation are unconstitutional, but filibusters of nominations are permissible.

The Senate should also explore an additional constitutional question:

Whether a majority of the Senate has the constitutional power to change Senate rules, notwithstanding Rule XXII (under which debate on a rule change can be filibustered and cloture can be invoked only with the approval of two-thirds of the Senators present and voting).

A majority of the Senate always retains the constitutional power to change the rules, regardless of what the Senate Rules might state – as ***Vice Presidents Richard Nixon and Hubert Humphrey****, in their capacities as presiding officers of the Senate, and numerous legal scholars, from* ***Erwin Chemerinsky*** *to* ***John McGinnis****, have opined.*

Just as one Congress cannot enact a law that a subsequent Congress cannot amend by majority vote, one Senate cannot enact a rule that a subsequent Senate cannot amend by majority vote. Such power would be tantamount to amending the Constitution by majority vote.

REV_00165184

Thus, the Supreme Court has unanimously held that "[t]he power to make rules is not one which once exercised is exhausted. It is a continuous power, always subject to be exercised by the house." After all, "[e]very succeeding legislature possesses the same jurisdiction and power with respect to them as its predecessors. The latter have the same power of repeal and modification which the former had of enactment, neither more nor less. All occupy, in this respect, a footing of perfect equality. This must necessarily be so in the nature of things. It is vital to the public welfare that each one should be able at all times to do whatever the varying circumstances and present exigencies touching the subject involved may require. A different result would be fraught with evil."

Even assuming the validity of this constitutional theory, however, a constitutional point of order is debatable and thus, under Senate Rule XXII, cannot be forcibly ended except with the support of three-fifths of the Senate.

REV_00165185

AMENDING THE SENATE RULES

In 1994, a bipartisan group of former Senators established an organization known as **Action, Not Gridlock!**, to ensure that a majority could vote after reasonable time for debate. That group was comprised of **Senators Birch Bayh (D-IN), Edward Brooke (R-MA), Dick Clark (D-IA), Barry Goldwater (R-AZ), Floyd Haskell (D-CO), Charles Mathias (R-MD), Gaylord Nelson (D-WI), William Proxmire (D-WI),** and **Robert Stafford (R-VT)**. The previous year, **Norman Ornstein** of the American Enterprise Institute and **Thomas Mann** of the Brookings Institution specifically urged that "the Senate should look hard at adopting a sliding scale for cloture votes, 60 votes required to cut off debate initially, 55 votes after a week of debate, and a simple majority 2 weeks after the initial cloture vote."[1]

In light of recent events, it is appropriate to revisit these efforts and to consider the need for reform. Indeed, just last year, the **American Bar Association** announced its policy under which "[t]he ABA urges the President to nominate candidates for vacant federal judicial positions promptly and urges the Senate to hear and vote on those nominations in an expeditious manner." And earlier this year, **Chief Justice William Rehnquist** reiterated in his 2002 year-end report on the federal judiciary what he had said at the end of both 1997 and 2001: "We simply ask that the President nominate qualified candidates with reasonable promptness and that the Senate act within a reasonable time to confirm or reject them."

Under any of the possible viewpoints discussed in this memorandum, there is an argument for reform of the Senate Rules to ensure that, once adequate debate has taken place, a willing and ready majority of the Senate has the opportunity to exercise its constitutional function to consent to judicial nominees.

---

[1] Thomas E. Mann & Norman J. Ornstein, *Renewing Congress: A Second Report* (1993).

REV_00165186

Proposals to Amend the Senate Rules

There are a number of proposals already on the table to change the Senate Rules in order to achieve final resolution and a vote after adequate debate.

- **Senator Miller** has reintroduced in the current Congress (as S. Res. 85) a proposal by **Senators Harkin and Lieberman**, which they had introduced just as they returned to minority status following the 1994 elections (as Amendment 1 to S. Res. 14). As he explained in a *Wall Street Journal* op-ed of March 10, 2003, the Miller proposal would dramatically strengthen the majority's ability to vote, by providing for a declining vote requirement for placing time limits on debate with each cloture petition. The first cloture petition would require 60 votes. The second would require 57 votes. The third would require 54 votes, and all subsequent cloture petitions would require 51 votes. As Senator Harkin explained in 1995, "the minority would have the opportunity to debate, focus public attention on a bill, and communicate their case to the public. In the end, though, the majority could bring the measure to a final vote, as it generally should in a democracy."

  On January 1, 1995, the ***New York Times*** editorialized that "[t]he Harkin plan . . . would go a long way toward making the Senate a more productive place to conduct the nation's business. . . . Now is the perfect moment . . . to get rid of an archaic rule that frustrates democracy and serves no useful purpose." On January 5, 19 Senators voted against a motion to table the Harkin-Lieberman proposal, and thereby voted to support it: **Senators Bingaman, Boxer, Bryan, Bumpers, Feingold, Graham, Harkin, Kennedy, Kerrey, Kerry, Lautenberg, Lieberman, Moseley-Braun, Pell, Pryor, Robb, Sarbanes, Simon, Wellstone**. The motion to table succeeded by a bipartisan vote of 76-19. But as Senator Lieberman stated just prior to the vote, "Senator Harkin and I are prepared to keep fighting until this change occurs because of what is on the line, which is the credibility and the productivity of the U.S. Senate."

  As currently crafted, the Miller proposal would apply to all filibusters, and not just filibusters of judicial nominations. The Miller proposal could be limited, however, to just cloture petitions filed on judicial nominations. Those who voted against the Harkin proposal could without being inconsistent vote for such a limited proposal.

REV_00165187

- **Senator Specter** has proposed to go even further than the Miller proposal, which would only redress filibusters of nominations. As he explained in a *Legal Times* op-ed of July 8, 2002, Specter would propose a rule change to do two things: (1) restrict the discretion of the majority not to schedule votes, as well as the power of the minority to obstruct votes, by imposing strict time deadlines on both the majority and the minority for considering judicial nominees, and (2) remove the ability of the Senate Judiciary Committee to prevent floor action on judicial nominees.

  President Bush endorsed a similar proposal on October 30, 2002. That proposal echoed statements made by then-Governor Bush during the presidential campaign of 2000. Announcing "A New Approach" in Knoxville, Tennessee on June 8, 2000, Bush said that "I will ask the Senate to act on each nominee I submit within 60 days. I would ask Republicans and Democrats in the Senate to follow this standard regardless of who may be elected next November."

  Senator Leahy repeatedly endorsed Bush's campaign statements and urged colleagues to apply those same principles to the Senate's consideration of President Clinton's nominees. Moreover, in 1998, Leahy introduced S. 1906, which would have forbidden Senate recesses of more than 9 days, whenever a nomination for a judicial vacancy, designated an emergency pursuant to 28 U.S.C. § 46, has been pending for 60 days or longer.

  Presumably, under the Specter-Bush-Leahy approach, a filibuster would not be permitted once the applicable time deadline has expired.

Under any of these approaches, there would be ample opportunity for debate on a judicial nominee. After a specified amount of time has passed, however, a majority of the Senate would have full opportunity to exercise its constitutional function and express its consent to a judicial nomination.

REV_00165188

History of Majority Rule in the Senate

From 1789 to 1806, a majority of the Senate had the power to close debate through a motion for the previous question. Since 1806, the number of votes necessary to close debate has changed from time to time (from the highest possible requirement of unanimous consent, down to the current 3/5 vote of the entire Senate), but the voting requirement has never returned to a simple majority vote.

However, there have been a total of 30 proposals to restore the majority vote rule since 1806, and starting with the first recorded filibuster in 1841. Such proposals were made in 1841, 1850, 1869, 1873, 1883, 1890, 1893, 1918, 1925, 1947, 1951-58, 1960-68, 1995 and 2003.

Every instance in which the rule or proposed rule would have allowed a majority to close debate (whether a majority of the entire Senate, or just of all Senators present and voting) appears in underlined text.

- 1789-1806: For nearly the first two decades of Congress, the Senate operated under a rule in which a majority of the Senate could take immediate action on a matter under debate, by approving by a majority vote a "motion for the previous question." This rule was operative from 1789 to 1806.

- 1806: The previous question motion was eliminated from the Senate Rules, but the Senate nevertheless continued to operate in tranquility for decades. According to Senate records, the first filibuster did not take place until 1841.

- 1841: The Senate's first filibuster.

    - 1841: Proposal to restore previous question motion by Senator Henry Clay.

    - 1850: Proposal to restore previous question motion (Douglas).

    - 1869: Proposal to restore previous question motion.

    - 1873: Proposal to restore previous question motion (Wright).

    - 1883: Proposal to restore previous question motion (Frye).

REV_00165189

- 1890: Proposal to introduce majority vote cloture rule (Aldrich).

- 1893: Proposal to introduce majority vote cloture rule (Platt, Hoar, Hill and Gallinger).

- 1916: Proposal to introduce 2/3 vote cloture rule.

- 1917: 2/3 vote cloture rule enacted. President Wilson asked Congress to approve the arming of merchant ships against Germany in World War I. The measure was supported by an overwhelming majority, but the minority continued debate to deny Wilson a vote. Wilson angrily denounced the Senate and called for a rule change. The Senate adopted the Martin Resolution by a vote of 76-3. That resolution established a cloture rule – the precursor of today's Senate Rule XXII – which allowed 2/3 vote of those Senators present and voting to impose time limits on debate. It was a compromise measure between those who sought to impose majority rule and those who were opposed to cloture altogether.

  - 1918: Proposal to restore previous question motion (Underwood).

  - 1925: Proposal to restore previous question motion (Underwood).

  - 1947: Proposal to reduce cloture rule to majority vote (Saltonstall, Knowland, Morse and Pepper).

- 1949: Cloture rule amended. Cloture opponents and proponents agreed to a compromise amendment. Cloture could now be invoked to limit debate on motions or other pending matters, including purely procedural votes (except for rule changes), and not just substantive matters. But the vote requirement was raised from 2/3 vote of Senators present and voting to 2/3 vote of the entire Senate.

  - 1951-52: Proposal to reduce cloture rule to majority vote (Morse and Humphrey).

  - 1951-52: Proposal to reduce cloture rule to majority vote of the entire Senate (Ives and Lodge).

REV_00165190

- 1951-52: Proposal to change cloture rule: 2/3 vote after 48 hours or majority vote after 15 days following motion (Lehman).
- 1951-52: Proposal to change cloture rule: 2/3 vote of Senators present and voting (Wherry).
- 1953: Proposal to change cloture rule to majority vote (Anderson).
- 1953-54: Proposal to change cloture rule: 2/3 vote of Senators present and voting (Jenner).
- 1953-54: Proposal to change cloture rule to majority vote after 12 days following motion (Ives).
- 1953-54: Proposal to change cloture rule to majority vote after 14 days following motion (Lehman).
- 1953-54: Proposal to change cloture rule to majority vote (Morse).
- 1955-56: Proposal to change cloture rule: 2/3 vote after one day or majority vote after 15 days following motion (Lehman).
- 1957-58: Proposal to change cloture rule: 2/3 vote after 48 hours or majority vote after 15 days following motion (Douglas).
- 1957-58: Proposal to change cloture rule: 2/3 vote of Senators present and voting, but in no case less than a majority of entire Senate (Case).
- 1957-58: Proposal to change cloture rule to majority vote (Morse).
- 1957-58: Proposal to change cloture rule to majority vote (Ives).
- 1957-58: Proposal to change cloture rule: 2/3 vote of Senators present and voting (separate proposals by Knowland, Bush, and Jenner).

- 1959: Cloture rule amended to 2/3 vote of Senators present and voting. Cloture could now be invoked in debates on rule changes.
  - 1960: Proposal to reduce cloture rule to majority vote of the entire Senate (Javits).

REV_00165191

- 1961-62: Proposal to reduce cloture rule: 3/5 vote (Anderson).
- 1961-62: Proposal to reduce cloture rule to majority vote (Humphrey and Kuchel).
- 1961-62: Proposal to restore previous question motion.
- 1963-64: Proposal to reduce cloture rule: 3/5 vote (Anderson).
- 1963-64: Proposal to reduce cloture rule to majority vote of the entire Senate 15 days after motion (Humphrey).
- 1963-64: Proposal to reduce cloture rule: 3/5 vote of entire Senate.
- 1965-66: Proposal to reduce cloture rule: 3/5 vote (Anderson).
- 1965-66: Proposal to reduce cloture rule to majority vote of the entire Senate (Douglas).
- 1965-66: Proposal to reduce cloture rule to majority vote (Morse).
- 1965-66: Proposal to reduce cloture rule to 3/5 vote (Miller).
- 1967-68: Proposal to reduce cloture rule to 3/5 vote (McGovern and Morton).
- 1967-68: Proposal to reduce cloture rule to majority vote after 20 days of debate (Kuchel).
- 1969-70: Proposal to reduce cloture rule to 3/5 vote (Church and Pearson).
- 1971: Proposal to reduce cloture rule to 3/5 vote (Church and Pearson).
- 1971: Proposal to reduce cloture rule: 2/3 vote of all Senators for first cloture petition; reduce cloture vote requirement by one vote on each successive cloture vote, until 3/5 vote (Dole).

REV_00165192

- 1975: Cloture rule amended to 3/5 vote of entire Senate.

  - 1995: Proposal to reduce cloture vote: first vote requirement would remain 60; second vote requirement would be reduced to 57; third vote requirement would be reduced to 54; fourth and subsequent vote requirements would be 51, a majority of the entire Senate (Harkin and Lieberman).

  - 2003: Proposal to reduce cloture vote: first vote requirement would remain 60; second vote requirement would be reduced to 57; third vote requirement would be reduced to 54; fourth and subsequent vote requirements would be 51, a majority of the entire Senate (Miller).

REV_00165193

Frequency of attempted filibusters

It is difficult to quantify the number of filibusters that have been attempted in the history of the United States Senate, in part because it is difficult to identify precisely when a filibuster is taking place. The taking of a cloture vote (since cloture was first made available in 1917) is one way to count filibusters, but it is an imprecise way. Cloture petitions can be used to attempt to limit debate when debate is being used to delay indefinitely consideration of a matter. But cloture can also be a simple way to manage the Senate, when there is no actual desire by any member to engage in a filibuster.

In 1994, the Democratic Study Group of the U.S. House of Representatives published a study, entitled *A Look at the Senate Filibuster*, which endeavored to count all filibusters in U.S. Senate history up to that date. The results of that count are listed below, by number of attempted filibusters per year.

Importantly, this count does not distinguish between filibusters used not to block all action, but simply to ensure adequate debate and opportunity for amendment, on the one hand, and filibusters used to block action altogether, on the other hand. Naturally, only those filibusters of the latter kind trigger constitutional questions.

1841	2	1917	1	1946	4	1972	4	1991	13
1846	2	1919	7	1948	1	1973	4	1992	22
1850	1	1921	1	1949	1	1974	10	1993	9
1863	1	1922	7	1950	2	1975	12		
1865	1	1923	1	1953	1	1976	3		
1876	1	1925	1	1954	1	1977	4		
1879	1	1926	2	1957	1	1978	4		
1881	2	1927	6	1960	2	1979	2		
1890	3	1928	1	1961	1	1980	9		
1893	1	1929	1	1962	2	1981	2		
1897	1	1930	2	1963	1	1982	8		
1901	1	1931	1	1964	2	1983	8		
1903	4	1933	1	1965	3	1984	9		
1907	1	1935	5	1966	2	1985	11		
1908	1	1936	2	1967	2	1986	12		
1911	2	1937	1	1968	2	1987	9		
1913	1	1939	1	1969	3	1988	12		
1914	5	1942	1	1970	5	1989	10		
1915	1	1944	1	1971	4	1990	14		

REV_00165194

The Dark History of the Filibuster

Arguably, the history of the filibuster is largely the history of obstruction to the progress of civil rights, including the feared filibuster of Thurgood Marshall and the current filibusters of Miguel Estrada and Justice Priscilla Owen.

- 1841: John C. Calhoun fought Henry Clay's efforts to restore the previous question motion and his alternative proposal to impose time limits on debates. Calhoun was motivated by a desire to accommodate the views of the slaveholding white South.

- 1879, 1890-91: Senator George Hoar tried to end Democratic filibuster of bill to allow military to police elections and combat intimidation of black voters in the South. Bill killed.

- 1922, 1935, 1938: Anti-lynching legislation filibustered.

- 1942, 44, 46: Anti-poll-tax legislation filibustered.

- 1946, 1950, 1957, 1960, 1962, 1964, 1965, 1966, 1968, 1972, 1975: Filibusters of anti-race discrimination statutes in employment, housing, public accommodation, and voting

- 1961: President Kennedy gave Marshall a recess appointment to the Second Circuit after determining that Senate Democrats might not quickly confirm him, and then sent his nomination to the Senate for its consideration. Senate Democrats considered, but ultimately decided not to conduct, a filibuster against Marshall. The Senate did not confirm Marshall, however, until eleven months after he first began serving his recess appointment. Marshall would serve on the Second Circuit until appointed Solicitor General in 1965, and then Associate Justice in 1967.[2]

- 2003: A bipartisan majority of Senators is prepared to confirm Miguel Estrada to the federal bench and make him the first Hispanic ever to serve on the prestigious U.S. Court of Appeals for the D.C. Circuit, but a partisan minority of 45 Democrats will not allow the Senate to vote on his nomination.

---

[2] *See* Mark V. Tushnet, Making Constitutional Law: Thurgood Marshall and the Supreme Court, 1961-1991, at 9-13 (1997).

REV_00165195

FILIBUSTERS AND THE CONSTITUTION

Majority vs. supermajority voting rules in the Constitution

The text of the Constitution nowhere contemplates a supermajority vote requirement to confirm judges. To the contrary, Article II states that "[t]he President . . . shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . Judges." It has long been understood that simple majority vote is always the implicit rule except where the Constitution expressly states otherwise.

- As the Supreme Court unanimously held in ***United States v. Ballin*** (1892), "the general rule of all parliamentary bodies is that, when a quorum is present, the act of a majority of the quorum is the act of the body. This has been the rule for all time, except so far as in any given case the terms of the organic act under which the body is assembled have prescribed specific limitations."

- **Section 41 of Thomas Jefferson's *Manual of Parliamentary Procedure***, which still governs the House today, and which Thomas Jefferson used to govern the Senate when he was Vice President, states: "The voice of the majority decides. For the lex majoris partis is the law of all councils, elections, &c. where not otherwise expressly provided."

- In **Federalist 22**, **Alexander Hamilton** declared that "the fundamental maxim of republican government . . . requires that the sense of the majority should prevail."

- In **Federalist 58**, **James Madison** stated that "the fundamental principle of free government would be reversed" if supermajority voting requirements were the norm. "It would be no longer the majority that would rule: the power would be transferred to the minority."

REV_00165196

Had the Founders intended to impose supermajority requirements for the confirmation of nominees, they presumably would have done so explicitly. For example:

- "[T]he Concurrence of two thirds" of either the House or the Senate is required to expel a Member of Congress under Article I, Section 5.

- "[N]o Person shall be convicted" by the Senate in an impeachment trial "without the Concurrence of two thirds of the Members present," according to Article I, Section 3.

- Legislation can be enacted over presidential veto if "two thirds" of each House approves, pursuant to Article I, Section 7.

- The President is authorized to ratify treaties only if "two thirds of the Senators present concur," under Article II, Section 2.

- Congress may propose amendments to the Constitution "whenever two thirds of both Houses shall deem it necessary," according to Article V.

- Under the Fourteenth Amendment, Congress is authorized, "by a vote of two-thirds of each House," to remove the disability from federal service of rebels who, having previously sworn allegiance to the United States as a federal or state office, subsequently supported the Confederacy during the Civil War.

- Under the Twenty-Fifth Amendment, Congress may determine "by two-thirds vote of both Houses" that "the President is unable to discharge the powers and duties of his office."

In addition, article 9 of the Articles of Confederation stated that "[t]he United States in Congress assembled shall never . . . appoint a commander in chief of the army or navy, unless nine States assent to the same."

In light of these express supermajority voting requirements, it seems clear that the Founders did not intend to impose a supermajority voting rule for the confirmation of judges.

REV_00165197

Finally, it would be odd to argue, for example, that treaties require a two-thirds vote, but that the Senate can set any vote requirement it wants for nominees – including a vote requirement even higher than two-thirds. The Founders clearly intended for Senate consent to treaties to be more difficult to obtain than Senate consent on nominees.

Indeed, the Senate Rules contemplate, but nowhere explicitly state, that a simple majority is required to confirm Presidential nominees. No express rule is necessary, because the constitutional implication is clear and unrebuttable.

REV_00165198

Extraconstitutional supermajority voting rules

Given that the Constitution implicitly establishes a majority vote requirement for the confirmation of judicial nominees, it seems reasonable to conclude that the Senate may not use its power to make rules to add an extraconstitutional supermajority vote requirement.

After all, the Senate's power to make its own rules is not unlimited. As the Supreme Court unanimously held in *United States v. Ballin* (1892), "[t]he constitution empowers each house to determine its rules of proceedings. It may not by its rules ignore constitutional restraints or violate fundamental rights, and there should be a reasonable relation between the mode or method of proceeding established by the rule and the result which is sought to be attained."

A supermajority cloture rule to ensure adequate debate is one thing. Supermajority vote requirements to close debate prematurely arguably survives the *Ballin* test of reasonableness. But use of that supermajority cloture rule to effectively **change the Constitution** and increase the vote requirement altogether is quite another thing. At least as an initial matter, it is difficult to see how such a regime could survive scrutiny under *Ballin*.

- The strongest counterargument is that there is a long tradition of filibusters and supermajority cloture vote requirements preventing the enactment of legislation in the Senate. (This tradition is bolstered by House Rule XXI(5), enacted as part of the Contract with America in 1995, under which tax increases can be enacted only by a 3/5 vote.)

  The best legal response is that this tradition, however regrettable, at most applies primarily to legislation, and not to nominations. Moreover, as explained in the following pages, there are important constitutional distinctions between Congress's power with respect to legislation and its power respect to nominations.

- A second counterargument is that the cloture rule is not a substantive rule on the merits of the underlying matter, but rather a mere procedural rule.

  The best response is that such a distinction, especially when the cloture rule is being used effectively to change the vote requirement on the underlying matter, and not merely to ensure adequate debate, elevates form over substance and violates the *Ballin* rule of reasonableness.

REV_00165199

Prominent Democrats Who Call ALL Filibusters Unconstitutional

A number of prominent Democrats have previously argued that all filibusters – whether of legislation or any other matter requiring majority rule under the Constitution – are unconstitutional:

- **Senator Lieberman** on January 4, 1995: "the filibuster rule . . . there is no constitutional basis for it. . . . it is, in its way, inconsistent with the Constitution, one might almost say an amendment of the Constitution by rule of the U.S. Senate." And on January 5: "The Constitution states only five specific cases in which there is a requirement for more than a majority to work the will of this body: Ratification of a treaty, override of a Presidential veto, impeachment, adoption of a constitutional amendment, and expulsion of a Member of Congress. In fact, the Framers of the Constitution considered other cases in which a supermajority might have been required and rejected them. And we by our rules have effectively amended the Constitution--which I believe, respectfully, is not right--and added the opportunity of any Member or a minority of Members to require 60 votes." *Congressional Record.*

- **Senator Daschle** on January 30, 1995: "the Constitution is straightforward about the few instances in which more than a majority of the Congress must vote: A veto override, a treaty, and a finding of guilt in an impeachment proceeding. Every other action by the Congress is taken by majority vote. The Founders debated the idea of requiring more than a majority . . . . They concluded that putting such immense power into the hands of a minority ran squarely against the democratic principle. Democracy means majority rule, not minority gridlock." *CR.*

- **Senator Harkin** on March 1, 1994: "I really believe that the filibuster rules are unconstitutional. I believe the Constitution sets out five times when you need majority or supermajority votes in the Senate for treaties, impeachment." *CR.*

- **Lloyd Cutler** on April 19, 1993: "requirements of 60 votes to cut off debate and a two-thirds vote to amend the rules are both unconstitutional." And again on May 3, 1993: "the Senate rule requiring a super-majority vote to cut off debate is unconstitutional." *Wash. Post.*

The argument, if anything, is even stronger with respect to judicial nominations.

REV_00165200

Filibustering Legislation vs. Nominations

It is well established that Congress retains primary responsibility over legislation, while the President retains primary responsibility over the appointment power.

- Under Article I, Section 1, "[a]ll legislative Powers herein granted" are vested in Congress.

- The power to appoint judges and executive officials, by contrast, are vested in the President pursuant to Article II, Section 2.

It is well established that, unlike the power to enact legislation, the appointment power is an executive power.

- The Senate itself recognizes this dichotomy by establishing two separate calendars of business: the legislative calendar and the *executive calendar*. Senate business on nominations is recorded in a separate Senate *executive journal*, conducted during *executive session*, and coordinated by an *executive clerk*.

Thus, the Senate's tradition of allowing a minority to obstruct legislation by filibuster does not, alone, justify allowing a minority to obstruct nominations. Even assuming that the Senate's power to make rules extends to supermajority vote requirements in the legislative context, it does not automatically follow that such power extends to nominations as well. After all, the constitutional structure of our government dictates that the Senate's power with respect to nominations is necessarily narrower than its power with respect to legislation.

- Under traditional separation of powers analysis, Congressional incursions into executive power – such as the power of appointment – are construed narrowly, and are not permitted absent a clear expression in the constitutional text.

    - As Alexander Hamilton once noted, and the Supreme Court once quoted, "The general doctrine of our Constitution then is that the executive power of the nation is vested in the President, subject only to the exceptions and qualifications, which are expressed in the instrument." *Myers v. United States*, 272 U.S. 52, 138-39 (1926).

REV_00165201

- The Founders deliberately made it difficult to enact legislation, by imposing both the constitutional requirement of bicameralism – approval by two separately elected representative bodies – and the element of presentment – approval by the President, or in the alternative, the approval of two-thirds of each house of Congress. The Founders did not intend, by contrast, to make it difficult to appoint individuals to government office. To the contrary, Article II *mandates* that the President "*shall* nominate" and, with the Senate's consent, "*shall* appoint" individuals such as judges.

- Filibusters of nominations are offensive to constitutional structure and separation of powers, because they effectively re-order the Constitution's allocation of executive power with respect to appointments. The Senate may not by rule enhance its own power at the expense of the President by giving itself a larger role in the appointment process than originally contemplated by the Constitution.

    - As D.C. Circuit Chief Judge Harry Edwards once explained, "[i]f Congress is allowed to employ the rulemaking clause to impose new supermajority requirements beyond those already stated in the Constitution, the potential for mischief is great." For example, the Senate might "adopt an internal rule of procedure that requires the votes of three-fifths, rather than one-half, of its Members to confirm a presidential appointee. The Senate, acting unilaterally, could thereby increase its own power at the expense of the President. I think it is clear that the Framers never intended for Congress to have such unchecked authority to impose supermajority voting requirements that fundamentally change the nature of our democratic processes." *Skaggs v. Carle*, 110 F.3d 831 (D.C. Cir. 1997) (Edwards, C.J., dissenting).

    - As one legal commentator has noted, "if the Senate were allowed to adopt such a rule, it would be able singlehandedly to upset the carefully crafted rules concerning appointment of both executive officials and judges and to unilaterally limit the power the Constitution gives to the President in the appointment process. This, I believe, would allow the Senate to aggrandize its own role and would unconstitutionally distort the balance of powers established by the Constitution." Susan Low Bloch, *Congressional Self-Discipline: The*

REV_00165202

Constitutionality of Supermajority Rules, 14 Const. Comment. 1, 4 (1997).

- Filibusters of ***judicial*** nominations are especially offensive because they offend not only constitutional structure and separation of powers with respect to the executive branch, but also constitutional structure and separation of powers with respect to the judiciary. Article III clearly endeavors to establish an independent judiciary. Increasing the role of the Senate increases the politicization of the judiciary and presents an inherent threat to the constitutional independence of the judiciary.

REV_00165203

Absence of Filibuster Practice Against Nominations

Unlike the extensive Senate tradition of using filibusters against legislation to prevent a majority from enacting laws, no such tradition exists with respect to judicial nominations.

- According to the *Congressional Research Service*, only one judicial nominee has ever been blocked by filibuster.

    - In 1968, President Lyndon Johnson nominated **Justice Abe Fortas** to be Chief Justice, but the Senate defeated a motion to invoke cloture by a vote of 45-43. In this case, there was apparently no majority of the Senate that was actually prepared to press its constitutional prerogative to consent to Fortas. Quite the contrary, Fortas suffered under a substantial ethical cloud – indeed, one that eventually led him to resign from the bench altogether, under threat of impeachment. So the strength of his support was likely quite weak. Moreover, opposition to Fortas was bipartisan – 24 Republicans and 19 Democrats voted against cloture – a significant obstacle that would obviously discourage any majority of the Senate from enforcing its constitutional authority. In any event, President Johnson withdrew Fortas's nomination just a few days after the cloture vote, thereby depriving the Senate from taking further action anyway. In addition, Fortas was unable to muster the support of 51 votes, let alone 60 votes, to invoke cloture, so it is hardly obvious that Fortas would have even received a majority had everyone voted.

- According to the *Congressional Research Service*, only two executive nominees have ever been blocked by filibuster: (1) the 1994 nomination of **Sam Brown** to be Ambassador to the Conference on Security and Cooperation in Europe, and (2) the 1995 nomination of **Dr. Henry Foster** to be Surgeon General. Importantly, neither case involved critical positions in our nation's government which might have motivated a majority to press its constitutional right to consent to executive branch nominees. And in neither situation, of course, presented any threat to the independence of the judiciary.

The Senate has no tradition of tolerating filibusters of judicial nominees in the face of majority support. To the contrary, the Senate has repeatedly confirmed judicial nominees in recent years with the support of less than 60 votes. (See next page.)

REV_00165204

Judges confirmed with less than 60 votes (97th-108th Congresses)

The tradition and practice of the Senate strongly favors confirmation when a majority of the Senate is prepared to exercise its constitutional power to give its consent to the President's judicial nominees. On numerous occasions when a judicial nominee has enjoyed the support of a majority of Senators, but fewer than the 60 votes necessary under the Senate's cloture rule, the Senate has confirmed the judicial nominee. This Senate tradition and practice has been applied at every level of the federal judiciary.

Judge	Court	Vote	Date of Vote
J. Harvie Wilkinson III	4th Cir.	58-39	Aug. 9, 1984
Alex Kozinski	9th Cir.	54-43	Nov. 7, 1985
Sidney A. Fitzwater	N.D. Tex.	52-42	Mar. 18, 1986
Daniel A. Manion	7th Cir.	48-46	June 26, 1986
Clarence Thomas	S. Ct.	52-48	Oct. 15, 1991
Susan O. Mollway	D. Haw.	56-34	June 22, 1998
William A. Fletcher	9th Cir.	57-41	Oct. 8, 1998
Richard A. Paez	9th Cir.	59-39	Mar. 9, 2000
Dennis W. Shedd	4th Cir.	55-44	Nov. 19, 2002
Timothy M. Tymkovich	10th Cir.	58-42	April 1, 2003
Jeffrey Sutton	6th Cir.	52-41	April 29, 2003

N.B. Opponents may cite the one judicial nominee whose confirmation was actually obstructed by filibuster. In 1968, President Johnson nominated Justice Abe Fortas to be Chief Justice. The Senate denied cloture by a 45-43 vote.

We have a number of responses. The most important is that, in the Fortas case, there was apparently no majority of the Senate that was actually prepared to press its constitutional prerogative to consent to Fortas. Quite the contrary, Fortas suffered under a substantial ethical cloud – indeed, one that eventually led him to resign from the bench altogether, under threat of impeachment. So the strength of his support was likely quite weak. Moreover, opposition to Fortas was bipartisan – 24 Republicans and 19 Democrats voted against cloture – a significant obstacle that would obviously discourage any majority of the Senate from enforcing its constitutional authority. In any event, President Johnson withdrew Fortas's nomination just a few days after the cloture vote, thereby depriving the Senate from taking further action anyway. In addition, Fortas was unable to muster the support of 51 votes, let alone 60 votes, to invoke cloture, so it is hardly obvious that Fortas would have even received a majority had everyone voted.

REV_00165205

Litigation against supermajority vote requirements

The constitutionality of filibusters, and other attempts to establish extraconstitutional supermajority voting rules, have been repeatedly challenged in court, in three distinct cases filed in the District of Columbia. No court has ever addressed the issue on the merits, however.

Courts instead have dismissed such challenges on procedural grounds – specifically, the absence of a qualified plaintiff with standing to sue. Moreover, it may be that courts have no jurisdiction whatsoever over these suits, because such issues are inherently political questions involving the Senate's internal rulemaking procedures and thus cannot be resolved by courts due to separation of powers concerns. For example, in *Nixon v. United States* (1993), the Supreme Court held that courts have no jurisdiction to opine upon the constitutionality of Senate impeachment trial proceedings and procedures. A similar principle could be applied to the making and interpretation of Senate rules.

That said, Lloyd Cutler has publicly opined that, "if you were able to get the issue before a court, it is a winnable case." *Roll Call*, Oct. 14, 1993. In two *Washington Post* op-eds, Cutler argued that the "requirements of 60 votes to cut off debate and a two-thirds vote to amend the rules are both unconstitutional." *Washington Post*, Apr. 19, 1993.

- In 1993, Douglas R. Page, a California voter, challenged the constitutionality of the supermajority voting rule for invoking cloture on legislation, in a case styled *Page v. Dole*. In 1994, the district court dismissed the case for lack of standing. In *Page v. Dole*, 1996 WL 310132 (D.C. Cir.), the D.C. Circuit ordered that the case be dismissed as moot, on the ground that the Democrats no longer held a majority of the Senate.

- Page filed suit again in *Page v. Shelby*, 995 F. Supp. 23 (D.D.C. 1998). The court again dismissed the complaint for lack of standing. In doing so, however, the court noted that "Mr. Page is not challenging a super-majority requirement for legislative passage, but an internal, procedural rule requiring a super-majority vote to close debate," even though such a distinction may elevate form over substance when the cloture rule is abused for purposes other than ensuring adequate debate. The D.C. Circuit affirmed the district court's dismissal order for substantially the same reasons, 1998 WL 700165 (D.C. Cir.).

REV_00165206

- Relatedly, in *Skaggs v. Carle*, 110 F.3d 831 (D.C. Cir. 1997), members of the House of Representatives challenged the constitutionality of the House's three-fifths rule for approving tax increases. On appeal, a majority of the court found no standing for the suit. The court found no injury in part because "the House Rules allow any Member to introduce a resolution to amend or to repeal" the three-fifths rule and "any such resolution could be adopted by the vote of a simple majority." The court also noted that "the appellants point to no instance in which a Member . . . proposed to waive the Rule but the House voted against waiving the rule." Accordingly, the rule did "did not appear in practice to prevent a simple majority from enacting an income tax increase."

  Moreover, Chief Judge Edwards dissented in *Skaggs*, addressed the merits, and concluded that the House rule is unconstitutional. He is apparently the only Article III judge ever to have commented on the merits of an extraconstitutional supermajority voting rule in a judicial opinion. He stated that, "[i]f Congress is allowed to employ the rulemaking clause to impose new supermajority requirements beyond those already stated in the Constitution, the potential for mischief is great." For example, the Senate might "adopt an internal rule of procedure that requires the votes of three-fifths, rather than one-half, of its Members to confirm a presidential appointee. The Senate, acting unilaterally, could thereby increase its own power at the expense of the President. I think it is clear that the Framers never intended for Congress to have such unchecked authority to impose supermajority voting requirements that fundamentally change the nature of our democratic processes."

  The Edwards dissent is carefully crafted not to condemn filibusters, however. Quite the contrary, Judge Edwards expressly stated that "[r]equiring a supermajority to pass a bill into law can be distinguished from procedural rules – like the Senate cloture rule – that require a supermajority to bring an issue to a vote. Although such supermajority requirements may hinder or help a bill to become law, these procedural rules do not explicitly conflict with the presentment clause requirement that a bill that has passed be presented to the President."

REV_00165207

RULEMAKING AND THE CONSTITUTION

Separate and apart from the issue of whether Senate Rules may deny a majority its constitutional power to consent to judicial nominees is the question whether Senate Rules may deny a majority its constitutional power to make or change Senate Rules. Under Rule XXII, debate on a rule change can be forcibly ended only with the approval of two-thirds of the Senators present and voting. The Constitution implicitly imposes a majority vote requirement for making rules, however.

- Arguably, a majority of the Senate always retains the constitutional power to change the rules, regardless of what the Senate Rules might state. Vice Presidents Richard Nixon and Hubert Humphrey, in their capacities as presiding officers of the Senate, and numerous legal scholars, from Erwin Chemerinsky to John McGinnis, have so opined.

  (In previous Congresses, however, this constitutional view has been rejected by Senate majorities.)

- Just as one Congress cannot enact a law that a subsequent Congress cannot amend by majority vote, one Senate cannot enact a rule that a subsequent Senate cannot amend by majority vote.

  - Such power would violate our common law understandings that one parliament cannot bind another. As Blackstone once explained, "Acts of parliament derogatory from the power of subsequent parliaments bind not. . . . Because the legislature, being in truth the sovereign power, is always of equal, always of absolute authority: it acknowledges no superior upon earth, which the prior legislature must have been, if it's ordinances could bind the present parliament."

  - Such power would violate our U.S. Constitution because it would be a power tantamount to amending the Constitution by majority vote.

  - Thus, as the Supreme Court unanimously held in *United States v. Ballin* (1892), "[t]he power to make rules is not one which once exercised is exhausted. It is a continuous power, always subject to be exercised by the house."

REV_00165208

After all, "[e]very succeeding legislature possesses the same jurisdiction and power with respect to them as its predecessors. The latter have the same power of repeal and modification which the former had of enactment, neither more nor less. All occupy, in this respect, a footing of perfect equality. This must necessarily be so in the nature of things. It is vital to the public welfare that each one should be able at all times to do whatever the varying circumstances and present exigencies touching the subject involved may require. A different result would be fraught with evil." *Newton v. Commissioner* (1879).

"[E]ach subsequent legislature has equal power to legislate upon the same subject. The legislature has power at any time to repeal or modify [an] act." *Connecticut Mutual Life Ins. Co. v. Spratley* (1898).

- It has been argued that, because the Senate is a continuing body, the Senate may restrict its authority to change its own rules in the future. Specifically, Senate Rule V states that "[t]he rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules."

    - But the Senate has precisely the same power to make its rules as the House. Neither the House nor the Senate possesses the constitutional power to entrench its own rules as against the will of future legislators.

REV_00165209

History of Majority Rule to Change Senate Rules

On a number of occasions, individual senators and even Vice Presidents (in their role as presiding officers of the Senate) have argued or concluded that, as a constitutional matter, a majority of the Senate has the power to change the rules, notwithstanding Rule XXII. The entire Senate has rejected such arguments on every occasion in which the argument has been attempted, however. (Also noteworthy: in 1967-68 and in 1975, it appears that the constitutional question could have been decided by non-debatable (and thus non-filibusterable) tabling motion, and thus by majority vote.)

Individuals whose names are underlined below took the position that Rule XXII cannot constitutionally prevent a majority from changing the rules.

- 1953: Senator Clinton Anderson (D-NM) moved at the opening of a new Congress that the Senate was not constitutionally bound by its old rules, and that a majority had the constitutional power to adopt new rules. The motion was tabled by Senator Robert Taft (R-OH) on a 70-21 vote.

- 1957: Senator Anderson again moved to adopt new rules by majority vote at the opening of a new Congress, and the motion was again tabled, this time by Senator Lyndon Johnson (D-TX) on a 55-38 vote. During the course of debate, however, Vice President Richard Nixon opined that, as a constitutional matter, the Senate could always adopt new rules by majority vote regardless of the Senate Rules. He stated that Rule XXII was unconstitutional as applied to rule changes supported by a majority. But he also concluded that constitutional questions, unlike nonconstitutional parliamentary procedural issues, could be decided only by the Senate itself, and not by the presiding officer.

- 1959: Senate adopts new rule expressly affirming the Senate's existence as a continuing body, stating that "[t]he rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules."

- 1961: Vice President Nixon reaffirmed his 1957 advisory opinion.

- 1967-68: Senators George McGovern (D-SD) and Thurston Morton (R-KY) proposed a rules change at the beginning of the Congress, and

REV_00165210

moved that, as a constitutional matter, the Senate could always adopt new rules by majority vote regardless of the Senate Rules. Senator Everett Dirksen (R-IL) raised a point of order that McGovern's motion violates Rule XXII. McGovern moved to table the Dirksen point of order. Vice President Hubert Humphrey ruled that the Senate must decide constitutional questions. *Humphrey further ruled that a successful tabling motion would affirm the validity of McGovern's constitutional position.* But the McGovern tabling motion failed on a 37-61 vote, and Dirksen's point of order subsequently carried on a 59-37 vote. Hence, the Senate rejected McGovern's constitutional motion.

- 1969: Senator Frank Church (D-ID) inquired of the Chair whether a majority of the Senate could vote to determine the constitutional issue of the majority's power to change the rules, notwithstanding Senate Rule XXII. Vice President Humphrey agreed, stating: "On a par with the right of the Senate to determine its rules . . . is the right of the Senate, a simple majority of the Senate, to decide constitutional questions." The Senate voted 51-47 in favor of Church's cloture motion, and Vice President Humphrey ruled that cloture had been successfully invoked, pursuant to the Constitution and notwithstanding Senate Rules. But the Vice President's decision was appealed and reversed on a 53-45 vote.

- 1971: Senator Javits appealed the decision of the Chair that cloture on a rule change had not been invoked pursuant to a 2/3 vote rule, raising the question whether the Senate could change the rules by majority vote notwithstanding Rule XXII. Majority Leader Mike Mansfield moved to table the appeal, and the motion to table carried on a 55-37 vote.

- 1975: Senator Pearson moved that a majority would be sufficient to close debate and to adopt a rule change to Rule XXII, notwithstanding Rule XXII. Mansfield raised a point of order that the effort to end debate by a simple majority vote violates Senate rules. A constitutional issue having been raised, Vice President Nelson Rockefeller submitted the question to the Senate whether Mansfield's point of order is well taken. On motion of Senator Mondale, *the Senate tabled the point of order by a 51-42 vote and thereby temporarily endorsed majority cloture for rule changes as a constitutional matter*. But the Senate subsequently reconsidered the vote to table Mansfield's point of order on a 53-38 vote, the motion to table was then rejected on a 40-51 vote, and the point of order is sustained on a 53-43 vote.

REV_00165211

From: CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/2/2003 7:35:31 AM
Subject: : FW: Regional Appointees Conference

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 2-MAY-2003 11:35:31.00
SUBJECT:: FW: Regional Appointees Conference
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

FYI, Christie and David want you and Nanette to do this conference.

-----Original Message-----
From: Parell, Christie
Sent: Thursday, May 01, 2003 5:43 PM
To: Montiel, Charlotte L.
Subject: Regional Appointees Conference

Hi Charlotte! Any word on this yet? Brian would like for either David or Brett to speak for 15 min. on the Hatch Act and Nanette to speak for 15 min. on Ethics. Forgive me, I'm not sure of the office structure there...shall I speak with another scheduler about Nanette's availability? Thanks!
---------- Forwarded by Christie Parell/WHO/EOP on 05/01/2003 05:43 PM ----------

04/28/2003 05:29 PM
Christie Parell
Christie Parell
Christie Parell
04/28/2003 05:29 PM
04/28/2003 05:29 PM
Record Type: Record

To: Charlotte L. Montiel/WHO/EOP@Exchange@EOP
cc:
Subject: Regional Appointees Conference

Hi Charlotte! Regarding the e-mail below, how do David and Brett's schedules look for 3:15-3:45pm on May 20th? They would each speak 15 min. on "Hatch Act/Ethics" (30 min. session). It's possible that Nanette might be the more appropriate person to speak on ethics...will you please discuss it with them? Feel free to contact me if you have any questions. Thanks!!
---------- Forwarded by Christie Parell/WHO/EOP on 04/28/2003 05:26 PM ----------

From: Brian D. Montgomery/WHO/EOP@Exchange on 04/22/2003 12:01:48 PM
Record Type: Record

To: David G. Leitch/WHO/EOP@Exchange, Brett M. Kavanaugh/WHO/EOP@EOP
cc: Charlotte L. Montiel/WHO/EOP@Exchange, Christie Parell/WHO/EOP@EOP
Subject: Regional Appointees Conference

David/Brett:

The Offices of Cabinet Affairs, Presidential Personnel, Intergovernmental Affairs, Political Affairs, and the Council for Excellence in Government are together sponsoring a two-day conference entitled "Regional Appointees: Challenges and Opportunities," scheduled for May 19-20, 2003 in Washington, DC.

This conference will be the first of its kind during this Administration and will include regional appointees from several Cabinet and sub-Cabinet agencies such as Education, Interior, Labor, EPA, HHS, FEMA, GSA, HUD and SBA. It will be held at the nearby Mayflower Hotel, with several sessions taking place in Room 450 EEOB.

Given your office's stake in such an event, we want to involve you in the conference's program workshops and plenary sessions. In working with the agencies, we have identified roughly 85 regional political appointees that we have invited to attend the conference. Other local agency personnel, including inter-governmental affairs staff, will also be invited.

The purpose of the conference is to better engage our regional appointees as representatives of the President around the country and to give them a chance to meet and hear from senior White House officials and agency leaders. Sessions will focus on a variety of vital issues including:

ú Management Results / President's Management Team

ú Building Support for the President's Agenda

ú Freedom Corps / Faith-Based Initiatives

ú Hatch Act / Ethics

ú Policy Perspectives

ú Homeland Security

ú Working Together for Greater Regional Impact

ú Legislative Update

ú Foreign Policy Update

We have tentatively scheduled your presentation for Tuesday afternoon, May 20 in Room 450 EEOB (exact time is TBD). We would hope you could discuss your insights on the Hatch Act and ethics in government. We would also hope you could join us for a reception to be held later that evening.

We would greatly appreciate your participation, and I know that the Regional Appointees would appreciate hearing from you and will be happy to take your perspectives back with them to their respective regions. Please feel free to contact me should you have additional questions or you may have your assistant contact Christie Parell (6-2343) to confirm your availability.

Many thanks in advance,

Brian Montgomery

From: Kavanaugh, Brett M.
To: <Vestewig, Lauren J.>;<Kavanaugh, Brett M.>
Sent: 5/2/2003 8:10:06 AM
Subject: Re: Meeting re. Kyl-Cornyn

This is only tort reform mtg today, correct.

.

----- Original Message -----

From:Lauren J. Vestewig/OPD/EOP@Exchange

To:Brett M. Kavanaugh/WHO/EOP@EOP

Cc:

Date: 05/01/2003 10:04:16 AM

Subject: RE: Meeting re. Kyl-Cornyn

Cesar, Courtney and Ado

-----Original Message-----

From: Kavanaugh, Brett M.

Sent: Thursday, May 01, 2003 9:56 AM

To: Vestewig, Lauren J.

Subject: Re: Meeting re. Kyl-Cornyn

who from VP's office?

From: Lauren J. Vestewig/OPD/EOP@Exchange on 05/01/2003 09:20:26 AM

Record Type: Record

To: Diana L. Schacht/OPD/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP

cc: Emily Winland/OPD/EOP@EOP

Subject: Meeting re. Kyl-Cornyn

The VP's office is coming to meet with Jay re. K-C tomorrow at 3:45. Can you join?

From: CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange [OPD]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/2/2003 4:12:16 AM
Subject: : RE: Meeting re. Kyl-Cornyn

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Lauren J. Vestewig (CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange [OPD])
CREATION DATE/TIME: 2-MAY-2003 08:12:16.00
SUBJECT:: RE: Meeting re. Kyl-Cornyn
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

It's the only one that jay is a part of.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Friday, May 02, 2003 8:10 AM
To: Vestewig, Lauren J.; Kavanaugh, Brett M.
Subject: Re: Meeting re. Kyl-Cornyn

This is only tort reform mtg today, correct.

.

----- Original Message -----
From:Lauren J. Vestewig/OPD/EOP@Exchange
To:Brett M. Kavanaugh/WHO/EOP@EOP
Cc:
Date: 05/01/2003 10:04:16 AM
Subject: RE: Meeting re. Kyl-Cornyn

Cesar, Courtney and Ado

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Thursday, May 01, 2003 9:56 AM
To: Vestewig, Lauren J.
Subject: Re: Meeting re. Kyl-Cornyn

who from VP's office?

From: Lauren J. Vestewig/OPD/EOP@Exchange on 05/01/2003 09:20:26 AM
Record Type: Record

To: Diana L. Schacht/OPD/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP
cc: Emily Winland/OPD/EOP@EOP
Subject: Meeting re. Kyl-Cornyn

The VP's office is coming to meet with Jay re. K-C tomorrow at 3:45. Can
you join?

From: CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/2/2003 9:24:46 AM
Subject: : RE: Talking Points for the Judge

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carolyn Nelson (CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 2-MAY-2003 13:24:46.00
SUBJECT:: RE: Talking Points for the Judge
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

The speech? Judge wants to draft en route to FLA. My guess is He'll give me rough version tomorrow to revise.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Friday, May 02, 2003 1:16 PM
To: Nelson, Carolyn
Subject: Re: Talking Points for the Judge

who is drafting?

From: Carolyn Nelson/WHO/EOP@Exchange on 05/02/2003 11:50:38 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Kyle Sampson/WHO/EOP@EOP
cc:
Subject: Talking Points for the Judge

Judge will speak to the Federal Judge's Association Board of Directors on Monday. Will you pls provide talking points on the following subjects:

-Judicial Compensation
-Leahey-Kerry Bill
-Volcker Commission report on compensation for government employees
-The "Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today" or "PROTECT" Act and the "Feeney Amendment"

The speech will be drafted over the weekend- anything you can provide before 5pm will be much appreciated.

From: Nelson, Carolyn
To: <Kavanaugh, Brett M.>
Sent: 5/2/2003 1:25:09 PM
Subject: RE: Talking Points for the Judge

The speech? Judge wants to draft en route to FLA. My guess is He'll give me rough version tomorrow to revise.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Friday, May 02, 2003 1:16 PM
To: Nelson, Carolyn
Subject: Re: Talking Points for the Judge

who is drafting?

From: Carolyn Nelson/WHO/EOP@Exchange on 05/02/2003 11:50:38 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Kyle Sampson/WHO/EOP@EOP
cc:
Subject: Talking Points for the Judge

Judge will speak to the Federal Judge's Association Board of Directors on Monday. Will you pls provide talking points on the following subjects:

-Judicial Compensation
-Leahey-Kerry Bill
-Volcker Commission report on compensation for government employees
-The "Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today" or "PROTECT" Act and the "Feeney Amendment"

The speech will be drafted over the weekend- anything you can provide before 5pm will be much appreciated.

From: Kirk Blalock <kblalock@fierce-isakowitz.com>

To: Rob Nichols <robert.nichols@do.treas.gov>;Matt Schlapp (matt_schlapp@who.eop.gov) <m_schlapp@who.eop.gov>;Kristen Silverberg/WHO/EOP@EOP [WHO] <Kristen Silverberg>;Ken Mehlman/WHO/EOP@EOP [WHO] <Ken Mehlman>;John D. Estes/WHO /EOP@EOP [WHO] <John D. Estes>;Elizabeth S. Dougherty/OPD/EOP@EOP [OPD] <Elizabeth S. Dougherty>;Daniel J. Bartlett/WHO/EOP@EOP [WHO] <Daniel J. Bartlett>;Candida P. Wolff/OVP/EOP@EOP [OVP] <Candida P. Wolff>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Andrew Knapp <andrew.knapp@hhs.gov>;Susan B. Ralston/WHO/EOP@EOP [WHO] <Susan B. Ralston>;'Mike Meece' <MMeece@doc.gov>;Lezlee J. Westine/WHO/EOP@EOP [WHO] <Lezlee J. Westine>;Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Keith Hennessey/OPD/EOP@EOP [OPD] <Keith Hennessey>;Israel Hernandez/WHO/EOP@EOP [WHO] <Israel Hernandez>;Dina Powell/WHO/EOP@EOP [WHO] <Dina Powell>;Catherine J. Martin/OVP/EOP@EOP [OVP] <Catherine J. Martin>;Brian Reardon/OPD/EOP@EOP [OPD] <Brian Reardon>;Barry S. Jackson/WHO/EOP@EOP [WHO] <Barry S. Jackson>;Alicia P. Clark/WHO/EOP@EOP [WHO] <Alicia P. Clark>

CC: 'Kristen Blalock' <KBlalock@RGA.ORG>;'Heather Larrison' <HLarrison@RGA.ORG>

Sent: 5/2/2003 11:30:02 AM

Subject: : Haley Barbour at RGA Reception on May 7th - YOU ARE INVITED TO ATTEND!

Attachments: P_AF84G003_WHO.TXT_1

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kirk Blalock <kblalock@fierce-isakowitz.com> ( Kirk Blalock <kblalock@fierce-
isakowitz.com> [ UNKNOWN ] )
CREATION DATE/TIME: 2-MAY-2003 15:30:02.00
SUBJECT:: Haley Barbour at RGA Reception on May 7th - YOU ARE INVITED TO ATTEND!
TO:Rob Nichols <robert.nichols@do.treas.gov> ( Rob Nichols <robert.nichols@do.treas.gov> [
UNKNOWN ] )
READ:UNKNOWN
TO:"Matt Schlapp (matt_schlapp@who.eop.gov)" <m_schlapp@who.eop.gov> ( "Matt Schlapp
(matt_schlapp@who.eop.gov)" <m_schlapp@who.eop.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Ken Mehlman ( CN=Ken Mehlman/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:John D. Estes ( CN=John D. Estes/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Elizabeth S. Dougherty ( CN=Elizabeth S. Dougherty/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Daniel J. Bartlett ( CN=Daniel J. Bartlett/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Candida P. Wolff ( CN=Candida P. Wolff/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Andrew Knapp <andrew.knapp@hhs.gov> ( Andrew Knapp <andrew.knapp@hhs.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:Susan B. Ralston ( CN=Susan B. Ralston/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:'Mike Meece' <MMeece@doc.gov> ( 'Mike Meece' <MMeece@doc.gov> [ UNKNOWN ] )
READ:UNKNOWN
TO:Lezlee J. Westine ( CN=Lezlee J. Westine/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Keith Hennessey ( CN=Keith Hennessey/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Israel Hernandez ( CN=Israel Hernandez/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Dina Powell ( CN=Dina Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
```

TO:Catherine J. Martin (CN=Catherine J. Martin/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Brian Reardon (CN=Brian Reardon/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:'Kristen Blalock' <KBlalock@RGA.ORG> ('Kristen Blalock' <KBlalock@RGA.ORG> [UNKNOWN]
)
READ:UNKNOWN
CC:'Heather Larrison' <HLarrison@RGA.ORG> ('Heather Larrison' <HLarrison@RGA.ORG> [
UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

You are invited to attend a Republican Governors Association Reception with
special guest Haley Barbour, candidate for Mississippi Governor, on
Wednesday, May 7th at the Washington Court Hotel. The reception is from
6:30 pm - 8:00 pm in the Grand Ballroom of the Hotel which is located at
525
New Jersey Avenue, NW.

Your ticket is complimentary, and the RGA Counsel has approved this
invitation as proper and legal. Please let me know if you can attend.

Thanks.

- winmail.dat
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_AF84G003_WHO.TXT_1>

You are invited to attend a Republican Governors Association Reception with special guest Haley Barbour, candidate for Mississippi Governor, on Wednesday, May 7th at the Washington
Court
Hotel
. The reception is from 6:30 pm – 8:00 pm in the Grand Ballroom of the Hotel which is located at 525 New Jersey Avenue, NW.

Your ticket is complimentary, and the RGA Counsel has approved this invitation as proper and legal. Please let me know if you can attend.

Thanks.

You are invited to attend a Republican Governors Association Reception with special guest Haley Barbour, candidate for Mississippi Governor, on Wednesday, May 7th at the Washington Co urt Hotel. The reception is from 6:30 pm – 8:00 pm in the Grand Ballroom of the Hotel which is located at 525 New Jersey Avenue, NW.

Your ticket is complimentary, and the RGA Counsel has approved this invitation as proper and legal. Please let me know if you can attend.

Thanks.

From: CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/2/2003 11:47:06 AM
Subject: : Judge is looking for you

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME: 2-MAY-2003 15:47:06.00
SUBJECT:: Judge is looking for you
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

;
```

From: Carlos Bea <cbea@ix.netcom.com>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/2/2003 12:37:57 PM
Subject: : Feinstein Blue Slip
Attachments: P_YAC4G003_WHO.TXT_1.htm

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carlos Bea <cbea@ix.netcom.com> ( Carlos Bea <cbea@ix.netcom.com> [ UNKNOWN ] )
CREATION DATE/TIME: 2-MAY-2003 16:37:57.00
SUBJECT:: Feinstein Blue Slip
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Congratulations on all your fine work on Senator Feinstein. I learned
today she returned her Blue Slip "Positive". With Boxer's 4/23 similar,
that is another hurdle past.

Regards,

Carlos Bea
- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_YAC4G003_WHO.TXT_1>
```

Congratulations on all your fine work on Senator Feinstein. I learned today she returned her Blue Slip "Positive". With Boxer's 4/23 similar, that is another hurdle past.

Regards,

Carlos Bea

From: Kavanaugh, Brett M.
To: <Lefkowitz, Jay P.>
Sent: 5/2/2003 5:05:58 PM
Subject: Re: initial reaction

You mean sympathetic to the goal?

.

----- Original Message -----

From:Jay P. Lefkowitz/OPD/EOP@Exchange

To:Brett M. Kavanaugh/WHO/EOP@EOP,

Courtney S. Elwood/OVP/EOP@EOP,

Ado A. Machida/OVP/EOP@EOP,

Jeffrey F. Kupfer/WHO/EOP@Exchange,

Diana L. Schacht/OPD/EOP@EOP

Cc:

Date: 05/02/2003 04:57:01 PM

Subject: initial reaction

I think for now, our position is that we are generally not sympathetic to the goal, which is getting more money for the States in the growth bill.

Obviously, we need to see what this does for growth bill, which is the key objective.

But for now, we should certainly lie very low.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Ho, James (Judiciary) <James_Ho@Judiciary.senate.gov>
Sent: 5/2/2003 1:55:50 PM
Subject: : fyi
Attachments: P_VGG4G003_WHO.TXT_1.wpd

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 2-MAY-2003 17:55:50.00
SUBJECT:: fyi
TO:"Ho, James (Judiciary)" <James_Ho@Judiciary.senate.gov> ( "Ho, James (Judiciary)"
<James_Ho@Judiciary.senate.gov> [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

- filibuster.wpd
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_VGG4G003_WHO.TXT_1>
```

DRAFT

The provision of Rule 22 of the Standing Rules of the Senate that provides that an affirmative vote of "two-thirds of the Senators present and voting" shall be necessary for cloture on a motion to amend the Senate rules is unconstitutional.

- The Constitution provides: "Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a member." Art. I, § 5, cl. 2. This provision plainly contemplates that a majority of each House may determine its rules.

    - In a single sentence like this, the *expressio unius* inference is at its strongest. This sentence certainly appears to contemplate that a different, lower standard will be required to determine the Rules of Proceedings than to expel a member. Indeed, James Madison suggested that the two thirds provision be added precisely because "the right of expulsion … was too important to be exercised by a bare majority of a quorum: and in emergencies of faction might be dangerously abused." James Madison, 2 Debates in the Federal Convention of 1787, 378. This indicates that he understood majority rule to be the background principle in this sentence in particular.

    - As the Supreme Court stated in a case involving the rulemaking authority of the House of Representatives: "[T]he general rule of all parliamentary bodies is that, when a quorum is present, the act of a majority of the quorum is the act of the body. This has been the rule for all time, except in so far as in any given case the terms of the organic act under which the body is assembled have prescribed specific limitations." *United States v. Ballin*, 144 U.S. 1, 6 (1892).

- The Constitution prohibits the Senate from requiring a supermajority to change a rule. A House does not have the power to alienate its (and its successors') ability to revise its rules in the future.

    - It has universally been recognized that, absent a change in the foundational document, each legislature must have the same powers as its predecessors and its successors. This means that a legislature cannot bind, and thereby limit, the power of its successors.

        - As Blackstone explained: "Acts of parliament derogatory from the power of subsequent parliaments bind not …. Because the legislature, being in truth the sovereign power, is always of equal, always of absolute authority: it acknowledges no superior upon earth, which the prior legislature must have been, if it's [sic] ordinances could bind the present parliament."[1]

---

[1] John O. McGinnis & Michael B. Rappaport, *The Constitutionality of Legislative Supermajority Requirements: A Defense*, 105 Yale L.J. 483, 505 (1995) (alteration in original) (quoting 1 William Blackstone, Commentaries 90).

REV_00165328

- The Supreme Court has ratified this principle of legislative equality over time in a long and unbroken string of opinions. For example:

    - "Every succeeding legislature possesses the same jurisdiction and power … as its predecessors. The latter have the same power of repeal and modification which the former had of enactment, neither more nor less. All occupy, in this respect, a footing of perfect equality. This must necessarily be so in the nature of things. It is vital to the public welfare that each one should be able at all times to do whatever the varying circumstances and present exigencies touching the subject involved may require. A different result would be fraught with evil." *Newton v. Mahoning County Commissioners*, 100 U.S. 548, 559 (1879).

    - "No legislature can bargain away the public health or the public morals. The people themselves cannot do it, much less their servants. The supervision of both these subjects of governmental power is continuing in its nature, and they are to be dealt with as the special exigencies of the moment may require. Government is organized with a view to their preservation, and cannot divest itself of the power to provide for them. . . . The power of governing is a trust committed by the people to the government, no part of which can be granted away. The people, in their sovereign capacity, have established their agencies for the preservation of the public health and the public morals, and the protection of public and private rights. These several agencies can govern according to their discretion, if within the scope of their general authority, while in power; but they cannot give away nor sell the discretion of those that are to come after them, in respect to matters the government of which, from the very nature of things, must vary with varying circumstances." Stone v. Mississippi, 101 U.S. 814, 819-20 (1879) (internal quotation omitted).

    - "The power [of each House] to make rules is not one which once exercised is exhausted. It is a continuous power, always subject to be exercised by the house. . . ." *United States v. Ballin*, 144 U.S. 1, 5 (1892).

    - "By dedicating the lands thus acquired to a particular public use, Congress declared a public policy, but did not purport to deprive itself of the power to change that policy by devoting the lands to other uses. The dedication expressed no more than the will of a particular Congress which does not impose itself upon those to follow in succeeding years." *Reichelderfer v. Quinn*, 287 U.S. 315, 318 (1932).

    - [Add any more recent cases]

- OLC has also embraced this principle:

    - In considering one supermajority proposal, for example, we opined: "[U]nlike a constitutional amendment, the draft legislation would

REV_00165329

not have a truly binding effect on Congress. Clearly, Congress cannot by legislation prevent itself from enacting future legislation pursuant to whatever procedures it chooses to follow at that future time. A future Congress can always legislatively change what a previous Congress has done. In a legally enforceable sense, therefore, such future lawmaking would be regulated only by the requirements of the Constitution. Thus, notwithstanding the provisions of the draft bill, a future Congress could follow whatever procedures it chooses to apply with respect to a particular appropriations bill, including passage by less than a supermajority." Memorandum for Arthur B. Culvahouse, Jr., Counsel to the President, from Charles J. Cooper, Assistant Attorney General, Office of Legal Counsel, *Re: Constitutionality of Draft Budget Process Reform Legislation*, at 2 (May 26, 1987).

- In reviewing another statute, we found that a provision did purport to entrench itself, and thus "would prospectively nullify the ability of Congress and the President to enact effective legislation on a designated subject." We concluded that "[s]uch a measure is incompatible with the provisions for the enactment of laws set forth in Art. I, § 7 of the Constitution because it purports to invalidate by statute subsequent legislation duly enacted through valid constitutional processes." Memorandum for the General Counsel, Department of Veterans Affairs, *Re: Gulf War Veterans Health Statutes*, 1999 WL 33219988 (O.L.C.) (1999) (preliminary print).

- A long line of scholarship also affirms this principle:

  - In 1868, Thomas Cooley explained: "To say that the legislature may pass unrepealable laws, is to say that it may alter the very constitution from which it derives its authority; since in so far as one legislature could bind a subsequent one by its enactments, it could in the same degree reduce the legislative power of its successors, and the process might be repeated until, one by one, the subjects of legislation would be excluded altogether from their control, and the constitutional provision, that the legislative power shall be vested in two houses, would be to a greater or less degree rendered ineffectual." Thomas M. Cooley, A Treatise on Constitutional Limitations 125-26 (photo reprint 1972) (1868).

  - "Although the law made by any branch—whether by legislation, executive order, or judicial decision—may extend beyond the tenure of particular officeholders, the Constitution limits trans-temporal commandeering of a branch by its current occupants through the device of generally preventing any branch from making the meta-law necessary to

REV_00165330

tie the hands of future officeholders of that branch." Laurence H. Tribe, American Constitutional Law §2-3, at 125 n.1 (3d ed. 2000). *See also* Catherine Fisk & Edwin Chemerinsky, *The Filibuster*, 49 Stan. L. Rev. 181, 245-52 (1996); John O. McGinnis & Michael B. Rappaport, *The Constitutionality of Legislative Supermajority Requirements: A Defense*, 105 Yale L.J. 483, 503-07 (1995); Nicholas Quinn Rosenkranz, Federal Rules of Statutory Interpretation, 115 Harv. L. Rev. 2085, 2114-2120 (2002).

- This principle also means that the Senate cannot bind itself through an entire Congress.

    - As OLC has previously stated: "In holding that an act of Congress cannot bind 'future Congresses,' *Lopez Andino* and other cases using such phrasing do not implicitly suggest that an act of Congress can bind the same Congress when that Congress subsequently undertakes to enact legislation contrary to the earlier enactment. In either circumstance, the controlling general principle is that an act of Congress (as distinguished, for example, from an amendment to the Constitution) cannot prohibit the enactment of subsequent contrary legislation through valid constitutional processes." Memorandum for the General Counsel, Department of Veterans Affairs, *Re: Gulf War Veterans Health Statutes*, 1999 WL 33219988 (O.L.C.) (1999), at n.2 (preliminary print).

    - In any event, the current Senate has not itself adopted Rule XXII. That rule remains in effect by virtue of having been adopted in a previous Congress. [**When?**]

- The two-thirds cloture rule, even though not a rule on final passage, effectively requires a supermajority to change a rule. It is therefore unconstitutional.

REV_00165331

From: CN=Jennifer R. Brosnahan/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/2/2003 1:58:29 PM
Subject: : FW: McConnell v. FEC: This Is Really It
Attachments: P_AKG4G003_WHO.TXT_1.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jennifer R. Brosnahan (CN=Jennifer R. Brosnahan/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 2-MAY-2003 17:58:29.00
SUBJECT:: FW: McConnell v. FEC: This Is Really It
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Jennifer R. Brosnahan/WHO/EOP on 05/02/2003 05:57 PM ----------

"Shannen.Coffin@usdoj.gov" <Shannen.Coffin
05/02/2003 04:17:37 PM
Record Type: Record

To: Jennifer R. Brosnahan/WHO/EOP@EOP
cc:
Subject: FW: McConnell v. FEC: This Is Really It

-----Original Message-----
From: Gacki, Andrea
Sent: Friday, May 02, 2003 4:15 PM
To: Gilligan, James; Raab, Michael; Martin, Dana; Letter, Douglas; Gershengorn, Ara; Clement, Paul D; Stewart, Malcolm L; Coffin, Shannen; Jordan, Bill; Hirt, Theodore; Hunt, Jody; McCallum, Robert; Reyes, Luis; Miller, Charles S; Bhattacharyya, Rupa; Henry, Terry; Kesselman, Marc (OLP); Knepper, John; Turner, Serrin
Subject: RE: McConnell v. FEC: This Is Really It

Here's the per curiam opinion from the district court, with a summary of the rulings. (Not the entire opinion, which can be accessed directly on the court's website, www.dcd.uscourts.gov.)

We're in the process of burning CDs and making paper copies for everyone, and will distribute as swiftly as possible. We hope to have the CDs burned within an hour or so, if you want to wait for them. If you let us know you're waiting, we'll bring them to you this evening.

-----Original Message-----
From: Gilligan, James
Sent: Friday, May 02, 2003 3:08 PM
To: Raab, Michael; Martin, Dana; Letter, Douglas; Gershengorn, Ara; Clement, Paul D; Stewart, Malcolm L; Coffin, Shannen; Jordan, Bill; Hirt, Theodore; Hunt, Jody; McCallum, Robert; Reyes, Luis; Miller, Charles S; Bhattacharyya, Rupa; Gacki, Andrea; Henry, Terry; Kesselman, Marc (OLP); Knepper, John; Turner, Serrin
Subject: McConnell v. FEC: This Is Really It

The court just called. The opinion will be available for the parties on CD-ROM at 3:30. It's being announced to the press at 3:45. I was informed that the court's opinion is 1,600 pages long. I am not kidding.

I will go to the courthouse now and pick it up. (Anyone in Fed Programs who wants to join me is welcome.) We in Fed Programs will get the opinion distributed electronically and in hard copy as fast as we absolutely can.

JG

- Per Curiam - 02cv582a.pdf

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_AKG4G003_WHO.TXT_1>

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SENATOR MITCH McCONNELL, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-582 (CKK, KLH, RJL)
NATIONAL RIFLE ASSOCIATION OF AMERICA, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-581 (CKK, KLH, RJL)
EMILY ECHOLS, a minor child, by and through her next friends, TIM AND WINDY ECHOLS, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-633 (CKK, KLH, RJL)

REV_00165334

CHAMBER OF COMMERCE OF THE UNITED STATES, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-751 (CKK, KLH, RJL)
NATIONAL ASSOCIATION OF BROADCASTERS, Plaintiff, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-753 (CKK, KLH, RJL)
AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-754 (CKK, KLH, RJL)

REV_00165335

CONGRESSMAN RON PAUL, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-781 (CKK, KLH, RJL)
REPUBLICAN NATIONAL COMMITTEE, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.* Defendants.	Civ. No. 02-874 (CKK, KLH, RJL)
CALIFORNIA DEMOCRATIC PARTY, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-875 (CKK, KLH, RJL)

REV_00165336

VICTORIA JACKSON GRAY ADAMS, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-877 (CKK, KLH, RJL)

REPRESENTATIVE BENNIE G. THOMPSON, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-881 (CKK, KLH, RJL)

MEMORANDUM OPINION
(May 1, 2003)

PER CURIAM[1]: Presently before this three-judge District Court are eleven consolidated actions challenging as unconstitutional the Bipartisan Campaign Reform Act of 2002, Pub. L. No. 107-155, 116 Stat. 81 (2002) ("BCRA") and seeking declaratory and injunctive relief to prohibit its enforcement. The wide range of legal challenges raised by this litigation are

[1] Judge Henderson does not join this opinion.

REV_00165337

highly complex, interrelated, and raise issues of fundamental importance not only to the conduct and financing of federal election campaigns but to the other rights involved that we enjoy under the Constitution. Because of the complexity of our positions, this *per curiam* opinion, by Judge Kollar-Kotelly and Judge Leon, includes a schematic description of the three-judge panel's conclusions in regard to each of BCRA's challenged provisions and a chart as to the rulings on each provision's constitutionality. The *per curiam* opinion also includes: (1) a brief history of campaign finance regulation in the United States (pp. 16-42); (2) the legislative history behind BCRA's enactment (pp. 42-50); (3) a procedural history of the litigation in this case (pp. 50-57); (4) a description of the specific provisions in BCRA at issue in these lawsuits (pp. 57-80); (5) certain Findings of Fact relating to the identities of the parties and BCRA's disclosure provisions (pp. 80-106); and (6) conclusions of law relating to claims of the Paul Plaintiffs and most of BCRA's disclosure provisions (pp. 106-170). The separate opinions of each judge hearing this matter follow thereafter.

I. DESCRIPTION AND CHART OF THE COURT'S RULINGS

In light of the number of provisions in BCRA being challenged, the complexity of the issues presented by each challenge, and the variety of positions and voting combinations taken by the three judges on this District Court, we set forth a brief description and a chart, on a section by section basis, of the various rulings

A. *Title I*

Section 323(a) of BCRA bans national parties from soliciting, receiving, directing,

REV_00165338

transferring, and spending nonfederal funds (*i.e.*, soft money). Judge Henderson strikes this section down as unconstitutional in its entirety. Judge Leon, for different reasons, files a concurrence, joining with Judge Henderson, except with respect to the ban on national parties from using (*i.e.*, "directing," "transferring," and "spending") nonfederal funds (*i.e.*, soft money) for "federal election activity" of the type defined in Section 301(20)(A)(iii). As to that type of conduct, Judge Leon upholds the constitutionality of Congress's ban on the use of nonfederal funds by national parties for Section 301(20)(A)(iii) communications. Judge Kollar-Kotelly upholds Section 323 (a) in its entirety. Accordingly, Judge Leon's decision regarding Section 323(a) controls.

Section 323(b) prohibits state parties from using nonfederal money for "federal election activities" as defined in Section 301(20)(A) of BCRA. Judge Henderson strikes these sections down as unconstitutional in their entirety. Judge Leon, for different reasons, joins Judge Henderson in a separate concurrence, but only with respect to those party activities set forth in Subsections (i), (ii), and (iv) of Section 301(20)(A). As to Section 301(20)(A)(iii), Judge Leon upholds the constitutionality of Congress's prohibition on state and local parties from spending nonfederal funds for communications that promote, oppose, attack or support a specific federal candidate. In a separate opinion, Judge Kollar Kotelly finds Section 323(b) constitutional and concurs with Judge Leon's discussion of Section 301 (20)(A)(iii).

Section 323(d) prohibits national, state, and local parties from soliciting funds for, or

REV_00165339

making donations, to § 501(c) organizations that make expenditures, or disbursements, in connection with federal elections, or to § 527 national organizations. Judge Henderson strikes this section down as unconstitutional in its entirety. Judge Leon, for different reasons, joins in that conclusion in a separate concurrence. Judge Kollar-Kotelly files a separate dissent in which she finds the entire section constitutional.

Section 323(e) prohibits, but for certain enumerated exceptions, federal officeholders and candidates from soliciting, receiving, directing, transferring, or spending, nonfederal money in connection with any local, state, or federal election. Judge Henderson and Judge Kollar-Kotelly, for different reasons, in separate opinions uphold the constitutionality of this section in its entirety. Judge Leon concurs with respect to the restriction on federal officeholders and candidates receiving, directing, transferring or spending any nonfederal funds in connection with any federal or state election, but files a separate dissent with regard to any prohibitions on a federal candidate, or officeholder, from soliciting funds for the national parties.

Section 323(f) prohibits state officeholders and candidates from using nonfederal funds for public communications that refer to a clearly identified candidate for federal office and that promote, oppose, attack, or support a candidate for this office. Judge Leon upholds this section in its entirety. Judge Kollar-Kotelly concurs with Judge Leon's opinion. Judge Henderson, dissents and finds the entire section unconstitutional.

REV_00165340

B. ***Title II***

Section 201 of BCRA sets forth a primary, and "backup" definition, of an "electioneering communication" (*i.e.*, so-called "issue ads"). In addition, it sets forth certain disclosure requirements for those who fund these electioneering communications. Judge Henderson strikes down both the primary and backup definition as unconstitutional. Judge Leon, for different reasons, concurs in her judgment with respect to the primary definition. Judge Kollar-Kotelly dissents and upholds the primary definition as constitutional as discussed in her separate opinion. With respect to the backup definition, Judge Leon, who writes a separate opinion, upholds its constitutionality with its final clause severed. Judge Kollar-Kotelly, as expressed in her opinion, concurs in that conclusion solely as an alternative to this Court's finding that the primary definition is unconstitutional. Finally, with regard to Section 201's disclosure requirements, Judge Kollar-Kotelly and Judge Leon, for the reasons set forth in the *per curiam* opinion, uphold their constitutionality with one exception. Judge Henderson strikes down the disclosures requirements in a separate dissent.

Section 202 provides that disbursements by persons for electioneering communications, or contracts to purchase the same, that are coordinated with either a federal candidate or a candidate committee, or a political party committee will be treated as contributions to that candidate's campaign or political party committee. Judge Kollar-Kotelly and Judge Leon, for the reasons set forth in the *per curiam* opinion, find this section constitutional. Judge Henderson, in a separate dissent concludes that this Section is

REV_00165341

unconstitutionally overbroad.

Section 203 of Title II prohibits labor unions, corporations and national banks from using money from their general treasury to fund "electioneering communications," as defined by Section 201. Instead, under Section 203, such communications must be paid from a separately segregated fund ("SSF"). Section 203 also includes an exception from the SSF requirement for certain nonprofit corporations (*i.e.*, the "Snowe-Jeffords exception"). Judge Kollar-Kotelly upholds this section as constitutional. Judge Leon joins Judge Kollar-Kotelly's opinion upholding the constitutionality of this section as it applies to the backup definition in Section 201. Judge Henderson strikes down this Section as unconstitutional in its entirety. Judge Kollar-Kotelly and Judge Leon additionally uphold the disclosure and SSF requirements as well as the Snowe-Jeffords exemption provision for certain nonprofit corporations organized under Sections 501(c)(4) and 527 of the Internal Revenue Code in their respective opinions.

Section 204 ("The Wellstone Amendment"), in effect, withdraws the Snowe-Jeffords exception of Section 203. Judge Henderson strikes down Section 204 in its entirety. Judge Leon concurs in her result as it applies to MCFL exempt organizations only. As to nonprofit corporations that do not qualify for the MCFL exemption, Judge Leon concurs with Judge Kollar-Kotelly's conclusion, but for different reasons, in upholding Section 204 as it applies to non MCFL organizations.

Section 212 provides certain reporting requirements for independent expenditures.

REV_00165342

Judge Kollar-Kotelly and Judge Leon, for the reasons set forth in the *per curiam* opinion, conclude that challenge to this provision is not ripe for review, and therefore hold that the Court does not have jurisdiction to resolve the plaintiffs' challenges at this time. Judge Henderson dissents from this view and finds Section 212 unconstitutional in its entirety.

Section 213 requires national parties, in essence, to choose between making coordinated expenditures under the Party Expenditures Provision or unlimited independent expenditures on behalf of their federal candidates. All three judges concur that this section is unconstitutional. Judge Henderson's opinion includes a discussion of her separate reasons. Judge Kollar-Kotelly concurs in Judge Leon's separate opinion on this section.

Section 214 addresses coordinated expenditures paid for by persons other than party committees and candidate committees. Section 214 repeals the current FEC regulations on coordinated expenditures, and directs the FEC to promulgate new regulations that do not require "an agreement or formal collaboration to establish coordination." Judge Kollar-Kotelly and Judge Leon, for the reasons set forth in the *per curiam* opinion, find that the plaintiffs' challenge under Section 214(b) and Section 214(c) is nonjusticiable and the Court therefore lacks jurisdiction to consider their challenge. As to Sections 214(a) and 214(d), however, they find those sections constitutional for the reasons set forth in the *per curiam* opinion. Judge Henderson dissents, finding the Section unconstitutional in its entirety.

C. *Title III and V*

Sections 304, 316, & 319, collectively known as the "Millionaire Provisions," allow

REV_00165343

opponents of self-financed candidates, and in certain circumstances, to raise money in larger increments and accept unlimited coordinated party expenditures. All three judges conclude, for the reasons set forth in Judge Henderson's opinion, that this Court lacks standing to entertain challenges to these provisions.

Section 305 denies a candidate the "lowest unit charge" for broadcast advertisements on radio and television unless the candidate promises not to refer to another candidate in his or her advertisements. For the reasons set forth in Judge Henderson's opinion, all three judges conclude that this Court lacks standing to entertain the plaintiffs' challenge at this time.

As explained in Judge Henderson's opinion, the Court similarly finds that the plaintiffs do not have standing to challenge Section 307, which increases and indexes contribution limits.

Section 311 establishes certain disclosure requirements for the sponsors of electioneering communications. Judge Kollar-Kotelly and Judge Leon, for the reasons set forth in the *per curiam* opinion, uphold this provision as constitutional. Judge Henderson, dissents, and finds this section unconstitutional for the reasons set forth in her opinion.

Section 318 prohibits donations by minors to federal candidates, or to a committee of a political party. All three judges agree that this section is unconstitutional. Each judge writes a separate concurrence setting forth his/her reasoning as to this section.

Section 504 requires broadcast licenses to collect and disclose records of any request

REV_00165344

to purchase broadcast time for communications that "is made by or on behalf of a legally qualified candidate for public office" or that relates "to any political matter of national importance," including communications relating to "a legally qualified candidate," "any election to federal office," and "a national legislative issue of public importance." Judge Henderson finds this section unconstitutional. Judge Leon and Judge Kollar-Kotelly, concur in that result, but not in her reasoning. Judge Kollar-Kotelly concurs in Judge Leon's separate opinion on this section.

Chart of the Court's Rulings

BCRA Provision	Constitutional	Unconstitutional	Nonjusticiable
323(a): nonfederal fund restrictions on national parties	**Judge Kollar-Kotelly** **Judge Leon** (only as to using nonfederal funds for 301(20)(A)(iii) activities)	**Judge Henderson** **Judge Leon** (except as to using nonfederal funds for 301(20)(A)(iii) activities)	
323(b): nonfederal fund restrictions on "federal election activity" by state and local parties	**Judge Kollar-Kotelly** **Judge Leon** (only as to 301(20)(A)(iii) activities)	**Judge Henderson** **Judge Leon** (only as to 301(20)(A)(i),(ii), (iv) activities)	
301(20): definition of "federal election activity"	**Judge Kollar-Kotelly** **Judge Leon** (only as to 301(20)(A)(iii))	**Judge Henderson** **Judge Leon** (only as to 301(20)(A)(i),(ii), (iv))	

REV_00165345

BCRA Provision	Constitutional	Unconstitutional	Nonjusticiable
323(d): nonfederal fund restrictions on tax-exempt organizations	**Judge Kollar-Kotelly**	**Judge Henderson** **Judge Leon**	
323(e): nonfederal fund restrictions on federal candidates	**Judge Henderson** **Judge Kollar-Kotelly** **Judge Leon** (except solicitation of nonfederal funds)	**Judge Leon** (only as to solicitation of nonfederal funds)	
323(f): nonfederal fund restrictions on state candidates	**Judge Kollar-Kotelly** **Judge Leon**	**Judge Henderson**	
201: "electioneering communication" definition	**Judge Kollar-Kotelly** (primary definition and, in the alternative, backup definition) **Judge Leon** (backup definition only)	**Judge Henderson** (primary and backup definitions) **Judge Leon** (only as to primary definition)	
201: disclosure of "electioneering communications"	**Judge Kollar-Kotelly** (severing subsection (5)) **Judge Leon** (severing subsection (5))	**Judge Henderson** **Judge Kollar-Kotelly** (subsection (5) only) **Judge Leon** (subsection (5) only)	
202: coordinated "electioneering communications" as contributions	**Judge Kollar-Kotelly** **Judge Leon**	**Judge Henderson**	

REV_00165346

BCRA Provision	Constitutional	Unconstitutional	Nonjusticiable
203: prohibition of "electioneering communications" by corporations and unions	**Judge Kollar-Kotelly** **Judge Leon** (as to backup definition)	**Judge Henderson**	
204: nonprofit organization exception ("Wellstone Amendment")	**Judge Kollar-Kotelly** **Judge Leon** (as to non-MCFL groups)	**Judge Henderson** **Judge Leon** (as to MCFL groups)	
212: disclosure of independent expenditures		**Judge Henderson**	**Judge Kollar-Kotelly** **Judge Leon**
213: choice between independent and coordinated expenditures		**Judge Henderson** **Judge Kollar-Kotelly** **Judge Leon**	
214: definition of coordinated communications	**Judge Kollar-Kotelly** (as to 214(a) and 214(d))) **Judge Leon** (as to 214(a) and 214(d))	**Judge Henderson**	**Judge Kollar-Kotelly** (as to remainder of 214) **Judge Leon** (as to remainder of 214)
304, 316, & 319: "Millionaire Provisions"			**Judge Henderson** **Judge Kollar-Kotelly** **Judge Leon**
305: limitation on lowest unit charge for candidates referring to other candidates			**Judge Henderson** **Judge Kollar-Kotelly** **Judge Leon**

REV_00165347

BCRA Provision	Constitutional	Unconstitutional	Nonjusticiable
307: increased contribution limits and indexing of limits			**Judge Henderson** **Judge Kollar-Kotelly** **Judge Leon**
311: identification of sponsors	**Judge Kollar-Kotelly** **Judge Leon**	**Judge Henderson**	
318: prohibition of donations by minors		**Judge Henderson** **Judge Kollar-Kotelly** **Judge Leon**	
504: disclosure of broadcasting records		**Judge Henderson** **Judge Kollar-Kotelly** **Judge Leon**	

II. BACKGROUND

It is necessary to canvass the history of federal campaign finance regulation in order to provide the appropriate context for understanding the structure and practices of federal campaign finance that Congress confronted when it enacted BCRA. *See United States v. UAW-CIO*, 352 U.S. 567, 570 (1957) ("*UAW*") ("Appreciation of the circumstances that begot this statute is necessary for its understanding, and understanding of it is necessary for adjudication of the legal problems before us."). Following this overview, the Court will move to a discussion of the legislation enacted by Congress to resolve the perceived shortcomings of the pre-BCRA campaign finance structure and a procedural history of the litigation in this case.

REV_00165348

A. *The Framework of Federal Campaign Finance Regulation*

One might be tempted to agree with Plaintiffs' assertion that the history of federal campaign finance regulation is "relatively short," McConnell Br. at 9, if one were comparing it to the history of Western civilization. In the judgment of Judge Kollar-Kotelly and Judge Leon, however, the history of federal campaign finance regulation, having its origins in the Administration of President Theodore Roosevelt, is a long-standing and recurring problem that has challenged our government for nearly half of the life of our Republic.

At the close of the nineteenth century, the concentration of the nation's wealth in the hands of a "small portion of the population" began to threaten the stability and integrity of the political system. *UAW*, 352 U.S. at 570 (quoting 2 Morrison and Commager, *The Growth of the American Republic* at 355 (4th ed. 1950)). At the time, the widely accepted view was that "aggregated capital unduly influenced politics, an influence not stopping short of corruption." *Id.* To that end, many states began experimenting with disclosure laws requiring candidates and their political committees to make public the sources and amounts of contributions to their campaigns and the amounts of their campaign expenditures. *Id.* at 570-571. These laws proved to be largely futile. *Id.* at 571.

Concern with both the size and source of campaign funds relating to the 1904 presidential campaign "crystallized popular sentiment for federal action to purge national politics of what was conceived to be the pernicious influence of 'big money' campaign contributions." *Id.* at 571-72. President Roosevelt's presidential messages to Congress in

REV_00165349

both 1905 and 1906, strongly encouraged Congress to enact a law prohibiting political contributions by corporations. 40 Cong. Rec. 96 (1905); 41 Cong. Rec. 22 (1906). In response to these concerns, Congress enacted the Tillman Act, Ch. 420, 34 Stat. 864, which prohibited corporations from making any contribution in connection with any election for federal office and which represented "the first concrete manifestation of a continuing congressional concern for elections free from the power of money." *UAW*, 352 U.S. at 575 (internal quotation marks and citation omitted). The Tillman Act demarcates the beginning of the "modern era" of federal campaign finance regulation and is the predecessor of the prohibition on corporate and labor union contributions and expenditures in connection with any federal election from their general treasuries that appears in the Federal Election Campaign Act ("FECA"). *Buckley v. Valeo*, 519 F.2d 821, 904 (D.C. Cir. 1975), *aff'd in part, rev'd in part*, 424 U.S. 1 (1976).[2] The "underlying philosophy" of the Tillman Act was "to sustain the active, alert responsibility of the individual citizen in a democracy for the wise conduct of government." *UAW*, 352 U.S. at 575.

In 1909, Congress endeavored to broaden the Tillman Act by including within the Act's scope, state legislative races and in-kind contributions. *See id.* While this effort ended

---

[2] The ban on corporate and labor union contributions and expenditures was eventually codified at 18 U.S.C. § 610, and later transferred to the Federal Election Campaign Act, 2 U.S.C. 441b, when Congress re-evaluated the Act in the aftermath of the Supreme Court's decision in *Buckley v. Valeo*, 424 U.S. 1 (1976). Federal Election Campaign Act Amendments of 1976, P.L. 94-283, 90 Stat. 475. *See also* S. Rep. No. 677, 94th Cong., 2d Sess. 2-3 (1976), *reprinted in* 1976 U.S.C.C.A.N. 929, 930-31.

REV_00165350

in failure, in 1910, Congress "translated popular demand for further curbs upon the political power of wealth into a publicity law that required committees operating to influence the results of congressional elections in two or more States to report all contributions and disbursements and to identify contributors and recipients of substantial sums." *Id.* (citing Act of June 25, 1910, ch. 392, §§ 5-6, 36 Stat. 822, 823) (disclosure required of all transactions greater than $100). The 1910 law further directed the reporting of expenditures exceeding $50, made independently of a political committee for the purpose of influencing congressional elections in more than one State. Act of June 25, 1910, ch. 392, §§ 7, 36 Stat. 824. In 1911, Congress further amended the 1910 Act, and for the first time, included overall expenditure ceilings on campaigns for the House ($5,000) and for the Senate ($10,000). *Buckley*, 519 F.2d at 904-905 (citing Act of Aug. 19, 1911, ch. 33, § 2, 37 Stat. 26). Additionally, the 1911 provisions required all candidates for the Senate and the House of Representatives to make detailed reports with respect to their nominating and election campaigns. *UAW*, 352 U.S. at 576. Hence, candidate disclosures included primary, convention, and other pre-nomination periods. *Buckley*, 519 F.2d at 905. The 1911 law also prohibited candidates from promising employment for the purpose of securing an individual's support. *UAW*, 352 U.S. at 576 (citing 37 Stat. 25). In 1918, Congress again amended the law and added criminal penalties for offering anything of value to influence voting. *Id.* (citing Act of Oct. 16, 1918, ch. 187, 40 Stat. 1013).

In the only instance of a criminal prosecution under the Act, Truman Newberry was

REV_00165351

convicted in Michigan of violating the expenditure ceiling in his 1918 primary campaign for the United States Senate. Newberry's conviction was overturned by the Supreme Court in 1921. The Court invalidated the law insofar as it extended to Senate primary elections. *Newberry v. United States*, 256 U.S. 232, 258 (1921) ("We cannot conclude that authority to control party primaries or conventions for designating candidates was bestowed on Congress by the grant of power to regulate the manner of holding elections."). Four Justices of the Court held that primaries were intra-party affairs not amenable to congressional regulation under the Elections Clause. *Id.* Justice Joseph McKenna, who provided the crucial fifth vote for judgment, limited the reach of the decision to the facts by concluding that the statute under consideration was enacted prior to the Seventeenth Amendment and, therefore, left open the question of whether that Amendment gave Congress authority to regulate Senate primary elections. *Id.*

In 1925, in the wake of *Newberry*, Congress passed the Federal Corrupt Practices Act of 1925, ch. 368, tit. III, 43 Stat. 1070, which was a comprehensive amalgamation of the surviving provisions of the existing campaign finance laws. *UAW*, 325 U.S. at 576. The Federal Corrupt Practices Act strengthened the Tillman Act by broadening the definition of contribution, extending the ban on corporate contributions to Delegates and Resident Commissioners that were elected to Congress, and punishing the recipient of any illegal contribution in addition to the contributor. *Id.* at 577. The law also generally broadened disclosure provisions. *Buckley*, 519 F.2d at 905.

REV_00165352

The Supreme Court upheld the Federal Corrupt Practices Act in the *Burroughs* case of 1934:

> The power of Congress to protect the election of President and Vice President from corruption being clear, the choice of means to that end presents a question primarily addressed to the judgment of Congress. If it can be seen that the means adopted are really calculated to attain the end, the degree of their necessity, the extent to which they conduce to the end, the closeness of the relationship between the means adopted, and the end to be attained, are matters for congressional determination alone. Congress reached the conclusion that public disclosure of political contributions, together with the names of contributors and other details, would tend to prevent the corrupt use of money to affect elections. The verity of this conclusion reasonably cannot be denied. When to this is added the requirement contained in section 244, that the treasurer's statement shall include full particulars in respect of expenditures, it seems plain that the statute as a whole is calculated to discourage the making and use of contributions for purposes of corruption.

Burroughs v. United States, 290 U.S. 534, 547-48 (1934) (internal citation omitted). As is obvious from this language, the *Burroughs* opinion provided Congress with broad discretion to regulate federal elections including the financing of campaigns.

The next instance of congressional action in the area of campaign finance was in 1940 when Congress amended the Hatch Act, a law which placed restrictions on the political activities of the civil service, by making it unlawful for any political committee to receive contributions totaling more than $3,000,000 or to make expenditures of more than that amount in any calendar year. *UAW*, 352 U.S. at 577 (citing Act of July 19, 1940, ch. 640, 54 Stat. 767). The Hatch Act amendments also limited gifts to candidates or political committees to $5,000 in any calendar year. *Buckley*, 519 F.2d at 905 (citing Act of July 19, 1940, ch. 640, 54 Stat. 767).

REV_00165353

One year later, the Supreme Court again returned to the question it had squarely addressed in *Newberry*: namely whether congressional power under the Elections Clause extended to the pre-election period. *United States v. Classic*, 313 U.S. 299 (1941). This time, the Court upheld the congressional enactment holding that "the authority of Congress, given by [Article I, section 4], includes the authority to regulate primary elections when, as in this case, they are a step in the exercise by the people of their choice of representatives in Congress." *Id.* at 317. The case involved a Louisiana Democratic primary for the House of Representatives, which history showed was the determinant of who would win the general election. *Id.* at 314. The Supreme Court in *Classic* disregarded *Newberry* because only four Justices in *Newberry* had adopted the view that the Elections Clause forbade congressional regulation of primary elections. Consequently, as the issue had never "been prejudged by any decision of [the Supreme] Court," *Classic* overruled the *Newberry* plurality. *Id.* at 317; *see also id.* at 325 n.8 ("No conclusion is to be drawn from the failure of the Hatch Act, to enlarge § 19 by provisions specifically applicable to primaries. Its failure to deal with the subject seems to be attributable to constitutional doubts, stimulated by *Newberry v. United States*, which are here resolved.") (internal citations omitted). Under *Classic*, Congress was given authority to impose criminal penalties for activities of state officials conducting a primary election for federal candidates under the auspices of state law. *See id.* at 307.

Following the rise of organized labor during World War II, in 1943, Congress passed the Smith-Connally Act which included a section that extended the Federal Corrupt Practices

REV_00165354

Act to organized labor. *UAW*, 352 U.S. at 578 (citing War Labor Disputes Act (Smith-Connally Act), ch. 144, § 9, 57 Stat. 163, 167) ("Wartime strikes gave rise to fears of the new concentration of power represented by the gains of trade unionism. And so the belief grew that, just as the great corporations had made huge political contributions to influence governmental action or inaction, whether consciously or unconsciously, the powerful unions were pursuing a similar course, and with the same untoward consequences for the democratic process."). Congressman Gerald Landis, the author of this provision in the Smith-Connally Act observed that "[t]he public was aroused by many rumors of huge war chests being maintained by labor unions, of enormous fees and dues being extorted from war workers, of political contributions to parties and candidates which later were held as clubs over the head of high Federal officials." *Id.* at 579 (quoting Hearings before a Subcommittee of the House Committee on Labor on H.R. 804 and H.R. 1483, 78th Cong., 1st Sess. 1, 2, 4).

Despite the provision in the Smith-Connally Act tightening the reins on political activity of labor unions, Congress was prompted to investigate "enormous" financial outlays by some unions in connection with the 1944 national elections. *Id.* The Senate's Special Committee on Campaign Expenditures investigated and concluded that while there was "'no clear-cut violation of the Corrupt Practices Act,'" *id.* at 580 (quoting S. Rep. No. 101, 79th Cong., 1st Sess. 23), the law was being evaded by large scale spending by labor unions on expenditures (as opposed to contributions), which were not explicitly prohibited by the

REV_00165355

Federal Corrupt Practices Act, *id.*[3] Congress, it appears, considered a prohibition on contributions to be equally applicable to expenditures. *Id.* at 582 ("'The committee is firmly convinced, after a thorough study of the provisions of the act, the legislative history of the same, and the debates on the said provisions when it was pending before the House, that the act was intended to prohibit such expenditures.'") (quoting H.R. Rep. No. 2739, 79th Cong., 2d Sess. 40). In commenting on how this exception threatened to eviscerate the Federal Corrupt Practices Act, the House Committee studying this problem stated that "'[t]he intent and purpose of the provision of the act prohibiting any corporation or labor organization making any contribution in connection with any election would be wholly defeated if it were assumed that the term 'making any contribution' related only to the donating of money directly to a candidate, and excluded the vast expenditures of money in the activities herein shown to be engaged in extensively. Of what avail would a law be to prohibit [directly] contributing to a candidate and yet permit the expenditure of large sums in his behalf?" *Id.* at 581 (quoting H.R. Rep. No. 2739, 79th Cong., 2d Sess. 40).

---

[3] A sampling of the extraordinary size of the expenditures by labor on federal elections demonstrates that "One [labor organization] was found to have an annual budget for 'educational' work approximating $1,500,000, and among other things regularly supplies over 500 radio stations with 'briefs for broadcasters.' Another, with an annual budget of over $300,000 for political 'education,' has distributed some 80,000,000 pieces of literature, including a quarter million copies of one article. Another, representing an organized labor membership of 5,000,000, has raised $700,000 for its national organizations in union contributions for political 'education' in a few months, and a great deal more has been raised for the same purpose and expended by its local organizations.'" *UAW*, 352 U.S. at 580-81 (quoting H.R. Rep. No. 2093, 78th Cong., 2d Sess. 3).

REV_00165356

Therefore, in order to prevent further "evasion" and to "plug the existing loophole," Congress "again acted to protect the political process from what it deemed to be the corroding effect of money employed in elections by aggregated power." *Id.* at 582 (internal quotation and citations omitted). Accordingly, in 1947, Congress passed the Taft-Hartley Act of 1947, ch. 120, 61 Stat. 136, which amended the Federal Corrupt Practices Act "to proscribe any 'expenditure' as well as 'any contribution' [and] to make permanent [its] application to labor organizations" in addition to corporations. *Id.* at 582-83. The Taft-Hartley Act implemented *Classic* by applying its provisions to primary elections. *Buckley*, 519 F.2d at 906.

Following the Taft-Hartley Act, from the late 1940's through the end of the 1950's, Congress sought unsuccessfully to amend the dollar expenditure limits to reflect more "realistic" costs, but no action was taken. *Id.* In 1960, the Senate passed a bill that strengthened reporting requirements for candidates and political committees, adopted individual contribution limits, rationalized current expenditure limits, and placed ceilings on Presidential campaigns. *Id.* The bill, however, died for lack of a companion in the House of Representatives. *Id.* In 1962, President Kennedy's Commission on Campaign Costs recommended "tax incentives and credits for small political contributions, realistic ceilings, and suspension of the equal time provision as to media debates." *Id.* In 1966, Congress passed a one dollar tax checkoff to provide public funding for Presidential general elections, which was later repealed in 1967. *Id.*

REV_00165357

Late in 1971, Congress reinstituted the tax form checkoff to finance Presidential general elections and, in early 1972, passed the Federal Elections Campaign Act of 1971, Pub. L. No. 92-255, 86 Stat. 3 ("FECA"), requiring disclosure of all contributions in excess of $100 and disclosure of expenditures by all candidates and political committees spending more than $1000 per year. *Id.* The 1971 law also expressly provided corporations and unions with the ability to establish and administer separate, segregated funds for the purpose of making political contributions and expenditures. *Pipefitters Local Union No. 562 v. United States*, 407 U.S. 385, 410 (1972).

Despite passage of FECA, the "infinite ability" to "eviscerate[] statutory limitations on contributions and expenditures," which amounted to "wholesale circumvention" became a source of further congressional concern. *Buckley*, 519 F.2d at 837. Congress concluded that costs for federal elections had increased at an "'alarming'" rate. *Id.* (quoting H.R. Rep. No.93-1239, 93d Cong., 2d Sess. 3 (1974), U.S. Code Cong. & Admin. News 1974, p. 5587). Congress was further troubled by the "interaction" between large-scale campaign expenditures and a reliance "on large contributions from monied and special interests." *Id.* In *Buckley*, it was undisputed that "one percent of the people accounted for 90 percent of the dollars contributed to federal candidates, political parties and committees." *Id.* (citing agreed to Findings of Fact). It was also undisputed that illegal contributions to both parties were made in 1972 by Gulf Oil and by American Milk Producers, Inc., a large dairy cooperative. *Id.* at 838. Notably, the circuit court in *Buckley* concluded:

REV_00165358

> Large contributions are intended to, and do, gain access to the elected official after the campaign for consideration of the contributor's particular concerns. Senator Mathias not only describes this but also the corollary, that the feeling that big contributors gain special treatment produces a reaction that the average American has no significant role in the political process.

Id.; *see also id.* n.32 ("Congress found and the District Court confirmed that such contributions were often made for the purpose of furthering business or private interests by facilitating access to government officials or influencing governmental decisions, and that, conversely, elected officials have tended to afford special treatment to large contributors.") (citations omitted). Indeed, the lower *Buckley* court documented the "lavish contributions by groups or individuals with special interests to legislators from both parties." *Id.* at 840 n.37.

In 1974, in direct response to the 1972 elections which were a "watershed for public confidence in the electoral system," *id.* at 840, and the "shock of its aftermath," *id.* at 837, Congress enacted and President Gerald Ford signed the sweeping FECA Amendments of 1974. *Id.* Broadly speaking, the amendments imposed dollar limitations on contributions by individuals and by political committees to candidates for federal office, to political party committees, and to independent political committees. 2 U.S.C. § 441a(a). The 1974 amendments also imposed limits on expenditures that individuals, candidates, political committees, and political parties could spend to help federal candidates win elections. Moreover, the law treated expenditures that were "coordinated" with a candidate as contributions. 2 U.S.C. 441a(a)(7)(B)(i) ("[E]xpenditures made by any person in

REV_00165359

cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate."). The amendments also included a variety of recordkeeping and disclosure requirements. *See* 2 U.S.C. §§ 432-434. The Federal Election Commission was also created by the amendments and tasked with monitoring and enforcing the campaign finance laws. *See generally* 2 U.S.C. §§ 437c(b)(1), 437d(a), 437g. Finally the law, as amended, provided public funding primarily for qualified presidential candidates and some public funding for nominating conventions of major political parties.

The first day after the FECA amendments went into effect, the law was challenged. *Buckley*, 519 F.2d at 901. In a lengthy opinion, the United States Court of Appeals for the District of Columbia Circuit found all but one of the provisions of FECA constitutional. *Id.* at 843-44 (striking down disclosure provision 2 U.S.C. § 437a). In 1976, the Supreme Court affirmed in part and reversed in part the D.C. Circuit's ruling in its decision in *Buckley v. Valeo*, 424 U.S. 1 (1976). Generally speaking, in examining FECA's provisions against the free speech and association provisions of the First Amendment the Supreme Court found constitutional FECA's contribution limitations, *Buckley*, 424 U.S. at 23-38, and unconstitutional those provisions of FECA that imposed expenditure limitations, *id.* at 39-59. The contribution-expenditure dichotomy first developed in *Buckley* was grounded in the Supreme Court's view that "[a] contribution serves as a general expression of support for the candidate and his views, but does not communicate the underlying basis for the support."

REV_00165360

Id. at 21 (observing that "[t]he quantity of communication by the contributor does not increase perceptibly with the size of his contribution, since the expression rests solely on the undifferentiated, symbolic act of contributing."). Expenditure restrictions, on the other hand, "while neutral as to the ideas expressed, limit political expression at the core of our electoral process and of the First Amendment freedoms." *Id.* at 39 (internal quotation marks and citation omitted).

In *Buckley*, the Supreme Court upheld as well the general disclosure provisions contained in FECA. *Id.* at 60-84.[4] The Supreme Court likewise found constitutional the public funding scheme for presidential candidates. *Id.* at 85-109. Finally, the Supreme Court struck down the structure of the FEC as it was constituted under FECA in violation of the Appointments Clause of the Constitution. *Id.* at 109-143.

Hence, in the aftermath of *Buckley*, it was FECA's contribution restrictions that remained intact, while its expenditure provisions were vitiated.[5] Under FECA, as it emerged from *Buckley*, no "person"[6] was permitted to contribute in excess of $1,000 to a candidate

---

[4] The D.C. Circuit's decision striking down 2 U.S.C. § 437a was not appealed to the Supreme Court. *Buckley*, 424 U.S. at 11 n.7.

[5] Following *Buckley*, there have been a number of important Supreme Court opinions that have addressed application of *Buckley* in other contexts. It is more appropriate to discuss these cases in the context of each Judge's separate opinion.

[6] FECA defines "person" as "an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons, but such term does not include the Federal Government or any authority of the Federal Government." 2 U.S.C. § 431(11).

REV_00165361

for federal office, 2 U.S.C. § 441a(a)(1)(A); no person could contribute to the political committees established and maintained by a national political party, in any calendar year which, in the aggregate, exceed $20,000, 2 U.S.C. § 441a(1)(B); and no person could contribute to any other political committee in any calendar year which, in the aggregate, exceed $5,000, 2 U.S.C. § 441a(a)(1)(C).[7] In addition, no multicandidate political committee could contribute in excess of $5,000 to a candidate for federal office, 2 U.S.C. § 441a(a)(2)(A); no multicandidate political committee could contribute in excess of $15,000 to the political committees established and maintained by a national political party, 2 U.S.C. § 441a(a)(2)(B); and finally, no multicandidate political committee could contribute to any other political committee in any calendar year which, in the aggregate, exceeded $5,000, 2 U.S.C. § 441a(a)(2)(C). In order to "prevent evasion" of these limitations *Buckley* upheld the Act's $25,000 limitation on total contributions during any calendar year. *Buckley*, 424 U.S. at 38. As a result, under 2 U.S.C. § 441a(a)(3), no individual was permitted to make contributions aggregating more than $25,000 in any calendar year. 2 U.S.C. § 441a(a)(3).[8]

---

[7] Under BCRA, these contribution limits have been raised. Persons can now contribute $2,000 to candidates and $25,000 to national political party committees. BCRA §§ 307(a)(1), 307(a)(2); FECA § 315(a)(1); 2 U.S.C. § 441a(a)(1). Also under BCRA, Congress has carved state party committees out of § 441a(a)(1)(C) and increased the contribution limit for state party committees from $5,000 to $10,000. BCRA § 102; FECA § 315(a)(1); 2 U.S.C. § 441a(a)(1). Moreover, the contribution limits applicable to candidates and national party committees have been indexed to the consumer price index and will increase with inflation. BCRA § 307(d); FECA § 315(c); 2 U.S.C. § 441a(c).

[8] BCRA has increased the aggregate limit on individual contributions from $25,000 per year to $95,000 per two-year election cycle, of which $37,500 may be contributed to (continued...)

REV_00165362

In addition, under 2 U.S.C. § 441b, corporations and labor unions are prohibited from using their general treasury funds to "make a contribution or expenditure in connection with any election to any political office." 2 U.S.C. § 441b(a). In sum, the Supreme Court found that:

> The overall effect of the Act's contribution ceilings is merely to require candidates and political committees to raise funds from a greater number of persons and to compel people who would otherwise contribute amounts greater than the statutory limits to expend such funds on direct political expression, rather than to reduce the total amount of money potentially available to promote political expression.

Buckley, 424 U.S. at 21-22. Indeed, what emerged from *Buckley* was a tightly focused regime whereby contributions (and coordinated expenditures) to candidates and political parties and committees were limited or even banned (in the case of corporate and union treasury funds) and independent political advocacy was left unimpeded.

Contribution is defined in FECA as including, "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(8)(A)(i).

Since the adoption of FECA, it is clear that the Commission has struggled with interpreting the phrase "for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(8)(A)(i). In 1975, the FEC examined the case of a local party committee that had established separate accounts for federal funds and for corporate contributions which were permitted under state law, but which were prohibited by federal law for use in

---

[8](...continued)
candidates. BCRA § 307(b); FECA § 315(a)(3); 2 U.S.C. § 441a(a)(3).

REV_00165363

connection with federal elections. In Advisory Opinion 1975-21, the Commission determined that the appropriate course was to have the local party allocate both its administrative expenses and its voter registration drives between the two accounts, given that these expenses had an impact on both state and federal elections. FEC Advisory Op. 1975-21 (allocation based on the ratio of "the total amount which the [local party] directly contributes to and expends on behalf of Federal candidates, to . . . the total of all direct contributions to and expenditures on behalf of all candidates–Federal, State, and local"). The FEC slightly reversed course, in Informational Letter 1976-72, where it determined that voter registration efforts could not be paid for from an account containing funds raised from corporate and union general treasuries. FEC Informational Letter 1976-72 ("Thus, even though the Illinois law apparently permits corporate contributions for State elections, corporate/union treasury funds may not be used to fund any portion of a registration or get-out-the-vote drive conducted by a political party.").

However, in its 1977 rulemakings implementing FECA, the Commission permitted any political committee to make a choice between creating a separate federal account for its federal election activities, or to establish a single account containing only funds subject to the federal contribution limits to finance all of its activities with respect to both state and federal elections. 11 C.F.R. § 102.6(a)(2) (1977). To the extent that segregated accounts were created, the committees were required to "allocate administrative expenses on a *reasonable basis* between their Federal and non-Federal accounts in proportion to the amount

REV_00165364

of funds expended on Federal and non-Federal elections, or on another reasonable basis." 11 C.F.R. § 106.1(e) (1977) (emphasis added). The following year, the Commission essentially reversed its 1976 advisory opinion and in Advisory Opinion 1978-10, determined that "the costs of [voter] registration and get-out-the-vote drives" by a state party committee "should be allocated between" federal and nonfederal accounts "in the same manner as other general party expenditures" under the Commission's 1977 regulations. FEC Advisory Op. 1978-10. In Advisory Opinion 1979-17, the Commission extended the conclusions reached in Advisory Opinion 1978-10 regarding separate accounts to the national party committees. FEC Advisory Op. 1979-17 ("[Regulations] thus would permit the RNC to establish and administer separate, segregated bank accounts through an auxiliary organization of the national party which accounts could be used for the deposit and disbursement of funds designated specifically and exclusively to finance national party activity limited to influencing the nomination or election of candidates for public office other than elective 'Federal office.'") (citation omitted).

Accordingly, by the middle of 1979, the FEC permitted national and state party committees to solicit and accept donations outside of FECA's source and amount limitations ("nonfederal money")[9] provided that these monies were placed in separate accounts from the

[9] There is a degree of skirmishing in the briefs over the appropriate terminology for "nonfederal money." Defendants use the phrase "soft money." Plaintiffs refer to "soft money" as "state-regulated" or "nonfederal" money. The Court has, for the most part, adopted the nomenclature "nonfederal" money because that is the term that the FEC has used (continued...)

REV_00165365

federal funds. In other words, political committees were permitted to establish two sets of accounts–one for federally-regulated money (federal accounts) and one for non-federally regulated money (nonfederal accounts).[10]

Essentially, the FEC's opinions and rulemakings permitted state and national party committees to pay for the nonfederal portion of their administrative costs and voter

---

[9](...continued)
during the rulemaking process implementing BCRA, Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money, 67 Fed. Reg. 49064 (July 29, 2002) ("Because the term 'soft money' is used by different people to refer to a wide variety of funds under different circumstances, the Commission is using the term 'non-Federal funds' in the final rules rather than the term 'soft money.'"), even though BCRA uses the term "soft money," BCRA § 101 (entitled "*Soft money* of political parties") (emphasis added) and even though on occasion the Supreme Court has also used the phrase "soft money," *see, e.g.*, *Colorado Republican Federal Campaign Committee v. FEC ("Colorado I")*, 518 U.S. 604, 616 (1996) ("Unregulated 'soft money' contributions may not be used to influence a federal campaign, except when used in the limited, party-building activities specifically designated in the statute."). Despite the references in the case law and the statute to the term "soft money," for the sake of clarity in an area of law that demands absolute precision, the Court generally eschews the phraseology "hard money" or "soft money" in favor of "federal funds" or "nonfederal funds." Federal funds are those monies regulated under FECA, as amended, and nonfederal funds are those monies that may or may not be regulated under state law, but not federal law.

[10] In 1979 Congress again amended FECA to exempt two new sets of activities from the definition of contribution and expenditure. First, state and local party disbursements for campaign materials such as pins, bumper stickers, and yard signs used in connection with volunteer activities on behalf of the party's nominees were exempted from FECA's contribution limits provided that the activity was paid for with federal money. 2 U.S.C. §§ 431(8)(B)(ix), 9(B)(viii). The second exemption related to a state party's payment for "the costs of voter registration and [GOTV] activities" conducted on behalf of the party's presidential ticket. 2 U.S.C. §§ 431(8)(B)(xi), (9)(B)(ix). This exemption was also conditioned on the use of federal money for the activity. Hence, for both of these activities unlimited federal money could be used to pay for them because they were exempted from the definition of "contribution" and "expenditure." For state and local parties that opted to use nonfederal funds to pay for these activities, allocation was still permitted.

REV_00165366

registration and turnout programs with monies raised under relevant state laws (not FECA), even if those state laws were in direct contravention of FECA, such as permitting contributions from corporate and labor union general treasury funds. As a result, national and state parties began to raise so-called "soft money," which described these nonfederal funds, not subject to FECA limits and restrictions, that were used to pay for these administrative and generic voter drive expenses.

With these developments, nonfederal funds became an increasingly important means of party financing. During the 1980 election, the RNC spent approximately $15 million in nonfederal funds and the DNC spent roughly $4 million, constituting 9% of the national parties total spending. Mann Expert Rep. at 12.[11] In 1984, the national parties spent collectively an estimated $21.6 million in nonfederal money, which accounted for 5% of their total spending. *Id.* By 1988, national party nonfederal money had increased to an approximate $45 million, or 11% of national party spending. *Id.*

In 1990, the FEC promulgated regulations to provide for some consistency in the methods used to determine the relative portions of federal and nonfederal money to be used

---

[11] As Defense Expert Mann plainly concedes, "Just what amount of soft money activity the parties pursued in the 1980s is less certain [because] '[n]onfederal' funds were not subject to federal disclosure requirements, only to the disclosure laws in states where soft money was spent." Mann Expert Report at 12. It was not until 1992 that the FEC began collecting official data on national parties use of nonfederal funds, so any attempts at pinpointing the amount of nonfederal funds spent by the national parties before 1992 are estimates. Notably, Plaintiffs do not challenge any of the pre-1992 estimates (or any of the post-1992 data collected by the Commission). Therefore, the Court relies on these statistics.

REV_00165367

in financing these generic party activities. Prior to 1990, the regulations specified that the allocation rate between nonfederal and federal accounts was to be done on a "reasonable basis." 11 C.F.R. § 106.1(e) (1977). The regulations promulgated by the Commission were designed to give certainty to this subjective standard and were in response to a district court's decision which held that the allocation rules required specific guidance from the Commission. *Common Cause v. FEC*, 692 F. Supp. 1391, 1396 (D.D.C. 1987) ("Indeed, it is possible that the Commission may conclude that no method of allocation will effectuate the Congressional goal that all monies spent by state political committees on those activities permitted in the 1979 amendments be 'hard money' under the FECA. That is an issue for the Commission to resolve on remand.").[12] Under the new regulations, national party committees (other than Senate and House national party committees) were required to allocate at least 65% of their administrative and generic voter drive expenses[13] to their federal accounts in

---

[12] The Court observes that *Common Cause v. FEC* demonstrates that as early as 1984, before any official statistics on nonfederal funds were kept by the Commission, there was concern over the influence of these monies on federal elections. However, the Commission in 1984 determined that, "Common Cause has not presented evidence of instances in which 'soft money' has been used to influence federal elections sufficient to justify the stringent rules proposed in its petition." *Common Cause*, 692 F. Supp. at 1393 (citing the Commission's April 17, 1986, Notice of Disposition).

[13] The Commission permitted, *inter alia*, the following expenses to be allocated: administrative expenses, which included rent, utilities, office supplies, and salaries, 11 C.F.R. § 106.5(a)(2)(i) (1991); the direct costs of a fundraising program or event, where federal and nonfederal funds are collected by one committee, 11 C.F.R. § 106.5(a)(2)(ii) (1991); and "generic voter drives," which included voter identification, voter registration, and get-out-the-vote ("GOTV") drives where a specific candidate was not mentioned. 11 C.F.R. §106.5(a)(2)(iv) (1991).

REV_00165368

presidential election years and 60% in non-presidential election years. 11 C.F.R. §§ 106.5(b)(2)(i), (ii) (1991). Senate and House committees were to allocate these expenses on the basis of the ratio of federal expenditures to total federal and nonfederal disbursements made by the committee during the two-year federal election cycle. 11 C.F.R. § 106.5(c)(i). For state and local parties, the allocation between the federal and nonfederal accounts for these expenses were determined by the proportion of federal offices to all offices on a state's general election ballot. 11 C.F.R. § 106.5(d) (1991). Generally, the state parties' allocation rate was substantially lower than the national party allocation rate. Mann Expert Rep. at 14. The new rules also mandated that the national party committees disclose the details of their nonfederal accounts. 11 C.F.R. §§ 104.8(e), (f) (1991) (requiring national parties to report for nonfederal and building fund accounts the donating individual's name, mailing address, occupation or type of business, and the date of receipt and amount of any such donation). State parties, however, were exempted from these disclosure requirements. 11 C.F.R. § 104.9(a) (1991) (reporting committees required to disclose information pertaining to "the committee's federal account(s) only"). The Commission's regulations, therefore, provided the national parties with an incentive to channel these expenditures through state party committees, since this approach generally permitted more nonfederal dollars to be spent than if a national party spent the money without disclosing the sources of the funds.

In 1992, spending on nonfederal money by the national parties reached $80 million, or 16% of the national parties total spending. Mann Expert Rep. at 15 (citing to official

REV_00165369

figures from the FEC). Of that total amount, the national parties contributed only $2 million directly to state and local candidates. Mann Expert Rep. at 16. In addition, the two national parties transferred over $15 million to state party committees–two thirds of which was transferred to presidential election battleground states. *Id.* Along these lines, the national parties expended $14 million in nonfederal funds for "generic" party advertising, consisting predominantly of television advertisements that did not mention candidates names, but urged viewers to simply vote for a particular party or stressed themes from the presidential campaigns. *Id.* Although the Commission had only approved the use of nonfederal funds by the national parties "for the exclusive and limited purpose of influencing the nomination or election of candidates for nonfederal office," by 1992, with the new allocation rules firmly in place, national parties were using nonfederal money to impact federal elections as permitted by the Commission. FEC Advisory Op. 1979-17.

With the 1996 election cycle, the national parties' total nonfederal funds spending reached $272 million, which was 30% of the national party committees' total spending. Mann Expert Rep. at 21. Starting in the Fall of 1995 and continuing through 1996, Democratic party committees used soft money to fund advertisements that either promoted President William J. Clinton by name or criticized his opponent by name, while avoiding words that expressly advocated either candidate's election or defeat.[14] *Id.* at 18. In May of

[14] The argument that such advertisements could be paid for with nonfederal funds had its origins in *Buckley*. The Supreme Court in *Buckley*, in an attempt to save from (continued...)

REV_00165370

1996, the Republican National Committee announced its plans to spend $20 million on an "issue advocacy" campaign. *Id.* at 20.

Although many of the advertisements featured the presidential candidates, none of the costs of these advertisements were charged as coordinated expenditures on behalf of the candidate's campaign, which would have subjected the expenditure to FECA's contribution limits. Instead, the parties paid the full cost, with a mix of federal and nonfederal funds as permitted by FEC allocation rules.[15] Often the advertisements were paid for by state party committees, where the allocation rules permitted greater spending of soft money. Mann

---

[14](...continued)
unconstitutional vagueness the independent expenditure prohibitions, narrowed them to apply "only to expenditures for communications that in express terms advocate the election or defeat of a clearly identified candidate for federal office." *Buckley*, 424 U.S. at 44. In a footnote, the *Buckley* Court found that "[t]his [narrowing] construction would restrict the application of § 608(e)(1) to communications containing express words of advocacy of election or defeat, such as 'vote for,' 'elect,' 'support,' 'cast your ballot for,' 'Smith for Congress,' 'vote against,' 'defeat,' 'reject.'" *Id.* at 44 n.52. Even though the Supreme Court narrowed the provision of the law, it struck down the expenditure provision as unconstitutional as written and as narrowed by the Court. *Id.* at 44.

It was based on this language that the national parties in 1995 and 1996 argued that as long as they ran advertisements that did not mention "express words of advocacy of election or defeat," they could use nonfederal money to run advertisements that supported their presidential candidate or attacked his opponent.

[15] The FEC had previously ruled that party committees could sponsor issue advocacy advertisements that did not feature a federal candidate and pay for these advertisements with a combination of federal and nonfederal dollars as permitted under the allocation regulations. FEC Advisory Op. 1995-25 (discussing that allocation rules were permissible to allocate funding for "RNC plans to produce and air media advertisements on a series of legislative proposals being considered by the U.S. Congress, such as the balanced budget debate and welfare reform"). The national parties used this advisory opinion as justification for their issue advocacy campaigns featuring candidates for federal office and paid for with nonfederal money.

REV_00165371

Expert Report at 22 (noting over $115 million was transferred from the national parties to the state party committees). In fact, state party nonfederal funds for political communication/advertising went from $2 million in 1992 to $65 million in 1996. *Id.* at 22; *see also* La Raja Expert Report at 18. A similar strategy was also used by the parties to support their candidates for congressional office. Mann Expert Report at 20. Following the 1996 election, the FEC began a series of investigations over the parties' 1996 election practices. Statement of Reasons of Commissioner Scott E. Thomas for MURs 4553 and 4671, 4713, 4407 and 4544 at 2-5 [DEV 51]. In 2000, the FEC deadlocked over whether there was reason to believe that the national parties advertising program constituted an excessive in-kind contribution to the presidential campaigns. *Id.* at 5.

The Senate and House also conducted extensive investigations into the 1996 federal elections. Both the majority and minority reports in the Senate investigation concluded that permitting nonfederal donations to political parties eviscerated FECA's longstanding ability to prevent corporate and labor union treasury funds from influencing federal elections. Investigation of Illegal or Improper Activities in Connection with 1996 Federal Election Campaigns, S. Rep. No. 105-167 (6 vols.), Mar. 10, 1998, ("Thompson Committee Report"); *id.* at 4468 (majority report) ("[S]oft money spending by political party committees eviscerates the ability of the FECA to limit the funds contributed by individuals, corporations, or unions for the defeat or benefit of specific candidates."); *id.* at 4572 (minority report) ("The soft money loophole undermines the campaign finance laws by

REV_00165372

enabling wealthy private interests to channel enormous amounts of money into political campaigns."). In the House, the Committee on Government Reform and Oversight conducted a wide ranging investigation, which culminated in public hearings during 1997, into, *inter alia*, campaign fundraising by political parties from foreign sources. *See* Campaign Finance Investigation: Hearings Before the House Committee on Government Reform and Oversight, 105th Cong. 6 (October 8, 1997) (statement of Chairman Dan Burton) ("This Committee's hearings will cover many subjects . . . . Our initial focus has been how political parties took or raised contributions from foreign sources. I am gravely concerned about foreign governments, foreign companies or foreign nationals trying to influence our electoral processes."); Conduit Payments to the Democratic National Committee: Hearings Before the House Committee on Government Reform and Oversight, 105th Cong. 6 (October 9, 1997) (statement of Chairman Dan Burton) ("Today, marks the first day of hearings into illegal foreign fundraising and other violations of law during recent campaigns.").

Nevertheless, without any congressional action, nonfederal funds emerged as a significant source of party resources. With these strategies firmly in place, the national parties spent $221 million of nonfederal money on the 1998 midterm elections, or 34% of their total spending, which was more than double the amount of nonfederal funds spent during the previous midterm election. Mann Expert Report at 23. With the 2000 elections, the national parties spent $498 million worth of nonfederal funds, which was 42% of their total spending. *Id.* at 24.

REV_00165373

The use of nonfederal funds by the political parties was paralleled to some degree by a similar development in the rise of issue advocacy by corporations and labor unions. Aside from the political parties making advertisements that supported their candidates or attacked the opponent without using words of direct "express advocacy," unions and corporations began to mount "issue advocacy" campaigns, particularly beginning with the 1996 election, that were paid directly from their general treasuries. For example, in 1996 the AFL-CIO ran the following advertisement from September 26 to October 9 in the district of House Republican incumbent Steve Stockman:

> [Narrator] What's important to America's families? [Middle-aged man] "My pension is very important because it will provide a significant amount of my income when I retire." [Narrator] *And where do the candidates stand*? Congressman Steve Stockman voted to make it easier for corporations to raid employee pension funds. Nick Lampson opposes that plan. He supports new safeguards to protect employee pension funds. When it comes to your pension, there is a difference. Call and find out.

AFL-CIO 000593; [DEV 124] (emphasis added); *see also* AFL-CIO 000602.

Advertisements such as the above illustration were permitted by the Supreme Court's ruling in *FEC v. Massachusetts Citizens for Life, Inc.* In that case, the Supreme Court found that the prohibition on corporate and union treasury spending on expenditures found in 2 U.S.C. § 441(b) needed to be narrowly construed to only apply to express advocacy. *FEC v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238, 249 (1986) ("*MCFL*") ("We therefore hold that an expenditure must constitute 'express advocacy' in order to be subject to the prohibition of § 441b."). As a result, corporations and labor unions were free to use general

REV_00165374

treasury funds to finance issue advocacy campaigns. It does not appear that prior to 1996, the practice of using issue advertising to influence federal elections was a widespread practice.

In addition, the issue advocacy campaigns by corporations and labor unions were free from the disclosure provisions upheld in *Buckley* because they were considered outside of FECA's regulatory purview. This lack of disclosure permitted various interest groups to conceal the true identity of the source behind the advertisement. Thus, following both the 1996 and 2000 elections, corporations and unions used their general treasury funds to run advertisements apparently aimed at influencing federal elections and avoiding FECA's longstanding disclosure provisions.

With regard to both political party spending of nonfederal funds and political party, corporate, and labor union issue advocacy, there does not appear to be any dispute among the litigants to the fact that much of this behavior was not regulated or was permitted by the FEC. Rather, the dispute between the parties centers around the effect of engaging in these tactics, whether the measures needed addressing, and how Congress ultimately remedied what it perceived to be a problem. It is the congressional response to which the Court now turns.

B. *The Bipartisan Campaign Reform Act of 2002*

In response to what it perceived were burgeoning problems with federal campaign finance laws, Congress began to consider reform legislation over six years ago, during the

REV_00165375

105th Congress.[16] The overhaul of our Nation's existing campaign finance laws – culminating with the enactment of BCRA – would consume the attention of three separate Congresses[17] and require navigation through atypical parliamentary procedures.

During the 105th Congress, the House of Representatives considered House Bill 2183, the Bipartisan Campaign Integrity Act of 1997, offered by Representative Asa Hutchinson. The bill was first considered on May 22, 1998.[18] 144 Cong. Rec. H3774 (daily ed. May 22, 1998). On August 3, 1998, during consideration of Representative Hutchinson's bill on the House floor, the Committee of the Whole[19] adopted an amendment in the nature of a

---

[16] *See* Bipartisan Campaign Finance Reform Act of 1998, H.R. 2183, 105th Cong. (1998), *available at* http://thomas.loc.gov.

[17] *See id.*; Bipartisan Campaign Reform Act of 1999, H.R. 417, 106th (1999); Bipartisan Campaign Finance Reform Act of 2002, H.R. 2356, 116 Stat. 81 (2002).

[18] According to *Congressional Quarterly* reporter David Mark, the House Leadership only allowed floor consideration of House Bill 2183 after it appeared that supporters of the bill had nearly secured the requisite 218 signatures on a discharge petition to automatically bring the bill to the floor, which did not require the consent of the leadership. *See* David Mark, *Campaign Finance Discharge Petition Off to Fast Start*, Congressional Quarterly Daily Monitor (July 31, 2001).

[19] When considering most major legislation, the House of Representatives typically adopts a rule, in the form of a House Resolution, that governs, and generally limits, debate on the underlining bill. In order to expedite consideration of the underlining bill, the rule suspends the proceedings of the House of Representatives, and the body operates as one large committee, the Committee of the Whole House on the State of the Union ("Committee of the Whole"). Walter J. Oleszek, *Congressional Procedures and the Policy Process* 151-53 (5th ed., CQ Press 2001). This parliamentary mechanism enables the House to act with a quorum less than the requisite 218 members; only 100 members are needed to constitute a quorum in the Committee of the Whole. *Id.* at 152. (There are numerous other technical distinctions between the Committee of the Whole and the House of Representatives that enable (continued...)

REV_00165376

substitute offered by Representatives Christopher Shays and Martin Meehan.[20] 144 Cong. Rec. H6947 (daily ed. Aug. 3, 1998). Finally, on August 6, 1998, the House passed House Bill 2183, as amended (the Bipartisan Campaign Reform Act of 1998), by a vote of 252-179. 144 Cong. Rec. H7330 (daily ed. Aug. 6, 1998). The bill was referred to the Senate on September 9, 1998, 144 Cong. Rec. S10,114 (daily ed. Sept. 9, 1998), but was not considered prior to adjournment, *sine die*, on October 21, 1998. As a result, the Bipartisan Campaign Reform Act of 1998 died in the Senate during the 105th Congress.

On January 19, 1999, during the 106th Congress, Representative Shays introduced House Bill 417, the Bipartisan Campaign Reform Act of 1999, which attracted the support of 96 original cosponsors. *See* H.R. 417, 106th Cong. (1999). Upon introduction, the bill was referred to the Committee on House Administration, where it received an unfavorable report. H.R. Rept. 106-297, pt. 1, at 17 (1999). Nonetheless, the proponents of campaign finance reform secured floor consideration through the threat of a discharge petition. *See* David Mark, *Campaign Finance Discharge Petition Off to Fast Start*, Congressional Quarterly Daily Monitor (July 31, 2001). When the Bipartisan Campaign Reform Act of

---

[19](...continued)
expeditious consideration of legislation). *Id.* at 152-53. After the Committee of the Whole considers the underlining legislation, generally, the rule governing debate automatically dissolves the Committee of the Whole, and the House of Representatives reconvenes to vote on the underlining bill for final passage.

[20] Beyond making numerous substantive changes to the underling bill, the Shays-Meehan substitute amendment changed the title of the bill from the "Bipartisan Campaign Integrity Act of 1997," 144 Cong. Rec. H3774 (daily ed. May 22, 1998), to the "Bipartisan Campaign Reform Act of 1998," 144 Cong. Rec. H4790-96 (daily ed. June 18, 1998).

REV_00165377

1999 reached the floor for a vote, it passed comfortably, by a vote of 252-177. 145 Cong. Rec. H8286 (daily ed. Sept. 14, 1999). On September 16, 1999, the Senate received House Bill 417, and on September 29, the Senate referred it to the Senate Committee on Rules and Administration, 145 Cong. Rec. S11,638 (daily ed. Sept. 29, 1999), where it would remain for the balance of the 106th Congress. The Senate responded to the House's action by considering Senate Bill 1593, also titled the Bipartisan Campaign Reform Act of 1999, which was introduced on September 16, 1999, by Senators McCain and Feingold, shortly after House Bill 417 secured passage. S. 1593; *see also* 145 Cong. Rec. H8286 (daily ed. Sept. 14, 1999). The Senate, however, failed to invoke cloture,[21] thereby failing to limit debate on two separate amendments to Senate Bill 1593, and the bill floundered. 145 Cong. Rec. S12,800 (daily ed. Oct. 19, 1999); *id.* at S12,803. As a result, for the second time in as many years, the campaign finance reform bill died in the Senate.

Circumstances changed during the 107th Congress; this time it was the Senate that

---

[21] While debate on the Senate floor does not always lead to an all-out filibuster, on controversial legislation, the Senate typically invokes cloture to end the threat of unlimited debate or simply to gauge support for the underlining bill. *See* Walter J. Oleszek, *Congressional Procedures and the Policy Process* 231-34 (5th ed., CQ Press 2001). Under Rule XXII of the Standing Rules of the Senate, if "three-fifths of the Senators duly chosen and sworn" (60 Senators if the Senate is at its full membership) vote in the affirmative on a motion for cloture, further debate on the question shall be limited to no more than one hour for each Senator, and the time for consideration of the matter shall be limited to 30 additional hours, unless increased by another three-fifths vote. *See* Standing Rules of the Senate, Rule XXII, *available at* http://rules.senate.gov/senaterules/rule22.htm.

REV_00165378

acted first and passed campaign finance reform legislation, Senate Bill 27,[22] by a vote of 59-41. 147 Cong. Rec. S3258 (daily ed. Apr. 2, 2001). The bill was then transferred to the House of Representatives.

Representatives Shays and Meehan had already introduced House Bill 380, the Bipartisan Campaign Reform Act of 2001, when the Senate secured passage of Senate Bill 27. *See* H.R. 380, 106th Cong. (1999). On June 28, 2001, in an effort to make their legislation conform with the Senate-passed bill,[23] Representatives Shays and Meehan introduced new legislation, House Bill 2356, also titled the Bipartisan Campaign Reform Act of 2001. The House Leadership, which, through the Speaker of the House, controls access to the House floor,[24] agreed to consider House Bill 2356. However, in a last minute effort

---

[22] Bipartisan Campaign Reform Act of 2001, S. 27, 107th Cong. (2001).

[23] Faced with the fact that Senate Bill 27 was unlikely to garner the support of a majority of the House, and given the fact that House Bill 380 differed from Senate Bill 27, Representatives Shays and Meehan met with members of the Senate to work out a compromise bill. The agreement they reached was reflected in House Bill 2356. *See* David Mark & John Cochran, *House Panel to Mark Up Dueling Campaign Finance Bills*, Congressional Quarterly Daily Monitor (June 27, 2001) ("The revisions are designed to encourage the Democratic-controlled Senate to accept a House-passed bill, thus avoiding the need for a conference committee. 'We're trying to pre-conference with supporters of the bill, rather than going to conference with opponents,' Shays said.").

[24] The Speaker of the House picks the 9 majority-party members that serve on the powerful House Committee on Rules – the gateway to the House floor. The Rules Committee writes the rules that govern debate and determines which amendments will be considered. The committee currently consists of 13 members, 9 majority-party members chosen by the Speaker of the House and 4 minority-party members chosen by the House Minority Leader. *See* Walter J. Olsezek, *Congressional Procedures and the Policy Process* 119 (5th ed., CQ Press 2001).

REV_00165379

to tweak the legislation, Representatives Shays and Meehan proposed several amendments. John Cochran, *Not Victory but Vitriol for Campaign Finance Bill*, Congressional Quarterly Weekly (July 13, 2001). The package of amendments offered by Shays and Meehan reflected the need for additional changes to ensure that House Bill 2356, if passed by the House, would be considered without amendment by the Senate, thereby eliminating the need for a conference committee.[25] *See id.* In addition, Shays and Meehan requested that the Rules Committee write a rule for consideration and debate on the House floor that would treat this package as a single amendment, which could be considered in one vote. *Id.* The Rules Committee refused, drafting a resolution for consideration and debate that would treat each change, fourteen in total, as separate amendments. *Id.*; *see also* H.R. Res. 188, 107th Cong. (2001). Shays, Meehan, and their supporters opposed the rule, claiming that the House Leadership used "technicalities" to defeat the bill, and called upon their colleagues to reject the rule. 147 Cong. Rec. H3984 (daily ed. July 12, 2001) (statement of Rep. Meehan). The

---

[25] Members of a conference committee are formally appointed by the Speaker of House and the presiding officer of the Senate. Walter J. Oleszek, *Congressional Procedures and the Policy Process* 252-54 (5th ed., CQ Press 2001). In the House, after initial appointment, the Speaker retains the authority to add and remove members. *Id.* at 254. Although the House rules provide that the Speaker shall "appoint no less than a majority [of conferees] who generally supported the House position [on the legislation] as determined by the Speaker," Rules of the House of Representatives, 108th Cong. (2003) *available at* http://www.house.gov/rules/house_rules.htm, in practice, the Speaker is vested with significant discretion to ensure that the House delegates are amicable to the leadership's position. *See* Walter J. Oleszek, *Congressional Procedures and the Policy Process* 252-54 (5th ed., CQ Press 2001).

REV_00165380

House voted and the rule failed.[26] In the aftermath, however, the bill's proponents and the House Leadership were unable to come to an agreement over a compromise rule for the consideration and debate of House Bill 2356, John Cochran, *Not Victory but Vitriol for Campaign Finance Bill*, Congressional Quarterly Weekly (July 13, 2001), and the bill was pulled from the House Floor.

On July 30, 2001, Representative Jim Turner filed a discharge petition to bring House Bill 2356 to the floor for consideration. H.R. Discharge Pet. No. 3, *available at* http://clerkweb.house.gov/107/lrc/pd/Petitions/Dis3.htm. As congressional procedure scholar Walter J. Oleszek noted:

> [t]he discharge procedure, adopted in 1910, provides that if a bill has been before a standing committee for thirty legislative . . . days, any member can introduce a motion to relieve the panel of the measure. . . . If the requisite number of members (218) sign the petition, this procedure permits a majority of the House to bring a bill to the floor even if it is opposed by the committee that has jurisdiction over the measure, the majority leadership, and the Rules Committee.

Walter J. Oleszek, *Congressional Procedures and the Policy Process* 138 (5th ed., CQ Press 2001). While the discharge petition permits a majority of the House to circumvent a stacked committee or the House Leadership, it has not been a highly effective tool for passing legislation, let alone securing its enactment into law. As Walter Oleszek went on to observe:

> Few measures are discharged from committee. From 1931 through 1994

---

[26] This marked the first occasion in which Speaker J. Dennis Hastert lost a vote on a rule during his first two years as Speaker of the House. Karen Foerstel, *A Bitter Day for the GOP*, Congressional Quarterly Weekly (July 13, 2001).

REV_00165381

> (approximately the period during which the modern version of the rule has been in effect), more than five hundred discharge petitions were filed, but only forty-six attracted the required signatures and only nineteen bills were discharged and passed by the House. Of those, only two became law: the Fair Labor Standards Act of 1938 and the Federal Pay Raise Act of 1960.

Id. at 139. Despite this history of failure, on January 24, 2002, Representative Turner's petition attracted 218 signatures, the requisite number to achieve discharge. *See* H.R. Discharge Pet. No. 3. Consequently, the bill was sent to the floor and scheduled for debate. *See* H.R. Res. 203, 107th Cong. (2001); H.R. Res. 344, 107th Cong. (2002); 148 Cong. Rec. H266 (daily ed. Feb. 12, 2002). On February 13, 2002, the House began to consider House Bill 2356. During consideration, the House rejected three substitute amendments – one offered by House Majority Leader Dick Armey[27] and two offered by House Administration Committee Chairman Robert Ney[28] – before agreeing to Representative Shays' substitute amendment by a vote of 240-191, 148 Cong. Rec. H411 (daily ed. Feb. 13, 2002). Like the earlier amendment package, the Shays Substitute was designed to avoid a conference committee, where opponents would have another opportunity to scuttle the bill,[29] by making

---

[27] The Armey Substitute, Amendment 415, failed by a vote of 179-249. 148 Cong. Rec. H376-77 (daily ed. Feb. 13, 2002).

[28] The first Ney Substitute, Amendment 416, failed by a vote of 53-377. 148 Cong. Rec. H392 (daily ed. Feb. 13, 2002). The second Ney Substitute, Amendment 430, failed by a vote of 181-248. *Id.* at H464-65.

[29] The process of going to conference creates three additional hurdles to the enactment of legislation. First, the conferees must come to an agreement, and in addition, the Conference Report must pass both the House and the Senate. Moreover, the House and Senate Leadership appoint members to the conference committee and enjoy considerable (continued...)

REV_00165382

changes likely to garner the support of a majority of the Senate without forcing them to alter the text of the House-passed bill. *See* 148 Congr. Rec. H402 (daily ed. Feb. 13, 2002) (statement of Rep. Shays) (observing that the Shays substitute amendment was drafted after having "met with Senators from both sides of the aisle to learn what was needed in that bill in order to pass [BCRA]").[30] After considering a series of amendments to the newly amended, underlining bill (House Bill 2356), the House passed BCRA by a vote of 240-189. 148 Cong. Rec. H465-66 (daily ed. Feb. 13, 2002). On March 20, 2002, the Senate followed suit, passing BCRA by a vote of 60-40. 148 Cong. Rec. S2160-61 (daily ed. Mar. 20, 2002).

On March 27, 2002, President George W. Bush signed BCRA into law; the first major overhaul of the Federal Election Campaign Act since the 1974 Amendments and their revision following *Buckley*. Broadly speaking, Title I attempts to regulate political party use of nonfederal funds, while Title II seeks to prohibit labor union and corporate treasury funds from being used to run issue advertisements that have an ostensible federal electioneering purpose.

C. *Procedural History of the Litigation of this Case*

On the morning of March 27, 2002, President Bush signed BCRA into law. Within

---

[29](...continued)
discretion over its composition. *See* Walter J. Oleszek *Congressional Procedures and the Policy Process* 252-54 (5th ed., CQ Press 2001); *see also supra* note 25.

[30] The Shays Substitute, Amendment 417, also amended the title of the bill to its present form: the "Bipartisan Campaign Reform Act (BCRA) of 2002." 148 Cong. Rec. H393 (daily ed. Feb. 13, 2002).

REV_00165383

hours, Senator McConnell and the National Rifle Association ("NRA") filed complaints challenging the constitutionality of various provisions in BCRA. On April 16, 2003, pursuant to Congress's directive, BCRA § 403(a)(1),[31] those cases were assigned to a district court of three judges consisting of District Court Judge Colleen Kollar-Kotelly, District Court Judge Richard J. Leon, and Circuit Court Judge Karen LeCraft Henderson. A week later, on April 23, 2002, the three-judge court held a status conference, in which it heard the parties' proposals on consolidation, intervention, discovery, and the filing of motions.

The primary issue confronting the Court at the status conference was the scope of discovery required to develop a satisfactory factual record. The defendants, in their pleading, argued that "wide-raging discovery" was necessary "even in the context of a facial challenge, . . . [in order to] look to the record of the case for evidence substantiating the governmental interests asserted in support of legislation said to violate the First Amendment." Def.'s Report in Response to the Court's Order of April 16, 2002, at 9 (quoting *Turner Broadcasting Sys. v. FCC*, 512 U.S. 622, 664-68 (1994); *Colorado Republican Fed. Campaign Comm. v. FEC ("Colorado I"),* 518 U.S. 604, 618-19 (1996) (plurality opinion)).[32] Mindful that the Supreme Court remanded a First Amendment case to a three-

---

[31] BCRA § 403(a)(1) states: "The action shall be filed in the United States District Court for the District of Columbia and shall be heard by a 3-judge court convened pursuant to section 2284 of title 28, United States Code."

[32] The plaintiffs did not disagree that some discovery was necessary:

JUDGE KOLLAR-KOTELLY: So, as I understand it, then, everybody wants to do depositions, everybody wants to do some exchange of expert reports, and everybody

(continued...)

REV_00165384

judge district court in *Turner Broadcasting* to "permit the parties to develop a more thorough factual record," 512 U.S. at 668,[33] this Court agreed with the defendants that extensive discovery was necessary[34] to review the evidentiary grounds for BCRA, and in part, to avoid the "disaster" of remand. Status Conference Tr., April 23, 2002, at 51 (statement of James

---

[32](...continued)
wants to have some sort of lay statement, affidavits or statements. Is that accurate? . . . If somebody disagrees with that, let me know.
MR. ABRAMS: That's entirely accurate from our point of view, Your Honor.
Status Conference Tr., April 23, 2002, at 13; see also Status Report and Proposed Schedule of Plaintiffs Senator Mitch McConnell et al., April 22, 2002 (stating that their proposed schedule "is designed to ensure that a full record is compiled for submission to this Court, and ultimately to the United States Supreme Court").

[33] At issue in *Turner* was a constitutional challenge to the "must-carry" provisions that required carriage of local broadcast stations on cable systems. The Supreme Court remanded the case to the three-judge district court, explaining that in order to assure that Congress drew "reasonable inferences based on substantial evidence" that a harm truly existed, the Court needed "substantial elaboration in the District Court of the predictive or historical evidence upon which Congress relied, *or the introduction of some additional evidence." Id.* at 667 (emphasis added). Because of the "paucity of evidence" and "lacking" of findings on the effect of the regulations, the Court could also not undertake the narrow tailoring step: "unless we know the extent to which the must-carry provisions in fact interfere with protected speech, we cannot say whether they suppress 'substantially more speech . . . than necessary' to ensure the viability of broadcast television." *Id.* at 667-68. What followed was "another 18 months of factual development on remand" to the three-judge panel, *Turner Broadcasting Sys., Inc. v. FCC*, 520 U.S. 180, 187 (1997) (citation and internal quotations omitted), and, here, the defendants in this case warned that "[t]he factual inquiry . . . could be on a scale similar to that of *Turner*," Status Conference Tr., April 23, 2002, at 48 (statement of James Gilligan).

[34] This Court recognizes that "we've got to have an adequate factual record." Status Conference Tr., April 23, 2002, at 10 (statement of Judge Henderson).

REV_00165385

Gilligan).[35] Notwithstanding Congress's directive "to expedite to the greatest possible extent the disposition of the action and appeal," BCRA § 403(a)(4), it was also clear from the legislative record that Congress did not want this Court to "compromise informed and deliberate judicial decisionmaking in the process." *See* Def.'s Report in Response to the Court's Order of April 16, 2002, at 8. Indeed, Senator Feingold, one of the principal Senate sponsors, explained during the Senate debate:

> Finally, and most importantly, although [Section 403(a)(4)] provides for the expedition of these cases to the greatest possible extent, we do not intend to suggest that the courts should not take the time necessary to develop the factual record . . . This case will be one of the most important that the Court has heard in decades, with ramifications for the future of our political system for years to come. By expediting the case, we in no way want to rush the Court into making its decision without the benefit of a full and adequate record.

147 Cong. Rec. S3189 (March 30, 2001) (statement of Sen. Feingold); *see also id.* at S3189-

---

[35] In *Colorado I*, the Supreme Court remanded the issue of whether coordinated party expenditures are constitutional, *Colorado I,* 518 U.S. at 623-26; *see also* 2 U.S.C. § 441a(d)(3), and the Tenth Circuit subsequently passed the case on to the district court, stating that

> [T]he issues are too important to be resolved in haste. It seems inevitable that not only this court but the Supreme Court itself will have to address these issues. We will both benefit by the parties fleshing out the record with any evidence they and the district court deem relevant to the issues' resolution.

FEC v. Colorado Republican Fed. Campaign Comm., 96 F.3d 471, 473 (1996). The district court then allowed the parties to conduct discovery for eleven and a half months, significantly longer than our total discovery schedule for many issues of similar complexity. Status Conference Tr., April 23, 2002, at 63 (statement of James Gilligan); *cf. FEC v. Colorado Republican Fed. Campaign Comm.*, 41 F. Supp.2d 1197 (D.Co. 1999); *see also* 213 F.3d. 1221, 1225 (10th Cir. 2000) (stating that the parties "compiled an extensive record").

REV_00165386

90 (statement of Sen. Dodd) (supporting the expedition provision, but stating "I do not want to suggest that the Court should not take adequate time to review any such challenge").[36]

Accordingly, the next day, the Court issued a unanimous order outlining a discovery and briefing schedule, which allowed for over five months of discovery and almost an additional month for cross-examination of fact and expert witnesses; set May 7, 2002, as a deadline by which all other actions would be filed; and decided that briefing was to take place between November 4 and November 25, 2002. In a highly unusual accommodation to Congress's request for expedition, the Court set oral arguments to begin on December 4, 2002, just over a week after the parties submitted their final briefs. *See* Scheduling Order of April 24, 2002. By May 10, 2002, 101 parties were involved in the consolidated action, with the eighty-four plaintiffs challenging twenty-three provisions of BCRA.[37] After the

---

[36] Judge Henderson maintains that the *Buckley* case was handled with much greater efficiency than the three-judge panel here. Henderson Op. at 6 n.1. In *Buckley v. Valeo*, the lawsuit was filed on January 2, 1975, but a decision was not issued by the D.C. Circuit until seven and a half months later on August 15, 1975. *Buckley*, 519 F.2d at 821, 901. While this case required thirteen months from filing to disposition, the parties also undertook six months of discovery–at least four months of discovery and fact-finding more than that undertaken in *Buckley*. *Id.* at 902-03. That four months of discovery alone accounts for most of the discrepancy in the two expedited, yet complicated, campaign finance cases. Moreover, given the vast record developed through the six months of discovery in this case, it is not surprising that this Court required a few more months than the *Buckley* court to arrive at a decision after the arguments–for only careful consideration of the record before us could reduce the risk of committing clear error in our findings. *See Easley v. Cromartie*, 532 U.S. 234, 242 (2001).

[37] On May 10, 2002, the Court consolidated all cases that were not consolidated on April 24, 2002, *see* Order, May 10, 2002; Order Consolidating Cases, April 24, 2002, and also permitted Senator John McCain, Senator Russell Feingold, Representative Christopher (continued...)

REV_00165387

Court dismissed seven plaintiffs from the suit without prejudice, *see infra* note 55, seventy-seven plaintiffs and seventeen defendants remained. *See id.* (listing all plaintiffs and defendants).

During the discovery process, the parties filed a total of twenty-three motions with the Court, including motions to compel responses to document requests, motions to compel responses to interrogatories, and motions for protective orders. At a hearing on July 25, 2002, the Court heard arguments as to many of the discovery disputes. Thereafter, the Court resolved the disputes with memorandum opinions. *See, e.g.,* Order Denying Federal Election Commission's Motion for Entry of Protective Orders, August 12, 2002; Order Denying in Part and Granting in Part Plaintiffs' Motions to Compel Interrogatory Responses, August 15, 2002; Order Denying Adams Plaintiffs' Motion to Compel Intervenors to Respond to Interrogatories and Produce Documents, September 10, 2002.

On October 7, 2002, the Court ordered the parties to meet and confer and to deliver a proposed format on the briefing and proposed findings of fact. *See* Order, October 7, 2002. In their joint response, the plaintiffs (absent the Adams and Thompson plaintiffs) requested 751 pages, the Adams Plaintiffs requested 115 pages, and the defendants requested 750 pages. *See* Joint Submission in Response to the Court's Order of October 7, 2002. The

---

[37](...continued)
Shays, Representative Martin Meehan, Senator Olympia Snowe, and Senator James Jeffords to intervene as defendants supporting the constitutionality of BCRA, *see* Order, May 10, 2002.

REV_00165388

Court ordered that the plaintiffs, including the Adams and Paul plaintiffs, submit three rounds of briefs not to exceed 840 pages and that the defendants' briefs submit three rounds of briefs (*i.e.*, opening, opposition, and reply) not to exceed 820 pages.[38] The Court also directed the plaintiffs collectively, and the defendants collectively, to each submit proposed findings of fact of no more than 300 pages. Briefing Order, October 15, 2002; Order, October 19, 2002.

On November 25, 2002, a little over a week before oral arguments were scheduled to begin, the parties filed their last round of briefs, bringing the total briefing to 1,676 pages (not including *amicus curiae* briefs). A day later, the parties submitted 576 pages of proposed findings of fact. The evidentiary submissions themselves included forty-one boxes (plus thirteen additional binders), which, by a conservative estimation, comprised the testimony and declarations of over 200 fact and expert witnesses and over 100,000 pages[39] of material.[40] With the record and pleadings before it, the Court commenced oral arguments

---

[38] Each side was originally given an aggregate of 820 pages, however, the Court, in an Order dated October 29, 2002, granted the Adams and Thompson Plaintiffs the ability to file their own independent briefing which increased the aggregate page amount for Plaintiffs.

[39] *See* Joint Submission in Response to the Court's Order of October 7, 2002.

[40] The record in this case was described by one advocate during the oral argument as "elephantine." Oral Argument Tr. at 152 (statement of Floyd Abrams); *see also id.* at 279-80. We agree. Both sides should be commended for their extraordinary efforts in gathering and organizing the evidence in such a short period of time. We agree with Seth Waxman, attorney for the Intervenor-Defendants, who urged us to carefully review the record before us:

> I think it's very, very important for the court to look carefully at the record. . . . We

(continued...)

REV_00165389

on December 4, 2002. The Court heard six hours of arguments that day, and three hours of oral arguments the following day, from a total of twenty-four attorneys.[41]

D. *Description of the Specific Provisions in BCRA At Issue in These Lawsuits*

The Court briefly next sets forth the provision of the law that are at issue in the litigation.

1. Title I: Reduction of Special Interest Influence

a. The National Party Soft Money Ban: Section 323(a)

The first provision of Title I involves the addition of a new section to FECA, section 323, entitled "Soft Money Of Political Parties." Section 323(a) states that national party committees (including national congressional campaign committees) "may not solicit, receive, or direct to another person a contribution, donation, or transfer of funds or any other thing of value, or spend any funds, that are not subject to the limitations, prohibitions, and

---

[40](...continued)
have worked, all of us on both sides of this case have worked harder than I ever believed I could be made to work in order to give you this record. . . . I think the ads itself and the reports and affidavits that have been submitted I think are very, very important. I know everybody feels that way.
Id. at 279-80 (statement of Seth Waxman).

[41] We disagree with Judge Henderson's statement that "there was a consensus [at the hearing] that the [Supreme] Court had to receive the case no later than early February." Henderson Op. at 6 n.1. A fair reading of former Solicitor General Waxman's colloquy with Judge Henderson, prompted by her questions, in our judgment, would be that the Supreme Court has the ability to adjust the briefing and oral argument schedule, and has done so in the past, to hear cases exactly such as this one. In short, neither former Solicitor General stated his conclusion in categorical terms, and neither provided an estimate of how long after a hearing the Supreme Court would need to issue its opinion. *See generally* Tr. at 18-20; 277-280.

REV_00165390

reporting requirements of this Act." BCRA §101(a); FECA § 323(a)(1); 2 U.S.C. § 441i(a)(1). The law applies to "any . . . national committee, any officer or agent acting on behalf of such a national committee, and any entity that is directly or indirectly established, financed, maintained, or controlled by such a national committee." BCRA §101(a); FECA § 323(a)(2); 2 U.S.C. § 441i(a)(2). The clear import of this provision is that national party committees are banned from any involvement with nonfederal money.

b. The State and Local Party Soft Money Ban: Section 323(b)

In summary terms, Section 323(b) provides, that subject to certain exceptions, a State, district, or local committee of a political party may not use nonfederal funds to pay for "Federal election activity." BCRA §101(a); FECA § 323(b); 2 U.S.C. § 441i(b).

In general, section 323(b)(1) prohibits state and local political parties from spending any money not raised in accordance with FECA on "Federal election activity." BCRA §101(a); FECA § 323(b)(1); 2 U.S.C. § 441i(b)(1). Federal election activity is defined by the Act as:

> (i) voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election; (ii) voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot); (iii) a public communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified) and that promotes or supports a candidate for that office, or attacks or opposes a candidate for that office

REV_00165391

> (regardless of whether the communication expressly advocates a vote for or against a candidate); or (iv) services provided during any month by an employee of a State, district, or local committee of a political party who spends more than 25 percent of that individual's compensated time during that month on activities in connection with a Federal election.

BCRA §101(b); FECA § 301(20)(A); 2 U.S.C. § 431(20)(A). Federal election activity does not include:

> (i) public communication that refers solely to a clearly identified state or local candidate (unless the communication otherwise qualifies as Federal election activity, for instance, as GOTV); (ii) a contribution to a state or local candidate (unless designated to pay for some other kind of Federal election activity); (iii) a state or local political convention; or (iv) grassroots campaign materials (stickers, buttons, etc.) that name only a state or local candidate.

BCRA §101(b); FECA § 301(20)(B); 2 U.S.C. § 431(20)(B).

1) *The Levin Amendment*

Section 323(b)(2)–commonly referred to as the "Levin Amendment"–carves out an exception to the general rule in section 323(b)(1). BCRA §101(a); FECA § 323(b)(2); 2 U.S.C. § 441i(b)(2). Section 323(b)(2) permits state and local parties to use an allocation of nonfederal money ("Levin money" or "Levin funds") for voter registration, voter identification, and GOTV activities provided that certain specified conditions are met. First, the permitted activities may not refer to a clearly identified federal candidate. Second, those activities may not involve any broadcast communication except one that refers solely to a clearly identified state or local candidate. Third, no single donor may donate more than

REV_00165392

$10,000 to a state or local party annually for those activities. Finally, all money (federal and Levin money alike) spent on such activities must be "homegrown"–i.e., raised solely by the spending state or local party–and may not be transferred from or raised in conjunction with any national party committee, federal officeholder or candidate, or other state or local party. *See* BCRA §101(a); FECA §§ 323(b)(2)(B), 323(b)(2)(C); 2 U.S.C. §§ 441i(b)(2)(B), 441i(b)(2)(C).

c. Fundraising Costs: Section 323(c)

Section 323(c) requires national, state, and local parties to use federally-regulated funds to raise any money that will be used on "federal election activities," as defined in the statute. BCRA §101(a); FECA § 323(c); 2 U.S.C. § 441i(c).

d. Tax Exempt Organization Soft Money Ban: Section 323(d)

Section 323(d) prohibits any political party committee–national, state, or local–or its agents from "solicit[ing]" funds for or "mak[ing] or direct[ing]" any donations to either: (i) any tax-exempt section 501 organization, *see* 26 U.S.C. § 501(c), that spends any money "in connection with an election for Federal office (including expenditures or disbursements for Federal election activity)"; or (ii) any section 527 organization, *see* 26 U.S.C. § 527, (other than a state or local party or the authorized campaign committee of a candidate for state or local office). BCRA §101(a); FECA §§ 323(d)(1), 323(d)(2); 2 U.S.C. §§ 441i(d)(1), 441i(d)(2). A section 501(c) organization is an organization that is tax exempt as described in that section of the tax code–a good example of which is a charity. A section 527

REV_00165393

organization is a political committee that is exempt from taxation. *See* 26 U.S.C. § 527(a) ("A political organization shall be subject to taxation under this subtitle only to the extent provided in this section. A political organization shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes."); *see also* 26 U.S.C. §§ 527(e)(1) and (2) (defining a "political organization" as an organization that is "organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for . . . the function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice- Presidential electors").

e. Federal Officeholder and Candidate Soft Money Ban: Section 323(e)

Section 323(e) generally prohibits federal officeholders and candidates from soliciting, receiving, directing, transferring, or spending any soft money[42] (i) in connection with a federal election or (ii) in connection with a state or local election. BCRA § 101(a); FECA § 323(e)(1); 2 U.S.C. § 441(e)(1). There are, however, several exceptions to the

[42] If the federal candidate or officeholder is soliciting, receiving, directing, transferring, or spending funds in connection with an election for federal office, the funds must "be subject to the limitations, prohibitions, and reporting requirements of this Act." 2 U.S.C. § 441(e)(1)(A). However, if the candidate is doing so in connection with a state or local election, then the funds must be "not in excess of the amounts permitted with respect to contributions to candidates and political committees" and "not from sources prohibited by the Act from making contributions in connection with an election for Federal office." 2 U.S.C. § 441(e)(1)(B).

REV_00165394

general prohibition in section 323(e). First, a federal officeholder or candidate may solicit money for state and local candidates from sources and in amounts that would be allowed by Federal law. BCRA § 101(a); FECA §§ 323(e)(1)(B)(i), 323(e)(1)(B)(ii); 2 U.S.C. §§ 441i(e)(1)(B)(i), 441i(e)(1)(B)(ii). Second, the federal officeholder or candidate ban on nonfederal funds does not apply to the solicitation, receipt, or spending of funds by an individual who is also a candidate for state or local office solely in connection with such election. BCRA § 101(a); FECA § 323(e)(2); 2 U.S.C. § 441i(e)(2). Third, a federal officeholder or candidate may attend or speak at a fundraising event for a state or local political party. BCRA § 101(a); FECA § 323(e)(3); 2 U.S.C. § 441i(e)(3). Fourth, a federal officeholder or candidate may solicit such funds on behalf of any tax-exempt section 501 organization that spends money in connection with federal elections in either of two instances: (i) he or she may solicit unlimited funds for a section 501 organization whose "principal purpose" is not voter registration, voter identification, or GOTV activity, so long as the solicitation does not specify how the funds will be spent; and (ii) he or she may solicit up to $20,000 per person per year specifically for voter registration, voter identification, or GOTV activity, or for an organization whose "principal purpose" is to conduct any or all of those activities. *See* BCRA § 101(a); FECA §§ 323(e)(4); 2 U.S.C. § 441i(e)(4).

f. State Candidate Soft Money Ban: Section 323(f)

Lastly, Section 323(f) generally prohibits state officeholders or candidates from spending soft money (that is, money not raised pursuant to FECA's regulations) on any

REV_00165395

public communication that "refers" to a clearly identified candidate for federal office and "promotes," "supports," "attacks," or "opposes" a candidate for that office. BCRA § 101(a); FECA § 323(f); 2 U.S.C. § 441i(f).

2. **Title II: Noncandidate Campaign Expenditures**

a. Definition of Electioneering Communication: Section 201

Section 201[43] of BCRA amends section 304 of FECA by adding the following definition of an "electioneering communication":

> (i) The term "electioneering communication" means any broadcast, cable, or satellite communication which–
>
> (I) refers to a clearly identified candidate for Federal office;
>
> (II) is made within–
>
> (aa) 60 days before a general, special, or runoff election for the office sought by the candidate; or
>
> (bb) 30 days before a primary or preference election, or a convention or caucus of a political party that has authority to nominate a candidate, for the office sought by the candidate; and
>
> (III) in the case of a communication which refers to a candidate for an office other than President or Vice President, is targeted to the relevant electorate.

BCRA § 201(a); FECA § 304(f)(3)(A); 2 U.S.C. § 434(f)(3)(A).[44] Under this definition, in order to constitute an electioneering communication, therefore, the communication (a) must be disseminated by cable, broadcast, or satellite, (b) must refer to a clearly identified Federal

[43] Section 201 also contains disclosure provisions which are discussed *infra*.

[44] The regulations implementing this definition clarify that the operative event for making an electioneering communication is the "dissemination of the communication, rather than the disbursement of funds related to creating a communication." Electioneering Communications, 67 Fed. Reg. 65190, 65191 (Oct. 23, 2002).

REV_00165396

candidate, (c) must be distributed within certain time periods before an election, and (d) must be targeted to the relevant electorate. *Id.* The fact that the communication must be "targeted to the relevant electorate," means that, in the case of House and Senate races, the communication will not constitute an "electioneering communication" unless 50,000 or more individuals in the relevant congressional district or state that the candidate for the House or Senate are seeking to represent can receive the communication. BCRA § 201; FECA § 304(f)(3)(C); 2 U.S.C. § 434(f)(3)(C). For example, if a broadcast advertisement refers to a federal House candidate within 60 days of the general election, but can only be received by 30,000 individuals, it is not an electioneering communication and permissibly could be made with funds from the general treasury of a corporation or labor union.

In the event that a court of competent jurisdiction finds the definition of electioneering communication to be constitutionally infirm, the statute provides a backup definition:

> (ii) If clause (i) is held to be constitutionally insufficient by final judicial decision to support the regulation provided herein, then the term "electioneering communication" means any broadcast, cable, or satellite communication which promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate) and which also is suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate.

BCRA § 201(a); FECA § 304(f)(3)(A)(ii); 2 U.S.C. § 434(f)(3)(A)(ii). With the exception of the final clause, the fallback definition essentially tracks the language found in section 301(20)(A)(iii) of FECA which addresses one of the four activities which fall within the definition of the term Federal Election Activity. BCRA § 101(b); FECA § 301(20)(A)(iii);

REV_00165397

2 U.S.C. § 431 (20)(A)(iii).

b. Prohibition of Corporate and Labor Union General Treasury Fund Disbursements for Electioneering Communications: Section 203 Rules Relating to Certain Targeted Electioneering Communications: Section 204

Section 203 of BCRA extends the prohibition on corporate and labor union general treasury funds being used in connection with a federal election to cover electioneering communications. BCRA § 203; FECA § 316(b)(2); 2 U.S.C. § 441b(b)(2) ("[T]he term 'contribution or expenditure' includes a contribution or expenditure, as those terms are defined in [FECA], and also includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value . . . to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section *or for any applicable electioneering communication.*") (emphasis added). The prohibition on electioneering communications only applies to the general treasury funds of national banks, corporations, and labor unions, or any other person using funds donated by these entities.

Like the original prohibition in section 441b, Section 203 of BCRA, is not an absolute ban on corporate and labor union spending on "electioneering communication." FECA expressly permits corporations and labor unions to create "separate segregated fund[s] to be utilized for political purposes." 2 U.S.C. § 441b(b)(2)(C). These segregated funds are known as political committees under the Act (or PACs). 2 U.S.C. § 431(4)(B) (A political committee is "any separate segregated fund established under the provisions of section

REV_00165398

441b(b) of this title."). These segregated accounts are subject to the source and amount limitations contained in FECA. *See, e.g.*, 2 U.S.C. § 441a(a)(1)(C) (providing that no person shall make contributions "to any other political committee in any calendar year which, in the aggregate, exceed $5,000"). To fund the segregated account, a corporation is permitted to solicit contributions from "its stockholders and their families and its executive or administrative personnel and their families." 2 U.S.C. § 441b(b)(4)(A)(i).[45] Likewise, in establishing their segregated funds, labor unions are allowed to solicit contributions to the fund from their members and their families. 2 U.S.C. § 441b(b)(4)(A)(ii). From these accounts, corporations and labor unions are permitted to make contributions to federal candidates and spend unlimited amounts of segregated funds on electioneering communications and independent expenditures, provided that federal funds are used to pay for these activities.

Snowe-Jeffords Provision

BCRA Section 203 provides an exception to certain types of nonprofit corporations from the requirement that corporations, labor unions, and national banks must use separately segregated funds[46] — and not general treasury funds — to pay for electioneering

[45] For membership organizations, cooperatives, or corporations without capital stock, solicitations of the membership are permitted to fund the segregated account. 2 U.S.C. § 441b(b)(4)(C).

[46] As discussed *supra*, FECA section 304(f)(2)(E) refers to a segregated bank account made up of contributions for electioneering communications from United States citizens, nationals, or permanent residents where all the names and addresses of all contributors who (continued...)

REV_00165399

communications. However, this exception, commonly known as the "Snowe-Jeffords Provision" after its sponsors, was later, in effect, withdrawn by Section 204, known as the "Wellstone Amendment," *see infra* at 69; *compare* BCRA § 203; FECA § 316(c)(2); 2 U.S.C. § 441b(c)(2) (Snowe-Jeffords Provision) *with* BCRA § 204; FECA § 316(c)(6)(a); 2 U.S.C. § 441b(c)(6)(A) (Wellstone Amendment).

The Snowe-Jeffords Provision permits nonprofit organizations to use their general treasury funds to pay for electioneering communications if they are incorporated under Section 501(c)(4) and/or Section 527(e)(1) of the Internal Revenue Code. This exception for nonprofit corporations is an expansion of the law as it existed prior to BCRA. While FECA did not provide an exception from its separately segregated fund requirement for nonprofit corporations, the Supreme Court in *FEC v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238 (1986)("*MCFL*") had provided an as-applied exception for nonprofit corporations which satisfied certain criteria set forth by the Supreme Court.[47] Under BCRA, it is not necessary

---

[46](...continued)
contribute an aggregate amount of $1,000 or more to the account is disclosed. Also as discussed *supra*, FECA section 304(f)(2)(F) refers to electioneering communications paid from a general treasury. If an electioneering communication is paid for with general treasury funds under section 304(f)(2)(F), then all contributors of more than $1,000 in a calendar year have to disclose their name and address. Hence, under the Snowe-Jeffords Provision, 501(c)(4) organizations and 527(e)(1) organizations, who are permitted to make electioneering communications with money contributed by individuals, must disclose the names and addresses of those individuals who contributed the funds to pay for the electioneering communication. BCRA § 203; FECA § 316(c)(2); 2 U.S.C. § 441b(c)(2).

[47]That is, 1) whether the corporation is "formed for the express purpose of promoting political ideas, and cannot engage in business activities"; 2) "has no shareholders or other (continued...)

REV_00165400

that a nonprofit corporation establish that it has met the three criteria of *MCFL* in order to use its general treasury funds to pay for electioneering communications; instead, it may do so under Snowe-Jeffords simply by virtue of being incorporated under Sections 501(c)(4) or 527(e)(1).

While a nonprofit corporation under Snowe-Jeffords is permitted to use general treasury funds for electioneering communications, it is important to note that these corporations are not permitted to use funds donated by a corporation, labor union, or national bank to purchase them. Under Snowe-Jeffords, a nonprofit corporation may only use funds donated by individuals to pay for electioneering communications. If a nonprofit corporation, for example, has accepted corporate contributions and mixed those contributions with general treasury funds that contained individual donations, the nonprofit corporation would not be permitted to use their general treasury funds to engage in electioneering communications.

Finally, although Snowe-Jeffords exempts nonprofit corporations from the separately segregated fund requirement, they are not similarly exempted from the disclosure requirements set forth in Section 201. Nonprofit corporations, like any other entity engaging in electioneering communications, must make public the names and addresses of all contributors who contributed over $1,000 to the account from which the corporation paid for

---

[47](...continued)
persons affiliated," so that members have "no economic disincentive for disassociating with it if they disagree with its political activity; and 3) the corporation "was not established by a business corporation," and has a policy of refusing "contributions from such entities." *MCFL* at 264.

REV_00165401

the communications.

The Wellstone Amendment

Despite drafting and including the Snowe-Jeffords' provision in the Act, an amendment offered by Senator Paul Wellstone and adopted by the Senate effectively eviscerates the Snowe-Jeffords' Provision from the Act. The "Wellstone Amendment," codified in section 204 of BCRA states that the exemption created by the Snowe-Jeffords Provision for section 501(c)(4) corporations and section 527(e)(1) corporations is inapplicable "in the case of a targeted communication." BCRA § 204; FECA § 316(c)(6)(A); 2 U.S.C. § 441b(c)(6)(A). The Wellstone Amendment describes a "targeted communication" as "an electioneering communication" that is "distributed from a television or radio broadcast station or provider of cable or satellite television service and, in the case of a communication which refers to a candidate for an office other than President or Vice President, is targeted to the relevant electorate." BCRA § 204; FECA § 316(c)(6)(B); 2 U.S.C. § 441b(c)(6)(B). The direct consequence of the Wellstone Amendment is that organizations organized under section 501(c)(4) and section 527(e)(1) of the Internal Revenue Code, or those entities who have received funds from corporations, are not permitted to use their general treasury funds for electioneering communications.

The Wellstone Amendment was codified in a separate section of BCRA in order to preserve severability: hence, if the Court finds the inclusion of section 501(c)(4) organizations and section 527 organizations within the ban on electioneering

REV_00165402

communications to be unconstitutional, the Wellstone Amendment can be cleanly struck from the law and the original Snowe-Jeffords exception for these groups will be restored. *See* BCRA § 401 (discussing that BCRA is subject to severability).

* * *

To briefly summarize, section 201 provides two definitions of "electioneering communication," a primary one and a backup definition in the event a court finds the main definition unconstitutional. Section 203, in conjunction with section 204, prohibits corporations and unions from using general treasury funds to pay for an electioneering communication. Corporations and unions need to establish political action committees if they want to engage in electioneering communication.

c. Disclosure of Electioneering Communications: Section 201

Section 201 amends Section 304 of FECA, 2 U.S.C. § 434, by requiring disclosures related to electioneering communications. Section 201's disclosure requirements mandate the reporting of "disbursements" for the "direct costs of producing and airing electioneering communications" aggregating more than $10,000 during any calendar year. BCRA 201(a); FECA § 304(f)(1); 2 U.S.C. § 434(f)(1). The reports must be made to the Commission within 24 hours of each "disclosure date." *Id.* The statute defines "disclosure date" as the first time during the calendar year a person's electioneering communication disbursements exceed $10,000, and each subsequent aggregation of $10,000 in electioneering communication disbursements made in the same calendar year. BCRA § 201(a); FECA §

REV_00165403

304(f)(4); 2 U.S.C. § 434(f)(4). "Disbursements" under Section 201 include executed contracts to make disbursements for electioneering communications. BCRA 201(a); FECA § 304(f)(5); 2 U.S.C. § 434(f)(5).[48]

The section requires the reports, made under penalty of perjury, to include the following information:

- the identities of the person making the disbursement, any person sharing or exercising direction or control over that person, and the custodian of the books and accounts of the person making the disbursement;
- the person's principal place of business, if not an individual;
- the amount of each disbursement over $200 during the statement's period and the identity of the person who received the disbursement;
- the elections to which the electioneering communications pertain and the names of the candidates identified in the communications, if known;
- if the disbursements are made from a segregated account funded solely by direct contributions by individuals for the purpose of making electioneering communication disbursements, the names and addresses of all persons who contributed over $1,000 to the account during the calendar year; and
- if the disbursements are made from a different source, the names and addresses

[48] The provision states, "For purposes of this subsection, a person shall be treated as having made a disbursement if the person has executed a contract to make the disbursement." BCRA 201(a); FECA § 304(f)(5); 2 U.S.C. § 434(f)(5).

REV_00165404

of all contributors to that source who contributed over $1,000 during the calendar year.

BCRA 201(a); FECA § 304(f)(2); 2 U.S.C. § 434(f)(2).

d. Coordinated Communications as Contributions: Section 202

Section 202 of BCRA amends Section 315(a)(7) of FECA, 2 U.S.C. 441a(a)(7) by adding the following language:

> if—
> (i) any person makes, or contracts to make, any disbursement for any electioneering communication . . .; and
> (ii) such disbursement is coordinated with a candidate or an authorized committee of such candidate, a Federal, State, or local political party or committee thereof, or an agent or official of any such candidate, party, or committee;
> such disbursement or contracting shall be treated as a contribution to the candidate supported by the electioneering communication or that candidate's party and as an expenditure by that candidate or that candidate's party

BCRA § 202; FECA § 315(a)(7)(C); 2 U.S.C. § 441a(a)(7)(C). Section 202 essentially makes clear the import of the definitions of "electioneering communication" and "coordination" in Sections 201 and 214; coordinated electioneering communications constitute contributions.

e. Reporting Requirements for Certain Independent Expenditures: Section 212

Section 212 amends Section 304 of FECA (2 U.S.C. § 434) by adding certain

REV_00165405

disclosure requirements for independent expenditures.[49] The provision requires persons, including political committees, to report independent expenditures, or contracts to make such expenditures, aggregating $1,000 or more after the twentieth day before the date of an election.[50] BCRA § 212; FECA § 304(g)(1)(A); 2 U.S.C. § 434(g)(1)(A). These reports must be made within 24 hours of making the expenditure or the contract to make the expenditure. *Id.* Such reports must be supplemented within 24 hours of making additional expenditure contracts or expenditures aggregating an additional $1,000 toward the same election. BCRA § 212; FECA § 304(g)(1)(B); 2 U.S.C. § 434(g)(1)(B). For expenditure

---

[49] Section 211 defines "independent expenditure" as:

> an expenditure by a person--
> (A) expressly advocating the election or defeat of a clearly identified candidate; and
> (B) that is not made in concert or cooperation with or at the request or suggestion of such candidate, the candidate's authorized political committee, or their agents, or a political party committee or its agents.

BCRA § 211; FECA § 301; 2 U.S.C. § 431(17).

[50] The reports must be filed with the FEC and must include "the name of each candidate whom an expenditure is intended to support or oppose," BCRA § 212; FECA § 304; 2 U.S.C. § 434(g)(3)(B), as well as the name and address of each

> person who receives any disbursement during the reporting period in an aggregate amount or value in excess of $200 within the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), in connection with an independent expenditure by the reporting committee, together with the date, amount, and purpose of any such independent expenditure and a statement which indicates whether such independent expenditure is in support of, or in opposition to, a candidate, as well as the name and office sought by such candidate, and a certification, under penalty of perjury, whether such independent expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such committee

2 U.S.C. § 434(b)(6)(B)(iii).

REV_00165406

contracts or expenditures made more than twenty days before an election, persons must also file reports but only after the expenditures aggregate to $10,000 or more and they have 48 hours in which to file their disclosure. BCRA § 212; FECA § 304(g)(2)(A); 2 U.S.C. § 434(g)(2)(A). These reports must also be supplemented whenever additional expenditure contracts or expenditures aggregate an additional $10,000 toward the same election. BCRA § 212; FECA § 304(g)(2)(B); 2 U.S.C. § 434(g)(2)(B).

f. Coordination with Candidates or Political Parties: Section 214

The Supreme Court has found treating coordinated expenditures as contributions constitutionally justifiable under the rationale of preventing circumvention. *Buckley*, 424 U.S. at 47 ("[C]ontribution ceilings . . . prevent attempts to circumvent [FECA] through prearranged or coordinated expenditures amounting to disguised contributions."). Section 214 makes changes to FECA's coordinated expenditure regime.

Section 214(a) amends Section 315(a)(7)(B) of FECA, 2 U.S.C. § 441a(a)(7)(B), by adding the following provision:

> (ii) expenditures made by any person (other than a candidate or candidate's authorized committee) in cooperation, consultation, or concert with, or at the request or suggestion of, a national, State, or local committee of a political party, shall be considered to be contributions made to such party committee

BCRA § 214(a); FECA § 315(a)(7)(B)(ii); 2 U.S.C. § 441a(a)(7)(B)(ii). This language is virtually identical to that in 2 U.S.C. § 441a(a)(7)(B)(i)[51], passed in 1976 as an amendment

[51] In *FEC v. Colorado Republican Federal Campaign Comm.*, 533 U.S. 431 (2001) (continued...)

REV_00165407

to FECA, which defines expenditures made in coordination with candidates.[52]

Section 214 also repeals the FEC's regulations "on coordinated communications paid for by persons other than candidates, authorized committees of candidates, and party committees," and requires the FEC to promulgate new regulations. BCRA § 214(b), (c). Congress instructed that the new regulations "shall not require agreement or formal collaboration to establish coordination." BCRA § 214(c); 2 U.S.C. § 441a note. Congress also instructed that the regulations should address

> (1) payments for the republication of campaign materials;
> (2) payments for the use of a common vendor;
> (3) payments for communications directed or made by persons who previously served as an employee of a candidate or a political party; and
> (4) payments for communications made by a person after substantial discussion about the communication with a candidate or a political party.

Id.

Lastly, Section 214 amends Section 316(b)(2) of FECA, 2 U.S.C. 441b(b)(2), to include within the meaning of "contributions or expenditures by national banks, corporations, or labor organizations," the definitions of "contribution or expenditure" found in Section 301

---

[51](...continued)
("*Colorado II*"), the Supreme Court considered the applicability of Section 441a(a)(7)(B)(i) to political party expenditures. Despite the fact that four Justices found the provision overbroad, *Colorado II*, 533 U.S. at 467 (Thomas, J., dissenting), the majority found that Section 441a(a)(7)(B)(i) applied to political party expenditures coordinated with candidates, *id* at 465.

[52] As presently codified, the provision states: "expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate". 2 U.S.C. § 441a(a)(7)(B)(i).

REV_00165408

of FECA, 2 U.S.C. § 431(8), (9). BCRA § 214(d).

3. Title III: Miscellaneous

a. Use of Contributed Amount for Certain Purposes: Section 301

Section 301 sets forth the permitted and prohibited uses of contributions. For example, a candidate can transfer contributions to political parties but cannot convert contributions to personal use. BCRA § 301; FECA § 313; 2 U.S.C. § 439a.

b. "The Millionaire Provisions": Sections 304, 316, & 319

In Sections 304, 316, and 319 of BCRA, Congress allowed opponents of self-financed candidates to raise money in larger increments and, in certain circumstances, to accept unlimited coordinated party expenditures. Specifically, the provisions state that if a self-financed candidate's "opposition personal fund amount"[53] exceeds a threshold amount,[54] then the candidate's opponent can raise funds through increased contribution limits. BCRA § 304(a); FECA § 315(i); 2 U.S.C. § 441a(i); BCRA § 319; FECA § 315A; 2 U.S.C. § 441a-1. Moreover, if the opposition personal fund amount is ten times the threshold amount in Senate

---

[53]The "opposition personal funds amount" is not simply the amount of personal funds expended by a self-financed candidate. It also takes into account the gross receipts advantage of both candidate's authorized committees so that incumbents with large war chests will not be able to take advantage of the new law unless the self-financed candidate expends an even greater amount of personal funds. BCRA §§ 304(a)(ii); FECA § 315(i)(1)(D); 2 U.S.C. § 441a(i)(1)(D); BCRA § 316; FECA § 315(i)(1)(E); 2 U.S.C. § 441a(i)(1)(E); *see also* BCRA § 319(a); FECA § 315A(a)(2); 2 U.S.C § 441a-1(a)(2).

[54]The threshold amount in Senate races is equal to the sum of $150,000 plus $.04 multiplied by the voting age population in the candidate's state, BCRA § 304(a)(2); FECA § 315(i)(1)(B); 2 U.S.C. § 441a(i)(1)(B), while in House races the threshold amount is simply $350,000. BCRA § 319(a)(1); FECA § 315A(a)(1); 2 U.S.C. § 441a-1(a)(1).

REV_00165409

races, or merely exceeds the $350,000 threshold for House races, the self-financed candidate's opponent can also be exempted from limits on coordinated party expenditures imposed by 2 U.S.C. § 441a(d). Any contributions or party expenditures under the increased limits is capped to the amount spent by the self-financed candidate: the enhanced contributions cannot exceed 110% and 100% of the opposition personal funds amount for Senate and House races respectively.

c. Lowest Unit Charged: Section 305

In the 1972 FECA legislation, Congress added the "lowest unit charge" provision to the Communications Act of 1934. The provision states that, for forty-five days before a primary or sixty days before a general election, the broadcast stations have to sell a qualified candidate the "lowest unit charge of the station for the same class and amount of time for the same period." 47 U.S.C. 315(b)(1). BCRA Section 305, however, denies a candidate the lowest unit charge for broadcast advertisements on radio and television unless the candidate "provides written certification to the broadcast station that the candidate (and any authorized committee of the candidate) shall not make any direct reference to another candidate for the same office" in any broadcast. BCRA § 305; FECA § 315(b); 47 U.S.C. § 315(b). The candidate can be exempted from this provision, and thus be eligible for the lowest unit charge without such a promise, if the candidate clearly identifies himself at the end of the broadcast and states that he approves of the broadcast. In a television broadcast, this message must include the candidate's image for at least four seconds. *Id.*

REV_00165410

d. Increased Limits for Contributions and Indexing of Limits: Section 307

Section 307(a)(1) increases the amount individuals can contribute to candidates per election from $1000 to $2000. BCRA § 307(a)(1); FECA § 315(a)(1)(A); 2 U.S.C. § 441a(a)(1)(A). It also changes the aggregate amount of contributions a donor can give to candidates and political committees (including parties) from $25,000 in a calendar year to $37,500 in a two-year period to candidates and $57,500 in a two-year period to political committees. BCRA § 307(b); FECA § 315(a)(3)(A); 2 U.S.C. § 441a(3)(A). Congress also increased the limits to a national party committee by $5,000 and doubled the amount of money individuals can donate to a state party committee, so that individuals may now contribute no more than $25,000 per calendar year to a national party committee, no more than $10,000 per calendar year to a state committee, and no more than $5,000 per calendar year to a local committee. BCRA §§ 102, 307(a)(2); FECA § 315(a)(1)(B), (D); 2 U.S.C. 441a(a)(1)(B), 441a(a)(1)(C), 441a(a)(1)(D). Finally, Congress also indexed all contributions for inflation, except for limits on contributions to state and local party committees. BCRA § 307(d); 2 U.S.C. § 441a(c).

e. Identification of Sponsors: Section 311

Section 311 requires that "whenever any person . . . makes a disbursement for an electioneering communication," the communication, if it was authorized by a candidate or the candidate's political committee, must clearly identify the candidate or the candidate's political committee. If the communication was not authorized by the candidate or the

REV_00165411

candidate's political committee, then the communication "shall clearly state the name and permanent street address, telephone number, or World Wide Web address of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee." BCRA § 311; FECA § 318(a)(3); 2 U.S.C. § 441d(a)(3).

f. Prohibition of Donations by Minors: Section 318

In Section 318, Congress prohibited minors, defined as any children under eighteen years of age, from making donations, regardless of the amount, to candidates or political parties. BCRA § 318; FECA § 324; 2 U.S.C. § 441k.

4. Title V: Additional Disclosure Provisions

a. Public Access to Broadcasting Records: Section 504

In Section 504, Congress requires broadcast licensees to collect and disclose records of any "request to purchase broadcast time" that "is made by or on behalf of a legally qualified candidate for public office" or that relates "to any political matter of national importance," including communications relating to "a legally qualified candidate," "any election to Federal office," and "a national legislative issue of public importance." BCRA § 504; FECA § 315(e)(1); 47 U.S.C. § 315(e)(1). The record must include whether the request to purchase was accepted or rejected; the rate charged for the broadcast; the date and time on which the communication aired; the class of time that is purchased; the name of the candidate to which the communication refers and the office to which the candidate is seeking

REV_00165412

election, the election to which the communication refers, or the issue to which the communication refers; in the case of a request on behalf of a candidate, the name of the candidate, the authorized committee, and the treasurer of the committee; and in the case of any other request, the name of the person purchasing the time, the name and contact information for such person, and a list of chief executive officers or members of the executive committee or board of directors. *Id.*

III. FINDINGS OF FACT

The Findings of Fact include a description of the identities of the parties and include findings related to the disclosure provisions included in this *per curiam* opinion.

A. *Parties to the Litigation*[55]

---

[55] As of the May 7, 2002, deadline for amendment of pleadings, intervention or joinder of additional parties and consolidation of additional cases, *see* Scheduling Order of 4/24/02, 84 plaintiffs were parties to the consolidated actions. Since then, seven plaintiffs–the Alabama Republican Executive Committee, Martine J. Connors, the Jefferson County Republican Executive Committee, the Christian Coalition of America, Inc., the Libertarian Party of Illinois, Inc., the DuPage Political Action Council, Inc., and the National Association of Wholesaler-Distributors–have been dismissed from the suit without prejudice. *See generally* Orders of 8/15/02, 9/13/02, 9/18/02, and 9/30/02 Dismissing Pls. Without Prejudice.

Remaining in the suit are 77 plaintiffs in 11 actions: in No. 02-CV-0582 are Senator Mitch McConnell, Representative Bob Barr, Representative Mike Pence, Alabama Attorney General William H. Pryor, the Libertarian National Committee, Inc., the American Civil Liberties Union, Associated Builders and Contractors, Inc., Associated Builders and Contractors Political Action Committee, the Center for Individual Freedom, Club for Growth, Inc., Indiana Family Institute, Inc., the National Right to Life Committee, Inc., National Right to Life Educational Trust Fund, National Right to Life Political Action Committee, the National Right to Work Committee, 60 Plus Association, Inc., Southeastern Legal Foundation, Inc., U.S. d/b/a ProEnglish, Thomas McInerney, Barret Austin O'Brock (continued...)

REV_00165413

[55](...continued)
and Trevor M. Southerland (collectively, the *McConnell* plaintiffs); in No. 02-CV-0581 are the NRA and National Rifle Association Political Victory Fund (collectively, the *NRA* plaintiffs); in No. 02-CV-0633 are Emily Echols, Hannah McDow, Isaac McDow, Jessica Mitchell, Daniel Solid and Zachary C. White (collectively, the *Echols* plaintiffs); in No. 02-CV-0751 are the Chamber of Commerce of the United States, the National Association of Manufacturers, National Association of Wholesaler-Distributors, and U.S. Chamber Political Action Committee (collectively, the *Chamber of Commerce* plaintiffs); in No. 02-CV-0753 is the National Association of Broadcasters; in No. 02-CV-0754 are the American Federation of Labor and Congress of Industrial Organizations and AFL-CIO Committee on Political Education Political Contributions Committee (collectively, the *AFL-CIO* plaintiffs); in No. 02-CV-0781 are Congressman Ron Paul, Gun Owners of America, Inc., Gun Owners of America Political Victory Fund, RealCampaignReform.org, Citizens United, Citizens United Political Victory Fund, Michael Cloud and Carla Howell (collectively, the *Paul* plaintiffs); in No. 02-CV-0874 are the Republican National Committee, Mike Duncan, Republican Party of Colorado, Republican Party of Ohio, Republican Party of New Mexico, and Dallas County (Iowa), Republican Central Committee (collectively, the *RNC* plaintiffs); in No. 02-CV-0875 are the California Democratic Party, Art Torres, Yolo County Democratic Central Committee, California Republican Party, Shawn Steel, Timothy J. Morgan, Barbara Alby, Santa Cruz County Republican Central Committee, and Douglas R. Boyd, Sr., (collectively, the *CDP* plaintiffs); in No. 02-CV-0877 are Victoria Jackson Gray Adams, Carrie Bolton, Cynthia Brown, Derek Cressman, Victoria Fitzgerald, Anurada Joshi, Nancy Russell, Kate Seely-Kirk, Peter Kostmayer, Rose Taylor, Stephanie L. Wilson, California Public Interest Research Group, Massachusetts Public Interest Research Group, New Jersey Public Interest Research Group, United States Public Interest Research Group, the Fannie Lou Hamer Project, and Association of Community Organizers for Reform Now (collectively, the *Adams* plaintiffs); and in No. 02-CV-0881 are Representative Bennie G. Thompson and Representative Earl F. Hilliard (collectively, the *Thompson* plaintiffs).

The 17 defendants in these consolidated actions are the Federal Election Commission; the United States of America; the United States Department of Justice; the Federal Communications Commission; John Ashcroft, in his official capacity as Attorney General of the United States of America; David M. Mason, Karl J. Sandstrom, Danny L. McDonald, Bradley A. Smith, Scott E. Thomas and Michael E. Toner, in their official capacities as Commissioners of the FEC; and Senators John McCain, Russell Feingold, Olympia Snowe and James Jeffords and Representatives Christopher Shays and Martin Meehan (collectively, the Intervenors), as intervening defendants.

The Court finds it unnecessary to make findings with respect to all 77 Plaintiffs and (continued...)

REV_00165414

1. Senator Mitch McConnell is the senior United States Senator from the Commonwealth of Kentucky and is a member of the Republican Party. McConnell Aff. ¶ 1. He has long been active in the Republican Party at the national, state and local levels. *Id.* ¶ 2. Senator McConnell was first elected in 1984, was reelected in 1990, 1996, and was a candidate for election in 2002. *Id.* ¶ 7.

2. William H. Pryor, Jr. is Alabama Attorney General and was a candidate for reelection as Alabama Attorney General in 2002. Pryor Decl. ¶ 2.

3. The Libertarian National Committee, Inc. ("LNC") is the governing body of the Libertarian Party at the national level. Dasbach Decl. ¶ 4. The LNC is a non-profit corporation incorporated in the District of Columbia and governed by section 527 of the Internal Revenue Code. *Id.* The LNC represents and advocates the principle that all individuals have the right to live in whatever manner they choose so long as they do not forcibly interfere with the right of others to do the same. *Id.*

4. The American Civil Liberties Union ("ACLU") is a tax-exempt corporation incorporated in the District of Columbia and is governed by section 501(c)(4) of the Internal Revenue Code. Romero Decl. ¶ 1. The ACLU is a nationwide, non-profit, non-partisan organization with approximately 300,000 members "dedicated to the principles of liberty and equality embodied in the Constitution." *Id.*

---

[55](...continued)
17 Defendants in these actions and therefore the Findings of Fact reflect the primary parties in this litigation.

REV_00165415

5. Associated Builders and Contractors, Inc. ("ABC") is a non-profit tax-exempt organization governed by section 501(c)(6) of the Internal Revenue code, incorporated in Maryland, and is funded primarily by membership dues. Monroe Direct Test. ¶ 3. It is a national trade association representing more than 23,000 contractors and related firms in the construction industry. *Id.* ABC's members, which include both unionized and non-union employers, "share the philosophy that construction work should be awarded and performed on the basis of merit, regardless of labor affiliation." *Id.*

6. Associated Builders and Contractors Political Action Committee ("ABC PAC") is a connected political committee governed by 2 U.S.C. § 431(4) and section 527 of the Internal Revenue Code and is a separate segregated fund of ABC pursuant to 2 U.S.C. §441b(b). *Id.* ¶ 22. ABC PAC makes contributions to federal candidates who support the principles of ABC and funds independent expenditures for communications on their behalf. *Id.*

7. The Club for Growth, Inc. ("The Club") is a nationwide membership organization dedicated to advancing public policies that promote economic growth. Keating Decl. ¶ 5. The Club is a Virginia corporation organized under section 527 of the Internal Revenue Code. McConnell Second Am. Compl. ¶ 29. The Club "is dedicated to promoting the election of pro-growth, pro-freedom candidates through the bundling of political contributions and issue advocacy campaigns." Keating Decl. ¶ 6. The

REV_00165416

Club for Growth advocates tax rate reduction, fundamental tax reform, tax simplification, capital gains tax reduction, estate tax repeal, overall reduction in government spending, school choice, and personal investment of Social Security. *Id.* ¶ 5.

8. The National Right to Life Committee ("NRLC") is a tax-exempt corporation incorporated in the District of Columbia and is governed by section 501(c)(4) of the Internal Revenue Code. O'Steen Decl. ¶ 4. The NRLC is a nationwide, non-profit, non-partisan organization with approximately 3,000 local chapters and fifty state affiliates dedicated to "promoting respect for the worth and dignity of all human life from conception to natural death." *Id.* ¶¶ 5, 3.

9. The National Right to Life Educational Trust Fund ("NRL-ETF") is an organization governed by section 501(c)(3) of the Internal Revenue code. *Id.* ¶ 16. NRL-ETF sponsors educational advertising and develops materials detailing "fetal development, abortion's impact on America, and the threat of euthanasia." *Id.* ¶ 17.

10. The National Right to Life Political Action Committee ("NRL PAC"), organized in 1979, is an internal § 527 fund of NRLC that is registered with the FEC as a PAC subject to FECA. O'Steen Decl. ¶ 24.

11. Thomas E. McInerney is a U.S. citizen, a registered voter in the State of New York and a member of and contributor to various Republican Party organizations and committees at the national, state and local levels. McInerney Aff. ¶ 1.

REV_00165417

12. Barret Austin O'Brock is a U.S. citizen and a resident of the State of Louisiana. O'Brock Decl. ¶ 1. He is fourteen years of age and intends to make contributions to federal candidates in future elections, including the 2004 election. *Id.* ¶¶ 2-3.

13. The National Rifle Association ("NRA") is a tax-exempt corporation governed by section 501(c)(4) of the Internal Revenue Code and incorporated in the State of New York. NRA Compl. ¶ 8. The primary purpose of the NRA is to preserve and protect the Second Amendment's guarantee that individuals shall have the right to "keep and bear arms." LaPierre Decl. ¶ 2. In addition, the NRA promotes public firearm safety, trains law enforcement agencies in the use of firearms, sponsors shooting competitions, and advances hunter safety. *Id.* The NRA has approximately four million members and represents their views on legislative and public policy issues before federal, state and local officials and the general public. NRA Compl. ¶ 8.

14. The National Rifle Association Political Victory Fund ("NRA PVF") is a connected political committee governed by 2 U.S.C. § 431(4) and section 527(e)(1) of the Internal Revenue Code and is a separate segregated fund of the NRA pursuant to 2 U.S.C. § 441b(b). NRA Compl. ¶ 9.

13. Emily Echols, Hannah and Isaac McDow, Zachary White, Daniel Solid and Jessica Mitchell are U.S. citizens who range in age from twelve to sixteen. Echols Pls.' Proposed Findings of Fact ¶ 45. They intend to seek out and contribute to federal candidates "who represent their views and beliefs on important questions like the right

REV_00165418

to life of children before birth, and on the size of government." *Id.* ¶ 44.

14. The Chamber of Commerce ("The Chamber") is a tax-exempt corporation governed by section 501(c)(6) of the Internal Revenue Code. Josten Direct Trial Test. ¶ 3. The Chamber is the world's largest not-for-profit business federation, representing over 3,000,000 businesses and business associations. *Id.*

15. The U.S. Chamber Political Action Committee ("U.S. Chamber PAC") is a connected political committee organized under section 527(e)(1) of the Internal Revenue Code and is registered with the FEC. Josten Direct Trial Test. ¶ 26. U.S. Chamber PAC is funded by contributions voluntarily made by individual Chamber of Commerce executives, administrative employees, members and their families. *Id.* ¶ 27.

16. The National Association of Manufacturers ("NAM") is a tax-exempt corporation governed by section 501(c)(6) of the Internal Revenue Code and is the oldest and largest broad-based industrial trade association in the United States. Huard Direct Trial Test. ¶ 2. Its membership comprises 14,000 companies and 350 member associations. *Id.*

17. The National Association of Broadcasters ("NAB") is a non-profit corporation that serves as a trade association of radio and television stations and broadcasting networks in the United States. Goodman Decl. ¶ 3. NAB serves and represents the American broadcasting industry, composed of approximately 7,300 member stations. *Id.* All of NAB's voting members are broadcast licensees within the meaning of the

REV_00165419

Communications Act. *Id.*

18. The American Federation of Labor and Congress of Industrial Organizations ("AFL-CIO") is a national labor federation comprised of 66 national and international labor unions that, collectively, have a total of approximately 13 million members. G. Shea Decl. ¶ 3. The AFL-CIO is a tax-exempt organization under Section 501(c)(5) of the Internal Revenue Code. *Id.* The AFL-CIO also includes 51 state labor federations, nearly 580 area and central labor councils and numerous trade and industrial departments. *Id.* ¶¶ 6,7, 9. One of the four major missions of the AFL-CIO is to provide "an effective political voice to workers on public issues that affect their lives." *Id.* ¶ 4b.

19. Congressman Ron Paul is a Member of the United States House of Representatives from the Fourteenth Congressional District of Texas and is a member of the Republican Party. Paul Decl. ¶ 1. He was first elected to represent the Fourteenth Congressional District of Texas in 1996, *id.*, and also served as a Member of the House of Representatives for the Twenty-Second Congressional District of Texas, first elected in 1976 and to successive terms until 1984, *id.* ¶ 2. Congressman Paul is a registered voter in the state of Texas, a donor to the campaigns of candidates for federal office, and a fundraiser and recipient of campaign contributions. Paul Pls.' Compl. ¶ 11. He will face reelection in 2004. Paul Decl. ¶ 1.

20. Gun Owners of America, Inc. is a not-for-profit, tax-exempt corporation governed by

REV_00165420

section 501(c)(4) of the Internal Revenue Code. Pratt Decl. ¶ 2. It is dedicated primarily to defending the rights that its members believe are guaranteed by the Second Amendment to the Constitution; its principal function is the dissemination of information concerning such rights through educational programs and advocacy. *Id.* ¶ 3.

21. Gun Owners of America Political Victory Fund is a connected political committee governed by 2 U.S.C. § 431 and is a separate segregated fund of Gun Owners of America. *Id.* ¶ 4.

22. RealCampaignFinance.Org is a not-for-profit, tax exempt corporation governed by section 501(c)(4) of the Internal Revenue Code. Babka Decl. ¶ 2. It is dedicated to defending the campaign and election-related rights its members believe are guaranteed by the First Amendment to the Constitution through educational programs and advocacy. *Id.* ¶ 3.

23. Citizens United is a not-for-profit, tax exempt corporation governed by section 501(c)(4) of the Internal Revenue Code. Bossie Decl. ¶ 2. It is dedicated to the principles of limited government and national sovereignty and to defending the rights its members believe are secured in the United States Constitution; its principal function is the dissemination of information concerning such beliefs and advocacy. *Id.* ¶ 3.

24. Citizens United Political Victory Fund is a connected political committee governed

REV_00165421

by 2 U.S.C. § 431 and is a separate segregated fund of Citizens United. *Id.* ¶ 4.

25. Michael Cloud was the Libertarian Party's candidate for United States Senate from the Commonwealth of Massachusetts in the 2002 election and is a registered voter. Cloud Decl. ¶ 1.

26. Carla Howell was the Libertarian Party's candidate for Governor of the Commonwealth of Massachusetts in the 2002 election and is a registered voter. Howell Decl. ¶¶ 1-2. She was also the Libertarian Party's candidate for election to the United States Senate for the Commonwealth of Massachusetts in the 2000 election. *Id.* ¶¶ 2-3.

27. The Republican National Committee ('RNC") is an unincorporated association created and governed by The Rules of te Republican Party. Josefiak Decl. ¶ 13. It consists of three members from the Republican Party in each of the fifty States, the District of Columbia, Puerto Rico, American Somoa, Guam, and the U.S. Virgin Islands. Duncan Decl. ¶ 4; *see also* Josefiak Decl. ¶ 15. Each state and territorial Republican Party elects a national committeeman and a national committeewoman. Duncan Decl. ¶ 4; Josefiak Decl. ¶ 15. In addition, the state and territorial Republican Party chairmen serve as members of the RNC. Duncan Decl. at ¶ 4; Josefiak Decl. ¶ 15.

28. Mike Duncan is a member of the RNC from the State of Kentucky and currently serves as the General Counsel of the RNC. Duncan Decl. ¶ 5. Prior to becoming

REV_00165422

General Counsel, he was Treasurer of the RNC and in that capacity signed all RNC reports filed with the FEC. *See id.* In both his official capacity as an officer of the RNC and in his personal capacity, Duncan has participated in and (unless prohibited by BCRA) will continue to participate in national, state and local political party activities. *Id.* ¶¶ 6, 9. He will also (unless prohibited by BCRA) continue to solicit, receive, or direct non-federal funds to other persons. *See id.* ¶¶ 8-9.

29. The Republican Party of New Mexico is the state party committee of the Republican Party in New Mexico. *See* Dendahl Decl. ¶¶ 3-4. It supports federal, state and local candidates for office in New Mexico and promotes Republican positions on public policy issues. *Id.* Under New Mexico law, the Republican Party of New Mexico is permitted to raise and spend corporate, labor union and individual funds in unlimited amounts in support of state and local candidates. *See* N.M. Stat. Ann. §§ 1-19-25 to 1-19-36 (1978); Dendahl Decl. ¶¶ 5-7.

30. The Dallas County (Iowa) Republican County Central Committee is a local political party committee that the FEC has deemed independent of any state or national political party committee. Josefiak Decl. ¶ 21. It is actively involved in supporting state and local candidates for office in Iowa. *Id.*

31. The California Democratic Party ("CDP") is an unincorporated association of approximately seven million members and is the authorized Democratic Party of the State of California. Bowler Decl. ¶ 2. The CDP performs many functions, among

REV_00165423

them providing financial and material support to federal, state and local candidates; taking positions on public issues (including state and local ballot measures) and publicizing those positions; engaging in voter registration, get-out-the-vote and generic party-building activities; and maintaining an administrative staff and administrative structure to support these goals and activities and to comply with extensive federal and state regulation. *Id.* The CDP is required by state law to govern itself through the Democratic State Central Committee (DSCC). *Id.* ¶ 3. The DSCC is made up of approximately 2,710 members, about 849 of whom are elected by the 58 county central committees. *Id.* Other members serve on the DSCC because of their status as federal or state officials, as nominees of the CDP, as members of the Democratic National Committee (DNC) from California or as elected representatives of 80 Assembly District Committees (AD Committees). *Id.* CDP bylaws provide for local party AD Committees, which elect delegates to the DSCC and are the district-level organizational blocks of the CDP. *Id.* ¶ 4. The AD Committees are primarily involved in local voter registration, get-out-the-vote and grassroots activities and they act as liaisons with the campaign organizations of Democratic candidates in their area. *Id.*

32. Art Torres is the elected Chair of the CDP. Torres Decl. ¶ 1. Torres also serves on the DNC and has been elected by the DNC to serve on the DNC Executive Committee. *Id.* ¶ 3. As Chair of the CDP, Torres assists the CDP and county central

REV_00165424

committees in fundraising efforts by meeting and talking regularly with potential donors and attending fundraising events. *Id.* ¶ 2; *see also* Bowler Decl. ¶ 5

33. The Yolo County Democratic Central Committee is one of the 58 county central committees authorized and governed by the California Elections Code. CDP Pls.' Compl. ¶ 11; *see also* Bowler Decl. ¶¶ 3-4. Members of the county central committees are elected at each statewide primary election. Bowler Decl. ¶ 4. All members of the CDP who are also state senators, members of the state assembly or Members of the Congress serve as *ex officio* members of their respective county central committees. *Id.* The county central committees are primarily involved in local voter registration, get-out-the-vote and grassroots activities and act as liaisons with the campaign organizations of Democratic candidates in their area. *Id.*

34. The California Republican Party ("CRP") is an association of over five million members and is the authorized Republican Party of the State of California. Morgan Aff. ¶¶ 3-4. The CRP performs many functions, among them providing financial and material support to federal, state and local candidates; taking positions on public issues (including state and local ballot measures) and publicizing those positions; engaging in voter registration, get-out-the-vote and generic party-building activities; and maintaining an administrative staff and administrative structure to support these goals and activities and to comply with extensive federal and state regulation. *Id.* ¶ 4. The CRP is governed by the Republican State Central Committee (RSCC). *Id.* ¶

REV_00165425

5. The RSCC consists of about 1,500 regular and appointive members. *Id.* The regular members include federal and state officeholders as well as the CRP's nominees for governor, seven other state constitutional offices, United States Senate, 52 congressional districts, 40 state senate districts, 80 state assembly districts and four State Board of Equalization districts. *Id.* The RSCC also includes the chairmen of the 58 county central committees and the chairmen of volunteer party organizations. *Id.* ¶ 6. The CRP operates as well through (1) a 100-member Executive Committee, which includes federal and state office holders and 16 representatives of county central committees; and (2) a 25-member Board of Directors, which includes a Member of Congress appointed by the delegation, three state elected officeholders and representatives from an association of Republican county central committee chairmen. *Id.* Under the CRP's bylaws and the RNC's rules, the CRP is part of the RNC. *Id.* ¶ 8. The CRP's elected chairman is a member of the RNC. *Id.* The CRP elects two other representatives to the RNC – a national committeeman and national committeewoman, each of whom is a member of the CRP Executive Committee and Board of Directors. *Id.*

35. Timothy J. Morgan is (1) a member of the RNC; (2) a member of the CRP Executive Committee; and (3) a member of the CRP Board of Directors; he also served as (4) Chairman of the Santa Cruz County Republican Central Committee. Morgan Aff. ¶ 1.

REV_00165426

36. The Santa Cruz County Republican Central Committee is one of the 58 county central committees authorized and governed by the California Elections Code. CDP Pls.' Compl. ¶ 19; *see also* Morgan Aff. ¶ 6. Federal officials and candidates who were nominated as party nominees for partisan offices, including State constitutional and legislative offices, the Board of Equalization, and federal offices, including nominees for U.S. Senate and U.S. House of Representatives who represent all or a portion of the area within the county's jurisdiction are *ex officio* members of the Republican county central committee, and participate in its decision-making, either personally or through designated alternates or agents. *Id.*

37. The Federal Election Commission ("FEC") is a government agency headquartered in Washington, D.C., created pursuant to FECA, 2 U.S.C. § 437(c), and is charged with enforcing the Act as amended by BCRA. David M. Mason, Karl J. Sandstrom, Danny L. McDonald, Bradley A. Smith, Scott E. Thomas, and Michael E. Toner serve as the commissioners of the FEC.

38. The United States, through the Department of Justice ("DOJ"), is charged with enforcement of the criminal provisions of the Act as amended by BCRA, and has an interest in defending the constitutionality of duly enacted laws of the Nation. United States Mot. to Intervene at 5. John Ashcroft is Attorney General of the United States.

39. The Federal Communications Commission ("FCC") is a government agency headquartered in Washington, D.C., and is charged with enforcing the FECA as

REV_00165427

amended by BCRA.

40. The intervenors are Members of the Congress who were principal sponsors and authors of BCRA. Senator John McCain is a Republican United States Senator from the State of Arizona. Senator Russell Feingold is a Democratic United States Senator from the State of Wisconsin. Senators McCain and Feingold face reelection in 2004. Senator Olympia Snowe is a Republican United States Senator from the State of Maine. Senator James Jeffords is an Independent United States Senator from the State of Vermont. Senators Snowe and Jeffords face reelection in 2006. Congressman Christopher Shays is a Republican member of the House of Representatives from the Fourth Congressional District in Connecticut. Congressman Martin Meehan is a Democratic member of the House of Representatives from the Fifth Congressional District in Massachusetts.

B. ***Findings Regarding BCRA's Disclosure Provisions***

41. The NRA presents evidence that some people have been reluctant to give money to the organization or the NRA PVF, the NRA's PAC, fearing that such contributions would be publicly reported. LaPierre Decl. ¶ 62 [NRA App. at 24-25] ("Throughout the years, hundreds, if not thousands, of NRA members have told me that they do not wish to disclose their contributions to the NRA. . . . If . . . members are forced to disclose their identities, I firmly believe that many will not make contributions that trigger such disclosure."); Adkins Decl. ¶¶ 4-6 [NRA App. at 50] ("A conspicuous

REV_00165428

and disproportionate number of contributors" to the NRA PVF "contribute just below the $200 disclosure level."). Members who have expressed their desire to keep their contributions confidential have provided a variety of reasons. LaPierre Dep. at 306 ("A lot over the years have said, I donate to you, but gee, I just don't want my neighbors to know. I don't want my school board to know. I don't want my employer to know. . . . I might lose my job. I might not get my school board thing. I might have – I mean, they fear– I mean, when you have as much hate as people have put out on this issue, it's natural for people to fear repercussions."); Adkins Dep. at 15-19 (testifying that notes received from individuals refusing to provide information for disclosure to the FEC did not give the reasons for their objections, or just stated they did not wish to have the information disclosed to the FEC); *id.* at 21-23 (testifying that she had received 3 telephone calls in the previous five or six years from individuals who feared their employer would find out that they donated to the NRA PVF). The NRA does not know the amount those who did protest disclosure gave to the organization. LaPierre Dep at 309; LaPierre Cross at 91; Adkins Dep. at 23. Of the between five and 50 persons estimated to have voiced disclosure concerns to LaPierre in 2000, LaPierre believes "not a lot" of those persons gave the NRA more than $1,000 in 2000 "[b]ecause we don't . . . get a lot of contributions more than $1,000." LaPierre Dep. at 306-309. The average NRA donor donates approximately $30 per year. LaPierre Cross at 92. Beginning in 2003, the NRA's policy is to "pay

REV_00165429

for [their] television and broadcast programming exclusively out of funds provided by individual members." *Id.* at 93. Mr. LaPierre states that "NRA's position . . . . is that . . . it ought to be disclosed who is running those ads [run with funds from anonymous donors]. . . . [a]nd who pays for the ads." LaPierre Dep. at 294-95 [JDT Vol. 14].

42. Edward Monroe, Director of Political Affairs for the Associated Builders and Contractors ("ABC") and the Treasurer of ABC's PAC, testifies that he had been told that a number of ABC contributors had suffered substantial vandalism after their names were disclosed and that the contributors believed the vandalism was the result of labor unions learning of their contributions. Monroe Cross at 86. He also testified that two corporations refused his solicitations due to their "policy of not supporting [ABC] based on previous incidents. . . . [T]hey did not elaborate." *Id.* at 87. Some contributors to ABC's PAC "specifically donate" less than $200. *Id.* at 88. Monroe believes this practice is the result of the contributors' desire to prevent public disclosure of the contributors' names. *Id.* Two corporations declined Mr. Monroe's solicitations because of "previous incidents," but did not elaborate. *Id.* at 87. Monroe also "believe[s]" that some companies do not contribute because they "do not trust [ABC's] ability to keep . . . information confidential." *Id.* at 89.

43. Stephen Sandherr, Chief Executive Officer of Associated General Contractors of America ("AGC"), testifies in a deposition that between a dozen and two dozen

REV_00165430

members had expressed concerns to him about their contributions being publicly disclosed. Sandherr Dep. at 43-44. He believes that the number of members who share this concern is much higher but, because the AGC has made an effort to publicize the fact they do not disclose the names of contributors, concerned members do not feel the need to bring the issue up. *Id.* These members expressed two reasons for concern. Some were concerned that if their contributions were made known, "their local building trades would take offense and would threaten actions on the job site or would threaten to make life miserable for them." *Id.* at 45. Others were concerned that if their union became aware of their contribution, they would "cease bargaining over industry advancement funds," that local chapters depend on to support their activities. *Id.* at 46. The non-unionized members who expressed their concerns about disclosure to Sandherr did not express their reasons for wanting to remain anonymous. *Id.* at 48. No contributor to AGC's PAC ever told Sandherr that they planned to contribute less than $200 in order to prevent disclosure of its identity, and no contributor to the AGC's PAC ever reported being subjected to retaliation from unions for giving money to the PAC. *Id.* at 55-56.

44. Bruce Josten, Executive Vice President for Government Affairs, U.S. Chamber of Commerce, gave deposition testimony that some contributors to "Americans Working for a Real Change," a coalition established to respond to AFL-CIO issue advertisements, did not want to be publicly identified. Josten Dep. at 13-14, 27. The

REV_00165431

reason these entities gave for not wanting to be identified was that they feared becoming "targets or recipients of corporate campaigns or other types of what some would call union harassment activities." *Id.* at 28.

45. Mr. Romero, the ACLU's legislative director, attests that "[m]any ACLU members and contributors request explicit assurances that their membership will remain confidential and that their contributions will remain anonymous. The ACLU has consistently defended the First Amendment right of its members and donors to remain anonymous if they so choose." Declaration of A. Romero ¶ 5. Mr. Romero notes that "[o]nly 212 individuals contributed more than $1,000 to the organization. *Id.* ¶ 6.

46. A poll conducted by Mark Mellman and Richard Wirthlin, two reputable political pollsters, found that 61 percent of Americans want to know who is paying for political advertisements, while 24 percent say knowing such information does not matter to them. Mark Mellman & Richard Wirthlin, *Research Findings of a Telephone Study Among 1300 Adult Americans* (Sept. 23, 2002) at 20 [DEV 2-Tab 5].

47. At least one study has found that the public has a difficult time determining who is responsible for issue advertisements that identify candidates.

> In response to the question asking who paid for an ad, just over 60 percent of survey participants correctly attributed the candidate ads and the pure issue ads to their actual sponsors. Identification of the sponsors of the candidate-oriented issue ads was much more scattered, with most people (38 to 48 percent) assuming in each case that they came from candidates and fewest (9 to 18 percent) assuming that they were paid for by an interest group. These results, of course, suggest that the disclaimers that appear on these ads are almost completely

REV_00165432

ineffective.

Krasno & Sorauf Expert Report at 78-79 (summarizing results from David B. Magleby, Dictum Without Data: The Myth of Issue Advocacy and Party Building, available at http://www.byu.edu/outsidemonev/dictum/index.html).

48. The problem of determining the true sponsors of issue advertisements is not only experienced by the general public; politicians and political strategists also have difficultly determining the source of these commercials. For example, former Senator Dale Bumpers, relates that

> [o]ne of the most insidious things about soft money "issue ads" is that the ordinary viewer doesn't have a clue as to who paid for the ad. I first noticed this problem in 1996, when I saw several issue ads before it ever dawned on me that those ads were not being paid for by the candidate. . . . At first I just assumed that the ads were paid for by the opposing candidates' campaign funds, though I did think it was very strange that the opposing candidates' names were never mentioned. In those ads, everything is honed in on the candidate the ad is trying to defeat. At that time, I did not know that they were soft money spots.

Declaration of Senator Dale Bumpers ¶ 29 [DEV 6-Tab 10]. Democratic political consultant Terry S. Beckett testifies that

> [t]he Republican Leadership Council ("RLC") also ran so-called "issue ads" on television in the 2000 Congressional campaign. . . . [Two of t]hese ads accuse [Republican Candidate Ric] Keller of acting "like a liberal." I found it [] ironic, not to mention unsettling, to learn of reports that the hundreds of thousands of dollars the RLC spent on these ads trying to defeat Mr. Keller were actually provided by the Florida sugar industry. . . . . And the fact that I, a general consultant in this same race with long high-level experience in Florida politics, was not aware until earlier this year of whose money was behind these ads strongly underlines the need for disclosure of this kind of stealth

REV_00165433

electioneering financed with corporate funds.

Declaration of Terry S. Beckett ("Beckett Decl.") ¶ 14 [DEV 6-Tab 3].[56] Similarly, political media consultant Raymond Strother comments that

> one of the biggest problems that a candidate's media consultant now faces is the lack of disclosure associated with third parties running these ads. A few years ago, Jill Docking ran for the United States Senate against Sam Brownback in Kansas. . . . In the last two weeks of a very tight election, an unidentifiable group came in and poured a million dollars into the race. They ran television, radio, direct mail, and push polls throughout Kansas telling voters that Jill wasn't a Christian, and all we could find was a fax machine. We had no idea where the money came from. I have had similar experiences in other races as well. Without knowing who is funding the groups that run these ads, we are often unable to correct the distortions.

Declaration of Raymond D. Strother ¶ 15 [DEV 9-Tab 40]. Joe Lamson, campaign manager for Bill Yellowtail's 1996 campaign, testified that

> The Yellowtail campaign had trouble finding out who was running the 1996 Citizens for Reform ads in Montana [which portrayed Yellowtail in a negative light]. As I recall, a local television station pointed us to a group in New Orleans. That group said they didn't know anything, but gave us a telephone number in Oklahoma that turned out to be connected to the J.C. Watts campaign. I believe someone there then flipped us to a phone number in Washington, D.C., and we finally

---

[56] The following is an audio transcript from one of these "Florida sugar industry"-sponsored advertisements:

> Ric Keller has become an embarrassment. He claims to be a conservative but got caught getting help from liberal Democrat Linda Chapin, and Keller's law firm coughed up campaign contributions for liberal Democrat Buddy McKay. Ric Keller even supported the Clinton-Gore billion dollar tax on food. Ric Keller, who proclaims to be a conservative but gets caught acting like a liberal. How embarrassing. How wrong. How Clinton.

Beckett Decl. Ex. 5 [DEV 6-Tab 3].

REV_00165434

> found Citizens for Reform. We later learned that Citizens for Reform was actually a front for Triad, a group that ran broadcast attack ads against many Democrats nationwide in the 1996 election cycle.

Declaration of Joe Lamson ¶12 [DEV 7-Tab 26]; *see also* Declaration of Larry LaRocco (former Member of Congress, stating he was never able to find the source of attack advertisements run against him in the 1994 campaign because none of the sponsoring organizations were registered with the FEC); Magleby Expert Report at 29 [DEV 4-Tab 8] (providing examples illustrating the point that "even candidates and their campaign managers are unable to ascertain who some of the groups running ads [in the 2000 campaign] were").

49. Krasno and Sorauf find that:

> Secrecy is one of the outstanding characteristics of issue advertisements, especially those financed by interest groups. As a result, we - and regulators - are hampered by a remarkable paucity of information about them. The media tracking data we have referred to throughout our report fill in some of the blanks, but many key factual questions remain unanswered or may only be answered after painstaking investigation. . . . This secrecy, by itself, creates enormous opportunities for wrongdoing, for favors to be exchanged between issue advocates and public officials. . . . Among its various advantages, disclosure is thought to combat corruption by illuminating the dark corners in which undue influence may be exerted far from public view. The idea is that politicians eager for popularity and votes will be loath to enter into situations that cast doubt on their probity; thus, the more these situations are revealed, the stronger the politician's impulse to avoid them. One of the ironies of this litigation is that many of BCRA's opponents are otherwise champions of disclosure. . . . The public's interest in revealing these transactions is countered by the private interest of many groups and donors to keep them secret. Thus, the ability to route money to groups for candidate-oriented issue ads without disclosure has attracted an increasing amount of money to this

REV_00165435

> activity. In the growing opaqueness of campaign financing, the opportunity for donors and officeholders to forge close relationships or strike deals without risk of detection increases, too.

Krasno & Sorauf Expert Report at 73-75 [DEV 1-Tab 2 at 146]. According to Plaintiffs' expert Sidney Milkis, a professor at the University of Virginia, "the names of these [issue advertising] groups did little to tell viewers who the sponsors of these messages were; indeed, in some cases they were misleading." Milkis Decl. ¶ 49.

50. Defendants' Expert Report, produced by Professor David Magleby, finds that

> [t]he current system places an unreasonable burden on voters to ascertain who is attempting to persuade them in an election. Our focus groups and survey data from 2000 show that to voters, party and interest group electioneering advertisements are indistinguishable from candidate advertisements. (See Table 2.) Even the candidates and their campaign managers are unable to ascertain who some of the groups running ads were. . . . And in the CSED national survey, I found that respondents were often confused as to whether party ads were paid for by candidates or parties. More than 40 percent of the time, the respondents thought the party ads were paid for by a candidate. . . . Voters, when asked, have consistently indicated that they would like to know who it is that is conducting electioneering. In 2000 voters in Montana faced a competitive U.S. Senate and a competitive U.S. House race. A late October Montana State University-Billings Poll found that, "78 percent of the survey respondents reported that it was 'very' or 'somewhat important' for them to know who 'pays for or sponsors a political ad.'" Our focus group participants in 2000 had very similar views on the question of the importance of their knowing who is paying for or sponsoring an ad. More than four-fifths (81%) said it was very or somewhat important to know the identity of the sponsor. In the national Knowledge Networks Survey in 2000, 78 percent said the same thing.

David B. Magleby, *Report Concerning Interest Group Electioneering Advocacy and Party Soft Money Activity*, at 29-30 [DEV 4-Tab 8].

REV_00165436

51. The Annenberg Public Policy Center finds that

> [b]ecause issue ads are not federally regulated, sponsors are not subject to disclosure requirements. As a result, who paid for an ad may not be apparent to viewers when they see it. Some organizations do identify themselves in the course of an advertisement, but their names may be unfamiliar to viewers and/or deliberately vague. For example, "Citizens for Better Medicare" is not a grass-roots generated group of citizens, but an arm of the Pharmaceutical Research and Manufacturers Association (PhRMA).

Annenberg Report 2001 at 18; *see also id.* at 3 (commenting that "[t]racking spending on issue advocacy is far from an exact science" because of the lack of disclosure). One of the conclusions the Center has reached after seven years of study is that "[i]ssue advocacy masks the identity of some key players and by so doing, it deprives citizens of information about source of messages which research tells us is a vital part of assessing message credibility." *Id.* at 2.

52. A prominent example of an organization running advertisements that influenced a federal election but were able to skirt FECA's disclosure provisions is the "Republicans for Clean Air" campaign. The issue advocacy campaign sponsored by Republicans for Clean Air during the 2000 Republican primary highlights how groups can use candidate-centered issue advocacy to avoid FECA's disclosure requirements. Defendants' experts Krasno and Sorauf provided uncontroverted testimony that:

> [a]mong the mysterious groups sponsoring issue ads or the mysterious donors funding various organizations–all without making information known to the public–the example of "Republicans for Clean Air" stands

REV_00165437

> out. This group sponsored ads praising then-Governor Bush and criticizing Senator McCain before the 2000 Republican presidential primaries in three states. Eventually, after the first of these primaries (South Carolina's) reporters uncovered that Republicans for Clean Air consisted of two brothers, Charles and Sam Wyly, long-time friends and supporters of Governor Bush. Charles Wyly, in fact, was an authorized fundraiser for the Bush campaign. . . . According to press estimates, the Wylys spent $25 million on their ads for Governor Bush . . . . When the Wylys' involvement was later uncovered during the New York primary, the news qualified as a small bombshell and led to a wave of publicity critical of the brothers and the Bush campaign, which in turn distanced itself from "Republicans for Clean Air." . . . In sum, we have a major campaign conducted in secrecy during a key part of the 2000 Republican primary campaign, and a marked change in the level of scrutiny once its sponsors became known. Much as we applaud the ingenuity of the reporters who eventually broke the story, we strongly believe that there is a compelling governmental interest in making these facts known to all from the start.

Krasno and Sorauf Report at 75-76 (footnotes omitted) [DEV 1-Tab 2]; *see also* FEC MUR 4982, Statement of Reasons, Comm'rs Thomas and McDonald, April 2002, INT 003684 [DEV 133-Tab 1] ("The week before the 'Super Tuesday' primaries, a $2 million advertising campaign praising presidential candidate George W. Bush and attacking his opponent, John McCain, ran in the important primary states of California, New York, and Ohio. The ads stated that they were paid for by a group calling itself 'Republicans for Clean Air.' In actuality, the ads apparently were financed mostly by two brothers, both of whom were strong financial supporters of then Governor Bush and one of whom was an authorized fundraiser for the Bush presidential campaign. At issue in MUR 4982 was whether there should have been some disclosure to the voting public of who really paid for the ads; whether the ads

REV_00165438

were coordinated with any agent of the Bush campaign and, thus, should be viewed as an in-kind contribution to the Bush campaign, and finally, whether the advertising effort should have registered with the Federal Election Commission as a 'political committee' subject to the reporting requirements and funding restraints."). Even Plaintiffs' expert agrees that the candidate-centered issue advocacy of the Republicans for Clean Air highlights the fact that this technique can be used to influence federal elections without complying with FECA's disclosure provisions. La Raja Decl. ¶ 25(b) ("We could not determine the sponsors of this ad until reporters in Washington discovered that brothers from Texas, who strongly supported George W. Bush, paid for the advertisements using a P.O. Box in Herndon, Virginia. . . . This direct personal experience trying to monitor outside electoral activity revealed to me the potential difficulties of identifying the source of interest group campaign activities, including issue ads.").

IV. CONCLUSIONS OF LAW

As part of the *per curiam* opinion, the Court resolves the Paul Plaintiffs' discrete claims and most of the new disclosure provisions of BCRA.

A. *Paul Plaintiffs' Press Clause Challenge*

Paul Plaintiffs[57] focus their complaint on the guarantees of free press embodied in the

[57] "Paul Plaintiffs" include: United States Representative Ron Paul, Gun Owners of America, Inc., Gun Owners of America Political Victory Fund, RealCampaignReform.Org, (continued...)

REV_00165439

First Amendment. Paul Pls.' Br. at 8. Specifically, Paul Plaintiffs contend that BCRA imposes certain restrictions on their "press" activities, which violate the basic tenets on which the freedom of the press rests.[58] *See id.* at 10, 13-18. In doing so, Plaintiffs advance a new, if not novel, challenge – a tack that has not been used in the campaign finance realm. *See id.* at 11 ("To date, however, [campaign finance challengers] that are engaged in non-exempt press activities have not invoked the freedom of the press in their numerous challenges to the constitutionality of federal campaign finance regulations . . . .").[59] While the Court recognizes the import of Paul Plaintiffs' innovative legal theory, it finds their arguments unpersuasive.

---

[57](...continued)
Citizens United, Citizens United Political Victory Fund, Michael Cloud, and Carla Howell.

[58] According to Paul Plaintiffs, BCRA imposes unconstitutional licensing restrictions, economically burdensome regulations, editorial control, and prior restraint on their "press" activities.

[59] As discussed at oral argument:

> MR. TITUS: Now, if that's true of the institutional press, that a prior restraint has to be tested by such a high standard, all the more true for the Paul plaintiffs who in this particular case are indicating to you, Your Honors, that what they are engaged in are press activities, they are entitled to the same immunity from prior restraint as the institutional press.
> JUDGE LEON: Is that a novel theory?
> MR. TITUS: No, I don't believe it's a novel theory. I don't think it has ever been pressed.
> JUDGE LEON: Do you have any Supreme Court cases that support it or Circuit cases?
> MR. TITUS: In financial campaign law cases, no. No one has argued this claim in any campaign finance case that I know of.

Tr. at 340-41 (Titus).

REV_00165440

In essence, Paul Plaintiffs characterize their activities (for example, candidate press releases, broadcast and radio advertisements, and campaign literature)[60] as falling under the constitutional protections afforded to the press. The freedom of the press, as Plaintiffs contend, "was never designed as a special privilege of the institutional media," Paul Pls.' Br. at 11; rather it extends to "every freeman," *see id.* at 12 (citing *Near v. Minnesota*, 283 U.S. 697, 713-14 (1931)). They argue further that while other First Amendment rights – of speech and association, for example – may be limited by a compelling governmental interest, the freedom of the press is insulated from such limitations.[61] *Id.* at 9 n.3. Under Plaintiffs' theory, the same governmental interests that survive a constitutional challenge in *Buckley v.*

---

[60] The vast majority of activities cited by Paul Plaintiffs fall well-outside the scope of BCRA's prohibition on "electioneering communications." *See* BCRA § 201(a); FECA § 304(f)(3)(A); 2 U.S.C. § 434(f)(3)(A) (not applying to press releases or campaign literature). Moreover, Paul Plaintiffs bring a facial challenge to the constitutionality of this statute, and have clearly not met their burden of demonstrating that the law is substantially overbroad.

[61] Paul Plaintiffs fail to provide the Court with a standard to apply where the government obstructs "press" activities, nor do they delineate the additional, substantive rights provided under the First Amendment Freedom of the Press Clause. Plaintiffs contend that "[t]he freedom of the press provides guarantees that are distinct from, and significantly greater than, the guarantees of free speech and association, and of equal protection . . . ." Paul Pls.' Br. at 9 n.3. Moreover, they note that "[w]hile the compelling government interest test has been applied to free speech, association, and equal protection claims, it is not applicable to the freedom of the press." *Id.* Plaintiffs do not, however, explicitly state instances where the freedom of the press has been found to be superior to the other guarantees provided under the First Amendment. Nonetheless, Paul Plaintiffs ask – although not explicitly – that the Court review any government interference with "press" activities under a more stringent standard than "exacting scrutiny," which would normally be applied where a law burdens core political speech. *First Nat'l Bank of Boston v. Bellotti*, 435 U.S. 765, 786 (1978) (holding that state restrictions on political speech are subject to "exacting scrutiny"). Without guidance from the parties, the Court, therefore, assumes that Paul Plaintiffs request the application of a standard on par with strict scrutiny.

REV_00165441

Valeo, 424 U.S. 1 (1976), may not be used to justify any limitation on the general press, which includes all persons and organizations disseminating information. *See id.* at 28 ("[T]he Paul Plaintiffs urge this Court not to follow *Buckley v. Valeo* here, because the press guarantee lays down a different and more stringent standard . . . .").

In order for Paul Plaintiffs' arguments to prevail, however, they must demonstrate that the freedom of the press provides rights superior to those under the Speech and Association Clauses of the First Amendment. If Paul Plaintiffs cannot demonstrate that their claims warrant separate and unique guarantees – guarantees that are not provided under the other clauses of the First Amendment – then there is no need for the Court to treat their grievances separately.

The Supreme Court has not explicitly stated whether the freedom of the press affords greater protections than that of speech or association; two leading First Amendment scholars have observed, however, that the Press Clause provides no greater rights. 2 Rodney A. Smolla, *Smolla and Nimmer on Freedom of Speech*, § 22:10 (2002) ("Does the Press Clause today have jurisdictional significance distinct from the Speech Clause? For the most part, the answer appears to be 'no.'"); *see also* Laurence H. Tribe, *American Constitutional Law* § 12-1, at 785 n.2 (2d ed. 1988).[62] Part of the problem, as Professor Smolla has observed,

---

[62] Professor Tribe, in his chapter on "Rights of Communication and Expression," does not allude to any greater or distinct rights afforded by the First Amendment Freedom of the Press Clause. In fact, Tribe states: "Throughout this chapter, 'freedom of speech' will be employed as shorthand for the entire collection of freedoms (other than those pertaining (continued...)

REV_00165442

is that "in modern First Amendment jurisprudence, the Press Clause has largely been subsumed into the Speech Clause." *Id.* at § 22:6.

The Supreme Court's treatment of the First Amendment in *First National Bank of Boston v. Bellotti*, 435 U.S. 765 (1978), illustrates this point. In *Bellotti*, the Supreme Court considered a Massachusetts criminal statute that prohibited corporations "from making contributions or expenditures for the purpose of influencing or affecting the vote on any question submitted to the voters." *Bellotti*, 435 U.S. at 768 (internal quotations and ellipses omitted). The plaintiff-bank wanted to spend money to publicize its views on a proposed state constitutional amendment that was to be submitted to the voters as a ballot question in an upcoming election. *Id.* at 769. After being informed that the state Attorney General would enforce the statute, the bank sought declaratory relief. *Id.* The case was not exclusively framed around the Press Clause, *see id.* at 779, yet the Supreme Court engaged in a careful discussion of the freedom of the press and entertained whether media corporations enjoy superior rights as compared to those of general corporations. *Id.* at 781. The majority deemed that the "institutional" media "does not have a monopoly on the First Amendment," *id.* at 781-82, but went on to consider whether the state could "show[] a subordinating interest which is compelling" to justify the statute's impact on First Amendment rights, *id.* at 786. The Supreme Court then determined that the state's concern

---

[62](...continued)
specifically to religion) secured from government interference by the first amendment." Laurence H. Tribe, *American Constitutional Law* § 12-1, at 785 n.2 (2d ed. 1988).

REV_00165443

failed to meet the compelling interest test.[63] *Id.* at 788-91.

Bellotti is significant because, despite considering rights under the Press Clause, the Supreme Court nonetheless applied the compelling interest test. *Id.* In other words, in the context of an election law statute, as it applied to a non-media corporation, the Supreme Court treated the Press and Speech Clauses as indistinct.[64] What is more, the Supreme Court alluded to no rights under the Press Clause that are superior to or different than those under the other clauses of the First Amendment.

Even if the Court were to find that the Press Clause provides greater or different protections than the other provisions of the First Amendment, Plaintiffs' arguments must fail.[65] As noted above, Paul Plaintiffs have failed to identify any case that has applied

---

[63] The Supreme Court distinguished the statute in *Bellotti* from traditional campaign finance laws, which involve expenditures directed towards or otherwise contributed to *candidates*. *Bellotti*, 435 U.S. at 790. "Referenda are held on issues, not candidates for public office. The risk of corruption perceived in cases involved in candidate elections simply is not present in a popular vote on a public issue." *Id.* (citation omitted).

[64] The Supreme Court did not, however, consider whether the media exemption under most campaign finance laws, *see, e.g.*, BCRA § 201(a); FECA § 304(f)(3)(B)(i); 2 U.S.C. § 434(f)(3)(B)(i), violates the First Amendment or the Equal Protection Clause. That is, by exempting the "institutional" media, do such provisions unfavorably discriminate against the rights of the general press? The Supreme Court settled this question in *Austin v. Michigan State Chamber of Commerce*, 494 U.S. 652 (1990), when it simply stated: "Although the [institutional] press' unique societal role may not entitle the [institutional] press to greater protection under the Constitution, it does provide a compelling reason for the State to exempt media corporations from the scope of political expenditure limitations." *Austin*, 494 U.S. at 668.

[65] If the Press Clause affords greater or different rights, it might force the courts to make a distinction between the "institutional" and "general" press. The difficulty in making (continued...)

REV_00165444

"press" guarantees in the campaign finance context. Tr. at 341 (Titus); *see also* Paul Pls.' Br. at 11. To hold for Paul Plaintiffs would be to invite a new and wholly unsupported theory of First Amendment jurisprudence; litigants could besiege the courts with a host of challenges to laws previously upheld by the Supreme Court on First Amendment grounds, merely by characterizing themselves in their complaints as members of the "press" because their purpose is to disseminate information to the public. As Chief Justice William Rehnquist and Associate Justice Antonin Scalia observed in *McIntyre v. Ohio Elections Commission*, 514 U.S. 334 (1995), "of course, if every partisan cry of 'freedom of the press' were accepted as valid, our Constitution would be unrecognizable." *McIntyre*, 514 U.S. at 373 (Scalia, J., dissenting).[66]

---

[65](...continued)
this distinction compelled Chief Justice Burger to write his concurring opinion in *Bellotti*. *See Bellotti*, 435 U.S. at 796 (Burger, C.J., concurring) (noting the "difficulty, and perhaps impossibility, of distinguishing, either as a matter of fact or constitutional law, media corporations from [non-media] corporations"). Nonetheless, this Court refuses to resolve Plaintiffs' Press Clause claims in this context.

[66] In *McIntyre*, the Supreme Court applied the *Speech Clause* to invalidate an Ohio statute that prohibited the anonymous distribution of campaign literature on general, referendum questions. *McIntyre*, 514 U.S. at 336-37, 349-51. Justice Thomas concurred in judgment, but "would [have applied] . . . a different methodology to [the] case." *Id.* at 358-59. According to Justice Thomas, the "practices and beliefs held by the Founders" provided for an author's right to publish anonymously under the Press and Speech Clauses. *Id.* at 360. Justice Scalia, with whom Chief Justice Rehnquist joined, was not persuaded by Justice Thomas's arguments. *Id.* at 373. As Justice Scalia observed, "not every restriction upon expression that did not exist in 1791 or in 1868 is *ipso facto* unconstitutional, or else modern election laws such as those involved in *Buckley v. Valeo*, 424 U.S. 1 (1976) would be prohibited, as would . . . modern antinoise regulation . . . , and modern parade permitting regulation." *Id.* (citations omitted).

REV_00165445

Paul Plaintiffs can cite no precedent in support of their claims. Since the Supreme Court has not affirmatively provided superior rights under the Press Clause, and has suggested that such claims fall under the general First Amendment compelling interest test, this Court rejects the argument that Paul Plaintiffs' claims under the Press Clause warrant a higher level of constitutional protection.[67] Therefore, this Court will apply the same scrutiny to all First Amendment claims, whether presented under the Speech or Press Clauses, and subsumes all of Paul Plaintiffs' Title I, and essentially all of their Title II, arguments into the First Amendment challenges advanced by the other litigants in this case.[68]

B. *BCRA's Disclosure Provisions*

Section 201: Disclosure Provisions

1. *Introduction*

With one exception, the Court also finds the disclosure provisions relating to "electioneering communications" constitutional. The factual record demonstrates that the

---

[67] Given this conclusion, the Court holds that there is no reason to remand the Paul Plaintiffs' separate challenges to FECA's pre-BCRA provisions under this theory to a single-judge court. *See* Paul Pls.' Compl. ¶ 1 ("This is an action for declaratory and injunctive relief with respect to certain provisions of [BCRA] as it amends the [FECA], *as well as certain related provisions of the FECA* . . . on the grounds that these integrally related provisions deprive the Plaintiffs of the Freedom of the Press in violation of the First Amendment of the Constitution of the United States.") (emphasis added) (citations omitted).

[68] Paul Plaintiffs briefly challenge the constitutionality of section 301 of Title III in their pleadings – most notably and independent of their Press argument, that section 301 discriminates against non-incumbent office holders by placing limitations on personal use expenditures. Paul Pls.' Br. at 25. However, the Court is not able to discern any basis for these arguments in their Amended Complaint. Accordingly, the Court does not address this issue.

REV_00165446

abuse of the present law not only permits corporations and labor unions to fund broadcast advertisements designed to influence federal elections, but permits them to do so while concealing their identities from the public. BCRA's disclosure provisions require these organizations to reveal their identities so that the public is able to identify the source of the funding behind broadcast advertisements influencing certain elections. Plaintiffs' disdain for BCRA's disclosure provisions is nothing short of surprising. Plaintiffs challenge BCRA's restrictions on electioneering communications on the premise that they should be permitted to spend corporate and labor union general treasury funds in the sixty days before the federal elections on broadcast advertisements, which refer to federal candidates, because speech needs to be "uninhibited, robust, and wide-open." McConnell Br. at 44 (quoting *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964)). Curiously, Plaintiffs want to preserve the ability to run these advertisements while hiding behind dubious and misleading names like: "The Coalition–Americans Working for Real Change" (funded by business organizations opposed to organized labor), "Citizens for Better Medicare" (funded by the pharmaceutical industry), "Republicans for Clean Air" (funded by brothers Charles and Sam Wyly). Findings ¶¶ 44, 51, 52. Given these tactics, Plaintiffs never satisfactorily answer the question of how "uninhibited, robust, and wide-open" speech can occur when organizations hide themselves from the scrutiny of the voting public. McConnell Br. at 44. Plaintiffs' argument for striking down BCRA's disclosure provisions does not reinforce the precious First Amendment values that Plaintiffs argue are trampled by BCRA, but ignores the

REV_00165447

competing First Amendment interests of individual citizens seeking to make informed choices in the political marketplace. As a result, the Court finds Section 201 facially constitutional, with the exception of one subsection which the Court determines to be broader than necessary to achieve the legitimate governmental interest at stake.

2. *Discussion*

The provision's disclosure requirements are challenged by the McConnell, AFL-CIO, Chamber of Commerce, NAB, NRA, and Paul Plaintiffs. Plaintiffs' challenge to Section 201's disclosure provisions focuses on two aspects of the law: (1) its requirement of disclosure prior to the airing of electioneering communications; and (2) its requirement that disbursers disclose the names of contributors who gave over $1,000 to the disbursing fund. The Court addresses each in turn.

a. Prior Disclosure

The McConnell Plaintiffs, AFL-CIO, Chamber of Commerce, and NAM object to Section 201's disclosure requirements on the ground that they mandate disclosure of not only actually aired electioneering communications, but also contracts to make such communications. *See* McConnell Br. at 56 n.22; AFL-CIO Br. at 14-17; Chamber/NAM at 20 n.13. This advance disclosure, Plaintiffs argue, "serve[s] no governmental interest and will chill the exercise of free speech by forcing groups . . . to disclose ongoing and confidential political strategies and decision-making processes, and by giving adversaries the opportunity to try to thwart broadcasts or counter them with their own messages." AFL-CIO

REV_00165448

Br. at 16.[69]

Defendants argue that the then-pending (and now final) regulations interpret the notice requirements as not mandating disclosure until after the advertisements have been publicly distributed. Gov't Opp'n at 111. The content of the regulations, argue Defendants, "moot plaintiffs' concerns, [make] plaintiffs' claims to injury . . . wholly speculative[,] and their challenge to this aspect of BCRA's disclosure provisions is therefore unfit for judicial resolution." *Id.*

---

[69] McConnell Plaintiffs, the Chamber of Commerce and NAM make a passing suggestion that Section 201 might constitute a "prior restraint" in violation of the First Amendment. McConnell Plaintiffs Br. at 55-56 ("But if this Court agrees that the electioneering communications provisions cannot stand, the attendant disclosure provisions should likewise fall, because the disclosure provisions constitute a regulation of–and in some cases a prior restraint on– speech that the government may not regulate in the first place."); Chamber/NAM Br. at 20 n.13 ("The timing of the BCRA's electioneering communication disclosure requirement is an unconstitutional prior restraint.").

This argument cannot be squared with the Supreme Court's definition of "prior restraint." *See Ward v. Rock Against Racism*, 491 U.S. 781, 795 n.5 (1989) ("[T]he regulations we have found invalid as prior restraints have 'had this in common: they gave public officials the power to deny use of a forum in advance of actual expression.'") (*citing Southeastern Promotions, Ltd. v. Conrad*, 420 U.S. 546, 553 (1975)); *see also Blue Canary Corp. v. City of Milwaukee*, 251 F.3d 1121, 1123 (7th Cir. 2001) ("By 'prior restraint' . . . modern courts . . . mean censorship--an effort by administrative methods to prevent the dissemination of ideas or opinions thought dangerous or offensive. The censor's concern is with the content of speech, and the ordinary judicial safeguards are lacking. 'Prior restraints' that do not have this character are reviewed under the much more permissive standard applicable to restrictions merely on the time, place, or manner of expression.") (citations omitted); *Wisconsin Realtors Ass'n v. Ponto*, No. 02-C-424-C, 2002 WL 31758663 * 12 (W.D. Wis. Dec. 11, 2002) (subjecting Wisconsin statute's prior reporting requirements to "time, place, or manner of expression" analysis); FEC Opp'n at 112.

Given the paucity of Plaintiffs' briefing on this matter and the precedent cited above, this Court believes further analysis of "prior restraint" in this context is not warranted.

REV_00165449

The Court cannot agree that Plaintiffs' challenge to the disclosure requirements in Section 201 is not ripe for review. Unlike the situation confronted by the Court in examining the disclosure requirement of Section 212, discussed *infra* at 140, the regulations promulgated for Section 201 do not eliminate Plaintiffs' prior disclosure concerns. The regulations, despite the FEC's explanation of the provision,[70] appear to still require prior disclosure of electioneering communications that have not yet aired. Specifically, the definition of "disclosure date" leaves uncertain what must be disclosed after the airing of an electioneering communication when the disburser has executed contracts for electioneering communications aggregating over $10,000.[71] The regulations suggest that if a person has

---

[70] In issuing the final regulations, the FEC noted that

> All of the commenters who addressed this issue . . . advocated adopting a final rule that would define ''disclosure date'' as the date of the public distribution of the electioneering communication. They argued that there is no electioneering communication, and therefore no reporting requirement, until the communication is actually publicly distributed. . . .
>
> This [adopted definition of disclosure] date reflects the Commission's concerns that there are legal and practical issues associated with compelling disclosure of potential electioneering communications before they are finalized and publicly distributed, and premature disclosure may require reporting entities to divulge confidential strategic and political information about their possible future activities.

Explanation and Justification of 11 C.F.R. 104.20, Reporting Electioneering Communications, 68 Fed. Reg. at 404, 409 (Jan. 3, 2003).

[71] The regulations provide in part:

(1) Disclosure date means:

> (i) The *first date* on which *an* electioneering communication is *publicly distributed* provided that the person making the electioneering communication has made one or more disbursements, *or has executed one or more contracts to make disbursements*, for the direct costs of producing or airing one or more

(continued...)

REV_00165450

executed $10,000 in electioneering communications contracts, 24 hours after the first such communication is aired, the disburser must make a disclosure encompassing all of the electioneering communications under the contract(s). The Court notes that its jurisdiction does not extend to the FEC's BCRA regulations, *see* BCRA § 403 (providing this Court with jurisdiction to hear challenges to "the constitutionality of any provision of this Act or any amendment made by this Act"), and therefore it makes no determination on their validity or proper construction. However, given the uncertainty it finds with regard to the scope of the regulations, the Court cannot conclude that Plaintiffs' challenge is not ripe.[72] "[T]he extent of the chill upon first amendment rights induced by vague or overbroad statutes is the most significant factor in determining whether an otherwise premature or abstract facial attack . . . is ripe for decision." *Martin Tractor Co. v. FEC*, 627 F.2d 375, 384 (D.C. Cir. 1980).

---

[71](...continued)

> electioneering communications aggregating in excess of $10,000; or
> (ii) Any other date during the same calendar year on which *an* electioneering communication is *publicly distributed* provided that the person making the electioneering communication has made one or more disbursements, *or has executed one or more contracts to make disbursements*, for the direct costs of producing or airing one or more electioneering communications aggregating in excess of $10,000 since the most recent disclosure date during such calendar year.

BCRA Reporting; Coordinated and Independent Expenditures; Final Rules, 68 Fed. Reg. 404, 419 (Jan. 3, 2003) (to be codified at 11 C.F.R. § 104.20) (emphasis added).

[72] In analyzing Section 212, *infra* at 140, the Court finds that the FEC's final regulations completely and unequivocally address Plaintiffs' concerns and therefore renders their challenge to that provision unripe for adjudication at this time. In the analysis of Section 214(c), *infra* at 155, the Court finds that the regulations related to Section 214, promulgated after briefing and oral argument in this case, have affected the contours of the dispute between the parties to such an extent that the challenge is not ripe for review.

REV_00165451

Where other cases have found facial First Amendment challenges ripe for review, "either the activities in which the complainants wished to (or had) engaged or the enforcing authority's particular intent to enforce the statute, or both, were clear enough to show the adversarial posture assumed by the parties and the contours of their dispute." *Id.* at 387. Here, Plaintiffs have clearly engaged in "electioneering communications" in the past, and the FEC regulations promulgated on January 3, 2003, indicate that the agency intends to enforce BCRA Section 201, including its "contracts" provision. Given these facts, the Court finds that Plaintiffs "have alleged an actual and well-founded fear that the law will be enforced against them," which threatens the danger of "self-censorship; a harm that can be realized even without an actual prosecution." *Virginia v. Am. Booksellers Ass'n*, 484 U.S. 383, 393 (1988).[73]

---

[73] The Court notes that arguments could be made that the FEC's regulations do render Plaintiffs' challenge unripe. For example, under the regulations, to be an "electioneering communication" the broadcast must be "publicly distributed within 60 days before a general election." BCRA, FCC Database on Electioneering Communications; Final Rules, 67 Fed. Reg. 65190, 65210 (Oct. 23, 2002) (to be codified at 11 C.F.R. § 100.29(a)(2)). Therefore, it could be argued that a broadcast is not an "electioneering communication" until it is aired, and therefore contracts to make broadcasts are not contracts to make electioneering communications unless and until the broadcasts have been publicly disseminated.

This reasoning leads to the conclusion that one cannot have $10,000 in electioneering communications contracts to disclose until $10,000 worth of advertisements have been publicly disseminated. However, as this analysis demonstrates, such a conclusion is not unequivocally apparent, and therefore could lead to the chilling of First Amendment rights. Again, had the FEC promulgated regulations which clearly addressed this issue as it did for Section 212, the Court's ripeness determination for Section 201 would likely have been different. Given the possibility of different interpretations of the regulations, the chilling effect of that uncertainty, and the fact this Court lacks jurisdiction to rule on the regulations, (continued...)

REV_00165452

Analysis of Section 201 commences with the guidance that disclosure provisions "in most applications appear to be the least restrictive means of curbing the evils of campaign ignorance and corruption." *Buckley*, 424 U.S. at 68. However, disclosure provisions are subject to exacting scrutiny analysis "because compelled disclosure has the potential for substantially infringing the exercise of First Amendment rights." *Id.* at 66. The Supreme Court has found three categories of "governmental interests sufficiently important to outweigh the possibility of infringement." *Id.* The Supreme Court stated:

> First, disclosure provides the electorate with information as to where political campaign money comes from and how it is spent by the candidate in order to aid the voters in evaluating those who seek federal office. It allows voters to place each candidate in the political spectrum more precisely than is often possible solely on the basis of party labels and campaign speeches. The sources of a candidate's financial support also alert the voter to the interests to which a candidate is most likely to be responsive and thus facilitate predictions of future performance in office.
>
> Second, disclosure requirements deter actual corruption and avoid the appearance of corruption by exposing large contributions and expenditures to the light of publicity. This exposure may discourage those who would use money for improper purposes either before or after the election. A public armed with information about a candidate's most generous supporters is better able to detect any post-election special favors that may be given in return . . . .
>
> Third, and not least significant, recordkeeping, reporting, and disclosure requirements are an essential means of gathering the data necessary to detect violations of the contribution limitations described above.

Id. at 66-68 (citations omitted). *Buckley* upheld the constitutionality of Section 434(e) of

---

[73](...continued)
the Court has determined that Plaintiffs' challenge to Section 201's disclosure provisions is ripe.

REV_00165453

FECA, which required disclosure of independent expenditures, although the Supreme Court did limit the provision to only those expenditures used for "communications that expressly advocate the election or defeat of a clearly identified candidate." *Id.* at 80. The provision was found to be "part of Congress' effort to achieve total disclosure . . . in order to insure that the voters are fully informed and to achieve through publicity the maximum deterrence to corruption and undue influence as possible." *Id.* at 76 (footnote and quotation marks omitted). The Supreme Court deemed the measure "responsive to the legitimate fear that efforts would be made, as they had been in the past, to avoid the disclosure requirements by routing financial support of candidates through avenues not explicitly covered by the general provisions of FECA." *Id.* at 76 (footnote omitted). The Supreme Court also determined that

> it is not fatal that [section] 434(e) encompasses purely independent expenditures uncoordinated with a particular candidate or his agent. The corruption potential of these expenditures may be significantly different, but the informational interest can be as strong as it is in coordinated spending, for disclosure helps voters to define more of the candidates' constituencies.

Buckley, 424 U.S. at 81.

Addressing Plaintiffs' prior disclosure concerns, Defendant FEC maintains that even with the "contracts" language, Section 201 is constitutional because it "does not prevent anyone from speaking," and "[t]he reports themselves would not have to reveal the specific content of the advertisements, yet they would perform an important function in informing the public about various candidates' supporters before election day." FEC Opp'n at 112 (emphasis in original). Although the Court agrees that the function cited is a substantial one,

REV_00165454

see Buckley, 424 U.S. at 67 ("[F]ull disclosure during an election campaign tends to prevent the corrupt use of money to affect elections.") (citation and quotation marks omitted), the FEC does not explain how this goal is any less served by requiring disclosures only after the expenditures for electioneering communications have been publicly disseminated. Information concerning contracts that have not been performed, and may never be performed, may lead to confusion and an unclear record upon which the public will evaluate the forces operating in the political marketplace. By limiting disclosures to expenditures actually made, the government's legitimate interest is served without the constitutional and practical shortcomings implicated by requiring prior disclosures. This is so because Section 201 requires disclosure within 24 hours of the disbursement.[74] The Court finds that Section 201,

---

[74] The Court does not address the question of whether or not the 24-hour disclosure deadline included in Section 201 is constitutional, as this provision was not challenged nor its constitutionality briefed by Plaintiffs and consequently not responded to by Defendants. *See* McConnell Plaintiffs Br. at 56 n.22; AFL-CIO Br. at 14-17; ACLU Br. at 17-19; Chamber/NAM Br. at 18-20; NRA Br. at 48-50; FEC Opp'n at 112 n.116 ("In *Citizens for Responsible Gov't State Political Action Comm.* . . the court invalidated a 24-hour notice requirement because it believed 'such immediate notice' was unduly burdensome– *claim* [*sic*] *not raised by plaintiffs here* . . . .") (emphasis added); *McConnell v. FEC*, No. 02-582 (D.D.C. Oct. 15, 2002) (Briefing Order) ("*All* legal arguments shall be presented on a title-by-title basis, with a discrete section of each brief devoted to each title.") (emphasis added); *see also Tri-State Hosp. Supply Corp. v. United States*, 142 F. Supp. 2d 93, 101 n.6 (D.D.C. 2001) ("The court makes no ruling on such acts, however, because the United States has not briefed the issue."); *Carter v. Cleland*, 472 F. Supp. 985, 989 n.4 (D.D.C. 1979) ("This issue was not briefed by the parties. No decision will be rendered on it."); *cf. Kattan v. District of Columbia*, 995 F.2d 274, 276 (D.C. Cir. 1993) ("[T]his Court has recognized that a losing party may not use a Rule 59 motion to raise new issues that could have been raised previously."). Circuit Courts of Appeal routinely consider issues that are not briefed as "abandoned." *United States v. Wade*, 255 F.3d 833, 839 (D.C. Cir. 2001) (*citing Terry v.*

(continued...)

REV_00165455

by including subsection 5 of Section 201, BCRA § 201(a); FECA § 304(f)(5); 2. U.S.C. § 434(f)(5), which equates contracts to make disbursements with actual disbursements requiring disclosure of contracts to make electioneering communications prior to their public dissemination, lacks a "relevant correlation" or "substantial relation," *Buckley*, 424 U.S. at 64, to a legitimate governmental interest.

This constitutional flaw, however, does not render Section 201 unconstitutional in its entirety. BCRA provides that "[i]f any provision of this Act . . . or the application of a provision . . . to any person or circumstance[] is held to be unconstitutional, the remainder of this Act . . . and the application of the provisions . . . to any person or circumstance, shall not be affected by the holding." BCRA § 401; 2 U.S.C. 454 note. As the Supreme Court noted in *Buckley*, "[u]nless it is evident that the legislature would not have enacted those provisions which are within its power, independently of that which is not, the invalid part may be dropped if what is left is fully operative as a law." *Buckley*, 424 U.S. at 108-09 (quoting *Champlin Refining Co. v. Corporation Comm'n*, 286 U.S. 210, 234 (1932)); *see also Consumer Energy Council of America v. Federal Energy Regulatory Comm'n*, 673 F.2d 425, 441 (D.C. Cir. 1982) ("The presence of a severability clause, which expressly sets forth congressional intent that a statute stand in the event one of its provisions is struck down, makes it extremely difficult for a party to demonstrate inseverability."), *aff'd*, 463 U.S. 1216

---

[74](...continued)
Reno, 101 F.3d 1412, 1415 (D.C. Cir. 1996), *cert. denied*, 520 U.S. 1264 (1997)).

REV_00165456

(1983); *Buckley*, 424 U.S. at 108-09 (finding that unconstitutional provisions did not render all of Subtitle H of FECA unconstitutional); *Carlin Communications, Inc. v. FCC*, 837 F.2d 546, 560-61 (2d Cir. 1988) (finding that "the words 'or indecent' are separable so as to permit them to be struck and the statute otherwise upheld. . . . [T]he invalid part of section 223 may be dropped and . . . the remainder of the statute is fully operative."), *cert. denied*, 488 U.S. 984 (1988). Given this guidance and the clear import of Section 401 of BCRA, the Court holds that the remainder of Section 201 is severable from subsection (5). It is clear that the value of disclosing electioneering communications disbursements is not dependent on their disclosure prior to broadcast, and the Court cannot say that it is "evident that the legislature would not have enacted" the remaining disclosure provisions of Section 201 in the absence of subsection (5). *Buckley*, 424 U.S. at 108-09. The remainder of Section 201 adequately serves the purpose of "informing the public about various candidates' supporters before election day," FEC Opp'n at 112 (emphasis in original), without requiring advance disclosures that could potentially chill the exercise of free speech rights.

The Court therefore finds that Section 201's requirement that electioneering communications that have not yet aired but have been contracted for is unconstitutional, but that by severing subsection (5), the provision's prior disclosure concerns are remedied and the remainder of the section is constitutional.

b. Disclosure of $1,000 Contributors

Plaintiffs ACLU, Chamber of Commerce, NAM, and NRA challenge Section 201's

REV_00165457

requirement that electioneering communications disbursers disclose the names of persons who have given $1,000 or more to the disbursing fund. Plaintiffs argue that for "controversial groups, such threatened disclosure can have a deadly chilling effect on the group's advocacy." ACLU Br. at 19; *see also* Chamber/NAM Br. at 19; NRA Br. at 50. The NRA argues that the provision suffers from the same infirmities as those in FECA struck down by the D.C. Circuit, as BCRA's "disclosure requirements reach the very same outside 'groups engaging in nonpartisan discussion.'" NRA Br. at 49-50 (quoting *Buckley*, 519 F.2d at 873). Finally, the Chamber of Commerce argues that Section 201's disclosure requirements are overbroad, because at least "[w]hen the advertiser is the Chamber [of Commerce], the interest served by the ad is reasonably clear." Chamber/NAM Br. at 20 (quoting Deborah Goldberg & Mark Kozlowski, *Constitutional Issues in Disclosure of Interest Group Activities*, 35 Ind. L. Rev. 755, 757 (2002)).

Defendants argue that the disclosure of individual contributors is necessary because many sponsors of issue advertisements conceal "their identity from the public by electioneering pseudonymously, through front organizations such as 'The Coalition: Americans Working for Real Change,' [*sic*] 'Citizens for Reform.'" FEC Br. at 173.[75]

---

[75] In justifying the provision, one Senator commented:

> We deter the appearance of corruption by shining sunlight on the undisclosed expenditures for sham issue advertisements. Corruption will be deterred when the public and the media are able to see clearly who is trying to influence the election. In addition our provisions will inform the voting public of who is sponsoring and paying for an electioneering communication.

(continued...)

REV_00165458

Indeed, the Supreme Court has observed that "when individuals or corporations speak through committees, they often adopt seductive names that may tend to conceal the true identity of the source." *Citizens Against Rent Control v. City of Berkeley*, 454 U.S. 290, 298 (1981) (rejecting the argument that a limit on contributions to committees formed to support or oppose ballot measures was necessary "to make known the identity of supporters and opponents" of such measures, given that another provision of the ordinance "requires publication of lists of contributors in advance of the voting"). This observation has been buttressed by the evidence presented in this case. *See* Findings ¶¶ 48-52. For example, PhRMA, a pharmaceutical industry trade group, the Chamber of Commerce, and two brothers from Texas, have produced issue adds under the names "Citizens for Better Medicare," "Americans Working for a Real Change," and "Republicans for Clean Air," respectively. *Id.* ¶¶ 51, 44, 52. A recent poll showed that 61 percent of Americans want to know who is behind these issue advertisement organizations. *Id.* ¶ 46. Plaintiffs' briefs

---

[75](...continued)
147 Cong. Rec. S3034 (daily ed. Mar. 28, 2001) (Sen. James Jeffords). In a similar vein, a Representative stated:

> No one is trying to gag anybody. If they want to do a political ad that essentially wants people to vote for or against, what they say is [*sic*] fall within the independent expenditure and other provisions of the law, which has limits on what can be expended and has requirements for disclosure, which is not true of these ads that are clearly campaign ads, that are clearly political ads. But the people do not know who put the money up. They are hidden. They are endless. There is a flood of hidden, in terms of its support, of hidden money. That is what we say should not happen.

144 Cong. Rec. H4866 (daily ed. June 19, 1998) (statement of Rep. Sander Levin).

REV_00165459

provide no evidence to the contrary and do not attempt to argue that the government lacks a legitimate interest related to the disclosure requirements; in fact, many of their experts voice the same concerns. *Id.* ¶¶ 49 (Milkis), 52 (La Raja). The Court finds that the evidence presented establishes that a legitimate governmental interest is served by the donors disclosure requirement, and reaffirms the *Buckley* observation that "[t]he corruption potential of [independent uncoordinated] expenditures may be significantly different [than coordinated expenditures], but the informational interest can be as strong as it is in coordinated spending, for disclosure helps voters to define more of the candidates' constituencies." *Buckley*, 424 U.S. at 81. Without disclosure of donors, it is difficult, if not impossible for the voting public to know who is sponsoring political advertisements under amorphous and nondescript pseudonyms. *See* Findings ¶¶ 47, 50-51. Indeed, even those experienced in politics, political scientists, and members of the media find it difficult to know who is behind some political advertisements. *Id.* ¶¶ 48, 52. Without Section 201's disclosure requirements, it will continue to be extremely difficult for the public to learn that groups, such as PhRMA, or individuals, like the Wylys, are the true source of millions of dollars in potential advertisements run under banners such as "The Coalition" or "Citizens for Better Medicare." *Id.*

This conclusion, however, does not end the inquiry. The Supreme Court has been mindful of the chilling effect disclosure can have on associational rights, and has declared that "state action which may have the effect of curtailing the freedom to associate is subject

REV_00165460

to the closest scrutiny." *NAACP v. Alabama*, 357 U.S. 449, 460-61(1958). "The strict test established by *NAACP v. Alabama* is necessary because compelled disclosure has the potential for substantially infringing the exercise of First Amendment rights." *Buckley*, 424 U.S. at 66. Although disclosure requirements are often "the least restrictive means" of regulating campaign finance practices, "[i]n some instances disclosure may even expose contributors to harassment or retaliation." *Buckley*, 424 U.S. at 68.

In *Buckley*, the Supreme Court considered the argument that contributions made to independent candidates and minor parties should be exempt from FECA's disclosure requirements. The Supreme Court rejected the challenge, concluding that the evidence presented was "not of the sort proffered in *NAACP v. Alabama*."[76] *Buckley*, 424 U.S. at 71.

---

[76] In *NAACP*, the NAACP challenged a court order forcing the group "to reveal to the State's Attorney General the names and addresses of all of its Alabama members and agents." *NAACP v. Alabama*, 357 U.S. 449, 451 (1958). The State had obtained a restraining order, enjoined the group from operating in Alabama due to its failure to file a corporate charter with the Secretary of State. *Id.* In response, the NAACP sought to dissolve the restraining order, but refused to comply with Alabama's request for the production of documents including the NAACP's "records containing the names and addresses of *all* Alabama members and agents of the Association." *Id.* at 453 (quotation marks omitted) (emphasis added). The court then ordered the NAACP to comply. *Id.* The evidentiary record before the Supreme Court consisted of uncontroverted evidence "showing that on past occasions revelation of the identity of [the NAACP's] rank-and-file members has exposed these member to economic reprisal, loss of employment, threat of physical coercion, and other manifestations of public hostility." *Id.* at 462. Based on this evidence, the Court found that

> compelled disclosure of [the NAACP's] membership is likely to affect adversely the ability of [the NAACP] and its members to pursue their collective effort to foster beliefs which, they admittedly have the right to advocate, in that it may induce members to withdraw from the Association and

(continued...)

REV_00165461

The evidence that was presented in *Buckley* was found by the Supreme Court to be "at best . . . the testimony of several minor-party officials that one or two persons refused to make contributions because of the possibility of disclosure," and therefore failed to persuade the Supreme Court that "the substantial public interest . . . outweighs the harm generally alleged." *Id.* *Buckley* instructs that when a legitimate government interest is served by a disclosure provision, constitutional challenges claiming the disclosure will chill associational rights must be accompanied by evidence which shows

> a reasonable probability that the compelled disclosure of a party's contributors' names will subject them to threats, harassment, or reprisals from either government officials or private parties. The proof may include, for example, specific evidence of past or present harassment of members due to their associational ties, or of harassment directed against the organization itself. A pattern of threats or specific manifestations of public hostility may be sufficient.

Buckley, 424 U.S. at 74; *see also Brown v. Socialist Workers '74 Campaign Comm.*, 459 U.S. 87 (1982) (finding Ohio disclosure provisions could not be constitutionally applied to the Socialist Workers Party ("SWP") due to the "substantial evidence of both governmental and private hostility toward and harassment of SWP members and supporters").[77]

---

[76](...continued)
> dissuade others from joining it because of fear of exposure of their beliefs shown through their associations and of the consequences of this exposure."

Id. at 462-63. As such, the Supreme Court found that Alabama's interest in the information was insufficient to justify the disclosure. *Id.* at 466.

[77] In *Brown*, the Supreme Court examined an Ohio election campaign law which required "every candidate for political office to file a statement identifying each contributor (continued...)

REV_00165462

For this reason, the ACLU's facial challenge to Section 201 is unavailing. Neither *NAACP* nor *Brown* stand for the proposition that disclosure laws that apply to organizations "whose positions are often controversial and whose members and contributors frequently request assurances of anonymity" are facially unconstitutional. ACLU Opp'n at 10. Rather, as explained above, the statutes in those cases were held inapplicable to the groups in question based on the facts presented, not invalid on their face. *See NAACP*, 449 U.S. at 462-63 ("[W]e think it apparent that compelled disclosure of *petitioner's* Alabama membership is likely to affect adversely the ability of *petitioner and its members*" to engage in their freedom to associate.") (emphasis added); *Brown*, 459 U.S. at 102 ("Ohio's campaign disclosure requirements cannot be constitutionally applied *to the Ohio SWP*.") (emphasis added). The Court is given no information as to why these donors wish to maintain their

---

[77](...continued)
and each recipient of a disbursement of campaign funds." *Brown v. Socialist Workers '74 Campaign Comm.*, 459 U.S. 87, 89 (1982). The District Court in the case had found "substantial evidence of both governmental and private hostility toward and harassment of [Socialist Workers Party ("SWP")] members and supporters." *Id.* at 98-99. The evidence presented included specific incidents which took place within four years of the trial, and included "threatening phone calls and hate mail, the burning of SWP literature, the destruction of SWP members' property, police harassment of a party candidate, and the firing of shots at an SWP office. There was also evidence that in the 12-month period before trial 22 SWP members, including four in Ohio, were fired because of their party membership." *Id.* at 99. This evidence was found to present a reasonable probability that disclosing the names of contributors and recipients will subject them to threats, harassment, and reprisals. *Id.* at 100. The Supreme Court concluded that "[i]n light of the substantial evidence of past and present hostility from private persons and government officials against the SWP, Ohio's campaign disclosure requirements cannot be constitutionally applied to the Ohio SWP." *Id.* at 102.

REV_00165463

confidentiality and no indication is given that revelation of their affiliation with the group would result in harassment, threats or reprisals. Since the ACLU has presented the Court with no facts that place it in the same category of threatened associations such as the NAACP or the Socialist Workers Party ("SWP"), *see* Finding ¶ 45[78] the Court finds no basis for invalidating the statute on its face or as applied to the ACLU based on the present record.

Plaintiffs have also provided evidence regarding the effect disclosure under Section 201 would have on four other organizations. The Court considers each in turn.

The NRA provides testimony that some of its members do not wish to have their contributions to the group disclosed, and estimates that between five and 50 persons voiced their concerns in the year 2000. *Id.* ¶ 41. The group also provides testimony that a "conspicuous and disproportionate number of contributors" to its PAC contribute "just below the $200 disclosure level." *Id.* Although Mr. LaPierre testified that one reason given for members not wanting their contributions disclosed was fear of losing one's job, many other reasons were given as well, such as a desire not to have one's neighbors or school board know about their affiliation with the organization. *Id.* Some simply stated that they did not wish to have such information provided to the government. *Id.* No evidence of the basis for these fears is presented to the Court, only speculations. Nor is any evidence presented to the

[78] The ACLU provides no information as to why ACLU's donors wish to maintain their confidentiality and no indication is given that revelation of their affiliation with the group would result in harassment, threats or reprisals. As an aside, the Court notes that according to the ACLU, "[o]nly 212 individuals contributed more than $1,000 to the organization. Findings ¶ 45.

REV_00165464

Court of actual instances of retaliation due to the disclosure of someone's membership in the NRA. These fears are the result of conjectures by those expressing them, but unless there is a reasonable probability that these fears will be realized as a result of disclosure, *Buckley* instructs that such worries do not overcome the state's legitimate interest in disclosure.

Edward Monroe, Director of Political Affairs for the Associated Builders and Contractors ("ABC") and the Treasurer of ABC's PAC, testified that *he had been told* that a number of ABC contributors had suffered substantial vandalism after their names were disclosed and that the contributors *believed* the vandalism was the result of labor unions learning of their contributions. *Id.* ¶ 42. This evidence is essentially hearsay and no evidence is presented showing that the vandalism was actually retaliation in response to the disclosure as opposed to speculation on the part of contributors. Although some contributors to ABC's PAC donate less than $200, the Court has no way of knowing why they donate at this level other than Mr. Monroe's belief that it is to prevent disclosure of their names. *Id.* The same is true for the two companies that declined Mr. Monroe's solicitations. *Id.* On the basis of this evidence alone, the Court cannot find that ABC meets the *Buckley* standard.

The Court also considers evidence regarding the membership of the Associated General Contractors of America ("AGC") and the Chamber of Commerce's coalition titled "Americans Working for a Real Change." Between a dozen and two dozen AGC members expressed concern to its Chief Executive Officer, Stephen Sandherr, that if their contributions to AGC are disclosed publicly they will be subjected to union action that

REV_00165465

"would threaten to make life miserable for them." *Id.* ¶ 43. Although this testimony demonstrates that AGC members may "fear" the potential consequences of their names being disclosed in connection with AGC, there is no evidence before the Court that these feared consequences have been, or would be, realized. Similarly, the Chamber of Commerce provides evidence that some contributors to its coalition, "Americans Working for a Real Change," did not want to be publicly identified due to fears of "what some would call union harassment activities." *Id.* ¶ 44. Once again, the Court was not presented with evidence of a reasonable basis for these fears. Furthermore, no member ever told Mr. Sandherr they were contributing $200 or less to AGC's PAC in order to avoid disclosure, and no contributor to AGC's PAC has reported union retaliation in response to their contribution to the PAC. *Id.* ¶ 43. Neither group's evidence meets the *Buckley* standard.

In sum, although many deponents relate what they believe, or have been told, were the reasons contributors did not want to have their names disclosed, that is union retaliation or employment termination, the lack of specific evidence about the basis for these concerns leaves the Court unable to find there exists "a reasonable probability that the compelled disclosure of [any of these organizations'] contributors' names will subject them to threats, harassment, or reprisals from either government officials or private parties." *Buckley*, 424 U.S. at 74. Furthermore, no Plaintiff cited to evidence, and the Court has found none, that their organization, as opposed to the organization's members or contributors, has been subjected to threats, harassment or reprisals. Although these groups take stands that are

REV_00165466

controversial to segments of the public, and may believe that they are targeted because of the positions they take, none has provided the Court with a basis for finding that their organization, and thereby their membership, faces the hardships that the NAACP and SWP were found to suffer by the Supreme Court. However, nothing in this Court's decision affects the ability of groups in the future from challenging, as the NAACP and the SWP did in the past, the application of Section 201's disclosure provisions to their organization.

The Court addresses next the NRA's argument that the D.C. Circuit's invalidation of FECA's Section 437a, *Buckley*, 519 F.2d at 878, renders Section 201's requirements invalid as well. In *Buckley*, the D.C. Circuit found FECA's independent expenditure disclosure provision[79] unconstitutional. The Court of Appeals stated that "issue discussions unwedded to the cause of a particular candidate hardly threaten the purity of elections . . . . [and] are vital and indispensable to a free society and an informed electorate. Thus the interest of a group engaging in nonpartisan discussion ascends to a high plane, while the governmental interest in disclosure correspondingly diminishes." *Buckley*, 519 F.2d at 873. Even so, the D.C. Circuit rested its decision on the overbreadth of Section 427a's "crucial terms[:]

---

[79] Section 437a's "demand for disclosure is activated–without any expending of any funds whatever–(1) by any act directed to the public for the purpose of influencing the outcome of an election; or (2) by any material published or broadcast to the public which refers to a candidate (by name, description, or other reference) and which (a) advocates the election or defeat of such candidate, or (b) sets forth the candidate's position on any public issue, his voting record, or other official acts (in the case of a candidate who holds or has held Federal office), or (c) is otherwise designed to influence individuals to cast their votes for or against such candidate or to withhold their votes from such candidate." *Buckley*, 529 F.2d at 870 (paraphrasing FECA § 427a) (internal punctuation and footnotes omitted).

REV_00165467

'purpose of influencing the outcome of an election' and 'design[] to influence' individuals in voting at an election." *Buckley*, 519 F.2d at 875. Unable to find a "readily available narrowing interpretation" of the crucial terms in light of Congress's manifested intent, *Buckley*, 519 F.2d at 877, the Court of Appeals held the section unconstitutional, *id.* at 878.

Given that the basis for the D.C. Circuit's invalidation of Section 427a rested on the provision's language and legislative history, the Court does not accept the NRA's suggestion that the Court of Appeals's decision controls this Court's analysis of Section 201's disclosure requirements. NRA Br. at 50. Section 201 only requires disclosure of "electioneering communications," the definition of which this Court finds is constitutional. The disclosure trigger is much narrower and more definite than that of FECA Section 427a, and does not include its invalidating "crucial terms." In addition, the record before the Court clearly demonstrates that contrary to the situation facing the Court of Appeals in 1975, where "issue discussions" were indeed "unwedded to the cause of a particular candidate," the evolving present use of issue advertisements, specifically the use of "issues" to cloak supportive or negative advertisements clearly identifying a candidate for federal office, "threaten the purity of elections." *Buckley*, 519 F.2d at 873.[80] For these reasons, the Court declines to find the Court of Appeals's decision on FECA Section 427a binding on this Court's disposition

[80] For example, as mentioned above, the "group" "Republicans for Clean Air" spent $2 million the week before the "Super Tuesday primaries" in advertisements supporting presidential candidate George W. Bush and attacking his opponent John McCain. Findings ¶ 52. "Republicans for Clean Air" was actually a front for two brothers who had ties to the Bush campaign. *Id.*

REV_00165468

of the challenges to BCRA Section 201's disclosure requirements.

Finally, the Chamber of Commerce argues that Section 201 as applied to its electioneering communications, is overbroad because the public knows that the Chamber represents the interests of American business. Chamber/ NAM Br. at 20. The Court interprets the Chamber's position, encompassing all of three sentences, to mean that under BCRA it should be sufficient that the Chamber report that it is behind advertisements sponsored by, for example, "Americans Working for a Real Change" and that listing its $1,000 contributors would be unnecessary for the voting public to know the interest behind the advertisement. The Court first notes that the Chamber does not provide, and the Court cannot formulate, a disclosure rule that would take into account the notoriety of the groups involved (for example, a law that exempts "well-known" groups from disclosing the names of their $1,000 contributors, while "less well-known" groups would be required to make the disclosures). In addition, the Chamber provides no legal support for its theory, and the Court declines to consider its argument based on a record comprised of a single quotation from the Indiana Law Review and the Chamber's statement that it "is a well-known association of American businesses that has been in existence for 90 years." Chamber/NAM Br. at 20. The Court therefore rejects the Chamber of Commerce's argument.

In conclusion, the Court states what Section 201's disclosure requirements do and do not require. First, they apply only to electioneering communications, which we find constitutional. Second, Section 201 does not prevent anyone from making electioneering

REV_00165469

communications; it only requires that when persons do make such advertisements that they disclose the source of the communication's funding after they are broadcast. Lastly, the provision does not require the wholesale disclosure of all donors to the sponsoring organization, rather only donors contributing $1,000 to the disbursing account must be disclosed. Organizations are free to set up "segregated bank account[s]," funded by individuals' contributions, for electioneering communication disbursements. BCRA §201(a); FECA § 434(f)(2)(E); 2 U.S.C. § 434(f)(2)(E). If electioneering communication disbursements made from such segregated accounts then reach the $10,000 threshold, only the names of the segregated account's $1,000 contributors will have to be disclosed. Lastly, any group can file suit to challenge the constitutionality of the *application* of Section 201's disclosure provisions to their contributors based on a showing such as "threats, harassment, or reprisals from either government officials or private parties." *Buckley*, 424 U.S. at 74.

In conclusion, the Court finds Section 201 constitutional on its face, with the exception of subsection (5), which the Court determines to be broader than necessary to achieve the legitimate governmental interest at stake because of its inclusion of future contracts for electioneering communications. For that reason, the Court severs subsection (5) and finds the remainder of Section 201 constitutional.

REV_00165470

Sections 202, 212, and 214[81]

1. *Section 202*

Section 202 is challenged by the Chamber of Commerce, NAM, and the McConnell Plaintiffs. Plaintiffs' arguments with regard to Section 202 relate to those made with respect to Sections 201 and 214.[82] For example, Plaintiffs argue that the definition of "electioneering communication" is unconstitutional, and for that reason Section 202 must also be found unconstitutional. Chamber/NAM Br. at 12; McConnell Br. at 83 n.42. As this argument was addressed and rejected in this Court's examination of Section 201's definition of "electioneering communication," it is rejected here as well.

Plaintiffs also contend that "the First Amendment limits the coordination concept to express advocacy," and for that reason Section 202 should be found unconstitutional. Chamber/NAM Br. at 12. Although Plaintiffs cite to FEC Commissioner Smith for support, *id.*, this view has been rejected by courts in this Circuit. *See Orloski v. FEC*, 795 F.2d 156, 167 (D.C. Cir. 1986) (finding the "express advocacy" limitation "not constitutionally required for those statutory provisions limiting contributions"); *Christian Coalition*, 52 F.

[81] Although Plaintiffs ask for judgment as to BCRA's Section 211, described *supra*, at oral argument they stated that they were not challenging the provision. *See* Tr. at 341-42 (Judge Henderson: Mr. Starr, I've got down that you all are challenging [Section] 211. Am I wrong about that? . . . . Baran: We are not challenging section 211. . .). Furthermore, other than a description of the provision, McConnell Br. at 82, Plaintiffs' briefs are silent on the provision.

[82] In addition, the Court observes that Plaintiffs' arguments blur Section 202's provisions with those of Sections 201 and 214, making the Court's task of discerning and addressing their arguments more difficult.

REV_00165471

Supp. 2d at 86-87 & n.50 (finding the argument that "the 'express advocacy' limitation must apply to expressive coordinated expenditures" to be "untenable" in light of *Orloski* and *Buckley*).

Finally, the AFL-CIO contends that "the BCRA § 202 ban on coordinated 'electioneering communications' inevitably will criminalize efforts by the AFL-CIO to coordinate legislative public advocacy with Members of Congress, and interfere with ordinary and necessary lobbying contacts and the AFL-CIO's use of them to plan broadcast and other advocacy. For that reason alone, § 202 violates the First Amendment." AFL-CIO Br. at 14 (citing to the Declaration of Gerald M. Shea ¶¶ 57-59). The Court notes first that Section 202 *bans* nothing. What the Court presumes the AFL-CIO complains of is the effect of Section 202 on some entities as read in conjunction with BCRA Section 203. This issue is dealt with in this Court's examination of Section 203. The group's allegation that Section 202 will criminalize AFL-CIO contacts with Members of Congress and subsequent advocacy activities is conclusory and is asserted without any legal support. Similarly, the declaration of Gerald M. Shea, the AFL-CIO's Assistant to the President for Governmental Affairs, does nothing to help the Court discern the legal basis for its argument. Mr. Shea states that "[a]ny legal restrictions on the ability of an organization like the AFL-CIO to coordinate legislative and policy communications and activities with federal officeholders who happen to be candidates could substantially interfere with our ability to maintain ordinary and necessary working relationships with Members of Congress and their staffs." Shea Decl. ¶ 58. The

REV_00165472

fact that Mr. Shea believes that the AFL-CIO's current activities *may* be affected by Section 202 does not provide the Court with a legal basis for invalidating the provision. Furthermore, to the extent that the AFL-CIO challenges the scope of activities covered by BCRA's definition of "coordination," the Court finds, *infra*, that such arguments are not ripe given the statutory construction of Section 214 and the recent promulgation of final regulations on coordination by the FEC.[83]

The Court therefore finds that Plaintiffs' arguments are unavailing and the Court has been presented with no basis for finding Section 202 unconstitutional.

2. *Section 212*

Section 212 is challenged by the AFL-CIO and the McConnell Plaintiffs. Plaintiffs object to Section 212 on the grounds that it requires disclosure of not only actual expenditures, but also contracts to make independent expenditures. *See* McConnell Br. at 56 n.22; AFL-CIO Br. at 14-17. This advance disclosure, Plaintiffs argue, "serve[s] no governmental interest and will chill the exercise of free speech by forcing groups . . . to disclose ongoing and confidential political strategies and decision-making processes, and by giving adversaries the opportunity to try to thwart broadcasts or counter them with their own

[83] In the Court's discussion of Section 214, *infra*, it is noted that the regulations contain an explicit "safe harbor for responses to inquiries about legislative or policy issues." *See* Final Rules; Coordinated and Independent Expenditures, 68 Fed. Reg. 421, 455 (Jan. 3, 2003) (to be codified at 11 C.F.R. § 109.21(f).

REV_00165473

messages." AFL-CIO Br. at 16.[84]

A Court may not entertain a suit that is not ripe for review. The basic rationale behind the ripeness doctrine is "to prevent the courts, through avoidance of premature adjudication, from entangling themselves in abstract disagreements over administrative policies, and also to protect the agencies from judicial interference until an administrative decision has been formalized and its effects felt in a concrete way by the challenging parties." *Abbott Labs. v. Gardner*, 387 U.S. 136, 148-49 (1967), *overruled on other grounds*, *Califano v. Sanders*, 430 U.S. 99 (1977). Furthermore, "[t]he power of courts . . . to pass upon the constitutionality of acts of Congress arises only when the interests of the litigants require the use of this judicial authority for their protection against actual interference. A hypothetical threat is not enough." *United Public Workers of America v. Mitchell*, 330 U.S. 75, 89-90 (1946); *see also id.* at 90 n.22 ("It has long been this Court's 'considered practice not to decide abstract, hypothetical or contingent questions, . . . or to decide any constitutional question in advance of the necessity for its decision, . . . or to formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied, . . . or to decide any constitutional question except with reference to the particular facts to which it is to be applied . . . .'") (*citing Alabama State Fed'n of Labor v. McAdory*, 325 U.S. 450, 461 (1945)). In situations

---

[84] As they did for Section 201, McConnell Plaintiffs, the Chamber of Commerce and NAM make a passing suggestion that Section 212 might constitute a "prior restraint" in violation of the First Amendment. The Court addresses this argument in its discussion of Section 201. *See supra* note 69.

REV_00165474

where a statute is challenged on First Amendment grounds, the Supreme Court has found that litigants need not wait for actual enforcement if the existence of the law would chill the exercise of First Amendment rights "even without an actual prosecution." *Virginia v. Am. Booksellers Ass'n, Inc.*, 484 U.S. 383, 393 (1988). However, in those cases, plaintiffs must "allege[] an actual and well-founded fear that the law will be enforced against them" in order to assuage the troubling aspects of "the preenforcement nature of [such] suits." *Id*; *see also Wisconsin Right to Life, Inc. v. Paradise*, 138 F.3d 1183, 1185 (7th Cir. 1998) (Easterbrook, J.) (observing that if a group's concern that a law will be enforced is not well-founded, "Article III of the Constitution precludes a federal court from ruling."), *cert. denied*, 525 U.S. 873 (1998); *Nat'l Treasury Employees Union v. Kurtz*, 600 F.2d 984, 988 (D.C. Cir. 1979) ("[E]ven where allegations of unconstitutionality on the face of a regulation are made, a concrete factual dispute is required to make the case justiciable."); *Nat'l Student Ass'n v. Hershey*, 412 F.2d 1103, 1113-14 (D.C. Cir. 1969) ("[W]e are not persuaded that every plaintiff who alleges a First Amendment chilling effect and shivers in court has thereby established a case or controversy.").

The Court finds that Plaintiffs' challenge to Section 212 is not ripe for review. At the time of briefing in this case, the FEC had proposed regulations that required disclosure only *after* independent advertisements have been "publicly disseminated." These proposals were recently promulgated as final regulations. *See* BCRA Reporting; Coordinated and Independent Expenditures; Final Rules, 68 Fed. Reg. 404, 452 (Jan. 3, 2003) (to be codified

REV_00165475

at 11 C.F.R. § 109.10).[85] This fact makes the challenge unfit for judicial resolution, as the regulations provide Plaintiffs with the exact remedy they seek: the FEC will not require disclosure of independent express advocacy expenditures prior to their "public[] disseminat[ion]." This situation presents the Court with the question Judge Easterbrook posed in *Wisconsin Right to Life*: "How can a suit present a 'case or controversy' when all the litigants are on the same side?" *Wisconsin Right to Life*, 138 F.3d at 1185.

This conclusion is bolstered by the decisions of other courts faced with similar circumstances. For example, the Seventh Circuit Court of Appeals rejected a group's claim that it had a "well-founded" fear of prosecution under Wisconsin campaign finance laws, where an advisory opinion of the Attorney General of Wisconsin and the Election Board's regulations codified the interpretation of the law the group sought. *Wisconsin Right to Life*, 138 F.3d at 1185-86; *see also Citizens for Responsible Gov't State Political Action Comm.*

---

[85] The regulations provide in part:

> The person making the independent expenditures [more than 20 days before an election] aggregating $10,000 or more must ensure that the Commission receives the report or statement by 11:59 p.m. Eastern Standard/Daylight Time on the second day *following the date on which a communication is publicly distributed or otherwise publicly disseminated*. . . .
>
> Every person making, after the 20th day, but more than 24 hours before 12:01 a.m. of the day of an election, independent expenditures aggregating $1,000 or more with respect to a given election must report those independent expenditures and ensure that the Commission receives the report or signed statement by 11:59 p.m. Eastern Standard/Daylight Time on the day *following the date on which a communication is publicly distributed or otherwise publicly disseminated.*

68 Fed. Reg. at 452 (to be codified at 11 C.F.R. § 109.10(c), (d)) (emphasis added).

REV_00165476

v. Davidson, 236 F.3d 1174, 1193 (10th Cir. 2000) (describing the *Wisconsin Right to Life* holding and distinguishing the case from the one before it, which lacked "such administrative regulations"). Similarly, in *Shoemaker v. Handel*, the Third Circuit Court of Appeals upheld the lower court's determination that amended regulations, put into effect before becoming final, cured the challengers' privacy concerns, and thus made "[t]heir privacy contentions . . . not ripe for adjudication." *Shoemaker v. Handel*, 795 F.2d 1136, 1144 (3d Cir. 1986), *cert. denied*, 479 U.S. 986 (1986). There was no need to enforce the amendments through injunctive or declaratory relief, because "[i]f the Commission cease[d] to comply with the proposed confidentiality rules, the [challengers could] return to court with a new lawsuit." *Id.*

Plaintiffs do not contest the import of the regulations. Instead, Plaintiff AFL-CIO argues that the FEC regulations do not remedy BCRA's alleged constitutional defect, as the regulations "may not be approved by Congress[,] [a]nd there is nothing to prevent the Commission itself from reversing its position as soon as this litigation is over, as part of a litigation settlement or independently." AFL-CIO Reply at 10; *see also* AFL-CIO Br. at 17 n.16 ("[G]iven the statutory text at issue plaintiffs have no assurance as to how the FEC will interpret or enforce it in the future."). These uncertainties amount to a "hypothetical threat" which the Supreme Court has stated "is not enough" to warrant judicial consideration. *United Public Workers of America*, 330 U.S. at 89-90. Should this hypothetical threat manifest itself as a "concrete factual dispute," *Nat'l Treasury Employees Union*, 600 F.2d

REV_00165477

at 988, nothing prevents Plaintiffs from "return[ing] to court with a new lawsuit," *Shoemaker*, 795 F.2d at 1144.

As Plaintiffs have presented "a controversy that has not yet arisen and may never arise," *Wisconsin Right to Life*, 138 F.3d at 1187-88, the Court lacks jurisdiction to resolve their challenge to Section 212 at this time.

3. *Section 214*

Section 214 is challenged by the McConnell Plaintiffs, the Chamber of Commerce, NAM, the RNC and the AFL-CIO. Plaintiffs' basic argument is that Section 214, "[b]y repealing the FEC's current regulation and failing to supply any clear statutory definition of what constitutes prohibited coordination, . . . will chill First Amendment speech and association." Chamber/NAM Br. at 11; *see also* ACLU Br. at 19-20; AFL-CIO Br. at 13 ("BCRA's vague and overbroad coordination standards will inevitably spur . . . wide-ranging and burdensome investigations" by the FEC.). Plaintiffs also charge that the directive of Section 214(c) that "'agreement or formal collaboration' not be a prerequisite to considering an expenditure 'coordinated,' . . . exceeds the constitutional bounds established in *Buckley*." McConnell Br. at 83; *see also* Chamber/NAM Opp'n at 8; RNC Br. at 72 (Section 214 "can only be understood as an impermissible effort to overrule this court's decision in *FEC v. Christian Coalition* . . . which warned against overbroad definitions of 'coordination.'"). The Chamber of Commerce and NAM, in their Opposition brief, argue that Section 214(a)(2), by classifying coordinated expenditures with parties as contributions, will "chill both party

REV_00165478

contacts, and contacts with legislators," and that Section 214(d) expands the definition of what may constitute a coordinated contribution or expenditure. Chamber/NAM Opp'n at 8.[86]

a. Section 214(a)

Under Section 214(a)(2), expenditures by a person, other than a candidate or a candidate's authorized committee, made in "cooperation, consultation, or concert with, or at the request or suggestion of, a national, State or local committee of a political party," are considered to be contributions to those party committees. BCRA § 214(a)(2); FECA § 315(a)(7)(B)(ii); 2 U.S.C. § 441a(a)(7)(B)(ii).[87] As noted *supra*, this same definition has been applied to expenditures coordinated with political candidates for over 25 years and was recently found by the Supreme Court to apply to political party expenditures. *See* 2 U.S.C. § 441(a)(7)(B)(i); *Colorado II*, 533 U.S. at 467.

Plaintiffs argue that the definition of coordination in Section 214(a) is "unconstitutionally vague." McConnell Br. at 85 n.44. This lack of precision, Plaintiffs allege, violates the First Amendment's "demand[] that the conduct that constitutes

---

[86] The Court notes at this juncture that Plaintiffs' Section 214 arguments, especially those involving Defendants' justiciability arguments, were sparse and in many instances difficult to discern. Although the Court understands that the page limitations imposed on the parties may have been a contributing factor, the lack of clarity has made the Court's task more difficult.

[87] For the sake of clarity, the Court points out that contrary to Plaintiffs' description, Section 214(a) does not establish a "ban" on coordination, Chamber/NAM at 8, or a "year round prohibition on all communications made by a corporation," ACLU Br. at 20. Section 214(a) classifies such contacts as contributions, but does not prevent coordination from taking place.

REV_00165479

coordination be precisely, objectively, and narrowly defined," and leaves citizens unsure of what contact they may have with political parties without having future speech regulated as "coordinated." Chamber/NAM at 12. Plaintiffs discount the fact that BCRA orders the promulgation of clarifying regulations because regulations are "subject to the ebb and flow of administrative practice," and speakers "will thus be forced to 'steer far wider of the unlawful zone than if the boundaries of the forbidden areas were clearly marked.'" *Id.* (quoting *Buckley*, 424 U.S. at 41 n.48).[88] Finally, Plaintiffs maintain that the existence of an "agreement" is a constitutional prerequisite to finding an expenditure to be "coordinated"

---

[88] The Chamber of Commerce and NAM also allege that regulations cannot save Section 214(a)

> for four key reasons: (i) some unconstitutional aspects such as its inclusion of 'electioneering communication' are clearly mandated and are beyond the FEC's power to change; (ii) the vagueness as to what conduct may constitute coordination, and hence make future speech unlawful, is chilling association and petitioning activities right now; and [sic] (iii) there is no assurance that the FEC will be able to agree on new regulations at all, [sic] and (iv) there is no assurance that any regulations that may be adopted will survive Congressional and judicial review.

Chamber/NAM Br. at 13. These arguments can be disposed of with expedition. First, the Court does not understand how Section 214(a), on its face, includes "electioneering communication" and Plaintiffs have not explained their statement. Second, alleged chilling of rights incurred prior to the promulgation of the FEC's regulations, as well as the uncertainty over whether the FEC would be able to agree on new regulations, are rendered moot by the promulgation of the final regulations in early January 2003. FECA also provides protection for those who act in good faith reliance on FEC regulations. *See* 2 U.S.C. § 438(e). Finally, the possibility that the regulations may be struck down by Congress or a court is the type of speculative injury that does not rise to the level of a present case or controversy required for Article III standing. *See infra* at 155.

REV_00165480

with political parties.[89] The Court analyzes each concern in turn.

1) Vagueness

As the Court noted above, the campaign finance system has been functioning for over 25 years despite the presence of the very same "vague" language to which Plaintiffs object. *See* 2 U.S.C. § 441a(a)(7)(B)(i). Plaintiffs have provided no explanation as to why the application of this coordination formula to the context of political parties chills political speech any more than when applied to expenditures coordinated with political candidates. Furthermore, the Court notes that the FEC's regulations have now been promulgated in final form. It is therefore possible that many, perhaps even all, of Plaintiffs' vagueness concerns have been remedied by the regulations' contents. *See* Chamber/NAM Br. at 13 (stating that while the FEC's now-repealed regulations on coordination "did not solve all the vagueness problems, it took useful steps toward alleviating them").[90] Although Plaintiffs discount the

---

[89] Although Plaintiffs have not directed this argument specifically at Section 214(a) (it is directed more explicitly at Section 214(c)), it is a central theme of the McConnell Plaintiffs' briefing and the Court presumes that they intend for it to be applied to Section 214(a) as well.

[90] The regulations promulgated by the FEC define coordinated communications as those not paid for by the candidate or the political party, that meet one content and one conduct standard. Final Rules; Coordinated and Independent Expenditures, 68 Fed. Reg. 421, 453 (Jan. 3, 2003) (to be codified at 11 C.F.R. § 109.21). The conduct standards include: (1) communications made, produced, or distributed at the request or suggestion of the candidate or party, or at the request or suggestion of a payor who receives the candidate or party's assent; (2) material involvement by the candidate or party in decisions regarding the content, intended audience, means or mode, media outlet used, the timing or frequency, or the size or prominence of the communication; (3) one or more substantial discussions about the communication between the payor and the candidate clearly identified in the (continued...)

REV_00165481

value of such regulations because of the "ebb and flow of administrative practice," they provide no support for their theory that laws restricting speech cannot be shaped by regulations because of the nature of administrative practices. In addition, as described in more detail below, *see infra* at 167, any issues arising from the enforcement of these regulations can be challenged via lawsuit under the Administrative Procedure Act (APA), or clarified through the advisory opinion procedure codified at 2 U.S.C. § 437f.[91]

2) Agreement

The Court addresses next Plaintiffs' argument that Section 214(a) violates the Constitution because it does not require the existence of an "agreement" as a predicate to the finding of coordination. Plaintiffs cite to four cases in support of their theory that an agreement is required for an expenditure to be coordinated. The Court addresses each in turn, finding that none support Plaintiffs' argument.

In *Buckley*, the Supreme Court found that Congress could limit coordinated

---

[90](...continued)
communication which concern the candidate's or political party committee's campaign plans, projects, activities, or needs that are material to the creation, production or distribution of the communication. *Id.* at 454. The regulation also creates a safe harbor for responses to inquiries about legislative or policy issues. *Id.* at 455. The content standards can be found at 68 Fed. Reg. 421, 453 (Jan. 3, 2003) (to be codified at 11 C.F.R. § 109.21(c)).

[91] The statute provides in part:

> *Not later than 60 days* after the Commission receives from a person a complete written request concerning the application of [FECA] . . . or a rule or regulation prescribed by the [FEC], with respect to a specific transaction or activity by the person, the [FEC] *shall* render a written advisory opinion relating to such transaction or activity to the person.

2 U.S.C. § 437f(a)(1) (emphasis added).

REV_00165482

expenditures to "prevent attempts to circumvent [FECA] through prearranged or coordinated expenditures amounting to disguised contributions." *Buckley*, 424 U.S. at 47. In rejecting FECA's limitation on independent expenditures, the Supreme Court distinguished independent from coordinated expenditures, noting that expenditures "made *totally* independently of the candidate and his campaign . . . . may well provide little assistance to the candidate's campaign and indeed may prove counterproductive." *Id.* (emphasis added). The Supreme Court noted that "[t]he absence of prearrangement and coordination of an expenditure with the candidate . . . not only undermines the value of the expenditure to the candidate, but also alleviates the danger that expenditures will be given as a quid pro quo for improper commitments from the candidate." *Buckley*, 424 U.S. at 47. The coordinated expenditure provision *Buckley* upheld defined coordinated expenditures as those "authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate." *Id.* at 47 n.53 (quoting FECA § 608(c)(2)(B)). The Supreme Court cited to the House and Senate reports, especially the more detailed Senate report which included the following "example illustrating the distinction between 'authorized or requested' expenditures . . . and independent expenditures":

> "(A) person might purchase billboard advertisements endorsing a candidate. If he does so completely on his own, and not at the request or suggestion of the candidate or his agent's (sic) that would constitute an 'independent expenditure on behalf of a candidate' under section 614(c) of the bill. The person making the expenditure would have to report it as such.
> "However, if the advertisement was placed in cooperation with the candidate's campaign organization, then the amount would constitute a gift by the supporter and an expenditure by the candidate just as if there had been a direct

REV_00165483

> contribution enabling the candidate to place the advertisement himself. It would be so reported by both."

Id. (quoting S.Rep. No. 93- 689, p. 18 (1974), U.S. Code Cong. & Admin. News 1974, p. 5604) (alteration in original). Based on this guidance, the Supreme Court found that "the 'authorized or requested' standard of the Act operates to treat all expenditures placed in cooperation with or with the consent of a candidate, his agents, or an authorized committee of the candidate as contributions." *Id.*

In *Colorado Republican Federal Campaign Comm. v. FEC*, 518 U.S. 604 (1996) ("*Colorado I*"), the Supreme Court found that an advertisement made by a political party was not a coordinated expenditure, in part because of "uncontroverted evidence that this advertising campaign was developed by the Colorado Party independently and not pursuant to any general or particular understanding with a candidate." *Colorado I*, 518 U.S. at 614 (plurality opinion) ("[W]e therefore treat the expenditure, for constitutional purposes, as an 'independent' expenditure, not an indirect campaign contribution.").

This District Court grappled with the troublesome First Amendment line between coordinated and independent expenditures in *FEC v. Christian Coalition*, 52 F. Supp. 2d 45 (D.D.C. 1999). In her decision, which was not subjected to appellate review, Judge Joyce Hens Green explained:

> This Court is bound by both the result and the reasoning of *Buckley*, even when they point in different directions. While Buckley confidently assured that coordinated expenditures fell within the Act's limits on contributions, it also reasoned that spending money on one's own political speech is an act entitled to constitutional protection of the highest order. Expressive coordinated

REV_00165484

> expenditures bear certain hallmarks of a cash contribution but also contain the highly-valued political speech of the spender. I take from *Buckley* and its progeny the directive to tread carefully, acknowledging that considerable coordination will convert an expressive expenditure into a contribution but that the spender should not be deemed to forfeit First Amendment protections for her own speech merely by having engaged in some consultations or coordination with a federal candidate.

Christian Coalition, 52 F. Supp. 2d at 91 (citations omitted). In addressing "coordination as it applies to expressive coordinated expenditures by corporations," *id.*, Judge Green noted that "[t]he fact that the candidate has requested or suggested that a spender engage in certain speech indicates that the speech is valuable to the candidate, giving such expenditures sufficient contribution-like qualities to fall within the Act's prohibition on contributions." *Id.* at 92. However, the absence of such overtures would not, in Judge Green's view, prevent an expenditure from being coordinated.

> In the absence of a request or suggestion from the campaign, an expressive expenditure becomes "coordinated" where the candidate or her agents can exercise control over, or where there has been substantial discussion or negotiation between the campaign and the spender over, a communication's: (1) contents; (2) timing; (3) location, mode, or intended audience (e.g., choice between newspaper or radio advertisement); or (4) "volume" (e.g., number of copies of printed materials or frequency of media spots). Substantial discussion or negotiation is such that the candidate and spender emerge as partners or joint venturers in the expressive expenditure, but the candidate and spender need not be equal partners. This standard limits § 441b's contribution prohibition on expressive coordinated expenditures to those in which the candidate has taken a sufficient interest to demonstrate that the expenditure is perceived as valuable for meeting the campaign's needs or wants.

Id. Judge Green acknowledged that this standard still left "room for factual dispute," which in turn could "chill some speech." *Id.* But such deficiencies were deemed acceptable given

REV_00165485

that "expressive coordinated expenditures present real dangers to the integrity of the electoral process." *Id.*

In *Colorado II*, the Supreme Court expounded on the difficulty in determining the point at which an expenditure becomes a coordinated expenditure. The Supreme Court also commented on the functional approach which Congress had adopted, and the *Buckley* Court accepted, to balance First Amendment rights and the state's interest in preventing campaign finance corruption.

> The First Amendment line between spending and donating is easy to draw when it falls between independent expenditures by individuals or political action committees (PACs) without any candidate's approval (or wink or nod), and contributions in the form of cash gifts to candidates. But facts speak less clearly once the independence of the spending cannot be taken for granted, and money spent by an individual or PAC according to an arrangement with a candidate is therefore harder to classify. As already seen, Congress drew a functional, not a formal, line between contributions and expenditures when it provided that coordinated expenditures by individuals and nonparty groups are subject to the Act's contribution limits, 2 U.S.C. § 441a(a)(7)(B)(i). In *Buckley*, the Court acknowledged Congress's functional classification, and observed that treating coordinated expenditures as contributions "prevent[s] attempts to circumvent the Act through prearranged or coordinated expenditures amounting to disguised contributions." *Buckley*, in fact, enhanced the significance of this functional treatment by striking down independent expenditure limits on First Amendment grounds while upholding limitations on contributions (by individuals and nonparty groups), as defined to include coordinated expenditures.

Colorado II, 533 U.S. at 442-443 (citations omitted). Also, in that case, the Supreme Court found that "coordinated spending . . . covers a spectrum of activity." *Id.* at 445.

This Court agrees that "First Amendment clarity demands a definition of 'coordination' that provides the clearest possible guidance to candidates and constituents,

REV_00165486

while balancing the Government's compelling interest in preventing corruption of the electoral process with fundamental First Amendment rights to engage in political speech and political association." *Christian Coalition*, 52 F. Supp. 2d at 91. However, the Court finds nothing in the cited precedent, or Plaintiffs' arguments, demanding that for an expenditure to be coordinated there must be an agreement. The Court's reading of these cases suggests the very opposite. At the very least, the cases state that substantive requests and suggestions, or "wink or nod" arrangements, can render subsequent expenditures to be "coordinated," a standard that does not equate to agreement.[92] Therefore, the Court rejects the argument that agreements are a constitutional prerequisite to the finding that an expenditure is coordinated, and finds that Plaintiffs have not demonstrated that Section 214(a) violates the Constitution.

b. Section 214(b)

Section 214(b) repealed the FEC regulations on coordination in effect at the time BCRA was enacted. BCRA § 214(b). Plaintiffs concede that Congress has the power to repeal the regulations. What Plaintiffs argue, however, is that "Congress had a duty to provide a narrow, precise, and objective definition for the coordination concept" but failed

---

[92] Defendants offered this hypothetical to illustrate the type of coordination the "request or suggestion" standard is intended to cover:

> A candidate suggests to a wealthy individual, "If you want to help, you might finance some political advertisements advocating my election"; the individual does not reply, but a week later, buys $100,000 worth of air time to advocate the candidate's election.

Gov't Br. at 185. According to the Chamber of Commerce, this hypothetical "is realistic . . . . Candidates and their parties routinely make general requests for public support." Chamber/NAM Opp'n at 6.

REV_00165487

to do so and "by repealing the FEC's regulatory definition, Congress substantially aggravated the constitutional violation." Chamber/NAM Br. at 13 n. 6. Since the FEC promulgated regulations on January 3, 2003, this "aggravation" claim is moot.

c. Section 214(c)

Because Defendants argue that Plaintiffs' challenge to Section 214(c) is nonjusticiable, Gov't Br. at 183-85; Int. Br. at 139-40, the Court will address this issue first as its resolution may preclude consideration of the merits of the Plaintiffs' other arguments. Preliminarily, the Court notes that BCRA provides this Court with jurisdiction to hear "any action brought for declaratory or injunctive relief to challenge the constitutionality of any provision of this Act or any amendment made by this Act," and instructs it to "expedite to the greatest possible extent the disposition of the action." BCRA § 403; 2 U.S.C. § 437h note. This grant does not extend to the consideration of FEC regulations, and it does not permit the Court to go beyond its Article III powers to address claims that are nonjusticiable. *Clark v. Valeo*, 559 F.2d 642, 650 n. 11 (D.C. Cir. 1977) ("To the extent [the dissent's] language may be read as suggesting a view that Congress may 'command' the judiciary to act contrary to the rules relative to ripeness the Supreme Court has developed 'for its own governance in the cases confessedly within its jurisdiction,' we respectfully disagree.") (citations omitted). Cognizant of its authority, the Court now turns to each of Defendants' justiciability claims.

1) Article III Standing

REV_00165488

Plaintiffs have the burden of establishing standing to bring their suit by demonstrating that they have: (1) suffered an "injury in fact;" (2) which is "fairly traceable to the conduct complained of;" and (3) is capable of judicial redress. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992). In the First Amendment context, the standing requirements are somewhat relaxed. Parties have

> standing to challenge a statute on grounds that it is facially overbroad, regardless of whether [their] own conduct could be regulated by a more narrowly drawn statute, because of the danger of tolerating, in the area of First Amendment freedoms, the existence of a penal statute susceptible of sweeping and improper application.
> Of course, in order to have standing, an individual must present more than allegations of a subjective chill. There must be a claim of specific present objective harm or a threat of specific future harm.

Bigelow v. Virginia, 421 U.S. 809, 816-17 (1975) (citation and internal quotation marks omitted).

In terms of the "injury in fact" prong, it is true that Plaintiffs have "not alleged any concrete and particularized injury from [Section] 214(c)'s instructions to the Commission to promulgate a new regulation." Gov't Br. at 184. However, *Bigelow* instructs that Plaintiffs do not have to allege a particularized injury, they must only show a specific objective harm. *Bigelow*, 421 U.S. at 816-17. Plaintiffs allege that the Constitution requires an agreement before an expenditure may be considered coordinated. McConnell Br. at 84; Chamber/NAM Opp'n at 8 n. 10 (stating that Section 214(c) "fairly read, rejects the constitutional holding" that the "First Amendment demanded a narrow agreement standard of coordination"). The fact that Section 214(c) directs that the FEC's regulations on coordination not require

REV_00165489

"agreement or formal collaboration," from Plaintiffs' perspective, presents a specific future harm of impermissibly overbroad regulations. McConnell Opp'n at 53 n.24 (arguing that "since" no constitutional regulation consistent with BCRA can be promulgated (because of the statute's disavowal of an 'agreement' standard)" it would be futile to delay "litigation until regulations are promulgated, litigation is appropriate now").[93] This argument was addressed above and found to be inconsistent with the holdings of *Buckley* and its progeny.[94]

---

[93] Plaintiffs, despite purporting to have standing to challenge Section 214(c), have not clearly articulated the basis for their position. This theory represents what the Court has gleaned from their terse briefings. *See* Chamber/NAM Opp'n at 7-8; Chamber/NAM Reply at 7-10; McConnell Opp'n at 53 ("For reasons discussed fully in the submission of the Chamber of Commerce Plaintiffs . . . this assertion [that plaintiffs' coordination arguments are not justiciable at this time] are meritless.").

[94] McConnell Plaintiffs argue that the language of Section 214(c) violates the Constitution because it does not require "*some form of agreement* with the candidate [to] be present to find coordination. BCRA, of course, forbids the FEC from requiring that any sort of agreement – *formal or otherwise* – be required." McConnell Opp'n at 54 n.26. The Court disagrees with Plaintiffs, interpreting Section 214(c) under the doctrine of *noscitur a sociis*. "The maxim noscitur a sociis, that a word is known by the company it keeps, while not an inescapable rule, is often wisely applied where a word is capable of many meanings in order to avoid the giving of unintended breadth to the Acts of Congress." *Jareki v. G.D. Searle & Co.*, 367 U.S. 303, 307 (1961). Given that "agreement" in Section 214(c) is immediately followed by the words "or formal collaboration," narrows the Court's reading of the term to cover formal agreements. This interpretation also appears to match the intent of Congress. *See* 148 Cong. Rec. S2144 (daily ed. Mar. 20, 2002) (Sen. Russ Feingold) ("Unfortunately, based on a single district court decision, the Federal Election Commission's current regulation defining when general public political communications funded by outside groups are considered coordinated with candidates or parties fails to account for certain types of coordination that may well occur in real-world campaigns. The FEC regulation is premised on a very narrowly defined concept of 'collaboration or agreement' between outside groups and candidates or parties. This current FEC regulation fails to cover a range of *de facto* and *informal* coordination between outside groups and candidates or parties that, if permitted, could frustrate the purposes of the bill.").

REV_00165490

Therefore, Plaintiffs' allegation that they will be injured by regulations which by Congressional direction will be constitutionally overbroad, is not an injury-in-fact.[95]

Even if this Court were to find that Plaintiffs have alleged an injury-in-fact, Plaintiffs would still lack standing to bring their Section 214(c) challenge because their claim lacks redressability. To establish standing, Plaintiffs are required to show that it is "likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision." *Bennett v. Spear*, 520 U.S. 154, 167 (1997). Even if this Court were to strike Section 214(c) from BCRA, other provisions dealing with coordinated expenditures to candidates and parties would still govern and count contributions as any expenditures made at the request or suggestion of a candidate–covering behavior which falls short of formal collaboration or

---

[95] The AFL-CIO, the Chamber of Commerce and NAM assert that "BCRA's vague and overbroad coordination standards will inevitably spur more . . . wide-ranging and burdensome investigations." AFL-CIO Br. at 13; Chamber/NAM at 14 ("[T]he Chamber and NAM[] know from painful, first-hand experience how a vague and overbroad concept of 'coordination' permits unfounded charges and investigations that seriously burden and chill participation in legislative initiatives.") These Plaintiffs point to the FEC's investigations into their broadcasts made in 1995 and 1996 (the Chamber of Commerce's advertisements were run in response to those aired by the AFL-CIO) to support this proposition. The Court finds a harm that may be caused by potential future investigations to be the type of speculative injury *Lujan* rejects as a basis for standing. Furthermore, the Court notes that the regulatory regime under which these investigations were conducted was far broader than that which BCRA appears to endorse. *See Christian Coalition*, 52 F. Supp. 2d at 89-91 (rejecting the FEC's "insider trading" or "conspiracy" standard for coordination). The regulations in place prior to 2000 considered expenditures to be coordinated when they were "[m]ade by *or through* any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of an authorized committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate, the candidate's committee or agent." 11 C.F.R. § 109.1(b)(4)(i)(B) (1999 ed.) (*repealed* 2001) (emphasis added).

REV_00165491

agreement. *See* 2 U.S.C. § 441a(a)(7)(B)(i), (ii). As the Court explained above in finding Section 214(a) constitutional, there is nothing inherently unconstitutional about the "cooperation, consultation, or concert with, or at the request or suggestion of" language found in FECA § 441(a)(7)(B)(i) or (ii), 2 U.S.C. § 441(a)(7)(B)(i), (ii). Therefore, Plaintiffs' challenge to Section 214(c) cannot redress their claimed injury of having coordination defined as something broader than an agreement.

Based on the foregoing, the Court concludes that Plaintiffs have failed to establish the injury in fact and redressability elements required for Article III standing with regard to their challenge to Section 214(c).

2) Ripeness

In the alternative, the Court examines Defendants' assertion that Plaintiffs' Section 214(c) claims are not ripe for judicial review at this time. Defendants maintain that since Section 214(c) does not require or prohibit any actions by Plaintiffs, but merely directs the FEC to promulgate new regulations which were not final until after briefing and oral arguments in this case were completed, "neither the Court nor plaintiffs can know how the revised regulations will affect plaintiffs or have any basis for evaluating whether those regulations will contravene constitutional principles." Gov't. Br. at 183-84; *see also* Int. Br. at 140 ("[T]here is nothing meaningful for this Court to review . . . until there is actually a new definition in place."). This defect, Defendants argue, renders Plaintiffs' claims not yet ripe.

REV_00165492

It is presumed that "federal courts lack jurisdiction unless the contrary appears affirmatively from the record," and "[i]t is the responsibility of the complainant clearly to allege facts demonstrating that he is a proper party to invoke judicial resolution of the dispute and the exercise of the court's remedial powers." *Renne v. Geary*, 501 U.S. 312, 315 (1991). In commencing the ripeness analysis, the Eighth Circuit provides guidance:

> In order for a claim to be justiciable under Article III, it must be shown to be a ripe controversy. Ripeness is peculiarly a question of timing, intended to prevent the courts, through avoidance of premature adjudication, from entangling themselves in abstract disagreements. In short, the doctrine of ripeness is intended to forestall judicial determinations of disputes until the controversy is presented in clean-cut and concrete form. . . .
> [The] ripeness inquiry in the context of this [First Amendment] facial challenge . . . focuses on three elements: (1) hardship to the parties by withholding review; (2) the chilling effect the challenged law may have on First Amendment liberties; and (3) fitness of the controversy for judicial review. Our ripeness inquiry is not to be applied mechanically but rather, with flexibility.

New Mexicans for Bill Richardson v. Gonzales, 64 F.3d 1495, 1499-1500 (10th Cir. 1995) (citations and quotation marks omitted).

Plaintiffs' arguments focus on the first two prongs of the ripeness analysis. They allege that Section 214 creates a situation whereby it is unclear what actions may render an expenditure "coordinated" under BCRA. This predicament, Plaintiffs claim, chills their speech and associational rights, which is the direct and immediate hardship they assert. *See* Chamber/NAM Opp'n at 10. Since BCRA is "self-enforcing," in that "it can be used against people in its current form," Plaintiffs maintain that the case is fit for judicial review. Tr. at 296 (Baran).

REV_00165493

In light of the authority presented by the D.C. Circuit, the Court disagrees with Plaintiffs and finds their challenge to Section 214(c) not ripe for review. In *Martin Tractor Co. v. FEC*, a number of parties sought declaratory and injunctive relief from certain provisions of FECA. *Martin Tractor Co. v. FEC*, 627 F.2d 375, 377 (D.C. Cir.), *cert. denied sub nom. Nat'l Chamber Alliance for Politics v. FEC*, 449 U.S. 954 (1980). Limited to "soliciting" its hourly employees twice a year, the Martin Tractor Company complained that Section 441b(b)(4)(B) of FECA had restricted, in a constitutionally impermissible manner, its ability to communicate with its hourly employees about its PAC. *Id.* at 382. Neither the statute nor the regulations defined "solicit" or "solicitation." *Id.* at 383. The Court of Appeals determined, despite the vagueness of the undefined term "solicit" and the lack of clarifying regulatory language, that "the extent of the chill induced by the statutory provision at issue . . . is a very limited one." *Id.* at 384. This conclusion was based on two factors. First, the statute provided an "advisory opinion (AO) mechanism . . . authorized to give advice concerning the Act's application to specific factual situations," and mandated that such counsel be provided within 60 days of a request for advice. *Id.* 384-86. Second, the D.C. Circuit found that the legal rights alleged by Martin Tractor were "uncertain," *id.* at 386, and that unlike cases which had found ripeness in similar circumstances, the "adversarial posture assumed by the parties and contours of their dispute" were not clear, *id.* at 387. Specifically, the fact that the FEC "has said or done nothing . . . to indicate how it construes the term 'solicit,'" left the court "without substantial guidance to decide this case

REV_00165494

or even to frame the constitutional issues at stake." *Id.* at 387.

The situation this Court faces is virtually identical to that of *Martin Tractor*. Plaintiffs here similarly complain about the chilling effect of an ambiguous term. Plaintiffs, like those in *Martin Tractor*, have the option of seeking a chill-reducing AO if they fear their actions may be construed as "coordination."[96] In addition, since briefing and oral argument in the case occurred prior to the FEC's promulgation of final regulations and the regulations affect the vagueness alleged, the Court does not know the "contours of [the] dispute." In other

---

[96] Plaintiffs' argument that *Buckley* should be construed as rejecting the opportunity for AO guidance as a factor in determining ripeness is completely incorrect, and in their own words, is "[n]onsense." Chamber/NAM Reply at 8. *Buckley* found that since the AO procedure in FECA *at that time* was available *only* to "candidates, federal officeholders, and political committees," the AO mechanism did "not assure that the vagueness concerns will be remedied prior to the chilling of political discussion by individuals and groups in this or future years." *Buckley*, 424 U.S. at 41 n. 47. This is no longer the case. *See Martin Tractor*, 627 F.2d at 386 n.44 (explaining why *Buckley* rejected the AO rationale and noting that "[b]oth of these aspects of the AO mechanism have been amended and the susceptibility of the FECA to challenge on the grounds of vagueness has consequently been reduced.").

Section 437f of FECA requires the FEC to provide an advisory opinion within 60 days of receiving a "written request concerning the application of [FECA] . . . or a rule or regulation prescribed by the" FEC. 2 U.S.C. § 437f(a)(1). The advisory opinions may be relied upon by the requester or any other person involved in an "identical transaction or activity with respect to which such advisory opinion is rendered." *Id.* at § 437f(c)(1). Such persons who "act[] in good faith in accordance with the provisions and findings of such advisory opinion, shall not, as a result of any such act, be subject to any sanction provided by" FECA. *Id.* § 437f(c)(2).

Plaintiffs also assert that it is "wildly implausible" and "impractical" to believe that the FEC could handle the thousands of AO requests they envision would result from the Court's decision today. Chamber/NAM Reply at 8. Whether or not there would be such an influx of requests, and whether or not the FEC would be in a position to handle them, are not questions before this Court and Plaintiffs have provided the Court with no basis, other than their unsupported assertion, for finding that the AO mechanism would be unworkable for solving coordination problems.

REV_00165495

words, the Court does not know to what extent the regulations have clarified the vagueness Plaintiffs contend would chill their rights. Regulations in the past have clarified this very issue, Chamber/NAM Br. at 13 (stating that the FEC's now-repealed regulations on coordination "took useful steps toward alleviating" vagueness problems), and it is therefore likely that some, if not all, of Plaintiffs concerns have been addressed. For example, the ACLU maintains that because of Section 214 it "may not be able to discuss a . . . vote or position with a Representative or Senator if the ACLU will subsequently produce a box score that praises or criticizes the official's stand. This feature of BCRA acts as a continuing prior restraint . . . ." ACLU Br. at 20. However, the FEC's recently promulgated regulations appear to assuage this fear, creating a safe harbor for "inquiries about legislative or policy issues." Final Rules; Coordinated and Independent Expenditures, 68 Fed. Reg. at 455 (Jan. 3, 2003) (to be codified at 11 C.F.R. § 109.21(f)). To decide Plaintiffs' claims at this juncture would entangle the Court in a dispute that has not been "presented in a clean-cut and concrete form," the exact situation the ripeness doctrine is designed to avoid. *Gonzales*, 64 F.3d at 1499.

The Chamber of Commerce and NAM seek to distinguish *Martin Tractor* from the current case on its facts. Chamber/NAM Reply at 8. First, they state that "[p]laintiff there did not claim immediate injury." *Id.* This is not the case. Martin Tractor alleged that "but for the [section] 441b restrictions and the threat of sanctions, [it] would resume the extent and manner of communication [it] engaged in previously." *Martin Tractor*, 627 F.2d at 382.

REV_00165496

Second, Plaintiffs presume, based on the fact the court stated that the AO mechanism "argues against constitutional adjudication on a barren record," *Id.* at 385, that the appellants in that case had "provided no factual record." Chamber/NAM Reply at 8. If the Plaintiffs had referred to the footnote immediately following the court's statement, they would have seen that the court meant a record bare of any indication of how the FEC planned to enforce the provision, as opposed to a barren factual record. *See Martin Tractor*, 627 F.2d at 385 n.39 (citing cases holding "equitable relief inappropriate where administrative intent has not come to fruition or is unknown" and "case ripe where pertinent regulations *and AO* have been issued") (emphasis added). Next, the Chamber of Commerce and NAM appear to suggest that the *Martin Tractor* decision was the product of prudential concerns, and not an Article III ripeness determination. Chamber/NAM Reply at 8. Although the court stated, "we find the cases nonjusticiable as a constitutional matter and inappropriate for adjudication as a prudential matter," if Plaintiffs had looked at the footnote immediately following that statement, they would have read the Court's conclusion that "[s]ince we hold that these appellants present no justiciable 'case or controversy' we need not decide or consider the circumstances under which a court might decline for prudential reasons alone to reach the merits of a constitutional challenge to FECA." *Martin Tractor*, 627 F.2d at 378 & n.5. Lastly, the Chamber of Commerce and NAM point out that *Martin Tractor* discounted *Buckley*'s ripeness holding for "lack of a broad package of expedited challenges such as exist here." Chamber/NAM Reply at 8. The *Martin Tractor* court did note that the case before

REV_00165497

it provided "no similar urgency of decision . . . that outweighs the inadvisability of premature constitutional adjudication," although its decision was also informed by "the comparative speed with which an advisory opinion on specific conduct can be secured." *Martin Tractor*, 627 F.2d at 388.[97] Accordingly, the Court finds that *Martin Tractor* is applicable to the pending cases.

The cases at bar do differ from *Martin Tractor*, in one material respect. Unlike the case before the *Martin Tractor* court, where there was no indication the FEC would ever promulgate regulations to reduce the vagueness of the undefined term, Congress in this instance has explicitly ordered the FEC to promulgate regulations on this very matter in an expedited fashion, and the FEC did so on January 3, 2003. This fact argues against finding these cases ripe for adjudication. As the Eighth Circuit explained,

---

[97] The Court also notes that although the *Martin Tractor* court took *Buckley*'s statement that "ripeness is peculiarly a question of timing," *Buckley*, 424 U.S. at 114, to describe the timing of that case in relation to the 1976 Presidential election, *Martin Tractor*, 627 F.2d at 388, a close reading of *Buckley* shows that the Supreme Court was referring to developments that had taken place in "the passage of months between the time of the decision of the Court of Appeals and our present ruling," *Buckley*, 424 U.S. at 114. The Supreme Court made its ripeness determination in the context of a separation of powers challenge to FECA's establishment of the FEC. *Id.* at 113. The Court finds that the challenge considered here differs greatly from that *Buckley* faced when it conducted the ripeness analysis described above. The separation of powers concerns raised in *Buckley* did not depend on the future promulgation of regulations, but focused solely on the constitutionality of the powers granted to the FEC. *See id.* at 113. The *Buckley* defendants could not claim that future regulations would shape the contours of the plaintiffs' claims. As such, this Court finds that the *Buckley* ripeness determination was made under circumstances that distinguish it from the case at bar and that its reasoning does not require the Court to forego Article III justiciability requirements in this case.

REV_00165498

> [m]any ripeness cases require finality of the government action that is challenged. This requirement is intended, in part, to guard against courts passing on the legality of actions that do not, in and of themselves, alter or burden the rights, duties or obligations of the claimant. For example, orders that merely embody a precursor to the later formulation of actual regulations will, as a general rule, not support a finding of ripeness.

Gonzales, 64 F.3d at 1504 n.5 (citations omitted) (finding that, unlike the cases presented here, since the "challenged provision itself delineates the proscribed conduct and neither directs nor requires further administrative or legislative enactments for its effect" the case was ripe for adjudication); *see also El Dia v. Hernandez Colon*, 963 F.2d 488, 496 (1st Cir. 1992) (finding the "policies that underscore the ripeness doctrine militate strongly against granting discretionary (declaratory) relief" where the executive order challenged was "merely a precursor to the later formulation of actual regulations"). Moreover, as long as Plaintiffs abide by the regulations in good faith, they will not be subject to sanctions under FECA. 2 U.S.C. § 438(e) ("[A]ny person who relies upon a rule or regulation proscribed by the [FEC] . . . and who acts in good faith in accordance with such rule or regulation, shall not, as a result of such act, be subject to any sanction provided by [FECA].").

The Court acknowledges that the regulations may still be vetoed by Congress[98] or face

---

[98] Under the Administrative Procedures Act, 5 U.S.C. 553(d), and the Congressional Review of Agency Rulemaking Act, 5 U.S.C. 801(a)(1), the FEC's regulations must be submitted to Congress and do not take effect until 60 days after Congress receives the FEC's report on the regulations or the rule is published in the Federal Register, whichever is later. 5 U.S.C. § 801(a)(3). The regulations were transmitted to Congress on December 18, 2002 and published in the Federal Register on January 3, 2003. Final Rules; Coordinated and Independent Expenditures, 68 Fed. Reg. 421 (Jan. 3, 2003). Congress can veto the (continued...)

REV_00165499

a court challenge. Regardless, the regulations shape the "contours" of Plaintiffs' complaints regarding Section 214(c). However, since the regulations are not properly before this Court, Plaintiffs' claims in this regard are not ripe. Again, it is possible that many, perhaps all, of Plaintiffs' concerns have been remedied by the recently promulgated regulations. The proper venue for any complaints Plaintiffs believe have not been addressed by the new regulations is not this special court, but in a single-judge court pursuant to a lawsuit brought under the Administrative Procedure Act (APA). *See* BCRA § 403. Although Plaintiffs decry the lengthy nature of suits brought under the APA, the Court lacks the jurisdiction to rule on the regulations and cannot ignore the absence of Article III ripeness in order to provide Plaintiffs with the forum they prefer.[99]

Accordingly, the Court does not reach the merits of Plaintiffs' challenges to Section 214(c), as they are not ripe for adjudication.

---

[98](...continued)
regulations within 60 days by passing a joint resolution disapproving the regulations. *See* 5 U.S.C. § 802.

[99] Plaintiffs should also be aware that should they challenge the FEC's regulations, they may seek a stay from the FEC or a court to prevent the application of the rule pending its review. 5 U.S.C. § 705. The law provides: "When an agency finds that justice so requires, it may postpone the effective date of action taken by it, pending judicial review. On such conditions as may be required and to the extent necessary to prevent irreparable injury, the reviewing court, including the court to which a case may be taken on appeal from or on application for certiorari or other writ to a reviewing court, may issue all necessary and appropriate process to postpone the effective date of an agency action or to preserve status or rights pending conclusion of the review proceedings." *Id.*

REV_00165500

d. Section 214(d)

In their Opposition Brief, the Chamber of Commerce and NAM claim that Section 214(d)

> specifies that coordination applies not only to a "contribution or expenditure" in the defined sense that requires express advocacy, but "*also* includes any direct or indirect payment . . . ." (emphasis added). BCRA § 214(d) extends coordination to an "electioneering communication." These provisions remove express advocacy as a *content* standard and give no substitute.

Chamber/NAM Opp'n at 8 (emphasis in original). The Court does not find Section 214(d) to have the effect on FECA that Plaintiffs assert. Section 214(d) amends FECA Section 441b, which limits contributions or expenditures by national banks, corporations, or labor organizations, so that the definition of "contribution or expenditure" under that section "includes a contribution or expenditure, as those terms are defined in section 301" of FECA, 2 U.S.C. § 431(8), (9). BCRA § 214(d); FECA § 441b(b)(2); 2 U.S.C. § 441b(b)(2). The definitions of "contribution" and "expenditure" in FECA Section 301 have not been amended by BCRA.[100] Plaintiffs' complaints about the definition's inclusion of "direct or indirect payment" are also misplaced as this provision preexisted BCRA and is therefore not subject to this Court's review.

Given the fact that Plaintiffs' understanding of Section 214(d) is mistaken, the Court has no basis upon which to review the provision, cannot fathom the nature of their claims,

---

[100] BCRA Section 203 adds "electioneering communication" to FECA Section 441b(b)(2)'s definition of "contribution or expenditure."

REV_00165501

and therefore does not find the provision unconstitutional.

C. *BCRA Title III*

Section 311: Clarity Standards for Identification of Sponsors of Election-Related Advertising

Section 311 amends Section 318 of FECA, 2 U.S.C. 441d, adding details and requirements for the identification of sponsors of political advertising. Included in the provision is the extension of FECA's requirements to electioneering communications, as defined in BCRA Section 201. BCRA § 311(1); FECA § 318(a); 2 U.S.C. § 441d(a). Pursuant to Section 318 of FECA, such communications must clearly state information about the sponsor, 2 U.S.C. § 441d(a); Section 311 adds various requirements related to the identification of the sponsor in the communication itself which are not challenged in the present litigation. *See* BCRA § 311(2), FECA § 318(c)-(d); 2 U.S.C. § 441d(c)-(d).

Plaintiffs' briefing on Section 311 is limited to a single sentence in a footnote in the McConnell Plaintiffs' Opening Brief:

> BCRA's requirement that political ads contain information identifying the candidate supported by the communication,[101] the party responsible for the content of the information, and/or an indication that the candidate approves the content of the communication . . . is . . . invalid, at least when applied to electioneering communications (and, for that matter, anything other than express advocacy).

McConnell Pls.' Br. at 56 n.22; *see also* Tr. at 303 (Baran).[102] This argument is presented

---

[101] It is not clear to the Court where the Plaintiffs find this purported requirement from the text of Section 311.

[102] JUDGE HENDERSON: . . . Jumping to 311, only because I think this is the (continued...)

REV_00165502

as a corollary to Plaintiffs' contention that "if the Court agrees that the electioneering communications provisions cannot stand, the attendant disclosure provisions should likewise fall, because the disclosure provisions constitute a regulation of . . . speech that the government may not regulate in the first place. *Id.* at 55-56. Given that the Court finds BCRA's electioneering communication definition constitutional, Plaintiffs' argument is rejected.

V. CONCLUSION

Accordingly, the Court finds that the Paul Plaintiffs' challenge is without merit. The Court finds that the disclosure requirements in Section 201, with one exception, are constitutional, as well as Sections 202, 214(a), 214(d) and 311. The Court concludes that a challenge to Sections 212 and the remainder of Section 214 is not justiciable.

In contrast with Judge Henderson's characterization of our approach, we believe that the resolution of these eleven suits required a careful and judicious review of all the evidence, pleadings, and arguments in a fair manner to all the parties. We are satisfied that we accomplished this goal in an as expedited a manner as possible and thereby served "the strong public interest in election law clarity and stability." Henderson Op. at 6 n.1.

---

[102](...continued)

> last time we're going to hear from the omnibus [Plaintiffs], and I think you all are the only ones challenging 311, and it's not down here to be argued in Title 3 and I just want to make sure that it has been challenged. . . .
> MR. BARAN: I'd have to rely on the briefs on that, Your Honor. I'm not in a position to address that today.

TR. at 303 (Baran).

REV_00165503

Three separate opinions by the members of this three-judge panel follow this *per curiam* opinion. Given the complexity of the rulings, and the fact that not any one opinion is fully dispositive, the opinions are presented in order of seniority of the members of this three-judge panel. Accordingly, Judge Henderson's opinion appears first, followed by Judge Kollar-Kotelly's opinion and then Judge Leon's opinion.

/s/
COLLEEN KOLLAR-KOTELLY
United States District Judge

/s/
RICHARD J. LEON
United States District Judge

May 1, 2003

REV_00165504

From: Carlos Bea <cbea@ix.netcom.com>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/2/2003 4:20:41 PM
Subject: : Re:the ABA

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carlos Bea <cbea@ix.netcom.com> (Carlos Bea <cbea@ix.netcom.com> [UNKNOWN])
CREATION DATE/TIME: 2-MAY-2003 20:20:41.00
SUBJECT:: Re:the ABA
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Many of my friends are calling up to relate conversations with Jane
Barrett,
the ABA "reporter". She has yet to call me for an appointment. Is she on
a
timeline? Has she a deadline?

I've been in touch with Kristi about how to handle the ABA interview. She
has had some terrific ideas.

Regards,

Carlos Bea
----- Original Message -----
From: <Brett_M._Kavanaugh@who.eop.gov>
To: <cbea@ix.netcom.com>; <Brett_M._Kavanaugh@who.eop.gov>
Sent: Friday, May 02, 2003 1:41 PM
Subject: Re: Feinstein Blue Slip

> Good news. Thanks
>
> .
>
> ----- Original Message -----
> From:cbea@ix.netcom.com
> To:Brett M. Kavanaugh/WHO/EOP@EOP
> Cc:
> Date: 05/02/2003 04:36:46 PM
> Subject: Feinstein Blue Slip
>
> Congratulations on all your fine work on Senator Feinstein. I learned
today she
> returned her Blue Slip "Positive". With Boxer's 4/23 similar, that is
another
> hurdle past.
>
> Regards,
>
> Carlos Bea
> - att1.htm
>
>

From: Kavanaugh, Brett M.
To: <Bartolomucci, H. Christopher>
CC: <Leitch, David G.>
Sent: 5/3/2003 2:41:18 PM
Subject: Re: Campaign Finance Decision

Henderson's opinion is clearest and best of the 3.

H. Christopher Bartolomucci

05/03/2003 12:59:51 PM

Record Type: Record

To: David G. Leitch/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: Campaign Finance Decision

From today's Post story:

"Henderson wrote a blistering criticism of her two colleagues, admonishing Congress to leave district court judges out of similar cases in the future.".

.

From: CN=Christopher J. Orr/OU=WHO/O=EOP [WHO]
To: Carolyn Nelson/WHO/EOP@Exchange [WHO] <Carolyn Nelson>
CC: ashley snee/who/eop@exchange [WHO] <ashley snee>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>
Sent: 5/5/2003 7:49:27 AM
Subject: : Re: FW: Website interview with Judge Gonzales

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Christopher J. Orr (CN=Christopher J. Orr/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 5-MAY-2003 11:49:27.00
SUBJECT:: Re: FW: Website interview with Judge Gonzales
TO:Carolyn Nelson (CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
CC:ashley snee (CN=ashley snee/OU=who/O=eop@exchange [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

the film crew can do it, if you call can do it.

From: Carolyn Nelson/WHO/EOP@Exchange on 05/05/2003 11:34:36 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Christopher J. Orr/WHO/EOP@EOP,
Ashley Snee/WHO/EOP@Exchange
cc:
Subject: FW: Website interview with Judge Gonzales

All-
;
Can we bump this to 1:15? Thanks!
-----Original Message-----
From: Nelson, Carolyn
Sent: Friday, May 02, 2003 6:18 PM
To: Orr, Christopher J.; Kavanaugh, Brett M.; Snee, Ashley
Subject: Website interview with Judge Gonzales

Monday, 5/5 @ 1:45 PM

From: Comisac, RenaJohnson (Judiciary) <Rena_Johnson_Comisac@Judiciary.senate.gov>
To: Wendy J. Grubbs/WHO/EOP@Exchange [WHO] <Wendy J. Grubbs>;Nancy.Scottfinan@usdoj.gov [UNKNOWN] <Nancy.Scottfinan@usdoj.gov>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Brian.A.Benczkowski@usdoj.gov [UNKNOWN] <Brian.A.Benczkowski@usdoj.gov>;Jamie.E.Brown@usdoj.gov [UNKNOWN] <Jamie.E.Brown@usdoj.gov>
Sent: 5/5/2003 6:33:39 AM
Subject: : FW: Notice of Executive Business Meeting
Attachments: P_Q785G003_WHO.TXT_1.html; P_Q785G003_WHO.TXT_2.wpd

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Comisac, RenaJohnson (Judiciary)" <Rena_Johnson_Comisac@Judiciary.senate.gov> (
"Comisac, RenaJohnson (Judiciary)" <Rena_Johnson_Comisac@Judiciary.senate.gov> [ UNKNOWN ]
)
CREATION DATE/TIME: 5-MAY-2003 10:33:39.00
SUBJECT:: FW: Notice of Executive Business Meeting
TO:Wendy J. Grubbs ( CN=Wendy J. Grubbs/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Nancy.Scottfinan@usdoj.gov ( Nancy.Scottfinan@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brian.A.Benczkowski@usdoj.gov ( Brian.A.Benczkowski@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:Jamie.E.Brown@usdoj.gov ( Jamie.E.Brown@usdoj.gov [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

-----Original Message-----
From: Butterfield, Jane (Judiciary)
Sent: Monday, May 05, 2003 10:20 AM
To: Sebold, Linda (Secretary); Dean, Ken (Secretary); Hauck, David
(SAA); Klutts, Chad (Secretary); Miller Reporting
(milrepco@millerreporting.com); Miranda, Manuel (Frist); Wikner, Brian
(Judiciary); Butterfield, Jane (Judiciary); Carroll, Kurt (Judiciary);
Turner, Roslyne (Judiciary); Pomerance, Lilah (Schumer); Carle, David
(Leahy); Fleek, Susanne (Leahy); Gordon, Robert (Edwards); Jones,
Stephanie (Edwards); Lackey, Miles (Edwards); Payne-Funk, Matt (Leahy);
Skocki, Stan (DeWine); Abegg, John (McConnell); Cobb, Susan (Hatch);
Janzen, Stormie (Sessions); Knight, Patricia (Hatch); Maier, Elizabeth
(Kyl); Nuebel, Kathy (Grassley); Thomas Swanton
(thomas_swanton@specter.senate.gov); Frank Brown
(frank_brown@specter.senate.gov); Glazewski, Tim (Kyl); Larry Kosten
(larry_kosten@specter.senate.gov); Mark Heilbrun
(mark_heilbrun@specter.senate.gov); Singh Seema
(seema_singh@specter.senate.gov); Sonia Acosta
(sonia_acosta@kohl.senate.gov); Morcombe, Cecilia (Judiciary); Marmion,
Preble (Judiciary); Mohle, Heinz (Judiciary); Tapia, Margarita
(Judiciary); Bradley, Ellen (L. Graham); Cernok, Jill (Kyl); Cricks,
Alison; Farr, MaryBeth (Chambliss); Gumerson, Katie (RPC); Hale, Carrie
(DeWine); Higgins, Meaghan (Cornyn); Jafari, Beth (Cornyn); Jodi Lindley
(jodi_lindley@craig.senate.gov); Montoya, Ruth (Hatch); Shimp, Leah
(Grassley); Trevor Miller (trevor_miller@feingold.senate.gov); Anderson,
Kathy (Durbin); Arlene Branca (arlene_branca@kohl.senate.gov); Bar,
Alexis (Edwards); Dowd, John (Leahy); Hart Hazard
(hart_hazard@biden.senate.gov); Hawkins, Julia (Feinstein); Magarik,
Tamar (Feinstein); Mary Murphy (mary_murphy@feingold.senate.gov);
McDonald, Kevin (Leahy); Molly Buford (molly_buford@biden.senate.gov);
Nicholas, Elizabeth (Edwards); Schumer Scheduling
(Scheduling@schumer.senate.gov); Tom Wyler
(tom_wyler@feingold.senate.gov); Judiciary, Schumer2 (Judiciary);
Bauerly, Cynthia (Judiciary); Berman, Jeff (Judiciary); Flood, James
(Judiciary); Judiciary, Schumer1 (Judiciary); Terrell, Louisa
(Judiciary); Judiciary, Biden1 (Judiciary); Lee, Marcia (Judiciary);
```

MacBride, Neil (Judiciary); Meyer, Jonathan (Judiciary); Robinson, Tonya (Judiciary); Rosen, Eric (Judiciary); Zubrensky, Michael (Judiciary); Kang, Chris (Judiciary); Keam, Mark (Judiciary); Longley, Michael (Judiciary); Zogby, Joseph (Judiciary); White, Kirsten (Judiciary); Busansky, Alex (Judiciary); Judiciary, Feingold1 (Judiciary); Khera, Farhana (Judiciary); Schiff, Bob (Judiciary); Strickland, LaVita (Judiciary); Hantman, David (Judiciary); Hughes, Dempsey (Judiciary); Judiciary, Feinstein1 (Judiciary); Judiciary, Feinstein2 (Judiciary); Knapp, Jason (Feinstein); Lamberti, Matthew (Judiciary); Oscherwitz, Tom (Judiciary); Toone, Robert (Judiciary); Flug, James (Judiciary); Johnson, Olati (Judiciary); Judiciary, Kennedy1 (Judiciary); Judiciary, Kennedy2 (Judiciary); Judiciary, Kennedy3 (Judiciary); Judiciary, Kennedy4 (Judiciary); Kaguyutan, Janice (Judiciary); Olavarria, Esther (Judiciary); Phillips, Richard (Judiciary); Sessoms, Julia (Judiciary); Schwantes, Jonathan (Judiciary); Arends, Ross (Judiciary); Bloom, Seth (Judiciary); Judiciary, Kohl1 (Judiciary); Miller, Jeffrey (Judiciary); Nonna, Caroline (Judiciary); Reder, Elizabeth (Judiciary); Toomajian, Phil (Judiciary); Arfa, Rachel (Judiciary); Berry, Jessica (Judiciary); Cohen, Bruce (Judiciary); Davies, Susan (Judiciary); Demaine, Linda (Judiciary); DeOreo, Mary (Judiciary); Fine, Daniel (Judiciary); Graves, Lisa (Judiciary); Greenfeld, Helaine (Judiciary); Huebner, Ben (Judiciary); Katzman, Julie (Judiciary); Klepper, Leesa (Judiciary); Lafayette, Ed (Judiciary); Lucius, Kristine (Judiciary); Lynch, Tim (Judiciary); Magner, Tara (Judiciary); McCormack, Blythe (Judiciary); McKennerney, Christina (Judiciary); Neises, Eric (Judiciary); Pagano, Edward (Judiciary); Parry, Liz (Judiciary); Smith, William (Judiciary); Barnes, Cindy (Judiciary); Judiciary, Sessions1 (Judiciary); Judiciary, Sessions2 (Judiciary); Pai, Ajit (Judiciary); Sander, Andrea (Judiciary); Poindexter, Martha Scott (Chambliss); Gillies, John (Chambliss); McLean, Camila (Chambliss); Ho, James (Judiciary); Brooke Roberts; Taylor, Steve (Judiciary); Blackwell, Robin (Judiciary); Fortier, Evelyn (Judiciary); Jones, Bill (Judiciary); Judiciary, DeWine1 (Judiciary); Judiciary, DeWine2 (Judiciary); Judiciary, DeWine3 (Judiciary); Levitas, Peter (Judiciary); Galyean, James (L. Graham); Reed, Matt (Judiciary); Groover, Chad (Judiciary); Judiciary, Grassley1 (Judiciary); Judiciary, Grassley2 (Judiciary); Judiciary, Grassley4 (Judiciary); Lari, Rita (Judiciary); Augustine, Rene (Judiciary); Best, David (Judiciary); Bloemendal, Katherine (Judiciary); Bunker, Matt (Judiciary); Caramanica, Jessica (Judiciary); Castle, William (Judiciary); Comisac, RenaJohnson (Judiciary); Dahl, Alex (Judiciary); Delrahim, Makan (Judiciary); Eskelsen, Jon (Judiciary); Friedrich, Dabney (Judiciary); Green, Tanya (Judiciary); Greissing, John (Judiciary); Hardman, Isaac (Judiciary); Haywood, Amy (Judiciary); Higginbotham, Ryan (Judiciary); Johnson, Jacob (Judiciary); LeBon, Cherylyn (Judiciary); Lehman, Ted (Judiciary); Lundell, Jason (Judiciary); Mitchell, Dorothy (Judiciary); O'Connor, Reed (Judiciary); O'Scannlain, Kevin (Judiciary); Prior, Swen (Judiciary); Seidel, Rebecca (Judiciary); Snell, BethAnn (Judiciary); Soliemanzadeh, Payam (Judiciary); Stahl, Katie (Judiciary); Volkov, Michael (Judiciary); Wagner, Jennifer (Judiciary); Matal, Joe (Judiciary); Higgins, Stephen (Judiciary); Judiciary, kylintern1 (Judiciary); Judiciary, kylintern2 (Judiciary); Letourneau, Matthew (Judiciary); Judiciary, VictoriaS (Judiciary); Judiciary, AnnaG (Judiciary); Judiciary, JonF (Judiciary); Judiciary, MargueriteM (Judiciary); Judiciary, MattG (Judiciary); Judiciary, SheilaB (Judiciary); Millette, Martin (Judiciary); Artim, Bruce (Judiciary); Campbell, Chris (Judiciary); Carlson, Mark (Judiciary); DeLoatche, Patricia (Judiciary); Kim, Harold (Judiciary); Judiciary, TylerH (Judiciary); Judiciary, BarrH (Judiciary); Judiciary, ChrisT (Judiciary); Judiciary, DanT (Judiciary); Judiciary, DerrickH (Judiciary); Judiciary, EricJ (Judiciary); Judiciary, JeremyJ (Judiciary); Judiciary, JeremyN (Judiciary); Judiciary, KristenW (Judiciary); Judiciary, NicoleO (Judiciary)
Subject: Notice of Executive Business Meeting

May 5, 2003

NOTICE OF EXECUTIVE BUSINESS MEETING

An Executive Business Meeting has been scheduled by the Senate Committee on the Judiciary for Thursday, May 8, 2003, at 9:30 a.m., in the Senate Dirksen Building, Room 226.

By order of the Chairman

- att1.htm - NotMay82003full.wpd
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_Q785G003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_Q785G003_WHO.TXT_2>

-----Original Message-----
From: Butterfield, Jane (Judiciary)
Sent: Monday, May 05, 2003 10:20 AM
To: Sebold, Linda (Secretary); Dean, Ken (Secretary); Hauck, David (SAA); Klutts, Chad (Secretary); Miller Reporting (milrepco@millerreporting.com); Miranda, Manuel (Frist); Wikner, Brian (Judiciary); Butterfield, Jane (Judiciary); Carroll, Kurt (Judiciary); Tu rner, Roslyne (Judiciary); Pomerance, Lilah (Schumer); Carle, David (Leahy); Fleek, Susanne (Leahy); Gordon, Robert (Edwards); Jones, Stephanie (Edwards); Lackey, Miles (Edwards); Payne-Funk, Matt (Leahy); Skocki, Stan (DeWine); Abegg, John (McConnell); Cobb, Susan (Hatch); Janzen, Stormie (Sessions); Knight, Patricia (Hatch); Maier, Elizabeth (Kyl); Nuebel, Kathy (Grassley); Thomas Swanton (thomas_swanton@specter.senate.gov); Frank Brown (frank_brown@specter.senate.gov); Glazewski, Tim (Kyl); Larry Kosten (larry_kosten@specter.senate.gov); Mark Heilbrun (mark_heilbrun@specter.senate.gov); Singh Seema (seema_singh@specter.senate.gov); Sonia Acosta (sonia_acosta@kohl.senate.gov); Morcombe, Cecilia (Judiciary); Marmion, Preble (Judiciary); Mohle, Heinz (Judic iary); Tapia, Margarita (Judiciary); Bradley, Ellen (L. Graham); Cernok, Jill (Kyl); Cricks, Alison; Farr, MaryBeth (Chambliss); Gumerson, Katie (RPC); Hale, Carrie (DeWine); Higgins, Meaghan (Cornyn); Jafari, Beth (Cornyn); Jodi Lindley (jodi_lindley@craig.senate.gov); Montoya, Ruth (Hatch); Shimp, Leah (Grassley); Trevor Miller (trevor_miller@feingold.senate.gov); Anderson, Kathy (Durbin); Arlene Branca (arlene_branca@kohl.senate.gov); Bar, Alexis (Edwards); Dowd, John (Leahy); Hart Hazard (hart_hazard@biden.senate.gov); Hawkins, Julia (Feinstein); Magarik, Tamar (Feinstein); Mary Murphy (mary_murphy@feingold.senate.gov); McDonald, Kevin (Leahy); Molly Buford (molly_buford@biden.senate.gov); Nicholas, Elizabeth (Edwards); Schumer Scheduling (Scheduling@schumer.senate.gov); Tom Wyler (tom_wyler@feingold.senate.gov); Judiciary, Schumer2 (Judiciary); Bauerly, Cynthia (Judiciary); Berman, Jeff (Judiciary); Flood, James (Judiciary); Judiciary, Schumer1 (Judiciary); Terrell, Louisa (Judiciary); Judiciary, Biden1 (Judiciary); Lee, Marcia (Judiciary); MacBride, Neil (Judiciary); Meyer, Jonathan (Judiciary); Robinson, Tonya (Judiciary); Rosen, Eric (Judiciary); Zubrensky, Michael (Judiciary); Kang, Chris (Judiciary); Keam, Mark (Judiciary); Longley, Michael (Judiciary); Zogby, Joseph (Judiciary); White, Kirsten (Judiciary); Busansky, Alex (Judiciary); Judiciary, Feingold1 (Judiciary); Khera, Farhana (Judiciary); Schiff, Bob (Judiciary); Strickland, LaVita (Judiciary); Hantman, David (Judiciary); Hughes, Dempsey (Judiciary); Judiciary, Feinstein1 (Judiciary); Judiciary, Feinstein2 (Judiciary); Knapp, Jason (Feinstein); Lamberti, Matthew (Judiciary); Oscherwitz, Tom (Judiciary); Toone, Robert (Judiciary); Flug, James (Judiciary); Johnson, Olati (Judiciary); Judiciary, Kennedy1 (Judiciary); Judiciary, Kennedy2 (Judiciary); Judiciary, Kennedy3 (Judiciary); Judiciary, Kennedy4 (Judiciary); Kaguyutan, Janice (Judiciary); Olavarria, Esther (Judiciary); Phillips, Richard (Judiciary); Sessoms, Julia (Judiciary); Schwantes, Jonathan (Judiciary); Arends, Ross (Judiciary); Bloom, Seth (Judiciary); Judiciary, Kohl1 (Judiciary); Miller, Jeffrey (Judiciary); Nonna, Caroline (Judiciary); Reder, Elizabeth (Judiciary); Toomajian, Phil (Judiciary); Arfa, Rachel (Judiciary); Berry, Jessica (Judiciar y); Cohen, Bruce (Judiciary); Davies, Susan (Judiciary); Demaine, Linda (Judiciary); DeOreo, Mary (Judiciary); Fine, Daniel (Judiciary); Graves, Lisa (Judiciary); Greenfeld, Helaine (Judiciary); Huebner, Ben (Judiciary); Katzman, Julie (Judiciary); Klepper, Leesa (Judiciary); Lafayette, Ed (Judiciary); Lucius, Kristine (Judiciary); Lynch, Tim (Judiciary); Magner, Tara (Judiciary); McCormack, Blythe (Judiciary); McKennerney, Christina (Judiciary); Neises, Eric (Judiciary); Pagano, Edward (Judiciary); Parry, Liz (Judiciary); Smith, William (Judiciary); Barnes, Cindy (Judiciary); Judiciary, Sessions1 (Judiciary); Judiciary, Sessions2 (Judiciary); Pai, Ajit (Judiciary); Sander, Andrea (Judiciary); Poindexter, Martha Scott (Chambliss); Gillies, John (Chambliss); McLean, Camila (Chambliss); Ho, James (Judiciary); Brooke Roberts; Taylor, Steve (Judiciary); Blackwell, Robin (Judiciary); Fortier, Evelyn (Judiciary); Jones, Bill (Judiciary); Judiciary, DeWine1 (Judiciary); Judiciary, DeWine2 (Judiciary); Judiciary, DeWine3 (Judiciary); Levitas, Peter (Judiciary); Galyean, James (L. Graham); Reed, Matt (Judiciary); Groover, Chad (Judiciary); Judiciary, Grassley1 (Judiciary); Judiciary, Grassley2 (Judiciary); Judiciary, Grassley4 (Judiciary); Lari, Rita (Judiciary); Augustine, Rene (Judiciary); Best, David (Judiciary); Bloemendal, Katherine (Judiciary); Bunker, Matt (Judiciary); Caramanica, Jessica (Judiciary); Castle, William (Judiciary); Comisac, RenaJohnson (Judiciary); Dahl, Alex (Judiciary); Delrahim, Makan (Judi ciary); Eskelsen, Jon (Judiciary); Friedrich, Dabney (Judiciary); Green, Tanya (Judiciary); Greissing, John (Judiciary); Hardman, Isaac (Judiciary); Haywood, Amy (Judiciary); Higginbotham, Ryan (Judiciary); Johnson, Jacob (Judiciary); LeBon, Cherylyn (Judiciary); Lehman, Ted (Judiciary); Lundell, Jason (Judiciary); Mitchell, Dorothy (Judiciary); O'Connor, Reed (Judiciary); O'Scannlain, Kevin (Judiciary); Prior, Swen (Judiciary); Seidel, Rebecca (Judiciary); Snell, BethAnn (Judiciary); Soliemanzadeh, Payam (Judiciary); Stahl, Katie (Judiciary); Volkov, Michael (Judiciary); Wagner, Jennifer (Judiciary); Matal, Joe (Judiciary); Higgins, Stephen (Judiciary); Judiciary, kylintern1 (Judiciary); Judiciary, kylintern2 (Judiciary); Letourneau, Matthew (Judiciary); Judiciary, VictoriaS (Judiciary); Judiciary, AnnaG (Judiciary); Judiciary, JonF (Judiciary); Judiciary, MargueriteM (Judiciary); Judiciary, MattG (Judiciary); Judiciary, SheilaB (Judiciary); Millette, Martin (Judiciary); Artim, Bruce (Judiciary); Campbell, Chris (Judiciary); Carlson, Mark (Judiciary); DeLoatche, Patricia (Judiciary); Kim, Harold (Judiciary); Judiciary, TylerH (Judiciary); Judiciary, BarrH (Judiciary); Judiciary, ChrisT (Judiciary); Judiciary, DanT (Judiciary); Judiciary, DerrickH (Judiciary); Judiciary, EricJ (Judiciary); Judiciary, JeremyJ (Judiciary); Judiciary, JeremyN

(Judiciary); Judiciary, KristenW (Judiciary); Judiciary, NicoleO (Judiciary)
Subject: Notice of Executive Business Meeting

May 5, 2003

NOTICE OF EXECUTIVE BUSINESS MEETING

&n bsp; An Executive Business Meeting has been scheduled by the Senate Committee on the Judiciary for Thursday, May 8, 2003, at 9:30 a.m., in the <font size=4>Senate Dirksen<font size=4> Building , Room 226.

By order of the Chairman

May 5, 2003

NOTICE OF EXECUTIVE BUSINESS MEETING

An Executive Business Meeting has been scheduled by the Senate Committee on the Judiciary for Thursday, May 8, 2003, at 9:30 a.m., in the Senate Dirksen Building, Room 226.

By order of the Chairman

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Colleen M. Carroll/WHO/EOP@EOP [WHO] <Colleen M. Carroll>
Sent: 5/5/2003 7:13:12 AM
Subject: : Re: more
Attachments: P_35B5G003_WHO.TXT_1.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 5-MAY-2003 11:13:12.00
SUBJECT:: Re: more
TO:Colleen M. Carroll (CN=Colleen M. Carroll/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

ok

Colleen M. Carroll
05/05/2003 11:10:06 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: more

I think you see it during staffing -- Anne Campbell takes care of that if you have any questions about the process.

Brett M. Kavanaugh
05/05/2003 11:09:08 AM
Record Type: Record

To: Colleen M. Carroll/WHO/EOP@EOP
cc:
bcc:
Subject: Re: more

Thanks. Do we see it before it goes into staffing?

Colleen M. Carroll
05/05/2003 11:08:36 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: more

Brett,
I received these quotes after I had turned in my draft to Mike on Friday

evening.
Might be able to incorporate them later, if necessary.
The draft should get into staffing soon, I hope.
Colleen

Brett M. Kavanaugh
05/02/2003 07:51:40 PM
Record Type: Record

To: Colleen M. Carroll/WHO/EOP@EOP
cc:
Subject: more

This letter also has a good quote from Leahy.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_35B5G003_WHO.TXT_1>

THE WHITE HOUSE

WASHINGTON

February 24, 2003

Dear Senator Schumer:

Based on your public comments yesterday, I am concerned that you may have inaccurate and incomplete information about Miguel Estrada's qualifications and about the historical practice with respect to judicial confirmations. Therefore, I write to respectfully reiterate and explain our conclusion that you and certain other Senators are applying an unfair double standard -- indeed, a series of unfair double standards -- to Miguel Estrada.

First, your request for confidential attorney-client memoranda Mr. Estrada wrote in the Office of Solicitor General seeks information that, based on our review, has not been demanded from past nominees to the federal courts of appeals. We are informed that the Senate has not requested memoranda such as these for *any* of the 67 appeals court nominees since 1977 who had previously worked in the Justice Department -- including the seven nominees who had previously worked in the Solicitor General's office. Nor have such memoranda been demanded from nominees in similar attorney-client situations: The Senate has not demanded confidential memoranda written by judicial nominees who had served as Senate lawyers, such as memoranda written by Stephen Breyer as a Senate counsel before Justice Breyer was confirmed to the First Circuit in 1980. Nor has the Senate demanded confidential memoranda written by judicial nominees who had served as law clerks to Supreme Court Justices or other federal or state judges. Nor has the Senate demanded confidential memoranda written by judicial nominees who had worked for private clients.

The very few isolated examples you have cited were not nominees for federal appeals courts. Moreover, those situations involved Executive Branch accommodations of targeted requests for particular documents about specific issues that were primarily related to allegations of malfeasance or misconduct in a federal office. We respectfully do not believe these examples support your request. Our conclusion about the general lack of support and precedent for your position is buttressed by the fact that every living former Solicitor General (four Democrats and three Republicans) has strongly opposed your request and stated that it would sacrifice and compromise the ability of the Justice Department to effectively represent the United States in court. In short, the traditional practice of the Senate and the Executive Branch with respect to federal appeals court nominations stands in contrast to your request here and supports our conclusion that an unfair double standard is being applied to Miguel Estrada. (Also, contrary to your suggestion yesterday, please note that no one in the Executive Branch has reviewed these memoranda since President Bush took office in January 2001.)

Second, you suggested that "no judicial nominee that I'm aware of, for such a high court, has ever had so little of a record." I respectfully disagree. Miguel Estrada has been a very accomplished lawyer, trying cases before federal juries, briefing and arguing numerous appeals before federal and state appeals courts, and arguing 15 cases before the Supreme Court, among his other significant work. His record and breadth of experience exceeds that of many judicial nominees, which is no doubt why the American Bar Association -- which you have labeled the

"gold standard" -- *unanimously* rated him "well-qualified." In noting yesterday that Mr. Estrada's career had been devoted to "arguing for a client," you appeared to imply that only those with prior judicial service (or perhaps "a lot of [law review] articles") may serve on the federal appeals courts. But five of the eight judges currently serving on the D.C. Circuit had no prior judicial service at the time of their appointments. Indeed, Supreme Court Justices Rehnquist, White, and Powell -- to name three of the most recent -- had not served as judges before being confirmed to the Supreme Court. And like Mr. Estrada, two appointees of President Clinton to the D.C. Circuit (Judge David Tatel and Judge Merrick Garland) had similarly spent their careers "arguing for a client," but were nonetheless confirmed.

As the Chief Justice noted in his 2001 Year-End Report, moreover, "[t]he federal Judiciary has traditionally drawn from a wide diversity of professional backgrounds." The Chief Justice cited Justice Louis Brandeis, Justice John Harlan, Justice Byron White, Judge Thurgood Marshall (as nominee to the Second Circuit), Judge Learned Hand, and Judge John Minor Wisdom as just a few examples of great judges who had spent virtually their entire careers "arguing for a client" before becoming Supreme Court Justices or federal appeals court judges. As these examples show, had the "arguing for a client" standard been applied in the past, it would have deprived the American people of many of our most notable appellate judges. Based on our understanding, this standard has *not* been applied in the past. This further explains why we have concluded that an unfair double standard is being applied to Miguel Estrada.

Third, you stated that "when you went to those hearings, Mr. Estrada answered no questions." The record demonstrates otherwise. Mr. Estrada answered more than 100 questions at his hearing (and another 25 in follow-up written answers). He explained in some detail his approach to judging on many issues, and did so appropriately without providing his personal views on specific legal or policy questions that could come before him – which is how previous judicial nominees of Presidents of both parties have appropriately answered questions. Indeed, at his hearing, Mr. Estrada was asked and answered more questions, and did so more fully, than did President Clinton's appointees to this same court. Judge David Tatel was asked a total of three questions at his hearing. Judges Judith Rogers and Merrick Garland were each asked fewer than 20 questions. The three appointees of President Clinton – combined – thus answered fewer than half the number of questions at their hearings that Mr. Estrada answered at his hearing. What is more, like Mr. Estrada, both Judge Rogers and Judge Garland declined to give their personal views on disputed legal and policy questions at the hearing. Judge Rogers refused to give her views when asked about the notion of an evolving Constitution. And Mr. Garland did not answer questions about his personal views on the death penalty, stating that he would follow precedent. In short, we believe that your criticism of Mr. Estrada's answers at his hearing reveals that another unfair double standard is being applied to Mr. Estrada.

Fourth, you stated that the Founding Fathers "came to the conclusion that the Senate ought to ask a whole lot of questions" of judicial nominees. We respect the Senate's constitutional role in the confirmation process, and we agree that the Senate should make an informed judgment consistent with its traditional role and practices. But your characterization of the Senate's role with respect to judicial nominations is not consistent with our reading of historical or traditional practice. Alexander Hamilton explained that the purpose of Senate confirmation is to prevent appointment of "unfit characters from State prejudice, from family

REV_00165539

connection, from personal attachment, or from a view to popularity." *The Federalist* 76. The Framers anticipated that the Senate's approval would not often be refused unless there were "special and strong reasons for the refusal." *Id.* Moreover, the Senate did not hold hearings on judicial nominees for much of American history, and the hearings for lower-court nominees in modern times traditionally have not included the examination of personal views that you have advocated. (My letter of February 12, 2003, to Senators Daschle and Leahy contains more detail on this point.) Indeed, just a few years ago, Senator Biden made clear, consistent with the traditional practice, that he would vote to confirm an appeals court judge if he were convinced that the nominee would follow precedent and otherwise was of high ability and integrity.

In short, it appears that you are seeking to change the Senate's traditional standard for assessing judicial nominees. We respect your right to advocate a change, but we do not believe that the standard you seek to apply is consistent with the Framers' vision, the traditional Senate practice, or the Senate's treatment of President Clinton's nominees. Rather, we believe a new standard is being devised and applied to Miguel Estrada.

Fifth, you stated yesterday that a "filibuster" is not an appropriate term to describe what has been occurring in the Senate. We respectfully disagree. Democrat Senators have objected to unanimous consent motions to schedule a vote, and they have indicated that they will continue to do so. That tactic is historically and commonly known as a filibuster, and is a dramatic escalation of the tactics used to oppose judicial nominees. Indeed, in 1998, Senator Leahy stated: "I have stated over and over again on this floor that I would refuse to put an anonymous hold on any judge; that *I would object and fight against any filibuster on a judge*, whether it is somebody I opposed or supported; that I felt the Senate should do its duty. If we don't like somebody the President nominates, vote him or her down. But don't hold them in this anonymous unconscionable limbo, because in doing that, the minority of Senators really shame all Senators." 144 Cong. Rec. S6522 (June 18, 1998). In our judgment, the tactics now being employed again show that Miguel Estrada is receiving differential treatment.

* * *

As I have said before, I appreciate and respect the Senate's constitutional role in the confirmation process. You have expressed concern that you do not know enough about Mr. Estrada's views, but you have not submitted any follow-up questions to him. We respectfully submit that the Senate has ample information and has had more than enough time to consider questions about the qualifications and suitability of a nominee submitted more than 21 months ago. Most important, we believe that a majority of Senators have now concluded that they possess sufficient information on Mr. Estrada and would vote to confirm him. We believe it is past time for the Senate to vote on this nominee, and we urge your support.

Sincerely,

/s/

Alberto R. Gonzales
Counsel to the President

REV_00165540

Copy: The Honorable Bill Frist
The Honorable Thomas A. Daschle
The Honorable Orrin Hatch
The Honorable Patrick Leahy

REV_00165541

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Anne E. Campbell/WHO/EOP@Exchange@EOP [WHO] <Anne E. Campbell>
Sent: 5/5/2003 7:16:35 AM
Subject: : question

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 5-MAY-2003 11:16:35.00
SUBJECT:: question
TO:Anne E. Campbell (CN=Anne E. Campbell/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Do we see draft of judges speech for Friday before staffing or just in staffing?

From: Kavanaugh, Brett M.
To: <Campbell, Anne E.>
Sent: 5/5/2003 11:23:53 AM
Subject: RE: question

well, I don't want to interfere, but probably easier for us to review quickly now before staffing just in case we had some major concerns (which I doubt but better to be sure now than later).

From: Anne E. Campbell/WHO/EOP@Exchange on 05/05/2003 11:20:09 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: RE: question

This is currently with Dan. I can send you a copy now, if you think it would be helpful to see it prior to staffing.

Just let me know.

-----Original Message-----

From: Kavanaugh, Brett M.

Sent: Monday, May 05, 2003 11:15 AM

To: Campbell, Anne E.

Subject: question

Do we see draft of judges speech for Friday before staffing or just in staffing?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Jonathan F. Ganter/WHO/EOP@EOP [WHO] <Jonathan F. Ganter>
Sent: 5/5/2003 7:30:31 AM
Subject: : IMPORTANT: Draft letter to Schumer
Attachments: P_OCC5G003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 5-MAY-2003 11:30:31.00
SUBJECT:: IMPORTANT: Draft letter to Schumer
TO:Jonathan F. Ganter (CN=Jonathan F. Ganter/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

btw, need this by about 1:30 p.m.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 05/05/2003 11:29 AM ----------

Brett M. Kavanaugh
05/05/2003 11:27:08 AM
Record Type: Record

To: Jonathan F. Ganter/WHO/EOP@EOP
cc:
Subject: IMPORTANT: Draft letter to Schumer

I need you to check all the Senator quotes in bullets and pull the Congressional Record cites. (A few are from press conferences but are on NEXIS.)

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 05/05/2003 11:26 AM ----------

Brett M. Kavanaugh
05/05/2003 11:14:25 AM
Record Type: Record

To: Alberto R. Gonzales/WHO/EOP@Exchange@EOP, David G. Leitch/WHO/EOP@Exchange@EOP
cc: Carolyn Nelson/WHO/EOP@Exchange@EOP
Subject: IMPORTANT: Draft letter to Schumer

I think we should send TODAY if possible to correspond to Cornyn hearing tomorrow. The draft takes the opportunity to reiterate the President's plan and all the many past D statements in support of timely Senate votes.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_OCC5G003_WHO.TXT_1>

DRAFT

May __, 2003

Dear Senator Schumer:

On behalf of President Bush, I write in response to your letter of April 30.

You propose that the President and Senate leader of the opposite party select in equal numbers members of citizen judicial nominating commissions in each State who would then select one nominee for each judicial vacancy. The President then would be required to nominate the individual selected by the commission and the Senate required to confirm that individual, at least absent "evidence" that the candidate is "unfit for judicial service." You propose this as a permanent change to the constitutional scheme for appointment of federal judges.

We respectfully disagree with your proposal as inconsistent with the Constitution, with the history and traditions of the Nation's federal judicial appointments process, and with the soundest approach for appointment of highly qualified federal judges, as the Founders determined. Rather, as President Bush and many Senators of both parties have stated in the past, the solution to the broken judicial confirmation process is for the Senate to exercise its constitutional responsibility to vote up or down on judicial nominees within a reasonable time after nomination, no matter who is President or which party controls the Senate.

I. The Constitution, the Current Problem, and the Solution

Article II of the Constitution provides: "The President shall nominate, and by with the Advice and Consent of the Senate, shall appoint . . . Judges of the supreme court, and all other Officers of the United States." During the first Congress and throughout most of this Nation's history, the Senate has both recognized and exercised its constitutional responsibility under Article II to hold majority, up-or-down votes on a President's nominations within a reasonable time after nomination. The Framers intended that this Senate vote on nominations would prevent Presidential appointment of "unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity." *Federalist* 76.

Your proposal would effectively transfer the nomination and confirmation power from the President and the Senate to a group of unelected and unaccountable private citizens. As the Supreme Court has explained, however, the Appointments Clause is "more than a matter of etiquette or protocol; it is among the significant structural safeguards of the constitutional scheme. By vesting the President with the exclusive power to select the principal (noninferior) officers of the United States, the Appointments Claude prevents congressional encroachment upon the Executive and Judicial Branches. This disposition was also designed to assure a higher quality of appointments: the Framers anticipated that the President would be less vulnerable to interest-group pressure and personal favoritism than would a collective body." *Edmond v. United States*, 520 U.S. 651, 659 (1997) (citations omitted). Importantly, as the Supreme Court has also explained, the Appointments Clause not only guards against encroachment "but also preserves another aspect of the Constitution's structural integrity by preventing the diffusion of

the appointment power." *Freytag v. CIR*, 501 U.S. 868, __ (1991). Therefore, "neither Congress nor the Executive can agree to waive the structural protections" afforded by the Appointments Clause. *Id.* These principles and precedents amply demonstrate the constitutional and structural problems with any proposal to transfer the constitutional responsibilities of the President and the Senate to a group of unelected and unaccountable private citizens.

That said, we very much appreciate your recognition that the Senate's judicial confirmation process is "broken." The precise problem, in our judgment, is that the Senate has too often failed in recent years to hold votes on judicial nominees within a reasonable time after nomination (often because a *minority* of Senators has used procedural tactics to prevent the Senate from voting and expressing its majority will). Many appeals court nominees have waited years for hearings; many others have never received votes. Today, for example, although the Senate never before has denied a vote to an appeals court nominee on account of a filibuster, a minority of Senators are engaged in unprecedented simultaneous filibusters to prevent up or down votes on *two* superb nominees, Priscilla Owen and Miguel Estrada, who were nominated two years ago and who have the support of a majority of the Senate.

The problem of the Senate not holding votes on certain judicial nominees is a relatively recent development, albeit not new to this President. In the Administrations of both President George H.W. Bush in the 102nd Congress and President Clinton in the 106th Congress, for example, too many appeals court nominees never received up-or-down votes. The problem has reached a new level in the 107th and 108th Congress, however, during this President's tenure.

President Bush's commitment to solving this problem also is not new. In June 2000, during the Presidential campaign, then-Governor Bush emphasized that the Senate should hold up-or-down votes on all nominees within a reasonable time after nomination (60 days). Last fall, after two additional years of Senate delays that were causing a judicial vacancy crisis (an "emergency situation," in the words of the American Bar Association), the President proposed a comprehensive three-Branch plan to solve the problem. President Bush stated that this three-Branch plan should apply now and in the future, no matter who is President or which party controls the Senate. In particular, he proposed that judges provide one-year advance notice of retirement where possible; in March 2003, the Judicial Conference adopted the President's recommendation. The President proposed that Presidents nominate judges within 180 days of learning of a vacancy; the President is complying with this part of the plan and already has submitted nominations, for example, for the 15 new judgeships created on November 2, 2002. The President also proposed that the Senate vote up or down on judicial nominees within 180 days of receiving a nomination, a generous period of time for all Senators to evaluate nominees and to have their voices heard and their votes counted.

In the past, you and Senators of both parties have publicly agreed with the need for timely Senate votes on judicial nominees. On March 7, 2000, for example, you stated: "It is an example of Government not fulfilling its constitutional mandate because the President nominates, and *we are charged with voting on the nominees*. . . . I also plead with my colleagues to move judges with alacrity – *vote them up or down*. But this delay makes a mockery of the Constitution, makes a mockery of the fact that we are here working, and makes a mockery of the

lives of the very sincere people who have themselves forward to be judges and then they hang out there in limbo."

In the 2000 campaign, moreover, several Democrat Senators such as Senator Leahy and Senator Harkin publicly agreed with then-Governor Bush's proposal for timely votes on nominees. In addition, Senator Specter in 2002, Senator Leahy in 1998, and Senator Bob Graham in 1991 all introduced Senate proposals to ensure timely up-or-down votes on judicial nominees. The Chief Justice, speaking on behalf of the Judiciary, also has expressly asked the Senate to ensure up-or-down votes on nominees. And the American Bar Association, for its part, adopted a resolution last summer asking the Senate to hold prompt votes on judicial nominations, stating: "Vote them up or down. But don't hang them out to dry."

In seeking to fix the broken Senate confirmation process, we respectfully ask that you and other Senators consider these past statements and prescriptions, a sample of which are listed below, and ensure timely up-or-down Senate votes on all judicial nominees, no matter who is President or which party controls the Senate:

- *Senator Leahy* on October 3, 2000, stated: "Governor Bush and I, while we disagree on some issues, have one very significant issue on which we agree. He gave a speech a while back and criticized what has happened in the Senate where confirmations are held up not because somebody votes down a nominee but because they cannot ever get a vote. Governor Bush said: You have the nominee. Hold the hearing. Then, within 60 days, vote them up or vote them down. Don't leave them in limbo. *Frankly, that is what we are paid to do in this body. We are paid to vote either yes or no – not vote maybe*. When we hold a nominee up by not allowing them a vote and not taking any action one way or the other, we are not only voting 'maybe,' but we are doing a terrible disservice to the man or woman to whom we do this."

- *Senator Leahy* on June 18, 1998, stated: "I have stated over an over again on this floor that I would refuse to put an anonymous hold on any judge; that I would object and fight against any filibuster on a judge, whether it is somebody I opposed or supported; that I felt the Senate should do its duty. If we don't like somebody the President nominates, vote him or her down. But don't hold them in this anonymous unconscionable limbo, because in doing that, the minority of Senators really shame all Senators."

- *Senator Daschle* on October 5, 1999, stated: "As Chief Justice Rehnquist has recognized, 'The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down.' *An up or down vote, that is all we seek for Berzon and Paez*. And after years of waiting, they deserve at least that much. . . . *I find it simply baffling that a Senator would vote against even voting on a judicial nomination*."

- *Senator Harkin* on September 14, 2000, stated: "I'll just close by saying that *Governor Bush had the right idea*. He said the candidate should get an up or down vote within 60 days of their nomination."

    - *Senator Harkin* on October 6, 2000, stated that then-Governor Bush's proposal for an up-or-down vote within 60 days of nomination was a "great idea."

- *Senator Biden* on March 19, 1997, stated: "I respectfully suggest that everyone who is nominated is entitled to have a shot, to have a hearing and to have a shot to be heard on the floor *and have a vote on the floor*."

- *Senator Bob Graham* on April 24, 1991, introduced a bill that would require the Judiciary Committee to report a nomination within 90 days of nomination and *would require an up-or-down vote on the floor within 120 days of nomination*. Senator Graham stated: "I consider it a judicial emergency when a judgeship is vacant for one day more than necessary."

- *Senator Kennedy* on February 3, 1998, stated: "We owe it to Americans across the country to give these nominees a vote. If our Republican colleagues do not like them, vote against them. *But give them a vote*."

    - On September 21, 1999, *Senator Kennedy* stated: "It is true that some Senators have voiced concerns about these nominations. But that should not prevent a roll call vote which gives every Senator the opportunity to vote 'yes' or 'no.' . . . *[D]elays can only be described as an abdication of the Senate's constitutional responsibility* to work with the President and ensure the integrity of the courts."

- *Senator Durbin* on September 28, 1998, stated: "Vote the person up or down. . . . I am not suggesting that we would give our consent to all of these nominees. I am basically saying that this process should come to a close. *The Senate should vote*."

- *Senator Feinstein* on September 16, 1999, stated: "*A nominee is entitled to a vote. Vote them up; vote them down*."

    - *Senator Feinstein* on October 4, 1999, stated: "Our institutional integrity requires an up-or-down vote."

- *Senator Harry Reid* on June 9, 2001, stated: "I think we should have up-or-down votes in the committee and on the floor."

- *Senator Feingold* on March 8, 2000, stated: "All Judge Paez has ever asked for was this opportunity: an up or down vote on his confirmation. Yet for years, the Senate has denied him that simple courtesy."

- *Senator Kohl*: on September 21, 1999, stated: "These nominees, who have to put their lives on hold waiting for us to act, *deserve an up or down vote*."

    - On May 15, 1997, *Senator Kohl* stated: "[L]et's breathe life back into the confirmation process. Let's vote on the nominees who have already been approved by the Judiciary Committee, and let's set a timetable for future hearings on pending judges. *Let's fulfill our constitutional responsibilities*."

- *Senator Lincoln* on September 14, 2000, stated: "If we want to respect the government again, then government must act respectably. It's my hope that we'll take the necessary steps to give these men and these women especially *the up or down vote that they deserve*."

- *Senator Boxer* on January 28, 1998, stated: "I think, whether the delays are on the Republican side or the Democratic side, let these names come up, *let us have debate, let us vote*."

    - *Senator Boxer* on May 14, 1997, stated: "According to the U.S. Constitution, the President nominates, and the Senate shall provide advice and consent. *It is not the role of the Senate to obstruct the process and prevent numbers of highly qualified nominees from even being given the opportunity for a vote on the Senate floor*."

- *Senator Sarbanes* on December 15, 1997, stated: "This politicization . . . has been extended to include the practice of denying nominees an up or down vote on the Senate floor or even in the Judiciary Committee. *If the majority of the Senate opposes a judicial nominee enough to derail a nomination by an up or down vote, then at least the process has been served*."

    - *Senator* Sarbanes on March 19, 1997, stated: "It is not whether you let the President have his nominees confirmed. You will not even let them be considered by the Senate for an up or down vote. That is the problem today."

- *Senator Levin* on September 14, 2000, stated: "The truth of the matter is that the leadership of *the Senate has a responsibility to do what the Constitution says we should do, which is to advise and at least vote on whether to not to consent to the nomination of nominees for these courts*."

    - *Senator Levin* on May 24, 2000, stated: "The candidates for these vacancies . . . deserve to have an up or down vote on their nominations."

II. Other Points Regarding Your Proposal

I also want to make three other points regarding your proposal.

First, contrary to an implicit suggestion in your proposal, the members of these citizen committees themselves will bring their own views about the best qualities for judicial candidates, and their own preferences and visions and ideologies. But there is an important difference between these private citizens, on the one hand, and the President and 100 Senators, on the other. The American people did not elect these citizens to exercise this critical constitutional responsibility and cannot hold them accountable for their exercise of it.

Moreover, the Framers of the Constitution expressly considered and rejected a committee nomination process, concluding that such a process was unlikely to focus on the "intrinsic merit of the candidate." *Federalist* 76 (quotes to follow from *Federalist* 76). As Hamilton explained, "in every exercise of the power of appointing to offices by an assembly of men we must expect to see a full display of all the private and party likings and dislikes, partialities and antipathies, attachments and animosities, which felt by those who compose the assembly." It will "rarely happen that the advancement of the public service will be the primary object either of party victories or of party negotiations."

By contrast, "[t]he sole and undivided responsibility of one man" – the President – "will naturally beget a livelier sense of duty and a more exact regard to reputation. He will, on this account, feel himself under stronger obligations, and more interested to investigate with care the qualities requisite to the stations to be filled, and to prefer with impartiality the persons who may have the latest pretensions to them." The Framers wanted the President alone to exercise the power of nomination, moreover, because the "blame of a bad nomination would fall upon the President singly and absolutely." In a committee nomination process, by contrast, "all idea of responsibility is lost."

For these reasons, the Framers concluded that the President alone was to nominate and the Senate as a body was to vote on the President's nominations.

Second, you explain that your proposal would ensure the merit of federal judges. In your letter to President Bush of March 16, 2001, however, you and Senator Leahy expressed their view that the American Bar Association ratings provide "unique, unbiased and essential information" about judicial candidates, and provide an "independent, apolitical evaluation" of their qualifications. You referred to the ABA rating as the "gold standard" for evaluating nominees. To date, all 42 of the President's appeals court nominees rated so far have received "well-qualified" or "qualified" ratings. By the standard outlined in your letter of March 16, 2001, all of these appeals court nominees warrant your support.

Third, you explain that your proposal would avoid "extremist" judges. The Framers intended that the President would nominate judges and the Senate as a body would vote up-or-down on the nominations to express the majority will of the Senate. The constitutional scheme of Presidential appointment and majority vote in the Senate ensures that the nominees are not unfit.

Fourth, we assume that you mean to include Miguel Estrada and Priscilla Owen in your description of "extremist" given the extraordinary filibusters of their nominations. Miguel Estrada and Priscilla Owen represent the mainstream of American law and American values, as indicated by the fact that the President nominated them and a majority of the Senate supports them. Moreover, Miguel Estrada is supported by prominent Democrat lawyers such as Seth Waxman and Ron Klain and by a bipartisan group of 15 former colleagues in the Solicitor General's office, among many others. He worked for four years in the Clinton Administration. He was unanimously rated "well-qualified" by the American Bar Association. Priscilla Owen is supported by three former Democrat Justices on the Texas Supreme Court with whom she served and 15 past Presidents of the State Bar of Texas. She also received a *unanimous* "well-qualified" rating from the American Bar Association. These nominees are the mainstream. It bears note, moreover, that you and other Democrat Senators have supported nominees such as Jay Bybee and Michael McConnell who, if anything, have more significant public statements on the issues that concern you. We therefore believe that an unfair double standard is being applied to both Miguel Estrada and Priscilla Owen.

* * *

Thank you for your letter. We agree that the Senate judicial confirmation process is broken. The President believes that the fix is for the Senate to ensure that every judicial nominee receives an up-or-down Senate vote within a reasonable time after nomination, no matter who is President or which party controls the Senate.

Sincerely,

Alberto R. Gonzales
Counsel to the President

The Honorable Charles Schumer
United States Senate

Copy: The Honorable Bill Frist
The Honorable Thomas Daschle
The Honorable Orrin Hatch
The Honorable Patrick Leahy

From: CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO]
To: Carolyn Nelson/WHO/EOP@Exchange [WHO] <Carolyn Nelson>;Christopher J. Orr/WHO /EOP@EOP [WHO] <Christopher J. Orr>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/5/2003 7:53:14 AM
Subject: : RE: FW: Website interview with Judge Gonzales

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 5-MAY-2003 11:53:14.00
SUBJECT:: RE: FW: Website interview with Judge Gonzales
TO:Carolyn Nelson (CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Christopher J. Orr (CN=Christopher J. Orr/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I'm in

;-----Original Message-----
From: ; Orr, Christopher J.;
Sent:;; Monday, May 05, 2003 11:49 AM
To:;;;; Nelson, Carolyn
Cc:;;;; Kavanaugh, Brett M.; Snee, Ashley
Subject:;;;;;;;; Re: FW: Website interview with Judge Gonzales

the film crew can do it, if you call can do it.

From:;; Carolyn Nelson/WHO/EOP@Exchange on 05/05/2003 11:34:36 AM
Record Type:;;; Record

To:;;;; Brett M. Kavanaugh/WHO/EOP@EOP, Christopher J. Orr/WHO/EOP@EOP, Ashley Snee/WHO/EOP@Exchange
cc:;;;;
Subject:;;;;;;;; FW: Website interview with Judge Gonzales

All-
;
Can we bump this to 1:15? Thanks!
-----Original Message-----
From: Nelson, Carolyn
Sent: Friday, May 02, 2003 6:18 PM
To: Orr, Christopher J.; Kavanaugh, Brett M.; Snee, Ashley
Subject: Website interview with Judge Gonzales

Monday, 5/5 @ 1:45 PM

From: Kirk Blalock <kblalock@fierce-isakowitz.com>
To: <Schacht, Diana L.>;<Kavanaugh, Brett M.>;<Warsh, Kevin>;<Silverberg, Kristen>;MMeece@doc.gov <MMeece@doc.gov>
Sent: 5/5/2003 12:23:56 PM
Subject: EPA FUNDED PANEL URGES U.S. TO BAN ASBESTOS IMPORTS ; MANY MEMBERS HAVE TIES TO INDUSTRY; RECOMMENDATION SURPRISES OBSERVERS

All - this will likely find its way into the current debate, or Murray/Cantwell will make part of the asbestos debate. I think Murray has long sponsored a permanent ban on asbestos use bill. Insurers don't have a dog in the fight, and NAM is looking into whether or not some of their members would oppose a entire ban of the product.

NEWS

PANEL URGES U.S. TO BAN ASBESTOS IMPORTS ; MANY MEMBERS HAVE TIES TO INDUSTRY; RECOMMENDATION SURPRISES OBSERVERS St. Louis Post-Dispatch 4 May 2003

Andrew Schneider Of The Post-Dispatch

A blue-ribbon panel funded by the Environmental Protection Agency has issued a surprising recommendation calling on Congress to ban the import, production and distribution of products containing asbestos.

The deadly mineral is no longer mined in the United States, yet the government says about 30 millions pounds of the lethal fibers are being imported into the country each year.

The findings come as a shock to some of those who have long advocated a ban because so many of the panel's members have ties to industries involved with asbestos. That gives the panel's recommendations extraordinary weight, those involved with the asbestos issue say, and could aid efforts already under way in the Senate to outlaw the importation of the deadly fibers.

The U.S. Geological Survey, which tracks the import and export of minerals, says an additional "untold millions" of pounds of asbestos material crosses U.S. borders unlabeled and mixed with other products.

The order for the creation of the panel came last year from the EPA's inspector general. The office had been investigating the agency's failure to take action over 20 years in dealing with the asbestos contamination of miners and their families in the tiny town of Libby, Mont. Hundreds of people had died and thousands were sickened from asbestos-related disease caused by inhalation of tremolite fibers that contaminated a now-closed vermiculite mine operated by W.R. Grace & Co.

As early as 1982, the EPA had documented the dangers of the tainted ver miculite and showed that it constituted a significant health risk not only to the miners and residents of Libby, but to hundreds of communities throughout the country where the vermiculite was shipped and processed into home insulation and other products. The agency did nothing with the information.

The inspector general said a panel from the asbestos industry, government and environmental, labor, academic and medical experts should be assembled and review the government's handling of the toxic fibers. It gave a $200,000 contract to Global Environment & Technology to gather and present the recommendations.

Many in government who have fought the asbestos battle for years said they expected little to come out of the panel because the dominant number of participants came from industries somehow involved with asbestos. Unions representing steelworkers, auto workers and miners did not accept the invitation to participate, nor did any leading environmental or medical groups.

"It is surprising that a ban was recommended, and its importance cannot be overstated," said J. Brent Kynoch, managing director of Environmental Information Association, which represents environmental industry professionals. "The recommendations have major significance because the EPA funded the collection of information," said Kynoch, who participated in the meetings.

The 71-page document recommends a ban that is almost identical to that introduced in June by Sen. Patty Murray, D-Wash. Murray was strident in her efforts to educate her colleagues on the prevalence of asbestos throughout the country.

Asbestos is a killer. The fibers, which can only be seen through a microscope, can be inhaled into the lungs, where they are deeply embedded into the tissue or impaled into the lining of the lungs or abdomen. There, the fibers fester and scar, eventually making the lungs uselessly rigid. Cancerous tumors can also fill lungs with mustard-yellow fluid, the consistency of honey, until the vital organs can no longer absorb life-sustaining oxygen.

Murray said Friday that she applauds the action of the EPA- sponsored panel.

"This report reinforces two things I have been saying for a long time. First, asbestos is still a serious problem in this country. Second, Congress needs to pass the Ban Asbestos in America Act now.

"This report makes it increasingly difficult for anyone to oppose this needed legislation."

No action was taken on Murray's bill in the last session, but the senator says she plans to reintroduce the legislation in the next several weeks.

Wide-ranging recommendations

EPA consultants questioned 53 authorities from various private, industry and government organizations. In October, 37 of these experts met to hammer out the recommendations. In addition to the ban, the panel recommended increased education of asbestos risks, handling, sampling and testing methods, and the reduction of unintended asbestos in products and the development of a national mesothelioma registry. Mesothelioma is an almost always fatal, quick- killing cancer of the thin linings of major organs. It is caused by asbestos exposure.

One of the more obvious and easily implemented recommendations was that government agencies enforce existing asbestos regulations. It recommends that the EPA, the Occupational Safety and Health Administration, the Consum er Product Safety Commission and state regulators "focus on more stringent, predictable and consistent enforcement" of laws and regulations already on the books.

The need for stiffer enforcement by all government agencies is well-documented by research conducted by public interest groups and congressional investigators.

For example, in November 2000, the Seattle Post-Intelligencer collected

and analyzed samples of dust from 31 brake-repair garages across the country. Dangerous levels of asbestos were detected in 21 of the locations. Public health experts said the exposure levels were so high in some locations that more than one in 10 mechanics working without protective gear would likely contract cancer.

Yet OSHA headquarters did nothing, even though many of its regional inspectors said they were frustrated by their agency's cavalier attitude to worker safety.

The Seattle newspaper also tested replacement brakes purchased at dozens of parts stores and found that most contained asbestos, even though the boxes were marked "asbestos free."

The Consumer Product Safety Commission said at the time that there was nothing it could do about it.

Naturally occurring asbestos

The ban, as proposed, targets products with asbestos intentionally added, but the report repeatedly discusses the proven danger of products containing naturally occurring asbestos, such as the tremolite and actinolite fibers found in Libby.

"Incidences of asbestos contamination in talc, vermiculite, play sand, crayons and art supplies have arisen," the report said.

Crayola and two other major crayon manufacturers removed asbestos-containing talc from their products two years ago after the Seattle Post-Intelligencer reported finding trace amounts of asbestos in dozens of crayons it tested.

But little attention was paid to the health of workers at the talc mine in upstate New York where the fine white powder is mined. The company, in Gouverneur, insists there is no danger.

But in the small mining villages of Talcville and Balmat, scores of old miners can be found sucking oxygen from tanks to keep their asbestos-encrusted lungs from failing.

The same scenes can be found in the Iron Range of Minnesota and Michigan, where hundreds of taconite miners, railroaders and barge crews have died or been sickened by asbestos-caused illnesses.

The Mining Safety and Health Administration, under the administration of President Bill Clinton, said it was "appalled" that its agency knew 45 years ago that the miners at Libby were in grave danger and did nothing. The then-administrator, Davitt McAteer, promised "it will never happen again," and started an intensive inspection program of all talc and taconite mines and the nation's three remaining vermiculite operations. The agency's efforts stalled after Clinton left office.

The contamination problems become even more complex for government regulators, the panel said, when you're dealing with naturally occurring asbestos in the soil. The panel raised the issue of California, where, it said, 20 percent of the soil contains high levels of tremolite. Chris Bowman of the Sacramento Bee has been reporting for years on schools and large residential areas being built on ground heavily contaminated with tremolite, which investigators working in Libby have shown to be more toxic than other asbestos fibers.

Science must catch up

Most agencies have worked under the assumption that products that contained less than 1 percent asbestos were not harmful and need not be

regulated.

"Products with less than 1 percent can also be dangerous if in handling the product there is a significant fiber release," the report said. This was confirmed by three years of extensive testing of products produced with the asbestos-contaminated vermiculite from the W.R. Grace mine in Libby.

Tests by the EPA, the Canadian government, private scientists and Grace itself have repeatedly documented that the insulation, believed to be in the attics and wall of as many as 35 million homes, immediately generated dangerously high levels of exposure when even gently disturbed.

The EPA's long-awaited notifications to homeowners of the dangers of the Zonolite vermiculite insulation is now expected within two weeks, the agency says.

The EPA has declined to talk publicly about its reactions to the panel's recommendation. But when it comes to banning asbestos the agency has a right to be somewhat gun-shy.

In 1989, after years of research, the EPA announced a ban of most asbestos-containing products. But in 1991, the agency was sued by American and Canadian asbestos interests, and the U.S. Court of Appeals for the 5th Circuit overturned most of the ban.

The EPA urged that the court's decision be appealed, but the White House of President George Bush refused to allow its Justice Department to go against the asbestos industry.

In a statement Friday, the agency said, "EPA is still reviewing the draft report and has made no specific determinations on any of the recommendations included in the report."

Thirty-one countries have already banned asbestos on the grounds that there is no safe exposure level.

"The ban in the United States is long overdue," said Barry Castleman, a nationally recognized authority in asbestos issues and a former science adviser to the European Commission on matters involving the ban.

"The political pressure from some industries to fight an asbestos ban has been enormous, but this report is the clearest signal possible that Sen. Murray's legislation must be passed and implemented as soon as possible," said Castleman, who participated in the EPA-funded panel.

"The ban will be good for American businesses and their workers," he said. "No longer will American manufacturers have to compete with asbestos products from China and other countries where workers are not protected from the killer fibers."

Andrew Schneider: E-mail: aschneider@post-dispatch.com Phone: 314-340-8101

PHOTO, GRAPHIC, MAP; GRAPHICS (2) Post-Dispatch Graphic/chart/map - Nations with existing or pending bans on asbestos Source: Global Environment and Technology (Shaded world map) YEAR YEAR YEAR NATION BANNED NATION BANNED NATION BANNED

Argentina 2001 France 1996 Norway 1984
Australia 2003 Germany 1993 Poland 1997 Austria 1990 Greece 2005 Portugal 2005 Belgium 1998 Hungary 2005 Saudi Arabia 1998 Chile 2001 Iceland 1983 Slovak Republic 2002 Croatia 2005 Ireland 2000 Slovenia* 2001 Czech

Republic* 2001 Italy 1992 Spain 2002 Denmark 1986 Latvia 2001 Sweden 1986 European Union** 2005 Luxembourg 2002 Switzerland 1989 Finland 1993 Netherlands 1991 United Kingdom 1999 New Zealand unknown *Prior to 2001 **Amphiboles banned; limited exceptions for chrysotile, but these do not include mastics, sealants, joint compounds, or mortars. All European Union countries will ban asbestos by 2005.; Caption: (1) Photo by ANDREW SCHNEIDER/POST-DISPATCH - Dr. Brad Black runs the Center for Asbestos Related Disease in Libby, Mont. Hundreds of people have died there and thousands have been sickened from asbestos-related disease caused by inhalation of tremolite fibers that contaminated a now-closed vermiculite mine.

Document SLMO000020030504dz54000dh

From: MailRouter [SYS]
To: Brett M. Kavanaugh/WHO/EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/5/2003 9:19:36 AM
Subject: DELIVERY FAILURE: Recipient user name Wendy J. Grubbs/WHO/EOP@EOP not unique. Several matches found in Name & Address Book.

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES NONDELIVERY RECEIPT)
CREATOR:MailRouter (MailRouter [SYS])
CREATION DATE/TIME: 5-MAY-2003 13:19:36.00
SUBJECT:DELIVERY FAILURE: Recipient user name Wendy J. Grubbs/WHO/EOP@EOP not unique. Several matches found in Name & Address Book.
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

DELIVERY FAILURE REPORT

Your Document:
Re: Circuit court judges confirmed since Jan. 1, 2003
could not be delivered to:
CN=Wendy J. Grubbs/OU=WHO/O=EOP@EOP
because:
Recipient user name Wendy J. Grubbs/WHO/EOP@EOP not unique. Several matches found in Name & Address Book.
Routing Path:
CN=SGEOP05/O=EOP;CN=SGEOP05/O=EOP;CN=Mail2/O=EOP

From: CN=Tracy Jucas/OU=WHO/O=EOP [WHO]

To: Kristen Silverberg/WHO/EOP@Exchange@EOP [WHO] <Kristen Silverberg>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Brian Peterman/WHO/EOP@EOP [WHO] <Brian Peterman>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Tim Goeglein/WHO/EOP@EOP [WHO] <Tim Goeglein>;Richard Falkenrath/WHO/EOP@Exchange@EOP [WHO] <Richard Falkenrath>;Ronald I. Christie/OPD/EOP@EOP [OPD] <Ronald I. Christie>;Kenneth Bernard/WHO/EOP@EOP [WHO] <Kenneth Bernard>;Peter H. Wehner/WHO/EOP@EOP [WHO] <Peter H. Wehner>;David G. Leitch/WHO/EOP@Exchange@EOP [WHO] <David G. Leitch>;John A. Gordon/NSC/EOP@EOP [NSC] <John A. Gordon>;Karl C. Rove/WHO /EOP@Exchange@EOP [WHO] <Karl C. Rove>;Lewis Libby/OVP/EOP@EOP [OVP] <Lewis Libby>;Michael J. Gerson/WHO/EOP@Exchange@EOP [WHO] <Michael J. Gerson>;Andrew H. Card/WHO/EOP@Exchange@EOP [WHO] <Andrew H. Card>;Joshua B. Bolten/WHO /EOP@Exchange@EOP [WHO] <Joshua B. Bolten>;Scott N. Sforza/WHO/EOP@EOP [WHO] <Scott N. Sforza>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Ginger G. Loper/WHO /EOP@Exchange@EOP [WHO] <Ginger G. Loper>;Joel D. Kaplan/WHO /EOP@Exchange@EOP [WHO] <Joel D. Kaplan>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Elizabeth S. Dougherty/OPD/EOP@EOP [OPD] <Elizabeth S. Dougherty>;Claire E. Buchan/WHO/EOP@Exchange@EOP [WHO] <Claire E. Buchan>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Scott McClellan/WHO/EOP@Exchange@EOP [WHO] <Scott McClellan>;Israel Hernandez/WHO /EOP@Exchange@EOP [WHO] <Israel Hernandez>;Tucker A. Eskew/WHO/EOP@EOP [WHO] <Tucker A. Eskew>;Condoleezza Rice/NSC/EOP@EOP [NSC] <Condoleezza Rice>;Joseph W. Hagin/WHO/EOP@Exchange@EOP [WHO] <Joseph W. Hagin>;Lawrence A. Fleischer/WHO/EOP@Exchange@EOP [WHO] <Lawrence A. Fleischer>;John M. Bridgeland/OPD/EOP@EOP [OPD] <John M. Bridgeland>;Daniel J. Bartlett/WHO /EOP@Exchange@EOP [WHO] <Daniel J. Bartlett>

Sent: 5/5/2003 10:42:55 AM

Subject: : Annual Ethics Briefing Reminder

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Tracy Jucas ( CN=Tracy Jucas/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 5-MAY-2003 14:42:55.00
SUBJECT:: Annual Ethics Briefing Reminder
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Brian Peterman ( CN=Brian Peterman/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tim Goeglein ( CN=Tim Goeglein/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Richard Falkenrath ( CN=Richard Falkenrath/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Ronald I. Christie ( CN=Ronald I. Christie/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Kenneth Bernard ( CN=Kenneth Bernard/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Peter H. Wehner ( CN=Peter H. Wehner/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:John A. Gordon ( CN=John A. Gordon/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:Karl C. Rove ( CN=Karl C. Rove/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Lewis Libby ( CN=Lewis Libby/OU=OVP/O=EOP@EOP [ OVP ] )
```

READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Nanette has asked me to remind the remaining Commissioned Officers who have not yet attended a live ethics briefing this year that another briefing will take place tomorrow at 10:00 in room 450. If you are able to attend, please try to make this briefing.

From: CN=Tracy Jucas/OU=WHO/O=EOP [WHO]

To: Kristen Silverberg/WHO/EOP@Exchange@EOP [WHO] <Kristen Silverberg>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Brian Peterman/WHO/EOP@EOP [WHO] <Brian Peterman>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Tim Goeglein/WHO/EOP@EOP [WHO] <Tim Goeglein>;Richard Falkenrath/WHO/EOP@Exchange@EOP [WHO] <Richard Falkenrath>;Ronald I. Christie/OPD/EOP@EOP [OPD] <Ronald I. Christie>;Kenneth Bernard/WHO/EOP@EOP [WHO] <Kenneth Bernard>;Peter H. Wehner/WHO/EOP@EOP [WHO] <Peter H. Wehner>;David G. Leitch/WHO/EOP@Exchange@EOP [WHO] <David G. Leitch>;John A. Gordon/NSC/EOP@EOP [NSC] <John A. Gordon>;Karl C. Rove/WHO /EOP@Exchange@EOP [WHO] <Karl C. Rove>;Lewis Libby/OVP/EOP@EOP [OVP] <Lewis Libby>;Michael J. Gerson/WHO/EOP@Exchange@EOP [WHO] <Michael J. Gerson>;Andrew H. Card/WHO/EOP@Exchange@EOP [WHO] <Andrew H. Card>;Joshua B. Bolten/WHO /EOP@Exchange@EOP [WHO] <Joshua B. Bolten>;Scott N. Sforza/WHO/EOP@EOP [WHO] <Scott N. Sforza>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Ginger G. Loper/WHO /EOP@Exchange@EOP [WHO] <Ginger G. Loper>;Joel D. Kaplan/WHO /EOP@Exchange@EOP [WHO] <Joel D. Kaplan>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Elizabeth S. Dougherty/OPD/EOP@EOP [OPD] <Elizabeth S. Dougherty>;Claire E. Buchan/WHO/EOP@Exchange@EOP [WHO] <Claire E. Buchan>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Scott McClellan/WHO/EOP@Exchange@EOP [WHO] <Scott McClellan>;Israel Hernandez/WHO /EOP@Exchange@EOP [WHO] <Israel Hernandez>;Tucker A. Eskew/WHO/EOP@EOP [WHO] <Tucker A. Eskew>;Condoleezza Rice/NSC/EOP@EOP [NSC] <Condoleezza Rice>;Joseph W. Hagin/WHO/EOP@Exchange@EOP [WHO] <Joseph W. Hagin>;Lawrence A. Fleischer/WHO/EOP@Exchange@EOP [WHO] <Lawrence A. Fleischer>;John M. Bridgeland/OPD/EOP@EOP [OPD] <John M. Bridgeland>;Daniel J. Bartlett/WHO /EOP@Exchange@EOP [WHO] <Daniel J. Bartlett>

Sent: 5/5/2003 10:42:55 AM

Subject: : Annual Ethics Briefing Reminder

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Tracy Jucas ( CN=Tracy Jucas/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 5-MAY-2003 14:42:55.00
SUBJECT:: Annual Ethics Briefing Reminder
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Brian Peterman ( CN=Brian Peterman/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tim Goeglein ( CN=Tim Goeglein/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Richard Falkenrath ( CN=Richard Falkenrath/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Ronald I. Christie ( CN=Ronald I. Christie/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Kenneth Bernard ( CN=Kenneth Bernard/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Peter H. Wehner ( CN=Peter H. Wehner/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:John A. Gordon ( CN=John A. Gordon/OU=NSC/O=EOP@EOP [ NSC ] )
```

READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Nanette has asked me to remind the remaining Commissioned Officers who
have not yet attended a live ethics briefing this year that another
briefing will take place tomorrow at 10:00 in room 450. If you are able
to attend, please try to make this briefing.

From: Orr, Christopher J.
To: <Snee, Ashley>
CC: <Kavanaugh, Brett M.>
Sent: 5/5/2003 3:11:33 PM
Subject: Re: on-line chat

Snee -- we can do it at 5. Not the greatest for traffic -- but better than not doing it. That's cool.

From: Ashley Snee/WHO/EOP@Exchange on 05/05/2003 03:10:31 PM

Record Type: Record

To: Christopher J. Orr/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: on-line chat

How about 5-5:30 on Thursday. He has to go to an award ceremony at 6pm - so we would have to do before. What do you think? Orr - How is the traffic at that time?

From: CN=Layton Skelly/OU=OPD/O=EOP [OPD]

To: jafar.karim@hhs.gov [UNKNOWN] <jafar.karim@hhs.gov>;rex cowdry/opd/eop@eop [OPD] <rex cowdry>;marc.kesselman@usdoj.gov @ inet [UNKNOWN] <marc.kesselman@usdoj.gov @ inet>;tracy young/who/eop@eop [WHO] <tracy young>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;kristen silverberg/who/eop@exchange@eop [WHO] <kristen silverberg>;jay p. lefkowitz/opd/eop@exchange@eop [OPD] <jay p. lefkowitz>;amy jensen/who /eop@exchange@eop [WHO] <amy jensen>;jennifer.young@hhs.gov @ inet [UNKNOWN] <jennifer.young@hhs.gov @ inet>;alex.azar@hhs.gov @ inet [UNKNOWN] <alex.azar@hhs.gov @ inet>;peter.urbanowicz@hhs.gov @ inet [UNKNOWN] <peter.urbanowicz@hhs.gov @ inet>;philo d. hall/opd/eop@eop [OPD] <philo d. hall>;Wendy J. Grubbs/WHO/EOP@Exchange [WHO] <Wendy J. Grubbs>;hazucker@osophs.dhhs.gov [UNKNOWN] <hazucker@osophs.dhhs.gov>;dana ackerly/cea/eop@eop [CEA] <dana ackerly>;brian r. besanceney/who/eop@eop [WHO] <brian r. besanceney>;zurawski-paul@dol.gov @ inet [UNKNOWN] <zurawski-paul@dol.gov @ inet>;thomas c. deleire/cea/eop@eop [CEA] <thomas c. deleire>;philip j. perry/omb/eop@eop [OMB] <philip j. perry>;ginger g. loper/who /eop@exchange@eop [WHO] <ginger g. loper>;diana l. schacht/opd/eop@eop [OPD] <diana l. schacht>;john.hoff@hhs.gov @ inet [UNKNOWN] <john.hoff@hhs.gov @ inet>;viet.dinh@usdoj.gov @ inet [UNKNOWN] <viet.dinh@usdoj.gov @ inet>;paula.stannard@hhs.gov @ inet [UNKNOWN] <paula.stannard@hhs.gov @ inet>;alan gilbert/opd/eop@eop [OPD] <alan gilbert>

CC: stephen m. lineberry/who/eop@eop [WHO] <stephen m. lineberry>;hrobowski-rosita@dol.gov [UNKNOWN] <hrobowski-rosita@dol.gov>;stephanie.wilson@hhs.gov [UNKNOWN] <stephanie.wilson@hhs.gov>;scriver-langford-lat@dol.gov @ inet [UNKNOWN] <scriver-langford-lat@dol.gov @ inet>;dana.ceasar@hhs.gov [UNKNOWN] <dana.ceasar@hhs.gov>;emily winland/opd/eop@eop [OPD] <emily winland>;joyce.b-moore@hhs.gov [UNKNOWN] <joyce.b-moore@hhs.gov>;Layton Skelly/OPD/EOP@EOP [OPD] <Layton Skelly>;tcordaro@osophs.dhhs.gov [UNKNOWN] <tcordaro@osophs.dhhs.gov>;carla b. stone/omb/eop@eop [OMB] <carla b. stone>;heather.mcnaught@usdoj.gov [UNKNOWN] <heather.mcnaught@usdoj.gov>;india.luckett@hhs.gov [UNKNOWN] <india.luckett@hhs.gov>;lauren j. vestewig/opd/eop@exchange@eop [OPD] <lauren j. vestewig>;marie.belt@hhs.gov [UNKNOWN] <marie.belt@hhs.gov>;pamela.roller@hhs.gov [UNKNOWN] <pamela.roller@hhs.gov>

Sent: 5/5/2003 11:42:56 AM

Subject: : NO Medical Liability Working Group tomorrow

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Layton Skelly ( CN=Layton Skelly/OU=OPD/O=EOP [ OPD ] )
CREATION DATE/TIME: 5-MAY-2003 15:42:56.00
SUBJECT:: NO Medical Liability Working Group tomorrow
TO:jafar.karim@hhs.gov ( jafar.karim@hhs.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:rex cowdry ( CN=rex cowdry/OU=opd/O=eop@eop [ OPD ] )
READ:UNKNOWN
TO:marc.kesselman@usdoj.gov @ inet ( marc.kesselman@usdoj.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:tracy young ( CN=tracy young/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
TO:brett m. kavanaugh ( CN=brett m. kavanaugh/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
TO:kristen silverberg ( CN=kristen silverberg/OU=who/O=eop@exchange@eop [ WHO ] )
READ:UNKNOWN
TO:jay p. lefkowitz ( CN=jay p. lefkowitz/OU=opd/O=eop@exchange@eop [ OPD ] )
READ:UNKNOWN
TO:amy jensen ( CN=amy jensen/OU=who/O=eop@exchange@eop [ WHO ] )
READ:UNKNOWN
TO:jennifer.young@hhs.gov @ inet ( jennifer.young@hhs.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:alex.azar@hhs.gov @ inet ( alex.azar@hhs.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:peter.urbanowicz@hhs.gov @ inet ( peter.urbanowicz@hhs.gov @ inet [ UNKNOWN ] )
```

READ:UNKNOWN
TO:philo d. hall (CN=philo d. hall/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
TO:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:hazucker@osophs.dhhs.gov (hazucker@osophs.dhhs.gov [UNKNOWN])
READ:UNKNOWN
TO:dana ackerly (CN=dana ackerly/OU=cea/O=eop@eop [CEA])
READ:UNKNOWN
TO:brian r. besanceney (CN=brian r. besanceney/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
TO:zurawski-paul@dol.gov @ inet (zurawski-paul@dol.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:thomas c. deleire (CN=thomas c. deleire/OU=cea/O=eop@eop [CEA])
READ:UNKNOWN
TO:philip j. perry (CN=philip j. perry/OU=omb/O=eop@eop [OMB])
READ:UNKNOWN
TO:ginger g. loper (CN=ginger g. loper/OU=who/O=eop@exchange@eop [WHO])
READ:UNKNOWN
TO:diana l. schacht (CN=diana l. schacht/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
TO:john.hoff@hhs.gov @ inet (john.hoff@hhs.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:viet.dinh@usdoj.gov @ inet (viet.dinh@usdoj.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:paula.stannard@hhs.gov @ inet (paula.stannard@hhs.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:alan gilbert (CN=alan gilbert/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
CC:stephen m. lineberry (CN=stephen m. lineberry/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:hrobowski-rosita@dol.gov (hrobowski-rosita@dol.gov [UNKNOWN])
READ:UNKNOWN
CC:stephanie.wilson@hhs.gov (stephanie.wilson@hhs.gov [UNKNOWN])
READ:UNKNOWN
CC:scriver-langford-lat@dol.gov @ inet (scriver-langford-lat@dol.gov @ inet [UNKNOWN])
READ:UNKNOWN
CC:dana.ceasar@hhs.gov (dana.ceasar@hhs.gov [UNKNOWN])
READ:UNKNOWN
CC:emily winland (CN=emily winland/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
CC:joyce.b-moore@hhs.gov (joyce.b-moore@hhs.gov [UNKNOWN])
READ:UNKNOWN
CC:Layton Skelly (CN=Layton Skelly/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
CC:tcordaro@osophs.dhhs.gov (tcordaro@osophs.dhhs.gov [UNKNOWN])
READ:UNKNOWN
CC:carla b. stone (CN=carla b. stone/OU=omb/O=eop@eop [OMB])
READ:UNKNOWN
CC:heather.mcnaught@usdoj.gov (heather.mcnaught@usdoj.gov [UNKNOWN])
READ:UNKNOWN
CC:india.luckett@hhs.gov (india.luckett@hhs.gov [UNKNOWN])
READ:UNKNOWN
CC:lauren j. vestewig (CN=lauren j. vestewig/OU=opd/O=eop@exchange@eop [OPD])
READ:UNKNOWN
CC:marie.belt@hhs.gov (marie.belt@hhs.gov [UNKNOWN])
READ:UNKNOWN
CC:pamela.roller@hhs.gov (pamela.roller@hhs.gov [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

There will not be a Medical Liability Working Group meeting or call
tomorrow. Thank you.

Layton

From: Nelson, Carolyn
To: <Kavanaugh, Brett M.>
Sent: 5/5/2003 4:27:15 PM
Subject: FW: LRM LJM28 - - REVISED TREASURY Oversight Testimony on the Fair Credit Reporting Act
Attachments: tt0032bred.doc

-----Original Message-----

From: MacEcevic, Lisa J.

Sent: Monday, May 05, 2003 4:12 PM

To: justice.lrm@usdoj.gov; DHSLegislation@dhs.gov; CLRM@doc.gov

Cc: McMillin, Stephen S.; Enger, Michelle A.; Schwartz, Mark J.; Grippando, Hester C.; Lackey Jr., Joseph F.; Morrall Iii, John F.; Luczynski, Kimberley S.; Wood, John F.; Perry, Philip J.; Warsh, Kevin; Nec Lrm; Ovp Lrm; Whgc Lrm; Kleederman, Eva; White, Kamela G.; Chenok, Daniel J.; Holm, James S.; Haun, David J.; Schwartz, Kenneth L.; Chase, Edward H.; Bloomquist, Lauren E.; Boden, James; Forman, Mark A.; Lobrano, Lauren C.; Rhinesmith, Alan B.; Marsh, Robert ; Dove, Stephen W.; Russell, Richard M.; Ostp Lrm; Green, Richard E.; Jukes, James J.

Subject: LRM LJM28 - - REVISED TREASURY Oversight Testimony on the Fair Credit Reporting Act

The Treasury testimony for the May 8th hearing before the House Financial Services Committee's Subcommittee on Financial Institutions and Consumer Credit **has been revised**. The revisions are shown in red; see pages 1 and 5 of the attached document. **Your comments are still requested by 2:00 p.m. tomorrow - Tuesday, May 6th.** Thank you.

- tt0032bred.doc <>

LRM ID: LJM28

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Monday, May 5, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: Lisa J. Macecevic
PHONE: (202)395-1092 FAX: (202)395-3109
SUBJECT: **REVISED TREASURY Oversight Testimony on the Fair Credit Reporting Act**

DEADLINE: **2:00 P.M. Tuesday, May 6, 2003**
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: The Treasury testimony for the May 8th hearing before the House Financial Services Committee's Subcommittee on Financial Institutions and Consumer Credit **has been revised**. The revisions are shown in red; see pages 1 and 5 of the attached document. **Your comments are still requested by 2:00 p.m. tomorrow - Tuesday, May 6th.** Thank you.

DISTRIBUTION LIST

AGENCIES:

061-JUSTICE - Jamie E. Brown - (202) 514-2141
-HOMELAND SECURITY - N. Scott Murphy - (202) 786-0244
025-COMMERCE - Michael A. Levitt - (202) 482-3151

EOP:
Stephen S. McMillin
Michelle A. Enger
Mark J. Schwartz
Hester C. Grippando
Joseph F. Lackey Jr.
John F. Morrall III
Kimberley S. Luczynski
John F. Wood
Philip J. Perry
Kevin Warsh
NEC LRM
OVP LRM
WHGC LRM
Eva Kleederman
Kamela G. White
Daniel J. Chenok
James S. Holm
David J. Haun
Kenneth L. Schwartz
Edward H. Chase
Lauren E. Bloomquist
James Boden
Mark A. Forman
Lauren C. Lobrano
Alan B. Rhinesmith
Robert Marsh
Stephen W. Dove
Richard M. Russell
OSTP LRM
Richard E. Green
James J. Jukes**LRM ID:** LJM28 **SUBJECT:** REVISED TREASURY Oversight Testimony on the Fair Credit Reporting Act

RESPONSE TO

LEGISLATIVE REFERRAL

MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) faxing us a memo or letter.

Please include the LRM number and subject shown above.

TO: Lisa J. Macecevic Phone: 395-1092 Fax: 395-3109

Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Testimony of
Wayne A. Abernathy
Assistant Secretary for Financial Institutions
U.S. Department of the Treasury
before the
Subcommittee on Financial Institutions and Consumer Credit
Committee on Financial Services
U.S. House of Representatives

May 8, 2003

Good morning Chairman Bachus, Ranking Member Sanders, and members of the subcommittee. I am honored to appear before you today in what is, as I understand from the announcement by Committee Chairman Oxley and Ranking Member Frank, the first of a series of hearings "on continuing the current national standards contained in the Fair Credit Reporting Act." Chairman Oxley has said that he looks forward "to developing legislation that will command broad, bipartisan support," and Congressman Frank has stressed, that "It is very important that we legislate this year, as key provisions of the law will expire." In a February letter to Representative Hinojosa, Federal Reserve Board Chairman Alan Greenspan called for making the FCRA uniform standards permanent, and wrote, "Limits on the flow of information among financial market participants . . . may lead to an increase in the price or a reduction in the availability of credit, as well as a reduction in the optimal sharing of risk and reward." We in turn look forward to working with you in the days to come.

As a beginning, I am grateful for the opportunity to discuss a subject that has been of great importance to every man, woman, and child in America. It is important to the young couple who buys their first home—and every subsequent home—to the worker who applies for his or her first job—and every subsequent job—to the young entrepreneur applying for a loan to start a business, or seeking new customers or verifying their credit purchases.

It furthers Internet commerce, facilitates background checks on children's day care providers, and is responsible for $300 billion or more each year of credit extended to people who once stood outside the fringe of mainstream financial institutions looking in. And of increasing importance each day, it gives merchants the information to unmask would-be identity thieves, speeds alerts to law enforcement officials—crossing state lines faster than the crooks—and distributes notices instantly all across the nation to start the process of restoring the records of identity theft's victims.

I refer to our national credit system and the network of consumer information that under girds it. Seven years ago, Congress began an experiment, to test whether this information network was in fact a national market, within the meaning of Article I, Section 8 of the Constitution that merited uniform national standards for its regulation. Today and in subsequent days you will be listening to reports on what has happened. You will build a record of how the uniform standards under the FCRA are used to provide credit, tailor insurance products, speed up retail purchases of goods and services, increase access to financing for small business owners to expand their

operations and provide jobs, to open doors to good jobs for workers with good records, to increase the variety of investment opportunities for those workers to build nest eggs for retirement or for college for their children.

Let me illustrate with a couple of personal examples. I still recall as a young child, my mother taking me by the hand into our local bank to open up my passbook savings account. By the way, let me mention that I was given my first lessons in financial education by my parents—who taught me how to balance a checkbook, how to save for the future, not to borrow for what I didn't need, and many other similar lessons—and we would like to encourage parents today to do the same for their children.

In those days when my mother first took me into a bank, if a new customer wanted a bank loan, say to finance a family vacation, the bank was very likely to say, "We would love to have you as a customer. Open up a checking or savings account and bank with us a while so that we can get to know you, and after a few months we can talk about a personal loan." Today, I can walk for the first time into nearly any bank anywhere in America, and, choosing from a variety of financial services, obtain a product tailored for the needs and condition of my family and me. That financial product is readily available not because the banker knows a lot about me from its own experience. It is available because the banker can look, nearly instantaneously, at my credit history and learn who I am, confident that he is getting the full story. And those products are available to me in such variety, not just from what the bank knows about me, but because it knows a million people like me and know how to price my risk. And that is just as true for the small bank as it is for the large bank.

I still vividly remember a family vacation in 1965. Traveling by car from south Florida, where we then lived, my parents discovered—in Wisconsin—that we had spent a bit more than planned at our stop along the way at the New York World's Fair. In Wisconsin, the travelers checks ran out. Today, not a problem. Many of our vacation expenses would be on a credit card, we could obtain a cash advance from an ATM machine, we could even get extension of credit from a Wisconsin bank. Not so in 1965. A bank loan fifteen hundred miles from home was not an option. Fortunately, our predicament occurred on a week day during business hours, and my parents at last found the office of a national finance company that would loan us the money to get back home—at much higher, finance company interest rates.

Because of the evolution of our national financial system, supported by a national information network, such stories today sound quaint. But those, and far greater difficulties than those, made up the fabric of our consumer finance system not so very long ago.

Of particular importance to the Treasury is the central role that the FCRA's uniform national standards play today in combating identity theft. Identity theft is a crime that strikes directly at the integrity of our consumer financial system. It is one of the fastest growing crimes in America. By some estimates, there will be as many as one million new victims this year, with many times that number already in the ranks of sufferers.

In a recent national survey of homeowners, 12% reported having been casualties of identity theft, and 22% reported knowing family, friends, or acquaintances who have been. It is hard to think

REV_00165610

of another crime that has touched such a large portion of Americans. In that same survey, 90% said that they were concerned that they might be a target of identity theft. A separate survey recently found that Americans are more concerned about becoming a victim of identity theft than they are of losing their job. No wonder that 83% believe that the government should take steps to fight the crime.

Many suffer from the unauthorized use of their own legitimate credit card. This is one of the milder versions of the crime, and today perhaps the most common. Fortunately, it is also an aspect where perhaps the greatest work has been achieved in fighting it. As long as the consumer is diligent and promptly reports lost or stolen cards or unauthorized charges, the direct liability to the card holder is zero. The Truth in Lending Act sets the maximum loss at $50, but credit card companies have found that there are great benefits in consumer confidence from eliminating all liability for the innocent victim. The loss still occurs, though, and it adds up to billions each year, ultimately born by all card users in higher prices and higher interest rates.

Credit card companies also have elaborate and well-designed information-sharing systems in place, neuronetworks, that monitor customers' accounts and quickly notify them of charges that are out of the ordinary, such as purchases outside the customers' normal buying patterns or far from home. This is an important deterrent to this type of identity theft. Other financial sectors are working on deterrents appropriate for their business. Much more needs to be done.

The crime occurs in great variety. As I speak, somewhere, someone is using someone else's good name to engage in fraud, to steal from a furniture store, rob a bank account, engage in stock swindles, write bad checks, run up huge phone bills, escape gambling debts, shield illegal drug deals, create false résumés, impersonate doctors or other professionals, destroy reputations.

Do not look for patriotism among identity thieves. When our soldiers, sailors, and airmen move to the front lines to engage the enemy, the identity thieves are ready to take advantage of their absence to steal their identities to commit fraud. I would guess that the soldier in the Third Infantry Division in Baghdad is not giving much thought to his bank account, or worrying about his credit cards, certainly not looking at his financial statements. But the fraudster is paying attention, for he knows that the fraud could go undetected for a long time, unless friends and family are vigilant, on the watch here at home over the financial affairs of the service man and woman overseas.

Not even the dead are immune from identity theft. Necrolarceny is one of the more repulsive, but not uncommon, faces of the crime. Thieves scan the obituaries, gather the information provided there to impersonate the deceased. From the obituary, the thief harvests a wealth of knowledge: the full name, a maiden name, age, names of family members, possibly education and charitable activities—all types of information that the thief can draw from to impersonate the deceased and, possibly, other family members. And closing down financial accounts are not usually high on the To Do List of bereaved family members. Yet there may be a tragic surprise awaiting when a will reaches probate and the family members learn how financially active their mother was in the days and weeks following her death.

REV_00165611

No one sitting in this hearing room is immune from identity theft. Undoubtedly, there are many here who have been victimized or know someone who has. There may be some here who are being victimized right now and won't know of it for several more weeks or months.

Perhaps someone is dumpster diving, going through your trash to get important bits of information about you or your accounts. Perhaps someone will call, impersonating a government employee, asking to "verify" some of your personal data in order to continue to send you your Social Security check or veterans benefits. Maybe you will be snared by a supposedly "free" service on the Internet, that only needs your name, address, date of birth, and so on, in order to provide you with access to the free service.

Arguably, the most virulent form of identity theft occurs where the crook takes your good name and uses it to open new accounts that you know nothing of, with the statements going to places you have never been, so that weeks and months pass without your knowledge of the fraud. The crook may even keep up minimum payments for a time until he can max out on the credit limits. Then he disappears, the payments stop and the creditors come looking. But they don't find the crook. They don't look for the crook. They look for you. And you discover the fraud when you can't pay for your dinner because your charge will not clear. Your home equity loan is turned down because there already is a lien on your house. You lose your job, because, though your boss is very sorry and thought you were an exemplary employee, he can't have someone in such a sensitive job who has such a poor credit history.

And then you find perhaps the ugliest face of all the ugly faces associated with the crime of identity theft, the face of the victim. Where do you go? How do you begin to clear your name? How do you convince creditors all around the country that you never made those transactions, that there must be some mistake? Do you turn to your local police department? They might fill out a police report, but victims report that many do not. What can the local police do about it anyway? The crime took place in Bigtown, not in your home town. Will the Bigtown police take up the case? Maybe, but you live in Virginia. Who will handle a case for a victim living in Charlottesville, for fraudulent transactions made in Miami, Denver, and San Francisco, with money borrowed over the Internet from a bank headquartered in Philadelphia? Crooks have long sought to exploit State lines to avoid punishment.

The General Accounting Office reports that it can take victims as many as 175 man hours to clear their name and their records. That would be the equivalent of more than one full month of 8-hour days, five-day work weeks of full-time work. Of course, that is spread out over time, over months and sometimes years, with thousands of dollars of expenses.

What role have the uniform national standards in the FCRA played in the fight against identity theft? First of all, we need to recognize that it is not information that makes the crime possible. It is lack of information. The identity thief wears a mask. He impersonates someone he is not. Information made possible by the FCRA allows the merchant or the banker to look behind the mask. Uniform, up to date information allows the merchant or the banker to know more about his customer than the thief does. And when the thief crosses State lines to strike again, through FCRA information sharing, warnings cross the border faster than the thief and meet him at his next stop, sometimes with the sheriff. And when it comes to clearing the records of victims, it is

REV_00165612

the information networks under the FCRA that get the word out nationwide to clear records of fraudulent accounts.

Much is already being done by the Administration to fight identity theft. Law enforcement agencies from the Federal Bureau of Investigation, the United States Secret Service, to the United States Postal Service Inspection Service are actively investigating identity theft cases and bringing perpetrators to justice. The Federal Trade Commission provides important victim assistance information to consumers who have been victimized by identity thieves. And federal financial regulators are working to ensure that financial institutions have security systems in place to detect identity theft attempts.

And so I am proud to say that the Administration is deeply concerned about the problem of identity theft in the crime's increasingly varied and sinister forms. We are committed to building upon current efforts to fight it, so that we can see greater success in deterring the crime, increasing the likelihood of catching the crooks, and reducing the time it takes to restore the victim's good name. We look forward to working with you as we develop creative solutions to the challenges we face in these efforts.

In closing, let me reemphasize that we agree with Committee Chairman Oxley and Ranking Member Frank, that the uniform national standards under the FCRA have been important to consumers and businesses alike, and that they fulfill an important function in our economy today, with very important economic consequences. We look forward to working with you on the details of such legislation in the coming days and weeks.

Thank you. I will now be pleased to answer your questions.

REV_00165613

From: CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange [OPD]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/5/2003 1:03:54 PM
Subject: : Tort Reform Campaign Doc
Attachments: P_UJY5G003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Lauren J. Vestewig ( CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange [ OPD ] )
CREATION DATE/TIME: 5-MAY-2003 17:03:54.00
SUBJECT:: Tort Reform Campaign Doc
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Jay wanted me to email this to you.
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_UJY5G003_WHO.TXT_1>
```

February 9, 2000

Governor George W. Bush:
A COMPREHENSIVE PLAN TO REFORM THE CIVIL JUSTICE SYSTEM
EXECUTIVE SUMMARY

A litigation explosion is clogging America's civil courts, costing U.S. high-tech companies, small businesses, and consumers more than $150 billion a year. Worse, over 50 cents of every dollar paid out in the average tort case goes not to the injured parties, but to paying lawyers' fees and transaction costs.

Governor George W. Bush believes that civil justice reform should be a presidential concern. But **the Clinton-Gore Administration and the trial lawyers' lobby have opposed reform efforts in Congress. Despite opposition from these same special interests in Texas, Governor Bush fought for – and won – passage of seven major tort reform bills in his first legislative session, saving Texans an estimated $2.9 billion.** As President, Governor Bush will fight to reform the federal civil justice system, just as he reformed the Texas system. **The objective of his reform plan is not lower awards for victims, but higher standards for lawyers.**

To protect the innocent against frivolous federal suits, Governor Bush will:

- Strengthen Federal Rule 11 to require stiffer penalties for frivolous suits, and impose a "Three Strikes, You're Out" rule on attorneys who repeatedly file frivolous claims.
- Limit "fishing expeditions" by amending federal discovery rules, and curb the use of"junk science" by raising the federal standard for admission of scientific testimony.
- Eliminate the much-abused private cause of action under the RICO statute.
- Enact the "Teacher Protection Act" to shield teachers from meritless lawsuits arising out of efforts to maintain classroom discipline.

To encourage reasonable settlements, Governor Bush will:

- Enact a "Fair Settlement Rule," requiring parties who reject a pre-trial settlement offer, and who ultimately lose their case or receive substantially less at trial, to pay the other party's costs, including legal fees.

To curb forum shopping and improve access to federal courts, Governor Bush will:

- Allow large cases to be removed from state to federal court where only "minimal diversity" exists – i.e., where any plaintiff is from a different state than any defendant.
- Raise the amount in controversy for removal where there is complete diversity.
- Expand class-action removal rules so that national cases are heard in a federal forum.

To protect clients against unscrupulous lawyers, Governor Bush will:

- Enact a "Client's Bill of Rights" to allow federal courts to hear challenges to attorneys' fees, and require attorneys to disclose their ethical obligation to charge reasonable fees and the potential range of those fees.

REV_00165630

To ensure that private lawyers do not profit unreasonably at public expense, Governor Bush will:

- Require private lawyers who contract to represent states or municipalities to return any excessive fees to their governmental clients.
- Issue an Executive Order prohibiting federal agencies from paying contingency fees.

The Need for Legal Reform

America was founded upon the rule of law. Many of the defining moments of U.S. history have been legal victories: protecting free speech, ending segregation, ensuring the right to vote, safeguarding private property.

Today, however, a combination of frivolous lawsuits, trial attorneys who abuse the system for profit, and the lure of windfall recoveries is transforming America from a lawful society to a litigious one. As a result, America's civil courts are clogged by a litigation explosion:

- The number of civil lawsuits has tripled since 1960.

- In 1997 alone, there were over 15 million lawsuits filed in state courts – one every two seconds.

- According to testimony before the Civil Rules Advisory Committee, representative businesses experienced a 300 percent to 1000 percent increase in class action suits against them from 1988 to 1998.

As the number of lawsuits has increased, so too has the size of the awards. The top ten jury verdicts in 1999 totaled almost $9 billion – three times the 1998 total ($2.8 billion), and twelve times the total awarded in 1997 ($862 million). However, according to the actuarial consulting firm of Tillinghast-Towers Perrin, more than 50 cents on the dollar paid out in the average tort case goes to lawyers, experts, and other transaction costs – not the injured parties.

The litigation explosion imposes a variety of costs – economic and otherwise – on the country, on commerce, and on individuals. In the first instance, clogged courts have led to significant delays in justice. On average, state civil actions that go to trial take more than two years from filing to verdict. The American Medical Association has found that the average delay for a medical liability claim is even longer, from 2 to 5 years.

The economic costs imposed by the litigation explosion have escalated. Between 1930 and 1994, tort costs grew four times faster than the U.S. economy. Tillinghast-Towers Perrin estimated in 1995 that the direct cost of tort litigation to American businesses and consumers totaled $152 billion – more than double the 1984 level of $67 billion, and two and a half times what is spent annually on police and fire protection nationwide.

REV_00165631

The costs imposed by runaway civil litigation fall especially heavily on high-tech businesses and small businesses:

- High technology companies are almost twice as likely to be the subject of a class action securities suit as companies in other industries.

- One in four small-business owners have either been sued or threatened with a suit.

- In the face of skyrocketing premiums, about one in eight small businesses are not covered by liability insurance, making them especially vulnerable to being bankrupted by a single lawsuit.

- The cost of a business owner's defense in the average civil suit is estimated at $100,000 – twice the average small-business owner's salary.

The tort costs imposed by the litigation explosion are, in turn, passed on to individual consumers in the form of a hidden "lawsuit tax":

- The costs attributable to litigation constitute an estimated $8 of an $11.50 DPT vaccine, $191 of a $578 tonsillectomy, $170 of a $1,000 motorized wheelchair, and $3,000 of an $18,000 heart pacemaker.

- The "lawsuit tax" – the cost of lawsuits in terms of higher prices and insurance premiums – has been estimated at $466 per person in South Carolina, $547 per person in Michigan, $574 per person in California, and over $1,000 per person in Washington, D.C.

Finally, in addition to delaying justice and imposing economic costs on businesses and individuals, the litigation explosion extracts a systemic cost – a loss in confidence in the civil courts. Indeed, a 1997 Opinion Research Corporation survey found that only 35 percent of those interviewed felt "the justice system works and people get the justice they deserve." A majority of Americans agree with Michigan Senator Spencer Abraham, who has observed, "Our legal system is broken. The United States has been transformed from a nation of friends and neighbors into a nation of actual and potential litigants."

The Goals of Civil Justice Reform

Governor Bush has shown that in the fight for civil justice reform, leadership can prevail over special interests. The trial lawyers' lobby opposed his efforts in Texas, providing 25 percent of his opponent's campaign contributions in his first race for Governor, and nearly 40 percent of his opponent's contributions in his reelection campaign. Despite this opposition, Governor Bush fought for – and won – passage of ten major pieces of tort reform legislation, over three legislative sessions, that have limited joint-and-several liability, curbed forum shopping, and punished frivolous suits.

As a result, since 1996, Texans and Texas businesses have received an estimated $2.9 billion in savings through insurance rate reductions. Lawsuits filed for injuries or

REV_00165632

damages not related to motor vehicle accidents decreased 30 percent. The number of personal-injury cases filed decreased from 13 percent of all civil cases in 1994 to 10 percent in 1998.

Governor Bush believes that reform of the federal civil justice system must be a presidential concern. Unfortunately, the Clinton-Gore Administration, together with special interest groups – particularly the trial lawyers' lobby – has opposed key reform measures. In 1995, President Clinton vetoed both the Securities Litigation Reform Act and the Products Liability Reform Act. Notwithstanding the concerted opposition of the trial lawyers, Congress managed to override the President's veto of the Securities Litigation Reform Act by a vote of 319-100 in the House and 68-30 in the Senate – with every Republican Senator voting to override, except for Senators McCain, Shelby, Cohen, and Specter.

In 1998, again over the opposition of the trial lawyers, Congress enacted the Securities Litigation Uniform Standards Act, which passed the House by voice vote and the Senate 79-21, with every Republican Senator voting for it, except Senators McCain and Shelby.

Other than these two securities bills – both of which had the strong support of the high-tech community and were seen as vital to emerging high-tech companies – all significant efforts at legal reform at the federal level have stalled.

Governor Bush will make it a priority as President to implement a comprehensive legal reform plan. His plan respects federalism and the constitutional design, allocating authority to the states over substantive state tort law and to the federal government over the procedures in the federal courts. Its objective is not to lower awards for victims, but to raise standards of conduct for trial attorneys. Accordingly, to ensure a civil justice system that is swift, efficient, predictable, and fair, Governor Bush's reform plan will:

1. Protect innocent victims by imposing meaningful, mandatory penalties on litigants bringing frivolous federal suits.

2. Encourage reasonable, fair, and timely settlements.

3. Curb "forum shopping" by providing improved access to impartial federal courts.

4. Protect clients from unscrupulous lawyers.

5. Require trial lawyers representing governmental bodies to be compensated at a level commensurate with public service.

Goal 1: Protect the Innocent by Deterring Frivolous Litigation

Governor Bush believes that litigation must never be used as a weapon against the innocent. And when it is used as such, there must be consequences. That is why the first goal of his reform plan is to protect the innocent by deterring frivolous and junk lawsuits.

REV_00165633

A primary cause of the litigation explosion has been the proliferation of frivolous suits:

- According to the *San Antonio Express-News*, a dozen students who took a Microsoft computer certification course at the Houston branch of Southern Methodist University are suing the school after failing a certification test, alleging, among other things, they were misled into thinking the course would be easy.

- *The Sacramento Bee* recently reported that a man is seeking $25,000 in damages from a tattoo parlor for misspelling the word "villain" on his right forearm – even though the spelling ("villian") was provided by the plaintiff, who did not notice the error until years later.

- A self-described "milkaholic" recently sued the Safeway supermarket chain and the Washington State Dairy Products Commission in federal district court, claiming that he suffered clogged arteries and a mild stroke because they failed to put a warning label on milk saying it was "addictive." The case was dismissed, but the court declined to impose any sanctions on the attorney.

This increase in frivolous litigation is largely attributable to the weakening of key rules of federal court procedure, as well as the abuse of certain rights of action:

A. Rule 11

Attorneys and clients currently face little penalty for filing frivolous cases. The principal deterrent, Federal Rule of Civil Procedure 11, which requires attorneys to certify that legal filings have a basis in law and in fact, was weakened by amendment in 1993. Specifically, (1) sanctions were made discretionary; (2) attorneys' fees of the opposing party were eliminated as the preferred punishment; (3) the Rule was made inapplicable to discovery abuses; and (4) a "safe harbor" was established, providing attorneys who file frivolous actions with 21 days to amend their claims with impunity.

According to Supreme Court Justice Antonin Scalia, these changes rendered Rule 11 "toothless." For example:

- Last year a man who attended an Elton John concert sued the City of San Diego and a beer vendor because, after drinking beer, he allegedly suffered "emotional distress" when he found women using the men's room. His case was dismissed, and the judge warned the plaintiff's attorney – under penalty of Rule 11 – not to try again. But Rule 11 proved such a minor deterrent that he refiled anyway. The result for having twice filed a frivolous claim and imposing significant costs on the defendants: a mere $4,000 fine.

REV_00165634

As President, Governor Bush will establish a meaningful deterrent to frivolous suits in the federal courts by proposing legislation to:

Strengthen Rule 11 to Deter Frivolous Lawsuits: Rule 11 will be amended to (1) make sanctions mandatory; (2) reinstate attorneys' fees and expenses as the preferred sanction; (3) require Rule 11 certification for discovery; and (4) eliminate the safe harbor for those who file frivolous suits and seek to withdraw them without sanction.

Authorize Double or Treble Damages for Egregiously Frivolous Claims: Governor Bush will propose legislation amending Rule 11 to expressly authorize federal judges to award defendants double or triple damages in cases involving egregiously frivolous claims.

Adopt a "Three Strikes, You're Out" Rule for Attorneys Who Repeatedly File Frivolous Federal Suits: If an attorney files three egregiously frivolous suits, that attorney will be barred from practicing in federal court for three years – one year for each suit.

B. Discovery

The abuse of discovery is another factor contributing to the surge in frivolous suits. Federal Rule of Civil Procedure 26(b)(1) permits discovery with respect to any issue relevant to the "subject matter involved in the pending action." This expansive rule allows litigants to engage in wide-ranging "fishing expeditions," demanding documents, records, and depositions on virtually any conceivable topic in the hope of uncovering something incriminating.

While there are many cases where discovery proceeds without substantial abuse, discovery nonetheless consumes on average about 50 percent of the total cost of litigation, and as much as 90 percent of the cost of litigation in cases where discovery is actively employed.

The federal Civil Rules Advisory Committee has proposed limiting discovery to matters specifically "relevant to the claim or defense of any party." This proposal is currently pending Supreme Court and congressional review. As President, to limit costly and wideranging "fishing expeditions," Governor Bush will propose legislation to:

Amend the Discovery Rules to Allow Inquiry Only into Issues Actually in Dispute: In order to limit unnecessary time and expense in civil litigation and to prevent "fishing expeditions," Governor Bush will adopt the proposed new rules limiting discoverable information to matters specifically "relevant to a claim or defense of any party."

C. Junk Science

The exploitation of "junk science" has contributed to the amount of high-profile, frivolous litigation. This is due to the weakening of the legal standard for the use of expert and scientific evidence. The 1923 case of *Frye v. United States* held that, in order

REV_00165635

to be admissible, novel scientific evidence not only had to be relevant to the case, but had to be "generally accepted" as reliable by the relevant scientific community.

However, in 1975, Federal Rule of Evidence 702 displaced the "generally accepted" standard with a much broader, and much less demanding standard, permitting any scientific testimony so long as it will "assist the trier of fact."

As President, in order to limit frivolous suits based on junk science, Governor Bush will:

Raise the Standard for Admission of Scientific Testimony: In order to limit the ability of experts to testify about questionable theories lacking in good scientific basis, Governor Bush will:

- Propose legislation codifying the original *Frye* test, requiring that expert testimony be "generally accepted" in the scientific community.
- Issue an Executive Order providing that the federal government, in its role as a litigator, will never rely on junk science, but will rely only on evidence generally accepted as reliable in the relevant scientific community.
- Amend the Rules of Civil Procedure through legislation strongly encouraging federal judges to convene expert Scientific Advisory Panels to assist in resolving questionable scientific disputes.

D. RICO

A fourth reason for the proliferation of frivolous suits is the abuse by plaintiffs' lawyers of the Racketeer Influenced and Corrupt Organizations statute ("RICO").
RICO, enacted in 1970, was specifically designed as a weapon against "organized crime," and explicitly permits triple damages.

Under RICO, government prosecutors can bring criminal or civil actions, and private parties can invoke RICO's civil penalties in private causes of action. Over the past 20 years, however, civil RICO has been increasingly abused, as opportunistic litigants use the threat of triple damages to extract lucrative settlements in ordinary business-related lawsuits.

As the Supreme Court has noted, "in its private civil version, RICO is evolving into something quite different from the original conception of its enactors." For example:

- Lawyers recently invoked RICO in a federal class-action lawsuit against Nintendo, complaining that the company is engaged in "racketeering activity" by selling the popular "Pokémon" trading cards. These lawyers claim that by placing rare cards in selected packages, Nintendo is turning children into gamblers. At least nine similar cases have already been filed against sports-card manufacturers.

REV_00165636

To end the civil abuse of the RICO statute, Governor Bush will:

Eliminate the Private Cause of Action Under RICO: To limit the coercive – and unintended – use of RICO in ordinary civil litigation, Governor Bush will propose legislation to repeal the private cause of action under RICO. However, the legislation will leave untouched the full range of state tort remedies available to litigants, as well as the full scope of government criminal and civil RICO prosecutions.

E. School Discipline

One area where frivolous litigation is particularly destructive is in the nation's schools. Sixty-five percent of public school teachers charge that discipline is a "serious" problem in their schools, and 88 percent think that academic achievement would improve "substantially," if persistent troublemakers were removed from classes.

Unfortunately, the threat of litigation has made it more difficult to enforce discipline in the classroom:

- In the last two years, almost one-third of all high school principals reported being involved in lawsuits or out-of-court settlements, versus only nine percent ten years ago.
- Twenty percent of high school and middle school principals report spending 5-10 hours per week in activities to avoid litigation; six percent report spending as much as 10-20 hours a week doing the same.
- Ninety-nine percent of principals say their policy on reporting bad behavior has been modified because of liability costs and concerns.

To ensure that litigation is not used as a weapon against the innocent, and to empower teachers and principals to maintain discipline in the classroom, Governor Bush will:

Enact the "Teacher Protection Act": The Teacher Protection Act will shield teachers, principals, and school board members acting in their official capacity from federal liability arising out of their efforts to maintain discipline in the classroom, so long as they do not engage in reckless or criminal misconduct. In addition, plaintiffs who bring meritless claims in federal court challenging teacher and principal disciplinary actions will be liable for the legal expenses, including attorneys' fees, incurred in the defense of the teachers and principals.

Goal 2: Encourage Timely, Good-Faith Settlements

Governor Bush believes lawsuits should be viewed as the best lawyers have always viewed them – as a last resort. Early settlement is to be desired whenever possible. That is why the second goal of his federal legal reform is to encourage cases to be ended when a fair settlement is at hand. And when that offer is unreasonably refused, there must be consequences.

REV_00165637

Abraham Lincoln urged his fellow lawyers to "[d]iscourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser – in fees, expenses, and waste of time." Governor Bush believes this advice is as sound today as it was 150 years ago. In his view, the law should not only deter and punish bad-faith, frivolous lawsuits, but it should also promote justice through timely and reasonable settlements.

A mechanism already exists to facilitate settlements. Under Rule 68 of the Federal Rules of Civil Procedure, if a plaintiff rejects an "offer of judgment" (i.e., a settlement offer) before trial, the plaintiff is liable for the defendant's costs incurred thereafter, if the plaintiff fails to obtain a judgment at trial as favorable as the proposed settlement.

Unfortunately, courts have gutted Rule 68 by interpreting "costs" to exclude the defendant's legal bills. As a result, according to the Committee on Rules of Practice and Procedure of the U.S. Judicial Conference, the Rule has been "largely ineffective." However, in the opinion of the Federal Judicial Center, if "costs" were defined to include reasonable attorneys' fees, and if the Rule were applied to "offers of judgment" by *both* plaintiffs and defendants, the rule "could contribute significantly" to swifter and less expensive justice.

Accordingly, to increase the incentives for good-faith settlements, Governor Bush will:

Enact a "Fair Settlement Rule" to Promote Settlements and Discourage Prolonged Litigation: Legislation will be proposed amending Federal Rule of Civil Procedure 68 to put "teeth" into the Rule's "offer of judgment" regime. The legislation will clarify, among other things, that if either party – defendant or plaintiff – rejects a timely, reasonable, and good-faith settlement offer, and ultimately loses the case or receives a judgment substantially less than the amount offered, that party must pay the other party's litigation costs – including legal fees – that were incurred after the settlement was rejected.

Goal 3: Curb "Forum Shopping" by Improving Access to Federal Courts

The parties to a lawsuit are entitled to have their dispute resolved impartially. However, trial lawyers today employ a wide array of technical rules in what is called "forum shopping," to manipulate the courts for tactical advantage. Thus, the third goal of Governor Bush's civil justice reform plan is to restore the design of the Framers of the Constitution by improving access to impartial federal courts.

A. Diversity Litigation

Article III of the Constitution extends the judicial power of the United States to "controversies . . . between citizens of different States." When Congress created the lower federal courts through the Judiciary Act of 1789, it provided that these courts could hear such "diversity" cases. The Framers viewed federal diversity jurisdiction as necessary to prevent local biases and regional prejudices against out-of-state enterprises.

REV_00165638

The Constitution itself requires only "minimal" diversity; in other words, a federal court has the power to hear a case so long as at least one plaintiff is a citizen of a different state than at least one defendant. However, in 1806 in *Strawbridge v. Curtiss*, the Supreme Court interpreted the diversity statutes to require "complete" diversity. Under this standard, every plaintiff must be from a different state than every defendant. This is the standard that controls under today's diversity statute, which, in addition, requires the amount in controversy to exceed $75,000.

The judicially created "complete diversity" requirement makes it harder for many out-of-state litigants to access the impartial forum of a federal court. Enterprising plaintiffs' lawyers routinely "defeat diversity" in interstate disputes simply by tinkering with the parties to the case. So long as at least one plaintiff and one defendant – even in a case involving thousands – are from the same state, the plaintiffs' lawyer can guarantee that the case stays in a friendly "hometown" court and prevent the defendants from removing the case to federal court.

Thus, to limit forum shopping and improve litigants' access to an impartial federal forum, Governor Bush will introduce legislation to:

Allow Removal of Large Cases From State to Federal Court Where Only "Minimal Diversity" Exists: Governor Bush will amend the diversity jurisdiction statute to allow removal of claims from state to federal court where there is only "minimal diversity" – i.e., where any defendant is from a different state than any plaintiff – so long as the amount in controversy exceeds $500,000.

Raise the Amount in Controversy for Removal Where There is "Complete Diversity": In order to avoid unduly increasing the caseload in federal courts, and because federal diversity jurisdiction is designed for larger interstate disputes, Governor Bush will raise the amount in controversy for complete diversity jurisdiction from $75,000 to $100,000.

B. State Class Action Lawsuits

Many interstate class actions assert claims that are marginal, at best. But because the cases are brought on behalf of thousands (and sometimes millions) of claimants, the potential exposure is enormous, often exceeding a defendant's assets. Clever attorneys carefully draft their cases so that removal to federal court, which under current law requires complete diversity in class actions, is impossible, and they seek out the friendliest state court judge they can find.

Unlike federal courts, which have stringent standards for certifying a class, some state courts have proved extremely willing to certify a large class early on in litigation. As a result, many defendants facing state court class actions choose to settle early, even if the case is without merit, rather than risk certification and the ensuing economic exposure that class actions entail.

REV_00165639

Judge John Nangle, who chairs the Judicial Panel on Multidistrict Litigation, has noted that these coercive settlements frequently result in "munificent grants" of fees to the attorneys, but minimal benefits (such as largely worthless coupons) to the putative class members. For example:

- In a class action against a record company to recover the price paid for an album by the rock group Milli Vanilli (that contained the voices of other performers), the court awarded the lawyers $675,000, while the class members received $1 to $3 each.

- In a class action suit against a cereal maker for using oats sprayed with trace amounts of a pesticide, liability was uncontested – but the lawyers were paid nearly $1.75 million for less than six months of work, while class members who happened to save their cereal boxes ended up with coupons to buy more cereal.

- And in a 1993 class action suit in Alabama against the Bank of Boston, which allegedly had taken excessive escrow fees from customer accounts, the plaintiffs' lawyers negotiated a settlement that permitted the bank to charge class member accounts for the costs of the litigation, including attorneys' fees totaling $8.5 million. As a result, one objecting class member received a credit for $2.19 on his account – but was charged $91.33 for the cost of obtaining the credit.

A RAND Institute for Civil Justice study indicates that in consumer (i.e., non-personal injury) state class action suits, settlements often provide class counsel with more money than all class members combined.

Moreover, when state courts preside over class actions involving claims of residents of more than one state (especially nationwide class actions), they often end up dictating the substantive laws of other states, sometimes over the protests of those states. For example, The New York Times reported last year that, as a result of a nationwide class action, one Illinois state court was in a position to "make what amounts to a national rule on insurance… overturn[ing] insurance regulations or state laws in New York, Massachusetts, and Hawaii."

In response to the abuse of state class actions, the House passed the Interstate Class Action Jurisdiction Act in September 1999. This Act, which is pending in the Senate, would give federal courts jurisdiction in class action cases involving even minimal diversity – where any member of the proposed class is a citizen of a different state from any defendant. The Act contains important exceptions for cases where a substantial majority of the class members are citizens of the same state and the claims are governed primarily by that state's law, where the primary defendants are states or state officials, and where the class has fewer than 100 members or the action is for less than $1 million.

REV_00165640

As President, to curb state class action abuses, Governor Bush will:

Expand Class-Action Removal Rules: Governor Bush will sign the Interstate Class Action Jurisdiction Act, changing the law to give federal courts jurisdiction in class action cases involving even minimal diversity.

Goal 4: Protect Clients Against Unscrupulous Attorneys

Governor Bush's fourth goal of civil justice reform comes directly from the lawyers' code of ethics: a client should not be charged excessive or unreasonable fees.

The American Bar Association Model Rules of Professional Conduct provide that "[a] lawyer is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice." The Model Rules go on to state, in explicit terms, that "[a] lawyer's fee shall be reasonable."

Nevertheless, some unscrupulous attorneys take advantage of unsuspecting and unsophisticated clients and make enormous amounts of money for very little work:

- In a series of related cases involving a fatal school bus accident, the lawyers for the victims' families received an estimated $50 million out of an aggregate settlement of $156 million intended for the families – even though liability was uncontested.

- In a medical malpractice case in which liability was also uncontested, the plaintiff's contingency fee lawyer did nothing but write three letters – and received 40 percent of the injured girl's $400,000 settlement.

Unfortunately, under current law, a client who has been mistreated by his lawyer has very little recourse. He or she can file a complaint with the lawyer's respective state bar, but such complaints rarely result in action. Alternatively, the client can file a separate breach of contract suit in state court against the unethical attorney. This, too, is rarely effective.

REV_00165641

Thus, to ensure that attorneys' fees in federal court are reasonable, and that clients always have recourse when dealing with an unethical lawyer in federal court, Governor Bush will propose legislation to:

Enact a "Client's Bill of Rights": The "Client's Bill of Rights" will amend the Federal Rules of Civil Procedure to:

- Give federal trial courts express authority to hear challenges to the reasonableness of attorneys' fees from the parties in any case before them.
- Allow the federal trial court to maintain authority to hear fee challenges for up to one year after final judgment.
- Require all attorneys practicing in federal court to give a series of truthful disclosures to their clients, informing them of their ethical obligation to charge reasonable fees, the court's authority to review those fees, and the potential range of those fees.

Goal 5: Require Lawyers Representing Governmental Agencies to be Compensated at a Level Commensurate with Public Service

Governor Bush believes that any lawyer working for the public should be paid a reasonable fee – in keeping with the code of ethics and the pay scale expected in private practice. That is why the fifth goal of his reform plan is aimed at curbing the excessive fees some private lawyers have received while working in the public interest.

All lawyers have an ethical responsibility to charge a "reasonable" fee. But Governor Bush believes that when a lawyer contracts with the government to represent the public, that lawyer has, and should have, an even higher obligation to act ethically and be reasonably compensated. In recent years, however, there have been numerous instances of attorneys working for the public and charging grossly excessive fees.

For example, in the recent litigation against the tobacco companies, many states contracted with private lawyers on a contingency fee basis to undertake the suits on their behalf. These cases resulted in settlements that paid the lawyers unprecedented amounts for what was, in effect, a public service:

- In Florida, the lawyers will receive $3.43 billion, or 26 percent of the state's $13.2 billion recovery; this translates into an estimated fee of roughly $23,000 an hour.

- In Mississippi, the lawyers will receive $1.43 billion, or 35 percent of the state's $4.1 billion recovery; this represents an estimated fee of about $7,500 an hour.

- In Texas, the lawyers will receive fees totaling $3.3 billion, or 19 percent of the state's $17.4 billion recovery; this translates into an estimated fee of well over $100,000 an hour.

In Texas, no law existed to prevent private lawyers from profiting at the public's expense.

REV_00165642

Thus, Governor Bush sought and signed legislation sharply restricting the power of the state Attorney General and state agencies to hire contingency fee lawyers in the future.

At the federal level, mechanisms already exist for ensuring that individuals in a fiduciary capacity abide by a higher ethical standard. For example, Section 4958 of the Tax Code currently penalizes executives of nonprofit organizations who abuse their fiduciary duty by profiting from "excess benefit transactions" – i.e., by paying themselves excessive fees. If they do so, the law imposes a 200 percent penalty on the excess, unless the individual returns it to the nonprofit organization. This penalty is never intended to be collected, but rather to force individuals who abuse positions of trust to disgorge excessive fees.

The reason for the "excess benefit" provision is that, because nonprofits have no profit motive, there is no stockholder check on those payments; nonprofit donors give their money expecting that employees will respect their fiduciary duties. The same principle should apply to individuals working for the government. States and municipalities also have no profit motive to rein in excessive payments, and taxpayers likewise expect public servants to fulfill their fiduciary duties to the people.

Thus, as President, Governor Bush will ensure that the abuses of the state tobacco litigation are not repeated in the future. Specifically, he will propose legislation to:

Require Private Lawyers Contracting with States and Municipalities to Return Excessive Fees to Their Governmental Clients: The legislation will extend the "excess benefit" provisions of the tax code to private lawyers who contract with states and municipalities. As a result, any compensation collected in excess of a reasonable fee will have to be returned to the state or city that hired the private lawyers. The reasonableness of the fees will be assessed using the standard judicial "lodestar" method of multiplying the hours worked by a reasonable hourly rate and any appropriate risk factor.

Prohibit the Federal Government from Hiring Contingency Fee Lawyers: As President, Governor Bush will issue an Executive Order prohibiting the federal government from hiring private lawyers on anything other than an hourly basis.

REV_00165643

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Jonathan F. Ganter/WHO/EOP@EOP [WHO] <Jonathan F. Ganter>
Sent: 5/5/2003 1:27:32 PM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 5-MAY-2003 17:27:32.00
SUBJECT:: Re:
TO:Jonathan F. Ganter (CN=Jonathan F. Ganter/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

what is the exact deadline?

Jonathan F. Ganter
05/05/2003 05:26:04 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject:

Is there any chance you will be able to get around to any of Kate's stuff? There are a couple of letters on your desk that have a deadline. If its not going to happen, let me know so I can relay the message.

Jon

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: mestrada@gibsondunn.com @ inet [UNKNOWN] <mestrada@gibsondunn.com @ inet>
Sent: 5/5/2003 8:34:54 PM
Subject: :

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 6-MAY-2003 00:34:54.00
SUBJECT::
TO:mestrada@gibsondunn.com @ inet (mestrada@gibsondunn.com @ inet [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Minority Rules: Filibustering the Constitution
by James L. Swanson
James L. Swanson, a senior fellow in constitutional studies at the Cato Institute, is editor in chief of the Cato Supreme Court Review.
This afternoon, Sen. John Cornyn, chairman of the Senate Judiciary Committee's subcommittee on the Constitution, will convene a hearing on the following subject: "Judicial Nominations, Filibusters, and the Constitution: When a Majority is Denied Its Right to Consent." It's about time. For the past three months Senate Democrats have filibustered the nomination of Miguel Estrada to the U.S. Court of Appeals for the District of Columbia Circuit. Last week they made official their hitherto informal filibuster of the nomination of Texas Supreme Court Justice Priscilla Owen to the U.S. Court of Appeals for the Fifth Circuit. And it might not end there. In the future other nominees, including to the U.S. Supreme Court, might become filibuster targets.
Today's hearing is a timely and much needed antidote to the rancorous politicization that has plagued the judicial confirmation process. Expert testimony will explore a number of arcane but important subjects, including the historical origins of filibusters, their purposes, the obscure Senate rules that allow them, the difference between the Senate's executive and legislative calendar, the meaning of advice and consent, and more.
However wide-ranging the testimony, by the end of today four things should be obvious: First, the Constitution requires only a simple majority of 51 senators to confirm a judicial nomination. Second, any Senate rule or procedure -- filibuster included -- that allows the minority of the body to prevent the majority from consenting to a judicial nomination is in conflict with the Constitution. Third, in such a conflict, the Constitution is supreme. Thus, finally, any Senate rule that contradicts the Constitution by denying the majority its right to consent to a judicial appointment cannot stand.
No one disputes that the Senate has a legitimate role in filling judicial vacancies. The Appointments Clause of Article II, section 2 of the Constitution is clear: The president "shall nominate, and by and with the Advice and Consent of the Senate, shall appoint...Judges of the Supreme Court, and all other Officers of the United States." To express consent senators do the obvious -- they vote in favor of a nomination. And no one can dispute that the Appointments Clause requires a simple majority of 51 senators for confirmation. Elsewhere in the Constitution, when the Framers intended more than simple majorities, they said so, as they did by requiring a two-thirds majority to convict in an impeachment trial, expel a member, overcome a presidential veto, approve a treaty, or propose a Constitutional Amendment. The filibuster, which under Senate rules requires 60 votes to bring a nomination to a vote, rewrites the Appointments Clause by requiring a supermajority for confirmation. On "Meet the Press" Sen. Tom Daschle claimed that "in controversial issues [including judicial nominations] the founding fathers have said that it ought to take a supermajority to pass." Constitutional text and more than two centuries of precedent prove Sen. Daschle wrong.
This is not to say that all filibusters raise constitutional questions.

There is a long history of their use in the legislative context, and they can serve a legitimate purpose by not foreclosing debate on legislation prematurely. But in the executive context, when presidential appointments are at issue, filibustering appellate nominees is an unprecedented, though still not necessarily unconstitutional, step. If employed merely to guarantee a reasonable and limited period of debate before proceeding to an up or down vote, a brief filibuster might pass constitutional muster. But in the cases of Estrada and Owen, when the filibuster is being used not to debate, but to kill their nominations by denying the majority its right to consent to them, serious constitutional issues arise.

Yes, the Constitution permits the Senate to set its own rules. But that is hardly a blank check entitling the Senate to amend the Appointments Clause by raising the confirmation bar from simple majority to super majority, to aggrandize power by upsetting the balance between the congressional and the executive branches, and to threaten the independence of the third branch, the federal judiciary. The conclusion is inescapable. Whenever Senate Democrats, a minority of the body, filibuster judicial nominations, obstruct an up or down vote, and deny the majority its right to consent to the appointments, they subvert the Constitution.

But what is the remedy? Should the president order the Justice Department to sue Sen. Daschle and seek relief in the form of an up or down floor vote on the filibustered nominees? Or is Majority Leader Bill Frist the proper plaintiff, or the nominees themselves? While such a claim might prevail, federal courts frown on settling political disputes between the other branches, or among feuding members of the same branch. There is a simpler solution. Change the rules. That's right. The majority could simply change the Senate rules to allow a simple majority of 51 Senators to end debate and bring a judicial nomination to the floor for an up or down vote. Although existing Senate rules require a supermajority to change them (how convenient for obstructionists), these rules are not laws, or carved in stone like the Ten Commandments. They are merely internal procedures, and under any proper understanding of the history and theory of legislative bodies, no prior Senate can exercise perpetual, dead-hand control over the present one.

It can be done without litigation, within the Senate by its own members, and it can be done immediately. Like Dorothy in the "Wizard of Oz," who always had the power to return home but didn't know it, Senate Republicans have always had the power to end the filibuster subversion and bring the Senate home to the Constitution. Will they do it?

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>
Sent: 5/6/2003 5:14:52 AM
Subject: : Re: LRMs

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 6-MAY-2003 09:14:52.00
SUBJECT:: Re: LRMs
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

are you sure? i received 3 today.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 05/06/2003 08:56:54 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: Carolyn Nelson/WHO/EOP@Exchange
Subject: LRMs

Apparently there was some confusion at OMB about how to read an auto-of-office reply.; If you received a LRM from me this morning, please disregard it.

Message Sent
To:_____
Noel J. Francisco/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
Kyle Sampson/WHO/EOP@EOP
Jennifer R. Brosnahan/WHO/EOP@EOP
Benjamin A. Powell/WHO/EOP@EOP

From: Bumatay, Patrick J.
To: <Kavanaugh, Brett M.>
Sent: 5/6/2003 9:19:39 AM
Subject: RE: LRMs

Are they new ones?

Carrie told me that OMB sent her everything they sent me while I was gone. So, she should have everything up-to-date.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Tuesday, May 06, 2003 9:14 AM
To: Bumatay, Patrick J.
Subject: Re: LRMs

are you sure? i received 3 today.

From: Patrick J. Bumatay/WHO/EOP@Exchange on 05/06/2003 08:56:54 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: Carolyn Nelson/WHO/EOP@Exchange
Subject: LRMs

Apparently there was some confusion at OMB about how to read an auto-of-office reply. If you received a LRM from me this morning, please disregard it.

Message Sent To:

Noel J. Francisco/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
Kyle Sampson/WHO/EOP@EOP
Jennifer R. Brosnahan/WHO/EOP@EOP
Benjamin A. Powell/WHO/EOP@EOP

From: Duffield, Steven (RPC) <Steven_Duffield@RPC.Senate.Gov>
To: Paul Perkins/WHO/EOP@EOP [WHO] <Paul Perkins>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/6/2003 8:00:14 AM
Subject: : Re: Rose Garden Address

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Duffield, Steven (RPC)" <Steven_Duffield@RPC.Senate.Gov> ( "Duffield, Steven
(RPC)" <Steven_Duffield@RPC.Senate.Gov> [ UNKNOWN ] )
CREATION DATE/TIME: 6-MAY-2003 12:00:14.00
SUBJECT:: Re: Rose Garden Address
TO:Paul Perkins ( CN=Paul Perkins/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Thanks for your help.
--------------------------
Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)
```

From: Kristi.L.Remington@usdoj.gov
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/6/2003 8:17:50 AM
Subject: : FW: People For on Carolyn Kuhl
Attachments: P_N7T6G003_WHO.TXT_1.doc; P_N7T6G003_WHO.TXT_2.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Kristi.L.Remington@usdoj.gov" <Kristi.L.Remington@usdoj.gov> (
"Kristi.L.Remington@usdoj.gov" <Kristi.L.Remington@usdoj.gov> [ UNKNOWN ] )
CREATION DATE/TIME: 6-MAY-2003 12:17:50.00
SUBJECT:: FW: People For on Carolyn Kuhl
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

PFAW Post Hearing Report
- 05-06 Kuhl Post Hearing Rprt FINAL.doc - 05-06 Kuhl Post Hearing ExSum Final.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_N7T6G003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_N7T6G003_WHO.TXT_2>
```



People For the American Way Report:

Carolyn Kuhl's Hearing Strengthened the Case Against Her Confirmation

People For the American Way
Ralph G. Neas, President
May 6, 2003

People For the American Way
2000 M Street, NW • Suite 400 • Washington, D.C. • 20036 • 202-467-4999 • fax 202-293-2672 • www.pfaw.org

REV_00165678

INTRODUCTION

Even before the April 1, 2003 hearing on Carolyn Kuhl's nomination by President Bush to the United States Court of Appeals for the Ninth Circuit, significant opposition to Kuhl's confirmation had arisen because of her troubling record as a lawyer and judge. Throughout her career — as a lawyer in the Reagan Administration Justice Department, in private practice, and as a state judge — Kuhl has followed a legal philosophy harmful to the rights and interests of ordinary Americans. This is particularly true in three areas: women's rights and reproductive freedom, other civil rights, and access to justice.

Kuhl's hearing on April 1 not only failed to dispel the serious concerns that had been raised about her record, but in fact reinforced them. At her hearing, Kuhl refused to answer certain questions (such as those relating to her jurisprudential views of Roe v. Wade), she changed the subject and avoided answering other questions, and, whether intentional or not, her responses to a number of questions asked by Senators regarding troublesome aspects of her record were untrue and misleading in critical respects.

For example, in a landmark sexual harassment case decided by the Supreme Court, Kuhl as a Reagan Justice Department official had urged the Court to rule in favor of the employer, under a definitional standard that would have made it very difficult for women to prove sexual harassment in the workplace. The Court did not adopt Kuhl's standard and ruled unanimously for the female employee. Nonetheless, when questioned about this case at her hearing, Kuhl called her disagreement with the Court "technical" and sought to portray the ruling as a victory for her position.

In another Supreme Court case, Kuhl had filed a brief urging the Court to overturn the important and well-settled doctrine of associational standing, which allows organizations to file suit on behalf of their members and thus facilitates access to justice by ordinary Americans. When asked about this case at her hearing, Kuhl stated that her name was not on the brief, thereby deflecting questions about her extreme views. Kuhl's response was flatly incorrect. Although Kuhl has since acknowledged the error in her testimony, she has never answered Senators' fundamental concerns about the "frontal attack" that her own former supervisor says she launched in this case against the doctrine of associational standing.

These and other disturbing aspects of Kuhl's hearing testimony are further discussed below with respect to each of the three fundamental areas of concern about Kuhl's record: women's rights and reproductive freedom; other civil rights issues; and access to justice. Combined with the concerns already raised by Kuhl's record, it is clear that her confirmation should be rejected.

- **Kuhl's record on women's rights, including reproductive freedom**

  - Trying to overturn *Roe v. Wade*

Senators' concerns: When Kuhl served as Deputy Assistant Attorney General, she specifically urged that the Department of Justice seek to have the Supreme Court overturn Roe v. Wade.

REV_00165679

According to Charles Fried, Acting Solicitor General at the time, Kuhl was the co-author of "[t]he most aggressive memo" to him from within the Justice Department urging the Department to file an amicus curiae brief in the Supreme Court in the Thornburgh case calling for "outright reversal of Roe."[1] Kuhl then co-authored precisely such a brief, which contended that Roe was "so far flawed that this Court should overrule it and return the law to the condition in which it was before that case was decided."[2] The Supreme Court rejected Kuhl's attack on Roe.

Kuhl's testimony: In response to questions about her role in the Thornburgh case, Kuhl attempted to deflect Senators' concerns about her troubling position by asserting that she was merely representing a client, President Reagan, who believed that Roe should be overruled.[3] Kuhl specifically and repeatedly declined to answer Senator Feinstein's question as to whether she believes that Roe was correctly decided. Kuhl Hearing, at 45-47.

The facts: To the extent Kuhl claimed that as a Justice Department attorney she was representing the President in Thornburgh, the same could be said of every attorney in the Justice Department, including everyone who weighed in with Acting Solicitor General Fried as to whether the government should even file an amicus brief in this case (since it was not a party), let alone what position it should take. The fact remains that, as reported by Fried — who was the recipient of all of those memos — "[t]he most aggressive memo came from my friends Richard Willard and Carolyn Kuhl in Civil, who recommended that we urge outright reversal of Roe."[4] Notwithstanding Kuhl's refusal now to disclose her views, it is clear that she went far beyond her role as a Justice Department attorney in her "aggressive" efforts to overturn Roe v. Wade.

- Continuing her anti-choice advocacy

Senators' concerns: In private practice, Kuhl filed an amicus curiae brief in Rust v. Sullivan on behalf of an anti-choice group in support of the federal "gag rule" that prohibited family clinics getting federal aid from discussion abortion with patients. Although Kuhl's brief primarily addressed First Amendment issues, she began the brief with a free standing quotation that attacked the Court's decisions upholding a women's right to choose abortion as causing a "major distortion in the Court's constitutional jurisprudence."[5] Referring to this brief, Senator Feinstein asked Kuhl whether it was fair to say that at the time Kuhl wrote it she was "still a critic of the Supreme Court's jurisprudence on abortion?" Kuhl Hearing, at 49.

Kuhl's testimony: Kuhl again deflected efforts by Senator Feinstein to learn her jurisprudential views of the Court's abortion decisions, stating that her brief in Rust v. Sullivan was written "on

---

1 Charles Fried, Order and Law: Arguing the Reagan Revolution – A Firsthand Account, at 33 (1991) (hereafter "Order and Law").

2 Brief for the United States as *Amicus Curiae* in Support of Appellants, Thornburgh v. American College of Obstetricians and Gynecologists, at 10 (July 15, 1985) (LEXIS pagination).

3 Committee on the Judiciary, Nomination of Carolyn B. Kuhl of California to be Circuit Judge for the Ninth Circuit, Unofficial Transcript of Proceedings (Apr. 1, 2003) (hereafter "Kuhl Hearing"), at 46; 118.

4 Order and Law, at 33.

5 Brief of the American Academy of Medical Ethics as Amicus Curiae in Support of Respondent, Rust v. Sullivan, at 1 (LEXIS pagination; quoting Thornburgh, 476 U.S. at 814 (O'Connor, J., dissenting)).

REV_00165680

behalf of a client" and also that it "primarily addresses the First Amendment issue there. . ." Kuhl Hearing, at 50.

The facts: Kuhl was correct in her overall description of her brief, which makes the free standing quote with which she began the brief all the more indicative of her disagreement with the Court's decisions protecting a woman's reproductive freedom. Indeed, Kuhl never actually answered Senator Feinstein's question or explained why she began a brief about a First Amendment issue with a free standing quote attacking the Court's abortion decisions.

- Seeking to limit sexual harassment protections

Senators' concerns: As Deputy Solicitor General, Kuhl co-authored an amicus curiae brief for the United States and the EEOC in the Supreme Court supporting the employer in the landmark sexual harassment case of Meritor Savings Bank v. Vinson. The plaintiff, Mechelle Vinson, a bank employee, alleged that her supervisor had forced her to submit to unwelcome sexual advances over a number of years, during which time she was afraid that she would lose her job if she refused. The position that Kuhl took, had it been adopted by the Court, would have made it more difficult for women to prove sexual harassment in the workplace. Specifically, as Senator Feinstein observed, Kuhl's brief "took the side of the employer" and "argued in support of the District Court's ruling that what occurred was simply a voluntary personal relationship between coworkers and that that would not be actionable under Title VII of the Civil Rights Act." As Senator Feinstein further observed, Kuhl's brief "ignored the power held by a supervisor over [a] subordinate in these circumstances . . . ." Kuhl Hearing, at 51. Senator Feinstein asked Kuhl if she had been involved in the decision to file a government brief taking the side of the employer in this case. Id. at 51-2.

Kuhl's testimony: While Kuhl acknowledged that she had been involved in that decision, she then immediately tried to deflect Senator Feinstein's concerns about the position she had taken in favor of the employer. According to Kuhl, "the Supreme Court's decision in Meritor closely tracked the brief that we filed. The reasoning is nearly identical to what we were urging on the Court." Id. at 52. Kuhl further testified that "[t]he only reason" the Department had urged a "reversal" of the ruling below in favor of Ms. Vinson had to do with what she called "the very technical interpretation of the Court's findings of fact," namely, that the trial court had found any sexual relationship between Ms. Vinson and her supervisor to be "voluntary." Id. According to Kuhl, this was "a technical issue on which the Supreme Court and we disagreed" and that the Justice Department was "happy with the decision" in this case. Id.

The facts: Kuhl's testimony was astonishing in light of the fact that her amicus brief had urged the Court to overturn the Court of Appeals' decision and to rule against Ms. Vinson, while the Court, in an opinion by then-Justice Rehnquist, unanimously ruled in favor of Ms. Vinson. In addition, what Kuhl called a "technical" disagreement — defining "voluntary" or "consensual" conduct to preclude any finding that the conduct was "unwelcome" — in fact went to the very crux of what an employee needs to prove in order to establish a claim for sexual harassment based on a hostile work environment, and formed the basis upon which the Court ruled in favor of Ms. Vinson. Rehnquist's opinion flatly rejected Kuhl's position, holding that "the fact that sex-related conduct was 'voluntary,' in the sense that the complainant was not forced to

REV_00165681

participate against her will, is not a defense to a sexual harassment suit brought under Title VII."[6] Kuhl's assertion that the Court's ruling tracked the government's brief and the implication in her testimony that it was a victory for the government appears to be confirmation spin by Kuhl intended to deflect the fact that her brief had unsuccessfully urged a far tougher standard for proving sexual harassment generally, as well as a ruling for the employer in this specific case.

Senator Feinstein, appropriately "puzzled" by Kuhl's testimony concerning this case,[7] asked Kuhl in post-hearing questions for a further explanation, as did Senator Biden. In her replies, Kuhl continued to maintain that the Court's unanimous ruling for Ms. Vinson was in line with Kuhl's brief in support of the employer. According to Kuhl, her brief "argued for a standard based on whether sexual advances made in the workplace were 'unwelcome.' . . . The Supreme Court accepted the United States' argument that the appropriate standard was whether the advances were unwelcome."[8] What Kuhl does not state, however, is that her brief defined "unwelcome" sexual advances in such a manner that non-forcible sexual conduct — "voluntary" or "consensual" in the words of Kuhl's brief — would not be considered "unwelcome."[9] The Supreme Court, as discussed above, unanimously rejected such a narrow definition of "unwelcome," holding that a woman need not have been "forced to participate [in sexual activity] against her will" in order to establish sexual harassment.

- Supporting sex discrimination in education

Senators' concerns: In 1993, Kuhl co-authored an amicus curiae brief in the Supreme Court for three private women's colleges in support of a petition for a writ of certiorari filed by the Virginia Military Institute, a public all-male college in Virginia. In a lawsuit brought by the United States, the United States Court of Appeals for the Fourth Circuit had held that VMI's denial of admission to women violated the Equal Protection Clause. In an effort to continue to deny admission to women but remain a public institution, VMI filed a cert. petition with the Supreme Court, asking the Court to overturn the Fourth Circuit's ruling. Senator Feinstein asked Kuhl about her brief. Kuhl Hearing, at 61.

Kuhl's testimony: Kuhl testified that her brief "was not a brief in support of the constitutionality of VMI. . . It was a brief in support of the petition for certiorari." Id. She said that her brief was narrowly focused on the importance of women's colleges and asked that the Court "take that case so as to clarify that all-women's schools could — were not unconstitutional essentially." Id.

The facts: Kuhl's brief was filed on behalf of three private women's colleges. VMI, by contrast, was (and still is) a state-supported public institution, and the constitutionality of private single-sex schools was not at issue in the case. Moreover, while it is true that Kuhl's brief did not expressly defend the constitutionality of allowing VMI to continue to deny admission to women yet remain a public institution, it is equally true that Kuhl's brief stated that it was filed "in

---

6 Meritor Savings Bank v. Vinson, 477 U.S 57, 68 (1986) (emphasis added).

7 Senator Feinstein's post-hearing questions to Kuhl (ques. 2).

8 See Kuhl's answers to Senator Feinstein's post-hearing questions (ans. 2a) (Apr. 9, 2003). See also Kuhl's answers to Senator Biden's post-hearing questions (at 5-6) (Apr. 29, 2003).

9 See Brief for the United States and the Equal Employment Opportunity Commission as *Amici Curiae*, Meritor Savings Bank v. Vinson, at, e.g., 3 (Dec. 11, 1985)(LEXIS pagination).

REV_00165682

support of petitioners" — VMI — and that it specifically urged that "the petition for certiorari should be granted."[10] VMI's cert. petition, in turn, expressly asked the Court to "grant certiorari and reverse the decision of the court of appeals . . ."[11]

According to contemporaneous press reports, Kuhl's brief was filed as part of VMI's campaign to enlist private women's colleges in its effort to continue to exclude women.[12] As Kuhl admitted at her hearing, the colleges that signed her brief were referred to her through "counsel who was representing VMI." Kuhl Hearing, at 62. In fact, VMI's counsel of record on its cert. petition was Richard Willard, Kuhl's former colleague at the Department of Justice (and co-author with her of the "most aggressive" memo to Fried in the Thornburgh case urging that the Department argue for Roe v. Wade to be overturned).

In her written answers to post-hearing questions from Senator Kennedy, Kuhl attempted to dispel concerns that her brief supported VMI's efforts to continue to exclude women by stating that the brief "did not express a view as to how the Supreme Court should rule with respect to the constitutionality of VMI's program."[13] However, if Kuhl had been concerned at the time that her brief not imply support for VMI, she could have stated in the brief that the private women's colleges took no position as to the constitutionality of VMI's exclusion of women; Kuhl failed to do so.

- Dismissing claim of egregious privacy violation

Senators' concerns: Much of the questioning of Kuhl at her April 1 hearing focused on her disturbing 1999 ruling dismissing invasion of privacy claims brought by Azucena Sanchez-Scott, a recovering breast cancer patient, whose doctor had brought another professionally attired man into the examination room without disclosing that the man was not a medical professional but a drug company salesman. The man then witnessed an examination of Ms. Sanchez-Scott's breasts and abdomen during which she was half-naked. In a recent letter to Senator Hatch opposing Kuhl's confirmation, Ms. Sanchez-Scott explained that "I felt violated because I had disrobed for my examination. . . As a cancer survivor, I trusted that my doctor would make decisions in my best interest."[14] Senator Durbin told Kuhl that he considered the Sanchez-Scott case "the most troubling of anything you have been involved in." Kuhl Hearing, at 72. Senator

---

[10] See Brief of Mary Baldwin College, et al., as *Amici Curiae* in Support of Petitioners, Virginia Military Institute v. United States, No. 92-1213, at 1, 20 (Mar. 24, 1993).

[11] See Petition for Writ of Certiorari, Virginia Military Institute v. United States, United States Supreme Court, October Term 1992, at 23.

[12] See, e.g., "VMI Case Makes Odd Bedfellows Women's Colleges Allies," *Roanoke Times & World News* (Apr. 11, 1993), 1993 WL 4411514. Others rejected VMI's efforts. For example, "Jedwiga Sebrechts, executive director for the Women's College Coalition in Washington, said that 20 women's colleges contacted her office after being approached by VMI lawyers to join in the briefs. The coalition was approached, too, she said. . . 'What we found was, of all the attorneys we sought opinions from, not one of them shared the perspective advanced by VMI attorneys that the current opinion of the Fourth Circuit was an opinion that put women's colleges in jeopardy.'" Id.

[13] Kuhl's Answers to Senator Kennedy's post-hearing questions (ans. 2a) (Apr. 29, 2003).

[14] Letter from Azucena Sanchez-Scott to Senator Orrin Hatch (Mar. 3, 2003). Ms. Sanchez-Scott's letter goes on to state that she was "shocked and dismayed" by Judge Kuhl's ruling. Id.

REV_00165683

Schumer stated, "I don't think I have seen a more disturbing ruling from a judicial nominee since I have been in the Senate." Id. at 108.

Specifically, Ms. Sanchez-Scott filed suit against the doctor, the drug company, and the salesman for invasion of privacy, with an additional claim against the doctor for professional negligence. Judge Kuhl granted a motion by the defendants to dismiss Ms. Sanchez-Scott's invasion of privacy claims outright, effectively holding that there was no set of facts that Ms. Sanchez-Scott could prove that would entitle her to any relief on the invasion of privacy claims and precluding her from presenting those claims to a jury. According to Judge Kuhl's ruling from the bench, since Ms. Sanchez-Scott had not specifically objected to the man's presence, "I think it cannot be said that there was a reasonable expectation of privacy."[15]

The California Court of Appeal unanimously reversed Kuhl's ruling, holding that Ms. Sanchez-Scott's complaint had alleged "highly offensive conduct," and making it clear that she had a well established right to privacy.[16] The court specifically noted that "[n]o decisional authority supports" the assertion that Ms. Sanchez-Scott had no legal grounds for her invasion of privacy charge.[17] In other words, Judge Kuhl had no legal basis for throwing out Ms. Sanchez-Scott's claim.

In light of these facts and the Court of Appeal's unanimous reversal of Kuhl's ruling, Senator Durbin asked Kuhl to explain her "concept of privacy, as it applies to that fact situation." Kuhl Hearing, at 73. Senator Schumer, after reviewing the facts with Kuhl, stated that "I think most Americans would be horrified to hear that your view of privacy rights, particularly in that situation, depended on someone who was scared and upset having to ask questions." Id. at 108. He asked Kuhl, "How do you explain the ruling issued in this case, and what can you tell us to assuage so many of my colleagues' concerns that you have too narrow a view of privacy rights?" Id.

Kuhl's testimony and the facts: Kuhl's oral and written testimony about the Sanchez-Scott case reinforces the Senators' concerns:

1. Although she denied this at her hearing, Kuhl has now admitted that she did in fact dismiss invasion of privacy claims against the doctor

At her hearing, Kuhl did not answer the critical questions about her ruling and her troubling view of privacy rights. Rather, she testified that Ms. Sanchez-Scott had not asserted any invasion of privacy claims against the doctor and that she had not dismissed Ms. Sanchez-Scott's privacy claims against him.[18] This testimony was completely incorrect, as Kuhl admitted a month later in

---

15 Reporter's Transcript, Azucena Sanchez-Scott v. Alza Pharmaceuticals, No. BC 214585 (LA Superior Court, Oct. 12, 1999) (hereafter "Sanchez-Scott Transcript"), at 3.

16 Sanchez-Scott v. Alza Pharmaceuticals, 86 Cal. App. 4th 365, 375-78 (2001).

17 Id., 86 Cal. App. 4th at 376.

18 For example, Kuhl testified that "[t]he claims against the doctor were tort claims for failure to obtain consent from the woman in the examining room that was the doctor's examination room. . . . And the claim against the third party who came into the room was an invasion of privacy claim." Kuhl Hearing, at 123. And Kuhl answered "[t]hat is correct" when Senator Hatch asked her "It is my understanding that the particular motion to dismiss that you had granted had nothing to do with the claims against the doctor and that your ruling would have

REV_00165684

a brief letter to Senator Hatch.[19] Through this testimony, however, Kuhl had deflected Senators' serious concerns about her disturbingly narrow and legally erroneous views of a medical patient's privacy rights. Thus, to this day, Kuhl has not answered, for example, Senator Durbin's question about her "concept of privacy, as it applies to" the facts of this case, or Senator Schumer's question asking "what can you tell us to assuage so many of my colleagues' concerns that you have too narrow a view of privacy rights?"

In addition, as Kuhl now admits in her letter to Senator Hatch, she indeed threw out of court in their entirety Ms. Sanchez-Scott's invasion of privacy claims against all of the defendants — the doctor, the drug company, and the drug salesman. Had Kuhl's ruling not been reversed on appeal, two of the wrongdoers, the drug company and the salesman, would have avoided all liability to Ms. Sanchez-Scott for their unconscionable actions, and the doctor likewise would not have been held liable on the invasion of privacy claim.

2. Kuhl created the misimpression that she had affirmatively "allowed" a claim against the doctor to go forward

At Kuhl's hearing on April 1, Senator Sessions asked, "you allowed the lawsuit to go forward against the physician, but did not allow it to go forward against the third party who the doctor had allowed to come into the room." Kuhl replied, "Yes, Senator." Kuhl Hearing, at 80. In fact, the additional claim against the doctor for professional negligence was not the subject of the motion to dismiss before Kuhl, and Kuhl therefore had no choice as to whether that claim proceeded. It was thus misleading for Kuhl to testify that she had "allowed" that claim against the doctor to go forward in the sense that Kuhl had some choice or that she had affirmatively ruled in favor of Ms. Sanchez-Scott.[20]

Moreover, while Kuhl never mentioned this in her testimony or in her post-hearing answers, the remaining claim against the doctor for professional negligence was stayed during Ms. Sanchez-Scott's appeal of her dismissal of the privacy claims,[21] which took more than a year.[22] Thus, not only would Kuhl's ruling have eliminated Ms. Sanchez-Scott's privacy claims in their entirety, but that ruling also substantially delayed the case and was a significant obstacle to Ms. Sanchez-Scott's ability to obtain justice.

---

allowed the claims against the doctor to go forward. Is that right?" Kuhl Hearing, at 122-23 (emphasis added). Similarly, in a post-hearing letter to Senator Arlen Specter dated April 15, 2003, Kuhl described the invasion of privacy claim against the drug company as a "separate claim" from the claim against the doctor. Letter from Carolyn B. Kuhl to Hon. Arlen Specter (Apr. 15, 2003)(hereafter "Kuhl Letter to Sen. Specter"), at 2.

[19] Letter from Carolyn B. Kuhl to Hon. Orrin B. Hatch (Apr. 29, 2003), at 1 (hereafter "Kuhl Letter to Sen. Hatch").

[20] In her April 15 letter to Senator Specter, Kuhl stated "It is very important to note that my decision allowed that claim [the "tort action against the doctor"] to proceed." Kuhl Letter to Sen. Specter, at 2. In her more recent letter to Senator Hatch, Kuhl more accurately stated that her dismissal of the privacy claims "left the tort claim for failure to obtain consent against the doctor remaining for trial." Kuhl Letter to Sen. Hatch, at 1.

[21] See Superior Court Case Summary, available at http://www.lasuperiorcourt.org/civilCaseSummary/CaseSummary.asp?Referer=index&Case=BC214585.

[22] Kuhl dismissed Ms. Sanchez-Scott's privacy claims on Oct. 12, 1999; the Court of Appeal's decision reversing that ruling was issued on Jan. 17, 2001.

REV_00165685

3. Kuhl's testimony as to why she did not follow relevant precedent conflicts with her ruling in this case

In her testimony on April 1 and also in her April 15 letter to Senator Specter, Kuhl fostered the misimpression that California privacy law was unclear at the time of her ruling dismissing Ms. Sanchez-Scott's claims. For example, she testified at her hearing that "I was trying to interpret California law. What was being cited to me was Michigan precedent [i.e., the Michigan Supreme Court's decision in DeMay v. Roberts, in which a doctor brought along a man not connected with the medical profession to assist him in a childbirth]. I think that the Court of Appeal has clarified the law in this area." Kuhl Hearing, at 74.[23] The implication of Kuhl's testimony, that there was no California case law to follow and that she did not follow the "Michigan precedent" that was being cited to her because it would not help "interpret California law," cannot withstand scrutiny.

In Kuhl's ruling from the bench dismissing Ms. Sanchez-Scott's privacy claims, Kuhl in fact acknowledged that the Michigan case had already been recognized by the California Supreme Court. As Kuhl stated, "[i]t's a much more important case and much more significant case that the Supreme Court — our Supreme Court has picked it up and cited it. There's no question about it." Sanchez-Scott Transcript, at 8. Kuhl's "problem" with the Michigan case at the time was not that it was from Michigan but that she considered it factually distinguishable; according to Kuhl, "[t]he patient there was in labor, not undergoing a more routine medical examination . . . ." Id. at 3. In sharp contrast, the unanimous Court of Appeal decision reversing Kuhl not only found that "this case [Sanchez-Scott] is very much like the 1881 seminal case of DeMay v. Roberts . . . which first recognized a tortious invasion of privacy," but also noted that "DeMay has been relied on by several California courts, including the Supreme Court, in analyzing propositions concerning the intrusion tort." 86 Cal. App. 4th at 374.

4. Kuhl's misplaced reliance on a letter from Justice Paul Turner

At her hearing on April 1 and in her letter to Senator Specter, Kuhl cited a letter favorable to her sent to members of the Judiciary Committee by Justice Paul Turner, the author of the Court of Appeal's decision that unanimously reversed her dismissal of Ms. Sanchez-Scott's common law invasion of privacy claim. While it is not surprising that Justice Turner may now want to assist his judicial colleague in her quest for a lifetime seat on the federal bench, his letter is erroneous in significant respects and the best evidence of what he thought about this case and Kuhl's ruling remains his own contemporaneous opinion overturning Kuhl's ruling on behalf of a unanimous Court of Appeal.

Turner's letter now suggests that Kuhl's ruling was "a trial judge making a tough call in the context of competing legal interests . . . ."[24] Significantly, however, Kuhl's ruling never identified any such "competing legal interests." Her ruling was based solely on her belief that

---

[23] Similarly, in her letter to Senator Specter, Kuhl stated, "I had to determine [Ms. Sanchez-Scott's] rights under California law. California law clearly gave her a tort action against the doctor whose responsibility it was to obtain her consent before he invited any other person into the examining room. . . Regarding the separate claim against the drug company representative, the law was less clear . . ." Kuhl Letter to Sen. Specter, at 2.

[24] Letter from Justice Paul Turner to Senator Patrick J. Leahy (Mar. 17, 2003) (hereafter "Turner Letter"), at 1.

REV_00165686

Ms. Sanchez-Scott had no claim for invasion of privacy as a matter of law because she had never asked why the unidentified man was there or objected to his presence. Sanchez-Scott Transcript, at 2, 3. As Justice Turner's opinion for the unanimous appellate court demonstrates, neither he nor his colleagues had any problem overturning Kuhl's ruling; there was no dissent, and no indication in the opinion that it was a "tough call."

To the contrary, the Court of Appeal's opinion made clear that every patient has a "legally well-established expectation of privacy," and further noted that the defendants had failed to cite "any authority which permits a male drug salesperson to be present in an examination room during the examination of a partially disrobed woman." 86 Cal. App. 4th at 375-76 (emphasis added). In great contrast to his recent letter, Turner's ruling for the Court of Appeal never identified or sought to balance a so-called "competing legal interest" to Ms. Sanchez-Scott's privacy rights. In the plainest of language belying any claim now that this case was a "tough call," Justice Turner wrote in the court's decision:

> A breast cancer patient who goes into an oncologist's office to be examined does not, nor should she, take a risk that what goes on in the examination room will be seen or heard by anyone other than medical personnel. She does not take a risk that a drug salesperson will be a part of the process during which her breasts will be examined.

86 Cal. App. 4th at 376. The Court of Appeal's opinion reversing Kuhl continued, "we conclude that jurors could conclude a breast cancer patient such as plaintiff had an objectively reasonable expectation of privacy in the medical examination room of her oncologist. No decisional authority supports a contrary conclusion." Id. (emphasis added).

The Turner letter ends by asserting that "Judge Kuhl concluded that the mentorship program, which was designed to improve treatment for breast cancer patients, was a sufficient justification for allowing the drug salesperson to be present during the examination... [A] strong argument can be made that she correctly assessed the competing societal interests the California Supreme Court requires all jurists in this state to weigh in determining whether the tort of intrusion has occurred." Turner Letter, at 2-3. This statement has no basis whatsoever in Judge Kuhl's ruling or that of the Court of Appeal.

As the transcript of the hearing before Kuhl makes clear, Kuhl never "assessed" any "competing societal interests" nor discussed the purpose of the drug company's so-called "mentorship program" that put its salesman in the exam room. To the contrary, Kuhl's ruling was premised solely on her legally erroneous belief that there could be no invasion of privacy as a matter of law because Ms. Sanchez-Scott had not affirmatively objected to the man's presence or asked why he was there. Sanchez-Scott Transcript, at 2. As far as Judge Kuhl was concerned, the man could have been a janitor in a white lab coat.

Justice Turner's opinion for the Court of Appeal likewise did not "assess" "competing societal interests" or evaluate the purposes of the "mentorship program," which was factually irrelevant to the Court of Appeal's ruling. There was no legitimate purpose for the salesman to be in the exam room, and the court's opinion never identified one. To the contrary, Justice Turner's opinion states that "[w]hen the totality of the circumstances of the intrusion is examined . . . we

REV_00165687

conclude that the complaint alleges highly offensive conduct involving a cancer patient whose breasts were observed by a drug salesperson, whose occupation was never disclosed, during an examination inside the confines of a physician's office. It bears emphasis that there are specific allegations that plaintiff was never advised as to [the drug salesman's] role, other than that he was there to watch." 86 Cal. App. 4th at 377-78 (emphasis added). Justice Turner's opinion reversing Kuhl's ruling in Sanchez-Scott remains the best evidence of his and the Court of Appeal's view of the law and of Kuhl's unjustifiable dismissal of Ms. Sanchez-Scott's privacy claim.

- **Kuhl's record on other civil rights issues**

  - Crusading for a tax exemption for Bob Jones University

Senators' concerns: As Senator Leahy observed (Kuhl Hearing, at 37), Kuhl was identified as one of a "band of young zealots" within the Department of Justice who were the architects of the Reagan Administration's decision to reverse long-standing IRS policy that denied tax-exempt status to Bob Jones University and other racially discriminatory private schools.[25] In particular, Kuhl and another Justice Department colleague wrote a 40-page memorandum to Assistant Attorney General William Bradford Reynolds strenuously arguing that the IRS should "reverse its position" in the case and "accord tax-exempt status" to Bob Jones.[26] Reynolds accepted the memorandum and forwarded it to the Attorney General. The Department's radical reversal of civil rights policy championed by Kuhl ignited a firestorm of criticism and was repudiated by the Supreme Court in an 8-1 ruling in the Bob Jones case. Senator Leahy asked Kuhl to address her role in this matter, specifically noting how much opposition there was in the Department at that time to the reversal of this civil rights policy. Kuhl Hearing, at 37.

Kuhl's testimony: Kuhl testified that, for two reasons, "I regret having taken the position that I did in support of the government's change of position. . . ." Kuhl Hearing, at 37. The first was that "I did not at that time understand the traditional role of the Justice Department, which is to defend the positions of the agencies as long as there is a reasonable argument that can be made in defense of those agencies. . . ." Id. at 39. (At this, an incredulous Senator Leahy stated, "But that is almost hornbook law. . . .You didn't learn that in law school?" Id.) The second, according to Kuhl, was that the decision "did not properly put the nondiscrimination principle that should have been primary in this decision first." Id.

The facts: As Senator Leahy suggested (id. at 41), this testimony appears to be a confirmation conversion. While Kuhl has previously indicated that she came to believe the government's reversal of course in Bob Jones was wrong, she has never before, to our knowledge, stated the basis for that belief as one grounded in the importance of enforcing the civil rights laws and putting the principle of nondiscrimination first. To the contrary, both of the two public

---

[25] Anthony Lewis, "Abroad at Home; The Court Says No," *New York Times* A27 (May 26, 1983).

[26] Memorandum from Charles J. Cooper, Special Assistant to the Assistant Attorney General, and Carolyn B. Kuhl, Special Assistant to the Attorney General, to Wm. Bradford Reynolds, Assistant Attorney General, Civil Rights Division (Jan. 5, 1981 [sic; date is 1982]), at 40, reprinted in "Administration's Change in Federal Policy Regarding the Tax Status of Racially Discriminatory Private Schools," Hearing before the Committee on Ways and Means, House of Representatives, 97th Cong., 2d Sess. (Feb. 4, 1982) (hereafter "Bob Jones Hearing"), at 549-88.

REV_00165688

explanations that have previously been given for Kuhl's asserted change of mind are grounded in political error, not concern about the primacy of the civil rights laws.

First, in June 2001, on the eve of the announcement of Kuhl's nomination, she responded to a written question from Senator Boxer about Bob Jones by stating that she believed the government's decision to reverse position in the Bob Jones case was wrong "in part because it appeared insensitive to minorities, regardless of the nondiscriminatory motives of those involved in the decision."[27] This is similar to an explanation given in January 2003 by former Solicitor General Charles Fried in support of Kuhl's nomination. According to Fried, by 1985, "I knew she had come to believe (as did I) that she had been wrong, if for no other reason than seeming to side with Bob Jones confused the Reagan administration's message that we were strongly committed to civil rights and racial equality while opposed to quotas."[28]

At Kuhl's confirmation hearing, Senator Kennedy, like Senator Leahy, also sought to learn whether Kuhl, prior to her nomination, had ever expressed the sort of substantive regret about her position in Bob Jones that she seemed to be stating at her hearing. Senator Kennedy quoted the foregoing statement by Fried and observed that, according to Fried, Kuhl had told him she had come to believe she was wrong on Bob Jones "politically because it sent the wrong message." Kuhl Hearing, at 86 (emphasis added). Kuhl admitted that she and Fried did discuss the fact that "taking that position had really been a disaster for the Reagan administration, absolute disaster," and that she did not know whether she had "expressed this to" Fried that they had "the wrong focus" and that "the policies of nondiscrimination should have come forward. . . ." Id.

The second reason given by Kuhl in her testimony on April 1 for her asserted "regret" about Bob Jones is that the government should have defended the IRS policy because a "reasonable argument" could have been made to support it. Kuhl Hearing at 39. Significantly, nowhere in the critical 40-page memorandum that Kuhl and Cooper wrote at the time does the memo even suggest the existence of a "reasonable argument" in defense of the IRS policy, let alone that the Department of Justice should defend it. To the contrary, the memorandum concludes by stating that "[f]rom the foregoing, it is clear that the Service's interpretation of Section 501(c)(3) of the 1954 Code is at odds with the statute's language and legislative history . . . ."[29] It is also significant to note that under questioning from Senator Leahy, Kuhl stated that she could not think of any other case during her entire tenure in the Justice Department in which she had recommended that the government confess error in the Supreme Court except for Bob Jones. Kuhl Hearing, at 42.

At Kuhl's hearing, Senator Hatch elicited from Kuhl the testimony that she had no "decision-making authority" at this time in the Justice Department. Id. at 15. This of course is beside the point, as Senator Kennedy noted. Id. at 83. The concern is not that Kuhl herself made the ultimate decision to reverse long-standing policy denying tax exemptions to Bob Jones University and other racially discriminatory private schools, but that she believed this was the right thing to do and played a major role in bringing about that disturbing decision.

---

27 Kuhl's answers to Senator Boxer's question 3 (June 1, 2001).

28 Charles Fried, "Time-Traveling to Thwart a Judge," *Los Angeles Times* (Jan. 17, 2003).

29 Bob Jones Hearing, at 588 (emphasis added).

REV_00165689

- Opposing affirmative action, trying to restrict discrimination remedies, and criticizing protection of workers

Referring specifically to Kuhl's statement in an article that she had written while in private practice that she considered affirmative action to be "a divisive societal manipulation," Senator Durbin asked Kuhl "have you changed your position on that?" Kuhl Hearing, at 71. Kuhl did not answer Senator Durbin's question nor a similar written question from Senator Kennedy.[30] Instead, she testified that "the primary thrust of that article was to state the importance of individual remedies and of putting persons who have been discriminated against back in the place where they should have been, absent that discrimination, and that was the thrust of that article." Kuhl Hearing, at 71-72. The problem, of course, as Kuhl well knows, is that in many instances of discrimination, such as when people are intentionally kept out of unions and apprenticeship programs on the basis of race for years on end, the actual victims may not be identifiable. Only by requiring some form of affirmative action can the situation be remedied, as was the case in Local 28 of the Sheet Metal Workers' International Ass'n v. EEOC, 478 U.S. 421 (1986). Nonetheless, Kuhl filed a brief in that case taking the position that relief under Title VII could be granted only to identifiable victims of discrimination,[31] a position that the Supreme Court rejected.

In Kuhl's post-hearing answers, she tried to dispel concerns about her opposition to affirmative action by stating that the article about which Senators had questioned her — the article in which she had called affirmative action "a divisive societal manipulation" — was written "before the Supreme Court settled" the issue of affirmative action in its 1995 decision in the Adarand case.[32] However, Kuhl's article was written after the Court's decision upholding affirmative action in the Local 28 case (indeed, she refers to that decision in her article[33]), which means that there was already established law in this area and that she was critical of it.

Kuhl was also questioned about another article she had written, "Employment at the Will of the Courts,"[34] which, as Senator Edwards described it, focused on "the costs to employers and society of the laws against unfair treatment of workers. . ."[35] In response to Senator Edwards' question as to why she had chosen to focus on such matters rather than on the "costs to workers and society of discrimination on the basis of race, sex, or other arbitrary factors or other forms of unfair treatment of workers,"[36] Kuhl stated that she "disagree[d] with the question's characterization of the article," and attempted to portray her article in a light more favorable to the legal protection of workers.[37] The fact remains, however, that Kuhl's article appeared to

---

30 Kuhl's answers to Senator Kennedy's post-hearing questions (ans. 1C) (Apr. 29, 2003).

31 See Brief for the Equal Employment Opportunity Commission, Local 28 of the Sheet Metal Workers' International Ass'n v. EEOC, (Dec. 9, 1985).

32 See Kuhl's answers to Senator Kennedy's post-hearing questions (ans. 1A) (Apr. 29, 2003).

33 See Carolyn Kuhl, Comment for BNA Special Report, in BNA Special Report on Affirmative Action Today: A Legal and Practical Analysis, 157-59 (1986).

34 Carolyn Kuhl, "Employment at the Will of the Courts," in Law, Economics, & Civil Justice (1994), 185-89.

35 Post-hearing questions of Senator Edwards (ques. 1A).

36 Id.

37 Kuhl's answers to Senator Edwards' post-hearing questions (ans. 1A) (Apr. 29, 2003).

REV_00165690

disapprove of the trend in the law away from the doctrine of "employment at will" and toward protecting employees from adverse employment decisions that are not based on "good faith and fair dealing."[38] According to Kuhl, "[t]he practical effect of this jurisprudence and of the destruction of the doctrine of employment at will is to inhibit employer action and to decrease labor mobility."[39] The article also appears to question some of the positive effects of anti-discrimination laws:

> [I]f a member of a protected class is fired, and if the employer has no credible explanation for his treatment of the employee . . . a finder of fact may well conclude that the unexplained motivation is in reality an unlawful one (race, sex, age, etc.). . . Employers must act toward employees in the protected classes in such a way that they can explain the fairness of their actions toward the employee. If an employer cannot do so, he risks the expense of a lawsuit and statutory penalties.[40]

Most Americans would likely conclude that this is a good thing; Kuhl did not say that it is.

- Other aspects of her record on civil rights matters

In post-hearing questions, Senator Leahy observed that "[m]any Americans would not be comfortable with a judge whose intelligence and reason were not tempered by experience and compassion," and asked, "Can you please give us an example of a situation in which you displayed, as a lawyer, understanding for the human situation, such as the sting felt by women or minorities victimized by discrimination?"[41]

In her response, Kuhl did not cite a single instance pertaining to her career "as a lawyer." Instead, Kuhl focused on two rulings she has issued as a judge, the same two rulings she has cited repeatedly in other written answers and in her testimony on April 1 in an effort to dispel the serious concerns about her record on civil rights raised by her years in the Reagan Administration and in private practice.[42] Apart from the fact that Kuhl has only been able to cite two rulings in her more than seven years as a state judge that she believes speak favorably to her record on civil rights, a review of these cases indicates that they do not in negate the serious concerns her record has raised.

In one of those cases, Iwekaogwu v. City of Los Angeles, 75 Cal. App. 4th 803 (1999), Kuhl, sitting by designation on the Court of Appeal, wrote a decision upholding a judgment in favor of an African American employee who had been unlawfully retaliated against by his employer when he complained that he had been subjected to employment discrimination on the basis of race and national origin. As recounted in Kuhl's decision, the facts presented a clear case of retaliation, and the Court of Appeal was unanimous in its ruling. The issues involved in this case were totally different from those presented, for example, in Bob Jones, and Kuhl's ruling in this

---

38 Carolyn Kuhl, "Employment at the Will of the Courts," in Law, Economics, & Civil Justice (1994), 185-89.

39 Id. at 188.

40 Id. at 187.

41 Senator Leahy's post-hearing questions to Kuhl (ques. 4; emphasis added).

42 See, e.g., Kuhl Letter to Sen. Specter (Apr. 15, 2003).

REV_00165691

clear-cut case of retaliation does not in any way change the fact that, in the Bob Jones matter, she urged that the IRS policy be reversed and a tax exemption given to a private school that practiced blatant race discrimination.

In the other case repeatedly cited by Kuhl, Grobeson v. City of Los Angeles, No. BC150151 (L.A. Superior Court, June 29, 1998), Kuhl overturned on due process grounds disciplinary action taken against an openly gay police officer because the police department had failed to give the officer proper notice of the charges against him. Kuhl's ruling did not turn on the officer's sexual orientation or in any way affirmatively protect the officer from discrimination on the basis of sexual orientation.

Neither of these cases repeatedly cited by Kuhl dispels the serious concerns raised by her actions in such cases as Bob Jones or other civil rights matters.[43]

- **Kuhl's record on access to justice**

  - Seeking to curtail citizens' access to the courts

Senators' concerns: As Deputy Solicitor General, Kuhl aggressively sought to restrict access to the federal courts, co-authoring a brief and arguing before the Supreme Court in a case in which she urged the Court to abandon the doctrine of associational standing, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America v. Brock, 477 U.S. 274 (1986). Associational standing is a well-recognized and important doctrine that permits organizations to file lawsuits on behalf of their members, making it easier for them to vindicate their common legal rights and interests. At Kuhl's hearing, Senator Feinstein specifically questioned Kuhl about the Brock case and asked Kuhl to explain her opposition to the doctrine of associational standing. Kuhl Hearing, at 53-57.

Kuhl's testimony: In response to Senator Feinstein's question, Kuhl testified, "[t]he position of the United States in UAW v. Brock I believe was set before I came to the Solicitor General's Office. I argued that case. I had just recently come to the office and I argued it, but I am not on the brief. If you look at the brief in that case, I am not on the brief. . . I didn't have any trouble arguing the position. It was a position that – well, the government had won in the court below, so we were defending a winning argument in the court below in that case." Kuhl Hearing, at 54-55 (emphasis added).

---

[43] Disturbing information about Kuhl's pro bono record also emerged at her hearing. Under questioning from Senator Feinstein, Kuhl admitted that in her entire career in private practice, spanning a total of some 12 years, including 9 as a partner in a prestigious law firm, she had handled only two pro bono cases. Kuhl Hearing, at 60-61.[43] Although Kuhl sought to excuse this on the ground that she was raising children while at the same time trying to be a partner in a law firm (Kuhl Hearing, at 61), it is worth noting that during this same period Kuhl managed, among other things, to find the time to draft the amicus brief in the Supreme Court supporting VMI's efforts to continue to exclude women as well as the amicus brief in support of an anti-choice group in Rust v. Sullivan. Across this country, many law firm associates and partners are also parents, and yet they make the time to fulfill their ethical obligations to perform pro bono work.

REV_00165692

The facts: Kuhl's testimony that her name was not on the government's brief in this case was demonstrably incorrect, as Senator Leahy pointed out in post-hearing questions to Kuhl.[44] Although Kuhl has since admitted that her testimony was incorrect,[45] her erroneous testimony at her hearing left unanswered Senators' concerns about what Charles Fried himself described as Kuhl's "frontal attack" on the doctrine of associational standing.

Moreover, Kuhl's testimony about this case was inconsistent with the facts in another critical respect. Kuhl's Supreme Court brief marked the first time in the case that the government had taken the position that the doctrine of associational standing should be overturned; this argument was not the basis on which the government had prevailed in the court of appeals,[46] and Kuhl's testimony that she was merely "defending a winning argument in the court below" by urging that associational standing be overturned cannot withstand scrutiny.

The court of appeals had ruled in favor of the government, holding that the UAW lacked standing under the facts of this particular case and the requirements for associational standing.[47] Defending that "winning argument" is a far cry from urging the Supreme Court to overturn the doctrine of associational standing altogether. Indeed, the government's brief to the Supreme Court opposing the UAW's petition for a writ of certiorari — a brief on which Kuhl's name does not appear — in fact acknowledged that the doctrine of associational standing was well-settled and did not ask the Court to overrule it.[48]

The argument for overturning associational standing was made only in the later brief bearing Kuhl's name. According to Charles Fried, Kuhl's boss at the time, it was "my Deputy and Counselor, Carolyn Kuhl" who "launched a frontal attack" in Brock, "arguing that groups should not have standing to make claim except as they could show themselves to be representatives of classes of individuals in traditional class actions." Order and Law, at 207, n.5 (1991).

In fact, Kuhl's argument was so extreme, procedurally as well as substantively, that it prompted numerous organizations, including the Chamber of Commerce and the AMA, to oppose not only the government's legal position in the Supreme Court but also to criticize its "litigating tactics" for raising such an important matter for the first time at that juncture in the case.[49]

As with Thornburgh, Kuhl has sought to minimize the extremism of the position that she advocated by claiming that she was merely a government lawyer doing her job representing the government.[50] But so were all of the other government attorneys who had litigated this case

---

[44] See Senator Leahy's post-hearing questions to Kuhl (ques. 3), answered by Kuhl on April 29, 2003.

[45] On the date she submitted her written answers to Senator Leahy, Kuhl admitted in a cover letter to Senator Hatch that she her name was in fact on this brief "and I now recall that I did participate in drafting that brief." Kuhl Letter to Sen. Hatch (Apr. 29, 2003) at 1.

[46] See International Union, United Automobile, Aerospace and Agricultural Implement Workers of America v. Donovan, 746 F.2d 839 (D.C. Cir. 1984).

[47] Id.

[48] Brief for the Respondent In Opposition to Petition for Writ Of Certiorari, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America v. Brock, at 6 (Aug. 14, 1985) (LEXIS pagination).

[49] Brief of the Chamber of Commerce, et al. as *Amici Curiae* in Support of Petitioners, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America v. Brock, at 5 (March 1986).

[50] See, e.g., Kuhl's answers to Senator Leahy's post-hearing questions (ans. 3) (Apr. 29, 2003).

REV_00165693

before Kuhl got involved, and who had not advocated that the doctrine of associational standing be overturned. Moreover, in her written answers to Senator Leahy, Kuhl went a step further and suggested that this extreme position was not necessarily her own view.[51] However, just as it was Kuhl, as Fried recounts, who in Thornburgh wrote "the most aggressive memo" advocating reversal of Roe v Wade, so too it was Kuhl, as Fried also recounts, who in Brock launched the "frontal attack" on the doctrine of associational standing.

- Trying to limit protection for whistleblowers

Senators' concerns: In a unanimous ruling strongly critical of Judge Kuhl in Liu v. Moore, the California Court of Appeal reversed Kuhl's ruling that prevented a whistleblower from getting monetary relief under California's anti-SLAPP law, explaining that Kuhl's decision was an improper "nullification of an important part of California's anti-SLAPP legislation." 69 Cal. App. 4th 745, 748 (1999). In this case, a plaintiff had sued Deborah Moore, a whistleblower, causing her to incur substantial legal expenses, and then voluntarily dismissed the complaint before Kuhl could rule on Ms. Moore's motion for legal costs to which she was entitled under the anti-SLAPP law. At Kuhl's hearing, Senator Feinstein asked Kuhl about this case, noting that, according to Ms. Moore's attorney, her ruling would have prevented Ms. Moore from pursuing her right under the law to recover the nearly $40,000 in legal costs that she had incurred. Noting the harsh language of the Court of Appeal's decision reversing Kuhl's ruling, Senator Feinstein asked Kuhl to respond to the Court of Appeal's criticism of her decision and a letter she had received from Ms. Moore's attorney. Kuhl Hearing, at 58.

Kuhl's testimony: Kuhl claimed that the issue before her was "an issue of first impression," and that she had "struggled a good bit" with the question of what jurisdiction remained with the court when the party suing the whistleblower dismissed the complaint before the court could rule on the whistleblower's motion for legal costs. Kuhl Hearing, at 58-59.

The facts: In its sharply worded, unanimous decision reversing Kuhl's ruling, the Court of Appeal "struggled" not at all with the issue of jurisdiction, disposing of it in a footnote. 69 Cal. App. 4th at 751, n.3.[52]

- Seeking to invalidate *qui tam* access to the courts to combat fraud

Senators' concerns: In private practice, Kuhl had urged the federal courts to strike down the qui tam provisions of federal law that allow private citizens to file suit to combat fraud against the government. The federal courts rejected such arguments and upheld the law. Additional information about Kuhl's efforts in this regard emerged after Kuhl's hearing. Specifically, according to written questions posed by Senators Grassley and Schumer, Kuhl had attached to a brief that she filed in the Ninth Circuit in 1993 arguing the unconstitutionality of the qui tam provisions a copy of a memorandum written four years earlier by the Department of Justice

---

51 Kuhl's answers to Senator Leahy's post-hearing questions (ans. 3d) (Apr. 29, 2003).

52 According to a letter from Ms. Moore's attorney to Senator Feinstein's office, it was Judge Kuhl, and not the plaintiff who had filed the frivolous suit, who had raised the jurisdictional question in the first place; the plaintiff had "never argued that the Court lacked jurisdiction to rule on [Ms. Moore's] motion" for legal costs. Letter from Mark Allen Kleiman to David Hartman and Tom Oscherwitz (Apr. 2, 2003), at 2.

REV_00165694

Office of Legal Counsel, opining that "[t]he Office of Legal Counsel believes the qui tam provisions of the False Claims Act are patently unconstitutional." Kuhl told the court that the OLC memorandum had recently been "released for publication" by the Department of Justice, but did not affirmatively tell the court that the OLC memorandum did not represent an official position of the Department.[53] In light of this, Senator Schumer, noting the ethical obligation of all lawyers "to refrain from acts which mislead the court," asked Kuhl whether she had "fulfilled [her] obligation to be candid with the court."[54]

Kuhl stated that she did not believe that "reference to the position of the Office of Legal Counsel in the brief was misleading to the court."[55] Apparently, however, the Department of Justice did not agree, for it took what Senator Schumer called "the unusual step of submitting a letter to the court clarifying the government's position."[56] In that letter to the court, the Justice Department stated that it had come to its attention that the OLC memorandum of 1989 had been submitted to the court and was writing "to make clear to the Court" that the OLC memorandum "was never adopted by the Attorney General, and does not represent the position of the United States."[57]

CONCLUSION

As the foregoing makes clear, Kuhl's testimony at her confirmation hearing raised serious credibility concerns in addition to the other significant concerns already raised by her record. As the *New York Times* recently explained:

> Carolyn Kuhl . . . seems to have undergone a classic confirmation conversion. As a lawyer and as a California state court judge, she advocated objectionable positions on civil rights, abortion and privacy. But at her confirmation hearings, she backpedaled furiously. Her testimony may have been tactically shrewd, but it failed to allay serious concerns about how she would perform as a judge. The Senate should not confirm her. . .
>
> Under questioning by the Senate Judiciary Committee, Judge Kuhl repeatedly retracted or minimized her positions. . . Judge Kuhl's many shifts are suspect because of their timing. It is also clear, given this administration's track record, that she was chosen precisely because of the actions she now seeks to distance herself from. The White House can tell from her record that she shares its conservative agenda, including opposition to abortion rights and skepticism about civil rights. It is unlikely that when she spoke with the administration she was as quick to renounce her past as she was before the Senate.

"Another Unworthy Judicial Nominee," *The New York Times* (Apr. 24, 2003).

As documented here and in our initial report opposing Kuhl's confirmation, Kuhl's record simply does not support giving her a lifetime appointment to the federal court of appeals, the court of last resort for most Americans. Far from meeting the burden of demonstrating a

---

53 See post-hearing questions of Senator Grassley and of Senator Schumer (second set).

54 Post-hearing questions of Senator Schumer (second set, ques. b).

55 Kuhl's answers to post-hearing questions of Senator Schumer (second set, ans. b) (Apr. 29, 2003).

56 Post-hearing questions of Senator Schumer (second set, at 1).

57 Id. at 1-2.

REV_00165695

record of commitment to "protecting the rights of ordinary Americans" and to "the progress made on civil rights, women's rights and individual liberties" — important criteria for confirmation — Kuhl has tried to turn back the clock on these significant matters. Her hearing and her subsequent written answers to Senators' questions served to reinforce this conclusion. The Senate Judiciary Committee should reject Carolyn Kuhl's confirmation.

REV_00165696

People For the American Way Report Executive Summary:
Carolyn Kuhl's Hearing Strengthened the Case Against Her Confirmation

The April 1, 2003 hearing on Carolyn Kuhl's nomination to the United States Court of Appeals for the Ninth Circuit not only failed to dispel the serious concerns that had been raised about her record, but in fact reinforced them. This is true with respect to each of the three fundamental areas of concern about Kuhl's record: women's rights and reproductive freedom; other civil rights issues; and access to justice. Combined with the concerns previously raised by Kuhl's record, it is clear that her confirmation should be rejected.

KUHL'S RECORD ON WOMEN'S RIGHTS

- **Trying to overturn Roe v. Wade: the Thornburgh case**

  Senators' concerns: According to then-Solicitor General Charles Fried, Kuhl and a Justice Department colleague had given him "the most aggressive memo" from within the Department urging that the government file an amicus curiae brief in the Thornburgh case calling for "outright reversal of Roe." The brief that Kuhl then co-authored contended that Roe was "so far flawed that this Court should overrule it and return the law to the condition in which it was before that case was decided." The Court rejected Kuhl's arguments and re-affirmed Roe.

  Kuhl's testimony: Kuhl refused to answer questions as to whether she believes that Roe was wrongly decided. She testified that she was merely a lawyer representing a client in this case, President Reagan.

  The facts: All of the other Justice Department attorneys who worked on the issue were also representing the same client, but it was Kuhl who was "the most aggressive" in pressing to have Roe overturned, clearly going beyond the obligations of a government attorney.

- **Other anti-choice advocacy: Rust v. Sullivan**

  Senators' concerns: In private practice, Kuhl filed an amicus curiae brief in Rust v. Sullivan on behalf of an anti-choice group in support of the federal "gag rule" that prohibited family clinics getting federal aid from discussion abortion with patients. Although Kuhl's brief primarily addressed First Amendment issues, she began the brief with a free standing quotation that attacked the Court's decisions upholding a women's right to choose abortion as causing a "major distortion in the Court's constitutional jurisprudence." Referring to this brief, Senator Feinstein asked Kuhl whether it was fair to say that at the time Kuhl wrote it she was "still a critic of the Supreme Court's jurisprudence on abortion?"

People For the American Way
2000 M Street, NW • Suite 400 • Washington, D.C. • 20036 • 202-467-4999 • fax 202-293-2672 • www.pfaw.org

Kuhl's testimony: Kuhl again deflected efforts to learn her jurisprudential views of the Court's abortion decisions, stating that her brief in Rust v. Sullivan was written "on behalf of a client" and also that it "primarily addresses the First Amendment issue there. . ."

The facts: Kuhl was correct in her overall description of her brief, which makes the free standing quote with which she began the brief all the more indicative of her disagreement with the Court's decisions protecting a woman's reproductive freedom. Indeed, Kuhl never actually answered Senator Feinstein's question or explained why she began a brief about a First Amendment issue with a free standing quote attacking the Court's abortion decisions.

- **Seeking to limit sexual harassment protections: Meritor Savings Bank v. Vinson**

Senators' concerns: As Deputy Solicitor General, Kuhl co-authored an amicus curiae brief for the United States and the EEOC in the Supreme Court supporting the employer in this landmark sexual harassment case. In an opinion by then-Justice Rehnquist, the Court ruled unanimously for the employee. The position that Kuhl took, had it been adopted by the Court, would have made it more difficult for women to prove sexual harassment in the workplace.

Kuhl's testimony: Kuhl testified that the Court's position "closely tracked" her brief and described the discrepancy between the Court's ruling for Ms. Vinson and her brief urging a decision in favor of the employer as based on a "technical issue" on which Kuhl and the Court disagreed.

The facts: Kuhl's testimony was utterly disingenuous. Not only had the Court rejected her argument that it should rule for the employer, but it flatly rejected as too narrow the definitional standard of proof of sexual harassment that she had urged, a standard under which a woman would virtually have had to have been raped in order to prove that workplace sexual conduct was unwelcome.

- **Supporting sex discrimination in education: the VMI case**

Senators' concerns: While in private practice, Kuhl filed an amicus curiae brief in the Supreme Court on behalf of three private women's colleges in support of VMI's cert. petition, in which VMI sought reversal of the appellate ruling that its exclusion of women violated the Equal Protection Clause.

Kuhl's testimony: Kuhl testified that her brief did not support the constitutionality of VMI but was narrowly focused on the importance of women's colleges.

The facts: Kuhl's brief was filed as part of VMI's campaign to enlist women's colleges in its efforts to remain a public institution yet continue to exclude women; Kuhl admitted that the colleges that signed her brief had been referred to her through VMI's counsel. If Kuhl had been concerned that her brief "in support of" VMI's cert. petition not imply support for VMI, Kuhl could easily have stated in her brief that the women's colleges took no position on the constitutionality of VMI's exclusion of women, but she failed to do so.

REV_00165698

- **Dismissing claim of egregious privacy violation: the Sanchez-Scott case**

  Senators' concerns: Kuhl dismissed invasion of privacy claims asserted by Azucena Sanchez-Scott, a breast cancer survivor, whose doctor had brought a male drug company salesman into the exam room without disclosing who he was. The man then witnessed an intimate examination of Ms. Sanchez-Scott during which she was half naked. Kuhl held that there was no invasion of privacy as a matter of law because Ms. Sanchez-Scott had not objected to the man's presence. The Court of Appeal unanimously reversed Kuhl.

  Although Kuhl denied this at her hearing, Kuhl has now admitted that she did in fact dismiss invasion of privacy claims against the doctor: Kuhl testified that Ms. Sanchez-Scott had not asserted invasion of privacy claims against the doctor and that she had not dismissed any such claims against him. This testimony was flatly incorrect, as Kuhl admitted a month after her hearing in a letter to Senator Hatch. Had Kuhl's ruling not been reversed, all of the wrongdoers, including the doctor, would have escaped liability for the invasion of privacy.

  Kuhl created the misimpression that she had affirmatively "allowed" a claim against the doctor to go forward: Kuhl testified that she had "allowed" a separate claim against the doctor for professional negligence to go forward, when in fact that claim was not the subject of the motion to dismiss and Kuhl had no choice as to whether it proceeded. It was therefore misleading for Kuhl to testify that she had "allowed" that claim to proceed in the sense that Kuhl had some choice or that she had affirmatively ruled in favor of Ms. Sanchez-Scott. Moreover, Kuhl neglected to mention that the other claim was stayed pending the appeal of her dismissal of the privacy claims.

  Kuhl's testimony as to why she did not follow relevant precedent conflicts with her ruling: Kuhl testified that California law was unclear and that what was cited to her by Ms. Sanchez-Scott was a Michigan Supreme Court case. This testimony conflicted with her ruling, in which Kuhl acknowledged that the Michigan case had already been recognized by the California Supreme Court. Kuhl's ruling made clear that her "problem" at the time with the Michigan case was not that it was from Michigan, but that she considered it distinguishable. The Court of Appeal did not, and cited it in its unanimous decision reversing Kuhl.

  Kuhl's misplaced reliance on a letter from Justice Paul Turner: At Kuhl's hearing and in a letter to Senator Specter, Kuhl cited a letter favorable to her sent to the Judiciary Committee by Justice Paul Turner, the author of the Court of Appeal's decision that unanimously reversed her dismissal of Ms. Sanchez-Scott's invasion of privacy claim. Turner's letter states that Kuhl had "concluded" that the drug company's "mentorship program," which put its salesman in the exam room, "was a sufficient justification" for allowing him to be present during the exam, and that a "strong argument can be made" that Kuhl had "correctly assessed the competing societal interests" required to be weighed in order to determine whether there had been an invasion of privacy. This statement has no basis whatsoever in Kuhl's ruling or that of Justice Turner for the Court of Appeal, neither of

REV_00165699

which identified let alone "assessed" any interest competing with Ms. Sanchez-Scott's privacy claim. Kuhl's ruling was based entirely on Ms. Sanchez-Scott's failure to ask why the man was there or object to his presence; as far as Kuhl was concerned, he could have been a janitor in a white lab coat. Although Justice Turner understandably now wants to assist a judicial colleague in her quest for a lifetime federal judgeship, his opinion reversing Kuhl's ruling in Sanchez-Scott remains the best evidence of his and the Court of Appeal's view of the law and of Kuhl's unjustifiable dismissal of Ms. Sanchez-Scott's privacy claim.

KUHL'S RECORD ON OTHER CIVIL RIGHTS ISSUES

- **Crusading for a tax exemption for Bob Jones University**

  Senators' concerns: Kuhl was identified as one of a "band of young zealots" within the Justice Department who were the architects of the Reagan Administration's decision to reverse long-standing IRS policy that denied tax-exempt status to Bob Jones University and other racially discriminatory private schools. Kuhl and a colleague co-authored a 40-page memorandum strenuously arguing that the IRS should "reverse its position" in the case and "accord tax-exempt status" to Bob Jones. In an 8-1 ruling, the Supreme Court repudiated Kuhl's position.

  Kuhl's testimony: Kuhl testified that she regretted the position she took in the Bob Jones case because she did not understand that the Justice Department's role was to defend agency positions than can reasonably be defended (which Senator Leahy thought she should have learned in law school), and also because her position did not put the principle of nondiscrimination first.

  The facts: Kuhl's testimony appears to be a confirmation conversion. Although Kuhl has previously stated she came to believe she was wrong on Bob Jones, the reason she previously gave was that it was a political disaster for the Reagan Administration. As for her assertion now that the IRS policy was "reasonable" and therefore should have been defended, nowhere does the critical 40-page memo she wrote at the time even suggest the existence of a reasonable argument in defense of the IRS policy.

- **Opposing affirmative action, trying to restrict discrimination remedies, and criticizing protection of workers**

  Senators' concerns: While in private practice, Kuhl wrote an article expressing her opposition to affirmative action, which she called "a divisive societal manipulation." She was asked whether she had changed her position on this.

  Kuhl's testimony: Kuhl did not answer this question. Instead, she sought to dispel concerns about her opposition to affirmative action by stating that the Supreme Court had settled the matter in the Adarand case.

  The facts: Kuhl's article was written after (and indeed appears to criticize) the Court's decision in the Local 28 case, in which the Court had rejected Kuhl's argument that relief

REV_00165700

under Title VII could be granted only to identifiable victims of discrimination, even in cases of long-standing, intentional discrimination. There was thus established law concerning affirmative action when Kuhl wrote her article, and she was critical of it.

Senators' concerns: Kuhl was also questioned about her article "Employment at the Will of the Courts," and asked why she had chosen to focus on "the costs to employers and society of the laws against unfair treatment of workers."

Kuhl's testimony and the facts: Although Kuhl tried to portray her article in a light more favorable to the protection of workers, the fact remains that her article appeared to disapprove of the trend way from the doctrine of "employment at will" and toward protecting workers from adverse employment decisions not based on "good faith and fair dealing." Kuhl wrote, "[t]he practical effect of this jurisprudence . . . is to inhibit employer action and to decrease labor mobility."

- **Other aspects of Kuhl's record on civil rights matters**

Senators' concerns: Senator Leahy asked Kuhl to give an example of a situation in which "you displayed, as a lawyer, understanding of the human situation, such as the sting felt by women or minorities victimized by discrimination."

Kuhl's testimony and the facts: In her response, Kuhl did not cite a single instance pertaining to her career "as a lawyer." Instead, she focused on two rulings she has issued as a judge, the same two rulings she has cited repeatedly in her testimony, including in a letter to Senator Specter, in an effort to dispel the serious concerns about her civil rights record. Apart from the fact that Kuhl has only been able to cite two rulings in more than seven years as a state judge that she believes speaks favorably to her record on civil rights, neither of these cases negates the serious concerns that her record on civil rights has raised, including her efforts to give a tax-exemption to Bob Jones University. One presented a clear case of retaliation against an African American employee who had complained about employment discrimination, and Kuhl, writing for a unanimous appellate panel, upheld a jury verdict in his favor. In the other, Kuhl overturned disciplinary action against an openly gay police officer on due process grounds because he had not been given proper notice of the charges against him. Kuhl's ruling did not turn on the officer's sexual orientation or in any way affirmatively protect him from discrimination on the basis of sexual orientation.

- **Kuhl's dismal *pro bono* record**

At Kuhl's hearing, she admitted that during her nearly 12 years in private practice, she had handled only two *pro bono* cases. While Kuhl sought to excuse this on the ground that she was raising two children while trying to be a law firm partner, during the same period she found time to draft the Supreme Court amicus brief supporting VMI's efforts to continue to exclude women, as well as an amicus brief in support of an anti-choice group in Rust v. Sullivan. Across this country, many law firm associates and partners are also parents, yet they make the time to fulfill their ethical obligations to perform *pro bono* work.

REV_00165701

KUHL'S RECORD ON ACCESS TO JUSTICE

- **Seeking to curtail citizens' access to the courts: UAW v. Brock**

  Senators' concerns: As Deputy Solicitor General, Kuhl asked the Supreme Court to overturn the well-settled doctrine of associational standing, an argument the government had not made previously in the case. According to her own supervisor at the time, former Solicitor General Charles Fried, it was Kuhl who launched this "frontal attack." The move prompted such organizations as the Chamber of Commerce and the AMA to oppose Kuhl's extremist position, criticizing not only the government's legal argument but also its "litigating tactics" for raising such an important matter for the first time at this juncture. The Court rejected Kuhl's argument without dissent.

  Kuhl's testimony: At her hearing on April 1, although Kuhl acknowledged that she had argued the case in the Supreme Court, she denied that her name was on the government's brief, asserted that the government's legal position had been set without her involvement, and that she was merely defending "a winning argument in the court below."

  The facts: Kuhl's testimony that her name was not on the brief was flatly incorrect, as she later acknowledged when Senator Leahy pointed this out to her in written questions; Kuhl admitted that she had co-authored the brief. Her testimony was also incorrect as to the decision of the court below, which held that the UAW did not have standing in this particular case, not that the doctrine of associational standing should be overturned. Prior to Kuhl's involvement in the case, the government had in fact filed a brief in the Supreme Court describing the doctrine of associational standing as "well settled." Kuhl failed to justify her extreme position.

- **Trying to limit protection for whistleblowers**

  Senators' concerns: In a unanimous ruling strongly critical of Judge Kuhl in Liu v. Moore, the California Court of Appeal reversed Kuhl's ruling that prevented a whistleblower from getting monetary relief under California's anti-SLAPP law, explaining that Kuhl's decision was an improper "nullification of an important part of California's anti-SLAPP legislation."

  Kuhl's testimony: Kuhl claimed that the issue before her was one of first impression and that she had "struggled a good bit" with whether she had jurisdiction to consider Ms. Moore's claim for compensation.

  The facts: In its sharply worded, unanimous decision reversing Kuhl's ruling, the Court of Appeal "struggled" not at all with the issue of jurisdiction, disposing of it in a footnote.

- **Seeking to invalidate *qui tam* access to the courts to combat fraud**

  Senators' concerns: In private practice, Kuhl had urged the federal courts to strike down the qui tam provisions of federal law that allow private citizens to file suit to combat fraud against the federal government. The courts rejected these arguments and upheld the law.

REV_00165702

After Kuhl's hearing, additional information about Kuhl's efforts in this regard emerged from questions posed by Senators Grassley and Schumer. Kuhl had attached to a brief she filed in 1993 with the Ninth Circuit arguing the unconstitutionality of the qui tam provisions a copy of a memo written four years earlier by the Justice Department's Office of Legal Counsel, stating that OLC believed the qui tam provisions to be unconstitutional. Kuhl told the court that the memo had recently been "released for publication" by the Justice Department, but did not affirmatively tell the court that it did not represent an official position of the Department. In light of this, Senator Schumer asked Kuhl whether she had fulfilled her ethical obligation "to be candid with the court."

Kuhl's testimony and the facts: Kuhl replied that she did not believe that "reference to the position of the Office of Legal Counsel was misleading to the court." Apparently, the Justice Department disagreed, for it wrote a letter to the court stating that it had learned that the OLC memo had been submitted to the court and was writing "to make clear to the Court" that the OLC memo "was never adopted by the Attorney General, and does not represent the position of the United States."

REV_00165703

From: Nelson, Carolyn
To: <Kavanaugh, Brett M.>
Sent: 5/6/2003 12:18:59 PM
Subject:
Attachments: judges schumer letter 5 6 03 #2.pdf

THE WHITE HOUSE

WASHINGTON

May 6, 2003

Dear Senator Schumer:

On behalf of President Bush, I write in response to your letter of April 30.

You propose that the President and Senate leader of the opposite party select in equal numbers members of citizen judicial nominating commissions in each State and circuit who would then select one nominee for each judicial vacancy. The President then would be required to nominate the individual selected by the commission and the Senate required to confirm that individual, at least absent "evidence" that the candidate is "unfit for judicial service." You propose this as a permanent change to the constitutional scheme for appointment of federal judges.

We appreciate and share your stated goal of repairing the "broken" judicial confirmation process and the "vicious cycle" of "delayed" Senate nominees. But we respectfully disagree with your proposal as inconsistent with the Constitution, with the history and traditions of the Nation's federal judicial appointments process, and with the soundest approach for appointment of highly qualified federal judges, as the Founders determined. Rather, as President Bush and many Senators of both parties have stated in the past, the solution to the broken judicial confirmation process is for the Senate to exercise its constitutional responsibility to vote up or down on judicial nominees within a reasonable time after nomination, no matter who is President or which party controls the Senate.

I. The Constitution, the Current Problem, and the Solution

Article II of the Constitution provides: The President "shall nominate, and by with the Advice and Consent of the Senate, shall appoint . . . Judges of the supreme Court, and all other Officers of the United States . . . ." During the first Congress and throughout most of this Nation's history, the Senate has both recognized and exercised its constitutional responsibility under Article II to hold majority, up-or-down votes on a President's nominees within a reasonable time after nomination. The Framers intended that the Senate vote on nominations would prevent Presidential appointment of "unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity." *Federalist* 76.

Your proposal would effectively transfer the nomination power of the President and the confirmation power of the Senate to a group of unelected and unaccountable private citizens. As the Supreme Court has explained, however, the Appointments Clause is "more than a matter of etiquette or protocol; it is among the significant structural safeguards of the constitutional scheme. By vesting the President with the exclusive power to select the principal (noninferior) officers of the United States, the Appointments Claude prevents congressional encroachment upon the Executive and Judicial Branches. This disposition was also designed to assure a higher quality of appointments: the Framers anticipated that the President would be less vulnerable to

interest-group pressure and personal favoritism than would a collective body." *Edmond v. United States*, 520 U.S. 651, 659 (1997) (citations omitted). Importantly, as the Supreme Court has also explained, the Appointments Clause not only guards against encroachment "but also preserves another aspect of the Constitution's structural integrity by preventing the diffusion of the appointment power." *Freytag v. CIR*, 501 U.S. 868, 878 (1991). Therefore, "neither Congress nor the Executive can agree to waive this structural protection" afforded by the Appointments Clause. *Id.* at 880. These principles and precedents amply demonstrate the constitutional and structural problems with any proposal to transfer the constitutional responsibilities of the President and the Senate to a group of unelected and unaccountable private citizens.

That said, we very much appreciate your recognition that the Senate's judicial confirmation process is "broken." The precise problem, in our judgment, is that the Senate has too often failed in recent years to hold votes on judicial nominees within a reasonable time after nomination (often because a *minority* of Senators has used procedural tactics to prevent the Senate from voting and expressing its majority will). Many appeals court nominees have waited years for votes; many others have never received votes. Today, for example, although the Senate never before has denied a vote to an appeals court nominee on account of a filibuster, a minority of Senators are engaged in unprecedented simultaneous filibusters to prevent up or down votes on *two* superb nominees, Priscilla Owen and Miguel Estrada, who were nominated two years ago and who have the support of a majority of the Senate.

The problem of the Senate not holding votes on certain judicial nominees is a relatively recent development, albeit not new to this Presidency. In the Administrations of both President George H.W. Bush in the 102nd Congress and President Clinton in the 106th Congress, for example, too many appeals court nominees never received up-or-down votes. As President Bush has explained, however, the problem has persisted and significantly worsened in the 107th and 108th Congresses during this President's tenure.

President Bush's commitment to solving this problem also is not new. In June 2000, during the Presidential campaign, then-Governor Bush emphasized that the Senate should hold up-or-down votes on all nominees within a reasonable time after nomination (60 days). Last fall, after two additional years of Senate delays that were causing a judicial vacancy crisis (an "emergency situation," in the words of the American Bar Association), the President proposed a comprehensive three-Branch plan to solve the problem. President Bush stated that this three-Branch plan should apply now and in the future, no matter who is President or which party controls the Senate. In particular, he proposed that judges provide one-year advance notice of retirement where possible; in March 2003, the Judicial Conference adopted the President's recommendation. The President proposed that Presidents nominate judges within 180 days of learning of a vacancy; the President is complying with this part of the plan and already has submitted nominations, for example, for the 15 new judgeships created on November 2, 2002. The President also proposed that the Senate vote up or down on judicial nominees within 180 days of receiving a nomination, a generous period of time for all Senators to evaluate nominees and to have their voices heard and their votes counted.

REV_00165706

In the past, you and Senators of both parties have publicly agreed with the need for timely Senate votes on judicial nominees. On March 7, 2000, for example, you stated: "The basic problem is it takes so long for us to debate those qualifications. It is an example of Government not fulfilling its constitutional mandate because the President nominates, and *we are charged with voting on the nominees*. . . . I also plead with my colleagues to move judges with alacrity – *vote them up or down*. But this delay makes a mockery of the Constitution, makes a mockery of the fact that we are here working, and makes a mockery of the lives of very sincere people who have put themselves forward to be judges and then they hang out there in limbo."

In the 2000 campaign, moreover, several Democrat Senators such as Senator Leahy and Senator Harkin publicly and expressly agreed with then-Governor Bush's proposal for timely votes on nominees. In addition, Senator Specter in 2002, Senator Leahy in 1998, and Senator Bob Graham in 1991 all introduced Senate proposals to ensure timely up-or-down votes on judicial nominees. The Chief Justice, speaking on behalf of the federal Judiciary, also has expressly asked the Senate to ensure prompt up-or-down votes on nominees. And the American Bar Association, for its part, adopted a resolution last summer asking the Senate to hold prompt votes on judicial nominations, stating: "Vote them up or down, but don't hang them out to dry."

In seeking to fix the broken Senate confirmation process, we respectfully ask that you and other Senators consider these past statements, a sample of which are listed below, advocating timely up-or-down Senate votes on judicial nominees and ensure such votes no matter who is President or which party controls the Senate:

- *Senator Leahy* on October 3, 2000, stated: "Governor Bush and I, while we disagree on some issues, have one very significant issue on which we agree. He gave a speech a while back and criticized what has happened in the Senate where confirmations are held up not because somebody votes down a nominee but because they cannot ever get a vote. Governor Bush said: You have the nominee. Hold the hearing. Then, within 60 days, vote them up or vote them down. Don't leave them in limbo. *Frankly, that is what we are paid to do in this body. We are paid to vote either yes or no – not vote maybe*. When we hold a nominee up by not allowing them a vote and not taking any action one way or the other, we are not only voting 'maybe,' but we are doing a terrible disservice to the man or woman to whom we do this."

- *Senator Leahy* on June 18, 1998, stated: "I have stated over and over again on this floor that I would refuse to put an anonymous hold on any judge; that I would object and fight against any filibuster on a judge, whether it is somebody I opposed or supported; that I felt the Senate should do its duty. *If we don't like somebody the President nominates, vote him or her down.* But don't hold them in this anonymous unconscionable limbo, because in doing that, the minority of Senators really shame all Senators."

- *Senator Daschle* on October 5, 1999, stated: "As Chief Justice Rehnquist has recognized, 'The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote

REV_00165707

him down.' *An up or down vote, that is all we ask for Berzon and Paez*. And after years of waiting, they deserve at least that much. . . . *I find it simply baffling that a Senator would vote against even voting on a judicial nomination*."

- *Senator Harkin* on September 14, 2000, stated: "I'll just close by saying that *Governor Bush had the right idea*. He said the candidate should get an up or down vote within 60 days of their nomination."

    - *Senator Harkin* on October 6, 2000, stated that then-Governor Bush's proposal for an up-or-down vote within 60 days of nomination was a "great idea."

- *Senator Biden* on March 19, 1997, stated: "I respectfully suggest that everyone who is nominated is entitled to have a shot, to have a hearing and to have a shot to be heard on the floor *and have a vote on the floor*."

- *Senator Bob Graham* on April 24, 1991, introduced a bill that would require the Judiciary Committee to report a nomination within 90 days of nomination and *would require an up-or-down vote on the floor within 120 days of nomination*. Senator Graham stated: "I consider it a judicial emergency when a judgeship is vacant for one day more than necessary."

- *Senator Kennedy* on February 3, 1998, stated: "We owe it to Americans across the country to give these nominees a vote. If our Republican colleagues don't like them, vote against them. *But give them a vote*."

    - On September 21, 1999, *Senator Kennedy* stated: "It is true that some Senators have voiced concerns about these nominations. But that should not prevent a roll call vote which gives every Senator the opportunity to vote 'yes' or 'no.' . . . *These delays can only be described as an abdication of the Senate's constitutional responsibility* to work with the President and ensure the integrity of our federal courts."

- *Senator Durbin* on September 28, 1998, stated: "I am not suggesting that we would give our consent to all of these nominees. I am basically saying that this process should come to a close. *The Senate should vote*."

- *Senator Feinstein* on September 16, 1999, stated: "*A nominee is entitled to a vote. Vote them up; vote them down*."

    - *Senator Feinstein* on October 4, 1999, stated: "Our institutional integrity requires an up-or-down vote."

- *Senator Harry Reid* on June 9, 2001, stated: "I think we should have up-or-down votes in the committee and on the floor."

REV_00165708

- *Senator Feingold* on March 8, 2000, stated: "All Judge Paez has ever asked for was this opportunity: an up or down vote on his confirmation. Yet for years, the Senate has denied him that simple courtesy."

- *Senator Kohl* on September 21, 1999, stated: "These nominees, who have to put their lives on hold waiting for us to act, *deserve an up or down vote*."

    - *Senator Kohl* on May 15, 1997, stated: "[L]et's breathe life back into the confirmation process. Let's vote on the nominees who already have been approved by the Judiciary Committee, and let's set a timetable for future hearings on pending judges. *Let's fulfill our constitutional responsibilities*."

- *Senator Lincoln* on September 14, 2000, stated: "If we want people to respect their government again, then government must act respectably. It's my hope that we'll take the necessary steps to give these men and these women especially *the up or down vote that they deserve*."

- *Senator Boxer* on January 28, 1998, stated: "I think, whether the delays are on the Republican side or the Democratic side, let these names come up, *let us have debate, let us vote*."

    - *Senator Boxer* on May 14, 1997, stated: "According to the U.S. Constitution, the President nominates, and the Senate shall provide advice and consent. *It is not the role of the Senate to obstruct the process and prevent numbers of highly qualified nominees from even being given the opportunity for a vote on the Senate floor*."

- *Senator Sarbanes* on December 15, 1997, stated: "This politicization . . . has been extended to include the practice of denying nominees an up or down vote on the Senate floor or even in the Judiciary Committee. *If the majority of the Senate opposes a judicial nominee enough to derail a nomination by an up or down vote, then at least the process has been served*."

    - *Senator Sarbanes* on March 19, 1997, stated: "It is not whether you let the President have his nominees confirmed. *You will not even let them be considered by the Senate for an up-or-down vote. That is the problem today*."

- *Senator Levin* on September 14, 2000, stated: "The truth of the matter is that the leadership of *the Senate has a responsibility to do what the Constitution says we should do, which is to advise and at least vote on whether or not to consent to the nomination of nominees for these courts*."

REV_00165709

- *Senator Levin* on May 24, 2000, stated: "These Michigan candidates . . . deserve to have *an up or down vote* on their nominations. . . . The Senate slowdown has a serious impact on the administration of justice."

II. Additional Points Regarding Your Proposal

I also want to make three other points regarding your proposal.

First, contrary to an implicit suggestion in your proposal, the members of these citizen committees themselves will bring their own views about the best qualities for judicial candidates, and their own preferences and visions and ideologies. But there is an important difference between these private citizens, on the one hand, and the President and 100 Senators, on the other. The American people did not elect these citizens to exercise this critical constitutional responsibility and cannot hold them accountable for their exercise of it.

Moreover, the Framers of the Constitution expressly considered and rejected a committee nomination process, concluding that such a process was unlikely to focus on the "intrinsic merit of the candidate." *Federalist* 76. As Hamilton explained, "in every exercise of the power of appointing to offices by an assembly of men we must expect to see a full display of all the private and party likings and dislikes, partialities and antipathies, attachments and animosities, which are felt by those who compose the assembly." *Id.* It will "rarely happen that the advancement of the public service will be the primary object either of party victories or of party negotiations." *Id.*

By contrast, "[t]he sole and undivided responsibility of one man" – the President – "will naturally beget a livelier sense of duty and a more exact regard to reputation. He will, on this account, feel himself under stronger obligations, and more interested to investigate with care the qualities requisite to the stations to be filled, and to prefer with impartiality the persons who may have the fairest pretensions to them." *Id.* The Framers wanted the President alone to exercise the power of nomination, moreover, because the "blame of a bad nomination would fall upon the President singly and absolutely." *Federalist* 77. In a committee nomination process, by contrast, "all idea of responsibility is lost." *Id.*

For these reasons, the Framers concluded that the President alone was to nominate and the Senate as a body was to vote up or down on the President's nominations.

Second, you explain that your proposal would ensure the merit of federal judges. In your letter to President Bush of March 16, 2001, however, you and Senator Leahy expressed the view that the American Bar Association ratings provide "unique, unbiased and essential information" about judicial candidates, and provide an "independent, apolitical" evaluation of their qualifications. You referred to the ABA rating as the "gold standard" for evaluating nominees. All 42 of the President's appeals court nominees rated so far have received "well-qualified" or "qualified" ABA ratings. By the standard outlined in your letter of March 16, 2001, all of these appeals court nominees warrant your support.

REV_00165710

Third, you explain that your proposal would avoid "extremist" judges. The Framers intended that the President would nominate judges and the Senate as a body would vote up-or-down on the nominations to express the majority will of the Senate. The constitutional scheme of Presidential appointment and majority vote in the Senate ensures that the nominees are not unfit. And your proposal would not preclude judges you might label as "extremist" from emerging from the citizen committees. Indeed, even more troubling is the fact that your proposal would not prevent judges whom both the President *and* a majority of the Senate might view as "extremist" from emerging from the citizen committees, yet the President and Senate would be essentially powerless to prevent the appointment.

One final point warrants mention. We assume that you include Miguel Estrada and Priscilla Owen in your description of "extremists" given the extraordinary ongoing filibusters of their nominations. But Miguel Estrada and Priscilla Owen represent the mainstream of American law and American values, as indicated by the fact that the President nominated them and a majority of the Senate supports them. Moreover, Miguel Estrada is supported by prominent Democrat lawyers such as Seth Waxman and Ron Klain and by a bipartisan group of 14 former colleagues in the Solicitor General's office, among many others. He worked for four years in the Clinton Administration. He was unanimously rated "well-qualified" by the American Bar Association. Priscilla Owen is supported by three former Democrat Justices on the Texas Supreme Court with whom she served and 15 past Presidents of the State Bar of Texas. She also received a *unanimous* "well-qualified" rating from the American Bar Association.

These two nominees are the mainstream. It bears note, moreover, that you and other Democrat Senators have supported nominees such as Jay Bybee and Michael McConnell who (unlike Mr. Estrada and Justice Owen) have taken strong public positions contrary to yours on significant issues of concern to you. We believe that an unfair double standard is being applied to both Miguel Estrada and Priscilla Owen.

* * *

We appreciate your desire to fix the broken judicial confirmation process. The President believes that the fix is for the Senate to exercise its constitutional responsibility and ensure that every judicial nominee receives an up-or-down Senate vote within a reasonable time after nomination, no matter who is President or which party controls the Senate.

Sincerely,

Alberto R. Gonzales
Counsel to the President

The Honorable Charles Schumer
United States Senate
Washington, DC 20510

REV_00165711

Copy: The Honorable Bill Frist
The Honorable Thomas Daschle
The Honorable Orrin Hatch
The Honorable Patrick Leahy
The Honorable John Cornyn
The Honorable Russ Feingold

REV_00165712

From: CN=Jonathan F. Ganter/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/6/2003 9:03:30 AM
Subject: : Re: important: please email me Hayworth introduced bill in House last week on attorneys fees and excise taxes
Attachments: P_YSV6G003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jonathan F. Ganter ( CN=Jonathan F. Ganter/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 6-MAY-2003 13:03:30.00
SUBJECT:: Re: important: please email me Hayworth introduced bill in House last week on
attorneys fees and excise taxes
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Brett, Here is the Hayworth Bill


ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_YSV6G003_WHO.TXT_1>
```

HR 1926 IH

108th CONGRESS
1st Session
H. R. 1926

To amend the Internal Revenue Code of 1986 to apply an excise tax to excessive attorneys fees for legal judgments, settlements, or agreements that operate as a tax.

IN THE HOUSE OF REPRESENTATIVES

May 1, 2003

Mr. HAYWORTH introduced the following bill; which was referred to the Committee on Ways and Means

---

A BILL

To amend the Internal Revenue Code of 1986 to apply an excise tax to excessive attorneys fees for legal judgments, settlements, or agreements that operate as a tax.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Intermediate Sanctions Compensatory Revenue Adjustment Act of 2003' (ISCRAA).

SEC. 2. EXCISE TAXES ON EXCESS FEE TRANSACTIONS OF CERTAIN ATTORNEYS.

(a) IN GENERAL- Subchapter D of chapter 42 of the Internal Revenue Code of 1986 (relating to failure by certain charitable organizations to meet certain qualification requirements) is amended by adding at the end the following new section:

`SEC. 4959. TAXES ON EXCESS FEE TRANSACTIONS.

`(a) INITIAL TAXES- There is hereby imposed on the collecting attorney in each excess fee transaction a tax equal to 5 percent of the excess fee. The tax imposed by this paragraph shall be paid by any collecting attorney referred to in subsection (f)(1) with respect to such transaction.
`(b) ADDITIONAL TAX ON THE COLLECTING ATTORNEY- In any case in which a tax is imposed by subsection (a) on an excess fee transaction and the

excess fee involved in such transaction is not corrected within the taxable period, there is hereby imposed a tax equal to 200 percent of the excess fee involved. The tax imposed by this paragraph shall be paid by any collecting attorney referred to in subsection (f)(1) with respect to such transaction.

`(c) EXCESS FEE TRANSACTION; EXCESS FEE- For purposes of this section--

`(1) EXCESS FEE TRANSACTION-

`(A) IN GENERAL- The term `excess fee transaction' means any transaction in which a fee is provided by an applicable plaintiff (including payments resulting from litigation on behalf of an applicable plaintiff determined on an hourly or percentage basis, whether such fee is paid from the applicable plaintiff's recovery, pursuant to a separately negotiated agreement, or in any other manner), directly or indirectly, to or for the use of any collecting attorney with respect to such applicable plaintiff if the amount of the fee provided exceeds the value of the services received in exchange therefor or subsection (g)(1) applies.

`(B) DETERMINATION OF VALUE- For purposes of subparagraph (A), in determining whether the amount of the fee provided exceeds the value of the services received in exchange therefor, the value of the services shall be the sum of--

`(i) the reasonable expenses incurred by the collecting attorney in the course of the representation of the applicable plaintiff, and

`(ii) a reasonable fee based on--

`(I) the number of hours of non-duplicative, professional quality legal work provided by the collecting attorney of material value to the outcome of the representation of the applicable plaintiff, taking into account the factors described in subparagraphs (B) and (D) of subsection (h)(2),

`(II) reasonable hourly rates for the individuals performing such work based on hourly rates charged by other attorneys for the rendition of comparable services, including rates charged by adversary defense counsel in the representation, taking into account the factors described in subparagraphs (A), (C), (E), and (G) of subsection (h)(2), and

`(III) to the extent such items are not taken into account in establishing the reasonable hourly rates under subclause (II), an appropriate adjustment rate determined in accordance with subparagraph (C) to compensate the collecting attorney for periods of substantial risk of non-payment of fees and for

skillful or innovative services which increase the amount of the applicable plaintiff's recovery.

`(C) ADJUSTMENT RATE-

`(i) IN GENERAL- For purposes of this paragraph, an appropriate adjustment rate is a percentage of the reasonable hourly rate under subparagraph (B)(ii)(II) which is added to the amount of such rate and which is not more than the sum of one risk percentage and one skill percentage described in clauses (ii) and (iii), respectively.

`(ii) RISK PERCENTAGE- For purposes of this subparagraph, the term `risk percentage' means a percentage rate that is proportional to the collecting attorney's risk of nonrecovery of fees and which is--

`(I) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees, not more than 100 percent,

`(II) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees and devoted more than 8,000 hours of legal

work (as described in subparagraph (B)(ii)(I)) and more than 2 years to the case before resolution of all claims, not more than 200 percent, or

`(III) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees and devoted more than 15,000 hours of legal work (as described in subparagraph (B)(ii)(I)) and more than 4 years to the case before resolution of all claims, not more than 300 percent.

`(iii) SKILL PERCENTAGE- For purposes of this subparagraph, the term `skill percentage' means, in the case of a collecting attorney who has demonstrated exceptionally skillful or innovative legal service which generated a recovery for the applicable plaintiff substantially greater than the typical recovery in similar cases, a percentage rate that is proportional to the increase in the applicable plaintiff's recovery and that is not more than 100 percent.

`(iv) LIMITATION- An appropriate adjustment rate shall not increase the collecting attorney's fee above an amount that is proportional to the applicable plaintiff's recovery.

`(D) COURT APPROVAL OF FEES- Fee payments approved by any court shall be presumed to not be in excess of the value of the services received in exchange therefor if the court approving the fee--

`(i) did not approve an adjustment rate greater than that determined to be appropriate under subparagraph (C) in a case where such fee included an adjustment rate, and
`(ii) obtained and relied upon a report of a legal auditing firm with respect to such fee in accordance with the procedures in subsection (h).

`(2) EXCESS FEE- The term `excess fee' means the excess referred to in paragraph (1)(A).

`(d) JOINT AND SEVERAL LIABILITY- For purposes of this section, if more than 1 person is liable for any tax imposed by subsection (a), all such persons shall be jointly and severally liable for such tax.

`(e) APPLICABLE PLAINTIFF- For purposes of this section, the term `applicable plaintiff' means any person represented by a collecting attorney with respect to a claim described in subsection (f)(1).

`(f) OTHER DEFINITIONS AND RULES- For purposes of this section--

`(1) COLLECTING ATTORNEY- The term `collecting attorney' means any person engaged in the practice of law who represents--

`(A) any governmental entity, including any State, municipality, or political subdivision of a State, or any person acting on such entity's behalf, including pursuant to Federal or State Qui Tam statutes, in a claim for recoupment of payments made or to be made by such entity to or on behalf of any natural person by reason, directly or indirectly, of a breach of duty that causes damage to such natural person,

`(B) any organization described in paragraph (3) or (4) of section 501(c) and exempt from tax under section 501(a), in a claim for damages based on a breach of duty, whether

civil or criminal, causing damage to such organization,

`(C) any natural person seeking to recover damages in a claim based on breaches of duty, whether civil or criminal, causing damage to such natural person, or

`(D) any assignee or other holder of claims described in subparagraph (A), (B), or (C),

when 1 or more of such claims, whether or not joined in 1 action, involve the same or a coordinated group of plaintiff's attorneys or similarly situated defendants, arise out of the same transaction or set of facts or involve substantially similar liability issues, and result in settlements or judgments aggregating at least $100,000,000.

`(2) TAXABLE PERIOD- The term `taxable period' means, with respect to any excess fee transaction, the period beginning with the date on which the transaction occurs and ending 90 days after the earliest of--

`(A) the date of the mailing of a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a), or

`(B) the date on which the tax imposed by subsection (a) is assessed.

`(3) CORRECTION-

`(A) GENERAL RULE- Any excess fee transaction is corrected by undoing the excess fee to the extent possible and taking any additional measures necessary to place the applicable plaintiff in a financial position not worse than that in which such plaintiff would be if the collecting attorney were dealing under the highest fiduciary standards.

`(B) PAYMENT OF EXCESS FEES-

`(i) IN GENERAL- Except as provided in clause (ii), a collecting attorney corrects an excess fee transaction by paying any excess fees plus interest to the applicable plaintiff.

`(ii) CERTAIN SETTLEMENTS- In the case of excess fees arising from or related to that certain Master Settlement Agreement of November 23, 1998, and other, concluded Settlement Agreements based on State health care expenditures pursuant to title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), including lawsuits involving the States of Florida, Minnesota, Mississippi, and Texas, the collecting attorney corrects an excess fee transaction by paying any excess fees plus interest to

the 50 States in proportion to each State's share of the United States population.

`(C) NO WAIVER OF FEE- No collecting attorney may avoid imposition of any tax imposed by this section by transferring any portion of the excess fee or refusing to accept any portion of the excess fee.

`(4) LIMITED REASONABLE CAUSE- For purposes of section 4962(a), an excess fee transaction shall not be treated as an event which was due to reasonable cause if the amount of the fee provided would exceed the value of the services received in exchange therefor determined with the maximum adjustment rate allowed under subsection (c)(1)(C).

`(g) DISCLOSURE REQUIREMENTS-

`(1) TREATMENT AS EXCESS FEE- Any fee provided after the date of the enactment of this subsection by an applicable plaintiff (including payments resulting from litigation on behalf of an applicable plaintiff determined on an hourly or percentage basis, whether such fee is paid from the applicable plaintiff's recovery, pursuant to a separately negotiated agreement, or in any other manner), directly or indirectly, to or for the use of any collecting attorney with respect to such applicable plaintiff shall be deemed to be an excess fee provided in an excess fee transaction unless the disclosure requirements described in paragraph (2) are met.

`(2) CONTENTS OF STATEMENT- The disclosure requirements of this paragraph are met for any taxable year in which a collecting attorney receives any fees with respect to a claim described in subsection (f)(1), if such collecting attorney--

`(A) includes in the return of tax for such taxable year a statement including the information described in subsection (c)(1) with respect to such claim, and

`(B) provides a statement including the information described in subsection (c)(1) to the applicable plaintiff prior to the deadline (including extensions) for filing such return.

`(h) LEGAL AUDITING FIRM-

`(1) IN GENERAL- In any case before a Federal district court or a State court in which the court approves fees paid to a collecting attorney, the court shall seek bids from legal auditing firms with a specialty in reviewing attorney billings and select 1 such legal auditing firm to review the billing records submitted by the collecting attorney, under the same standards the firm would use if it were hired by a private party to review legal bills submitted to the party, for the reasonableness of such attorney's billing patterns and practices. The court shall require the collecting attorney to submit billing records, cost records, and any other information sought by such firm in its review.

`(2) REVIEW BY LEGAL AUDITING FIRM- In reviewing the billing records and work performed by the collecting attorney, the legal auditing firm shall address all relevant matters, including--

`(A) the hourly rates of the collecting attorney compared with the prevailing market rates for the services rendered by the collecting attorney,

`(B) the number of hours worked by the collecting attorney on the case compared with other cases that the collecting attorney worked on during the same period,

`(C) whether the collecting attorney performed tasks that could have been performed by attorneys with lower billing rates,

`(D) whether the collecting attorney used appropriate billing methodology, including keeping contemporaneous time records and using appropriate billing time increments,

`(E) whether particular tasks were staffed appropriately,

`(F) whether the costs and expenses submitted by the collecting attorney were reasonable,

`(G) whether the collecting attorney exercised billing judgment, and

`(H) any other matters normally addressed by the legal auditing firm when reviewing attorney billings for private clients.

`(3) FILING OF REPORT; RESPONSE; BURDEN OF PROOF- The court shall set a date for the filing of the report of the legal auditing firm, and allow the collecting attorney or any applicable plaintiff to respond to the report within a reasonable time period. The report shall be presumed

correct unless rebutted by the collecting attorney or any applicable plaintiff by clear and convincing evidence.

`(4) FEE FOR LEGAL AUDITING FIRM- The fee for the report of the legal auditing firm shall be paid from the collecting attorney's fee award, the applicable plaintiff's recovery, or both in a manner determined by the court.

`(i) REGULATIONS- The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations to prevent avoidance of the purposes of this section and regulations requiring recordkeeping and information reporting.'.

(b) CONFORMING AND CLERICAL AMENDMENTS-

(1) Subsections (a), (b), and (c) of section 4963 of the Internal Revenue Code of 1986 are each amended by inserting `4959,' after `4958,'.

(2) Subsection (e) of section 6213 of such Code is amended by inserting `4959 (relating to excess fee transactions),' before `4971'.

(3) Paragraphs (2) and (3) of section 7422(g) of such Code are each amended by inserting `4959,' after `4958,'.

(4) The heading for subchapter D of chapter 42 of such Code is amended to read as follows:

`Subchapter D--Failure by Certain Charitable Organizations and Persons to Meet Certain Qualification Requirements and Fiduciary Standards'.

(5) The table of subchapters for chapter 42 of such Code is amended by striking the item relating to subchapter D and inserting the following:

`SUBCHAPTER D. Failure by certain charitable organizations and persons to meet certain qualification requirements and fiduciary standards'.

(6) The table of sections for subchapter D of chapter 42 of such Code is amended by adding at the end the following new item:

`Sec. 4959. Taxes on excess fee transactions.'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to excess fees paid on or after June 1, 2002.

SEC. 3. DECLARATORY JUDGMENTS RELATING TO EXCISE TAXES ON EXCESS FEE TRANSACTIONS OF CERTAIN ATTORNEYS.

(a) IN GENERAL- Subchapter B of chapter 76 of the Internal Revenue Code of 1986 (relating to judicial proceedings) is amended by redesignating section 7437 as section 7438 and by inserting after section 7436 the following new section:

`SEC. 7437. DECLARATORY JUDGMENTS RELATING TO TAX ON EXCESS FEE TRANSACTIONS.

`(a) IN GENERAL- In a case of actual controversy involving--

`(1) a determination by the Secretary or the collecting attorney with respect to the imposition of the excise tax on excess fee transactions on such collecting attorney under section 4959, or

`(2) a failure by the Secretary or the collecting attorney to make such a determination,

upon the filing of an appropriate pleading by an applicable plaintiff, the Tax Court may make a declaration with respect to such determination or failure. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

`(b) DEFERENTIAL REVIEW- If a collecting attorney's fee has been approved by a court in accordance with section 4959(c)(1)(D) or by the Secretary pursuant to section 4959, the Tax Court shall review the fee only for an abuse of discretion.

`(c) LEGAL AUDITING FIRM- In any petition for a declaration referred to in subsection (a):

`(1) NO PREVIOUS REPORT- If a report by a legal auditing firm that meets the requirements of section 4959(h) has not been previously produced and relied on by another court, the Tax Court shall hire such a legal auditing firm and rely on its report pursuant to the procedures in section 4959(h).

`(2) SECOND REPORT-

`(A) IN GENERAL- If a report by a legal auditing firm has been approved by a court in accordance with section 4959, the Tax Court shall hire a second legal auditing firm upon the request of the petitioner.

`(B) FEE FOR REPORT- The Tax Court may direct the petitioner to pay the fee for any report of a legal auditing firm provided pursuant to subparagraph (A).

`(d) TIME FOR BRINGING ACTION- No proceeding may be initiated under this section by any person until 90 days after such person first notifies the Secretary of the excess fee transaction with respect to which the proceeding relates.

`(e) DEFINITIONS- For purposes of this section, any term used in this section and also in section 4959 shall have the meaning given such term by section 4959.'.

(b) CLERICAL AMENDMENT- The table of sections for subchapter B of chapter 76 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 7437 and by inserting the following new items:

`Sec. 7437. Declaratory judgments relating to tax on excess fee transactions.

`Sec. 7438. Cross references.'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to actions after the date of the enactment of this Act.

END

From: Bumatay, Patrick J.
To: <Ullyot, Theodore W.>;<Bartolomucci, H. Christopher>;<Brosnahan, Jennifer R.>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>
Sent: 5/6/2003 4:28:53 PM
Subject: JSC cancelled

No JSC meeting this week.

It looks like we are aiming for a POTUS meeting next Friday, May 23. So please start thinking ahead about who you want to go in the book.

Thanks,
Patrick

From: CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO]

To: Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Kyle Sampson/WHO /EOP@EOP [WHO] <Kyle Sampson>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>;Lockart, Sarah K. <Sarah_K._Lockart@who.eop.gov>;Ross M. Kyle/WHO /EOP@Exchange [WHO] <Ross M. Kyle>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Heather McNaught <Heather.McNaught@usdoj.gov.>;Ann Gray/WHO /EOP@Exchange [WHO] <Ann Gray>;evelyn long <evelyn.v.long@usdoj.gov>;Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>;Hana F. Brilliant/WHO /EOP@EOP [WHO] <Hana F. Brilliant>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;amy bass <amy.bass@usdoj.gov>;adam ciongoli <adam.ciongoli@usdoj.gov>;viet dinh <viet.dinh@usdoj.gov>;tracy washington <tracy.t.washington@usdoj.gov>;Susan B. Ralston/WHO/EOP@Exchange [WHO] <Susan B. Ralston>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;David McMaster/WHO/EOP@EOP [WHO] <David McMaster>;David G. Leitch/WHO/EOP@Exchange [WHO] <David G. Leitch>;Kristi Remington <Kristi.l.Remington@usdoj.gov>;Alison Jones/WHO /EOP@Exchange [WHO] <Alison Jones>;Wendy J. Grubbs/WHO/EOP@Exchange [WHO] <Wendy J. Grubbs>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Kimberly Ellison/WHO/EOP@EOP [WHO] <Kimberly Ellison>;Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;Melissa S. Bennett/WHO/EOP@Exchange [WHO] <Melissa S. Bennett>;andrew beach <andrew.beach@usdoj.gov>;albert brewster <albert.brewster@usdoj.gov>;wendy keefer <wendy.j.keefer@usdoj.gov>

Sent: 5/6/2003 12:32:24 PM

Subject: : WHJSC CANCELLED FOR 5/7/03

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME: 6-MAY-2003 16:32:24.00
SUBJECT:: WHJSC CANCELLED FOR 5/7/03
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:"Lockart, Sarah K." <Sarah_K._Lockart@who.eop.gov>@SMTP@Exchange ( "Lockart, Sarah K."
<Sarah_K._Lockart@who.eop.gov>@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
TO:Ross M. Kyle ( CN=Ross M. Kyle/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Heather McNaught <Heather.McNaught@usdoj.gov.>@SMTP@Exchange ( Heather McNaught
<Heather.McNaught@usdoj.gov.>@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
TO:Ann Gray ( CN=Ann Gray/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:evelyn long <evelyn.v.long@usdoj.gov>@SMTP@Exchange ( evelyn long
<evelyn.v.long@usdoj.gov>@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Hana F. Brilliant ( CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:amy bass <amy.bass@usdoj.gov>@SMTP@Exchange ( amy bass
<amy.bass@usdoj.gov>@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
TO:adam ciongoli <adam.ciongoli@usdoj.gov>@SMTP@Exchange ( adam ciongoli
```

<adam.ciongoli@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:viet dinh <viet.dinh@usdoj.gov>@SMTP@Exchange (viet dinh
<viet.dinh@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:tracy washington <tracy.t.washington@usdoj.gov>@SMTP@Exchange (tracy washington
<tracy.t.washington@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:David McMaster (CN=David McMaster/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Kristi Remington <Kristi.l.Remington@usdoj.gov>@SMTP@Exchange (Kristi Remington
<Kristi.l.Remington@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kimberly Ellison (CN=Kimberly Ellison/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jennifer R. Brosnahan (CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:andrew beach <andrew.beach@usdoj.gov>@SMTP@Exchange (andrew beach
<andrew.beach@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:albert brewster <albert.brewster@usdoj.gov>@SMTP@Exchange (albert brewster
<albert.brewster@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:wendy keefer <wendy.j.keefer@usdoj.gov>@SMTP@Exchange (wendy keefer
<wendy.j.keefer@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Thanks!

From:	Bumatay, Patrick J.
To:	<Ullyot, Theodore W.>;<Bartolomucci, H. Christopher>;<Brosnahan, Jennifer R.>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>
Sent:	5/6/2003 4:37:38 PM
Subject:	Correction: JSC cancelled

The date of the planned POTUS meeting is FRIDAY, MAY 16th (not the 23rd). Sorry for the confusion.

-----Original Message-----
From: Bumatay, Patrick J.
Sent: Tuesday, May 06, 2003 4:29 PM
To: Ullyot, Ted; Bartolomucci, H. Christopher; Brosnahan, Jennifer R.; Francisco, Noel J.; Kavanaugh, Brett M.; Newstead, Jennifer G.; Powell, Benjamin A.; Sampson, Kyle
Subject: JSC cancelled

No JSC meeting this week.

It looks like we are aiming for a POTUS meeting next Friday, May 23. So please start thinking ahead about who you want to go in the book.

Thanks,
Patrick

From: Kavanaugh, Brett M.
To: <Snee, Ashley>
Sent: 5/6/2003 6:03:49 PM
Subject:

Vacancy Summary

May 2, 2003

Court	Vacancies	Nominees Pending
US Court of Appeals	22	20
US District Court	28	43
Totals	**50**	**63**

Authorized Judgeships

Supreme Court	9
Court of Appeals	179
Regional Courts of Appeals	167
Federal Circuit	12

District Court 665

Article III 661

Territorial Courts 4

Court of International Trade 9

Total 862

REV_00165738

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>
Sent: 5/7/2003 5:10:38 AM
Subject: : Re: story on Senate's nuclear plan on filibusters

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 7-MAY-2003 09:10:38.00
SUBJECT:: Re: story on Senate's nuclear plan on filibusters
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

yes

Noel J. Francisco
05/07/2003 09:07:22 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: story on Senate's nuclear plan on filibusters

Any chance of this actually happening?

Brett M. Kavanaugh
05/07/2003 08:51:38 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: story on Senate's nuclear plan on filibusters

Hatch group may go +nuclear, on judges
Plan would limit use of Rule XXII in Dem filibusters
By Alexander Bolton and Geoff Earle
Several senior Republican senators are seeking wider party backing for a bold plan that would break the Democrats, filibuster of President Bush,s judicial nominees.
Their approach calls for employing a rarely used parliamentary tactic to overturn current Senate procedures.
Under the strategy envisioned by Senate Judiciary Chairman Orrin Hatch (R-Utah), among others, the Republicans would strip any Senate minority *

currently the Democrats * of their ability to filibuster presidential nominees.

Approval by Senate Majority Leader Bill Frist (Tenn.), which is being sought, would all but assure that the plan would go forward.

Under the most likely scenario now under discussion, they would secure a ruling from the chair that Senate Rule XXII does not apply to executive submissions to the Senate * and that includes judicial nominees. Rule XXII provides for unlimited debate on all legislative issues that reach the floor unless three-fifths of the Senate calls a halt.

With such an approach, a favorable ruling from the chair on limiting the scope of Rule XXII could stand after only a simple majority approved it.

Anticipating these moves, Democrats have already asked the Senate parliamentarian to weigh in on the issue in their defense.

From the standpoint of the proponents, the appeal of this &silver-bullet8 strategy is that it would quash the Democratic blockade without requiring 60 votes, the number needed by current rules to halt such delaying tactics, or 67 votes, the number needed to change a filibustered Senate rule.

One drawback of this proposed tactic is that it might destroy whatever is left of the working relationship between Democrats and Republicans. That is why some legislative experts liken the parliamentary tool to a legislative nuclear bomb.

Under the most likely scenario, the presiding officer of the Senate * perhaps Vice President Dick Cheney * would rule that a filibuster of presidential nominees is unprotected by Rule XXII.

Democrats would need 51 votes to overturn that ruling. In practical terms, that means they would need the help of two GOP defectors * three if Sen. Zell Miller (D-Ga.) votes with Republicans, as he often has.

Another alternative would be to change the rule through the Senate Rules Committee. But that process would entail extensive hearings and negotiations, and would be unlikely to attract Democratic support.

Democrats would view any change of Senate rules that circumscribed the rights of the minority party and was not approved by two-thirds of the chamber as an abuse of majority power.

However, with few exceptions, Senate Republicans view the filibuster of circuit court nominees, a tactic that until recently was rarely used, as an abuse of minority power.

Democrats are filibustering Bush,s nominations of Miguel Estrada and Priscilla Owen to the U.S. Court of Appeals for the D.C. Circuit and the 5th Circuit Court of Appeals, respectively. This has prompted an outcry from conservatives in Congress and around the country.

And Republicans on the Judiciary Committee expect Democrats soon to filibuster two more Bush nominees: Bill Pryor, nominated to the 11th Circuit Court, and Carolyn Kuhl, nominated to the 9th Circuit Court, said Margarita Tapia, spokeswoman for the panel.

However, what may be really at stake is the future makeup of the Supreme Court. The justices on the high tribunal have now served together for nearly a decade. Three of the nine justices are over 70 years old.

Although Senate Republican leaders have kept their parliamentary strategy close to the vest, Hatch offered an insight into it in during an interview Friday with The Hill.

Hatch said the Democratic filibuster is &violative of the Constitution8 and &totally politicizing of the judicial selection process,8 adding: &I know how to break it, and I will when the time comes.8

When asked how he would break the Democratic blockade, Hatch said: &You,ve got to deny Rule XXII on the executive calendar. I think you,ll see this in the not-too-distant future because the process is broken and it can,t continue like this.8

All regular Senate business*that is to say all public and private bills*is placed on the legislative calendar. Business sent to the Senate from the White House, such as treaties, executive branch nominees and judicial branch nominees, are placed on the executive calendar.
Hatch believes the Senate has a right to set its own rules * in this case the right to filibuster * for the legislative calendar but not for the executive calendar because that would entail imposing Senate rules on the executive branch and would violate the Constitution,s separation of powers.
&The executive branch and the judicial branch are co-equal [with the legislative branch],8 Hatch said.
However, when pressed later about how specifically he would curtail Rule XXII, Hatch said: &Rule XXII should not apply to the executive calendar. I, m not going to go into the plan. There are a variety of methodologies we, re looking at.8
The current Senate stalemate over nominees is the culmination of the increasingly intense battle over the ideological makeup of the federal judiciary, and a sign, many GOP lawmakers say, that the judicial nominating process is &broken.8
&I think it,s a big problem,8 said Sen. Trent Lott (R-Miss.), the chairman of the Senate Rules Committee. &I think it,s unconstitutional, but I would defer to Senator Hatch about what is the best way to deal with the problem. I don,t think we can let this stand. We cannot let the Democrats set this [precedent] in perpetuity for them and for us, requiring 60 votes to confirm a judge.8
Lott said the Senate Republican leadership &has to make the final call, but there are a number of us who think we,ve got to take some further action*I think Ted Stevens [of Alaska], Orrin Hatch and a number of others.8
Lott said that there are ways to change how the Senate does business without enlisting the support of 67 senators, the number needed for a filibustered rule change, but he would not reveal any specific details: &I don,t want to get into it right now. I don,t want to reveal our hand because if we say what exactly we are entertaining, the Democrats will try to find a way to block it.8
One GOP leadership aide said Frist is open to the suggestions of Hatch and others but will not make any hasty decisions.
&We,re not going to rule out any rules changes,8 said the aide. &Mr. Frist may do something later but he,s not going to tear up the rules book. He is going to proceed in a very slow and deliberative way.8
&We,ve learned in the past just because a member or aide says he knows the way to do something that may not be what the parliamentarian says,8 the aide added.
However, when asked if he has solicited the parliamentarian about curbing Rule XXII, Hatch said: &I know what the parliamentarian is going to say.8
A Senate Democratic leadership aide warned against an attempt by Hatch to exempt judicial nominees from the Senate,s filibuster rules. &Rule XXII obviously does apply to nominees, no matter how he wants to parse it.8
If Republicans were able to force a change by jamming through a procedural ruling, &It would be a nuclear winter in the Senate,8 said the aide. &This place would fall apart. It would be dire consequences if that happened, in my opinion.8
The aide said that Hatch doesn,t have the case he thinks he has to win a ruling of the chair, based on the Senate,s precedents, because Republicans have in effect already acknowledged the Democratic filibuster of Miguel Estrada.
&He,s got a precedent of five cloture votes on Estrada, so he doesn,t have a very good precedent,8 said the aide.
The aide also pointed to other times when there have been filibusters and cloture votes on judicial nominees. He called &ludicrous8 GOP claims that the ongoing Democratic filibusters of Estrada and Owen were unprecedented. Cloture was filed to end a filibuster against Abe Fortas,s elevation to chief justice of the Supreme Court. Cloture was also filed and invoked on Stephen Breyer when he was a federal appeals court nominee in 1980.
Those arguments aside, the aide conceded that it might be possible for Republicans to force a rules change by moving that Rule XXII does not apply to judicial nominees and then getting a favorable ruling from the chair.

Then the key question would be, &How would the chair rule, and how would the parliamentarian rule, and would the chair listen to his ruling?8 said the aide. The chair would not necessarily have to hew to that advice) although the aide said it would be extraordinary to ignore the parliamentarian,s ruling.

Message Sent
To:_____
Alberto R. Gonzales/WHO/EOP@Exchange@EOP
David G. Leitch/WHO/EOP@Exchange@EOP
Jennifer R. Brosnahan/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
H. Christopher Bartolomucci/WHO/EOP@EOP
Kyle Sampson/WHO/EOP@EOP
Noel J. Francisco/WHO/EOP@EOP
Benjamin A. Powell/WHO/EOP@EOP
Theodore W. Ullyot/WHO/EOP@EOP
David S. Addington/OVP/EOP@EOP

From: CN=Kyle Sampson/OU=WHO/O=EOP [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Elizabeth S. Dougherty/OPD /EOP@EOP [OPD] <Elizabeth S. Dougherty>
CC: hwalker@wrf.com @ inet [WHO] <hwalker@wrf.com @ inet>;brett m. kavanaugh/who /eop@eop [WHO] <brett m. kavanaugh>;jennifer g. newstead/who/eop@eop [WHO] <jennifer g. newstead>;theodore w. ullyot/who/eop@eop [WHO] <theodore w. ullyot>
Sent: 5/7/2003 8:24:20 AM
Subject: : Re: Lunch with Helgi

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 7-MAY-2003 12:24:20.00
SUBJECT:: Re: Lunch with Helgi
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
CC:hwalker@wrf.com @ inet (hwalker@wrf.com @ inet [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:jennifer g. newstead (CN=jennifer g. newstead/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:theodore w. ullyot (CN=theodore w. ullyot/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

I'll be coming by cab and likely will be a little late.

.

----- Original Message -----
From:Elizabeth S. Dougherty/OPD/EOP
To:Kyle Sampson/WHO/EOP@EOP
Cc:theodore w. ullyot/who/eop@eop,
brett m. kavanaugh/who/eop@eop,
jennifer g. newstead/who/eop@eop,
hwalker@wrf.com @ inet
Date: 05/07/2003 12:11:41 PM
Subject: Re: Lunch with Helgi

Great! When is the counsel's office envoy shipping out?

Kyle Sampson
05/07/2003 10:41:54 AM
Record Type: Record

To: Theodore W. Ullyot/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP,
Jennifer G. Newstead/WHO/EOP@EOP, Elizabeth S. Dougherty/OPD/EOP@EOP
cc: HWalker@wrf.com @ inet
Subject: Lunch with Helgi

Today
12:30 pm
Lawson's Gourmet
I Street between 17th and 18th

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: mestrada@gibsondunn.com @ inet [UNKNOWN] <mestrada@gibsondunn.com @ inet>
Sent: 5/7/2003 4:52:59 AM
Subject: : story on nuclear plan

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 7-MAY-2003 08:52:59.00
SUBJECT:: story on nuclear plan
TO:mestrada@gibsondunn.com @ inet (mestrada@gibsondunn.com @ inet [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

Hatch group may go +nuclear, on judges
Plan would limit use of Rule XXII in Dem filibusters
By Alexander Bolton and Geoff Earle
Several senior Republican senators are seeking wider party backing for a bold plan that would break the Democrats, filibuster of President Bush,s judicial nominees.
Their approach calls for employing a rarely used parliamentary tactic to overturn current Senate procedures.
Under the strategy envisioned by Senate Judiciary Chairman Orrin Hatch (R-Utah), among others, the Republicans would strip any Senate minority * currently the Democrats * of their ability to filibuster presidential nominees.

Approval by Senate Majority Leader Bill Frist (Tenn.), which is being sought, would all but assure that the plan would go forward.
Under the most likely scenario now under discussion, they would secure a ruling from the chair that Senate Rule XXII does not apply to executive submissions to the Senate * and that includes judicial nominees. Rule XXII provides for unlimited debate on all legislative issues that reach the floor unless three-fifths of the Senate calls a halt.
With such an approach, a favorable ruling from the chair on limiting the scope of Rule XXII could stand after only a simple majority approved it.
Anticipating these moves, Democrats have already asked the Senate parliamentarian to weigh in on the issue in their defense.
From the standpoint of the proponents, the appeal of this &silver-bullet8 strategy is that it would quash the Democratic blockade without requiring 60 votes, the number needed by current rules to halt such delaying tactics, or 67 votes, the number needed to change a filibustered Senate rule.
One drawback of this proposed tactic is that it might destroy whatever is left of the working relationship between Democrats and Republicans. That is why some legislative experts liken the parliamentary tool to a

legislative nuclear bomb.
Under the most likely scenario, the presiding officer of the Senate * perhaps Vice President Dick Cheney * would rule that a filibuster of presidential nominees is unprotected by Rule XXII.
Democrats would need 51 votes to overturn that ruling. In practical terms, that means they would need the help of two GOP defectors * three if Sen. Zell Miller (D-Ga.) votes with Republicans, as he often has.
Another alternative would be to change the rule through the Senate Rules Committee. But that process would entail extensive hearings and negotiations, and would be unlikely to attract Democratic support.
Democrats would view any change of Senate rules that circumscribed the rights of the minority party and was not approved by two-thirds of the chamber as an abuse of majority power.
However, with few exceptions, Senate Republicans view the filibuster of circuit court nominees, a tactic that until recently was rarely used, as an abuse of minority power.
Democrats are filibustering Bush,s nominations of Miguel Estrada and Priscilla Owen to the U.S. Court of Appeals for the D.C. Circuit and the 5th Circuit Court of Appeals, respectively. This has prompted an outcry from conservatives in Congress and around the country.
And Republicans on the Judiciary Committee expect Democrats soon to filibuster two more Bush nominees: Bill Pryor, nominated to the 11th Circuit Court, and Carolyn Kuhl, nominated to the 9th Circuit Court, said Margarita Tapia, spokeswoman for the panel.
However, what may be really at stake is the future makeup of the Supreme Court. The justices on the high tribunal have now served together for nearly a decade. Three of the nine justices are over 70 years old.
Although Senate Republican leaders have kept their parliamentary strategy close to the vest, Hatch offered an insight into it in during an interview Friday with The Hill.
Hatch said the Democratic filibuster is &violative of the Constitution8 and &totally politicizing of the judicial selection process,8 adding: &I know how to break it, and I will when the time comes.8
When asked how he would break the Democratic blockade, Hatch said: &You,ve got to deny Rule XXII on the executive calendar. I think you,ll see this in the not-too-distant future because the process is broken and it can,t continue like this.8
All regular Senate business*that is to say all public and private bills*is placed on the legislative calendar. Business sent to the Senate from the White House, such as treaties, executive branch nominees and judicial branch nominees, are placed on the executive calendar.
Hatch believes the Senate has a right to set its own rules * in this case the right to filibuster * for the legislative calendar but not for the executive calendar because that would entail imposing Senate rules on the executive branch and would violate the Constitution,s separation of powers.
&The executive branch and the judicial branch are co-equal [with the legislative branch],8 Hatch said.
However, when pressed later about how specifically he would curtail Rule XXII, Hatch said: &Rule XXII should not apply to the executive calendar. I, m not going to go into the plan. There are a variety of methodologies we, re looking at.8
The current Senate stalemate over nominees is the culmination of the increasingly intense battle over the ideological makeup of the federal judiciary, and a sign, many GOP lawmakers say, that the judicial nominating process is &broken.8
&I think it,s a big problem,8 said Sen. Trent Lott (R-Miss.), the chairman of the Senate Rules Committee. &I think it,s unconstitutional, but I would defer to Senator Hatch about what is the best way to deal with the problem. I don,t think we can let this stand. We cannot let the Democrats set this [precedent] in perpetuity for them and for us, requiring 60 votes to confirm a judge.8
Lott said the Senate Republican leadership &has to make the final call, but there are a number of us who think we,ve got to take some further action*I think Ted Stevens [of Alaska], Orrin Hatch and a number of others.8
Lott said that there are ways to change how the Senate does business without enlisting the support of 67 senators, the number needed for a

filibustered rule change, but he would not reveal any specific details: &I don,t want to get into it right now. I don,t want to reveal our hand because if we say what exactly we are entertaining, the Democrats will try to find a way to block it.8

One GOP leadership aide said Frist is open to the suggestions of Hatch and others but will not make any hasty decisions.

&We,re not going to rule out any rules changes,8 said the aide. &Mr. Frist may do something later but he,s not going to tear up the rules book. He is going to proceed in a very slow and deliberative way.8

&We,ve learned in the past just because a member or aide says he knows the way to do something that may not be what the parliamentarian says,8 the aide added.

However, when asked if he has solicited the parliamentarian about curbing Rule XXII, Hatch said: &I know what the parliamentarian is going to say.8

A Senate Democratic leadership aide warned against an attempt by Hatch to exempt judicial nominees from the Senate,s filibuster rules. &Rule XXII obviously does apply to nominees, no matter how he wants to parse it.8

If Republicans were able to force a change by jamming through a procedural ruling, &It would be a nuclear winter in the Senate,8 said the aide. &This place would fall apart. It would be dire consequences if that happened, in my opinion.8

The aide said that Hatch doesn,t have the case he thinks he has to win a ruling of the chair, based on the Senate,s precedents, because Republicans have in effect already acknowledged the Democratic filibuster of Miguel Estrada.

&He,s got a precedent of five cloture votes on Estrada, so he doesn,t have a very good precedent,8 said the aide.

The aide also pointed to other times when there have been filibusters and cloture votes on judicial nominees. He called &ludicrous8 GOP claims that the ongoing Democratic filibusters of Estrada and Owen were unprecedented. Cloture was filed to end a filibuster against Abe Fortas,s elevation to chief justice of the Supreme Court. Cloture was also filed and invoked on Stephen Breyer when he was a federal appeals court nominee in 1980.

Those arguments aside, the aide conceded that it might be possible for Republicans to force a rules change by moving that Rule XXII does not apply to judicial nominees and then getting a favorable ruling from the chair.

Then the key question would be, &How would the chair rule, and how would the parliamentarian rule, and would the chair listen to his ruling?8 said the aide. The chair would not necessarily have to hew to that advice) although the aide said it would be extraordinary to ignore the parliamentarian,s ruling.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>
Sent: 5/7/2003 5:18:22 AM
Subject: : Re: story on Senate's nuclear plan on filibusters

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 7-MAY-2003 09:18:22.00
SUBJECT:: Re: story on Senate's nuclear plan on filibusters
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

yes

H. Christopher Bartolomucci
05/07/2003 09:12:15 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: story on Senate's nuclear plan on filibusters

Did you send this Miguel?

Brett M. Kavanaugh
05/07/2003 08:51:38 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: story on Senate's nuclear plan on filibusters

Hatch group may go +nuclear, on judges
Plan would limit use of Rule XXII in Dem filibusters
By Alexander Bolton and Geoff Earle
Several senior Republican senators are seeking wider party backing for a bold plan that would break the Democrats, filibuster of President Bush,s judicial nominees.
Their approach calls for employing a rarely used parliamentary tactic to overturn current Senate procedures.
Under the strategy envisioned by Senate Judiciary Chairman Orrin Hatch (R-Utah), among others, the Republicans would strip any Senate minority *

currently the Democrats * of their ability to filibuster presidential nominees.

Approval by Senate Majority Leader Bill Frist (Tenn.), which is being sought, would all but assure that the plan would go forward.
Under the most likely scenario now under discussion, they would secure a ruling from the chair that Senate Rule XXII does not apply to executive submissions to the Senate * and that includes judicial nominees. Rule XXII provides for unlimited debate on all legislative issues that reach the floor unless three-fifths of the Senate calls a halt.
With such an approach, a favorable ruling from the chair on limiting the scope of Rule XXII could stand after only a simple majority approved it.
Anticipating these moves, Democrats have already asked the Senate parliamentarian to weigh in on the issue in their defense.
From the standpoint of the proponents, the appeal of this &silver-bullet8 strategy is that it would quash the Democratic blockade without requiring 60 votes, the number needed by current rules to halt such delaying tactics, or 67 votes, the number needed to change a filibustered Senate rule.
One drawback of this proposed tactic is that it might destroy whatever is left of the working relationship between Democrats and Republicans. That is why some legislative experts liken the parliamentary tool to a legislative nuclear bomb.
Under the most likely scenario, the presiding officer of the Senate * perhaps Vice President Dick Cheney * would rule that a filibuster of presidential nominees is unprotected by Rule XXII.
Democrats would need 51 votes to overturn that ruling. In practical terms, that means they would need the help of two GOP defectors * three if Sen. Zell Miller (D-Ga.) votes with Republicans, as he often has.
Another alternative would be to change the rule through the Senate Rules Committee. But that process would entail extensive hearings and negotiations, and would be unlikely to attract Democratic support.
Democrats would view any change of Senate rules that circumscribed the rights of the minority party and was not approved by two-thirds of the chamber as an abuse of majority power.
However, with few exceptions, Senate Republicans view the filibuster of circuit court nominees, a tactic that until recently was rarely used, as an abuse of minority power.
Democrats are filibustering Bush,s nominations of Miguel Estrada and Priscilla Owen to the U.S. Court of Appeals for the D.C. Circuit and the 5th Circuit Court of Appeals, respectively. This has prompted an outcry from conservatives in Congress and around the country.
And Republicans on the Judiciary Committee expect Democrats soon to filibuster two more Bush nominees: Bill Pryor, nominated to the 11th Circuit Court, and Carolyn Kuhl, nominated to the 9th Circuit Court, said Margarita Tapia, spokeswoman for the panel.
However, what may be really at stake is the future makeup of the Supreme Court. The justices on the high tribunal have now served together for nearly a decade. Three of the nine justices are over 70 years old.
Although Senate Republican leaders have kept their parliamentary strategy close to the vest, Hatch offered an insight into it in during an interview Friday with The Hill.
Hatch said the Democratic filibuster is &violative of the Constitution8 and &totally politicizing of the judicial selection process,8 adding: &I know how to break it, and I will when the time comes.8
When asked how he would break the Democratic blockade, Hatch said: &You,ve got to deny Rule XXII on the executive calendar. I think you,ll see this in the not-too-distant future because the process is broken and it can,t continue like this.8

All regular Senate business*that is to say all public and private bills*is placed on the legislative calendar. Business sent to the Senate from the White House, such as treaties, executive branch nominees and judicial branch nominees, are placed on the executive calendar.
Hatch believes the Senate has a right to set its own rules * in this case the right to filibuster * for the legislative calendar but not for the executive calendar because that would entail imposing Senate rules on the executive branch and would violate the Constitution,s separation of powers.
&The executive branch and the judicial branch are co-equal [with the legislative branch],8 Hatch said.
However, when pressed later about how specifically he would curtail Rule XXII, Hatch said: &Rule XXII should not apply to the executive calendar. I, m not going to go into the plan. There are a variety of methodologies we, re looking at.8
The current Senate stalemate over nominees is the culmination of the increasingly intense battle over the ideological makeup of the federal judiciary, and a sign, many GOP lawmakers say, that the judicial nominating process is &broken.8
&I think it,s a big problem,8 said Sen. Trent Lott (R-Miss.), the chairman of the Senate Rules Committee. &I think it,s unconstitutional, but I would defer to Senator Hatch about what is the best way to deal with the problem. I don,t think we can let this stand. We cannot let the Democrats set this [precedent] in perpetuity for them and for us, requiring 60 votes to confirm a judge.8
Lott said the Senate Republican leadership &has to make the final call, but there are a number of us who think we,ve got to take some further action*I think Ted Stevens [of Alaska], Orrin Hatch and a number of others.8
Lott said that there are ways to change how the Senate does business without enlisting the support of 67 senators, the number needed for a filibustered rule change, but he would not reveal any specific details: &I don,t want to get into it right now. I don,t want to reveal our hand because if we say what exactly we are entertaining, the Democrats will try to find a way to block it.8
One GOP leadership aide said Frist is open to the suggestions of Hatch and others but will not make any hasty decisions.
&We,re not going to rule out any rules changes,8 said the aide. &Mr. Frist may do something later but he,s not going to tear up the rules book. He is going to proceed in a very slow and deliberative way.8
&We,ve learned in the past just because a member or aide says he knows the way to do something that may not be what the parliamentarian says,8 the aide added.
However, when asked if he has solicited the parliamentarian about curbing Rule XXII, Hatch said: &I know what the parliamentarian is going to say.8
A Senate Democratic leadership aide warned against an attempt by Hatch to exempt judicial nominees from the Senate,s filibuster rules. &Rule XXII obviously does apply to nominees, no matter how he wants to parse it.8
If Republicans were able to force a change by jamming through a procedural ruling, &It would be a nuclear winter in the Senate,8 said the aide. &This place would fall apart. It would be dire consequences if that happened, in my opinion.8
The aide said that Hatch doesn,t have the case he thinks he has to win a ruling of the chair, based on the Senate,s precedents, because Republicans have in effect already acknowledged the Democratic filibuster of Miguel Estrada.
&He,s got a precedent of five cloture votes on Estrada, so he doesn,t have a very good precedent,8 said the aide.
The aide also pointed to other times when there have been filibusters and cloture votes on judicial nominees. He called &ludicrous8 GOP claims that the ongoing Democratic filibusters of Estrada and Owen were unprecedented. Cloture was filed to end a filibuster against Abe Fortas,s elevation to chief justice of the Supreme Court. Cloture was also filed and invoked on Stephen Breyer when he was a federal appeals court nominee in 1980.
Those arguments aside, the aide conceded that it might be possible for Republicans to force a rules change by moving that Rule XXII does not apply to judicial nominees and then getting a favorable ruling from the chair.

Then the key question would be, &How would the chair rule, and how would the parliamentarian rule, and would the chair listen to his ruling?8 said the aide. The chair would not necessarily have to hew to that advice) although the aide said it would be extraordinary to ignore the parliamentarian,s ruling.

Message Sent
To:_____
Alberto R. Gonzales/WHO/EOP@Exchange@EOP
David G. Leitch/WHO/EOP@Exchange@EOP
Jennifer R. Brosnahan/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
H. Christopher Bartolomucci/WHO/EOP@EOP
Kyle Sampson/WHO/EOP@EOP
Noel J. Francisco/WHO/EOP@EOP
Benjamin A. Powell/WHO/EOP@EOP
Theodore W. Ullyot/WHO/EOP@EOP
David S. Addington/OVP/EOP@EOP

From: Kirk Blalock <kblalock@fierce-isakowitz.com>
To: <Schacht, Diana L.>;<Warsh, Kevin>;<Kavanaugh, Brett M.>;<Silverberg, Kristen>
Sent: 5/7/2003 9:38:52 AM
Subject: CQ Today - Hatch to Introduce Asbestos Settlement Measure Soon

CQ TODAY - LEGAL AFFAIRS
May 6, 2003 - 5:14 p.m.

Hatch to Introduce Asbestos Settlement Measure Soon
By Keith Perine, CQ Staff
Senate Judiciary Committee Chairman Orrin G. Hatch, R-Utah, intends to circulate by Friday draft legislation that would shield businesses and their insurers from lawsuits related to asbestos exposure with the aim of introducing the measure by early next week.

Hatch said Tuesday he is intent on moving the bill even though meetings between business lobbyists and labor officials held at his behest have not yielded agreement on such matters as the size of a compensation fund and medical criteria claimants must meet to be paid.

"This is a problem you can't ignore," Hatch said.

Businesses and their insurers want Congress to define how much they have to pay in claims related to asbestos exposure. The substance, which has been linked to lung cancer and other diseases, was long used in insulation. The total cost of past and future claims has been estimated at as much as $265 billion.

Hatch's bill would establish a fund made up of contributions from businesses and insurers. Business lobbyists have proposed a $90 billion fund. Hatch said labor officials have asked for a $120 billion fund. He will include language setting the overall amount of the fund at $108 billion, and indications are he is unlikely to budge from that number.

While Hatch has not revealed the details of his draft bill, business lobbyists would like to see a measure in which claims on the fund are handled by examiners working under a fund administrator. The examiners would have access to an expert medical panel to help them evaluate claims.

Under the proposal being discussed by businesses, individuals who claim bodily harm from asbestos exposure would no longer be able to file lawsuits in regular courts. Instead, they would have to apply to the trust fund for compensation. Eligible claimants would be slotted into one of several medical categories for claims payments. The decision of an examiner could be appealed to a special asbestos claims court. Beyond that, decisions could be appealed further to a federal appellate court, which would have to consider whether they were "arbitrary and capricious," a relatively high legal standard

Contributions to the trust fund would be split between businesses and insurance companies. Business lobbyists have tentatively agreed to a formula for allocating their share. But insurance firms still have questions about their share, such as how to divide payments among primary
insurance companies and reinsurance firms.

Hatch said he intends to require contributions from foreign reinsurers as
well as domestic ones. He acknowledged there could be a "constitutional problem" with doing so, but seemed confident that he could produce language
to address the issue.

Business lobbyists said the bill might include language to limit constitutional challenges to the bill to a defined period of time - such as
90 days - after its enactment.

All sides have discussed whether the bill should require the federal government to backstop the trust fund, in case it runs out of money before
all asbestos claimants have received compensation. Lobbyists said labor officials are insisting on such a guarantee. But Hatch said he had "no desire" to put taxpayers on the hook for paying asbestos claims.

Lobbyists are discussing whether it is possible to ask for a provision that
would require future Congresses that make changes to the fund to assume any
financial consequences of doing so.

Businesses and labor officials also still differ on how much money should
be paid to claimants according to what medical category they fall under. The Asbestos Alliance, a broad coalition of businesses and insurers, privately remains ready to drop its support for a fund and instead press for legislation establishing a set of medical criteria under which plaintiffs could sue in regular courts for asbestos-related problems. Several such bills are pending in both chambers.

Hatch said he wants to make payments into the fund tax-deductible and claims paid by the fund tax-free.

Hatch has spent weeks waiting for the sides to come to a final agreement,
and signaled Tuesday that he does not want to wait any longer.

But he acknowledged that moving a bill will be more difficult if business
and labor are not united behind him.

"If it goes down, I will have done everything I know how to do," Hatch said.

From: CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/7/2003 6:50:36 AM
Subject: : FW: MESSAGE MEETING REMINDER

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 7-MAY-2003 10:50:36.00
SUBJECT:: FW: MESSAGE MEETING REMINDER
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

;
-----Original Message-----
From: Ritacco, Krista L.
Sent: Wednesday, May 07, 2003 10:50 AM
To: Yunker, Jacob H.; Allgood, Lauren K.; Ball, Andrea G.; Barrales, Ruben S.; Bennett, Melissa S.; Besanceney, Brian R.; Buchan, Claire ; Burkhart, Shannon; Burks, Jonathan W.; Campbell, Anne E.; Christie, Ronald I.; Ciafardini, Andrew D.; Conde, Roberta L.; Cooper, Rory S.; DeFrancis, Suzy; Devenish, Nicolle; Douglas, Penny G.; Duffy, Trent D.; Ellison, Kimberly; Eskew, Tucker A.; Figg, Kara G.; Gerdelman, Sue H.; Gillmor, Eleanor L.; Grant, Britt; Gray, Adrian G.; Gray, Ann ; Healy, Erin E.; Hennessey, Keith; Hernandez, Israel; Hughes, Taylor A.; Ingle, Edward; Jackson, Barry S.; Kaplan, Joel; Kozberg, Lindsey C.; Kupfer, Jeffrey F.; Kyle, Ross M.; Lawrimore, Emily A.; Lefkowitz, Jay P.; Lineberry, Stephen M.; Litkenhaus, Colleen; Mallea, Jose; Martin, Catherine J.; McClellan, Scott ; McCord, Lauren; McDonald, Rebekah; McQuade, Vickie A.; Mehlman, Ken; Middlemas, A. Morgan; Millerwise, Jennifer; Millison, Cathy L.; Montiel, Charlotte L.; Nelson, Carolyn; Nipper, Wendy L.; Parell, Christie; Pelletier, Eric C.; Perez, Anna M.; Ralston, Susan B.; Reese, Shelley; Riepenhoff, Allison L.; Rodriguez, Noelia ; Rogers, Edwina C.; Rust, Kathryn E.; Ryun, Catharine A.; Schulte, Gregory L.; Sforza, Scott N.; Smith, Heidi M.; Snee, Ashley; Torgerson, Karin B.; Towey, Jim; Vestewig, Lauren J.; Walters, Katherine M.; Wehner, Peter H.; Westine, Lezlee J.; Williams, Mary C.; Wozniak, Natalie S.
Subject: MESSAGE MEETING REMINDER

There will be a message meeting today at noon in;the Roosevelt Room.
;

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/7/2003 6:59:00 AM
Subject: : FW: CQ - H.J.Res 4 - Constitutional Amendment to Protect the United States Flag

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 7-MAY-2003 10:59:00.00
SUBJECT:: FW: CQ - H.J.Res 4 - Constitutional Amendment to Protect the United States Flag
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

-----Original Message-----
From: Kho, Irene
Sent: Wednesday, May 07, 2003 10:34 AM
To: Bumatay, Patrick J.
Cc: Green, Richard E.
Subject: CQ - H.J.Res 4 - Constitutional Amendment to Protect the United States Flag

Hi Patrick,
Below is a story on H.J.Res 4, which is scheduled for House Judiciary Committee's Constitution Subcommittee markup today. Please advise if WHGC has any comments on or concerns with H.J.Res 4. Thanks.

CQ TODAY) LEGAL AFFAIRS
May 6, 2003) 4:23 p.m.
Amendment Aims to Protect Old Glory From Desecration
By Keith Perine, CQ Staff
The House Judiciary Constitution Subcommittee will mark up a measure Wednesday that would propose a constitutional amendment to ban flag desecration.
The congressional battle over flag desecration began after a 1989 Supreme Court ruling that state laws against flag burning violated the First Amendment. A year later, the high court ruled that a federal flag-burning law (PL 101-131) was unconstitutional as well.
The resolution (H J Res 4) would amend the Constitution to give Congress the authority to pass laws barring desecration of the flag. If Congress passes the resolution, it would go to the states. Support of 38 states is needed for ratification. The proposal has a seven-year deadline for ratification.
The House has passed flag measures four times since 1995. But similar proposals died in the Senate in 1990, 1995 and 2000, never drawing more than 63 votes, short of the two-thirds needed.
An increase in public patriotism following the Sept. 11, 2001, terrorist attacks and the war in Iraq could boost the amendment's margin of passage in the House this year. But opponents say it is still not likely to produce enough votes to push the proposal through the narrowly divided Senate.
The markup will follow a hearing on the resolution that is scheduled for 3 p.m. Wednesday in 2237 Rayburn.
Source: CQ Today
Round-the-clock coverage of news from Capitol Hill.
© 2003 Congressional Quarterly Inc. All Rights Reserved

Message Sent

To:_____
Garry Malphrus/OPD/EOP@EOP
Diana L. Schacht/OPD/EOP@EOP
Michael F. Crowley/OMB/EOP@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
David S. Addington/OVP/EOP@EOP

From: Bumatay, Patrick J.
To: <Kavanaugh, Brett M.>
Sent: 5/7/2003 10:59:37 AM
Subject: FW: CQ - H.J.Res 4 - Constitutional Amendment to Protect the United States Flag

-----Original Message-----

From: Kho, Irene

Sent: Wednesday, May 07, 2003 10:34 AM

To: Bumatay, Patrick J.

Cc: Green, Richard E.

Subject: CQ - H.J.Res 4 - Constitutional Amendment to Protect the United States Flag

Hi Patrick,
Below is a story on H.J.Res 4, which is scheduled for House Judiciary Committee's Constitution Subcommittee markup today. Please advise if WHGC has any comments on or concerns with H.J.Res 4. Thanks.

CQ TODAY – LEGAL AFFAIRS
May 6, 2003 – 4:23 p.m.
Amendment Aims to Protect Old Glory From Desecration
By Keith Perine, CQ Staff
The House Judiciary Constitution Subcommittee will mark up a measure Wednesday that would propose a constitutional amendment to ban flag desecration.

The congressional battle over flag desecration began after a 1989 Supreme Court ruling that state laws against flag burning violated the First Amendment. A year later, the high court ruled that a federal flag-burning law (PL 101-131) was unconstitutional as well.

The resolution (H J Res 4) would amend the Constitution to give Congress the authority to pass laws barring desecration of the flag. If Congress passes the resolution, it would go to the states. Support of 38 states is needed for ratification. The proposal has a seven-year deadline for ratification.

The House has passed flag measures four times since 1995. But similar proposals died in the Senate in 1990, 1995 and 2000, never drawing more than 63 votes, short of the two-thirds needed.

An increase in public patriotism following the Sept. 11, 2001, terrorist attacks and the war in Iraq could boost the amendment's margin of passage in the House this year. But opponents say it is still not likely to produce enough votes to push the proposal through the narrowly divided Senate.

The markup will follow a hearing on the resolution that is scheduled for 3 p.m. Wednesday in 2237 Rayburn.
Source: **CQ Today**
Round-the-clock coverage of news from Capitol Hill.
© 2003 Congressional Quarterly Inc. All Rights Reserved

Message Sent To:

Garry Malphrus/OPD/EOP@EOP
Diana L. Schacht/OPD/EOP@EOP
Michael F. Crowley/OMB/EOP@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
David S. Addington/OVP/EOP@EOP

From: Walker, Helgi <HWalker@wrf.com>
To: Elizabeth S. Dougherty/OPD/EOP@EOP [OPD] <Elizabeth S. Dougherty>;Kyle Sampson/WHO /EOP@EOP [WHO] <Kyle Sampson>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Theodore W. Ullyot/WHO /EOP@EOP [WHO] <Theodore W. Ullyot>
Sent: 5/7/2003 8:26:02 AM
Subject: : RE: Lunch with Helgi

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Walker, Helgi" <HWalker@wrf.com> ("Walker, Helgi" <HWalker@wrf.com> [UNKNOWN])
CREATION DATE/TIME: 7-MAY-2003 12:26:02.00
SUBJECT:: RE: Lunch with Helgi
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Theodore W. Ullyot (CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

If you guys think you won't be there (at least some of you) by 12:30pm,
just let me know so I can delay my departure.

-----Original Message-----
From: Kyle_Sampson@who.eop.gov [mailto:Kyle_Sampson@who.eop.gov]
Sent: Wednesday, May 07, 2003 12:24 PM
To: Elizabeth_S._Dougherty@opd.eop.gov
Cc: Theodore_W._Ullyot@who.eop.gov; Brett_M._Kavanaugh@who.eop.gov;
Jennifer_G._Newstead@who.eop.gov; Walker, Helgi
Subject: Re: Lunch with Helgi

I'll be coming by cab and likely will be a little late.

..

----- Original Message -----
From:Elizabeth S. Dougherty/OPD/EOP
To:Kyle Sampson/WHO/EOP@EOP
Cc:theodore w. ullyot/who/eop@eop,
brett m. kavanaugh/who/eop@eop,
jennifer g. newstead/who/eop@eop,
hwalker@wrf.com @ inet
Date: 05/07/2003 12:11:41 PM
Subject: Re: Lunch with Helgi

Great! When is the counsel's office envoy shipping out?

Kyle Sampson
05/07/2003 10:41:54 AM
Record Type: Record

To: Theodore W. Ullyot/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP, Jennifer G.
Newstead/WHO/EOP@EOP, Elizabeth S. Dougherty/OPD/EOP@EOP
cc: HWalker@wrf.com @ inet
Subject: Lunch with Helgi

Today
12:30 pm
Lawson's Gourmet
I Street between 17th and 18th

From: CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>
CC: hwalker@wrf.com @ inet [WHO] <hwalker@wrf.com @ inet>;brett m. kavanaugh/who /eop@eop [WHO] <brett m. kavanaugh>;jennifer g. newstead/who/eop@eop [WHO] <jennifer g. newstead>;theodore w. ullyot/who/eop@eop [WHO] <theodore w. ullyot>
Sent: 5/7/2003 8:32:39 AM
Subject: : Re: Lunch with Helgi

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Elizabeth S. Dougherty ( CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [ OPD ] )
CREATION DATE/TIME: 7-MAY-2003 12:32:39.00
SUBJECT:: Re: Lunch with Helgi
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:hwalker@wrf.com @ inet ( hwalker@wrf.com @ inet [ WHO ] )
READ:UNKNOWN
CC:brett m. kavanaugh ( CN=brett m. kavanaugh/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:jennifer g. newstead ( CN=jennifer g. newstead/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:theodore w. ullyot ( CN=theodore w. ullyot/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Great! When is the counsel's office envoy shipping out?




Kyle Sampson
05/07/2003 10:41:54 AM
Record Type: Record

To: Theodore W. Ullyot/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP,
Jennifer G. Newstead/WHO/EOP@EOP, Elizabeth S. Dougherty/OPD/EOP@EOP
cc: HWalker@wrf.com @ inet
Subject: Lunch with Helgi

Today
12:30 pm
Lawson's Gourmet
I Street between 17th and 18th
```

From: Everson, Nanette <neverson@WHO.eop.gov>

To: Troy, Tevi <Tevi_Troy@who.eop.gov>;Warsh, Kevin <kwarsh@OPD.eop.gov>;Peterman, Brian <bpeterma@WHO.eop.gov>;Dunn, David <ddunn@OPD.eop.gov>;Allen, Michael <mallen@WHO.eop.gov>;Bernard, Kenneth <KBernard@WHO.eop.gov>;Bolten, Joshua B. <Joshua_B._Bolten@who.eop.gov>;Bridgeland, John M. <jbridgel@OPD.eop.gov>;Card, Andrew H. <Andrew_H._Card@who.eop.gov>;Fleischer, Lawrence A. <Lawrence_A._Fleischer@who.eop.gov>;Gerson, Michael J. <Michael_J._Gerson@who.eop.gov>;Gonzales, Alberto R. <Alberto_R._Gonzales@who.eop.gov>;Hadley, Stephen J. <shadley@NSC.eop.gov>;Hobbs, David W. <David_W._Hobbs@who.eop.gov>;Libby, Lewis <llibby@OVP.eop.gov>;Miers, Harriet <Harriet_Miers@who.eop.gov>;Powell, Dina <Dina_Powell@who.eop.gov>;Rice, Condoleezza <crice@NSC.eop.gov>;Rove, Karl C. <Karl_C._Rove@who.eop.gov>;Spellings, Margaret M. <Margaret_M._Spellings@opd.eop.gov>;Abbot, Charles S. <Charles_S._Abbot@who.eop.gov>;Barrales, Ruben S. <rbarrale@WHO.eop.gov>;DeFrancis, Suzy <Suzy_DeFrancis@who.eop.gov>;Eskew, Tucker A. <teskew@WHO.eop.gov>;Gambatesa, Linda M. <Linda_M._Gambatesa@who.eop.gov>;Hennessey, Keith <Keith_Hennessey@opd.eop.gov>;Ingle, Edward <eingle@WHO.eop.gov>;Jackson, Barry S. <bjackson@WHO.eop.gov>;Jenkins, Gregory J. <gjenkins@WHO.eop.gov>;Keniry, Daniel <Daniel_J._Keniry@who.eop.gov>;Lefkowitz, Jay P. <Jay_P._Lefkowitz@opd.eop.gov>;Leitch, David G. <David_G._Leitch@who.eop.gov>;McClellan, Scott <Scott_McClellan@who.eop.gov>;McConnell, John P. <jmcconne@WHO.eop.gov>;Mehlman, Ken <kmehlman@WHO.eop.gov>;Montgomery, Brian D. <Brian_D._Montgomery@who.eop.gov>;Ojakli, Ziad <Ziad_S._Ojakli@who.eop.gov>;Towey, Jim <jtowey@WHO.eop.gov>;Wehner, Peter H. <pwehner@WHO.eop.gov>;Bartolomucci, H. Christopher <hbartolo@WHO.eop.gov>;Besanceney, Brian R. <bbesance@WHO.eop.gov>;Beyer, Todd W. <tbeyer@WHO.eop.gov>;Beynon, Rebecca A. <rbeynon@WHO.eop.gov>;Buchan, Claire <Claire_Buchan@who.eop.gov>;Burgeson, Christine M. <Christine_M._Burgeson@who.eop.gov>;Chadwick, Kirsten <Kirsten_A._Chadwick@who.eop.gov>;Christie, Ronald I. <rchristi@OPD.eop.gov>;Cilluffo, Frank <fcilluff@WHO.eop.gov>;Conner, Charles <cconner@OPD.eop.gov>;Contreras, Rebecca <rcontrer@WHO.eop.gov>;Dougherty, Elizabeth S. <edougher@OPD.eop.gov>;Falkenrath, Richard <Richard_Falkenrath@who.eop.gov>;Fenton, Catherine S. <Catherine_S._Fenton@who.eop.gov>;Francisco, Noel J. <nfrancis@WHO.eop.gov>;Gilbert, Alan <agilbert@OPD.eop.gov>;Goeglein, Tim <tgoeglei@WHO.eop.gov>;Goldman, Adam B. <agoldman@WHO.eop.gov>;Grubbs, Wendy J. <Wendy_J._Grubbs@who.eop.gov>;Kaplan, Joel <Joel_Kaplan@who.eop.gov>;Kavanaugh, Brett M. <bkavanau@WHO.eop.gov>;Kelly, James M. <jmkelly@WHO.eop.gov>;Kirk, Matthew <Matthew_Kirk@who.eop.gov>;Kuo, David <dkuo@WHO.eop.gov>;Loper, Ginger G. <Ginger_G._Loper@who.eop.gov>;Marsh, Robert <Robert_Marsh@who.eop.gov>;McNally, Edward <emcnally@WHO.eop.gov>;Moy, Edmund C. <emoy@WHO.eop.gov>;Neusner, Noam M. <nneusner@WHO.eop.gov>;Newstead, Jennifer G. <jnewstea@WHO.eop.gov>;O'Hollaren, Sean B. <Sean_B._OHollaren@who.eop.gov>;Pelletier, Eric C. <Eric_C._Pelletier@who.eop.gov>;Powell, Benjamin A. <bapowell@WHO.eop.gov>;Reardon, Brian <BReardon@OPD.eop.gov>;Wright, Liza <LIWright@WHO.eop.gov>;Sampson, Kyle <ksampson@WHO.eop.gov>;Sayle, Desiree T. <dsayle@WHO.eop.gov>;Schacht, Diana L. <dschacht@OPD.eop.gov>;Scully, Matthew <MScully@WHO.eop.gov>;Sforza, Scott N. <ssforza@WHO.eop.gov>;Silverberg, Kristen <Kristen_Silverberg@who.eop.gov>;Edson, Gary R. <gedson@NSC.eop.gov>;Gordon, John A. <jagordon@NSC.eop.gov>;Perez, Anna M. <aperez@NSC.eop.gov>;Abrams, Elliott <eabrams@NSC.eop.gov>;Andricos, George M. <gandrico@NSC.eop.gov>;Bellinger, John B. <jbelling@NSC.eop.gov>;Frazer, Jendayi E. <jfrazer@NSC.eop.gov>;Fried, Daniel <dfried@NSC.eop.gov>;Joseph, Robert G. <rjoseph@NSC.eop.gov>;Khalilzad, Zalmay M. <zkhalilz@NSC.eop.gov>;Miller, Franklin C. <fmiller@NSC.eop.gov>;Moriarty, James F. <jmoriart@NSC.eop.gov>;Sturtevant, Mary K. <msturtev@NSC.eop.gov>

Sent: 5/7/2003 12:44:17 PM

Subject: Reminder: SF-278s due May 15 (In One Week!)

Attachments: 2003memo.annual.co.training.doc

The May 15 deadline for filing your public financial disclosure report is near. I previously issued guidance on this obligation on March 18, 2003, encouraging you to file your form very soon, and certainly before the statutory deadline (see attached for a copy).

It is important that you meet this May 15 deadline because your report may be released to the public – i.e., the press – as of June 15, and an adequate review by the Counsel's office is your first and perhaps best defense when faced with press inquiries, some of which may come from persons seeking to exploit personal financial information. I would like to do all I can in this compressed time framework to ensure that your report is complete and ready for release.

If you need assistance or have any questions regarding your report, please contact me by return e-mail or at x2608, and I will provide the advice or help you need to move this matter off your plate.

<<...>>

March 18, 2003

MEMORANDUM FOR WHITE HOUSE COMMISSIONED OFFICERS

FROM: NANETTE R. EVERSON
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: 2003 ETHICS BRIEFING AND PUBLIC FINANCIAL DISCLOSURE REPORTS

This memorandum provides guidance concerning your mandatory annual ethics briefing and your duty to file a public financial disclosure report (SF 278) by May 15, 2003. As explained more fully below, you will have several opportunities to satisfy the annual training requirement but I encourage you to file your draft public financial disclosure form very soon, and certainly before the statutory deadline. The Counsel's Office must make your report available to the public within 30 days of your filing, and an adequate review by my office is your first and perhaps best line of defense when faced with press inquiries, some of which may come from persons seeking to exploit your personal financial information.

Ethics Briefings Are Tailored To Each Office

How Ethics Briefings Are Structured And "Ethics In A Nutshell"

The ethics laws require one hour of live training for all commissioned officers every year. This year the Counsel's Office is providing customized training that focuses on the specialized ethics issues that occur in each office. This training also includes those important non-commissioned officers, such as the "gatekeepers" who schedule meetings and the administrative assistants who screen documents and telephone calls, who are vital to ensuring that the commissioned staff does not inadvertently stumble by participating in matters or attending meetings while possessing financial interests that could be affected by these matters or meetings.

Additionally, because the ethics laws are complex, the Counsel's Office has created "Ethics in a Nutshell" cards that will be provided at your briefing. These wallet-sized cards have been well received, I believe, because they summarize ethics rules and identify common mistakes so that you won't have to refer to dense regulations to achieve ethics compliance.

Help Us Schedule Your Ethics Briefing And Tailor The Briefing To Your Genuine Needs

The several White House offices have widely varying ethics concerns and issues. To cite just a couple examples, the co-sponsorship and co-branding issues that arise frequently in the USA Freedom Corps Office rarely arise in the other offices, and the Advance Office faces gift and volunteer-management issues more frequently than other offices. For these reasons, I continue

REV_00165894

to create a customized power point briefing for each office to address your unique ethics needs. While it may be human nature to shy away from discussing difficult issues, I can help you during the ethics briefing by teaching directly to your tough questions—generically and anonymously—in your office-wide briefing. The most successful training is relevant training, and we are at our best when we team together to ensure that we teach to the issues that matter as well as the basics. So, in addition to suggesting dates that are convenient for you, please also either e-mail or telephone me in advance with any issues that you believe should be addressed in the briefing.

Thus far during 2003, over half of the commissioned officers have been trained using this targeted format at the following office briefings: February 6 - *National Economic Council*; February 19 - *Legislative Affairs*; February 28 - *Intergovernmental Affairs*; March 17 - *Advance*; March 18 - *Office of Faith Based and Community Initiatives*; and, March 19 - *White House Military Office*.

For those commissioned officers who miss their particular office's briefing, there will be three general sessions on April 1st, April 8th , and May 6th, from 10:00 to 11:00 a.m. in room 450, EEOB. Additionally, I provide a monthly briefing on the third Wednesday of every month for all new employees, from 10:00 to 11:00 in either room 450 or room 472 EEOB (check with me in advance to verify the location).

I understand that other events often arise without notice, and that these crises may require that we schedule an individual briefing to suit your needs (as I have done for all the incoming officers). This one-on-one format affords officers an opportunity to discuss issues—such as a possible job search—that you would not raise in public. If you have attended any briefing this year with me—either in your new employee ethics briefing or with your office—you have satisfied your regulatory requirement and need not attend any other briefings. However, if you desire an individualized briefing, please call me directly at extension 6-2608 (office) or at 494-5607 (cell). I realize fully how hard all of you are working, and the importance of the other issues you must resolve, and I will work with you to help you achieve ethics compliance.

Annual Financial Disclosure Reporting Requirement

The ethics laws also require commissioned officers to file an annual public financial disclosure report (SF 278). Your annual report is due no later than May 15, 2003. There are several points I would like to underscore, however:

- In order to comply with the law and to help speed the review of your report, the sooner you provide a draft to the Counsel's Office, in room 158, EEOB, the more help we can provide to you. Every year, many filers wait until the last minute to submit their report, and this causes frustration on the part of commissioned officers who have many questions to ask of my small staff of lawyers and ethics professionals.
- There is only one non-negotiable: do not submit your brokerage statements in lieu of filling out the form. The Office of Government Ethics (OGE) takes the view that any documents attached to the form may be released to the public, and this would raise serious privacy, security, and ethics concerns regarding such statements.

REV_00165895

- The annual filing should be fairly straightforward to those of you who have done this before. It is recommended that you refer to your last report during your preparation of your 2002 report, to simplify the task of filing and to ensure consistency in your reporting. Please note, however, that the information required by the annual report is somewhat different from the information that you provided when you filed as a new entrant: e.g., the annual report covers calendar year 2002 only, but does require the disclosure of transaction and gift information.
- The law requires that the reports for Assistants to the President and Deputy Assistants to the President be submitted to OGE for review.
- As you complete your form, remember that, as an annual filer, you must complete all schedules *except* for Part II of Schedule D.
- As with a tax return, you are responsible for the accuracy and completeness of your form. (A list of common problems in filling out an SF 278 is attached.)

Enclosed is a blank copy of the SF 278. This form is also available via the OGE Internet web-site, at http://www.usoge.gov; to download, click on the link for "Forms, Publications, and Other Ethics Documents," click on "OGE and SF forms," and then toggle down to the instructions.

If you have questions in connection with your filing obligations, please contact me or either Sandy Mabry (at 6-5071), Gary Phillips (at 6-5336), or Emory Rounds (at 6-5067).

Enclosures

REV_00165896

From:	Everson, Nanette
To:	<Troy, Tevi>;<Warsh, Kevin>;<Peterman, Brian>;<Dunn, David>;<Allen, Michael>;<Bernard, Kenneth>;<Bolten, Joshua B.>;<Bridgeland, John M.>;<Card, Andrew H.>;<Fleischer, Lawrence A.>;<Gerson, Michael J.>;<Gonzales, Alberto R.>;<Hadley, Stephen J.>;<Hobbs, David W.>;<Libby, Lewis>;<Miers, Harriet>;<Powell, Dina>;<Rice, Condoleezza>;<Rove, Karl C.>;<Spellings, Margaret M.>;<Abbot, Charles S.>;<Barrales, Ruben S.>;<DeFrancis, Suzy>;<Eskew, Tucker A.>;<Gambatesa, Linda M.>;<Hennessey, Keith>;<Ingle, Edward>;<Jackson, Barry S.>;<Jenkins, Gregory J.>;<Keniry, Daniel>;<Lefkowitz, Jay P.>;<Leitch, David G.>;<McClellan, Scott>;<McConnell, John P.>;<Mehlman, Ken>;<Montgomery, Brian D.>;<Ojakli, Ziad>;<Towey, Jim>;<Wehner, Peter H.>;<Bartolomucci, H. Christopher>;<Besanceney, Brian R.>;<Beyer, Todd W.>;<Beynon, Rebecca A.>;<Buchan, Claire>;<Burgeson, Christine M.>;<Chadwick, Kirsten>;<Christie, Ronald I.>;<Cilluffo, Frank>;<Conner, Charles>;<Contreras, Rebecca>;<Dougherty, Elizabeth S.>;<Falkenrath, Richard>;<Fenton, Catherine S.>;<Francisco, Noel J.>;<Gilbert, Alan>;<Goeglein, Tim>;<Goldman, Adam B.>;<Grubbs, Wendy J.>;<Kaplan, Joel>;<Kavanaugh, Brett M.>;<Kelly, James M.>;<Kirk, Matthew>;<Kuo, David>;<Loper, Ginger G.>;<Marsh, Robert>;<McNally, Edward>;<Moy, Edmund C.>;<Neusner, Noam M.>;<Newstead, Jennifer G.>;<O'Hollaren, Sean B.>;<Pelletier, Eric C.>;<Powell, Benjamin A.>;<Reardon, Brian>;<Wright, Liza>;<Sampson, Kyle>;<Sayle, Desiree T.>;<Schacht, Diana L.>;<Scully, Matthew>;<Sforza, Scott N.>;<Silverberg, Kristen>;<Edson, Gary R.>;<Gordon, John A.>;<Perez, Anna M.>;<Abrams, Elliott>;<Andricos, George M.>;<Bellinger, John B.>;<Frazer, Jendayi E.>;<Fried, Daniel>;<Joseph, Robert G.>;<Khalilzad, Zalmay M.>;<Miller, Franklin C.>;<Moriarty, James F.>;<Sturtevant, Mary K.>
Sent:	5/7/2003 12:44:17 PM
Subject:	Reminder: SF-278s due May 15 (In One Week!)
Attachments:	2003memo.annual.co.training.doc

The May 15 deadline for filing your public financial disclosure report is near. I previously issued guidance on this obligation on March 18, 2003, encouraging you to file your form very soon, and certainly before the statutory deadline (see attached for a copy).

It is important that you meet this May 15 deadline because your report may be released to the public – i.e., the press – as of June 15, and an adequate review by the Counsel's office is your first and perhaps best defense when faced with press inquiries, some of which may come from persons seeking to exploit personal financial information. I would like to do all I can in this compressed time framework to ensure that your report is complete and ready for release.

If you need assistance or have any questions regarding your report, please contact me by return e-mail or at x2608, and I will provide the advice or help you need to move this matter off your plate.

<<2003memo.annual.co.training.doc>>

March 18, 2003

MEMORANDUM FOR WHITE HOUSE COMMISSIONED OFFICERS

FROM: NANETTE R. EVERSON
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: 2003 ETHICS BRIEFING AND PUBLIC FINANCIAL DISCLOSURE REPORTS

This memorandum provides guidance concerning your mandatory annual ethics briefing and your duty to file a public financial disclosure report (SF 278) by May 15, 2003. As explained more fully below, you will have several opportunities to satisfy the annual training requirement but I encourage you to file your draft public financial disclosure form very soon, and certainly before the statutory deadline. The Counsel's Office must make your report available to the public within 30 days of your filing, and an adequate review by my office is your first and perhaps best line of defense when faced with press inquiries, some of which may come from persons seeking to exploit your personal financial information.

Ethics Briefings Are Tailored To Each Office

How Ethics Briefings Are Structured And "Ethics In A Nutshell"

The ethics laws require one hour of live training for all commissioned officers every year. This year the Counsel's Office is providing customized training that focuses on the specialized ethics issues that occur in each office. This training also includes those important non-commissioned officers, such as the "gatekeepers" who schedule meetings and the administrative assistants who screen documents and telephone calls, who are vital to ensuring that the commissioned staff does not inadvertently stumble by participating in matters or attending meetings while possessing financial interests that could be affected by these matters or meetings.

Additionally, because the ethics laws are complex, the Counsel's Office has created "Ethics in a Nutshell" cards that will be provided at your briefing. These wallet-sized cards have been well received, I believe, because they summarize ethics rules and identify common mistakes so that you won't have to refer to dense regulations to achieve ethics compliance.

Help Us Schedule Your Ethics Briefing And Tailor The Briefing To Your Genuine Needs

The several White House offices have widely varying ethics concerns and issues. To cite just a couple examples, the co-sponsorship and co-branding issues that arise frequently in the USA Freedom Corps Office rarely arise in the other offices, and the Advance Office faces gift and volunteer-management issues more frequently than other offices. For these reasons, I continue

REV_00165898

to create a customized power point briefing for each office to address your unique ethics needs. While it may be human nature to shy away from discussing difficult issues, I can help you during the ethics briefing by teaching directly to your tough questions—generically and anonymously—in your office-wide briefing. The most successful training is relevant training, and we are at our best when we team together to ensure that we teach to the issues that matter as well as the basics. So, in addition to suggesting dates that are convenient for you, please also either e-mail or telephone me in advance with any issues that you believe should be addressed in the briefing.

Thus far during 2003, over half of the commissioned officers have been trained using this targeted format at the following office briefings: February 6 - *National Economic Council*; February 19 - *Legislative Affairs*; February 28 - *Intergovernmental Affairs*; March 17 - *Advance*; March 18 - *Office of Faith Based and Community Initiatives*; and, March 19 - *White House Military Office*.

For those commissioned officers who miss their particular office's briefing, there will be three general sessions on April 1st, April 8th , and May 6th, from 10:00 to 11:00 a.m. in room 450, EEOB. Additionally, I provide a monthly briefing on the third Wednesday of every month for all new employees, from 10:00 to 11:00 in either room 450 or room 472 EEOB (check with me in advance to verify the location).

I understand that other events often arise without notice, and that these crises may require that we schedule an individual briefing to suit your needs (as I have done for all the incoming officers). This one-on-one format affords officers an opportunity to discuss issues—such as a possible job search—that you would not raise in public. If you have attended any briefing this year with me—either in your new employee ethics briefing or with your office—you have satisfied your regulatory requirement and need not attend any other briefings. However, if you desire an individualized briefing, please call me directly at extension 6-2608 (office) or at 494-5607 (cell). I realize fully how hard all of you are working, and the importance of the other issues you must resolve, and I will work with you to help you achieve ethics compliance.

Annual Financial Disclosure Reporting Requirement

The ethics laws also require commissioned officers to file an annual public financial disclosure report (SF 278). Your annual report is due no later than May 15, 2003. There are several points I would like to underscore, however:

- In order to comply with the law and to help speed the review of your report, the sooner you provide a draft to the Counsel's Office, in room 158, EEOB, the more help we can provide to you. Every year, many filers wait until the last minute to submit their report, and this causes frustration on the part of commissioned officers who have many questions to ask of my small staff of lawyers and ethics professionals.
- There is only one non-negotiable: do not submit your brokerage statements in lieu of filling out the form. The Office of Government Ethics (OGE) takes the view that any documents attached to the form may be released to the public, and this would raise serious privacy, security, and ethics concerns regarding such statements.

REV_00165899

- The annual filing should be fairly straightforward to those of you who have done this before. It is recommended that you refer to your last report during your preparation of your 2002 report, to simplify the task of filing and to ensure consistency in your reporting. Please note, however, that the information required by the annual report is somewhat different from the information that you provided when you filed as a new entrant: e.g., the annual report covers calendar year 2002 only, but does require the disclosure of transaction and gift information.
- The law requires that the reports for Assistants to the President and Deputy Assistants to the President be submitted to OGE for review.
- As you complete your form, remember that, as an annual filer, you must complete all schedules *except* for Part II of Schedule D.
- As with a tax return, you are responsible for the accuracy and completeness of your form. (A list of common problems in filling out an SF 278 is attached.)

Enclosed is a blank copy of the SF 278. This form is also available via the OGE Internet web-site, at http://www.usoge.gov; to download, click on the link for "Forms, Publications, and Other Ethics Documents," click on "OGE and SF forms," and then toggle down to the instructions.

If you have questions in connection with your filing obligations, please contact me or either Sandy Mabry (at 6-5071), Gary Phillips (at 6-5336), or Emory Rounds (at 6-5067).

Enclosures

REV_00165900

From: CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO]
To: Tim Goeglein/WHO/EOP@EOP [WHO] <Tim Goeglein>;Matthew E. Smith/WHO/EOP@EOP [WHO] <Matthew E. Smith>;Wendy J. Grubbs/WHO/EOP@Exchange [WHO] <Wendy J. Grubbs>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Paul Perkins/WHO/EOP@EOP [WHO] <Paul Perkins>
Sent: 5/7/2003 9:12:44 AM
Subject: : RE: can we meet at 4:00 today to go over Friday activities and coordinate. Thanks.

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 7-MAY-2003 13:12:44.00
SUBJECT:: RE: can we meet at 4:00 today to go over Friday activities and coordinate. Thanks.
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Matthew E. Smith (CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Paul Perkins (CN=Paul Perkins/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

I'm fine with 4.; Where should we meet?

;-----Original Message-----
From: ; Kavanaugh, Brett M.;
Sent:;; Wednesday, May 07, 2003 10:23 AM
To:;;;; Smith, Matthew E.; Grubbs, Wendy J.; Goeglein, Tim; Snee, Ashley
Cc:;;;; Perkins, Paul
Subject:;;;;;;; can we meet at 4:00 today to go over Friday activities and coordinate. Thanks.

From: CN=Nanette Everson/OU=WHO/O=EOP [WHO]

To: James F. Moriarty/NSC/EOP@EOP [NSC] <James F. Moriarty>;Zalmay M. Khalilzad/NSC /EOP@EOP [NSC] <Zalmay M. Khalilzad>;Daniel Fried/NSC/EOP@EOP [NSC] <Daniel Fried>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;Elliott Abrams/NSC /EOP@EOP [NSC] <Elliott Abrams>;John A. Gordon/NSC/EOP@EOP [NSC] <John A. Gordon>;Kristen Silverberg/WHO/EOP@Exchange@EOP [WHO] <Kristen Silverberg>;Matthew Scully/WHO/EOP@EOP [WHO] <Matthew Scully>;Desiree T. Sayle/WHO/EOP@EOP [WHO] <Desiree T. Sayle>;Liza Wright/WHO/EOP@EOP [WHO] <Liza Wright>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Sean B. O'Hollaren/WHO /EOP@Exchange@EOP [WHO] <Sean B. O'Hollaren>;Noam M. Neusner/WHO/EOP@EOP [WHO] <Noam M. Neusner>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Ginger G. Loper/WHO/EOP@Exchange@EOP [WHO] <Ginger G. Loper>;Matthew Kirk/WHO/EOP@Exchange@EOP [WHO] <Matthew Kirk>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Wendy J. Grubbs/WHO/EOP@Exchange [WHO] <Wendy J. Grubbs>;Tim Goeglein/WHO/EOP@EOP [WHO] <Tim Goeglein>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Richard Falkenrath/WHO /EOP@Exchange@EOP [WHO] <Richard Falkenrath>;Rebecca Contreras/WHO/EOP@EOP [WHO] <Rebecca Contreras>;Frank Cilluffo/WHO/EOP@EOP [WHO] <Frank Cilluffo>;Kirsten A. Chadwick/WHO/EOP@Exchange@EOP [WHO] <Kirsten A. Chadwick>;Claire E. Buchan/WHO/EOP@Exchange@EOP [WHO] <Claire E. Buchan>;Todd W. Beyer/WHO /EOP@EOP [WHO] <Todd W. Beyer>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Jim Towey/WHO/EOP@EOP [WHO] <Jim Towey>;Brian D. Montgomery/WHO/EOP@Exchange@EOP [WHO] <Brian D. Montgomery>;John P. McConnell/WHO/EOP@EOP [WHO] <John P. McConnell>;David G. Leitch/WHO /EOP@Exchange@EOP [WHO] <David G. Leitch>;Daniel J. Keniry/WHO /EOP@Exchange@EOP [WHO] <Daniel J. Keniry>;Barry S. Jackson/WHO/EOP@EOP [WHO] <Barry S. Jackson>;Keith Hennessey/OPD/EOP@Exchange@EOP [OPD] <Keith Hennessey>;Tucker A. Eskew/WHO/EOP@EOP [WHO] <Tucker A. Eskew>;Ruben S. Barrales/WHO/EOP@EOP [WHO] <Ruben S. Barrales>;Margaret M. Spellings/OPD /EOP@Exchange@EOP [OPD] <Margaret M. Spellings>;Condoleezza Rice/NSC/EOP@EOP [NSC] <Condoleezza Rice>;Harriet Miers/WHO/EOP@Exchange@EOP [WHO] <Harriet Miers>;David W. Hobbs/WHO/EOP@Exchange@EOP [WHO] <David W. Hobbs>;Alberto R. Gonzales/WHO/EOP@Exchange@EOP [WHO] <Alberto R. Gonzales>;Lawrence A. Fleischer/WHO/EOP@Exchange@EOP [WHO] <Lawrence A. Fleischer>;John M. Bridgeland/OPD/EOP@EOP [OPD] <John M. Bridgeland>;Kenneth Bernard/WHO/EOP@EOP [WHO] <Kenneth Bernard>;David Dunn/OPD/EOP@EOP [OPD] <David Dunn>;Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Mary K. Sturtevant/NSC/EOP@EOP [NSC] <Mary K. Sturtevant>;Franklin C. Miller/NSC/EOP@EOP [NSC] <Franklin C. Miller>;Robert G. Joseph/NSC/EOP@EOP [NSC] <Robert G. Joseph>;Jendayi E. Frazer/NSC/EOP@EOP [NSC] <Jendayi E. Frazer>;George M. Andricos/NSC/EOP@EOP [NSC] <George M. Andricos>;Anna M. Perez/NSC/EOP@EOP [NSC] <Anna M. Perez>;Gary R. Edson/NSC /EOP@EOP [NSC] <Gary R. Edson>;Scott N. Sforza/WHO/EOP@EOP [WHO] <Scott N. Sforza>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Kyle Sampson/WHO /EOP@EOP [WHO] <Kyle Sampson>;Brian Reardon/OPD/EOP@EOP [OPD] <Brian Reardon>;Eric C. Pelletier/WHO/EOP@Exchange@EOP [WHO] <Eric C. Pelletier>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Edmund C. Moy/WHO /EOP@EOP [WHO] <Edmund C. Moy>;Robert Marsh/WHO/EOP@Exchange@EOP [WHO] <Robert Marsh>;David Kuo/WHO/EOP@EOP [WHO] <David Kuo>;James M. Kelly/WHO /EOP@EOP [WHO] <James M. Kelly>;Joel D. Kaplan/WHO/EOP@Exchange@EOP [WHO] <Joel D. Kaplan>;Adam B. Goldman/WHO/EOP@EOP [WHO] <Adam B. Goldman>;Alan Gilbert/OPD/EOP@EOP [OPD] <Alan Gilbert>;Catherine S. Fenton/WHO /EOP@Exchange@EOP [WHO] <Catherine S. Fenton>;Elizabeth S. Dougherty/OPD /EOP@EOP [OPD] <Elizabeth S. Dougherty>;Charles Conner/OPD/EOP@EOP [OPD] <Charles Conner>;Ronald I. Christie/OPD/EOP@EOP [OPD] <Ronald I. Christie>;Christine M. Burgeson/WHO/EOP@Exchange@EOP [WHO] <Christine M. Burgeson>;Rebecca A. Beynon/WHO/EOP@EOP [WHO] <Rebecca A. Beynon>;Brian R. Besanceney/WHO /EOP@EOP [WHO] <Brian R. Besanceney>;Peter H. Wehner/WHO/EOP@EOP [WHO] <Peter H. Wehner>;Ziad S. Ojakli/WHO/EOP@Exchange@EOP [WHO] <Ziad S. Ojakli>;Ken Mehlman/WHO/EOP@EOP [WHO] <Ken Mehlman>;Scott McClellan/WHO /EOP@Exchange@EOP [WHO] <Scott McClellan>;Jay P. Lefkowitz/OPD /EOP@Exchange@EOP [OPD] <Jay P. Lefkowitz>;Gregory J. Jenkins/WHO/EOP@EOP [

	WHO] <Gregory J. Jenkins>;Edward Ingle/WHO/EOP@EOP [WHO] <Edward Ingle>;Linda M. Gambatesa/WHO/EOP@Exchange@EOP [WHO] <Linda M. Gambatesa>;Suzy DeFrancis/WHO/EOP@Exchange@EOP [WHO] <Suzy DeFrancis>;Charles S. Abbot/WHO /EOP@Exchange@EOP [WHO] <Charles S. Abbot>;Karl C. Rove/WHO /EOP@Exchange@EOP [WHO] <Karl C. Rove>;Dina Powell/WHO/EOP@EOP [WHO] <Dina Powell>;Lewis Libby/OVP/EOP@EOP [OVP] <Lewis Libby>;Stephen J. Hadley/NSC /EOP@EOP [NSC] <Stephen J. Hadley>;Michael J. Gerson/WHO/EOP@Exchange@EOP [WHO] <Michael J. Gerson>;Andrew H. Card/WHO/EOP@Exchange@EOP [WHO] <Andrew H. Card>;Joshua B. Bolten/WHO/EOP@Exchange@EOP [WHO] <Joshua B. Bolten>;Michael Allen/WHO/EOP@EOP [WHO] <Michael Allen>;Brian Peterman/WHO/EOP@EOP [WHO] <Brian Peterman>;Tevi Troy/WHO/EOP@Exchange@EOP [WHO] <Tevi Troy>
BCC:	Tracy Jucas (Tracy Jucas/WHO/EOP [WHO]), Garry L. Phillips (Garry L. Phillips/WHO/EOP [WHO]), Nanette Everson (Nanette Everson/WHO/EOP [WHO]), Heidi M. Smith (Heidi M. Smith/WHO/EOP [WHO])
Sent:	5/7/2003 9:19:29 AM
Subject:	: Reminder: SF-278s due May 15 (In One Week!)
Attachments:	P_Y8A8G003_OPD.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 7-MAY-2003 13:19:29.00
SUBJECT:: Reminder: SF-278s due May 15 (In One Week!)
TO:James F. Moriarty ( CN=James F. Moriarty/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:Zalmay M. Khalilzad ( CN=Zalmay M. Khalilzad/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:Daniel Fried ( CN=Daniel Fried/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:Elliott Abrams ( CN=Elliott Abrams/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:John A. Gordon ( CN=John A. Gordon/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Matthew Scully ( CN=Matthew Scully/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Desiree T. Sayle ( CN=Desiree T. Sayle/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Liza Wright ( CN=Liza Wright/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Sean B. O'Hollaren ( CN=Sean B. O'Hollaren/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Noam M. Neusner ( CN=Noam M. Neusner/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Ginger G. Loper ( CN=Ginger G. Loper/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Matthew Kirk ( CN=Matthew Kirk/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Wendy J. Grubbs ( CN=Wendy J. Grubbs/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Tim Goeglein ( CN=Tim Goeglein/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Richard Falkenrath ( CN=Richard Falkenrath/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
```

TO:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Frank Cilluffo (CN=Frank Cilluffo/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Todd W. Beyer (CN=Todd W. Beyer/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@Exchange@EOP [OPD])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP@Exchange@EOP [OPD])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Kenneth Bernard (CN=Kenneth Bernard/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:David Dunn (CN=David Dunn/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brian Reardon (CN=Brian Reardon/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Eric C. Pelletier (CN=Eric C. Pelletier/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Adam B. Goldman (CN=Adam B. Goldman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Christine M. Burgeson (CN=Christine M. Burgeson/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brian R. Besanceney (CN=Brian R. Besanceney/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange@EOP [OPD])
READ:UNKNOWN
TO:Gregory J. Jenkins (CN=Gregory J. Jenkins/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Suzy DeFrancis (CN=Suzy DeFrancis/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN

TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Michael Allen (CN=Michael Allen/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brian Peterman (CN=Brian Peterman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Tevi Troy (CN=Tevi Troy/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
BCC:Tracy Jucas (CN=Tracy Jucas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Garry L. Phillips (CN=Garry L. Phillips/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Heidi M. Smith (CN=Heidi M. Smith/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

The May 15 deadline for filing your public financial disclosure report is near. I previously issued guidance on this obligation on March 18, 2003, encouraging you to file your form very soon, and certainly before the statutory deadline (see attached for a copy).

It is important that you meet this May 15 deadline because your report may be released to the public) i.e., the press) as of June 15, and an adequate review by the Counsel's office is your first and perhaps best defense when faced with press inquiries, some of which may come from persons seeking to exploit personal financial information. I would like to do all I can in this compressed time framework to ensure that your report is complete and ready for release.

If you need assistance or have any questions regarding your report, please contact me by return e-mail or at x2608, and I will provide the advice or help you need to move this matter off your plate.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_Y8A8G003_OPD.TXT_1>

March 18, 2003

MEMORANDUM FOR WHITE HOUSE COMMISSIONED OFFICERS

FROM: NANETTE R. EVERSON
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: 2003 ETHICS BRIEFING AND PUBLIC FINANCIAL DISCLOSURE REPORTS

This memorandum provides guidance concerning your mandatory annual ethics briefing and your duty to file a public financial disclosure report (SF 278) by May 15, 2003. As explained more fully below, you will have several opportunities to satisfy the annual training requirement but I encourage you to file your draft public financial disclosure form very soon, and certainly before the statutory deadline. The Counsel's Office must make your report available to the public within 30 days of your filing, and an adequate review by my office is your first and perhaps best line of defense when faced with press inquiries, some of which may come from persons seeking to exploit your personal financial information.

Ethics Briefings Are Tailored To Each Office

How Ethics Briefings Are Structured And "Ethics In A Nutshell"

The ethics laws require one hour of live training for all commissioned officers every year. This year the Counsel's Office is providing customized training that focuses on the specialized ethics issues that occur in each office. This training also includes those important non-commissioned officers, such as the "gatekeepers" who schedule meetings and the administrative assistants who screen documents and telephone calls, who are vital to ensuring that the commissioned staff does not inadvertently stumble by participating in matters or attending meetings while possessing financial interests that could be affected by these matters or meetings.

Additionally, because the ethics laws are complex, the Counsel's Office has created "Ethics in a Nutshell" cards that will be provided at your briefing. These wallet-sized cards have been well received, I believe, because they summarize ethics rules and identify common mistakes so that you won't have to refer to dense regulations to achieve ethics compliance.

Help Us Schedule Your Ethics Briefing And Tailor The Briefing To Your Genuine Needs

The several White House offices have widely varying ethics concerns and issues. To cite just a couple examples, the co-sponsorship and co-branding issues that arise frequently in the USA Freedom Corps Office rarely arise in the other offices, and the Advance Office faces gift and volunteer-management issues more frequently than other offices. For these reasons, I continue

REV_00165933

to create a customized power point briefing for each office to address your unique ethics needs. While it may be human nature to shy away from discussing difficult issues, I can help you during the ethics briefing by teaching directly to your tough questions—generically and anonymously—in your office-wide briefing. The most successful training is relevant training, and we are at our best when we team together to ensure that we teach to the issues that matter as well as the basics. So, in addition to suggesting dates that are convenient for you, please also either e-mail or telephone me in advance with any issues that you believe should be addressed in the briefing.

Thus far during 2003, over half of the commissioned officers have been trained using this targeted format at the following office briefings: February 6 - *National Economic Council*; February 19 - *Legislative Affairs*; February 28 - *Intergovernmental Affairs*; March 17 - *Advance*; March 18 - *Office of Faith Based and Community Initiatives*; and, March 19 - *White House Military Office*.

For those commissioned officers who miss their particular office's briefing, there will be three general sessions on April 1st, April 8th , and May 6th, from 10:00 to 11:00 a.m. in room 450, EEOB. Additionally, I provide a monthly briefing on the third Wednesday of every month for all new employees, from 10:00 to 11:00 in either room 450 or room 472 EEOB (check with me in advance to verify the location).

I understand that other events often arise without notice, and that these crises may require that we schedule an individual briefing to suit your needs (as I have done for all the incoming officers). This one-on-one format affords officers an opportunity to discuss issues—such as a possible job search—that you would not raise in public. If you have attended any briefing this year with me—either in your new employee ethics briefing or with your office—you have satisfied your regulatory requirement and need not attend any other briefings. However, if you desire an individualized briefing, please call me directly at extension 6-2608 (office) or at 494-5607 (cell). I realize fully how hard all of you are working, and the importance of the other issues you must resolve, and I will work with you to help you achieve ethics compliance.

Annual Financial Disclosure Reporting Requirement

The ethics laws also require commissioned officers to file an annual public financial disclosure report (SF 278). Your annual report is due no later than May 15, 2003. There are several points I would like to underscore, however:

- In order to comply with the law and to help speed the review of your report, the sooner you provide a draft to the Counsel's Office, in room 158, EEOB, the more help we can provide to you. Every year, many filers wait until the last minute to submit their report, and this causes frustration on the part of commissioned officers who have many questions to ask of my small staff of lawyers and ethics professionals.
- There is only one non-negotiable: do not submit your brokerage statements in lieu of filling out the form. The Office of Government Ethics (OGE) takes the view that any documents attached to the form may be released to the public, and this would raise serious privacy, security, and ethics concerns regarding such statements.

REV_00165934

- The annual filing should be fairly straightforward to those of you who have done this before. It is recommended that you refer to your last report during your preparation of your 2002 report, to simplify the task of filing and to ensure consistency in your reporting. Please note, however, that the information required by the annual report is somewhat different from the information that you provided when you filed as a new entrant: e.g., the annual report covers calendar year 2002 only, but does require the disclosure of transaction and gift information.
- The law requires that the reports for Assistants to the President and Deputy Assistants to the President be submitted to OGE for review.
- As you complete your form, remember that, as an annual filer, you must complete all schedules *except* for Part II of Schedule D.
- As with a tax return, you are responsible for the accuracy and completeness of your form. (A list of common problems in filling out an SF 278 is attached.)

Enclosed is a blank copy of the SF 278. This form is also available via the OGE Internet web-site, at http://www.usoge.gov; to download, click on the link for "Forms, Publications, and Other Ethics Documents," click on "OGE and SF forms," and then toggle down to the instructions.

If you have questions in connection with your filing obligations, please contact me or either Sandy Mabry (at 6-5071), Gary Phillips (at 6-5336), or Emory Rounds (at 6-5067).

Enclosures

REV_00165935

From: CN=Nanette Everson/OU=WHO/O=EOP [WHO]

To: James F. Moriarty/NSC/EOP@EOP [NSC] <James F. Moriarty>;Zalmay M. Khalilzad/NSC /EOP@EOP [NSC] <Zalmay M. Khalilzad>;Daniel Fried/NSC/EOP@EOP [NSC] <Daniel Fried>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;Elliott Abrams/NSC /EOP@EOP [NSC] <Elliott Abrams>;John A. Gordon/NSC/EOP@EOP [NSC] <John A. Gordon>;Kristen Silverberg/WHO/EOP@Exchange@EOP [WHO] <Kristen Silverberg>;Matthew Scully/WHO/EOP@EOP [WHO] <Matthew Scully>;Desiree T. Sayle/WHO/EOP@EOP [WHO] <Desiree T. Sayle>;Liza Wright/WHO/EOP@EOP [WHO] <Liza Wright>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Sean B. O'Hollaren/WHO /EOP@Exchange@EOP [WHO] <Sean B. O'Hollaren>;Noam M. Neusner/WHO/EOP@EOP [WHO] <Noam M. Neusner>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Ginger G. Loper/WHO/EOP@Exchange@EOP [WHO] <Ginger G. Loper>;Matthew Kirk/WHO/EOP@Exchange@EOP [WHO] <Matthew Kirk>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Wendy J. Grubbs/WHO/EOP@Exchange [WHO] <Wendy J. Grubbs>;Tim Goeglein/WHO/EOP@EOP [WHO] <Tim Goeglein>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Richard Falkenrath/WHO /EOP@Exchange@EOP [WHO] <Richard Falkenrath>;Rebecca Contreras/WHO/EOP@EOP [WHO] <Rebecca Contreras>;Frank Cilluffo/WHO/EOP@EOP [WHO] <Frank Cilluffo>;Kirsten A. Chadwick/WHO/EOP@Exchange@EOP [WHO] <Kirsten A. Chadwick>;Claire E. Buchan/WHO/EOP@Exchange@EOP [WHO] <Claire E. Buchan>;Todd W. Beyer/WHO /EOP@EOP [WHO] <Todd W. Beyer>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Jim Towey/WHO/EOP@EOP [WHO] <Jim Towey>;Brian D. Montgomery/WHO/EOP@Exchange@EOP [WHO] <Brian D. Montgomery>;John P. McConnell/WHO/EOP@EOP [WHO] <John P. McConnell>;David G. Leitch/WHO /EOP@Exchange@EOP [WHO] <David G. Leitch>;Daniel J. Keniry/WHO /EOP@Exchange@EOP [WHO] <Daniel J. Keniry>;Barry S. Jackson/WHO/EOP@EOP [WHO] <Barry S. Jackson>;Keith Hennessey/OPD/EOP@Exchange@EOP [OPD] <Keith Hennessey>;Tucker A. Eskew/WHO/EOP@EOP [WHO] <Tucker A. Eskew>;Ruben S. Barrales/WHO/EOP@EOP [WHO] <Ruben S. Barrales>;Margaret M. Spellings/OPD /EOP@Exchange@EOP [OPD] <Margaret M. Spellings>;Condoleezza Rice/NSC/EOP@EOP [NSC] <Condoleezza Rice>;Harriet Miers/WHO/EOP@Exchange@EOP [WHO] <Harriet Miers>;David W. Hobbs/WHO/EOP@Exchange@EOP [WHO] <David W. Hobbs>;Alberto R. Gonzales/WHO/EOP@Exchange@EOP [WHO] <Alberto R. Gonzales>;Lawrence A. Fleischer/WHO/EOP@Exchange@EOP [WHO] <Lawrence A. Fleischer>;John M. Bridgeland/OPD/EOP@EOP [OPD] <John M. Bridgeland>;Kenneth Bernard/WHO/EOP@EOP [WHO] <Kenneth Bernard>;David Dunn/OPD/EOP@EOP [OPD] <David Dunn>;Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Mary K. Sturtevant/NSC/EOP@EOP [NSC] <Mary K. Sturtevant>;Franklin C. Miller/NSC/EOP@EOP [NSC] <Franklin C. Miller>;Robert G. Joseph/NSC/EOP@EOP [NSC] <Robert G. Joseph>;Jendayi E. Frazer/NSC/EOP@EOP [NSC] <Jendayi E. Frazer>;George M. Andricos/NSC/EOP@EOP [NSC] <George M. Andricos>;Anna M. Perez/NSC/EOP@EOP [NSC] <Anna M. Perez>;Gary R. Edson/NSC /EOP@EOP [NSC] <Gary R. Edson>;Scott N. Sforza/WHO/EOP@EOP [WHO] <Scott N. Sforza>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Kyle Sampson/WHO /EOP@EOP [WHO] <Kyle Sampson>;Brian Reardon/OPD/EOP@EOP [OPD] <Brian Reardon>;Eric C. Pelletier/WHO/EOP@Exchange@EOP [WHO] <Eric C. Pelletier>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Edmund C. Moy/WHO /EOP@EOP [WHO] <Edmund C. Moy>;Robert Marsh/WHO/EOP@Exchange@EOP [WHO] <Robert Marsh>;David Kuo/WHO/EOP@EOP [WHO] <David Kuo>;James M. Kelly/WHO /EOP@EOP [WHO] <James M. Kelly>;Joel D. Kaplan/WHO/EOP@Exchange@EOP [WHO] <Joel D. Kaplan>;Adam B. Goldman/WHO/EOP@EOP [WHO] <Adam B. Goldman>;Alan Gilbert/OPD/EOP@EOP [OPD] <Alan Gilbert>;Catherine S. Fenton/WHO /EOP@Exchange@EOP [WHO] <Catherine S. Fenton>;Elizabeth S. Dougherty/OPD /EOP@EOP [OPD] <Elizabeth S. Dougherty>;Charles Conner/OPD/EOP@EOP [OPD] <Charles Conner>;Ronald I. Christie/OPD/EOP@EOP [OPD] <Ronald I. Christie>;Christine M. Burgeson/WHO/EOP@Exchange@EOP [WHO] <Christine M. Burgeson>;Rebecca A. Beynon/WHO/EOP@EOP [WHO] <Rebecca A. Beynon>;Brian R. Besanceney/WHO /EOP@EOP [WHO] <Brian R. Besanceney>;Peter H. Wehner/WHO/EOP@EOP [WHO] <Peter H. Wehner>;Ziad S. Ojakli/WHO/EOP@Exchange@EOP [WHO] <Ziad S. Ojakli>;Ken Mehlman/WHO/EOP@EOP [WHO] <Ken Mehlman>;Scott McClellan/WHO /EOP@Exchange@EOP [WHO] <Scott McClellan>;Jay P. Lefkowitz/OPD /EOP@Exchange@EOP [OPD] <Jay P. Lefkowitz>;Gregory J. Jenkins/WHO/EOP@EOP [

	WHO] <Gregory J. Jenkins>;Edward Ingle/WHO/EOP@EOP [WHO] <Edward Ingle>;Linda M. Gambatesa/WHO/EOP@Exchange@EOP [WHO] <Linda M. Gambatesa>;Suzy DeFrancis/WHO/EOP@Exchange@EOP [WHO] <Suzy DeFrancis>;Charles S. Abbot/WHO /EOP@Exchange@EOP [WHO] <Charles S. Abbot>;Karl C. Rove/WHO /EOP@Exchange@EOP [WHO] <Karl C. Rove>;Dina Powell/WHO/EOP@EOP [WHO] <Dina Powell>;Lewis Libby/OVP/EOP@EOP [OVP] <Lewis Libby>;Stephen J. Hadley/NSC /EOP@EOP [NSC] <Stephen J. Hadley>;Michael J. Gerson/WHO/EOP@Exchange@EOP [WHO] <Michael J. Gerson>;Andrew H. Card/WHO/EOP@Exchange@EOP [WHO] <Andrew H. Card>;Joshua B. Bolten/WHO/EOP@Exchange@EOP [WHO] <Joshua B. Bolten>;Michael Allen/WHO/EOP@EOP [WHO] <Michael Allen>;Brian Peterman/WHO/EOP@EOP [WHO] <Brian Peterman>;Tevi Troy/WHO/EOP@Exchange@EOP [WHO] <Tevi Troy>
BCC:	Tracy Jucas (Tracy Jucas/WHO/EOP [WHO]), Garry L. Phillips (Garry L. Phillips/WHO/EOP [WHO]), Nanette Everson (Nanette Everson/WHO/EOP [WHO]), Heidi M. Smith (Heidi M. Smith/WHO/EOP [WHO])
Sent:	5/7/2003 9:19:29 AM
Subject:	: Reminder: SF-278s due May 15 (In One Week!)
Attachments:	P_Y8A8G003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 7-MAY-2003 13:19:29.00
SUBJECT:: Reminder: SF-278s due May 15 (In One Week!)
TO:James F. Moriarty ( CN=James F. Moriarty/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:Zalmay M. Khalilzad ( CN=Zalmay M. Khalilzad/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:Daniel Fried ( CN=Daniel Fried/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:Elliott Abrams ( CN=Elliott Abrams/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:John A. Gordon ( CN=John A. Gordon/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Matthew Scully ( CN=Matthew Scully/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Desiree T. Sayle ( CN=Desiree T. Sayle/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Liza Wright ( CN=Liza Wright/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Sean B. O'Hollaren ( CN=Sean B. O'Hollaren/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Noam M. Neusner ( CN=Noam M. Neusner/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Ginger G. Loper ( CN=Ginger G. Loper/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Matthew Kirk ( CN=Matthew Kirk/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Wendy J. Grubbs ( CN=Wendy J. Grubbs/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Tim Goeglein ( CN=Tim Goeglein/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Richard Falkenrath ( CN=Richard Falkenrath/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
```

TO:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Frank Cilluffo (CN=Frank Cilluffo/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Todd W. Beyer (CN=Todd W. Beyer/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@Exchange@EOP [OPD])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP@Exchange@EOP [OPD])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Kenneth Bernard (CN=Kenneth Bernard/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:David Dunn (CN=David Dunn/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brian Reardon (CN=Brian Reardon/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Eric C. Pelletier (CN=Eric C. Pelletier/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Adam B. Goldman (CN=Adam B. Goldman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Christine M. Burgeson (CN=Christine M. Burgeson/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brian R. Besanceney (CN=Brian R. Besanceney/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange@EOP [OPD])
READ:UNKNOWN
TO:Gregory J. Jenkins (CN=Gregory J. Jenkins/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Suzy DeFrancis (CN=Suzy DeFrancis/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN

TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Michael Allen (CN=Michael Allen/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brian Peterman (CN=Brian Peterman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Tevi Troy (CN=Tevi Troy/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
BCC:Tracy Jucas (CN=Tracy Jucas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Garry L. Phillips (CN=Garry L. Phillips/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Heidi M. Smith (CN=Heidi M. Smith/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

The May 15 deadline for filing your public financial disclosure report is near. I previously issued guidance on this obligation on March 18, 2003, encouraging you to file your form very soon, and certainly before the statutory deadline (see attached for a copy).

It is important that you meet this May 15 deadline because your report may be released to the public) i.e., the press) as of June 15, and an adequate review by the Counsel's office is your first and perhaps best defense when faced with press inquiries, some of which may come from persons seeking to exploit personal financial information. I would like to do all I can in this compressed time framework to ensure that your report is complete and ready for release.

If you need assistance or have any questions regarding your report, please contact me by return e-mail or at x2608, and I will provide the advice or help you need to move this matter off your plate.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_Y8A8G003_WHO.TXT_1>

March 18, 2003

MEMORANDUM FOR WHITE HOUSE COMMISSIONED OFFICERS

FROM: NANETTE R. EVERSON
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: 2003 ETHICS BRIEFING AND PUBLIC FINANCIAL DISCLOSURE REPORTS

This memorandum provides guidance concerning your mandatory annual ethics briefing and your duty to file a public financial disclosure report (SF 278) by May 15, 2003. As explained more fully below, you will have several opportunities to satisfy the annual training requirement but I encourage you to file your draft public financial disclosure form very soon, and certainly before the statutory deadline. The Counsel's Office must make your report available to the public within 30 days of your filing, and an adequate review by my office is your first and perhaps best line of defense when faced with press inquiries, some of which may come from persons seeking to exploit your personal financial information.

Ethics Briefings Are Tailored To Each Office

How Ethics Briefings Are Structured And "Ethics In A Nutshell"

The ethics laws require one hour of live training for all commissioned officers every year. This year the Counsel's Office is providing customized training that focuses on the specialized ethics issues that occur in each office. This training also includes those important non-commissioned officers, such as the "gatekeepers" who schedule meetings and the administrative assistants who screen documents and telephone calls, who are vital to ensuring that the commissioned staff does not inadvertently stumble by participating in matters or attending meetings while possessing financial interests that could be affected by these matters or meetings.

Additionally, because the ethics laws are complex, the Counsel's Office has created "Ethics in a Nutshell" cards that will be provided at your briefing. These wallet-sized cards have been well received, I believe, because they summarize ethics rules and identify common mistakes so that you won't have to refer to dense regulations to achieve ethics compliance.

Help Us Schedule Your Ethics Briefing And Tailor The Briefing To Your Genuine Needs

The several White House offices have widely varying ethics concerns and issues. To cite just a couple examples, the co-sponsorship and co-branding issues that arise frequently in the USA Freedom Corps Office rarely arise in the other offices, and the Advance Office faces gift and volunteer-management issues more frequently than other offices. For these reasons, I continue

REV_00165941

to create a customized power point briefing for each office to address your unique ethics needs. While it may be human nature to shy away from discussing difficult issues, I can help you during the ethics briefing by teaching directly to your tough questions—generically and anonymously—in your office-wide briefing. The most successful training is relevant training, and we are at our best when we team together to ensure that we teach to the issues that matter as well as the basics. So, in addition to suggesting dates that are convenient for you, please also either e-mail or telephone me in advance with any issues that you believe should be addressed in the briefing.

Thus far during 2003, over half of the commissioned officers have been trained using this targeted format at the following office briefings: February 6 - *National Economic Council*; February 19 - *Legislative Affairs*; February 28 - *Intergovernmental Affairs*; March 17 - *Advance*; March 18 - *Office of Faith Based and Community Initiatives*; and, March 19 - *White House Military Office*.

For those commissioned officers who miss their particular office's briefing, there will be three general sessions on April 1st, April 8th , and May 6th, from 10:00 to 11:00 a.m. in room 450, EEOB. Additionally, I provide a monthly briefing on the third Wednesday of every month for all new employees, from 10:00 to 11:00 in either room 450 or room 472 EEOB (check with me in advance to verify the location).

I understand that other events often arise without notice, and that these crises may require that we schedule an individual briefing to suit your needs (as I have done for all the incoming officers). This one-on-one format affords officers an opportunity to discuss issues—such as a possible job search—that you would not raise in public. If you have attended any briefing this year with me—either in your new employee ethics briefing or with your office—you have satisfied your regulatory requirement and need not attend any other briefings. However, if you desire an individualized briefing, please call me directly at extension 6-2608 (office) or at 494-5607 (cell). I realize fully how hard all of you are working, and the importance of the other issues you must resolve, and I will work with you to help you achieve ethics compliance.

Annual Financial Disclosure Reporting Requirement

The ethics laws also require commissioned officers to file an annual public financial disclosure report (SF 278). Your annual report is due no later than May 15, 2003. There are several points I would like to underscore, however:

- In order to comply with the law and to help speed the review of your report, the sooner you provide a draft to the Counsel's Office, in room 158, EEOB, the more help we can provide to you. Every year, many filers wait until the last minute to submit their report, and this causes frustration on the part of commissioned officers who have many questions to ask of my small staff of lawyers and ethics professionals.
- There is only one non-negotiable: do not submit your brokerage statements in lieu of filling out the form. The Office of Government Ethics (OGE) takes the view that any documents attached to the form may be released to the public, and this would raise serious privacy, security, and ethics concerns regarding such statements.

REV_00165942

- The annual filing should be fairly straightforward to those of you who have done this before. It is recommended that you refer to your last report during your preparation of your 2002 report, to simplify the task of filing and to ensure consistency in your reporting. Please note, however, that the information required by the annual report is somewhat different from the information that you provided when you filed as a new entrant: e.g., the annual report covers calendar year 2002 only, but does require the disclosure of transaction and gift information.
- The law requires that the reports for Assistants to the President and Deputy Assistants to the President be submitted to OGE for review.
- As you complete your form, remember that, as an annual filer, you must complete all schedules *except* for Part II of Schedule D.
- As with a tax return, you are responsible for the accuracy and completeness of your form. (A list of common problems in filling out an SF 278 is attached.)

Enclosed is a blank copy of the SF 278. This form is also available via the OGE Internet web-site, at http://www.usoge.gov; to download, click on the link for "Forms, Publications, and Other Ethics Documents," click on "OGE and SF forms," and then toggle down to the instructions.

If you have questions in connection with your filing obligations, please contact me or either Sandy Mabry (at 6-5071), Gary Phillips (at 6-5336), or Emory Rounds (at 6-5067).

Enclosures

REV_00165943

From: CN=Nanette Everson/OU=WHO/O=EOP [WHO]

To: James F. Moriarty/NSC/EOP@EOP [NSC] <James F. Moriarty>;Zalmay M. Khalilzad/NSC /EOP@EOP [NSC] <Zalmay M. Khalilzad>;Daniel Fried/NSC/EOP@EOP [NSC] <Daniel Fried>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;Elliott Abrams/NSC /EOP@EOP [NSC] <Elliott Abrams>;John A. Gordon/NSC/EOP@EOP [NSC] <John A. Gordon>;Kristen Silverberg/WHO/EOP@Exchange@EOP [WHO] <Kristen Silverberg>;Matthew Scully/WHO/EOP@EOP [WHO] <Matthew Scully>;Desiree T. Sayle/WHO/EOP@EOP [WHO] <Desiree T. Sayle>;Liza Wright/WHO/EOP@EOP [WHO] <Liza Wright>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Sean B. O'Hollaren/WHO /EOP@Exchange@EOP [WHO] <Sean B. O'Hollaren>;Noam M. Neusner/WHO/EOP@EOP [WHO] <Noam M. Neusner>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Ginger G. Loper/WHO/EOP@Exchange@EOP [WHO] <Ginger G. Loper>;Matthew Kirk/WHO/EOP@Exchange@EOP [WHO] <Matthew Kirk>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Wendy J. Grubbs/WHO/EOP@Exchange [WHO] <Wendy J. Grubbs>;Tim Goeglein/WHO/EOP@EOP [WHO] <Tim Goeglein>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Richard Falkenrath/WHO /EOP@Exchange@EOP [WHO] <Richard Falkenrath>;Rebecca Contreras/WHO/EOP@EOP [WHO] <Rebecca Contreras>;Frank Cilluffo/WHO/EOP@EOP [WHO] <Frank Cilluffo>;Kirsten A. Chadwick/WHO/EOP@Exchange@EOP [WHO] <Kirsten A. Chadwick>;Claire E. Buchan/WHO/EOP@Exchange@EOP [WHO] <Claire E. Buchan>;Todd W. Beyer/WHO /EOP@EOP [WHO] <Todd W. Beyer>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Jim Towey/WHO/EOP@EOP [WHO] <Jim Towey>;Brian D. Montgomery/WHO/EOP@Exchange@EOP [WHO] <Brian D. Montgomery>;John P. McConnell/WHO/EOP@EOP [WHO] <John P. McConnell>;David G. Leitch/WHO /EOP@Exchange@EOP [WHO] <David G. Leitch>;Daniel J. Keniry/WHO /EOP@Exchange@EOP [WHO] <Daniel J. Keniry>;Barry S. Jackson/WHO/EOP@EOP [WHO] <Barry S. Jackson>;Keith Hennessey/OPD/EOP@Exchange@EOP [OPD] <Keith Hennessey>;Tucker A. Eskew/WHO/EOP@EOP [WHO] <Tucker A. Eskew>;Ruben S. Barrales/WHO/EOP@EOP [WHO] <Ruben S. Barrales>;Margaret M. Spellings/OPD /EOP@Exchange@EOP [OPD] <Margaret M. Spellings>;Condoleezza Rice/NSC/EOP@EOP [NSC] <Condoleezza Rice>;Harriet Miers/WHO/EOP@Exchange@EOP [WHO] <Harriet Miers>;David W. Hobbs/WHO/EOP@Exchange@EOP [WHO] <David W. Hobbs>;Alberto R. Gonzales/WHO/EOP@Exchange@EOP [WHO] <Alberto R. Gonzales>;Lawrence A. Fleischer/WHO/EOP@Exchange@EOP [WHO] <Lawrence A. Fleischer>;John M. Bridgeland/OPD/EOP@EOP [OPD] <John M. Bridgeland>;Kenneth Bernard/WHO/EOP@EOP [WHO] <Kenneth Bernard>;David Dunn/OPD/EOP@EOP [OPD] <David Dunn>;Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Mary K. Sturtevant/NSC/EOP@EOP [NSC] <Mary K. Sturtevant>;Franklin C. Miller/NSC/EOP@EOP [NSC] <Franklin C. Miller>;Robert G. Joseph/NSC/EOP@EOP [NSC] <Robert G. Joseph>;Jendayi E. Frazer/NSC/EOP@EOP [NSC] <Jendayi E. Frazer>;George M. Andricos/NSC/EOP@EOP [NSC] <George M. Andricos>;Anna M. Perez/NSC/EOP@EOP [NSC] <Anna M. Perez>;Gary R. Edson/NSC /EOP@EOP [NSC] <Gary R. Edson>;Scott N. Sforza/WHO/EOP@EOP [WHO] <Scott N. Sforza>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Kyle Sampson/WHO /EOP@EOP [WHO] <Kyle Sampson>;Brian Reardon/OPD/EOP@EOP [OPD] <Brian Reardon>;Eric C. Pelletier/WHO/EOP@Exchange@EOP [WHO] <Eric C. Pelletier>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Edmund C. Moy/WHO /EOP@EOP [WHO] <Edmund C. Moy>;Robert Marsh/WHO/EOP@Exchange@EOP [WHO] <Robert Marsh>;David Kuo/WHO/EOP@EOP [WHO] <David Kuo>;James M. Kelly/WHO /EOP@EOP [WHO] <James M. Kelly>;Joel D. Kaplan/WHO/EOP@Exchange@EOP [WHO] <Joel D. Kaplan>;Adam B. Goldman/WHO/EOP@EOP [WHO] <Adam B. Goldman>;Alan Gilbert/OPD/EOP@EOP [OPD] <Alan Gilbert>;Catherine S. Fenton/WHO /EOP@Exchange@EOP [WHO] <Catherine S. Fenton>;Elizabeth S. Dougherty/OPD /EOP@EOP [OPD] <Elizabeth S. Dougherty>;Charles Conner/OPD/EOP@EOP [OPD] <Charles Conner>;Ronald I. Christie/OPD/EOP@EOP [OPD] <Ronald I. Christie>;Christine M. Burgeson/WHO/EOP@Exchange@EOP [WHO] <Christine M. Burgeson>;Rebecca A. Beynon/WHO/EOP@EOP [WHO] <Rebecca A. Beynon>;Brian R. Besanceney/WHO /EOP@EOP [WHO] <Brian R. Besanceney>;Peter H. Wehner/WHO/EOP@EOP [WHO] <Peter H. Wehner>;Ziad S. Ojakli/WHO/EOP@Exchange@EOP [WHO] <Ziad S. Ojakli>;Ken Mehlman/WHO/EOP@EOP [WHO] <Ken Mehlman>;Scott McClellan/WHO

	/EOP@Exchange@EOP [WHO] <Scott McClellan>;Jay P. Lefkowitz/OPD /EOP@Exchange@EOP [OPD] <Jay P. Lefkowitz>;Gregory J. Jenkins/WHO/EOP@EOP [WHO] <Gregory J. Jenkins>;Edward Ingle/WHO/EOP@EOP [WHO] <Edward Ingle>;Linda M. Gambatesa/WHO/EOP@Exchange@EOP [WHO] <Linda M. Gambatesa>;Suzy DeFrancis/WHO/EOP@Exchange@EOP [WHO] <Suzy DeFrancis>;Charles S. Abbot/WHO /EOP@Exchange@EOP [WHO] <Charles S. Abbot>;Karl C. Rove/WHO /EOP@Exchange@EOP [WHO] <Karl C. Rove>;Dina Powell/WHO/EOP@EOP [WHO] <Dina Powell>;Lewis Libby/OVP/EOP@EOP [OVP] <Lewis Libby>;Stephen J. Hadley/NSC /EOP@EOP [NSC] <Stephen J. Hadley>;Michael J. Gerson/WHO/EOP@Exchange@EOP [WHO] <Michael J. Gerson>;Andrew H. Card/WHO/EOP@Exchange@EOP [WHO] <Andrew H. Card>;Joshua B. Bolten/WHO/EOP@Exchange@EOP [WHO] <Joshua B. Bolten>;Michael Allen/WHO/EOP@EOP [WHO] <Michael Allen>;Brian Peterman/WHO/EOP@EOP [WHO] <Brian Peterman>;Tevi Troy/WHO/EOP@Exchange@EOP [WHO] <Tevi Troy>
BCC:	Tracy Jucas (Tracy Jucas/WHO/EOP [WHO]), Garry L. Phillips (Garry L. Phillips/WHO/EOP [WHO]), Nanette Everson (Nanette Everson/WHO/EOP [WHO]), Heidi M. Smith (Heidi M. Smith/WHO/EOP [WHO])
Sent:	5/7/2003 9:19:29 AM
Subject:	: Reminder: SF-278s due May 15 (In One Week!)
Attachments:	02905_p_y8a8g003_who.txt_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME: 7-MAY-2003 13:19:29.00
SUBJECT:: Reminder: SF-278s due May 15 (In One Week!)
TO:James F. Moriarty ( CN=James F. Moriarty/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:Zalmay M. Khalilzad ( CN=Zalmay M. Khalilzad/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:Daniel Fried ( CN=Daniel Fried/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:Elliott Abrams ( CN=Elliott Abrams/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:John A. Gordon ( CN=John A. Gordon/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:Kristen Silverberg ( CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Matthew Scully ( CN=Matthew Scully/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Desiree T. Sayle ( CN=Desiree T. Sayle/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Liza Wright ( CN=Liza Wright/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Sean B. O'Hollaren ( CN=Sean B. O'Hollaren/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Noam M. Neusner ( CN=Noam M. Neusner/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Ginger G. Loper ( CN=Ginger G. Loper/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Matthew Kirk ( CN=Matthew Kirk/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Wendy J. Grubbs ( CN=Wendy J. Grubbs/OU=WHO/O=EOP@Exchange [ WHO ] )
```

READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Frank Cilluffo (CN=Frank Cilluffo/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Todd W. Beyer (CN=Todd W. Beyer/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@Exchange@EOP [OPD])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP@Exchange@EOP [OPD])
READ:UNKNOWN
TO:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Kenneth Bernard (CN=Kenneth Bernard/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:David Dunn (CN=David Dunn/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN

TO:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brian Reardon (CN=Brian Reardon/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Eric C. Pelletier (CN=Eric C. Pelletier/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Adam B. Goldman (CN=Adam B. Goldman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Christine M. Burgeson (CN=Christine M. Burgeson/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brian R. Besanceney (CN=Brian R. Besanceney/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange@EOP [OPD])
READ:UNKNOWN
TO:Gregory J. Jenkins (CN=Gregory J. Jenkins/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP@Exchange@EOP [WHO])

READ:UNKNOWN
TO:Suzy DeFrancis (CN=Suzy DeFrancis/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Michael Allen (CN=Michael Allen/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brian Peterman (CN=Brian Peterman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Tevi Troy (CN=Tevi Troy/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
BCC:Tracy Jucas (CN=Tracy Jucas/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Garry L. Phillips (CN=Garry L. Phillips/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Heidi M. Smith (CN=Heidi M. Smith/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

The May 15 deadline for filing your public financial disclosure report is near. I previously issued guidance on this obligation on March 18, 2003, encouraging you to file your form very soon, and certainly before the statutory deadline (see attached for a copy).

It is important that you meet this May 15 deadline because your report may be released to the public) i.e., the press) as of June 15, and an adequate review by the Counsel's office is your first and perhaps best defense when faced with press inquiries, some of which may come from persons seeking to exploit personal financial information. I would like to do all I can in this compressed time framework to ensure that your report is complete and ready for release.

If you need assistance or have any questions regarding your report, please contact me by return e-mail or at x2608, and I will provide the advice or help you need to move this matter off your plate.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <02905_p_y8a8g003_who.txt_1>

March 18, 2003

MEMORANDUM FOR WHITE HOUSE COMMISSIONED OFFICERS

FROM: NANETTE R. EVERSON
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: 2003 ETHICS BRIEFING AND PUBLIC FINANCIAL DISCLOSURE REPORTS

This memorandum provides guidance concerning your mandatory annual ethics briefing and your duty to file a public financial disclosure report (SF 278) by May 15, 2003. As explained more fully below, you will have several opportunities to satisfy the annual training requirement but I encourage you to file your draft public financial disclosure form very soon, and certainly before the statutory deadline. The Counsel's Office must make your report available to the public within 30 days of your filing, and an adequate review by my office is your first and perhaps best line of defense when faced with press inquiries, some of which may come from persons seeking to exploit your personal financial information.

Ethics Briefings Are Tailored To Each Office

How Ethics Briefings Are Structured And "Ethics In A Nutshell"

The ethics laws require one hour of live training for all commissioned officers every year. This year the Counsel's Office is providing customized training that focuses on the specialized ethics issues that occur in each office. This training also includes those important non-commissioned officers, such as the "gatekeepers" who schedule meetings and the administrative assistants who screen documents and telephone calls, who are vital to ensuring that the commissioned staff does not inadvertently stumble by participating in matters or attending meetings while possessing financial interests that could be affected by these matters or meetings.

Additionally, because the ethics laws are complex, the Counsel's Office has created "Ethics in a Nutshell" cards that will be provided at your briefing. These wallet-sized cards have been well received, I believe, because they summarize ethics rules and identify common mistakes so that you won't have to refer to dense regulations to achieve ethics compliance.

Help Us Schedule Your Ethics Briefing And Tailor The Briefing To Your Genuine Needs

The several White House offices have widely varying ethics concerns and issues. To cite just a couple examples, the co-sponsorship and co-branding issues that arise frequently in the USA Freedom Corps Office rarely arise in the other offices, and the Advance Office faces gift and volunteer-management issues more frequently than other offices. For these reasons, I continue

REV_00165949

to create a customized power point briefing for each office to address your unique ethics needs. While it may be human nature to shy away from discussing difficult issues, I can help you during the ethics briefing by teaching directly to your tough questions—generically and anonymously—in your office-wide briefing. The most successful training is relevant training, and we are at our best when we team together to ensure that we teach to the issues that matter as well as the basics. So, in addition to suggesting dates that are convenient for you, please also either e-mail or telephone me in advance with any issues that you believe should be addressed in the briefing.

Thus far during 2003, over half of the commissioned officers have been trained using this targeted format at the following office briefings: February 6 - *National Economic Council*; February 19 - *Legislative Affairs*; February 28 - *Intergovernmental Affairs*; March 17 - *Advance*; March 18 - *Office of Faith Based and Community Initiatives*; and, March 19 - *White House Military Office*.

For those commissioned officers who miss their particular office's briefing, there will be three general sessions on April 1st, April 8th , and May 6th, from 10:00 to 11:00 a.m. in room 450, EEOB. Additionally, I provide a monthly briefing on the third Wednesday of every month for all new employees, from 10:00 to 11:00 in either room 450 or room 472 EEOB (check with me in advance to verify the location).

I understand that other events often arise without notice, and that these crises may require that we schedule an individual briefing to suit your needs (as I have done for all the incoming officers). This one-on-one format affords officers an opportunity to discuss issues—such as a possible job search—that you would not raise in public. If you have attended any briefing this year with me—either in your new employee ethics briefing or with your office—you have satisfied your regulatory requirement and need not attend any other briefings. However, if you desire an individualized briefing, please call me directly at extension 6-2608 (office) or at 494-5607 (cell). I realize fully how hard all of you are working, and the importance of the other issues you must resolve, and I will work with you to help you achieve ethics compliance.

Annual Financial Disclosure Reporting Requirement

The ethics laws also require commissioned officers to file an annual public financial disclosure report (SF 278). Your annual report is due no later than May 15, 2003. There are several points I would like to underscore, however:

- In order to comply with the law and to help speed the review of your report, the sooner you provide a draft to the Counsel's Office, in room 158, EEOB, the more help we can provide to you. Every year, many filers wait until the last minute to submit their report, and this causes frustration on the part of commissioned officers who have many questions to ask of my small staff of lawyers and ethics professionals.
- There is only one non-negotiable: do not submit your brokerage statements in lieu of filling out the form. The Office of Government Ethics (OGE) takes the view that any documents attached to the form may be released to the public, and this would raise serious privacy, security, and ethics concerns regarding such statements.

REV_00165950

- The annual filing should be fairly straightforward to those of you who have done this before. It is recommended that you refer to your last report during your preparation of your 2002 report, to simplify the task of filing and to ensure consistency in your reporting. Please note, however, that the information required by the annual report is somewhat different from the information that you provided when you filed as a new entrant: e.g., the annual report covers calendar year 2002 only, but does require the disclosure of transaction and gift information.
- The law requires that the reports for Assistants to the President and Deputy Assistants to the President be submitted to OGE for review.
- As you complete your form, remember that, as an annual filer, you must complete all schedules *except* for Part II of Schedule D.
- As with a tax return, you are responsible for the accuracy and completeness of your form. (A list of common problems in filling out an SF 278 is attached.)

Enclosed is a blank copy of the SF 278. This form is also available via the OGE Internet web-site, at http://www.usoge.gov; to download, click on the link for "Forms, Publications, and Other Ethics Documents," click on "OGE and SF forms," and then toggle down to the instructions.

If you have questions in connection with your filing obligations, please contact me or either Sandy Mabry (at 6-5071), Gary Phillips (at 6-5336), or Emory Rounds (at 6-5067).

Enclosures

REV_00165951

From: joschal@dcigroup.com [UNKNOWN]
To: Ashley Snee/WHO/EOP@EOP [WHO] <Ashley Snee>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/7/2003 1:59:57 PM
Subject: : Friday Judges Event
Attachments: P_XVS8G003_WHO.TXT_1.htm

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:joschal@dcigroup.com (joschal@dcigroup.com [UNKNOWN])
CREATION DATE/TIME: 7-MAY-2003 17:59:57.00
SUBJECT:: Friday Judges Event
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Ashley - are you still handling press for judges? A number of sitting state judges from TX and a distinguished group from NC (listed below) are coming to the WH for the President's Rose Garden remarks on Friday. We can proabably get great press in both states with the groups coming but want to coordinate with you. Any thoughts?

Brett - are you ok with this? Obviously, the groups will stay on message presented that day.

Thanks. Jennifer

1.NC Supreme Court Chief Justice I. Beverly Lake, Jr. - confirmed

2. NC Supreme Court Justice Bob Orr - confirmed

3. Jeff Hunt, President-elect, NC Association of District Attorneys -confirmed

4. Keith Vaughan, litigator and Managing Partner ? Womble Caryle (the largest lawfirm in the state) ? confirmed

5. David Rhoades, Esq litigator.

6. Robert Long, Jr. Esq. (one of the top litigators in the state) ? pending

7. Ola Lewis, one of only 2 African-American female Superior Court Judges in the state who recently switched to the GOP ? pending.
- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_XVS8G003_WHO.TXT_1>

Ashley - are you still handling press for judges? A number of sitting state judges from TX and a distinguished group from NC (listed below) are comin g to the WH for the President's Rose Garden remarks on Friday. We can proabably get great press in both states with the groups coming but want to coordinate with you. Any thoughts?

Brett - ar e you ok with this? Obviously, the groups will stay on message presented that day.

Thanks. Jennifer

1.NC Supreme Court Chief Justice I. Beverly< /st1:PlaceName> Lake, Jr. - confirmed

2. NC Supreme Court Justice Bob Orr - confirmed

3. Jeff Hunt, President-elect, NC Association of District Attorneys - confirmed

4. Keith Vaughan, litigator and Managing Partner Womble Caryle (the largest lawfirm in the state) confirmed

5. David Rhoades, Esq litigator.

6. Robert Long, Jr. Esq. (one of the top litigators in the state) pending

7. Ola Lewis, on e of only 2 African-American female Superior Court Judges in the state who recently switched to the GOP pending.

From: CN=Ross M. Kyle/OU=WHO/O=EOP@Exchange [WHO]

To: Mitchell Daniels/OMB/EOP@EOP [OMB] <Mitchell Daniels>;Linda M. Gambatesa/WHO /EOP@Exchange [WHO] <Linda M. Gambatesa>;A. Morgan Middlemas/WHO/EOP@Exchange [WHO] <A. Morgan Middlemas>;Brian V. McCormack/OVP/EOP@EOP [OVP] <Brian V. McCormack>;Jennifer D. Field/OVP/EOP@EOP [OVP] <Jennifer D. Field>;Robin Cleveland/OMB/EOP@EOP [OMB] <Robin Cleveland>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;Rebekah McDonald/WHO/EOP@EOP [WHO] <Rebekah McDonald>;Susan B. Ralston/WHO/EOP@Exchange [WHO] <Susan B. Ralston>;Adam L. Levine/WHO/EOP@Exchange [WHO] <Adam L. Levine>;Penny G. Douglas/WHO /EOP@Exchange [WHO] <Penny G. Douglas>;Adam B. Ingols/WHO/EOP@Exchange [WHO] <Adam B. Ingols>;Anne E. Campbell/WHO/EOP@Exchange [WHO] <Anne E. Campbell>;Taylor A. Hughes/WHO/EOP@Exchange [WHO] <Taylor A. Hughes>;Carolyn Nelson/WHO /EOP@Exchange [WHO] <Carolyn Nelson>;Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Tevi Troy/WHO/EOP@Exchange [WHO] <Tevi Troy>;Kristen Silverberg/WHO /EOP@Exchange [WHO] <Kristen Silverberg>;Matthew Scully/WHO/EOP@EOP [WHO] <Matthew Scully>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Brian Reardon/OPD/EOP@EOP [OPD] <Brian Reardon>;Brian Peterman/WHO/EOP@EOP [WHO] <Brian Peterman>;Sean B. O'Hollaren/WHO/EOP@Exchange [WHO] <Sean B. O'Hollaren>;Noam M. Neusner/WHO /EOP@EOP [WHO] <Noam M. Neusner>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Robert Marsh/WHO/EOP@Exchange [WHO] <Robert Marsh>;Ginger G. Loper/WHO /EOP@Exchange [WHO] <Ginger G. Loper>;Paul B. Kurtz/NSC/EOP@EOP [NSC] <Paul B. Kurtz>;Lindsey C. Kozberg/WHO/EOP@EOP [WHO] <Lindsey C. Kozberg>;James M. Kelly/WHO/EOP@EOP [WHO] <James M. Kelly>;Joel Kaplan/WHO/EOP@Exchange [UNKNOWN] <Joel Kaplan>;Wendy J. Grubbs/WHO/EOP@Exchange [WHO] <Wendy J. Grubbs>;Tim Goeglein/WHO/EOP@EOP [WHO] <Tim Goeglein>;Kelley Gannon/WHO /EOP@EOP [WHO] <Kelley Gannon>;Catherine S. Fenton/WHO/EOP@Exchange [WHO] <Catherine S. Fenton>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Elizabeth S. Dougherty/OPD/EOP@EOP [OPD] <Elizabeth S. Dougherty>;Amy Jensen/WHO /EOP@Exchange [WHO] <Amy Jensen>;Rebecca Contreras/WHO/EOP@EOP [WHO] <Rebecca Contreras>;Ronald I. Christie/OPD/EOP@EOP [OPD] <Ronald I. Christie>;Jonathan W. Burks/WHO/EOP@Exchange [WHO] <Jonathan W. Burks>;Katja Bullock/WHO/EOP@EOP [WHO] <Katja Bullock>;Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;Rebecca A. Beynon/WHO/EOP@EOP [WHO] <Rebecca A. Beynon>;Brian R. Besanceney/WHO/EOP@EOP [WHO] <Brian R. Besanceney>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Jackie Arends/WHO /EOP@EOP [WHO] <Jackie Arends>;Lezlee J. Westine/WHO/EOP@EOP [WHO] <Lezlee J. Westine>;Jim Towey/WHO/EOP@EOP [WHO] <Jim Towey>;Brian D. Montgomery/WHO /EOP@Exchange [WHO] <Brian D. Montgomery>;John P. McConnell/WHO/EOP@EOP [WHO] <John P. McConnell>;David G. Leitch/WHO/EOP@Exchange [WHO] <David G. Leitch>;Daniel Keniry/WHO/EOP@Exchange [UNKNOWN] <Daniel Keniry>;Barry S. Jackson/WHO /EOP@EOP [WHO] <Barry S. Jackson>;Israel Hernandez/WHO/EOP@Exchange [WHO] <Israel Hernandez>;Tucker A. Eskew/WHO/EOP@EOP [WHO] <Tucker A. Eskew>;Suzy DeFrancis/WHO/EOP@Exchange [WHO] <Suzy DeFrancis>;Andrea G. Ball/WHO /EOP@Exchange [WHO] <Andrea G. Ball>;Clay Johnson III/WHO/EOP@Exchange [WHO] <Clay Johnson III>;Karl C. Rove/WHO/EOP@Exchange [WHO] <Karl C. Rove>;Harriet Miers/WHO/EOP@Exchange [WHO] <Harriet Miers>;Joseph W Hagin/WHO/EOP@Exchange [UNKNOWN] <Joseph W Hagin>;Michael J. Gerson/WHO/EOP@Exchange [WHO] <Michael J. Gerson>;Lawrence A. Fleischer/WHO/EOP@Exchange [WHO] <Lawrence A. Fleischer>;John M. Bridgeland/OPD/EOP@EOP [OPD] <John M. Bridgeland>;Daniel J. Bartlett/WHO /EOP@Exchange [WHO] <Daniel J. Bartlett>;Debra D. Bird/WHO/EOP@Exchange [WHO] <Debra D. Bird>;Jared B. Weinstein/WHO/EOP@Exchange [WHO] <Jared B. Weinstein>;Tim Reynolds/WHO/EOP@Exchange [WHO] <Tim Reynolds>;Ross M. Kyle/WHO/EOP@Exchange [WHO] <Ross M. Kyle>;Melissa S. Bennett/WHO/EOP@Exchange [WHO] <Melissa S. Bennett>;Blake Gottesman/WHO/EOP@Exchange [WHO] <Blake Gottesman>;Marty P. Smith/OPD/EOP@EOP [OPD] <Marty P. Smith>;Daniel D. Heath/OPD/EOP@EOP [OPD] <Daniel D. Heath>;Jean Cooper/OPD/EOP@Exchange [OPD] <Jean Cooper>;Joseph F. O'Neill/OPD/EOP@EOP [OPD] <Joseph F. O'Neill>;Christina C. Wilson/OPD/EOP@EOP [OPD] <Christina C. Wilson>;Jess Sharp/OPD/EOP@EOP [OPD] <Jess Sharp>;Holly A. Kuzmich/OPD/EOP@EOP [OPD] <Holly A. Kuzmich>;Philo D. Hall/OPD/EOP@EOP [OPD] <Philo D. Hall>;Eleanor L. Gillmor/OPD/EOP@Exchange [OPD] <Eleanor L. Gillmor>;Colleen

Litkenhaus/WHO/EOP@Exchange [WHO] <Colleen Litkenhaus>;Bradley A. Blakeman/WHO /EOP@Exchange [WHO] <Bradley A. Blakeman>;Raquel Cabral/WHO/EOP@Exchange [WHO] <Raquel Cabral>;Jennifer H. Mayfield/OVP/EOP@EOP [OVP] <Jennifer H. Mayfield>;Debra Heiden/OVP/EOP@EOP [OVP] <Debra Heiden>;Franklin C. Miller/NSC/EOP@EOP [NSC] <Franklin C. Miller>;Katherine M. Walters/WHO/EOP@EOP [WHO] <Katherine M. Walters>;Henry C Hager/WHO/EOP@Exchange [UNKNOWN] <Henry C Hager>;Ashley Snee/WHO/EOP@Exchange [WHO] <Ashley Snee>;Josh Deckard/WHO/EOP@Exchange [WHO] <Josh Deckard>;Christal R. West/WHO/EOP@Exchange [WHO] <Christal R. West>;Shelley Reese/WHO/EOP@Exchange [WHO] <Shelley Reese>;Krista L. Ritacco/WHO /EOP@Exchange [WHO] <Krista L. Ritacco>;Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Karin B. Torgerson/WHO/EOP@Exchange [WHO] <Karin B. Torgerson>;Scott N. Sforza/WHO/EOP@EOP [WHO] <Scott N. Sforza>;Matthew A. Schlapp/WHO/EOP@EOP [WHO] <Matthew A. Schlapp>;Desiree T. Sayle/WHO/EOP@EOP [WHO] <Desiree T. Sayle>;Liza Wright/WHO/EOP@EOP [WHO] <Liza Wright>;Benjamin A. Powell/WHO /EOP@EOP [WHO] <Benjamin A. Powell>;Eric C. Pelletier/WHO/EOP@Exchange [WHO] <Eric C. Pelletier>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Edmund C. Moy/WHO/EOP@EOP [WHO] <Edmund C. Moy>;Robert C. McNally/OPD/EOP@EOP [OPD] <Robert C. McNally>;Heidi M. Smith/WHO/EOP@EOP [WHO] <Heidi M. Smith>;Elan Liang/WHO/EOP@Exchange [WHO] <Elan Liang>;David Kuo/WHO /EOP@EOP [WHO] <David Kuo>;Matthew Kirk/WHO/EOP@Exchange [WHO] <Matthew Kirk>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;David Higbee/WHO /EOP@EOP [WHO] <David Higbee>;Adam B. Goldman/WHO/EOP@EOP [WHO] <Adam B. Goldman>;Alan Gilbert/OPD/EOP@EOP [OPD] <Alan Gilbert>;Noel J. Francisco/WHO /EOP@EOP [WHO] <Noel J. Francisco>;Richard Falkenrath/WHO/EOP@Exchange [WHO] <Richard Falkenrath>;David Dunn/OPD/EOP@EOP [OPD] <David Dunn>;Nicolle Devenish/WHO/EOP@EOP [WHO] <Nicolle Devenish>;Christopher C. Cox/WHO /EOP@Exchange [WHO] <Christopher C. Cox>;Alicia P. Clark/WHO/EOP@EOP [WHO] <Alicia P. Clark>;Kirsten Chadwick/WHO/EOP@Exchange [UNKNOWN] <Kirsten Chadwick>;Christine M. Burgeson/WHO/EOP@Exchange [WHO] <Christine M. Burgeson>;Claire Buchan/WHO/EOP@Exchange [UNKNOWN] <Claire Buchan>;Charles P. Blahous/OPD/EOP@EOP [OPD] <Charles P. Blahous>;Todd W. Beyer/WHO/EOP@EOP [WHO] <Todd W. Beyer>;Kenneth Bernard/WHO/EOP@EOP [WHO] <Kenneth Bernard>;William D. Badger/OPD/EOP@EOP [OPD] <William D. Badger>;Michael Allen/WHO /EOP@EOP [WHO] <Michael Allen>;Peter H. Wehner/WHO/EOP@EOP [WHO] <Peter H. Wehner>;Ziad Ojakli/WHO/EOP@Exchange [UNKNOWN] <Ziad Ojakli>;Ken Mehlman/WHO /EOP@EOP [WHO] <Ken Mehlman>;Scott McClellan/WHO/EOP@Exchange [WHO] <Scott McClellan>;Jay P. Lefkowitz/OPD/EOP@Exchange [OPD] <Jay P. Lefkowitz>;Gregory J. Jenkins/WHO/EOP@EOP [WHO] <Gregory J. Jenkins>;Edward Ingle/WHO/EOP@EOP [WHO] <Edward Ingle>;Keith Hennessey/OPD/EOP@Exchange [OPD] <Keith Hennessey>;Gary R. Edson/NSC/EOP@EOP [NSC] <Gary R. Edson>;Ruben S. Barrales/WHO/EOP@EOP [WHO] <Ruben S. Barrales>;Charles S. Abbot/WHO/EOP@Exchange [WHO] <Charles S. Abbot>;Margaret M. Spellings/OPD/EOP@Exchange [OPD] <Margaret M. Spellings>;Dina Powell/WHO/EOP@Exchange [WHO] <Dina Powell>;David W. Hobbs/WHO/EOP@Exchange [WHO] <David W. Hobbs>;Alberto R. Gonzales/WHO/EOP@Exchange [WHO] <Alberto R. Gonzales>;Stephen Friedman/OPD/EOP@Exchange [OPD] <Stephen Friedman>;Andrew H. Card/WHO/EOP@Exchange [WHO] <Andrew H. Card>;Joshua B. Bolten/WHO /EOP@Exchange [WHO] <Joshua B. Bolten>;Barbara A. Barclay/WHO/EOP@Exchange [WHO] <Barbara A. Barclay>;Carolyn E. Cleveland/WHO/EOP@Exchange [WHO] <Carolyn E. Cleveland>;Kara G. Figg/WHO/EOP@Exchange [WHO] <Kara G. Figg>;Jose Mallea/WHO /EOP@Exchange [WHO] <Jose Mallea>;Allison L. Riepenhoff/WHO/EOP@Exchange [WHO] <Allison L. Riepenhoff>;Ashley Estes/WHO/EOP@Exchange [WHO] <Ashley Estes>;Caroline Boeckel/OPD/EOP@EOP [OPD] <Caroline Boeckel>;Sue H. Gerdelman/OPD/EOP@EOP [OPD] <Sue H. Gerdelman>;Lauren K. Allgood/OPD/EOP@Exchange [OPD] <Lauren K. Allgood>;Carol J. Thompson/OPD/EOP@EOP [OPD] <Carol J. Thompson>;Emily Winland/OPD /EOP@EOP [OPD] <Emily Winland>;Layton Skelly/OPD/EOP@EOP [OPD] <Layton Skelly>;Garry Malphrus/OPD/EOP@EOP [OPD] <Garry Malphrus>;Troy Justesen/OPD /EOP@EOP [OPD] <Troy Justesen>;Lauren J. Vestewig/OPD/EOP@Exchange [OPD] <Lauren J. Vestewig>;James Connaughton/CEQ/EOP@EOP [CEQ] <James Connaughton>

Sent: 5/7/2003 1:32:42 PM

Subject: : REMINDER - 5:30 Celebration

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Ross M. Kyle (CN=Ross M. Kyle/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 7-MAY-2003 17:32:42.00
SUBJECT:: REMINDER - 5:30 Celebration
TO:Mitchell Daniels (CN=Mitchell Daniels/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:A. Morgan Middlemas (CN=A. Morgan Middlemas/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Brian V. McCormack (CN=Brian V. McCormack/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Jennifer D. Field (CN=Jennifer D. Field/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Robin Cleveland (CN=Robin Cleveland/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Rebekah McDonald (CN=Rebekah McDonald/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Adam L. Levine (CN=Adam L. Levine/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Penny G. Douglas (CN=Penny G. Douglas/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Adam B. Ingols (CN=Adam B. Ingols/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Anne E. Campbell (CN=Anne E. Campbell/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Taylor A. Hughes (CN=Taylor A. Hughes/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Carolyn Nelson (CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Tevi Troy (CN=Tevi Troy/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Matthew Scully (CN=Matthew Scully/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brian Reardon (CN=Brian Reardon/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Brian Peterman (CN=Brian Peterman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Sean B. O'Hollaren (CN=Sean B. O'Hollaren/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Noam M. Neusner (CN=Noam M. Neusner/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Lindsey C. Kozberg (CN=Lindsey C. Kozberg/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO:Joel Kaplan (CN=Joel Kaplan/OU=WHO/O=EOP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Amy Jensen (CN=Amy Jensen/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ronald I. Christie (CN=Ronald I. Christie/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Jonathan W. Burks (CN=Jonathan W. Burks/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jennifer R. Brosnahan (CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brian R. Besanceney (CN=Brian R. Besanceney/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:John P. McConnell (CN=John P. McConnell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Daniel Keniry (CN=Daniel Keniry/OU=WHO/O=EOP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Suzy DeFrancis (CN=Suzy DeFrancis/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Joseph W Hagin (CN=Joseph W Hagin/OU=WHO/O=EOP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN

TO:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jared B. Weinstein (CN=Jared B. Weinstein/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Tim Reynolds (CN=Tim Reynolds/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Ross M. Kyle (CN=Ross M. Kyle/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Blake Gottesman (CN=Blake Gottesman/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Marty P. Smith (CN=Marty P. Smith/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Daniel D. Heath (CN=Daniel D. Heath/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Jean Cooper (CN=Jean Cooper/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Joseph F. O'Neill (CN=Joseph F. O'Neill/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Christina C. Wilson (CN=Christina C. Wilson/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Jess Sharp (CN=Jess Sharp/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Holly A. Kuzmich (CN=Holly A. Kuzmich/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Philo D. Hall (CN=Philo D. Hall/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Raquel Cabral (CN=Raquel Cabral/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jennifer H. Mayfield (CN=Jennifer H. Mayfield/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Debra Heiden (CN=Debra Heiden/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Katherine M. Walters (CN=Katherine M. Walters/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Henry C Hager (CN=Henry C Hager/OU=WHO/O=EOP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Josh Deckard (CN=Josh Deckard/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Christal R. West (CN=Christal R. West/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Shelley Reese (CN=Shelley Reese/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Krista L. Ritacco (CN=Krista L. Ritacco/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Theodore W. Ullyot (CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Karin B. Torgerson (CN=Karin B. Torgerson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Liza Wright (CN=Liza Wright/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Eric C. Pelletier (CN=Eric C. Pelletier/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Heidi M. Smith (CN=Heidi M. Smith/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Elan Liang (CN=Elan Liang/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:David Kuo (CN=David Kuo/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:David Higbee (CN=David Higbee/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Adam B. Goldman (CN=Adam B. Goldman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:David Dunn (CN=David Dunn/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Christopher C. Cox (CN=Christopher C. Cox/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kirsten Chadwick (CN=Kirsten Chadwick/OU=WHO/O=EOP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:Christine M. Burgeson (CN=Christine M. Burgeson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Claire Buchan (CN=Claire Buchan/OU=WHO/O=EOP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Todd W. Beyer (CN=Todd W. Beyer/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kenneth Bernard (CN=Kenneth Bernard/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:William D. Badger (CN=William D. Badger/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Michael Allen (CN=Michael Allen/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ziad Ojakli (CN=Ziad Ojakli/OU=WHO/O=EOP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN

TO:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Gregory J. Jenkins (CN=Gregory J. Jenkins/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Charles S. Abbot (CN=Charles S. Abbot/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Stephen Friedman (CN=Stephen Friedman/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Barbara A. Barclay (CN=Barbara A. Barclay/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Kara G. Figg (CN=Kara G. Figg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jose Mallea (CN=Jose Mallea/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Allison L. Riepenhoff (CN=Allison L. Riepenhoff/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Ashley Estes (CN=Ashley Estes/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Caroline Boeckel (CN=Caroline Boeckel/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Sue H. Gerdelman (CN=Sue H. Gerdelman/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Lauren K. Allgood (CN=Lauren K. Allgood/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:Carol J. Thompson (CN=Carol J. Thompson/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Emily Winland (CN=Emily Winland/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Layton Skelly (CN=Layton Skelly/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Garry Malphrus (CN=Garry Malphrus/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Troy Justesen (CN=Troy Justesen/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Lauren J. Vestewig (CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
TO:James Connaughton (CN=James Connaughton/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN
End Original ARMS Header

Please;join Secretary Card at 5:30 as we see our co-workers off and wish
them well as they leave for Iraq.
;
;

From: CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/7/2003 1:47:56 PM
Subject: : FW: 5/9 Judicial Independence #3 - to be staffed out
Attachments: P_Z8S8G003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 7-MAY-2003 17:47:56.00
SUBJECT:: FW: 5/9 Judicial Independence #3 - to be staffed out
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Ari is inclined to give a preview of the Friday event tomorrow.; Are there many changes made to this version?; I'll also need it for the fact sheet.; thanks
-----Original Message-----
From: Ritacco, Krista L.
Sent: Wednesday, May 07, 2003 4:52 PM
To: Snee, Ashley
Subject: FW: 5/9 Judicial Independence #3 - to be staffed out

;
-----Original Message-----
From: Campbell, Anne E.
Sent: Tuesday, May 06, 2003 6:07 PM
To: Staff Secretary
Cc: Ritacco, Krista L.; Hernandez, Israel; Ralston, Susan B.; Carroll, Colleen M.; Jones, Brian C.; Vargo, Erin A.; Reilly, Jeannette B.; Kropp, Emily L.; Kavanaugh, Brett M.
Subject: 5/9 Judicial Independence #3 - to be staffed out

With Staff Secretary - to be staffed.;
Comments are due at 2pm tomorrow (5/7);
Thank you.
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_Z8S8G003_WHO.TXT_1>

Remarks on Judicial Independence and Judicial Confirmation Process
May 9, 2003
Draft #3

Thank you all very much, and welcome to the White House. More than 200 years ago this month, our Founding Fathers gathered in Philadelphia to draft the Constitution. When they finished four months later, they had created something remarkable: a truly independent judiciary.

Our Founding Fathers were wise men. They knew that freedom and justice depend on fair and impartial judges. And they knew that politics can poison the judiciary, by preventing judges from doing their duty and upsetting the balance of power between our three branches of government. So they designed a system where the President alone would nominate judges, and the Senate would vote up or down on the nominees within a reasonable amount of time.

Today, we are facing a Constitutional crisis. The judicial independence that our Founding Fathers enshrined in the Constitution is in jeopardy. The swift justice promised to all Americans is endangered. And the judicial confirmation process is broken.

Highly qualified judicial nominees are waiting years to get up-or-down votes from the Senate, while partisans search in vain for reasons to reject them. Their obstructionist tactics are setting bad precedents that threaten judicial independence. Meanwhile, vacancies on the bench and overcrowded court dockets are causing lengthy delays for citizens seeking justice.

I want to fix this problem and make the judicial confirmation process work as the Framers intended. We have a responsibility to uphold the founding ideal of a truly independent judiciary.

Acknowledgments
- Senators and bar leaders: TK

Exactly two years ago, I announced my first 11 judicial nominees to the federal appeals courts. I chose men and women of talent and integrity, highly qualified nominees who represent the mainstream of American law and American values. Eight of them waited more than a year to get an up-

REV_00165997

or-down floor vote from the Senate. Four of them are still waiting. That's two years that these men and women have had to put their lives on hold. And that's a disgrace.

Since taking office, I have sent to the Senate 42 highly qualified nominees for the federal courts of appeals. To date, only 22 of them have received a vote in the Senate, and 10 of the remaining 20 nominees have been waiting more than a year for a floor vote. More appeals court nominees have had to wait over a year for a hearing in my Presidency than in the last 50 years combined. This is not just business as usual. This is absurd, and it's hurting America.

The Senators who are playing politics with these nominees are depriving the American people of top-notch judges. I take my Constitutional obligation to nominate judges seriously, and I choose my nominees with great care. The men and women I have nominated are a historically diverse group whose character and credentials are impeccable.

This group includes Miguel Estrada, my selection for the D.C. Circuit Court of Appeals. Miguel Estrada has served in the Justice Department under Presidents of both political parties. He has argued 15 cases before the U.S. Supreme Court, and he has earned the American Bar Association's highest mark, a unanimous rating of well-qualified. If confirmed, Miguel would be the first Hispanic American ever to serve on a court that is often considered the second highest in the land.

Miguel Estrada's nomination has strong support from citizens and leaders in both parties, and from a majority of Senators. Yet after two years, he still cannot get an up-or-down floor vote. A group of Democratic Senators has forced Miguel to answer questions not asked of other nominees, sought confidential Justice Department memos not sought for other appeals court nominees, and filibustered for three months to prevent a vote on his nomination.

Never before has there been a successful filibuster to prevent an up-or-down floor vote on an appeals court nominee. This is an unprecedented move that threatens judicial independence. At a time when Americans are fed up with partisanship and our courts face a vacancy crisis, this is a dangerous move in the wrong direction.

REV_00165998

Miguel Estrada is not the only judicial nominee who has been mistreated by partisans in the Senate. Justice Priscilla Owen, a nominee to the Fifth Circuit in Texas, has also become the target of a filibuster. Priscilla Owen is an extraordinarily qualified nominee who has served with distinction on the Texas Supreme Court since 1995. Like Miguel Estrada, she has earned the American Bar Association's highest rating of unanimous well-qualified. And she has strong bipartisan support, including endorsements from three former Democrat Texas Supreme Court Justices with whom she served and 15 past Presidents of the Texas Bar. Yet Priscilla Owen has been waiting two years for an up or down vote.

The list goes on, but the trend is clear. Of the 22 nominees waiting for a vote, most have served as judges and all who have been rated by the American Bar Association have received "well-qualified" or "qualified" ratings. Some Democrat Senators have referred to those ratings as the "gold standard." Yet these same Senators ignore those high marks when it comes to nominees they cannot pigeonhole, and opt instead to apply a double standard.

Senators Bill Frist and Orrin Hatch have worked hard to overcome these stall tactics and they are doing a great job. I know that these problems are not new. In the past three Presidential Administrations, too many nominees never received votes. Now the situation is worse than ever, and the need for reform is greater than ever.

While Senators bicker and stall and nurse old grudges, American justice is suffering. Dockets are overcrowded, judges are overworked, and citizens are waiting too long for their cases to be heard. Regional appeals courts have a 14 percent vacancy rate, and filings in those courts reached an all-time high again last year. The Sixth Circuit, which covers Ohio, Michigan, Kentucky, and Tennessee, has four vacancies on a 16-judge court. The D.C. Circuit has four vacancies on a 12-judge court.

Of the 22 open seats that could be filled by nominees waiting for Senate confirmation, 18 have been classified as "judicial emergencies" by the Judicial Conference of the United States. The secretary of that group says this shortage of judges is "staggering." The American Bar Association calls this an "emergency situation." And the Chief Justice recently said that these vacancies and rising caseloads threaten the proper functioning of the

REV_00165999

federal courts, and asked the Senate to give every nominee a prompt up-or-down vote.

The bitterness and partisanship that have taken over the judicial confirmations process also threaten judicial independence, by forcing nominees to commit to a point of view on controversial issues before they have even taken the bench. In America, our entire rule of law – and our entire democracy – depend on judicial independence. A confirmations process that undermines judicial independence, while also failing to fill benches and possibly scaring away future candidates, is clearly broken.

Six months ago, I proposed a plan to fix this process and end the vacancy crisis. This plan would apply no matter who lives in this house, or who controls the Senate. Here's how it would work: Federal judges on the Courts of Appeals and District Courts would notify the President of their intention to retire at least a year in advance, whenever this is possible. The President would then submit a nomination to the Senate within 180 days of receiving notice of a federal court vacancy or intended retirement. The Senate Judiciary Committee would hold a hearing within 90 days of receiving a nomination. And the full Senate would hold an up-or-down floor vote on a nominee no later than 180 days after the nomination is submitted. That's six months, and that's plenty of time.

Since I announced this plan, the Judicial Conference has done its part, by adopting the one-year advance notice requirement for judges. I have done my part, by committing to submit nominations within 180 days and signing an Executive Order to formalize this commitment. Now we're waiting on the Senate to do its duty.

The bipartisan group of freshman Senators who are here today share my commitment to make this process work again. As newcomers, they see the futility of the endless bickering and one-up-man-ship that blocks good judges from the bench.

These Senators have proven that they are willing to put aside the past and restore civility and dignity to this process. Under the leadership of Republican John Cornyn of Texas and Democrat Mark Pryor of Arkansas, they sent a letter to the Senate leadership last week. This is what it said:

"None of us were parties to any of the reported past offenses, whether real or perceived. None of us believe that the ill will of the past should dictate the terms and direction of the future. Each of us firmly believes that the United States Senate needs a fresh start."

I believe a fresh start is possible, and I stand with these Senators as they work toward making that happen. My plan offers a simple way to end the cycle of bitterness and move forward for the sake of the country. The American people – and the ideals of American justice – deserve no less.

May God bless each one of you, and may He continue to bless the United States of America.

Drafted by Colleen Carroll, Office of Speechwriting
Office: 202/456-0399
Cell: 202/494-2708

From: Snee, Ashley
To: <Kavanaugh, Brett M.>
Sent: 5/7/2003 7:20:07 PM
Subject: RE: FW: 5/9 Judicial Independence #3 - to be staffed out

2 - yes, I'm doing one - will send through staffing tomorrow.
3 - ari is going to preview the speech tomorrow - but can we get the most recent version/final version of the speech before then? We can maybe look at doing a backgrounder with the press after - but most of them will be traveling with the President.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Wednesday, May 07, 2003 6:41 PM
To: Snee, Ashley
Subject: Re: FW: 5/9 Judicial Independence #3 - to be staffed out

1. Yes, there were some changes.

2. For the fact sheet, are you doing a draft (I hope)? Should we have an attachment to fact sheet that includes some of the D statements in past?

3. Should we have a background briefing for reporters either tomorrow night or Friday after the event?

From: Ashley Snee/WHO/EOP@Exchange on 05/07/2003 05:48:27 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: FW: 5/9 Judicial Independence #3 - to be staffed out

Ari is inclined to give a preview of the Friday event tomorrow. Are there many changes made to this version? I'll also need it for the fact sheet. thanks

-----Original Message-----
From: Ritacco, Krista L.
Sent: Wednesday, May 07, 2003 4:52 PM
To: Snee, Ashley
Subject: FW: 5/9 Judicial Independence #3 - to be staffed out

-----Original Message-----
From: Campbell, Anne E.
Sent: Tuesday, May 06, 2003 6:07 PM
To: Staff Secretary
Cc: Ritacco, Krista L.; Hernandez, Israel; Ralston, Susan B.; Carroll, Colleen M.; Jones, Brian C.; Vargo, Erin A.; Reilly, Jeannette B.; Kropp, Emily L.; Kavanaugh, Brett M.

Subject: 5/9 Judicial Independence #3 - to be staffed out

With Staff Secretary - to be staffed.
Comments are due at 2pm tomorrow (5/7)
Thank you. << File: Judicial#3.doc >>

From: Kavanaugh, Brett M.
To: <Leitch, David G.>;<Gonzales, Alberto R.>
Sent: 5/7/2003 9:03:27 PM
Subject:

David A did not like some additions made to order on consultation and adding other parts of plan re judges and senate. I tend to agree and think order should be short and sweet on nominate within 180 days.

.

From: CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO]
To: Jonathan F. Ganter/WHO/EOP@EOP [WHO] <Jonathan F. Ganter>;Kyle Sampson/WHO /EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Tracy Jucas/WHO/EOP@EOP [WHO] <Tracy Jucas>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;J. Elizabeth Farrell/WHO/EOP@EOP [WHO] <J. Elizabeth Farrell>;Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Noel J. Francisco/WHO /EOP@EOP [WHO] <Noel J. Francisco>;James W. Carroll/WHO/EOP@EOP [WHO] <James W. Carroll>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>
Sent: 5/8/2003 5:54:21 AM
Subject: : POTUS event tomorrow

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME: 8-MAY-2003 09:54:21.00
SUBJECT:: POTUS event tomorrow
TO:Jonathan F. Ganter ( CN=Jonathan F. Ganter/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tracy Jucas ( CN=Tracy Jucas/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:J. Elizabeth Farrell ( CN=J. Elizabeth Farrell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:James W. Carroll ( CN=James W. Carroll/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
###### End Original ARMS Header ######

The President will give remarks on judicial independence and the the
judicial confirmation process tomorrow morning at 10:30 in the Rose Garden
(rm 450 EEOB in case;of rain). Everyone is welcome to attend the event,
although seats will be reserved for outside guests (you may be asked to
fill empty seats if necessary).
;
```

Please arrive no later than 10:15.
;
Thanks!

From: CN=Lisa J. Macecevic/OU=OMB/O=EOP [OMB]
To: James J. Jukes/OMB/EOP@EOP [OMB] <James J. Jukes>;Kenneth L. Schwartz/OMB /EOP@EOP [OMB] <Kenneth L. Schwartz>;Lauren E. Bloomquist/OMB/EOP@EOP [OMB] <Lauren E. Bloomquist>;Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Richard E. Green/OMB/EOP@EOP [OMB] <Richard E. Green>;James Boden/OMB/EOP@EOP [OMB] <James Boden>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/8/2003 8:27:22 AM
Subject: : Class action story

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Lisa J. Macecevic (CN=Lisa J. Macecevic/OU=OMB/O=EOP [OMB])
CREATION DATE/TIME: 8-MAY-2003 12:27:22.00
SUBJECT:: Class action story
TO:James J. Jukes (CN=James J. Jukes/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Kenneth L. Schwartz (CN=Kenneth L. Schwartz/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Lauren E. Bloomquist (CN=Lauren E. Bloomquist/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Richard E. Green (CN=Richard E. Green/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:James Boden (CN=James Boden/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

contains information on:
-- not-yet-introduced Leahy bill, and
-- possible changes to S. 274 (Hatch's bill) - see "Effort to Restore Provision on Consolidated Suits" section

---------- Forwarded by Lisa J. Macecevic/OMB/EOP on 05/08/2003 12:02 PM ----------

No. 89
Thursday May 8, 2003 Page A-9
ISSN 1523-567X
Regulation & Law

Class Actions
Leahy Seeks Support to Narrow Class Action Bill Before Senate Vote
With a Senate vote on class action legislation possible before the end of May, Sen. Patrick Leahy (D-Vt.), the Senate Judiciary Committee's ranking minority member, is soliciting co-sponsors for a competing bill, narrower in scope than the measure voted out of a divided Judiciary Committee in early April, according to Judiciary Committee sources.
Leahy's bill--as summarized in a "Dear Colleague" dated April 30 obtained by BNA--would impose stiffer requirements for transferring a state class action to federal court than the bill reported by the Judiciary Committee.
Attempt to Address Judiciary Concern
Leahy's alternative is an attempt to address concerns about the pending legislation expressed by the federal judiciary and other opponents of the bill, according to a series of letters between Leahy and the U.S. Judicial Conference obtained by BNA.
Leahy's alternative would require class member residency to cover at least

three different states before a class action filed in state court could be transferred to federal court. In addition, Leahy's proposal would require an amount in controversy threshold of $15 million.
No specific language for Leahy's bill has yet been drafted, committee staff told BNA.
The Class Action Fairness Act (S. 274)--approved 12-7 by the Judiciary Committee on April 11--would allow multistate class actions to be transferred to federal court when at least one plaintiff and one defendant are from different states and the amount in controversy is at least $5 million. The measure would allow a class action to remain in state court if more than two-thirds of the plaintiffs and the primary defendant are from the same state.
Original Bill Targets Abuses
Heavily supported by business groups, the original Senate bill is an attempt to address what proponents cite as "abuses of the class action device," which include huge attorneys' fees at the expense of class members, coupon settlements in lieu of cash, confusing notices to potential class members, and state court judges imposing their rulings on residents of other states.
To address these problems, S. 274 would require increased court scrutiny over coupon settlements and appointment of class counsel, and require that notices to class members be written in "plain English."
Leahy's bill would address coupon settlements by requiring that attorneys' fees paid to class counsel "be based on the value of the coupons actually redeemed," according to the "Dear Colleague" letter.
In addition, the Leahy alternative would prohibit collusive settlements by limiting the scope of any release of future legal rights by class members. Leahy's proposal would also require that notices be sent to class members when a class is certified and at the time of settlement.
Critics Say Original Bill Too Broad
Critics of the current bill, including consumer groups, environmental organizations, and other public interest advocates, say it is too broad, would create delays in hearing class actions, and would impose added expense on plaintiffs.
On March 26 the U.S. Judicial Conference, the federal judiciary's chief policy-making body, expressed its opposition to S. 274, saying it would "unduly burden" federal courts and interfere with state control over cases traditionally heard in state court. The conference urged that "sufficient limitations and threshold requirements" be included in any final bill.
Following the statement from the Judicial Conference, Leahy, in letters dated April 9 and 11th, requested that the conference provide specific language to implement its recommendation on class action legislation.
The Judicial Conference, in a reply dated April 25, declined to offer specific language "out of deference to Congress's judgment and the political process." However, the conference noted it would have "no objection" to proposals (1) to increase the jurisdictional amount in controversy beyond the $5 million threshold in the current bill, (2) to increase the number of class members required to transfer a class action to federal court, and (3) to allow a federal judge discretion to refuse jurisdiction according to criteria decided by Congress.
In the letter, the conference emphasized that "any minimal diversity bill will result in certain cases being litigated in federal court that would not previously have been subject to federal jurisdiction. The effects of this transfer should be assessed in determining the appropriateness of various limitations on the availability of minimal diversity jurisdiction."
Effort to Restore Provision on Consolidated Suits
In a separate development, business interests are attempting to restore a provision of the original class action bill which was deleted at the request of Sens. Arlen Specter (R-Pa.) and Dianne Feinstein (D-Calif.), according to staff at the U.S. Chamber of Commerce.
The bill, as originally introduced, would have covered suits where the plaintiff purports to act for the general public--known as private attorney general actions--and suits where monetary damage claims of 100 or more persons are consolidated or joined.
During the Judiciary Committee's final markup session on the bill April 11, Specter and Feinstein said including those types of suits in the bill was "overreaching." Specter warned that the bill's broad language could

sweep in mass tort claims from a chemical spill, preventing residents from a single state from bringing a class action in state court.
Hatch agreed to remove the suits from the bill, but indicated he expected to work out compromise language to address Feinstein's and Specter's concerns at a later date.
Hatch and Specter are now close to an agreement which would put back in the bill "consolidated cases which are considered to be the functional equivalent of class actions," according to Matthew Webb, director of legal reform policy at the U.S. Chamber of Commerce.
However, mass torts "were never envisioned to be included in the bill in the first place," Webb said, adding that language would probably be worked out to address the distinction.

By Ralph Lindeman

Copyright © 2003 by The Bureau of National Affairs, Inc., Washington D.C.

From: Kirk Blalock <kblalock@fierce-isakowitz.com>
To: Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Kevin Warsh/OPD /EOP@EOP [OPD] <Kevin Warsh>
Sent: 5/8/2003 4:41:41 AM
Subject: :
Attachments: P_FD49G003_WHO.TXT_1.html

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kirk Blalock <kblalock@fierce-isakowitz.com> ( Kirk Blalock <kblalock@fierce-
isakowitz.com> [ UNKNOWN ] )
CREATION DATE/TIME: 8-MAY-2003 08:41:41.00
SUBJECT::
TO:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Apparently there is a Hatch draft Asbestos bill floating thru several
Senate offices on the qt. We have not seen it. Thought you would want
to know.

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_FD49G003_WHO.TXT_1>
```

Apparently there is a Hatch draft Asbestos bill floating thru several Senate offices on the qt. We have not seen it. Thought you would want to know.

From: Kirk Blalock <kblalock@fierce-isakowitz.com>
To: Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>
CC: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Kevin Warsh/OPD /EOP@EOP [OPD] <Kevin Warsh>
Sent: 5/8/2003 4:41:56 AM
Subject: :
Attachments: P_2E49G003_OPD.TXT_1.html

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kirk Blalock <kblalock@fierce-isakowitz.com> ( Kirk Blalock <kblalock@fierce-
isakowitz.com> [ UNKNOWN ] )
CREATION DATE/TIME: 8-MAY-2003 08:41:56.00
SUBJECT::
TO:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Apparently there is a Hatch draft Asbestos bill floating thru several
Senate offices on the qt. We have not seen it. Thought you would want
to know.

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_2E49G003_OPD.TXT_1>
```

Apparently there is a Hatch draft Asbestos bill floating thru several Senate offices on the qt. We have not seen it. Thought you would want to know.

From: Snee, Ashley
To: <Kavanaugh, Brett M.>;<Orr, Christopher J.>
Sent: 5/8/2003 10:05:36 AM
Subject: RE:

Would be good to have some w/ POTUS.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Thursday, May 08, 2003 10:03 AM
To: Orr, Christopher J.
Cc: Snee, Ashley
Subject:

can you use pictures of Estrada and Owen from their hearings -- from AP.

Also, photo office has pictures of them individually with President on May 9, 2001.

From: Lefkowitz, Jay P.
To: <Kavanaugh, Brett M.>
Sent: 5/8/2003 10:21:48 AM
Subject: RE: what is happening on hill with kyl cornyn

Not clear

Hobbs thinks they will try to get it in, but haven't heard anything for sure yet.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Thursday, May 08, 2003 9:17 AM
To: Lefkowitz, Jay P.
Subject: what is happening on hill with kyl cornyn

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@Exchange@EOP [WHO] <David G. Leitch>;Alberto R. Gonzales/WHO/EOP@Exchange@EOP [WHO] <Alberto R. Gonzales>
Sent: 5/8/2003 7:27:02 AM
Subject: : RE: question
Attachments: P_S7I9G003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 8-MAY-2003 11:27:02.00
SUBJECT:: RE: question
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

FYI. Here is latest. I will add phrase about pay, and I think they also watered down the "constitutional" reference too much. Let me know your thoughts and additions/edits. (Note that at this point, Speechwriting will strongly resist any significant change as you can tell from email to me.)

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 05/08/2003 11:24 AM ----------

From: Anne E. Campbell/WHO/EOP@Exchange on 05/08/2003 11:12:36 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Colleen M. Carroll/WHO/EOP@EOP
cc:
Subject: RE: question

Hi Brett,
Here is the latest draft of tomorrow's remarks. This version reflects all of the staffing comments and Mike's final edits. If you could review it for accuracy's sake, that would be great.
Thank you,
Anne

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_S7I9G003_WHO.TXT_1>

Remarks on Judicial Independence and Judicial Confirmation Process
May 9, 2003
Draft #5

Good morning, and welcome to the White House. I am pleased all of you could be here to stand for a truly independent federal judiciary.

The Framers of the Constitution knew that freedom and justice depend on fair and impartial judges. To ensure judges of the highest quality and integrity, they designed a system in which the President would nominate judges, the Senate would vote up or down on the nominees, and the judges would serve for life.

Today, we are facing a crisis in the federal courts. Highly qualified judicial nominees are waiting years to get up-or-down votes from the Senate, while partisans search in vain for reasons to reject them. The obstructionist tactics of a small group of Senators are setting a pattern that threatens judicial independence. Meanwhile, vacancies on the bench and overcrowded court dockets are causing delays for citizens seeking justice.

The judicial confirmation process is broken, and it must be fixed. Every person nominated to the federal bench deserves a timely vote.

Acknowledgments
- Senators and bar leaders: TK

Exactly two years ago, I announced my first 11 nominees to the federal appeals courts. I chose men and women of talent and integrity – highly qualified nominees who represent the mainstream of American law and American values. Eight of them waited more than a year to get an up-or-down vote in the Senate. As of today, four of them have waited two years. Their treatment by a group of United States Senators is a disgrace.

Since taking office, I have sent to the Senate 42 superb nominees for the federal courts of appeals. To date, only 22 of them have received a vote in the Senate – and nine of the remaining 20 nominees have been waiting more than a year for a floor vote. More appeals court nominees have had to wait over a year for a hearing in my Presidency than in the last 50 years combined. This is not just business as usual. This is an abdication of public responsibility, and it is hurting America.

REV_00166080

As President, I have the Constitutional responsibility to nominate excellent judges, and I take that responsibility seriously. The men and women I have nominated are a historically diverse group whose character and credentials are impeccable.

This group includes Miguel Estrada, my selection for the D.C. Circuit Court of Appeals. Miguel Estrada has served in the Justice Department under Presidents of both political parties. He has argued 15 cases before the U.S. Supreme Court, and he has earned the American Bar Association's highest mark, a unanimous rating of well qualified. If confirmed, Miguel would be the first Hispanic American ever to serve on the court that is often considered the second highest in the land.

Miguel Estrada's nomination has strong support from citizens and leaders in both parties, and from a majority of Senators. Yet after two years, he still cannot get an up-or-down floor vote. A group of Democratic senators has insisted that Mr. Estrada answer questions that other nominees were not required to answer. These senators have sought confidential Justice Department memos not sought for other appeals court nominees – a request opposed by all living former Solicitors General because of the damage it would do to our legal system. These senators have also filibustered for three months to prevent a vote on Mr. Estrada's nomination.

Never before has there been a successful filibuster to prevent an up-or-down floor vote on an appeals court nominee. This is an unprecedented tactic that threatens judicial independence, and adds to the vacancy crisis in our courts.

Justice Priscilla Owen, whom I have nominated to the Fifth Circuit Court of Appeals, has also become the target of a filibuster. Justice Owen is an extraordinarily well qualified nominee who has served with distinction on the Texas Supreme Court since 1995. Like Miguel Estrada, she has earned the American Bar Association's unanimous rating of well qualified. She has strong bipartisan support, including endorsements from three Democrats who served with her on the Texas Supreme Court, and 15 past Presidents of the Texas Bar. Yet Justice Owen has been waiting two years for an up or down vote on the Senate floor.

REV_00166081

The list goes on, and the trend is clear. Of the 20 circuit court nominees awaiting a vote, all who have been rated by the American Bar Association have received "well qualified" or "qualified" ratings. Some Democratic senators have referred to those ratings as the "gold standard." Yet these same senators have ignored those high marks, and applied a double standard to some nominees.

The Senate has a Constitutional responsibility to hold an up or down vote, and that vote should come within a reasonable amount of time after nomination. Throughout most of our history, the Senate has exercised this responsibility. During the Administrations of Presidents Reagan, Bush, and Clinton, however, too many nominees never received votes. And today the situation is worse than ever, making the need for reform greater than ever.

While senators stall and hold on to old grudges, American justice is suffering. Dockets are overcrowded, judges are overworked, and citizens are waiting too long for their cases to be heard. The regional appeals courts have a 14 percent vacancy rate, and filings in those courts reached an all-time high again last year. The Sixth Circuit, which covers Ohio, Michigan, Kentucky, and Tennessee, has four vacancies on a 16-judge court. The D.C. Circuit has four vacancies on a 12-judge court.

Of the 20 open seats that could be filled by nominees waiting for Senate confirmation, 16 have been classified as "judicial emergencies" by the Judicial Conference of the United States. The American Bar Association calls this an "emergency situation." And the Chief Justice recently said that these vacancies and rising caseloads threaten the proper functioning of the federal courts, and asked the Senate to give every nominee a prompt up-or-down vote.

The bitterness and partisanship that have taken over the judicial confirmations process also threaten judicial independence. Some senators have tried to force nominees to take positions on controversial issues, before they even take the bench. This would be a violation of judicial ethics, and contrary to the Constitutional design of a separate and independent judicial branch.

Six months ago, I proposed a plan to end the vacancy crisis and make this process work again. This plan would apply no matter who lives in the White House, or which party controls the Senate. Here's how it

REV_00166082

would work: Judges on the federal appellate and district courts would notify the President of their intention to retire at least a year in advance, whenever that is possible. The President would then submit a nomination to the Senate within 180 days of receiving notice of a vacancy or intended retirement. The Senate Judiciary Committee would hold a hearing within 90 days of receiving a nomination. And the full Senate would vote on a nominee no later than 180 days after the nomination is submitted. The goal is to have a new judge ready to take the bench on the same day the sitting judge retires.

Since I announced this plan, the Judicial Conference has done its part, by adopting the one-year advance notice policy for judges. I have done my part, with an executive order formalizing my commitment to submit nominations within 180 days after notification of a vacancy. Now we are waiting on the Senate to do its duty – and commit to timely up-or-down votes for every nominee.

Majority Leader Frist and Judiciary Committee Chairman Hatch are pushing hard for progress on this issue, and they are doing a great job. I am also pleased that ten freshman senators of both parties have come together to demand the return of dignity and civility to this process. As newcomers, they see the futility of the endless bickering that blocks good judges from the bench.

Under the leadership of Republican John Cornyn of Texas and Democrat Mark Pryor of Arkansas, these senators sent a letter to the Senate leadership last week. This is what it said: "None of us were parties to any of the reported past offenses, whether real or perceived. None of us believe that the ill will of the past should dictate the terms and direction of the future. Each of us firmly believes that the United States Senate needs a fresh start."

I believe a fresh start is possible, and I stand with these senators as they work to fix the confirmation process. My plan offers a simple way to end the cycle of bitterness and move forward for the sake of the country. Let each member of the Senate vote as he or she thinks best – but give every nominee a vote.

Thank you, and God bless you.

REV_00166083

Drafted by Colleen Carroll, Office of Speechwriting
Office: 202/456-0399
Cell: 202/494-2708

REV_00166084

From: Nelson, Carolyn
To: <Smith, Matthew E.>
CC: <Kavanaugh, Brett M.>;<Perkins, Paul>
Sent: 5/8/2003 12:26:32 PM
Subject: FW: RSVP List for Judicial Independence Speech in Rose Garden

fyi
-----Original Message-----
From: Cherry_Bryson@ao.uscourts.gov [mailto:Cherry_Bryson@ao.uscourts.gov]
Sent: Thursday, May 08, 2003 12:19 PM
To: Nelson, Carolyn
Subject: RSVP List for Judicial Independence Speech in Rose Garden

Kari:

Following is a list of those from the judiciary who will be attending the ceremony planned for tomorrow, May 9, at 10:30 a.m. in the Rose Garden:

Judiciary
Chief Judge Thomas F. Hogan (D.C. District Court)

Administrative Office of the U.S. Courts
Leonidas Ralph Mecham (Director)
William R. Burchill, Jr. (Associate Director and General Counsel)
Michael W. Blommer (Assistant Director for Legislative Affairs)
Daniel A. Cunningham (Deputy Assistant Director for Legislative Affairs)
Steven M. Tevlowitz (Assistant General Counsel)

If you need additional information, please let me know. Otherwise, these individuals will arrive at the East Visitors' Gate at 10 a.m. tomorrow morning, May 9. If it rains, they will go to Room 450 of the Old Executive Office Building (Eisenhower).

Thank you for the invitation. They are all looking forward to this opportunity.

Cherry Bryson
273-3000

From: CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange [OPD]
To: John F. Wood/OMB/EOP@EOP [OMB] <John F. Wood>;Philip J. Perry/OMB/EOP@EOP [OMB] <Philip J. Perry>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Emily Winland/OPD/EOP@EOP [OPD] <Emily Winland>;Bessie M. Weaver/OMB/EOP@EOP [OMB] <Bessie M. Weaver>;Carla B. Stone/OMB/EOP@EOP [OMB] <Carla B. Stone>;Jay P. Lefkowitz/OPD/EOP@Exchange [OPD] <Jay P. Lefkowitz>
Sent: 5/8/2003 9:07:28 AM
Subject: : Meeting re. victims of international terror

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Lauren J. Vestewig ( CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange [ OPD ] )
CREATION DATE/TIME: 8-MAY-2003 13:07:28.00
SUBJECT:: Meeting re. victims of international terror
TO:John F. Wood ( CN=John F. Wood/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Philip J. Perry ( CN=Philip J. Perry/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Emily Winland ( CN=Emily Winland/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
CC:Bessie M. Weaver ( CN=Bessie M. Weaver/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
CC:Carla B. Stone ( CN=Carla B. Stone/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
CC:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######

There will be a meeting re. victims of international terror at 10:00 on
Monday in Jay's office.; Please let me know if you can attend.; Thanks.
```

From: Kavanaugh, Brett M.
To: <Grubbs, Wendy J.>
Sent: 5/8/2003 1:38:04 PM
Subject: question

What is Senate vote that may occur right before POTUS event tomorrow??

From: CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/8/2003 10:45:57 AM
Subject: : Re: Judge on whitehouse.gov today

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 8-MAY-2003 14:45:57.00
SUBJECT:: Re: Judge on whitehouse.gov today
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Don't tell Miguel.

Benjamin A. Powell
05/08/2003 02:40:44 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Judge on whitehouse.gov today

Judge will be the guest on ask the white house (online q and a session) at 5pm today on whitehouse.gov

In Focus

Iraq

National Security

Economic Security

Homeland Security

More Issues

En Espa¤ol

News

Current News

Video

Press Briefings

Proclamations

Executive Orders

Radio Addresses

Appointments

Nominations

Application

Offices

Global Communications

USA Freedom Corps

Faith-Based & Community

OMB

More Offices

Major Speeches

Iraqi Freedom

State of the Union

Economy

Education

Homeland Security

Iraqi Threat

U.N. Remarks

9/11/02 Remarks

Photos

Photo Essays

Privacy Policy
Welcome to "Ask the White House" -- an online interactive forum where you can submit questions to White House officials.

Alberto Gonzales
Biography

Today's guest: Counsel to the President Judge Alberto Gonzales
Time: 5pm(ET)
Topic: Judge Gonzales will discuss the President's judicial nominees and the nominating process.
You can submit questions to Judge Gonzales beginning at 3pm today.

Steve Friedman
Biography

Steve Friedman, Director of the National Economic Council and Assistant to the President for Economic Policy
Steve Friedman: Sorry I am late. As you know, the U.S. economy is growing, but not fast enough to create the jobs that we need. That's why the President has proposed his jobs and growth plan. I'd love to chat with you about it. Full Transcript

Christie Todd Whitman
Biography

EPA Administrator Hosts Earth Day Online Discussion
Administrator Todd: Good evening, I'm Christie Whitman, Administrator of the Environmental Protection Agency. On this Earth Day 2003, I welcome you to the third of our "Ask the White House" online discussions. This evening, as we join together to discuss our environment, it's important to reflect on just how far we've come. We don't have killer smogs today and our rivers don't catch fire, but we still have headlines like the ones this week stating that one child in four in parts of New York City have asthma. Full Transcript

Andrew Card
Biography

Secretary Card Hosts Inaugural Online Discussion
Secretary Card: Good evening, I'm Andy Card - Chief of Staff to President

George W. Bush. I welcome you to the inaugural "Ask the White House" online discussion. I am pleased to be here tonight to answer your questions . . . Full Transcript

Mark Forman
Biography

E-Gov Chief Discusses Electronic Government
Mark Forman: Good Afternoon, I'm Mark Forman, the newly appointed Administrator of E-Government and Information Technology at the Office of Management and Budget. Welcome to the second "Ask the White House" online discussion. . .
Full Transcript

Message Sent
To:_____
Theodore W. Ullyot/WHO/EOP@EOP
Jennifer G. Newstead/WHO/EOP@EOP
Kyle Sampson/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
H. Christopher Bartolomucci/WHO/EOP@EOP
Nanette Everson/WHO/EOP@EOP
David S. Addington/OVP/EOP@EOP
Jennifer R. Brosnahan/WHO/EOP@EOP
Noel J. Francisco/WHO/EOP@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: carolyn nelson/who/eop@exchange@eop [WHO] <carolyn nelson>;jeanie l. figg/who /eop@exchange@eop [WHO] <jeanie l. figg>;erin e. healy/who/eop@eop [WHO] <erin e. healy>;matthew e. smith/who/eop@eop [WHO] <matthew e. smith>
Sent: 5/8/2003 12:21:04 PM
Subject: : Re: Seating

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 8-MAY-2003 16:21:04.00
SUBJECT:: Re: Seating
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:carolyn nelson (CN=carolyn nelson/OU=who/O=eop@exchange@eop [WHO])
READ:UNKNOWN
CC:jeanie l. figg (CN=jeanie l. figg/OU=who/O=eop@exchange@eop [WHO])
READ:UNKNOWN
CC:erin e. healy (CN=erin e. healy/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:matthew e. smith (CN=matthew e. smith/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

add Dick Wiley and spouse. Wiley was head of ABA's Law Day activities.

Brett M. Kavanaugh
05/08/2003 04:19:21 PM
Record Type: Record

To: Matthew E. Smith/WHO/EOP@EOP
cc: Jeanie L. Figg/WHO/EOP@Exchange@EOP, Erin E. Healy/WHO/EOP@EOP, Carolyn Nelson/WHO/EOP@Exchange@EOP
bcc: Records Management@EOP
Subject: Re: Seating

Matt: Think I am missing anyone?

VIP seating

Senators tbd
former Clinton/Carter Counsel Lloyd Cutler
former AG Bill Barr
former AG Dick Thornburgh
Boyden Gray
ABA President A.P. Carlton and spouse
Hispanic National Bar Association President Duard Bradshaw
Leonidas Mecham, head of Administrative Office of US Courts
Chief Judge Tom Hogan, Chief Judge of district court in DC
Leonard Leo
Jay Sekulow

Matthew E. Smith

05/08/2003 04:07:58 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Seating

Brett,

Can you send to Jeanie a list of VIPs you want priority seating for?

I also think that the four coalition leaders should get good seats [Leonard, Jay Sekulow, Boyden]

Matt

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: carolyn nelson/who/eop@exchange@eop [WHO] <carolyn nelson>;jeanie l. figg/who /eop@exchange@eop [WHO] <jeanie l. figg>;erin e. healy/who/eop@eop [WHO] <erin e. healy>;matthew e. smith/who/eop@eop [WHO] <matthew e. smith>
Sent: 5/8/2003 12:22:28 PM
Subject: : Re: Seating

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 8-MAY-2003 16:22:28.00
SUBJECT:: Re: Seating
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:carolyn nelson (CN=carolyn nelson/OU=who/O=eop@exchange@eop [WHO])
READ:UNKNOWN
CC:jeanie l. figg (CN=jeanie l. figg/OU=who/O=eop@exchange@eop [WHO])
READ:UNKNOWN
CC:erin e. healy (CN=erin e. healy/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
CC:matthew e. smith (CN=matthew e. smith/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

. . . and add Judge Gonzales, AG Ashcroft, DAG Thompson, SG Olson, AAG McCollum

Brett M. Kavanaugh
05/08/2003 04:19:21 PM
Record Type: Record

To: Matthew E. Smith/WHO/EOP@EOP
cc: Jeanie L. Figg/WHO/EOP@Exchange@EOP, Erin E. Healy/WHO/EOP@EOP, Carolyn Nelson/WHO/EOP@Exchange@EOP
bcc: Records Management@EOP
Subject: Re: Seating

Matt: Think I am missing anyone?

VIP seating

Senators tbd
former Clinton/Carter Counsel Lloyd Cutler
former AG Bill Barr
former AG Dick Thornburgh
Boyden Gray
ABA President A.P. Carlton and spouse
Hispanic National Bar Association President Duard Bradshaw
Leonidas Mecham, head of Administrative Office of US Courts
Chief Judge Tom Hogan, Chief Judge of district court in DC
Leonard Leo
Jay Sekulow

Matthew E. Smith

05/08/2003 04:07:58 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Seating

Brett,

Can you send to Jeanie a list of VIPs you want priority seating for?

I also think that the four coalition leaders should get good seats [Leonard, Jay Sekulow, Boyden]

Matt

From: Bumatay, Patrick J.
To: <Ullyot, Theodore W.>;<Bartolomucci, H. Christopher>;<Brosnahan, Jennifer R.>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>
Sent: 5/8/2003 4:23:44 PM
Subject: FW: Meeting with the President

We just got approved for the POTUS Judicial meeting. It is for next Thursday. Technically, our book is due on Tuesday night in Staff Sec's office. So we should have as much of it ready as possible by then.

Thanks,
Patrick

PS. I will be out of the office tomorrow and most of Monday. So I'll be really bothering you on this on Tuesday.

-----Original Message-----
From: Nelson, Carolyn
Sent: Thursday, May 08, 2003 4:20 PM
To: Leitch, David G.
Cc: Montiel, Charlotte L.; Bumatay, Patrick J.
Subject: FW: Meeting with the President

fyi
-----Original Message-----
From: Figg, Kara G.
Sent: Thursday, May 08, 2003 4:18 PM
To: Nelson, Carolyn
Subject: Meeting with the President

The Meeting with the Judge has been approved for May 15 at 9:00am for 20 minutes.

From: Kavanaugh, Brett M.
To: <Snee, Ashley>
Sent: 5/8/2003 6:21:38 PM
Subject: RE: call me - we're doing a conference call at 6:45 to talk about the event tomorrow. need your confirmation you can do.

email that to me; i do not have

From: Ashley Snee/WHO/EOP@Exchange on 05/08/2003 06:22:09 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: RE: call me - we're doing a conference call at 6:45 to talk about the event tomorrow. need your confirmation you can do.

Ok, but we should talk beforehand. Can you come here at 6:45? I have draft 6 of the speech.

-----Original Message-----

From: Kavanaugh, Brett M.

Sent: Thursday, May 08, 2003 6:20 PM

To: Snee, Ashley

Subject: Re: call me - we're doing a conference call at 6:45 to talk about the event tomorrow. need your confirmation you can do.

yes; how about 6:50

From: Ashley Snee/WHO/EOP@Exchange on 05/08/2003 06:20:42 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: call me - we're doing a conference call at 6:45 to talk about the event tomorrow. need your confirmation you can do.

From: Snee, Ashley
To: <Kavanaugh, Brett M.>
Sent: 5/8/2003 6:22:09 PM
Subject: RE: call me - we're doing a conference call at 6:45 to talk about the event tomorrow. need your confirmation you can do.

Ok, but we should talk beforehand. Can you come here at 6:45? I have draft 6 of the speech.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Thursday, May 08, 2003 6:20 PM
To: Snee, Ashley
Subject: Re: call me - we're doing a conference call at 6:45 to talk about the event tomorrow. need your confirmation you can do.

yes; how about 6:50

From: Ashley Snee/WHO/EOP@Exchange on 05/08/2003 06:20:42 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: call me - we're doing a conference call at 6:45 to talk about the event tomorrow. need your confirmation you can do.

From: Snee, Ashley
To: <Kavanaugh, Brett M.>
Sent: 5/8/2003 6:25:35 PM
Subject: RE: call me - we're doing a conference call at 6:45 to talk about the event tomorrow. need your confirmation you can do.

That was creepy! Call me back when you can.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Thursday, May 08, 2003 6:22 PM
To: Snee, Ashley
Subject: RE: call me - we're doing a conference call at 6:45 to talk about the event tomorrow. need your confirmation you can do.

email that to me; i do not have

From: Ashley Snee/WHO/EOP@Exchange on 05/08/2003 06:22:09 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE: call me - we're doing a conference call at 6:45 to talk about the event tomorrow. need your confirmation you can do.

Ok, but we should talk beforehand. Can you come here at 6:45? I have draft 6 of the speech.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Thursday, May 08, 2003 6:20 PM
To: Snee, Ashley
Subject: Re: call me - we're doing a conference call at 6:45 to talk about the event tomorrow. need your confirmation you can do.

yes; how about 6:50

From: Ashley Snee/WHO/EOP@Exchange on 05/08/2003 06:20:42 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: call me - we're doing a conference call at 6:45 to talk about the event tomorrow. need your confirmation you can do.

From: CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/8/2003 2:25:46 PM
Subject: : RE: call me - we're doing a conference call at 6:45 to talk about the event tomorrow. need your confirmation you can do.

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 8-MAY-2003 18:25:46.00
SUBJECT:: RE: call me - we're doing a conference call at 6:45 to talk about the event tomorrow. need your confirmation you can do.
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

That was creepy! Call me back when you can.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Thursday, May 08, 2003 6:22 PM
To: Snee, Ashley
Subject: RE: call me - we're doing a conference call at 6:45 to talk about the event tomorrow. need your confirmation you can do.

email that to me; i do not have

From: Ashley Snee/WHO/EOP@Exchange on 05/08/2003 06:22:09 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE: call me - we're doing a conference call at 6:45 to talk about the event tomorrow. need your confirmation you can do.

Ok, but we should talk beforehand. Can you come here at 6:45? I have draft 6 of the speech.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Thursday, May 08, 2003 6:20 PM
To: Snee, Ashley
Subject: Re: call me - we're doing a conference call at 6:45 to talk about the event tomorrow. need your confirmation you can do.

yes; how about 6:50

From: Ashley Snee/WHO/EOP@Exchange on 05/08/2003 06:20:42 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: call me - we're doing a conference call at 6:45 to talk about the event tomorrow. need your confirmation you can do.

From: Orr, Christopher J.
To: <Gonzales, Alberto R.>;<Kavanaugh, Brett M.>;<Snee, Ashley>;<Leitch, David G.>;<Haymes, William C.>
Sent: 5/8/2003 6:50:15 PM
Subject: Thanks

Thanks for a successful edition of "Ask the White House".

The letter which the Judge referenced is now online. The video will be launched tomorrow, pending approval. But it looks good.

Thanks again. The transcript is included in this email. It is also located at:

www.whitehouse.gov/ask/20030508.html

Jimmy

Welcome to "Ask the White House" -- an online interactive forum where you can submit questions to Bush administration officials.

Today's guest: Counsel to the President Judge Alberto Gonzales

Today's topic: The President's judicial nominees and the nominating process.

Judge Gonzales

Good afternoon. Thanks for joining me on "Ask the White House". This is an important day to participate in this online discussion as tomorrow is the two year anniversary of the president's first 11 Appeals Court nominations. Of those nominations, four still have yet to receive an up or down vote. Let's get started.

Eddie, from Macon Ga writes:

On todays local news there was a story about a possible lawsuit by Senators Saxby Chambliss Ga and Lindsey Graham SC regarding the democrats blocking of President Bushs nominations. What kind of results or impact do you think will be made by such a move? Thank you!

Judge Gonzales

As the President has said, the Senate has a constitutional responsibility to provide an up or down vote on judicial nominees. Without endorsing any specific approach, we applaud Senators Chambliss and Graham for seeking a solution to a broken process.

Karen, from Needham MA writes:

What are the presidents plans regarding the filibuster against Miguel Estrada?

Judge Gonzales

As the President has said, he intends to stand beside Miguel Estrada until he is sworn in as a judge on the D. C. Circuit Court of Appeals. Miguel is well qualified and represents the American dream. Despite a remarkable record of achievement he is being held to a double standard. The President will continue to work with Senators of both parties to get him the up or down vote he deserves.

Rebecca, from Goshen, Ohio writes:

I was wondering what is it like to work with the President?

Judge Gonzales

Good question, it is an honor to work with George W. Bush. The President is a remarkable person. It is hard to be around the President and not learn, just by watching and listening. It is also hard to be around the President and not like him.

Henry, from Oceanside, California writes:

What does it matter if 2-3 nominees dont get approved? Over 120 already have been. Isnt this a good batting average for the Senate?

Judge Gonzales

Each nominee is entitled to a vote and to be considered on his or her merits. Every qualified nominee should be confirmed in a timely manner. Only half of the President's appeals court nominees have recevied an up or down vote and nine of the pending nominees have been waiting more than a year for a vote.

Patrick, from Richardson, TX writes:

Though a bipartisan merit selection system for federal judicial appointments would have political drawbacks for whoever is president--such as the loss of a tool to reward core constituencies and an inability to shape the ideological direction of the courts, 1 do you see any advantages from such a system, and 2 could there ever be the political will to seek an institutionalized compromise that would back away from the historic drive to pack the federal courts the impulse behind Marbury v. Madison afterall?

Judge Gonzales

The framers of the Constitution wanted one person to be responsible and accountable for the nomination of federal judges, and the Senate as a whole to vote on the nominees.

Lori, from Corpus Christi, TX writes:

Have you found a good tex-mex restaurant in the nations capital?

Judge Gonzales

My family and I miss Texas and the great Tex-Mex food in Austin...and of course Corpus Christi. Although we love Washington, we look forward to the day we can return to my beloved State. Go Astros!

Shaun, from San Antonio writes:

Judge Gonzales, heres a tough one for you... Dallas Cowboys or Houston Texans?

Judge Gonzales

Houston Oilers!!!!!!!

Gregory, from Sandusky, OH writes:

Since the advise and consent role of Congress, as spelled out in the Constitution, specifically states that a simple majority vote is required, is it not unconstitutional for the Senate Democrats to insist that a 60 favorable vote to break a fillibuster is needed for the whole Senate to vote up or down on a judicial nomination?

Judge Gonzales

The Senate has a constitutional responsibility to provide an up or down vote. It is unprecedented for a minority of Senators to block a vote on an appeals court nominee by means of a filibuster. Both Miguel Estrada and Priscilla Owen have the support of a majority of Senators, and should receive a vote and be confirmed.

James, from New York, NY writes:

When you say nine appeals court nominees have been waiting for more than one year, are you including Justice Owen and Judge Pickering? They did receive votes, after all, even though the votes were negative. Then the President renominated them when the Republicans regained control of the Senate, and theyve been waiting about four months since then. In fact, is it not disregarding the Senates constitutional function of advice and consent for the President to reappoint nominees who were voted down?

Judge Gonzales

The President continues to support both nominees, believes they deserve a vote, and is confident they will be confirmed. And to clarify, in the last Congress, they did not receive a vote in the full Senate and we know that both would have been confirmed if they received an up or down vote.

Curtis, from Washington, DC writes:

The Senate Democrats have used one of your statements on a Priscilla Owen dissent to discredit her. However, you issued a statement on July 16, 2002 supporting Justice Owen. Can you clarify the discrepency?

Judge Gonzales

There is no discrepancy. I strongly support Priscilla Owen and continue to believe she is well qualified. She is a woman of integrity and will be an outstanding judge on the Fifth Circuit. The fact that she and I disagreed on some opinions is not unusual or noteworthy and does not in any way affect my strong support for her.

Rich, from New York City writes:

What is your reaction to Senator Schumers idea that the President give up his right to nominating judges and hand over the process to unelected and unaccountable boards in the states?

Judge Gonzales

I responded to Senator Schumer's letter earlier this week and advised him that we believed his plan to be inconsistent with the Constitution and would not produce the best qualified judges. We will post my response to the Senator after my online discussion is over. Check back in about 30 minutes.

** Posted at 6:45pm **

Click here to read the letter (in PDF format).

Rafael, from Englewood, Colorado writes:

Does the President employ a litmus test when selecting his nominees?

Judge Gonzales

No.

George, from Maryland writes:

What is it like to work in the White House?

Judge Gonzales

It is an honor. People from all over the world come to Washington and peer through the black iron rod gates for just a glimpse of the President or First Lady. I have yet to meet an American who is not in awe when they step into the White House for the first time. I am proud and privileged.

---

susan, from Michigan writes:

Will the White House pressure the Senate to hold hearings and confirm the Sixth Circuit nominees from Michigan despite the negative blue slips submitted by Michigans Democrat senators?

Judge Gonzales

There is a vacancy crisis in the Sixth Circuit. The President has four nominees from Michigan to that court pending; three have been pending more than a year without even a hearing. These well qualified nominees deserve hearings and votes. The people of Michigan and the other people in the Sixth Circuit are being harmed by these delays.

Alexander, from Hebron, CT writes:

Mr. Gonzales, Senate Democrats alledge that the Constitutions advise and consent provisions not only empower the Senate to push against a judicial nominee who hasnt fully answered questions, but requires the Senate to do so. How would you respond to those who say that the President shouldnt have nominees rubber stamped.

Judge Gonzales

Your question refers to Miguel Estrada. Mr. Estrada answered questions in an all day hearing, responded to numerous written questions, and met with a number of Senators all to provide information about his qualifications. He provided more information than has been required of past appeals court nominees. He is being held to an unfair double standard. While we do not expect the Senate to rubber stamp the President's nominees we expect the Senate to treat the nominees fairly and give them votes.

Rich, from New York City writes:

Could you and Miguel Estrada take Chuck Schumer and Ted Kennedy in a tag team wrestling match? Could tag team wrestling be a compromise to the gridlock which has kept so many nominees in limbo?

Judge Gonzales

ooops, got to go! Thank you all for joining me today in this on line discussion. Everyone should watch the President's speech tomorrow on judicial independence and the confirmation process at 10:30 a.m. ET. It will be web cast on WhiteHouse.Gov. Thanks again.

From: Kavanaugh, Brett M.
To: <Gonzales, Alberto R.>;<Sampson, Kyle>;<Leitch, David G.>
Sent: 5/8/2003 9:37:59 PM
Subject: judicial pay reference

Gerson apparently kept cutting the reference to judicial pay, and it is NOT in final speech. I guess we can/should do short separate written statement tomorrow.

From: CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO]
To: Ashley Snee/WHO/EOP@Exchange [WHO] <Ashley Snee>;Alberto R. Gonzales/WHO /EOP@Exchange [WHO] <Alberto R. Gonzales>;William C. Haymes/OA/EOP@Exchange [OA] <William C. Haymes>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Christopher J. Orr/WHO/EOP@EOP [WHO] <Christopher J. Orr>
Sent: 5/9/2003 4:54:20 AM
Subject: : RE: Thanks

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 9-MAY-2003 08:54:20.00
SUBJECT:: RE: Thanks
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:William C. Haymes (CN=William C. Haymes/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Christopher J. Orr (CN=Christopher J. Orr/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

There,s one typo (&recevied8) in response to the fifth question. Can it be fixed?

-----Original Message-----
From: Orr, Christopher J.
Sent: Thursday, May 08, 2003 6:50 PM
To: Gonzales, Alberto R.; Kavanaugh, Brett M.; Snee, Ashley; Leitch, David G.; Haymes, William C.
Subject: Thanks

Thanks for a successful edition of "Ask the White House".

The letter which the Judge referenced is now online. The video will be launched tomorrow, pending approval. But it looks good.

Thanks again. The transcript is included in this email. It is also located at:

www.whitehouse.gov/ask/20030508.html
<www.whitehouse.gov/ask/20030508.html>

Jimmy

Welcome to "Ask the White House" -- an online interactive forum where you can submit questions to Bush administration officials.

Today's guest: Counsel to the President Judge Alberto Gonzales

Today's topic: The President's judicial nominees and the nominating process.

Judge Gonzales
Good afternoon. Thanks for joining me on "Ask the White House". This is an important day to participate in this online discussion as tomorrow is the two year anniversary of the president's first 11 Appeals Court

nominations. Of those nominations, four still have yet to receive an up or down vote. Let's get started.

Eddie, from Macon Ga writes:
On todays local news there was a story about a possible lawsuit by Senators Saxby Chambliss Ga and Lindsey Graham SC regarding the democrats blocking of President Bushs nominations. What kind of results or impact do you think will be made by such a move? Thank you!

Judge Gonzales
As the President has said, the Senate has a constitutional responsibility to provide an up or down vote on judicial nominees. Without endorsing any specific approach, we applaud Senators Chambliss and Graham for seeking a solution to a broken process.

Karen, from Needham MA writes:
What are the presidents plans regarding the filibuster against Miguel Estrada?

Judge Gonzales
As the President has said, he intends to stand beside Miguel Estrada until he is sworn in as a judge on the D. C. Circuit Court of Appeals. Miguel is well qualified and represents the American dream. Despite a remarkable record of achievement he is being held to a double standard. The President will continue to work with Senators of both parties to get him the up or down vote he deserves.

Rebecca, from Goshen, Ohio writes:
I was wondering what is it like to work with the President?

Judge Gonzales
Good question, it is an honor to work with George W. Bush. The President is a remarkable person. It is hard to be around the President and not learn, just by watching and listening. It is also hard to be around the President and not like him.

Henry, from Oceanside, California writes:
What does it matter if 2-3 nominees dont get approved? Over 120 already have been. Isnt this a good batting average for the Senate?

Judge Gonzales
Each nominee is entitled to a vote and to be considered on his or her merits. Every qualified nominee should be confirmed in a timely manner. Only half of the President's appeals court nominees have recevied an up or down vote and nine of the pending nominees have been waiting more than a year for a vote.

Patrick, from Richardson, TX writes:
Though a bipartisan merit selection system for federal judicial appointments would have political drawbacks for whoever is president--such as the loss of a tool to reward core constituencies and an inability to shape the ideological direction of the courts, 1 do you see any advantages from such a system, and 2 could there ever be the political will to seek

an institutionalized compromise that would back away from the historic drive to pack the federal courts the impulse behind Marbury v. Madison afterall?

Judge Gonzales
The framers of the Constitution wanted one person to be responsible and accountable for the nomination of federal judges, and the Senate as a whole to vote on the nominees.

Lori, from Corpus Christi, TX writes:
Have you found a good tex-mex restaurant in the nations capital?

Judge Gonzales
My family and I miss Texas and the great Tex-Mex food in Austin...and of course Corpus Christi. Although we love Washington, we look forward to the day we can return to my beloved State. Go Astros!

Shaun, from San Antonio writes:
Judge Gonzales, heres a tough one for you... Dallas Cowboys or Houston Texans?

Judge Gonzales
Houston Oilers!!!!!!!

Gregory, from Sandusky, OH writes:
Since the advise and consent role of Congress, as spelled out in the Constitution, specifically states that a simple majority vote is required, is it not unconstitutional for the Senate Democrats to insist that a 60 favorable vote to break a fillibuster is needed for the whole Senate to vote up or down on a judicial nomination?

Judge Gonzales
The Senate has a constitutional responsibility to provide an up or down vote. It is unprecedented for a minority of Senators to block a vote on an appeals court nominee by means of a filibuster. Both Miguel Estrada and Priscilla Owen have the support of a majority of Senators, and should receive a vote and be confirmed.

James, from New York, NY writes:
When you say nine appeals court nominees have been waiting for more than one year, are you including Justice Owen and Judge Pickering? They did receive votes, after all, even though the votes were negative. Then the President renominated them when the Republicans regained control of the Senate, and theyve been waiting about four months since then. In fact, is it not disregarding the Senates constitutional function of advice and consent for the President to reappoint nominees who were voted down?

Judge Gonzales
The President continues to support both nominees, believes they deserve a vote, and is confident they will be confirmed. And to clarify, in the last Congress, they did not receive a vote in the full Senate and we know that both would have been confirmed if they received an up or down vote.

Curtis, from Washington, DC writes:
The Senate Democrats have used one of your statements on a Priscilla Owen dissent to discredit her. However, you issued a statement on July 16, 2002 supporting Justice Owen. Can you clarify the discrepency?

Judge Gonzales
There is no discrepancy. I strongly support Priscilla Owen and continue to believe she is well qualified. She is a woman of integrity and will be an outstanding judge on the Fifth Circuit. The fact that she and I disagreed on some opinions is not unusual or noteworthy and does not in any way affect my strong support for her.

Rich, from New York City writes:
What is your reaction to Senator Schumers idea that the President give up his right to nominating judges and hand over the process to unelected and unaccountable boards in the states?

Judge Gonzales
I responded to Senator Schumer's letter earlier this week and advised him that we believed his plan to be inconsistent with the Constitution and would not produce the best qualified judges. We will post my response to the Senator after my online discussion is over. Check back in about 30 minutes.

** Posted at 6:45pm **
Click here to read the letter (in PDF format).

Rafael, from Englewood, Colorado writes:
Does the President employ a litmus test when selecting his nominees?

Judge Gonzales
No.

George, from Maryland writes:
What is it like to work in the White House?

Judge Gonzales
It is an honor. People from all over the world come to Washington and peer through the black iron rod gates for just a glimpse of the President or First Lady. I have yet to meet an American who is not in awe when they step into the White House for the first time. I am proud and privileged.

---

susan, from Michigan writes:
Will the White House pressure the Senate to hold hearings and confirm the Sixth Circuit nominees from Michigan despite the negative blue slips submitted by Michigans Democrat senators?

Judge Gonzales
There is a vacancy crisis in the Sixth Circuit. The President has four nominees from Michigan to that court pending; three have been pending more than a year without even a hearing. These well qualified nominees deserve hearings and votes. The people of Michigan and the other people in the Sixth Circuit are being harmed by these delays.

Alexander, from Hebron, CT writes:
Mr. Gonzales, Senate Democrats alledge that the Constitutions advise and consent provisions not only empower the Senate to push against a judicial nominee who hasnt fully answered questions, but requires the Senate to do so. How would you respond to those who say that the President shouldnt have nominees rubber stamped.

Judge Gonzales
Your question refers to Miguel Estrada. Mr. Estrada answered questions in an all day hearing, responded to numerous written questions, and met with a number of Senators all to provide information about his qualifications. He provided more information than has been required of past appeals court nominees. He is being held to an unfair double standard. While we do not expect the Senate to rubber stamp the President's nominees we expect the Senate to treat the nominees fairly and give them votes.

Rich, from New York City writes:
Could you and Miguel Estrada take Chuck Schumer and Ted Kennedy in a tag team wrestling match? Could tag team wrestling be a compromise to the gridlock which has kept so many nominees in limbo?

Judge Gonzales
ooops, got to go! Thank you all for joining me today in this on line discussion. Everyone should watch the President's speech tomorrow on judicial independence and the confirmation process at 10:30 a.m. ET. It will be web cast on WhiteHouse.Gov. Thanks again.

From: CN=Tim Goeglein/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/9/2003 3:20:14 AM
Subject: : Two Year Anniversary of Liberal Democrat Obstructionism Tomorrow
Attachments: P_4UFAG003_WHO.TXT_1.htm

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 9-MAY-2003 07:20:14.00
SUBJECT:: Two Year Anniversary of Liberal Democrat Obstructionism Tomorrow
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

fyi

tsg

---------- Forwarded by Tim Goeglein/WHO/EOP on 05/09/2003 07:19 AM ----------

Jim Backlin <jimbacklin@cc.org>
05/09/2003 06:38:37 AM
Record Type: Record

To: Jim Backlin <jimbacklin@cc.org>
cc:
Subject: Two Year Anniversary of Liberal Democrat Obstructionism Tomorrow

Subscriber Email
FYI

Jim Backlin

CHRISTIAN COALITION OF AMERICA
ACTION ALERT
Date: 5/8/2003
President Roberta Combs

---

2 YEAR ANNIVERSARY OF LIBERAL DEMOCRAT OBSTRUCTIONISM TOMORROW
MAJORITY NEEDS TO USE "NUCLEAR" OPTION TO BREAK UNCONSTITUTIONAL POWER PLAY

President Bush will be giving a speech in the White House Rose Garden tomorrow decrying the obstructionism by liberal Democrats in the Senate who have blocked some of his highly-qualified judicial nominees for 2 years as of tomorrow. Christian Coalition of America President Roberta Combs said, "It is outrageous that the left-wingers in the Democrat Party have blocked many of President Bush's judicial nominees for 2 years as of May 9th. They lost control of the Senate last November because of such obstructionism. Secondly, they are beginning to lose their Hispanic base. As Hispanics learn about the outrageous treatment of Miguel Estrada, an American success story, they are realizing their pro-family values are not shared by such left-wingers."

The Christian Coalition urges the majority to do what Vice President Nelson Rockefeller did in 1975 and change the Senate "standing rules" to make it easier to break a filibuster, i.e. what's being called the "nuclear" option, mentioned in a Senate hearing this week entitled: "Judicial Nominations, Filibusters and the Constitution: When a Majority is denied its right to consent." A clear majority of United States Senators want to vote and will vote for highly-qualified judicial nominees Miguel Estrada (filibustered for over 3 months) and Priscilla Owen (in her 2nd month of being filibustered.) The U.S. Constitution does not say 3/5 of Senators are required to confirm judges; just a simple majority.

Sixty votes are required to break a filibuster and the 5 additional votes to stop debate could come from any of the following Senators: Senator Mark Pryor (D-AR) 202-224-2353; Senator Blanche Lincoln (D-AR) 202-224-4843; Senator Joseph Lieberman (D-CT) 202-224-4041; Senator Thomas Carper (D-DE) 202-224-2441; Senator Bob Graham (D-FL) 202-224-3041; Senator Daniel Inouye (D-HI) 202-224-3934; Senator Evan Bayh (D-IN) 202-224-5623; Senator Mary Landrieu (D-LA) 202-224-5824; Senator Max Baucus (D-MT) 202-224-2651; Senator Jeff Bingaman (D-NM) 202-224-5521; Senator John Edwards (D-NC) 202-224-3154; Senator Kent Conrad (D-ND) 202-224-2043; Senator Byron Dorgan (D-ND) 202-224-2551; Senator Ernest Hollings (D-SC) 202-224-6121; Senator Tom Daschle (D-SD) 202-224-2321; Senator Tim Johnson (D-SD) 202-224-5842; Senator Robert Byrd (D-WV) 202-224-3954.

A C T I O N:

Please join the the "Obstructionism Day" Rally tomorrow at noon at the "Senate Swamp" which is located between the U.S. Capitol Building and the Russell Senate Office Building.

Please call your two Senators and ask them to vote to confirm President Bush's judicial nominees, most especially, Miguel Estrada, Justice Priscilla Owen, and Judge Charles Pickering. In addition, ask them to vote to STOP any filibuster, i.e. vote to stop endless debate on the Senate floor. Call the U.S. Capitol switchboard at 202-224-3121 or you can go to http://www.cc.org/legis/contactcongress.html

CHRISTIAN COALITION OF AMERICA
P.O. Box 37030, Washington, D.C. 20013 (202) 479-6900

How to support Christian Coalition:
To support the Christian Coalition of America please CLICK HERE
https://www.cc.org/secure/cc/index.asp

If the link below does not work to modify your subscription information, please contact field3@cc.org and submit your request to subscribe, unsubscribe or to change your email address (be sure to include your old and new email address).

Please CLICK HERE to edit your interests or modify subscriptions.
Please CLICK HERE to unsubscribe.

- att1.htm

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_4UFAG003_WHO.TXT_1>

FYI

Jim Backlin

CHRISTIAN COALITION OF AMERICA ACTION ALERT

Date: 5/8/2003

President Roberta Combs

---

2 YEAR ANNIVERSARY OF LIBERAL DEMOCRAT OBSTRUCTIONISM TOMORROW
MAJORITY NEEDS TO USE "NUCLEAR" OPTION TO BREAK UNCONSTITUTIONAL POWER PLAY

President Bush will be giving a speech in the White House Rose Garden tomorrow decrying the obstructionism by liberal Democrats in the Senate who have blocked some of his highly-qualified judicial nominees for 2 years as of tomorrow. Christian Coalition of America President Roberta Combs said, **"It is outrageous that the left-wingers in the Democrat Party have blocked many of Presiden t Bush's judicial nominees for 2 years as of May 9th. They lost control of the Senate last November because of such obstructionism. Secondly, they are beginning to lose their Hispanic base. As Hispanics learn about the outrageous treatment of Miguel Estrada, an American success story, they are realizing their pro-family values are not shared by such left-wingers."**

The Christian Coalition urges the majority to do what Vice President Nelson Rockefeller did in 1975 and change the Senate "standing rules" to make it easier to break a filibuster, i.e. what's being called the "nuclear" option, mentioned in a Senate hearing this week entitled: "Judicial Nominations, Filibusters and the Constitution: When a Majority is denied its right to consent." A clear majority of United States Senators want to vote and will vote for highly-qualified judicial nominees Miguel Estrada (filibustered for over 3 months) and Priscilla Owen (in her 2nd month of being filibustered.) The U.S. Constitution does not say 3/5 of Senators are required to confirm judges; just a simple majority.

Sixty votes are required to break a filibuster and the 5 additional votes to stop debate could come from any of the following Senators:
Senator Mark Pryor (D-AR) 202-224-2353; Senator Blanche Lincoln (D-AR) 202-

224-4843; Senator Joseph Lieberman (D-CT) 202-224-4041; Senator Thomas Carper (D-DE) 202-224-2441; Senator Bob Graham (D-FL) 202-224-3041; Senator Daniel Inouye (D-HI) 202-224-3934 ; Senator Evan Bayh (D-IN) 202-224-5623; Senator Mary Landrieu (D-LA) 202-224-5824; Senator Max Baucus (D-MT) 202-224-2651; Senator Jeff Bingaman (D-NM) 202-224-5521; Senator John Edwards (D-NC) 202-224-3154; Senator Kent Conrad (D-ND) 202-224-2043; Senator Byron Dorgan (D-ND) 202-224-2551; Senator Ernest Hollings (D-SC) 202-224-6121; Senator Tom Daschle (D-SD) 202-224-2321; Senator Tim Johnson (D-SD) 202-224-5842; Senator Robert Byrd (D-WV) 202-224-3954.

A C T I O N:

Please join the the "Obstructionism Day" Rally tomorrow at noon at the "Senate Swamp" which is located between the U.S. Capitol Building and the Russell Senate Office Building.

Please call your two Senators and ask them to vote to confirm President Bush's judicial nominees, most especially, Miguel Estrada, Justice Priscilla Owen, and Judge Charles Pickering. In addition, ask them to vote to STOP any filibuster, i.e. vote to stop endless debate on the Senate floor. Call the U.S. Capitol switchboard at 202-224-3121 or you can go to http://www.cc.org/leg is/contactcongress.html

CHRISTIAN COALITION OF AMERICA
P.O. Box 37030, Washington, D.C. 20013 (202) 479-6900

How to support Christian Coalition:
To support the Christian Coalition of America please CLICK HERE
https://www.cc.org/secure/cc/index.asp

If the link below does not work to modify your subscription information, please contact field3@cc.org and submit your request to subscribe, unsubscribe or to change your email address (be sure to includ e your old and new email address).

Please C LICK HERE to edit your interests or modify subscriptions.
Please CLICK HERE to unsubscribe.

From: CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO]
To: Ashley Snee/WHO/EOP@Exchange [WHO] <Ashley Snee>;Alberto R. Gonzales/WHO /EOP@Exchange [WHO] <Alberto R. Gonzales>;William C. Haymes/OA/EOP@Exchange [OA] <William C. Haymes>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Christopher J. Orr/WHO/EOP@EOP [WHO] <Christopher J. Orr>
Sent: 5/9/2003 4:54:16 AM
Subject: : RE: Thanks

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME: 9-MAY-2003 08:54:16.00
SUBJECT:: RE: Thanks
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:William C. Haymes (CN=William C. Haymes/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Christopher J. Orr (CN=Christopher J. Orr/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

There,s one typo (&recevied8) in response to the fifth question.; Can it be fixed?

;-----Original Message-----
From: ; Orr, Christopher J.;
Sent:;; Thursday, May 08, 2003 6:50 PM
To:;;;; Gonzales, Alberto R.; Kavanaugh, Brett M.; Snee, Ashley; Leitch, David G.; Haymes, William C.
Subject:;;;;;;; Thanks

Thanks for a successful edition of "Ask the White House".

The letter which the Judge referenced is now online.; The video will be launched tomorrow, pending approval.; But it looks good.;

Thanks again.; The transcript is included in this email.; It is also located at:

www.whitehouse.gov/ask/20030508.html
<file://www.whitehouse.gov/ask/20030508.html>

Jimmy

Welcome to "Ask the White House" -- an online interactive forum where you can submit questions to Bush administration officials.

Today's guest: Counsel to the President Judge Alberto Gonzales

Today's topic: The President's judicial nominees and the nominating process.
;
Judge Gonzales
Good afternoon. Thanks for joining me on "Ask the White House". This is an important day to participate in this online discussion as tomorrow is the two year anniversary of the president's first 11 Appeals Court

nominations. Of those nominations, four still have yet to receive an up or down vote. Let's get started.

Eddie, from Macon Ga writes:
On todays local news there was a story about a possible lawsuit by Senators Saxby Chambliss Ga and Lindsey Graham SC regarding the democrats blocking of President Bushs nominations. What kind of results or impact do you think will be made by such a move? Thank you!

Judge Gonzales
As the President has said, the Senate has a constitutional responsibility to provide an up or down vote on judicial nominees. Without endorsing any specific approach, we applaud Senators Chambliss and Graham for seeking a solution to a broken process.

Karen, from Needham MA writes:
What are the presidents plans regarding the filibuster against Miguel Estrada?

Judge Gonzales
As the President has said, he intends to stand beside Miguel Estrada until he is sworn in as a judge on the D. C. Circuit Court of Appeals. Miguel is well qualified and represents the American dream. Despite a remarkable record of achievement he is being held to a double standard. The President will continue to work with Senators of both parties to get him the up or down vote he deserves.

Rebecca, from Goshen, Ohio writes:
I was wondering what is it like to work with the President?

Judge Gonzales
Good question, it is an honor to work with George W. Bush. The President is a remarkable person. It is hard to be around the President and not learn, just by watching and listening. It is also hard to be around the President and not like him.

Henry, from Oceanside, California writes:
What does it matter if 2-3 nominees dont get approved? Over 120 already have been. Isnt this a good batting average for the Senate?

Judge Gonzales
Each nominee is entitled to a vote and to be considered on his or her merits. Every qualified nominee should be confirmed in a timely manner. Only half of the President's appeals court nominees have recevied an up or down vote and nine of the pending nominees have been waiting more than a year for a vote.

Patrick, from Richardson, TX writes:

Though a bipartisan merit selection system for federal judicial appointments would have political drawbacks for whoever is president--such as the loss of a tool to reward core constituencies and an inability to shape the ideological direction of the courts, 1 do you see any advantages from such a system, and 2 could there ever be the political will to seek an institutionalized compromise that would back away from the historic drive to pack the federal courts the impulse behind Marbury v. Madison afterall?

Judge Gonzales
The framers of the Constitution wanted one person to be responsible and accountable for the nomination of federal judges, and the Senate as a whole to vote on the nominees.

Lori, from Corpus Christi, TX writes:
Have you found a good tex-mex restaurant in the nations capital?

Judge Gonzales
My family and I miss Texas and the great Tex-Mex food in Austin...and of course Corpus Christi. Although we love Washington, we look forward to the day we can return to my beloved State. Go Astros!

Shaun, from San Antonio writes:
Judge Gonzales, heres a tough one for you... Dallas Cowboys or Houston Texans?

Judge Gonzales
Houston Oilers!!!!!!!

Gregory, from Sandusky, OH writes:
Since the advise and consent role of Congress, as spelled out in the Constitution, specifically states that a simple majority vote is required, is it not unconstitutional for the Senate Democrats to insist that a 60 favorable vote to break a fillibuster is needed for the whole Senate to vote up or down on a judicial nomination?

Judge Gonzales
The Senate has a constitutional responsibility to provide an up or down vote. It is unprecedented for a minority of Senators to block a vote on an appeals court nominee by means of a filibuster. Both Miguel Estrada and Priscilla Owen have the support of a majority of Senators, and should receive a vote and be confirmed.

James, from New York, NY writes:
When you say nine appeals court nominees have been waiting for more than one year, are you including Justice Owen and Judge Pickering? They did receive votes, after all, even though the votes were negative. Then the President renominated them when the Republicans regained control of the Senate, and theyve been waiting about four months since then. In fact, is it not disregarding the Senates constitutional function of advice and consent for the President to reappoint nominees who were voted down?

Judge Gonzales
The President continues to support both nominees, believes they deserve a vote, and is confident they will be confirmed. And to clarify, in the last Congress, they did not receive a vote in the full Senate and we know that both would have been confirmed if they received an up or down vote.

Curtis, from Washington, DC writes:
The Senate Democrats have used one of your statements on a Priscilla Owen dissent to discredit her. However, you issued a statement on July 16, 2002 supporting Justice Owen. Can you clarify the discrepency?

Judge Gonzales
There is no discrepancy. I strongly support Priscilla Owen and continue to believe she is well qualified. She is a woman of integrity and will be an outstanding judge on the Fifth Circuit. The fact that she and I disagreed on some opinions is not unusual or noteworthy and does not in any way affect my strong support for her.

Rich, from New York City writes:
What is your reaction to Senator Schumers idea that the President give up his right to nominating judges and hand over the process to unelected and unaccountable boards in the states?

Judge Gonzales
I responded to Senator Schumer's letter earlier this week and advised him that we believed his plan to be inconsistent with the Constitution and would not produce the best qualified judges. We will post my response to the Senator after my online discussion is over. Check back in about 30 minutes.

** Posted at 6:45pm **
Click here to read the letter (in PDF format).

Rafael, from Englewood, Colorado writes:
Does the President employ a litmus test when selecting his nominees?

Judge Gonzales
No.

George, from Maryland writes:
What is it like to work in the White House?

Judge Gonzales
It is an honor. People from all over the world come to Washington and peer through the black iron rod gates for just a glimpse of the President or First Lady. I have yet to meet an American who is not in awe when they step into the White House for the first time. I am proud and privileged.

---

susan, from Michigan writes:
Will the White House pressure the Senate to hold hearings and confirm the Sixth Circuit nominees from Michigan despite the negative blue slips submitted by Michigans Democrat senators?

Judge Gonzales
There is a vacancy crisis in the Sixth Circuit. The President has four nominees from Michigan to that court pending; three have been pending more than a year without even a hearing. These well qualified nominees deserve hearings and votes. The people of Michigan and the other people in the Sixth Circuit are being harmed by these delays.

Alexander, from Hebron, CT writes:
Mr. Gonzales, Senate Democrats alledge that the Constitutions advise and consent provisions not only empower the Senate to push against a judicial nominee who hasnt fully answered questions, but requires the Senate to do so. How would you respond to those who say that the President shouldnt have nominees rubber stamped.

Judge Gonzales
Your question refers to Miguel Estrada. Mr. Estrada answered questions in an all day hearing, responded to numerous written questions, and met with a number of Senators all to provide information about his qualifications. He provided more information than has been required of past appeals court nominees. He is being held to an unfair double standard. While we do not expect the Senate to rubber stamp the President's nominees we expect the Senate to treat the nominees fairly and give them votes.

Rich, from New York City writes:
Could you and Miguel Estrada take Chuck Schumer and Ted Kennedy in a tag team wrestling match? Could tag team wrestling be a compromise to the gridlock which has kept so many nominees in limbo?

Judge Gonzales
ooops, got to go! Thank you all for joining me today in this on line discussion. Everyone should watch the President's speech tomorrow on judicial independence and the confirmation process at 10:30 a.m. ET. It will be web cast on WhiteHouse.Gov. Thanks again.

From: CN=William C. Haymes/OU=OA/O=EOP@Exchange [OA]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Christopher J. Orr/WHO /EOP@EOP [WHO] <Christopher J. Orr>;Ashley Snee/WHO/EOP@Exchange [WHO] <Ashley Snee>;Alberto R. Gonzales/WHO/EOP@Exchange [WHO] <Alberto R. Gonzales>;David G. Leitch/WHO/EOP@Exchange [WHO] <David G. Leitch>
Sent: 5/9/2003 5:57:08 AM
Subject: : Re: Thanks

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:William C. Haymes (CN=William C. Haymes/OU=OA/O=EOP@Exchange [OA])
CREATION DATE/TIME: 9-MAY-2003 09:57:08.00
SUBJECT:: Re: Thanks
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Christopher J. Orr (CN=Christopher J. Orr/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

That'll be fixed shortly.

-----Original Message-----
From: Leitch, David G. <David_G._Leitch@who.eop.gov>
To: Orr, Christopher J. <corr@WHO.eop.gov>; Gonzales, Alberto R. <Alberto_R._Gonzales@who.eop.gov>; Kavanaugh, Brett M. <bkavanau@WHO.eop.gov>; Snee, Ashley <Ashley_M._Snee@who.eop.gov>; Haymes, William C. <whaymes@oa.eop.gov>
Sent: Fri May 09 08:54:57 2003
Subject: RE: Thanks

There,s one typo (&recevied8) in response to the fifth question.; Can it be fixed?

;;;;;;;; -----Original Message-----
;;;;;;; From: ; Orr, Christopher J.;
;;;;;;; Sent:;; Thursday, May 08, 2003 6:50 PM
;;;;;;; To:;;;; Gonzales, Alberto R.; Kavanaugh, Brett M.; Snee, Ashley; Leitch, David G.; Haymes, William C.
;;;;;;; Subject:;;;;;;; Thanks

;;;;;;; Thanks for a successful edition of "Ask the White House".

;;;;;;; The letter which the Judge referenced is now online.; The video will be launched tomorrow, pending approval.; But it looks good.;

;;;;;;; Thanks again.; The transcript is included in this email.; It is also located at:

;;;;;;; www.whitehouse.gov/ask/20030508.html

;;;;;;; Jimmy

;;;;;;; Welcome to "Ask the White House" -- an online interactive forum where you can submit questions to Bush administration officials.

;;;;;;; Today's guest: Counsel to the President Judge Alberto Gonzales

;;;;;;; Today's topic: The President's judicial nominees and the nominating process.
;;;;;;;;
;;;;;;; Judge Gonzales
;;;;;;; Good afternoon. Thanks for joining me on "Ask the White House". This is an important day to participate in this online discussion as tomorrow is the two year anniversary of the president's first 11 Appeals Court nominations. Of those nominations, four still have yet to receive an up or down vote. Let's get started.

;;;;;;;

;;;;;;; Eddie, from Macon Ga writes:
;;;;;;; On todays local news there was a story about a possible lawsuit by Senators Saxby Chambliss Ga and Lindsey Graham SC regarding the democrats blocking of President Bushs nominations. What kind of results or impact do you think will be made by such a move? Thank you!

;;;;;;; Judge Gonzales
;;;;;;; As the President has said, the Senate has a constitutional responsibility to provide an up or down vote on judicial nominees. Without endorsing any specific approach, we applaud Senators Chambliss and Graham for seeking a solution to a broken process.

;;;;;;;

;;;;;;; Karen, from Needham MA writes:
;;;;;;; What are the presidents plans regarding the filibuster against Miguel Estrada?

;;;;;;; Judge Gonzales
;;;;;;; As the President has said, he intends to stand beside Miguel Estrada until he is sworn in as a judge on the D. C. Circuit Court of Appeals. Miguel is well qualified and represents the American dream. Despite a remarkable record of achievement he is being held to a double standard. The President will continue to work with Senators of both parties to get him the up or down vote he deserves.

;;;;;;;

;;;;;;; Rebecca, from Goshen, Ohio writes:
;;;;;;; I was wondering what is it like to work with the President?

;;;;;;; Judge Gonzales
;;;;;;; Good question, it is an honor to work with George W. Bush. The President is a remarkable person. It is hard to be around the President and not learn, just by watching and listening. It is also hard to be around the President and not like him.

;;;;;;;

;;;;;;; Henry, from Oceanside, California writes:
;;;;;;; What does it matter if 2-3 nominees dont get approved? Over 120 already have been. Isnt this a good batting average for the Senate?

;;;;;;; Judge Gonzales
;;;;;;; Each nominee is entitled to a vote and to be considered on his or her merits. Every qualified nominee should be confirmed in a timely manner. Only half of the President's appeals court nominees have recevied an up or down vote and nine of the pending nominees have been waiting more than a year for a vote.

;;;;;;;

;;;;;;; Patrick, from Richardson, TX writes:
;;;;;;; Though a bipartisan merit selection system for federal judicial appointments would have political drawbacks for whoever is president--such as the loss of a tool to reward core constituencies and an inability to shape the ideological direction of the courts, 1 do you see any advantages from such a system, and 2 could there ever be the political will to seek an institutionalized compromise that would back away from the historic drive to pack the federal courts the impulse behind Marbury v. Madison afterall?

;;;;;;; Judge Gonzales
;;;;;;; The framers of the Constitution wanted one person to be responsible and accountable for the nomination of federal judges, and the Senate as a whole to vote on the nominees.

;;;;;;;

;;;;;;; Lori, from Corpus Christi, TX writes:
;;;;;;; Have you found a good tex-mex restaurant in the nations capital?

;;;;;;; Judge Gonzales
;;;;;;; My family and I miss Texas and the great Tex-Mex food in Austin...and of course Corpus Christi. Although we love Washington, we look forward to the day we can return to my beloved State. Go Astros!

;;;;;;;

;;;;;;; Shaun, from San Antonio writes:
;;;;;;; Judge Gonzales, heres a tough one for you... Dallas Cowboys or Houston Texans?

;;;;;;; Judge Gonzales
;;;;;;; Houston Oilers!!!!!!!

;;;;;;;

;;;;;;; Gregory, from Sandusky, OH writes:
;;;;;;; Since the advise and consent role of Congress, as spelled out in the Constitution, specifically states that a simple majority vote is required, is it not unconstitutional for the Senate Democrats to insist that a 60 favorable vote to break a fillibuster is needed for the whole Senate to vote up or down on a judicial nomination?

;;;;;;; Judge Gonzales
;;;;;;; The Senate has a constitutional responsibility to provide an up or down vote. It is unprecedented for a minority of Senators to block a vote on an appeals court nominee by means of a filibuster. Both Miguel Estrada and Priscilla Owen have the support of a majority of Senators, and should receive a vote and be confirmed.

;;;;;;;

;;;;;;; James, from New York, NY writes:
;;;;;;; When you say nine appeals court nominees have been waiting for more than one year, are you including Justice Owen and Judge Pickering? They did receive votes, after all, even though the votes were negative. Then the President renominated them when the Republicans regained control of the Senate, and theyve been waiting about four months since then. In fact, is it not disregarding the Senates constitutional function of advice and consent for the President to reappoint nominees who were voted down?

;;;;;;; Judge Gonzales
;;;;;;; The President continues to support both nominees, believes they deserve a vote, and is confident they will be confirmed. And to clarify, in the last Congress, they did not receive a vote in the full Senate and we know that both would have been confirmed if they received an up or down vote.

;;;;;;;

;;;;;;; Curtis, from Washington, DC writes:
;;;;;;; The Senate Democrats have used one of your statements on a Priscilla Owen dissent to discredit her. However, you issued a statement on July 16, 2002 supporting Justice Owen. Can you clarify the discrepency?

;;;;;;; Judge Gonzales
;;;;;;; There is no discrepancy. I strongly support Priscilla Owen and continue to believe she is well qualified. She is a woman of integrity and will be an outstanding judge on the Fifth Circuit. The fact that she and I disagreed on some opinions is not unusual or noteworthy and does not in any way affect my strong support for her.

;;;;;;;

;;;;;;; Rich, from New York City writes:
;;;;;;; What is your reaction to Senator Schumers idea that the President give up his right to nominating judges and hand over the process to unelected and unaccountable boards in the states?

;;;;;;; Judge Gonzales
;;;;;;; I responded to Senator Schumer's letter earlier this week and advised him that we believed his plan to be inconsistent with the Constitution and would not produce the best qualified judges. We will post my response to the Senator after my online discussion is over. Check back in about 30 minutes.

;;;;;;; ** Posted at 6:45pm **
;;;;;;; Click here to read the letter (in PDF format).

;;;;;;;

;;;;;;; Rafael, from Englewood, Colorado writes:
;;;;;;; Does the President employ a litmus test when selecting his nominees?

;;;;;;; Judge Gonzales
;;;;;;; No.

;;;;;;;

;;;;;;; George, from Maryland writes:
;;;;;;; What is it like to work in the White House?

;;;;;;; Judge Gonzales
;;;;;;; It is an honor. People from all over the world come to Washington and peer through the black iron rod gates for just a glimpse of the President or First Lady. I have yet to meet an American who is not in awe when they step into the White House for the first time. I am proud and privileged.

;;;;;;;

;;;;;;; susan, from Michigan writes:
;;;;;;; Will the White House pressure the Senate to hold hearings and confirm the Sixth Circuit nominees from Michigan despite the negative blue slips submitted by Michigans Democrat senators?

;;;;;;; Judge Gonzales
;;;;;;; There is a vacancy crisis in the Sixth Circuit. The President has four nominees from Michigan to that court pending; three have been pending more than a year without even a hearing. These well qualified nominees deserve hearings and votes. The people of Michigan and the other people in the Sixth Circuit are being harmed by these delays.

;;;;;;;

;;;;;;; Alexander, from Hebron, CT writes:
;;;;;;; Mr. Gonzales, Senate Democrats alledge that the Constitutions advise and consent provisions not only empower the Senate to push against a judicial nominee who hasnt fully answered questions, but requires the Senate to do so. How would you respond to those who say that the President shouldnt have nominees rubber stamped.

;;;;;;; Judge Gonzales
;;;;;;; Your question refers to Miguel Estrada. Mr. Estrada answered questions in an all day hearing, responded to numerous written questions, and met with a number of Senators all to provide information about his qualifications. He provided more information than has been required of past appeals court nominees. He is being held to an unfair double standard. While we do not expect the Senate to rubber stamp the President's nominees we expect the Senate to treat the nominees fairly and give them votes.

;;;;;;;

;;;;;;; Rich, from New York City writes:
;;;;;;; Could you and Miguel Estrada take Chuck Schumer and Ted Kennedy in a tag team wrestling match? Could tag team wrestling be a compromise to the gridlock which has kept so many nominees in limbo?

;;;;;;; Judge Gonzales
;;;;;;; ooops, got to go! Thank you all for joining me today in this on line discussion. Everyone should watch the President's speech tomorrow on judicial independence and the confirmation process at 10:30 a.m. ET. It will be web cast on WhiteHouse.Gov. Thanks again.

From: CN=William C. Haymes/OU=OA/O=EOP@Exchange [OA]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Christopher J. Orr/WHO /EOP@EOP [WHO] <Christopher J. Orr>;Ashley Snee/WHO/EOP@Exchange [WHO] <Ashley Snee>;Alberto R. Gonzales/WHO/EOP@Exchange [WHO] <Alberto R. Gonzales>;David G. Leitch/WHO/EOP@Exchange [WHO] <David G. Leitch>
Sent: 5/9/2003 5:57:08 AM
Subject: : Re: Thanks

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:William C. Haymes (CN=William C. Haymes/OU=OA/O=EOP@Exchange [OA])
CREATION DATE/TIME: 9-MAY-2003 09:57:08.00
SUBJECT:: Re: Thanks
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Christopher J. Orr (CN=Christopher J. Orr/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

That'll be fixed shortly.

-----Original Message-----
From: Leitch, David G. <David_G._Leitch@who.eop.gov>
To: Orr, Christopher J. <corr@WHO.eop.gov>; Gonzales, Alberto R. <Alberto_R._Gonzales@who.eop.gov>; Kavanaugh, Brett M. <bkavanau@WHO.eop.gov>; Snee, Ashley <Ashley_M._Snee@who.eop.gov>; Haymes, William C. <whaymes@oa.eop.gov>
Sent: Fri May 09 08:54:57 2003
Subject: RE: Thanks

There,s one typo (&recevied8) in response to the fifth question.; Can it be fixed?

;;;;;;;; -----Original Message-----
;;;;;;; From: ; Orr, Christopher J.;
;;;;;;; Sent:;; Thursday, May 08, 2003 6:50 PM
;;;;;;; To:;;;; Gonzales, Alberto R.; Kavanaugh, Brett M.; Snee, Ashley; Leitch, David G.; Haymes, William C.
;;;;;;; Subject:;;;;;;; Thanks

;;;;;;; Thanks for a successful edition of "Ask the White House".

;;;;;;; The letter which the Judge referenced is now online.; The video will be launched tomorrow, pending approval.; But it looks good.;

;;;;;;; Thanks again.; The transcript is included in this email.; It is also located at:

;;;;;;; www.whitehouse.gov/ask/20030508.html

;;;;;;; Jimmy

;;;;;;; Welcome to "Ask the White House" -- an online interactive forum where you can submit questions to Bush administration officials.

;;;;;;; Today's guest: Counsel to the President Judge Alberto Gonzales

;;;;;;; Today's topic: The President's judicial nominees and the nominating process.
;;;;;;;;
;;;;;;; Judge Gonzales
;;;;;;; Good afternoon. Thanks for joining me on "Ask the White House". This is an important day to participate in this online discussion as tomorrow is the two year anniversary of the president's first 11 Appeals Court nominations. Of those nominations, four still have yet to receive an up or down vote. Let's get started.

;;;;;;;

;;;;;;; Eddie, from Macon Ga writes:
;;;;;;; On todays local news there was a story about a possible lawsuit by Senators Saxby Chambliss Ga and Lindsey Graham SC regarding the democrats blocking of President Bushs nominations. What kind of results or impact do you think will be made by such a move? Thank you!

;;;;;;; Judge Gonzales
;;;;;;; As the President has said, the Senate has a constitutional responsibility to provide an up or down vote on judicial nominees. Without endorsing any specific approach, we applaud Senators Chambliss and Graham for seeking a solution to a broken process.

;;;;;;;

;;;;;;; Karen, from Needham MA writes:
;;;;;;; What are the presidents plans regarding the filibuster against Miguel Estrada?

;;;;;;; Judge Gonzales
;;;;;;; As the President has said, he intends to stand beside Miguel Estrada until he is sworn in as a judge on the D. C. Circuit Court of Appeals. Miguel is well qualified and represents the American dream. Despite a remarkable record of achievement he is being held to a double standard. The President will continue to work with Senators of both parties to get him the up or down vote he deserves.

;;;;;;;

;;;;;;; Rebecca, from Goshen, Ohio writes:
;;;;;;; I was wondering what is it like to work with the President?

;;;;;;; Judge Gonzales
;;;;;;; Good question, it is an honor to work with George W. Bush. The President is a remarkable person. It is hard to be around the President and not learn, just by watching and listening. It is also hard to be around the President and not like him.

;;;;;;;

;;;;;;; Henry, from Oceanside, California writes:
;;;;;;; What does it matter if 2-3 nominees dont get approved? Over 120 already have been. Isnt this a good batting average for the Senate?

;;;;;;; Judge Gonzales
;;;;;;; Each nominee is entitled to a vote and to be considered on his or her merits. Every qualified nominee should be confirmed in a timely manner. Only half of the President's appeals court nominees have recevied an up or down vote and nine of the pending nominees have been waiting more than a year for a vote.

;;;;;;;

;;;;;;; Patrick, from Richardson, TX writes:
;;;;;;; Though a bipartisan merit selection system for federal judicial appointments would have political drawbacks for whoever is president--such as the loss of a tool to reward core constituencies and an inability to shape the ideological direction of the courts, 1 do you see any advantages from such a system, and 2 could there ever be the political will to seek an institutionalized compromise that would back away from the historic drive to pack the federal courts the impulse behind Marbury v. Madison afterall?

;;;;;;; Judge Gonzales
;;;;;;; The framers of the Constitution wanted one person to be responsible and accountable for the nomination of federal judges, and the Senate as a whole to vote on the nominees.

;;;;;;;

;;;;;;; Lori, from Corpus Christi, TX writes:
;;;;;;; Have you found a good tex-mex restaurant in the nations capital?

;;;;;;; Judge Gonzales
;;;;;;; My family and I miss Texas and the great Tex-Mex food in Austin...and of course Corpus Christi. Although we love Washington, we look forward to the day we can return to my beloved State. Go Astros!

;;;;;;;

;;;;;;; Shaun, from San Antonio writes:
;;;;;;; Judge Gonzales, heres a tough one for you... Dallas Cowboys or Houston Texans?

;;;;;;; Judge Gonzales
;;;;;;; Houston Oilers!!!!!!!

;;;;;;;

;;;;;;; Gregory, from Sandusky, OH writes:
;;;;;;; Since the advise and consent role of Congress, as spelled out in the Constitution, specifically states that a simple majority vote is required, is it not unconstitutional for the Senate Democrats to insist that a 60 favorable vote to break a fillibuster is needed for the whole Senate to vote up or down on a judicial nomination?

;;;;;;; Judge Gonzales
;;;;;;; The Senate has a constitutional responsibility to provide an up or down vote. It is unprecedented for a minority of Senators to block a vote on an appeals court nominee by means of a filibuster. Both Miguel Estrada and Priscilla Owen have the support of a majority of Senators, and should receive a vote and be confirmed.

;;;;;;;

;;;;;;; James, from New York, NY writes:
;;;;;;; When you say nine appeals court nominees have been waiting for more than one year, are you including Justice Owen and Judge Pickering? They did receive votes, after all, even though the votes were negative. Then the President renominated them when the Republicans regained control of the Senate, and theyve been waiting about four months since then. In fact, is it not disregarding the Senates constitutional function of advice and consent for the President to reappoint nominees who were voted down?

;;;;;;; Judge Gonzales
;;;;;;; The President continues to support both nominees, believes they deserve a vote, and is confident they will be confirmed. And to clarify, in the last Congress, they did not receive a vote in the full Senate and we know that both would have been confirmed if they received an up or down vote.

;;;;;;;

;;;;;;; Curtis, from Washington, DC writes:
;;;;;;; The Senate Democrats have used one of your statements on a Priscilla Owen dissent to discredit her. However, you issued a statement on July 16, 2002 supporting Justice Owen. Can you clarify the discrepency?

;;;;;;; Judge Gonzales
;;;;;;; There is no discrepancy. I strongly support Priscilla Owen and continue to believe she is well qualified. She is a woman of integrity and will be an outstanding judge on the Fifth Circuit. The fact that she and I disagreed on some opinions is not unusual or noteworthy and does not in any way affect my strong support for her.

;;;;;;;

;;;;;;; Rich, from New York City writes:
;;;;;;; What is your reaction to Senator Schumers idea that the President give up his right to nominating judges and hand over the process to unelected and unaccountable boards in the states?

;;;;;;; Judge Gonzales
;;;;;;; I responded to Senator Schumer's letter earlier this week and advised him that we believed his plan to be inconsistent with the Constitution and would not produce the best qualified judges. We will post my response to the Senator after my online discussion is over. Check back in about 30 minutes.

;;;;;;; ** Posted at 6:45pm **
;;;;;;; Click here to read the letter (in PDF format).

;;;;;;;

;;;;;;; Rafael, from Englewood, Colorado writes:
;;;;;;; Does the President employ a litmus test when selecting his nominees?

;;;;;;; Judge Gonzales
;;;;;;; No.

;;;;;;;

;;;;;;; George, from Maryland writes:
;;;;;;; What is it like to work in the White House?

;;;;;;; Judge Gonzales
;;;;;;; It is an honor. People from all over the world come to Washington and peer through the black iron rod gates for just a glimpse of the President or First Lady. I have yet to meet an American who is not in awe when they step into the White House for the first time. I am proud and privileged.

;;;;;;;

;;;;;;; susan, from Michigan writes:
;;;;;;; Will the White House pressure the Senate to hold hearings and confirm the Sixth Circuit nominees from Michigan despite the negative blue slips submitted by Michigans Democrat senators?

;;;;;;; Judge Gonzales
;;;;;;; There is a vacancy crisis in the Sixth Circuit. The President has four nominees from Michigan to that court pending; three have been pending more than a year without even a hearing. These well qualified nominees deserve hearings and votes. The people of Michigan and the other people in the Sixth Circuit are being harmed by these delays.

;;;;;;;

;;;;;;; Alexander, from Hebron, CT writes:
;;;;;;; Mr. Gonzales, Senate Democrats alledge that the Constitutions advise and consent provisions not only empower the Senate to push against a judicial nominee who hasnt fully answered questions, but requires the Senate to do so. How would you respond to those who say that the President shouldnt have nominees rubber stamped.

;;;;;;; Judge Gonzales
;;;;;;; Your question refers to Miguel Estrada. Mr. Estrada answered questions in an all day hearing, responded to numerous written questions, and met with a number of Senators all to provide information about his qualifications. He provided more information than has been required of past appeals court nominees. He is being held to an unfair double standard. While we do not expect the Senate to rubber stamp the President's nominees we expect the Senate to treat the nominees fairly and give them votes.

;;;;;;;

;;;;;;; Rich, from New York City writes:
;;;;;;; Could you and Miguel Estrada take Chuck Schumer and Ted Kennedy in a tag team wrestling match? Could tag team wrestling be a compromise to the gridlock which has kept so many nominees in limbo?

;;;;;;; Judge Gonzales
;;;;;;; ooops, got to go! Thank you all for joining me today in this on line discussion. Everyone should watch the President's speech tomorrow on judicial independence and the confirmation process at 10:30 a.m. ET. It will be web cast on WhiteHouse.Gov. Thanks again.

From: Montiel, Charlotte L.
To: <Kavanaugh, Brett M.>
Sent: 5/9/2003 12:27:19 PM
Subject: RE: Corporate Council on Africa

Those are the groups. Here's the bio on the Liberty Education Forum.

Liberty Education Forum
Liberty Education Forum (LEF) was originally established to provide a non-partisan education and research component to complement the work of the Log Cabin Republicans. But with a full-scale launching on July 21, 2001, the Liberty Education Forum is a brand new educational think tank - based in Washington, D.C. - that is dedicated to new ideas and new directions for the gay community, with a centrist approach. The mission of the Liberty Education Forum is to work toward achieving individual freedom and fairness for gay Americans by applying the principles of individual rights, individual responsibilities, free markets and limited government.

The Log Cabin Republicans are a part of the White House Judicial Coalition as well as the AIDS Coalition.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Friday, May 09, 2003 12:17 PM
To: Montiel, Charlotte L.
Subject: Corporate Council on Africa

This is the group, I believe???

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 05/09/2003 12:17 PM ----------

Jenica Baldwin 05/05/2003 05:41:00 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Joseph F. O'Neill/OPD/EOP@EOP
cc:
Subject: Corporate Council on Africa

I am following up to see if you all are available to speak to the Corporate Council on Africa and Liberty Education Forum this Friday morning.

Please let me know,
Thank you.

From: CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO]
To: Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Noel J. Francisco/WHO /EOP@EOP [WHO] <Noel J. Francisco>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;Benjamin A. Powell/WHO /EOP@EOP [WHO] <Benjamin A. Powell>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Alberto R. Gonzales/WHO/EOP@Exchange [WHO] <Alberto R. Gonzales>
Sent: 5/9/2003 9:47:22 AM
Subject: : PFAW response to POTUS statement

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME: 9-MAY-2003 13:47:22.00
SUBJECT:: PFAW response to POTUS statement
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Bush Statement on Judges Demonstrates "Orwellian Doublespeak"
<http://www.pfaw.org/pfaw/general/images/spacer.gif>
<http://www.pfaw.org/pfaw/general/images/spacer.gif>
<http://www.pfaw.org/pfaw/general/images/spacer.gif>
<http://www.pfaw.org/pfaw/general/images/spacer.gif>
<http://www.pfaw.org/pfaw/general/images/spacer.gif>
<http://www.pfaw.org/pfaw/general/images/spacer.gif>
Despite 13-Year Low in Vacancies, Bush Claims a &Judicial Crisis8
<http://www.pfaw.org/pfaw/general/images/spacer.gif>
Statement of Ralph G. Neas, President of People For the American Way.

&Regrettably, President Bush,s statement on judges was a demonstration of
Orwellian doublespeak. First, he claims that there is a judicial vacancy
crisis when vacancies are actually at their lowest rate in 13 years.

&Second, he claims that the Senate has been obstructionist when it has
confirmed more than 120 judges since July of 2001 and has only
filibustered two.

&And by signaling that he will work with the Senate Republican leadership
to change Senate rules that have worked well for over 200 years, he is the
one who threatens to undermine our carefully balanced constitutional
scheme of checks and balances and create an unprecedented institutional
crisis in the United States Senate.

&Because the President is so determined to pack the federal judiciary with
right-wing ideologues who would turn back the clock on environmental
protection, civil rights, reproductive freedom and privacy, religious
```

liberty and so much more, he is willing to promote a Senate rules change that would be nothing but an irresponsible power play to achieve his ideological objectives.

&The opportunity for senators to engage in unlimited debate on important national issues and nominations has often served the nation well. Again and again, this time-honored parliamentary tool has promoted bipartisan consultation and consensus. Both parties have frequently used the filibuster to require at least 60 votes to end debate on controversial judicial nominees as well as legislation. We urge Senate Republicans and Democrats to defeat any attempt to destroy the very essence of what has made the Senate such a unique and effective institution.

&It is becoming apparent that this is a blatant effort by the president and Republican leaders to construct a Senate scenario that would ensure a swift partisan rubberstamping of Supreme Court nominees +in the mold of Clarence Thomas and Antonin Scalia.,8
<http://www.pfaw.org/pfaw/general/images/spacer.gif>

From: Leitch, David G.
To: <Gonzales, Alberto R.>;<Kavanaugh, Brett M.>;<Bartolomucci, H. Christopher>;<Sampson, Kyle>;<Newstead, Jennifer G.>;<Francisco, Noel J.>;<Powell, Benjamin A.>;<Ullyot, Theodore W.>;<Brosnahan, Jennifer R.>
Sent: 5/9/2003 1:47:56 PM
Subject: PFAW response to POTUS statement

Bush Statement on Judges Demonstrates "Orwellian Doublespeak"

Despite 13-Year Low in Vacancies, Bush Claims a "Judicial Crisis"

Statement of Ralph G. Neas, President of People For the American Way.

"Regrettably, President Bush's statement on judges was a demonstration of Orwellian doublespeak. First, he claims that there is a judicial vacancy crisis when vacancies are actually at their lowest rate in 13 years.

"Second, he claims that the Senate has been obstructionist when it has confirmed more than 120 judges since July of 2001 and has only filibustered two.

"And by signaling that he will work with the Senate Republican leadership to change Senate rules that have worked well for over 200 years, he is the one who threatens to undermine our carefully balanced constitutional scheme of checks and balances and create an unprecedented institutional crisis in the United States Senate.

"Because the President is so determined to pack the federal judiciary with right-wing ideologues who would turn back

the clock on environmental protection, civil rights, reproductive freedom and privacy, religious liberty and so much more, he is willing to promote a Senate rules change that would be nothing but an irresponsible power play to achieve his ideological objectives.

"The opportunity for senators to engage in unlimited debate on important national issues and nominations has often served the nation well. Again and again, this time-honored parliamentary tool has promoted bipartisan consultation and consensus. Both parties have frequently used the filibuster to require at least 60 votes to end debate on controversial judicial nominees as well as legislation. We urge Senate Republicans and Democrats to defeat any attempt to destroy the very essence of what has made the Senate such a unique and effective institution.

"It is becoming apparent that this is a blatant effort by the president and Republican leaders to construct a Senate scenario that would ensure a swift partisan rubberstamping of Supreme Court nominees 'in the mold of Clarence Thomas and Antonin Scalia.'"

From: CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange [OPD]
To: John F. Wood/OMB/EOP@EOP [OMB] <John F. Wood>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Philip J. Perry/OMB/EOP@EOP [OMB] <Philip J. Perry>
CC: Bessie M. Weaver/OMB/EOP@EOP [OMB] <Bessie M. Weaver>;Carla B. Stone/OMB /EOP@EOP [OMB] <Carla B. Stone>;Emily Winland/OPD/EOP@EOP [OPD] <Emily Winland>
Sent: 5/9/2003 9:58:58 AM
Subject: : Meeting re. Victims of International Terror

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Lauren J. Vestewig ( CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange [ OPD ] )
CREATION DATE/TIME: 9-MAY-2003 13:58:58.00
SUBJECT:: Meeting re. Victims of International Terror
TO:John F. Wood ( CN=John F. Wood/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Philip J. Perry ( CN=Philip J. Perry/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
CC:Bessie M. Weaver ( CN=Bessie M. Weaver/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
CC:Carla B. Stone ( CN=Carla B. Stone/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
CC:Emily Winland ( CN=Emily Winland/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######

This meeting has been rescheduled for 9 am on Wed, May 14 in Jay's
office.; Thanks.
```

From: Joel Pardue <judicialumbrella@yahoo.com>
To: lleo@fed-soc.org [UNKNOWN] <lleo@fed-soc.org>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 5/9/2003 10:34:37 AM
Subject: : Today's Events
Attachments: P_P74BG003_WHO.TXT_1.txt

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Joel Pardue <judicialumbrella@yahoo.com> (Joel Pardue <judicialumbrella@yahoo.com>
[UNKNOWN])
CREATION DATE/TIME: 9-MAY-2003 14:34:37.00
SUBJECT:: Today's Events
TO:lleo@fed-soc.org (lleo@fed-soc.org [UNKNOWN])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

The President today gave an important speech on the 2 year anniversary of
the first batch of nominees and the Senate obstruction that is currently
taking place. A link to the proceedings is below.
http://www.whitehouse.gov/news/releases/2003/05/20030509-4.html Senator
Frist, also today, offered his "Filibuster Reform" plan. Below is a
synopsis:
Senator Frist?s proposed change to Rule 22 tracks normal cloture procedure
with exceptions:

1) Applies only to nominations.

2) Cloture cannot be filed until a nomination has been pending for
12 hours.

3) Cloture requirements decline on succeeding votes: 60, 57, 54, 51
and finally a simple majority of those present and voting. (This latter
feature is based on the premise that the Constitution does not state a
floor.)

4) A follow-up cloture motion cannot be filed until disposition of
the prior cloture motion.

S. Res 85 as introduced by previously Senator Miller

- applied to all debate, not just nominations- did not provide a 12 hour wait- stopped at
51 There are 10 GOP co-sponsors and Miller. Including freshmen Cornyn and
Chambliss. A previous similar proposal introduced by Liebermann and
Harkin in 1995 (applied to all debate) was voted up by 19 Democrats, many
of whom still serve, including POTUS wannabes Lieberman, Kerry, and
Graham..

---------Do you Yahoo!?
The New Yahoo! Search - Faster. Easier. Bingo.
- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_P74BG003_WHO.TXT_1>

From: Mamo, Jeanie S.
To: <Snee, Ashley>;<Kavanaugh, Brett M.>;<Johnson, Collister W.>;<Rachelson, David B.>
Sent: 5/11/2003 6:01:52 PM
Subject: Raleigh News & Observer (5/10/03) re: Dole highlights Edwards' block of judicial nominee

Saturday, May 10, 2003 6:07AM EDT

Dole highlights Edwards' block of judicial nominee

By JOHN WAGNER, Washington Correspondent

WASHINGTON -- U.S. Sen. Elizabeth Dole on Friday tried to publicly pressure U.S. Sen. John Edwards to let the Senate consider a judicial candidate from North Carolina whose nomination has languished for two years.

Dole, a Republican, sent a letter to Edwards, a Democrat, and later held a conference call with reporters to highlight the plight of U.S. District Court Judge Terrence Boyle, whom President Bush nominated to the U.S. 4th Circuit Court of Appeals in May 2001.

Edwards has refused to return a "blue slip" that would allow the Senate Judiciary Committee to convene a hearing on Boyle's nomination. Dole's Republican predecessor, U.S. Sen. Jesse Helms, employed the same tactic during the Clinton Administration to block a string of Democratic nominees from his home state.

"I'm calling on my colleague and friend to return the blue slips," Dole said. "It's time for the cycle of blame and recriminations to end."

Feuding between North Carolina's senators has kept the state from having a single judge on the 15-member panel since 1999. The 4th Circuit, which hears appeals from five Southeastern states, is the last stop for federal cases before they reach the U.S. Supreme Court.

Boyle is now one of two pending nominees from North Carolina. Last month, Bush nominated Raleigh lawyer Allyson Duncan to the 4th Circuit as well.

Edwards spokes-man Mike Briggs urged "quick action" by the Senate on the Duncan nomination. Though Duncan is a Republican, he said Edwards considers her "a consensus nominee."

Dole, however, said she thinks Boyle should get a hearing first because he was nominated first.

Dole said the federal judiciary is facing a "vacancy crisis" created by "a handful of Democratic senators for political and partisan reasons."

But when asked about Helms' actions during the Clinton administration, she declined several times to characterize them.

Briggs noted Friday that in a previous letter to Dole, Edwards proposed setting up a bipartisan commission to recommend judges from North Carolina. Dole did not accept the proposal.

Politics - John Edwards

From: Mamo, Jeanie S.
To: <Johnson, Collister W.>;<Rachelson, David B.>;<Snee, Ashley>;<Kavanaugh, Brett M.>
Sent: 5/11/2003 6:20:15 PM
Subject: Winston-Salem Journal (5/10/03) re: Dole, Edwards at odds over judge nomination

Sat, May 10, 2003

Dole, Edwards at odds over judge nomination

By Kevin Begos

JOURNAL WASHINGTON BUREAU

WASHINGTON

A 10-year-old dispute over federal judges has sparked the first public battle between Sens. John Edwards and Elizabeth Dole, suggesting that the political ghost of Jesse Helms still looms over North Carolina.

Dole, a freshman, joined other Republicans yesterday when she criticized Edwards for holding up the nomination of Judge Terrence Boyle, one of President Bush's nominees to the U.S. Fourth Circuit Court of Appeals. Dole sent a letter to Edwards complaining about his actions, and she later held a conference call with reporters on the same subject. Earlier in the day, Bush highlighted the issue of judicial nominees during a White House news conference.

"It's a crisis made worse by senators," Dole said during the conference call. Dole then ducked questions about whether Helms used the same tactics to block Clinton-era nominees during a time when her husband, former Sen. Bob Dole of Kansas, was the Senate majority leader for Republicans.

Dole said she wanted to leave "the bitterness of the past behind" to find a process that would guarantee all presidential nominees a Senate hearing.

Despite Dole's comments, some said that ignoring the Helms' legacy and trying to pin blame on Edwards is politics as usual, not a force for change. "She's got the Senate seat of the champion blocker of them all," said Ferrel Guillory, the head of the Southern Politics, Media and Public Life program at the University of North Carolina at Chapel Hill.

"Clearly, Helms spent much of his career blocking nominees."

To expect Edwards and other Democrats to ignore the past is unrealistic, Guillory said, adding that "trying to put pressure on Edwards with Boyle is just going back to the same cycle."

"She could be a force for helping to break the cycle," he said of Dole.

Edwards responded to Dole's criticism with a statement saying that he was "pleased to work with President Bush and Sen. Dole to reach agreement on a consensus nominee for the Fourth Circuit Court" - Allyson Duncan, a Republican lawyer from Raleigh.

The larger battle in Washington has been over the Democrats' efforts to block the nominations of Michael Estrada to the U.S. Court of Appeals for the District of Columbia and of Priscilla Owen to the Fourth U.S.

Circuit Court of Appeals in New Orleans.

But in North Carolina, the Boyle nomination has been a political football for more than 10 years.

Boyle, a former Helms aide, was first nominated during the first Bush administration. He was re-nominated two years ago, but Edwards has used Senate rules to block any hearing for Boyle, suggesting that Boyle's views are tooextreme to effectively represent the state.

Edwards wants to move quickly on the Duncan nomination, but Dole said that Boyle should get a hearing first because he has been waiting so long for one.

Dole also said that the delays "endanger American justice" and that the vacancies on the Fourth Circuit Court of Appeals are a "judicial emergency." However, she did not respond to questions about Helms' previous stand, which held that there was no need for more federal judges.

The chief justice of the Fourth Circuit echoed that opinion when Clinton nominees were being blocked.

From: CN=Collister W. Johnson/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: lukemesser@indgop.org [UNKNOWN] <lukemesser@indgop.org>;Ken Mehlman/WHO /EOP@EOP [WHO] <Ken Mehlman>
Sent: 5/12/2003 4:33:28 AM
Subject: : POTUS event tomorrow and legal question
Attachments: P_T81CG003_WHO.TXT_1.htm; P_T81CG003_WHO.TXT_2.jpeg

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:12-MAY-2003 08:33:28.00
SUBJECT:: POTUS event tomorrow and legal question
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:lukemesser@indgop.org (lukemesser@indgop.org [UNKNOWN])
READ:UNKNOWN
CC:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett -
Advance has worked with the state part in indiana to make up the attached logo.
They'd like to print it onto 7,000 buttons (minus the "staff" insignia), which they will hand out to folks as they leave the event.
your thoughts and legal guidance?

c

---------- Forwarded by Collister W. Johnson/WHO/EOP on 05/12/2003 08:30 AM ----------

Cara Hodges <chodges@indgop.org>
05/11/2003 08:04:56 PM
Record Type: Record

To: Luke Messer <lukemesser@indgop.org>, Collister W. Johnson/WHO/EOP@EOP
cc:
Subject: RE: FW: T-Shirt Logo

Here is the logo again as promised. Buttons will will be red, with the below logo in white. The "staff" will be taken off -

Cara Hodges
The Indiana Republican Party

-----Original Message-----
From: Luke Messer
Sent: Sunday, May 11, 2003 2:01 PM
To: Cara Hodges
Subject: FW: FW: T-Shirt Logo

Cara,

These attachments did not work for coddy. Could we try again? Thanks

-----Original Message-----
From: Collister_W._Johnson@who.eop.gov
[mailto:Collister_W._Johnson@who.eop.gov]
Sent: Sun 5/11/2003 11:31 AM
To: Luke Messer
Cc:
Subject: Re: FW: T-Shirt Logo

Luke -
hey man - this message just came through - unfortunately i cannot open
the
attachment - are you all still planning to sell the tshirts?
c

(Embedded
image moved Luke Messer <lukemesser@indgop.org>
to file: 05/08/2003 06:49:32 PM
pic17145.pcx)

Record Type: Record

To: Collister W. Johnson/WHO/EOP@EOP

cc:
Subject: FW: T-Shirt Logo

This isn't a final logo. But, the concept is close to what we would
like to do. Thanks

-----Original Message-----
From: Marc Lotter
Sent: Thursday, May 08, 2003 4:29 PM
To: Luke Messer
Subject: T-Shirt Logo

Luke,

Here is the sample t-shirt logo. I did not add the disclaimer because I
can't figure out how to do it in the program I was working in.

On T-Shirts we need a decision tomorrow morning.

Marc Lotter

Communications Director

47 South Meridian St.

Indianapolis, Indiana 46204

(317) 964-5019

- att1.htm
- PRESIDENTIAL-VISIT.jpg

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_T81CG003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_T81CG003_WHO.TXT_2>

Here is the logo again as promised. The tshirts will be red, with the below logo in white. The staff will be written across the back in white.

Cara Hodges
The Indiana Republican Party



-----Original Message-----
From: Luke Messer
Sent: Sunday, May 11, 200 3 2:01 PM
To: Cara Hodges
Subject: FW: FW: T-Shirt Logo

Cara,

These attachments did not work for coddy. Could we try again? ; Thanks

-----Original Message-----
From: Collister_W._Johnson@who.eop.gov [mailto:Collister_W._Johnson@who.eop.gov]
Sent: Sun 5/11/2003 11:31 AM
To: Luke Messer
Cc:
Subject: Re: FW: T-Shirt Logo

Luke -
hey man - this message just came through - unfortunately i cannot open the attachment - are you all still planning to sell the tshirts?
c

&n bsp; &nb sp; &nbs p; ;
(Embedded & nbsp; &n bsp; &nb sp;
image moved Luke Messer <lukemesser@indgop.org> &nbs p;
to file: 05/08/2003 06:49:32 PM & nbsp; &n bsp;
pic17145.pcx) &nbs p; ; & nbsp;
&nbs p; ; & nbsp; &n bsp;

Record Type: Record

To: Collister W. Johnson/WHO/EOP@EOP

cc:
Subject: FW: T-Shirt Logo

This isn't a final logo. But, the concept is clos e to what we would like to do. Thanks

-----Original Message-----
From: Marc Lotter
Sent: Thursday, May 08, 2003 4:29 PM
To: Luke Messer
Subject: T-Shirt Logo

Luke,

Here is the sample t-shirt logo. I did not add the disclaimer because I can't figure out how to do it in the program I was working in.

On T-Shirts we need a decision tomorrow morning.

Marc Lotter

Communications Director

47 South Meridian St.

Indianapolis, Indiana 46204

(317) 964-5019


Presidential Visit to Indianapolis
President George W. Bush
Pepsi Coliseum - Indiana State Fairgrounds
May 13, 2003

STAFF

From: CN=Lisa J. Macecevic/OU=OMB/O=EOP [OMB]
To: James J. Jukes/OMB/EOP@EOP [OMB] <James J. Jukes>;Kenneth L. Schwartz/OMB /EOP@EOP [OMB] <Kenneth L. Schwartz>;Lauren E. Bloomquist/OMB/EOP@EOP [OMB] <Lauren E. Bloomquist>;Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Richard E. Green/OMB/EOP@EOP [OMB] <Richard E. Green>;James Boden/OMB/EOP@EOP [OMB] <James Boden>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/12/2003 4:55:42 AM
Subject: : Thursday hearing on class action bill - HR1115
Attachments: P_BC2CG003_OPD.TXT_1.doc; P_BC2CG003_OPD.TXT_2.doc; P_BC2CG003_OPD.TXT_3.doc; P_BC2CG003_OPD.TXT_4.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Lisa J. Macecevic (CN=Lisa J. Macecevic/OU=OMB/O=EOP [OMB])
CREATION DATE/TIME:12-MAY-2003 08:55:42.00
SUBJECT:: Thursday hearing on class action bill - HR1115
TO:James J. Jukes (CN=James J. Jukes/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Kenneth L. Schwartz (CN=Kenneth L. Schwartz/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Lauren E. Bloomquist (CN=Lauren E. Bloomquist/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Richard E. Green (CN=Richard E. Green/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:James Boden (CN=James Boden/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Thursday, May 15, 10 am, 2141 Rayburn
House Judiciary Committee hearing on H.R. 1115 - Class Action Fairness Act of 2003

Here's the earlier information I passed along - comparing HR1115 to S274, although S274 as you know has been changed by committee. (I still don't have reported text yet of S. 274)

From: Lisa J. Macecevic on 04/03/2003 01:41:25 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: FYI - Class Action Bills

FYI, here is some basic information on class action bills from the 107th and 108th Congress:
In the 107th - the Senate introduced S. 1712 and the House passed H.R. 2341.
In the 108th - the Senate has introduced S.274 and the House H.R. 1115.
S. 274, which was scheduled to be marked up this morning by the Senate Judiciary Committee, is, for all practical purposes, identical to S.1712 from the 107th.
H.R. 1115 from this Congress is a mix between the last years House bill and the Senate bills.
The Administration issued a SAP strongly supporting H.R. 2341 in March 2002. Here is a link to the SAP:
http://www.whitehouse.gov/omb/legislative/sap/107-2/HR2341-r.html

I have attached a side-by-side comparison of S. 274 (as introduced), H.R. 1115 (as introduced), and H.R. 2341 (as passed the House in the 107th), as well as individual comparisons so you can track the exact word changes between the bills if so desired. Also, below, are several recent stories on the topic. (I will update this information if necessary based on what happens in today's markup.) I hope you find this helpful.

Comparison Chart:

Red-line, strike-through comparisons of bills one-on-one:
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_BC2CG003_OPD.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_BC2CG003_OPD.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_BC2CG003_OPD.TXT_3>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_BC2CG003_OPD.TXT_4>

HR 1115 IH

108th CONGRESS
1st Session
H. R. 1115

To amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

March 6, 2003

Mr. GOODLATTE (for himself, Mr. BOUCHER, Mr. SENSENBRENNER, Mr. MORAN of Virginia, Mr. SMITH of Texas, Mr. STENHOLM, Mr. DELAY, Mr. DOOLEY of California, Mr. HYDE, Mr. HOLDEN, Mr. COX, and Mr. CRAMER) introduced the following bill; which was referred to the Committee on the Judiciary

---

A BILL

To amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE- This Act may be cited as the `Class Action Fairness Act of 2003'.
(b) REFERENCE- Whenever in this Act reference is made to an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

(c) TABLE OF CONTENTS- The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Consumer class action bill of rights and improved procedures for interstate class actions.
Sec. 4. Federal district court jurisdiction of interstate class actions.
Sec. 5. Removal of interstate class actions to Federal district court.
Sec. 6. Appeals of class action certification orders.
Sec. 7. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS- The Congress finds as follows:

(1) Class action lawsuits are an important and valuable part of our legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.

(2) Over the past decade, there have been abuses of the class action device that have--

(A) harmed class members with legitimate claims and defendants that have acted responsibly;

(B) adversely affected interstate commerce; and

(C) undermined public respect for the judicial system in the United States.

(3) Class members have been harmed by a number of actions taken by plaintiffs' lawyers, which provide little or no benefit to class members as a whole, including--

(A) plaintiffs' lawyers receiving large fees, while class members are left with coupons or other awards of little or no value;

(B) unjustified rewards being made to certain plaintiffs at the expense of other class members; and

(C) the publication of confusing notices that prevent class members from being able to fully understand and effectively exercise their rights.

(4) Through the use of artful pleading, plaintiffs are able to avoid litigating class actions in Federal court, forcing businesses and other organizations to defend interstate class action lawsuits in county and State courts where--

(A) the lawyers, rather than the claimants, are likely to receive the maximum benefit;

(B) less scrutiny may be given to the merits of the case; and

(C) defendants are effectively forced into settlements, in order to avoid the possibility of huge judgments that could destabilize their companies.

(5) These abuses undermine the Federal judicial system, the free flow of interstate commerce, and the intent of the framers of the Constitution in creating diversity jurisdiction, in that county and State courts are--

(A) handling interstate class actions that affect parties from many States;

(B) sometimes acting in ways that demonstrate bias against out-of-State defendants; and

(C) making judgments that impose their view of the law on other States and bind the rights of the residents of those States.

(6) Abusive interstate class actions have harmed society as a whole by forcing innocent parties to settle cases rather than risk a huge judgment by a local jury, thereby costing consumers billions of dollars in increased costs to pay for forced settlements and excessive judgments.

(b) PURPOSES- The purposes of this Act are--

(1) to assure fair and prompt recoveries for class members with legitimate claims;

(2) to protect responsible companies and other institutions against interstate class actions in State courts;

(3) to restore the intent of the framers of the Constitution by providing for Federal court consideration of interstate class actions; and

(4) to benefit society by encouraging innovation and lowering consumer prices.

SEC. 3. CONSUMER CLASS ACTION BILL OF RIGHTS AND IMPROVED PROCEDURES FOR INTERSTATE CLASS ACTIONS.

(a) IN GENERAL- Part V is amended by inserting after chapter 113 the following:

`CHAPTER 114--CLASS ACTIONS

`Sec.
`1711. Judicial scrutiny of coupon and other noncash settlements.
`1712. Protection against loss by class members.
`1713. Protection against discrimination based on geographic location.
`1714. Prohibition on the payment of bounties.
`1715. Clearer and simpler settlement information.
`1716. Definitions.

`Sec. 1711. Judicial scrutiny of coupon and other noncash settlements

`The court may approve a proposed settlement under which the class members would receive noncash benefits or would otherwise be required to expend funds in order to obtain part or all of the proposed benefits only after a hearing to determine whether, and making a written finding that, the settlement is fair, reasonable, and adequate for class members.

`Sec. 1712. Protection against loss by class members

`The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court makes a written finding that nonmonetary benefits to the class member outweigh the monetary loss.

`Sec. 1713. Protection against discrimination based on geographic location

`The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

`Sec. 1714. Prohibition on the payment of bounties

`(a) IN GENERAL- The court may not approve a proposed settlement that provides for the payment of a greater share of the award to a class representative serving on behalf of a class, on the basis of the formula for distribution to all other class members, than that awarded to the other class members.
`(b) RULE OF CONSTRUCTION- The limitation in subsection (a) shall not be construed to prohibit any payment approved by the court for reasonable time or costs that a person was required to expend in fulfilling his or her obligations as a class representative.

`Sec. 1715. Clearer and simpler settlement information

`(a) PLAIN ENGLISH REQUIREMENTS- Any court with jurisdiction over a plaintiff class action shall require that any written notice concerning a proposed settlement of the class action provided to the class through the mail or publication in printed media contain--

`(1) at the beginning of such notice, a statement in 18-point Times New Roman type or other functionally similar type, stating `LEGAL NOTICE: YOU ARE A PLAINTIFF IN A CLASS ACTION LAWSUIT AND YOUR LEGAL RIGHTS ARE AFFECTED BY THE SETTLEMENT DESCRIBED IN THIS NOTICE.'; and
`(2) a short summary written in plain, easily understood language, describing--

`(A) the subject matter of the class action;
`(B) the members of the class;
`(C) the legal consequences of being a member of the class;
`(D) if the notice is informing class members of a proposed settlement agreement--

`(i) the benefits that will accrue to the class due to the settlement;

`(ii) the rights that class members will lose or waive through the settlement;
`(iii) obligations that will be imposed on the defendants by the settlement;
`(iv) the dollar amount of any attorney's fee class counsel will be seeking, or if not possible, a good faith estimate of the dollar amount of any attorney's fee class counsel will be seeking; and
`(v) an explanation of how any attorney's fee will be calculated and funded; and

`(E) any other material matter.

`(b) TABULAR FORMAT- Any court with jurisdiction over a plaintiff class action shall require that the information described in subsection (a)--

`(1) be placed in a conspicuous and prominent location on the notice;
`(2) contain clear and concise headings for each item of information; and
`(3) provide a clear and concise form for stating each item of information required to be disclosed under each heading.

`(c) TELEVISION OR RADIO NOTICE- Any notice provided through television or radio (including transmissions by cable or satellite) to inform the class members in a class action of the right of each member to be excluded from the class action or a proposed settlement of the class action, if such right exists, shall, in plain, easily understood language--

`(1) describe the persons who may potentially become class members in the class action; and
`(2) explain that the failure of a class member to exercise his or her right to be excluded from a class action will result in the person's inclusion in the class action or settlement.

`Sec. 1716. Definitions

`In this chapter--

`(1) CLASS ACTION- The term `class action' means any civil action filed in a district court of the United States pursuant to rule 23 of the Federal

Rules of Civil Procedure or any civil action that is removed to a district court of the United States that was originally filed pursuant to a State statute or rule of judicial procedure authorizing an action to be brought by one or more representatives on behalf of a class.

`(2) CLASS COUNSEL- The term `class counsel' means the persons who serve as the attorneys for the class members in a proposed or certified class action.
`(3) CLASS MEMBERS- The term `class members' means the persons who fall within the definition of the proposed or certified class in a class action.

`(4) PLAINTIFF CLASS ACTION- The term `plaintiff class action' means a class action in which class members are plaintiffs.

`(5) PROPOSED SETTLEMENT- The term `proposed settlement' means an agreement that resolves claims in a class action, that is subject to court approval, and that, if approved, would be binding on the class members.'.

(b) TECHNICAL AND CONFORMING AMENDMENT- The table of chapters for part V is amended by inserting after the item relating to chapter 113 the following:

--1711'.

SEC. 4. FEDERAL DISTRICT COURT JURISDICTION OF INTERSTATE CLASS ACTIONS.

(a) APPLICATION OF FEDERAL DIVERSITY JURISDICTION- Section 1332 is amended--

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

`(d)(1) In this subsection--

`(A) the term `class' means all of the class members in a class action;

`(B) the term `class action' means any civil action filed pursuant to rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by one or more representative persons on behalf of a class;

`(C) the term `class certification order' means an order issued by a court approving the treatment of a civil action as a class action; and

`(D) the term `class members' means the persons who fall within the definition of the proposed or certified class in a class action.

`(2) The district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs, and is a class action in which--

`(A) any member of a class of plaintiffs is a citizen of a State different from any defendant;

`(B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or

`(C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.

`(3) Paragraph (2) shall not apply to any civil action in which--

`(A)(i) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed; and

`(ii) the claims asserted therein will be governed primarily by the laws of the State in which the action was originally filed;

`(B) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or

`(C) the number of proposed plaintiff class members is less than 100.

`(4) In any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs.

`(5) This subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.

`(6)(A) A district court shall dismiss any civil action that is subject to the jurisdiction of the court solely under this subsection if the court determines the action may not proceed as a class action based on a failure to satisfy the requirements of rule 23 of the Federal Rules of Civil Procedure.

`(B) Nothing in subparagraph (A) shall prohibit plaintiffs from filing an amended class action in Federal court or filing an action in State court, except that any such action filed in State court may be removed to the appropriate district court if it is an action of which the district courts of the United States have original jurisdiction.

`(C) In any action that is dismissed under this paragraph and is filed by any of the original named plaintiffs therein in the same State court venue in which the dismissed action was originally filed, the limitations periods on all reasserted claims shall be deemed tolled for the period during which the dismissed class action was pending. The limitations periods on any claims that were asserted in a class action dismissed under this paragraph that are subsequently asserted in an individual action shall be deemed tolled for the period during which the dismissed action was pending.

`(7) Paragraph (2) shall not apply to any class action brought by shareholders that solely involves a claim that relates to--

`(A) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

`(B) the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

`(C) the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).

`(8) For purposes of this subsection and section 1453 of this title, an unincorporated association shall be deemed

to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.

`(9) For purposes of this section and section 1453 of this title, a civil action that is not otherwise a class action as defined in paragraph (1)(B) of this subsection shall nevertheless be deemed a class action if--

`(A) the named plaintiff purports to act for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeks a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general; or

`(B) monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact.

In any such case, the persons who allegedly were injured shall be treated as members of a proposed plaintiff class and the monetary relief that is sought shall be treated as the claims of individual class members. The provisions of paragraphs (3) and (6) of this subsection and subsections (b)(2) and (d) of section 1453 shall not apply to civil actions described under subparagraph (A). The provisions of paragraph (6) of this subsection, and subsections (b)(2) and (d) of section 1453 shall not apply to civil actions described under subparagraph (B).'.

(b) CONFORMING AMENDMENTS-

(1) Section 1335(a)(1) is amended by inserting `(a) or (d)' after `1332'.

(2) Section 1603(b)(3) is amended by striking `(d)' and inserting `(e)'.

SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FEDERAL DISTRICT COURT.

(a) IN GENERAL- Chapter 89 is amended by adding after section 1452 the following:

`Sec. 1453. Removal of class actions

`(a) DEFINITIONS- In this section, the terms `class', `class action', `class certification order', and `class member' have the meanings given these terms in section 1332(d)(1).

`(b) IN GENERAL- A class action may be removed to a district court of the United States in accordance with this chapter, without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed--

`(1) by any defendant without the consent of all defendants; or

`(2) by any plaintiff class member who is not a named or representative class member without the consent of all members of such class.

`(c) WHEN REMOVABLE- This section shall apply to any class action before or after the entry of a class certification order in the action, except that a plaintiff class member who is not a named or representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class member has been entered.

`(d) PROCEDURE FOR REMOVAL- The provisions of section 1446 relating to a defendant removing a case shall apply to a plaintiff removing a case under this section, except that in the application of subsection (b) of such section the requirement relating to the 30-day filing period shall be met if a plaintiff class member files notice of removal within 30 days after receipt by such class

member, through service or otherwise, of the initial written notice of the class action.

`(e) REVIEW OF ORDERS REMANDING CLASS ACTIONS TO STATE COURTS- The provisions of section 1447 shall apply to any removal of a case under this section, except that, notwithstanding the provisions of section 1447(d), an order remanding a class action to the State court from which it was removed shall be reviewable by appeal or otherwise.

`(f) EXCEPTION- This section shall not apply to any class action brought by shareholders that solely involves--

`(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

`(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

`(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).'.

(b) REMOVAL LIMITATION- Section 1446(b) is amended in the second sentence by inserting `(a)' after `section 1332'.

(c) TECHNICAL AND CONFORMING AMENDMENTS- The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following:

`1453. Removal of class actions.'.

SEC. 6. APPEALS OF CLASS ACTION CERTIFICATION ORDERS.

(a) IN GENERAL- Section 1292(a) is amended by inserting after paragraph (3) the following:

`(4) Orders of the district courts of the United States granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within 10 days after entry of the order.'.

(b) DISCOVERY STAY- All discovery and other proceedings shall be stayed during the pendency of any appeal taken pursuant to the amendment made by subsection (a), unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue prejudice to that party.

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action commenced on or after the date of the enactment of this Act.

END

House/107th	S. 274 - Introduced/108th	H.R. 1115 - Introduced/108th	H.R. 2341 - Passed
Consumer Class Action Bill of Rights and Improved Procedures for Interstate Class Actions (Sec. 3)	1. *Judicial Scrutiny of Coupon and Other Noncash Settlements*: Provide that Federal courts could approve proposed settlements in which class members receive non-cash benefits, but only after a hearing to determine whether the settlement is "fair, reasonable, and adequate." 2. *Protection against Loss by Class Members:* The court could also approve settlements in which any class member is obligated to pay sums to counsel that would result in a net loss to the class member, but only if the court finds that the non-monetary benefits to the class member *substantially* outweigh the monetary loss. 3. *Prohibition Against Discrimination Based on Geographic Location:* Provide that Federal courts could not approve a settlement that provides for larger payments to some class members based solely their being located in closer geographic proximity to the court hearing the case. 4. *Prohibition on Payment of Bounties*: Provide that the court cannot approve a larger share of the award payment to the plaintiff representing the class than that awarded to the other class members, but could approve payments to the representative for reasonable time and costs expended in fulfilling his or her obligations as a class representative. 5. *Clearer and Simpler Settlement Information*: Require that written notices sent by mail or published in print, as well as notices transmitted by television or radio, to class members concerning proposed	1. Same. 2. Same but without "substantially". 3. Same. 4. Minor editorial differences. 5. Minor editorial differences. 6. No provision. 7. No provision as in H.R. 2341. 8. No provision as in H.R. 2341	1. Same. 2. Same but without "substantially". 3. Same 4. Same as H.R. 1115. 5. Same as H.R. 1115. 6. No provision. 7. *Disclosure of Attorney's Fees* (requiring the disclosure of fees to the plaintiffs by the plaintiffs' attorney) 8. *Sunshine in Court Records*: (limiting the sealing, or subjection to a protective order, of such records)

	S. 274 - Introduced/108th	H.R. 1115 - Introduced/108th	H.R. 2341 - Passed
House/107th			
	settlements be written or transmitted in plain, easily understood language. The bill would also provide for a number of additional specific requirements for notices. 6. *Notifications to appropriate Federal and State Officials*: Require, within 10 days after a proposed settlement of a class action is filed in court, each defendant that is participating in the proposed settlement to serve upon the appropriate State official of each State in which a class member resides and the appropriate Federal official, a notice of the proposed settlement. 7. No provision as in H.R. 2341. 8. No provision as in H.R. 2341.		
Federal District Court Jurisdiction for Interstate Class Actions (Sec. 4)	Provide that Federal district courts would have original jurisdiction over any class-action lawsuits where the total claims exceed $2 million if any of the plaintiffs is a citizen of different State from any of the defendants, or either a plaintiff or a defendant resides in a foreign country. However, original jurisdiction would not apply in any action in which: (a) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed and the claims will be governed primarily by the laws of the State in which the action was originally filed; (b) the primary defendants are States, State officials, or other governmental entities against whom the Federal district court may be foreclosed from ordering relief; or (c) the number of plaintiff class members in the aggregate is less than 100. In addition, original jurisdiction would not apply to a class action that solely involves a claim related to certain securities or to the internal affairs or	Minor changes: • Definition of "class certification order" in H.R. 1115 means an order issued by a court approving the treatment of a civil action as a class action. In S. 274, it means …the treatment of some or all aspects of a civil action… • Definition of "class members" in H.R. 1115 means persons who fall within the definition of the proposed or certified class in a class action. In S. 274, it means …persons (named or unnamed)… • In H.R. 1115, original jurisdiction would not apply in which the number of proposed plaintiff class members is less than 100. In S. 274, it would not	Same as H.R. 1115.

	S. 274 - Introduced/108th	H.R. 1115 - Introduced/108th	H.R. 2341 - Passed
House/107th			
	governance of a corporation that arises under the laws of the State in which the corporation is incorporated.	apply in cases in which the number of members *in the aggregate* is less than 100. • In H.R. 1115, original jurisdiction would not apply to a class action brought by shareholders that solely involves a claim related to certain securities or to the internal affairs or governance of a corporation that arises under the laws of the State in which the corporation is incorporated. In S. 274, the distinction of *by shareholder*, is not made.	
Removal of Interstate Class Actions to Federal District Court (Sec. 5)	Provide that a class action could be removed from a State court to a Federal district court by any defendant without the consent of any other defendants; or by any plaintiff class member who is not a named or representative class member without the consent of any other members of the class. However, this authority for removal would not apply to a class action that solely involves a claim related to certain securities or to the internal affairs or governance of a corporation that arises under the laws of the State in which the corporation is incorporated. The Federal courts of appeals would have jurisdiction of appeals from orders of the Federal district courts granting or denying class certification, if notice of appeal is filed within 10 days after entry of the order. All discovery and other proceedings would be suspended while an appeal is pending, unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue	• Again, the distinction of *by shareholder* is not made in S. 274 in regard to situations when the authority for removal from State to Federal district court would not apply. H.R. 1115 provides that the authority for removal would not apply to a class action brought by shareholders… • Both S. 274 and H.R. 1115 state that these provisions apply to any class action before or after the entry of a class certification order in the action, however, H.R. 1115 further states that a plaintiff class member who is not a named representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class	Same as H.R. 1115.

	S. 274 - Introduced/108th	H.R. 1115 - Introduced/108th	H.R. 2341 - Passed House/107th
	prejudice to that party.	member has been entered.	
Report on Class Action Settlements	Require the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the AOUSC, within 12 months of enactment, to report to the House and Senate Judiciary Committees on class action settlements, including (1) recommendations on the best practices that courts can use to ensure that: proposed class action settlements are fair to the class members that the settlements are supposed to benefit; the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and (2) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.	No provision.	Minor change: • The bill specifies that the report would cover class action settlements *in the Federal courts*.
Appeals of Class Action Certification Orders	No provision.	Grants the courts of appeals jurisdiction of appeals from orders of the U.S. district courts granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within ten days after entry of the order.	Same.
Effective Date	Applies to any civil action commenced on or after the date of enactment.	Same.	Same.

S 274 108th Congress-Introduced in Senate (blue, underlined text)
as compared to
HR 1115 108th Congress-Introduced House ~~(red, strikethrough text)~~

To amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants~~, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions~~, and for other purposes.

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Class Action Fairness Act of 2003".

(b) REFERENCE.—Whenever in this Act reference is made to an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Consumer class action bill of rights and improved procedures for interstate class actions.
Sec. 4. Federal district court jurisdiction ~~of~~ for interstate class actions.
Sec. 5. Removal of interstate class actions to Federal district court.
Sec. 6. Report on class action settlements.
~~Sec. 6. Appeals of class action certification orders.~~
Sec. 7. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.— ~~The~~ Congress finds ~~as follows~~ the following:

(1) Class action lawsuits are an important and valuable part of the legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.

(2) Over the past decade, there have been abuses of the class action device that have—

(A) harmed class members with legitimate claims and defendants that have acted responsibly;

(B) adversely affected interstate commerce; and

(C) undermined public respect for ~~the~~ our judicial system ~~in the United States~~.

(3) Class members often receive little or no benefit from class actions, and are sometimes harmed, such as where ~~have been harmed by a number of actions taken by~~

~~plaintiffs' lawyers, which provide little or no benefit to class members as a whole, including —~~

(A) counsel are awarded large fees ~~plaintiffs' lawyers receiving large fees~~, while leaving class members with coupons or other awards of little or no value;

(B) unjustified awards are made to certain plaintiffs at the expense of other class members; and

(C) confusing notices are published ~~the publication of confusing notices~~ that prevent class members from being able to fully understand and effectively exercise their rights.

~~(4) Through the use of artful pleading, plaintiffs are able to avoid litigating class actions in Federal court, forcing businesses and other organizations to defend interstate class action lawsuits in county and State courts where —~~

~~(A) the lawyers, rather than the claimants, are likely to receive the maximum benefit;~~

~~(B) less scrutiny may be given to the merits of the case; and~~

~~(C) defendants are effectively forced into settlements, in order to avoid the possibility of huge judgments that could destabilize their companies.~~

~~(5) These abuses undermine the Federal judicial system, the free flow of interstate commerce, and the intent of the framers of the Constitution in creating diversity jurisdiction, in that county and State courts are —~~

~~(A) handling interstate class actions that affect parties from many States;~~

(4) Abuses in class actions undermine the national judicial system, the free flow of interstate commerce, and the concept of diversity jurisdiction as intended by the framers of the United States Constitution, in that State and local courts are—

(A) keeping cases of national importance out of Federal court;

(B) sometimes acting in ways that demonstrate bias against out-of-State defendants; and

(C) making judgments that impose their view of the law on other States and bind the rights of the residents of those States.

~~(6) Abusive interstate class actions have harmed society as a whole by forcing innocent parties to settle cases rather than risk a huge judgment by a local jury, thereby costing consumers billions of dollars in increased costs to pay for forced settlements and excessive judgments.~~

(b) PURPOSES.—The purposes of this Act are to—

(1) to assure fair and prompt recoveries for class members with legitimate claims;

(2) ~~(3)~~ to restore the intent of the framers of the United States Constitution by providing for Federal court consideration of interstate ~~class actions~~ cases of national importance under diversity jurisdiction; and

~~(2) to protect responsible companies and other institutions against interstate class actions in State courts;~~

(3) ~~(4)~~ to benefit society by encouraging innovation and lowering consumer prices.

SEC. 3. CONSUMER CLASS ACTION BILL OF RIGHTS AND IMPROVED PROCEDURES FOR INTERSTATE CLASS ACTIONS.

(a) IN GENERAL.—Part V is amended by inserting after chapter 113 the following:

"CHAPTER 114—CLASS ACTIONS

"Sec.

"1711 ~~1716~~. Definitions.
"1712 ~~1711~~. Judicial scrutiny of coupon and other noncash settlements.
"1713 ~~1712~~. Protection against loss by class members.
"1714 ~~1713~~. Protection against discrimination based on geographic location.
"1715 ~~1714~~. Prohibition on the payment of bounties.
"1716 ~~1715~~. Clearer and simpler settlement information.
"1717. Notifications to appropriate Federal and State officials.

"§ 1711 ~~1716~~. Definitions

"In this chapter:
"(1) CLASS.—The term 'class' means all of the class members in a class action.
"(2)~~(1)~~ CLASS ACTION.—The term 'class action' means any civil action filed in a district court of the United States ~~pursuant to~~ under rule 23 of the Federal Rules of Civil Procedure or any civil action that is removed to a district court of the United States that was originally filed under a State statute or rule of judicial procedure authorizing an action to be brought by ~~one~~ 1 or more representatives ~~on behalf of a class~~ as a class action.
"(3) ~~(2)~~ CLASS COUNSEL.—The term 'class counsel' means the persons who serve as the attorneys for the class members in a proposed or certified class action.
"(4)~~(3)~~ CLASS MEMBERS.—The term 'class members' means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.
"(5)~~(4)~~ PLAINTIFF CLASS ACTION.—The term 'plaintiff class action' means a class action in which class members are plaintiffs.
"(6)~~(5)~~ PROPOSED SETTLEMENT.—The term 'proposed settlement' means an agreement ~~that resolves claims in a class action,~~ regarding a class action that is subject to court approval and that, if approved, would be binding on some or all ~~the~~ class members.

"§ 1712~~1711~~. Judicial scrutiny of coupon and other noncash settlements

"The court may approve a proposed settlement under which the class members would receive noncash benefits or would otherwise be required to expend funds in order to obtain part or all of the proposed benefits only after a hearing to determine whether, and making a written finding that, the settlement is fair, reasonable, and adequate for class members.

"§ 1713~~1712~~. Protection against loss by class members

"The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court makes a written finding that nonmonetary benefits to the class member substantially outweigh the monetary loss.

"§ 1714~~1713~~. Protection against discrimination based on geographic location

"The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

"§ 1715 ~~1714~~. Prohibition on the payment of bounties

"(a) IN GENERAL.—The court may not approve a proposed settlement that provides for the payment of a greater share of the award to a class representative serving on behalf of a class, on the basis of the formula for distribution to all other class members, than that awarded to the other class members.

"(b) RULE OF CONSTRUCTION.—The limitation in subsection (a) shall not be construed to prohibit ~~any~~ a payment approved by the court for reasonable time or costs that a person was required to expend in fulfilling ~~his or her~~ the obligations of that person as a class representative.

"§ 1716~~1715~~. Clearer and simpler settlement information

"(a) PLAIN ENGLISH REQUIREMENTS.—Any court with jurisdiction over a plaintiff class action shall require that any written notice concerning a proposed settlement of the class action provided to the class through the mail or publication in printed media contain—

"(1) at the beginning of such notice, a statement in 18-point or ~~Times New Roman type or other functionally similar type~~ greater bold type, stating 'LEGAL NOTICE: YOU ARE A PLAINTIFF IN A CLASS ACTION LAWSUIT AND YOUR LEGAL RIGHTS ARE AFFECTED BY THE SETTLEMENT DESCRIBED IN THIS NOTICE.'; ~~and~~

"(2) a short summary written in plain, easily understood language, describing—

"(A) the subject matter of the class action;

"(B) the members of the class;

"(C) the legal consequences of being a member of the class action;

"(D) if the notice is informing class members of a proposed settlement agreement—

"(i) the benefits that will accrue to the class due to the settlement;

"(ii) the rights that class members will lose or waive through the settlement;

"(iii) obligations that will be imposed on the defendants by the settlement;

"(iv) the dollar amount of any attorney's fee class counsel will be seeking, or if not possible, a good faith estimate of the dollar amount of any attorney's fee class counsel will be seeking; and

"(v) an explanation of how any attorney's fee will be calculated and funded; and

"(E) any other material matter.

"(b) TABULAR FORMAT.—Any court with jurisdiction over a plaintiff class action shall require that the information described in subsection (a)—

"(1) be placed in a conspicuous and prominent location on the notice;

"(2) contain clear and concise headings for each item of information; and

"(3) provide a clear and concise form for stating each item of information required to be disclosed under each heading.

"(c) TELEVISION OR RADIO NOTICE.—Any notice provided through television or radio (including transmissions by cable or satellite) to inform the class members in a class action of the right of each member to be excluded from a ~~the~~ class action or a proposed settlement ~~of the class action~~, if such right exists, shall, in plain, easily understood language—

"(1) describe the persons who may potentially become class members in the class action; and

"(2) explain that the failure of a class member to exercise his or her right to be excluded from a class action will result in the person's inclusion in the class action ~~or settlement~~.

"§ 1717. Notifications to appropriate Federal and State officials

"(a) DEFINITIONS.—

"(1) APPROPRIATE FEDERAL OFFICIAL.—In this section, the term 'appropriate Federal official' means—

"(A) the Attorney General of the United States; or

"(B) in any case in which the defendant is a Federal depository institution, a State depository institution, a depository institution holding company, a foreign bank, or a nondepository institution subsidiary of the foregoing (as such terms are defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

"(2) APPROPRIATE STATE OFFICIAL.—In this section, the term 'appropriate State official' means the person in the State who has the primary regulatory or supervisory responsibility with respect to the defendant, or who licenses or otherwise authorizes the defendant to conduct business in the State, if some or all of the matters alleged in the class action are subject to regulation by that person. If there is no primary regulator, supervisor, or licensing authority, or the matters alleged in the class action are not subject to regulation or supervision by that person, then the appropriate State official shall be the State attorney general.

"(b) IN GENERAL.—Not later than 10 days after a proposed settlement of a class action is filed in court, each defendant that is participating in the proposed settlement shall serve upon the appropriate State official of each State in which a class member resides and the appropriate Federal official, a notice of the proposed settlement consisting of—

"(1) a copy of the complaint and any materials filed with the complaint and any amended complaints (except such materials shall not be required to be served if such materials are made electronically available through the Internet and such service includes notice of how to electronically access such material);

"(2) notice of any scheduled judicial hearing in the class action;

"(3) any proposed or final notification to class members of—

"(A)(i) the members' rights to request exclusion from the class action; or

"(ii) if no right to request exclusion exists, a statement that no such right exists; and

"(B) a proposed settlement of a class action;

"(4) any proposed or final class action settlement;

"(5) any settlement or other agreement contemporaneously made between class counsel and counsel for the defendants;

"(6) any final judgment or notice of dismissal;

"(7)(A) if feasible, the names of class members who reside in each State and the estimated proportionate share of the claims of such members to the entire settlement to that State's appropriate State official; or

"(B) if the provision of information under subparagraph (A) is not feasible, a reasonable estimate of the number of class members residing in each State and the estimated proportionate share of the claims of such members to the entire settlement; and

"(8) any written judicial opinion relating to the materials described under subparagraphs (3) through (6).

"(c) DEPOSITORY INSTITUTIONS NOTIFICATION.—

"(1) FEDERAL AND OTHER DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a Federal depository institution, a depository institution holding company, a foreign bank, or a non-depository institution subsidiary of the foregoing, the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

"(2) STATE DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a State depository institution (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the State bank supervisor (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) of the State in which the defendant is incorporated or chartered, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person, and upon the appropriate Federal official.

"(d) FINAL APPROVAL.—An order giving final approval of a proposed settlement may not be issued earlier than 90 days after the later of the dates on which the appropriate Federal official and the appropriate State official are served with the notice required under subsection (b).

"(e) NONCOMPLIANCE IF NOTICE NOT PROVIDED.—

"(1) IN GENERAL.—A class member may refuse to comply with and may choose not to be bound by a settlement agreement or consent decree in a class action if the class member demonstrates that the notice required under subsection (b) has not been provided.

"(2) LIMITATION.—A class member may not refuse to comply with or to be bound by a settlement agreement or consent decree under paragraph (1) if the notice required under subsection (b) was directed to the appropriate Federal official and to either the State attorney general or the person that has primary regulatory, supervisory, or licensing authority over the defendant.

"(3) APPLICATION OF RIGHTS.—The rights created by this subsection shall apply only to class members or any person acting on a class member's behalf, and shall not be construed to limit any other rights affecting a class member's participation in the settlement.

"(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to expand the authority of, or impose any obligations, duties, or responsibilities upon, Federal or State officials.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part V is amended by inserting after the item relating to chapter 113 the following:
"114. Class Actions
1711".

SEC. 4. FEDERAL DISTRICT COURT JURISDICTION ~~OF~~ FOR INTERSTATE CLASS ACTIONS.

(a) APPLICATION OF FEDERAL DIVERSITY JURISDICTION.—Section 1332 is amended—
(1) by redesignating subsection (d) as subsection (e); and
(2) by inserting after subsection (c) the following:
"(d)(1) In this subsection—
"(A) the term 'class' means all of the class members in a class action;
"(B) the term 'class action' means any civil action filed ~~pursuant to~~ under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by ~~one~~ 1 or more representative persons ~~on behalf of a class~~ as a class action;
"(C) the term 'class certification order' means an order issued by a court approving the treatment of some or all aspects of a civil action as a class action; and
"(D) the term 'class members' means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.
"(2) The district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs, and is a class action in which—
"(A) any member of a class of plaintiffs is a citizen of a State different from any defendant;
"(B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or
"(C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.
"(3) Paragraph (2) shall not apply to any civil action in which—
"(A)(i) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed; and
"(ii) the claims asserted therein will be governed primarily by the laws of the State in which the action was originally filed;
"(B) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or
"(C) the number of ~~proposed plaintiff class~~ members of all proposed plaintiff classes in the aggregate is less than 100

"(4) In any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs.

"(5) This subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.

"(6)(A) A district court shall dismiss any civil action that is subject to the jurisdiction of the court solely under this subsection if the court determines the action may not proceed as a class action based on a failure to satisfy the ~~requirements~~ prerequisites of rule 23 of the Federal Rules of Civil Procedure.

"(B) Nothing in subparagraph (A) shall prohibit plaintiffs from filing an amended class action in Federal court or filing an action in State court, except that any such action filed in State court may be removed to the appropriate district court if it is an action of which the district courts of the United States have original jurisdiction.

"(C) In any action that is dismissed under this paragraph and is filed by any of the original named plaintiffs therein in the same State court venue in which the dismissed action was originally filed, the limitations periods on all reasserted claims shall be deemed tolled for the period during which the dismissed class action was pending. The limitations periods on any claims that were asserted in a class action dismissed under this paragraph that are subsequently asserted in an individual action shall be deemed tolled for the period during which the dismissed action was pending.

"(7) Paragraph (2) shall not apply to any class action ~~brought by shareholders~~ that solely involves a claim ~~that relates to —~~

"(A) ~~a claim~~ concerning a covered security as defined under 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(B) that relates to the internal affairs or governance of a corporation or other form of business enterprise and that arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(C) that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).

"(8) For purposes of this subsection and section 1453 of this title, an unincorporated association shall be deemed to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.

"(9)(A) For purposes of this section and section 1453 of this title, a civil action that is not otherwise a class action as defined in paragraph (1)(B) ~~of this subsection~~ shall nevertheless be deemed a class action if—

"(i) ~~"(A)~~ the named plaintiff purports to act for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeks a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general; or

"(ii) ~~"(B)~~ monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact.

"(B)(i) In any ~~such case,~~ civil action described under subparagraph (A)(ii), the persons who allegedly were injured shall be treated as members of a proposed plaintiff class and

the monetary relief that is sought shall be treated as the claims of individual class members.

"(ii) ~~The provisions of~~ Paragraphs (3) and (6) of this subsection and subsections (b)(2) and (d) of section 1453 shall not apply to any civil actions described under subparagraph (A)~~(i).~~

"(iii) ~~The provisions of~~ Paragraph (6) of this subsection, and subsections (b)(2) and (d) of section 1453 shall not apply to any civil actions described under subparagraph (A)(ii). ~~(B).~~".

(b) CONFORMING AMENDMENTS.—

(1) Section 1335(a)(1) is amended by inserting "(a) or (d)" after "1332".

(2) Section 1603(b)(3) is amended by striking "(d)" and inserting "(e)".

SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FEDERAL DISTRICT COURT.

(a) IN GENERAL.—Chapter 89 is amended by adding after section 1452 the following:

"§ 1453. Removal of class actions

"(a) DEFINITIONS.—In this section, the terms 'class', 'class action', 'class certification order', and 'class member' shall have the meanings given such ~~these~~ terms under ~~in~~ section 1332(d)(1).

"(b) IN GENERAL.—A class action may be removed to a district court of the United States in accordance with this chapter, without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed—

"(1) by any defendant without the consent of all defendants; or

"(2) by any plaintiff class member who is not a named or representative class member without the consent of all members of such class.

"(c) WHEN REMOVABLE.—This section shall apply to any class action before or after the entry of a class certification order in the action~~, except that a plaintiff class member who is not a named or representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class member has been entered.~~

"(d) PROCEDURE FOR REMOVAL.— ~~The provisions of~~ Section 1446 relating to a defendant removing a case shall apply to a plaintiff removing a case under this section, except that in the application of subsection (b) of such section the requirement relating to the 30-day filing period shall be met if a plaintiff class member files notice of removal within 30 days after receipt by such class member, through service or otherwise, of the initial written notice of the class action.

"(e) REVIEW OF ORDERS REMANDING CLASS ACTIONS TO STATE COURTS.— ~~The provisions of~~ Section 1447 shall apply to any removal of a case under this section, except that notwithstanding section 1447(d), an order remanding a class action to the State court from which it was removed shall be reviewable by appeal or otherwise.

"(f) EXCEPTION.—This section shall not apply to any class action ~~brought by shareholders~~ that solely involves—

"(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).".

(b) REMOVAL LIMITATION.—Section 1446(b) is amended in the second sentence by inserting "(a)" after "section 1332".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following:
"1453. Removal of class actions.".

SEC. 6. REPORT ON CLASS ACTION SETTLEMENTS.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall prepare and transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report on class action settlements.

(b) CONTENT.—The report under subsection (a) shall contain—

(1) recommendations on the best practices that courts can use to ensure that proposed class action settlements are fair to the class members that the settlements are supposed to benefit;

(2) recommendations on the best practices that courts can use to ensure that—

(A) the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and

(B) the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and

(3) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.

(c) AUTHORITY OF FEDERAL COURTS.—Nothing in this section shall be construed to alter the authority of the Federal courts to supervise attorneys' fees.

~~**SEC. 6. APPEALS OF CLASS ACTION CERTIFICATION ORDERS.**~~

~~(a) IN GENERAL.—Section 1292(a) is amended by inserting after paragraph (3) the following:~~

~~"(4) Orders of the district courts of the United States granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within 10 days after entry of the order.".~~

~~(b) DISCOVERY STAY.—All discovery and other proceedings shall be stayed during the pendency of any appeal taken pursuant to the amendment made by subsection (a), unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue prejudice to that party.~~

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action commenced on or after the date of ~~the~~ enactment of this Act.

S 274 108th Congress-Introduced in Senate (blue, underlined text)
as compared to
HR 2341 107th Congress-Passed House ~~(red, strikethrough text)~~

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Class Action Fairness Act of 2003~~2~~".

(b) REFERENCE.—Whenever in this Act reference is made to an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Consumer class action bill of rights and improved procedures for interstate class actions.
Sec. 4. Federal district court jurisdiction for ~~of~~ interstate class actions.
of interstate class actions.
Sec. 5. Removal of interstate class actions to Federal district court.
~~Sec. 6. Appeals of class action certification orders.~~
Sec. 6~~7~~. Report on class action settlements.
Sec. 7~~8~~. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.— ~~The~~ Congress finds the following:

(1) Class action lawsuits are an important and valuable part of the legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.

(2) Over the past decade, there have been abuses of the class action device that have—

(A) harmed class members with legitimate claims and defendants that have acted responsibly~~, and that have thereby undermined public respect for our judicial system~~;

(B) adversely affected interstate commerce; and

(C) ~~that have thereby~~ undermined public respect for our judicial system.

(3) Class members often receive little or no benefit from class actions, and are sometimes harmed, such as where ~~have been harmed by a number of actions taken by plaintiffs' lawyers, which provide little or no benefit to class members as a whole, including —~~

(A) counsel are awarded large fees, while leaving class members ~~plaintiffs' lawyers receiving large fees, while class members~~ are left with coupons or other awards of little or no value;

(B) unjustified awards are ~~being~~ made to certain plaintiffs at the expense of other class members; and

(C) confusing notices are published that prevent class members ~~the publication of confusing notices that prevent class members~~ from being able to fully understand and effectively exercise their rights.

~~(4) Through the use of artful pleading, plaintiffs are able to avoid litigating class actions in Federal court, forcing businesses and other organizations to defend interstate class action lawsuits in county and State courts where—~~

~~(A) the lawyers, rather than the claimants, are likely to receive the maximum benefit;~~

~~(B) less scrutiny may be given to the merits of the case; and~~

~~(C) defendants are effectively forced into settlements, in order to avoid the possibility of huge judgments that could destabilize their companies.~~

~~(5) These abuses undermine our Federal system and the intent of the framers of the Constitution in creating diversity jurisdiction, in that county and State courts are—~~

~~(A) handling interstate class actions that affect parties from many States;~~

(4) Abuses in class actions undermine the national judicial system, the free flow of interstate commerce, and the concept of diversity jurisdiction as intended by the framers of the United States Constitution, in that State and local courts are—

(A) keeping cases of national importance out of Federal court;

(B) sometimes acting in ways that demonstrate bias against out-of-State defendants; and

(C) making judgments that impose their view of the law on other States and bind the rights of the residents of those States.

~~(6) Abusive interstate class actions have harmed society as a whole by forcing innocent parties to settle cases rather than risk a huge judgment by a local jury, thereby costing consumers billions of dollars in increased costs to pay for forced settlements and excessive judgments.~~

(b) PURPOSES.—The purposes of this Act are to—

(1) ~~to~~ assure fair and prompt recoveries for class members with legitimate claims;

~~(2) to protect responsible companies and other institutions against interstate class actions in State courts;~~

(2)~~(3)~~ ~~to~~ restore the intent of the framers of the United States Constitution by providing for Federal court consideration of interstate cases of national importance under diversity jurisdiction; and

(3)~~(4)~~ ~~to~~ benefit society by encouraging innovation and lowering consumer prices.

SEC. 3. CONSUMER CLASS ACTION BILL OF RIGHTS AND IMPROVED PROCEDURES FOR INTERSTATE CLASS ACTIONS.

(a) IN GENERAL.—Part V is amended by inserting after chapter 113 the following:

"CHAPTER 114—CLASS ACTIONS

"Sec.

"1711~~1718~~. Definitions.

"1712~~1711~~. Judicial scrutiny of coupon and other noncash settlements.
"1713~~1712~~. Protection against loss by class members.
"1714~~1713~~. Protection against discrimination based on geographic location.
"1715~~1714~~. Prohibition on the payment of bounties.
"1716~~1715~~. Clearer and simpler settlement information.
"1717. Notifications to appropriate Federal and State officials.
~~"1716. Disclosure of attorney's fees.~~
~~"1717. Sunshine in court records.~~

"§1711~~1718~~. Definitions

"In this chapter:
"(1) CLASS.—The term 'class' means all of the class members in a class action.
"(2)~~(1)~~ CLASS ACTION.—The term 'class action' means any civil action filed in a district court of the United States under rule 23 of the Federal Rules of Civil Procedure or any civil action that is removed to a district court of the United States that was originally filed under ~~pursuant to~~ a State statute or rule of judicial procedure authorizing an action to be brought by ~~one~~ 1 or more representatives ~~on behalf of~~ as a class action.
"(3)~~(2)~~ CLASS COUNSEL.—The term 'class counsel' means the persons who serve as the attorneys for the class members in a proposed or certified class action.
"(4)~~(3)~~ CLASS MEMBERS.—The term 'class members' means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.
"(5)~~(4)~~ PLAINTIFF CLASS ACTION.—The term 'plaintiff class action' means a class action in which class members are plaintiffs.
"(6)~~(5)~~ PROPOSED SETTLEMENT.—The term 'proposed settlement' means an agreement ~~that resolves claims in~~ regarding a class action that is subject to court approval and that, if approved, would be binding on ~~the~~ some or all class members

"§1712~~1711~~. Judicial scrutiny of coupon and other noncash settlements

"The court may approve a proposed settlement under which the class members would receive noncash benefits or would otherwise be required to expend funds in order to obtain part or all of the proposed benefits only after a hearing to determine whether, and making a written finding that, the settlement is fair, reasonable, and adequate for class members.

"§1713~~1712~~. Protection against loss by class members

"The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court makes a written finding that nonmonetary benefits to the class member substantially outweigh the monetary loss.

"§1714~~1713~~. Protection against discrimination based on geographic location

"The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

"§1715~~1714~~. Prohibition on the payment of bounties

"(a) IN GENERAL.—The court may not approve a proposed settlement that provides for the payment of a greater share of the award to a class representative serving on behalf of a class, on the basis of the formula for distribution to all other class members, than that awarded to the other class members.

"(b) RULE OF CONSTRUCTION.—The limitation in subsection (a) shall not be construed to prohibit ~~any~~ a payment approved by the court for reasonable time or costs that a person was required to expend in fulfilling ~~his or her~~ the obligations of that person as a class representative.

"§1716~~1715~~. Clearer and simpler settlement information

"(a) PLAIN ENGLISH REQUIREMENTS.—Any court with jurisdiction over a plaintiff class action shall require that any written notice concerning a proposed settlement of the class action provided to the class through the mail or publication in printed media contain—

"(1) at the beginning of such notice, a statement in 18-point ~~Times New Roman~~ or greater bold type ~~or other functionally similar type~~, stating 'LEGAL NOTICE: YOU ARE A PLAINTIFF IN A CLASS ACTION LAWSUIT AND YOUR LEGAL RIGHTS ARE AFFECTED BY THE SETTLEMENT DESCRIBED IN THIS NOTICE.';

"(2) a short summary written in plain, easily understood language, describing—

"(A) the subject matter of the class action;

"(B) the members of the class;

"(C) the legal consequences of being a member of the class action;

"(D) if the notice is informing class members of a proposed settlement agreement—

"(i) the benefits that will accrue to the class due to the settlement;

"(ii) the rights that class members will lose or waive through the settlement;

"(iii) obligations that will be imposed on the defendants by the settlement;

"(iv) the dollar amount of any attorney's fee class counsel will be seeking, or if not possible, a good faith estimate of the dollar amount of any attorney's fee class counsel will be seeking; and

"(v) an explanation of how any attorney's fee will be calculated and funded; and

"(E) any other material matter.

"(b) TABULAR FORMAT.—Any court with jurisdiction over a plaintiff class action shall require that the information described in subsection (a)—

"(1) be placed in a conspicuous and prominent location on the notice;

"(2) contain clear and concise headings for each item of information; and

"(3) provide a clear and concise form for stating each item of information required to be disclosed under each heading.

"(c) TELEVISION OR RADIO NOTICE.—Any notice provided through television or radio (including transmissions by cable or satellite) to inform the class members in a class action of the right of each member to be excluded from ~~the~~ a class action or a proposed settlement ~~of the class action~~, if such right exists, shall, in plain, easily understood language—

"(1) describe the persons who may potentially become class members in the class action; and

"(2) explain that the failure of a class member to exercise his or her right to be excluded from a class action will result in the person's inclusion in the class action ~~or settlement~~.

"§ 1717. Notifications to appropriate Federal and State officials

"(a) DEFINITIONS.—

"(1) APPROPRIATE FEDERAL OFFICIAL.—In this section, the term 'appropriate Federal official' means—

"(A) the Attorney General of the United States; or

"(B) in any case in which the defendant is a Federal depository institution, a State depository institution, a depository institution holding company, a foreign bank, or a nondepository institution subsidiary of the foregoing (as such terms are defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

"(2) APPROPRIATE STATE OFFICIAL.—In this section, the term 'appropriate State official' means the person in the State who has the primary regulatory or supervisory responsibility with respect to the defendant, or who licenses or otherwise authorizes the defendant to conduct business in the State, if some or all of the matters alleged in the class action are subject to regulation by that person. If there is no primary regulator, supervisor, or licensing authority, or the matters alleged in the class action are not subject to regulation or supervision by that person, then the appropriate State official shall be the State attorney general.

"(b) IN GENERAL.—Not later than 10 days after a proposed settlement of a class action is filed in court, each defendant that is participating in the proposed settlement shall serve upon the appropriate State official of each State in which a class member resides and the appropriate Federal official, a notice of the proposed settlement consisting of—

"(1) a copy of the complaint and any materials filed with the complaint and any amended complaints (except such materials shall not be required to be served if such materials are made electronically available through the Internet and such service includes notice of how to electronically access such material);

"(2) notice of any scheduled judicial hearing in the class action;

"(3) any proposed or final notification to class members of—

"(A)(i) the members' rights to request exclusion from the class action; or

"(ii) if no right to request exclusion exists, a statement that no such right exists; and

"(B) a proposed settlement of a class action;

"(4) any proposed or final class action settlement;

"(5) any settlement or other agreement contemporaneously made between class counsel and counsel for the defendants;

"(6) any final judgment or notice of dismissal;

"(7)(A) if feasible, the names of class members who reside in each State and the estimated proportionate share of the claims of such members to the entire settlement to that State's appropriate State official; or

"(B) if the provision of information under subparagraph (A) is not feasible, a reasonable estimate of the number of class members residing in each State and the estimated proportionate share of the claims of such members to the entire settlement; and

"(8) any written judicial opinion relating to the materials described under subparagraphs (3) through (6).

"(c) DEPOSITORY INSTITUTIONS NOTIFICATION.—

"(1) FEDERAL AND OTHER DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a Federal depository institution, a depository institution holding company, a foreign bank, or a non-depository institution subsidiary of the foregoing, the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

"(2) STATE DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a State depository institution (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the State bank supervisor (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) of the State in which the defendant is incorporated or chartered, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person, and upon the appropriate Federal official.

"(d) FINAL APPROVAL.—An order giving final approval of a proposed settlement may not be issued earlier than 90 days after the later of the dates on which the appropriate Federal official and the appropriate State official are served with the notice required under subsection (b).

"(e) NONCOMPLIANCE IF NOTICE NOT PROVIDED.—

"(1) IN GENERAL.—A class member may refuse to comply with and may choose not to be bound by a settlement agreement or consent decree in a class action if the class member demonstrates that the notice required under subsection (b) has not been provided.

"(2) LIMITATION.—A class member may not refuse to comply with or to be bound by a settlement agreement or consent decree under paragraph (1) if the notice required under subsection (b) was directed to the appropriate Federal official and to either the State attorney general or the person that has primary regulatory, supervisory, or licensing authority over the defendant.

"(3) APPLICATION OF RIGHTS.—The rights created by this subsection shall apply only to class members or any person acting on a class member's behalf, and shall not be construed to limit any other rights affecting a class member's participation in the settlement.

"(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to expand the authority of, or impose any obligations, duties, or responsibilities upon, Federal or State officials.".

~~**"§ 1716. Disclosure of attorney's fees**~~

~~"Any court with jurisdiction over a plaintiff class action shall require that, if there is a settlement of the class action or a judgment for the plaintiffs, the attorneys for the plaintiffs shall disclose to each plaintiff—~~
~~"(1) at the time when any payment or other award is transmitted to the plaintiff in accordance with the settlement of judgment, or~~
~~"(2) in a case in which no such payment or award is made to a plaintiff, at the time when notice of the final settlement or judgment is transmitted to such plaintiff,~~
~~the full amount of the attorney's fees charged by the attorneys for services rendered in the action.~~

~~**"§ 1717. Sunshine in court records**~~

~~"No order, opinion, or record of the court in the adjudication of a class action, including a record obtained through discovery, whether or not formally filed with the court, may be sealed or subjected to a protective order unless the court makes a finding of fact—~~
~~"(1) that the sealing or protective order is narrowly tailored, consistent with the protection of public health and safety, and is in the public interest; and~~
~~"(2) if the action by the court would prevent the disclosure of information, that disclosing the information is clearly outweighed by a specific and substantial interest in maintaining the confidentiality of such information.~~

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part V is amended by inserting after the item relating to chapter 113 the following:
"114. Class Actions
1711". SEC. 4. FEDERAL DISTRICT COURT JURISDICTION ~~OF~~ FOR INTERSTATE CLASS ACTIONS.

(a) APPLICATION OF FEDERAL DIVERSITY JURISDICTION.—Section 1332 is amended—
(1) by redesignating subsection (d) as subsection (e); and
(2) by inserting after subsection (c) the following:
"(d)(1) In this subsection—
"(A) the term 'class' means all of the class members in a class action;
"(B) the term 'class action' means any civil action filed ~~pursuant to~~ under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by ~~one~~ 1 or more representative persons ~~on behalf of a class~~ as a class action;
"(C) the term 'class certification order' means an order issued by a court approving the treatment of some or all aspects of a civil action as a class action; and

"(D) the term 'class members' means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.

"(2) The district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs, and is a class action in which—

"(A) any member of a class of plaintiffs is a citizen of a State different from any defendant;

"(B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or

"(C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.

"(3) Paragraph (2) shall not apply to any civil action in which—

"(A)(i) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed; and

"(ii) the claims asserted therein will be governed primarily by the laws of the State in which the action was originally filed;

"(B) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or

"(C) the number of ~~proposed plaintiff class~~ members of all proposed plaintiff classes in the aggregate is less than 100.

"(4) In any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs.

"(5) This subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.

"(6)(A) A district court shall dismiss any civil action that is subject to the jurisdiction of the court solely under this subsection if the court determines the action may not proceed as a class action based on a failure to satisfy the ~~requirements~~ prerequisites of rule 23 of the Federal Rules of Civil Procedure.

"(B) Nothing in subparagraph (A) shall prohibit plaintiffs from filing an amended class action in Federal court or filing an action in State court, except that any such action filed in State court may be removed to the appropriate district court if it is an action of which the district courts of the United States have original jurisdiction.

"(C) In any action that is dismissed under this paragraph and is filed by any of the original named plaintiffs therein in the same State court venue in which the dismissed action was originally filed, the limitations periods on all reasserted claims shall be deemed tolled for the period during which the dismissed class action was pending. The limitations periods on any claims that were asserted in a class action dismissed under this paragraph that are subsequently asserted in an individual action shall be deemed tolled for the period during which the dismissed action was pending.

"(7) Paragraph (2) shall not apply to any class action ~~brought by shareholders~~ that solely involves a claim ~~that relates to —~~

"(A) ~~a claim~~ concerning a covered security as defined under 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(B) that relates to the internal affairs or governance of a corporation or other form of business enterprise and that arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(C) that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).

"(8) For purposes of this subsection and section 1453 of this title, an unincorporated association shall be deemed to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.

"(9)(A) For purposes of this section and section 1453 of this title, a civil action that is not otherwise a class action as defined in paragraph (1)(B) ~~of this subsection~~ shall nevertheless be deemed a class action if—

"(i) ~~"(A)~~ the named plaintiff purports to act for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeks a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general; or

"(ii) ~~"(B)~~ monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact.

"(B)(i) In any ~~such case~~ civil action described under subparagraph (A)(ii), the persons who allegedly were injured shall be treated as members of a proposed plaintiff class and the monetary relief that is sought shall be treated as the claims of individual class members.

"(ii) ~~The provisions of p~~Paragraphs (3) and (6) of this subsection and subsections (b)(2) and (d) of section 1453 shall not apply to any civil action~~s~~ described under subparagraph (A)(i).

"(iii) ~~The provisions of p~~Paragraph (6) of this subsection, and subsections (b)(2) and (d) of section 1453 shall not apply to any civil action~~s~~ described under subparagraph (A)(ii) ~~(B)~~.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1335(a)(1) is amended by inserting "(a) or (d)" after "1332".

(2) Section 1603(b)(3) is amended by striking "(d)" and inserting "(e)".

SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FEDERAL DISTRICT COURT.

(a) IN GENERAL.—Chapter 89 is amended by adding after section 1452 the following:

"§ 1453. Removal of class actions

"(a) DEFINITIONS.—In this section, the terms 'class', 'class action', 'class certification order', and 'class member' shall have the meanings given ~~these~~ such terms ~~in~~ under section 1332(d)(1).

"(b) IN GENERAL.—A class action may be removed to a district court of the United States in accordance with this chapter, without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed—

"(1) by any defendant without the consent of all defendants; or

"(2) by any plaintiff class member who is not a named or representative class member without the consent of all members of such class.

"(c) WHEN REMOVABLE.—This section shall apply to any class action before or after the entry of a class certification order in the action~~, except that a plaintiff class member who is not a named or representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class member has been entered~~.

"(d) PROCEDURE FOR REMOVAL.— ~~The provisions of s~~Section 1446 relating to a defendant removing a case shall apply to a plaintiff removing a case under this section, except that in the application of subsection (b) of such section the requirement relating to the 30-day filing period shall be met if a plaintiff class member files notice of removal within 30 days after receipt by such class member, through service or otherwise, of the initial written notice of the class action.

"(e) REVIEW OF ORDERS REMANDING CLASS ACTIONS TO STATE COURTS.— ~~The provisions of s~~Section 1447 shall apply to any removal of a case under this section, except that~~,~~ notwithstanding ~~the provisions of~~ section 1447(d), an order remanding a class action to the State court from which it was removed shall be reviewable by appeal or otherwise.

"(f) EXCEPTION.—This section shall not apply to any class action ~~brought by shareholders~~ that solely involves—

"(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).".

(b) REMOVAL LIMITATION.—Section 1446(b) is amended in the second sentence by inserting "(a)" after "section 1332".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following:
"1453. Removal of class actions.".

~~**SEC. 6. APPEALS OF CLASS ACTION CERTIFICATION ORDERS.**~~

~~(a) IN GENERAL.—Section 1292(a) is amended by inserting after paragraph (3) the following:~~

~~"(4) Orders of the district courts of the United States granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within 10 days after entry of the order.".~~

~~(b) DISCOVERY STAY.—All discovery and other proceedings shall be stayed during the pendency of any appeal taken pursuant to the amendment made by subsection (a), unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue prejudice to that party.~~

SEC. 6~~7~~. REPORT ON CLASS ACTION SETTLEMENTS.

(a) IN GENERAL.—Not later than 12 months after the date of ~~the~~ enactment of this Act, the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall prepare and transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report on class action settlements ~~in the Federal courts~~.

(b) CONTENT.—The report under subsection (a) shall contain—

(1) recommendations on the best practices that courts can use to ensure that proposed class action settlements are fair to the class members ~~whom~~ that the settlements are supposed to benefit;

(2) recommendations on the best practices that courts can use to ensure that—

(A) the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and

(B) the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and

(3) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.

(c) AUTHORITY OF FEDERAL COURTS.—Nothing in this section shall be construed to alter the authority of the Federal courts to supervise attorney's' fees.

SEC. 7~~8~~. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action commenced on or after the date of ~~the~~ enactment of this Act.

From: CN=PostMaster/O=EOP [OA]

BCC: Kevin Warsh (Kevin Warsh/OPD/EOP [OPD]), Theodore W. Ullyot (Theodore W. Ullyot/WHO/EOP [WHO]), Karin B. Torgerson (Karin B. Torgerson/WHO/EOP@Exchange [WHO]), Scott N. Sforza (Scott N. Sforza/WHO/EOP [WHO]), Matthew Scully (Matthew Scully/WHO/EOP [WHO]), Matthew A. Schlapp (Matthew A. Schlapp/WHO/EOP [WHO]), Diana L. Schacht (Diana L. Schacht/OPD/EOP [OPD]), Desiree T. Sayle (Desiree T. Sayle/WHO/EOP [WHO]), Kyle Sampson (Kyle Sampson/WHO/EOP [WHO]), Liza Wright (Liza Wright/WHO/EOP [WHO]), Brian Reardon (Brian Reardon/OPD/EOP [OPD]), Benjamin A. Powell (Benjamin A. Powell/WHO/EOP [WHO]), Brian Peterman (Brian Peterman/WHO/EOP [WHO]), Eric C. Pelletier (Eric C. Pelletier/WHO/EOP@Exchange [WHO]), Jennifer G. Newstead (Jennifer G. Newstead/WHO/EOP [WHO]), Noam M. Neusner (Noam M. Neusner/WHO/EOP [WHO]), Edmund C. Moy (Edmund C. Moy/WHO/EOP [WHO]), Edward McNally (Edward McNally/WHO/EOP [WHO]), Heidi M. Smith (Heidi M. Smith/WHO/EOP [WHO]), Ginger G. Loper (Ginger G. Loper/WHO/EOP@Exchange [WHO]), Paul B. Kurtz (Paul B. Kurtz/NSC/EOP [NSC]), David Kuo (David Kuo/WHO/EOP [WHO]), Lindsey C. Kozberg (Lindsey C. Kozberg/WHO/EOP [WHO]), James M. Kelly (James M. Kelly/WHO/EOP [WHO]), Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO]), David Higbee (David Higbee/WHO/EOP [WHO]), Wendy J. Grubbs (Wendy J. Grubbs/WHO/EOP [WHO]), Adam B. Goldman (Adam B. Goldman/WHO/EOP [WHO]), Tim Goeglein (Tim Goeglein/WHO/EOP [WHO]), Alan Gilbert (Alan Gilbert/OPD/EOP [OPD]), Kelley Gannon (Kelley Gannon/WHO/EOP [WHO]), Noel J. Francisco (Noel J. Francisco/WHO/EOP [WHO]), Catherine S. Fenton (Catherine S. Fenton/WHO /EOP@Exchange [WHO]), Nanette Everson (Nanette Everson/WHO/EOP [WHO]), David Dunn (David Dunn/OPD/EOP [OPD]), Elizabeth S. Dougherty (Elizabeth S. Dougherty/OPD/EOP [OPD]), Nicolle Devenish (Nicolle Devenish/WHO/EOP [WHO]), Amy Jensen (Amy Jensen/WHO/EOP@Exchange [WHO]), Rebecca Contreras (Rebecca Contreras/WHO/EOP [WHO]), Alicia P. Clark (Alicia P. Clark/WHO/EOP [WHO]), Ronald I. Christie (Ronald I. Christie/OPD/EOP [OPD]), Jonathan W. Burks (Jonathan W. Burks/WHO /EOP@Exchange [WHO]), Katja Bullock (Katja Bullock/WHO/EOP [WHO]), Jennifer R. Brosnahan (Jennifer R. Brosnahan/WHO/EOP [WHO]), Charles P. Blahous (Charles P. Blahous/OPD/EOP [OPD]), Rebecca A. Beynon (Rebecca A. Beynon/WHO/EOP [WHO]), Todd W. Beyer (Todd W. Beyer/WHO/EOP [WHO]), Brian R. Besanceney (Brian R. Besanceney/WHO/EOP [WHO]), Kenneth Bernard (Kenneth Bernard/WHO/EOP [WHO]), H. Christopher Bartolomucci (H. Christopher Bartolomucci/WHO/EOP [WHO]), William D. Badger (William D. Badger/OPD/EOP [OPD]), Jackie Arends (Jackie Arends/WHO/EOP [WHO]), Michael Allen (Michael Allen/WHO/EOP [WHO]), Lezlee J. Westine (Lezlee J. Westine/WHO/EOP [WHO]), Peter H. Wehner (Peter H. Wehner/WHO/EOP [WHO]), Jim Towey (Jim Towey/WHO/EOP [WHO]), Ziad S. Ojakli (Ziad S. Ojakli/WHO/EOP@Exchange [WHO]), Ken Mehlman (Ken Mehlman/WHO/EOP [WHO]), John P. McConnell (John P. McConnell/WHO/EOP [WHO]), Scott McClellan (Scott McClellan/WHO/EOP@Exchange [WHO]), Jay P. Lefkowitz (Jay P. Lefkowitz/OPD/EOP@Exchange [OPD]), Gregory J. Jenkins (Gregory J. Jenkins/WHO/EOP [WHO]), Barry S. Jackson (Barry S. Jackson/WHO/EOP [WHO]), Edward Ingle (Edward Ingle/WHO/EOP [WHO]), Israel Hernandez (Israel Hernandez/WHO/EOP@Exchange [WHO]), Tucker A. Eskew (Tucker A. Eskew/WHO/EOP [WHO]), Gary R. Edson (Gary R. Edson/NSC/EOP [NSC]), Ruben S. Barrales (Ruben S. Barrales/WHO/EOP [WHO]), Andrea G. Ball (Andrea G. Ball/WHO/EOP@Exchange [WHO]), Clay Johnson III (Clay Johnson III/WHO/EOP@Exchange [WHO]), Karl C. Rove (Karl C. Rove/WHO/EOP@Exchange [WHO]), Harriet Miers (Harriet Miers/WHO/EOP@Exchange [WHO]), Joseph W. Hagin (Joseph W. Hagin/WHO/EOP@Exchange [WHO]), Michael J. Gerson (Michael J. Gerson/WHO/EOP@Exchange [WHO]), Lawrence A. Fleischer (Lawrence A. Fleischer/WHO/EOP@Exchange [WHO]), John M. Bridgeland (John M. Bridgeland/OPD/EOP [OPD]), Joshua B. Bolten (Joshua B. Bolten/WHO/EOP@Exchange [WHO]), Faryar Shirzad (Faryar Shirzad/NSC/EOP [NSC]), Thomas A. Shannon Jr. (Thomas A. Shannon Jr./NSC/EOP [NSC]), Gregory L. Schulte (Gregory L. Schulte/NSC/EOP [NSC]), James F. Moriarty (James F. Moriarty/NSC/EOP [NSC]), Franklin C. Miller (Franklin C. Miller/NSC/EOP [NSC]), Zalmay M. Khalilzad (Zalmay M. Khalilzad/NSC/EOP [NSC]), Lindsey C. Kozberg (Lindsey C. Kozberg/WHO/EOP [WHO]), Robert G. Joseph (Robert G. Joseph/NSC/EOP [NSC]), Daniel Fried (Daniel Fried/NSC/EOP [NSC]), Jendayi E. Frazer (Jendayi E. Frazer/NSC/EOP [NSC]), Charles Conner (Charles Conner/OPD/EOP [OPD]), John B. Bellinger (John B. Bellinger/NSC/EOP [NSC]), George M. Andricos (George M. Andricos/NSC/EOP [NSC]), Elliott Abrams (Elliott Abrams/NSC/EOP [NSC]), Anna M. Perez

(Anna M. Perez/NSC/EOP [NSC]), John A. Gordon (John A. Gordon/NSC/EOP [NSC]), Linda M. Gambatesa (Linda M. Gambatesa/WHO/EOP@Exchange [WHO]), Lewis Libby (Lewis Libby/OVP/EOP [OVP]), Stephen J. Hadley (Stephen J. Hadley/NSC/EOP [NSC]), Tevi Troy (Tevi Troy/WHO/EOP@Exchange [WHO]), Kristen Silverberg (Kristen Silverberg/WHO/EOP@Exchange [WHO]), Sean B. O'Hollaren (Sean B. O'Hollaren/WHO /EOP@Exchange [WHO]), Robert Marsh (Robert Marsh/WHO/EOP@Exchange [WHO]), Elan Liang (Elan Liang/WHO/EOP@Exchange [WHO]), Matthew Kirk (Matthew Kirk/WHO /EOP@Exchange [WHO]), Joel D. Kaplan (Joel D. Kaplan/WHO/EOP@Exchange [WHO]), Richard Falkenrath (Richard Falkenrath/WHO/EOP@Exchange [WHO]), Christopher C. Cox (Christopher C. Cox/WHO/EOP@Exchange [WHO]), Kirsten A. Chadwick (Kirsten A. Chadwick/WHO/EOP@Exchange [WHO]), Christine M. Burgeson (Christine M. Burgeson/WHO/EOP@Exchange [WHO]), Claire E. Buchan (Claire E. Buchan/WHO /EOP@Exchange [WHO]), Brian D. Montgomery (Brian D. Montgomery/WHO /EOP@Exchange [WHO]), David G. Leitch (David G. Leitch/WHO/EOP@Exchange [WHO]), Daniel J. Keniry (Daniel J. Keniry/WHO/EOP@Exchange [WHO]), Keith Hennessey (Keith Hennessey/OPD/EOP@Exchange [OPD]), Suzy DeFrancis (Suzy DeFrancis/WHO /EOP@Exchange [WHO]), Charles S. Abbot (Charles S. Abbot/WHO/EOP@Exchange [WHO]), Margaret M. Spellings (Margaret M. Spellings/OPD/EOP@Exchange [OPD]), Dina Powell (Dina Powell/WHO/EOP@Exchange [WHO]), David W. Hobbs (David W. Hobbs/WHO /EOP@Exchange [WHO]), Alberto R. Gonzales (Alberto R. Gonzales/WHO/EOP@Exchange [WHO]), Stephen Friedman (Stephen Friedman/OPD/EOP@Exchange [OPD]), Andrew H. Card (Andrew H. Card/WHO/EOP@Exchange [WHO]), Daniel J. Bartlett (Daniel J. Bartlett/WHO/EOP@Exchange [WHO]), Colleen Litkenhaus (Colleen Litkenhaus/WHO /EOP@Exchange [WHO]), Tim Campen (Tim Campen/OA/EOP@Exchange [UNKNOWN]), Michael H. Miller (Michael H. Miller/WHO/EOP@Exchange [WHO]), Bradley A. Blakeman (Bradley A. Blakeman/WHO/EOP@Exchange [WHO])

Sent: 5/12/2003 8:10:53 AM

Subject: : POSTMASTER - TOPOFF 2 Exercise

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME:12-MAY-2003 12:10:53.00
SUBJECT:: POSTMASTER - TOPOFF 2 Exercise
BCC:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
BCC:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Karin B. Torgerson ( CN=Karin B. Torgerson/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
BCC:Scott N. Sforza ( CN=Scott N. Sforza/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Matthew Scully ( CN=Matthew Scully/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Matthew A. Schlapp ( CN=Matthew A. Schlapp/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
BCC:Desiree T. Sayle ( CN=Desiree T. Sayle/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Liza Wright ( CN=Liza Wright/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Brian Reardon ( CN=Brian Reardon/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
BCC:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Brian Peterman ( CN=Brian Peterman/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Eric C. Pelletier ( CN=Eric C. Pelletier/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
BCC:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
```

BCC:Noam M. Neusner (CN=Noam M. Neusner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Heidi M. Smith (CN=Heidi M. Smith/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Lindsey C. Kozberg (CN=Lindsey C. Kozberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:David Higbee (CN=David Higbee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Adam B. Goldman (CN=Adam B. Goldman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:David Dunn (CN=David Dunn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Amy Jensen (CN=Amy Jensen/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Ronald I. Christie (CN=Ronald I. Christie/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Jonathan W. Burks (CN=Jonathan W. Burks/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Jennifer R. Brosnahan (CN=Jennifer R. Brosnahan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Todd W. Beyer (CN=Todd W. Beyer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Brian R. Besanceney (CN=Brian R. Besanceney/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Kenneth Bernard (CN=Kenneth Bernard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

BCC:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:William D. Badger (CN=William D. Badger/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Michael Allen (CN=Michael Allen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:John P. McConnell (CN=John P. McConnell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
BCC:Gregory J. Jenkins (CN=Gregory J. Jenkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Faryar Shirzad (CN=Faryar Shirzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Thomas A. Shannon Jr. (CN=Thomas A. Shannon Jr./OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Gregory L. Schulte (CN=Gregory L. Schulte/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

BCC:Lindsey C. Kozberg (CN=Lindsey C. Kozberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:John A. Gordon (CN=John A. Gordon/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
BCC:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Tevi Troy (CN=Tevi Troy/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Sean B. O'Hollaren (CN=Sean B. O'Hollaren/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Elan Liang (CN=Elan Liang/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Christopher C. Cox (CN=Christopher C. Cox/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Christine M. Burgeson (CN=Christine M. Burgeson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
BCC:Suzy DeFrancis (CN=Suzy DeFrancis/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Charles S. Abbot (CN=Charles S. Abbot/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
BCC:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN

BCC:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Stephen Friedman (CN=Stephen Friedman/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
BCC:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Tim Campen (CN=Tim Campen/OU=OA/O=EOP@Exchange [UNKNOWN])
READ:UNKNOWN
BCC:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

For your information, during the week of May 12, 2003, the Department of Homeland Security will hold TOPOFF 2, a national Weapons of Mass Destruction (WMD) exercise. The scenario for TOPOFF 2 includes a simulated radiological dispersion device (RDD) detonation in Seattle and a bioterrorism attack in Chicago. TOPOFF 2 is the second in a series of directed domestic counterterrorism exercises. Planning for this exercise began in June 2000. The exercise will focus on the nation,s response capabilities including pharmaceutical stockpile distribution procedures, law enforcement intervention techniques, detection and decontamination capabilities, and national incident management mechanisms. Participants include twenty-five Federal agencies, numerous state and local government entities, and 76 hospitals. Canada will also participate.

The White House role is not a primary training focus for TOPOFF 2. White House exercise participation will not impact normal White House operations. A simulated news network, the Virtual News Network (VNN), will be broadcast to exercise participants to keep them informed of events taking place in the exercise.

For questions, please contact Jim Kish of the Homeland Security Council (6-2276).

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Collister W. Johnson/WHO/EOP@EOP [WHO] <Collister W. Johnson>
CC: lukemesser@indgop.org [UNKNOWN] <lukemesser@indgop.org>;ken mehlman/who/eop@eop [WHO] <ken mehlman>
Sent: 5/12/2003 4:36:51 AM
Subject: : Re: POTUS event tomorrow and legal question
Attachments: P_FC1CG003_WHO.TXT_1.htm; P_FC1CG003_WHO.TXT_2.jpeg

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:12-MAY-2003 08:36:51.00
SUBJECT:: Re: POTUS event tomorrow and legal question
TO:Collister W. Johnson (CN=Collister W. Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:lukemesser@indgop.org (lukemesser@indgop.org [UNKNOWN])
READ:UNKNOWN
CC:ken mehlman (CN=ken mehlman/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

This is ok.

Collister W. Johnson
05/12/2003 08:32:51 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: Ken Mehlman/WHO/EOP@EOP, lukemesser@indgop.org
Subject: POTUS event tomorrow and legal question

Brett -
Advance has worked with the state part in indiana to make up the attached logo.
They'd like to print it onto 7,000 buttons (minus the "staff" insignia), which they will hand out to folks as they leave the event.
your thoughts and legal guidance?

c

---------- Forwarded by Collister W. Johnson/WHO/EOP on 05/12/2003 08:30 AM ----------

Cara Hodges <chodges@indgop.org>
05/11/2003 08:04:56 PM
Record Type: Record

To: Luke Messer <lukemesser@indgop.org>, Collister W. Johnson/WHO/EOP@EOP
cc:
Subject: RE: FW: T-Shirt Logo

Here is the logo again as promised. Buttons will will be red, with the below logo in white. The "staff" will be taken off -

Cara Hodges
The Indiana Republican Party

-----Original Message-----
From: Luke Messer
Sent: Sunday, May 11, 2003 2:01 PM
To: Cara Hodges
Subject: FW: FW: T-Shirt Logo

Cara,

These attachments did not work for coddy. Could we try again? Thanks

-----Original Message-----
From: Collister_W._Johnson@who.eop.gov
[mailto:Collister_W._Johnson@who.eop.gov]
Sent: Sun 5/11/2003 11:31 AM
To: Luke Messer
Cc:
Subject: Re: FW: T-Shirt Logo

Luke -
hey man - this message just came through - unfortunately i cannot open
the
attachment - are you all still planning to sell the tshirts?
c

(Embedded
image moved Luke Messer <lukemesser@indgop.org>
to file: 05/08/2003 06:49:32 PM
pic17145.pcx)

Record Type: Record

To: Collister W. Johnson/WHO/EOP@EOP

cc:
Subject: FW: T-Shirt Logo

This isn't a final logo. But, the concept is close to what we would
like to do. Thanks

-----Original Message-----
From: Marc Lotter
Sent: Thursday, May 08, 2003 4:29 PM
To: Luke Messer
Subject: T-Shirt Logo

Luke,

Here is the sample t-shirt logo. I did not add the disclaimer because I can't figure out how to do it in the program I was working in.

On T-Shirts we need a decision tomorrow morning.

Marc Lotter

Communications Director

47 South Meridian St.

Indianapolis, Indiana 46204

(317) 964-5019

- att1.htm
- PRESIDENTIAL-VISIT.jpg

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_FC1CG003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_FC1CG003_WHO.TXT_2>

Here is the logo again as promised. The tshirts will be red, with the below logo in white. The staff will be written across the back in white.

Cara Hodges
The Indiana Republican Party



-----Original Message-----
From: Luke Messer
Sent: Sunday, May 11, 200 3 2:01 PM
To: Cara Hodges
Subject: FW: FW: T-Shirt Logo

Cara,

These attachments did not work for coddy. Could we try again? ; Thanks

-----Original Message-----
From: Collister_W._Johnson@who.eop.gov [mailto:Collister_W._Johnson@who.eop.gov]
Sent: Sun 5/11/2003 11:31 AM
To: Luke Messer
Cc:
Subject: Re: FW: T-Shirt Logo

Luke -
hey man - this message just came through - unfortunately i cannot open the attachment - are you all still planning to sell the tshirts?
c

&n bsp; &nb sp; &nbs p; ;
(Embedded & nbsp; &n bsp; &nb sp;
image moved Luke Messer <lukemesser@indgop.org> &nbs p;
to file: 05/08/2003 06:49:32 PM & nbsp; &n bsp;
pic17145.pcx) &nbs p; ; & nbsp;
&nbs p; ; & nbsp; &n bsp;

Record Type: Record

To: Collister W. Johnson/WHO/EOP@EOP

cc:
Subject: FW: T-Shirt Logo

This isn't a final logo. But, the concept is clos e to what we would like to do. Thanks

-----Original Message-----
From: Marc Lotter
Sent: Thursday, May 08, 2003 4:29 PM
To: Luke Messer
Subject: T-Shirt Logo

Luke,

Here is the sample t-shirt logo. I did not add the disclaimer because I can't figure out how to do it in the program I was working in.

On T-Shirts we need a decision tomorrow morning.

Marc Lotter

Communications Director

47 South Meridian St.

Indianapolis, Indiana 46204

(317) 964-5019


Presidential Visit to Indianapolis
President George W. Bush
Pepsi Coliseum - Indiana State Fairgrounds
May 13, 2003

STAFF

From: CN=Lisa J. Macecevic/OU=OMB/O=EOP [OMB]
To: James J. Jukes/OMB/EOP@EOP [OMB] <James J. Jukes>;Kenneth L. Schwartz/OMB /EOP@EOP [OMB] <Kenneth L. Schwartz>;Lauren E. Bloomquist/OMB/EOP@EOP [OMB] <Lauren E. Bloomquist>;Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Richard E. Green/OMB/EOP@EOP [OMB] <Richard E. Green>;James Boden/OMB/EOP@EOP [OMB] <James Boden>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/12/2003 4:55:42 AM
Subject: : Thursday hearing on class action bill - HR1115
Attachments: P_BC2CG003_WHO.TXT_1.doc; P_BC2CG003_WHO.TXT_2.doc; P_BC2CG003_WHO.TXT_3.doc; P_BC2CG003_WHO.TXT_4.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Lisa J. Macecevic (CN=Lisa J. Macecevic/OU=OMB/O=EOP [OMB])
CREATION DATE/TIME:12-MAY-2003 08:55:42.00
SUBJECT:: Thursday hearing on class action bill - HR1115
TO:James J. Jukes (CN=James J. Jukes/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Kenneth L. Schwartz (CN=Kenneth L. Schwartz/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Lauren E. Bloomquist (CN=Lauren E. Bloomquist/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Richard E. Green (CN=Richard E. Green/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:James Boden (CN=James Boden/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Thursday, May 15, 10 am, 2141 Rayburn
House Judiciary Committee hearing on H.R. 1115 - Class Action Fairness Act of 2003

Here's the earlier information I passed along - comparing HR1115 to S274, although S274 as you know has been changed by committee. (I still don't have reported text yet of S. 274)

From: Lisa J. Macecevic on 04/03/2003 01:41:25 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: FYI - Class Action Bills

FYI, here is some basic information on class action bills from the 107th and 108th Congress:
In the 107th - the Senate introduced S. 1712 and the House passed H.R. 2341.
In the 108th - the Senate has introduced S.274 and the House H.R. 1115.
S. 274, which was scheduled to be marked up this morning by the Senate Judiciary Committee, is, for all practical purposes, identical to S.1712 from the 107th.
H.R. 1115 from this Congress is a mix between the last years House bill and the Senate bills.
The Administration issued a SAP strongly supporting H.R. 2341 in March 2002. Here is a link to the SAP:
http://www.whitehouse.gov/omb/legislative/sap/107-2/HR2341-r.html

I have attached a side-by-side comparison of S. 274 (as introduced), H.R. 1115 (as introduced), and H.R. 2341 (as passed the House in the 107th), as well as individual comparisons so you can track the exact word changes between the bills if so desired. Also, below, are several recent stories on the topic. (I will update this information if necessary based on what happens in today's markup.) I hope you find this helpful.

Comparison Chart:

Red-line, strike-through comparisons of bills one-on-one:
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_BC2CG003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_BC2CG003_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_BC2CG003_WHO.TXT_3>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_BC2CG003_WHO.TXT_4>

HR 1115 IH

108th CONGRESS
1st Session
H. R. 1115

To amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

March 6, 2003

Mr. GOODLATTE (for himself, Mr. BOUCHER, Mr. SENSENBRENNER, Mr. MORAN of Virginia, Mr. SMITH of Texas, Mr. STENHOLM, Mr. DELAY, Mr. DOOLEY of California, Mr. HYDE, Mr. HOLDEN, Mr. COX, and Mr. CRAMER) introduced the following bill; which was referred to the Committee on the Judiciary

---

A BILL

To amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE- This Act may be cited as the `Class Action Fairness Act of 2003'.
(b) REFERENCE- Whenever in this Act reference is made to an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

(c) TABLE OF CONTENTS- The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Consumer class action bill of rights and improved procedures for interstate class actions.
Sec. 4. Federal district court jurisdiction of interstate class actions.
Sec. 5. Removal of interstate class actions to Federal district court.
Sec. 6. Appeals of class action certification orders.
Sec. 7. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS- The Congress finds as follows:

(1) Class action lawsuits are an important and valuable part of our legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.

(2) Over the past decade, there have been abuses of the class action device that have--

(A) harmed class members with legitimate claims and defendants that have acted responsibly;

(B) adversely affected interstate commerce; and

(C) undermined public respect for the judicial system in the United States.

(3) Class members have been harmed by a number of actions taken by plaintiffs' lawyers, which provide little or no benefit to class members as a whole, including--

(A) plaintiffs' lawyers receiving large fees, while class members are left with coupons or other awards of little or no value;

(B) unjustified rewards being made to certain plaintiffs at the expense of other class members; and

(C) the publication of confusing notices that prevent class members from being able to fully understand and effectively exercise their rights.

(4) Through the use of artful pleading, plaintiffs are able to avoid litigating class actions in Federal court, forcing businesses and other organizations to defend interstate class action lawsuits in county and State courts where--

(A) the lawyers, rather than the claimants, are likely to receive the maximum benefit;

(B) less scrutiny may be given to the merits of the case; and

(C) defendants are effectively forced into settlements, in order to avoid the possibility of huge judgments that could destabilize their companies.

(5) These abuses undermine the Federal judicial system, the free flow of interstate commerce, and the intent of the framers of the Constitution in creating diversity jurisdiction, in that county and State courts are--

(A) handling interstate class actions that affect parties from many States;

(B) sometimes acting in ways that demonstrate bias against out-of-State defendants; and

(C) making judgments that impose their view of the law on other States and bind the rights of the residents of those States.

(6) Abusive interstate class actions have harmed society as a whole by forcing innocent parties to settle cases rather than risk a huge judgment by a local jury, thereby costing consumers billions of dollars in increased costs to pay for forced settlements and excessive judgments.

(b) PURPOSES- The purposes of this Act are--

(1) to assure fair and prompt recoveries for class members with legitimate claims;

(2) to protect responsible companies and other institutions against interstate class actions in State courts;

(3) to restore the intent of the framers of the Constitution by providing for Federal court consideration of interstate class actions; and

(4) to benefit society by encouraging innovation and lowering consumer prices.

SEC. 3. CONSUMER CLASS ACTION BILL OF RIGHTS AND IMPROVED PROCEDURES FOR INTERSTATE CLASS ACTIONS.

(a) IN GENERAL- Part V is amended by inserting after chapter 113 the following:

`CHAPTER 114--CLASS ACTIONS

`Sec.
`1711. Judicial scrutiny of coupon and other noncash settlements.
`1712. Protection against loss by class members.
`1713. Protection against discrimination based on geographic location.
`1714. Prohibition on the payment of bounties.
`1715. Clearer and simpler settlement information.
`1716. Definitions.

`Sec. 1711. Judicial scrutiny of coupon and other noncash settlements

`The court may approve a proposed settlement under which the class members would receive noncash benefits or would otherwise be required to expend funds in order to obtain part or all of the proposed benefits only after a hearing to determine whether, and making a written finding that, the settlement is fair, reasonable, and adequate for class members.

`Sec. 1712. Protection against loss by class members

`The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court makes a written finding that nonmonetary benefits to the class member outweigh the monetary loss.

`Sec. 1713. Protection against discrimination based on geographic location

`The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

`Sec. 1714. Prohibition on the payment of bounties

`(a) IN GENERAL- The court may not approve a proposed settlement that provides for the payment of a greater share of the award to a class representative serving on behalf of a class, on the basis of the formula for distribution to all other class members, than that awarded to the other class members.
`(b) RULE OF CONSTRUCTION- The limitation in subsection (a) shall not be construed to prohibit any payment approved by the court for reasonable time or costs that a person was required to expend in fulfilling his or her obligations as a class representative.

`Sec. 1715. Clearer and simpler settlement information

`(a) PLAIN ENGLISH REQUIREMENTS- Any court with jurisdiction over a plaintiff class action shall require that any written notice concerning a proposed settlement of the class action provided to the class through the mail or publication in printed media contain--

`(1) at the beginning of such notice, a statement in 18-point Times New Roman type or other functionally similar type, stating `LEGAL NOTICE: YOU ARE A PLAINTIFF IN A CLASS ACTION LAWSUIT AND YOUR LEGAL RIGHTS ARE AFFECTED BY THE SETTLEMENT DESCRIBED IN THIS NOTICE.'; and
`(2) a short summary written in plain, easily understood language, describing--

`(A) the subject matter of the class action;
`(B) the members of the class;
`(C) the legal consequences of being a member of the class;
`(D) if the notice is informing class members of a proposed settlement agreement--

`(i) the benefits that will accrue to the class due to the settlement;

`(ii) the rights that class members will lose or waive through the settlement;
`(iii) obligations that will be imposed on the defendants by the settlement;
`(iv) the dollar amount of any attorney's fee class counsel will be seeking, or if not possible, a good faith estimate of the dollar amount of any attorney's fee class counsel will be seeking; and
`(v) an explanation of how any attorney's fee will be calculated and funded; and

`(E) any other material matter.

`(b) TABULAR FORMAT- Any court with jurisdiction over a plaintiff class action shall require that the information described in subsection (a)--

`(1) be placed in a conspicuous and prominent location on the notice;
`(2) contain clear and concise headings for each item of information; and
`(3) provide a clear and concise form for stating each item of information required to be disclosed under each heading.

`(c) TELEVISION OR RADIO NOTICE- Any notice provided through television or radio (including transmissions by cable or satellite) to inform the class members in a class action of the right of each member to be excluded from the class action or a proposed settlement of the class action, if such right exists, shall, in plain, easily understood language--

`(1) describe the persons who may potentially become class members in the class action; and
`(2) explain that the failure of a class member to exercise his or her right to be excluded from a class action will result in the person's inclusion in the class action or settlement.

`Sec. 1716. Definitions

`In this chapter--

`(1) CLASS ACTION- The term `class action' means any civil action filed in a district court of the United States pursuant to rule 23 of the Federal

Rules of Civil Procedure or any civil action that is removed to a district court of the United States that was originally filed pursuant to a State statute or rule of judicial procedure authorizing an action to be brought by one or more representatives on behalf of a class.

`(2) CLASS COUNSEL- The term `class counsel' means the persons who serve as the attorneys for the class members in a proposed or certified class action.
`(3) CLASS MEMBERS- The term `class members' means the persons who fall within the definition of the proposed or certified class in a class action.

`(4) PLAINTIFF CLASS ACTION- The term `plaintiff class action' means a class action in which class members are plaintiffs.

`(5) PROPOSED SETTLEMENT- The term `proposed settlement' means an agreement that resolves claims in a class action, that is subject to court approval, and that, if approved, would be binding on the class members.'.

(b) TECHNICAL AND CONFORMING AMENDMENT- The table of chapters for part V is amended by inserting after the item relating to chapter 113 the following:

--1711'.

SEC. 4. FEDERAL DISTRICT COURT JURISDICTION OF INTERSTATE CLASS ACTIONS.

(a) APPLICATION OF FEDERAL DIVERSITY JURISDICTION- Section 1332 is amended--

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

`(d)(1) In this subsection--

`(A) the term `class' means all of the class members in a class action;

`(B) the term `class action' means any civil action filed pursuant to rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by one or more representative persons on behalf of a class;

`(C) the term `class certification order' means an order issued by a court approving the treatment of a civil action as a class action; and

`(D) the term `class members' means the persons who fall within the definition of the proposed or certified class in a class action.

`(2) The district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs, and is a class action in which--

`(A) any member of a class of plaintiffs is a citizen of a State different from any defendant;

`(B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or

`(C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.

`(3) Paragraph (2) shall not apply to any civil action in which--

`(A)(i) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed; and

`(ii) the claims asserted therein will be governed primarily by the laws of the State in which the action was originally filed;

`(B) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or

`(C) the number of proposed plaintiff class members is less than 100.

`(4) In any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs.

`(5) This subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.

`(6)(A) A district court shall dismiss any civil action that is subject to the jurisdiction of the court solely under this subsection if the court determines the action may not proceed as a class action based on a failure to satisfy the requirements of rule 23 of the Federal Rules of Civil Procedure.

`(B) Nothing in subparagraph (A) shall prohibit plaintiffs from filing an amended class action in Federal court or filing an action in State court, except that any such action filed in State court may be removed to the appropriate district court if it is an action of which the district courts of the United States have original jurisdiction.

`(C) In any action that is dismissed under this paragraph and is filed by any of the original named plaintiffs therein in the same State court venue in which the dismissed action was originally filed, the limitations periods on all reasserted claims shall be deemed tolled for the period during which the dismissed class action was pending. The limitations periods on any claims that were asserted in a class action dismissed under this paragraph that are subsequently asserted in an individual action shall be deemed tolled for the period during which the dismissed action was pending.

`(7) Paragraph (2) shall not apply to any class action brought by shareholders that solely involves a claim that relates to--

`(A) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

`(B) the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

`(C) the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).

`(8) For purposes of this subsection and section 1453 of this title, an unincorporated association shall be deemed

to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.

`(9) For purposes of this section and section 1453 of this title, a civil action that is not otherwise a class action as defined in paragraph (1)(B) of this subsection shall nevertheless be deemed a class action if--

`(A) the named plaintiff purports to act for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeks a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general; or

`(B) monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact.

In any such case, the persons who allegedly were injured shall be treated as members of a proposed plaintiff class and the monetary relief that is sought shall be treated as the claims of individual class members. The provisions of paragraphs (3) and (6) of this subsection and subsections (b)(2) and (d) of section 1453 shall not apply to civil actions described under subparagraph (A). The provisions of paragraph (6) of this subsection, and subsections (b)(2) and (d) of section 1453 shall not apply to civil actions described under subparagraph (B).'.

(b) CONFORMING AMENDMENTS-

(1) Section 1335(a)(1) is amended by inserting `(a) or (d)' after `1332'.

(2) Section 1603(b)(3) is amended by striking `(d)' and inserting `(e)'.

SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FEDERAL DISTRICT COURT.

(a) IN GENERAL- Chapter 89 is amended by adding after section 1452 the following:

`Sec. 1453. Removal of class actions

`(a) DEFINITIONS- In this section, the terms `class', `class action', `class certification order', and `class member' have the meanings given these terms in section 1332(d)(1).

`(b) IN GENERAL- A class action may be removed to a district court of the United States in accordance with this chapter, without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed--

`(1) by any defendant without the consent of all defendants; or

`(2) by any plaintiff class member who is not a named or representative class member without the consent of all members of such class.

`(c) WHEN REMOVABLE- This section shall apply to any class action before or after the entry of a class certification order in the action, except that a plaintiff class member who is not a named or representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class member has been entered.

`(d) PROCEDURE FOR REMOVAL- The provisions of section 1446 relating to a defendant removing a case shall apply to a plaintiff removing a case under this section, except that in the application of subsection (b) of such section the requirement relating to the 30-day filing period shall be met if a plaintiff class member files notice of removal within 30 days after receipt by such class

member, through service or otherwise, of the initial written notice of the class action.

`(e) REVIEW OF ORDERS REMANDING CLASS ACTIONS TO STATE COURTS- The provisions of section 1447 shall apply to any removal of a case under this section, except that, notwithstanding the provisions of section 1447(d), an order remanding a class action to the State court from which it was removed shall be reviewable by appeal or otherwise.

`(f) EXCEPTION- This section shall not apply to any class action brought by shareholders that solely involves--

`(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

`(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

`(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).'.

(b) REMOVAL LIMITATION- Section 1446(b) is amended in the second sentence by inserting `(a)' after `section 1332'.

(c) TECHNICAL AND CONFORMING AMENDMENTS- The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following:

`1453. Removal of class actions.'.

SEC. 6. APPEALS OF CLASS ACTION CERTIFICATION ORDERS.

(a) IN GENERAL- Section 1292(a) is amended by inserting after paragraph (3) the following:

`(4) Orders of the district courts of the United States granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within 10 days after entry of the order.'.

(b) DISCOVERY STAY- All discovery and other proceedings shall be stayed during the pendency of any appeal taken pursuant to the amendment made by subsection (a), unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue prejudice to that party.

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action commenced on or after the date of the enactment of this Act.

END

House/107th	S. 274 - Introduced/108th	H.R. 1115 - Introduced/108th	H.R. 2341 - Passed
Consumer Class Action Bill of Rights and Improved Procedures for Interstate Class Actions (Sec. 3)	1. *Judicial Scrutiny of Coupon and Other Noncash Settlements*: Provide that Federal courts could approve proposed settlements in which class members receive non-cash benefits, but only after a hearing to determine whether the settlement is "fair, reasonable, and adequate." 2. *Protection against Loss by Class Members:* The court could also approve settlements in which any class member is obligated to pay sums to counsel that would result in a net loss to the class member, but only if the court finds that the non-monetary benefits to the class member *substantially* outweigh the monetary loss. 3. *Prohibition Against Discrimination Based on Geographic Location:* Provide that Federal courts could not approve a settlement that provides for larger payments to some class members based solely their being located in closer geographic proximity to the court hearing the case. 4. *Prohibition on Payment of Bounties*: Provide that the court cannot approve a larger share of the award payment to the plaintiff representing the class than that awarded to the other class members, but could approve payments to the representative for reasonable time and costs expended in fulfilling his or her obligations as a class representative. 5. *Clearer and Simpler Settlement Information*: Require that written notices sent by mail or published in print, as well as notices transmitted by television or radio, to class members concerning proposed	1. Same. 2. Same but without "substantially". 3. Same. 4. Minor editorial differences. 5. Minor editorial differences. 6. No provision. 7. No provision as in H.R. 2341. 8. No provision as in H.R. 2341	1. Same. 2. Same but without "substantially". 3. Same 4. Same as H.R. 1115. 5. Same as H.R. 1115. 6. No provision. 7. *Disclosure of Attorney's Fees* (requiring the disclosure of fees to the plaintiffs by the plaintiffs' attorney) 8. *Sunshine in Court Records*: (limiting the sealing, or subjection to a protective order, of such records)

	S. 274 - Introduced/108th	H.R. 1115 - Introduced/108th	H.R. 2341 - Passed
House/107th			
	settlements be written or transmitted in plain, easily understood language. The bill would also provide for a number of additional specific requirements for notices. 6. *Notifications to appropriate Federal and State Officials*: Require, within 10 days after a proposed settlement of a class action is filed in court, each defendant that is participating in the proposed settlement to serve upon the appropriate State official of each State in which a class member resides and the appropriate Federal official, a notice of the proposed settlement. 7. No provision as in H.R. 2341. 8. No provision as in H.R. 2341.		
Federal District Court Jurisdiction for Interstate Class Actions (Sec. 4)	Provide that Federal district courts would have original jurisdiction over any class-action lawsuits where the total claims exceed $2 million if any of the plaintiffs is a citizen of different State from any of the defendants, or either a plaintiff or a defendant resides in a foreign country. However, original jurisdiction would not apply in any action in which: (a) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed and the claims will be governed primarily by the laws of the State in which the action was originally filed; (b) the primary defendants are States, State officials, or other governmental entities against whom the Federal district court may be foreclosed from ordering relief; or (c) the number of plaintiff class members in the aggregate is less than 100. In addition, original jurisdiction would not apply to a class action that solely involves a claim related to certain securities or to the internal affairs or	Minor changes: • Definition of "class certification order" in H.R. 1115 means an order issued by a court approving the treatment of a civil action as a class action. In S. 274, it means …the treatment of some or all aspects of a civil action… • Definition of "class members" in H.R. 1115 means persons who fall within the definition of the proposed or certified class in a class action. In S. 274, it means …persons (named or unnamed)… • In H.R. 1115, original jurisdiction would not apply in which the number of proposed plaintiff class members is less than 100. In S. 274, it would not	Same as H.R. 1115.

	S. 274 - Introduced/108th	H.R. 1115 - Introduced/108th	H.R. 2341 - Passed
House/107th			
	governance of a corporation that arises under the laws of the State in which the corporation is incorporated.	apply in cases in which the number of members *in the aggregate* is less than 100. • In H.R. 1115, original jurisdiction would not apply to a class action brought by shareholders that solely involves a claim related to certain securities or to the internal affairs or governance of a corporation that arises under the laws of the State in which the corporation is incorporated. In S. 274, the distinction of *by shareholder*, is not made.	
Removal of Interstate Class Actions to Federal District Court (Sec. 5)	Provide that a class action could be removed from a State court to a Federal district court by any defendant without the consent of any other defendants; or by any plaintiff class member who is not a named or representative class member without the consent of any other members of the class. However, this authority for removal would not apply to a class action that solely involves a claim related to certain securities or to the internal affairs or governance of a corporation that arises under the laws of the State in which the corporation is incorporated. The Federal courts of appeals would have jurisdiction of appeals from orders of the Federal district courts granting or denying class certification, if notice of appeal is filed within 10 days after entry of the order. All discovery and other proceedings would be suspended while an appeal is pending, unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue	• Again, the distinction of *by shareholder* is not made in S. 274 in regard to situations when the authority for removal from State to Federal district court would not apply. H.R. 1115 provides that the authority for removal would not apply to a class action brought by shareholders… • Both S. 274 and H.R. 1115 state that these provisions apply to any class action before or after the entry of a class certification order in the action, however, H.R. 1115 further states that a plaintiff class member who is not a named representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class	Same as H.R. 1115.

	prejudice to that party.	member has been entered.	
Report on Class Action Settlements	Require the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the AOUSC, within 12 months of enactment, to report to the House and Senate Judiciary Committees on class action settlements, including (1) recommendations on the best practices that courts can use to ensure that: proposed class action settlements are fair to the class members that the settlements are supposed to benefit; the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and (2) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.	No provision.	Minor change: • The bill specifies that the report would cover class action settlements *in the Federal courts*.
Appeals of Class Action Certification Orders	No provision.	Grants the courts of appeals jurisdiction of appeals from orders of the U.S. district courts granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within ten days after entry of the order.	Same.
Effective Date	Applies to any civil action commenced on or after the date of enactment.	Same.	Same.

S 274 108th Congress-Introduced in Senate (blue, underlined text)
as compared to
HR 1115 108th Congress-Introduced House ~~(red, strikethrough text)~~

To amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants~~, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions~~, and for other purposes.

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Class Action Fairness Act of 2003".

(b) REFERENCE.—Whenever in this Act reference is made to an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Consumer class action bill of rights and improved procedures for interstate class actions.
Sec. 4. Federal district court jurisdiction ~~of~~ for interstate class actions.
Sec. 5. Removal of interstate class actions to Federal district court.
Sec. 6. Report on class action settlements.
~~Sec. 6. Appeals of class action certification orders.~~
Sec. 7. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.— ~~The~~ Congress finds ~~as follows~~ the following:

(1) Class action lawsuits are an important and valuable part of the legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.

(2) Over the past decade, there have been abuses of the class action device that have—

(A) harmed class members with legitimate claims and defendants that have acted responsibly;

(B) adversely affected interstate commerce; and

(C) undermined public respect for ~~the~~ our judicial system ~~in the United States~~.

(3) Class members often receive little or no benefit from class actions, and are sometimes harmed, such as where ~~have been harmed by a number of actions taken by~~

~~plaintiffs' lawyers, which provide little or no benefit to class members as a whole, including —~~

(A) counsel are awarded large fees ~~plaintiffs' lawyers receiving large fees~~, while leaving class members with coupons or other awards of little or no value;

(B) unjustified awards are made to certain plaintiffs at the expense of other class members; and

(C) confusing notices are published ~~the publication of confusing notices~~ that prevent class members from being able to fully understand and effectively exercise their rights.

~~(4) Through the use of artful pleading, plaintiffs are able to avoid litigating class actions in Federal court, forcing businesses and other organizations to defend interstate class action lawsuits in county and State courts where —~~

~~(A) the lawyers, rather than the claimants, are likely to receive the maximum benefit;~~

~~(B) less scrutiny may be given to the merits of the case; and~~

~~(C) defendants are effectively forced into settlements, in order to avoid the possibility of huge judgments that could destabilize their companies.~~

~~(5) These abuses undermine the Federal judicial system, the free flow of interstate commerce, and the intent of the framers of the Constitution in creating diversity jurisdiction, in that county and State courts are —~~

~~(A) handling interstate class actions that affect parties from many States;~~

(4) Abuses in class actions undermine the national judicial system, the free flow of interstate commerce, and the concept of diversity jurisdiction as intended by the framers of the United States Constitution, in that State and local courts are—

(A) keeping cases of national importance out of Federal court;

(B) sometimes acting in ways that demonstrate bias against out-of-State defendants; and

(C) making judgments that impose their view of the law on other States and bind the rights of the residents of those States.

~~(6) Abusive interstate class actions have harmed society as a whole by forcing innocent parties to settle cases rather than risk a huge judgment by a local jury, thereby costing consumers billions of dollars in increased costs to pay for forced settlements and excessive judgments.~~

(b) PURPOSES.—The purposes of this Act are to—

(1) to assure fair and prompt recoveries for class members with legitimate claims;

(2) ~~(3)~~ to restore the intent of the framers of the United States Constitution by providing for Federal court consideration of interstate ~~class actions~~ cases of national importance under diversity jurisdiction; and

~~(2) to protect responsible companies and other institutions against interstate class actions in State courts;~~

(3) ~~(4)~~ to benefit society by encouraging innovation and lowering consumer prices.

SEC. 3. CONSUMER CLASS ACTION BILL OF RIGHTS AND IMPROVED PROCEDURES FOR INTERSTATE CLASS ACTIONS.

(a) IN GENERAL.—Part V is amended by inserting after chapter 113 the following:

"CHAPTER 114—CLASS ACTIONS

"Sec.

"1711 ~~1716~~. Definitions.
"1712 ~~1711~~. Judicial scrutiny of coupon and other noncash settlements.
"1713 ~~1712~~. Protection against loss by class members.
"1714 ~~1713~~. Protection against discrimination based on geographic location.
"1715 ~~1714~~. Prohibition on the payment of bounties.
"1716 ~~1715~~. Clearer and simpler settlement information.
"1717. Notifications to appropriate Federal and State officials.

"§ 1711 ~~1716~~. Definitions

"In this chapter:
"(1) CLASS.—The term 'class' means all of the class members in a class action.
"(2)~~(1)~~ CLASS ACTION.—The term 'class action' means any civil action filed in a district court of the United States ~~pursuant to~~ under rule 23 of the Federal Rules of Civil Procedure or any civil action that is removed to a district court of the United States that was originally filed under a State statute or rule of judicial procedure authorizing an action to be brought by ~~one~~ 1 or more representatives ~~on behalf of a class~~ as a class action.
"(3) ~~(2)~~ CLASS COUNSEL.—The term 'class counsel' means the persons who serve as the attorneys for the class members in a proposed or certified class action.
"(4)~~(3)~~ CLASS MEMBERS.—The term 'class members' means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.
"(5)~~(4)~~ PLAINTIFF CLASS ACTION.—The term 'plaintiff class action' means a class action in which class members are plaintiffs.
"(6)~~(5)~~ PROPOSED SETTLEMENT.—The term 'proposed settlement' means an agreement ~~that resolves claims in a class action,~~ regarding a class action that is subject to court approval and that, if approved, would be binding on some or all ~~the~~ class members.

"§ 1712~~1711~~. Judicial scrutiny of coupon and other noncash settlements

"The court may approve a proposed settlement under which the class members would receive noncash benefits or would otherwise be required to expend funds in order to obtain part or all of the proposed benefits only after a hearing to determine whether, and making a written finding that, the settlement is fair, reasonable, and adequate for class members.

"§ 1713~~1712~~. Protection against loss by class members

"The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court makes a written finding that nonmonetary benefits to the class member substantially outweigh the monetary loss.

"§ 1714~~1713~~. Protection against discrimination based on geographic location

"The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

"§ 1715 ~~1714~~. Prohibition on the payment of bounties

"(a) IN GENERAL.—The court may not approve a proposed settlement that provides for the payment of a greater share of the award to a class representative serving on behalf of a class, on the basis of the formula for distribution to all other class members, than that awarded to the other class members.

"(b) RULE OF CONSTRUCTION.—The limitation in subsection (a) shall not be construed to prohibit ~~any~~ a payment approved by the court for reasonable time or costs that a person was required to expend in fulfilling ~~his or her~~ the obligations of that person as a class representative.

"§ 1716~~1715~~. Clearer and simpler settlement information

"(a) PLAIN ENGLISH REQUIREMENTS.—Any court with jurisdiction over a plaintiff class action shall require that any written notice concerning a proposed settlement of the class action provided to the class through the mail or publication in printed media contain—

"(1) at the beginning of such notice, a statement in 18-point or ~~Times New Roman type or other functionally similar type~~ greater bold type, stating 'LEGAL NOTICE: YOU ARE A PLAINTIFF IN A CLASS ACTION LAWSUIT AND YOUR LEGAL RIGHTS ARE AFFECTED BY THE SETTLEMENT DESCRIBED IN THIS NOTICE.'; ~~and~~

"(2) a short summary written in plain, easily understood language, describing—

"(A) the subject matter of the class action;

"(B) the members of the class;

"(C) the legal consequences of being a member of the class action;

"(D) if the notice is informing class members of a proposed settlement agreement—

"(i) the benefits that will accrue to the class due to the settlement;

"(ii) the rights that class members will lose or waive through the settlement;

"(iii) obligations that will be imposed on the defendants by the settlement;

"(iv) the dollar amount of any attorney's fee class counsel will be seeking, or if not possible, a good faith estimate of the dollar amount of any attorney's fee class counsel will be seeking; and

"(v) an explanation of how any attorney's fee will be calculated and funded; and

"(E) any other material matter.

"(b) TABULAR FORMAT.—Any court with jurisdiction over a plaintiff class action shall require that the information described in subsection (a)—

"(1) be placed in a conspicuous and prominent location on the notice;

"(2) contain clear and concise headings for each item of information; and

"(3) provide a clear and concise form for stating each item of information required to be disclosed under each heading.

"(c) TELEVISION OR RADIO NOTICE.—Any notice provided through television or radio (including transmissions by cable or satellite) to inform the class members in a class action of the right of each member to be excluded from a ~~the~~ class action or a proposed settlement ~~of the class action~~, if such right exists, shall, in plain, easily understood language—

"(1) describe the persons who may potentially become class members in the class action; and

"(2) explain that the failure of a class member to exercise his or her right to be excluded from a class action will result in the person's inclusion in the class action ~~or settlement~~.

"§ 1717. Notifications to appropriate Federal and State officials

"(a) DEFINITIONS.—

"(1) APPROPRIATE FEDERAL OFFICIAL.—In this section, the term 'appropriate Federal official' means—

"(A) the Attorney General of the United States; or

"(B) in any case in which the defendant is a Federal depository institution, a State depository institution, a depository institution holding company, a foreign bank, or a nondepository institution subsidiary of the foregoing (as such terms are defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

"(2) APPROPRIATE STATE OFFICIAL.—In this section, the term 'appropriate State official' means the person in the State who has the primary regulatory or supervisory responsibility with respect to the defendant, or who licenses or otherwise authorizes the defendant to conduct business in the State, if some or all of the matters alleged in the class action are subject to regulation by that person. If there is no primary regulator, supervisor, or licensing authority, or the matters alleged in the class action are not subject to regulation or supervision by that person, then the appropriate State official shall be the State attorney general.

"(b) IN GENERAL.—Not later than 10 days after a proposed settlement of a class action is filed in court, each defendant that is participating in the proposed settlement shall serve upon the appropriate State official of each State in which a class member resides and the appropriate Federal official, a notice of the proposed settlement consisting of—

"(1) a copy of the complaint and any materials filed with the complaint and any amended complaints (except such materials shall not be required to be served if such materials are made electronically available through the Internet and such service includes notice of how to electronically access such material);

"(2) notice of any scheduled judicial hearing in the class action;

"(3) any proposed or final notification to class members of—

"(A)(i) the members' rights to request exclusion from the class action; or

"(ii) if no right to request exclusion exists, a statement that no such right exists; and

"(B) a proposed settlement of a class action;

"(4) any proposed or final class action settlement;

"(5) any settlement or other agreement contemporaneously made between class counsel and counsel for the defendants;

"(6) any final judgment or notice of dismissal;

"(7)(A) if feasible, the names of class members who reside in each State and the estimated proportionate share of the claims of such members to the entire settlement to that State's appropriate State official; or

"(B) if the provision of information under subparagraph (A) is not feasible, a reasonable estimate of the number of class members residing in each State and the estimated proportionate share of the claims of such members to the entire settlement; and

"(8) any written judicial opinion relating to the materials described under subparagraphs (3) through (6).

"(c) DEPOSITORY INSTITUTIONS NOTIFICATION.—

"(1) FEDERAL AND OTHER DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a Federal depository institution, a depository institution holding company, a foreign bank, or a non-depository institution subsidiary of the foregoing, the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

"(2) STATE DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a State depository institution (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the State bank supervisor (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) of the State in which the defendant is incorporated or chartered, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person, and upon the appropriate Federal official.

"(d) FINAL APPROVAL.—An order giving final approval of a proposed settlement may not be issued earlier than 90 days after the later of the dates on which the appropriate Federal official and the appropriate State official are served with the notice required under subsection (b).

"(e) NONCOMPLIANCE IF NOTICE NOT PROVIDED.—

"(1) IN GENERAL.—A class member may refuse to comply with and may choose not to be bound by a settlement agreement or consent decree in a class action if the class member demonstrates that the notice required under subsection (b) has not been provided.

"(2) LIMITATION.—A class member may not refuse to comply with or to be bound by a settlement agreement or consent decree under paragraph (1) if the notice required under subsection (b) was directed to the appropriate Federal official and to either the State attorney general or the person that has primary regulatory, supervisory, or licensing authority over the defendant.

"(3) APPLICATION OF RIGHTS.—The rights created by this subsection shall apply only to class members or any person acting on a class member's behalf, and shall not be construed to limit any other rights affecting a class member's participation in the settlement.

"(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to expand the authority of, or impose any obligations, duties, or responsibilities upon, Federal or State officials.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part V is amended by inserting after the item relating to chapter 113 the following:
"114. Class Actions
1711".

SEC. 4. FEDERAL DISTRICT COURT JURISDICTION ~~OF~~ FOR INTERSTATE CLASS ACTIONS.

(a) APPLICATION OF FEDERAL DIVERSITY JURISDICTION.—Section 1332 is amended—
(1) by redesignating subsection (d) as subsection (e); and
(2) by inserting after subsection (c) the following:
"(d)(1) In this subsection—
"(A) the term 'class' means all of the class members in a class action;
"(B) the term 'class action' means any civil action filed ~~pursuant to~~ under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by ~~one~~ 1 or more representative persons ~~on behalf of a class~~ as a class action;
"(C) the term 'class certification order' means an order issued by a court approving the treatment of some or all aspects of a civil action as a class action; and
"(D) the term 'class members' means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.
"(2) The district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs, and is a class action in which—
"(A) any member of a class of plaintiffs is a citizen of a State different from any defendant;
"(B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or
"(C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.
"(3) Paragraph (2) shall not apply to any civil action in which—
"(A)(i) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed; and
"(ii) the claims asserted therein will be governed primarily by the laws of the State in which the action was originally filed;
"(B) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or
"(C) the number of ~~proposed plaintiff class~~ members of all proposed plaintiff classes in the aggregate is less than 100

"(4) In any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs.

"(5) This subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.

"(6)(A) A district court shall dismiss any civil action that is subject to the jurisdiction of the court solely under this subsection if the court determines the action may not proceed as a class action based on a failure to satisfy the ~~requirements~~ prerequisites of rule 23 of the Federal Rules of Civil Procedure.

"(B) Nothing in subparagraph (A) shall prohibit plaintiffs from filing an amended class action in Federal court or filing an action in State court, except that any such action filed in State court may be removed to the appropriate district court if it is an action of which the district courts of the United States have original jurisdiction.

"(C) In any action that is dismissed under this paragraph and is filed by any of the original named plaintiffs therein in the same State court venue in which the dismissed action was originally filed, the limitations periods on all reasserted claims shall be deemed tolled for the period during which the dismissed class action was pending. The limitations periods on any claims that were asserted in a class action dismissed under this paragraph that are subsequently asserted in an individual action shall be deemed tolled for the period during which the dismissed action was pending.

"(7) Paragraph (2) shall not apply to any class action ~~brought by shareholders~~ that solely involves a claim ~~that relates to —~~

"(A) ~~a claim~~ concerning a covered security as defined under 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(B) that relates to the internal affairs or governance of a corporation or other form of business enterprise and that arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(C) that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).

"(8) For purposes of this subsection and section 1453 of this title, an unincorporated association shall be deemed to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.

"(9)(A) For purposes of this section and section 1453 of this title, a civil action that is not otherwise a class action as defined in paragraph (1)(B) ~~of this subsection~~ shall nevertheless be deemed a class action if—

"(i) ~~"(A)~~ the named plaintiff purports to act for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeks a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general; or

"(ii) ~~"(B)~~ monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact.

"(B)(i) In any ~~such case,~~ civil action described under subparagraph (A)(ii), the persons who allegedly were injured shall be treated as members of a proposed plaintiff class and

the monetary relief that is sought shall be treated as the claims of individual class members.

"(ii) ~~The provisions of~~ Paragraphs (3) and (6) of this subsection and subsections (b)(2) and (d) of section 1453 shall not apply to any civil actions described under subparagraph (A)~~(i).~~

"(iii) ~~The provisions of~~ Paragraph (6) of this subsection, and subsections (b)(2) and (d) of section 1453 shall not apply to any civil actions described under subparagraph (A)(ii). ~~(B).~~".

(b) CONFORMING AMENDMENTS.—

(1) Section 1335(a)(1) is amended by inserting "(a) or (d)" after "1332".

(2) Section 1603(b)(3) is amended by striking "(d)" and inserting "(e)".

SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FEDERAL DISTRICT COURT.

(a) IN GENERAL.—Chapter 89 is amended by adding after section 1452 the following:

"§ 1453. Removal of class actions

"(a) DEFINITIONS.—In this section, the terms 'class', 'class action', 'class certification order', and 'class member' shall have the meanings given such ~~these~~ terms under ~~in~~ section 1332(d)(1).

"(b) IN GENERAL.—A class action may be removed to a district court of the United States in accordance with this chapter, without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed—

"(1) by any defendant without the consent of all defendants; or

"(2) by any plaintiff class member who is not a named or representative class member without the consent of all members of such class.

"(c) WHEN REMOVABLE.—This section shall apply to any class action before or after the entry of a class certification order in the action~~, except that a plaintiff class member who is not a named or representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class member has been entered.~~

"(d) PROCEDURE FOR REMOVAL.— ~~The provisions of~~ Section 1446 relating to a defendant removing a case shall apply to a plaintiff removing a case under this section, except that in the application of subsection (b) of such section the requirement relating to the 30-day filing period shall be met if a plaintiff class member files notice of removal within 30 days after receipt by such class member, through service or otherwise, of the initial written notice of the class action.

"(e) REVIEW OF ORDERS REMANDING CLASS ACTIONS TO STATE COURTS.— ~~The provisions of~~ Section 1447 shall apply to any removal of a case under this section, except that notwithstanding section 1447(d), an order remanding a class action to the State court from which it was removed shall be reviewable by appeal or otherwise.

"(f) EXCEPTION.—This section shall not apply to any class action ~~brought by shareholders~~ that solely involves—

"(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).".

(b) REMOVAL LIMITATION.—Section 1446(b) is amended in the second sentence by inserting "(a)" after "section 1332".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following: "1453. Removal of class actions.".

SEC. 6. REPORT ON CLASS ACTION SETTLEMENTS.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall prepare and transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report on class action settlements.

(b) CONTENT.—The report under subsection (a) shall contain—

(1) recommendations on the best practices that courts can use to ensure that proposed class action settlements are fair to the class members that the settlements are supposed to benefit;

(2) recommendations on the best practices that courts can use to ensure that—

(A) the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and

(B) the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and

(3) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.

(c) AUTHORITY OF FEDERAL COURTS.—Nothing in this section shall be construed to alter the authority of the Federal courts to supervise attorneys' fees.

~~**SEC. 6. APPEALS OF CLASS ACTION CERTIFICATION ORDERS.**~~

~~(a) IN GENERAL.—Section 1292(a) is amended by inserting after paragraph (3) the following:~~

~~"(4) Orders of the district courts of the United States granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within 10 days after entry of the order.".~~

~~(b) DISCOVERY STAY.—All discovery and other proceedings shall be stayed during the pendency of any appeal taken pursuant to the amendment made by subsection (a), unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue prejudice to that party.~~

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action commenced on or after the date of ~~the~~ enactment of this Act.

S 274 108th Congress-Introduced in Senate (blue, underlined text)
as compared to
HR 2341 107th Congress-Passed House ~~(red, strikethrough text)~~

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Class Action Fairness Act of 2003~~2~~".

(b) REFERENCE.—Whenever in this Act reference is made to an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Consumer class action bill of rights and improved procedures for interstate class actions.
Sec. 4. Federal district court jurisdiction for ~~of~~ interstate class actions.
of interstate class actions.
Sec. 5. Removal of interstate class actions to Federal district court.
~~Sec. 6. Appeals of class action certification orders.~~
Sec. 6~~7~~. Report on class action settlements.
Sec. 7~~8~~. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.— ~~The~~ Congress finds the following:

(1) Class action lawsuits are an important and valuable part of the legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.

(2) Over the past decade, there have been abuses of the class action device that have—

(A) harmed class members with legitimate claims and defendants that have acted responsibly~~, and that have thereby undermined public respect for our judicial system~~;

(B) adversely affected interstate commerce; and

(C) ~~that have thereby~~ undermined public respect for our judicial system.

(3) Class members often receive little or no benefit from class actions, and are sometimes harmed, such as where ~~have been harmed by a number of actions taken by plaintiffs' lawyers, which provide little or no benefit to class members as a whole, including —~~

(A) counsel are awarded large fees, while leaving class members ~~plaintiffs' lawyers receiving large fees, while class members~~ are left with coupons or other awards of little or no value;

(B) unjustified awards are ~~being~~ made to certain plaintiffs at the expense of other class members; and

(C) confusing notices are published that prevent class members ~~the publication of confusing notices that prevent class members~~ from being able to fully understand and effectively exercise their rights.

~~(4) Through the use of artful pleading, plaintiffs are able to avoid litigating class actions in Federal court, forcing businesses and other organizations to defend interstate class action lawsuits in county and State courts where—~~

~~(A) the lawyers, rather than the claimants, are likely to receive the maximum benefit;~~

~~(B) less scrutiny may be given to the merits of the case; and~~

~~(C) defendants are effectively forced into settlements, in order to avoid the possibility of huge judgments that could destabilize their companies.~~

~~(5) These abuses undermine our Federal system and the intent of the framers of the Constitution in creating diversity jurisdiction, in that county and State courts are—~~

~~(A) handling interstate class actions that affect parties from many States;~~

(4) Abuses in class actions undermine the national judicial system, the free flow of interstate commerce, and the concept of diversity jurisdiction as intended by the framers of the United States Constitution, in that State and local courts are—

(A) keeping cases of national importance out of Federal court;

(B) sometimes acting in ways that demonstrate bias against out-of-State defendants; and

(C) making judgments that impose their view of the law on other States and bind the rights of the residents of those States.

~~(6) Abusive interstate class actions have harmed society as a whole by forcing innocent parties to settle cases rather than risk a huge judgment by a local jury, thereby costing consumers billions of dollars in increased costs to pay for forced settlements and excessive judgments.~~

(b) PURPOSES.—The purposes of this Act are to—

(1) ~~to~~ assure fair and prompt recoveries for class members with legitimate claims;

~~(2) to protect responsible companies and other institutions against interstate class actions in State courts;~~

(2)~~(3)~~ ~~to~~ restore the intent of the framers of the United States Constitution by providing for Federal court consideration of interstate cases of national importance under diversity jurisdiction; and

(3)~~(4)~~ ~~to~~ benefit society by encouraging innovation and lowering consumer prices.

SEC. 3. CONSUMER CLASS ACTION BILL OF RIGHTS AND IMPROVED PROCEDURES FOR INTERSTATE CLASS ACTIONS.

(a) IN GENERAL.—Part V is amended by inserting after chapter 113 the following:

"CHAPTER 114—CLASS ACTIONS

"Sec.

"1711~~1718~~. Definitions.

"1712~~1711~~. Judicial scrutiny of coupon and other noncash settlements.
"1713~~1712~~. Protection against loss by class members.
"1714~~1713~~. Protection against discrimination based on geographic location.
"1715~~1714~~. Prohibition on the payment of bounties.
"1716~~1715~~. Clearer and simpler settlement information.
"1717. Notifications to appropriate Federal and State officials.
~~"1716. Disclosure of attorney's fees.~~
~~"1717. Sunshine in court records.~~

"§1711~~1718~~. Definitions

"In this chapter:
"(1) CLASS.—The term 'class' means all of the class members in a class action.
"(2)~~(1)~~ CLASS ACTION.—The term 'class action' means any civil action filed in a district court of the United States under rule 23 of the Federal Rules of Civil Procedure or any civil action that is removed to a district court of the United States that was originally filed under ~~pursuant to~~ a State statute or rule of judicial procedure authorizing an action to be brought by ~~one~~ 1 or more representatives ~~on behalf of~~ as a class action.
"(3)~~(2)~~ CLASS COUNSEL.—The term 'class counsel' means the persons who serve as the attorneys for the class members in a proposed or certified class action.
"(4)~~(3)~~ CLASS MEMBERS.—The term 'class members' means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.
"(5)~~(4)~~ PLAINTIFF CLASS ACTION.—The term 'plaintiff class action' means a class action in which class members are plaintiffs.
"(6)~~(5)~~ PROPOSED SETTLEMENT.—The term 'proposed settlement' means an agreement ~~that resolves claims in~~ regarding a class action that is subject to court approval and that, if approved, would be binding on ~~the~~ some or all class members

"§1712~~1711~~. Judicial scrutiny of coupon and other noncash settlements

"The court may approve a proposed settlement under which the class members would receive noncash benefits or would otherwise be required to expend funds in order to obtain part or all of the proposed benefits only after a hearing to determine whether, and making a written finding that, the settlement is fair, reasonable, and adequate for class members.

"§1713~~1712~~. Protection against loss by class members

"The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court makes a written finding that nonmonetary benefits to the class member substantially outweigh the monetary loss.

"§1714~~1713~~. Protection against discrimination based on geographic location

"The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

"§1715~~1714~~. Prohibition on the payment of bounties

"(a) IN GENERAL.—The court may not approve a proposed settlement that provides for the payment of a greater share of the award to a class representative serving on behalf of a class, on the basis of the formula for distribution to all other class members, than that awarded to the other class members.

"(b) RULE OF CONSTRUCTION.—The limitation in subsection (a) shall not be construed to prohibit ~~any~~ a payment approved by the court for reasonable time or costs that a person was required to expend in fulfilling ~~his or her~~ the obligations of that person as a class representative.

"§1716~~1715~~. Clearer and simpler settlement information

"(a) PLAIN ENGLISH REQUIREMENTS.—Any court with jurisdiction over a plaintiff class action shall require that any written notice concerning a proposed settlement of the class action provided to the class through the mail or publication in printed media contain—

"(1) at the beginning of such notice, a statement in 18-point ~~Times New Roman~~ or greater bold type ~~or other functionally similar type~~, stating 'LEGAL NOTICE: YOU ARE A PLAINTIFF IN A CLASS ACTION LAWSUIT AND YOUR LEGAL RIGHTS ARE AFFECTED BY THE SETTLEMENT DESCRIBED IN THIS NOTICE.';

"(2) a short summary written in plain, easily understood language, describing—

"(A) the subject matter of the class action;

"(B) the members of the class;

"(C) the legal consequences of being a member of the class action;

"(D) if the notice is informing class members of a proposed settlement agreement—

"(i) the benefits that will accrue to the class due to the settlement;

"(ii) the rights that class members will lose or waive through the settlement;

"(iii) obligations that will be imposed on the defendants by the settlement;

"(iv) the dollar amount of any attorney's fee class counsel will be seeking, or if not possible, a good faith estimate of the dollar amount of any attorney's fee class counsel will be seeking; and

"(v) an explanation of how any attorney's fee will be calculated and funded; and

"(E) any other material matter.

"(b) TABULAR FORMAT.—Any court with jurisdiction over a plaintiff class action shall require that the information described in subsection (a)—

"(1) be placed in a conspicuous and prominent location on the notice;

"(2) contain clear and concise headings for each item of information; and

"(3) provide a clear and concise form for stating each item of information required to be disclosed under each heading.

"(c) TELEVISION OR RADIO NOTICE.—Any notice provided through television or radio (including transmissions by cable or satellite) to inform the class members in a class action of the right of each member to be excluded from ~~the~~ a class action or a proposed settlement ~~of the class action~~, if such right exists, shall, in plain, easily understood language—

"(1) describe the persons who may potentially become class members in the class action; and

"(2) explain that the failure of a class member to exercise his or her right to be excluded from a class action will result in the person's inclusion in the class action ~~or settlement~~.

"§ 1717. Notifications to appropriate Federal and State officials

"(a) DEFINITIONS.—

"(1) APPROPRIATE FEDERAL OFFICIAL.—In this section, the term 'appropriate Federal official' means—

"(A) the Attorney General of the United States; or

"(B) in any case in which the defendant is a Federal depository institution, a State depository institution, a depository institution holding company, a foreign bank, or a nondepository institution subsidiary of the foregoing (as such terms are defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

"(2) APPROPRIATE STATE OFFICIAL.—In this section, the term 'appropriate State official' means the person in the State who has the primary regulatory or supervisory responsibility with respect to the defendant, or who licenses or otherwise authorizes the defendant to conduct business in the State, if some or all of the matters alleged in the class action are subject to regulation by that person. If there is no primary regulator, supervisor, or licensing authority, or the matters alleged in the class action are not subject to regulation or supervision by that person, then the appropriate State official shall be the State attorney general.

"(b) IN GENERAL.—Not later than 10 days after a proposed settlement of a class action is filed in court, each defendant that is participating in the proposed settlement shall serve upon the appropriate State official of each State in which a class member resides and the appropriate Federal official, a notice of the proposed settlement consisting of—

"(1) a copy of the complaint and any materials filed with the complaint and any amended complaints (except such materials shall not be required to be served if such materials are made electronically available through the Internet and such service includes notice of how to electronically access such material);

"(2) notice of any scheduled judicial hearing in the class action;

"(3) any proposed or final notification to class members of—

"(A)(i) the members' rights to request exclusion from the class action; or

"(ii) if no right to request exclusion exists, a statement that no such right exists; and

"(B) a proposed settlement of a class action;

"(4) any proposed or final class action settlement;

"(5) any settlement or other agreement contemporaneously made between class counsel and counsel for the defendants;

"(6) any final judgment or notice of dismissal;

"(7)(A) if feasible, the names of class members who reside in each State and the estimated proportionate share of the claims of such members to the entire settlement to that State's appropriate State official; or

"(B) if the provision of information under subparagraph (A) is not feasible, a reasonable estimate of the number of class members residing in each State and the estimated proportionate share of the claims of such members to the entire settlement; and

"(8) any written judicial opinion relating to the materials described under subparagraphs (3) through (6).

"(c) DEPOSITORY INSTITUTIONS NOTIFICATION.—

"(1) FEDERAL AND OTHER DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a Federal depository institution, a depository institution holding company, a foreign bank, or a non-depository institution subsidiary of the foregoing, the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

"(2) STATE DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a State depository institution (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the State bank supervisor (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) of the State in which the defendant is incorporated or chartered, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person, and upon the appropriate Federal official.

"(d) FINAL APPROVAL.—An order giving final approval of a proposed settlement may not be issued earlier than 90 days after the later of the dates on which the appropriate Federal official and the appropriate State official are served with the notice required under subsection (b).

"(e) NONCOMPLIANCE IF NOTICE NOT PROVIDED.—

"(1) IN GENERAL.—A class member may refuse to comply with and may choose not to be bound by a settlement agreement or consent decree in a class action if the class member demonstrates that the notice required under subsection (b) has not been provided.

"(2) LIMITATION.—A class member may not refuse to comply with or to be bound by a settlement agreement or consent decree under paragraph (1) if the notice required under subsection (b) was directed to the appropriate Federal official and to either the State attorney general or the person that has primary regulatory, supervisory, or licensing authority over the defendant.

"(3) APPLICATION OF RIGHTS.—The rights created by this subsection shall apply only to class members or any person acting on a class member's behalf, and shall not be construed to limit any other rights affecting a class member's participation in the settlement.

"(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to expand the authority of, or impose any obligations, duties, or responsibilities upon, Federal or State officials.".

~~**"§ 1716. Disclosure of attorney's fees**~~

~~"Any court with jurisdiction over a plaintiff class action shall require that, if there is a settlement of the class action or a judgment for the plaintiffs, the attorneys for the plaintiffs shall disclose to each plaintiff—~~
~~"(1) at the time when any payment or other award is transmitted to the plaintiff in accordance with the settlement of judgment, or~~
~~"(2) in a case in which no such payment or award is made to a plaintiff, at the time when notice of the final settlement or judgment is transmitted to such plaintiff,~~
~~the full amount of the attorney's fees charged by the attorneys for services rendered in the action.~~

~~**"§ 1717. Sunshine in court records**~~

~~"No order, opinion, or record of the court in the adjudication of a class action, including a record obtained through discovery, whether or not formally filed with the court, may be sealed or subjected to a protective order unless the court makes a finding of fact—~~
~~"(1) that the sealing or protective order is narrowly tailored, consistent with the protection of public health and safety, and is in the public interest; and~~
~~"(2) if the action by the court would prevent the disclosure of information, that disclosing the information is clearly outweighed by a specific and substantial interest in maintaining the confidentiality of such information.~~

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part V is amended by inserting after the item relating to chapter 113 the following:
"114. Class Actions
1711". SEC. 4. FEDERAL DISTRICT COURT JURISDICTION ~~OF~~ FOR INTERSTATE CLASS ACTIONS.

(a) APPLICATION OF FEDERAL DIVERSITY JURISDICTION.—Section 1332 is amended—
(1) by redesignating subsection (d) as subsection (e); and
(2) by inserting after subsection (c) the following:
"(d)(1) In this subsection—
"(A) the term 'class' means all of the class members in a class action;
"(B) the term 'class action' means any civil action filed ~~pursuant to~~ under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by ~~one~~ 1 or more representative persons ~~on behalf of a class~~ as a class action;
"(C) the term 'class certification order' means an order issued by a court approving the treatment of some or all aspects of a civil action as a class action; and

"(D) the term 'class members' means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.

"(2) The district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs, and is a class action in which—

"(A) any member of a class of plaintiffs is a citizen of a State different from any defendant;

"(B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or

"(C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.

"(3) Paragraph (2) shall not apply to any civil action in which—

"(A)(i) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed; and

"(ii) the claims asserted therein will be governed primarily by the laws of the State in which the action was originally filed;

"(B) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or

"(C) the number of ~~proposed plaintiff class~~ members of all proposed plaintiff classes in the aggregate is less than 100.

"(4) In any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs.

"(5) This subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.

"(6)(A) A district court shall dismiss any civil action that is subject to the jurisdiction of the court solely under this subsection if the court determines the action may not proceed as a class action based on a failure to satisfy the ~~requirements~~ prerequisites of rule 23 of the Federal Rules of Civil Procedure.

"(B) Nothing in subparagraph (A) shall prohibit plaintiffs from filing an amended class action in Federal court or filing an action in State court, except that any such action filed in State court may be removed to the appropriate district court if it is an action of which the district courts of the United States have original jurisdiction.

"(C) In any action that is dismissed under this paragraph and is filed by any of the original named plaintiffs therein in the same State court venue in which the dismissed action was originally filed, the limitations periods on all reasserted claims shall be deemed tolled for the period during which the dismissed class action was pending. The limitations periods on any claims that were asserted in a class action dismissed under this paragraph that are subsequently asserted in an individual action shall be deemed tolled for the period during which the dismissed action was pending.

"(7) Paragraph (2) shall not apply to any class action ~~brought by shareholders~~ that solely involves a claim ~~that relates to —~~

"(A) ~~a claim~~ concerning a covered security as defined under 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(B) that relates to the internal affairs or governance of a corporation or other form of business enterprise and that arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(C) that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).

"(8) For purposes of this subsection and section 1453 of this title, an unincorporated association shall be deemed to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.

"(9)(A) For purposes of this section and section 1453 of this title, a civil action that is not otherwise a class action as defined in paragraph (1)(B) ~~of this subsection~~ shall nevertheless be deemed a class action if—

"(i) ~~"(A)~~ the named plaintiff purports to act for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeks a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general; or

"(ii) ~~"(B)~~ monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact.

"(B)(i) In any ~~such case~~ civil action described under subparagraph (A)(ii), the persons who allegedly were injured shall be treated as members of a proposed plaintiff class and the monetary relief that is sought shall be treated as the claims of individual class members.

"(ii) ~~The provisions of p~~Paragraphs (3) and (6) of this subsection and subsections (b)(2) and (d) of section 1453 shall not apply to any civil action~~s~~ described under subparagraph (A)(i).

"(iii) ~~The provisions of p~~Paragraph (6) of this subsection, and subsections (b)(2) and (d) of section 1453 shall not apply to any civil action~~s~~ described under subparagraph (A)(ii) ~~(B)~~.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1335(a)(1) is amended by inserting "(a) or (d)" after "1332".

(2) Section 1603(b)(3) is amended by striking "(d)" and inserting "(e)".

SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FEDERAL DISTRICT COURT.

(a) IN GENERAL.—Chapter 89 is amended by adding after section 1452 the following:

"§ 1453. Removal of class actions

"(a) DEFINITIONS.—In this section, the terms 'class', 'class action', 'class certification order', and 'class member' shall have the meanings given ~~these~~ such terms ~~in~~ under section 1332(d)(1).

"(b) IN GENERAL.—A class action may be removed to a district court of the United States in accordance with this chapter, without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed—

"(1) by any defendant without the consent of all defendants; or

"(2) by any plaintiff class member who is not a named or representative class member without the consent of all members of such class.

"(c) WHEN REMOVABLE.—This section shall apply to any class action before or after the entry of a class certification order in the action~~, except that a plaintiff class member who is not a named or representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class member has been entered~~.

"(d) PROCEDURE FOR REMOVAL.— ~~The provisions of s~~Section 1446 relating to a defendant removing a case shall apply to a plaintiff removing a case under this section, except that in the application of subsection (b) of such section the requirement relating to the 30-day filing period shall be met if a plaintiff class member files notice of removal within 30 days after receipt by such class member, through service or otherwise, of the initial written notice of the class action.

"(e) REVIEW OF ORDERS REMANDING CLASS ACTIONS TO STATE COURTS.— ~~The provisions of s~~Section 1447 shall apply to any removal of a case under this section, except that~~,~~ notwithstanding ~~the provisions of~~ section 1447(d), an order remanding a class action to the State court from which it was removed shall be reviewable by appeal or otherwise.

"(f) EXCEPTION.—This section shall not apply to any class action ~~brought by shareholders~~ that solely involves—

"(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).".

(b) REMOVAL LIMITATION.—Section 1446(b) is amended in the second sentence by inserting "(a)" after "section 1332".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following:
"1453. Removal of class actions.".

~~**SEC. 6. APPEALS OF CLASS ACTION CERTIFICATION ORDERS.**~~

~~(a) IN GENERAL.—Section 1292(a) is amended by inserting after paragraph (3) the following:~~

~~"(4) Orders of the district courts of the United States granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within 10 days after entry of the order.".~~

~~(b) DISCOVERY STAY.—All discovery and other proceedings shall be stayed during the pendency of any appeal taken pursuant to the amendment made by subsection (a), unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue prejudice to that party.~~

SEC. 6~~7~~. REPORT ON CLASS ACTION SETTLEMENTS.

(a) IN GENERAL.—Not later than 12 months after the date of ~~the~~ enactment of this Act, the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall prepare and transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report on class action settlements ~~in the Federal courts~~.

(b) CONTENT.—The report under subsection (a) shall contain—

(1) recommendations on the best practices that courts can use to ensure that proposed class action settlements are fair to the class members ~~whom~~ that the settlements are supposed to benefit;

(2) recommendations on the best practices that courts can use to ensure that—

(A) the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and

(B) the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and

(3) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.

(c) AUTHORITY OF FEDERAL COURTS.—Nothing in this section shall be construed to alter the authority of the Federal courts to supervise attorney's' fees.

SEC. 7~~8~~. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action commenced on or after the date of ~~the~~ enactment of this Act.

From: CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Alberto R. Gonzales/WHO/EOP@Exchange [WHO] <Alberto R. Gonzales>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;David G. Leitch/WHO/EOP@Exchange [WHO] <David G. Leitch>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>
CC: Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>;Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>
Sent: 5/12/2003 6:55:09 AM
Subject: : Meeting with the President re: Judges

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:12-MAY-2003 10:55:09.00
SUBJECT:: Meeting with the President re: Judges
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
CC:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

We're confirmed for a meeting with the President THIS FRIDAY, May 16, at
9:25 am.
;
Please keep in mind that the binder is due to Staff Secretary no later
than C.O.B. Wednesday - materials should be provided;to Patrick
accordingly.
;
Thanks!
```

From: Leitch, David G.
To: <Kavanaugh, Brett M.>;<Gonzales, Alberto R.>
Sent: 5/12/2003 11:53:51 AM
Subject: RE: timing

Yes, perhaps stray comment was too understated. One thing that might be helpful to give some context to the letter, then, is to begin it by mentioning that his comments were on the Senate floor and were in direct response to the President's remarks.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Monday, May 12, 2003 11:33 AM
To: Gonzales, Alberto R.; Leitch, David G.
Subject: RE: timing

Agree with general concern, but also note that this was much more than a stray comment. This was Sen. Daschle's response on Senate floor to the President's Rose Garden speech -- and obviously is and will be their primary talking point on this issue as reflected in NY Times yesterday.

From: David G. Leitch/WHO/EOP@Exchange on 05/12/2003 11:29:54 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Alberto R. Gonzales/WHO/EOP@Exchange
cc:
Subject: RE: timing

I sent you a few suggestions, but the bigger question to me is whether we continue to respond to every stray comment by the leadership and if so whether the letters should continue to go out over the Judge's signature. On balance, I think we should continue current practice, but perhaps it's worth the three of us having a conversation with Hobbs & Bartlett to make sure.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Monday, May 12, 2003 11:13 AM
To: Gonzales, Alberto R.; Leitch, David G.
Subject: timing

If you all agree with general idea, we should try to get Daschle letter out today.

From: CN=PostMaster/O=EOP [OA]

BCC: Kevin Warsh (Kevin Warsh/OPD/EOP [OPD]), Theodore W. Ullyot (Theodore W. Ullyot/WHO/EOP [WHO]), Karin B. Torgerson (Karin B. Torgerson/WHO/EOP@Exchange [WHO]), Scott N. Sforza (Scott N. Sforza/WHO/EOP [WHO]), Matthew Scully (Matthew Scully/WHO/EOP [WHO]), Matthew A. Schlapp (Matthew A. Schlapp/WHO/EOP [WHO]), Diana L. Schacht (Diana L. Schacht/OPD/EOP [OPD]), Desiree T. Sayle (Desiree T. Sayle/WHO/EOP [WHO]), Kyle Sampson (Kyle Sampson/WHO/EOP [WHO]), Liza Wright (Liza Wright/WHO/EOP [WHO]), Brian Reardon (Brian Reardon/OPD/EOP [OPD]), Benjamin A. Powell (Benjamin A. Powell/WHO/EOP [WHO]), Brian Peterman (Brian Peterman/WHO/EOP [WHO]), Eric C. Pelletier (Eric C. Pelletier/WHO/EOP@Exchange [WHO]), Jennifer G. Newstead (Jennifer G. Newstead/WHO/EOP [WHO]), Noam M. Neusner (Noam M. Neusner/WHO/EOP [WHO]), Edmund C. Moy (Edmund C. Moy/WHO/EOP [WHO]), Edward McNally (Edward McNally/WHO/EOP [WHO]), Heidi M. Smith (Heidi M. Smith/WHO/EOP [WHO]), Ginger G. Loper (Ginger G. Loper/WHO/EOP@Exchange [WHO]), Paul B. Kurtz (Paul B. Kurtz/NSC/EOP [NSC]), David Kuo (David Kuo/WHO/EOP [WHO]), Lindsey C. Kozberg (Lindsey C. Kozberg/WHO/EOP [WHO]), James M. Kelly (James M. Kelly/WHO/EOP [WHO]), Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO]), David Higbee (David Higbee/WHO/EOP [WHO]), Wendy J. Grubbs (Wendy J. Grubbs/WHO/EOP [WHO]), Adam B. Goldman (Adam B. Goldman/WHO/EOP [WHO]), Tim Goeglein (Tim Goeglein/WHO/EOP [WHO]), Alan Gilbert (Alan Gilbert/OPD/EOP [OPD]), Kelley Gannon (Kelley Gannon/WHO/EOP [WHO]), Noel J. Francisco (Noel J. Francisco/WHO/EOP [WHO]), Catherine S. Fenton (Catherine S. Fenton/WHO /EOP@Exchange [WHO]), Nanette Everson (Nanette Everson/WHO/EOP [WHO]), David Dunn (David Dunn/OPD/EOP [OPD]), Elizabeth S. Dougherty (Elizabeth S. Dougherty/OPD/EOP [OPD]), Nicolle Devenish (Nicolle Devenish/WHO/EOP [WHO]), Amy Jensen (Amy Jensen/WHO/EOP@Exchange [WHO]), Rebecca Contreras (Rebecca Contreras/WHO/EOP [WHO]), Alicia P. Clark (Alicia P. Clark/WHO/EOP [WHO]), Ronald I. Christie (Ronald I. Christie/OPD/EOP [OPD]), Jonathan W. Burks (Jonathan W. Burks/WHO /EOP@Exchange [WHO]), Katja Bullock (Katja Bullock/WHO/EOP [WHO]), Jennifer R. Brosnahan (Jennifer R. Brosnahan/WHO/EOP [WHO]), Charles P. Blahous (Charles P. Blahous/OPD/EOP [OPD]), Rebecca A. Beynon (Rebecca A. Beynon/WHO/EOP [WHO]), Todd W. Beyer (Todd W. Beyer/WHO/EOP [WHO]), Brian R. Besanceney (Brian R. Besanceney/WHO/EOP [WHO]), Kenneth Bernard (Kenneth Bernard/WHO/EOP [WHO]), H. Christopher Bartolomucci (H. Christopher Bartolomucci/WHO/EOP [WHO]), William D. Badger (William D. Badger/OPD/EOP [OPD]), Jackie Arends (Jackie Arends/WHO/EOP [WHO]), Michael Allen (Michael Allen/WHO/EOP [WHO]), Lezlee J. Westine (Lezlee J. Westine/WHO/EOP [WHO]), Peter H. Wehner (Peter H. Wehner/WHO/EOP [WHO]), Jim Towey (Jim Towey/WHO/EOP [WHO]), Ziad S. Ojakli (Ziad S. Ojakli/WHO/EOP@Exchange [WHO]), Ken Mehlman (Ken Mehlman/WHO/EOP [WHO]), John P. McConnell (John P. McConnell/WHO/EOP [WHO]), Scott McClellan (Scott McClellan/WHO/EOP@Exchange [WHO]), Jay P. Lefkowitz (Jay P. Lefkowitz/OPD/EOP@Exchange [OPD]), Gregory J. Jenkins (Gregory J. Jenkins/WHO/EOP [WHO]), Barry S. Jackson (Barry S. Jackson/WHO/EOP [WHO]), Edward Ingle (Edward Ingle/WHO/EOP [WHO]), Israel Hernandez (Israel Hernandez/WHO/EOP@Exchange [WHO]), Tucker A. Eskew (Tucker A. Eskew/WHO/EOP [WHO]), Gary R. Edson (Gary R. Edson/NSC/EOP [NSC]), Ruben S. Barrales (Ruben S. Barrales/WHO/EOP [WHO]), Andrea G. Ball (Andrea G. Ball/WHO/EOP@Exchange [WHO]), Clay Johnson III (Clay Johnson III/WHO/EOP@Exchange [WHO]), Karl C. Rove (Karl C. Rove/WHO/EOP@Exchange [WHO]), Harriet Miers (Harriet Miers/WHO/EOP@Exchange [WHO]), Joseph W. Hagin (Joseph W. Hagin/WHO/EOP@Exchange [WHO]), Michael J. Gerson (Michael J. Gerson/WHO/EOP@Exchange [WHO]), Lawrence A. Fleischer (Lawrence A. Fleischer/WHO/EOP@Exchange [WHO]), John M. Bridgeland (John M. Bridgeland/OPD/EOP [OPD]), Joshua B. Bolten (Joshua B. Bolten/WHO/EOP@Exchange [WHO]), Faryar Shirzad (Faryar Shirzad/NSC/EOP [NSC]), Thomas A. Shannon Jr. (Thomas A. Shannon Jr./NSC/EOP [NSC]), Gregory L. Schulte (Gregory L. Schulte/NSC/EOP [NSC]), James F. Moriarty (James F. Moriarty/NSC/EOP [NSC]), Franklin C. Miller (Franklin C. Miller/NSC/EOP [NSC]), Zalmay M. Khalilzad (Zalmay M. Khalilzad/NSC/EOP [NSC]), Lindsey C. Kozberg (Lindsey C. Kozberg/WHO/EOP [WHO]), Robert G. Joseph (Robert G. Joseph/NSC/EOP [NSC]), Daniel Fried (Daniel Fried/NSC/EOP [NSC]), Jendayi E. Frazer (Jendayi E. Frazer/NSC/EOP [NSC]), Charles Conner (Charles Conner/OPD/EOP [OPD]), John B. Bellinger (John B. Bellinger/NSC/EOP [NSC]), George M. Andricos (George M. Andricos/NSC/EOP [NSC]), Elliott Abrams (Elliott Abrams/NSC/EOP [NSC]), Anna M. Perez

(Anna M. Perez/NSC/EOP [NSC]), John A. Gordon (John A. Gordon/NSC/EOP [NSC]), Linda M. Gambatesa (Linda M. Gambatesa/WHO/EOP@Exchange [WHO]), Lewis Libby (Lewis Libby/OVP/EOP [OVP]), Stephen J. Hadley (Stephen J. Hadley/NSC/EOP [NSC]), Tevi Troy (Tevi Troy/WHO/EOP@Exchange [WHO]), Kristen Silverberg (Kristen Silverberg/WHO/EOP@Exchange [WHO]), Sean B. O'Hollaren (Sean B. O'Hollaren/WHO /EOP@Exchange [WHO]), Robert Marsh (Robert Marsh/WHO/EOP@Exchange [WHO]), Elan Liang (Elan Liang/WHO/EOP@Exchange [WHO]), Matthew Kirk (Matthew Kirk/WHO /EOP@Exchange [WHO]), Joel D. Kaplan (Joel D. Kaplan/WHO/EOP@Exchange [WHO]), Richard Falkenrath (Richard Falkenrath/WHO/EOP@Exchange [WHO]), Christopher C. Cox (Christopher C. Cox/WHO/EOP@Exchange [WHO]), Kirsten A. Chadwick (Kirsten A. Chadwick/WHO/EOP@Exchange [WHO]), Christine M. Burgeson (Christine M. Burgeson/WHO/EOP@Exchange [WHO]), Claire E. Buchan (Claire E. Buchan/WHO /EOP@Exchange [WHO]), Brian D. Montgomery (Brian D. Montgomery/WHO /EOP@Exchange [WHO]), David G. Leitch (David G. Leitch/WHO/EOP@Exchange [WHO]), Daniel J. Keniry (Daniel J. Keniry/WHO/EOP@Exchange [WHO]), Keith Hennessey (Keith Hennessey/OPD/EOP@Exchange [OPD]), Suzy DeFrancis (Suzy DeFrancis/WHO /EOP@Exchange [WHO]), Charles S. Abbot (Charles S. Abbot/WHO/EOP@Exchange [WHO]), Margaret M. Spellings (Margaret M. Spellings/OPD/EOP@Exchange [OPD]), Dina Powell (Dina Powell/WHO/EOP@Exchange [WHO]), David W. Hobbs (David W. Hobbs/WHO /EOP@Exchange [WHO]), Alberto R. Gonzales (Alberto R. Gonzales/WHO/EOP@Exchange [WHO]), Stephen Friedman (Stephen Friedman/OPD/EOP@Exchange [OPD]), Andrew H. Card (Andrew H. Card/WHO/EOP@Exchange [WHO]), Daniel J. Bartlett (Daniel J. Bartlett/WHO/EOP@Exchange [WHO]), Colleen Litkenhaus (Colleen Litkenhaus/WHO /EOP@Exchange [WHO]), Tim Campen (Tim Campen/OA/EOP@Exchange [UNKNOWN]), Michael H. Miller (Michael H. Miller/WHO/EOP@Exchange [WHO]), Bradley A. Blakeman (Bradley A. Blakeman/WHO/EOP@Exchange [WHO])

Sent: 5/12/2003 8:10:53 AM

Subject: : POSTMASTER - TOPOFF 2 Exercise

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME:12-MAY-2003 12:10:53.00
SUBJECT:: POSTMASTER - TOPOFF 2 Exercise
BCC:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
BCC:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Karin B. Torgerson ( CN=Karin B. Torgerson/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
BCC:Scott N. Sforza ( CN=Scott N. Sforza/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Matthew Scully ( CN=Matthew Scully/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Matthew A. Schlapp ( CN=Matthew A. Schlapp/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
BCC:Desiree T. Sayle ( CN=Desiree T. Sayle/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Liza Wright ( CN=Liza Wright/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Brian Reardon ( CN=Brian Reardon/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
BCC:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Brian Peterman ( CN=Brian Peterman/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Eric C. Pelletier ( CN=Eric C. Pelletier/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
BCC:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
```

BCC:Noam M. Neusner (CN=Noam M. Neusner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Heidi M. Smith (CN=Heidi M. Smith/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Lindsey C. Kozberg (CN=Lindsey C. Kozberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:David Higbee (CN=David Higbee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Adam B. Goldman (CN=Adam B. Goldman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:David Dunn (CN=David Dunn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Amy Jensen (CN=Amy Jensen/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Ronald I. Christie (CN=Ronald I. Christie/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Jonathan W. Burks (CN=Jonathan W. Burks/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Jennifer R. Brosnahan (CN=Jennifer R. Brosnahan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Todd W. Beyer (CN=Todd W. Beyer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Brian R. Besanceney (CN=Brian R. Besanceney/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Kenneth Bernard (CN=Kenneth Bernard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

BCC:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:William D. Badger (CN=William D. Badger/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Michael Allen (CN=Michael Allen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:John P. McConnell (CN=John P. McConnell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
BCC:Gregory J. Jenkins (CN=Gregory J. Jenkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Faryar Shirzad (CN=Faryar Shirzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Thomas A. Shannon Jr. (CN=Thomas A. Shannon Jr./OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Gregory L. Schulte (CN=Gregory L. Schulte/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

BCC:Lindsey C. Kozberg (CN=Lindsey C. Kozberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:John A. Gordon (CN=John A. Gordon/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
BCC:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Tevi Troy (CN=Tevi Troy/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Sean B. O'Hollaren (CN=Sean B. O'Hollaren/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Elan Liang (CN=Elan Liang/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Christopher C. Cox (CN=Christopher C. Cox/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Christine M. Burgeson (CN=Christine M. Burgeson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
BCC:Suzy DeFrancis (CN=Suzy DeFrancis/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Charles S. Abbot (CN=Charles S. Abbot/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
BCC:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN

BCC:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Stephen Friedman (CN=Stephen Friedman/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
BCC:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Tim Campen (CN=Tim Campen/OU=OA/O=EOP@Exchange [UNKNOWN])
READ:UNKNOWN
BCC:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

For your information, during the week of May 12, 2003, the Department of Homeland Security will hold TOPOFF 2, a national Weapons of Mass Destruction (WMD) exercise. The scenario for TOPOFF 2 includes a simulated radiological dispersion device (RDD) detonation in Seattle and a bioterrorism attack in Chicago. TOPOFF 2 is the second in a series of directed domestic counterterrorism exercises. Planning for this exercise began in June 2000. The exercise will focus on the nation,s response capabilities including pharmaceutical stockpile distribution procedures, law enforcement intervention techniques, detection and decontamination capabilities, and national incident management mechanisms. Participants include twenty-five Federal agencies, numerous state and local government entities, and 76 hospitals. Canada will also participate.

The White House role is not a primary training focus for TOPOFF 2. White House exercise participation will not impact normal White House operations. A simulated news network, the Virtual News Network (VNN), will be broadcast to exercise participants to keep them informed of events taking place in the exercise.

For questions, please contact Jim Kish of the Homeland Security Council (6-2276).

From: CN=PostMaster/O=EOP [OA]

BCC: Kevin Warsh (Kevin Warsh/OPD/EOP [OPD]), Theodore W. Ullyot (Theodore W. Ullyot/WHO/EOP [WHO]), Karin B. Torgerson (Karin B. Torgerson/WHO/EOP@Exchange [WHO]), Scott N. Sforza (Scott N. Sforza/WHO/EOP [WHO]), Matthew Scully (Matthew Scully/WHO/EOP [WHO]), Matthew A. Schlapp (Matthew A. Schlapp/WHO/EOP [WHO]), Diana L. Schacht (Diana L. Schacht/OPD/EOP [OPD]), Desiree T. Sayle (Desiree T. Sayle/WHO/EOP [WHO]), Kyle Sampson (Kyle Sampson/WHO/EOP [WHO]), Liza Wright (Liza Wright/WHO/EOP [WHO]), Brian Reardon (Brian Reardon/OPD/EOP [OPD]), Benjamin A. Powell (Benjamin A. Powell/WHO/EOP [WHO]), Brian Peterman (Brian Peterman/WHO/EOP [WHO]), Eric C. Pelletier (Eric C. Pelletier/WHO/EOP@Exchange [WHO]), Jennifer G. Newstead (Jennifer G. Newstead/WHO/EOP [WHO]), Noam M. Neusner (Noam M. Neusner/WHO/EOP [WHO]), Edmund C. Moy (Edmund C. Moy/WHO/EOP [WHO]), Edward McNally (Edward McNally/WHO/EOP [WHO]), Heidi M. Smith (Heidi M. Smith/WHO/EOP [WHO]), Ginger G. Loper (Ginger G. Loper/WHO/EOP@Exchange [WHO]), Paul B. Kurtz (Paul B. Kurtz/NSC/EOP [NSC]), David Kuo (David Kuo/WHO/EOP [WHO]), Lindsey C. Kozberg (Lindsey C. Kozberg/WHO/EOP [WHO]), James M. Kelly (James M. Kelly/WHO/EOP [WHO]), Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO]), David Higbee (David Higbee/WHO/EOP [WHO]), Wendy J. Grubbs (Wendy J. Grubbs/WHO/EOP [WHO]), Adam B. Goldman (Adam B. Goldman/WHO/EOP [WHO]), Tim Goeglein (Tim Goeglein/WHO/EOP [WHO]), Alan Gilbert (Alan Gilbert/OPD/EOP [OPD]), Kelley Gannon (Kelley Gannon/WHO/EOP [WHO]), Noel J. Francisco (Noel J. Francisco/WHO/EOP [WHO]), Catherine S. Fenton (Catherine S. Fenton/WHO /EOP@Exchange [WHO]), Nanette Everson (Nanette Everson/WHO/EOP [WHO]), David Dunn (David Dunn/OPD/EOP [OPD]), Elizabeth S. Dougherty (Elizabeth S. Dougherty/OPD/EOP [OPD]), Nicolle Devenish (Nicolle Devenish/WHO/EOP [WHO]), Amy Jensen (Amy Jensen/WHO/EOP@Exchange [WHO]), Rebecca Contreras (Rebecca Contreras/WHO/EOP [WHO]), Alicia P. Clark (Alicia P. Clark/WHO/EOP [WHO]), Ronald I. Christie (Ronald I. Christie/OPD/EOP [OPD]), Jonathan W. Burks (Jonathan W. Burks/WHO /EOP@Exchange [WHO]), Katja Bullock (Katja Bullock/WHO/EOP [WHO]), Jennifer R. Brosnahan (Jennifer R. Brosnahan/WHO/EOP [WHO]), Charles P. Blahous (Charles P. Blahous/OPD/EOP [OPD]), Rebecca A. Beynon (Rebecca A. Beynon/WHO/EOP [WHO]), Todd W. Beyer (Todd W. Beyer/WHO/EOP [WHO]), Brian R. Besanceney (Brian R. Besanceney/WHO/EOP [WHO]), Kenneth Bernard (Kenneth Bernard/WHO/EOP [WHO]), H. Christopher Bartolomucci (H. Christopher Bartolomucci/WHO/EOP [WHO]), William D. Badger (William D. Badger/OPD/EOP [OPD]), Jackie Arends (Jackie Arends/WHO/EOP [WHO]), Michael Allen (Michael Allen/WHO/EOP [WHO]), Lezlee J. Westine (Lezlee J. Westine/WHO/EOP [WHO]), Peter H. Wehner (Peter H. Wehner/WHO/EOP [WHO]), Jim Towey (Jim Towey/WHO/EOP [WHO]), Ziad S. Ojakli (Ziad S. Ojakli/WHO/EOP@Exchange [WHO]), Ken Mehlman (Ken Mehlman/WHO/EOP [WHO]), John P. McConnell (John P. McConnell/WHO/EOP [WHO]), Scott McClellan (Scott McClellan/WHO/EOP@Exchange [WHO]), Jay P. Lefkowitz (Jay P. Lefkowitz/OPD/EOP@Exchange [OPD]), Gregory J. Jenkins (Gregory J. Jenkins/WHO/EOP [WHO]), Barry S. Jackson (Barry S. Jackson/WHO/EOP [WHO]), Edward Ingle (Edward Ingle/WHO/EOP [WHO]), Israel Hernandez (Israel Hernandez/WHO/EOP@Exchange [WHO]), Tucker A. Eskew (Tucker A. Eskew/WHO/EOP [WHO]), Gary R. Edson (Gary R. Edson/NSC/EOP [NSC]), Ruben S. Barrales (Ruben S. Barrales/WHO/EOP [WHO]), Andrea G. Ball (Andrea G. Ball/WHO/EOP@Exchange [WHO]), Clay Johnson III (Clay Johnson III/WHO/EOP@Exchange [WHO]), Karl C. Rove (Karl C. Rove/WHO/EOP@Exchange [WHO]), Harriet Miers (Harriet Miers/WHO/EOP@Exchange [WHO]), Joseph W. Hagin (Joseph W. Hagin/WHO/EOP@Exchange [WHO]), Michael J. Gerson (Michael J. Gerson/WHO/EOP@Exchange [WHO]), Lawrence A. Fleischer (Lawrence A. Fleischer/WHO/EOP@Exchange [WHO]), John M. Bridgeland (John M. Bridgeland/OPD/EOP [OPD]), Joshua B. Bolten (Joshua B. Bolten/WHO/EOP@Exchange [WHO]), Faryar Shirzad (Faryar Shirzad/NSC/EOP [NSC]), Thomas A. Shannon Jr. (Thomas A. Shannon Jr./NSC/EOP [NSC]), Gregory L. Schulte (Gregory L. Schulte/NSC/EOP [NSC]), James F. Moriarty (James F. Moriarty/NSC/EOP [NSC]), Franklin C. Miller (Franklin C. Miller/NSC/EOP [NSC]), Zalmay M. Khalilzad (Zalmay M. Khalilzad/NSC/EOP [NSC]), Lindsey C. Kozberg (Lindsey C. Kozberg/WHO/EOP [WHO]), Robert G. Joseph (Robert G. Joseph/NSC/EOP [NSC]), Daniel Fried (Daniel Fried/NSC/EOP [NSC]), Jendayi E. Frazer (Jendayi E. Frazer/NSC/EOP [NSC]), Charles Conner (Charles Conner/OPD/EOP [OPD]), John B. Bellinger (John B. Bellinger/NSC/EOP [NSC]), George M. Andricos (George M. Andricos/NSC/EOP [NSC]), Elliott Abrams (Elliott Abrams/NSC/EOP [NSC]), Anna M. Perez

(Anna M. Perez/NSC/EOP [NSC]), John A. Gordon (John A. Gordon/NSC/EOP [NSC]), Linda M. Gambatesa (Linda M. Gambatesa/WHO/EOP@Exchange [WHO]), Lewis Libby (Lewis Libby/OVP/EOP [OVP]), Stephen J. Hadley (Stephen J. Hadley/NSC/EOP [NSC]), Tevi Troy (Tevi Troy/WHO/EOP@Exchange [WHO]), Kristen Silverberg (Kristen Silverberg/WHO/EOP@Exchange [WHO]), Sean B. O'Hollaren (Sean B. O'Hollaren/WHO /EOP@Exchange [WHO]), Robert Marsh (Robert Marsh/WHO/EOP@Exchange [WHO]), Elan Liang (Elan Liang/WHO/EOP@Exchange [WHO]), Matthew Kirk (Matthew Kirk/WHO /EOP@Exchange [WHO]), Joel D. Kaplan (Joel D. Kaplan/WHO/EOP@Exchange [WHO]), Richard Falkenrath (Richard Falkenrath/WHO/EOP@Exchange [WHO]), Christopher C. Cox (Christopher C. Cox/WHO/EOP@Exchange [WHO]), Kirsten A. Chadwick (Kirsten A. Chadwick/WHO/EOP@Exchange [WHO]), Christine M. Burgeson (Christine M. Burgeson/WHO/EOP@Exchange [WHO]), Claire E. Buchan (Claire E. Buchan/WHO /EOP@Exchange [WHO]), Brian D. Montgomery (Brian D. Montgomery/WHO /EOP@Exchange [WHO]), David G. Leitch (David G. Leitch/WHO/EOP@Exchange [WHO]), Daniel J. Keniry (Daniel J. Keniry/WHO/EOP@Exchange [WHO]), Keith Hennessey (Keith Hennessey/OPD/EOP@Exchange [OPD]), Suzy DeFrancis (Suzy DeFrancis/WHO /EOP@Exchange [WHO]), Charles S. Abbot (Charles S. Abbot/WHO/EOP@Exchange [WHO]), Margaret M. Spellings (Margaret M. Spellings/OPD/EOP@Exchange [OPD]), Dina Powell (Dina Powell/WHO/EOP@Exchange [WHO]), David W. Hobbs (David W. Hobbs/WHO /EOP@Exchange [WHO]), Alberto R. Gonzales (Alberto R. Gonzales/WHO/EOP@Exchange [WHO]), Stephen Friedman (Stephen Friedman/OPD/EOP@Exchange [OPD]), Andrew H. Card (Andrew H. Card/WHO/EOP@Exchange [WHO]), Daniel J. Bartlett (Daniel J. Bartlett/WHO/EOP@Exchange [WHO]), Colleen Litkenhaus (Colleen Litkenhaus/WHO /EOP@Exchange [WHO]), Tim Campen (Tim Campen/OA/EOP@Exchange [UNKNOWN]), Michael H. Miller (Michael H. Miller/WHO/EOP@Exchange [WHO]), Bradley A. Blakeman (Bradley A. Blakeman/WHO/EOP@Exchange [WHO])

Sent: 5/12/2003 8:10:53 AM

Subject: : POSTMASTER - TOPOFF 2 Exercise

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME:12-MAY-2003 12:10:53.00
SUBJECT:: POSTMASTER - TOPOFF 2 Exercise
BCC:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
BCC:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Karin B. Torgerson ( CN=Karin B. Torgerson/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
BCC:Scott N. Sforza ( CN=Scott N. Sforza/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Matthew Scully ( CN=Matthew Scully/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Matthew A. Schlapp ( CN=Matthew A. Schlapp/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
BCC:Desiree T. Sayle ( CN=Desiree T. Sayle/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Liza Wright ( CN=Liza Wright/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Brian Reardon ( CN=Brian Reardon/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
BCC:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Brian Peterman ( CN=Brian Peterman/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Eric C. Pelletier ( CN=Eric C. Pelletier/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
BCC:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
```

BCC:Noam M. Neusner (CN=Noam M. Neusner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Heidi M. Smith (CN=Heidi M. Smith/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Lindsey C. Kozberg (CN=Lindsey C. Kozberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:David Higbee (CN=David Higbee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Adam B. Goldman (CN=Adam B. Goldman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:David Dunn (CN=David Dunn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Amy Jensen (CN=Amy Jensen/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Ronald I. Christie (CN=Ronald I. Christie/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Jonathan W. Burks (CN=Jonathan W. Burks/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Jennifer R. Brosnahan (CN=Jennifer R. Brosnahan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Todd W. Beyer (CN=Todd W. Beyer/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Brian R. Besanceney (CN=Brian R. Besanceney/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Kenneth Bernard (CN=Kenneth Bernard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

BCC:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:William D. Badger (CN=William D. Badger/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Michael Allen (CN=Michael Allen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Ziad S. Ojakli (CN=Ziad S. Ojakli/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:John P. McConnell (CN=John P. McConnell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
BCC:Gregory J. Jenkins (CN=Gregory J. Jenkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Tucker A. Eskew (CN=Tucker A. Eskew/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Faryar Shirzad (CN=Faryar Shirzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Thomas A. Shannon Jr. (CN=Thomas A. Shannon Jr./OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Gregory L. Schulte (CN=Gregory L. Schulte/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Zalmay M. Khalilzad (CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN

BCC:Lindsey C. Kozberg (CN=Lindsey C. Kozberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:John A. Gordon (CN=John A. Gordon/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP [OVP])
READ:UNKNOWN
BCC:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Tevi Troy (CN=Tevi Troy/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Sean B. O'Hollaren (CN=Sean B. O'Hollaren/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Elan Liang (CN=Elan Liang/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Christopher C. Cox (CN=Christopher C. Cox/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Christine M. Burgeson (CN=Christine M. Burgeson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
BCC:Suzy DeFrancis (CN=Suzy DeFrancis/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Charles S. Abbot (CN=Charles S. Abbot/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
BCC:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN

BCC:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Stephen Friedman (CN=Stephen Friedman/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
BCC:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Tim Campen (CN=Tim Campen/OU=OA/O=EOP@Exchange [UNKNOWN])
READ:UNKNOWN
BCC:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

For your information, during the week of May 12, 2003, the Department of Homeland Security will hold TOPOFF 2, a national Weapons of Mass Destruction (WMD) exercise. The scenario for TOPOFF 2 includes a simulated radiological dispersion device (RDD) detonation in Seattle and a bioterrorism attack in Chicago. TOPOFF 2 is the second in a series of directed domestic counterterrorism exercises. Planning for this exercise began in June 2000. The exercise will focus on the nation,s response capabilities including pharmaceutical stockpile distribution procedures, law enforcement intervention techniques, detection and decontamination capabilities, and national incident management mechanisms. Participants include twenty-five Federal agencies, numerous state and local government entities, and 76 hospitals. Canada will also participate.

The White House role is not a primary training focus for TOPOFF 2. White House exercise participation will not impact normal White House operations. A simulated news network, the Virtual News Network (VNN), will be broadcast to exercise participants to keep them informed of events taking place in the exercise.

For questions, please contact Jim Kish of the Homeland Security Council (6-2276).

From: CN=Layton Skelly/OU=OPD/O=EOP [OPD]

To: Jeffrey F. Kupfer/WHO/EOP@Exchange@EOP [WHO] <Jeffrey F. Kupfer>;hazucker@osophs.dhhs.gov [UNKNOWN] <hazucker@osophs.dhhs.gov>;dana ackerly/cea/eop@eop [CEA] <dana ackerly>;brian r. besanceney/who/eop@eop [WHO] <brian r. besanceney>;zurawski-paul@dol.gov @ inet [UNKNOWN] <zurawski-paul@dol.gov @ inet>;thomas c. deleire/cea/eop@eop [CEA] <thomas c. deleire>;jay p. lefkowitz/opd /eop@exchange@eop [OPD] <jay p. lefkowitz>;amy jensen/who/eop@exchange@eop [WHO] <amy jensen>;jennifer.young@hhs.gov @ inet [UNKNOWN] <jennifer.young@hhs.gov @ inet>;alex.azar@hhs.gov @ inet [UNKNOWN] <alex.azar@hhs.gov @ inet>;peter.urbanowicz@hhs.gov @ inet [UNKNOWN] <peter.urbanowicz@hhs.gov @ inet>;philo d. hall/opd/eop@eop [OPD] <philo d. hall>;Stephen M. Lineberry/WHO/EOP@EOP [WHO] <Stephen M. Lineberry>;jafar.karim@hhs.gov [UNKNOWN] <jafar.karim@hhs.gov>;rex cowdry/opd/eop@eop [OPD] <rex cowdry>;marc.kesselman@usdoj.gov @ inet [UNKNOWN] <marc.kesselman@usdoj.gov @ inet>;tracy young/who/eop@eop [WHO] <tracy young>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;philip j. perry/omb/eop@eop [OMB] <philip j. perry>;ginger g. loper/who/eop@exchange@eop [WHO] <ginger g. loper>;diana l. schacht/opd/eop@eop [OPD] <diana l. schacht>;john.hoff@hhs.gov @ inet [UNKNOWN] <john.hoff@hhs.gov @ inet>;viet.dinh@usdoj.gov @ inet [UNKNOWN] <viet.dinh@usdoj.gov @ inet>;paula.stannard@hhs.gov @ inet [UNKNOWN] <paula.stannard@hhs.gov @ inet>;alan gilbert/opd/eop@eop [OPD] <alan gilbert>

CC: tcordaro@osophs.dhhs.gov [UNKNOWN] <tcordaro@osophs.dhhs.gov>;carla b. stone/omb /eop@eop [OMB] <carla b. stone>;heather.mcnaught@usdoj.gov [UNKNOWN] <heather.mcnaught@usdoj.gov>;india.luckett@hhs.gov [UNKNOWN] <india.luckett@hhs.gov>;lauren j. vestewig/opd/eop@exchange@eop [OPD] <lauren j. vestewig>;marie.belt@hhs.gov [UNKNOWN] <marie.belt@hhs.gov>;pamela.roller@hhs.gov [UNKNOWN] <pamela.roller@hhs.gov>;Layton Skelly/OPD/EOP@EOP [OPD] <Layton Skelly>;hrobowski-rosita@dol.gov [UNKNOWN] <hrobowski-rosita@dol.gov>;stephanie.wilson@hhs.gov [UNKNOWN] <stephanie.wilson@hhs.gov>;scriver-langford-lat@dol.gov @ inet [UNKNOWN] <scriver-langford-lat@dol.gov @ inet>;dana.ceasar@hhs.gov [UNKNOWN] <dana.ceasar@hhs.gov>;emily winland/opd/eop@eop [OPD] <emily winland>;joyce.b-moore@hhs.gov [UNKNOWN] <joyce.b-moore@hhs.gov>;wendy j. grubbs/who/eop@exchange [WHO] <wendy j. grubbs>

Sent: 5/12/2003 11:51:38 AM

Subject: : NO Medical Liability Working Group tomorrow

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Layton Skelly ( CN=Layton Skelly/OU=OPD/O=EOP [ OPD ] )
CREATION DATE/TIME:12-MAY-2003 15:51:38.00
SUBJECT:: NO Medical Liability Working Group tomorrow
TO:Jeffrey F. Kupfer ( CN=Jeffrey F. Kupfer/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:hazucker@osophs.dhhs.gov ( hazucker@osophs.dhhs.gov [ UNKNOWN ] )
READ:UNKNOWN
TO:dana ackerly ( CN=dana ackerly/OU=cea/O=eop@eop [ CEA ] )
READ:UNKNOWN
TO:brian r. besanceney ( CN=brian r. besanceney/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
TO:zurawski-paul@dol.gov @ inet ( zurawski-paul@dol.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:thomas c. deleire ( CN=thomas c. deleire/OU=cea/O=eop@eop [ CEA ] )
READ:UNKNOWN
TO:jay p. lefkowitz ( CN=jay p. lefkowitz/OU=opd/O=eop@exchange@eop [ OPD ] )
READ:UNKNOWN
TO:amy jensen ( CN=amy jensen/OU=who/O=eop@exchange@eop [ WHO ] )
READ:UNKNOWN
TO:jennifer.young@hhs.gov @ inet ( jennifer.young@hhs.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:alex.azar@hhs.gov @ inet ( alex.azar@hhs.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
TO:peter.urbanowicz@hhs.gov @ inet ( peter.urbanowicz@hhs.gov @ inet [ UNKNOWN ] )
READ:UNKNOWN
```

TO:philo d. hall (CN=philo d. hall/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
TO:Stephen M. Lineberry (CN=Stephen M. Lineberry/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:jafar.karim@hhs.gov (jafar.karim@hhs.gov [UNKNOWN])
READ:UNKNOWN
TO:rex cowdry (CN=rex cowdry/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
TO:marc.kesselman@usdoj.gov @ inet (marc.kesselman@usdoj.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:tracy young (CN=tracy young/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
TO:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
TO:philip j. perry (CN=philip j. perry/OU=omb/O=eop@eop [OMB])
READ:UNKNOWN
TO:ginger g. loper (CN=ginger g. loper/OU=who/O=eop@exchange@eop [WHO])
READ:UNKNOWN
TO:diana l. schacht (CN=diana l. schacht/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
TO:john.hoff@hhs.gov @ inet (john.hoff@hhs.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:viet.dinh@usdoj.gov @ inet (viet.dinh@usdoj.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:paula.stannard@hhs.gov @ inet (paula.stannard@hhs.gov @ inet [UNKNOWN])
READ:UNKNOWN
TO:alan gilbert (CN=alan gilbert/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
CC:tcordaro@osophs.dhhs.gov (tcordaro@osophs.dhhs.gov [UNKNOWN])
READ:UNKNOWN
CC:carla b. stone (CN=carla b. stone/OU=omb/O=eop@eop [OMB])
READ:UNKNOWN
CC:heather.mcnaught@usdoj.gov (heather.mcnaught@usdoj.gov [UNKNOWN])
READ:UNKNOWN
CC:india.luckett@hhs.gov (india.luckett@hhs.gov [UNKNOWN])
READ:UNKNOWN
CC:lauren j. vestewig (CN=lauren j. vestewig/OU=opd/O=eop@exchange@eop [OPD])
READ:UNKNOWN
CC:marie.belt@hhs.gov (marie.belt@hhs.gov [UNKNOWN])
READ:UNKNOWN
CC:pamela.roller@hhs.gov (pamela.roller@hhs.gov [UNKNOWN])
READ:UNKNOWN
CC:Layton Skelly (CN=Layton Skelly/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
CC:hrobowski-rosita@dol.gov (hrobowski-rosita@dol.gov [UNKNOWN])
READ:UNKNOWN
CC:stephanie.wilson@hhs.gov (stephanie.wilson@hhs.gov [UNKNOWN])
READ:UNKNOWN
CC:scriver-langford-lat@dol.gov @ inet (scriver-langford-lat@dol.gov @ inet [UNKNOWN])
READ:UNKNOWN
CC:dana.ceasar@hhs.gov (dana.ceasar@hhs.gov [UNKNOWN])
READ:UNKNOWN
CC:emily winland (CN=emily winland/OU=opd/O=eop@eop [OPD])
READ:UNKNOWN
CC:joyce.b-moore@hhs.gov (joyce.b-moore@hhs.gov [UNKNOWN])
READ:UNKNOWN
CC:wendy j. grubbs (CN=wendy j. grubbs/OU=who/O=eop@exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

There will be no Medical Liability working group meeting or call
tomorrow. Thank you.

Layton

From: Leitch, David G.
To: <Kavanaugh, Brett M.>
Sent: 5/12/2003 4:26:27 PM
Subject: RE:
Attachments: 08[1].jpg

Need your picture here:

<<08[1].jpg>>

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Monday, May 12, 2003 12:34 PM
To: Gonzales, Alberto R.; Leitch, David G.; Nelson, Carolyn
Subject:

Posted on Sat, May. 10, 2003

Gay GOP Group Readies for 2004 Elections
Associated Press

WASHINGTON - A gay Republicans group says it is trying to get beyond the flap over Sen. Rick Santorum's derogatory remarks about homosexual behavior, yet it is that very controversy that helped double the attendance at its annual convention.

Comments by the conservative Republican from Pennsylvania, the GOP takeover of the Senate last year and the upcoming presidential race were the main topics that lured more than 200 people to the Log Cabin Republicans' annual convention, which ends here Saturday night. That's more than twice the attendance of last year's meeting.

Santorum has been a center of attention since an April 7 interview with The Associated Press in which he brought up a pending Supreme Court case over a Texas sodomy law and likened gay behavior to incest and polygamy.

"It was a reminder to all that we had work to do," Patrick Guerriero, director of the group, said Saturday about the increased attendance.

On Friday, about 200 gay members of the GOP met for more than an hour with three White House officials at the Eisenhower Executive Office Building - Joseph O'Neill, the White House AIDS czar, Brett Kavanaugh, associate White House counsel, and Holly Kuzmich, associate director of the White House domestic policy council.

Ken Lisaius, a White House spokesman, downplayed the meeting, saying it was one of many policy meetings requested by groups looking for ways to further the president's initiatives. The group talked about AIDS, education and judicial nominees for the federal bench, he said.

Guerriero said the Bush administration has invited gay Republicans to discussions about AIDS, judicial nominations and other policy issues. Still, the Log Cabin Republicans believe the White House could have distanced itself further from the Santorum controversy.

"If we were completely satisfied that the Republican Party was as inclusive as we wished, we would cease to exist," Guerriero said. "It's obvious that the issue of inclusiveness in the Republican Party is going to be a major issue."

An estimated 1 million gay and lesbian Americans voted for President Bush in 2000, he said. The gay Republicans attending the annual convention, complete with get-out-the-vote workshops and congressional briefings, are convinced that gays and lesbians, if they don't vote for Bush, could be partly responsible for "losing the White House," he said.



From: Kirk Blalock <kblalock@fierce-isakowitz.com>
To: Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/12/2003 12:47:54 PM
Subject: : Congress Daily on Grassley, Nickles
Attachments: P_P2SCG003_WHO.TXT_1.html

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kirk Blalock <kblalock@fierce-isakowitz.com> (Kirk Blalock <kblalock@fierce-isakowitz.com> [UNKNOWN])
CREATION DATE/TIME:12-MAY-2003 16:47:54.00
SUBJECT:: Congress Daily on Grassley, Nickles
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

JUDICIARY
Budget, Finance Chairmen May Oppose Hatch Asbestos Bill
Legislation expected this week from Senate Judiciary Chairman Hatch aimed at reforming the compensation system for asbestos-related injuries may face opposition from Senate budgeters and tax writers who are concerned about provisions in the bill that fall under their jurisdictions, sources said. The legislation is partly the product of intense private-sector negotiations that the Judiciary panel has been overseeing with the goal of finding a way to limit companies' liability while providing adequate compensation to victims. As envisioned by Hatch, the legislation would establish a $108 billion trust fund to compensate victims of asbestos-related illnesses. Companies' contributions to the fund would be tax deductible, while the payments to victims would be tax exempt. "Those tax ramifications belong in Finance, not Judiciary," a GOP source said. "That's just not Chairman Hatch's prerogative."Finance Chairman Grassley , has yet to see specifics of how the trust fund would work, but expects tax provisions to move through his committee, a Grassley spokeswoman said. "Since Chairman Hatch is a senior member of Finance, we anticipate being able to work through those issues with him," she said. Grassley is also a senior member of the Judiciary panel.

The legislation may also sound alarms among members of the Budget Committee, sources said. The bill will probably call for the establishment of a separate court system and possibly an administrative body to oversee the compensation program.

Backers of the legislation have yet to estimate the costs of those elements, and they were not provided for in the FY04 budget resolution, sources noted, making the bill subject to a point of order. Budget Chairman Nickles earlier this year introduced his own more-limited asbestos bill that called for stand-alone medical criteria to evaluate claims of asbestos injuries.

Scrutiny from the Budget and Finance panels could complicate an already tortured process of shaping the bill, sources close to the negotiations said. The opposition could fade once a bill is finalized and Hatch vets it with his fellow committee chairmen, one lobbyist said. Until now, Hatch has been focused on working with Democrats on Judiciary so he could get a bill he could move, the lobbyist said. A closely held draft of Hatch's legislation has begun circulating to some offices of members of the Judiciary panel. The draft omits some key details still being hammered out, such as

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_P2SCG003_WHO.TXT_1>

JUDICIARY
Budget, Finance Chairmen May Oppose Hatch Asbestos Bill

Legislation expected this week from Senate Judiciary Chairman Hatch aimed at reforming the compensation system for asbestos-related injuries may face opposition from Senate budgeters and tax writers who are concerned about provisions in the bill that fall under their jurisdictions, sources said. The legislation is partly the product of intense private-sector negotiations that the Judiciary panel has been overseeing with the goal of finding a way to limit companies' liability while providing adequate compensation to victims. As envisioned by Hatch, the legislation would establish a $108 billion trust fund to compensate victims of asbestos-related illnesses. Companies' contributions to the fund would be tax deductible, while the payments to victims would be tax exempt. "Those tax ramifications belong in Finance, not Judiciary," a GOP source said. "That's just not Chairman Hatch's prerogative."Finance Chairman Grassley , has yet to see specifics of how the trust fund would work, but expects tax provisions to move through his committee, a Grassley spokeswoman said. "Since Chairman Hatch is a senior member of Finance, we anticipate being able to work through those issues with him," she said. Grassley is also a senior member of the Judiciary panel.

The legislation may also sound alarms among members of the Budget Committee, sources said. The bill will probably call for the establishment of a separate court system and possibly an administrative body to oversee the compensation program.

Backers of the legislation have yet to estimate the costs of those elements, and they were not provided for in the FY04 budget resolution, sources noted, making the bill subject to a point of order. Budget Chairman Nickles earlier this year introduced his own more-limited asbestos bill that called for stand-alone medical criteria to evaluate claims of asbestos injuries.

&nb sp; Scrutiny from the Budget and Finance panels could complicate an already tortured process of shaping the bill, sources close to the negotiations said. The opposition could fade once a bill is finalized and Hatch vets it with his fellow committee chairmen, one lobbyist said. Until now, Hatch has been focused on working with Democrats on Judiciary so he could get a bill he could move, the lobbyist said. A closely held draft of Hatch's legislation has begun circulating to some offices of members of the Judiciary panel. The draft omits some key details still being hammered out, such as

From: Kirk Blalock <kblalock@fierce-isakowitz.com>
To: Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/12/2003 12:47:59 PM
Subject: : Congress Daily on Grassley, Nickles
Attachments: P_Z2SCG003_OPD.TXT_1.html

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kirk Blalock <kblalock@fierce-isakowitz.com> (Kirk Blalock <kblalock@fierce-isakowitz.com> [UNKNOWN])
CREATION DATE/TIME:12-MAY-2003 16:47:59.00
SUBJECT:: Congress Daily on Grassley, Nickles
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

JUDICIARY
Budget, Finance Chairmen May Oppose Hatch Asbestos Bill
Legislation expected this week from Senate Judiciary Chairman Hatch aimed at reforming the compensation system for asbestos-related injuries may face opposition from Senate budgeters and tax writers who are concerned about provisions in the bill that fall under their jurisdictions, sources said. The legislation is partly the product of intense private-sector negotiations that the Judiciary panel has been overseeing with the goal of finding a way to limit companies' liability while providing adequate compensation to victims. As envisioned by Hatch, the legislation would establish a $108 billion trust fund to compensate victims of asbestos-related illnesses. Companies' contributions to the fund would be tax deductible, while the payments to victims would be tax exempt. "Those tax ramifications belong in Finance, not Judiciary," a GOP source said. "That's just not Chairman Hatch's prerogative."Finance Chairman Grassley , has yet to see specifics of how the trust fund would work, but expects tax provisions to move through his committee, a Grassley spokeswoman said. "Since Chairman Hatch is a senior member of Finance, we anticipate being able to work through those issues with him," she said. Grassley is also a senior member of the Judiciary panel.

The legislation may also sound alarms among members of the Budget Committee, sources said. The bill will probably call for the establishment of a separate court system and possibly an administrative body to oversee the compensation program.

Backers of the legislation have yet to estimate the costs of those elements, and they were not provided for in the FY04 budget resolution, sources noted, making the bill subject to a point of order. Budget Chairman Nickles earlier this year introduced his own more-limited asbestos bill that called for stand-alone medical criteria to evaluate claims of asbestos injuries.

Scrutiny from the Budget and Finance panels could complicate an already tortured process of shaping the bill, sources close to the negotiations said. The opposition could fade once a bill is finalized and Hatch vets it with his fellow committee chairmen, one lobbyist said. Until now, Hatch has been focused on working with Democrats on Judiciary so he could get a bill he could move, the lobbyist said. A closely held draft of Hatch's legislation has begun circulating to some offices of members of the Judiciary panel. The draft omits some key details still being hammered out, such as

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_Z2SCG003_OPD.TXT_1>

JUDICIARY
Budget, Finance Chairmen May Oppose Hatch Asbestos Bill

Legislation expected this week from Senate Judiciary Chairman Hatch aimed at reforming the compensation system for asbestos-related injuries may face opposition from Senate budgeters and tax writers who are concerned about provisions in the bill that fall under their jurisdictions, sources said. The legislation is partly the product of intense private-sector negotiations that the Judiciary panel has been overseeing with the goal of finding a way to limit companies' liability while providing adequate compensation to victims. As envisioned by Hatch, the legislation would establish a $108 billion trust fund to compensate victims of asbestos-related illnesses. Companies' contributions to the fund would be tax deductible, while the payments to victims would be tax exempt. "Those tax ramifications belong in Finance, not Judiciary," a GOP source said. "That's just not Chairman Hatch's prerogative."Finance Chairman Grassley , has yet to see specifics of how the trust fund would work, but expects tax provisions to move through his committee, a Grassley spokeswoman said. "Since Chairman Hatch is a senior member of Finance, we anticipate being able to work through those issues with him," she said. Grassley is also a senior member of the Judiciary panel.

The legislation may also sound alarms among members of the Budget Committee, sources said. The bill will probably call for the establishment of a separate court system and possibly an administrative body to oversee the compensation program.

Backers of the legislation have yet to estimate the costs of those elements, and they were not provided for in the FY04 budget resolution, sources noted, making the bill subject to a point of order. Budget Chairman Nickles earlier this year introduced his own more-limited asbestos bill that called for stand-alone medical criteria to evaluate claims of asbestos injuries.

&nb sp; Scrutiny from the Budget and Finance panels could complicate an already tortured process of shaping the bill, sources close to the negotiations said. The opposition could fade once a bill is finalized and Hatch vets it with his fellow committee chairmen, one lobbyist said. Until now, Hatch has been focused on working with Democrats on Judiciary so he could get a bill he could move, the lobbyist said. A closely held draft of Hatch's legislation has begun circulating to some offices of members of the Judiciary panel. The draft omits some key details still being hammered out, such as

From: CN=David S. Addington/OU=OVP/O=EOP [OVP]
To: John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/12/2003 2:42:04 PM
Subject: :

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP [OVP])
CREATION DATE/TIME:12-MAY-2003 18:42:04.00
SUBJECT::
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett and John:

You may already know of this decision, but if not--

Smith ex rel Smith v. Islamic Emirate of Afghanstan, 2003 WL 21027170 (SDNY May 7, 2003) granted money damages against al Qaeda and Iraq based on September 11, 2001 victim injuries.

From: CN=David S. Addington/OU=OVP/O=EOP [OVP]
To: John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/12/2003 2:42:04 PM
Subject: :

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP [OVP])
CREATION DATE/TIME:12-MAY-2003 18:42:04.00
SUBJECT::
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett and John:

You may already know of this decision, but if not--

Smith ex rel Smith v. Islamic Emirate of Afghanstan, 2003 WL 21027170 (SDNY May 7, 2003) granted money damages against al Qaeda and Iraq based on September 11, 2001 victim injuries.

From: CN=Brian Reardon/OU=OPD/O=EOP [OPD]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/12/2003 2:49:45 PM
Subject: : Re:

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brian Reardon (CN=Brian Reardon/OU=OPD/O=EOP [OPD])
CREATION DATE/TIME:12-MAY-2003 18:49:45.00
SUBJECT:: Re:
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

The smart money is on next week... We'll need to get them ready for a second declaration.

.

----- Original Message -----
From:Brett M. Kavanaugh/WHO/EOP
To:Brian Reardon/OPD/EOP@EOP
Cc:
Date: 05/12/2003 06:44:40 PM
Subject:

Understand Senate will vote this week on debt ceiling, correct?

From: Bumatay, Patrick J.
To: <Kavanaugh, Brett M.>
Sent: 5/13/2003 9:50:30 AM
Subject: Out of Office AutoReply: draft JSC agenda

I will be out of the office from May 8, 2003 to May 13, 2003.

If you need to reach the Counsel's office, please call 456-2632.

If this is an LRM, please email Carrie Nelson (cnelson@who.eop.gov)

Thank you.

From: CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;David G. Leitch/WHO/EOP@Exchange [WHO] <David G. Leitch>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;Benjamin A. Powell/WHO /EOP@EOP [WHO] <Benjamin A. Powell>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>
CC: Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>;Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>
Sent: 5/13/2003 6:40:20 AM
Subject: : Staff Meeting

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:13-MAY-2003 10:40:20.00
SUBJECT:: Staff Meeting
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
CC:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
CC:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

There will not be a staff meeting on Memorial Day (Monday, May 26).
Thanks!
```

From: MacEcevic, Lisa J.
To: <Kavanaugh, Brett M.>;<Warsh, Kevin>;<Schacht, Diana L.>;<Bloomquist, Lauren E.>;<Boden, James>;<Schwartz, Kenneth L.>;<Kupfer, Jeffrey F.>
CC: <Green, Richard E.>;<Jukes, James J.>;<Joseffer, Daryl L.>
Sent: 5/13/2003 11:29:08 AM
Subject: Re: Thursday hearing on class action bill - HR1115
Attachments: Class Action Bills Descriptions.doc; Classac18.let.wpd; HR 1115 Introduced.doc; S 274 - HR1115 Comparison.doc; S 274 - HR2341 Comparison.doc

Justice is testifying at this hearing. They advise their testimony will closely mirror the attached letter they sent last year on HR2341.

- Classac18.let.wpd <>

I'll send out the testimony for your review as soon as I receive it.

From: Lisa J. Macecevic on 05/12/2003 08:55:06 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: Thursday hearing on class action bill - HR1115

Thursday, May 15, 10 am, 2141 Rayburn

House Judiciary Committee hearing on H.R. 1115 - Class Action Fairness Act of 2003

<

>

Here's the earlier information I passed along - comparing HR1115 to S274, although S274 as you know has been changed by committee. (I still don't have reported text yet of S. 274)

From: Lisa J. Macecevic on 04/03/2003 01:41:25 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: See the distribution list at the bottom of this message

Subject: FYI - Class Action Bills

FYI, here is some basic information on class action bills from the 107th and 108th Congress:

In the 107th - the Senate introduced S. 1712 and the House passed H.R. 2341.

In the 108th - the Senate has introduced S.274 and the House H.R. 1115.

S. 274, which was scheduled to be marked up this morning by the Senate Judiciary Committee, is, for all practical purposes, identical to S.1712 from the 107th.

H.R. 1115 from this Congress is a mix between the last years House bill and the Senate bills.

The Administration issued a SAP strongly supporting H.R. 2341 in March 2002. Here is a link to the SAP: http://www.whitehouse.gov/omb/legislative/sap/107-2/HR2341-r.html

I have attached a side-by-side comparison of S. 274 (as introduced), H.R. 1115 (as introduced), and H.R. 2341 (as passed the House in the 107th), as well as individual comparisons so you can track the exact word changes between the bills if so desired. Also, below, are several recent stories on the topic. (I will update this information if necessary based on what happens in today's markup.) I hope you find this helpful.

Comparison Chart:

<>

Red-line, strike-through comparisons of bills one-on-one:

<> <>

~~Message Sent To:~~

~~Brett M. Kavanaugh/WHO/EOP@EOP~~

~~Kevin Warsh/OPD/EOP@EOP~~

~~Diana L. Schacht/OPD/EOP@EOP~~

~~Lauren E. Bloomquist/OMB/EOP@EOP~~

~~James Boden/OMB/EOP@EOP~~

~~Kenneth L. Schwartz/OMB/EOP@EOP~~

~~Richard E. Green/OMB/EOP@EOP~~

~~James J. Jukes/OMB/EOP@EOP~~

U.S. Department of Justice

Office of Legislative Affairs

Washington, D.C. 20530

The Honorable F. James Sensenbrenner, Jr.
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20510

Dear Mr. Chairman:

This letter presents the views of the Department of Justice on H.R. 2341, the "Class Action Fairness Act of 2001" (counterpart to S. 1712 in the Senate). We appreciate your timely consideration of this important measure. The Department and the Administration support both of these bills.

Class action abuses have taken a toll on our legal system. All too often, class actions represent a lawyer's rush to the courthouse in order to select the most favorable State forum before other, duplicative actions purporting to represent the same class with the same claims are filed in other States. In essence, it becomes a race for the attorneys to see who among them can settle his or her case the fastest, thereby getting any attorneys' fees and binding all class members in perpetuity. In addition, this race to the preferred State courthouse results in class action filings in jurisdictions known for generous awards (and thus settlements). The resolution of these class actions in State court results in the first State to adjudicate a claim imposing its laws on class members from other States and on those other States themselves, which may have similar actions pending. Such interstate litigation is exactly that for which diversity jurisdiction sought to provide a Federal forum, preventing bias against out-of-State defendants and out-of-State plaintiff class members.

H.R. 2341 would close the gap in diversity jurisdiction that has resulted from the interpretation and application of diversity requirements in the unique class action world. The bill would prevent attorneys from avoiding removal through artful pleading that eliminates full diversity or minimizes the claimed damages of the individual class members, actions that fail to serve the plaintiff class members and actions that prejudice the defendants.

Sections 4 and 5 of the bill provide much needed amendments to Federal diversity jurisdiction and removal procedures that would permit, but not require, removal by any class member and any defendant in actions where minimal diversity existed and the total amount in controversy totaled at least $2 million. The Department fully supports this change, which

REV_00166497

recognizes the Federal interest in such significant litigation. In addition, providing for consistent and uniform Federal adjudication of these claims will protect States and their citizens from other State courts' legal rulings from which there is no recourse.

Section 3, entitled "Class Action Bill of Rights and Improved Procedures for Interstate Class Actions," would establish long needed protections for class members whose rights are often being adjudicated by lawyers not of their choosing and in fora with which the class members have no connection, where settlements are, in effect, imposed on class members. Too often class members receive notices of class action settlement proposals that are too confusing to provide useful notice about the proposed settlement. This section appropriately would guard against settlements that were unreasonable or even harmful to individual class members by providing for thorough review by the courts. To ensure that class members receive adequate information, this section would establish more specific pleading requirements in appropriate circumstances and require settlement notices provided to class members to be in plain English and in a specified, easy-to-read format.

Section 6 would permit immediate appeal of class certification decisions but – avoiding concerns voiced about previous legislation – would not encourage or permit the destruction of documents or other evidence during the appeal of the certification decision. On the contrary, discovery would be stayed under this section unless it was necessary to preserve evidence. Thus, immediate appeal of certification decisions would be crucial to efficient management of class actions and to permit the re-filing of a proper class action or the filing of an individual action.

Opponents of class action reform similar to H.R. 2341 (such as H.R. 1875, passed by the House in the previous Congress), incorrectly assert that the expansion of Federal diversity jurisdiction infringes on State courts and will result in a flood of class action litigation in Federal courts. Such criticism overlooks both the valid interest Federal courts have in cases that involve interstate commerce and defendants and plaintiffs from many States, as well as the inefficiency that duplication in State courts causes in the current system. The Constitution's provision for diversity jurisdiction was intended to prevent just the sort of local biases that have resulted from State court class actions that often award higher settlements to in-State class members and award unsupportable damages against out-of-State defendants. The unique circumstances of class actions, a modern phenomenon, could not have been foreseen when section 1332 was initially enacted.

In sum, H.R. 2341 is an important step in reforming class action litigation. It would update diversity jurisdiction appropriately to account for class action litigation, while permitting State court actions to proceed in cases where no party sought removal and in specified circumstances involving a relatively small class where the primary defendants were within the State. Thus, State courts would be able to offer redress and provide a convenient forum for their citizens, while Federal courts would provide a forum for those class actions involving parties from numerous States.

As a result of the Department's review of H.R. 2341, we do have some suggested technical amendments, particularly with respect to sections 3 and 4, that we would be happy to

REV_00166498

discuss with the members of the Committee.

Thank you for this opportunity to present our views. We greatly appreciate your efforts in support of meaningful class action reform. Please do not hesitate to call upon us if we may be of further assistance. The Office of Management and Budget has advised us that from the standpoint of the Administration's program, there is no objection to submission of this letter.

Sincerely,

Daniel J. Bryant
Assistant Attorney General

cc: The Honorable John Conyers, Jr.
Ranking Minority Member

REV_00166499

HR 1115 IH

108th CONGRESS
1st Session
H. R. 1115

To amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

March 6, 2003

Mr. GOODLATTE (for himself, Mr. BOUCHER, Mr. SENSENBRENNER, Mr. MORAN of Virginia, Mr. SMITH of Texas, Mr. STENHOLM, Mr. DELAY, Mr. DOOLEY of California, Mr. HYDE, Mr. HOLDEN, Mr. COX, and Mr. CRAMER) introduced the following bill; which was referred to the Committee on the Judiciary

---

A BILL

To amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE- This Act may be cited as the `Class Action Fairness Act of 2003'.
(b) REFERENCE- Whenever in this Act reference is made to an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

(c) TABLE OF CONTENTS- The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Consumer class action bill of rights and improved procedures for interstate class actions.
Sec. 4. Federal district court jurisdiction of interstate class actions.
Sec. 5. Removal of interstate class actions to Federal district court.
Sec. 6. Appeals of class action certification orders.
Sec. 7. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS- The Congress finds as follows:

(1) Class action lawsuits are an important and valuable part of our legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.

(2) Over the past decade, there have been abuses of the class action device that have--

(A) harmed class members with legitimate claims and defendants that have acted responsibly;

(B) adversely affected interstate commerce; and

(C) undermined public respect for the judicial system in the United States.

(3) Class members have been harmed by a number of actions taken by plaintiffs' lawyers, which provide little or no benefit to class members as a whole, including--

(A) plaintiffs' lawyers receiving large fees, while class members are left with coupons or other awards of little or no value;

(B) unjustified rewards being made to certain plaintiffs at the expense of other class members; and

(C) the publication of confusing notices that prevent class members from being able to fully understand and effectively exercise their rights.

(4) Through the use of artful pleading, plaintiffs are able to avoid litigating class actions in Federal court, forcing businesses and other organizations to defend interstate class action lawsuits in county and State courts where--

(A) the lawyers, rather than the claimants, are likely to receive the maximum benefit;

(B) less scrutiny may be given to the merits of the case; and

(C) defendants are effectively forced into settlements, in order to avoid the possibility of huge judgments that could destabilize their companies.

(5) These abuses undermine the Federal judicial system, the free flow of interstate commerce, and the intent of the framers of the Constitution in creating diversity jurisdiction, in that county and State courts are--

(A) handling interstate class actions that affect parties from many States;

(B) sometimes acting in ways that demonstrate bias against out-of-State defendants; and

(C) making judgments that impose their view of the law on other States and bind the rights of the residents of those States.

(6) Abusive interstate class actions have harmed society as a whole by forcing innocent parties to settle cases rather than risk a huge judgment by a local jury, thereby costing consumers billions of dollars in increased costs to pay for forced settlements and excessive judgments.

(b) PURPOSES- The purposes of this Act are--

(1) to assure fair and prompt recoveries for class members with legitimate claims;

(2) to protect responsible companies and other institutions against interstate class actions in State courts;

(3) to restore the intent of the framers of the Constitution by providing for Federal court consideration of interstate class actions; and

(4) to benefit society by encouraging innovation and lowering consumer prices.

SEC. 3. CONSUMER CLASS ACTION BILL OF RIGHTS AND IMPROVED PROCEDURES FOR INTERSTATE CLASS ACTIONS.

(a) IN GENERAL- Part V is amended by inserting after chapter 113 the following:

`CHAPTER 114--CLASS ACTIONS

`Sec.
`1711. Judicial scrutiny of coupon and other noncash settlements.
`1712. Protection against loss by class members.
`1713. Protection against discrimination based on geographic location.
`1714. Prohibition on the payment of bounties.
`1715. Clearer and simpler settlement information.
`1716. Definitions.

`Sec. 1711. Judicial scrutiny of coupon and other noncash settlements

`The court may approve a proposed settlement under which the class members would receive noncash benefits or would otherwise be required to expend funds in order to obtain part or all of the proposed benefits only after a hearing to determine whether, and making a written finding that, the settlement is fair, reasonable, and adequate for class members.

`Sec. 1712. Protection against loss by class members

`The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court makes a written finding that nonmonetary benefits to the class member outweigh the monetary loss.

`Sec. 1713. Protection against discrimination based on geographic location

`The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

`Sec. 1714. Prohibition on the payment of bounties

`(a) IN GENERAL- The court may not approve a proposed settlement that provides for the payment of a greater share of the award to a class representative serving on behalf of a class, on the basis of the formula for distribution to all other class members, than that awarded to the other class members.
`(b) RULE OF CONSTRUCTION- The limitation in subsection (a) shall not be construed to prohibit any payment approved by the court for reasonable time or costs that a person was required to expend in fulfilling his or her obligations as a class representative.

`Sec. 1715. Clearer and simpler settlement information

`(a) PLAIN ENGLISH REQUIREMENTS- Any court with jurisdiction over a plaintiff class action shall require that any written notice concerning a proposed settlement of the class action provided to the class through the mail or publication in printed media contain--

`(1) at the beginning of such notice, a statement in 18-point Times New Roman type or other functionally similar type, stating `LEGAL NOTICE: YOU ARE A PLAINTIFF IN A CLASS ACTION LAWSUIT AND YOUR LEGAL RIGHTS ARE AFFECTED BY THE SETTLEMENT DESCRIBED IN THIS NOTICE.'; and
`(2) a short summary written in plain, easily understood language, describing--

`(A) the subject matter of the class action;
`(B) the members of the class;
`(C) the legal consequences of being a member of the class;
`(D) if the notice is informing class members of a proposed settlement agreement--

`(i) the benefits that will accrue to the class due to the settlement;

`(ii) the rights that class members will lose or waive through the settlement;
`(iii) obligations that will be imposed on the defendants by the settlement;
`(iv) the dollar amount of any attorney's fee class counsel will be seeking, or if not possible, a good faith estimate of the dollar amount of any attorney's fee class counsel will be seeking; and
`(v) an explanation of how any attorney's fee will be calculated and funded; and

`(E) any other material matter.

`(b) TABULAR FORMAT- Any court with jurisdiction over a plaintiff class action shall require that the information described in subsection (a)--

`(1) be placed in a conspicuous and prominent location on the notice;
`(2) contain clear and concise headings for each item of information; and
`(3) provide a clear and concise form for stating each item of information required to be disclosed under each heading.

`(c) TELEVISION OR RADIO NOTICE- Any notice provided through television or radio (including transmissions by cable or satellite) to inform the class members in a class action of the right of each member to be excluded from the class action or a proposed settlement of the class action, if such right exists, shall, in plain, easily understood language--

`(1) describe the persons who may potentially become class members in the class action; and
`(2) explain that the failure of a class member to exercise his or her right to be excluded from a class action will result in the person's inclusion in the class action or settlement.

`Sec. 1716. Definitions

`In this chapter--

`(1) CLASS ACTION- The term `class action' means any civil action filed in a district court of the United States pursuant to rule 23 of the Federal

Rules of Civil Procedure or any civil action that is removed to a district court of the United States that was originally filed pursuant to a State statute or rule of judicial procedure authorizing an action to be brought by one or more representatives on behalf of a class.

`(2) CLASS COUNSEL- The term `class counsel' means the persons who serve as the attorneys for the class members in a proposed or certified class action.
`(3) CLASS MEMBERS- The term `class members' means the persons who fall within the definition of the proposed or certified class in a class action.

`(4) PLAINTIFF CLASS ACTION- The term `plaintiff class action' means a class action in which class members are plaintiffs.

`(5) PROPOSED SETTLEMENT- The term `proposed settlement' means an agreement that resolves claims in a class action, that is subject to court approval, and that, if approved, would be binding on the class members.'.

(b) TECHNICAL AND CONFORMING AMENDMENT- The table of chapters for part V is amended by inserting after the item relating to chapter 113 the following:

--1711'.

SEC. 4. FEDERAL DISTRICT COURT JURISDICTION OF INTERSTATE CLASS ACTIONS.

(a) APPLICATION OF FEDERAL DIVERSITY JURISDICTION- Section 1332 is amended--

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

`(d)(1) In this subsection--

`(A) the term `class' means all of the class members in a class action;

`(B) the term `class action' means any civil action filed pursuant to rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by one or more representative persons on behalf of a class;

`(C) the term `class certification order' means an order issued by a court approving the treatment of a civil action as a class action; and

`(D) the term `class members' means the persons who fall within the definition of the proposed or certified class in a class action.

`(2) The district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs, and is a class action in which--

`(A) any member of a class of plaintiffs is a citizen of a State different from any defendant;

`(B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or

`(C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.

`(3) Paragraph (2) shall not apply to any civil action in which--

`(A)(i) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed; and

`(ii) the claims asserted therein will be governed primarily by the laws of the State in which the action was originally filed;

`(B) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or

`(C) the number of proposed plaintiff class members is less than 100.

`(4) In any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs.

`(5) This subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.

`(6)(A) A district court shall dismiss any civil action that is subject to the jurisdiction of the court solely under this subsection if the court determines the action may not proceed as a class action based on a failure to satisfy the requirements of rule 23 of the Federal Rules of Civil Procedure.

`(B) Nothing in subparagraph (A) shall prohibit plaintiffs from filing an amended class action in Federal court or filing an action in State court, except that any such action filed in State court may be removed to the appropriate district court if it is an action of which the district courts of the United States have original jurisdiction.

`(C) In any action that is dismissed under this paragraph and is filed by any of the original named plaintiffs therein in the same State court venue in which the dismissed action was originally filed, the limitations periods on all reasserted claims shall be deemed tolled for the period during which the dismissed class action was pending. The limitations periods on any claims that were asserted in a class action dismissed under this paragraph that are subsequently asserted in an individual action shall be deemed tolled for the period during which the dismissed action was pending.

`(7) Paragraph (2) shall not apply to any class action brought by shareholders that solely involves a claim that relates to--

`(A) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

`(B) the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

`(C) the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).

`(8) For purposes of this subsection and section 1453 of this title, an unincorporated association shall be deemed

to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.

`(9) For purposes of this section and section 1453 of this title, a civil action that is not otherwise a class action as defined in paragraph (1)(B) of this subsection shall nevertheless be deemed a class action if--

`(A) the named plaintiff purports to act for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeks a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general; or

`(B) monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact.

In any such case, the persons who allegedly were injured shall be treated as members of a proposed plaintiff class and the monetary relief that is sought shall be treated as the claims of individual class members. The provisions of paragraphs (3) and (6) of this subsection and subsections (b)(2) and (d) of section 1453 shall not apply to civil actions described under subparagraph (A). The provisions of paragraph (6) of this subsection, and subsections (b)(2) and (d) of section 1453 shall not apply to civil actions described under subparagraph (B).'.

(b) CONFORMING AMENDMENTS-

(1) Section 1335(a)(1) is amended by inserting `(a) or (d)' after `1332'.

(2) Section 1603(b)(3) is amended by striking `(d)' and inserting `(e)'.

SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FEDERAL DISTRICT COURT.

(a) IN GENERAL- Chapter 89 is amended by adding after section 1452 the following:

`Sec. 1453. Removal of class actions

`(a) DEFINITIONS- In this section, the terms `class', `class action', `class certification order', and `class member' have the meanings given these terms in section 1332(d)(1).

`(b) IN GENERAL- A class action may be removed to a district court of the United States in accordance with this chapter, without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed--

`(1) by any defendant without the consent of all defendants; or

`(2) by any plaintiff class member who is not a named or representative class member without the consent of all members of such class.

`(c) WHEN REMOVABLE- This section shall apply to any class action before or after the entry of a class certification order in the action, except that a plaintiff class member who is not a named or representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class member has been entered.

`(d) PROCEDURE FOR REMOVAL- The provisions of section 1446 relating to a defendant removing a case shall apply to a plaintiff removing a case under this section, except that in the application of subsection (b) of such section the requirement relating to the 30-day filing period shall be met if a plaintiff class member files notice of removal within 30 days after receipt by such class

member, through service or otherwise, of the initial written notice of the class action.

`(e) REVIEW OF ORDERS REMANDING CLASS ACTIONS TO STATE COURTS- The provisions of section 1447 shall apply to any removal of a case under this section, except that, notwithstanding the provisions of section 1447(d), an order remanding a class action to the State court from which it was removed shall be reviewable by appeal or otherwise.

`(f) EXCEPTION- This section shall not apply to any class action brought by shareholders that solely involves--

`(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

`(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

`(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).'.

(b) REMOVAL LIMITATION- Section 1446(b) is amended in the second sentence by inserting `(a)' after `section 1332'.

(c) TECHNICAL AND CONFORMING AMENDMENTS- The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following:

`1453. Removal of class actions.'.

SEC. 6. APPEALS OF CLASS ACTION CERTIFICATION ORDERS.

(a) IN GENERAL- Section 1292(a) is amended by inserting after paragraph (3) the following:

`(4) Orders of the district courts of the United States granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within 10 days after entry of the order.'.

(b) DISCOVERY STAY- All discovery and other proceedings shall be stayed during the pendency of any appeal taken pursuant to the amendment made by subsection (a), unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue prejudice to that party.

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action commenced on or after the date of the enactment of this Act.

END

House/107th	S. 274 - Introduced/108th	H.R. 1115 - Introduced/108th	H.R. 2341 - Passed
Consumer Class Action Bill of Rights and Improved Procedures for Interstate Class Actions (Sec. 3)	1. *Judicial Scrutiny of Coupon and Other Noncash Settlements*: Provide that Federal courts could approve proposed settlements in which class members receive non-cash benefits, but only after a hearing to determine whether the settlement is "fair, reasonable, and adequate." 2. *Protection against Loss by Class Members:* The court could also approve settlements in which any class member is obligated to pay sums to counsel that would result in a net loss to the class member, but only if the court finds that the non-monetary benefits to the class member *substantially* outweigh the monetary loss. 3. *Prohibition Against Discrimination Based on Geographic Location:* Provide that Federal courts could not approve a settlement that provides for larger payments to some class members based solely their being located in closer geographic proximity to the court hearing the case. 4. *Prohibition on Payment of Bounties*: Provide that the court cannot approve a larger share of the award payment to the plaintiff representing the class than that awarded to the other class members, but could approve payments to the representative for reasonable time and costs expended in fulfilling his or her obligations as a class representative. 5. *Clearer and Simpler Settlement Information*: Require that written notices sent by mail or published in print, as well as notices transmitted by television or radio, to class members concerning proposed	1. Same. 2. Same but without "substantially". 3. Same. 4. Minor editorial differences. 5. Minor editorial differences. 6. No provision. 7. No provision as in H.R. 2341. 8. No provision as in H.R. 2341	1. Same. 2. Same but without "substantially". 3. Same 4. Same as H.R. 1115. 5. Same as H.R. 1115. 6. No provision. 7. *Disclosure of Attorney's Fees* (requiring the disclosure of fees to the plaintiffs by the plaintiffs' attorney) 8. *Sunshine in Court Records*: (limiting the sealing, or subjection to a protective order, of such records)

	S. 274 - Introduced/108th	H.R. 1115 - Introduced/108th	H.R. 2341 - Passed
House/107th			
	settlements be written or transmitted in plain, easily understood language. The bill would also provide for a number of additional specific requirements for notices. 6. *Notifications to appropriate Federal and State Officials*: Require, within 10 days after a proposed settlement of a class action is filed in court, each defendant that is participating in the proposed settlement to serve upon the appropriate State official of each State in which a class member resides and the appropriate Federal official, a notice of the proposed settlement. 7. No provision as in H.R. 2341. 8. No provision as in H.R. 2341.		
Federal District Court Jurisdiction for Interstate Class Actions (Sec. 4)	Provide that Federal district courts would have original jurisdiction over any class-action lawsuits where the total claims exceed $2 million if any of the plaintiffs is a citizen of different State from any of the defendants, or either a plaintiff or a defendant resides in a foreign country. However, original jurisdiction would not apply in any action in which: (a) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed and the claims will be governed primarily by the laws of the State in which the action was originally filed; (b) the primary defendants are States, State officials, or other governmental entities against whom the Federal district court may be foreclosed from ordering relief; or (c) the number of plaintiff class members in the aggregate is less than 100. In addition, original jurisdiction would not apply to a class action that solely involves a claim related to certain securities or to the internal affairs or	Minor changes: • Definition of "class certification order" in H.R. 1115 means an order issued by a court approving the treatment of a civil action as a class action. In S. 274, it means …the treatment of some or all aspects of a civil action… • Definition of "class members" in H.R. 1115 means persons who fall within the definition of the proposed or certified class in a class action. In S. 274, it means …persons (named or unnamed)… • In H.R. 1115, original jurisdiction would not apply in which the number of proposed plaintiff class members is less than 100. In S. 274, it would not	Same as H.R. 1115.

	S. 274 - Introduced/108th	H.R. 1115 - Introduced/108th	H.R. 2341 - Passed
House/107th			
	governance of a corporation that arises under the laws of the State in which the corporation is incorporated.	apply in cases in which the number of members *in the aggregate* is less than 100. • In H.R. 1115, original jurisdiction would not apply to a class action brought by shareholders that solely involves a claim related to certain securities or to the internal affairs or governance of a corporation that arises under the laws of the State in which the corporation is incorporated. In S. 274, the distinction of *by shareholder*, is not made.	
Removal of Interstate Class Actions to Federal District Court (Sec. 5)	Provide that a class action could be removed from a State court to a Federal district court by any defendant without the consent of any other defendants; or by any plaintiff class member who is not a named or representative class member without the consent of any other members of the class. However, this authority for removal would not apply to a class action that solely involves a claim related to certain securities or to the internal affairs or governance of a corporation that arises under the laws of the State in which the corporation is incorporated. The Federal courts of appeals would have jurisdiction of appeals from orders of the Federal district courts granting or denying class certification, if notice of appeal is filed within 10 days after entry of the order. All discovery and other proceedings would be suspended while an appeal is pending, unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue	• Again, the distinction of *by shareholder* is not made in S. 274 in regard to situations when the authority for removal from State to Federal district court would not apply. H.R. 1115 provides that the authority for removal would not apply to a class action brought by shareholders… • Both S. 274 and H.R. 1115 state that these provisions apply to any class action before or after the entry of a class certification order in the action, however, H.R. 1115 further states that a plaintiff class member who is not a named representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class	Same as H.R. 1115.

	S. 274 - Introduced/108th	H.R. 1115 - Introduced/108th	H.R. 2341 - Passed House/107th
	prejudice to that party.	member has been entered.	
Report on Class Action Settlements	Require the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the AOUSC, within 12 months of enactment, to report to the House and Senate Judiciary Committees on class action settlements, including (1) recommendations on the best practices that courts can use to ensure that: proposed class action settlements are fair to the class members that the settlements are supposed to benefit; the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and (2) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.	No provision.	Minor change: • The bill specifies that the report would cover class action settlements *in the Federal courts*.
Appeals of Class Action Certification Orders	No provision.	Grants the courts of appeals jurisdiction of appeals from orders of the U.S. district courts granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within ten days after entry of the order.	Same.
Effective Date	Applies to any civil action commenced on or after the date of enactment.	Same.	Same.

S 274 108th Congress-Introduced in Senate (blue, underlined text)
as compared to
HR 1115 108th Congress-Introduced House ~~(red, strikethrough text)~~

To amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants~~, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions~~, and for other purposes.

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Class Action Fairness Act of 2003".

(b) REFERENCE.—Whenever in this Act reference is made to an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Consumer class action bill of rights and improved procedures for interstate class actions.
Sec. 4. Federal district court jurisdiction ~~of~~ for interstate class actions.
Sec. 5. Removal of interstate class actions to Federal district court.
Sec. 6. Report on class action settlements.
~~Sec. 6. Appeals of class action certification orders.~~
Sec. 7. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.— ~~The~~ Congress finds ~~as follows~~ the following:

(1) Class action lawsuits are an important and valuable part of the legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.

(2) Over the past decade, there have been abuses of the class action device that have—

(A) harmed class members with legitimate claims and defendants that have acted responsibly;

(B) adversely affected interstate commerce; and

(C) undermined public respect for ~~the~~ our judicial system ~~in the United States~~.

(3) Class members often receive little or no benefit from class actions, and are sometimes harmed, such as where ~~have been harmed by a number of actions taken by~~

~~plaintiffs' lawyers, which provide little or no benefit to class members as a whole, including —~~

(A) counsel are awarded large fees ~~plaintiffs' lawyers receiving large fees~~, while leaving class members with coupons or other awards of little or no value;

(B) unjustified awards are made to certain plaintiffs at the expense of other class members; and

(C) confusing notices are published ~~the publication of confusing notices~~ that prevent class members from being able to fully understand and effectively exercise their rights.

~~(4) Through the use of artful pleading, plaintiffs are able to avoid litigating class actions in Federal court, forcing businesses and other organizations to defend interstate class action lawsuits in county and State courts where —~~

~~(A) the lawyers, rather than the claimants, are likely to receive the maximum benefit;~~

~~(B) less scrutiny may be given to the merits of the case; and~~

~~(C) defendants are effectively forced into settlements, in order to avoid the possibility of huge judgments that could destabilize their companies.~~

~~(5) These abuses undermine the Federal judicial system, the free flow of interstate commerce, and the intent of the framers of the Constitution in creating diversity jurisdiction, in that county and State courts are —~~

~~(A) handling interstate class actions that affect parties from many States;~~

(4) Abuses in class actions undermine the national judicial system, the free flow of interstate commerce, and the concept of diversity jurisdiction as intended by the framers of the United States Constitution, in that State and local courts are—

(A) keeping cases of national importance out of Federal court;

(B) sometimes acting in ways that demonstrate bias against out-of-State defendants; and

(C) making judgments that impose their view of the law on other States and bind the rights of the residents of those States.

~~(6) Abusive interstate class actions have harmed society as a whole by forcing innocent parties to settle cases rather than risk a huge judgment by a local jury, thereby costing consumers billions of dollars in increased costs to pay for forced settlements and excessive judgments.~~

(b) PURPOSES.—The purposes of this Act are to—

(1) to assure fair and prompt recoveries for class members with legitimate claims;

(2) ~~(3)~~ to restore the intent of the framers of the United States Constitution by providing for Federal court consideration of interstate ~~class actions~~ cases of national importance under diversity jurisdiction; and

~~(2) to protect responsible companies and other institutions against interstate class actions in State courts;~~

(3) ~~(4)~~ to benefit society by encouraging innovation and lowering consumer prices.

SEC. 3. CONSUMER CLASS ACTION BILL OF RIGHTS AND IMPROVED PROCEDURES FOR INTERSTATE CLASS ACTIONS.

(a) IN GENERAL.—Part V is amended by inserting after chapter 113 the following:

"CHAPTER 114—CLASS ACTIONS

"Sec.

"1711 ~~1716~~. Definitions.
"1712 ~~1711~~. Judicial scrutiny of coupon and other noncash settlements.
"1713 ~~1712~~. Protection against loss by class members.
"1714 ~~1713~~. Protection against discrimination based on geographic location.
"1715 ~~1714~~. Prohibition on the payment of bounties.
"1716 ~~1715~~. Clearer and simpler settlement information.
"1717. Notifications to appropriate Federal and State officials.

"§ 1711 ~~1716~~. Definitions

"In this chapter:
"(1) CLASS.—The term 'class' means all of the class members in a class action.
"(2)~~(1)~~ CLASS ACTION.—The term 'class action' means any civil action filed in a district court of the United States ~~pursuant to~~ under rule 23 of the Federal Rules of Civil Procedure or any civil action that is removed to a district court of the United States that was originally filed under a State statute or rule of judicial procedure authorizing an action to be brought by ~~one~~ 1 or more representatives ~~on behalf of a class~~ as a class action.
"(3) ~~(2)~~ CLASS COUNSEL.—The term 'class counsel' means the persons who serve as the attorneys for the class members in a proposed or certified class action.
"(4)~~(3)~~ CLASS MEMBERS.—The term 'class members' means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.
"(5)~~(4)~~ PLAINTIFF CLASS ACTION.—The term 'plaintiff class action' means a class action in which class members are plaintiffs.
"(6)~~(5)~~ PROPOSED SETTLEMENT.—The term 'proposed settlement' means an agreement ~~that resolves claims in a class action,~~ regarding a class action that is subject to court approval and that, if approved, would be binding on some or all ~~the~~ class members.

"§ 1712~~1711~~. Judicial scrutiny of coupon and other noncash settlements

"The court may approve a proposed settlement under which the class members would receive noncash benefits or would otherwise be required to expend funds in order to obtain part or all of the proposed benefits only after a hearing to determine whether, and making a written finding that, the settlement is fair, reasonable, and adequate for class members.

"§ 1713~~1712~~. Protection against loss by class members

"The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court makes a written finding that nonmonetary benefits to the class member substantially outweigh the monetary loss.

"§ 1714~~1713~~. Protection against discrimination based on geographic location

"The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

"§ 1715 ~~1714~~. Prohibition on the payment of bounties

"(a) IN GENERAL.—The court may not approve a proposed settlement that provides for the payment of a greater share of the award to a class representative serving on behalf of a class, on the basis of the formula for distribution to all other class members, than that awarded to the other class members.

"(b) RULE OF CONSTRUCTION.—The limitation in subsection (a) shall not be construed to prohibit ~~any~~ a payment approved by the court for reasonable time or costs that a person was required to expend in fulfilling ~~his or her~~ the obligations of that person as a class representative.

"§ 1716~~1715~~. Clearer and simpler settlement information

"(a) PLAIN ENGLISH REQUIREMENTS.—Any court with jurisdiction over a plaintiff class action shall require that any written notice concerning a proposed settlement of the class action provided to the class through the mail or publication in printed media contain—

"(1) at the beginning of such notice, a statement in 18-point or ~~Times New Roman type or other functionally similar type~~ greater bold type, stating 'LEGAL NOTICE: YOU ARE A PLAINTIFF IN A CLASS ACTION LAWSUIT AND YOUR LEGAL RIGHTS ARE AFFECTED BY THE SETTLEMENT DESCRIBED IN THIS NOTICE.'; ~~and~~

"(2) a short summary written in plain, easily understood language, describing—

"(A) the subject matter of the class action;

"(B) the members of the class;

"(C) the legal consequences of being a member of the class action;

"(D) if the notice is informing class members of a proposed settlement agreement—

"(i) the benefits that will accrue to the class due to the settlement;

"(ii) the rights that class members will lose or waive through the settlement;

"(iii) obligations that will be imposed on the defendants by the settlement;

"(iv) the dollar amount of any attorney's fee class counsel will be seeking, or if not possible, a good faith estimate of the dollar amount of any attorney's fee class counsel will be seeking; and

"(v) an explanation of how any attorney's fee will be calculated and funded; and

"(E) any other material matter.

"(b) TABULAR FORMAT.—Any court with jurisdiction over a plaintiff class action shall require that the information described in subsection (a)—

"(1) be placed in a conspicuous and prominent location on the notice;

"(2) contain clear and concise headings for each item of information; and

"(3) provide a clear and concise form for stating each item of information required to be disclosed under each heading.

"(c) TELEVISION OR RADIO NOTICE.—Any notice provided through television or radio (including transmissions by cable or satellite) to inform the class members in a class action of the right of each member to be excluded from a ~~the~~ class action or a proposed settlement ~~of the class action~~, if such right exists, shall, in plain, easily understood language—

"(1) describe the persons who may potentially become class members in the class action; and

"(2) explain that the failure of a class member to exercise his or her right to be excluded from a class action will result in the person's inclusion in the class action ~~or settlement~~.

"§ 1717. Notifications to appropriate Federal and State officials

"(a) DEFINITIONS.—

"(1) APPROPRIATE FEDERAL OFFICIAL.—In this section, the term 'appropriate Federal official' means—

"(A) the Attorney General of the United States; or

"(B) in any case in which the defendant is a Federal depository institution, a State depository institution, a depository institution holding company, a foreign bank, or a nondepository institution subsidiary of the foregoing (as such terms are defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

"(2) APPROPRIATE STATE OFFICIAL.—In this section, the term 'appropriate State official' means the person in the State who has the primary regulatory or supervisory responsibility with respect to the defendant, or who licenses or otherwise authorizes the defendant to conduct business in the State, if some or all of the matters alleged in the class action are subject to regulation by that person. If there is no primary regulator, supervisor, or licensing authority, or the matters alleged in the class action are not subject to regulation or supervision by that person, then the appropriate State official shall be the State attorney general.

"(b) IN GENERAL.—Not later than 10 days after a proposed settlement of a class action is filed in court, each defendant that is participating in the proposed settlement shall serve upon the appropriate State official of each State in which a class member resides and the appropriate Federal official, a notice of the proposed settlement consisting of—

"(1) a copy of the complaint and any materials filed with the complaint and any amended complaints (except such materials shall not be required to be served if such materials are made electronically available through the Internet and such service includes notice of how to electronically access such material);

"(2) notice of any scheduled judicial hearing in the class action;

"(3) any proposed or final notification to class members of—

"(A)(i) the members' rights to request exclusion from the class action; or

"(ii) if no right to request exclusion exists, a statement that no such right exists; and

"(B) a proposed settlement of a class action;

"(4) any proposed or final class action settlement;

"(5) any settlement or other agreement contemporaneously made between class counsel and counsel for the defendants;

"(6) any final judgment or notice of dismissal;

"(7)(A) if feasible, the names of class members who reside in each State and the estimated proportionate share of the claims of such members to the entire settlement to that State's appropriate State official; or

"(B) if the provision of information under subparagraph (A) is not feasible, a reasonable estimate of the number of class members residing in each State and the estimated proportionate share of the claims of such members to the entire settlement; and

"(8) any written judicial opinion relating to the materials described under subparagraphs (3) through (6).

"(c) DEPOSITORY INSTITUTIONS NOTIFICATION.—

"(1) FEDERAL AND OTHER DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a Federal depository institution, a depository institution holding company, a foreign bank, or a non-depository institution subsidiary of the foregoing, the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

"(2) STATE DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a State depository institution (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the State bank supervisor (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) of the State in which the defendant is incorporated or chartered, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person, and upon the appropriate Federal official.

"(d) FINAL APPROVAL.—An order giving final approval of a proposed settlement may not be issued earlier than 90 days after the later of the dates on which the appropriate Federal official and the appropriate State official are served with the notice required under subsection (b).

"(e) NONCOMPLIANCE IF NOTICE NOT PROVIDED.—

"(1) IN GENERAL.—A class member may refuse to comply with and may choose not to be bound by a settlement agreement or consent decree in a class action if the class member demonstrates that the notice required under subsection (b) has not been provided.

"(2) LIMITATION.—A class member may not refuse to comply with or to be bound by a settlement agreement or consent decree under paragraph (1) if the notice required under subsection (b) was directed to the appropriate Federal official and to either the State attorney general or the person that has primary regulatory, supervisory, or licensing authority over the defendant.

"(3) APPLICATION OF RIGHTS.—The rights created by this subsection shall apply only to class members or any person acting on a class member's behalf, and shall not be construed to limit any other rights affecting a class member's participation in the settlement.

"(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to expand the authority of, or impose any obligations, duties, or responsibilities upon, Federal or State officials.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part V is amended by inserting after the item relating to chapter 113 the following:
"114. Class Actions
1711".

SEC. 4. FEDERAL DISTRICT COURT JURISDICTION ~~OF~~ FOR INTERSTATE CLASS ACTIONS.

(a) APPLICATION OF FEDERAL DIVERSITY JURISDICTION.—Section 1332 is amended—
(1) by redesignating subsection (d) as subsection (e); and
(2) by inserting after subsection (c) the following:
"(d)(1) In this subsection—
"(A) the term 'class' means all of the class members in a class action;
"(B) the term 'class action' means any civil action filed ~~pursuant to~~ under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by ~~one~~ 1 or more representative persons ~~on behalf of a class~~ as a class action;
"(C) the term 'class certification order' means an order issued by a court approving the treatment of some or all aspects of a civil action as a class action; and
"(D) the term 'class members' means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.
"(2) The district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs, and is a class action in which—
"(A) any member of a class of plaintiffs is a citizen of a State different from any defendant;
"(B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or
"(C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.
"(3) Paragraph (2) shall not apply to any civil action in which—
"(A)(i) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed; and
"(ii) the claims asserted therein will be governed primarily by the laws of the State in which the action was originally filed;
"(B) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or
"(C) the number of ~~proposed plaintiff class~~ members of all proposed plaintiff classes in the aggregate is less than 100

"(4) In any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs.

"(5) This subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.

"(6)(A) A district court shall dismiss any civil action that is subject to the jurisdiction of the court solely under this subsection if the court determines the action may not proceed as a class action based on a failure to satisfy the ~~requirements~~ prerequisites of rule 23 of the Federal Rules of Civil Procedure.

"(B) Nothing in subparagraph (A) shall prohibit plaintiffs from filing an amended class action in Federal court or filing an action in State court, except that any such action filed in State court may be removed to the appropriate district court if it is an action of which the district courts of the United States have original jurisdiction.

"(C) In any action that is dismissed under this paragraph and is filed by any of the original named plaintiffs therein in the same State court venue in which the dismissed action was originally filed, the limitations periods on all reasserted claims shall be deemed tolled for the period during which the dismissed class action was pending. The limitations periods on any claims that were asserted in a class action dismissed under this paragraph that are subsequently asserted in an individual action shall be deemed tolled for the period during which the dismissed action was pending.

"(7) Paragraph (2) shall not apply to any class action ~~brought by shareholders~~ that solely involves a claim ~~that relates to —~~

"(A) ~~a claim~~ concerning a covered security as defined under 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(B) that relates to the internal affairs or governance of a corporation or other form of business enterprise and that arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(C) that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).

"(8) For purposes of this subsection and section 1453 of this title, an unincorporated association shall be deemed to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.

"(9)(A) For purposes of this section and section 1453 of this title, a civil action that is not otherwise a class action as defined in paragraph (1)(B) ~~of this subsection~~ shall nevertheless be deemed a class action if—

"(i) ~~"(A)~~ the named plaintiff purports to act for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeks a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general; or

"(ii) ~~"(B)~~ monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact.

"(B)(i) In any ~~such case,~~ civil action described under subparagraph (A)(ii), the persons who allegedly were injured shall be treated as members of a proposed plaintiff class and

the monetary relief that is sought shall be treated as the claims of individual class members.

"(ii) ~~The provisions of~~ Paragraphs (3) and (6) of this subsection and subsections (b)(2) and (d) of section 1453 shall not apply to any civil actions described under subparagraph (A)~~(i).~~

"(iii) ~~The provisions of~~ Paragraph (6) of this subsection, and subsections (b)(2) and (d) of section 1453 shall not apply to any civil actions described under subparagraph (A)(ii). ~~(B).~~".

(b) CONFORMING AMENDMENTS.—

(1) Section 1335(a)(1) is amended by inserting "(a) or (d)" after "1332".

(2) Section 1603(b)(3) is amended by striking "(d)" and inserting "(e)".

SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FEDERAL DISTRICT COURT.

(a) IN GENERAL.—Chapter 89 is amended by adding after section 1452 the following:

"§ 1453. Removal of class actions

"(a) DEFINITIONS.—In this section, the terms 'class', 'class action', 'class certification order', and 'class member' shall have the meanings given such ~~these~~ terms under ~~in~~ section 1332(d)(1).

"(b) IN GENERAL.—A class action may be removed to a district court of the United States in accordance with this chapter, without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed—

"(1) by any defendant without the consent of all defendants; or

"(2) by any plaintiff class member who is not a named or representative class member without the consent of all members of such class.

"(c) WHEN REMOVABLE.—This section shall apply to any class action before or after the entry of a class certification order in the action~~, except that a plaintiff class member who is not a named or representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class member has been entered.~~

"(d) PROCEDURE FOR REMOVAL.— ~~The provisions of~~ Section 1446 relating to a defendant removing a case shall apply to a plaintiff removing a case under this section, except that in the application of subsection (b) of such section the requirement relating to the 30-day filing period shall be met if a plaintiff class member files notice of removal within 30 days after receipt by such class member, through service or otherwise, of the initial written notice of the class action.

"(e) REVIEW OF ORDERS REMANDING CLASS ACTIONS TO STATE COURTS.— ~~The provisions of~~ Section 1447 shall apply to any removal of a case under this section, except that notwithstanding section 1447(d), an order remanding a class action to the State court from which it was removed shall be reviewable by appeal or otherwise.

"(f) EXCEPTION.—This section shall not apply to any class action ~~brought by shareholders~~ that solely involves—

"(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).".

(b) REMOVAL LIMITATION.—Section 1446(b) is amended in the second sentence by inserting "(a)" after "section 1332".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following:
"1453. Removal of class actions.".

SEC. 6. REPORT ON CLASS ACTION SETTLEMENTS.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall prepare and transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report on class action settlements.

(b) CONTENT.—The report under subsection (a) shall contain—

(1) recommendations on the best practices that courts can use to ensure that proposed class action settlements are fair to the class members that the settlements are supposed to benefit;

(2) recommendations on the best practices that courts can use to ensure that—

(A) the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and

(B) the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and

(3) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.

(c) AUTHORITY OF FEDERAL COURTS.—Nothing in this section shall be construed to alter the authority of the Federal courts to supervise attorneys' fees.

~~**SEC. 6. APPEALS OF CLASS ACTION CERTIFICATION ORDERS.**~~

~~(a) IN GENERAL.—Section 1292(a) is amended by inserting after paragraph (3) the following:~~

~~"(4) Orders of the district courts of the United States granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within 10 days after entry of the order.".~~

~~(b) DISCOVERY STAY.—All discovery and other proceedings shall be stayed during the pendency of any appeal taken pursuant to the amendment made by subsection (a), unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue prejudice to that party.~~

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action commenced on or after the date of ~~the~~ enactment of this Act.

S 274 108th Congress-Introduced in Senate (blue, underlined text)
as compared to
HR 2341 107th Congress-Passed House ~~(red, strikethrough text)~~

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Class Action Fairness Act of 2003~~2~~".

(b) REFERENCE.—Whenever in this Act reference is made to an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Consumer class action bill of rights and improved procedures for interstate class actions.
Sec. 4. Federal district court jurisdiction for ~~of~~ interstate class actions.
of interstate class actions.
Sec. 5. Removal of interstate class actions to Federal district court.
~~Sec. 6. Appeals of class action certification orders.~~
Sec. 6~~7~~. Report on class action settlements.
Sec. 7~~8~~. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.— ~~The~~ Congress finds the following:

(1) Class action lawsuits are an important and valuable part of the legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.

(2) Over the past decade, there have been abuses of the class action device that have—

(A) harmed class members with legitimate claims and defendants that have acted responsibly~~, and that have thereby undermined public respect for our judicial system~~;

(B) adversely affected interstate commerce; and

(C) ~~that have thereby~~ undermined public respect for our judicial system.

(3) Class members often receive little or no benefit from class actions, and are sometimes harmed, such as where ~~have been harmed by a number of actions taken by plaintiffs' lawyers, which provide little or no benefit to class members as a whole, including —~~

(A) counsel are awarded large fees, while leaving class members ~~plaintiffs' lawyers receiving large fees, while class members~~ are left with coupons or other awards of little or no value;

(B) unjustified awards are ~~being~~ made to certain plaintiffs at the expense of other class members; and

(C) confusing notices are published that prevent class members ~~the publication of confusing notices that prevent class members~~ from being able to fully understand and effectively exercise their rights.

~~(4) Through the use of artful pleading, plaintiffs are able to avoid litigating class actions in Federal court, forcing businesses and other organizations to defend interstate class action lawsuits in county and State courts where—~~

~~(A) the lawyers, rather than the claimants, are likely to receive the maximum benefit;~~

~~(B) less scrutiny may be given to the merits of the case; and~~

~~(C) defendants are effectively forced into settlements, in order to avoid the possibility of huge judgments that could destabilize their companies.~~

~~(5) These abuses undermine our Federal system and the intent of the framers of the Constitution in creating diversity jurisdiction, in that county and State courts are—~~

~~(A) handling interstate class actions that affect parties from many States;~~

(4) Abuses in class actions undermine the national judicial system, the free flow of interstate commerce, and the concept of diversity jurisdiction as intended by the framers of the United States Constitution, in that State and local courts are—

(A) keeping cases of national importance out of Federal court;

(B) sometimes acting in ways that demonstrate bias against out-of-State defendants; and

(C) making judgments that impose their view of the law on other States and bind the rights of the residents of those States.

~~(6) Abusive interstate class actions have harmed society as a whole by forcing innocent parties to settle cases rather than risk a huge judgment by a local jury, thereby costing consumers billions of dollars in increased costs to pay for forced settlements and excessive judgments.~~

(b) PURPOSES.—The purposes of this Act are to—

(1) ~~to~~ assure fair and prompt recoveries for class members with legitimate claims;

~~(2) to protect responsible companies and other institutions against interstate class actions in State courts;~~

(2)~~(3)~~ ~~to~~ restore the intent of the framers of the United States Constitution by providing for Federal court consideration of interstate cases of national importance under diversity jurisdiction; and

(3)~~(4)~~ ~~to~~ benefit society by encouraging innovation and lowering consumer prices.

SEC. 3. CONSUMER CLASS ACTION BILL OF RIGHTS AND IMPROVED PROCEDURES FOR INTERSTATE CLASS ACTIONS.

(a) IN GENERAL.—Part V is amended by inserting after chapter 113 the following:

"CHAPTER 114—CLASS ACTIONS

"Sec.

"1711~~1718~~. Definitions.

"1712~~1711~~. Judicial scrutiny of coupon and other noncash settlements.
"1713~~1712~~. Protection against loss by class members.
"1714~~1713~~. Protection against discrimination based on geographic location.
"1715~~1714~~. Prohibition on the payment of bounties.
"1716~~1715~~. Clearer and simpler settlement information.
"1717. Notifications to appropriate Federal and State officials.
~~"1716. Disclosure of attorney's fees.~~
~~"1717. Sunshine in court records.~~

"§1711~~1718~~. Definitions

"In this chapter:
"(1) CLASS.—The term 'class' means all of the class members in a class action.
"(2)~~(1)~~ CLASS ACTION.—The term 'class action' means any civil action filed in a district court of the United States under rule 23 of the Federal Rules of Civil Procedure or any civil action that is removed to a district court of the United States that was originally filed under ~~pursuant to~~ a State statute or rule of judicial procedure authorizing an action to be brought by ~~one~~ 1 or more representatives ~~on behalf of~~ as a class action.
"(3)~~(2)~~ CLASS COUNSEL.—The term 'class counsel' means the persons who serve as the attorneys for the class members in a proposed or certified class action.
"(4)~~(3)~~ CLASS MEMBERS.—The term 'class members' means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.
"(5)~~(4)~~ PLAINTIFF CLASS ACTION.—The term 'plaintiff class action' means a class action in which class members are plaintiffs.
"(6)~~(5)~~ PROPOSED SETTLEMENT.—The term 'proposed settlement' means an agreement ~~that resolves claims in~~ regarding a class action that is subject to court approval and that, if approved, would be binding on ~~the~~ some or all class members

"§1712~~1711~~. Judicial scrutiny of coupon and other noncash settlements

"The court may approve a proposed settlement under which the class members would receive noncash benefits or would otherwise be required to expend funds in order to obtain part or all of the proposed benefits only after a hearing to determine whether, and making a written finding that, the settlement is fair, reasonable, and adequate for class members.

"§1713~~1712~~. Protection against loss by class members

"The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court makes a written finding that nonmonetary benefits to the class member substantially outweigh the monetary loss.

"§1714~~1713~~. Protection against discrimination based on geographic location

"The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

"§1715~~1714~~. Prohibition on the payment of bounties

"(a) IN GENERAL.—The court may not approve a proposed settlement that provides for the payment of a greater share of the award to a class representative serving on behalf of a class, on the basis of the formula for distribution to all other class members, than that awarded to the other class members.

"(b) RULE OF CONSTRUCTION.—The limitation in subsection (a) shall not be construed to prohibit ~~any~~ a payment approved by the court for reasonable time or costs that a person was required to expend in fulfilling ~~his or her~~ the obligations of that person as a class representative.

"§1716~~1715~~. Clearer and simpler settlement information

"(a) PLAIN ENGLISH REQUIREMENTS.—Any court with jurisdiction over a plaintiff class action shall require that any written notice concerning a proposed settlement of the class action provided to the class through the mail or publication in printed media contain—

"(1) at the beginning of such notice, a statement in 18-point ~~Times New Roman~~ or greater bold type ~~or other functionally similar type~~, stating 'LEGAL NOTICE: YOU ARE A PLAINTIFF IN A CLASS ACTION LAWSUIT AND YOUR LEGAL RIGHTS ARE AFFECTED BY THE SETTLEMENT DESCRIBED IN THIS NOTICE.';

"(2) a short summary written in plain, easily understood language, describing—

"(A) the subject matter of the class action;

"(B) the members of the class;

"(C) the legal consequences of being a member of the class action;

"(D) if the notice is informing class members of a proposed settlement agreement—

"(i) the benefits that will accrue to the class due to the settlement;

"(ii) the rights that class members will lose or waive through the settlement;

"(iii) obligations that will be imposed on the defendants by the settlement;

"(iv) the dollar amount of any attorney's fee class counsel will be seeking, or if not possible, a good faith estimate of the dollar amount of any attorney's fee class counsel will be seeking; and

"(v) an explanation of how any attorney's fee will be calculated and funded; and

"(E) any other material matter.

"(b) TABULAR FORMAT.—Any court with jurisdiction over a plaintiff class action shall require that the information described in subsection (a)—

"(1) be placed in a conspicuous and prominent location on the notice;

"(2) contain clear and concise headings for each item of information; and

"(3) provide a clear and concise form for stating each item of information required to be disclosed under each heading.

"(c) TELEVISION OR RADIO NOTICE.—Any notice provided through television or radio (including transmissions by cable or satellite) to inform the class members in a class action of the right of each member to be excluded from ~~the~~ a class action or a proposed settlement ~~of the class action~~, if such right exists, shall, in plain, easily understood language—

"(1) describe the persons who may potentially become class members in the class action; and

"(2) explain that the failure of a class member to exercise his or her right to be excluded from a class action will result in the person's inclusion in the class action ~~or settlement~~.

"§ 1717. Notifications to appropriate Federal and State officials

"(a) DEFINITIONS.—

"(1) APPROPRIATE FEDERAL OFFICIAL.—In this section, the term 'appropriate Federal official' means—

"(A) the Attorney General of the United States; or

"(B) in any case in which the defendant is a Federal depository institution, a State depository institution, a depository institution holding company, a foreign bank, or a nondepository institution subsidiary of the foregoing (as such terms are defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

"(2) APPROPRIATE STATE OFFICIAL.—In this section, the term 'appropriate State official' means the person in the State who has the primary regulatory or supervisory responsibility with respect to the defendant, or who licenses or otherwise authorizes the defendant to conduct business in the State, if some or all of the matters alleged in the class action are subject to regulation by that person. If there is no primary regulator, supervisor, or licensing authority, or the matters alleged in the class action are not subject to regulation or supervision by that person, then the appropriate State official shall be the State attorney general.

"(b) IN GENERAL.—Not later than 10 days after a proposed settlement of a class action is filed in court, each defendant that is participating in the proposed settlement shall serve upon the appropriate State official of each State in which a class member resides and the appropriate Federal official, a notice of the proposed settlement consisting of—

"(1) a copy of the complaint and any materials filed with the complaint and any amended complaints (except such materials shall not be required to be served if such materials are made electronically available through the Internet and such service includes notice of how to electronically access such material);

"(2) notice of any scheduled judicial hearing in the class action;

"(3) any proposed or final notification to class members of—

"(A)(i) the members' rights to request exclusion from the class action; or

"(ii) if no right to request exclusion exists, a statement that no such right exists; and

"(B) a proposed settlement of a class action;

"(4) any proposed or final class action settlement;

"(5) any settlement or other agreement contemporaneously made between class counsel and counsel for the defendants;

"(6) any final judgment or notice of dismissal;

"(7)(A) if feasible, the names of class members who reside in each State and the estimated proportionate share of the claims of such members to the entire settlement to that State's appropriate State official; or

"(B) if the provision of information under subparagraph (A) is not feasible, a reasonable estimate of the number of class members residing in each State and the estimated proportionate share of the claims of such members to the entire settlement; and

"(8) any written judicial opinion relating to the materials described under subparagraphs (3) through (6).

"(c) DEPOSITORY INSTITUTIONS NOTIFICATION.—

"(1) FEDERAL AND OTHER DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a Federal depository institution, a depository institution holding company, a foreign bank, or a non-depository institution subsidiary of the foregoing, the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

"(2) STATE DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a State depository institution (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the State bank supervisor (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) of the State in which the defendant is incorporated or chartered, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person, and upon the appropriate Federal official.

"(d) FINAL APPROVAL.—An order giving final approval of a proposed settlement may not be issued earlier than 90 days after the later of the dates on which the appropriate Federal official and the appropriate State official are served with the notice required under subsection (b).

"(e) NONCOMPLIANCE IF NOTICE NOT PROVIDED.—

"(1) IN GENERAL.—A class member may refuse to comply with and may choose not to be bound by a settlement agreement or consent decree in a class action if the class member demonstrates that the notice required under subsection (b) has not been provided.

"(2) LIMITATION.—A class member may not refuse to comply with or to be bound by a settlement agreement or consent decree under paragraph (1) if the notice required under subsection (b) was directed to the appropriate Federal official and to either the State attorney general or the person that has primary regulatory, supervisory, or licensing authority over the defendant.

"(3) APPLICATION OF RIGHTS.—The rights created by this subsection shall apply only to class members or any person acting on a class member's behalf, and shall not be construed to limit any other rights affecting a class member's participation in the settlement.

"(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to expand the authority of, or impose any obligations, duties, or responsibilities upon, Federal or State officials.".

~~**"§ 1716. Disclosure of attorney's fees**~~

~~"Any court with jurisdiction over a plaintiff class action shall require that, if there is a settlement of the class action or a judgment for the plaintiffs, the attorneys for the plaintiffs shall disclose to each plaintiff—~~
~~"(1) at the time when any payment or other award is transmitted to the plaintiff in accordance with the settlement of judgment, or~~
~~"(2) in a case in which no such payment or award is made to a plaintiff, at the time when notice of the final settlement or judgment is transmitted to such plaintiff,~~
~~the full amount of the attorney's fees charged by the attorneys for services rendered in the action.~~

~~**"§ 1717. Sunshine in court records**~~

~~"No order, opinion, or record of the court in the adjudication of a class action, including a record obtained through discovery, whether or not formally filed with the court, may be sealed or subjected to a protective order unless the court makes a finding of fact—~~
~~"(1) that the sealing or protective order is narrowly tailored, consistent with the protection of public health and safety, and is in the public interest; and~~
~~"(2) if the action by the court would prevent the disclosure of information, that disclosing the information is clearly outweighed by a specific and substantial interest in maintaining the confidentiality of such information.~~

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part V is amended by inserting after the item relating to chapter 113 the following:
"114. Class Actions
1711". SEC. 4. FEDERAL DISTRICT COURT JURISDICTION ~~OF~~ FOR INTERSTATE CLASS ACTIONS.

(a) APPLICATION OF FEDERAL DIVERSITY JURISDICTION.—Section 1332 is amended—
(1) by redesignating subsection (d) as subsection (e); and
(2) by inserting after subsection (c) the following:
"(d)(1) In this subsection—
"(A) the term 'class' means all of the class members in a class action;
"(B) the term 'class action' means any civil action filed ~~pursuant to~~ under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by ~~one~~ 1 or more representative persons ~~on behalf of a class~~ as a class action;
"(C) the term 'class certification order' means an order issued by a court approving the treatment of some or all aspects of a civil action as a class action; and

"(D) the term 'class members' means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.

"(2) The district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs, and is a class action in which—

"(A) any member of a class of plaintiffs is a citizen of a State different from any defendant;

"(B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or

"(C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.

"(3) Paragraph (2) shall not apply to any civil action in which—

"(A)(i) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed; and

"(ii) the claims asserted therein will be governed primarily by the laws of the State in which the action was originally filed;

"(B) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or

"(C) the number of ~~proposed plaintiff class~~ members of all proposed plaintiff classes in the aggregate is less than 100.

"(4) In any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs.

"(5) This subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.

"(6)(A) A district court shall dismiss any civil action that is subject to the jurisdiction of the court solely under this subsection if the court determines the action may not proceed as a class action based on a failure to satisfy the ~~requirements~~ prerequisites of rule 23 of the Federal Rules of Civil Procedure.

"(B) Nothing in subparagraph (A) shall prohibit plaintiffs from filing an amended class action in Federal court or filing an action in State court, except that any such action filed in State court may be removed to the appropriate district court if it is an action of which the district courts of the United States have original jurisdiction.

"(C) In any action that is dismissed under this paragraph and is filed by any of the original named plaintiffs therein in the same State court venue in which the dismissed action was originally filed, the limitations periods on all reasserted claims shall be deemed tolled for the period during which the dismissed class action was pending. The limitations periods on any claims that were asserted in a class action dismissed under this paragraph that are subsequently asserted in an individual action shall be deemed tolled for the period during which the dismissed action was pending.

"(7) Paragraph (2) shall not apply to any class action ~~brought by shareholders~~ that solely involves a claim ~~that relates to —~~

"(A) ~~a claim~~ concerning a covered security as defined under 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(B) that relates to the internal affairs or governance of a corporation or other form of business enterprise and that arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(C) that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).

"(8) For purposes of this subsection and section 1453 of this title, an unincorporated association shall be deemed to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.

"(9)(A) For purposes of this section and section 1453 of this title, a civil action that is not otherwise a class action as defined in paragraph (1)(B) ~~of this subsection~~ shall nevertheless be deemed a class action if—

"(i) ~~"(A)~~ the named plaintiff purports to act for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeks a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general; or

"(ii) ~~"(B)~~ monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact.

"(B)(i) In any ~~such case~~ civil action described under subparagraph (A)(ii), the persons who allegedly were injured shall be treated as members of a proposed plaintiff class and the monetary relief that is sought shall be treated as the claims of individual class members.

"(ii) ~~The provisions of p~~Paragraphs (3) and (6) of this subsection and subsections (b)(2) and (d) of section 1453 shall not apply to any civil action~~s~~ described under subparagraph (A)(i).

"(iii) ~~The provisions of p~~Paragraph (6) of this subsection, and subsections (b)(2) and (d) of section 1453 shall not apply to any civil action~~s~~ described under subparagraph (A)(ii) ~~(B)~~.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1335(a)(1) is amended by inserting "(a) or (d)" after "1332".

(2) Section 1603(b)(3) is amended by striking "(d)" and inserting "(e)".

SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FEDERAL DISTRICT COURT.

(a) IN GENERAL.—Chapter 89 is amended by adding after section 1452 the following:

"§ 1453. Removal of class actions

"(a) DEFINITIONS.—In this section, the terms 'class', 'class action', 'class certification order', and 'class member' shall have the meanings given ~~these~~ such terms ~~in~~ under section 1332(d)(1).

"(b) IN GENERAL.—A class action may be removed to a district court of the United States in accordance with this chapter, without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed—

"(1) by any defendant without the consent of all defendants; or

"(2) by any plaintiff class member who is not a named or representative class member without the consent of all members of such class.

"(c) WHEN REMOVABLE.—This section shall apply to any class action before or after the entry of a class certification order in the action~~, except that a plaintiff class member who is not a named or representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class member has been entered~~.

"(d) PROCEDURE FOR REMOVAL.— ~~The provisions of s~~Section 1446 relating to a defendant removing a case shall apply to a plaintiff removing a case under this section, except that in the application of subsection (b) of such section the requirement relating to the 30-day filing period shall be met if a plaintiff class member files notice of removal within 30 days after receipt by such class member, through service or otherwise, of the initial written notice of the class action.

"(e) REVIEW OF ORDERS REMANDING CLASS ACTIONS TO STATE COURTS.— ~~The provisions of s~~Section 1447 shall apply to any removal of a case under this section, except that~~,~~ notwithstanding ~~the provisions of~~ section 1447(d), an order remanding a class action to the State court from which it was removed shall be reviewable by appeal or otherwise.

"(f) EXCEPTION.—This section shall not apply to any class action ~~brought by shareholders~~ that solely involves—

"(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).".

(b) REMOVAL LIMITATION.—Section 1446(b) is amended in the second sentence by inserting "(a)" after "section 1332".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following:
"1453. Removal of class actions.".

~~**SEC. 6. APPEALS OF CLASS ACTION CERTIFICATION ORDERS.**~~

~~(a) IN GENERAL.—Section 1292(a) is amended by inserting after paragraph (3) the following:~~

~~"(4) Orders of the district courts of the United States granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within 10 days after entry of the order.".~~

~~(b) DISCOVERY STAY.—All discovery and other proceedings shall be stayed during the pendency of any appeal taken pursuant to the amendment made by subsection (a), unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue prejudice to that party.~~

SEC. 6~~7~~. REPORT ON CLASS ACTION SETTLEMENTS.

(a) IN GENERAL.—Not later than 12 months after the date of ~~the~~ enactment of this Act, the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall prepare and transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report on class action settlements ~~in the Federal courts~~.

(b) CONTENT.—The report under subsection (a) shall contain—

(1) recommendations on the best practices that courts can use to ensure that proposed class action settlements are fair to the class members ~~whom~~ that the settlements are supposed to benefit;

(2) recommendations on the best practices that courts can use to ensure that—

(A) the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and

(B) the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and

(3) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.

(c) AUTHORITY OF FEDERAL COURTS.—Nothing in this section shall be construed to alter the authority of the Federal courts to supervise attorney's' fees.

SEC. 7~~8~~. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action commenced on or after the date of ~~the~~ enactment of this Act.

From:	CN=Lisa J. Macecevic/OU=OMB/O=EOP [OMB]
To:	kenneth l. schwartz/omb/eop@eop [OMB] <kenneth l. schwartz>;lauren e. bloomquist/omb /eop@eop [OMB] <lauren e. bloomquist>;kevin warsh/opd/eop@eop [OPD] <kevin warsh>;Jeffrey F. Kupfer/WHO/EOP@Exchange@EOP [WHO] <Jeffrey F. Kupfer>;james boden/omb/eop@eop [OMB] <james boden>;diana l. schacht/opd/eop@eop [OPD] <diana l. schacht>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>
CC:	James J. Jukes/OMB/EOP@EOP [OMB] <James J. Jukes>;Daryl L. Joseffer/OMB /EOP@EOP [OMB] <Daryl L. Joseffer>;Richard E. Green/OMB/EOP@EOP [OMB] <Richard E. Green>
Sent:	5/13/2003 7:29:45 AM
Subject:	: Re: Thursday hearing on class action bill - HR1115
Attachments:	P_ITHDG003_OPD.TXT_1.doc; P_ITHDG003_OPD.TXT_2.doc; P_ITHDG003_OPD.TXT_3.doc; P_ITHDG003_OPD.TXT_4.doc; P_ITHDG003_OPD.TXT_5.wpd

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Lisa J. Macecevic ( CN=Lisa J. Macecevic/OU=OMB/O=EOP [ OMB ] )
CREATION DATE/TIME:13-MAY-2003 11:29:45.00
SUBJECT:: Re: Thursday hearing on class action bill - HR1115
TO:kenneth l. schwartz ( CN=kenneth l. schwartz/OU=omb/O=eop@eop [ OMB ] )
READ:UNKNOWN
TO:lauren e. bloomquist ( CN=lauren e. bloomquist/OU=omb/O=eop@eop [ OMB ] )
READ:UNKNOWN
TO:kevin warsh ( CN=kevin warsh/OU=opd/O=eop@eop [ OPD ] )
READ:UNKNOWN
TO:Jeffrey F. Kupfer ( CN=Jeffrey F. Kupfer/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:james boden ( CN=james boden/OU=omb/O=eop@eop [ OMB ] )
READ:UNKNOWN
TO:diana l. schacht ( CN=diana l. schacht/OU=opd/O=eop@eop [ OPD ] )
READ:UNKNOWN
TO:brett m. kavanaugh ( CN=brett m. kavanaugh/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:James J. Jukes ( CN=James J. Jukes/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
CC:Daryl L. Joseffer ( CN=Daryl L. Joseffer/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
CC:Richard E. Green ( CN=Richard E. Green/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Justice is testifying at this hearing. They advise their testimony will
closely mirror the attached letter they sent last year on HR2341.
- Classac18.let.wpd
I'll send out the testimony for your review as soon as I receive it.



From: Lisa J. Macecevic on 05/12/2003 08:55:06 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Thursday hearing on class action bill - HR1115

Thursday, May 15, 10 am, 2141 Rayburn
House Judiciary Committee hearing on H.R. 1115 - Class Action Fairness Act
of 2003

Here's the earlier information I passed along - comparing HR1115 to S274,
although S274 as you know has been changed by committee. (I still don't
have reported text yet of S. 274)
```

From: Lisa J. Macecevic on 04/03/2003 01:41:25 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: FYI - Class Action Bills

FYI, here is some basic information on class action bills from the 107th and 108th Congress:
In the 107th - the Senate introduced S. 1712 and the House passed H.R. 2341.
In the 108th - the Senate has introduced S.274 and the House H.R. 1115. S. 274, which was scheduled to be marked up this morning by the Senate Judiciary Committee, is, for all practical purposes, identical to S.1712 from the 107th.
H.R. 1115 from this Congress is a mix between the last years House bill and the Senate bills.
The Administration issued a SAP strongly supporting H.R. 2341 in March 2002. Here is a link to the SAP:
http://www.whitehouse.gov/omb/legislative/sap/107-2/HR2341-r.html

I have attached a side-by-side comparison of S. 274 (as introduced), H.R. 1115 (as introduced), and H.R. 2341 (as passed the House in the 107th), as well as individual comparisons so you can track the exact word changes between the bills if so desired. Also, below, are several recent stories on the topic. (I will update this information if necessary based on what happens in today's markup.) I hope you find this helpful.

Comparison Chart:

Red-line, strike-through comparisons of bills one-on-one:

Message Sent
To:_____
Brett M. Kavanaugh/WHO/EOP@EOP
Kevin Warsh/OPD/EOP@EOP
Diana L. Schacht/OPD/EOP@EOP
Lauren E. Bloomquist/OMB/EOP@EOP
James Boden/OMB/EOP@EOP
Kenneth L. Schwartz/OMB/EOP@EOP
Richard E. Green/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ITHDG003_OPD.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ITHDG003_OPD.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ITHDG003_OPD.TXT_3>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ITHDG003_OPD.TXT_4>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ITHDG003_OPD.TXT_5>

HR 1115 IH

108th CONGRESS
1st Session
H. R. 1115

To amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

March 6, 2003

Mr. GOODLATTE (for himself, Mr. BOUCHER, Mr. SENSENBRENNER, Mr. MORAN of Virginia, Mr. SMITH of Texas, Mr. STENHOLM, Mr. DELAY, Mr. DOOLEY of California, Mr. HYDE, Mr. HOLDEN, Mr. COX, and Mr. CRAMER) introduced the following bill; which was referred to the Committee on the Judiciary

---

A BILL

To amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE- This Act may be cited as the `Class Action Fairness Act of 2003'.
(b) REFERENCE- Whenever in this Act reference is made to an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

(c) TABLE OF CONTENTS- The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Consumer class action bill of rights and improved procedures for interstate class actions.
Sec. 4. Federal district court jurisdiction of interstate class actions.
Sec. 5. Removal of interstate class actions to Federal district court.
Sec. 6. Appeals of class action certification orders.
Sec. 7. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS- The Congress finds as follows:

(1) Class action lawsuits are an important and valuable part of our legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.

(2) Over the past decade, there have been abuses of the class action device that have--

(A) harmed class members with legitimate claims and defendants that have acted responsibly;

(B) adversely affected interstate commerce; and

(C) undermined public respect for the judicial system in the United States.

(3) Class members have been harmed by a number of actions taken by plaintiffs' lawyers, which provide little or no benefit to class members as a whole, including--

(A) plaintiffs' lawyers receiving large fees, while class members are left with coupons or other awards of little or no value;

(B) unjustified rewards being made to certain plaintiffs at the expense of other class members; and

(C) the publication of confusing notices that prevent class members from being able to fully understand and effectively exercise their rights.

(4) Through the use of artful pleading, plaintiffs are able to avoid litigating class actions in Federal court, forcing businesses and other organizations to defend interstate class action lawsuits in county and State courts where--

(A) the lawyers, rather than the claimants, are likely to receive the maximum benefit;

(B) less scrutiny may be given to the merits of the case; and

(C) defendants are effectively forced into settlements, in order to avoid the possibility of huge judgments that could destabilize their companies.

(5) These abuses undermine the Federal judicial system, the free flow of interstate commerce, and the intent of the framers of the Constitution in creating diversity jurisdiction, in that county and State courts are--

(A) handling interstate class actions that affect parties from many States;

(B) sometimes acting in ways that demonstrate bias against out-of-State defendants; and

(C) making judgments that impose their view of the law on other States and bind the rights of the residents of those States.

(6) Abusive interstate class actions have harmed society as a whole by forcing innocent parties to settle cases rather than risk a huge judgment by a local jury, thereby costing consumers billions of dollars in increased costs to pay for forced settlements and excessive judgments.

(b) PURPOSES- The purposes of this Act are--

(1) to assure fair and prompt recoveries for class members with legitimate claims;

(2) to protect responsible companies and other institutions against interstate class actions in State courts;

(3) to restore the intent of the framers of the Constitution by providing for Federal court consideration of interstate class actions; and

(4) to benefit society by encouraging innovation and lowering consumer prices.

SEC. 3. CONSUMER CLASS ACTION BILL OF RIGHTS AND IMPROVED PROCEDURES FOR INTERSTATE CLASS ACTIONS.

(a) IN GENERAL- Part V is amended by inserting after chapter 113 the following:

`CHAPTER 114--CLASS ACTIONS

`Sec.
`1711. Judicial scrutiny of coupon and other noncash settlements.
`1712. Protection against loss by class members.
`1713. Protection against discrimination based on geographic location.
`1714. Prohibition on the payment of bounties.
`1715. Clearer and simpler settlement information.
`1716. Definitions.

`Sec. 1711. Judicial scrutiny of coupon and other noncash settlements

`The court may approve a proposed settlement under which the class members would receive noncash benefits or would otherwise be required to expend funds in order to obtain part or all of the proposed benefits only after a hearing to determine whether, and making a written finding that, the settlement is fair, reasonable, and adequate for class members.

`Sec. 1712. Protection against loss by class members

`The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court makes a written finding that nonmonetary benefits to the class member outweigh the monetary loss.

`Sec. 1713. Protection against discrimination based on geographic location

`The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

`Sec. 1714. Prohibition on the payment of bounties

`(a) IN GENERAL- The court may not approve a proposed settlement that provides for the payment of a greater share of the award to a class representative serving on behalf of a class, on the basis of the formula for distribution to all other class members, than that awarded to the other class members.
`(b) RULE OF CONSTRUCTION- The limitation in subsection (a) shall not be construed to prohibit any payment approved by the court for reasonable time or costs that a person was required to expend in fulfilling his or her obligations as a class representative.

`Sec. 1715. Clearer and simpler settlement information

`(a) PLAIN ENGLISH REQUIREMENTS- Any court with jurisdiction over a plaintiff class action shall require that any written notice concerning a proposed settlement of the class action provided to the class through the mail or publication in printed media contain--

`(1) at the beginning of such notice, a statement in 18-point Times New Roman type or other functionally similar type, stating `LEGAL NOTICE: YOU ARE A PLAINTIFF IN A CLASS ACTION LAWSUIT AND YOUR LEGAL RIGHTS ARE AFFECTED BY THE SETTLEMENT DESCRIBED IN THIS NOTICE.'; and
`(2) a short summary written in plain, easily understood language, describing--

`(A) the subject matter of the class action;
`(B) the members of the class;
`(C) the legal consequences of being a member of the class;
`(D) if the notice is informing class members of a proposed settlement agreement--

`(i) the benefits that will accrue to the class due to the settlement;

`(ii) the rights that class members will lose or waive through the settlement;
`(iii) obligations that will be imposed on the defendants by the settlement;
`(iv) the dollar amount of any attorney's fee class counsel will be seeking, or if not possible, a good faith estimate of the dollar amount of any attorney's fee class counsel will be seeking; and
`(v) an explanation of how any attorney's fee will be calculated and funded; and

`(E) any other material matter.

`(b) TABULAR FORMAT- Any court with jurisdiction over a plaintiff class action shall require that the information described in subsection (a)--

`(1) be placed in a conspicuous and prominent location on the notice;
`(2) contain clear and concise headings for each item of information; and
`(3) provide a clear and concise form for stating each item of information required to be disclosed under each heading.

`(c) TELEVISION OR RADIO NOTICE- Any notice provided through television or radio (including transmissions by cable or satellite) to inform the class members in a class action of the right of each member to be excluded from the class action or a proposed settlement of the class action, if such right exists, shall, in plain, easily understood language--

`(1) describe the persons who may potentially become class members in the class action; and
`(2) explain that the failure of a class member to exercise his or her right to be excluded from a class action will result in the person's inclusion in the class action or settlement.

`Sec. 1716. Definitions

`In this chapter--

`(1) CLASS ACTION- The term `class action' means any civil action filed in a district court of the United States pursuant to rule 23 of the Federal

Rules of Civil Procedure or any civil action that is removed to a district court of the United States that was originally filed pursuant to a State statute or rule of judicial procedure authorizing an action to be brought by one or more representatives on behalf of a class.

`(2) CLASS COUNSEL- The term `class counsel' means the persons who serve as the attorneys for the class members in a proposed or certified class action.
`(3) CLASS MEMBERS- The term `class members' means the persons who fall within the definition of the proposed or certified class in a class action.

`(4) PLAINTIFF CLASS ACTION- The term `plaintiff class action' means a class action in which class members are plaintiffs.

`(5) PROPOSED SETTLEMENT- The term `proposed settlement' means an agreement that resolves claims in a class action, that is subject to court approval, and that, if approved, would be binding on the class members.'.

(b) TECHNICAL AND CONFORMING AMENDMENT- The table of chapters for part V is amended by inserting after the item relating to chapter 113 the following:

--1711'.

SEC. 4. FEDERAL DISTRICT COURT JURISDICTION OF INTERSTATE CLASS ACTIONS.

(a) APPLICATION OF FEDERAL DIVERSITY JURISDICTION- Section 1332 is amended--

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

`(d)(1) In this subsection--

`(A) the term `class' means all of the class members in a class action;

`(B) the term `class action' means any civil action filed pursuant to rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by one or more representative persons on behalf of a class;

`(C) the term `class certification order' means an order issued by a court approving the treatment of a civil action as a class action; and

`(D) the term `class members' means the persons who fall within the definition of the proposed or certified class in a class action.

`(2) The district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs, and is a class action in which--

`(A) any member of a class of plaintiffs is a citizen of a State different from any defendant;

`(B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or

`(C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.

`(3) Paragraph (2) shall not apply to any civil action in which--

`(A)(i) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed; and

`(ii) the claims asserted therein will be governed primarily by the laws of the State in which the action was originally filed;

`(B) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or

`(C) the number of proposed plaintiff class members is less than 100.

`(4) In any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs.

`(5) This subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.

`(6)(A) A district court shall dismiss any civil action that is subject to the jurisdiction of the court solely under this subsection if the court determines the action may not proceed as a class action based on a failure to satisfy the requirements of rule 23 of the Federal Rules of Civil Procedure.

`(B) Nothing in subparagraph (A) shall prohibit plaintiffs from filing an amended class action in Federal court or filing an action in State court, except that any such action filed in State court may be removed to the appropriate district court if it is an action of which the district courts of the United States have original jurisdiction.

`(C) In any action that is dismissed under this paragraph and is filed by any of the original named plaintiffs therein in the same State court venue in which the dismissed action was originally filed, the limitations periods on all reasserted claims shall be deemed tolled for the period during which the dismissed class action was pending. The limitations periods on any claims that were asserted in a class action dismissed under this paragraph that are subsequently asserted in an individual action shall be deemed tolled for the period during which the dismissed action was pending.

`(7) Paragraph (2) shall not apply to any class action brought by shareholders that solely involves a claim that relates to--

`(A) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

`(B) the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

`(C) the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).

`(8) For purposes of this subsection and section 1453 of this title, an unincorporated association shall be deemed

to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.

`(9) For purposes of this section and section 1453 of this title, a civil action that is not otherwise a class action as defined in paragraph (1)(B) of this subsection shall nevertheless be deemed a class action if--

`(A) the named plaintiff purports to act for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeks a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general; or

`(B) monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact.

In any such case, the persons who allegedly were injured shall be treated as members of a proposed plaintiff class and the monetary relief that is sought shall be treated as the claims of individual class members. The provisions of paragraphs (3) and (6) of this subsection and subsections (b)(2) and (d) of section 1453 shall not apply to civil actions described under subparagraph (A). The provisions of paragraph (6) of this subsection, and subsections (b)(2) and (d) of section 1453 shall not apply to civil actions described under subparagraph (B).'.

(b) CONFORMING AMENDMENTS-

(1) Section 1335(a)(1) is amended by inserting `(a) or (d)' after `1332'.

(2) Section 1603(b)(3) is amended by striking `(d)' and inserting `(e)'.

SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FEDERAL DISTRICT COURT.

(a) IN GENERAL- Chapter 89 is amended by adding after section 1452 the following:

`Sec. 1453. Removal of class actions

`(a) DEFINITIONS- In this section, the terms `class', `class action', `class certification order', and `class member' have the meanings given these terms in section 1332(d)(1).

`(b) IN GENERAL- A class action may be removed to a district court of the United States in accordance with this chapter, without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed--

`(1) by any defendant without the consent of all defendants; or

`(2) by any plaintiff class member who is not a named or representative class member without the consent of all members of such class.

`(c) WHEN REMOVABLE- This section shall apply to any class action before or after the entry of a class certification order in the action, except that a plaintiff class member who is not a named or representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class member has been entered.

`(d) PROCEDURE FOR REMOVAL- The provisions of section 1446 relating to a defendant removing a case shall apply to a plaintiff removing a case under this section, except that in the application of subsection (b) of such section the requirement relating to the 30-day filing period shall be met if a plaintiff class member files notice of removal within 30 days after receipt by such class

member, through service or otherwise, of the initial written notice of the class action.

`(e) REVIEW OF ORDERS REMANDING CLASS ACTIONS TO STATE COURTS- The provisions of section 1447 shall apply to any removal of a case under this section, except that, notwithstanding the provisions of section 1447(d), an order remanding a class action to the State court from which it was removed shall be reviewable by appeal or otherwise.

`(f) EXCEPTION- This section shall not apply to any class action brought by shareholders that solely involves--

`(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

`(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

`(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).'.

(b) REMOVAL LIMITATION- Section 1446(b) is amended in the second sentence by inserting `(a)' after `section 1332'.

(c) TECHNICAL AND CONFORMING AMENDMENTS- The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following:

`1453. Removal of class actions.'.

SEC. 6. APPEALS OF CLASS ACTION CERTIFICATION ORDERS.

(a) IN GENERAL- Section 1292(a) is amended by inserting after paragraph (3) the following:

`(4) Orders of the district courts of the United States granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within 10 days after entry of the order.'.

(b) DISCOVERY STAY- All discovery and other proceedings shall be stayed during the pendency of any appeal taken pursuant to the amendment made by subsection (a), unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue prejudice to that party.

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action commenced on or after the date of the enactment of this Act.

END

House/107th	S. 274 - Introduced/108th	H.R. 1115 - Introduced/108th	H.R. 2341 - Passed
Consumer Class Action Bill of Rights and Improved Procedures for Interstate Class Actions (Sec. 3)	1. *Judicial Scrutiny of Coupon and Other Noncash Settlements*: Provide that Federal courts could approve proposed settlements in which class members receive non-cash benefits, but only after a hearing to determine whether the settlement is "fair, reasonable, and adequate." 2. *Protection against Loss by Class Members:* The court could also approve settlements in which any class member is obligated to pay sums to counsel that would result in a net loss to the class member, but only if the court finds that the non-monetary benefits to the class member *substantially* outweigh the monetary loss. 3. *Prohibition Against Discrimination Based on Geographic Location:* Provide that Federal courts could not approve a settlement that provides for larger payments to some class members based solely their being located in closer geographic proximity to the court hearing the case. 4. *Prohibition on Payment of Bounties*: Provide that the court cannot approve a larger share of the award payment to the plaintiff representing the class than that awarded to the other class members, but could approve payments to the representative for reasonable time and costs expended in fulfilling his or her obligations as a class representative. 5. *Clearer and Simpler Settlement Information*: Require that written notices sent by mail or published in print, as well as notices transmitted by television or radio, to class members concerning proposed	1. Same. 2. Same but without "substantially". 3. Same. 4. Minor editorial differences. 5. Minor editorial differences. 6. No provision. 7. No provision as in H.R. 2341. 8. No provision as in H.R. 2341	1. Same. 2. Same but without "substantially". 3. Same 4. Same as H.R. 1115. 5. Same as H.R. 1115. 6. No provision. 7. *Disclosure of Attorney's Fees* (requiring the disclosure of fees to the plaintiffs by the plaintiffs' attorney) 8. *Sunshine in Court Records*: (limiting the sealing, or subjection to a protective order, of such records)

	S. 274 - Introduced/108th	H.R. 1115 - Introduced/108th	H.R. 2341 - Passed
House/107th			
	settlements be written or transmitted in plain, easily understood language. The bill would also provide for a number of additional specific requirements for notices. 6. *Notifications to appropriate Federal and State Officials*: Require, within 10 days after a proposed settlement of a class action is filed in court, each defendant that is participating in the proposed settlement to serve upon the appropriate State official of each State in which a class member resides and the appropriate Federal official, a notice of the proposed settlement. 7. No provision as in H.R. 2341. 8. No provision as in H.R. 2341.		
Federal District Court Jurisdiction for Interstate Class Actions (Sec. 4)	Provide that Federal district courts would have original jurisdiction over any class-action lawsuits where the total claims exceed $2 million if any of the plaintiffs is a citizen of different State from any of the defendants, or either a plaintiff or a defendant resides in a foreign country. However, original jurisdiction would not apply in any action in which: (a) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed and the claims will be governed primarily by the laws of the State in which the action was originally filed; (b) the primary defendants are States, State officials, or other governmental entities against whom the Federal district court may be foreclosed from ordering relief; or (c) the number of plaintiff class members in the aggregate is less than 100. In addition, original jurisdiction would not apply to a class action that solely involves a claim related to certain securities or to the internal affairs or	Minor changes: • Definition of "class certification order" in H.R. 1115 means an order issued by a court approving the treatment of a civil action as a class action. In S. 274, it means …the treatment of some or all aspects of a civil action… • Definition of "class members" in H.R. 1115 means persons who fall within the definition of the proposed or certified class in a class action. In S. 274, it means …persons (named or unnamed)… • In H.R. 1115, original jurisdiction would not apply in which the number of proposed plaintiff class members is less than 100. In S. 274, it would not	Same as H.R. 1115.

	S. 274 - Introduced/108th	H.R. 1115 - Introduced/108th	H.R. 2341 - Passed
House/107th			
	governance of a corporation that arises under the laws of the State in which the corporation is incorporated.	apply in cases in which the number of members *in the aggregate* is less than 100. • In H.R. 1115, original jurisdiction would not apply to a class action brought by shareholders that solely involves a claim related to certain securities or to the internal affairs or governance of a corporation that arises under the laws of the State in which the corporation is incorporated. In S. 274, the distinction of *by shareholder*, is not made.	
Removal of Interstate Class Actions to Federal District Court (Sec. 5)	Provide that a class action could be removed from a State court to a Federal district court by any defendant without the consent of any other defendants; or by any plaintiff class member who is not a named or representative class member without the consent of any other members of the class. However, this authority for removal would not apply to a class action that solely involves a claim related to certain securities or to the internal affairs or governance of a corporation that arises under the laws of the State in which the corporation is incorporated. The Federal courts of appeals would have jurisdiction of appeals from orders of the Federal district courts granting or denying class certification, if notice of appeal is filed within 10 days after entry of the order. All discovery and other proceedings would be suspended while an appeal is pending, unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue	• Again, the distinction of *by shareholder* is not made in S. 274 in regard to situations when the authority for removal from State to Federal district court would not apply. H.R. 1115 provides that the authority for removal would not apply to a class action brought by shareholders… • Both S. 274 and H.R. 1115 state that these provisions apply to any class action before or after the entry of a class certification order in the action, however, H.R. 1115 further states that a plaintiff class member who is not a named representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class	Same as H.R. 1115.

	prejudice to that party.	member has been entered.	
Report on Class Action Settlements	Require the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the AOUSC, within 12 months of enactment, to report to the House and Senate Judiciary Committees on class action settlements, including (1) recommendations on the best practices that courts can use to ensure that: proposed class action settlements are fair to the class members that the settlements are supposed to benefit; the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and (2) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.	No provision.	Minor change: • The bill specifies that the report would cover class action settlements *in the Federal courts*.
Appeals of Class Action Certification Orders	No provision.	Grants the courts of appeals jurisdiction of appeals from orders of the U.S. district courts granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within ten days after entry of the order.	Same.
Effective Date	Applies to any civil action commenced on or after the date of enactment.	Same.	Same.

S 274 108th Congress-Introduced in Senate (blue, underlined text)
as compared to
HR 1115 108th Congress-Introduced House ~~(red, strikethrough text)~~

To amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants~~, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions~~, and for other purposes.

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Class Action Fairness Act of 2003".

(b) REFERENCE.—Whenever in this Act reference is made to an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Consumer class action bill of rights and improved procedures for interstate class actions.
Sec. 4. Federal district court jurisdiction ~~of~~ for interstate class actions.
Sec. 5. Removal of interstate class actions to Federal district court.
Sec. 6. Report on class action settlements.
~~Sec. 6. Appeals of class action certification orders.~~
Sec. 7. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.— ~~The~~ Congress finds ~~as follows~~ the following:

(1) Class action lawsuits are an important and valuable part of the legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.

(2) Over the past decade, there have been abuses of the class action device that have—

(A) harmed class members with legitimate claims and defendants that have acted responsibly;

(B) adversely affected interstate commerce; and

(C) undermined public respect for ~~the~~ our judicial system ~~in the United States~~.

(3) Class members often receive little or no benefit from class actions, and are sometimes harmed, such as where ~~have been harmed by a number of actions taken by~~

~~plaintiffs' lawyers, which provide little or no benefit to class members as a whole, including —~~

(A) counsel are awarded large fees ~~plaintiffs' lawyers receiving large fees~~, while leaving class members with coupons or other awards of little or no value;

(B) unjustified awards are made to certain plaintiffs at the expense of other class members; and

(C) confusing notices are published ~~the publication of confusing notices~~ that prevent class members from being able to fully understand and effectively exercise their rights.

~~(4) Through the use of artful pleading, plaintiffs are able to avoid litigating class actions in Federal court, forcing businesses and other organizations to defend interstate class action lawsuits in county and State courts where —~~

~~(A) the lawyers, rather than the claimants, are likely to receive the maximum benefit;~~

~~(B) less scrutiny may be given to the merits of the case; and~~

~~(C) defendants are effectively forced into settlements, in order to avoid the possibility of huge judgments that could destabilize their companies.~~

~~(5) These abuses undermine the Federal judicial system, the free flow of interstate commerce, and the intent of the framers of the Constitution in creating diversity jurisdiction, in that county and State courts are —~~

~~(A) handling interstate class actions that affect parties from many States;~~

(4) Abuses in class actions undermine the national judicial system, the free flow of interstate commerce, and the concept of diversity jurisdiction as intended by the framers of the United States Constitution, in that State and local courts are—

(A) keeping cases of national importance out of Federal court;

(B) sometimes acting in ways that demonstrate bias against out-of-State defendants; and

(C) making judgments that impose their view of the law on other States and bind the rights of the residents of those States.

~~(6) Abusive interstate class actions have harmed society as a whole by forcing innocent parties to settle cases rather than risk a huge judgment by a local jury, thereby costing consumers billions of dollars in increased costs to pay for forced settlements and excessive judgments.~~

(b) PURPOSES.—The purposes of this Act are to—

(1) to assure fair and prompt recoveries for class members with legitimate claims;

(2) ~~(3)~~ to restore the intent of the framers of the United States Constitution by providing for Federal court consideration of interstate ~~class actions~~ cases of national importance under diversity jurisdiction; and

~~(2) to protect responsible companies and other institutions against interstate class actions in State courts;~~

(3) ~~(4)~~ to benefit society by encouraging innovation and lowering consumer prices.

SEC. 3. CONSUMER CLASS ACTION BILL OF RIGHTS AND IMPROVED PROCEDURES FOR INTERSTATE CLASS ACTIONS.

(a) IN GENERAL.—Part V is amended by inserting after chapter 113 the following:

"CHAPTER 114—CLASS ACTIONS

"Sec.

"1711 ~~1716~~. Definitions.
"1712 ~~1711~~. Judicial scrutiny of coupon and other noncash settlements.
"1713 ~~1712~~. Protection against loss by class members.
"1714 ~~1713~~. Protection against discrimination based on geographic location.
"1715 ~~1714~~. Prohibition on the payment of bounties.
"1716 ~~1715~~. Clearer and simpler settlement information.
"1717. Notifications to appropriate Federal and State officials.

"§ 1711 ~~1716~~. Definitions

"In this chapter:
"(1) CLASS.—The term 'class' means all of the class members in a class action.
"(2)~~(1)~~ CLASS ACTION.—The term 'class action' means any civil action filed in a district court of the United States ~~pursuant to~~ under rule 23 of the Federal Rules of Civil Procedure or any civil action that is removed to a district court of the United States that was originally filed under a State statute or rule of judicial procedure authorizing an action to be brought by ~~one~~ 1 or more representatives ~~on behalf of a class~~ as a class action.
"(3) ~~(2)~~ CLASS COUNSEL.—The term 'class counsel' means the persons who serve as the attorneys for the class members in a proposed or certified class action.
"(4)~~(3)~~ CLASS MEMBERS.—The term 'class members' means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.
"(5)~~(4)~~ PLAINTIFF CLASS ACTION.—The term 'plaintiff class action' means a class action in which class members are plaintiffs.
"(6)~~(5)~~ PROPOSED SETTLEMENT.—The term 'proposed settlement' means an agreement ~~that resolves claims in a class action,~~ regarding a class action that is subject to court approval and that, if approved, would be binding on some or all ~~the~~ class members.

"§ 1712~~1711~~. Judicial scrutiny of coupon and other noncash settlements

"The court may approve a proposed settlement under which the class members would receive noncash benefits or would otherwise be required to expend funds in order to obtain part or all of the proposed benefits only after a hearing to determine whether, and making a written finding that, the settlement is fair, reasonable, and adequate for class members.

"§ 1713~~1712~~. Protection against loss by class members

"The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court makes a written finding that nonmonetary benefits to the class member substantially outweigh the monetary loss.

"§ 1714~~1713~~. Protection against discrimination based on geographic location

"The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

"§ 1715 ~~1714~~. Prohibition on the payment of bounties

"(a) IN GENERAL.—The court may not approve a proposed settlement that provides for the payment of a greater share of the award to a class representative serving on behalf of a class, on the basis of the formula for distribution to all other class members, than that awarded to the other class members.

"(b) RULE OF CONSTRUCTION.—The limitation in subsection (a) shall not be construed to prohibit ~~any~~ a payment approved by the court for reasonable time or costs that a person was required to expend in fulfilling ~~his or her~~ the obligations of that person as a class representative.

"§ 1716~~1715~~. Clearer and simpler settlement information

"(a) PLAIN ENGLISH REQUIREMENTS.—Any court with jurisdiction over a plaintiff class action shall require that any written notice concerning a proposed settlement of the class action provided to the class through the mail or publication in printed media contain—

"(1) at the beginning of such notice, a statement in 18-point or ~~Times New Roman type or other functionally similar type~~ greater bold type, stating 'LEGAL NOTICE: YOU ARE A PLAINTIFF IN A CLASS ACTION LAWSUIT AND YOUR LEGAL RIGHTS ARE AFFECTED BY THE SETTLEMENT DESCRIBED IN THIS NOTICE.'; ~~and~~

"(2) a short summary written in plain, easily understood language, describing—

"(A) the subject matter of the class action;

"(B) the members of the class;

"(C) the legal consequences of being a member of the class action;

"(D) if the notice is informing class members of a proposed settlement agreement—

"(i) the benefits that will accrue to the class due to the settlement;

"(ii) the rights that class members will lose or waive through the settlement;

"(iii) obligations that will be imposed on the defendants by the settlement;

"(iv) the dollar amount of any attorney's fee class counsel will be seeking, or if not possible, a good faith estimate of the dollar amount of any attorney's fee class counsel will be seeking; and

"(v) an explanation of how any attorney's fee will be calculated and funded; and

"(E) any other material matter.

"(b) TABULAR FORMAT.—Any court with jurisdiction over a plaintiff class action shall require that the information described in subsection (a)—

"(1) be placed in a conspicuous and prominent location on the notice;

"(2) contain clear and concise headings for each item of information; and

"(3) provide a clear and concise form for stating each item of information required to be disclosed under each heading.

"(c) TELEVISION OR RADIO NOTICE.—Any notice provided through television or radio (including transmissions by cable or satellite) to inform the class members in a class action of the right of each member to be excluded from a ~~the~~ class action or a proposed settlement ~~of the class action~~, if such right exists, shall, in plain, easily understood language—

"(1) describe the persons who may potentially become class members in the class action; and

"(2) explain that the failure of a class member to exercise his or her right to be excluded from a class action will result in the person's inclusion in the class action ~~or settlement~~.

"§ 1717. Notifications to appropriate Federal and State officials

"(a) DEFINITIONS.—

"(1) APPROPRIATE FEDERAL OFFICIAL.—In this section, the term 'appropriate Federal official' means—

"(A) the Attorney General of the United States; or

"(B) in any case in which the defendant is a Federal depository institution, a State depository institution, a depository institution holding company, a foreign bank, or a nondepository institution subsidiary of the foregoing (as such terms are defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

"(2) APPROPRIATE STATE OFFICIAL.—In this section, the term 'appropriate State official' means the person in the State who has the primary regulatory or supervisory responsibility with respect to the defendant, or who licenses or otherwise authorizes the defendant to conduct business in the State, if some or all of the matters alleged in the class action are subject to regulation by that person. If there is no primary regulator, supervisor, or licensing authority, or the matters alleged in the class action are not subject to regulation or supervision by that person, then the appropriate State official shall be the State attorney general.

"(b) IN GENERAL.—Not later than 10 days after a proposed settlement of a class action is filed in court, each defendant that is participating in the proposed settlement shall serve upon the appropriate State official of each State in which a class member resides and the appropriate Federal official, a notice of the proposed settlement consisting of—

"(1) a copy of the complaint and any materials filed with the complaint and any amended complaints (except such materials shall not be required to be served if such materials are made electronically available through the Internet and such service includes notice of how to electronically access such material);

"(2) notice of any scheduled judicial hearing in the class action;

"(3) any proposed or final notification to class members of—

"(A)(i) the members' rights to request exclusion from the class action; or

"(ii) if no right to request exclusion exists, a statement that no such right exists; and

"(B) a proposed settlement of a class action;

"(4) any proposed or final class action settlement;

"(5) any settlement or other agreement contemporaneously made between class counsel and counsel for the defendants;

"(6) any final judgment or notice of dismissal;

"(7)(A) if feasible, the names of class members who reside in each State and the estimated proportionate share of the claims of such members to the entire settlement to that State's appropriate State official; or

"(B) if the provision of information under subparagraph (A) is not feasible, a reasonable estimate of the number of class members residing in each State and the estimated proportionate share of the claims of such members to the entire settlement; and

"(8) any written judicial opinion relating to the materials described under subparagraphs (3) through (6).

"(c) DEPOSITORY INSTITUTIONS NOTIFICATION.—

"(1) FEDERAL AND OTHER DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a Federal depository institution, a depository institution holding company, a foreign bank, or a non-depository institution subsidiary of the foregoing, the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

"(2) STATE DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a State depository institution (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the State bank supervisor (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) of the State in which the defendant is incorporated or chartered, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person, and upon the appropriate Federal official.

"(d) FINAL APPROVAL.—An order giving final approval of a proposed settlement may not be issued earlier than 90 days after the later of the dates on which the appropriate Federal official and the appropriate State official are served with the notice required under subsection (b).

"(e) NONCOMPLIANCE IF NOTICE NOT PROVIDED.—

"(1) IN GENERAL.—A class member may refuse to comply with and may choose not to be bound by a settlement agreement or consent decree in a class action if the class member demonstrates that the notice required under subsection (b) has not been provided.

"(2) LIMITATION.—A class member may not refuse to comply with or to be bound by a settlement agreement or consent decree under paragraph (1) if the notice required under subsection (b) was directed to the appropriate Federal official and to either the State attorney general or the person that has primary regulatory, supervisory, or licensing authority over the defendant.

"(3) APPLICATION OF RIGHTS.—The rights created by this subsection shall apply only to class members or any person acting on a class member's behalf, and shall not be construed to limit any other rights affecting a class member's participation in the settlement.

"(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to expand the authority of, or impose any obligations, duties, or responsibilities upon, Federal or State officials.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part V is amended by inserting after the item relating to chapter 113 the following:
"114. Class Actions
1711".

SEC. 4. FEDERAL DISTRICT COURT JURISDICTION ~~OF~~ FOR INTERSTATE CLASS ACTIONS.

(a) APPLICATION OF FEDERAL DIVERSITY JURISDICTION.—Section 1332 is amended—
(1) by redesignating subsection (d) as subsection (e); and
(2) by inserting after subsection (c) the following:
"(d)(1) In this subsection—
"(A) the term 'class' means all of the class members in a class action;
"(B) the term 'class action' means any civil action filed ~~pursuant to~~ under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by ~~one~~ 1 or more representative persons ~~on behalf of a class~~ as a class action;
"(C) the term 'class certification order' means an order issued by a court approving the treatment of some or all aspects of a civil action as a class action; and
"(D) the term 'class members' means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.
"(2) The district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs, and is a class action in which—
"(A) any member of a class of plaintiffs is a citizen of a State different from any defendant;
"(B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or
"(C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.
"(3) Paragraph (2) shall not apply to any civil action in which—
"(A)(i) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed; and
"(ii) the claims asserted therein will be governed primarily by the laws of the State in which the action was originally filed;
"(B) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or
"(C) the number of ~~proposed plaintiff class~~ members of all proposed plaintiff classes in the aggregate is less than 100

"(4) In any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs.

"(5) This subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.

"(6)(A) A district court shall dismiss any civil action that is subject to the jurisdiction of the court solely under this subsection if the court determines the action may not proceed as a class action based on a failure to satisfy the ~~requirements~~ prerequisites of rule 23 of the Federal Rules of Civil Procedure.

"(B) Nothing in subparagraph (A) shall prohibit plaintiffs from filing an amended class action in Federal court or filing an action in State court, except that any such action filed in State court may be removed to the appropriate district court if it is an action of which the district courts of the United States have original jurisdiction.

"(C) In any action that is dismissed under this paragraph and is filed by any of the original named plaintiffs therein in the same State court venue in which the dismissed action was originally filed, the limitations periods on all reasserted claims shall be deemed tolled for the period during which the dismissed class action was pending. The limitations periods on any claims that were asserted in a class action dismissed under this paragraph that are subsequently asserted in an individual action shall be deemed tolled for the period during which the dismissed action was pending.

"(7) Paragraph (2) shall not apply to any class action ~~brought by shareholders~~ that solely involves a claim ~~that relates to —~~

"(A) ~~a claim~~ concerning a covered security as defined under 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(B) that relates to the internal affairs or governance of a corporation or other form of business enterprise and that arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(C) that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).

"(8) For purposes of this subsection and section 1453 of this title, an unincorporated association shall be deemed to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.

"(9)(A) For purposes of this section and section 1453 of this title, a civil action that is not otherwise a class action as defined in paragraph (1)(B) ~~of this subsection~~ shall nevertheless be deemed a class action if—

"(i) ~~"(A)~~ the named plaintiff purports to act for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeks a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general; or

"(ii) ~~"(B)~~ monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact.

"(B)(i) In any ~~such case,~~ civil action described under subparagraph (A)(ii), the persons who allegedly were injured shall be treated as members of a proposed plaintiff class and

the monetary relief that is sought shall be treated as the claims of individual class members.

"(ii) ~~The provisions of~~ Paragraphs (3) and (6) of this subsection and subsections (b)(2) and (d) of section 1453 shall not apply to any civil actions described under subparagraph (A)~~(i).~~

"(iii) ~~The provisions of~~ Paragraph (6) of this subsection, and subsections (b)(2) and (d) of section 1453 shall not apply to any civil actions described under subparagraph (A)(ii). ~~(B).~~".

(b) CONFORMING AMENDMENTS.—

(1) Section 1335(a)(1) is amended by inserting "(a) or (d)" after "1332".

(2) Section 1603(b)(3) is amended by striking "(d)" and inserting "(e)".

SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FEDERAL DISTRICT COURT.

(a) IN GENERAL.—Chapter 89 is amended by adding after section 1452 the following:

"§ 1453. Removal of class actions

"(a) DEFINITIONS.—In this section, the terms 'class', 'class action', 'class certification order', and 'class member' shall have the meanings given such ~~these~~ terms under ~~in~~ section 1332(d)(1).

"(b) IN GENERAL.—A class action may be removed to a district court of the United States in accordance with this chapter, without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed—

"(1) by any defendant without the consent of all defendants; or

"(2) by any plaintiff class member who is not a named or representative class member without the consent of all members of such class.

"(c) WHEN REMOVABLE.—This section shall apply to any class action before or after the entry of a class certification order in the action~~, except that a plaintiff class member who is not a named or representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class member has been entered.~~

"(d) PROCEDURE FOR REMOVAL.— ~~The provisions of~~ Section 1446 relating to a defendant removing a case shall apply to a plaintiff removing a case under this section, except that in the application of subsection (b) of such section the requirement relating to the 30-day filing period shall be met if a plaintiff class member files notice of removal within 30 days after receipt by such class member, through service or otherwise, of the initial written notice of the class action.

"(e) REVIEW OF ORDERS REMANDING CLASS ACTIONS TO STATE COURTS.— ~~The provisions of~~ Section 1447 shall apply to any removal of a case under this section, except that notwithstanding section 1447(d), an order remanding a class action to the State court from which it was removed shall be reviewable by appeal or otherwise.

"(f) EXCEPTION.—This section shall not apply to any class action ~~brought by shareholders~~ that solely involves—

"(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).".

(b) REMOVAL LIMITATION.—Section 1446(b) is amended in the second sentence by inserting "(a)" after "section 1332".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following: "1453. Removal of class actions.".

SEC. 6. REPORT ON CLASS ACTION SETTLEMENTS.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall prepare and transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report on class action settlements.

(b) CONTENT.—The report under subsection (a) shall contain—

(1) recommendations on the best practices that courts can use to ensure that proposed class action settlements are fair to the class members that the settlements are supposed to benefit;

(2) recommendations on the best practices that courts can use to ensure that—

(A) the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and

(B) the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and

(3) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.

(c) AUTHORITY OF FEDERAL COURTS.—Nothing in this section shall be construed to alter the authority of the Federal courts to supervise attorneys' fees.

~~**SEC. 6. APPEALS OF CLASS ACTION CERTIFICATION ORDERS.**~~

~~(a) IN GENERAL.—Section 1292(a) is amended by inserting after paragraph (3) the following:~~

~~"(4) Orders of the district courts of the United States granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within 10 days after entry of the order.".~~

~~(b) DISCOVERY STAY.—All discovery and other proceedings shall be stayed during the pendency of any appeal taken pursuant to the amendment made by subsection (a), unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue prejudice to that party.~~

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action commenced on or after the date of ~~the~~ enactment of this Act.

S 274 108th Congress-Introduced in Senate (blue, underlined text)
as compared to
HR 2341 107th Congress-Passed House ~~(red, strikethrough text)~~

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Class Action Fairness Act of 2003~~2~~".

(b) REFERENCE.—Whenever in this Act reference is made to an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Consumer class action bill of rights and improved procedures for interstate class actions.
Sec. 4. Federal district court jurisdiction for ~~of~~ interstate class actions.
of interstate class actions.
Sec. 5. Removal of interstate class actions to Federal district court.
~~Sec. 6. Appeals of class action certification orders.~~
Sec. 6~~7~~. Report on class action settlements.
Sec. 7~~8~~. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.— ~~The~~ Congress finds the following:

(1) Class action lawsuits are an important and valuable part of the legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.

(2) Over the past decade, there have been abuses of the class action device that have—

(A) harmed class members with legitimate claims and defendants that have acted responsibly~~, and that have thereby undermined public respect for our judicial system~~;

(B) adversely affected interstate commerce; and

(C) ~~that have thereby~~ undermined public respect for our judicial system.

(3) Class members often receive little or no benefit from class actions, and are sometimes harmed, such as where ~~have been harmed by a number of actions taken by plaintiffs' lawyers, which provide little or no benefit to class members as a whole, including —~~

(A) counsel are awarded large fees, while leaving class members ~~plaintiffs' lawyers receiving large fees, while class members~~ are left with coupons or other awards of little or no value;

(B) unjustified awards are ~~being~~ made to certain plaintiffs at the expense of other class members; and

(C) confusing notices are published that prevent class members ~~the publication of confusing notices that prevent class members~~ from being able to fully understand and effectively exercise their rights.

~~(4) Through the use of artful pleading, plaintiffs are able to avoid litigating class actions in Federal court, forcing businesses and other organizations to defend interstate class action lawsuits in county and State courts where—~~

~~(A) the lawyers, rather than the claimants, are likely to receive the maximum benefit;~~

~~(B) less scrutiny may be given to the merits of the case; and~~

~~(C) defendants are effectively forced into settlements, in order to avoid the possibility of huge judgments that could destabilize their companies.~~

~~(5) These abuses undermine our Federal system and the intent of the framers of the Constitution in creating diversity jurisdiction, in that county and State courts are—~~

~~(A) handling interstate class actions that affect parties from many States;~~

(4) Abuses in class actions undermine the national judicial system, the free flow of interstate commerce, and the concept of diversity jurisdiction as intended by the framers of the United States Constitution, in that State and local courts are—

(A) keeping cases of national importance out of Federal court;

(B) sometimes acting in ways that demonstrate bias against out-of-State defendants; and

(C) making judgments that impose their view of the law on other States and bind the rights of the residents of those States.

~~(6) Abusive interstate class actions have harmed society as a whole by forcing innocent parties to settle cases rather than risk a huge judgment by a local jury, thereby costing consumers billions of dollars in increased costs to pay for forced settlements and excessive judgments.~~

(b) PURPOSES.—The purposes of this Act are to—

(1) ~~to~~ assure fair and prompt recoveries for class members with legitimate claims;

~~(2) to protect responsible companies and other institutions against interstate class actions in State courts;~~

(2)~~(3)~~ ~~to~~ restore the intent of the framers of the United States Constitution by providing for Federal court consideration of interstate cases of national importance under diversity jurisdiction; and

(3)~~(4)~~ ~~to~~ benefit society by encouraging innovation and lowering consumer prices.

SEC. 3. CONSUMER CLASS ACTION BILL OF RIGHTS AND IMPROVED PROCEDURES FOR INTERSTATE CLASS ACTIONS.

(a) IN GENERAL.—Part V is amended by inserting after chapter 113 the following:

"CHAPTER 114—CLASS ACTIONS

"Sec.

"1711~~1718~~. Definitions.

"1712~~1711~~. Judicial scrutiny of coupon and other noncash settlements.
"1713~~1712~~. Protection against loss by class members.
"1714~~1713~~. Protection against discrimination based on geographic location.
"1715~~1714~~. Prohibition on the payment of bounties.
"1716~~1715~~. Clearer and simpler settlement information.
"1717. Notifications to appropriate Federal and State officials.
~~"1716. Disclosure of attorney's fees.~~
~~"1717. Sunshine in court records.~~

"§1711~~1718~~. Definitions

"In this chapter:
"(1) CLASS.—The term 'class' means all of the class members in a class action.
"(2)~~(1)~~ CLASS ACTION.—The term 'class action' means any civil action filed in a district court of the United States under rule 23 of the Federal Rules of Civil Procedure or any civil action that is removed to a district court of the United States that was originally filed under ~~pursuant to~~ a State statute or rule of judicial procedure authorizing an action to be brought by ~~one~~ 1 or more representatives ~~on behalf of~~ as a class action.
"(3)~~(2)~~ CLASS COUNSEL.—The term 'class counsel' means the persons who serve as the attorneys for the class members in a proposed or certified class action.
"(4)~~(3)~~ CLASS MEMBERS.—The term 'class members' means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.
"(5)~~(4)~~ PLAINTIFF CLASS ACTION.—The term 'plaintiff class action' means a class action in which class members are plaintiffs.
"(6)~~(5)~~ PROPOSED SETTLEMENT.—The term 'proposed settlement' means an agreement ~~that resolves claims in~~ regarding a class action that is subject to court approval and that, if approved, would be binding on ~~the~~ some or all class members

"§1712~~1711~~. Judicial scrutiny of coupon and other noncash settlements

"The court may approve a proposed settlement under which the class members would receive noncash benefits or would otherwise be required to expend funds in order to obtain part or all of the proposed benefits only after a hearing to determine whether, and making a written finding that, the settlement is fair, reasonable, and adequate for class members.

"§1713~~1712~~. Protection against loss by class members

"The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court makes a written finding that nonmonetary benefits to the class member substantially outweigh the monetary loss.

"§1714~~1713~~. Protection against discrimination based on geographic location

"The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

"§1715~~1714~~. Prohibition on the payment of bounties

"(a) IN GENERAL.—The court may not approve a proposed settlement that provides for the payment of a greater share of the award to a class representative serving on behalf of a class, on the basis of the formula for distribution to all other class members, than that awarded to the other class members.

"(b) RULE OF CONSTRUCTION.—The limitation in subsection (a) shall not be construed to prohibit ~~any~~ a payment approved by the court for reasonable time or costs that a person was required to expend in fulfilling ~~his or her~~ the obligations of that person as a class representative.

"§1716~~1715~~. Clearer and simpler settlement information

"(a) PLAIN ENGLISH REQUIREMENTS.—Any court with jurisdiction over a plaintiff class action shall require that any written notice concerning a proposed settlement of the class action provided to the class through the mail or publication in printed media contain—

"(1) at the beginning of such notice, a statement in 18-point ~~Times New Roman~~ or greater bold type ~~or other functionally similar type~~, stating 'LEGAL NOTICE: YOU ARE A PLAINTIFF IN A CLASS ACTION LAWSUIT AND YOUR LEGAL RIGHTS ARE AFFECTED BY THE SETTLEMENT DESCRIBED IN THIS NOTICE.';

"(2) a short summary written in plain, easily understood language, describing—

"(A) the subject matter of the class action;

"(B) the members of the class;

"(C) the legal consequences of being a member of the class action;

"(D) if the notice is informing class members of a proposed settlement agreement—

"(i) the benefits that will accrue to the class due to the settlement;

"(ii) the rights that class members will lose or waive through the settlement;

"(iii) obligations that will be imposed on the defendants by the settlement;

"(iv) the dollar amount of any attorney's fee class counsel will be seeking, or if not possible, a good faith estimate of the dollar amount of any attorney's fee class counsel will be seeking; and

"(v) an explanation of how any attorney's fee will be calculated and funded; and

"(E) any other material matter.

"(b) TABULAR FORMAT.—Any court with jurisdiction over a plaintiff class action shall require that the information described in subsection (a)—

"(1) be placed in a conspicuous and prominent location on the notice;

"(2) contain clear and concise headings for each item of information; and

"(3) provide a clear and concise form for stating each item of information required to be disclosed under each heading.

"(c) TELEVISION OR RADIO NOTICE.—Any notice provided through television or radio (including transmissions by cable or satellite) to inform the class members in a class action of the right of each member to be excluded from ~~the~~ a class action or a proposed settlement ~~of the class action~~, if such right exists, shall, in plain, easily understood language—

"(1) describe the persons who may potentially become class members in the class action; and

"(2) explain that the failure of a class member to exercise his or her right to be excluded from a class action will result in the person's inclusion in the class action ~~or settlement~~.

"§ 1717. Notifications to appropriate Federal and State officials

"(a) DEFINITIONS.—

"(1) APPROPRIATE FEDERAL OFFICIAL.—In this section, the term 'appropriate Federal official' means—

"(A) the Attorney General of the United States; or

"(B) in any case in which the defendant is a Federal depository institution, a State depository institution, a depository institution holding company, a foreign bank, or a nondepository institution subsidiary of the foregoing (as such terms are defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

"(2) APPROPRIATE STATE OFFICIAL.—In this section, the term 'appropriate State official' means the person in the State who has the primary regulatory or supervisory responsibility with respect to the defendant, or who licenses or otherwise authorizes the defendant to conduct business in the State, if some or all of the matters alleged in the class action are subject to regulation by that person. If there is no primary regulator, supervisor, or licensing authority, or the matters alleged in the class action are not subject to regulation or supervision by that person, then the appropriate State official shall be the State attorney general.

"(b) IN GENERAL.—Not later than 10 days after a proposed settlement of a class action is filed in court, each defendant that is participating in the proposed settlement shall serve upon the appropriate State official of each State in which a class member resides and the appropriate Federal official, a notice of the proposed settlement consisting of—

"(1) a copy of the complaint and any materials filed with the complaint and any amended complaints (except such materials shall not be required to be served if such materials are made electronically available through the Internet and such service includes notice of how to electronically access such material);

"(2) notice of any scheduled judicial hearing in the class action;

"(3) any proposed or final notification to class members of—

"(A)(i) the members' rights to request exclusion from the class action; or

"(ii) if no right to request exclusion exists, a statement that no such right exists; and

"(B) a proposed settlement of a class action;

"(4) any proposed or final class action settlement;

"(5) any settlement or other agreement contemporaneously made between class counsel and counsel for the defendants;

"(6) any final judgment or notice of dismissal;

"(7)(A) if feasible, the names of class members who reside in each State and the estimated proportionate share of the claims of such members to the entire settlement to that State's appropriate State official; or

"(B) if the provision of information under subparagraph (A) is not feasible, a reasonable estimate of the number of class members residing in each State and the estimated proportionate share of the claims of such members to the entire settlement; and

"(8) any written judicial opinion relating to the materials described under subparagraphs (3) through (6).

"(c) DEPOSITORY INSTITUTIONS NOTIFICATION.—

"(1) FEDERAL AND OTHER DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a Federal depository institution, a depository institution holding company, a foreign bank, or a non-depository institution subsidiary of the foregoing, the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

"(2) STATE DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a State depository institution (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the State bank supervisor (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) of the State in which the defendant is incorporated or chartered, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person, and upon the appropriate Federal official.

"(d) FINAL APPROVAL.—An order giving final approval of a proposed settlement may not be issued earlier than 90 days after the later of the dates on which the appropriate Federal official and the appropriate State official are served with the notice required under subsection (b).

"(e) NONCOMPLIANCE IF NOTICE NOT PROVIDED.—

"(1) IN GENERAL.—A class member may refuse to comply with and may choose not to be bound by a settlement agreement or consent decree in a class action if the class member demonstrates that the notice required under subsection (b) has not been provided.

"(2) LIMITATION.—A class member may not refuse to comply with or to be bound by a settlement agreement or consent decree under paragraph (1) if the notice required under subsection (b) was directed to the appropriate Federal official and to either the State attorney general or the person that has primary regulatory, supervisory, or licensing authority over the defendant.

"(3) APPLICATION OF RIGHTS.—The rights created by this subsection shall apply only to class members or any person acting on a class member's behalf, and shall not be construed to limit any other rights affecting a class member's participation in the settlement.

"(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to expand the authority of, or impose any obligations, duties, or responsibilities upon, Federal or State officials.".

~~**"§ 1716. Disclosure of attorney's fees**~~

~~"Any court with jurisdiction over a plaintiff class action shall require that, if there is a settlement of the class action or a judgment for the plaintiffs, the attorneys for the plaintiffs shall disclose to each plaintiff—~~
~~"(1) at the time when any payment or other award is transmitted to the plaintiff in accordance with the settlement of judgment, or~~
~~"(2) in a case in which no such payment or award is made to a plaintiff, at the time when notice of the final settlement or judgment is transmitted to such plaintiff,~~
~~the full amount of the attorney's fees charged by the attorneys for services rendered in the action.~~

~~**"§ 1717. Sunshine in court records**~~

~~"No order, opinion, or record of the court in the adjudication of a class action, including a record obtained through discovery, whether or not formally filed with the court, may be sealed or subjected to a protective order unless the court makes a finding of fact—~~
~~"(1) that the sealing or protective order is narrowly tailored, consistent with the protection of public health and safety, and is in the public interest; and~~
~~"(2) if the action by the court would prevent the disclosure of information, that disclosing the information is clearly outweighed by a specific and substantial interest in maintaining the confidentiality of such information.~~

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part V is amended by inserting after the item relating to chapter 113 the following:
"114. Class Actions
1711". SEC. 4. FEDERAL DISTRICT COURT JURISDICTION ~~OF~~ FOR INTERSTATE CLASS ACTIONS.

(a) APPLICATION OF FEDERAL DIVERSITY JURISDICTION.—Section 1332 is amended—
(1) by redesignating subsection (d) as subsection (e); and
(2) by inserting after subsection (c) the following:
"(d)(1) In this subsection—
"(A) the term 'class' means all of the class members in a class action;
"(B) the term 'class action' means any civil action filed ~~pursuant to~~ under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by ~~one~~ 1 or more representative persons ~~on behalf of a class~~ as a class action;
"(C) the term 'class certification order' means an order issued by a court approving the treatment of some or all aspects of a civil action as a class action; and

"(D) the term 'class members' means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.

"(2) The district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs, and is a class action in which—

"(A) any member of a class of plaintiffs is a citizen of a State different from any defendant;

"(B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or

"(C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.

"(3) Paragraph (2) shall not apply to any civil action in which—

"(A)(i) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed; and

"(ii) the claims asserted therein will be governed primarily by the laws of the State in which the action was originally filed;

"(B) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or

"(C) the number of ~~proposed plaintiff class~~ members of all proposed plaintiff classes in the aggregate is less than 100.

"(4) In any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs.

"(5) This subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.

"(6)(A) A district court shall dismiss any civil action that is subject to the jurisdiction of the court solely under this subsection if the court determines the action may not proceed as a class action based on a failure to satisfy the ~~requirements~~ prerequisites of rule 23 of the Federal Rules of Civil Procedure.

"(B) Nothing in subparagraph (A) shall prohibit plaintiffs from filing an amended class action in Federal court or filing an action in State court, except that any such action filed in State court may be removed to the appropriate district court if it is an action of which the district courts of the United States have original jurisdiction.

"(C) In any action that is dismissed under this paragraph and is filed by any of the original named plaintiffs therein in the same State court venue in which the dismissed action was originally filed, the limitations periods on all reasserted claims shall be deemed tolled for the period during which the dismissed class action was pending. The limitations periods on any claims that were asserted in a class action dismissed under this paragraph that are subsequently asserted in an individual action shall be deemed tolled for the period during which the dismissed action was pending.

"(7) Paragraph (2) shall not apply to any class action ~~brought by shareholders~~ that solely involves a claim ~~that relates to —~~

"(A) ~~a claim~~ concerning a covered security as defined under 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(B) that relates to the internal affairs or governance of a corporation or other form of business enterprise and that arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(C) that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).

"(8) For purposes of this subsection and section 1453 of this title, an unincorporated association shall be deemed to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.

"(9)(A) For purposes of this section and section 1453 of this title, a civil action that is not otherwise a class action as defined in paragraph (1)(B) ~~of this subsection~~ shall nevertheless be deemed a class action if—

"(i) ~~"(A)~~ the named plaintiff purports to act for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeks a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general; or

"(ii) ~~"(B)~~ monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact.

"(B)(i) In any ~~such case~~ civil action described under subparagraph (A)(ii), the persons who allegedly were injured shall be treated as members of a proposed plaintiff class and the monetary relief that is sought shall be treated as the claims of individual class members.

"(ii) ~~The provisions of p~~Paragraphs (3) and (6) of this subsection and subsections (b)(2) and (d) of section 1453 shall not apply to any civil action~~s~~ described under subparagraph (A)(i).

"(iii) ~~The provisions of p~~Paragraph (6) of this subsection, and subsections (b)(2) and (d) of section 1453 shall not apply to any civil action~~s~~ described under subparagraph (A)(ii) ~~(B)~~.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1335(a)(1) is amended by inserting "(a) or (d)" after "1332".

(2) Section 1603(b)(3) is amended by striking "(d)" and inserting "(e)".

SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FEDERAL DISTRICT COURT.

(a) IN GENERAL.—Chapter 89 is amended by adding after section 1452 the following:

"§ 1453. Removal of class actions

"(a) DEFINITIONS.—In this section, the terms 'class', 'class action', 'class certification order', and 'class member' shall have the meanings given ~~these~~ such terms ~~in~~ under section 1332(d)(1).

"(b) IN GENERAL.—A class action may be removed to a district court of the United States in accordance with this chapter, without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed—

"(1) by any defendant without the consent of all defendants; or

"(2) by any plaintiff class member who is not a named or representative class member without the consent of all members of such class.

"(c) WHEN REMOVABLE.—This section shall apply to any class action before or after the entry of a class certification order in the action~~, except that a plaintiff class member who is not a named or representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class member has been entered~~.

"(d) PROCEDURE FOR REMOVAL.— ~~The provisions of s~~Section 1446 relating to a defendant removing a case shall apply to a plaintiff removing a case under this section, except that in the application of subsection (b) of such section the requirement relating to the 30-day filing period shall be met if a plaintiff class member files notice of removal within 30 days after receipt by such class member, through service or otherwise, of the initial written notice of the class action.

"(e) REVIEW OF ORDERS REMANDING CLASS ACTIONS TO STATE COURTS.— ~~The provisions of s~~Section 1447 shall apply to any removal of a case under this section, except that~~,~~ notwithstanding ~~the provisions of~~ section 1447(d), an order remanding a class action to the State court from which it was removed shall be reviewable by appeal or otherwise.

"(f) EXCEPTION.—This section shall not apply to any class action ~~brought by shareholders~~ that solely involves—

"(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).".

(b) REMOVAL LIMITATION.—Section 1446(b) is amended in the second sentence by inserting "(a)" after "section 1332".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following:
"1453. Removal of class actions.".

~~**SEC. 6. APPEALS OF CLASS ACTION CERTIFICATION ORDERS.**~~

~~(a) IN GENERAL.—Section 1292(a) is amended by inserting after paragraph (3) the following:~~

~~"(4) Orders of the district courts of the United States granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within 10 days after entry of the order.".~~

~~(b) DISCOVERY STAY.—All discovery and other proceedings shall be stayed during the pendency of any appeal taken pursuant to the amendment made by subsection (a), unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue prejudice to that party.~~

SEC. 6~~7~~. REPORT ON CLASS ACTION SETTLEMENTS.

(a) IN GENERAL.—Not later than 12 months after the date of ~~the~~ enactment of this Act, the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall prepare and transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report on class action settlements ~~in the Federal courts~~.

(b) CONTENT.—The report under subsection (a) shall contain—

(1) recommendations on the best practices that courts can use to ensure that proposed class action settlements are fair to the class members ~~whom~~ that the settlements are supposed to benefit;

(2) recommendations on the best practices that courts can use to ensure that—

(A) the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and

(B) the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and

(3) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.

(c) AUTHORITY OF FEDERAL COURTS.—Nothing in this section shall be construed to alter the authority of the Federal courts to supervise attorney's' fees.

SEC. 7~~8~~. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action commenced on or after the date of ~~the~~ enactment of this Act.

U.S. Department of Justice

Office of Legislative Affairs

Washington, D.C. 20530

The Honorable F. James Sensenbrenner, Jr.
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20510

Dear Mr. Chairman:

This letter presents the views of the Department of Justice on H.R. 2341, the "Class Action Fairness Act of 2001" (counterpart to S. 1712 in the Senate). We appreciate your timely consideration of this important measure. The Department and the Administration support both of these bills.

Class action abuses have taken a toll on our legal system. All too often, class actions represent a lawyer's rush to the courthouse in order to select the most favorable State forum before other, duplicative actions purporting to represent the same class with the same claims are filed in other States. In essence, it becomes a race for the attorneys to see who among them can settle his or her case the fastest, thereby getting any attorneys' fees and binding all class members in perpetuity. In addition, this race to the preferred State courthouse results in class action filings in jurisdictions known for generous awards (and thus settlements). The resolution of these class actions in State court results in the first State to adjudicate a claim imposing its laws on class members from other States and on those other States themselves, which may have similar actions pending. Such interstate litigation is exactly that for which diversity jurisdiction sought to provide a Federal forum, preventing bias against out-of-State defendants and out-of-State plaintiff class members.

H.R. 2341 would close the gap in diversity jurisdiction that has resulted from the interpretation and application of diversity requirements in the unique class action world. The bill would prevent attorneys from avoiding removal through artful pleading that eliminates full diversity or minimizes the claimed damages of the individual class members, actions that fail to serve the plaintiff class members and actions that prejudice the defendants.

Sections 4 and 5 of the bill provide much needed amendments to Federal diversity jurisdiction and removal procedures that would permit, but not require, removal by any class member and any defendant in actions where minimal diversity existed and the total amount in controversy totaled at least $2 million. The Department fully supports this change, which

REV_00166574

recognizes the Federal interest in such significant litigation. In addition, providing for consistent and uniform Federal adjudication of these claims will protect States and their citizens from other State courts' legal rulings from which there is no recourse.

Section 3, entitled "Class Action Bill of Rights and Improved Procedures for Interstate Class Actions," would establish long needed protections for class members whose rights are often being adjudicated by lawyers not of their choosing and in fora with which the class members have no connection, where settlements are, in effect, imposed on class members. Too often class members receive notices of class action settlement proposals that are too confusing to provide useful notice about the proposed settlement. This section appropriately would guard against settlements that were unreasonable or even harmful to individual class members by providing for thorough review by the courts. To ensure that class members receive adequate information, this section would establish more specific pleading requirements in appropriate circumstances and require settlement notices provided to class members to be in plain English and in a specified, easy-to-read format.

Section 6 would permit immediate appeal of class certification decisions but – avoiding concerns voiced about previous legislation – would not encourage or permit the destruction of documents or other evidence during the appeal of the certification decision. On the contrary, discovery would be stayed under this section unless it was necessary to preserve evidence. Thus, immediate appeal of certification decisions would be crucial to efficient management of class actions and to permit the re-filing of a proper class action or the filing of an individual action.

Opponents of class action reform similar to H.R. 2341 (such as H.R. 1875, passed by the House in the previous Congress), incorrectly assert that the expansion of Federal diversity jurisdiction infringes on State courts and will result in a flood of class action litigation in Federal courts. Such criticism overlooks both the valid interest Federal courts have in cases that involve interstate commerce and defendants and plaintiffs from many States, as well as the inefficiency that duplication in State courts causes in the current system. The Constitution's provision for diversity jurisdiction was intended to prevent just the sort of local biases that have resulted from State court class actions that often award higher settlements to in-State class members and award unsupportable damages against out-of-State defendants. The unique circumstances of class actions, a modern phenomenon, could not have been foreseen when section 1332 was initially enacted.

In sum, H.R. 2341 is an important step in reforming class action litigation. It would update diversity jurisdiction appropriately to account for class action litigation, while permitting State court actions to proceed in cases where no party sought removal and in specified circumstances involving a relatively small class where the primary defendants were within the State. Thus, State courts would be able to offer redress and provide a convenient forum for their citizens, while Federal courts would provide a forum for those class actions involving parties from numerous States.

As a result of the Department's review of H.R. 2341, we do have some suggested technical amendments, particularly with respect to sections 3 and 4, that we would be happy to

REV_00166575

discuss with the members of the Committee.

Thank you for this opportunity to present our views. We greatly appreciate your efforts in support of meaningful class action reform. Please do not hesitate to call upon us if we may be of further assistance. The Office of Management and Budget has advised us that from the standpoint of the Administration's program, there is no objection to submission of this letter.

Sincerely,

Daniel J. Bryant
Assistant Attorney General

cc: The Honorable John Conyers, Jr.
Ranking Minority Member

REV_00166576

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/13/2003 1:09:11 PM
Subject: : FW: LRM LJM36 - - JUSTICE Testimony on HR1115 Class Action Fairness Act of 2003
Attachments: P_O41EG003_WHO.TXT_1.wpd; P_O41EG003_WHO.TXT_2.doc; P_O41EG003_WHO.TXT_3.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:13-MAY-2003 17:09:11.00
SUBJECT:: FW: LRM LJM36 - - JUSTICE Testimony on HR1115 Class Action Fairness Act of 2003
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

-----Original Message-----
From: MacEcevic, Lisa J.
Sent: Tuesday, May 13, 2003 4:59 PM
To: CLRM@doc.gov; llr@do.treas.gov
Cc: Bloomquist, Lauren E.; Boden, James; Schwartz, Kenneth L.; McMillin, Stephen S.; Whgc Lrm; Ovp Lrm; Kupfer, Jeffrey F.; Schacht, Diana L.; Malphrus, Garry; Kavanaugh, Brett M.; Warsh, Kevin; Nec Lrm; Marsh, Robert ; Keniry, Daniel ; Kelly, Kenneth S.; Knuffman, Nathan L.; Ferrandino, Mark S.; Little, Attia; Simms, Pamula L.; Lyon, Randolph M.; Schwartz, Mark J.; Green, Richard E.; Jukes, James J.
Subject: LRM LJM36 - - JUSTICE Testimony on HR1115 Class Action Fairness Act of 2003

The attached Justice testimony is for a May 15th hearing before the House Judiciary Committee. The testimony strongly supports H.R. 1115, which is very similar to H.R. 2341 of the 107th Congress, which the Administration strongly supported. Justice is requesting clearance by tomorrow morning. Please provide any comments on the testimony by 11:00 A.M. tomorrow - Wednesday, May 14th. Thank you.

Testimony --> - house.judiciary.classaction.5-15-03.v30.wpd
Bill Text --->
Comparison of H.R. 1115 to H.R. 2341 of the 107th Congress --->

LRM ID: LJM36
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, May 13, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: Lisa J. Macecevic
PHONE: (202)395-1092 FAX: (202)395-3109
SUBJECT: JUSTICE Testimony on HR1115 Class Action Fairness Act of 2003

DEADLINE: 11:00 A.M. Wednesday, May 14, 2003
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: The attached Justice testimony is for a May 15th hearing before

the House Judiciary Committee. The testimony strongly supports H.R. 1115, which is very similar to H.R. 2341 of the 107th Congress, which the Administration strongly supported. Justice is requesting clearance by tomorrow morning. Please provide any comments on the testimony by 11:00 A.M. tomorrow - Wednesday, May 14th. Thank you.

DISTRIBUTION LIST

AGENCIES:
025-COMMERCE - Michael A. Levitt - (202) 482-3151
118-TREASURY - Thomas M. McGivern - (202) 622-2317

EOP:
Lauren E. Bloomquist
James Boden
Kenneth L. Schwartz
Stephen S. McMillin
WHGC LRM
OVP LRM
Jeffrey F. Kupfer
Diana L. Schacht
Garry Malphrus
Brett M. Kavanaugh
Kevin Warsh
NEC LRM
Robert Marsh
Daniel J. Keniry
Kenneth S. Kelly
Nathan L. Knuffman
Mark S. Ferrandino
Attia Little
Pamula L. Simms
Randolph M. Lyon
Mark J. Schwartz
Richard E. Green
James J. Jukes

LRM ID: LJM36 SUBJECT: JUSTICE Testimony on HR1115 Class Action Fairness Act of 2003
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) faxing us a memo or letter.
Please include the LRM number and subject shown above.

TO: Lisa J. Macecevic Phone: 395-1092 Fax: 395-3109
Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on

the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_O41EG003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_O41EG003_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_O41EG003_WHO.TXT_3>

TESTIMONY OF VIET D. DINH,
ASSISTANT ATTORNEY GENERAL, OFFICE OF LEGAL POLICY,
BEFORE THE JUDICIARY COMMITTEE
OF THE UNITED STATES HOUSE OF REPRESENTATIVES
ON THE "CLASS ACTION FAIRNESS ACT OF 2003."

May 15, 2003

Mr. Chairman, it is a pleasure for me to be here this morning to present the views of the Department of Justice on H.R. 1115, the "Class Action Fairness Act of 2003." The Department of Justice supports this bill, which is virtually identical to H.R. 2341 passed by the House of Representatives in the 107th Congress, also with our strong support. Mr. Chairman, we appreciate your leadership on this important legislation, and the leadership of the bill's bi-partisan group of sponsors.

Class action abuses have taken a toll on our legal system. All too often, class actions represent a lawyer's rush to the courthouse in order to select the most favorable State forum before duplicative actions purporting to represent the same class with the same claims are filed in other States. In essence, it becomes a race to the courthouse for the attorneys to see who among them can file and then settle his or her case the fastest and thereby collect millions in attorneys fees. The losers in this race are the class members who often gain little or nothing through the settlement, yet are bound in perpetuity.

The Class Action Fairness Act of 2003 contains three distinct, but necessary components: (1) a number of provisions relating to the administration of class actions in Federal courts, which have been collectively dubbed a "Consumer Class Action Bill of Rights;" (2) expanded federal court diversity jurisdiction to ensure that class actions with national implications can be heard in federal courts; and (3) expedited appellate review of class certification decision. I would like to briefly address each in turn.

Consumer Class Action Bill of Rights

Section 3 of H.R. 1115, entitled the "Class Action Bill of Rights and Improved Procedures for Interstate Class Actions," would establish long needed protections for class members whose rights are often adjudicated by lawyers not of their choosing in fora with which the class members have no connection, and where settlements are, in practical effect, imposed on class members. Too often class members receive notices of class action settlement proposals that are too confusing to provide any meaningful information about the proposed settlement. This section appropriately would guard against settlements that were unreasonable or even harmful to individual class members by providing for thorough review by the courts. To ensure that class members receive adequate information, this section would require settlement notices provided to class members to be in plain English and in a standardized, easy-to-read format.

Federal Court Jurisdiction for National Class Actions

REV_00166582

In addition to the problem of duplicative class actions being filed in numerous states, certain local courthouses have become known for particularly generous. The threat of these large awards often coerces defendants to agree to disproportionately high settlement amounts. Often, these tiny jurisdictions are the first to adjudicate a class action claim and impose their laws on class members from other States and on those States themselves, where similar actions may be pending. Such interstate litigation is exactly why the Founders created diversity jurisdiction: to provide a Federal forum preventing bias against out-of-State defendants and out-of-State plaintiff class members.

H.R. 1115 would close the gap in diversity jurisdiction that has resulted from the interpretation and application of diversity and jurisdictional amount requirements in the unique class action world. The bill would prevent attorneys from avoiding removal through artful pleading that eliminates full diversity or minimizes the claimed damages of the individual class members – actions that fail to serve the plaintiff class and prejudice the defendants. Specifically, sections 4 and 5 of H.R.1115 provide much needed amendments to Federal diversity jurisdiction by relaxing the "complete diversity" rule. The Act would permit, but not require, removal by any class member and any defendant, so long as there is "minimal diversity," the aggregate amount in controversy exceeds $2 million, and the lawsuit is not primarily intra-state in nature.

Importantly, H.R. 1115 also contains an anti-circumvention measure. Section 4 provides that – regardless of the label placed on a lawsuit by the State court – an action will be "deemed" a class action if: (1) the named plaintiff (exclusive of a State attorney general) purports to act for the interests of its members who are not named parties to the action; or (2) the monetary relief claims of 100 or more other persons are proposed to be tried jointly in the action on the grounds the claims involve common questions of law or fact. This definition would appropriately encompass "private attorney general suits" in which an individual seeks to recover on behalf of the general public, as well as "mass actions" brought on behalf of plaintiffs who claim that their suits present common questions of law or fact that should be resolved in a single proceeding.

The Department fully supports these changes to Federal diversity jurisdiction and removal procedures, which recognize the Federal interest in significant class action litigation that truly involves multiple interstate plaintiffs and defendants. In addition, providing for consistent and uniform Federal adjudication of these claims will protect each State and its citizens from other State courts' legal rulings from which there is no recourse.

Prior witnesses before this committee have described the multi-billion dollar judgment awarded in Madison County, Illinois against State Farm Insurance for repairing automobiles with "aftermarket parts" as distinguished from original manufacturers' parts. That decision applied Illinois law to plaintiffs in all 50 states, even though such a ruling was contrary to state insurance regulations in New York, Massachusetts, and Hawaii among other places. The State Farm case is not an isolated example. Right now, for instance, we are following with interest a case in Oklahoma where a nationwide class has been certified against DaimlerChrylser Corporation. The Oklahoma courts plan to apply Michigan law to adjudicate, on behalf of residents of all 50 states, claims that Chrysler should not have installed certain airbags that comply federal safety standards.

Opponents of class action reform similar to H.R. 1115, incorrectly assert that the expansion of Federal diversity jurisdiction infringes on State courts and will result in a flood of class action litigation in Federal courts. Such criticism overlooks both the valid interest Federal courts have in cases that involve interstate commerce and parties from many States, as well as the inefficiency that duplication in State courts causes in the current system. The Constitution's provision for diversity jurisdiction was intended to prevent just the sort of local biases that have resulted from State court class actions that often award higher settlements to in-State class members and award unsupportable damages against out-of-State defendants. The unique circumstances of class actions, a modern phenomenon, could not have been foreseen when 28 U.S.C. § 1332 was initially enacted.

Interlocutory Appeal of Class Certification Decision

Because the court's certification decision often is decisive — a decision to certify may place insurmountable pressure on the defendant to settle, while a refusal to certify may force the plaintiffs to abandon their claims — the bill permits immediate appeal of certification decisions as a matter of right. Immediate appeals of certification decisions can be crucial to efficient management of class actions, preventing the nightmare situation where parties engage in years of expensive litigation under a ruling on the class certification, only to have the appeals court reverse the class certification determination. Contrary to concerns voiced about previous legislative proposals, H.R. 1115 would not encourage or permit the destruction of documents or other evidence during the appeal of the certification decision. On the contrary, discovery would be stayed under this section unless the court finds that specific discovery is necessary to preserve evidence or to prevent undue prejudice.

Conclusion

In sum, H.R. 1115 is an important step in reforming class action litigation. It would update diversity jurisdiction appropriately to account for class action litigation, while permitting State court actions to proceed in cases where no party sought removal and in specified circumstances such as where the class is relatively small or where the primary plaintiffs and defendants are within the State. Thus, State courts would be able to offer redress and provide a convenient forum for their citizens, while Federal courts would provide a forum for truly interstate class actions.

Thank you for this opportunity to present our views. We greatly appreciate your efforts in support of meaningful class action reform. I would be pleased to answer any questions that the Committee may have on this subject.

HR 1115 IH

108th CONGRESS
1st Session
H. R. 1115

To amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

March 6, 2003

Mr. GOODLATTE (for himself, Mr. BOUCHER, Mr. SENSENBRENNER, Mr. MORAN of Virginia, Mr. SMITH of Texas, Mr. STENHOLM, Mr. DELAY, Mr. DOOLEY of California, Mr. HYDE, Mr. HOLDEN, Mr. COX, and Mr. CRAMER) introduced the following bill; which was referred to the Committee on the Judiciary

---

A BILL

To amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE- This Act may be cited as the `Class Action Fairness Act of 2003'.
(b) REFERENCE- Whenever in this Act reference is made to an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

(c) TABLE OF CONTENTS- The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Consumer class action bill of rights and improved procedures for interstate class actions.
Sec. 4. Federal district court jurisdiction of interstate class actions.
Sec. 5. Removal of interstate class actions to Federal district court.
Sec. 6. Appeals of class action certification orders.
Sec. 7. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS- The Congress finds as follows:

(1) Class action lawsuits are an important and valuable part of our legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.

(2) Over the past decade, there have been abuses of the class action device that have--

(A) harmed class members with legitimate claims and defendants that have acted responsibly;

(B) adversely affected interstate commerce; and

(C) undermined public respect for the judicial system in the United States.

(3) Class members have been harmed by a number of actions taken by plaintiffs' lawyers, which provide little or no benefit to class members as a whole, including--

(A) plaintiffs' lawyers receiving large fees, while class members are left with coupons or other awards of little or no value;

(B) unjustified rewards being made to certain plaintiffs at the expense of other class members; and

(C) the publication of confusing notices that prevent class members from being able to fully understand and effectively exercise their rights.

(4) Through the use of artful pleading, plaintiffs are able to avoid litigating class actions in Federal court, forcing businesses and other organizations to defend interstate class action lawsuits in county and State courts where--

(A) the lawyers, rather than the claimants, are likely to receive the maximum benefit;

(B) less scrutiny may be given to the merits of the case; and

(C) defendants are effectively forced into settlements, in order to avoid the possibility of huge judgments that could destabilize their companies.

(5) These abuses undermine the Federal judicial system, the free flow of interstate commerce, and the intent of the framers of the Constitution in creating diversity jurisdiction, in that county and State courts are--

(A) handling interstate class actions that affect parties from many States;

(B) sometimes acting in ways that demonstrate bias against out-of-State defendants; and

(C) making judgments that impose their view of the law on other States and bind the rights of the residents of those States.

(6) Abusive interstate class actions have harmed society as a whole by forcing innocent parties to settle cases rather than risk a huge judgment by a local jury, thereby costing consumers billions of dollars in increased costs to pay for forced settlements and excessive judgments.

(b) PURPOSES- The purposes of this Act are--

(1) to assure fair and prompt recoveries for class members with legitimate claims;

(2) to protect responsible companies and other institutions against interstate class actions in State courts;

(3) to restore the intent of the framers of the Constitution by providing for Federal court consideration of interstate class actions; and

(4) to benefit society by encouraging innovation and lowering consumer prices.

SEC. 3. CONSUMER CLASS ACTION BILL OF RIGHTS AND IMPROVED PROCEDURES FOR INTERSTATE CLASS ACTIONS.

(a) IN GENERAL- Part V is amended by inserting after chapter 113 the following:

`CHAPTER 114--CLASS ACTIONS

`Sec.
`1711. Judicial scrutiny of coupon and other noncash settlements.
`1712. Protection against loss by class members.
`1713. Protection against discrimination based on geographic location.
`1714. Prohibition on the payment of bounties.
`1715. Clearer and simpler settlement information.
`1716. Definitions.

`Sec. 1711. Judicial scrutiny of coupon and other noncash settlements

`The court may approve a proposed settlement under which the class members would receive noncash benefits or would otherwise be required to expend funds in order to obtain part or all of the proposed benefits only after a hearing to determine whether, and making a written finding that, the settlement is fair, reasonable, and adequate for class members.

`Sec. 1712. Protection against loss by class members

`The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court makes a written finding that nonmonetary benefits to the class member outweigh the monetary loss.

`Sec. 1713. Protection against discrimination based on geographic location

`The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

`Sec. 1714. Prohibition on the payment of bounties

`(a) IN GENERAL- The court may not approve a proposed settlement that provides for the payment of a greater share of the award to a class representative serving on behalf of a class, on the basis of the formula for distribution to all other class members, than that awarded to the other class members.
`(b) RULE OF CONSTRUCTION- The limitation in subsection (a) shall not be construed to prohibit any payment approved by the court for reasonable time or costs that a person was required to expend in fulfilling his or her obligations as a class representative.

`Sec. 1715. Clearer and simpler settlement information

`(a) PLAIN ENGLISH REQUIREMENTS- Any court with jurisdiction over a plaintiff class action shall require that any written notice concerning a proposed settlement of the class action provided to the class through the mail or publication in printed media contain--

`(1) at the beginning of such notice, a statement in 18-point Times New Roman type or other functionally similar type, stating `LEGAL NOTICE: YOU ARE A PLAINTIFF IN A CLASS ACTION LAWSUIT AND YOUR LEGAL RIGHTS ARE AFFECTED BY THE SETTLEMENT DESCRIBED IN THIS NOTICE.'; and
`(2) a short summary written in plain, easily understood language, describing--

`(A) the subject matter of the class action;
`(B) the members of the class;
`(C) the legal consequences of being a member of the class;
`(D) if the notice is informing class members of a proposed settlement agreement--

`(i) the benefits that will accrue to the class due to the settlement;

`(ii) the rights that class members will lose or waive through the settlement;
`(iii) obligations that will be imposed on the defendants by the settlement;
`(iv) the dollar amount of any attorney's fee class counsel will be seeking, or if not possible, a good faith estimate of the dollar amount of any attorney's fee class counsel will be seeking; and
`(v) an explanation of how any attorney's fee will be calculated and funded; and

`(E) any other material matter.

`(b) TABULAR FORMAT- Any court with jurisdiction over a plaintiff class action shall require that the information described in subsection (a)--

`(1) be placed in a conspicuous and prominent location on the notice;
`(2) contain clear and concise headings for each item of information; and
`(3) provide a clear and concise form for stating each item of information required to be disclosed under each heading.

`(c) TELEVISION OR RADIO NOTICE- Any notice provided through television or radio (including transmissions by cable or satellite) to inform the class members in a class action of the right of each member to be excluded from the class action or a proposed settlement of the class action, if such right exists, shall, in plain, easily understood language--

`(1) describe the persons who may potentially become class members in the class action; and
`(2) explain that the failure of a class member to exercise his or her right to be excluded from a class action will result in the person's inclusion in the class action or settlement.

`Sec. 1716. Definitions

`In this chapter--

`(1) CLASS ACTION- The term `class action' means any civil action filed in a district court of the United States pursuant to rule 23 of the Federal

Rules of Civil Procedure or any civil action that is removed to a district court of the United States that was originally filed pursuant to a State statute or rule of judicial procedure authorizing an action to be brought by one or more representatives on behalf of a class.

`(2) CLASS COUNSEL- The term `class counsel' means the persons who serve as the attorneys for the class members in a proposed or certified class action.
`(3) CLASS MEMBERS- The term `class members' means the persons who fall within the definition of the proposed or certified class in a class action.

`(4) PLAINTIFF CLASS ACTION- The term `plaintiff class action' means a class action in which class members are plaintiffs.

`(5) PROPOSED SETTLEMENT- The term `proposed settlement' means an agreement that resolves claims in a class action, that is subject to court approval, and that, if approved, would be binding on the class members.'.

(b) TECHNICAL AND CONFORMING AMENDMENT- The table of chapters for part V is amended by inserting after the item relating to chapter 113 the following:

--1711'.

SEC. 4. FEDERAL DISTRICT COURT JURISDICTION OF INTERSTATE CLASS ACTIONS.

(a) APPLICATION OF FEDERAL DIVERSITY JURISDICTION- Section 1332 is amended--

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

`(d)(1) In this subsection--

`(A) the term `class' means all of the class members in a class action;

`(B) the term `class action' means any civil action filed pursuant to rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by one or more representative persons on behalf of a class;

`(C) the term `class certification order' means an order issued by a court approving the treatment of a civil action as a class action; and

`(D) the term `class members' means the persons who fall within the definition of the proposed or certified class in a class action.

`(2) The district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs, and is a class action in which--

`(A) any member of a class of plaintiffs is a citizen of a State different from any defendant;

`(B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or

`(C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.

`(3) Paragraph (2) shall not apply to any civil action in which--

`(A)(i) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed; and

`(ii) the claims asserted therein will be governed primarily by the laws of the State in which the action was originally filed;

`(B) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or

`(C) the number of proposed plaintiff class members is less than 100.

`(4) In any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs.

`(5) This subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.

`(6)(A) A district court shall dismiss any civil action that is subject to the jurisdiction of the court solely under this subsection if the court determines the action may not proceed as a class action based on a failure to satisfy the requirements of rule 23 of the Federal Rules of Civil Procedure.

`(B) Nothing in subparagraph (A) shall prohibit plaintiffs from filing an amended class action in Federal court or filing an action in State court, except that any such action filed in State court may be removed to the appropriate district court if it is an action of which the district courts of the United States have original jurisdiction.

`(C) In any action that is dismissed under this paragraph and is filed by any of the original named plaintiffs therein in the same State court venue in which the dismissed action was originally filed, the limitations periods on all reasserted claims shall be deemed tolled for the period during which the dismissed class action was pending. The limitations periods on any claims that were asserted in a class action dismissed under this paragraph that are subsequently asserted in an individual action shall be deemed tolled for the period during which the dismissed action was pending.

`(7) Paragraph (2) shall not apply to any class action brought by shareholders that solely involves a claim that relates to--

`(A) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

`(B) the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

`(C) the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).

`(8) For purposes of this subsection and section 1453 of this title, an unincorporated association shall be deemed

to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.

`(9) For purposes of this section and section 1453 of this title, a civil action that is not otherwise a class action as defined in paragraph (1)(B) of this subsection shall nevertheless be deemed a class action if--

`(A) the named plaintiff purports to act for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeks a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general; or

`(B) monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact.

In any such case, the persons who allegedly were injured shall be treated as members of a proposed plaintiff class and the monetary relief that is sought shall be treated as the claims of individual class members. The provisions of paragraphs (3) and (6) of this subsection and subsections (b)(2) and (d) of section 1453 shall not apply to civil actions described under subparagraph (A). The provisions of paragraph (6) of this subsection, and subsections (b)(2) and (d) of section 1453 shall not apply to civil actions described under subparagraph (B).'.

(b) CONFORMING AMENDMENTS-

(1) Section 1335(a)(1) is amended by inserting `(a) or (d)' after `1332'.

(2) Section 1603(b)(3) is amended by striking `(d)' and inserting `(e)'.

SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FEDERAL DISTRICT COURT.

(a) IN GENERAL- Chapter 89 is amended by adding after section 1452 the following:

`Sec. 1453. Removal of class actions

`(a) DEFINITIONS- In this section, the terms `class', `class action', `class certification order', and `class member' have the meanings given these terms in section 1332(d)(1).

`(b) IN GENERAL- A class action may be removed to a district court of the United States in accordance with this chapter, without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed--

`(1) by any defendant without the consent of all defendants; or

`(2) by any plaintiff class member who is not a named or representative class member without the consent of all members of such class.

`(c) WHEN REMOVABLE- This section shall apply to any class action before or after the entry of a class certification order in the action, except that a plaintiff class member who is not a named or representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class member has been entered.

`(d) PROCEDURE FOR REMOVAL- The provisions of section 1446 relating to a defendant removing a case shall apply to a plaintiff removing a case under this section, except that in the application of subsection (b) of such section the requirement relating to the 30-day filing period shall be met if a plaintiff class member files notice of removal within 30 days after receipt by such class

member, through service or otherwise, of the initial written notice of the class action.

`(e) REVIEW OF ORDERS REMANDING CLASS ACTIONS TO STATE COURTS- The provisions of section 1447 shall apply to any removal of a case under this section, except that, notwithstanding the provisions of section 1447(d), an order remanding a class action to the State court from which it was removed shall be reviewable by appeal or otherwise.

`(f) EXCEPTION- This section shall not apply to any class action brought by shareholders that solely involves--

`(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

`(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

`(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).'.

(b) REMOVAL LIMITATION- Section 1446(b) is amended in the second sentence by inserting `(a)' after `section 1332'.

(c) TECHNICAL AND CONFORMING AMENDMENTS- The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following:

`1453. Removal of class actions.'.

SEC. 6. APPEALS OF CLASS ACTION CERTIFICATION ORDERS.

(a) IN GENERAL- Section 1292(a) is amended by inserting after paragraph (3) the following:

`(4) Orders of the district courts of the United States granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within 10 days after entry of the order.'.

(b) DISCOVERY STAY- All discovery and other proceedings shall be stayed during the pendency of any appeal taken pursuant to the amendment made by subsection (a), unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue prejudice to that party.

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action commenced on or after the date of the enactment of this Act.

END

HR 1115 108th Congress-Introduced House (blue, underlined text)
as compared to
HR 2341 107th Congress-Passed House ~~(red, strikethrough text)~~

To amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes.

(a) SHORT TITLE.—This Act may be cited as the "Class Action Fairness Act of 2003~~2~~".
(b) REFERENCE.—Whenever in this Act reference is made to an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.
(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Consumer class action bill of rights and improved procedures for interstate class actions.
Sec. 4. Federal district court jurisdiction of interstate class actions.
Sec. 5. Removal of interstate class actions to Federal district court.
Sec. 6. Appeals of class action certification orders.
Sec. 7~~8~~. Effective date.
~~Sec. 7. Report on class action settlements~~.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds as follows:
(1) Class action lawsuits are an important and valuable part of our legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.

(2) Over the past decade, there have been abuses of the class action device that have—
(A) harmed class members with legitimate claims and defendants that have acted responsibly;
(B) adversely affected interstate commerce; and
(C) undermined public respect for the ~~our~~ judicial system in the United States.
(3) Class members have been harmed by a number of actions taken by plaintiffs' lawyers, which provide little or no benefit to class members as a whole, including—
(A) plaintiffs' lawyers receiving large fees, while class members are left with coupons or other awards of little or no value;
(B) unjustified rewards being made to certain plaintiffs at the expense of other class

members; and
(C) the publication of confusing notices that prevent class members from being able to fully understand and effectively exercise their rights.
(4) Through the use of artful pleading, plaintiffs are able to avoid litigating class actions in Federal court, forcing businesses and other organizations to defend interstate class action lawsuits in county and State courts where—
(A) the lawyers, rather than the claimants, are likely to receive the maximum benefit;
(B) less scrutiny may be given to the merits of the case; and
(C) defendants are effectively forced into settlements, in order to avoid the possibility of huge judgments that could destabilize their companies.
(5) These abuses undermine the ~~our~~ Federal judicial system, the free flow of interstate commerce, and the intent of the framers of the Constitution in creating diversity jurisdiction, in that county and State courts are—
(A) handling interstate class actions that affect parties from many States;
(B) sometimes acting in ways that demonstrate bias against out-of-State defendants; and
(C) making judgments that impose their view of the law on other States and bind the rights of the residents of those States.
(6) Abusive interstate class actions have harmed society as a whole by forcing innocent parties to settle cases rather than risk a huge judgment by a local jury, thereby costing consumers billions of dollars in increased costs to pay for forced settlements and excessive judgments.

(b) PURPOSES.—The purposes of this Act are—
(1) to assure fair and prompt recoveries for class members with legitimate claims;
(2) to protect responsible companies and other institutions against interstate class actions in State courts;
(3) to restore the intent of the framers of the Constitution by providing for Federal court consideration of interstate class actions; and
(4) to benefit society by encouraging innovation and lowering consumer prices.

SEC. 3. CONSUMER CLASS ACTION BILL OF RIGHTS AND IMPROVED PROCEDURES FOR INTERSTATE CLASS ACTIONS.

(a) IN GENERAL.—Part V is amended by inserting after chapter 113 the following:
"CHAPTER 114—CLASS ACTIONS
"Sec.
"1711. Judicial scrutiny of coupon and other noncash settlements.
"1712. Protection against loss by class members.
"1713. Protection against discrimination based on geographic location.
"1714. Prohibition on the payment of bounties.
"1715. Clearer and simpler settlement information.
"1716~~1718~~. Definitions.
~~"1716. Disclosure of attorney's fees.~~
~~"1717. Sunshine in court records.~~

"§ 1711. Judicial scrutiny of coupon and other noncash settlements

"The court may approve a proposed settlement under which the class members would receive noncash benefits or would otherwise be required to expend funds in order to obtain part or all of the proposed benefits only after a hearing to determine whether, and making a written finding that, the settlement is fair, reasonable, and adequate for class members.

"§ 1712. Protection against loss by class members

"The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court makes a written finding that nonmonetary benefits to the class member outweigh the monetary loss.

"§ 1713. Protection against discrimination based on geographic location

"The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

"§ 1714. Prohibition on the payment of bounties

"(a) IN GENERAL.—The court may not approve a proposed settlement that provides for the payment of a greater share of the award to a class representative serving on behalf of a class, on the basis of the formula for distribution to all other class members, than that awarded to the other class members.

"(b) RULE OF CONSTRUCTION.—The limitation in subsection (a) shall not be construed to prohibit any payment approved by the court for reasonable time or costs that a person was required to expend in fulfilling his or her obligations as a class representative.

"§ 1715. Clearer and simpler settlement information

"(a) PLAIN ENGLISH REQUIREMENTS.—Any court with jurisdiction over a plaintiff class action shall require that any written notice concerning a proposed settlement of the class action provided to the class through the mail or publication in printed media contain—

"(1) at the beginning of such notice, a statement in 18-point Times New Roman type or other functionally similar type, stating 'LEGAL NOTICE: YOU ARE A PLAINTIFF IN A CLASS ACTION LAWSUIT AND YOUR LEGAL RIGHTS ARE AFFECTED BY THE SETTLEMENT DESCRIBED IN THIS NOTICE.'; and

"(2) a short summary written in plain, easily understood language, describing—

"(A) the subject matter of the class action;

"(B) the members of the class;

"(C) the legal consequences of being a member of the class;

"(D) if the notice is informing class members of a proposed settlement agreement—
"(i) the benefits that will accrue to the class due to the settlement;
"(ii) the rights that class members will lose or waive through the settlement;
"(iii) obligations that will be imposed on the defendants by the settlement;
"(iv) the dollar amount of any attorney's fee class counsel will be seeking, or if not possible, a good faith estimate of the dollar amount of any attorney's fee class counsel will be seeking; and
"(v) an explanation of how any attorney's fee will be calculated and funded; and
"(E) any other material matter.
"(b) TABULAR FORMAT.—Any court with jurisdiction over a plaintiff class action shall require that the information described in subsection (a)—
"(1) be placed in a conspicuous and prominent location on the notice;
"(2) contain clear and concise headings for each item of information; and
"(3) provide a clear and concise form for stating each item of information required to be disclosed under each heading.
"(c) TELEVISION OR RADIO NOTICE.—Any notice provided through television or radio (including transmissions by cable or satellite) to inform the class members in a class action of the right of each member to be excluded from the class action or a proposed settlement of the class action, if such right exists, shall, in plain, easily understood language—
"(1) describe the persons who may potentially become class members in the class action; and
"(2) explain that the failure of a class member to exercise his or her right to be excluded from a class action will result in the person's inclusion in the class action or settlement.

"§ 1716~~1718~~. Definitions

"In this chapter—
"(1) CLASS ACTION.—The term 'class action' means any civil action filed in a district court of the United States pursuant to rule 23 of the Federal Rules of Civil Procedure or any civil action that is removed to a district court of the United States that was originally filed pursuant to a State statute or rule of judicial procedure authorizing an action to be brought by one or more representatives on behalf of a class.
"(2) CLASS COUNSEL.—The term 'class counsel' means the persons who serve as the attorneys for the class members in a proposed or certified class action.
"(3) CLASS MEMBERS.—The term 'class members' means the persons who fall within the definition of the proposed or certified class in a class action.
"(4) PLAINTIFF CLASS ACTION.—The term 'plaintiff class action' means a class action in which class members are plaintiffs.
"(5) PROPOSED SETTLEMENT.—The term 'proposed settlement' means an agreement that resolves claims in a class action, that is subject to court approval, and that, if approved, would be binding on the class members.".

~~**"§ 1716. Disclosure of attorney's fees**~~

~~"Any court with jurisdiction over a plaintiff class action shall require that, if there is a~~

~~settlement of the class action or a judgment for the plaintiffs, the attorneys for the plaintiffs shall disclose to each plaintiff—~~

~~"(1) at the time when any payment or other award is transmitted to the plaintiff in accordance with the settlement of judgment, or~~

~~"(2) in a case in which no such payment or award is made to a plaintiff, at the time when notice of the final settlement or judgment is transmitted to such plaintiff,~~

~~the full amount of the attorney's fees charged by the attorneys for services rendered in the action.~~

~~**"§ 1717. Sunshine in court records**~~

~~"No order, opinion, or record of the court in the adjudication of a class action, including a record obtained through discovery, whether or not formally filed with the court, may be sealed or subjected to a protective order unless the court makes a finding of fact—~~

~~"(1) that the sealing or protective order is narrowly tailored, consistent with the protection of public health and safety, and is in the public interest; and~~

~~"(2) if the action by the court would prevent the disclosure of information, that disclosing the information is clearly outweighed by a specific and substantial interest in maintaining the confidentiality of such information.~~

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part V is amended by inserting after the item relating to chapter 113 the following:
"114. Class Actions
1711".

SEC. 4. FEDERAL DISTRICT COURT JURISDICTION OF INTERSTATE CLASS ACTIONS.

(a) APPLICATION OF FEDERAL DIVERSITY JURISDICTION.—Section 1332 is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d)(1) In this subsection—

"(A) the term 'class' means all of the class members in a class action;

"(B) the term 'class action' means any civil action filed pursuant to rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by one or more representative persons on behalf of a class;

"(C) the term 'class certification order' means an order issued by a court approving the treatment of a civil action as a class action; and

"(D) the term 'class members' means the persons who fall within the definition of the proposed or certified class in a class action.

"(2) The district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs, and is a class action in which—

"(A) any member of a class of plaintiffs is a citizen of a State different from any

defendant;

"(B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or

"(C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.

"(3) Paragraph (2) shall not apply to any civil action in which—

"(A)(i) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed; and

"(ii) the claims asserted therein will be governed primarily by the laws of the State in which the action was originally filed;

"(B) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or

"(C) the number of proposed plaintiff class members is less than 100.

"(4) In any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs.

"(5) This subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.

"(6)(A) A district court shall dismiss any civil action that is subject to the jurisdiction of the court solely under this subsection if the court determines the action may not proceed as a class action based on a failure to satisfy the requirements of rule 23 of the Federal Rules of Civil Procedure.

"(B) Nothing in subparagraph (A) shall prohibit plaintiffs from filing an amended class action in Federal court or filing an action in State court, except that any such action filed in State court may be removed to the appropriate district court if it is an action of which the district courts of the United States have original jurisdiction.

"(C) In any action that is dismissed under this paragraph and is filed by any of the original named plaintiffs therein in the same State court venue in which the dismissed action was originally filed, the limitations periods on all reasserted claims shall be deemed tolled for the period during which the dismissed class action was pending. The limitations periods on any claims that were asserted in a class action dismissed under this paragraph that are subsequently asserted in an individual action shall be deemed tolled for the period during which the dismissed action was pending.

"(7) Paragraph (2) shall not apply to any class action brought by shareholders that solely involves a claim that relates to—

"(A) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(B) the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(C) the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).

"(8) For purposes of this subsection and section 1453 of this title, an unincorporated association shall be deemed to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.

"(9) For purposes of this section and section 1453 of this title, a civil action that is not otherwise a class action as defined in paragraph (1)(B) of this subsection shall nevertheless be deemed a class action if—

"(A) the named plaintiff purports to act for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeks a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general; or

"(B) monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact.

In any such case, the persons who allegedly were injured shall be treated as members of a proposed plaintiff class and the monetary relief that is sought shall be treated as the claims of individual class members. The provisions of paragraphs (3) and (6) of this subsection and subsections (b)(2) and (d) of section 1453 shall not apply to civil actions described under subparagraph (A). The provisions of paragraph (6) of this subsection, and subsections (b)(2) and (d) of section 1453 shall not apply to civil actions described under subparagraph (B).".

(b) CONFORMING AMENDMENTS.—

(1) Section 1335(a)(1) is amended by inserting "(a) or (d)" after "1332".

(2) Section 1603(b)(3) is amended by striking "(d)" and inserting "(e)".

SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FEDERAL DISTRICT COURT.

(a) IN GENERAL.—Chapter 89 is amended by adding after section 1452 the following:

"§ 1453. Removal of class actions

"(a) DEFINITIONS.—In this section, the terms 'class', 'class action', 'class certification order', and 'class member' have the meanings given these terms in section 1332(d)(1).

"(b) IN GENERAL.—A class action may be removed to a district court of the United States in accordance with this chapter, without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed—

"(1) by any defendant without the consent of all defendants; or

"(2) by any plaintiff class member who is not a named or representative class member without the consent of all members of such class.

"(c) WHEN REMOVABLE.—This section shall apply to any class action before or after the entry of a class certification order in the action, except that a plaintiff class member who is not a named or representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class member has been entered.

"(d) PROCEDURE FOR REMOVAL.—The provisions of section 1446 relating to a defendant removing a case shall apply to a plaintiff removing a case under this section, except that in the application of subsection (b) of such section the requirement relating to the 30-day filing period shall be met if a plaintiff class member files notice of removal

within 30 days after receipt by such class member, through service or otherwise, of the initial written notice of the class action.

"(e) REVIEW OF ORDERS REMANDING CLASS ACTIONS TO STATE COURTS.—The provisions of section 1447 shall apply to any removal of a case under this section, except that, notwithstanding the provisions of section 1447(d), an order remanding a class action to the State court from which it was removed shall be reviewable by appeal or otherwise.

"(f) EXCEPTION.—This section shall not apply to any class action brought by shareholders that solely involves—

"(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).".

(b) REMOVAL LIMITATION.—Section 1446(b) is amended in the second sentence by inserting "(a)" after "section 1332".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following: "1453. Removal of class actions.".

SEC. 6. APPEALS OF CLASS ACTION CERTIFICATION ORDERS.

(a) IN GENERAL.—Section 1292(a) is amended by inserting after paragraph (3) the following:

"(4) Orders of the district courts of the United States granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within 10 days after entry of the order.".

(b) DISCOVERY STAY.—All discovery and other proceedings shall be stayed during the pendency of any appeal taken pursuant to the amendment made by subsection (a), unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue prejudice to that party.

SEC. 7~~8~~. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action commenced on or after the date of the enactment of this Act.

~~SEC.7. REPORT ON CLASS ACTION SETTLEMENTS.~~

~~(a) IN GENERAL.—Not later than 12 months after the date of the enactment of this~~

~~Act, the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall prepare and transmit to the Committees on the Judiciary of the Senate and House of Representatives a report on class action settlements in the Federal courts.~~

~~(b) CONTENT.—The report under subsection (a) shall contain—~~

~~(1) recommendations on the best practices that courts can use to ensure that proposed class action settlements are fair to the class members whom the settlements are supposed to benefit;~~

~~(2) recommendations on the best practices that courts can use to ensure that—~~

~~(A) the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and~~

~~(B) the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and~~

~~(3) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.~~

~~(c) AUTHORITY OF FEDERAL COURTS.—Nothing in this section shall be construed to alter the authority of the Federal courts to supervise attorney's fees.~~

From:	Nelson, Carolyn
To:	<Bartolomucci, H. Christopher>;<Ullyot, Theodore W.>;<Leitch, David G.>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>; <Brosnahan, Jennifer R.>
CC:	<Montiel, Charlotte L.>;<Bumatay, Patrick J.>
Sent:	5/13/2003 2:47:16 PM
Subject:	Prep

JSC Prep will be in the Judge's Office at 3:45.
-----Original Message-----
From: Nelson, Carolyn
Sent: Tuesday, May 13, 2003 2:35 PM
To: wendy keefer; adam ciongoli; albert brewster; amy bass; andrew beach; Bartolomucci, H. Christopher; Bennett, Melissa S.; Brilliant, Hana F.; Brosnahan, Jennifer R.; Bumatay, Patrick J.; Ellison, Kimberly; evelyn long; Francisco, Noel J.; Gray, Ann; Grubbs, Wendy J.; Heather McNaught; Jones, Alison ; Kavanaugh, Brett M.; Kristi Remington; Kyle, Ross M.; Leitch, David G.; Lockart, Sarah K.; McMaster, David; Montiel, Charlotte L.; Newstead, Jennifer G.; Powell, Benjamin A.; Ralston, Susan B.; Sampson, Kyle; tracy washington; Ullyot, Theodore W.; viet dinh
Subject: WHJSC meeting- 5/14/03

WHJSC will meet tomorrow, May 14, at 4:00pm in the Judge's Office.

Thanks!

From: Ben Wittes <wittesb@washpost.com>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/13/2003 11:18:45 AM
Subject: : Re: Ark. Dem.-Gaz. editorial criticizing Wash. Post editorial against Holmes

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Ben Wittes <wittesb@washpost.com> (Ben Wittes <wittesb@washpost.com> [UNKNOWN])
CREATION DATE/TIME:13-MAY-2003 15:18:45.00
SUBJECT:: Re: Ark. Dem.-Gaz. editorial criticizing Wash. Post editorial against Holmes
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Yeah, that's me: "using low means to attain a purely
ideological end." And an inveterate Borker to boot...

/b

Benjamin Wittes
Editorial Writer
The Washington Post
1150 15th Street, NW
Washington DC 20071
phone: 202-334-4134
fax: 202-334-5269

Brett_M._Kavanaugh@
who.eop.gov To:
wittesb@washpost.com
cc:
05/13/2003 02:05 PM Subject: Ark. Dem.-Gaz.
editorial criticizing Wash. Post
editorial against
Holmes

The Arkansas Democrat-Gazette, May 13, 2003, Tuesday

Copyright 2003 Little Rock Newspapers, Inc.

Arkansas Democrat-Gazette (Little Rock, AR)

May 13, 2003, Tuesday

SECTION: ARKANSAS; Pg. 14

LENGTH: 613 words

HEADLINE: EDITORIALS : How to bork a nominee Leon Holmes gets the treatment

BODY:
BORK IS no longer a proper noun in Washington, as in Judge Robert Bork, but
a
verb. It means to launch a vicious, irrelevant, roundhouse campaign against
a
judicial nominee, throwing in everything, including a couple of kitchen
sinks.

The term stems from the treatment of Judge Bork when he was nominated to

the
Supreme Court. Not satisfied with relevant criticisms, the judge's more
partisan
critics reached back to criticize everything he'd said or done from
approximately the age of three, and quite a few things he hadn't.

That borking has become a Washington tradition by now-indeed, an
addiction-is
illustrated by the sharp but impressively mean-spirited editorial we
reprint on
today's page from the Washington Post. It's a textbook example of borking;
students in political science classes should cut it out and save it, like a
ripe
specimen of that low art.

Notice that, unable to find anything contemporary to criticize about Little
Rock's Leon Holmes-an outstanding scholar, advocate and thinker who has
just
been nominated to the federal bench-the Posthas had to go back years and
even
decades to dig up any utterance it could use against him, including one
that
went back to 1980-yes, 1980-and for which he apologized as soon as it was
brought to his attention.

The other citation-a quote from Scripture in an article co-written with his
wife
in April of 1997-is so wrenched out of context that you might never guess
it was
a philosophical rumination on the Book of Ephesians.

As any smear artist knows, there's no need to go into detail. Especially
relevant detail. In this case the innocent reader would be left with no
idea of
what kind of nominee, or man, Leon Holmes really is. Which is the whole
purpose
of borking: to make the nominee look like the biggest, scariest menace that
ever
came down confirmation road. Instead, to quote an informal recommendation
from a
colleague, Leon Holmes is the kind of guy he'd be willing to shoot dice
with
over the phone.

The charge that Mr. Holmes is in favor of the subjugation of women would
amuse
anyone who's ever met Susan Holmes, his wife and co-author, or any of the
women
in the law for whom he has been mentor, role model, supporter and
encourager.

But we're glad to see that the Post has not lost its talent for irony.
Alas, in
this case it's unintended irony.

For the Post accuses the president of radicalizing judicial nominations by
his
choice of Leon Holmes for the bench, when it is the one being radical,
going
back or decades to find words from a much younger Leon Holmes that fail to
show
the proper reverence for the politically correct gods of today.

In the process, the Post has ignored the legal acumen and philosophical
learning
that the mature Leon Holmes has demonstrated day after day, year after
year, in
his career and life. Forget all that; the Post is determined to crucify

this
nominee even if it has to use old, rusty nails. It takes a couple of stray
quotes and equates them with the man's whole career. A neat trick, if a low
one.

A confession: In recent years we've found ourselves growing soft on the
Post's
editorial page; on its good days it started to look like one of those
old-fashioned liberal organs not beyond the reach of reason. Clearly we
were
mistaken.

When the chance to do a little borking came up, the Post has leaped at it.
As if
it couldn't help itself. Even if it means using low means to attain a
purely
ideological end. Which may be the worst thing about borking; it's
habit-forming.
Once it becomes ingrained in a paper's character, there's no telling when
it
will seep out again.

From: Christian.Furey@do.treas.gov [UNKNOWN]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/13/2003 2:18:47 PM
Subject: : White House Redaction Set
Attachments: P_7M4EG003_WHO.TXT_1.html; P_7M4EG003_WHO.TXT_2

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Christian.Furey@do.treas.gov ( Christian.Furey@do.treas.gov [ UNKNOWN ] )
CREATION DATE/TIME:13-MAY-2003 18:18:47.00
SUBJECT:: White House Redaction Set
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Brett,

Attached is a copy of the redacted documents.


<<WH Redacted Set (2).pdf>>
- att1.htm - WH Redacted Set (2).pdf
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_7M4EG003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_7M4EG003_WHO.TXT_2>
```

Brett,

Attached is a copy of the redacted docum ents.

<<WH Redacted Se t (2).pdf>>

Valentic, Marsha

From: Edward_Ingle@who.eop.gov
Sent: Tuesday, January 08, 2002 4:00 PM
To: william.hansen@ed.gov; depsec@hq.doe.gov; fisher.linda@epa.gov; claude.allen@hhs.gov; alphonso_r._jackson@hud.gov; larry.d.thompson@usdoj.gov; findlay-cameron@dol.gov; sean_c._o'keefe@omb.eop.gov; michael.jackson@ost.dot.gov; leo.mackay@mail.va.gov; jim.moseley@usda.gov; steve_griles@ios.doi.gov; sbodman@doc.gov; ken.dam@do.treas.gov; Paul.Wolfowitz@osd.pentagon.mil; Robb.LaKritz@do.treas.gov; michael.d.brown@fema.gov; SarkisS@state.gov; marsha.valentic@do.treas.gov; reavie.harvey@do.treas.gov; deb.atwood@usda.gov; dwm@usda.gov; lfenton@doc.gov; larry.dirita@osd.pentagon.mil; kyle.mcslarrow@hq.doe.gov; mcginnis.eileen@epa.gov; robert.wood@hhs.gov; daniel_r._murphy@hud.gov; brian_waidmann@ios.doi.gov; david.t.ayres@usdoj.gov; law-steven@dol.gov; augustine_t._smythe@omb.eop.gov; b.smullen@state.gov; john.flaherty@ost.dot.gov; tim.adams@do.treas.gov; nora.egan@mail.va.gov; MBOglesby@USTR.gov; john.danielson@ed.gov
Cc: joe.mcmonigle@hq.doe.gov; bethann_bryan@ed.gov; spencer.susan@epa.gov; terrell.halaska@hhs.gov; sue_ellen_wooldridge@ios.doi.gov; david.israelite@usdoj.gov; m.cifrino@state.gov; michelle.poche@ost.dot.gov; annabella.mejia@do.treas.gov; ronald.aument@mail.va.gov; jackie.arends@osd.pentagon.mil; DGrubb@doc.gov; Jeffrey.Kupfer@do.treas.gov; jay_p._lefkowitz@omb.eop.gov; grubbs-wendy@dol.gov; Susan.Richmond@usdoj.gov; mmeece@doc.gov; james.manning@ed.gov; philip_a._musser@hud.gov; manson.brown@ost.dot.gov; mcbrideab@state.gov; kevin.herglotz@usda.gov; danner.bethel@ed.gov
Subject: Who Wants Tax Increases?

Microsoft Word 4

---------- Forwarded by Edward Ingle/WHO/EOP on 01/08/2002 03:59 PM ----------

James R. Wilkinson
01/08/2002 03:38:58 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:
Subject: Who Wants Tax Increases?

List of helpful quotes in case you get asked about Sen. Daschle's recent comments on tax relief:

(See attached file: EIC -- Division on Tax Increases.doc)

Message Sent To:

mtucker@rnchq.org

MTucker@rnchq.org [(b)(6)]
haddocke@ndu.edu
Ronald.Rand@pentagon.af.mil

00100000000971

REV_00166673

mlevy@texasmonthly.emmis.com
Tobin.Harvey@ee.doe.gov
BallmanLS@state.gov
[(b)(6)]
britishembassykabul@gmail.gov.uk
cliff@defenddemocracy.org
gmrossiter@fedex.com
[(b)(6)]
waurisjm@js.pentagon.mil
Josie_Fernandez@nps.gov
john.pitney@claremontmckenna.edu
afoti@AKINGUMP.COM
marcel.lettre@censa.net
Sara B. McIntosh/WHO/EOP@EOP
Anne Heiligenstein/WHO/EOP@EOP
Sonya E. Medina/WHO/EOP@EOP
Catherine S. Fenton/WHO/EOP@EOP
Melanie A. Jackson/WHO/EOP@EOP
Anne E. Phelps/OPD/EOP@EOP
Eleanor L. Gillmor/OPD/EOP@EOP
Tiffany L. Barfield/OPD/EOP@EOP
David F. Lussier/OPD/EOP@EOP
Torie.Clarke@osd.mil @ inet
rgeorge@nypost.com @ inet
Neil S. Patel/OVP/EOP@EOP
Catharine A. Ryun/WHO/EOP@EOP
susan_irby@lott.senate.gov @ inet
brook_simmons@nickles.senate.gov @ inet
gerry_fritz@rpc.senate.gov @ inet
margaret_camp@frist.senate.gov @ inet
lisette_mcsoud_mondello@hutchison.senate.gov @ inet
Melissa_Sabatine@src.senate.gov @ inet

john.feehery@mail.house.gov @ inet [(b)(6)]
terry.holt@mail.house.gov @ inet
christine.iverson@mail.house.gov @ inet
MMiner@rnchq.org @ inet
sschmidt@nrcc.org @ inet
emily.miller@mail.house.gov @ inet
ron_bonjean@lott.senate.gov @ inet
paige.ralston@mail.house.gov @ inet
paul.morrell@mail.house.gov @ inet
sschmidt@nrcc.org @ inet
cforti@nrcc.org @ inet
TDuffy@rnchq.org @ inet
dallen@nrsc.org @ inet
MMiner@rnchq.org @ inet
Peter.jeffries@mail.house.gov @ inet
Catherine J. Martin/OVP/EOP@EOP
Robert C. McNally/OPD/EOP@EOP
Karen Y. Knutson/OVP/EOP@EOP
Leslie A. Mooney/OPD/EOP@EOP
Deborah A. Spagnoli/WHO/EOP@EOP
kfedewa@rnchq.org @ inet
Leonard B. Rodriguez/WHO/EOP@EOP
Noel J. Francisco/WHO/EOP@EOP
Mark McClellan/CEA/EOP@EOP
Dirksen Lehman/WHO/EOP@EOP
Aquiles F. Suarez/OPD/EOP@EOP
Jennifer D. Field/OVP/EOP@EOP
dean.clancy@mail.house.gov @ inet
Rachel L. Brand/WHO/EOP@EOP
Heather Wingate/WHO/EOP@EOP
ekertz@doc.gov @ inet
jdyke@doc.gov @ inet
melliott@doc.gov @ inet
Jennifer D. Field/OVP/EOP@EOP

00100000000972

REV_00166674

[(b)(6)]

cz@greenerandhook.com @ inet
Stuart W. Bowen/WHO/EOP@EOP
RGustafson@rnchq.org @ inet
Anthony K. Crawford/NSC/EOP@EOP
Ashleigh A. Adams/WHO/EOP@EOP
sspicer@nrcc.org @ inet
Michelle N. Brawer/WHO/EOP@EOP
cmay@bsmg.com @ inet
tnelson@dmnmedia.com @ inet
kevin.schweers@mail.house.gov @ inet
kyle.downey@mail.house.gov @ inet
Anne C. Guilsher/NSC/EOP@EOP
Michael Davis/WHO/EOP@EOP
joliver@rnchq.org
bhazelwood@rnchq.org
ekutler@cwdc.com
john.mcmanus@mail.phrma.org
sstyles@bbchb.com
kevin.herglotz@usda.gov
ksheridan@rnchq.org

[(b)(6)]

bishopn@state.gov
englandMP@state.gov
rncresearch@rnchq.org
dmattoon@podestamattoon.com
Samuel A. Thernstrom/CEQ/EOP@EOP
jo.powers@mail.house.gov
Elliott Abrams/NSC/EOP@EOP
Matthew Kirk/WHO/EOP@EOP
Eric A. Draper/WHO/EOP@EOP
Helgard C. Walker/WHO/EOP@EOP
mkitchens@pstrategies.com
kscurry@princeton.edu

[(b)(6)]

susan.hirschman@mail.house.gov
dan.flynn@mail.house.gov
scott.palmer@mail.house.gov
mike.stokke@mail.house.gov
tobin.harvey@ee.doe.gov
Elizabeth S. Dougherty/OPD/EOP@EOP
Kjersten S. Drager/OVP/EOP@EOP
Clare C. Doherty/OMB/EOP@EOP
Brian P. Doherty/OA/EOP@EOP
gregory_J._jenkins@who.eop.gov
gayland.barksdale@mail.house.gov
kathryn.lehman@mail.house.gov
JTMastranadi@nrsc.org
Craig Ray/WHO/EOP@EOP
Joseph Ratajczak/ONDCP/EOP@EOP
melody_h._fennel@hud.gov
Anne C. Guilsher/NSC/EOP@EOP
Anna M. Perez/NSC/EOP@EOP
All OVP Users
don.meyer@osd.mil
chris.willcox@osd.mil
kevin.kellems@osd.mil
hensley-sue@dol.gov
richard.mcgraw@osd.mil
tfrancis@doc.gov
Brian V. McCormack/OVP/EOP@EOP
Elizabeth S. Dougherty/OPD/EOP@EOP
Marisa K. Medrano/OPD/EOP@EOP
Kelley J. McCullough/WHO/EOP@EOP
Chad M. Kolton/WHO/EOP@EOP
Ali H. Tulbah/WHO/EOP@EOP
Craig Felner/WHO/EOP@EOP

00100000000973

REV_00166675

John Fenzel/OVP/EOP@EOP
julie.nichols@ost.dot.gov
gwolfe@nrsc.org
james_r._wilkinson@who.eop.gov
ginni.thomas@heritage.org
bethsturgeon@austin.rr.com [(b)(6)]
[(b)(6)]
rsavarese@kpmg.com
tom.sellers@usa.conoco.com
ccamp@llano-permian.com
campsite@nts-online.net
daviddurham@austin.rr.com
lpollard@austin.rr.com
mona@gregabbottcampaign.com
rsullivan@governor.state.tx.us
nikki.robinson@mail.house.gov
[(b)(6)]
Natalie S. Wozniak/NSC/EOP@EOP
Elliott Abrams/NSC/EOP@EOP
Michele Ahern/OMB/EOP@EOP
terry.holt@mail.house.gov
greg.crist@mail.house.gov
brad.bennett@mail.house.gov
jessica.incitto@mail.house.gov
jonathan.grella@mail.house.gov
mike.franc@heritage.org
pmoreno@acf.dhhs.gov [(b)(6)]
pat.shortridge@enron.com
richard.mcbride@glo.state.tx.us
jerogan@venable.com
GamonalAM@state.gov
Alison Jones/WHO/EOP@EOP
[(b)(6)]
lowellrandel@meyersandassociates.com
Joe.Eule@mail.house.gov
jsolsby@drasnincommunications.com
Kirk.Boyle@mail.house.gov
gonzalez@glo.state.tx.us
kevin.keane@hhs.gov
Mark Holman/WHO/EOP@EOP
Carl Buchholz/WHO/EOP@EOP
Duncan Campbell/WHO/EOP@EOP
Carol J. Thompson/WHO/EOP@EOP
EWILLEFO@fcc.gov
Jack Howard/WHO/EOP@EOP
Danner.Bethel@ed.gov
SabatineM@osd.pentagon.mil
patrick.rhode@sba.gov
YRobinso@pd.state.gov
robert.traynham@src.senate.gov
dmackinnon@verner.com
Ansley C. Tillman/OPD/EOP@EOP
jwillis@doc.gov
Britt Grant/OPD/EOP@EOP
Kristine Simmons/OPD/EOP@EOP
kyle.downey@mail.house.gov
molly.millerwise@mail.house.gov
jrendon@rendon.com
KJohnson@isi-consulting.com
kevin.kellems@osd.mil
Gian-Carlo A. Peressutti/WHO/EOP@EOP
mjohnson@ob-cgroup.com
caranaga@pd.state.gov

00100000000974

REV_00166676

jfischman@pd.state.gov
Jane M. Cook/WHO/EOP@EOP
Robert_Traynham@src.senate.gov
Lezlee J. Westine/WHO/EOP@EOP
Heidi K. Marquez/WHO/EOP@EOP
Desiree T. Sayle/WHO/EOP@EOP
McDonaldDJ@state.gov
bitterr@state.gov
schriverrg@state.gov
kelseyt@state.gov
beth_lee@hagel.senate.gov
echeney@ifc.org
taskforce-1-pd@state.gov
wparker@pd.state.gov
bmward@pd.state.gov
jmcgovern@pd.state.gov
jbjohnson@pd.state.gov
MeierAW@state.gov
john.higginbotham@dfait-maeci.gc.ca
arif.lalani@dfait-maeci.gc.ca
shalom@pmo.gov.il
agoldstein@hadassah.org
comm@rnchq.org

[(b)(6)]

pa.whitehouse@osd.mil
Cheryl A. Oldham/WHO/EOP@EOP
research@rnchq.org
bill.schuster@mail.house.gov
RBentz@visa.com
bob.gold@starpoint.com
iocurrops@js.pentagon.mil
vandalts@js.pentagon.mil
ProkopowiczJT@state.gov
Ken Mehlman/WHO/EOP@EOP
remi.marechaux@diplomatie.gouv.fr
GrenellR@state.gov
martin.weiss@bmaa.gv.at
fernando.garcia@mp.boe.es

[(b)(6)]

allison.barber@osd.mil
grant.sellers@myflorida.com
Anthony.Welcher@exim.gov
Robert.Ollison@EXIM.GOV
Barbara Jo Goergen/WHO/EOP@EOP
Katherine M. Channell/WHO/EOP@EOP
Nina DeLorenzo/WHO/EOP@EOP
Jennifer Foley/WHO/EOP@EOP
Georgia D. Godfrey/WHO/EOP@EOP
Timothy Campen/OA/EOP@EOP
Adam L. Levine/WHO/EOP@EOP
maureen.cragin@mail.va.gov
alvin.felzenberg@osd.mil
mdjohnson@usss.treas.gov
jbredholt@rendon.com
bsacco@shadowtv.com

[(b)(6)]

kenneth.mcclellan@osd.mil
michael.perini@peterson.af.mil
Daniel D. Faoro/WHO/EOP@EOP
mlconnell@technomania.com
Jonathan T. Dworken/NSC/EOP@EOP

[(b)(6)]

pam.lambo@dfait-maeci.gc.ca
terry.colli@dfait-maeci.gc.ca
hope_boonshaft@spe.sony.com
mamin@lgecorp.com

00100000000975

REV_00166677

wetsigb@usa.redcross.org
vansantl@usa.redcross.org
bginsberg@pattonboggs.com
carol.melton@viacom.com
toby.harnden@telegraph.co.uk
james@mail.house.gov
Lani.Miller@usdoj.gov
kvolker@nsc.eop.gov
rss.paoc@pentagon.af.mil
jleibowitz@mpaa.org
mt@corporatesportswear.com
will.kinzel@cnh.com
hthomas@nsc.oep.gov
levy-leah@dol.gov
bbaney@phigam.org
kristen.gilley@mail.house.gov
doug.seay@mail.house.gov
cullman@thecarlylegroup.com
joseph.samora@cnh.com
james.waurishuk@js.pentagon.mil
Noelia Rodriguez/WHO/EOP@EOP
Erin E. Healy/WHO/EOP@EOP
Tracey L. Schmitt/WHO/EOP@EOP
Gail Randall/WHO/EOP@EOP
Gregory Goss/WHO/EOP@EOP
Tracy Young/WHO/EOP@EOP
Tucker A. Eskew/WHO/EOP@EOP
Jeanie S. Mamo/WHO/EOP@EOP
Kenneth A. Lisaius/WHO/EOP@EOP
Nicolle Devenish/WHO/EOP@EOP
Andrew H. Card/WHO/EOP@EOP
Joshua B. Bolten/WHO/EOP@EOP
Joel D. Kaplan/WHO/EOP@EOP
Joseph W. Hagin/WHO/EOP@EOP
Marcus J. Mollmann/WHO/EOP@EOP
Logan M. Walters/WHO/EOP@EOP
Scott N. Sforza/WHO/EOP@EOP
Michael J. Gerson/WHO/EOP@EOP
Krista L. Ritacco/WHO/EOP@EOP
Peter H. Wehner/WHO/EOP@EOP
Matthew O. Scully/WHO/EOP@EOP
David Frum/WHO/EOP@EOP
Anthony J. Gibson/OSTP/EOP@EOP
John D. Gibson/NSC/EOP@EOP
Edmund A. Walsh/WHO/EOP@EOP
Karl_Doenges@oa.eop.gov @ inet
William T. Griffin/WHO/EOP@EOP
Taylor S. Gross/WHO/EOP@EOP
Kenneth A. Lisaius/WHO/EOP@EOP
Jeanie S. Mamo/WHO/EOP@EOP
Wendy L. Nipper/WHO/EOP@EOP
Christopher J. Orr/WHO/EOP@EOP
Scott Stanzel/WHO/EOP@EOP
Vickie A. McQuade/WHO/EOP@EOP
Jennifer K. Millerwise/WHO/EOP@EOP
Anne Womack/WHO/EOP@EOP
Brian Bravo/WHO/EOP@EOP
Candida P. Wolff/OVP/EOP@EOP
Harry W. Wolff/WHO/EOP@EOP
Rachael L. Sunbarger/WHO/EOP@EOP
Reed Dickens/WHO/EOP@EOP
Nicholas E. Calio/WHO/EOP@EOP
John W. Howard/WHO/EOP@EOP
Virginia T. Gregory/WHO/EOP@EOP
David W. Hobbs/WHO/EOP@EOP
Christal R. West/WHO/EOP@EOP
Daniel J. Keniry/WHO/EOP@EOP

00100000000976

REV_00166678

Brian C. Conklin/WHO/EOP@EOP
Peter M. Rowan/WHO/EOP@EOP
Ziad S. Ojakli/WHO/EOP@EOP
Christine Ciccone/WHO/EOP@EOP
Townsend_L._McNitt@oa.eop.gov @ inet
Scott Jeffcoat/WHO/EOP@EOP
Albert Hawkins/WHO/EOP@EOP
Cynthia R. Mendl/WHO/EOP@EOP
Edward Ingle/WHO/EOP@EOP
L. Camille Welborn/WHO/EOP@EOP
Susan B. Ralston/WHO/EOP@EOP
Chris Henick/WHO/EOP@EOP
Dee Dee Benkie/WHO/EOP@EOP
Israel Hernandez/WHO/EOP@EOP
Alicia P. Clark/WHO/EOP@EOP
William_S._Clark@oa.eop.gov @ inet
Kasey S. Pipes/WHO/EOP@EOP
Kenneth B. Mehlman/WHO/EOP@EOP
Collister W. Johnson/WHO/EOP@EOP
Sara M. Taylor/WHO/EOP@EOP
David M. Thomas/WHO/EOP@EOP
Alicia W. Davis/WHO/EOP@EOP
Tim Goeglein/WHO/EOP@EOP
Kirk Blalock/WHO/EOP@EOP
Adam B. Goldman/WHO/EOP@EOP
Abel Guerra/WHO/EOP@EOP
Kathryn J. Hayes/WHO/EOP@EOP
John_Gardner@oa.eop.gov @ inet
Harriet Miers/WHO/EOP@EOP
Collister W. Johnson/WHO/EOP@EOP
Dina Powell/WHO/EOP@EOP
Brian D. Montgomery/WHO/EOP@EOP
Heather L. West/WHO/EOP@EOP
Gregory_J._Jenkins@oa.eop.gov @ inet
Tobin K. Harvey@oa.eop.gov @ inet
Bradley A. Blakeman/WHO/EOP@EOP
Kara G. Figg/WHO/EOP@EOP
Amanda L. Moore/WHO/EOP@EOP
Danner R. Bethel/WHO/EOP@EOP
Mary Elizabeth Farr/WHO/EOP@EOP
Andrea G. Ball/WHO/EOP@EOP
Alison M. Harden/WHO/EOP@EOP
Anne Heiligenstein/WHO/EOP@EOP
Melanie A. Jackson/WHO/EOP@EOP
Ashley M. Snee/OVP/EOP@EOP
Debra Heiden/OVP/EOP@EOP
Douglas_D._McCormick@oa.eop.gov @ inet
Mary J. Matalin/OVP/EOP@EOP
I._Lewis_Libby@oa.eop.gov @ inet
Charles D. McGrath Jr/OVP/EOP@EOP
Jennifer H. Mayfield/OVP/EOP@EOP
Ethan A. Hastert/OVP/EOP@EOP
Juleanna R. Glover/OVP/EOP@EOP
Megan D. Moran/OVP/EOP@EOP
David S. Addington/OVP/EOP@EOP
Cesar Conda/OVP/EOP@EOP
Ronald I. Christie/OVP/EOP@EOP
Nina Rees/OVP/EOP@EOP
Margita N. Thompson/OVP/EOP@EOP
Nancy P. Dorn/WHO/EOP@EOP
Stephen S. Ruhlen/OVP/EOP@EOP
Lauren K. Allgood/OVP/EOP@EOP
Elizabeth W. Kleppe/OVP/EOP@EOP
Debra R. Dunn/OVP/EOP@EOP
Dylan C. Glenn/OPD/EOP@EOP
Donald_M._Sumerlin@oa.eop.gov @ inet
Eric C. Pelletier/OMB/EOP@EOP

00100000000977

REV_00166679

Augustine T. Smythe/OMB/EOP@EOP
Lawrence B. Lindsey/OPD/EOP@EOP
John M. Bridgeland/OPD/EOP@EOP
Stephen M. Garrison/OPD/EOP@EOP
Eric H. Otto/OPD/EOP@EOP
edgillespie@quinngillespie.com @ inet
christine.iverson@mail.house.gov @ inet
Josephine B. Robinson/WHO/EOP@EOP
Melissa S. Bennett/WHO/EOP@EOP
Joel D. Kaplan/WHO/EOP@EOP
Colleen Litkenhaus/WHO/EOP@EOP
Blake Gottesman/WHO/EOP@EOP
charles.yoder@mail.va.gov @ inet
lindsey_kozberg@ed.gov @ inet
mindy.tucker@usdoj.gov @ inet
terrell.halaska@hhs.gov @ inet
nancy_i._segerdahl@hud.gov @ inet
kreisher.tina@epa.gov @ inet
cooper.mildred@epa.gov @ inet
roy-stuart@dol.gov @ inet
cliff_may@ios.doi.gov @ inet
Neil H. Zimmerman/WHO/EOP@EOP
Melissa_sabatine@hotmail.com @ inet
christine.iverson@mail.house.gov @ inet
brian.gunderson@mail.house.gov @ inet
terry.holt@mail.house.gov @ inet
kevin.schweers@mail.house.gov @ inet
paul.morrell@mail.house.gov @ inet
Sara M. Taylor/WHO/EOP@EOP
Michael Shannon/WHO/EOP@EOP
Don E. Eberly/WHO/EOP@EOP
Lisa T. Cummins/WHO/EOP@EOP
Mark_V._Scott@oa.eop.gov @ inet
Michele H. Tennery/WHO/EOP@EOP
Carrie W. Click/WHO/EOP@EOP
Catharine A. Ryun/WHO/EOP@EOP
sschmidt@nrcc.org @ inet
Matthew E. Smith/WHO/EOP@EOP
Brian R. Besanceney/OPD/EOP@EOP
mmckinnon@pstrategies.com @ inet
MMiner@rnchq.org @ inet
BComstock@rnchq.org @ inet
James R. Wilkinson/WHO/EOP@EOP
jcram@rnchq.org @ inet
dmishoe@rnchq.org @ inet
John M. Ackerly/OPD/EOP@EOP
Kevin_J._Martin@oa.eop.gov @ inet
Adrian G. Gray/WHO/EOP@EOP
mcrawford@doc.gov @ inet
maryanne.lyle@fema.gov @ inet
Nancy_L._segerdahl@hud.gov @ inet
chet.lunner@ost.dot.gov @ inet
m.kicklighter@mail.va.com @ inet
roy_stuart@dol.gov @ inet
mark_pfeifle@ios.doi.gov @ inet
kreisher.tina@epa.gov @ inet
kevin.keane@hhs.gov @ inet
mindy.tucker@usdoj.gov @ inet
moridanis@state.gov @ inet
Jeanne.lopatto@hq.doe @ inet
craig.quigley@osd.mil @ inet
Michele.davis@do.treas.gov @ inet
lindsey_kozberg@ed.gov @ inet
Anne Trenolone/WHO/EOP@EOP
Barry S. Jackson/WHO/EOP@EOP
POnnuru@ix.netcom.com @ inet
dtrigg@doc.gov @ inet

00100000000978

REV_00166680

dorrance.smith@fema.gov @ inet
oliver.north@msnbc.com @ inet
Brian R. Besanceney/OPD/EOP@EOP
kmclane@pstrategies.com @ inet
John D. Estes/WHO/EOP@EOP
Ashley Estes/WHO/EOP@EOP
Angela R. Sailor/WHO/EOP@EOP
K. Philippa Malmgren/OPD/EOP@EOP
Ruben S. Barrales/WHO/EOP@EOP
Terry C. Miller/WHO/EOP@EOP
Deborah A. Spagnoli/WHO/EOP@EOP
Laura S. Lawlor/WHO/EOP@EOP
brusbolt@iiaa.net @ inet
James R. Wilkinson/WHO/EOP@EOP
blewis@rnchq.org @ inet
Charles P. Blahous/OPD/EOP@EOP
Maria.Cino@mail.doc.gov @ inet
Matthew W. Lindley/WHO/EOP@EOP
Chris B. Nagel/WHO/EOP@EOP
Melissa L. McAdoo/WHO/EOP@EOP
Kristen L. Hughes/WHO/EOP@EOP
Robert T. Pratt Jr/WHO/EOP@EOP
Beverly J. Ward/WHO/EOP@EOP
Deborah K. Hair/WHO/EOP@EOP
Elizabeth N. Camp/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Timothy E. Flanigan/WHO/EOP@EOP
Mark.Corallo@mail.house.gov @ inet
susan_irby@lott.senate.gov @ inet
john.feehery@mail.house.gov @ inet
terry.holt@mail.house.gov @ inet
TDuffy@rnchq.org @ inet
Mercedes M. Viana/WHO/EOP@EOP
dallen@nrsc.org @ inet
D. Marcus Sumerlin/OPD/EOP@EOP
Blake Gottesman/WHO/EOP@EOP
Ashley Estes/WHO/EOP@EOP
Robert W. Cobb/WHO/EOP@EOP
Traci R. Campbell/WHO/EOP@EOP
James E. Carter/OPD/EOP@EOP
Courtney S. Elwood/WHO/EOP@EOP
Robert W. Cobb/WHO/EOP@EOP
Neil H. Zimmerman/WHO/EOP@EOP
Dee Dee Benkie/WHO/EOP@EOP
Paul B. Dyck/WHO/EOP@EOP
Debra D. Bird/WHO/EOP@EOP
Dina Powell/WHO/EOP@EOP
Mark V. Rosenker/WHO/EOP@EOP
Helen R. Mobley/WHO/EOP@EOP
Julieanne H. Thomas/WHO/EOP@EOP
Alison M. Harden/WHO/EOP@EOP
Desiree T. Sayle/WHO/EOP@EOP
Sydney R. Johnson/WHO/EOP@EOP
David Kuo/WHO/EOP@EOP
Roberta Shea/WHO/EOP@EOP
All CIC-WH Users

00100000000979

REV_00166681

Valentic, Marsha

From: Edward_Ingle@who.eop.gov
Sent: Friday, January 04, 2002 6:02 PM
To: william.hansen@ed.gov; depsec@hq.doe.gov; fisher.linda@epa.gov; claude.allen@hhs.gov; alphonso_r._jackson@hud.gov; larry.d.thompson@usdoj.gov; findlay-cameron@dol.gov; sean_c._o'keefe@omb.eop.gov; michael.jackson@ost.dot.gov; leo.mackay@mail.va.gov; jim.moseley@usda.gov; steve_griles@ios.doi.gov; sbodman@doc.gov; ken.dam@do.treas.gov; Paul.Wolfowitz@osd.pentagon.mil; Robb.LaKritz@do.treas.gov; michael.d.brown@fema.gov; SarkisS@state.gov; marsha.valentic@do.treas.gov; reavie.harvey@do.treas.gov; deb.atwood@usda.gov; dwm@usda.gov; lfenton@doc.gov; larry.dirita@osd.pentagon.mil; kyle.mcslarrow@hq.doe.gov; mcginnis.eileen@epa.gov; robert.wood@hhs.gov; daniel_r._murphy@hud.gov; brian_waidmann@ios.doi.gov; david.t.ayres@usdoj.gov; law-steven@dol.gov; augustine_t._smythe@omb.eop.gov; b.smullen@state.gov; john.flaherty@ost.dot.gov; tim.adams@do.treas.gov; nora.egan@mail.va.gov; MBOglesby@USTR.gov; john.danielson@ed.gov
Cc: joe.mcmonigle@hq.doe.gov; bethann_bryan@ed.gov; spencer.susan@epa.gov; terrell.halaska@hhs.gov; sue_ellen_wooldridge@ios.doi.gov; david.israelite@usdoj.gov; m.cifrino@state.gov; michelle.poche@ost.dot.gov; annabella.mejia@do.treas.gov; ronald.aument@mail.va.gov; jackie.arends@osd.pentagon.mil; DGrubb@doc.gov; Jeffrey.Kupfer@do.treas.gov; jay_p._lefkowitz@omb.eop.gov; grubbs-wendy@dol.gov; Susan.Richmond@usdoj.gov; mmeece@doc.gov; james.manning@ed.gov; philip_a._musser@hud.gov; manson.brown@ost.dot.gov; mcbrideab@state.gov; kevin.herglotz@usda.gov; danner.bethel@ed.gov
Subject: The War on Terrorism -- Weekend Message


Microsoft Word 4

---------- Forwarded by Edward Ingle/WHO/EOP on 01/04/2002 06:02 PM

James R. Wilkinson
01/04/2002 05:51:11 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:
Subject: The War on Terrorism -- Weekend Message

Have a great weekend.

(See attached file: CIC -- Weekend Daily.doc)

Message Sent To:_____

haddocke@ndu.edu
Ronald.Rand@pentagon.af.mil
mlevy@texasmonthly.emmis.com
Tobin.Harvey@ee.doe.gov
BallmanLS@state.gov

[(b)(6)]

00100000000982

REV_00166682

britishembassykabul@gtnet.gov.uk
cliff@defenddemocracy.org
gmrossiter@fedex.com
[(b)(6)]
waurisjm@js.pentagon.mil
Josie_Fernandez@nps.gov
john.pitney@claremontmckenna.edu
afoti@AKINGUMP.COM
marcel.lettre@censa.net
Sara B. McIntosh/WHO/EOP@EOP
Anne Heiligenstein/WHO/EOP@EOP
Sonya E. Medina/WHO/EOP@EOP
Catherine S. Fenton/WHO/EOP@EOP
Melanie A. Jackson/WHO/EOP@EOP
Anne E. Phelps/OPD/EOP@EOP
Eleanor L. Gillmor/OPD/EOP@EOP
Tiffany L. Barfield/OPD/EOP@EOP
David F. Lussier/OPD/EOP@EOP
Torie.Clarke@osd.mil @ inet
rgeorge@nypost.com @ inet
Neil S. Patel/OVP/EOP@EOP
Catharine A. Ryun/WHO/EOP@EOP
susan_irby@lott.senate.gov @ inet
brook_simmons@nickles.senate.gov @ inet
gerry_fritz@rpc.senate.gov @ inet
margaret_camp@frist.senate.gov @ inet
lisette_mcsoud_mondello@hutchison.senate.gov @ inet
Melissa_Sabatine@src.senate.gov @ inet
[(b)(6)]
john.feehery@mail.house.gov @ inet
terry.holt@mail.house.gov @ inet
christine.iverson@mail.house.gov @ inet
MMiner@rnchq.org @ inet
sschmidt@nrcc.org @ inet
emily.miller@mail.house.gov @ inet
ron_bonjean@lott.senate.gov @ inet
paige.ralston@mail.house.gov @ inet
paul.morrell@mail.house.gov @ inet
sschmidt@nrcc.org @ inet
cforti@nrcc.org @ inet
TDuffy@rnchq.org @ inet
dallen@nrsc.org @ inet
MMiner@rnchq.org @ inet
Peter.jeffries@mail.house.gov @ inet
Catherine J. Martin/OVP/EOP@EOP
Robert C. McNally/OPD/EOP@EOP
Karen Y. Knutson/OVP/EOP@EOP
Leslie A. Mooney/OPD/EOP@EOP
Deborah A. Spagnoli/WHO/EOP@EOP
kfedewa@rnchq.org @ inet
Leonard B. Rodriguez/WHO/EOP@EOP
Noel J. Francisco/WHO/EOP@EOP
Mark McClellan/CEA/EOP@EOP
Dirksen Lehman/WHO/EOP@EOP
Aquiles F. Suarez/OPD/EOP@EOP
Jennifer D. Field/OVP/EOP@EOP
dean.clancy@mail.house.gov @ inet
Rachel L. Brand/WHO/EOP@EOP
Heather Wingate/WHO/EOP@EOP
ekertz@doc.gov @ inet
jdyke@doc.gov @ inet
melliott@doc.gov @ inet
Jennifer D. Field/OVP/EOP@EOP
[(b)(6)]
cz@greenerandhook.com @ inet
Stuart W. Bowen/WHO/EOP@EOP
RGustafson@rnchq.org @ inet

00100000000983

REV_00166683

Anthony K. Crawford/NSC/EOP@EOP
Ashleigh A. Adams/WHO/EOP@EOP
sspicer@nrcc.org @ inet
Michelle N. Brawer/WHO/EOP@EOP
cmay@bsmg.com @ inet
tnelson@dmnmedia.com @ inet
kevin.schweers@mail.house.gov @ inet
kyle.downey@mail.house.gov @ inet
Anne C. Guilsher/NSC/EOP@EOP
Michael Davis/WHO/EOP@EOP
joliver@rnchq.org
bhazelwood@rnchq.org
ekutler@cwdc.com
john.mcmanus@mail.phrma.org
sstyles@bbchb.com
kevin.herglotz@usda.gov
ksheridan@rnchq.org

[(b)(6)]

bishopn@state.gov
englandMP@state.gov
rncresearch@rnchq.org
dmattoon@podestamattoon.com
Samuel A. Thernstrom/CEQ/EOP@EOP
jo.powers@mail.house.gov
Elliott Abrams/NSC/EOP@EOP
Matthew Kirk/WHO/EOP@EOP
Eric A. Draper/WHO/EOP@EOP
Helgard C. Walker/WHO/EOP@EOP
mkitchens@pstrategies.com
kscurry@princeton.edu

[(b)(6)]

susan.hirschman@mail.house.gov
dan.flynn@mail.house.gov
scott.palmer@mail.house.gov
mike.stokke@mail.house.gov
tobin.harvey@ee.doe.gov
Elizabeth S. Dougherty/OPD/EOP@EOP
Kjersten S. Drager/OVP/EOP@EOP
Clare C. Doherty/OMB/EOP@EOP
Brian P. Doherty/OA/EOP@EOP
gregory_J._jenkins@who.eop.gov
gayland.barksdale@mail.house.gov
kathryn.lehman@mail.house.gov
JTMastranadi@nrsc.org
Craig Ray/WHO/EOP@EOP
Joseph Ratajczak/ONDCP/EOP@EOP
melody_h._fennel@hud.gov
Anne C. Guilsher/NSC/EOP@EOP
Anna M. Perez/NSC/EOP@EOP
All OVP Users
don.meyer@osd.mil
chris.willcox@osd.mil
kevin.kellems@osd.mil
hensley-sue@dol.gov
richard.mcgraw@osd.mil
tfrancis@doc.gov
Brian V. McCormack/OVP/EOP@EOP
Elizabeth S. Dougherty/OPD/EOP@EOP
Marisa K. Medrano/OPD/EOP@EOP
Kelley J. McCullough/WHO/EOP@EOP
Chad M. Kolton/WHO/EOP@EOP
Ali H. Tulbah/WHO/EOP@EOP
Craig Felner/WHO/EOP@EOP
John Fenzel/OVP/EOP@EOP
julie.nichols@ost.dot.gov
gwolfe@nrsc.org
james_r._wilkinson@who.eop.gov

00100000000984

REV_00166684

ginni.thomas@heritage.org

bethsturgeon@austin.rr.com

[(b)(6)]

rsavarese@kpmg.com
tom.sellers@usa.conoco.com
ccamp@llano-permian.com
campsite@nts-online.net
daviddurham@austin.rr.com
lpollard@austin.rr.com
mona@gregabbottcampaign.com
rsullivan@governor.state.tx.us
nikki.robinson@mail.house.gov

[(b)(6)]

Natalie S. Wozniak/NSC/EOP@EOP
Peter Smith/NSC/EOP@EOP
Elliott Abrams/NSC/EOP@EOP
Michele Ahern/OMB/EOP@EOP
terry.holt@mail.house.gov
greg.crist@mail.house.gov
brad.bennett@mail.house.gov
jessica.incitto@mail.house.gov
jonathan.grella@mail.house.gov
mike.franc@heritage.org

pmoreno@acf.dhhs.gov
pat.shortridge@enron.com
richard.mcbride@glo.state.tx.us
jerogan@venable.com
GamonalAM@state.gov
Alison Jones/WHO/EOP@EOP

[(b)(6)]

lowellrandel@meyersandassociates.com
Joe.Eule@mail.house.gov
jsolsby@drasnincommunications.com
Kirk.Boyle@mail.house.gov
gonzalez@glo.state.tx.us
kevin.keane@hhs.gov
Mark Holman/WHO/EOP@EOP
Carl Buchholz/WHO/EOP@EOP
Duncan Campbell/WHO/EOP@EOP
Carol J. Thompson/WHO/EOP@EOP
EWILLEFO@fcc.gov
Jack Howard/WHO/EOP@EOP
Danner.Bethel@ed.gov
SabatineM@osd.pentagon.mil
patrick.rhode@sba.gov
YRobinso@pd.state.gov
robert.traynham@src.senate.gov
dmackinnon@verner.com
Ansley C. Tillman/OPD/EOP@EOP
jwillis@doc.gov
Britt Grant/OPD/EOP@EOP
Kristine Simmons/OPD/EOP@EOP
kyle.downey@mail.house.gov
molly.millerwise@mail.house.gov
jrendon@rendon.com
KJohnson@isi-consulting.com
kevin.kellems@osd.mil
Gian-Carlo A. Peressutti/WHO/EOP@EOP
mjohnson@ob-cgroup.com
caranaga@pd.state.gov
jfischman@pd.state.gov
Jane M. Cook/WHO/EOP@EOP
Robert_Traynham@src.senate.gov

Lezlee J. Westine/WHO/EOP@EOP
Heidi K. Marquez/WHO/EOP@EOP
Desiree T. Sayle/WHO/EOP@EOP
McDonaldDJ@state.gov
bitterr@state.gov
schriverrg@state.gov
kelseyt@state.gov
beth_lee@hagel.senate.gov
echeney@ifc.org
taskforce-1-pd@state.gov
wparker@pd.state.gov
bmward@pd.state.gov
jmcgovern@pd.state.gov
jbjohnson@pd.state.gov
MeierAW@state.gov
john.higginbotham@dfait-maeci.qc.ca
arif.lalani@dfait-maeci.gc.ca
shalom@pmo.gov.il
agoldstein@hadassah.org
comm@rnchq.org

[(b)(6)]

pa.whitehouse@osd.mil
Cheryl A. Oldham/WHO/EOP@EOP
research@rnchq.org
bill.schuster@mail.house.gov
RBentz@visa.com
bob.gold@starpoint.com
iocurrops@js.pentagon.mil
vandalts@js.pentagon.mil
ProkopowiczJT@state.gov
Ken Mehlman/WHO/EOP@EOP
remi.marechaux@diplomatie.gouv.fr
GrenellR@state.gov
martin.weiss@bmaa.gv.at
fernando.garcia@mp.boe.es

[(b)(6)]

allison.barber@osd.mil
grant.sellers@myflorida.com
Anthony.Welcher@exim.gov
Robert.Ollison@EXIM.GOV
Barbara Jo Goergen/WHO/EOP@EOP
Katherine M. Channell/WHO/EOP@EOP
Nina DeLorenzo/WHO/EOP@EOP
Jennifer Foley/WHO/EOP@EOP
Georgia D. Godfrey/WHO/EOP@EOP
Timothy Campen/OA/EOP@EOP
kenneth.mcclellan@osd.mil
michael.perini@peterson.af.mil
Daniel D. Faoro/WHO/EOP@EOP
mlconnell@technomania.com
Jonathan T. Dworken/NSC/EOP@EOP

pam.lambo@dfait-maeci.gc.ca [(b)(6)]
terry.colli@dfait-maeci.gc.ca
hope_boonshaft@spe.sony.com
mamin@lgecorp.com
wetsigb@usa.redcross.org
vansantl@usa.redcross.org
bginsberg@pattonboggs.com
carol.melton@viacom.com
toby.harnden@telegraph.co.uk
james@mail.house.gov
Lani.Miller@usdoj.gov
kvolker@nsc.eop.gov
rss.paoc@pentagon.af.mil
jleibowitz@mpaa.org

00100000000986

REV_00166686

mt@corporatesportswear.com
will.kinzel@cnh.com
hthomas@nsc.oep.gov
levy-leah@dol.gov
bbaney@phigam.org
kristen.gilley@mail.house.gov
doug.seay@mail.house.gov
cullman@thecarlylegroup.com
joseph.samora@cnh.com
james.waurishuk@js.pentagon.mil
Noelia Rodriguez/WHO/EOP@EOP
Erin E. Healy/WHO/EOP@EOP
Tracey L. Schmitt/WHO/EOP@EOP
Gail Randall/WHO/EOP@EOP
Gregory Goss/WHO/EOP@EOP
Tracy Young/WHO/EOP@EOP
Tucker A. Eskew/WHO/EOP@EOP
Jeanie S. Mamo/WHO/EOP@EOP
Kenneth A. Lisaius/WHO/EOP@EOP
Nicolle Devenish/WHO/EOP@EOP
Andrew H. Card/WHO/EOP@EOP
Joshua B. Bolten/WHO/EOP@EOP
Joel D. Kaplan/WHO/EOP@EOP
Joseph W. Hagin/WHO/EOP@EOP
Marcus J. Mollmann/WHO/EOP@EOP
Logan M. Walters/WHO/EOP@EOP
Scott N. Sforza/WHO/EOP@EOP
Michael J. Gerson/WHO/EOP@EOP
Krista L. Ritacco/WHO/EOP@EOP
Peter H. Wehner/WHO/EOP@EOP
Matthew O. Scully/WHO/EOP@EOP
David Frum/WHO/EOP@EOP
Anthony J. Gibson/OSTP/EOP@EOP
John D. Gibson/NSC/EOP@EOP
Edmund A. Walsh/WHO/EOP@EOP
Karl_Doenges@oa.eop.gov @ inet
William T. Griffin/WHO/EOP@EOP
Taylor S. Gross/WHO/EOP@EOP
Kenneth A. Lisaius/WHO/EOP@EOP
Jeanie S. Mamo/WHO/EOP@EOP
Wendy L. Nipper/WHO/EOP@EOP
Christopher J. Orr/WHO/EOP@EOP
Scott Stanzel/WHO/EOP@EOP
Vickie A. McQuade/WHO/EOP@EOP
Jennifer K. Millerwise/WHO/EOP@EOP
Anne Womack/WHO/EOP@EOP
Brian Bravo/WHO/EOP@EOP
Candida P. Wolff/OVP/EOP@EOP
Harry W. Wolff/WHO/EOP@EOP
Rachael L. Sunbarger/WHO/EOP@EOP
Reed Dickens/WHO/EOP@EOP
Nicholas E. Calio/WHO/EOP@EOP
John W. Howard/WHO/EOP@EOP
Virginia T. Gregory/WHO/EOP@EOP
David W. Hobbs/WHO/EOP@EOP
Christal R. West/WHO/EOP@EOP
Daniel J. Keniry/WHO/EOP@EOP
Brian C. Conklin/WHO/EOP@EOP
Peter M. Rowan/WHO/EOP@EOP
Ziad S. Ojakli/WHO/EOP@EOP
Christine Ciccone/WHO/EOP@EOP
Townsend_L._McNitt@oa.eop.gov @ inet
Scott Jeffcoat/WHO/EOP@EOP
Albert Hawkins/WHO/EOP@EOP
Cynthia R. Mendl/WHO/EOP@EOP
Edward Ingle/WHO/EOP@EOP
L. Camille Welborn/WHO/EOP@EOP

00100000000987

REV_00166687

Susan B. Ralston/WHO/EOP@EOP
Chris Henick/WHO/EOP@EOP
Dee Dee Benkie/WHO/EOP@EOP
Israel Hernandez/WHO/EOP@EOP
Alicia P. Clark/WHO/EOP@EOP
William_S._Clark@oa.eop.gov @ inet
Kasey S. Pipes/WHO/EOP@EOP
Kenneth B. Mehlman/WHO/EOP@EOP
Collister W. Johnson/WHO/EOP@EOP
Sara M. Taylor/WHO/EOP@EOP
David M. Thomas/WHO/EOP@EOP
Alicia W. Davis/WHO/EOP@EOP
Tim Goeglein/WHO/EOP@EOP
Kirk Blalock/WHO/EOP@EOP
Adam B. Goldman/WHO/EOP@EOP
Abel Guerra/WHO/EOP@EOP
Kathryn J. Hayes/WHO/EOP@EOP
John_Gardner@oa.eop.gov @ inet
Harriet Miers/WHO/EOP@EOP
Collister W. Johnson/WHO/EOP@EOP
Dina Powell/WHO/EOP@EOP
Brian D. Montgomery/WHO/EOP@EOP
Heather L. West/WHO/EOP@EOP
Gregory_J._Jenkins@oa.eop.gov @ inet
Tobin_K._Harvey@oa.eop.gov @ inet
Bradley A. Blakeman/WHO/EOP@EOP
Kara G. Figg/WHO/EOP@EOP
Amanda L. Moore/WHO/EOP@EOP
Danner R. Bethel/WHO/EOP@EOP
Mary Elizabeth Farr/WHO/EOP@EOP
Andrea G. Ball/WHO/EOP@EOP
Alison M. Harden/WHO/EOP@EOP
Anne Heiligenstein/WHO/EOP@EOP
Melanie A. Jackson/WHO/EOP@EOP
Ashley M. Snee/OVP/EOP@EOP
Debra Heiden/OVP/EOP@EOP
Douglas_D._McCormick@oa.eop.gov @ inet
Mary J. Matalin/OVP/EOP@EOP
I._Lewis_Libby@oa.eop.gov @ inet
Charles D. McGrath Jr/OVP/EOP@EOP
Jennifer H. Mayfield/OVP/EOP@EOP
Ethan A. Hastert/OVP/EOP@EOP
Juleanna R. Glover/OVP/EOP@EOP
Megan D. Moran/OVP/EOP@EOP
David S. Addington/OVP/EOP@EOP
Cesar Conda/OVP/EOP@EOP
Ronald I. Christie/OVP/EOP@EOP
Nina Rees/OVP/EOP@EOP
Margita N. Thompson/OVP/EOP@EOP
Nancy P. Dorn/WHO/EOP@EOP
Stephen S. Ruhlen/OVP/EOP@EOP
Lauren K. Allgood/OVP/EOP@EOP
Elizabeth W. Kleppe/OVP/EOP@EOP
Debra R. Dunn/OVP/EOP@EOP
Dylan C. Glenn/OPD/EOP@EOP
Donald_M._Sumerlin@oa.eop.gov @ inet
Eric C. Pelletier/OMB/EOP@EOP
Augustine T. Smythe/OMB/EOP@EOP
Lawrence B. Lindsey/OPD/EOP@EOP
John M. Bridgeland/OPD/EOP@EOP
Stephen M. Garrison/OPD/EOP@EOP
Eric H. Otto/OPD/EOP@EOP
edgillespie@quinngillespie.com @ inet
christine.iverson@mail.house.gov @ inet
Josephine B. Robinson/WHO/EOP@EOP
Melissa S. Bennett/WHO/EOP@EOP
Joel D. Kaplan/WHO/EOP@EOP

00100000000988

REV_00166688

Colleen Litkenhaus/WHO/EOP@EOP
Blake Gottesman/WHO/EOP@EOP
charles.yoder@mail.va.gov @ inet
lindsey_kozberg@ed.gov @ inet
mindy.tucker@usdoj.gov @ inet
terrell.halaska@hhs.gov @ inet
nancy_i._segerdahl@hud.gov @ inet
kreisher.tina@epa.gov @ inet
cooper.mildred@epa.gov @ inet
roy-stuart@dol.gov @ inet
cliff_may@ios.doi.gov @ inet
Neil H. Zimmerman/WHO/EOP@EOP
[(b)(6)]
christine.iverson@mail.house.gov @ inet
brian.gunderson@mail.house.gov @ inet
terry.holt@mail.house.gov @ inet
kevin.schweers@mail.house.gov @ inet
paul.morrell@mail.house.gov @ inet
Sara M. Taylor/WHO/EOP@EOP
Michael Shannon/WHO/EOP@EOP
Don E. Eberly/WHO/EOP@EOP
Lisa T. Cummins/WHO/EOP@EOP
Mark_V._Scott@oa.eop.gov @ inet
Michele H. Tennery/WHO/EOP@EOP
Carrie W. Click/WHO/EOP@EOP
Catharine A. Ryun/WHO/EOP@EOP
sschmidt@nrcc.org @ inet
Matthew E. Smith/WHO/EOP@EOP
Brian R. Besanceney/OPD/EOP@EOP
mmckinnon@pstrategies.com @ inet
MMiner@rnchq.org @ inet
BComstock@rnchq.org @ inet
James R. Wilkinson/WHO/EOP@EOP
jcram@rnchq.org @ inet
dmishoe@rnchq.org @ inet
John M. Ackerly/OPD/EOP@EOP
Kevin_J._Martin@oa.eop.gov @ inet
Adrian G. Gray/WHO/EOP@EOP
mcrawford@doc.gov @ inet
maryanne.lyle@fema.gov @ inet
Nancy_L._segerdahl@hud.gov @ inet
chet.lunner@ost.dot.gov @ inet
m.kicklighter@mail.va.com @ inet
roy_stuart@dol.gov @ inet
mark_pfeifle@ios.doi.gov @ inet
kreisher.tina@epa.gov @ inet
kevin.keane@hhs.gov @ inet
mindy.tucker@usdoj.gov @ inet
moridanis@state.gov @ inet
Jeanne.lopatto@hq.doe @ inet
craig.quigley@osd.mil @ inet
Michele.davis@do.treas.gov @ inet
lindsey_kozberg@ed.gov @ inet
Anne Trenolone/WHO/EOP@EOP
Barry S. Jackson/WHO/EOP@EOP
[(b)(6)]
dtrigg@doc.gov @ inet
dorrance.smith@fema.gov @ inet
oliver.north@msnbc.com @ inet
Brian R. Besanceney/OPD/EOP@EOP
kmclane@pstrategies.com @ inet
John D. Estes/WHO/EOP@EOP
Ashley Estes/WHO/EOP@EOP
Angela R. Sailor/WHO/EOP@EOP
K. Philippa Malmgren/OPD/EOP@EOP
Ruben S. Barrales/WHO/EOP@EOP
Terry C. Miller/WHO/EOP@EOP

00100000000989

REV_00166689

Deborah A. Spagnoli/WHO/EOP@EOP
Laura S. Lawlor/WHO/EOP@EOP
brusbolt@iiaa.net @ inet
James R. Wilkinson/WHO/EOP@EOP
blewis@rnchq.org @ inet
Charles P. Blahous/OPD/EOP@EOP
Maria.Cino@mail.doc.gov @ inet
Matthew W. Lindley/WHO/EOP@EOP
Chris B. Nagel/WHO/EOP@EOP
Melissa L. McAdoo/WHO/EOP@EOP
Kristen L. Hughes/WHO/EOP@EOP
Robert T. Pratt Jr/WHO/EOP@EOP
Beverly J. Ward/WHO/EOP@EOP
Deborah K. Hair/WHO/EOP@EOP
Elizabeth N. Camp/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Timothy E. Flanigan/WHO/EOP@EOP
Mark.Corallo@mail.house.gov @ inet
susan_irby@lott.senate.gov @ inet
john.feehery@mail.house.gov @ inet
terry.holt@mail.house.gov @ inet
TDuffy@rnchq.org @ inet
Mercedes M. Viana/WHO/EOP@EOP
dallen@nrsc.org @ inet
D. Marcus Sumerlin/OPD/EOP@EOP
Blake Gottesman/WHO/EOP@EOP
Ashley Estes/WHO/EOP@EOP
Robert W. Cobb/WHO/EOP@EOP
Traci R. Campbell/WHO/EOP@EOP
James E. Carter/OPD/EOP@EOP
Courtney S. Elwood/WHO/EOP@EOP
Robert W. Cobb/WHO/EOP@EOP
Neil H. Zimmerman/WHO/EOP@EOP
Dee Dee Benkie/WHO/EOP@EOP
Paul B. Dyck/WHO/EOP@EOP
Debra D. Bird/WHO/EOP@EOP
Dina Powell/WHO/EOP@EOP
Mark V. Rosenker/WHO/EOP@EOP
Helen R. Mobley/WHO/EOP@EOP
Julieanne H. Thomas/WHO/EOP@EOP
Alison M. Harden/WHO/EOP@EOP
Desiree T. Sayle/WHO/EOP@EOP
Sydney R. Johnson/WHO/EOP@EOP
David Kuo/WHO/EOP@EOP
Roberta Shea/WHO/EOP@EOP
tom.eisenhauer@mail.house.gov

00100000000990

REV_00166690

THE WHITE HOUSE
COALITION INFORMATION CENTER

1/5-6/2002

A Daily Summary of News, Message and Facts About the War on Terrorism

Weekend Schedule (EST)

Saturday

Prime Minister Blair delivers remarks in Bangalore, India.

President Bush travels to the west coast where he holds a town hall meeting in Ontario, California; tours the Northeast Portland (OR) One-Stop Career Center and Youth Opportunity Center; and delivers remarks to families, workers and business leaders in Portland, OR.

Sunday

9:00a EST	Larry Lindsey to appear on *Fox News Sunday*
10:30a EST	Secretary O'Neill to appear on *Meet the Press.*
10:30a EST	Larry Lindsey to appear on *Face the Nation.*
11:30a EST	Secretary Evans to appear on *This Week.*
12:00p EST	Secretary Evans to appear on *Late Edition.*

Recent Key Quotes & Developments

- The Wall Street Journal (12/31/010) reported that anti-Taliban forces in Afghanistan confiscated a computer containing, among other things, the elements of a "plan to developed a 'home-brew nerve gas,'" and the text of a letter saying that "'hitting the Americans and Jews is a target of great value and has its rewards in this life and, God willing, the afterlife.'"

- "The first magazine for women in nearly 10 years has hit the shelves of the war-ravaged country. *Seerat* (Attitude) does not look like a standard glossy magazine. [It is] crudely churned out on an old-fashioned printing machine. Three women [journalists] are funding the weekly magazine out of their own pockets. 500 copies of Seerat, which costs 2,000 Afghanis (10 cents), are being distributed by its authors to colleges, bookshops and other institutions. All they have asked is that the ministry, which reads it for censorship, does not change any of the articles. 'We are a long way behind the technology that other newspapers have used for a long time. Please send us magazines. Any help and all ideas are welcome,' [say the journalists.]" (AFP, 12/26/01)

Message

Osama bin Laden is a coward who murders innocents, including women and children and Muslims.

We are a long way from finished in Afghanistan. Much difficult and dangerous work is yet to come. Many terrorists are still hiding in heavily fortified bunkers in rugged territory. They are said to be prepared for a long stay underground. But they are in for a sudden change of plans – because one by one, we are going to find them. Piece by piece, we will destroy their network of terror.

The U.S. is leading a global coalition that has made great progress in the war on terrorism:

- **Began to destroy al-Qaeda's grip on Afghanistan by driving the Taliban from power.**
- **Disrupted al-Qaeda's global operations and terrorist financing networks.**
- **Helped the innocent people of Afghanistan recover from the Taliban's reign of terror.**
- **Helped Afghans put aside long-standing differences to form a new interim government that represents all Afghans – including women.**

In Case You Missed It...

- "We've disrupted any number of training camps, and it does take training to become a polished, successful murderer or mass murderer. You just don't walk out of grade school with that kind of knowledge; you need to practice and be taught by experts." (Defense Secretary Donald Rumsfeld, 1/3/02)

Facts of the Day

- The U.S. government has already spent more than $32 million in fiscal year 2002 to help assist Afghani refugees return to their homes in Afghanistan.
- President Bush's call for American kids to send $1 to America's Fund for Afghan Children has helped raise nearly $2 million, which has been spent on hats, socks, coats, tents, school supplies and other important humanitarian items that have been shipped to Afghanistan.

00100000000991

REV_00166691

cc: Dinkelacker
From Marc Silverman
NEC 9/29/97

facsimile TRANSMITTAL

to: Jonathan Gruber
fax #: (202) 622-2633
re: Electricity Restructuring
date: September 29, 1997
pages: 27, including this cover sheet.

We would appreciate you comments and edits by close of business on Wednesday. If you have any questions, please feel free to call me at 456-5385. Thanks for your help.

From the desk of...

Marc Silverman

National Economic Council
The White House, 2nd Floor, West Wing
Washington, D.C. 20502

(202) 456-5385
Fax: (202) 456-2878

00300000000127

FOR INTERNAL USE ONLY -- CONTAINS MARKET SENSITIVE INFORMATION

SUBJECT: Electricity Industry Restructuring

ACTION FORCING EVENT

Several Members of Congress have introduced bills to bring competition and consumer choice to the electricity industry. The bills vary in form from proposals that completely restructure the electric industry by ordering the states to adopt legislation opening the industry to competition to stand-alone bills that repeal legislation that has governed for decades but is now regarded as an obstacle to competition that needs to be removed.

Eight states including California and Pennsylvania are implementing their own versions of retail competition, and dozens more are considering legislative proposals. However, since electricity markets are increasingly regional in nature, federal legislation is necessary to address issues arising from interstate commerce.

[(b)(5)]

INTRODUCTION

What does "restructuring" mean?
Restructuring means opening up parts of the electricity industry -- distribution and transmission facilities -- to competition. Under the resulting new system, called "retail competition," consumers would be allowed to choose their own electricity suppliers much like they now choose their long-distance telephone service provider. Electricity policy is moving in this direction because of demands by customers that they be allowed to choose their own suppliers instead of being captive to the local utility. Proponents of competition believe it will lead to increased efficiency in the industry and reduced costs to consumers. There is some data that attempts to quantify these predicted benefits; these data are discussed below.

Under electricity restructuring, competition would replace regulation as the primary mechanism to set electricity generation prices. Utilities would be required to open their distribution and transmission wires to all qualified sellers. The transmission and distribution of electricity would continue to be regulated because they will remain monopolies for the foreseeable future. Thus, the system would be restructured, not completely deregulated.

How does the current system work?
Generally, under State law, electric utilities are monopolies that have both an exclusive right and responsibility to serve all consumers in a particular area. Most utilities are vertically integrated suppliers of generation and distribution services to the end customer. The vast majority of states regulate utility prices through a process known as cost-of-service or rate-of-return regulation. State regulators set the rates that utilities may charge based on the full cost of generating, transmitting and distributing electricity plus a fair rate of return on the invested capital.

[(b)(5)]

00300000000129

REV_00166694

[(b)(5)]

Competition in the electricity sector at the wholesale level, which was mandated by the Congress in the Energy Policy Act of 1992, was projected by the Federal Energy Regulatory Commission (FERC) in 1996 to save between $3 and $5 billion per year.

[(b)(5)]

Some homeowners in Eastern Washington State pay as little as 2 cents per kilowatt hour (kWh), while the people of Long Island pay 800 percent more -- as much as 16 cents per kWh.

[(b)(5)]

LEGISLATIVE PROPOSALS

In the 105th Congress, a number of legislative proposals for Federal legislation with respect to electricity regulation reforms have been introduced. These include bills narrowly targeted at particular issues, such as repeal of the Public Utility Holding Company Act of 1935 (PUHCA) and the establishment of a federal matching fund for State public purpose programs. There are also several more comprehensive proposals, each of which would make substantial amendments to the principal relevant Federal statutes. A chart attached to this memorandum summarizes the major bills.

The major issues addressed are:

[(b)(5)]

Bills offered by Rep. DeLay, Rep. Schaefer, and Sen. Bumpers would mandate retail competition by 1999, 2000, and 2003, respectively. Rep. Markey's bill takes a different approach and would require States to consider retail competition and provide utilities incentives to pursue

00300000000130

REV_00166695

competition.

The proposals also differ in their respective approaches to stranded cost recovery. Sen. Bumpers' proposal would allow utilities to fully recover fully stranded costs, Rep. DeLay's bill would prohibit any stranded cost recovery, while other bills leave the decision entirely to the States.

Many of the bills call for the repeal of The Public Utility Holding Company Act of 1935 (PUHCA). This Act, passed during the Depression, is the piece of legislation which still governs the electricity industry. It mandated regulated utilities be vertical monopolies. In its place, FERC and the States would be given additional access to corporate books and records. Several of the legislative proposals give FERC additional authority to address affiliate transactions, mergers and market power.

Many of the bills repeal the mandatory purchase requirement of section 210 of the Public Utility Regulatory Policies Act (PURPA) which sought to reform the vertically integrated electric utility monopolies by making it possible for non utility electricity generators to sell power wholesale to electric utilities. Rep. Markey's bill would condition the repeal of PUHCA and section 210 of PURPA on a State's adoption of retail competition.

While a number of the legislative proposals make clear that States have the authority to provide support for public benefits, several of the proposals have included specific provisions providing support for public benefits. Bills offered by Rep. DeFazio and Sen. Jeffords include provisions establishing a federal matching fund to support low-income customers, renewable resources, energy efficiency, and research and development. Sen. Jeffords, Sen. Bumpers, Rep. Markey and Rep. Schaefer have included provisions establishing a renewable portfolio standard.

Some of the proposals contain provisions addressing utility air emissions regulation. Sen. Bumpers' bill would require EPA to prepare a report on the effect of differing emissions standards on competition; Rep. Markey and Sen. Jeffords would give EPA broad authority to set emissions caps for a number of pollutants and to provide for a cap and trade system for these pollutants.

Many of the bills also address a broad range of other issues, including clarification of jurisdictional boundaries between federal government and states, reliability, consumer disclosure, and universal service.

ISSUES

[(b)(5)]

00300000000131

REV_00166696

[(b)(5)]

[(b)(5)]

Stranded Costs.

Stranded costs are costs that were incurred by utilities to serve their customers with the understanding that state regulatory commissions would allow the costs to be recovered through electric rates.

[(b)(5)]

[(b)(5)]

[(b)(5)]

[(b)(5)]

[(b)(5)]

[(b)(5)]

[(b)(5)]

00300000000139

REV_00166704

[(b)(5)]

[(b)(5)]

[(b)(5)]

[(b)(5)]

[(b)(5)]

[(b)(5)]

APPENDIX

DISCUSSION

[(b)(5)]

[(b)(5)]

[(b)(5)]

STAKEHOLDER VIEWS ON ELECTRICITY RESTRUCTURING

The following is a summary of the views of key stakeholders in the electricity restructuring debate. The associations and others named in parentheses are included for illustrative purposes and are not comprehensively listed.

[(b)(5)]

00300000000149

REV_00166714

[(b)(5)]

ISSUES

[(b)(5)]

[(b)(5)]

[(b)(5)]

Bill Dinkelacker 002
DOE Pager
From Jon Gruber
1/13/98

Draft-- 1/12/98

Politics of Electricity Restructuring

I. Introduction

[(b)(5)]

00300000000154

REV_00166719

[(b)(5)]

[(b)(5)]

[(b)(5)]

[(b)(5)]

[(b)(5)]

[(b)(5)]

[(b)(5)]

00300000000161

REV_00166726

[(b)(5)]

00300000000162

REV_00166727

[(b)(5)]

[(b)(5)]

Draft
1/8/98

SUMMARY OF KEY PROVISIONS IN ELECTRICITY RESTRUCTURING BILLS (105th Congress)

[(b)(5)]

[(b)(5)]

Engelhard, Joe

From: Adam_B._Goldman@who.eop.gov
Sent: Wednesday, December 19, 2001 7:45 PM
Subject: AP - Bush Pushes Stimulus Plan


Microsoft Word 4


Microsoft Word 4

TO: Economic Leaders

It is not too late to get the bipartisan Economic Relief package to the Senate floor. Remember, 55 Senators have signed onto this bill. It is the only bipartisan bill, and the only bill with a majority of the Senate supporting it. Please let me know how you are helping.

Thanks.

(See attached file: Economic Recovery Package Summary.doc)(See attached file: Economic Talkers 12-14.doc)

Bush Pushes Stimulus Plan

By DAVID ESPO, AP Special Correspondent
WASHINGTON (AP) - President Bush journeyed to the Capitol on Wednesday to lobby for legislation to help victims of the recession, but Senate Majority Leader Tom Daschle said Republicans ``refused to negotiate seriously'' over health care for the unemployed.

With Bush's blessing, House GOP leaders readied a new economic stimulus bill for a vote, including an additional 13 weeks of unemployment benefits and health insurance subsidies for recession victims as well as tax breaks for individuals and businesses. The cost was $216 billion over three years.

House passage was assured, given the GOP majority, although Democrats dismissed the bill in advance as a political gesture that could not reach Bush's desk.

In the Democratic-controlled Senate, there appeared to be more than 50 votes for the measure, and Republicans were discussing fresh concessions to win more converts. But the GOP was unable to count the 60 votes needed to force final approval over the opposition of Daschle and other members of his party.

In an unusual working visit to the Capitol, Bush met privately with moderate House Democrats as well as a bipartisan group of senators, three Democrats among them, who support the GOP measure. In brief remarks to reporters, Bush did not mention Daschle by name, but his reference was unmistakable.

``This bill will pass the House. It's got enough votes to pass the Senate,'' he said. ``And therefore, I look forward to working with both bodies (House and Senate) in any way I can to convince those who are reluctant to get a bill done, that this makes sense for America.''

His spokesman, Ari Fleischer, was more direct. ``The president would be delighted if Sen. Daschle were to sign on'' to the deal with moderate Democrats, he said. ``The president would be delighted if Sen. Daschle would let it come to a vote.... Why block progress?''

Daschle, D-S.D., attacked regularly by Republicans as an obstructionist, saw it differently.

``We have come more than half way in meeting our Republican colleagues on an

array of tax questions that they have said were important to them.... But to date they have been unwilling to accept even a modicum of change, even some degree of limited help for these unemployed workers in both unemployment compensation as well as health care.''

Daschle also said, ``We regret very much that our Republican colleagues, at least so far, have refused to come to the table to negotiate seriously on health and unemployment benefits in spite of the fact that millions of people are unemployed today.''

The House bill approves 13 additional weeks of unemployment benefits for those laid off since the March onset of the recession, money for health insurance subsidies for the unemployed and rebates of up to $600 for lower-wage earners who did not qualify for this summer's checks.

The bill also would cut the current 27 percent income tax rate to 25 percent effective Jan. 1, four years earlier than planned. Beginning in 2002, that rate applies to taxable income between $27,950 and $67,700 for individuals, and between $46,700 and $112,850 for married couples.

In addition, the bill would let businesses write off 30 percent annually of the cost of new investment for the next three years, and ease a corporate minimum tax that can boost corporations' tax bills even in unprofitable years.

The main stumbling block concerned health insurance benefits for the unemployed.

The House GOP bill provides laid-off workers with a tax credit equal to 60 percent of the cost of a health insurance policy, money they could use to purchase their own coverage if they wished.

Democrats want a direct 75 percent subsidy for job-related health insurance coverage that many workers are eligible to keep after losing their jobs.

The money would go to the employer, rather than to the individual as Republicans want. For laid-off workers who did not have health insurance on the job, Democrats proposed expanded coverage under Medicaid, the federal-state program that provides health care for the poor.

The House bill was crafted to incorporate many concessions that Republicans have made in several weeks of bargaining with the Democrats, since the GOP muscled through legislation on a party-line vote several weeks ago.

That bill did not include the additional 13 weeks of unemployment benefits, and had a repeal of the alternative minimum tax that would have given billions of dollars to large corporations, Enron and IBM among them.

Democrats opposed it overwhelmingly, and quickly launched radio commercials against three GOP lawmakers who voted for it.

Daschle cited concessions Democrats made in the discussions, saying he had agreed to GOP proposals for business tax relief, and he had been willing to ``look at rates,'' the GOP proposals for accelerated tax cuts.

00500000000309

REV_00166733

KEY ISSUES

[(b)(5)]

ATTACHMENTS:

Tab A: OPIC Summary of Dabhol Power Company Situation *(OPIC)*
Tab B: Suggested guidance on Enron (*National Security Council*)
Tab C: Economic Overview *(G. Rao)*
Tab D: Selected Economic Indicators *(G. Rao)*
Tab E: India Tax Treaty Issues (*M. Mundaca, M. Feinberg, D. Suringa*)

TAB A

OPIC Summary of Dabhol Power Company Situation
(Prepared by OPIC for the June 21 NSC Meeting)

[(b)(5)]

TAB B

National Security Council Interagency Guidance on Enron and WTO Issues
(Prepared for the June 21 NSC Meeting)

-
- [(b)(5)]
-
-
-

00500000002132

REV_00166736

TAB C

INDIA: ECONOMIC OVERVIEW, IFI and USG RELATIONS
June 2001

[(b)(5)]

[(b)(5)]

Rao/ISM 6/13/01

TAB D

India: Selected Economic Indicators 1/

Prepared By: Geetha Rao, US Treasury

[[(b)(5)]

TAB E

INDIA TAX TREATY ISSUES

For Use on an If Asked Basis Only

[(b)(5)]

Prepared by: D. Suringa, M. Mundaca, and M. Feinberg (Tax Policy)

Rao, Geetha

From: Rao, Geetha
Sent: Wednesday, July 18, 2001 4:02 PM
To: 'Laurent_D._Charbonnet@nsc.eop.gov'
Subject: FW: TALKING POINTS FOR US EMBASSY- INDIA

Importance: High


TP - Dabhol rev2 nsc.doc

Laurent:

Treasury clears on these points.

Thanks, Geetha

-----Original Message-----
From: Rao, Geetha
Sent: Wednesday, July 18, 2001 9:32 AM
To: Rao, Geetha; Grewe, Maureen; Sampliner, Gary; McDonald, Larry; Christopulos, Greg
Cc: Mills, Marshall; Sills, Gay; Resnick, Bonnie
Subject: RE: TALKING POINTS FOR US EMBASSY- INDIA
Importance: High

Attached are the final points for the OPIC/Enron demarche to the GOI ... please send any comments you have to me by NOON TODAY, and I will get back to Laurent. Thanks.

-----Original Message-----
From: Laurent_D._Charbonnet@nsc.eop.gov [mailto:Laurent_D._Charbonnet@nsc.eop.gov]
Sent: Tuesday, July 17, 2001 4:59 PM
To: jaldo@opic.gov; pwatson@opic.gov; Farah_Naim@ita.doc.gov; Maureen.grewe@do.treas.gov; CampDA2@state.gov; bryan_elena@ustr.gov.treas.gov; SpeckJG@state.gov; Greg.christopulos@do.treas.gov; usreygs@state.gov
Cc: Harry_K._Thomas@nsc.eop.gov
Subject: NSC revision of Dabhol points for demarche

(See attached file: TP - Dabhol rev2 nsc.doc)

Folks, please take a look at the attached draft talking points. I believe that we have addressed everybody's concerns. Please also ensure that all

relevant people within your agency get a copy of this -- not sure whether addressees above capture everybody. If there are major issues remaining, call me at 456-9247 or email, by 3 pm Wednesday (7/18). Please, only one representation per agency, so coordinate internally first.

Let's consider this closed by COB tomorrow. I'll coordinate with State, who'll send the demarche cable.

Thanks, everybody. Laurent

00500000002309

REV_00166742

TALKING POINTS FOR US EMBASSY- INDIA

Re: Meeting with Ministries of Finance and Power and Dabhol Lenders' Steering Committee

[*Follow-up to meeting between Principal Secretary and National Security Advisor Mishra and OPIC President Watson in Washington*]

- [(b)(5)]
- [(b)(5)]
- [(b)(5)]
- [(b)(5)]
- [(b)(5)]
- [(b)(5)]
- [(b)(5)]
- [(b)(5)]
- [(b)(5)]

Davis, Michele

From: Lawrence_A._Fleischer@who.eop.gov
Sent: Thursday, January 10, 2002 1:31 PM
To: Michele.Davis@do.treas.gov
Subject: Re: enron and O'Neill

pls call me...i just left a message on your machine.

00800000000090

REV_00166744

Davis, Michele

From: Davis, Michele
Sent: Thursday, January 10, 2002 2:02 PM
To: 'Lawrence_A._Fleischer@who.eop.gov'
Subject: RE: enron and O'Neill

i just called you back -- I'm sorry if I shouldn't have emailed, but I didn't want to get into a game of all day phone tag! I'll keep trying you

-----Original Message-----
From: Lawrence_A._Fleischer@who.eop.gov
[mailto:Lawrence_A._Fleischer@who:eop.gov]
Sent: Thursday, January 10, 2002 1:31 PM
To: Michele.Davis@do.treas.gov
Subject: Re: enron and O'Neill

pls call me...i just left a message on your machine.

00800000000093

REV_00166745

Davis, Michele

From: Lawrence_A._Fleischer@who.eop.gov
Sent: Thursday, January 10, 2002 2:12 PM
To: Michele.Davis@do.treas.gov
Subject: RE: enron and O'Neill

reply. tag, you're it. just left a message on your machine. is there another number with a live body?

00800000000095

REV_00166746

Davis, Michele

From: Davis, Michele
Sent: Thursday, January 10, 2002 2:21 PM
To: 'Lawrence_A._Fleischer@who.eop.gov'
Subject: RE: enron and O'Neill

622-2920 -- she'll get me off the phone for you!

-----Original Message-----
From: Lawrence_A._Fleischer@who.eop.gov
[mailto:Lawrence_A._Fleischer@who.eop.gov]
Sent: Thursday, January 10, 2002 2:12 PM
To: Michele.Davis@do.treas.gov
Subject: RE: enron and O'Neill

reply. tag, you're it. just left a message on your machine. is there another number with a live body?

00800000000098

REV_00166747

Davis, Michele

From: Davis, Michele
Sent: Thursday, January 10, 2002 4:14 PM
To: 'Lawrence_A._Fleischer@who.eop.gov'
Subject: RE: AP - White House: Enron Official Phoned

yes, those are the right dates. One was a sunday.

-----Original Message-----
From: Lawrence_A._Fleischer@who.eop.gov
[mailto:Lawrence_A._Fleischer@who.eop.gov]
Sent: Thursday, January 10, 2002 3:01 PM
To: Michele.Davis@do.treas.gov
Subject: AP - White House: Enron Official Phoned

are the dates in the ap story correct? were the calls on October 28 and Nov 8th?
---------- Forwarded by Lawrence A. Fleischer/WHO/EOP on 01/10/2002 03:00 PM ----------

Brian Bravo
01/10/2002 01:45:00 PM

Record Type: Record

To:

cc:
Subject: AP - White House: Enron Official Phoned

White House: Enron Official Phoned

By KAREN GULLO, Associated Press Writer
WASHINGTON (AP) - Enron Chairman Kenneth L. Lay reached out to two of President Bush's Cabinet officers when the energy company was collapsing, the White House disclosed Thursday as the Justice Department opened a criminal investigation of Enron's bankruptcy.
Bush, who received significant campaign contributions from Lay and other Enron executives, said he himself has never discussed Enron's financial problems with its embattled corporate chairman. The president said he last saw Lay in Texas at spring fund-raiser for former first lady Barbara Bush's literacy foundation.
Lay also was among a group of some 20 business leaders who came to the White House early in the Bush administration to discuss the state of the economy, Bush said.
Many Enron employees lost their life savings when the company filed for bankruptcy Dec. 2.
``What anybody's going to find out is that this administration will fully investigate issues such as the Enron bankruptcy, to make sure we can learn from the past and make sure workers are protected,'' Bush said.
But Lay did seek the ear of other top-level administration officials last fall. According to White House press secretary Ari Fleischer, Lay telephoned Treasury Secretary Paul O'Neill amid Enron's collapse ``to advise him about his concern about the obligations of Enron and whether they would be able to meet those obligations.''
Lay also told O'Neill that Enron ``was heading to bankruptcy,'' Fleischer said.
O'Neill received calls from Lay on Oct. 28 and Nov. 8, said Treasury spokeswoman Michele Davis. It was on Oct. 16 that Enron made its stunning disclosure of a $638 million third-quarter loss.

In a separate phone call to Commerce Secretary Don Evans, Lay similarly worried that the company might have to default on its obligations. He brought to the secretary's attention ``that he was having problems with his bond rating and he was worried about its impact on the energy sector,'' Fleischer said.
After that conversation, Evans spoke to O'Neill ``and they both agreed no action should be taken to intervene with their bond holders,'' Fleischer said.
The spokesman had said Wednesday he did not know of anyone in the White House who discussed Enron's financial situation.
Fleischer also brushed aside talk of any conflict in the Justice Department investigation and said there was no reason to turn the probe over to a special counsel.
Lay gave $25,000 to a leadership committee headed by then-senator and now Attorney General John Ashcroft, according to the Center for Public Integrity.
An attorney for Enron welcomed Ashcroft's inquiry, the latest in a series of governmental probes into the company's demise, saying the investigation would ``bring light to the facts.''
``We want to get to the bottom of this too,'' said Robert Bennett, a Washington attorney representing the Houston-based company. ``A lot of decent and honorable people work at Enron and we should wait until the facts are out.''
Bush ordered a separate review Thursday of pension and corporate disclosure rules that could jeopardize workers' savings. ``There has been a wave of bankruptcies that have caused many workers to lose their pensions and that is deeply troubling to me,'' Bush said.
The Justice Department is forming a national task force to look into the company's dealings. The group will be headed by lawyers at the department's criminal division and include prosecutors in Houston, San Francisco, New York and several other cities, said a Justice Department official, speaking on condition of anonymity.
The official declined to say when the investigation began. Enron faces civil investigations by the Labor Department and the Securities and Exchange Commission and subpoenas from congressional committees.
All are looking into the energy trading company's collapse, the largest bankruptcy filing in U.S. history.
The failure hit employees and investors hard. Workers were prohibited from selling company stock from their Enron-heavy 401(k) retirement accounts as the company's stock plummeted. Many lost their life's savings.
Enron executives cashed out more than $1 billion in stock when it was near its peak.
Former Enron chief executive Jeffrey Skilling, who left the helm nearly two months before the company's swift descent, welcomes the investigation, said spokeswoman Judy Leon. Skilling has said he had no idea, despite Enron's falling stock values, that the company was on the brink of failure.
Formed in 1985, Enron had 20,000 employees and was once the world's top buyer and seller of natural gas and the largest electricity marketer in the United States. It also marketed coal, pulp, paper, plastics, metals and fiber-optic bandwidth.
One likely focus of the Justice Department investigation is possible fraud based on Enron's heavy reliance on off-balance-sheet partnerships which took on Enron debt. The partnerships masked Enron's financial problems and left its credit ratings healthy so it could obtain the cash and credit crucial to running its trading business.
The Houston-based company went bankrupt after its credit collapsed and its main rival, Dynegy Inc., backed out of an $8.4 billion buyout plan late last year.
Just a year ago, stock of Enron, the nation's largest buyer and seller of natural gas, traded at $85 per share. Today it is less than $1.
Lay has close ties to Bush and his father, the former president. Lay was a top contributor to the younger Bush's 2000 presidential campaign.
The company played a key role earlier this year when a White House task force met with business executives and other interests to fashion a national energy policy. The task force was headed by Vice President Dick Cheney.

00800000000100

REV_00166749

Davis, Michele

From: Davis, Michele
Sent: Thursday, January 10, 2002 4:38 PM
To: 'Lawrence_A._Fleischer@who.eop.gov'
Subject: RE: AP - White House: Enron Official Phoned

we traded phone calls for a while, but we finally connected about 30 minutes ago

-----Original Message-----
From: Lawrence_A._Fleischer@who.eop.gov
[mailto:Lawrence_A._Fleischer@who.eop.gov]
Sent: Thursday, January 10, 2002 4:36 PM
To: Michele.Davis@do.treas.gov
Subject: RE: AP - White House: Enron Official Phoned

can you call mary crawford at commerce? she told me she was trying to get you earlier.

00800000000101

REV_00166750

President Promotes Economic Security & Worker Assistance

TODAY'S PRESIDENTIAL ACTION

- President Bush visits Operation Paycheck – a job training center in Orlando, Florida – to emphasize his concern and his plans to help workers who lost their jobs in the wake of the September 11 attacks. The President also leads a town hall meeting with local citizens from a community adversely impacted by the September 11 attacks to discuss economic concerns and America's efforts in the war on terrorism.

- The attacks of September 11 were also an attack on our economy. President Bush continues to urge Congress to act on an economic security package to help America's workers.

BACKGROUND ON THE PRESIDENT'S VISIT

- The President visits the newest Operation Paycheck One-Stop Center in Orlando. Operation Paycheck is a program of the State of Florida's Agency for Workforce Innovation that helps laid-off workers obtain the skills they need to quickly transition into a new job. A significant number of the workers in the Operation Paycheck program are from the service sector, including the tourism and aviation industries.

- The One-Stop Center is an example of how an effective state-federal partnership can quickly get assistance to the displaced workers who need it. Florida is implementing the Operation Paycheck program with $10 million in existing dislocated worker funds from the Department of Labor. The program will further benefit from a portion of the $3.4 million in new National Emergency Grant funds that the Department of Labor approved for Florida this week. With these funds, qualifying employees are eligible for income support and job training.

THE PRESIDENT'S AGENDA FOR ECONOMIC SECURITY & WORKER RELIEF

- President Bush has urged Congress to act on an economic security package to jumpstart the economy and directly help workers who have lost their jobs in the wake of the September 11 attacks.

- The President proposed a Back to Work Relief Package on October 4 to provide help to those workers hardest hit by the economic impact of the attacks. This package would:

  - Extend unemployment benefits by 13 weeks for workers in the states hardest hit by the events of September 11;
  - Provide $3 billion in special National Emergency Grants to help displaced workers maintain health coverage, supplement their income and receive job training;
  - Make $11 billion available to states to help low-income workers obtain health insurance; and
  - Encourage affected workers to take advantage of more than $6 billion in existing federal job search, training and placement programs.

- The President initially urged Congress on October 5 to enact an economic security package that focuses on:

  - *Accelerating Marginal Tax Rate Reductions:* Gives consumers more to spend and invest, and gives businesses and entrepreneurs more resources to help them retain or create more jobs.
  - *Partial Expensing:* Encourages businesses to invest in new equipment and resources by allowing them to partially expense capital expenditures, allowing them to make purchases they might not otherwise have been able to afford.
  - *Eliminating the Corporate AMT:* Promotes new investment by businesses by eliminating the corporate alternative minimum tax, which imposes job-killing higher taxes on corporations and small businesses.
  - *Tax Relief for Low- and Moderate-Income Workers:* Reduces taxes for low- and moderate-income households beyond relief already approved by Congress, ensuring that the most vulnerable workers will have more money in their pockets.

For more information on the President's initiatives please visit www.whitehouse.gov

00800000000134

REV_00166751

Davis, Michele

From: Davis, Michele
Sent: Wednesday, November 07, 2001 7:17 AM
To: 'James_R._Wilkinson@who.eop.gov'; Ashin, Paul
Subject: RE: The War on Terrorism -- November 7, 2001

Outside of Scope

-----Original Message-----
From: James_R._Wilkinson@who.eop.gov
[mailto:James_R._Wilkinson@who.eop.gov]
Sent: Wednesday, November 07, 2001 7:02 AM
To: Daniel_J._Bartlett@who.eop.gov; Karen_Hughes@who.eop.gov;
Anne_Womack@who.eop.gov; Lawrence_A._Fleischer@who.eop.gov;
Gregory_L._Schulte@nsc.eop.gov; Jill_L._Angelo@who.eop.gov;
Christina_D._Roberts@who.eop.gov; Scott_McClellan@who.eop.gov;
acampbell@no10.x.gsi.gov.uk; torie.clarke@osd.mil; boucherra@state.gov;
Catherine_J._Martin@ovp.eop.gov; Allison_Barber@who.eop.gov;
Paddy_Feeny@who.eop.gov; Karl_C._Rove@who.eop.gov;
Stephen_J._Hadley@nsc.eop.gov; Susan_B._Ralston@who.eop.gov;
Pbassett@no10.x.gsi.gov.uk; cbeers@pd.state.gov; ddejban@pd.state.gov;
Tucker_A._Eskew@who.eop.gov; Claire_E._Buchan@who.eop.gov;
cross2@pd.state.gov; Sean_I._McCormack@nsc.eop.gov;
Joseph_R._Wood@ovp.eop.gov; rruth@pd.state.gov;
allan.percival@fco.gov.uk; sarh.hayward@fco.gov.uk;
Deborah_Hermer@who.eop.gov; Shannon_Burkhart@who.eop.gov;
alastair.campbell@fco2.demon.co.uk; phil.bassett@fco2.demon.co.uk;
peter.elder@fco2.demon.co.uk; mark.laity@fco2.demon.co.uk;
lisa.mackenzie@fco2.demon.co.uk; lee.mcclenny@fco2.demon.co.uk;
david.chuter@fco2.demon.co.uk; jon.chorley@fco2.demon.co.uk;
lisa.brett@fco2.demon.co.uk; carl.shobhan@fco2.demon.co.uk;
chris.mcshane@fco2.demon.co.uk; doug.williams@fco2.demon.co.uk;
rurik.mardsen@fco2.demon.co.uk; gerrard.russell@fco2.demon.co.uk;
jim.poston@fco2.demon.co.uk; reza.afshar@fco2.demon.co.uk;
andy.gillman@fco2.demon.co.uk; kathryn.hutton@fco2.demon.co.uk;
catherine.colloms@fco2.demon.co.uk; lucy.mcneil@fco2.demon.co.uk;
iain.doble@fco2.demon.co.uk; david.gilbert@fco2.demon.co.uk;
alan.schofield@fco2.demon.co.uk; Nicolle_Devenish@who.eop.gov;
Kenneth_Hill@who.eop.gov; Paul_Ashin@who.eop.gov;
Noelia_Rodriguez@who.eop.gov; Tracey_L._Schmitt@who.eop.gov;
Gail_Randall@who.eop.gov; Gregory_Goss@who.eop.gov;
Tucker_A._Eskew@who.eop.gov; Jeanie_S._Mamo@who.eop.gov;
Kenneth_A._Lisaius@who.eop.gov; Nicolle_Devenish@who.eop.gov;
SECAHC@who.eop.gov; Joshua_B._Bolten@who.eop.gov;
Joel_D._Kaplan@who.eop.gov; Joseph_W._Hagin@who.eop.gov;
Marcus_J._Mollmann@who.eop.gov; Logan_M._Walters@who.eop.gov;
Scott_N._Sforza@who.eop.gov; Michael_J._Gerson@who.eop.gov;
Krista_L._Ritacco@who.eop.gov; Peter_H._Wehner@who.eop.gov;
Matthew_C._Scully@who.eop.gov; David_Frum@who.eop.gov;
agibson@ostp.eop.gov; John_D._Gibson@nsc.eop.gov;
Edmund_A._Walsh@who.eop.gov; Karl_Doenges@oa.eop.gov;
William_T._Griffin@who.eop.gov; Taylor_S._Gross@who.eop.gov;
Kenneth_A._Lisaius@who.eop.gov; Jeanie_S._Mamo@who.eop.gov;
Wendy_L._Nipper@who.eop.gov; Christopher_J._Orr@who.eop.gov;
Scott_Stanzel@who.eop.gov; Vickie_A._McQuade@who.eop.gov;
Jennifer_K._Millerwise@who.eop.gov; Anne_Womack@who.eop.gov;
Brian_Bravo@who.eop.gov; Candida_P._Wolff@ovp.eop.gov;
Harry_W._Wolff@who.eop.gov; Rachael_L._Sunbarger@who.eop.gov;
Reed_Dickens@who.eop.gov; Nicholas_E._Calio@who.eop.gov;
John_W._Howard@oa.eop.gov; Virginia_T._Gregory@who.eop.gov;
David_W._Hobbs@who.eop.gov; Christal_R._West@who.eop.gov;
Peter_M._Rowan@who.eop.gov; Ziad_S._Ojakli@who.eop.gov;
Christine_Ciccone@who.eop.gov; Townsend_L._McNitt@oa.eop.gov;

00800000000142

REV_00166752

Scott_Jeffcoat@oa.eop.gov; Albert_Hawkins@who.eop.gov;
Cynthia_R._Mendl@who.eop.gov; Susan_B._Ralston@who.eop.gov;
Chris_Henick@who.eop.gov; Dee_Dee_Benkie@who.eop.gov;
Israel_Hernandez@who.eop.gov; Alicia_P._Clark@who.eop.gov;
William_S._Clark@oa.eop.gov; Collister_W._Johnson@who.eop.gov;
Sara_M._Taylor@who.eop.gov; David_M._Thomas@who.eop.gov;
Alicia_W._Davis@who.eop.gov; Tim_Goeglein@who.eop.gov;
Kirk_Blalock@who.eop.gov; Adam_B._Goldman@who.eop.gov;
Abel_Guerra@who.eop.gov; Kathryn_J._Hayes@who.eop.gov;
John_Gardner@oa.eop.gov; Harriet_Miers@who.eop.gov;
Collister_W._Johnson@who.eop.gov; Dina_Powell@who.eop.gov;
Gregory_J._Jenkins@oa.eop.gov; Tobin_K._Harvey@oa.eop.gov;
Bradley_A._Blakeman@who.eop.gov; Kara_G._Figg@who.eop.gov;
Amanda_L._Moore@who.eop.gov; Mary_Elizabeth_Farr@who.eop.gov;
Alison_M._Harden@who.eop.gov; Anne_Heiligenstein@who.eop.gov;
Melanie_A._Jackson@who.eop.gov; Ashley_M._Snee@ovp.eop.gov;
Debra_Heiden@ovp.eop.gov; Douglas_D._McCormick@oa.eop.gov;
I._Lewis_Libby@oa.eop.gov; Charles_D._McGrath_Jr@ovp.eop.gov;
Jennifer_H._Mayfield@ovp.eop.gov; Ethan_A._Hastert@ovp.eop.gov;
Julianna_R._Glover@ovp.eop.gov; Megan_D._Moran@ovp.eop.gov;
David_S._Addington@ovp.eop.gov; Cesar_Conda@ovp.eop.gov;
Ronald_I._Christie@ovp.eop.gov; Nina_Rees@ovp.eop.gov;
Nancy_P._Dorn@who.eop.gov; Stephen_S._Ruhlen@ovp.eop.gov;
Lauren_K._Allgood@ovp.eop.gov; Elizabeth_W._Kleppe@ovp.eop.gov;
Debra_R._Dunn@ovp.eop.gov; Dylan_C._Glenn@opd.eop.gov;
Donald_M._Sumerlin@oa.eop.gov; Eric_C._Pelletier@omb.eop.gov;
Augustine_T._Smythe@omb.eop.gov; Lawrence_B._Lindsey@opd.eop.gov;
John_M._Bridgeland@opd.eop.gov; Stephen_M._Garrison@opd.eop.gov;
edgillespie@quinngillespie.com; christine.iverson@mail.house.gov;
Josephine_B._Robinson@who.eop.gov; Melissa_S._Bennett@who.eop.gov;
Joel_D._Kaplan@who.eop.gov; Colleen_Litkenhaus@who.eop.gov;
Blake_Gottesman@who.eop.gov; charles.yoder@mail.va.gov;
lindsey_kozberg@ed.gov; mindy.tucker@usdoj.gov; terrell.halaska@hhs.gov;
nancy_i._segerdahl@hud.gov; kreisher.tina@epa.gov;
cooper.mildred@epa.gov; roy-stuart@dol.gov; cliff_may@ios.doi.gov;
Neil_H._Zimmerman@who.eop.gov;
christine.iverson@mail.house.gov; brian.gunderson@mail.house.gov; [(b)(6)]
terry.holt@mail.house.gov; kevin.schweers@mail.house.gov;
paul.morrell@mail.house.gov; Sara_M._Taylor@who.eop.gov;
Michael_Shannon@who.eop.gov; Don_E._Eberly@who.eop.gov;
Mark_V._Scott@oa.eop.gov; Michele_H._Tennery@who.eop.gov;
Carrie_W._Click@who.eop.gov; Catharine_A._Ryun@who.eop.gov;
sschmidt@nrcc.org; Matthew_E._Smith@who.eop.gov;
Brian_R._Besanceney@opd.eop.gov; mmckinnon@pstrategies.com;
MMiner@rnchq.org; BComstock@rnchq.org; James_R._Wilkinson@who.eop.gov;
jcram@rnchq.org; dmishoe@rnchq.org; Kevin_J._Martin@oa.eop.gov;
Adrian_G._Gray@who.eop.gov; mcrawford@doc.gov; maryanne.lyle@fema.gov;
Nancy_L._segerdahl@hud.gov; chet.lunner@ost.dot.gov;
m.kicklighter@mail.va.com; roy_stuart@dol.gov; mark_pfeifle@ios.doi.gov;
kreisher.tina@epa.gov; kevin.keane@hhs.gov; mindy.tucker@usdoj.gov;
moridanis@state.gov; Jeanne.lopatto@hq.doe.treas.gov;
craig.quigley@osd.mil; Michele.davis@do.treas.gov;
lindsey_kozberg@ed.gov; Anne_Trenolone@who.eop.gov;
Barry_S._Jackson@who.eop.gov; POnnuru@ix.netcom.com; dtrigg@doc.gov;
dorrance.smith@fema.gov; oliver.north@msnbc.com;
Brian_R._Besanceney@opd.eop.gov; kmclane@pstrategies.com;
John_D._Estes@who.eop.gov; Ashley_Estes@who.eop.gov;
Angela_R._Sailor@who.eop.gov; K._Philippa_Malmgren@opd.eop.gov;
Ruben_S._Barrales@who.eop.gov; Terry_C._Miller@who.eop.gov;
Deborah_A._Spagnoli@who.eop.gov;
James_R._Wilkinson@who.eop.gov; blewis@rnchq.org; [(b)(6)]
Charles_P._Blahous@opd.eop.gov; Maria.Cino@mail.doc.gov;
Matthew_W._Lindley@who.eop.gov; Chris_B._Nagel@who.eop.gov;
Melissa_L._McAdoo@who.eop.gov; Kristen_L._Hughes@who.eop.gov;
Robert_T._Pratt_Jr@who.eop.gov; Beverly_J._Ward@oa.eop.gov;
Deborah_K._Hair@oa.eop.gov; Elizabeth_N._Camp@who.eop.gov;
Brett_M._Kavanaugh@who.eop.gov; Timothy_E._Flanigan@who.eop.gov;

00800000000143

REV_00166753

Mark.Corallo@mail.house.gov; susan_irby@lott.senate.gov;
john.feehery@mail.house.gov; terry.holt@mail.house.gov;
TDuffy@rnchq.org; Mercedes_M._Viana@who.eop.gov; dallen@nrsc.org;
D._Marcus_Sumerlin@opd.eop.gov; Blake_Gottesman@who.eop.gov;
Ashley_Estes@who.eop.gov; Robert_W._Cobb@who.eop.gov;
Traci_R._Campbell@who.eop.gov; James_E._Carter@opd.eop.gov;
Courtney_S._Elwood@who.eop.gov; Robert_W._Cobb@who.eop.gov;
Neil_H._Zimmerman@who.eop.gov; Dee_Dee_Benkie@who.eop.gov;
Debra_D._Bird@who.eop.gov; Dina_Powell@who.eop.gov;
Mark_V._Rosenker@who.eop.gov; Helen_R._Mobley@who.eop.gov;
Julieanne_H._Thomas@who.eop.gov; Alison_M._Harden@who.eop.gov;
Desiree_T._Sayle@who.eop.gov; Sydney_R._Johnson@who.eop.gov;
Sara_B._McIntosh@who.eop.gov; Anne_Heiligenstein@who.eop.gov;
Sonya_E._Medina@who.eop.gov; Catherine_S._Fenton@who.eop.gov;
Melanie_A._Jackson@who.eop.gov; Anne_E._Phelps@opd.eop.gov;
Eleanor_L._Gillmor@opd.eop.gov; Tiffany_L._Barfield@opd.eop.gov;
David_F._Lussier@oa.eop.gov; Torie.Clarke@osd.mil; rgeorge@nypost.com;
Neil_S._Patel@ovp.eop.gov; Catharine_A._Ryun@who.eop.gov;
susan_irby@lott.senate.gov; brook_simmons@nickles.senate.gov;
gerry_fritz@rpc.senate.gov; margaret_camp@frist.senate.gov;
lisette_mcsoud_mondello@hutchison.senate.gov;
Melissa_Sabatine@src.senate.gov; [(b)(6)]
john.feehery@mail.house.gov; terry.holt@mail.house.gov;
christine.iverson@mail.house.gov; MMiner@rnchq.org; sschmidt@nrcc.org;
emily.miller@mail.house.gov; ron_bonjean@lott.senate.gov;
paige.ralston@mail.house.gov; paul.morrell@mail.house.gov;
sschmidt@nrcc.org; cforti@nrcc.org; TDuffy@rnchq.org; dallen@nrsc.org;
MMiner@rnchq.org; Peter.jeffries@mail.house.gov;
Catherine_J._Martin@ovp.eop.gov; Robert_C._McNally@opd.eop.gov;
Karen_Y._Knutson@ovp.eop.gov; Deborah_A._Spagnoli@who.eop.gov;
kfedewa@rnchq.org; greg_jenkins@ita.doc.gov;
Leonard_B._Rodriguez@who.eop.gov; Noel_J._Francisco@who.eop.gov;
Mark_McClellan@cea.eop.gov; Dirksen_Lehman@who.eop.gov;
Aquiles_F._Suarez@opd.eop.gov; Jennifer_D._Field@ovp.eop.gov;
dean.clancy@mail.house.gov; Rachel_L._Brand@who.eop.gov;
Heather_Wingate@who.eop.gov; ekeltz@doc.gov; jdyke@doc.gov;
melliott@doc.gov; Jennifer_D._Field@ovp.eop.gov; Chesenterp@aol.com;
cz@greenerandhook.com; Stuart_W._Bowen@who.eop.gov;
RGustafson@rnchq.org; Anthony_K._Crawford@nsc.eop.gov;
Ashleigh_A._Adams@who.eop.gov; sspicer@nrcc.org;
Michelle_N._Brawer@who.eop.gov; cmay@bsmg.com; tnelson@dmnmedia.com;
kevin.schweers@mail.house.gov; kyle.downey@mail.house.gov;
joliver@rnchq.org; bhazelwood@rnchq.org; ekutler@cwdc.com;
john.mcmanus@mail.phrma.org; sstyles@bbchb.com; kevin.herglotz@usda.gov;
ksheridan@rnchq.org; dishopn@state.gov; [(b)(6)]
englandMP@state.gov; rncresearch@rnchq.org; dmattoon@podestamattoon.com;
Samuel_A._Thernstrom@ceq.eop.gov; jo.powers@mail.house.gov;
Elliott_Abrams@nsc.eop.gov; Eric_A._Draper@who.eop.gov;
Helgard_C._Walker@who.eop.gov; mkitchens@pstrategies.com;
kscurry@princeton.edu; LMBNelson@aol.com;
susan.hirschman@mail.house.gov; dan.flynn@mail.house.gov;
scott.palmer@mail.house.gov; mike.stokke@mail.house.gov;
tobin.harvey@ee.doe.gov; Elizabeth_S._Dougherty@opd.eop.gov;
Kjersten_S._Drager@ovp.eop.gov; Clare_C._Doherty@omb.eop.gov;
gregory_J._jenkins@who.eop.gov; gayland.barksdale@mail.house.gov;
kathryn.lehman@mail.house.gov; JTMastranadi@nrsc.org;
Craig_Ray@who.eop.gov; Joseph_Ratajczak@ondcp.eop.gov;
melody_h._fennel@hud.gov; All_OVP_Users@oa.eop.gov; don.meyer@osd.mil;
chris.willcox@osd.mil; kevin.kellems@osd.mil; hensley-suc@dol.gov;
richard.mcgraw@osd.mil; tfrancis@doc.gov; [(b)(6)]
Brian_V._McCormack@ovp.eop.gov; Elizabeth_S._Dougherty@opd.eop.gov;
Marisa_K._Medrano@opd.eop.gov; Kelley_J._McCullough@who.eop.gov;
Ali_H._Tulban@who.eop.gov; Michael_R._Fenzel@nsc.eop.gov;
John_Fenzel@ovp.eop.gov; julie.nichols@ost.dot.gov; gwolfe@nrsc.org;
james_r._wilkinson@who.eop.gov; ginni.thomas@heritage.org;
bethsturgeon@austin.rr.com;
[(b)(6)] rsavarese@kpmg.com; [(b)(6)]

00800000000144

REV_00166754

tom.sellers@usa.conoco.com; ccamp@llano-permian.com;
campsite@nts-online.net; daviddurham@austin.rr.com;
lpollard@austin.rr.com; mona@gregabbottcampaign.com;
rsullivan@governor.state.tx.us; nikki.robinson@mail.house.gov;
creazzo@hotmail.com; Natalie_S._Wozniak@nsc.eop.gov;
[(b)(6)] Peter_Smith@nsc.eop.gov; Elliott_Abrams@nsc.eop.gov;
Michele_Ahern@omb.eop.gov; terry.holt@mail.house.gov;
greg.crist@mail.house.gov; brad.bennett@mail.house.gov;
jessica.incitto@mail.house.gov; jonathan.grella@mail.house.gov;
mike.franc@heritage.org; pmoreno@acf.dhhs.gov; [(b)(6)]
pat.shortridge@enron.com; richard.mcbride@glo.state.tx.us;
jerogan@venable.com; GamonalAM@state.gov; Alison_Jones@who.eop.gov;
lowellrandel@meyersandassociates.com;
[(b)(6)] joe.Eule@mail.house.gov; jsolsby@drasnincommunications.com;
Kirk.Boyle@mail.house.gov; gonzalez@glo.state.tx.us;
kevin.keane@hhs.gov; Mark_Holman@who.eop.gov; Carl_Buchholz@who.eop.gov;
EWILLEFO@fcc.gov; Danner.Bethel@ed.gov; SabatineM@osd.pentagon.mil;
patrick.rhode@sba.gov; YRobinso@pd.state.gov;
robert.traynham@src.senate.gov; dmackinnon@verner.com;
Ansley C. Tillman@opd.eop.gov; jwillis@doc.gov; Britt_Grant@opd.eop.gov;
Kristine_Simmons@opd.eop.gov; kyle.downey@mail.house.gov;
molly.millerwise@mail.house.gov; jrendon@rendon.com
Subject: The War on Terrorism -- November 7, 2001

Forward to your lists immediately.

(See attached file: CIC -- Daily November 7.doc)

00800000000145

REV_00166755

Davis, Michele

From: Davis, Michele
Sent: Monday, October 29, 2001 6:35 PM
To: 'James_R._Wilkinson@who.eop.gov'
Subject: RE: HSC Meeting Talking Points

Outside of scope

-----Original Message-----
From: James_R._Wilkinson@who.eop.gov
[mailto:James_R._Wilkinson@who.eop.gov]
Sent: Monday, October 29, 2001 3:59 PM
To: Daniel_J._Bartlett@who.eop.gov; Karen_Hughes@who.eop.gov;
Noelia_Rodriguez@who.eop.gov; Tracey_L._Schmitt@who.eop.gov;
Gail_Randall@who.eop.gov; Gregory_Goss@who.eop.gov;
Tracy_Young@who.eop.gov; Tucker_A._Eskew@who.eop.gov;
Jeanie_S._Mamo@who.eop.gov; Kenneth_A._Lisaius@who.eop.gov;
Nicolle_Devenish@who.eop.gov; SECAHC@who.eop.gov;
Joshua_B._Bolten@who.eop.gov; Joel_D._Kaplan@who.eop.gov;
Joseph_W._Hagin@who.eop.gov; Marcus_J._Mollmann@who.eop.gov;
Logan_M._Walters@who.eop.gov; Christina_D._Roberts@who.eop.gov;
Jill_L._Angelo@who.eop.gov; Scott_N._Sforza@who.eop.gov;
Michael_J._Gerson@who.eop.gov; Krista_L._Ritacco@who.eop.gov;
Peter_H._Wehner@who.eop.gov; Matthew_O._Scully@who.eop.gov;
David_Frum@who.eop.gov; agibson@ostp.eop.gov;
John_D._Gibson@nsc.eop.gov; Edmund_A._Walsh@who.eop.gov;
Karl_Doenges@oa.eop.gov; William_T._Griffin@who.eop.gov;
Taylor_S._Gross@who.eop.gov; Kenneth_A._Lisaius@who.eop.gov;
Jeanie_S._Mamo@who.eop.gov; Wendy_L._Nipper@who.eop.gov;
Christopher_J._Orr@who.eop.gov; Scott_Stanzel@who.eop.gov;
Lawrence_A._Fleischer@who.eop.gov; Vickie_A._McQuade@who.eop.gov;
Jennifer_K._Millerwise@who.eop.gov; Anne_Womack@who.eop.gov;
Brian_Bravo@who.eop.gov; Candida_P._Wolff@ovp.eop.gov;
Harry_W._Wolff@who.eop.gov; Scott_McClellan@who.eop.gov;
Claire_E._Buchan@who.eop.gov; Rachael_L._Sunbarger@who.eop.gov;
Reed_Dickens@who.eop.gov; Nicholas_E._Calio@who.eop.gov;
John_W._Howard@oa.eop.gov; Virginia_T._Gregory@who.eop.gov;
David_W._Hobbs@who.eop.gov; Christal_R._West@who.eop.gov;
Peter_M._Rowan@who.eop.gov; Ziad_S._Ojakli@who.eop.gov;
Christine_Ciccone@who.eop.gov; Townsend_L._McNitt@oa.eop.gov;
Scott_Jeffcoat@oa.eop.gov; Albert_Hawkins@who.eop.gov;
Cynthia_R._Mendl@who.eop.gov; Edward_Ingle@who.eop.gov;
L._Camille_Welborn@who.eop.gov; Karl_C._Rove@who.eop.gov;
Susan_B._Ralston@who.eop.gov; Chris_Henick@who.eop.gov;
Dee_Dee_Benkie@who.eop.gov; Israel_Hernandez@who.eop.gov;
Alicia_P._Clark@who.eop.gov; William_S._Clark@oa.eop.gov;
Kasey_S._Pipes@who.eop.gov; Collister_W._Johnson@who.eop.gov;
Sara_M._Taylor@who.eop.gov; David_M._Thomas@who.eop.gov;
Alicia_W._Davis@who.eop.gov; Tim_Goeglein@who.eop.gov;
Kirk_Blalock@who.eop.gov; Adam_B._Goldman@who.eop.gov;
Abel_Guerra@who.eop.gov; Kathryn_J._Hayes@who.eop.gov;
John_Gardner@oa.eop.gov; Harriet_Miers@who.eop.gov;
Collister_W._Johnson@who.eop.gov; Dina_Powell@who.eop.gov;
Brian_D._Montgomery@who.eop.gov; Heather_L._West@who.eop.gov;
Gregory_J._Jenkins@oa.eop.gov; Tobin_K._Harvey@oa.eop.gov;
Bradley_A._Blakeman@who.eop.gov; Kara_G._Figg@who.eop.gov;
Amanda_L._Moore@who.eop.gov; Mary_Elizabeth_Farr@who.eop.gov;
Andrea_G._Ball@who.eop.gov; Alison_M._Harden@who.eop.gov;

00800000000146

REV_00166756

Anne_Heiligenstein@who.eop.gov; Melanie_A._Jackson@who.eop.gov;
Ashley_M._Snee@ovp.eop.gov; Debra_Heiden@ovp.eop.gov;
Douglas_D._McCormick@oa.eop.gov; Mary_J._Matalin@ovp.eop.gov;
I._Lewis_Libby@oa.eop.gov; Charles_D._McGrath_Jr@ovp.eop.gov;
Jennifer_H._Mayfield@ovp.eop.gov; Ethan_A._Hastert@ovp.eop.gov;
Juleanna_R._Glover@ovp.eop.gov; Megan_D._Moran@ovp.eop.gov;
David_S._Addington@ovp.eop.gov; Cesar_Conda@ovp.eop.gov;
Ronald_I._Christie@ovp.eop.gov; Nina_Rees@ovp.eop.gov;
Margita_N._Thompson@ovp.eop.gov; Nancy_F._Dorn@who.eop.gov;
Stephen_S._Ruhlen@ovp.eop.gov; Lauren_K._Allgood@ovp.eop.gov;
Elizabeth_W._Kleppe@ovp.eop.gov; Debra_R._Dunn@ovp.eop.gov;
Dylan_C._Glenn@opd.eop.gov; Donald_M._Sumerlin@oa.eop.gov;
Eric_C._Pelletier@omb.eop.gov; Augustine_T._Smythe@omb.eop.gov;
Lawrence_B._Lindsey@opd.eop.gov; John_M._Bridgeland@opd.eop.gov;
Stephen_M._Garrison@opd.eop.gov; Eric_H._Otto@opd.eop.gov;
edgillespie@quinngillespie.com; christine.iverson@mail.house.gov;
Josephine_B._Robinson@who.eop.gov; Melissa_S._Bennett@who.eop.gov;
Joel_D._Kaplan@who.eop.gov; Colleen_Litkenhaus@who.eop.gov;
Blake_Gottesman@who.eop.gov; charles.yoder@mail.va.gov;
lindsey_kozberg@ed.gov; mindy.tucker@usdoj.gov; terrell.halaska@hhs.gov;
nancy_i._segerdahl@hud.gov; kreisher.tina@epa.gov;
cooper.mildred@epa.gov; roy-stuart@dol.gov; cliff may@ios.doi.gov;
Neil_H._Zimmerman@who.eop.gov;
christine.iverson@mail.house.gov; brian.gunderson@mail.house.gov; [(b)(6)]
terry.holt@mail.house.gov; kevin.schweers@mail.house.gov;
paul.morrell@mail.house.gov; Sara_M._Taylor@who.eop.gov;
Michael_Shannon@who.eop.gov; Don_E._Eberly@who.eop.gov;
Lisa_T._Cummins@oa.eop.gov; Mark_V._Scott@oa.eop.gov;
Michele_H._Tennery@who.eop.gov; Carrie_W._Click@who.eop.gov;
Catharine_A._Ryun@who.eop.gov; sschmidt@nrcc.org;
Matthew_E._Smith@who.eop.gov; Brian_R._Besanceney@opd.eop.gov;
mmckinnon@pstrategies.com; MMiner@rnchq.org; BComstock@rnchq.org;
James_R._Wilkinson@who.eop.gov; jcram@rnchq.org; dmishoe@rnchq.org;
Kevin_J._Martin@oa.eop.gov; Adrian_G._Gray@who.eop.gov;
mcrawford@doc.gov; maryanne.lyle@fema.gov; Nancy_L._segerdahl@hud.gov;
chet.lunner@ost.dot.gov; m.kicklighter@mail.va.com; roy_stuart@dol.gov;
mark_pfeifle@ios.doi.gov; kreisher.tina@epa.gov; kevin.keane@hhs.gov;
mindy.tucker@usdoj.gov; moridanis@state.gov;
Jeanne.lopatto@hq.doe.treas.gov; craig.quigley@osd.mil;
Michele.davis@do.treas.gov; lindsey_kozberg@ed.gov;
Anne_Trenolone@who.eop.gov; Barry_S._Jackson@who.eop.gov;
dtrigg@doc.gov; dorrance.smith@fema.gov;
[(b)(6)] oliver.north@msnbc.com; Brian_R._Besanceney@opd.eop.gov;
kmclane@pstrategies.com; John_D._Estes@who.eop.gov;
Ashley_Estes@who.eop.gov; Angela_R._Sailor@who.eop.gov;
K._Philippa_Malmgren@opd.eop.gov; Ruben_S._Barrales@who.eop.gov;
Terry C. Miller@who.eop.gov; Deborah_A._Spagnoli@who.eop.gov;
Laura_S._Lawlor@who.eop.gov;
James_R._Wilkinson@who.eop.gov; blewis@rnchq.org; [(b)(6)]
Charles_P._Blahous@opd.eop.gov; Maria.Cino@mail.doc.gov;
Matthew_W._Lindley@who.eop.gov; Chris_B._Naqel@who.eop.gov;
Melissa_L._McAdoo@who.eop.gov; Kristen_L._Hughes@who.eop.gov;
Robert_T._Pratt_Jr@who.eop.gov; Beverly_J._Ward@oa.eop.gov;
Deborah_K._Hair@oa.eop.gov; Elizabeth_N._Camp@who.eop.gov;
Brett_M._Kavanaugh@who.eop.gov; Timothy_E._Flanigan@who.eop.gov;
Mark.Corallo@mail.house.gov; susan_irby@lott.senate.gov;
john.feehery@mail.house.gov; terry.holt@mail.house.gov;
TDuffy@rnchq.org; Mercedes_M._Viana@who.eop.gov; dallen@nrsc.org;
D._Marcus_Sumerlin@opd.eop.gov; Blake_Cottesman@who.eop.gov;
Ashley_Estes@who.eop.gov; Robert_W._Cobb@who.eop.gov;
Traci_R._Campbell@who.eop.gov; James_E._Carter@opd.eop.gov;
Courtney_S._Elwood@who.eop.gov; Robert_W._Cobb@who.eop.gov;
Neil_H._Zimmerman@who.eop.gov; Dee_Dee_Benkie@who.eop.gov;
Paul_B._Dyck@who.eop.gov; Debra_D._Bird@who.eop.gov;
Dina_Powell@who.eop.gov; Mark_V._Rosenker@who.eop.gov;
Helen_R._Mobley@who.eop.gov; Julieanne_H._Thomas@who.eop.gov;
Alison_M._Harden@who.eop.gov; Desiree_T._Sayle@who.eop.gov;

00800000000147

REV_00166757

Sydney_R._Johnson@who.eop.gov; Sara_B._McIntosh@who.eop.gov;
Anne_Heiligenstein@who.eop.gov; Sonya_E._Medina@who.eop.gov;
Catherine_S._Fenton@who.eop.gov; Melanie_A._Jackson@who.eop.gov;
Anne_E._Phelps@opd.eop.gov; Eleanor_L._Gillmor@opd.eop.gov;
Tiffany_L._Barfield@opd.eop.gov; David_F._Lussier@oa.eop.gov;
Torie.Clarke@csd.mil; rgeorge@nypost.com; Neil_S._Patel@ovp.eop.gov;
Catharine_A._Ryun@who.eop.gov; susan_irby@lott.senate.gov;
brook_simmons@nickles.senate.gov; gerry_fritz@rpc.senate.gov;
margaret_camp@frist.senate.gov;
lisette_mcsoud_mondello@hutchison.senate.gov;
Melissa_Sabatine@src.senate.gov; [(b)(6)]
john.feehery@mail.house.gov; terry.holt@mail.house.gov;
christine.iverson@mail.house.gov; MMiner@rnchq.org; sschmidt@nrcc.org;
emily.miller@mail.house.gov; ron_bonjean@lott.senate.gov;
paige.ralston@mail.house.gov; paul.morrell@mail.house.gov;
sschmidt@nrcc.org; cforti@nrcc.org; TDuffy@rnchq.org; dallen@nrsc.org;
MMiner@rnchq.org; Peter.jeffries@mail.house.gov;
Catherine_J._Martin@ovp.eop.gov; Robert_C._McNally@opd.eop.gov;
Karen_Y._Knutson@ovp.eop.gov; Deborah_A._Spagnoli@who.eop.gov;
kfedewa@rnchq.org; greg_jenkins@ita.doc.gov;
Leonard_B._Rodriguez@who.eop.gov; Noel_J._Francisco@who.eop.gov;
Mark_McClellan@cea.eop.gov; Dirksen_Lehman@who.eop.gov;
Aquiles_F._Suarez@opd.eop.gov; Jennifer_D._Field@ovp.eop.gov;
dean.clancy@mail.house.gov; Rachel_L._Brand@who.eop.gov;
Heather_Wingate@who.eop.gov; ekertz@doc.gov; jdyke@doc.gov;
melliott@doc.gov; Jennifer_D._Field@ovp.eop.gov;
cz@greenerandhook.com; Stuart_W._Bowen@who.eop.gov;
RGustafson@rnchq.org; Anthony_K._Crawford@nsc.eop.gov;
Ashleigh_A._Adams@who.eop.gov; sspicer@nrcc.org;
Michelle_N._Brawer@who.eop.gov; cmay@bsmg.com; tnelson@dmnmedia.com;
kevin.schweers@mail.house.gov; kyle.downey@mail.house.gov;
joliver@rnchq.org; bhazelwood@rnchq.org; ekutler@cwdc.com;
john.mcmanus@mail.phrma.org; sstyles@bbchb.com; kevin.herglotz@usda.gov;
ksheridan@rnchq.org; bishopn@state.gov;
englandMP@state.gov; rncresearch@rnchq.org; dmattoon@podestamattoon.com; [(b)(6)]
Samuel_A._Thernstrom@ceq.eop.gov; jo.powers@mail.house.gov;
Elliott_Abrams@nsc.eop.gov; Eric_A._Draper@who.eop.gov;
Helgard_C._Walker@who.eop.gov; mkitchens@pstrategies.com;
kscurry@princeton.edu;
susan.hirschman@mail.house.gov; dan.flynn@mail.house.gov; [(b)(6)]
scott.palmer@mail.house.gov; mike.stokke@mail.house.gov;
tobin.harvey@ee.doe.gov; Elizabeth_S._Dougherty@opd.eop.gov;
Kjersten_S._Drager@ovp.eop.gov; Clare_C._Doherty@omb.eop.gov;
Brian_P._Doherty@oa.eop.gov; gregory_J._jenkins@who.eop.gov;
gayland.barksdale@mail.house.gov; kathryn.lehman@mail.house.gov;
JTMastranadi@nrsc.org; Craig_Ray@who.eop.gov;
Joseph_Ratajczak@ondcp.eop.gov; melody_h._fennel@hud.gov;
Anna_M._Perez@nsc.eop.gov; All_OVP_Users@oa.eop.gov; don.meyer@csd.mil;
chris.willcox@osd.mil; kevin.kellems@osd.mil; hensley-sue@dol.gov;
richard.mcgraw@osd.mil; tfrancis@doc.gov;
Brian_V._McCormack@ovp.eop.gov; Elizabeth_S._Dougherty@opd.eop.gov;
Marisa_K._Medrano@opd.eop.gov; Kelley_J._McCullough@who.eop.gov;
Ali_H._Tulbah@who.eop.gov; Craig_Felner@who.eop.gov;
Michael_R._Fenzel@nsc.eop.gov; julie.nichols@ost.dot.gov;
gwolfe@nrsc.org; james_r._wilkinson@who.eop.gov;
ginni.thomas@heritage.org;
bethsturgeon@austin.rr.com; [(b)(6)]
jenniferecrooks@hotmail.com; rsavarese@kpmg.com;
tom.sellers@usa.conoco.com; ccamp@llano-permian.com;
campsite@nts-online.net; daviddurham@austin.rr.com;
lpollard@austin.rr.com; mona@gregabbottcampaign.com;
rsullivan@governor.state.tx.us; nikki.robinson@mail.house.gov;
Natalie_S._Wozniak@nsc.eop.gov;
[(b)(6)] Peter_Smith@nsc.eop.gov; Elliott_Abrams@nsc.eop.gov;
Michele_Ahern@omb.eop.gov; terry.holt@mail.house.gov;
greg.crist@mail.house.gov; brad.bennett@mail.house.gov;
jessica.incitto@mail.house.gov; jonathan.grella@mail.house.gov;

mike_franc@heritage.org; [(b)(6)] pmoreno@acf.dhhs.gov;
pat.shortridge@enron.com; richard.mcbride@glo.state.tx.us;
jerogan@venable.com; GamonalAM@state.gov; Alison_Jones@who.eop.gov;
lowellrandel@meyersandassociates.com;
[(b)(6)] Joe.Eule@mail.house.gov; jsolsby@drasnincommunications.com;
Kirk.Boyle@mail.house.gov; gonzalez@glo.state.tx.us;
kevin.keane@hhs.gov; Mark_Holman@who.eop.gov; Carl_Buchholz@who.eop.gov;
Duncan_Campbell@who.eop.gov
Subject: HSC Meeting Talking Points

(See attached file: HSC Meeting Talkpoints.doc)

00800000000149

REV_00166759

- [(b)(5)]

  - [(b)(5)]
  - [(b)(5)]
  - [(b)(5)]

- [(b)(5)]

- [(b)(5)]

- [(b)(5)]

- [(b)(5)]

- [(b)(5)]

- [(b)(5)]

- [(b)(5)]

- [(b)(5)]

- [(b)(5)]

  - [(b)(5)]
  - [(b)(5)]

  - [(b)(5)]

Davis, Michele

From: Lawrence_A._Fleischer@who.eop.gov
Sent: Thursday, January 10, 2002 2:12 PM
To: Michele.Davis@do.treas.gov
Subject: RE: enron and O'Neill

reply. tag, you're it. just left a message on your machine. is there another number with a live body?

00800000000272

REV_00166763

Davis, Michele

From: Lawrence_A._Fleischer@who.eop.gov
Sent: Thursday, January 10, 2002 3:01 PM
To: Michele.Davis@do.treas.gov
Subject: AP - White House: Enron Official Phoned

are the dates in the ap story correct? were the calls on October 28 and Nov 8th?
---------- Forwarded by Lawrence A. Fleischer/WHO/EOP on 01/10/2002 03:00 PM ----------

Brian Bravo
01/10/2002 01:45:00 PM

Record Type: Record

To:

cc:
Subject: AP - White House: Enron Official Phoned

White House: Enron Official Phoned

By KAREN GULLO, Associated Press Writer
WASHINGTON (AP) - Enron Chairman Kenneth L. Lay reached out to two of President Bush's Cabinet officers when the energy company was collapsing, the White House disclosed Thursday as the Justice Department opened a criminal investigation of Enron's bankruptcy.
Bush, who received significant campaign contributions from Lay and other Enron executives, said he himself has never discussed Enron's financial problems with its embattled corporate chairman. The president said he last saw Lay in Texas at spring fund-raiser for former first lady Barbara Bush's literacy foundation.
Lay also was among a group of some 20 business leaders who came to the White House early in the Bush administration to discuss the state of the economy, Bush said.
Many Enron employees lost their life savings when the company filed for bankruptcy Dec. 2.
``What anybody's going to find out is that this administration will fully investigate issues such as the Enron bankruptcy, to make sure we can learn from the past and make sure workers are protected,'' Bush said.
But Lay did seek the ear of other top-level administration officials last fall. According to White House press secretary Ari Fleischer, Lay telephoned Treasury Secretary Paul O'Neill amid Enron's collapse ``to advise him about his concern about the obligations of Enron and whether they would be able to meet those obligations.''
Lay also told O'Neill that Enron ``was heading to bankruptcy,'' Fleischer said.
O'Neill received calls from Lay on Oct. 28 and Nov. 8, said Treasury spokeswoman Michele Davis. It was on Oct. 16 that Enron made its stunning disclosure of a $638 million third-quarter loss.
In a separate phone call to Commerce Secretary Don Evans, Lay similarly worried that the company might have to default on its obligations. He brought to the secretary's attention ``that he was having problems with his bond rating and he was worried about its impact on the energy sector,'' Fleischer said.
After that conversation, Evans spoke to O'Neill ``and they both agreed no action should be taken to intervene with their bond holders,'' Fleischer said.
The spokesman had said Wednesday he did not know of anyone in the White House who discussed Enron's financial situation.
Fleischer also brushed aside talk of any conflict in the Justice Department investigation and said there was no reason to turn the probe over to a special

counsel.
Lay gave $25,000 to a leadership committee headed by then-senator and now Attorney General John Ashcroft, according to the Center for Public Integrity. An attorney for Enron welcomed Ashcroft's inquiry, the latest in a series of governmental probes into the company's demise, saying the investigation would ``bring light to the facts.''
``We want to get to the bottom of this too,'' said Robert Bennett, a Washington attorney representing the Houston-based company. ``A lot of decent and honorable people work at Enron and we should wait until the facts are out.''
Bush ordered a separate review Thursday of pension and corporate disclosure rules that could jeopardize workers' savings. ``There has been a wave of bankruptcies that have caused many workers to lose their pensions and that is deeply troubling to me,'' Bush said.
The Justice Department is forming a national task force to look into the company's dealings. The group will be headed by lawyers at the department's criminal division and include prosecutors in Houston, San Francisco, New York and several other cities, said a Justice Department official, speaking on condition of anonymity.
The official declined to say when the investigation began. Enron faces civil investigations by the Labor Department and the Securities and Exchange Commission and subpoenas from congressional committees.
All are looking into the energy trading company's collapse, the largest bankruptcy filing in U.S. history.
The failure hit employees and investors hard. Workers were prohibited from selling company stock from their Enron-heavy 401(k) retirement accounts as the company's stock plummeted. Many lost their life's savings.
Enron executives cashed out more than $1 billion in stock when it was near its peak.
Former Enron chief executive Jeffrey Skilling, who left the helm nearly two months before the company's swift descent, welcomes the investigation, said spokeswoman Judy Leon. Skilling has said he had no idea, despite Enron's falling stock values, that the company was on the brink of failure.
Formed in 1985, Enron had 20,000 employees and was once the world's top buyer and seller of natural gas and the largest electricity marketer in the United States. It also marketed coal, pulp, paper, plastics, metals and fiber-optic bandwidth.
One likely focus of the Justice Department investigation is possible fraud based on Enron's heavy reliance on off-balance-sheet partnerships which took on Enron debt. The partnerships masked Enron's financial problems and left its credit ratings healthy so it could obtain the cash and credit crucial to running its trading business.
The Houston-based company went bankrupt after its credit collapsed and its main rival, Dynegy Inc., backed out of an $8.4 billion buyout plan late last year.
Just a year ago, stock of Enron, the nation's largest buyer and seller of natural gas, traded at $85 per share. Today it is less than $1.
Lay has close ties to Bush and his father, the former president. Lay was a top contributor to the younger Bush's 2000 presidential campaign.
The company played a key role earlier this year when a White House task force met with business executives and other interests to fashion a national energy policy. The task force was headed by Vice President Dick Cheney.

00800000000275

REV_00166765

Davis, Michele

From: Lawrence_A._Fleischer@who.eop.gov
Sent: Thursday, January 10, 2002 4:36 PM
To: Michele.Davis@do.treas.gov
Subject: RE: AP - White House: Enron Official Phoned

can you call mary crawford at commerce? she told me she was trying to get you earlier.

00800000000278

REV_00166766

Davis, Michele

From: Paul_Ashin@who.eop.gov
Sent: Wednesday, December 05, 2001 3:14 PM
To: Michele.Davis@do.treas.gov
Subject: PRESS BRIEFING BY ARI FLEISCHER


pic18066.pcx

Here's what Ari said. Full text of briefing below.

"One update. As a result of the action the President took yesterday in the fight against international terrorism on the financial front, I want to report to you this morning that over $5 million has been blocked in assets belonging to the Holy Land Foundation. And as a result of the freezes and blocking orders the President has implemented on the financial front worldwide against the war on terrorism, more than $61 million has been either frozen or blocked around the world."

---------- Forwarded by Paul Ashin/WHO/EOP on 12/05/2001 02:17 PM ----------

Tracy Young
12/05/2001 03:10:28 PM

Record Type: Record

To: All CIC-DC Users

cc:
Subject: PRESS BRIEFING BY ARI FLEISCHER

---------- Forwarded by Tracy Young/WHO/EOP on 12/05/2001 03:10 PM ----------

(Embedded image moved to file: pic18066.pcx) Rachael L. Sunbarger
12/05/2001 02:12:45 PM

Record Type: Record

To:

cc:
Subject: PRESS BRIEFING BY ARI FLEISCHER

THE WHITE HOUSE

00800000000307

REV_00166767

Office of the Press Secretary

For Immediate Release December 5, 2001

PRESS BRIEFING BY
ARI FLEISCHER

INDEX

President's schedule.....1
Blocked assets/amount to date.....2, 10-11, 13-14
President's authority/bombing.....2
Afghanistan/new government/White House reaction.....2-3
Middle East/Chairman Arafat actions.....3-4, 6
President's conversations with Sharon, Zinni.....5-8
Friendly fire deaths.....4, 8
Trade authority vote.....4, 15-16
Trade adjustment assistance.....5-6
Decision on burial of pilot at Arlington Cemetery.....6-8
American Taliban fighter/President's reaction.....8-9
Enron.....9-10
U.S. forces in Afghanistan after war.....11
Defense bill/homeland security money.....12
Partisanship/Senator Hatch's remarks.....13
Stimulus package.....14, 17
New RNC Chair.....16-17
EPA decision/GE.....17-18
Osama bin Laden/dirty bombs.....18

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release December 5, 2001

PRESS BRIEFING BY
ARI FLEISCHER

The James S. Brady Briefing Room

12:05 P.M. EST

MR. FLEISCHER: Good afternoon. Let me walk you a little bit through the schedule, and I'll be happy to take questions.

The President this morning had breakfast with a bipartisan congressional leadership to discuss the remaining issues that Congress has on its plate for the rest of the year. He urged the Congress to continue to work together so that the economic stimulus package could be approved by the Congress, be signed this year, he hopes, so that we can help America's unemployment workers.

Following the breakfast, the President met with the CIA for his intelligence briefing; met with the FBI for an update on the domestic front. And then he convened a meeting of the National Security Council.

00800000000308

REV_00166768

Throughout the afternoon, the President will meet with members of Congress on trade promotion authority. The House of Representatives is scheduled to take a very important vote tomorrow on whether or not President Bush will have the authority to enter into trade agreements around the world. The President urges members of Congress to vote for that. It will be a very interesting vote, to see whether or not Congress or the House will go along.

The President also early this afternoon will have an event in the Oval Office, where he will announce a new Chairman of the Republican National Committee. And the President will meet with the Prime Minister of Norway this afternoon to discuss cooperation on the war on terrorism.

One update. As a result of the action the President took yesterday in the fight against international terrorism on the financial front, I want to report to you this morning that over $5 million has been blocked in assets belonging to the Holy Land Foundation. And as a result of the freezes and blocking orders the President has implemented on the financial front worldwide against the war on terrorism, more than $61 million has been either frozen or blocked around the world.

Q Ari, what makes the President -- I'm taking note of his wide-swinging threats in speeches recently. What makes him think that he has the right to go into a sovereign country and bomb the people?

MR. FLEISCHER: His threats?

Q Any country. Yes, he's --

MR. FLEISCHER: Would you like to be more specific?

Q Does he think he can go beyond Afghanistan or anywhere else?

MR. FLEISCHER: The President has made it clear to the American people that the United States, in the wake of an attack on our country, will defend itself. And as a result of defending ourselves, you can see what is happening in Afghanistan. The President has said that this is a war against terrorism because terrorists continue to pose a threat to the United States and to others around the world, and that he is involved in phase one of defending this country against terrorists, and he will continue to do so.

Q What gives him the authority to go into other countries and bomb them, which is what he is threatening to do?

MR. FLEISCHER: The right as the Commander-in-Chief to protect and defend the American people.

Q Ari, what's the White House reaction to the agreement signed in Bonn by the parties who have been negotiating a future for the Afghan government? Does it meet the standards that the White House has set out -- broad-based, ethnically diverse, women involved?

MR. FLEISCHER. The President is very pleased with the agreement that's been reached on Bonn concerning the future of the Afghanistan government. He believes it is a positive agreement that bodes well for the people of Afghanistan. This vote will allow the people of Afghanistan to take -- this development will allow the people of Afghanistan to take their country back, and the President is very pleased by that. He's pleased by the multiethnic nature of the agreement. He's pleased by the role that women will play in the future government of Afghanistan. He wants to express his congratulations and praise to Secretary General Annan, as well as to Ambassador Brahimi, for their hard work in delivering this accord.

But much more work remains ahead. This is an important development in the future of Afghanistan, but it's only, in many ways, the beginning. A lot of hard work remains for Afghanistan now to have a stable government that represents and respects the people of Afghanistan. It still will be difficult because Afghanistan is still a nation that is the middle of a war.

00800000000309

REV_00166769

Q Ari, on the Middle East, since last weekend's suicide bombings, has Mr. Arafat done anything to impress the President that, in fact, he is making a commitment to peace and to rooting out terrorists?

MR. FLEISCHER: I think if you listen to what the President said yesterday -- now, it's about 16 hours after what he said -- it's too soon to say. The President will keep a very close eye on the events in the Middle East and on the actions that Chairman Arafat takes, to make certain that Chairman Arafat is dedicated to the cause of peace and to making sure that he takes action against the terrorists who are challenging not only the security of Israel, but the authority of Chairman Arafat.

Q But what's the timetable here? Because, I mean, day after day, the President keeps calling on him to do something. I'm wondering when the timetable, when the deadline is for Yasser Arafat.

MR. FLEISCHER: The President has not established it in such a manner. I think that, as always, the President wants to allow events to develop over time in a way that he hopes will be fruitful to convincing the parties in the Middle East that their best interest is to work together, Chairman Arafat and Israel, to forge meaningful peace. And one of the best tests of that will be to see whether Chairman Arafat will take meaningful, long-term, enduring action against the terrorists who are operating out of Palestinian territory.

Q But for now the peace process is dead, is it not, in the President's mind?

MR. FLEISCHER: I think you heard the President address that yesterday, when he said that he has a dream that peace will be achieved in the Middle East. And as I indicated earlier, the Middle East has historically been a cycle between violence and hope. And even in the midst of the violence, the President has not given up hope and he will remain committed to achieving peace.

Q What has President Bush been told about the death of the two Americans in Afghanistan under friendly fire this morning and how it happened?

MR. FLEISCHER: Upon his arrival into the White House, shortly before 7:00 a.m. this morning, the President was informed about the deaths of the Americans and the injuries in Afghanistan that affected people of Afghanistan, as well. And the President offers his condolences to the families and the loved ones of those who have been killed, and he regrets the loss of life very much and also wishes that the injured will have a full and speedy recovery.

Q And what caused it? Does he know anything about what went wrong?

MR. FLEISCHER: The Department of Defense will have more information about any of the specifics, and I'll refer you over to DOD on it.

Q What do you think your chances are in the trade vote tomorrow?

MR. FLEISCHER: Well, I think it's risky business, always, to predict what a congressional vote will be. It has historically been an uphill fight, at least over the last some 10 years, for the President to be given this authority. But the President thinks it is crucial that he be given the authority to enter into trade agreements around the world, one, to help protect the economy long-term; but, two, to help other nations around the world so they have opportunities to grow and prosper.

Q With the people he's meeting today, are they leaners or how do you see them?

MR. FLEISCHER: They fall into a variety of categories. Clearly, he won't meet with people whose minds are already made up and there's no use talking to them. So the President is going to meet with people where he thinks it can make a difference.

00800000000310

REV_00166770

I can report to you that the President has held, prior to today and not including yesterday's flight, six meetings with members of Congress, exclusively on the topic of trade promotion authority. He's met with 41 members of the House, 8 members of the Senate, 19 Republicans and 30 Democrats.

Q Are those large meetings, or one-on-one, or --

MR. FLEISCHER: A variety of forums.

Q Is this over recent, Ari, or --

Q Has he been on the phone with them also?

MR. FLEISCHER: The President may be making some phone calls.

Q Spread over the last six months?

MR. FLEISCHER: Yes, if you recall, in anticipation of this, because the President is such a dedicated believer in the importance of free trade, the President over the summer started having meetings with members of Congress to talk about trade promotion authority. He had a few additional ones, and now, of course, on the eve of a major vote, the efforts are accelerated.

Q This is over that whole period?

MR. FLEISCHER: That's correct.

Q Has the President talked to Sharon or Admiral Zinni? What has been the President's activity in terms of the Mideast?

MR. FLEISCHER: Well, as you know, the President met directly with Prime Minister Sharon here at the White House on Sunday. No, to my knowledge, the President has not had any additional conversations.

Q Has the President had a chance to look at this new proposal by Chairman Thomas that provides additional assistance to workers who lose their jobs?

MR. FLEISCHER: TIA? The President is aware of the proposal by Chairman Thomas and the President is hopeful that as a result of a series of conversations that are taking place, that members of Congress will agree to grant the President the authority to enter into trade agreements around the world.

Q Does he support the Thomas proposal?

MR. FLEISCHER: Well, the President does believe in TIA, the program of trade adjustment assistance. He thinks it is a very helpful way to help people who in individual sectors might lose their jobs as a result of trade agreements. Having said that, the President, as you know, believes that trade agreements create a net increase in jobs. But the President supports the program. The President hopes that in negotiations and discussions they will be successful.

Q Chairman Arafat is saying that he can't get to General Zinni to return any calls to him. Are you aware of that? Has that been a directive to General Zinni?

MR. FLEISCHER: I'd refer you to the State Department.

Q Ari, in light of the Army's decision to reverse itself on Captain Burlingame, can you tell us how and when the President was advised of that situation? Also, the President's thoughts on that?

MR. FLEISCHER: Yes. As I indicated this morning, this is a matter for the Department of Defense, the Department of Army, specifically. And I don't have anything beyond that.

00800000000311

REV_00166771

Q Do you know if the President was at least aware of it?

MR. FLEISCHER: As I say, I don't have anything beyond that.

Q Ari, why do we have to be referred to the State Department on that? I mean why can't we -- can't we know if the administration is having conversations with Yasser Arafat?

MR. FLEISCHER: Because I think you'll get -- well, if you ask me about the President, I can report to you the President has not. If you ask about Ambassador Zinni --

Q -- the Security Council? I mean, obviously, everybody around here knows, don't they?

MR. FLEISCHER: Well, I don't have a phone list of everything that Zinni is doing. He's in the Mideast --

Q That's not the issue. Are there -- do you know of any contacts with Yasser Arafat?

MR. FLEISCHER: His direct report is to the State Department, which is why I said refer you to the State Department.

Q But everybody reports to the President, don't they? I'm asking you as the President's spokesman why you can't comment on whether the administration has contact with Yasser Arafat when they're in the middle of war over there.

MR. FLEISCHER: Well, if you ask me about the President, I'll give you that answer.

Q Ari, following up on this situation at Arlington, we just spoke with the spokesman for the Army Secretary who says there has been no reversal, that they can bury this man in an existing family plot, but not in a separate grave as his family has requested. What are the prospects that the President might get involved and overrule this?

MR. FLEISCHER: Well, again, I said this is a matter for the Department of Defense, the Department of Army. If there's anything further to be added to it, you will know from the White House.

But these are always very sensitive and difficult matters. Arlington National Cemetery is the final resting place where countless numbers of Americans want to be buried. Arlington National Cemetery is also a place that is running out of space. It makes for some of the most difficult emotional issues for the families of loved ones who have been lost in any type of military or any other type of action, having served in the military, also with a nation that wants to honor its promises to people who will be able to be buried into Arlington in the future.

It is always a very emotional and difficult issue, and the military has very stringent rules that they try to comply with, because it makes it easier for everybody to understand what the criteria are. So that's why the Department of the Army is the one who is charged with this. They worked very hard at it, and they understand the sensitivities involved.

Q So are we to take the initial part of your response as an indication that the President might get involved? You said --

MR. FLEISCHER: No, I just said to you -- you asked me and I told you, you know where it stands, that the Department of the Army made the announcement made this morning, and that's where it stands.

Q To follow up on Ken's question and the point he was making on the Middle East, why can't you tell us as the White House spokesman, what, if any, contacts White House officials -- Card, Karl Rove -- has had on this issue with the Department of the Army?

00800000000312

REV_00166772

MR. FLEISCHER: Oh, I thought you were asking about, again, Zinni and Arafat. The Department of the Army?

Q Well, again, I'm asking you to tell us what contact --

MR. FLEISCHER: Ron, I'm not aware of any. If I had something to report, I would report it.

Q Can you check to see whether or not there has been any contact or if the White House is involved in this?

MR. FLEISCHER: I raised it this morning, and I had nothing to advise you of. If I had something to advise you of involving the President or the White House's involvement in this case at Arlington, I would advise you of it.

Q So you're saying the White House hasn't been involved as far as you know?

MR. FLEISCHER: There is nothing that I've been made aware of.

Q Ari, two things, real quick. On Ann's question, is the President planning, or has he talked to the families of those soldiers who were killed?

MR. FLEISCHER: I'll try to let you know. And as you know, the President's habit has been to send notes to the families. But if there is anything, I'll let you know.

Q And a second question, quickly. The President, since September the 11th, has showed extreme patriotism, brandishing his flag, talking about this country, the love of this country. What are his thoughts about the American who has fought for the Taliban and his patriotism?

MR. FLEISCHER: Well, the President's first thought is that we need to collect the facts about what has taken place. But I think until then, the President hasn't really entered into the realm of conjecture. I think that -- I would just leave it right there, until the facts can be ascertained about if it's all true what we've read, and why somebody may have done this. But beyond that, I don't think it's fair to speculate.

Q From the initial facts, is it treason?

MR. FLEISCHER: I think Secretary Rumsfeld was asked that question yesterday, and I'm not going to go beyond what he said.

Q I'm asking you, the White House.

MR. FLEISCHER: This is a matter for the people who were involved to ask the appropriate questions, to gather the appropriate information. It's not a time for people in the government to guess or to speculate. These are important matters.

Q But he's fighting against the American government, basically --

MR. FLEISCHER: I understand.

Q Ari, after the breakfast, Speaker Hastert and Leader Gephardt both said that they believe Congress is right to engage in a broad investigation of Enron. And both said that they were open to the idea of having some remedial legislation drafted to protect shareholders, such as those of Enron's, who were affected when their 401(k)s were frozen as the stock value of the company plummeted.

Question one, does the White House support any kind of inquiry into legislation like that? And, two, Mr. Gephardt said the entire Enron situation raises questions anew about the President's ideas about privatizing, even partially, Social Security, because assets held in those funds are subject to

00800000000313

REV_00166773

all sorts of market pressures, they could disappear overnight. And the Enron situation adds more evidence, the Democrats complain, you just simply cannot and should not privatize Social Security. Your reaction?

MR. FLEISCHER: Okay. On the two points -- on the first point, as you know, right from the beginning I announced that the Department of Treasury and other government agencies are monitoring the events in the wake of the announcement about Enron. And since I said that, Enron has, of course, filed for bankruptcy.

You may want to talk to the Department of Labor. The Department of Labor has jurisdiction over pension issues. It is not uncommon for the Department of Labor, in a time like this, to keep a watchful eye over people's pensions to make sure that any consequences are fairly and adequately dealt with. So they are the agency that would be involved. They have their own criteria to determine whether or not they will have any type of investigation. But the President wants to make certain that all agencies are monitoring events and will take action as their criteria warrant.

On the second point about markets, you know, one of the things about our country is that unfortunately, we can be a land of haves and have-nots. And one of the things that distinguishes the have-nots and the haves is the haves have access to ownership of stock and mutual funds. And, therefore, they have a little piece of a rock that can grow and allow them to enjoy more wealth and a better life.

There are many people in society who would like to have access to markets, so that way they can accumulate wealth. And often, they can't. Social Security is one of the reasons they can't. Young people have all this money taken out of their paychecks, and often they do not receive any return on it, specifically people who are young today pay taxes for a system that is scheduled to go broke before they have any return.

So one of the ways the President sees as helping workers who have a low income is to allow them to have the same market access that upper-income and middle-income people have, so they, too, can accumulate wealth.

Q That doesn't do anything for the Enron 401K.

Q Yesterday, the President and Secretary O'Neill went out of their way to talk about Hamas as a terrorist group with global reach. Is that the first time that that definition has been applied to a Palestinian group? And secondly, this was the first time the President had acted against a group not associated with al Qaeda. What significance should we attach to that?

MR. FLEISCHER: On the first point, I couldn't tell you if that's the first time. I think you would have to take a review of that and see what you -- I can't tell you from everybody in every government -- branch of the government if people have ever used such language. But as you know, Hamas was added to the executive order that the President issued on November 2, allowing the United States to block or to freeze the assets of groups.

The announcement yesterday was on top of that. It was built on the foundation of his November 2 announcement. And I think it shows the world that the President is sincere and will act when he ways that this is a multi-front war and financing of terrorist organizations is one of the fronts at which the United States and others will actively engage.

Q When he first began the war on terrorism, they used terrorist groups with a global reach to apply specifically to al Qaeda. And as part of the rationale for going after these groups, militarily if necessary, should we apply the same criteria to what is now happening in the Middle East? Would the U.S., for instance, consider military action against Middle Eastern terrorist groups?

MR. FLEISCHER: Again, as you know, the President has repeatedly said he's focused on phase one on the war against terrorism, and that's where I think I'll leave it.

00800000000314

REV_00166774

Q Ari, two questions on Afghanistan. As part of the agreement today, there was discussion of having some kind of a U.N. force in Kabul, at least for a while. How long -- I know the President has expressed reluctance to have American forces there for long What kind of contribution is he willing to make, and with what range of time parameters? And, secondly, in order to reach this agreement, were there any American commitments made on aid?

MR. FLEISCHER: The principal contribution the United States is making is creating an environment in which peace can take place in Afghanistan. And if there are to be any international security forces put into Afghanistan, it will only be as a result of winning a war against al Qaeda and the destruction of the Taliban. So I think events are still somewhat fluid involving what type of steps will come next with any international security force. You know, the President is unchanged in what he has always said, that the American military should be used for the purpose of fighting and winning wars, and the President has not changed his opinion on that.

Q On the aid issue?

MR. FLEISCHER: On the which one?

Q On the aid issue, were there any further commitments of American aid for Afghanistan made as part of this agreement?

MR. FLEISCHER: Nothing that I'm aware of, David.

Q Democrats are still, as far as I know, trying to add $15 billion in spending on homeland security to the defense bill. As I understand it, Republicans, in order to stop that, may end up involving stalling the defense appropriations bill. Does the President think it's worth it to end up doing that in order to keep this money, extra money, off of the bill?

MR. FLEISCHER: In the meeting with the members of Congress this morning, the President made it as plain as day that if the Senate were to send the President a bill that complicates our nation's defense needs, he will veto it. And by "complicate," he means if they try to attach extra spending beyond what has already been promised and agreed to by the Congress to a Defense Department appropriation bill at a time of war, the President will immediately veto it, send it back so Congress can back to work on something that can indeed be done.

There is also a letter that is now circulating up on Capitol Hill, and Senator Lott's office is distributing, that has a sufficient number of senators to sustain any presidential veto. So why on Earth would the Senate go through this exercise when it clearly won't go anywhere, other than to delay America's national defense needs.

America is at war and the war should not be fought on last year's budget. And that's why the President feels so strongly that Congress should send him a defense appropriation bill that has the funding increases for the Pentagon to fight a war and that that bill should not get bogged down by other issues beyond what has already been agreed to by the Congress.

Q Do you want Republicans to vote against that bill?

MR. FLEISCHER: Well, it has yet to be attached on the floor. It passed in the committee with the extraneous spending that the President has said goes beyond how much is necessary to immediately take care of the needs we have on the homeland. And so let's see what happens on the Senate floor.

It's unclear yet whether or not this proposal will actually make it through the Senate floor. But the President has sent Congress as direct a message as you can about the need to pass a defense bill that can get quickly signed into law so our troops can have the resources they need.

Q Ari, in front of the Senate Judiciary Committee yesterday, Senator Hatch said that he saw an element of partisanship in the oversight hearings that

00800000000315

REV_00166775

are taking place over the way the Justice Department is carrying out its investigation. Does the White House share that view that partisanship is creeping into the Congress's oversight role on the investigation?

MR. FLEISCHER: Well, the President understands very clearly and welcomes Congress's legitimate oversight of all the activities that the Executive Branch engages in. That is how our Constitution is built, and the President is keenly respectful of it. And I don't think it should surprise anybody that the Senate will exercise that review. But I think the President has also noted that there have been some positive statements by many Democrats about the actions that the President has taken on the home front, military tribunals, et cetera, to fight and to win the war on terrorism.

Now, clearly, the American people are overwhelmingly with the President on this. But there very well may be people who represent a small minority and they have that right to do so.

Q Just to follow up. Do you think that there are people that are trying to score political points against the Attorney General or against the President in their criticism of his handling of the situation?

MR. FLEISCHER: You know, there very well may be. But that doesn't bother the President. The President understands that -- he came to Washington from a very different background than many people who have been here for a while. The President came from a state government where you'll see -- not only in Austin, Texas, but throughout many of the states -- less partisanship, less strife. And that's the spirit that the President has been trying to bring to the Congress. I think many people accept that new spirit that has come to Washington. There may be some who won't.

Q Going back to Holy Land Funding, there are many other groups who are raising funds from this country and sending overseas, including many groups in Kashmir and funding terrorists' activities. Do you think the President is going to go now after all those groups who are raising funds from this land?

MR. FLEISCHER: Well, yesterday's announcement was one announcement in a series of announcements the President has been making on the financial front in the war on terrorism. And I really urge you to look at this as a front in a war. And given that fact -- and that's the President's approach to it and that's the message that he has given the Secretary of Treasury and the government investigators and the law enforcement community -- you need to look at this as an ongoing series of events designed to protect this country by drying up the money that's available to those who would do us harm or engage in terrorism around the world. So, as the President has always said, there very well may be more actions to be taken.

Q Just to follow, because the Prime Minister of India when he was here at the White House and met with the President, and also, the Foreign Minister of India, they all said that there are groups here who are funding terrorist groups in Kashmir. And they urged the President and this administration to take action on this --

MR. FLEISCHER: And I think the President is putting groups on notice that no one is going to be safe, no one is going to be immune; if they practice terrorism, the war will be brought to them on a number of fronts.

Q Ari, despite philosophical differences between Democrats and Republicans on the economic stimulus package, it's already December 5th. Does the President feel he will get an agreement?

MR. FLEISCHER: He just doesn't know. No one can say what Congress will do. It's up to Congress, finally. The President will continue to be helpful, but obviously, the Senate was not even able to pass a bill. Unlike the House of Representatives, which was able to pass a stimulus bill, the Senate could not. Now the administration is going -- taking the extra step of working with the Senate in a way that really is unprecedented, it's not common that one branch of the Congress passes a bill -- or one House in the Congress passes a bill, the other doesn't. But the President thinks it's so important to help the economy

00800000000316

REV_00166776

that a new -- an entirely new procedure has been put in place to help the Senate to complete its work.

Q Let me ask you about fast track authority, which, as you said, is an uphill fight, hasn't been approved for a President since 1994. Dick Gephardt is the leader of the House, a Democrat. He opposed it then, he hasn't stopped opposing it. What makes the President believe that this time he'll get the votes? He needs at least 30 Democratic votes.

MR. FLEISCHER: Well, that's why I make no predictions about how votes will go. This has been in modern times a very difficult issue. But because the President believes in it so strongly, because of the points I made earlier about its ability to create jobs on the home front and give the President the authority he needs when he meets with heads of state and others to negotiate trade agreements, the President is hopeful that the power of reason and the principle behind free trade will convince enough members of Congress to put it over the top. We'll see.

Q Ari?

MR. FLEISCHER: Lester?

Q All nine Republican members of the Senate Judiciary Committee have charged that Chairman Patrick Leahy has used what they termed, quote, "misleading statistics," to try to defend what they charge is a disgraceful effort to block President Bush's judicial nominees. And my question: Does the President agree with these nine fellow Republicans, and what does he think of Leahy's objections to military tribunals?

MR. FLEISCHER: You're asking two questions, one on judicial nominees and the other on tribunals.

Q Make it one. (Laughter.) Does he agree with the other Republicans?

MR. FLEISCHER: I'm not sure how to make that one. Well, military tribunals, I think you've heard that directly from the President himself, and as I said earlier, the President is respectful of those who represent the minority point of view, but that is their right. The President clearly disagrees.

Q He disagrees with Leahy, doesn't he, and he agrees with the nine Republicans?

MR. FLEISCHER: I would ask you for further amplification. Mischievous two-part, one question.

Q U.S. Attorney for the southern district of New York, Mary Jo White, was assigned the criminal investigation of last January's Clinton pardons. But she is now retiring, and there has not been even a report after 11 months. And my question: Can you assure us, Ari, that the President is neither considering a Jerry Ford-type pardon of the presidential predecessor, nor planning that this criminal investigation, so long out of the news, will just expire and kind of let bygones be bygones?

MR. FLEISCHER: Lester, I have no information for you on any presidential pardons. And anything dealing with a matter that's under investigation by the Department of Justice needs to be --

Q Will it continue? Who is going to continue it? She's leaving.

MR. FLEISCHER: Anything involving investigations with the Department of Justice are sensitive matters that need to be addressed to the Department of Justice.

Q On trade promotion, as the President meets with members of the House who are on the fence, is he prepared to do some horse trading?

MR. FLEISCHER: Well, again, as I indicated, the President believes that

00800000000317

REV_00166777

trade is right on principle and that is the -- in all the meetings that I have been in, that has been the argument that he's been making with members of Congress, about the need to address trade because on principle, he thinks it helps create jobs.

Having said that, there are certain elements of trade that are always up for discussion; that there are valid points that members can make that typically do get discussed. And there is a lot of consultation that goes on in the trade process; many members of Congress, in exchange for giving up their right to amend an agreement that is submitted to them, seek an additional role in the negotiations. And so that is not an uncommon request from members of Congress. So the President will continue to at on principle as he works with members of Congress and listens to their ideas.

Q Ari, the President is going to be announcing a new Party Chairman this afternoon. How active is the President going to be in next year's campaigns?

MR. FLEISCHER: Well, I think that the President will make his determination about that. But politics, elections are an ongoing part of a democracy, even a democracy that's at war. So I think as the President sees fit, he will increasingly play a role as the election year rolls around and we'll duly report that.

Q Ari, can I follow on that? Some Democrats are raising the question if Governor Racicot will continue in his role as a lobbyist next year, as he heads the Republican Party. What is the President's position? Does he believe that the Governor should no longer be a lobbyist next year as he heads the Party?

MR. FLEISCHER: Well, again, I think the President has made no such announcement yet. So I think until an announcement is made, it's a premature discussion. But there has been an ample history on both the Democrat and Republican side of chairmen being involved in other lobbying or having outside sources of income; that's not an uncommon practice for both parties.

Q Ari, on the principles the President outlined in the stimulus package back on October 5th, it seems there is progress being made on all of them, except accelerating individual tax rates. You said this morning that you consider that one of the more stimulative aspects of a package. Does that mean that the President will not sign a package if it does not contain individual acceleration rates?

MR. FLEISCHER: Well, the President has been very clear about what he thinks Congress needs to do. And one of the centerpieces of what Congress needs to do is accelerate the tax cuts so that it can have an impact on the economy, so people have more money to spend and so that the economy can get the boost that it needs. That is a core component of what the President has proposed.

Q But is it a deal-breaker?

MR. FLEISCHER: No, the President is right now in the middle of discussions with members of Congress about how to reach agreement, not how to reach disagreement. So he'll focus on that.

Q What can you tell us about the EPA decision to force GE to engage in, I think, a $500 million cleanup of the Hudson River?

MR. FLEISCHER: Let me take another one, then I'll come right back to that.

Q Ari, does the President believe Osama bin Laden has been making a dirty bomb? And, if so, does he think it has been smuggled into the United States? Defense Secretary Rumsfeld is not sure.

MR. FLEISCHER: As you know, the President, himself, several weeks ago raised this very issue. And he said that Osama bin Laden has said it's a religious duty of his adherence to develop such weaponry and to use it if they can. So it is something that the President is concerned about and takes seriously and every precaution is being in place. And that's one of the reasons

00800000000318

REV_00166778

it's so important to fight and to win this war against the terrorists. So it's a source of concern.

On your question about the Hudson River, EPA Administrator Whitman and the EPA are moving forward on this cleanup of the Hudson River. The Administrator has made it clear the EPA will continue to have an open process that involves all the interested parties, including the people in the affected communities. So that's really the only information I have on it. You may want to talk to EPA. But they are moving forward.

- 19 -

Q She has not said yet, she is waiting to hear from those who are protesting?

MR. FLEISCHER: She's listening to the various parties as she moves forward, and you may want to get more specific information from her.

Thank you.

END 12:36 P.M. EST

00800000000319

REV_00166779

Nichols, Robert

From: Adam_B._Goldman@who.eop.gov
Sent: Monday, January 14, 2002 6:13 PM
Subject: AP- Bush Renews Push for Expanded Trade

TO: Trade Leaders

Bush Renews Push for Expanded Trade

By SCOTT LINDLAW, Associated Press Writer

EAST MOLINE, Ill. (AP) - President Bush renewed his push Monday for expanded trade as a cure for recession, undeterred by a fainting incident that left him with a scraped cheek and bruised lip. He vowed anew to oppose repeal or delay of the tax cuts enacted last year.

Bush opened the two-day, three-state push with a series of jokes about the fainting spell he suffered Sunday after a pretzel went down the wrong way while he was watching television in the White House. He told 1,500 workers and supporters at a John Deere plant that he expected to receive a pretzel from union workers - ``those kind that are easy to chew.''

The president, who seeks broader powers to negotiate trade pacts, said, ``I'm confident we need to open up markets, not close them down.''

``What this nation needs is to level the playing field and have trade that'll create jobs all across America,'' he said.

Congress last year passed Bush's long-term tax cut but some Democrats now say that in the face of budget deficits, some of those cuts should be deferred.

Monday, Bush pledged to fight any such effort. ``If you have more money in your pocket, you buy more things, which encourages more production,'' he said. ``I've made up my mind - the tax relief plan we passed, which you're now beginning to feel the effects of, is going to be permanent.''

Bush left the White House with a bruised lip and a half-dollar-sized abrasion on his cheek after his fainting spell.

During the flight from Washington, Bush made light of his fainting spell by sending a large bag of pretzels to the press cabin with a scribbled warning to ``chew slowly.'' Later, touring a John Deere plant here, Bush said of a welder's mask, ``I need this all the time around the pretzels.''

``I feel great,'' Bush told reporters as he left the White House. Spokesman Ari Fleischer said the president, fighting a head cold, reported having a runny nose but was otherwise fine.

During the flight, Bush called Crown Prince Abdullah of Saudi Arabia and President Bashar Assad of Syria to talk about peace efforts in the Middle East and the anti-terrorism campaign.

The president's itinerary had him tracing the flow of farm goods south through the Midwest en route to overseas markets.

After East Moline, he was to visit a feed mill in Aurora, Mo., and on Tuesday the Port of New Orleans, the last stop for many agricultural goods destined for export markets.

The president badly wants authority to negotiate ``fast-track'' trade agreements, which Congress could reject but not change.

00800000000370

REV_00166780

The Republican-controlled House passed such trade promotion authority by a deeply partisan 215-214 vote last month after the White House and Republican leaders persuaded GOP holdouts to change sides. The Democratic-controlled Senate is due to vote early this year.

On agricultural business, the Senate was unable to agree on a Democratic plan to reauthorize farm programs through 2006. Most of the money in that bill would continue to go to grain, cotton and soybean farms but also offer new subsidies for a variety of additional commodities, including milk, honey and lentils. It also would double spending on conservation.

The administration criticized both that bill and one passed by the House in October and urged Congress to delay finishing work on them until this year. It said both measures risk exceeding levels set in an international trade agreement and provide too much money to big farms that least need the assistance.

Bush focused on the economy at a time his administration's contacts with now-bankrupt Enron Corp. are under intense scrutiny, and as the war on terrorism continues.

''The economy is a concern for all Americans, especially for those out of work,'' the president said in his weekly radio address Saturday. He outlined his plan to extend unemployment and health benefits for Americans who have lost their jobs.

00800000000371

REV_00166781

Nichols, Robert

From: Nichols, Robert
Sent: Tuesday, November 20, 2001 8:18 AM
To: 'Paul_Ashin@who.eop.gov'
Subject: RE: Winning the War on Terrorist Finances

thnx

Rob Nichols
Deputy Assistant Secretary for Public Affairs
Department of the Treasury
(202) 622-2910

-----Original Message-----
From: Paul_Ashin@who.eop.gov [mailto:Paul_Ashin@who.eop.gov]
Sent: Monday, November 19, 2001 6:00 PM
To: Robert.Nichols@do.treas.gov
Subject: Winning the War on Terrorist Finances

---------- Forwarded by Paul Ashin/WHO/EOP on 11/19/2001 05:04 PM ----------

James R. Wilkinson
11/14/2001 08:14:46 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:
Subject: Winning the War on Terrorist Finances

Courtesy of the CIC's Treasury/Terrorist Finances Desk, attached is a one-pager that outlines a few success stories in the battle to seize terrorist finances.

(See attached file: CIC -- Treasury Successes.doc)

Message Sent To:

Daniel J. Bartlett/WHO/EOP@EOP
Karen Hughes/WHO/EOP@EOP
Anne Womack/WHO/EOP@EOP
Lawrence A. Fleischer/WHO/EOP@EOP
Gregory L. Schulte/NSC/EOP@EOP
Jill L. Angelo/WHO/EOP@EOP
Christina D. Roberts/WHO/EOP@EOP
Scott McClellan/WHO/EOP@EOP
acampbell@no10.x.gsi.gov.uk
torie.clarke@osd.mil
boucherra@state.gov
Mary J. Matalin/OVP/EOP@EOP

00800000000482

REV_00166782

Catherine J. Martin/OVP/EOP@EOP
Anna M. Perez/NSC/EOP@EOP
Peter Reid/WHO/EOP@EOP
Allison Barber/WHO/EOP@EOP
Greg Lagana/WHO/EOP@EOP
Paddy Feeny/WHO/EOP@EOP
Karl C. Rove/WHO/EOP@EOP
Stephen J. Hadley/NSC/EOP@EOP
Susan B. Ralston/WHO/EOP@EOP
Pbassett@no10.x.gsi.gov.uk
cbeers@pd.state.gov
ddejban@pd.state.gov
Tucker A. Eskew/WHO/EOP@EOP
Claire E. Buchan/WHO/EOP@EOP
cross2@pd.state.gov
Sean I. McCormack/NSC/EOP@EOP
Joseph R. Wood/OVP/EOP@EOP
Tracy Young/WHO/EOP@EOP
rruth@pd.state.gov
allan.percival@fco.gov.uk
sarh.hayward@fco.gov.uk
Deborah Hermer/WHO/EOP@EOP
Shannon Burkhart/WHO/EOP@EOP
Gordon D. Johndroe/WHO/EOP@EOP
alastair.campbell@fco2.demon.co.uk
phil.bassett@fco2.demon.co.uk
Nicolle Devenish/WHO/EOP@EOP
Kenneth Hill/WHO/EOP@EOP
Eric W. Holland/WHO/EOP@EOP
Paul Ashin/WHO/EOP@EOP
Charles James/WHO/EOP@EOP
Lucy B. Hartley/WHO/EOP@EOP
Hannah Siemers/WHO/EOP@EOP
Nina Rees/OVP/EOP@EOP
Noelia Rodriguez/WHO/EOP@EOP
Erin E. Healy/WHO/EOP@EOP
Tracey L. Schmitt/WHO/EOP@EOP
Gail Randall/WHO/EOP@EOP
Gregory Goss/WHO/EOP@EOP
Tracy Young/WHO/EOP@EOP
Tucker A. Eskew/WHO/EOP@EOP
Jeanie S. Mamo/WHO/EOP@EOP
Kenneth A. Lisaius/WHO/EOP@EOP
Nicolle Devenish/WHO/EOP@EOP
Andrew H. Card/WHO/EOP@EOP
Joshua B. Bolten/WHO/EOP@EOP
Joel D. Kaplan/WHO/EOP@EOP
Joseph W. Hagin/WHO/EOP@EOP
Marcus J. Mollmann/WHO/EOP@EOP
Logan M. Walters/WHO/EOP@EOP
Scott N. Sforza/WHO/EOP@EOP
Michael J. Gerson/WHO/EOP@EOP
Krista L. Ritacco/WHO/EOP@EOP
Peter H. Wehner/WHO/EOP@EOP
Matthew O. Scully/WHO/EOP@EOP
David Frum/WHO/EOP@EOP
Anthony J. Gibson/OSTP/EOP@EOP
John D. Gibson/NSC/EOP@EOP
Edmund A. Walsh/WHO/EOP@EOP
Karl_Doenges@oa.eop.gov @ inet
William T. Griffin/WHO/EOP@EOP
Taylor S. Gross/WHO/EOP@EOP
Kenneth A. Lisaius/WHO/EOP@EOP
Jeanie S. Mamo/WHO/EOP@EOP
Wendy L. Nipper/WHO/EOP@EOP
Christopher J. Orr/WHO/EOP@EOP
Scott Stanzel/WHO/EOP@EOP

00800000000483

REV_00166783

Vickie A. McQuade/WHO/EOP@EOP
Jennifer K. Millerwise/WHO/EOP@EOP
Anne Womack/WHO/EOP@EOP
Brian Bravo/WHO/EOP@EOP
Candida P. Wolff/OVP/EOP@EOP
Harry W. Wolff/WHO/EOP@EOP
Rachael L. Sunbarger/WHO/EOP@EOP
Reed Dickens/WHO/EOP@EOP
Nicholas E. Calio/WHO/EOP@EOP
John W. Howard/WHO/EOP@EOP
Virginia T. Gregory/WHO/EOP@EOP
David W. Hobbs/WHO/EOP@EOP
Christal R. West/WHO/EOP@EOP
Daniel J. Keniry/WHO/EOP@EOP
Brian C. Conklin/WHO/EOP@EOP
Peter M. Rowan/WHO/EOP@EOP
Ziad S. Ojakli/WHO/EOP@EOP
Christine Ciccone/WHO/EOP@EOP
Townsend_L._McNitt@oa.eop.gov @ inet
Scott Jeffcoat/WHO/EOP@EOP
Albert Hawkins/WHO/EOP@EOP
Cynthia R. Mendl/WHO/EOP@EOP
Edward Ingle/WHO/EOP@EOP
L. Camille Welborn/WHO/EOP@EOP
Susan B. Ralston/WHO/EOP@EOP
Chris Henick/WHO/EOP@EOP
Dee Dee Benkie/WHO/EOP@EOP
Israel Hernandez/WHO/EOP@EOP
Alicia P. Clark/WHO/EOP@EOP
William_S._Clark@oa.eop.gov @ inet
Kasey S. Pipes/WHO/EOP@EOP
Kenneth B. Mehlman/WHO/EOP@EOP
Collister W. Johnson/WHO/EOP@EOP
Sara M. Taylor/WHO/EOP@EOP
David M. Thomas/WHO/EOP@EOP
Alicia W. Davis/WHO/EOP@EOP
Tim Goeglein/WHO/EOP@EOP
Kirk Blalock/WHO/EOP@EOP
Adam B. Goldman/WHO/EOP@EOP
Abel Guerra/WHO/EOP@EOP
Kathryn J. Hayes/WHO/EOP@EOP
John_Gardner@oa.eop.gov @ inet
Harriet Miers/WHO/EOP@EOP
Collister W. Johnson/WHO/EOP@EOP
Dina Powell/WHO/EOP@EOP
Brian D. Montgomery/WHO/EOP@EOP
Heather L. West/WHO/EOP@EOP
Gregory_J._Jenkins@oa.eop.gov @ inet
Tobin_K._Harvey@oa.eop.gov @ inet
Bradley A. Blakeman/WHO/EOP@EOP
Kara G. Figg/WHO/EOP@EOP
Amanda L. Moore/WHO/EOP@EOP
Danner R. Bethel/WHO/EOP@EOP
Mary Elizabeth Farr/WHO/EOP@EOP
Andrea G. Ball/WHO/EOP@EOP
Alison M. Harden/WHO/EOP@EOP
Anne Heiligenstein/WHO/EOP@EOP
Melanie A. Jackson/WHO/EOP@EOP
Ashley M. Snee/OVP/EOP@EOP
Debra Heiden/OVP/EOP@EOP
Douglas_D._McCormick@oa.eop.gov @ inet
Mary J. Matalin/OVP/EOP@EOP
I._Lewis_Libby@oa.eop.gov @ inet
Charles D. McGrath Jr/OVP/EOP@EOP
Jennifer H. Mayfield/OVP/EOP@EOP
Ethan A. Hastert/OVP/EOP@EOP
Juleanna R. Glover/OVP/EOP@EOP

00800000000484

REV_00166784

Megan D. Moran/OVP/EOP@EOP
David S. Addington/OVP/EOP@EOP
Cesar Conda/OVP/EOP@EOP
Ronald I. Christie/OVP/EOP@EOP
Nina Rees/OVP/EOP@EOP
Margita N. Thompson/OVP/EOP@EOP
Nancy P. Dorn/WHO/EOP@EOP
Stephen S. Ruhlen/OVP/EOP@EOP
Lauren K. Allgood/OVP/EOP@EOP
Elizabeth W. Kleppe/OVP/EOP@EOP
Debra R. Dunn/OVP/EOP@EOP
Dylan C. Glenn/OPD/EOP@EOP
Donald_M._Sumerlin@oa.eop.gov @ inet
Eric C. Pelletier/OMB/EOP@EOP
Augustine T. Smythe/OMB/EOP@EOP
Lawrence B. Lindsey/OPD/EOP@EOP
John M. Bridgeland/OPD/EOP@EOP
Stephen M. Garrison/OPD/EOP@EOP
Eric H. Otto/OPD/EOP@EOP
edgillespie@quinngillespie.com @ inet
christine.iverson@mail.house.gov @ inet
Josephine B. Robinson/WHO/EOP@EOP
Melissa S. Bennett/WHO/EOP@EOP
Joel D. Kaplan/WHO/EOP@EOP
Colleen Litkenhaus/WHO/EOP@EOP
Blake Gottesman/WHO/EOP@EOP
charles.yoder@mail.va.gov @ inet
lindsey_kozberg@ed.gov @ inet
mindy.tucker@usdoj.gov @ inet
terrell.halaska@hhs.gov @ inet
nancy_i._segerdahl@hud.gov @ inet
kreisher.tina@epa.gov @ inet
cooper.mildred@epa.gov @ inet
roy-stuart@dol.gov @ inet
cliff_may@ios.doi.gov @ inet
Neil H. Zimmerman/WHO/EOP@EOP
[(b)(6)]
christine.iverson@mail.house.gov @ inet
brian.gunderson@mail.house.gov @ inet
terry.holt@mail.house.gov @ inet
kevin.schweers@mail.house.gov @ inet
paul.morrell@mail.house.gov @ inet
Sara M. Taylor/WHO/EOP@EOP
Michael Shannon/WHO/EOP@EOP
Don E. Eberly/WHO/EOP@EOP
Lisa T. Cummins/WHO/EOP@EOP
Mark_V._Scott@oa.eop.gov @ inet
Michele H. Tennery/WHO/EOP@EOP
Carrie W. Click/WHO/EOP@EOP
Catharine A. Ryun/WHO/EOP@EOP
sschmidt@nrcc.org @ inet
Matthew E. Smith/WHO/EOP@EOP
Brian R. Besanceney/OPD/EOP@EOP
mmckinnon@pstrategies.com @ inet
MMiner@rnchq.org @ inet
BComstock@rnchq.org @ inet
James R. Wilkinson/WHO/EOP@EOP
jcram@rnchq.org @ inet
dmishoe@rnchq.org @ inet
John M. Ackerly/OPD/EOP@EOP
Kevin_J._Martin@oa.eop.gov @ inet
Adrian G. Gray/WHO/EOP@EOP
mcrawford@doc.gov @ inet
maryanne.lyle@fema.gov @ inet
Nancy_L._segerdahl@hud.gov @ inet
chet.lunner@ost.dot.gov @ inet
m.kicklighter@mail.va.com @ inet

00800000000485

REV_00166785

roy_stuart@dol.gov @ inet
mark_pfeifle@ios.doi.gov @ inet
kreisher.tina@epa.gov @ inet
kevin.keane@hhs.gov @ inet
mindy.tucker@usdoj.gov @ inet
moridanis@state.gov @ inet
Jeanne.lopatto@hq.doe @ inet
craig.quigley@osd.mil @ inet
Michele.davis@do.treas.gov @ inet
lindsey_kozberg@ed.gov @ inet
Anne Trenolone/WHO/EOP@EOP
Barry S. Jackson/WHO/EOP@EOP

dtrigg@doc.gov @ inet [(b)(6)]
dorrance.smith@fema.gov @ inet
oliver.north@msnbc.com @ inet
Brian R. Besanceney/OPD/EOP@EOP
kmclane@pstrategies.com @ inet
John D. Estes/WHO/EOP@EOP
Ashley Estes/WHO/EOP@EOP
Angela R. Sailor/WHO/EOP@EOP
K. Philippa Malmgren/OPD/EOP@EOP
Ruben S. Barrales/WHO/EOP@EOP
Terry C. Miller/WHO/EOP@EOP
Deboran A. Spagnoli/WHO/EOP@EOP
Laura S. Lawlor/WHO/EOP@EOP
brusbolt@iiaa.net @ inet
James R. Wilkinson/WHO/EOP@EOP
blewis@rnchq.org @ inet
Charles P. Blahous/OPD/EOP@EOP
Maria.Cino@mail.doc.gov @ inet
Matthew W. Lindley/WHO/EOP@EOP
Chris B. Nagel/WHO/EOP@EOP
Melissa L. McAdoo/WHO/EOP@EOP
Kristen L. Hughes/WHO/EOP@EOP
Robert T. Pratt Jr/WHO/EOP@EOP
Beverly J. Ward/WHO/EOP@EOP
Deborah K. Hair/WHO/EOP@EOP
Elizabeth N. Camp/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Timothy E. Flanigan/WHO/EOP@EOP
Mark.Corallo@mail.house.gov @ inet
susan_irby@lott.senate.gov @ inet
john.fcehery@mail.house.gov @ inet
terry.holt@mail.house.gov @ inet
TDuffy@rnchq.org @ inet
Mercedes M. Viana/WHO/EOP@EOP
dallen@nrsc.org @ inet
D. Marcus Sumerlin/OPD/EOP@EOP
Blake Gottesman/WHO/EOP@EOP
Ashley Estes/WHO/EOP@EOP
Robert W. Cobb/WHO/EOP@EOP
Traci R. Campbell/WHO/EOP@EOP
James E. Carter/OPD/EOP@EOP
Courtney S. Elwood/WHO/EOP@EOP
Robert W. Cobb/WHO/EOP@EOP
Neil H. Zimmerman/WHO/EOP@EOP
Dee Dee Benkie/WHO/EOP@EOP
Paul B. Dyck/WHO/EOP@EOP
Debra D. Bird/WHO/EOP@EOP
Dina Powell/WHO/EOP@EOP
Mark V. Rosenker/WHO/EOP@EOP
Helen R. Mobley/WHO/EOP@EOP
Julieanne H. Thomas/WHO/EOP@EOP
Alison M. Harden/WHO/EOP@EOP
Desiree T. Sayle/WHO/EOP@EOP
Sydney R. Johnson/WHO/EOP@EOP

00800000000486

REV_00166786

Sara B. McIntosh/WHO/EOP@EOP
Anne Heiligenstein/WHO/EOP@EOP
Sonya E. Medina/WHO/EOP@EOP
Catherine S. Fenton/WHO/EOP@EOP
Melanie A. Jackson/WHO/EOP@EOP
Anne E. Phelps/OPD/EOP@EOP
Eleanor L. Gillmor/OPD/EOP@EOP
Tiffany L. Barfield/OPD/EOP@EOP
David F. Lussier/OPD/EOP@EOP
Torie.Clarke@osd.mil @ inet
rgeorge@nypost.com @ inet
Neil S. Patel/OVP/EOP@EOP
Catharine A. Ryun/WHO/EOP@EOP
susan_irby@lott.senate.gov @ inet
brook_simmons@nickles.senate.gov @ inet
gerry_fritz@rpc.senate.gov @ inet
margaret_camp@frist.senate.gov @ inet
lisette_mcsoud_mondello@hutchison.senate.gov @ inet
Melissa Sabatine@src.senate.gov @ inet

john.feehery@mail.house.gov @ inet [(b)(6)]
terry.holt@mail.house.gov @ inet
christine.iverson@mail.house.gov @ inet
MMiner@rnchq.org @ inet
sschmidt@nrcc.org @ inet
emily.miller@mail.house.gov @ inet
ron_bonjean@lott.senate.gov @ inet
paige.ralston@mail.house.gov @ inet
paul.morrell@mail.house.gov @ inet
sschmidt@nrcc.org @ inet
cforti@nrcc.org @ inet
TDuffy@rnchq.org @ inet
dallen@nrsc.org @ inet
MMiner@rnchq.org @ inet
Peter.jeffries@mail.house.gov @ inet
Catherine J. Martin/OVP/EOP@EOP
Robert C. McNally/OPD/EOP@EOP
Karen Y. Knutson/OVP/EOP@EOP
Leslie A. Mooney/OPD/EOP@EOP
Deborah A. Spagnoli/WHO/EOP@EOP
kfedewa@rnchq.org @ inet
greg_jenkins@ita.doc.gov @ inet
Leonard B. Rodriguez/WHO/EOP@EOP
Noel J. Francisco/WHO/EOP@EOP
Mark McClellan/CEA/EOP@EOP
Dirksen Lehman/WHO/EOP@EOP
Aquiles F. Suarez/OPD/EOP@EOP
Jennifer D. Field/OVP/EOP@EOP
dean.clancy@mail.house.gov @ inet
Rachel L. Brand/WHO/EOP@EOP
Heather Wingate/WHO/EOP@EOP
ekertz@doc.gov @ inet
jdyke@doc.gov @ inet
melliott@doc.gov @ inet
Jennifer D. Field/OVP/EOP@EOP
Chcgenterp@aol.com @ inet
cz@greenerandhook.com @ inet
Stuart W. Bowen/WHO/EOP@EOP
RGustafson@rnchq.org @ inet
Anthony K. Crawford/NSC/EOP@EOP
Ashleigh A. Adams/WHO/EOP@EOP
sspicer@nrcc.org @ inet
Michelle N. Brawer/WHO/EOP@EOP
cmay@bsmg.com @ inet
tnelson@dmnmedia.com @ inet
kevin.schweers@mail.house.gov @ inet
kyle.downey@mail.house.gov @ inet

00800000000487

REV_00166787

Anne C. Guilsher/NSC/EOP@EOP
Michael Davis/WHO/EOP@EOP
joliver@rnchq.org
bhazelwood@rnchq.org
ekutler@cwdc.com
john.mcmanus@mail.phrma.org
sstyles@bbchb.com
kevin.herglotz@usda.gov
ksheridan@rnchq.org
[(b)(6)]
bishopn@state.gov
englandMP@state.gov
rncresearch@rnchq.org
dmattoon@podestamattoon.com
Samuel A. Thernstrom/CEQ/EOP@EOP
jo.powers@mail.house.gov
Elliott Abrams/NSC/EOP@EOP
Matthew Kirk/WHO/EOP@EOP
Eric A. Draper/WHO/EOP@EOP
Helgard C. Walker/WHO/EOP@EOP
mkitchens@pstrategies.com
kscurry@princeton.edu
[(b)(6)]
susan.hirschman@mail.house.gov
dan.flynn@mail.house.gov
scott.palmer@mail.house.gov
mike.stokke@mail.house.gov
tobin.harvey@ee.doe.gov
Elizabeth S. Dougherty/OPD/EOP@EOP
Kjersten S. Drager/OVP/EOP@EOP
Clare C. Doherty/OMB/EOP@EOP
Brian P. Doherty/OA/EOP@EOP
gregory_J._jenkins@who.eop.gov
gayland.barksdale@mail.house.gov
kathryn.lehman@mail.house.gov
JTMastranadi@nrsc.org
Craig Ray/WHO/EOP@EOP
Joseph Ratajczak/ONDCP/EOP@EOP
melody_h._fennel@hud.gov
Anne C. Guilsher/NSC/EOP@EOP
Anna M. Perez/NSC/EOP@EOP
All OVP Users
don.meyer@osd.mil
chris.willcox@osd.mil
kevin.kellems@osd.mil
hensley-sue@dol.gov
richard.mcgraw@osd.mil
tfrancis@doc.gov
Brian V. McCormack/OVP/EOP@EOP
Elizabeth S. Dougherty/OPD/EOP@EOP
Marisa K. Medrano/OPD/EOP@EOP
Kelley J. McCullough/WHO/EOP@EOP
Chad M. Kolton/WHO/EOP@EOP
Ali H. Tulbah/WHO/EOP@EOP
Craig Felner/WHO/EOP@EOP
John Fenzel/OVP/EOP@EOP
julie.nichols@ost.dot.gov
gwolfe@nrsc.org
james_r._wilkinson@who.eop.gov
ginni.thomas@heritage.org
[(b)(6)]
bethsturgeon@austin.rr.com
[(b)(6)]
rsavarese@kpmg.com
tom.sellers@usa.conoco.com
ccamp@llano-permian.com

00800000000488

REV_00166788

campsite@nts-online.net
daviddurham@austin.rr.com
lpollard@austin.rr.com
mona@gregabbottcampaign.com
rsullivan@governor.state.tx.us
nikki.robinson@mail.house.gov

[(b)(6)]

Natalie S. Wozniak/NSC/EOP@EOP
Peter Smith/NSC/EOP@EOP
Elliott Abrams/NSC/EOP@EOP
Michele Ahern/OMB/EOP@EOP
Jodey Arrington/WHO/EOP@EOP
terry.holt@mail.house.gov
greg.crist@mail.house.gov
brad.bennett@mail.house.gov
jessica.incitto@mail.house.gov
jonathan.grella@mail.house.gov
mike.franc@heritage.org

pmoreno@acf.dhhs.gov [(b)(6)]
pat.shortridge@enron.com
richard.mcbride@glo.state.tx.us
jerogan@venable.com
GamonalAM@state.gov
Alison Jones/WHO/EOP@EOP

[(b)(6)]

lowell randel@meyersandassociates.com
Joe.Eule@mail.house.gov
jsolsby@drasnincommunications.com
Kirk.Boyle@mail.house.gov
gonzalez@glo.state.tx.us
kevin.keane@hhs.gov
Mark Holman/WHO/EOP@EOP
Carl Buchholz/WHO/EOP@EOP
Duncan Campbell/WHO/EOP@EOP
Carol J. Thompson/WHO/EOP@EOP
EWILLEFO@fcc.gov
Jack Howard/WHO/EOP@EOP
Danner.Bethel@ed.gov
SabatineM@osd.pentagon.mil
patrick.rhode@sba.gov
YRobinso@pd.state.gov
robert.traynham@src.senate.gov
dmackinnon@verner.com
Ansley C. Tillman/OPD/EOP@EOP
jwillis@dcc.gov
Britt Grant/OPD/EOP@EOP
Kristine Simmons/OPD/EOP@EOP
kyle.downey@mail.house.gov
molly.millerwise@mail.house.gov
jrendon@rendon.com
KJohnson@isi-consulting.com
kevin.kellems@osd.mil
Gian-Carlo A. Peressutti/WHO/EOP@EOP
mjohnson@ob-cgroup.com
caranaga@pd.state.gov
jfischman@pd.state.gov
Elizabeth P. Austin/WHO/EOP@EOP
Jane M. Cook/WHO/EOP@EOP
Robert_Traynham@src.senate.gov
Lezlee J. Westine/WHO/EOP@EOP
Heidi K. Marquez/WHO/EOP@EOP
Desiree T. Sayle/WHO/EOP@EOP
McDonaldDJ@state.gov
bitterr@state.gov
schriverrg@state.gov

kelseyt@state.gov
mike_buttry@hagel.senate.gov
echeney@ifc.org
taskforce-1-pd@state.gov
wparker@pd.state.gov
bmward@pd.state.gov
jmcgovern@pd.state.gov
jbjohnson@pd.state.gov

00800000000490

REV_00166790

Nichols, Robert

From: Nichols, Robert
Sent: Monday, November 19, 2001 3:33 PM
To: 'Paul_Ashin@who.eop.gov'
Subject: RE: The War on Terrorism -- November 16, 2001

hi

can you resend me the one pager re the financial war on terrorism? i cant find my copy

Rob Nichols
Deputy Assistant Secretary for Public Affairs
Department of the Treasury
(202) 622-2910

-----Original Message-----
From: Paul_Ashin@who.eop.gov [mailto:Paul_Ashin@who.eop.gov]
Sent: Friday, November 16, 2001 9:28 AM
To: john.taylor@do.treas.gov; Anna.Corfield@do.treas.gov; Bill.Murden@do.treas.gov; Meg.Donovan@do.treas.gov; Robert.Nichols@do.treas.gov; Warren.Gorlick@do.treas.gov; Tasia.Scolinos@do.treas.gov
Subject: The War on Terrorism -- November 16, 2001

---------- Forwarded by Paul Ashin/WHO/EOP on 11/16/2001 08:32 AM ----------

James R. Wilkinson
11/16/2001 06:24:56 AM

Record Type: Record

To: See the distribution list at the bottom of this message

CC:
Subject: The War on Terrorism -- November 16, 2001

Good morning. Nice sunrise out there. Have a great day.

(See attached file: CIC -- Daily November 16.doc)

Message Sent To:

Noelia Rodriquez/WHO/EOP@EOP
Erin E. Healy/WHO/EOP@EOP
Tracey L. Schmitt/WHO/EOP@EOP
Gail Randall/WHO/EOP@EOP
Gregory Goss/WHO/EOP@EOP

Tracy Young/WHO/EOP@EOP
Tucker A. Eskew/WHO/EOP@EOP
Jeanie S. Mamo/WHO/EOP@EOP
Kenneth A. Lisaius/WHO/EOP@EOP
Nicolle Devenish/WHO/EOP@EOP
Andrew H. Card/WHO/EOP@EOP
Joshua B. Bolten/WHO/EOP@EOP
Joel D. Kaplan/WHO/EOP@EOP
Joseph W. Hagin/WHO/EOP@EOP
Marcus J. Mollmann/WHO/EOP@EOP
Logan M. Walters/WHO/EOP@EOP
Scott N. Sforza/WHO/EOP@EOP
Michael J. Gerson/WHO/EOP@EOP
Krista L. Ritacco/WHO/EOP@EOP
Peter H. Wehner/WHO/EOP@EOP
Matthew O. Scully/WHO/EOP@EOP
David Frum/WHO/EOP@EOP
Anthony J. Gibson/OSTP/EOP@EOP
John D. Gibson/NSC/EOP@EOP
Edmund A. Walsh/WHO/EOP@EOP
Karl_Doenges@oa.eop.gov @ inet
William T. Griffin/WHO/EOP@EOP
Taylor S. Gross/WHO/EOP@EOP
Kenneth A. Lisaius/WHO/EOP@EOP
Jeanie S. Mamo/WHO/EOP@EOP
Wendy L. Nipper/WHO/EOP@EOP
Christopher J. Orr/WHO/EOP@EOP
Scott Stanzel/WHO/EOP@EOP
Vickie A. McQuade/WHO/EOP@EOP
Jennifer K. Millerwise/WHO/EOP@EOP
Anne Womack/WHO/EOP@EOP
Brian Bravo/WHO/EOP@EOP
Candida P. Wolff/OVP/EOP@EOP
Harry W. Wolff/WHO/EOP@EOP
Rachael L. Sunbarger/WHO/EOP@EOP
Reed Dickens/WHO/EOP@EOP
Nicholas E. Calio/WHO/EOP@EOP
John W. Howard/WHO/EOP@EOP
Virginia T. Gregory/WHO/EOP@EOP
David W. Hobbs/WHO/EOP@EOP
Christal R. West/WHO/EOP@EOP
Daniel J. Keniry/WHO/EOP@EOP
Brian C. Conklin/WHO/EOP@EOP
Peter M. Rowan/WHO/EOP@EOP
Ziad S. Ojakli/WHO/EOP@EOP
Christine Ciccone/WHO/EOP@EOP
Townsend_L._McNitt@oa.eop.gov @ inet
Scott Jeffcoat/WHO/EOP@EOP
Albert Hawkins/WHO/EOP@EOP
Cynthia R. Mendl/WHO/EOP@EOP
Edward Ingle/WHO/EOP@EOP
L. Camille Welborn/WHO/EOP@EOP
Susan B. Ralston/WHO/EOP@EOP
Chris Henick/WHO/EOP@EOP
Dee Dee Benkie/WHO/EOP@EOP
Israel Hernandez/WHO/EOP@EOP
Alicia P. Clark/WHO/EOP@EOP
William_S._Clark@oa.eop.gov @ inet
Kasey S. Pipes/WHO/EOP@EOP
Kenneth B. Mehlman/WHO/EOP@EOP
Collister W. Johnson/WHO/EOP@EOP
Sara M. Taylor/WHO/EOP@EOP
David M. Thomas/WHO/EOP@EOP
Alicia W. Davis/WHO/EOP@EOP
Tim Goeglein/WHO/EOP@EOP
Kirk Blalock/WHO/EOP@EOP
Adam B. Goldman/WHO/EOP@EOP

00800000000492

REV_00166792

Abel Guerra/WHO/EOP@EOP
Kathryn J. Hayes/WHO/EOP@EOP
John_Gardner@oa.eop.gov @ inet
Harriet Miers/WHO/EOP@EOP
Collister W. Johnson/WHO/EOP@EOP
Dina Powell/WHO/EOP@EOP
Brian D. Montgomery/WHO/EOP@EOP
Heather L. West/WHO/EOP@EOP
Gregory_J._Jenkins@oa.eop.gov @ inet
Tobin_K._Harvey@oa.eop.gov @ inet
Bradley A. Blakeman/WHO/EOP@EOP
Kara G. Figg/WHO/EOP@EOP
Amanda L. Moore/WHO/EOP@EOP
Danner R. Bethel/WHO/EOP@EOP
Mary Elizabeth Farr/WHO/EOP@EOP
Andrea G. Ball/WHO/EOP@EOP
Alison M. Harden/WHO/EOP@EOP
Anne Heiligenstein/WHO/EOP@EOP
Melanie A. Jackson/WHO/EOP@EOP
Ashley M. Snee/OVP/EOP@EOP
Debra Heiden/OVP/EOP@EOP
Douglas_D._McCormick@oa.eop.gov @ inet
Mary J. Matalin/OVP/EOP@EOP
I._Lewis_Libby@oa.eop.gov @ inet
Charles D. McGrath Jr/OVP/EOP@EOP
Jennifer H. Mayfield/OVP/EOP@EOP
Ethan A. Hastert/OVP/EOP@EOP
Juleanna R. Glover/OVP/EOP@EOP
Megan D. Moran/OVP/EOP@EOP
David S. Addington/OVP/EOP@EOP
Cesar Conda/OVP/EOP@EOP
Ronald I. Christie/OVP/EOP@EOP
Nina Rees/OVP/EOP@EOP
Margita N. Thompson/OVP/EOP@EOP
Nancy P. Dorn/WHO/EOP@EOP
Stephen S. Ruhlen/OVP/EOP@EOP
Lauren K. Allgood/OVP/EOP@EOP
Elizabeth W. Kleppe/OVP/EOP@EOP
Debra R. Dunn/OVP/EOP@EOP
Dylan C. Glenn/OPD/EOP@EOP
Donald_M._Sumerlin@oa.eop.gov @ inet
Eric C. Pelletier/OMB/EOP@EOP
Augustine T. Smythe/OMB/EOP@EOP
Lawrence B. Lindsey/OPD/EOP@EOP
John M. Bridgeland/OPD/EOP@EOP
Stephen M. Garrison/OPD/EOP@EOP
Eric H. Otto/OPD/EOP@EOP
edgillespie@quinngillespie.com @ inet
christine.iverson@mail.house.gov @ inet
Josephine B. Robinson/WHO/EOP@EOP
Melissa S. Bennett/WHO/EOP@EOP
Joel D. Kaplan/WHO/EOP@EOP
Colleen Litkenhaus/WHO/EOP@EOP
Blake Gottesman/WHO/EOP@EOP
charles.yoder@mail.va.gov @ inet
lindsey_kozberg@ed.gov @ inet
mindy.tucker@usdoj.gov @ inet
terrell.halaska@hhs.gov @ inet
nancy_i._segerdahl@hud.gov @ inet
kreisher.tina@epa.gov @ inet
cooper.mildred@epa.gov @ inet
roy-stuart@dol.gov @ inet
cliff_may@ios.doi.gov @ inet
Neil H. Zimmerman/WHO/EOP@EOP
Melissa_sabatine@hotmail.com @ inet
christine.iverson@mail.house.gov @ inet
brian.gunderson@mail.house.gov @ inet

00800000000493

REV_00166793

terry.holt@mail.house.gov @ inet
kevin.schweers@mail.house.gov @ inet
paul.morrell@mail.house.gov @ inet
Sara M. Taylor/WHO/EOP@EOP
Michael Shannon/WHO/EOP@EOP
Don E. Eberly/WHO/EOP@EOP
Lisa T. Cummins/WHO/EOP@EOP
Mark_V._Scott@oa.eop.gov @ inet
Michele H. Tennery/WHO/EOP@EOP
Carrie W. Click/WHO/EOP@EOP
Catharine A. Ryun/WHO/EOP@EOP
sschmidt@nrcc.org @ inet
Matthew E. Smith/WHO/EOP@EOP
Brian R. Besanceney/OPD/EOP@EOP
mmckinnon@pstrategies.com @ inet
MMiner@rnchq.org @ inet
BComstock@rnchq.org @ inet
James R. Wilkinson/WHO/EOP@EOP
jcram@rnchq.org @ inet
dmishoe@rnchq.org @ inet
John M. Ackerly/OPD/EOP@EOP
Kevin_J._Martin@oa.eop.gov @ inet
Adrian G. Gray/WHO/EOP@EOP
mcrawford@doc.gov @ inet
maryanne.lyle@fema.gov @ inet
Nancy_L._segerdahl@hud.gov @ inet
chet.lunner@ost.dot.gov @ inet
m.kicklighter@mail.va.com @ inet
roy_stuart@dol.gov @ inet
mark_pfeifle@ios.doi.gov @ inet
kreisher.tina@epa.gov @ inet
kevin.keane@hhs.gov @ inet
mindy.tucker@usdoj.gov @ inet
moridanis@state.gov @ inet
Jeanne.lopatto@hq.doe @ inet
craig.quigley@osd.mil @ inet
Michele.davis@do.treas.gov @ inet
lindsey_kozberg@ed.gov @ inet
Anne Trenolone/WHO/EOP@EOP
Barry S. Jackson/WHO/EOP@EOP

dtrigg@doc.gov @ inet [(b)(6)]
dorrance.smith@fema.gov @ inet
oliver.north@msnbc.com @ inet
Brian R. Besanceney/OPD/EOP@EOP
kmclane@pstrategies.com @ inet
John D. Estes/WHO/EOP@EOP
Ashley Estes/WHO/EOP@EOP
Angela R. Sailor/WHO/EOP@EOP
K. Philippa Malmgren/OPD/EOP@EOP
Ruben S. Barrales/WHO/EOP@EOP
Terry C. Miller/WHO/EOP@EOP
Deborah A. Spagnoli/WHO/EOP@EOP
Laura S. Lawlor/WHO/EOP@EOP
brusbolt@iiaa.net @ inet
James R. Wilkinson/WHO/EOP@EOP
blewis@rnchq.org @ inet
Charles P. Blahous/OPD/EOP@EOP
Maria.Cino@mail.doc.gov @ inet
Matthew W. Lindley/WHO/EOP@EOP
Chris B. Nagel/WHO/EOP@EOP
Melissa L. McAdoo/WHO/EOP@EOP
Kristen L. Hughes/WHO/EOP@EOP
Robert T. Pratt Jr/WHO/EOP@EOP
Beverly J. Ward/WHO/EOP@EOP
Deborah K. Hair/WHO/EOP@EOP
Elizabeth N. Camp/WHO/EOP@EOP

00800000000494

REV_00166794

Brett M. Kavanaugh/WHO/EOP@EOP
Timothy E. Flanigan/WHO/EOP@EOP
Mark.Corallo@mail.house.gov @ inet
susan_irby@lott.senate.gov @ inet
john.feehery@mail.house.gov @ inet
terry.holt@mail.house.gov @ inet
TDuffy@rnchq.org @ inet
Mercedes M. Viana/WHO/EOP@EOP
dallen@nrsc.org @ inet
D. Marcus Sumerlin/OPD/EOP@EOP
Blake Gottesman/WHO/EOP@EOP
Ashley Estes/WHO/EOP@EOP
Robert W. Cobb/WHO/EOP@EOP
Traci R. Campbell/WHO/EOP@EOP
James E. Carter/OPD/EOP@EOP
Courtney S. Elwood/WHO/EOP@EOP
Robert W. Cobb/WHO/EOP@EOP
Neil H. Zimmerman/WHO/EOP@EOP
Dee Dee Benkie/WHO/EOP@EOP
Paul B. Dyck/WHO/EOP@EOP
Debra D. Bird/WHO/EOP@EOP
Dina Powell/WHO/EOP@EOP
Mark V. Rosenker/WHO/EOP@EOP
Helen R. Mobley/WHO/EOP@EOP
Julieanne H. Thomas/WHO/EOP@EOP
Alison M. Harden/WHO/EOP@EOP
Desiree T. Sayle/WHO/EOP@EOP
Sydney R. Johnson/WHO/EOP@EOP
Sara B. McIntosh/WHO/EOP@EOP
Anne Heiligenstein/WHO/EOP@EOP
Sonya E. Medina/WHO/EOP@EOP
Catherine S. Fenton/WHO/EOP@EOP
Melanie A. Jackson/WHO/EOP@EOP
Anne E. Phelps/OPD/EOP@EOP
Eleanor L. Gillmor/OPD/EOP@EOP
Tiffany L. Barfield/OPD/EOP@EOP
David F. Lussier/OPD/EOP@EOP
Torie.Clarke@osd.mil @ inet
rgeorge@nypost.com @ inet
Neil S. Patel/OVP/EOP@EOP
Catharine A. Ryun/WHO/EOP@EOP
susan_irby@lott.senate.gov @ inet
brook_simmons@nickles.senate.gov @ inet
gerry_fritz@rpc.senate.gov @ inet
margaret_camp@frist.senate.gov @ inet
lisette_mcsoud_mondello@hutchison.senate.gov @ inet
Melissa_Sabatine@src.senate.gov @ inet

john.feehery@mail.house.gov @ inet [(b)(6)]
terry.holt@mail.house.gov @ inet
christine.iverson@mail.house.gov @ inet
MMiner@rnchq.org @ inet
sschmidt@nrcc.org @ inet
emily.miller@mail.house.gov @ inet
ron_bonjean@lott.senate.gov @ inet
paige.ralston@mail.house.gov @ inet
paul.morrell@mail.house.gov @ inet
sschmidt@nrcc.org @ inet
cforti@nrcc.org @ inet
TDuffy@rnchq.org @ inet
dallen@nrsc.org @ inet
MMiner@rnchq.org @ inet
Peter.jeffries@mail.house.gov @ inet
Catherine J. Martin/OVP/EOP@EOP
Robert C. McNally/OPD/EOP@EOP
Karen Y. Knutson/OVP/EOP@EOP
Leslie A. Mooney/OPD/EOP@EOP

00800000000495

REV_00166795

Deborah A. Spagnoli/WHO/EOP@EOP
kiedewa@rnchq.org @ inet
greg_jenkins@ita.doc.gov @ inet
Leonard B. Rodriguez/WHO/EOP@EOP
Noel J. Francisco/WHO/EOP@EOP
Mark McClellan/CEA/EOP@EOP
Dirksen Lehman/WHO/EOP@EOP
Aquiles F. Suarez/OPD/EOP@EOP
Jennifer D. Field/OVP/EOP@EOP
dean.clancy@mail.house.gov @ inet
Rachel L. Brand/WHO/EOP@EOP
Heather Wingate/WHO/EOP@EOP
ekertz@doc.gov @ inet
jdyke@doc.gov @ inet
melliott@doc.gov @ inet
Jennifer D. Field/OVP/EOP@EOP

[(b)(6)]

cz@greenerandhook.com @ inet
Stuart W. Bowen/WHO/EOP@EOP
RGustafson@rnchq.org @ inet
Anthony K. Crawford/NSC/EOP@EOP
Ashleigh A. Adams/WHO/EOP@EOP
sspicer@nrcc.org @ inet
Michelle N. Brawer/WHO/EOP@EOP
cmay@bsmg.com @ inet
tnelson@dmnmedia.com @ inet
kevin.schweers@mail.house.gov @ inet
kyle.downey@mail.house.gov @ inet
Anne C. Guilsher/NSC/EOP@EOP
Michael Davis/WHO/EOP@EOP
joliver@rnchq.org
bhazelwood@rnchq.org
ekutler@cwdc.com
john.mcmanus@mail.phrma.org
sstyles@bbchb.com
kevin.herglotz@usda.gov
ksheridan@rnchq.org

[(b)(6)]

bishopn@state.gov
englandMP@state.gov
rncresearch@rnchq.org
dmattoon@podestamattoon.com
Samuel A. Thernstrom/CEQ/EOP@EOP
jo.powers@mail.house.gov
Elliott Abrams/NSC/EOP@EOP
Matthew Kirk/WHO/EOP@EOP
Eric A. Draper/WHO/EOP@EOP
Helgard C. Walker/WHO/EOP@EOP
mkitchens@pstrategies.com
kscurry@princeton.edu

[(b)(6)]

susan.hirschman@mail.house.gov
dan.flynn@mail.house.gov
scott.palmer@mail.house.gov
mike.stokke@mail.house.gov
tobin.harvey@ee.doe.gov
Elizabeth S. Dougherty/OPD/EOP@EOP
Kjersten S. Drager/OVP/EOP@EOP
Clare C. Doherty/OMB/EOP@EOP
Brian P. Doherty/OA/EOP@EOP
gregory_J._jenkins@who.eop.gov
gayland.barksdale@mail.house.gov
kathryn.lehman@mail.house.gov
JTMastranadi@nrsc.org
Craig Ray/WHO/EOP@EOP
Joseph Ratajczak/ONDCP/EOP@EOP
melody_h._fennel@hud.gov

00800000000496

REV_00166796

Anne C. Guilsher/NSC/EOP@EOP
Anna M. Perez/NSC/EOP@EOP
All OVP Users
don.meyer@osd.mil
chris.willcox@osd.mil
kevin.kellems@osd.mil
hensley-sue@dol.gov
richard.mcgraw@osd.mil
tfrancis@doc.gov
Brian V. McCormack/OVP/EOP@EOP
Elizabeth S. Dougherty/OPD/EOP@EOP
Marisa K. Medrano/OPD/EOP@EOP
Keiley J. McCullough/WHO/EOP@EOP
Chad M. Kolton/WHO/EOP@EOP
Ali H. Tulbah/WHO/EOP@EOP
Craig Felner/WHO/EOP@EOP
John Fenzel/OVP/EOP@EOP
julie.nichols@ost.dot.gov
gwolfe@nrsc.org
james r. wilkinson@who.eop.gov
ginni.thomas@heritage.org

bethsturgeon@austin.rr.com [(b)(6)]

[(b)(6)]

rsavarese@kpmg.com
tom.sellers@usa.conoco.com
ccamp@llano-permian.com
campsite@nts-online.net
daviddurham@austin.rr.com
lpollard@austin.rr.com
mona@gregabbottcampaign.com
rsullivan@governor.state.tx.us
nikki.robinson@mail.house.gov

[(b)(6)]

Natalie S. Wozniak/NSC/EOP@EOP
Peter Smith/NSC/EOP@EOP
Elliott Abrams/NSC/EOP@EOP
Michele Ahern/OMB/EOP@EOP
Jodey Arrington/WHO/EOP@EOP
terry.holt@mail.house.gov
greg.crist@mail.house.gov
brad.bennett@mail.house.gov
jessica.incitto@mail.house.gov
jonathan.grella@mail.house.gov
mike.franc@heritage.org

pmoreno@acf.dhhs.gov [(b)(6)]
pat.shortridge@enron.com
richard.mcbride@glo.state.tx.us
jerogan@venable.com
GamonalAM@state.gov
Alison Jones/WHO/EOP@EOP

[(b)(6)]

lowellrandel@meyersandassociates.com
Joe.Eule@mail.house.gov
jsolsby@drasnincommunications.com
Kirk.Boyle@mail.house.gov
gonzalez@glo.state.tx.us
kevin.keane@hhs.gov
Mark Holman/WHO/EOP@EOP
Carl Buchholz/WHO/EOP@EOP
Duncan Campbell/WHO/EOP@EOP
Carol J. Thompson/WHO/EOP@EOP
EWILLEFO@fcc.gov
Jack Howard/WHO/EOP@EOP

00800000000497

REV_00166797

Danner.Bethel@ed.gov
SabatineM@osd.pentagon.mil
patrick.rhode@sba.gov
YRobinso@pd.state.gov
robert.traynham@src.senate.gov
dmackinnon@verner.com
Ansley C. Tillman/OPD/EOP@EOP
jwillis@doc.gov
Britt Grant/OPD/EOP@EOP
Kristine Simmons/OPD/EOP@EOP
kyle.downey@mail.house.gov
molly.millerwise@mail.house.gov
jrendon@rendon.com
KJohnson@isi-consulting.com
kevin.kellems@osd.mil
Gian-Carlo A. Peressutti/WHO/EOP@EOP
mjohnson@ob-cgroup.com
caranaga@pd.state.gov
jfischman@pd.state.gov
Elizabeth P. Austin/WHO/EOP@EOP
Jane M. Cook/WHO/EOP@EOP
Robert_Traynham@src.senate.gov
Lezlee J. Westine/WHO/EOP@EOP
Heidi K. Marquez/WHO/EOP@EOP
Desiree T. Sayle/WHO/EOP@EOP
McDonaldDJ@state.gov
bitterr@state.gov
schriverrg@state.gov
kelseyt@state.gov
mike_buttry@hagel.senate.gov
echeney@ifc.org
taskforce-1-pd@state.gov
wparker@pd.state.gov
bmward@pd.state.gov
jmcgovern@pd.state.gov
jbjohnson@pd.state.gov
MeierAW@state.gov
john.higginbotham@dfait-maeci.gc.ca
arif.lalani@dfait-maeci.gc.ca
shalom@pmo.gov.il
agoldstein@hadassah.org
comm@rnchq.org
Daniel J. Bartlett/WHO/EOP@EOP
Karen Hughes/WHO/EOP@EOP
Anne Womack/WHO/EOP@EOP
Lawrence A. Fleischer/WHO/EOP@EOP
Gregory L. Schulte/NSC/EOP@EOP
Jill L. Angelo/WHO/EOP@EOP
Christina D. Roberts/WHO/EOP@EOP
Scott McClellan/WHO/EOP@EOP
acampbell@no10.x.gsi.gov.uk
torie.clarke@osd.mil
boucherra@state.gov
Mary J. Matalin/OVP/EOP@EOP
Catherine J. Martin/OVP/EOP@EOP
Anna M. Perez/NSC/EOP@EOP
Peter Reid/WHO/EOP@EOP
Allison Barber/WHO/EOP@EOP
Greg Lagana/WHO/EOP@EOP
Paddy Feeny/WHO/EOP@EOP
Karl C. Rove/WHO/EOP@EOP
Stephen J. Hadley/NSC/EOP@EOP
Susan B. Ralston/WHO/EOP@EOP
Pbassett@no10.x.gsi.gov.uk
cbeers@pd.state.gov
ddejban@pd.state.gov
Tucker A. Eskew/WHO/EOP@EOP

00800000000498

REV_00166798

Claire E. Buchan/WHO/EOP@EOP
cross2@pd.state.gov
Sean I. McCormack/NSC/EOP@EOP
Joseph R. Wood/OVP/EOP@EOP
Tracy Young/WHO/EOP@EOP
rruth@pd.state.gov
allan.percival@fco.gov.uk
sarh.hayward@fco.gov.uk
Deborah Hermer/WHO/EOP@EOP
Shannon Burkhart/WHO/EOP@EOP
Gordon D. Johndroe/WHO/EOP@EOP
alastair.campbell@fco2.demon.co.uk
phil.bassett@fco2.demon.co.uk
Nicolle Devenish/WHO/EOP@EOP
Kenneth Hill/WHO/EOP@EOP
Eric W. Holland/WHO/EOP@EOP
Paul Ashin/WHO/EOP@EOP
Charles James/WHO/EOP@EOP
Lucy B. Hartley/WHO/EOP@EOP
Hannah Siemers/WHO/EOP@EOP
Nina Rees/OVP/EOP@EOP
Jennifer Foley/WHO/EOP@EOP
Megan D. Moran/OVP/EOP@EOP

00800000000499

REV_00166799

FAX COVER SHEET

Gary
FYI.
Greg

Transmit # ____ Time Sent: 11:00am

Initials: DAK Date: 11/28/01 Total Pages Sent: 4

Office of Services, Investment and Intellectual Property

To: NAME	AGENCY	PHONE	FAX
Greg Christopulos	Treasury		(202) 622-0391

From: David Katz (Section 19)

Phone: 395-4685 Return Fax: (202) 395-3891

If you have any problems receiving this fax call (202) 395-4510

Subject: Per email, attached is a request for meeting by Enron and they have requested Treasury's participation. Could you please check on interest in attending? Thank you - David.



Enron Global Assets and Services
333 Clay Street, Suite 2100
Houston, TX 77002-7361
713-646-7000

P.O. Box 1188
Houston, TX 77251-1188

November 27, 2001

David Katz
Director, Bilateral Investment Affairs
USTR
Washington, D.C.

Fax: (202) 395-3891

Dear David:

As we discussed last week, Azurix Corp. which is a subsidiary of Enron, is involved in a half a billion dollar investment dispute with the Province of Buenos Aires. Attached is a confidential briefing paper that provides a history of the dispute; our efforts to resolve it amicably; the lack of good will on the part of the Provincial authorities to find a resolution, and some suggestions to break the impasse to the benefit of all parties concerned.

John Garrison, President and CEO of Azurix Corp., and I would be available to be in Washington on either December 10 or 11 to meet with government officials who are handling U.S. foreign policy relations (State and NSC) with Argentina, as well as economic/investment relations (USTR and Treasury). I would like to take advantage of your kind offer to organize a meeting at USTR with the various offices that have various levels of involvement in this type of investment dispute. I'll give you a call to discuss how you want to proceed. Meanwhile, I can be reached on (713) 345-5956 or keith.miceli@enron.com.

Sincerely,

Keith

Keith L. Miceli
Senior Director
International Public Relations
Enron Corp

INTERNATIONAL PR Fax:713-646-7078 Nov 27 2001 10:22 P.02

CONFIDENTIAL

HISTORY OF AZURIX BUENOS AIRES DISPUTE WITH THE PROVINCE OF BUENOS AIRES
NOVEMBER 20, 2001

BACKGROUND

[(b)(4)]

[(b)(4)]

01000000000947

REV_00166803

Sampliner, Gary

From: Rao, Geetha
Sent: Wednesday, July 18, 2001 9:32 AM
To: Rao, Geetha; Grewe, Maureen; Sampliner, Gary; McDonald, Larry; Christopulos, Greg
Cc: Mills, Marshall; Sills, Gay; Resnick, Bonnie
Subject: RE: TALKING POINTS FOR US EMBASSY- INDIA

Importance: High



TP - Dabhol rev2 nsc.doc

Attached are the final points for the OPIC/Enron demarche to the GOI ... please send any comments you have to me by NOON TODAY, and I will get back to Laurent. Thanks.

-----Original Message-----
From: Laurent_D._Charbonnet@nsc.eop.gov
[mailto:Laurent_D._Charbonnet@nsc.eop.gov]
Sent: Tuesday, July 17, 2001 4:59 PM
To: jaldo@opic.gov; pwatson@opic.gov; Farah_Naim@ita.doc.gov;
Maureen.grewe@do.treas.gov; CampDA2@state.gov;
bryan_elena@ustr.gov.treas.gov; SpeckJG@state.gov;
Greg.christopulos@do.treas.gov; usreygs@state.gov
Cc: Harry_K._Thomas@nsc.eop.gov
Subject: NSC revision of Dabhol points for demarche

(See attached file: TP - Dabhol rev2 nsc.doc)

Folks, please take a look at the attached draft talking points. I believe that we have addressed everybody's concerns. Please also ensure that all relevant people within your agency get a copy of this -- not sure whether addressees above capture everybody. If there are major issues remaining, call me at 456-9247 or email, by 3 pm Wednesday (7/18). Please, only one representation per agency, so coordinate internally first.

Let's consider this closed by COB tomorrow. I'll coordinate with State, who'll send the demarche cable.

Thanks, everybody. Laurent

01000000001127

REV_00166804

TALKING POINTS FOR US EMBASSY- INDIA

Re: Meeting with Ministries of Finance and Power and Dabhol Lenders' Steering Committee

[*Follow up to meeting between Principal Secretary and National Security Advisor Mishra and OPIC President Watson in Washington*]

- [(b)(5)]
- [(b)(5)]
- [(b)(5)]
- [(b)(5)]
- [(b)(5)]
- [(b)(5)]
- [(b)(5)]
- [(b)(5)]
- [(b)(5)]

Bair, Sheila

From: Kristen_Silverberg@who.eop.gov
Sent: Thursday, January 10, 2002 9:30 AM
To: Sheila.Bair@do.treas.gov
Subject: Re: Enron

Thank you very much. I shared with Josh. Should I ask Carol to put you on his call list or do you want to call him?

01200000000851

REV_00166806

Bair, Sheila

From: Bair, Sheila
Sent: Thursday, January 10, 2002 11:07 AM
To: 'Kristen_Silverberg@who.eop.gov'
Subject: RE: Enron

I'll call him. Thanks

Sheila

-----Original Message-----
From: Kristen_Silverberg@who.eop.gov
[mailto:Kristen_Silverberg@who.eop.gov]
Sent: Thursday, January 10, 2002 9:30 AM
To: Sheila.Bair@do.treas.gov
Subject: Re: Enron

Thank you very much. I shared with Josh. Should I ask Carol to put you on his call list or do you want to call him?

01200000000899

REV_00166807

Hart, Anna

From: Leslie_A._Mooney@opd.eop.gov
Sent: Tuesday, October 30, 2001 6:28 PM
To: Robert_C._McNally@opd.eop.gov; K._Philippa_Malmgren@opd.eop.gov; Rachel_L._Brand@who.eop.gov; Randall_S._Kroszner@cea.eop.gov; Peter.Fisher@do.treas.gov; D._Marcus_Sumerlin@opd.eop.gov; Kevin.ODonovan@eia.doe.gov
Cc: Lisa_D._Branch@cea.eop.gov; Marty_P._Smith@opd.eop.gov; anna.hart@do.treas.gov
Subject: Enron Conference Calls - wednesday and Thursday

Follow Up Flag: Follow up
Flag Status: Flagged

I have set up Conference Calls at 5:00 on Wednesday and Thursday for durther discussion on Enron.

Wednesday, 10/31 [(b)(2)]
Thursday, 11/1

Thanks and let me know if you have any questions.

Leslie
456-5804

01200000001607

REV_00166808

Hart, Anna

From: Leslie_A._Mooney@opd.eop.gov
Sent: Wednesday, October 31, 2001 1:26 PM
To: Robert_C._McNally@opd.eop.gov; K._Philippa_Malmgren@opd.eop.gov; Rachel_L._Brand@who.eop.gov; Randall_S._Kroszner@cea.eop.gov; Peter.Fisher@do.treas.gov; Kevin.ODonovan@eia.doe.gov
Cc: Lisa_D._Branch@cea.eop.gov; Marty_P._Smith@opd.eop.gov; anna.hart@do.treas.gov
Subject: Energy Trading Conference Calls - wednesday and Thursday

Follow Up Flag: Follow up
Flag Status: Flagged

There will be no conference call today or Thrusday. We will hold further calls as needed.

---------- Forwarded by Leslie A. Mooney/OPD/EOP on 10/31/2001 01:24 PM ----------

From: Leslie A. Mooney on 10/30/2001 06:28:09 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: Lisa D. Branch/CEA/EOP@EOP, Marty P. Smith/OPD/EOP@EOP, anna.hart@do.treas.gov
Subject: Enron Conference Calls - wednesday and Thursday

I have set up Conference Calls at 5:00 on Wednesday and Thursday for durther discussion on Enron.

Wednesday, 10/31 [(b)(2)]
Thursday, 11/1

Thanks and let me know if you have any questions.

Leslie
456-5804

Message Sent To:

Robert C. McNally/OPD/EOP@EOP
K. Philippa Malmgren/OPD/EOP@EOP
Rachel L. Brand/WHO/EOP@EOP
Randall S. Kroszner/CEA/EOP@EOP
Peter.Fisher@do.treas.gov @ inet
D. Marcus Sumerlin/OPD/EOP@EOP
Kevin.ODonovan@eia.doe.gov @ inet

01200000001608

REV_00166809

LLR

From: Edward_Ingle@who.eop.gov
Sent: Monday, January 07, 2002 6:01 PM
To: william.hansen@ed.gov; depsec@hq.doe.gov; fisher.linda@epa.gov; claude.allen@hhs.gov; alphonso_r._jackson@hud.gov; larry.d.thompson@usdoj.gov; findlay-cameron@dol.gov; sean_c._o'keefe@omb.eop.gov; michael.jackson@ost.dot.gov; leo.mackay@mail.va.gov; jim.moseley@usda.gov; steve_griles@ios.doi.gov; sbodman@doc.gov; Dam, Ken; Paul.Wolfowitz@osd.pentagon.mil; LaKritz, Robb; michael.d.brown@fema.gov; SarkisS@state.gov; Valentic, Marsha; Harvey, Reavie; deb.atwood@usda.gov; dwm@usda.gov; lfenton@doc.gov; larry.dirita@osd.pentagon.mil; kyle.mcslarrow@hq.doe.gov; mcginnis.eileen@epa.gov; robert.wood@hhs.gov; daniel_r._murphy@hud.gov; brian_waidmann@ios.doi.gov; david.t.ayres@usdoj.gov; law-steven@dol.gov; augustine_t._smythe@omb.eop.gov; b.smullen@state.gov; john.flaherty@ost.dot.gov; Adams, Tim; nora.egan@mail.va.gov; MBOglesby@USTR.gov; john.danielson@ed.gov
Cc: joe.mcmonigle@hq.doe.gov; bethann_bryan@ed.gov; spencer.susan@epa.gov; terrell.halaska@hhs.gov; sue_ellen_wooldridge@ios.doi.gov; david.israelite@usdoj.gov; m.cifrino@state.gov; michelle.poche@ost.dot.gov; Mejia, Annabella; ronald.aument@mail.va.gov; jackie.arends@osd.pentagon.mil; DGrubb@doc.gov; Kupfer, Jeffrey; jay_p._lefkowitz@omb.eop.gov; grubbs-wendy@dol.gov; Susan.Richmond@usdoj.gov; mmeece@doc.gov; james.manning@ed.gov; philip_a._musser@hud.gov; manson.brown@ost.dot.gov; mcbrideab@state.gov; kevin.herglotz@usda.gov; danner.bethel@ed.gov
Subject: Talking Points -- The Economy

Microsoft Word 4
(28 KB)

---------- Forwarded by Edward Ingle/WHO/EOP on 01/07/2002 06:00 PM

James R. Wilkinson
01/07/2002 05:56:24 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:
Subject: Talking Points -- The Economy

(See attached file: Econ Talkers.doc)

Message Sent To:

[(b)(6)]

MTucker@rnchq.org
haddocke@ndu.edu
Ronald.Rand@pentagon.af.mil
mlevy@texasmonthly.emmis.com

02000000000001

REV_00166810

Tobin.Harvey@ee.doe.gov
BallmanLS@state.gov
[(b)(6)]
britishembassykabul@gtnet.gov.uk
cliff@defenddemocracy.org
gmrossiter@fedex.com
[(b)(6)]
waurisjm@js.pentagon.mil
Josie_Fernandez@nps.gov
john.pitney@claremontmckenna.edu
afoti@AKINGUMP.COM
marcel.lettre@censa.net
Sara B. McIntosh/WHO/EOP@EOP
Anne Heiligenstein/WHO/EOP@EOP
Sonya E. Medina/WHO/EOP@EOP
Catherine S. Fenton/WHO/EOP@EOP
Melanie A. Jackson/WHO/EOP@EOP
Anne E. Phelps/OPD/EOP@EOP
Eleanor L. Gillmor/OPD/EOP@EOP
Tiffany L. Barfield/OPD/EOP@EOP
David F. Lussier/OPD/EOP@EOP
Torie.Clarke@osd.mil @ inet
rgeorge@nypost.com @ inet
Neil S. Patel/OVP/EOP@EOP
Catharine A. Ryun/WHO/EOP@EOP
susan_irby@lott.senate.gov @ inet
brook_simmons@nickles.senate.gov @ inet
gerry_fritz@rpc.senate.gov @ inet
margaret_camp@frist.senate.gov @ inet
lisette_mcsoud_mondello@hutchison.senate.gov @ inet
Melissa Sabatine@src.senate.gov @ inet
[(b)(6)]
john.feehery@mail.house.gov @ inet
terry.holt@mail.house.gov @ inet
christine.iverson@mail.house.gov @ inet
MMiner@rnchq.org @ inet
sschmidt@nrcc.org @ inet
emily.miller@mail.house.gov @ inet
ron_bonjean@lott.senate.gov @ inet
paige.ralston@mail.house.gov @ inet
paul.morrell@mail.house.gov @ inet
sschmidt@nrcc.org @ inet
cforti@nrcc.org @ inet
TDuffy@rnchq.org @ inet
dallen@nrsc.org @ inet
MMiner@rnchq.org @ inet
Peter.jeffries@mail.house.gov @ inet
Catherine J. Martin/OVP/EOP@EOP
Robert C. McNally/OPD/EOP@EOP
Karen Y. Knutson/OVP/EOP@EOP
Leslie A. Mooney/OPD/EOP@EOP
Deborah A. Spagnoli/WHO/EOP@EOP
kfedewa@rnchq.org @ inet
Leonard B. Rodriguez/WHO/EOP@EOP
Noel J. Francisco/WHO/EOP@EOP
Mark McClellan/CEA/EOP@EOP
Dirksen Lehman/WHO/EOP@EOP
Aquiles F. Suarez/OPD/EOP@EOP
Jennifer D. Field/OVP/EOP@EOP
dean.clancy@mail.house.gov @ inet
Rachel L. Brand/WHO/EOP@EOP
Heather Wingate/WHO/EOP@EOP
ekertz@doc.gov @ inet
jdyke@doc.gov @ inet
melliott@doc.gov @ inet
Jennifer D. Field/OVP/EOP@EOP

02000000000002

REV_00166811

[(b)(6)]

cz@greenerandhook.com @ inet
Stuart W. Bowen/WHO/EOP@EOP
RGustafson@rnchq.org @ inet
Anthony K. Crawford/NSC/EOP@EOP
Ashleigh A. Adams/WHO/EOP@EOP
sspicer@nrcc.org @ inet
Michelle N. Brawer/WHO/EOP@EOP
cmay@bsmg.com @ inet
tnelson@dmnmedia.com @ inet
kevin.schweers@mail.house.gov @ inet
kyle.downey@mail.house.gov @ inet
Anne C. Guilsher/NSC/EOP@EOP
Michael Davis/WHO/EOP@EOP
joliver@rnchq.org
bhazelwood@rnchq.org
ekutler@cwdc.com
john.mcmanus@mail.phrma.org
sstyles@bbchb.com
kevin.herglotz@usda.gov
ksheridan@rnchq.org,

[(b)(6)]

bishopn@state.gov
englandMP@state.gov
rncresearch@rnchq.org
dmattoon@podestamattoon.com
Samuel A. Thernstrom/CEQ/EOP@EOP
jo.powers@mail.house.gov
Elliott Abrams/NSC/EOP@EOP
Matthew Kirk/WHO/EOP@EOP
Eric A. Draper/WHO/EOP@EOP
Helgard C. Walker/WHO/EOP@EOP
mkitchens@pstrategies.com
kscurry@princeton.edu,

[(b)(6)]

susan.hirschman@mail.house.gov
dan.flynn@mail.house.gov
scott.palmer@mail.house.gov
mike.stokke@mail.house.gov
tobin.harvey@ee.doe.gov
Elizabeth S. Dougherty/OPD/EOP@EOP
Kjersten S. Drager/OVP/EOP@EOP
Clare C. Doherty/OMB/EOP@EOP
Brian P. Doherty/OA/EOP@EOP
gregory_J._jenkins@who.eop.gov
gayland.barksdale@mail.house.gov
kathryn.lehman@mail.house.gov
JTMastranadi@nrsc.org
Craig Ray/WHO/EOP@EOP
Joseph Ratajczak/ONDCP/EOP@EOP
melody_h._fennel@hud.gov
Anne C. Guilsher/NSC/EOP@EOP
Anna M. Perez/NSC/EOP@EOP
All OVP Users
don.meyer@osd.mil
chris.willcox@osd.mil
kevin.kellems@osd.mil
hensley-sue@dol.gov
richard.mcgraw@osd.mil
tfrancis@doc.gov
Brian V. McCormack/OVP/EOP@EOP
Elizabeth S. Dougherty/OPD/EOP@EOP
Marisa K. Medrano/OPD/EOP@EOP
Kelley J. McCullough/WHO/EOP@EOP
Chad M. Kolton/WHO/EOP@EOP
Ali H. Tulbah/WHO/EOP@EOP

02000000000003

REV_00166812

Craig Felner/WHO/EOP@EOP
John Fenzel/OVP/EOP@EOP
julie.nichols@ost.dot.gov
gwolfe@nrsc.org
james_r._wilkinson@who.eop.gov
ginni.thomas@heritage.org
bethsturgeon@austin.rr.com [(b)(6)]
rsavarese@kpmg.com [(b)(6)]
tom.sellers@usa.conoco.com
ccamp@llano-permian.com
daviddurham@austin.rr.com [(b)(6)]
lpollard@austin.rr.com
mona@grogabbottcampaign.com
rsullivan@governor.state.tx.us
nikki.robinson@mail.house.gov
Natalie S. Wozniak/NSC/EOP@EOP [(b)(6)]
Peter Smith/NSC/EOP@EOP
Elliott Abrams/NSC/EOP@EOP
Michele Ahern/OMB/EOP@EOP
terry.holt@mail.house.gov
greg.crist@mail.house.gov
brad.bennett@mail.house.gov
jessica.incitto@mail.house.gov
jonathan.grella@mail.house.gov
mike.franc@heritage.org
pmoreno@acf.dhhs.gov [(b)(6)]
pat.shortridge@enron.com
richard.mcbride@glo.state.tx.us
jerogan@venable.com
GamonalAM@state.gov
Alison Jones/WHO/EOP@EOP [(b)(6)]
lowellrandel@meyersandassociates.com
Joe.Eule@mail.house.gov
jsolsby@drasnincommunications.com
Kirk.Boyle@mail.house.gov
gonzalez@glo.state.tx.us
kevin.keane@hhs.gov
Mark Holman/WHO/EOP@EOP
Carl Buchholz/WHO/EOP@EOP
Duncan Campbell/WHO/EOP@EOP
Carol J. Thompson/WHO/EOP@EOP
EWILLEFO@fcc.gov
Jack Howard/WHO/EOP@EOP
Danner.Bethel@ed.gov
SabatineM@osd.pentagon.mil
patrick.rhode@sba.gov
YRobinso@pd.state.gov
robert.traynham@src.senate.gov
dmackinnon@verner.com
Ansley C. Tillman/OPD/EOP@EOP
jwillis@doc.gov
Britt Grant/OPD/EOP@EOP
Kristine Simmons/OPD/EOP@EOP
kyle.downey@mail.house.gov
molly.millerwise@mail.house.gov
jrendon@rendon.com
KJohnson@isi-consulting.com
kevin.kellems@osd.mil

02000000000004

REV_00166813

Gian-Carlo A. Peressutti/WHO/EOP@EOP
mjohnson@ob-cgroup.com
caranaga@pd.state.gov
jfischman@pd.state.gov
Jane M. Cook/WHO/EOP@EOP
Robert_Traynham@src.senate.gov
Lezlee J. Westine/WHO/EOP@EOP
Heidi K. Marquez/WHO/EOP@EOP
Desiree T. Sayle/WHO/EOP@EOP
McDonaldDJ@state.gov
bitterr@state.gov
schriverrg@state.gov
kelseyt@state.gov
beth_lee@hagel.senate.gov
echeney@ifc.org
taskforce-1-pd@state.gov
wparker@pd.state.gov
bmward@pd.state.gov
jmcgovern@pd.state.gov
jbjohnson@pd.state.gov
MeierAW@state.gov
john.higginbotham@dfait-maeci.gc.ca
arif.lalani@dfait-maeci.gc.ca
shalom@pmo.gov.il
agoldstein@hadassah.org
comm@rnchq.org

[(b)(6)]

pa.whitehouse@osd.mil
Cheryl A. Oldham/WHO/EOP@EOP
research@rnchq.org
bill.schuster@mail.house.gov
RBentz@visa.com
bob.gold@starpoint.com
iocurrops@js.pentagon.mil
vandalts@js.pentagon.mil
ProkopowiczJT@state.gov
Ken Mehlman/WHO/EOP@EOP
remi.marechaux@diplomatie.gouv.fr
GrenellR@state.gov
martin.weiss@bmaa.gv.at
fernando.garcia@mp.boe.es

[(b)(6)]

allison.barber@osd.mil
grant.sellers@myflorida.com
Anthony.Welcher@exim.gov
Robert.Ollison@EXIM.GOV
Barbara Jo Goergen/WHO/EOP@EOP
Katherine M. Channell/WHO/EOP@EOP
Nina DeLorenzo/WHO/EOP@EOP
Jennifer Foley/WHO/EOP@EOP
Georgia D. Godfrey/WHO/EOP@EOP
Timothy Campen/OA/EOP@EOP,

[(b)(6)]

kenneth.mcclellan@osd.mil
michael.perini@peterson.af.mil
Daniel D. Faoro/WHO/EOP@EOP
mlconnell@technomania.com
Jonathan T. Dworken/NSC/EOP@EOP

[(b)(6)]

pam.lambo@dfait-maeci.gc.ca
terry.colli@dfait-maeci.gc.ca
hope_boonshaft@spe.sony.com
mamin@lgecorp.com
wetsigb@usa.redcross.org
vansantl@usa.redcross.org

02000000000005

REV_00166814

bginsberg@pattonboggs.com [(b)(6)]
toby.harnden@telegraph.co.uk
james@mail.house.gov
Lani.Miller@usdoj.gov
kvolker@nsc.eop.gov
rss.paoc@pentagon.af.mil
jleibowitz@mpaa.org
mt@corporatesportswear.com
will.kinzel@cnh.com
hthomas@nsc.oep.gov
levy-leah@dol.gov
bbaney@phigam.org
kristen.gilley@mail.house.gov
doug.seay@mail.house.gov
cullman@thecarlylegroup.com
joseph.samora@cnh.com
james.waurishuk@js.pentagon.mil
Noelia Rodriguez/WHO/EOP@EOP
Erin E. Healy/WHO/EOP@EOP
Tracey L. Schmitt/WHO/EOP@EOP
Gail Randall/WHO/EOP@EOP
Gregory Goss/WHO/EOP@EOP
Tracy Young/WHO/EOP@EOP
Tucker A. Eskew/WHO/EOP@EOP
Jeanie S. Mamo/WHO/EOP@EOP
Kenneth A. Lisaius/WHO/EOP@EOP
Nicolle Devenish/WHO/EOP@EOP
Andrew H. Card/WHO/EOP@EOP
Joshua B. Bolten/WHO/EOP@EOP
Joel D. Kaplan/WHO/EOP@EOP
Joseph W. Hagin/WHO/EOP@EOP
Marcus J. Mollmann/WHO/EOP@EOP
Logan M. Walters/WHO/EOP@EOP
Scott N. Sforza/WHO/EOP@EOP
Michael J. Gerson/WHO/EOP@EOP
Krista L. Ritacco/WHO/EOP@EOP
Peter H. Wehner/WHO/EOP@EOP
Matthew O. Scully/WHO/EOP@EOP
David Frum/WHO/EOP@EOP
Anthony J. Gibson/OSTP/EOP@EOP
John D. Gibson/NSC/EOP@EOP
Edmund A. Walsh/WHO/EOP@EOP
Karl_Doenges@oa.eop.gov @ inet
William T. Griffin/WHO/EOP@EOP
Taylor S. Gross/WHO/EOP@EOP
Kenneth A. Lisaius/WHO/EOP@EOP
Jeanie S. Mamo/WHO/EOP@EOP
Wendy L. Nipper/WHO/EOP@EOP
Christopher J. Orr/WHO/EOP@EOP
Scott Stanzel/WHO/EOP@EOP
Vickie A. McQuade/WHO/EOP@EOP
Jennifer K. Millerwise/WHO/EOP@EOP
Anne Womack/WHO/EOP@EOP
Brian Bravo/WHO/EOP@EOP
Candida P. Wolff/OVP/EOP@EOP
Harry W. Wolff/WHO/EOP@EOP
Rachael L. Sunbarger/WHO/EOP@EOP
Reed Dickens/WHO/EOP@EOP
Nicholas E. Calio/WHO/EOP@EOP
John W. Howard/WHO/EOP@EOP
Virginia T. Gregory/WHO/EOP@EOP
David W. Hobbs/WHO/EOP@EOP
Christal R. West/WHO/EOP@EOP
Daniel J. Keniry/WHO/EOP@EOP
Brian C. Conklin/WHO/EOP@EOP

02000000000006

REV_00166815

Peter M. Rowan/WHO/EOP@EOP
Ziad S. Ojakli/WHO/EOP@EOP
Christine Ciccone/WHO/EOP@EOP
Townsend_L._McNitt@oa.eop.gov @ inet
Scott Jeffcoat/WHO/EOP@EOP
Albert Hawkins/WHO/EOP@EOP
Cynthia R. Mendl/WHO/EOP@EOP
Edward Ingle/WHO/EOP@EOP
L. Camille Welborn/WHO/EOP@EOP
Susan B. Ralston/WHO/EOP@EOP
Chris Henick/WHO/EOP@EOP
Dee Dee Benkie/WHO/EOP@EOP
Israel Hernandez/WHO/EOP@EOP
Alicia P. Clark/WHO/EOP@EOP
William_S._Clark@oa.eop.gov @ inet
Kasey S. Pipes/WHO/EOP@EOP
Kenneth B. Mehlman/WHO/EOP@EOP
Collister W. Johnson/WHO/EOP@EOP
Sara M. Taylor/WHO/EOP@EOP
David M. Thomas/WHO/EOP@EOP
Alicia W. Davis/WHO/EOP@EOP
Tim Goeglein/WHO/EOP@EOP
Kirk Blalock/WHO/EOP@EOP
Adam B. Goldman/WHO/EOP@EOP
Abel Guerra/WHO/EOP@EOP
Kathryn J. Hayes/WHO/EOP@EOP
John_Gardner@oa.eop.gov @ inet
Harriet Miers/WHO/EOP@EOP
Collister W. Johnson/WHO/EOP@EOP
Dina Powell/WHO/EOP@EOP
Brian D. Montgomery/WHO/EOP@EOP
Heather L. West/WHO/EOP@EOP
Gregory_J._Jenkins@oa.eop.gov @ inet
Tobin_K._Harvey@oa.eop.gov @ inet
Bradley A. Blakeman/WHO/EOP@EOP
Kara G. Figg/WHO/EOP@EOP
Amanda L. Moore/WHO/EOP@EOP
Danner R. Bethel/WHO/EOP@EOP
Mary Elizabeth Farr/WHO/EOP@EOP
Andrea G. Ball/WHO/EOP@EOP
Alison M. Harden/WHO/EOP@EOP
Anne Heiligenstein/WHO/EOP@EOP
Melanie A. Jackson/WHO/EOP@EOP
Ashley M. Snee/OVP/EOP@EOP
Debra Heiden/OVP/EOP@EOP
Douglas_D._McCormick@oa.eop.gov @ inet
Mary J. Matalin/OVP/EOP@EOP
I._Lewis_Libby@oa.eop.gov @ inet
Charles D. McGrath Jr/OVP/EOP@EOP
Jennifer H. Mayfield/OVP/EOP@EOP
Ethan A. Hastert/OVP/EOP@EOP
Julieanna R. Glover/OVP/EOP@EOP
Megan D. Moran/OVP/EOP@EOP
David S. Addington/OVP/EOP@EOP
Cesar Conda/OVP/EOP@EOP
Ronald I. Christie/OVP/EOP@EOP
Nina Rees/OVP/EOP@EOP
Margita N. Thompson/OVP/EOP@EOP
Nancy P. Dorn/WHO/EOP@EOP
Stephen S. Ruhlen/OVP/EOP@EOP
Lauren K. Allgood/OVP/EOP@EOP
Elizabeth W. Kleppe/OVP/EOP@EOP
Debra R. Dunn/OVP/EOP@EOP
Dylan C. Glenn/OPD/EOP@EOP
Donald_M._Sumerlin@oa.eop.gov @ inet
Eric C. Pelletier/OMB/EOP@EOP

02000000000007

REV_00166816

Augustine T. Smythe/OMB/EOP@EOP
Lawrence B. Lindsey/OPD/EOP@EOP
John M. Bridgeland/OPD/EOP@EOP
Stephen M. Garrison/OPD/EOP@EOP
Eric H. Otto/OPD/EOP@EOP
edgillespie@quinngillespie.com @ inet
christine.iverson@mail.house.gov @ inet
Josephine B. Robinson/WHO/EOP@EOP
Melissa S. Bennett/WHO/EOP@EOP
Joel D. Kaplan/WHO/EOP@EOP
Colleen Litkenhaus/WHO/EOP@EOP
Blake Gottesman/WHO/EOP@EOP
charles.yoder@mail.va.gov @ inet
lindsey_kozberg@ed.gov @ inet
mindy.tucker@usdoj.gov @ inet
terrell.halaska@hhs.gov @ inet
nancy_l._segerdahl@hud.gov @ inet
kreisher.tina@epa.gov @ inet
cooper.mildred@epa.gov @ inet
roy-stuart@dol.gov @ inet
cliff_may@ios.doi.gov @ inet
Neil H. Zimmerman/WHO/EOP@EOP [(b)(6)]

christine.iverson@mail.house.gov @ inet
brian.gunderson@mail.house.gov @ inet
terry.holt@mail.house.gov @ inet
kevin.schweers@mail.house.gov @ inet
paul.morrell@mail.house.gov @ inet
Sara M. Taylor/WHO/EOP@EOP
Michael Shannon/WHO/EOP@EOP
Don E. Eberly/WHO/EOP@EOP
Lisa T. Cummins/WHO/EOP@EOP
Mark_V._Scott@oa.eop.gov @ inet
Michele H. Tennery/WHO/EOP@EOP
Carrie W. Click/WHO/EOP@EOP
Catharine A. Ryun/WHO/EOP@EOP
sschmidt@nrcc.org @ inet
Matthew E. Smith/WHO/EOP@EOP
Brian R. Besanceney/OPD/EOP@EOP
mmckinnon@pstrategies.com @ inet
MMiner@rnchq.org @ inet
BComstock@rnchq.org @ inet
James R. Wilkinson/WHO/EOP@EOP
jcram@rnchq.org @ inet
dmishoe@rnchq.org @ inet
John M. Ackerly/OPD/EOP@EOP
Kevin_J._Martin@oa.eop.gov @ inet
Adrian G. Gray/WHO/EOP@EOP
mcrawford@doc.gov @ inet
maryanne.lyle@fema.gov @ inet
Nancy_L._segerdahl@hud.gov @ inet
chet.lunner@ost.dot.gov @ inet
m.kicklighter@mail.va.com @ inet
roy_stuart@dol.gov @ inet
mark_pfeifle@ios.doi.gov @ inet
kreisher.tina@epa.gov @ inet
kevin.keane@hhs.gov @ inet
mindy.tucker@usdoj.gov @ inet
moridanis@state.gov @ inet
Jeanne.lopatto@hq.doe @ inet
craig.quigley@osd.mil @ inet
Michele.davis@do.treas.gov @ inet
lindsey_kozberg@ed.gov @ inet
Anne Trenolone/WHO/EOP@EOP
Barry S. Jackson/WHO/EOP@EOP
[(b)(6)]

02000000000008

REV_00166817

dtrigg@doc.gov @ inet
dorrance.smith@fema.gov @ inet
oliver.north@msnbc.com @ inet
Brian R. Besanceney/OPD/EOP@EOP
kmclane@pstrategies.com @ inet
John D. Estes/WHO/EOP@EOP
Ashley Estes/WHO/EOP@EOP
Angela R. Sailor/WHO/EOP@EOP
K. Philippa Malmgren/OPD/EOP@EOP
Ruben S. Barrales/WHO/EOP@EOP
Terry C. Miller/WHO/EOP@EOP
Deborah A. Spagnoli/WHO/EOP@EOP
Laura S. Lawlor/WHO/EOP@EOP
brusbolt@iiaa.net @ inet
James R. Wilkinson/WHO/EOP@EOP
blewis@rnchq.org @ inet
Charles P. Blahous/OPD/EOP@EOP
Maria.Cino@mail.doc.gov @ inet
Matthew W. Lindley/WHO/EOP@EOP
Chris B. Nagel/WHO/EOP@EOP
Melissa L. McAdoo/WHO/EOP@EOP
Kristen L. Hughes/WHO/EOP@EOP
Robert T. Pratt Jr/WHO/EOP@EOP
Beverly J. Ward/WHO/EOP@EOP
Deborah K. Hair/WHO/EOP@EOP
Elizabeth N. Camp/WHO/EOP@EOP
Brett M. Kavanaugh/WHO/EOP@EOP
Timothy E. Flanigan/WHO/EOP@EOP
Mark.Corallo@mail.house.gov @ inet
susan_irby@lott.senate.gov @ inet
john.feehery@mail.house.gov @ inet
terry.holt@mail.house.gov @ inet
TDuffy@rnchq.org @ inet
Mercedes M. Viana/WHO/EOP@EOP
dallen@nrsc.org @ inet
D. Marcus Sumerlin/OPD/EOP@EOP
Blake Gottesman/WHO/EOP@EOP
Ashley Estes/WHO/EOP@EOP
Robert W. Cobb/WHO/EOP@EOP
Traci R. Campbell/WHO/EOP@EOP
James E. Carter/OPD/EOP@EOP
Courtney S. Elwood/WHO/EOP@EOP
Robert W. Cobb/WHO/EOP@EOP
Neil H. Zimmerman/WHO/EOP@EOP
Dee Dee Benkie/WHO/EOP@EOP
Paul B. Dyck/WHO/EOP@EOP
Debra D. Bird/WHO/EOP@EOP
Dina Powell/WHO/EOP@EOP
Mark V. Rosenker/WHO/EOP@EOP
Helen R. Mobley/WHO/EOP@EOP
Julieanne H. Thomas/WHO/EOP@EOP
Alison M. Harden/WHO/EOP@EOP
Desiree T. Sayle/WHO/EOP@EOP
Sydney R. Johnson/WHO/EOP@EOP
David Kuo/WHO/EOP@EOP
Roberta Shea/WHO/EOP@EOP
All CIC-WH Users

REV_00166818

President Bush Pushes Economic Security Agenda to Create Jobs and Opportunity for America's Workers

Today's Presidential Action:

- As his first order of business upon returning to Washington, President Bush today met with his top economic advisors and Federal Reserve Board Chairman Alan Greenspan to discuss the economy and ways to ensure the recovery happens sooner rather than later. The President also announced that he will include his economic security package in the 2003 budget.

Economic Growth Is Needed *Now* To Help Workers:

- ***The Senate Should Pass An Economic Security Plan Immediately:*** Given the uncertain economic outlook, we need an economic security package to boost growth now and get people back to work. President Bush called on Congress to pass an economic security bill months ago. The House acted quickly but the Senate failed to act, despite support for a bipartisan compromise that a majority of Senators supported. In the meantime, more than 900,000 Americans have lost their jobs. And, without action by the Senate, more than 300,000 workers will not find work this year.

- ***Economic Growth and Job Creation Boost Surpluses -- Not Tax Increases:*** The federal government is not responsible for budget surpluses. America's workers are the engines of economic growth that create surpluses. A strong economy and more jobs – not tax increases –are the keys to improving the daily lives of working families and creating budget surpluses for years to come.

President Bush - Providing Critical Leadership On The Economy:

- ***The President's Tax Relief Plan Will Help End the Recession Quicker:*** The President's tax cut was exactly the right medicine at the right time. It became law in May and workers began receiving checks in late August -- pumping $40 billion back into the economy and supporting consumer spending at a critical time. Had it not been for the September 11th attack, many economists believe our economy would have already recovered.

- ***While Some Blame Tax Cuts for Recession, the Facts Tell a Different Story:*** The recession began in March, two months before the tax cut even became law, and at least seven months before workers started receiving rebate checks. Despite Senator Daschle's claims, it is impossible that tax cuts made the recession worse.

- ***Democrats and Republicans Came Together Because the Tax Cut Was Needed***: Twelve Senate Democrats and 41 House Democrats voted for the tax cut bill. They knew that cutting taxes was the right thing to do for America's future economic prosperity.

02000000000010

The War and Recession Drained the Budget Surplus:

- While some in Washington have attempted to blame the tax cut for the declining budget surplus, the facts tell a different story:
  - ***The Recession Erased Two-Thirds of the Surplus***: The recession and declining tax revenues drained **roughly two-thirds of the budget surplus** between April 2000 and today.
  - ***Homeland Security and War Spending Used 19% of the Surplus:*** Immediately following the terrorist attacks, President Bush and Congress rightly passed significant spending increases for the war against terrorism, homeland security, airline security, and emergency response. This necessary spending accounted for approximately 19% of the surplus.
  - ***The Tax Cut Only Used 15% of the Surplus:*** Despite the claims of some in Washington, the tax cut used less than 15% of the surplus.

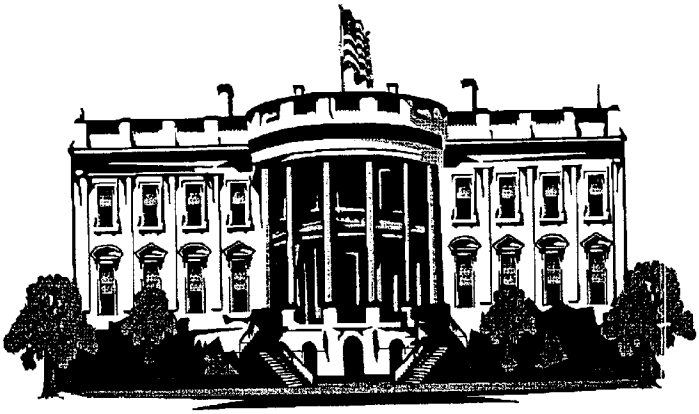
- ***The events of September 11 weakened an already slowing economy:***
  - Unemployment rose by almost 1% after September 11.
  - The airport and airline industry was entirely shut down, costing thousands of jobs.
  - The tourism industry was especially hard-hit, costing even more jobs.
  - Wall Street closed for a week, investment dried up, and the markets dropped.
  - Anthrax attacks shut down large portions of commercial mail and shipping industries.

- ***Despite the terrorist attacks and the slowing economy, the budget remains effectively in balance:*** The miniscule shortfall in the budget represents less than 1% of GDP, meaning that the budget is effectively in balance.

- **While some in Washington use partisan politics as an excuse for inaction, President Bush will continue to work toward a real, effective economic security package for America's workers.**

For more information on the President's initiatives, please visit www.whitehouse.gov

02000000000011



FAX COVER SHEET

BOB MCNALLY

NATIONAL ECONOMIC COUNCIL
THE WHITE HOUSE
WASHINGTON, DC 20502
PHONE: 202/456-2800 FAX: 202/456-2223

DATE: NOVEMBER 29, 2001 NUMBER OF PAGES (INCL. COVER): 2
TO: MR. PETER FISCHER

FAX: 202-622-0265

COMMENTS:

The document accompanying this Facsimile Transmission Sheet is intended only for the use of the individual or entity to which it is addressed. This message contains information which may be privileged, confidential or exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any disclosure, dissemination, copying or distribution, or taking any action in reliance on the contents of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately at the number above.

01800000010375

To: Peter Fisher
From: Bob McNally

November 28, 2001

FYI

TO: Frank Blake

CC: Bob McNally

FROM: Kevin O'Donovan — DoE
Garrett Soden — WH

RE: Enron

All three major credit rating agencies downgraded Enron's debt to junk status today over liquidity concerns. Also, Dynegy announced that its takeover agreement with Enron was terminated due to inadequate disclosure of Enron's total indebtedness. As a result, Enron said it will temporarily suspend all payments other than those necessary to maintain its core operations. Enron's online trading platform was shutdown this afternoon.

[(b)(4); (b)(5]

1) [(b)(4); (b)(5]

2) [(b)(4); (b)(5]

3) [(b)(4); (b)(5]

4) [(b)(4); (b)(5]

5) [(b)(4); (b)(5]

6) [(b)(4); (b)(5]

01800000010376

From:	Brian.A.Benczkowski@usdoj.gov
To:	Daryl L. Joseffer/OMB/EOP@EOP [OMB] <Daryl L. Joseffer>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Wendy J. Grubbs/WHO/EOP@EOP [WHO] <Wendy J. Grubbs>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>
CC:	Jamie.E.Brown@usdoj.gov <Jamie.E.Brown@usdoj.gov>;Marc.Kesselman2@usdoj.gov <Marc.Kesselman2@usdoj.gov>;Viet.Dinh@usdoj.gov <Viet.Dinh@usdoj.gov>;Adam.Charnes@usdoj.gov <Adam.Charnes@usdoj.gov>
Sent:	5/13/2003 3:33:35 PM
Subject:	: RE: Class Action Testimony
Attachments:	P_R17EG003_WHO.TXT_1.wpd

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Brian.A.Benczkowski@usdoj.gov" <Brian.A.Benczkowski@usdoj.gov> (
"Brian.A.Benczkowski@usdoj.gov" <Brian.A.Benczkowski@usdoj.gov> [ UNKNOWN ] )
CREATION DATE/TIME:13-MAY-2003 19:33:35.00
SUBJECT:: RE: Class Action Testimony
TO:Daryl L. Joseffer ( CN=Daryl L. Joseffer/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Wendy J. Grubbs ( CN=Wendy J. Grubbs/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
CC:"Jamie.E.Brown@usdoj.gov" <Jamie.E.Brown@usdoj.gov> ( "Jamie.E.Brown@usdoj.gov"
<Jamie.E.Brown@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
CC:"Marc.Kesselman2@usdoj.gov" <Marc.Kesselman2@usdoj.gov> ( "Marc.Kesselman2@usdoj.gov"
<Marc.Kesselman2@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
CC:"Viet.Dinh@usdoj.gov" <Viet.Dinh@usdoj.gov> ( "Viet.Dinh@usdoj.gov"
<Viet.Dinh@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
CC:"Adam.Charnes@usdoj.gov" <Adam.Charnes@usdoj.gov> ( "Adam.Charnes@usdoj.gov"
<Adam.Charnes@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

All-

Attached please find Viet's draft testimony for Thursday's hearing. This
has cleared the Department, and is on its way through the OMB process.
Wanted you all to have a bootleg copy of the latest and ask again for your
help in getting this cleared by late tomorrow morning for transmission to
the Hill.

Best,

BAB

Brian A. Benczkowski
Staff Director and Senior Counsel
Office of Legal Policy
United States Department of Justice
950 Pennsylvania Ave., NW
Room 4228
Washington, DC 20530
Telephone: (202) 616-2004
Fax: (202) 514-1685
E-mail: Brian.A.Benczkowski@usdoj.gov
```

-----Original Message-----
From: Dinh, Viet
Sent: Monday, May 12, 2003 2:40 PM
To: 'Diana_L._Schacht@opd.eop.gov'; 'Kavanaugh, Brett';
'Jennifer_G._Newstead@who.eop.gov'; 'Daryl_L._Joseffer@omb.eop.gov';
'wgrubbs@who.eop.gov'
Cc: Wilson, Karen L; Benczkowski, Brian A; Charnes, Adam;
Kesselman, Marc (OLP)
Subject: Class Action Testimony

Y'all,

Just got word that House Judiciary wants me to testify on class action reform on Thursday. This is easy, as we have a previously cleared letter of support for the bill in the 107th, and we will base the testimony on that letter. Just wanted to give you a heads up and ask for you help in clearing the testimony (going to OMB tomorrow morning) by Wednesday morning. thanks,

viet
- house.judiciary.classaction.5-15-03.FINAL.wpd
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_R17EG003_WHO.TXT_1>

TESTIMONY OF THE HONORABLE VIET D. DINH,
ASSISTANT ATTORNEY GENERAL, OFFICE OF LEGAL POLICY,
BEFORE THE JUDICIARY COMMITTEE
OF THE UNITED STATES HOUSE OF REPRESENTATIVES
ON THE "CLASS ACTION FAIRNESS ACT OF 2003."

May 15, 2003

Mr. Chairman, it is a pleasure for me to be here this morning to present the views of the Department of Justice on H.R. 1115, the "Class Action Fairness Act of 2003." The Department of Justice supports this bill, which is nearly identical to H.R. 2341 passed by the House of Representatives in the 107th Congress, also with our strong support. Mr. Chairman, we appreciate your leadership on this important legislation, and the leadership of the bill's bi-partisan group of sponsors.

Let me emphasize at the outset that the problem is not the class action device itself. If that were the case, then we could simply repeal Rule 23 and all go home. Everyone recognizes that class actions can serve a very important goal. As one former Solicitor General has stated, "their true purpose is noble – to vindicate the rights of large groups of individuals who sought justice for civil rights violations and other wrongs, but who could not achieve such justice individually."

Class action abuses, however, have taken a toll on our legal system. All too often, class actions represent a lawyer's rush to the courthouse in order to select the most favorable State forum before duplicative actions purporting to represent the same victims with the same claims are filed in other States. In essence, it becomes a race to the courthouse for the attorneys to see who among them can file and then settle his or her case the fastest and thereby collect attorney's fees. The losers in this race are the consumers who often gain little or nothing through the settlement, yet are bound in perpetuity.

As explained by committees of the Judicial Conference, overlapping and duplicative class actions in federal and state courts threaten the resolution and settlement of such actions on terms that are fair to victims, burden both plaintiffs and defendants with the expenses of multiple litigation of the same issues, and place conscientious class counsel at a potential disadvantage. Certainly we can all agree that consumers such as Bank of Boston account holders do not benefit when plaintiffs are each awarded $8.76, but then each must pay $90 to the attorneys who purportedly brought the action on their behalf. The goal of class action reform, then, must be to stop the abuses which have frustrated the class action device's noble purpose.

The Class Action Fairness Act of 2003 contains three distinct, but necessary components: (1) a "Consumer Class Action Bill of Rights" which addresses the administration of class actions in Federal courts, which have been collectively dubbed (2) expanded federal diversity jurisdiction to ensure that class actions with national implications can be heard in federal courts;

REV_00166831

and (3) expedited appellate review of decisions whether to certify a class. I would like to briefly address each in turn.

Consumer Class Action Bill of Rights

Section 3 of H.R. 1115, entitled the "Class Action Bill of Rights and Improved Procedures for Interstate Class Actions," would establish long needed protections for consumers whose rights are often adjudicated by lawyers not of their choosing in fora with which they have no connection, and where settlements are, in practical effect, imposed on those consumers. Too often victims receive notices of class action settlement proposals that are too confusing to provide any meaningful information about the proposed settlement. This section appropriately would guard against settlements that were unreasonable or even harmful to individual class members by providing for thorough review by the courts. To ensure that victims receive adequate information, this section would require settlement notices be in plain English and in a standardized, easy-to-read format.

Federal Court Jurisdiction for National Class Actions

In addition to the problem of duplicative class actions being filed in numerous states, certain local courthouses have become known for particularly generous awards. The threat of these large awards often coerces defendants to agree to disproportionately high settlement amounts. Often, these tiny jurisdictions are the first to adjudicate a class action claim and impose their laws on class members from other States and on those States themselves, where similar actions may be pending. Such interstate litigation is exactly why the Founders created diversity jurisdiction: to provide a Federal forum preventing bias against out-of-State defendants and out-of-State plaintiffs.

H.R. 1115 would close the gap in diversity jurisdiction that has resulted from the interpretation and application of diversity and jurisdictional amount requirements in the unique class action world. The bill would prevent attorneys from avoiding removal through artful pleading that eliminates full diversity or minimizes the claimed damages of the individual class members – actions that fail to serve the victims and prejudice the defendants. Specifically, sections 4 and 5 of H.R.1115 provide much needed amendments to Federal diversity jurisdiction by relaxing the "complete diversity" rule. The Act would permit, but not require, removal by any class member and any defendant, so long as there is "minimal diversity," the aggregate amount in controversy exceeds $2 million, and the lawsuit is not primarily intra-state in nature.

Importantly, H.R. 1115 also contains an anti-circumvention measure. Section 4 provides that – regardless of the label placed on a lawsuit by the State court – an action will be "deemed" a class action if: (1) the named plaintiff (exclusive of a State attorney general) purports to act for the interests of its members who are not named parties to the action; or (2) the monetary relief claims of 100 or more other persons are proposed to be tried jointly in the action on the grounds the claims involve common questions of law or fact. This definition would appropriately encompass "private attorney general suits" in which an individual seeks to recover on behalf of the general public, as well as "mass actions" brought on behalf of plaintiffs who claim that their suits present common questions of law or fact that should be resolved in a single proceeding.

REV_00166832

The Department fully supports these changes to Federal diversity jurisdiction and removal procedures, which recognize the Federal interest in significant class action litigation that truly involves multiple interstate plaintiffs and defendants. In addition, providing for consistent and uniform Federal adjudication of these claims will protect each State and its citizens from other State courts' legal rulings from which there is no recourse.

Prior witnesses before this committee have described the multi-billion dollar judgment awarded in Madison County, Illinois against State Farm Insurance for repairing automobiles with "aftermarket parts" as distinguished from original manufacturers' parts. That decision applied Illinois law to plaintiffs in all 50 states, even though such a ruling was contrary to state insurance regulations in New York, Massachusetts, and Hawaii among other places. The State Farm case is not an isolated example. Right now, for instance, we are following with interest a case in Oklahoma where a nationwide class has been certified against DaimlerChrylser Corporation. The Oklahoma courts plan to apply Michigan law to adjudicate, on behalf of residents of all 50 states, claims that Chrysler should not have installed certain airbags that comply with federal safety standards.

Expansion of Federal diversity jurisdiction, of course, will shift some state class actions to the Federal courts. However, Federal courts have significant interests in cases that involve interstate commerce and parties from many States, and federal adjudication avoids costly and inefficient duplication in State courts. The Constitution's provision for diversity jurisdiction was intended to prevent just the sort of local biases that have resulted from State court class actions that often award higher settlements to in-State victims and award excessive damages against out-of-State defendants. The unique circumstances of class actions, a modern phenomenon, have outstripped the original conception of 28 U.S.C. § 1332, when that provision was initially enacted.

Interlocutory Appeal of Class Certification Decision

Because a district court's decision whether to certify a class often is decisive — a decision to certify may place insurmountable pressure on the defendant to settle, while a refusal to certify may force the plaintiffs to abandon their claims — the bill permits immediate appeal of certification decisions as a matter of right. Immediate appeals of certification decisions can be crucial to efficient management of class actions, preventing the nightmare situation where parties engage in years of expensive litigation under a ruling on the class certification, only to have the appeals court reverse the class certification determination. Contrary to concerns voiced about previous legislative proposals, H.R. 1115 would not encourage or permit the destruction of documents or other evidence during the appeal of the certification decision. On the contrary, discovery would be stayed under this section unless the court finds that specific discovery is necessary to preserve evidence or to prevent undue prejudice.

Conclusion

REV_00166833

In sum, H.R. 1115 is an important step in returning common sense to the nation's class action system and providing greater protections for the victims the system originally was designed to benefit. The bill would update diversity jurisdiction appropriately to account for class action litigation, while permitting State court actions to proceed in cases where no party sought removal and in specified circumstances such as where the class is relatively small or where the primary plaintiffs and defendants are within the State. Thus, State courts would be able to offer redress and provide a convenient forum for their citizens, while Federal courts would provide a forum for truly interstate class actions.

Thank you for this opportunity to present our views. We greatly appreciate your efforts in support of meaningful class action reform. I would be pleased to answer any questions that the Committee may have on this subject.

REV_00166834

From:	Brian.A.Benczkowski@usdoj.gov
To:	Daryl L. Joseffer/OMB/EOP@EOP [OMB] <Daryl L. Joseffer>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Wendy J. Grubbs/WHO/EOP@EOP [WHO] <Wendy J. Grubbs>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>
CC:	Jamie.E.Brown@usdoj.gov <Jamie.E.Brown@usdoj.gov>;Marc.Kesselman2@usdoj.gov <Marc.Kesselman2@usdoj.gov>;Viet.Dinh@usdoj.gov <Viet.Dinh@usdoj.gov>;Adam.Charnes@usdoj.gov <Adam.Charnes@usdoj.gov>
Sent:	5/13/2003 3:33:35 PM
Subject:	: RE: Class Action Testimony
Attachments:	P_R17EG003_OPD.TXT_1.wpd

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Brian.A.Benczkowski@usdoj.gov" <Brian.A.Benczkowski@usdoj.gov> (
"Brian.A.Benczkowski@usdoj.gov" <Brian.A.Benczkowski@usdoj.gov> [ UNKNOWN ] )
CREATION DATE/TIME:13-MAY-2003 19:33:35.00
SUBJECT:: RE: Class Action Testimony
TO:Daryl L. Joseffer ( CN=Daryl L. Joseffer/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Wendy J. Grubbs ( CN=Wendy J. Grubbs/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
CC:"Jamie.E.Brown@usdoj.gov" <Jamie.E.Brown@usdoj.gov> ( "Jamie.E.Brown@usdoj.gov"
<Jamie.E.Brown@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
CC:"Marc.Kesselman2@usdoj.gov" <Marc.Kesselman2@usdoj.gov> ( "Marc.Kesselman2@usdoj.gov"
<Marc.Kesselman2@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
CC:"Viet.Dinh@usdoj.gov" <Viet.Dinh@usdoj.gov> ( "Viet.Dinh@usdoj.gov"
<Viet.Dinh@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
CC:"Adam.Charnes@usdoj.gov" <Adam.Charnes@usdoj.gov> ( "Adam.Charnes@usdoj.gov"
<Adam.Charnes@usdoj.gov> [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

All-

Attached please find Viet's draft testimony for Thursday's hearing. This
has cleared the Department, and is on its way through the OMB process.
Wanted you all to have a bootleg copy of the latest and ask again for your
help in getting this cleared by late tomorrow morning for transmission to
the Hill.

Best,

BAB

Brian A. Benczkowski
Staff Director and Senior Counsel
Office of Legal Policy
United States Department of Justice
950 Pennsylvania Ave., NW
Room 4228
Washington, DC 20530
Telephone: (202) 616-2004
Fax: (202) 514-1685
E-mail: Brian.A.Benczkowski@usdoj.gov
```

-----Original Message-----
From: Dinh, Viet
Sent: Monday, May 12, 2003 2:40 PM
To: 'Diana_L._Schacht@opd.eop.gov'; 'Kavanaugh, Brett';
'Jennifer_G._Newstead@who.eop.gov'; 'Daryl_L._Joseffer@omb.eop.gov';
'wgrubbs@who.eop.gov'
Cc: Wilson, Karen L; Benczkowski, Brian A; Charnes, Adam;
Kesselman, Marc (OLP)
Subject: Class Action Testimony

Y'all,

Just got word that House Judiciary wants me to testify on class action reform on Thursday. This is easy, as we have a previously cleared letter of support for the bill in the 107th, and we will base the testimony on that letter. Just wanted to give you a heads up and ask for you help in clearing the testimony (going to OMB tomorrow morning) by Wednesday morning. thanks,

viet
- house.judiciary.classaction.5-15-03.FINAL.wpd
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_R17EG003_OPD.TXT_1>

TESTIMONY OF THE HONORABLE VIET D. DINH,
ASSISTANT ATTORNEY GENERAL, OFFICE OF LEGAL POLICY,
BEFORE THE JUDICIARY COMMITTEE
OF THE UNITED STATES HOUSE OF REPRESENTATIVES
ON THE "CLASS ACTION FAIRNESS ACT OF 2003."

May 15, 2003

Mr. Chairman, it is a pleasure for me to be here this morning to present the views of the Department of Justice on H.R. 1115, the "Class Action Fairness Act of 2003." The Department of Justice supports this bill, which is nearly identical to H.R. 2341 passed by the House of Representatives in the 107th Congress, also with our strong support. Mr. Chairman, we appreciate your leadership on this important legislation, and the leadership of the bill's bi-partisan group of sponsors.

Let me emphasize at the outset that the problem is not the class action device itself. If that were the case, then we could simply repeal Rule 23 and all go home. Everyone recognizes that class actions can serve a very important goal. As one former Solicitor General has stated, "their true purpose is noble – to vindicate the rights of large groups of individuals who sought justice for civil rights violations and other wrongs, but who could not achieve such justice individually."

Class action abuses, however, have taken a toll on our legal system. All too often, class actions represent a lawyer's rush to the courthouse in order to select the most favorable State forum before duplicative actions purporting to represent the same victims with the same claims are filed in other States. In essence, it becomes a race to the courthouse for the attorneys to see who among them can file and then settle his or her case the fastest and thereby collect attorney's fees. The losers in this race are the consumers who often gain little or nothing through the settlement, yet are bound in perpetuity.

As explained by committees of the Judicial Conference, overlapping and duplicative class actions in federal and state courts threaten the resolution and settlement of such actions on terms that are fair to victims, burden both plaintiffs and defendants with the expenses of multiple litigation of the same issues, and place conscientious class counsel at a potential disadvantage. Certainly we can all agree that consumers such as Bank of Boston account holders do not benefit when plaintiffs are each awarded $8.76, but then each must pay $90 to the attorneys who purportedly brought the action on their behalf. The goal of class action reform, then, must be to stop the abuses which have frustrated the class action device's noble purpose.

The Class Action Fairness Act of 2003 contains three distinct, but necessary components: (1) a "Consumer Class Action Bill of Rights" which addresses the administration of class actions in Federal courts, which have been collectively dubbed (2) expanded federal diversity jurisdiction to ensure that class actions with national implications can be heard in federal courts;

REV_00166837

and (3) expedited appellate review of decisions whether to certify a class. I would like to briefly address each in turn.

Consumer Class Action Bill of Rights

Section 3 of H.R. 1115, entitled the "Class Action Bill of Rights and Improved Procedures for Interstate Class Actions," would establish long needed protections for consumers whose rights are often adjudicated by lawyers not of their choosing in fora with which they have no connection, and where settlements are, in practical effect, imposed on those consumers. Too often victims receive notices of class action settlement proposals that are too confusing to provide any meaningful information about the proposed settlement. This section appropriately would guard against settlements that were unreasonable or even harmful to individual class members by providing for thorough review by the courts. To ensure that victims receive adequate information, this section would require settlement notices be in plain English and in a standardized, easy-to-read format.

Federal Court Jurisdiction for National Class Actions

In addition to the problem of duplicative class actions being filed in numerous states, certain local courthouses have become known for particularly generous awards. The threat of these large awards often coerces defendants to agree to disproportionately high settlement amounts. Often, these tiny jurisdictions are the first to adjudicate a class action claim and impose their laws on class members from other States and on those States themselves, where similar actions may be pending. Such interstate litigation is exactly why the Founders created diversity jurisdiction: to provide a Federal forum preventing bias against out-of-State defendants and out-of-State plaintiffs.

H.R. 1115 would close the gap in diversity jurisdiction that has resulted from the interpretation and application of diversity and jurisdictional amount requirements in the unique class action world. The bill would prevent attorneys from avoiding removal through artful pleading that eliminates full diversity or minimizes the claimed damages of the individual class members – actions that fail to serve the victims and prejudice the defendants. Specifically, sections 4 and 5 of H.R.1115 provide much needed amendments to Federal diversity jurisdiction by relaxing the "complete diversity" rule. The Act would permit, but not require, removal by any class member and any defendant, so long as there is "minimal diversity," the aggregate amount in controversy exceeds $2 million, and the lawsuit is not primarily intra-state in nature.

Importantly, H.R. 1115 also contains an anti-circumvention measure. Section 4 provides that – regardless of the label placed on a lawsuit by the State court – an action will be "deemed" a class action if: (1) the named plaintiff (exclusive of a State attorney general) purports to act for the interests of its members who are not named parties to the action; or (2) the monetary relief claims of 100 or more other persons are proposed to be tried jointly in the action on the grounds the claims involve common questions of law or fact. This definition would appropriately encompass "private attorney general suits" in which an individual seeks to recover on behalf of the general public, as well as "mass actions" brought on behalf of plaintiffs who claim that their suits present common questions of law or fact that should be resolved in a single proceeding.

REV_00166838

The Department fully supports these changes to Federal diversity jurisdiction and removal procedures, which recognize the Federal interest in significant class action litigation that truly involves multiple interstate plaintiffs and defendants. In addition, providing for consistent and uniform Federal adjudication of these claims will protect each State and its citizens from other State courts' legal rulings from which there is no recourse.

Prior witnesses before this committee have described the multi-billion dollar judgment awarded in Madison County, Illinois against State Farm Insurance for repairing automobiles with "aftermarket parts" as distinguished from original manufacturers' parts. That decision applied Illinois law to plaintiffs in all 50 states, even though such a ruling was contrary to state insurance regulations in New York, Massachusetts, and Hawaii among other places. The State Farm case is not an isolated example. Right now, for instance, we are following with interest a case in Oklahoma where a nationwide class has been certified against DaimlerChrylser Corporation. The Oklahoma courts plan to apply Michigan law to adjudicate, on behalf of residents of all 50 states, claims that Chrysler should not have installed certain airbags that comply with federal safety standards.

Expansion of Federal diversity jurisdiction, of course, will shift some state class actions to the Federal courts. However, Federal courts have significant interests in cases that involve interstate commerce and parties from many States, and federal adjudication avoids costly and inefficient duplication in State courts. The Constitution's provision for diversity jurisdiction was intended to prevent just the sort of local biases that have resulted from State court class actions that often award higher settlements to in-State victims and award excessive damages against out-of-State defendants. The unique circumstances of class actions, a modern phenomenon, have outstripped the original conception of 28 U.S.C. § 1332, when that provision was initially enacted.

Interlocutory Appeal of Class Certification Decision

Because a district court's decision whether to certify a class often is decisive — a decision to certify may place insurmountable pressure on the defendant to settle, while a refusal to certify may force the plaintiffs to abandon their claims — the bill permits immediate appeal of certification decisions as a matter of right. Immediate appeals of certification decisions can be crucial to efficient management of class actions, preventing the nightmare situation where parties engage in years of expensive litigation under a ruling on the class certification, only to have the appeals court reverse the class certification determination. Contrary to concerns voiced about previous legislative proposals, H.R. 1115 would not encourage or permit the destruction of documents or other evidence during the appeal of the certification decision. On the contrary, discovery would be stayed under this section unless the court finds that specific discovery is necessary to preserve evidence or to prevent undue prejudice.

Conclusion

REV_00166839

In sum, H.R. 1115 is an important step in returning common sense to the nation's class action system and providing greater protections for the victims the system originally was designed to benefit. The bill would update diversity jurisdiction appropriately to account for class action litigation, while permitting State court actions to proceed in cases where no party sought removal and in specified circumstances such as where the class is relatively small or where the primary plaintiffs and defendants are within the State. Thus, State courts would be able to offer redress and provide a convenient forum for their citizens, while Federal courts would provide a forum for truly interstate class actions.

Thank you for this opportunity to present our views. We greatly appreciate your efforts in support of meaningful class action reform. I would be pleased to answer any questions that the Committee may have on this subject.

REV_00166840

From: FindLaw.com <listadmin@LEGALMINDS.ORG>
To: TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN] <TOPHEADLINES@LEGALMINDS.ORG>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 5/13/2003 3:55:05 PM
Subject: : [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Tue., May 13, 2003

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"FindLaw.com" <listadmin@LEGALMINDS.ORG> ("FindLaw.com" <listadmin@LEGALMINDS.ORG> [UNKNOWN])
CREATION DATE/TIME:13-MAY-2003 19:55:05.00
SUBJECT:: [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Tue., May 13, 2003
TO:TOPHEADLINES@LEGALMINDS.ORG (TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

FINDLAW Tue, May 13, 2003

TOP LEGAL NEWS HEADLINES

For all of the day's legal news go to: http://news.findlaw.com

****

Want to work full time and still attend Law School?

Concord Law School, the nation's first online law school, offers Juris Doctor and Executive JD(SM) degrees entirely online. The programs offer excellent course instruction combined with maximum flexibility, specifically designed to fit into today's demanding lifestyles. Coursework is 100% online and is available 24 hours a day, 7 days a week. http://rd.findlaw.com/scripts/nl.pl?url=10516860002_nl

****

POLITICS

U.S. Expels 14 Cuban Diplomats
http://news.findlaw.com/news/s/20030513/cubausaexpulsionsdc.html

Over 50 Texas Democrats Remain On The Lam
http://news.findlaw.com/ap/o/1110/5-13-2003/20030513101502_04.html

LEGAL COMMENTARY

Trivializing Terrorism: Politics And How The US Designates Certain Groups As "Terrorist"
http://writ.news.findlaw.com/mariner/20030513.html

Forgiving The "Odious Debt" Of Leaders Like Saddam
http://writ.news.findlaw.com/commentary/20030513_raghunath.html

CIVIL RIGHTS

Vouchers' Death In La. Blamed On Election
http://news.findlaw.com/ap/a/p/1130/5-13-2003/20030513010011_4.html

Racist Graffiti Strikes Mayoral Election
http://news.findlaw.com/ap/o/1110/5-13-2003/20030513043001_06.html

PERSONAL INJURY
Paint Companies Agree To Lead Warnings
http://news.findlaw.com/ap/f/1310/5-13-2003/20030513021501_04.html

$16M Awarded In Candy-Choking Death Suit
http://news.findlaw.com/ap/o/1110/5-13-2003/20030513041501_19.html

LABOR AND EMPLOYMENT
U.S. Foodservice Boss Quits Amid Scandal
http://news.findlaw.com/business/s/20030513/retailaholdfoodservicedc.html

TOBACCO
Philip Morris Asks Court For Bond Limits
http://news.findlaw.com/business/s/20030513/tobaccophilipmorrisdc.html

BUSINESS
FCC Proposal Eases Media Ownership Rules
http://news.findlaw.com/ap/f/1310/5-13-2003/20030513064502_05.html

U.S. May File Suit Over EU Biotech Ban
http://news.findlaw.com/ap/a/w/1151/5-13-2003/20030513000005_27.html

INTELLECTUAL PROPERTY
Appeals Court Lets Rosa Parks Challenge Rap Group
http://news.findlaw.com/entertainment/s/20030512/leisureparksdc.html

INTERNATIONAL LAW
EU Court Rules Against Two Governments
http://news.findlaw.com/ap/f/1310/5-13-2003/20030513054500_01.html

Lawyer: Alleged U.K. Spy Was Never Mole
http://news.findlaw.com/ap/i/1103/5-13-2003/20030513080010_05.html

WAR ON TERRORISM
FBI Team To Aid In Saudi Bombings Probe
http://news.findlaw.com/ap/a/w/1152/5-13-2003/20030513073002_37.html

Al-Qaida Operative Warned Of Attacks
http://news.findlaw.com/ap/i/1107/5-13-2003/20030513100006_14.html

IRAQ
General: U.S. Finds Another Iraq Germ-Weapon Lab
http://news.findlaw.com/news/s/20030513/iraqusalaboratorydc.html

France Poses Conditions In UN Iraq Sanctions Issue
http://news.findlaw.com/politics/s/20030513/iraqunresolutiondc.html

CRIME & TRIALS
Slain Children Case May See Yates Defense
http://news.findlaw.com/ap/o/1110/5-13-2003/20030513010011_5.html

Man Held Without Bond In Ohio Rampage
http://news.findlaw.com/ap/o/1110/5-13-2003/20030513073001_19.html

ENTERTAINMENT
Senators to Fight Easing Of Cap On TV Audience
http://news.findlaw.com/politics/s/20030513/mediafcccongressdc.html

Sandra Bullock Seeks Restraint on Alleged Stalker

http://news.findlaw.com/entertainment/s/20030513/peoplebullockdc.html

SPORTS
Baseball PAC Gives Thousands To Parties
http://news.findlaw.com/ap/a/p/1130/5-13-2003/20030513100006_12.html

Sonics' Forte Accused Of Punching Man
http://news.findlaw.com/ap/s/2030/5-13-2003/20030513084501_01.html

****

Torri's Legal Services
"Quality Legal Services Based on Confidence, Trust and Results"
We specialize in Service of Process, Document Retrieval, International and Nationwide Service, Rush Service, Court Filings and the Hard to Serve. TLS is known for our personalized service. Our offices are fully staffed and have years of experience. Please contact us at (800)990-SERV (7378) or visit us on the Web at
http://rd.findlaw.com/scripts/nl.pl?url=10285308004_nl

** West LegalEdcenter *******

Receive updates about NEW ONLINE CLE PROGRAMS

Register with West LegalEdcenter for monthly email updates about new online CLE programs in your practice areas and jurisdictions. West LegalEdcenter currently has more than 1,400 courses, with more added daily!

http://rd.findlaw.com/scripts/nl.pl?url=gen_cle_010402

** west.thomson.com *********

Come shop over 5,000 law books, legal forms, Westlaw resources, textbooks, and more--right from your desktop.
http://rd.findlaw.com/scripts/nl.pl?url=gen_ads_040102

****

FEEDBACK

We value your comments! Please take a moment to tell us what you think by sending an e-mail to:
mailto:newsletters@findlaw.com?subject=TopHeadlines. Please include "Top Headlines" in the subject line.

SUBSCRIPTION INFORMATION

To subscribe to a FindLaw Newsletter, visit the FindLaw Newsletter Subscription Center at http://newsletters.findlaw.com

To unsubscribe, go to http://newsletters.findlaw.com/unsubscribe.html
---
ADVERTISING INFORMATION

For more information about advertising in FindLaw Newsletters, please contact us at:

mailto:sales@findlaw.com

FindLaw Top Headlines http://news.findlaw.com
Copyright (c) 2003 FindLaw, Inc.

From: CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;David G. Leitch/WHO/EOP@Exchange [WHO] <David G. Leitch>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>
CC: Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>;Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>
Sent: 5/14/2003 6:13:36 AM
Subject: : JSC Prep CANCELLED for today

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:14-MAY-2003 10:13:36.00
SUBJECT:: JSC Prep CANCELLED for today
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
CC:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

The actual meeting will still be in the Judge's Office at 4.
;
Thanks!
```

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>
Sent: 5/14/2003 6:24:57 AM
Subject: : Re: FW: Noon today deadline re: LRM LJM37 - - REVISED JUSTICE Testimony on HR1115 Class Action Fairness Act of 2003
Attachments: P_6DKEG003_WHO.TXT_1.wpd

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:14-MAY-2003 10:24:57.00
SUBJECT:: Re: FW: Noon today deadline re: LRM LJM37 - - REVISED JUSTICE Testimony on HR1115 Class Action Fairness Act of 2003
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

could not open attachment

From: Patrick J. Bumatay/WHO/EOP@Exchange on 05/14/2003 10:22:38 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: FW: Noon today deadline re: LRM LJM37 - - REVISED JUSTICE Testimony on HR1115 Class Action Fairness Act of 2003

-----Original Message-----
From: MacEcevic, Lisa J.
Sent: Wednesday, May 14, 2003 10:16 AM
To: CLRM@doc.gov; llr@do.treas.gov
Cc: Bloomquist, Lauren E.; Boden, James; Schwartz, Kenneth L.; McMillin, Stephen S.; Whgc Lrm; Ovp Lrm; Kupfer, Jeffrey F.; Schacht, Diana L.; Malphrus, Garry; Kavanaugh, Brett M.; Warsh, Kevin; Nec Lrm; Marsh, Robert ; Keniry, Daniel ; Kelly, Kenneth S.; Knuffman, Nathan L.; Ferrandino, Mark S.; Little, Attia; Simms, Pamula L.; Lyon, Randolph M.; Schwartz, Mark J.; Green, Richard E.; Jukes, James J.
Subject: Noon today deadline re: LRM LJM37 - - REVISED JUSTICE Testimony on HR1115 Class Action Fairness Act of 2003

The attached Justice testimony has been revised. Changes from the original statement (circulated under LRM ID: LJM36) are shown in red-line, strikethrough. Please send any comments by noon today - Wednesday 5/14. Again, the testimony is for a hearing tomorrow before the House Judiciary Committee and strongly supports H.R. 1115, which is very similar to H.R. 2341 of the 107th Congress, which the Administration strongly supported. Thank you.

- misc3.wpd

LRM ID: LJM37
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Wednesday, May 14, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution

below
FROM: Richard E. Green (for) Assistant Director for
Legislative Reference
OMB CONTACT: Lisa J. Macecevic
PHONE: (202)395-1092 FAX: (202)395-3109
SUBJECT: REVISED JUSTICE Testimony on HR1115 Class Action Fairness
Act of 2003

DEADLINE: Noon TODAY Wednesday, May 14, 2003
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: The attached Justice testimony has been revised. Changes from the original statement (circulated under LRM ID: LJM36) are shown in red-line, strikethrough. Please send any comments by noon today - Wednesday. Again, the testimony is for a hearing tomorrow before the House Judiciary Committee and strongly supports H.R. 1115, which is very similar to H.R. 2341 of the 107th Congress, which the Administration strongly supported. Thank you.

DISTRIBUTION LIST

AGENCIES:
025-COMMERCE - Michael A. Levitt - (202) 482-3151
118-TREASURY - Thomas M. McGivern - (202) 622-2317

EOP:
Lauren E. Bloomquist
James Boden
Kenneth L. Schwartz
Stephen S. McMillin
WHGC LRM
OVP LRM
Jeffrey F. Kupfer
Diana L. Schacht
Garry Malphrus
Brett M. Kavanaugh
Kevin Warsh
NEC LRM
Robert Marsh
Daniel J. Keniry
Kenneth S. Kelly
Nathan L. Knuffman
Mark S. Ferrandino
Attia Little
Pamula L. Simms
Randolph M. Lyon
Mark J. Schwartz
Richard E. Green
James J. Jukes

LRM ID: LJM37 SUBJECT: REVISED JUSTICE Testimony on HR1115 Class Action Fairness Act of 2003
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) faxing us a memo or letter.

Please include the LRM number and subject shown above.

TO: Lisa J. Macecevic Phone: 395-1092 Fax: 395-3109
Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_6DKEG003_WHO.TXT_1>

WordPerfect Document Compare Summary

Original document: C:\WINNT\Profiles\asilas\Temporary Internet Files\OLK5\house.judiciary.classaction.5-15-03.v30.wpd
Revised document: h:\udd\silasadr\classac19.doc.wpd
Deletions are shown with the following attributes and color:
~~Strikeout~~, Blue RGB(0,0,255).
Deleted text is shown as full text.
Insertions are shown with the following attributes and color:
Redline, (No color code).

The document was marked with 34 Deletions, 35 Insertions, 0 Moves.

Department of Justice

STATEMENT

OF

VIET D. DINH
ASSISTANT ATTORNEY GENERAL
OFFICE OF LEGAL POLICY

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES

CONCERNING

H.R. 1115, THE "CLASS ACTION FAIRNESS ACT OF 2003"

PRESENTED ON

MAY 15, 2003

REV_00166849

TESTIMONY OF VIET D. DINH,
ASSISTANT ATTORNEY GENERAL, OFFICE OF LEGAL POLICY,
BEFORE THE JUDICIARY COMMITTEE
OF THE UNITED STATES HOUSE OF REPRESENTATIVES
ON THE "CLASS ACTION FAIRNESS ACT OF 2003."

May 15, 2003

Mr. Chairman, it is a pleasure for me to be here this morning to present the views of the Department of Justice on H.R. 1115, the "Class Action Fairness Act of 2003." The Department of Justice supports this bill, which is ~~virtually~~nearly identical to H.R. 2341 passed by the House of Representatives in the 107th Congress, also with our strong support. Mr. Chairman, we appreciate your leadership on this important legislation, and the leadership of the bill's bi-partisan group of sponsors.

Let me emphasize at the outset that the problem is not the class action device itself. If that were the case, then we could simply repeal Rule 23 and all go home. Everyone recognizes that class actions can serve a very important goal. As one former Solicitor General has stated, "their true purpose is noble – to vindicate the rights of large groups of individuals who sought justice for civil rights violations and other wrongs, but who could not achieve such justice individually."

Class action abuses, however, have taken a toll on our legal system. All too often, class actions represent a lawyer's rush to the courthouse in order to select the most favorable State forum before duplicative actions purporting to represent the same ~~class~~victims with the same claims are filed in other States. In essence, it becomes a race to the courthouse for the attorneys to see who among them can file and then settle his or her case the fastest and thereby collect ~~millions in~~ attorney's fees. The losers in this race are the ~~class members~~consumers who often gain little or nothing through the settlement, yet are bound in perpetuity.

As explained by committees of the Judicial Conference, overlapping and duplicative class actions in federal and state courts threaten the resolution and settlement of such actions on terms that are fair to victims, burden both plaintiffs and defendants with the expenses of multiple litigation of the same issues, and place conscientious class counsel at a potential disadvantage. Certainly we can all agree that consumers such as Bank of Boston account holders do not benefit when plaintiffs are each awarded $8.76, but then each must pay $90 to the attorneys who purportedly brought the action on their behalf. The goal of class action reform, then, must be to stop the abuses which have frustrated the class action device's noble purpose.

The Class Action Fairness Act of 2003 contains three distinct, but necessary components: (1) a ~~number~~"Consumer Class Action Bill of ~~provisions relating to~~Rights" which addresses the

REV_00166850

administration of class actions in Federal courts, which have been collectively dubbed ~~a "Consumer Class Action Bill of Rights;"~~ (2) expanded federal ~~court~~ diversity jurisdiction to ensure that class actions with national implications can be heard in federal courts; and (3) expedited appellate review of ~~class certification decision~~decisions whether to certify a class. I would like to briefly address each in turn.

Consumer Class Action Bill of Rights

Section 3 of H.R. 1115, entitled the "Class Action Bill of Rights and Improved Procedures for Interstate Class Actions," would establish long needed protections for ~~class members~~consumers whose rights are often adjudicated by lawyers not of their choosing in fora with which ~~the class members~~they have no connection, and where settlements are, in practical effect, imposed on ~~class members~~those consumers. Too often ~~class members~~victims receive notices of class action settlement proposals that are too confusing to provide any meaningful information about the proposed settlement. This section appropriately would guard against settlements that were unreasonable or even harmful to individual class members by providing for thorough review by the courts. To ensure that ~~class members~~victims receive adequate information, this section would require settlement notices ~~provided to class members to~~ be in plain English and in a standardized, easy-to-read format.

Federal Court Jurisdiction for National Class Actions

In addition to the problem of duplicative class actions being filed in numerous states, certain local courthouses have become known for particularly generous awards. The threat of these large awards often coerces defendants to agree to disproportionately high settlement amounts. Often, these tiny jurisdictions are the first to adjudicate a class action claim and impose their laws on class members from other States and on those States themselves, where similar actions may be pending. Such interstate litigation is exactly why the Founders created diversity jurisdiction: to provide a Federal forum preventing bias against out-of-State defendants and out-of-State ~~plaintiff class members~~plaintiffs.

H.R. 1115 would close the gap in diversity jurisdiction that has resulted from the interpretation and application of diversity and jurisdictional amount requirements in the unique class action world. The bill would prevent attorneys from avoiding removal through artful pleading that eliminates full diversity or minimizes the claimed damages of the individual class members – actions that fail to serve the ~~plaintiff class~~victims and prejudice the defendants. Specifically, sections 4 and 5 of H.R.1115 provide much needed amendments to Federal diversity jurisdiction by relaxing the "complete diversity" rule. The Act would permit, but not require, removal by any class member and any defendant, so long as there is "minimal diversity," the aggregate amount in controversy exceeds $2 million, and the lawsuit is not primarily intra-state in nature.

Importantly, H.R. 1115 also contains an anti-circumvention measure. Section 4 provides that – regardless of the label placed on a lawsuit by the State court – an action will be "deemed"

REV_00166851

a class action if: (1) the named plaintiff (exclusive of a State attorney general) purports to act for the interests of its members who are not named parties to the action; or (2) the monetary relief claims of 100 or more other persons are proposed to be tried jointly in the action on the grounds the claims involve common questions of law or fact. This definition would appropriately encompass "private attorney general suits" in which an individual seeks to recover on behalf of the general public, as well as "mass actions" brought on behalf of plaintiffs who claim that their suits present common questions of law or fact that should be resolved in a single proceeding.

The Department fully supports these changes to Federal diversity jurisdiction and removal procedures, which recognize the Federal interest in significant class action litigation that truly involves multiple interstate plaintiffs and defendants. In addition, providing for consistent and uniform Federal adjudication of these claims will protect each State and its citizens from other State courts' legal rulings from which there is no recourse.

Prior witnesses before this committee have described the multi-billion dollar judgment awarded in Madison County, Illinois against State Farm Insurance for repairing automobiles with "aftermarket parts" as distinguished from original manufacturers' parts. That decision applied Illinois law to plaintiffs in all 50 states, even though such a ruling was contrary to state insurance regulations in New York, Massachusetts, and Hawaii among other places. The State Farm case is not an isolated example. Right now, for instance, we are following with interest a case in Oklahoma where a nationwide class has been certified against DaimlerChrylser Corporation. The Oklahoma courts plan to apply Michigan law to adjudicate, on behalf of residents of all 50 states, claims that Chrysler should not have installed certain airbags that comply with federal safety standards.

~~Opponents of class action reform similar to H.R. 1115, incorrectly assert that the~~ eExpansion of Federal diversity jurisdiction ~~infringes on State courts and will result in a flood of class action litigation in~~, of course, will shift some state class actions to the Federal courts. ~~Such criticism overlooks both the valid interest~~However, Federal courts have significant interests in cases that involve interstate commerce and parties from many States, a~~s well as the inefficiency that~~nd federal adjudication avoids costly and inefficient duplication in State courts ~~causes in the current system~~. The Constitution's provision for diversity jurisdiction was intended to prevent just the sort of local biases that have resulted from State court class actions that often award higher settlements to in-State ~~class members~~victims and award ~~unsupportable~~excessive damages against out-of-State defendants. The unique circumstances of class actions, a modern phenomenon, ~~could not have been foreseen when~~outstripped the original conception of 28 U.S.C. § 1332, when that provision was initially enacted.

Interlocutory Appeal of Class Certification Decision

Because ~~the~~a district court's ~~certification~~ decision whether to certify a class often is decisive — a decision to certify may place insurmountable pressure on the defendant to settle, while a refusal to certify may force the plaintiffs to abandon their claims — the bill permits immediate appeal of certification decisions as a matter of right. Immediate appeals of certification decisions can be crucial to efficient management of class actions, preventing the

REV_00166852

nightmare situation where parties engage in years of expensive litigation under a ruling on the class certification, only to have the appeals court reverse the class certification determination. Contrary to concerns voiced about previous legislative proposals, H.R. 1115 would not encourage or permit the destruction of documents or other evidence during the appeal of the certification decision. On the contrary, discovery would be stayed under this section unless the court finds that specific discovery is necessary to preserve evidence or to prevent undue prejudice.

Conclusion

In sum, H.R. 1115 is an important step in ~~reforming class action litigation. It~~returning common sense to the nation's class action system and providing greater protections for the victims the system originally was designed to benefit. The bill would update diversity jurisdiction appropriately to account for class action litigation, while permitting State court actions to proceed in cases where no party sought removal and in specified circumstances such as where the class is relatively small or where the primary plaintiffs and defendants are within the State. Thus, State courts would be able to offer redress and provide a convenient forum for their citizens, while Federal courts would provide a forum for truly interstate class actions.

Thank you for this opportunity to present our views. We greatly appreciate your efforts in support of meaningful class action reform. I would be pleased to answer any questions that the Committee may have on this subject.

REV_00166853

From: CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO]
To: H. Bryan Cunningham/NSC/EOP@EOP [NSC] <H. Bryan Cunningham>;Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;Theodore W. Ullyot/WHO /EOP@EOP [WHO] <Theodore W. Ullyot>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: David G. Leitch/WHO/EOP@Exchange@EOP [WHO] <David G. Leitch>
Sent: 5/14/2003 9:23:39 AM
Subject: : Total Information Awareness report

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:14-MAY-2003 13:23:39.00
SUBJECT:: Total Information Awareness report
TO:H. Bryan Cunningham ( CN=H. Bryan Cunningham/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Is anyone working on the above subject -- DOJ called about a report they
are preparing for transmittal (I believe to the Hill) on a report which is
a joint DOJ-DOD-CIA project.

Thanks
```

From:	Nelson, Carolyn
To:	<Bartolomucci, H. Christopher>;<Ullyot, Theodore W.>;<Leitch, David G.>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>; <Brosnahan, Jennifer R.>
CC:	<Montiel, Charlotte L.>;<Bumatay, Patrick J.>
Sent:	5/14/2003 10:11:57 AM
Subject:	JSC Prep CANCELLED for today

The actual meeting will still be in the Judge's Office at 4.

Thanks!

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/14/2003 6:22:26 AM
Subject: : FW: Noon today deadline re: LRM LJM37 - - REVISED JUSTICE Testimony on HR1115 Class Action Fairness Act of 2003
Attachments: P_H4KEG003_WHO.TXT_1.wpd

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:14-MAY-2003 10:22:26.00
SUBJECT:: FW: Noon today deadline re: LRM LJM37 - - REVISED JUSTICE Testimony on HR1115 Class Action Fairness Act of 2003
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

-----Original Message-----
From: MacEcevic, Lisa J.
Sent: Wednesday, May 14, 2003 10:16 AM
To: CLRM@doc.gov; llr@do.treas.gov
Cc: Bloomquist, Lauren E.; Boden, James; Schwartz, Kenneth L.; McMillin, Stephen S.; Whgc Lrm; Ovp Lrm; Kupfer, Jeffrey F.; Schacht, Diana L.; Malphrus, Garry; Kavanaugh, Brett M.; Warsh, Kevin; Nec Lrm; Marsh, Robert ; Keniry, Daniel ; Kelly, Kenneth S.; Knuffman, Nathan L.; Ferrandino, Mark S.; Little, Attia; Simms, Pamula L.; Lyon, Randolph M.; Schwartz, Mark J.; Green, Richard E.; Jukes, James J.
Subject: Noon today deadline re: LRM LJM37 - - REVISED JUSTICE Testimony on HR1115 Class Action Fairness Act of 2003

The attached Justice testimony has been revised. Changes from the original statement (circulated under LRM ID: LJM36) are shown in red-line, strikethrough. Please send any comments by noon today - Wednesday 5/14. Again, the testimony is for a hearing tomorrow before the House Judiciary Committee and strongly supports H.R. 1115, which is very similar to H.R. 2341 of the 107th Congress, which the Administration strongly supported. Thank you.

- misc3.wpd

LRM ID: LJM37
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Wednesday, May 14, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: Lisa J. Macecevic
PHONE: (202)395-1092 FAX: (202)395-3109
SUBJECT: REVISED JUSTICE Testimony on HR1115 Class Action Fairness Act of 2003

DEADLINE: Noon TODAY Wednesday, May 14, 2003
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: The attached Justice testimony has been revised. Changes from

the original statement (circulated under LRM ID: LJM36) are shown in red-line, strikethrough. Please send any comments by noon today - Wednesday. Again, the testimony is for a hearing tomorrow before the House Judiciary Committee and strongly supports H.R. 1115, which is very similar to H.R. 2341 of the 107th Congress, which the Administration strongly supported. Thank you.

DISTRIBUTION LIST

AGENCIES:
025-COMMERCE - Michael A. Levitt - (202) 482-3151
118-TREASURY - Thomas M. McGivern - (202) 622-2317

EOP:
Lauren E. Bloomquist
James Boden
Kenneth L. Schwartz
Stephen S. McMillin
WHGC LRM
OVP LRM
Jeffrey F. Kupfer
Diana L. Schacht
Garry Malphrus
Brett M. Kavanaugh
Kevin Warsh
NEC LRM
Robert Marsh
Daniel J. Keniry
Kenneth S. Kelly
Nathan L. Knuffman
Mark S. Ferrandino
Attia Little
Pamula L. Simms
Randolph M. Lyon
Mark J. Schwartz
Richard E. Green
James J. Jukes

LRM ID: LJM37 SUBJECT: REVISED JUSTICE Testimony on HR1115 Class Action Fairness Act of 2003
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) faxing us a memo or letter.
Please include the LRM number and subject shown above.

TO: Lisa J. Macecevic Phone: 395-1092 Fax: 395-3109
Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_H4KEG003_WHO.TXT_1>

WordPerfect Document Compare Summary

Original document: C:\WINNT\Profiles\asilas\Temporary Internet Files\OLK5\house.judiciary.classaction.5-15-03.v30.wpd
Revised document: h:\udd\silasadr\classac19.doc.wpd
Deletions are shown with the following attributes and color:
~~Strikeout~~, Blue RGB(0,0,255).
Deleted text is shown as full text.
Insertions are shown with the following attributes and color:
Redline, (No color code).

The document was marked with 34 Deletions, 35 Insertions, 0 Moves.

Department of Justice

STATEMENT

OF

VIET D. DINH
ASSISTANT ATTORNEY GENERAL
OFFICE OF LEGAL POLICY

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES

CONCERNING

H.R. 1115, THE "CLASS ACTION FAIRNESS ACT OF 2003"

PRESENTED ON

MAY 15, 2003

REV_00166894

TESTIMONY OF VIET D. DINH,
ASSISTANT ATTORNEY GENERAL, OFFICE OF LEGAL POLICY,
BEFORE THE JUDICIARY COMMITTEE
OF THE UNITED STATES HOUSE OF REPRESENTATIVES
ON THE "CLASS ACTION FAIRNESS ACT OF 2003."

May 15, 2003

Mr. Chairman, it is a pleasure for me to be here this morning to present the views of the Department of Justice on H.R. 1115, the "Class Action Fairness Act of 2003." The Department of Justice supports this bill, which is ~~virtually~~nearly identical to H.R. 2341 passed by the House of Representatives in the 107th Congress, also with our strong support. Mr. Chairman, we appreciate your leadership on this important legislation, and the leadership of the bill's bi-partisan group of sponsors.

Let me emphasize at the outset that the problem is not the class action device itself. If that were the case, then we could simply repeal Rule 23 and all go home. Everyone recognizes that class actions can serve a very important goal. As one former Solicitor General has stated, "their true purpose is noble – to vindicate the rights of large groups of individuals who sought justice for civil rights violations and other wrongs, but who could not achieve such justice individually."

Class action abuses, however, have taken a toll on our legal system. All too often, class actions represent a lawyer's rush to the courthouse in order to select the most favorable State forum before duplicative actions purporting to represent the same ~~class~~victims with the same claims are filed in other States. In essence, it becomes a race to the courthouse for the attorneys to see who among them can file and then settle his or her case the fastest and thereby collect ~~millions in~~ attorney's fees. The losers in this race are the ~~class members~~consumers who often gain little or nothing through the settlement, yet are bound in perpetuity.

As explained by committees of the Judicial Conference, overlapping and duplicative class actions in federal and state courts threaten the resolution and settlement of such actions on terms that are fair to victims, burden both plaintiffs and defendants with the expenses of multiple litigation of the same issues, and place conscientious class counsel at a potential disadvantage. Certainly we can all agree that consumers such as Bank of Boston account holders do not benefit when plaintiffs are each awarded $8.76, but then each must pay $90 to the attorneys who purportedly brought the action on their behalf. The goal of class action reform, then, must be to stop the abuses which have frustrated the class action device's noble purpose.

The Class Action Fairness Act of 2003 contains three distinct, but necessary components: (1) a ~~number~~"Consumer Class Action Bill of ~~provisions relating to~~Rights" which addresses the

REV_00166895

administration of class actions in Federal courts, which have been collectively dubbed ~~a "Consumer Class Action Bill of Rights;"~~ (2) expanded federal ~~court~~ diversity jurisdiction to ensure that class actions with national implications can be heard in federal courts; and (3) expedited appellate review of ~~class certification decision~~decisions whether to certify a class. I would like to briefly address each in turn.

Consumer Class Action Bill of Rights

Section 3 of H.R. 1115, entitled the "Class Action Bill of Rights and Improved Procedures for Interstate Class Actions," would establish long needed protections for ~~class members~~consumers whose rights are often adjudicated by lawyers not of their choosing in fora with which ~~the class members~~they have no connection, and where settlements are, in practical effect, imposed on ~~class members~~those consumers. Too often ~~class members~~victims receive notices of class action settlement proposals that are too confusing to provide any meaningful information about the proposed settlement. This section appropriately would guard against settlements that were unreasonable or even harmful to individual class members by providing for thorough review by the courts. To ensure that ~~class members~~victims receive adequate information, this section would require settlement notices ~~provided to class members to~~ be in plain English and in a standardized, easy-to-read format.

Federal Court Jurisdiction for National Class Actions

In addition to the problem of duplicative class actions being filed in numerous states, certain local courthouses have become known for particularly generous awards. The threat of these large awards often coerces defendants to agree to disproportionately high settlement amounts. Often, these tiny jurisdictions are the first to adjudicate a class action claim and impose their laws on class members from other States and on those States themselves, where similar actions may be pending. Such interstate litigation is exactly why the Founders created diversity jurisdiction: to provide a Federal forum preventing bias against out-of-State defendants and out-of-State ~~plaintiff class members~~plaintiffs.

H.R. 1115 would close the gap in diversity jurisdiction that has resulted from the interpretation and application of diversity and jurisdictional amount requirements in the unique class action world. The bill would prevent attorneys from avoiding removal through artful pleading that eliminates full diversity or minimizes the claimed damages of the individual class members – actions that fail to serve the ~~plaintiff class~~victims and prejudice the defendants. Specifically, sections 4 and 5 of H.R.1115 provide much needed amendments to Federal diversity jurisdiction by relaxing the "complete diversity" rule. The Act would permit, but not require, removal by any class member and any defendant, so long as there is "minimal diversity," the aggregate amount in controversy exceeds $2 million, and the lawsuit is not primarily intra-state in nature.

Importantly, H.R. 1115 also contains an anti-circumvention measure. Section 4 provides that – regardless of the label placed on a lawsuit by the State court – an action will be "deemed"

REV_00166896

a class action if: (1) the named plaintiff (exclusive of a State attorney general) purports to act for the interests of its members who are not named parties to the action; or (2) the monetary relief claims of 100 or more other persons are proposed to be tried jointly in the action on the grounds the claims involve common questions of law or fact. This definition would appropriately encompass "private attorney general suits" in which an individual seeks to recover on behalf of the general public, as well as "mass actions" brought on behalf of plaintiffs who claim that their suits present common questions of law or fact that should be resolved in a single proceeding.

The Department fully supports these changes to Federal diversity jurisdiction and removal procedures, which recognize the Federal interest in significant class action litigation that truly involves multiple interstate plaintiffs and defendants. In addition, providing for consistent and uniform Federal adjudication of these claims will protect each State and its citizens from other State courts' legal rulings from which there is no recourse.

Prior witnesses before this committee have described the multi-billion dollar judgment awarded in Madison County, Illinois against State Farm Insurance for repairing automobiles with "aftermarket parts" as distinguished from original manufacturers' parts. That decision applied Illinois law to plaintiffs in all 50 states, even though such a ruling was contrary to state insurance regulations in New York, Massachusetts, and Hawaii among other places. The State Farm case is not an isolated example. Right now, for instance, we are following with interest a case in Oklahoma where a nationwide class has been certified against DaimlerChrylser Corporation. The Oklahoma courts plan to apply Michigan law to adjudicate, on behalf of residents of all 50 states, claims that Chrysler should not have installed certain airbags that comply with federal safety standards.

~~Opponents of class action reform similar to H.R. 1115, incorrectly assert that the~~ eExpansion of Federal diversity jurisdiction ~~infringes on State courts and will result in a flood of class action litigation in~~, of course, will shift some state class actions to the Federal courts. ~~Such criticism overlooks both the valid interest~~However, Federal courts have significant interests in cases that involve interstate commerce and parties from many States, a~~s well as the inefficiency that~~nd federal adjudication avoids costly and inefficient duplication in State courts ~~causes in the current system~~. The Constitution's provision for diversity jurisdiction was intended to prevent just the sort of local biases that have resulted from State court class actions that often award higher settlements to in-State ~~class members~~victims and award ~~unsupportable~~excessive damages against out-of-State defendants. The unique circumstances of class actions, a modern phenomenon, ~~could not have been foreseen when~~outstripped the original conception of 28 U.S.C. § 1332, when that provision was initially enacted.

Interlocutory Appeal of Class Certification Decision

Because ~~the~~a district court's ~~certification~~ decision whether to certify a class often is decisive — a decision to certify may place insurmountable pressure on the defendant to settle, while a refusal to certify may force the plaintiffs to abandon their claims — the bill permits immediate appeal of certification decisions as a matter of right. Immediate appeals of certification decisions can be crucial to efficient management of class actions, preventing the

REV_00166897

nightmare situation where parties engage in years of expensive litigation under a ruling on the class certification, only to have the appeals court reverse the class certification determination. Contrary to concerns voiced about previous legislative proposals, H.R. 1115 would not encourage or permit the destruction of documents or other evidence during the appeal of the certification decision. On the contrary, discovery would be stayed under this section unless the court finds that specific discovery is necessary to preserve evidence or to prevent undue prejudice.

Conclusion

In sum, H.R. 1115 is an important step in ~~reforming class action litigation. It~~returning common sense to the nation's class action system and providing greater protections for the victims the system originally was designed to benefit. The bill would update diversity jurisdiction appropriately to account for class action litigation, while permitting State court actions to proceed in cases where no party sought removal and in specified circumstances such as where the class is relatively small or where the primary plaintiffs and defendants are within the State. Thus, State courts would be able to offer redress and provide a convenient forum for their citizens, while Federal courts would provide a forum for truly interstate class actions.

Thank you for this opportunity to present our views. We greatly appreciate your efforts in support of meaningful class action reform. I would be pleased to answer any questions that the Committee may have on this subject.

REV_00166898

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/14/2003 6:36:16 AM
Subject: : RE: FW: Noon today deadline re: LRM LJM37 - - REVISED JUSTICE Testimony on HR1115 Class Action Fairness Act of 2003

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:14-MAY-2003 10:36:16.00
SUBJECT:: RE: FW: Noon today deadline re: LRM LJM37 - - REVISED JUSTICE Testimony on HR1115 Class Action Fairness Act of 2003
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

The blue font represents changes from the previous version.
-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Wednesday, May 14, 2003 10:27 AM
To: Bumatay, Patrick J.
Subject: RE: FW: Noon today deadline re: LRM LJM37 - - REVISED JUSTICE Testimony on HR1115 Class Action Fairness Act of 2003

this came out weird

From: Patrick J. Bumatay/WHO/EOP@Exchange on 05/14/2003 10:26:49 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE: FW: Noon today deadline re: LRM LJM37 - - REVISED JUSTICE Testimony on HR1115 Class Action Fairness Act of 2003

STATEMENT

OF

VIET D. DINH
ASSISTANT ATTORNEY GENERAL
OFFICE OF LEGAL POLICY

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES

CONCERNING

H.R. 1115, THE ACLASS ACTION FAIRNESS ACT OF 2003@

PRESENTED ON

MAY 15, 2003
TESTIMONY OF VIET D. DINH,
ASSISTANT ATTORNEY GENERAL, OFFICE OF LEGAL POLICY,

BEFORE THE JUDICIARY COMMITTEE
OF THE UNITED STATES HOUSE OF REPRESENTATIVES
ON THE ACLASS ACTION FAIRNESS ACT OF 2003.@

May 15, 2003

Mr. Chairman, it is a pleasure for me to be here this morning to present the views of the Department of Justice on H.R. 1115, the AClass Action Fairness Act of 2003.@ The Department of Justice supports this bill, which is virtuallynearly identical to H.R. 2341 passed by the House of Representatives in the 107th Congress, also with our strong support. Mr. Chairman, we appreciate your leadership on this important legislation, and the leadership of the bill=s bi-partisan group of sponsors.

Let me emphasize at the outset that the problem is not the class action device itself. If that were the case, then we could simply repeal Rule 23 and all go home. Everyone recognizes that class actions can serve a very important goal. As one former Solicitor General has stated, Atheir true purpose is noble B to vindicate the rights of large groups of individuals who sought justice for civil rights violations and other wrongs, but who could not achieve such justice individually.@

Class action abuses, however, have taken a toll on our legal system. All too often, class actions represent a lawyer=s rush to the courthouse in order to select the most favorable State forum before duplicative actions purporting to represent the same classvictims with the same claims are filed in other States. In essence, it becomes a race to the courthouse for the attorneys to see who among them can file and then settle his or her case the fastest and thereby collect millions in attorney=s fees. The losers in this race are the class membersconsumers who often gain little or nothing through the settlement, yet are bound in perpetuity.

As explained by committees of the Judicial Conference, overlapping and duplicative class actions in federal and state courts threaten the resolution and settlement of such actions on terms that are fair to victims, burden both plaintiffs and defendants with the expenses of multiple litigation of the same issues, and place conscientious class counsel at a potential disadvantage. Certainly we can all agree that consumers such as Bank of Boston account holders do not benefit when plaintiffs are each awarded $8.76, but then each must pay $90 to the attorneys who purportedly brought the action on their behalf. The goal of class action reform, then, must be to stop the abuses which have frustrated the class action device=s noble purpose.

The Class Action Fairness Act of 2003 contains three distinct, but necessary components: (1) a numberAConsumer Class Action Bill of provisions relating toRights@ which addresses the administration of class actions in Federal courts, which have been collectively dubbed a AConsumer Class Action Bill of Rights;@ (2) expanded federal court diversity jurisdiction to ensure that class actions with national implications can be heard in federal courts; and (3) expedited appellate review of class certification decisiondecisions whether to certify a class. I would like to briefly address each in turn.

Consumer Class Action Bill of Rights

Section 3 of H.R. 1115, entitled the AClass Action Bill of Rights and Improved Procedures for Interstate Class Actions,@ would establish long needed protections for class membersconsumers whose rights are often adjudicated by lawyers not of their choosing in fora with which the class membersthey have no connection, and where settlements are, in practical effect, imposed on class membersthose consumers. Too often class members victims receive notices of class action settlement proposals that are too confusing to provide any meaningful information about the proposed settlement. This section appropriately would guard against settlements

that were unreasonable or even harmful to individual class members by providing for thorough review by the courts. To ensure that class members victims receive adequate information, this section would require settlement notices provided to class members to be in plain English and in a standardized, easy-to-read format.

Federal Court Jurisdiction for National Class Actions

In addition to the problem of duplicative class actions being filed in numerous states, certain local courthouses have become known for particularly generous awards. The threat of these large awards often coerces defendants to agree to disproportionately high settlement amounts. Often, these tiny jurisdictions are the first to adjudicate a class action claim and impose their laws on class members from other States and on those States themselves, where similar actions may be pending. Such interstate litigation is exactly why the Founders created diversity jurisdiction: to provide a Federal forum preventing bias against out-of-State defendants and out-of-State plaintiff class members plaintiffs.

H.R. 1115 would close the gap in diversity jurisdiction that has resulted from the interpretation and application of diversity and jurisdictional amount requirements in the unique class action world. The bill would prevent attorneys from avoiding removal through artful pleading that eliminates full diversity or minimizes the claimed damages of the individual class members B actions that fail to serve the plaintiff class victims and prejudice the defendants. Specifically, sections 4 and 5 of H.R.1115 provide much needed amendments to Federal diversity jurisdiction by relaxing the Acomplete diversity@ rule. The Act would permit, but not require, removal by any class member and any defendant, so long as there is Aminimal diversity,@ the aggregate amount in controversy exceeds $2 million, and the lawsuit is not primarily intra-state in nature.

Importantly, H.R. 1115 also contains an anti-circumvention measure. Section 4 provides that B regardless of the label placed on a lawsuit by the State court B an action will be Adeemed@ a class action if: (1) the named plaintiff (exclusive of a State attorney general) purports to act for the interests of its members who are not named parties to the action; or (2) the monetary relief claims of 100 or more other persons are proposed to be tried jointly in the action on the grounds the claims involve common questions of law or fact. This definition would appropriately encompass Aprivate attorney general suits@ in which an individual seeks to recover on behalf of the general public, as well as A mass actions@ brought on behalf of plaintiffs who claim that their suits present common questions of law or fact that should be resolved in a single proceeding.

The Department fully supports these changes to Federal diversity jurisdiction and removal procedures, which recognize the Federal interest in significant class action litigation that truly involves multiple interstate plaintiffs and defendants. In addition, providing for consistent and uniform Federal adjudication of these claims will protect each State and its citizens from other State courts= legal rulings from which there is no recourse.

Prior witnesses before this committee have described the multi-billion dollar judgment awarded in Madison County, Illinois against State Farm Insurance for repairing automobiles with Aaftermarket parts@ as distinguished from original manufacturers= parts. That decision applied Illinois law to plaintiffs in all 50 states, even though such a ruling was contrary to state insurance regulations in New York, Massachusetts, and Hawaii among other places. The State Farm case is not an isolated example. Right now, for instance, we are following with interest a case in Oklahoma where a nationwide class has been certified against DaimlerChrylser Corporation. The Oklahoma courts plan to apply Michigan law to adjudicate, on behalf of residents of all 50 states, claims that Chrysler should not have installed certain airbags that comply with

federal safety standards.

Opponents of class action reform similar to H.R. 1115, incorrectly assert that the eExpansion of Federal diversity jurisdiction infringes on State courts and will result in a flood of class action litigation in, of course, will shift some state class actions to the Federal courts. Such criticism overlooks both the valid interestHowever, Federal courts have significant interests in cases that involve interstate commerce and parties from many States, as well as the inefficiency thatnd federal adjudication avoids costly and inefficient duplication in State courts causes in the current system. The Constitution=s provision for diversity jurisdiction was intended to prevent just the sort of local biases that have resulted from State court class actions that often award higher settlements to in-State class membersvictims and award unsupportable excessive damages against out-of-State defendants. The unique circumstances of class actions, a modern phenomenon, could not have been foreseen whenoutstripped the original conception of 28 U.S.C. ' 1332, when that provision was initially enacted.

Interlocutory Appeal of Class Certification Decision

Because thea district court's certification decision whether to certify a class often is decisive C a decision to certify may place insurmountable pressure on the defendant to settle, while a refusal to certify may force the plaintiffs to abandon their claims C the bill permits immediate appeal of certification decisions as a matter of right. Immediate appeals of certification decisions can be crucial to efficient management of class actions, preventing the nightmare situation where parties engage in years of expensive litigation under a ruling on the class certification, only to have the appeals court reverse the class certification determination. Contrary to concerns voiced about previous legislative proposals, H.R. 1115 would not encourage or permit the destruction of documents or other evidence during the appeal of the certification decision. On the contrary, discovery would be stayed under this section unless the court finds that specific discovery is necessary to preserve evidence or to prevent undue prejudice.

Conclusion

In sum, H.R. 1115 is an important step in reforming class action litigation. Itreturning common sense to the nation=s class action system and providing greater protections for the victims the system originally was designed to benefit. The bill would update diversity jurisdiction appropriately to account for class action litigation, while permitting State court actions to proceed in cases where no party sought removal and in specified circumstances such as where the class is relatively small or where the primary plaintiffs and defendants are within the State. Thus, State courts would be able to offer redress and provide a convenient forum for their citizens, while Federal courts would provide a forum for truly interstate class actions.

Thank you for this opportunity to present our views. We greatly appreciate your efforts in support of meaningful class action reform. I would be pleased to answer any questions that the Committee may have on this subject.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Tim Goeglein/WHO/EOP@EOP [WHO] <Tim Goeglein>
Sent: 5/14/2003 6:40:05 AM
Subject: : Rule of Law column

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:14-MAY-2003 10:40:05.00
SUBJECT:: Rule of Law column
TO:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Pirates We Be
Rule of Law
By STEPHEN G. CALABRESI
Last Friday marked the two-year anniversary of President Bush's nominations of Miguel Estrada and Priscilla Owen as federal appellate judges. The nominations, supported by a majority of senators, are being filibustered to death by a posse of Senate Democrats. Tom Daschle, the Senate minority leader who has previously attacked filibusters as unconstitutional, is spearheading the effort. He growls that the current disruption is but a preview of what's to come.
***
The stakes in this particular nomination battle are even higher than usual. With Chief Justice William Rehnquist and Justice Sandra Day O'Connor getting ready to retire, a minority of Senate Democrats are threatening to filibuster anyone to the right of David Souter. On the merits, Antonin Scalia should be nominated as chief justice and Judges Michael Luttig or Michael McConnell as the new associate justice. But the fear of endless Senate filibusters may deter Mr. Bush from picking the best candidate if it means wading into another fetid nomination swamp. Fortunately, Senate Majority Leader Bill Frist and 10 other senators, including Democrat Zell Miller, have proposed a resolution to prevent indefinite filibusters of judicial nominations. The Frist-Miller proposal would gradually reduce the number of senators required to invoke cloture on a nomination from 60 votes, to 57, to 54, to 51 to a majority of senators present and voting. The basis for their proposal is well supported in history and constitutional law. The Constitution was originally written to empower Congress to make most decisions by majority rule. A major defect in the Constitution's precursor, the Articles of Confederation, was that it required supermajorities for many important decisions. That difference was deliberately remedied by the Framers. Exceptions to the constitutional principle of majority rule exist, but they are enumerated in seven express situations where a two-thirds vote is required. The bar for requiring a super-majority is high: removing an official who has been impeached, expelling a member of Congress, passing a constitutional amendment, or overriding a presidential veto. Confirming one of the nearly 1,000 lower federal court judges is not the sort of serious action that the Framers thought or said required a super-majority. Both houses of Congress have the power by majority vote to establish the "Rules of its Proceedings." But as an original matter, there is no evidence this clause was meant to authorize indefinite filibusters. Nor is there evidence I am aware of that indefinite filibusters were allowed in 1787 in the state legislatures or in the British Parliament, although legislative committees and more ordinary rules governing debate were common. In fact, from 1789 to 1806 -- during the critical first eight Senates to sit under the Constitution -- the Senate's rules allowed for cutting off debate by a simple majority vote. This strongly suggests what the text of the Constitution already implies: the Senate filibuster is on very shaky ground as a matter of text and original constitutional history. The traditional Senate filibuster of legislation has an ignominious history. It got its start in the 1840s when Sen. John C. Calhoun first employed a rule adopted in 1806 to defend slavery. He was called a

"filibusterer," a term taken from a Dutch word for pirates who sought to overthrow Latin American governments to hasten the spread of slavery. From 1841 to the present, the filibuster was primarily used to defend Jim Crow laws. Today it stands in the way of vouchers, school choice, tort reform, and tax cuts.

Now for the first time in 214 years of American history a minority of senators is seeking to extend the tradition of filibustering from legislation to judicial nominees who they know enjoy the support of a majority of the Senate. This is a change of constitutional dimensions and amounts to a kind of coup d'etat. While a filibuster was briefly used in 1968 against chief justice nominee Abe Fortas -- he was supported by fewer than 50 senators -- there was only one cloture vote on his nomination.

The unprecedented extension of the filibuster to judicial nominees supported by a majority of the Senate threatens to raise the vote required for confirmation from 51 to 60 in violation of the Advice and Consent Clause. Were the Democrats to succeed in this pattern, it would greatly weaken the intended power of the president to appoint federal judges who are supported by a Senate majority. It would also undermine judicial independence by giving a minority of senators -- led by special interest groups -- a veto over who can become a judge.

Senate Rule XXII purports to require a two-thirds vote of the Senate to end debate on amendments of the Senate rules. Constitutional scholars of all political persuasions, however, agree that the Senate can always change its rules by a simple majority vote. Three vice presidents and law professors from Erwin Chemerinsky on the left to John McGinnis on the right agree. Even Lloyd Cutler, White House Counsel to Presidents Carter and Clinton, has written in the Washington Post that Senate Rule XXII "is plainly unconstitutional."

To the extent that the rule purports to require a two-thirds majority for cloture on rules changes, it is unconstitutional. It is an ancient principle of Anglo-American constitutional law that a legislature cannot bind a succeeding legislature. A two-thirds requirement for cloture on rules changes allows the Senate that adopted Rule XXII unconstitutionally to bind this Republican Senate, elected in 2002, after a campaign in which judicial confirmations figured prominently.

Fidelity to the text of the Constitution, the original understanding, and 214 years in which there wasn't a single sustained filibuster of judicial nominees, is ample evidence that the Democrats' plan to thwart Republican nominees from entering the judicial system must be stopped. Republicans were voted into control of the House, the Senate and the White House. It is time for them to govern.

Mr. Calabresi is a professor at the Northwestern University Law School and a co-founder of the Federalist Society.

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Wendy J. Grubbs/WHO/EOP@Exchange@EOP [WHO] <Wendy J. Grubbs>;Ashley Snee/WHO /EOP@Exchange@EOP [WHO] <Ashley Snee>
Sent: 5/14/2003 6:44:11 AM
Subject: : Rule of Law column

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:14-MAY-2003 10:44:11.00
SUBJECT:: Rule of Law column
TO:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
TO:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Pirates We Be
Rule of Law
By STEPHEN G. CALABRESI
Last Friday marked the two-year anniversary of President Bush's nominations of Miguel Estrada and Priscilla Owen as federal appellate judges. The nominations, supported by a majority of senators, are being filibustered to death by a posse of Senate Democrats. Tom Daschle, the Senate minority leader who has previously attacked filibusters as unconstitutional, is spearheading the effort. He growls that the current disruption is but a preview of what's to come.
***
The stakes in this particular nomination battle are even higher than usual. With Chief Justice William Rehnquist and Justice Sandra Day O'Connor getting ready to retire, a minority of Senate Democrats are threatening to filibuster anyone to the right of David Souter. On the merits, Antonin Scalia should be nominated as chief justice and Judges Michael Luttig or Michael McConnell as the new associate justice. But the fear of endless Senate filibusters may deter Mr. Bush from picking the best candidate if it means wading into another fetid nomination swamp. Fortunately, Senate Majority Leader Bill Frist and 10 other senators, including Democrat Zell Miller, have proposed a resolution to prevent indefinite filibusters of judicial nominations. The Frist-Miller proposal would gradually reduce the number of senators required to invoke cloture on a nomination from 60 votes, to 57, to 54, to 51 to a majority of senators present and voting. The basis for their proposal is well supported in history and constitutional law. The Constitution was originally written to empower Congress to make most decisions by majority rule. A major defect in the Constitution's precursor, the Articles of Confederation, was that it required supermajorities for many important decisions. That difference was deliberately remedied by the Framers. Exceptions to the constitutional principle of majority rule exist, but they are enumerated in seven express situations where a two-thirds vote is required. The bar for requiring a super-majority is high: removing an official who has been impeached, expelling a member of Congress, passing a constitutional amendment, or overriding a presidential veto. Confirming one of the nearly 1,000 lower federal court judges is not the sort of serious action that the Framers thought or said required a super-majority. Both houses of Congress have the power by majority vote to establish the "Rules of its Proceedings." But as an original matter, there is no evidence this clause was meant to authorize indefinite filibusters. Nor is there evidence I am aware of that indefinite filibusters were allowed in 1787 in the state legislatures or in the British Parliament, although legislative committees and more ordinary rules governing debate were common. In fact, from 1789 to 1806 -- during the critical first eight Senates to sit under the Constitution -- the Senate's rules allowed for cutting off debate by a simple majority vote. This strongly suggests what the text of the Constitution already implies: the Senate filibuster is on very shaky ground as a matter of text and original constitutional history.

The traditional Senate filibuster of legislation has an ignominious history. It got its start in the 1840s when Sen. John C. Calhoun first employed a rule adopted in 1806 to defend slavery. He was called a "filibusterer," a term taken from a Dutch word for pirates who sought to overthrow Latin American governments to hasten the spread of slavery. From 1841 to the present, the filibuster was primarily used to defend Jim Crow laws. Today it stands in the way of vouchers, school choice, tort reform, and tax cuts.

Now for the first time in 214 years of American history a minority of senators is seeking to extend the tradition of filibustering from legislation to judicial nominees who they know enjoy the support of a majority of the Senate. This is a change of constitutional dimensions and amounts to a kind of coup d'etat. While a filibuster was briefly used in 1968 against chief justice nominee Abe Fortas -- he was supported by fewer than 50 senators -- there was only one cloture vote on his nomination.

The unprecedented extension of the filibuster to judicial nominees supported by a majority of the Senate threatens to raise the vote required for confirmation from 51 to 60 in violation of the Advice and Consent Clause. Were the Democrats to succeed in this pattern, it would greatly weaken the intended power of the president to appoint federal judges who are supported by a Senate majority. It would also undermine judicial independence by giving a minority of senators -- led by special interest groups -- a veto over who can become a judge.

Senate Rule XXII purports to require a two-thirds vote of the Senate to end debate on amendments of the Senate rules. Constitutional scholars of all political persuasions, however, agree that the Senate can always change its rules by a simple majority vote. Three vice presidents and law professors from Erwin Chemerinsky on the left to John McGinnis on the right agree. Even Lloyd Cutler, White House Counsel to Presidents Carter and Clinton, has written in the Washington Post that Senate Rule XXII "is plainly unconstitutional."

To the extent that the rule purports to require a two-thirds majority for cloture on rules changes, it is unconstitutional. It is an ancient principle of Anglo-American constitutional law that a legislature cannot bind a succeeding legislature. A two-thirds requirement for cloture on rules changes allows the Senate that adopted Rule XXII unconstitutionally to bind this Republican Senate, elected in 2002, after a campaign in which judicial confirmations figured prominently.

Fidelity to the text of the Constitution, the original understanding, and 214 years in which there wasn't a single sustained filibuster of judicial nominees, is ample evidence that the Democrats' plan to thwart Republican nominees from entering the judicial system must be stopped. Republicans were voted into control of the House, the Senate and the White House. It is time for them to govern.

Mr. Calabresi is a professor at the Northwestern University Law School and a co-founder of the Federalist Society.

From: CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;David G. Leitch/WHO/EOP@Exchange [WHO] <David G. Leitch>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;Benjamin A. Powell/WHO /EOP@EOP [WHO] <Benjamin A. Powell>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>
CC: Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>;Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>
Sent: 5/14/2003 12:31:26 PM
Subject: : Staff Meeting

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:14-MAY-2003 16:31:26.00
SUBJECT:: Staff Meeting
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
CC:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
CC:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

There will not be a staff meeting on Memorial Day (Monday, May 26).
Thanks!
```

From: CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO]
To: Wendy J. Grubbs/WHO/EOP@Exchange [WHO] <Wendy J. Grubbs>;David G. Leitch/WHO /EOP@Exchange [WHO] <David G. Leitch>;Jeanie S. Mamo/WHO/EOP@EOP [WHO] <Jeanie S. Mamo>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Alberto R. Gonzales/WHO/EOP@Exchange [WHO] <Alberto R. Gonzales>
Sent: 5/14/2003 1:45:54 PM
Subject: : The Politics Of Filibusters (WSJournal) - Editorial Today -

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Ashley Snee (CN=Ashley Snee/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:14-MAY-2003 17:45:54.00
SUBJECT:: The Politics Of Filibusters (WSJournal) - Editorial Today -
TO:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jeanie S. Mamo (CN=Jeanie S. Mamo/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

The Politics Of Filibusters (WSJournal)

Editorial

The Wall Street Journal, May 13, 2003

Where's Jimmy Stewart when you need him? Two historic filibusters are currently under way in the Senate -- one's been going on for months -- but next to no one outside the Beltway has noticed.

Senate business proceeds as usual, the Members get to sleep in their own beds at night, and Miguel Estrada and Priscilla Owen's names come up only when repeated motions to close debate and bring their judicial nominations to a vote are defeated. Hollywood is not remaking "Mr. Smith Goes to Washington." All of which is exactly the way Democrats want it: They can defeat two Bush judges, and more down the road, without paying a political price.

So one can hardly blame Majority Leader Bill Frist for trying to shine a little light on the problem. The Democrats are imposing an extraordinary new standard for confirming judges -- not a simple majority of 51 votes but a super-majority of 60, the number required to shut off debate. Both filibustered nominees have the support of a bipartisan majority, yet they are being denied the confirmation votes to which they are entitled under the advice-and-consent clause of the U.S. Constitution.

Mr. Frist's proposed solution is to change the procedure under which debate ends and a vote is taken, a process known as "cloture." He would amend Senate Rule XXII so that the number of votes needed to end a filibuster would fall from 60 to 57 to 54 to 51 on successive votes. This would preserve the essential purpose of the filibuster -- which is to give the minority a chance to make their case -- but not let them abuse the system by holding confirmable nominees hostage forever.

Georgia Democrat Zell Miller made an even more ambitious reform proposal on this page in March, when he called for new cloture rules for nominations and legislation -- not just nominations, as Mr. Frist proposes. Mr. Miller's proposal was in turn based on one in 1995 by Democrats Tom Harkin and Joseph Lieberman.

That last one had the support of none other than Tom Daschle, who said at the time that "Democracy means majority rule, not minority gridlock." Mr. Daschle hewed to a different principle on Sunday, when he told NBC's "Meet the Press" that Mr. Estrada and Judge Owen are "exceptions to the rule" that every nominee deserves an up or down vote in the Senate. Apparently he doesn't believe the Constitution should be applied equally to every American.

Under current practice no Senate rule, including the 60-vote cloture rule, can be changed except by a two-thirds majority. Which is where things get interesting, constitutionally speaking. Many legal scholars -- liberal and conservative -- argue that Rule XXII is unconstitutional because it binds future Senates to rules made by a past Senate. "It is an ancient principle of Anglo-American law that one legislature cannot bind a succeeding legislature," Steven Calabresi of Northwestern Law School, told the Senate last week.

Catholic University's Douglas Kmiec made a similar point on this page in March, and Lloyd Cutler, White House Counsel to Presidents Carter and Clinton, wrote in 1993 that "the Senate rule requiring a super-majority vote to cut off debate is unconstitutional." Vice Presidents Nixon, Humphrey and Rockefeller, while presiding over the Senate, have all held that Senate rules can be changed by a simple majority.

If the current Senate did that with Rule XXII -- obtain a majority vote to change the cloture rules for nominations -- Vice President Cheney would presumably agree. That would leave the Democrats with the option of going to court, where the Supreme Court could take the case or, more likely, decide it was a political dispute best left to the Senate to resolve. The President's nominees would be seated.

We've said it before, but it's worth repeating that the Democrats' judicial filibusters are unprecedented in Senate history. Filibustering nominations wasn't even permitted until 1949 and the sole judicial nominee stopped by a filibuster was Abe Fortas, LBJ's nominee for Supreme Court Chief Justice, who faced charges of corruption. Meanwhile, the Democrats are just warming up. A third appeals-court filibuster looks likely this spring, and a Supreme Court filibuster could be next if there's a vacancy this summer.

The system for confirming judges is clearly broken. Democrats are playing politics with Senate rules, but they now profess shock and outrage that Republicans want to play politics too and reform the filibuster rules being abused. Sounds to us as if Republicans are on to something.

From: Bartolomucci, H. Christopher
To: <Newstead, Jennifer G.>
CC: <Kavanaugh, Brett M.>;<Francisco, Noel J.>;<Powell, Benjamin A.>;<Ullyot, Theodore W.>;<Brosnahan, Jennifer R.>;<Sampson, Kyle>;<Elwood, Courtney S.>
Sent: 5/14/2003 6:21:52 PM
Subject: Re: Happy hour --?

I can confirm. Occidental at 6:30 with Viet et al.

Jennifer G. Newstead

05/14/2003 06:05:56 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: Happy hour --?

Viet's office left a message that he is organizing an informal happy hour tonight at 6:30 at the Occidental. I haven't been able to reach anyone there to confirm this rumor (perhaps they're already at the bar?) but the message said to spread the word, so consider yourselves invited.

JN

Message Sent To:

Brett M. Kavanaugh/WHO/EOP@EOP

H. Christopher Bartolomucci/WHO/EOP@EOP

Noel J. Francisco/WHO/EOP@EOP

Benjamin A. Powell/WHO/EOP@EOP

Theodore W. Ullyot/WHO/EOP@EOP

Jennifer R. Brosnahan/WHO/EOP@EOP

Kyle Sampson/WHO/EOP@EOP

Courtney S. Elwood/OVP/EOP@Exchange@EOP

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: David G. Leitch/WHO/EOP@Exchange@EOP [WHO] <David G. Leitch>;Ashley Snee/WHO /EOP@Exchange@EOP [WHO] <Ashley Snee>;Alberto R. Gonzales/WHO /EOP@Exchange@EOP [WHO] <Alberto R. Gonzales>
CC: H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Carolyn Nelson/WHO/EOP@Exchange@EOP [WHO] <Carolyn Nelson>
Sent: 5/15/2003 5:26:58 AM
Subject: : revised DRAFT Washington Post op-ed

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:15-MAY-2003 09:26:58.00
SUBJECT:: revised DRAFT Washington Post op-ed
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Ashley Snee ( CN=Ashley Snee/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
CC:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

An Unfair Double Standard

Last week, the Senate confirmed John Roberts to be a judge on the U.S. Court of Appeals for the D.C. Circuit. Roberts has served as Deputy Solicitor General of the United States, Associate Counsel to President Reagan, and Law Clerk to then-Justice Rehnquist. He has argued numerous cases before the U.S. Supreme Court and is widely recognized as one of the very best appellate lawyers in America. The American Bar Association unanimously rated him well qualified. In short, John Roberts exemplifies the kind of judge President Bush has nominated to the federal courts, and will be a distinguished judge on the D.C. Circuit.

The Senate's confirmation of Roberts is noteworthy for two additional reasons, however, both of which demonstrate the serious breakdown in the Senate confirmation process about which President Bush and many Senators of both parties have spoken in recent years.

First, the long road from Roberts' initial nomination to his confirmation vote was unfair and is impossible to defend -- and is an excellent example of the broken state of the Senate's judicial confirmation process. Roberts was first nominated to the D.C. Circuit in January 1992, yet did not receive a hearing before the end of President George H.W. Bush's term a year later. President George W. Bush then nominated Roberts on May 9, 2001, shortly after taking office. But the Senate Judiciary Committee did not hold a hearing on Roberts' nomination during the entire last Congress, even though no serious objections were lodged against him. President Bush then re-nominated Roberts on January 7, 2003. After two hearings this year, Roberts received his Senate vote on May 8, 2003 -- two years after nomination by President George W. Bush and more than 11 years after his first nomination. And when Roberts finally received that elusive vote, the Senate unanimously confirmed him, which makes the many years of delay all the more difficult to explain and justify.

The Senate's delays and denials of votes on judicial nominees) which have

been all too common in recent years -- flout the intention of the Constitution and the tradition of the Senate. No judicial nominee ever should have to wait years for a vote in the Senate. So that the federal courts are fully staffed to do their jobs for the American people and in order to attract the best and brightest to judicial service, the Senate should fulfill its constitutional responsibility and ensure that every judicial nominee receives an up-or-down Senate vote within a reasonable period of time after nomination.

Second, the confirmation of John Roberts also dramatically exposes the double standard being applied to the President,s other D.C. Circuit nominee, Miguel Estrada. The career records of Roberts and Estrada are strikingly similar. Both Estrada and Roberts were unanimously rated well-qualified by the ABA. Both have argued numerous cases before the Supreme Court, including as attorneys in the Solicitor General's office. Both have devoted large portions of their legal careers to public service and also been partners at major Washington law firms. Both have clerked for Supreme Court Justices. Both have the very strong support of prominent Democrat attorneys who served in high-ranking positions in the Clinton Administration. Neither has served previously as a judge or a professor and therefore neither has written widely about their personal views on legal issues. Both have served instead as superb and well-respected lawyers for public and private clients throughout their careers.

Despite the similarities between Roberts and Estrada, the Senate Democrats have treated them very differently. Senate Democrats never requested memoranda written by Roberts from his time in the Solicitor General's office. Yet they are insisting on reviewing memoranda written by Estrada from his tenure in the Solicitor General's office as a condition of ending a 3-month filibuster of a vote on his nomination. Consistent with judicial independence and the traditional practice of judicial nominees, Senate Democrats also did not demand that Roberts answer questions about his personal views on legal and policy issues. Yet these Senators are demanding that Estrada answer the same questions that Roberts did not answer as a condition of ending the filibuster on Estrada.

The 45 Senate Democrats who are filibustering Estrada's nomination are applying a double standard. There is no rational or legitimate justification for the disparate treatment of Roberts and Estrada, particularly by means of an extraordinary and unprecedented filibuster when Estrada has the clear support of a majority of Senators. These 45 Senate Democrats should halt the filibuster and allow an up-or-down vote on Estrada. As the President has said, let each Senator vote as he or she thinks best, but end the double standard, stop the unfair treatment, and give the man a vote.

From: CN=Adrian G. Gray/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/15/2003 5:15:02 AM
Subject: : Fw: Administration types/DAS or undersecretaires we can tap next week?

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Adrian G. Gray (CN=Adrian G. Gray/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:15-MAY-2003 09:15:02.00
SUBJECT:: Fw: Administration types/DAS or undersecretaires we can tap next week?
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

The NRCC wants to do some issue related events using sub-cabinet and other PAS officials. I know there was some hesitency before in doing these. Any thoughts?

AG
---------- Forwarded by Adrian G. Gray/WHO/EOP on 05/15/2003 09:13 AM ----------

Matt Schlapp <mschlapp@georgewbush.com>
05/15/2003 09:12:14 AM
Record Type: Record

To: Adrian G. Gray/WHO/EOP@EOP
cc:
Subject: Fw: Administration types/DAS or undersecretaires we can tap next week?

What do you think?

-----Original Message-----
From: Scott Douglas <sdouglas@NRCC.org>
To: Alicia Davis <adavis@georgewbush.com>
CC: Ken Mehlman <kmehlman@georgewbush.com>; Matt Schlapp <mschlapp@georgewbush.com>
Sent: Wed May 14 13:46:03 2003
Subject: Administration types/DAS or undersecretaires we can tap next week?

Built around the PRESIDENTS DINNER on next Wednesday the NRCC has a Business Advisory Council Summit

We are looking, I just got told for Administration types who could speak here in town at the Grand Hyatt hotel on these topics:

Health Care

IRS Reform

Financial reform

POTUS Tax Cuts

I am thinking John Bridgeland? Tom Scully? I don't want to approach CABINET STATUS

Who are the logical types who we can approach?

The attendees are 2000 contributors/donors from across America = specifically small businessmen and women

From: CN=William H. Leary/OU=NSC/O=EOP [NSC]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/15/2003 7:49:26 AM
Subject: : Re: can you give me numbers of the 2 problematic docs

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:William H. Leary (CN=William H. Leary/OU=NSC/O=EOP [NSC])
CREATION DATE/TIME:15-MAY-2003 11:49:26.00
SUBJECT:: Re: can you give me numbers of the 2 problematic docs
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Actually, there are three documents: 20, 26, and 140. For each, we propose redacting some information but not all.

Brett M. Kavanaugh
05/15/2003 11:36:51 AM
Record Type: Record

To: William H. Leary/NSC/EOP@EOP
cc:
Subject: can you give me numbers of the 2 problematic docs

From:	CN=John F. Wood/OU=OMB/O=EOP [OMB]
To:	Philip J. Perry/OMB/EOP@EOP [OMB] <Philip J. Perry>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Jay P. Lefkowitz/OPD/EOP@Exchange@EOP [OPD] <Jay P. Lefkowitz>
CC:	Lauren J. Vestewig/OPD/EOP@Exchange@EOP [OPD] <Lauren J. Vestewig>
Sent:	5/15/2003 12:17:44 PM
Subject:	: Victims of int'l terror
Attachments:	P_KIRGG003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:John F. Wood ( CN=John F. Wood/OU=OMB/O=EOP [ OMB ] )
CREATION DATE/TIME:15-MAY-2003 16:17:44.00
SUBJECT:: Victims of int'l terror
TO:Philip J. Perry ( CN=Philip J. Perry/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange@EOP [ OPD ] )
READ:UNKNOWN
CC:Lauren J. Vestewig ( CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange@EOP [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Attached is a revised draft memo.
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_KIRGG003_WHO.TXT_1>
```

American victims of international terrorism are currently compensated through a patchwork system that allows a small group of victims to receive enormous judgments in court, but provides no avenue for relief for the vast majority of victims and victims' families. In cases of international terrorism, plaintiffs are usually unable to recover against the terrorists or terrorist-supporting states, either because they have no assets in the United States or because the assets have been blocked or frozen by the United States. Congress has, on an ad hoc basis, provided for use of taxpayer funds to compensate in full a small group of individual plaintiffs who have obtained very large, but uncollectible, judgments in court ($386 million for 14 victims so far). But the vast majority of victims' families still have no means of obtaining compensation.

Recently, there have been proposals in Congress to provide relief on a broader scale. Congress included in the Terrorism Risk Insurance Act of 2002 a provision that provides plaintiffs with access to certain blocked assets of foreign states to satisfy judgments that the plaintiffs obtain in court. That provision is objectionable because it infringes upon the President's ability to conduct foreign affairs. In addition, there are two categories of pending legislative proposals that are objectionable. *First*, there have been proposals to expand further the access to frozen assets to include assets that are protected by international agreements. For example, one proposal would allow hostages who were held at the American Embassy in Tehran to sue, despite the fact that the 1981 international agreement that obtained their release precludes suit. This violation of the 1981 agreement could permit Iran to recover damages from the United States at the Iran-U.S. Claims Tribunal in The Hague. *Second*, there have been several recent proposals to expand the September 11th Victim Compensation Fund to cover additional terrorist attacks. Such an expansion would provide several high-income families with multimillion dollar awards while leaving lower-income families with much smaller awards. Such an approach would be inequitable and would impose enormous costs upon the U.S. taxpayers.

While the Administration has successfully opposed many of these objectionable proposals thus far, it will be difficult to continue to defeat them without an alternative proposal, especially in light of the increased congressional interest in compensating victims due to the most recent terrorist attack in Saudi Arabia. There will likely be objectionable proposed amendments to the pending State Department Authorization bill. In addition, Rep. Frank Wolf plans to include a taxpayer-funded compensation program in the upcoming Commerce-Justice-State Appropriations bill. Rep. Wolf has expressed interest in including a proposal drafted by the Administration if one is provided to him informally in the next few days.

In June 2002, Deputy Secretary of State Armitage sent a letter to Congress stating that any proposal to compensate victims of international terrorism should be based upon a uniform, lump-sum payment comparable to the federal benefit provided to families of public safety officers who are killed in the line of duty (currently $262,000, indexed for inflation). The State Department now requests clearance of a draft bill that is consistent with the Armitage letter. The State Department, with assistance from an interagency

working group, has developed a draft bill to compensate victims along the following lines:

- The families of U.S. victims who were killed in any act of international terrorism since 1979 would each be entitled to a lump-sum payment from the federal government equal to the current federal benefit for families of public safety officers who are killed in the line of duty (currently $262,000, indexed for inflation).
- U.S. victims who have been physically injured or held hostage as a direct result of any act of international terrorism since 1979 would be entitled to a payment up to, but not exceeding, the amount of the death benefit described above.
- The State Department would administer the program, which would be funded through discretionary appropriations.
- Those who opt into the compensation program would be barred from also filing suit against foreign states or the United States.
- The bill would prospectively repeal the provisions in the Terrorism Risk Insurance Act that allowed access to blocked assets of foreign states, but the bill would not affect claims that are currently pending in court.

RECOMMENDATION:

That you approve (1) having Secretary Powell share the draft bill on an informal basis with select Members of Congress and (2) having Secretary Powell and others in the Administration state that the Administration will support the bill as long as it is not substantially modified by Congress.

From: Kate Walters <kate@georgewbush.com>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Adrian Gray (E-mail) <agray@georgewbush.com>
Sent: 5/16/2003 4:46:23 AM
Subject: : NRCC event next tuesday
Attachments: P_S29HG003_WHO.TXT_1.htm

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kate Walters <kate@georgewbush.com> (Kate Walters <kate@georgewbush.com> [UNKNOWN])
CREATION DATE/TIME:16-MAY-2003 08:46:23.00
SUBJECT:: NRCC event next tuesday
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:"Adrian Gray (E-mail)" <agray@georgewbush.com> ("Adrian Gray (E-mail)" <agray@georgewbush.com> [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

I had brought up the fact that the NRCC has requested Administration officials to speak at their meeting on Tuesday, 5/20. You wanted to know the dollar amount. Please see below. Can we help them find speakers?
thanks
-----Original Message-----
From: Andrew Kaplan [mailto:akaplan@NRCC.org]
Sent: Wednesday, May 14, 2003 10:17 PM
To: Scott Douglas; Julie Wadler; Julie Wadler
Cc: Kate Walters
Subject: RE: What are donation parameters - see my buddy KATE's questions

Kate:
The BAC consists of all our individual donors who come in through our prospecting efforts. The people who are coming to this event specifically are all people who have given at least $5,000 to this event. They are primarily all small business people. An example of someone from the administration you have gotten us in the past is Larry Lindsay, Melaine Sabelhouse..etc. It certainly could be the President's overall agenda, but would prefer to stay with the topics that Scott outlined in his previous email.

If you have any questions please let me know.

Thanks.

Andrew

-----Original Message-----
From: Scott Douglas
Sent: Wednesday, May 14, 2003 5:55 PM
To: Andrew Kaplan; Julie Wadler; Julie Wadler
Cc: 'kate@georgewbush.com'
Subject: What are donation parameters - see my buddy KATE's questions
Importance: High

KATE is mehlman's righthand and gatekeeper and worked with me in AUSTIN during BC2000

If she can get the parameters and nudge appropriate SPEAKERS along w/ the unwritten "seal of approval" if you catch my drift

Cc her with the response

I am in tomorrow till 8:30am and then gone till FRIDAY early early but available by blackberry and cell if you all need me

Thanks, kate

-----Original Message-----
From: Kate Walters [mailto:kate@georgewbush.com]
Sent: Wednesday, May 14, 2003 6:14 PM
To: sdouglas@nrcc.org
Subject: FW: Administration types/DAS or undersecretaires we can tap next week?
Importance: High

Can you tell me more about the Business Advisory Council? How much does it cost to be a member? I will work on this. Does it have to be a specific
policy topic or could it be an overall "President's Agenda"? thanks

-----Original Message-----
From: Alicia Davis [mailto:adavis@georgewbush.com]
Sent: Wednesday, May 14, 2003 2:00 PM
To: Kate Walters
Subject: FW: Administration types/DAS or undersecretaires we can tap next week?
Importance: High

-----Original Message-----
From: Scott Douglas [mailto:sdouglas@NRCC.org]
Sent: Wednesday, May 14, 2003 1:46 PM
To: Alicia Davis
Cc: Ken Mehlman; Matt Schlapp
Subject: Administration types/DAS or undersecretaires we can tap next week?
Importance: High

Built around the PRESIDENTS DINNER on next Wednesday the NRCC has a Business Advisory Council Summit

We are looking, I just got told for Administration types who could speak here in town at the Grand Hyatt hotel on these topics:

Health Care

IRS Reform

Financial reform

POTUS Tax Cuts

I am thinking John Bridgeland? Tom Scully? I don't want to approach
CABINET STATUS

Who are the logical types who we can approach?

The attendees are 2000 contributors/donors from across America =
specifically small businessmen and women

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_S29HG003_WHO.TXT_1>

I had brought up the fact that the NRCC has requested Administration officials to speak at their meeting on Tuesday, 5/20. You wanted to know the dollar amount. Please see below. Can we help them find speakers? thanks
-----Original Message-----
From: Andrew Kaplan [mailto:akaplan@NRCC.org]
Sent: Wednesday, May 14, 2003 10:17 PM
To: Scott Douglas; Julie Wadler; Julie Wadler
Cc: Kate Walters
Subject: RE: What are donation parameters - see my buddy KATE's questions

Kate:
The BAC consists of all our individual donors who come in through our prospecting efforts. The people who are coming to this event specifically are all people who have given at least $5,000 to this event. They are primarily all small business people. An example of someone from the administration you have gotten us in the past is Larry Lindsay, Melaine Sabelhouse..etc. It certainly could be the President's overall agenda, but would prefer to stay with the topics that Scott outlined in his previous email.

If yo u have any questions please let me know.

Thanks.

Andrew

-----Original Message-----
From: Scott Douglas
Sent: Wednesday, May 14, 2003 5:55 PM
To: Andrew Kaplan; Julie Wadler; Julie Wadler
Cc: 'kate@georgewbush.com'
Subject: What are donatio n parameters - see my buddy KATE's questions
Importance: High

KATE is mehlman's righthand and gatekeeper and worked with me in AUSTIN during BC2000

If she can get the parameters and nudge appropriate SPEAKERS along w/ the unwritten "seal of approval" if you catch my drift

Cc her with the response

I am in tomorrow til I 8:30am and then gone till FRIDAY early early but available by blackberry and cell if you all need me

Thanks, kate

-----Original Message-----
From: Kate Walters [mailto:kate@georgewbush.com]
Sent: Wednesday, May 14, 2003 6:14 PM
To: sdouglas@nrcc.org
Subject: FW: Administration types/DAS or undersecretaires we can tap next week?
Importance: High

Can you tell me more about the Business Advisory Council? How much does it cost to be a member? I will work on this. Does it have to be a specific policy topic or could it be an overall "President's Agenda"? thanks
-----Original Message-----
From: Alicia Davis [mailto:adavis@georgewbush.com]
Sent: Wednesday, May 14, 2003 2:00 PM
To: Kate Walters

Subject: FW: Administration types/DAS or undersecretaires we can tap next week?
Importance: High

-----Original Message-----
From: Scott Douglas [mailto:sdouglas@NRCC.org]
Sent: Wednesday, May 14, 2003 1:46 PM
To: Alicia Davis
Cc: Ken Mehlman; Matt Schlapp
Subject: Administration types/DAS or undersecretaires we can tap next week?
Importance: High

Built around the PRESIDENTS DINNE R on next Wednesday the NRCC has a Business Advisory Council Summit

We are looking, I just got told for Administration types who could speak here in town at the Grand Hyatt hote I on these topics:

Health Care

IRS Reform

Financial reform

POTUS Tax Cuts

I am thinking John Bridgeland? Tom Scully? I don't want to approach CABINET STATUS

Who are the logical types who we can approach?

The attendees are 2000 contributors/donors from across America = specifically small businessmen and women

From: Kavanaugh, Brett M.
To: <Gonzales, Alberto R.>;<Leitch, David G.>;<Addington, David S.>
Sent: 5/16/2003 10:27:16 AM
Subject: 18 USC 603

fyi.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 05/16/2003 10:27 AM ----------

"M.Edward.Whelan@usdoj.gov"

05/16/2003 10:00:47 AM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: 18 USC 603

OLC opined in 1995: Because this definition [in 5 USC 7322(1)] includes all employees in "Executive agenc(ies)," it includes in its scope (but is not limited to) all Executive Branch employees and officers, with the exception of the President, the Vice President, persons employed in or under the United States Postal Service or the Postal Rate Commission, and members of the uniformed services. /3/ Section 603 by its terms does not bar the President and the Vice President from making contributions to their own campaign committee, and Section 603(c) explicitly includes within the scope of its exception persons "employed in or under the United States Postal Service or the Postal Rate Commission." Therefore, Section 603(c) applies to the entire Executive Branch with the possible exception of members of the uniformed services.

This opinion remains in effect and is binding on the entire executive branch, including the Criminal Division. The entire text of the opinion is set forth below.

From: CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/16/2003 11:33:02 AM
Subject: : RE: IMPORTANT -- op-ed for WSJ Monday

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:16-MAY-2003 15:33:02.00
SUBJECT:: RE: IMPORTANT -- op-ed for WSJ Monday
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

ok

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Friday, May 16, 2003 3:25 PM
To: Gonzales, Alberto R.; Leitch, David G.
Cc: Nelson, Carolyn; Sampson, Kyle
Subject: IMPORTANT -- op-ed for WSJ Monday

please review
---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 05/16/2003 03:24 PM ----------

From: Ashley Snee/WHO/EOP@Exchange on 05/16/2003 03:23:37 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: FW: Gonzalez op-ed

Here it is with the edits. See what you think.
-----Original Message-----
From: Levey, Collin [mailto:Collin.Levey@wsj.com <mailto:Collin.Levey@wsj.com>]
Sent: Friday, May 16, 2003 3:01 PM
To: Snee, Ashley; Nelson, Carolyn
Subject: Gonzalez op-ed

Here's the edit of Mr. Gonzalez's oped for Monday's newspaper. Please let me know when he has looked it over and signed off. If you or he have any questions or requested changes, we can make them over the phone (646 552 5584). Otherwise, an email to sign off will be fine. Thanks for your help. Collin

****

By Alberto Gonzales

On May 9, President Bush addressed the American people from the Rose Garden on the subject of judicial nominees. The process, he explained, is broken. In the past three administrations, too many nominees to the federal appeals courts have languished for years without a vote; other nominees never received votes at all. The president called for the Senate to perform its constitutional responsibility to hold timely up or down votes on judicial nominees. That should hold, he emphasized, no matter who is president or which party controls the Senate.

Democrat Leader Tom Daschle quickly responded to the president's call by

claiming that the Senate's judicial confirmation process "ain't broke." We respectfully disagree.

To begin with, Sen. Daschle's statements are flatly inconsistent with the views of many other Democrat senators. For example:

* New York Sen. Chuck Schumer in his April 30 letter to the president stated that he "could not agree more" with President Bush that the process is "broken" and that we are in a "vicious cycle" of "delayed" confirmations.

* California Sen. Diane Feinstein in her May 5 letter to the president stated that she believes the judicial confirmation process is "going in the wrong direction" and is potentially "spiral\[ing\] out of control."

* Arkansas Sen. Mark Pryor in his April 30 letter to Tennessee Sen. Bill Frist agreed-together with all 10 of the new senators-that the "judicial confirmation process is broken and needs to be fixed" and that the "United States Senate needs a fresh start."

* Georgia Sen. Zell Miller in his May 9 statements to the media said the Senate was becoming the "world's greatest obstructionist body" because a minority of senators was denying votes on judicial nominees.

These Democrat senators are not alone. Speaking on behalf of the federal judiciary, Supreme Court Chief Justice William Rehnquist said in January that the judicial confirmation process does not work as it should. The American Bar Association made the same point last August.

The Senate's actions in the last two years amply demonstrate the problems in the process. Senate Democrats are currently engaged in unprecedented simultaneous filibusters to block votes on Miguel Estrada and Priscilla Owen-nominees who have the support of a majority of senators and whose nomination have been pending for more than two years without a vote. More filibusters are apparently likely, according to Democrat senators.

The filibusters are occurring despite statements like Sen. Daschle's on Oct. 5, 1999 that "I find it simply baffling that a Senator would vote against even voting on a judicial nomination."

Beyond the filibusters, some senators are seeking access to confidential Justice Department information never before demanded for appeals-court nominees even though every living former solicitor general including four Democrats opposes this request as harmful to the U.S. What's more, these senators are demanding such memos only for select nominees like Mr. Estrada and not for similarly situated nominees like John Roberts-even though both men have spent their careers as advocates for clients, including for the U.S., and were nominated to the same D.C. Circuit Court.

In addition, by demanding answers to questions about nominees' personal views on legal questions, some senators are threatening to compromise judicial independence, as Justice Anthony Kennedy recently warned and as justices like Ruth Bader Ginsburg have explained in the past.

The overall delays in holding hearings and votes on appeals-court nominees have also risen to new and extraordinary levels: The 107th Congress was the least efficient in modern history in holding hearings and votes on appeals court nominations, according to a recent independent study by leading judicial historian Sheldon Goldman. In this presidency, more appeals-court nominees have had to wait at least a year for a hearing than in the last 50 years combined. Today, as a result of these delays, 12% of the federal appeals-court seats are vacant, and 9% are classified as judicial emergencies.

As President Bush has repeatedly explained since June 2000 when President Clinton was still in office, excessive delays in the judicial confirmation process need to be corrected. The delays harm the courts and the American people, and deter good people from being willing to be considered for

service on the bench.
The solution to the problem should be very simple. As the ABA said, "Vote them up or down, but don't hang them out to dry."

A system with timely up or down votes for all nominees is fair to all senators, allowing each to have his voice heard and vote counted. It also is fair to the president, the judiciary, the nominees, and the American people who depend on a fully staffed judiciary. As Senator Bob Graham said in 1991, "I consider it a judicial emergency when a judgeship is vacant for one day more than necessary." A Senate majority vote is the approach that our Founders established in the Constitution and that the Senate has followed for most of the nation's history.

The judicial confirmation system will remain broken and subject to abuse until judicial nominees are ensured a prompt up or down vote within a reasonable and set time after nomination. It is time for the Senate to do so for the benefit of the country.

[SHIRT]Mr. Gonzales is counsel to the president.

From: CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/16/2003 11:18:58 AM
Subject: : RE: Victims of int'l terror

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD])
CREATION DATE/TIME:16-MAY-2003 15:18:58.00
SUBJECT:: RE: Victims of int'l terror
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

He's the guy who just called me

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Friday, May 16, 2003 3:18 PM
To: Lefkowitz, Jay P.
Subject: RE: Victims of int'l terror

great, who did you talk to, so I can circle back w/ Whit Cobb.

From: Jay P. Lefkowitz/OPD/EOP@Exchange on 05/16/2003 03:16:55 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, John B. Bellinger/NSC/EOP@EOP,
John B. Wiegmann/NSC/EOP@EOP
cc:
Subject: RE: Victims of int'l terror

Talked to DOD and while they don't like it, they are not objecting

So if we can get a general NSC and DOJ read, I will staff it later today.

thanks

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Friday, May 16, 2003 1:29 PM
To: Bellinger, John B.; Wiegmann, John B.
Cc: Lefkowitz, Jay P.
Subject: Victims of int'l terror

Want to make sure you are ok with this, which Jay plans to send to
staffing soon.

<< File: Memo to President2.doc >>

From: CN=John B. Bellinger/OU=NSC/O=EOP [NSC]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: jay p. lefkowitz/opd/eop@exchange@eop [OPD] <jay p. lefkowitz>;Holly T. Moore/NSC /EOP@EOP [NSC] <Holly T. Moore>;john b. wiegmann/nsc/eop@eop [NSC] <john b. wiegmann>
Sent: 5/16/2003 11:20:42 AM
Subject: : Re: Victims of int'l terror

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP [ NSC ] )
CREATION DATE/TIME:16-MAY-2003 15:20:42.00
SUBJECT:: Re: Victims of int'l terror
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:jay p. lefkowitz ( CN=jay p. lefkowitz/OU=opd/O=eop@exchange@eop [ OPD ] )
READ:UNKNOWN
CC:Holly T. Moore ( CN=Holly T. Moore/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
CC:john b. wiegmann ( CN=john b. wiegmann/OU=nsc/O=eop@eop [ NSC ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Sorry. Brad is on leave and I have been in NY. This looks good to me,
but I've asked Holly to have a quick look as well.
```

From: CN=Brian D. Montgomery/OU=WHO/O=EOP@Exchange [WHO]

To: Lezlee J. Westine/WHO/EOP@EOP [WHO] <Lezlee J. Westine>;Joshua B. Bolten/WHO /EOP@Exchange [WHO] <Joshua B. Bolten>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Tim Goeglein/WHO/EOP@EOP [WHO] <Tim Goeglein>;Gregory L. Schulte/NSC/EOP@EOP [NSC] <Gregory L. Schulte>;Ruben S. Barrales/WHO/EOP@EOP [WHO] <Ruben S. Barrales>;Randall S. Kroszner/CEA/EOP@EOP [CEA] <Randall S. Kroszner>;Dina Powell/WHO/EOP@Exchange [WHO] <Dina Powell>;Joseph W Hagin/WHO /EOP@Exchange [UNKNOWN] <Joseph W Hagin>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;John M. Bridgeland/OPD/EOP@EOP [OPD] <John M. Bridgeland>;Margaret M. Spellings/OPD/EOP@Exchange [OPD] <Margaret M. Spellings>;David W. Hobbs/WHO/EOP@Exchange [WHO] <David W. Hobbs>;Ken Mehlman/WHO/EOP@EOP [WHO] <Ken Mehlman>;Clay Johnson III/WHO/EOP@Exchange [WHO] <Clay Johnson III>

CC: libby.camp@dhs.gov@SMTP@Exchange [UNKNOWN] <libby.camp@dhs.gov@SMTP@Exchange>;cmillison@nsc.eop.gov@SMTP@Exchange [UNKNOWN] <cmillison@nsc.eop.gov@SMTP@Exchange>;Adam B. Ingols/WHO /EOP@Exchange [WHO] <Adam B. Ingols>;Britt Grant/OPD/EOP@EOP [OPD] <Britt Grant>;Tracy Jucas/WHO/EOP@EOP [WHO] <Tracy Jucas>;Melissa S. Bennett/WHO /EOP@Exchange [WHO] <Melissa S. Bennett>;Lisa D. Branch/CEA/EOP@EOP [CEA] <Lisa D. Branch>;immilan@opm.gov@SMTP@Exchange [UNKNOWN] <immilan@opm.gov@SMTP@Exchange>;OCA - Office of Cabinet Affairs@EOP [UNKNOWN] <OCA - Office of Cabinet Affairs@EOP>;philip_a._musser@hud.gov@SMTP@Exchange [UNKNOWN] <philip_a._musser@hud.gov@SMTP@Exchange>;Eleanor L. Gillmor/OPD /EOP@Exchange [OPD] <Eleanor L. Gillmor>;Katherine M. Walters/WHO/EOP@EOP [WHO] <Katherine M. Walters>;Jonathan F. Ganter/WHO/EOP@EOP [WHO] <Jonathan F. Ganter>;Jose Mallea/WHO/EOP@Exchange [WHO] <Jose Mallea>;guerra-lyanna@dol.gov@SMTP@Exchange [UNKNOWN] <guerra-lyanna@dol.gov@SMTP@Exchange>;Emily A. House/WHO/EOP@Exchange [WHO] <Emily A. House>;Kathryn E. Rust/WHO/EOP@EOP [WHO] <Kathryn E. Rust>

Sent: 5/16/2003 11:58:20 AM

Subject: : Important Update on next week's Regional Appointees Conference

Attachments: P_FYYHG003_CEA.TXT_1.doc; P_FYYHG003_CEA.TXT_2.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brian D. Montgomery ( CN=Brian D. Montgomery/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:16-MAY-2003 15:58:20.00
SUBJECT:: Important Update on next week's Regional Appointees Conference
TO:Lezlee J. Westine ( CN=Lezlee J. Westine/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Joshua B. Bolten ( CN=Joshua B. Bolten/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tim Goeglein ( CN=Tim Goeglein/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Gregory L. Schulte ( CN=Gregory L. Schulte/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:Ruben S. Barrales ( CN=Ruben S. Barrales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Randall S. Kroszner ( CN=Randall S. Kroszner/OU=CEA/O=EOP@EOP [ CEA ] )
READ:UNKNOWN
TO:Dina Powell ( CN=Dina Powell/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Joseph W Hagin ( CN=Joseph W Hagin/OU=WHO/O=EOP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:John M. Bridgeland ( CN=John M. Bridgeland/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Margaret M. Spellings ( CN=Margaret M. Spellings/OU=OPD/O=EOP@Exchange [ OPD ] )
READ:UNKNOWN
```

TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
CC:libby.camp@dhs.gov@SMTP@Exchange (libby.camp@dhs.gov@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
CC:cmillison@nsc.eop.gov@SMTP@Exchange (cmillison@nsc.eop.gov@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
CC:Adam B. Ingols (CN=Adam B. Ingols/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
CC:Britt Grant (CN=Britt Grant/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
CC:Tracy Jucas (CN=Tracy Jucas/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
CC:Lisa D. Branch (CN=Lisa D. Branch/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
CC:immilan@opm.gov@SMTP@Exchange (immilan@opm.gov@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
CC:OCA - Office of Cabinet Affairs@EOP (OCA - Office of Cabinet Affairs@EOP [UNKNOWN])
READ:UNKNOWN
CC:philip_a._musser@hud.gov@SMTP@Exchange (philip_a._musser@hud.gov@SMTP@Exchange [
UNKNOWN])
READ:UNKNOWN
CC:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
CC:Katherine M. Walters (CN=Katherine M. Walters/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Jonathan F. Ganter (CN=Jonathan F. Ganter/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Jose Mallea (CN=Jose Mallea/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
CC:guerra-lyanna@dol.gov@SMTP@Exchange (guerra-lyanna@dol.gov@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
CC:Emily A. House (CN=Emily A. House/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
CC:Kathryn E. Rust (CN=Kathryn E. Rust/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

All:
;
We are pleased to report that more than 100 regional appointees and local
senior agency leaders will attend Tuesday's regional appointees
conference.; ;We also anticipate a good crowd at the evening receptions
scheduled for Monday (Mayflower Hotel);and Tuesday (EEOB Indian Treaty
Room).;You of course are invited to both receptions.
;
As part of the pre-planning leading up to the conference, we asked each
attendee to answer several questions related to issues such as the
President's Management Agenda, local best practices, and communicating
with their home office and White House staff, to name a few.
;
To help you better prepare for your presentation we have attached a
summary of some of those responses, which I think should give you a sense
of what their concerns/issues are.; While we have not attributed any of
the responses, we still ask that you keep them;confidential.
;
Also, remember that we have you slated for a 30 minute time slot, which
includes 5-10 minutes for Q&A.; Again, thank you helping us better promote
the President's agenda with our regional appointees.; Let me add, they are
ecstatic to be invited;to the White House and participate in this
first-of-its-kind event.
;
We have also included the near final conference agenda with a brief

summary of your presentation topic.; If you have any changes or
corrections to the summaries please let us know as soon as possible.
;
Please contact me or Christie Parell if you need additional information.
;
Thank you!
Brian Montgomery
;
;
;
;
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_FYYHG003_CEA.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_FYYHG003_CEA.TXT_2>

AGENDA
Regional Appointee Conference
May 19-21, 2003

LOCATION: Washington, DC: Mayflower Hotel; Eisenhower Executive Office Building, Room 450 and Indian Treaty Room

HOSTS: Cabinet Affairs (OCA), Presidential Personnel (PPO), Inter-governmental Affairs (IGA), Council for Excellence in Government (CEG)

ATTENDEES: Regional Political Appointees from the following agencies: HHS, HUD, Interior, FEMA, EPA, Education, Labor, GSA, SBA and VA.

5/19: EVENING:

5:30 pm – 7:30 pm Reception (Mayflower Hotel, Colonial Room)

6:00 pm – 6:15 pm Introduction: Brian Montgomery

6:15 pm – 6:45 pm Director Kay Coles James, Office of Personnel Management
- *Importance of Human Capital*
- *Working for the President*

5/20: DAY TWO:

Plenary Sessions (Mayflower Hotel: morning; EEOB Room 450, Indian Treaty Room afternoon/evening)

8:00 am – 8:45 am Continental Breakfast (Mayflower East Room)~~Hotel)~~

8:45~~9:00~~ am – 12:00~~30~~ pm Morning Program (Mayflower East Room)

8:45 am – 9:00 am Introduction: Pat McGinnis, Council for Excellence in Government (CEG)

9:00 am – 9:30 am Clay Johnson, Counselor, Office of Management and Budget (OMB)~~:~~
- *President's Management Team*
- *PPO's Role / OMB's Role*
- ~~*Management Results*~~

9:30 am – 10:00 am Randall Kroszner, Member, Council of Economic Advisors
- *Current Economic Conditions*

REV_00167107

- *Overview of Jobs & Growth*
- *Prospects for the Future*

~~John Bridgeland: *Freedom Corps and Faith-based*~~

Formatted: Indent: First line: 0"

10:00 am – 10:30 am Cameron Findlay, Deputy Secretary, Department of Labor (DOL)

- *Effective Regional Management*
- *DOL's Regional Outreach Strategy*
- *Two Perspectives: Working for the White House vs. an Agency*

~~10:00 am – 10:30 am~~

10:30 am – 11:00 am

~~BREAK: 10:30 am – 10:45 am~~

Inter-governmental Affairs (IGA), Cabinet Affairs (OCA), Public Liaison (OPL), Political Affairs (OPA)
Working Together for Greater Regional Impact

11:00 am – 11:45 am Regional Breakouts:
Led by Council for Excellence in Government with OCA and IGA staff

12:00 pm – 1:15 pm Lunch (Mayflower East Room)

12:15 pm – 12:45 pm:

Secretary Andrew Card, White House Chief of Staff

- *Working as a Team in Service to the President*
- *Following your Moral Compass*

1:30 pm – 5:00 pm Afternoon Program (EEOB Room 450)

1:30 pm – 2:00 pm Brett Kavanaugh / Nanette Everson, White House Counsel

- *Hatch Act: Ethical and Legal*
- *Importance of Good Ethics*
- *Pitfalls to Avoid*

2:00 pm – 2:30 pm John Bridgeland, Director, Freedom Corps

- *Establishment of Freedom Corps*
- *Development of Faith-Based Agenda*
- *Importance of Volunteerism – Nationally and Locally*

Formatted: Font: Italic

2:30 pm – 3:00 pm Ken Mehlman, Director, Office of Political Affairs
Building Support for President's Agenda

3:00 pm – 3:15 pm BREAK

REV_00167108

3:15 pm – 3:45 pm David Hobbs, Director, Office of Legislative Affairs
- *Legislative Update*
- *Prospects for President's Priorities*
- *Appointee Issues in the Senate*

3:45 pm – 4:15 pm Margaret Spellings, Domestic Policy Advisor
- *Determination of Domestic Priorities*
- *Working for President Bush*
- *Key Areas of Domestic Agenda: Education, Medicare, Welfare, Head Start*

4:15 pm – 4:45 pm Greg Schulte, Executive Secretary, National Security Council
- *Liberation of Iraq*
- *War on Terror*
- *Long-Term Prospects*

4:45 pm – 5:15 pm Secretary
- ~~Regional Breakouts~~
  ~~3:45 pm – 5:00 pm~~

~~Led by Council for Excellence in Government with OPA, IGA and OCA staff~~

Mel Martinez, Department of Housing and Urban Development
- *Government Service / Working for the Administration*
- *Serving in the President's Cabinet*
- *HUD's Interaction with State and Local Governments*

5:15 pm – 5:30 pm Wrap Up: Pat McGinnis / Brian Montgomery
**Designated Breakout Group leaders will each give a short re-cap.*

5:45 pm – 6:00 pm Closing Remarks: Brian Montgomery, Cabinet Secretary

6:00 pm – 8:00 pm Reception in Indian Treaty Room (EEOB)~~Hotel)~~

Featured Speaker: Secretary Tom Ridge, Department of Homeland Security
- *Keeping the Homeland Safe*
- *Update on Top-Off Exercises*
- *Importance of Regional Appointees in Homeland Security Efforts*

Invited Cabinet Secretaries, Deputy Secretaries, and senior White House staff

Formatted: Indent: Hanging: 0.25"

REV_00167109

Formal Conference Concludes

~~Dinner~~

5/21: DAY THREE:

Attendees encouraged to visit respective agencies.

CONFIDENTIAL

Regional Appointees Conference Questionnaire Summary

Office of Cabinet Affairs – Not for Distribution

As part of the process of facilitating the Regional Appointees Conference, attendees were asked to complete a confidential questionnaire covering various topics. Provided below are summaries of some of their comments (not for attribution) and general themes found in the responses to the questionnaire. Please keep these thoughts in mind as you prepare your remarks.

Communication:

How do you communicate with your agency, how well is that working, and what improvements can be made?

The channels of communication are designed to 1) deliver the Administration message to all appropriate staff and 2) listen, discuss, and respond to suggestions/concerns from our regional partners. All responses to the questionnaire felt the communication channels were adequate. Some say there is a lack of two-way communication.

The President's Management Agenda:

What is your role in implementing the President's Management Agenda?

All regional appointees have a role with implementing the President's Management Agenda. Some respondents feel that they do not have a direct role, but recognize they serve aspects of communication and facilitation.

One agency seemed to have the biggest disconnect.

Challenges:

What are the most difficult challenges you face in doing your job as a Regional Appointee?

Management: Managing complex operations with few resources, problems with career staff attitude, challenges in HR procedures such as hiring staff, taking disciplinary actions, and compensating good performers.

Political: Lack of Federal involvement in States/regions to help implement policy and affect media coverage (ex. No Child Left Behind), time management with external constituencies, inability to stay involved with the developments in Washington D.C.

Communication: Lack of timely access to information.

Best Practices:

What are the best practices that you have developed or discovered to make your job more effective?

Communication: Build relationships with other Federal agencies in the region to regularly share information on regional issues, ongoing agency activities and regional activities of common interest (Create a Federal agency working group or utilize Federal Regional Councils). Maintain a constant focus on developing and maintaining relationships with state and local stakeholders and constituent groups through regular contact (visits, telephone calls, e-mails etc.).

Management: Regular, constant two-way communication on all issues with staff, from Administration goals and objectives to office policies and security and safety matters. Get out of office to meet with top managers and staff as much as possible. Public support of career staff, particularly when unduly criticized. Reminders 1.) that staff is valued key to agency success and 2.) the office represents the President and the Secretary.

Communication with The White House:

Describe how you communicate with White House offices, how well it is working, and what improvements can be made?

Many have no direct communication with The White House and would like more. Most communicate with The White House through their agencies.

What is working: Many receive regular e-mails from White House Liaisons forwarding information from the White House. Some have been contacted by White House IGA.

Ways to improve/What can improve: Annual or semi-annual regional meetings with White House personnel. Need better coordination and communication on Presidential visits to the area.

From:	CN=Brian D. Montgomery/OU=WHO/O=EOP@Exchange [WHO]
To:	Lezlee J. Westine/WHO/EOP@EOP [WHO] <Lezlee J. Westine>;Joshua B. Bolten/WHO /EOP@Exchange [WHO] <Joshua B. Bolten>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Tim Goeglein/WHO/EOP@EOP [WHO] <Tim Goeglein>;Gregory L. Schulte/NSC/EOP@EOP [NSC] <Gregory L. Schulte>;Ruben S. Barrales/WHO/EOP@EOP [WHO] <Ruben S. Barrales>;Randall S. Kroszner/CEA/EOP@EOP [CEA] <Randall S. Kroszner>;Dina Powell/WHO/EOP@Exchange [WHO] <Dina Powell>;Joseph W Hagin/WHO /EOP@Exchange [UNKNOWN] <Joseph W Hagin>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;John M. Bridgeland/OPD/EOP@EOP [OPD] <John M. Bridgeland>;Margaret M. Spellings/OPD/EOP@Exchange [OPD] <Margaret M. Spellings>;David W. Hobbs/WHO/EOP@Exchange [WHO] <David W. Hobbs>;Ken Mehlman/WHO/EOP@EOP [WHO] <Ken Mehlman>;Clay Johnson III/WHO/EOP@Exchange [WHO] <Clay Johnson III>
CC:	libby.camp@dhs.gov@SMTP@Exchange [UNKNOWN] <libby.camp@dhs.gov@SMTP@Exchange>;cmillison@nsc.eop.gov@SMTP@Exchange [UNKNOWN] <cmillison@nsc.eop.gov@SMTP@Exchange>;Adam B. Ingols/WHO /EOP@Exchange [WHO] <Adam B. Ingols>;Britt Grant/OPD/EOP@EOP [OPD] <Britt Grant>;Tracy Jucas/WHO/EOP@EOP [WHO] <Tracy Jucas>;Melissa S. Bennett/WHO /EOP@Exchange [WHO] <Melissa S. Bennett>;Lisa D. Branch/CEA/EOP@EOP [CEA] <Lisa D. Branch>;immilan@opm.gov@SMTP@Exchange [UNKNOWN] <immilan@opm.gov@SMTP@Exchange>;OCA - Office of Cabinet Affairs@EOP [UNKNOWN] <OCA - Office of Cabinet Affairs@EOP>;philip_a._musser@hud.gov@SMTP@Exchange [UNKNOWN] <philip_a._musser@hud.gov@SMTP@Exchange>;Eleanor L. Gillmor/OPD /EOP@Exchange [OPD] <Eleanor L. Gillmor>;Katherine M. Walters/WHO/EOP@EOP [WHO] <Katherine M. Walters>;Jonathan F. Ganter/WHO/EOP@EOP [WHO] <Jonathan F. Ganter>;Jose Mallea/WHO/EOP@Exchange [WHO] <Jose Mallea>;guerra-lyanna@dol.gov@SMTP@Exchange [UNKNOWN] <guerra-lyanna@dol.gov@SMTP@Exchange>;Emily A. House/WHO/EOP@Exchange [WHO] <Emily A. House>;Kathryn E. Rust/WHO/EOP@EOP [WHO] <Kathryn E. Rust>
Sent:	5/16/2003 11:58:25 AM
Subject:	: Important Update on next week's Regional Appointees Conference
Attachments:	P_SYYHG003_OPD.TXT_1.doc; P_SYYHG003_OPD.TXT_2.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brian D. Montgomery ( CN=Brian D. Montgomery/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:16-MAY-2003 15:58:25.00
SUBJECT:: Important Update on next week's Regional Appointees Conference
TO:Lezlee J. Westine ( CN=Lezlee J. Westine/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Joshua B. Bolten ( CN=Joshua B. Bolten/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tim Goeglein ( CN=Tim Goeglein/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Gregory L. Schulte ( CN=Gregory L. Schulte/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:Ruben S. Barrales ( CN=Ruben S. Barrales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Randall S. Kroszner ( CN=Randall S. Kroszner/OU=CEA/O=EOP@EOP [ CEA ] )
READ:UNKNOWN
TO:Dina Powell ( CN=Dina Powell/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Joseph W Hagin ( CN=Joseph W Hagin/OU=WHO/O=EOP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:John M. Bridgeland ( CN=John M. Bridgeland/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Margaret M. Spellings ( CN=Margaret M. Spellings/OU=OPD/O=EOP@Exchange [ OPD ] )
READ:UNKNOWN
```

TO:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Ken Mehlman (CN=Ken Mehlman/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
CC:libby.camp@dhs.gov@SMTP@Exchange (libby.camp@dhs.gov@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
CC:cmillison@nsc.eop.gov@SMTP@Exchange (cmillison@nsc.eop.gov@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
CC:Adam B. Ingols (CN=Adam B. Ingols/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
CC:Britt Grant (CN=Britt Grant/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
CC:Tracy Jucas (CN=Tracy Jucas/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
CC:Lisa D. Branch (CN=Lisa D. Branch/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
CC:immilan@opm.gov@SMTP@Exchange (immilan@opm.gov@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
CC:OCA - Office of Cabinet Affairs@EOP (OCA - Office of Cabinet Affairs@EOP [UNKNOWN])
READ:UNKNOWN
CC:philip_a._musser@hud.gov@SMTP@Exchange (philip_a._musser@hud.gov@SMTP@Exchange [
UNKNOWN])
READ:UNKNOWN
CC:Eleanor L. Gillmor (CN=Eleanor L. Gillmor/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
CC:Katherine M. Walters (CN=Katherine M. Walters/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Jonathan F. Ganter (CN=Jonathan F. Ganter/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Jose Mallea (CN=Jose Mallea/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
CC:guerra-lyanna@dol.gov@SMTP@Exchange (guerra-lyanna@dol.gov@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
CC:Emily A. House (CN=Emily A. House/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
CC:Kathryn E. Rust (CN=Kathryn E. Rust/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

All:
;
We are pleased to report that more than 100 regional appointees and local senior agency leaders will attend Tuesday's regional appointees conference.; ;We also anticipate a good crowd at the evening receptions scheduled for Monday (Mayflower Hotel);and Tuesday (EEOB Indian Treaty Room).;You of course are invited to both receptions.
;
As part of the pre-planning leading up to the conference, we asked each attendee to answer several questions related to issues such as the President's Management Agenda, local best practices, and communicating with their home office and White House staff, to name a few.
;
To help you better prepare for your presentation we have attached a summary of some of those responses, which I think should give you a sense of what their concerns/issues are.; While we have not attributed any of the responses, we still ask that you keep them;confidential.
;
Also, remember that we have you slated for a 30 minute time slot, which includes 5-10 minutes for Q&A.; Again, thank you helping us better promote the President's agenda with our regional appointees.; Let me add, they are ecstatic to be invited;to the White House and participate in this first-of-its-kind event.
;
We have also included the near final conference agenda with a brief

summary of your presentation topic.; If you have any changes or
corrections to the summaries please let us know as soon as possible.
;
Please contact me or Christie Parell if you need additional information.
;
Thank you!
Brian Montgomery
;
;
;
;
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_SYYHG003_OPD.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_SYYHG003_OPD.TXT_2>

AGENDA
Regional Appointee Conference
May 19-21, 2003

LOCATION: Washington, DC: Mayflower Hotel; Eisenhower Executive Office Building, Room 450 and Indian Treaty Room

HOSTS: Cabinet Affairs (OCA), Presidential Personnel (PPO), Inter-governmental Affairs (IGA), Council for Excellence in Government (CEG)

ATTENDEES: Regional Political Appointees from the following agencies: HHS, HUD, Interior, FEMA, EPA, Education, Labor, GSA, SBA and VA.

5/19: EVENING:

5:30 pm – 7:30 pm Reception (Mayflower Hotel, Colonial Room)

6:00 pm – 6:15 pm Introduction: Brian Montgomery

6:15 pm – 6:45 pm Director Kay Coles James, Office of Personnel Management
- *Importance of Human Capital*
- *Working for the President*

5/20: DAY TWO:

Plenary Sessions (Mayflower Hotel: morning; EEOB Room 450, Indian Treaty Room afternoon/evening)

8:00 am – 8:45 am Continental Breakfast (Mayflower East Room)~~Hotel)~~

8:45~~9:00~~ am – 12:00~~30~~ pm Morning Program (Mayflower East Room)

8:45 am – 9:00 am Introduction: Pat McGinnis, Council for Excellence in Government (CEG)

9:00 am – 9:30 am Clay Johnson, Counselor, Office of Management and Budget (OMB)~~:~~
- *President's Management Team*
- *PPO's Role / OMB's Role*
- ~~*Management Results*~~

9:30 am – 10:00 am Randall Kroszner, Member, Council of Economic Advisors
- *Current Economic Conditions*

REV_00167116

- *Overview of Jobs & Growth*
- *Prospects for the Future*

~~John Bridgeland: *Freedom Corps and Faith-based*~~

Formatted: Indent: First line: 0"

10:00 am – 10:30 am Cameron Findlay, Deputy Secretary, Department of Labor (DOL)

- *Effective Regional Management*
- *DOL's Regional Outreach Strategy*
- *Two Perspectives: Working for the White House vs. an Agency*

~~10:00 am – 10:30 am~~

10:30 am – 11:00 am

~~BREAK: 10:30 am – 10:45 am~~

Inter-governmental Affairs (IGA), Cabinet Affairs (OCA), Public Liaison (OPL), Political Affairs (OPA)
Working Together for Greater Regional Impact

11:00 am – 11:45 am Regional Breakouts:
Led by Council for Excellence in Government with OCA and IGA staff

12:00 pm – 1:15 pm Lunch (Mayflower East Room)

12:15 pm – 12:45 pm:

Secretary Andrew Card, White House Chief of Staff

- *Working as a Team in Service to the President*
- *Following your Moral Compass*

1:30 pm – 5:00 pm Afternoon Program (EEOB Room 450)

1:30 pm – 2:00 pm Brett Kavanaugh / Nanette Everson, White House Counsel

- *Hatch Act: Ethical and Legal*
- *Importance of Good Ethics*
- *Pitfalls to Avoid*

2:00 pm – 2:30 pm John Bridgeland, Director, Freedom Corps

- *Establishment of Freedom Corps*
- *Development of Faith-Based Agenda*
- *Importance of Volunteerism – Nationally and Locally*

Formatted: Font: Italic

2:30 pm – 3:00 pm Ken Mehlman, Director, Office of Political Affairs
Building Support for President's Agenda

3:00 pm – 3:15 pm BREAK

REV_00167117

3:15 pm – 3:45 pm David Hobbs, Director, Office of Legislative Affairs
- *Legislative Update*
- *Prospects for President's Priorities*
- *Appointee Issues in the Senate*

3:45 pm – 4:15 pm Margaret Spellings, Domestic Policy Advisor
- *Determination of Domestic Priorities*
- *Working for President Bush*
- *Key Areas of Domestic Agenda: Education, Medicare, Welfare, Head Start*

4:15 pm – 4:45 pm Greg Schulte, Executive Secretary, National Security Council
- *Liberation of Iraq*
- *War on Terror*
- *Long-Term Prospects*

4:45 pm – 5:15 pm Secretary
- ~~Regional Breakouts~~
  ~~3:45 pm – 5:00 pm~~

~~Led by Council for Excellence in Government with OPA, IGA and OCA staff~~

Mel Martinez, Department of Housing and Urban Development
- *Government Service / Working for the Administration*
- *Serving in the President's Cabinet*
- *HUD's Interaction with State and Local Governments*

5:15 pm – 5:30 pm Wrap Up: Pat McGinnis / Brian Montgomery
**Designated Breakout Group leaders will each give a short re-cap.*

5:45 pm – 6:00 pm Closing Remarks: Brian Montgomery, Cabinet Secretary

6:00 pm – 8:00 pm Reception in Indian Treaty Room (EEOB)
~~Hotel)~~

Featured Speaker: Secretary Tom Ridge, Department of Homeland Security
- *Keeping the Homeland Safe*
- *Update on Top-Off Exercises*
- *Importance of Regional Appointees in Homeland Security Efforts*

Invited Cabinet Secretaries, Deputy Secretaries, and senior White House staff

Formatted: Indent: Hanging: 0.25"

REV_00167118

Formal Conference Concludes

~~Dinner~~

5/21: DAY THREE:

Attendees encouraged to visit respective agencies.

CONFIDENTIAL

Regional Appointees Conference Questionnaire Summary

Office of Cabinet Affairs – Not for Distribution

As part of the process of facilitating the Regional Appointees Conference, attendees were asked to complete a confidential questionnaire covering various topics. Provided below are summaries of some of their comments (not for attribution) and general themes found in the responses to the questionnaire. Please keep these thoughts in mind as you prepare your remarks.

Communication:

How do you communicate with your agency, how well is that working, and what improvements can be made?

The channels of communication are designed to 1) deliver the Administration message to all appropriate staff and 2) listen, discuss, and respond to suggestions/concerns from our regional partners. All responses to the questionnaire felt the communication channels were adequate. Some say there is a lack of two-way communication.

The President's Management Agenda:

What is your role in implementing the President's Management Agenda?

All regional appointees have a role with implementing the President's Management Agenda. Some respondents feel that they do not have a direct role, but recognize they serve aspects of communication and facilitation.

One agency seemed to have the biggest disconnect.

Challenges:

What are the most difficult challenges you face in doing your job as a Regional Appointee?

Management: Managing complex operations with few resources, problems with career staff attitude, challenges in HR procedures such as hiring staff, taking disciplinary actions, and compensating good performers.

Political: Lack of Federal involvement in States/regions to help implement policy and affect media coverage (ex. No Child Left Behind), time management with external constituencies, inability to stay involved with the developments in Washington D.C.

Communication: Lack of timely access to information.

Best Practices:

What are the best practices that you have developed or discovered to make your job more effective?

Communication: Build relationships with other Federal agencies in the region to regularly share information on regional issues, ongoing agency activities and regional activities of common interest (Create a Federal agency working group or utilize Federal Regional Councils). Maintain a constant focus on developing and maintaining relationships with state and local stakeholders and constituent groups through regular contact (visits, telephone calls, e-mails etc.).

Management: Regular, constant two-way communication on all issues with staff, from Administration goals and objectives to office policies and security and safety matters. Get out of office to meet with top managers and staff as much as possible. Public support of career staff, particularly when unduly criticized. Reminders 1.) that staff is valued key to agency success and 2.) the office represents the President and the Secretary.

Communication with The White House:

Describe how you communicate with White House offices, how well it is working, and what improvements can be made?

Many have no direct communication with The White House and would like more. Most communicate with The White House through their agencies.

What is working: Many receive regular e-mails from White House Liaisons forwarding information from the White House. Some have been contacted by White House IGA.

Ways to improve/What can improve: Annual or semi-annual regional meetings with White House personnel. Need better coordination and communication on Presidential visits to the area.

From: CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/19/2003 6:22:32 AM
Subject: : RE: are you the best person to come up with answers to these questions?

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:19-MAY-2003 10:22:32.00
SUBJECT:: RE: are you the best person to come up with answers to these questions?
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Any ideas what we would put for 122 if we don,t answer. I can have Kim pull the info, but didn't think that was the direction you would want to go.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Monday, May 19, 2003 9:45 AM
To: Litkenhaus, Colleen
Subject: Re: are you the best person to come up with answers to these questions?

yes on 119, 120, and 121. I think Kim would have 122 but I wonder whether we should be producing such info. (Is this Istook's committee?)

From: Colleen Litkenhaus/WHO/EOP@Exchange on 05/19/2003 09:33:27 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: are you the best person to come up with answers to these questions?

Question 119: If the President gives virtually the same speech at a political event that he gave at an official event in that same city, does the political entity reimburse the White House for the Speechwriters time?

Question 120: Have events been classified as &official8 even if only members of the President,s political party are invited to share the stage with the President?

Question 121: If so, what justification is used to argue that these events were not political events?

Question 122: Please provide information about reimbursement to the White House Office or other government agencies associated with local staff travel to political events attended by the President in FY02 or FY03. For each reimbursement made, please provide the date the bill was generated, the number of events reflected on the bill, the date payment was received, the political entity paying the charges and the total amount paid on each bill.

From: Sean Rushton <SRushton@CommitteeforJustice.org>
To: SRushton@CommitteeforJustice.org [UNKNOWN] <SRushton@CommitteeforJustice.org>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 5/19/2003 7:05:02 AM
Subject: : Holmes.
Attachments: P_9N0JG003_WHO.TXT_1.html

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Sean Rushton <SRushton@CommitteeforJustice.org> ( Sean Rushton
<SRushton@CommitteeforJustice.org> [ UNKNOWN ] )
CREATION DATE/TIME:19-MAY-2003 11:05:02.00
SUBJECT:: Holmes.
TO:SRushton@CommitteeforJustice.org ( SRushton@CommitteeforJustice.org [ UNKNOWN ] )
READ:UNKNOWN
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

How to Bork a nominee
Paul Greenberg - May 19, 2003

Bork is no longer a proper noun in Washington, as in Judge Robert Bork, but a verb. It means to launch a vicious, irrelevant, roundhouse campaign against a judicial nominee, throwing in everything, including a couple of kitchen sinks.

The term stems from the treatment of Judge Bork when he was nominated to the Supreme Court. Not satisfied with relevant criticisms, and there were some, the judge's more partisan critics reached back to assail everything he'd said or done from approximately the age of 3, and quite a few things he hadn't.

That borking has become a Washington tradition by now -- indeed, an addiction -- is illustrated by an impressive editorial in the Washington Post the other day. Impressive for its sheer, twisted, mean-spirited irrelevance. It is, in a short, a prime example of borking.

This time the victim's name is Holmes. Leon Holmes, Esq., and he's just been nominated to a district judgeship here in Arkansas. Unable to find anything recent or relevant to criticize about Mr. Holmes -- an outstanding advocate, scholar and thinker -- the Post went back years and even decades to dig up a couple of quotes from his writings to use against him.

One of the quotes dates back to 1980 -- yes, 1980, or 23 years ago -- and Mr. Holmes apologized for it as soon as it was brought to his attention. It was a youthful pamphleteer's remark in the heat of a debate about abortion -- something about rape's seldom resulting in pregnancy. He was wrong 23 years ago, and says so. For that, the Post sounds ready to condemn him to the judicial equivalent of outer darkness.

The other citation -- a reference to Scripture in an article co-written with his wife in April of 1997 -- is so wrenched out of context that you might never guess it was a philosophical rumination on the Book of Ephesians. Published in a Catholic newspaper. As a comment on a Sunday School lesson.

The quote itself was the usual, controversial passage about the husband

being head of the household as Christ is head of the church. The Post didn't mention the preceding paragraph in which the Holmeses note that neither man nor woman is inferior to the other in Christian doctrine.

As any smear artist knows, there's no need to go into detail. Especially relevant detail. In this case an innocent reader would be left with no idea of what kind of nominee, or man, Leon Holmes really is. Which is the whole purpose of borking: to make the nominee look like the biggest, scariest menace that ever came down confirmation road. Actually, to quote an informal recommendation from a colleague, Leon Holmes is the kind of guy he'd be willing to shoot dice with over the phone.

The charge that Leon Holmes is in favor of the subjugation of women would amuse anyone who's ever met Susan Byrd Holmes, his outspoken wife and co-author, or any of the women in the law for whom he has been mentor, role model, supporter and encourager.

But I was glad to see that The Washington Post hadn't lost its talent for irony. Alas, in this case it's unintended irony. This editorial accuses the president of radicalizing judicial nominations by his choice of Leon Holmes for the bench, when it's the Post that's being radical, willing to go back into history to find any snippet penned by Mr. Holmes -- or his wife -- that might fail to show the proper reverence for today's politically correct gods.

In the process, the Post ignored the legal acumen and philosophical learning that the mature Leon Holmes has demonstrated day after day, year after year, in his career and life. Forget all that; the object is to crucify this nominee even if the Post has to use old, rusty nails. It's taken a couple of stray quotes and equated them with the man's whole career. A neat trick, if a low one. Joe McCarthy would be proud.

A confession: In recent years I'd started to grow soft on the Post's editorial page; on its good days it had started sound like one of those earnest, old-fashioned liberals not beyond the reach of reason. Clearly I was mistaken. For when the chance to do a little borking came along, the Post leaped at it, using the flimsiest of evidence and twisting even that. As if it couldn't help itself. Which may be the worst thing about borking; it's habit-forming. Once it becomes ingrained in a paper's character, there's no telling when it will seep out again.

Sean Rushton

Executive Director

Committee for Justice

1275 Pennsylvania Avenue, NW

Tenth Floor

Washington, DC 20004

202-481-6850 phone

202-487-6439 mobile

www.committeeforjustice.org

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_9N0JG003_WHO.TXT_1>

From: Bumatay, Patrick J.
To: <Ullyot, Theodore W.>;<Bartolomucci, H. Christopher>;<Brosnahan, Jennifer R.>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>
Sent: 5/19/2003 11:11:30 AM
Subject: JSC this week

Does anyone have any plans to present someone during JSC this week? Please let me know asap.

Thanks

From:	CN=Jennifer R. Brosnahan/OU=WHO/O=EOP [WHO]
To:	David G. Leitch/WHO/EOP@Exchange@EOP [WHO] <David G. Leitch>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Alberto R. Gonzales/WHO /EOP@Exchange@EOP [WHO] <Alberto R. Gonzales>
CC:	Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Jay P. Lefkowitz/OPD /EOP@Exchange@EOP [OPD] <Jay P. Lefkowitz>
Sent:	5/19/2003 10:28:10 AM
Subject:	: FW: BCRA Stay order
Attachments:	P_86EJG003_OPD.TXT_1; P_86EJG003_OPD.TXT_2

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:19-MAY-2003 14:28:10.00
SUBJECT:: FW: BCRA Stay order
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
CC:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
CC:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange@EOP [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Attached are the order and opinion granting a stay of the district court's
entire campaign finance decision pending final disposition by the Supreme
Court . In short, the majority of the 3-judge panel agreed with the
government's "regulatory chaos" theory for getting a stay. The court
granted the stay, with the following short explanation: "The Court's
desire to prevent the litigants from facing potentially three different
regulatory regimes in a very short time span, and the Court's recognition
of the divisions among the panel about the constitutionality of the
challenged provisions of BCRA, counsel in favor of granting a stay of this
case."

Judge Leon concurred in part and dissented in part, on the grounds that
the moving parties had "failed to demonstrate irreparable injury" and that
granting a stay of the entire judgment would "violate the First Amendment
rights of vaiours political parties, donors, broadcasters, interest
groups, and minors." He would have not stayed the rulings on Title I and
on the provisions affecting minors and requiring record productions from
broadcaster, and would have limited the stay on the rulings on Title II
until the FEC could promulgate regulations implementing the backup
definition of "electioneering communications."



ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_86EJG003_OPD.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_86EJG003_OPD.TXT_2>
```

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SENATOR MITCH McCONNELL, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-582 (CKK, KLH, RJL)
NATIONAL RIFLE ASSOCIATION OF AMERICA, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-581 (CKK, KLH, RJL)
EMILY ECHOLS, a minor child, by and through her next friends, TIM AND WINDY ECHOLS, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-633 (CKK, KLH, RJL)

CHAMBER OF COMMERCE OF THE UNITED STATES, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-751 (CKK, KLH, RJL)
NATIONAL ASSOCIATION OF BROADCASTERS, Plaintiff, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-753 (CKK, KLH, RJL)
AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-754 (CKK, KLH, RJL)

CONGRESSMAN RON PAUL, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-781 (CKK, KLH, RJL)
REPUBLICAN NATIONAL COMMITTEE, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.* Defendants.	Civ. No. 02-874 (CKK, KLH, RJL)
CALIFORNIA DEMOCRATIC PARTY, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-875 (CKK, KLH, RJL)

REV_00167160

VICTORIA JACKSON GRAY ADAMS, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-877 (CKK, KLH, RJL)

REPRESENTATIVE BENNIE G. THOMPSON, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-881 (CKK, KLH, RJL)

ORDER
(May 19, 2003)

For the reasons set forth in the Memorandum Opinion of Circuit Judge Henderson and District Judge Kollar-Kotelly, from which District Judge Leon concurs in part and dissents in part, it is this 19th day of May, 2003, hereby

ORDERED that the Government Defendants' Motion for Stay of Final Judgment Pending Appeal to the Supreme Court of the United States [#327] is GRANTED; it is further

ORDERED that the Intervening Defendants' Motion to Stay Injunction Pending

REV_00167161

Appeal [#322] is GRANTED; it is further

ORDERED that the NRA Plaintiffs' Motion to Stay Pursuant to Rule 62(c) [#317] is DENIED AS MOOT; it is further

ORDERED that Plaintiff ACLU's Motion for Stay Pursuant to Rule 62(c) [#325] is DENIED AS MOOT; and it is further

ORDERED that this Court's May 1, 2003, Final Judgment is STAYED pending final disposition of these actions in the Supreme Court of the United States.

All three judges concur that it is hereby

ORDERED that Certain of the Madison Center Plaintiffs'[1] Motion for Injunction Pending Appeal [#321] is DENIED; it is further

ORDERED that Plaintiff AFL-CIO's Motion for an Injunction Pending Appeal [#319] is DENIED; it is further

ORDERED that the NRA Plaintiffs' Motion for an Administrative Stay, Pending Adjudication of Their Motion to Stay Pursuant to Rule 62(c) [#318] is DENIED AS MOOT; it is further

ORDERED that the Government Defendants' Emergency Motion for Temporary Stay of Final Judgment Pending Consideration of Motion for Stay of Final Judgment Pending Appeal to the Supreme Court of the United States [#326] is DENIED AS MOOT; it is further

---

[1] For purposes of this motion, the Madison Center Plaintiffs include the National Right to Life Committee, Inc., National Right to Life Educational Trust Fund, Club for Growth, Inc., and Indiana Family Institute, Inc.

REV_00167162

ORDERED that Certain of the Madison Center Plaintiffs'[2] Motion to Convene an Open Hearing on their Motion for an Injunction Pending Appeal [#328] is DENIED[3]; and it is further

ORDERED that the Madison Center Plaintiffs' Motion to Alter or Amend the Judgment [#316] is DENIED AS MOOT.

SO ORDERED.

/s/
KAREN LECRAFT HENDERSON
United States Circuit Judge

/s/
COLLEEN KOLLAR-KOTELLY
United States District Judge

/s/
RICHARD J. LEON
United States District Judge

[2] For purposes of this motion, the Madison Center Plaintiffs include the National Right to Life Committee, Inc., National Right to Life Educational Trust Fund, Club for Growth, Inc., and Indiana Family Institute, Inc.

[3] As all three judges have signed this Order, the Court has complied with Federal Rule of Civil Procedure 62(c) and does not need to issue this order by sitting in open court. Fed. R. Civ. P. 62(c).

REV_00167163

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SENATOR MITCH McCONNELL, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-582 (CKK, KLH, RJL)
NATIONAL RIFLE ASSOCIATION OF AMERICA, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-581 (CKK, KLH, RJL)
EMILY ECHOLS, a minor child, by and through her next friends, TIM AND WINDY ECHOLS, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-633 (CKK, KLH, RJL)

CHAMBER OF COMMERCE OF THE UNITED STATES, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-751 (CKK, KLH, RJL)
NATIONAL ASSOCIATION OF BROADCASTERS, Plaintiff, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-753 (CKK, KLH, RJL)
AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-754 (CKK, KLH, RJL)

CONGRESSMAN RON PAUL, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-781 (CKK, KLH, RJL)
REPUBLICAN NATIONAL COMMITTEE, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.* Defendants.	Civ. No. 02-874 (CKK, KLH, RJL)
CALIFORNIA DEMOCRATIC PARTY, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-875 (CKK, KLH, RJL)

VICTORIA JACKSON GRAY ADAMS, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-877 (CKK, KLH, RJL)

REPRESENTATIVE BENNIE G. THOMPSON, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-881 (CKK, KLH, RJL)

MEMORANDUM OPINION
(May 19, 2003)

Presently before the Court are a number of motions to stay all or part of this Court's May 1, 2003, Final Judgment. On May 7, 2003, the NRA Plaintiffs moved, pursuant to Federal Rule of Civil Procedure 62(c), to stay this Court's decision with respect to Title II pending review by the Supreme Court. NRA Mem. at 1. On May 8, 2003, this Court issued an Order requiring that any other motions requesting to stay all or part of this Court's May

REV_00167167

1, 2003, Final Judgment Order be filed by noon on Friday, May 9, 2003. *McConnell v. FEC*, No. 02cv582 (D.D.C. May 8, 2003) (briefing order). The Court also required that any and all oppositions to the motions for stay be filed by noon on Monday, May 12, 2003, and that any and all replies to the motions for stay be filed by noon on Wednesday, May 14, 2003. *Id.*

In accordance with that schedule, on May 9, 2003, Plaintiff ACLU filed a stay motion joining Plaintiff NRA's request to stay this Court's decision with respect to Title II. ACLU Mot. at 3. The NRA and ACLU stay motions have been opposed by the Madison Center Plaintiffs,[1] who along with the AFL-CIO Plaintiffs have each moved for injunctive relief requesting that the Court not restore any definition of "electioneering communication." Madison Center Mem. at 1; AFL-CIO Mem at 2. The Madison Center Plaintiffs and the AFL-CIO Plaintiffs' motions have been opposed by the Government Defendants[2] and Intervenor Defendants.[3]

---

[1] Madison Center Plaintiffs include the National Right to Life Committee, Inc., National Right to Life Educational Trust Fund, National Right to Life PAC, Libertarian National Committee, Inc., Club for Growth, Inc., Indiana Family Institute, Inc., U.S. Representative Mike Pence, Alabama Attorney General William H. Pryor, Barret Austin O'Brock, and Trevor M. Southerland.

[2] The Government Defendants include the Federal Election Commission, the United States of America, the United States Department of Justice, John Ashcroft, Attorney General of the United States, and the Federal Communications Commission.

[3] The Intervenor Defendants include Senator John McCain, Senator Russell Feingold, Representative Christopher Shays, Representative Martin Meehan, Senator Olympia Snowe, and Senator James Jeffords.

REV_00167168

The Government Defendants and Intervenor-Defendants also move pursuant to Rule 62(c) to stay the Court's entire Final Judgment pending disposition of the parties' appeals to the Supreme Court of the United States. Gov't Mem. at 4; Intervenor Defs.' Mem. at 1. These motions are opposed by certain of the McConnell Plaintiffs,[4] who argue that the Court's Final Judgment with respect to Sections 201(5), 213, 318, and 504 of the Bipartisan Campaign Reform Act ("BCRA"), the positions unanimously struck down by the three judge court, should not be stayed. McConnell Opp'n at 3. These McConnell Plaintiffs also contend that the Court's ruling with regard to Title I should not be stayed. *Id.* at 3-4. These McConnell Plaintiffs join the NRA and ACLU in requesting, however, that the Court's Title II ruling be stayed. *Id.* at 4-6. Defendants' motions are also opposed by Plaintiff National Association of Broadcasters which requests that the Court not stay its ruling with regard to Section 504 of BCRA. NAB Mem. at 5. Plaintiff National Association of Broadcasters takes no position with respect to any of the other stay requests. *Id.* at 1. Similarly, Plaintiffs in Civil Action Number 02-633, the Echols Plaintiffs, oppose Defendants' motions, particularly with respect to staying the Court's ruling on Section 318 of BCRA. Echols' Opp'n at 2. Additional oppositions to the Government Defendants and Intervenor

[4] These McConnell Plaintiffs include Senator Mitch McConnell, Southeastern Legal Foundation, Inc., Representative Bob Barr, Center for Individual Freedom, National Right to Work Committee, 60 Plus Association, Inc., U.S. d/b/a Pro English, and Thomas McInerney.

REV_00167169

Defendants' motions have been filed by Republican National Committee Plaintiffs[5] and Plaintiffs California Democratic Party and California Republican Party,[6] opposing the stay motions only with respect to staying this Court's ruling on Title I of BCRA. CDP/CRP Opp'n at 2; RNC Opp'n at 1. The Madison Center Plaintiffs and the AFL-CIO also each oppose these motions and argue, as discussed *supra*, that the Court should not reinstate either definition of electioneering communication.

Two motions for "administrative" stays filed by the NRA Plaintiffs and the Government Defendants (joined by the Intervenor Defendants) are also pending before this Court. These requests are to stay all (Defendants' position) or part (NRA's position) of the Court's ruling until the Court can make a ruling on the present Rule 62(c) motions. Given that the Court is ruling on the Rule 62(c) motions in the attached order, the administrative stay requests are denied as moot.

After due consideration of the motions, the oppositions, and replies, the relevant case law, and the pertinent Federal Rules of Civil Procedure, the Court is satisfied that a stay should be granted pending final disposition of these eleven actions in the Supreme Court of the United States. This Court's desire to prevent the litigants from facing potentially three

---

[5] The Republican National Committee Plaintiffs include the Republican National Committee, the Republican Parties of Colorado, New Mexico, and Ohio, Dallas County (Iowa) Republican County Central Committee, and Michael Duncan.

[6] Joining the CDP and CRP in opposing these motions are Yolo County Democratic Central Committee, Art Torres, Santa Cruz Republican Central Committee, Shawn Steel, Timothy Morgan, Barbara Alby, and Douglas R. Boyd, Sr.

REV_00167170

different regulatory regimes in a very short time span, and the Court's recognition of the divisions among the panel about the constitutionality of the challenged provisions of BCRA, counsel in favor of granting a stay of this case. Pursuant to Federal Rule of Civil Procedure 52(a) ("Findings of fact and conclusions of law are unnecessary on decisions of motions under Rule 12 or 56 or any other motion. . . ."), the Court deems no further discussion necessary to resolve these motions.

/s/
KAREN LECRAFT HENDERSON
United States Circuit Judge

/s/
COLLEEN KOLLAR-KOTELLY
United States District Judge

REV_00167171

RICHARD J. LEON, *District Judge*, dissenting in part and concurring in part: Because the moving parties have failed to demonstrate irreparable injury and because granting a stay to this Court's judgment in its entirety will violate the First Amendment rights of various political parties, donors, broadcasters, interest groups, and minors, I respectfully dissent in part from, and concur in part in, my colleagues' decision.

After months of painstaking analysis, this Court found unconstitutional, in whole or in part, nine of the twenty provisions of BCRA challenged by the plaintiffs. Four of those provisions were struck down unanimously (i.e., 201(5), 213, 318, and 504), and four were struck down in their entirety (i.e., 213, 318, 504, and new FECA Section 323(d)). While our reasoning may have differed in some instances, at least two members of this Court *in each instance* found that the unconstitutional section of the statute (or its subpart) unjustifiably infringed upon the constitutional rights of one or more of the various parties' impacted by the BCRA campaign finance regime. Indeed, because "the loss of First Amendment freedom for even minimal periods of time unquestionably constitutes irreparable injury," *Elrod v. Burns*, 427 U.S. 347, 374 (1976), the moving parties' arguments must be scrutinized by this Court with extreme care to ensure that they meet the high standards for this "extraordinary remedy." *Cuomo v. U.S. Nuclear Reg. Comm'n*, 772 F.2d 972, 978 (D.C. Cir. 1985).[7] In my judgment,

[7] The Court will only grant a stay pending appeal if the moving parties can "show (1) that [they] have a substantial likelihood of success on the merits; (2) that [they] will suffer irreparable injury if the stay is denied; (3) that issuance of the stay will not cause substantial harm to other parties; and (4) that the public interest will be served by issuance of the stay." *United States v. Philip Morris, Inc.*, 314 F.3d 612, 617 (D.C. Cir. 2003)

REV_00167172

their arguments, for the most part, cannot withstand such scrutiny.

With regard to Title I, two members of this Court found that the defendants could not justify Congress's sweeping soft money restrictions in new FECA Sections 323(a) and 323(b) that require political parties to fund nonfederal and mixed-purposed activities with only federal money. Such restrictions, in our judgment, placed an impermissible burden on the associational rights of parties and their donors. Thus, every day these BCRA provisions remain in effect donors are restricted from using donations to amplify their voices through their political parties, thereby suffering irreparable injury. It is difficult to fathom how granting a stay on these Title I provisions could possibly be in the public interest, or be justified by the relatively minor inconvenience to the FEC of having to reinstate, for the most part, its all-too-familiar pre-BCRA rules. Moreover, the defendants' argument that this Court's judgment is "likely to create the appearance or fact of corruption" by allowing political parties and others to raise and use nonfederal funds (i.e., soft money) is similarly unavailing. Gov't Mot. for Stay at 9, 13-14. As long as soft money cannot be used for federal purposes, which is after all the majority holding of this Court, the risk of actual or apparent corruption is nonexistent. Simply stated, the public interest is much better served by protecting the public's First Amendment freedoms and by ensuring that the political

---

(citing *Washington Metro. Area Transit Comm'n v. Holiday Tours, Inc.*, 559 F.2d 841, 843 (D.C. Cir. 1977)). These factors must be weighed against one another, and the mere presence of one factor does not dictate an outcome for or against the stay. *See Serono Labs., Inc. v. Shalala*, 158 F.3d 1313, 1318 (D.C. Cir. 1998); *CityFed Fin. Corp. v. Office of Thrift Supervision*, 58 F.3d 738, 747 (D.C. Cir. 1995).

REV_00167173

parties and other participants in the public arena are free to play their traditional roles in the electoral process unimpeded by unconstitutional restraints.

With regard to Title II, I similarly do not believe the moving parties have demonstrated sufficient irreparable harm, alone, to warrant a stay—particularly as to Sections 201(5) and 213 which were unanimously struck down by this Court. However, I do believe that the FEC's unfortunate failure to promulgate regulations for the backup definition, as it did for the primary definition,[8] has sufficiently deprived the parties of guidance regarding the contours of the backup definition to warrant a stay of the primary definition portion of our judgment on Section 201. Doing so, at this time, is palatable since the primary definition does not take effect as a practical matter until thirty days before the first primary election and will therefore not immediately injure the plaintiffs. Unlike my colleagues, however, I would limit that stay to the period of time necessary for the FEC to issue regulatory guidance on the backup definition, and thereby minimize the negative consequences of reinstating the primary definition.

Finally, with respect to Sections 318 and 504, which are conceptually distinct from

---

[8] Some commenters on the proposed FEC regulations argued that "the period between a final decision in [this] litigation and the 2004 elections is likely to be too short to permit the commission to complete a rulemaking [on the backup definition] in time to provide guidance, if the operative definition is invalidated. They further argued that the [backup] definition's application to the entire election cycle, and not just the 30- or 60-day periods to which the current definition is limited, exacerbates the timing issue." Electioneering Communications, 67 Fed. Reg. 65190, 65191 (Oct. 23, 2002). Without regard to these concerns, the FEC decided that promulgating regulations for the backup definition was "premature." *Id.*

REV_00167174

Titles I and II and were also struck down unanimously by this Court, the moving parties have not even attempted to demonstrate that irreparable harm will occur if the judgments as to these sections are not stayed; nor could they have done so, credibly. To me, including these flawed sections in a statute-wide stay would be like a fisherman retaining whatever the ocean yields to a net with undersized mesh. It increases his "catch," but the public interest dictates against it. Suffice it to say, continuing such unconstitutional restrictions on minors and demanding such unconstitutional record production from broadcasters is, in my judgment, inconsistent with both the public interest and the spirit of the First Amendment.

/s/
RICHARD J. LEON
United States District Judge

REV_00167175

From:	CN=Jennifer R. Brosnahan/OU=WHO/O=EOP [WHO]
To:	David G. Leitch/WHO/EOP@Exchange@EOP [WHO] <David G. Leitch>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Alberto R. Gonzales/WHO /EOP@Exchange@EOP [WHO] <Alberto R. Gonzales>
CC:	Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>;Jay P. Lefkowitz/OPD /EOP@Exchange@EOP [OPD] <Jay P. Lefkowitz>
Sent:	5/19/2003 10:28:10 AM
Subject:	: FW: BCRA Stay order
Attachments:	P_86EJG003_WHO.TXT_1; P_86EJG003_WHO.TXT_2

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:19-MAY-2003 14:28:10.00
SUBJECT:: FW: BCRA Stay order
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
CC:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
CC:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange@EOP [ OPD ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Attached are the order and opinion granting a stay of the district court's
entire campaign finance decision pending final disposition by the Supreme
Court . In short, the majority of the 3-judge panel agreed with the
government's "regulatory chaos" theory for getting a stay. The court
granted the stay, with the following short explanation: "The Court's
desire to prevent the litigants from facing potentially three different
regulatory regimes in a very short time span, and the Court's recognition
of the divisions among the panel about the constitutionality of the
challenged provisions of BCRA, counsel in favor of granting a stay of this
case."

Judge Leon concurred in part and dissented in part, on the grounds that
the moving parties had "failed to demonstrate irreparable injury" and that
granting a stay of the entire judgment would "violate the First Amendment
rights of vaiours political parties, donors, broadcasters, interest
groups, and minors." He would have not stayed the rulings on Title I and
on the provisions affecting minors and requiring record productions from
broadcaster, and would have limited the stay on the rulings on Title II
until the FEC could promulgate regulations implementing the backup
definition of "electioneering communications."



ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_86EJG003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_86EJG003_WHO.TXT_2>
```

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SENATOR MITCH McCONNELL, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-582 (CKK, KLH, RJL)
NATIONAL RIFLE ASSOCIATION OF AMERICA, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-581 (CKK, KLH, RJL)
EMILY ECHOLS, a minor child, by and through her next friends, TIM AND WINDY ECHOLS, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-633 (CKK, KLH, RJL)

CHAMBER OF COMMERCE OF THE UNITED STATES, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-751 (CKK, KLH, RJL)
NATIONAL ASSOCIATION OF BROADCASTERS, Plaintiff, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-753 (CKK, KLH, RJL)
AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-754 (CKK, KLH, RJL)

CONGRESSMAN RON PAUL, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-781 (CKK, KLH, RJL)
REPUBLICAN NATIONAL COMMITTEE, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.* Defendants.	Civ. No. 02-874 (CKK, KLH, RJL)
CALIFORNIA DEMOCRATIC PARTY, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-875 (CKK, KLH, RJL)

REV_00167179

VICTORIA JACKSON GRAY ADAMS, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-877 (CKK, KLH, RJL)

REPRESENTATIVE BENNIE G. THOMPSON, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-881 (CKK, KLH, RJL)

ORDER
(May 19, 2003)

For the reasons set forth in the Memorandum Opinion of Circuit Judge Henderson and District Judge Kollar-Kotelly, from which District Judge Leon concurs in part and dissents in part, it is this 19th day of May, 2003, hereby

ORDERED that the Government Defendants' Motion for Stay of Final Judgment Pending Appeal to the Supreme Court of the United States [#327] is GRANTED; it is further

ORDERED that the Intervening Defendants' Motion to Stay Injunction Pending

REV_00167180

Appeal [#322] is GRANTED; it is further

ORDERED that the NRA Plaintiffs' Motion to Stay Pursuant to Rule 62(c) [#317] is DENIED AS MOOT; it is further

ORDERED that Plaintiff ACLU's Motion for Stay Pursuant to Rule 62(c) [#325] is DENIED AS MOOT; and it is further

ORDERED that this Court's May 1, 2003, Final Judgment is STAYED pending final disposition of these actions in the Supreme Court of the United States.

All three judges concur that it is hereby

ORDERED that Certain of the Madison Center Plaintiffs'[1] Motion for Injunction Pending Appeal [#321] is DENIED; it is further

ORDERED that Plaintiff AFL-CIO's Motion for an Injunction Pending Appeal [#319] is DENIED; it is further

ORDERED that the NRA Plaintiffs' Motion for an Administrative Stay, Pending Adjudication of Their Motion to Stay Pursuant to Rule 62(c) [#318] is DENIED AS MOOT; it is further

ORDERED that the Government Defendants' Emergency Motion for Temporary Stay of Final Judgment Pending Consideration of Motion for Stay of Final Judgment Pending Appeal to the Supreme Court of the United States [#326] is DENIED AS MOOT; it is further

---

[1] For purposes of this motion, the Madison Center Plaintiffs include the National Right to Life Committee, Inc., National Right to Life Educational Trust Fund, Club for Growth, Inc., and Indiana Family Institute, Inc.

REV_00167181

ORDERED that Certain of the Madison Center Plaintiffs'[2] Motion to Convene an Open Hearing on their Motion for an Injunction Pending Appeal [#328] is DENIED[3]; and it is further

ORDERED that the Madison Center Plaintiffs' Motion to Alter or Amend the Judgment [#316] is DENIED AS MOOT.

SO ORDERED.

/s/
KAREN LECRAFT HENDERSON
United States Circuit Judge

/s/
COLLEEN KOLLAR-KOTELLY
United States District Judge

/s/
RICHARD J. LEON
United States District Judge

[2] For purposes of this motion, the Madison Center Plaintiffs include the National Right to Life Committee, Inc., National Right to Life Educational Trust Fund, Club for Growth, Inc., and Indiana Family Institute, Inc.

[3] As all three judges have signed this Order, the Court has complied with Federal Rule of Civil Procedure 62(c) and does not need to issue this order by sitting in open court. Fed. R. Civ. P. 62(c).

REV_00167182

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SENATOR MITCH McCONNELL, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-582 (CKK, KLH, RJL)
NATIONAL RIFLE ASSOCIATION OF AMERICA, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-581 (CKK, KLH, RJL)
EMILY ECHOLS, a minor child, by and through her next friends, TIM AND WINDY ECHOLS, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-633 (CKK, KLH, RJL)

CHAMBER OF COMMERCE OF THE UNITED STATES, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-751 (CKK, KLH, RJL)
NATIONAL ASSOCIATION OF BROADCASTERS, Plaintiff, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-753 (CKK, KLH, RJL)
AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-754 (CKK, KLH, RJL)

CONGRESSMAN RON PAUL, *et al.*,

Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*,

Defendants.

Civ. No. 02-781 (CKK, KLH, RJL)

REPUBLICAN NATIONAL COMMITTEE, *et al.*,

Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*

Defendants.

Civ. No. 02-874 (CKK, KLH, RJL)

CALIFORNIA DEMOCRATIC PARTY, *et al.*,

Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*,

Defendants.

Civ. No. 02-875 (CKK, KLH, RJL)

VICTORIA JACKSON GRAY ADAMS, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-877 (CKK, KLH, RJL)

REPRESENTATIVE BENNIE G. THOMPSON, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-881 (CKK, KLH, RJL)

MEMORANDUM OPINION
(May 19, 2003)

Presently before the Court are a number of motions to stay all or part of this Court's May 1, 2003, Final Judgment. On May 7, 2003, the NRA Plaintiffs moved, pursuant to Federal Rule of Civil Procedure 62(c), to stay this Court's decision with respect to Title II pending review by the Supreme Court. NRA Mem. at 1. On May 8, 2003, this Court issued an Order requiring that any other motions requesting to stay all or part of this Court's May

REV_00167186

1, 2003, Final Judgment Order be filed by noon on Friday, May 9, 2003. *McConnell v. FEC*, No. 02cv582 (D.D.C. May 8, 2003) (briefing order). The Court also required that any and all oppositions to the motions for stay be filed by noon on Monday, May 12, 2003, and that any and all replies to the motions for stay be filed by noon on Wednesday, May 14, 2003. *Id.*

In accordance with that schedule, on May 9, 2003, Plaintiff ACLU filed a stay motion joining Plaintiff NRA's request to stay this Court's decision with respect to Title II. ACLU Mot. at 3. The NRA and ACLU stay motions have been opposed by the Madison Center Plaintiffs,[1] who along with the AFL-CIO Plaintiffs have each moved for injunctive relief requesting that the Court not restore any definition of "electioneering communication." Madison Center Mem. at 1; AFL-CIO Mem at 2. The Madison Center Plaintiffs and the AFL-CIO Plaintiffs' motions have been opposed by the Government Defendants[2] and Intervenor Defendants.[3]

---

[1] Madison Center Plaintiffs include the National Right to Life Committee, Inc., National Right to Life Educational Trust Fund, National Right to Life PAC, Libertarian National Committee, Inc., Club for Growth, Inc., Indiana Family Institute, Inc., U.S. Representative Mike Pence, Alabama Attorney General William H. Pryor, Barret Austin O'Brock, and Trevor M. Southerland.

[2] The Government Defendants include the Federal Election Commission, the United States of America, the United States Department of Justice, John Ashcroft, Attorney General of the United States, and the Federal Communications Commission.

[3] The Intervenor Defendants include Senator John McCain, Senator Russell Feingold, Representative Christopher Shays, Representative Martin Meehan, Senator Olympia Snowe, and Senator James Jeffords.

REV_00167187

The Government Defendants and Intervenor-Defendants also move pursuant to Rule 62(c) to stay the Court's entire Final Judgment pending disposition of the parties' appeals to the Supreme Court of the United States. Gov't Mem. at 4; Intervenor Defs.' Mem. at 1. These motions are opposed by certain of the McConnell Plaintiffs,[4] who argue that the Court's Final Judgment with respect to Sections 201(5), 213, 318, and 504 of the Bipartisan Campaign Reform Act ("BCRA"), the positions unanimously struck down by the three judge court, should not be stayed. McConnell Opp'n at 3. These McConnell Plaintiffs also contend that the Court's ruling with regard to Title I should not be stayed. *Id.* at 3-4. These McConnell Plaintiffs join the NRA and ACLU in requesting, however, that the Court's Title II ruling be stayed. *Id.* at 4-6. Defendants' motions are also opposed by Plaintiff National Association of Broadcasters which requests that the Court not stay its ruling with regard to Section 504 of BCRA. NAB Mem. at 5. Plaintiff National Association of Broadcasters takes no position with respect to any of the other stay requests. *Id.* at 1. Similarly, Plaintiffs in Civil Action Number 02-633, the Echols Plaintiffs, oppose Defendants' motions, particularly with respect to staying the Court's ruling on Section 318 of BCRA. Echols' Opp'n at 2. Additional oppositions to the Government Defendants and Intervenor

[4] These McConnell Plaintiffs include Senator Mitch McConnell, Southeastern Legal Foundation, Inc., Representative Bob Barr, Center for Individual Freedom, National Right to Work Committee, 60 Plus Association, Inc., U.S. d/b/a Pro English, and Thomas McInerney.

REV_00167188

Defendants' motions have been filed by Republican National Committee Plaintiffs[5] and Plaintiffs California Democratic Party and California Republican Party,[6] opposing the stay motions only with respect to staying this Court's ruling on Title I of BCRA. CDP/CRP Opp'n at 2; RNC Opp'n at 1. The Madison Center Plaintiffs and the AFL-CIO also each oppose these motions and argue, as discussed *supra*, that the Court should not reinstate either definition of electioneering communication.

Two motions for "administrative" stays filed by the NRA Plaintiffs and the Government Defendants (joined by the Intervenor Defendants) are also pending before this Court. These requests are to stay all (Defendants' position) or part (NRA's position) of the Court's ruling until the Court can make a ruling on the present Rule 62(c) motions. Given that the Court is ruling on the Rule 62(c) motions in the attached order, the administrative stay requests are denied as moot.

After due consideration of the motions, the oppositions, and replies, the relevant case law, and the pertinent Federal Rules of Civil Procedure, the Court is satisfied that a stay should be granted pending final disposition of these eleven actions in the Supreme Court of the United States. This Court's desire to prevent the litigants from facing potentially three

---

[5] The Republican National Committee Plaintiffs include the Republican National Committee, the Republican Parties of Colorado, New Mexico, and Ohio, Dallas County (Iowa) Republican County Central Committee, and Michael Duncan.

[6] Joining the CDP and CRP in opposing these motions are Yolo County Democratic Central Committee, Art Torres, Santa Cruz Republican Central Committee, Shawn Steel, Timothy Morgan, Barbara Alby, and Douglas R. Boyd, Sr.

REV_00167189

different regulatory regimes in a very short time span, and the Court's recognition of the divisions among the panel about the constitutionality of the challenged provisions of BCRA, counsel in favor of granting a stay of this case. Pursuant to Federal Rule of Civil Procedure 52(a) ("Findings of fact and conclusions of law are unnecessary on decisions of motions under Rule 12 or 56 or any other motion. . . ."), the Court deems no further discussion necessary to resolve these motions.

/s/
KAREN LECRAFT HENDERSON
United States Circuit Judge

/s/
COLLEEN KOLLAR-KOTELLY
United States District Judge

REV_00167190

RICHARD J. LEON, *District Judge*, dissenting in part and concurring in part: Because the moving parties have failed to demonstrate irreparable injury and because granting a stay to this Court's judgment in its entirety will violate the First Amendment rights of various political parties, donors, broadcasters, interest groups, and minors, I respectfully dissent in part from, and concur in part in, my colleagues' decision.

After months of painstaking analysis, this Court found unconstitutional, in whole or in part, nine of the twenty provisions of BCRA challenged by the plaintiffs. Four of those provisions were struck down unanimously (i.e., 201(5), 213, 318, and 504), and four were struck down in their entirety (i.e., 213, 318, 504, and new FECA Section 323(d)). While our reasoning may have differed in some instances, at least two members of this Court *in each instance* found that the unconstitutional section of the statute (or its subpart) unjustifiably infringed upon the constitutional rights of one or more of the various parties' impacted by the BCRA campaign finance regime. Indeed, because "the loss of First Amendment freedom for even minimal periods of time unquestionably constitutes irreparable injury," *Elrod v. Burns*, 427 U.S. 347, 374 (1976), the moving parties' arguments must be scrutinized by this Court with extreme care to ensure that they meet the high standards for this "extraordinary remedy." *Cuomo v. U.S. Nuclear Reg. Comm'n*, 772 F.2d 972, 978 (D.C. Cir. 1985).[7] In my judgment,

[7] The Court will only grant a stay pending appeal if the moving parties can "show (1) that [they] have a substantial likelihood of success on the merits; (2) that [they] will suffer irreparable injury if the stay is denied; (3) that issuance of the stay will not cause substantial harm to other parties; and (4) that the public interest will be served by issuance of the stay." *United States v. Philip Morris, Inc.*, 314 F.3d 612, 617 (D.C. Cir. 2003)

REV_00167191

their arguments, for the most part, cannot withstand such scrutiny.

With regard to Title I, two members of this Court found that the defendants could not justify Congress's sweeping soft money restrictions in new FECA Sections 323(a) and 323(b) that require political parties to fund nonfederal and mixed-purposed activities with only federal money. Such restrictions, in our judgment, placed an impermissible burden on the associational rights of parties and their donors. Thus, every day these BCRA provisions remain in effect donors are restricted from using donations to amplify their voices through their political parties, thereby suffering irreparable injury. It is difficult to fathom how granting a stay on these Title I provisions could possibly be in the public interest, or be justified by the relatively minor inconvenience to the FEC of having to reinstate, for the most part, its all-too-familiar pre-BCRA rules. Moreover, the defendants' argument that this Court's judgment is "likely to create the appearance or fact of corruption" by allowing political parties and others to raise and use nonfederal funds (i.e., soft money) is similarly unavailing. Gov't Mot. for Stay at 9, 13-14. As long as soft money cannot be used for federal purposes, which is after all the majority holding of this Court, the risk of actual or apparent corruption is nonexistent. Simply stated, the public interest is much better served by protecting the public's First Amendment freedoms and by ensuring that the political

---

(citing *Washington Metro. Area Transit Comm'n v. Holiday Tours, Inc.*, 559 F.2d 841, 843 (D.C. Cir. 1977)). These factors must be weighed against one another, and the mere presence of one factor does not dictate an outcome for or against the stay. *See Serono Labs., Inc. v. Shalala*, 158 F.3d 1313, 1318 (D.C. Cir. 1998); *CityFed Fin. Corp. v. Office of Thrift Supervision*, 58 F.3d 738, 747 (D.C. Cir. 1995).

REV_00167192

parties and other participants in the public arena are free to play their traditional roles in the electoral process unimpeded by unconstitutional restraints.

With regard to Title II, I similarly do not believe the moving parties have demonstrated sufficient irreparable harm, alone, to warrant a stay—particularly as to Sections 201(5) and 213 which were unanimously struck down by this Court. However, I do believe that the FEC's unfortunate failure to promulgate regulations for the backup definition, as it did for the primary definition,[8] has sufficiently deprived the parties of guidance regarding the contours of the backup definition to warrant a stay of the primary definition portion of our judgment on Section 201. Doing so, at this time, is palatable since the primary definition does not take effect as a practical matter until thirty days before the first primary election and will therefore not immediately injure the plaintiffs. Unlike my colleagues, however, I would limit that stay to the period of time necessary for the FEC to issue regulatory guidance on the backup definition, and thereby minimize the negative consequences of reinstating the primary definition.

Finally, with respect to Sections 318 and 504, which are conceptually distinct from

---

[8] Some commenters on the proposed FEC regulations argued that "the period between a final decision in [this] litigation and the 2004 elections is likely to be too short to permit the commission to complete a rulemaking [on the backup definition] in time to provide guidance, if the operative definition is invalidated. They further argued that the [backup] definition's application to the entire election cycle, and not just the 30- or 60-day periods to which the current definition is limited, exacerbates the timing issue." Electioneering Communications, 67 Fed. Reg. 65190, 65191 (Oct. 23, 2002). Without regard to these concerns, the FEC decided that promulgating regulations for the backup definition was "premature." *Id.*

REV_00167193

Titles I and II and were also struck down unanimously by this Court, the moving parties have not even attempted to demonstrate that irreparable harm will occur if the judgments as to these sections are not stayed; nor could they have done so, credibly. To me, including these flawed sections in a statute-wide stay would be like a fisherman retaining whatever the ocean yields to a net with undersized mesh. It increases his "catch," but the public interest dictates against it. Suffice it to say, continuing such unconstitutional restrictions on minors and demanding such unconstitutional record production from broadcasters is, in my judgment, inconsistent with both the public interest and the spirit of the First Amendment.

/s/
RICHARD J. LEON
United States District Judge

REV_00167194

From: Mamo, Jeanie S.
To: <Snee, Ashley>;<Kavanaugh, Brett M.>
Sent: 5/19/2003 2:53:47 PM
Subject: Orlando Sentinel COLUMN (5/16/03) by Peter Brown re; Lawyers' party hits a new low

Lawyers' party hits a new low

Published May 16, 2003

Orlando Sentinel

Perhaps they are just isolated incidents. But if the aren't, Democrats ought to seriously consider the long-term damage they may be doing to our political system with their ends-justify-the-means mentality.

I'm talking about Democrats in the U.S. Senate using a parliamentary device to block confirmation of federal judges who have the number of votes needed for confirmation, and the laughable -- if it weren't so serious -- decision by Texas House members to flee the state to stop the Legislature from doing its business.

In both cases, Democrats are making a mockery of majority rule. Say what you want about Republicans giving Bill Clinton's nominees a hard time, but the GOP held the congressional majority then.

Throw in the Democrats' threat earlier this year that unless they were given equal committee membership and staffing -- virtually unheard of for a minority party -- they would shut down U.S. Senate business. And what about the case of Robert Torricelli, a scandal-tainted U.S. senator from New Jersey? Last fall he was forced off the ballot by his party on the correct assumption that a Democratic court would ignore filing deadlines and let the party substitute a candidate more electable than Torricelli.

You have to wonder if there's more legal sleight of hand and disdain for democracy to come from a party that has sold its soul to trial lawyers. When "Larry and Laurie Lawyer" replace "Joe and Jill Sixpack" as the Democrats' driving force, chicanery is no surprise.

Obviously, unrelenting partisanship has increased on both sides of the aisle in recent years. But the Democrats' actions take it to a whole new level and threaten our government's ability to function.

For those screaming "What about the 2000 election?", remember that it was Al Gore's campaign that began the court fight. And Democrats insisted on a recount only in Florida's four largest Democratic counties, not statewide. If they had wanted the truth, not just victory, they would have sought a statewide recount.

The U.S. Supreme Court, a narrow majority of whose members were appointed by

Republican presidents, merely reversed the decision of the Florida Supreme Court, six of whose seven members were Democratic appointees.

Senate Democrats are holding up the confirmations of Miguel Estrada and Patricia Owen to the U.S. Court of Appeals. They can't defeat the nominees, but they have the 41 senators needed to make sure no vote is taken.

Democratic senators acknowledge that their tactics -- and the likelihood they will filibuster more of Bush's nominees, perhaps even his eventual Supreme Court choice -- are not about qualifications. Both judges-in-waiting have the stamp of approval of the American Bar Association, not exactly a GOP-friendly body.

This is all about politics. Democrats are candid that they don't like the ideology of the Bush nominees. But so what. When the American people elected George Bush, they didn't mean for Teddy Kennedy to decide who sits on the federal bench.

In Texas, where Republicans now control both the Legislature and govenorship for the first time in 130 years, Democrats ruled with an iron fist for a century. During their reign, they treated Republicans like dirt. Until 20 years ago, Republicans could caucus in a phone booth.

But with Texas Republicans trying to implement their policies -- as presumably voters who elected them desire -- virtually all House Democrats skipped the state to deny the quorum necessary to do business. They holed up in an Oklahoma hotel, beyond the jurisdiction of state troopers empowered to arrest them and return them to the Capitol.

Since the deadline for the Texas House to pass legislation was Thursday, their plan was to thwart the House's ability to function. Of course, Republican Gov. Rick Perry has promised to call special sessions to do the business not dealt with.

The Democratic tactics reek of the "win-at-all-costs" trial-lawyer mentality. Not only are they the largest source of Democratic campaign contributions, but whether it's governors or state or federal lawmakers, you see lawyers much more dominating party ranks than among Republicans. Four of the last five Democratic presidential candidates were lawyers, but just one of the five Republican candidates was.

Sen. Charles Schumer, D-N.Y., a filibuster leader, claims "history will look kindly on us."

You have to wonder whether he actually believes that horse manure.

Probably not.

He's a lawyer.

He'll say and do whatever he needs to get his way.

Let's hope he and his fellow Democrats don't damage the country in the process.

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jonathan F. Ganter/WHO/EOP@EOP [WHO] <Jonathan F. Ganter>;J. Elizabeth Farrell/WHO/EOP@EOP [WHO] <J. Elizabeth Farrell>;James W. Carroll/WHO/EOP@EOP [WHO] <James W. Carroll>;Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Carolyn Nelson/WHO/EOP@Exchange [WHO] <Carolyn Nelson>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Tracy Jucas/WHO /EOP@EOP [WHO] <Tracy Jucas>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>;Hana F. Brilliant/WHO /EOP@EOP [WHO] <Hana F. Brilliant>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>
Sent: 5/19/2003 11:05:13 AM
Subject: : ABA Rating - John Woodcock Jr.

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:19-MAY-2003 15:05:13.00
SUBJECT:: ABA Rating - John Woodcock Jr.
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jonathan F. Ganter ( CN=Jonathan F. Ganter/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:J. Elizabeth Farrell ( CN=J. Elizabeth Farrell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:James W. Carroll ( CN=James W. Carroll/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:John B. Bellinger ( CN=John B. Bellinger/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Tracy Jucas ( CN=Tracy Jucas/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Hana F. Brilliant ( CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
```

READ:UNKNOWN
End Original ARMS Header

John A. Woodcock, Jr., USDC, District of Maine, is unanimously rated "Well Qualified" by the ABA.
;
Thanks

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/19/2003 11:54:22 AM
Subject: : FW: Corrected LRM JAB87 - - Transportation testimony on Transportation Draft Bill on HR2088 Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 (SAFETEA)
Attachments: P_V3KJG003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:19-MAY-2003 15:54:22.00
SUBJECT:: FW: Corrected LRM JAB87 - - Transportation testimony on Transportation Draft Bill on HR2088 Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 (SAFETEA)
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Just a reminder, this was due at 12 pm today.

-----Original Message-----
From: Brown, James A.
Sent: Friday, May 16, 2003 2:30 PM
To: Legislation.dhs@dhs.gov; usdaobpaleg@obpa.usda.gov; usdaocrleg@obpa.usda.gov; appalachia@arc.gov; CLRM@doc.gov; dodlrs@osdgc.osd.mil; energy.gc71@hq.doe.gov; epalrm@epamail.epa.gov; Cea Lrm; Ceq Lrm; lrm@hhs.gov; ocl@ios.doi.gov; justice.lrm@usdoj.gov; dol-sol-leg@dol.gov; state-lrm@state.gov; llr@do.treas.gov; cla@sba.gov; ca.legislation@gsa.gov; legteam@oge.gov; ola@opm.gov; lrm@osc.gov; laffairs@ustr.gov; mccullc@ntsb.gov; ombjbrown@stb.dot.gov; achp@achp.gov; Ondcp Lrm; Ostp Lrm; cecc-leg@usace.army.mil; HUD_LRM@hud.gov
Cc: Stigile, Arthur W.; Cea Lrm; Nec Lrm; Whgc Lrm; Ovp Lrm; Addington, David S.; Dougherty, Elizabeth S.; Perry, Philip J.; Wood, John F.; Joseffer, Daryl L.; Sharp, Jess; Rettman, Rosalyn J.; Luczynski, Kimberley S.; Marsh, Robert ; Lobrano, Lauren C.; McMillin, Stephen S.; Schwartz, Kenneth L.; Mertens, Steven M.; Konove, Elissa; Chow, Joanne; McCartney, Erin P.; Marriott, Caroline A.; Vargas, Veronica; Noe, Paul R.; Clarke, Edward H.; Knuffman, Nathan L.; Hunt, Alexander T.; Theroux, Richard P.; Schwartz, Mark J.; Timberlake, Courtney B.; Bernhard, Elizabeth A.; Balis, Ellen J.; Zimmerman, Gail S.; Simms, Pamula L.; Rodriguez, Justine F.; Fairweather, Robert S.; Erbach, Adrienne C.; Neyland, Kevin F.; Dennis, Carol R.; Irwin, Janet E.; Crutchfield, J C.; Walsh, Maureen; Fairhall, Lisa B.; Blum, Mathew C.; Gerich, Michael D.; Ohs Lrm; Rosado, Timothy A.; Fraas, Arthur G.; Kelly, Kenneth S.; Haun, David J.; Kron, Jennifer S.; Rossman, Elizabeth L.; Kaplan, Joel; Silverberg, Kristen; Joseffer, Daryl L.; Dove, Stephen W.; O'Hollaren, Sean B.; Jukes, James J.; Green, Richard E.; Nichols, Julie L.; Redburn, Francis S.; Ohs Lrm; Bear, Dinah; Boling, Edward A.; Mertens, Richard A.; Sandoli, Robert; McDonald, Christine A.
Subject: Corrected LRM JAB87 - - Transportation testimony on Transportation Draft Bill on HR2088 Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 (SAFETEA)

- NHTSA.doc

LRM ID: JAB87
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Friday, May 16, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution

below
FROM: Richard E. Green (for) Assistant Director for
Legislative Reference
OMB CONTACT: James A. Brown
PHONE: (202)395-3473 FAX: (202)395-3109
SUBJECT: Department of Transportation Testimony on Transportation
Draft Bill on HR2088 Safe, Accountable, Flexible, and Efficient
Transportation Equity Act of 2003 (SAFETEA)

DEADLINE: 12:00 Noon Monday, May 19, 2003
In accordance with OMB Circular A-19, OMB requests the views of your
agency on the above subject before advising on its relationship to the
program of the President. Please advise us if this item will affect
direct spending or receipts.

COMMENTS: Testimony of the Administrator of the National Highway Traffic
Safety Administration.

DISTRIBUTION LIST

AGENCIES:
-HOMELAND SECURITY - N. Scott Murphy - (202) 786-0244
007-AGRICULTURE - Jacquelyn Chandler - (202) 720-1272
006-AGRICULTURE (CR) - Wanda Worsham - (202) 720-7095
012-Appalachian Regional Commission - Guy Land - (202) 884-7674
025-COMMERCE - Michael A. Levitt - (202) 482-3151
029-DEFENSE - Vic Bernson - (703) 697-1305
032-ENERGY - Ted Pulliam - (202) 586-3397
033-Environmental Protection Agency - Edward Krenik - (202) 564-5200
018-Council of Economic Advisers - Liaison Officer - (202) 395-5084
019-Council on Environmental Quality - Debbie S. Fiddelke - (202) 395-3113
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773
059-INTERIOR - Jane Lyder - (202) 208-4371
061-JUSTICE - Daniel Bryant - (202) 514-2141
062-LABOR - Robert A. Shapiro - (202) 693-5500
114-STATE - Nicole Petrosino - (202) 647-1794
118-TREASURY - Thomas M. McGivern - (202) 622-2317
107-Small Business Administration - Richard Spence - (202) 205-6700
051-General Services Administration - Shawn McBurney - (202) 501-0563
088-Office of Government Ethics - Jane Ley - (202) 208-8022
092-Office of Personnel Management - Harry Wolf - (202) 606-1424
093-Office of the Special Counsel - Jane McFarland - (202) 653-9001
128-US Trade Representative - Carmen Suro-Bredie - (202) 395-4755
085-National Transportation Safety Board - David Balloff - (202) 314-6120
-Surface Transportation Board - Dan G. King - 202-565-1588
002-Advisory Council on Historic Preservation - Sharon S. Conway - (202)
606-8648
089-Office of National Drug Control Policy - David Rivait - (202) 395-5505
095-Office of Science and Technology Policy - Maureen O'Brien - (202)
456-6037
015-Army Corps of Engineers (DOD) - Susan Bond - (202) 761-0913
054-HOUSING & URBAN DEVELOPMENT - Marc J. Goldstrom - (202) 708-1793

EOP:
Arthur W. Stigile
CEA LRM
NEC LRM
WHGC LRM
OVP LRM
David S. Addington
Carlos E. Bonilla
Elizabeth S. Dougherty
Philip J. Perry
John F. Wood
Matthew J. Schneider
Daryl L. Joseffer
Jess Sharp

Rosalyn J. Rettman
Kimberley S. Luczynski
Roland N. Litterst
Robert Marsh
Lauren C. Lobrano
Stephen S. McMillin
Kenneth L. Schwartz
Steven M. Mertens
Elissa Konove
Joanne Chow
Erin P. McCartney
Caroline A. Marriott
Veronica Vargas
Paul R. Noe
Edward H. Clarke
Nathan L. Knuffman
Alexander T. Hunt
Richard P. Theroux
Mark J. Schwartz
Courtney B. Timberlake
Elizabeth A. Bernhard
Ellen J. Balis
Gail S. Zimmerman
Pamula L. Simms
Justine F. Rodriguez
Robert S. Fairweather
Adrienne C. Erbach
Kevin F. Neyland
Carol R. Dennis
Janet E. Irwin
J C. Crutchfield
Maureen Walsh
Lisa B. Fairhall
Mathew C. Blum
Michael D. Gerich
OHS LRM
Timothy A. Rosado
Arthur G. Fraas
Kenneth S. Kelly
David J. Haun
Jennifer S. Kron
Elizabeth L. Rossman
Joel D. Kaplan
Kristen Silverberg
Daryl L. Joseffer
Stephen W. Dove
Sean B. O'Hollaren
James J. Jukes
Richard E. Green
Julie L. Nichols
Francis S. Redburn
OHS LRM
Dinah Bear
Edward A. Boling
Richard A. Mertens
Robert Sandoli
Christine A. McDonald

LRM ID: JAB87 SUBJECT: REVISED TRANSPORTATION Draft Bill on HR2088 Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 (SAFETEA)
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) faxing us a memo or letter.
Please include the LRM number and subject shown above.

TO: James A. Brown Phone: 395-3473 Fax: 395-3109
Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_V3KJG003_WHO.TXT_1>

THE HONORABLE JEFFREY W. RUNGE, M.D.
ADMINISTRATOR
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
Before the
SUBCOMMITTEE ON HIGHWAYS, TRANSIT AND PIPELINES
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
U.S. HOUSE OF REPRESENTATIVES

May 21, 2003

Chairman Petri, Congressman Lipinski, Members of the Subcommittee, thank you for the opportunity to appear before you today to discuss the Administration's proposal to reauthorize our highway safety programs in the "Safe, Accountable, Flexible and Efficient Transportation Equity Act of 2003" or "SAFETEA."

Through this Subcommittee's leadership, and in conjunction with our State, local and private sector partners, NHTSA has worked to realize the goals of TEA-21. We are grateful to this Subcommittee for its continuing leadership by scheduling this hearing. My staff and I look forward to working with you and the rest of Congress in shaping the proposals that will reauthorize TEA-21. Working together, we will assure the successful reauthorization of this legislation and address the highway safety challenges facing the nation.

Motor vehicle crashes are responsible for 95 percent of all transportation-related deaths and 99 percent of all transportation-related injuries. They are the leading cause of death for Americans ages 2 to 33. NHTSA's portion of SAFETEA focuses exclusively on highway safety. Although we are seeing improvements in vehicle crash worthiness and crash avoidance technologies, the rate and numbers of fatalities and injuries on our highways are staggering. In 2002, an estimated 42,850 people were killed in motor vehicle crashes, up slightly from 42,116 in 2001.

Traffic injuries in police-reported crashes decreased by four percent in 2002. While this is encouraging, we still are faced with the overwhelming fact that nearly 3 million people were injured in these crashes in 2002.

The economic costs associated with these crashes are unacceptable as well. In fact, they constitute a grave public health problem and serious fiscal burden for our nation. The total annual economic cost to our economy of all motor vehicle crashes is an astonishing $230.6 billion in 2000 dollars, or 2.3 percent of the U.S. gross domestic product. This translates in to an average of $820 for every person living in the United States. Included in this figure is $81 billion in lost productivity, $32.6 billion in medical expenses, and $59 billion in property damage. The average cost for a critically injured survivor is estimated at $1.1 million over a lifetime. As astounding as this figure is, it does not even begin to reflect the physical and psychological suffering of the victims and their families.

REV_00167226

The fatality rate for 100 million vehicle miles traveled (VMT) remained unchanged at 1.51, according to these estimates. Secretary Mineta has given us the goal of reducing the fatality rate to no more than 1.0 fatality for every 100 VMT by 2008. This is not just a NHTSA goal; it is a goal of the entire Department of Transportation.

For these reasons, President Bush and Secretary Mineta have made reducing highway fatalities the number one priority for the Department and for the reauthorization of TEA-21.

While Washington has many complex problems, reducing highway deaths is not one of them. The solution is simple: passengers must buckle their safety belts. It is that easy. Safety belt use cuts the risk of death in a crash in half. Most passenger vehicle occupants killed in motor vehicle crashes continue to be totally unrestrained. If safety belt use were to increase from the national average of 75 percent to 90 percent -- an achievable goal for states that have a primary safety belt law – over 4,000 lives would be saved each year. For every one percentage point increase in safety belt use -- that is 2.8 million more people "buckling up" -- we would save hundreds of lives, suffer significantly fewer injuries, and reduce economic costs by hundreds of millions of dollars a year.

In addition to the economic obligation, more importantly, we have a moral obligation to address immediately the problem of highway safety. The Bush Administration remains committed to reducing highway fatalities, and our bill offers proposals to increase safety belt use and to take those and other actions that can make the achievement of this goal possible.

Thanks in large part to the hard work of many of you and your predecessors, SAFETEA builds on the tremendous successes of the previous two pieces of surface transportation legislation. Both the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), a bill with which the Secretary is proud to have played a role, and TEA-21, provided an excellent framework to tackle the surface transportation challenges that lie ahead.

ISTEA set forth a new vision for the implementation of the Nation's surface transportation programs. Among other things, ISTEA gave State and local officials unprecedented flexibility to advance their own goals for transportation capital investment. Instead of directing outcomes from Washington, DC, the Department shifted more of its focus to giving State and local partners the necessary tools to solve their unique problems while still pursuing important national goals. SAFETEA not only maintains this fundamental ISTEA principle, it goes further by giving States and localities even more discretion in key program areas. To meet the significant highway safety challenges the States face, we have designed SAFETEA's highway safety title to create a safer, simpler and smarter program.

REV_00167227

President Bush and this Administration are committed to fostering the safest, most secure national transportation system possible, even as we seek to enhance mobility, reduce congestion, and expand our economy. These are not incompatible goals. Indeed, it is essential that the Nation's transportation system be both safe and secure while making our economy both more efficient and productive.

While formulating the Department's reauthorization proposal, the Federal Highway Administration (FHWA) and NHTSA came together on a different approach to addressing the Nation's substantial highway safety problems. Under that approach, States would receive more resources to address their own, unique transportation safety issues; would be strongly encouraged to increase their overall safety belt usage rates; and would be rewarded for performance with increased funds and greater flexibility to spend those funds on either infrastructure safety or behavioral safety programs. The following are the major programmatic elements of the Administration's highway safety reauthorization proposal.

SAFETEA establishes a new core highway safety infrastructure program, in place of the existing Surface Transportation Program safety set-aside. This new program, called the Highway Safety Improvement Program, will more than double funding over comparable TEA-21 levels. This new program would provide $7.5 billion for safety projects over the six-year authorization period. In addition to increased funding, States would be encouraged and assisted in their efforts to formulate comprehensive highway safety plans.

In an attempt to streamline NHTSA's grant programs and make them more performance-based, we have proposed a major consolidation of NHTSA's Section 402 safety programs. While the basic formula grant program for Section 402 would provide $1.05 billion over the six-year authorization period, two important elements of this revised Section 402 are a General Performance Grant and a Safety Belt Performance Grant. The Safety Belt Performance Grant provides up to $100 million each year to reward States for passing primary safety belt laws—meaning drivers and passengers can be cited for failure to wear a safety belt—or achieving 90% safety belt usage rates in their States. A State that enacts new primary belt laws will receive a grant equal to 5 times the amount of its current formula grant for highway safety. This significant incentive is intended to prompt State action needed to save lives. In 2002, States with primary safety belt laws averaged 80% use, 11 percentage points higher than those with secondary laws—laws preventing police from issuing a citation unless another traffic law was broken. States achieve high levels of belt use through primary safety belt laws, public education using paid and earned media, and high visibility law enforcement programs, such as the *Click it or Ticket* campaign.

Any State that receives a Safety Belt Performance Grant for the enactment of a primary safety belt law is permitted to use up to 100% of those funds for infrastructure investments eligible under the Highway Safety Improvement Program in accordance with the State's comprehensive plan. Also, States can receive additional grants by improving their safety belt use rates. This incentive would provide $182 million over the six-year

REV_00167228

authorization period. Any State that receives a grant for improved safety belt usage rates or a General Performance Grant for the achievement of other key safety performance measures is permitted to use up to 50% of those funds for activities eligible under the new Highway Safety Improvement Program.

Overall, this groundbreaking proposal offers States more flexibility than they have ever had before in how they spend their Federal-aid safety dollars. It reduces State administrative burdens by consolidating multiple categorical grant programs into one. It would reward them for accomplishing easily measurable goals and encourage them to take the most effective steps to save lives. It is exactly the kind of proposal that is needed to more effectively address the tragic problem of highway fatalities.

The General Performance Grant component of our revised Section 402 program that I mentioned earlier, which would provide $340 million over the six-year authorization period, not only eases the administrative burdens of the States but also rewards States with increased Federal funds for measurable improvements in their safety performance for reducing (i) overall motor vehicle fatalities, (ii) alcohol-related fatalities; and (iii) motorcycle, bicycle, and pedestrian crash fatalities.

SAFETEA is designed to help the States deter impaired driving. Encouraging people to wear their safety belts will help reduce the number of deaths and injuries attributed to impaired driving, but reducing the actual number of impaired drivers is a complex issue requiring interconnected strategies and programs. In 2002, an estimated 17,970 people died in alcohol-related crashes (42 percent of the total fatalities for the year), a 25 percent reduction from the 23,833 alcohol-related fatalities in 1988, but an increase of 3 percent over 2001. Intoxication rates have decreased for drivers of all age groups involved in fatal crashes over the past decade, with drivers 25 to 34 years old experiencing the greatest decrease, followed by drivers 16 to 20 years old. However, the easier gains have been made. Our 2002 estimates indicate that alcohol-related fatalities rose for the third straight year.

Another component of our revised Section 402 program will focus significant resources on a small number of States with particularly severe impaired driving problems by creating a new $50 million a year impaired driving discretionary grant program. The grant program will include support for up to 10 States with especially high alcohol fatality numbers or rates to conduct detailed reviews of their impaired driving systems by a team of outside experts and assist them in developing a strategic plan for improving programs, processes, and reducing impaired driving-related fatalities and injuries. Additional support will also be provided for training, technical assistance in the prosecution and adjudication of DWI cases, and to help licensing and criminal justice authorities close legal loopholes.

NHTSA believes that this targeted State grant program and supporting activities, together with continued nationwide use of high-visibility enforcement and paid and earned media campaigns, will lead to a resumption of the downward trend in alcohol-related fatalities that the Nation experienced over the past decade. Also, through the

comprehensive safety planning process, all States may elect to use a significant amount of their FHWA Highway Safety Infrastucture funding, in addition to their consolidated Section 402 funds, for impaired driving.

In addition to the consolidation of our Section 402 programs, SAFETEA's highway safety title includes a key provision to provide a comprehensive national motor vehicle crash causation survey that will enable us to determine the factors responsible for the most frequent causes of crashes on the Nation's roads. This comprehensive survey would be funded at $10 million a year out of the funds authorized for our highway safety research and development program. The last update of crash causation data was generated comprehensively in the 1970s. Vehicle design, traffic patterns, numbers and types of vehicles in use, on-board technologies and lifestyles have changed dramatically in the last 30 years. Old assumptions about the causes of crashes may no longer be valid. Since NHTSA depends on causation data to form the basis for its priorities, we must ensure that this data is current and accurate. Updating our crash causation data will allow us to target our efforts for the next decade on the factors that are the most frequent causes of crashes on American roads.

NHTSA has in place an infrastructure of investigation teams that will enable us to perform the crash causation study efficiently and accurately. These teams are currently performing a similar study for large, commercial truck crashes and are adept at gathering evidence from the scene, the hospital, and from victim and witness interviews. Their findings will guide the agency's programs in crash avoidance, including vehicle technologies as well as human factors.

SAFETEA also creates a new $300 million incentive grant program that builds upon a TEA-21 program to encourage States to improve their traffic records data. Deficiencies in such data negatively impact national databases including the Fatality Analysis Reporting System, General Estimates System, National Driver Register, Highway Safety Information System, and Commercial Driver License Information System as well as State data used to identify local safety problems. Improvements are needed for police reports, emergency medical services, driver licensing, vehicle registration, and citation/court data provide essential information. Accurate State traffic safety data are critical to identifying local safety issues, applying focused safety countermeasures, and evaluating the effectiveness of countermeasures.

SAFETEA also establishes a new $60 million State formula grant program to support emergency medical services (EMS) systems development, 911 systems nationwide, and a Federal Interagency Committee on EMS to strengthen intergovernmental coordination of EMS. The States would administer the grant program through their State EMS offices and coordinate it with their highway safety offices.

For the past 20 years, Federal support for EMS has been both scarce and uncoordinated. As a result, the capacity of this critical public service has seen little growth and support for EMS has been spread among a number of agencies throughout the Federal government, including NHTSA. Most of the support offered by these agencies

has focused only on specific system functions, rather than on overall system capacity, and has been inconsistent and ineffectively coordinated.

In 2001, the General Accounting Office (GAO) cited in its report, "Emergency Medical Response: Reported Needs Are Wide-Ranging, With Lack of Data A Growing Concern," the need to increase coordination among Federal agencies as they address the needs of regional, State, or local emergency medical services systems. According to GAO, these needs, including personnel, training, equipment, and more emergency personnel in the field, vary between urban and rural communities.

The Administration believes that Federal support for EMS and 9-1-1 systems should be enhanced and coordinated. The enactment of this section would result in comprehensive system support for EMS, 9-1-1 systems, and improved emergency response capacity nationwide.

SAFETEA also would provide $559.5 million for NHTSA's highway safety research and development program. This program supports State highway safety behavioral programs and activities by developing and demonstrating innovative safety countermeasures, and by collecting and disseminating essential data on highway safety. The results of our Section 403 research provide the scientific basis for highway safety programs that States and local communities can tailor to their own needs, ensuring that precious tax dollars are spent only on programs that are effective. The States are encouraged to use the successful programs for their ongoing safety programs and activities.

Highway safety behavioral research focuses on human factors that influence driver and pedestrian behavior and on environmental conditions affecting safety. The program addresses a wide range of safety problems through various programs, initiatives, and demonstrations, such as: impaired driving programs, including the drug evaluation and classification (DEC) program, safety belt and child safety seat programs and related enforcement mobilizations, pedestrian, bicycle, and motorcycle safety initiatives and related law enforcement strategies, enforcement and justice services, speed management, aggressive driving countermeasures, emergency medical services, fatigue and inattention countermeasures, and data collection and analysis efforts. All of these efforts have produced a variety of scientifically sound data and results.

SAFETEA provides specific set-asides out of Section 403 funds for the National Motor Vehicle Crash Causation Survey, discussed earlier, and for EMS and international highway safety activities.

Finally, SAFETEA would provide $23.6 million for the National Driver Register (NDR). The NDR facilitates the exchange of driver licensing information on problem drivers among the States and various Federal agencies to aid in making decisions concerning driver licensing, driver improvement, and driver employment and transportation safety.

Mr. Chairman, NHTSA's portion of SAFETEA builds upon the principles, values, and achievements of ISTEA and TEA-21, yet recognizes that there are new challenges to address. We urge Congress to reauthorize the highway safety programs before they expire on September 30, 2003. I would be pleased to answer any questions.

REV_00167232

From: CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;David G. Leitch/WHO/EOP@Exchange@EOP [WHO] <David G. Leitch>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;Alberto R. Gonzales/WHO/EOP@EOP [WHO] <Alberto R. Gonzales>
Sent: 5/19/2003 2:46:03 PM
Subject: : Make that 125

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:19-MAY-2003 18:46:03.00
SUBJECT:: Make that 125
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Maurice Hicks confirmed today as Judge of E.D. La, 86-0.
```

From: FindLaw.com <listadmin@LEGALMINDS.ORG>
To: TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN] <TOPHEADLINES@LEGALMINDS.ORG>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 5/19/2003 2:49:34 PM
Subject: : [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Mon., May 19, 2003

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"FindLaw.com" <listadmin@LEGALMINDS.ORG> ( "FindLaw.com" <listadmin@LEGALMINDS.ORG>
[ UNKNOWN ] )
CREATION DATE/TIME:19-MAY-2003 18:49:34.00
SUBJECT:: [TOPHEADLINES] Top Legal Headlines: Today's Top Legal Stories - Mon., May 19,
2003
TO:TOPHEADLINES@LEGALMINDS.ORG ( TOPHEADLINES@LEGALMINDS.ORG [ UNKNOWN ] )
READ:UNKNOWN
BCC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

------------------------------------------------------------------------
FINDLAW Mon, May 19, 2003
------------------------------------------------------------------------
TOP LEGAL NEWS HEADLINES


For all of the day's legal news go to: http://news.findlaw.com
**********************************************************************

Fast Track Litigation Support
Could you benefit from the competitive advantage of an integrated,
full-service solution for electronic discovery and all of your
litigation support needs? Fast Track is your single source for
managing electronic and paper discovery. We offer complete electronic
discovery services, coding/indexing, depo summaries, and more. Visit:
http://rd.findlaw.com/scripts/nl.pl?url=10463328000_nl

**********************************************************************

SUPREME COURT
Maine Wins Case Over Prescription Drugs
http://news.findlaw.com/ap/a/w/1154/5-19-2003/20030519064501_31.html

Court Sets Aside Record Award vs. Ford
http://news.findlaw.com/news/s/20030519/courtautosdc.html


LEGAL COMMENTARY
Tort Reform Juggernaut: Are There Constitutional Limits On
How Much the President And Congress Can Do?
http://writ.news.findlaw.com/sebok/20030519.html


POLITICS
Bush Press Secretary Fleischer Resigns
http://news.findlaw.com/ap/a/w/1151/5-19-2003/20030519053002_06.html

McAuliffe: Bush Exploiting Patriotism
http://news.findlaw.com/ap/a/p/1130/5-19-2003/20030519013001_8.html


CIVIL RIGHTS
High Court To Hear Religious Schools Case
http://news.findlaw.com/ap/a/w/1154/5-19-2003/20030519061502_092.html
```

Ala. Troopers Get Racial Profiling Policy
http://news.findlaw.com/ap/o/1110/5-19-2003/20030519011500_01.html

PERSONAL INJURY
Judge In R.I. Club Blaze Tours Evidence
http://news.findlaw.com/ap/o/1110/5-19-2003/20030519080001_06.html

So Far, U.S. Succeeds In Containing SARS
http://news.findlaw.com/ap/o/1500/5-19-2003/20030519010011_02.html

PRODUCT LIABILITY
Water Toys Recalled For Injury Hazard
http://news.findlaw.com/ap/o/1110/5-19-2003/20030519090010_14.html

IMMIGRATION
U.S. To Fingerprint Most Foreign Visitors
http://news.findlaw.com/ap/a/w/1152/5-19-2003/20030519083001_32.html

More Arrests In Texas Immigrant Smuggling
http://news.findlaw.com/ap/o/1110/5-19-2003/20030519083001_43.html

ENVIRONMENT
Grand Canyon In Need Of More Funds
http://news.findlaw.com/ap/o/1110/5-19-2003/20030519010011_09.html

CYBERSPACE LAW
Chinese Web Site Operator Sentenced
http://news.findlaw.com/ap/i/1104/5-19-2003/20030519070007_51.html

Roxio Acquires Online Music Service
http://news.findlaw.com/ap/ht/1700/5-19-2003/20030519091502_15.html

TELECOMMUNICATIONS
Study Examines Broadband Upgrading
http://news.findlaw.com/ap/ht/1700/5-19-2003/20030519044501_07.html

BUSINESS
Maine Wins OK To Seek Lower Drug Prices
http://news.findlaw.com/ap/a/w/1154/5-19-2003/20030519080001_12.html

Report: Feds Considering Indicting Martha Stewart
http://news.findlaw.com/news/s/20030519/mediamarthadc.html

WORLDCOM
Source: WorldCom Close To SEC Settlement
http://news.findlaw.com/business/s/20030519/worldcomsecdc.html

ENRON
Former Enron CFO Fastow To Be Arraigned
http://news.findlaw.com/ap/f/1310/5-19-2003/20030519031501_12.html

INTERNATIONAL LAW
Ireland Set To Restrict Ads For Alcohol
http://news.findlaw.com/ap/i/1103/5-19-2003/20030519064501_18.html

Bangladesh Court Rules Against Terminal
http://news.findlaw.com/ap/f/1310/5-19-2003/20030519061501_019.html

WAR ON TERRORISM
Supreme Court Rejects Afghan War Detainees' Case
http://news.findlaw.com/news/s/20030519/courtdetaineesdc.html

Suicide Bombing Kills 5 In Northern Israel
http://news.findlaw.com/ap/i/1107/5-19-2003/20030519073005_04.html

IRAQ
U.S. Says Has Saddam's Brother-In-Law In Custody
http://news.findlaw.com/news/s/20030519/iraqusaarrestdc.html

Iraqis Now Enjoying Media Freedoms
http://news.findlaw.com/ap/i/1107/5-19-2003/20030519021500_12.html

CRIME & TRIALS
Report: L.A. Police Missed Abuse Deadlines
http://news.findlaw.com/ap/o/1110/5-19-2003/20030519021500_10.html

Anthrax 'Person Of Interest' Hit By Car
http://news.findlaw.com/ap/o/1110/5-19-2003/20030519091502_16.html

ENTERTAINMENT
'Matrix' Producer Dismisses Violent Links
http://news.findlaw.com/entertainment/s/20030519/leisurematrixdc.html

SPORTS
Packers Asst. Coach's Son Dies Of Gunshot
http://news.findlaw.com/ap/s/2020/5-19-2003/20030519084501_24.html

Stringer's Widow Reaches Settlement
http://news.findlaw.com/ap/s/2020/5-19-2003/20030519071502_36.html

****

Synergy... The Case Management Solution

Synergy is what Case/Practice Management software should be.
Synergy's robust feature set and attractive pricing make it an ideal
choice for firms of all sizes. Synergy is a serious solution for
legal professionals. Don't buy Case/Practice management software
until you've experienced Synergy. Free, 30 Day, full featured
evaluation available.
http://rd.findlaw.com/scripts/nl.pl?url=10479744001_nl

** West LegalEdcenter *******

Receive updates about NEW ONLINE CLE PROGRAMS

Register with West LegalEdcenter for monthly email updates about new
online CLE programs in your practice areas and jurisdictions. West
LegalEdcenter currently has more than 1,400 courses, with more added
daily!

http://rd.findlaw.com/scripts/nl.pl?url=gen_cle_010402

** west.thomson.com *********

Come shop over 5,000 law books, legal forms, Westlaw resources,
textbooks, and more--right from your desktop.
http://rd.findlaw.com/scripts/nl.pl?url=gen_ads_040102

****

FEEDBACK

We value your comments! Please take a moment to tell us what you think by sending an e-mail to: mailto:newsletters@findlaw.com?subject=TopHeadlines. Please include "Top Headlines" in the subject line.

SUBSCRIPTION INFORMATION

To subscribe to a FindLaw Newsletter, visit the FindLaw Newsletter Subscription Center at http://newsletters.findlaw.com

To unsubscribe, go to http://newsletters.findlaw.com/unsubscribe.html
---
ADVERTISING INFORMATION

For more information about advertising in FindLaw Newsletters, please contact us at:

mailto:sales@findlaw.com

FindLaw Top Headlines http://news.findlaw.com
Copyright (c) 2003 FindLaw, Inc.

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jennifer R. Brosnahan/WHO /EOP@EOP [WHO] <Jennifer R. Brosnahan>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>
Sent: 5/20/2003 6:34:04 AM
Subject: : FW: Reviewing Presidential Messages

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:20-MAY-2003 10:34:04.00
SUBJECT:: FW: Reviewing Presidential Messages
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

I got this message from Presidential Messages -

They want to know have you review their messages - only for grammar and
content or for the organization also. I assume it is only for grammar and
content. But please let me know if that is different.

Patrick

-----Original Message-----
From: Marshall, Misty C.
Sent: Tuesday, May 20, 2003 9:31 AM
To: Ingwell, Carmen M.; Loy, Carrie B.; Conde, Roberta L.; Bennett,
Melissa S.; Ritacco, Krista L.; Daigle, Sandra F.; Bumatay, Patrick J.;
Francisco, Noel J.; Nipper, Wendy L.; Grant, Britt; Fullerton, Laura F.;
Stout, Timothy C.; Rust, Kathryn E.; Brancato, Keith R.; West, Christal
R.; Mamo, Jeanie S.; Gerdelman, Sue H.; Ficklin, John W.; Olsen, Kathie
L.; Russell, Richard M.; Cooper Briscoe, Virlena; Bryant, Veola C.;
Baldwin, Jenica; Walters, Katherine M.; Waters, James A.; Keller, Karen
E.; McQuade, Vickie A.; Snee, Ashley; Ralston, Susan B.; Hernandez,
Israel; Hager, Henry C; Kthompson@USTR.gov; MacLean, Robin A.
Cc: Burks, Jonathan W.; Torgerson, Karin B.; Smith, Heidi M.;
Campbell, Sarah
Subject: Reviewing Presidential Messages

In a recent meeting with Staff Sec Office - I have been asked to find out
"what is the process that our messages go through when we send to your
office for White House Staff to review our messages and requests."

Does your office review content and grammar of our draft only?
Or
```

Does your office review content and grammar of our draft AND check the organization requesting the message?

Please discuss these questions with your staff members that review our Presidential messages and let me know asap.

Thanks again for all your help! Please call me at 65503 if you have any questions.
Misty

From: CN=Diana L. Schacht/OU=OPD/O=EOP [OPD]
To: Jay P. Lefkowitz/OPD/EOP@Exchange@EOP [OPD] <Jay P. Lefkowitz>;Kevin Warsh/OPD /EOP@EOP [OPD] <Kevin Warsh>;Margaret M. Spellings/OPD/EOP@Exchange@EOP [OPD] <Margaret M. Spellings>;Jeffrey F. Kupfer/WHO/EOP@Exchange@EOP [WHO] <Jeffrey F. Kupfer>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/20/2003 7:42:07 AM
Subject: : Hatch Asbestos bill
Attachments: P_2LGKG003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP [ OPD ] )
CREATION DATE/TIME:20-MAY-2003 11:42:07.00
SUBJECT:: Hatch Asbestos bill
TO:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange@EOP [ OPD ] )
READ:UNKNOWN
TO:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Margaret M. Spellings ( CN=Margaret M. Spellings/OU=OPD/O=EOP@Exchange@EOP [ OPD ] )
READ:UNKNOWN
TO:Jeffrey F. Kupfer ( CN=Jeffrey F. Kupfer/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Here is a summary of Hatch's asbestos bill, which he intends to introduce
on Thursday. Judiciary Committee staff has asked we keep this document
close hold. Please let me know if you see anything that rises to the
level that we need to indicate our objection to Hatch staff.

- asbestos.hatchbill.summ.v1.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_2LGKG003_WHO.TXT_1>
```

Last printed DATE

*** DRAFT – FOR STAFF DISCUSSION PURPOSES ONLY ***

FAIRNESS IN ASBESTOS INJURY RESOLUTION ACT OF 2003 ("FAIR ACT")

TITLE I. ASBESTOS CLAIMS RESOLUTION

Subtitle A. United States Court of Asbestos Claims

Sec. 101. Establishment of Asbestos Court.

Establishes the United States Court of Asbestos Claims, which consists of five (5) judges appointed by the President with the advice and consent of the Senate. The President designates one Chief Judge, who is empowered to prescribe rules and regulations for the Court, appoint magistrates, appoint or contract for necessary court services and make necessary expenditures. Judges are paid the same as U.S. district court judges and may be removed by the President for good cause. The Court has its principal office in Washington, DC, but may hold court in other locations if deemed necessary. Magistrates will be individual finders of fact assigned to individual claims, and will be compensated at Level V on the Executive Schedule. Judges will receive the same retirements benefits and judges of the United States Court of Federal Claims.

Subtitle B. Asbestos Injury Claims Resolution Procedures

Sec. 111. Filing of claims.

Claimants file claims with the United States Court of Asbestos Claims (the Court). The Court issues rules as to who may file as a representative of another individual. Claims must be notarized and give detailed information about the claimant, including their asbestos exposure, medical records, tobacco use, collateral sources of compensation and any other information that the Court elects to add. Claims must be brought within two (2) years from the time the defendants knew or should have known of their injury. Persons with pending claims in the tort system must file within two (2) years of the date of enactment. Claimants who develop an additional condition or disease may file for additional benefits.

Sec. 112. General rule concerning no-fault compensation.

Claimant need not establish that his/her injury resulted from the negligence or other fault of another person.

Sec. 113. Essential elements of eligible asbestos claim.

Claimants must prove by a preponderance of the evidence that they have an eligible disease or condition, and that they meet the latency and exposure criteria requirements.

REV_00167273

Sec. 114. Eligibility determinations.

Claims are referred to magistrates within 20 days. Claims examiners then make the initial review for each claim under the magistrate's direction. Claims examiners will notify claimants if additional information is needed to determine eligibility, including requiring a medical exam and/or tests. Once a claim examiner has all the necessary information, the claim and a recommendation are sent to a magistrate who has 60 days after receipt of a completed claim to provide a written recommendation, including findings of facts. One judge of the Court will then either accept or reject the magistrate's recommendation within 30 days.

The Court will establish expedited procedures for exigent cases. Claimants must either waive their right to judicial review or have exhausted their judicial review to receive their award. The Court will establish audit procedures for reviewing the accuracy of the magistrates' recommendations.

Sec. 115. Medical evidence auditing procedures.

The Court will establish audit procedures for medical evidence submitted as part of claims to ensure accuracy of x-ray readings and pulmonary function tests. If the Court finds certain providers are not complying with prevailing medical practices, records from such providers will be deemed inadmissible for a claim. A provider who is deemed non-compliant may appeal such determination under procedures established by the Court.

Sec. 116. Claimant assistance program.

This section authorizes the Court to establish a legal assistance program to aid claimants in legal representation issues. As part of this program, the Court will maintain a list of attorneys who are willing to provide their services on a pro bono basis.

Subtitle C. Medical Criteria

Sec. 121. Essential Elements of Eligible Asbestos Claim.

To be eligible for compensation a claimant shall file in a timely manner, and prove by a preponderance of the evidence that the claimant suffers from an eligible disease as demonstrated by evidence that meets the diagnostic, medical and latency criteria requirements of this Act.

Sec. 122. Diagnostic Criteria Requirements.

Claimants must prove their diagnosis by having an in-person medical exam by a licensed physician who is treating or has treated the claimant and that reviews the claimant's work history, exposure pattern, smoking history and any other factors determined by the Court. Such exam must also exclude other more likely causes than asbestos for the claimant's condition. The claim must be accompanied by sufficient medical evidence such as the necessary medical tests and x-rays, including a B-reader's report. An attorney retention agreement shall not be required as a prerequisite to a medical examination or medical screening for purposes of obtaining a medical diagnosis or other medical information under this section.

Sec. 123. Latency Criteria Requirements.

Claimants must have been exposed within the United States territories or possessions and for at least 10 years before the initial diagnosis of any asbestos-related injury.

Sec. 124.~~**Subtitle A. Asbestos**~~ *Medical Criteria Requirements.*

The Manville Trust Distribution Process (2002) medical criteria are incorporated in this Act.

~~**Commission**~~

Sec. 125. ~~301. Establishment of Commission on Medical/Exposure/Latency~~ Criteria Requirements.

The exposure requirements from the 2002 Manville TDP are incorporated in this Act.

~~Same as Section 201 above, except that Commissioners here shall have sufficient medical expertise in the area of asbestos-related conditions and diseases.~~

~~*Sec. 302. Duties of Medical Commission.*~~

~~The Commission will review current medical criteria on asbestos-related injuries, including, but not limited to, the Manville TDP, the ABA Standards, the AMA Guide to Impairment (5th Ed.), criteria proposed by organized labor and any other criteria or input from interested parties the Commission deems appropriate. The Commission will then establish its own criteria and disease/condition categories to best determine who is an eligible claimant for an asbestos-related injury award or for medical monitoring.~~

~~Commission shall also determine diagnostic criteria requirements, including (a) whether claimants must prove their diagnosis by having an in-person medical exam by a licensed physician that reviews the claimant's work history, exposure pattern, smoking history and any other factors determined the Court, and (b) such exam must also exclude other more likely causes than asbestos for the claimant's condition. The Commission shall also determine whether the demonstration required must be accompanied by the necessary medical tests and x-rays, including a B-reader's report. The Court will prescribe rules to implement the requirements used in applying this section.~~

Subtitle D. Awards

~~*Sec. 303. Powers of Medical Commission.*~~

~~Same as Section 203 above.~~

Sec. 131. Claim Values~~304. Personnel Matters.~~

Claim awards will be paid as follows:

	Disease / Condition	Amount of award
Level I	asymptomatic exposure	0
Level II	asbestosis/ pleural disease A	0
Level III	asbestosis/ pleural disease B	$ 40,000
Level IV	severe asbestosis	$400,000
Level V	other cancer	$200,000
Level VI	lung cancer I	$ 50,000
Level VII	lung cancer II	$400,000
Level VIII	mesothelioma	$750,000

~~Same as Section 204 above.~~

~~*Sec. 305. Nonapplication of FOIA and confidentiality of information.*~~

~~Same as Section 205 above.~~

Sec. 132.~~306. Termination of Awards Commission.~~

~~Same as Section 206 above.~~

~~*Sec. 307. Authorization of Appropriations.*~~
~~Same as Section 207 above.~~

~~Subtitle B. Asbestos Claims Values Commission~~

~~*Sec. 311. Establishment of Commission on Award Amounts*~~
~~Same as Section 201 above, except that Commissioners shall have sufficient expertise in the area of claims valuation for asbestos-related conditions and diseases.~~

~~*Sec. 312. Duties of Awards Commission.*~~
~~This commission will study how much victims of all asbestos-related injuries are currently able to recover in the tort system. This study will include jury verdicts, settlements (as best such information can be determined), 524(g) trust payouts and, to the extent practicable, and how many victims are not able to make any recovery at all due to lack of solvent defendants or otherwise. The Commission will determine awards based on the total funding amount in this Act. This commission will submit an initial determination within 30 days of issuance of the Asbestos Injury Medical Commission's final determination, and a final determination within 60 days after that. A final report on awards will be submitted to the House and Senate Judiciary Committees and the Court within 180 days of enactment of this Act.~~

~~*Sec. 313. Powers of Awards Commission.*~~
~~Same as Section 203 above.~~

~~*Sec. 314. Personnel Matters.*~~
~~Same as Section 204 above.~~

~~*Sec. 315. Nonapplication of FOIA and confidentiality of information.*~~
~~Same as Section 205 above.~~

~~*Sec. 316. Termination of Awards Commission.*~~
~~Same as Section 206 above.~~

~~*Sec. 317. Authorization of Appropriations.*~~
~~Same as Section 207 above.~~

~~Subtitle C. Awards~~

~~*Sec. 321.*~~ *Medical monitoring.*

Claimants meeting medical monitoring criteria requirements to be determined by the Commission will be eligible to be reimbursed for uninsured costs of x-rays and pulmonary function tests every three years.

Sec. 13<u>3</u>.~~322.~~ Payments.

Payments will disbursed over a period of three years, and can be accelerated to mesothelioma claimants who are alive on date of determination. Claimants may also elect to receive their benefits in the form of an annuity. All benefits are non-taxable and not deemed to be a Medicare benefit.

Sec. 13~~4.323.~~ Reduction in benefit payments for collateral sources.

All awards will be reduced by the amount of benefits already received, or is entitled to be received, from collateral sources. Worker's compensation and veteran's benefits are not included as collateral sources.

Subtitle E. *En Banc* Review

Sec. 141. En banc review.

Claimants may appeal a determination of a single-judge decision to an *en banc* panel of the Court within 30 days after receiving notice. Three judges will be assigned to hear each appeal. The Court will apply the applicable rules from the Federal Rules of Appellate Procedure. The *en banc* panel will review magistrate determinations *de novo*. The Administrator may appoint counsel to represent it in oral arguments and to submit briefs. The Court will make its rulings based on the record, and not later than 30 days after oral argument, and in no event later than 60 days after receipt of the notice of appeal.

TITLE II. ASBESTOS INJURY CLAIMS RESOLUTION FUND

Sec. 202 Authority and Tiers.

Identification of Defendant Participants: The Administrator shall identify defendants that have paid or been assessed through legal judgment or settlement, greater than $1 million in defense and indemnity costs relating to asbestos personal injury claims and these defendants shall be mandatory participants in the fund. The Administrator shall directly notify all reasonably identifiable defendant participants of the requirement to submit information necessary to calculate the amount of any required contribution to the Fund; and publish in the Federal Register a notice requiring any person who may be a defendant participant to submit such information.

Assessment of Defendant Participant Contributions: The Administrator shall further determine the amount that each defendant participant will be required to pay into the fund to compensate claimants for asbestos injuries based on the following formula:

(1) Persons with Prior Asbestos Expenditures that have a case pending under a chapter of title 11 of the United States Code, as of December 31, 2002, shall be assigned to Tier I if such Chapter 11 filing was caused by asbestos liability.

Bankruptcies not caused by asbestos liability - Any company that filed for chapter 11 protection prior to the date of enactment and has not confirmed a plan of reorganization as of the date of enactment of this Act, and the Chief Executive Officer, Chief Financial Officer, or Chief Legal Officer of which certifies in writing to the bankruptcy court presiding over the company's case, that asbestos liability was neither the sole nor the precipitating cause for the company's chapter 11 filing, may proceed with the filing, solicitation and confirmation of a plan or reorganization, including a trust and channeling injunction pursuant to section 524(g) of the bankruptcy code, notwithstanding any other

provisions of this Act, provided that: (1) the bankruptcy court determines that confirmation is necessary to permit the reorganization of the company and assure that all creditors and the company are treated fairly and equitably; (2) an order confirming the plan of reorganization is entered by the bankruptcy court within nine months after the effective date of the Act, or such longer period approved by the bankruptcy court for good cause shown. To the extent such company successfully confirms a plan of reorganization including a 524(g) trust and channeling injunction that involves payments by insurers who are otherwise subject to this Act, such insurers shall obtain a corresponding reduction in the amount otherwise payable by that insurer under this Act.

(2) Except as otherwise provided, Persons or Affiliated Groups shall be assigned to Tiers I, II, III, IV, V, VI or VII according to their Prior Asbestos Expenditures as follows:
Tier I: $500 million or greater.
Tier II: $75 million or greater.
Tier III: $50 million or greater but less than $75 million.
Tier IV: $10 million or greater but less than $50 million.
Tier V: $5 million or greater but less than $10 million.
Tier VI: $1 million or greater but less than $5 million.
Tier VII: $5 million or More in FELA Liability.

(4) Except as otherwise provided, the Administrator shall assess contributions to Persons or Affiliated Groups within Tiers I through VII as follows –

Tier I – The Administrator shall assess an annual contribution to each Person or Affiliated Group in Tier I based on a percentage of its revenues, according to the following tiers:

Subtier 1	1.4533% of its Revenues in years 1-5, declining gradually to .6965% of Revenues in years 24-25.
Subtier 2	For non-operational companies – all of assets earmarked for asbestos contributed to fund.
Subtier 3	Non-operational and no assets earmarked for asbestos – 50% of all unencumbered assets contributed to fund.

Tier II – Based on Gross Revenues the Person or Affiliated Group shall be assigned to subtiers and shall pay, on an annual basis, the following:

Subtier 1	$25 million
Subtier 2	$20 million
Subtier 3	$15 million

Tier III - Based on Gross Revenues the Person or Affiliated Group shall be assigned to subtiers and shall pay, on an annual basis, the following:

Subtier 1	$15 million
Subtier 2	$10 million
Subtier 3	$5 million

Tier IV - Based on Gross Revenues the Person or Affiliated Group shall be assigned to subtiers and shall pay, on an annual basis, the following:

Subtier 1	$3.5 million
Subtier 2	$2.25 million
Subtier 3	$1.5 million
Subtier 4	$0.5 million

Tier V - Based on Gross Revenues the Person or Affiliated Group shall be assigned to subtiers and shall pay, on an annual basis, the following:

Subtier 1	$1 million
Subtier 2	$0.5 million
Subtier 3	$0.2 million

Tier VI - Based on Gross Revenues the Person or Affiliated Group shall be assigned to subtiers and shall pay, on an annual basis, the following:

Subtier 1	$0.5 million
Subtier 2	$0.25 million
Subtier 3	$0.1 million

Tier VII –Based on Gross Revenues the Person or Affiliated Group shall be assigned to subtiers and shall pay, on an annual basis, the following:

Subtier 1	$10 million
Subtier 2	$5 million
Subtier 3	$500,000

Gross Revenues: "Gross Revenues" shall be determined by reported earnings for the year ending December 31, 2002, or, if applicable, the earlier fiscal year that ends during 2002.

Sec. 204. Assessment Administration.

Decreased contributions: Except as provided otherwise provided, the Administrator will assess contributions based on the values set forth for each Person or Affiliated Group covered by this subsection for the first five years of the Fund's operation. After year five, the Administrator shall reduce the contribution amount for each Defendant Participant in Tiers II, III, IV, V, VI and VII by 10 percent every three years.

Small business exemption: Persons or Affiliated Groups meeting the definition of "small business" as defined by the Small Business Administration pursuant to the Small Business Act, 15 U.S.C. § 632, on December 31, 2002 are exempt from any contribution requirement under this subsection.

Exceptions: Under expedited procedures established by the Administrator, a Defendant Participant may seek adjustment of the amount of its contribution based on severe financial hardship or demonstrated inequity. The administrator shall appoint two advisory panels – one on financial hardship and one on inequity adjustment – to make recommendations. The administrator may not grant hardship adjustments under this paragraph that exceed in the aggregate 3 percent of the total contributions otherwise required of all defendant participants.

Excess contributions: To the extent the total amount of contributions of the Defendant Participants in any given year exceed the statutory minimum under subsection (d), the excess monies will be placed in an Orphan Share reserve fund established by the Administrator. Monies from the Orphan Share reserve fund shall be preserved and administered like the remainder of the Fund, but shall be reserved and may be used only (A) in the event that a petition for relief is filed and not withdrawn for the Defendant Participant under title 11 of the United States Code after date of enactment and the Defendant Participant cannot meet its obligations under paragraphs (4) and (5), and (B) to the extent the Administrator grants a Defendant Participant relief for severe financial hardship or exigent circumstances under paragraph (9).

Total Contributions: Defendants' contributions shall total $45 billion collectively over a 25-year period.

Statutory Minimum Contributions: Statutory minimums for the aggregate contributions of Defendant Participants to the Fund in any single year shall be as follows:

(1) For each of the first five years of the Fund, the aggregate contributions of Defendant Participants to the Fund shall be at least $2.5 Billion.

(2) After year five, the statutory minimum shall be reduced by $0.25 Billion every three years as follows:

(A) For years 6 through 8, $2.25 Billion;

(B) For years 9 through 11, $2 Billion;

(C) For years 12 through 14, $1.75 Billion;

(D) For years 15 through 17, $1.5 Billion;

(E) For years 18 through 20, $1.25 Billion;

(F) For years 21 through 23, $1 Billion.

(G) For years 23 through 25, $750 million

Additional Contributing Participants: The Administrator may assess (1) an additional $4 billion from trusts established to compensate asbestos claims, including 524(g) trusts, and an additional $10 billion from companies whose liability and defense costs are less than $1 million and are likely to avoid future civil liability as a result of this Act.

Guaranteed Payment Surcharge: The Administrator shall impose on each mandatory participant an amount in addition to contributions a reasonable surcharge to insure against the risk of nonpayment of required contributions.

Periodic payments: Periodic payments are permitted as long as the annual obligation is met each year. Annual contribution amounts are expected to decline over time as claims are expected to decline.

Several Liability: Each defendant participant's obligation to contribute to the Fund is several. There is no joint liability and the future insolvency of any defendant participant shall not affect the assessment assigned to any other defendant participant.

Orphan Share Reserve Fund: monies exceeding the minimum aggregate contribution shall be place in an orphan share reserve fund which shall be used by the administrator in the event that a participant does not meet its funding obligations.

Subtitle B. Asbestos Insurers~~Defendants~~ Commission

Sec. 211. Establishment of Asbestos Insurers~~Defendants~~ Commission.

No later than 60 days after enactment, the President, in consultation with Congress, shall appoint five commissioners with sufficient expertise. The commissioners shall be appointed for the life of the Commission. No member of the Commission may be an employee, former employee, or shareholder of any insurer~~defendant~~ participant, or an immediate family member of any such individual. A commissioner shall not be an officer or employee of the Federal Government, except in relation to this commission. The Commission shall select a chairman from among its members. No later than thirty days after all the members have been appointed, the Commission shall hold its first meeting. Subsequently the Commission shall meet at the call of the Chairman as necessary to

carry out the duties of the commission. No business may be conducted or hearings held without the participation of all members of the commission.

Sec. 212. Duties of the Asbestos Insurers~~Defendants~~ Commission.

Determination of Insurer~~Defendant~~ Participant Liability for Asbestos Injuries: The Commission shall determine the amount that each insurer participant will be required to pay into the fund to compensate claimants for asbestos injuries. The Commission shall identify Insurers~~defendants~~ that have paid or been assessed through legal judgment or settlement, greater than $1 million in defense and indemnity costs relating to asbestos personal injury claims and these insurers~~defendants~~ shall be mandatory participants in the fund.

Allocate contributions based on proportionate liability: The commission will allocate among these insurer~~defendant~~ participants annual aggregate contributions totaling $45 billion dollars over twenty-five years based on the proportionate liability of each. Proportionate liability shall be determined as a percentage based on the following factors: net written premiums received from policies covering asbestos that were in force at any time during the period beginning January 1, 1940~~total defense~~ and ending on December 31, 1986; net~~indemnity costs, including costs~~ paid losses for asbestos injuries compared~~by insurers, incurred before the date of enactment; gross revenue and ability~~ to all such losses for the insurance industry; and net carried reserve level for asbestos claims on the most recent financial statement of the insurer participant. Insurers~~pay; and anticipated future liability. Defendants~~ shall be put into contribution tiers based these factors.

~~on total defense and indemnity costs and anticipated future liability. There shall be contribution levels established within the tiers based on gross revenues and ability to pay.~~ Periodic payments are permitted as long as the annual obligation is met each year. Annual contribution amounts are expected to decline over time as claims are expected to decline.

Several Liability: Each insurer ~~defendant~~ participant's obligation to contribute to the Fund is several. There is no joint liability and the future insolvency of any insurer~~defendant~~ participant shall not affect the assessment assigned to any other insurer~~defendant~~ participant.

~~Additional Contributing Participants: The Commission will assess (1) an additional $4 billion from trusts established to compensate asbestos claims, including 524(g) trusts. The Commission will also assess $4 billion in contributions from companies that experience an increase in equity as a result of this Act, as well as assess an additional $10 billion from companies whose liability and defense costs are less than $1 million and are likely to avoid future civil liability as a result of this Act.~~

Notification to and request for information from insurer participants: The commission shall directly notify all reasonably identifiable insurer participants of the requirement to submit information necessary to calculate the amount of any required contribution to the Fund; and publish in the Federal Register a notice requiring any person who may be an insurer~~a defendant~~ participant to submit such information.

Submission of information to the Commission: Any person meeting the criteria established in the notice shall respond and submit the required information within thirty days after receipt of the direct notice or thirty days after the publication of the notice in the Federal Register. The response shall be signed by a responsible corporate officer, general partner, proprietor, or individual of similar authority, who shall certify under penalty of law the completeness and accuracy of the information submitted.

Notice of Initial Determination: Not later than 120 days after the initial meeting of the Commission, the Commission shall send each participant a notice of the initial determination assessing a contribution to the Fund. If no response is received from the participant, or if the response is incomplete, the initial determination assessing a contribution from the participant shall be based on the best information available to the Commission.

Review Period: Not later than thirty days after receiving notice of the initial determination from the Commission, a insurer~~defendant~~ participant may provide the Commission with additional information to support limited adjustments to the assessment received to reflect exceptional circumstances.

Additional Participants: If before the final determination of the Commission, the Commission receives information that an additional person may qualify as an insurer~~a defendant~~ participant, the Commission shall require such person to submit information necessary to determine whether a contribution from that person should be assessed.

Subpoena power: The Commission may request the Attorney General to subpoena persons to compel testimony, records, and other information relevant to its responsibilities under this section. This subpoena power shall be enforced in the U.S. district court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

Assessment Final Determination: Not later than 60 days after the notice of initial determination is sent to the insurer participants, the Commissions shall send each insurer participant~~defendant participants~~ a notice of final determination of the assessment amount and payment schedule.

Judicial Review of Assessment: A participant has a right to obtain judicial review of the Commissions final determination under Title III.

Report: Not later than one year after the date of enactment of this Act, the Commission shall submit a report regarding the amount of the assessments and payment schedule of contributions to the Senate Judiciary Committee, the House Judiciary Committee and the Court of Asbestos Claims.

Sec. 213. Powers of the Asbestos Insurer~~Defendants~~ Commission.

The Commission may hold hearings, sit and act at such times, take testimony and receive evidence as the Commission considers advisable to carry out this Act. The Commission may secure directly from any Federal agency such information as the Commission considers necessary to carry out this act. The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal government. The Commission may not accept, use, or dispose of gifts or donations of services or property.

Sec. 214. Personnel matters of the Asbestos Insurers~~Defendants~~ Commission.

Each member of the Commission shall be paid at daily equivalent of the annual rate for level IV of the Executive Schedule. Members of the Commission shall be allowed travel expenses including per diem in lieu of subsistence consistent with that permitted for federal agency employees. The Chairman of the Commission may appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of the executive director shall be subject to confirmation by the Commission. The Chairman of the Commission may set the rate of compensation of staff but it must not exceed Level V of the Executive Schedule. Any federal government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or

REV_00167282

loss of civil service status or privilege. The Chairman of the Commission may procure temporary and intermittent services at rates that do not exceed Level V of the Executive Schedule.

Sec. 215. Nonapplication of FOIA and confidentiality of information.

The Freedom of Information Act shall not apply to the Commission and all information submitted to the Commission shall be privileged and confidential and shall not be disclosed to any person outside the commission, unless such privilege is intentionally waived by the person submitting the information. An appeal of an assessment to the Fund under this subtitle shall be deemed a waiver unless the appellee participant makes a motion for an *in camera* review of its appeal.

Sec. 216. Termination of the Asbestos Insurers~~Defendants~~ Commission.

The Commission shall terminate 60 days after the date on which the Commission submits its report.

Sec. 217. Authorization of appropriations.

There are authorized to be appropriated to the Commission such sums as may be necessary for fiscal year 2004 to carry out the provisions of this subtitle. Any such sums appropriated shall continue to remain until expended without fiscal year limitation.

Subtitle C. Office of Asbestos Injury Claims Resolution

Sec. 221. Asbestos Injury Claims Resolution Fund.

There is established in the Office of Asbestos Injury Claims Resolution, the Asbestos Injury Claims Resolution Fund which shall be available to pay claims deemed eligible for compensation for an eligible disease or condition, reimbursement for medical monitoring, and principal and interest on amounts borrowing under the authority of this subsection. The aggregate contributions of all mandatory participants to the Fund may not exceed $5 billion in any calendar year. The Administrator is authorized to borrow, in any calendar year, an amount not to exceed anticipated contributions to the Fund in the following year, for purposes of carrying out this Act.

Sec. 222. Enforcement of contributions.

If any participant fails to make any payment in the amount and according to the schedule specified in the assessment, after demand and 30 days opportunity to cure the default, there shall be a lien in favor of the United States for the amount of the delinquent payment (including interest). In the case of a bankruptcy or insolvency proceeding, the lien shall be treated in the same manner as a lien for taxes due and owing to the United States. In any case where there has been a refusal or neglect to pay an assessment the Administrator may bring a civil action in the Federal district court for the District of Columbia to enforce such liability. In any enforcement proceeding, the participant shall be barred from bringing any challenge to the assessment if such challenge could have been made during the review period specified under section 102(b)(4) or 112(b)(4), or a judicial review proceeding under Title III.

Sec. 223. Establishment of the Office of Asbestos Injury Claims Resolution.

REV_00167283

The office shall be responsible for administering the Fund, assessing defendant participant contributions per the formula proscribed in this act, providing compensation from the Fund to asbestos claimants who are deemed eligible for such compensation; and any other activities deemed appropriate. The President shall appoint an Administrator, with the advice and consent of the Senate. The Administrator shall serve for a term of five years and may be removable for good cause.

~~*Sec. 211. Establishment of Asbestos Insurers Commission.*~~

~~Same as Defendants' Commission in Section 201 above (with appropriate modification to reflect application to insurer participants).~~

~~*Sec. 212. Duties of the Asbestos Insurers Commission.*~~

~~Same duties as in Section 202 above, but allocation factors differ. Proportionate liability shall be determined as a percentage based on the following factors: net written premiums received from policies covering asbestos that were in force at any time during the period beginning January 1, 1940 and ending on December 31, 1986; net paid losses for asbestos injuries compared to all such losses for the insurance industry; and net carried reserve level for asbestos claims on the most recent financial statement of the insurer participant. Insurers shall be put into contribution tiers based these factors.~~

Sec. ~~222.~~224. Powers ~~of the Asbestos Insurers Commission.~~

~~Same as Defendants' Commission in Section 203 above.~~

~~*Sec. 214. Personnel matters.*~~

~~Same as Defendants' Commission in Section 204 above.~~

~~*Sec. 215. Nonapplication of FOIA and* Duties ~~*confidentiality of information.*~~~~

~~Same as Defendants' Commission in Section 205 above.~~

~~*Sec. 216. Termination of the Asbestos Insurers Commission.*~~

~~Same as Defendants' Commission in Section 206 above.~~

~~*Sec. 217. Authorization of appropriations.*~~

~~Same as Defendants' Commission in Section 207 above.~~

~~Subtitle C. Office of Asbestos Injury Claims Resolution~~

~~*Sec. 221. Establishment of the Office of Asbestos Injury Claims Resolution.*~~

~~The office shall be responsible for administering the Fund, providing compensation from the Fund to asbestos claimants who are deemed eligible for such compensation; and any other activities deemed appropriate. The President shall appoint an Administrator, with the advice and consent of the Senate. The Administrator shall serve for a term of five years and may be removable for good cause.~~

~~*Sec. 222. Powers*~~ *of the Administrator and management of the Fund.*

The Administrator shall promulgate such regulations as the Administrator deems necessary to implement provisions of this title; appoint employees or contract for the services of other personnel; make expenditures, take all actions necessary to prudently manage the Fund.

~~**Subtitle B. Asbestos Insurers Commission**~~

TITLE III. JUDICIAL REVIEW

Sec. 301. Judicial review of decisions of the Asbestos Court.

The DC Circuit has exclusive jurisdiction over any action to review a final decision of the Asbestos Court. Appeals must be filed within 30 days of the final decision of the Asbestos Court. All decisions will be upheld unless deemed to be arbitrary and capricious, in which case they will be remanded to the Asbestos Court.

Sec. 302. Judicial review of final determinations of the Asbestos Insurers Commission.

The US District Court for DC has exclusive jurisdiction to over any action to review the final determinations of the Defendant and Insurer Commissions regarding allocations. Again, final determinations will be upheld unless arbitrary and capricious, in which case it's remanded to the Commission(s) with instructions to modify. No stays of payments pending appeal are allowed.

Sec. 303. Exclusive review.

No judicial review other than as set forth in sections 401 and 402 is allowed. Any decision finding any part of the FAIR Act to be unconstitutional shall be reviewable as a matter of right by direct appeal to the Supreme Court within 30 days of such ruling.

Sec. 304. Private right of action against reinsurers.

An insurer participant may bring an action in the US District Court of DC against any reinsurer that is contractually obligated to reimburse such insurer for some or all of its costs incurred in an asbestos related claim. Such claims must be decided within 30 days after filing, and will be reviewed under an arbitrary and capricious standard.

TITLE IV. MISCELLANEOUS PROVISIONS

Sec. 401. False information.

A person who knowingly provides false information in connection with an assessment of contributions or claim for compensation or an audit is subject to civil and criminal penalties.

Sec. 402. Effect on bankruptcy laws.

Contribution obligations are not dischargeable and may not be stayed when a participant files for bankruptcy. Claims by the Court or U.S. against a participant are allowed even in bankruptcy. Participants' payment pending bankruptcy or in bankruptcy are not avoidable as preferences. Existing asbestos bankruptcy trusts shall be incorporated into the Asbestos Claims Resolution Fund under this Act.

Sec. 403. Effect on other laws and existing claims.

REV_00167285

This section provides that there will be no other forum for recovery of an asbestos injury claim. Claims pending as of the date of enactment will be dismissed. If a state court does not dismiss a claim, it may be removed to federal court, which will rule on the motion to dismiss.

REV_00167286

From: Bumatay, Patrick J.
To: <Kavanaugh, Brett M.>
Sent: 5/20/2003 10:25:31 AM
Subject: nomination deadlines

just a reminder, can you send me an updated judicial deadline sheet when you get the chance?

thanks

From: CN=Diana L. Schacht/OU=OPD/O=EOP [OPD]
To: Jay P. Lefkowitz/OPD/EOP@Exchange@EOP [OPD] <Jay P. Lefkowitz>;Kevin Warsh/OPD /EOP@EOP [OPD] <Kevin Warsh>;Margaret M. Spellings/OPD/EOP@Exchange@EOP [OPD] <Margaret M. Spellings>;Jeffrey F. Kupfer/WHO/EOP@Exchange@EOP [WHO] <Jeffrey F. Kupfer>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/20/2003 7:42:07 AM
Subject: : Hatch Asbestos bill
Attachments: P_2LGKG003_OPD.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP [ OPD ] )
CREATION DATE/TIME:20-MAY-2003 11:42:07.00
SUBJECT:: Hatch Asbestos bill
TO:Jay P. Lefkowitz ( CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange@EOP [ OPD ] )
READ:UNKNOWN
TO:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Margaret M. Spellings ( CN=Margaret M. Spellings/OU=OPD/O=EOP@Exchange@EOP [ OPD ] )
READ:UNKNOWN
TO:Jeffrey F. Kupfer ( CN=Jeffrey F. Kupfer/OU=WHO/O=EOP@Exchange@EOP [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Here is a summary of Hatch's asbestos bill, which he intends to introduce
on Thursday. Judiciary Committee staff has asked we keep this document
close hold. Please let me know if you see anything that rises to the
level that we need to indicate our objection to Hatch staff.

- asbestos.hatchbill.summ.v1.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_2LGKG003_OPD.TXT_1>
```

Last printed DATE

*** DRAFT – FOR STAFF DISCUSSION PURPOSES ONLY ***

FAIRNESS IN ASBESTOS INJURY RESOLUTION ACT OF 2003 ("FAIR ACT")

TITLE I. ASBESTOS CLAIMS RESOLUTION

Subtitle A. United States Court of Asbestos Claims

Sec. 101. Establishment of Asbestos Court.

Establishes the United States Court of Asbestos Claims, which consists of five (5) judges appointed by the President with the advice and consent of the Senate. The President designates one Chief Judge, who is empowered to prescribe rules and regulations for the Court, appoint magistrates, appoint or contract for necessary court services and make necessary expenditures. Judges are paid the same as U.S. district court judges and may be removed by the President for good cause. The Court has its principal office in Washington, DC, but may hold court in other locations if deemed necessary. Magistrates will be individual finders of fact assigned to individual claims, and will be compensated at Level V on the Executive Schedule. Judges will receive the same retirements benefits and judges of the United States Court of Federal Claims.

Subtitle B. Asbestos Injury Claims Resolution Procedures

Sec. 111. Filing of claims.

Claimants file claims with the United States Court of Asbestos Claims (the Court). The Court issues rules as to who may file as a representative of another individual. Claims must be notarized and give detailed information about the claimant, including their asbestos exposure, medical records, tobacco use, collateral sources of compensation and any other information that the Court elects to add. Claims must be brought within two (2) years from the time the defendants knew or should have known of their injury. Persons with pending claims in the tort system must file within two (2) years of the date of enactment. Claimants who develop an additional condition or disease may file for additional benefits.

Sec. 112. General rule concerning no-fault compensation.

Claimant need not establish that his/her injury resulted from the negligence or other fault of another person.

Sec. 113. Essential elements of eligible asbestos claim.

Claimants must prove by a preponderance of the evidence that they have an eligible disease or condition, and that they meet the latency and exposure criteria requirements.

REV_00167313

Sec. 114. Eligibility determinations.

Claims are referred to magistrates within 20 days. Claims examiners then make the initial review for each claim under the magistrate's direction. Claims examiners will notify claimants if additional information is needed to determine eligibility, including requiring a medical exam and/or tests. Once a claim examiner has all the necessary information, the claim and a recommendation are sent to a magistrate who has 60 days after receipt of a completed claim to provide a written recommendation, including findings of facts. One judge of the Court will then either accept or reject the magistrate's recommendation within 30 days.

The Court will establish expedited procedures for exigent cases. Claimants must either waive their right to judicial review or have exhausted their judicial review to receive their award. The Court will establish audit procedures for reviewing the accuracy of the magistrates' recommendations.

Sec. 115. Medical evidence auditing procedures.

The Court will establish audit procedures for medical evidence submitted as part of claims to ensure accuracy of x-ray readings and pulmonary function tests. If the Court finds certain providers are not complying with prevailing medical practices, records from such providers will be deemed inadmissible for a claim. A provider who is deemed non-compliant may appeal such determination under procedures established by the Court.

Sec. 116. Claimant assistance program.

This section authorizes the Court to establish a legal assistance program to aid claimants in legal representation issues. As part of this program, the Court will maintain a list of attorneys who are willing to provide their services on a pro bono basis.

Subtitle C. Medical Criteria

Sec. 121. Essential Elements of Eligible Asbestos Claim.

To be eligible for compensation a claimant shall file in a timely manner, and prove by a preponderance of the evidence that the claimant suffers from an eligible disease as demonstrated by evidence that meets the diagnostic, medical and latency criteria requirements of this Act.

Sec. 122. Diagnostic Criteria Requirements.

Claimants must prove their diagnosis by having an in-person medical exam by a licensed physician who is treating or has treated the claimant and that reviews the claimant's work history, exposure pattern, smoking history and any other factors determined by the Court. Such exam must also exclude other more likely causes than asbestos for the claimant's condition. The claim must be accompanied by sufficient medical evidence such as the necessary medical tests and x-rays, including a B-reader's report. An attorney retention agreement shall not be required as a prerequisite to a medical examination or medical screening for purposes of obtaining a medical diagnosis or other medical information under this section.

Sec. 123. Latency Criteria Requirements.

Claimants must have been exposed within the United States territories or possessions and for at least 10 years before the initial diagnosis of any asbestos-related injury.

Sec. 124.~~**Subtitle A. Asbestos**~~ *Medical Criteria Requirements.*

The Manville Trust Distribution Process (2002) medical criteria are incorporated in this Act.

~~**Commission**~~

Sec. 125. ~~301. Establishment of Commission on Medical/Exposure/Latency~~ Criteria Requirements.

The exposure requirements from the 2002 Manville TDP are incorporated in this Act.

~~Same as Section 201 above, except that Commissioners here shall have sufficient medical expertise in the area of asbestos-related conditions and diseases.~~

~~*Sec. 302. Duties of Medical Commission.*~~

~~The Commission will review current medical criteria on asbestos-related injuries, including, but not limited to, the Manville TDP, the ABA Standards, the AMA Guide to Impairment (5th Ed.), criteria proposed by organized labor and any other criteria or input from interested parties the Commission deems appropriate. The Commission will then establish its own criteria and disease/condition categories to best determine who is an eligible claimant for an asbestos-related injury award or for medical monitoring.~~

~~Commission shall also determine diagnostic criteria requirements, including (a) whether claimants must prove their diagnosis by having an in-person medical exam by a licensed physician that reviews the claimant's work history, exposure pattern, smoking history and any other factors determined the Court, and (b) such exam must also exclude other more likely causes than asbestos for the claimant's condition. The Commission shall also determine whether the demonstration required must be accompanied by the necessary medical tests and x-rays, including a B-reader's report. The Court will prescribe rules to implement the requirements used in applying this section.~~

Subtitle D. Awards

~~*Sec. 303. Powers of Medical Commission.*~~

~~Same as Section 203 above.~~

*Sec. 131. Claim Values~~*304. Personnel Matters.*~~*

Claim awards will be paid as follows:

	Disease / Condition	Amount of award
Level I	asymptomatic exposure	0
Level II	asbestosis/ pleural disease A	0
Level III	asbestosis/ pleural disease B	$ 40,000
Level IV	severe asbestosis	$400,000
Level V	other cancer	$200,000
Level VI	lung cancer I	$ 50,000
Level VII	lung cancer II	$400,000
Level VIII	mesothelioma	$750,000

~~Same as Section 204 above.~~

~~*Sec. 305. Nonapplication of FOIA and confidentiality of information.*~~

~~Same as Section 205 above.~~

*Sec. 132.~~*306. Termination of Awards Commission.*~~*

~~Same as Section 206 above.~~

~~*Sec. 307. Authorization of Appropriations.*~~
~~Same as Section 207 above.~~

~~Subtitle B. Asbestos Claims Values Commission~~

~~*Sec. 311. Establishment of Commission on Award Amounts*~~
~~Same as Section 201 above, except that Commissioners shall have sufficient expertise in the area of claims valuation for asbestos-related conditions and diseases.~~

~~*Sec. 312. Duties of Awards Commission.*~~
~~This commission will study how much victims of all asbestos-related injuries are currently able to recover in the tort system. This study will include jury verdicts, settlements (as best such information can be determined), 524(g) trust payouts and, to the extent practicable, and how many victims are not able to make any recovery at all due to lack of solvent defendants or otherwise. The Commission will determine awards based on the total funding amount in this Act. This commission will submit an initial determination within 30 days of issuance of the Asbestos Injury Medical Commission's final determination, and a final determination within 60 days after that. A final report on awards will be submitted to the House and Senate Judiciary Committees and the Court within 180 days of enactment of this Act.~~

~~*Sec. 313. Powers of Awards Commission.*~~
~~Same as Section 203 above.~~

~~*Sec. 314. Personnel Matters.*~~
~~Same as Section 204 above.~~

~~*Sec. 315. Nonapplication of FOIA and confidentiality of information.*~~
~~Same as Section 205 above.~~

~~*Sec. 316. Termination of Awards Commission.*~~
~~Same as Section 206 above.~~

~~*Sec. 317. Authorization of Appropriations.*~~
~~Same as Section 207 above.~~

~~Subtitle C. Awards~~

~~*Sec. 321.*~~ *Medical monitoring.*

Claimants meeting medical monitoring criteria requirements to be determined by the Commission will be eligible to be reimbursed for uninsured costs of x-rays and pulmonary function tests every three years.

Sec. 13<u>3</u>.~~322.~~ Payments.

Payments will disbursed over a period of three years, and can be accelerated to mesothelioma claimants who are alive on date of determination. Claimants may also elect to receive their benefits in the form of an annuity. All benefits are non-taxable and not deemed to be a Medicare benefit.

Sec. 13~~4.323.~~ Reduction in benefit payments for collateral sources.

All awards will be reduced by the amount of benefits already received, or is entitled to be received, from collateral sources. Worker's compensation and veteran's benefits are not included as collateral sources.

Subtitle E. *En Banc* Review

Sec. 141. En banc review.

Claimants may appeal a determination of a single-judge decision to an *en banc* panel of the Court within 30 days after receiving notice. Three judges will be assigned to hear each appeal. The Court will apply the applicable rules from the Federal Rules of Appellate Procedure. The *en banc* panel will review magistrate determinations *de novo*. The Administrator may appoint counsel to represent it in oral arguments and to submit briefs. The Court will make its rulings based on the record, and not later than 30 days after oral argument, and in no event later than 60 days after receipt of the notice of appeal.

TITLE II. ASBESTOS INJURY CLAIMS RESOLUTION FUND

Sec. 202 Authority and Tiers.

Identification of Defendant Participants: The Administrator shall identify defendants that have paid or been assessed through legal judgment or settlement, greater than $1 million in defense and indemnity costs relating to asbestos personal injury claims and these defendants shall be mandatory participants in the fund. The Administrator shall directly notify all reasonably identifiable defendant participants of the requirement to submit information necessary to calculate the amount of any required contribution to the Fund; and publish in the Federal Register a notice requiring any person who may be a defendant participant to submit such information.

Assessment of Defendant Participant Contributions: The Administrator shall further determine the amount that each defendant participant will be required to pay into the fund to compensate claimants for asbestos injuries based on the following formula:

(1) Persons with Prior Asbestos Expenditures that have a case pending under a chapter of title 11 of the United States Code, as of December 31, 2002, shall be assigned to Tier I if such Chapter 11 filing was caused by asbestos liability.

Bankruptcies not caused by asbestos liability - Any company that filed for chapter 11 protection prior to the date of enactment and has not confirmed a plan of reorganization as of the date of enactment of this Act, and the Chief Executive Officer, Chief Financial Officer, or Chief Legal Officer of which certifies in writing to the bankruptcy court presiding over the company's case, that asbestos liability was neither the sole nor the precipitating cause for the company's chapter 11 filing, may proceed with the filing, solicitation and confirmation of a plan or reorganization, including a trust and channeling injunction pursuant to section 524(g) of the bankruptcy code, notwithstanding any other

provisions of this Act, provided that: (1) the bankruptcy court determines that confirmation is necessary to permit the reorganization of the company and assure that all creditors and the company are treated fairly and equitably; (2) an order confirming the plan of reorganization is entered by the bankruptcy court within nine months after the effective date of the Act, or such longer period approved by the bankruptcy court for good cause shown. To the extent such company successfully confirms a plan of reorganization including a 524(g) trust and channeling injunction that involves payments by insurers who are otherwise subject to this Act, such insurers shall obtain a corresponding reduction in the amount otherwise payable by that insurer under this Act.

(2) Except as otherwise provided, Persons or Affiliated Groups shall be assigned to Tiers I, II, III, IV, V, VI or VII according to their Prior Asbestos Expenditures as follows:
Tier I: $500 million or greater.
Tier II: $75 million or greater.
Tier III: $50 million or greater but less than $75 million.
Tier IV: $10 million or greater but less than $50 million.
Tier V: $5 million or greater but less than $10 million.
Tier VI: $1 million or greater but less than $5 million.
Tier VII: $5 million or More in FELA Liability.

(4) Except as otherwise provided, the Administrator shall assess contributions to Persons or Affiliated Groups within Tiers I through VII as follows –

Tier I – The Administrator shall assess an annual contribution to each Person or Affiliated Group in Tier I based on a percentage of its revenues, according to the following tiers:

Subtier 1	1.4533% of its Revenues in years 1-5, declining gradually to .6965% of Revenues in years 24-25.
Subtier 2	For non-operational companies – all of assets earmarked for asbestos contributed to fund.
Subtier 3	Non-operational and no assets earmarked for asbestos – 50% of all unencumbered assets contributed to fund.

Tier II – Based on Gross Revenues the Person or Affiliated Group shall be assigned to subtiers and shall pay, on an annual basis, the following:

Subtier 1	$25 million
Subtier 2	$20 million
Subtier 3	$15 million

Tier III - Based on Gross Revenues the Person or Affiliated Group shall be assigned to subtiers and shall pay, on an annual basis, the following:

Subtier 1	$15 million
Subtier 2	$10 million
Subtier 3	$5 million

Tier IV - Based on Gross Revenues the Person or Affiliated Group shall be assigned to subtiers and shall pay, on an annual basis, the following:

Subtier 1	$3.5 million
Subtier 2	$2.25 million
Subtier 3	$1.5 million
Subtier 4	$0.5 million

Tier V - Based on Gross Revenues the Person or Affiliated Group shall be assigned to subtiers and shall pay, on an annual basis, the following:

Subtier 1	$1 million
Subtier 2	$0.5 million
Subtier 3	$0.2 million

Tier VI - Based on Gross Revenues the Person or Affiliated Group shall be assigned to subtiers and shall pay, on an annual basis, the following:

Subtier 1	$0.5 million
Subtier 2	$0.25 million
Subtier 3	$0.1 million

Tier VII –Based on Gross Revenues the Person or Affiliated Group shall be assigned to subtiers and shall pay, on an annual basis, the following:

Subtier 1	$10 million
Subtier 2	$5 million
Subtier 3	$500,000

Gross Revenues: "Gross Revenues" shall be determined by reported earnings for the year ending December 31, 2002, or, if applicable, the earlier fiscal year that ends during 2002.

Sec. 204. Assessment Administration.

Decreased contributions: Except as provided otherwise provided, the Administrator will assess contributions based on the values set forth for each Person or Affiliated Group covered by this subsection for the first five years of the Fund's operation. After year five, the Administrator shall reduce the contribution amount for each Defendant Participant in Tiers II, III, IV, V, VI and VII by 10 percent every three years.

Small business exemption: Persons or Affiliated Groups meeting the definition of "small business" as defined by the Small Business Administration pursuant to the Small Business Act, 15 U.S.C. § 632, on December 31, 2002 are exempt from any contribution requirement under this subsection.

Exceptions: Under expedited procedures established by the Administrator, a Defendant Participant may seek adjustment of the amount of its contribution based on severe financial hardship or demonstrated inequity. The administrator shall appoint two advisory panels – one on financial hardship and one on inequity adjustment – to make recommendations. The administrator may not grant hardship adjustments under this paragraph that exceed in the aggregate 3 percent of the total contributions otherwise required of all defendant participants.

Excess contributions: To the extent the total amount of contributions of the Defendant Participants in any given year exceed the statutory minimum under subsection (d), the excess monies will be placed in an Orphan Share reserve fund established by the Administrator. Monies from the Orphan Share reserve fund shall be preserved and administered like the remainder of the Fund, but shall be reserved and may be used only (A) in the event that a petition for relief is filed and not withdrawn for the Defendant Participant under title 11 of the United States Code after date of enactment and the Defendant Participant cannot meet its obligations under paragraphs (4) and (5), and (B) to the extent the Administrator grants a Defendant Participant relief for severe financial hardship or exigent circumstances under paragraph (9).

Total Contributions: Defendants' contributions shall total $45 billion collectively over a 25-year period.

Statutory Minimum Contributions: Statutory minimums for the aggregate contributions of Defendant Participants to the Fund in any single year shall be as follows:

(1) For each of the first five years of the Fund, the aggregate contributions of Defendant Participants to the Fund shall be at least $2.5 Billion.

(2) After year five, the statutory minimum shall be reduced by $0.25 Billion every three years as follows:

(A) For years 6 through 8, $2.25 Billion;

(B) For years 9 through 11, $2 Billion;

(C) For years 12 through 14, $1.75 Billion;

(D) For years 15 through 17, $1.5 Billion;

(E) For years 18 through 20, $1.25 Billion;

(F) For years 21 through 23, $1 Billion.

(G) For years 23 through 25, $750 million

Additional Contributing Participants: The Administrator may assess (1) an additional $4 billion from trusts established to compensate asbestos claims, including 524(g) trusts, and an additional $10 billion from companies whose liability and defense costs are less than $1 million and are likely to avoid future civil liability as a result of this Act.

Guaranteed Payment Surcharge: The Administrator shall impose on each mandatory participant an amount in addition to contributions a reasonable surcharge to insure against the risk of nonpayment of required contributions.

Periodic payments: Periodic payments are permitted as long as the annual obligation is met each year. Annual contribution amounts are expected to decline over time as claims are expected to decline.

Several Liability: Each defendant participant's obligation to contribute to the Fund is several. There is no joint liability and the future insolvency of any defendant participant shall not affect the assessment assigned to any other defendant participant.

Orphan Share Reserve Fund: monies exceeding the minimum aggregate contribution shall be place in an orphan share reserve fund which shall be used by the administrator in the event that a participant does not meet its funding obligations.

Subtitle B. Asbestos Insurers~~Defendants~~ Commission

Sec. 211. Establishment of Asbestos Insurers~~Defendants~~ Commission.

No later than 60 days after enactment, the President, in consultation with Congress, shall appoint five commissioners with sufficient expertise. The commissioners shall be appointed for the life of the Commission. No member of the Commission may be an employee, former employee, or shareholder of any insurer~~defendant~~ participant, or an immediate family member of any such individual. A commissioner shall not be an officer or employee of the Federal Government, except in relation to this commission. The Commission shall select a chairman from among its members. No later than thirty days after all the members have been appointed, the Commission shall hold its first meeting. Subsequently the Commission shall meet at the call of the Chairman as necessary to

carry out the duties of the commission. No business may be conducted or hearings held without the participation of all members of the commission.

Sec. 212. Duties of the Asbestos Insurers~~Defendants~~ Commission.

Determination of Insurer~~Defendant~~ Participant Liability for Asbestos Injuries: The Commission shall determine the amount that each insurer participant will be required to pay into the fund to compensate claimants for asbestos injuries. The Commission shall identify Insurers~~defendants~~ that have paid or been assessed through legal judgment or settlement, greater than $1 million in defense and indemnity costs relating to asbestos personal injury claims and these insurers~~defendants~~ shall be mandatory participants in the fund.

Allocate contributions based on proportionate liability: The commission will allocate among these insurer~~defendant~~ participants annual aggregate contributions totaling $45 billion dollars over twenty-five years based on the proportionate liability of each. Proportionate liability shall be determined as a percentage based on the following factors: net written premiums received from policies covering asbestos that were in force at any time during the period beginning January 1, 1940~~total defense~~ and ending on December 31, 1986; net~~indemnity costs, including costs~~ paid losses for asbestos injuries compared~~by insurers, incurred before the date of enactment; gross revenue and ability~~ to all such losses for the insurance industry; and net carried reserve level for asbestos claims on the most recent financial statement of the insurer participant. Insurers~~pay; and anticipated future liability. Defendants~~ shall be put into contribution tiers based these factors.

~~on total defense and indemnity costs and anticipated future liability. There shall be contribution levels established within the tiers based on gross revenues and ability to pay.~~ Periodic payments are permitted as long as the annual obligation is met each year. Annual contribution amounts are expected to decline over time as claims are expected to decline.

Several Liability: Each insurer ~~defendant~~ participant's obligation to contribute to the Fund is several. There is no joint liability and the future insolvency of any insurer~~defendant~~ participant shall not affect the assessment assigned to any other insurer~~defendant~~ participant.

~~Additional Contributing Participants: The Commission will assess (1) an additional $4 billion from trusts established to compensate asbestos claims, including 524(g) trusts. The Commission will also assess $4 billion in contributions from companies that experience an increase in equity as a result of this Act, as well as assess an additional $10 billion from companies whose liability and defense costs are less than $1 million and are likely to avoid future civil liability as a result of this Act.~~

Notification to and request for information from insurer participants: The commission shall directly notify all reasonably identifiable insurer participants of the requirement to submit information necessary to calculate the amount of any required contribution to the Fund; and publish in the Federal Register a notice requiring any person who may be an insurer~~a defendant~~ participant to submit such information.

Submission of information to the Commission: Any person meeting the criteria established in the notice shall respond and submit the required information within thirty days after receipt of the direct notice or thirty days after the publication of the notice in the Federal Register. The response shall be signed by a responsible corporate officer, general partner, proprietor, or individual of similar authority, who shall certify under penalty of law the completeness and accuracy of the information submitted.

Notice of Initial Determination: Not later than 120 days after the initial meeting of the Commission, the Commission shall send each participant a notice of the initial determination assessing a contribution to the Fund. If no response is received from the participant, or if the response is incomplete, the initial determination assessing a contribution from the participant shall be based on the best information available to the Commission.

Review Period: Not later than thirty days after receiving notice of the initial determination from the Commission, a insurer~~defendant~~ participant may provide the Commission with additional information to support limited adjustments to the assessment received to reflect exceptional circumstances.

Additional Participants: If before the final determination of the Commission, the Commission receives information that an additional person may qualify as an insurer~~a defendant~~ participant, the Commission shall require such person to submit information necessary to determine whether a contribution from that person should be assessed.

Subpoena power: The Commission may request the Attorney General to subpoena persons to compel testimony, records, and other information relevant to its responsibilities under this section. This subpoena power shall be enforced in the U.S. district court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

Assessment Final Determination: Not later than 60 days after the notice of initial determination is sent to the insurer participants, the Commissions shall send each insurer participant~~defendant participants~~ a notice of final determination of the assessment amount and payment schedule.

Judicial Review of Assessment: A participant has a right to obtain judicial review of the Commissions final determination under Title III.

Report: Not later than one year after the date of enactment of this Act, the Commission shall submit a report regarding the amount of the assessments and payment schedule of contributions to the Senate Judiciary Committee, the House Judiciary Committee and the Court of Asbestos Claims.

Sec. 213. Powers of the Asbestos Insurer~~Defendants~~ Commission.

The Commission may hold hearings, sit and act at such times, take testimony and receive evidence as the Commission considers advisable to carry out this Act. The Commission may secure directly from any Federal agency such information as the Commission considers necessary to carry out this act. The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal government. The Commission may not accept, use, or dispose of gifts or donations of services or property.

Sec. 214. Personnel matters of the Asbestos Insurers~~Defendants~~ Commission.

Each member of the Commission shall be paid at daily equivalent of the annual rate for level IV of the Executive Schedule. Members of the Commission shall be allowed travel expenses including per diem in lieu of subsistence consistent with that permitted for federal agency employees. The Chairman of the Commission may appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of the executive director shall be subject to confirmation by the Commission. The Chairman of the Commission may set the rate of compensation of staff but it must not exceed Level V of the Executive Schedule. Any federal government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or

loss of civil service status or privilege. The Chairman of the Commission may procure temporary and intermittent services at rates that do not exceed Level V of the Executive Schedule.

Sec. 215. Nonapplication of FOIA and confidentiality of information.

The Freedom of Information Act shall not apply to the Commission and all information submitted to the Commission shall be privileged and confidential and shall not be disclosed to any person outside the commission, unless such privilege is intentionally waived by the person submitting the information. An appeal of an assessment to the Fund under this subtitle shall be deemed a waiver unless the appellee participant makes a motion for an *in camera* review of its appeal.

Sec. 216. Termination of the Asbestos Insurers~~Defendants~~ Commission.

The Commission shall terminate 60 days after the date on which the Commission submits its report.

Sec. 217. Authorization of appropriations.

There are authorized to be appropriated to the Commission such sums as may be necessary for fiscal year 2004 to carry out the provisions of this subtitle. Any such sums appropriated shall continue to remain until expended without fiscal year limitation.

Subtitle C. Office of Asbestos Injury Claims Resolution

Sec. 221. Asbestos Injury Claims Resolution Fund.

There is established in the Office of Asbestos Injury Claims Resolution, the Asbestos Injury Claims Resolution Fund which shall be available to pay claims deemed eligible for compensation for an eligible disease or condition, reimbursement for medical monitoring, and principal and interest on amounts borrowing under the authority of this subsection. The aggregate contributions of all mandatory participants to the Fund may not exceed $5 billion in any calendar year. The Administrator is authorized to borrow, in any calendar year, an amount not to exceed anticipated contributions to the Fund in the following year, for purposes of carrying out this Act.

Sec. 222. Enforcement of contributions.

If any participant fails to make any payment in the amount and according to the schedule specified in the assessment, after demand and 30 days opportunity to cure the default, there shall be a lien in favor of the United States for the amount of the delinquent payment (including interest). In the case of a bankruptcy or insolvency proceeding, the lien shall be treated in the same manner as a lien for taxes due and owing to the United States. In any case where there has been a refusal or neglect to pay an assessment the Administrator may bring a civil action in the Federal district court for the District of Columbia to enforce such liability. In any enforcement proceeding, the participant shall be barred from bringing any challenge to the assessment if such challenge could have been made during the review period specified under section 102(b)(4) or 112(b)(4), or a judicial review proceeding under Title III.

Sec. 223. Establishment of the Office of Asbestos Injury Claims Resolution.

REV_00167323

The office shall be responsible for administering the Fund, assessing defendant participant contributions per the formula proscribed in this act, providing compensation from the Fund to asbestos claimants who are deemed eligible for such compensation; and any other activities deemed appropriate. The President shall appoint an Administrator, with the advice and consent of the Senate. The Administrator shall serve for a term of five years and may be removable for good cause.

~~*Sec. 211. Establishment of Asbestos Insurers Commission.*~~

~~Same as Defendants' Commission in Section 201 above (with appropriate modification to reflect application to insurer participants).~~

~~*Sec. 212. Duties of the Asbestos Insurers Commission.*~~

~~Same duties as in Section 202 above, but allocation factors differ. Proportionate liability shall be determined as a percentage based on the following factors: net written premiums received from policies covering asbestos that were in force at any time during the period beginning January 1, 1940 and ending on December 31, 1986; net paid losses for asbestos injuries compared to all such losses for the insurance industry; and net carried reserve level for asbestos claims on the most recent financial statement of the insurer participant. Insurers shall be put into contribution tiers based these factors.~~

Sec. ~~222.~~224. Powers ~~of the Asbestos Insurers Commission.~~

~~Same as Defendants' Commission in Section 203 above.~~

~~*Sec. 214. Personnel matters.*~~

~~Same as Defendants' Commission in Section 204 above.~~

~~*Sec. 215. Nonapplication of FOIA and* Duties ~~*confidentiality of information.*~~~~

~~Same as Defendants' Commission in Section 205 above.~~

~~*Sec. 216. Termination of the Asbestos Insurers Commission.*~~

~~Same as Defendants' Commission in Section 206 above.~~

~~*Sec. 217. Authorization of appropriations.*~~

~~Same as Defendants' Commission in Section 207 above.~~

~~Subtitle C. Office of Asbestos Injury Claims Resolution~~

~~*Sec. 221. Establishment of the Office of Asbestos Injury Claims Resolution.*~~

~~The office shall be responsible for administering the Fund, providing compensation from the Fund to asbestos claimants who are deemed eligible for such compensation; and any other activities deemed appropriate. The President shall appoint an Administrator, with the advice and consent of the Senate. The Administrator shall serve for a term of five years and may be removable for good cause.~~

~~*Sec. 222. Powers*~~ *of the Administrator and management of the Fund.*

The Administrator shall promulgate such regulations as the Administrator deems necessary to implement provisions of this title; appoint employees or contract for the services of other personnel; make expenditures, take all actions necessary to prudently manage the Fund.

~~**Subtitle B. Asbestos Insurers Commission**~~

TITLE III. JUDICIAL REVIEW

Sec. 301. Judicial review of decisions of the Asbestos Court.

The DC Circuit has exclusive jurisdiction over any action to review a final decision of the Asbestos Court. Appeals must be filed within 30 days of the final decision of the Asbestos Court. All decisions will be upheld unless deemed to be arbitrary and capricious, in which case they will be remanded to the Asbestos Court.

Sec. 302. Judicial review of final determinations of the Asbestos Insurers Commission.

The US District Court for DC has exclusive jurisdiction to over any action to review the final determinations of the Defendant and Insurer Commissions regarding allocations. Again, final determinations will be upheld unless arbitrary and capricious, in which case it's remanded to the Commission(s) with instructions to modify. No stays of payments pending appeal are allowed.

Sec. 303. Exclusive review.

No judicial review other than as set forth in sections 401 and 402 is allowed. Any decision finding any part of the FAIR Act to be unconstitutional shall be reviewable as a matter of right by direct appeal to the Supreme Court within 30 days of such ruling.

Sec. 304. Private right of action against reinsurers.

An insurer participant may bring an action in the US District Court of DC against any reinsurer that is contractually obligated to reimburse such insurer for some or all of its costs incurred in an asbestos related claim. Such claims must be decided within 30 days after filing, and will be reviewed under an arbitrary and capricious standard.

TITLE IV. MISCELLANEOUS PROVISIONS

Sec. 401. False information.

A person who knowingly provides false information in connection with an assessment of contributions or claim for compensation or an audit is subject to civil and criminal penalties.

Sec. 402. Effect on bankruptcy laws.

Contribution obligations are not dischargeable and may not be stayed when a participant files for bankruptcy. Claims by the Court or U.S. against a participant are allowed even in bankruptcy. Participants' payment pending bankruptcy or in bankruptcy are not avoidable as preferences. Existing asbestos bankruptcy trusts shall be incorporated into the Asbestos Claims Resolution Fund under this Act.

Sec. 403. Effect on other laws and existing claims.

REV_00167325

This section provides that there will be no other forum for recovery of an asbestos injury claim. Claims pending as of the date of enactment will be dismissed. If a state court does not dismiss a claim, it may be removed to federal court, which will rule on the motion to dismiss.

REV_00167326

From: Elwood, Courtney S.
To: <Kavanaugh, Brett M.>
CC: <Addington, David S.>
Sent: 5/20/2003 2:46:00 PM
Subject: RE: Final AO 2003-03 and Republican Concurrence

Thanks. Charlie already directed me to this opinion, which then prompted me to have a follow-up call with him and, subsequently, my discussion with David and then you. I just wish the opinion were more clearly drafted. (The concurrence is better.) Sounds like you are on top of all of this, and I can come to you with my questions in the future!

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Tuesday, May 20, 2003 2:42 PM
To: Elwood, Courtney S.
Cc: Addington, David S.
Subject: Final AO 2003-03 and Republican Concurrence

Let me know if you have any questions about this. Thanks.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 05/20/2003 02:41 PM ----------

Charles Spies - Legal
04/30/2003 04:55:30 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Final AO 2003-03 and Republican Concurrence

For your reading pleasure.

- Charlie

- AO 2003-03 yellow 2.doc << File: AO 2003-03 yellow 2.doc >>
- BAS MT DMM Concurrence AO 2003-3 BAS Author.doc << File: BAS MT DMM Concurrence AO 2003-3 BAS Author.doc >>

From: CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD]
To: Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/20/2003 11:22:28 AM
Subject: : FW: School Choice Update

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD])
CREATION DATE/TIME:20-MAY-2003 15:22:28.00
SUBJECT:: FW: School Choice Update
TO:Theodore W. Ullyot (CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Fyi

I N S T I T U T E F O R J U S T I C E

M E M O R A N D U M

TO: Institute for Justice Supporters

FROM: Clint Bolick and Chip Mellor

RE: School Choice Update

DATE: May 20, 2003

The U.S. Supreme Court's decision yesterday to review the decision of the U.S. Court of Appeals for the Ninth Circuit in Davey v. Locke is very important news for the school choice movement. It raises squarely the issue
we are confronting around the nation: does a state's Blaine Amendment that is interpreted to require discrimination against religious educational options violate the First Amendment?

Washington State discriminates in its postsecondary student aid programs against students studying for the ministry. The Ninth Circuit ruled 2-1 that the Blaine Amendment must give way to the First Amendment's requirement, and it struck down the discrimination. Although our side won,
we submitted an amicus brief on behalf of IJ and the Center for Education Reform written by IJ attorney Dick Komer supporting Supreme Court review because the case raises important issues for school choice.

Prospects in the Supreme Court are uncertain. Usually the Court takes cases
in order to reverse them, and it reverses the Ninth Circuit most often of all. But four justices wrote several years ago in Mitchell v. Helms that it
was time to take on the legacy of bigotry embodied in the Blaine Amendments.

The group litigating the case is the American Center for Law and Justice, which has a good track record in the Supreme Court. However, ACLJ is focused on religious liberty, not school choice. So IJ will seek to play as
central a role as possible in raising the Court's consciousness about the impact of the case on school choice.

A clear victory could wipe away the largest remaining legal obstacle to school choice. The Court could decide the case on some narrow grounds that would require further cases to resolve the larger issue. A loss would mean simply that we will have to litigate the Blaine Amendment issue state-by-state, as we have done in Wisconsin and Arizona, as we are currently doing in Florida, and as we soon will be doing in Colorado. Compounding the uncertainty is the possibility of some change in the composition of the Court before arguments this fall. Regardless, we will work aggressively to shift the odds in favor of a victory for school choice.

Meanwhile, we expect an imminent challenge to the Colorado program. Chip will head the litigation defense for IJ and is in Colorado now working with school choice activists and meeting with parents. We will be prepared to intervene as soon as the lawsuit is filed. Fortunately, the school choice team in Colorado is strong and well organized.

The second wave of litigation is growing intense. With luck, there will be many programs to defend--and the strength of the legal challenges will continue to diminish. Thanks as always for your support.

1717 Pennsylvania Avenue, NW Suite 200, Washington DC 20006 (202) 955-1300 (202) 955-1329 FAX
Homepage: www.IJ.org <www.IJ.org>

From: CN=Matthew E. Smith/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Lauren J. Vestewig/OPD /EOP@Exchange@EOP [OPD] <Lauren J. Vestewig>;Colby J. Cooper/NSC/EOP@EOP [NSC] <Colby J. Cooper>;Catharine A. Ryun/WHO/EOP@EOP [WHO] <Catharine A. Ryun>
Sent: 5/20/2003 1:24:29 PM
Subject: : Speaking line-up for Thursday

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Matthew E. Smith ( CN=Matthew E. Smith/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:20-MAY-2003 17:24:29.00
SUBJECT:: Speaking line-up for Thursday
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Lauren J. Vestewig ( CN=Lauren J. Vestewig/OU=OPD/O=EOP@Exchange@EOP [ OPD ] )
READ:UNKNOWN
TO:Colby J. Cooper ( CN=Colby J. Cooper/OU=NSC/O=EOP@EOP [ NSC ] )
READ:UNKNOWN
TO:Catharine A. Ryun ( CN=Catharine A. Ryun/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

This is for Thursday's White House Legatus briefing (Catholic Businessmen)

Jim Towey 9:00 - 9:15
Jay Lefkowitz 9:15 - 9:30
Elliott Abrams 9:30 - 9:50
Brett Kavanaugh 9:50 - 10:05
Brian Reardon 10:05 - 10:20 pending
```

From: CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/20/2003 2:23:24 PM
Subject: : RE: question re background checks on WH personnel

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:20-MAY-2003 18:23:24.00
SUBJECT:: RE: question re background checks on WH personnel
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Thanks!

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Tuesday, May 20, 2003 5:54 PM
To: Litkenhaus, Colleen
Subject: RE: question re background checks on WH personnel

Good to go.

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 05/20/2003 05:54 PM ----------

From: Alberto R. Gonzales/WHO/EOP@Exchange on 05/20/2003 05:53:58 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: RE: question re background checks on WH personnel

Agree.

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Tuesday, May 20, 2003 12:16 PM
To: Gonzales, Alberto R.; Leitch, David G.
Subject: question re background checks on WH personnel

WH personnel generally does a political check on new hires for loyalty and other purposes. The question is whether they can check detailees who are detailed to the WHO. If so, the additional question is whether they should check detailees. I see no legal or policy reason that they should not check when they want to do so for people who would be filling political/administratively designated slots. Thoughts?

From: CN=Israel Hernandez/OU=WHO/O=EOP@Exchange [WHO]
To: Linda M. Gambatesa/WHO/EOP@Exchange [WHO] <Linda M. Gambatesa>;Colleen Litkenhaus/WHO/EOP@Exchange [WHO] <Colleen Litkenhaus>
CC: Henry C Hager/WHO/EOP@Exchange [UNKNOWN] <Henry C Hager>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Kristopher N. Purcell/WHO /EOP@EOP [WHO] <Kristopher N. Purcell>
Sent: 5/21/2003 8:50:58 AM
Subject: : RE: Medicare Video

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:21-MAY-2003 12:50:58.00
SUBJECT:: RE: Medicare Video
TO:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
CC:Henry C Hager (CN=Henry C Hager/OU=WHO/O=EOP@Exchange [UNKNOWN])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Kristopher N. Purcell (CN=Kristopher N. Purcell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

It will be available to those who request the video.; We will inform House and Senate of the video.
;
;

-----Original Message-----
From: Litkenhaus, Colleen
Sent: Wednesday, May 21, 2003 12:49 PM
To: Hernandez, Israel; Gambatesa, Linda M.
Cc: Purcell, Kristopher N.; Hager, Henry C; Kavanaugh, Brett M.
Subject: RE: Medicare Video

who will be making the video available to all members?; The House Rep. Conference?; Brett - what are your thoughts?

-----Original Message-----
From: Hernandez, Israel
Sent: Wednesday, May 21, 2003 12:46 PM
To: Gambatesa, Linda M.; Litkenhaus, Colleen
Cc: Purcell, Kristopher N.; Hager, Henry C
Subject: Medicare Video

Linda and Colleen,
;
We are going to record a Medicare video for House and Senate members to use at Town Hall meetings during the Recess.; The video would highlight the President's commitment to Medicare reform.; Ordinarily, the organization requesting the video would pay the costs of producing the video.; The cost is $1,100.
;
At issue is the fact the we, the White House, are;requesting the video to distribute to any Member of Congress that wants it.; We are doing this because Medicare will be a priority issue in June on the Hill.; We need someone to authorize the costs associated with this request.; The video would be available to any Democrat or Republican House and/or Senate member to use.
;

Please let me know what else you might need to complete the necessary paperwork.; We will help complete the form if you will help authorize it.
;
Thanks
;
Israel

From: CN=Kevin Warsh/OU=OPD/O=EOP [OPD]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/21/2003 5:25:13 AM
Subject: : CEO signature on Tax Return
Attachments: P_5YILG003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP [OPD])
CREATION DATE/TIME:21-MAY-2003 09:25:13.00
SUBJECT:: CEO signature on Tax Return
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

how does this "fix" look to you?
---------- Forwarded by Kevin Warsh/OPD/EOP on 05/21/2003 09:23 AM ----------

MMeece@doc.gov
05/20/2003 07:22:44 PM
Record Type: Record

To: Pam.Olson@do.treas.gov, Keith Hennessey/OPD/EOP@EOP, Kevin Warsh/OPD/EOP@EOP, Brian Reardon/OPD/EOP@EOP
cc:
Subject: CEO signature on Tax Return

In case you haven't already seen it, here is agreed language from BRT, NAM, and the Chamber on CEO tax signatures. They recognize it is late in the game, but wanted to put it in the mix. I assume they're shopping it with House and Senate leadership as well.

----- Forwarded by Mike Meece/HCHB/Osnet on 05/20/2003 06:19 PM -----

"Randazzo, Vince"
<VRandazzo@brt.or To: "Meece, Michael"
<mmeece@doc.gov>
g> cc:
Subject: CEO signature on
Tax Return
05/20/2003 06:00
PM

Mike, as you know, Section 332 of S. 1054, the Jobs and Growth Tax Act, requires the CEO to sign the principle tax return (Form 1120) or its equivalent. The sponsors of the provision believe that the filing of accurate tax returns is essential to the proper functioning of the tax system, and that requiring the chief executive officer (CEO) of a corporation to sign its corporate income tax return will elevate the level of care given to the preparation of those returns.

The BRT does not oppose Sec. 332. However, we do believe it can be improved significantly in a way that strengthens the objectives of the sponsors without hampering the ability of CEOs to manage their companies. Specifically, we urge retaining the present-law signature requirement while adding a new requirement that the CEO sign, under penalties of perjury, a declaration concerning the corporation's Federal income tax return, as described as follows:

CEO DECLARATION

Under penalties of perjury, I declare that as Chief Executive Officer I have taken steps to ensure that this return, including accompanying schedules and statements, complies with the Internal Revenue Code; to the best of my knowledge and belief, this return is true, correct, and complete; and the officer signing this return did so under no compulsion to adopt any tax position with which such officer did not agree.

[For info: An authorized officer would continue to sign the present jurat on the Form 1120 that reads as follows: Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.]

This alternative has the support of the U.S. Chamber and the National Association of Manufacturers. Further the FEI tax committee put the two proposals to a vote last week (see attachment) and I am told that the declaration approach won by a comfortable margin.

Consistent with the Senate's goal of accurate tax returns, the proposed change would retain the present-law requirement that an authorized officer sign the return, under penalties of perjury, so that the corporation can authorize an officer to sign the return who has the necessary tax expertise and detailed information about the corporation. At the same time, the proposed change reflects the need to elevate the level of care given by the authorized signing officer and other corporate employees in preparing accurate tax returns by specifying involvement by the CEO in significant aspects of the return.

Whereas under present law the income tax return of a corporation must be signed by either the president, the vice-president, the treasurer, the assistant treasurer, the chief accounting officer, or any other officer of the corporation authorized by the corporation to sign the return, and whereas under Sec. 322 only the CEO is required to sign the principle return, under the proposed alternative accountability is improve by doing both. Further, this will improve accuracy because the chief tax officer is much more qualified to know what's in the tax return. The CEO's job is to run the company, not the tax department. The more time he/she spends examining and the tax return and its accompanying schedules, the less time he/she has to effectively run the company.

Thanks for considering this proposal.

Vincent Randazzo
Director of Public Policy
The Business Roundtable
1615 L Street, N.W., Suite 1100
Washington, D.C. 20036
202-872-1260
202-466-3509 (fax)
vrandazzo@brt.org
(See attached file: CEO certification memo.doc)

- CEO certification memo.doc

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_5YILG003_WHO.TXT_1>

financial executives international

To: **FEI COT Members**

Date: **May 13, 2003**

From: **Mark Prysock**

Topic: **Call for Vote on CEO Certification Issue**

As Joe Luby mentioned in a memo you received yesterday, the Senate Finance Committee reported out their Jobs and Growth package last week. Section 332 of the bill contains the CEO certification requirement. However, the JCT report accompanying the bill contains a footnote which reads as follows:

> "Because the provision amends Section 6062, it applies only to the Form 1120 itself (or its equivalent) and any disclosures required under section 6662 or related provisions. It does not apply to any other schedules or attachments."

Assuming the Senate goes to conference with this report language intact, we must now decide how we will continue to work this issue with the House Ways and Means Committee and the conference committee. **I ask each member of the COT to complete the accompanying ballot by expressing a preference for one of the two options discussed below. Please email or fax your reply to me by 3:00 pm on Wednesday, May 14th.**

Option #1: FEI's COT will continue to advocate the position adopted by the JCT report, which calls for limiting the CEO signature requirement to one place on Form 1120.

Option #2: FEI's COT will urge the House Ways and Means Committee to require CEOs to sign a declaration on the face of Form 1120 stating that the CEO *has taken steps to ensure that the return, including accompanying statements and schedules, complies with the Internal Revenue Code.*

Please respond via fax or email no later than **3:00 pm on Wednesday, May 14th**. As you would expect, this legislation has been fast-tracked, with Congressional leaders promising to have a final bill ready for the President by the Memorial Day recess.

From: CN=Kevin Warsh/OU=OPD/O=EOP [OPD]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/21/2003 7:31:09 AM
Subject: : CEO Certification of Tax Returns
Attachments: P_3VSLG003_OPD.TXT_1.jpeg; P_3VSLG003_OPD.TXT_2.doc; P_3VSLG003_OPD.TXT_3.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP [OPD])
CREATION DATE/TIME:21-MAY-2003 11:31:09.00
SUBJECT:: CEO Certification of Tax Returns
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

---------- Forwarded by Kevin Warsh/OPD/EOP on 05/21/2003 11:30 AM ----------

"Hinchman, Grace" <ghinchman@fei.org>
05/21/2003 11:25:55 AM
Record Type: Record

To: Kevin Warsh/OPD/EOP@EOP
cc: "Prysock, Mark" <mprysock@fei.org>
Subject: CEO Certification of Tax Returns

Kevin, below are the two proposed alternatives to Senator Miller's ceo certification of tax returns.

Also, below is an amusing picture of the Exxon/Mobil tax compliance officer and their tax return..... good visual is what would be required if we don't get a modification to Miller's original proposal!

Call if you have any other questions.....

-----Original Message-----
From: Prysock, Mark
Sent: Wednesday, May 21, 2003 10:53 AM
To: Hinchman, Grace
Subject: FW: Your request

Here's the picture

-----Original Message-----
From: joe.o.luby@exxonmobil.com [mailto:joe.o.luby@exxonmobil.com]
Sent: Thursday, May 01, 2003 9:44 PM
To: mprysock@fei.org
Subject: Your request

This is our 2000 return. Terry is 6' 5".

Joe Luby
Phone: 972-444-1608
Fax: 972-444-1660

----- Forwarded by Joe O Luby/Dallas/ExxonMobil on 05/01/03 08:42 PM -----

Carolyn S Alford

To: Joe O
Luby/Dallas/ExxonMobil@xom
cc: Cathey H
Wilson/Dallas/ExxonMobil@xom
04/30/03 03:19 PM Subject: Your request

(See attached file: Small Returns.jpg)

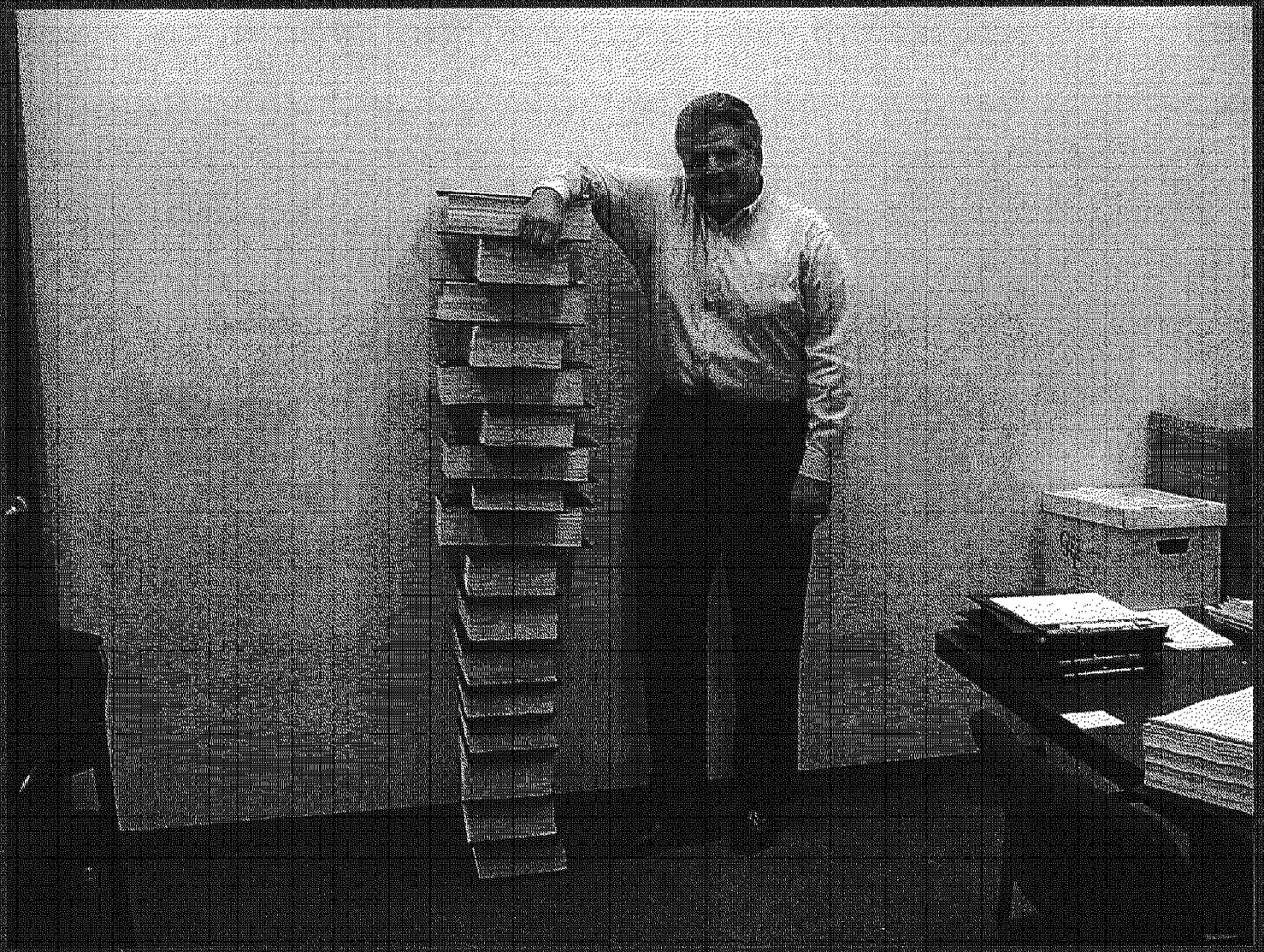
Carolyn S. Alford
Exxon Mobil Corporation
Tax Department
972-444-1615

- Small Returns.jpg
- FEI alternative ceo cert language.doc
- CEO DECLARATION.doc

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_3VSLG003_OPD.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_3VSLG003_OPD.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_3VSLG003_OPD.TXT_3>



EMC 2000 Federal Income Tax Return

REV_00167402

CEO Certification of Corporate Tax Return

Current language of the Baucus Amendment

SEC. 722. SIGNING OF CORPORATE TAX RETURNS BY CHIEF EXECUTIVE OFFICER.

(a)IN GENERAL.--Section 6062 (relating to signing of corporation returns) is amended by striking the first sentence and inserting the following new sentence: ''The return of a corporation with respect to income shall be signed by the chief executive officer of such corporation (or other such officer of the corporation as the Secretary may designate if the corporation does not have a chief executive officer). The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851).''.

(b)EFFECTIVE DATE.—The amendment made by this section shall apply to returns filed after the date of the enactment of this Act.

SUGGESTED ALTERNATIVE:

SEC. 722. SIGNING OF CORPORATE TAX RETURNS BY CHIEF EXECUTIVE OFFICER.

(a)IN GENERAL.— Section 6062 (relating to signing of corporation returns) is amended by striking the first sentence and inserting the following new sentence: ''The annual Federal income tax return of a corporation required under section 6012(a)(2) ~~with respect to income~~ shall be signed by the chief executive officer of such corporation (or ~~other~~ such other officer of the corporation as the Secretary may designate if the corporation does not have a chief executive officer). The requirement of the preceding sentence shall be limited to the first page of the return requiring a signature, and shall not apply to any return of a regulated investment company (within the meaning of section 851). Such other returns, statements or documents required to be made under any provision of the internal revenue laws or regulations shall be signed by the president, vice president, treasurer, assistant treasurer, chief accounting officer or any other officer duly authorized to so act." ~~The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851).''~~

(b)EFFECTIVE DATE.—The amendment made by this section shall apply to returns filed in the corporation's tax year beginning after the date of the enactment of this Act.

JOINT TAX EXPLANATION

Chief Executive Officer Required To Sign Corporate Income Tax Returns (sec. 722 of the bill and sec. 6062 of the Code)

Present Law

The Code requires that the annual Federal income tax return of a corporation must be signed by either the president, the vice-president, the treasurer, the assistant treasurer, the chief accounting officer, or

any other officer of the corporation authorized by the corporation to sign the return.

The Code also imposes a criminal penalty on any person who willfully signs any tax return under penalties of perjury that that person does not believe to be true and correct with respect to every material matter at the time of filing. If convicted, the person is guilty of a felony; the Code imposes a fine of not more than $100,000 ($500,000 in the case of a corporation) or imprisonment of not more than three years, or both, together with the costs of prosecution.

Reasons for Change

The Committee believes that the filing of accurate Federal tax returns is essential to the proper functioning of the tax system. The Committee believes that requiring that the chief executive officer of a corporation sign its annual Federal corporate income tax returns will elevate the level of care given to the preparation of those returns.

Explanation of Provision

The bill requires that the chief executive officer of a corporation sign the corporation's annual Federal income tax return (i.e., Form 1120 of the corporation's income tax returns). If the corporation does not have a chief executive officer, the IRS may designate another officer of the corporation; otherwise, no other person is permitted to sign the income tax return of a corporation. The Committee intends that the IRS issue general guidance, such as a revenue procedure, to (1) address situations when a corporation does not have a chief executive officer, and (2) define who the chief executive officer is, in situations (for example) when the primary official bears a different title or when a corporation has multiple chief executive officers. The Committee intends that, in every instance, the highest ranking corporate officer (regardless of title) sign the tax return.

The provision does not apply to the income tax returns of mutual funds; they are required to be signed as under present law.

Effective Date

The provision is effective for returns filed in the corporation's tax year beginning after the date of enactment.

CEO DECLARATION

Under penalties of perjury, I declare that as Chief Executive Officer I have taken steps to ensure that this return, including accompanying schedules and statements, complies with the Internal Revenue Code; to the best of my knowledge and belief, this return is true, correct, and complete; and the officer signing this return did so under no compulsion to adopt any tax position with which such officer did not agree.

[For info: An authorized officer would continue to sign the present jurat on the Form 1120 that reads as follows:

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.]

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>
Sent: 5/21/2003 8:46:42 AM
Subject: : Re: CEO Certification of Tax Returns
Attachments: P_EBXLG003_WHO.TXT_1.jpeg; P_EBXLG003_WHO.TXT_2.doc; P_EBXLG003_WHO.TXT_3.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:21-MAY-2003 12:46:42.00
SUBJECT:: Re: CEO Certification of Tax Returns
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
End Original ARMS Header

What needs to happen to make this happen?

Kevin Warsh
05/21/2003 11:30:24 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: CEO Certification of Tax Returns

---------- Forwarded by Kevin Warsh/OPD/EOP on 05/21/2003 11:30 AM ----------

"Hinchman, Grace" <ghinchman@fei.org>
05/21/2003 11:25:55 AM
Record Type: Record

To: Kevin Warsh/OPD/EOP@EOP
cc: "Prysock, Mark" <mprysock@fei.org>
Subject: CEO Certification of Tax Returns

Kevin, below are the two proposed alternatives to Senator Miller's ceo certification of tax returns.

Also, below is an amusing picture of the Exxon/Mobil tax compliance officer and their tax return..... good visual is what would be required if we don't get a modification to Miller's original proposal!

Call if you have any other questions.....

-----Original Message-----
From: Prysock, Mark
Sent: Wednesday, May 21, 2003 10:53 AM
To: Hinchman, Grace
Subject: FW: Your request

Here's the picture

-----Original Message-----
From: joe.o.luby@exxonmobil.com [mailto:joe.o.luby@exxonmobil.com]
Sent: Thursday, May 01, 2003 9:44 PM
To: mprysock@fei.org
Subject: Your request

This is our 2000 return. Terry is 6' 5".

Joe Luby
Phone: 972-444-1608
Fax: 972-444-1660

----- Forwarded by Joe O Luby/Dallas/ExxonMobil on 05/01/03 08:42 PM -----

Carolyn S Alford

To: Joe O
Luby/Dallas/ExxonMobil@xom
cc: Cathey H
Wilson/Dallas/ExxonMobil@xom
04/30/03 03:19 PM Subject: Your request

(See attached file: Small Returns.jpg)

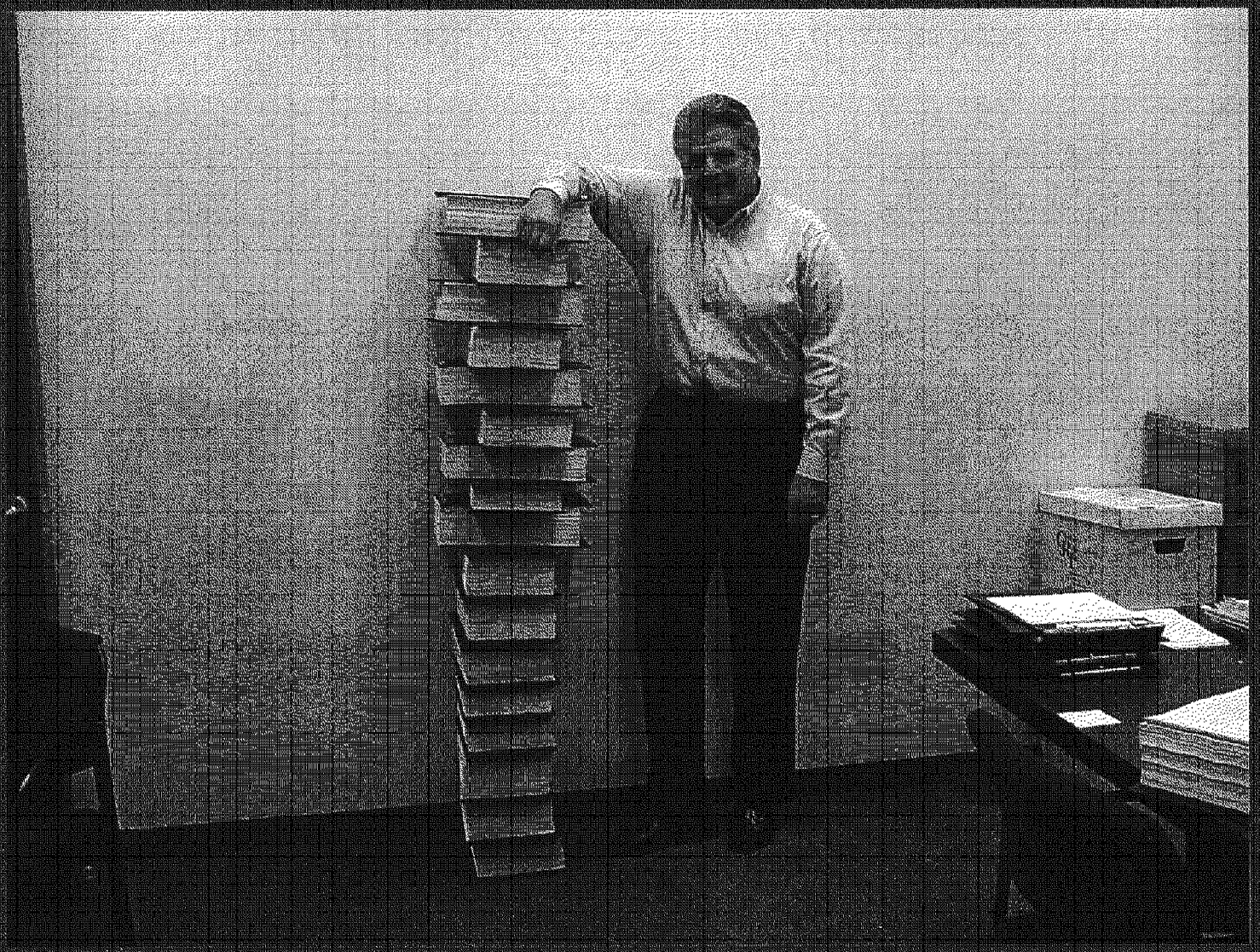
Carolyn S. Alford
Exxon Mobil Corporation
Tax Department
972-444-1615

- Small Returns.jpg
- FEI alternative ceo cert language.doc
- CEO DECLARATION.doc

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_EBXLG003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_EBXLG003_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_EBXLG003_WHO.TXT_3>



EMC 2000 Federal Income Tax Return

CEO Certification of Corporate Tax Return

Current language of the Baucus Amendment

SEC. 722. SIGNING OF CORPORATE TAX RETURNS BY CHIEF EXECUTIVE OFFICER.

(a)IN GENERAL.--Section 6062 (relating to signing of corporation returns) is amended by striking the first sentence and inserting the following new sentence: ''The return of a corporation with respect to income shall be signed by the chief executive officer of such corporation (or other such officer of the corporation as the Secretary may designate if the corporation does not have a chief executive officer). The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851).''.

(b)EFFECTIVE DATE.—The amendment made by this section shall apply to returns filed after the date of the enactment of this Act.

SUGGESTED ALTERNATIVE:

SEC. 722. SIGNING OF CORPORATE TAX RETURNS BY CHIEF EXECUTIVE OFFICER.

(a)IN GENERAL.— Section 6062 (relating to signing of corporation returns) is amended by striking the first sentence and inserting the following new sentence: ''The annual Federal income tax return of a corporation required under section 6012(a)(2) shall be signed by the chief executive officer of such corporation (or such other officer of the corporation as the Secretary may designate if the corporation does not have a chief executive officer). The requirement of the preceding sentence shall be limited to the first page of the return requiring a signature, and shall not apply to any return of a regulated investment company (within the meaning of section 851). Such other returns, statements or documents required to be made under any provision of the internal revenue laws or regulations shall be signed by the president, vice president, treasurer, assistant treasurer, chief accounting officer or any other officer duly authorized to so act."

(b)EFFECTIVE DATE.—The amendment made by this section shall apply to returns filed in the corporation's tax year beginning after the date of the enactment of this Act.

JOINT TAX EXPLANATION

Chief Executive Officer Required To Sign Corporate Income Tax Returns (sec. 722 of the bill and sec. 6062 of the Code)

Present Law

The Code requires that the annual Federal income tax return of a corporation must be signed by either the president, the vice-president, the treasurer, the assistant treasurer, the chief accounting officer, or

any other officer of the corporation authorized by the corporation to sign the return.

The Code also imposes a criminal penalty on any person who willfully signs any tax return under penalties of perjury that that person does not believe to be true and correct with respect to every material matter at the time of filing. If convicted, the person is guilty of a felony; the Code imposes a fine of not more than $100,000 ($500,000 in the case of a corporation) or imprisonment of not more than three years, or both, together with the costs of prosecution.

Reasons for Change

The Committee believes that the filing of accurate Federal tax returns is essential to the proper functioning of the tax system. The Committee believes that requiring that the chief executive officer of a corporation sign its annual Federal corporate income tax returns will elevate the level of care given to the preparation of those returns.

Explanation of Provision

The bill requires that the chief executive officer of a corporation sign the corporation's annual Federal income tax return (i.e., Form 1120 of the corporation's income tax returns). If the corporation does not have a chief executive officer, the IRS may designate another officer of the corporation; otherwise, no other person is permitted to sign the income tax return of a corporation. The Committee intends that the IRS issue general guidance, such as a revenue procedure, to (1) address situations when a corporation does not have a chief executive officer, and (2) define who the chief executive officer is, in situations (for example) when the primary official bears a different title or when a corporation has multiple chief executive officers. The Committee intends that, in every instance, the highest ranking corporate officer (regardless of title) sign the tax return.

The provision does not apply to the income tax returns of mutual funds; they are required to be signed as under present law.

Effective Date

The provision is effective for returns filed in the corporation's tax year beginning after the date of enactment.

CEO DECLARATION

Under penalties of perjury, I declare that as Chief Executive Officer I have taken steps to ensure that this return, including accompanying schedules and statements, complies with the Internal Revenue Code; to the best of my knowledge and belief, this return is true, correct, and complete; and the officer signing this return did so under no compulsion to adopt any tax position with which such officer did not agree.

[For info: An authorized officer would continue to sign the present jurat on the Form 1120 that reads as follows:

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.]

From:	Wood, John F.
To:	<Rooney, Annette E.>;<Kavanaugh, Brett M.>;<Perry, Philip J.>;<Lefkowitz, Jay P.>;<Schacht, Diana L.>
CC:	<Jukes, James J.>
Sent:	5/21/2003 3:45:07 PM
Subject:	Victims of Int'l terrorism
Attachments:	legislation final.pdf

Attached is the final version of the State Dept victims of int'l terrorism, ready to be sent back to State. Thanks.

<>

A BILL

To establish a comprehensive federal program to provide benefits to U.S. victims of international terrorism, and for other purposes.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SEC. 101 SHORT TITLE

This Act may be cited as the "Benefits for Victims of International Terrorism Act of 2003".

SEC. 102 ESTABLISHMENT OF PROGRAM

There is established the Benefits for Victims of International Terrorism Program ("Program") under which monetary awards shall be made in accordance with this Act to eligible individuals who are physically injured, killed, or held hostage as a result of an act of international terrorism.

SEC. 103 DEFINITIONS

In this Act, the following definitions apply:

(a) Act of International Terrorism. - The term "act of international terrorism" means an activity that constitutes terrorism within the definition provided in Section 2(15) of the Homeland Security Act of 2002 and that was committed by foreign nationals or foreign governments (or the agents thereof) and directed, in whole or in part, at the United States or at an individual because of the individual's status as a national of the United States.

(b) Claimant. - The term "claimant" means an individual filing a claim for benefits under this Act. In the case of an individual who died as the direct result of the act of international terrorism, any individual who is eligible to recover under section 107(a) may be a claimant. In the case of an individual who suffered physical injury or was held hostage as the direct result of an act of international terrorism, the claimant shall be the individual who suffered the physical injury or was held hostage, except that a parent or legal guardian may file a claim on behalf of an individual who is less than 18 years of age, incompetent or incapacitated.

(c) Child. – The term "child" shall have the meaning given to it by 42 U.S.C. 3796b(2).

(d) Department. - The term "Department" means the Department of State.

(e) National of the United States. - The term "national of the United States" has the meaning given in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)).

(f) Physical injury. -The term "physical injury" means an injury to the body, from a source external to the body, that directly results in partial or total physical disability, incapacity, or disfigurement.

(g) United States. - The term "United States" means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Mariana Islands, the territories and possessions of the United States, the territorial sea of the United States, and the airspace above them.

SEC. 104 ADMINISTRATION

(a) Threshold Determination. -

(1) Upon the occurrence of a terrorist incident, the Secretary of State, in consultation with the Attorney General and the Secretaries of Defense, Homeland Security and the Treasury, shall promptly determine in writing whether an act of international terrorism as defined in section 103(a) of this Act has taken place. Any such determination shall be published in the Federal Register.

(2) The Secretary of State's determination under this section shall be final and conclusive, and it shall not be subject to review in any judicial, administrative or other proceeding.

(b) Adjudication and Payment. -- When a threshold determination set forth in subsection (a) is made, the Department shall have jurisdiction to receive, examine, adjudicate, and render final decisions, and pay awards with respect to claims filed under section 105 in accordance with the provisions of this Act.

SEC. 105 FILING OF CLAIMS

(a) In General. -- Claims for benefits under the Program shall be filed with the Department on the form developed under subsection (b).

(b) Claim Form. –

(1) The Department shall develop a form that claimants shall use when submitting claims under subsection (a).

(2) The claim form at a minimum shall request -

(A) in the case of a claim filed for a death benefit with respect to a decedent, information demonstrating the decedent's death as a direct result of the act of international terrorism and information demonstrating that the claimant is eligible to recover under the Act;

(B) in the case of a claim not involving a death, information demonstrating the physical harm that the claimant suffered as a direct result of the act of

international terrorism or information demonstrating the period the claimant was held hostage as a direct result of the act of international terrorism; and

(C) in the case of a claim filed by a parent or legal guardian, information demonstrating the claimant's status as a parent or legal guardian.

(3) The claim form shall state clearly and conspicuously the information contained in section 112(c) of this Act.

SEC. 106 ELIGIBILITY

(a) In General. - The Department shall review each claim filed under this Program and determine whether the claimant is an eligible individual under subsection (b) of this section or has filed a claim on account of the death of an eligible individual under subsection (b).

(b) Eligible Individuals. -- An eligible individual is a victim who, as of the date on which the act of international terrorism occurred, (1) was a national of the United States; and (2)(A) died as the direct result of the act of international terrorism, (B) suffered physical injury as the direct result of the act of international terrorism, or (C) was held hostage as a direct result of an act of international terrorism and not solely for ransom.

(c) Exclusion for Participants or Conspirators in Acts of Terrorism. -- A participant or conspirator in any act of international terrorism, or a representative of such individual, shall not be an eligible individual.

(d) Exclusion for Military Personnel. **B** This Program does not apply to any claim arising out of injury, death, or period as a hostage sustained by a member of the U.S. Armed Forces while serving on active duty.

(e) September 11th Victim Compensation Fund. -- Notwithstanding any other provision in this Act, no individual who is or was eligible to recover under the September 11th Victim Compensation Fund of 2001 shall be eligible to recover under this Act.

SEC. 107 NATURE OF AWARDS

(a) Death Benefit. -- In any case in which the Department determines, under regulations issued pursuant to this Act, that an eligible individual has died as the direct and proximate result of an act of international terrorism, the Department shall award a benefit to the survivor or survivors in the same manner and the same amount as death benefits are paid pursuant to the Public Safety Officers' Benefits Program under subpart 1 of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.).

(b) Injury or Hostage Benefit. -- In the event the claimant was physically injured or held hostage as a direct result of an act of international terrorism, the Department shall award a benefit to the claimant in an amount determined by the Department up to, but not to exceed, the amount provided for under the

preceding subsection. The Secretary of State may issue regulations regarding the amount of benefits to be provided under this subsection for categories of injuries or for durations of time as a hostage.

(c) No Fault Program. -- Awards shall be made without regard to the negligence or any other theory of liability of the claimant or of the individual on whose behalf the claimant is filing a claim.

(d) Reversion of Amounts to the Fund. -- If no person is entitled to receive the amount awarded under the above subsections, the amount shall revert to the Fund.

SEC. 108 LIMITATIONS ON CLAIMS

(a) Prohibition on Double Recovery. – No benefit is payable under this Act with respect to a victim having been injured or held hostage if a benefit is payable under this Act with respect to the death of such victim. In the event that a payment is made under this Act on account of death or period as a hostage and a death benefit subsequently becomes payable for the death of the same victim, such death benefit shall be reduced by amounts previously awarded.

(b) Time Limitation for Filing. -- No claim may be filed on the basis of an act of international terrorism after the date that is 2 years after the date of publication in the Federal Register of the relevant determination under section 104(a) of this Act.

SEC. 109 INTERNATIONAL TERRORISM BEFORE EFFECTIVE DATE

(a) International Terrorism Before Effective Date. -- Benefits may be awarded under this Act, subject to the provisions of subsection (b) of this section, to eligible individuals for acts of international terrorism that took place before the effective date of this Act and which occurred on or after November 1, 1979.

(b) Determination. -- The Secretary of State, in consultation with the Attorney General and the Secretaries of Defense, Homeland Security and the Treasury, shall issue, promptly upon the request of a claimant potentially covered under subsection (a), a determination whether an incident that occurred on or after November 1, 1979, and before the date of enactment of this Act was an act of international terrorism. Such requests will be considered only if made within one year after the date of enactment of this Act. Any such determination shall be published in the Federal Register.

SEC. 110 AUTHORIZATION.

(a) Authorization. -- There is established for the purpose of providing benefits under this Act a Victims of International Terrorism Benefits Fund ("Fund"). In addition to amounts otherwise authorized to be appropriated for the Department of State, there are authorized to be appropriated to the Department of State for deposit into the Fund such sums as may be necessary to pay awards under this Act and to administer this Program.

(1) Amounts in the Fund shall be available until expended.

(2) Contributions. -- The Secretary of State is authorized to accept such amounts as may be contributed by individuals, business concerns, foreign governments, or other entities for the payment of awards certified under this Act and such amounts may be deposited directly into the Fund.

(3) Unexpended balances of expired appropriations available to the Department of State may be transferred directly into the Fund for the payment of awards under this Act and to administer this Program.

SEC. 111 SUBROGRATION

The United States shall be subrogated, to the extent of the payments, to any recovery in litigation or settlement of litigation related to an injury, death, or period of a hostage for which payment was made under the Program. Any amounts recovered under this subsection shall be deposited into the Fund established by section 110(a).

SEC. 112 ADMINISTRATIVE PROVISIONS

(a) Rule and Procedures. -- The Secretary of State may issue such rules and procedures as may be necessary to carry out this Act, including rules with respect to choice of law principles, admitting agents or other persons to representation before the Department of claimants under this Act, and the nature and maximum amount of fees that such agent or other person may charge for such representation.

(b) Acts Committed to Officer's Discretion. -- Any action taken or omitted by an officer of the United States under this Act is committed to the discretion of such officer.

(c) Civil Actions Against Foreign States.—

(1) A person who by a civil action has obtained and received full satisfaction of a judgment against a foreign state or government or its agencies or instrumentalities, or against the United States or its agencies or instrumentalities, for death, injury, or period as a hostage due to an act of international terrorism shall not receive an award under this Act based on the same act of international terrorism.

(2) A person who has accepted benefits pursuant to an award under this Act relating to an act of international terrorism shall not thereafter commence or maintain in a court of the United States a civil action based on the same act of international terrorism against a foreign state or government or its agencies or instrumentalities or against the United States or its agencies or instrumentalities.

SEC. 113 NO JUDICIAL REVIEW

Decisions made under this Act shall not be subject to review in any judicial, administrative or other proceeding.

SEC. 114 CONFORMING AMENDMENTS

(a) Section 201 of the Terrorism Risk Insurance Act of 2002 (Public Law 107-297) is amended by adding the following as new subsection (e):

"(e) Subsection (a) shall not apply to any judgment obtained pursuant to a complaint filed after [the date of submission of the Benefits for Victims of International Terrorism Act of 2003]."

(b) Section 1610(f) of Title 28, United States Code (28 U.S.C. 1610(f)), is amended by adding the following at the end as new subparagraph (4):

"(4) Subsection (f) shall not apply to any judgment obtained pursuant to a complaint filed after [the date of submission of the Benefits for Victims of International Terrorism Act of 2003]."

From: CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/22/2003 7:16:01 AM
Subject: : phone message

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:22-MAY-2003 11:16:01.00
SUBJECT:: phone message
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Amy Jeffress
514-7624
re: personal
```

From: CN=Jeffrey F. Kupfer/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>
Sent: 5/22/2003 4:40:57 AM
Subject: : RE: Hatch Asbestos bill

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Jeffrey F. Kupfer (CN=Jeffrey F. Kupfer/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:22-MAY-2003 08:40:57.00
SUBJECT:: RE: Hatch Asbestos bill
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
End Original ARMS Header

Brett -- forgot to cc you?

-----Original Message-----
From: Kupfer, Jeffrey F.
Sent: Thursday, May 22, 2003 8:41 AM
To: Schacht, Diana L.
Subject: RE: Hatch Asbestos bill

Thanks.
Is no one worried about the lack of provision for the fund running out of money? Brett, what do you think happens legally at that time?

Also, has anyone run this by OMB (Phil) to see if they have an opinion (this office now looks out for OMB more than ever!)

-Jeff
-----Original Message-----
From: Schacht, Diana L.
Sent: Thursday, May 22, 2003 8:23 AM
To: Kupfer, Jeffrey F.
Subject: RE: Hatch Asbestos bill

Brett has let me know he has no concerns. Still haven't heard from Kevin

From: Jeffrey F. Kupfer/WHO/EOP@Exchange on 05/21/2003 03:14:45 PM
Record Type: Record

To: Diana L. Schacht/OPD/EOP@EOP
cc:
Subject: RE: Hatch Asbestos bill

Diana -- did you get any comments on this -- are we planning on being supportive (Josh was asking me). Thx. Jeff

-----Original Message-----
From: Schacht, Diana L.
Sent: Tuesday, May 20, 2003 11:39 AM
To: Kavanaugh, Brett M.; Warsh, Kevin; Kupfer, Jeffrey F.; Lefkowitz, Jay P.; Spellings, Margaret M.
Subject: Hatch Asbestos bill

Here is a summary of Hatch's asbestos bill, which he intends to introduce on Thursday. Judiciary Committee staff has asked we keep this document close hold. Please let me know if you see anything that rises to the level that we need to indicate our objection to Hatch staff.

- asbestos.hatchbill.summ.v1.doc << File: asbestos.hatchbill.summ.v1.doc
>>

From:	MacEcevic, Lisa J.
To:	<Kavanaugh, Brett M.>;<Warsh, Kevin>;<Schacht, Diana L.>;<Kupfer, Jeffrey F.>
CC:	<Bloomquist, Lauren E.>;<Boden, James>;<Schwartz, Kenneth L.>;<Green, Richard E.>;<Jukes, James J.>
Sent:	5/22/2003 9:33:23 AM
Subject:	Guidance Needed Re: House Judiciary Ctte. approval of class action bill - HR1115
Attachments:	Final DOJ HR1115 Testimony.doc; HR 1115 Introduced.doc; S274 Draft SAP.doc

The House Judiciary approved with amendments H.R. 1115. **Please advise if we should prepare a SAP on this bill.** Several of you advised that we should issue a SAP on the Senate bill (S. 274) should that come to the floor. In response to that guidance, I prepared a rough draft based on the SAP that was issued in the 107th Congress on H.R. 2341, which is attached here. **Also, please pass along any information you may have as to when and if the full House will take up HR1115.**

<>

(Link to HR2341 SAP: http://www.whitehouse.gov/omb/legislative/sap/107-2/HR2341-r.html)

Note - Justice has testified in support of H.R. 1115; their testimony is attached here and would be a good starting place for SAP language.

<>

See blue in story below for a description of the amendments that were adopted to the introduced version, which is attached here.

<

>

House Panel Votes To Move Class Action Suits To Federal Court

By Michael Posner, *CongressDaily*

© National Journal Group Inc.

WASHINGTON (May 21, 2003) -- Overriding Democratic charges that the legislation is "outrageous," the House Judiciary Committee approved legislation Wednesday to move most national class action cases from state to federal courts.

Proponents of the legislation, backed by major business groups, said legislation is needed to correct abuses in class action cases where members of the class sometime get little more than coupons for product discounts and lawyers get hefty fees.

The bill (H.R. 1115) was approved on a 20-14 roll call [Vote 5] with Rep. Rick Boucher of Virginia, the only Democrat voting with 19 Republicans. Fourteen Democrats and no Republicans voted against the measure, which now goes to the full House. The Senate Judiciary Committee has approved a bill with the same purpose but which differs in many details.

"The problem of abusive state class action suits is now systemic," said committee Chairman James Sensenbrenner, R-Wis. "It is a threat to the integrity of our civil justice system and a drain on the national economy."

In the last decade, he said, state court class action filings nationwide have increased over 1,000 percent. He noted

that in one case against the Blockbuster video chain over late fees a settlement was reached giving consumers a $1 discount coupon while lawyers received $9.2 million. In a case against Crayola, consumers received 75-cent discount coupons for crayons while lawyers received $600,000.

But Democratic critics charged the bill would erode the federalism system of federal and state court systems. It was "simply outrageous," charged Rep. William Delahunt, D-Mass. "This has to be the most egregious affront to federalism since my service on this committee," he said.

Many corporate defendants believe they could get better treatment in federal courts, but Rep. Melvin Watt, D-N.C., said there was no reason to believe defendants would get better deals in federal courts. The Judicial Conference, which handles administrative matters for federal courts, is against the proposed move to federal courts.

The bill would set up a so-called "consumer class action bill of rights" to create a fair system for rewarding and protecting consumers against high payments to lawyers and require that settlement information be written in plain English and other provisions.

But the heart of the bill is designed to move cases to federal court if the total amount of the award is $2 million or more. Now state courts get class action suits unless each of the members of the class seeks $75,000 or more in damages and every member of the class is from a different state from the defendant.

Nine Democratic amendments to change the bill were defeated. Two Republican amendments were approved.

Rep. Bob Goodlatte, R-Va., won on a voice vote an amendment supported by the Judicial Conference to make the plain English requirement conform with another federal plain English rule.

Rep. Lamar Smith, R-Texas, won on a 21-9 roll call [Vote 2] a move to move some pending class action cases to federal courts, changing the bill's original language that would make the legislation effective only after the bill was signed by the president. Delahunt said this could be "a bailout" to big corporations, such as Enron, facing enraged consumers.

Democratic amendments defeated included:

-- A Rep. Bobby Scott, D-Va., amendment to strike a provision of the bill banning paying extra bounties to some members of a class on a 12-20 roll call [Vote 3].

-- A move by Rep. Jerrold Nadler, D-N.Y., to open up sealed settlement cases to the public, on a 7-20 roll call [Vote 1].

-- A proposal by Rep. Sheila Jackson Lee, D-Texas, to prevent corporations from avoiding U.S. court action by getting foreigners to buy the companies, on a 13-20 roll call [Vote 4].

-- A Scott move to keep some consolidated cases in state courts, by a voice vote.

-- An attempt by Scott to have some parts of class action suits remanded to state courts, by a voice vote.

-- A Rep. Linda Sanchez, D-Calif., amendment to permit some cases brought by citizens in California to stay in state courts, by a voice vote.

-- A Scott plan to prevent delays in class action cases when there are appeals, by a voice vote.

-- A Watt amendment to restrict people who can move cases to federal courts, on a voice vote.

-- A Watt amendment that changed procedures for moving cases to federal courts, by voice vote.

DRAFT - Not for Release

May xx, 2003
(Senate)

S. 274 - Class Action Fairness Act of 2003
(Sen. Grassley (R) Iowa and 18 cosponsors)

The Administration [strongly] supports the enactment of S. 274 as an important step in reforming class action litigation. The Administration supports the proposal to establish a consumer class action bill of rights that would: (1) require notice of a lawsuit to class members in "plain English"; (2) require judicial review of settlements that give class members only "coupons" or other non-cash benefits; and (3) prohibit a court from approving a settlement that discriminates among plaintiffs on account of their geographical location or status as class representatives.

The bill also would make long-needed changes to the requirements for Federal diversity jurisdiction over class action cases. The Administration [strongly] supports the proposal to permit removal to Federal court of a class action if the aggregate amount in controversy exceeds $5 million and there is minimal diversity (at least one plaintiff representative and one defendant are from different States). Combined with existing Federal rules for consolidation of related Federal cases, this proposal would help avoid the inefficiency, waste, and unfairness that has too often resulted from multiple overlapping class action suits.

[The Administration would support adding, at the appropriate point in the legislative process, a provision to Section 7 of the bill to make clear that the authority of the Supreme Court under Section 2072, 2074 or 2075 of Title 28 of the U.S. Code to issue certain rules that supersede conflicting laws cannot be used to supersede this legislation and amendments made by this legislation.] The Administration would also support adding a provision that would grant courts of appeals jurisdiction of appeals from orders of the U.S. district courts granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within ten days after entry of the order.

However, the Administration does not support the provisions in the bill that would exempt from Federal jurisdiction class actions that solely involve claims related to certain securities or to the governance of a corporation that arises under the laws of the State in which the corporation is incorporated. The Administration would support that type of carve-out if it applied, as in other pending legislation, only to cases brought by shareholders.

* * * * * *

Department of Justice

STATEMENT

OF

VIET D. DINH
ASSISTANT ATTORNEY GENERAL
OFFICE OF LEGAL POLICY

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES

CONCERNING

H.R. 1115, THE "CLASS ACTION FAIRNESS ACT OF 2003"

PRESENTED ON

REV_00167485

MAY 15, 2003

TESTIMONY OF VIET D. DINH,
ASSISTANT ATTORNEY GENERAL, OFFICE OF LEGAL POLICY,
BEFORE THE JUDICIARY COMMITTEE
OF THE UNITED STATES HOUSE OF REPRESENTATIVES
ON THE "CLASS ACTION FAIRNESS ACT OF 2003."

May 15, 2003

Mr. Chairman, it is a pleasure for me to be here this morning to present the views of the Department of Justice on H.R. 1115, the "Class Action Fairness Act of 2003." The Department of Justice supports this bill, which is nearly identical to H.R. 2341 passed by the House of Representatives in the 107th Congress, also with our strong support. Mr. Chairman, we appreciate your leadership on this important legislation, and the leadership of the bill's bi-partisan group of sponsors.

Let me emphasize at the outset that the problem is not the class action device itself. If that were the case, then we could simply repeal Rule 23 and all go home. Everyone recognizes that class actions can serve a very important goal. As one former Solicitor General has stated, "their true purpose is noble – to vindicate the rights of large groups of individuals who sought justice for civil rights violations and other wrongs, but who could not achieve such justice individually."

Class action abuses, however, have taken a toll on our legal system. All too often, class actions represent a lawyer's rush to the courthouse in order to select the most favorable State forum before duplicative actions purporting to represent the same victims with the same claims are filed in other States. In essence, it becomes a race to the courthouse for the attorneys to see who among them can file and then settle his or her case the fastest and thereby collect attorney's fees. The losers in this race are the victims who often gain little or nothing through the settlement, yet are bound by it in perpetuity.

As explained by committees of the Judicial Conference, overlapping and duplicative class actions in federal and state courts threaten the resolution and settlement of such actions on terms that are fair to victims, burden both plaintiffs and defendants with the expenses of multiple litigation of the same issues, and place conscientious class counsel at a potential disadvantage. Certainly we can all agree that consumers such as Bank of Boston account holders do not benefit when plaintiffs are each awarded $8.76, but then each must pay $90 to the attorneys who purportedly brought the action on their behalf. The goal of class action reform, then, must be to stop the abuses which have frustrated the class action device's noble purpose.

The Class Action Fairness Act of 2003 contains three distinct, but necessary components: (1) a "Consumer Class Action Bill of Rights" which addresses the administration of class actions in Federal courts; (2) expanded federal diversity jurisdiction to ensure that class actions with

national implications can be heard in federal courts; and (3) expedited appellate review of decisions whether to certify a class. I would like to briefly address each in turn.

Consumer Class Action Bill of Rights

Section 3 of H.R. 1115, entitled the "Class Action Bill of Rights and Improved Procedures for Interstate Class Actions," would establish long needed protections for victims whose rights are often adjudicated by lawyers not of their choosing in fora with which they have no connection, and where settlements are, in practical effect, imposed on them. Too often victims receive notices of class action settlement proposals that are too confusing to provide any meaningful information about the proposed settlement. This section appropriately would guard against settlements that were unreasonable or even harmful to individual class members by providing for thorough review by the courts. To ensure that class members receive adequate information, this section would require settlement notices be in plain English and in a standardized, easy-to-read format.

Federal Court Jurisdiction for National Class Actions

In addition to the problem of duplicative class actions being filed in numerous states, certain local courthouses have become known for the ease with which they certify class actions. The threat of large awards arising out of class actions filed in these jurisdictions coerces defendants to agree to disproportionately high settlement amounts. Often, these tiny jurisdictions are the first to adjudicate a class action claim and impose their laws on class members from other States and on those States themselves, where similar actions may be pending. Such interstate litigation is exactly why the Founders created diversity jurisdiction: to provide a Federal forum preventing bias against out-of-State defendants and out-of-State plaintiffs.

H.R. 1115 would close the gap in diversity jurisdiction that has resulted from the interpretation and application of diversity and jurisdictional amount requirements in the unique class action world. The bill would prevent attorneys from avoiding removal through artful pleading that eliminates full diversity or minimizes the claimed damages of the individual class members – actions that fail to serve the victims and prejudice the defendants. Specifically, sections 4 and 5 of H.R.1115 provide much needed amendments to Federal diversity jurisdiction by relaxing the "complete diversity" rule. The Act would permit, but not require, removal by any class member and any defendant, so long as there is "minimal diversity," the aggregate amount in controversy exceeds $2 million, and the lawsuit is not primarily intra-state in nature.

Importantly, H.R. 1115 also contains an anti-circumvention measure. Section 4 provides that – regardless of the label placed on a lawsuit by the State court – an action will be "deemed" a class action if: (1) the named plaintiff (exclusive of a State attorney general) purports to act for the interests of its members who are not named parties to the action; or (2) the monetary relief claims of 100 or more other persons are proposed to be tried jointly in the action on the grounds the claims involve common questions of law or fact. This definition would appropriately encompass "private attorney general suits" in which an individual seeks to recover on behalf of

REV_00167488

the general public, as well as "mass actions" brought on behalf of plaintiffs who claim that their suits present common questions of law or fact that should be resolved in a single proceeding.

The Department fully supports these changes to Federal diversity jurisdiction and removal procedures, which recognize the Federal interest in significant class action litigation that truly involves multiple interstate plaintiffs and defendants. In addition, providing for consistent and uniform Federal adjudication of these claims will protect each State and its citizens from other State courts' legal rulings from which there is no recourse.

Prior witnesses before this committee have described the multi-billion dollar judgment awarded in Madison County, Illinois against State Farm Insurance for repairing automobiles with "aftermarket parts" as distinguished from original manufacturers' parts. That decision applied Illinois law to plaintiffs in all 50 states, even though such a ruling was contrary to state insurance regulations in New York, Massachusetts, and Hawaii among other places. The State Farm case is not an isolated example. Right now, for instance, we are following with interest a case in Oklahoma where a nationwide class has been certified against DaimlerChrylser Corporation. The Oklahoma courts plan to apply Michigan law to adjudicate, on behalf of residents of all 50 states, claims that Chrysler should not have installed certain airbags that comply with federal safety standards.

Expansion of Federal diversity jurisdiction, of course, will shift some state class actions to the Federal courts. However, Federal courts have significant interests in cases that involve interstate commerce and parties from many States, and federal adjudication avoids costly and inefficient duplication in State courts. The Constitution's provision for diversity jurisdiction was intended to prevent just the sort of local biases that have resulted from State court class actions that often award higher settlements to in-State victims and award excessive damages against out-of-State defendants. The unique circumstances of class actions, a modern phenomenon, have outstripped the original conception of 28 U.S.C. § 1332, when that provision was initially enacted.

Interlocutory Appeal of Class Certification Decision

Because a district court's decision whether to certify a class often is decisive — a decision to certify may place insurmountable pressure on the defendant to settle, while a refusal to certify may force the plaintiffs to abandon their claims — the bill permits immediate appeal of certification decisions as a matter of right. Immediate appeals of certification decisions can be crucial to efficient management of class actions, preventing the nightmare situation where parties engage in years of expensive litigation under a ruling on the class certification, only to have the appeals court reverse the class certification determination. Contrary to concerns voiced about previous legislative proposals, H.R. 1115 would not encourage or permit the destruction of documents or other evidence during the appeal of the certification decision. On the contrary, discovery would be stayed under this section unless the court finds that specific discovery is necessary to preserve evidence or to prevent undue prejudice.

REV_00167489

Conclusion

In sum, H.R. 1115 is an important step in returning common sense to the nation's class action system and providing greater protections for the victims the system originally was designed to benefit. The bill would update diversity jurisdiction appropriately to account for class action litigation, while permitting State court actions to proceed in cases where no party sought removal and in specified circumstances such as where the class is relatively small or where the primary plaintiffs and defendants are within the State. Thus, State courts would be able to offer redress and provide a convenient forum for their citizens, while Federal courts would provide a forum for truly interstate class actions.

Thank you for this opportunity to present our views. We greatly appreciate your efforts in support of meaningful class action reform. I would be pleased to answer any questions that the Committee may have on this subject.

REV_00167490

HR 1115 IH

108th CONGRESS
1st Session
H. R. 1115

To amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

March 6, 2003

Mr. GOODLATTE (for himself, Mr. BOUCHER, Mr. SENSENBRENNER, Mr. MORAN of Virginia, Mr. SMITH of Texas, Mr. STENHOLM, Mr. DELAY, Mr. DOOLEY of California, Mr. HYDE, Mr. HOLDEN, Mr. COX, and Mr. CRAMER) introduced the following bill; which was referred to the Committee on the Judiciary

---

A BILL

To amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE- This Act may be cited as the `Class Action Fairness Act of 2003'.
(b) REFERENCE- Whenever in this Act reference is made to an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

(c) TABLE OF CONTENTS- The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Consumer class action bill of rights and improved procedures for interstate class actions.
Sec. 4. Federal district court jurisdiction of interstate class actions.
Sec. 5. Removal of interstate class actions to Federal district court.
Sec. 6. Appeals of class action certification orders.
Sec. 7. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS- The Congress finds as follows:

(1) Class action lawsuits are an important and valuable part of our legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.

(2) Over the past decade, there have been abuses of the class action device that have--

(A) harmed class members with legitimate claims and defendants that have acted responsibly;

(B) adversely affected interstate commerce; and

(C) undermined public respect for the judicial system in the United States.

(3) Class members have been harmed by a number of actions taken by plaintiffs' lawyers, which provide little or no benefit to class members as a whole, including--

(A) plaintiffs' lawyers receiving large fees, while class members are left with coupons or other awards of little or no value;

(B) unjustified rewards being made to certain plaintiffs at the expense of other class members; and

(C) the publication of confusing notices that prevent class members from being able to fully understand and effectively exercise their rights.

(4) Through the use of artful pleading, plaintiffs are able to avoid litigating class actions in Federal court, forcing businesses and other organizations to defend interstate class action lawsuits in county and State courts where--

(A) the lawyers, rather than the claimants, are likely to receive the maximum benefit;

(B) less scrutiny may be given to the merits of the case; and

(C) defendants are effectively forced into settlements, in order to avoid the possibility of huge judgments that could destabilize their companies.

(5) These abuses undermine the Federal judicial system, the free flow of interstate commerce, and the intent of the framers of the Constitution in creating diversity jurisdiction, in that county and State courts are--

(A) handling interstate class actions that affect parties from many States;

(B) sometimes acting in ways that demonstrate bias against out-of-State defendants; and

(C) making judgments that impose their view of the law on other States and bind the rights of the residents of those States.

(6) Abusive interstate class actions have harmed society as a whole by forcing innocent parties to settle cases rather than risk a huge judgment by a local jury, thereby costing consumers billions of dollars in increased costs to pay for forced settlements and excessive judgments.

(b) PURPOSES- The purposes of this Act are--

(1) to assure fair and prompt recoveries for class members with legitimate claims;

(2) to protect responsible companies and other institutions against interstate class actions in State courts;

(3) to restore the intent of the framers of the Constitution by providing for Federal court consideration of interstate class actions; and

(4) to benefit society by encouraging innovation and lowering consumer prices.

SEC. 3. CONSUMER CLASS ACTION BILL OF RIGHTS AND IMPROVED PROCEDURES FOR INTERSTATE CLASS ACTIONS.

(a) IN GENERAL- Part V is amended by inserting after chapter 113 the following:

`CHAPTER 114--CLASS ACTIONS

`Sec.
`1711. Judicial scrutiny of coupon and other noncash settlements.
`1712. Protection against loss by class members.
`1713. Protection against discrimination based on geographic location.
`1714. Prohibition on the payment of bounties.
`1715. Clearer and simpler settlement information.
`1716. Definitions.

`Sec. 1711. Judicial scrutiny of coupon and other noncash settlements

`The court may approve a proposed settlement under which the class members would receive noncash benefits or would otherwise be required to expend funds in order to obtain part or all of the proposed benefits only after a hearing to determine whether, and making a written finding that, the settlement is fair, reasonable, and adequate for class members.

`Sec. 1712. Protection against loss by class members

`The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court makes a written finding that nonmonetary benefits to the class member outweigh the monetary loss.

`Sec. 1713. Protection against discrimination based on geographic location

`The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

`Sec. 1714. Prohibition on the payment of bounties

`(a) IN GENERAL- The court may not approve a proposed settlement that provides for the payment of a greater share of the award to a class representative serving on behalf of a class, on the basis of the formula for distribution to all other class members, than that awarded to the other class members.
`(b) RULE OF CONSTRUCTION- The limitation in subsection (a) shall not be construed to prohibit any payment approved by the court for reasonable time or costs that a person was required to expend in fulfilling his or her obligations as a class representative.

`Sec. 1715. Clearer and simpler settlement information

`(a) PLAIN ENGLISH REQUIREMENTS- Any court with jurisdiction over a plaintiff class action shall require that any written notice concerning a proposed settlement of the class action provided to the class through the mail or publication in printed media contain--

`(1) at the beginning of such notice, a statement in 18-point Times New Roman type or other functionally similar type, stating `LEGAL NOTICE: YOU ARE A PLAINTIFF IN A CLASS ACTION LAWSUIT AND YOUR LEGAL RIGHTS ARE AFFECTED BY THE SETTLEMENT DESCRIBED IN THIS NOTICE.'; and
`(2) a short summary written in plain, easily understood language, describing--

`(A) the subject matter of the class action;
`(B) the members of the class;
`(C) the legal consequences of being a member of the class;
`(D) if the notice is informing class members of a proposed settlement agreement--

`(i) the benefits that will accrue to the class due to the settlement;

`(ii) the rights that class members will lose or waive through the settlement;
`(iii) obligations that will be imposed on the defendants by the settlement;
`(iv) the dollar amount of any attorney's fee class counsel will be seeking, or if not possible, a good faith estimate of the dollar amount of any attorney's fee class counsel will be seeking; and
`(v) an explanation of how any attorney's fee will be calculated and funded; and

`(E) any other material matter.

`(b) TABULAR FORMAT- Any court with jurisdiction over a plaintiff class action shall require that the information described in subsection (a)--

`(1) be placed in a conspicuous and prominent location on the notice;
`(2) contain clear and concise headings for each item of information; and
`(3) provide a clear and concise form for stating each item of information required to be disclosed under each heading.

`(c) TELEVISION OR RADIO NOTICE- Any notice provided through television or radio (including transmissions by cable or satellite) to inform the class members in a class action of the right of each member to be excluded from the class action or a proposed settlement of the class action, if such right exists, shall, in plain, easily understood language--

`(1) describe the persons who may potentially become class members in the class action; and
`(2) explain that the failure of a class member to exercise his or her right to be excluded from a class action will result in the person's inclusion in the class action or settlement.

`Sec. 1716. Definitions

`In this chapter--

`(1) CLASS ACTION- The term `class action' means any civil action filed in a district court of the United States pursuant to rule 23 of the Federal

Rules of Civil Procedure or any civil action that is removed to a district court of the United States that was originally filed pursuant to a State statute or rule of judicial procedure authorizing an action to be brought by one or more representatives on behalf of a class.

`(2) CLASS COUNSEL- The term `class counsel' means the persons who serve as the attorneys for the class members in a proposed or certified class action.
`(3) CLASS MEMBERS- The term `class members' means the persons who fall within the definition of the proposed or certified class in a class action.

`(4) PLAINTIFF CLASS ACTION- The term `plaintiff class action' means a class action in which class members are plaintiffs.

`(5) PROPOSED SETTLEMENT- The term `proposed settlement' means an agreement that resolves claims in a class action, that is subject to court approval, and that, if approved, would be binding on the class members.'.

(b) TECHNICAL AND CONFORMING AMENDMENT- The table of chapters for part V is amended by inserting after the item relating to chapter 113 the following:

--1711'.

SEC. 4. FEDERAL DISTRICT COURT JURISDICTION OF INTERSTATE CLASS ACTIONS.

(a) APPLICATION OF FEDERAL DIVERSITY JURISDICTION- Section 1332 is amended--

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

`(d)(1) In this subsection--

`(A) the term `class' means all of the class members in a class action;

`(B) the term `class action' means any civil action filed pursuant to rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by one or more representative persons on behalf of a class;

`(C) the term `class certification order' means an order issued by a court approving the treatment of a civil action as a class action; and

`(D) the term `class members' means the persons who fall within the definition of the proposed or certified class in a class action.

`(2) The district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs, and is a class action in which--

`(A) any member of a class of plaintiffs is a citizen of a State different from any defendant;

`(B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or

`(C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.

`(3) Paragraph (2) shall not apply to any civil action in which--

`(A)(i) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed; and

`(ii) the claims asserted therein will be governed primarily by the laws of the State in which the action was originally filed;

`(B) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or

`(C) the number of proposed plaintiff class members is less than 100.

`(4) In any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of $2,000,000, exclusive of interest and costs.

`(5) This subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.

`(6)(A) A district court shall dismiss any civil action that is subject to the jurisdiction of the court solely under this subsection if the court determines the action may not proceed as a class action based on a failure to satisfy the requirements of rule 23 of the Federal Rules of Civil Procedure.

`(B) Nothing in subparagraph (A) shall prohibit plaintiffs from filing an amended class action in Federal court or filing an action in State court, except that any such action filed in State court may be removed to the appropriate district court if it is an action of which the district courts of the United States have original jurisdiction.

`(C) In any action that is dismissed under this paragraph and is filed by any of the original named plaintiffs therein in the same State court venue in which the dismissed action was originally filed, the limitations periods on all reasserted claims shall be deemed tolled for the period during which the dismissed class action was pending. The limitations periods on any claims that were asserted in a class action dismissed under this paragraph that are subsequently asserted in an individual action shall be deemed tolled for the period during which the dismissed action was pending.

`(7) Paragraph (2) shall not apply to any class action brought by shareholders that solely involves a claim that relates to--

`(A) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

`(B) the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

`(C) the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).

`(8) For purposes of this subsection and section 1453 of this title, an unincorporated association shall be deemed

to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.

`(9) For purposes of this section and section 1453 of this title, a civil action that is not otherwise a class action as defined in paragraph (1)(B) of this subsection shall nevertheless be deemed a class action if--

`(A) the named plaintiff purports to act for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeks a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general; or

`(B) monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact.

In any such case, the persons who allegedly were injured shall be treated as members of a proposed plaintiff class and the monetary relief that is sought shall be treated as the claims of individual class members. The provisions of paragraphs (3) and (6) of this subsection and subsections (b)(2) and (d) of section 1453 shall not apply to civil actions described under subparagraph (A). The provisions of paragraph (6) of this subsection, and subsections (b)(2) and (d) of section 1453 shall not apply to civil actions described under subparagraph (B).'.

(b) CONFORMING AMENDMENTS-

(1) Section 1335(a)(1) is amended by inserting `(a) or (d)' after `1332'.

(2) Section 1603(b)(3) is amended by striking `(d)' and inserting `(e)'.

SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FEDERAL DISTRICT COURT.

(a) IN GENERAL- Chapter 89 is amended by adding after section 1452 the following:

`Sec. 1453. Removal of class actions

`(a) DEFINITIONS- In this section, the terms `class', `class action', `class certification order', and `class member' have the meanings given these terms in section 1332(d)(1).

`(b) IN GENERAL- A class action may be removed to a district court of the United States in accordance with this chapter, without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed--

`(1) by any defendant without the consent of all defendants; or

`(2) by any plaintiff class member who is not a named or representative class member without the consent of all members of such class.

`(c) WHEN REMOVABLE- This section shall apply to any class action before or after the entry of a class certification order in the action, except that a plaintiff class member who is not a named or representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class member has been entered.

`(d) PROCEDURE FOR REMOVAL- The provisions of section 1446 relating to a defendant removing a case shall apply to a plaintiff removing a case under this section, except that in the application of subsection (b) of such section the requirement relating to the 30-day filing period shall be met if a plaintiff class member files notice of removal within 30 days after receipt by such class

member, through service or otherwise, of the initial written notice of the class action.

`(e) REVIEW OF ORDERS REMANDING CLASS ACTIONS TO STATE COURTS- The provisions of section 1447 shall apply to any removal of a case under this section, except that, notwithstanding the provisions of section 1447(d), an order remanding a class action to the State court from which it was removed shall be reviewable by appeal or otherwise.

`(f) EXCEPTION- This section shall not apply to any class action brought by shareholders that solely involves--

`(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

`(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

`(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).'.

(b) REMOVAL LIMITATION- Section 1446(b) is amended in the second sentence by inserting `(a)' after `section 1332'.

(c) TECHNICAL AND CONFORMING AMENDMENTS- The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following:

`1453. Removal of class actions.'.

SEC. 6. APPEALS OF CLASS ACTION CERTIFICATION ORDERS.

(a) IN GENERAL- Section 1292(a) is amended by inserting after paragraph (3) the following:

`(4) Orders of the district courts of the United States granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within 10 days after entry of the order.'.

(b) DISCOVERY STAY- All discovery and other proceedings shall be stayed during the pendency of any appeal taken pursuant to the amendment made by subsection (a), unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue prejudice to that party.

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action commenced on or after the date of the enactment of this Act.

END

From: Kirk Blalock <kblalock@fierce-isakowitz.com>
To: Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>
CC: MMeece@doc.gov [UNKNOWN] <MMeece@doc.gov>
Sent: 5/22/2003 2:23:40 PM
Subject: : Baucus letter to Hatch
Attachments: P_ALONG003_OPD.TXT_1.htm

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kirk Blalock <kblalock@fierce-isakowitz.com> (Kirk Blalock <kblalock@fierce-isakowitz.com> [UNKNOWN])
CREATION DATE/TIME:22-MAY-2003 18:23:40.00
SUBJECT:: Baucus letter to Hatch
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
CC:MMeece@doc.gov (MMeece@doc.gov [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

May 21, 2003

The Honorable Orrin G. Hatch

Chairman

Senate Committee on the Judiciary

224 Dirksen Senate Office Building

Washington, D.C. 20510

Dear Mr. Chairman:

I would like to applaud you for the leadership you have provided in the Senate Judiciary Committee on the issue of asbestos litigation reform. I know you feel very strongly Congress must address this issue this year, for a variety of reasons. I sympathize with many of your concerns, and with the legitimate concerns of businesses that have been unfairly tagged with growing asbestos liabilities. None of us have any desire to see companies wrongly forced into bankruptcy over this issue. At the same time, I don't believe any of us wish to deny the true victims of asbestos their right to fair compensation for their injuries. This is particularly true of my constituents in Libby, Montana.

That is why I am writing to you today, because I would like to outline for you some of my grave concerns with your draft asbestos bill - the Fairness in Asbestos Injury Resolution Act of 2003 (FAIR Act) that you circulated on Monday, May 19.

First, Section 124 of your draft bill, the Medical Criteria Requirements, would exclude the vast majority of current and future Libby claimants. Except for those persons who have mesothelioma, your criteria would require evidence of both 6 months of occupational exposure to asbestos prior to December 31, 1982 and significant occupational exposure, which you define as cumulative employment for a period of at least 5 years in an asbestos industry.

Mr. Chairman, a large number of persons in Libby who have become sick, or will become sick, from their exposure to asbestos never had any occupational exposure to asbestos. Many of them are or were the children of W.R. Grace workers, who inhaled the asbestos fibers brought home in the dust on their father's clothes. Let me quote for you a section of the March 4 letter from Dr. Brad Black, Medical Director of the Center for Asbestos Related Disease in Libby, that was included in the record of your March 5 hearing on asbestos:

In the last 18 months I have observed the diagnosis of five mesotheliomas, with three individuals already having died. Four of these individuals (nurse, office receptionist, forest service administrator and a non-resident who traveled to Libby for basic services) were exposed to tremolite [asbestos] simply by living and working in Libby. Another gentleman who lived near a vermiculite processing facility in the residential area of Libby died from progressive pleural fibrosis. His spouse has advanced asbestos-related disease. A significant number of residents who were exposed environmentally are experiencing advancing lung disease, some of whom require supplemental oxygen. Based on past observations with chrysotile [asbestos] exposure, one would not expect non-occupationally exposed individuals to develop such extensive asbestos-related disease.

Dr. Brad Black, Letter to Senator Baucus, March 4, 2003.

On top of the above concern, Mr. Chairman, I would point out that the medical science of diagnosing and identifying categories of asbestos-related disease in Libby is still developing, particularly as concerns the differences between what is traditionally known as asbestosis or pleural disease, and what manifests itself as debilitating pleural disease in Libby. This further concerns me because the compensation amount for "Asbestosis/Pleural Disease B" is only $40,000.

Second, I am concerned about the apparent life-span of the trust created by your draft bill, which appears to be about 25 years - at least that's the length of time insurers and defendant companies are required to contribute the trust. The Agency for Toxic Substances and Disease Registry, part of the U.S. Department of Health and Human Services, has documented up to a 47-year latency period for the onset of asbestos-related disease resulting from exposure to asbestos in and around Libby, Montana.

Mr. Chairman, W.R. Grace was still operating in the early 1990's, releasing asbestos fibers into the air; asbestos could and still can be found in sites all around Libby; the U.S. Environmental Protection Agency has stated that there is no known "safe" threshold level of exposure to asbestos. We don't know how much exposure leads to illness, particularly in Libby, where it is clear that the tremolite asbestos and other fibers released by W.R. Grace's vermiculite operations were particularly virulent and deadly. That means, Mr. Chairman, some of my constituents, particularly those exposed as children, could become very sick after the trust has expired or after it has run out of money - currently, your bill contains no mechanism to ensure that the trust will remain viable over the long-term.

Third, I am concerned about the collateral source requirements in your draft bill. Section 134 would require a reduction in the amount paid to an asbestos victim by the amount of any collateral source payments he or she has received, or is entitled to receive, for their asbestos-related injury. Mr. Chairman, one of the main points of an asbestos trust or other compensation mechanism, is to fairly compensate victims for their injuries that were caused by others. In addition, I have read about your concerns that the taxpayer should not bear any liability for this trust fund, or for the payment of asbestos claims in general. The FAIR Act's collateral source requirements could have exactly this undesired effect.

Elected officials in Lincoln County, Montana, are concerned that the cost of treating the W.R. Grace workers alone threatens to bankrupt the State of Montana's Medicaid program. Everyone is concerned about the impacts of asbestos-related health care costs in Libby on area businesses. If a person is "entitled" to Medicaid payments for necessary health care, does that mean any amounts he or she may be eligible for under the FAIR Act will be reduced accordingly, thus shifting all or a part of the burden to the State and Federal taxpayer of treating this worker's illness? Even though workers, current and former residents of Libby, their families and area businesses will suffer increased health insurance premiums, or eventually be denied health insurance, as a result of the health care crisis in Libby caused by W.R. Grace's operations, an individual's payments from the proposed trust would be reduced by the amount of any insurance payments he or she may receive, or be entitled to receive?

For my constituents in Libby, this section threatens to swallow the whole. It is particularly offensive given the almost criminal nature of W.R. Grace's actions in Libby and that company's clear and obvious responsibility to make that town and its people whole again.

And finally, Mr. Chairman, I am very troubled by the appearance that the draft FAIR Act will not hold W.R. Grace fully accountable for its actions in Libby. At the same time, the people of Libby will struggle to receive any compensation under the terms of the FAIR Act.

If I read you draft legislation correctly, W.R. Grace will be required to pay into the trust fund created by your bill only 1.45333% of their 2002 revenues for years 1 through 5, with that amount declining over the next 20 years out to year 25. This is a paltry amount. Even on revenues of $1 billion, that would mean a company like W.R. Grace would only have to contribute approximately $1.45 million per year in years 1-5. Over the life of the trust, such a company would contribute far less than $25 million, based on $1 billion in 2002 revenues. This does not even come close to compensating the people in Libby for their past, current and future injuries and long-term health care needs, let alone approximate a fair contribution from a company like W.R. Grace to a national trust. On its face, this is an unacceptable outcome.

Mr. Chairman, these are just a few of my concerns about the FAIR Act as they relate to my constituents in Libby, Montana. I know others have expressed similar concerns about how the bill would treat sick people in general. If I am incorrect in my assessment of any aspect of the FAIR Act, please let me know. I hope that you will continue to work with me and others to address some of the serious concerns that we have with your draft legislation. Again, I thank-you for your leadership on this issue, and I look forward to working with you in the near future.

Sincerely,

Max Baucus

CC: Senator Patrick Leahy, Ranking Member, Senate Committee on the Judiciary

Senator Ben Nelson

Members of the Senate Judiciary Committee

MSB/klb

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ALONG003_OPD.TXT_1>

May 21, 2003

The Honorable Orrin G. Hatch

Chairman< /span>

Senate Committee on the Judiciary

224 Dirksen Senate Office Building

Washingto n, D.C. 20510

Dear Mr. Chairman:

I would like to applaud you for the leadership you have provided in the Senate Judiciary Committee on the issue of asbestos litigation reform. I know you feel very strongly Congress must address this issue this year, for a variety of reasons. I sympathize with many of your concerns, and with the legitimate concerns of businesses that have been unfairly tagged with growing asbestos liabilities. None of us have any desire to see companies wrongly forced into bankruptcy over this issue. At the same time, I don't believe any of us wish to deny the true victims of asbestos their right to fair compensation for their injuries. This is particularly true of my constituents in Libby, Montana.

That is why I am writing to you today, because I would like to outline for you some of my grave concerns with your draft asbestos bill - the Fairness in Asbestos Injury Resolution Act of 2003 (FAIR Act) that you circulated on Monday, May 19.

First, Section 124 of your draft bill, the Medical Criteria Requirements, would exclud e the vast majority of current and future Libby claimants. Except for those persons who have mesothelioma, your criteria would require evidence of both 6 months of occupational exposure to asbestos prior to December 31, 1982 and significant occupational exposure, which you define as cumulative employment for a period of at least 5 years in an asbestos industry.

Mr. Chairman, a large number of persons in Libby who have become sick, or will become sick, from their exposure to asbestos never had any occupational exposure to asbestos. Many of them are or were the children of W.R. Grace workers, who inhaled the asbestos fibers brought home in the dust on their father's clothes. Let me quote for you a section of the March 4 letter from Dr. Brad Black, Medical Director of the Center for Asbestos Related Disease in Libby, that was included in the record of your March 5 hearing on asbestos:

In the last 18 months I have observed the diagnosis of five mesotheliomas, with three individuals already having died. Four of these individuals (nurse, office receptionist, forest service administrator and a non-resident who traveled to Libby for basic services) were exposed to tremolite [asbestos] simply by living and working in Libby. Another gentleman who lived near a vermiculite processing facility in the residential area of Libby died from progressive pleural fibrosis. His spouse has advanced asbestos-related disease. A significant number of residents who were exposed environmentally are experiencing advancing lung disease, some of

whom require supplemental oxygen. Based on past observations with chrysotile [asbestos] exposure, one would not expect non-occupationally exposed individuals to develop such extensive asbestos-related disease.

Dr. Brad Black, Letter to Senator Baucus, March 4, 2003.

On top of the above concern, Mr. Chairman, I would point out that the medical science of diagnosing and identifying categories of asbestos-related disease in Libby is still developing, particularly as concerns the differences between what is traditionally known as asbestosis or pleural disease, and what manifests itself as debilitating pleural disease in Libby. This further concerns me because the compensation amount for "Asbestosis/Pleural Disease B" is only $40,000.

Second, I am concerned about the apparent life-span of the trust created by your draft bill, which appears to be about 25 years - at least that's the length of time insurers and defendant companies are required to contribute the trust. The Agency for Toxic Substances and Disease Registry, part of the U.S. Department of Health and Human Services, has documented up to a 47-year latency period for the onset of asbestos-related disease resulting from exposure to asbestos in and around Libby, Montana.

Mr. Chairman, W.R. Grace was still operating in the early 1990's, releasing asbestos fibers into the air; asbestos could and still can be found in sites all around Libby; the U.S. Environmental Protection Agency has stated that there is no known "safe" threshold level of exposure to asbestos. We don't know how much exposure leads to illness, particularly in Libby, where it is clear that the tremolite asbestos and other fibers released by W.R. Grace's vermiculite operations were particularly virulent and deadly. That means, Mr. Chairman, some of my constituents, particularly those exposed as children, could become very sick after the trust has expired or after it has run out of money - currently, your bill contains no mechanism to ensure that the trust will remain viable over the long-term.

Third, I am concerned about the collateral source requirements in your draft bill. Section 134 would require a reduction in the amount paid to an asbestos victim by the amount of any collateral source payments he or she has received, or is entitled to receive, for their asbestos-related injury. Mr. Chairman, one of the main points of an asbestos trust or other compensation mechanism, is to fairly compensate victims for their injuries that were caused by others. In addition, I have read about your concerns that the taxpayer should not bear any liability for this trust fund, or for the payment of asbestos claims in general. The FAIR Act's collateral source requirements could have exactly this undesired effect.

Elected officials in Lincoln County, Montana, are concerned that the cost of treating the W.R. Grace workers alone threatens to bankrupt the State of Mon tana's Medicaid program. Everyone is concerned about the impacts of asbestos-related health care costs in Libby on area businesses. If a person is "entitled" to Medicaid payments for necessary health care, does that mean any amounts he or she may be eligible for under the FAIR Act will be reduced accordingly, thus shifting all or a part of the burden to the State and Federal taxpayer of treating this worker's illness? Even though workers, current and former residents of Libby, their families and area businesses will suffer increased health insurance premiums, or eventually be denied health insurance, as a result of the health care crisis in Libby caused by W.R. Grace's operations, an individual's payments from the proposed trust would be reduced by the amount of any insurance payments he or she may receive, or be entitled to receive?

For my constituents in Libby, this section threatens to swallow the whole. It is particularly offensive given the almost criminal nature of W.R. Grace's actions in Libby and that company's clear and obvious responsibility to make that town and its people whole again.

And finally, Mr. Chairman, I am very troubled by the appearance that the draft FAIR Act will not hold W.R. Grace fully accountable for its actions in Libby. At the same time, the people of Libby will struggle to receive any compensation under the terms of the FAIR Act.

If I read you draft legislation correctly, W.R. Grace will be required to pay into the trust fund created by your bill only 1.45333% of their 2002 revenues for years 1 through 5, with that amount declining over the next 20 years out to year 25. This is a paltry amount. Even on revenues of $1 billion, that would mean a company like W.R. Grace would only have to contribute approximately $1.45 million per year in years 1-5. Over the life of the trust, such a company would contribute far less than $25 million, based on $1 billion in 2002 revenues. This does not even come close to compensating the people in Libby for their past, current and future injuries and long-term health care needs, let alone approximate a fair contribution from a company like W.R. Grace to a national trust. On its face, this is an unacceptable outcome.

Mr. Chairman, these are just a few of my concerns about the FAIR Act as they relate to my constituents in Libby, Montana. I know others have expressed similar concerns about how the bill would treat sick people in general. If I am incorrect in my assessment of any aspect of the FAIR Act, please let me know. I hope that you will continue to work with me and others to address some of the serious concerns that we have with your draft legislation. Again, I thank-you for your leadership on this issue, and I look forward to working with you in the near future.

Sincerely ,

Max Baucus

CC: Senator Patrick Leahy, Ranking Member, Senate Committee on the Judiciary

Senator B en Nelson

Members of the Senate Judiciary Committee

MSB/klb

From: CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/22/2003 2:44:46 PM
Subject: : Re: Jeffress

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:22-MAY-2003 18:44:46.00
SUBJECT:: Re: Jeffress
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Wanted to make sure this wasn't a Bush-bashing affair.

.

----- Original Message -----
From:Brett M. Kavanaugh/WHO/EOP
To:H. Christopher Bartolomucci/WHO/EOP@EOP
Cc:
Date: 05/22/2003 06:39:15 PM
Subject: Re: Jeffress

The Yale Law School Association of DC has monthly events. I was a guest speaker at one about judges. It actually was originally scheduled for someone else's house on Cap Hill but was snowed out. Then it was re-scheduled for the next month and that month's event was at the house of her and her husband. (She used to be on board of YLSA of DC so hosts them now and then). Why?

H. Christopher Bartolomucci
05/22/2003 06:35:38 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
Subject: Jeffress

what the deal with the judges-related Yale event you participated in at her house?

From: Kirk Blalock <kblalock@fierce-isakowitz.com>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Kevin Warsh/OPD /EOP@EOP [OPD] <Kevin Warsh>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>
CC: MMeece@doc.gov [UNKNOWN] <MMeece@doc.gov>
Sent: 5/22/2003 12:57:15 PM
Subject: : Leahy Statement on Hatch Asbestos Bill
Attachments: P_A8KNG003_WHO.TXT_1.htm

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kirk Blalock <kblalock@fierce-isakowitz.com> ( Kirk Blalock <kblalock@fierce-
isakowitz.com> [ UNKNOWN ] )
CREATION DATE/TIME:22-MAY-2003 16:57:15.00
SUBJECT:: Leahy Statement on Hatch Asbestos Bill
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
CC:MMeece@doc.gov ( MMeece@doc.gov [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Comment Of Sen. Patrick Leahy

(D-Vt., ranking Democratic member, Senate Judiciary Committee)

On Continued Work

Toward A Consensus Asbestos Agreement

Wed., May 21, 2003

"I remain committed to moving a consensus plan through the legislative

process and into law. We have not yet reached consensus. Acting

together, and allowing the negotiations to progress, is the best way to

achieve that goal."



- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_A8KNG003_WHO.TXT_1>
```

Comment Of Sen. Patrick Leahy

(D-Vt., ranking Democratic member, Senate Judiciary Committee)

On Continued Work

Toward A Consensus Asbestos Agreement

Wed., May 21, 2003

"I remain committed to moving a consensus plan through the legislative process a nd into law. We have not yet reached consensus. Acting together, and allowing the negotiations to progress, is the best way to achieve that goal."

From: Kirk Blalock <kblalock@fierce-isakowitz.com>
To: Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>
CC: MMeece@doc.gov [UNKNOWN] <MMeece@doc.gov>
Sent: 5/22/2003 2:23:40 PM
Subject: : Baucus letter to Hatch
Attachments: P_ALONG003_WHO.TXT_1.htm

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kirk Blalock <kblalock@fierce-isakowitz.com> (Kirk Blalock <kblalock@fierce-isakowitz.com> [UNKNOWN])
CREATION DATE/TIME:22-MAY-2003 18:23:40.00
SUBJECT:: Baucus letter to Hatch
TO:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN
CC:MMeece@doc.gov (MMeece@doc.gov [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

May 21, 2003

The Honorable Orrin G. Hatch

Chairman

Senate Committee on the Judiciary

224 Dirksen Senate Office Building

Washington, D.C. 20510

Dear Mr. Chairman:

I would like to applaud you for the leadership you have provided in the Senate Judiciary Committee on the issue of asbestos litigation reform. I know you feel very strongly Congress must address this issue this year, for a variety of reasons. I sympathize with many of your concerns, and with the legitimate concerns of businesses that have been unfairly tagged with growing asbestos liabilities. None of us have any desire to see companies wrongly forced into bankruptcy over this issue. At the same time, I don't believe any of us wish to deny the true victims of asbestos their right to fair compensation for their injuries. This is particularly true of my constituents in Libby, Montana.

That is why I am writing to you today, because I would like to outline for you some of my grave concerns with your draft asbestos bill - the Fairness in Asbestos Injury Resolution Act of 2003 (FAIR Act) that you circulated on Monday, May 19.

First, Section 124 of your draft bill, the Medical Criteria Requirements, would exclude the vast majority of current and future Libby claimants. Except for those persons who have mesothelioma, your criteria would require evidence of both 6 months of occupational exposure to asbestos prior to December 31, 1982 and significant occupational exposure, which you define as cumulative employment for a period of at least 5 years in an asbestos industry.

Mr. Chairman, a large number of persons in Libby who have become sick, or will become sick, from their exposure to asbestos never had any occupational exposure to asbestos. Many of them are or were the children of W.R. Grace workers, who inhaled the asbestos fibers brought home in the dust on their father's clothes. Let me quote for you a section of the March 4 letter from Dr. Brad Black, Medical Director of the Center for Asbestos Related Disease in Libby, that was included in the record of your March 5 hearing on asbestos:

In the last 18 months I have observed the diagnosis of five mesotheliomas, with three individuals already having died. Four of these individuals (nurse, office receptionist, forest service administrator and a non-resident who traveled to Libby for basic services) were exposed to tremolite [asbestos] simply by living and working in Libby. Another gentleman who lived near a vermiculite processing facility in the residential area of Libby died from progressive pleural fibrosis. His spouse has advanced asbestos-related disease. A significant number of residents who were exposed environmentally are experiencing advancing lung disease, some of whom require supplemental oxygen. Based on past observations with chrysotile [asbestos] exposure, one would not expect non-occupationally exposed individuals to develop such extensive asbestos-related disease.

Dr. Brad Black, Letter to Senator Baucus, March 4, 2003.

On top of the above concern, Mr. Chairman, I would point out that the medical science of diagnosing and identifying categories of asbestos-related disease in Libby is still developing, particularly as concerns the differences between what is traditionally known as asbestosis or pleural disease, and what manifests itself as debilitating pleural disease in Libby. This further concerns me because the compensation amount for "Asbestosis/Pleural Disease B" is only $40,000.

Second, I am concerned about the apparent life-span of the trust created by your draft bill, which appears to be about 25 years - at least that's the length of time insurers and defendant companies are required to contribute the trust. The Agency for Toxic Substances and Disease Registry, part of the U.S. Department of Health and Human Services, has documented up to a 47-year latency period for the onset of asbestos-related disease resulting from exposure to asbestos in and around Libby, Montana.

Mr. Chairman, W.R. Grace was still operating in the early 1990's, releasing asbestos fibers into the air; asbestos could and still can be found in sites all around Libby; the U.S. Environmental Protection Agency has stated that there is no known "safe" threshold level of exposure to asbestos. We don't know how much exposure leads to illness, particularly in Libby, where it is clear that the tremolite asbestos and other fibers released by W.R. Grace's vermiculite operations were particularly virulent and deadly. That means, Mr. Chairman, some of my constituents, particularly those exposed as children, could become very sick after the trust has expired or after it has run out of money - currently, your bill contains no mechanism to ensure that the trust will remain viable over the long-term.

Third, I am concerned about the collateral source requirements in your draft bill. Section 134 would require a reduction in the amount paid to an asbestos victim by the amount of any collateral source payments he or she has received, or is entitled to receive, for their asbestos-related injury. Mr. Chairman, one of the main points of an asbestos trust or other compensation mechanism, is to fairly compensate victims for their injuries that were caused by others. In addition, I have read about your concerns that the taxpayer should not bear any liability for this trust fund, or for the payment of asbestos claims in general. The FAIR Act's collateral source requirements could have exactly this undesired effect.

Elected officials in Lincoln County, Montana, are concerned that the cost of treating the W.R. Grace workers alone threatens to bankrupt the State of Montana's Medicaid program. Everyone is concerned about the impacts of asbestos-related health care costs in Libby on area businesses. If a person is "entitled" to Medicaid payments for necessary health care, does that mean any amounts he or she may be eligible for under the FAIR Act will be reduced accordingly, thus shifting all or a part of the burden to the State and Federal taxpayer of treating this worker's illness? Even though workers, current and former residents of Libby, their families and area businesses will suffer increased health insurance premiums, or eventually be denied health insurance, as a result of the health care crisis in Libby caused by W.R. Grace's operations, an individual's payments from the proposed trust would be reduced by the amount of any insurance payments he or she may receive, or be entitled to receive?

For my constituents in Libby, this section threatens to swallow the whole. It is particularly offensive given the almost criminal nature of W.R. Grace's actions in Libby and that company's clear and obvious responsibility to make that town and its people whole again.

And finally, Mr. Chairman, I am very troubled by the appearance that the draft FAIR Act will not hold W.R. Grace fully accountable for its actions in Libby. At the same time, the people of Libby will struggle to receive any compensation under the terms of the FAIR Act.

If I read you draft legislation correctly, W.R. Grace will be required to pay into the trust fund created by your bill only 1.45333% of their 2002 revenues for years 1 through 5, with that amount declining over the next 20 years out to year 25. This is a paltry amount. Even on revenues of $1 billion, that would mean a company like W.R. Grace would only have to contribute approximately $1.45 million per year in years 1-5. Over the life of the trust, such a company would contribute far less than $25 million, based on $1 billion in 2002 revenues. This does not even come close to compensating the people in Libby for their past, current and future injuries and long-term health care needs, let alone approximate a fair contribution from a company like W.R. Grace to a national trust. On its face, this is an unacceptable outcome.

Mr. Chairman, these are just a few of my concerns about the FAIR Act as they relate to my constituents in Libby, Montana. I know others have expressed similar concerns about how the bill would treat sick people in general. If I am incorrect in my assessment of any aspect of the FAIR Act, please let me know. I hope that you will continue to work with me and others to address some of the serious concerns that we have with your draft legislation. Again, I thank-you for your leadership on this issue, and I look forward to working with you in the near future.

Sincerely,

Max Baucus

CC: Senator Patrick Leahy, Ranking Member, Senate Committee on the Judiciary

Senator Ben Nelson

Members of the Senate Judiciary Committee

MSB/klb

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_ALONG003_WHO.TXT_1>

May 21, 2003

The Honorable Orrin G. Hatch

Chairman< /span>

Senate Committee on the Judiciary

224 Dirksen Senate Office Building

Washingto n, D.C. 20510

Dear Mr. Chairman:

I would like to applaud you for the leadership you have provided in the Senate Judiciary Committee on the issue of asbestos litigation reform. I know you feel very strongly Congress must address this issue this year, for a variety of reasons. I sympathize with many of your concerns, and with the legitimate concerns of businesses that have been unfairly tagged with growing asbestos liabilities. None of us have any desire to see companies wrongly forced into bankruptcy over this issue. At the same time, I don't believe any of us wish to deny the true victims of asbestos their right to fair compensation for their injuries. This is particularly true of my constituents in Libby, Montana.

That is why I am writing to you today, because I would like to outline for you some of my grave concerns with your draft asbestos bill - the Fairness in Asbestos Injury Resolution Act of 2003 (FAIR Act) that you circulated on Monday, May 19.

First, Section 124 of your draft bill, the Medical Criteria Requirements, would exclud e the vast majority of current and future Libby claimants. Except for those persons who have mesothelioma, your criteria would require evidence of both 6 months of occupational exposure to asbestos prior to December 31, 1982 and significant occupational exposure, which you define as cumulative employment for a period of at least 5 years in an asbestos industry.

Mr. Chairman, a large number of persons in Libby who have become sick, or will become sick, from their exposure to asbestos never had any occupational exposure to asbestos. Many of them are or were the children of W.R. Grace workers, who inhaled the asbestos fibers brought home in the dust on their father's clothes. Let me quote for you a section of the March 4 letter from Dr. Brad Black, Medical Director of the Center for Asbestos Related Disease in Libby, that was included in the record of your March 5 hearing on asbestos:

In the last 18 months I have observed the diagnosis of five mesotheliomas, with three individuals already having died. Four of these individuals (nurse, office receptionist, forest service administrator and a non-resident who traveled to Libby for basic services) were exposed to tremolite [asbestos] simply by living and working in Libby. Another gentleman who lived near a vermiculite processing facility in the residential area of Libby died from progressive pleural fibrosis. His spouse has advanced asbestos-related disease. A significant number of residents who were exposed environmentally are experiencing advancing lung disease, some of

whom require supplemental oxygen. Based on past observations with chrysotile [asbestos] exposure, one would not expect non-occupationally exposed individuals to develop such extensive asbestos-related disease.

Dr. Brad Black, Letter to Senator Baucus, March 4, 2003.

On top of the above concern, Mr. Chairman, I would point out that the medical science of diagnosing and identifying categories of asbestos-related disease in Libby is still developing, particularly as concerns the differences between what is traditionally known as asbestosis or pleural disease, and what manifests itself as debilitating pleural disease in Libby. This further concerns me because the compensation amount for "Asbestosis/Pleural Disease B" is only $40,000.

Second, I am concerned about the apparent life-span of the trust created by your draft bill, which appears to be about 25 years - at least that's the length of time insurers and defendant companies are required to contribute the trust. The Agency for Toxic Substances and Disease Registry, part of the U.S. Department of Health and Human Services, has documented up to a 47-year latency period for the onset of asbestos-related disease resulting from exposure to asbestos in and around Libby, Montana.

Mr. Chairman, W.R. Grace was still operating in the early 1990's, releasing asbestos fibers into the air; asbestos could and still can be found in sites all around Libby; the U.S. Environmental Protection Agency has stated that there is no known "safe" threshold level of exposure to asbestos. We don't know how much exposure leads to illness, particularly in Libby, where it is clear that the tremolite asbestos and other fibers released by W.R. Grace's vermiculite operations were particularly virulent and deadly. That means, Mr. Chairman, some of my constituents, particularly those exposed as children, could become very sick after the trust has expired or after it has run out of money - currently, your bill contains no mechanism to ensure that the trust will remain viable over the long-term.

Third, I am concerned about the collateral source requirements in your draft bill. Section 134 would require a reduction in the amount paid to an asbestos victim by the amount of any collateral source payments he or she has received, or is entitled to receive, for their asbestos-related injury. Mr. Chairman, one of the main points of an asbestos trust or other compensation mechanism, is to fairly compensate victims for their injuries that were caused by others. In addition, I have read about your concerns that the taxpayer should not bear any liability for this trust fund, or for the payment of asbestos claims in general. The FAIR Act's collateral source requirements could have exactly this undesired effect.

Elected officials in Lincoln County, Montana, are concerned that the cost of treating the W.R. Grace workers alone threatens to bankrupt the State of Mon tana's Medicaid program. Everyone is concerned about the impacts of asbestos-related health care costs in Libby on area businesses. If a person is "entitled" to Medicaid payments for necessary health care, does that mean any amounts he or she may be eligible for under the FAIR Act will be reduced accordingly, thus shifting all or a part of the burden to the State and Federal taxpayer of treating this worker's illness? Even though workers, current and former residents of Libby, their families and area businesses will suffer increased health insurance premiums, or eventually be denied health insurance, as a result of the health care crisis in Libby caused by W.R. Grace's operations, an individual's payments from the proposed trust would be reduced by the amount of any insurance payments he or she may receive, or be entitled to receive?

For my constituents in Libby, this section threatens to swallow the whole. It is particularly offensive given the almost criminal nature of W.R. Grace's actions in Libby and that company's clear and obvious responsibility to make that town and its people whole again.

And finally, Mr. Chairman, I am very troubled by the appearance that the draft FAIR Act will not hold W.R. Grace fully accountable for its actions in Libby. At the same time, the people of Libby will struggle to receive any compensation under the terms of the FAIR Act.

If I read you draft legislation correctly, W.R. Grace will be required to pay into the trust fund created by your bill only 1.45333% of their 2002 revenues for years 1 through 5, with that amount declining over the next 20 years out to year 25. This is a paltry amount. Even on revenues of $1 billion, that would mean a company like W.R. Grace would only have to contribute approximately $1.45 million per year in years 1-5. Over the life of the trust, such a company would contribute far less than $25 million, based on $1 billion in 2002 revenues. This does not even come close to compensating the people in Libby for their past, current and future injuries and long-term health care needs, let alone approximate a fair contribution from a company like W.R. Grace to a national trust. On its face, this is an unacceptable outcome.

Mr. Chairman, these are just a few of my concerns about the FAIR Act as they relate to my constituents in Libby, Montana. I know others have expressed similar concerns about how the bill would treat sick people in general. If I am incorrect in my assessment of any aspect of the FAIR Act, please let me know. I hope that you will continue to work with me and others to address some of the serious concerns that we have with your draft legislation. Again, I thank-you for your leadership on this issue, and I look forward to working with you in the near future.

Sincerely ,

Max Baucus

CC: Senator Patrick Leahy, Ranking Member, Senate Committee on the Judiciary

Senator B en Nelson

Members of the Senate Judiciary Committee

MSB/klb

From: CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/22/2003 3:57:05 PM
Subject: : Re: Congratulations!!

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:22-MAY-2003 19:57:05.00
SUBJECT:: Re: Congratulations!!
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

You mean Connie?!
.

-----Original Message-----
From: Kavanaugh, Brett M. <bkavanau@WHO.eop.gov>
To: Gonzales, Alberto R. <Alberto_R._Gonzales@who.eop.gov>; Leitch, David G. <David_G._Leitch@who.eop.gov>
Sent: Thu May 22 19:51:38 2003
Subject: Re: Congratulations!!

from Consuelo.
---------------------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 05/22/2003 07:51 PM ----------------------------

;;;;;;; Connie.Callahan@jud.ca.gov
05/22/2003 07:43:00 PM;

Record Type:;;; Record

To:;;;; Brett M. Kavanaugh/WHO/EOP@EOP
cc:;;;;
Subject:;;;;;;; Re: Congratulations!!

;;;; Thank you so much.; I really appreciate all your support and guidance
;;;; throughout the process.; Please convey my sincere gratitude to the
;;;; President and assure him that I will prove worthy of his confidence.

;;;; Connie C.

;;;;

From: CN=Monique L. Dilworth/OU=OA/O=EOP [OA]

To: Steven R. Beattie/OA/EOP@Exchange [OA] <Steven R. Beattie>;Veronica Kitchen/OA /EOP@EOP [OA] <Veronica Kitchen>;Claire M. O'Donnell/OVP/EOP@Exchange [OVP] <Claire M. O'Donnell>;Lisa B. Fairhall/OMB/EOP@EOP [OMB] <Lisa B. Fairhall>;Adam F. Greenstone/OA/EOP@Exchange [OA] <Adam F. Greenstone>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Nikky Cogdell/OA/EOP@EOP [OA] <Nikky Cogdell>;Jon S. Laurich/OA/EOP@Exchange [OA] <Jon S. Laurich>;Elizabeth Gelfer/OA/EOP@EOP [OA] <Elizabeth Gelfer>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>;Keith L. Roberts/OA/EOP@Exchange [OA] <Keith L. Roberts>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>

CC: Worthington W. White/WHO/EOP@EOP [WHO] <Worthington W. White>;Michele C. Marx/ONDCP/EOP@EOP [ONDCP] <Michele C. Marx>;Angela R. Stewart/CEQ/EOP@EOP [CEQ] <Angela R. Stewart>;Shana L. Dale/OSTP/EOP@EOP [OSTP] <Shana L. Dale>;Paul A. Wedderien/NSC/EOP@EOP [NSC] <Paul A. Wedderien>;Brian Gillis/OMB/EOP@EOP [OMB] <Brian Gillis>;Don J. Jansen/OMB/EOP@EOP [OMB] <Don J. Jansen>;Phuong DeSear/ONDCP/EOP@EOP [ONDCP] <Phuong DeSear>;Mary Fibich/CEA/EOP@EOP [CEA] <Mary Fibich>;Phil Cooney/CEQ/EOP@EOP [CEQ] <Phil Cooney>;Stephen A. Weigler/OMB /EOP@EOP [OMB] <Stephen A. Weigler>;Katherine J. Fertakis/NSC/EOP@EOP [NSC] <Katherine J. Fertakis>;Charles L. Sigman/OA/EOP@EOP [OA] <Charles L. Sigman>

Sent: 5/23/2003 7:59:26 AM

Subject: : QFR Coordination

Attachments: P_2G9OG003_CEA.TXT_1.doc; P_2G9OG003_CEA.TXT_2.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Monique L. Dilworth ( CN=Monique L. Dilworth/OU=OA/O=EOP [ OA ] )
CREATION DATE/TIME:23-MAY-2003 11:59:26.00
SUBJECT:: QFR Coordination
TO:Steven R. Beattie ( CN=Steven R. Beattie/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Veronica Kitchen ( CN=Veronica Kitchen/OU=OA/O=EOP@EOP [ OA ] )
READ:UNKNOWN
TO:Claire M. O'Donnell ( CN=Claire M. O'Donnell/OU=OVP/O=EOP@Exchange [ OVP ] )
READ:UNKNOWN
TO:Lisa B. Fairhall ( CN=Lisa B. Fairhall/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Adam F. Greenstone ( CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nikky Cogdell ( CN=Nikky Cogdell/OU=OA/O=EOP@EOP [ OA ] )
READ:UNKNOWN
TO:Jon S. Laurich ( CN=Jon S. Laurich/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Elizabeth Gelfer ( CN=Elizabeth Gelfer/OU=OA/O=EOP@EOP [ OA ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Keith L. Roberts ( CN=Keith L. Roberts/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Worthington W. White ( CN=Worthington W. White/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Michele C. Marx ( CN=Michele C. Marx/OU=ONDCP/O=EOP@EOP [ ONDCP ] )
```

READ:UNKNOWN
CC:Angela R. Stewart (CN=Angela R. Stewart/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN
CC:Shana L. Dale (CN=Shana L. Dale/OU=OSTP/O=EOP@EOP [OSTP])
READ:UNKNOWN
CC:Paul A. Wedderien (CN=Paul A. Wedderien/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
CC:Brian Gillis (CN=Brian Gillis/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Don J. Jansen (CN=Don J. Jansen/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Phuong DeSear (CN=Phuong DeSear/OU=ONDCP/O=EOP@EOP [ONDCP])
READ:UNKNOWN
CC:Mary Fibich (CN=Mary Fibich/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
CC:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN
CC:Stephen A. Weigler (CN=Stephen A. Weigler/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Katherine J. Fertakis (CN=Katherine J. Fertakis/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
CC:Charles L. Sigman (CN=Charles L. Sigman/OU=OA/O=EOP@EOP [OA])
READ:UNKNOWN
End Original ARMS Header

As of today, we have responses for 145 of the 169 Questions for the Record (QFR) received from the Transportation, Treasury Subcommittee. Below is information on the coordination process, the coordination schedule, assigned functional responsibilities and hearing record references. The complete package is due to Congress on May 30th. It is imperative that we get the package to Congress on time because the bill markup will take place shortly thereafter.

A. Coordination Process - Please review the attached file entitled "QFR Responses 1" which contains the latest update of responses for the FY 2004 QFRs. If we have not received a response from the POC, the QFR will be highlighted in yellow in the "QFR Responses 1" document. As the missing responses come in, we will send them to you in a separate email. Make all edits within the document using a RED font. We need all edited documents to be sent electronically. Make sure to note in your reply the QFR number that has been edited for quick reference. We will assume that you approve/concur with all answers where you have not made edits. After your review, please reply to this message with an "X" in one of the selections listed below:

Concur as written_____ See Edits*_____ See Comments_____
*For all edits, please note the QFR number(s) here:

B. Coordination Schedule -
CFO sends QFR Responses to Coordinators
May 23, 2003
Edits/Comments due from Coordinators
Noon, May 28, 2003
CFO sends Final QFR Responses to Coordinators COB,
May 28, 2003
Final Edit due from
Coordinators 2:00 p.m. May
29, 2003
Final QFR Responses provided to WHO M&A for clearance COB
May 29, 2003
OA Director sends final QFR Responses to Subcommittee May
30, 2003

C. Functional/POC Accountablitity - Several of the QFRs requested factual information in functional areas such as personnel, accounting, space, etc. The following Chart of Accountablity identifies the OA offices and individuals that are responsible for ensuring that these areas are checked for accuracy and consistency throughout the document.

D. Hearing Record References - Several of the FY 2004 QFRs refer to the FY 2003 Hearing Record. Attached is a document called "Hearing Record References" which will assist you while reviewing the FY 2004 responses.

Please call me if you have any questions and thank you for your time and assistance.

Monique Dilworth
5-7638

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_2G9OG003_CEA.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_2G9OG003_CEA.TXT_2>

Treasury, Postal Service and General
Government Appropriations for

Fiscal Year 2003
Hearing Record References

HOW TO USE THIS DOCUMENT

Several of the FY 2004 questions for the record refer to pages from last year's (FY 2003) hearing record. Below is the FY 2003 hearing record information.

Note that the Question # refers to this year's (FY 2004) question and the information that follows is what was in last year's (FY 2003) hearing record.

Hearing Record Reference for Question 6:

Issue: **Executive Office of the President**

Question: By EOP agency, provide FTE and OGE. Itemize OGE by category (e.g. reimbursable detailee, PSC, etc). Include FY 2001 (actual) and FY 2002-2003 (estimates).

Answer: The following tables provide the total FY 2001 actual, FY 2002 and FY 2003 estimates for full time equivalents (FTE) and other government employees (OGE) for each EOP and other entity as of April 5, 2002. The OGE numbers are itemized by category on the following page. The FY 2001 actual numbers should be viewed in the context of a Presidential transition year and may vary greatly from the FY 2002 figures. The FY 2002 and FY 2003 numbers are estimates only and therefore subject to change for a number of reasons.

REV_00167553

Program	FY 2001 Actual FTE and OGE			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office	400	369	35	**404**
Special Assistance to the President	22	16	42	**58**
Official Residence of the Vice President	1	1	0	**1**
Office of Administration	202	185	5	**190**
Office of Policy Development	31	27	3	**30**
National Security Council	60	44	137	**181**
Council of Economic Advisers	35	28	7	**35**
Office of Management and Budget	527	502	57	**559**
Office of National Drug Control Policy	125	114	38	**152**
Executive Residence	95	89	0	**89**
Office of Science and Technology Policy	40	23	17	**40**
Council on Environmental Quality	24	16	0	**16**
U.S. Trade Representative	203	173	29	**202**
TOTAL	**1,765**	**1,587**	**370**	**1,957**

FY 2002 as of April 5, 2002

Program	FY 2002 FTE and OGE Estimate			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office*	400		97	**497**
Special Assistance to the President	24		40	**64**
Official Residence of the Vice President	1		0	**1**
Office of Administration	202		1	**203**
Office of Policy Development	35		2	**37**
National Security Council	60		150	**210**
Council of Economic Advisers	35		11	**46**
Office of Management and Budget	527		46	**573**
Office of National Drug Control Policy	115		35	**150**
Executive Residence	95		0	**95**
Office of Science and Technology Policy	40		16	**56**
Council on Environmental Quality	24		3	**27**
U.S. Trade Representative	203		23	**226**
TOTAL	**1,761**	**0**	**424**	**2,185**

Program	FY 2003 FTE and OGE Estimate			
	FTE REQUEST	ACTUAL FTE	OGE	TOTAL
White House Office	446		127	**573**
Special Assistance to the President	24		40	**64**
Official Residence of the Vice President	1		0	**1**
Office of Administration	222		1	**223**
Office of Policy Development	35		2	**37**
National Security Council	71		150	**221**
Council of Economic Advisers	35		11	**46**
Office of Management and Budget	510		46	**556**
Office of National Drug Control Policy	115		35	**150**
Executive Residence	95		0	**95**
Office of Science and Technology Policy	40		16	**56**
Council on Environmental Quality	24		3	**27**
U.S. Trade Representative	209		23	**232**
TOTAL	**1,827**	**0**	**454**	**2,281**

* For FY 02, The White House Office includes 65 OGEs for the Office of Homeland Security which are funded from the Emergency Appropriation.

REV_00167554

R = Reimbursable
N = Non Reimbursable

FY 2001 FTE and OGE Actuals

	FTE	Agency Reps	Assignees	Detailees		Historically Provided Services	Others		Student Volunteers	White House Fellows	Pres. Mgmt Intern	OGE Grand Totals		
		N	N	R	N	N	R	N	N	N	N	R	N	R + N
White House Office	**369**	7	5	3	7	13						3	32	**35**
Special Assistance to the President	**16**		1		10	25		6					42	**42**
Official Residence of the Vice President	**1**													
Office of Administration	**185**							4	1				5	**5**
Office of Policy Development	**27**	2			1								3	**3**
National Security Council	**44**		32	1	90	4		8		2		1	136	**137**
Council of Economic Advisers	**28**				1		4		2			4	3	**7**
Office of Management and Budget	**502**			3	46				8			3	54	**57**
Office of National Drug Control Policy	**114**	13	20	3			2					5	33	**38**
Executive Residence	**89**													
Office of Science and Technology Policy	**23**	8		2	2	1	1	2	1			3	14	**17**
Council on Environmental Quality	**16**													
U.S. Trade Representative*	**173**				27			1		1			29	**29**
TOTAL	**1,587**	**30**	**58**	**12**	**184**	**43**	**7**	**21**	**12**	**3**		**19**	**351**	**370**

R = Reimbursable
N = Non Reimbursable

FY 2002 FTE and OGE *as of April 5, 2002*

	FTE	Agency Reps	Assignees	Detailees		Historically Provided Services	Others		Student Volunteers	White House Fellows	Pres. Mgmt Intern	OGE Grand Totals		
		N	N	R	N	N	R	N	N	N	N	R	N	R + N
White House Office**	**400**	1	4	68	8	15				1		68	29	**97**
Special Assistance to the President	**24**		9			1		29			1		40	**40**
Official Residence of the Vice President	**1**													
Office of Administration	**202**							1					1	**1**
Office of Policy Development	**35**		2										2	**2**
National Security Council	**60**		34	1	108	4		2		1		1	149	**150**
Council of Economic Advisers	**35**				1		4		6			4	7	**11**
Office of Management and Budget***	**527**			4	39				3			4	42	**46**
Office of National Drug Control Policy	**115**	13	17	1	1		3					4	31	**35**
Executive Residence	**95**													
Office of Science and Technology Policy	**40**	5		4			3	4				7	9	**16**
Council on Environmental Quality	**24**	3											3	**3**
U.S. Trade Representative*	**203**				21			1		1			23	**23**
TOTAL	**1,761**	**22**	**66**	**78**	**178**	**20**	**10**	**37**	**9**	**3**	**1**	**88**	**336**	**424**

R = Reimbursable
N = Non Reimbursable

FY 2003 FTE and OGE Estimate

	FTE	Agency Reps	Assignees	Detailees		Historically Provided Services	Others		Student Volunteers	White House Fellows	Pres. Mgmt Intern	OGE Grand Totals		
		N	N	R	N	N	R	N	N	N	N	R	N	R + N
White House Office	**446**	1	3	100	8	15						100	27	**127**
Special Assistance to the President	**24**		9			1		29			1		40	**40**
Official Residence of the Vice President	**1**													
Office of Administration	**222**							1					1	**1**
Office of Policy Development	**35**		2										2	**2**
National Security Council	**71**		34	1	108	4		2		1		1	149	**150**
Council of Economic Advisers	**35**				1		4		6			4	7	**11**
Office of Management and Budget***	**510**			4	39				3			4	42	**46**
Office of National Drug Control Policy	**115**	13	17	1	1		3					4	31	**35**
Executive Residence	**95**													
Office of Science and Technology Policy	**40**	5		4			3	4				7	9	**16**
Council on Environmental Quality	**24**	3											3	**3**
U.S. Trade Representative*	**209**				21			1		1			23	**23**
TOTAL	**1,827**	**22**	**65**	**110**	**178**	**20**	**10**	**37**	**9**	**2**	**1**	**120**	**334**	**454**

* USTR has nonreimbursable detailees in their Geneva, Switzerland offices (FY 2001 = 10, FY 2002 = 9) and are **not** included in the numbers above.
** For FY 02, The White House Office includes 65 OGEs for the Office of Homeland Security which are funded from the Emergency Appropriation.
*** The Office of Management and Budget's OGE number greatly increases during the preparation of the President's Budget. At other times, the OGE number can fall below 20.

REV_00167555

Hearing Record Reference for Question 7:

Question: For the Office of Administration provide FTE and OGE by organizational unit for FY 2001 (actual) and FY 2002-2003 (estimates).

Answer: The chart below displays the FTE and OGE distribution in the previous OA organizational structure for FY 2001. For FY 2002 and FY 2003, the FTE and OGE are displayed in the new streamlined OA organizational structure which reduced the number of operating units reporting to the Director from 10 to 4. All data is as of April 5, 2002.

R = Reimbursable N = Non Reimbursable	FY 2001 FTE and OGE Actuals						
	FTE	Others		Student Volunteers	OGE Grand Totals		
		R	N	N	R	N	R + N
Office of the Director	6		1			1	1
General Counsel	3						
Equal Employment Opportunity	1						
Financial Management	23						
Facilities Management	8						
Human Resources Management	22		3	1		4	4
General Services	54						
Library and Research Sciences	15						
Operations and Legislative Liasons	2						
Security	8						
Information Systems Technology	43						
TOTAL	**185**		**4**	**1**		**5**	**5**

R = Reimbursable N = Non Reimbursable	FY 2002 FTE and OGE Estimates						
	FTE	Others		Student Volunteers	OGE Grand Totals		
		R	N	N	R	N	R + N
Director	11						
Chief Operating Officer	96		1			1	1
Chief Financial Officer	37						
Chief Projects Officer	10						
Chief Information Officer	48						
TOTAL	**202**		**1**			**1**	**1**

R = Reimbursable N = Non Reimbursable	FY 2003 FTE and OGE Estimates						
	FTE	Others		Student Volunteers	OGE Grand Totals		
		R	N	N	R	N	R + N
Director	11						
Chief Operating Officer	103		1			1	1
Chief Financial Officer	39						
Chief Projects Officer	11						
Chief Information Officer	58						
TOTAL	**222**		**1**			**1**	**1**

REV_00167556

Hearing Record Reference for Question 8:

Question: For the Office of Management and Budget provide FTE and OGE by division for FY 2001 (actual) and FY 2002-2003 (estimates).

Answer: The chart below displays the FTE and OGE breakout by OMB division for FY 2001-2003. Most detailees and Student Volunteers are used during the peak budget production season. During the rest of the year, the OGE total can fall below 20.

R = Reimbursable N = Non Reimbursable	**FY 2001 FTE and OGE Actuals**								
	FTE	Assignees	Detailees		Student Volunteers	White House Fellows	OGE Grand Totals		
		N	R	N	N	N	R	N	R + N
OMB-Wide Offices*	**149**			18	2		0	20	**20**
General Government Programs	**61**			4			0	4	**4**
Human Resource Programs	**75**			2	1		0	3	**3**
National Security Programs	**65**		1	8			1	8	**9**
Natural Resource Programs	**62**			3	2		0	5	**5**
Office of Federal Financial Management	**17**		1	3	1		1	4	**5**
Office of Federal Procurement Policy	**24**		1	1			1	1	**2**
Office of Information and Regulatory Affairs	**49**			7	2		0	9	**9**
TOTAL	**502**	**0**	**3**	**46**	**8**	**0**	**3**	**54**	**57**

R = Reimbursable N = Non Reimbursable	**FY 2002 FTE and OGE Estimates** *(as of April 5, 2002)*								
	FTE	Assignees	Detailees		Student Volunteers	White House Fellows	OGE Grand Totals		
		N	R	N	N	N	R	N	R + N
OMB-Wide Offices*	**157**		1	19	1		1	20	**21**
General Government Programs	**64**			1			0	1	**1**
Human Resource Programs	**78**			1			0	1	**1**
National Security Programs	**67**		1	2			1	2	**3**
Natural Resource Programs	**63**			4			0	4	**4**
Office of Federal Financial Management	**22**		2	2			2	2	**4**
Office of Federal Procurement Policy	**22**			1			0	1	**1**
Office of Information and Regulatory Affairs	**54**			9	2		0	11	**11**
TOTAL	**527**	**0**	**4**	**39**	**3**	**0**	**4**	**42**	**46**

R = Reimbursable N = Non Reimbursable	**FY 2003 FTE and OGE Estimates**								
	FTE	Assignees	Detailees		Student Volunteers	White House Fellows	OGE Grand Totals		
		N	R	N	N	N	R	N	R + N
OMB-Wide Offices*	**151**		1	19	1		1	20	**21**
General Government Programs	**63**			1			0	1	**1**
Human Resource Programs	**75**			1			0	1	**1**
National Security Programs	**63**		1	2			1	2	**3**
Natural Resource Programs	**63**			4			0	4	**4**
Office of Federal Financial Management	**20**		2	2			2	2	**4**
Office of Federal Procurement Policy	**21**			1			0	1	**1**
Office of Information and Regulatory Affairs	**54**			9	2		0	11	**11**
TOTAL	**510**	**0**	**4**	**39**	**3**	**0**	**4**	**42**	**46**

* OMB-Wide Offices include the Director's; the Deputy Director, the Deputy Director for Management, the Executive Associate Director; Communications; General Counsel; Legislative Affairs; Economic Policy; Administration; the Legislative Reference Division; the Budget Review Divisions; and the Office of Information Technology and E-Government.

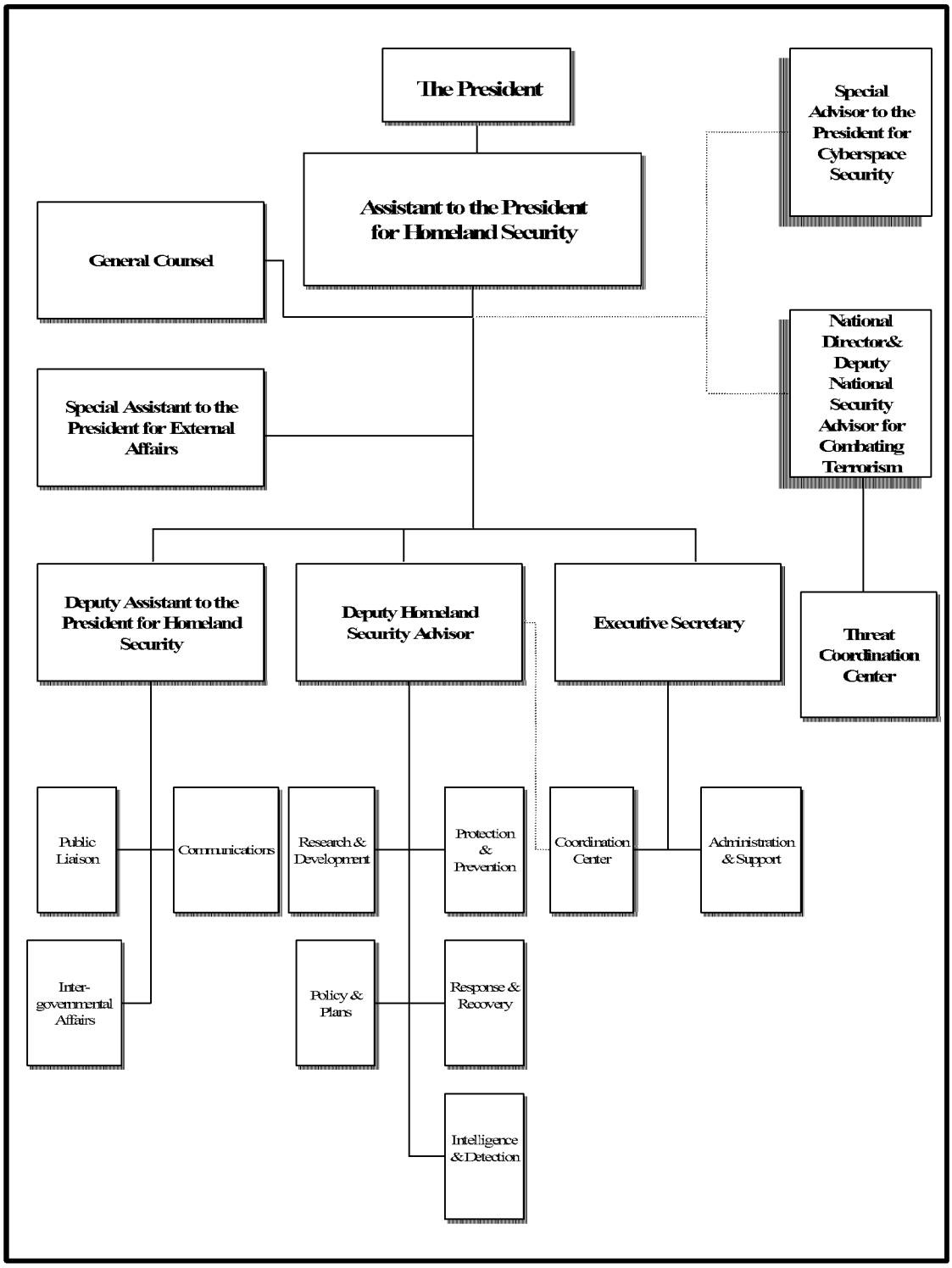
REV_00167557

Hearing Record Reference for Question 16:

Question: Provide an organizational chart for the OHS.

Answer: See chart below.

REV_00167558



REV_00167559

Hearing Record Reference for question 17:

Question: The President's request includes $1,337,000 for travel and transportation of persons, an increase of $976,000 from the estimated level of $361,000 in FY 2002. For FY 2002 and 2003 (estimates), provide a list of trips by location and purpose, including the number of staff traveling and staff position.

Answer: The FY 2002 travel and transportation of persons estimate and FY 2003 budget request provides funding for the Assistant to the President for Homeland Security and staff travel, Critical Infrastructure Protection Board (CIPB) activities and advisory board activities. Specific locations for FY 2003 are currently unavailable due to the fact that they are determined as requirements are finalized. FY 2002 and FY 2003 anticipated travel activities are in furtherance of the OHS mission promulgated in the Executive Orders.

Examples of FY 2003 estimated travel requirements include: per diem and travel for two-thirds of Advisory Board members to attend approximately 40 various meetings and activities; approximately 50 domestic trips for the Assistant to the President for Homeland Security and 3 staff members to fulfill outreach requirements; approximately 100 domestic trips for Homeland Security staff to fulfill mission functions as outlined in Executive Order 13228; approximately 24 domestic and 3 overseas trips for the Chair, Vice Chair and one staff member of the CIPB to fulfill outreach requirements as stated in Executive Order 13231; and approximately 12 CIPB staff (director level) trips to outreach the private sector. Of course, these are estimates only and are therefore subject to change for a variety of reasons.

FY 2002 travel expenses incurred to date include trips to Mexico and Canada for border discussions and various locations in the United States to visit first response, bioterrorism research facilities and other initiatives related to homeland security. The following table lists current (as of April 10, 2002) FY 2002 travel expenses as reflected in the accounting system.

Trip Cost Note: Estimated costs of trips will vary greatly from trip to trip to the same city and from one city to another city for four significant reasons; mode of transportation used/authorized, number of days TDY, number of personnel on trip, and whether costs recorded are actual or estimated expenses.

Office of Homeland Security Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Staff Position**
11/13/01	New York City, NY	1	$ 145	Dep Asst to President for OHS
11/15/01	New York City, NY	4	$ 1,287	Asst to President for OHS, Aide to Asst to President for OHS, Sr Director Response & Recovery and Sr Director Communications
12/07/01	New York City, NY	1	$ 767	Sr Dir Intergovernmental Affairs

REV_00167560

12/11/01	Ottawa, CAN	5	$ 1,038	Asst to President for OHS, Aide to Asst to President for OHS, Asst Public Liaison, Sr Dir Policy & Plans, Sr Dir Communications
12/21/01	Harrisburg, PA	1	$ 2,009	Comm Asst to Asst to President for OHS
01/04/02	Harrisburg, PA	1	$ 544	Comm Asst to Asst to President for OHS
01/09/02	Salt Lake City, UT	4	$ 738	Comm Asst to Asst to President for OHS, Dep Press Secretary, Spec Asst to the Chief of Staff, Aide to the Asst to President for OHS
01/11/02	Harrisburg, PA	1	$ 525	Comm Asst
01/13/02	New York City, NY	4	$ 1,606	Asst to President for OHS, Aide Dep Asst to President OHS, Dep Press Sec & Special Asst Public Liaison
01/14/02	New York City, NY	1	$ 138	Sr Dir Communications
01/17/02	New York City, NY	3	$ 323	Sr Dir Intergovernmental Affairs, Staff Dir, Dir
01/18/02	Harrisburg, PA	1	$ 1,017	Comm Asst to Asst to President for OHS
01/22/02	Ft. Lauderdale, FL	1	$ 850	Dr Policy & Plans
01/25/02	Brandson, MO	1	$ 405	Sr Dir Intergovernmental Affairs
01/25/02	Harrisburg, PA	1	$ 742	Watch Officer
01/30/02	Greensboro, NC	3	$ 909	Asst to President for OHS, Sr Dir Communications, & Dep Asst Sec
01/31/02	New York City, NY	4	$ 2,536	Asst to President OHS, Comm Asst to Asst to President for OHS, Aide to Asst to President OHS, Asst Public Liaison
02/02/02	New York City, NY	1	$ 165	Sr Dir Policy & Plans
02/04/02	New York City, NY	1	$ 728	Comm Asst
02/05/02	New York City, NY	4	$ 1,699	Asst to President OHS, Comm Asst to Asst to President for OHS, Aide to Asst to President OHS, Sr Dir Communications Asst Public Liaison
02/05/02	Salt Lake City, UT	1	$ 4,358	Comm Asst
02/08/02	Harrisburg, PA	2	$ 909	Comm Asst to Asst to President for OHS, Watch Officer
02/13/02	Orlando, FL	1	$ 1,593	Comm Asst to Asst to President for OHS
02/14/02	Miami, FL	1	$ 653	Comm Asst
02/14/02	Orlando, FL	4	$ 4,316	Asst to President for OHS, Sr Dir Intergovernmental Affairs, Aide to Asst to President OHS, Sr Dir Communications
02/15/02	Miami, FL	1	$ 814	Special Asst Public Liaison
02/16/02	Harrisburg, PA	2	$ 724	Watch Officer, Communications Asst

REV_00167561

02/17/02	Los Angeles, CA	1	$	719	Comm Asst to Asst to President for OHS
02/18/02	Cincinnati, OH	1	$	912	Special Asst Intergovernmental Affairs
02/19/02	Cincinnati, OH	1	$	715	Sr Dir Intergovernmental Affairs
02/19/02	Las Vegas, NV	1	$	2,725	Watch Officer
02/20/02	Houston, TX	3	$	903	Asst to President for OHS, Comm Asst to Asst to President for OHS, Aide to Asst to President for OHS
02/22/02	Harrisburg, PA	1	$	713	Comm Asst to Asst to President for OHS
02/22/02	Key West, FL	1	$	1,059	Sr Dir Intergovernmental Affairs
02/25/02	Colorado Springs, CO	2	$	1,575	Sr Advisor Prevention & Protection, Sr Dir Protection & Prevention
02/27/02	Vancouver, CA	1	$	1,212	Dir Policy & Plans
03/01/02	Harrisburg, PA	2	$	975	Communications Asst, Communications Asst
03/04/02	Mexico City, MEX	9	$	6,239	Asst to President for OHS, Asst Public Liaison, Aide to Asst to President for OHS, Dep Press Sec, Dep Asst to Pres for OHS, Sr Dir Policy & Plans, Communications Asst, Comm Asst to Asst to President for OHS, Dir Policy and Plans
03/04/02	Orlando, FL	1	$	325	Staff Dir
03/07/02	Boston, MA	3	$	1,111	Sr Dir Policy & Plans, Sr Dir Intergovernmental Affairs
03/08/02	Boston, MA	4	$	1,014	Asst to President for OHS, Sr Dir Communications, Aide to Asst to President for OHS, Staff Dir
03/08/02	Harrisburg, PA	1	$	600	Communications Asst
03/11/02	Birmingham	1	$	654	Sr Dir Response & Recovery
03/11/02	Orlando, FL	1	$	1,790	Comm Asst to Asst to President for OHS
03/15/02	Harrisburg, PA	1	$	589	Communications Asst
03/18/02	Las Vegas, NV	3	$	2,003	Comm Asst to Asst to President for OHS, Comm Asst, Comm Asst
03/20/02	New York City, NY	1	$	606	Special Asst
03/21/02	Monterrey, MEX	1	$	900	Aide to Asst to President for OHS
03/22/02	Harrisburg, PA	1	$	363	Communications Asst
03/27/02	Atlanta, GA	1	$	264	Aide to Asst to President for OHS
	Trip Cost Total		**$**	**59,503**	

REV_00167562

Cyberspace Security Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Staff Position**
10/27/01	San Jose, CA	2	$ 4,649	Special Advisor to President for Cyberspace Security, Deputy Chief of Staff Cyberspace
10/28/01	San Jose, CA	1	$ 1,663	Dir National Security Cyberspace
12/04/01	Boston, MA	3	$ 4,620	Special Advisor to President for Cyberspace Security, Deputy Chief of Staff Cyberspace, Sr Dir National Security Cyberspace
12/09/01	Boston, MA	1	$ 581	Dir National Security Cyberspace
12/09/01	Salt Lake City, UT	1	$ 1,219	Sr Dir National Security Cyberspace
01/17/02	San Jose, CA	2	$ 4,184	Sr Dir National Security Cyberspace, Special Advisor to President for Cyberspace Security
01/26/02	Honolulu, HI	1	$ 1,495	Sr Dir National Security Cyberspace
02/02/02	New Haven, CT	1	$ 809	Vice Chair CIPB
02/05/02	Norfolk, VA	1	$ 167	Sr Dir National Security Cyberspace
02/11/02	Austin, TX	1	$ 826	Special Advisor to President for Cyberspace Security
02/11/02	New York City, NY	1	$ 139	Sr Dir National Security Cyberspace
02/16/02	San Jose, CA	1	$ 807	Special Advisor to President for Cyberspace Security
02/22/02	Philadelphia, PA	1	$ 149	Vice Chair CIPB
03/02/02	JPN, IND, SIN, Hong Kong	1	$ 10,678	Sr Dir National Security Cyberspace
03/04/02	Palm Springs, CA	1	$ 371	Vice Chair CIPB
03/17/02	London, GBR	1	$ 1,273	Vice Chair CIPB
03/20/02	New York City, NY	1	$ 161	Sr Dir National Security Cyberspace
03/21/02	Seattle, WA	1	$ 161	Vice Chair CIPB
	Trip Cost Total		**$ 33,949**	

REV_00167563

Hearing Record Reference for Question 19:

Question: What Memorandums of Understanding have been signed by the Office of Homeland Security, or by any other EOP entity on behalf of the Office of Homeland Security and with whom? Describe the purpose of each MOU.

Answer: As of April 12, 2002, there is one signed Memorandum of Understanding (MOU), which is an agreement between OHS and the Office of Science and Technology Policy (OSTP). OSTP provides technical and personnel support for research and development and policy issues. There is no financial component to this MOU.

Hearing Record Reference for question 24:

Question: Is there a distinct organizational unit within the OHS for this function? If so, how many FTE are associated with this function? How many detailees? Where are these people located? Is this a permanent location? What is the total amount of space being used by the Cyber Security Office? What is the total cost of the Cyberspace Security office, including rent, office supplies, communications, etc.

Answer: The Special Advisor reports to both the Assistant to the President for Homeland Security and the Assistant to the President for National Security Affairs. The permanent location and amount of space allocated to the Board has not been determined, but they are currently located at the G Street office location. The total staff associated with this function is yet to be determined. The total estimated cost, for FY 2003, of the CIPB, including rent, office supplies, communications, etc., is approximately $2.85 million.

Hearing Record Reference for Question 39:

Question: To date, provide the total amount obligated from the FY 2002 appropriation "White House Repair and Restoration" by project.

Answer: Listed below is the status of each of the projects and the amounts obligated. No funds have been obligated to date in excess of the $100,000 project prospectus ceiling.

Pool Shelter Roof Reconstruction and Pool Deck Renovation - The preliminary architectural survey and design are completed, and structural engineering analysis and design is in progress. The two primary contractors required have committed to the project and an on-site meeting is scheduled. Construction is expected to begin in April. There have been no funds obligated. All work to date has been accomplished with National Park Service and Executive Residence staff.

Communication System Repairs / Phase 2 - Design work continues under Phase I (FY 2001 – $441,000 obligated) and Construction (Phase II) is expected to begin in August.

East and West Wing Exterior Restoration - Scaffolding installation for one elevation of the East and West Wing is nearly complete. Paint removal will begin shortly as outdoor temperatures permit. $84,500 has been obligated to date.

REV_00167564

Insulated Windows Replacement - Preliminary discussions are ongoing with manufacturers and fabrication should begin in May. Installation and related restoration requirements have been discussed with the prospective contractor, and the proposal should be received in April 2002. Work is expected to begin in July. No funds have been obligated for this project.

Kitchen Floor Replacement - The survey of existing conditions including utilities has been completed. An onsite meeting with the flooring installation contractor was completed and installation began in mid-March 2002. No funds have been obligated for this project.

North Portico Curtain Wall - The contractor began onsite work at the end of February 2002 and installation is 95% complete. Only the "punch" list and in house items remain. $83,000 has been obligated to date.

Stone Pavers Restoration - The contractor proposal has been received and is under review. Material ordering is expected in April 2002 and onsite work is expected to begin in May. No funds have been obligated for this project.

West Colonnade Restoration - There is continuing restoration of the first three columns and historically accurate replacement stone has been ordered for all columns. The newly discovered deteriorated structural steel has been evaluated. The recommended corrective actions will be accomplished this summer and no additional funds will be required. To date, $49,040 has been obligated for this project.

Hearing Record Reference for Question 51:

Issue: **President's Travel**

Question: For Presidential and First Lady travel, provide the following for FY 2001 and 2002 (to date):

- Trip date
- Destination
- Designation (political/official)
- Official Cost

Answer: The following charts summarize Presidential and First Lady travel for FY 2001 and FY 2002:

Presidential Travel FY 2001				
		Status		White House
Date	Destination	Official	Political	Travel cost
5-Oct	Princeton, NJ	100%		$ 9,983.00
8-Oct	New York, NY	100%		$ 4,986.00
11-Oct	Philadelphia, PA	44%	56%	$ 7,286.00
14-Oct	Denver, CO	31%	69%	$ 3,546.00
18-Oct	Norfolk, VA	100%		$ 3,301.00

REV_00167565

19-Oct	New Orleans, LA		100%	$ 974.00
20-Oct	Jefferson City, MO	37%	63%	$ 3,920.00
21-Oct	Boston, MA		100%	$ 259.00
22-Oct	Kingston, NY		100%	$ 1,078.00
25-Oct	Armonk, NY	100%		$ 8,617.00
31-Oct	Louisville, KY/New York		100%	$ 1,209.00
2-Nov	New York, NY		100%	$ 1,929.00
7-Nov	New York, NY		100%	$ 2,531.00
12-Nov	Waikoloa, HI	100%		$ 42,293.00
30-Nov	New York, NY	100%		$ 11,310.00
8-Dec	Omaha, NE	71%	29%	$ 13,188.00
18-Dec	New York, NY	100%		$ 15,390.00
4-Jan	Syracuse, NY	100%		$ 3,669.00
7-Jan	New York, NY	53%	47%	$ 4,835.00
9-Jan	Lansing, MI	100%		$ 7,730.00
9-Jan	Chicago, IL	100%		$ 8,470.00
11-Jan	Boston, MA	100%		$ 7,986.00
11-Jan	Dover, NH	100%		$ 4,918.00
11-Jan	Grand Canyon, AZ	100%		$ 18,342.00
17-Jan	New York, NY	100%		$ 12,283.00
17-Jan	Little Rock, AK	100%		$ 1,722.00
3-Feb	Williamsburg, VA	100%		$7,063
4-Feb	Nemacolin, PA	100%		$389
12-Feb	Savannah, GA	100%		$7,236
13-Feb	Norfolk, VA	100%		$7,293
14-Feb	Charleston, WV	100%		$9,692
18-Feb	Waco, TX	100%		$7,310
19-Feb	Oklahoma City, Ok	100%		$5,812
20-Feb	Columbus, OH	100%		$3,444
20-Feb	St. Louis, MO	100%		$9,324
21-Feb	Knoxville, TN	100%		$5,782
28-Feb	Pittsburg, PA	100%		$3,182
28-Feb	Council Bluff, IA	100%		$7,657
1-Mar	Little Rock, AK	100%		$8,450
1-Mar	Atlanta, GA	100%		$6,538
4-Mar	Newport News, VA	100%		$4,223
6-Mar	Chicago, IL	100%		$5,332
8-Mar	Sioux Falls, SD	100%		$12,542
8-Mar	Fargo, ND	100%		$2,976
9-Mar	Lafayette, LA	100%		$8,407
9-11 Mar	Waco, TX	100%		$18,435
12-Mar	Panama City, FL	100%		$3,314
14-Mar	Plainfield, NJ	100%		$4,724
21-Mar	Orlando, FL	100%		$9,568
23-Mar	Portland, MN	100%		$6,164

REV_00167566

26-Mar	Kansas City, MO	100%		$6,390
26-Mar	Billings, MT	100%		$12,229
27-Mar	Kalamazoo, MI	100%		$3,765
3-Apr	Wilmington, DE	100%		$2,528
6-Apr	Milwaukee, WI	100%		$6,200
11-Apr	Greenville, NC	100%		$7,191
11-Apr	Charlotte, NC	100%		$6,509
15-Apr	Waco, TX	100%		$12,791
18-Apr	Waterbury, CT	100%		$7,527
25-Apr	Jacksonville, FL	100%		$3,719
25-Apr	New Orleans, LA	100%		$7,541
25-Apr	Little Rock, AK		100%	$ -
26-Apr	Houston, TX	100%		$2,647
27-Apr	Austin, TX	100%		$6,519
28-Apr	Waco, TX	100%		$12,700
14-May	Philadelphia, PA	100%		$6,440
17-May	Nevada, IA	100%		$7,838
17-May	St. Paul, MN	100%		$6,266
18-May	Lancaster, PA	100%		$6,858
20-May	South Bend, IA	100%		$8,333
20-May	New Haven, CT	100%		$19,631
24-May	Cleveland, OH	100%		$3,497
28-May	Mesa, AZ	100%		$2,828
29-May	Los Angeles, CA	100%		$24,073
29-May	San Diego, CA	100%		$14,326
30-May	Fresno, CA	100%		$16,108
1-Jun	Boston, MA	100%		$4,344
4-Jun	Tampa, FL	100%		$18,918
4-Jun	Homestead, FL	100%		$8,721
6-Jun	Bedford, VA	100%		$3,880
8-Jun	Des Moines, IA	100%		$5,952
8-Jun	Omaha, NE	100%		$8,761
10-Jun	Waco, TX	100%		$7,844
21-Jun	Birmingham, AL	58%	42%	$14,966
21-Jun	Waco, TX	100%		$12,374
25-Jun	Detroit, MI	100%		$8,956
4-Jul	Philadelphia, PA	100%		$9,267
5-Jul	Kennebunkport, ME	100%		$14,083
10-Jul	New York City, NY	100%		$18,036
13-Jul	Baltimore, MD	100%		$1,352
29-Jul	Fort A.P. Hill VA	100%		$2,087
4-Aug-2 Sep	Crawford, TX	100%		$89,092
14-Aug	Estes Park, CO	100%		$21,743
14-Aug	Denver, CO	50%	50%	$0
15-Aug	Albuquerque, M	68%	32%	$21,860

REV_00167567

20-Aug	Milwaukee, WI	100%		$10,820
21-Aug	Kansas City, MO	100%		$21,636
26-Aug	Pittsburg, PA	100%		$8,858
26-Aug	Williamsport, PA	100%		$14,073
29-Aug	Honolulu, HI (pre-adv)	Cancelled due to 9/11		$4,480
30-Aug	San Antonio, TX	100%		$7,024
3-Sep	Detroit, MI	100%		$10,053
3-Sep	Green Bay, WI	100%		$10,812
6-Sep	Toledo, OH	100%		$4,710
10-Sep	Sarasota, FL	100%		$26,098
10-Sep	Jacksonville, FL	100%		$5,376
14-Sep	New York City, NY	100%		$6,767
27-Sep	Chicago, IL	100%		$9,438
	FY 2001 Total Costs			**$791,692**

Mrs. Clinton/Mrs. Bush's Travel FY 2001				
		Status		White House
Date	Destination	Official	Political	Travel Cost
16-Oct	New York, NY		100%	$ 346
27-Oct	New York, NY		100%	$ 236
10-Nov	New York, NY		100%	$ 234
20-Feb	Ohio/ Missouri	100%		$583
22-Mar	Los Angeles, CA	100%		$1,165
23-Mar	San Diego, CA	100%		$14,294
22-Apr	Quebec, Canada	100%		$8,673
1-May	New York, NY	100%		$52
8-May	Columbia, SC	100%		$434
14-May	Chicago, IL	100%		$1,637
1-Jun	Boston, MA	100%		$280
25-Sep	New York, NY	100%		$4,500
	Total Costs			**$31,618**

Presidential Travel FY 2002				
		Status		White House
Date	Destination	Official	Political	Travel Cost
3-Oct	New York, NY	100%		$8,060
7-Oct	Emmitsburg, MD	100%		$1,988
17-Oct	Sacramento, CA	100%		$16,678
30-Oct	New York, NY	100%		$13,043

REV_00167568

8-Nov	Atlanta, GA	100%		$17,920
10-Nov	New York, NY	100%		$6,525
14-Nov	Crawford. TX	100%		$44,535
21-Nov	Fort Campbell, KY	100%		$9,114
27-Nov	Salt Lake City, UT	100%		$4,328
1-Dec	Philadelphia, PA	100%		$13,669
4-Dec	Orlando, FL	70%	30%	$13,371
7-Dec	Norfolk, VA	100%		$5,271
11-Dec	Citadel, SC	100%		$11,498
26-Dec	Waco, TX	100%		$12,667
4-Jan	Austin, TX	100%		$5,356
5-Jan	Ontario, CA	100%		$10,240
5-Jan	Portland, OR	100%		$10,870
8-Jan	Hamilton, OH	100%		$6,588
8-Jan	Boston, MA	100%		$11,159
8-Jan	Portsmith, NH	54%	46%	$6,594
9-Jan	Washington, DC	100%		$0
11-Jan	Conshohoken, PA	100%		$5,321
14-Jan	Moline, IL	100%		$7,570
14-Jan	Springfield, MO	100%		$6,569
14-Jan	New Orleans, LA	100%		$32,494
22-Jan	Charleston, WV	71%	29%	$6,086
25-Jan	Portland, ME	100%		$7,698
30-Jan	Winston-Salem, NC	65%	35%	$8,799
30-Jan	Daytona Beach, FL	100%		$12,874
31-Jan	Atlanta, GA	100%		$13,869
1-Feb	White Sulpher Springs, WV	100%		$4,273
4-Feb	Eglin AFB,FL	100%		$7,666
5-Feb	Pittsburgh ,PA	100%		$7,918
6-Feb	New York, NY	54%	46%	$6,940
8-Feb	Denver, CO	100%		$7,644
8-Feb	Salt Lake City, UT	100%		$12,877
8-Feb	Jackson, WY	100%		$11,182
11-Feb	Milwaukee, WI	48%	52%	$9,360
16-Feb	Anchorage, AK	40%	60%	$9,181
27-Feb	Charlotte, NC			$7,048
	Totals through 2/28/02			**$414,843**

REV_00167569

Mrs. Bush's Travel FY 2002				
		Status		White House
Date	Destination	Official	Political	Travel Cost
3-Oct	Cincinnati, OH	100%		$339
16-Oct	Newark, NJ	100%		$1,790
18-Oct	Atlanta, GA	100%		$1,742
19-Oct	Baton Rouge, LA	100%		$1,568
30-Oct	New York, NY	100%		$1,652
16-Nov	Austin, TX	100%		$7,300
9-Jan	Topeka, KS	100%		$1,566
10-Jan	Houston, TX	100%		$1,915
11-Jan	Austin, TX	100%		$780
21-Jan	Atlanta, GA	100%		$1,060
10-Feb	Los Angeles, CA	100%		$5,021
	Total Costs through 2/28/02			**$24,733**

Hearing Record Reference for Question 53:

Question: For FY 2001, 2002 (estimate) and FY 2003 request, provide the total amount for outside consulting services, by appropriations account. Provide the specific definition of "consulting services" being used in response to this question as well as a description of the consulting service itself (dollar amount, purpose, deliverables, timeframe). If applicable, group the consulting services by category of service.

Answer: "Consulting services" or "Advisory and Assistance Services" as defined by OMB Circular A-11, Section 83, are services acquired by contract from non-Federal sources (that is, the private sector, foreign governments, State and local governments, tribes), as well as from other units within the Federal Government and consists of three types of services: 1) Management and professional support services; 2) Studies, analyses and evaluation; and 3) Engineering and technical services. Listed below are the EOP and other entities with Advisory and Assistance contracts.

White House Office

FY 2001 (Actual)

1. $15,300 for the Gift Unit of the White House Office of Correspondence. The deliverables included a final report recommending procedures, staffing and budget required for handling gifts to the White House from outside sources. This contract was from January - March, 2001.

REV_00167570

2. $13,200 for computer forensic consultant services to observe the Office of the Independent Counsel's use of a computer forensics technique. The consultant evaluated whether commonly accepted industry practices were being followed. The timeframe for this contract was from December, 2000 to January, 2001.
3. $1,650 for the compilation of records for the presidential library. This contract was during the month of January 2001.

FY 2002 as of April 5, 2002
There are currently no advisory and assistance contracts for the White House Office.

FY 2003 Request
1. $8,000,000 is the estimated requirement for the Office of Homeland Security advisory and assistance contracts. Exact contracts have not been determined at this time.

Office of Administration
FY 2001 (Actual)
1. $285,000 for an auditability assessment for the Chief Financial Officer operations. The deliverables included an assessment plan, auditability report and a gap analysis. The contract was awarded in late September 2001 with a period of performance through March 2002.
2. $196,379 for an assessment of the distributed computer environment including a final report. This contract lasted from August, 2001 to December 2001.
3. $12,600 for consulting services in support of workplace issues. The contract supported a National Partnership for Reinventing Government requirement to identify basic issues, best practices and barriers to success. The contract timeframe was from October 2000 to January 2001.
4. $143,000 for a study of options for an EOP financial management plan. The contract was awarded in September 2001 with a period of performance that extended through December 2001.

FY 2002 as of April 5, 2002
There are currently no advisory and assistance contracts for the Office of Administration.

FY 2003 Request
There are no advisory and assistance contracts planned for FY 2003.

Office of Management and Budget
FY 2001 (Actual)
1. $36,875 for information technology advisory services. The deliverables include providing expert IT research and advice as needed. The contract's duration is for the entire fiscal year.

FY 2002 as of April 5, 2002
1. $55,000 for information technology advisory services. The deliverables include providing expert IT research and advice as needed. The contract is a continuation of the same contract above and is for the entire fiscal year.

REV_00167571

FY 2003 Request

1. $55,000 for information technology advisory services. The deliverables include providing expert IT research and advice as needed. The contract is a continuation of the same contract above and is for the entire fiscal year.

Office of National Drug Control Policy

FY 2001 (Actual)

1. $2,250 for conference preparation support for an Anti-Doping agency meeting including overall logistical support. The contract was for 5 days in August, 2001.

FY 2002 as of April 5, 2002

1. $14,000 for office temps/consultants to assist with the ONDCP Strategy and Budget summary. This contract is part of an open blanket purchase agreement so there is no designated timeframe.

FY 2003 Request

1. $14,000 for office temps/consultants to assist with the ONDCP Strategy and Budget summary. This contract is part of an open blanket purchase agreement so there is no designated timeframe.

Council of Economic Advisers

FY 2001 (Actual)

1. $12,874 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from November 2000 to February 2001.

FY 2002 as of April 5, 2002

1. $14,276 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from November 2001 to February 2002.

FY 2003 Request

1. $15,000 estimated for editorial services for the Economic Report of the President. The consultant will provide expertise in editing the final publication. It is anticipated that the contract will last from November 2002 to February 2003.

Council on Environmental Quality

FY 2001 (Actual)

1. $17,150 for assistance in updating statistical tables, graphics, text and an annual report. The consultant started in FY 2000 and was extended through January 2001.

FY 2002 as of April 5, 2002

There are currently no advisory and assistance contracts for the Council on Environmental Quality.

REV_00167572

FY 2003 Request
There are no advisory and assistance contracts planned for FY 2003.

Office of the United States Trade Representative
FY 2001 (Actual)
1. $5,000 for a Staff Retreat for the Office of African Affairs to improve strategic planning, management, organization and teamwork in the office. The consultant served as retreat facilitator. The contract was for two days in March 2001.
2. $185,000 for information technology advisory services. Deliverables included a detailed assessment of USTR's information technology environment. The contract started in September 2001 and will be completed during FY 2002.

FY 2002 as of April 5, 2002
1. $20,000 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.
2. $5,000 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.

FY 2003 Request
There are no advisory and assistance contracts planned for FY 2003.

Hearing Record Reference for Question 56:

Question: For Object Class 25.2 for the White House Office, provide a detailed description of each project, program or initiative to be funded in support of the USA Freedom Corps Office.

Answer: The additional funds requested in Object Class 25.2 for the White House Office's USA Freedom Corps Office are primarily required to fund two program initiatives.

- Information Dissemination: The cost of this program initiative is estimated at $900,000 and will primarily consist of contracted services in partnership with other Freedom Corps coordinating council agencies. These contracted services will include both interactive website portals and telecommunication services such as information phone banks. These services will provide links and information concerning volunteer opportunities, Freedom Corps activities and other pertinent data.

- Recognition Materials: The cost of this program initiative is estimated at $275,000 and will primarily consist of contracted services to develop, provide and disseminate materials that will be used to recognize volunteer activities and accomplishments.

In addition, approximately $25,000 is required to fund increased general support Other Service costs within the White House that will occur as the result of the operations of this new office. These funds will be used for such things as office equipment maintenance contracts and GSA work requests.

REV_00167573

Hearing Record Reference for Question 63:

Issue: **White House Communications Agency**

Question: For FY 2001 and 2002 (estimates) itemize the reimbursements made to the WH Communications Agency.

Question: For FY 2003, what are the estimated reimbursements to the WH Communications Agency?

Answers to previous two questions: Reimbursements made to WHCA, for the non-telecommunications support they provide to the WHO, is broken down into two categories: personnel and audio visual support. The amount of planned reimbursement is initially set and agreed to via an inter-agency agreement (IAG). This IAG is then adjusted if needed as a result of actual execution. Reimbursement actuals and estimates follow:

	FY01 (actual)	FY02 (est.)	FY03 (est.)
Military Personnel	$3,946,779	$4,564,085	$4,754,346
Audiovisual Support	$3,514,528	$3,589.242	$3,953,848
Total	$7,461,307	$8,153,327	$8,708,194

Hearing Record Reference for Question 64:

Issue: **Office of Administration**

Question: Provide an organization chart for the Office of Administration, including the numbers of FTE in each office.

Answer: The Office of Administration organization chart provided below reflects the current streamlined organizational structure where the number of operating units reporting to the Director was reduced from 10 to 4. The FY 2003 FTE request includes an increase of 20 FTE over FY 2002 authorized levels. All additional FTEs support the ongoing requirements stemming from the events of September 11 including IT and facility support for dispersed offices, additional logistics responsibilities for the receipt and delivery of mail, and financial management support for the Office of Homeland Security (+7 Chief Operating Officer, +10 Chief Information Officer, +1 Chief Projects Officer, +2 Chief Financial Officer).

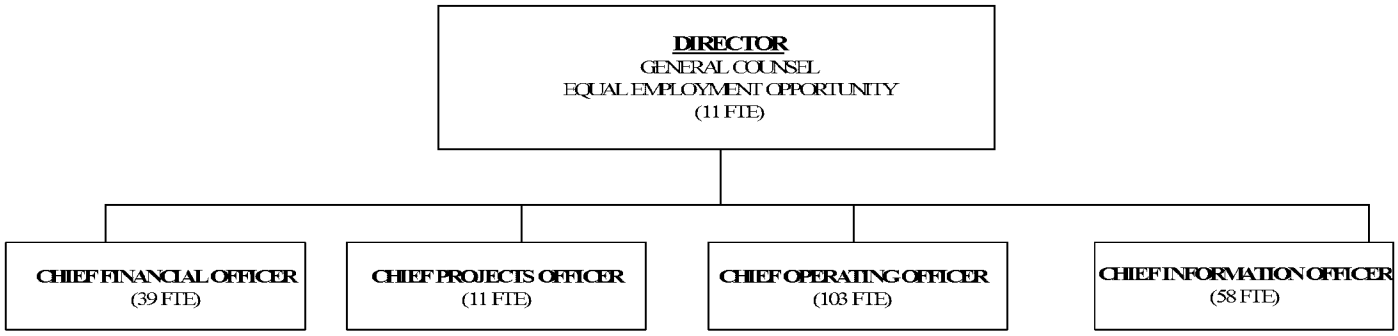
REV_00167574

Executive Office of the President

Office of Administration

Organization Chart

with FY 2003 Requested FTEs



Total 222 FTE

Hearing Record Reference for Question 72:

Issue: *White House Office*

Question: Provide a brief description of the duties and responsibilities of each office (e.g. Chief of Staff, Oval Office Operations, Office of the Press Secretary, Office of Homeland Security, etc.) within the appropriations account "White House Office". By office, provide obligations, FTE and OGE for FY 2001(actual) and FY 2002-2003 (estimated). Itemize OGE by category (e.g. reimbursable detailee, PSC, etc.).

Answer: The purpose of the White House Office is to provide advice and assistance to the President of the United States. This requires a range of professional and support staff. The White House Office is currently divided into the following major units:

Office of the Chief of Staff – Provides advice and assistance to the President and directs the activities of the White House staff.

Oval Office Operations – Provides assistance to the President by, among other things, managing the operations of the Oval Office.

REV_00167575

Advance – Provides advice and assistance to the President, principally by taking responsibility for the organization and implementation of the President and the First Lady's visits outside of the White House complex.

Cabinet Affairs – Provides advice and assistance to the President by, among other things, serving as the liaison between the White House and the President's Cabinet and agency heads.

Communications, Speechwriting, and Media Affairs – Provides advice and assistance to the President by, among other things, coordinating and supporting efforts to communicate and explain the President's views and decisions.

Office of Counsel to the President – Provides advice and assistance to the President and White House staff, principally on matters of law.

Faith-Based and Community Initiatives – Provides advice and assistance to the President by, among other things, coordinating and implementing the President's initiative to empower community and faith-based organizations to better confront poverty and social decay.

Office of the First Lady – Provides advice and assistance to Mrs. Bush in carrying out her official responsibilities as the First Lady.

Homeland Security – Provides advice and assistance to the President, principally by developing, coordinating, and advising the President on a comprehensive national strategy to secure the United States from terrorist threats or attacks and, in particular, by coordinating the Executive Branch's efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States. It has no operational role.

Intergovernmental Affairs – Provides advice and assistance to the President, principally by monitoring the views of State and local elected officials and serving as a liaison between the White House and the Executive Branch, on the one hand, and State and local governments, on the other.

Legislative Affairs – Provides advice and assistance to the President by, among other things, serving as the liaison between the White House and the Congress and developing the strategy used to promote and defend the President's legislative agenda.

Management and Administration – Provides advice and assistance to the President, principally by providing day-to-day administrative support to the White House staff.

Presidential Personnel – Provides advice and assistance to the President, principally by recruiting, screening, and recommending to the President qualified candidates for Presidential appointments to Federal departments and agencies.

REV_00167576

Office of the Press Secretary – Provides advice and assistance to the President, principally by providing information to the national and international press and by handling all national press inquiries such as interview requests, requests for transcripts or releases, and travel and scheduling information.

Scheduling – Provides advice and assistance to the President, principally by coordinating the planning, organization, and implementation of the President's daily and long-range schedules.

Office of the Staff Secretary – Provides advice and assistance to the President by, among other things, managing documents or other items addressed to the President, including correspondence and gifts.

Strategic Initiatives – Provides advice and assistance to the President by, among other things, coordinating the planning and development of a long-range strategy for achieving Presidential priorities; conducting research; and assisting in message development and other communications activities in conjunction with the Office of Public Liaison and the Office of Political Affairs.

USA Freedom Corps – Provides advice and assistance to the President on matters relating to enlisting Americans in public service at home and abroad; in particular, it provides advice and support on the work of, and recognizes participants in, three service efforts – the newly created Citizen Corps, AmeriCorps and Senior Corps, and the Peace Corps.

In addition to these major units, certain individuals – including certain individuals who work with the National Security Council, the Domestic Policy Council, and the National Economic Council – are also White House Office officers or employees, although the units within which they principally work are not themselves part of the White House Office.

The major units within the White House Office are administratively designated by the President's Chief of Staff and the number of employees within each unit and the work of each unit vary over time and as circumstances and needs change. Therefore, a detailed breakout of FTEs and OGEs by unit is not particularly meaningful. White House Office obligations, FTE and OGE are summarized below. The Office of Homeland Security is funded under the emergency supplemental this fiscal year, and therefore, the FY 2002 numbers below do not include OHS personnel or funding. FY 2002 estimates for the OHS are addressed separately in response to other committee questions.

REV_00167577

		FY01 act.		FY02 est.		FY03 est.
Total WHO – FTE		369		400		446
Total WHO – OGE		35		32*		127*
FY03 Congressional Request – FTE		400		400		446
(Dollars in thousands)						
Total WHO – Obligations		$53,084		$54,651		$84,579

* FY 2002 excludes the approximately 65 OGEs currently on board for the Office of Homeland Security.
The FY 2002 OGEs for the Office of Homeland Security are funded out of the emergency supplemental funding.
FY 2003 includes the 95 OGEs for the Office of Homeland Security requested in the FY 2003 Budget Request.

Issue: The Committee is resubmitting the following questions due to the lack of detailed information provided in the original responses

Question: Provide a brief description of the duties and responsibilities of each office (e.g. Chief of Staff, Oval Office Operations, Office of the Press Secretary, Office of Homeland Security, etc.) within the appropriations account "White House Office". By office, provide obligations, FTE and OGE for FY 2001(actual) and FY 2002-2003 (estimated). Itemize OGE by category (e.g. reimbursable detailee, PSC, etc.).

Answer: The purpose of the White House Office is to provide advice and assistance to the President of the United States. This requires a range of professional and support staff. The White House Office is currently divided into the following major units. A brief description of the duties and responsibilities of the major units is provided for the record.

Office of the Chief of Staff – Provides advice and assistance to the President and directs the activities of the White House staff.

Oval Office Operations – Provides assistance to the President by, among other things, managing the operations of the Oval Office.

Advance – Provides advice and assistance to the President, principally by taking responsibility for the organization and implementation of the President and the First Lady's visits outside of the White House complex.

Cabinet Affairs – Provides advice and assistance to the President by, among other things, serving as the liaison between the White House and the President's Cabinet and agency heads.

REV_00167578

Communications, Speechwriting, and Media Affairs – Provides advice and assistance to the President by, among other things, coordinating and supporting efforts to communicate and explain the President's views and decisions.

Office of Counsel to the President – Provides advice and assistance to the President and White House staff, principally on matters of law.

Faith-Based and Community Initiatives – Provides advice and assistance to the President by, among other things, coordinating and implementing the President's initiative to empower community and faith-based organizations to better confront poverty and social decay.

Office of the First Lady – Provides advice and assistance to Mrs. Bush in carrying out her official responsibilities as the First Lady.

Homeland Security – Provides advice and assistance to the President, principally by developing, coordinating, and advising the President on a comprehensive national strategy to secure the United States from terrorist threats or attacks and, in particular, by coordinating the Executive Branch's efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States.

Intergovernmental Affairs – Provides advice and assistance to the President, principally by monitoring the views of state and local elected officials and serving as a liaison between the White House and the Executive Branch, on the one hand, and state and local governments, on the other.

Legislative Affairs – Provides advice and assistance to the President by, among other things, serving as the liaison between the White House and the Congress and developing the strategy used to promote and defend the President's legislative agenda.

Management and Administration – Provides advice and assistance to the President, principally by providing day-to-day administrative support to the White House staff.

Presidential Personnel – Provides advice and assistance to the President, principally by recruiting, screening, and recommending qualified candidates for Presidential appointments to Federal departments and agencies.

Office of the Press Secretary – Provides advice and assistance to the President, principally by providing information to the national and international press and by handling all national press inquiries such as interview requests, requests for transcripts or releases, and travel and scheduling information.

REV_00167579

Scheduling – Provides advice and assistance to the President, principally by coordinating the planning, organization, and implementation of the President's daily and long-range schedules.

Office of the Staff Secretary – Provides advice and assistance to the President by, among other things, managing documents or other items addressed to the President, including correspondence and gifts.

Strategic Initiatives – Provides advice and assistance to the President by, among other things, coordinating the planning and development of a long-range strategy for achieving Presidential priorities; conducting research; and assisting in message development and other communications activities in conjunction with the Office of Public Liaison and the Office of Political Affairs.

USA Freedom Corps – Provides advice and assistance to the President on matters relating to enlisting Americans in public service at home and abroad; in particular, it provides advice and support on the work of, and recognizes participants in, three service efforts – the newly created Citizen Corps, AmeriCorps and Senior Corps, and the Peace Corps.

In addition to these major units, certain individuals – including certain individuals who work with the National Security Council, the Domestic Policy Council, and the National Economic Council – are also White House Office employees, although the units within which they principally work are not themselves part of the White House Office.

The major units within the White House Office are simply a creature of administrative convenience, and the number of employees within each unit and the work of each unit vary over time and as circumstances and needs change. Therefore a detailed breakout of FTEs and OGEs by unit is not particularly meaningful. Nevertheless, set forth below is a breakout based on current estimates and planning, which of course, may differ during the actual execution year.

	FY01	FY02	FY03
White House Office	**actual**	**est.**	**est.**
Office of Chief of Staff - FTE	11	12	12
Office of Chief of Staff - OGE (Agency Rep)	6	0	0
Oval Office Ops - FTE	5	5	5
Oval Office Ops - OGE	0	0	0
Advance - FTE	15	15	15
Advance - OGE	0	0	0
Office of Cabinet Affairs - FTE	6	6	6

REV_00167580

Office of Cabinet Affairs - OGE (Assignee)		3		1	1
Communications, Speechwriting & Media - FTE		32		35	35
Communications, Speechwriting & Media - OGE		0		0	0
Office of the Counsel to the President - FTE		17		19	19
Office of the Counsel to the President - OGE (Non-Reimb Detail)		4		2	2
Faith Based and Community Initiatives - FTE		7		8	8
Faith Based and Community Initiatives - OGE		0		0	0
Office of the First Lady - FTE		18		19	19
Office of the First Lady - OGE		0		0	0
Office of Homeland Security - FTE		0		0	40
Office of Homeland Security - OGE		0		0	95
Office of Intergovernmental Affairs - FTE		7		9	9
Office of Intergovernmental Affairs - OGE		0		0	0
Office of Legislative Affairs - FTE		23		24	24
Office of Legislative Affairs - OGE (Non-Reimb Detail)		0		1	1
Office of Legislative Affairs - OGE (Assignee)		0		1	1
Office of Management & Administration - FTE		34		38	38
Office of Management & Administration - OGE (Non-Reimb Detail)		1		0	0
Office of Management & Administration - OGE (HP Serv)		9		13	11
Office of Presidential Personnel - FTE		36		38	38
Office of Presidential Personnel - OGE (Assignee)		2		0	0
Office of Presidential Personnel - OGE (Reimb Detail)		0		1	1
Office of Presidential Personnel - OGE (Non-Reimb Detail)		1		1	1
Office of the Press Secretary - FTE		11		12	12
Office of the Press Secretary - OGE		0		0	0
Scheduling - FTE		10		11	11
Scheduling - OGE (HP Serv)		2		2	2
Office of the Staff Secretary - FTE		95		98	98

REV_00167581

Office of the Staff Secretary - OGE (Reimb Detail)	3	0	0
Office of the Staff Secretary - OGE (Non-Reimb Detail)	1	0	0
Office of Strategic Initiatives - FTE	34	35	35
Office of Strategic Initiatives - OGE (Reim Detail)	0	1	1
Office of Strategic Initiatives - OGE (Assignee)	0	1	1
USA Freedom Corps Office - FTE	0	5	6
USA Freedom Corps Office - OGE (Agency Rep)	0	1	1
USA Freedom Corps Office - OGE (Non-Reimb Detail)	0	2	2
USA Freedom Corps Office - OGE (Reimb Detail)	0	2	2
USA Freedom Corps Office - OGE (WH Fellow)	0	1	1
Other - FTE	8	11	16
Other - OGE (HP Serv)	2	3	3
Other - OGE (Agency Rep)	1	0	0
Other - OGE (Reimb Detail)	0	1	1

	FY01	**FY02**	**FY03**
	actual	**est.**	**est.**
Total WHO – FTE	369	400	446
Total WHO – OGE	35	34*	129**
FY03 Congressional Request – FTE	400	400	446

* FY 2002 excludes the approximately 65 OGEs currently on board for the Office of Homeland Security who are funded out of the FY 2002 Emergency Supplemental Appropriation. The WHO OGE number has been updated to reflect changes since we submitted the first set of responses to the questions for the record.

**FY 2003 includes the 95 OGEs for the Office of Homeland Security requested in the FY 2003 Budget Request.

Obligations (actual and estimated) are provided by individual White House office for FY 2001 thru FY 2003 in the table below. It must be emphasized that the FY 2002 and FY 2003 numbers are estimates only. As circumstances and needs change, so may these estimates in any actual year. Therefore, these estimates are not particularly meaningful.

REV_00167582

(dollars in thousands)					
White House Office	**FY01 act.**		**FY02 est.**		**FY03 est.**
Office of Chief of Staff	$1,473		$1,420		$1,474
Oval Office Ops	$550		$458		$476
Offices of Scheduling and Advance	$2,751		$3,398		$3,593
Office of Cabinet Affairs	$542		$592		$615
Communications, Speechwriting & Media	$2,202		$2,395		$2,486
Office of the Counsel to the President	$2,004		$1,895		$1,966
Faith Based and Community Initiatives	$366		$516		$536
Office of the First Lady	$1,354		$1,437		$1,492
Office of Homeland Security	$0		$0	*	$24,844
Office of Intergovernmental Affairs	$489		$518		$538
Office of Legislative Affairs	$1,870		$2,041		$2,118
Office of Management and Administration	$26,462		$25,735		$27,440
Office of Presidential Personnel	$2,137		$2,336		$2,425
Office of the Press Secretary	$1,062		$1,139		$1,182
Office of the Staff Secretary	$5,702		$6,232		$6,469
Office of Strategic Initiatives	$3,821		$4,167		$4,325
USA Freedom Corps Office - Obligations	$0		$372		$2,600
(dollars in thousands)					
Other Personnel Obligations - Prior administration org's	$299		$0		$0
Total WHO Obligations	$53,084		$54,651		$84,579

* FY 2002 obligations for the Office of Homeland Security are funded under the Emergency Supplemental Appropriation

It should be noted that a single budget is prepared for the WHO. This single budget is prepared based on a number of criteria such as: prior spending patterns, estimated requirements, OMB provided inflation factors, and the priorities of the President. During a given execution year, personnel costs are allocated based upon that year's sometimes unique staffing decisions. The remainder of the budget is allocated initially to two WHO offices. The travel budget is allocated in its entirety to Scheduling and Advance and obligated against this office if the travel is done in support of the President. Any travel undertaken that is not in support of a Presidential trip is charged to the office of the staff member in question. The remaining portion of the non-personnel, non-travel budget, including expenses for rent, supplies, equipment and other services is considered overhead and charged as such to the White House Office of Management and Administration.

The only exceptions are the Office of Homeland Security and the USA Freedom Corps Office. Since these are new offices requiring new budget authority, all new obligations (including travel and overhead) anticipated as a result of these offices are reflected in the FY 2003 estimates for these offices.

REV_00167583

Hearing Record Reference for question 73:

Question: Referencing the FTE/OGE tables that break-out personnel classifications by type of OGE, please explain why the number of "historically provided" employees decreased so significantly (from 25 to 1) for the Vice President's office between FY2001 and FY2002. Please provide the Subcommittee your definition of each OGE category listed on the table (agency reps, assignees, detailees, HP services, others, student volunteers, WH fellows, PMI). Please also provide a listing of the 15 "historically provided" White House Office positions identified on the FY2002 chart, the White House Office to which these positions are assigned, and the agency that pays the salary of each of the 15 positions.

Answer: The difference in the number of "Historically Provided" employees in the Vice President's Office from FY 2001 to FY 2002 is due to the redesignation of U.S. Senate employees. In FY 2001, the previous administration designated U.S. Senate employees in the Vice President's office as "Historically Provided". This was done in error and it has since been corrected. For FY 2002 and FY 2003, U. S. Senate employees are more accurately designated as "Other" since they do not fit into any other OGE category.

The following chart shows the 15 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 31, 2002*:

POSITION	OFFICE	HOME AGENCY
1. Deputy Executive Director	PFIAB*	Central Intelligence Agency
2. Administrative Services Spec.	PFIAB	Dept. of Defense
3. Administrative Assistant	PFIAB	U.S. Navy
4. Staff Assistant	Visitors Office	Dept. of Interior
5. Staff Assistant	Visitors Office	Dept. of Interior
6. Staff Assistant	Visitors Office	Dept. of Interior
7. Receptionist	Visitors Office	Dept. of Interior
8. President's Photographer	Photography Office	Defense Intelligence Agency
9. Visual Director	Photography Office	Defense Intelligence Agency
10. Photographer	Photography Office	Dept. of Defense
11. Official Photographer	Photography Office	Defense Intelligence Agency
12. Official Photographer	Photography Office	Dept. of Defense
13. Photo Editor	Photography Office	Dept. of Defense
14. Presidential Diarist	Scheduling Office	Nat'l Archive and Records Admin.
15. Asst. to the Presidential Diarist	Scheduling Office	Nat'l Archive and Records Admin.
16. Photographic Specialist**	Photography Office	Defense Intelligence Agency
17. Operations Manager**	Photography Office	Defense Intelligence Agency
18. Visual Information Specialist**	Photography Office	Defense Intelligence Agency

*PFIAB is the President's Foreign Intelligence Advisory Board
**Updated since the April 5, 2002 data was provided.

REV_00167584

Hearing Record Reference for Question 74:

The following chart shows the 15 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 31, 2002*:

POSITION	OFFICE	HOME AGENCY
1. Deputy Executive Director	PFIAB*	Central Intelligence Agency
2. Administrative Services Spec.	PFIAB	Dept. of Defense
3. Administrative Assistant	PFIAB	U.S. Navy
4. Staff Assistant	Visitors Office	Dept. of Interior
5. Staff Assistant	Visitors Office	Dept. of Interior
6. Staff Assistant	Visitors Office	Dept. of Interior
7. Receptionist	Visitors Office	Dept. of Interior
8. President's Photographer	Photography Office	Defense Intelligence Agency
9. Visual Director	Photography Office	Defense Intelligence Agency
10. Photographer	Photography Office	Dept. of Defense
11. Official Photographer	Photography Office	Defense Intelligence Agency
12. Official Photographer	Photography Office	Dept. of Defense
13. Photo Editor	Photography Office	Dept. of Defense
14. Presidential Diarist	Scheduling Office	Nat'l Archive and Records Admin.
15. Asst. to the Presidential Diarist	Scheduling Office	Nat'l Archive and Records Admin.
16. Photographic Specialist**	Photography Office	Defense Intelligence Agency
17. Operations Manager**	Photography Office	Defense Intelligence Agency
18. Visual Information Specialist**	Photography Office	Defense Intelligence Agency

*PFIAB is the President's Foreign Intelligence Advisory Board
**Updated since the April 5, 2002 data was provided.

Hearing Record Reference for Question 79:

Question: How many political appointees are currently employed within the Executive Office of the President?

Answer: The term "political appointees" is somewhat of a misnomer because it narrowly defines the type of employees authorized under Chapter 2 of Title 3 of the U.S. Code, for the White House Office, the Executive Residence, the Official Residence of the Vice President and the Office of Administration. These offices can hire personnel in various excepted service positions that are not subject to the rules of regular government employees. Many of these excepted service positions fall under the category of serving at the pleasure of the President while others do not. Using the term in the broadest possible sense, including all employees hired as Presidential Appointees, Administratively Determined, Non Career SES, or Schedule C's, the Executive Office of the President has the following number of political appointees directly hired

REV_00167585

within the EOP and serving in the EOP on detailed assignments from other agencies as of April 5, 2002:

As of April 5, 2002

Program	FY 2002 "POLITICAL APPOINTEES"					
	Admin. Determ.*	Schedule C	Non Career SES	Presidential Appointees	OGE** Political Appointees	TOTAL
White House Office	411				31	**442**
Special Assistance to the President	21				31	**52**
Official Residence of the Vice President		1				**1**
Office of Administration	8					**8**
Office of Policy Development	35				2	**37**
National Security Council				1	4	**5**
Council of Economic Advisers	18	3		3		**24**
Office of Management and Budget	2	23	13	5		**43**
Office of National Drug Control Policy		9	1	2		**12**
Executive Residence		94				**94**
Office of Science and Technology Policy		1	1	1	1	**4**
Council on Environmental Quality	6	4		1		**11**
U.S. Trade Representative	14	8	4	5		**31**
TOTAL	**515**	**143**	**19**	**18**	**69**	**764**

* Historically, Administratively Determined appointees within some agencies have served from one administration to another. Nevertheless, they serve at the pleasure of the entity head and may be terminated without cause.

** OGE = Other Government Employees

White House Office includes the Office of Homeland Security

Hearing Record Reference for Question 80:

Question: How many reimbursable details are currently employed within the Executive Office of the President?

Answer: There are currently 78 reimbursable detailees staffed within the Executive Office of the President including 63 reimbursable detailees for the Office of Homeland Security. The detailees for the Office of Homeland Security are funded through the FY 2002 Emergency Supplemental. Below is a listing of reimbursable detailees by agency as of April 5, 2002:

Agency	# Reimbursable Detailees
White House Office (incl. Homeland Security)	68
National Security Council	1
Office of Management and Budget	4
Office of National Drug Control Policy	1
Office of Science and Technology Policy	4
TOTAL	78

REV_00167586

Question: How many non-reimbursable details are currently employed within the Executive Office of the President?

Answer: There are currently 178 non-reimbursable detailees staffed within the Executive Office of the President. Below is a listing of non-reimbursable detailees by agency as of April 5, 2002:

Agency	# Non-Reimbursable Detailees
White House Office	8
National Security Council	108
Council of Economic Advisers	1
Office of Management and Budget	39
Office of National Drug Control Policy	1
United States Trade Representative	21
TOTAL	178

REV_00167587

Questions for the Record
Chairman Ernest J. Istook, Jr.
Hearing on the Executive Office of the President
April 30, 2003

Unobligated Balances (POC - Veronica Kitchen)

QUESTION 1: Please provide a listing of all unobligated balances, by fiscal year, appropriation and PPA, for all accounts within the Executive Office of the President. Please also show the original appropriation levels for these accounts.

Consolidation of Accounts (POC- Al Muhlbauer)

QUESTION 2: Sections 105 and 106 of title 3 U. S. Code describe expenses that may be accounted for solely on the certificate of the President and Vice President, respectively. Most of these expenses correspond to particular accounts. The Comptroller General may inspect documents related to these expenditures, but solely to verify that the expenditures were made for allowed purposes. When we asked last year how certified expenses would be identified for audit within a consolidated appropriation, the response was that the certification requirements would continue to be observed (p. 41). This does not answer the question of how the account structure will be maintained to provide an identifiable and auditable crosswalk between title 3-certifiable expenses and other expenses within the consolidated appropriation.

RESPONSE: As presented in the Congressional Budget Submission pages 4, 5, and 6, the Executive Office of the President (EOP) has established a Budget Activity structure that is consistent, beginning with the budget submission and extending through the accounting and reporting phases. The EOP accounting system will track and report obligations and expenditures consistent with this structure through the use of budget activity, program, sub-program, and line item codes assigned to each transaction. EOP has the ability to provide an identifiable and auditable crosswalk to the individual transactions authorized under sections 105 and 106 of Title 3 of the United States Code.

QUESTION 3: Please provide a listing of all appropriations language enacted in Public Law 108-7 which would be dropped in the proposed account consolidation, and provide a brief explanation of why that language is not necessary.

RESPONSE: The following appropriations in Public Law 108-7: Compensation of the President, White House Office Salaries and Expenses, Office of Homeland Security, Executive Residence at the White House, White House Repair and Restoration, Council of Economic Advisers, Office of Policy Development, National Security Council, Office of Administration would be combined into one appropriation entitled "The White House". The individual language in Public Law 108-7 for each of those appropriations would be removed. However, suggested language for the combined appropriation is

provided in the Appendix to the FY 2004 Budget (page 881) and states: "For the Compensation of the President and White House Office (including the Office of Homeland Security), Executive Residence, White House Repair and Restoration, Office of Policy and Development, Office of Administration, Council of Economic Advisers and the National Security Council, (hereinafter, and solely for the purposes of Title VI of this Act, "the White House"), $183,770,000, of which $24,803,000 shall remain available until expended, including compensation for the President, including an expense allowance of $50,000 as authorized by U.S.C. 102; for travel expense of $100,000 as authorized by 3 U.S.C. 103; for necessary expenses for the White House as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; for the necessary expenses of the Executive Residence at the White House as authorized by 3 U.S.C. 105,109,110, and 112-114; for the necessary expenses of the Offices and Councils in the White House account as authorized by 5 U.S.C. 3109, 15 U.S.C. 1021, and 3 U.S.C. 105 and 107 (including not to exceed $19,000 for official reception and representation expenses); and for the hire of passenger motor vehicles: Provide, That none of the funds made available to the President for official expenses shall be expended for any other purpose and any unused portion of such funds shall revert to the Treasury pursuant to 31 U.S.C. 1552: Provided further, That no such funds shall be considered as taxable to the President: Provided further, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities."

The suggested language, with the exception of a consolidated appropriation amount incorporates the same restrictions and clarifications as contained the language contained in the Public Law 108-7 for the appropriations being consolidated. The appropriations for Vice President's Salaries and Expense, Vice President's Residence Operating Expenses, Office of Management and Budget, Office of National Drug Control Policy, Unanticipated Needs will remain separate appropriations and will therefore not require any language changes as a result of the combination.

The White House (Consolidated Account) (POC – Chuck Sigman)

QUESTION 4: You are requesting $12,302,000 for object class 23.3 (communications, utilities, and miscellaneous services) in FY 2004. This is a large increase over the estimated $7,010,000 for FY 2003. What accounts for the increase?

RESPONSE: The FY 2004 White House (WH) consolidated budget net increase of $5,292,000 for communications is required in three major areas:

- **Most of the increase ($4,420,000) is needed in the OA Capital Investment Plan for offsite data center communications.** This facility will transition into full operation during FY 2004. The telecommunications between the offsite data center and the EOP complex are necessary to provide expanded, survivable and redundant connectivity, continuity of operations, disaster recovery and system support. These costs include funds for telecommunications lines, two additional

REV_00167589

DS-3 data paths, two T-1 lines, and backups to provide the communications bandwidth necessary for servicing the EOP complex.

- **$482,000 in the White House Office budget to provide a custom communications package which will enable the Homeland Security Council to establish a presence for its staff within the White House Situation Room.**

- **$100,000 for information assurance in the OA salaries/expenses budget.** In addition to the Offsite Data Center project, the OA FY 2004 budget also includes a request for an additional $100,000 for the information assurance program in the FY 2004 salaries/expenses account. This program will enable the CIO office to correct vulnerabilities in the EOP information security perimeter to secure internal systems, to perform real-time monitoring of perimeter network devices.

- **$151,000 in transfers of Lexis-Nexis database costs from nonconsolidated agencies to the consolidated White House appropriation.** The FY 2004 budget envisions that $72,000 will be transferred from USTR, $56,000 from ONDCP, $15,000 from OMB, and $8,000 from CEQ so that the EOP can have a single funding source for EOP-wide Lexis-Nexis service.

- **$139,000 for adjustments to maintain the same level of services for the base funding during FY 2004**. This is calculated on the basis of the $7,010,000 in FY 2003 funding.

Rental Pricing (POC – Chuck Sigman)

QUESTION 5: The FY 2004 justifications state that, over the past year, EOP, GSA, and OMB have undertaken an assessment of space rental costs for all EOP entities. The result of this analysis is that the FY 2004 request includes additional funding to accommodate an "EOP average" rental rate. Please provide details of how this analysis was conducted, and specify the estimated rental rates for the various EOP entities, as determined by this analysis.

RESPONSE: The EOP space rental project began during the summer of 2002 at the request of OMB's budget examiners, who were working to ensure that EOP agencies moved to the same market-based rent methodology used to determine space rental rates for GSA's other Federal properties. OMB requested that GSA and EOP review the space rental costs for each EOP property and each EOP agency so that the most up-to-date costs available were included in the FY 2004 budget proposal. Another significant concern in this project is to ensure that GSA will work with the EOP to ensure that the critical needs of the EOP are funded and executed.

As a result of the initial project, OA and GSA began a series of meetings which culminated in the space estimates which were included in the budget. GSA staff prepared a comprehensive listing of EOP properties, which itemized the space occupied by each

REV_00167590

EOP entity. This listing included commercial and government-owned space, current estimates of rentable square footage, and the annual rental rate per square foot. EOP staff provided updated estimates of the rentable square footage.

During this process, GSA blended the fair-market rates for the permanent EOP buildings into a single blended rate. This was done to simplify the administrative work when EOP staff are relocated. This is especially needed in the post-9/11 environment's unusually high number of large-scale EOP agency relocations driven by security considerations as well as the result of the legislation creating the Department of Homeland Security. The EOP average rental rate for Federally-owned properties (New Executive Office Building (NEOB), Eisenhower Executive Office Building (OEOB), White House, Winder Building, Jackson Place) is $29.60 annually per square foot. GSA adds an additional building security charge for buildings which are not protected by the US Secret Service. The average rental rates used to determine each EOP entity's budget estimate for office space are as follows:

EOP Entity	Locations	Owned or Leased	Average Rental Rate
OMB	EEOB, NEOB	owned	$29.60/sf
CEQ	EEOB	owned	$29.60
	718 Jackson Place	owned	$30.71
	722 Jackson Place	owned	$31.50
	730 Jackson Place	owned	$29.90
CEA	EEOB	owned	$29.60
NSC	EEOB	owned	$29.60
OPD	EEOB	owned	$29.60
OVP	EEOB	owned	$29.60
	Westbank Center, WY	leased	$21.80
WHO	1800 G Street	leased	$34.56
	EEOB, NEOB	owned	$29.60
	708 Jackson Place	owned	$29.60
	736 Jackson Place	owned	$30.58
USTR	Winder	owned	$30.50
	1724 F Street	owned	$37.38
	NEOB	owned	$29.60
OA	1425 New York Ave	leased	$51.89

REV_00167591

	1800 G Street	leased	$31.53-$37.37
	EEOB, NEOB	owned	$29.60
	1724 F Street	owned	$37.38
OSTP	1801 Pennsylvania Avenue	leased	$50.55
	EEOB	owned	$29.60
ONDCP	750 17th Street	leased	$45.78
HSC	EEOB	leased	$29.60

EOP Staffing (POC – Jon Laurich)

QUESTION 6: By EOP office, please provide FTE and OGE, similar in format to the tables found on pages 111 and 112 of last year's hearing record. Please provide data for FY 2002 through 2004.

RESPONSE: The following tables provide the total FY 2002 actual, FY 2003 and FY 2004, estimates for full time equivalents (FTE) and other government employees (OGE) for each EOP and other entity as of May 5, 2003. The OGE numbers are itemized by category on the following page. The FY 2003 numbers have the Office of Homeland Security in a separate category, which accordingly decreased the White House numbers. The FY 2003 and FY 2004 numbers are estimates only and are therefore subject to change.

REV_00167592

Office	FY 2002 Actual FTE and OGE			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office*	400	440	134	574
Special Assistance to the President	24	23	40	63
Official Residence of the Vice President	1	1	0	1
Office of Administration	202	204	3	207
Office of Policy Development	35	31	7	38
National Security Council	60	62	152	214
Council of Economic Advisers	35	36	10	46
Office of Management and Budget	527	507	70	577
Office of National Drug Control Policy	115	138	34	172
Executive Residence	95	92	0	92
Office of Science and Technology Policy	40	26	16	42
Council on Environmental Quality	24	22	14	36
U.S Trade Representative	203	194	24	218
TOTAL	**1761**	**1776**	**504**	**2280**

Office	*as of May 5, 2003*			
	FY 2003 FTE and OGE Estimate			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office	406		46	452
Office of Homeland Security	40		31	71
Special Assistance to the President	24		54	78
Official Residence of the Vice President	1		0	1
Office of Administration	222		1	223
Office of Policy Development	35		7	42
National Security Council	71		151	222
Council of Economic Advisers	35		9	44
Office of Management and Budget	510		63	573
Office of National Drug Control Policy	115		51	166
Executive Residence	95		0	95
Office of Science and Technology Policy	40		20	60
Council on Environmental Quality	24		14	38
U.S Trade Representative	209		28	237
TOTAL	**1827**		**475**	**2302**

Office	FY 2004 FTE and OGE Estimate			
	AUTH FTE	ACTUAL FTE	OGE **	TOTAL
White House Office	406		46	452
Office of Homeland Security	40		31	71
Special Assistance to the President	24		54	78
Official Residence of the Vice President	1		0	1
Office of Administration	222		1	223
Office of Policy Development	35		7	42
National Security Council	71		151	222
Council of Economic Advisers	35		9	44
Office of Management and Budget	516		63	579
Office of National Drug Control Policy	125		51	176
Executive Residence	95		0	95
Office of Science and Technology Policy	40		20	60
Council on Environmental Quality	24		14	38
U.S Trade Representative	217		28	245
TOTAL	**1851**		**475**	**2326**

* For FY 2002, the White House Office included OGEs and FTEs for the Office of Homeland Security which were funded from the Emergency Appropriation.

REV_00167593

R = Reimbursable
N = Non Reimbursable

FY 2002 Actual FTE and OGE

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**440**			1	20	79	9	1	17		4				3			81	53	**134**
Special Assistance to the President	**23**				7		1		6		26								40	**40**
Official Residence of the Vice President	**1**																			
Office of Administration	**204**					2					1							2	1	**3**
Office of Policy Development	**31**		1		3		3												7	**7**
National Security Council	**62**				38	1	106		4		3							1	151	**152**
Council of Economic Advisers	**36**					2	1			3	1		3					5	5	**10**
Office of Management and Budget	**507**					6	53						11					6	64	**70**
Office of National Drug Control Policy	**138**		13		16					3			2					3	31	**34**
Executive Residence	**92**																			
Office of Science and Technology Policy	**26**		6			4	1			2	3							6	10	**16**
Council on Environmental Quality	**22**		11				2										1		14	**14**
U.S Trade Representative	**194**						21				1				2				24	**24**
TOTAL	**1776**		**31**	**1**	**84**	**94**	**197**	**1**	**27**	**8**	**39**		**16**		**5**		**1**	**104**	**400**	**504**

*For FY02, the White House includes 65 OGE's for the Office of Homeland Security, which are funded from the Emergency Appropriation

R = Reimbursable
N = Non Reimbursable

FY 2003 Estimate FTE and OGE *as of May 5, 2003*

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**406**				7	5	11		19		1				2		1	5	41	**46**
Office of Homeland Security	**40**			2	1	23	3				1			1				26	5	**31**
Special Assistance to the President	**24**		3		7		1		18		25								54	**54**
Official Residence of the Vice President	**1**																			
Office of Administration	**222**										1								1	**1**
Office of Policy Development	**35**		1		3	1	1										1	1	6	**7**
National Security Council	**71**				36	4	104		4		3							4	147	**151**
Council of Economic Advisers	**35**					2	2			2			2				1	4	5	**9**
Office of Management and Budget	**499**					3	54						6					3	60	**63**
Office of National Drug Control Policy	**115**		19		14		4			3	9						2	3	48	**51**
Executive Residence	**95**																			
Office of Science and Technology Policy	**40**		6			2	3			2	5		1		1			4	16	**20**
Council on Environmental Quality	**24**		10				3				1								14	**14**
U.S Trade Representative	**209**						25				1				2				28	**28**
TOTAL	**1816**		**39**	**2**	**68**	**40**	**211**		**41**	**7**	**47**		**9**	**1**	**5**		**5**	**50**	**425**	**475**

R = Reimbursable
N = Non Reimbursable

FY 2004 Estimate FTE and OGE

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**406**				7	5	11		19		1				2		1	5	41	**46**
Office of Homeland Security	**40**			2	1	23	3				1			1				26	5	**31**
Special Assistance to the President	**24**		3		7		1		18		25								54	**54**
Official Residence of the Vice President	**1**																			
Office of Administration	**222**										1								1	**1**
Office of Policy Development	**35**		1		3	1	1										1	1	6	**7**
National Security Council	**71**				36	4	104		4		3							4	147	**151**
Council of Economic Advisers	**35**					2	2			2			2				1	4	5	**9**
Office of Management and Budget	**516**					3	54						6					3	60	**63**
Office of National Drug Control Policy	**125**		19		14		4			3	9						2	3	48	**51**
Executive Residence	**95**																			
Office of Science and Technology Policy	**40**		6			2	3			2	5		1		1			4	16	**20**
Council on Environmental Quality	**24**		10				3				1								14	**14**
U.S Trade Representative	**217**						25				1				2				28	**28**
TOTAL	**1851**		**39**	**2**	**68**	**40**	**211**		**41**	**7**	**47**		**9**	**1**	**5**		**5**	**50**	**425**	**475**

REV_00167594

OA Staffing (POC – Jon Laurich)

QUESTION 7: By OA office, please provide FTE and OGE, similar in format to the tables found on page 113 of last year's hearing record. Please provide data for FY 2002 through 2004.

RESPONSE: The following table provides the FTE and OGE for the Office of Administration.

R = Reimbursable N = Non Reimbursable	FY 2002 FTE and OGE Actuals							
		Others		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OA Director	12							
OA Chief Operating Officer	111							
OA Chief Financial Officer	30	1	1			1	1	2
OA Chief Projects Officer	5							
OA Chief Information Officer	46	1				1		1
TOTAL	**204**	**2**	**1**			**2**	**1**	**3**

as of May 5, 2003

R = Reimbursable N = Non Reimbursable	FY 2003 FTE and OGE Estimates							
		Others		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OA Director	11							
OA Chief Operating Officer	103				2		1	1
OA Chief Financial Officer	39		1				1	1
OA Chief Projects Officer	11							
OA Chief Information Officer	58				2			
TOTAL	**222**		**1**		**4**		**2**	**2**

R = Reimbursable N = Non Reimbursable	FY 2004 FTE and OGE Estimates							
		Others		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OA Director	11							
OA Chief Operating Officer	103				4		1	1
OA Chief Financial Officer	39		1		2		3	3
OA Chief Projects Officer	11							
OA Chief Information Officer	58				4		4	4
TOTAL	**222**		**1**		**10**		**8**	**8**

OMB Staffing (POC – Jon Laurich/Brian Gillis)

QUESTION 8: By OMB office, please provide FTE and OGE, similar in format to the tables found on page 114 of last year's hearing record. Please provide data for FY 2002 through 2004.

RESPONSE: The charts below display the FTE and OGE breakout by OMB division for FY 2002-2004. Most detailees and student volunteers are used during the peak budget production season. During the rest of the year, the OGE total can fall below 20.

REV_00167595

R = Reimbursable N = Non Reimbursable	FY 2002 FTE and OGE Actuals							
		Detailees		Student Volunteers		OGE Grand Totals		
	FTE	R	**N**	R	**N**	R	**N**	**R + N**
OMB-Wide Offices	159	1	19		2	1	21	22
General Government Programs	62		1				1	1
Human Resource Programs	71		4		1		5	5
National Security Programs	64	1	5		1	1	6	7
Natural Resource Programs	54		8		1		9	9
Office of Federal Financial Management	21	3	3			3	3	6
Office of Federal Procurement Policy	22	1	2		1	1	3	4
Office of Information and Regulatory Affairs	54		11		5		16	16
TOTAL	**507**	**6**	**53**		**11**	**6**	**64**	**70**

as of May 5, 2003

R = Reimbursable N = Non Reimbursable	FY 2003 Estimate FTE and OGE							
		Detailees		Student Volunteers		OGE Grand Totals		
	FTE	R	**N**	R	**N**	R	**N**	**R + N**
OMB-Wide Offices	152	1	22		2	1	24	25
General Government Programs	60		3		1		4	4
Human Resource Programs	68		5				5	5
National Security Programs	61		9				9	9
Natural Resource Programs	60		5				5	5
Office of Federal Financial Management	21	1				1		1
Office of Federal Procurement Policy	20							
Office of Information and Regulatory Affairs	57	1	10		3	1	13	14
TOTAL	**499**	**3**	**54**		**6**	**3**	**60**	**63**

FY 2002 does not include staff temporarily detailed to the Transition Planning Office.

R = Reimbursable N = Non Reimbursable	FY 2004 Estimate FTE and OGE							
		Detailees		Student Volunteers		OGE Grand Totals		
	FTE	R	**N**	R	**N**	R	**N**	**R + N**
OMB-Wide Offices	157	1	22		2	1	24	25
General Government Programs	63		3		1		4	4
Human Resource Programs	75		5				5	5
National Security Programs	63		9				9	9
Natural Resource Programs	63		5				5	5
Office of Federal Financial Management	20	1				1		1
Office of Federal Procurement Policy	21							
Office of Information and Regulatory Affairs	54	1	10		3	1	13	14
TOTAL	**516**	**3**	**54**		**6**	**3**	**60**	**63**

REV_00167596

Office of Homeland Security (POC – Paul Ehrhardt)

QUESTION 9: Your FY 2004 budget requests $8,331,000 for the Office of Homeland Security. Please provide an object class breakdown of those costs and compare them to FY 2003 estimated levels.

RESPONSE: An object class breakdown of estimated HSC costs in FY 2003 and FY 2004 is provided in the table below. Please note that the FY 2003 estimate covers only costs incurred after the enactment of the FY 2003 appropriation on February 20, 2003. Unlike other EOP entities which operated under continuing resolutions between October 1, 2003 and February 20, 2003, the Office of Homeland Security was not permitted to utilize the CR funding mechanism but instead continued to charge FY 2003 expenses against the no-year emergency funding (provided in FY2002) until the FY 2003 appropriation was enacted. Therefore the FY 2003 estimate reflects only seven months of activity, whereas the FY 2004 Request needs to cover HSC expenses for the full 12 months next fiscal year.

	FY 2003 Appropriation	FY 2003 Estimate*	FY 2004 Request	2004 Request - 2003 Estimate
Homeland Security Council:				
Personnel	$4,403	$2,800	$5,550	$2,750
Travel	$300	$60	$588	$528
Transportation of Things	$24	$24	$10	-$14
Rent	$0	$0	$200	$200
Communications, Utilities, and Misc.	$209	$50	$1,080	$1,030
Printing and Reproduction	$69	$69	$50	-$19
Other Services	$3,267	$1,267	$528	-$739
Supplies and Materials	$0		$175	$175
Equipment	$0	$50	$150	$100
Subtotal	$8,272	$4,320	$8,331	$4,011

* FY 2003 Estimate covers only seven months vs. FY 2004 Request covering full 12 months

QUESTION 10: In particular, how much are you requesting in FY 2004 for professional contracts, and how does that compare to the estimated FY 2003 level?

RESPONSE: In FY 2004 HSC is requesting $528,000 for Other Services compared with $3,267,000 appropriated for the same category in FY 2003. The decrease is due to reduced requirements of the ongoing missions of the Office of Homeland Security after start-up costs and emergency requirements were met with larger budgets in FY 2002 and FY 2003. Anticipated contractual needs in FY 2004 include maintenance, upgrades, and technical support for the classified computer network that will be extended to HSC staff in FY 2003.

QUESTION 11: How many FTE and FTP are you requesting for this office in FY 2004, and how do these figures compare to current FY 2003 estimates and actuals for FY 2002?

REV_00167597

RESPONSE: HSC is requesting resources to support 40 direct hire FTE and 26 Other Government Employees on its staff to fill the 66 positions HSC is projecting for FY 2004.

Office of Homeland Security / Homeland Security Council Personnel

	FY 2002 Actual	FY 2003 Estimate	FY 2004 Request
Direct Hire FTE	0	20	40
Other Government Employees (EOY headcount)	89	26	26
Total Personnel	89	46	66

QUESTION 12: How many positions in the office are filled today, and how many are vacant?

RESPONSE: As of May 15, 2003, 51 positions are filled and 15 are vacant.

QUESTION 13: Please provide a table comparing the number of detailees to OHS, by federal agency, for each of the fiscal years 2002 through 2004 (estimated).

RESPONSE: The table below provides the number other government employees assigned to the Homeland Security Council.

REV_00167598

Number of Other Government Employees Assigned to OHS/HSC
(Figures show end of year headcount)

	FY 2002	FY 2003 est.	FY 2004 est.
CIA	7	2	3
DHS	0	6	10
FEMA	3	0	0
USCG	19	0	0
US Customs	1	0	0
USSS	2	0	0
DOJ	10	1	5
DOC	5	1	0
DOD	12	3	2
DOE	1	1	1
DOI	3	1	0
DOL	1	0	0
DOS	4	2	1
DOT	1	0	1
EOP	1	1	0
EPA	1	2	0
FAA	1	1	0
GSA	1	0	0
HHS	3	3	2
HUD	3	0	0
NASA	1	0	0
NIMA	1	0	0
NRC	0	0	0
NSA	3	1	0
SBA	1	0	0
Sentencing Commission	1	0	0
SSA	1	0	0
Treasury	1	0	0
USDA	1	1	1
Total	89	26	26

QUESTION 14: How many detailees are on board today?

RESPONSE: As of May 15, 2003, there are 18 detailees on board the Homeland Security Council.

QUESTION 15: Please provide a list of all positions in OHS, showing the incumbent's name, rate of annual salary, and position title. Please annotate any positions which are currently vacant.

RESPONSE: The President is authorized to appoint and fix pay of any member of the White House Staff without regard to any provision of law related to employees of the federal government. The individuals employed by the President represent a broad spectrum of experience and expertise and have been engaged to perform tasks ranging from simple to the complex. These individuals are being compensated at rates

REV_00167599

commensurate with their responsibilities and experience. The table below lists all the positions in the HSC and the positions which are currently vacant. The salary totals provided are for White House Full Time Employees and personnel detailed to the HSC.

Homeland Security Council Staff Positions		
	White House	Agency
Title	Compensation	Compensation
Office of the Advisor		
Assistant to the President for Homeland Security and Homeland Security Advisor (Acting Until June 1)		
Executive Assistant	VACANT	
Special Assistant to the APHS		
Staff Assistant		
Deputy Assistant to the President and Deputy Homeland Security Advisor		
Special Assistant to the Deputy		
Staff Assistant		
Director, Programs and Resources		
Budget Assistant	VACANT	
Military Programs		
Special Assistant to the President (SAP) for Military Programs	VACANT	
Director, Military Programs		
Staff Assistant	VACANT	
Executive Secretary		
Executive Secretary		
Executive Assistant		
Deputy Executive Secretary	VACANT	
Special Assistant to the Executive Secretary		
Director for Administration and Support		
Associate Director for Correspondence and Records Management		
Special Assistant, Events		
Associate Director for Security		
Staff Assistant	VACANT	
Staff Assistant	VACANT	
General Counsel		
Senior Associate Counsel to the President and General Counsel for Homeland Security		
Deputy Counsel		
Associate Counsel		
Associate Counsel		

REV_00167600

Staff Assistant		
Legistative Affairs		
Special Assistant to the President for Legislative Affairs		
Legislative Assistant		
Intergovernmental Affairs		
Associate Director, Intergovernmental Affairs	VACANT	
Director, HSC Public Liaison		
Domestic Counterterrorism		
Special Assistant to the President and Senior Director, Domestic Counterterrorism	VACANT	
Special Assistant to the Director, Domestic Counterterrorism		
DCI Representative to Homeland Security		
Director, Incident Management		
Director, Incident Management		
Director, Investigation and Law Enforcement		
Director, Domestic Counterterrorism Policy		
Director, Plans and Excercises		
BioDefense		
Special Assistant to the President and Senior Director, Biodefense		
Staff Assistant		
Director, Biodefense		
Director, Biodefense		
Director, Food, Agriculture and Water Safety		
Critical Infrastructure Protection		
Special Assistant to the President and Senior Director, Critical Infrastructure Protection		
Special Assistant		
Director, Cyber IP	VACANT	
Director, Cyber IP		
Director, Physical IP		
Director, Physical IP		
Director, IT Architecture	VACANT	
Response and Recovery		
Senior Director, Response and Recovery		
Staff Assistant		
Director, First Responder Program	VACANT	
Director for Recovery		
Director for Readiness and Training		

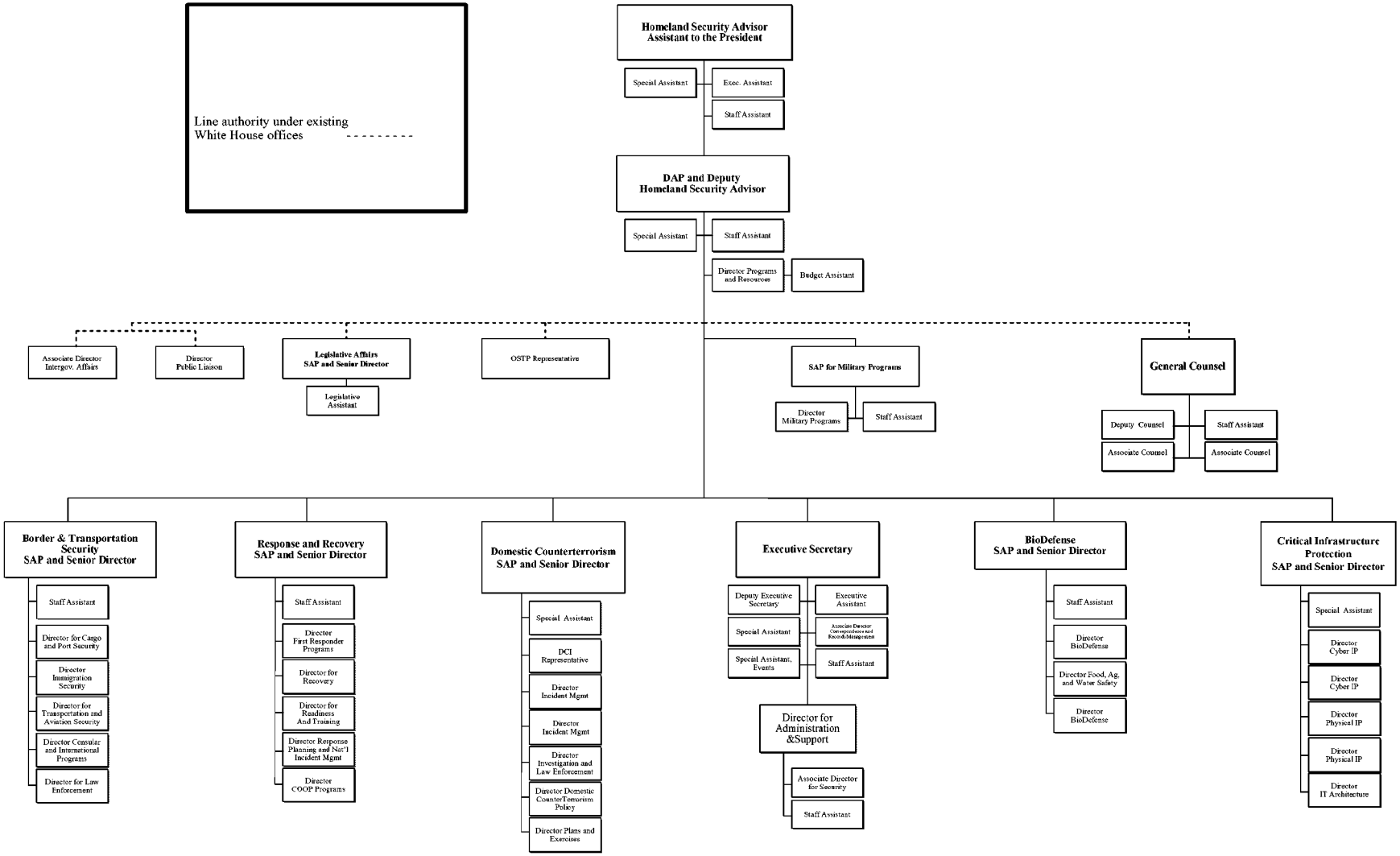
REV_00167601

Director, Response Planning and Incident Management		
Director, COOP Programs	VACANT	
Border and Transportation Security		
Special Assistant to the President and Senior Director for Border and Transporation Security		
Staff Assistant		
Director, Cargo and Port Security	VACANT	
Director of Immigration Security		
Director for Transportation and Aviation Security		
Director for Consular and International Programs		
Director for Law Enforcement		
Others		
Executive Assistant		
Special Assistant to the Deputy Director		
Office of Science and Technology Policy Representative	VACANT	
TOTAL	**$1,444,500**	**$1,747,209**

QUESTION 16: Please update the OHS organizational chart found on page 50 of last year's hearing record.

RESPONSE: The chart below shows the current Homeland Security Council's organization.

REV_00167602



REV_00167603

QUESTION 17: Please update the information shown on pages 44 through 47 of last year's hearing record concerning Office of Homeland Security travel. In addition to the information provided last year, please provide a brief descriptor of the travel purpose.

RESPONSE: The table below lists the travel for the Homeland Security Council.

Homeland Security Council Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Staff Position**
04/02/02	Los Angeles, CA	1	$1,185.31	Special Assistant to the President and Executive Director, PHSAC
04/04/02	Miami, FL	2	$1,363.07	Special Assistant to the President and Senior Director for Policy and Plans, Special Assistant
04/05/02	Harrisburg, PA	1	$444.41	Communications Assistant
04/07/02	Annapolis, MD	1	$63.14	Communications Aide to the Assistant to the President for Homeland Security
04/07/02	Atlanta, GA	1	$614.37	Director for Weapons of Mass Destruction
04/08/02	Chicago, IL	2	$1,702.90	Communication Coordinator, Operations Officer
04/08/02	Manhattan, NY	1	$811.62	Director for Critical Recovery Infrastructure
04/09/02	Chicago, IL	6	$2,071.26	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security, Special Assistant to the President for Public Liaison,
				Special Assistant to the President and Director of Communications, Legislative Assistant,
				Communications Aide to the Assistant to the President for Homeland Security
04/11/02	Charleston, SC	2	$1,858.88	Special Assistant to the President and Senior Director for Policy and Plans, Associate Director
04/11/02	Chicago, IL	1	$300.63	Communications Assistant
04/11/02	Harrisburg, PA	3	$1,485.37	Senior Director for Intergovernmental Affairs, Communications Aide to the Assistant to the President for Homeland Security, Communications Assistant
04/12/02	Oklahoma City, OK	1	$528.88	Director for Medical and Public Health Security
04/15/02	Baltimore, MD	1	$134.10	Director for Weapons of Mass Destruction
04/15/02	Boston, MA	1	$1,249.42	Director, Economic Consequence Management
04/15/02	Detroit, MI	1	$1,262.38	Communications Assistant

04/16/02	Chicago, IL	3	$2,075.41	Special Assistant to the President and Senior Director for Policy and Plans, Senior Director for Response and Recovery, Special Assistant
04/16/02	Detroit, MI	2	$400.17	Special Assistant to the President for Public Liaison, Communications Aide to the Assistant to the President for Homeland Security
04/16/02	Detroit, MI	1	$0.00	Assistant to the President for Homeland Security
04/18/02	Erie, PA/Harrisburg, PA	1	$412.96	Communications Assistant
04/19/02	Harrisburg, PA	1	$856.64	Communications Assistant
04/20/02	Houston, TX	1	$612.48	Director, Policy and Plans
04/24/02	Phoenix, AZ	1	$2,023.87	Communications Aide to the Assistant to the President for Homeland Security
04/24/02	Toronto, CAN	1	$626.69	Director, Costal and Border Security
04/28/02	New Orleans, LA	7	$7,371.94	Communications Assistant, Special Assistant to the President for Public Liaison, Special Assistant to the Assistant to the President for Homeland Security,
				Deputy Press Secretary, Assistant to the President for Homeland Security, Communications Assistant, Communications Coordinator
04/30/02	Boston, MA	1	$87.00	Special Assistant to the President for Public Liaison
05/01/02	Los Angeles, CA	1	$668.61	Senior Director for Intergovernmental Affairs
05/03/02	Columbus, OH/Pittsburg, PA	2	$1,259.20	Communications Coordinator, Communications Assistant
05/06/02	Albuquerque, NM	1	$625.90	Director for Critical Recovery Infrastructure
05/06/02	Bangor, ME	1	$465.50	Senior Director for Intergovernmental Affairs
05/07/02	Denver, CO	1	$426.71	Special Assistant to the President and Senior Director for Information Integration
05/07/02	Sacramento, CA	2	$1,222.88	Senior Director for Response and Recovery, Special Assistant
05/08/02	Burlington, VT	1	$979.84	Director, Policy and Plans
05/08/02	San Diego, CA	1	$805.50	Director of Operations
05/08/02	Wichita, KS	1	$434.21	Senior Director for Intergovernmental Affairs
05/10/02	Harrisburg, PA	1	$521.21	Communications Assistant
05/12/02	Charleston, SC	1	$842.93	Senior Director for Response and Recovery
05/14/02	Gulfport, MS	1	$469.12	Director, Protection and Prevention
05/15/02	Buffalo, NY	8	$4,789.28	Assistant to the President for Homeland Secuirty, Special Assistant to the President for Public Liaison, Operations Officer, Operations Officer, Operations Officer,

REV_00167605

				Special Assistant to the Assistant to the President for Homeland Security, Director, Policy and Plans, Special Assistant to the President and Director of Communications,
				Communications aide to the Assistant to the President for Homeland Security, Communications Assistant
05/18/02	Pittsburgh, PA	3	$1,001.63	Assistant to the President for Homeland Security, Assistant Press Secretary, Special Assistant to the President for Homeland Security
05/20/02	Jackson, WY	1	$1,543.30	Special Assistant to the Deputy Assistant to the President for Homeland Security
05/21/02	Washington, DC	1	$709.50	Special Assistant
05/22/02	Dayton, OH	1	$688.76	Director, Protection and Prevention
05/30/02	Baltimore, MD	1	$434.30	Director, State and Local Affairs
05/30/02	Hershey, PA	1	$160.09	Special Assistant to the President for Public Liaison
05/31/02	Harrisburg, PA	1	$741.56	Communications Assistant
06/04/02	Manhattan, NY	4	$1,085.44	Assistant to the President for Homeland Security, Special Assistant to the President and Executive Director, PHSAC,
				Director, External Affairs, Communications Assistant
06/07/02	Harrisburg, PA	1	$563.64	Operations Officer
06/10/02	Manhattan, NY	2	$715.21	Senior Director for Response and Recovery, Senior Director for Protection and Provention
06/10/02	Sun Valley, ID	1	$1,709.80	Director for Readiness
06/10/02	Washington, DC	2	$1,205.50	Senior Director for Protection and Prevention and Senior Director for Response and Recovery
06/11/02	Kansas City, MO	1	$0.00	Assistant to the President for Homeland Security
06/11/02	Washington, DC	5	$3,655.99	President's Homeland Security Advisory Board
06/12/02	Chicago, IL	1	$623.05	Senior Director for Response and Recovery
06/14/02	Albuquerque,NM	1	$971.26	Senior Director for Protection and Prevention
06/14/02	Harrisburg, PA	2	$912.67	Communications Assistant, Communications Aide to the Assistant to the President for Homeland Security
06/16/02	Erie, PA	1	$413.73	Operations Officer
06/16/02	Madison, WI	6	$2,071.19	Communications Assistant, Senior Director for Intergovernmental Affairs, Assistant to the President for Homeland Security,
				Special Assistant to the President for Homeland Security, Director of State and Local Affairs

REV_00167606

06/17/02	Mexico City, Mexico	1	$1,163.26	Director for Critical Infrastructure Protection
06/17/02	New Orleans, LA	1	$884.36	Director, Training and Exercises
06/19/02	Virginia Beach, VA	1	$351.28	Communication Aide to the Assistant to the President for Homeland Security
06/20/02	Berkeley Springs, WV	1	$27.00	Deputy Assistant to the President for Homeland Securtiy
06/21/02	Tulsa, OK	1	$488.00	Senior Director for Intergovernmental Affairs
06/23/02	Phoenix, AZ	1	$1,036.22	Deputy Assistant to the President for Homeland Securtiy
06/24/02	Other, Canada	1	$494.40	Special Assistant to the President and Director of Communications
06/27/02	Albuquerque,NM	1	$871.00	Senior Director for Intergovernmental Affairs
06/27/02	Cambridge, MA	1	$876.11	Senior Director for Response and Recovery
06/27/02	Manhattan, NY	2	$308.70	Senior Director for Protection and Prevention, Director for Weapons of Mass Destruction
06/27/02	Other, Canada	2	$960.34	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
06/27/02	Toronto, Canada	1	$1,447.49	Communications Assistant
06/28/02	Buffalo, NY	1	$1,001.22	Special Assistant to the President for Public Liaison
06/30/02	Erie, PA	1	$895.44	Communications Assistant
06/30/02	Washington, DC	7	$5,072.38	President's Homeland Security Advisory Board
07/04/02	Erie, PA	1	$1,005.65	Communication Aide to the Assistant to the President for Homeland Security
07/10/02	Harrisburg, PA	2	$1,547.83	Communication Coordinator, Communications Assistant
07/10/02	Manhattan, NY	1	$738.76	Senior Director for Response and Recovery
07/11/02	Hershey, PA	1	$63.00	Assistant to the President for Homeland Security
07/12/02	Erie, PA	1	$559.28	Communications Aide to the Assistant to the President for Homeland Security
07/13/02	New Orleans, LA	1	$1,029.76	Director, State and Local Affairs
07/14/02	Boulder, CO	1	$762.26	Senior Director for Response and Recovery
07/14/02	Erie, PA	1	$599.85	Operations Officer
07/17/02	Colorado Springs, CO	1	$2,303.43	Communications Assistant
07/17/02	Raleigh, NC	1	$545.95	Director for Weapons of Mass Destruction
07/18/02	Colorado Springs, CO	2	$1,815.32	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
07/18/02	Dallas, TX	1	$631.00	Director, Cyberspace Security

REV_00167607

07/19/02	Cleveland, OH	1	$1,481.12	Communications Assistant
07/19/02	Omaha, NE	1	$1,675.01	Director, Protection and Prevention
07/20/02	Cleveland, OH	1	$1,462.50	Communications Aide to the Assistant to the President for Homeland Security
07/20/02	Erie, PA	2	$3,832.24	Communications Assistant, Operations Officer
07/22/02	Du Page County, IL	1	$0.00	Assistant to the President for Homeland Security
07/22/02	Manhattan, NY	3	$2,555.98	Director for Cargo and Port Security, Director State and Local Affairs,
				Deputy Assistant to the President for Homeland Security
08/01/02	Austin, TX	1	$590.25	Director, Policy and Plans
08/04/02	Erie, PA	1	$1,049.32	Communications Assistant
08/06/02	Los Angeles, CA	1	$500.72	Director, Training and Exercises
08/09/02	Harrisburg, PA	1	$2,473.35	Communications Assistant
08/11/02	Erie, PA	1	$2,473.35	Communications Assistant
08/13/02	Burlington, VT	1	$800.01	Director for Cargo and Port Security
08/13/02	Cincinnati, OH	1	$738.73	Senior Director to Special Assistant to the President for Information Integration
08/14/02	Little Rock, AR	2	$2,359.87	Special Assistant to the President for Communications, Communications Assistant
08/15/02	Rapid City, SD	2	$291.80	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
08/18/02	Philadelphia, PA	2	$2,311.79	Senior Director for Intelligence and Detection, Director, Cyberspace Security
08/21/02	Manhattan, NY	1	$261.75	Director State and Local Affairs
08/22/02	Kansas City, MO	1	$878.73	Senior Director for Response and Recovery
08/24/02	Erie, PA	1	$706.35	Communications Assistant
08/26/02	Ottawa, Canada	1	$1,287.07	Director for Critical Infrastructure Protection
08/26/02	Washington, DC	2	$1,533.41	President's Homeland Security Advisory Board
08/27/02	Indianapolis, IN	1	$820.70	Senior Director for Intelligence and Detection
08/27/02	Philadelphia, PA	1	$451.57	Communications Assistant
08/27/02	Seattle, WA	1	$1,577.18	Senior Director for Response and Recovery
08/28/02	Buffalo, NY	2	$1,953.73	Operations Officer, Operations Officer
08/28/02	Charlotte, NC	2	$1,217.86	Communications Aide to the Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
08/28/02	Seattle, WA	1	$646.49	Special Assistant, Intergovernmental Affairs
08/28/02	Washington, DC	5	$4,452.05	President's Homeland Security Advisory Board

REV_00167608

08/29/02	Buffalo, NY	1	$173.00	Assistant to the President for Homeland Security
08/29/02	Milan, Italy	2	$11,192.97	Communications Assistant, Communications Aide to the Assistant to the President for Homeland Security
08/30/02	Atlanta,GA	1	$548.50	Director, Cyberspace Security
09/03/02	Asville Naval Reserve Ctr, NC	1	$674.84	Senior Director for Response and Recovery
09/04/02	Milan, Italy	1	$1,869.93	Special Assistant to the Assistant to the President for Homeland Security
09/04/02	San Diego, CA	1	$1,466.62	Director State and Local Affairs
09/05/02	Chicago, IL	1	$490.94	Director, Training and Exercises
09/05/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
09/06/02	Long Beach Naval Hosp, CA	1	$937.22	Director, Protection and Prevention
09/08/02	Columbus, OH	1	$365.81	Special Assistant to the President and Senior Director for Policy and Plans
09/08/02	Detroit, MI	1	$1,111.35	Special Assistant to the President for Public Liaison
09/09/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
09/09/02	Orlando, FL	1	$519.19	Special Assistant to the President and Executive Director, PHSAC
09/09/02	Paris, France	1	$1,156.36	Director, Policy and Plans
09/10/02	Pittsburgh, PA	3	$667.20	Assistant Press Secretary, Communications Aide to the Assistant to the President for Homeland Security,
				Assistant to the President for Homeland Security
09/15/02	Manhattan, NY	1	$191.47	Director, Biodefense
09/15/02	Suffolk County, NY	1	$356.66	Director, Biodefense
09/16/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
09/18/02	Atlanta,GA	1	$254.00	Deputy Assistant to the President for Homeland Securtiy
09/18/02	Denver, CO	1	$967.36	Executive Assistant, Response and Recovery
09/19/02	Austin, TX	1	$121.00	Special Assistant to the Deputy Assistant to the President for Homeland Security
09/19/02	Dallas, TX	1	$618.00	Director, Cyberspace Security
09/19/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
09/19/02	Minot AFB, ND	1	$1,121.00	Director State and Local Affairs
09/20/02	Atlanta,GA	2	$1,349.48	Sr. Director Research and Development, Director, Biodefense
09/21/02	Dover, DE	1	$592.94	Communications Aide to the Assistant to the President for Homeland Security
09/22/02	Lincoln Naval Reserve, NE	1	$849.94	Special Assistant to the President and Senior Director for Policy and Plans
09/24/02	Dallas, TX	1	$618.50	Deputy Assistant to the President for Homeland Securtiy
09/24/02	Kansas City, MO	1	$650.36	Director for Incident Management

REV_00167609

09/24/02	Manhattan, NY	2	$285.15	Senior Director for Protection and Prevention, Director for Weapons of Mass Destruction
09/24/02	St. Louis, MO	1	$873.50	Senior Director for Response and Recovery
09/25/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
09/26/02	Erie, PA	1	$1,061.02	Communications Assistant
09/26/02	Williamsport Naval Ctr, PA	1	$337.92	Communications Aide to the Assistant to the President for Homeland Security
09/27/02	Atlanta,GA	1	$313.90	Special Assistant to the President for Public Liaison
09/27/02	Easton, PA	1	$202.21	Special Assistant to the Assistant to the President for Homeland Security
09/30/02	Manhattan, NY	1	$576.06	Senior Advisor to the Special Assistant to the President for Information Integration
09/30/02	White Plains, NY	1	$907.10	Executive Secretary
10/01/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
10/01/02	White Plains, NY	1	$702.73	Director for Critical Infrastructure Protection
10/02/02	Carlisle Barracks, PA	1	$132.30	Communications Aide to the Assistant to the President for Homeland Security
10/02/02	Charleston, WV	1	$154.94	Director, Cyberspace Security
10/03/02	Los Angeles, CA	1	$943.66	Director, State and Local Affairs
10/03/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
10/03/02	Miami, FL	1	$571.00	Sr. Director, Research and Development
10/04/02	Washington, DC	1	$169.48	Communications Aide
10/06/02	Minneapolis, MN	1	$768.50	Director for Incident Management
10/06/02	Orlando, FL	1	$432.31	Senior Advisor to the Special Assistant to the President for Information Integration
10/07/02	Las Vegas, NV	1	$874.73	Director of Critical Infrastructure
10/07/02	Oklahoma City, OK	1	$525.94	Sr. Director, Research and Development
10/07/02	Pittsburgh, PA	2	$1,663.50	Special Assistant to the President for Public Liaison, Communications Aide to the Assistant to the Presidnet for Homeland Security
10/07/02	San Diego, CA	1	$1,411.68	Senior Director for Response and Recovery
10/08/02	Minneapolis, MN	1	$914.14	Senior Director for Intergovernmental Affairs
10/08/02	Pittsburgh, PA	2	$1,571.22	Assistant to the President for Homeland Security, Special Assistant to the Assistant to President for Homeland Security
10/09/02	Dallas, TX	1	$704.65	Executive Assistant, Response and Recovery
10/09/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
10/10/02	Fort Lauderdale, FL	2	$2,958.00	Special Assistant to the President for Public Liaison, Director for Incident Management
10/11/02	Erie, PA	1	$930.69	Communications Assistant

REV_00167610

10/11/02	Lynchburg, VA	1	$52.93	Director Policy and Plans
10/12/02	Erie, PA	1	$348.00	Operations Officer
10/14/02	Columbus, OH	1	$572.00	Senior Director for Response and Recovery
10/15/02	Atlanta,GA	1	$852.36	Director, Cyberspace Security
10/15/02	Key West, FL	1	$1,216.80	Director for Immigration Security
10/15/02	Sacramento, CA	1	$1,260.62	Director, Biodefense
10/15/02	Seattle, WA	1	$1,050.00	Senior Director for Protection and Prevention
10/15/02	Washington, DC	8	$4,481.76	President's Homeland Security Advisory Board
10/16/02	Raleigh, NC	1	$254.06	Senior Advisor to the Special Assistant to the President for Information Integration
10/16/02	Vancouver, Canada	1	$1,662.55	Director, Policy and Plans
10/18/02	Trenton, NJ	1	$1,310.12	Director, State and Local Affairs
10/18/02	Washington, DC	4	$2,385.93	Communications Assistant, President's Homeland Security Advisory Board
10/21/02	Houston, TX	1	$849.91	Senior Director for Protection and Prevention
10/21/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
10/21/02	Newark, NJ	2	$852.90	Senior Director for Intergovernmental Affairs, Director State and Local Affairs
10/21/02	Washington, DC	1	$87.50	President's Homeland Security Advisory Board
10/22/02	Frederick, MD	1	$291.15	Director of Critical Infrastructure
10/22/02	Reno, NV	1	$803.60	Special Assistant, Intergovernmental Affairs
10/22/02	Trenton, NJ	1	$153.00	Special Assistant
10/23/02	San Jose, CA	1	$931.76	Director, Cyberspace Security
10/24/02	Erie, PA	1	$1,001.53	Communications Aide to the Assistant to the President for Homeland Security
10/24/02	Ontarion, CA	1	$664.76	Senior Director for Response and Recovery
10/24/02	Orlando, FL	1	$547.06	Director, Policy and Plans
10/25/02	Albany, NY	1	$580.50	Senior Director for Protection and Prevention
10/25/02	Lynchburg, VA	1	$52.93	Director, Operations
10/26/02	Washington, DC	1	$214.03	Communications Assistant
10/28/02	Hershey, PA	1	$286.16	Senior Director for Response and Recovery
10/28/02	Savannah, GA	1	$452.68	Senior Director for Intergovernmental Affairs
10/29/02	Manhattan, NY	1	$511.27	Deputy Assistant to the President for Homeland Securtiy
10/29/02	St. Louis, MO	1	$1,078.66	Director of Critical Infrastructure
10/30/02	Brussels, Bel	1	$4,853.38	Communications Aide to the Assistant to the President for Homeland Security
10/31/02	Cedar Rapids, IA	1	$2,173.70	Special Assistant to the President and Director of Communications
11/01/02	Atlantic City, NJ	1	$0.00	Sr. Director, Research and Development

REV_00167611

11/01/02	Brussels, Bel	1	$2,173.70	Special Assistant to the President and Director of Communications
11/01/02	Pittsburgh, PA	2	$606.97	Communications Assistant, Operations Officer
11/02/02	San Jose, CA	1	$1,001.50	Senior Director for Protection and Prevention
11/03/02	Brussels, Bel	3	$4,534.72	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security, Director Policy and Plans
11/03/02	Washington, DC	1	$8.40	Communications Assistant
11/04/02	London, England	1	$2,536.36	Operations Officer
11/06/02	Santa Barbara, CA	1	$711.51	Director, Economic Consequence Management
11/09/02	Lynchburg, VA	1	$741.18	Director State and Local Affairs
11/09/02	Philadelphia, PA	1	$752.47	Communications Assistant
11/10/02	New Orleans, LA	1	$752.47	Communications Assistant
11/12/02	Philadelphia, PA	1	$244.80	Senior Director for Response and Recovery
11/13/02	Cincinnati, OH	1	$70.34	Communications Aide to the Assistant to the President for Homeland Security
11/14/02	Charlotte, NC	1	$992.48	Director of Critical Infrastructure
11/14/02	Erie, PA	1	$931.40	Operations Officer
11/14/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
11/15/02	Shepherdstown, WV	1	$79.60	Senior Director for Response and Recovery
11/16/02	Erie, PA	1	$613.64	Special Assistant
11/17/02	Las Vegas, NV	1	$2,074.06	Director, Biodefense
11/18/02	Manhattan, NY	1	$118.70	Special Assistant to the President and Senior Director for Policy and Plans
11/19/02	Philadelphia, PA	2	$1,051.46	Deputy Assistant to the President for Homeland Securtiy, Sr. Director, Research and Development
11/20/02	Los Angeles, CA	3	$4,199.59	Senior Director for Intergovernmental Affairs, Special Assistant to the President for Public Liaison,
				Deputy Press Secretary
11/22/02	Boston, MA	1	$467.20	Director, Policy and Plans
11/22/02	Scottsdale, AZ	1	$233.64	Special Assistant to the President for Public Liaison
11/24/02	Mexico City, Mexico	1	$1,155.08	Director, Policy and Plans
11/24/02	Phoenix, AZ	1	$1,999.06	Communications Assistant
11/25/02	Manhattan, NY	1	$320.22	Director, Economic Consequence Management
11/26/02	London, England	1	$951.43	Special Assistant to the Deputy Assistant to the President for Homeland Security
12/01/02	St. Louis, MO	1	$1,579.63	Communications Assistant
12/02/02	Chicago, IL	1	$906.76	Deputy Assistant to the President for Homeland Securtiy

REV_00167612

12/02/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
12/02/02	Washington, DC	10	$8,634.98	President's Homeland Security Advisory Board
12/03/02	Chicago, IL	1	$369.38	Director State and Local Affairs
12/03/02	Washington, DC	1	$50.50	President's Homeland Security Advisory Board
12/04/02	Cambridge, MA	1	$901.10	Director of Critical Infrastructure
12/06/02	Salt Lake City, UT	1	$822.14	Director State and Local Affairs
12/06/02	Seattle, WA	1	$992.06	Director Coordination Center
12/06/02	Washington, DC	1	$297.72	Communications Assistant
12/08/02	Manhattan, NY	1	$237.55	Operations Officer
12/09/02	Baltimore, MD	1	$327.32	Senior Director for Response and Recovery
12/09/02	Indianapolis, IN	1	$817.00	Director, Cyberspace Security
12/09/02	Manhattan, NY	1	$316.90	Operations Officer
12/09/02	San Francisco, CA	1	$237.54	Sr. Director, Research and Development
12/09/02	Seattle, WA	2	$1,505.08	Special Assistant to the Deputy Assistant to the President for Homeland Security, Deputy Director Coordination Center
12/11/02	Manhattan, NY	5	$3,154.69	Deputy Assistant to the President for Homeland Securtiy, Director State and Local Affairs, Executive Assistant Response and Recovery,
				Director for Critical Infrastructure Protection, Director for Cargo and Port Security,
				Executive Assistant Response and Recovery
12/13/02	Washington, DC	1	$307.77	Communications Assistant
12/18/02	Anniston Army Depot, AL	1	$219.00	Director, Biodefense
12/18/02	Atlanta,GA	1	$543.75	Director for Cargo and Port Security
12/19/02	Harrisburg, PA	1	$379.64	Communications Aide to the Assistant to the President for Homeland Security
12/19/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
12/20/02	Washington, DC	1	$135.22	Communications Assistant
12/21/02	Erie, PA	1	$3,369.44	Operations Officer
01/07/03	Las Vegas, NV	1	$1,128.64	Director, Cyberspace Security
01/09/03	Erie, PA	1	$938.50	Communications Aide to the Assistant to the President for Homeland Security
01/09/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/11/03	San Diego, CA	2	$1,945.55	Operations Officer, Operations Officer
01/14/03	Cape Canaveral, FL	2	$1,798.55	Senior Director for Response and Recovery, Deputy Director, Incident Management
01/15/03	Boston, MA	1	$1,248.78	Director of Critical Infrastructure
01/15/03	Jacksonville, FL	1	$767.86	Director for Weapons of Mass Destruction
01/15/03	New Orleans, LA	1	$968.98	Executive Assistant, Response and Recovery

REV_00167613

01/16/03	Erie, PA	1	$672.78	Communications Aide to the Assistant to the President for Homeland Security
01/16/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/17/03	Erie, PA	1	$238.00	Operations Officer
01/20/03	San Antonio, TX	2	$1,549.64	Special Assistant to the President and Executive Director, PHSAC, Director, External Affairs
01/21/03	Harrisburg, PA	1	$150.00	Communications Aide to the Assistant to the President for Homeland Security
01/21/03	Manhattan, NY	1	$406.96	Senior Director for Response and Recovery
01/21/03	Mexico City, Mexico	1	$1,228.73	Director for Critical Infrastructure Protection
01/22/03	Manhattan, NY	1	$334.50	Director, Economic Consequence Management
01/22/03	Washington, DC	7	$3,930.05	President's Homeland Security Advisory Board
01/24/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/24/03	Shepherdstown, WV	1	$81.06	Director, Economic Consequence Management
01/28/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/29/03	Chicago, IL	1	$245.50	Director, Economic Consequence Management
01/30/03	Washington, DC	7	$4,952.27	President's Homeland Security Advisory Board
02/07/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
02/09/03	Seattle, WA	1	$1,877.78	Director, Cyberspace Security
02/10/03	Norfolk, VA	1	$105.06	Director of Critical Infrastructure
02/13/03	Manhattan, NY	1	$33.25	Director for Cargo and Port Security
02/20/03	Cambridge, MA	1	$2,579.47	Special Assistant to the President and Senior Director for Policy and Plans
02/20/03	Washington, DC	5	$3,647.25	President's Homeland Security Advisory Board
02/21/03	Washington, DC	3	$1,066.55	President's Homeland Security Advisory Board
02/25/03	Lynchburg, VA	1	$52.93	Director Policy and Plans
03/03/03	Albuquerque,NM	1	$982.87	Executive Assistant, Response and Recovery
03/09/03	Baltimore, MD	1	$897.11	Director, Biodefense
03/12/03	Houston, TX	1	$1,218.03	Director, Incident Management
03/25/03	Lynchburg, VA	1	$52.93	Director Policy and Plans
03/31/03	Charlottesville, VA	1	$189.00	Special Assistant to the Deputy Assistant to the President for Homeland Security
	Total		**$302,422.75**	

REV_00167614

Cyberspace Security Travel				
Trip Date	Destination	# of Staff	Trip Cost	Staff Position
04/02/02	Orlando, FL	1	$592.89	Director, Cyberspace Security
04/03/02	Providence, RI	1	$875.74	Vice Chairman, PCIPB
04/05/02	Denver, CO	1	$1,288.87	Vice Chairman, PCIPB
04/08/02	Williamsburg, VA	1	$261.00	Vice Chairman, PCIPB
04/10/02	Albany, NY	1	$904.60	Vice Chairman, PCIPB
04/12/02	Orlando, FL	1	$1,279.00	Vice Chairman, PCIPB
04/16/02	Orlando, FL	1	$757.75	Special Assistant to the President for Cyberspace Security, and Chair, PCIPB
04/21/02	Orlando, FL	1	$1,663.74	Special Assistant to the President for Cyberspace Security, and Chair, PCIPB
05/07/02	Chicago, IL	1	$524.42	Director, Cyberspace Security
05/08/02	Las Vegas, NV	1	$1,009.00	Senior Director, National Security
05/10/02	Boston, MA	1	$455.80	Chief of Staff
5/12/2002	Denver, CO	1	$1,390.93	Director, Cyberspace Security
05/12/02	Denver, CO/Indianapolis, IN	1	$1,574.15	Special Assistant to the President for Cyberspace Security, and Chair, PCIPB
5/14/2002	Denver, CO	1	$1,711.17	Deputy Chief of Staff
5/16/2002	Chicago, IL	1	$328.00	Chief of Staff
5/20/2002	Honolulu, HI	1	$1,371.44	Director, Cyberspace Security
5/27/2002	Chicago, IL	1	$2,874.45	Deputy Chief of Staff
5/29/2002	Chicago, IL	2	$1,489.16	Director for Cyberspace Security, Director for Cyberspace Security
5/31/2002	Portland, OR	1	$2,874.45	Deputy Chief of Staff
6/1/2002	Seattle, WA	1	$4,571.88	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
6/3/2002	Portland, OR	1	$4,571.98	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
6/3/2002	San Diego, CA	1	$1,436.79	Vice Chairman, PCIPB
6/5/2002	Portland, OR	1	$1,677.79	Vice Chairman, PCIPB
6/7/2002	Seattle, WA	1	$1,436.79	Vice Chairman, PCIPB
6/12/2002	Buffalo, NY	1	$761.29	Vice Chairman, PCIPB
6/16/2002	Atlanta, GA	3	$2,522.62	Deputy Chief of Staff, Director, Legislative Affairs, Vice Chairman, PCIPB
6/19/2002	London, GBR	1	$1,687.92	Vice Chairman, PCIPB
6/24/2002	Seattle, WA	1	$982.09	Vice Chairman, PCIPB
6/26/2002	Boston, MA	1	$641.44	Chief of Staff
6/26/2002	Chicago, IL	1	$982.09	Vice Chairman, PCIPB
6/26/2002	Las Vegas, NV	1	$982.06	Senior Director, National Security
7/8/2002	Manhattan, NY	2	$483.20	Vice Chairman, PCIPB, Senior Director, National Security

REV_00167615

7/20/2002	Monterey, CA	1	$1,352.72	Director, Cyberspace Security
7/20/2002	Tulsa, OK	2	$2,474.19	Special Assistant to the President for Cyberspace Security and Chair, PCIPB and Vice Chairman, PCIPB
7/22/2002	Dallas, TX	1	$877.15	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
7/23/2002	Minneapolis, MN	1	$1,602.04	Vice Chairman, PCIPB
7/30/2002	Las Vegas, NV	1	$1,148.96	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
8/4/2002	Roanoke, VA	1	$671.68	Vice Chairman, PCIPB
8/6/2002	Duluth, MN	1	$71.76	Vice Chairman, PCIPB
8/6/2002	Ft. Lauderdale, FL	1	$705.61	Director, Cyberspace Security
8/6/2002	San Francisco, CA	1	$811.92	Director for Cyberspace Security
8/12/2002	Beaver Creek, CO	1	$3,362.76	Chief of Staff
8/12/2002	Vail, Co	1	$3,362.76	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
8/13/2002	Phoenix, AZ	1	$1,128.18	Vice Chairman, PCIPB
8/13/2002	San Francisco, CA	1	$4,362.25	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
8/17/2002	Aspen, CO	1	$287.00	Senior Director, National Security
8/18/2002	San Francisco, CA	1	$3,362.76	Chief of Staff
8/19/2002	Manhattan, NY	1	$470.06	Director for Cyberspace Security
8/22/2002	Boston, MA	1	$462.04	Director for Cyberspace Security
8/26/2002	Nashville, TN	1	$730.23	Vice Chairman, PCIPB
8/26/2002	Ottawa, CAN	1	$1,056.24	Director, Cyberspace Security
8/30/2002	Chicago, IL	1	$1,602.40	Vice Chairman, PCIPB
9/3/2002	Seattle, WA	1	$251.44	Director, Cyberspace Security
9/5/2002	Manhattan, NY	1	$195.04	Senior Director, National Security
9/6/2002	Philadelphia, PA	1	$226.72	Director for Cyberspace Security
9/8/2002	San Jose, CA	1	$845.27	Director for Cyberspace Security
9/12/2002	Atlanta, GA	1	$122.00	Director for Cyberspace Security
9/15/2002	Minneapolis, MN	1	$2,388.45	Vice Chairman, PCIPB
9/15/2002	Palo Alto, CA	1	$2,987.46	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
9/15/2002	San Francisco, CA	2	$4,185.11	Deputy Chief of Staff, Executive Assistant
9/17/2002	Palo Alto, CA	2	$3,847.56	Vice Chairman, PCIPB and Director for Cyberspace Security
9/17/2002	San Francisco, CA	1	$2,032.69	Director for Cyberspace Security

REV_00167616

9/18/2002	New London, CT	1	$2,541.62	Deputy Chief of Staff
9/18/2002	Seattle, WA	1	$2,388.45	Vice Chairman, PCIPB
9/19/2002	Manhattan, NY	1	$186.62	Director for Cyberspace Security
9/21/2002	Albuquerque, NM	1	$901.51	Director for Cyberspace Security
9/24/2002	Austin, TX	2	$1,975.60	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Vice Chairman, PCIPB
9/24/2002	Cleveland, OH	1	$1,092.55	Director for Cyberspace Security
9/24/2002	Denver, CO	1	$1,680.02	Vice Chairman, PCIPB
9/24/2002	San Antonio, TX	5	$5,537.03	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Vice Chairman, PCIPB, Deputy Chief of Staff, Senior Director,
				Senior Director, National Security, Director, Cyberspace Security
9/30/2002	Atlantic City, NJ	1	$375.09	Vice Chairman, PCIPB
9/30/2002	Ft. Meyers, FL	1	$622.71	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/2/2002	Philadelphia, PA	1	$660.04	Deputy Chief of Staff
10/7/2002	Minneapolis, MN	1	$750.71	Director for Cyberspace Security
10/8/2002	Brussels, Bel	1	$3,903.77	Vice Chairman, PCIPB
10/9/2002	Omaha, NE	1	$1,188.85	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/9/2002	Pittsburg, Pa	1	$1,188.65	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/11/2002	London, GBR	1	$3,903.77	Vice Chairman, PCIPB
10/14/2002	Boston, MA	2	$3,428.15	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Deputy Chief of Staff
10/17/2002	Boston, MA	1	$308.38	Director for Cyberspace Security
10/17/2002	Chicago, IL	1	$312.50	Deputy Chief of Staff
10/20/2002	Miami, FL	1	$611.04	Director for Cyberspace Security
10/22/2002	Frederick, MD	2	$669.46	Vice Chairman, PCIPB and Director for Cyberspace Security
10/23/2002	Pittsburg, Pa	2	$1,934.71	Vice Chairman, PCIPB and Deputy Chief of Staff
10/26/2002	Brussels, Bel	1	$6,650.41	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/26/2002	Eugene, OR	1	$1,595.63	Director for Cyberspace Security
10/28/2002	Las Vegas, NV	1	$1,351.69	Director for Cyberspace Security
10/28/2002	San Antonio, TX	1	$501.00	Senior Director, National Security
11/5/2002	Atlanta, GA	1	$1,024.90	Vice Chairman, PCIPB
11/06/02	White Plains, NY	1	$965.79	Director for Cyberspace Security

REV_00167617

11/7/2002	Chicago, IL	3	$1,266.23	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Director, Cyberspace Security, Director, National Security
11/7/2002	Manhattan, NY	1	$793.86	Vice Chairman, PCIPB
11/10/2002	Monterey, CA	1	$1,329.86	Director for Cyberspace Security
11/12/2002	Manhattan, NY	1	$697.49	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
11/13/2002	Manhattan, NY	1	$350.50	Senior Director, National Security
11/13/2002	Phoenix, AZ	2	$3,548.19	Director, Legislative Affairs, Vice Chairman, PCIPB
11/14/2002	Seattle, WA	1	$1,329.66	Director for Cyberspace Security
11/17/2002	Atlanta, GA	1	$436.06	Director for Cyberspace Security
11/17/2002	Ottawa, CAN	1	$2,418.32	Vice Chairman, PCIPB
11/19/2002	Manhattan, NY	1	$877.25	Director for Cyberspace Security
11/19/2002	Salt Lake City, UT	1	$877.25	Director for Cyberspace Security
11/20/2002	Manhattan, NY	1	$699.56	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
12/3/2002	Chicago, IL	1	$229.13	Director for Cyberspace Security
12/3/2002	San Francisco, CA	1	$2,293.66	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
12/4/2002	Phoenix, AZ	1	$1,264.33	Senior Director, National Security
12/4/2002	San Francisco, CA	1	$1,637.48	Director, Cyberspace Security
12/6/2002	Seattle, WA	1	$1,138.43	Vice Chairman, PCIPB
12/9/2002	Boston, MA	1	$401.00	Director for Cyberspace Security
12/9/2002	Charleston, SC	1	$825.27	Director for Cyberspace Security
12/12/2002	Manhattan, NY	1	$380.05	Vice Chairman, PCIPB
12/17/2002	Flemington, NJ	2	$487.54	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Senior Director, National Security
12/18/2002	Atlanta, GA	1	$64.50	Deputy Chief of Staff
1/9/2003	Charlotte, NC	2	$1,929.02	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Deputy Chief of Staff
1/14/2003	Honolulu, HI	1	$1,610.34	Director for Cyberspace Security
1/21/2003	Boston, MA	2	$1,797.69	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Director for Cyberspace Security
1/22/2003	St. Petersburg, FL	1	$492.08	Vice Chairman, PCIPB
1/23/2003	Ft. Meyers, FL	1	$636.12	Director for Cyberspace Security
1/23/2003	Naples, FL	1	$864.08	Vice Chairman, PCIPB

REV_00167618

1/24/2003	Philadelphia, PA	1	$864.08	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
1/24/2003	San Diego, CA	3	$4,654.94	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Deputy Chief of Staff, Director, Cyberspace Security
01/28/03	Williamsburg, VA	1	$239.34	Vice Chairman, PCIPB
1/29/2003	Chicago, IL	1	$306.37	Director for Cyberspace Security
1/30/2003	Manhattan, NY	1	$376.50	Vice Chairman, PCIPB
2/2/2003	Columbus, MS	1	$835.25	Vice Chairman, PCIPB
2/2/2003	San Francisco, CA	1	$1,211.37	Director for Cyberspace Security
2/10/2003	London, GBR	1	$1,473.61	Vice Chairman, PCIPB
02/11/03	Tallahassee, FL	1	$582.94	Director for Cyberspace Security
2/24/2003	Atlanta, GA	1	$768.07	Vice Chairman, PCIPB
2/24/2003	Boca Raton, FL	1	$1,052.94	Director for Cyberspace Security
2/25/2003	Chicago, IL	1	$522.44	Director for Cyberspace Security
3/3/2003	Manhattan, NY	1	$607.86	Director for Cyberspace Security
3/4/2003	San Diego, CA	1	$785.37	Director for Cyberspace Security
3/6/2003	Ottawa, CAN	1	$929.94	Vice Chairman, PCIPB
3/8/2003	Orlando, FL	1	$260.11	Vice Chairman, PCIPB
3/17/2003	San Antonio, TX	1	$801.47	Vice Chairman, PCIPB
3/18/2003	Atlanta, GA	1	$801.47	Vice Chairman, PCIPB
3/22/2003	Paris, FRA	2	$3,402.37	Vice Chairman, PCIPB, Director for Cyberspace Security
	Total		**$192,350.99**	

QUESTION 18: Currently, OHS costs are included in both the WHO and OA appropriations. Is that also the case in the FY 2004 request? If so, please provide a table, by appropriation, showing total OHS budgeted costs, for each of the fiscal years 2002 through 2004.

RESPONSE: For FY 2003, although funds were requested as part of the WHO budget activity, the Office of Homeland Security received for the first time its own appropriation, separate from the WHO appropriation. Funds supporting OHS / HSC requirements in FY 2003 were provided also to OA as part of the OA Pilot program. The FY 2004 Request identifies all requirements for OHS / HSC in the WHO Budget Activity, since the OA Pilot program was not guaranteed to continue after FY 2003. See table below:

REV_00167619

(Dollars in Thousands)

	Congressional Budgets		
	FY 2002* Actual	FY 2003 Estimate	FY 2004 Estimate
OHS / HSC	$30,800	$8,272	$8,331
OA		$783	
	$30,800	$9,055	$8,331

*FY 2002 budget for OHS was based on the OHS mission and funding profile prior to the establishment of DHS and was provided by 3 sources of emergency appropriated funds: P.L. 107-38 for $25,000,000; P.L.107-117 for $2,000,000; and P.L. 107-206 for $3,800,000.

QUESTION 19: Last year, it was stated that one MOU existed between OHS and other EOP entities (p. 51). Please provide a copy of the MOU between MOU and the Office of Science and Technology Policy.

RESPONSE: The MOU between OHS and OSTP expired with the creation of the Department of Homeland Security as relevant responsibilities transferred from OHS to DHS, pursuant to the Homeland Security Act of November, 2002.

QUESTION 20: Have any other MOUs been signed since that time?

RESPONSE: An MOU between the Homeland Security Council and the National Security Council was signed in May, 2003 providing for the expansion of NSC's classified computer network to include approved HSC staff with necessary security clearances.

In addition standard interagency agreements were signed between OHS/HSC and the Office of Administration (OA) and OMB to pay for detailees from these EOP agencies to OHS/HSC and separately between OHS/HSC and OA to pay for miscellaneous supplies and materials.

QUESTION 21: At this time last year, OHS planned to establish a coordination center which would function 24 hours a day, 7 days a week; a communications room; and two incident management rooms. At the same time, the Administration made clear that the role of OHS was to establish and coordinate policy, and not to conduct operational activities. With the establishment of the Department of Homeland Security, have these specific activities been descoped or eliminated?

RESPONSE: The role of the Homeland Security Council is to provide confidential policy advice to the President and coordinate policy across the departments and agencies of the executive branch. The Homeland Security Council does not conduct operational

REV_00167620

activities. The Homeland Security Council does not operate a coordination center. With the establishment of the Department of Homeland Security, DHS is the lead federal agency for incident management. As such, DHS operates a Homeland Security Center with 24 hour/7 days per week coordination and communications capabilities. Those functions do not reside in the Homeland Security Council.

QUESTION 22: How many positions support these activities in the FY 2004 request, and what is the total budgeted amount?

RESPONSE: The FY 2004 budget will not fund any personnel or activities related to a coordination center.

QUESTION 23: How are such activities appropriate for a policymaking body, when DHS now exists to coordinate and execute operational activities related to specific homeland security incidents and activities?

RESPONSE: The Homeland Security Council does not operate a coordination center. With the establishment of the Department of Homeland Security, DHS is the lead federal agency for incident management. As such, DHS operates a Homeland Security Center with 24 hour/7 days per week coordination and communications capabilities. Those functions do not reside in the Homeland Security Council.

QUESTION 24: At the time of last year's hearing, the permanent location and amount of space for the President's Critical Infrastructure Protection Board had not been determined (p. 77). Have these requirements been determined today?

RESPONSE: The President's Critical Infrastructure Protection Board (CIPB) no longer exists at the White House. Executive Order 13228, which created the CIPB was amended. Congress through Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection. Cyber security issues will be addressed by DHS and that office.

QUESTION 25: Likewise, total CIPB staffing had not been determined. Do you have an estimate today? What staffing assumptions were made in the FY 2004 budget submission?

RESPONSE: The President's Critical Infrastructure Protection Board (CIPB) no longer exists at the White House. Executive Order 13228, which created the CIPB was amended. Congress through Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection. Cyber security issues will be addressed by DHS and that office.

REV_00167621

QUESTION 26: How much funding is included in the FY 2004 request for CIPB, and how does that compare to the current estimate for FY 2003?

RESPONSE: The President's Critical Infrastructure Protection Board (CIPB) no longer exists at the White House. Executive Order 13228, which created the CIPB was amended. Congress through Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection. Cyber security issues will be addressed by DHS and that office.

QUESTION 27: Please provide a breakdown showing how those funds would be used.

RESPONSE: The President's Critical Infrastructure Protection Board (CIPB) no longer exists at the White House. Executive Order 13228, which created the CIPB was amended. Congress through Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection. Cyber security issues will be addressed by DHS and that office.

QUESTION 28: Please provide details on any government-industry partnerships that have been created in support of cyber security initiatives coordinated by, or carried out, through EOP or the CIPB.

RESPONSE: In 2002, the President's Critical Infrastructure Protection Board developed a *National Strategy to Secure Cyberspace.* To encourage broader participation and input into the development process, a draft strategy was released for public comment in September 2002. The final strategy was released in February 2003. The PCIPB requested the National Infrastructure Assurance Council and the National Security Telecommunications Advisory Committee to both provide comments on the draft strategy. In addition, there were 10 town hall meetings held in various portions of the country which brought industry, academia and private citizens together to focus on the complex issues related to cyber security.

The *National Strategy to Secure Cyberspace* emphasizes that government-industry partnerships will be a cornerstone. As the primary implementer of the Strategy, DHS will be a partner with industry and academia to accomplish the objectives identified by the President's strategy.

National Security Council (POC – Katherine Fertakis)

QUESTION 29: Your request includes a 10.8 percent increase to cover reimbursable detailee costs and additional support staff for the President's Foreign Intelligence Advisory Board. Please explain the need for these increases in detail.

REV_00167622

RESPONSE: The requested increase covers reimbursable detailee costs of personnel from the Department of State. The National Security Council (NSC) may request detailed personnel performing at a high level in high priority positions to remain beyond their initial tour of duty because of their unique qualifications. Public Law 93-126, Section 11, requires the NSC to reimburse the Department of State for details to the NSC that exceed the cap of 13 detailed into their second year and for all staff detailed longer than two years. The FY 2003 increase in this category estimates for details becoming reimbursable during the Spring and the Summer. The FY 2004 increase represents an annualization of the expenses, minus the cost for the details that will not be renewed.

Since the events of September 11, 2001, the PFIAB support staff workload has been significantly increased and consumed by the homeland security effort. Thus far about 95% of the Board's current advisory work for the President has been directly related to homeland security and counter-terrorism. (Intelligence performance thereon, and support to the new department of homeland security) With only 4 staff members and an already overflowing Board work schedule, work on other important PFIAB priorities has been deferred—such as declassification review of PFIAB archived records. At least three additional staff members, including a GS-14 administrative manager, will be needed to adequately meet support requirements as the Board expands its review of intelligence support to homeland security beyond the more immediate structural and organizational issues, and also re-engages the more general intelligence performance issues across the full spectrum of pressing issues. The FY 2004 request includes $250,000 which will fund two reimbursable detailed staff members and one permanent, Schedule A, Excepted Service, GS-14 administrative management position.

QUESTION 30: What are the dollar and percentage increases for each of the above items, compared to the FY 2003 estimated levels?

RESPONSE: The FY 2004 request for reimbursable detailees represents an increase of $356,000, or 64%, over the FY 2003 estimated levels. The PFIAB increase of $250,000 will be 100% above the FY 2003 request since this is a new requirement for FY 2004.

QUESTION 31: The justifications indicate that 11 additional positions are being added to this office in FY 2003, raising the estimated from 60 in FY 2002 to an estimated 71 in FY 2003. What specific positions are being created?

RESPONSE: The 11 additional positions, which raise NSC's FTE from 60 to 71, are not new positions. In FY 2003, the Office for Combating Terrorism (OCT) was combined with the NSC budget request. The increased FTE request correlates with the continued funding for and operation of the OCT as a part of the NSC submission.

QUESTION 32: The FY 2004 request includes funds for a new GS-14 administrative manager for the PFIAB. Why is this new position needed at this time?

REV_00167623

RESPONSE: PFIAB requires a permanent administrative position for continuity as well as efficiency reasons. The administrative staff constitutes the lifeblood of the Board: it fulfills all of the support responsibilities, including human resource management, budget, travel, procurement, research, publishing, protocol, and special assistance to the Executive Director, Chair and Vice Chair. With only two administrative people on staff, it is absolutely critical that both individuals be fully knowledgeable about and highly experienced at *White House* administrative policies, procedures and guidelines; equally important, *both* must possess highly honed administrative skills *and* be extremely efficient, effective and professionally dedicated.

The Board simply cannot attain this level of experience and competence by relying on detailees from other agencies, particularly non-reimbursed detailees. More often than not, we must accept whomever an agency can make available. Therefore, the Board will use this one permanent administrative billet to create a PFIAB office manager position. This individual not only will provide continuity of expertise and experience, but also will ensure that the other administrative person obtains the proper professional mentoring and supervision. We plan to make this a GS-14 position, but may start the individual we select at the GS-13 level to allow for personal advancement...and thereby also ensuring, hopefully, a fairly long term of service to the Board.

Office of National Drug Control Policy (POC – Michelle Marx)

QUESTION 33: You are requesting 10 additional FTE in FY 2004 to replace 10 non-reimbursable detailees who are no longer available. Why are these positions no longer available, and what are the specific positions?

RESPONSE: ONDCP's FY 2004 request includes resources to support 125 FTEs, an increase of 10 FTEs over the FY 2003 request. This FTE increase is requested to offset the loss of approximately 20 - 25 of the 30 non-reimbursable military detailee positions the Department of Defense has supported at ONDCP since 1996. (The Department of Defense, as outlined in a December 28, 2001 memorandum, adheres to a general policy that approves of requests for details only on a reimbursable basis. Exceptions to this policy are granted only in the most compelling circumstances when the agency head has certified that the net benefit of the detail accrues to the Department of Defense.)

This 10 FTE increase, along with distributing additional responsibilities among existing staff, will allow ONDCP to absorb the detailee staffing loss and meet its statutory responsibilities. The specific positions would be appointed within the following offices: Planning and Budget; State and Local Affairs; Intelligence; and Supply Reduction.

Renovation of the Eisenhower Executive Office Building (POC – Steve Beattie)

QUESTION 34: What is the status of funding provided in FY 2002 and 2003? Please provide a breakdown of funding by the type of activity or renovation performed.

REV_00167624

RESPONSE: 34: The General Service Administration has used FY 2002 Emergency Response Funds in the amount of $1,674,000 for starting the Architects' and Engineers' design contract for the 17th Street Wing Security Modernization Project. GSA is currently in the process of reprogramming $7,500,000 for FY 2003 for design, management and inspection. The FY 2003 reprogramming is required to complete the Design/Build/Bridging documents and assist in managing the Design/Build/Bridging efforts.

QUESTION 35: How much remains unobligated, by appropriation?

RESPONSE: 35: The General Services Administration (GSA) awarded a portion of the design cost in the amount of $1,537,173 utilizing the FY 2002 Emergency Response Fund. $136,827 remains unobligated. GSA has not obligated any FY 2003 funding.

QUESTION 36: Please provide a detailed breakdown showing how funds requested in the GSA budget for FY 2004 would be used.

RESPONSE: 36: The following is a break down on how the funds will be used in FY 2004:

Major Work Items:	
Electrical System	$ 10,244,000
Air conditioning system, chillers and piping	$ 12,530,000
Interior Construction	$ 13,163,000
Utility Vault (includes foundation construction)	$ 22,107,000
Window Blast Mitigation	$ 4,685,000
Mansard Roof Hardening	$ 802,000
Estimated Construction Cost (ECC)	$ 63,531,000
Management and Inspection	$ 2,226,000
Authorization Requested (ECC, M&I)	$ 65,757,000

QUESTION 37: Please provide a detailed schedule for activities planned in FY 2004.

RESPONSE: 37: The design/build/bridging contract is scheduled to be awarded in March 2004. The current schedule for the project is as follows:

Design Award:	04/03
A/E Bridging Documents Complete:	10/03
Design/Build/Bridging Procurement Start:	09/03
Design/Build/Bridging Contract Award:	03/04
Construction Complete:	06/06

REV_00167625

QUESTION 38: How much are you currently paying GSA for the unoccupied space along the 17th Street side of EEOB, and how much rental cost are you incurring for the new locations where relocated employees are working?

RESPONSE: We are paying $0 for FY2003 for the unoccupied space along the 17th Street side of EEOB. GSA is not charging the EOP for the space vacated in September 2001. See Attachment A for the rental cost being incurred for the new locations where relocated employees are working.

Executive Residence (POC – Worthington White)

QUESTION 39: Please provide a table, corresponding to the projects on page 81 of last year's hearing record, showing the original appropriation for each project, the amount obligated to date, and the project status. This involves projects funded in fiscal year 2002.

RESPONSE: The following table provides funding information on the FY 2002 projects.

Executive Residence at the White House
FY2002 White House Repair and Restoration

Project	Original Appropriation	Obligated To Date	Status of Project
Pool Shelter Roof Reconstruction and Pool Deck Renovation	$430,000	$412,926	This project is completed, with only minor punch list items and related recurring maintenance items to be funded from the remaining funds.
Communication System Repairs/Phase 2*	$456,667 $4,544,000	$155,872	Modifications to the original design under Phase I (FY2001) are completed. The pre-bid meeting with prospective contractors is scheduled for mid-May, with contract award by late June, and construction commending by late July.
East and West Wing Exterior Restoration	$2,500,000	$2,398,433	The restoration is underway, all Phase I funds will be utilized this year.
Insulated Windows Replacement	$160,000	$162	The prototype utilizing historically accurate reproduction glass is in production, with manufacturing of actual replacement units expected to begin in June. Installation to be begin in August.
Kitchen Floor Replacement	$75,000	$60,815	This project is nearing completion with the remaining funds to be utilized for utility work.
North Portico Curtain Wall	$120,000	$106,751	The project is completed with remaining funds required to purchase spare parts inventory.
Stone Pavers Restoration	$277,000	$220,082	The project is currently underway and is scheduled for completion by September 2003.
West Colonnade Restoration	$275,000	$0	Planning has recently been completed; work will be accomplished in August and early September 2003.

*For the Comunication System Repairs/Phase 2 project, $456,667 was funded in FY 2001 for Architect and Engineering. The remaining $4,544,000 was for construction.

REV_00167626

QUESTION 40: Please provide a listing of the 95 FTE positions at the Executive Residence requested for funding in FY 2004, showing the position title and the annual salary level.

RESPONSE: The position and salary information is provided in the table that follows.

REV_00167627

EXECUTIVE RESIDENCE AT THE WHITE HOUSE - FY 2003 -- 95 FTE				
USHERS OFFICE				
16 FTE	USHER	$96,880	CALLIGRAPHER	$68,939
	CALLIGRAPHER	$60,202	CALLIGRAPHER	$79,670
	SYSTEMS ADMIN	$99,152	USHER	$90,059
	PROJECT SUPERVISOR	$55,092	CALLIGRAPHER	$69,911
	ADMIN ASSISTANT	$44,244	CHIEF USHER	$142,500
	USHER	$112,347	ADMIN OFFICER	$83,132
	ACCOUNTANT	$56,711	GROUNDS SUPT	$139,297
	USHER	$92,786	NIGHT DOORMAN	VACANT
OFFICE OF THE CURATOR				
4 FTE	CURATOR	$87,328	ASSISTANT CURATOR	VACANT
	COLLECTIONS MANAGER	$50,230	ASSISTANT CURATOR	$65,056
FLOWER SHOP				
4 FTE	CHIEF FLORIST	$92,786	FLORIST	$60,565
	FLORIST	$68,266	FLORIST	$51,987
HOUSEKEEPING				
21 FTE	MAID	$44,452	ASST HOUSEKEEPER	$79,670
	LAUNDRY SPEC	$53,098	HOUSEMAN	$47,539
	HOUSEMAN	$30,541	MAID	$48,671
	MAID	$48,656	CHIEF HOUSEKEEPER	$102,720
	LAUNDRY SPEC	$44,857	HOUSEMAN	$50,441
	MAID	$41,826	MAID	$37,770
	MAID	$42,433	HOUSEMAN	$55,091
	MAID	$28,285	HOUSEMAN	$38,798
	HOUSEMAN	$41,826	MAID	$54,280
	CUSTODIAL SPEC	$48,626	HOUSEMAN	$44,861
			HOUSEMAN	VACANT
FOOD & BEVERAGE SRVCS				
18 FTE	BUTLER	$67,969	PASTRY CHEF	$124,113
	KITCHEN STEWARD	$49,102	ASSISTANT CHEF	$86,211
	ASSISTANT CHEF	$79,670	ASST PASTRY CHEF	$57,521
	BUTLER	$52,360	ASSISTANT CHEF	$46,200
	STOREKEEPER	$64,086	BUTLER	$65,056
	BUTLER	$49,548	BUTLER	$59,411
	STOREKEEPER	$70,558	BUTLER	$66,028
	MAITRE'D	$91,422	CHEF	$113,951
	STOREKEEPER	$55,091	ASSISTANT CHEF	$46,870
OPERATIONS				
7 FTE	OPERATIONS AIDE	$54,116	OPERATIONS AIDE	$33,747
	OPERATIONS AIDE	$54,679	OPERATIONS AIDE	$73,692
	SHOP FOREMAN	$77,449	OPERATIONS AIDE	$58,895
			OPERATIONS AIDE	$49,024
CARPENTER & PAINT SHOP				
6 FTE	CARPENTER	$60,669	CARPENTER	$49,399
	PAINTER	$72,523	CARPENTER	$50,255
	PAINTER FOREMAN	$90,304	CARPENTER FOREMAN	$78,763
ENGINEERS & PLUMBING SHOP				
12 FTE	ENGINEER	$84,878	ENGINEER	$65,532
	ENGINEER	$66,826	ENGINEER	$68,266
	ENGINEER	$63,236	ENGINEER	$52,905
	ENGINEER	$62,234	PLUMBING FOREMAN	$90,304
	PLUMBER	$71,355	ENGINEER FOREMAN	$91,422
	ENGINEER	$66,826	ENGINEER	$51,966
ELECTRIC SHOP				
7 FTE	ELECTRICIAN	$73,692	ELECTRICIAN	$73,692
	ELECTRICIAN	$46,937	ELECTRICIAN	$55,389
	ELECTRIC SHOP FOREMAN	$95,515	ELECTRICIAN	$66,826
			ELECTRICIAN	$45,351

REV_00167628

QUESTION 41: The justifications (p. 67) indicate an estimated unobligated balance of $7,023,000 in this appropriation at the beginning of FY 2003. Please explain the sources of this balance, and provide a schedule for obligation of increments of those funds.

RESPONSE: The majority ($4,388,127) of the unobligated funds are associated with the Communication System Repairs/Phase 2 which was delayed to unanticipated design requirements. The schedule for completion and obligation of all FY2002 projects is detailed in the table below.

Executive Residence at the White House
FY2002 White House Repair and Restoration

Project	Original Appropriation	Obligated To Date	Status of Project
Pool Shelter Roof Reconstruction and Pool Deck Renovation	$430,000	$412,926	This project is completed, with only minor punch list items and related recurring maintenance items to be funded from the remaining funds.
Communication System Repairs/Phase 2*	$456,667 $4,544,000	$155,872	Modifications to the original design under Phase I (FY2001) are completed. The pre-bid meeting with prospective contractors is scheduled for mid-May, with contract award by late June, and construction commending by late July.
East and West Wing Exterior Restoration	$2,500,000	$2,398,433	The restoration is underway, all Phase I funds will be utilized this year.
Insulated Windows Replacement	$160,000	$162	The prototype utilizing historically accurate reproduction glass is in production, with manufacturing of actual replacement units expected to begin in June. Installation to be begin in August.
Kitchen Floor Replacement	$75,000	$60,815	This project is nearing completion with the remaining funds to be utilized for utility work.
North Portico Curtain Wall	$120,000	$106,751	The project is completed with remaining funds required to purchase spare parts inventory.
Stone Pavers Restoration	$277,000	$220,082	The project is currently underway and is scheduled for completion by September 2003.
West Colonnade Restoration	$275,000	$0	Planning has recently been completed; work will be accomplished in August and early September 2003.

*For the Comunication System Repairs/Phase 2 project, $456,667 was funded in FY 2001 for Architect and Engineering. The remaining $4,544,000 was for construction.

As of this date, there are also 5 projects which have balances prior to FY 2002. They are as follows:

FY1996 – Roof Repair – balance of $9,227. These funds will be expended as needed for ongoing maintenance and corrective measures.

FY1998 – Repair/restoration of the Laundry Room – balance of $26,616. Purchase of replacement equipment and maintenance of equipment to be expended in FY2003.

REV_00167629

FY2000 – Purchase and Install Two Ironers – balance of $5,754. These funds will be expended to replace the drive belts in FY2003.

FY2000 – Renovation of Paint Shop – balance of $38,271. Funds will be used to purchase and update equipment to meet EPA and OSHA requirements in FY2003.

FY2000 – Third Floor Promenade – balance of $11,392. Funds will be expended to rehab and replace drainage system in late FY2003 or early FY2004.

White House Repair and Restoration (POC – Dennis Freemyer)

QUESTION 42: You are requesting $4.225,000 for repairs and restoration of the White House. Is there additional funding in the National Park Service budget or elsewhere in the President's budget request for FY 2004 for similar activities at the White House?

RESPONSE: There are no other budget requests for the same activities at the White House.

QUESTION 43: Of this request, $3,500,000 is for restoration of the east and west wing exterior. Please provide a detailed discussion and breakdown of this request.

RESPONSE: The funding requested is for the continuation (2nd phase) of the East and West Wing Restoration project, the first being funded in FY'02. This is consistent with the original planning for the execution of this project based on the experience of the completed Executive Residence Exterior Restoration completed in 1996. A breakdown of major work items follows:

Estimated Construction Costs:

Mobilization, scaffolding, rental equipment	150,000
Stone, stucco, wood restoration, insulated glass	1,580,000
Paint removal	1,660,000
Effluent/hazardous material disposal	150,000
Specialized window film including installation	400,000
Specialized stucco coating including installation	550,000
Painting	500,000
Site Restoration	260,000
Design, project management, project supervision, testing	350,000
Contingency	400,000
Estimated Total Cost	**$6,000,000**
FY 2002 Funding	$2,500,000
FY 2004 Funding Request	$3,500,000

REV_00167630

Pennsylvania Avenue Improvements (POC – Steve Beattie)

QUESTION 44: What is the total estimated cost of security and street improvements on Pennsylvania Avenue in front of the White House, for which funds were provided in FY 2003?

RESPONSE: This project is to be funded by the Federal Highway Administration (FHWA). The total estimated cost of security and street improvements on Pennsylvania Avenue in front of the White House is currently $26.1 million. The information below breaks out the estimated FY 2003 costs for the project.

Project Activity	**Projected FY 2003 Obligations**
Preliminary Activities	
Verification and Concept Studies	$ 605,150
Design Activities	
Ground Survey and Mapping	$ 57,524
Subsurface Utility Survey	$ 149,682
Environmental Documentation	$ 75,000
Final Design (Consultant)	$ 1,300,000
Crash Testing	$ 350,000
FHWA Contract Administration	$ 100,000
Design Contingency	$ 262,644
Construction Activities	
Construction Contract	$ 18,500,000
Utility Construction	$ 1,500,000
FHWA Contract Administration	$ 1,700,000
MVVA Construction Assistance	$ 500,000
Construction Contingency	$ 1,000,000
Grand Totals	**$26,100,000**

QUESTION 45: What is the status of that project? When will FY 2003 funds be obligated?

RESPONSE: 45: The status of the security and street improvements on Pennsylvania Avenue is as follows -

- Project's status is an ongoing iterative process as the Design team receives comments from the public and the various stakeholders on surrounding sites.
- Under the National Environmental Policy Act, the final public information meeting for the Environmental Impact Assessment was held on May 5, 2003, which is the last

REV_00167631

step before the final report is issued the week of May 27, 2003. It is expected that the report's concluding statement will find no significant impact.

- The design team is in the pre-design stage.
- The engineers are currently in the design stage for utility relocation in the project's vicinity.
- The Section 106 review as required by the Secretary of the Interior under the Historic Preservation Act is underway and will develop a Memorandum of Agreement in June 2003, which will address issues regarding the design details. The Section 106 review occurs when a project utilizing federal funds may have an effect upon natural, environmental, or cultural resources and looks at mitigation of any adverse effects to those resources.
- $1.5 million is expected to be obligated at the end of August or early September 2003 to start the utility relocation on Pennsylvania Avenue and at the north ends of Jackson and Madison Places.
- Arrangements have already been made for procurement of the trees to be used on the Avenue since it will require root and limb pruning over two calendar years prior to installation on the Avenue. The trees will be installed after inaugural events in the spring of 2005.
- Approximately, $2,675,000 has been obligated to date (under contract). The remaining $3,685,000 will be obligated within the next six months to have the construction contract awarded by the end of September or early October 2003.

QUESTION 46: How much funding is requested for this project in FY 2004, and where is it located in the budget?

RESPONSE: $15 million has been set aside under the Department of the Interior bill for FY 2004. However, discussions have been held between the Federal Highway Administration and the Office of Policy Development in the Executive Office of the President to make the money available for contract award this fiscal year. Discussions have included placing FY 2004 monies into the FY 2003 supplemental appropriation. With the highway legislation pending, there could be a delay in getting the funding moved into the supplemental appropriation to allow the project to get underway.

QUESTION 47: What is the schedule for studies of traffic congestion mitigation alternatives in the vicinity of the White House, as funded in FY 2003?

RESPONSE: The project administrators met with representatives in the Office of Policy Development in the Executive Office of the President, on May 8, 2003 to begin outlining the scope of the study and a plan to involve the District of Columbia government and neighborhood stakeholders. A schedule for the study has not been developed, but will be prepared in the next three months.

REV_00167632

Remote Data Center (POC – Carlos Solari)

QUESTION 48: What is the status of establishment today of the remote data center?

RESPONSE: The remote data center project is on schedule and on budget. The project began last summer by conducting a systems development lifecycle analysis to determine and recommend the location for the facility. From this analysis, EOP decided on building the data center at a hardened FEMA facility located in Maryland. The project is being co-managed with FEMA and was established with three phases: (1) infrastructure build-out of the hardened facility (power, air handlers, etc), (2) construction of the data center itself (cabling, raised flooring, etc), and (3) the transition of EOP data systems (telecommunications, servers, etc). The project is approximately halfway through completion for the first two phases with a scheduled opening (initial operational capability) date of September 2003. The transition phase is on schedule preparing the systems and will proceed to begin the transfer September 2003 – with a planned transition of 12 months for all systems. The following chart shows the funding of the remote data center from FY 2002 thru FY 2004.

	FY 2002	FY 2003	FY 2004
CIP	$15,000,000	$5,000,000	$8,403,000
S&E	$ - 0 -	$ - 0 -	$ - 0 -
Total	$15,000,000	$5,000,000	$8,403,000

QUESTION 49: Last year, you estimated annual operating costs of this facility to be $7,500,000 (p. 88). Is that your current estimate?

RESPONSE: Last year OA provided a rough estimate of $7,500,000 for the future annual operating cost of the new data center facility. This was based upon the following estimated costs:

- $1,500,000 in communications to maintain connectivity for the EOP,
- $600,000 in space rental,
- $450,000 for hardware maintenance,
- $1,300,000 for software maintenance,
- $2,600,000 for contractor services,
- $300,000 for supplies/components,
- $75,000 for equipment, and
- $675,000 in salaries/benefits.

While most of these estimates remain valid, OA must revise the estimate for space rental to $1,258,000, bringing the revised estimated annual operating costs for the facility to $8,158,000.

REV_00167633

QUESTION 50: Your FY 2004 request includes $8,403,000 to transition the remote data center to full operational status (p. 75). What specific activities are required in FY 2004 to accomplish this? Can you provide a breakdown of the FY 2004 request consistent with these activities?

RESPONSE: The following table lists the FY2004 CIP funds requested for the completion of the remote data center construction and initial year operating costs.

Object Class	Object Class Title	Requested Funding (in $1000s)	Description
23.0	Space Rental Payments	$1,258	This estimate reflects $1,258 in rental for the offsite data center and will be the initial rent to be paid for the offsite data center. This cost was previously funded from emergency funds.
23.3	Communications, utilities, and miscellaneous charges	$4,420	$4,420 is for CIP networking/telecommunications projects at the offsite data center. These projects include funds for a tap off of telecommunications lines, two additional DS-3 data paths, two T-1 lines, and backup to support required communications bandwidth, and availability requirements.
25.2	Other Services	$2,700	This estimate reflects Priority System Disaster Recovery costs, Secondary Systems Disaster Recovery costs, Hardware and Software for the Disaster Recovery Site, and Hardware and Software upgrades to support the data center move.
26.0	Supplies and materials	$25	The estimate reflects $25 in additional supplies necessary for start-up operations at the offsite data center. This will include start up costs for office equipment used for the new office spaces.
Total FY2004 Data Center CIP Request		**$8,403**	

President's Travel (POC - Rothley Howard)

QUESTION 51: Please update the information on pages 89 through 94 of last year's hearing record concerning travel by the President and the First Lady by continuing data from the final entry of last year's record to the present time.

Presidential Staff Travel (POC – Rothley Howard)

QUESTION 52: Please provide a listing of staff travel not in support of the President for fiscal year 2002 and thus far in fiscal year 2003. For each entry, please include the name of traveler, the destination and purpose of trip, the number of days in travel status, and the trip cost.

REV_00167634

Consulting Services (POC – Kathleen O'Halloran)

QUESTION 53: Updating the information on page 115 of last year's hearing record, please provide actual and estimated amounts for consulting services for fiscal years 2002 through 2004.

RESPONSE: "Consulting services" or "Advisory and Assistance Services" as defined by OMB Circular A-11, Section 83, are services acquired by contract from non-Federal sources (that is, the private sector, foreign governments, State and local governments, tribes), as well as from other units within the Federal Government and consists of three types of services: 1) Management and professional support services; 2) Studies, analyses and evaluation; and 3) Engineering and technical services. Listed below are the EOP and other entities with Advisory and Assistance contracts.

White House Office
FY 2002 (Actual)
There were no advisory and assistance contracts for the White House Office.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the White House Office.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Office of Homeland Security/CyberBoard
FY2002 (Actual)
1. $25,140 for independent information technology expertise. Deliverables include access to technical reports and analysis and recommendations. The period of performance is from September 2002 through August 2003.

Office of Administration
FY 2002 (Actual)
1. $1,083,308 for assistance in developing plans, technical architecture and disaster recovery for the relocation of the EOP data center. Deliverables include baseline assessment and analyses, business continuity and disaster recovery plan, data center design requirements report, phased planning, migration and implementation development plan, relocation and implementation plan, final recommendations and a report. The contract was awarded in March 2002 with a performance period through June 2003.

2. $748,988 for assistance in developing an enterprise architecture to incorporate and support the strategic IT vision, goals and objectives of the OA and the EOP. Deliverables include assistance and analysis as follows: critical information shortfall, impact, and trade-off analysis, concept of operations, architecture and enterprise architecture system toolsets, baseline definitions, report results for demonstration of architecture sustainment,

REV_00167635

and target technical architecture and migration plan. The contract was awarded January 2002 with a period of performance through December 2002 and permitted options to extend performance.

3. $48,050 for training, consulting and editing support for EOP/CFO policies regarding financial statements, prompt payment, travel, and transportation act, interagency agreements and portal to portal documents. Deliverables include training materials and conduct of training, formatted and edited documents. The contract was awarded July 2002 and ran through March 2003.

FY 2003 as of May 15, 2003

1. $406,695 for continued assistance in developing an enterprise architecture to incorporate and support the strategic IT vision, goals and objectives of the OA and the EOP. Deliverables include assistance and analysis as follows: critical information shortfall, impact, and trade-off analysis, concept of operations, architecture and enterprise architecture system toolsets, baseline definitions, report results for demonstration of architecture sustainment, and target technical architecture and migration plan. The contract was amended in January and May 2003 to exercise the option to extend performance and funded through September 2003.

2. $149,968 for consultant services to help configure IT storage products and perform data migration and setup. Deliverables include recommendations concerning management and long term strategy for operating and planning architecture along with execution of the infrastructure support. The contract was awarded in May 2003 with a period of performance running through November 2003.

3. $60,000 for assistance in designing a new performance management system for the Office of Administration in order to improve dialogue between manager and employee. Deliverables included recommended performance evaluation system and form as well as training. The contract was awarded in December 2002 with a performance period ending March 2003.

4. $49,800 for consulting services of an electrical engineer. Deliverables included conceptual designs, drawings and specifications, suggested project schedules and cost estimates. The contract was awarded in May 2003 with a period of performance through June 2003.

5. $25,750 for assistance in writing a statement of work for the EOP telephone contract recompete. Deliverables include recommended draft language for technical requirements to be incorporated into the solicitation. The contract was awarded in November 2002 with the period of performance through December 2002.

6. $47,040 for independent information technology expertise. Deliverables include access to technical reports and analysis and recommendations. The period of performance is from September 2003 through August 2004.

REV_00167636

7. $50,000 anticipated to develop an asset management system.

8. $130,000 anticipated to assist CFO with auditing issues.

FY 2004 Request

1. $110,000 anticipated to continue development of an asset management system.
2. $390,000 anticipated to assist CFO with auditing issues.
3. $50,000 anticipated for continued independent information technology expertise.

Office of Management and Budget

FY 2002 (Actual)

1. $39,570 for independent information technology expertise. Deliverables include access to technical reports and analysis and recommendations. The period of performance is from September 2002 through August 2003.

FY 2003 as of May 15, 2003

1. $22,500 anticipated for independent information technology expertise. Deliverables include access to technical reports as well as customized analysis and recommendations. The period of performance is from September 2003 through August 2004.

FY 2004 Request

1. $22,500 anticipated for continued independent information technology expertise planned for FY 2004.

Office of National Drug Control Policy

FY 2002 (Actual)

1. $24,225 for assessment and analysis and recommendations concerning performance plans, organizational goals and objectives. Deliverables include meeting summaries, briefing materials and monthly progress report and report with base-line assessment, recommendations and expected results. The period of performance is from June 2002 through September 2002.

2. $104,387 for organizational effectiveness assessment and analysis. Deliverables include meeting summaries, briefing materials and monthly progress reports, a final report and recommendations and expected results. The period of performance is from June 2002 through November 2002.

3. $150,000 for design of a program performance monitoring system for OCDETF/DIDTA program. Deliverables include meeting summaries, briefing materials,

REV_00167637

monthly progress reports, summary of program elements for measurement, draft and final reports. The period of performance is from April 2002 through October 2002.

FY 2003 as of May 15, 2003

1. $29,411 for assistance with developing a strategic human capital plan. Deliverables include development of a management plan, a workforce profile and assessment of drivers, capacity and gaps, assessment and recommendations and a strategic human capital report. The period of performance is from February 2003 through March 2003.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Council of Economic Advisers
FY 2002 (Actual)
1. $13,631 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from December 2001 to February 2002.

FY 2003 as of May 15, 2003
1. $14,276 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from December 2002 to February 2002.

FY 2004 Request
1. $15,000 estimated for editorial services for the Economic Report of the President. The consultant will provide expertise in editing the final publication. It is anticipated that the contract will last from December 2003 to February 2004.

Council on Environmental Quality
FY 2002 (Actual)

There were no advisory and assistance contracts for the Council on Environmental Quality.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the Council on Environmental Quality.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

REV_00167638

Office of the United States Trade Representative
FY 2002 (Actual)

1. $6,600 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.
2. $5,000 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.
3. $1,980 for expert advice in area of personnel law. Deliverables include legal research, analysis and opinions. Period of performance was from July 2002 through September 2002

FY 2003 as of May 15, 2003

1. $10,000 for expert advice in the area of personnel law on an as-needed basis. Deliverables include legal research papers and recommendations. The contract was awarded for the period October 1, 2002 through September 30, 2003.

2. $10,000 for speech-writing services on an as-needed basis. Deliverables include draft speeches. The contract was awarded for the period May 2003 through September 2003.

FY 2004 Request

1. $10,000 for expert advice in the area of personnel law on an as-needed basis.

Office of Science and Technology Policy
FY 2002 (Actual)

1. $200,000 for independent evaluation of the integration of a variety of biometric identification system design options. Deliverables included a comprehensive report on the evaluation of technical options, sound design principles, testing procedures, interoperability issues as well as identification of implementation and procurement issues. The contract was awarded July 2002 with a completion date of October 2002 but the contract completion date was extended through December 2002.

FY 2003 as of May 15, 2003

1. $300,000 for assistance in implementing a biometric identification system. Deliverables include analysis of NEXUS border technologies and international standards coordination. The contract is anticipated by June 2003 with an anticipated expiration date of June 2005.

FY 2004 Request

There are no new advisory and assistance contracts planned for FY 2004.

REV_00167639

National Security Council
FY 2002 (Actual)

There were no advisory and assistance contracts for the National Security Council.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the National Security Council.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Office of the Vice President
FY 2002 (Actual)

There were no advisory and assistance contracts for the Office of the Vice President.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the Office of the Vice President.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Freedom Corps (POC – Eric Lanman)

QUESTION 54: Please provide EOP budgeted funding for the Freedom Corps for fiscal years 2002 through 2004.

RESPONSE: The funding profile for the USA Freedom Corps from its inception through FY 2004 is as follows:

REV_00167640

(Dollars in thousands) Category	FY02 Actual	FY03 Request	OA Pilot	FY03 Recission	FY03 Enacted	FY04 Estimate
Personnel	420	800	0	0	800	827
Travel	6	600	0	-330	270	102
Rent	99	0	0	0	0	157
Comm, Util & Misc	0	0	0	0	0	25
Printing & Reproduction	0	0	0	0	0	225
Other Services	0	1,200	-289	0	911	926
Supplies & Materials	0	0	0	0	0	9
Equipment	0	0	0	0	0	9
Total	525	2,600	-289	-330	1,981	2,280

Note: As part of a pilot program authorized by Congress in fiscal year 2003, general support costs such as rent, supplies, printing, information technology, etc., are centrally managed and charged against the office of administration.

QUESTION 55: Please provide a breakdown of the FY 2004 request for the Freedom Corps, and a brief description of the work to be accomplished under each item.

RESPONSE: The FY 2004 WHO request includes funding for the following USA Freedom Corps requirements.

Personnel: This category provides funding for the cost of the salaries and benefits for the staff of the USA Freedom Corps. The FY 2004 WHO request included $827,000 for this category.

Travel: The USA Freedom Corps office staff members are frequent travelers and often work at the state and local levels with organizations~~, especially in organizing the Citizen Corps across the country~~. In addition, the Director of the USA Freedom Corps or the appropriate staff is required to address gatherings at national conferences, and of state and local officials in order to disseminate information about the President's Call to Service and the activities coordinated by the USA Freedom Corps~~ and answer questions relating to the organization of USA Freedom Corps activities at the local level.~~ The FY 2004 WHO request included $102,000 for this category.

Rent: This category funds the costs of the GSA office space utilized by the USA Freedom Corps. The FY 2004 WHO request included $157,000 for this category.

Printing: This category includes the costs of the creation and printing of documents regarding the USA Freedom Corps mission and policies and initiatives~~specific programs~~ coordinated by its Council. The FY 2004 WHO request included $225,000 for this category.

REV_00167641

Other services: This category includes funds for the hiring of contractors to measure the nationwide effects of the USA Freedom Corps efforts through surveys and other measurement tools, funds for the creation and production of materials used in the furtherance of the USA Freedom Corps mission and ~~specific programs,~~initiatives coordinated by its Council. The FY 2004 WHO request included $926,000 for this category. ~~and other activities that will further the mission of the USA Freedom Corps.~~

Communications and Misc.; Supplies and Materials; Equipment: These general categories are managed centrally by the White House Office of Management and Administration. Funds in these categories support the normal costs associated with day to day office operations. The FY 2004 WHO request included $43,000 for this category.

QUESTION 56: Last year, funds were requested for Freedom Corps information dissemination and recognition materials (p. 239). Are similar activities funded in FY 2004? If so, how much?

RESPONSE: The FY 2004 WHO request includes requirements for similar activities to those funded in FY 2003 and included are funds for information dissemination and recognition materials. Funds for these activities are included in the Other Services category of the WHO request. An estimated $926,000 of this portion of the request is for USA Freedom Corps requirements.

QUESTION 57: Are additional funds requested in FY 2004 outside the EOP?

RESPONSE: As a White House office and a coordinating council, the USA Freedom Corps does not run, fund, or administer programs. Instead, the USA Freedom Corps coordinates the development of policies and initiatives with various offices/entities in the Executive Branch in support of the President's goal to strengthen the American culture of service while helping all Americans find meaningful service opportunities. This role does not require outside funding and none have been requested by the WHO.

QUESTION 58: Please provide a listing of the staff in the USA Freedom Corps Office, showing the incumbent name and position. Please designate any detailees.

RESPONSE: A listing of the current USA Freedom Corps Office staff is provided below.

John Bridgeland: Assistant to the President and Director, USA Freedom Corps
Ron Christie: Special Assistant to the President and Deputy Director, USAFC
Lindsey Kozberg: Special Assistant to the President for Policy/Public Affairs
Therese Lyons: Director of Public Liasion
Ian Rowe: Director of Management and Strategy
Kathleen Mynster: Deputy Press Secretary
Britt Grant: Special Assistant to the Director
Cornell Teague: Associate Director

REV_00167642

Nique Fajors: Agency Liaison - Detailee

Sensitive Compartmented Information Facilities (POC – Jeff Thompson)

QUESTION 59: Are any funds requested in any EOP office in the FY 2004 President's request for the construction of sensitive compartmented information facilities (SCIFs)?

RESPONSE: No funds are requested for SCIFs in FY 2004.

QUESTION 60: How many such facilities have been built within EOP offices since the terrorist attacks of September 11, 2001?

RESPONSE: Since the terrorist attacks of 9/11 the EOP has requested through the Secret Service to the CIA the accreditation of 23 additional SCIFs. To date eight SCIFs have been completed, 13 are pending final approval inspection from the CIA and two requests were later rescinded.

Data Center Relocation (POC – Carlos Solari)

QUESTION 61: What is the status of efforts to relocate the existing EOP data center, and what are plans for the coming year?

RESPONSE: The remote data center project is on track to achieve completion on budget and on schedule. The project began last summer by conducting a systems development lifecycle analysis to determine and recommend the location for the facility. From this analysis, EOP decided on building the data center at a hardened FEMA facility located in Maryland. The project is being co-managed with FEMA and was established with three phases: (1) infrastructure build-out of the hardened facility (power, air handlers, etc), (2) construction of the data center itself (cabling, raised flooring, etc), and (3) the transition of EOP data systems (telecommunications, servers, etc). The project is approximately halfway through completion for the first two phases with a scheduled opening (initial operational capability) date of September 2003. The transition phase is on schedule preparing the systems and will proceed to begin the transfer September 2003 – with a planned transition of 12 months for all systems.

QUESTION 62: Are funds requested in the FY 2004 budget for this project?

Object Class	Object Class Title	Requested Funding (in $1000s)	Description

REV_00167643

Object Class	Object Class Title	Requested Funding (in $1000s)	Description
23.0	Space Rental Payments	$1,258	This estimate reflects $1,258 in rental for the offsite data center and will be the initial rent to be paid for the offsite data center. This cost was previously funded from emergency funds.
23.3	Communications, utilities, and miscellaneous charges	$4,420	$4,420 is for CIP networking/telecommunications projects at the offsite data center. These projects include funds for a tap off of telecommunications lines, two additional DS-3 data paths, two T-1 lines, and backup to support required communications bandwidth, and availability requirements.
25.2	Other Services	$2,700	This estimate reflects Priority System Disaster Recovery costs, Secondary Systems Disaster Recovery costs, Hardware and Software for the Disaster Recovery Site, and Hardware and Software upgrades to support the data center move.
26.0	Supplies and materials	$25	The estimate reflects $25 in additional supplies necessary for start-up operations at the offsite data center. This will include start up costs for office equipment used for the new office spaces.
Total FY2004 Data Center CIP Request		**$8,403**	

White House Communications Agency (POC – Eric Lanman)

QUESTION 63: Updating the information on page 133 of last year's hearing record, please provide estimated reimbursements for the White House Communications Agency for each of the fiscal years 2002 through 2004.

RESPONSE: Reimbursements made to the White House Communications Agency, for the non-telecommunications support they provide to the WHO, is broken down into two categories: military personnel and audiovisual support. The amount of planned reimbursement is initially set and agreed to via an inter-agency agreement (IAG). This IAG is then adjusted if needed as a result of actual execution. Reimbursement actuals and estimates follow:

	FY02 (actual)	FY03 (est.)	FY04 (est.)
Military Personnel	$4,376,085	$4,754,346	$4,858,942
Audiovisual Support	$4,543,643	$3,953,848	$2,743,915
Total	$8,919,738	$8,708,194	$7,602,857

REV_00167644

The FY04 estimate for audiovisual support shows a decrease from the FY 2003 estimate due to the move of audiovisual supplies and equipment from IAG reimbursed items to direct procurement through normal WHO channels.

Office of Administration (POC – Chuck Sigman)

QUESTION 64: Updating the information on page 134 of last year's hearing record, please provide a current organizational chart for the Office of Administration, including the associated numbers of FTEs requested for each office in the FY 2004 President's budget.

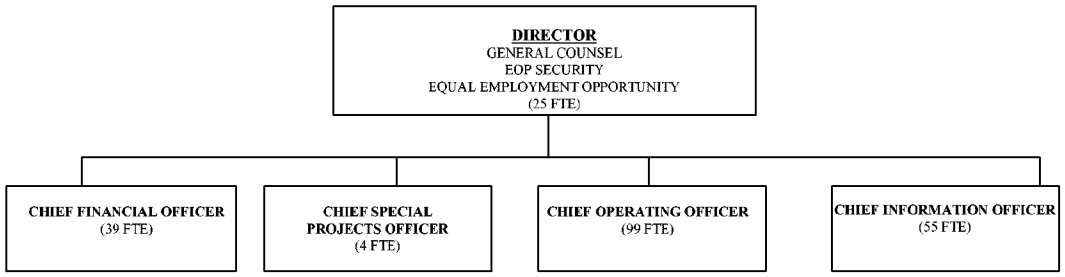
RESPONSE: The Office of Administration organization chart provided below reflects the current organizational structure. The FY 2004 FTE request remains constant with FY 2003 levels (222 FTE).

Executive Office of the President

Office of Administration

Organization Chart

FY 2004



Total 222 FTE

QUESTION 65: Last year, it was estimated that 4 FTE were needed to provide administrative services to the Office of Homeland Security. Since that office is substantially smaller due to establishment of the DHS, is there a lesser requirement for OA support? If so, is that reflected in FY 2004 staffing figures?

RESPONSE: The FY 2003 budget proposal included the statement that there was "2 CFO staff to support Homeland Security" rather than the 4 FTE referred to in the question. These two Chief Financial Officer (CFO) staff were requested during FY 2003

REV_00167645

because last year's OA budget request was a 49% increase over the previous year's spending – and security-related enhancements accounted for nearly all of that increase. The FY 2004 budget proposal included additional security-related enhancements beyond the FY 2003 level. Furthermore, even though the funding level of the Homeland Security Council is not as great as was originally envisioned, it is still a separate account for which the staff must perform the same number of administrative tasks in setting up and monitoring the status of the account. Therefore, the additional two FTE in the CFO office remain necessary to assist EOP offices in executing their new responsibilities.

QUESTION 66: Your salary and expenses request includes a transfer of $1,500 from Homeland Security for information technology services. What are these services?

RESPONSE: The part of OHS that remained with EOP (now called the Homeland Security Council) does not need the information technology contractor support that was previously planned. There is, however, an urgent need to expand the funding needed to support the White House website. The system security put in place to protect the whitehouse.gov website from cyber attack includes a web content distribution designed to make it highly resistant to denial of service type attacks. The cost of this service has increased dramatically, and is directly proportional to the volume of activity. The volume of activity, in turn, is a combination of the website hits and the level of cyber-attack activity directed against the site. The importance of the White House web site cannot be overstated. Along with the DHS website, the whitehouse.gov website is one of the primary government sites with a mission to communicate threat level information to the public.

Due to increased traffic on the White House website, the monthly cost of web caching service to maintain the website has risen from $30,000 per month to more than $75,000 per month. The estimated FY 2004 cost to maintain the website is $1,500,000. No funds were requested for this increased requirement in the FY 2004 budget. OA wishes to use the funds originally requested for the OHS information technology contract support for the White House website effort.

QUESTION 67: You are requesting additional funding for victim rescue units, which would be distributed to all White House staff (p. 82). What are these units, and what is the unit cost?

RESPONSE: Victim Rescue Units (VRUs) provide a 20-45 minute supply of pure oxygen to the wearer. This would be critical to the survival of EOP staff in the event of an incident which would require an evacuation to a safe area. VRUs were selected because they can be easily operated by a novice, while it takes a significant amount of training to teach staff to properly operate a gas mask. VRUs have a ten-year shelf life, which is significantly longer than gas mask filters. They provide protection from the entire threat spectrum from fire and smoke to chemical and biological agents. The VRUs are portable and small, and their expected cost is $375 each.

REV_00167646

QUESTION 68: How is the requirement for additional safes and emergency evacuation chairs documented?

RESPONSE: The EOP Security Office conducted a review of security containers (safes) at the White House Complex and found that most of them were 1950's-vintage mechanical locks. During the aftermath of 9/11, it was deemed important that the White House adhere to the latest Federal regulations promulgated by the General Services Administration (FFL-2740A) for the protection of classified materials. Thus, the EOP recommends acquiring new security containers which are fully compliant with GSA standard which governs all changeable combination locks for the protection of national security information.

After 9/11, we reviewed all emergency evacuation procedures for the White House Complex. As we updated evacuation plans and reviewed procedures it was determined that evacuation chairs were needed in various buildings and on various floors to assist individuals who may need assistance or have special needs during an evacuation. This was an internal study performed by staff of the EOP security office.

Financial Audits (POC – Al Muhlbauer)

QUESTION 69: Last year, you advised us that EOP would plan to address the findings of the recent auditability assessment no later than FY 2003. What is the status of that effort today?

RESPONSE: EOP has initiated five major efforts to address the auditability assessment. They are:

- Development and publication of the EOP entity and reporting structure, which was completed and is and presented in the FY 2004 Budget Submission.
- Development and publication of the EOP financial management structure, which has been developed in draft and is currently being circulated for comment within EOP. Approval and issuance of the financial management structure is expected to occur within 30 days.
- Provide financial management policy and guidance to the EOP, and put in place consistent EOP-wide business practices and procedures. This effort is underway and is expected to be completed this fiscal year.
- Select a replacement for the current non-compliant financial accounting system. The Office of the Chief Financial Officer has reviewed various alternatives and has made a determination to be cross-serviced by another Federal agency that has implemented a compliant system, is currently receiving "clean" audit opinions, and has cross-servicing as an agency mission. Two such organizations were identified, a requirements document was provided, their proposals are currently being evaluated, and a decision is expected within the next two weeks.
- Accomplish a detailed review of the EOP general ledger and supporting documents for account balances, correct the data as necessary, and prepare the

REV_00167647

information for conversion to the replacement accounting system. A "clean-up" and conversion plan is in process and will be coordinated with the selected cross-servicing agency.

QUESTION 70: When will you be able to produce an auditable financial statement?

RESPONSE: The Chief Financial Officer completed an exercise that resulted in EOP-wide financial statements, that exercise identified various data problems that confirmed the auditability assessment. The "clean-up" exercise which is required prior to the conversion to the cross-servicing agency's system is addressing these problems and it is anticipated that the FY 2004 financial statements will be audited.

QUESTION 71: Last year, you stated that you had identified best practices for documented policies and procedures based upon one federal agency which has been recognized as one of the best in the Federal Government (p. 136). Which agency are you using as a model, and what are some examples of the specific best practices you intend to use?

RESPONSE: We were referring to the Department of Education and we conducted a pilot of their approach for developing policies and procedures within the Office of the CFO. While that pilot was helpful, we determined that three other tasks (identify reporting entity, develop financial management structure, and identifying our financial accounting system cross servicing provider) needed to be completed before our policies and procedures could be developed. Since those are near completion we anticipate again focusing on developing policies and procedures during the remainder of this fiscal year.

White House Office (POC – Eric Lanman)

QUESTION 72: Please provide a breakdown of the FY 2004 budget request for the White House Office by office or activity, as itemized on pages 137 and 138 of last year's hearing record. Please compare those amounts to corresponding amounts for FY 2002 (actual) and FY 2003 (estimated), similar in format to that shown on pages 246 and 247 of last year's hearing record.

RESPONSE: As noted last year, a single budget is prepared for the WHO. This single budget is prepared based on a number of criteria such as: prior spending patterns, estimated requirements, OMB provided inflation factors, and the priorities of the President. During a given execution year, personnel costs are allocated based upon that year's sometimes unique staffing decisions. The remainder of the budget is allocated initially to two WHO offices. The travel budget is allocated in its entirety to the Office of Advance and obligated against this office if the travel is done in support of the President. Any travel undertaken that is not in support of a Presidential trip is charged to the office of the staff member in question. The remaining portion of the non-personnel, non-travel

REV_00167648

budget, including expenses for rent, supplies, equipment and other services is considered overhead and in most years is charged as such to the White House Office of Management and Administration. In FY 2003 as part of a pilot program authorized by Congress, costs related to many of these "overhead" items were consolidated under the EOP Office of Administration. Obligations (actual and estimated) are provided by individual White House office for FY 2002 thru FY 2004 in the table below.

(dollars in thousands)				
as of 9 May 2003				
White House Office	**FY02 act.**		**FY03 est.**	**FY04 est.**
Office of Chief of Staff	1,239		1,474	1,507
Oval Office Ops	347		476	487
Offices of Scheduling and Advance	2,874		3,593	3,673
Office of Cabinet Affairs	665		615	629
Communications, Speechwriting & Media	2,611		2,486	2,541
Office of the Counsel to the President	1,775		1,966	2,010
Faith Based and Community Initiatives	612		536	548
Office of the First Lady	1,270		1,492	1,525
Office of Intergovernmental Affairs	568		538	550
Office of Legislative Affairs	2,242		2,118	2,165
Office of Management and Administration	26,867		19,620	30,651
Office of Presidential Personnel	1,950		2,425	2,479
Office of the Press Secretary	933		1,182	1,208
Office of the Staff Secretary	5,860		6,469	6,613
Office of Strategic Initiatives	3,952		4,325	4,421
USA Freedom Corps Office [1]	426		1,070	929
Total WHO Obligations [2]	54,191		50,385	61,937

Notes:

(1) $911K of the FY03 USA Freedom Corps estimate and $1,351K of the FY04 USA Freedom Corps estimate detailed in the answer to question 54, are included above within the Office of Management and Administration numbers as are similar funds for all other White House Offices.

(2) Because Congress has chosen to appropriate funds for the Office of Homeland Security (OHS)/ Homeland Security Council (HSC) separately from the WHO appropriation, numbers related to OHS/ HSC are not included above. FY03 and FY04 estimates for OHS/ HSC are addressed independently in response to other committee questions.

QUESTION 73: Please provide a corresponding breakdown for FTE staff years and OGE, similar in format to that shown on pages 152 through 154 of last year's hearing record.

RESPONSE: As noted last year, the major units within the White House Office are simply a creature of administrative convenience. The number of employees within each unit and the work of each unit vary over time and as circumstances and needs change. With this kept in mind, a detailed breakout of FTEs and OGEs by unit, is provided below. This breakout is based on current estimates and planning and will differ during the actual

REV_00167649

execution year. In addition to these major units, certain individuals – including certain individuals who work with the National Security Council, the Domestic Policy Council, and the National Economic Council – are also White House Office employees, although the units within which they principally work are not themselves part of the White House Office. These individuals are included under the Other category.

	FY02	FY03	FY04
White House Office	actual	est.	est.
Office of Chief of Staff - FTE	12	12	12
Office of Chief of Staff - OGE (Agency Rep)	0	0	0
Oval Office Ops - FTE	4	5	5
Oval Office Ops - OGE	0	0	0
Advance - FTE	15	15	15
Advance - OGE	0	0	0
Office of Cabinet Affairs - FTE	7	6	6
Office of Cabinet Affairs - OGE (Assignee)	4	4	4
Communications, Speechwriting & Media - FTE	36	35	35
Communications, Speechwriting & Media – OGE (Detailee)	1	1	1
Office of the Counsel to the President - FTE	18	19	19
Office of the Counsel to the President - OGE (Detailee)	3	3	3
Office of the Counsel to the President - OGE (Assignee)	1	1	1
Faith Based and Community Initiatives - FTE	7	8	8
Faith Based and Community Initiatives – OGE (Detailee)	1	1	1
Faith Based and Community Initiatives – OGE (WH Fellow)	1	1	1
Office of the First Lady - FTE	20	19	19
Office of the First Lady - OGE	0	0	0
Office of Intergovernemental Affairs - FTE	8	9	9
Office of Intergovernemental Affairs - OGE	0	0	0
Office of Legislative Affairs - FTE	23	24	24
Office of Legislative Affairs - OGE (Detailee)	1	1	1
Office of Management & Administration - FTE	32	38	38
Office of Management & Administration - OGE (HP Serv)	14	14	14
Office of Political Affairs - FTE	11	11	11
Office of Political Affairs - OGE	0	0	0
Office of Presidential Personnel - FTE	26	38	38
Office of Presidential Personnel - OGE (Detailee)	2	2	2

REV_00167650

Office of Public Liaison - FTE	12	11	11
Office of Public Liaison - OGE (Assignee)	1	1	1
Office of the Press Secretary - FTE	12	12	12
Office of the Press Secretary - OGE	0	0	0
Scheduling - FTE	10	11	11
Scheduling - OGE (HP Serv)	2	2	2
Office of the Staff Secretary - FTE	98	98	98
Office of the Staff Secretary - OGE (Detailee)	2	2	2
Office of Strategic Initiatives - FTE	13	13	13
Office of Strategic Initiatives - OGE (Reim Detail)	1	1	1
USA Freedom Corps Office - FTE	8	6	6
USA Freedom Corps Office - OGE (Detailee)	5	5	5
USA Freedom Corps Office - OGE (WH Fellow)	1	1	1
Other - FTE	13	16	16
Other - OGE	4	4	4

White House Office obligations, FTE and OGE are summarized below.

	FY02 act.	FY03 est.	FY04 est.
Total WHO – FTE	385	406	406
Total WHO – OGE	44	44	44
FY03 Congressional Request – FTE	400	406	406

Notes: Because Congress has chosen to appropriate funds for the Office of Homeland Security (OHS)/ Homeland Security Council (HSC) separately from the WHO appropriation, numbers related to OHS/ HSC are not included above. FY03 and FY04 estimates for OHS/ HSC are addressed independently in response to other committee questions.

Historically Provided White House Office Positions (POC – Eric Lanman/Jon Laurich)

QUESTION 74: Updating the information on page 235 of last year's hearing record, please provide a listing of historically provided White House Office positions.

RESPONSE: The following chart shows the 18 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 12, 2003*:

POSITION	OFFICE	HOME AGENCY
1. Assistant To The Presidential Diarist	Office Of Scheduling	NARA

REV_00167651

2. Presidential Diarist	Office Of Scheduling	NARA
3. Administrative Assistant	PFIAB *	CIA
4. Administrative Services Specialist	PFIAB *	DOD
5. Deputy Executive Director	PFIAB *	CIA
6. Deputy Director of Photography For Visuals	Photo Office	DIA
7. Visual Information Specialist	Photo Office	DOD
8. Official Photographer	Photo Office	DOD
9. Official Photographer	Photo Office	DIA
10. Photographer	Photo Office	DOD
11. IT Systems Administrator	Photo Office	DIA
12. Photo Editor	Photo Office	DIA
13. President's Photographer	Photo Office	DIA
14. Photographic Specialist	Photo Office	DIA
15. Admin Officer	Photo Office	DIA
16. Staff Assistant	Visitors Office	Dept Of Interior
17. Executive Assistant	Visitors Office	Dept Of Interior
18. Staff Assistant	Visitors Office	Dept Of Interior

*PFIAB is the President's Foreign Intelligence Advisory Board

Other Services (POC – Chuck Sigman)

QUESTION 75: Similar to the information on page 236 et seq. of last year's hearing record, please provide a detailed description of each project, program, or initiative proposed to be funded in FY 2004 under object class 25.2 ("other services").

RESPONSE: Capital Investment Plan (CIP) - $5,220,000

The overall FY 2004 CIP requirement supports nine areas, as described below. The following "services" costs are included in the FY 2004 CIP request:

- **$690,000 for Customer Service and Desktop Systems.** This funding will be used to perform desktop software integration support.
- **$450,000 for New Technologies and Systems**. This includes "services" funding of $150,000 for server technology integration testing, and $300,000 for voice and data integration.
- **$230,000 for EOP Systems and Support,** including "services" funding of $150,000 to develop external Local Area Networks, and $80,000 for production test lab development.
- **$700,000 for Information Security** for enterprise identity projects to allow the introduction of new authentication and identification mechanisms into the EOP IT infrastructure.

REV_00167652

- **$650,000 for Web-Based Services** for web services application environment.
- **$2,500,000 for the Offsite Data Center** for services necessary to transition the offsite data center to full operational status
- **There are no services funds allocated to Campus Wiring, Networks and Data Communications Infrastructure, or Messaging and Scheduling.**

Salaries and Expenses - $2,150,000

There are three initiatives in the FY 2004 OA salaries/expense budget which comprise $2,150,000 in new programs under object class 25.2 ("other services"):

- **$1,800,000 for Technology and Systems Support Contract .** The Chief Information Officer (CIO) provides a wide range of computer services support to the EOP. These tasks are performed in large measure through an outsourcing contract that delivers IT services from PC deployment, to help desk and data center operations. During FY 2003, this IT systems support contract was competed with an increase in base labor rates due to the need for more advanced skills in IT disciplines such as XML and web services software development, Oracle database development and administration, and implementation of a new Enterprise Resources Planning (ERP) application covering finance, asset management and human resources. The CIO outsource contract is the vehicle used to maintain a 24 hour-a-day operation for mainframes, servers, help desk, local area networks, personal computers, applications; installation of end-user hardware and software; training; software application development and maintenance services. Altogether, this contract supports customers throughout the White House 18 acre complex, at remote and mobile locations, and at the planned Offsite Data Center. Key components driving the cost upward include: (1) higher labor rates for the DC area, which have risen since the previous IT 1997 facility contract; (2) the impact of the new data center operations in 2003 and thereafter; (3) an expanded EOP customer base which has more advanced, sophisticated, and security-conscious users.

- **$300,000 for Information Assurance Support.** The CIO has established the Information Assurance (IA) program to serve as a central location for information security serving all of EOP. FY 2002 and FY 2003 funds attended to the most critical concern with significant vulnerabilities in the perimeter and began the process of securing the internal systems. The IA program created real-time monitoring of perimeter network devices; it established the first formal documentation of IA program policy to bring the EOP in conformance with Federal guidelines and directives. However, the cyber threat facing EOP is dynamic because our systems are constantly assailed with a wide and unexpected range of attacks. The new state of defense must be active vigilance, to include the following components: (1) Perimeter Security, (2) Advanced Security Concepts, (3) Contingency Planning Support, (4) Network Monitor/Response Systems, and (5) Security Awareness, Assessments, and Education.

REV_00167653

- **$50,000 for Security Enhancements: Videos.** There is a frequent and ongoing need for a security video – specific to the EOP and White House – which can be used in security briefings and new employee orientation meetings. This video will contain a brief overview of security responsibilities and procedures which must be understood by all personnel working in the EOP.

Salaries and Expenses (POC – Dilworth)

QUESTION 76: Please provide a detailed description of any expenses in the FY 2004 budget under "salaries and expenses" which are not directly related to personnel compensation and benefits.

Security Guard Services for OSTP (POC – Chuck Sigman)

QUESTION 77: In FY 2003, you budgeted $1,798,000 for security guard services for the Office of Science and Technology Policy. Are similar funds requested in FY 2004? If so, how much?

RESPONSE: The FY 2004 OA budget proposes that the cost of the security guard service (estimated at $702,000) for OSTP be transferred to the OSTP appropriation. Thus, the proposed FY04 OA budget would contain the balance of the funds (approximately $1.1 million).

Since the FY 2003 budget was proposed, there have been additional reviews of the physical security of the White House complex by the US Secret Service, the Federal Protective Service, and the OA Security Office. As a result, the OA Security Office has been assigned the responsibility of correcting deficiencies in EOP physical security. There are some locations which do not currently have Secret Service protection (such as the Jackson Place White House Conference Center). Another location which does not have firm long-term security plans is the office at 1800 G Street. Thus, the Office of Administration has ongoing needs for the $1.1 million which remains in the OA budget. During FY03, these funds are being used for consolidation of information technology maintenance ($200,000), centralization of database services ($200,000), and common building service costs ($400,000). The remaining $300,000 of these savings will be used for an FY03 OA personnel shortfall.

QUESTION 78: Why aren't such funds in the OSTP budget?

RESPONSE: The estimated FY04 cost of 24-hour security guard services is included in the FY04 OSTP budget request. This estimate is $702,000 for a full year.

Political Appointees (POC – Jon Laurich)

REV_00167654

QUESTION 79: Please update the information on political appointees within EOP as shown on page 268 of last year's hearing record, using the same criteria and assumptions as last year.

RESPONSE: The term "political appointees" is somewhat of a misnomer because it narrowly defines the type of employees authorized under Chapter 2 of Title 3 of the U.S. Code, for the White House Office, the Executive Residence, the Official Residence of the Vice President and the Office of Administration. These offices can hire personnel in various excepted service positions that are not subject to the rules of regular government employees. Many of these excepted service positions fall under the category of serving at the pleasure of the President while others do not. Using the term in the broadest possible sense, including all employees hired as Presidential Appointees, Administratively Determined, Non Career SES, or Schedule C's, the Executive Office of the President has the following number of political appointees directly hired within the EOP and serving in the EOP on detailed assignments from other agencies as of May 5, 2003.

	FY 2003 "POLITICAL APPOINTEES" *as of May 5, 2003*					
Program	**Admin. Determ.***	**Schedule C**	**Non career SES**	**Presidential Appointees**	**OGE** Political Appointees**	**TOTAL**
White House Office	438				8	**446**
Office of Homeland Security	20				9	**29**
Special Assistance to the President	24				1	**25**
Official Residence of the Vice President						
Office of Administration		1				**1**
Office of Policy Development	30				2	**32**
National Security Council					3	**3**
Council of Economic Advisers	16	3		1		**20**
Office of Management and Budget	2	21	11	5		**39**
Office of National Drug Control Policy		10	2	5		**17**
Executive Residence						
Office of Science and Technology Policy		3	2	3	1	**9**
Council on Environmental Quality	10	2		1	2	**15**
U.S Trade Representative	19	5	3	4		**31**
TOTAL	**559**	**45**	**18**	**19**	**26**	**667**

* Historically, Administratively Determined appointees within some agencies have served from one administration to another. Nevertheless, they serve at the pleasure of the entity head and may be terminated without cause.

** OGE = Other Government Employees

Detailees (POC – Jon Laurich)

QUESTION 80: Please update the information on reimbursable and non-reimbursable detailees with EOP as shown on pages 268 and 269 of last year's hearing record.

RESPONSE: There are currently 251 detailees staffed within the Executive Office of the President. There are 40 reimbursable detailees and 211 non-reimbursable detailees as shown in the chart below, as of May 5, 2003:

REV_00167655

Program	FY 2003 Estimates		
	Reimbursable Detailees	Non-Reimbursable Detailees	TOTAL
White House Office	5	11	**16**
Office of Homeland Security	23	3	**26**
Special Assistance to the President		1	**1**
Official Residence of the Vice President			
Office of Administration			
Office of Policy Development	1	1	**2**
National Security Council	4	104	**108**
Council of Economic Advisers	2	2	**4**
Office of Management and Budget	3	54	**57**
Office of National Drug Control Policy		4	**4**
Executive Residence			
Office of Science and Technology Policy	2	3	**5**
Council on Environmental Quality		3	**3**
U.S Trade Representative		25	**25**
TOTAL	40	211	251

Office of the Vice President (POC – Kristen Savercool)

QUESTION 81: You are requesting an additional $70,000 (+1.7 percent) for the Vice President's travel, due to increased travel to undisclosed locations after the terrorist attacks of September 11, 2001. Weren't these type of increases baselined in FY 2002 and FY 2003, and if so, why are further increases needed in FY 2004?

RESPONSE: The FY 2003 budget was submitted in February 2002, prior to it becoming evident that the Vice President's travel requirements had increased more than originally estimated. Following the events of 9-11, the Vice President has been required to be outside the Washington, DC vicinity for significant periods of time. This travel has been 100 percent official, and operational in nature (i.e. the Vice President performs his regular duties in an off-site location). This travel has required the accompaniment of staff, who also perform operational duties.

Because the budget impact of these additional travel requirements was not fully realized until after the FY 2003 budget request was submitted, they were not included in the FY 2003 baseline. Continued security concerns related to the Vice President and the ensuing impact on the Vice President's travel costs necessitate the increase to the FY 2004 OVP travel budget. This increase will allow the Vice President the flexibility needed to adequately execute his official travel requirements.

REV_00167656

Unanticipated Needs (POC – Eric Lanman)

QUESTION 82: Please provide a listing of the uses of Unanticipated Needs funds in FY 2002.

RESPONSE: $757,000 of the $1,000,000 appropriated to the Unanticipated Needs account in FY 2002 was provided to OMB for Office of Homeland Security Transition Planning Office. The remaining appropriation was not utilized.

REV_00167657

Questions for the Record
Ranking Member, John Olver
Hearing on the Executive Office of the President
April 30, 2003

Account Consolidation and Transfer Proposals (POC – Al Muhlbauer/Jim Daniel)

When we centralized the funds within the Office of Administration, Congress intended that each agency would continue to receive a similar share of support and assistance under the consolidation.

QUESTION 83: Are any agencies going to receive diminished services or resources under the consolidation?

RESPONSE: No, currently the funding in the pilot has been allocated to be consistent with the FY 03 budget request. The service levels will be equal to or greater than pre-pilot levels; however, we are hopeful that the cost to procure the same level of service will decrease. Also, the Office of Administration is preparing service standards that will be approved by the Common Services Board. For example, if the service standard for PC's would be one PC per desktop that is less than four years old and if one EOP component is currently at that standard for 95 % of its employees and another is currently at that standard for 50% of its employees, based on need, the second component would get a larger share of the services to bring it closer to the EOP standard. This allows EOP to consistently upgrade software and services across the entire organization as the total infrastructure permits.

QUESTION 84: Are any agencies to receive extra services above and beyond the amount of funds they contributed as part of the consolidation?

RESPONSE: Yes, based on need and to bring organizations that are lagging behind the approved standards up to a consistent standard, some organizations may receive extra services above and beyond the amount of funds they contributed to the consolidation. We anticipate some of those services will be funded from savings in the program.

QUESTION 85: Under the procurement consolidation pilot approved in the FY03 Omnibus, are IT or database services for any EOP agency going to be paid for by funds contributed by other EOP agencies?

RESPONSE: Yes, in addition to generating procurement savings and efficiencies, a major goal of the consolidation pilot is to bring all of the EOP components up to an approved standard of service which will allow us to implement technology evenly across the organization and to realize efficiencies and benefits from a consistent and even

REV_00167658

infrastructure. In reaching this goal, the funds may be applied in a manner which is not in the same ratio in which they were contributed.

QUESTION 86: In general, are the funds appropriated for this centralized procurement program going to be used to supplement the appropriation made to individual agencies?

RESPONSE: Yes, the individual agencies will be the recipients of the services funded by the centralized procurement program without reimbursement in accordance with the Congressional appropriation provided to OA.

QUESTION 87: If so, which agencies will benefit and which agencies will receive less than their share of contributions?

RESPONSE: OA is currently establishing the allocation standards for the commodities included in the centralized procurement program. It is intended that a Common Services Board representing the EOP agencies approve those standards. OA is also requesting that the agencies assist us in developing a baseline against which we will measure the allocation standards. That will determine which, if any, agencies will benefit and which agencies will receive less than their share of contributions. We intend to report to OMB and the Congress how the centralized procurement program commodities were provided.

QUESTION 88: You recently submitted a very cursory report on the procurement pilot. When will you provide us with specific details on the progress of the pilot program?

RESPONSE: As mentioned above, progress is being made on the plan to implement the Common Services Program. We intend to report the status of the implementation of the plan in the June/July timeframe.

Other than for extreme situations similar to those encountered immediately after 9/11/01, it is not our intent to transfer large amounts between EOP appropriations. More likely, because a number of the appropriations are small we would be moving funds to cover unanticipated requirements such as paying unexpected terminal leave to employees who have retired and whose agency did not anticipate the level of required terminal leave. As stated in our request, Congress will be notified in advance of our intent to move funds between accounts.

Your budget also proposes a change that would permit EOP agencies to transfer up to 10% into our out any agency's budget. Coupled with your account consolidation proposal, that would allow you to transfer in up to $18 million more into (or out of) the White House's budget.

REV_00167659

QUESTION 89: Under the procurement consolidation program that we approved in the FY03 bill, don't you have a similar type of flexibility already? What other flexibility is needed?

RESPONSE: The flexibility of the procurement consolidation program is directed to certain defined common commodities. The 10% transfer authority provides flexibility for unexpected requirements and to address needs that may be outside the program.

QUESTION 90: What protection is there for smaller EOP agencies under this proposal? Don't they stand to lose critical resources if the White House or Vice President's Office decide to take 10% of their resources?

RESPONSE: It is more likely that the smaller agencies will benefit from the proposal, because their appropriations are small they are less likely to be able to adjust to unforeseen circumstances, this program will allow the EOP to address those circumstances without requesting supplemental funding. And, as stated above, the Congressional Committees will be notified in advance of any fund movement and could have any such concerns addressed.

Office of Homeland Security Questions (POC – Paul Ehrhardt)

We recently received a reprogramming request to transfer $2m of the funds provided to the Office of Homeland Security to the Remote Delivery Site cleanup efforts. The source of these funds would come from the Office of Homeland Security.

The Office of Homeland Security has gone from an initial $25m stated need when the initial FY03 bills passed the House and Senate to $11m when the FY03 Omnibus was passed to what will be $9m if the reprogramming is approved.

QUESTION 91: What exactly does the Office of Homeland Security do now that the Department of Homeland Security is in place?

RESPONSE: HSC provides advice to the President on homeland security matters and coordinates the interagency process to ensure unified administration policy on homeland security.

QUESTION 92: Does OHS still have a presence at Nebraska Avenue?

RESPONSE: No.

QUESTION 93: Does the Office of Administration provide any support to agencies at Nebraska Avenue? If so, please describe the specific types of support provided. Is this support on a reimbursable basis?

REV_00167660

RESPONSE: Since the transfer of the Nebraska Avenue facility to the Department of Homeland Security (DHS) on January 1, 2003, OA has not provided any support to agencies at the Nebraska Avenue Complex (NAC). Pursuant to a Determination by the OMB Director, funds in the amount of $3,746,000 were transferred from the OHS Emergency Fund within OA to the Department of Homeland Security in March 2003 to support NAC activities.

QUESTION 94: How many personnel and detailees now work for OHS?

RESPONSE: The Homeland Security Council currently consists of 66 staff positions which can be filled by either Direct Hire FTE or Other Government Employee (detailee and assignee) personnel. HSC is requesting resources to support up to 40 Direct Hire FTE and 26 OGE FTE on its staff for FY 2004. See table below for a comparison with fiscal years 2003 and 2002.

Office of Homeland Security / Homeland Security Council Personnel

	FY 2002 Actual	FY 2003 Estimate	FY 2004 Request
Direct Hire FTE	0	20	40
Other Government Employee (EOY headcount)	89	31	26
Total Personnel	89	51	66

QUESTION 95: What is the actual operational budget need for OHS in FY03?

RESPONSE: The Homeland Security Council budget requirement from the FY 2003 appropriation is estimated to be approximately $4.32 million. Please note that the FY 2003 estimate covers only costs incurred after the enactment of the FY 2003 appropriation on February 20, 2003. Unlike other EOP agencies which operated under continuing resolutions between October 1, 2003 and February 20, 2003, the Office of Homeland Security was not permitted to utilize the CR funding mechanism but instead continued to charge FY 2003 expenses against the no-year emergency funding (provided in FY2002) until the FY 2003 appropriation was enacted. Therefore the FY 2003 estimate reflects only seven months of activity, whereas the FY 2004 Request needs to cover HSC expenses for the full 12 months next fiscal year.

QUESTION 96: For the record, please provide us a breakout by object class of the Office of Homeland Security's FY03 remaining budget.

RESPONSE: The breakout below reflects HSC's budget for the last seven months of FY 2003, from the enactment of the FY 2003 Appropriation on February 20, 2003 through September 30, 2003.

REV_00167661

(Dollars in Thousands)

Object Class	FY 2003 est.
Personnel	$2,800
Travel	$60
Transportation of Things	$24
Communications, Utilities, and Miscelaneous	$50
Printing and Reproduction	$69
Other Services	$1,267
Equipment	$50
Total,	$4,320

QUESTION 97: Any likelihood that these estimates will be revised downward again?

RESPONSE: The FY 2003 estimate provided above reflects the best assessment of HSC requirements from the OHS FY 2003 appropriation, and actual obligations against this appropriation will likely be close to this current estimate.

QUESTION 98: I understand that the President named General Gordon as his new Homeland Security Adviser. Does he support the latest $2 million cut to his office's resources?

RESPONSE: General Gordon has not yet reported to Homeland Security Council. Also, the resources of the Homeland Security Council have not been cut by $2 million. The FY 2003 appropriations for the Homeland Security Council included $2 million for decontamination of the Remote Delivery Site as agreed to by the Congress and the Administration. Subsequent to the passage of the FY 2003 appropriations, that $2 million was allocated to decontamination of the RDS per the agreement. Therefore, this planned use of that appropriation is not a cut to HSC resources.

QUESTION 99: Have you validated the FY04 request recently to ensure it is an accurate figure?

RESPONSE: Yes. HSC reevaluated its FY 2004 requirements prior to submitting the final FY 2004 Request. Given the creation of the Department of Homeland Security, HSC's FY 2004 budget requirements are estimated at $8,331,000; as requested.

Budget Questions:

After the FY03 enacted levels are adjusted to reflect the transfer of $9 million to the Office of Homeland Security, the Executive Office of the President's FY04 budget

REV_00167662

request reflects an 8% increase over FY03 levels. Your agency, the Office of Administration requests a 10% increase between FY03 and FY04.

When the budget was introduced, Mitch Daniels said that the overall growth of Federal programs would be pegged to the expected 4% growth in inflation. The administration also said the President wanted to "match government's growth with the growth of American family income."

QUESTION 100: When the rest of the government is forced to live with 4% growth, how can you justify an almost 10% increase in your office and an overall Executive Office of the President increase of 8%? **(POC – Chuck Sigman)**

RESPONSE: The Office of Administration's 10% budget increase amounts to approximately $7 million. This increase is necessitated by additional costs stemming from the enhanced security activities in the post-September 11 environment:

- The Capital Investment Plan has a net increase of $3.8 million required for the relocation of the EOP data center to an offsite location. The offsite data center has been determined to be a critical project in any contingency plan, and the communications requirements for the data center will be significantly higher in the new facility.
- $2.5 million is needed for the new information technology contract, driven by the information technology service labor increases, the relocation of the data center as well as by the increased security concerns for EOP systems.
- $0.5 million is required for the EOP information assurance program.
- $0.2 million for physical security improvements to the White House complex in providing resources for security education and evacuation resources.

The 8% growth in the overall EOP budget amounts to approximately $24.6 million. Primary components of this increase are mission-specific needs proposed by the different EOP entities:

- $6.3 million in OA programs described in the prior paragraph ($3.8 million for the capital investment plan, $2.5 million for the information technology contract, $0.5 million for information assurance, and $0.2 million for physical security).
- $2.5 million in EOP-wide space rental increases to conform with GSA's market-based rental rates.
- $3.0 million for USTR's additional staff for intensified trade negotiations.
- $3.0 million in the Executive Residence's multiyear East and West Wing restoration projects.
- $2.7 million for OMB personnel needs.
- $1.5 million for OMB's budget system updates.
- $0.7 million for OMB's E-Government staff and the Office of Information Technology.
- $0.8 million for additional staff for ONDCP.

REV_00167663

- $0.6 million in the NSC's funding for reimbursable detailees and President's Foreign Intelligence Advisory Board's request for additional staff.
- $0.5 million for OSTP's continuity of operations plan.

The White House Office's increase of 3.6% looks smaller because of a realignment of $1.85m in rent to the Office of Administration's account. Without the realignment, the White House Office's increase would be around 6.6%.

QUESTION 101: What is the justification for this realignment? **(POC – Eric Lanman)**

RESPONSE: The realignment of $1.85M in rent was made "Into" vice out of the WHO account. Without this and other realignments made as part of the FY 2004 WHO budget request, The White House Office's increase would have only been 1.7 percent.

QUESTION 102: How could the White House have been paying the bill for space that wasn't theirs? **(POC – Eric Lanman)**

RESPONSE: The WHO has not been paying rent on the 1800 G Street office spaces that this realignment involves. These office spaces were necessitated by the movement of certain White House staff offices following the events of September 11. In FY 2003 funds for these spaces were budgeted by the Office of Administration and are being paid for as part of a pilot program authorized by Congress.

QUESTION 103: Which EOP agencies occupied this space on which the White House Office has been paying rent? **(POC – Eric Lanman)**

RESPONSE: As indicated in the previous answers, White House staff have been occupying this space. Rent is being paid by the Office of Administration as part of the pilot program authorized by Congress.

QUESTION 104: Are these costs that had historically been paid by the White House Office? **(POC – Eric Lanman)**

RESPONSE: No. The 1800 G Street Office spaces were not occupied by EOP staff until after the events of 9-11.

QUESTION 105: If so, why make the change this year? **(POC – Eric Lanman)**

RESPONSE: The realignment of these costs under the WHO is done to reflect the costs under the office whose staff occupies them.

REV_00167664

Travel

The White House Office's request includes a decrease of $400,000 in Presidential Travel.

QUESTION 106: Was the FY03 estimate too high? **(POC – Eric Lanman)**

RESPONSE: As part of the FY 2003 WHO budget submission, $600,000 was requested to support the travel requirements of the new USA Freedom Corps Office. Actual experience subsequently determined this amount to be in excess of need. As a result, the FY 2003 WHO travel line was reduced $329,647 by the Congressional recission, and the FY 2004 WHO budget submission requested $400,000 less in the travel line than the original FY 2003 estimate.

QUESTION 107: If so, how do you intend to use the surplus funds? **(POC – Eric Lanman)**

RESPONSE: The $400,000 reduction to the FY 2004 WHO budget request for travel requirements does not result in surplus funds. It instead results in an overall reduction to the FY 2004 WHO budget estimate.

QUESTION 108: Are you planning less travel in FY04 or will more of the travel just be paid for by political entities? **(POC – Eric Lanman)**

RESPONSE: Except as noted above, the amount of official travel conducted by the White House staff is expected to remain consistent with the FY 2003 estimate.

QUESTION 109: Please provide a list of all White House Office, Office of Homeland Security and Office of Vice President official staff travel for FY02 and FY03 (to date). Include a brief description of the official purpose of the trip. For FY04 estimates, provide estimated number of trips and trip purpose. **(POC – Rothley Howard)**

RESPONSE: The following tables provide the FY 2002 and FY 2003 (to date) staff travel information for the White House Office, the Office of Homeland Security and the Office of the Vice President.

White House Office FY 2002 Staff Travel				
PURPOSE	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Meetings	Dallas, TX	$419.00	03/15/01	2
Official	Cincinnati, OH	$115.00	10/01/01	2
Official	Sacramento, CA	$483.00	10/11/01	11

REV_00167665

Speaking Engagement	Atlantic City, NJ	$442.87	10/15/01	1
Meetings	Los Angeles, CA	$630.75	10/17/01	4
Meetings	Reykjavik	$3,699.40	10/20/01	4
Official	Manhattan, NY	$299.00	10/25/01	6
Speaking Engagement	Austin, TX	$442.53	10/26/01	1
Speaking Engagement	Oakland, CA	$1,231.00	10/28/01	2
Official	Manhattan, NY	$34.50	10/30/01	1
Official	Manhattan, NY	$34.50	10/30/01	1
Accompany a Cabinet Head	Boston, MA	$261.50	10/31/01	2
Official	Lynchburg, VA	$52.93	10/31/01	2
Speaking Engagement	Silver Spring, MD	$9.66	11/01/01	1
Meetings	Los Angeles, CA	$561.14	11/02/01	2
Official	Crawford, TX/Austin, TX	$532.50	11/07/01	11
Speaking Engagement	Atlanta, GA	$542.93	11/09/01	2
Meetings	Los Angeles, CA	$1,661.14	11/10/01	2
Official	Manhattan, NY	$401.11	11/10/01	1
Official	Lynchburg, VA	$52.93	11/14/01	2
Official	Manhattan, NY	$382.24	11/15/01	1
Official	Waco, TX	$60.00	11/16/01	2
Official	Waco, TX	$60.00	11/16/01	2
Official	Salt Lake City, UT	$63.00	11/27/01	1
Official	Houston, TX/Sacramento, CA/Santa Fe, NM	$1,524.32	11/28/01	2
Official	Manhattan, NY	$34.50	11/29/01	1
Official	Manhattan, NY	$34.50	11/29/01	1
Meetings	Virginia Beach, VA	$298.13	12/04/01	1
Meetings	Atlanta, GA	$496.00	12/05/01	1
Official	Lynchburg, VA	$52.93	12/05/01	2
Meetings	Philadelphia, PA	$202.00	12/05/01	1
Speaking Engagement	Atlanta, GA	$428.50	12/06/01	1
Speaking Engagement	Ft. Wayne, IN	$28.00	12/06/01	1
Official	Lynchburg, VA	$52.93	12/12/01	1
Meetings	Lynchburg, VA	$48.30	12/16/01	2
Official	Sacramento, CA	$816.50	12/18/01	2
Official	Camp David, MD	$495.00	12/21/01	16
Official	Lynchburg, VA	$53.93	12/24/01	1
Official	Waco, TX	$375.00	12/26/01	12
Official	Minneapolis, MN	$383.34	12/27/01	5

REV_00167666

Official	Camp David, MD	$45.00	12/28/01	1
Speaking Engagement	Austin, TX	$58.50	01/03/02	3
Official	Hamilton, OH	$85.00	01/06/02	2
Meetings	Lynchburg, VA	$48.30	01/07/02	2
Official	Salt Lake City, UT	$175.51	01/09/02	1
Speaking Engagement	Las Vegas, NV	$95.00	01/10/02	6
Official	Anchorage, AK	$63.00	01/14/02	1
Meetings	Lynchburg, VA	$48.30	01/14/02	2
Official	Mamphis, TN	$57.00	01/14/02	1
Official	New Orleans, LA	$63.00	01/14/02	1
Speaking Engagement	Sacramento, CA	$263.00	01/17/02	1
Speaking Engagement	Dallas, TX	$931.52	01/18/02	2
Official	Portland, ME	$171.00	01/21/02	1
Official	Atlanta, GA	$247.00	01/25/02	6
Meetings	Manhattan, NY	$524.39	01/25/02	1
Official	Winston-Salem. NC	$247.00	01/25/02	6
Meetings	Lynchburg, VA	$51.10	01/28/02	2
Meetings	Salt Lake City, UT	$1,726.25	01/28/02	31
Speaking Engagement	Chicago, IL	$402.42	01/30/02	1
Official	Lynchburg, VA	$52.93	01/30/02	2
Official	Salt Lake City, UT	$357.00	02/01/02	8
Official	Salt Lake City, UT	$357.00	02/01/02	8
Official	Denver, C0	$229.00	02/04/02	4
Official	Jackson, WY	$453.78	02/04/02	6
Meetings	Lynchburg, VA	$51.10	02/04/02	2
Official	Milwaukee, WI	$231.00	02/06/02	5
Meetings	Albuquerque, NM	$605.78	02/07/02	3
Official	Denver, CO/Jackson, WY/ Idaho Falls, ID	$183.14	02/07/02	3
Meetings	New Haven, CT	$223.61	02/07/02	1
Official	Waco, TX	$75.00	02/08/02	2
Official	Anchorage, AK	$535.50	02/11/02	8
Official	Lynchburg, VA	$54.93	02/11/02	1
Speaking Engagement	Denver, CO	$41.00	02/12/02	1
Official	Lynchburg, VA	$52.93	02/13/02	2
Speaking Engagement	Naples, FL	$0.00	02/14/02	3
Speaking Engagement	Charlottesville, VA	$87.60	02/16/02	1
Speaking Engagement	Dallas, TX	$667.00	02/18/02	1

REV_00167667

Official	Jackson, WY/Los Angeles, CA	$200.00	02/18/02	4
Meetings	Kansas City, KS	$650.57	02/18/02	1
Accompany a USG Delegation	Rome, ITA	$1,380.48	02/18/02	5
Meetings	Key West, FL	$1,720.82	02/21/02	3
Meetings	Las Vegas, NV	$426.01	02/21/02	2
Meetings	Lynchburg, VA	$52.93	02/27/02	2
Speaking Engagement	Los Angeles, CA	$339.00	02/28/02	2
Official	Camp David, MD	$75.00	03/01/02	2
Speaking Engagement	Hartford, CT	$77.00	03/01/02	1
Speaking Engagement	Jackson, MS	$10.00	03/01/02	4
Meetings	Lynchburg, VA	$52.93	03/04/02	2
Official	Camp David, MD	$75.00	03/05/02	2
Official	Lynchburg, VA	$55.93	03/06/02	1
Speaking Engagement	Palm Springs, CA	$1,113.92	03/07/02	1
Meetings	Lynchburg, VA	$52.93	03/08/02	1
Official	Norfolk, VA	$209.66	03/08/02	3
Official	Richmond, VA	$208.20	03/08/02	3
Official	Richmond, VA	$161.37	03/08/02	3
Official	College Station, TX	$1,624.41	03/09/02	4
Official	Fayetteville, NC	$153.00	03/11/02	4
Official	Lynchburg, VA	$52.93	03/11/02	2
Official	St. Louis, MO	$299.00	03/13/02	6
Meetings	Washington DC	$315.55	03/15/02	1
Official	El Paso, TX	$247.00	03/16/02	6
Official	Atlanta, GA	$265.00	03/22/02	6
Meetings	Cedar Rapids, IA	$445.20	03/24/02	1
Official	Austin, TX/Waco, TX	$201.00	03/25/02	6
Official	Dallas, TX	$161.00	03/25/02	3
Official	Lynchburg, VA	$52.93	03/25/02	2
Official	Atlanta, GA/Waco, TX/Greenville, SC	$135.00	03/27/02	4
Meetings	Lynchburg, VA	$109.93	03/27/02	1
Official	Philadelphia, Pa	$375.00	03/27/02	8
Official	Waco, TX	$135.00	03/27/02	4
Official	Waco, TX	$165.00	04/04/02	5
Official	Waco, TX	$135.00	04/04/02	4
Official	Waco, TX	$105.00	04/04/02	3
Meetings	Boston, MA	$330.82	04/05/02	1

REV_00167668

Speaking Engagement	Orlando, FL/Tampa, FL	$935.14	04/06/02	2
Meetings	Knoxville, TN	$392.94	04/07/02	1
Meetings	Denver. CO/Las Vegas, NV	$426.01	04/11/02	2
Official	Camp David, MD	$135.00	04/12/02	4
Official	Camp David, MD	$75.00	04/12/02	2
Meetings	Boston, MA	$150.50	04/15/02	1
Meetings	Lynchburg, VA	$52.93	04/15/02	2
Meetings	Manhattan, NY	$409.30	04/15/02	1
Speaking Engagement	Oakland, CA/Seattle, WA	$956.54	04/16/02	1
Official	Lynchburg, VA	$52.93	04/17/02	2
Official	Lynchburg, VA	$52.93	04/17/02	2
Official	Camp David, MD	$75.00	04/19/02	6
Official	Austin, TX/Waco, TX	$264.00	04/23/02	4
Official	Lynchburg, VA	$52.93	04/23/02	1
Official	Los Angeles, CA/Waco, TX	$223.00	04/24/02	6
Official	Los Angeles, CA/Waco, TX	$223.00	04/24/02	6
Speaking Engagement	Jackson, MS	$453.78	04/26/02	1
Meetings	Philadelphia, PA	$384.00	04/26/02	1
Meetings	San Marcos, TX	$45.00	04/27/02	1
Official	Lynchburg, VA	$56.93	04/29/02	1
Meetings	San Jose, CA	$521.50	04/29/02	1
Meetings	Tampa, FL	$537.62	04/30/02	1
Official	Camp David, MD	$45.00	05/03/02	6
Speaking Engagement	Miami, FL	$697.17	05/07/02	1
Official	Lynchburg, VA	$52.93	05/08/02	2
Official	Camp David, MD	$75.00	05/10/02	12
Speaking Engagement	College Station, TX	$60.00	05/10/02	1
Official	Houston, TX	$83.00	05/10/02	2
Official	Lynchburg, VA	$52.93	05/13/02	2
Speaking Engagement	New Orleans, LA	$686.00	05/13/02	1
Official	Lynchburg, VA	$52.93	05/15/02	1
Official	Camp David, MD	$75.00	05/17/02	1
Meetings	Manhattan, NY/Phoenix, AZ	$458.00	05/21/02	1
Speaking Engagement	Atlanta, GA	$679.02	05/23/02	1
Speaking Engagement	Birmingham, AL	$134.00	05/25/02	2
Official	West Point, NY	$221.00	05/26/02	6

REV_00167669

Official	Little Rock, AR	$255.00	05/27/02	7
Official	Lynchburg, VA	$58.93	05/27/02	2
Official	Little Rock, AR	$187.00	05/29/02	5
Speaking Engagement	Pittsburg, PA	$732.94	05/29/02	1
Official	Philadelphia, Pa	$210.00	05/30/02	1
Speaking Engagement	Albuquerque, NM/Las Vegas, NV/Los Angeles, CA	$605.50	05/31/02	10
Official	Camp David, MD	$75.00	05/31/02	6
Invitational	Washington, DC	$1,007.50	05/31/02	
Official	Des Moines, IA	$187.00	06/02/02	5
Official	Des Moines, IA	$187.00	06/02/02	5
Meetings	Manhattan, NY	$358.56	06/02/02	1
Meetings	Lynchburg, VA	$52.93	06/03/02	2
Official	Lynchburg, VA	$52.93	06/03/02	1
Official	Kansas City, KS	$273.00	06/06/02	6
Official	Camp David, MD	$75.00	06/07/02	2
Official	El Paso, TX	$553.42	06/07/02	1
Speaking Engagement	Ft. Meyers, FL	$342.50	06/07/02	1
Speaking Engagement	Salt Lake City, UT	$368.00	06/10/02	1
Official	Atlanta, GA	$247.00	06/11/02	6
Official	Crawford, TX	$331.00	06/11/02	6
Meetings	Los Angeles, CA/Modesto, CA	$922.53	06/12/02	3
Official	Lynchburg, VA	$52.93	06/12/02	2
Official	Waco, TX	$165.00	06/12/02	5
Meetings	New Orleans, LA	$760.68	06/13/02	1
Official	Minneapolis, MN	$878.00	06/14/02	1
Official	Waco, TX	$105.00	06/14/02	3
Official	Waco, TX	$105.00	06/14/02	3
Official	Lynchburg, VA	$52.93	06/17/02	2
Meetings	Madison. WI	$456.00	06/17/02	1
Speaking Engagement	Pittsburg, PA	$700.14	06/19/02	1
Speaking Engagement	Brooklyn, NY	$148.50	06/21/02	1
Speaking Engagement	Charlotte, NC	$312.93	06/21/02	1
Meetings	Phoenix, AZ/Scottsdale, AZ	$1,223.50	06/21/02	4
Official	Providence, RI	$238.80	06/22/02	1
Official	Lynchburg, VA	$57.93	06/24/02	1
Meetings	San Francisco, CA/Seattle, WA	$1,177.23	06/25/02	4
Official	Lynchburg, VA	$58.93	06/26/02	2

Speaking Engagement	Albuquerque, NM	$622.02	06/27/02	2
Official	Crawford, TX	$185.00	06/28/02	2
Official	Ripley, WV	$165.00	06/29/02	5
Official	Lynchburg, VA	$58.93	07/11/02	1
Official	Crawford, TX	$75.00	07/12/02	2
Meetings	New Orleans, LA	$997.21	07/12/02	3
Meetings	Boise, ID	$767.26	07/14/02	1
Meetings	New Orleans, LA	$690.07	07/14/02	1
Official	Lynchburg, VA	$52.93	07/16/02	1
Meetings	London, GBR/FRA	$1,559.72	07/18/02	5
Speaking Engagement	Los Angeles, CA	$416.50	07/20/02	1
Official	Charleston, SC	$273.00	07/23/02	6
Official	Charleston, SC	$273.00	07/23/02	6
Speaking Engagement	Cleveland, OH/Minneapolis, MN	$1,059.88	07/23/02	1
Meetings	Denver, CO	$704.12	07/23/02	3
Meetings	Denver, CO/Orlando, FL	$944.57	07/23/02	2
Official	Lynchburg, VA	$58.93	07/24/02	2
Official	Manhattan, NY	$143.50	07/24/02	1
Meetings	Atlanta, GA	$124.50	07/28/02	1
Meetings	MexicoCity, MEX	$1,076.36	07/28/02	3
Official	Lubbock, TX	$215.00	07/29/02	6
Meetings	Lynchburg, VA	$52.93	07/29/02	2
Meetings	Boston, MA	$431.35	07/30/02	1
Meetings	Ausitn, TX	$398.00	08/01/02	1
Meetings	Austin, TX	$398.00	08/01/02	1
Official	Waco, TX	$405.00	08/01/02	13
Official	Waco, TX	$45.00	08/01/02	1
Speaking Engagement	Hershey, PA	$209.00	08/03/02	1
Official	Lynchburg, VA	$52.93	08/05/02	2
Meetings	Manhattan, NY	$564.00	08/05/02	2
Meetings	Ft Lauderdale, FL	$638.00	08/06/02	2
Meetings	Orlando, FL	$1,080.50	08/06/02	3
Official	Waco, TX	$555.00	08/06/02	18
Official	Waco, TX	$225.00	08/06/02	7
Official	Waco, TX	$315.00	08/06/02	10
Official	Waco, TX	$410.79	08/11/02	14
Official	Des Moines, IA	$59.50	08/13/02	2
Conference Attendance	New Orleans, LA	$561.13	08/13/02	1
Official	Waco, TX	$75.00	08/13/02	2
Speaking Engagement	Charleston, WV	$827.27	08/15/02	1

Official	Waco, TX	$315.00	08/15/02	10
Official	Waco, TX	$525.00	08/15/02	17
Official	Las Cruces, NM	$195.00	08/19/02	6
Official	Las Cruses, NM	$165.00	08/19/02	5
Official	Monterey, CA	$605.00	08/19/02	11
Official	Hanoi, VIE/Honolulu, HI	$1,960.34	08/20/02	11
Official	Las Cruces, NM	$165.00	08/20/02	5
Speaking Engagement	Ft. Lauderdale, FL	$658.79	08/25/02	1
Speaking Engagement	Memphis, TN	$1,043.05	08/28/02	1
Speaking Engagement	Philadelphia, PA	$225.25	08/28/02	1
Official	Louisville, KY	$285.00	08/29/02	7
Official	Louisville, KY	$285.00	08/29/02	7
Official	Louisville, KY	$358.22	08/30/02	6
Official	South Bend, IN	$221.00	08/30/02	6
Official	South Bend, IN	$221.00	08/30/02	6
Official	South Bend, IN	$221.00	08/30/02	6
Official	Minneapolis, MN	$69.00	09/02/02	1
Speaking Engagement	Manhattan, NY/Kansas City, KS	$959.66	09/03/02	2
Speaking Engagement	Naples, FL/Orlando, FL	$1,025.63	09/03/02	2
Meetings	Lynchburg, VA	$52.93	09/04/02	2
Meetings	Manhattan, NY	$437.00	09/04/02	9
Speaking Engagement	Manhattan, NY	$226.70	09/05/02	1
Official	Manhattan, NY	$892.00	09/08/02	1
Official	Pittsburg, PA	$69.00	09/10/02	1
Official	Pittsburg, PA	$69.00	09/10/02	1
Official	Lynchburg, VA	$52.93	09/11/02	2
Official	Davenport, IA	$135.00	09/12/02	4
Meetings	Austin, TX	$276.00	09/13/02	2
Meetings	Los Angeles, CA	$520.31	09/13/02	1
Official	Pittsburg, PA	$34.50	09/13/02	1
Official	Lynchburg, VA	$58.93	09/16/02	2
Speaking Engagement	Baltimore, MD	$43.29	09/19/02	1
Speaking Engagement	Cedar Rapids, IA	$317.00	09/19/02	1
Speaking Engagement	Chicago, IL	$458.88	09/20/02	1
Speaking Engagement	Wintergreen, VA	$203.14	09/20/02	2
Speaking Engagement	Columbus, OH	$369.50	09/23/02	1

REV_00167672

Official	Milwaukee, WI	$626.29	09/23/02	1
Official	Lynchburg, VA	$58.93	09/25/02	2
Speaking Engagement	Orange County, CA	$42.00	09/25/02	2
Official	Waco, TX	$466.50	09/25/02	1
Speaking Engagement	Raleigh, NC	$499.38	09/26/02	1
Speaking Engagement	Pittsburg, PA	$872.83	09/27/02	2
Speaking Engagement	Boston, MA	$257.92	09/28/02	1
Speaking Engagement	Manhattan, NY	$39.70	09/30/02	1
Official	San Francisco, CA	$1,306.54	10/15/02	3
	Total	**$98,605.86**		

White House Office FY 2003 Staff Travel				
PURPOSE	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Meeting	Manhattan,NY	$345.10	10/01/02	1
Meeting	Chicago, IL	$327.30	10/02/02	1
Speaking Engagement	Columbus, OH	$434.21	10/02/02	1
Speaking Engagement	Syracuse, NY	$700.50	10/04/02	3
Speaking Engagement	Atlanta, GA	$626.00	10/05/02	2
Official	Lynchburg, VA	$52.93	10/07/02	2
Speaking Engagement	Orlando, FL	$1,708.38	10/07/02	4
Meeting	Atlanta, GA	$1,105.34	10/08/02	3
Speaking Engagement	Portsmouth, NH	$365.00	10/08/02	1
Meeting	Hague	$1,817.68	10/09/02	4
Meeting	Atlanta, GA	$880.36	10/09/02	2
Meeting	Atlanta, GA	$893.36	10/09/02	2
Meeting	Atlanta, GA	$336.93	10/09/02	1
Meeting	Atlanta, GA	$1,001.35	10/09/02	2
Meeting	Atlanta, GA	$937.28	10/09/02	2
Meeting	Atlanta, GA	$893.36	10/09/02	2
Meeting	Atlanta, GA	$659.58	10/09/02	2
Speaking Engagement	Sioux Falls Naval, SD	$722.96	10/09/02	2
Meeting	Washington, DC	$95.50	10/09/02	1
Meeting	Manhattan,NY	$164.10	10/10/02	1

REV_00167673

Meeting	Naples, FL	$819.61	10/10/02	1
Speaking Engagement	Ft. Lauderdale, FL	$1,010.59	10/10/02	1
Speaking Engagement	Ft. Lauderdale, FL	$838.72	10/10/02	1
Speaking Engagement	Milwaukee, WI	$553.75	10/13/02	1
Meeting	Daytona Beach, FL	$826.00	10/14/02	3
Official	Lynchburg, VA	$52.93	10/16/02	2
Meeting	Manhattan,NY	$448.06	10/17/02	1
Meeting	Philadelphia, PA	$188.00	10/17/02	1
Meeting	Manhattan,NY	$445.38	10/17/02	1
Speaking Engagement	Indianapolis, IN	$58.00	10/17/02	1
Speaking Engagement	Atlanta, GA	$41.00	10/19/02	1
Speaking Engagement	San Antonio, TX	$571.71	10/20/02	1
Meeting	Des Moines, IA	$1,111.05	10/20/02	2
Official	Lynchburg, VA	$58.93	10/21/02	2
Official	Waco, TX	$934.65	10/22/02	1
Meeting	Lynchburg, VA	$52.93	10/23/02	1
Meeting	Chicago, IL	$94.00	10/23/02	1
Speaking Engagement	St. Louis, MO	$773.64	10/24/02	1
Speaking Engagement	Los Angeles, CA	$667.83	10/24/02	2
Meeting	Charlotte, NC	$976.47	10/24/02	1
Meeting	Los Angeles, CA	$385.50	10/24/02	1
Official	Lynchburg, VA	$58.93	10/28/02	2
Meeting	Charlotte, NC	$823.42	10/28/02	1
Meeting	Cleveland, OH	$818.17	10/28/02	2
Meeting	Providence, RI	$0.00	10/28/02	1
Speaking Engagement	Pittsburgh, PA	$758.56	10/29/02	1
Official	Waco, TX	$888.79	10/31/02	1
Meeting	Miami, FL	$799.27	11/05/02	1
Meeting	West Point, NY	$442.41	11/07/02	2
Meeting	Providence, RI	$677.18	11/07/02	1
Speaking Engagement	Providence, RI	$698.18	11/07/02	1
Speaking Engagement	Los Angeles, CA	$785.40	11/07/02	3
Meeting	Manhattan,NY	$139.50	11/08/02	1

Speaking Engagement	San Diego, CA	$230.81	11/10/02	1
Speaking Engagement	Reno, NV	$831.97	11/11/02	2
Official	Lynchburg, VA	$52.93	11/12/02	1
Official	Lynchburg, VA	$52.93	11/13/02	1
Meeting	Charlotte, NC	$776.00	11/13/02	1
Speaking Engagement	Lansing, MI	$438.79	11/13/02	1
Speaking Engagement	Manchester, NH	$463.00	11/13/02	1
Speaking Engagement	Portland, OR	$705.10	11/14/02	2
Meeting	Austin, TX	$1,006.00	11/16/02	14
Meeting	Austin, TX	$995.47	11/16/02	14
Speaking Engagement	Albany, NY	$752.56	11/18/02	1
Speaking Engagement	Portland, OR	$410.50	11/18/02	1
Speaking Engagement	Newark, NJ	$520.92	11/19/02	1
Meeting	Manhattan,NY	$325.02	11/20/02	2
Speaking Engagement	Tallahassee, FL	$453.79	11/20/02	1
Speaking Engagement	Concord, NH	$1,040.22	11/20/02	2
Meeting	Manhattan,NY	$157.50	11/21/02	1
Meeting	Los Angeles, CA	$683.49	11/21/02	3
Meeting	Loudoun County, VA	$17.16	11/21/02	1
Speaking Engagement	West Palm Beach, FL	$661.45	11/22/02	2
Speaking Engagement	Springfield, MO	$619.13	11/24/02	1
Speaking Engagement	Ft. Lauderdale, FL	$129.00	11/24/02	1
Meeting	Manhattan,NY	$454.36	11/25/02	1
Speaking Engagement	Manhattan,NY	$369.50	11/25/02	1
Official	Waco, TX	$913.45	11/25/02	1
Speaking Engagement	Hershey, PA	$107.18	11/26/02	1
Meeting	New Orleans, LA	$1,254.32	12/01/02	4
Official	Ft. Lauderdale, FL	$1,242.99	12/01/02	4
Official	Manhattan,NY	$85.00	12/02/02	1

Speaking Engagement	Augusta Naval Ctr, ME	$815.35	12/02/02	1
Official	Jacksonville, Fl	$616.00	12/03/02	1
Speaking Engagement	Pensacola, FL	$436.00	12/03/02	1
Speaking Engagement	Tallahassee, FL	$559.31	12/04/02	2
Speaking Engagement	Lexington, KY	$390.00	12/04/02	1
Meeting	Philadelphia, PA	$259.50	12/06/02	1
Speaking Engagement	Ft. Wayne, IN	$53.50	12/06/02	1
Speaking Engagement	Richmond, VA	$104.50	12/07/02	1
Meeting	Manhattan,NY	$293.74	12/09/02	1
Official	Lynchburg, VA	$52.93	12/09/02	1
Meeting	Philadelphia, PA	$979.38	12/09/02	4
Speaking Engagement	Nashville, TN	$575.00	12/09/02	1
Meeting	Manhattan,NY	$216.60	12/10/02	1
Speaking Engagement	Duluth,, MN	$675.28	12/10/02	1
Official	Lynchburg, VA	$52.93	12/11/02	2
Meeting	Philadelphia, PA	$407.52	12/11/02	1
Meeting	Philadelphia, PA	$360.02	12/11/02	1
Meeting	Philadelphia, PA	$423.52	12/11/02	1
Meeting	Philadelphia, PA	$399.86	12/11/02	1
Speaking Engagement	Philadelphia, PA	$370.02	12/11/02	1
Speaking Engagement	Philadelphia, PA	$216.00	12/11/02	1
Meeting	Indianapolis, IN	$803.40	12/11/02	1
Meeting	Norfolk, VA	$775.50	12/17/02	1
Meeting	West Palm Beach, FL	$123.51	12/20/02	8
Meeting	Salt Lake City, UT	$949.00	01/01/03	3
Official	Chicago, IL	$311.00	01/02/03	5
Official	Reno, NV	$1,133.11	01/05/03	3
Official	Chicago, IL	$662.22	01/05/03	2
Meeting	Manhattan,NY	$439.36	01/07/03	1

REV_00167676

Meeting	Augusta Naval Ctr, ME	$605.49	01/08/03	1
Meeting	Albuquerque, NM	$778.68	01/09/03	5
Meeting	Denver, CO	$1,102.60	01/10/03	4
Meeting	Tampa, FL	$511.00	01/11/03	1
Meeting	Tampa, FL	$435.00	01/11/03	1
Meeting	Denver, CO	$1,442.21	01/11/03	3
Meeting	Denver, CO	$1,269.14	01/12/03	2
Meeting	Denver, CO	$660.64	01/12/03	2
Meeting	Denver, CO	$713.14	01/12/03	2
Meeting	Denver, CO	$902.07	01/12/03	1
Meeting	Denver, CO	$667.14	01/12/03	2
Meeting	Denver, CO	$1,082.49	01/12/03	1
Meeting	Salem Naval Ctr, OR	$370.00	01/12/03	1
Official	Lynchburg, VA	$52.93	01/15/03	2
Meeting	Manhattan,NY	$105.00	01/19/03	1
Speaking Engagement	Austin, TX	$83.00	01/20/03	2
Official	Lynchburg, VA	$52.93	01/21/03	1
Meeting	Manhattan,NY	$496.97	01/21/03	1
Speaking Engagement	Des Moines, IA	$416.04	01/21/03	1
Speaking Engagement	Oakland, CA	$0.00	01/23/03	2
Speaking Engagement	Chicago, IL	$940.07	01/26/03	2
Speaking Engagement	Norfolk, VA	$474.88	01/26/03	1
Meeting	Manhattan,NY	$1,381.21	01/28/03	3
Meeting	Las Vegas, NV	$804.11	01/31/03	3
Meeting	Manhattan,NY	$404.70	02/03/03	1
Meeting	Manhattan,NY	$106.50	02/03/03	1
Speaking Engagement	Boston, MA	$575.79	02/06/03	1
Meeting	Nashville, TN	$635.50	02/09/03	1
Official	Lynchburg, VA	$52.93	02/10/03	2
Speaking Engagement	Little Rock, AR	$875.33	02/10/03	1
Meeting	Tallahassee, FL	$562.25	02/11/03	1
Meeting	San Diego, CA	$894.88	02/13/03	6
Conference Attendance	San Diego, CA	$950.32	02/15/03	4
Speaking Engagement	San Diego, CA	$1,758.60	02/15/03	4
Meeting	Cincinnati, OH	$512.10	02/19/03	3

REV_00167677

Meeting	Montgomery, AL	$607.11	02/20/03	1
Speaking Engagement	Baton Rouge, LA	$968.15	02/20/03	1
Meeting	Lynchburg, VA	$52.93	02/24/03	2
Meeting	Santa Fe, NM	$823.57	02/24/03	2
Speaking Engagement	Houston, TX	$746.84	02/27/03	1
Meeting	Miami, FL	$785.37	02/27/03	3
Meeting	Portland, OR	$0.00	02/28/03	2
Meeting	Newport News, VA	$63.00	03/05/03	1
Official	Lynchburg, VA	$52.93	03/05/03	1
Speaking Engagement	Minneapolis, MN	$745.00	03/06/03	1
Meeting	King of Prussia, PA	$773.94	03/10/03	2
Speaking Engagement	Raleigh, NC	$348.85	03/11/03	1
Meeting	Chicago, IL	$804.20	03/12/03	4
Meeting	Chicago, IL	$757.06	03/12/03	2
Meeting	Philadelphia, PA	$341.00	03/12/03	2
Meeting	Chicago, IL	$365.72	03/13/03	1
Meeting	Chicago, IL	$476.20	03/13/03	1
Meeting	Chicago, IL	$431.10	03/13/03	1
Meeting	Chicago, IL	$452.15	03/13/03	1
Meeting	Chicago, IL	$453.10	03/13/03	1
Meeting	Chicago, IL	$427.10	03/13/03	1
Meeting	Chicago, IL	$391.50	03/14/03	1
Speaking Engagement	Charlottesville, VA	$155.87	03/14/03	1
Speaking Engagement	Montgomery, AL	$576.37	03/14/03	1
Speaking Engagement	Charlotte, NC	$868.87	03/16/03	1
Speaking Engagement	Columbus, OH	$279.50	03/17/03	1
Official	Lynchburg, VA	$52.93	03/19/03	2
Speaking Engagement	Harford County, MD	$12.25	03/21/03	1
Speaking Engagement	Atlanta, GA	$281.50	03/24/03	1
Meeting	Philadelphia, PA	$198.00	03/25/03	1
Meeting	Philadelphia, PA	$241.50	03/25/03	1
Meeting	Philadelphia, PA	$201.00	03/25/03	1

REV_00167678

Meeting	Lansing, MI	$438.50	03/25/03	1
Official	Lynchburg, VA	$52.93	03/26/03	2
Speaking Engagement	Princeton, NJ	$329.88	03/26/03	1
Speaking Engagement	Columbus, OH	$891.00	03/26/03	1
Speaking Engagement	Jackson, MS	$498.57	03/27/03	1
Meeting	Las Vegas, NV	$1,096.72	03/27/03	2
Speaking Engagement	Los Angeles, CA	$527.61	03/29/03	1
Speaking Engagement	Pittsburgh, PA	$735.76	03/29/03	2
Official	Lynchburg, VA	$52.93	03/31/03	2
Official	Lynchburg, VA	$52.93	04/02/03	2
Meeting	Manhattan,NY	$166.00	04/02/03	1
Speaking Engagement	Nashville, TN	$756.88	04/03/03	1
Official	Philadelphia, PA	$84.71	04/03/03	1
Speaking Engagement	Atlantic City, NJ	$231.16	04/04/03	1
Speaking Engagement	Tallahassee, FL	$547.29	04/06/03	2
Speaking Engagement	Hershey, PA	$221.14	04/06/03	1
Meeting	Houston, TX	$806.00	04/08/03	1
Speaking Engagement	Albuquerque, NM	$469.88	04/08/03	1
Speaking Engagement	Denver, CO	$38.50	04/11/03	1
Official	Elmendorf, AK	$2,998.75	04/12/03	7
Speaking Engagement	Detroit, MI	$965.87	04/13/03	3
Meeting	St. Louis, MO	$759.00	04/14/03	2
Speaking Engagement	Jefferson City, MO	$749.00	04/14/03	1
Meeting	Manhattan,NY	$630.67	04/15/03	1
Meeting	Dayton, OH	$365.00	04/22/03	2
Official	San Jose, CA	$633.79	04/22/03	2
Speaking Engagement	Houston, TX	$510.91	04/23/03	1
Speaking Engagement	Atlanta, GA	$409.35	04/24/03	1
Speaking Engagement	Houston, TX	$1,080.35	04/24/03	2
Meeting	Albuquerque, NM	$685.70	04/24/03	2

Speaking Engagement	Bridgeport, CT	$642.50	04/27/03	1
Meeting	Chicago, IL	$50.00	05/01/03	2
Speaking Engagement	Baton Rouge, LA	$800.85	05/05/03	1
Speaking Engagement	Portland, OR	$410.29	05/05/03	1
	Travel	**$117,171.05**		

Office of Homeland Security FY 2002 Staff Travel				
PURPOSE	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Meetings	Salt Lake City, UT	$139.73	01/01/00	1
Official	Manhattan, NY	$442.24	11/12/01	1
Meetings	Manhattan, NY	$382.24	11/15/01	1
Speaking Engagement	Manhattan, NY	$1,115.00	12/07/01	2
Meetings	Ottawa, CAN	$294.32	12/11/01	1
Meetings	Ottawa, CAN	$201.16	12/11/01	1
Meetings	Ottawa, CAN	$301.91	12/11/01	1
Meetings	Ottawa, CAN	$284.49	12/11/01	1
Accompany a Cabinet Head	Harrisburg, PA	$2,009.00	12/21/01	11
Accompany a Cabinet Head	Pittsburg, PA/Harrisburg, PA	$543.67	01/04/02	4
Meetings	Salt Lake City, UT	$153.94	01/09/02	1
Official	Harrisburg, PA	$579.18	01/11/02	2
Meetings	Manhattan, NY	$389.50	01/13/02	1
Official	Manhattan, NY	$633.43	01/13/02	1
Official	Manhattan, NY	$267.00	01/13/02	1
Official	Manhattan, NY	$148.90	01/14/02	1
Meetings	Ft. Lauderdale, FL	$841.71	01/22/02	1
Meetings	Manhattan, NY	$586.30	01/24/02	1
Accompany a Cabinet Head	Pittsburg, PA/Harrisburg, PA	$742.43	01/25/02	3
Meetings	Washington, DC	$303.00	01/30/02	1
Meetings	Manhattan, NY	$1,012.87	01/31/02	2
Meetings	Manhattan, NY	$519.89	01/31/02	2
Meetings	Manhattan, NY	$606.62	01/31/02	2
Meetings	Manhattan, NY	$511.00	01/31/02	2
Accompany a Cabinet Head	Manhattan, NY	$727.99	02/04/02	2

REV_00167680

Accompany a Cabinet Head	Manhattan, NY	$314.00	02/05/02	1
Accompany a Cabinet Head	Manhattan, NY	$378.70	02/05/02	1
Accompany a Cabinet Head	Salt Lake City, UT	$4,975.65	02/05/02	21
Meetings	Manhattan, NY	$649.25	02/05/02	1
Accompany a Cabinet Head	Harrisburg, PA	$646.41	02/08/02	2
Accompany a Cabinet Head	Harrisburg, PA	$277.22	02/14/02	2
Accompany a Cabinet Head	Miami, FL/Orlando, FL	$2,042.92	02/14/02	2
Accompany a Cabinet Head	Orlando, FL	$792.45	02/14/02	1
Accompany a Cabinet Head	Miami, FL/Orlando, FL	$1,148.83	02/14/02	2
Accompany a Cabinet Head	Miami, FL/Orlando, FL	$1,050.72	02/14/02	2
Accompany a Cabinet Head	Miami, FL/Orlando, FL	$1,306.56	02/14/02	2
Accompany a Cabinet Head	Miami, FL	$862.08	02/15/02	1
Accompany a Cabinet Head	Miami, FL	$768.88	02/15/02	1
Accompany a Cabinet Head	Harrisburg, PA	$638.16	02/16/02	2
Accompany a Cabinet Head	Cincinnati, OH	$1,047.68	02/18/02	2
Accompany a Cabinet Head	Houston, TX/Las Vegas, NV	$2,725.30	02/19/02	3
Accompany a Cabinet Head	Houston, TX/Las Vegas, NV	$428.82	02/20/02	2
Accompany a Cabinet Head	Houston, TX/Las Vegas, NV	$339.04	02/20/02	2
Official	Houston/Las Vegas, NV	$98.00	02/20/02	2
Accompany a Cabinet Head	Harrisburg, PA	$542.74	02/22/02	2
Meetings	Key West, FL	$1,205.83	02/22/02	1
Meetings	Colorado Springs, CO	$785.71	02/25/02	2
Meetings	Vancouver, CAN	$1,214.92	02/27/02	3
Accompany a Cabinet Head	Harrisburg, PA	$277.22	03/01/02	2
Accompany a Cabinet Head	Harrisburg, PA	$603.25	03/01/02	2
Accompany a Cabinet Head	Mexico City, MEX	$2,064.76	03/03/02	4

REV_00167681

Accompany a Cabinet Head	Mexico City, MEX	$432.00	03/03/02	4
Accompany a Cabinet Head	Mexico City, MEX	$587.80	03/04/02	2
Accompany a Cabinet Head	Mexico City, MEX	$1,161.85	03/04/02	3
Accompany a Cabinet Head	Mexico City, MEX	$587.80	03/04/02	2
Accompany a Cabinet Head	Mexico City, MEX	$587.80	03/04/02	2
Accompany a Cabinet Head	Mexico City, MEX	$587.80	03/04/02	2
Official	Mexico City, MEX	$240.00	03/04/02	2
Speaking Engagement	Orlando, GL	$342.99	03/04/02	1
Accompany a Cabinet Head	Boston, MA	$422.29	03/07/02	1
Accompany a Cabinet Head	Boston, MA	$378.00	03/08/02	1
Accompany a Cabinet Head	Boston, MA	$166.50	03/08/02	1
Accompany a Cabinet Head	Harrisburg, PA	$579.41	03/08/02	2
Official	Boston, MA	$462.50	03/08/02	1
Accompany a Cabinet Head	Orlando, FL	$2,551.10	03/11/02	3
Speaking Engagement	Birmingham, AL	$659.99	03/11/02	1
Accompany a Cabinet Head	Erie, PA/ Harrisburg, PA	$588.85	03/15/02	2
Speaking Engagement	Boston, MA	$379.50	03/17/02	3
Accompany a Cabinet Head	Key West, FL	$130.80	03/18/02	2
Meetings	Manhattan, NY	$442.41	03/20/02	2
Meetings	Manhattan, NY	$377.80	03/20/02	1
Accompany a Cabinet Head	Monterey, MEX	$913.00	03/21/02	2
Meetings	Manhattan, NY	$315.48	03/21/02	1
Accompany a Cabinet Head	Harrisburg, PA	$362.99	03/23/02	1
Meetings	St Petersburg, FL	$362.99	03/23/02	1
Meetings	Orlando, FL	$1,053.87	03/25/02	2
Meetings	Boston, MA	$175.50	03/25/02	1
Accompany a Cabinet Head	Key West, FL	$2,306.33	03/28/02	5
Meetings	Wilmington, DE	$167.00	03/29/02	1

REV_00167682

Speaking Engagement	Los Angeles, CA	$1,185.31	04/02/02	3
Meetings	Miami, FL	$750.57	04/04/02	1
Meetings	Miami, FL	$612.50	04/04/02	1
Accompany a Cabinet Head	Harrisburg, Pa	$444.41	04/05/02	2
Accompany a Cabinet Head	Annapolis, MD	$63.14	04/07/02	1
Meetings	Atlanta, GA	$614.37	04/07/02	2
Accompany a Cabinet Head	Chicago, IL	$990.19	04/08/02	2
Accompany a Cabinet Head	Chicago, IL	$712.71	04/08/02	2
Meetings	Manhattan, NY	$811.62	04/08/02	2
Accompany a Cabinet Head	Chicago, IL	$247.10	04/09/02	1
Accompany a Cabinet Head	Chicago, IL	$290.86	04/09/02	1
Accompany a Cabinet Head	Chicago, IL	$379.10	04/09/02	1
Meetings	Chicago, IL	$477.10	04/09/02	1
Meetings	Chicago, IL	$453.10	04/09/02	1
Meetings	Chicago, IL	$224.00	04/09/02	1
Accompany a Cabinet Head	Harrisburg, Pa	$831.69	04/11/02	3
Accompany a Cabinet Head	Harrisburg, Pa	$365.68	04/11/02	1
Accompany a Cabinet Head	Chicago, IL	$300.63	04/11/02	1
Accompany a Cabinet Head	Harrisburg, Pa	$288.00	04/11/02	1
Meetings	Charleston, SC	$878.26	04/11/02	2
Meetings	Charleston, SC	$980.62	04/11/02	2
Speaking Engagement	Oklahoma City, OK	$528.88	04/12/02	1
Accompany a Cabinet Head	Detroit, MI	$1,262.38	04/15/02	1
Meetings	Boston, MA	$1,249.42	04/15/02	3
Speaking Engagement	Baltimore, MD	$134.10	04/15/02	1
Accompany a Cabinet Head	Detroit, MI	$33.17	04/16/02	1
Accompany a Cabinet Head	Detroit, MI	$367.00	04/16/02	1
Meetings	Chicago, IL	$727.54	04/16/02	1
Meetings	Chicago, IL	$794.65	04/16/02	1
Meetings	Chicago, IL	$553.22	04/16/02	1
Meetings	Detroit, MI	$0.00	04/16/02	1

Accompany a Cabinet Head	Erie, PA/Harrisburg, PA	$412.96	04/18/02	3
Accompany a Cabinet Head	Harrisburg, Pa	$856.64	04/19/02	2
Meetings	Houston, TX	$612.48	04/20/02	2
Accompany a Cabinet Head	Phoenix, AZ	$2,023.87	04/24/02	5
Meetings	Toronto, CAN	$626.69	04/24/02	1
Accompany a Cabinet Head	New Orleans, LA	$857.86	04/28/02	2
Accompany a Cabinet Head	New Orleans, LA	$903.08	04/28/02	2
Accompany a Cabinet Head	New Orleans, LA	$1,214.96	04/28/02	2
Accompany a Cabinet Head	New Orleans, LA	$1,101.76	04/28/02	2
Accompany a Cabinet Head	New Orleans, LA	$1,286.01	04/28/02	2
Accompany a Cabinet Head	New Orleans, LA	$979.86	04/28/02	2
Meetings	New Orleans, LA	$1,028.41	04/28/02	2
Speaking Engagement	Boston, MA	$87.00	04/30/02	1
Speaking Engagement	Los Angeles, CA	$668.61	05/01/02	3
Accompany a Cabinet Head	Columbus, OH/Pittsburg, PA	$801.97	05/03/02	2
Accompany a Cabinet Head	Columbus, OH/Pittsburg, PA	$457.23	05/03/02	3
Meetings	Albuquerque, NM	$625.90	05/06/02	2
Speaking Engagement	Bangor, ME	$465.50	05/06/02	1
Meetings	Sacramento, CA	$515.50	05/07/02	1
Meetings	Sacramento, CA	$707.38	05/07/02	1
Speaking Engagement	Denver, CO	$426.71	05/07/02	1
Meetings	Burlington, VT	$979.84	05/08/02	2
Speaking Engagement	Wichita, KS	$434.21	05/08/02	1
Speaking Engagement	San Diego, CA	$805.50	05/08/02	1
Official	Columbus, OH/Pittsburg, PA	$178.00	05/13/02	2

REV_00167684

Meetings	Colorado Springs, CO	$652.21	06/25/02	2
Accompany a Cabinet Head	Erie, PA/ Harrisburg, PA	$1,016.84	11/18/02	4
Meetings	Miami, FL/Orlando, FL	$955.40	12/14/02	2
Accompany a Cabinet Head	Key West, FL	$2,204.31	03/27/20	7
Accompany a Cabinet Head	Anniston Army Dep., AL	$358.10	04/09/22	1
Accompany a Cabinet Head	Manhattan, NY	$649.25	02/005/02	1
	Total	**$100,692.33**		

OHS/Cyberspace Security Office FY 2002 Staff Travel				
PURPOSE	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Speaking Engagement	San Jose, CA	$1,483.45	10/27/01	5
Speaking Engagement	San Jose, CA	$4,114.24	10/27/01	12
Speaking Engagement	San Jose, CA	$1,101.04	10/28/01	4
Speaking Engagement	San Jose, CA	$1,948.64	02/17/02	3
Speaking Engagement	New Haven, CT	$879.00	02/20/02	4
Speaking Engagement	Philadelphia, PA	$149.31	02/22/02	1
Speaking Engagement	Palm Springs, CA	$371.00	03/04/02	1
Speaking Engagement	London, GBR	$1,611.83	03/17/02	3
Speaking Engagement	Manhattan, NY	$297.30	03/20/02	1
Meetings	Orlando, FL	$592.89	04/02/02	1
Speaking Engagement	Orlando, FL	$592.89	04/02/02	1
Meetings	Providence, RI	$875.74	04/03/02	1
Speaking Engagement	Providence, RI	$875.74	04/03/02	1
Speaking Engagement	Denver, CO	$1,288.87	04/05/02	3
Speaking Engagement	Williamsburg, VA	$261.00	04/08/02	1
Speaking Engagement	Albany, NY	$904.60	04/10/02	1

REV_00167685

Speaking Engagement	Orlando, FL	$1,279.00	04/12/02	5
Speaking Engagement	Orlando, FL	$757.75	04/16/02	1
Speaking Engagement	Orlando, FL	$1,663.74	04/21/02	3
Speaking Engagement	Chicago, IL	$524.42	05/07/02	1
Speaking Engagement	Las Vegas, NV	$1,009.00	05/08/02	1
Speaking Engagement	Boston, MA	$455.80	05/10/02	2
Speaking Engagement	Denver, CO	$1,390.93	05/12/02	5
Speaking Engagement	Denver, CO/Indianapolis, IN	$1,574.15	05/12/02	7
Meetings	Denver, CO	$1,711.17	05/14/02	3
Speaking Engagement	Chicago, IL	$328.00	05/16/02	1
Speaking Engagement	Honolulu, HI	$1,371.44	05/20/02	2
Meetings	Chicago, IL / Portland, OR	$2,874.45	05/27/02	11
Meetings	Chicago, IL	$711.20	05/29/02	2
Meetings	Chicago, IL	$717.20	05/29/02	2
Meetings	Portland/Seattle/San Diego	$1,436.79	05/31/02	9
Meetings	Portland, OR / Seattle, WA	$4,571.98	06/01/02	6
Speaking Engagement	Portland, OR	$241.00	06/05/02	1
Speaking Engagement	Buffalo, NY	$761.29	06/12/02	1
Meetings	Atlanta, GA	$1,333.54	06/16/02	3
Meetings	Atlanta, GA	$535.04	06/17/02	2
Meetings	Atlanta, GA	$653.04	06/17/02	2
Speaking Engagement	London, GBR	$1,687.92	06/19/02	3
Speaking Engagement	Isle of Hawaii	$3,082.83	06/23/02	6
Speaking Engagement	Las Vegas, NV	$982.06	06/26/02	1
Speaking Engagement	Manhattan, NY	$308.00	07/08/02	1
Speaking Engagement	Manhattan, NY	$175.20	07/11/02	1
Meetings	Monterey, CA	$1,352.72	07/20/02	3
Speaking Engagement	Chicago/Tulsa/Minneapolis	$1,602.04	07/20/02	8

REV_00167686

Speaking Engagement	Dallas/Tulsa	$877.15	07/21/02	2
Speaking Engagement	Las Vegas, NV	$2,353.38	07/24/02	9
Speaking Engagement	Las Vegas, NV	$1,148.96	07/30/02	2
Meetings	Roanoke, VA	$671.68	08/04/02	1
Speaking Engagement	Ft. Lauderdale, FL	$705.61	08/06/02	1
Speaking Engagement	Duluth, MN	$71.76	08/06/02	1
Speaking Engagement	San Francisco, CA	$811.92	08/06/02	2
Conference Attendance	San Francisco, CA	$3,362.76	08/12/02	6
Meetings	San Francisco / Vail	$4,362.25	08/12/02	6
Meetings	Phoenix, AZ	$1,128.18	08/13/02	3
Speaking Engagement	Aspen, CO	$287.00	08/17/02	4
Meetings	Manhattan, NY	$470.05	08/19/02	1
Speaking Engagement	Boston, MA	$462.40	08/22/02	1
Meetings	Ottawa, Canada	$1,056.24	08/26/02	1
Speaking Engagement	Nashville, TN	$730.23	08/26/02	1
Meetings	Chicago, IL	$312.50	08/30/02	1
Speaking Engagement	Seattle, WA	$1,251.44	09/03/02	3
Speaking Engagement	Manhattan, NY	$195.00	09/05/02	1
Meetings	Philadelphia, PA	$226.72	09/06/02	1
Official	San Jose, CA	$845.27	09/08/02	1
Speaking Engagement	Atlanta, GA	$122.00	09/12/02	1
Meetings	Palo Alto, CA	$2,987.46	09/15/02	6
Meetings	Palo Alto / Seattle	$2,388.45	09/15/02	6
Meetings	New London/San Francisco	$2,541.62	09/15/02	7
Meetings	San Francisco, CA	$1,643.49	09/16/02	3
Meetings	Palo Alto, CA	$1,459.11	09/17/02	2
Meetings	Minneapolis / San Francisco	$2,032.69	09/17/02	3
Meetings	Manhattan, NY	$186.62	09/19/02	1
Meetings	Albuquerque, NM	$901.52	09/21/02	4
Speaking Engagement	Chicago, IL	$1,092.55	09/24/02	1
Meetings	Austin/San Antonio	$740.79	09/24/02	3
Meetings	Austin/San Antonio	$1,234.81	09/24/02	3
Meetings	San Antonio, TX	$1,353.83	09/24/02	3

REV_00167687

Meetings	Denver/San Antonio	$1,680.02	09/24/02	6
Meetings	San Antonio, TX	$527.78	09/26/02	1
Speaking Engagement	Ft. Meyers, FL	$622.71	09/30/02	1
Meetings	Atlantic City, NJ	$375.09	09/30/02	1
	Total	**$95,660.28**		

OHS /Cyberspace Security Office FY 2003 Staff Travel				
PURPOSE	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Meetings	Philadelphia, PA	$375.31	10/02/02	1
Meetings	Philadelphia, PA	$660.04	10/02/02	4
Speaking Engagement	Minneapolis, MN	$750.71	10/08/02	1
Speaking Engagement	Brussels, Bel/London GBR	$3,903.77	10/08/02	8
Speaking Engagement	Pittsburg, Pa	$1,188.65	10/09/02	1
Meetings	Boston, MA	$2,287.09	10/14/02	6
Meetings	Boston, MA	$1,141.06	10/15/02	2
Meetings	Boston, MA	$308.38	10/17/02	1
Speaking Engagement		$257.56	10/17/02	1
Meetings	Chicago, IL	$312.50	10/17/02	1
Speaking Engagement	Miami, FL	$611.04	10/20/02	2
Meetings	Frederick, MD	$312.10	10/22/02	1
Meetings	Frederick, MD	$357.36	10/22/02	1
Meetings	Pittsburg, Pa	$821.92	10/23/02	2
Meetings	Pittsburg, Pa	$1,112.79	10/23/02	2
Speaking Engagement	Eugene, OR	$1,595.63	10/26/02	2
Speaking Engagement	Brussels, Bel	$6,650.41	10/26/02	6
Speaking Engagement	San Jose, CA	$4,114.24	10/27/02	12
Speaking Engagement	San Antonio, TX	$501.00	10/28/02	1
Speaking Engagement	Las Vegas, NV	$1,351.69	10/28/02	1
Speaking Engagement	Atlanta, GA	$1,024.90	11/05/02	1
Meetings	White Plains, NY	$965.79	11/06/02	2
Meetings	Chicago, IL	$257.56	11/07/02	1
Meetings	Chicago, IL	$461.10	11/07/02	1
Speaking Engagement	Chicago, IL	$547.57	11/07/02	2

Meetings	Manhattan, NY	$793.86	11/07/02	2
Meetings	Seattle, WA/Monterey, CA	$1,329.66	11/10/02	5
Meetings	Manhattan, NY	$697.49	11/12/02	1
Meetings	Manhattan, NY	$350.50	11/13/02	1
Meetings	Phoenix, AZ	$1,129.86	11/13/02	2
Meetings	Atlanta, GA	$463.06	11/17/02	1
Meetings	Ottawa, CAN/Phoenix, AZ	$2,418.32	11/17/02	5
Meetings	Manhattan, NY/Salt Lake City, UT	$877.25	11/19/02	1
Speaking Engagement	Manhattan, NY	$699.56	11/20/02	1
Meetings	Chicago, IL	$229.13	12/03/02	1
Meetings	San Francisco, CA	$2,293.66	12/03/02	4
Meetings	Phoenix, AZ	$1,246.33	12/04/02	2
Meetings	San Francisco, CA	$1,637.48	12/04/02	2
Meetings	Seattle, WA	$1,138.43	12/06/02	2
Meetings	Boston, MA	$401.00	12/09/02	1
Speaking Engagement	Charleston, SC	$825.27	12/09/02	1
Meetings	Manhattan, NY	$380.05	12/12/02	1
Meetings	Flemington, NJ	$181.00	12/17/02	1
Meetings	Flemington, NJ	$306.54	12/17/02	1
Meetings	Charlotte, NC	$919.59	01/09/03	1
Meetings	Charlotte, NC	$1,009.43	01/09/03	1
Meetings	Honolulu, HI	$1,610.34	01/14/03	3
Meetings	Boston, MA	$877.63	01/21/03	1
Meetings	Boston, MA	$920.06	01/21/03	3
Meetings	St. Petersburg, FL	$492.08	01/22/03	1
Meetings	Ft. Meyers, FL	$636.12	01/23/03	3
Meetings	Naples, FL	$864.08	01/23/03	4
Meetings	San Diego, CA	$1,603.59	01/24/03	5
Meetings	San Diego, CA	$1,104.78	01/27/03	2
Meetings	San Diego, CA	$1,946.57	01/27/03	2
Meetings	Williamsburg, VA	$239.34	01/28/03	1
Meetings	Chicago, IL	$306.37	01/29/03	1
Meetings	Manhattan, NY	$376.50	01/30/03	1
Meetings	Columbus, MS	$835.25	02/02/03	1
Speaking Engagement	San Francisco, CA	$1,211.37	02/02/03	1
Speaking Engagement	London, GBR	$1,473.61	02/10/03	2
Speaking Engagement	Tallahassee, FL	$582.94	02/11/03	1
Speaking Engagement	Atlanta, GA	$763.07	02/24/03	1
Meetings	Boca Raton, FL	$1,052.94	02/24/03	2
Meetings	Manhattan, NY	$607.86	03/03/03	1

REV_00167689

Meetings	San Diego, CA	$785.37	03/04/03	2
Meetings	Ottawa, CAN	$929.94	03/06/03	1
Meetings	Orlando, FL	$260.11	03/08/03	1
Meetings	San Antonio, TX/Atlanta, GA	$801.47	03/17/03	2
Meetings	Paris, FRA	$1,843.40	03/22/03	4
Meetings	Paris, FRA	$1,558.97	03/23/03	3
Meetings	Indianapolis, IN	$915.26	04/08/03	2
Meetings	San Francisco, CA	$1,186.99	04/15/03	1
Meetings	Indianapolis, IN	$664.28	04/17/03	1
Speaking Engagement	Manhattan, NY	$219.90	04/21/03	1
Speaking Engagement	Princeton, NJ/St. Louis, MO	$816.38	04/22/03	1
Meetings	Chicago, IL	$264.50	05/15/03	1
Meetings	Chicago/Los Angeles/Seattle	$982.00	06/23/03	3
Meetings	Boston, MA	$641.44	06/26/03	4
	Total	**$80,572.15**		

Office of the Vice President FY 2002 Staff Travel				
PURPOSE	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Meetings	London, GBR	$2,124.92	07/14/02	3
Official	Monterey, CA	$887.90	07/15/02	2
	Total	**$3,012.82**		

Office of the Vice President FY 2003 Staff Travel				
PURPOSE	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Invitational	Washington DC	$778.00	10/18/02	1
Meetings	London, GBR	$2,124.92	10/09/02	3
Meetings	London, GBR	$1,929.74	12/12/02	4
Meetings	Manhattan, NY	$37.50	01/15/03	1
Official	Raleigh, NC	$338.41	04/10/03	1
	Total	**$5,208.57**		

QUESTION 110: Please provide a list of all Presidential, First Lady and Vice Presidential travel for FY02 and FY03 (to date). For each trip, please provide the trip date, destination, designation (i.e., political, official), number of official EOP staff supporting the Principal and, the official cost of the trip. **(POC – Rothley Howard)**

REV_00167690

QUESTION 111: How much did OMB reimburse the White House Office for use of White House motorpool vehicles in FY02? How much is OMB projecting to reimburse in FY03 and FY04? **(POC – Brian Gillis)**

RESPONSE: For FY 2002, OMB reimbursed the Department of Defense $99,000 for the use of the White House motorpool. OMB is projecting a similar amount for FY 2003 and FY 2004.

In the hearing, Mr. Daniel mentioned that the FY03 vehicle lease and IT support contracts came in significantly below the original budget estimates.

QUESTION 112: Do you intend to return the unused funds to the Treasury at the end of the fiscal year? **(POC – Chuck Sigman)**

RESPONSE: The EOP plans to use the funds to implement other critical EOP priorities. The programs which were described by Mr. Daniel at the hearing were the FY 2003 vehicle lease (covering leases by OA, White House, and Office of the Vice President (OVP)), and the guard services contract for guard services at 1801 Pennsylvania Avenue. He did not refer to the IT support contract.

QUESTION 113: For these areas in which savings were realized, what are your plans for the funds? **(POC – Chuck Sigman)**

RESPONSE: Vehicle contract savings for FY 2003 amount to approximately $20,000 for OA, $43,000 for the White House, and $19,000 for OVP. These savings will be utilized to fund priority needs for these EOP entities. The guard service contract will result in savings of approximately $1.1 million.

For FY 2003, these funds are being applied to fund other priorities for the OA as well as common services for EOP entities. These other priorities include consolidation of information technology maintenance ($200,000), centralization of database services ($200,000), and common building service costs ($400,000). The remaining $300,000 of these savings will be used for an FY03 OA personnel shortfall.

Political Travel

QUESTION 114: Please explain the reimbursement procedures the White House intends to follow during the Presidential election season. **(POC – Andy Kalnins)**

RESPONSE: In accordance with a memo dated February 13, 1992, prepared by C. Boyden Gray, former Counsel to the President, "Allocation of the costs for "campaign-related" travel by senior Administration officials is governed by the Federal Election

REV_00167691

Commission (FEC) hypothetical trip rule." These regulations require that all "campaign-related" travel of a candidate seeking nomination, or re-election to the Office of the President, must be paid by the candidate's authorized campaign committee. Further, if any campaign activity is conducted at a stop, other than incidental contacts, "that stop shall be identified as campaign-related and, in general, all costs associated with it must be paid by the President's campaign committee."

QUESTION 115: Exactly when will the presidential-campaign procedures take effect? **(POC – Andy Kalnins)**

RESPONSE: The presidential-campaign procedures take effect after the President declares that he is a candidate for re-election.

QUESTION 116: How do you determine who the official travelers are on a campaign or political trip? Does the list of positions vary from trip to trip? **(POC – Andy Kalnins)**

RESPONSE: In accordance with a memo dated December 6, 1991 prepared by C. Boyden Gray, "officials are to be considered on official duty, regardless of the nature of the President's activities, only if it is determined by the Assistant to the President and Deputy Chief of Staff before the trip that (1) the official is traveling for the sole purpose of providing (a) clerical, logistical and administrative support, or (b) staff assistance in the management of paperwork and the records of decisions, or (c) consultation and guidance necessary solely for the transaction of Government business, and (2) the official will not engage in any political activity during the travel." A list of positions has been developed which are deemed to always be official. This list does not change from trip to trip.

QUESTION 117: On trips with political and official components, what is the procedure for determining which events are paid for using official funds and which events are reimbursed by the political entity? **(POC – Andy Kalnins)**

RESPONSE: In accordance with a memo dated February 12, 1990, from C. Boyden Gray, "With regard to non-Presidential election campaigns events (e.g., Congressional and State and local campaigns), applicable law and regulations do not provide a specific method for allocating the costs of mixed official and political travel by individuals other than the candidates. Neither is there a precise definition for distinguishing between "official" and "political" functions. As a result, the guidelines set forth below are based on general legal principles, policies established over a period of years by previous Administrations, and guidance from Federal Election Commission opinions and actions." A good faith apportionment of the costs of a trip based on the time spent on political activities and the time spent on official activities has been developed and has become know as the "hard-time" formula. This formula is based on the time spent in official meetings and receptions, etc, and time spent in political activities to determine total activity time. Based on this data, a ratio is developed based on total activity time which is allocated to political activity and official activities. The percentage that represents the

REV_00167692

political and official portions of the trip is then used as a multiplier to determine the allocation between official and political costs.

QUESTION 118: If the President gives virtually the same speech at a political event that he gave at an official event in that same city, what criteria is used to determine whether an event is "political" or "official"? **(POC – Andy Kalnins)**

RESPONSE: In accordance with a memo dated February 12, 1990, prepared by C. Boyden Gray, "Appearing at party functions, fundraising, and campaigning for specific candidates are principal examples of travel which should be considered political." The memo goes on to say that a precise definition for distinguishing between "official" and "political" functions does not exist. Further clarification is provided in the memo dated February 13, 1992, also prepared by C. Boyden Gray, "In determining whether an activity is political or official, all relevant factors should be considered, including, but not limited to, the identity of the sponsor of the event, the group or organization being addressed, other participants, whether the speech being delivered is partisan and political in nature, and whether it is a factual presentation or defense of the Administration's position on the issue."

QUESTION 119: If the President gives virtually the same speech at a political event that he gave at an official event in that same city, does the political entity reimburse the White House for the Speechwriters time? **(POC – WHO M&A)**

QUESTION 120: Have events been classified as "official" even if only members of the President's political party are invited to share the stage with the President? **(POC – WHO M&A)**

QUESTION 121: If so, what justification is used to argue that these events were not political events? **(POC – WHO M&A)**

QUESTION 122: Please provide information about reimbursement to the White House Office or other government agencies associated with local staff travel to political events attended by the President in FY02 or FY03. For each reimbursement made, please provide the date the bill was generated, the number of events reflected on the bill, the date payment was received, the political entity paying the charges and the total amount paid on each bill. **(POC – WHO M&A)**

Photographic Services (POC – Eric Lanman)

QUESTION 123: For FY02, FY03 and FY04, what was (or is projected to be) the total cost of photographic equipment purchased for use by the White House photographers?

RESPONSE: The total cost (actual and projected) of photographic equipment procured for use by White House photographers in FY 2002, FY 2003 and FY 2004 are displayed in the table below.

REV_00167693

	FY 2002	FY 2003	FY 2004
	Actual	Estimate	Estimate
Photographic Equipment	$137,057	$35,700	$36,300

FY 2002 actual costs are higher than the estimates for FY 2003 and FY 2004 due to the use of end of year sweep-up funds.

QUESTION 124: For FY02, FY03 and FY04, what was (or is projected to be) the total cost of photo lab equipment purchased for use by the WHCA photo lab?

RESPONSE: The total cost (actual and projected) of photo lab equipment purchased for use by the WHCA photo lab is itemized in the following chart:

	FY 2002	FY 2003	FY 2004
	Actual	Estimate	Estimate
Photo Lab Equipment	$492,720	$473,775	$375,000

QUESTION 125: For FY02, FY03 and FY04, what was (or is projected to be) the total travel cost associated with travel of White House Photographers?

RESPONSE: The FY 2002 travel costs of White House Photographers was $????. The estimated FY 2003 cost is $38,000 and the projected cost for FY 2004 is $38,760.

QUESTION 126: For FY02, FY03 and FY04, what was (or is projected to be) the total rent cost associated with the WHCA photo lab?

RESPONSE: There is no rent cost associated with the WHCA photo lab. However, there are utility and facility maintenance costs associated with the WHCA photo lab. Those costs were $73,600 for FY 2002, $76,650 estimated for FY 2003 and a projected $79,000 for FY 2004.

QUESTION 127: Please explain the procedures for determining when and how the government is to be reimbursed for photos released for non-official purposes. If these procedures have changed from those followed by the previous administration, please explain any changes that have been made.

RESPONSE: The procedures for obtaining reimbursements for photographs changed on October 1, 2000. The procedures now in place are designed to ensure that the government receives appropriate reimbursement for photographs sought for non-official purposes. Records are kept of all such requests, and appropriate reimbursement is then sought.

REV_00167694

It is the White House policy to provide two photographs to members of the general public upon request of photographs that include a principal (President, 1st Lady, Vice President or Mrs. Cheney) and the requestor. These requests are generally provided without consideration as to whether or not they are official or non-official. For requests for photos outside these general guidelines, a determination is made by the White House Office as to whether it is an official or non-official request. For non-official requests, the requestor is provided the cost to the government of the photograph and is required to provide reimbursement. The photographs are provided to the requestor and the reimbursement is credited to the White House Office salaries and expenses appropriation.

QUESTION 128: For FY02 and the first seven months of FY03, please provide the following information about each payment made to the White House, OA, WHCA, DISA (or other DoD organization) to reimburse for the release of photos or photo lab services that were provided:

- date reimbursement was made
- name of reimbursing organization
- amount of payment
- number of photos purchased by reimbursing organization
- size of photos purchased by reimbursing organization

RESPONSE: The requested information about each payment made to the White House, OA, WHCA, DISA (or other DoD organization) to reimburse for the release of photos is provided below.

Reimbursements for White House Photos

Date	*Reimbursing Organization*	*Amount of Payment*	*# of Photos*	*Size of Photos*
5/2002	Republican National Committee	$648.00	36	8x10
5/2002	Hector Irastorza, Jr.	$90.00	5	8x10
7/2002	Lee Terry for Congress	$36.00	2	8x10
7/2002	Republican Party of Florida	$90.00	5	8x10
7/2002	Republican National Committee	$72.00	4	8x10
8/2002	Republican National Committee	$252.00	14	8x10
9/2002	Kent County Republican Committee	$18.00	1	8x10
9/2002	Breckenridge Design Group	$18.00	1	8x10
9/2002	Portman for Congress	$36.00	2	8x10

REV_00167695

9/2002	Republican National Committee	$1,296.00	72	8x10
10/2002	Rick Clayburgh for Congress	$18.00	1	8x10
10/2002	Fisher for Governor	$18.00	1	8x10
10/2002	Wyoming Republican Party	$162.00	9	8x10
10/2002	Johnson for Congress	$72.00	4	8x10
10/2002	Talent for Senate	$18.00	1	8x10
10/2002	John Doolittle for Congress	$486.00	27	8x10
10/2002	National Federation of Republican Women	$18.00	1	8x10
10/2002	Republican National Committee	$342.00	19	8x10
11/2002	Talent for Senate	$18.00	1	8x10
11/2002	Ferguson for Congress	$18.00	1	8x10
11/2002	Mark Kennedy for Congress	$126.00	7	8x10
12/2002	Talent for Senate	$18.00	1	8x10
12/2002	Johnson for Congress	$72.00	4	8x10
12/2002	Wieczoren for Executive Council	$18.00	1	8x10
2/2003	Diane Thompson	$84.00	4	11x14
3/2003	Republican National Committee	$108.00	6	8x10
3/2003	Congressman Kenny Hulshof	$18.00	1	8x10
3/2003	Congressman James Greenwood	$18.00	1	8x10
3/2003	Senator Frank Murkowski	$18.00	1	8x10
3/2003	Mark Kennedy for Congress	$126.00	7	8x10
3/2003	George Bush Presidential Library	$1,117.00	2	20x30
			20	11x14
			47	8x10
3/2003	Office of President George Bush	$702.00	39	8x10
5/2003	National Federation of Republican Women	$18.00	1	8x10
Total		$6,169.00		

REV_00167696

Remote Delivery Site Reprogramming Request (POC – Paul Ehrhardt)

We recently received a reprogramming request to transfer $2m of the funds provided to the Office of Homeland Security to the Remote Delivery Site cleanup efforts.

QUESTION 129: What is the status of remediation efforts?

RESPONSE: We are in the process of Confirmatory Sampling. The sampling plan is intended to present a technical approach for (1) completing air and surface sampling for culturable *Bacillus anthracis* spores to verify the efficacy of the decontamination process: (2) providing for qualified laboratory analysis of the collected samples: and (3) presenting a protocol for data collection and reporting such that the results of the sampling effort are valid and defensible. In addition, the Plan provides for the site and personnel security, safety, health, and personal protection, equipment and collection methods, and sample handling.

QUESTION 130: Please provide the total budget estimate for this project.

RESPONSE: As the contractor responsible for returning the building to an environmentally safe workplace, Versar to date has not been able to develop or provide accurate cost estimates or time lines to EOP. Budget and schedule estimates for this project are especially difficult due to critical path activities taking place in a high-risk environment relying on the utilization of untested speculative technologies. However to date $2.422 million has been spent on the effort and we are currently requesting an additional $2 million, which is Versar's best estimate of what it will cost to complete the project. The total budget estimate for the project then comes to $4.422 million.

QUESTION 131: Please provide the anticipated schedule for this effort.

RESPONSE: Given many variables, including weather, our best current estimate of time to required complete the RDS project is 4 months. The confirmatory testing phase is estimated to take eight weeks from start up. The next phase would be for the ECC committee to ratify the confirmation process; we estimate this to be one month. After this is completed, our best estimate is thirty days to perform PM on the HVAC equipment, build out the office areas, and re-establish the building operation.

QUESTION 132: What caused this $2 million overrun?

RESPONSE: There is not a $2 million overrun. The request for $2 million is a result of anticipated costs and those unforeseen conditions as result of the environmental cleanup process, that OA, GSA or its contractors had available at the time of fumigation. The Environmental Clearance Committee has placed additional requirements that resulted in

REV_00167697

the additional costs. The proposed sampling plan utilizes the barrier divisions already in Building 410 (which provides discrete work areas) and presents proposed sampling location, quantity, and types of samples to be collected . Sampling will be carried out using a phased approach for each work area as follows:

Phase 1, Surface Sampling; Phase 2 Air Sampling: Phase 3, "Dymanic Sampling", Phase 4, Start Up of the Heating, Ventilation , and Air Conditioning (HVAC) Units; and Phase 5, Final Sampling with the Barriers Down.

QUESTION 133: Why have you stopped providing the monthly reports on the remediation efforts?

RESPONSE: Due to the process of establishing the Environmental Clearance Committee, it was an administrative error that the reports were inadvertently not forwarded.

Previously the Remote Delivery Site was used to screen incoming mail. It also used to serve as an off-site supply depot. With the Department of Homeland Security now assuming the mail processing function and with supply operations now established on the White House Complex, I'm curious about future plans for the RDS.

QUESTION 134: What will the facility be used for when remediation is finished?

RESPONSE: Prior to September 11, 2001 the Remote Delivery Site (RDS) was used as a centralized receiving facility for the White House Complex. All postage flat mail and packages, including UPS and FedEx deliveries, and all equipment and local deliveries were delivered to the RDS. All incoming deliveries, regardless of size, were screened by the U.S. Secret Service (USSS) via large X ray machines, and if any equipment was too large to fit on the X-ray conveyer belt, then the USSS used dogs to sniff for explosives. After initial USSS clearance, all of the items were sorted and delivered to their intended destination to the White House Complex. Supplies, equipment and furniture which were purchased for inventory for use at later time were housed at the RDS.

In addition to the screening of WHO Complex deliveries, the USSS Administrative Operations Division used RDS space to screen all of its incoming mail and packages that were intended for USSS personnel.

The EOP Supply store was operated within the confines of the RDS. Supplies were purchased and inventoried at the RDS and office supplies and copier paper were purchased in volume to take advantage of discounts. The WHO/EOP customers faxed supply requisitions to the RDS staff who then pulled and boxed office supplies for delivery to the WHO Complex. OA property supply staff made supply deliveries to the WHO complex at least twice a day, and more if needed.

REV_00167698

The EOP/OA Personal Property Program (excess, transfer, donation, and destruction of furniture and equipment) had its operations housed at the RDS. Excessed equipment and furniture were corralled at the RDS until enough equipment and furniture were gathered to make it economical to excess all at once. In addition, schools and nonprofit organizations were allowed to review equipment for donation under Executive Order 12999.

After September 11, as a precautionary move, the White House United States Postal Service was relocated from the Eisenhower Executive Office Building to the RDS. A separate room was built for the USPS's operation of opening and screening all White House mail. The RDS operations continued working around the new USPS area. These USPS operations continued until the RDS was closed due to the discovery of Anthrax. Since then the USPS operations have relocated to 1800 G. St. NW.

Once the remediation is finished, the RDS will resume its former function of screening all bulk deliveries (including equipment, furniture, boxes of supplies) sent to the EOP Complex. In addition the facility will be used to store supplies and an inventory of equipment and furniture. The RDS will also be used as a staging area for efficient loading and delivery of bulk items for all EOP agencies.

QUESTION 135: Will the DHS use the facility to screen the White House's mail?

RESPONSE: No.

QUESTION 136: Will you close the on-site supply stores and revert back to running the supply operation out of the Remote Delivery Site?

RESPONSE: When the RDS reopens after the remediation of the building, the RDS staff will resume the same functions prior to the Anthrax. However, there are major changes in the way the OA Supply Store operates and manages its supply inventory. The Office of Administration has entered into a new business relationship with GSA. The OA Supply operation will purchase its supplies from GSA who will provide a wide array of office supplies and maintain the level of supply inventory that is needed to support the WHO Complex. The GSA inventory will be housed at the RDS after relocation from Franconia, VA, the current, temporary RDS location. OA supply staff will pull supply orders based on customer's requisitions, and then box and deliver the supplies from the RDS to WHO complex. GSA will only charge for the supplies that EOP customers use at point of sale, otherwise the unsold inventory will still belong to GSA. GSA promises to maintain the supplies that the EOP customers may need. Inventories will be reviewed and adjusted to realize the kind and quantities of supplies the EOP customers expect. This business relationship will promote a more flexible inventory that allows the supply inventory to have the quantity or variety of supplies to meet our customer needs in a more proactive, real-time fashion.

REV_00167699

White House Access (POC – WHO M&A)

QUESTION 137: For the record, please provide the total number of visitors who passed through the White House as part of tours in 2000, 2001, 2002 and 2003 (to date).

QUESTION 138: Why are White House tours currently not open to the general public?

QUESTION 139: What is the status of the report on the status of White House Tours that was due to the Subcommittee by March 22nd?

QUESTION 140: Who has the lead on the efforts to decide whether public tours can be resumed?

QUESTION 141: Does the USSS do a background check on all individuals attending events and meetings at the White House Complex before access can be granted?

QUESTION 142: During this administration, have White House aides ever overruled a building-access recommendation made by the USSS?

Off-site EOP Support

QUESTION 143: How many EOP employees are based in Crawford, TX? **(POC – Stacia Cropper)**

RESPONSE: One.

QUESTION 144: How much space does the EOP pay rent for in Crawford, TX? **(POC James Daniel/Stacia Cropper)**

RESPONSE: There is one double-wide trailer. The cost of the trailer itself and all operating costs will be paid to GSA in a monthly rent payment of $8,496.83 for two years.

QUESTION 145: How many trailers were acquired for Crawford, TX? **(POC James Daniel/Stacia Cropper)**

RESPONSE: One trailer was acquired for the EOP.

QUESTION 146: What was the cost to purchase and renovate these trailers? **(POC James Daniel/Stacia Cropper)**

RESPONSE: The cost of the trailer shell was $72,745.28. The cost to apply finishes to the trailer interior was $20,976.62.

REV_00167700

QUESTION 147: What are the expected FY04 operating costs of facilities and staff permanently deployed to Crawford, TX? **(POC James Daniel/Stacia Cropper)**

RESPONSE: The following are the estimated operating costs for one year: Pest Control ($1,440), cleaning ($4,200), electricity ($4,211.75), and water ($2,286.38).

Rent (POC – Steve Beattie)

QUESTION 148: Please provide an accounting of all space on which the EOP currently pays rent. The list should include the number of staff in each building, the agencies which occupy space in each facility, the total square footage by agency in each facility, the total square footage of vacant space on which the EOP is currently paying rent in each facility and the GSA rent rates for each facility.

RESPONSE: See Attachment A *(chart will be inserted here).*

QUESTION 149: Under the procurement consolidation pilot that was approved in the FY03 Omnibus, is the rent for any EOP agency going to be paid out of funds contributed by other EOP agencies?

RESPONSE: No. The funds in the pilot will only be used to support the EOP components in the pilot; EOP funds not included in the pilot will not be used to support EOP components included in the pilot.

QUESTION 150: Under the procurement consolidation pilot that was approved in the FY03 Omnibus, are after hours utilities charges for any EOP agency going to be paid out of funds contributed by other EOP agencies?

RESPONSE: No. After hours utilities charges were not included in the procurement consolidation pilot funding.

Travel Office (POC – Mayra Segovia)

QUESTION 151: Please describe the current role the White House Travel Office plays in managing and arranging the financial aspects of White House Press Corps travel. Does the White House Travel Office operate as a "dollar-for-dollar" operation?

RESPONSE: The White House Travel Office provides the White House Press Corps with a range of travel services when they accompany the President, Vice President and

REV_00167701

First Lady. Services include air and ground transportation, hotel accommodations, and convention-type services associated with the Filing Center.

The White House Press Travel Fund operates as a dollar-for-dollar operation.

QUESTION 152: How many EOP staff work in the White House Travel Office?

RESPONSE: Eight EOP staff work in the White House Travel Office.

QUESTION 153: How many contractor travel agents support the White House Travel Office?

RESPONSE: Six contractor travel agents support the White House Travel Office.

QUESTION 154: Please include the most recent independent financial statement audit of the White House Travel Office's accounts for the record.

RESPONSE: The following document is the independent auditor's report. A copy of the original document with signature will be provided separately.

REV_00167702

White House Travel Office
Executive Office of the President

Order Number RWH21228

Task 1, Deliverable 1

Financial Statement Audit and Auditor's Report

December 31, 2001

Prepared by:

Martin & Wall, P.C Certified Public Accountants
1534 16th Street, NW, Washington, DC 20036-1402
Tel. 202.332.3566 Fax 202.332.3672

Contact: John J. Wall, CPA
E-Mail: jwall@martinwallcpa.com

REV_00167703

Tel: 202.332.3555 F• 202.332.3672 www.martinwallcpa.com

WHITE HOUSE TRAVEL OFFICE PRESS FUND

FINANCIAL STATEMENTS

DECEMBER 31, 2001

REV_00167704

1524 15th Street NW ~ Suite 100 – Washington, DC 20036-1402

WHITE HOUSE TRAVEL OFFICE PRESS FUND

FINANCIAL STATEMENTS

TABLE OF CONTENTS

Independent auditors' report..... 1

Statement of financial position..... 2

Statement of activities and changes in net assets..... 3

Statement of cash flows..... 4

Notes to financial statements..... 5-7

REV_00167705

Tel: 202.332.3566 ~ Fax: 202.332.3672 ~ www.martinwallcpa.com

INDEPENDENT AUDITORS REPORT

To the Management of
White House Travel Office Press Fund

We have audited the accompanying statement of financial position of the White House Travel Office Press Fund as of December 31, 2001, and the related statements of activities and cash flows for the year then ended. These financial statements are the responsibility of the White House Travel Office Press Fund's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the White House Travel Office Press Fund as of December 31, 2001, and the changes in its net assets and its cash flows for the nine months then ended in conformity with accounting principles generally accepted in the United States of America.

Washington, DC
March 27, 2003

1524 15th Street NW ~ Suite 100 – Washington, DC 20036-1402

REV_00167706

WHITE HOUSE TRAVEL OFFICE PRESS FUND
STATEMENT OF FINANCIAL POSITION
DECEMBER 31, 2001

ASSETS			
Current assets			
	Cash - Press Fund operating account (Note 3)	$85,455	
	Cash - Restricted Cash Account 2000 (Notes 3 and 4)	527,166	
	Total Cash		612,621
	Accounts receivable (Note 5)		2,105,176
	Other Receivables (Note 6)		3,328.761
TOTAL ASSETS			$6,046,558
LIABILITIES ANID NET ASSETS			
	Accounts payable	$5,358,675	
	Restricted Cash Account 2000 Liability (Note 4)	409,815	
	Restricted Cash Account 2001 Liability (Note 4)	209,456	
	Federal Excise Tax Payable	68,612	
	Total liabilities	6,046,558	
	Net assets		0
TOTAL LIABILITIES AND NET ASSETS		$6,046,558	

The accompanying notes are an integral part of these financial statements.

REV_00167707

WHITE HOUSE TRAVEL OFFICE PRESS FUND
STATEMENT OF ACTIVITIES
FOR THE YEAR ENDED DECEMBER 31, 2001

REVENUE	$10,828,890
EXPENDITURES	10,828,890
CHANGE IN NET ASSETS	$0
NET ASSETS, BEGINNING OF YEAR	0
NET ASSETS, END OF YEAR	$0

The accompanying notes are an Integral part of these financial statements.

REV_00167708

WHITE HOUSE TRAVEL OFFICE PRESS FUND
STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED DECEMBER 31, 2001

CASH FLOWS FROM OPERATIONAL ACTIVITIES:

Change in net assets		$0
Adjustments to reconcile change in net assets to net cash provided:		
Decrease In accounts receivable	4,986,501	
(Increase) in other receivables	(2,530,708)	
(Decrease) in accounts payable	(2,814,441)	
Increase In restricted cash account 2000 liability	4,096	
Increase in restricted cash account 2001 liability	209,456	
Increase in Federal Excise tax payable	68,612	
Net cash provided by operational activities	(76,484)	
Net increase in cash		(76,484)
Cash, beginning of year	689,105	
Cash, end of year	$612,621	

The accompanying notes are an integral part of these financial statements.

REV_00167709

WHITE HOUSE TRAVEL OFFICE PRESS FUND
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2001

NOTE 1 – ORGANIZATION

The White House Travel Office Press Fund ('WHTO") was established to manage expenses associated with travel for members of the press who accompany the President, Vice President, First Lady, and Second Lady on domestic and foreign trips. In May 1993, a new management team was hired to manage WHTO. Consequently, for accounting and reporting purposes, a new WHTO was established as of January 1, 1994.

NOTE 2- SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Revenue and expenditures are recognized using the accrual basis of accounting. The WHTO invoices the press organizations for their prorated share of the expenses associated with each trip. The WHTO then remits payment directly to the vendors whose services were used for the particular trip. The total amount invoiced to the press members equals the total of the amounts paid to the vendors. The WHTO does not own any fixed assets. Al! fixed assets are purchased through the White House's general fund and designated for the WHTO use. Similarly, all operating expenses of the WHTO, including salaries and office supplies, are paid directly by the White House's general fund.

NOTE 3- CASH

Gash is maintained in two non-interest checking accounts at the Riggs National Bank of Washington, D.C. The RCA 2000 cash account is explained in Note 4.

The total cash held by WHTO at December 31, 2001 includes $512,821 that is not covered by insurance provided by the federal government. It is the opinion of WHTO's management that the solvency of the referenced financial institution is not of particular concern at this time.

REV_00167710

NOTE 4 - RESTRICTED CASH ACCOUNT

Effective April 1, 2000, the management of the White House Travel Office implemented a Restricted Cash Account (RCA). RCA funds are encumbered for specific purposes set forth in written policies and procedures, most notably for payment of late arriving vendor invoices, bank charges and accounts receivable written off as uncollectible.

The RCA is funded through an RCA funding amount applied to every customer invoice, except those for government employees. Presently, that funding amount is two percent of the invoice amount

RCA funding amounts are not considered revenue for accounting purposes.

Under current policies and procedures, a separate RCA is established for each calendar year. The RCA 2000 account on the Statement of Financial Position reflects the total amount of cash in that account at December 31, 2001. The RCA liability accounts for 2000 and 2001 reflect the total RCA funding amount applied to all customer invoices during the respective calendar year, less any disbursements. RCA funding amounts that have been invoiced but not yet collected are included in the accounts receivable amount.

The RCA for each year will be terminated at a designated point in time after the conclusion of the applicable calendar year. At the time of dissolution, any excess funds will be refunded to the Press Fund's customers subject to the RCA funding amount in accordance with a formula based on the percentage of the total travel costs consumed during the year corresponding to the RCA. For example, if a customer were responsible for ten percent of all travel costs for the calendar year 2001, they would be entitled to ten percent of the remaining RCA 2001 funds at the time of dissolution.

NOTE 5 – ACCOUNTS RECEIVABLE

Currently, the WHTO writes off accounts receivable using the direct write-off method. Therefore, there is no allowance for uncollectible accounts.

REV_00167711

NOTE 6 - OTHER RECEIVABLES

As per note 2, the WHTO utilizes a system of dollar for dollar accounting. Under the current accounting process, vendor invoices for trip expenses are entered into accounts payable as they are received. Accordingly, there is an accumulation of unbilled trip expenses in accounts payable until such time that trip accounting is finalized and members of the press are invoiced for their pro rata share of trip expenses. This timing difference creates the need for an Other Receivables category. Other Receivables represents the obligations for normal trip expenses that have been entered into accounts payable, but not yet billed to the press.

REV_00167712

QUESTION 155: Please explain the formula you use to determine the rate of reimbursement for Press Corps travelers on the Press Charter?

RESPONSE: Each leg of the itinerary is assigned a proportionate cost, which is divided equally among all press passengers. The following formula is used to compute the proportionate cost for each leg of the trip: (Leg flight time / Total flight time) * Total Air Transportation Expense

QUESTION 156: Please explain the formula you use to determine the rate of reimbursement for Press Pool travelers on Air Force One?

RESPONSE: The cost of the fourteen members of the pool traveling on AF1 is added to the total air transportation expense and the total costs are spread on a pro-rata share among all of the press travelling on the trip. The following formula is used to compute the proportionate cost for each leg of the trip: (Leg flight time / Total flight time) * Total Air Transportation Expense

QUESTION 157: Please explain the formula used to identify the reimbursement rate that the Travel Office billed Press Corps travelers accompanying the President's travel to the USS Abraham Lincoln. In your response, please include the actual rate billed to individual press corps travelers on this trip.

RESPONSE: The cost of transporting press corps travelers from the North Island Naval Air Station to the USS Abraham Lincoln and back to the North Island Naval Air Station totaled $7,440.26. This cost will be added to the total air transportation expense and spread on a pro-rata share among all the press traveling on the trip. The formula for military aircraft reimbursement for the trip to the USS Abraham Lincoln is as follows: $X per hour per aircraft, divided by 60 minutes to get a per minute rate, multiplied by the flight time, divided by the total number of passengers, and then 7.5% excise tax plus $3.00 dollars per person was added.

Bonuses

QUESTION 158: Why did this administration reinstate the payments of bonuses to political appointees? **(POC – WHO M&A)**

QUESTION 159: Have any EOP political staff been given bonuses since the policy was reinstated in March of 2002? **(POC – Jon Laurich)**

RESPONSE: The term "political appointees" or "political staff" is somewhat of a misnomer because it narrowly defines the type of employees authorized under Chapter 2

REV_00167713

of Title 3 of the U.S. Code, for the White House Office, the Executive Residence, the Official Residence of the Vice President and the Office of Administration. These offices can hire personnel in various excepted service positions that are not subject to the rules of regular government employees. Many of these excepted service positions fall under the category of serving at the pleasure of the President while others do not. Using the term in the broadest possible sense, including all employees hired as Presidential Appointees, Administratively Determined, Non Career SES, or Schedule C's, the Executive Office of the President had a total of 28 political staff within 4 offices that received bonuses since March 2002.

QUESTION 160: Have any EOP political staff been given pay increases for a single pay period in FY02 or FY03 (to date) that would have the same effect as a bonus? **(POC – Jon Laurich)**

RESPONSE: No political staff within the EOP have been given pay increases for a single pay period in FY 02 or FY 03 (to date) that would have the same effect as a bonus.

Eisenhower Executive Office Building

QUESTION 161: Since 1/20/01, have any non-Federal funds been used for renovations and/or furnishings in the GSA facilities occupied by the Executive Office of the President? [this question does not apply to the White House residence.] **(POC –WHO M&A)**

QUESTION 162: Which Federal agency (i.e., GSA, OA/Facilitles) coordinated the work that was paid for using non-Federal funds? **(POC –WHO M&A)**

QUESTION 163: For the record, please provide the sources and amounts of the non-Federal funds used for renovations and/or furnishings. **POC –WHO M&A)**

QUESTION 164: For the record, please also provide a description of each project for which non-Federal funds were provided. **(POC –WHO M&A)**

QUESTION 165: Why were non-Federal funds used to renovate and/or furnish these GSA facilities? **(POC –WHO M&A)**

QUESTION 166: Which agency's gift authority was used to accept the contribution of non-Federal funds for renovations and/or furnishings? **(POC –WHO M&A)**

QUESTION 167: Please provide a list of all EOP and EOP-support-related agencies that occupied space in the Eisenhower Executive Office Building on 1/20/01 that have since been relocated to locations outside the EEOB. For each agency that relocated, please identify the agency that paid the move-related costs. **(POC – Steve Beattie)**

REV_00167714

RESPONSE: 167: See Attachment B. *(chart will be inserted here)*

QUESTION 168: What is the status of the vacant space on the 17th Street side of the Eisenhower Executive Office Building? **(POC – Steve Beattie)**

RESPONSE: 168: With the exception of the ground floor cafeteria and kitchen, several fourth floor offices, and a few storage areas, the space remains essentially vacant as progress continues on the Fire and Life Safety Improvements project.

EOP Staffing Levels:

QUESTION 169: By EOP agency, provide FTE and OGE. Itemize OGE by category (e.g. reimbursable detailee, PSC, etc). Include FY 2002 (actual) and FY03-FY04 (estimates). Please provide a list of the "historically provided" White House Office positions, the office to which these positions are assigned and the agency that pays the salary for each of these positions. **(POC – Jon Laurich)**

RESPONSE: The following chart provides the FTE and OGE information for FY 2002 to FY 2004 in addition to a listing of "historically provided" White House Office positions.

REV_00167715

R = Reimbursable N = Non Reimbursable	FY 2002 Actual FTE and OGE																			
		Agency Reps		Assignees		Detailees		Historically Provided Services		Others		Student Volunteers		White House Fellows		Pres. Mgmt Intern		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R + N
White House Office	440			1	20	79	9	1	17		4				3			81	53	134
Special Assistance to the President	23				7		1		6		26								40	40
Official Residence of the Vice President	1																			
Office of Administration	204					2					1							2	1	3
Office of Policy Development	31		1		3		3												7	7
National Security Council	62				38	1	106		4		3							1	151	152
Council of Economic Advisers	36					2	1			3	1		3					5	5	10
Office of Management and Budget	507					6	53						11					6	64	70
Office of National Drug Control Policy	138		13		16					3			2					3	31	34
Executive Residence	92																			
Office of Science and Technology Policy	26		6			4	1			2	3							6	10	16
Council on Environmental Quality	22		11				2										1		14	14
U.S Trade Representative	194						21				1				2				24	24
TOTAL	1776		31	1	84	94	197	1	27	8	39		16		5		1	104	400	504

*For FY02, the White House includes 65 OGE's for the Office of Homeland Security, which are funded from the Emergency Appropriation

R = Reimbursable N = Non Reimbursable	FY 2003 Estimate FTE and OGE *as of May 5, 2003*																			
		Agency Reps		Assignees		Detailees		Historically Provided Services		Others		Student Volunteers		White House Fellows		Pres. Mgmt Intern		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R + N
White House Office	406				7	5	11		19		1				2		1	5	41	46
Office of Homeland Security	40			2	1	23	3				1			1				26	5	31
Special Assistance to the President	24		3		7		1		18		25								54	54
Official Residence of the Vice President	1																			
Office of Administration	222										1								1	1
Office of Policy Development	35		1		3	1	1										1	1	6	7
National Security Council	71				36	4	104		4		3							4	147	151
Council of Economic Advisers	35					2	2			2			2				1	4	5	9
Office of Management and Budget	499					3	54						6					3	60	63
Office of National Drug Control Policy	115		19		14		4			3	9						2	3	48	51
Executive Residence	95																			
Office of Science and Technology Policy	40		6			2	3			2	5		1		1			4	16	20
Council on Environmental Quality	24		10				3				1								14	14
U.S Trade Representative	209						25				1				2				28	28
TOTAL	1816		39	2	68	40	211		41	7	47		9	1	5		5	50	425	475

R = Reimbursable N = Non Reimbursable	FY 2004 Estimate FTE and OGE																			
		Agency Reps		Assignees		Detailees		Historically Provided Services		Others		Student Volunteers		White House Fellows		Pres. Mgmt Intern		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R + N
White House Office	406				7	5	11		19		1				2		1	5	41	46
Office of Homeland Security	40			2	1	23	3				1			1				26	5	31
Special Assistance to the President	24		3		7		1		18		25								54	54
Official Residence of the Vice President	1																			
Office of Administration	222										1								1	1
Office of Policy Development	35		1		3	1	1										1	1	6	7
National Security Council	71				36	4	104		4		3							4	147	151
Council of Economic Advisers	35					2	2			2			2				1	4	5	9
Office of Management and Budget	516					3	54						6					3	60	63
Office of National Drug Control Policy	125		19		14		4			3	9						2	3	48	51
Executive Residence	95																			
Office of Science and Technology Policy	40		6			2	3			2	5		1		1			4	16	20
Council on Environmental Quality	24		10				3				1								14	14
U.S Trade Representative	217						25				1				2				28	28
TOTAL	1851		39	2	68	40	211		41	7	47		9	1	5		5	50	425	475

The following chart shows the 18 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 12, 2003*:

POSITION	OFFICE	HOME AGENCY
1. Assistant To The Presidential Diarist	Office Of Scheduling	NARA
2. Presidential Diarist	Office Of Scheduling	NARA

REV_00167716

3. Administrative Assistant	PFIAB *	CIA
4. Administrative Services Specialist	PFIAB *	DOD
5. Deputy Executive Director	PFIAB *	CIA
6. Deputy Director of Photography For Visuals	Photo Office	DIA
7. Visual Information Specialist	Photo Office	DOD
8. Official Photographer	Photo Office	DOD
9. Official Photographer	Photo Office	DIA
10. Photographer	Photo Office	DOD
11. IT Systems Administrator	Photo Office	DIA
12. Photo Editor	Photo Office	DIA
13. President's Photographer	Photo Office	DIA
14. Photographic Specialist	Photo Office	DIA
15. Admin Officer	Photo Office	DIA
16. Staff Assistant	Visitors Office	Dept Of Interior
17. Executive Assistant	Visitors Office	Dept Of Interior
18. Staff Assistant	Visitors Office	Dept Of Interior

*PFIAB is the President's Foreign Intelligence Advisory Board

REV_00167717

From: CN=Edward McNally/OU=WHO/O=EOP [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/23/2003 4:24:50 AM
Subject: : Fw: SAFETY Act

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME:23-MAY-2003 08:24:50.00
SUBJECT:: Fw: SAFETY Act
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

.

----- Original Message -----
From:David G. Leitch/WHO/EOP@Exchange
To:Edward McNally/WHO/EOP@EOP,
Benjamin A. Powell/WHO/EOP@EOP
Cc:
Date: 05/23/2003 07:13:24 AM
Subject: FW: SAFETY Act

Don't know if you all have seen Peter Keisler's email, but in response I sent this out last night to the combatants.; Seeing your later email traffic makes me realize that you two should have been copied on this.
;
-----Original Message-----
From: Leitch, David G.
Sent: Thursday, May 22, 2003 6:17 PM
To: 'Mitnick, John'; Perry, Philip J.
Subject: RE: SAFETY Act

My understanding is that;DOJ believes that either interpretation of the disputed Safety Act provision is defensible, and in fact has concluded that the;disjunctive interpretation is the better reading.; Given that the Attorney General is the final arbiter on legal issues, it does not appear to me that there is any longer a basis for a;dispute over the legality of either option that is being considered.; Accordingly, there remains only a policy judgment to be made about which of those discretionary options best serves the Administration's objectives.; I'm not steeped in the ins and outs of the policy here, but would certainly be favorably disposed as a general matter to an interpretation which preserves rather than restricts the Secretary's authority.;
;
;

From:	Kirk Blalock <kblalock@fierce-isakowitz.com>
To:	Kevin Warsh/OPD/EOP@EOP [OPD] <Kevin Warsh>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Diana L. Schacht/OPD/EOP@EOP [OPD] <Diana L. Schacht>
CC:	Matthew Kirk/WHO/EOP@EOP [WHO] <Matthew Kirk>;Wayne.Abernathy@do.treas.gov [UNKNOWN] <Wayne.Abernathy@do.treas.gov>;MMeece@doc.gov [UNKNOWN] <MMeece@doc.gov>
Sent:	5/23/2003 4:33:30 AM
Subject:	: Congress Daily AM - Hatch Introduction
Attachments:	P_R2XNG003_OPD.TXT_1.html

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Kirk Blalock <kblalock@fierce-isakowitz.com> ( Kirk Blalock <kblalock@fierce-
isakowitz.com> [ UNKNOWN ] )
CREATION DATE/TIME:23-MAY-2003 08:33:30.00
SUBJECT:: Congress Daily AM - Hatch Introduction
TO:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Diana L. Schacht ( CN=Diana L. Schacht/OU=OPD/O=EOP@EOP [ OPD ] )
READ:UNKNOWN
CC:Matthew Kirk ( CN=Matthew Kirk/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Wayne.Abernathy@do.treas.gov ( Wayne.Abernathy@do.treas.gov [ UNKNOWN ] )
READ:UNKNOWN
CC:MMeece@doc.gov ( MMeece@doc.gov [ UNKNOWN ] )
READ:UNKNOWN
###### End Original ARMS Header ######

HEALTH
Beginning Precarious Process, Hatch Introduces Asbestos Bill
Senate Judiciary Chairman Hatch late Thursday introduced
long-awaited asbestos litigation reform legislation, with Democratic
Sens. Ben Nelson of Nebraska and Zell Miller of Georgia signing on, but
without further support from key Democrats.
The backlash against the bill, which Hatch decided to introduce
despite the urging of Democrats to keep working on it, may propel
parties back to the negotiating table, Democrats hope.
"They tried the bum's rush, and it didn't work," one aide said.
The bill Nelson and Miller backed includes some modest
modifications to the draft that Hatch proposed earlier this week,
including provisions that would allow en banc review of decisions by a
newly created federal asbestos court. Unlike in the earlier draft, the
legislation also allows cases to randomly be assigned to judges and
subjects suspected "bad actors" to review by the attorney general's
office.
Introducing the measure on the Senate floor, Hatch agreed to
continue tweaking the bill, particularly saying he may address one of
the Democrats' biggest concerns -- that awards to asbestos victims may
exceed the $108 billion trust fund. But the lack of broad support from
the Democratic Caucus and whispers of objections from some Republicans
spells trouble for the bill as written, observers said.
Senate Judiciary ranking member Patrick Leahy, D-Vt., said that he
ultimately may throw his support behind the Hatch bill, but indicated he
will hold out his support until substantive changes are made.
"For a bill to pass, we both have to be on it, and we both know
that," Leahy said.
Democrats, echoing concerns by labor unions and some others, are
worried that the legislation does not contain a "backstop" to ensure
```

that the fund does not run dry. They also worry that medical criteria sets too high a bar for victims to get compensation.
Compensation levels for victims -- with a maximum award of $750,000- also are too low, some Democrats say.
Hatch warned that anyone who would not negotiate in good faith would be "somebody who destroys -- or tries to destroy -- the only game in town."
He said the legislation was needed to rein in a litigation system that has spun out of control, with more than 70 companies in bankruptcy as a result of asbestos payouts and more than two-thirds of plaintiffs who were not even ill.
The legislation is partly the product of months of private sector negotiations involving insurers, unions, defendant companies and others, who have supported litigation reform in order to prevent bankruptcies and to target compensation to those plaintiffs who have been harmed by asbestos exposure.
Senate Finance ranking member Max Baucus, D-Mont., complained in a letter to Hatch that the planned bill would exclude many victims of a notorious asbestos-exposure case in the mining town of Libby, Mont., where employees of W.R. Grace & Co. were exposed to asbestos.
Many townspeople in Libby have become ill or died of asbestos-related illnesses, Baucus noted, but many of the victims would not be eligible for compensation under the proposed federal system.
The children of W.R. Grace employees would not be eligible because, unlike their fathers, they did not have "occupational" exposure or work for five years in an asbestos industry. They inhaled fibers carried on their fathers' clothes, Baucus said. Among other criticisms, Baucus also said he was concerned about the amount that companies would pay into the trust.
"If I read your draft legislation correctly, W.R. Grace will be required to pay into the trust fund created by your bill only 1.45333 percent of their 2002 revenues for years one through five, with that amount declining over the next 20 years out to year 25," he wrote. "This is a paltry amount."
Further complicating progress on the bill, labor unions have halted talks on the legislation, saying that the provisions in the Hatch draft leave workers worse off than they are under current law. Negotiations will not continue until Hatch demonstrates that unions' concerns will be addressed, they said.
"If Sen. Hatch does introduce the bill -- if he continues to insist any negotiations go on in that framework -- then I don't think anything is going to happen," said AFL-CIO General Counsel Jon Hiatt.
Meanwhile, Sen. Patty Murray, D-Wash., reintroduced legislation from last year that would ban the use of asbestos. Asbestos, which can cause illnesses including cancer, is illegal in more than 30 other countries, Murray noted. The bill would complement the goals of the Hatch proposal, Murray said, although she had not taken a position on the bill.
"Our legislation is necessary on top of that legislation -- otherwise, we will need funds far into the future," Murray said. By Emily Heil
(Back to Contents
<http://nationaljournal.com/pubs/congressdaily/am030523.htm#top#top>)

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_R2XNG003_OPD.TXT_1>

HEALTH

Beginning Precarious Process, Hatch Introduces Asbestos Bill

Senate Judiciary Chairman Hatch late Thursday introduced long-awaited asbestos litigation reform legislation, with Democratic Sens. **Ben Nelson** of Nebraska and **Zell Miller** of Georgia signing on, but without further support from key Democrats.

The backlash against the bill, which Hatch decided to introduce despite the urging of Democrats to keep working on it, may propel parties back to the negotiating table, Democrats hope.

"They tried the bum's rush, and it didn't work," one aide said.

The bill Nelson and Miller backed includes some modest modifications to the draft that Hatch proposed earlier this week, including provisions that would allow en banc review of decisions by a newly created federal asbestos court. Unlike in the earlier draft, the legislation also allows cases to randomly be assigned to judges and subjects suspected "bad actors" to review by the attorney general's office.

Introducing the measure on the Senate floor, Hatch agreed to continue tweaking the bill, particularly saying he may address one of the Democrats' biggest concerns -- that awards to asbestos victims may exceed the $108 billion trust fund. But the lack of broad support from the Democratic Caucus and whispers of objections from some Republicans spells trouble for the bill as written, observers said.

Senate Judiciary ranking member **Patrick Leahy**, D-Vt., said that he ultimately may throw his support behind the Hatch bill, but indicated he will hold out his support until substantive changes are made.

"For a bill to pass, we both have to be on it, and we both know that," Leahy said.

Democrats, echoing concerns by labor unions and some others, are worried that the legislation does not contain a "backstop" to ensure that the fund does not run dry. They also worry that medical criteria sets too high a bar for victims to get compensation.

Compensation levels for victims -- with a maximum award of $750,000- also are too low, some Democrats say.

Hatch warned that anyone who would not negotiate in good faith would be "somebody who destroys -- or tries to destroy -- the only game in town."

He said the legislation was needed to rein in a litigation system that has spun out of control, with more than 70 companies in bankruptcy as a result of asbestos payouts and more than two-thirds of plaintiffs who were not even ill.

The legislation is partly the product of months of private sector negotiations involving insurers, unions, defendant companies and others, who have supported litigation reform in order to prevent bankruptci es and to target compensation to those plaintiffs who have been harmed by asbestos exposure.

Senate Finance ranking member **Max Baucus**, D-Mont., complained in a letter to Hatch that the planned bill would exclude many victims of a notorious asbest os-exposure case in the mining town of Libby, Mont., where employees of W.R. Grace & Co. were exposed to asbestos.

Many townspeople in Libby have become ill or died of asbestos-related illnesses, Baucus noted, but many of the victims would not be eligible for compensation under the proposed federal system.

The children of W.R. Grace employees would not be eligible because, unlike their fathers, they did not have "occupational" exposure or work for five years in an asbestos industry. They inhaled fibers carried on their fathers' clothes, Baucus said. Among other criticisms, Baucus also said he was concerned about the amount that companies would pay into the trust.

"If I read your draft legislation correctly, W.R. Grace will be required to pay into the trust fund created by your bill only 1.45333 percent of their 2002 revenues for years one through five, with that amount declining over the next 20 years out to year 25," he wrote. "This is a paltry amount."

Further complicating progress on the bill, labor unions have halted talks on the legislation, saying that the provisions in the Hatch draft leave workers worse off than they are under current law. Negotiations will not continue until Hatch demonstrates that unions' concerns will be addressed, they said.

"If Sen. Hatch does introduce the bill -- if he continues to insist any negotiations go on in that framework -- then I don't think anything is going to happen," said AFL-CIO General Counsel Jon Hiatt.

Meanwhile, Sen. **Patty Murray**, D-Wash., reintroduced legislation from last year that would ban the use of asbestos. Asbestos, which can cause illnesses including cancer, is illegal in more than 30 other countries, Murray noted. The bill would complement the goals of the Hatch proposal, Murray said, although she had not taken a position on the bill.

"Our legislation is necessary on top of that legislation -- otherwise, we will need funds far into the future," Murray said. *By Emily Heil*

(Back to Contents)

From: CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO]
To: Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Edward McNally/WHO /EOP@EOP [WHO] <Edward McNally>
CC: David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/23/2003 5:02:29 AM
Subject: :

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:23-MAY-2003 09:02:29.00
SUBJECT::
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
CC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

As promised:
;
-----Original Message-----
From: Clark, Lucy
Sent: Thursday, May 22, 2003 7:05 PM
To: Whitley, Joe; Mitnick, John; 'Philip_J._Perry@omb.eop.gov'
Subject: Safety Act

All) just got a call from David Leitch regarding the regulations.; He walked me through some of the email traffic on this and said that) while he didn,t want to wade knee-deep into it)it seemed to him, in the end to be more of a policy call) given that DOJ felt it could defend regulations that didn,t require all 7 factors to be met.; I believe you all were copied on an email to this effect from David.

On this point, the Secretary called me last night to speak about the Safety Act.; I explained that there were two potential interpretations of the statute floating around:; (1) all 7 criteria must be met and (2) all 7 criteria must be considered and it would be within the Department,s discretion how to weight them.; I said that as his counsel I would recommend #2, that I thought that it made more sense as a policy matter (because it permitted the Department to exercise discretion based on its policy needs, i.e., to interpret broadly or narrowly and to respond to policy needs over time, as we learned more about the implementation of the Act).; We discussed and he concurred.

I have not had a chance to look at the language John drafted and will not be able to until tomorrow am; that said, I think the process is coalescing around the idea that the regulations should permit discretion wrt the weighing of seven factors.; The debate has been useful in that it has focused all our attention on this important issue.; If anyone wants to call me to discuss further, please don,t hesitate) I,ve had trouble looping up with Joe today and thus apologize for resorting to email.

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/23/2003 5:53:05 AM
Subject: : FW: LRM JAB96 - - Request for Views: Committee Markup on HR2115 Flight 100--Century of Aviation Reauthorization Act
Attachments: P_9W1OG003_WHO.TXT_1.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:23-MAY-2003 09:53:05.00
SUBJECT:: FW: LRM JAB96 - - Request for Views: Committee Markup on HR2115 Flight 100--Century of Aviation Reauthorization Act
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

-----Original Message-----
From: Brown, James A.
Sent: Friday, May 23, 2003 9:44 AM
To: justice.lrm@usdoj.gov; dot.legislation@ost.dot.gov; Legislation.dhs@dhs.gov; usdaobpaleg@obpa.usda.gov; usdaocrleg@obpa.usda.gov; CLRM@doc.gov; dodlrs@osdgc.osd.mil; epalrm@epamail.epa.gov; Cea Lrm; Ceq Lrm; ocl@ios.doi.gov; justice.lrm@usdoj.gov; dol-sol-leg@dol.gov; llr@do.treas.gov; ola@opm.gov; lrm@osc.gov; laffairs@ustr.gov; mccullc@ntsb.gov; NASA_LRM@hq.nasa.gov; Ostp Lrm; Leg@flra.gov; Scott.Murphy@DHS.GOV
Cc: McMillin, Stephen S.; Schwartz, Kenneth L.; Mertens, Steven M.; Doherty, Clare C.; Benson, Meredith G.; Rosado, Timothy A.; Suh, Stephen; Kelly, Kenneth S.; Cea Lrm; Nec Lrm; Whgc Lrm; Ovp Lrm; Addington, David S.; Dougherty, Elizabeth S.; Sharp, Jess; Perry, Philip J.; Wood, John F.; Luczynski, Kimberley S.; Joseffer, Daryl L.; Lobrano, Lauren C.; Goldberg, Robert H.; McClelland, Alexander J.; Neyland, Kevin F.; Dennis, Carol R.; Blum, Mathew C.; Gerich, Michael D.; Radzanowski, David P.; Grippando, Hester C.; Nichols, Julie L.; Cea Lrm; Ohs Lrm; Jukes, James J.; Green, Richard E.; Collender, Robert N.; Shawcross, Paul; Boling, Edward A.; Bear, Dinah; Dove, Stephen W.; Call, Amy L.; Aguilera, Ricardo A.
Subject: LRM JAB96 - - Request for Views: Committee Markup on HR2115 Flight 100--Century of Aviation Reauthorization Act

- YOUNAK_037.PDF
LRM ID: JAB96
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Friday, May 23, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: James A. Brown
PHONE: (202)395-3473 FAX: (202)395-3109
SUBJECT: Request for Views: Committee Markup on HR2115 Flight 100--Century of Aviation Reauthorization Act

DEADLINE: 10:00 A.M. Thursday, May 29, 2003
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Your assistance in notifying us of any concerns by the deadline will help assure that we are prepared for potential floor action when the House returns.

DISTRIBUTION LIST

AGENCIES:
061-JUSTICE - William E. Moschella - (202) 514-2141
117 & 340-TRANSPORTATION - Tom Herlihy - (202) 366-4687
-HOMELAND SECURITY - N. Scott Murphy - (202) 786-0244
007-AGRICULTURE - Jacquelyn Chandler - (202) 720-1272
006-AGRICULTURE (CR) - Wanda Worsham - (202) 720-7095
025-COMMERCE - Michael A. Levitt - (202) 482-3151
029-DEFENSE - Vic Bernson - (703) 697-1305
033-Environmental Protection Agency - Edward Krenik - (202) 564-5200
018-Council of Economic Advisers - Liaison Officer - (202) 395-5084
019-Council on Environmental Quality - Debbie S. Fiddelke - (202) 395-3113
059-INTERIOR - Jane Lyder - (202) 208-4371
061-JUSTICE - Daniel Bryant - (202) 514-2141
062-LABOR - Robert A. Shapiro - (202) 693-5500
118-TREASURY - Thomas M. McGivern - (202) 622-2317
092-Office of Personnel Management - Harry Wolf - (202) 606-1424
093-Office of the Special Counsel - Jane McFarland - (202) 653-9001
128-US Trade Representative - Carmen Suro-Bredie - (202) 395-4755
085-National Transportation Safety Board - David Balloff - (202) 314-6120
069-National Aeronautics and Space Administration - Charles T. Horner III - (202) 358-1948
095-Office of Science and Technology Policy - Maureen O'Brien - (202) 456-6037
043-Federal Labor Relations Authority - Jill Crumpacker - (202) 218-7945

EOP:
Stephen S. McMillin
Kenneth L. Schwartz
Steven M. Mertens
Clare C. Doherty
Meredith G. Benson
Timothy A. Rosado
Stephen Suh
Kenneth S. Kelly
CEA LRM
NEC LRM
WHGC LRM
OVP LRM
David S. Addington
Elizabeth S. Dougherty
Jess Sharp
Philip J. Perry
John F. Wood
Kimberley S. Luczynski
Daryl L. Joseffer
Lauren C. Lobrano
Robert H. Goldberg
Alexander J. McClelland
Kevin F. Neyland
Carol R. Dennis
Mathew C. Blum
Michael D. Gerich
David P. Radzanowski
Hester C. Grippando
Julie L. Nichols
CEA LRM
OHS LRM
James J. Jukes
Richard E. Green
Robert N. Collender
Paul Shawcross

Edward A. Boling
Dinah Bear
Stephen W. Dove
Amy L. Call
Ricardo A. Aguilera

LRM ID: JAB96 SUBJECT: Request for Views: Committee Markup on HR2115 Flight 100--Century of Aviation Reauthorization Act
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) faxing us a memo or letter.
Please include the LRM number and subject shown above.

TO: James A. Brown Phone: 395-3473 Fax: 395-3109
Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_9W1OG003_WHO.TXT_1>

I

108TH CONGRESS
1ST SESSION

H. R. 2115

To amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 15, 2003

Mr. YOUNG of Alaska (for himself, Mr. MICA, Mr. OBERSTAR, and Mr. DEFAZIO) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

---

A BILL

To amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Flight 100—Century of Aviation Reauthorization Act".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Amendments to title 49, United States Code.
Sec. 3. Effective date.

TITLE I—AUTHORIZATIONS

Sec. 101. Federal Aviation Administration operations.

Sec. 102. Air navigation facilities and equipment.
Sec. 103. Airport planning and development and noise compatibility planning and programs.
Sec. 104. Additional reauthorizations.
Sec. 105. Insurance.
Sec. 106. Pilot program for innovative financing for terminal automation replacement systems.

TITLE II—AIRPORT PROJECT STREAMLINING

Sec. 201. Short title.
Sec. 202. Findings.
Sec. 203. Promotion of new runways.
Sec. 204. Airport project streamlining.
Sec. 205. Governor's certificate.
Sec. 206. Construction of certain airport capacity projects.
Sec. 207. Limitations.
Sec. 208. Relationship to other requirements.

TITLE III—FEDERAL AVIATION REFORM

Sec. 301. Management advisory committee members.
Sec. 302. Reorganization of the Air Traffic Services Subcommittee.
Sec. 303. Clarification of the responsibilities of the Chief Operating Officer.
Sec. 304. Small Business Ombudsman.
Sec. 305. FAA purchase cards.

TITLE IV—AIRLINE SERVICE IMPROVEMENTS

Sec. 401. Improvement of aviation information collection.
Sec. 402. Data on incidents and complaints involving passenger and baggage security screening.
Sec. 403. Definitions.
Sec. 404. Clarifications to procurement authority.
Sec. 405. Low-emission airport vehicles and ground support equipment.
Sec. 406. Streamlining of the passenger facility fee program.
Sec. 407. Financial management of passenger facility fees.
Sec. 408. Government contracting for air transportation.
Sec. 409. Overflights of national parks.
Sec. 410. Collaborative decision making pilot program.
Sec. 411. Availability of aircraft accident site information.
Sec. 412. Slot exemptions at Ronald Reagan Washington National Airport.
Sec. 413. Notice concerning aircraft assembly.
Sec. 414. Special rule to promote air service to small communities.
Sec. 415. Small community air service.
Sec. 416. Protection of employees providing air safety information.
Sec. 417. Type certificates.
Sec. 418. Design organization certificates.
Sec. 419. Counterfeit or fraudulently represented parts violations.
Sec. 420. Runway safety standards.
Sec. 421. Availability of maintenance information.
Sec. 422. Certificate actions in response to a security threat.
Sec. 423. Flight attendant certification.
Sec. 424. Civil penalty for closure of an airport without providing sufficient notice.
Sec. 425. Noise exposure maps.

Sec. 426. Amendment of general fee schedule provision.
Sec. 427. Improvement of curriculum standards for aviation maintenance technicians.
Sec. 428. Task force on future of air transportation system.
Sec. 429. Air quality in aircraft cabins.
Sec. 430. Recommendations concerning travel agents.
Sec. 431. Task force on enhanced transfer of applications of technology for military aircraft to civilian aircraft.
Sec. 432. Reimbursement for losses incurred by general aviation entities.
Sec. 433. Impasse procedures for National Association of Air Traffic Specialists.
Sec. 434. FAA inspector training.
Sec. 435. Prohibition on air traffic control privatization.
Sec. 436. Airfares for members of the Armed Forces.
Sec. 437. Air carriers required to honor tickets for suspended air service.
Sec. 438. International air show.
Sec. 439. Definition of air traffic controller.
Sec. 440. Justification for air defense identification zone.
Sec. 441. International air transportation.

TITLE V—AIRPORT DEVELOPMENT

Sec. 501. Definitions.
Sec. 502. Replacement of baggage conveyor systems.
Sec. 503. Security costs at small airports.
Sec. 504. Withholding of program application approval.
Sec. 505. Runway safety areas.
Sec. 506. Disposition of land acquired for noise compatibility purposes.
Sec. 507. Grant assurances.
Sec. 508. Allowable project costs.
Sec. 509. Apportionments to primary airports.
Sec. 510. Cargo airports.
Sec. 511. Considerations in making discretionary grants.
Sec. 512. Flexible funding for nonprimary airport apportionments.
Sec. 513. Use of apportioned amounts.
Sec. 514. Military airport program.
Sec. 515. Terminal development costs.
Sec. 516. Contract towers.
Sec. 517. Airport safety data collection.
Sec. 518. Airport privatization pilot program.
Sec. 519. Innovative financing techniques.
Sec. 520. Airport security program.
Sec. 521. Low-emission airport vehicles and infrastructure.
Sec. 522. Compatible land use planning and projects by State and local governments.
Sec. 523. Prohibition on requiring airports to provide rent-free space for Federal Aviation Administration.
Sec. 524. Midway Island Airport.
Sec. 525. Reimbursement of air carriers for certain screening and related activities.
Sec. 526. General aviation flights at Ronald Reagan Washington National Airport.

SEC. 2. AMENDMENTS TO TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. EFFECTIVE DATE.

Except as otherwise expressly provided, this Act and the amendments made by this Act shall be effective on the date of enactment of this Act.

TITLE I—AUTHORIZATIONS

SEC. 101. FEDERAL AVIATION ADMINISTRATION OPERATIONS.

(a) IN GENERAL.—Section 106(k) is amended to read as follows:

"(k) AUTHORIZATION OF APPROPRIATIONS.—

"(1) SALARIES, OPERATIONS, AND MAINTENANCE.—There is authorized to be appropriated to the Secretary of Transportation for salaries, operations and maintenance of the Administration—

"(A) $7,591,000,000 for fiscal year 2004;

"(B) $7,732,000,000 for fiscal year 2005;

"(C) $7,889,000,000 for fiscal year 2006; and

"(D) $8,064,000,000 for fiscal year 2007.

Such sums shall remain available until expended.''.

''(2) OPERATION OF CENTER FOR MANAGEMENT AND DEVELOPMENT.—Out of amounts appropriated under paragraph (1), such sums as may be necessary may be expended by the Center for Management Development of the Federal Aviation Administration to operate at least 200 courses each year and to support associated student travel for both residential and field courses.

''(3) AIR TRAFFIC MANAGEMENT SYSTEM.—Out of amounts appropriated under paragraph (1), such sums as may be necessary may be expended by the Federal Aviation Administration for the establishment and operation of a new office to develop, in coordination with the Department of Defense, the National Aeronautics and Space Administration, and the Department of Homeland Security, the next generation air traffic management system and a transition plan for the implementation of that system. The office shall be known as the 'Next Generation Air Transportation System Joint Program Office'.

''(4) HELICOPTER AND TILTROTOR PROCEDURES.—Out of amounts appropriated under paragraph (1), such sums as may be necessary may be expended by the Federal Aviation Administration for

the establishment of helicopter and tiltrotor approach and departure procedures using advanced technologies, such as the Global Positioning System and automatic dependent surveillance, to permit operations in adverse weather conditions to meet the needs of air ambulance services.

"(5) ADDITIONAL AIR TRAFFIC CONTROLLERS.—Out of amounts appropriated under paragraph (1), such sums as may be necessary may be expended to hire additional air traffic controllers in order to meet increasing air traffic demands and to address the anticipated increase in the retirement of experienced air traffic controllers.

"(6) COMPLETION OF ALASKA AVIATION SAFETY PROJECT.—Out of amounts appropriated under paragraph (1), $6,000,000 may be expended for the completion of the Alaska aviation safety project with respect to the 3 dimensional mapping of Alaska's main aviation corridors.

"(7) AVIATION SAFETY REPORTING SYSTEM.—Out of amounts appropriated under paragraph (1), $3,400,000 may be expended on the Aviation Safety Reporting System.

(b) AIRLINE DATA AND ANALYSIS.—There is authorized to be appropriated to the Secretary of Transportation,

out of the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502), $3,971,000 for fiscal year 2004, $4,045,000 for fiscal year 2005, $4,127,000 for fiscal year 2006, and $4,219,000 for fiscal year 2007 to gather airline data and conduct analyses of such data in the Bureau of Transportation Statistics of the Department of Transportation.

(c) HUMAN CAPITAL WORKFORCE STRATEGY.—

(1) DEVELOPMENT.—The Administrator of the Federal Aviation Administration shall develop a comprehensive human capital workforce strategy to determine the most effective method for addressing the need for more air traffic controllers that is called for in the June 2002 report of the General Accounting Office.

(2) COMPLETION DATE.—The Administrator shall complete development of the strategy not later than 1 year after the date of enactment of this Act.

(3) REPORT.—Not later than 30 days after the date on which the strategy is completed, the Administrator shall transmit to Congress a report describing the strategy.

(d) GOALS AND OBJECTIVES OF AVIATION SAFETY REPORTING SYSTEM.—Not later than 90 days after the

date of enactment of this Act, the Administrator shall transmit to Congress a report on the long-term goals and objectives of the Aviation Safety Reporting System and how such system interrelates with other safety reporting systems of the Federal Government.

SEC. 102. AIR NAVIGATION FACILITIES AND EQUIPMENT.

Section 48101 is amended—

(1) in subsection (a) by striking paragraphs (1) through (5) and inserting the following:

"(1) $2,938,000,000 for fiscal year 2004;

"(2) $2,993,000,000 for fiscal year 2005;

"(3) $3,053,000,000 for fiscal year 2006; and

"(4) $3,110,000,000 for fiscal year 2007.";

(2) by striking subsection (b);

(3) by redesignating (c) as subsection (b);

(4) by striking subsections (d) and (e) and inserting the following:

"(c) ENHANCED SAFETY AND SECURITY FOR AIRCRAFT OPERATIONS IN THE GULF OF MEXICO.—Of amounts appropriated under subsection (a), such sums as may be necessary for fiscal years 2004 through 2007 may be used to expand and improve the safety, efficiency, and security of air traffic control, navigation, low altitude communications and surveillance, and weather services in the Gulf of Mexico.

"(d) OPERATIONAL BENEFITS OF WAKE VORTEX ADVISORY SYSTEM.—Of amounts appropriated under subsection (a), $20,000,000 for each of fiscal years 2004 through 2007 may be used to document and demonstrate the operational benefits of a wake vortex advisory system.

"(e) GROUND-BASED PRECISION NAVIGATIONAL AIDS.—Of amounts appropriated under subsection (a), $20,000,000 for each of fiscal years 2004 to 2007 may be used to establish a program for the installation, operation, and maintenance of a closed-loop precision approach aid designed to improve aircraft accessibility at mountainous airports with limited land if the approach aid is able to provide curved and segmented approach guidance for noise abatement purposes and has been certified or approved by the Administrator."; and

(6) in subsection (f)—

(A) by striking "for fiscal years beginning after September 30, 2000"; and

(B) by inserting "may be used" after "necessary".

SEC. 103. AIRPORT PLANNING AND DEVELOPMENT AND NOISE COMPATIBILITY PLANNING AND PROGRAMS.

(a) AUTHORIZATION.—Section 48103 is amended—

(1) by striking "September 30, 1998" and inserting "September 30, 2003"; and

(2) by striking subparagraphs (1) through (5) and inserting:

"(1) $3,400,000,000 for fiscal year 2004;

"(2) $3,600,000,000 for fiscal year 2005;

"(3) $3,800,000,000 for fiscal year 2006; and

"(4) $4,000,000,000 for fiscal year 2007.".

(b) OBLIGATIONAL AUTHORITY.—Section 47104(c) is amended by striking "September 30, 2003" and inserting "September 30, 2007".

SEC. 104. ADDITIONAL REAUTHORIZATIONS.

(a) CONTRACT AIR TRAFFIC CONTROL TOWER PILOT PROGRAM.—Section 47124(b)(3)(E) is amended by striking "$6,000,000 per fiscal year" and inserting "$6,500,000 for fiscal year 2004, $7,000,000 for fiscal year 2005, $7,500,000 for fiscal year 2006, and $8,000,000 for fiscal year 2007".

(b) SMALL COMMUNITY AIR SERVICE.—Section 41743(e)(2) is amended—

(1) by striking "and" the first place it appears and inserting a comma; and

(2) by inserting after "2003" the following ", and $35,000,000 for each of fiscal years 2004 through 2008".

(c) REGIONAL AIR SERVICE INCENTIVE PROGRAM.—Section 41766 is amended by striking "2003" and inserting "2007".

(d) FUNDING FOR AVIATION PROGRAMS.—Section 106 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (49 U.S.C. 48101 note) is amended by striking "2003" each place it appears and inserting "2007".

(e) DESIGN-BUILD CONTRACTING.—Section 139(e) of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (49 U.S.C. 47104 note) is amended by striking "2003" and inserting "2007".

(f) METROPOLITAN WASHINGTON AIRPORTS AUTHORITY.—Section 49108 is amended by striking "2004" and inserting "2007".

SEC. 105. INSURANCE.

(a) TERMINATION.—Section 44310 is amended to read as follows:

"§ 44310. Termination date

"Effective December 31, 2007, the authority of the Secretary of Transportation to provide insurance and reinsurance under this chapter shall be limited to—

"(1) the operation of an aircraft by an air carrier or foreign air carrier in foreign air commerce or

between at least 2 points, all of which are outside the United States; and

"(2) insurance obtained by a department, agency, or instrumentality of the United States under section 44305.".

(b) EXTENSION OF POLICIES.—Section 44302(f)(1) is amended by striking "through December 31, 2004," and inserting "thereafter".

(c) AIRCRAFT MANUFACTURER LIABILITY FOR THIRD PARTY CLAIMS ARISING OUT OF ACTS OF TERRORISM.—Section 44303(b) is amended by adding at the end the following: "The Secretary may extend the provisions of this subsection to the United States manufacturer (as defined in section 44310) of the aircraft of the air carrier involved.".

(d) VENDORS, AGENTS, SUBCONTRACTORS, AND MANUFACTURERS.—

(1) IN GENERAL.—Chapter 443 is amended—

(A) by redesignating section 44310 (as amended by subsection (a) of this section) as section 44311; and

(B) by inserting after section 44309 the following:

"§ 44310. Vendors, agents, subcontractors, and manufacturers

"(a) IN GENERAL.—The Secretary of Transportation may extend the application of any provision of this chapter to a loss by a vendor, agent, and subcontractor of an air carrier and a United States manufacturer of an aircraft used by an air carrier but only to the extent that the loss involved an aircraft of an air carrier.

"(b) UNITED STATES MANUFACTURER DEFINED.—In this section, the term "United States manufacturer" means a manufacturer incorporated under the laws of a State of the United States and having its principal place of business in the United States.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 443 is amended by striking the item relating to section 44310 and inserting the following:

"44310. Vendors, agents, subcontractors, and manufacturers.
"44311. Termination date".

(e) TECHNICAL CORRECTIONS.—Effective November 19, 2001, the Aviation and Transportation Security Act (115 Stat. 597) is amended—

(1) in section 147 by striking "44306(b)" and inserting "44306(c)"; and

(2) in section 124(b) by striking "to carry out foreign policy" and inserting "to carry out the foreign policy".

SEC. 106. PILOT PROGRAM FOR INNOVATIVE FINANCING FOR TERMINAL AUTOMATION REPLACEMENT SYSTEMS.

(a) IN GENERAL.—In order to test the cost-effectiveness and feasibility of long-term financing of modernization of major air traffic control systems, the Administrator of the Federal Aviation Administration may establish a pilot program to test innovative financing techniques through amending a contract, without regard to section 1341 of title 31, United States Code, of more than one, but not more than 20, fiscal years to purchase and install terminal automation replacement systems for the Administration. Such amendments may be for more than one, but not more than 10 fiscal years.

(b) CANCELLATION.—A contract described in subsection (a) may include a cancellation provision if the Administrator determines that such a provision is necessary and in the best interest of the United States. Any such provision shall include a cancellation liability schedule that covers reasonable and allocable costs incurred by the contractor through the date of cancellation plus reasonable profit, if any, on those costs. Any such provision shall not apply if the contract is terminated by default of the contractor.

(c) CONTRACT PROVISIONS.—If feasible and practicable for the pilot program, the Administrator may make

an advance contract provision to achieve economic-lot purchases and more efficient production rates.

(d) LIMITATION.—The Administrator may not amend a contract under this section until the program for the terminal automation replacement systems has been rebaselined in accordance with the acquisition management system of the Administration.

(e) SCORING.—Budget authority for any contract or amended contract under the pilot program shall be considered sufficient for purposes of the Budget Enforcement Act of 1990 if for each fiscal year of the contract the amount of budget authority is at least sufficient to cover the estimated total payments to be made under that contract for that year. Budget authority is not required for any contingent liability that might be contained in a cancellation provision.

(f) ANNUAL REPORTS.—At the end of each fiscal year during the term of the pilot program, the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on how the Administrator has implemented in such fiscal year the pilot program, the number and types of contracts or contract amendments

that are entered into under the program, and the program's cost effectiveness.

(g) AUTHORIZATION.—There shall be available $200,000,000 to carry out this section for fiscal year 2004. Such sums shall remain available until expended.

TITLE II—AIRPORT PROJECT STREAMLINING

SEC. 201. SHORT TITLE.

This title may be cited as the ''Airport Streamlining Approval Process Act of 2003''.

SEC. 202. FINDINGS.

Congress finds that—

(1) airports play a major role in interstate and foreign commerce;

(2) congestion and delays at our Nation's major airports have a significant negative impact on our Nation's economy;

(3) airport capacity enhancement projects at congested airports are a national priority and should be constructed on an expedited basis;

(4) airport capacity enhancement projects must include an environmental review process that provides local citizenry an opportunity for consideration of and appropriate action to address environmental concerns; and

(5) the Federal Aviation Administration, airport authorities, communities, and other Federal, State, and local government agencies must work together to develop a plan, set and honor milestones and deadlines, and work to protect the environment while sustaining the economic vitality that will result from the continued growth of aviation.

SEC. 203. PROMOTION OF NEW RUNWAYS.

Section 40104 is amended by adding at the end the following:

"(c) AIRPORT CAPACITY ENHANCEMENT PROJECTS AT CONGESTED AIRPORTS.—In carrying out subsection (a), the Administrator shall take action to encourage the construction of airport capacity enhancement projects at congested airports as those terms are defined in section 47178.".

SEC. 204. AIRPORT PROJECT STREAMLINING.

(a) IN GENERAL.—Chapter 471 is amended by inserting after section 47153 the following:

"SUBCHAPTER III—AIRPORT PROJECT STREAMLINING

"§ 47171. DOT as lead agency

"(a) AIRPORT PROJECT REVIEW PROCESS.—The Secretary of Transportation shall develop and implement

a coordinated review process for airport capacity enhancement projects at congested airports.

"(b) COORDINATED REVIEWS.—

"(1) IN GENERAL.—The coordinated review process under this section shall provide that all environmental reviews, analyses, opinions, permits, licenses, and approvals that must be issued or made by a Federal agency or airport sponsor for an airport capacity enhancement project at a congested airport will be conducted concurrently, to the maximum extent practicable, and completed within a time period established by the Secretary, in cooperation with the agencies identified under subsection (c) with respect to the project.

"(2) AGENCY PARTICIPATION.—Each Federal agency identified under subsection (c) shall formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of environmental reviews, analyses, opinions, permits, licenses, and approvals described in paragraph (1) in a timely and environmentally responsible manner.

"(c) IDENTIFICATION OF JURISDICTIONAL AGENCIES.—With respect to each airport capacity enhancement project at a congested airport, the Secretary shall identify,

as soon as practicable, all Federal and State agencies that may have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project.

"(d) STATE AUTHORITY.—If a coordinated review process is being implemented under this section by the Secretary with respect to a project at an airport within the boundaries of a State, the State, consistent with State law, may choose to participate in such process and provide that all State agencies that have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project, be subject to the process.

"(e) MEMORANDUM OF UNDERSTANDING.—The coordinated review process developed under this section may be incorporated into a memorandum of understanding for a project between the Secretary and the heads of other Federal and State agencies identified under subsection (c) with respect to the project and the airport sponsor.

"(f) EFFECT OF FAILURE TO MEET DEADLINE.—

"(1) NOTIFICATION OF CONGRESS AND CEQ.—If the Secretary determines that a Federal agency, State agency, or airport sponsor that is participating in a coordinated review process under this section with respect to a project has not met a deadline established under subsection (b) for the project, the Secretary shall notify, within 30 days of the date of such determination, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, the Council on Environmental Quality, and the agency or sponsor involved about the failure to meet the deadline.

"(2) AGENCY REPORT.—Not later than 30 days after date of receipt of a notice under paragraph (1), the agency or sponsor involved shall submit a report to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Council on Environmental Quality explaining why the agency or sponsor did not meet the deadline and what actions it intends to take to complete or issue the required review, analysis, opinion, license, or approval.

"(g) PURPOSE AND NEED.—For any environmental review, analysis, opinion, permit, license, or approval that must be issued or made by a Federal or State agency that is participating in a coordinated review process under this section with respect to an airport capacity enhancement project at a congested airport and that requires an analysis of purpose and need for the project, the agency, notwithstanding any other provision of law, shall be bound by the project purpose and need as defined by the Secretary.

"(h) ALTERNATIVES ANALYSIS.—The Secretary shall determine the reasonable alternatives to an airport capacity enhancement project at a congested airport. Any other Federal or State agency that is participating in a coordinated review process under this section with respect to the project shall consider only those alternatives to the project that the Secretary has determined are reasonable.

"(i) SOLICITATION AND CONSIDERATION OF COMMENTS.—In applying subsections (g) and (h), the Secretary shall solicit and consider comments from interested persons and governmental entities.

"(j) MONITORING BY TASK FORCE.—The Transportation Infrastructure Streamlining Task Force, established by Executive Order 13274 (67 Fed. Reg. 59449; relating to environmental stewardship and transportation

infrastructure project reviews) may monitor airport projects that are subject to the coordinated review process under this section.

"§ 47172. Categorical exclusions

"Not later than 120 days after the date of enactment of this section, the Secretary of Transportation shall develop and publish a list of categorical exclusions from the requirement that an environmental assessment or an environmental impact statement be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for projects at airports.

"§ 47173. Access restrictions to ease construction

"At the request of an airport sponsor for a congested airport, the Secretary of Transportation may approve a restriction on use of a runway to be constructed at the airport to minimize potentially significant adverse noise impacts from the runway only if the Secretary determines that imposition of the restriction—

"(1) is necessary to mitigate those impacts and expedite construction of the runway;

"(2) is the most appropriate and a cost-effective measure to mitigate those impacts, taking into consideration any environmental tradeoffs associated with the restriction; and

"(3) would not adversely affect service to small communities, adversely affect safety or efficiency of the national airspace system, unjustly discriminate against any class of user of the airport, or impose an undue burden on interstate or foreign commerce.

"§ 47174. Airport revenue to pay for mitigation

"(a) IN GENERAL.—Notwithstanding section 47107(b), section 47133, or any other provision of this title, the Secretary of Transportation may allow an airport sponsor carrying out an airport capacity enhancement project at a congested airport to make payments, out of revenues generated at the airport (including local taxes on aviation fuel), for measures to mitigate the environmental impacts of the project if the Secretary finds that—

"(1) the mitigation measures are included as part of, or support, the preferred alternative for the project in the documentation prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(2) the use of such revenues will provide a significant incentive for, or remove an impediment to, approval of the project by a State or local government; and

"(3) the cost of the mitigation measures is reasonable in relation to the mitigation that will be achieved.

"(b) MITIGATION OF AIRCRAFT NOISE.—Mitigation measures described in subsection (a) may include the insulation of residential buildings and buildings used primarily for educational or medical purposes to mitigate the effects of aircraft noise and the improvement of such buildings as required for the insulation of the buildings under local building codes.

"§ 47175. Airport funding of FAA staff

"(a) ACCEPTANCE OF SPONSOR-PROVIDED FUNDS.—Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may accept funds from an airport sponsor, including funds provided to the sponsor under section 47114(c), to hire additional staff or obtain the services of consultants in order to facilitate the timely processing, review, and completion of environmental activities associated with an airport development project.

"(b) ADMINISTRATIVE PROVISION.—Instead of payment from an airport sponsor from funds apportioned to the sponsor under section 47114, the Administrator, with agreement of the sponsor, may transfer funds that would otherwise be apportioned to the sponsor under section

47114 to the account used by the Administrator for activities described in subsection (a).

"(c) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any funds accepted under this section, except funds transferred pursuant to subsection (b)—

"(1) shall be credited as offsetting collections to the account that finances the activities and services for which the funds are accepted;

"(2) shall be available for expenditure only to pay the costs of activities and services for which the funds are accepted; and

"(3) shall remain available until expended.

"(d) MAINTENANCE OF EFFORT.—No funds may be accepted pursuant to subsection (a), or transferred pursuant to subsection (b), in any fiscal year in which the Federal Aviation Administration does not allocate at least the amount it expended in fiscal year 2002, excluding amounts accepted pursuant to section 337 of the Department of Transportation and Related Agencies Appropriations Act, 2002 (115 Stat. 862), for the activities described in subsection (a).

"§ 47176. Authorization of appropriations

"In addition to the amounts authorized to be appropriated under section 106(k), there is authorized to be ap-

propriated to the Secretary of Transportation, out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502), $4,200,000 for fiscal year 2004 and for each fiscal year thereafter to facilitate the timely processing, review, and completion of environmental activities associated with airport capacity enhancement projects at congested airports.

"§ 47177. Designation of aviation safety and aviation security projects for priority environmental review

"(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may designate an aviation safety or aviation security project for priority environmental review. The Administrator may not delegate this designation authority.

"(b) PROJECT DESIGNATION CRITERIA.—The Administrator shall establish guidelines for the designation of an aviation safety or aviation security project for priority environmental review. Such guidelines shall include consideration of—

"(1) the importance or urgency of the project;

"(2) the potential for undertaking the environmental review under existing emergency procedures

under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(3) the need for cooperation and concurrent reviews by other Federal or State agencies; and

"(4) the prospect for undue delay if the project is not designated for priority review.

"(c) COORDINATED ENVIRONMENTAL REVIEWS.—

"(1) TIMELINES AND HIGH PRIORITY FOR COORDINATED ENVIRONMENTAL REVIEWS.—The Administrator, in consultation with the heads of affected agencies, shall establish specific timelines for the coordinated environmental review of an aviation safety or aviation security project designated under subsection (a). Such timelines shall be consistent with the timelines established in existing laws and regulations. Each Federal agency with responsibility for project environmental reviews, analyses, opinions, permits, licenses, and approvals shall accord any such review a high priority and shall conduct the review expeditiously and, to the maximum extent possible, concurrently with other such reviews.

"(2) AGENCY PARTICIPATION.—Each Federal agency identified under subsection (c) shall formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure

completion of environmental reviews, analyses, opinions, permits, licenses, and approvals described in paragraph (1) in a timely and environmentally responsible manner.

"(d) STATE PARTICIPATION.—

"(1) INVITATION TO PARTICIPATE.—If a priority environmental review process is being implemented under this section with respect to a project within the boundaries of a State with applicable State environmental requirements and approvals, the Administrator shall invite the State to participate in the process.

"(2) STATE CHOICE.—A State invited to participate in a priority environmental review process, consistent with State law, may choose to participate in such process and direct that all State agencies, which have jurisdiction by law to conduct an environmental review or analysis of the project to determine whether to issue an environmentally related permit, license, or approval for the project, be subject to the process.

"(e) FAILURE TO GIVE PRIORITY REVIEW.—

"(1) NOTICE.—If the Secretary of Transportation determines that a Federal agency or a participating State is not complying with the requirements

of this section and that such noncompliance is undermining the environmental review process, the Secretary shall notify, within 30 days of such determination, the head of the Federal agency or, with respect to a State agency, the Governor of the State.

"(2) REPORT TO SECRETARY.—A Federal agency that receives a copy of a notification relating to that agency made by the Secretary under paragraph (1) shall submit, within 30 days after receiving such copy, a written report to the Secretary explaining the reasons for the situation described in the notification and what remedial actions the agency intends to take.

"(3) NOTIFICATION OF CEQ AND COMMITTEES.—If the Secretary determines that a Federal agency has not satisfactorily addressed the problems within a reasonable period of time following a notification under paragraph (1), the Secretary shall notify the Council on Environmental Quality, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science and Transportation of the Senate.

"(f) PROCEDURAL PROVISIONS.—The procedures set forth in subsections (c), (e), (g), (h), and (i) of section

47171 shall apply with respect to an aviation safety or aviation security project under this section in the same manner and to the same extent as such procedures apply to an airport capacity enhancement project at a congested airport under section 47171.

"(g) DEFINITIONS.—In this section, the following definitions apply:

"(1) AVIATION SAFETY PROJECT.—The term 'aviation safety project' means an aviation project that—

"(A) has as its primary purpose reducing the risk of injury to persons or damage to aircraft and property, as determined by the Administrator; and

"(B)(i) is needed to respond to a recommendation from the National Transportation Safety Board; or

"(ii) is necessary for an airport to comply with part 139 of title 14, Code of Federal Regulations (relating to airport certification).

"(2) AVIATION SECURITY PROJECT.—The term 'aviation security project' means a security project at an airport required by the Department of Homeland Security.

"(3) FEDERAL AGENCY.—The term 'Federal agency' means a department or agency of the United States Government.".

"§ 47178. Definitions

"In this subchapter, the following definitions apply:

"(1) AIRPORT SPONSOR.—The term 'airport sponsor' has the meaning given the term 'sponsor' under section 47102.

"(2) CONGESTED AIRPORT.—The term 'congested airport' means an airport that accounted for at least 1 percent of all delayed aircraft operations in the United States in the most recent year for which such data is available and an airport listed in table 1 of the Federal Aviation Administration's Airport Capacity Benchmark Report 2001.

"(3) AIRPORT CAPACITY ENHANCEMENT PROJECT.—The term 'airport capacity enhancement project' means—

"(A) a project for construction or extension of a runway, including any land acquisition, taxiway, or safety area associated with the runway or runway extension; and

"(B) such other airport development projects as the Secretary may designate as fa-

cilitating a reduction in air traffic congestion and delays.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 471 of such title is amended by adding at the end the following:

''SUBCHAPTER III—AIRPORT PROJECT STREAMLINING

''47171. DOT as lead agency.
''47172. Categorical exclusions.
''47173. Access restrictions to ease construction.
''47174. Airport revenue to pay for mitigation.
''47175. Airport funding of FAA staff.
''47176. Authorization of appropriations.
''47177. Designation of aviation safety and aviation security projects for priority environmental review.
''47178. Definitions.''.

(c) JUDICIAL REVIEW.—The first sentence of section 46110(a) is amended—

(1) by inserting ''in whole or in part'' after the ''the Administrator)''; and

(2) by inserting ''and under part B'' after ''under this part''.

SEC. 205. GOVERNOR'S CERTIFICATE.

Section 47106(c) of title 49, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting ''and'' after the semicolon at the end of subparagraph (A)(ii);

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B);

(2) in paragraph (2)(A) by striking ''stage 2'' and inserting ''stage 3'';

(3) by striking paragraph (4); and

(4) by redesignating paragraph (5) as paragraph (4).

SEC. 206. CONSTRUCTION OF CERTAIN AIRPORT CAPACITY PROJECTS.

Section 47504(c)(2) of title 49, United States Code, is amended—

(1) by moving subparagraphs (C) and (D) 2 ems to the right;

(2) by striking ''and'' at the end of subparagraph (C);

(3) by striking the period at the end of subparagraph (D) and inserting ''; and''; and

(4) by adding at the end the following:

''(E) to an airport operator of a congested airport (as defined in section 47177) and a unit of local government referred to in paragraph (1)(B) of this subsection to carry out a project to mitigate noise in the area surrounding the airport if the project is included as a commitment in a record of decision of the Federal Aviation Administration for an airport capacity enhancement project (as defined in section

47177) even if that airport has not met the requirements of part 150 of title 14, Code of Federal Regulations.''.

SEC. 207. LIMITATIONS.

Nothing in this title, including any amendment made by this title, shall preempt or interfere with—

(1) any practice of seeking public comment;

(2) any power, jurisdiction, or authority that a State agency or an airport sponsor has with respect to carrying out an airport capacity enhancement project; and

(3) any obligation to comply with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4371 et seq) and the regulations issued by the Council on Environmental Quality to carry out such Act.

SEC. 208. RELATIONSHIP TO OTHER REQUIREMENTS.

The coordinated review process required under the amendments made by this title shall apply to an airport capacity enhancement project at a congested airport whether or not the project is designated by the Secretary of Transportation as a high-priority transportation infrastructure project under Executive Order 13274 (67 Fed. Reg. 59449; relating to environmental stewardship and transportation infrastructure project reviews).

TITLE III—FEDERAL AVIATION REFORM

SEC. 301. MANAGEMENT ADVISORY COMMITTEE MEMBERS.

Section 106(p) is amended—

(1) in the subsection heading by inserting ''AND AIR TRAFFIC SERVICES BOARD'' after ''COUNCIL'';

(2) in paragraph (2)—

(A) by striking ''consist of'' and all that follows through ''members, who'' and inserting ''consist of 13 members, who'';

(B) by inserting after ''Senate'' in subparagraph (C)(i) '', except that initial appointments made after May 1, 2003, shall be made by the Secretary of Transportation'';

(C) by striking the semicolon at the end of subparagraph (C)(ii) and inserting ''; and''; and

(D) by striking ''employees, by—'' in subparagraph (D) and all that follows through the period at the end of subparagraph (E) and inserting ''employees, by the Secretary of Transportation.''.

SEC. 302. REORGANIZATION OF THE AIR TRAFFIC SERVICES SUBCOMMITTEE.

Section 106(p) is amended—

(1) in paragraph (3)—

(A) by striking ''(A) NO FEDERAL OFFICER OR EMPLOYEE.—'';

(B) by striking ''or (2)(E)'' and inserting ''or to the Air Traffic Services Board''; and

(C) by striking subparagraphs (B) and (C);

(2) in paragraph (4)(C) by inserting ''or Air Traffic Services Board'' after ''Council'' each place it appears;

(3) in paragraph (5) by inserting '', the Air Traffic Services Board,'' after ''Council'';

(4) in paragraph (6)(C)—

(A) by striking ''SUBCOMMITTEE'' in the subparagraph heading and inserting ''BOARD''; and

(B) by striking ''member'' and inserting ''members'';

(C) by striking ''under paragraph (2)(E)'' the first place it appears and inserting ''to the Air Traffic Services Board''; and

(D) by striking ''of the members first'' and all that follows through the period at the end and inserting ''the first members of the Board shall be the members of the Air Traffic Services Subcommittee of the Council on the day before

the date of enactment of the Flight 100—Century of Aviation Reauthorization Act who shall serve as members of the Board until their respective terms as members of the Subcommittee would have ended under this subparagraph, as in effect on such day.";

(5) in paragraph (6)(D) by striking "under paragraph (2)(E)" and inserting "to the Board";

(6) in paragraph (6)(E) by inserting "or Board" after "Council";

(7) in paragraph (6)(F) by inserting "of the Council or Board" after "member";

(8) in the second sentence of subparagraph (6)(G)—

(i) by striking "Council" and inserting "Board"; and

(ii) by striking "appointed under paragraph (2)(E)";

(9) in paragraph (6)(H)—

(i) by striking "SUBCOMMITTEE" in the subparagraph heading and inserting "BOARD";

(ii) by striking "under paragraph (2)(E)" in clause (i) and inserting "to the Board"; and

(iii) by striking ''Air Traffic Services Subcommittee'' and inserting ''Board'';

(10) in paragraph (6)(I)(i)—

(A) by striking ''appointed under paragraph (2)(E) is'' and inserting ''is serving as''; and

(B) by striking ''Subcommittee'' and inserting ''Board''; and

(11) in paragraph (6)(I)(ii)—

(A) by striking ''appointed under paragraph (2)(E)'' and inserting ''who is a member of the Board''; and

(B) by striking ''Subcommittee'' and inserting ''Board'';

(12) in paragraph (6)(K) by inserting ''or Board'' after ''Council'';

(13) in paragraph (6)(L) by inserting ''or Board'' after ''Council'' each place it appears; and

(14) in paragraph (7)—

(A) by striking ''SUBCOMMITTEE'' in the paragraph heading and inserting ''BOARD'';

(B) by striking subparagraph (A) and inserting the following:

''(A) ESTABLISHMENT.—The Administrator shall establish a board that is inde-

pendent of the Council by converting the Air Traffic Services Subcommittee of the Council, as in effect on the day before the date of enactment of the Flight 100—Century of Aviation Reauthorization Act, into such board. The board shall be known as the Air Traffic Services Board (in this subsection referred to as the 'Board').";

(C) by redesignating subparagraphs (B) through (F) as subparagraphs (D) through (H), respectively;

(D) by inserting after subparagraph (A) the following:

"(B) MEMBERSHIP AND QUALIFICATIONS.—Subject to paragraph (6)(C), the Board shall consist of 5 members, one of whom shall be the Administrator and shall serve as chairperson. The remaining members shall be appointed by the President with the advice and consent of the Senate and—

"(i) shall have a fiduciary responsibility to represent the public interest;

"(ii) shall be citizens of the United States; and

"(iii) shall be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in one or more of the following areas and, in the aggregate, should collectively bring to bear expertise in all of the following areas:

"(I) management of large service organizations;

"(II) customer service;

"(III) management of large procurements;

"(IV) information and communications technology;

"(V) organizational development;

"(VI) labor relations.

"(C) PROHIBITIONS ON MEMBERS OF BOARD.—No member of the Board may—

"(i) have a pecuniary interest in, or own stock in or bonds of, an aviation or aeronautical enterprise, except an interest in a diversified mutual fund or an interest that is exempt from the application of section 208 of title 18;

"(ii) engage in another business related to aviation or aeronautics; or

"(iii) be a member of any organization that engages, as a substantial part of its activities, in activities to influence aviation-related legislation.";

(E) by striking "Subcommittee" each place it appears in subparagraphs (D) and (E) (as redesignated by subparagraph (C) of this paragraph) and inserting "Board";

(F) by striking "approve" in subparagraph (E)(v)(I) (as so redesignated) and inserting "make recommendations on";

(G) by striking "request" in subparagraph (E)(v)(II) (as so redesignated) and inserting "recommendations";

(H) by striking "ensure that the budget request supports" in subparagraph (E)(v)(III) (as so redesignated) and inserting "base such budget recommendations on"; and

(I) by striking "The Secretary shall submit" in subparagraph (E) (as so redesignated) and all that follows through the period at the end of such subparagraph (E) and inserting "The Secretary shall submit the budget rec-

ommendations referred to in clause (v) to the President who shall transmit such recommendations to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate together with the annual budget request of the Federal Aviation Administration.";

(J) by striking subparagraph (F) (as so redesignated) and inserting the following:

"(F) BOARD PERSONNEL MATTERS.—The Board may appoint and terminate any personnel that may be necessary to enable the Board to perform its duties, and may procure temporary and intermittent services under section 40122.";

(K) in subparagraph (G) (as so redesignated)—

(i) by striking clause (i);

(ii) by redesignating clauses (ii), (iii), and (iv) as clauses (i), (ii), and (iii), respectively; and

(iii) by striking ''Subcommittee'' each place it appears in clauses (i), (ii), and (iii) (as so redesignated) and inserting ''Board'';

(L) in subparagraph (H) (as so redesignated)—

(i) by striking ''Subcommittee'' each place it appears and inserting ''Board''; and

(ii) by striking ''Administrator, the Council'' each place it appears in clauses (i) and (ii) and inserting ''Secretary''; and

(M) by adding at the end the following:

''(I) AUTHORIZATION.—There is authorized to be appropriated to the Board such sums as may be necessary for the Board to carry out its activities.''.

SEC. 303. CLARIFICATION OF THE RESPONSIBILITIES OF THE CHIEF OPERATING OFFICER.

Section 106(r) is amended—

(1) in each of paragraphs (1)(A) and (2)(A) by striking ''Air Traffic Services Subcommittee of the Aviation Management Advisory Council'' and inserting ''Air Traffic Services Board'';

(2) in paragraph (2)(B) by inserting ''in'' before ''paragraph (3).'';

(3) in paragraph (3) by striking ''Air Traffic Control Subcommittee of the Aviation Management Advisory Council'' and inserting ''Air Traffic Services Board''; and

(4) in paragraph (4) by striking ''Transportation and Congress'' and inserting ''Transportation, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate'';

(5) in paragraph (5)(A)—

(A) by striking ''develop a'' and inserting ''implement the''; and

(B) by striking '', including the establishment of'' and inserting ''in order to further'';

(6) in paragraph (5)(B)—

(A) by striking ''review'' and all that follows through ''Administration,'' and inserting ''oversee the day-to-day operational functions of the Administration for air traffic control,'';

(B) by striking ''and'' at the end of clause (ii);

(C) by striking the period at the end of clause (iii) and inserting ''; and''; and

(D) by adding at the end the following:

''(iv) the management of cost-reimburseable contracts.''.

(7) in paragraph (5)(C)(i) by striking ''prepared by the Administrator'';

(8) in paragraph (5)(C)(ii) by striking ''and the Secretary of Transportation'' and inserting ''and the Board''; and

(9) in paragraph (5)(C)(iii)—

(A) by inserting ''agency's'' before ''annual''; and

(B) by striking ''developed under subparagraph (A) of this subsection.'' and inserting ''for air traffic control services.''.

SEC. 304. SMALL BUSINESS OMBUDSMAN.

Section 106 is amended by adding at the end the following:

''(s) SMALL BUSINESS OMBUDSMAN.—

''(1) ESTABLISHMENT.—There shall be in the Administration a Small Business Ombudsman.

''(2) GENERAL DUTIES AND RESPONSIBILITIES.—The Ombudsman shall—

''(A) be appointed by the Administrator;

"(B) serve as a liaison with small businesses in the aviation industry;

"(C) be consulted when the Administrator proposes regulations that may affect small businesses in the aviation industry;

"(D) provide assistance to small businesses in resolving disputes with the Administration; and

"(E) report directly to the Administrator.".

SEC. 305. FAA PURCHASE CARDS.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall take appropriate actions to implement the recommendations contained in the report of the General Accounting Office entitled "FAA Purchase Cards: Weak Controls Resulted in Instances of Improper and Wasteful Purchases and Missing Assets", numbered GAO–03–405 and dated March 21, 2003.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall transmit to Congress a report containing a description of the actions taken by Administrator under this section.

TITLE IV—AIRLINE SERVICE IMPROVEMENTS

SEC. 401. IMPROVEMENT OF AVIATION INFORMATION COLLECTION.

(a) IN GENERAL.—Section 329(b)(1) is amended by striking ''except that in no case'' and all that follows through the semicolon at the end.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the issuance of a final rule to modernize the Origin and Destination Survey of Airline Passenger Traffic, pursuant to the Advance Notice of Proposed Rulemaking published July 15, 1998 (Regulation Identifier Number 2105-AC71), that reduces the reporting burden for air carriers through electronic filing of the survey data collected under section 329(b)(1) of title 49, United States Code.

SEC. 402. DATA ON INCIDENTS AND COMPLAINTS INVOLVING PASSENGER AND BAGGAGE SECURITY SCREENING.

Section 329 is amended by adding at the end the following:

''(e) INCIDENTS AND COMPLAINTS INVOLVING PASSENGER AND BAGGAGE SECURITY SCREENING.—

''(1) PUBLICATION OF DATA.—The Secretary of Transportation shall publish data on incidents and

complaints involving passenger and baggage security screening in a manner comparable to other consumer complaint and incident data.

"(2) MONTHLY REPORTS FROM SECRETARY OF HOMELAND SECURITY.—To assist the Secretary of Transportation in the publication of data under paragraph (1), the Secretary of Homeland Security shall submit monthly to the Secretary of Transportation a report on the number of complaints about security screening received by the Secretary of Homeland Security.".

SEC. 403. DEFINITIONS.

(a) IN GENERAL.—Section 40102(a) is amended—

(1) by redesignating paragraphs (38) through (42) as paragraphs (43) through (47), respectively;

(2) by inserting after paragraph (37) the following:

"(42) 'small hub airport' means a commercial service airport (as defined in section 47102) that has at least 0.05 percent but less than 0.25 percent of the passenger boardings.";

(3) by redesignating paragraphs (32) through (37) as paragraphs (36) through (41) respectively;

(4) by inserting after paragraph (32) the following:

"(36) PASSENGER BOARDINGS.—The term 'passenger boardings'—

"(A) means, unless the context indicates otherwise, revenue passenger boardings in the United States in the prior calendar year on an aircraft in service in air commerce, as the Secretary determines under regulations the Secretary prescribes; and

"(B) includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose.";

(5) by redesignating paragraph (32) as paragraph (35);

(6) by inserting after paragraph (31) the following:

"(34) 'nonhub airport' means a commercial service airport (as defined in section 47102) that has less than 0.05 percent of the passenger boardings.";

(7) by redesignating paragraphs (30) and (31) as paragraphs (32) and (33), respectively;

(8) by inserting after paragraph (29) the following:

"(31) 'medium hub airport' means a commercial service airport (as defined in section 47102) that has at least 0.25 percent but less than 1.0 percent of the passenger boardings.";

(9) by redesignating paragraph (29) as paragraph (30);

(10) by inserting after paragraph (28) the following:

"(29) 'large hub airport' means a commercial service airport (as defined in section 47102) that has at least 1.0 percent of the passenger boardings.".

(b) CONFORMING AMENDMENTS.—

(1) AIR SERVICE TERMINATION NOTICE.—Section 41719(d) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

(2) SMALL COMMUNITY AIR SERVICE.—Section 41731(a) is amended by striking paragraphs (3) through (5).

(3) AIRPORTS NOT RECEIVING SUFFICIENT SERVICE.—Section 41743 is amended—

(A) in subsection (c)(1) by striking "(as that term is defined in section 41731(a)(5))"; and

(B) in subsection (f) by striking "(as defined in section 41731(a)(3))".

(4) PRESERVATION OF BASIC ESSENTIAL AIR SERVICE AT SINGLE CARRIER DOMINATED HUB AIRPORTS.—Section 41744(b) is amended by striking "(as defined in section 41731)".

(5) REGIONAL AIR SERVICE INCENTIVE PROGRAM.—Section 41762(a) is amended—

(A) by striking paragraphs (11) and (15); and

(B) by redesignating paragraphs (12), (13), (14), and (16) as paragraphs (11), (12), (13), and (14), respectively.

SEC. 404. CLARIFICATIONS TO PROCUREMENT AUTHORITY.

(a) DUTIES AND POWERS.—Section 40110(c) is amended—

(1) by striking "Administration—" and all that follows through "(2) may—" and inserting "Administration may—";

(2) by striking subparagraph (D); and

(3) by redesignating subparagraphs (A), (B), (C), (E), and (F) as paragraphs (1), (2), (3), (4), and (5) respectively; and

(4) by moving such paragraphs (1) through (5) 2 ems to the left.

(b) ACQUISITION MANAGEMENT SYSTEM.—Section 40110(d) is amended—

(1) in paragraph (1)—

(A) by striking ", not later than January 1, 1996,"; and

(B) by striking "provides for more timely and cost-effective acquisitions of equipment and materials." and inserting the following:

"provides for—

"(A) more timely and cost-effective acquisitions of equipment, services, property, and materials; and

"(B) the resolution of bid protests and contract disputes related thereto, using consensual alternative dispute resolution techniques to the maximum extent practicable."; and

(2) by striking paragraph (4), relating to the effective date, and inserting the following:

"(4) ADJUDICATION OF CERTAIN BID PROTESTS AND CONTRACT DISPUTES.—A bid protest or con-

tract dispute that is not addressed or resolved through alternative dispute resolution shall be adjudicated by the Administrator through Dispute Resolution Officers or Special Masters of the Federal Aviation Administration Office of Dispute Resolution for Acquisition, acting pursuant to sections 46102, 46104, 46105, 46106 and 46107 and shall be subject to judicial review under section 46110 and to the provisions of the Equal Access to Justice Act (5 U.S.C. 504).''.

(c) AUTHORITY OF ADMINISTRATOR TO ACQUIRE SERVICES.—Section 106(f)(2)(A)(ii) is amended by inserting '', services,'' after ''property''.

SEC. 405. LOW-EMISSION AIRPORT VEHICLES AND GROUND SUPPORT EQUIPMENT.

(a) IN GENERAL.—Section 40117(a)(3) is amended by inserting at the end the following:

''(G) A project for the acquisition or conversion of ground support equipment or airport-owned vehicles used at a commercial service airport with, or to, low-emission technology (as defined in section 47102) or cleaner burning conventional fuels, or the retrofitting of such equipment or vehicles that are powered by a diesel or gasoline engine with emission control

technologies certified or verified by the Environmental Protection Agency to reduce emissions, if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2)) or a maintenance area referred to in section 175A of such Act (42 U.S.C. 7505a), and if such project will result in an airport receiving appropriate emission credits as described in section 47138.''.

(b) MAXIMUM COST FOR CERTAIN LOW-EMISSION TECHNOLOGY PROJECTS.—Section 40117(b) is amended by adding at the end the following:

''(5) MAXIMUM COST FOR CERTAIN LOW-EMISSION TECHNOLOGY PROJECTS.—The maximum cost that may be financed by imposition of a passenger facility fee under this section for a project described in subsection (a)(3)(G) with respect to vehicle or ground support equipment may not exceed the incremental amount of the project cost that is greater than the cost of acquiring a vehicle or equipment that is not low-emission and would be used for the same purpose, or the cost of low-emission retrofitting, as determined by the Secretary.''.

(c) GROUND SUPPORT EQUIPMENT DEFINED.—Section 40117(a) is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively;

(2) by inserting after paragraph (3) the following:

"(4) GROUND SUPPORT EQUIPMENT.—The term 'ground support equipment' means service and maintenance equipment used at an airport to support aeronautical operations and related activities.".

SEC. 406. STREAMLINING OF THE PASSENGER FACILITY FEE PROGRAM.

(a) APPLICATION REQUIREMENTS.—Section 40117(c) is amended—

(1) by adding at the end of paragraph (2) the following:

"(E) The agency will include in its application or notice submitted under subparagraph (A) copies of all certifications of agreement or disagreement received under subparagraph (D).

"(F) For the purpose of this section, an eligible agency providing notice and an opportunity for consultation to an air carrier or foreign air carrier is deemed to have satisfied the requirements of this paragraph if the eligible

agency limits such notices and consultations to air carriers and foreign air carriers that have a significant business interest at the airport. In the subparagraph, the term 'significant business interest' means an air carrier or foreign air carrier that had no less than 1.0 percent of passenger boardings at the airport in the prior calendar year, had at least 25,000 passenger boardings at the airport in the prior calendar year, or provides scheduled service at the airport.";

(2) by redesignating paragraph (3) as paragraph (4);

(3) by inserting after paragraph (2) the following:

"(3) Before submitting an application, the eligible agency must provide reasonable notice and an opportunity for public comment. The Secretary shall prescribe regulations that define reasonable notice and provide for at least the following under this paragraph:

"(A) A requirement that the eligible agency provide public notice of intent to collect a passenger facility fee so as to inform those interested persons and agencies who may be affected, which public notice may include—

"(i) publication in local newspapers of general circulation;

"(ii) publication in other local media; and

"(ii) posting the notice on the agency's web-site.

"(B) A requirement for submission of public comments no sooner than 30 days, and no later than 45 days, after the date of the publication of the notice.

"(C) A requirement that the agency include in its application or notice submitted under subparagraph (A) copies of all comments received under subparagraph (B).''; and

(4) in the first sentence of paragraph (4) (as redesignated by paragraph (2) of this subsection) by striking ''shall'' and inserting ''may''.

(b) PILOT PROGRAM FOR PASSENGER FACILITY FEE AUTHORIZATIONS AT NONHUB AIRPORTS.—Section 40117 is amended by adding at the end the following:

''(l) PILOT PROGRAM FOR PASSENGER FACILITY FEE AUTHORIZATIONS AT NONHUB AIRPORTS.—

''(1) IN GENERAL.—The Secretary shall establish a pilot program to test alternative procedures for authorizing eligible agencies for nonhub airports

to impose passenger facility fees. An eligible agency may impose in accordance with the provisions of this subsection a passenger facility fee under this section. For purposes of the pilot program, the procedures in this subsection shall apply instead of the procedures otherwise provided in this section.

"(2) NOTICE AND OPPORTUNITY FOR CONSULTATION.—The eligible agency must provide reasonable notice and an opportunity for consultation to air carriers and foreign air carriers in accordance with subsection (c)(2) and must provide reasonable notice and opportunity for public comment in accordance with subsection (c)(3).

"(3) NOTICE OF INTENTION.—The eligible agency must submit to the Secretary a notice of intention to impose a passenger facility fee under this subsection. This shall include—

"(A) information that the Secretary may require by regulation on each project for which authority to impose a passenger facility fee is sought;

"(B) the amount of revenue from passenger facility fees that is proposed to be collected for each project; and

"(C) the level of the passenger facility fee that is proposed.

"(4) ACKNOWLEDGEMENT OF RECEIPT AND INDICATION OF OBJECTION.—The Secretary shall acknowledge receipt of the notice and indicate any objection to the imposition of a passenger facility fee under this subsection for any project identified in the notice within 30 days after receipt of the eligible agency's notice.

"(5) AUTHORITY TO IMPOSE FEE.—Unless the Secretary objects within 30 days after receipt of the eligible agency's notice, the eligible agency is authorized to impose a passenger facility fee in accordance with the terms of its notice under this subsection.

"(6) DEADLINE.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall propose such regulations as may be necessary to carry out this subsection.

"(7) SUNSET.—This subsection shall not be in effect 3 years after the date of issuance of regulations to carry out this subsection.

"(8) ACKNOWLEDGEMENT NOT AN ORDER.—An acknowledgement issued under paragraph (4) shall not be considered an order of the Secretary issued under section 46110.".

(c) CLARIFICATION OF APPLICABILITY OF PFCS TO MILITARY CHARTERS.—Section 40117(e)(2) is amended—

(1) by striking the period at the end of subparagraph (C) and inserting a semicolon;

(2) by striking ''and'' at the end of subparagraph (D);

(3) by striking the period at the end of subparagraph (E) and inserting ''; and''; and

(4) by inserting after subparagraph (E) the following:

''(F) enplaning at an airport if the passenger did not pay for the air transportation which resulted in such enplanement due to charter arrangements and payment by the Department of Defense.''.

(d) TECHNICAL AMENDMENTS.—Section 40117 is amended—

(1) in subsection (a)(3)(C) by striking ''for costs'' and inserting ''A project'';

(2) in subsection (a)(3)(C) by striking the semicolon and inserting a period; and

(3) in subsection (e)(2)(C) by striking the period and inserting a semicolon.

SEC. 407. FINANCIAL MANAGEMENT OF PASSENGER FACILITY FEES.

(a) IN GENERAL.—Section 40117 is further amended by adding at the end the following:

"(m) FINANCIAL MANAGEMENT OF FEES.—

"(1) HANDLING OF FEES.—

"(A) PLACEMENT OF FEES IN ESCROW ACCOUNT.—Subject to subparagraph (B), passenger facility revenue held by an air carrier or any of its agents shall be segregated from the carrier's cash and other assets and placed in an escrow account for the benefit of the eligible agencies entitled to such revenue.

"(B) ALTERNATIVE METHOD OF COMPLIANCE.—Instead of placing amounts in an escrow account under subparagraph (A), an air carrier may provide to the eligible agency a letter of credit, bond, or other form of adequate and immediately available security in an amount equal to estimated remittable passenger facility fees for 180 days, to be assessed against later audit, upon which security the eligible agency shall be entitled to draw automatically, without necessity of any further legal or judicial action to effectuate foreclosure.

"(3) TRUST FUND STATUS.—If an air carrier or its agent commingles passenger facility revenue in violation of the subsection, the trust fund status of such revenue shall not be defeated by an inability of any party to identify and trace the precise funds in the accounts of the air carrier.

"(4) PROHIBITION.—An air carrier and its agents may not grant to any third party any security or other interest in passenger facility revenue.

"(5) COMPENSATION TO ELIGIBLE ENTITIES.—An air carrier that fails to comply with any requirement of this subsection, or otherwise unnecessarily causes an eligible entity to expend funds, through litigation or otherwise, to recover or retain payment of passenger facility revenue to which the eligible entity is otherwise entitled shall be required to compensate the eligible agency for the costs so incurred.

"(6) INTEREST ON AMOUNTS.—An air carrier that collects passenger facility fees is entitled to receive the interest on passenger facility fee accounts, if the accounts are established and maintained in compliance with this subsection.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect 60 days after the date of enactment of this Act.

(2) EXISTING REGULATIONS.—Beginning 60 days after the date of enactment of this Act, the provisions of section 158.49 of title 14, Code of Federal Regulations, that permit the commingling of passenger facility fees with other air carrier revenue shall have no force or effect.

SEC. 408. GOVERNMENT CONTRACTING FOR AIR TRANSPORTATION.

(a) GOVERNMENT-FINANCED AIR TRANSPORTATION.—Section 40118(f)(2) is amended by inserting before the period at the end the following: ", except that it shall not include a contract for the transportation by air of passengers".

(b) AIRLIFT SERVICE.—Section 41106(b) is amended by inserting after "military department" the following: ", or by a person that has contracted with the Secretary of Defense or the Secretary of a military department,".

SEC. 409. OVERFLIGHTS OF NATIONAL PARKS.

(a) AIR TOUR MANAGEMENT ACT CLARIFICATIONS.—Section 40128 is amended—

(1) in subsection (a)(1) by inserting ", as defined by this section," after "lands" the first place it appears;

(2) in subsections (b)(3)(A), (b)(3)(B), and (b)(3)(C) by inserting "over a national park" after "operations";

(3) in subsection (b)(3)(D) by striking "at the park" and inserting "over a national park";

(4) in subsection (b)(3)(E) by inserting "over a national park" after "operations" the first place it appears;

(5) in subsections (c)(2)(A)(i) and (c)(2)(B) by inserting "over a national park" after "operations";

(6) in subsection (f)(1) by inserting "over a national park" after "operation";

(7) in subsection (f)(4)(A)—

(A) by striking "commercial air tour operation" and inserting "commercial air tour operation over a national park"; and

(B) by striking "park, or over tribal lands," and inserting "park (except the Grand Canyon National Park), or over tribal lands (except those within or abutting the Grand Canyon National Park),"; and

(8) in subsection (f)(4)(B) by inserting ''over a national park'' after ''operation''.

(b) GRAND CANYON NATIONAL PARK SPECIAL FLIGHT RULES AREA OPERATION CURFEW.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may not restrict commercial Special Flight Rules Area operations in the Dragon and Zuni Point corridors of the Grand Canyon National Park during the period beginning 1-hour after sunrise and ending 1-hour before sunset, unless required for aviation safety purposes.

(2) EFFECT ON EXISTING REGULATIONS.—Beginning on the date of enactment of this Act, section 93.317 of title 14, Code of Federal Regulations, shall not be in effect.

SEC. 410. COLLABORATIVE DECISION MAKING PILOT PROGRAM.

(a) IN GENERAL.—Chapter 401 is amended by adding at the end the following:

''§ 40129. Collaborative decision making pilot program

''(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this section, the Administrator of the Federal Aviation Administration shall establish a

collaborative decisionmaking pilot program in accordance with this section.

"(b) DURATION.—Except as provided in subsection (k), the pilot program shall be in effect for a period of 2 years.

"(c) GUIDELINES.—

"(1) ISSUANCE.—The Administrator shall issue guidelines concerning the pilot program. Such guidelines, at a minimum, shall define the criteria and process for determining when a capacity reduction event exists that warrants the use of collaborative decisionmaking among carriers at airports participating in the pilot program and that prescribe the methods of communication to be implemented among carriers during such an event.

"(2) VIEWS.—The Administrator may obtain the views of interested parties in issuing the guidelines.

"(d) EFFECT OF DETERMINATION OF EXISTENCE OF CAPACITY REDUCTION EVENT.—Upon a determination by the Administrator that a capacity reduction event exists, the Administrator may authorize air carriers and foreign air carriers operating at an airport participating in the pilot program to communicate for a period of time not to exceed 24 hours with each other concerning changes

in their respective flight schedules in order to use air traffic capacity most effectively. The Administration shall facilitate and monitor such communication.

"(e) SELECTION OF PARTICIPATING AIRPORTS.—Not later than 30 days after the date on which the Administrator establishes the pilot program, the Administrator shall select 3 airports to participate in the pilot program from among the most capacity constrained airports in the country based on the Administration's Airport Capacity Benchmark Report 2001 or more recent data on airport capacity that is available to the Administrator. The Administrator shall select an airport for participation in the pilot program if the Administrator determines that collaborative decisionmaking among air carriers and foreign air carriers would reduce delays at the airport and have beneficial effects on reducing delays in the national airspace system as a whole.

"(f) ELIGIBILITY OF AIR CARRIERS.—An air carrier or foreign air carrier operating at an airport selected to participate in the pilot program is eligible to participate in the pilot program if the Administrator determines that the carrier has the operational and communications capability to participate in the pilot program.

"(g) MODIFICATION OR TERMINATION OF PILOT PROGRAM AT AN AIRPORT.—The Administrator may mod-

ify or end the pilot program at an airport before the term of the pilot program has expired, or may ban an air carrier or foreign air carrier from participating in the program, if the Administrator determines that the purpose of the pilot program is not being furthered by participation of the airport or air carrier or if the Secretary of Transportation, in consultation with the Attorney General, finds that the pilot program or the participation of an air carrier or foreign air carrier in the pilot program has had, or is having, an adverse effect on competition among carriers.

"(h) ANTITRUST IMMUNITY.—

"(1) IN GENERAL.—Unless, within 5 days after receiving notice from the Secretary of the Secretary's intention to exercise authority under this subsection, the Attorney General submits to the Secretary a written objection to such action, including reasons for such objection, the Secretary may exempt an air carrier's or foreign air carrier's activities that are necessary to participate in the pilot program under this section from the antitrust laws for the sole purpose of participating in the pilot program. Such exemption shall not extend to any discussions, agreements, or activities outside the scope of the pilot program.

"(2) ANTITRUST LAWS DEFINED.—In this section, the term 'antitrust laws' has the meaning given that term in the first section of the Clayton Act (15 U.S.C. 12).

"(i) CONSULTATION WITH ATTORNEY GENERAL.—The Secretary shall consult with the Attorney General regarding the design and implementation of the pilot program, including determining whether a limit should be set on the number of occasions collaborative decisionmaking could be employed during the initial 2-year period of the pilot program.

"(j) EVALUATION.—

"(1) IN GENERAL.—Before the expiration of the 2-year period for which the pilot program is authorized under subsection (b), the Administrator shall determine whether the pilot program has facilitated more effective use of air traffic capacity and the Secretary, in consultation with the Attorney General, shall determine whether the pilot program has had an adverse effect on airline competition or the availability of air services to communities. The Administrator shall also examine whether capacity benefits resulting from the participation in the pilot program of an airport resulted in capacity benefits to other parts of the national airspace system.

"(2) OBTAINING NECESSARY DATA.—The Administrator may require participating air carriers and airports to provide data necessary to evaluate the pilot program's impact.

"(k) EXTENSION OF PILOT PROGRAM.—At the end of the 2-year period for which the pilot program is authorized, the Administrator may continue the pilot program for an additional 2 years and expand participation in the program to up to 7 additional airports if the Administrator determines pursuant to subsection (j) that the pilot program has facilitated more effective use of air traffic capacity and if the Secretary, in consultation with the Attorney General, determines that the pilot program has had no adverse effect on airline competition or the availability of air services to communities. The Administrator shall select the additional airports to participate in the extended pilot program in the same manner in which airports were initially selected to participate."

(b) CONFORMING AMENDMENT.—The analysis for chapter 401 is amended by adding at the end the following:

"40129. Pilot program for improved collaborative decisionmaking during times of reduced capacity.".

SEC. 411. AVAILABILITY OF AIRCRAFT ACCIDENT SITE INFORMATION.

(a) DOMESTIC AIR TRANSPORTATION.—Section 41113(b) is amended—

(1) in paragraph (16) by striking ''the air carrier'' the second place it appears; and

(2) by adding at the end the following:

''(17)(A) An assurance that, in the case of an accident that results in significant damage to a man-made structure or other property on the ground that is not government-owned, the air carrier will promptly provide notice, in writing, to the extent practicable, directly to the owner of the structure or other property about liability for any property damage and means for obtaining compensation.

''(B) At a minimum, the written notice shall advise an owner (i) to contact the insurer of the property as the authoritative source for information about coverage and compensation; (ii) to not rely on unofficial information offered by air carrier representatives about compensation by the air carrier for accident-site property damage; and (iii) to obtain photographic or other detailed evidence of property damage as soon as possible after the accident, consistent with restrictions on access to the accident site.

"(18) An assurance that, in the case of an accident in which the National Transportation Safety Board conducts a public hearing or comparable proceeding at a location greater than 80 miles from the accident site, the air carrier will ensure that the proceeding is made available simultaneously by electronic means at a location open to the public at both the origin city and destination city of the air carrier's flight if that city is located in the United States.".

(b) FOREIGN AIR TRANSPORTATION.—Section 41313 is amended by adding at the end the following:

"(17) NOTICE CONCERNING LIABILITY FOR MAN-MADE STRUCTURES.—

"(A) IN GENERAL.—An assurance that, in the case of an accident that results in significant damage to a man-made structure or other property on the ground that is not government-owned, the foreign air carrier will promptly provide notice, in writing, to the extent practicable, directly to the owner of the structure or other property about liability for any property damage and means for obtaining compensation.

"(B) MINIMUM CONTENTS.—At a minimum, the written notice shall advise an owner

(i) to contact the insurer of the property as the authoritative source for information about coverage and compensation; (ii) to not rely on unofficial information offered by foreign air carrier representatives about compensation by the foreign air carrier for accident-site property damage; and (iii) to obtain photographic or other detailed evidence of property damage as soon as possible after the accident, consistent with restrictions on access to the accident site.

"(18) SIMULTANEOUS ELECTRONIC TRANSMISSION OF NTSB HEARING.—An assurance that, in the case of an accident in which the National Transportation Safety Board conducts a public hearing or comparable proceeding at a location greater than 80 miles from the accident site, the foreign air carrier will ensure that the proceeding is made available simultaneously by electronic means at a location open to the public at both the origin city and destination city of the foreign air carrier's flight if that city is located in the United States.".

(c) UPDATE PLANS.—Air carriers and foreign air carriers shall update their plans under sections 41113 and 41313 of title 49, United States Code, respectively, to reflect the amendments made by subsections (a) and (b) of

this section not later than 90 days after the date of enactment of this Act.

SEC. 412. SLOT EXEMPTIONS AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT.

(a) BEYOND-PERIMETER EXEMPTIONS.—Section 41718(a) is amended by striking ''12'' and inserting ''24''.

(b) WITHIN-PERIMETER EXEMPTIONS.—Section 41718(b) is amended—

(1) by striking ''12'' and inserting ''20''; and

(2) by striking ''that were designated as medium hub or smaller airports''.

(c) LIMITATIONS.—

(1) GENERAL EXEMPTIONS.—Section 41718(c)(2) is amended by striking ''two'' and inserting ''3''.

(2) ALLOCATION OF WITHIN-PERIMETER EXEMPTIONS.—Section 41718(c)(3) is amended—

(A) in subparagraph (A)—

(i) by striking ''four'' and inserting ''six''; and

(ii) by striking ''and'' at the end;

(B) in subparagraph (B)—

(i) by striking ''eight'' and inserting ''ten''; and

(ii) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(C) four shall be for air transportation to airports without regard to their size.".

(d) APPLICATION PROCEDURES.—Section 41718(d) is amended to read as follows:

"(d) APPLICATION PROCEDURES.—The Secretary shall establish procedures to ensure that all requests for exemptions under this section are granted or denied within 90 days after the date on which the request is made.".

(e) EFFECT OF PERIMETER RULES ON COMPETITION AND AIR SERVICE.—

(1) IDENTIFICATION OF OTHER AIRPORTS.—The Secretary of Transportation shall identify airports (other than Ronald Reagan Washington National Airport) that have imposed perimeter rules like those in effect with respect to Ronald Reagan Washington National Airport.

(2) LIMITATION ON APPLICABILITY.—This subsection does not apply to perimeter rules imposed by Federal law.

(3) STUDY.—The Secretary shall conduct a study of the effect that perimeter rules for airports identified under paragraph (1) have on competition

and on air service to communities outside the perimeter.

(4) REPORT.—Not later than 120 days after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study.

(f) EFFECT OF CHANGING DEFINITION OF COMMUTER AIR CARRIER.—

(1) STUDY.—The Secretary shall study the effects of changing the definition of commuter air carrier in regulations of the Federal Aviation Administration to increase the maximum size of aircraft of such carriers to 76 seats or less on air service to small communities and on commuter air carriers operating aircraft with 56 seats or less.

(2) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study.

SEC. 413. NOTICE CONCERNING AIRCRAFT ASSEMBLY.

(a) IN GENERAL.—Subchapter I of chapter 417 is amended by adding at the end the following:

"§ 41722. Notice concerning aircraft assembly

"The Secretary of Transportation shall require, beginning after the last day of the 1-year period following

the date of enactment of this section, an air carrier using an aircraft to provide scheduled passenger air transportation to display a notice, on an information placard available to each passenger on the aircraft, that informs the passengers of the nation in which the aircraft was finally assembled.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 417 is amended by striking the item relating to section 41721 and inserting the following:

''41721. Reports by carriers on incidents involving animals during air transport.
''41722. Notice concerning aircraft assembly.''.

SEC. 414. SPECIAL RULE TO PROMOTE AIR SERVICE TO SMALL COMMUNITIES.

(a) IN GENERAL.—Subchapter I of chapter 417 is further amended by adding at the end the following:

''§ 41723. Special rule to promote air service to small communities

''In order to promote air service to small communities, the Secretary of Transportation shall permit an operator of a turbine powered or multi-engine piston powered aircraft with 10 passenger seats or less (1) to provide air transportation between an airport that is a non-hub airport and another airport or between an airport that is not a commercial service airport and another airport, and (2) to sell individual seats on that aircraft at a negotiated price, if the aircraft is otherwise operated in accordance

with parts 119 and 135 of title 14, Code of Federal Regulations, and the air transportation is otherwise provided in accordance with part 298 of such title 14.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 417 is further amended by adding at the end the following:

"41723. Special rule to promote air service to small communities.".

SEC. 415. SMALL COMMUNITY AIR SERVICE.

(a) COMPENSATION GUIDELINES, LIMITATION, AND CLAIMS.—

(1) PAYMENT OF PROMOTIONAL AMOUNTS.—Section 41737(a)(2) is amended by inserting before the period at the end "or may be paid directly to the unit of local government having jurisdiction over the eligible place served by the air carrier".

(2) LOCAL SHARE.—Section 41737(a) is amended by adding at the end the following:

"(3) PAYMENT OF COST BY LOCAL GOVERNMENT.—

"(A) GENERAL REQUIREMENT.—The guidelines may require a unit of local government having jurisdiction over an eligible place that is less than 170 miles from a medium or large hub or less than 75 miles from a small hub or a State within the boundaries of which

the eligible place is located to pay 2.5 percent in fiscal year 2005, 5 percent in fiscal year 2006, 7.5 percent in fiscal year 2007, and 10 percent in fiscal year 2008 of the amount of compensation payable under this subchapter for air transportation with respect to the eligible place to ensure the continuation of that air transportation.

"(B) WAIVER.—The Secretary may waive the requirement, or reduce the amount, of a payment from a unit of local government under subparagraph (A) if the Secretary finds that—

"(i) the unit of local government lacks the ability to pay; and

"(ii) the loss of essential air service to the eligible place would have an adverse effect on the eligible place's access to the national air transportation system.

"(C) DETERMINATION OF MILEAGE.—In determining the mileage between the eligible place and a hub under this paragraph, the Secretary shall use the most commonly used highway route between the eligible place and the hub.".

(3) AUTHORITY TO MAKE AGREEMENTS AND INCUR OBLIGATIONS.—Section 41737(d) is amended—

(A) by striking ''(1) The Secretary'' and inserting the ''The Secretary''; and

(B) by striking paragraph (2).

(b) AIRPORTS NOT RECEIVING SUFFICIENT SERVICE.—Section 41743 is amended—

(1) in subsection (a) by striking ''pilot'';

(2) in subsection (c)—

(A) by striking paragraph (3);

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and

(C) in paragraph (4) (as so redesignated)—

(i) by striking ''and'' at the end of subparagraph (C);

(ii) by striking the period at the end of subparagraph (D) and inserting ''; and''; and

(iii) by adding at the end the following:

''(E) the assistance can be used in the fiscal year in which it is received.''; and

(3) in subsection (f) by striking ''pilot''.

(c) ESSENTIAL AIR SERVICE AUTHORIZATION.—Section 41742 is amended—

(1) in subsection (a)(2) by striking "$15,000,000" and inserting "$65,000,000";

(2) by adding at the end of subsection (a) the following:

"(3) AUTHORIZATION FOR ADDITIONAL EMPLOYEES.—In addition to amounts authorized under paragraphs (1) and (2), there is authorized to be appropriated such sums as may be necessary for the Secretary of Transportation to hire and employ 4 additional employees for the office responsible for carrying out the essential air service program."; and

(3) by striking subsection (c).

(d) PROCESS FOR DISCONTINUING CERTAIN SUBSIDIES.—Section 41734 is amended by adding at the end the following:

"(f) PROCESS FOR DISCONTINUING CERTAIN SUBSIDIES.—If the Secretary determines that no subsidy will be provided to a carrier to provide essential air service to an eligible place because the eligible place does not meet the requirements of section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000 (49 U.S.C. 41731 note; 113 Stat. 1022), the Sec-

retary shall notify the affected community that the subsidy will cease but shall continue to provide the subsidy for 90 days after providing the notice to the community.''.

(e) JOINT PROPOSALS.—Section 41740 is amended by inserting '', including joint fares,'' after ''joint proposals''.

(f) COMMUNITY AND REGIONAL CHOICE PROGRAM.—

(1) IN GENERAL.—Subchapter II of chapter 417 is amended by adding at the end the following:

''§ 41745. Community and regional choice program

''(a) ESTABLISHMENT.—The Secretary of Transportation shall establish an alternate essential air service pilot program in accordance with the requirements of this section.

''(b) COMPENSATION TO ELIGIBLE PLACES.—In carrying out the program, the Secretary, instead of paying compensation to an air carrier to provide essential air service to an eligible place, may pay compensation directly to a unit of local government having jurisdiction over the eligible place or a State within the boundaries of which the eligible place is located.

''(c) USE OF COMPENSATION.—A unit of local government or State receiving compensation for an eligible

place under the program shall use the compensation for any of the following purposes:

"(1) To provide assistance to an air carrier to provide scheduled air service to and from the eligible place, without being subject to the requirements of 41732(b).

"(2) To provide assistance to an air carrier to provide on-demand air taxi service to and from the eligible place.

"(3) To provide assistance to a person to provide scheduled or on-demand surface transportation to and from the eligible place and an airport in another place.

"(4) In combination with other units of local government in the same region, to provide transportation services to and from all the eligible places in that region at an airport or other transportation center that can serve all the eligible places in that region.

"(5) To purchase aircraft, or a fractional share in aircraft, to provide transportation to and from the eligible place.

"(6) To pay for other transportation or related services that the Secretary may permit.

"(d) FRACTIONALLY OWNED AIRCRAFT.—Notwithstanding any other provision of law, only those operating rules that relate to an aircraft that is fractionally owned apply when an aircraft described in subsection (c)(5) is used to provide transportation described in subsection (c)(5).

"(e) APPLICATIONS.—

"(1) IN GENERAL.—A unit of local government or State seeking to participate in the program for an eligible place shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

"(2) REQUIRED INFORMATION.—At a minimum, the application shall include—

"(A) a statement of the amount of compensation required; and

"(B) a description of how the compensation will be used.

"(f) PARTICIPATION REQUIREMENTS.—

"(1) ELIGIBLE PLACES.—An eligible place for which compensation is received under the program in a fiscal year shall not be eligible to receive in that fiscal year the essential air service that it would otherwise be entitled to under this subchapter.

"(2) GOVERNMENTAL ENTITIES.—A unit of local government or State receiving compensation for an eligible place under the program in a fiscal year shall not be required to pay the 10 percent local share described in 41737(a)(3) in such fiscal year.

"(g) SUBSEQUENT PARTICIPATION.—A unit of local government participating in the program under this section in a fiscal year shall not be prohibited from participating in the basic essential air service program under this chapter in a subsequent fiscal year if such unit is otherwise eligible to participate in such program.

"(h) FUNDING.—Amounts appropriated or otherwise made available to carry out the essential air service program under this subchapter shall be available to carry out this section.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 417 is amended by inserting after the item relating to section 41744 the following:

"41745. Community and regional choice program.".

SEC. 416. PROTECTION OF EMPLOYEES PROVIDING AIR SAFETY INFORMATION.

Section 42121 is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) ACTION IN DISTRICT COURT.—If the Secretary has not issued a final order within the time period established by subsection (b)(3) with respect to a complaint and there is no showing that the delay is due to the bad faith of the complainant, the complainant may bring an action at law or equity for de novo review of the complaint in the appropriate district court of the United States. The district court shall have jurisdiction over the action without regard to the amount in controversy. The action shall be subject to the standards of proof provided in subsection (b)(2)(B).".

SEC. 417. TYPE CERTIFICATES.

(a) AGREEMENTS TO PERMIT USE OF CERTIFICATES BY OTHER PERSONS.—Section 44704(a) is amended by adding at the end the following:

"(3) If the holder of a type certificate agrees to permit another person to use the certificate to manufacture a new aircraft, aircraft engine, propeller, or appliance, the holder shall provide the other person with written evidence, in a form acceptable to the Administrator, of that agreement. A person may manufacture a new aircraft, aircraft engine, propeller, or appliance based on a type certificate only if the person is the holder of the type certificate or has permission from the holder.".

(b) CERTIFICATION OF PRODUCTS MANUFACTURED IN FOREIGN NATIONS.—Section 44704 is further amended by adding at the end the following:

"(e) CERTIFICATION OF PRODUCTS MANUFACTURED IN FOREIGN NATIONS.—In order to ensure safety, the Administrator shall spend at least the same amount of time and perform a no-less-thorough review in certifying, or validating the certification of, an aircraft, aircraft engine, propeller, or appliance manufactured in a foreign nation as the regulatory authorities of that nation employ when the authorities certify, or validate the certification of, an aircraft, aircraft engine, propeller, or appliance manufactured in the United States.".

SEC. 418. DESIGN ORGANIZATION CERTIFICATES.

(a) GENERAL AUTHORITY TO ISSUE CERTIFICATES.—Effective on the last day of the 7-year period beginning on the date of enactment of this Act, section 44702(a) is amended by inserting "design organization certificates," after "airman certificates,".

(b) DESIGN ORGANIZATION CERTIFICATES.—

(1) PLAN.—Not later than 3 years after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on

Transportation and Infrastructure of the House of Representatives a plan for the development and oversight of a system for certification of design organizations to certify compliance with the requirements and minimum standards prescribed under section 44701(a) of title 49, United States Code, for the type certification of aircraft, aircraft engines, propellers, or appliances.

(2) ISSUANCE OF CERTIFICATES.—Section 44704 is further amended by adding at the end the following:

"(f) DESIGN ORGANIZATION CERTIFICATES.—

"(1) ISSUANCE.—Beginning 7 years after the date of enactment of this subsection, the Administrator may issue a design organization certificate to a design organization to authorize the organization to certify compliance with the requirements and minimum standards prescribed under section 44701(a) for the type certification of aircraft, aircraft engines, propellers, or appliances.

"(2) APPLICATIONS.—On receiving an application for a design organization certificate, the Administrator shall examine and rate the design organization submitting the application, in accordance with regulations to be prescribed by the Administrator, to

determine whether the design organization has adequate engineering, design, and testing capabilities, standards, and safeguards to ensure that the product being certificated is properly designed and manufactured, performs properly, and meets the regulations and minimum standards prescribed under section 44701(a).

"(3) ISSUANCE OF TYPE CERTIFICATES BASED ON DESIGN ORGANIZATION CERTIFICATION.—On receiving an application for a type certificate under subsection (a) that is accompanied by a certification of compliance by a design organization certificated under this subsection, instead of conducting an independent investigation under subsection (a), the Administrator may issue the type certificate based on the certification of compliance.

"(4) PUBLIC SAFETY.—The Administrator shall include in a design organization certificate issued under this subsection terms required in the interest of safety.".

(c) REINSPECTION AND REEXAMINATION.—Section 44709(a) is amended by inserting "design organization, production certificate holder," after "appliance,'.

(d) PROHIBITIONS.—Section 44711(a)(7) is amended by striking ''agency'' and inserting ''agency, design organization certificate, ''.

(e) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—Section 44704 is amended by striking the section designation and heading and inserting the following:

''§ 44704. Type certificates, production certificates, airworthiness certificates, and design organization certificates''.

(2) CHAPTER ANALYSIS.—The analysis for chapter 447 is amended by striking the item relating to section 44704 and inserting the following:

''44704. Type certificates, production certificates, airworthiness certificates, and design organization certificates.''.

SEC. 419. COUNTERFEIT OR FRAUDULENTLY REPRESENTED PARTS VIOLATIONS.

Section 44726(a)(1) is amended—

(1) by striking ''or'' at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C);

(3) by inserting after subparagraph (A) the following:

''(B) whose certificate is revoked under subsection (b); or''; and

(4) in subparagraph (C) (as redesignated by paragraph (2) of this section) by striking ''convicted of such a violation.'' and inserting ''described in subparagraph (A) or (B).''.

SEC. 420. RUNWAY SAFETY STANDARDS.

(a) IN GENERAL.—Chapter 447 is amended by adding at the end the following:

''§ 44727. Runway safety areas

''An airport owner or operator shall not be required to reduce the length of a runway or declare the length of a runway to be less than the actual pavement length in order to meet standards of the Federal Aviation Administration applicable to runway safety areas.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 447 is amended by adding at the end the following:

''44727. Runway safety areas.''.

SEC. 421. AVAILABILITY OF MAINTENANCE INFORMATION.

(a) IN GENERAL.—Chapter 447 is further amended by adding at the end the following:

''§ 44728. Availability of maintenance information

''(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall continue in effect the requirement of section 21.50(b) of title 14, Code of Federal Regulations, that the holder of a design approval—

"(1) shall prepare and furnish at least one set of complete instructions for continued airworthiness as prescribed in such section to the owner of each type of aircraft, aircraft engine, or propeller upon its delivery or upon the issuance of the first standard airworthiness certificate for the affected aircraft, whichever occurs later; and

"(2) thereafter shall make the instructions, and any changes thereto, available to any other person required by parts 1 through 199 of title 14, Code of Federal Regulations, to comply with any of the terms of the instructions.

"(b) DEFINITIONS.—In this section, the following definitions apply:

"(1) MAKE AVAILABLE.—The term 'make available' means providing at a cost not to exceed the cost of preparation and distribution.

"(2) DESIGN APPROVAL.—The term 'design approval' means a type certificate, supplemental type certificate, amended type certificate, parts manufacturer approval, technical standard order authorization, and any other action as determined by the Administrator pursuant to subsection (c)(2).

"(3) INSTRUCTIONS FOR CONTINUED AIRWORTHINESS.—The term 'instructions for continued

airworthiness' means any information (and any changes to such information) considered essential to continued airworthiness that sets forth the methods, techniques, and practices for performing maintenance and alteration on civil aircraft, aircraft engines, propellers, appliances or any part installed thereon. Such information may include maintenance, repair, and overhaul manuals, standard practice manuals, service bulletins, service letters, or similar documents issued by a design approval holder.

"(c) RULEMAKING.—The Administrator shall conduct a rulemaking proceeding for the following purposes:

"(1) To determine the meaning of the phrase 'essential to continued airworthiness' of the applicable aircraft, aircraft engine, and propeller as that term is used in parts 23 through 35 of title 14, Code of Federal Regulations.

"(2) To determine if a design approval should include, in addition to those approvals specified in subsection (b)(2), any other activity in which persons are required to have technical data approved by the Administrator.

"(3) To revise existing rules to reflect the definition of design approval holder in subsections (b)(2) and (c)(2).

"(4) To determine if design approval holders that prepared instructions for continued airworthiness or maintenance manuals before January 29, 1981, should be required to make the manuals available (including any changes thereto) to any person required by parts 1 through 199 of title 14, Code of Federal Regulations, to comply with any of the terms of those manuals.

"(5) To require design approval holders that—

"(A) are operating an ongoing business concern;

"(B) were required to produce maintenance manuals or instructions for continued airworthiness under section 21.50(b) of title 14, Code of Federal Regulations; and

"(C) have not done so,

to prepare those documents and make them available as required by this section not later than 1 year after date on which the regulations are published.

"(6) To revise its rules to reflect the changes made by this section.

"(d) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing is this section shall be construed as requiring the holder of a design approval to make available proprietary

information unless it is deemed essential to continued airworthiness.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 447 is further amended by adding at the end the following:

''44728. Availability of maintenance information.''.

SEC. 422. CERTIFICATE ACTIONS IN RESPONSE TO A SECURITY THREAT.

(a) IN GENERAL.—Chapter 461 is amended by adding at the end the following:

''§ 46111. Certificate actions in response to a security threat

''(a) ORDERS.—The Administrator of Federal Aviation Administration shall issue an order amending, modifying, suspending, or revoking any part of a certificate issued under this title if the Administrator is notified by the Under Secretary for Border and Transportation Security of the Department of Homeland Security that the holder of the certificate poses, or is suspected of posing, a risk of air piracy or terrorism or a threat to airline or passenger safety. If requested by the Under Secretary, the order shall be effective immediately.

''(b) HEARINGS FOR CITIZENS.—An individual who is a citizen of the United States who is adversely affected by an order of the Administrator under subsection (a) is entitled to a hearing on the record.

"(c) HEARINGS.—When conducting a hearing under this section, the administrative law judge shall not be bound by findings of fact or interpretations of laws and regulations of the Administrator or the Under Secretary.

"(d) APPEALS.—An appeal from a decision of an administrative law judge as the result of a hearing under subsection (b) shall be made to the Transportation Security Oversight Board established by section 115. The Board shall establish a panel to review the decision. The members of this panel (1) shall not be employees of the Transportation Security Administration, (2) shall have the level of security clearance needed to review the determination made under this section, and (3) shall be given access to all relevant documents that support that determination. The panel may affirm, modify, or reverse the decision.

"(e) JUDICIAL REVIEW.—A person substantially affected by an action of a panel under subsection (d), or the Under Secretary when the Under Secretary decides that the action of the panel under this section will have a significant adverse impact on carrying out this part, may obtain judicial review of the order under section 46110. The Under Secretary and the Administrator shall be made a party to the judicial review proceedings. Findings of fact of the panel are conclusive if supported by substantial evidence.

"(f) EXPLANATION OF DECISIONS.—An individual who commences an appeal under this section shall receive a written explanation of the basis for the determination or decision and all relevant documents that support that determination to the maximum extent that the national security interests of the United States and other applicable laws permit.

"(g) CLASSIFIED EVIDENCE.—

"(1) IN GENERAL.—The Under Secretary, in consultation with the Administrator, shall issue regulations to establish procedures by which the Under Secretary, as part of a hearing conducting under this section, may substitute an unclassified summary of classified evidence upon the approval of the administrative law judge.

"(2) APPROVAL AND DISAPPROVAL OF SUMMARIES.—Under the procedures, an administrative law judge shall—

"(A) approve a summary if the judge finds that it is sufficient to enable the certificate holder to appeal an order issued under subsection (a); or

"(B) disapprove a summary if the judge finds that it is not sufficient to enable the certificate holder to appeal such an order.

"(3) MODIFICATIONS.—If an administrative law judge disapproves a summary under paragraph (2)(B), the judge shall direct the Under Secretary to modify the summary and resubmit the summary for approval.

"(4) INSUFFICIENT MODIFICATIONS.—If an administrative law judge is unable to approve a modified summary, the order issued under subsection (a) that is the subject of the hearing shall be set aside unless the judge finds that such a result—

"(A) would likely cause serious and irreparable harm to the national security; or

"(B) would likely cause death or serious bodily injury to any person.

"(5) SPECIAL PROCEDURES.—If an administrative law judge makes a finding under subparagraph (A) or (B) of paragraph (4), the hearing shall proceed without an unclassified summary provided to the certificate holder. In such a case, subject to procedures established by regulation by the Under Secretary in consultation with the Administrator, the administrative law judge shall appoint a special attorney to assist the accused by—

"(A) reviewing in camera the classified evidence; and

"(B) challenging, through an in camera proceeding, the veracity of the evidence contained in the classified information.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 461 is amended by adding at the end the following:

"46111. Certificate actions in response to a security threat.".

SEC. 423. FLIGHT ATTENDANT CERTIFICATION.

(a) IN GENERAL.—Chapter 447 is further amended by adding at the end the following:

"§ 44729. Flight attendant certification

"(a) CERTIFICATE REQUIRED.—

"(1) IN GENERAL.—No person may serve as a flight attendant aboard an aircraft of an air carrier unless that person holds a certificate of demonstrated proficiency from the Administrator of the Federal Aviation Administration. Upon the request of the Administrator or an authorized representative of the National Transportation Safety Board or another Federal agency, a person who holds such a certificate shall present the certificate for inspection within a reasonable period of time after the date of the request.

"(2) SPECIAL RULE FOR CURRENT FLIGHT ATTENDANTS.—An individual serving as a flight attendant on the effective date of this section may

continue to serve aboard an aircraft as a flight attendant until completion by that individual of the required recurrent or requalification training and subsequent certification under this section.

"(3) TREATMENT OF FLIGHT ATTENDANT AFTER NOTIFICATION.—On the date that the Administrator is notified by an air carrier that an individual has the demonstrated proficiency to be a flight attendant, the individual shall be treated for purposes of this section as holding a certificate issued under the section.

"(b) ISSUANCE OF CERTIFICATE.—The Administrator shall issue a certificate of demonstrated proficiency under this section to an individual after the Administrator is notified by the air carrier that the individual has successfully completed all the training requirements for flight attendants approved by the Administrator.

"(c) DESIGNATION OF PERSON TO DETERMINE SUCCESSFUL COMPLETION OF TRAINING.—In accordance with part 183 of chapter 14, Code of Federal Regulation, the director of operations of an air carrier is designated to determine that an individual has successfully completed the training requirements approved by the Administrator for such individual to serve as a flight attendant.

"(d) SPECIFICATIONS RELATING TO CERTIFICATES.—Each certificate issued under this section shall—

"(1) be numbered and recorded by the Administrator;

"(2) contain the name, address, and description of the individual to whom the certificate is issued;

"(3) contain the name of the air carrier that employs or will employ the certificate holder on the date that the certificate is issued;

"(4) is similar in size and appearance to certificates issued to airmen;

"(5) contain the airplane group for which the certificate is issued; and

"(6) be issued not later than 30 days after the Administrator receives notification from the air carrier of demonstrated proficiency and, in the case of an individual serving as flight attendant on the effective date of this section, not later than 1 year after such effective date.

"(e) APPROVAL OF TRAINING PROGRAMS.—Air carrier flight attendant training programs shall be subject to approval by the Administrator. All flight attendant training programs approved by the Administrator in the 1-year period ending on the date of enactment of this section shall be treated as providing a demonstrated proficiency

for purposes of meeting the certification requirements of this section.

''(f) FLIGHT ATTENDANT DEFINED.—In this section, the term 'flight attendant' means an individual working as a flight attendant in the cabin of an aircraft that has 20 or more seats and is being used by an air carrier to provide air transportation.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 447 is further amended by adding at the end the following:

''44729. Flight attendant certification.''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the 365th day following the date of enactment of this Act.

SEC. 424. CIVIL PENALTY FOR CLOSURE OF AN AIRPORT WITHOUT PROVIDING SUFFICIENT NOTICE.

(a) IN GENERAL.—Chapter 463 is amended by adding at the end the following:

''§ 46319. Closure of an airport without providing sufficient notice

''(a) PROHIBITION.—A public agency (as defined in section 47102) may not close an airport listed in the national plan of integrated airport systems under section 47103 without providing written notice to the Administrator of the Federal Aviation Administration at least 30 days before the date of the closure.

"(b) PUBLICATION OF NOTICE.—The Administrator shall publish each notice received under subsection (a) in the Federal Register.

"(c) CIVIL PENALTY.—A public agency violating subsection (a) shall be liable for a civil penalty of $10,000 for each day that the airport remains closed without having given the notice required by this section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 463 is amended by adding at the end the following:

"46319. Closure of an airport without providing sufficient notice.".

SEC. 425. NOISE EXPOSURE MAPS.

Section 47503 is amended—

(1) in subsection (a) by striking "1985," and inserting "a forecast period that is at least 5 years in the future"; and

(2) by striking subsection (b) and inserting the following:

"(b) REVISED MAPS.—If, in an area surrounding an airport, a change in the operation of the airport would establish a substantial new noncompatible use, or would significantly reduce noise over existing noncompatible uses, that is not reflected in either the existing conditions map or forecast map currently on file with the Federal Aviation Administration, the airport operator shall submit

a revised noise exposure map to the Secretary showing the new noncompatible use or noise reduction.''.

SEC. 426. AMENDMENT OF GENERAL FEE SCHEDULE PROVISION.

The amendment made by section 119(d) of the Aviation and Transportation Security Act (115 Stat. 629) shall not be affected by the savings provisions contained in section 141 of that Act (115 Stat. 643).

SEC. 427. IMPROVEMENT OF CURRICULUM STANDARDS FOR AVIATION MAINTENANCE TECHNICIANS.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall ensure that the training standards for airframe and powerplant mechanics under part 65 of title 14, Code of Federal Regulations, are updated and revised in accordance with this section. The Administrator may update and revise the training standards through the initiation of a formal rulemaking or by issuing an advisory circular or other agency guidance.

(b) ELEMENTS FOR CONSIDERATION.—The updated and revised standards required under subsection (a) shall include those curriculum adjustments that are necessary to more accurately reflect current technology and maintenance practices.

(c) MINIMUM TRAINING HOURS.—In making adjustments to the maintenance curriculum requirements pursu-

ant to this section, the current requirement of 1900 minimum training hours shall be maintained.

(d) CERTIFICATION.—Any adjustment or modification of current curriculum standards made pursuant to this section shall be reflected in the certification examinations of airframe and powerplant mechanics.

(e) COMPLETION.—The revised and updated training standards required by subsection (a) shall be completed not later than 12 months after the date of enactment of this Act.

(f) PERIODIC REVIEWS AND UPDATES.—The Administrator shall review the content of the curriculum standards for training airframe and powerplant mechanics referred to in subsection (a) every 3 years after completion of the revised and updated training standards required under subsection (a) as necessary to reflect current technology and maintenance practices.

SEC. 428. TASK FORCE ON FUTURE OF AIR TRANSPORTATION SYSTEM.

(a) IN GENERAL.—The President shall establish a task force to work with the Next Generation Air Transportation System Joint Program Office authorized under section 106(k)(3).

(b) MEMBERSHIP.—The task force shall be composed of representatives, appointed by the President, from air

carriers, general aviation, pilots, and air traffic controllers and the following government organizations:

(1) The Federal Aviation Administration.

(2) The National Aeronautics and Space Administration.

(3) The Department of Defense.

(4) The Department of Homeland Security.

(5) The National Oceanic and Atmospheric Administration.

(6) Other government organizations designated by the President.

(c) FUNCTION.—The function of the task force shall be to develop an integrated plan to transform the Nation's air traffic control system and air transportation system to meet its future needs.

(d) PLAN.—Not later than 1 year after the date of establishment of the task force, the task force shall transmit to the President and Congress a plan outlining the overall strategy, schedule, and resources needed to develop and deploy the Nation's next generation air traffic control system and air transportation system.

SEC. 429. AIR QUALITY IN AIRCRAFT CABINS.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall undertake the studies and analysis called for in the report of the National Research

Council entitled ''The Airliner Cabin Environment and the Health of Passengers and Crew''.

(b) REQUIRED ACTIVITIES.—In carrying out this section, the Administrator, at a minimum, shall—

(1) conduct surveillance to monitor ozone in the cabin on a representative number of flights and aircraft to determine compliance with existing Federal Aviation Regulations for ozone;

(2) collect pesticide exposure data to determine exposures of passengers and crew; and

(3) analyze samples of residue from aircraft ventilation ducts and filters after air quality incidents to identify the allergens, diseases, and other contaminants to which passengers and crew were exposed.

(c) REPORT.—Not later than 30 months after the date of enactment of this Act, the Administrator shall transmit to Congress a report on the findings of the Administrator under this section.

SEC. 430. RECOMMENDATIONS CONCERNING TRAVEL AGENTS.

(a) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on any actions that should be taken with respect to recommendations made

by the National Commission to Ensure Consumer Information and Choice in the Airline Industry on—

(1) the travel agent arbiter program; and

(2) the special box on tickets for agents to include their service fee charges.

(b) CONSULTATION.—In preparing this report, the Secretary shall consult with representatives from the airline and travel agent industry.

SEC. 431. TASK FORCE ON ENHANCED TRANSFER OF APPLICATIONS OF TECHNOLOGY FOR MILITARY AIRCRAFT TO CIVILIAN AIRCRAFT.

(a) IN GENERAL.—The President shall establish a task force to look for better methods for ensuring that technology developed for military aircraft is more quickly and easily transferred to applications for improving and modernizing the fleet of civilian aircraft.

(b) MEMBERSHIP.—The task force shall be composed of the Secretary of Transportation who shall be the chair of the task force and representatives, appointed by the President, from the following:

(1) The Department of Transportation.

(2) The Federal Aviation Administration.

(3) The Department of Defense.

(4) The National Aeronautics and Space Administration.

(5) The aircraft manufacturing industry.

(6) Such other organizations as the President may designate.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the task force shall report to Congress on the methods looked at by the task force for ensuring the transfer of applications described in subsection (a).

SEC. 432. REIMBURSEMENT FOR LOSSES INCURRED BY GENERAL AVIATION ENTITIES.

(a) IN GENERAL.—The Secretary of Transportation may make grants to reimburse the following general aviation entities for the security costs incurred and revenue foregone as a result of the restrictions imposed by the Federal Government following the terrorist attacks on the United States that occurred on September 11, 2001, or the military action to free the people of Iraq that commenced in March 2003:

(1) General aviation entities that operate at Ronald Reagan Washington National Airport.

(2) Airports that are located within 15 miles of Ronald Reagan Washington National Airport and were operating under security restrictions on the date of enactment of this Act and general aviation entities operating at those airports.

(3) General aviation entities that were affected by Federal Aviation Administration Notices to Airmen FDC 2/0199 and 3/1862 and section 352 of the Department of Transportation and Related Agencies Appropriations Act, 2003 (P.L. 108–7, Division I).

(4) General aviation entities affected by implementation of section 44939 of title 49, United States Code.

(5) Any other general aviation entity that is prevented from doing business or operating by an action of the Federal Government prohibiting access to airspace by that entity.

(b) DOCUMENTATION.—Reimbursement under this section shall be made in accordance with sworn financial statements or other appropriate data submitted by each general aviation entity demonstrating the costs incurred and revenue foregone to the satisfaction of the Secretary.

(c) GENERAL AVIATION ENTITY DEFINED.—In this section, the term "general aviation entity" means any person (other than a scheduled air carrier or foreign air carrier, as such terms are defined in section 40102 of title 49, United States Code) that—

(1) operates nonmilitary aircraft under part 91 of title 14, Code of Federal Regulations, for the purpose of conducting its primary business;

(2) manufactures nonmilitary aircraft with a maximum seating capacity of fewer than 20 passengers or aircraft parts to be used in such aircraft;

(3) provides services necessary for nonmilitary operations under such part 91; or

(4) operates an airport, other than a primary airport (as such terms are defined in such section 40102), that—

(A) is listed in the national plan of integrated airport systems developed by the Federal Aviation Administration under section 47103 of such title; or

(B) is normally open to the public, is located within the confines of enhanced class B airspace (as defined by the Federal Aviation Administration in Notice to Airmen FDC 1/0618), and was closed as a result of an order issued by the Federal Aviation Administration in the period beginning September 11, 2001, and ending January 1, 2002, and remained closed as a result of that order on January 1, 2002.

Such term includes fixed based operators, flight schools, manufacturers of general aviation aircraft and products,

persons engaged in nonscheduled aviation enterprises, and general aviation independent contractors.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000,000. Such sums shall remain available until expended.

SEC. 433. IMPASSE PROCEDURES FOR NATIONAL ASSOCIATION OF AIR TRAFFIC SPECIALISTS.

(a) FAILURE OF CURRENT NEGOTIATIONS.—If, within 30 days after the date of enactment of this Act, the Federal Aviation Administration and the exclusive bargaining representative of the National Association of Air Traffic Specialists have failed to achieve agreement through a mediation process of the Federal Mediation and Conciliation Service, the current labor negotiation shall be treated for purposes of this section to have failed.

(b) SUBMISSION TO IMPASSE PANEL.—Not later than 30 days after the negotiation has failed under subsection (a), the parties to the negotiation shall submit unresolved issues to the Federal Service Impasses Panel described in section 7119(c) of title 5, United States Code, for final and binding resolution.

(c) ASSISTANCE.—The Panel shall render assistance to the parties in resolving their dispute in accordance with

section 7119 of title 5, United States Code, and parts 2470 and 2471 of title 5, Code of Federal Regulations.

(d) DETERMINATION.—The Panel shall make a just and reasonable determination of the matters in dispute. In arriving at such determination, the Panel shall specify the basis for its findings, taking into consideration such relevant factors as are normally and customarily considered in the determination of wages or impasse Panel proceedings. The Panel shall also take into consideration the financial ability of the Administration to pay.

(e) EFFECT OF PANEL DETERMINATION.—The determination of the Panel shall be final and binding upon the parties for the period prescribed by the Panel or a period otherwise agreed to by the parties.

(f) REVIEW.—The determination of the Panel shall be subject to review in the manner prescribed in chapter 71 of title 5, United States Code.

SEC. 434. FAA INSPECTOR TRAINING.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General shall conduct a study of the training of the aviation safety inspectors of the Federal Aviation Administration (in this section referred to as ''FAA inspectors'').

(2) CONTENTS.—The study shall include—

(A) an analysis of the type of training provided to FAA inspectors;

(B) actions that the Federal Aviation Administration has undertaken to ensure that FAA inspectors receive up-to-date training on the latest technologies;

(C) the extent of FAA inspector training provided by the aviation industry and whether such training is provided without charge or on a quid-pro-quo basis; and

(D) the amount of travel that is required of FAA inspectors in receiving training.

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

(b) SENSE OF THE HOUSE.—It is the sense of the House of Representatives that—

(1) FAA inspectors should be encouraged to take the most up-to-date initial and recurrent training on the latest aviation technologies;

(2) FAA inspector training should have a direct relation to an individual's job requirements; and

(3) if possible, a FAA inspector should be allowed to take training at the location most convenient for the inspector.

(c) WORKLOAD OF INSPECTORS.—

(1) STUDY BY NATIONAL ACADEMY OF SCIENCES.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall make appropriate arrangements for the National Academy of Sciences to conduct a study of the assumptions and methods used by the Federal Aviation Administration to estimate staffing standards for FAA inspectors to ensure proper oversight over the aviation industry, including the designee program.

(2) CONTENTS.—The study shall include the following:

(A) A suggested method of modifying FAA inspectors staffing models for application to current local conditions or applying some other approach to developing an objective staffing standard.

(B) The approximate cost and length of time for developing such models.

(3) REPORT.—Not later than 12 months after the initiation of the arrangements under subsection (a), the National Academy of Sciences shall transmit to Congress a report on the results of the study.

SEC. 435. PROHIBITION ON AIR TRAFFIC CONTROL PRIVATIZATION.

(a) IN GENERAL.—The Secretary of Transportation may not authorize the transfer of the air traffic separation and control functions operated by the Federal Aviation Administration on the date of enactment of this Act to a private entity or to a public entity other than the United States Government.

(b) CONTRACT TOWER PROGRAM.—Subsection (a) shall not apply to the contract tower program authorized by section 47124 of title 49, United States Code.

SEC. 436. AIRFARES FOR MEMBERS OF THE ARMED FORCES.

(a) FINDINGS.—Congress finds that—

(1) the Armed Forces is comprised of approximately 1,400,000 members who are stationed on active duty at more than 6,000 military bases in 146 different countries;

(2) the United States is indebted to the members of the Armed Forces, many of whom are in

grave danger due to their engagement in, or exposure to, combat;

(3) military service, especially in the current war against terrorism, often requires members of the Armed Forces to be separated from their families on short notice, for long periods of time, and under very stressful conditions;

(4) the unique demands of military service often preclude members of the Armed Forces from purchasing discounted advance airline tickets in order to visit their loved ones at home; and

(5) it is the patriotic duty of the people of the United States to support the members of the Armed Forces who are defending the Nation's interests around the world at great personal sacrifice.

(b) SENSE OF CONGRESS.—It is the sense of Congress that each United States air carrier should—

(1) establish for all members of the Armed Forces on active duty reduced air fares that are comparable to the lowest airfare for ticketed flights; and

(2) offer flexible terms that allow members of the Armed Forces on active duty to purchase, modify, or cancel tickets without time restrictions, fees, and penalties.

SEC. 437. AIR CARRIERS REQUIRED TO HONOR TICKETS FOR SUSPENDED AIR SERVICE.

Section 145(c) of the Aviation and Transportation Security Act (49 U.S.C. 40101 note; 115 stat. 645) is amended by striking ''more than'' and all that follows through ''after'' and inserting ''more than 36 months after''.

SEC. 438. INTERNATIONAL AIR SHOW.

(a) STUDY.—The Secretary of Transportation shall study the feasibility of the United States hosting a world-class international air show.

(b) REPORT.—Not later than 9 months after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a) together with recommendations concerning potential locations at which the air show could be held.

SEC. 439. DEFINITION OF AIR TRAFFIC CONTROLLER.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8331 of title 5, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (27);

(2) by striking the period at the end of paragraph (28) and inserting ''; and''; and

(3) by adding at the end the following:

"(29) 'air traffic controller' or 'controller' means—

"(A) a controller within the meaning of section 2109(1); and

"(B) a civilian employee of the Department of Transportation or the Department of Defense holding a supervisory, managerial, executive, technical, semiprofessional, or professional position for which experience as a controller (within the meaning of section 2109(1)) is a prerequisite.".

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8401 of title 5, United States Code, is amended—

(1) by striking "and" at the end of paragraph (33);

(2) by striking the period at the end of paragraph (34) and inserting "; and"; and

(3) by adding at the end the following:

"(35) 'air traffic controller' or 'controller' means—

"(A) a controller within the meaning of section 2109(1); and

"(B) a civilian employee of the Department of Transportation or the Department of Defense holding a supervisory, managerial, ex-

ecutive, technical, semiprofessional, or professional position for which experience as a controller (within the meaning of section 2109(1)) is a prerequisite.''.

(c) MANDATORY SEPARATION TREATMENT NOT AFFECTED.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8335(a) of title 5, United States Code, is amended by adding at the end the following: ''For purposes of this subsection, the term 'air traffic controller' or 'controller' has the meaning given to it under section 8331(29)(A).''.

(2) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8425(a) of title 5, United States Code, is amended by adding at the end the following: ''For purposes of this subsection, the term 'air traffic controller' or 'controller' has the meaning given to it under section 8401(35)(A).''.

(d) EFFECTIVE DATE.—This section and the amendments made by this section—

(1) shall take effect on the 60th day after the date of enactment of this Act; and

(2) shall apply with respect to—

(A) any annuity entitlement to which is based on an individual's separation from service occurring on or after that 60th day; and

(B) any service performed by any such individual before, on, or after that 60th day, subject to subsection (e).

(e) DEPOSIT REQUIRED FOR CERTAIN PRIOR SERVICE TO BE CREDITABLE AS CONTROLLER SERVICE.—

(1) DEPOSIT REQUIREMENT.—For purposes of determining eligibility for immediate retirement under section 8412(e) of title 5, United States Code, the amendment made by subsection (b) shall, with respect to any service described in paragraph (2), be disregarded unless there is deposited into the Civil Service Retirement and Disability Fund, with respect to such service, in such time, form, and manner as the Office of Personnel Management by regulation requires, an amount equal to the amount by which—

(A) the deductions from pay which would have been required for such service if the amendments made by this section had been in effect when such service was performed, exceeds

(B) the unrefunded deductions or deposits actually made under subchapter II of chapter 84 of such title 5 with respect to such service. The amount under the preceding sentence shall include interest, computed under paragraphs (2) and (3) of section 8334(e) of such title 5.

(2) PRIOR SERVICE DESCRIBED.—This subsection applies with respect to any service performed by an individual, before the 60th day following the date of enactment of this Act, as an employee described in section 8401(35)(B) of such title 5 (as set forth in subsection (b)).

SEC. 440. JUSTIFICATION FOR AIR DEFENSE IDENTIFICATION ZONE.

(a) IN GENERAL.—If the Administrator of the Federal Aviation Administration establishes an Air Defense Identification Zone (in this section referred as an "ADIZ"), the Administrator shall transmit, not later than 60 days after the date of establishing the ADIZ, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing an explanation of the need for the ADIZ. The Administrator also shall transmit to the Committees updates of the report every 60 days until the ADIZ is re-

scinded. The reports and updates shall be transmitted in classified form.

(b) EXISTING ADIZ.—If an ADIZ is in effect on the date of enactment of this Act, the Administrator shall transmit an initial report under subsection (a) not later than 30 days after such date of enactment.

(c) DEFINITION.—In this section, the terms ''Air Defense Identification Zone'' and ''ADIZ'' each mean a zone established by the Administrator with respect to airspace under 18,000 feet in approximately a 15- to 38-mile radius around Washington, District of Columbia, for which security measures are extended beyond the existing 15-mile no-fly zone around Washington and in which general aviation aircraft are required to adhere to certain procedures issued by the Administrator.

SEC. 441 . INTERNATIONAL AIR TRANSPORTATION.

It is the sense of Congress that, in an effort to modernize its regulations, the Department of Transportation should formally define ''Fifth Freedom'' and ''Seventh Freedom'' consistently for both scheduled and charter passenger and cargo traffic.

TITLE V—AIRPORT DEVELOPMENT

SEC. 501. DEFINITIONS.

(a) IN GENERAL.—Section 47102 is amended—

(1) by redesignating paragraphs (19) and (20) as paragraphs (24) and (25), respectively;

(2) by inserting after paragraph (18) the following:

"(23) 'small hub airport' means a commercial service airport that has at least 0.05 percent but less than 0.25 percent of the passenger boardings.";

(3) in paragraph (10) by striking subparagraphs (A) and (B) and inserting following:

"(A) means, unless the context indicates otherwise, revenue passenger boardings in the United States in the prior calendar year on an aircraft in service in air commerce, as the Secretary determines under regulations the Secretary prescribes; and

"(B) includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose.";

(4) by redesignating paragraphs (10) through (18) as paragraphs (14) through (22), respectively;

(5) by inserting after paragraph (9) the following:

"(10) 'large hub airport' means a commercial service airport that has at least 1.0 percent of the passenger boardings.

"(12) 'medium hub airport' means a commercial service airport that has at least 0.25 percent but less than 1.0 percent of the passenger boardings.

"(13) 'nonhub airport' means a commercial service airport that has less than 0.05 percent of the passenger boardings."; and

(6) by striking paragraph (6) and inserting the following:

"(6) 'Amount made available under section 48103' or 'amount newly made available' means the amount authorized for grants under section 48103 as that amount may be limited in that year by a subsequent law, but as determined without regard to grant obligation recoveries made in that year or amounts covered by section 47107(f).".

(b) CONFORMING AMENDMENT.—Section 47116(b)(1) is amended by striking "(as defined in section 41731) of this title)".

SEC. 502. REPLACEMENT OF BAGGAGE CONVEYOR SYSTEMS.

Section 47102(3)(B)(x) is amended by striking the period at the end and inserting the following: "; except

that such activities shall be eligible for funding under this subchapter only using amounts apportioned under section 47114.''.

SEC. 503. SECURITY COSTS AT SMALL AIRPORTS.

(a) SECURITY COSTS.—Section 47102(3)(J) is amended to read as follows:

''(J) in the case of a nonhub airport or an airport that is not a primary airport in fiscal year 2004, direct costs associated with new, additional, or revised security requirements imposed on airport operators by law, regulation, or order on or after September 11, 2001, if the Government's share is paid only from amounts apportioned to a sponsor under section 47114(c) or 47114(d)(3)(A).''.

(b) CONFORMING AMENDMENT.—Section 47110(b)(2) is amended—

(1) in subparagraph (D) by striking '', 47102(3)(K), or 47102(3)(L)''; and

(2) by aligning the margin of subparagraph (D) with the margin of subparagraph (B).

SEC. 504. WITHHOLDING OF PROGRAM APPLICATION APPROVAL.

Section 47106(d) is amended—

(1) in paragraph (1) by striking ''section 47114(c) and (e) of this title'' and inserting ''subsections (c), (d), and (e) of section 47114''; and

(2) by adding at the end the following:

''(4) If the Secretary withholds a grant to an airport from the discretionary fund under section 47115 or from the small airport fund under section 47116 on the grounds that the sponsor has violated an assurance or requirement of this subchapter, the Secretary shall follow the procedures of this subsection.''.

SEC. 505. RUNWAY SAFETY AREAS.

(a) APPROVAL OF PROJECT GRANT APPLICATIONS.—Section 47106 is amended by adding at the end the following:

''(h) RUNWAY SAFETY AREAS.—The Secretary may approve an application under this chapter for a project grant to construct, reconstruct, repair, or improve a runway only if the Secretary receives written assurances, satisfactory to the Secretary, that the sponsor will undertake, to the maximum extent practical, improvement of the runway's safety area to meet the standards of the Federal Aviation Administration.''.

SEC. 506. DISPOSITION OF LAND ACQUIRED FOR NOISE COMPATIBILITY PURPOSES.

Section 47107(c) is amended by adding at the end the following:

''(4) Notwithstanding paragraph (2)(A)(iii), an airport owner or operator may retain all or any portion of the proceeds from a land disposition described in that paragraph if the Secretary finds that the use of the land will be compatible with airport purposes and the proceeds retained will be used for airport development or to carry out a noise compatibility program under section 47504(c).''.

SEC. 507. GRANT ASSURANCES.

(a) HANGAR CONSTRUCTION.—Section 47107(a) is amended—

(1) by striking ''and'' at the end of paragraph (19);

(2) by striking the period at the end of paragraph (20) and inserting ''; and''; and

(3) by adding at the end the following:

''(21) if the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long-term lease (of not less than 50 years)

that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.''.

(b) STATUTE OF LIMITATIONS..—Section 47107(l)(5)(A) is amended by inserting ''or any other governmental entity'' after ''sponsor''.

(c) AUDIT CERTIFICATION.—Section 47107(m) is amended—

(1) in paragraph (1) by striking ''promulgate regulations that'' and inserting ''include a provision in the compliance supplement provisions to''; and

(2) in paragraph (1) by striking ''and opinion of the review''; and

(3) by striking paragraph (3).

SEC. 508. ALLOWABLE PROJECT COSTS.

(a) CONSTRUCTION OR MODIFICATION OF PUBLIC PARKING FACILITIES FOR SECURITY PURPOSES.—Section 47110 is amended—

(1) in subsection (f) by striking ''subsection (d)'' and inserting ''subsections (d) and (h)''; and

(2) by adding at the end the following:

''(h) CONSTRUCTION OR MODIFICATION OF PUBLIC PARKING FACILITIES FOR SECURITY PURPOSES.—Notwithstanding subsection (f)(1), a cost of constructing or modifying a public parking facility for passenger auto-

mobiles to comply with a regulation or directive of the Department of Homeland Security shall be treated as an allowable airport development project cost.''.

(b) DEBT FINANCING.—Section 47110 is further amended by adding at the end the following:

''(i) DEBT FINANCING.—In the case of an airport that is not a medium hub airport or large hub airport, the Secretary may determine that allowable airport development project costs include payments of interest, commercial bond insurance, and other credit enhancement costs associated with a bond issue to finance the project.''.

(c) CLARIFICATION OF ALLOWABLE COSTS..—Section 47110(b)(1) is amended by inserting before the semicolon at the end ''and any cost of moving a Federal facility impeding the project if the rebuilt facility is of an equivalent size and type''.

(d) TECHNICAL AMENDMENTS.—Section 47110(c) is amended by aligning the margin of paragraph (6) with the margin of paragraph (5).

SEC. 509. APPORTIONMENTS TO PRIMARY AIRPORTS.

(a) FORMULA CHANGES.—Section 47114(c)(1)(A) is amended by striking clauses (iv) and (v) and by inserting the following:

"(iv) $.65 for each of the next 500,000 passenger boardings at the airport during the prior calendar year;

"(v) $.50 cents for each of the next 2,500,000 passenger boardings at the airport during the prior calendar year; and

"(vi) $.45 cents for each additional passenger boarding at the airport during the prior calendar year.".

(b) SPECIAL RULE FOR FISCAL YEARS 2004 AND 2005.—Section 47114(c)(1) is amended by adding at the end the following:

"(F) SPECIAL RULE FOR FISCAL YEARS 2004 AND 2005.—Notwithstanding subparagraph (A) and the absence of scheduled passenger aircraft service at an airport, the Secretary may apportion in fiscal years 2004 and 2005 to the sponsor of the airport an amount equal to the amount apportioned to that sponsor in fiscal year 2002 or 2003, whichever amount is greater, if the Secretary finds that—

"(i) the passenger boardings at the airport were below 10,000 in calendar year 2002;

"(ii) the airport had at least 10,000 passenger boardings and scheduled passenger aircraft service in either calendar year 2000 or 2001; and

"(iii) the reason that passenger boardings described in clause (i) were below 10,000 was the decrease in passengers following the terrorist attacks of September 11, 2001.".

SEC. 510. CARGO AIRPORTS.

Section 47114(c)(2) is amended—

(1) in the paragraph heading by striking "ONLY"; and

(2) in subparagraph (A) by striking "3 percent" and inserting "3.5 percent".

SEC. 511. CONSIDERATIONS IN MAKING DISCRETIONARY GRANTS.

Section 47115(d) is amended to read as follows:

"(d) CONSIDERATIONS.—

"(1) FOR CAPACITY ENHANCEMENT PROJECTS.—In selecting a project for a grant to preserve and improve capacity funded in whole or in part from the fund, the Secretary shall consider—

"(A) the effect that the project will have on overall national transportation system capacity;

"(B) the benefit and cost of the project, including, in the case of a project at a reliever airport, the number of operations projected to be diverted from a primary airport to the reliever airport as a result of the project, as well as the cost savings projected to be realized by users of the local airport system;

"(C) the financial commitment from non-United States Government sources to preserve or improve airport capacity;

"(D) the airport improvement priorities of the States to the extent such priorities are not in conflict with subparagraphs (A) and (B); and

"(E) the projected growth in the number of passengers or aircraft that will be using the airport at which the project will be carried out.

"(2) FOR ALL PROJECTS.—In selecting a project for a grant described in paragraph (1), the Secretary shall consider whether—

"(A) funding has been provided for all other projects qualifying for funding during the fiscal year under this chapter that have at-

tained a higher score under the numerical priority system employed by the Secretary in administering the fund; and

"(B) the sponsor will be able to commence the work identified in the project application in the fiscal year in which the grant is made or within 6 months after the grant is made, whichever is later.".

SEC. 512. FLEXIBLE FUNDING FOR NONPRIMARY AIRPORT APPORTIONMENTS.

(a) IN GENERAL.—Section 47117(c) is amended to read as follows:

"(c) USE OF SPONSOR'S APPORTIONED AMOUNTS AT PUBLIC USE AIRPORTS.—

(1) OF SPONSOR.—An amount apportioned to a sponsor of an airport under section 47114(c) or 47114(d)(3)(A) of this title is available for grants for any public-use airport of the sponsor included in the national plan of integrated airport systems.

"(2) IN SAME STATE OR AREA.—A sponsor of an airport may make an agreement with the Secretary of Transportation waiving the sponsor's claim to any part of the amount apportioned for the airport under section 47114(c) or 47114(d)(3)(A) if the Secretary agrees to make the waived amount

available for a grant for another public-use airport in the same State or geographical area as the airport, as determined by the Secretary.''.

(b) PROJECT GRANT AGREEMENTS.—Section 47108(a) is amended by inserting ''or 47114(d)(3)(A)'' after ''under section 47114(c)''.

(c) ALLOWABLE PROJECT COSTS.—Section 47110 is further amended—

(1) in subsection (b)(2)(C) by striking ''of this title'' and inserting ''or section 47114(d)(3)(A)'';

(2) in subsection (g)—

(A) by inserting ''or section 47114(d)(3)(A)'' after ''of section 47114(c)''; and

(B) by striking ''of project'' and inserting ''of the project''; and

(3) by adding at the end the following:

''(j) NONPRIMARY AIRPORTS.—The Secretary may decide that the costs of revenue producing aeronautical support facilities, including fuel farms and hangars, are allowable for an airport development project at a nonprimary airport if the Government's share of such costs is paid only with funds apportioned to the airport sponsor under section 47114(d)(3)(A) and if the Secretary deter-

mines that the sponsor has made adequate provision for financing airside needs of the airport.''.

(d) TERMINAL DEVELOPMENT COSTS.—Section 47119(b) is amended—

(1) by striking ''or'' at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting ''; or''; and

(3) by adding at the end the following:

''(5) to a sponsor of a nonprimary airport, any part of amounts apportioned to the sponsor for the fiscal year under section 47114(d)(3)(A) for project costs allowable under section 47110(d).''.

SEC. 513. USE OF APPORTIONED AMOUNTS.

(a) SPECIAL APPORTIONMENT CATEGORIES.—Section 47117(e)(1)(A) is amended—

(1) by striking ''of this title'' the first place it appears and inserting a comma;

(2) by striking ''of this title'' the second place it appears and inserting '', for noise mitigation projects approved in an environmental record of decision for an airport development project under this title, for compatible land use planning and projects carried out by State and local governments under section 47140, and for airport development de-

scribed in section 47102(3)(F) or 47102(3)(K) to comply with the Clean Air Act (42 U.S.C. 7401 et seq.)''.

(b) ELIMINATION OF SUPER RELIEVER SET-ASIDE.—Section 47117(e)(1)(C) is repealed.

(c) RECOVERED FUNDS.—Section 47117 is further amended by adding at the end the following:

''(h) TREATMENT OF CANCELED OR REDUCED GRANT OBLIGATIONS.—For the purpose of determining compliance with a limitation, enacted in an appropriations Act, on the amount of grant obligations of funds made available by section 48103 that may be incurred in a fiscal year, an amount that is recovered by canceling or reducing a grant obligation of funds made available by section 48103 shall be treated as a negative obligation that is to be netted against the obligation limitation as enacted and thus may permit the obligation limitation to be exceeded by an equal amount.''.

SEC. 514. MILITARY AIRPORT PROGRAM.

Subsections (e) and (f) of section 47118 are each amended by striking ''$7,000,000'' and inserting ''$10,000,000''.

SEC. 515. TERMINAL DEVELOPMENT COSTS.

Section 47119(a) is amended to read as follows:

''(a) REPAYING BORROWED MONEY.—

"(1) TERMINAL DEVELOPMENT COSTS INCURRED AFTER JUNE 30, 1970, AND BEFORE JULY 12, 1976.—An amount apportioned under section 47114 and made available to the sponsor of a commercial service airport at which terminal development was carried out after June 30, 1970, and before July 12, 1976, is available to repay immediately money borrowed and used to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d) if they had been incurred after September 3, 1982.

"(2) TERMINAL DEVELOPMENT COSTS INCURRED BETWEEN JANUARY 1, 1992, AND OCTOBER 31, 1992.—An amount apportioned under section 47114 and made available to the sponsor of a nonhub airport at which terminal development was carried out between January 1, 1992, and October 31, 1992, is available to repay immediately money borrowed and to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d).

"(3) TERMINAL DEVELOPMENT COSTS AT PRIMARY AIRPORTS.—An amount apportioned under section 47114 or available under subsection (b)(3) to a primary airport—

"(A) that was a nonhub airport in the most recent year used to calculate apportionments under section 47114;

"(B) that is a designated airport under section 47118 in fiscal year 2003; and

"(C) at which terminal development is carried out between January 2003 and August 2004,

is available to repay immediately money borrowed and used to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d).

"(4) CONDITIONS FOR GRANT.—An amount is available for a grant under this subsection only if—

"(A) the sponsor submits the certification required under section 47110(d);

"(B) the Secretary of Transportation decides that using the amount to repay the borrowed money will not defer an airport development project outside the terminal area at that airport; and

"(C) amounts available for airport development under this subchapter will not be used for additional terminal development projects at the airport for at least 3 years beginning on the

date the grant is used to repay the borrowed money.

"(5) APPLICABILITY OF CERTAIN LIMITATIONS.—A grant under this subsection shall be subject to the limitations in subsection (b)(1) and (2).".

SEC. 516. CONTRACT TOWERS.

Section 47124(b) is amended—

(1) in paragraph (1) by striking "December 30, 1987," and inserting "on date of enactment of the Flight 100—Century of Aviation Reauthorization Act";

(2) in the heading for paragraph (3) by striking "PILOT";

(3) in paragraph (4)(C) by striking "$1,100,000" and inserting "$1,500,000"; and

(4) by striking "pilot" each place it appears.

SEC. 517. AIRPORT SAFETY DATA COLLECTION.

Section 47130 is amended to read as follows:

"§ 47130. Airport safety data collection

"Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may award a contract, using sole source or limited source authority, or enter into a cooperative agreement with, or provide a grant from amounts made available under section 48103 to, a private company or entity for the collection

of airport safety data. In the event that a grant is provided under this section, the United States Government's share of the cost of the data collection shall be 100 percent.''.

SEC. 518. AIRPORT PRIVATIZATION PILOT PROGRAM.

(a) IN GENERAL.—Section 47134(b)(1) is amended—

(1) in subparagraph (A) by striking clauses (i) and (ii) and inserting the following:

''(i) in the case of a primary airport, by at least 65 percent of the scheduled air carriers serving the airport and by scheduled and nonscheduled air carriers whose aircraft landing at the airport during the preceding calendar year, had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year; or

''(ii) by the Secretary at any nonprimary airport after the airport has consulted with at least 65 percent of the owners of aircraft based at that airport, as determined by the Secretary.'';

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following:

"(B) OBJECTION TO EXEMPTION.—An air carrier shall be deemed to have approved a sponsor's application for an exemption under subparagraph (A) unless the air carrier has submitted an objection, in writing, to the sponsor within 60 days of the filing of the sponsor's application with the Secretary, or within 60 days of the service of the application upon that air carrier, whichever is later.".

(b) FEDERAL SHARE.—Section 47109(a) is amended—

(1) by inserting "and" at the end of paragraph (3);

(2) by striking paragraph (4); and

(3) by redesignating paragraph (5) as paragraph (4).

SEC. 519. INNOVATIVE FINANCING TECHNIQUES.

(a) ELIGIBLE PROJECTS.—Section 47135(a) is amended—

(1) in the first sentence by striking "20" and inserting "10"; and

(2) by striking the second sentence and inserting the following: "Such projects shall be located at

airports that are not medium or large hub airports.''.

(b) INNOVATIVE FINANCING TECHNIQUES.—Section 47135(c)(2) is amended—

(1) by striking subparagraphs (A) and (B);

(2) by redesignating subparagraphs (C) and (D) as subparagraphs (A) and (B), respectively;

(3) in subparagraph (A) (as so redesignated) by striking ''and'' at the end; and

(4) in subparagraph (B) (as so redesignated) by striking the period at the end and inserting ''; and''.

SEC. 520. AIRPORT SECURITY PROGRAM.

Section 47137 is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following:

''(e) ADMINISTRATION.—The Secretary, in cooperation with the Secretary of Homeland Security, shall administer the program authorized by this section.''.

SEC. 521. LOW-EMISSION AIRPORT VEHICLES AND INFRASTRUCTURE.

(a) EMISSIONS CREDITS.—Subchapter I of chapter 471 is amended by adding at the end the following:

"§ 47138. Emission credits for air quality projects.

"(a) IN GENERAL.—The Secretary of Transportation and the Administrator of the Environmental Protection Agency shall jointly agree on how to assure that airport sponsors receive appropriate emission credits for carrying out projects described in sections 40117(a)(3)(G), 47102(3)(K), and 47102(3)(L). Such agreement must include, at a minimum, the following conditions:

"(1) The provision of credits is consistent with the Clean Air Act (42 U.S.C. 7402 et seq.).

"(2) Credits generated by the emissions reductions are kept by the airport sponsor and may only be used for purposes of any current or future general conformity determination under the Clean Air Act or as offsets under the Environmental Protection Agency's new source review program for projects on the airport or associated with the airport.

"(3) Credits are calculated and provided to airports on a consistent basis nationwide.

"(4) Credits are provided to airport sponsors in a timely manner.

"(5) The establishment of a method to assure the Secretary that, for any specific airport project for which funding is being requested, the appropriate credits will be granted.

"(b) ASSURANCE OF RECEIPT OF CREDITS.—

"(1) IN GENERAL.—As a condition for making a grant for a project described in section 47102(3)(K), 47102(3)(L), or 47139 or as a condition for granting approval to collect or use a passenger facility fee for a project described in section 40117(a)(3)(G), 47102(3)(K), 47102(3)(L), or 47139, the Secretary must receive assurance from the State in which the project is located, or from the Administrator of the Environmental Protection Agency where there is a Federal implementation plan, that the airport sponsor will receive appropriate emission credits in accordance with the conditions of this section.

"(2) AGREEMENT ON PREVIOUSLY APPROVED PROJECTS.—The Secretary and the Administrator of the Environmental Protection Agency shall jointly agree on how to provide emission credits to airport projects previously approved under section 47136 under terms consistent with the conditions enumerated in this section.".

(b) AIRPORT GROUND SUPPORT EQUIPMENT EMISSIONS RETROFIT PILOT PROGRAM.—Subchapter I of chapter 471 is further amended by adding at the end the following:

"§ 47139. Airport ground support equipment emissions retrofit pilot program.

"(a) IN GENERAL.—The Secretary of Transportation shall carry out a pilot program at not more than 10 commercial service airports under which the sponsors of such airports may use an amount made available under section 48103 to retrofit existing eligible airport ground support equipment that burns conventional fuels to achieve lower emissions utilizing emission control technologies certified or verified by the Environmental Protection Agency.

"(b) LOCATION IN AIR QUALITY NONATTAINMENT OR MAINTENANCE AREAS.—A commercial service airport shall be eligible for participation in the pilot program only if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2)) or a maintenance area referred to in section 175A of such Act (42 U.S.C. 7505a).

"(c) SELECTION CRITERIA.—In selecting from among applicants for participation in the pilot program, the Secretary shall give priority consideration to applicants that will achieve the greatest air quality benefits measured by the amount of emissions reduced per dollar of funds expended under the pilot program.

"(d) MAXIMUM AMOUNT.—Not more than $500,000 may be expended under the pilot program at any single commercial service airport.

"(e) GUIDELINES.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish guidelines regarding the types of retrofit projects eligible under the pilot program by considering remaining equipment useful life, amounts of emission reduction in relation to the cost of projects, and other factors necessary to carry out this section. The Secretary may give priority to ground support equipment owned by the airport and used for airport purposes.

"(f) ELIGIBLE EQUIPMENT DEFINED.—In this section, the term 'eligible equipment' means ground service or maintenance equipment that is located at the airport, is used to support aeronautical and related activities at the airport, and will remain in operation at the airport for the life or useful life of the equipment, whichever is earlier.".

(c) ADDITION TO AIRPORT DEVELOPMENT.—Section 47102(3) is further amended by striking subparagraphs (K) and (L) and inserting the following:

"(K) work necessary to construct or modify airport facilities to provide low-emission fuel systems, gate electrification, and other related air quality improvements at a commercial service airport if the airport is located in an air quality nonattainment or maintenance area (as

defined in sections 171(2) and 175A of the Clean Air Act (42 U.S.C. 7501(2), 7505a) and if such project will result in an airport receiving appropriate emission credits, as described in section 47138.

"(L) converting vehicles and ground support equipment owned by a commercial service airport to low-emission technology or acquiring for use at a commercial service airport vehicles and ground support equipment that include low-emission technology if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2)) or a maintenance area referred to in section 175A of such Act (42 U.S.C. 7505a) and if such project will result in an airport receiving appropriate emission credits as described in section 47138.".

(d) ALLOWABLE PROJECT COST.—Section 47110(b) is further amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

(3) by adding at the end the following:

"(6) in the case of a project for acquiring for use at a commercial service airport vehicles and ground support equipment owned by an airport that is not described in section 47102(3) and that include low-emission technology, if the total costs allowed for the project are not more than the incremental cost of equipping such vehicles or equipment with low-emission technology, as determined by the Secretary.".

(e) LOW-EMISSION TECHNOLOGY EQUIPMENT.—Section 47102 (as amended by section 501 of this Act) is further amended by inserting after paragraph (10) the following:

"(11) 'low-emission technology' means technology for vehicles and equipment whose emission performance is the best achievable under emission standards established by the Environmental Protection Agency and that relies exclusively on alternative fuels that are substantially non-petroleum based, as defined by the Department of Energy, but not excluding hybrid systems or natural gas powered vehicles.".

(f) CONFORMING AMENDMENTS.—The analysis of subchapter I of chapter 471 is amended by adding at the end the following:

"47138. Emission credits for air quality projects.
"47139. Airport ground support equipment emissions retrofit pilot program.".

SEC. 522. COMPATIBLE LAND USE PLANNING AND PROJECTS BY STATE AND LOCAL GOVERNMENTS.

(a) IN GENERAL.—Subchapter I of chapter 471 is further amended by adding at the end the following:

"§ 47140. Compatible land use planning and projects by State and local governments

"(a) IN GENERAL.—The Secretary of Transportation may make grants from amounts set aside under section 47117(e)(1)(A) to States and units of local government for land use compatibility plans or projects resulting from those plans for the purposes of making the use of land areas around large hub airports and medium hub airports compatible with aircraft operations if—

"(1) the airport operator has not submitted a noise compatibility program to the Secretary under section 47504 or has not updated such program within the past 10 years; and

"(2) the land use plan meets the requirements of this section and any project resulting from the plan meets such requirements.

"(b) ELIGIBILITY.—In order to receive a grant under this section, a State or unit of local government must—

"(1) have the authority to plan and adopt land use control measures, including zoning, in the plan-

ning area in and around a large or medium hub airport;

"(2) provide written assurance to the Secretary that it will work with the affected airport to identify and adopt such measures; and

"(3) provide written assurance to the Secretary that it will achieve, to the maximum extent possible, compatible land uses consistent with Federal land use compatibility criteria under section 47502(3) and that those compatible land uses will be maintained.

"(c) ASSURANCES.—The Secretary shall require a State or unit of local government to which a grant may be awarded under this section for a land use plan or a project resulting from such a plan to provide—

"(1) assurances satisfactory to the Secretary that the plan—

"(A) is reasonably consistent with the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses;

"(B) addresses ways to achieve and maintain compatible land uses, including zoning, building codes, and any other projects under section 47504(a)(2) that are within the author-

ity of the State or unit of local government to implement;

"(C) uses noise contours provided by the airport operator that are consistent with the airport operation and planning, including any noise abatement measures adopted by the airport operator as part of its own noise mitigation efforts;

"(D) does not duplicate, and is not inconsistent with, the airport operator's noise compatibility measures for the same area; and

"(E) has received concurrence by the airport operator prior to adoption by the State or unit of local government; and

"(2) such other assurances as the Secretary determines to be necessary to carry out this section.

"(d) GUIDELINES.—The Secretary shall establish guidelines to administer this section in accordance with the purposes and conditions described in this section. The Secretary may require the State or unit of local government to which a grant may be awarded under this section to provide progress reports and other information as the Secretary determines to be necessary to carry out this section.

"(e) ELIGIBLE PROJECTS.—The Secretary may approve a grant under this section to a State or unit of local government for a land use compatibility project only if the Secretary is satisfied that the project is consistent with the guidelines established by the Secretary under this section, that the State or unit of local government has provided the assurances required by this section, that the Secretary has received evidence that the State or unit of local government has implemented (or has made provision to implement) those elements of the plan that are not eligible for Federal financial assistance, and that the project is not inconsistent with Federal standards.

"(f) SUNSET.—This section shall not be in effect after September 30, 2007.".

(b) CONFORMING AMENDMENT.—The analysis of subchapter I of chapter 471 is further amended by adding at the end the following:

"47140. Compatible land use planning and projects by State and local governments.".

SEC. 523. PROHIBITION ON REQUIRING AIRPORTS TO PROVIDE RENT-FREE SPACE FOR FEDERAL AVIATION ADMINISTRATION.

(a) IN GENERAL.—Subchapter I of chapter 471 is further amended by adding at the end the following:

"§ 47141. Prohibition on rent-free space requirements for Federal Aviation Administration

"(a) IN GENERAL.—The Secretary of Transportation may not require an airport sponsor to provide to the Federal Aviation Administration, without compensation, space in a building owned by the sponsor and costs associated with such space for building construction, maintenance, utilities, and other expenses.

"(b) NEGOTIATED AGREEMENTS.—Subsection (a) does not prohibit—

"(1) the negotiation of agreements between the Secretary and an airport sponsor to provide building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings to the Federal Aviation Administration without cost or at below-market rates; or

"(2) the Secretary of Transportation from requiring airport sponsors to provide land without cost to the Federal Aviation Administration for air traffic control facilities.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 471 is further amended by adding at the end the following:

"47141. Prohibition on rent-free space requirements for Federal Aviation Administration.".

SEC. 524. MIDWAY ISLAND AIRPORT.

(a) FINDINGS.—Congress finds that the continued operation of the Midway Island Airport in accordance with the standards of the Federal Aviation Administration applicable to commercial airports is critical to the safety of commercial, military, and general aviation in the mid-Pacific Ocean region.

(b) MEMORANDUM OF UNDERSTANDING ON SALE OF AIRCRAFT FUEL.—The Secretary of Transportation shall enter into a memorandum of understanding with the Secretaries of Defense, Interior, and Homeland Security to facilitate the sale of aircraft fuel on Midway Island at a price that will generate sufficient revenue to improve the ability of the airport to operate on a self-sustaining basis in accordance with the standards of the Federal Aviation Administration applicable to commercial airports. The memorandum shall also address the long-range potential of promoting tourism as a means to generate revenue to operate the airport.

(c) TRANSFER OF NAVIGATION AIDS AT MIDWAY ISLAND AIRPORT.—The Midway Island Airport may transfer, without consideration, to the Administrator the navigation aids at the airport. The Administrator shall accept the navigation aids and operate and maintain the navigation aids under criteria of the Administrator.

(d) FUNDING TO THE SECRETARY OF INTERIOR FOR MIDWAY ISLAND AIRPORT.—

(1) IN GENERAL.—Chapter 481 is amended by adding at the end the following:

"§ 48114. Funding to the Secretary of Interior for Midway Island Airport

"The following amounts shall be available (and shall remain available until expended) to the Secretary of Interior, out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502), for airport capital projects at the Midway Island Airport:

"(1) $750,000 for fiscal year 2004.

"(2) $2,500,000 for fiscal year 2005.

"(3) $1,000,000 for fiscal year 2006.

"(4) $1,000,000 for fiscal year 2007.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 481 is amended by adding at the end the following:

"48114. Funding to the Secretary of Interior for Midway Island Airport.".

SEC. 525. REIMBURSEMENT OF AIR CARRIERS FOR CERTAIN SCREENING AND RELATED ACTIVITIES.

The Secretary of Transportation, subject to the availability of funds (other than amounts in the Aviation Trust Fund) provided for this purpose, shall reimburse air carriers and airports for the following:

(1) All screening and related activities that the air carriers or airports are still performing or continuing to be responsible for, including—

(A) the screening of catering supplies;

(B) checking documents at security checkpoints;

(C) screening of passengers; and

(D) screening of persons with access to aircraft.

(2) The provision of space and facilities used to perform screening functions if such space and facilities have been previously used, or were intended to be used, for revenue-producing purposes.

SEC. 526. GENERAL AVIATION FLIGHTS AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT.

It is the sense of Congress that Ronald Reagan Washington National Airport should be open to general aviation flights as soon as possible.

From:	CN=Monique L. Dilworth/OU=OA/O=EOP [OA]
To:	Steven R. Beattie/OA/EOP@Exchange [OA] <Steven R. Beattie>;Veronica Kitchen/OA /EOP@EOP [OA] <Veronica Kitchen>;Claire M. O'Donnell/OVP/EOP@Exchange [OVP] <Claire M. O'Donnell>;Lisa B. Fairhall/OMB/EOP@EOP [OMB] <Lisa B. Fairhall>;Adam F. Greenstone/OA/EOP@Exchange [OA] <Adam F. Greenstone>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Nikky Cogdell/OA/EOP@EOP [OA] <Nikky Cogdell>;Jon S. Laurich/OA/EOP@Exchange [OA] <Jon S. Laurich>;Elizabeth Gelfer/OA/EOP@EOP [OA] <Elizabeth Gelfer>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>;Keith L. Roberts/OA/EOP@Exchange [OA] <Keith L. Roberts>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>
CC:	Worthington W. White/WHO/EOP@EOP [WHO] <Worthington W. White>;Michele C. Marx/ONDCP/EOP@EOP [ONDCP] <Michele C. Marx>;Angela R. Stewart/CEQ/EOP@EOP [CEQ] <Angela R. Stewart>;Shana L. Dale/OSTP/EOP@EOP [OSTP] <Shana L. Dale>;Paul A. Wedderien/NSC/EOP@EOP [NSC] <Paul A. Wedderien>;Brian Gillis/OMB/EOP@EOP [OMB] <Brian Gillis>;Don J. Jansen/OMB/EOP@EOP [OMB] <Don J. Jansen>;Phuong DeSear/ONDCP/EOP@EOP [ONDCP] <Phuong DeSear>;Mary Fibich/CEA/EOP@EOP [CEA] <Mary Fibich>;Phil Cooney/CEQ/EOP@EOP [CEQ] <Phil Cooney>;Stephen A. Weigler/OMB /EOP@EOP [OMB] <Stephen A. Weigler>;Katherine J. Fertakis/NSC/EOP@EOP [NSC] <Katherine J. Fertakis>;Charles L. Sigman/OA/EOP@EOP [OA] <Charles L. Sigman>
Sent:	5/23/2003 7:59:26 AM
Subject:	: QFR Coordination
Attachments:	F_2G9OG003_OA.TXT_1.doc; F_2G9OG003_OA.TXT_2.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Monique L. Dilworth ( CN=Monique L. Dilworth/OU=OA/O=EOP [ OA ] )
CREATION DATE/TIME:23-MAY-2003 11:59:26.00
SUBJECT:: QFR Coordination
TO:Steven R. Beattie ( CN=Steven R. Beattie/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Veronica Kitchen ( CN=Veronica Kitchen/OU=OA/O=EOP@EOP [ OA ] )
READ:UNKNOWN
TO:Claire M. O'Donnell ( CN=Claire M. O'Donnell/OU=OVP/O=EOP@Exchange [ OVP ] )
READ:UNKNOWN
TO:Lisa B. Fairhall ( CN=Lisa B. Fairhall/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Adam F. Greenstone ( CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nikky Cogdell ( CN=Nikky Cogdell/OU=OA/O=EOP@EOP [ OA ] )
READ:UNKNOWN
TO:Jon S. Laurich ( CN=Jon S. Laurich/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Elizabeth Gelfer ( CN=Elizabeth Gelfer/OU=OA/O=EOP@EOP [ OA ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Keith L. Roberts ( CN=Keith L. Roberts/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Worthington W. White ( CN=Worthington W. White/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Michele C. Marx ( CN=Michele C. Marx/OU=ONDCP/O=EOP@EOP [ ONDCP ] )
```

READ:UNKNOWN
CC:Angela R. Stewart (CN=Angela R. Stewart/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN
CC:Shana L. Dale (CN=Shana L. Dale/OU=OSTP/O=EOP@EOP [OSTP])
READ:UNKNOWN
CC:Paul A. Wedderien (CN=Paul A. Wedderien/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
CC:Brian Gillis (CN=Brian Gillis/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Don J. Jansen (CN=Don J. Jansen/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Phuong DeSear (CN=Phuong DeSear/OU=ONDCP/O=EOP@EOP [ONDCP])
READ:UNKNOWN
CC:Mary Fibich (CN=Mary Fibich/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
CC:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN
CC:Stephen A. Weigler (CN=Stephen A. Weigler/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Katherine J. Fertakis (CN=Katherine J. Fertakis/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
CC:Charles L. Sigman (CN=Charles L. Sigman/OU=OA/O=EOP@EOP [OA])
READ:UNKNOWN
End Original ARMS Header

As of today, we have responses for 145 of the 169 Questions for the Record (QFR) received from the Transportation, Treasury Subcommittee. Below is information on the coordination process, the coordination schedule, assigned functional responsibilities and hearing record references. The complete package is due to Congress on May 30th. It is imperative that we get the package to Congress on time because the bill markup will take place shortly thereafter.

A. Coordination Process - Please review the attached file entitled "QFR Responses 1" which contains the latest update of responses for the FY 2004 QFRs. If we have not received a response from the POC, the QFR will be highlighted in yellow in the "QFR Responses 1" document. As the missing responses come in, we will send them to you in a separate email. Make all edits within the document using a RED font. We need all edited documents to be sent electronically. Make sure to note in your reply the QFR number that has been edited for quick reference. We will assume that you approve/concur with all answers where you have not made edits. After your review, please reply to this message with an "X" in one of the selections listed below:

Concur as written_____ See Edits*_____ See Comments_____
*For all edits, please note the QFR number(s) here:

B. Coordination Schedule -
CFO sends QFR Responses to Coordinators
May 23, 2003
Edits/Comments due from Coordinators
Noon, May 28, 2003
CFO sends Final QFR Responses to Coordinators COB,
May 28, 2003
Final Edit due from
Coordinators 2:00 p.m. May
29, 2003
Final QFR Responses provided to WHO M&A for clearance COB
May 29, 2003
OA Director sends final QFR Responses to Subcommittee May
30, 2003

C. Functional/POC Accountablitity - Several of the QFRs requested factual information in functional areas such as personnel, accounting, space, etc. The following Chart of Accountablity identifies the OA offices and individuals that are responsible for ensuring that these areas are checked for accuracy and consistency throughout the document.

D. Hearing Record References - Several of the FY 2004 QFRs refer to the FY 2003 Hearing Record. Attached is a document called "Hearing Record References" which will assist you while reviewing the FY 2004 responses.

Please call me if you have any questions and thank you for your time and assistance.

Monique Dilworth
5-7638

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <F_2G9OG003_OA.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <F_2G9OG003_OA.TXT_2>

Treasury, Postal Service and General
Government Appropriations for

Fiscal Year 2003
Hearing Record References

HOW TO USE THIS DOCUMENT

Several of the FY 2004 questions for the record refer to pages from last year's (FY 2003) hearing record. Below is the FY 2003 hearing record information.

Note that the Question # refers to this year's (FY 2004) question and the information that follows is what was in last year's (FY 2003) hearing record.

Hearing Record Reference for Question 6:

Issue: **Executive Office of the President**

Question: By EOP agency, provide FTE and OGE. Itemize OGE by category (e.g. reimbursable detailee, PSC, etc). Include FY 2001 (actual) and FY 2002-2003 (estimates).

Answer: The following tables provide the total FY 2001 actual, FY 2002 and FY 2003 estimates for full time equivalents (FTE) and other government employees (OGE) for each EOP and other entity as of April 5, 2002. The OGE numbers are itemized by category on the following page. The FY 2001 actual numbers should be viewed in the context of a Presidential transition year and may vary greatly from the FY 2002 figures. The FY 2002 and FY 2003 numbers are estimates only and therefore subject to change for a number of reasons.

REV_00168074

Program	FY 2001 Actual FTE and OGE			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office	400	369	35	**404**
Special Assistance to the President	22	16	42	**58**
Official Residence of the Vice President	1	1	0	**1**
Office of Administration	202	185	5	**190**
Office of Policy Development	31	27	3	**30**
National Security Council	60	44	137	**181**
Council of Economic Advisers	35	28	7	**35**
Office of Management and Budget	527	502	57	**559**
Office of National Drug Control Policy	125	114	38	**152**
Executive Residence	95	89	0	**89**
Office of Science and Technology Policy	40	23	17	**40**
Council on Environmental Quality	24	16	0	**16**
U.S. Trade Representative	203	173	29	**202**
TOTAL	**1,765**	**1,587**	**370**	**1,957**

FY 2002 as of April 5, 2002

Program	FY 2002 FTE and OGE Estimate			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office*	400		97	**497**
Special Assistance to the President	24		40	**64**
Official Residence of the Vice President	1		0	**1**
Office of Administration	202		1	**203**
Office of Policy Development	35		2	**37**
National Security Council	60		150	**210**
Council of Economic Advisers	35		11	**46**
Office of Management and Budget	527		46	**573**
Office of National Drug Control Policy	115		35	**150**
Executive Residence	95		0	**95**
Office of Science and Technology Policy	40		16	**56**
Council on Environmental Quality	24		3	**27**
U.S. Trade Representative	203		23	**226**
TOTAL	**1,761**	**0**	**424**	**2,185**

Program	FY 2003 FTE and OGE Estimate			
	FTE REQUEST	ACTUAL FTE	OGE	TOTAL
White House Office	446		127	**573**
Special Assistance to the President	24		40	**64**
Official Residence of the Vice President	1		0	**1**
Office of Administration	222		1	**223**
Office of Policy Development	35		2	**37**
National Security Council	71		150	**221**
Council of Economic Advisers	35		11	**46**
Office of Management and Budget	510		46	**556**
Office of National Drug Control Policy	115		35	**150**
Executive Residence	95		0	**95**
Office of Science and Technology Policy	40		16	**56**
Council on Environmental Quality	24		3	**27**
U.S. Trade Representative	209		23	**232**
TOTAL	**1,827**	**0**	**454**	**2,281**

* For FY 02, The White House Office includes 65 OGEs for the Office of Homeland Security which are funded from the Emergency Appropriation.

REV_00168075

R = Reimbursable
N = Non Reimbursable

FY 2001 FTE and OGE Actuals

	FTE	Agency Reps	Assignees	Detailees		Historically Provided Services	Others		Student Volunteers	White House Fellows	Pres. Mgmt Intern	OGE Grand Totals		
		N	N	R	N	N	R	N	N	N	N	R	N	R + N
White House Office	**369**	7	5	3	7	13						3	32	**35**
Special Assistance to the President	**16**		1		10	25		6					42	**42**
Official Residence of the Vice President	**1**													
Office of Administration	**185**							4	1				5	**5**
Office of Policy Development	**27**	2			1								3	**3**
National Security Council	**44**		32	1	90	4		8		2		1	136	**137**
Council of Economic Advisers	**28**				1		4		2			4	3	**7**
Office of Management and Budget	**502**			3	46				8			3	54	**57**
Office of National Drug Control Policy	**114**	13	20	3			2					5	33	**38**
Executive Residence	**89**													
Office of Science and Technology Policy	**23**	8		2	2	1	1	2	1			3	14	**17**
Council on Environmental Quality	**16**													
U.S. Trade Representative*	**173**				27			1		1			29	**29**
TOTAL	**1,587**	**30**	**58**	**12**	**184**	**43**	**7**	**21**	**12**	**3**		**19**	**351**	**370**

R = Reimbursable
N = Non Reimbursable

FY 2002 FTE and OGE *as of April 5, 2002*

	FTE	Agency Reps	Assignees	Detailees		Historically Provided Services	Others		Student Volunteers	White House Fellows	Pres. Mgmt Intern	OGE Grand Totals		
		N	N	R	N	N	R	N	N	N	N	R	N	R + N
White House Office**	**400**	1	4	68	8	15				1		68	29	**97**
Special Assistance to the President	**24**		9			1		29			1		40	**40**
Official Residence of the Vice President	**1**													
Office of Administration	**202**							1					1	**1**
Office of Policy Development	**35**		2										2	**2**
National Security Council	**60**		34	1	108	4		2		1		1	149	**150**
Council of Economic Advisers	**35**				1		4		6			4	7	**11**
Office of Management and Budget***	**527**			4	39				3			4	42	**46**
Office of National Drug Control Policy	**115**	13	17	1	1		3					4	31	**35**
Executive Residence	**95**													
Office of Science and Technology Policy	**40**	5		4			3	4				7	9	**16**
Council on Environmental Quality	**24**	3											3	**3**
U.S. Trade Representative*	**203**				21			1		1			23	**23**
TOTAL	**1,761**	**22**	**66**	**78**	**178**	**20**	**10**	**37**	**9**	**3**	**1**	**88**	**336**	**424**

R = Reimbursable
N = Non Reimbursable

FY 2003 FTE and OGE Estimate

	FTE	Agency Reps	Assignees	Detailees		Historically Provided Services	Others		Student Volunteers	White House Fellows	Pres. Mgmt Intern	OGE Grand Totals		
		N	N	R	N	N	R	N	N	N	N	R	N	R + N
White House Office	**446**	1	3	100	8	15						100	27	**127**
Special Assistance to the President	**24**		9			1		29			1		40	**40**
Official Residence of the Vice President	**1**													
Office of Administration	**222**							1					1	**1**
Office of Policy Development	**35**		2										2	**2**
National Security Council	**71**		34	1	108	4		2		1		1	149	**150**
Council of Economic Advisers	**35**				1		4		6			4	7	**11**
Office of Management and Budget***	**510**			4	39				3			4	42	**46**
Office of National Drug Control Policy	**115**	13	17	1	1		3					4	31	**35**
Executive Residence	**95**													
Office of Science and Technology Policy	**40**	5		4			3	4				7	9	**16**
Council on Environmental Quality	**24**	3											3	**3**
U.S. Trade Representative*	**209**				21			1		1			23	**23**
TOTAL	**1,827**	**22**	**65**	**110**	**178**	**20**	**10**	**37**	**9**	**2**	**1**	**120**	**334**	**454**

* USTR has nonreimbursable detailees in their Geneva, Switzerland offices (FY 2001 = 10, FY 2002 = 9) and are **not** included in the numbers above.
** For FY 02, The White House Office includes 65 OGEs for the Office of Homeland Security which are funded from the Emergency Appropriation.
*** The Office of Management and Budget's OGE number greatly increases during the preparation of the President's Budget. At other times, the OGE number can fall below 20.

REV_00168076

Hearing Record Reference for Question 7:

Question: For the Office of Administration provide FTE and OGE by organizational unit for FY 2001 (actual) and FY 2002-2003 (estimates).

Answer: The chart below displays the FTE and OGE distribution in the previous OA organizational structure for FY 2001. For FY 2002 and FY 2003, the FTE and OGE are displayed in the new streamlined OA organizational structure which reduced the number of operating units reporting to the Director from 10 to 4. All data is as of April 5, 2002.

R = Reimbursable N = Non Reimbursable	FY 2001 FTE and OGE Actuals						
	FTE	Others		Student Volunteers	OGE Grand Totals		
		R	N	N	R	N	R + N
Office of the Director	6		1			1	1
General Counsel	3						
Equal Employment Opportunity	1						
Financial Management	23						
Facilities Management	8						
Human Resources Management	22		3	1		4	4
General Services	54						
Library and Research Sciences	15						
Operations and Legislative Liasons	2						
Security	8						
Information Systems Technology	43						
TOTAL	**185**		**4**	**1**		**5**	**5**

R = Reimbursable N = Non Reimbursable	FY 2002 FTE and OGE Estimates						
	FTE	Others		Student Volunteers	OGE Grand Totals		
		R	N	N	R	N	R + N
Director	11						
Chief Operating Officer	96		1			1	1
Chief Financial Officer	37						
Chief Projects Officer	10						
Chief Information Officer	48						
TOTAL	**202**		**1**			**1**	**1**

R = Reimbursable N = Non Reimbursable	FY 2003 FTE and OGE Estimates						
	FTE	Others		Student Volunteers	OGE Grand Totals		
		R	N	N	R	N	R + N
Director	11						
Chief Operating Officer	103		1			1	1
Chief Financial Officer	39						
Chief Projects Officer	11						
Chief Information Officer	58						
TOTAL	**222**		**1**			**1**	**1**

REV_00168077

Hearing Record Reference for Question 8:

Question: For the Office of Management and Budget provide FTE and OGE by division for FY 2001 (actual) and FY 2002-2003 (estimates).

Answer: The chart below displays the FTE and OGE breakout by OMB division for FY 2001-2003. Most detailees and Student Volunteers are used during the peak budget production season. During the rest of the year, the OGE total can fall below 20.

R = Reimbursable N = Non Reimbursable	**FY 2001 FTE and OGE Actuals**								
	FTE	Assignees	Detailees		Student Volunteers	White House Fellows	OGE Grand Totals		
		N	R	N	N	N	R	N	R + N
OMB-Wide Offices*	**149**			18	2		0	20	**20**
General Government Programs	**61**			4			0	4	**4**
Human Resource Programs	**75**			2	1		0	3	**3**
National Security Programs	**65**		1	8			1	8	**9**
Natural Resource Programs	**62**			3	2		0	5	**5**
Office of Federal Financial Management	**17**		1	3	1		1	4	**5**
Office of Federal Procurement Policy	**24**		1	1			1	1	**2**
Office of Information and Regulatory Affairs	**49**			7	2		0	9	**9**
TOTAL	**502**	**0**	**3**	**46**	**8**	**0**	**3**	**54**	**57**

R = Reimbursable N = Non Reimbursable	**FY 2002 FTE and OGE Estimates** *(as of April 5, 2002)*								
	FTE	Assignees	Detailees		Student Volunteers	White House Fellows	OGE Grand Totals		
		N	R	N	N	N	R	N	R + N
OMB-Wide Offices*	**157**		1	19	1		1	20	**21**
General Government Programs	**64**			1			0	1	**1**
Human Resource Programs	**78**			1			0	1	**1**
National Security Programs	**67**		1	2			1	2	**3**
Natural Resource Programs	**63**			4			0	4	**4**
Office of Federal Financial Management	**22**		2	2			2	2	**4**
Office of Federal Procurement Policy	**22**			1			0	1	**1**
Office of Information and Regulatory Affairs	**54**			9	2		0	11	**11**
TOTAL	**527**	**0**	**4**	**39**	**3**	**0**	**4**	**42**	**46**

R = Reimbursable N = Non Reimbursable	**FY 2003 FTE and OGE Estimates**								
	FTE	Assignees	Detailees		Student Volunteers	White House Fellows	OGE Grand Totals		
		N	R	N	N	N	R	N	R + N
OMB-Wide Offices*	**151**		1	19	1		1	20	**21**
General Government Programs	**63**			1			0	1	**1**
Human Resource Programs	**75**			1			0	1	**1**
National Security Programs	**63**		1	2			1	2	**3**
Natural Resource Programs	**63**			4			0	4	**4**
Office of Federal Financial Management	**20**		2	2			2	2	**4**
Office of Federal Procurement Policy	**21**			1			0	1	**1**
Office of Information and Regulatory Affairs	**54**			9	2		0	11	**11**
TOTAL	**510**	**0**	**4**	**39**	**3**	**0**	**4**	**42**	**46**

* OMB-Wide Offices include the Director's; the Deputy Director, the Deputy Director for Management, the Executive Associate Director; Communications; General Counsel; Legislative Affairs; Economic Policy; Administration; the Legislative Reference Division; the Budget Review Divisions; and the Office of Information Technology and E-Government.

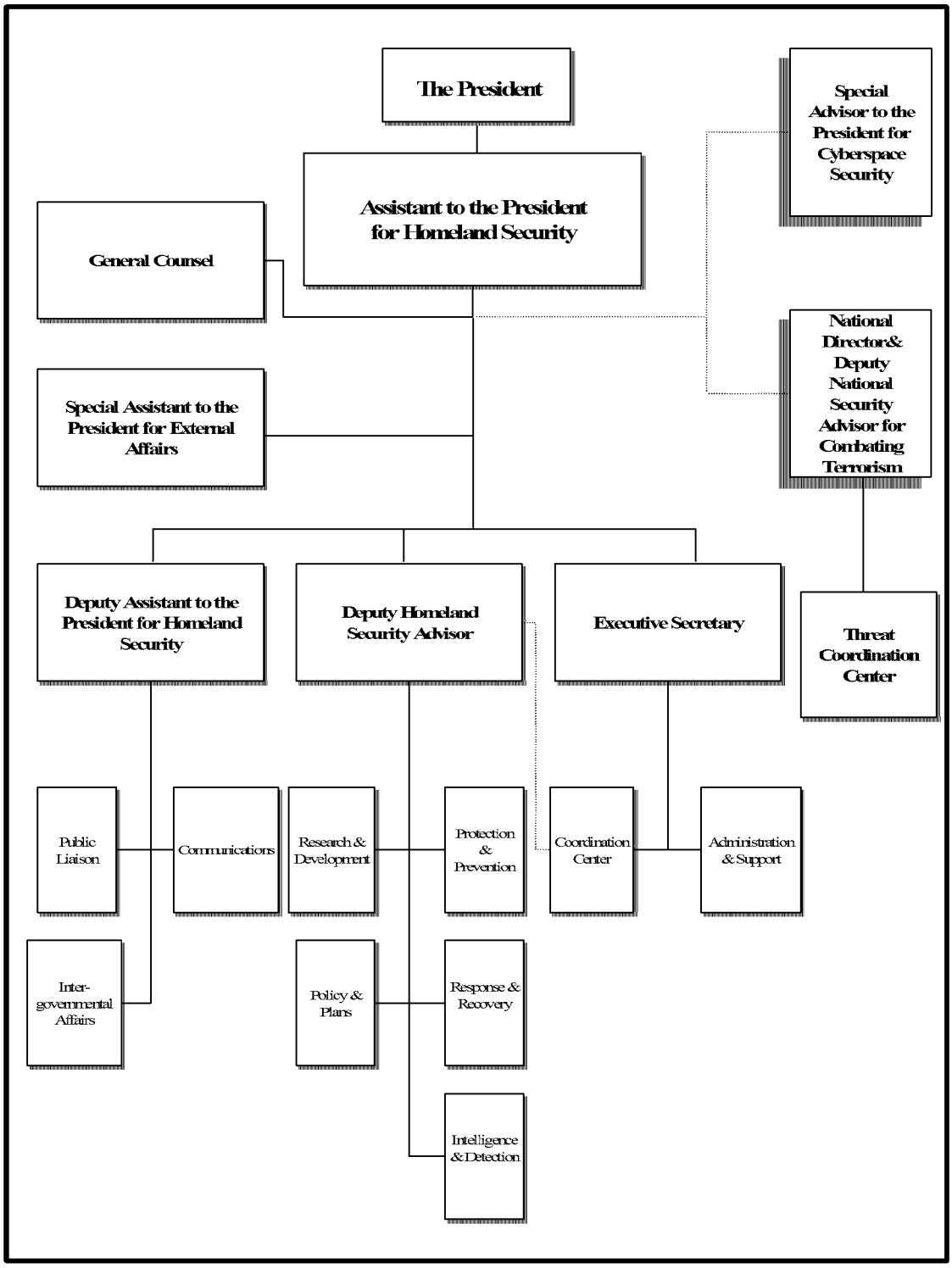
REV_00168078

Hearing Record Reference for Question 16:

Question: Provide an organizational chart for the OHS.

Answer: See chart below.

REV_00168079



REV_00168080

Hearing Record Reference for question 17:

Question: The President's request includes $1,337,000 for travel and transportation of persons, an increase of $976,000 from the estimated level of $361,000 in FY 2002. For FY 2002 and 2003 (estimates), provide a list of trips by location and purpose, including the number of staff traveling and staff position.

Answer: The FY 2002 travel and transportation of persons estimate and FY 2003 budget request provides funding for the Assistant to the President for Homeland Security and staff travel, Critical Infrastructure Protection Board (CIPB) activities and advisory board activities. Specific locations for FY 2003 are currently unavailable due to the fact that they are determined as requirements are finalized. FY 2002 and FY 2003 anticipated travel activities are in furtherance of the OHS mission promulgated in the Executive Orders.

Examples of FY 2003 estimated travel requirements include: per diem and travel for two-thirds of Advisory Board members to attend approximately 40 various meetings and activities; approximately 50 domestic trips for the Assistant to the President for Homeland Security and 3 staff members to fulfill outreach requirements; approximately 100 domestic trips for Homeland Security staff to fulfill mission functions as outlined in Executive Order 13228; approximately 24 domestic and 3 overseas trips for the Chair, Vice Chair and one staff member of the CIPB to fulfill outreach requirements as stated in Executive Order 13231; and approximately 12 CIPB staff (director level) trips to outreach the private sector. Of course, these are estimates only and are therefore subject to change for a variety of reasons.

FY 2002 travel expenses incurred to date include trips to Mexico and Canada for border discussions and various locations in the United States to visit first response, bioterrorism research facilities and other initiatives related to homeland security. The following table lists current (as of April 10, 2002) FY 2002 travel expenses as reflected in the accounting system.

Trip Cost Note: Estimated costs of trips will vary greatly from trip to trip to the same city and from one city to another city for four significant reasons; mode of transportation used/authorized, number of days TDY, number of personnel on trip, and whether costs recorded are actual or estimated expenses.

Office of Homeland Security Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Staff Position**
11/13/01	New York City, NY	1	$ 145	Dep Asst to President for OHS
11/15/01	New York City, NY	4	$ 1,287	Asst to President for OHS, Aide to Asst to President for OHS, Sr Director Response & Recovery and Sr Director Communications
12/07/01	New York City, NY	1	$ 767	Sr Dir Intergovernmental Affairs

REV_00168081

12/11/01	Ottawa, CAN	5	$	1,038	Asst to President for OHS, Aide to Asst to President for OHS, Asst Public Liaison, Sr Dir Policy & Plans, Sr Dir Communications
12/21/01	Harrisburg, PA	1	$	2,009	Comm Asst to Asst to President for OHS
01/04/02	Harrisburg, PA	1	$	544	Comm Asst to Asst to President for OHS
01/09/02	Salt Lake City, UT	4	$	738	Comm Asst to Asst to President for OHS, Dep Press Secretary, Spec Asst to the Chief of Staff, Aide to the Asst to President for OHS
01/11/02	Harrisburg, PA	1	$	525	Comm Asst
01/13/02	New York City, NY	4	$	1,606	Asst to President for OHS, Aide Dep Asst to President OHS, Dep Press Sec & Special Asst Public Liaison
01/14/02	New York City, NY	1	$	138	Sr Dir Communications
01/17/02	New York City, NY	3	$	323	Sr Dir Intergovernmental Affairs, Staff Dir, Dir
01/18/02	Harrisburg, PA	1	$	1,017	Comm Asst to Asst to President for OHS
01/22/02	Ft. Lauderdale, FL	1	$	850	Dr Policy & Plans
01/25/02	Brandson, MO	1	$	405	Sr Dir Intergovernmental Affairs
01/25/02	Harrisburg, PA	1	$	742	Watch Officer
01/30/02	Greensboro, NC	3	$	909	Asst to President for OHS, Sr Dir Communications, & Dep Asst Sec
01/31/02	New York City, NY	4	$	2,536	Asst to President OHS, Comm Asst to Asst to President for OHS, Aide to Asst to President OHS, Asst Public Liaison
02/02/02	New York City, NY	1	$	165	Sr Dir Policy & Plans
02/04/02	New York City, NY	1	$	728	Comm Asst
02/05/02	New York City, NY	4	$	1,699	Asst to President OHS, Comm Asst to Asst to President for OHS, Aide to Asst to President OHS, Sr Dir Communications Asst Public Liaison
02/05/02	Salt Lake City, UT	1	$	4,358	Comm Asst
02/08/02	Harrisburg, PA	2	$	909	Comm Asst to Asst to President for OHS, Watch Officer
02/13/02	Orlando, FL	1	$	1,593	Comm Asst to Asst to President for OHS
02/14/02	Miami, FL	1	$	653	Comm Asst
02/14/02	Orlando, FL	4	$	4,316	Asst to President for OHS, Sr Dir Intergovernmental Affairs, Aide to Asst to President OHS, Sr Dir Communications
02/15/02	Miami, FL	1	$	814	Special Asst Public Liaison
02/16/02	Harrisburg, PA	2	$	724	Watch Officer, Communications Asst

REV_00168082

02/17/02	Los Angeles, CA	1	$	719	Comm Asst to Asst to President for OHS
02/18/02	Cincinnati, OH	1	$	912	Special Asst Intergovernmental Affairs
02/19/02	Cincinnati, OH	1	$	715	Sr Dir Intergovernmental Affairs
02/19/02	Las Vegas, NV	1	$	2,725	Watch Officer
02/20/02	Houston, TX	3	$	903	Asst to President for OHS, Comm Asst to Asst to President for OHS, Aide to Asst to President for OHS
02/22/02	Harrisburg, PA	1	$	713	Comm Asst to Asst to President for OHS
02/22/02	Key West, FL	1	$	1,059	Sr Dir Intergovernmental Affairs
02/25/02	Colorado Springs, CO	2	$	1,575	Sr Advisor Prevention & Protection, Sr Dir Protection & Prevention
02/27/02	Vancouver, CA	1	$	1,212	Dir Policy & Plans
03/01/02	Harrisburg, PA	2	$	975	Communications Asst, Communications Asst
03/04/02	Mexico City, MEX	9	$	6,239	Asst to President for OHS, Asst Public Liaison, Aide to Asst to President for OHS, Dep Press Sec, Dep Asst to Pres for OHS, Sr Dir Policy & Plans, Communications Asst, Comm Asst to Asst to President for OHS, Dir Policy and Plans
03/04/02	Orlando, FL	1	$	325	Staff Dir
03/07/02	Boston, MA	3	$	1,111	Sr Dir Policy & Plans, Sr Dir Intergovernmental Affairs
03/08/02	Boston, MA	4	$	1,014	Asst to President for OHS, Sr Dir Communications, Aide to Asst to President for OHS, Staff Dir
03/08/02	Harrisburg, PA	1	$	600	Communications Asst
03/11/02	Birmingham	1	$	654	Sr Dir Response & Recovery
03/11/02	Orlando, FL	1	$	1,790	Comm Asst to Asst to President for OHS
03/15/02	Harrisburg, PA	1	$	589	Communications Asst
03/18/02	Las Vegas, NV	3	$	2,003	Comm Asst to Asst to President for OHS, Comm Asst, Comm Asst
03/20/02	New York City, NY	1	$	606	Special Asst
03/21/02	Monterrey, MEX	1	$	900	Aide to Asst to President for OHS
03/22/02	Harrisburg, PA	1	$	363	Communications Asst
03/27/02	Atlanta, GA	1	$	264	Aide to Asst to President for OHS
	Trip Cost Total		**$**	**59,503**	

REV_00168083

Cyberspace Security Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Staff Position**
10/27/01	San Jose, CA	2	$ 4,649	Special Advisor to President for Cyberspace Security, Deputy Chief of Staff Cyberspace
10/28/01	San Jose, CA	1	$ 1,663	Dir National Security Cyberspace
12/04/01	Boston, MA	3	$ 4,620	Special Advisor to President for Cyberspace Security, Deputy Chief of Staff Cyberspace, Sr Dir National Security Cyberspace
12/09/01	Boston, MA	1	$ 581	Dir National Security Cyberspace
12/09/01	Salt Lake City, UT	1	$ 1,219	Sr Dir National Security Cyberspace
01/17/02	San Jose, CA	2	$ 4,184	Sr Dir National Security Cyberspace, Special Advisor to President for Cyberspace Security
01/26/02	Honolulu, HI	1	$ 1,495	Sr Dir National Security Cyberspace
02/02/02	New Haven, CT	1	$ 809	Vice Chair CIPB
02/05/02	Norfolk, VA	1	$ 167	Sr Dir National Security Cyberspace
02/11/02	Austin, TX	1	$ 826	Special Advisor to President for Cyberspace Security
02/11/02	New York City, NY	1	$ 139	Sr Dir National Security Cyberspace
02/16/02	San Jose, CA	1	$ 807	Special Advisor to President for Cyberspace Security
02/22/02	Philadelphia, PA	1	$ 149	Vice Chair CIPB
03/02/02	JPN, IND, SIN, Hong Kong	1	$ 10,678	Sr Dir National Security Cyberspace
03/04/02	Palm Springs, CA	1	$ 371	Vice Chair CIPB
03/17/02	London, GBR	1	$ 1,273	Vice Chair CIPB
03/20/02	New York City, NY	1	$ 161	Sr Dir National Security Cyberspace
03/21/02	Seattle, WA	1	$ 161	Vice Chair CIPB
	Trip Cost Total		**$ 33,949**	

REV_00168084

Hearing Record Reference for Question 19:

Question: What Memorandums of Understanding have been signed by the Office of Homeland Security, or by any other EOP entity on behalf of the Office of Homeland Security and with whom? Describe the purpose of each MOU.

Answer: As of April 12, 2002, there is one signed Memorandum of Understanding (MOU), which is an agreement between OHS and the Office of Science and Technology Policy (OSTP). OSTP provides technical and personnel support for research and development and policy issues. There is no financial component to this MOU.

Hearing Record Reference for question 24:

Question: Is there a distinct organizational unit within the OHS for this function? If so, how many FTE are associated with this function? How many detailees? Where are these people located? Is this a permanent location? What is the total amount of space being used by the Cyber Security Office? What is the total cost of the Cyberspace Security office, including rent, office supplies, communications, etc.

Answer: The Special Advisor reports to both the Assistant to the President for Homeland Security and the Assistant to the President for National Security Affairs. The permanent location and amount of space allocated to the Board has not been determined, but they are currently located at the G Street office location. The total staff associated with this function is yet to be determined. The total estimated cost, for FY 2003, of the CIPB, including rent, office supplies, communications, etc., is approximately $2.85 million.

Hearing Record Reference for Question 39:

Question: To date, provide the total amount obligated from the FY 2002 appropriation "White House Repair and Restoration" by project.

Answer: Listed below is the status of each of the projects and the amounts obligated. No funds have been obligated to date in excess of the $100,000 project prospectus ceiling.

Pool Shelter Roof Reconstruction and Pool Deck Renovation - The preliminary architectural survey and design are completed, and structural engineering analysis and design is in progress. The two primary contractors required have committed to the project and an on-site meeting is scheduled. Construction is expected to begin in April. There have been no funds obligated. All work to date has been accomplished with National Park Service and Executive Residence staff.

Communication System Repairs / Phase 2 - Design work continues under Phase I (FY 2001 – $441,000 obligated) and Construction (Phase II) is expected to begin in August.

East and West Wing Exterior Restoration - Scaffolding installation for one elevation of the East and West Wing is nearly complete. Paint removal will begin shortly as outdoor temperatures permit. $84,500 has been obligated to date.

REV_00168085

Insulated Windows Replacement - Preliminary discussions are ongoing with manufacturers and fabrication should begin in May. Installation and related restoration requirements have been discussed with the prospective contractor, and the proposal should be received in April 2002. Work is expected to begin in July. No funds have been obligated for this project.

Kitchen Floor Replacement - The survey of existing conditions including utilities has been completed. An onsite meeting with the flooring installation contractor was completed and installation began in mid-March 2002. No funds have been obligated for this project.

North Portico Curtain Wall - The contractor began onsite work at the end of February 2002 and installation is 95% complete. Only the "punch" list and in house items remain. $83,000 has been obligated to date.

Stone Pavers Restoration - The contractor proposal has been received and is under review. Material ordering is expected in April 2002 and onsite work is expected to begin in May. No funds have been obligated for this project.

West Colonnade Restoration - There is continuing restoration of the first three columns and historically accurate replacement stone has been ordered for all columns. The newly discovered deteriorated structural steel has been evaluated. The recommended corrective actions will be accomplished this summer and no additional funds will be required. To date, $49,040 has been obligated for this project.

Hearing Record Reference for Question 51:

Issue: **President's Travel**

Question: For Presidential and First Lady travel, provide the following for FY 2001 and 2002 (to date):

- Trip date
- Destination
- Designation (political/official)
- Official Cost

Answer: The following charts summarize Presidential and First Lady travel for FY 2001 and FY 2002:

Presidential Travel FY 2001				
		Status		White House
Date	Destination	Official	Political	Travel cost
5-Oct	Princeton, NJ	100%		$ 9,983.00
8-Oct	New York, NY	100%		$ 4,986.00
11-Oct	Philadelphia, PA	44%	56%	$ 7,286.00
14-Oct	Denver, CO	31%	69%	$ 3,546.00
18-Oct	Norfolk, VA	100%		$ 3,301.00

REV_00168086

19-Oct	New Orleans, LA		100%	$ 974.00
20-Oct	Jefferson City, MO	37%	63%	$ 3,920.00
21-Oct	Boston, MA		100%	$ 259.00
22-Oct	Kingston, NY		100%	$ 1,078.00
25-Oct	Armonk, NY	100%		$ 8,617.00
31-Oct	Louisville, KY/New York		100%	$ 1,209.00
2-Nov	New York, NY		100%	$ 1,929.00
7-Nov	New York, NY		100%	$ 2,531.00
12-Nov	Waikoloa, HI	100%		$ 42,293.00
30-Nov	New York, NY	100%		$ 11,310.00
8-Dec	Omaha, NE	71%	29%	$ 13,188.00
18-Dec	New York, NY	100%		$ 15,390.00
4-Jan	Syracuse, NY	100%		$ 3,669.00
7-Jan	New York, NY	53%	47%	$ 4,835.00
9-Jan	Lansing, MI	100%		$ 7,730.00
9-Jan	Chicago, IL	100%		$ 8,470.00
11-Jan	Boston, MA	100%		$ 7,986.00
11-Jan	Dover, NH	100%		$ 4,918.00
11-Jan	Grand Canyon, AZ	100%		$ 18,342.00
17-Jan	New York, NY	100%		$ 12,283.00
17-Jan	Little Rock, AK	100%		$ 1,722.00
3-Feb	Williamsburg, VA	100%		$7,063
4-Feb	Nemacolin, PA	100%		$389
12-Feb	Savannah, GA	100%		$7,236
13-Feb	Norfolk, VA	100%		$7,293
14-Feb	Charleston, WV	100%		$9,692
18-Feb	Waco, TX	100%		$7,310
19-Feb	Oklahoma City, Ok	100%		$5,812
20-Feb	Columbus, OH	100%		$3,444
20-Feb	St. Louis, MO	100%		$9,324
21-Feb	Knoxville, TN	100%		$5,782
28-Feb	Pittsburg, PA	100%		$3,182
28-Feb	Council Bluff, IA	100%		$7,657
1-Mar	Little Rock, AK	100%		$8,450
1-Mar	Atlanta, GA	100%		$6,538
4-Mar	Newport News, VA	100%		$4,223
6-Mar	Chicago, IL	100%		$5,332
8-Mar	Sioux Falls, SD	100%		$12,542
8-Mar	Fargo, ND	100%		$2,976
9-Mar	Lafayette, LA	100%		$8,407
9-11 Mar	Waco, TX	100%		$18,435
12-Mar	Panama City, FL	100%		$3,314
14-Mar	Plainfield, NJ	100%		$4,724
21-Mar	Orlando, FL	100%		$9,568
23-Mar	Portland, MN	100%		$6,164

26-Mar	Kansas City, MO	100%		$6,390
26-Mar	Billings, MT	100%		$12,229
27-Mar	Kalamazoo, MI	100%		$3,765
3-Apr	Wilmington, DE	100%		$2,528
6-Apr	Milwaukee, WI	100%		$6,200
11-Apr	Greenville, NC	100%		$7,191
11-Apr	Charlotte, NC	100%		$6,509
15-Apr	Waco, TX	100%		$12,791
18-Apr	Waterbury, CT	100%		$7,527
25-Apr	Jacksonville, FL	100%		$3,719
25-Apr	New Orleans, LA	100%		$7,541
25-Apr	Little Rock, AK		100%	$ -
26-Apr	Houston, TX	100%		$2,647
27-Apr	Austin, TX	100%		$6,519
28-Apr	Waco, TX	100%		$12,700
14-May	Philadelphia, PA	100%		$6,440
17-May	Nevada, IA	100%		$7,838
17-May	St. Paul, MN	100%		$6,266
18-May	Lancaster, PA	100%		$6,858
20-May	South Bend, IA	100%		$8,333
20-May	New Haven, CT	100%		$19,631
24-May	Cleveland, OH	100%		$3,497
28-May	Mesa, AZ	100%		$2,828
29-May	Los Angeles, CA	100%		$24,073
29-May	San Diego, CA	100%		$14,326
30-May	Fresno, CA	100%		$16,108
1-Jun	Boston, MA	100%		$4,344
4-Jun	Tampa, FL	100%		$18,918
4-Jun	Homestead, FL	100%		$8,721
6-Jun	Bedford, VA	100%		$3,880
8-Jun	Des Moines, IA	100%		$5,952
8-Jun	Omaha, NE	100%		$8,761
10-Jun	Waco, TX	100%		$7,844
21-Jun	Birmingham, AL	58%	42%	$14,966
21-Jun	Waco, TX	100%		$12,374
25-Jun	Detroit, MI	100%		$8,956
4-Jul	Philadelphia, PA	100%		$9,267
5-Jul	Kennebunkport, ME	100%		$14,083
10-Jul	New York City, NY	100%		$18,036
13-Jul	Baltimore, MD	100%		$1,352
29-Jul	Fort A.P. Hill VA	100%		$2,087
4-Aug-2 Sep	Crawford, TX	100%		$89,092
14-Aug	Estes Park, CO	100%		$21,743
14-Aug	Denver, CO	50%	50%	$0
15-Aug	Albuquerque, M	68%	32%	$21,860

20-Aug	Milwaukee, WI	100%		$10,820
21-Aug	Kansas City, MO	100%		$21,636
26-Aug	Pittsburg, PA	100%		$8,858
26-Aug	Williamsport, PA	100%		$14,073
29-Aug	Honolulu, HI (pre-adv)	Cancelled due to 9/11		$4,480
30-Aug	San Antonio, TX	100%		$7,024
3-Sep	Detroit, MI	100%		$10,053
3-Sep	Green Bay, WI	100%		$10,812
6-Sep	Toledo, OH	100%		$4,710
10-Sep	Sarasota, FL	100%		$26,098
10-Sep	Jacksonville, FL	100%		$5,376
14-Sep	New York City, NY	100%		$6,767
27-Sep	Chicago, IL	100%		$9,438
	FY 2001 Total Costs			**$791,692**

Mrs. Clinton/Mrs. Bush's Travel FY 2001				
		Status		White House
Date	Destination	Official	Political	Travel Cost
16-Oct	New York, NY		100%	$ 346
27-Oct	New York, NY		100%	$ 236
10-Nov	New York, NY		100%	$ 234
20-Feb	Ohio/ Missouri	100%		$583
22-Mar	Los Angeles, CA	100%		$1,165
23-Mar	San Diego, CA	100%		$14,294
22-Apr	Quebec, Canada	100%		$8,673
1-May	New York, NY	100%		$52
8-May	Columbia, SC	100%		$434
14-May	Chicago, IL	100%		$1,637
1-Jun	Boston, MA	100%		$280
25-Sep	New York, NY	100%		$4,500
	Total Costs			**$31,618**

Presidential Travel FY 2002				
		Status		White House
Date	Destination	Official	Political	Travel Cost
3-Oct	New York, NY	100%		$8,060
7-Oct	Emmitsburg, MD	100%		$1,988
17-Oct	Sacramento, CA	100%		$16,678
30-Oct	New York, NY	100%		$13,043

REV_00168089

8-Nov	Atlanta, GA	100%		$17,920
10-Nov	New York, NY	100%		$6,525
14-Nov	Crawford. TX	100%		$44,535
21-Nov	Fort Campbell, KY	100%		$9,114
27-Nov	Salt Lake City, UT	100%		$4,328
1-Dec	Philadelphia, PA	100%		$13,669
4-Dec	Orlando, FL	70%	30%	$13,371
7-Dec	Norfolk, VA	100%		$5,271
11-Dec	Citadel, SC	100%		$11,498
26-Dec	Waco, TX	100%		$12,667
4-Jan	Austin, TX	100%		$5,356
5-Jan	Ontario, CA	100%		$10,240
5-Jan	Portland, OR	100%		$10,870
8-Jan	Hamilton, OH	100%		$6,588
8-Jan	Boston, MA	100%		$11,159
8-Jan	Portsmith, NH	54%	46%	$6,594
9-Jan	Washington, DC	100%		$0
11-Jan	Conshohoken, PA	100%		$5,321
14-Jan	Moline, IL	100%		$7,570
14-Jan	Springfield, MO	100%		$6,569
14-Jan	New Orleans, LA	100%		$32,494
22-Jan	Charleston, WV	71%	29%	$6,086
25-Jan	Portland, ME	100%		$7,698
30-Jan	Winston-Salem, NC	65%	35%	$8,799
30-Jan	Daytona Beach, FL	100%		$12,874
31-Jan	Atlanta, GA	100%		$13,869
1-Feb	White Sulpher Springs, WV	100%		$4,273
4-Feb	Eglin AFB,FL	100%		$7,666
5-Feb	Pittsburgh ,PA	100%		$7,918
6-Feb	New York, NY	54%	46%	$6,940
8-Feb	Denver, CO	100%		$7,644
8-Feb	Salt Lake City, UT	100%		$12,877
8-Feb	Jackson, WY	100%		$11,182
11-Feb	Milwaukee, WI	48%	52%	$9,360
16-Feb	Anchorage, AK	40%	60%	$9,181
27-Feb	Charlotte, NC			$7,048
	Totals through 2/28/02			**$414,843**

REV_00168090

Mrs. Bush's Travel FY 2002				
		Status		White House
Date	Destination	Official	Political	Travel Cost
3-Oct	Cincinnati, OH	100%		$339
16-Oct	Newark, NJ	100%		$1,790
18-Oct	Atlanta, GA	100%		$1,742
19-Oct	Baton Rouge, LA	100%		$1,568
30-Oct	New York, NY	100%		$1,652
16-Nov	Austin, TX	100%		$7,300
9-Jan	Topeka, KS	100%		$1,566
10-Jan	Houston, TX	100%		$1,915
11-Jan	Austin, TX	100%		$780
21-Jan	Atlanta, GA	100%		$1,060
10-Feb	Los Angeles, CA	100%		$5,021
	Total Costs through 2/28/02			**$24,733**

Hearing Record Reference for Question 53:

Question: For FY 2001, 2002 (estimate) and FY 2003 request, provide the total amount for outside consulting services, by appropriations account. Provide the specific definition of "consulting services" being used in response to this question as well as a description of the consulting service itself (dollar amount, purpose, deliverables, timeframe). If applicable, group the consulting services by category of service.

Answer: "Consulting services" or "Advisory and Assistance Services" as defined by OMB Circular A-11, Section 83, are services acquired by contract from non-Federal sources (that is, the private sector, foreign governments, State and local governments, tribes), as well as from other units within the Federal Government and consists of three types of services: 1) Management and professional support services; 2) Studies, analyses and evaluation; and 3) Engineering and technical services. Listed below are the EOP and other entities with Advisory and Assistance contracts.

White House Office

FY 2001 (Actual)

1. $15,300 for the Gift Unit of the White House Office of Correspondence. The deliverables included a final report recommending procedures, staffing and budget required for handling gifts to the White House from outside sources. This contract was from January - March, 2001.

REV_00168091

2. $13,200 for computer forensic consultant services to observe the Office of the Independent Counsel's use of a computer forensics technique. The consultant evaluated whether commonly accepted industry practices were being followed. The timeframe for this contract was from December, 2000 to January, 2001.
3. $1,650 for the compilation of records for the presidential library. This contract was during the month of January 2001.

FY 2002 as of April 5, 2002
There are currently no advisory and assistance contracts for the White House Office.

FY 2003 Request
1. $8,000,000 is the estimated requirement for the Office of Homeland Security advisory and assistance contracts. Exact contracts have not been determined at this time.

Office of Administration
FY 2001 (Actual)
1. $285,000 for an auditability assessment for the Chief Financial Officer operations. The deliverables included an assessment plan, auditability report and a gap analysis. The contract was awarded in late September 2001 with a period of performance through March 2002.
2. $196,379 for an assessment of the distributed computer environment including a final report. This contract lasted from August, 2001 to December 2001.
3. $12,600 for consulting services in support of workplace issues. The contract supported a National Partnership for Reinventing Government requirement to identify basic issues, best practices and barriers to success. The contract timeframe was from October 2000 to January 2001.
4. $143,000 for a study of options for an EOP financial management plan. The contract was awarded in September 2001 with a period of performance that extended through December 2001.

FY 2002 as of April 5, 2002
There are currently no advisory and assistance contracts for the Office of Administration.

FY 2003 Request
There are no advisory and assistance contracts planned for FY 2003.

Office of Management and Budget
FY 2001 (Actual)
1. $36,875 for information technology advisory services. The deliverables include providing expert IT research and advice as needed. The contract's duration is for the entire fiscal year.

FY 2002 as of April 5, 2002
1. $55,000 for information technology advisory services. The deliverables include providing expert IT research and advice as needed. The contract is a continuation of the same contract above and is for the entire fiscal year.

REV_00168092

FY 2003 Request

1. $55,000 for information technology advisory services. The deliverables include providing expert IT research and advice as needed. The contract is a continuation of the same contract above and is for the entire fiscal year.

Office of National Drug Control Policy

FY 2001 (Actual)

1. $2,250 for conference preparation support for an Anti-Doping agency meeting including overall logistical support. The contract was for 5 days in August, 2001.

FY 2002 as of April 5, 2002

1. $14,000 for office temps/consultants to assist with the ONDCP Strategy and Budget summary. This contract is part of an open blanket purchase agreement so there is no designated timeframe.

FY 2003 Request

1. $14,000 for office temps/consultants to assist with the ONDCP Strategy and Budget summary. This contract is part of an open blanket purchase agreement so there is no designated timeframe.

Council of Economic Advisers

FY 2001 (Actual)

1. $12,874 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from November 2000 to February 2001.

FY 2002 as of April 5, 2002

1. $14,276 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from November 2001 to February 2002.

FY 2003 Request

1. $15,000 estimated for editorial services for the Economic Report of the President. The consultant will provide expertise in editing the final publication. It is anticipated that the contract will last from November 2002 to February 2003.

Council on Environmental Quality

FY 2001 (Actual)

1. $17,150 for assistance in updating statistical tables, graphics, text and an annual report. The consultant started in FY 2000 and was extended through January 2001.

FY 2002 as of April 5, 2002

There are currently no advisory and assistance contracts for the Council on Environmental Quality.

REV_00168093

FY 2003 Request
There are no advisory and assistance contracts planned for FY 2003.

Office of the United States Trade Representative
FY 2001 (Actual)
1. $5,000 for a Staff Retreat for the Office of African Affairs to improve strategic planning, management, organization and teamwork in the office. The consultant served as retreat facilitator. The contract was for two days in March 2001.
2. $185,000 for information technology advisory services. Deliverables included a detailed assessment of USTR's information technology environment. The contract started in September 2001 and will be completed during FY 2002.

FY 2002 as of April 5, 2002
1. $20,000 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.
2. $5,000 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.

FY 2003 Request
There are no advisory and assistance contracts planned for FY 2003.

Hearing Record Reference for Question 56:

Question: For Object Class 25.2 for the White House Office, provide a detailed description of each project, program or initiative to be funded in support of the USA Freedom Corps Office.

Answer: The additional funds requested in Object Class 25.2 for the White House Office's USA Freedom Corps Office are primarily required to fund two program initiatives.

- Information Dissemination: The cost of this program initiative is estimated at $900,000 and will primarily consist of contracted services in partnership with other Freedom Corps coordinating council agencies. These contracted services will include both interactive website portals and telecommunication services such as information phone banks. These services will provide links and information concerning volunteer opportunities, Freedom Corps activities and other pertinent data.

- Recognition Materials: The cost of this program initiative is estimated at $275,000 and will primarily consist of contracted services to develop, provide and disseminate materials that will be used to recognize volunteer activities and accomplishments.

In addition, approximately $25,000 is required to fund increased general support Other Service costs within the White House that will occur as the result of the operations of this new office. These funds will be used for such things as office equipment maintenance contracts and GSA work requests.

REV_00168094

Hearing Record Reference for Question 63:

Issue: **White House Communications Agency**

Question: For FY 2001 and 2002 (estimates) itemize the reimbursements made to the WH Communications Agency.

Question: For FY 2003, what are the estimated reimbursements to the WH Communications Agency?

Answers to previous two questions: Reimbursements made to WHCA, for the non-telecommunications support they provide to the WHO, is broken down into two categories: personnel and audio visual support. The amount of planned reimbursement is initially set and agreed to via an inter-agency agreement (IAG). This IAG is then adjusted if needed as a result of actual execution. Reimbursement actuals and estimates follow:

	FY01 (actual)	FY02 (est.)	FY03 (est.)
Military Personnel	$3,946,779	$4,564,085	$4,754,346
Audiovisual Support	$3,514,528	$3,589.242	$3,953,848
Total	$7,461,307	$8,153,327	$8,708,194

Hearing Record Reference for Question 64:

Issue: **Office of Administration**

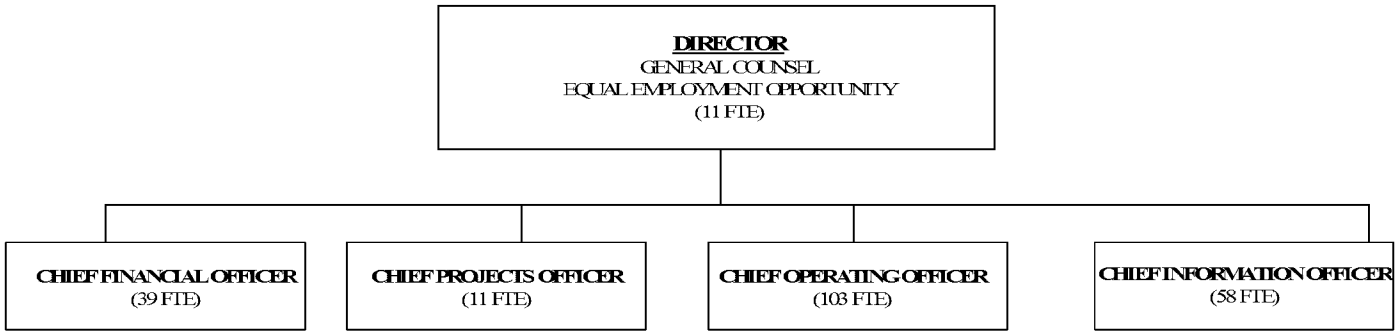
Question: Provide an organization chart for the Office of Administration, including the numbers of FTE in each office.

Answer: The Office of Administration organization chart provided below reflects the current streamlined organizational structure where the number of operating units reporting to the Director was reduced from 10 to 4. The FY 2003 FTE request includes an increase of 20 FTE over FY 2002 authorized levels. All additional FTEs support the ongoing requirements stemming from the events of September 11 including IT and facility support for dispersed offices, additional logistics responsibilities for the receipt and delivery of mail, and financial management support for the Office of Homeland Security (+7 Chief Operating Officer, +10 Chief Information Officer, +1 Chief Projects Officer, +2 Chief Financial Officer).

REV_00168095

Executive Office of the President

Office of Administration
Organization Chart
with FY 2003 Requested FTEs



Total 222 FTE

Hearing Record Reference for Question 72:

Issue: *White House Office*

Question: Provide a brief description of the duties and responsibilities of each office (e.g. Chief of Staff, Oval Office Operations, Office of the Press Secretary, Office of Homeland Security, etc.) within the appropriations account "White House Office". By office, provide obligations, FTE and OGE for FY 2001(actual) and FY 2002-2003 (estimated). Itemize OGE by category (e.g. reimbursable detailee, PSC, etc.).

Answer: The purpose of the White House Office is to provide advice and assistance to the President of the United States. This requires a range of professional and support staff. The White House Office is currently divided into the following major units:

Office of the Chief of Staff – Provides advice and assistance to the President and directs the activities of the White House staff.

Oval Office Operations – Provides assistance to the President by, among other things, managing the operations of the Oval Office.

REV_00168096

Advance – Provides advice and assistance to the President, principally by taking responsibility for the organization and implementation of the President and the First Lady's visits outside of the White House complex.

Cabinet Affairs – Provides advice and assistance to the President by, among other things, serving as the liaison between the White House and the President's Cabinet and agency heads.

Communications, Speechwriting, and Media Affairs – Provides advice and assistance to the President by, among other things, coordinating and supporting efforts to communicate and explain the President's views and decisions.

Office of Counsel to the President – Provides advice and assistance to the President and White House staff, principally on matters of law.

Faith-Based and Community Initiatives – Provides advice and assistance to the President by, among other things, coordinating and implementing the President's initiative to empower community and faith-based organizations to better confront poverty and social decay.

Office of the First Lady – Provides advice and assistance to Mrs. Bush in carrying out her official responsibilities as the First Lady.

Homeland Security – Provides advice and assistance to the President, principally by developing, coordinating, and advising the President on a comprehensive national strategy to secure the United States from terrorist threats or attacks and, in particular, by coordinating the Executive Branch's efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States. It has no operational role.

Intergovernmental Affairs – Provides advice and assistance to the President, principally by monitoring the views of State and local elected officials and serving as a liaison between the White House and the Executive Branch, on the one hand, and State and local governments, on the other.

Legislative Affairs – Provides advice and assistance to the President by, among other things, serving as the liaison between the White House and the Congress and developing the strategy used to promote and defend the President's legislative agenda.

Management and Administration – Provides advice and assistance to the President, principally by providing day-to-day administrative support to the White House staff.

Presidential Personnel – Provides advice and assistance to the President, principally by recruiting, screening, and recommending to the President qualified candidates for Presidential appointments to Federal departments and agencies.

REV_00168097

Office of the Press Secretary – Provides advice and assistance to the President, principally by providing information to the national and international press and by handling all national press inquiries such as interview requests, requests for transcripts or releases, and travel and scheduling information.

Scheduling – Provides advice and assistance to the President, principally by coordinating the planning, organization, and implementation of the President's daily and long-range schedules.

Office of the Staff Secretary – Provides advice and assistance to the President by, among other things, managing documents or other items addressed to the President, including correspondence and gifts.

Strategic Initiatives – Provides advice and assistance to the President by, among other things, coordinating the planning and development of a long-range strategy for achieving Presidential priorities; conducting research; and assisting in message development and other communications activities in conjunction with the Office of Public Liaison and the Office of Political Affairs.

USA Freedom Corps – Provides advice and assistance to the President on matters relating to enlisting Americans in public service at home and abroad; in particular, it provides advice and support on the work of, and recognizes participants in, three service efforts – the newly created Citizen Corps, AmeriCorps and Senior Corps, and the Peace Corps.

In addition to these major units, certain individuals – including certain individuals who work with the National Security Council, the Domestic Policy Council, and the National Economic Council – are also White House Office officers or employees, although the units within which they principally work are not themselves part of the White House Office.

The major units within the White House Office are administratively designated by the President's Chief of Staff and the number of employees within each unit and the work of each unit vary over time and as circumstances and needs change. Therefore, a detailed breakout of FTEs and OGEs by unit is not particularly meaningful. White House Office obligations, FTE and OGE are summarized below. The Office of Homeland Security is funded under the emergency supplemental this fiscal year, and therefore, the FY 2002 numbers below do not include OHS personnel or funding. FY 2002 estimates for the OHS are addressed separately in response to other committee questions.

REV_00168098

		FY01 act.		FY02 est.		FY03 est.
Total WHO – FTE		369		400		446
Total WHO – OGE		35		32*		127*
FY03 Congressional Request – FTE		400		400		446
(Dollars in thousands)						
Total WHO – Obligations		$53,084		$54,651		$84,579

* FY 2002 excludes the approximately 65 OGEs currently on board for the Office of Homeland Security.
The FY 2002 OGEs for the Office of Homeland Security are funded out of the emergency supplemental funding.
FY 2003 includes the 95 OGEs for the Office of Homeland Security requested in the FY 2003 Budget Request.

Issue: The Committee is resubmitting the following questions due to the lack of detailed information provided in the original responses

Question: Provide a brief description of the duties and responsibilities of each office (e.g. Chief of Staff, Oval Office Operations, Office of the Press Secretary, Office of Homeland Security, etc.) within the appropriations account "White House Office". By office, provide obligations, FTE and OGE for FY 2001(actual) and FY 2002-2003 (estimated). Itemize OGE by category (e.g. reimbursable detailee, PSC, etc.).

Answer: The purpose of the White House Office is to provide advice and assistance to the President of the United States. This requires a range of professional and support staff. The White House Office is currently divided into the following major units. A brief description of the duties and responsibilities of the major units is provided for the record.

Office of the Chief of Staff – Provides advice and assistance to the President and directs the activities of the White House staff.

Oval Office Operations – Provides assistance to the President by, among other things, managing the operations of the Oval Office.

Advance – Provides advice and assistance to the President, principally by taking responsibility for the organization and implementation of the President and the First Lady's visits outside of the White House complex.

Cabinet Affairs – Provides advice and assistance to the President by, among other things, serving as the liaison between the White House and the President's Cabinet and agency heads.

REV_00168099

Communications, Speechwriting, and Media Affairs – Provides advice and assistance to the President by, among other things, coordinating and supporting efforts to communicate and explain the President's views and decisions.

Office of Counsel to the President – Provides advice and assistance to the President and White House staff, principally on matters of law.

Faith-Based and Community Initiatives – Provides advice and assistance to the President by, among other things, coordinating and implementing the President's initiative to empower community and faith-based organizations to better confront poverty and social decay.

Office of the First Lady – Provides advice and assistance to Mrs. Bush in carrying out her official responsibilities as the First Lady.

Homeland Security – Provides advice and assistance to the President, principally by developing, coordinating, and advising the President on a comprehensive national strategy to secure the United States from terrorist threats or attacks and, in particular, by coordinating the Executive Branch's efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States.

Intergovernmental Affairs – Provides advice and assistance to the President, principally by monitoring the views of state and local elected officials and serving as a liaison between the White House and the Executive Branch, on the one hand, and state and local governments, on the other.

Legislative Affairs – Provides advice and assistance to the President by, among other things, serving as the liaison between the White House and the Congress and developing the strategy used to promote and defend the President's legislative agenda.

Management and Administration – Provides advice and assistance to the President, principally by providing day-to-day administrative support to the White House staff.

Presidential Personnel – Provides advice and assistance to the President, principally by recruiting, screening, and recommending qualified candidates for Presidential appointments to Federal departments and agencies.

Office of the Press Secretary – Provides advice and assistance to the President, principally by providing information to the national and international press and by handling all national press inquiries such as interview requests, requests for transcripts or releases, and travel and scheduling information.

REV_00168100

Scheduling – Provides advice and assistance to the President, principally by coordinating the planning, organization, and implementation of the President's daily and long-range schedules.

Office of the Staff Secretary – Provides advice and assistance to the President by, among other things, managing documents or other items addressed to the President, including correspondence and gifts.

Strategic Initiatives – Provides advice and assistance to the President by, among other things, coordinating the planning and development of a long-range strategy for achieving Presidential priorities; conducting research; and assisting in message development and other communications activities in conjunction with the Office of Public Liaison and the Office of Political Affairs.

USA Freedom Corps – Provides advice and assistance to the President on matters relating to enlisting Americans in public service at home and abroad; in particular, it provides advice and support on the work of, and recognizes participants in, three service efforts – the newly created Citizen Corps, AmeriCorps and Senior Corps, and the Peace Corps.

In addition to these major units, certain individuals – including certain individuals who work with the National Security Council, the Domestic Policy Council, and the National Economic Council – are also White House Office employees, although the units within which they principally work are not themselves part of the White House Office.

The major units within the White House Office are simply a creature of administrative convenience, and the number of employees within each unit and the work of each unit vary over time and as circumstances and needs change. Therefore a detailed breakout of FTEs and OGEs by unit is not particularly meaningful. Nevertheless, set forth below is a breakout based on current estimates and planning, which of course, may differ during the actual execution year.

	FY01	FY02	FY03
White House Office	**actual**	**est.**	**est.**
Office of Chief of Staff - FTE	11	12	12
Office of Chief of Staff - OGE (Agency Rep)	6	0	0
Oval Office Ops - FTE	5	5	5
Oval Office Ops - OGE	0	0	0
Advance - FTE	15	15	15
Advance - OGE	0	0	0
Office of Cabinet Affairs - FTE	6	6	6

REV_00168101

Office of Cabinet Affairs - OGE (Assignee)	3	1	1
Communications, Speechwriting & Media - FTE	32	35	35
Communications, Speechwriting & Media - OGE	0	0	0
Office of the Counsel to the President - FTE	17	19	19
Office of the Counsel to the President - OGE (Non-Reimb Detail)	4	2	2
Faith Based and Community Initiatives - FTE	7	8	8
Faith Based and Community Initiatives - OGE	0	0	0
Office of the First Lady - FTE	18	19	19
Office of the First Lady - OGE	0	0	0
Office of Homeland Security - FTE	0	0	40
Office of Homeland Security - OGE	0	0	95
Office of Intergovernmental Affairs - FTE	7	9	9
Office of Intergovernmental Affairs - OGE	0	0	0
Office of Legislative Affairs - FTE	23	24	24
Office of Legislative Affairs - OGE (Non-Reimb Detail)	0	1	1
Office of Legislative Affairs - OGE (Assignee)	0	1	1
Office of Management & Administration - FTE	34	38	38
Office of Management & Administration - OGE (Non-Reimb Detail)	1	0	0
Office of Management & Administration - OGE (HP Serv)	9	13	11
Office of Presidential Personnel - FTE	36	38	38
Office of Presidential Personnel - OGE (Assignee)	2	0	0
Office of Presidential Personnel - OGE (Reimb Detail)	0	1	1
Office of Presidential Personnel - OGE (Non-Reimb Detail)	1	1	1
Office of the Press Secretary - FTE	11	12	12
Office of the Press Secretary - OGE	0	0	0
Scheduling - FTE	10	11	11
Scheduling - OGE (HP Serv)	2	2	2
Office of the Staff Secretary - FTE	95	98	98

REV_00168102

Office of the Staff Secretary - OGE (Reimb Detail)	3	0	0
Office of the Staff Secretary - OGE (Non-Reimb Detail)	1	0	0
Office of Strategic Initiatives - FTE	34	35	35
Office of Strategic Initiatives - OGE (Reim Detail)	0	1	1
Office of Strategic Initiatives - OGE (Assignee)	0	1	1
USA Freedom Corps Office - FTE	0	5	6
USA Freedom Corps Office - OGE (Agency Rep)	0	1	1
USA Freedom Corps Office - OGE (Non-Reimb Detail)	0	2	2
USA Freedom Corps Office - OGE (Reimb Detail)	0	2	2
USA Freedom Corps Office - OGE (WH Fellow)	0	1	1
Other - FTE	8	11	16
Other - OGE (HP Serv)	2	3	3
Other - OGE (Agency Rep)	1	0	0
Other - OGE (Reimb Detail)	0	1	1

	FY01	**FY02**	**FY03**
	actual	**est.**	**est.**
Total WHO – FTE	369	400	446
Total WHO – OGE	35	34*	129**
FY03 Congressional Request – FTE	400	400	446

* FY 2002 excludes the approximately 65 OGEs currently on board for the Office of Homeland Security who are funded out of the FY 2002 Emergency Supplemental Appropriation. The WHO OGE number has been updated to reflect changes since we submitted the first set of responses to the questions for the record.

**FY 2003 includes the 95 OGEs for the Office of Homeland Security requested in the FY 2003 Budget Request.

Obligations (actual and estimated) are provided by individual White House office for FY 2001 thru FY 2003 in the table below. It must be emphasized that the FY 2002 and FY 2003 numbers are estimates only. As circumstances and needs change, so may these estimates in any actual year. Therefore, these estimates are not particularly meaningful.

REV_00168103

(dollars in thousands)					
White House Office		**FY01 act.**		**FY02 est.**	**FY03 est.**
Office of Chief of Staff		$1,473		$1,420	$1,474
Oval Office Ops		$550		$458	$476
Offices of Scheduling and Advance		$2,751		$3,398	$3,593
Office of Cabinet Affairs		$542		$592	$615
Communications, Speechwriting & Media		$2,202		$2,395	$2,486
Office of the Counsel to the President		$2,004		$1,895	$1,966
Faith Based and Community Initiatives		$366		$516	$536
Office of the First Lady		$1,354		$1,437	$1,492
Office of Homeland Security		$0		$0 *	$24,844
Office of Intergovernmental Affairs		$489		$518	$538
Office of Legislative Affairs		$1,870		$2,041	$2,118
Office of Management and Administration		$26,462		$25,735	$27,440
Office of Presidential Personnel		$2,137		$2,336	$2,425
Office of the Press Secretary		$1,062		$1,139	$1,182
Office of the Staff Secretary		$5,702		$6,232	$6,469
Office of Strategic Initiatives		$3,821		$4,167	$4,325
USA Freedom Corps Office - Obligations		$0		$372	$2,600
(dollars in thousands)					
Other Personnel Obligations - Prior administration org's		$299		$0	$0
Total WHO Obligations		$53,084		$54,651	$84,579

* FY 2002 obligations for the Office of Homeland Security are funded under the Emergency Supplemental Appropriation

It should be noted that a single budget is prepared for the WHO. This single budget is prepared based on a number of criteria such as: prior spending patterns, estimated requirements, OMB provided inflation factors, and the priorities of the President. During a given execution year, personnel costs are allocated based upon that year's sometimes unique staffing decisions. The remainder of the budget is allocated initially to two WHO offices. The travel budget is allocated in its entirety to Scheduling and Advance and obligated against this office if the travel is done in support of the President. Any travel undertaken that is not in support of a Presidential trip is charged to the office of the staff member in question. The remaining portion of the non-personnel, non-travel budget, including expenses for rent, supplies, equipment and other services is considered overhead and charged as such to the White House Office of Management and Administration.

The only exceptions are the Office of Homeland Security and the USA Freedom Corps Office. Since these are new offices requiring new budget authority, all new obligations (including travel and overhead) anticipated as a result of these offices are reflected in the FY 2003 estimates for these offices.

REV_00168104

Hearing Record Reference for question 73:

Question: Referencing the FTE/OGE tables that break-out personnel classifications by type of OGE, please explain why the number of "historically provided" employees decreased so significantly (from 25 to 1) for the Vice President's office between FY2001 and FY2002. Please provide the Subcommittee your definition of each OGE category listed on the table (agency reps, assignees, detailees, HP services, others, student volunteers, WH fellows, PMI). Please also provide a listing of the 15 "historically provided" White House Office positions identified on the FY2002 chart, the White House Office to which these positions are assigned, and the agency that pays the salary of each of the 15 positions.

Answer: The difference in the number of "Historically Provided" employees in the Vice President's Office from FY 2001 to FY 2002 is due to the redesignation of U.S. Senate employees. In FY 2001, the previous administration designated U.S. Senate employees in the Vice President's office as "Historically Provided". This was done in error and it has since been corrected. For FY 2002 and FY 2003, U. S. Senate employees are more accurately designated as "Other" since they do not fit into any other OGE category.

The following chart shows the 15 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 31, 2002*:

POSITION	OFFICE	HOME AGENCY
1. Deputy Executive Director	PFIAB*	Central Intelligence Agency
2. Administrative Services Spec.	PFIAB	Dept. of Defense
3. Administrative Assistant	PFIAB	U.S. Navy
4. Staff Assistant	Visitors Office	Dept. of Interior
5. Staff Assistant	Visitors Office	Dept. of Interior
6. Staff Assistant	Visitors Office	Dept. of Interior
7. Receptionist	Visitors Office	Dept. of Interior
8. President's Photographer	Photography Office	Defense Intelligence Agency
9. Visual Director	Photography Office	Defense Intelligence Agency
10. Photographer	Photography Office	Dept. of Defense
11. Official Photographer	Photography Office	Defense Intelligence Agency
12. Official Photographer	Photography Office	Dept. of Defense
13. Photo Editor	Photography Office	Dept. of Defense
14. Presidential Diarist	Scheduling Office	Nat'l Archive and Records Admin.
15. Asst. to the Presidential Diarist	Scheduling Office	Nat'l Archive and Records Admin.
16. Photographic Specialist**	Photography Office	Defense Intelligence Agency
17. Operations Manager**	Photography Office	Defense Intelligence Agency
18. Visual Information Specialist**	Photography Office	Defense Intelligence Agency

*PFIAB is the President's Foreign Intelligence Advisory Board
**Updated since the April 5, 2002 data was provided.

REV_00168105

Hearing Record Reference for Question 74:

The following chart shows the 15 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 31, 2002*:

POSITION	OFFICE	HOME AGENCY
1. Deputy Executive Director	PFIAB*	Central Intelligence Agency
2. Administrative Services Spec.	PFIAB	Dept. of Defense
3. Administrative Assistant	PFIAB	U.S. Navy
4. Staff Assistant	Visitors Office	Dept. of Interior
5. Staff Assistant	Visitors Office	Dept. of Interior
6. Staff Assistant	Visitors Office	Dept. of Interior
7. Receptionist	Visitors Office	Dept. of Interior
8. President's Photographer	Photography Office	Defense Intelligence Agency
9. Visual Director	Photography Office	Defense Intelligence Agency
10. Photographer	Photography Office	Dept. of Defense
11. Official Photographer	Photography Office	Defense Intelligence Agency
12. Official Photographer	Photography Office	Dept. of Defense
13. Photo Editor	Photography Office	Dept. of Defense
14. Presidential Diarist	Scheduling Office	Nat'l Archive and Records Admin.
15. Asst. to the Presidential Diarist	Scheduling Office	Nat'l Archive and Records Admin.
16. Photographic Specialist**	Photography Office	Defense Intelligence Agency
17. Operations Manager**	Photography Office	Defense Intelligence Agency
18. Visual Information Specialist**	Photography Office	Defense Intelligence Agency

*PFIAB is the President's Foreign Intelligence Advisory Board
**Updated since the April 5, 2002 data was provided.

Hearing Record Reference for Question 79:

Question: How many political appointees are currently employed within the Executive Office of the President?

Answer: The term "political appointees" is somewhat of a misnomer because it narrowly defines the type of employees authorized under Chapter 2 of Title 3 of the U.S. Code, for the White House Office, the Executive Residence, the Official Residence of the Vice President and the Office of Administration. These offices can hire personnel in various excepted service positions that are not subject to the rules of regular government employees. Many of these excepted service positions fall under the category of serving at the pleasure of the President while others do not. Using the term in the broadest possible sense, including all employees hired as Presidential Appointees, Administratively Determined, Non Career SES, or Schedule C's, the Executive Office of the President has the following number of political appointees directly hired

REV_00168106

within the EOP and serving in the EOP on detailed assignments from other agencies as of April 5, 2002:

As of April 5, 2002

Program	FY 2002 "POLITICAL APPOINTEES"					
	Admin. Determ.*	Schedule C	Non Career SES	Presidential Appointees	OGE** Political Appointees	TOTAL
White House Office	411				31	**442**
Special Assistance to the President	21				31	**52**
Official Residence of the Vice President		1				**1**
Office of Administration	8					**8**
Office of Policy Development	35				2	**37**
National Security Council				1	4	**5**
Council of Economic Advisers	18	3		3		**24**
Office of Management and Budget	2	23	13	5		**43**
Office of National Drug Control Policy		9	1	2		**12**
Executive Residence		94				**94**
Office of Science and Technology Policy		1	1	1	1	**4**
Council on Environmental Quality	6	4		1		**11**
U.S. Trade Representative	14	8	4	5		**31**
TOTAL	**515**	**143**	**19**	**18**	**69**	**764**

* Historically, Administratively Determined appointees within some agencies have served from one administration to another. Nevertheless, they serve at the pleasure of the entity head and may be terminated without cause.

** OGE = Other Government Employees

White House Office includes the Office of Homeland Security

Hearing Record Reference for Question 80:

Question: How many reimbursable details are currently employed within the Executive Office of the President?

Answer: There are currently 78 reimbursable detailees staffed within the Executive Office of the President including 63 reimbursable detailees for the Office of Homeland Security. The detailees for the Office of Homeland Security are funded through the FY 2002 Emergency Supplemental. Below is a listing of reimbursable detailees by agency as of April 5, 2002:

Agency	# Reimbursable Detailees
White House Office (incl. Homeland Security)	68
National Security Council	1
Office of Management and Budget	4
Office of National Drug Control Policy	1
Office of Science and Technology Policy	4
TOTAL	78

REV_00168107

Question: How many non-reimbursable details are currently employed within the Executive Office of the President?

Answer: There are currently 178 non-reimbursable detailees staffed within the Executive Office of the President. Below is a listing of non-reimbursable detailees by agency as of April 5, 2002:

Agency	# Non-Reimbursable Detailees
White House Office	8
National Security Council	108
Council of Economic Advisers	1
Office of Management and Budget	39
Office of National Drug Control Policy	1
United States Trade Representative	21
TOTAL	178

REV_00168108

Questions for the Record
Chairman Ernest J. Istook, Jr.
Hearing on the Executive Office of the President
April 30, 2003

Unobligated Balances (POC - Veronica Kitchen)

QUESTION 1: Please provide a listing of all unobligated balances, by fiscal year, appropriation and PPA, for all accounts within the Executive Office of the President. Please also show the original appropriation levels for these accounts.

Consolidation of Accounts (POC- Al Muhlbauer)

QUESTION 2: Sections 105 and 106 of title 3 U. S. Code describe expenses that may be accounted for solely on the certificate of the President and Vice President, respectively. Most of these expenses correspond to particular accounts. The Comptroller General may inspect documents related to these expenditures, but solely to verify that the expenditures were made for allowed purposes. When we asked last year how certified expenses would be identified for audit within a consolidated appropriation, the response was that the certification requirements would continue to be observed (p. 41). This does not answer the question of how the account structure will be maintained to provide an identifiable and auditable crosswalk between title 3-certifiable expenses and other expenses within the consolidated appropriation.

RESPONSE: As presented in the Congressional Budget Submission pages 4, 5, and 6, the Executive Office of the President (EOP) has established a Budget Activity structure that is consistent, beginning with the budget submission and extending through the accounting and reporting phases. The EOP accounting system will track and report obligations and expenditures consistent with this structure through the use of budget activity, program, sub-program, and line item codes assigned to each transaction. EOP has the ability to provide an identifiable and auditable crosswalk to the individual transactions authorized under sections 105 and 106 of Title 3 of the United States Code.

QUESTION 3: Please provide a listing of all appropriations language enacted in Public Law 108-7 which would be dropped in the proposed account consolidation, and provide a brief explanation of why that language is not necessary.

RESPONSE: The following appropriations in Public Law 108-7: Compensation of the President, White House Office Salaries and Expenses, Office of Homeland Security, Executive Residence at the White House, White House Repair and Restoration, Council of Economic Advisers, Office of Policy Development, National Security Council, Office of Administration would be combined into one appropriation entitled "The White House". The individual language in Public Law 108-7 for each of those appropriations would be removed. However, suggested language for the combined appropriation is

provided in the Appendix to the FY 2004 Budget (page 881) and states: "For the Compensation of the President and White House Office (including the Office of Homeland Security), Executive Residence, White House Repair and Restoration, Office of Policy and Development, Office of Administration, Council of Economic Advisers and the National Security Council, (hereinafter, and solely for the purposes of Title VI of this Act, "the White House"), $183,770,000, of which $24,803,000 shall remain available until expended, including compensation for the President, including an expense allowance of $50,000 as authorized by U.S.C. 102; for travel expense of $100,000 as authorized by 3 U.S.C. 103; for necessary expenses for the White House as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; for the necessary expenses of the Executive Residence at the White House as authorized by 3 U.S.C. 105,109,110, and 112-114; for the necessary expenses of the Offices and Councils in the White House account as authorized by 5 U.S.C. 3109, 15 U.S.C. 1021, and 3 U.S.C. 105 and 107 (including not to exceed $19,000 for official reception and representation expenses); and for the hire of passenger motor vehicles: Provide, That none of the funds made available to the President for official expenses shall be expended for any other purpose and any unused portion of such funds shall revert to the Treasury pursuant to 31 U.S.C. 1552: Provided further, That no such funds shall be considered as taxable to the President: Provided further, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities."

The suggested language, with the exception of a consolidated appropriation amount incorporates the same restrictions and clarifications as contained the language contained in the Public Law 108-7 for the appropriations being consolidated. The appropriations for Vice President's Salaries and Expense, Vice President's Residence Operating Expenses, Office of Management and Budget, Office of National Drug Control Policy, Unanticipated Needs will remain separate appropriations and will therefore not require any language changes as a result of the combination.

The White House (Consolidated Account) (POC – Chuck Sigman)

QUESTION 4: You are requesting $12,302,000 for object class 23.3 (communications, utilities, and miscellaneous services) in FY 2004. This is a large increase over the estimated $7,010,000 for FY 2003. What accounts for the increase?

RESPONSE: The FY 2004 White House (WH) consolidated budget net increase of $5,292,000 for communications is required in three major areas:

- **Most of the increase ($4,420,000) is needed in the OA Capital Investment Plan for offsite data center communications.** This facility will transition into full operation during FY 2004. The telecommunications between the offsite data center and the EOP complex are necessary to provide expanded, survivable and redundant connectivity, continuity of operations, disaster recovery and system support. These costs include funds for telecommunications lines, two additional

REV_00168110

DS-3 data paths, two T-1 lines, and backups to provide the communications bandwidth necessary for servicing the EOP complex.

- **$482,000 in the White House Office budget to provide a custom communications package which will enable the Homeland Security Council to establish a presence for its staff within the White House Situation Room.**

- **$100,000 for information assurance in the OA salaries/expenses budget.** In addition to the Offsite Data Center project, the OA FY 2004 budget also includes a request for an additional $100,000 for the information assurance program in the FY 2004 salaries/expenses account. This program will enable the CIO office to correct vulnerabilities in the EOP information security perimeter to secure internal systems, to perform real-time monitoring of perimeter network devices.

- **$151,000 in transfers of Lexis-Nexis database costs from nonconsolidated agencies to the consolidated White House appropriation.** The FY 2004 budget envisions that $72,000 will be transferred from USTR, $56,000 from ONDCP, $15,000 from OMB, and $8,000 from CEQ so that the EOP can have a single funding source for EOP-wide Lexis-Nexis service.

- **$139,000 for adjustments to maintain the same level of services for the base funding during FY 2004**. This is calculated on the basis of the $7,010,000 in FY 2003 funding.

Rental Pricing (POC – Chuck Sigman)

QUESTION 5: The FY 2004 justifications state that, over the past year, EOP, GSA, and OMB have undertaken an assessment of space rental costs for all EOP entities. The result of this analysis is that the FY 2004 request includes additional funding to accommodate an "EOP average" rental rate. Please provide details of how this analysis was conducted, and specify the estimated rental rates for the various EOP entities, as determined by this analysis.

RESPONSE: The EOP space rental project began during the summer of 2002 at the request of OMB's budget examiners, who were working to ensure that EOP agencies moved to the same market-based rent methodology used to determine space rental rates for GSA's other Federal properties. OMB requested that GSA and EOP review the space rental costs for each EOP property and each EOP agency so that the most up-to-date costs available were included in the FY 2004 budget proposal. Another significant concern in this project is to ensure that GSA will work with the EOP to ensure that the critical needs of the EOP are funded and executed.

As a result of the initial project, OA and GSA began a series of meetings which culminated in the space estimates which were included in the budget. GSA staff prepared a comprehensive listing of EOP properties, which itemized the space occupied by each

REV_00168111

EOP entity. This listing included commercial and government-owned space, current estimates of rentable square footage, and the annual rental rate per square foot. EOP staff provided updated estimates of the rentable square footage.

During this process, GSA blended the fair-market rates for the permanent EOP buildings into a single blended rate. This was done to simplify the administrative work when EOP staff are relocated. This is especially needed in the post-9/11 environment's unusually high number of large-scale EOP agency relocations driven by security considerations as well as the result of the legislation creating the Department of Homeland Security. The EOP average rental rate for Federally-owned properties (New Executive Office Building (NEOB), Eisenhower Executive Office Building (OEOB), White House, Winder Building, Jackson Place) is $29.60 annually per square foot. GSA adds an additional building security charge for buildings which are not protected by the US Secret Service. The average rental rates used to determine each EOP entity's budget estimate for office space are as follows:

EOP Entity	Locations	Owned or Leased	Average Rental Rate
OMB	EEOB, NEOB	owned	$29.60/sf
CEQ	EEOB	owned	$29.60
	718 Jackson Place	owned	$30.71
	722 Jackson Place	owned	$31.50
	730 Jackson Place	owned	$29.90
CEA	EEOB	owned	$29.60
NSC	EEOB	owned	$29.60
OPD	EEOB	owned	$29.60
OVP	EEOB	owned	$29.60
	Westbank Center, WY	leased	$21.80
WHO	1800 G Street	leased	$34.56
	EEOB, NEOB	owned	$29.60
	708 Jackson Place	owned	$29.60
	736 Jackson Place	owned	$30.58
USTR	Winder	owned	$30.50
	1724 F Street	owned	$37.38
	NEOB	owned	$29.60
OA	1425 New York Ave	leased	$51.89

REV_00168112

	1800 G Street	leased	$31.53-$37.37
	EEOB, NEOB	owned	$29.60
	1724 F Street	owned	$37.38
OSTP	1801 Pennsylvania Avenue	leased	$50.55
	EEOB	owned	$29.60
ONDCP	750 17th Street	leased	$45.78
HSC	EEOB	leased	$29.60

EOP Staffing (POC – Jon Laurich)

QUESTION 6: By EOP office, please provide FTE and OGE, similar in format to the tables found on pages 111 and 112 of last year's hearing record. Please provide data for FY 2002 through 2004.

RESPONSE: The following tables provide the total FY 2002 actual, FY 2003 and FY 2004, estimates for full time equivalents (FTE) and other government employees (OGE) for each EOP and other entity as of May 5, 2003. The OGE numbers are itemized by category on the following page. The FY 2003 numbers have the Office of Homeland Security in a separate category, which accordingly decreased the White House numbers. The FY 2003 and FY 2004 numbers are estimates only and are therefore subject to change.

REV_00168113

Office	FY 2002 Actual FTE and OGE			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office*	400	440	134	574
Special Assistance to the President	24	23	40	63
Official Residence of the Vice President	1	1	0	1
Office of Administration	202	204	3	207
Office of Policy Development	35	31	7	38
National Security Council	60	62	152	214
Council of Economic Advisers	35	36	10	46
Office of Management and Budget	527	507	70	577
Office of National Drug Control Policy	115	138	34	172
Executive Residence	95	92	0	92
Office of Science and Technology Policy	40	26	16	42
Council on Environmental Quality	24	22	14	36
U.S Trade Representative	203	194	24	218
TOTAL	**1761**	**1776**	**504**	**2280**

Office	*as of May 5, 2003*			
	FY 2003 FTE and OGE Estimate			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office	406		46	452
Office of Homeland Security	40		31	71
Special Assistance to the President	24		54	78
Official Residence of the Vice President	1		0	1
Office of Administration	222		1	223
Office of Policy Development	35		7	42
National Security Council	71		151	222
Council of Economic Advisers	35		9	44
Office of Management and Budget	510		63	573
Office of National Drug Control Policy	115		51	166
Executive Residence	95		0	95
Office of Science and Technology Policy	40		20	60
Council on Environmental Quality	24		14	38
U.S Trade Representative	209		28	237
TOTAL	**1827**		**475**	**2302**

Office	FY 2004 FTE and OGE Estimate			
	AUTH FTE	ACTUAL FTE	OGE **	TOTAL
White House Office	406		46	452
Office of Homeland Security	40		31	71
Special Assistance to the President	24		54	78
Official Residence of the Vice President	1		0	1
Office of Administration	222		1	223
Office of Policy Development	35		7	42
National Security Council	71		151	222
Council of Economic Advisers	35		9	44
Office of Management and Budget	516		63	579
Office of National Drug Control Policy	125		51	176
Executive Residence	95		0	95
Office of Science and Technology Policy	40		20	60
Council on Environmental Quality	24		14	38
U.S Trade Representative	217		28	245
TOTAL	**1851**		**475**	**2326**

* For FY 2002, the White House Office included OGEs and FTEs for the Office of Homeland Security which were funded from the Emergency Appropriation.

REV_00168114

R = Reimbursable
N = Non Reimbursable

FY 2002 Actual FTE and OGE

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**440**			1	20	79	9	1	17		4				3			81	53	**134**
Special Assistance to the President	**23**				7		1		6		26								40	**40**
Official Residence of the Vice President	**1**																			
Office of Administration	**204**					2					1							2	1	**3**
Office of Policy Development	**31**		1		3		3												7	**7**
National Security Council	**62**				38	1	106		4		3							1	151	**152**
Council of Economic Advisers	**36**					2	1			3	1		3					5	5	**10**
Office of Management and Budget	**507**					6	53						11					6	64	**70**
Office of National Drug Control Policy	**138**		13		16					3			2					3	31	**34**
Executive Residence	**92**																			
Office of Science and Technology Policy	**26**		6			4	1			2	3							6	10	**16**
Council on Environmental Quality	**22**		11				2										1		14	**14**
U.S Trade Representative	**194**						21				1				2				24	**24**
TOTAL	**1776**		**31**	**1**	**84**	**94**	**197**	**1**	**27**	**8**	**39**		**16**		**5**		**1**	**104**	**400**	**504**

*For FY02, the White House includes 65 OGE's for the Office of Homeland Security, which are funded from the Emergency Appropriation

R = Reimbursable
N = Non Reimbursable

FY 2003 Estimate FTE and OGE *as of May 5, 2003*

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**406**				7	5	11		19		1				2		1	5	41	**46**
Office of Homeland Security	**40**			2	1	23	3				1			1				26	5	**31**
Special Assistance to the President	**24**		3		7		1		18		25								54	**54**
Official Residence of the Vice President	**1**																			
Office of Administration	**222**										1								1	**1**
Office of Policy Development	**35**		1		3	1	1										1	1	6	**7**
National Security Council	**71**				36	4	104		4		3							4	147	**151**
Council of Economic Advisers	**35**					2	2			2			2				1	4	5	**9**
Office of Management and Budget	**499**					3	54						6					3	60	**63**
Office of National Drug Control Policy	**115**		19		14		4			3	9						2	3	48	**51**
Executive Residence	**95**																			
Office of Science and Technology Policy	**40**		6			2	3			2	5		1		1			4	16	**20**
Council on Environmental Quality	**24**		10				3				1								14	**14**
U.S Trade Representative	**209**						25				1				2				28	**28**
TOTAL	**1816**		**39**	**2**	**68**	**40**	**211**		**41**	**7**	**47**		**9**	**1**	**5**		**5**	**50**	**425**	**475**

R = Reimbursable
N = Non Reimbursable

FY 2004 Estimate FTE and OGE

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**406**				7	5	11		19		1				2		1	5	41	**46**
Office of Homeland Security	**40**			2	1	23	3				1			1				26	5	**31**
Special Assistance to the President	**24**		3		7		1		18		25								54	**54**
Official Residence of the Vice President	**1**																			
Office of Administration	**222**										1								1	**1**
Office of Policy Development	**35**		1		3	1	1										1	1	6	**7**
National Security Council	**71**				36	4	104		4		3							4	147	**151**
Council of Economic Advisers	**35**					2	2			2			2				1	4	5	**9**
Office of Management and Budget	**516**					3	54						6					3	60	**63**
Office of National Drug Control Policy	**125**		19		14		4			3	9						2	3	48	**51**
Executive Residence	**95**																			
Office of Science and Technology Policy	**40**		6			2	3			2	5		1		1			4	16	**20**
Council on Environmental Quality	**24**		10				3				1								14	**14**
U.S Trade Representative	**217**						25				1				2				28	**28**
TOTAL	**1851**		**39**	**2**	**68**	**40**	**211**		**41**	**7**	**47**		**9**	**1**	**5**		**5**	**50**	**425**	**475**

REV_00168115

OA Staffing (POC – Jon Laurich)

QUESTION 7: By OA office, please provide FTE and OGE, similar in format to the tables found on page 113 of last year's hearing record. Please provide data for FY 2002 through 2004.

RESPONSE: The following table provides the FTE and OGE for the Office of Administration.

R = Reimbursable N = Non Reimbursable	FY 2002 FTE and OGE Actuals							
		Others		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OA Director	12							
OA Chief Operating Officer	111							
OA Chief Financial Officer	30	1	1			1	1	2
OA Chief Projects Officer	5							
OA Chief Information Officer	46	1				1		1
TOTAL	**204**	**2**	**1**			**2**	**1**	**3**

as of May 5, 2003

R = Reimbursable N = Non Reimbursable	FY 2003 FTE and OGE Estimates							
		Others		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OA Director	11							
OA Chief Operating Officer	103				2		1	1
OA Chief Financial Officer	39		1				1	1
OA Chief Projects Officer	11							
OA Chief Information Officer	58				2			
TOTAL	**222**		**1**		**4**		**2**	**2**

R = Reimbursable N = Non Reimbursable	FY 2004 FTE and OGE Estimates							
		Others		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OA Director	11							
OA Chief Operating Officer	103				4		1	1
OA Chief Financial Officer	39		1		2		3	3
OA Chief Projects Officer	11							
OA Chief Information Officer	58				4		4	4
TOTAL	**222**		**1**		**10**		**8**	**8**

OMB Staffing (POC – Jon Laurich/Brian Gillis)

QUESTION 8: By OMB office, please provide FTE and OGE, similar in format to the tables found on page 114 of last year's hearing record. Please provide data for FY 2002 through 2004.

RESPONSE: The charts below display the FTE and OGE breakout by OMB division for FY 2002-2004. Most detailees and student volunteers are used during the peak budget production season. During the rest of the year, the OGE total can fall below 20.

REV_00168116

R = Reimbursable N = Non Reimbursable	FY 2002 FTE and OGE Actuals							
		Detailees		Student Volunteers		OGE Grand Totals		
	FTE	R	**N**	R	**N**	R	**N**	**R + N**
OMB-Wide Offices	159	1	19		2	1	21	22
General Government Programs	62		1				1	1
Human Resource Programs	71		4		1		5	5
National Security Programs	64	1	5		1	1	6	7
Natural Resource Programs	54		8		1		9	9
Office of Federal Financial Management	21	3	3			3	3	6
Office of Federal Procurement Policy	22	1	2		1	1	3	4
Office of Information and Regulatory Affairs	54		11		5		16	16
TOTAL	**507**	**6**	**53**		**11**	**6**	**64**	**70**

as of May 5, 2003

R = Reimbursable N = Non Reimbursable	FY 2003 Estimate FTE and OGE							
		Detailees		Student Volunteers		OGE Grand Totals		
	FTE	R	**N**	R	**N**	R	**N**	**R + N**
OMB-Wide Offices	152	1	22		2	1	24	25
General Government Programs	60		3		1		4	4
Human Resource Programs	68		5				5	5
National Security Programs	61		9				9	9
Natural Resource Programs	60		5				5	5
Office of Federal Financial Management	21	1				1		1
Office of Federal Procurement Policy	20							
Office of Information and Regulatory Affairs	57	1	10		3	1	13	14
TOTAL	**499**	**3**	**54**		**6**	**3**	**60**	**63**

FY 2002 does not include staff temporarily detailed to the Transition Planning Office.

R = Reimbursable N = Non Reimbursable	FY 2004 Estimate FTE and OGE							
		Detailees		Student Volunteers		OGE Grand Totals		
	FTE	R	**N**	R	**N**	R	**N**	**R + N**
OMB-Wide Offices	157	1	22		2	1	24	25
General Government Programs	63		3		1		4	4
Human Resource Programs	75		5				5	5
National Security Programs	63		9				9	9
Natural Resource Programs	63		5				5	5
Office of Federal Financial Management	20	1				1		1
Office of Federal Procurement Policy	21							
Office of Information and Regulatory Affairs	54	1	10		3	1	13	14
TOTAL	**516**	**3**	**54**		**6**	**3**	**60**	**63**

REV_00168117

Office of Homeland Security (POC – Paul Ehrhardt)

QUESTION 9: Your FY 2004 budget requests $8,331,000 for the Office of Homeland Security. Please provide an object class breakdown of those costs and compare them to FY 2003 estimated levels.

RESPONSE: An object class breakdown of estimated HSC costs in FY 2003 and FY 2004 is provided in the table below. Please note that the FY 2003 estimate covers only costs incurred after the enactment of the FY 2003 appropriation on February 20, 2003. Unlike other EOP entities which operated under continuing resolutions between October 1, 2003 and February 20, 2003, the Office of Homeland Security was not permitted to utilize the CR funding mechanism but instead continued to charge FY 2003 expenses against the no-year emergency funding (provided in FY2002) until the FY 2003 appropriation was enacted. Therefore the FY 2003 estimate reflects only seven months of activity, whereas the FY 2004 Request needs to cover HSC expenses for the full 12 months next fiscal year.

	FY 2003 Appropriation	FY 2003 Estimate*	FY 2004 Request	2004 Request - 2003 Estimate
Homeland Security Council:				
Personnel	$4,403	$2,800	$5,550	$2,750
Travel	$300	$60	$588	$528
Transportation of Things	$24	$24	$10	-$14
Rent	$0	$0	$200	$200
Communications, Utilities, and Misc.	$209	$50	$1,080	$1,030
Printing and Reproduction	$69	$69	$50	-$19
Other Services	$3,267	$1,267	$528	-$739
Supplies and Materials	$0		$175	$175
Equipment	$0	$50	$150	$100
Subtotal	$8,272	$4,320	$8,331	$4,011

* FY 2003 Estimate covers only seven months vs. FY 2004 Request covering full 12 months

QUESTION 10: In particular, how much are you requesting in FY 2004 for professional contracts, and how does that compare to the estimated FY 2003 level?

RESPONSE: In FY 2004 HSC is requesting $528,000 for Other Services compared with $3,267,000 appropriated for the same category in FY 2003. The decrease is due to reduced requirements of the ongoing missions of the Office of Homeland Security after start-up costs and emergency requirements were met with larger budgets in FY 2002 and FY 2003. Anticipated contractual needs in FY 2004 include maintenance, upgrades, and technical support for the classified computer network that will be extended to HSC staff in FY 2003.

QUESTION 11: How many FTE and FTP are you requesting for this office in FY 2004, and how do these figures compare to current FY 2003 estimates and actuals for FY 2002?

REV_00168118

RESPONSE: HSC is requesting resources to support 40 direct hire FTE and 26 Other Government Employees on its staff to fill the 66 positions HSC is projecting for FY 2004.

Office of Homeland Security / Homeland Security Council Personnel

	FY 2002 Actual	FY 2003 Estimate	FY 2004 Request
Direct Hire FTE	0	20	40
Other Government Employees (EOY headcount)	89	26	26
Total Personnel	89	46	66

QUESTION 12: How many positions in the office are filled today, and how many are vacant?

RESPONSE: As of May 15, 2003, 51 positions are filled and 15 are vacant.

QUESTION 13: Please provide a table comparing the number of detailees to OHS, by federal agency, for each of the fiscal years 2002 through 2004 (estimated).

RESPONSE: The table below provides the number other government employees assigned to the Homeland Security Council.

REV_00168119

Number of Other Government Employees Assigned to OHS/HSC
(Figures show end of year headcount)

	FY 2002	FY 2003 est.	FY 2004 est.
CIA	7	2	3
DHS	0	6	10
FEMA	3	0	0
USCG	19	0	0
US Customs	1	0	0
USSS	2	0	0
DOJ	10	1	5
DOC	5	1	0
DOD	12	3	2
DOE	1	1	1
DOI	3	1	0
DOL	1	0	0
DOS	4	2	1
DOT	1	0	1
EOP	1	1	0
EPA	1	2	0
FAA	1	1	0
GSA	1	0	0
HHS	3	3	2
HUD	3	0	0
NASA	1	0	0
NIMA	1	0	0
NRC	0	0	0
NSA	3	1	0
SBA	1	0	0
Sentencing Commission	1	0	0
SSA	1	0	0
Treasury	1	0	0
USDA	1	1	1
Total	89	26	26

QUESTION 14: How many detailees are on board today?

RESPONSE: As of May 15, 2003, there are 18 detailees on board the Homeland Security Council.

QUESTION 15: Please provide a list of all positions in OHS, showing the incumbent's name, rate of annual salary, and position title. Please annotate any positions which are currently vacant.

RESPONSE: The President is authorized to appoint and fix pay of any member of the White House Staff without regard to any provision of law related to employees of the federal government. The individuals employed by the President represent a broad spectrum of experience and expertise and have been engaged to perform tasks ranging from simple to the complex. These individuals are being compensated at rates

REV_00168120

commensurate with their responsibilities and experience. The table below lists all the positions in the HSC and the positions which are currently vacant. The salary totals provided are for White House Full Time Employees and personnel detailed to the HSC.

Homeland Security Council Staff Positions		
	White House	Agency
Title	Compensation	Compensation
Office of the Advisor		
Assistant to the President for Homeland Security and Homeland Security Advisor (Acting Until June 1)		
Executive Assistant	VACANT	
Special Assistant to the APHS		
Staff Assistant		
Deputy Assistant to the President and Deputy Homeland Security Advisor		
Special Assistant to the Deputy		
Staff Assistant		
Director, Programs and Resources		
Budget Assistant	VACANT	
Military Programs		
Special Assistant to the President (SAP) for Military Programs	VACANT	
Director, Military Programs		
Staff Assistant	VACANT	
Executive Secretary		
Executive Secretary		
Executive Assistant		
Deputy Executive Secretary	VACANT	
Special Assistant to the Executive Secretary		
Director for Administration and Support		
Associate Director for Correspondence and Records Management		
Special Assistant, Events		
Associate Director for Security		
Staff Assistant	VACANT	
Staff Assistant	VACANT	
General Counsel		
Senior Associate Counsel to the President and General Counsel for Homeland Security		
Deputy Counsel		
Associate Counsel		
Associate Counsel		

REV_00168121

Staff Assistant		
Legistative Affairs		
Special Assistant to the President for Legislative Affairs		
Legislative Assistant		
Intergovernmental Affairs		
Associate Director, Intergovernmental Affairs	VACANT	
Director, HSC Public Liaison		
Domestic Counterterrorism		
Special Assistant to the President and Senior Director, Domestic Counterterrorism	VACANT	
Special Assistant to the Director, Domestic Counterterrorism		
DCI Representative to Homeland Security		
Director, Incident Management		
Director, Incident Management		
Director, Investigation and Law Enforcement		
Director, Domestic Counterterrorism Policy		
Director, Plans and Excercises		
BioDefense		
Special Assistant to the President and Senior Director, Biodefense		
Staff Assistant		
Director, Biodefense		
Director, Biodefense		
Director, Food, Agriculture and Water Safety		
Critical Infrastructure Protection		
Special Assistant to the President and Senior Director, Critical Infrastructure Protection		
Special Assistant		
Director, Cyber IP	VACANT	
Director, Cyber IP		
Director, Physical IP		
Director, Physical IP		
Director, IT Architecture	VACANT	
Response and Recovery		
Senior Director, Response and Recovery		
Staff Assistant		
Director, First Responder Program	VACANT	
Director for Recovery		
Director for Readiness and Training		

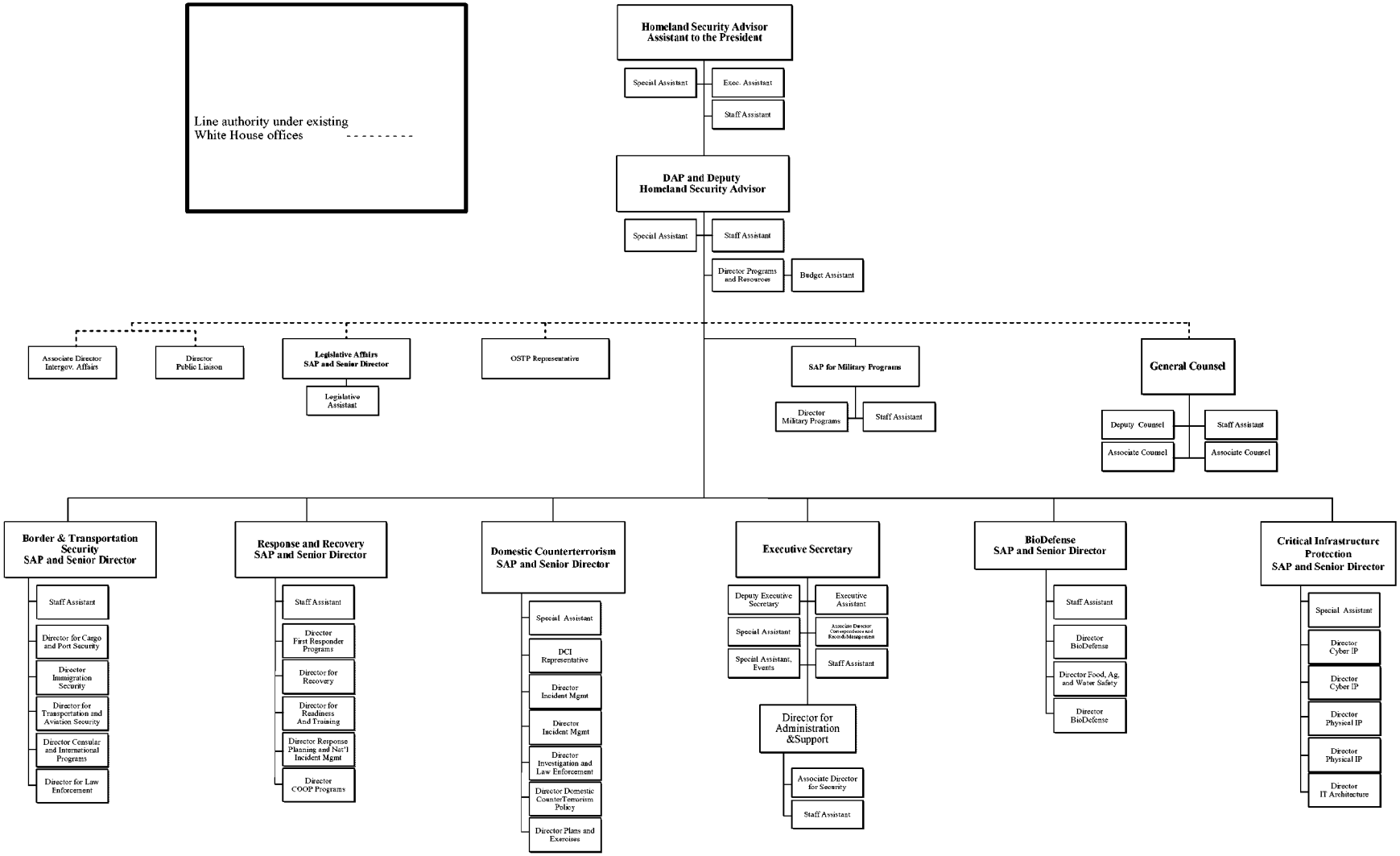
REV_00168122

Director, Response Planning and Incident Management		
Director, COOP Programs	VACANT	
Border and Transportation Security		
Special Assistant to the President and Senior Director for Border and Transporation Security		
Staff Assistant		
Director, Cargo and Port Security	VACANT	
Director of Immigration Security		
Director for Transportation and Aviation Security		
Director for Consular and International Programs		
Director for Law Enforcement		
Others		
Executive Assistant		
Special Assistant to the Deputy Director		
Office of Science and Technology Policy Representative	VACANT	
TOTAL	**$1,444,500**	**$1,747,209**

QUESTION 16: Please update the OHS organizational chart found on page 50 of last year's hearing record.

RESPONSE: The chart below shows the current Homeland Security Council's organization.

REV_00168123



REV_00168124

QUESTION 17: Please update the information shown on pages 44 through 47 of last year's hearing record concerning Office of Homeland Security travel. In addition to the information provided last year, please provide a brief descriptor of the travel purpose.

RESPONSE: The table below lists the travel for the Homeland Security Council.

Homeland Security Council Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Staff Position**
04/02/02	Los Angeles, CA	1	$1,185.31	Special Assistant to the President and Executive Director, PHSAC
04/04/02	Miami, FL	2	$1,363.07	Special Assistant to the President and Senior Director for Policy and Plans, Special Assistant
04/05/02	Harrisburg, PA	1	$444.41	Communications Assistant
04/07/02	Annapolis, MD	1	$63.14	Communications Aide to the Assistant to the President for Homeland Security
04/07/02	Atlanta, GA	1	$614.37	Director for Weapons of Mass Destruction
04/08/02	Chicago, IL	2	$1,702.90	Communication Coordinator, Operations Officer
04/08/02	Manhattan, NY	1	$811.62	Director for Critical Recovery Infrastructure
04/09/02	Chicago, IL	6	$2,071.26	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security, Special Assistant to the President for Public Liaison,
				Special Assistant to the President and Director of Communications, Legislative Assistant,
				Communications Aide to the Assistant to the President for Homeland Security
04/11/02	Charleston, SC	2	$1,858.88	Special Assistant to the President and Senior Director for Policy and Plans, Associate Director
04/11/02	Chicago, IL	1	$300.63	Communications Assistant
04/11/02	Harrisburg, PA	3	$1,485.37	Senior Director for Intergovernmental Affairs, Communications Aide to the Assistant to the President for Homeland Security, Communications Assistant
04/12/02	Oklahoma City, OK	1	$528.88	Director for Medical and Public Health Security
04/15/02	Baltimore, MD	1	$134.10	Director for Weapons of Mass Destruction
04/15/02	Boston, MA	1	$1,249.42	Director, Economic Consequence Management
04/15/02	Detroit, MI	1	$1,262.38	Communications Assistant

04/16/02	Chicago, IL	3	$2,075.41	Special Assistant to the President and Senior Director for Policy and Plans, Senior Director for Response and Recovery, Special Assistant
04/16/02	Detroit, MI	2	$400.17	Special Assistant to the President for Public Liaison, Communications Aide to the Assistant to the President for Homeland Security
04/16/02	Detroit, MI	1	$0.00	Assistant to the President for Homeland Security
04/18/02	Erie, PA/Harrisburg, PA	1	$412.96	Communications Assistant
04/19/02	Harrisburg, PA	1	$856.64	Communications Assistant
04/20/02	Houston, TX	1	$612.48	Director, Policy and Plans
04/24/02	Phoenix, AZ	1	$2,023.87	Communications Aide to the Assistant to the President for Homeland Security
04/24/02	Toronto, CAN	1	$626.69	Director, Costal and Border Security
04/28/02	New Orleans, LA	7	$7,371.94	Communications Assistant, Special Assistant to the President for Public Liaison, Special Assistant to the Assistant to the President for Homeland Security,
				Deputy Press Secretary, Assistant to the President for Homeland Security, Communications Assistant, Communications Coordinator
04/30/02	Boston, MA	1	$87.00	Special Assistant to the President for Public Liaison
05/01/02	Los Angeles, CA	1	$668.61	Senior Director for Intergovernmental Affairs
05/03/02	Columbus, OH/Pittsburg, PA	2	$1,259.20	Communications Coordinator, Communications Assistant
05/06/02	Albuquerque, NM	1	$625.90	Director for Critical Recovery Infrastructure
05/06/02	Bangor, ME	1	$465.50	Senior Director for Intergovernmental Affairs
05/07/02	Denver, CO	1	$426.71	Special Assistant to the President and Senior Director for Information Integration
05/07/02	Sacramento, CA	2	$1,222.88	Senior Director for Response and Recovery, Special Assistant
05/08/02	Burlington, VT	1	$979.84	Director, Policy and Plans
05/08/02	San Diego, CA	1	$805.50	Director of Operations
05/08/02	Wichita, KS	1	$434.21	Senior Director for Intergovernmental Affairs
05/10/02	Harrisburg, PA	1	$521.21	Communications Assistant
05/12/02	Charleston, SC	1	$842.93	Senior Director for Response and Recovery
05/14/02	Gulfport, MS	1	$469.12	Director, Protection and Prevention
05/15/02	Buffalo, NY	8	$4,789.28	Assistant to the President for Homeland Secuirty, Special Assistant to the President for Public Liaison, Operations Officer, Operations Officer, Operations Officer,

REV_00168126

				Special Assistant to the Assistant to the President for Homeland Security, Director, Policy and Plans, Special Assistant to the President and Director of Communications,
				Communications aide to the Assistant to the President for Homeland Security, Communications Assistant
05/18/02	Pittsburgh, PA	3	$1,001.63	Assistant to the President for Homeland Security, Assistant Press Secretary, Special Assistant to the President for Homeland Security
05/20/02	Jackson, WY	1	$1,543.30	Special Assistant to the Deputy Assistant to the President for Homeland Security
05/21/02	Washington, DC	1	$709.50	Special Assistant
05/22/02	Dayton, OH	1	$688.76	Director, Protection and Prevention
05/30/02	Baltimore, MD	1	$434.30	Director, State and Local Affairs
05/30/02	Hershey, PA	1	$160.09	Special Assistant to the President for Public Liaison
05/31/02	Harrisburg, PA	1	$741.56	Communications Assistant
06/04/02	Manhattan, NY	4	$1,085.44	Assistant to the President for Homeland Security, Special Assistant to the President and Executive Director, PHSAC,
				Director, External Affairs, Communications Assistant
06/07/02	Harrisburg, PA	1	$563.64	Operations Officer
06/10/02	Manhattan, NY	2	$715.21	Senior Director for Response and Recovery, Senior Director for Protection and Provention
06/10/02	Sun Valley, ID	1	$1,709.80	Director for Readiness
06/10/02	Washington, DC	2	$1,205.50	Senior Director for Protection and Prevention and Senior Director for Response and Recovery
06/11/02	Kansas City, MO	1	$0.00	Assistant to the President for Homeland Security
06/11/02	Washington, DC	5	$3,655.99	President's Homeland Security Advisory Board
06/12/02	Chicago, IL	1	$623.05	Senior Director for Response and Recovery
06/14/02	Albuquerque,NM	1	$971.26	Senior Director for Protection and Prevention
06/14/02	Harrisburg, PA	2	$912.67	Communications Assistant, Communications Aide to the Assistant to the President for Homeland Security
06/16/02	Erie, PA	1	$413.73	Operations Officer
06/16/02	Madison, WI	6	$2,071.19	Communications Assistant, Senior Director for Intergovernmental Affairs, Assistant to the President for Homeland Security,
				Special Assistant to the President for Homeland Security, Director of State and Local Affairs

REV_00168127

06/17/02	Mexico City, Mexico	1	$1,163.26	Director for Critical Infrastructure Protection
06/17/02	New Orleans, LA	1	$884.36	Director, Training and Exercises
06/19/02	Virginia Beach, VA	1	$351.28	Communication Aide to the Assistant to the President for Homeland Security
06/20/02	Berkeley Springs, WV	1	$27.00	Deputy Assistant to the President for Homeland Securtiy
06/21/02	Tulsa, OK	1	$488.00	Senior Director for Intergovernmental Affairs
06/23/02	Phoenix, AZ	1	$1,036.22	Deputy Assistant to the President for Homeland Securtiy
06/24/02	Other, Canada	1	$494.40	Special Assistant to the President and Director of Communications
06/27/02	Albuquerque,NM	1	$871.00	Senior Director for Intergovernmental Affairs
06/27/02	Cambridge, MA	1	$876.11	Senior Director for Response and Recovery
06/27/02	Manhattan, NY	2	$308.70	Senior Director for Protection and Prevention, Director for Weapons of Mass Destruction
06/27/02	Other, Canada	2	$960.34	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
06/27/02	Toronto, Canada	1	$1,447.49	Communications Assistant
06/28/02	Buffalo, NY	1	$1,001.22	Special Assistant to the President for Public Liaison
06/30/02	Erie, PA	1	$895.44	Communications Assistant
06/30/02	Washington, DC	7	$5,072.38	President's Homeland Security Advisory Board
07/04/02	Erie, PA	1	$1,005.65	Communication Aide to the Assistant to the President for Homeland Security
07/10/02	Harrisburg, PA	2	$1,547.83	Communication Coordinator, Communications Assistant
07/10/02	Manhattan, NY	1	$738.76	Senior Director for Response and Recovery
07/11/02	Hershey, PA	1	$63.00	Assistant to the President for Homeland Security
07/12/02	Erie, PA	1	$559.28	Communications Aide to the Assistant to the President for Homeland Security
07/13/02	New Orleans, LA	1	$1,029.76	Director, State and Local Affairs
07/14/02	Boulder, CO	1	$762.26	Senior Director for Response and Recovery
07/14/02	Erie, PA	1	$599.85	Operations Officer
07/17/02	Colorado Springs, CO	1	$2,303.43	Communications Assistant
07/17/02	Raleigh, NC	1	$545.95	Director for Weapons of Mass Destruction
07/18/02	Colorado Springs, CO	2	$1,815.32	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
07/18/02	Dallas, TX	1	$631.00	Director, Cyberspace Security

REV_00168128

07/19/02	Cleveland, OH	1	$1,481.12	Communications Assistant
07/19/02	Omaha, NE	1	$1,675.01	Director, Protection and Prevention
07/20/02	Cleveland, OH	1	$1,462.50	Communications Aide to the Assistant to the President for Homeland Security
07/20/02	Erie, PA	2	$3,832.24	Communications Assistant, Operations Officer
07/22/02	Du Page County, IL	1	$0.00	Assistant to the President for Homeland Security
07/22/02	Manhattan, NY	3	$2,555.98	Director for Cargo and Port Security, Director State and Local Affairs,
				Deputy Assistant to the President for Homeland Security
08/01/02	Austin, TX	1	$590.25	Director, Policy and Plans
08/04/02	Erie, PA	1	$1,049.32	Communications Assistant
08/06/02	Los Angeles, CA	1	$500.72	Director, Training and Exercises
08/09/02	Harrisburg, PA	1	$2,473.35	Communications Assistant
08/11/02	Erie, PA	1	$2,473.35	Communications Assistant
08/13/02	Burlington, VT	1	$800.01	Director for Cargo and Port Security
08/13/02	Cincinnati, OH	1	$738.73	Senior Director to Special Assistant to the President for Information Integration
08/14/02	Little Rock, AR	2	$2,359.87	Special Assistant to the President for Communications, Communications Assistant
08/15/02	Rapid City, SD	2	$291.80	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
08/18/02	Philadelphia, PA	2	$2,311.79	Senior Director for Intelligence and Detection, Director, Cyberspace Security
08/21/02	Manhattan, NY	1	$261.75	Director State and Local Affairs
08/22/02	Kansas City, MO	1	$878.73	Senior Director for Response and Recovery
08/24/02	Erie, PA	1	$706.35	Communications Assistant
08/26/02	Ottawa, Canada	1	$1,287.07	Director for Critical Infrastructure Protection
08/26/02	Washington, DC	2	$1,533.41	President's Homeland Security Advisory Board
08/27/02	Indianapolis, IN	1	$820.70	Senior Director for Intelligence and Detection
08/27/02	Philadelphia, PA	1	$451.57	Communications Assistant
08/27/02	Seattle, WA	1	$1,577.18	Senior Director for Response and Recovery
08/28/02	Buffalo, NY	2	$1,953.73	Operations Officer, Operations Officer
08/28/02	Charlotte, NC	2	$1,217.86	Communications Aide to the Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
08/28/02	Seattle, WA	1	$646.49	Special Assistant, Intergovernmental Affairs
08/28/02	Washington, DC	5	$4,452.05	President's Homeland Security Advisory Board

REV_00168129

08/29/02	Buffalo, NY	1	$173.00	Assistant to the President for Homeland Security
08/29/02	Milan, Italy	2	$11,192.97	Communications Assistant, Communications Aide to the Assistant to the President for Homeland Security
08/30/02	Atlanta,GA	1	$548.50	Director, Cyberspace Security
09/03/02	Asville Naval Reserve Ctr, NC	1	$674.84	Senior Director for Response and Recovery
09/04/02	Milan, Italy	1	$1,869.93	Special Assistant to the Assistant to the President for Homeland Security
09/04/02	San Diego, CA	1	$1,466.62	Director State and Local Affairs
09/05/02	Chicago, IL	1	$490.94	Director, Training and Exercises
09/05/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
09/06/02	Long Beach Naval Hosp, CA	1	$937.22	Director, Protection and Prevention
09/08/02	Columbus, OH	1	$365.81	Special Assistant to the President and Senior Director for Policy and Plans
09/08/02	Detroit, MI	1	$1,111.35	Special Assistant to the President for Public Liaison
09/09/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
09/09/02	Orlando, FL	1	$519.19	Special Assistant to the President and Executive Director, PHSAC
09/09/02	Paris, France	1	$1,156.36	Director, Policy and Plans
09/10/02	Pittsburgh, PA	3	$667.20	Assistant Press Secretary, Communications Aide to the Assistant to the President for Homeland Security,
				Assistant to the President for Homeland Security
09/15/02	Manhattan, NY	1	$191.47	Director, Biodefense
09/15/02	Suffolk County, NY	1	$356.66	Director, Biodefense
09/16/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
09/18/02	Atlanta,GA	1	$254.00	Deputy Assistant to the President for Homeland Securtiy
09/18/02	Denver, CO	1	$967.36	Executive Assistant, Response and Recovery
09/19/02	Austin, TX	1	$121.00	Special Assistant to the Deputy Assistant to the President for Homeland Security
09/19/02	Dallas, TX	1	$618.00	Director, Cyberspace Security
09/19/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
09/19/02	Minot AFB, ND	1	$1,121.00	Director State and Local Affairs
09/20/02	Atlanta,GA	2	$1,349.48	Sr. Director Research and Development, Director, Biodefense
09/21/02	Dover, DE	1	$592.94	Communications Aide to the Assistant to the President for Homeland Security
09/22/02	Lincoln Naval Reserve, NE	1	$849.94	Special Assistant to the President and Senior Director for Policy and Plans
09/24/02	Dallas, TX	1	$618.50	Deputy Assistant to the President for Homeland Securtiy
09/24/02	Kansas City, MO	1	$650.36	Director for Incident Management

REV_00168130

09/24/02	Manhattan, NY	2	$285.15	Senior Director for Protection and Prevention, Director for Weapons of Mass Destruction
09/24/02	St. Louis, MO	1	$873.50	Senior Director for Response and Recovery
09/25/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
09/26/02	Erie, PA	1	$1,061.02	Communications Assistant
09/26/02	Williamsport Naval Ctr, PA	1	$337.92	Communications Aide to the Assistant to the President for Homeland Security
09/27/02	Atlanta,GA	1	$313.90	Special Assistant to the President for Public Liaison
09/27/02	Easton, PA	1	$202.21	Special Assistant to the Assistant to the President for Homeland Security
09/30/02	Manhattan, NY	1	$576.06	Senior Advisor to the Special Assistant to the President for Information Integration
09/30/02	White Plains, NY	1	$907.10	Executive Secretary
10/01/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
10/01/02	White Plains, NY	1	$702.73	Director for Critical Infrastructure Protection
10/02/02	Carlisle Barracks, PA	1	$132.30	Communications Aide to the Assistant to the President for Homeland Security
10/02/02	Charleston, WV	1	$154.94	Director, Cyberspace Security
10/03/02	Los Angeles, CA	1	$943.66	Director, State and Local Affairs
10/03/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
10/03/02	Miami, FL	1	$571.00	Sr. Director, Research and Development
10/04/02	Washington, DC	1	$169.48	Communications Aide
10/06/02	Minneapolis, MN	1	$768.50	Director for Incident Management
10/06/02	Orlando, FL	1	$432.31	Senior Advisor to the Special Assistant to the President for Information Integration
10/07/02	Las Vegas, NV	1	$874.73	Director of Critical Infrastructure
10/07/02	Oklahoma City, OK	1	$525.94	Sr. Director, Research and Development
10/07/02	Pittsburgh, PA	2	$1,663.50	Special Assistant to the President for Public Liaison, Communications Aide to the Assistant to the Presidnet for Homeland Security
10/07/02	San Diego, CA	1	$1,411.68	Senior Director for Response and Recovery
10/08/02	Minneapolis, MN	1	$914.14	Senior Director for Intergovernmental Affairs
10/08/02	Pittsburgh, PA	2	$1,571.22	Assistant to the President for Homeland Security, Special Assistant to the Assistant to President for Homeland Security
10/09/02	Dallas, TX	1	$704.65	Executive Assistant, Response and Recovery
10/09/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
10/10/02	Fort Lauderdale, FL	2	$2,958.00	Special Assistant to the President for Public Liaison, Director for Incident Management
10/11/02	Erie, PA	1	$930.69	Communications Assistant

10/11/02	Lynchburg, VA	1	$52.93	Director Policy and Plans
10/12/02	Erie, PA	1	$348.00	Operations Officer
10/14/02	Columbus, OH	1	$572.00	Senior Director for Response and Recovery
10/15/02	Atlanta,GA	1	$852.36	Director, Cyberspace Security
10/15/02	Key West, FL	1	$1,216.80	Director for Immigration Security
10/15/02	Sacramento, CA	1	$1,260.62	Director, Biodefense
10/15/02	Seattle, WA	1	$1,050.00	Senior Director for Protection and Prevention
10/15/02	Washington, DC	8	$4,481.76	President's Homeland Security Advisory Board
10/16/02	Raleigh, NC	1	$254.06	Senior Advisor to the Special Assistant to the President for Information Integration
10/16/02	Vancouver, Canada	1	$1,662.55	Director, Policy and Plans
10/18/02	Trenton, NJ	1	$1,310.12	Director, State and Local Affairs
10/18/02	Washington, DC	4	$2,385.93	Communications Assistant, President's Homeland Security Advisory Board
10/21/02	Houston, TX	1	$849.91	Senior Director for Protection and Prevention
10/21/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
10/21/02	Newark, NJ	2	$852.90	Senior Director for Intergovernmental Affairs, Director State and Local Affairs
10/21/02	Washington, DC	1	$87.50	President's Homeland Security Advisory Board
10/22/02	Frederick, MD	1	$291.15	Director of Critical Infrastructure
10/22/02	Reno, NV	1	$803.60	Special Assistant, Intergovernmental Affairs
10/22/02	Trenton, NJ	1	$153.00	Special Assistant
10/23/02	San Jose, CA	1	$931.76	Director, Cyberspace Security
10/24/02	Erie, PA	1	$1,001.53	Communications Aide to the Assistant to the President for Homeland Security
10/24/02	Ontarion, CA	1	$664.76	Senior Director for Response and Recovery
10/24/02	Orlando, FL	1	$547.06	Director, Policy and Plans
10/25/02	Albany, NY	1	$580.50	Senior Director for Protection and Prevention
10/25/02	Lynchburg, VA	1	$52.93	Director, Operations
10/26/02	Washington, DC	1	$214.03	Communications Assistant
10/28/02	Hershey, PA	1	$286.16	Senior Director for Response and Recovery
10/28/02	Savannah, GA	1	$452.68	Senior Director for Intergovernmental Affairs
10/29/02	Manhattan, NY	1	$511.27	Deputy Assistant to the President for Homeland Securtiy
10/29/02	St. Louis, MO	1	$1,078.66	Director of Critical Infrastructure
10/30/02	Brussels, Bel	1	$4,853.38	Communications Aide to the Assistant to the President for Homeland Security
10/31/02	Cedar Rapids, IA	1	$2,173.70	Special Assistant to the President and Director of Communications
11/01/02	Atlantic City, NJ	1	$0.00	Sr. Director, Research and Development

REV_00168132

11/01/02	Brussels, Bel	1	$2,173.70	Special Assistant to the President and Director of Communications
11/01/02	Pittsburgh, PA	2	$606.97	Communications Assistant, Operations Officer
11/02/02	San Jose, CA	1	$1,001.50	Senior Director for Protection and Prevention
11/03/02	Brussels, Bel	3	$4,534.72	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security, Director Policy and Plans
11/03/02	Washington, DC	1	$8.40	Communications Assistant
11/04/02	London, England	1	$2,536.36	Operations Officer
11/06/02	Santa Barbara, CA	1	$711.51	Director, Economic Consequence Management
11/09/02	Lynchburg, VA	1	$741.18	Director State and Local Affairs
11/09/02	Philadelphia, PA	1	$752.47	Communications Assistant
11/10/02	New Orleans, LA	1	$752.47	Communications Assistant
11/12/02	Philadelphia, PA	1	$244.80	Senior Director for Response and Recovery
11/13/02	Cincinnati, OH	1	$70.34	Communications Aide to the Assistant to the President for Homeland Security
11/14/02	Charlotte, NC	1	$992.48	Director of Critical Infrastructure
11/14/02	Erie, PA	1	$931.40	Operations Officer
11/14/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
11/15/02	Shepherdstown, WV	1	$79.60	Senior Director for Response and Recovery
11/16/02	Erie, PA	1	$613.64	Special Assistant
11/17/02	Las Vegas, NV	1	$2,074.06	Director, Biodefense
11/18/02	Manhattan, NY	1	$118.70	Special Assistant to the President and Senior Director for Policy and Plans
11/19/02	Philadelphia, PA	2	$1,051.46	Deputy Assistant to the President for Homeland Securtiy, Sr. Director, Research and Development
11/20/02	Los Angeles, CA	3	$4,199.59	Senior Director for Intergovernmental Affairs, Special Assistant to the President for Public Liaison,
				Deputy Press Secretary
11/22/02	Boston, MA	1	$467.20	Director, Policy and Plans
11/22/02	Scottsdale, AZ	1	$233.64	Special Assistant to the President for Public Liaison
11/24/02	Mexico City, Mexico	1	$1,155.08	Director, Policy and Plans
11/24/02	Phoenix, AZ	1	$1,999.06	Communications Assistant
11/25/02	Manhattan, NY	1	$320.22	Director, Economic Consequence Management
11/26/02	London, England	1	$951.43	Special Assistant to the Deputy Assistant to the President for Homeland Security
12/01/02	St. Louis, MO	1	$1,579.63	Communications Assistant
12/02/02	Chicago, IL	1	$906.76	Deputy Assistant to the President for Homeland Securtiy

REV_00168133

12/02/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
12/02/02	Washington, DC	10	$8,634.98	President's Homeland Security Advisory Board
12/03/02	Chicago, IL	1	$369.38	Director State and Local Affairs
12/03/02	Washington, DC	1	$50.50	President's Homeland Security Advisory Board
12/04/02	Cambridge, MA	1	$901.10	Director of Critical Infrastructure
12/06/02	Salt Lake City, UT	1	$822.14	Director State and Local Affairs
12/06/02	Seattle, WA	1	$992.06	Director Coordination Center
12/06/02	Washington, DC	1	$297.72	Communications Assistant
12/08/02	Manhattan, NY	1	$237.55	Operations Officer
12/09/02	Baltimore, MD	1	$327.32	Senior Director for Response and Recovery
12/09/02	Indianapolis, IN	1	$817.00	Director, Cyberspace Security
12/09/02	Manhattan, NY	1	$316.90	Operations Officer
12/09/02	San Francisco, CA	1	$237.54	Sr. Director, Research and Development
12/09/02	Seattle, WA	2	$1,505.08	Special Assistant to the Deputy Assistant to the President for Homeland Security, Deputy Director Coordination Center
12/11/02	Manhattan, NY	5	$3,154.69	Deputy Assistant to the President for Homeland Securtiy, Director State and Local Affairs, Executive Assistant Response and Recovery,
				Director for Critical Infrastructure Protection, Director for Cargo and Port Security,
				Executive Assistant Response and Recovery
12/13/02	Washington, DC	1	$307.77	Communications Assistant
12/18/02	Anniston Army Depot, AL	1	$219.00	Director, Biodefense
12/18/02	Atlanta,GA	1	$543.75	Director for Cargo and Port Security
12/19/02	Harrisburg, PA	1	$379.64	Communications Aide to the Assistant to the President for Homeland Security
12/19/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
12/20/02	Washington, DC	1	$135.22	Communications Assistant
12/21/02	Erie, PA	1	$3,369.44	Operations Officer
01/07/03	Las Vegas, NV	1	$1,128.64	Director, Cyberspace Security
01/09/03	Erie, PA	1	$938.50	Communications Aide to the Assistant to the President for Homeland Security
01/09/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/11/03	San Diego, CA	2	$1,945.55	Operations Officer, Operations Officer
01/14/03	Cape Canaveral, FL	2	$1,798.55	Senior Director for Response and Recovery, Deputy Director, Incident Management
01/15/03	Boston, MA	1	$1,248.78	Director of Critical Infrastructure
01/15/03	Jacksonville, FL	1	$767.86	Director for Weapons of Mass Destruction
01/15/03	New Orleans, LA	1	$968.98	Executive Assistant, Response and Recovery

01/16/03	Erie, PA	1	$672.78	Communications Aide to the Assistant to the President for Homeland Security
01/16/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/17/03	Erie, PA	1	$238.00	Operations Officer
01/20/03	San Antonio, TX	2	$1,549.64	Special Assistant to the President and Executive Director, PHSAC, Director, External Affairs
01/21/03	Harrisburg, PA	1	$150.00	Communications Aide to the Assistant to the President for Homeland Security
01/21/03	Manhattan, NY	1	$406.96	Senior Director for Response and Recovery
01/21/03	Mexico City, Mexico	1	$1,228.73	Director for Critical Infrastructure Protection
01/22/03	Manhattan, NY	1	$334.50	Director, Economic Consequence Management
01/22/03	Washington, DC	7	$3,930.05	President's Homeland Security Advisory Board
01/24/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/24/03	Shepherdstown, WV	1	$81.06	Director, Economic Consequence Management
01/28/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/29/03	Chicago, IL	1	$245.50	Director, Economic Consequence Management
01/30/03	Washington, DC	7	$4,952.27	President's Homeland Security Advisory Board
02/07/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
02/09/03	Seattle, WA	1	$1,877.78	Director, Cyberspace Security
02/10/03	Norfolk, VA	1	$105.06	Director of Critical Infrastructure
02/13/03	Manhattan, NY	1	$33.25	Director for Cargo and Port Security
02/20/03	Cambridge, MA	1	$2,579.47	Special Assistant to the President and Senior Director for Policy and Plans
02/20/03	Washington, DC	5	$3,647.25	President's Homeland Security Advisory Board
02/21/03	Washington, DC	3	$1,066.55	President's Homeland Security Advisory Board
02/25/03	Lynchburg, VA	1	$52.93	Director Policy and Plans
03/03/03	Albuquerque,NM	1	$982.87	Executive Assistant, Response and Recovery
03/09/03	Baltimore, MD	1	$897.11	Director, Biodefense
03/12/03	Houston, TX	1	$1,218.03	Director, Incident Management
03/25/03	Lynchburg, VA	1	$52.93	Director Policy and Plans
03/31/03	Charlottesville, VA	1	$189.00	Special Assistant to the Deputy Assistant to the President for Homeland Security
	Total		**$302,422.75**	

REV_00168135

Cyberspace Security Travel				
Trip Date	Destination	# of Staff	Trip Cost	Staff Position
04/02/02	Orlando, FL	1	$592.89	Director, Cyberspace Security
04/03/02	Providence, RI	1	$875.74	Vice Chairman, PCIPB
04/05/02	Denver, CO	1	$1,288.87	Vice Chairman, PCIPB
04/08/02	Williamsburg, VA	1	$261.00	Vice Chairman, PCIPB
04/10/02	Albany, NY	1	$904.60	Vice Chairman, PCIPB
04/12/02	Orlando, FL	1	$1,279.00	Vice Chairman, PCIPB
04/16/02	Orlando, FL	1	$757.75	Special Assistant to the President for Cyberspace Security, and Chair, PCIPB
04/21/02	Orlando, FL	1	$1,663.74	Special Assistant to the President for Cyberspace Security, and Chair, PCIPB
05/07/02	Chicago, IL	1	$524.42	Director, Cyberspace Security
05/08/02	Las Vegas, NV	1	$1,009.00	Senior Director, National Security
05/10/02	Boston, MA	1	$455.80	Chief of Staff
5/12/2002	Denver, CO	1	$1,390.93	Director, Cyberspace Security
05/12/02	Denver, CO/Indianapolis, IN	1	$1,574.15	Special Assistant to the President for Cyberspace Security, and Chair, PCIPB
5/14/2002	Denver, CO	1	$1,711.17	Deputy Chief of Staff
5/16/2002	Chicago, IL	1	$328.00	Chief of Staff
5/20/2002	Honolulu, HI	1	$1,371.44	Director, Cyberspace Security
5/27/2002	Chicago, IL	1	$2,874.45	Deputy Chief of Staff
5/29/2002	Chicago, IL	2	$1,489.16	Director for Cyberspace Security, Director for Cyberspace Security
5/31/2002	Portland, OR	1	$2,874.45	Deputy Chief of Staff
6/1/2002	Seattle, WA	1	$4,571.88	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
6/3/2002	Portland, OR	1	$4,571.98	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
6/3/2002	San Diego, CA	1	$1,436.79	Vice Chairman, PCIPB
6/5/2002	Portland, OR	1	$1,677.79	Vice Chairman, PCIPB
6/7/2002	Seattle, WA	1	$1,436.79	Vice Chairman, PCIPB
6/12/2002	Buffalo, NY	1	$761.29	Vice Chairman, PCIPB
6/16/2002	Atlanta, GA	3	$2,522.62	Deputy Chief of Staff, Director, Legislative Affairs, Vice Chairman, PCIPB
6/19/2002	London, GBR	1	$1,687.92	Vice Chairman, PCIPB
6/24/2002	Seattle, WA	1	$982.09	Vice Chairman, PCIPB
6/26/2002	Boston, MA	1	$641.44	Chief of Staff
6/26/2002	Chicago, IL	1	$982.09	Vice Chairman, PCIPB
6/26/2002	Las Vegas, NV	1	$982.06	Senior Director, National Security
7/8/2002	Manhattan, NY	2	$483.20	Vice Chairman, PCIPB, Senior Director, National Security

7/20/2002	Monterey, CA	1	$1,352.72	Director, Cyberspace Security
7/20/2002	Tulsa, OK	2	$2,474.19	Special Assistant to the President for Cyberspace Security and Chair, PCIPB and Vice Chairman, PCIPB
7/22/2002	Dallas, TX	1	$877.15	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
7/23/2002	Minneapolis, MN	1	$1,602.04	Vice Chairman, PCIPB
7/30/2002	Las Vegas, NV	1	$1,148.96	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
8/4/2002	Roanoke, VA	1	$671.68	Vice Chairman, PCIPB
8/6/2002	Duluth, MN	1	$71.76	Vice Chairman, PCIPB
8/6/2002	Ft. Lauderdale, FL	1	$705.61	Director, Cyberspace Security
8/6/2002	San Francisco, CA	1	$811.92	Director for Cyberspace Security
8/12/2002	Beaver Creek, CO	1	$3,362.76	Chief of Staff
8/12/2002	Vail, Co	1	$3,362.76	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
8/13/2002	Phoenix, AZ	1	$1,128.18	Vice Chairman, PCIPB
8/13/2002	San Francisco, CA	1	$4,362.25	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
8/17/2002	Aspen, CO	1	$287.00	Senior Director, National Security
8/18/2002	San Francisco, CA	1	$3,362.76	Chief of Staff
8/19/2002	Manhattan, NY	1	$470.06	Director for Cyberspace Security
8/22/2002	Boston, MA	1	$462.04	Director for Cyberspace Security
8/26/2002	Nashville, TN	1	$730.23	Vice Chairman, PCIPB
8/26/2002	Ottawa, CAN	1	$1,056.24	Director, Cyberspace Security
8/30/2002	Chicago, IL	1	$1,602.40	Vice Chairman, PCIPB
9/3/2002	Seattle, WA	1	$251.44	Director, Cyberspace Security
9/5/2002	Manhattan, NY	1	$195.04	Senior Director, National Security
9/6/2002	Philadelphia, PA	1	$226.72	Director for Cyberspace Security
9/8/2002	San Jose, CA	1	$845.27	Director for Cyberspace Security
9/12/2002	Atlanta, GA	1	$122.00	Director for Cyberspace Security
9/15/2002	Minneapolis, MN	1	$2,388.45	Vice Chairman, PCIPB
9/15/2002	Palo Alto, CA	1	$2,987.46	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
9/15/2002	San Francisco, CA	2	$4,185.11	Deputy Chief of Staff, Executive Assistant
9/17/2002	Palo Alto, CA	2	$3,847.56	Vice Chairman, PCIPB and Director for Cyberspace Security
9/17/2002	San Francisco, CA	1	$2,032.69	Director for Cyberspace Security

REV_00168137

9/18/2002	New London, CT	1	$2,541.62	Deputy Chief of Staff
9/18/2002	Seattle, WA	1	$2,388.45	Vice Chairman, PCIPB
9/19/2002	Manhattan, NY	1	$186.62	Director for Cyberspace Security
9/21/2002	Albuquerque, NM	1	$901.51	Director for Cyberspace Security
9/24/2002	Austin, TX	2	$1,975.60	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Vice Chairman, PCIPB
9/24/2002	Cleveland, OH	1	$1,092.55	Director for Cyberspace Security
9/24/2002	Denver, CO	1	$1,680.02	Vice Chairman, PCIPB
9/24/2002	San Antonio, TX	5	$5,537.03	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Vice Chairman, PCIPB, Deputy Chief of Staff, Senior Director,
				Senior Director, National Security, Director, Cyberspace Security
9/30/2002	Atlantic City, NJ	1	$375.09	Vice Chairman, PCIPB
9/30/2002	Ft. Meyers, FL	1	$622.71	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/2/2002	Philadelphia, PA	1	$660.04	Deputy Chief of Staff
10/7/2002	Minneapolis, MN	1	$750.71	Director for Cyberspace Security
10/8/2002	Brussels, Bel	1	$3,903.77	Vice Chairman, PCIPB
10/9/2002	Omaha, NE	1	$1,188.85	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/9/2002	Pittsburg, Pa	1	$1,188.65	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/11/2002	London, GBR	1	$3,903.77	Vice Chairman, PCIPB
10/14/2002	Boston, MA	2	$3,428.15	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Deputy Chief of Staff
10/17/2002	Boston, MA	1	$308.38	Director for Cyberspace Security
10/17/2002	Chicago, IL	1	$312.50	Deputy Chief of Staff
10/20/2002	Miami, FL	1	$611.04	Director for Cyberspace Security
10/22/2002	Frederick, MD	2	$669.46	Vice Chairman, PCIPB and Director for Cyberspace Security
10/23/2002	Pittsburg, Pa	2	$1,934.71	Vice Chairman, PCIPB and Deputy Chief of Staff
10/26/2002	Brussels, Bel	1	$6,650.41	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/26/2002	Eugene, OR	1	$1,595.63	Director for Cyberspace Security
10/28/2002	Las Vegas, NV	1	$1,351.69	Director for Cyberspace Security
10/28/2002	San Antonio, TX	1	$501.00	Senior Director, National Security
11/5/2002	Atlanta, GA	1	$1,024.90	Vice Chairman, PCIPB
11/06/02	White Plains, NY	1	$965.79	Director for Cyberspace Security

REV_00168138

11/7/2002	Chicago, IL	3	$1,266.23	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Director, Cyberspace Security, Director, National Security
11/7/2002	Manhattan, NY	1	$793.86	Vice Chairman, PCIPB
11/10/2002	Monterey, CA	1	$1,329.86	Director for Cyberspace Security
11/12/2002	Manhattan, NY	1	$697.49	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
11/13/2002	Manhattan, NY	1	$350.50	Senior Director, National Security
11/13/2002	Phoenix, AZ	2	$3,548.19	Director, Legislative Affairs, Vice Chairman, PCIPB
11/14/2002	Seattle, WA	1	$1,329.66	Director for Cyberspace Security
11/17/2002	Atlanta, GA	1	$436.06	Director for Cyberspace Security
11/17/2002	Ottawa, CAN	1	$2,418.32	Vice Chairman, PCIPB
11/19/2002	Manhattan, NY	1	$877.25	Director for Cyberspace Security
11/19/2002	Salt Lake City, UT	1	$877.25	Director for Cyberspace Security
11/20/2002	Manhattan, NY	1	$699.56	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
12/3/2002	Chicago, IL	1	$229.13	Director for Cyberspace Security
12/3/2002	San Francisco, CA	1	$2,293.66	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
12/4/2002	Phoenix, AZ	1	$1,264.33	Senior Director, National Security
12/4/2002	San Francisco, CA	1	$1,637.48	Director, Cyberspace Security
12/6/2002	Seattle, WA	1	$1,138.43	Vice Chairman, PCIPB
12/9/2002	Boston, MA	1	$401.00	Director for Cyberspace Security
12/9/2002	Charleston, SC	1	$825.27	Director for Cyberspace Security
12/12/2002	Manhattan, NY	1	$380.05	Vice Chairman, PCIPB
12/17/2002	Flemington, NJ	2	$487.54	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Senior Director, National Security
12/18/2002	Atlanta, GA	1	$64.50	Deputy Chief of Staff
1/9/2003	Charlotte, NC	2	$1,929.02	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Deputy Chief of Staff
1/14/2003	Honolulu, HI	1	$1,610.34	Director for Cyberspace Security
1/21/2003	Boston, MA	2	$1,797.69	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Director for Cyberspace Security
1/22/2003	St. Petersburg, FL	1	$492.08	Vice Chairman, PCIPB
1/23/2003	Ft. Meyers, FL	1	$636.12	Director for Cyberspace Security
1/23/2003	Naples, FL	1	$864.08	Vice Chairman, PCIPB

REV_00168139

1/24/2003	Philadelphia, PA	1	$864.08	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
1/24/2003	San Diego, CA	3	$4,654.94	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Deputy Chief of Staff, Director, Cyberspace Security
01/28/03	Williamsburg, VA	1	$239.34	Vice Chairman, PCIPB
1/29/2003	Chicago, IL	1	$306.37	Director for Cyberspace Security
1/30/2003	Manhattan, NY	1	$376.50	Vice Chairman, PCIPB
2/2/2003	Columbus, MS	1	$835.25	Vice Chairman, PCIPB
2/2/2003	San Francisco, CA	1	$1,211.37	Director for Cyberspace Security
2/10/2003	London, GBR	1	$1,473.61	Vice Chairman, PCIPB
02/11/03	Tallahassee, FL	1	$582.94	Director for Cyberspace Security
2/24/2003	Atlanta, GA	1	$768.07	Vice Chairman, PCIPB
2/24/2003	Boca Raton, FL	1	$1,052.94	Director for Cyberspace Security
2/25/2003	Chicago, IL	1	$522.44	Director for Cyberspace Security
3/3/2003	Manhattan, NY	1	$607.86	Director for Cyberspace Security
3/4/2003	San Diego, CA	1	$785.37	Director for Cyberspace Security
3/6/2003	Ottawa, CAN	1	$929.94	Vice Chairman, PCIPB
3/8/2003	Orlando, FL	1	$260.11	Vice Chairman, PCIPB
3/17/2003	San Antonio, TX	1	$801.47	Vice Chairman, PCIPB
3/18/2003	Atlanta, GA	1	$801.47	Vice Chairman, PCIPB
3/22/2003	Paris, FRA	2	$3,402.37	Vice Chairman, PCIPB, Director for Cyberspace Security
	Total		**$192,350.99**	

QUESTION 18: Currently, OHS costs are included in both the WHO and OA appropriations. Is that also the case in the FY 2004 request? If so, please provide a table, by appropriation, showing total OHS budgeted costs, for each of the fiscal years 2002 through 2004.

RESPONSE: For FY 2003, although funds were requested as part of the WHO budget activity, the Office of Homeland Security received for the first time its own appropriation, separate from the WHO appropriation. Funds supporting OHS / HSC requirements in FY 2003 were provided also to OA as part of the OA Pilot program. The FY 2004 Request identifies all requirements for OHS / HSC in the WHO Budget Activity, since the OA Pilot program was not guaranteed to continue after FY 2003. See table below:

REV_00168140

(Dollars in Thousands)

	Congressional Budgets		
	FY 2002* Actual	FY 2003 Estimate	FY 2004 Estimate
OHS / HSC	$30,800	$8,272	$8,331
OA		$783	
	$30,800	$9,055	$8,331

*FY 2002 budget for OHS was based on the OHS mission and funding profile prior to the establishment of DHS and was provided by 3 sources of emergency appropriated funds: P.L. 107-38 for $25,000,000; P.L.107-117 for $2,000,000; and P.L. 107-206 for $3,800,000.

QUESTION 19: Last year, it was stated that one MOU existed between OHS and other EOP entities (p. 51). Please provide a copy of the MOU between MOU and the Office of Science and Technology Policy.

RESPONSE: The MOU between OHS and OSTP expired with the creation of the Department of Homeland Security as relevant responsibilities transferred from OHS to DHS, pursuant to the Homeland Security Act of November, 2002.

QUESTION 20: Have any other MOUs been signed since that time?

RESPONSE: An MOU between the Homeland Security Council and the National Security Council was signed in May, 2003 providing for the expansion of NSC's classified computer network to include approved HSC staff with necessary security clearances.

In addition standard interagency agreements were signed between OHS/HSC and the Office of Administration (OA) and OMB to pay for detailees from these EOP agencies to OHS/HSC and separately between OHS/HSC and OA to pay for miscellaneous supplies and materials.

QUESTION 21: At this time last year, OHS planned to establish a coordination center which would function 24 hours a day, 7 days a week; a communications room; and two incident management rooms. At the same time, the Administration made clear that the role of OHS was to establish and coordinate policy, and not to conduct operational activities. With the establishment of the Department of Homeland Security, have these specific activities been descoped or eliminated?

RESPONSE: The role of the Homeland Security Council is to provide confidential policy advice to the President and coordinate policy across the departments and agencies of the executive branch. The Homeland Security Council does not conduct operational

REV_00168141

activities. The Homeland Security Council does not operate a coordination center. With the establishment of the Department of Homeland Security, DHS is the lead federal agency for incident management. As such, DHS operates a Homeland Security Center with 24 hour/7 days per week coordination and communications capabilities. Those functions do not reside in the Homeland Security Council.

QUESTION 22: How many positions support these activities in the FY 2004 request, and what is the total budgeted amount?

RESPONSE: The FY 2004 budget will not fund any personnel or activities related to a coordination center.

QUESTION 23: How are such activities appropriate for a policymaking body, when DHS now exists to coordinate and execute operational activities related to specific homeland security incidents and activities?

RESPONSE: The Homeland Security Council does not operate a coordination center. With the establishment of the Department of Homeland Security, DHS is the lead federal agency for incident management. As such, DHS operates a Homeland Security Center with 24 hour/7 days per week coordination and communications capabilities. Those functions do not reside in the Homeland Security Council.

QUESTION 24: At the time of last year's hearing, the permanent location and amount of space for the President's Critical Infrastructure Protection Board had not been determined (p. 77). Have these requirements been determined today?

RESPONSE: The President's Critical Infrastructure Protection Board (CIPB) no longer exists at the White House. Executive Order 13228, which created the CIPB was amended. Congress through Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection. Cyber security issues will be addressed by DHS and that office.

QUESTION 25: Likewise, total CIPB staffing had not been determined. Do you have an estimate today? What staffing assumptions were made in the FY 2004 budget submission?

RESPONSE: The President's Critical Infrastructure Protection Board (CIPB) no longer exists at the White House. Executive Order 13228, which created the CIPB was amended. Congress through Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection. Cyber security issues will be addressed by DHS and that office.

REV_00168142

QUESTION 26: How much funding is included in the FY 2004 request for CIPB, and how does that compare to the current estimate for FY 2003?

RESPONSE: The President's Critical Infrastructure Protection Board (CIPB) no longer exists at the White House. Executive Order 13228, which created the CIPB was amended. Congress through Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection. Cyber security issues will be addressed by DHS and that office.

QUESTION 27: Please provide a breakdown showing how those funds would be used.

RESPONSE: The President's Critical Infrastructure Protection Board (CIPB) no longer exists at the White House. Executive Order 13228, which created the CIPB was amended. Congress through Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection. Cyber security issues will be addressed by DHS and that office.

QUESTION 28: Please provide details on any government-industry partnerships that have been created in support of cyber security initiatives coordinated by, or carried out, through EOP or the CIPB.

RESPONSE: In 2002, the President's Critical Infrastructure Protection Board developed a *National Strategy to Secure Cyberspace.* To encourage broader participation and input into the development process, a draft strategy was released for public comment in September 2002. The final strategy was released in February 2003. The PCIPB requested the National Infrastructure Assurance Council and the National Security Telecommunications Advisory Committee to both provide comments on the draft strategy. In addition, there were 10 town hall meetings held in various portions of the country which brought industry, academia and private citizens together to focus on the complex issues related to cyber security.

The *National Strategy to Secure Cyberspace* emphasizes that government-industry partnerships will be a cornerstone. As the primary implementer of the Strategy, DHS will be a partner with industry and academia to accomplish the objectives identified by the President's strategy.

National Security Council (POC – Katherine Fertakis)

QUESTION 29: Your request includes a 10.8 percent increase to cover reimbursable detailee costs and additional support staff for the President's Foreign Intelligence Advisory Board. Please explain the need for these increases in detail.

REV_00168143

RESPONSE: The requested increase covers reimbursable detailee costs of personnel from the Department of State. The National Security Council (NSC) may request detailed personnel performing at a high level in high priority positions to remain beyond their initial tour of duty because of their unique qualifications. Public Law 93-126, Section 11, requires the NSC to reimburse the Department of State for details to the NSC that exceed the cap of 13 detailed into their second year and for all staff detailed longer than two years. The FY 2003 increase in this category estimates for details becoming reimbursable during the Spring and the Summer. The FY 2004 increase represents an annualization of the expenses, minus the cost for the details that will not be renewed.

Since the events of September 11, 2001, the PFIAB support staff workload has been significantly increased and consumed by the homeland security effort. Thus far about 95% of the Board's current advisory work for the President has been directly related to homeland security and counter-terrorism. (Intelligence performance thereon, and support to the new department of homeland security) With only 4 staff members and an already overflowing Board work schedule, work on other important PFIAB priorities has been deferred—such as declassification review of PFIAB archived records. At least three additional staff members, including a GS-14 administrative manager, will be needed to adequately meet support requirements as the Board expands its review of intelligence support to homeland security beyond the more immediate structural and organizational issues, and also re-engages the more general intelligence performance issues across the full spectrum of pressing issues. The FY 2004 request includes $250,000 which will fund two reimbursable detailed staff members and one permanent, Schedule A, Excepted Service, GS-14 administrative management position.

QUESTION 30: What are the dollar and percentage increases for each of the above items, compared to the FY 2003 estimated levels?

RESPONSE: The FY 2004 request for reimbursable detailees represents an increase of $356,000, or 64%, over the FY 2003 estimated levels. The PFIAB increase of $250,000 will be 100% above the FY 2003 request since this is a new requirement for FY 2004.

QUESTION 31: The justifications indicate that 11 additional positions are being added to this office in FY 2003, raising the estimated from 60 in FY 2002 to an estimated 71 in FY 2003. What specific positions are being created?

RESPONSE: The 11 additional positions, which raise NSC's FTE from 60 to 71, are not new positions. In FY 2003, the Office for Combating Terrorism (OCT) was combined with the NSC budget request. The increased FTE request correlates with the continued funding for and operation of the OCT as a part of the NSC submission.

QUESTION 32: The FY 2004 request includes funds for a new GS-14 administrative manager for the PFIAB. Why is this new position needed at this time?

REV_00168144

RESPONSE: PFIAB requires a permanent administrative position for continuity as well as efficiency reasons. The administrative staff constitutes the lifeblood of the Board: it fulfills all of the support responsibilities, including human resource management, budget, travel, procurement, research, publishing, protocol, and special assistance to the Executive Director, Chair and Vice Chair. With only two administrative people on staff, it is absolutely critical that both individuals be fully knowledgeable about and highly experienced at *White House* administrative policies, procedures and guidelines; equally important, *both* must possess highly honed administrative skills *and* be extremely efficient, effective and professionally dedicated.

The Board simply cannot attain this level of experience and competence by relying on detailees from other agencies, particularly non-reimbursed detailees. More often than not, we must accept whomever an agency can make available. Therefore, the Board will use this one permanent administrative billet to create a PFIAB office manager position. This individual not only will provide continuity of expertise and experience, but also will ensure that the other administrative person obtains the proper professional mentoring and supervision. We plan to make this a GS-14 position, but may start the individual we select at the GS-13 level to allow for personal advancement...and thereby also ensuring, hopefully, a fairly long term of service to the Board.

Office of National Drug Control Policy (POC – Michelle Marx)

QUESTION 33: You are requesting 10 additional FTE in FY 2004 to replace 10 non-reimbursable detailees who are no longer available. Why are these positions no longer available, and what are the specific positions?

RESPONSE: ONDCP's FY 2004 request includes resources to support 125 FTEs, an increase of 10 FTEs over the FY 2003 request. This FTE increase is requested to offset the loss of approximately 20 - 25 of the 30 non-reimbursable military detailee positions the Department of Defense has supported at ONDCP since 1996. (The Department of Defense, as outlined in a December 28, 2001 memorandum, adheres to a general policy that approves of requests for details only on a reimbursable basis. Exceptions to this policy are granted only in the most compelling circumstances when the agency head has certified that the net benefit of the detail accrues to the Department of Defense.)

This 10 FTE increase, along with distributing additional responsibilities among existing staff, will allow ONDCP to absorb the detailee staffing loss and meet its statutory responsibilities. The specific positions would be appointed within the following offices: Planning and Budget; State and Local Affairs; Intelligence; and Supply Reduction.

Renovation of the Eisenhower Executive Office Building (POC – Steve Beattie)

QUESTION 34: What is the status of funding provided in FY 2002 and 2003? Please provide a breakdown of funding by the type of activity or renovation performed.

REV_00168145

RESPONSE: 34: The General Service Administration has used FY 2002 Emergency Response Funds in the amount of $1,674,000 for starting the Architects' and Engineers' design contract for the 17th Street Wing Security Modernization Project. GSA is currently in the process of reprogramming $7,500,000 for FY 2003 for design, management and inspection. The FY 2003 reprogramming is required to complete the Design/Build/Bridging documents and assist in managing the Design/Build/Bridging efforts.

QUESTION 35: How much remains unobligated, by appropriation?

RESPONSE: 35: The General Services Administration (GSA) awarded a portion of the design cost in the amount of $1,537,173 utilizing the FY 2002 Emergency Response Fund. $136,827 remains unobligated. GSA has not obligated any FY 2003 funding.

QUESTION 36: Please provide a detailed breakdown showing how funds requested in the GSA budget for FY 2004 would be used.

RESPONSE: 36: The following is a break down on how the funds will be used in FY 2004:

Major Work Items:	
Electrical System	$ 10,244,000
Air conditioning system, chillers and piping	$ 12,530,000
Interior Construction	$ 13,163,000
Utility Vault (includes foundation construction)	$ 22,107,000
Window Blast Mitigation	$ 4,685,000
Mansard Roof Hardening	$ 802,000
Estimated Construction Cost (ECC)	$ 63,531,000
Management and Inspection	$ 2,226,000
Authorization Requested (ECC, M&I)	$ 65,757,000

QUESTION 37: Please provide a detailed schedule for activities planned in FY 2004.

RESPONSE: 37: The design/build/bridging contract is scheduled to be awarded in March 2004. The current schedule for the project is as follows:

Design Award:	04/03
A/E Bridging Documents Complete:	10/03
Design/Build/Bridging Procurement Start:	09/03
Design/Build/Bridging Contract Award:	03/04
Construction Complete:	06/06

REV_00168146

QUESTION 38: How much are you currently paying GSA for the unoccupied space along the 17th Street side of EEOB, and how much rental cost are you incurring for the new locations where relocated employees are working?

RESPONSE: We are paying $0 for FY2003 for the unoccupied space along the 17th Street side of EEOB. GSA is not charging the EOP for the space vacated in September 2001. See Attachment A for the rental cost being incurred for the new locations where relocated employees are working.

Executive Residence (POC – Worthington White)

QUESTION 39: Please provide a table, corresponding to the projects on page 81 of last year's hearing record, showing the original appropriation for each project, the amount obligated to date, and the project status. This involves projects funded in fiscal year 2002.

RESPONSE: The following table provides funding information on the FY 2002 projects.

Executive Residence at the White House
FY2002 White House Repair and Restoration

Project	Original Appropriation	Obligated To Date	Status of Project
Pool Shelter Roof Reconstruction and Pool Deck Renovation	$430,000	$412,926	This project is completed, with only minor punch list items and related recurring maintenance items to be funded from the remaining funds.
Communication System Repairs/Phase 2*	$456,667 $4,544,000	$155,872	Modifications to the original design under Phase I (FY2001) are completed. The pre-bid meeting with prospective contractors is scheduled for mid-May, with contract award by late June, and construction commending by late July.
East and West Wing Exterior Restoration	$2,500,000	$2,398,433	The restoration is underway, all Phase I funds will be utilized this year.
Insulated Windows Replacement	$160,000	$162	The prototype utilizing historically accurate reproduction glass is in production, with manufacturing of actual replacement units expected to begin in June. Installation to be begin in August.
Kitchen Floor Replacement	$75,000	$60,815	This project is nearing completion with the remaining funds to be utilized for utility work.
North Portico Curtain Wall	$120,000	$106,751	The project is completed with remaining funds required to purchase spare parts inventory.
Stone Pavers Restoration	$277,000	$220,082	The project is currently underway and is scheduled for completion by September 2003.
West Colonnade Restoration	$275,000	$0	Planning has recently been completed; work will be accomplished in August and early September 2003.

*For the Comunication System Repairs/Phase 2 project, $456,667 was funded in FY 2001 for Architect and Engineering. The remaining $4,544,000 was for construction.

REV_00168147

QUESTION 40: Please provide a listing of the 95 FTE positions at the Executive Residence requested for funding in FY 2004, showing the position title and the annual salary level.

RESPONSE: The position and salary information is provided in the table that follows.

REV_00168148

EXECUTIVE RESIDENCE AT THE WHITE HOUSE - FY 2003 -- 95 FTE				
USHERS OFFICE				
16 FTE	USHER	$96,880	CALLIGRAPHER	$68,939
	CALLIGRAPHER	$60,202	CALLIGRAPHER	$79,670
	SYSTEMS ADMIN	$99,152	USHER	$90,059
	PROJECT SUPERVISOR	$55,092	CALLIGRAPHER	$69,911
	ADMIN ASSISTANT	$44,244	CHIEF USHER	$142,500
	USHER	$112,347	ADMIN OFFICER	$83,132
	ACCOUNTANT	$56,711	GROUNDS SUPT	$139,297
	USHER	$92,786	NIGHT DOORMAN	VACANT
OFFICE OF THE CURATOR				
4 FTE	CURATOR	$87,328	ASSISTANT CURATOR	VACANT
	COLLECTIONS MANAGER	$50,230	ASSISTANT CURATOR	$65,056
FLOWER SHOP				
4 FTE	CHIEF FLORIST	$92,786	FLORIST	$60,565
	FLORIST	$68,266	FLORIST	$51,987
HOUSEKEEPING				
21 FTE	MAID	$44,452	ASST HOUSEKEEPER	$79,670
	LAUNDRY SPEC	$53,098	HOUSEMAN	$47,539
	HOUSEMAN	$30,541	MAID	$48,671
	MAID	$48,656	CHIEF HOUSEKEEPER	$102,720
	LAUNDRY SPEC	$44,857	HOUSEMAN	$50,441
	MAID	$41,826	MAID	$37,770
	MAID	$42,433	HOUSEMAN	$55,091
	MAID	$28,285	HOUSEMAN	$38,798
	HOUSEMAN	$41,826	MAID	$54,280
	CUSTODIAL SPEC	$48,626	HOUSEMAN	$44,861
			HOUSEMAN	VACANT
FOOD & BEVERAGE SRVCS				
18 FTE	BUTLER	$67,969	PASTRY CHEF	$124,113
	KITCHEN STEWARD	$49,102	ASSISTANT CHEF	$86,211
	ASSISTANT CHEF	$79,670	ASST PASTRY CHEF	$57,521
	BUTLER	$52,360	ASSISTANT CHEF	$46,200
	STOREKEEPER	$64,086	BUTLER	$65,056
	BUTLER	$49,548	BUTLER	$59,411
	STOREKEEPER	$70,558	BUTLER	$66,028
	MAITRE'D	$91,422	CHEF	$113,951
	STOREKEEPER	$55,091	ASSISTANT CHEF	$46,870
OPERATIONS				
7 FTE	OPERATIONS AIDE	$54,116	OPERATIONS AIDE	$33,747
	OPERATIONS AIDE	$54,679	OPERATIONS AIDE	$73,692
	SHOP FOREMAN	$77,449	OPERATIONS AIDE	$58,895
			OPERATIONS AIDE	$49,024
CARPENTER & PAINT SHOP				
6 FTE	CARPENTER	$60,669	CARPENTER	$49,399
	PAINTER	$72,523	CARPENTER	$50,255
	PAINTER FOREMAN	$90,304	CARPENTER FOREMAN	$78,763
ENGINEERS & PLUMBING SHOP				
12 FTE	ENGINEER	$84,878	ENGINEER	$65,532
	ENGINEER	$66,826	ENGINEER	$68,266
	ENGINEER	$63,236	ENGINEER	$52,905
	ENGINEER	$62,234	PLUMBING FOREMAN	$90,304
	PLUMBER	$71,355	ENGINEER FOREMAN	$91,422
	ENGINEER	$66,826	ENGINEER	$51,966
ELECTRIC SHOP				
7 FTE	ELECTRICIAN	$73,692	ELECTRICIAN	$73,692
	ELECTRICIAN	$46,937	ELECTRICIAN	$55,389
	ELECTRIC SHOP FOREMAN	$95,515	ELECTRICIAN	$66,826
			ELECTRICIAN	$45,351

REV_00168149

QUESTION 41: The justifications (p. 67) indicate an estimated unobligated balance of $7,023,000 in this appropriation at the beginning of FY 2003. Please explain the sources of this balance, and provide a schedule for obligation of increments of those funds.

RESPONSE: The majority ($4,388,127) of the unobligated funds are associated with the Communication System Repairs/Phase 2 which was delayed to unanticipated design requirements. The schedule for completion and obligation of all FY2002 projects is detailed in the table below.

Executive Residence at the White House
FY2002 White House Repair and Restoration

Project	Original Appropriation	Obligated To Date	Status of Project
Pool Shelter Roof Reconstruction and Pool Deck Renovation	$430,000	$412,926	This project is completed, with only minor punch list items and related recurring maintenance items to be funded from the remaining funds.
Communication System Repairs/Phase 2*	$456,667 $4,544,000	$155,872	Modifications to the original design under Phase I (FY2001) are completed. The pre-bid meeting with prospective contractors is scheduled for mid-May, with contract award by late June, and construction commending by late July.
East and West Wing Exterior Restoration	$2,500,000	$2,398,433	The restoration is underway, all Phase I funds will be utilized this year.
Insulated Windows Replacement	$160,000	$162	The prototype utilizing historically accurate reproduction glass is in production, with manufacturing of actual replacement units expected to begin in June. Installation to be begin in August.
Kitchen Floor Replacement	$75,000	$60,815	This project is nearing completion with the remaining funds to be utilized for utility work.
North Portico Curtain Wall	$120,000	$106,751	The project is completed with remaining funds required to purchase spare parts inventory.
Stone Pavers Restoration	$277,000	$220,082	The project is currently underway and is scheduled for completion by September 2003.
West Colonnade Restoration	$275,000	$0	Planning has recently been completed; work will be accomplished in August and early September 2003.

*For the Comunication System Repairs/Phase 2 project, $456,667 was funded in FY 2001 for Architect and Engineering. The remaining $4,544,000 was for construction.

As of this date, there are also 5 projects which have balances prior to FY 2002. They are as follows:

FY1996 – Roof Repair – balance of $9,227. These funds will be expended as needed for ongoing maintenance and corrective measures.

FY1998 – Repair/restoration of the Laundry Room – balance of $26,616. Purchase of replacement equipment and maintenance of equipment to be expended in FY2003.

REV_00168150

FY2000 – Purchase and Install Two Ironers – balance of $5,754. These funds will be expended to replace the drive belts in FY2003.

FY2000 – Renovation of Paint Shop – balance of $38,271. Funds will be used to purchase and update equipment to meet EPA and OSHA requirements in FY2003.

FY2000 – Third Floor Promenade – balance of $11,392. Funds will be expended to rehab and replace drainage system in late FY2003 or early FY2004.

White House Repair and Restoration (POC – Dennis Freemyer)

QUESTION 42: You are requesting $4.225,000 for repairs and restoration of the White House. Is there additional funding in the National Park Service budget or elsewhere in the President's budget request for FY 2004 for similar activities at the White House?

RESPONSE: There are no other budget requests for the same activities at the White House.

QUESTION 43: Of this request, $3,500,000 is for restoration of the east and west wing exterior. Please provide a detailed discussion and breakdown of this request.

RESPONSE: The funding requested is for the continuation (2nd phase) of the East and West Wing Restoration project, the first being funded in FY'02. This is consistent with the original planning for the execution of this project based on the experience of the completed Executive Residence Exterior Restoration completed in 1996. A breakdown of major work items follows:

Estimated Construction Costs:

Mobilization, scaffolding, rental equipment	150,000
Stone, stucco, wood restoration, insulated glass	1,580,000
Paint removal	1,660,000
Effluent/hazardous material disposal	150,000
Specialized window film including installation	400,000
Specialized stucco coating including installation	550,000
Painting	500,000
Site Restoration	260,000
Design, project management, project supervision, testing	350,000
Contingency	400,000
Estimated Total Cost	**$6,000,000**
FY 2002 Funding	$2,500,000
FY 2004 Funding Request	$3,500,000

REV_00168151

Pennsylvania Avenue Improvements (POC – Steve Beattie)

QUESTION 44: What is the total estimated cost of security and street improvements on Pennsylvania Avenue in front of the White House, for which funds were provided in FY 2003?

RESPONSE: This project is to be funded by the Federal Highway Administration (FHWA). The total estimated cost of security and street improvements on Pennsylvania Avenue in front of the White House is currently $26.1 million. The information below breaks out the estimated FY 2003 costs for the project.

Project Activity	**Projected FY 2003 Obligations**
Preliminary Activities	
Verification and Concept Studies	$ 605,150
Design Activities	
Ground Survey and Mapping	$ 57,524
Subsurface Utility Survey	$ 149,682
Environmental Documentation	$ 75,000
Final Design (Consultant)	$ 1,300,000
Crash Testing	$ 350,000
FHWA Contract Administration	$ 100,000
Design Contingency	$ 262,644
Construction Activities	
Construction Contract	$ 18,500,000
Utility Construction	$ 1,500,000
FHWA Contract Administration	$ 1,700,000
MVVA Construction Assistance	$ 500,000
Construction Contingency	$ 1,000,000
Grand Totals	**$26,100,000**

QUESTION 45: What is the status of that project? When will FY 2003 funds be obligated?

RESPONSE: 45: The status of the security and street improvements on Pennsylvania Avenue is as follows -

- Project's status is an ongoing iterative process as the Design team receives comments from the public and the various stakeholders on surrounding sites.
- Under the National Environmental Policy Act, the final public information meeting for the Environmental Impact Assessment was held on May 5, 2003, which is the last

REV_00168152

step before the final report is issued the week of May 27, 2003. It is expected that the report's concluding statement will find no significant impact.

- The design team is in the pre-design stage.
- The engineers are currently in the design stage for utility relocation in the project's vicinity.
- The Section 106 review as required by the Secretary of the Interior under the Historic Preservation Act is underway and will develop a Memorandum of Agreement in June 2003, which will address issues regarding the design details. The Section 106 review occurs when a project utilizing federal funds may have an effect upon natural, environmental, or cultural resources and looks at mitigation of any adverse effects to those resources.
- $1.5 million is expected to be obligated at the end of August or early September 2003 to start the utility relocation on Pennsylvania Avenue and at the north ends of Jackson and Madison Places.
- Arrangements have already been made for procurement of the trees to be used on the Avenue since it will require root and limb pruning over two calendar years prior to installation on the Avenue. The trees will be installed after inaugural events in the spring of 2005.
- Approximately, $2,675,000 has been obligated to date (under contract). The remaining $3,685,000 will be obligated within the next six months to have the construction contract awarded by the end of September or early October 2003.

QUESTION 46: How much funding is requested for this project in FY 2004, and where is it located in the budget?

RESPONSE: $15 million has been set aside under the Department of the Interior bill for FY 2004. However, discussions have been held between the Federal Highway Administration and the Office of Policy Development in the Executive Office of the President to make the money available for contract award this fiscal year. Discussions have included placing FY 2004 monies into the FY 2003 supplemental appropriation. With the highway legislation pending, there could be a delay in getting the funding moved into the supplemental appropriation to allow the project to get underway.

QUESTION 47: What is the schedule for studies of traffic congestion mitigation alternatives in the vicinity of the White House, as funded in FY 2003?

RESPONSE: The project administrators met with representatives in the Office of Policy Development in the Executive Office of the President, on May 8, 2003 to begin outlining the scope of the study and a plan to involve the District of Columbia government and neighborhood stakeholders. A schedule for the study has not been developed, but will be prepared in the next three months.

REV_00168153

Remote Data Center (POC – Carlos Solari)

QUESTION 48: What is the status of establishment today of the remote data center?

RESPONSE: The remote data center project is on schedule and on budget. The project began last summer by conducting a systems development lifecycle analysis to determine and recommend the location for the facility. From this analysis, EOP decided on building the data center at a hardened FEMA facility located in Maryland. The project is being co-managed with FEMA and was established with three phases: (1) infrastructure build-out of the hardened facility (power, air handlers, etc), (2) construction of the data center itself (cabling, raised flooring, etc), and (3) the transition of EOP data systems (telecommunications, servers, etc). The project is approximately halfway through completion for the first two phases with a scheduled opening (initial operational capability) date of September 2003. The transition phase is on schedule preparing the systems and will proceed to begin the transfer September 2003 – with a planned transition of 12 months for all systems. The following chart shows the funding of the remote data center from FY 2002 thru FY 2004.

	FY 2002	FY 2003	FY 2004
CIP	$15,000,000	$5,000,000	$8,403,000
S&E	$ - 0 -	$ - 0 -	$ - 0 -
Total	$15,000,000	$5,000,000	$8,403,000

QUESTION 49: Last year, you estimated annual operating costs of this facility to be $7,500,000 (p. 88). Is that your current estimate?

RESPONSE: Last year OA provided a rough estimate of $7,500,000 for the future annual operating cost of the new data center facility. This was based upon the following estimated costs:

- $1,500,000 in communications to maintain connectivity for the EOP,
- $600,000 in space rental,
- $450,000 for hardware maintenance,
- $1,300,000 for software maintenance,
- $2,600,000 for contractor services,
- $300,000 for supplies/components,
- $75,000 for equipment, and
- $675,000 in salaries/benefits.

While most of these estimates remain valid, OA must revise the estimate for space rental to $1,258,000, bringing the revised estimated annual operating costs for the facility to $8,158,000.

REV_00168154

QUESTION 50: Your FY 2004 request includes $8,403,000 to transition the remote data center to full operational status (p. 75). What specific activities are required in FY 2004 to accomplish this? Can you provide a breakdown of the FY 2004 request consistent with these activities?

RESPONSE: The following table lists the FY2004 CIP funds requested for the completion of the remote data center construction and initial year operating costs.

Object Class	Object Class Title	Requested Funding (in $1000s)	Description
23.0	Space Rental Payments	$1,258	This estimate reflects $1,258 in rental for the offsite data center and will be the initial rent to be paid for the offsite data center. This cost was previously funded from emergency funds.
23.3	Communications, utilities, and miscellaneous charges	$4,420	$4,420 is for CIP networking/telecommunications projects at the offsite data center. These projects include funds for a tap off of telecommunications lines, two additional DS-3 data paths, two T-1 lines, and backup to support required communications bandwidth, and availability requirements.
25.2	Other Services	$2,700	This estimate reflects Priority System Disaster Recovery costs, Secondary Systems Disaster Recovery costs, Hardware and Software for the Disaster Recovery Site, and Hardware and Software upgrades to support the data center move.
26.0	Supplies and materials	$25	The estimate reflects $25 in additional supplies necessary for start-up operations at the offsite data center. This will include start up costs for office equipment used for the new office spaces.
Total FY2004 Data Center CIP Request		**$8,403**	

President's Travel (POC - Rothley Howard)

QUESTION 51: Please update the information on pages 89 through 94 of last year's hearing record concerning travel by the President and the First Lady by continuing data from the final entry of last year's record to the present time.

Presidential Staff Travel (POC – Rothley Howard)

QUESTION 52: Please provide a listing of staff travel not in support of the President for fiscal year 2002 and thus far in fiscal year 2003. For each entry, please include the name of traveler, the destination and purpose of trip, the number of days in travel status, and the trip cost.

REV_00168155

Consulting Services (POC – Kathleen O'Halloran)

QUESTION 53: Updating the information on page 115 of last year's hearing record, please provide actual and estimated amounts for consulting services for fiscal years 2002 through 2004.

RESPONSE: "Consulting services" or "Advisory and Assistance Services" as defined by OMB Circular A-11, Section 83, are services acquired by contract from non-Federal sources (that is, the private sector, foreign governments, State and local governments, tribes), as well as from other units within the Federal Government and consists of three types of services: 1) Management and professional support services; 2) Studies, analyses and evaluation; and 3) Engineering and technical services. Listed below are the EOP and other entities with Advisory and Assistance contracts.

White House Office
FY 2002 (Actual)
There were no advisory and assistance contracts for the White House Office.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the White House Office.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Office of Homeland Security/CyberBoard
FY2002 (Actual)
1. $25,140 for independent information technology expertise. Deliverables include access to technical reports and analysis and recommendations. The period of performance is from September 2002 through August 2003.

Office of Administration
FY 2002 (Actual)
1. $1,083,308 for assistance in developing plans, technical architecture and disaster recovery for the relocation of the EOP data center. Deliverables include baseline assessment and analyses, business continuity and disaster recovery plan, data center design requirements report, phased planning, migration and implementation development plan, relocation and implementation plan, final recommendations and a report. The contract was awarded in March 2002 with a performance period through June 2003.

2. $748,988 for assistance in developing an enterprise architecture to incorporate and support the strategic IT vision, goals and objectives of the OA and the EOP. Deliverables include assistance and analysis as follows: critical information shortfall, impact, and trade-off analysis, concept of operations, architecture and enterprise architecture system toolsets, baseline definitions, report results for demonstration of architecture sustainment,

REV_00168156

and target technical architecture and migration plan. The contract was awarded January 2002 with a period of performance through December 2002 and permitted options to extend performance.

3. $48,050 for training, consulting and editing support for EOP/CFO policies regarding financial statements, prompt payment, travel, and transportation act, interagency agreements and portal to portal documents. Deliverables include training materials and conduct of training, formatted and edited documents. The contract was awarded July 2002 and ran through March 2003.

FY 2003 as of May 15, 2003

1. $406,695 for continued assistance in developing an enterprise architecture to incorporate and support the strategic IT vision, goals and objectives of the OA and the EOP. Deliverables include assistance and analysis as follows: critical information shortfall, impact, and trade-off analysis, concept of operations, architecture and enterprise architecture system toolsets, baseline definitions, report results for demonstration of architecture sustainment, and target technical architecture and migration plan. The contract was amended in January and May 2003 to exercise the option to extend performance and funded through September 2003.

2. $149,968 for consultant services to help configure IT storage products and perform data migration and setup. Deliverables include recommendations concerning management and long term strategy for operating and planning architecture along with execution of the infrastructure support. The contract was awarded in May 2003 with a period of performance running through November 2003.

3. $60,000 for assistance in designing a new performance management system for the Office of Administration in order to improve dialogue between manager and employee. Deliverables included recommended performance evaluation system and form as well as training. The contract was awarded in December 2002 with a performance period ending March 2003.

4. $49,800 for consulting services of an electrical engineer. Deliverables included conceptual designs, drawings and specifications, suggested project schedules and cost estimates. The contract was awarded in May 2003 with a period of performance through June 2003.

5. $25,750 for assistance in writing a statement of work for the EOP telephone contract recompete. Deliverables include recommended draft language for technical requirements to be incorporated into the solicitation. The contract was awarded in November 2002 with the period of performance through December 2002.

6. $47,040 for independent information technology expertise. Deliverables include access to technical reports and analysis and recommendations. The period of performance is from September 2003 through August 2004.

REV_00168157

7. $50,000 anticipated to develop an asset management system.

8. $130,000 anticipated to assist CFO with auditing issues.

FY 2004 Request

1. $110,000 anticipated to continue development of an asset management system.
2. $390,000 anticipated to assist CFO with auditing issues.
3. $50,000 anticipated for continued independent information technology expertise.

Office of Management and Budget

FY 2002 (Actual)

1. $39,570 for independent information technology expertise. Deliverables include access to technical reports and analysis and recommendations. The period of performance is from September 2002 through August 2003.

FY 2003 as of May 15, 2003

1. $22,500 anticipated for independent information technology expertise. Deliverables include access to technical reports as well as customized analysis and recommendations. The period of performance is from September 2003 through August 2004.

FY 2004 Request

1. $22,500 anticipated for continued independent information technology expertise planned for FY 2004.

Office of National Drug Control Policy

FY 2002 (Actual)

l. $24,225 for assessment and analysis and recommendations concerning performance plans, organizational goals and objectives. Deliverables include meeting summaries, briefing materials and monthly progress report and report with base-line assessment, recommendations and expected results. The period of performance is from June 2002 through September 2002.

2. $104,387 for organizational effectiveness assessment and analysis. Deliverables include meeting summaries, briefing materials and monthly progress reports, a final report and recommendations and expected results. The period of performance is from June 2002 through November 2002.

3. $150,000 for design of a program performance monitoring system for OCDETF/DIDTA program. Deliverables include meeting summaries, briefing materials,

REV_00168158

monthly progress reports, summary of program elements for measurement, draft and final reports. The period of performance is from April 2002 through October 2002.

FY 2003 as of May 15, 2003

1. $29,411 for assistance with developing a strategic human capital plan. Deliverables include development of a management plan, a workforce profile and assessment of drivers, capacity and gaps, assessment and recommendations and a strategic human capital report. The period of performance is from February 2003 through March 2003.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Council of Economic Advisers
FY 2002 (Actual)
1. $13,631 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from December 2001 to February 2002.

FY 2003 as of May 15, 2003
1. $14,276 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from December 2002 to February 2002.

FY 2004 Request
1. $15,000 estimated for editorial services for the Economic Report of the President. The consultant will provide expertise in editing the final publication. It is anticipated that the contract will last from December 2003 to February 2004.

Council on Environmental Quality
FY 2002 (Actual)

There were no advisory and assistance contracts for the Council on Environmental Quality.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the Council on Environmental Quality.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

REV_00168159

Office of the United States Trade Representative
FY 2002 (Actual)

1. $6,600 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.
2. $5,000 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.
3. $1,980 for expert advice in area of personnel law. Deliverables include legal research, analysis and opinions. Period of performance was from July 2002 through September 2002

FY 2003 as of May 15, 2003

1. $10,000 for expert advice in the area of personnel law on an as-needed basis. Deliverables include legal research papers and recommendations. The contract was awarded for the period October 1, 2002 through September 30, 2003.

2. $10,000 for speech-writing services on an as-needed basis. Deliverables include draft speeches. The contract was awarded for the period May 2003 through September 2003.

FY 2004 Request

1. $10,000 for expert advice in the area of personnel law on an as-needed basis.

Office of Science and Technology Policy
FY 2002 (Actual)

1. $200,000 for independent evaluation of the integration of a variety of biometric identification system design options. Deliverables included a comprehensive report on the evaluation of technical options, sound design principles, testing procedures, interoperability issues as well as identification of implementation and procurement issues. The contract was awarded July 2002 with a completion date of October 2002 but the contract completion date was extended through December 2002.

FY 2003 as of May 15, 2003

1. $300,000 for assistance in implementing a biometric identification system. Deliverables include analysis of NEXUS border technologies and international standards coordination. The contract is anticipated by June 2003 with an anticipated expiration date of June 2005.

FY 2004 Request

There are no new advisory and assistance contracts planned for FY 2004.

REV_00168160

National Security Council
FY 2002 (Actual)

There were no advisory and assistance contracts for the National Security Council.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the National Security Council.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Office of the Vice President
FY 2002 (Actual)

There were no advisory and assistance contracts for the Office of the Vice President.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the Office of the Vice President.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Freedom Corps (POC – Eric Lanman)

QUESTION 54: Please provide EOP budgeted funding for the Freedom Corps for fiscal years 2002 through 2004.

RESPONSE: The funding profile for the USA Freedom Corps from its inception through FY 2004 is as follows:

REV_00168161

(Dollars in thousands) Category	FY02 Actual	FY03 Request	OA Pilot	FY03 Recission	FY03 Enacted	FY04 Estimate
Personnel	420	800	0	0	800	827
Travel	6	600	0	-330	270	102
Rent	99	0	0	0	0	157
Comm, Util & Misc	0	0	0	0	0	25
Printing & Reproduction	0	0	0	0	0	225
Other Services	0	1,200	-289	0	911	926
Supplies & Materials	0	0	0	0	0	9
Equipment	0	0	0	0	0	9
Total	525	2,600	-289	-330	1,981	2,280

Note: As part of a pilot program authorized by Congress in fiscal year 2003, general support costs such as rent, supplies, printing, information technology, etc., are centrally managed and charged against the office of administration.

QUESTION 55: Please provide a breakdown of the FY 2004 request for the Freedom Corps, and a brief description of the work to be accomplished under each item.

RESPONSE: The FY 2004 WHO request includes funding for the following USA Freedom Corps requirements.

Personnel: This category provides funding for the cost of the salaries and benefits for the staff of the USA Freedom Corps. The FY 2004 WHO request included $827,000 for this category.

Travel: The USA Freedom Corps office staff members are frequent travelers and often work at the state and local levels with organizations~~., especially in organizing the Citizen Corps across the country~~. In addition, the Director of the USA Freedom Corps or the appropriate staff is required to address gatherings at national conferences, and of state and local officials in order to disseminate information about the President's Call to Service and the activities coordinated by the USA Freedom Corps~~. and answer questions relating to the organization of USA Freedom Corps activities at the local level.~~ The FY 2004 WHO request included $102,000 for this category.

Rent: This category funds the costs of the GSA office space utilized by the USA Freedom Corps. The FY 2004 WHO request included $157,000 for this category.

Printing: This category includes the costs of the creation and printing of documents regarding the USA Freedom Corps mission and policies and initiatives~~specific programs~~ coordinated by its Council. The FY 2004 WHO request included $225,000 for this category.

REV_00168162

Other services: This category includes funds for the hiring of contractors to measure the nationwide effects of the USA Freedom Corps efforts through surveys and other measurement tools, funds for the creation and production of materials used in the furtherance of the USA Freedom Corps mission and ~~specific programs,~~initiatives coordinated by its Council. The FY 2004 WHO request included $926,000 for this category. ~~and other activities that will further the mission of the USA Freedom Corps.~~

Communications and Misc.; Supplies and Materials; Equipment: These general categories are managed centrally by the White House Office of Management and Administration. Funds in these categories support the normal costs associated with day to day office operations. The FY 2004 WHO request included $43,000 for this category.

QUESTION 56: Last year, funds were requested for Freedom Corps information dissemination and recognition materials (p. 239). Are similar activities funded in FY 2004? If so, how much?

RESPONSE: The FY 2004 WHO request includes requirements for similar activities to those funded in FY 2003 and included are funds for information dissemination and recognition materials. Funds for these activities are included in the Other Services category of the WHO request. An estimated $926,000 of this portion of the request is for USA Freedom Corps requirements.

QUESTION 57: Are additional funds requested in FY 2004 outside the EOP?

RESPONSE: As a White House office and a coordinating council, the USA Freedom Corps does not run, fund, or administer programs. Instead, the USA Freedom Corps coordinates the development of policies and initiatives with various offices/entities in the Executive Branch in support of the President's goal to strengthen the American culture of service while helping all Americans find meaningful service opportunities. This role does not require outside funding and none have been requested by the WHO.

QUESTION 58: Please provide a listing of the staff in the USA Freedom Corps Office, showing the incumbent name and position. Please designate any detailees.

RESPONSE: A listing of the current USA Freedom Corps Office staff is provided below.

John Bridgeland: Assistant to the President and Director, USA Freedom Corps
Ron Christie: Special Assistant to the President and Deputy Director, USAFC
Lindsey Kozberg: Special Assistant to the President for Policy/Public Affairs
Therese Lyons: Director of Public Liasion
Ian Rowe: Director of Management and Strategy
Kathleen Mynster: Deputy Press Secretary
Britt Grant: Special Assistant to the Director
Cornell Teague: Associate Director

REV_00168163

Nique Fajors: Agency Liaison - Detailee

Sensitive Compartmented Information Facilities (POC – Jeff Thompson)

QUESTION 59: Are any funds requested in any EOP office in the FY 2004 President's request for the construction of sensitive compartmented information facilities (SCIFs)?

RESPONSE: No funds are requested for SCIFs in FY 2004.

QUESTION 60: How many such facilities have been built within EOP offices since the terrorist attacks of September 11, 2001?

RESPONSE: Since the terrorist attacks of 9/11 the EOP has requested through the Secret Service to the CIA the accreditation of 23 additional SCIFs. To date eight SCIFs have been completed, 13 are pending final approval inspection from the CIA and two requests were later rescinded.

Data Center Relocation (POC – Carlos Solari)

QUESTION 61: What is the status of efforts to relocate the existing EOP data center, and what are plans for the coming year?

RESPONSE: The remote data center project is on track to achieve completion on budget and on schedule. The project began last summer by conducting a systems development lifecycle analysis to determine and recommend the location for the facility. From this analysis, EOP decided on building the data center at a hardened FEMA facility located in Maryland. The project is being co-managed with FEMA and was established with three phases: (1) infrastructure build-out of the hardened facility (power, air handlers, etc), (2) construction of the data center itself (cabling, raised flooring, etc), and (3) the transition of EOP data systems (telecommunications, servers, etc). The project is approximately halfway through completion for the first two phases with a scheduled opening (initial operational capability) date of September 2003. The transition phase is on schedule preparing the systems and will proceed to begin the transfer September 2003 – with a planned transition of 12 months for all systems.

QUESTION 62: Are funds requested in the FY 2004 budget for this project?

Object Class	Object Class Title	Requested Funding (in $1000s)	Description

REV_00168164

Object Class	Object Class Title	Requested Funding (in $1000s)	Description
23.0	Space Rental Payments	$1,258	This estimate reflects $1,258 in rental for the offsite data center and will be the initial rent to be paid for the offsite data center. This cost was previously funded from emergency funds.
23.3	Communications, utilities, and miscellaneous charges	$4,420	$4,420 is for CIP networking/telecommunications projects at the offsite data center. These projects include funds for a tap off of telecommunications lines, two additional DS-3 data paths, two T-1 lines, and backup to support required communications bandwidth, and availability requirements.
25.2	Other Services	$2,700	This estimate reflects Priority System Disaster Recovery costs, Secondary Systems Disaster Recovery costs, Hardware and Software for the Disaster Recovery Site, and Hardware and Software upgrades to support the data center move.
26.0	Supplies and materials	$25	The estimate reflects $25 in additional supplies necessary for start-up operations at the offsite data center. This will include start up costs for office equipment used for the new office spaces.
Total FY2004 Data Center CIP Request		**$8,403**	

White House Communications Agency (POC – Eric Lanman)

QUESTION 63: Updating the information on page 133 of last year's hearing record, please provide estimated reimbursements for the White House Communications Agency for each of the fiscal years 2002 through 2004.

RESPONSE: Reimbursements made to the White House Communications Agency, for the non-telecommunications support they provide to the WHO, is broken down into two categories: military personnel and audiovisual support. The amount of planned reimbursement is initially set and agreed to via an inter-agency agreement (IAG). This IAG is then adjusted if needed as a result of actual execution. Reimbursement actuals and estimates follow:

	FY02 (actual)	FY03 (est.)	FY04 (est.)
Military Personnel	$4,376,085	$4,754,346	$4,858,942
Audiovisual Support	$4,543,643	$3,953,848	$2,743,915
Total	$8,919,738	$8,708,194	$7,602,857

REV_00168165

The FY04 estimate for audiovisual support shows a decrease from the FY 2003 estimate due to the move of audiovisual supplies and equipment from IAG reimbursed items to direct procurement through normal WHO channels.

Office of Administration (POC – Chuck Sigman)

QUESTION 64: Updating the information on page 134 of last year's hearing record, please provide a current organizational chart for the Office of Administration, including the associated numbers of FTEs requested for each office in the FY 2004 President's budget.

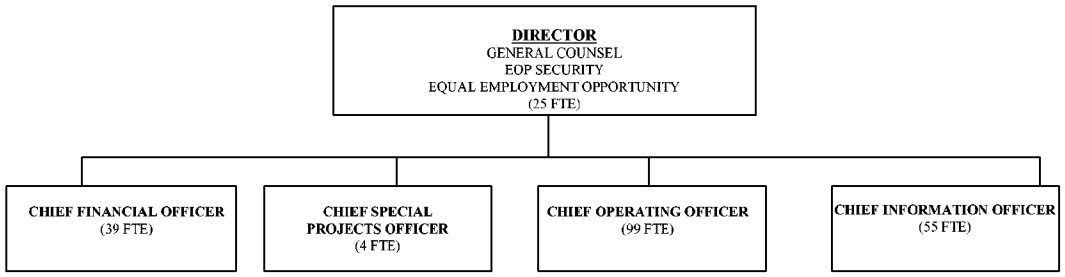
RESPONSE: The Office of Administration organization chart provided below reflects the current organizational structure. The FY 2004 FTE request remains constant with FY 2003 levels (222 FTE).

Executive Office of the President

Office of Administration

Organization Chart

FY 2004



Total 222 FTE

QUESTION 65: Last year, it was estimated that 4 FTE were needed to provide administrative services to the Office of Homeland Security. Since that office is substantially smaller due to establishment of the DHS, is there a lesser requirement for OA support? If so, is that reflected in FY 2004 staffing figures?

RESPONSE: The FY 2003 budget proposal included the statement that there was "2 CFO staff to support Homeland Security" rather than the 4 FTE referred to in the question. These two Chief Financial Officer (CFO) staff were requested during FY 2003

REV_00168166

because last year's OA budget request was a 49% increase over the previous year's spending – and security-related enhancements accounted for nearly all of that increase. The FY 2004 budget proposal included additional security-related enhancements beyond the FY 2003 level. Furthermore, even though the funding level of the Homeland Security Council is not as great as was originally envisioned, it is still a separate account for which the staff must perform the same number of administrative tasks in setting up and monitoring the status of the account. Therefore, the additional two FTE in the CFO office remain necessary to assist EOP offices in executing their new responsibilities.

QUESTION 66: Your salary and expenses request includes a transfer of $1,500 from Homeland Security for information technology services. What are these services?

RESPONSE: The part of OHS that remained with EOP (now called the Homeland Security Council) does not need the information technology contractor support that was previously planned. There is, however, an urgent need to expand the funding needed to support the White House website. The system security put in place to protect the whitehouse.gov website from cyber attack includes a web content distribution designed to make it highly resistant to denial of service type attacks. The cost of this service has increased dramatically, and is directly proportional to the volume of activity. The volume of activity, in turn, is a combination of the website hits and the level of cyber-attack activity directed against the site. The importance of the White House web site cannot be overstated. Along with the DHS website, the whitehouse.gov website is one of the primary government sites with a mission to communicate threat level information to the public.

Due to increased traffic on the White House website, the monthly cost of web caching service to maintain the website has risen from $30,000 per month to more than $75,000 per month. The estimated FY 2004 cost to maintain the website is $1,500,000. No funds were requested for this increased requirement in the FY 2004 budget. OA wishes to use the funds originally requested for the OHS information technology contract support for the White House website effort.

QUESTION 67: You are requesting additional funding for victim rescue units, which would be distributed to all White House staff (p. 82). What are these units, and what is the unit cost?

RESPONSE: Victim Rescue Units (VRUs) provide a 20-45 minute supply of pure oxygen to the wearer. This would be critical to the survival of EOP staff in the event of an incident which would require an evacuation to a safe area. VRUs were selected because they can be easily operated by a novice, while it takes a significant amount of training to teach staff to properly operate a gas mask. VRUs have a ten-year shelf life, which is significantly longer than gas mask filters. They provide protection from the entire threat spectrum from fire and smoke to chemical and biological agents. The VRUs are portable and small, and their expected cost is $375 each.

REV_00168167

QUESTION 68: How is the requirement for additional safes and emergency evacuation chairs documented?

RESPONSE: The EOP Security Office conducted a review of security containers (safes) at the White House Complex and found that most of them were 1950's-vintage mechanical locks. During the aftermath of 9/11, it was deemed important that the White House adhere to the latest Federal regulations promulgated by the General Services Administration (FFL-2740A) for the protection of classified materials. Thus, the EOP recommends acquiring new security containers which are fully compliant with GSA standard which governs all changeable combination locks for the protection of national security information.

After 9/11, we reviewed all emergency evacuation procedures for the White House Complex. As we updated evacuation plans and reviewed procedures it was determined that evacuation chairs were needed in various buildings and on various floors to assist individuals who may need assistance or have special needs during an evacuation. This was an internal study performed by staff of the EOP security office.

Financial Audits (POC – Al Muhlbauer)

QUESTION 69: Last year, you advised us that EOP would plan to address the findings of the recent auditability assessment no later than FY 2003. What is the status of that effort today?

RESPONSE: EOP has initiated five major efforts to address the auditability assessment. They are:

- Development and publication of the EOP entity and reporting structure, which was completed and is and presented in the FY 2004 Budget Submission.
- Development and publication of the EOP financial management structure, which has been developed in draft and is currently being circulated for comment within EOP. Approval and issuance of the financial management structure is expected to occur within 30 days.
- Provide financial management policy and guidance to the EOP, and put in place consistent EOP-wide business practices and procedures. This effort is underway and is expected to be completed this fiscal year.
- Select a replacement for the current non-compliant financial accounting system. The Office of the Chief Financial Officer has reviewed various alternatives and has made a determination to be cross-serviced by another Federal agency that has implemented a compliant system, is currently receiving "clean" audit opinions, and has cross-servicing as an agency mission. Two such organizations were identified, a requirements document was provided, their proposals are currently being evaluated, and a decision is expected within the next two weeks.
- Accomplish a detailed review of the EOP general ledger and supporting documents for account balances, correct the data as necessary, and prepare the

REV_00168168

information for conversion to the replacement accounting system. A "clean-up" and conversion plan is in process and will be coordinated with the selected cross-servicing agency.

QUESTION 70: When will you be able to produce an auditable financial statement?

RESPONSE: The Chief Financial Officer completed an exercise that resulted in EOP-wide financial statements, that exercise identified various data problems that confirmed the auditability assessment. The "clean-up" exercise which is required prior to the conversion to the cross-servicing agency's system is addressing these problems and it is anticipated that the FY 2004 financial statements will be audited.

QUESTION 71: Last year, you stated that you had identified best practices for documented policies and procedures based upon one federal agency which has been recognized as one of the best in the Federal Government (p. 136). Which agency are you using as a model, and what are some examples of the specific best practices you intend to use?

RESPONSE: We were referring to the Department of Education and we conducted a pilot of their approach for developing policies and procedures within the Office of the CFO. While that pilot was helpful, we determined that three other tasks (identify reporting entity, develop financial management structure, and identifying our financial accounting system cross servicing provider) needed to be completed before our policies and procedures could be developed. Since those are near completion we anticipate again focusing on developing policies and procedures during the remainder of this fiscal year.

White House Office (POC – Eric Lanman)

QUESTION 72: Please provide a breakdown of the FY 2004 budget request for the White House Office by office or activity, as itemized on pages 137 and 138 of last year's hearing record. Please compare those amounts to corresponding amounts for FY 2002 (actual) and FY 2003 (estimated), similar in format to that shown on pages 246 and 247 of last year's hearing record.

RESPONSE: As noted last year, a single budget is prepared for the WHO. This single budget is prepared based on a number of criteria such as: prior spending patterns, estimated requirements, OMB provided inflation factors, and the priorities of the President. During a given execution year, personnel costs are allocated based upon that year's sometimes unique staffing decisions. The remainder of the budget is allocated initially to two WHO offices. The travel budget is allocated in its entirety to the Office of Advance and obligated against this office if the travel is done in support of the President. Any travel undertaken that is not in support of a Presidential trip is charged to the office of the staff member in question. The remaining portion of the non-personnel, non-travel

REV_00168169

budget, including expenses for rent, supplies, equipment and other services is considered overhead and in most years is charged as such to the White House Office of Management and Administration. In FY 2003 as part of a pilot program authorized by Congress, costs related to many of these "overhead" items were consolidated under the EOP Office of Administration. Obligations (actual and estimated) are provided by individual White House office for FY 2002 thru FY 2004 in the table below.

(dollars in thousands)				
as of 9 May 2003				
White House Office	**FY02 act.**		**FY03 est.**	**FY04 est.**
Office of Chief of Staff	1,239		1,474	1,507
Oval Office Ops	347		476	487
Offices of Scheduling and Advance	2,874		3,593	3,673
Office of Cabinet Affairs	665		615	629
Communications, Speechwriting & Media	2,611		2,486	2,541
Office of the Counsel to the President	1,775		1,966	2,010
Faith Based and Community Initiatives	612		536	548
Office of the First Lady	1,270		1,492	1,525
Office of Intergovernmental Affairs	568		538	550
Office of Legislative Affairs	2,242		2,118	2,165
Office of Management and Administration	26,867		19,620	30,651
Office of Presidential Personnel	1,950		2,425	2,479
Office of the Press Secretary	933		1,182	1,208
Office of the Staff Secretary	5,860		6,469	6,613
Office of Strategic Initiatives	3,952		4,325	4,421
USA Freedom Corps Office [1]	426		1,070	929
Total WHO Obligations [2]	54,191		50,385	61,937

Notes:

(1) $911K of the FY03 USA Freedom Corps estimate and $1,351K of the FY04 USA Freedom Corps estimate detailed in the answer to question 54, are included above within the Office of Management and Administration numbers as are similar funds for all other White House Offices.

(2) Because Congress has chosen to appropriate funds for the Office of Homeland Security (OHS)/ Homeland Security Council (HSC) separately from the WHO appropriation, numbers related to OHS/ HSC are not included above. FY03 and FY04 estimates for OHS/ HSC are addressed independently in response to other committee questions.

QUESTION 73: Please provide a corresponding breakdown for FTE staff years and OGE, similar in format to that shown on pages 152 through 154 of last year's hearing record.

RESPONSE: As noted last year, the major units within the White House Office are simply a creature of administrative convenience. The number of employees within each unit and the work of each unit vary over time and as circumstances and needs change. With this kept in mind, a detailed breakout of FTEs and OGEs by unit, is provided below. This breakout is based on current estimates and planning and will differ during the actual

REV_00168170

execution year. In addition to these major units, certain individuals – including certain individuals who work with the National Security Council, the Domestic Policy Council, and the National Economic Council – are also White House Office employees, although the units within which they principally work are not themselves part of the White House Office. These individuals are included under the Other category.

	FY02	FY03	FY04
White House Office	actual	est.	est.
Office of Chief of Staff - FTE	12	12	12
Office of Chief of Staff - OGE (Agency Rep)	0	0	0
Oval Office Ops - FTE	4	5	5
Oval Office Ops - OGE	0	0	0
Advance - FTE	15	15	15
Advance - OGE	0	0	0
Office of Cabinet Affairs - FTE	7	6	6
Office of Cabinet Affairs - OGE (Assignee)	4	4	4
Communications, Speechwriting & Media - FTE	36	35	35
Communications, Speechwriting & Media – OGE (Detailee)	1	1	1
Office of the Counsel to the President - FTE	18	19	19
Office of the Counsel to the President - OGE (Detailee)	3	3	3
Office of the Counsel to the President - OGE (Assignee)	1	1	1
Faith Based and Community Initiatives - FTE	7	8	8
Faith Based and Community Initiatives – OGE (Detailee)	1	1	1
Faith Based and Community Initiatives – OGE (WH Fellow)	1	1	1
Office of the First Lady - FTE	20	19	19
Office of the First Lady - OGE	0	0	0
Office of Intergovernemental Affairs - FTE	8	9	9
Office of Intergovernemental Affairs - OGE	0	0	0
Office of Legislative Affairs - FTE	23	24	24
Office of Legislative Affairs - OGE (Detailee)	1	1	1
Office of Management & Administration - FTE	32	38	38
Office of Management & Administration - OGE (HP Serv)	14	14	14
Office of Political Affairs - FTE	11	11	11
Office of Political Affairs - OGE	0	0	0
Office of Presidential Personnel - FTE	26	38	38
Office of Presidential Personnel - OGE (Detailee)	2	2	2

REV_00168171

Office of Public Liaison - FTE	12	11	11
Office of Public Liaison - OGE (Assignee)	1	1	1
Office of the Press Secretary - FTE	12	12	12
Office of the Press Secretary - OGE	0	0	0
Scheduling - FTE	10	11	11
Scheduling - OGE (HP Serv)	2	2	2
Office of the Staff Secretary - FTE	98	98	98
Office of the Staff Secretary - OGE (Detailee)	2	2	2
Office of Strategic Initiatives - FTE	13	13	13
Office of Strategic Initiatives - OGE (Reim Detail)	1	1	1
USA Freedom Corps Office - FTE	8	6	6
USA Freedom Corps Office - OGE (Detailee)	5	5	5
USA Freedom Corps Office - OGE (WH Fellow)	1	1	1
Other - FTE	13	16	16
Other - OGE	4	4	4

White House Office obligations, FTE and OGE are summarized below.

	FY02 act.	FY03 est.	FY04 est.
Total WHO – FTE	385	406	406
Total WHO – OGE	44	44	44
FY03 Congressional Request – FTE	400	406	406

Notes: Because Congress has chosen to appropriate funds for the Office of Homeland Security (OHS)/ Homeland Security Council (HSC) separately from the WHO appropriation, numbers related to OHS/ HSC are not included above. FY03 and FY04 estimates for OHS/ HSC are addressed independently in response to other committee questions.

Historically Provided White House Office Positions (POC – Eric Lanman/Jon Laurich)

QUESTION 74: Updating the information on page 235 of last year's hearing record, please provide a listing of historically provided White House Office positions.

RESPONSE: The following chart shows the 18 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 12, 2003*:

POSITION	OFFICE	HOME AGENCY
1. Assistant To The Presidential Diarist	Office Of Scheduling	NARA

REV_00168172

2. Presidential Diarist	Office Of Scheduling	NARA
3. Administrative Assistant	PFIAB *	CIA
4. Administrative Services Specialist	PFIAB *	DOD
5. Deputy Executive Director	PFIAB *	CIA
6. Deputy Director of Photography For Visuals	Photo Office	DIA
7. Visual Information Specialist	Photo Office	DOD
8. Official Photographer	Photo Office	DOD
9. Official Photographer	Photo Office	DIA
10. Photographer	Photo Office	DOD
11. IT Systems Administrator	Photo Office	DIA
12. Photo Editor	Photo Office	DIA
13. President's Photographer	Photo Office	DIA
14. Photographic Specialist	Photo Office	DIA
15. Admin Officer	Photo Office	DIA
16. Staff Assistant	Visitors Office	Dept Of Interior
17. Executive Assistant	Visitors Office	Dept Of Interior
18. Staff Assistant	Visitors Office	Dept Of Interior

*PFIAB is the President's Foreign Intelligence Advisory Board

Other Services (POC – Chuck Sigman)

QUESTION 75: Similar to the information on page 236 et seq. of last year's hearing record, please provide a detailed description of each project, program, or initiative proposed to be funded in FY 2004 under object class 25.2 ("other services").

RESPONSE: Capital Investment Plan (CIP) - $5,220,000

The overall FY 2004 CIP requirement supports nine areas, as described below. The following "services" costs are included in the FY 2004 CIP request:

- **$690,000 for Customer Service and Desktop Systems.** This funding will be used to perform desktop software integration support.
- **$450,000 for New Technologies and Systems**. This includes "services" funding of $150,000 for server technology integration testing, and $300,000 for voice and data integration.
- **$230,000 for EOP Systems and Support,** including "services" funding of $150,000 to develop external Local Area Networks, and $80,000 for production test lab development.
- **$700,000 for Information Security** for enterprise identity projects to allow the introduction of new authentication and identification mechanisms into the EOP IT infrastructure.

REV_00168173

- **$650,000 for Web-Based Services** for web services application environment.
- **$2,500,000 for the Offsite Data Center** for services necessary to transition the offsite data center to full operational status
- **There are no services funds allocated to Campus Wiring, Networks and Data Communications Infrastructure, or Messaging and Scheduling.**

Salaries and Expenses - $2,150,000

There are three initiatives in the FY 2004 OA salaries/expense budget which comprise $2,150,000 in new programs under object class 25.2 ("other services"):

- **$1,800,000 for Technology and Systems Support Contract .** The Chief Information Officer (CIO) provides a wide range of computer services support to the EOP. These tasks are performed in large measure through an outsourcing contract that delivers IT services from PC deployment, to help desk and data center operations. During FY 2003, this IT systems support contract was competed with an increase in base labor rates due to the need for more advanced skills in IT disciplines such as XML and web services software development, Oracle database development and administration, and implementation of a new Enterprise Resources Planning (ERP) application covering finance, asset management and human resources. The CIO outsource contract is the vehicle used to maintain a 24 hour-a-day operation for mainframes, servers, help desk, local area networks, personal computers, applications; installation of end-user hardware and software; training; software application development and maintenance services. Altogether, this contract supports customers throughout the White House 18 acre complex, at remote and mobile locations, and at the planned Offsite Data Center. Key components driving the cost upward include: (1) higher labor rates for the DC area, which have risen since the previous IT 1997 facility contract; (2) the impact of the new data center operations in 2003 and thereafter; (3) an expanded EOP customer base which has more advanced, sophisticated, and security-conscious users.

- **$300,000 for Information Assurance Support.** The CIO has established the Information Assurance (IA) program to serve as a central location for information security serving all of EOP. FY 2002 and FY 2003 funds attended to the most critical concern with significant vulnerabilities in the perimeter and began the process of securing the internal systems. The IA program created real-time monitoring of perimeter network devices; it established the first formal documentation of IA program policy to bring the EOP in conformance with Federal guidelines and directives. However, the cyber threat facing EOP is dynamic because our systems are constantly assailed with a wide and unexpected range of attacks. The new state of defense must be active vigilance, to include the following components: (1) Perimeter Security, (2) Advanced Security Concepts, (3) Contingency Planning Support, (4) Network Monitor/Response Systems, and (5) Security Awareness, Assessments, and Education.

REV_00168174

- **$50,000 for Security Enhancements: Videos.** There is a frequent and ongoing need for a security video – specific to the EOP and White House – which can be used in security briefings and new employee orientation meetings. This video will contain a brief overview of security responsibilities and procedures which must be understood by all personnel working in the EOP.

Salaries and Expenses (POC – Dilworth)

QUESTION 76: Please provide a detailed description of any expenses in the FY 2004 budget under "salaries and expenses" which are not directly related to personnel compensation and benefits.

Security Guard Services for OSTP (POC – Chuck Sigman)

QUESTION 77: In FY 2003, you budgeted $1,798,000 for security guard services for the Office of Science and Technology Policy. Are similar funds requested in FY 2004? If so, how much?

RESPONSE: The FY 2004 OA budget proposes that the cost of the security guard service (estimated at $702,000) for OSTP be transferred to the OSTP appropriation. Thus, the proposed FY04 OA budget would contain the balance of the funds (approximately $1.1 million).

Since the FY 2003 budget was proposed, there have been additional reviews of the physical security of the White House complex by the US Secret Service, the Federal Protective Service, and the OA Security Office. As a result, the OA Security Office has been assigned the responsibility of correcting deficiencies in EOP physical security. There are some locations which do not currently have Secret Service protection (such as the Jackson Place White House Conference Center). Another location which does not have firm long-term security plans is the office at 1800 G Street. Thus, the Office of Administration has ongoing needs for the $1.1 million which remains in the OA budget. During FY03, these funds are being used for consolidation of information technology maintenance ($200,000), centralization of database services ($200,000), and common building service costs ($400,000). The remaining $300,000 of these savings will be used for an FY03 OA personnel shortfall.

QUESTION 78: Why aren't such funds in the OSTP budget?

RESPONSE: The estimated FY04 cost of 24-hour security guard services is included in the FY04 OSTP budget request. This estimate is $702,000 for a full year.

Political Appointees (POC – Jon Laurich)

REV_00168175

QUESTION 79: Please update the information on political appointees within EOP as shown on page 268 of last year's hearing record, using the same criteria and assumptions as last year.

RESPONSE: The term "political appointees" is somewhat of a misnomer because it narrowly defines the type of employees authorized under Chapter 2 of Title 3 of the U.S. Code, for the White House Office, the Executive Residence, the Official Residence of the Vice President and the Office of Administration. These offices can hire personnel in various excepted service positions that are not subject to the rules of regular government employees. Many of these excepted service positions fall under the category of serving at the pleasure of the President while others do not. Using the term in the broadest possible sense, including all employees hired as Presidential Appointees, Administratively Determined, Non Career SES, or Schedule C's, the Executive Office of the President has the following number of political appointees directly hired within the EOP and serving in the EOP on detailed assignments from other agencies as of May 5, 2003.

	FY 2003 "POLITICAL APPOINTEES" *as of May 5, 2003*					
Program	**Admin. Determ.***	**Schedule C**	**Non career SES**	**Presidential Appointees**	**OGE** Political Appointees**	**TOTAL**
White House Office	438				8	**446**
Office of Homeland Security	20				9	**29**
Special Assistance to the President	24				1	**25**
Official Residence of the Vice President						
Office of Administration		1				**1**
Office of Policy Development	30				2	**32**
National Security Council					3	**3**
Council of Economic Advisers	16	3		1		**20**
Office of Management and Budget	2	21	11	5		**39**
Office of National Drug Control Policy		10	2	5		**17**
Executive Residence						
Office of Science and Technology Policy		3	2	3	1	**9**
Council on Environmental Quality	10	2		1	2	**15**
U.S Trade Representative	19	5	3	4		**31**
TOTAL	**559**	**45**	**18**	**19**	**26**	**667**

* Historically, Administratively Determined appointees within some agencies have served from one administration to another. Nevertheless, they serve at the pleasure of the entity head and may be terminated without cause.

** OGE = Other Government Employees

Detailees (POC – Jon Laurich)

QUESTION 80: Please update the information on reimbursable and non-reimbursable detailees with EOP as shown on pages 268 and 269 of last year's hearing record.

RESPONSE: There are currently 251 detailees staffed within the Executive Office of the President. There are 40 reimbursable detailees and 211 non-reimbursable detailees as shown in the chart below, as of May 5, 2003:

REV_00168176

Program	FY 2003 Estimates		
	Reimbursable Detailees	Non-Reimbursable Detailees	TOTAL
White House Office	5	11	**16**
Office of Homeland Security	23	3	**26**
Special Assistance to the President		1	**1**
Official Residence of the Vice President			
Office of Administration			
Office of Policy Development	1	1	**2**
National Security Council	4	104	**108**
Council of Economic Advisers	2	2	**4**
Office of Management and Budget	3	54	**57**
Office of National Drug Control Policy		4	**4**
Executive Residence			
Office of Science and Technology Policy	2	3	**5**
Council on Environmental Quality		3	**3**
U.S Trade Representative		25	**25**
TOTAL	40	211	251

Office of the Vice President (POC – Kristen Savercool)

QUESTION 81: You are requesting an additional $70,000 (+1.7 percent) for the Vice President's travel, due to increased travel to undisclosed locations after the terrorist attacks of September 11, 2001. Weren't these type of increases baselined in FY 2002 and FY 2003, and if so, why are further increases needed in FY 2004?

RESPONSE: The FY 2003 budget was submitted in February 2002, prior to it becoming evident that the Vice President's travel requirements had increased more than originally estimated. Following the events of 9-11, the Vice President has been required to be outside the Washington, DC vicinity for significant periods of time. This travel has been 100 percent official, and operational in nature (i.e. the Vice President performs his regular duties in an off-site location). This travel has required the accompaniment of staff, who also perform operational duties.

Because the budget impact of these additional travel requirements was not fully realized until after the FY 2003 budget request was submitted, they were not included in the FY 2003 baseline. Continued security concerns related to the Vice President and the ensuing impact on the Vice President's travel costs necessitate the increase to the FY 2004 OVP travel budget. This increase will allow the Vice President the flexibility needed to adequately execute his official travel requirements.

REV_00168177

Unanticipated Needs (POC – Eric Lanman)

QUESTION 82: Please provide a listing of the uses of Unanticipated Needs funds in FY 2002.

RESPONSE: $757,000 of the $1,000,000 appropriated to the Unanticipated Needs account in FY 2002 was provided to OMB for Office of Homeland Security Transition Planning Office. The remaining appropriation was not utilized.

REV_00168178

Questions for the Record
Ranking Member, John Olver
Hearing on the Executive Office of the President
April 30, 2003

Account Consolidation and Transfer Proposals (POC – Al Muhlbauer/Jim Daniel)

When we centralized the funds within the Office of Administration, Congress intended that each agency would continue to receive a similar share of support and assistance under the consolidation.

QUESTION 83: Are any agencies going to receive diminished services or resources under the consolidation?

RESPONSE: No, currently the funding in the pilot has been allocated to be consistent with the FY 03 budget request. The service levels will be equal to or greater than pre-pilot levels; however, we are hopeful that the cost to procure the same level of service will decrease. Also, the Office of Administration is preparing service standards that will be approved by the Common Services Board. For example, if the service standard for PC's would be one PC per desktop that is less than four years old and if one EOP component is currently at that standard for 95 % of its employees and another is currently at that standard for 50% of its employees, based on need, the second component would get a larger share of the services to bring it closer to the EOP standard. This allows EOP to consistently upgrade software and services across the entire organization as the total infrastructure permits.

QUESTION 84: Are any agencies to receive extra services above and beyond the amount of funds they contributed as part of the consolidation?

RESPONSE: Yes, based on need and to bring organizations that are lagging behind the approved standards up to a consistent standard, some organizations may receive extra services above and beyond the amount of funds they contributed to the consolidation. We anticipate some of those services will be funded from savings in the program.

QUESTION 85: Under the procurement consolidation pilot approved in the FY03 Omnibus, are IT or database services for any EOP agency going to be paid for by funds contributed by other EOP agencies?

RESPONSE: Yes, in addition to generating procurement savings and efficiencies, a major goal of the consolidation pilot is to bring all of the EOP components up to an approved standard of service which will allow us to implement technology evenly across the organization and to realize efficiencies and benefits from a consistent and even

REV_00168179

infrastructure. In reaching this goal, the funds may be applied in a manner which is not in the same ratio in which they were contributed.

QUESTION 86: In general, are the funds appropriated for this centralized procurement program going to be used to supplement the appropriation made to individual agencies?

RESPONSE: Yes, the individual agencies will be the recipients of the services funded by the centralized procurement program without reimbursement in accordance with the Congressional appropriation provided to OA.

QUESTION 87: If so, which agencies will benefit and which agencies will receive less than their share of contributions?

RESPONSE: OA is currently establishing the allocation standards for the commodities included in the centralized procurement program. It is intended that a Common Services Board representing the EOP agencies approve those standards. OA is also requesting that the agencies assist us in developing a baseline against which we will measure the allocation standards. That will determine which, if any, agencies will benefit and which agencies will receive less than their share of contributions. We intend to report to OMB and the Congress how the centralized procurement program commodities were provided.

QUESTION 88: You recently submitted a very cursory report on the procurement pilot. When will you provide us with specific details on the progress of the pilot program?

RESPONSE: As mentioned above, progress is being made on the plan to implement the Common Services Program. We intend to report the status of the implementation of the plan in the June/July timeframe.

Other than for extreme situations similar to those encountered immediately after 9/11/01, it is not our intent to transfer large amounts between EOP appropriations. More likely, because a number of the appropriations are small we would be moving funds to cover unanticipated requirements such as paying unexpected terminal leave to employees who have retired and whose agency did not anticipate the level of required terminal leave. As stated in our request, Congress will be notified in advance of our intent to move funds between accounts.

Your budget also proposes a change that would permit EOP agencies to transfer up to 10% into our out any agency's budget. Coupled with your account consolidation proposal, that would allow you to transfer in up to $18 million more into (or out of) the White House's budget.

REV_00168180

QUESTION 89: Under the procurement consolidation program that we approved in the FY03 bill, don't you have a similar type of flexibility already? What other flexibility is needed?

RESPONSE: The flexibility of the procurement consolidation program is directed to certain defined common commodities. The 10% transfer authority provides flexibility for unexpected requirements and to address needs that may be outside the program.

QUESTION 90: What protection is there for smaller EOP agencies under this proposal? Don't they stand to lose critical resources if the White House or Vice President's Office decide to take 10% of their resources?

RESPONSE: It is more likely that the smaller agencies will benefit from the proposal, because their appropriations are small they are less likely to be able to adjust to unforeseen circumstances, this program will allow the EOP to address those circumstances without requesting supplemental funding. And, as stated above, the Congressional Committees will be notified in advance of any fund movement and could have any such concerns addressed.

Office of Homeland Security Questions (POC – Paul Ehrhardt)

We recently received a reprogramming request to transfer $2m of the funds provided to the Office of Homeland Security to the Remote Delivery Site cleanup efforts. The source of these funds would come from the Office of Homeland Security.

The Office of Homeland Security has gone from an initial $25m stated need when the initial FY03 bills passed the House and Senate to $11m when the FY03 Omnibus was passed to what will be $9m if the reprogramming is approved.

QUESTION 91: What exactly does the Office of Homeland Security do now that the Department of Homeland Security is in place?

RESPONSE: HSC provides advice to the President on homeland security matters and coordinates the interagency process to ensure unified administration policy on homeland security.

QUESTION 92: Does OHS still have a presence at Nebraska Avenue?

RESPONSE: No.

QUESTION 93: Does the Office of Administration provide any support to agencies at Nebraska Avenue? If so, please describe the specific types of support provided. Is this support on a reimbursable basis?

REV_00168181

RESPONSE: Since the transfer of the Nebraska Avenue facility to the Department of Homeland Security (DHS) on January 1, 2003, OA has not provided any support to agencies at the Nebraska Avenue Complex (NAC). Pursuant to a Determination by the OMB Director, funds in the amount of $3,746,000 were transferred from the OHS Emergency Fund within OA to the Department of Homeland Security in March 2003 to support NAC activities.

QUESTION 94: How many personnel and detailees now work for OHS?

RESPONSE: The Homeland Security Council currently consists of 66 staff positions which can be filled by either Direct Hire FTE or Other Government Employee (detailee and assignee) personnel. HSC is requesting resources to support up to 40 Direct Hire FTE and 26 OGE FTE on its staff for FY 2004. See table below for a comparison with fiscal years 2003 and 2002.

Office of Homeland Security / Homeland Security Council Personnel

	FY 2002 Actual	FY 2003 Estimate	FY 2004 Request
Direct Hire FTE	0	20	40
Other Government Employee (EOY headcount)	89	31	26
Total Personnel	89	51	66

QUESTION 95: What is the actual operational budget need for OHS in FY03?

RESPONSE: The Homeland Security Council budget requirement from the FY 2003 appropriation is estimated to be approximately $4.32 million. Please note that the FY 2003 estimate covers only costs incurred after the enactment of the FY 2003 appropriation on February 20, 2003. Unlike other EOP agencies which operated under continuing resolutions between October 1, 2003 and February 20, 2003, the Office of Homeland Security was not permitted to utilize the CR funding mechanism but instead continued to charge FY 2003 expenses against the no-year emergency funding (provided in FY2002) until the FY 2003 appropriation was enacted. Therefore the FY 2003 estimate reflects only seven months of activity, whereas the FY 2004 Request needs to cover HSC expenses for the full 12 months next fiscal year.

QUESTION 96: For the record, please provide us a breakout by object class of the Office of Homeland Security's FY03 remaining budget.

RESPONSE: The breakout below reflects HSC's budget for the last seven months of FY 2003, from the enactment of the FY 2003 Appropriation on February 20, 2003 through September 30, 2003.

REV_00168182

(Dollars in Thousands)

Object Class	FY 2003 est.
Personnel	$2,800
Travel	$60
Transportation of Things	$24
Communications, Utilities, and Miscelaneous	$50
Printing and Reproduction	$69
Other Services	$1,267
Equipment	$50
Total,	$4,320

QUESTION 97: Any likelihood that these estimates will be revised downward again?

RESPONSE: The FY 2003 estimate provided above reflects the best assessment of HSC requirements from the OHS FY 2003 appropriation, and actual obligations against this appropriation will likely be close to this current estimate.

QUESTION 98: I understand that the President named General Gordon as his new Homeland Security Adviser. Does he support the latest $2 million cut to his office's resources?

RESPONSE: General Gordon has not yet reported to Homeland Security Council. Also, the resources of the Homeland Security Council have not been cut by $2 million. The FY 2003 appropriations for the Homeland Security Council included $2 million for decontamination of the Remote Delivery Site as agreed to by the Congress and the Administration. Subsequent to the passage of the FY 2003 appropriations, that $2 million was allocated to decontamination of the RDS per the agreement. Therefore, this planned use of that appropriation is not a cut to HSC resources.

QUESTION 99: Have you validated the FY04 request recently to ensure it is an accurate figure?

RESPONSE: Yes. HSC reevaluated its FY 2004 requirements prior to submitting the final FY 2004 Request. Given the creation of the Department of Homeland Security, HSC's FY 2004 budget requirements are estimated at $8,331,000; as requested.

Budget Questions:

After the FY03 enacted levels are adjusted to reflect the transfer of $9 million to the Office of Homeland Security, the Executive Office of the President's FY04 budget

REV_00168183

request reflects an 8% increase over FY03 levels. Your agency, the Office of Administration requests a 10% increase between FY03 and FY04.

When the budget was introduced, Mitch Daniels said that the overall growth of Federal programs would be pegged to the expected 4% growth in inflation. The administration also said the President wanted to "match government's growth with the growth of American family income."

QUESTION 100: When the rest of the government is forced to live with 4% growth, how can you justify an almost 10% increase in your office and an overall Executive Office of the President increase of 8%? **(POC – Chuck Sigman)**

RESPONSE: The Office of Administration's 10% budget increase amounts to approximately $7 million. This increase is necessitated by additional costs stemming from the enhanced security activities in the post-September 11 environment:

- The Capital Investment Plan has a net increase of $3.8 million required for the relocation of the EOP data center to an offsite location. The offsite data center has been determined to be a critical project in any contingency plan, and the communications requirements for the data center will be significantly higher in the new facility.
- $2.5 million is needed for the new information technology contract, driven by the information technology service labor increases, the relocation of the data center as well as by the increased security concerns for EOP systems.
- $0.5 million is required for the EOP information assurance program.
- $0.2 million for physical security improvements to the White House complex in providing resources for security education and evacuation resources.

The 8% growth in the overall EOP budget amounts to approximately $24.6 million. Primary components of this increase are mission-specific needs proposed by the different EOP entities:

- $6.3 million in OA programs described in the prior paragraph ($3.8 million for the capital investment plan, $2.5 million for the information technology contract, $0.5 million for information assurance, and $0.2 million for physical security).
- $2.5 million in EOP-wide space rental increases to conform with GSA's market-based rental rates.
- $3.0 million for USTR's additional staff for intensified trade negotiations.
- $3.0 million in the Executive Residence's multiyear East and West Wing restoration projects.
- $2.7 million for OMB personnel needs.
- $1.5 million for OMB's budget system updates.
- $0.7 million for OMB's E-Government staff and the Office of Information Technology.
- $0.8 million for additional staff for ONDCP.

REV_00168184

- $0.6 million in the NSC's funding for reimbursable detailees and President's Foreign Intelligence Advisory Board's request for additional staff.
- $0.5 million for OSTP's continuity of operations plan.

The White House Office's increase of 3.6% looks smaller because of a realignment of $1.85m in rent to the Office of Administration's account. Without the realignment, the White House Office's increase would be around 6.6%.

QUESTION 101: What is the justification for this realignment? **(POC – Eric Lanman)**

RESPONSE: The realignment of $1.85M in rent was made "Into" vice out of the WHO account. Without this and other realignments made as part of the FY 2004 WHO budget request, The White House Office's increase would have only been 1.7 percent.

QUESTION 102: How could the White House have been paying the bill for space that wasn't theirs? **(POC – Eric Lanman)**

RESPONSE: The WHO has not been paying rent on the 1800 G Street office spaces that this realignment involves. These office spaces were necessitated by the movement of certain White House staff offices following the events of September 11. In FY 2003 funds for these spaces were budgeted by the Office of Administration and are being paid for as part of a pilot program authorized by Congress.

QUESTION 103: Which EOP agencies occupied this space on which the White House Office has been paying rent? **(POC – Eric Lanman)**

RESPONSE: As indicated in the previous answers, White House staff have been occupying this space. Rent is being paid by the Office of Administration as part of the pilot program authorized by Congress.

QUESTION 104: Are these costs that had historically been paid by the White House Office? **(POC – Eric Lanman)**

RESPONSE: No. The 1800 G Street Office spaces were not occupied by EOP staff until after the events of 9-11.

QUESTION 105: If so, why make the change this year? **(POC – Eric Lanman)**

RESPONSE: The realignment of these costs under the WHO is done to reflect the costs under the office whose staff occupies them.

REV_00168185

Travel

The White House Office's request includes a decrease of $400,000 in Presidential Travel.

QUESTION 106: Was the FY03 estimate too high? **(POC – Eric Lanman)**

RESPONSE: As part of the FY 2003 WHO budget submission, $600,000 was requested to support the travel requirements of the new USA Freedom Corps Office. Actual experience subsequently determined this amount to be in excess of need. As a result, the FY 2003 WHO travel line was reduced $329,647 by the Congressional recission, and the FY 2004 WHO budget submission requested $400,000 less in the travel line than the original FY 2003 estimate.

QUESTION 107: If so, how do you intend to use the surplus funds? **(POC – Eric Lanman)**

RESPONSE: The $400,000 reduction to the FY 2004 WHO budget request for travel requirements does not result in surplus funds. It instead results in an overall reduction to the FY 2004 WHO budget estimate.

QUESTION 108: Are you planning less travel in FY04 or will more of the travel just be paid for by political entities? **(POC – Eric Lanman)**

RESPONSE: Except as noted above, the amount of official travel conducted by the White House staff is expected to remain consistent with the FY 2003 estimate.

QUESTION 109: Please provide a list of all White House Office, Office of Homeland Security and Office of Vice President official staff travel for FY02 and FY03 (to date). Include a brief description of the official purpose of the trip. For FY04 estimates, provide estimated number of trips and trip purpose. **(POC – Rothley Howard)**

RESPONSE: The following tables provide the FY 2002 and FY 2003 (to date) staff travel information for the White House Office, the Office of Homeland Security and the Office of the Vice President.

White House Office FY 2002 Staff Travel				
PURPOSE	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Meetings	Dallas, TX	$419.00	03/15/01	2
Official	Cincinnati, OH	$115.00	10/01/01	2
Official	Sacramento, CA	$483.00	10/11/01	11

REV_00168186

Speaking Engagement	Atlantic City, NJ	$442.87	10/15/01	1
Meetings	Los Angeles, CA	$630.75	10/17/01	4
Meetings	Reykjavik	$3,699.40	10/20/01	4
Official	Manhattan, NY	$299.00	10/25/01	6
Speaking Engagement	Austin, TX	$442.53	10/26/01	1
Speaking Engagement	Oakland, CA	$1,231.00	10/28/01	2
Official	Manhattan, NY	$34.50	10/30/01	1
Official	Manhattan, NY	$34.50	10/30/01	1
Accompany a Cabinet Head	Boston, MA	$261.50	10/31/01	2
Official	Lynchburg, VA	$52.93	10/31/01	2
Speaking Engagement	Silver Spring, MD	$9.66	11/01/01	1
Meetings	Los Angeles, CA	$561.14	11/02/01	2
Official	Crawford, TX/Austin, TX	$532.50	11/07/01	11
Speaking Engagement	Atlanta, GA	$542.93	11/09/01	2
Meetings	Los Angeles, CA	$1,661.14	11/10/01	2
Official	Manhattan, NY	$401.11	11/10/01	1
Official	Lynchburg, VA	$52.93	11/14/01	2
Official	Manhattan, NY	$382.24	11/15/01	1
Official	Waco, TX	$60.00	11/16/01	2
Official	Waco, TX	$60.00	11/16/01	2
Official	Salt Lake City, UT	$63.00	11/27/01	1
Official	Houston, TX/Sacramento, CA/Santa Fe, NM	$1,524.32	11/28/01	2
Official	Manhattan, NY	$34.50	11/29/01	1
Official	Manhattan, NY	$34.50	11/29/01	1
Meetings	Virginia Beach, VA	$298.13	12/04/01	1
Meetings	Atlanta, GA	$496.00	12/05/01	1
Official	Lynchburg, VA	$52.93	12/05/01	2
Meetings	Philadelphia, PA	$202.00	12/05/01	1
Speaking Engagement	Atlanta, GA	$428.50	12/06/01	1
Speaking Engagement	Ft. Wayne, IN	$28.00	12/06/01	1
Official	Lynchburg, VA	$52.93	12/12/01	1
Meetings	Lynchburg, VA	$48.30	12/16/01	2
Official	Sacramento, CA	$816.50	12/18/01	2
Official	Camp David, MD	$495.00	12/21/01	16
Official	Lynchburg, VA	$53.93	12/24/01	1
Official	Waco, TX	$375.00	12/26/01	12
Official	Minneapolis, MN	$383.34	12/27/01	5

REV_00168187

Official	Camp David, MD	$45.00	12/28/01	1
Speaking Engagement	Austin, TX	$58.50	01/03/02	3
Official	Hamilton, OH	$85.00	01/06/02	2
Meetings	Lynchburg, VA	$48.30	01/07/02	2
Official	Salt Lake City, UT	$175.51	01/09/02	1
Speaking Engagement	Las Vegas, NV	$95.00	01/10/02	6
Official	Anchorage, AK	$63.00	01/14/02	1
Meetings	Lynchburg, VA	$48.30	01/14/02	2
Official	Mamphis, TN	$57.00	01/14/02	1
Official	New Orleans, LA	$63.00	01/14/02	1
Speaking Engagement	Sacramento, CA	$263.00	01/17/02	1
Speaking Engagement	Dallas, TX	$931.52	01/18/02	2
Official	Portland, ME	$171.00	01/21/02	1
Official	Atlanta, GA	$247.00	01/25/02	6
Meetings	Manhattan, NY	$524.39	01/25/02	1
Official	Winston-Salem. NC	$247.00	01/25/02	6
Meetings	Lynchburg, VA	$51.10	01/28/02	2
Meetings	Salt Lake City, UT	$1,726.25	01/28/02	31
Speaking Engagement	Chicago, IL	$402.42	01/30/02	1
Official	Lynchburg, VA	$52.93	01/30/02	2
Official	Salt Lake City, UT	$357.00	02/01/02	8
Official	Salt Lake City, UT	$357.00	02/01/02	8
Official	Denver, C0	$229.00	02/04/02	4
Official	Jackson, WY	$453.78	02/04/02	6
Meetings	Lynchburg, VA	$51.10	02/04/02	2
Official	Milwaukee, WI	$231.00	02/06/02	5
Meetings	Albuquerque, NM	$605.78	02/07/02	3
Official	Denver, CO/Jackson, WY/ Idaho Falls, ID	$183.14	02/07/02	3
Meetings	New Haven, CT	$223.61	02/07/02	1
Official	Waco, TX	$75.00	02/08/02	2
Official	Anchorage, AK	$535.50	02/11/02	8
Official	Lynchburg, VA	$54.93	02/11/02	1
Speaking Engagement	Denver, CO	$41.00	02/12/02	1
Official	Lynchburg, VA	$52.93	02/13/02	2
Speaking Engagement	Naples, FL	$0.00	02/14/02	3
Speaking Engagement	Charlottesville, VA	$87.60	02/16/02	1
Speaking Engagement	Dallas, TX	$667.00	02/18/02	1

REV_00168188

Official	Jackson, WY/Los Angeles, CA	$200.00	02/18/02	4
Meetings	Kansas City, KS	$650.57	02/18/02	1
Accompany a USG Delegation	Rome, ITA	$1,380.48	02/18/02	5
Meetings	Key West, FL	$1,720.82	02/21/02	3
Meetings	Las Vegas, NV	$426.01	02/21/02	2
Meetings	Lynchburg, VA	$52.93	02/27/02	2
Speaking Engagement	Los Angeles, CA	$339.00	02/28/02	2
Official	Camp David, MD	$75.00	03/01/02	2
Speaking Engagement	Hartford, CT	$77.00	03/01/02	1
Speaking Engagement	Jackson, MS	$10.00	03/01/02	4
Meetings	Lynchburg, VA	$52.93	03/04/02	2
Official	Camp David, MD	$75.00	03/05/02	2
Official	Lynchburg, VA	$55.93	03/06/02	1
Speaking Engagement	Palm Springs, CA	$1,113.92	03/07/02	1
Meetings	Lynchburg, VA	$52.93	03/08/02	1
Official	Norfolk, VA	$209.66	03/08/02	3
Official	Richmond, VA	$208.20	03/08/02	3
Official	Richmond, VA	$161.37	03/08/02	3
Official	College Station, TX	$1,624.41	03/09/02	4
Official	Fayetteville, NC	$153.00	03/11/02	4
Official	Lynchburg, VA	$52.93	03/11/02	2
Official	St. Louis, MO	$299.00	03/13/02	6
Meetings	Washington DC	$315.55	03/15/02	1
Official	El Paso, TX	$247.00	03/16/02	6
Official	Atlanta, GA	$265.00	03/22/02	6
Meetings	Cedar Rapids, IA	$445.20	03/24/02	1
Official	Austin, TX/Waco, TX	$201.00	03/25/02	6
Official	Dallas, TX	$161.00	03/25/02	3
Official	Lynchburg, VA	$52.93	03/25/02	2
Official	Atlanta, GA/Waco, TX/Greenville, SC	$135.00	03/27/02	4
Meetings	Lynchburg, VA	$109.93	03/27/02	1
Official	Philadelphia, Pa	$375.00	03/27/02	8
Official	Waco, TX	$135.00	03/27/02	4
Official	Waco, TX	$165.00	04/04/02	5
Official	Waco, TX	$135.00	04/04/02	4
Official	Waco, TX	$105.00	04/04/02	3
Meetings	Boston, MA	$330.82	04/05/02	1

REV_00168189

Speaking Engagement	Orlando, FL/Tampa, FL	$935.14	04/06/02	2
Meetings	Knoxville, TN	$392.94	04/07/02	1
Meetings	Denver. CO/Las Vegas, NV	$426.01	04/11/02	2
Official	Camp David, MD	$135.00	04/12/02	4
Official	Camp David, MD	$75.00	04/12/02	2
Meetings	Boston, MA	$150.50	04/15/02	1
Meetings	Lynchburg, VA	$52.93	04/15/02	2
Meetings	Manhattan, NY	$409.30	04/15/02	1
Speaking Engagement	Oakland, CA/Seattle, WA	$956.54	04/16/02	1
Official	Lynchburg, VA	$52.93	04/17/02	2
Official	Lynchburg, VA	$52.93	04/17/02	2
Official	Camp David, MD	$75.00	04/19/02	6
Official	Austin, TX/Waco, TX	$264.00	04/23/02	4
Official	Lynchburg, VA	$52.93	04/23/02	1
Official	Los Angeles, CA/Waco, TX	$223.00	04/24/02	6
Official	Los Angeles, CA/Waco, TX	$223.00	04/24/02	6
Speaking Engagement	Jackson, MS	$453.78	04/26/02	1
Meetings	Philadelphia, PA	$384.00	04/26/02	1
Meetings	San Marcos, TX	$45.00	04/27/02	1
Official	Lynchburg, VA	$56.93	04/29/02	1
Meetings	San Jose, CA	$521.50	04/29/02	1
Meetings	Tampa, FL	$537.62	04/30/02	1
Official	Camp David, MD	$45.00	05/03/02	6
Speaking Engagement	Miami, FL	$697.17	05/07/02	1
Official	Lynchburg, VA	$52.93	05/08/02	2
Official	Camp David, MD	$75.00	05/10/02	12
Speaking Engagement	College Station, TX	$60.00	05/10/02	1
Official	Houston, TX	$83.00	05/10/02	2
Official	Lynchburg, VA	$52.93	05/13/02	2
Speaking Engagement	New Orleans, LA	$686.00	05/13/02	1
Official	Lynchburg, VA	$52.93	05/15/02	1
Official	Camp David, MD	$75.00	05/17/02	1
Meetings	Manhattan, NY/Phoenix, AZ	$458.00	05/21/02	1
Speaking Engagement	Atlanta, GA	$679.02	05/23/02	1
Speaking Engagement	Birmingham, AL	$134.00	05/25/02	2
Official	West Point, NY	$221.00	05/26/02	6

Official	Little Rock, AR	$255.00	05/27/02	7
Official	Lynchburg, VA	$58.93	05/27/02	2
Official	Little Rock, AR	$187.00	05/29/02	5
Speaking Engagement	Pittsburg, PA	$732.94	05/29/02	1
Official	Philadelphia, Pa	$210.00	05/30/02	1
Speaking Engagement	Albuquerque, NM/Las Vegas, NV/Los Angeles, CA	$605.50	05/31/02	10
Official	Camp David, MD	$75.00	05/31/02	6
Invitational	Washington, DC	$1,007.50	05/31/02	
Official	Des Moines, IA	$187.00	06/02/02	5
Official	Des Moines, IA	$187.00	06/02/02	5
Meetings	Manhattan, NY	$358.56	06/02/02	1
Meetings	Lynchburg, VA	$52.93	06/03/02	2
Official	Lynchburg, VA	$52.93	06/03/02	1
Official	Kansas City, KS	$273.00	06/06/02	6
Official	Camp David, MD	$75.00	06/07/02	2
Official	El Paso, TX	$553.42	06/07/02	1
Speaking Engagement	Ft. Meyers, FL	$342.50	06/07/02	1
Speaking Engagement	Salt Lake City, UT	$368.00	06/10/02	1
Official	Atlanta, GA	$247.00	06/11/02	6
Official	Crawford, TX	$331.00	06/11/02	6
Meetings	Los Angeles, CA/Modesto, CA	$922.53	06/12/02	3
Official	Lynchburg, VA	$52.93	06/12/02	2
Official	Waco, TX	$165.00	06/12/02	5
Meetings	New Orleans, LA	$760.68	06/13/02	1
Official	Minneapolis, MN	$878.00	06/14/02	1
Official	Waco, TX	$105.00	06/14/02	3
Official	Waco, TX	$105.00	06/14/02	3
Official	Lynchburg, VA	$52.93	06/17/02	2
Meetings	Madison. WI	$456.00	06/17/02	1
Speaking Engagement	Pittsburg, PA	$700.14	06/19/02	1
Speaking Engagement	Brooklyn, NY	$148.50	06/21/02	1
Speaking Engagement	Charlotte, NC	$312.93	06/21/02	1
Meetings	Phoenix, AZ/Scottsdale, AZ	$1,223.50	06/21/02	4
Official	Providence, RI	$238.80	06/22/02	1
Official	Lynchburg, VA	$57.93	06/24/02	1
Meetings	San Francisco, CA/Seattle, WA	$1,177.23	06/25/02	4
Official	Lynchburg, VA	$58.93	06/26/02	2

Speaking Engagement	Albuquerque, NM	$622.02	06/27/02	2
Official	Crawford, TX	$185.00	06/28/02	2
Official	Ripley, WV	$165.00	06/29/02	5
Official	Lynchburg, VA	$58.93	07/11/02	1
Official	Crawford, TX	$75.00	07/12/02	2
Meetings	New Orleans, LA	$997.21	07/12/02	3
Meetings	Boise, ID	$767.26	07/14/02	1
Meetings	New Orleans, LA	$690.07	07/14/02	1
Official	Lynchburg, VA	$52.93	07/16/02	1
Meetings	London, GBR/FRA	$1,559.72	07/18/02	5
Speaking Engagement	Los Angeles, CA	$416.50	07/20/02	1
Official	Charleston, SC	$273.00	07/23/02	6
Official	Charleston, SC	$273.00	07/23/02	6
Speaking Engagement	Cleveland, OH/Minneapolis, MN	$1,059.88	07/23/02	1
Meetings	Denver, CO	$704.12	07/23/02	3
Meetings	Denver, CO/Orlando, FL	$944.57	07/23/02	2
Official	Lynchburg, VA	$58.93	07/24/02	2
Official	Manhattan, NY	$143.50	07/24/02	1
Meetings	Atlanta, GA	$124.50	07/28/02	1
Meetings	MexicoCity, MEX	$1,076.36	07/28/02	3
Official	Lubbock, TX	$215.00	07/29/02	6
Meetings	Lynchburg, VA	$52.93	07/29/02	2
Meetings	Boston, MA	$431.35	07/30/02	1
Meetings	Ausitn, TX	$398.00	08/01/02	1
Meetings	Austin, TX	$398.00	08/01/02	1
Official	Waco, TX	$405.00	08/01/02	13
Official	Waco, TX	$45.00	08/01/02	1
Speaking Engagement	Hershey, PA	$209.00	08/03/02	1
Official	Lynchburg, VA	$52.93	08/05/02	2
Meetings	Manhattan, NY	$564.00	08/05/02	2
Meetings	Ft Lauderdale, FL	$638.00	08/06/02	2
Meetings	Orlando, FL	$1,080.50	08/06/02	3
Official	Waco, TX	$555.00	08/06/02	18
Official	Waco, TX	$225.00	08/06/02	7
Official	Waco, TX	$315.00	08/06/02	10
Official	Waco, TX	$410.79	08/11/02	14
Official	Des Moines, IA	$59.50	08/13/02	2
Conference Attendance	New Orleans, LA	$561.13	08/13/02	1
Official	Waco, TX	$75.00	08/13/02	2
Speaking Engagement	Charleston, WV	$827.27	08/15/02	1

Official	Waco, TX	$315.00	08/15/02	10
Official	Waco, TX	$525.00	08/15/02	17
Official	Las Cruces, NM	$195.00	08/19/02	6
Official	Las Cruses, NM	$165.00	08/19/02	5
Official	Monterey, CA	$605.00	08/19/02	11
Official	Hanoi, VIE/Honolulu, HI	$1,960.34	08/20/02	11
Official	Las Cruces, NM	$165.00	08/20/02	5
Speaking Engagement	Ft. Lauderdale, FL	$658.79	08/25/02	1
Speaking Engagement	Memphis, TN	$1,043.05	08/28/02	1
Speaking Engagement	Philadelphia, PA	$225.25	08/28/02	1
Official	Louisville, KY	$285.00	08/29/02	7
Official	Louisville, KY	$285.00	08/29/02	7
Official	Louisville, KY	$358.22	08/30/02	6
Official	South Bend, IN	$221.00	08/30/02	6
Official	South Bend, IN	$221.00	08/30/02	6
Official	South Bend, IN	$221.00	08/30/02	6
Official	Minneapolis, MN	$69.00	09/02/02	1
Speaking Engagement	Manhattan, NY/Kansas City, KS	$959.66	09/03/02	2
Speaking Engagement	Naples, FL/Orlando, FL	$1,025.63	09/03/02	2
Meetings	Lynchburg, VA	$52.93	09/04/02	2
Meetings	Manhattan, NY	$437.00	09/04/02	9
Speaking Engagement	Manhattan, NY	$226.70	09/05/02	1
Official	Manhattan, NY	$892.00	09/08/02	1
Official	Pittsburg, PA	$69.00	09/10/02	1
Official	Pittsburg, PA	$69.00	09/10/02	1
Official	Lynchburg, VA	$52.93	09/11/02	2
Official	Davenport, IA	$135.00	09/12/02	4
Meetings	Austin, TX	$276.00	09/13/02	2
Meetings	Los Angeles, CA	$520.31	09/13/02	1
Official	Pittsburg, PA	$34.50	09/13/02	1
Official	Lynchburg, VA	$58.93	09/16/02	2
Speaking Engagement	Baltimore, MD	$43.29	09/19/02	1
Speaking Engagement	Cedar Rapids, IA	$317.00	09/19/02	1
Speaking Engagement	Chicago, IL	$458.88	09/20/02	1
Speaking Engagement	Wintergreen, VA	$203.14	09/20/02	2
Speaking Engagement	Columbus, OH	$369.50	09/23/02	1

Official	Milwaukee, WI	$626.29	09/23/02	1
Official	Lynchburg, VA	$58.93	09/25/02	2
Speaking Engagement	Orange County, CA	$42.00	09/25/02	2
Official	Waco, TX	$466.50	09/25/02	1
Speaking Engagement	Raleigh, NC	$499.38	09/26/02	1
Speaking Engagement	Pittsburg, PA	$872.83	09/27/02	2
Speaking Engagement	Boston, MA	$257.92	09/28/02	1
Speaking Engagement	Manhattan, NY	$39.70	09/30/02	1
Official	San Francisco, CA	$1,306.54	10/15/02	3
	Total	**$98,605.86**		

White House Office FY 2003 Staff Travel				
PURPOSE	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Meeting	Manhattan,NY	$345.10	10/01/02	1
Meeting	Chicago, IL	$327.30	10/02/02	1
Speaking Engagement	Columbus, OH	$434.21	10/02/02	1
Speaking Engagement	Syracuse, NY	$700.50	10/04/02	3
Speaking Engagement	Atlanta, GA	$626.00	10/05/02	2
Official	Lynchburg, VA	$52.93	10/07/02	2
Speaking Engagement	Orlando, FL	$1,708.38	10/07/02	4
Meeting	Atlanta, GA	$1,105.34	10/08/02	3
Speaking Engagement	Portsmouth, NH	$365.00	10/08/02	1
Meeting	Hague	$1,817.68	10/09/02	4
Meeting	Atlanta, GA	$880.36	10/09/02	2
Meeting	Atlanta, GA	$893.36	10/09/02	2
Meeting	Atlanta, GA	$336.93	10/09/02	1
Meeting	Atlanta, GA	$1,001.35	10/09/02	2
Meeting	Atlanta, GA	$937.28	10/09/02	2
Meeting	Atlanta, GA	$893.36	10/09/02	2
Meeting	Atlanta, GA	$659.58	10/09/02	2
Speaking Engagement	Sioux Falls Naval, SD	$722.96	10/09/02	2
Meeting	Washington, DC	$95.50	10/09/02	1
Meeting	Manhattan,NY	$164.10	10/10/02	1

REV_00168194

Meeting	Naples, FL	$819.61	10/10/02	1
Speaking Engagement	Ft. Lauderdale, FL	$1,010.59	10/10/02	1
Speaking Engagement	Ft. Lauderdale, FL	$838.72	10/10/02	1
Speaking Engagement	Milwaukee, WI	$553.75	10/13/02	1
Meeting	Daytona Beach, FL	$826.00	10/14/02	3
Official	Lynchburg, VA	$52.93	10/16/02	2
Meeting	Manhattan,NY	$448.06	10/17/02	1
Meeting	Philadelphia, PA	$188.00	10/17/02	1
Meeting	Manhattan,NY	$445.38	10/17/02	1
Speaking Engagement	Indianapolis, IN	$58.00	10/17/02	1
Speaking Engagement	Atlanta, GA	$41.00	10/19/02	1
Speaking Engagement	San Antonio, TX	$571.71	10/20/02	1
Meeting	Des Moines, IA	$1,111.05	10/20/02	2
Official	Lynchburg, VA	$58.93	10/21/02	2
Official	Waco, TX	$934.65	10/22/02	1
Meeting	Lynchburg, VA	$52.93	10/23/02	1
Meeting	Chicago, IL	$94.00	10/23/02	1
Speaking Engagement	St. Louis, MO	$773.64	10/24/02	1
Speaking Engagement	Los Angeles, CA	$667.83	10/24/02	2
Meeting	Charlotte, NC	$976.47	10/24/02	1
Meeting	Los Angeles, CA	$385.50	10/24/02	1
Official	Lynchburg, VA	$58.93	10/28/02	2
Meeting	Charlotte, NC	$823.42	10/28/02	1
Meeting	Cleveland, OH	$818.17	10/28/02	2
Meeting	Providence, RI	$0.00	10/28/02	1
Speaking Engagement	Pittsburgh, PA	$758.56	10/29/02	1
Official	Waco, TX	$888.79	10/31/02	1
Meeting	Miami, FL	$799.27	11/05/02	1
Meeting	West Point, NY	$442.41	11/07/02	2
Meeting	Providence, RI	$677.18	11/07/02	1
Speaking Engagement	Providence, RI	$698.18	11/07/02	1
Speaking Engagement	Los Angeles, CA	$785.40	11/07/02	3
Meeting	Manhattan,NY	$139.50	11/08/02	1

Speaking Engagement	San Diego, CA	$230.81	11/10/02	1
Speaking Engagement	Reno, NV	$831.97	11/11/02	2
Official	Lynchburg, VA	$52.93	11/12/02	1
Official	Lynchburg, VA	$52.93	11/13/02	1
Meeting	Charlotte, NC	$776.00	11/13/02	1
Speaking Engagement	Lansing, MI	$438.79	11/13/02	1
Speaking Engagement	Manchester, NH	$463.00	11/13/02	1
Speaking Engagement	Portland, OR	$705.10	11/14/02	2
Meeting	Austin, TX	$1,006.00	11/16/02	14
Meeting	Austin, TX	$995.47	11/16/02	14
Speaking Engagement	Albany, NY	$752.56	11/18/02	1
Speaking Engagement	Portland, OR	$410.50	11/18/02	1
Speaking Engagement	Newark, NJ	$520.92	11/19/02	1
Meeting	Manhattan,NY	$325.02	11/20/02	2
Speaking Engagement	Tallahassee, FL	$453.79	11/20/02	1
Speaking Engagement	Concord, NH	$1,040.22	11/20/02	2
Meeting	Manhattan,NY	$157.50	11/21/02	1
Meeting	Los Angeles, CA	$683.49	11/21/02	3
Meeting	Loudoun County, VA	$17.16	11/21/02	1
Speaking Engagement	West Palm Beach, FL	$661.45	11/22/02	2
Speaking Engagement	Springfield, MO	$619.13	11/24/02	1
Speaking Engagement	Ft. Lauderdale, FL	$129.00	11/24/02	1
Meeting	Manhattan,NY	$454.36	11/25/02	1
Speaking Engagement	Manhattan,NY	$369.50	11/25/02	1
Official	Waco, TX	$913.45	11/25/02	1
Speaking Engagement	Hershey, PA	$107.18	11/26/02	1
Meeting	New Orleans, LA	$1,254.32	12/01/02	4
Official	Ft. Lauderdale, FL	$1,242.99	12/01/02	4
Official	Manhattan,NY	$85.00	12/02/02	1

Speaking Engagement	Augusta Naval Ctr, ME	$815.35	12/02/02	1
Official	Jacksonville, Fl	$616.00	12/03/02	1
Speaking Engagement	Pensacola, FL	$436.00	12/03/02	1
Speaking Engagement	Tallahassee, FL	$559.31	12/04/02	2
Speaking Engagement	Lexington, KY	$390.00	12/04/02	1
Meeting	Philadelphia, PA	$259.50	12/06/02	1
Speaking Engagement	Ft. Wayne, IN	$53.50	12/06/02	1
Speaking Engagement	Richmond, VA	$104.50	12/07/02	1
Meeting	Manhattan,NY	$293.74	12/09/02	1
Official	Lynchburg, VA	$52.93	12/09/02	1
Meeting	Philadelphia, PA	$979.38	12/09/02	4
Speaking Engagement	Nashville, TN	$575.00	12/09/02	1
Meeting	Manhattan,NY	$216.60	12/10/02	1
Speaking Engagement	Duluth,, MN	$675.28	12/10/02	1
Official	Lynchburg, VA	$52.93	12/11/02	2
Meeting	Philadelphia, PA	$407.52	12/11/02	1
Meeting	Philadelphia, PA	$360.02	12/11/02	1
Meeting	Philadelphia, PA	$423.52	12/11/02	1
Meeting	Philadelphia, PA	$399.86	12/11/02	1
Speaking Engagement	Philadelphia, PA	$370.02	12/11/02	1
Speaking Engagement	Philadelphia, PA	$216.00	12/11/02	1
Meeting	Indianapolis, IN	$803.40	12/11/02	1
Meeting	Norfolk, VA	$775.50	12/17/02	1
Meeting	West Palm Beach, FL	$123.51	12/20/02	8
Meeting	Salt Lake City, UT	$949.00	01/01/03	3
Official	Chicago, IL	$311.00	01/02/03	5
Official	Reno, NV	$1,133.11	01/05/03	3
Official	Chicago, IL	$662.22	01/05/03	2
Meeting	Manhattan,NY	$439.36	01/07/03	1

REV_00168197

Meeting	Augusta Naval Ctr, ME	$605.49	01/08/03	1
Meeting	Albuquerque, NM	$778.68	01/09/03	5
Meeting	Denver, CO	$1,102.60	01/10/03	4
Meeting	Tampa, FL	$511.00	01/11/03	1
Meeting	Tampa, FL	$435.00	01/11/03	1
Meeting	Denver, CO	$1,442.21	01/11/03	3
Meeting	Denver, CO	$1,269.14	01/12/03	2
Meeting	Denver, CO	$660.64	01/12/03	2
Meeting	Denver, CO	$713.14	01/12/03	2
Meeting	Denver, CO	$902.07	01/12/03	1
Meeting	Denver, CO	$667.14	01/12/03	2
Meeting	Denver, CO	$1,082.49	01/12/03	1
Meeting	Salem Naval Ctr, OR	$370.00	01/12/03	1
Official	Lynchburg, VA	$52.93	01/15/03	2
Meeting	Manhattan,NY	$105.00	01/19/03	1
Speaking Engagement	Austin, TX	$83.00	01/20/03	2
Official	Lynchburg, VA	$52.93	01/21/03	1
Meeting	Manhattan,NY	$496.97	01/21/03	1
Speaking Engagement	Des Moines, IA	$416.04	01/21/03	1
Speaking Engagement	Oakland, CA	$0.00	01/23/03	2
Speaking Engagement	Chicago, IL	$940.07	01/26/03	2
Speaking Engagement	Norfolk, VA	$474.88	01/26/03	1
Meeting	Manhattan,NY	$1,381.21	01/28/03	3
Meeting	Las Vegas, NV	$804.11	01/31/03	3
Meeting	Manhattan,NY	$404.70	02/03/03	1
Meeting	Manhattan,NY	$106.50	02/03/03	1
Speaking Engagement	Boston, MA	$575.79	02/06/03	1
Meeting	Nashville, TN	$635.50	02/09/03	1
Official	Lynchburg, VA	$52.93	02/10/03	2
Speaking Engagement	Little Rock, AR	$875.33	02/10/03	1
Meeting	Tallahassee, FL	$562.25	02/11/03	1
Meeting	San Diego, CA	$894.88	02/13/03	6
Conference Attendance	San Diego, CA	$950.32	02/15/03	4
Speaking Engagement	San Diego, CA	$1,758.60	02/15/03	4
Meeting	Cincinnati, OH	$512.10	02/19/03	3

REV_00168198

Meeting	Montgomery, AL	$607.11	02/20/03	1
Speaking Engagement	Baton Rouge, LA	$968.15	02/20/03	1
Meeting	Lynchburg, VA	$52.93	02/24/03	2
Meeting	Santa Fe, NM	$823.57	02/24/03	2
Speaking Engagement	Houston, TX	$746.84	02/27/03	1
Meeting	Miami, FL	$785.37	02/27/03	3
Meeting	Portland, OR	$0.00	02/28/03	2
Meeting	Newport News, VA	$63.00	03/05/03	1
Official	Lynchburg, VA	$52.93	03/05/03	1
Speaking Engagement	Minneapolis, MN	$745.00	03/06/03	1
Meeting	King of Prussia, PA	$773.94	03/10/03	2
Speaking Engagement	Raleigh, NC	$348.85	03/11/03	1
Meeting	Chicago, IL	$804.20	03/12/03	4
Meeting	Chicago, IL	$757.06	03/12/03	2
Meeting	Philadelphia, PA	$341.00	03/12/03	2
Meeting	Chicago, IL	$365.72	03/13/03	1
Meeting	Chicago, IL	$476.20	03/13/03	1
Meeting	Chicago, IL	$431.10	03/13/03	1
Meeting	Chicago, IL	$452.15	03/13/03	1
Meeting	Chicago, IL	$453.10	03/13/03	1
Meeting	Chicago, IL	$427.10	03/13/03	1
Meeting	Chicago, IL	$391.50	03/14/03	1
Speaking Engagement	Charlottesville, VA	$155.87	03/14/03	1
Speaking Engagement	Montgomery, AL	$576.37	03/14/03	1
Speaking Engagement	Charlotte, NC	$868.87	03/16/03	1
Speaking Engagement	Columbus, OH	$279.50	03/17/03	1
Official	Lynchburg, VA	$52.93	03/19/03	2
Speaking Engagement	Harford County, MD	$12.25	03/21/03	1
Speaking Engagement	Atlanta, GA	$281.50	03/24/03	1
Meeting	Philadelphia, PA	$198.00	03/25/03	1
Meeting	Philadelphia, PA	$241.50	03/25/03	1
Meeting	Philadelphia, PA	$201.00	03/25/03	1

REV_00168199

Meeting	Lansing, MI	$438.50	03/25/03	1
Official	Lynchburg, VA	$52.93	03/26/03	2
Speaking Engagement	Princeton, NJ	$329.88	03/26/03	1
Speaking Engagement	Columbus, OH	$891.00	03/26/03	1
Speaking Engagement	Jackson, MS	$498.57	03/27/03	1
Meeting	Las Vegas, NV	$1,096.72	03/27/03	2
Speaking Engagement	Los Angeles, CA	$527.61	03/29/03	1
Speaking Engagement	Pittsburgh, PA	$735.76	03/29/03	2
Official	Lynchburg, VA	$52.93	03/31/03	2
Official	Lynchburg, VA	$52.93	04/02/03	2
Meeting	Manhattan,NY	$166.00	04/02/03	1
Speaking Engagement	Nashville, TN	$756.88	04/03/03	1
Official	Philadelphia, PA	$84.71	04/03/03	1
Speaking Engagement	Atlantic City, NJ	$231.16	04/04/03	1
Speaking Engagement	Tallahassee, FL	$547.29	04/06/03	2
Speaking Engagement	Hershey, PA	$221.14	04/06/03	1
Meeting	Houston, TX	$806.00	04/08/03	1
Speaking Engagement	Albuquerque, NM	$469.88	04/08/03	1
Speaking Engagement	Denver, CO	$38.50	04/11/03	1
Official	Elmendorf, AK	$2,998.75	04/12/03	7
Speaking Engagement	Detroit, MI	$965.87	04/13/03	3
Meeting	St. Louis, MO	$759.00	04/14/03	2
Speaking Engagement	Jefferson City, MO	$749.00	04/14/03	1
Meeting	Manhattan,NY	$630.67	04/15/03	1
Meeting	Dayton, OH	$365.00	04/22/03	2
Official	San Jose, CA	$633.79	04/22/03	2
Speaking Engagement	Houston, TX	$510.91	04/23/03	1
Speaking Engagement	Atlanta, GA	$409.35	04/24/03	1
Speaking Engagement	Houston, TX	$1,080.35	04/24/03	2
Meeting	Albuquerque, NM	$685.70	04/24/03	2

Speaking Engagement	Bridgeport, CT	$642.50	04/27/03	1
Meeting	Chicago, IL	$50.00	05/01/03	2
Speaking Engagement	Baton Rouge, LA	$800.85	05/05/03	1
Speaking Engagement	Portland, OR	$410.29	05/05/03	1
	Travel	**$117,171.05**		

Office of Homeland Security FY 2002 Staff Travel				
PURPOSE	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Meetings	Salt Lake City, UT	$139.73	01/01/00	1
Official	Manhattan, NY	$442.24	11/12/01	1
Meetings	Manhattan, NY	$382.24	11/15/01	1
Speaking Engagement	Manhattan, NY	$1,115.00	12/07/01	2
Meetings	Ottawa, CAN	$294.32	12/11/01	1
Meetings	Ottawa, CAN	$201.16	12/11/01	1
Meetings	Ottawa, CAN	$301.91	12/11/01	1
Meetings	Ottawa, CAN	$284.49	12/11/01	1
Accompany a Cabinet Head	Harrisburg, PA	$2,009.00	12/21/01	11
Accompany a Cabinet Head	Pittsburg, PA/Harrisburg, PA	$543.67	01/04/02	4
Meetings	Salt Lake City, UT	$153.94	01/09/02	1
Official	Harrisburg, PA	$579.18	01/11/02	2
Meetings	Manhattan, NY	$389.50	01/13/02	1
Official	Manhattan, NY	$633.43	01/13/02	1
Official	Manhattan, NY	$267.00	01/13/02	1
Official	Manhattan, NY	$148.90	01/14/02	1
Meetings	Ft. Lauderdale, FL	$841.71	01/22/02	1
Meetings	Manhattan, NY	$586.30	01/24/02	1
Accompany a Cabinet Head	Pittsburg, PA/Harrisburg, PA	$742.43	01/25/02	3
Meetings	Washington, DC	$303.00	01/30/02	1
Meetings	Manhattan, NY	$1,012.87	01/31/02	2
Meetings	Manhattan, NY	$519.89	01/31/02	2
Meetings	Manhattan, NY	$606.62	01/31/02	2
Meetings	Manhattan, NY	$511.00	01/31/02	2
Accompany a Cabinet Head	Manhattan, NY	$727.99	02/04/02	2

Accompany a Cabinet Head	Manhattan, NY	$314.00	02/05/02	1
Accompany a Cabinet Head	Manhattan, NY	$378.70	02/05/02	1
Accompany a Cabinet Head	Salt Lake City, UT	$4,975.65	02/05/02	21
Meetings	Manhattan, NY	$649.25	02/05/02	1
Accompany a Cabinet Head	Harrisburg, PA	$646.41	02/08/02	2
Accompany a Cabinet Head	Harrisburg, PA	$277.22	02/14/02	2
Accompany a Cabinet Head	Miami, FL/Orlando, FL	$2,042.92	02/14/02	2
Accompany a Cabinet Head	Orlando, FL	$792.45	02/14/02	1
Accompany a Cabinet Head	Miami, FL/Orlando, FL	$1,148.83	02/14/02	2
Accompany a Cabinet Head	Miami, FL/Orlando, FL	$1,050.72	02/14/02	2
Accompany a Cabinet Head	Miami, FL/Orlando, FL	$1,306.56	02/14/02	2
Accompany a Cabinet Head	Miami, FL	$862.08	02/15/02	1
Accompany a Cabinet Head	Miami, FL	$768.88	02/15/02	1
Accompany a Cabinet Head	Harrisburg, PA	$638.16	02/16/02	2
Accompany a Cabinet Head	Cincinnati, OH	$1,047.68	02/18/02	2
Accompany a Cabinet Head	Houston, TX/Las Vegas, NV	$2,725.30	02/19/02	3
Accompany a Cabinet Head	Houston, TX/Las Vegas, NV	$428.82	02/20/02	2
Accompany a Cabinet Head	Houston, TX/Las Vegas, NV	$339.04	02/20/02	2
Official	Houston/Las Vegas, NV	$98.00	02/20/02	2
Accompany a Cabinet Head	Harrisburg, PA	$542.74	02/22/02	2
Meetings	Key West, FL	$1,205.83	02/22/02	1
Meetings	Colorado Springs, CO	$785.71	02/25/02	2
Meetings	Vancouver, CAN	$1,214.92	02/27/02	3
Accompany a Cabinet Head	Harrisburg, PA	$277.22	03/01/02	2
Accompany a Cabinet Head	Harrisburg, PA	$603.25	03/01/02	2
Accompany a Cabinet Head	Mexico City, MEX	$2,064.76	03/03/02	4

Accompany a Cabinet Head	Mexico City, MEX	$432.00	03/03/02	4
Accompany a Cabinet Head	Mexico City, MEX	$587.80	03/04/02	2
Accompany a Cabinet Head	Mexico City, MEX	$1,161.85	03/04/02	3
Accompany a Cabinet Head	Mexico City, MEX	$587.80	03/04/02	2
Accompany a Cabinet Head	Mexico City, MEX	$587.80	03/04/02	2
Accompany a Cabinet Head	Mexico City, MEX	$587.80	03/04/02	2
Official	Mexico City, MEX	$240.00	03/04/02	2
Speaking Engagement	Orlando, GL	$342.99	03/04/02	1
Accompany a Cabinet Head	Boston, MA	$422.29	03/07/02	1
Accompany a Cabinet Head	Boston, MA	$378.00	03/08/02	1
Accompany a Cabinet Head	Boston, MA	$166.50	03/08/02	1
Accompany a Cabinet Head	Harrisburg, PA	$579.41	03/08/02	2
Official	Boston, MA	$462.50	03/08/02	1
Accompany a Cabinet Head	Orlando, FL	$2,551.10	03/11/02	3
Speaking Engagement	Birmingham, AL	$659.99	03/11/02	1
Accompany a Cabinet Head	Erie, PA/ Harrisburg, PA	$588.85	03/15/02	2
Speaking Engagement	Boston, MA	$379.50	03/17/02	3
Accompany a Cabinet Head	Key West, FL	$130.80	03/18/02	2
Meetings	Manhattan, NY	$442.41	03/20/02	2
Meetings	Manhattan, NY	$377.80	03/20/02	1
Accompany a Cabinet Head	Monterey, MEX	$913.00	03/21/02	2
Meetings	Manhattan, NY	$315.48	03/21/02	1
Accompany a Cabinet Head	Harrisburg, PA	$362.99	03/23/02	1
Meetings	St Petersburg, FL	$362.99	03/23/02	1
Meetings	Orlando, FL	$1,053.87	03/25/02	2
Meetings	Boston, MA	$175.50	03/25/02	1
Accompany a Cabinet Head	Key West, FL	$2,306.33	03/28/02	5
Meetings	Wilmington, DE	$167.00	03/29/02	1

REV_00168203

Speaking Engagement	Los Angeles, CA	$1,185.31	04/02/02	3
Meetings	Miami, FL	$750.57	04/04/02	1
Meetings	Miami, FL	$612.50	04/04/02	1
Accompany a Cabinet Head	Harrisburg, Pa	$444.41	04/05/02	2
Accompany a Cabinet Head	Annapolis, MD	$63.14	04/07/02	1
Meetings	Atlanta, GA	$614.37	04/07/02	2
Accompany a Cabinet Head	Chicago, IL	$990.19	04/08/02	2
Accompany a Cabinet Head	Chicago, IL	$712.71	04/08/02	2
Meetings	Manhattan, NY	$811.62	04/08/02	2
Accompany a Cabinet Head	Chicago, IL	$247.10	04/09/02	1
Accompany a Cabinet Head	Chicago, IL	$290.86	04/09/02	1
Accompany a Cabinet Head	Chicago, IL	$379.10	04/09/02	1
Meetings	Chicago, IL	$477.10	04/09/02	1
Meetings	Chicago, IL	$453.10	04/09/02	1
Meetings	Chicago, IL	$224.00	04/09/02	1
Accompany a Cabinet Head	Harrisburg, Pa	$831.69	04/11/02	3
Accompany a Cabinet Head	Harrisburg, Pa	$365.68	04/11/02	1
Accompany a Cabinet Head	Chicago, IL	$300.63	04/11/02	1
Accompany a Cabinet Head	Harrisburg, Pa	$288.00	04/11/02	1
Meetings	Charleston, SC	$878.26	04/11/02	2
Meetings	Charleston, SC	$980.62	04/11/02	2
Speaking Engagement	Oklahoma City, OK	$528.88	04/12/02	1
Accompany a Cabinet Head	Detroit, MI	$1,262.38	04/15/02	1
Meetings	Boston, MA	$1,249.42	04/15/02	3
Speaking Engagement	Baltimore, MD	$134.10	04/15/02	1
Accompany a Cabinet Head	Detroit, MI	$33.17	04/16/02	1
Accompany a Cabinet Head	Detroit, MI	$367.00	04/16/02	1
Meetings	Chicago, IL	$727.54	04/16/02	1
Meetings	Chicago, IL	$794.65	04/16/02	1
Meetings	Chicago, IL	$553.22	04/16/02	1
Meetings	Detroit, MI	$0.00	04/16/02	1

Accompany a Cabinet Head	Erie, PA/Harrisburg, PA	$412.96	04/18/02	3
Accompany a Cabinet Head	Harrisburg, Pa	$856.64	04/19/02	2
Meetings	Houston, TX	$612.48	04/20/02	2
Accompany a Cabinet Head	Phoenix, AZ	$2,023.87	04/24/02	5
Meetings	Toronto, CAN	$626.69	04/24/02	1
Accompany a Cabinet Head	New Orleans, LA	$857.86	04/28/02	2
Accompany a Cabinet Head	New Orleans, LA	$903.08	04/28/02	2
Accompany a Cabinet Head	New Orleans, LA	$1,214.96	04/28/02	2
Accompany a Cabinet Head	New Orleans, LA	$1,101.76	04/28/02	2
Accompany a Cabinet Head	New Orleans, LA	$1,286.01	04/28/02	2
Accompany a Cabinet Head	New Orleans, LA	$979.86	04/28/02	2
Meetings	New Orleans, LA	$1,028.41	04/28/02	2
Speaking Engagement	Boston, MA	$87.00	04/30/02	1
Speaking Engagement	Los Angeles, CA	$668.61	05/01/02	3
Accompany a Cabinet Head	Columbus, OH/Pittsburg, PA	$801.97	05/03/02	2
Accompany a Cabinet Head	Columbus, OH/Pittsburg, PA	$457.23	05/03/02	3
Meetings	Albuquerque, NM	$625.90	05/06/02	2
Speaking Engagement	Bangor, ME	$465.50	05/06/02	1
Meetings	Sacramento, CA	$515.50	05/07/02	1
Meetings	Sacramento, CA	$707.38	05/07/02	1
Speaking Engagement	Denver, CO	$426.71	05/07/02	1
Meetings	Burlington, VT	$979.84	05/08/02	2
Speaking Engagement	Wichita, KS	$434.21	05/08/02	1
Speaking Engagement	San Diego, CA	$805.50	05/08/02	1
Official	Columbus, OH/Pittsburg, PA	$178.00	05/13/02	2

Meetings	Colorado Springs, CO	$652.21	06/25/02	2
Accompany a Cabinet Head	Erie, PA/ Harrisburg, PA	$1,016.84	11/18/02	4
Meetings	Miami, FL/Orlando, FL	$955.40	12/14/02	2
Accompany a Cabinet Head	Key West, FL	$2,204.31	03/27/20	7
Accompany a Cabinet Head	Anniston Army Dep., AL	$358.10	04/09/22	1
Accompany a Cabinet Head	Manhattan, NY	$649.25	02/005/02	1
	Total	**$100,692.33**		

OHS/Cyberspace Security Office FY 2002 Staff Travel				
PURPOSE	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Speaking Engagement	San Jose, CA	$1,483.45	10/27/01	5
Speaking Engagement	San Jose, CA	$4,114.24	10/27/01	12
Speaking Engagement	San Jose, CA	$1,101.04	10/28/01	4
Speaking Engagement	San Jose, CA	$1,948.64	02/17/02	3
Speaking Engagement	New Haven, CT	$879.00	02/20/02	4
Speaking Engagement	Philadelphia, PA	$149.31	02/22/02	1
Speaking Engagement	Palm Springs, CA	$371.00	03/04/02	1
Speaking Engagement	London, GBR	$1,611.83	03/17/02	3
Speaking Engagement	Manhattan, NY	$297.30	03/20/02	1
Meetings	Orlando, FL	$592.89	04/02/02	1
Speaking Engagement	Orlando, FL	$592.89	04/02/02	1
Meetings	Providence, RI	$875.74	04/03/02	1
Speaking Engagement	Providence, RI	$875.74	04/03/02	1
Speaking Engagement	Denver, CO	$1,288.87	04/05/02	3
Speaking Engagement	Williamsburg, VA	$261.00	04/08/02	1
Speaking Engagement	Albany, NY	$904.60	04/10/02	1

REV_00168206

Speaking Engagement	Orlando, FL	$1,279.00	04/12/02	5
Speaking Engagement	Orlando, FL	$757.75	04/16/02	1
Speaking Engagement	Orlando, FL	$1,663.74	04/21/02	3
Speaking Engagement	Chicago, IL	$524.42	05/07/02	1
Speaking Engagement	Las Vegas, NV	$1,009.00	05/08/02	1
Speaking Engagement	Boston, MA	$455.80	05/10/02	2
Speaking Engagement	Denver, CO	$1,390.93	05/12/02	5
Speaking Engagement	Denver, CO/Indianapolis, IN	$1,574.15	05/12/02	7
Meetings	Denver, CO	$1,711.17	05/14/02	3
Speaking Engagement	Chicago, IL	$328.00	05/16/02	1
Speaking Engagement	Honolulu, HI	$1,371.44	05/20/02	2
Meetings	Chicago, IL / Portland, OR	$2,874.45	05/27/02	11
Meetings	Chicago, IL	$711.20	05/29/02	2
Meetings	Chicago, IL	$717.20	05/29/02	2
Meetings	Portland/Seattle/San Diego	$1,436.79	05/31/02	9
Meetings	Portland, OR / Seattle, WA	$4,571.98	06/01/02	6
Speaking Engagement	Portland, OR	$241.00	06/05/02	1
Speaking Engagement	Buffalo, NY	$761.29	06/12/02	1
Meetings	Atlanta, GA	$1,333.54	06/16/02	3
Meetings	Atlanta, GA	$535.04	06/17/02	2
Meetings	Atlanta, GA	$653.04	06/17/02	2
Speaking Engagement	London, GBR	$1,687.92	06/19/02	3
Speaking Engagement	Isle of Hawaii	$3,082.83	06/23/02	6
Speaking Engagement	Las Vegas, NV	$982.06	06/26/02	1
Speaking Engagement	Manhattan, NY	$308.00	07/08/02	1
Speaking Engagement	Manhattan, NY	$175.20	07/11/02	1
Meetings	Monterey, CA	$1,352.72	07/20/02	3
Speaking Engagement	Chicago/Tulsa/Minneapolis	$1,602.04	07/20/02	8

Speaking Engagement	Dallas/Tulsa	$877.15	07/21/02	2
Speaking Engagement	Las Vegas, NV	$2,353.38	07/24/02	9
Speaking Engagement	Las Vegas, NV	$1,148.96	07/30/02	2
Meetings	Roanoke, VA	$671.68	08/04/02	1
Speaking Engagement	Ft. Lauderdale, FL	$705.61	08/06/02	1
Speaking Engagement	Duluth, MN	$71.76	08/06/02	1
Speaking Engagement	San Francisco, CA	$811.92	08/06/02	2
Conference Attendance	San Francisco, CA	$3,362.76	08/12/02	6
Meetings	San Francisco / Vail	$4,362.25	08/12/02	6
Meetings	Phoenix, AZ	$1,128.18	08/13/02	3
Speaking Engagement	Aspen, CO	$287.00	08/17/02	4
Meetings	Manhattan, NY	$470.05	08/19/02	1
Speaking Engagement	Boston, MA	$462.40	08/22/02	1
Meetings	Ottawa, Canada	$1,056.24	08/26/02	1
Speaking Engagement	Nashville, TN	$730.23	08/26/02	1
Meetings	Chicago, IL	$312.50	08/30/02	1
Speaking Engagement	Seattle, WA	$1,251.44	09/03/02	3
Speaking Engagement	Manhattan, NY	$195.00	09/05/02	1
Meetings	Philadelphia, PA	$226.72	09/06/02	1
Official	San Jose, CA	$845.27	09/08/02	1
Speaking Engagement	Atlanta, GA	$122.00	09/12/02	1
Meetings	Palo Alto, CA	$2,987.46	09/15/02	6
Meetings	Palo Alto / Seattle	$2,388.45	09/15/02	6
Meetings	New London/San Francisco	$2,541.62	09/15/02	7
Meetings	San Francisco, CA	$1,643.49	09/16/02	3
Meetings	Palo Alto, CA	$1,459.11	09/17/02	2
Meetings	Minneapolis / San Francisco	$2,032.69	09/17/02	3
Meetings	Manhattan, NY	$186.62	09/19/02	1
Meetings	Albuquerque, NM	$901.52	09/21/02	4
Speaking Engagement	Chicago, IL	$1,092.55	09/24/02	1
Meetings	Austin/San Antonio	$740.79	09/24/02	3
Meetings	Austin/San Antonio	$1,234.81	09/24/02	3
Meetings	San Antonio, TX	$1,353.83	09/24/02	3

REV_00168208

Meetings	Denver/San Antonio	$1,680.02	09/24/02	6
Meetings	San Antonio, TX	$527.78	09/26/02	1
Speaking Engagement	Ft. Meyers, FL	$622.71	09/30/02	1
Meetings	Atlantic City, NJ	$375.09	09/30/02	1
	Total	**$95,660.28**		

OHS /Cyberspace Security Office FY 2003 Staff Travel				
PURPOSE	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Meetings	Philadelphia, PA	$375.31	10/02/02	1
Meetings	Philadelphia, PA	$660.04	10/02/02	4
Speaking Engagement	Minneapolis, MN	$750.71	10/08/02	1
Speaking Engagement	Brussels, Bel/London GBR	$3,903.77	10/08/02	8
Speaking Engagement	Pittsburg, Pa	$1,188.65	10/09/02	1
Meetings	Boston, MA	$2,287.09	10/14/02	6
Meetings	Boston, MA	$1,141.06	10/15/02	2
Meetings	Boston, MA	$308.38	10/17/02	1
Speaking Engagement		$257.56	10/17/02	1
Meetings	Chicago, IL	$312.50	10/17/02	1
Speaking Engagement	Miami, FL	$611.04	10/20/02	2
Meetings	Frederick, MD	$312.10	10/22/02	1
Meetings	Frederick, MD	$357.36	10/22/02	1
Meetings	Pittsburg, Pa	$821.92	10/23/02	2
Meetings	Pittsburg, Pa	$1,112.79	10/23/02	2
Speaking Engagement	Eugene, OR	$1,595.63	10/26/02	2
Speaking Engagement	Brussels, Bel	$6,650.41	10/26/02	6
Speaking Engagement	San Jose, CA	$4,114.24	10/27/02	12
Speaking Engagement	San Antonio, TX	$501.00	10/28/02	1
Speaking Engagement	Las Vegas, NV	$1,351.69	10/28/02	1
Speaking Engagement	Atlanta, GA	$1,024.90	11/05/02	1
Meetings	White Plains, NY	$965.79	11/06/02	2
Meetings	Chicago, IL	$257.56	11/07/02	1
Meetings	Chicago, IL	$461.10	11/07/02	1
Speaking Engagement	Chicago, IL	$547.57	11/07/02	2

Meetings	Manhattan, NY	$793.86	11/07/02	2
Meetings	Seattle, WA/Monterey, CA	$1,329.66	11/10/02	5
Meetings	Manhattan, NY	$697.49	11/12/02	1
Meetings	Manhattan, NY	$350.50	11/13/02	1
Meetings	Phoenix, AZ	$1,129.86	11/13/02	2
Meetings	Atlanta, GA	$463.06	11/17/02	1
Meetings	Ottawa, CAN/Phoenix, AZ	$2,418.32	11/17/02	5
Meetings	Manhattan, NY/Salt Lake City, UT	$877.25	11/19/02	1
Speaking Engagement	Manhattan, NY	$699.56	11/20/02	1
Meetings	Chicago, IL	$229.13	12/03/02	1
Meetings	San Francisco, CA	$2,293.66	12/03/02	4
Meetings	Phoenix, AZ	$1,246.33	12/04/02	2
Meetings	San Francisco, CA	$1,637.48	12/04/02	2
Meetings	Seattle, WA	$1,138.43	12/06/02	2
Meetings	Boston, MA	$401.00	12/09/02	1
Speaking Engagement	Charleston, SC	$825.27	12/09/02	1
Meetings	Manhattan, NY	$380.05	12/12/02	1
Meetings	Flemington, NJ	$181.00	12/17/02	1
Meetings	Flemington, NJ	$306.54	12/17/02	1
Meetings	Charlotte, NC	$919.59	01/09/03	1
Meetings	Charlotte, NC	$1,009.43	01/09/03	1
Meetings	Honolulu, HI	$1,610.34	01/14/03	3
Meetings	Boston, MA	$877.63	01/21/03	1
Meetings	Boston, MA	$920.06	01/21/03	3
Meetings	St. Petersburg, FL	$492.08	01/22/03	1
Meetings	Ft. Meyers, FL	$636.12	01/23/03	3
Meetings	Naples, FL	$864.08	01/23/03	4
Meetings	San Diego, CA	$1,603.59	01/24/03	5
Meetings	San Diego, CA	$1,104.78	01/27/03	2
Meetings	San Diego, CA	$1,946.57	01/27/03	2
Meetings	Williamsburg, VA	$239.34	01/28/03	1
Meetings	Chicago, IL	$306.37	01/29/03	1
Meetings	Manhattan, NY	$376.50	01/30/03	1
Meetings	Columbus, MS	$835.25	02/02/03	1
Speaking Engagement	San Francisco, CA	$1,211.37	02/02/03	1
Speaking Engagement	London, GBR	$1,473.61	02/10/03	2
Speaking Engagement	Tallahassee, FL	$582.94	02/11/03	1
Speaking Engagement	Atlanta, GA	$763.07	02/24/03	1
Meetings	Boca Raton, FL	$1,052.94	02/24/03	2
Meetings	Manhattan, NY	$607.86	03/03/03	1

Meetings	San Diego, CA	$785.37	03/04/03	2
Meetings	Ottawa, CAN	$929.94	03/06/03	1
Meetings	Orlando, FL	$260.11	03/08/03	1
Meetings	San Antonio, TX/Atlanta, GA	$801.47	03/17/03	2
Meetings	Paris, FRA	$1,843.40	03/22/03	4
Meetings	Paris, FRA	$1,558.97	03/23/03	3
Meetings	Indianapolis, IN	$915.26	04/08/03	2
Meetings	San Francisco, CA	$1,186.99	04/15/03	1
Meetings	Indianapolis, IN	$664.28	04/17/03	1
Speaking Engagement	Manhattan, NY	$219.90	04/21/03	1
Speaking Engagement	Princeton, NJ/St. Louis, MO	$816.38	04/22/03	1
Meetings	Chicago, IL	$264.50	05/15/03	1
Meetings	Chicago/Los Angeles/Seattle	$982.00	06/23/03	3
Meetings	Boston, MA	$641.44	06/26/03	4
	Total	**$80,572.15**		

Office of the Vice President FY 2002 Staff Travel				
PURPOSE	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Meetings	London, GBR	$2,124.92	07/14/02	3
Official	Monterey, CA	$887.90	07/15/02	2
	Total	**$3,012.82**		

Office of the Vice President FY 2003 Staff Travel				
PURPOSE	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Invitational	Washington DC	$778.00	10/18/02	1
Meetings	London, GBR	$2,124.92	10/09/02	3
Meetings	London, GBR	$1,929.74	12/12/02	4
Meetings	Manhattan, NY	$37.50	01/15/03	1
Official	Raleigh, NC	$338.41	04/10/03	1
	Total	**$5,208.57**		

QUESTION 110: Please provide a list of all Presidential, First Lady and Vice Presidential travel for FY02 and FY03 (to date). For each trip, please provide the trip date, destination, designation (i.e., political, official), number of official EOP staff supporting the Principal and, the official cost of the trip. **(POC – Rothley Howard)**

REV_00168211

QUESTION 111: How much did OMB reimburse the White House Office for use of White House motorpool vehicles in FY02? How much is OMB projecting to reimburse in FY03 and FY04? **(POC – Brian Gillis)**

RESPONSE: For FY 2002, OMB reimbursed the Department of Defense $99,000 for the use of the White House motorpool. OMB is projecting a similar amount for FY 2003 and FY 2004.

In the hearing, Mr. Daniel mentioned that the FY03 vehicle lease and IT support contracts came in significantly below the original budget estimates.

QUESTION 112: Do you intend to return the unused funds to the Treasury at the end of the fiscal year? **(POC – Chuck Sigman)**

RESPONSE: The EOP plans to use the funds to implement other critical EOP priorities. The programs which were described by Mr. Daniel at the hearing were the FY 2003 vehicle lease (covering leases by OA, White House, and Office of the Vice President (OVP)), and the guard services contract for guard services at 1801 Pennsylvania Avenue. He did not refer to the IT support contract.

QUESTION 113: For these areas in which savings were realized, what are your plans for the funds? **(POC – Chuck Sigman)**

RESPONSE: Vehicle contract savings for FY 2003 amount to approximately $20,000 for OA, $43,000 for the White House, and $19,000 for OVP. These savings will be utilized to fund priority needs for these EOP entities. The guard service contract will result in savings of approximately $1.1 million.

For FY 2003, these funds are being applied to fund other priorities for the OA as well as common services for EOP entities. These other priorities include consolidation of information technology maintenance ($200,000), centralization of database services ($200,000), and common building service costs ($400,000). The remaining $300,000 of these savings will be used for an FY03 OA personnel shortfall.

Political Travel

QUESTION 114: Please explain the reimbursement procedures the White House intends to follow during the Presidential election season. **(POC – Andy Kalnins)**

RESPONSE: In accordance with a memo dated February 13, 1992, prepared by C. Boyden Gray, former Counsel to the President, "Allocation of the costs for "campaign-related" travel by senior Administration officials is governed by the Federal Election

REV_00168212

Commission (FEC) hypothetical trip rule." These regulations require that all "campaign-related" travel of a candidate seeking nomination, or re-election to the Office of the President, must be paid by the candidate's authorized campaign committee. Further, if any campaign activity is conducted at a stop, other than incidental contacts, "that stop shall be identified as campaign-related and, in general, all costs associated with it must be paid by the President's campaign committee."

QUESTION 115: Exactly when will the presidential-campaign procedures take effect? **(POC – Andy Kalnins)**

RESPONSE: The presidential-campaign procedures take effect after the President declares that he is a candidate for re-election.

QUESTION 116: How do you determine who the official travelers are on a campaign or political trip? Does the list of positions vary from trip to trip? **(POC – Andy Kalnins)**

RESPONSE: In accordance with a memo dated December 6, 1991 prepared by C. Boyden Gray, "officials are to be considered on official duty, regardless of the nature of the President's activities, only if it is determined by the Assistant to the President and Deputy Chief of Staff before the trip that (1) the official is traveling for the sole purpose of providing (a) clerical, logistical and administrative support, or (b) staff assistance in the management of paperwork and the records of decisions, or (c) consultation and guidance necessary solely for the transaction of Government business, and (2) the official will not engage in any political activity during the travel." A list of positions has been developed which are deemed to always be official. This list does not change from trip to trip.

QUESTION 117: On trips with political and official components, what is the procedure for determining which events are paid for using official funds and which events are reimbursed by the political entity? **(POC – Andy Kalnins)**

RESPONSE: In accordance with a memo dated February 12, 1990, from C. Boyden Gray, "With regard to non-Presidential election campaigns events (e.g., Congressional and State and local campaigns), applicable law and regulations do not provide a specific method for allocating the costs of mixed official and political travel by individuals other than the candidates. Neither is there a precise definition for distinguishing between "official" and "political" functions. As a result, the guidelines set forth below are based on general legal principles, policies established over a period of years by previous Administrations, and guidance from Federal Election Commission opinions and actions." A good faith apportionment of the costs of a trip based on the time spent on political activities and the time spent on official activities has been developed and has become know as the "hard-time" formula. This formula is based on the time spent in official meetings and receptions, etc, and time spent in political activities to determine total activity time. Based on this data, a ratio is developed based on total activity time which is allocated to political activity and official activities. The percentage that represents the

REV_00168213

political and official portions of the trip is then used as a multiplier to determine the allocation between official and political costs.

QUESTION 118: If the President gives virtually the same speech at a political event that he gave at an official event in that same city, what criteria is used to determine whether an event is "political" or "official"? **(POC – Andy Kalnins)**

RESPONSE: In accordance with a memo dated February 12, 1990, prepared by C. Boyden Gray, "Appearing at party functions, fundraising, and campaigning for specific candidates are principal examples of travel which should be considered political." The memo goes on to say that a precise definition for distinguishing between "official" and "political" functions does not exist. Further clarification is provided in the memo dated February 13, 1992, also prepared by C. Boyden Gray, "In determining whether an activity is political or official, all relevant factors should be considered, including, but not limited to, the identity of the sponsor of the event, the group or organization being addressed, other participants, whether the speech being delivered is partisan and political in nature, and whether it is a factual presentation or defense of the Administration's position on the issue."

QUESTION 119: If the President gives virtually the same speech at a political event that he gave at an official event in that same city, does the political entity reimburse the White House for the Speechwriters time? **(POC – WHO M&A)**

QUESTION 120: Have events been classified as "official" even if only members of the President's political party are invited to share the stage with the President? **(POC – WHO M&A)**

QUESTION 121: If so, what justification is used to argue that these events were not political events? **(POC – WHO M&A)**

QUESTION 122: Please provide information about reimbursement to the White House Office or other government agencies associated with local staff travel to political events attended by the President in FY02 or FY03. For each reimbursement made, please provide the date the bill was generated, the number of events reflected on the bill, the date payment was received, the political entity paying the charges and the total amount paid on each bill. **(POC – WHO M&A)**

Photographic Services (POC – Eric Lanman)

QUESTION 123: For FY02, FY03 and FY04, what was (or is projected to be) the total cost of photographic equipment purchased for use by the White House photographers?

RESPONSE: The total cost (actual and projected) of photographic equipment procured for use by White House photographers in FY 2002, FY 2003 and FY 2004 are displayed in the table below.

REV_00168214

	FY 2002	FY 2003	FY 2004
	Actual	Estimate	Estimate
Photographic Equipment	$137,057	$35,700	$36,300

FY 2002 actual costs are higher than the estimates for FY 2003 and FY 2004 due to the use of end of year sweep-up funds.

QUESTION 124: For FY02, FY03 and FY04, what was (or is projected to be) the total cost of photo lab equipment purchased for use by the WHCA photo lab?

RESPONSE: The total cost (actual and projected) of photo lab equipment purchased for use by the WHCA photo lab is itemized in the following chart:

	FY 2002	FY 2003	FY 2004
	Actual	Estimate	Estimate
Photo Lab Equipment	$492,720	$473,775	$375,000

QUESTION 125: For FY02, FY03 and FY04, what was (or is projected to be) the total travel cost associated with travel of White House Photographers?

RESPONSE: The FY 2002 travel costs of White House Photographers was $????. The estimated FY 2003 cost is $38,000 and the projected cost for FY 2004 is $38,760.

QUESTION 126: For FY02, FY03 and FY04, what was (or is projected to be) the total rent cost associated with the WHCA photo lab?

RESPONSE: There is no rent cost associated with the WHCA photo lab. However, there are utility and facility maintenance costs associated with the WHCA photo lab. Those costs were $73,600 for FY 2002, $76,650 estimated for FY 2003 and a projected $79,000 for FY 2004.

QUESTION 127: Please explain the procedures for determining when and how the government is to be reimbursed for photos released for non-official purposes. If these procedures have changed from those followed by the previous administration, please explain any changes that have been made.

RESPONSE: The procedures for obtaining reimbursements for photographs changed on October 1, 2000. The procedures now in place are designed to ensure that the government receives appropriate reimbursement for photographs sought for non-official purposes. Records are kept of all such requests, and appropriate reimbursement is then sought.

REV_00168215

It is the White House policy to provide two photographs to members of the general public upon request of photographs that include a principal (President, 1st Lady, Vice President or Mrs. Cheney) and the requestor. These requests are generally provided without consideration as to whether or not they are official or non-official. For requests for photos outside these general guidelines, a determination is made by the White House Office as to whether it is an official or non-official request. For non-official requests, the requestor is provided the cost to the government of the photograph and is required to provide reimbursement. The photographs are provided to the requestor and the reimbursement is credited to the White House Office salaries and expenses appropriation.

QUESTION 128: For FY02 and the first seven months of FY03, please provide the following information about each payment made to the White House, OA, WHCA, DISA (or other DoD organization) to reimburse for the release of photos or photo lab services that were provided:

- date reimbursement was made
- name of reimbursing organization
- amount of payment
- number of photos purchased by reimbursing organization
- size of photos purchased by reimbursing organization

RESPONSE: The requested information about each payment made to the White House, OA, WHCA, DISA (or other DoD organization) to reimburse for the release of photos is provided below.

Reimbursements for White House Photos

Date	*Reimbursing Organization*	*Amount of Payment*	*# of Photos*	*Size of Photos*
5/2002	Republican National Committee	$648.00	36	8x10
5/2002	Hector Irastorza, Jr.	$90.00	5	8x10
7/2002	Lee Terry for Congress	$36.00	2	8x10
7/2002	Republican Party of Florida	$90.00	5	8x10
7/2002	Republican National Committee	$72.00	4	8x10
8/2002	Republican National Committee	$252.00	14	8x10
9/2002	Kent County Republican Committee	$18.00	1	8x10
9/2002	Breckenridge Design Group	$18.00	1	8x10
9/2002	Portman for Congress	$36.00	2	8x10

REV_00168216

9/2002	Republican National Committee	$1,296.00	72	8x10
10/2002	Rick Clayburgh for Congress	$18.00	1	8x10
10/2002	Fisher for Governor	$18.00	1	8x10
10/2002	Wyoming Republican Party	$162.00	9	8x10
10/2002	Johnson for Congress	$72.00	4	8x10
10/2002	Talent for Senate	$18.00	1	8x10
10/2002	John Doolittle for Congress	$486.00	27	8x10
10/2002	National Federation of Republican Women	$18.00	1	8x10
10/2002	Republican National Committee	$342.00	19	8x10
11/2002	Talent for Senate	$18.00	1	8x10
11/2002	Ferguson for Congress	$18.00	1	8x10
11/2002	Mark Kennedy for Congress	$126.00	7	8x10
12/2002	Talent for Senate	$18.00	1	8x10
12/2002	Johnson for Congress	$72.00	4	8x10
12/2002	Wieczoren for Executive Council	$18.00	1	8x10
2/2003	Diane Thompson	$84.00	4	11x14
3/2003	Republican National Committee	$108.00	6	8x10
3/2003	Congressman Kenny Hulshof	$18.00	1	8x10
3/2003	Congressman James Greenwood	$18.00	1	8x10
3/2003	Senator Frank Murkowski	$18.00	1	8x10
3/2003	Mark Kennedy for Congress	$126.00	7	8x10
3/2003	George Bush Presidential Library	$1,117.00	2	20x30
			20	11x14
			47	8x10
3/2003	Office of President George Bush	$702.00	39	8x10
5/2003	National Federation of Republican Women	$18.00	1	8x10
Total		$6,169.00		

REV_00168217

Remote Delivery Site Reprogramming Request (POC – Paul Ehrhardt)

We recently received a reprogramming request to transfer $2m of the funds provided to the Office of Homeland Security to the Remote Delivery Site cleanup efforts.

QUESTION 129: What is the status of remediation efforts?

RESPONSE: We are in the process of Confirmatory Sampling. The sampling plan is intended to present a technical approach for (1) completing air and surface sampling for culturable *Bacillus anthracis* spores to verify the efficacy of the decontamination process: (2) providing for qualified laboratory analysis of the collected samples: and (3) presenting a protocol for data collection and reporting such that the results of the sampling effort are valid and defensible. In addition, the Plan provides for the site and personnel security, safety, health, and personal protection, equipment and collection methods, and sample handling.

QUESTION 130: Please provide the total budget estimate for this project.

RESPONSE: As the contractor responsible for returning the building to an environmentally safe workplace, Versar to date has not been able to develop or provide accurate cost estimates or time lines to EOP. Budget and schedule estimates for this project are especially difficult due to critical path activities taking place in a high-risk environment relying on the utilization of untested speculative technologies. However to date $2.422 million has been spent on the effort and we are currently requesting an additional $2 million, which is Versar's best estimate of what it will cost to complete the project. The total budget estimate for the project then comes to $4.422 million.

QUESTION 131: Please provide the anticipated schedule for this effort.

RESPONSE: Given many variables, including weather, our best current estimate of time to required complete the RDS project is 4 months. The confirmatory testing phase is estimated to take eight weeks from start up. The next phase would be for the ECC committee to ratify the confirmation process; we estimate this to be one month. After this is completed, our best estimate is thirty days to perform PM on the HVAC equipment, build out the office areas, and re-establish the building operation.

QUESTION 132: What caused this $2 million overrun?

RESPONSE: There is not a $2 million overrun. The request for $2 million is a result of anticipated costs and those unforeseen conditions as result of the environmental cleanup process, that OA, GSA or its contractors had available at the time of fumigation. The Environmental Clearance Committee has placed additional requirements that resulted in

REV_00168218

the additional costs. The proposed sampling plan utilizes the barrier divisions already in Building 410 (which provides discrete work areas) and presents proposed sampling location, quantity, and types of samples to be collected . Sampling will be carried out using a phased approach for each work area as follows:

Phase 1, Surface Sampling; Phase 2 Air Sampling: Phase 3, "Dymanic Sampling", Phase 4, Start Up of the Heating, Ventilation , and Air Conditioning (HVAC) Units; and Phase 5, Final Sampling with the Barriers Down.

QUESTION 133: Why have you stopped providing the monthly reports on the remediation efforts?

RESPONSE: Due to the process of establishing the Environmental Clearance Committee, it was an administrative error that the reports were inadvertently not forwarded.

Previously the Remote Delivery Site was used to screen incoming mail. It also used to serve as an off-site supply depot. With the Department of Homeland Security now assuming the mail processing function and with supply operations now established on the White House Complex, I'm curious about future plans for the RDS.

QUESTION 134: What will the facility be used for when remediation is finished?

RESPONSE: Prior to September 11, 2001 the Remote Delivery Site (RDS) was used as a centralized receiving facility for the White House Complex. All postage flat mail and packages, including UPS and FedEx deliveries, and all equipment and local deliveries were delivered to the RDS. All incoming deliveries, regardless of size, were screened by the U.S. Secret Service (USSS) via large X ray machines, and if any equipment was too large to fit on the X-ray conveyer belt, then the USSS used dogs to sniff for explosives. After initial USSS clearance, all of the items were sorted and delivered to their intended destination to the White House Complex. Supplies, equipment and furniture which were purchased for inventory for use at later time were housed at the RDS.

In addition to the screening of WHO Complex deliveries, the USSS Administrative Operations Division used RDS space to screen all of its incoming mail and packages that were intended for USSS personnel.

The EOP Supply store was operated within the confines of the RDS. Supplies were purchased and inventoried at the RDS and office supplies and copier paper were purchased in volume to take advantage of discounts. The WHO/EOP customers faxed supply requisitions to the RDS staff who then pulled and boxed office supplies for delivery to the WHO Complex. OA property supply staff made supply deliveries to the WHO complex at least twice a day, and more if needed.

REV_00168219

The EOP/OA Personal Property Program (excess, transfer, donation, and destruction of furniture and equipment) had its operations housed at the RDS. Excessed equipment and furniture were corralled at the RDS until enough equipment and furniture were gathered to make it economical to excess all at once. In addition, schools and nonprofit organizations were allowed to review equipment for donation under Executive Order 12999.

After September 11, as a precautionary move, the White House United States Postal Service was relocated from the Eisenhower Executive Office Building to the RDS. A separate room was built for the USPS's operation of opening and screening all White House mail. The RDS operations continued working around the new USPS area. These USPS operations continued until the RDS was closed due to the discovery of Anthrax. Since then the USPS operations have relocated to 1800 G. St. NW.

Once the remediation is finished, the RDS will resume its former function of screening all bulk deliveries (including equipment, furniture, boxes of supplies) sent to the EOP Complex. In addition the facility will be used to store supplies and an inventory of equipment and furniture. The RDS will also be used as a staging area for efficient loading and delivery of bulk items for all EOP agencies.

QUESTION 135: Will the DHS use the facility to screen the White House's mail?

RESPONSE: No.

QUESTION 136: Will you close the on-site supply stores and revert back to running the supply operation out of the Remote Delivery Site?

RESPONSE: When the RDS reopens after the remediation of the building, the RDS staff will resume the same functions prior to the Anthrax. However, there are major changes in the way the OA Supply Store operates and manages its supply inventory. The Office of Administration has entered into a new business relationship with GSA. The OA Supply operation will purchase its supplies from GSA who will provide a wide array of office supplies and maintain the level of supply inventory that is needed to support the WHO Complex. The GSA inventory will be housed at the RDS after relocation from Franconia, VA, the current, temporary RDS location. OA supply staff will pull supply orders based on customer's requisitions, and then box and deliver the supplies from the RDS to WHO complex. GSA will only charge for the supplies that EOP customers use at point of sale, otherwise the unsold inventory will still belong to GSA. GSA promises to maintain the supplies that the EOP customers may need. Inventories will be reviewed and adjusted to realize the kind and quantities of supplies the EOP customers expect. This business relationship will promote a more flexible inventory that allows the supply inventory to have the quantity or variety of supplies to meet our customer needs in a more proactive, real-time fashion.

REV_00168220

White House Access (POC – WHO M&A)

QUESTION 137: For the record, please provide the total number of visitors who passed through the White House as part of tours in 2000, 2001, 2002 and 2003 (to date).

QUESTION 138: Why are White House tours currently not open to the general public?

QUESTION 139: What is the status of the report on the status of White House Tours that was due to the Subcommittee by March 22nd?

QUESTION 140: Who has the lead on the efforts to decide whether public tours can be resumed?

QUESTION 141: Does the USSS do a background check on all individuals attending events and meetings at the White House Complex before access can be granted?

QUESTION 142: During this administration, have White House aides ever overruled a building-access recommendation made by the USSS?

Off-site EOP Support

QUESTION 143: How many EOP employees are based in Crawford, TX? **(POC – Stacia Cropper)**

RESPONSE: One.

QUESTION 144: How much space does the EOP pay rent for in Crawford, TX? **(POC James Daniel/Stacia Cropper)**

RESPONSE: There is one double-wide trailer. The cost of the trailer itself and all operating costs will be paid to GSA in a monthly rent payment of $8,496.83 for two years.

QUESTION 145: How many trailers were acquired for Crawford, TX? **(POC James Daniel/Stacia Cropper)**

RESPONSE: One trailer was acquired for the EOP.

QUESTION 146: What was the cost to purchase and renovate these trailers? **(POC James Daniel/Stacia Cropper)**

RESPONSE: The cost of the trailer shell was $72,745.28. The cost to apply finishes to the trailer interior was $20,976.62.

REV_00168221

QUESTION 147: What are the expected FY04 operating costs of facilities and staff permanently deployed to Crawford, TX? **(POC James Daniel/Stacia Cropper)**

RESPONSE: The following are the estimated operating costs for one year: Pest Control ($1,440), cleaning ($4,200), electricity ($4,211.75), and water ($2,286.38).

Rent (POC – Steve Beattie)

QUESTION 148: Please provide an accounting of all space on which the EOP currently pays rent. The list should include the number of staff in each building, the agencies which occupy space in each facility, the total square footage by agency in each facility, the total square footage of vacant space on which the EOP is currently paying rent in each facility and the GSA rent rates for each facility.

RESPONSE: See Attachment A *(chart will be inserted here).*

QUESTION 149: Under the procurement consolidation pilot that was approved in the FY03 Omnibus, is the rent for any EOP agency going to be paid out of funds contributed by other EOP agencies?

RESPONSE: No. The funds in the pilot will only be used to support the EOP components in the pilot; EOP funds not included in the pilot will not be used to support EOP components included in the pilot.

QUESTION 150: Under the procurement consolidation pilot that was approved in the FY03 Omnibus, are after hours utilities charges for any EOP agency going to be paid out of funds contributed by other EOP agencies?

RESPONSE: No. After hours utilities charges were not included in the procurement consolidation pilot funding.

Travel Office (POC – Mayra Segovia)

QUESTION 151: Please describe the current role the White House Travel Office plays in managing and arranging the financial aspects of White House Press Corps travel. Does the White House Travel Office operate as a "dollar-for-dollar" operation?

RESPONSE: The White House Travel Office provides the White House Press Corps with a range of travel services when they accompany the President, Vice President and

REV_00168222

First Lady. Services include air and ground transportation, hotel accommodations, and convention-type services associated with the Filing Center.

The White House Press Travel Fund operates as a dollar-for-dollar operation.

QUESTION 152: How many EOP staff work in the White House Travel Office?

RESPONSE: Eight EOP staff work in the White House Travel Office.

QUESTION 153: How many contractor travel agents support the White House Travel Office?

RESPONSE: Six contractor travel agents support the White House Travel Office.

QUESTION 154: Please include the most recent independent financial statement audit of the White House Travel Office's accounts for the record.

RESPONSE: The following document is the independent auditor's report. A copy of the original document with signature will be provided separately.

REV_00168223

White House Travel Office
Executive Office of the President

Order Number RWH21228

Task 1, Deliverable 1

Financial Statement Audit and Auditor's Report

December 31, 2001

Prepared by:

Martin & Wall, P.C Certified Public Accountants
1534 16th Street, NW, Washington, DC 20036-1402
Tel. 202.332.3566 Fax 202.332.3672

Contact: John J. Wall, CPA
E-Mail: jwall@martinwallcpa.com

REV_00168224

Tel: 202.332.3555 F• 202.332.3672 www.martinwallcpa.com

WHITE HOUSE TRAVEL OFFICE PRESS FUND

FINANCIAL STATEMENTS

DECEMBER 31, 2001

REV_00168225

1524 15th Street NW ~ Suite 100 – Washington, DC 20036-1402

WHITE HOUSE TRAVEL OFFICE PRESS FUND

FINANCIAL STATEMENTS

TABLE OF CONTENTS

Independent auditors' report..... 1

Statement of financial position..... 2

Statement of activities and changes in net assets..... 3

Statement of cash flows..... 4

Notes to financial statements..... 5-7

REV_00168226

Tel: 202.332.3566 ~ Fax: 202.332.3672 ~ www.martinwallcpa.com

INDEPENDENT AUDITORS REPORT

To the Management of
White House Travel Office Press Fund

We have audited the accompanying statement of financial position of the White House Travel Office Press Fund as of December 31, 2001, and the related statements of activities and cash flows for the year then ended. These financial statements are the responsibility of the White House Travel Office Press Fund's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the White House Travel Office Press Fund as of December 31, 2001, and the changes in its net assets and its cash flows for the nine months then ended in conformity with accounting principles generally accepted in the United States of America.

Washington, DC
March 27, 2003

1524 15th Street NW ~ Suite 100 – Washington, DC 20036-1402

REV_00168227

WHITE HOUSE TRAVEL OFFICE PRESS FUND
STATEMENT OF FINANCIAL POSITION
DECEMBER 31, 2001

ASSETS			
Current assets			
	Cash - Press Fund operating account (Note 3)	$85,455	
	Cash - Restricted Cash Account 2000 (Notes 3 and 4)	527,166	
	Total Cash		612,621
	Accounts receivable (Note 5)		2,105,176
	Other Receivables (Note 6)		3,328.761
TOTAL ASSETS			$6,046,558
LIABILITIES ANID NET ASSETS			
	Accounts payable	$5,358,675	
	Restricted Cash Account 2000 Liability (Note 4)	409,815	
	Restricted Cash Account 2001 Liability (Note 4)	209,456	
	Federal Excise Tax Payable	68,612	
	Total liabilities	6,046,558	
	Net assets		0
TOTAL LIABILITIES AND NET ASSETS		$6,046,558	

The accompanying notes are an integral part of these financial statements.

REV_00168228

WHITE HOUSE TRAVEL OFFICE PRESS FUND
STATEMENT OF ACTIVITIES
FOR THE YEAR ENDED DECEMBER 31, 2001

REVENUE	$10,828,890
EXPENDITURES	10,828,890
CHANGE IN NET ASSETS	$0
NET ASSETS, BEGINNING OF YEAR	0
NET ASSETS, END OF YEAR	$0

The accompanying notes are an Integral part of these financial statements.

REV_00168229

WHITE HOUSE TRAVEL OFFICE PRESS FUND
STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED DECEMBER 31, 2001

CASH FLOWS FROM OPERATIONAL ACTIVITIES:

Change in net assets		$0
Adjustments to reconcile change in net assets to net cash provided:		
Decrease In accounts receivable	4,986,501	
(Increase) in other receivables	(2,530,708)	
(Decrease) in accounts payable	(2,814,441)	
Increase In restricted cash account 2000 liability	4,096	
Increase in restricted cash account 2001 liability	209,456	
Increase in Federal Excise tax payable	68,612	
Net cash provided by operational activities	(76,484)	
Net increase in cash		(76,484)
Cash, beginning of year	689,105	
Cash, end of year	$612,621	

The accompanying notes are an integral part of these financial statements.

REV_00168230

WHITE HOUSE TRAVEL OFFICE PRESS FUND
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2001

NOTE 1 – ORGANIZATION

The White House Travel Office Press Fund ('WHTO") was established to manage expenses associated with travel for members of the press who accompany the President, Vice President, First Lady, and Second Lady on domestic and foreign trips. In May 1993, a new management team was hired to manage WHTO. Consequently, for accounting and reporting purposes, a new WHTO was established as of January 1, 1994.

NOTE 2- SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Revenue and expenditures are recognized using the accrual basis of accounting. The WHTO invoices the press organizations for their prorated share of the expenses associated with each trip. The WHTO then remits payment directly to the vendors whose services were used for the particular trip. The total amount invoiced to the press members equals the total of the amounts paid to the vendors. The WHTO does not own any fixed assets. Al! fixed assets are purchased through the White House's general fund and designated for the WHTO use. Similarly, all operating expenses of the WHTO, including salaries and office supplies, are paid directly by the White House's general fund.

NOTE 3- CASH

Gash is maintained in two non-interest checking accounts at the Riggs National Bank of Washington, D.C. The RCA 2000 cash account is explained in Note 4.

The total cash held by WHTO at December 31, 2001 includes $512,821 that is not covered by insurance provided by the federal government. It is the opinion of WHTO's management that the solvency of the referenced financial institution is not of particular concern at this time.

REV_00168231

NOTE 4 - RESTRICTED CASH ACCOUNT

Effective April 1, 2000, the management of the White House Travel Office implemented a Restricted Cash Account (RCA). RCA funds are encumbered for specific purposes set forth in written policies and procedures, most notably for payment of late arriving vendor invoices, bank charges and accounts receivable written off as uncollectible.

The RCA is funded through an RCA funding amount applied to every customer invoice, except those for government employees. Presently, that funding amount is two percent of the invoice amount

RCA funding amounts are not considered revenue for accounting purposes.

Under current policies and procedures, a separate RCA is established for each calendar year. The RCA 2000 account on the Statement of Financial Position reflects the total amount of cash in that account at December 31, 2001. The RCA liability accounts for 2000 and 2001 reflect the total RCA funding amount applied to all customer invoices during the respective calendar year, less any disbursements. RCA funding amounts that have been invoiced but not yet collected are included in the accounts receivable amount.

The RCA for each year will be terminated at a designated point in time after the conclusion of the applicable calendar year. At the time of dissolution, any excess funds will be refunded to the Press Fund's customers subject to the RCA funding amount in accordance with a formula based on the percentage of the total travel costs consumed during the year corresponding to the RCA. For example, if a customer were responsible for ten percent of all travel costs for the calendar year 2001, they would be entitled to ten percent of the remaining RCA 2001 funds at the time of dissolution.

NOTE 5 – ACCOUNTS RECEIVABLE

Currently, the WHTO writes off accounts receivable using the direct write-off method. Therefore, there is no allowance for uncollectible accounts.

REV_00168232

NOTE 6 - OTHER RECEIVABLES

As per note 2, the WHTO utilizes a system of dollar for dollar accounting. Under the current accounting process, vendor invoices for trip expenses are entered into accounts payable as they are received. Accordingly, there is an accumulation of unbilled trip expenses in accounts payable until such time that trip accounting is finalized and members of the press are invoiced for their pro rata share of trip expenses. This timing difference creates the need for an Other Receivables category. Other Receivables represents the obligations for normal trip expenses that have been entered into accounts payable, but not yet billed to the press.

REV_00168233

QUESTION 155: Please explain the formula you use to determine the rate of reimbursement for Press Corps travelers on the Press Charter?

RESPONSE: Each leg of the itinerary is assigned a proportionate cost, which is divided equally among all press passengers. The following formula is used to compute the proportionate cost for each leg of the trip: (Leg flight time / Total flight time) * Total Air Transportation Expense

QUESTION 156: Please explain the formula you use to determine the rate of reimbursement for Press Pool travelers on Air Force One?

RESPONSE: The cost of the fourteen members of the pool traveling on AF1 is added to the total air transportation expense and the total costs are spread on a pro-rata share among all of the press travelling on the trip. The following formula is used to compute the proportionate cost for each leg of the trip: (Leg flight time / Total flight time) * Total Air Transportation Expense

QUESTION 157: Please explain the formula used to identify the reimbursement rate that the Travel Office billed Press Corps travelers accompanying the President's travel to the USS Abraham Lincoln. In your response, please include the actual rate billed to individual press corps travelers on this trip.

RESPONSE: The cost of transporting press corps travelers from the North Island Naval Air Station to the USS Abraham Lincoln and back to the North Island Naval Air Station totaled $7,440.26. This cost will be added to the total air transportation expense and spread on a pro-rata share among all the press traveling on the trip. The formula for military aircraft reimbursement for the trip to the USS Abraham Lincoln is as follows: $X per hour per aircraft, divided by 60 minutes to get a per minute rate, multiplied by the flight time, divided by the total number of passengers, and then 7.5% excise tax plus $3.00 dollars per person was added.

Bonuses

QUESTION 158: Why did this administration reinstate the payments of bonuses to political appointees? **(POC – WHO M&A)**

QUESTION 159: Have any EOP political staff been given bonuses since the policy was reinstated in March of 2002? **(POC – Jon Laurich)**

RESPONSE: The term "political appointees" or "political staff" is somewhat of a misnomer because it narrowly defines the type of employees authorized under Chapter 2

REV_00168234

of Title 3 of the U.S. Code, for the White House Office, the Executive Residence, the Official Residence of the Vice President and the Office of Administration. These offices can hire personnel in various excepted service positions that are not subject to the rules of regular government employees. Many of these excepted service positions fall under the category of serving at the pleasure of the President while others do not. Using the term in the broadest possible sense, including all employees hired as Presidential Appointees, Administratively Determined, Non Career SES, or Schedule C's, the Executive Office of the President had a total of 28 political staff within 4 offices that received bonuses since March 2002.

QUESTION 160: Have any EOP political staff been given pay increases for a single pay period in FY02 or FY03 (to date) that would have the same effect as a bonus? **(POC – Jon Laurich)**

RESPONSE: No political staff within the EOP have been given pay increases for a single pay period in FY 02 or FY 03 (to date) that would have the same effect as a bonus.

Eisenhower Executive Office Building

QUESTION 161: Since 1/20/01, have any non-Federal funds been used for renovations and/or furnishings in the GSA facilities occupied by the Executive Office of the President? [this question does not apply to the White House residence.] **(POC –WHO M&A)**

QUESTION 162: Which Federal agency (i.e., GSA, OA/Facilitles) coordinated the work that was paid for using non-Federal funds? **(POC –WHO M&A)**

QUESTION 163: For the record, please provide the sources and amounts of the non-Federal funds used for renovations and/or furnishings. **POC –WHO M&A)**

QUESTION 164: For the record, please also provide a description of each project for which non-Federal funds were provided. **(POC –WHO M&A)**

QUESTION 165: Why were non-Federal funds used to renovate and/or furnish these GSA facilities? **(POC –WHO M&A)**

QUESTION 166: Which agency's gift authority was used to accept the contribution of non-Federal funds for renovations and/or furnishings? **(POC –WHO M&A)**

QUESTION 167: Please provide a list of all EOP and EOP-support-related agencies that occupied space in the Eisenhower Executive Office Building on 1/20/01 that have since been relocated to locations outside the EEOB. For each agency that relocated, please identify the agency that paid the move-related costs. **(POC – Steve Beattie)**

REV_00168235

RESPONSE: 167: See Attachment B. *(chart will be inserted here)*

QUESTION 168: What is the status of the vacant space on the 17th Street side of the Eisenhower Executive Office Building? **(POC – Steve Beattie)**

RESPONSE: 168: With the exception of the ground floor cafeteria and kitchen, several fourth floor offices, and a few storage areas, the space remains essentially vacant as progress continues on the Fire and Life Safety Improvements project.

EOP Staffing Levels:

QUESTION 169: By EOP agency, provide FTE and OGE. Itemize OGE by category (e.g. reimbursable detailee, PSC, etc). Include FY 2002 (actual) and FY03-FY04 (estimates). Please provide a list of the "historically provided" White House Office positions, the office to which these positions are assigned and the agency that pays the salary for each of these positions. **(POC – Jon Laurich)**

RESPONSE: The following chart provides the FTE and OGE information for FY 2002 to FY 2004 in addition to a listing of "historically provided" White House Office positions.

REV_00168236

R = Reimbursable N = Non Reimbursable	FY 2002 Actual FTE and OGE																			
		Agency Reps		Assignees		Detailees		Historically Provided Services		Others		Student Volunteers		White House Fellows		Pres. Mgmt Intern		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R + N
White House Office	440			1	20	79	9	1	17		4				3			81	53	134
Special Assistance to the President	23				7		1		6		26								40	40
Official Residence of the Vice President	1																			
Office of Administration	204					2					1							2	1	3
Office of Policy Development	31		1		3		3												7	7
National Security Council	62				38	1	106		4		3							1	151	152
Council of Economic Advisers	36					2	1			3	1		3					5	5	10
Office of Management and Budget	507					6	53						11					6	64	70
Office of National Drug Control Policy	138		13		16					3			2					3	31	34
Executive Residence	92																			
Office of Science and Technology Policy	26		6			4	1			2	3							6	10	16
Council on Environmental Quality	22		11				2										1		14	14
U.S Trade Representative	194						21				1				2				24	24
TOTAL	**1776**		**31**	**1**	**84**	**94**	**197**	**1**	**27**	**8**	**39**		**16**		**5**		**1**	**104**	**400**	**504**

*For FY02, the White House includes 65 OGE's for the Office of Homeland Security, which are funded from the Emergency Appropriation

R = Reimbursable N = Non Reimbursable	FY 2003 Estimate FTE and OGE *as of May 5, 2003*																			
		Agency Reps		Assignees		Detailees		Historically Provided Services		Others		Student Volunteers		White House Fellows		Pres. Mgmt Intern		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R + N
White House Office	406				7	5	11		19		1				2		1	5	41	46
Office of Homeland Security	40			2	1	23	3				1			1				26	5	31
Special Assistance to the President	24		3		7		1		18		25								54	54
Official Residence of the Vice President	1																			
Office of Administration	222										1								1	1
Office of Policy Development	35		1		3	1	1										1	1	6	7
National Security Council	71				36	4	104		4		3							4	147	151
Council of Economic Advisers	35					2	2			2			2				1	4	5	9
Office of Management and Budget	499					3	54						6					3	60	63
Office of National Drug Control Policy	115		19		14		4			3	9						2	3	48	51
Executive Residence	95																			
Office of Science and Technology Policy	40		6			2	3			2	5		1		1			4	16	20
Council on Environmental Quality	24		10				3				1								14	14
U.S Trade Representative	209						25				1				2				28	28
TOTAL	**1816**		**39**	**2**	**68**	**40**	**211**		**41**	**7**	**47**		**9**	**1**	**5**		**5**	**50**	**425**	**475**

R = Reimbursable N = Non Reimbursable	FY 2004 Estimate FTE and OGE																			
		Agency Reps		Assignees		Detailees		Historically Provided Services		Others		Student Volunteers		White House Fellows		Pres. Mgmt Intern		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R + N
White House Office	406				7	5	11		19		1				2		1	5	41	46
Office of Homeland Security	40			2	1	23	3				1			1				26	5	31
Special Assistance to the President	24		3		7		1		18		25								54	54
Official Residence of the Vice President	1																			
Office of Administration	222										1								1	1
Office of Policy Development	35		1		3	1	1										1	1	6	7
National Security Council	71				36	4	104		4		3							4	147	151
Council of Economic Advisers	35					2	2			2			2				1	4	5	9
Office of Management and Budget	516					3	54						6					3	60	63
Office of National Drug Control Policy	125		19		14		4			3	9						2	3	48	51
Executive Residence	95																			
Office of Science and Technology Policy	40		6			2	3			2	5		1		1			4	16	20
Council on Environmental Quality	24		10				3				1								14	14
U.S Trade Representative	217						25				1				2				28	28
TOTAL	**1851**		**39**	**2**	**68**	**40**	**211**		**41**	**7**	**47**		**9**	**1**	**5**		**5**	**50**	**425**	**475**

The following chart shows the 18 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 12, 2003*:

POSITION	OFFICE	HOME AGENCY
1. Assistant To The Presidential Diarist	Office Of Scheduling	NARA
2. Presidential Diarist	Office Of Scheduling	NARA

REV_00168237

3. Administrative Assistant	PFIAB *	CIA
4. Administrative Services Specialist	PFIAB *	DOD
5. Deputy Executive Director	PFIAB *	CIA
6. Deputy Director of Photography For Visuals	Photo Office	DIA
7. Visual Information Specialist	Photo Office	DOD
8. Official Photographer	Photo Office	DOD
9. Official Photographer	Photo Office	DIA
10. Photographer	Photo Office	DOD
11. IT Systems Administrator	Photo Office	DIA
12. Photo Editor	Photo Office	DIA
13. President's Photographer	Photo Office	DIA
14. Photographic Specialist	Photo Office	DIA
15. Admin Officer	Photo Office	DIA
16. Staff Assistant	Visitors Office	Dept Of Interior
17. Executive Assistant	Visitors Office	Dept Of Interior
18. Staff Assistant	Visitors Office	Dept Of Interior

*PFIAB is the President's Foreign Intelligence Advisory Board

REV_00168238

From: Grubbs, Wendy J.
To: <Kavanaugh, Brett M.>
Sent: 5/24/2003 8:41:12 AM
Subject: Re:

I agree. Let's talk options and make a move quietly over recess. I like that from a timing standpoint.
.

From: CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [OA]
To: Sandra C. Steele/OA/EOP@Exchange [OA] <Sandra C. Steele>;Veronica Kitchen/OA /EOP@EOP [OA] <Veronica Kitchen>;Claire M. O'Donnell/OVP/EOP@Exchange [OVP] <Claire M. O'Donnell>;Lisa B. Fairhall/OMB/EOP@EOP [OMB] <Lisa B. Fairhall>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Jon S. Laurich/OA/EOP@Exchange [OA] <Jon S. Laurich>;Elizabeth Gelfer/OA /EOP@EOP [OA] <Elizabeth Gelfer>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>;Keith L. Roberts/OA/EOP@Exchange [OA] <Keith L. Roberts>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jennifer G. Newstead/WHO /EOP@EOP [WHO] <Jennifer G. Newstead>;Monique L. Dilworth/OA/EOP@EOP [OA] <Monique L. Dilworth>
Sent: 5/27/2003 7:57:22 AM
Subject: : RE: QFR Coordination
Attachments: P_QASPG003_WHO.TXT_1.dib

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Adam F. Greenstone ( CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [ OA ] )
CREATION DATE/TIME:27-MAY-2003 11:57:22.00
SUBJECT:: RE: QFR Coordination
TO:Sandra C. Steele ( CN=Sandra C. Steele/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Veronica Kitchen ( CN=Veronica Kitchen/OU=OA/O=EOP@EOP [ OA ] )
READ:UNKNOWN
TO:Claire M. O'Donnell ( CN=Claire M. O'Donnell/OU=OVP/O=EOP@Exchange [ OVP ] )
READ:UNKNOWN
TO:Lisa B. Fairhall ( CN=Lisa B. Fairhall/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jon S. Laurich ( CN=Jon S. Laurich/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Elizabeth Gelfer ( CN=Elizabeth Gelfer/OU=OA/O=EOP@EOP [ OA ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Keith L. Roberts ( CN=Keith L. Roberts/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Monique L. Dilworth ( CN=Monique L. Dilworth/OU=OA/O=EOP@EOP [ OA ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Monique--I have the following comments at the moment:;

CFO should review the document to ensure that the term "EOP agency" or
"agency" is not used generically to describe EOP offices in our answers.;
It is used several times.;

The FTE numbers for OA offices on page 8 do not appear to match the
numbers in the chart on page 58.;

The "T" in Assistant To the Presidential Diarist probably should not be
capitalized on page 64.;;;

On page 68, the number of political appointees in OA seems wrong.; This
```

line may have been intended for the Official Residence of the Vice President.; If we do have any Schedule C's in OA, please let me know ASAP since that may affect the financial disclosure requirements applying to that individual.;

On page 69, should the line for details to the Office of Homeland Security recognize the establishment of the HSC?;

On page 105 and 106, reference is made to memoranda written by Counsel to the President C. Boyden Gray.; I defer to White House Counsel on any changes to this part, but it's possible that they may prefer that this be restated by describing the standards used without reference to these memoranda, or by referring generally to "in consonance with procedures used by previous administrations," or something like that.; Have we specifically referred to these memoranda in previous Q & A's?; Ben, Jen, Brett, Ted--let us know your thoughts.;

Page 148, add the following language to the end of the answer to question 149:; "for purposes that pilot funds were budgeted.";

;-----Original Message-----
From: ; Dilworth, Monique L.;
Sent:;; Thursday, May 15, 2003 9:04 AM
To:;;;; Powell, Benjamin A.; Newstead, Jennifer G.; McNally, Edward; Kavanaugh, Brett M.; Ullyot, Theodore W.; Greenstone, Adam F.; Roberts, Keith L.; Fairhall, Lisa B.; Addington, David S.; O'Donnell, Claire M.; Gelfer, Elizabeth; Kitchen, Veronica; Laurich, Jon S.; Beattie, Steven R.; Cogdell, Nikky

Cc:;;;; Sigman, Charles L.; Gillis, Brian; Fertakis, Katherine J.; Wedderien, Paul A.; Weigler, Stephen A.; Dale, Shana L.; Cooney, Phil; Stewart, Angela R.; Fibich, Mary; Marx, Michele C.; Desear, Phuong; White, Worthington W.; Jansen, Don J.

Subject:;;;;;;; QFR Coordination
Importance:;;;; High

;<< File: QFR Responses 1.doc >>

As of today, we have responses for 145 of the 169 Questions for the Record (QFR) received from the Transportation, Treasury Subcommittee.; Below is information on the coordination process, the coordination schedule, assigned functional responsibilities and hearing record references.; The complete package is due to Congress on May 30th.; It is imperative that we get the package to Congress on time because the bill markup will take place shortly thereafter.

A.; Coordination Process - Please review the attached file entitled "QFR Responses 1" which contains the latest update of responses for the FY 2004 QFRs.;; If we have not received a response from the POC, the QFR will be highlighted in yellow in the "QFR Responses 1" document.; As the missing responses come in, we will send them to you in a separate email.; Make all edits within the document using a RED font.; We need all edited documents to be sent electronically.; Make sure to note in your reply the QFR number that has been edited for quick reference. We will assume that you approve/concur with all answers where you have not made edits. After your review, please reply to this message with an "X" in one of the selections listed below:

Concur as written_____;;;;;;; See Edits*_____;;;;;;; See Comments_____
*For all edits, please note the QFR number(s) here:

B.; Coordination Schedule -
CFO sends QFR Responses to Coordinators ;;;;;;; ;;;;;;; ;;;;;;; ;;;;;;;
May 23, 2003
Edits/Comments due from Coordinators;;; ;;;;;;; ;;;;;;; ;;;;;;; ;;;;;;;

Noon, May 28, 2003
CFO sends Final QFR Responses to Coordinators;; ;;;;;;; ;;;;;;; COB, May 28, 2003
Final Edit due from Coordinators;;;;;;; ;;;;;;; ;;;;;;; ;;;;;;; ;;;;;;; ;;; ;;;; 2:00 p.m. May 29, 2003
Final QFR Responses provided to WHO M&A for clearance;; ;;;;;;; COB May 29, 2003
OA Director sends final QFR Responses to Subcommittee;; ;;;;;;; May 30, 2003

C.; Functional/POC Accountablitity - Several of the QFRs requested factual information in functional areas such as personnel, accounting, space, etc.; The following Chart of Accountablity identifies the OA offices and individuals that are responsible for ensuring that these areas are checked for accuracy and consistency throughout the document.

D.; Hearing Record References - Several of the FY 2004 QFRs refer to the FY 2003 Hearing Record.; Attached is a document called "Hearing Record References" which will assist you while reviewing the FY 2004 responses.

;<< File: Hearing Record References.doc >>

Please call me if you have any questions and thank you for your time and assistance.

Monique Dilworth
5-7638
;
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_QASPG003_WHO.TXT_1>

Chart of Accountability		
Subject Area	**OA Office**	**Point of Contact**
Personnel Data	HRM	Jon Laurich
Space/Rental Information	Facilities Division	Steve Beattie
Financial Data	RMD	Veronica Kitchen
Grammar	LRS	Nikky Cogdell
Legal Citations	OA General Counsel	Adam Greeenstone

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;David S. Addington/OVP /EOP@EOP [OVP] <David S. Addington>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Theodore W. Ullyot/WHO /EOP@EOP [WHO] <Theodore W. Ullyot>;Philip J. Perry/OMB/EOP@EOP [OMB] <Philip J. Perry>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>
Sent: 5/27/2003 8:54:50 AM
Subject: : QFR Coordination
Attachments: P_UBVPG003_WHO.TXT_1.doc; P_UBVPG003_WHO.TXT_2.xlw; P_UBVPG003_WHO.TXT_3.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:27-MAY-2003 12:54:50.00
SUBJECT:: QFR Coordination
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Theodore W. Ullyot (CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Philip J. Perry (CN=Philip J. Perry/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jennifer R. Brosnahan (CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Hello All,

Counsel's office has been asked to review all responses to "Questions for the Record" for the hearing on the Executive Office of the President this Friday. Jen Newstead is reviewing all the questions. However, several of the questions require input from your areas of expertise. In the Excel spreadsheet attached, I have assigned some questions to you. Please review the ones where your name appears and write a "concur" or "comments" in the Approval column. If you have comments, please email them to me separately. Some questions reference the FY 2003 hearing record and that is located below. If you have any questions, please let me know. Please have comments in to me by 9 AM tomorrow morning, Wednesday, May 28th.

Thank you.
Patrick

Key

JN - Jen Newstead
BK - Brett Kavanaugh
KS - Kyle Sampson
JB - John Bellinger
JBros - Jenny Brosnahan
EM - Ed McNally
BP - Ben Powell
DA - David Addington
PP - Phil Perry
NF - Noel Francisco
TU - Ted Ullyot

Hearing Record References - Several of the FY 2004 QFRs refer to the FY 2003 Hearing Record. Attached is a document called "Hearing Record References" which will assist you while reviewing the FY 2004 responses.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_UBVPG003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_UBVPG003_WHO.TXT_2>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_UBVPG003_WHO.TXT_3>

Questions for the Record
Chairman Ernest J. Istook, Jr.
Hearing on the Executive Office of the President
April 30, 2003

Unobligated Balances (POC - Veronica Kitchen)

QUESTION 1: Please provide a listing of all unobligated balances, by fiscal year, appropriation and PPA, for all accounts within the Executive Office of the President. Please also show the original appropriation levels for these accounts.

Consolidation of Accounts (POC- Al Muhlbauer)

QUESTION 2: Sections 105 and 106 of title 3 U. S. Code describe expenses that may be accounted for solely on the certificate of the President and Vice President, respectively. Most of these expenses correspond to particular accounts. The Comptroller General may inspect documents related to these expenditures, but solely to verify that the expenditures were made for allowed purposes. When we asked last year how certified expenses would be identified for audit within a consolidated appropriation, the response was that the certification requirements would continue to be observed (p. 41). This does not answer the question of how the account structure will be maintained to provide an identifiable and auditable crosswalk between title 3-certifiable expenses and other expenses within the consolidated appropriation.

RESPONSE: As presented in the Congressional Budget Submission pages 4, 5, and 6, the Executive Office of the President (EOP) has established a Budget Activity structure that is consistent, beginning with the budget submission and extending through the accounting and reporting phases. The EOP accounting system will track and report obligations and expenditures consistent with this structure through the use of budget activity, program, sub-program, and line item codes assigned to each transaction. EOP has the ability to provide an identifiable and auditable crosswalk to the individual transactions authorized under sections 105 and 106 of Title 3 of the United States Code.

QUESTION 3: Please provide a listing of all appropriations language enacted in Public Law 108-7 which would be dropped in the proposed account consolidation, and provide a brief explanation of why that language is not necessary.

RESPONSE: The following appropriations in Public Law 108-7: Compensation of the President, White House Office Salaries and Expenses, Office of Homeland Security, Executive Residence at the White House, White House Repair and Restoration, Council of Economic Advisers, Office of Policy Development, National Security Council, Office of Administration would be combined into one appropriation entitled "The White House". The individual language in Public Law 108-7 for each of those appropriations would be removed. However, suggested language for the combined appropriation is

provided in the Appendix to the FY 2004 Budget (page 881) and states: "For the Compensation of the President and White House Office (including the Office of Homeland Security), Executive Residence, White House Repair and Restoration, Office of Policy and Development, Office of Administration, Council of Economic Advisers and the National Security Council, (hereinafter, and solely for the purposes of Title VI of this Act, "the White House"), $183,770,000, of which $24,803,000 shall remain available until expended, including compensation for the President, including an expense allowance of $50,000 as authorized by U.S.C. 102; for travel expense of $100,000 as authorized by 3 U.S.C. 103; for necessary expenses for the White House as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; for the necessary expenses of the Executive Residence at the White House as authorized by 3 U.S.C. 105,109,110, and 112-114; for the necessary expenses of the Offices and Councils in the White House account as authorized by 5 U.S.C. 3109, 15 U.S.C. 1021, and 3 U.S.C. 105 and 107 (including not to exceed $19,000 for official reception and representation expenses); and for the hire of passenger motor vehicles: Provide, That none of the funds made available to the President for official expenses shall be expended for any other purpose and any unused portion of such funds shall revert to the Treasury pursuant to 31 U.S.C. 1552: Provided further, That no such funds shall be considered as taxable to the President: Provided further, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities."

The suggested language, with the exception of a consolidated appropriation amount incorporates the same restrictions and clarifications as contained the language contained in the Public Law 108-7 for the appropriations being consolidated. The appropriations for Vice President's Salaries and Expense, Vice President's Residence Operating Expenses, Office of Management and Budget, Office of National Drug Control Policy, Unanticipated Needs will remain separate appropriations and will therefore not require any language changes as a result of the combination.

The White House (Consolidated Account) (POC – Chuck Sigman)

QUESTION 4: You are requesting $12,302,000 for object class 23.3 (communications, utilities, and miscellaneous services) in FY 2004. This is a large increase over the estimated $7,010,000 for FY 2003. What accounts for the increase?

RESPONSE: The FY 2004 White House (WH) consolidated budget net increase of $5,292,000 for communications is required in three major areas:

- **Most of the increase ($4,420,000) is needed in the OA Capital Investment Plan for offsite data center communications.** This facility will transition into full operation during FY 2004. The telecommunications between the offsite data center and the EOP complex are necessary to provide expanded, survivable and redundant connectivity, continuity of operations, disaster recovery and system support. These costs include funds for telecommunications lines, two additional

REV_00168453

DS-3 data paths, two T-1 lines, and backups to provide the communications bandwidth necessary for servicing the EOP complex.

- **$482,000 in the White House Office budget to provide a custom communications package which will enable the Homeland Security Council to establish a presence for its staff within the White House Situation Room.**

- **$100,000 for information assurance in the OA salaries/expenses budget.** In addition to the Offsite Data Center project, the OA FY 2004 budget also includes a request for an additional $100,000 for the information assurance program in the FY 2004 salaries/expenses account. This program will enable the CIO office to correct vulnerabilities in the EOP information security perimeter to secure internal systems, to perform real-time monitoring of perimeter network devices.

- **$151,000 in transfers of Lexis-Nexis database costs from nonconsolidated agencies to the consolidated White House appropriation.** The FY 2004 budget envisions that $72,000 will be transferred from USTR, $56,000 from ONDCP, $15,000 from OMB, and $8,000 from CEQ so that the EOP can have a single funding source for EOP-wide Lexis-Nexis service.

- **$139,000 for adjustments to maintain the same level of services for the base funding during FY 2004**. This is calculated on the basis of the $7,010,000 in FY 2003 funding.

Rental Pricing (POC – Chuck Sigman)

QUESTION 5: The FY 2004 justifications state that, over the past year, EOP, GSA, and OMB have undertaken an assessment of space rental costs for all EOP entities. The result of this analysis is that the FY 2004 request includes additional funding to accommodate an "EOP average" rental rate. Please provide details of how this analysis was conducted, and specify the estimated rental rates for the various EOP entities, as determined by this analysis.

RESPONSE: The EOP space rental project began during the summer of 2002 at the request of OMB's budget examiners, who were working to ensure that EOP agencies moved to the same market-based rent methodology used to determine space rental rates for GSA's other Federal properties. OMB requested that GSA and EOP review the space rental costs for each EOP property and each EOP agency so that the most up-to-date costs available were included in the FY 2004 budget proposal. Another significant concern in this project is to ensure that GSA will work with the EOP to ensure that the critical needs of the EOP are funded and executed.

As a result of the initial project, OA and GSA began a series of meetings which culminated in the space estimates which were included in the budget. GSA staff prepared a comprehensive listing of EOP properties, which itemized the space occupied by each

REV_00168454

EOP entity. This listing included commercial and government-owned space, current estimates of rentable square footage, and the annual rental rate per square foot. EOP staff provided updated estimates of the rentable square footage.

During this process, GSA blended the fair-market rates for the permanent EOP buildings into a single blended rate. This was done to simplify the administrative work when EOP staff are relocated. This is especially needed in the post-9/11 environment's unusually high number of large-scale EOP agency relocations driven by security considerations as well as the result of the legislation creating the Department of Homeland Security. The EOP average rental rate for Federally-owned properties (New Executive Office Building (NEOB), Eisenhower Executive Office Building (OEOB), White House, Winder Building, Jackson Place) is $29.60 annually per square foot. GSA adds an additional building security charge for buildings which are not protected by the US Secret Service. The average rental rates used to determine each EOP entity's budget estimate for office space are as follows:

EOP Entity	Locations	Owned or Leased	Average Rental Rate
OMB	EEOB, NEOB	owned	$29.60/sf
CEQ	EEOB	owned	$29.60
	718 Jackson Place	owned	$30.71
	722 Jackson Place	owned	$31.50
	730 Jackson Place	owned	$29.90
CEA	EEOB	owned	$29.60
NSC	EEOB	owned	$29.60
OPD	EEOB	owned	$29.60
OVP	EEOB	owned	$29.60
	Westbank Center, WY	leased	$21.80
WHO	1800 G Street	leased	$34.56
	EEOB, NEOB	owned	$29.60
	708 Jackson Place	owned	$29.60
	736 Jackson Place	owned	$30.58
USTR	Winder	owned	$30.50
	1724 F Street	owned	$37.38
	NEOB	owned	$29.60
OA	1425 New York Ave	leased	$51.89

REV_00168455

	1800 G Street	leased	$31.53-$37.37
	EEOB, NEOB	owned	$29.60
	1724 F Street	owned	$37.38
OSTP	1801 Pennsylvania Avenue	leased	$50.55
	EEOB	owned	$29.60
ONDCP	750 17th Street	leased	$45.78
HSC	EEOB	leased	$29.60

EOP Staffing (POC – Jon Laurich)

QUESTION 6: By EOP office, please provide FTE and OGE, similar in format to the tables found on pages 111 and 112 of last year's hearing record. Please provide data for FY 2002 through 2004.

RESPONSE: The following tables provide the total FY 2002 actual, FY 2003 and FY 2004, estimates for full time equivalents (FTE) and other government employees (OGE) for each EOP and other entity as of May 5, 2003. The OGE numbers are itemized by category on the following page. The FY 2003 numbers have the Office of Homeland Security in a separate category, which accordingly decreased the White House numbers. The FY 2003 and FY 2004 numbers are estimates only and are therefore subject to change.

REV_00168456

Office	FY 2002 Actual FTE and OGE			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office*	400	440	134	574
Special Assistance to the President	24	23	40	63
Official Residence of the Vice President	1	1	0	1
Office of Administration	202	204	3	207
Office of Policy Development	35	31	7	38
National Security Council	60	62	152	214
Council of Economic Advisers	35	36	10	46
Office of Management and Budget	527	507	70	577
Office of National Drug Control Policy	115	138	34	172
Executive Residence	95	92	0	92
Office of Science and Technology Policy	40	26	16	42
Council on Environmental Quality	24	22	14	36
U.S Trade Representative	203	194	24	218
TOTAL	**1761**	**1776**	**504**	**2280**

Office	*as of May 5, 2003*			
	FY 2003 FTE and OGE Estimate			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office	406		46	452
Office of Homeland Security	40		31	71
Special Assistance to the President	24		54	78
Official Residence of the Vice President	1		0	1
Office of Administration	222		1	223
Office of Policy Development	35		7	42
National Security Council	71		151	222
Council of Economic Advisers	35		9	44
Office of Management and Budget	510		63	573
Office of National Drug Control Policy	115		51	166
Executive Residence	95		0	95
Office of Science and Technology Policy	40		20	60
Council on Environmental Quality	24		14	38
U.S Trade Representative	209		28	237
TOTAL	**1827**		**475**	**2302**

Office	FY 2004 FTE and OGE Estimate			
	AUTH FTE	ACTUAL FTE	OGE **	TOTAL
White House Office	406		46	452
Office of Homeland Security	40		31	71
Special Assistance to the President	24		54	78
Official Residence of the Vice President	1		0	1
Office of Administration	222		1	223
Office of Policy Development	35		7	42
National Security Council	71		151	222
Council of Economic Advisers	35		9	44
Office of Management and Budget	516		63	579
Office of National Drug Control Policy	125		51	176
Executive Residence	95		0	95
Office of Science and Technology Policy	40		20	60
Council on Environmental Quality	24		14	38
U.S Trade Representative	217		28	245
TOTAL	**1851**		**475**	**2326**

* For FY 2002, the White House Office included OGEs and FTEs for the Office of Homeland Security which were funded from the Emergency Appropriation.

REV_00168457

R = Reimbursable
N = Non Reimbursable

FY 2002 Actual FTE and OGE

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**440**			1	20	79	9	1	17		4				3			81	53	**134**
Special Assistance to the President	**23**				7		1		6		26								40	**40**
Official Residence of the Vice President	**1**																			
Office of Administration	**204**					2					1							2	1	**3**
Office of Policy Development	**31**		1		3		3												7	**7**
National Security Council	**62**				38	1	106		4		3							1	151	**152**
Council of Economic Advisers	**36**					2	1			3	1		3					5	5	**10**
Office of Management and Budget	**507**					6	53						11					6	64	**70**
Office of National Drug Control Policy	**138**		13		16					3			2					3	31	**34**
Executive Residence	**92**																			
Office of Science and Technology Policy	**26**		6			4	1			2	3							6	10	**16**
Council on Environmental Quality	**22**		11				2										1		14	**14**
U.S Trade Representative	**194**						21				1				2				24	**24**
TOTAL	**1776**		**31**	**1**	**84**	**94**	**197**	**1**	**27**	**8**	**39**		**16**		**5**		**1**	**104**	**400**	**504**

*For FY02, the White House includes 65 OGE's for the Office of Homeland Security, which are funded from the Emergency Appropriation

R = Reimbursable
N = Non Reimbursable

FY 2003 Estimate FTE and OGE *as of May 5, 2003*

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**406**				7	5	11		19		1				2		1	5	41	**46**
Office of Homeland Security	**40**			2	1	23	3				1			1				26	5	**31**
Special Assistance to the President	**24**		3		7		1		18		25								54	**54**
Official Residence of the Vice President	**1**																			
Office of Administration	**222**										1								1	**1**
Office of Policy Development	**35**		1		3	1	1										1	1	6	**7**
National Security Council	**71**				36	4	104		4		3							4	147	**151**
Council of Economic Advisers	**35**					2	2			2			2				1	4	5	**9**
Office of Management and Budget	**499**					3	54						6					3	60	**63**
Office of National Drug Control Policy	**115**		19		14		4			3	9						2	3	48	**51**
Executive Residence	**95**																			
Office of Science and Technology Policy	**40**		6			2	3			2	5		1		1			4	16	**20**
Council on Environmental Quality	**24**		10				3				1								14	**14**
U.S Trade Representative	**209**						25				1				2				28	**28**
TOTAL	**1816**		**39**	**2**	**68**	**40**	**211**		**41**	**7**	**47**		**9**	**1**	**5**		**5**	**50**	**425**	**475**

R = Reimbursable
N = Non Reimbursable

FY 2004 Estimate FTE and OGE

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**406**				7	5	11		19		1				2		1	5	41	**46**
Office of Homeland Security	**40**			2	1	23	3				1			1				26	5	**31**
Special Assistance to the President	**24**		3		7		1		18		25								54	**54**
Official Residence of the Vice President	**1**																			
Office of Administration	**222**										1								1	**1**
Office of Policy Development	**35**		1		3	1	1										1	1	6	**7**
National Security Council	**71**				36	4	104		4		3							4	147	**151**
Council of Economic Advisers	**35**					2	2			2			2				1	4	5	**9**
Office of Management and Budget	**516**					3	54						6					3	60	**63**
Office of National Drug Control Policy	**125**		19		14		4			3	9						2	3	48	**51**
Executive Residence	**95**																			
Office of Science and Technology Policy	**40**		6			2	3			2	5		1		1			4	16	**20**
Council on Environmental Quality	**24**		10				3				1								14	**14**
U.S Trade Representative	**217**						25				1				2				28	**28**
TOTAL	**1851**		**39**	**2**	**68**	**40**	**211**		**41**	**7**	**47**		**9**	**1**	**5**		**5**	**50**	**425**	**475**

REV_00168458

OA Staffing (POC – Jon Laurich)

QUESTION 7: By OA office, please provide FTE and OGE, similar in format to the tables found on page 113 of last year's hearing record. Please provide data for FY 2002 through 2004.

RESPONSE: The following table provides the FTE and OGE for the Office of Administration.

R = Reimbursable N = Non Reimbursable	FY 2002 FTE and OGE Actuals							
		Others		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OA Director	12							
OA Chief Operating Officer	111							
OA Chief Financial Officer	30	1	1			1	1	2
OA Chief Projects Officer	5							
OA Chief Information Officer	46	1				1		1
TOTAL	**204**	**2**	**1**			**2**	**1**	**3**

as of May 5, 2003

R = Reimbursable N = Non Reimbursable	FY 2003 FTE and OGE Estimates							
		Others		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OA Director	11							
OA Chief Operating Officer	103				2		1	1
OA Chief Financial Officer	39		1				1	1
OA Chief Projects Officer	11							
OA Chief Information Officer	58				2			
TOTAL	**222**		**1**		**4**		**2**	**2**

R = Reimbursable N = Non Reimbursable	FY 2004 FTE and OGE Estimates							
		Others		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OA Director	11							
OA Chief Operating Officer	103				4		1	1
OA Chief Financial Officer	39		1		2		3	3
OA Chief Projects Officer	11							
OA Chief Information Officer	58				4		4	4
TOTAL	**222**		**1**		**10**		**8**	**8**

OMB Staffing (POC – Jon Laurich/Brian Gillis)

QUESTION 8: By OMB office, please provide FTE and OGE, similar in format to the tables found on page 114 of last year's hearing record. Please provide data for FY 2002 through 2004.

RESPONSE: The charts below display the FTE and OGE breakout by OMB division for FY 2002-2004. Most detailees and student volunteers are used during the peak budget production season. During the rest of the year, the OGE total can fall below 20.

REV_00168459

R = Reimbursable N = Non Reimbursable	FY 2002 FTE and OGE Actuals							
		Detailees		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OMB-Wide Offices	159	1	19		2	1	21	22
General Government Programs	62		1				1	1
Human Resource Programs	71		4		1		5	5
National Security Programs	64	1	5		1	1	6	7
Natural Resource Programs	54		8		1		9	9
Office of Federal Financial Management	21	3	3			3	3	6
Office of Federal Procurement Policy	22	1	2		1	1	3	4
Office of Information and Regulatory Affairs	54		11		5		16	16
TOTAL	**507**	**6**	**53**		**11**	**6**	**64**	**70**

as of May 5, 2003

R = Reimbursable N = Non Reimbursable	FY 2003 Estimate FTE and OGE							
		Detailees		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OMB-Wide Offices	152	1	22		2	1	24	25
General Government Programs	60		3		1		4	4
Human Resource Programs	68		5				5	5
National Security Programs	61		9				9	9
Natural Resource Programs	60		5				5	5
Office of Federal Financial Management	21	1				1		1
Office of Federal Procurement Policy	20							
Office of Information and Regulatory Affairs	57	1	10		3	1	13	14
TOTAL	**499**	**3**	**54**		**6**	**3**	**60**	**63**

FY 2002 does not include staff temporarily detailed to the Transition Planning Office.

R = Reimbursable N = Non Reimbursable	FY 2004 Estimate FTE and OGE							
		Detailees		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OMB-Wide Offices	157	1	22		2	1	24	25
General Government Programs	63		3		1		4	4
Human Resource Programs	75		5				5	5
National Security Programs	63		9				9	9
Natural Resource Programs	63		5				5	5
Office of Federal Financial Management	20	1				1		1
Office of Federal Procurement Policy	21							
Office of Information and Regulatory Affairs	54	1	10		3	1	13	14
TOTAL	**516**	**3**	**54**		**6**	**3**	**60**	**63**

REV_00168460

Office of Homeland Security (POC – Paul Ehrhardt)

QUESTION 9: Your FY 2004 budget requests $8,331,000 for the Office of Homeland Security. Please provide an object class breakdown of those costs and compare them to FY 2003 estimated levels.

RESPONSE: An object class breakdown of estimated HSC costs in FY 2003 and FY 2004 is provided in the table below. Please note that the FY 2003 estimate covers only costs incurred after the enactment of the FY 2003 appropriation on February 20, 2003. Unlike other EOP entities which operated under continuing resolutions between October 1, 2003 and February 20, 2003, the Office of Homeland Security was not permitted to utilize the CR funding mechanism but instead continued to charge FY 2003 expenses against the no-year emergency funding (provided in FY2002) until the FY 2003 appropriation was enacted. Therefore the FY 2003 estimate reflects only seven months of activity, whereas the FY 2004 Request needs to cover HSC expenses for the full 12 months next fiscal year.

	FY 2003 Appropriation	FY 2003 Estimate*	FY 2004 Request	2004 Request - 2003 Estimate
Homeland Security Council:				
Personnel	$4,403	$2,800	$5,550	$2,750
Travel	$300	$60	$588	$528
Transportation of Things	$24	$24	$10	-$14
Rent	$0	$0	$200	$200
Communications, Utilities, and Misc.	$209	$50	$1,080	$1,030
Printing and Reproduction	$69	$69	$50	-$19
Other Services	$3,267	$1,267	$528	-$739
Supplies and Materials	$0		$175	$175
Equipment	$0	$50	$150	$100
Subtotal	$8,272	$4,320	$8,331	$4,011

* FY 2003 Estimate covers only seven months vs. FY 2004 Request covering full 12 months

QUESTION 10: In particular, how much are you requesting in FY 2004 for professional contracts, and how does that compare to the estimated FY 2003 level?

RESPONSE: In FY 2004 HSC is requesting $528,000 for Other Services compared with $3,267,000 appropriated for the same category in FY 2003. The decrease is due to reduced requirements of the ongoing missions of the Office of Homeland Security after start-up costs and emergency requirements were met with larger budgets in FY 2002 and FY 2003. Anticipated contractual needs in FY 2004 include maintenance, upgrades, and technical support for the classified computer network that will be extended to HSC staff in FY 2003.

QUESTION 11: How many FTE and FTP are you requesting for this office in FY 2004, and how do these figures compare to current FY 2003 estimates and actuals for FY 2002?

REV_00168461

RESPONSE: HSC is requesting resources to support 40 direct hire FTE and 26 Other Government Employees on its staff to fill the 66 positions HSC is projecting for FY 2004.

Office of Homeland Security / Homeland Security Council Personnel

	FY 2002 Actual	FY 2003 Estimate	FY 2004 Request
Direct Hire FTE	0	20	40
Other Government Employees (EOY headcount)	89	26	26
Total Personnel	89	46	66

QUESTION 12: How many positions in the office are filled today, and how many are vacant?

RESPONSE: As of May 15, 2003, 51 positions are filled and 15 are vacant.

QUESTION 13: Please provide a table comparing the number of detailees to OHS, by federal agency, for each of the fiscal years 2002 through 2004 (estimated).

RESPONSE: The table below provides the number other government employees assigned to the Homeland Security Council.

REV_00168462

Number of Other Government Employees Assigned to OHS/HSC
(Figures show end of year headcount)

	FY 2002	FY 2003 est.	FY 2004 est.
CIA	7	2	3
DHS	0	6	10
FEMA	3	0	0
USCG	19	0	0
US Customs	1	0	0
USSS	2	0	0
DOJ	10	1	5
DOC	5	1	0
DOD	12	3	2
DOE	1	1	1
DOI	3	1	0
DOL	1	0	0
DOS	4	2	1
DOT	1	0	1
EOP	1	1	0
EPA	1	2	0
FAA	1	1	0
GSA	1	0	0
HHS	3	3	2
HUD	3	0	0
NASA	1	0	0
NIMA	1	0	0
NRC	0	0	0
NSA	3	1	0
SBA	1	0	0
Sentencing Commission	1	0	0
SSA	1	0	0
Treasury	1	0	0
USDA	1	1	1
Total	89	26	26

QUESTION 14: How many detailees are on board today?

RESPONSE: As of May 15, 2003, there are 18 detailees on board the Homeland Security Council.

QUESTION 15: Please provide a list of all positions in OHS, showing the incumbent's name, rate of annual salary, and position title. Please annotate any positions which are currently vacant.

RESPONSE: The President is authorized to appoint and fix pay of any member of the White House Staff without regard to any provision of law related to employees of the federal government. The individuals employed by the President represent a broad spectrum of experience and expertise and have been engaged to perform tasks ranging from simple to the complex. These individuals are being compensated at rates

REV_00168463

commensurate with their responsibilities and experience. The table below lists all the positions in the HSC and the positions which are currently vacant. The salary totals provided are for White House Full Time Employees and personnel detailed to the HSC.

Homeland Security Council Staff Positions		
	White House	Agency
Title	Compensation	Compensation
Office of the Advisor		
Assistant to the President for Homeland Security and Homeland Security Advisor (Acting Until June 1)		
Executive Assistant	VACANT	
Special Assistant to the APHS		
Staff Assistant		
Deputy Assistant to the President and Deputy Homeland Security Advisor		
Special Assistant to the Deputy		
Staff Assistant		
Director, Programs and Resources		
Budget Assistant	VACANT	
Military Programs		
Special Assistant to the President (SAP) for Military Programs	VACANT	
Director, Military Programs		
Staff Assistant	VACANT	
Executive Secretary		
Executive Secretary		
Executive Assistant		
Deputy Executive Secretary	VACANT	
Special Assistant to the Executive Secretary		
Director for Administration and Support		
Associate Director for Correspondence and Records Management		
Special Assistant, Events		
Associate Director for Security		
Staff Assistant	VACANT	
Staff Assistant	VACANT	
General Counsel		
Senior Associate Counsel to the President and General Counsel for Homeland Security		
Deputy Counsel		
Associate Counsel		
Associate Counsel		

REV_00168464

Staff Assistant		
Legistative Affairs		
Special Assistant to the President for Legislative Affairs		
Legislative Assistant		
Intergovernmental Affairs		
Associate Director, Intergovernmental Affairs	VACANT	
Director, HSC Public Liaison		
Domestic Counterterrorism		
Special Assistant to the President and Senior Director, Domestic Counterterrorism	VACANT	
Special Assistant to the Director, Domestic Counterterrorism		
DCI Representative to Homeland Security		
Director, Incident Management		
Director, Incident Management		
Director, Investigation and Law Enforcement		
Director, Domestic Counterterrorism Policy		
Director, Plans and Excercises		
BioDefense		
Special Assistant to the President and Senior Director, Biodefense		
Staff Assistant		
Director, Biodefense		
Director, Biodefense		
Director, Food, Agriculture and Water Safety		
Critical Infrastructure Protection		
Special Assistant to the President and Senior Director, Critical Infrastructure Protection		
Special Assistant		
Director, Cyber IP	VACANT	
Director, Cyber IP		
Director, Physical IP		
Director, Physical IP		
Director, IT Architecture	VACANT	
Response and Recovery		
Senior Director, Response and Recovery		
Staff Assistant		
Director, First Responder Program	VACANT	
Director for Recovery		
Director for Readiness and Training		

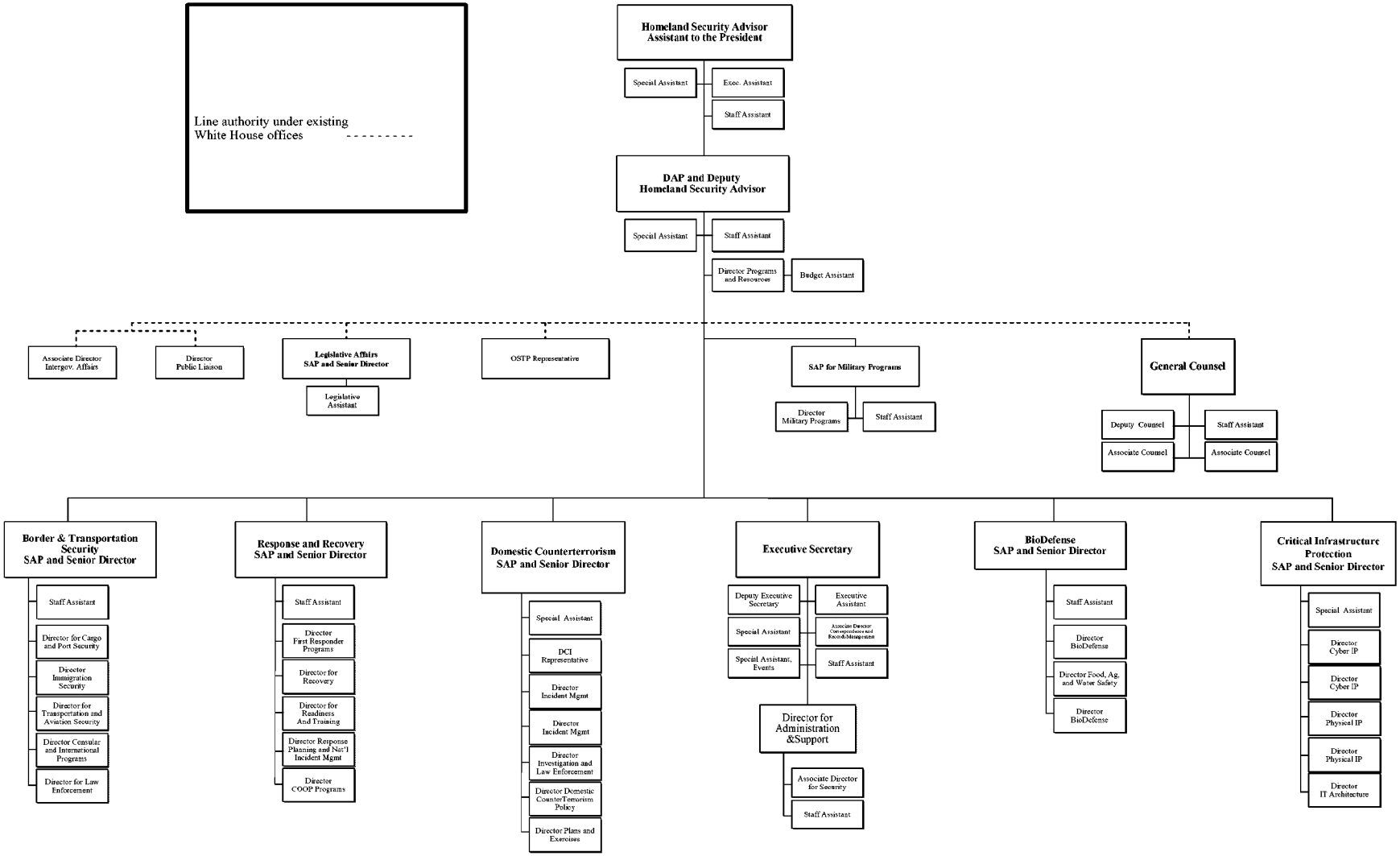
REV_00168465

Director, Response Planning and Incident Management		
Director, COOP Programs	VACANT	
Border and Transportation Security		
Special Assistant to the President and Senior Director for Border and Transporation Security		
Staff Assistant		
Director, Cargo and Port Security	VACANT	
Director of Immigration Security		
Director for Transportation and Aviation Security		
Director for Consular and International Programs		
Director for Law Enforcement		
Others		
Executive Assistant		
Special Assistant to the Deputy Director		
Office of Science and Technology Policy Representative	VACANT	
TOTAL	**$1,444,500**	**$1,747,209**

QUESTION 16: Please update the OHS organizational chart found on page 50 of last year's hearing record.

RESPONSE: The chart below shows the current Homeland Security Council's organization.

REV_00168466



REV_00168467

QUESTION 17: Please update the information shown on pages 44 through 47 of last year's hearing record concerning Office of Homeland Security travel. In addition to the information provided last year, please provide a brief descriptor of the travel purpose.

RESPONSE: The table below lists the travel for the Homeland Security Council.

Homeland Security Council Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Staff Position**
04/02/02	Los Angeles, CA	1	$1,185.31	Special Assistant to the President and Executive Director, PHSAC
04/04/02	Miami, FL	2	$1,363.07	Special Assistant to the President and Senior Director for Policy and Plans, Special Assistant
04/05/02	Harrisburg, PA	1	$444.41	Communications Assistant
04/07/02	Annapolis, MD	1	$63.14	Communications Aide to the Assistant to the President for Homeland Security
04/07/02	Atlanta, GA	1	$614.37	Director for Weapons of Mass Destruction
04/08/02	Chicago, IL	2	$1,702.90	Communication Coordinator, Operations Officer
04/08/02	Manhattan, NY	1	$811.62	Director for Critical Recovery Infrastructure
04/09/02	Chicago, IL	6	$2,071.26	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security, Special Assistant to the President for Public Liaison,
				Special Assistant to the President and Director of Communications, Legislative Assistant,
				Communications Aide to the Assistant to the President for Homeland Security
04/11/02	Charleston, SC	2	$1,858.88	Special Assistant to the President and Senior Director for Policy and Plans, Associate Director
04/11/02	Chicago, IL	1	$300.63	Communications Assistant
04/11/02	Harrisburg, PA	3	$1,485.37	Senior Director for Intergovernmental Affairs, Communications Aide to the Assistant to the President for Homeland Security, Communications Assistant
04/12/02	Oklahoma City, OK	1	$528.88	Director for Medical and Public Health Security
04/15/02	Baltimore, MD	1	$134.10	Director for Weapons of Mass Destruction
04/15/02	Boston, MA	1	$1,249.42	Director, Economic Consequence Management
04/15/02	Detroit, MI	1	$1,262.38	Communications Assistant

04/16/02	Chicago, IL	3	$2,075.41	Special Assistant to the President and Senior Director for Policy and Plans, Senior Director for Response and Recovery, Special Assistant
04/16/02	Detroit, MI	2	$400.17	Special Assistant to the President for Public Liaison, Communications Aide to the Assistant to the President for Homeland Security
04/16/02	Detroit, MI	1	$0.00	Assistant to the President for Homeland Security
04/18/02	Erie, PA/Harrisburg, PA	1	$412.96	Communications Assistant
04/19/02	Harrisburg, PA	1	$856.64	Communications Assistant
04/20/02	Houston, TX	1	$612.48	Director, Policy and Plans
04/24/02	Phoenix, AZ	1	$2,023.87	Communications Aide to the Assistant to the President for Homeland Security
04/24/02	Toronto, CAN	1	$626.69	Director, Costal and Border Security
04/28/02	New Orleans, LA	7	$7,371.94	Communications Assistant, Special Assistant to the President for Public Liaison, Special Assistant to the Assistant to the President for Homeland Security,
				Deputy Press Secretary, Assistant to the President for Homeland Security, Communications Assistant, Communications Coordinator
04/30/02	Boston, MA	1	$87.00	Special Assistant to the President for Public Liaison
05/01/02	Los Angeles, CA	1	$668.61	Senior Director for Intergovernmental Affairs
05/03/02	Columbus, OH/Pittsburg, PA	2	$1,259.20	Communications Coordinator, Communications Assistant
05/06/02	Albuquerque, NM	1	$625.90	Director for Critical Recovery Infrastructure
05/06/02	Bangor, ME	1	$465.50	Senior Director for Intergovernmental Affairs
05/07/02	Denver, CO	1	$426.71	Special Assistant to the President and Senior Director for Information Integration
05/07/02	Sacramento, CA	2	$1,222.88	Senior Director for Response and Recovery, Special Assistant
05/08/02	Burlington, VT	1	$979.84	Director, Policy and Plans
05/08/02	San Diego, CA	1	$805.50	Director of Operations
05/08/02	Wichita, KS	1	$434.21	Senior Director for Intergovernmental Affairs
05/10/02	Harrisburg, PA	1	$521.21	Communications Assistant
05/12/02	Charleston, SC	1	$842.93	Senior Director for Response and Recovery
05/14/02	Gulfport, MS	1	$469.12	Director, Protection and Prevention
05/15/02	Buffalo, NY	8	$4,789.28	Assistant to the President for Homeland Secuirty, Special Assistant to the President for Public Liaison, Operations Officer, Operations Officer, Operations Officer,

REV_00168469

				Special Assistant to the Assistant to the President for Homeland Security, Director, Policy and Plans, Special Assistant to the President and Director of Communications,
				Communications aide to the Assistant to the President for Homeland Security, Communications Assistant
05/18/02	Pittsburgh, PA	3	$1,001.63	Assistant to the President for Homeland Security, Assistant Press Secretary, Special Assistant to the President for Homeland Security
05/20/02	Jackson, WY	1	$1,543.30	Special Assistant to the Deputy Assistant to the President for Homeland Security
05/21/02	Washington, DC	1	$709.50	Special Assistant
05/22/02	Dayton, OH	1	$688.76	Director, Protection and Prevention
05/30/02	Baltimore, MD	1	$434.30	Director, State and Local Affairs
05/30/02	Hershey, PA	1	$160.09	Special Assistant to the President for Public Liaison
05/31/02	Harrisburg, PA	1	$741.56	Communications Assistant
06/04/02	Manhattan, NY	4	$1,085.44	Assistant to the President for Homeland Security, Special Assistant to the President and Executive Director, PHSAC,
				Director, External Affairs, Communications Assistant
06/07/02	Harrisburg, PA	1	$563.64	Operations Officer
06/10/02	Manhattan, NY	2	$715.21	Senior Director for Response and Recovery, Senior Director for Protection and Provention
06/10/02	Sun Valley, ID	1	$1,709.80	Director for Readiness
06/10/02	Washington, DC	2	$1,205.50	Senior Director for Protection and Prevention and Senior Director for Response and Recovery
06/11/02	Kansas City, MO	1	$0.00	Assistant to the President for Homeland Security
06/11/02	Washington, DC	5	$3,655.99	President's Homeland Security Advisory Board
06/12/02	Chicago, IL	1	$623.05	Senior Director for Response and Recovery
06/14/02	Albuquerque,NM	1	$971.26	Senior Director for Protection and Prevention
06/14/02	Harrisburg, PA	2	$912.67	Communications Assistant, Communications Aide to the Assistant to the President for Homeland Security
06/16/02	Erie, PA	1	$413.73	Operations Officer
06/16/02	Madison, WI	6	$2,071.19	Communications Assistant, Senior Director for Intergovernmental Affairs, Assistant to the President for Homeland Security,
				Special Assistant to the President for Homeland Security, Director of State and Local Affairs

REV_00168470

06/17/02	Mexico City, Mexico	1	$1,163.26	Director for Critical Infrastructure Protection
06/17/02	New Orleans, LA	1	$884.36	Director, Training and Exercises
06/19/02	Virginia Beach, VA	1	$351.28	Communication Aide to the Assistant to the President for Homeland Security
06/20/02	Berkeley Springs, WV	1	$27.00	Deputy Assistant to the President for Homeland Securtiy
06/21/02	Tulsa, OK	1	$488.00	Senior Director for Intergovernmental Affairs
06/23/02	Phoenix, AZ	1	$1,036.22	Deputy Assistant to the President for Homeland Securtiy
06/24/02	Other, Canada	1	$494.40	Special Assistant to the President and Director of Communications
06/27/02	Albuquerque,NM	1	$871.00	Senior Director for Intergovernmental Affairs
06/27/02	Cambridge, MA	1	$876.11	Senior Director for Response and Recovery
06/27/02	Manhattan, NY	2	$308.70	Senior Director for Protection and Prevention, Director for Weapons of Mass Destruction
06/27/02	Other, Canada	2	$960.34	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
06/27/02	Toronto, Canada	1	$1,447.49	Communications Assistant
06/28/02	Buffalo, NY	1	$1,001.22	Special Assistant to the President for Public Liaison
06/30/02	Erie, PA	1	$895.44	Communications Assistant
06/30/02	Washington, DC	7	$5,072.38	President's Homeland Security Advisory Board
07/04/02	Erie, PA	1	$1,005.65	Communication Aide to the Assistant to the President for Homeland Security
07/10/02	Harrisburg, PA	2	$1,547.83	Communication Coordinator, Communications Assistant
07/10/02	Manhattan, NY	1	$738.76	Senior Director for Response and Recovery
07/11/02	Hershey, PA	1	$63.00	Assistant to the President for Homeland Security
07/12/02	Erie, PA	1	$559.28	Communications Aide to the Assistant to the President for Homeland Security
07/13/02	New Orleans, LA	1	$1,029.76	Director, State and Local Affairs
07/14/02	Boulder, CO	1	$762.26	Senior Director for Response and Recovery
07/14/02	Erie, PA	1	$599.85	Operations Officer
07/17/02	Colorado Springs, CO	1	$2,303.43	Communications Assistant
07/17/02	Raleigh, NC	1	$545.95	Director for Weapons of Mass Destruction
07/18/02	Colorado Springs, CO	2	$1,815.32	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
07/18/02	Dallas, TX	1	$631.00	Director, Cyberspace Security

REV_00168471

07/19/02	Cleveland, OH	1	$1,481.12	Communications Assistant
07/19/02	Omaha, NE	1	$1,675.01	Director, Protection and Prevention
07/20/02	Cleveland, OH	1	$1,462.50	Communications Aide to the Assistant to the President for Homeland Security
07/20/02	Erie, PA	2	$3,832.24	Communications Assistant, Operations Officer
07/22/02	Du Page County, IL	1	$0.00	Assistant to the President for Homeland Security
07/22/02	Manhattan, NY	3	$2,555.98	Director for Cargo and Port Security, Director State and Local Affairs,
				Deputy Assistant to the President for Homeland Security
08/01/02	Austin, TX	1	$590.25	Director, Policy and Plans
08/04/02	Erie, PA	1	$1,049.32	Communications Assistant
08/06/02	Los Angeles, CA	1	$500.72	Director, Training and Exercises
08/09/02	Harrisburg, PA	1	$2,473.35	Communications Assistant
08/11/02	Erie, PA	1	$2,473.35	Communications Assistant
08/13/02	Burlington, VT	1	$800.01	Director for Cargo and Port Security
08/13/02	Cincinnati, OH	1	$738.73	Senior Director to Special Assistant to the President for Information Integration
08/14/02	Little Rock, AR	2	$2,359.87	Special Assistant to the President for Communications, Communications Assistant
08/15/02	Rapid City, SD	2	$291.80	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
08/18/02	Philadelphia, PA	2	$2,311.79	Senior Director for Intelligence and Detection, Director, Cyberspace Security
08/21/02	Manhattan, NY	1	$261.75	Director State and Local Affairs
08/22/02	Kansas City, MO	1	$878.73	Senior Director for Response and Recovery
08/24/02	Erie, PA	1	$706.35	Communications Assistant
08/26/02	Ottawa, Canada	1	$1,287.07	Director for Critical Infrastructure Protection
08/26/02	Washington, DC	2	$1,533.41	President's Homeland Security Advisory Board
08/27/02	Indianapolis, IN	1	$820.70	Senior Director for Intelligence and Detection
08/27/02	Philadelphia, PA	1	$451.57	Communications Assistant
08/27/02	Seattle, WA	1	$1,577.18	Senior Director for Response and Recovery
08/28/02	Buffalo, NY	2	$1,953.73	Operations Officer, Operations Officer
08/28/02	Charlotte, NC	2	$1,217.86	Communications Aide to the Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
08/28/02	Seattle, WA	1	$646.49	Special Assistant, Intergovernmental Affairs
08/28/02	Washington, DC	5	$4,452.05	President's Homeland Security Advisory Board

REV_00168472

08/29/02	Buffalo, NY	1	$173.00	Assistant to the President for Homeland Security
08/29/02	Milan, Italy	2	$11,192.97	Communications Assistant, Communications Aide to the Assistant to the President for Homeland Security
08/30/02	Atlanta,GA	1	$548.50	Director, Cyberspace Security
09/03/02	Asville Naval Reserve Ctr, NC	1	$674.84	Senior Director for Response and Recovery
09/04/02	Milan, Italy	1	$1,869.93	Special Assistant to the Assistant to the President for Homeland Security
09/04/02	San Diego, CA	1	$1,466.62	Director State and Local Affairs
09/05/02	Chicago, IL	1	$490.94	Director, Training and Exercises
09/05/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
09/06/02	Long Beach Naval Hosp, CA	1	$937.22	Director, Protection and Prevention
09/08/02	Columbus, OH	1	$365.81	Special Assistant to the President and Senior Director for Policy and Plans
09/08/02	Detroit, MI	1	$1,111.35	Special Assistant to the President for Public Liaison
09/09/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
09/09/02	Orlando, FL	1	$519.19	Special Assistant to the President and Executive Director, PHSAC
09/09/02	Paris, France	1	$1,156.36	Director, Policy and Plans
09/10/02	Pittsburgh, PA	3	$667.20	Assistant Press Secretary, Communications Aide to the Assistant to the President for Homeland Security,
				Assistant to the President for Homeland Security
09/15/02	Manhattan, NY	1	$191.47	Director, Biodefense
09/15/02	Suffolk County, NY	1	$356.66	Director, Biodefense
09/16/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
09/18/02	Atlanta,GA	1	$254.00	Deputy Assistant to the President for Homeland Securtiy
09/18/02	Denver, CO	1	$967.36	Executive Assistant, Response and Recovery
09/19/02	Austin, TX	1	$121.00	Special Assistant to the Deputy Assistant to the President for Homeland Security
09/19/02	Dallas, TX	1	$618.00	Director, Cyberspace Security
09/19/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
09/19/02	Minot AFB, ND	1	$1,121.00	Director State and Local Affairs
09/20/02	Atlanta,GA	2	$1,349.48	Sr. Director Research and Development, Director, Biodefense
09/21/02	Dover, DE	1	$592.94	Communications Aide to the Assistant to the President for Homeland Security
09/22/02	Lincoln Naval Reserve, NE	1	$849.94	Special Assistant to the President and Senior Director for Policy and Plans
09/24/02	Dallas, TX	1	$618.50	Deputy Assistant to the President for Homeland Securtiy
09/24/02	Kansas City, MO	1	$650.36	Director for Incident Management

REV_00168473

09/24/02	Manhattan, NY	2	$285.15	Senior Director for Protection and Prevention, Director for Weapons of Mass Destruction
09/24/02	St. Louis, MO	1	$873.50	Senior Director for Response and Recovery
09/25/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
09/26/02	Erie, PA	1	$1,061.02	Communications Assistant
09/26/02	Williamsport Naval Ctr, PA	1	$337.92	Communications Aide to the Assistant to the President for Homeland Security
09/27/02	Atlanta,GA	1	$313.90	Special Assistant to the President for Public Liaison
09/27/02	Easton, PA	1	$202.21	Special Assistant to the Assistant to the President for Homeland Security
09/30/02	Manhattan, NY	1	$576.06	Senior Advisor to the Special Assistant to the President for Information Integration
09/30/02	White Plains, NY	1	$907.10	Executive Secretary
10/01/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
10/01/02	White Plains, NY	1	$702.73	Director for Critical Infrastructure Protection
10/02/02	Carlisle Barracks, PA	1	$132.30	Communications Aide to the Assistant to the President for Homeland Security
10/02/02	Charleston, WV	1	$154.94	Director, Cyberspace Security
10/03/02	Los Angeles, CA	1	$943.66	Director, State and Local Affairs
10/03/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
10/03/02	Miami, FL	1	$571.00	Sr. Director, Research and Development
10/04/02	Washington, DC	1	$169.48	Communications Aide
10/06/02	Minneapolis, MN	1	$768.50	Director for Incident Management
10/06/02	Orlando, FL	1	$432.31	Senior Advisor to the Special Assistant to the President for Information Integration
10/07/02	Las Vegas, NV	1	$874.73	Director of Critical Infrastructure
10/07/02	Oklahoma City, OK	1	$525.94	Sr. Director, Research and Development
10/07/02	Pittsburgh, PA	2	$1,663.50	Special Assistant to the President for Public Liaison, Communications Aide to the Assistant to the Presidnet for Homeland Security
10/07/02	San Diego, CA	1	$1,411.68	Senior Director for Response and Recovery
10/08/02	Minneapolis, MN	1	$914.14	Senior Director for Intergovernmental Affairs
10/08/02	Pittsburgh, PA	2	$1,571.22	Assistant to the President for Homeland Security, Special Assistant to the Assistant to President for Homeland Security
10/09/02	Dallas, TX	1	$704.65	Executive Assistant, Response and Recovery
10/09/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
10/10/02	Fort Lauderdale, FL	2	$2,958.00	Special Assistant to the President for Public Liaison, Director for Incident Management
10/11/02	Erie, PA	1	$930.69	Communications Assistant

REV_00168474

10/11/02	Lynchburg, VA	1	$52.93	Director Policy and Plans
10/12/02	Erie, PA	1	$348.00	Operations Officer
10/14/02	Columbus, OH	1	$572.00	Senior Director for Response and Recovery
10/15/02	Atlanta,GA	1	$852.36	Director, Cyberspace Security
10/15/02	Key West, FL	1	$1,216.80	Director for Immigration Security
10/15/02	Sacramento, CA	1	$1,260.62	Director, Biodefense
10/15/02	Seattle, WA	1	$1,050.00	Senior Director for Protection and Prevention
10/15/02	Washington, DC	8	$4,481.76	President's Homeland Security Advisory Board
10/16/02	Raleigh, NC	1	$254.06	Senior Advisor to the Special Assistant to the President for Information Integration
10/16/02	Vancouver, Canada	1	$1,662.55	Director, Policy and Plans
10/18/02	Trenton, NJ	1	$1,310.12	Director, State and Local Affairs
10/18/02	Washington, DC	4	$2,385.93	Communications Assistant, President's Homeland Security Advisory Board
10/21/02	Houston, TX	1	$849.91	Senior Director for Protection and Prevention
10/21/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
10/21/02	Newark, NJ	2	$852.90	Senior Director for Intergovernmental Affairs, Director State and Local Affairs
10/21/02	Washington, DC	1	$87.50	President's Homeland Security Advisory Board
10/22/02	Frederick, MD	1	$291.15	Director of Critical Infrastructure
10/22/02	Reno, NV	1	$803.60	Special Assistant, Intergovernmental Affairs
10/22/02	Trenton, NJ	1	$153.00	Special Assistant
10/23/02	San Jose, CA	1	$931.76	Director, Cyberspace Security
10/24/02	Erie, PA	1	$1,001.53	Communications Aide to the Assistant to the President for Homeland Security
10/24/02	Ontarion, CA	1	$664.76	Senior Director for Response and Recovery
10/24/02	Orlando, FL	1	$547.06	Director, Policy and Plans
10/25/02	Albany, NY	1	$580.50	Senior Director for Protection and Prevention
10/25/02	Lynchburg, VA	1	$52.93	Director, Operations
10/26/02	Washington, DC	1	$214.03	Communications Assistant
10/28/02	Hershey, PA	1	$286.16	Senior Director for Response and Recovery
10/28/02	Savannah, GA	1	$452.68	Senior Director for Intergovernmental Affairs
10/29/02	Manhattan, NY	1	$511.27	Deputy Assistant to the President for Homeland Securtiy
10/29/02	St. Louis, MO	1	$1,078.66	Director of Critical Infrastructure
10/30/02	Brussels, Bel	1	$4,853.38	Communications Aide to the Assistant to the President for Homeland Security
10/31/02	Cedar Rapids, IA	1	$2,173.70	Special Assistant to the President and Director of Communications
11/01/02	Atlantic City, NJ	1	$0.00	Sr. Director, Research and Development

REV_00168475

11/01/02	Brussels, Bel	1	$2,173.70	Special Assistant to the President and Director of Communications
11/01/02	Pittsburgh, PA	2	$606.97	Communications Assistant, Operations Officer
11/02/02	San Jose, CA	1	$1,001.50	Senior Director for Protection and Prevention
11/03/02	Brussels, Bel	3	$4,534.72	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security, Director Policy and Plans
11/03/02	Washington, DC	1	$8.40	Communications Assistant
11/04/02	London, England	1	$2,536.36	Operations Officer
11/06/02	Santa Barbara, CA	1	$711.51	Director, Economic Consequence Management
11/09/02	Lynchburg, VA	1	$741.18	Director State and Local Affairs
11/09/02	Philadelphia, PA	1	$752.47	Communications Assistant
11/10/02	New Orleans, LA	1	$752.47	Communications Assistant
11/12/02	Philadelphia, PA	1	$244.80	Senior Director for Response and Recovery
11/13/02	Cincinnati, OH	1	$70.34	Communications Aide to the Assistant to the President for Homeland Security
11/14/02	Charlotte, NC	1	$992.48	Director of Critical Infrastructure
11/14/02	Erie, PA	1	$931.40	Operations Officer
11/14/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
11/15/02	Shepherdstown, WV	1	$79.60	Senior Director for Response and Recovery
11/16/02	Erie, PA	1	$613.64	Special Assistant
11/17/02	Las Vegas, NV	1	$2,074.06	Director, Biodefense
11/18/02	Manhattan, NY	1	$118.70	Special Assistant to the President and Senior Director for Policy and Plans
11/19/02	Philadelphia, PA	2	$1,051.46	Deputy Assistant to the President for Homeland Securtiy, Sr. Director, Research and Development
11/20/02	Los Angeles, CA	3	$4,199.59	Senior Director for Intergovernmental Affairs, Special Assistant to the President for Public Liaison,
				Deputy Press Secretary
11/22/02	Boston, MA	1	$467.20	Director, Policy and Plans
11/22/02	Scottsdale, AZ	1	$233.64	Special Assistant to the President for Public Liaison
11/24/02	Mexico City, Mexico	1	$1,155.08	Director, Policy and Plans
11/24/02	Phoenix, AZ	1	$1,999.06	Communications Assistant
11/25/02	Manhattan, NY	1	$320.22	Director, Economic Consequence Management
11/26/02	London, England	1	$951.43	Special Assistant to the Deputy Assistant to the President for Homeland Security
12/01/02	St. Louis, MO	1	$1,579.63	Communications Assistant
12/02/02	Chicago, IL	1	$906.76	Deputy Assistant to the President for Homeland Securtiy

REV_00168476

12/02/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
12/02/02	Washington, DC	10	$8,634.98	President's Homeland Security Advisory Board
12/03/02	Chicago, IL	1	$369.38	Director State and Local Affairs
12/03/02	Washington, DC	1	$50.50	President's Homeland Security Advisory Board
12/04/02	Cambridge, MA	1	$901.10	Director of Critical Infrastructure
12/06/02	Salt Lake City, UT	1	$822.14	Director State and Local Affairs
12/06/02	Seattle, WA	1	$992.06	Director Coordination Center
12/06/02	Washington, DC	1	$297.72	Communications Assistant
12/08/02	Manhattan, NY	1	$237.55	Operations Officer
12/09/02	Baltimore, MD	1	$327.32	Senior Director for Response and Recovery
12/09/02	Indianapolis, IN	1	$817.00	Director, Cyberspace Security
12/09/02	Manhattan, NY	1	$316.90	Operations Officer
12/09/02	San Francisco, CA	1	$237.54	Sr. Director, Research and Development
12/09/02	Seattle, WA	2	$1,505.08	Special Assistant to the Deputy Assistant to the President for Homeland Security, Deputy Director Coordination Center
12/11/02	Manhattan, NY	5	$3,154.69	Deputy Assistant to the President for Homeland Securtiy, Director State and Local Affairs, Executive Assistant Response and Recovery,
				Director for Critical Infrastructure Protection, Director for Cargo and Port Security,
				Executive Assistant Response and Recovery
12/13/02	Washington, DC	1	$307.77	Communications Assistant
12/18/02	Anniston Army Depot, AL	1	$219.00	Director, Biodefense
12/18/02	Atlanta,GA	1	$543.75	Director for Cargo and Port Security
12/19/02	Harrisburg, PA	1	$379.64	Communications Aide to the Assistant to the President for Homeland Security
12/19/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
12/20/02	Washington, DC	1	$135.22	Communications Assistant
12/21/02	Erie, PA	1	$3,369.44	Operations Officer
01/07/03	Las Vegas, NV	1	$1,128.64	Director, Cyberspace Security
01/09/03	Erie, PA	1	$938.50	Communications Aide to the Assistant to the President for Homeland Security
01/09/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/11/03	San Diego, CA	2	$1,945.55	Operations Officer, Operations Officer
01/14/03	Cape Canaveral, FL	2	$1,798.55	Senior Director for Response and Recovery, Deputy Director, Incident Management
01/15/03	Boston, MA	1	$1,248.78	Director of Critical Infrastructure
01/15/03	Jacksonville, FL	1	$767.86	Director for Weapons of Mass Destruction
01/15/03	New Orleans, LA	1	$968.98	Executive Assistant, Response and Recovery

REV_00168477

01/16/03	Erie, PA	1	$672.78	Communications Aide to the Assistant to the President for Homeland Security
01/16/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/17/03	Erie, PA	1	$238.00	Operations Officer
01/20/03	San Antonio, TX	2	$1,549.64	Special Assistant to the President and Executive Director, PHSAC, Director, External Affairs
01/21/03	Harrisburg, PA	1	$150.00	Communications Aide to the Assistant to the President for Homeland Security
01/21/03	Manhattan, NY	1	$406.96	Senior Director for Response and Recovery
01/21/03	Mexico City, Mexico	1	$1,228.73	Director for Critical Infrastructure Protection
01/22/03	Manhattan, NY	1	$334.50	Director, Economic Consequence Management
01/22/03	Washington, DC	7	$3,930.05	President's Homeland Security Advisory Board
01/24/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/24/03	Shepherdstown, WV	1	$81.06	Director, Economic Consequence Management
01/28/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/29/03	Chicago, IL	1	$245.50	Director, Economic Consequence Management
01/30/03	Washington, DC	7	$4,952.27	President's Homeland Security Advisory Board
02/07/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
02/09/03	Seattle, WA	1	$1,877.78	Director, Cyberspace Security
02/10/03	Norfolk, VA	1	$105.06	Director of Critical Infrastructure
02/13/03	Manhattan, NY	1	$33.25	Director for Cargo and Port Security
02/20/03	Cambridge, MA	1	$2,579.47	Special Assistant to the President and Senior Director for Policy and Plans
02/20/03	Washington, DC	5	$3,647.25	President's Homeland Security Advisory Board
02/21/03	Washington, DC	3	$1,066.55	President's Homeland Security Advisory Board
02/25/03	Lynchburg, VA	1	$52.93	Director Policy and Plans
03/03/03	Albuquerque,NM	1	$982.87	Executive Assistant, Response and Recovery
03/09/03	Baltimore, MD	1	$897.11	Director, Biodefense
03/12/03	Houston, TX	1	$1,218.03	Director, Incident Management
03/25/03	Lynchburg, VA	1	$52.93	Director Policy and Plans
03/31/03	Charlottesville, VA	1	$189.00	Special Assistant to the Deputy Assistant to the President for Homeland Security
	Total		**$302,422.75**	

REV_00168478

Cyberspace Security Travel				
Trip Date	Destination	# of Staff	Trip Cost	Staff Position
04/02/02	Orlando, FL	1	$592.89	Director, Cyberspace Security
04/03/02	Providence, RI	1	$875.74	Vice Chairman, PCIPB
04/05/02	Denver, CO	1	$1,288.87	Vice Chairman, PCIPB
04/08/02	Williamsburg, VA	1	$261.00	Vice Chairman, PCIPB
04/10/02	Albany, NY	1	$904.60	Vice Chairman, PCIPB
04/12/02	Orlando, FL	1	$1,279.00	Vice Chairman, PCIPB
04/16/02	Orlando, FL	1	$757.75	Special Assistant to the President for Cyberspace Security, and Chair, PCIPB
04/21/02	Orlando, FL	1	$1,663.74	Special Assistant to the President for Cyberspace Security, and Chair, PCIPB
05/07/02	Chicago, IL	1	$524.42	Director, Cyberspace Security
05/08/02	Las Vegas, NV	1	$1,009.00	Senior Director, National Security
05/10/02	Boston, MA	1	$455.80	Chief of Staff
5/12/2002	Denver, CO	1	$1,390.93	Director, Cyberspace Security
05/12/02	Denver, CO/Indianapolis, IN	1	$1,574.15	Special Assistant to the President for Cyberspace Security, and Chair, PCIPB
5/14/2002	Denver, CO	1	$1,711.17	Deputy Chief of Staff
5/16/2002	Chicago, IL	1	$328.00	Chief of Staff
5/20/2002	Honolulu, HI	1	$1,371.44	Director, Cyberspace Security
5/27/2002	Chicago, IL	1	$2,874.45	Deputy Chief of Staff
5/29/2002	Chicago, IL	2	$1,489.16	Director for Cyberspace Security, Director for Cyberspace Security
5/31/2002	Portland, OR	1	$2,874.45	Deputy Chief of Staff
6/1/2002	Seattle, WA	1	$4,571.88	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
6/3/2002	Portland, OR	1	$4,571.98	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
6/3/2002	San Diego, CA	1	$1,436.79	Vice Chairman, PCIPB
6/5/2002	Portland, OR	1	$1,677.79	Vice Chairman, PCIPB
6/7/2002	Seattle, WA	1	$1,436.79	Vice Chairman, PCIPB
6/12/2002	Buffalo, NY	1	$761.29	Vice Chairman, PCIPB
6/16/2002	Atlanta, GA	3	$2,522.62	Deputy Chief of Staff, Director, Legislative Affairs, Vice Chairman, PCIPB
6/19/2002	London, GBR	1	$1,687.92	Vice Chairman, PCIPB
6/24/2002	Seattle, WA	1	$982.09	Vice Chairman, PCIPB
6/26/2002	Boston, MA	1	$641.44	Chief of Staff
6/26/2002	Chicago, IL	1	$982.09	Vice Chairman, PCIPB
6/26/2002	Las Vegas, NV	1	$982.06	Senior Director, National Security
7/8/2002	Manhattan, NY	2	$483.20	Vice Chairman, PCIPB, Senior Director, National Security

REV_00168479

7/20/2002	Monterey, CA	1	$1,352.72	Director, Cyberspace Security
7/20/2002	Tulsa, OK	2	$2,474.19	Special Assistant to the President for Cyberspace Security and Chair, PCIPB and Vice Chairman, PCIPB
7/22/2002	Dallas, TX	1	$877.15	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
7/23/2002	Minneapolis, MN	1	$1,602.04	Vice Chairman, PCIPB
7/30/2002	Las Vegas, NV	1	$1,148.96	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
8/4/2002	Roanoke, VA	1	$671.68	Vice Chairman, PCIPB
8/6/2002	Duluth, MN	1	$71.76	Vice Chairman, PCIPB
8/6/2002	Ft. Lauderdale, FL	1	$705.61	Director, Cyberspace Security
8/6/2002	San Francisco, CA	1	$811.92	Director for Cyberspace Security
8/12/2002	Beaver Creek, CO	1	$3,362.76	Chief of Staff
8/12/2002	Vail, Co	1	$3,362.76	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
8/13/2002	Phoenix, AZ	1	$1,128.18	Vice Chairman, PCIPB
8/13/2002	San Francisco, CA	1	$4,362.25	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
8/17/2002	Aspen, CO	1	$287.00	Senior Director, National Security
8/18/2002	San Francisco, CA	1	$3,362.76	Chief of Staff
8/19/2002	Manhattan, NY	1	$470.06	Director for Cyberspace Security
8/22/2002	Boston, MA	1	$462.04	Director for Cyberspace Security
8/26/2002	Nashville, TN	1	$730.23	Vice Chairman, PCIPB
8/26/2002	Ottawa, CAN	1	$1,056.24	Director, Cyberspace Security
8/30/2002	Chicago, IL	1	$1,602.40	Vice Chairman, PCIPB
9/3/2002	Seattle, WA	1	$251.44	Director, Cyberspace Security
9/5/2002	Manhattan, NY	1	$195.04	Senior Director, National Security
9/6/2002	Philadelphia, PA	1	$226.72	Director for Cyberspace Security
9/8/2002	San Jose, CA	1	$845.27	Director for Cyberspace Security
9/12/2002	Atlanta, GA	1	$122.00	Director for Cyberspace Security
9/15/2002	Minneapolis, MN	1	$2,388.45	Vice Chairman, PCIPB
9/15/2002	Palo Alto, CA	1	$2,987.46	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
9/15/2002	San Francisco, CA	2	$4,185.11	Deputy Chief of Staff, Executive Assistant
9/17/2002	Palo Alto, CA	2	$3,847.56	Vice Chairman, PCIPB and Director for Cyberspace Security
9/17/2002	San Francisco, CA	1	$2,032.69	Director for Cyberspace Security

REV_00168480

9/18/2002	New London, CT	1	$2,541.62	Deputy Chief of Staff
9/18/2002	Seattle, WA	1	$2,388.45	Vice Chairman, PCIPB
9/19/2002	Manhattan, NY	1	$186.62	Director for Cyberspace Security
9/21/2002	Albuquerque, NM	1	$901.51	Director for Cyberspace Security
9/24/2002	Austin, TX	2	$1,975.60	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Vice Chairman, PCIPB
9/24/2002	Cleveland, OH	1	$1,092.55	Director for Cyberspace Security
9/24/2002	Denver, CO	1	$1,680.02	Vice Chairman, PCIPB
9/24/2002	San Antonio, TX	5	$5,537.03	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Vice Chairman, PCIPB, Deputy Chief of Staff, Senior Director,
				Senior Director, National Security, Director, Cyberspace Security
9/30/2002	Atlantic City, NJ	1	$375.09	Vice Chairman, PCIPB
9/30/2002	Ft. Meyers, FL	1	$622.71	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/2/2002	Philadelphia, PA	1	$660.04	Deputy Chief of Staff
10/7/2002	Minneapolis, MN	1	$750.71	Director for Cyberspace Security
10/8/2002	Brussels, Bel	1	$3,903.77	Vice Chairman, PCIPB
10/9/2002	Omaha, NE	1	$1,188.85	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/9/2002	Pittsburg, Pa	1	$1,188.65	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/11/2002	London, GBR	1	$3,903.77	Vice Chairman, PCIPB
10/14/2002	Boston, MA	2	$3,428.15	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Deputy Chief of Staff
10/17/2002	Boston, MA	1	$308.38	Director for Cyberspace Security
10/17/2002	Chicago, IL	1	$312.50	Deputy Chief of Staff
10/20/2002	Miami, FL	1	$611.04	Director for Cyberspace Security
10/22/2002	Frederick, MD	2	$669.46	Vice Chairman, PCIPB and Director for Cyberspace Security
10/23/2002	Pittsburg, Pa	2	$1,934.71	Vice Chairman, PCIPB and Deputy Chief of Staff
10/26/2002	Brussels, Bel	1	$6,650.41	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/26/2002	Eugene, OR	1	$1,595.63	Director for Cyberspace Security
10/28/2002	Las Vegas, NV	1	$1,351.69	Director for Cyberspace Security
10/28/2002	San Antonio, TX	1	$501.00	Senior Director, National Security
11/5/2002	Atlanta, GA	1	$1,024.90	Vice Chairman, PCIPB
11/06/02	White Plains, NY	1	$965.79	Director for Cyberspace Security

REV_00168481

11/7/2002	Chicago, IL	3	$1,266.23	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Director, Cyberspace Security, Director, National Security
11/7/2002	Manhattan, NY	1	$793.86	Vice Chairman, PCIPB
11/10/2002	Monterey, CA	1	$1,329.86	Director for Cyberspace Security
11/12/2002	Manhattan, NY	1	$697.49	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
11/13/2002	Manhattan, NY	1	$350.50	Senior Director, National Security
11/13/2002	Phoenix, AZ	2	$3,548.19	Director, Legislative Affairs, Vice Chairman, PCIPB
11/14/2002	Seattle, WA	1	$1,329.66	Director for Cyberspace Security
11/17/2002	Atlanta, GA	1	$436.06	Director for Cyberspace Security
11/17/2002	Ottawa, CAN	1	$2,418.32	Vice Chairman, PCIPB
11/19/2002	Manhattan, NY	1	$877.25	Director for Cyberspace Security
11/19/2002	Salt Lake City, UT	1	$877.25	Director for Cyberspace Security
11/20/2002	Manhattan, NY	1	$699.56	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
12/3/2002	Chicago, IL	1	$229.13	Director for Cyberspace Security
12/3/2002	San Francisco, CA	1	$2,293.66	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
12/4/2002	Phoenix, AZ	1	$1,264.33	Senior Director, National Security
12/4/2002	San Francisco, CA	1	$1,637.48	Director, Cyberspace Security
12/6/2002	Seattle, WA	1	$1,138.43	Vice Chairman, PCIPB
12/9/2002	Boston, MA	1	$401.00	Director for Cyberspace Security
12/9/2002	Charleston, SC	1	$825.27	Director for Cyberspace Security
12/12/2002	Manhattan, NY	1	$380.05	Vice Chairman, PCIPB
12/17/2002	Flemington, NJ	2	$487.54	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Senior Director, National Security
12/18/2002	Atlanta, GA	1	$64.50	Deputy Chief of Staff
1/9/2003	Charlotte, NC	2	$1,929.02	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Deputy Chief of Staff
1/14/2003	Honolulu, HI	1	$1,610.34	Director for Cyberspace Security
1/21/2003	Boston, MA	2	$1,797.69	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Director for Cyberspace Security
1/22/2003	St. Petersburg, FL	1	$492.08	Vice Chairman, PCIPB
1/23/2003	Ft. Meyers, FL	1	$636.12	Director for Cyberspace Security
1/23/2003	Naples, FL	1	$864.08	Vice Chairman, PCIPB

REV_00168482

1/24/2003	Philadelphia, PA	1	$864.08	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
1/24/2003	San Diego, CA	3	$4,654.94	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Deputy Chief of Staff, Director, Cyberspace Security
01/28/03	Williamsburg, VA	1	$239.34	Vice Chairman, PCIPB
1/29/2003	Chicago, IL	1	$306.37	Director for Cyberspace Security
1/30/2003	Manhattan, NY	1	$376.50	Vice Chairman, PCIPB
2/2/2003	Columbus, MS	1	$835.25	Vice Chairman, PCIPB
2/2/2003	San Francisco, CA	1	$1,211.37	Director for Cyberspace Security
2/10/2003	London, GBR	1	$1,473.61	Vice Chairman, PCIPB
02/11/03	Tallahassee, FL	1	$582.94	Director for Cyberspace Security
2/24/2003	Atlanta, GA	1	$768.07	Vice Chairman, PCIPB
2/24/2003	Boca Raton, FL	1	$1,052.94	Director for Cyberspace Security
2/25/2003	Chicago, IL	1	$522.44	Director for Cyberspace Security
3/3/2003	Manhattan, NY	1	$607.86	Director for Cyberspace Security
3/4/2003	San Diego, CA	1	$785.37	Director for Cyberspace Security
3/6/2003	Ottawa, CAN	1	$929.94	Vice Chairman, PCIPB
3/8/2003	Orlando, FL	1	$260.11	Vice Chairman, PCIPB
3/17/2003	San Antonio, TX	1	$801.47	Vice Chairman, PCIPB
3/18/2003	Atlanta, GA	1	$801.47	Vice Chairman, PCIPB
3/22/2003	Paris, FRA	2	$3,402.37	Vice Chairman, PCIPB, Director for Cyberspace Security
	Total		**$192,350.99**	

QUESTION 18: Currently, OHS costs are included in both the WHO and OA appropriations. Is that also the case in the FY 2004 request? If so, please provide a table, by appropriation, showing total OHS budgeted costs, for each of the fiscal years 2002 through 2004.

RESPONSE: For FY 2003, although funds were requested as part of the WHO budget activity, the Office of Homeland Security received for the first time its own appropriation, separate from the WHO appropriation. Funds supporting OHS / HSC requirements in FY 2003 were provided also to OA as part of the OA Pilot program. The FY 2004 Request identifies all requirements for OHS / HSC in the WHO Budget Activity, since the OA Pilot program was not guaranteed to continue after FY 2003. See table below:

REV_00168483

(Dollars in Thousands)

	Congressional Budgets		
	FY 2002* Actual	FY 2003 Estimate	FY 2004 Estimate
OHS / HSC	$30,800	$8,272	$8,331
OA		$783	
	$30,800	$9,055	$8,331

*FY 2002 budget for OHS was based on the OHS mission and funding profile prior to the establishment of DHS and was provided by 3 sources of emergency appropriated funds: P.L. 107-38 for $25,000,000; P.L.107-117 for $2,000,000; and P.L. 107-206 for $3,800,000.

QUESTION 19: Last year, it was stated that one MOU existed between OHS and other EOP entities (p. 51). Please provide a copy of the MOU between MOU and the Office of Science and Technology Policy.

RESPONSE: The MOU between OHS and OSTP expired with the creation of the Department of Homeland Security as relevant responsibilities transferred from OHS to DHS, pursuant to the Homeland Security Act of November, 2002.

QUESTION 20: Have any other MOUs been signed since that time?

RESPONSE: An MOU between the Homeland Security Council and the National Security Council was signed in May, 2003 providing for the expansion of NSC's classified computer network to include approved HSC staff with necessary security clearances.

In addition standard interagency agreements were signed between OHS/HSC and the Office of Administration (OA) and OMB to pay for detailees from these EOP agencies to OHS/HSC and separately between OHS/HSC and OA to pay for miscellaneous supplies and materials.

QUESTION 21: At this time last year, OHS planned to establish a coordination center which would function 24 hours a day, 7 days a week; a communications room; and two incident management rooms. At the same time, the Administration made clear that the role of OHS was to establish and coordinate policy, and not to conduct operational activities. With the establishment of the Department of Homeland Security, have these specific activities been descoped or eliminated?

RESPONSE: The role of the Homeland Security Council is to provide confidential policy advice to the President and coordinate policy across the departments and agencies of the executive branch. The Homeland Security Council does not conduct operational

REV_00168484

activities. The Homeland Security Council does not operate a coordination center. With the establishment of the Department of Homeland Security, DHS is the lead federal agency for incident management. As such, DHS operates a Homeland Security Center with 24 hour/7 days per week coordination and communications capabilities. Those functions do not reside in the Homeland Security Council.

QUESTION 22: How many positions support these activities in the FY 2004 request, and what is the total budgeted amount?

RESPONSE: The FY 2004 budget will not fund any personnel or activities related to a coordination center.

QUESTION 23: How are such activities appropriate for a policymaking body, when DHS now exists to coordinate and execute operational activities related to specific homeland security incidents and activities?

RESPONSE: The Homeland Security Council does not operate a coordination center. With the establishment of the Department of Homeland Security, DHS is the lead federal agency for incident management. As such, DHS operates a Homeland Security Center with 24 hour/7 days per week coordination and communications capabilities. Those functions do not reside in the Homeland Security Council.

QUESTION 24: At the time of last year's hearing, the permanent location and amount of space for the President's Critical Infrastructure Protection Board had not been determined (p. 77). Have these requirements been determined today?

RESPONSE: The President's Critical Infrastructure Protection Board (CIPB) no longer exists at the White House. Executive Order 13228, which created the CIPB was amended. Congress through Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection. Cyber security issues will be addressed by DHS and that office.

QUESTION 25: Likewise, total CIPB staffing had not been determined. Do you have an estimate today? What staffing assumptions were made in the FY 2004 budget submission?

RESPONSE: The President's Critical Infrastructure Protection Board (CIPB) no longer exists at the White House. Executive Order 13228, which created the CIPB was amended. Congress through Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection. Cyber security issues will be addressed by DHS and that office.

REV_00168485

QUESTION 26: How much funding is included in the FY 2004 request for CIPB, and how does that compare to the current estimate for FY 2003?

RESPONSE: The President's Critical Infrastructure Protection Board (CIPB) no longer exists at the White House. Executive Order 13228, which created the CIPB was amended. Congress through Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection. Cyber security issues will be addressed by DHS and that office.

QUESTION 27: Please provide a breakdown showing how those funds would be used.

RESPONSE: The President's Critical Infrastructure Protection Board (CIPB) no longer exists at the White House. Executive Order 13228, which created the CIPB was amended. Congress through Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection. Cyber security issues will be addressed by DHS and that office.

QUESTION 28: Please provide details on any government-industry partnerships that have been created in support of cyber security initiatives coordinated by, or carried out, through EOP or the CIPB.

RESPONSE: In 2002, the President's Critical Infrastructure Protection Board developed a *National Strategy to Secure Cyberspace.* To encourage broader participation and input into the development process, a draft strategy was released for public comment in September 2002. The final strategy was released in February 2003. The PCIPB requested the National Infrastructure Assurance Council and the National Security Telecommunications Advisory Committee to both provide comments on the draft strategy. In addition, there were 10 town hall meetings held in various portions of the country which brought industry, academia and private citizens together to focus on the complex issues related to cyber security.

The *National Strategy to Secure Cyberspace* emphasizes that government-industry partnerships will be a cornerstone. As the primary implementer of the Strategy, DHS will be a partner with industry and academia to accomplish the objectives identified by the President's strategy.

National Security Council (POC – Katherine Fertakis)

QUESTION 29: Your request includes a 10.8 percent increase to cover reimbursable detailee costs and additional support staff for the President's Foreign Intelligence Advisory Board. Please explain the need for these increases in detail.

REV_00168486

RESPONSE: The requested increase covers reimbursable detailee costs of personnel from the Department of State. The National Security Council (NSC) may request detailed personnel performing at a high level in high priority positions to remain beyond their initial tour of duty because of their unique qualifications. Public Law 93-126, Section 11, requires the NSC to reimburse the Department of State for details to the NSC that exceed the cap of 13 detailed into their second year and for all staff detailed longer than two years. The FY 2003 increase in this category estimates for details becoming reimbursable during the Spring and the Summer. The FY 2004 increase represents an annualization of the expenses, minus the cost for the details that will not be renewed.

Since the events of September 11, 2001, the PFIAB support staff workload has been significantly increased and consumed by the homeland security effort. Thus far about 95% of the Board's current advisory work for the President has been directly related to homeland security and counter-terrorism. (Intelligence performance thereon, and support to the new department of homeland security) With only 4 staff members and an already overflowing Board work schedule, work on other important PFIAB priorities has been deferred—such as declassification review of PFIAB archived records. At least three additional staff members, including a GS-14 administrative manager, will be needed to adequately meet support requirements as the Board expands its review of intelligence support to homeland security beyond the more immediate structural and organizational issues, and also re-engages the more general intelligence performance issues across the full spectrum of pressing issues. The FY 2004 request includes $250,000 which will fund two reimbursable detailed staff members and one permanent, Schedule A, Excepted Service, GS-14 administrative management position.

QUESTION 30: What are the dollar and percentage increases for each of the above items, compared to the FY 2003 estimated levels?

RESPONSE: The FY 2004 request for reimbursable detailees represents an increase of $356,000, or 64%, over the FY 2003 estimated levels. The PFIAB increase of $250,000 will be 100% above the FY 2003 request since this is a new requirement for FY 2004.

QUESTION 31: The justifications indicate that 11 additional positions are being added to this office in FY 2003, raising the estimated from 60 in FY 2002 to an estimated 71 in FY 2003. What specific positions are being created?

RESPONSE: The 11 additional positions, which raise NSC's FTE from 60 to 71, are not new positions. In FY 2003, the Office for Combating Terrorism (OCT) was combined with the NSC budget request. The increased FTE request correlates with the continued funding for and operation of the OCT as a part of the NSC submission.

QUESTION 32: The FY 2004 request includes funds for a new GS-14 administrative manager for the PFIAB. Why is this new position needed at this time?

REV_00168487

RESPONSE: PFIAB requires a permanent administrative position for continuity as well as efficiency reasons. The administrative staff constitutes the lifeblood of the Board: it fulfills all of the support responsibilities, including human resource management, budget, travel, procurement, research, publishing, protocol, and special assistance to the Executive Director, Chair and Vice Chair. With only two administrative people on staff, it is absolutely critical that both individuals be fully knowledgeable about and highly experienced at *White House* administrative policies, procedures and guidelines; equally important, *both* must possess highly honed administrative skills *and* be extremely efficient, effective and professionally dedicated.

The Board simply cannot attain this level of experience and competence by relying on detailees from other agencies, particularly non-reimbursed detailees. More often than not, we must accept whomever an agency can make available. Therefore, the Board will use this one permanent administrative billet to create a PFIAB office manager position. This individual not only will provide continuity of expertise and experience, but also will ensure that the other administrative person obtains the proper professional mentoring and supervision. We plan to make this a GS-14 position, but may start the individual we select at the GS-13 level to allow for personal advancement...and thereby also ensuring, hopefully, a fairly long term of service to the Board.

Office of National Drug Control Policy (POC – Michelle Marx)

QUESTION 33: You are requesting 10 additional FTE in FY 2004 to replace 10 non-reimbursable detailees who are no longer available. Why are these positions no longer available, and what are the specific positions?

RESPONSE: ONDCP's FY 2004 request includes resources to support 125 FTEs, an increase of 10 FTEs over the FY 2003 request. This FTE increase is requested to offset the loss of approximately 20 - 25 of the 30 non-reimbursable military detailee positions the Department of Defense has supported at ONDCP since 1996. (The Department of Defense, as outlined in a December 28, 2001 memorandum, adheres to a general policy that approves of requests for details only on a reimbursable basis. Exceptions to this policy are granted only in the most compelling circumstances when the agency head has certified that the net benefit of the detail accrues to the Department of Defense.)

This 10 FTE increase, along with distributing additional responsibilities among existing staff, will allow ONDCP to absorb the detailee staffing loss and meet its statutory responsibilities. The specific positions would be appointed within the following offices: Planning and Budget; State and Local Affairs; Intelligence; and Supply Reduction.

Renovation of the Eisenhower Executive Office Building (POC – Steve Beattie)

QUESTION 34: What is the status of funding provided in FY 2002 and 2003? Please provide a breakdown of funding by the type of activity or renovation performed.

REV_00168488

RESPONSE: 34: The General Service Administration has used FY 2002 Emergency Response Funds in the amount of $1,674,000 for starting the Architects' and Engineers' design contract for the 17th Street Wing Security Modernization Project. GSA is currently in the process of reprogramming $7,500,000 for FY 2003 for design, management and inspection. The FY 2003 reprogramming is required to complete the Design/Build/Bridging documents and assist in managing the Design/Build/Bridging efforts.

QUESTION 35: How much remains unobligated, by appropriation?

RESPONSE: 35: The General Services Administration (GSA) awarded a portion of the design cost in the amount of $1,537,173 utilizing the FY 2002 Emergency Response Fund. $136,827 remains unobligated. GSA has not obligated any FY 2003 funding.

QUESTION 36: Please provide a detailed breakdown showing how funds requested in the GSA budget for FY 2004 would be used.

RESPONSE: 36: The following is a break down on how the funds will be used in FY 2004:

Major Work Items:	
Electrical System	$ 10,244,000
Air conditioning system, chillers and piping	$ 12,530,000
Interior Construction	$ 13,163,000
Utility Vault (includes foundation construction)	$ 22,107,000
Window Blast Mitigation	$ 4,685,000
Mansard Roof Hardening	$ 802,000
Estimated Construction Cost (ECC)	$ 63,531,000
Management and Inspection	$ 2,226,000
Authorization Requested (ECC, M&I)	$ 65,757,000

QUESTION 37: Please provide a detailed schedule for activities planned in FY 2004.

RESPONSE: 37: The design/build/bridging contract is scheduled to be awarded in March 2004. The current schedule for the project is as follows:

Design Award:	04/03
A/E Bridging Documents Complete:	10/03
Design/Build/Bridging Procurement Start:	09/03
Design/Build/Bridging Contract Award:	03/04
Construction Complete:	06/06

REV_00168489

QUESTION 38: How much are you currently paying GSA for the unoccupied space along the 17th Street side of EEOB, and how much rental cost are you incurring for the new locations where relocated employees are working?

RESPONSE: We are paying $0 for FY2003 for the unoccupied space along the 17th Street side of EEOB. GSA is not charging the EOP for the space vacated in September 2001. See Attachment A for the rental cost being incurred for the new locations where relocated employees are working.

Executive Residence (POC – Worthington White)

QUESTION 39: Please provide a table, corresponding to the projects on page 81 of last year's hearing record, showing the original appropriation for each project, the amount obligated to date, and the project status. This involves projects funded in fiscal year 2002.

RESPONSE: The following table provides funding information on the FY 2002 projects.

Executive Residence at the White House
FY2002 White House Repair and Restoration

Project	Original Appropriation	Obligated To Date	Status of Project
Pool Shelter Roof Reconstruction and Pool Deck Renovation	$430,000	$412,926	This project is completed, with only minor punch list items and related recurring maintenance items to be funded from the remaining funds.
Communication System Repairs/Phase 2*	$456,667 $4,544,000	$155,872	Modifications to the original design under Phase I (FY2001) are completed. The pre-bid meeting with prospective contractors is scheduled for mid-May, with contract award by late June, and construction commending by late July.
East and West Wing Exterior Restoration	$2,500,000	$2,398,433	The restoration is underway, all Phase I funds will be utilized this year.
Insulated Windows Replacement	$160,000	$162	The prototype utilizing historically accurate reproduction glass is in production, with manufacturing of actual replacement units expected to begin in June. Installation to be begin in August.
Kitchen Floor Replacement	$75,000	$60,815	This project is nearing completion with the remaining funds to be utilized for utility work.
North Portico Curtain Wall	$120,000	$106,751	The project is completed with remaining funds required to purchase spare parts inventory.
Stone Pavers Restoration	$277,000	$220,082	The project is currently underway and is scheduled for completion by September 2003.
West Colonnade Restoration	$275,000	$0	Planning has recently been completed; work will be accomplished in August and early September 2003.

*For the Comunication System Repairs/Phase 2 project, $456,667 was funded in FY 2001 for Architect and Engineering. The remaining $4,544,000 was for construction.

REV_00168490

QUESTION 40: Please provide a listing of the 95 FTE positions at the Executive Residence requested for funding in FY 2004, showing the position title and the annual salary level.

RESPONSE: The position and salary information is provided in the table that follows.

REV_00168491

EXECUTIVE RESIDENCE AT THE WHITE HOUSE - FY 2003 -- 95 FTE				
USHERS OFFICE				
16 FTE	USHER	$96,880	CALLIGRAPHER	$68,939
	CALLIGRAPHER	$60,202	CALLIGRAPHER	$79,670
	SYSTEMS ADMIN	$99,152	USHER	$90,059
	PROJECT SUPERVISOR	$55,092	CALLIGRAPHER	$69,911
	ADMIN ASSISTANT	$44,244	CHIEF USHER	$142,500
	USHER	$112,347	ADMIN OFFICER	$83,132
	ACCOUNTANT	$56,711	GROUNDS SUPT	$139,297
	USHER	$92,786	NIGHT DOORMAN	VACANT
OFFICE OF THE CURATOR				
4 FTE	CURATOR	$87,328	ASSISTANT CURATOR	VACANT
	COLLECTIONS MANAGER	$50,230	ASSISTANT CURATOR	$65,056
FLOWER SHOP				
4 FTE	CHIEF FLORIST	$92,786	FLORIST	$60,565
	FLORIST	$68,266	FLORIST	$51,987
HOUSEKEEPING				
21 FTE	MAID	$44,452	ASST HOUSEKEEPER	$79,670
	LAUNDRY SPEC	$53,098	HOUSEMAN	$47,539
	HOUSEMAN	$30,541	MAID	$48,671
	MAID	$48,656	CHIEF HOUSEKEEPER	$102,720
	LAUNDRY SPEC	$44,857	HOUSEMAN	$50,441
	MAID	$41,826	MAID	$37,770
	MAID	$42,433	HOUSEMAN	$55,091
	MAID	$28,285	HOUSEMAN	$38,798
	HOUSEMAN	$41,826	MAID	$54,280
	CUSTODIAL SPEC	$48,626	HOUSEMAN	$44,861
			HOUSEMAN	VACANT
FOOD & BEVERAGE SRVCS				
18 FTE	BUTLER	$67,969	PASTRY CHEF	$124,113
	KITCHEN STEWARD	$49,102	ASSISTANT CHEF	$86,211
	ASSISTANT CHEF	$79,670	ASST PASTRY CHEF	$57,521
	BUTLER	$52,360	ASSISTANT CHEF	$46,200
	STOREKEEPER	$64,086	BUTLER	$65,056
	BUTLER	$49,548	BUTLER	$59,411
	STOREKEEPER	$70,558	BUTLER	$66,028
	MAITRE'D	$91,422	CHEF	$113,951
	STOREKEEPER	$55,091	ASSISTANT CHEF	$46,870
OPERATIONS				
7 FTE	OPERATIONS AIDE	$54,116	OPERATIONS AIDE	$33,747
	OPERATIONS AIDE	$54,679	OPERATIONS AIDE	$73,692
	SHOP FOREMAN	$77,449	OPERATIONS AIDE	$58,895
			OPERATIONS AIDE	$49,024
CARPENTER & PAINT SHOP				
6 FTE	CARPENTER	$60,669	CARPENTER	$49,399
	PAINTER	$72,523	CARPENTER	$50,255
	PAINTER FOREMAN	$90,304	CARPENTER FOREMAN	$78,763
ENGINEERS & PLUMBING SHOP				
12 FTE	ENGINEER	$84,878	ENGINEER	$65,532
	ENGINEER	$66,826	ENGINEER	$68,266
	ENGINEER	$63,236	ENGINEER	$52,905
	ENGINEER	$62,234	PLUMBING FOREMAN	$90,304
	PLUMBER	$71,355	ENGINEER FOREMAN	$91,422
	ENGINEER	$66,826	ENGINEER	$51,966
ELECTRIC SHOP				
7 FTE	ELECTRICIAN	$73,692	ELECTRICIAN	$73,692
	ELECTRICIAN	$46,937	ELECTRICIAN	$55,389
	ELECTRIC SHOP FOREMAN	$95,515	ELECTRICIAN	$66,826
			ELECTRICIAN	$45,351

REV_00168492

QUESTION 41: The justifications (p. 67) indicate an estimated unobligated balance of $7,023,000 in this appropriation at the beginning of FY 2003. Please explain the sources of this balance, and provide a schedule for obligation of increments of those funds.

RESPONSE: The majority ($4,388,127) of the unobligated funds are associated with the Communication System Repairs/Phase 2 which was delayed to unanticipated design requirements. The schedule for completion and obligation of all FY2002 projects is detailed in the table below.

Executive Residence at the White House
FY2002 White House Repair and Restoration

Project	Original Appropriation	Obligated To Date	Status of Project
Pool Shelter Roof Reconstruction and Pool Deck Renovation	$430,000	$412,926	This project is completed, with only minor punch list items and related recurring maintenance items to be funded from the remaining funds.
Communication System Repairs/Phase 2*	$456,667 $4,544,000	$155,872	Modifications to the original design under Phase I (FY2001) are completed. The pre-bid meeting with prospective contractors is scheduled for mid-May, with contract award by late June, and construction commending by late July.
East and West Wing Exterior Restoration	$2,500,000	$2,398,433	The restoration is underway, all Phase I funds will be utilized this year.
Insulated Windows Replacement	$160,000	$162	The prototype utilizing historically accurate reproduction glass is in production, with manufacturing of actual replacement units expected to begin in June. Installation to be begin in August.
Kitchen Floor Replacement	$75,000	$60,815	This project is nearing completion with the remaining funds to be utilized for utility work.
North Portico Curtain Wall	$120,000	$106,751	The project is completed with remaining funds required to purchase spare parts inventory.
Stone Pavers Restoration	$277,000	$220,082	The project is currently underway and is scheduled for completion by September 2003.
West Colonnade Restoration	$275,000	$0	Planning has recently been completed; work will be accomplished in August and early September 2003.

*For the Comunication System Repairs/Phase 2 project, $456,667 was funded in FY 2001 for Architect and Engineering. The remaining $4,544,000 was for construction.

As of this date, there are also 5 projects which have balances prior to FY 2002. They are as follows:

FY1996 – Roof Repair – balance of $9,227. These funds will be expended as needed for ongoing maintenance and corrective measures.

FY1998 – Repair/restoration of the Laundry Room – balance of $26,616. Purchase of replacement equipment and maintenance of equipment to be expended in FY2003.

REV_00168493

FY2000 – Purchase and Install Two Ironers – balance of $5,754. These funds will be expended to replace the drive belts in FY2003.

FY2000 – Renovation of Paint Shop – balance of $38,271. Funds will be used to purchase and update equipment to meet EPA and OSHA requirements in FY2003.

FY2000 – Third Floor Promenade – balance of $11,392. Funds will be expended to rehab and replace drainage system in late FY2003 or early FY2004.

White House Repair and Restoration (POC – Dennis Freemyer)

QUESTION 42: You are requesting $4.225,000 for repairs and restoration of the White House. Is there additional funding in the National Park Service budget or elsewhere in the President's budget request for FY 2004 for similar activities at the White House?

RESPONSE: There are no other budget requests for the same activities at the White House.

QUESTION 43: Of this request, $3,500,000 is for restoration of the east and west wing exterior. Please provide a detailed discussion and breakdown of this request.

RESPONSE: The funding requested is for the continuation (2nd phase) of the East and West Wing Restoration project, the first being funded in FY'02. This is consistent with the original planning for the execution of this project based on the experience of the completed Executive Residence Exterior Restoration completed in 1996. A breakdown of major work items follows:

Estimated Construction Costs:

Mobilization, scaffolding, rental equipment	150,000
Stone, stucco, wood restoration, insulated glass	1,580,000
Paint removal	1,660,000
Effluent/hazardous material disposal	150,000
Specialized window film including installation	400,000
Specialized stucco coating including installation	550,000
Painting	500,000
Site Restoration	260,000
Design, project management, project supervision, testing	350,000
Contingency	400,000
Estimated Total Cost	**$6,000,000**
FY 2002 Funding	$2,500,000
FY 2004 Funding Request	$3,500,000

REV_00168494

Pennsylvania Avenue Improvements (POC – Steve Beattie)

QUESTION 44: What is the total estimated cost of security and street improvements on Pennsylvania Avenue in front of the White House, for which funds were provided in FY 2003?

RESPONSE: This project is to be funded by the Federal Highway Administration (FHWA). The total estimated cost of security and street improvements on Pennsylvania Avenue in front of the White House is currently $26.1 million. The information below breaks out the estimated FY 2003 costs for the project.

Project Activity	**Projected FY 2003 Obligations**
Preliminary Activities	
Verification and Concept Studies	$ 605,150
Design Activities	
Ground Survey and Mapping	$ 57,524
Subsurface Utility Survey	$ 149,682
Environmental Documentation	$ 75,000
Final Design (Consultant)	$ 1,300,000
Crash Testing	$ 350,000
FHWA Contract Administration	$ 100,000
Design Contingency	$ 262,644
Construction Activities	
Construction Contract	$ 18,500,000
Utility Construction	$ 1,500,000
FHWA Contract Administration	$ 1,700,000
MVVA Construction Assistance	$ 500,000
Construction Contingency	$ 1,000,000
Grand Totals	**$26,100,000**

QUESTION 45: What is the status of that project? When will FY 2003 funds be obligated?

RESPONSE: 45: The status of the security and street improvements on Pennsylvania Avenue is as follows -

- Project's status is an ongoing iterative process as the Design team receives comments from the public and the various stakeholders on surrounding sites.
- Under the National Environmental Policy Act, the final public information meeting for the Environmental Impact Assessment was held on May 5, 2003, which is the last

REV_00168495

step before the final report is issued the week of May 27, 2003. It is expected that the report's concluding statement will find no significant impact.

- The design team is in the pre-design stage.
- The engineers are currently in the design stage for utility relocation in the project's vicinity.
- The Section 106 review as required by the Secretary of the Interior under the Historic Preservation Act is underway and will develop a Memorandum of Agreement in June 2003, which will address issues regarding the design details. The Section 106 review occurs when a project utilizing federal funds may have an effect upon natural, environmental, or cultural resources and looks at mitigation of any adverse effects to those resources.
- $1.5 million is expected to be obligated at the end of August or early September 2003 to start the utility relocation on Pennsylvania Avenue and at the north ends of Jackson and Madison Places.
- Arrangements have already been made for procurement of the trees to be used on the Avenue since it will require root and limb pruning over two calendar years prior to installation on the Avenue. The trees will be installed after inaugural events in the spring of 2005.
- Approximately, $2,675,000 has been obligated to date (under contract). The remaining $3,685,000 will be obligated within the next six months to have the construction contract awarded by the end of September or early October 2003.

QUESTION 46: How much funding is requested for this project in FY 2004, and where is it located in the budget?

RESPONSE: $15 million has been set aside under the Department of the Interior bill for FY 2004. However, discussions have been held between the Federal Highway Administration and the Office of Policy Development in the Executive Office of the President to make the money available for contract award this fiscal year. Discussions have included placing FY 2004 monies into the FY 2003 supplemental appropriation. With the highway legislation pending, there could be a delay in getting the funding moved into the supplemental appropriation to allow the project to get underway.

QUESTION 47: What is the schedule for studies of traffic congestion mitigation alternatives in the vicinity of the White House, as funded in FY 2003?

RESPONSE: The project administrators met with representatives in the Office of Policy Development in the Executive Office of the President, on May 8, 2003 to begin outlining the scope of the study and a plan to involve the District of Columbia government and neighborhood stakeholders. A schedule for the study has not been developed, but will be prepared in the next three months.

REV_00168496

Remote Data Center (POC – Carlos Solari)

QUESTION 48: What is the status of establishment today of the remote data center?

RESPONSE: The remote data center project is on schedule and on budget. The project began last summer by conducting a systems development lifecycle analysis to determine and recommend the location for the facility. From this analysis, EOP decided on building the data center at a hardened FEMA facility located in Maryland. The project is being co-managed with FEMA and was established with three phases: (1) infrastructure build-out of the hardened facility (power, air handlers, etc), (2) construction of the data center itself (cabling, raised flooring, etc), and (3) the transition of EOP data systems (telecommunications, servers, etc). The project is approximately halfway through completion for the first two phases with a scheduled opening (initial operational capability) date of September 2003. The transition phase is on schedule preparing the systems and will proceed to begin the transfer September 2003 – with a planned transition of 12 months for all systems. The following chart shows the funding of the remote data center from FY 2002 thru FY 2004.

	FY 2002	FY 2003	FY 2004
CIP	$15,000,000	$5,000,000	$8,403,000
S&E	$ - 0 -	$ - 0 -	$ - 0 -
Total	$15,000,000	$5,000,000	$8,403,000

QUESTION 49: Last year, you estimated annual operating costs of this facility to be $7,500,000 (p. 88). Is that your current estimate?

RESPONSE: Last year OA provided a rough estimate of $7,500,000 for the future annual operating cost of the new data center facility. This was based upon the following estimated costs:

- $1,500,000 in communications to maintain connectivity for the EOP,
- $600,000 in space rental,
- $450,000 for hardware maintenance,
- $1,300,000 for software maintenance,
- $2,600,000 for contractor services,
- $300,000 for supplies/components,
- $75,000 for equipment, and
- $675,000 in salaries/benefits.

While most of these estimates remain valid, OA must revise the estimate for space rental to $1,258,000, bringing the revised estimated annual operating costs for the facility to $8,158,000.

REV_00168497

QUESTION 50: Your FY 2004 request includes $8,403,000 to transition the remote data center to full operational status (p. 75). What specific activities are required in FY 2004 to accomplish this? Can you provide a breakdown of the FY 2004 request consistent with these activities?

RESPONSE: The following table lists the FY2004 CIP funds requested for the completion of the remote data center construction and initial year operating costs.

Object Class	Object Class Title	Requested Funding (in $1000s)	Description
23.0	Space Rental Payments	$1,258	This estimate reflects $1,258 in rental for the offsite data center and will be the initial rent to be paid for the offsite data center. This cost was previously funded from emergency funds.
23.3	Communications, utilities, and miscellaneous charges	$4,420	$4,420 is for CIP networking/telecommunications projects at the offsite data center. These projects include funds for a tap off of telecommunications lines, two additional DS-3 data paths, two T-1 lines, and backup to support required communications bandwidth, and availability requirements.
25.2	Other Services	$2,700	This estimate reflects Priority System Disaster Recovery costs, Secondary Systems Disaster Recovery costs, Hardware and Software for the Disaster Recovery Site, and Hardware and Software upgrades to support the data center move.
26.0	Supplies and materials	$25	The estimate reflects $25 in additional supplies necessary for start-up operations at the offsite data center. This will include start up costs for office equipment used for the new office spaces.
Total FY2004 Data Center CIP Request		**$8,403**	

President's Travel (POC - Rothley Howard)

QUESTION 51: Please update the information on pages 89 through 94 of last year's hearing record concerning travel by the President and the First Lady by continuing data from the final entry of last year's record to the present time.

Presidential Staff Travel (POC – Rothley Howard)

QUESTION 52: Please provide a listing of staff travel not in support of the President for fiscal year 2002 and thus far in fiscal year 2003. For each entry, please include the name of traveler, the destination and purpose of trip, the number of days in travel status, and the trip cost.

REV_00168498

Consulting Services (POC – Kathleen O'Halloran)

QUESTION 53: Updating the information on page 115 of last year's hearing record, please provide actual and estimated amounts for consulting services for fiscal years 2002 through 2004.

RESPONSE: "Consulting services" or "Advisory and Assistance Services" as defined by OMB Circular A-11, Section 83, are services acquired by contract from non-Federal sources (that is, the private sector, foreign governments, State and local governments, tribes), as well as from other units within the Federal Government and consists of three types of services: 1) Management and professional support services; 2) Studies, analyses and evaluation; and 3) Engineering and technical services. Listed below are the EOP and other entities with Advisory and Assistance contracts.

White House Office
FY 2002 (Actual)
There were no advisory and assistance contracts for the White House Office.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the White House Office.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Office of Homeland Security/CyberBoard
FY2002 (Actual)
1. $25,140 for independent information technology expertise. Deliverables include access to technical reports and analysis and recommendations. The period of performance is from September 2002 through August 2003.

Office of Administration
FY 2002 (Actual)
1. $1,083,308 for assistance in developing plans, technical architecture and disaster recovery for the relocation of the EOP data center. Deliverables include baseline assessment and analyses, business continuity and disaster recovery plan, data center design requirements report, phased planning, migration and implementation development plan, relocation and implementation plan, final recommendations and a report. The contract was awarded in March 2002 with a performance period through June 2003.

2. $748,988 for assistance in developing an enterprise architecture to incorporate and support the strategic IT vision, goals and objectives of the OA and the EOP. Deliverables include assistance and analysis as follows: critical information shortfall, impact, and trade-off analysis, concept of operations, architecture and enterprise architecture system toolsets, baseline definitions, report results for demonstration of architecture sustainment,

REV_00168499

and target technical architecture and migration plan. The contract was awarded January 2002 with a period of performance through December 2002 and permitted options to extend performance.

3. $48,050 for training, consulting and editing support for EOP/CFO policies regarding financial statements, prompt payment, travel, and transportation act, interagency agreements and portal to portal documents. Deliverables include training materials and conduct of training, formatted and edited documents. The contract was awarded July 2002 and ran through March 2003.

FY 2003 as of May 15, 2003

1. $406,695 for continued assistance in developing an enterprise architecture to incorporate and support the strategic IT vision, goals and objectives of the OA and the EOP. Deliverables include assistance and analysis as follows: critical information shortfall, impact, and trade-off analysis, concept of operations, architecture and enterprise architecture system toolsets, baseline definitions, report results for demonstration of architecture sustainment, and target technical architecture and migration plan. The contract was amended in January and May 2003 to exercise the option to extend performance and funded through September 2003.

2. $149,968 for consultant services to help configure IT storage products and perform data migration and setup. Deliverables include recommendations concerning management and long term strategy for operating and planning architecture along with execution of the infrastructure support. The contract was awarded in May 2003 with a period of performance running through November 2003.

3. $60,000 for assistance in designing a new performance management system for the Office of Administration in order to improve dialogue between manager and employee. Deliverables included recommended performance evaluation system and form as well as training. The contract was awarded in December 2002 with a performance period ending March 2003.

4. $49,800 for consulting services of an electrical engineer. Deliverables included conceptual designs, drawings and specifications, suggested project schedules and cost estimates. The contract was awarded in May 2003 with a period of performance through June 2003.

5. $25,750 for assistance in writing a statement of work for the EOP telephone contract recompete. Deliverables include recommended draft language for technical requirements to be incorporated into the solicitation. The contract was awarded in November 2002 with the period of performance through December 2002.

6. $47,040 for independent information technology expertise. Deliverables include access to technical reports and analysis and recommendations. The period of performance is from September 2003 through August 2004.

REV_00168500

7. $50,000 anticipated to develop an asset management system.

8. $130,000 anticipated to assist CFO with auditing issues.

FY 2004 Request

1. $110,000 anticipated to continue development of an asset management system.
2. $390,000 anticipated to assist CFO with auditing issues.
3. $50,000 anticipated for continued independent information technology expertise.

Office of Management and Budget

FY 2002 (Actual)

1. $39,570 for independent information technology expertise. Deliverables include access to technical reports and analysis and recommendations. The period of performance is from September 2002 through August 2003.

FY 2003 as of May 15, 2003

1. $22,500 anticipated for independent information technology expertise. Deliverables include access to technical reports as well as customized analysis and recommendations. The period of performance is from September 2003 through August 2004.

FY 2004 Request

1. $22,500 anticipated for continued independent information technology expertise planned for FY 2004.

Office of National Drug Control Policy

FY 2002 (Actual)

1. $24,225 for assessment and analysis and recommendations concerning performance plans, organizational goals and objectives. Deliverables include meeting summaries, briefing materials and monthly progress report and report with base-line assessment, recommendations and expected results. The period of performance is from June 2002 through September 2002.

2. $104,387 for organizational effectiveness assessment and analysis. Deliverables include meeting summaries, briefing materials and monthly progress reports, a final report and recommendations and expected results. The period of performance is from June 2002 through November 2002.

3. $150,000 for design of a program performance monitoring system for OCDETF/DIDTA program. Deliverables include meeting summaries, briefing materials,

REV_00168501

monthly progress reports, summary of program elements for measurement, draft and final reports. The period of performance is from April 2002 through October 2002.

FY 2003 as of May 15, 2003

1. $29,411 for assistance with developing a strategic human capital plan. Deliverables include development of a management plan, a workforce profile and assessment of drivers, capacity and gaps, assessment and recommendations and a strategic human capital report. The period of performance is from February 2003 through March 2003.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Council of Economic Advisers
FY 2002 (Actual)
1. $13,631 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from December 2001 to February 2002.

FY 2003 as of May 15, 2003
1. $14,276 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from December 2002 to February 2002.

FY 2004 Request
1. $15,000 estimated for editorial services for the Economic Report of the President. The consultant will provide expertise in editing the final publication. It is anticipated that the contract will last from December 2003 to February 2004.

Council on Environmental Quality
FY 2002 (Actual)

There were no advisory and assistance contracts for the Council on Environmental Quality.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the Council on Environmental Quality.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

REV_00168502

Office of the United States Trade Representative
FY 2002 (Actual)

1. $6,600 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.
2. $5,000 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.
3. $1,980 for expert advice in area of personnel law. Deliverables include legal research, analysis and opinions. Period of performance was from July 2002 through September 2002

FY 2003 as of May 15, 2003

1. $10,000 for expert advice in the area of personnel law on an as-needed basis. Deliverables include legal research papers and recommendations. The contract was awarded for the period October 1, 2002 through September 30, 2003.

2. $10,000 for speech-writing services on an as-needed basis. Deliverables include draft speeches. The contract was awarded for the period May 2003 through September 2003.

FY 2004 Request

1. $10,000 for expert advice in the area of personnel law on an as-needed basis.

Office of Science and Technology Policy
FY 2002 (Actual)

1. $200,000 for independent evaluation of the integration of a variety of biometric identification system design options. Deliverables included a comprehensive report on the evaluation of technical options, sound design principles, testing procedures, interoperability issues as well as identification of implementation and procurement issues. The contract was awarded July 2002 with a completion date of October 2002 but the contract completion date was extended through December 2002.

FY 2003 as of May 15, 2003

1. $300,000 for assistance in implementing a biometric identification system. Deliverables include analysis of NEXUS border technologies and international standards coordination. The contract is anticipated by June 2003 with an anticipated expiration date of June 2005.

FY 2004 Request

There are no new advisory and assistance contracts planned for FY 2004.

REV_00168503

National Security Council
FY 2002 (Actual)

There were no advisory and assistance contracts for the National Security Council.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the National Security Council.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Office of the Vice President
FY 2002 (Actual)

There were no advisory and assistance contracts for the Office of the Vice President.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the Office of the Vice President.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Freedom Corps (POC – Eric Lanman)

QUESTION 54: Please provide EOP budgeted funding for the Freedom Corps for fiscal years 2002 through 2004.

RESPONSE: The funding profile for the USA Freedom Corps from its inception through FY 2004 is as follows:

REV_00168504

(Dollars in thousands) Category	FY02 Actual	FY03 Request	OA Pilot	FY03 Recission	FY03 Enacted	FY04 Estimate
Personnel	420	800	0	0	800	827
Travel	6	600	0	-330	270	102
Rent	99	0	0	0	0	157
Comm, Util & Misc	0	0	0	0	0	25
Printing & Reproduction	0	0	0	0	0	225
Other Services	0	1,200	-289	0	911	926
Supplies & Materials	0	0	0	0	0	9
Equipment	0	0	0	0	0	9
Total	525	2,600	-289	-330	1,981	2,280

Note: As part of a pilot program authorized by Congress in fiscal year 2003, general support costs such as rent, supplies, printing, information technology, etc., are centrally managed and charged against the office of administration.

QUESTION 55: Please provide a breakdown of the FY 2004 request for the Freedom Corps, and a brief description of the work to be accomplished under each item.

RESPONSE: The FY 2004 WHO request includes funding for the following USA Freedom Corps requirements.

Personnel: This category provides funding for the cost of the salaries and benefits for the staff of the USA Freedom Corps. The FY 2004 WHO request included $827,000 for this category.

Travel: The USA Freedom Corps office staff members are frequent travelers and often work at the state and local levels with organizations~~, especially in organizing the Citizen Corps across the country~~. In addition, the Director of the USA Freedom Corps or the appropriate staff is required to address gatherings at national conferences, and of state and local officials in order to disseminate information about the President's Call to Service and the activities coordinated by the USA Freedom Corps~~ and answer questions relating to the organization of USA Freedom Corps activities at the local level.~~ The FY 2004 WHO request included $102,000 for this category.

Rent: This category funds the costs of the GSA office space utilized by the USA Freedom Corps. The FY 2004 WHO request included $157,000 for this category.

Printing: This category includes the costs of the creation and printing of documents regarding the USA Freedom Corps mission and policies and initiatives~~specific programs~~ coordinated by its Council. The FY 2004 WHO request included $225,000 for this category.

REV_00168505

Other services: This category includes funds for the hiring of contractors to measure the nationwide effects of the USA Freedom Corps efforts through surveys and other measurement tools, funds for the creation and production of materials used in the furtherance of the USA Freedom Corps mission and ~~specific programs,~~initiatives coordinated by its Council. The FY 2004 WHO request included $926,000 for this category. ~~and other activities that will further the mission of the USA Freedom Corps.~~

Communications and Misc.; Supplies and Materials; Equipment: These general categories are managed centrally by the White House Office of Management and Administration. Funds in these categories support the normal costs associated with day to day office operations. The FY 2004 WHO request included $43,000 for this category.

QUESTION 56: Last year, funds were requested for Freedom Corps information dissemination and recognition materials (p. 239). Are similar activities funded in FY 2004? If so, how much?

RESPONSE: The FY 2004 WHO request includes requirements for similar activities to those funded in FY 2003 and included are funds for information dissemination and recognition materials. Funds for these activities are included in the Other Services category of the WHO request. An estimated $926,000 of this portion of the request is for USA Freedom Corps requirements.

QUESTION 57: Are additional funds requested in FY 2004 outside the EOP?

RESPONSE: As a White House office and a coordinating council, the USA Freedom Corps does not run, fund, or administer programs. Instead, the USA Freedom Corps coordinates the development of policies and initiatives with various offices/entities in the Executive Branch in support of the President's goal to strengthen the American culture of service while helping all Americans find meaningful service opportunities. This role does not require outside funding and none have been requested by the WHO.

QUESTION 58: Please provide a listing of the staff in the USA Freedom Corps Office, showing the incumbent name and position. Please designate any detailees.

RESPONSE: A listing of the current USA Freedom Corps Office staff is provided below.

John Bridgeland: Assistant to the President and Director, USA Freedom Corps
Ron Christie: Special Assistant to the President and Deputy Director, USAFC
Lindsey Kozberg: Special Assistant to the President for Policy/Public Affairs
Therese Lyons: Director of Public Liasion
Ian Rowe: Director of Management and Strategy
Kathleen Mynster: Deputy Press Secretary
Britt Grant: Special Assistant to the Director
Cornell Teague: Associate Director

REV_00168506

Nique Fajors: Agency Liaison - Detailee

Sensitive Compartmented Information Facilities (POC – Jeff Thompson)

QUESTION 59: Are any funds requested in any EOP office in the FY 2004 President's request for the construction of sensitive compartmented information facilities (SCIFs)?

RESPONSE: No funds are requested for SCIFs in FY 2004.

QUESTION 60: How many such facilities have been built within EOP offices since the terrorist attacks of September 11, 2001?

RESPONSE: Since the terrorist attacks of 9/11 the EOP has requested through the Secret Service to the CIA the accreditation of 23 additional SCIFs. To date eight SCIFs have been completed, 13 are pending final approval inspection from the CIA and two requests were later rescinded.

Data Center Relocation (POC – Carlos Solari)

QUESTION 61: What is the status of efforts to relocate the existing EOP data center, and what are plans for the coming year?

RESPONSE: The remote data center project is on track to achieve completion on budget and on schedule. The project began last summer by conducting a systems development lifecycle analysis to determine and recommend the location for the facility. From this analysis, EOP decided on building the data center at a hardened FEMA facility located in Maryland. The project is being co-managed with FEMA and was established with three phases: (1) infrastructure build-out of the hardened facility (power, air handlers, etc), (2) construction of the data center itself (cabling, raised flooring, etc), and (3) the transition of EOP data systems (telecommunications, servers, etc). The project is approximately halfway through completion for the first two phases with a scheduled opening (initial operational capability) date of September 2003. The transition phase is on schedule preparing the systems and will proceed to begin the transfer September 2003 – with a planned transition of 12 months for all systems.

QUESTION 62: Are funds requested in the FY 2004 budget for this project?

Object Class	Object Class Title	Requested Funding (in $1000s)	Description

REV_00168507

Object Class	Object Class Title	Requested Funding (in $1000s)	Description
23.0	Space Rental Payments	$1,258	This estimate reflects $1,258 in rental for the offsite data center and will be the initial rent to be paid for the offsite data center. This cost was previously funded from emergency funds.
23.3	Communications, utilities, and miscellaneous charges	$4,420	$4,420 is for CIP networking/telecommunications projects at the offsite data center. These projects include funds for a tap off of telecommunications lines, two additional DS-3 data paths, two T-1 lines, and backup to support required communications bandwidth, and availability requirements.
25.2	Other Services	$2,700	This estimate reflects Priority System Disaster Recovery costs, Secondary Systems Disaster Recovery costs, Hardware and Software for the Disaster Recovery Site, and Hardware and Software upgrades to support the data center move.
26.0	Supplies and materials	$25	The estimate reflects $25 in additional supplies necessary for start-up operations at the offsite data center. This will include start up costs for office equipment used for the new office spaces.
Total FY2004 Data Center CIP Request		**$8,403**	

White House Communications Agency (POC – Eric Lanman)

QUESTION 63: Updating the information on page 133 of last year's hearing record, please provide estimated reimbursements for the White House Communications Agency for each of the fiscal years 2002 through 2004.

RESPONSE: Reimbursements made to the White House Communications Agency, for the non-telecommunications support they provide to the WHO, is broken down into two categories: military personnel and audiovisual support. The amount of planned reimbursement is initially set and agreed to via an inter-agency agreement (IAG). This IAG is then adjusted if needed as a result of actual execution. Reimbursement actuals and estimates follow:

	FY02 (actual)	FY03 (est.)	FY04 (est.)
Military Personnel	$4,376,085	$4,754,346	$4,858,942
Audiovisual Support	$4,543,643	$3,953,848	$2,743,915
Total	$8,919,738	$8,708,194	$7,602,857

REV_00168508

The FY04 estimate for audiovisual support shows a decrease from the FY 2003 estimate due to the move of audiovisual supplies and equipment from IAG reimbursed items to direct procurement through normal WHO channels.

Office of Administration (POC – Chuck Sigman)

QUESTION 64: Updating the information on page 134 of last year's hearing record, please provide a current organizational chart for the Office of Administration, including the associated numbers of FTEs requested for each office in the FY 2004 President's budget.

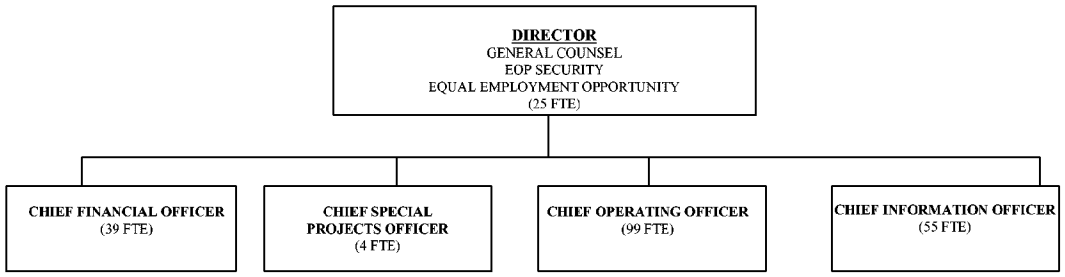
RESPONSE: The Office of Administration organization chart provided below reflects the current organizational structure. The FY 2004 FTE request remains constant with FY 2003 levels (222 FTE).

Executive Office of the President

Office of Administration

Organization Chart

FY 2004



Total 222 FTE

QUESTION 65: Last year, it was estimated that 4 FTE were needed to provide administrative services to the Office of Homeland Security. Since that office is substantially smaller due to establishment of the DHS, is there a lesser requirement for OA support? If so, is that reflected in FY 2004 staffing figures?

RESPONSE: The FY 2003 budget proposal included the statement that there was "2 CFO staff to support Homeland Security" rather than the 4 FTE referred to in the question. These two Chief Financial Officer (CFO) staff were requested during FY 2003

REV_00168509

because last year's OA budget request was a 49% increase over the previous year's spending – and security-related enhancements accounted for nearly all of that increase. The FY 2004 budget proposal included additional security-related enhancements beyond the FY 2003 level. Furthermore, even though the funding level of the Homeland Security Council is not as great as was originally envisioned, it is still a separate account for which the staff must perform the same number of administrative tasks in setting up and monitoring the status of the account. Therefore, the additional two FTE in the CFO office remain necessary to assist EOP offices in executing their new responsibilities.

QUESTION 66: Your salary and expenses request includes a transfer of $1,500 from Homeland Security for information technology services. What are these services?

RESPONSE: The part of OHS that remained with EOP (now called the Homeland Security Council) does not need the information technology contractor support that was previously planned. There is, however, an urgent need to expand the funding needed to support the White House website. The system security put in place to protect the whitehouse.gov website from cyber attack includes a web content distribution designed to make it highly resistant to denial of service type attacks. The cost of this service has increased dramatically, and is directly proportional to the volume of activity. The volume of activity, in turn, is a combination of the website hits and the level of cyber-attack activity directed against the site. The importance of the White House web site cannot be overstated. Along with the DHS website, the whitehouse.gov website is one of the primary government sites with a mission to communicate threat level information to the public.

Due to increased traffic on the White House website, the monthly cost of web caching service to maintain the website has risen from $30,000 per month to more than $75,000 per month. The estimated FY 2004 cost to maintain the website is $1,500,000. No funds were requested for this increased requirement in the FY 2004 budget. OA wishes to use the funds originally requested for the OHS information technology contract support for the White House website effort.

QUESTION 67: You are requesting additional funding for victim rescue units, which would be distributed to all White House staff (p. 82). What are these units, and what is the unit cost?

RESPONSE: Victim Rescue Units (VRUs) provide a 20-45 minute supply of pure oxygen to the wearer. This would be critical to the survival of EOP staff in the event of an incident which would require an evacuation to a safe area. VRUs were selected because they can be easily operated by a novice, while it takes a significant amount of training to teach staff to properly operate a gas mask. VRUs have a ten-year shelf life, which is significantly longer than gas mask filters. They provide protection from the entire threat spectrum from fire and smoke to chemical and biological agents. The VRUs are portable and small, and their expected cost is $375 each.

REV_00168510

QUESTION 68: How is the requirement for additional safes and emergency evacuation chairs documented?

RESPONSE: The EOP Security Office conducted a review of security containers (safes) at the White House Complex and found that most of them were 1950's-vintage mechanical locks. During the aftermath of 9/11, it was deemed important that the White House adhere to the latest Federal regulations promulgated by the General Services Administration (FFL-2740A) for the protection of classified materials. Thus, the EOP recommends acquiring new security containers which are fully compliant with GSA standard which governs all changeable combination locks for the protection of national security information.

After 9/11, we reviewed all emergency evacuation procedures for the White House Complex. As we updated evacuation plans and reviewed procedures it was determined that evacuation chairs were needed in various buildings and on various floors to assist individuals who may need assistance or have special needs during an evacuation. This was an internal study performed by staff of the EOP security office.

Financial Audits (POC – Al Muhlbauer)

QUESTION 69: Last year, you advised us that EOP would plan to address the findings of the recent auditability assessment no later than FY 2003. What is the status of that effort today?

RESPONSE: EOP has initiated five major efforts to address the auditability assessment. They are:

- Development and publication of the EOP entity and reporting structure, which was completed and is and presented in the FY 2004 Budget Submission.
- Development and publication of the EOP financial management structure, which has been developed in draft and is currently being circulated for comment within EOP. Approval and issuance of the financial management structure is expected to occur within 30 days.
- Provide financial management policy and guidance to the EOP, and put in place consistent EOP-wide business practices and procedures. This effort is underway and is expected to be completed this fiscal year.
- Select a replacement for the current non-compliant financial accounting system. The Office of the Chief Financial Officer has reviewed various alternatives and has made a determination to be cross-serviced by another Federal agency that has implemented a compliant system, is currently receiving "clean" audit opinions, and has cross-servicing as an agency mission. Two such organizations were identified, a requirements document was provided, their proposals are currently being evaluated, and a decision is expected within the next two weeks.
- Accomplish a detailed review of the EOP general ledger and supporting documents for account balances, correct the data as necessary, and prepare the

REV_00168511

information for conversion to the replacement accounting system. A "clean-up" and conversion plan is in process and will be coordinated with the selected cross-servicing agency.

QUESTION 70: When will you be able to produce an auditable financial statement?

RESPONSE: The Chief Financial Officer completed an exercise that resulted in EOP-wide financial statements, that exercise identified various data problems that confirmed the auditability assessment. The "clean-up" exercise which is required prior to the conversion to the cross-servicing agency's system is addressing these problems and it is anticipated that the FY 2004 financial statements will be audited.

QUESTION 71: Last year, you stated that you had identified best practices for documented policies and procedures based upon one federal agency which has been recognized as one of the best in the Federal Government (p. 136). Which agency are you using as a model, and what are some examples of the specific best practices you intend to use?

RESPONSE: We were referring to the Department of Education and we conducted a pilot of their approach for developing policies and procedures within the Office of the CFO. While that pilot was helpful, we determined that three other tasks (identify reporting entity, develop financial management structure, and identifying our financial accounting system cross servicing provider) needed to be completed before our policies and procedures could be developed. Since those are near completion we anticipate again focusing on developing policies and procedures during the remainder of this fiscal year.

White House Office (POC – Eric Lanman)

QUESTION 72: Please provide a breakdown of the FY 2004 budget request for the White House Office by office or activity, as itemized on pages 137 and 138 of last year's hearing record. Please compare those amounts to corresponding amounts for FY 2002 (actual) and FY 2003 (estimated), similar in format to that shown on pages 246 and 247 of last year's hearing record.

RESPONSE: As noted last year, a single budget is prepared for the WHO. This single budget is prepared based on a number of criteria such as: prior spending patterns, estimated requirements, OMB provided inflation factors, and the priorities of the President. During a given execution year, personnel costs are allocated based upon that year's sometimes unique staffing decisions. The remainder of the budget is allocated initially to two WHO offices. The travel budget is allocated in its entirety to the Office of Advance and obligated against this office if the travel is done in support of the President. Any travel undertaken that is not in support of a Presidential trip is charged to the office of the staff member in question. The remaining portion of the non-personnel, non-travel

REV_00168512

budget, including expenses for rent, supplies, equipment and other services is considered overhead and in most years is charged as such to the White House Office of Management and Administration. In FY 2003 as part of a pilot program authorized by Congress, costs related to many of these "overhead" items were consolidated under the EOP Office of Administration. Obligations (actual and estimated) are provided by individual White House office for FY 2002 thru FY 2004 in the table below.

(dollars in thousands)				
as of 9 May 2003				
White House Office	**FY02 act.**		**FY03 est.**	**FY04 est.**
Office of Chief of Staff	1,239		1,474	1,507
Oval Office Ops	347		476	487
Offices of Scheduling and Advance	2,874		3,593	3,673
Office of Cabinet Affairs	665		615	629
Communications, Speechwriting & Media	2,611		2,486	2,541
Office of the Counsel to the President	1,775		1,966	2,010
Faith Based and Community Initiatives	612		536	548
Office of the First Lady	1,270		1,492	1,525
Office of Intergovernmental Affairs	568		538	550
Office of Legislative Affairs	2,242		2,118	2,165
Office of Management and Administration	26,867		19,620	30,651
Office of Presidential Personnel	1,950		2,425	2,479
Office of the Press Secretary	933		1,182	1,208
Office of the Staff Secretary	5,860		6,469	6,613
Office of Strategic Initiatives	3,952		4,325	4,421
USA Freedom Corps Office [1]	426		1,070	929
Total WHO Obligations [2]	54,191		50,385	61,937

Notes:

(1) $911K of the FY03 USA Freedom Corps estimate and $1,351K of the FY04 USA Freedom Corps estimate detailed in the answer to question 54, are included above within the Office of Management and Administration numbers as are similar funds for all other White House Offices.

(2) Because Congress has chosen to appropriate funds for the Office of Homeland Security (OHS)/ Homeland Security Council (HSC) separately from the WHO appropriation, numbers related to OHS/ HSC are not included above. FY03 and FY04 estimates for OHS/ HSC are addressed independently in response to other committee questions.

QUESTION 73: Please provide a corresponding breakdown for FTE staff years and OGE, similar in format to that shown on pages 152 through 154 of last year's hearing record.

RESPONSE: As noted last year, the major units within the White House Office are simply a creature of administrative convenience. The number of employees within each unit and the work of each unit vary over time and as circumstances and needs change. With this kept in mind, a detailed breakout of FTEs and OGEs by unit, is provided below. This breakout is based on current estimates and planning and will differ during the actual

REV_00168513

execution year. In addition to these major units, certain individuals – including certain individuals who work with the National Security Council, the Domestic Policy Council, and the National Economic Council – are also White House Office employees, although the units within which they principally work are not themselves part of the White House Office. These individuals are included under the Other category.

	FY02	FY03	FY04
White House Office	actual	est.	est.
Office of Chief of Staff - FTE	12	12	12
Office of Chief of Staff - OGE (Agency Rep)	0	0	0
Oval Office Ops - FTE	4	5	5
Oval Office Ops - OGE	0	0	0
Advance - FTE	15	15	15
Advance - OGE	0	0	0
Office of Cabinet Affairs - FTE	7	6	6
Office of Cabinet Affairs - OGE (Assignee)	4	4	4
Communications, Speechwriting & Media - FTE	36	35	35
Communications, Speechwriting & Media – OGE (Detailee)	1	1	1
Office of the Counsel to the President - FTE	18	19	19
Office of the Counsel to the President - OGE (Detailee)	3	3	3
Office of the Counsel to the President - OGE (Assignee)	1	1	1
Faith Based and Community Initiatives - FTE	7	8	8
Faith Based and Community Initiatives – OGE (Detailee)	1	1	1
Faith Based and Community Initiatives – OGE (WH Fellow)	1	1	1
Office of the First Lady - FTE	20	19	19
Office of the First Lady - OGE	0	0	0
Office of Intergovernemental Affairs - FTE	8	9	9
Office of Intergovernemental Affairs - OGE	0	0	0
Office of Legislative Affairs - FTE	23	24	24
Office of Legislative Affairs - OGE (Detailee)	1	1	1
Office of Management & Administration - FTE	32	38	38
Office of Management & Administration - OGE (HP Serv)	14	14	14
Office of Political Affairs - FTE	11	11	11
Office of Political Affairs - OGE	0	0	0
Office of Presidential Personnel - FTE	26	38	38
Office of Presidential Personnel - OGE (Detailee)	2	2	2

REV_00168514

Office of Public Liaison - FTE	12	11	11
Office of Public Liaison - OGE (Assignee)	1	1	1
Office of the Press Secretary - FTE	12	12	12
Office of the Press Secretary - OGE	0	0	0
Scheduling - FTE	10	11	11
Scheduling - OGE (HP Serv)	2	2	2
Office of the Staff Secretary - FTE	98	98	98
Office of the Staff Secretary - OGE (Detailee)	2	2	2
Office of Strategic Initiatives - FTE	13	13	13
Office of Strategic Initiatives - OGE (Reim Detail)	1	1	1
USA Freedom Corps Office - FTE	8	6	6
USA Freedom Corps Office - OGE (Detailee)	5	5	5
USA Freedom Corps Office - OGE (WH Fellow)	1	1	1
Other - FTE	13	16	16
Other - OGE	4	4	4

White House Office obligations, FTE and OGE are summarized below.

	FY02 act.	FY03 est.	FY04 est.
Total WHO – FTE	385	406	406
Total WHO – OGE	44	44	44
FY03 Congressional Request – FTE	400	406	406

Notes: Because Congress has chosen to appropriate funds for the Office of Homeland Security (OHS)/ Homeland Security Council (HSC) separately from the WHO appropriation, numbers related to OHS/ HSC are not included above. FY03 and FY04 estimates for OHS/ HSC are addressed independently in response to other committee questions.

Historically Provided White House Office Positions (POC – Eric Lanman/Jon Laurich)

QUESTION 74: Updating the information on page 235 of last year's hearing record, please provide a listing of historically provided White House Office positions.

RESPONSE: The following chart shows the 18 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 12, 2003*:

POSITION	OFFICE	HOME AGENCY
1. Assistant To The Presidential Diarist	Office Of Scheduling	NARA

REV_00168515

2. Presidential Diarist	Office Of Scheduling	NARA
3. Administrative Assistant	PFIAB *	CIA
4. Administrative Services Specialist	PFIAB *	DOD
5. Deputy Executive Director	PFIAB *	CIA
6. Deputy Director of Photography For Visuals	Photo Office	DIA
7. Visual Information Specialist	Photo Office	DOD
8. Official Photographer	Photo Office	DOD
9. Official Photographer	Photo Office	DIA
10. Photographer	Photo Office	DOD
11. IT Systems Administrator	Photo Office	DIA
12. Photo Editor	Photo Office	DIA
13. President's Photographer	Photo Office	DIA
14. Photographic Specialist	Photo Office	DIA
15. Admin Officer	Photo Office	DIA
16. Staff Assistant	Visitors Office	Dept Of Interior
17. Executive Assistant	Visitors Office	Dept Of Interior
18. Staff Assistant	Visitors Office	Dept Of Interior

*PFIAB is the President's Foreign Intelligence Advisory Board

Other Services (POC – Chuck Sigman)

QUESTION 75: Similar to the information on page 236 et seq. of last year's hearing record, please provide a detailed description of each project, program, or initiative proposed to be funded in FY 2004 under object class 25.2 ("other services").

RESPONSE: Capital Investment Plan (CIP) - $5,220,000

The overall FY 2004 CIP requirement supports nine areas, as described below. The following "services" costs are included in the FY 2004 CIP request:

- **$690,000 for Customer Service and Desktop Systems.** This funding will be used to perform desktop software integration support.
- **$450,000 for New Technologies and Systems**. This includes "services" funding of $150,000 for server technology integration testing, and $300,000 for voice and data integration.
- **$230,000 for EOP Systems and Support,** including "services" funding of $150,000 to develop external Local Area Networks, and $80,000 for production test lab development.
- **$700,000 for Information Security** for enterprise identity projects to allow the introduction of new authentication and identification mechanisms into the EOP IT infrastructure.

REV_00168516

- **$650,000 for Web-Based Services** for web services application environment.
- **$2,500,000 for the Offsite Data Center** for services necessary to transition the offsite data center to full operational status
- **There are no services funds allocated to Campus Wiring, Networks and Data Communications Infrastructure, or Messaging and Scheduling.**

Salaries and Expenses - $2,150,000

There are three initiatives in the FY 2004 OA salaries/expense budget which comprise $2,150,000 in new programs under object class 25.2 ("other services"):

- **$1,800,000 for Technology and Systems Support Contract .** The Chief Information Officer (CIO) provides a wide range of computer services support to the EOP. These tasks are performed in large measure through an outsourcing contract that delivers IT services from PC deployment, to help desk and data center operations. During FY 2003, this IT systems support contract was competed with an increase in base labor rates due to the need for more advanced skills in IT disciplines such as XML and web services software development, Oracle database development and administration, and implementation of a new Enterprise Resources Planning (ERP) application covering finance, asset management and human resources. The CIO outsource contract is the vehicle used to maintain a 24 hour-a-day operation for mainframes, servers, help desk, local area networks, personal computers, applications; installation of end-user hardware and software; training; software application development and maintenance services. Altogether, this contract supports customers throughout the White House 18 acre complex, at remote and mobile locations, and at the planned Offsite Data Center. Key components driving the cost upward include: (1) higher labor rates for the DC area, which have risen since the previous IT 1997 facility contract; (2) the impact of the new data center operations in 2003 and thereafter; (3) an expanded EOP customer base which has more advanced, sophisticated, and security-conscious users.

- **$300,000 for Information Assurance Support.** The CIO has established the Information Assurance (IA) program to serve as a central location for information security serving all of EOP. FY 2002 and FY 2003 funds attended to the most critical concern with significant vulnerabilities in the perimeter and began the process of securing the internal systems. The IA program created real-time monitoring of perimeter network devices; it established the first formal documentation of IA program policy to bring the EOP in conformance with Federal guidelines and directives. However, the cyber threat facing EOP is dynamic because our systems are constantly assailed with a wide and unexpected range of attacks. The new state of defense must be active vigilance, to include the following components: (1) Perimeter Security, (2) Advanced Security Concepts, (3) Contingency Planning Support, (4) Network Monitor/Response Systems, and (5) Security Awareness, Assessments, and Education.

REV_00168517

- **$50,000 for Security Enhancements: Videos.** There is a frequent and ongoing need for a security video – specific to the EOP and White House – which can be used in security briefings and new employee orientation meetings. This video will contain a brief overview of security responsibilities and procedures which must be understood by all personnel working in the EOP.

Salaries and Expenses (POC – Dilworth)

QUESTION 76: Please provide a detailed description of any expenses in the FY 2004 budget under "salaries and expenses" which are not directly related to personnel compensation and benefits.

Security Guard Services for OSTP (POC – Chuck Sigman)

QUESTION 77: In FY 2003, you budgeted $1,798,000 for security guard services for the Office of Science and Technology Policy. Are similar funds requested in FY 2004? If so, how much?

RESPONSE: The FY 2004 OA budget proposes that the cost of the security guard service (estimated at $702,000) for OSTP be transferred to the OSTP appropriation. Thus, the proposed FY04 OA budget would contain the balance of the funds (approximately $1.1 million).

Since the FY 2003 budget was proposed, there have been additional reviews of the physical security of the White House complex by the US Secret Service, the Federal Protective Service, and the OA Security Office. As a result, the OA Security Office has been assigned the responsibility of correcting deficiencies in EOP physical security. There are some locations which do not currently have Secret Service protection (such as the Jackson Place White House Conference Center). Another location which does not have firm long-term security plans is the office at 1800 G Street. Thus, the Office of Administration has ongoing needs for the $1.1 million which remains in the OA budget. During FY03, these funds are being used for consolidation of information technology maintenance ($200,000), centralization of database services ($200,000), and common building service costs ($400,000). The remaining $300,000 of these savings will be used for an FY03 OA personnel shortfall.

QUESTION 78: Why aren't such funds in the OSTP budget?

RESPONSE: The estimated FY04 cost of 24-hour security guard services is included in the FY04 OSTP budget request. This estimate is $702,000 for a full year.

Political Appointees (POC – Jon Laurich)

REV_00168518

QUESTION 79: Please update the information on political appointees within EOP as shown on page 268 of last year's hearing record, using the same criteria and assumptions as last year.

RESPONSE: The term "political appointees" is somewhat of a misnomer because it narrowly defines the type of employees authorized under Chapter 2 of Title 3 of the U.S. Code, for the White House Office, the Executive Residence, the Official Residence of the Vice President and the Office of Administration. These offices can hire personnel in various excepted service positions that are not subject to the rules of regular government employees. Many of these excepted service positions fall under the category of serving at the pleasure of the President while others do not. Using the term in the broadest possible sense, including all employees hired as Presidential Appointees, Administratively Determined, Non Career SES, or Schedule C's, the Executive Office of the President has the following number of political appointees directly hired within the EOP and serving in the EOP on detailed assignments from other agencies as of May 5, 2003.

	FY 2003 "POLITICAL APPOINTEES" *as of May 5, 2003*					
Program	**Admin. Determ.***	**Schedule C**	**Non career SES**	**Presidential Appointees**	**OGE** Political Appointees**	**TOTAL**
White House Office	438				8	**446**
Office of Homeland Security	20				9	**29**
Special Assistance to the President	24				1	**25**
Official Residence of the Vice President						
Office of Administration		1				**1**
Office of Policy Development	30				2	**32**
National Security Council					3	**3**
Council of Economic Advisers	16	3		1		**20**
Office of Management and Budget	2	21	11	5		**39**
Office of National Drug Control Policy		10	2	5		**17**
Executive Residence						
Office of Science and Technology Policy		3	2	3	1	**9**
Council on Environmental Quality	10	2		1	2	**15**
U.S Trade Representative	19	5	3	4		**31**
TOTAL	**559**	**45**	**18**	**19**	**26**	**667**

* Historically, Administratively Determined appointees within some agencies have served from one administration to another. Nevertheless, they serve at the pleasure of the entity head and may be terminated without cause.

** OGE = Other Government Employees

Detailees (POC – Jon Laurich)

QUESTION 80: Please update the information on reimbursable and non-reimbursable detailees with EOP as shown on pages 268 and 269 of last year's hearing record.

RESPONSE: There are currently 251 detailees staffed within the Executive Office of the President. There are 40 reimbursable detailees and 211 non-reimbursable detailees as shown in the chart below, as of May 5, 2003:

REV_00168519

Program	FY 2003 Estimates		
	Reimbursable Detailees	Non-Reimbursable Detailees	TOTAL
White House Office	5	11	**16**
Office of Homeland Security	23	3	**26**
Special Assistance to the President		1	**1**
Official Residence of the Vice President			
Office of Administration			
Office of Policy Development	1	1	**2**
National Security Council	4	104	**108**
Council of Economic Advisers	2	2	**4**
Office of Management and Budget	3	54	**57**
Office of National Drug Control Policy		4	**4**
Executive Residence			
Office of Science and Technology Policy	2	3	**5**
Council on Environmental Quality		3	**3**
U.S Trade Representative		25	**25**
TOTAL	40	211	251

Office of the Vice President (POC – Kristen Savercool)

QUESTION 81: You are requesting an additional $70,000 (+1.7 percent) for the Vice President's travel, due to increased travel to undisclosed locations after the terrorist attacks of September 11, 2001. Weren't these type of increases baselined in FY 2002 and FY 2003, and if so, why are further increases needed in FY 2004?

RESPONSE: The FY 2003 budget was submitted in February 2002, prior to it becoming evident that the Vice President's travel requirements had increased more than originally estimated. Following the events of 9-11, the Vice President has been required to be outside the Washington, DC vicinity for significant periods of time. This travel has been 100 percent official, and operational in nature (i.e. the Vice President performs his regular duties in an off-site location). This travel has required the accompaniment of staff, who also perform operational duties.

Because the budget impact of these additional travel requirements was not fully realized until after the FY 2003 budget request was submitted, they were not included in the FY 2003 baseline. Continued security concerns related to the Vice President and the ensuing impact on the Vice President's travel costs necessitate the increase to the FY 2004 OVP travel budget. This increase will allow the Vice President the flexibility needed to adequately execute his official travel requirements.

REV_00168520

Unanticipated Needs (POC – Eric Lanman)

QUESTION 82: Please provide a listing of the uses of Unanticipated Needs funds in FY 2002.

RESPONSE: $757,000 of the $1,000,000 appropriated to the Unanticipated Needs account in FY 2002 was provided to OMB for Office of Homeland Security Transition Planning Office. The remaining appropriation was not utilized.

REV_00168521

Questions for the Record
Ranking Member, John Olver
Hearing on the Executive Office of the President
April 30, 2003

Account Consolidation and Transfer Proposals (POC – Al Muhlbauer/Jim Daniel)

When we centralized the funds within the Office of Administration, Congress intended that each agency would continue to receive a similar share of support and assistance under the consolidation.

QUESTION 83: Are any agencies going to receive diminished services or resources under the consolidation?

RESPONSE: No, currently the funding in the pilot has been allocated to be consistent with the FY 03 budget request. The service levels will be equal to or greater than pre-pilot levels; however, we are hopeful that the cost to procure the same level of service will decrease. Also, the Office of Administration is preparing service standards that will be approved by the Common Services Board. For example, if the service standard for PC's would be one PC per desktop that is less than four years old and if one EOP component is currently at that standard for 95 % of its employees and another is currently at that standard for 50% of its employees, based on need, the second component would get a larger share of the services to bring it closer to the EOP standard. This allows EOP to consistently upgrade software and services across the entire organization as the total infrastructure permits.

QUESTION 84: Are any agencies to receive extra services above and beyond the amount of funds they contributed as part of the consolidation?

RESPONSE: Yes, based on need and to bring organizations that are lagging behind the approved standards up to a consistent standard, some organizations may receive extra services above and beyond the amount of funds they contributed to the consolidation. We anticipate some of those services will be funded from savings in the program.

QUESTION 85: Under the procurement consolidation pilot approved in the FY03 Omnibus, are IT or database services for any EOP agency going to be paid for by funds contributed by other EOP agencies?

RESPONSE: Yes, in addition to generating procurement savings and efficiencies, a major goal of the consolidation pilot is to bring all of the EOP components up to an approved standard of service which will allow us to implement technology evenly across the organization and to realize efficiencies and benefits from a consistent and even

REV_00168522

infrastructure. In reaching this goal, the funds may be applied in a manner which is not in the same ratio in which they were contributed.

QUESTION 86: In general, are the funds appropriated for this centralized procurement program going to be used to supplement the appropriation made to individual agencies?

RESPONSE: Yes, the individual agencies will be the recipients of the services funded by the centralized procurement program without reimbursement in accordance with the Congressional appropriation provided to OA.

QUESTION 87: If so, which agencies will benefit and which agencies will receive less than their share of contributions?

RESPONSE: OA is currently establishing the allocation standards for the commodities included in the centralized procurement program. It is intended that a Common Services Board representing the EOP agencies approve those standards. OA is also requesting that the agencies assist us in developing a baseline against which we will measure the allocation standards. That will determine which, if any, agencies will benefit and which agencies will receive less than their share of contributions. We intend to report to OMB and the Congress how the centralized procurement program commodities were provided.

QUESTION 88: You recently submitted a very cursory report on the procurement pilot. When will you provide us with specific details on the progress of the pilot program?

RESPONSE: As mentioned above, progress is being made on the plan to implement the Common Services Program. We intend to report the status of the implementation of the plan in the June/July timeframe.

Other than for extreme situations similar to those encountered immediately after 9/11/01, it is not our intent to transfer large amounts between EOP appropriations. More likely, because a number of the appropriations are small we would be moving funds to cover unanticipated requirements such as paying unexpected terminal leave to employees who have retired and whose agency did not anticipate the level of required terminal leave. As stated in our request, Congress will be notified in advance of our intent to move funds between accounts.

Your budget also proposes a change that would permit EOP agencies to transfer up to 10% into our out any agency's budget. Coupled with your account consolidation proposal, that would allow you to transfer in up to $18 million more into (or out of) the White House's budget.

REV_00168523

QUESTION 89: Under the procurement consolidation program that we approved in the FY03 bill, don't you have a similar type of flexibility already? What other flexibility is needed?

RESPONSE: The flexibility of the procurement consolidation program is directed to certain defined common commodities. The 10% transfer authority provides flexibility for unexpected requirements and to address needs that may be outside the program.

QUESTION 90: What protection is there for smaller EOP agencies under this proposal? Don't they stand to lose critical resources if the White House or Vice President's Office decide to take 10% of their resources?

RESPONSE: It is more likely that the smaller agencies will benefit from the proposal, because their appropriations are small they are less likely to be able to adjust to unforeseen circumstances, this program will allow the EOP to address those circumstances without requesting supplemental funding. And, as stated above, the Congressional Committees will be notified in advance of any fund movement and could have any such concerns addressed.

Office of Homeland Security Questions (POC – Paul Ehrhardt)

We recently received a reprogramming request to transfer $2m of the funds provided to the Office of Homeland Security to the Remote Delivery Site cleanup efforts. The source of these funds would come from the Office of Homeland Security.

The Office of Homeland Security has gone from an initial $25m stated need when the initial FY03 bills passed the House and Senate to $11m when the FY03 Omnibus was passed to what will be $9m if the reprogramming is approved.

QUESTION 91: What exactly does the Office of Homeland Security do now that the Department of Homeland Security is in place?

RESPONSE: HSC provides advice to the President on homeland security matters and coordinates the interagency process to ensure unified administration policy on homeland security.

QUESTION 92: Does OHS still have a presence at Nebraska Avenue?

RESPONSE: No.

QUESTION 93: Does the Office of Administration provide any support to agencies at Nebraska Avenue? If so, please describe the specific types of support provided. Is this support on a reimbursable basis?

REV_00168524

RESPONSE: Since the transfer of the Nebraska Avenue facility to the Department of Homeland Security (DHS) on January 1, 2003, OA has not provided any support to agencies at the Nebraska Avenue Complex (NAC). Pursuant to a Determination by the OMB Director, funds in the amount of $3,746,000 were transferred from the OHS Emergency Fund within OA to the Department of Homeland Security in March 2003 to support NAC activities.

QUESTION 94: How many personnel and detailees now work for OHS?

RESPONSE: The Homeland Security Council currently consists of 66 staff positions which can be filled by either Direct Hire FTE or Other Government Employee (detailee and assignee) personnel. HSC is requesting resources to support up to 40 Direct Hire FTE and 26 OGE FTE on its staff for FY 2004. See table below for a comparison with fiscal years 2003 and 2002.

Office of Homeland Security / Homeland Security Council Personnel

	FY 2002 Actual	FY 2003 Estimate	FY 2004 Request
Direct Hire FTE	0	20	40
Other Government Employee (EOY headcount)	89	31	26
Total Personnel	89	51	66

QUESTION 95: What is the actual operational budget need for OHS in FY03?

RESPONSE: The Homeland Security Council budget requirement from the FY 2003 appropriation is estimated to be approximately $4.32 million. Please note that the FY 2003 estimate covers only costs incurred after the enactment of the FY 2003 appropriation on February 20, 2003. Unlike other EOP agencies which operated under continuing resolutions between October 1, 2003 and February 20, 2003, the Office of Homeland Security was not permitted to utilize the CR funding mechanism but instead continued to charge FY 2003 expenses against the no-year emergency funding (provided in FY2002) until the FY 2003 appropriation was enacted. Therefore the FY 2003 estimate reflects only seven months of activity, whereas the FY 2004 Request needs to cover HSC expenses for the full 12 months next fiscal year.

QUESTION 96: For the record, please provide us a breakout by object class of the Office of Homeland Security's FY03 remaining budget.

RESPONSE: The breakout below reflects HSC's budget for the last seven months of FY 2003, from the enactment of the FY 2003 Appropriation on February 20, 2003 through September 30, 2003.

REV_00168525

(Dollars in Thousands)

Object Class	FY 2003 est.
Personnel	$2,800
Travel	$60
Transportation of Things	$24
Communications, Utilities, and Miscelaneous	$50
Printing and Reproduction	$69
Other Services	$1,267
Equipment	$50
Total,	$4,320

QUESTION 97: Any likelihood that these estimates will be revised downward again?

RESPONSE: The FY 2003 estimate provided above reflects the best assessment of HSC requirements from the OHS FY 2003 appropriation, and actual obligations against this appropriation will likely be close to this current estimate.

QUESTION 98: I understand that the President named General Gordon as his new Homeland Security Adviser. Does he support the latest $2 million cut to his office's resources?

RESPONSE: General Gordon has not yet reported to Homeland Security Council. Also, the resources of the Homeland Security Council have not been cut by $2 million. The FY 2003 appropriations for the Homeland Security Council included $2 million for decontamination of the Remote Delivery Site as agreed to by the Congress and the Administration. Subsequent to the passage of the FY 2003 appropriations, that $2 million was allocated to decontamination of the RDS per the agreement. Therefore, this planned use of that appropriation is not a cut to HSC resources.

QUESTION 99: Have you validated the FY04 request recently to ensure it is an accurate figure?

RESPONSE: Yes. HSC reevaluated its FY 2004 requirements prior to submitting the final FY 2004 Request. Given the creation of the Department of Homeland Security, HSC's FY 2004 budget requirements are estimated at $8,331,000; as requested.

Budget Questions:

After the FY03 enacted levels are adjusted to reflect the transfer of $9 million to the Office of Homeland Security, the Executive Office of the President's FY04 budget

REV_00168526

request reflects an 8% increase over FY03 levels. Your agency, the Office of Administration requests a 10% increase between FY03 and FY04.

When the budget was introduced, Mitch Daniels said that the overall growth of Federal programs would be pegged to the expected 4% growth in inflation. The administration also said the President wanted to "match government's growth with the growth of American family income."

QUESTION 100: When the rest of the government is forced to live with 4% growth, how can you justify an almost 10% increase in your office and an overall Executive Office of the President increase of 8%? **(POC – Chuck Sigman)**

RESPONSE: The Office of Administration's 10% budget increase amounts to approximately $7 million. This increase is necessitated by additional costs stemming from the enhanced security activities in the post-September 11 environment:

- The Capital Investment Plan has a net increase of $3.8 million required for the relocation of the EOP data center to an offsite location. The offsite data center has been determined to be a critical project in any contingency plan, and the communications requirements for the data center will be significantly higher in the new facility.
- $2.5 million is needed for the new information technology contract, driven by the information technology service labor increases, the relocation of the data center as well as by the increased security concerns for EOP systems.
- $0.5 million is required for the EOP information assurance program.
- $0.2 million for physical security improvements to the White House complex in providing resources for security education and evacuation resources.

The 8% growth in the overall EOP budget amounts to approximately $24.6 million. Primary components of this increase are mission-specific needs proposed by the different EOP entities:

- $6.3 million in OA programs described in the prior paragraph ($3.8 million for the capital investment plan, $2.5 million for the information technology contract, $0.5 million for information assurance, and $0.2 million for physical security).
- $2.5 million in EOP-wide space rental increases to conform with GSA's market-based rental rates.
- $3.0 million for USTR's additional staff for intensified trade negotiations.
- $3.0 million in the Executive Residence's multiyear East and West Wing restoration projects.
- $2.7 million for OMB personnel needs.
- $1.5 million for OMB's budget system updates.
- $0.7 million for OMB's E-Government staff and the Office of Information Technology.
- $0.8 million for additional staff for ONDCP.

REV_00168527

- $0.6 million in the NSC's funding for reimbursable detailees and President's Foreign Intelligence Advisory Board's request for additional staff.
- $0.5 million for OSTP's continuity of operations plan.

The White House Office's increase of 3.6% looks smaller because of a realignment of $1.85m in rent to the Office of Administration's account. Without the realignment, the White House Office's increase would be around 6.6%.

QUESTION 101: What is the justification for this realignment? **(POC – Eric Lanman)**

RESPONSE: The realignment of $1.85M in rent was made "Into" vice out of the WHO account. Without this and other realignments made as part of the FY 2004 WHO budget request, The White House Office's increase would have only been 1.7 percent.

QUESTION 102: How could the White House have been paying the bill for space that wasn't theirs? **(POC – Eric Lanman)**

RESPONSE: The WHO has not been paying rent on the 1800 G Street office spaces that this realignment involves. These office spaces were necessitated by the movement of certain White House staff offices following the events of September 11. In FY 2003 funds for these spaces were budgeted by the Office of Administration and are being paid for as part of a pilot program authorized by Congress.

QUESTION 103: Which EOP agencies occupied this space on which the White House Office has been paying rent? **(POC – Eric Lanman)**

RESPONSE: As indicated in the previous answers, White House staff have been occupying this space. Rent is being paid by the Office of Administration as part of the pilot program authorized by Congress.

QUESTION 104: Are these costs that had historically been paid by the White House Office? **(POC – Eric Lanman)**

RESPONSE: No. The 1800 G Street Office spaces were not occupied by EOP staff until after the events of 9-11.

QUESTION 105: If so, why make the change this year? **(POC – Eric Lanman)**

RESPONSE: The realignment of these costs under the WHO is done to reflect the costs under the office whose staff occupies them.

REV_00168528

Travel

The White House Office's request includes a decrease of $400,000 in Presidential Travel.

QUESTION 106: Was the FY03 estimate too high? **(POC – Eric Lanman)**

RESPONSE: As part of the FY 2003 WHO budget submission, $600,000 was requested to support the travel requirements of the new USA Freedom Corps Office. Actual experience subsequently determined this amount to be in excess of need. As a result, the FY 2003 WHO travel line was reduced $329,647 by the Congressional recission, and the FY 2004 WHO budget submission requested $400,000 less in the travel line than the original FY 2003 estimate.

QUESTION 107: If so, how do you intend to use the surplus funds? **(POC – Eric Lanman)**

RESPONSE: The $400,000 reduction to the FY 2004 WHO budget request for travel requirements does not result in surplus funds. It instead results in an overall reduction to the FY 2004 WHO budget estimate.

QUESTION 108: Are you planning less travel in FY04 or will more of the travel just be paid for by political entities? **(POC – Eric Lanman)**

RESPONSE: Except as noted above, the amount of official travel conducted by the White House staff is expected to remain consistent with the FY 2003 estimate.

QUESTION 109: Please provide a list of all White House Office, Office of Homeland Security and Office of Vice President official staff travel for FY02 and FY03 (to date). Include a brief description of the official purpose of the trip. For FY04 estimates, provide estimated number of trips and trip purpose. **(POC – Rothley Howard)**

RESPONSE: The following tables provide the FY 2002 and FY 2003 (to date) staff travel information for the White House Office, the Office of Homeland Security and the Office of the Vice President.

White House Office FY 2002 Staff Travel				
PURPOSE	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Meetings	Dallas, TX	$419.00	03/15/01	2
Official	Cincinnati, OH	$115.00	10/01/01	2
Official	Sacramento, CA	$483.00	10/11/01	11

REV_00168529

Speaking Engagement	Atlantic City, NJ	$442.87	10/15/01	1
Meetings	Los Angeles, CA	$630.75	10/17/01	4
Meetings	Reykjavik	$3,699.40	10/20/01	4
Official	Manhattan, NY	$299.00	10/25/01	6
Speaking Engagement	Austin, TX	$442.53	10/26/01	1
Speaking Engagement	Oakland, CA	$1,231.00	10/28/01	2
Official	Manhattan, NY	$34.50	10/30/01	1
Official	Manhattan, NY	$34.50	10/30/01	1
Accompany a Cabinet Head	Boston, MA	$261.50	10/31/01	2
Official	Lynchburg, VA	$52.93	10/31/01	2
Speaking Engagement	Silver Spring, MD	$9.66	11/01/01	1
Meetings	Los Angeles, CA	$561.14	11/02/01	2
Official	Crawford, TX/Austin, TX	$532.50	11/07/01	11
Speaking Engagement	Atlanta, GA	$542.93	11/09/01	2
Meetings	Los Angeles, CA	$1,661.14	11/10/01	2
Official	Manhattan, NY	$401.11	11/10/01	1
Official	Lynchburg, VA	$52.93	11/14/01	2
Official	Manhattan, NY	$382.24	11/15/01	1
Official	Waco, TX	$60.00	11/16/01	2
Official	Waco, TX	$60.00	11/16/01	2
Official	Salt Lake City, UT	$63.00	11/27/01	1
Official	Houston, TX/Sacramento, CA/Santa Fe, NM	$1,524.32	11/28/01	2
Official	Manhattan, NY	$34.50	11/29/01	1
Official	Manhattan, NY	$34.50	11/29/01	1
Meetings	Virginia Beach, VA	$298.13	12/04/01	1
Meetings	Atlanta, GA	$496.00	12/05/01	1
Official	Lynchburg, VA	$52.93	12/05/01	2
Meetings	Philadelphia, PA	$202.00	12/05/01	1
Speaking Engagement	Atlanta, GA	$428.50	12/06/01	1
Speaking Engagement	Ft. Wayne, IN	$28.00	12/06/01	1
Official	Lynchburg, VA	$52.93	12/12/01	1
Meetings	Lynchburg, VA	$48.30	12/16/01	2
Official	Sacramento, CA	$816.50	12/18/01	2
Official	Camp David, MD	$495.00	12/21/01	16
Official	Lynchburg, VA	$53.93	12/24/01	1
Official	Waco, TX	$375.00	12/26/01	12
Official	Minneapolis, MN	$383.34	12/27/01	5

REV_00168530

Official	Camp David, MD	$45.00	12/28/01	1
Speaking Engagement	Austin, TX	$58.50	01/03/02	3
Official	Hamilton, OH	$85.00	01/06/02	2
Meetings	Lynchburg, VA	$48.30	01/07/02	2
Official	Salt Lake City, UT	$175.51	01/09/02	1
Speaking Engagement	Las Vegas, NV	$95.00	01/10/02	6
Official	Anchorage, AK	$63.00	01/14/02	1
Meetings	Lynchburg, VA	$48.30	01/14/02	2
Official	Mamphis, TN	$57.00	01/14/02	1
Official	New Orleans, LA	$63.00	01/14/02	1
Speaking Engagement	Sacramento, CA	$263.00	01/17/02	1
Speaking Engagement	Dallas, TX	$931.52	01/18/02	2
Official	Portland, ME	$171.00	01/21/02	1
Official	Atlanta, GA	$247.00	01/25/02	6
Meetings	Manhattan, NY	$524.39	01/25/02	1
Official	Winston-Salem. NC	$247.00	01/25/02	6
Meetings	Lynchburg, VA	$51.10	01/28/02	2
Meetings	Salt Lake City, UT	$1,726.25	01/28/02	31
Speaking Engagement	Chicago, IL	$402.42	01/30/02	1
Official	Lynchburg, VA	$52.93	01/30/02	2
Official	Salt Lake City, UT	$357.00	02/01/02	8
Official	Salt Lake City, UT	$357.00	02/01/02	8
Official	Denver, C0	$229.00	02/04/02	4
Official	Jackson, WY	$453.78	02/04/02	6
Meetings	Lynchburg, VA	$51.10	02/04/02	2
Official	Milwaukee, WI	$231.00	02/06/02	5
Meetings	Albuquerque, NM	$605.78	02/07/02	3
Official	Denver, CO/Jackson, WY/ Idaho Falls, ID	$183.14	02/07/02	3
Meetings	New Haven, CT	$223.61	02/07/02	1
Official	Waco, TX	$75.00	02/08/02	2
Official	Anchorage, AK	$535.50	02/11/02	8
Official	Lynchburg, VA	$54.93	02/11/02	1
Speaking Engagement	Denver, CO	$41.00	02/12/02	1
Official	Lynchburg, VA	$52.93	02/13/02	2
Speaking Engagement	Naples, FL	$0.00	02/14/02	3
Speaking Engagement	Charlottesville, VA	$87.60	02/16/02	1
Speaking Engagement	Dallas, TX	$667.00	02/18/02	1

Official	Jackson, WY/Los Angeles, CA	$200.00	02/18/02	4
Meetings	Kansas City, KS	$650.57	02/18/02	1
Accompany a USG Delegation	Rome, ITA	$1,380.48	02/18/02	5
Meetings	Key West, FL	$1,720.82	02/21/02	3
Meetings	Las Vegas, NV	$426.01	02/21/02	2
Meetings	Lynchburg, VA	$52.93	02/27/02	2
Speaking Engagement	Los Angeles, CA	$339.00	02/28/02	2
Official	Camp David, MD	$75.00	03/01/02	2
Speaking Engagement	Hartford, CT	$77.00	03/01/02	1
Speaking Engagement	Jackson, MS	$10.00	03/01/02	4
Meetings	Lynchburg, VA	$52.93	03/04/02	2
Official	Camp David, MD	$75.00	03/05/02	2
Official	Lynchburg, VA	$55.93	03/06/02	1
Speaking Engagement	Palm Springs, CA	$1,113.92	03/07/02	1
Meetings	Lynchburg, VA	$52.93	03/08/02	1
Official	Norfolk, VA	$209.66	03/08/02	3
Official	Richmond, VA	$208.20	03/08/02	3
Official	Richmond, VA	$161.37	03/08/02	3
Official	College Station, TX	$1,624.41	03/09/02	4
Official	Fayetteville, NC	$153.00	03/11/02	4
Official	Lynchburg, VA	$52.93	03/11/02	2
Official	St. Louis, MO	$299.00	03/13/02	6
Meetings	Washington DC	$315.55	03/15/02	1
Official	El Paso, TX	$247.00	03/16/02	6
Official	Atlanta, GA	$265.00	03/22/02	6
Meetings	Cedar Rapids, IA	$445.20	03/24/02	1
Official	Austin, TX/Waco, TX	$201.00	03/25/02	6
Official	Dallas, TX	$161.00	03/25/02	3
Official	Lynchburg, VA	$52.93	03/25/02	2
Official	Atlanta, GA/Waco, TX/Greenville, SC	$135.00	03/27/02	4
Meetings	Lynchburg, VA	$109.93	03/27/02	1
Official	Philadelphia, Pa	$375.00	03/27/02	8
Official	Waco, TX	$135.00	03/27/02	4
Official	Waco, TX	$165.00	04/04/02	5
Official	Waco, TX	$135.00	04/04/02	4
Official	Waco, TX	$105.00	04/04/02	3
Meetings	Boston, MA	$330.82	04/05/02	1

REV_00168532

Speaking Engagement	Orlando, FL/Tampa, FL	$935.14	04/06/02	2
Meetings	Knoxville, TN	$392.94	04/07/02	1
Meetings	Denver. CO/Las Vegas, NV	$426.01	04/11/02	2
Official	Camp David, MD	$135.00	04/12/02	4
Official	Camp David, MD	$75.00	04/12/02	2
Meetings	Boston, MA	$150.50	04/15/02	1
Meetings	Lynchburg, VA	$52.93	04/15/02	2
Meetings	Manhattan, NY	$409.30	04/15/02	1
Speaking Engagement	Oakland, CA/Seattle, WA	$956.54	04/16/02	1
Official	Lynchburg, VA	$52.93	04/17/02	2
Official	Lynchburg, VA	$52.93	04/17/02	2
Official	Camp David, MD	$75.00	04/19/02	6
Official	Austin, TX/Waco, TX	$264.00	04/23/02	4
Official	Lynchburg, VA	$52.93	04/23/02	1
Official	Los Angeles, CA/Waco, TX	$223.00	04/24/02	6
Official	Los Angeles, CA/Waco, TX	$223.00	04/24/02	6
Speaking Engagement	Jackson, MS	$453.78	04/26/02	1
Meetings	Philadelphia, PA	$384.00	04/26/02	1
Meetings	San Marcos, TX	$45.00	04/27/02	1
Official	Lynchburg, VA	$56.93	04/29/02	1
Meetings	San Jose, CA	$521.50	04/29/02	1
Meetings	Tampa, FL	$537.62	04/30/02	1
Official	Camp David, MD	$45.00	05/03/02	6
Speaking Engagement	Miami, FL	$697.17	05/07/02	1
Official	Lynchburg, VA	$52.93	05/08/02	2
Official	Camp David, MD	$75.00	05/10/02	12
Speaking Engagement	College Station, TX	$60.00	05/10/02	1
Official	Houston, TX	$83.00	05/10/02	2
Official	Lynchburg, VA	$52.93	05/13/02	2
Speaking Engagement	New Orleans, LA	$686.00	05/13/02	1
Official	Lynchburg, VA	$52.93	05/15/02	1
Official	Camp David, MD	$75.00	05/17/02	1
Meetings	Manhattan, NY/Phoenix, AZ	$458.00	05/21/02	1
Speaking Engagement	Atlanta, GA	$679.02	05/23/02	1
Speaking Engagement	Birmingham, AL	$134.00	05/25/02	2
Official	West Point, NY	$221.00	05/26/02	6

Official	Little Rock, AR	$255.00	05/27/02	7
Official	Lynchburg, VA	$58.93	05/27/02	2
Official	Little Rock, AR	$187.00	05/29/02	5
Speaking Engagement	Pittsburg, PA	$732.94	05/29/02	1
Official	Philadelphia, Pa	$210.00	05/30/02	1
Speaking Engagement	Albuquerque, NM/Las Vegas, NV/Los Angeles, CA	$605.50	05/31/02	10
Official	Camp David, MD	$75.00	05/31/02	6
Invitational	Washington, DC	$1,007.50	05/31/02	
Official	Des Moines, IA	$187.00	06/02/02	5
Official	Des Moines, IA	$187.00	06/02/02	5
Meetings	Manhattan, NY	$358.56	06/02/02	1
Meetings	Lynchburg, VA	$52.93	06/03/02	2
Official	Lynchburg, VA	$52.93	06/03/02	1
Official	Kansas City, KS	$273.00	06/06/02	6
Official	Camp David, MD	$75.00	06/07/02	2
Official	El Paso, TX	$553.42	06/07/02	1
Speaking Engagement	Ft. Meyers, FL	$342.50	06/07/02	1
Speaking Engagement	Salt Lake City, UT	$368.00	06/10/02	1
Official	Atlanta, GA	$247.00	06/11/02	6
Official	Crawford, TX	$331.00	06/11/02	6
Meetings	Los Angeles, CA/Modesto, CA	$922.53	06/12/02	3
Official	Lynchburg, VA	$52.93	06/12/02	2
Official	Waco, TX	$165.00	06/12/02	5
Meetings	New Orleans, LA	$760.68	06/13/02	1
Official	Minneapolis, MN	$878.00	06/14/02	1
Official	Waco, TX	$105.00	06/14/02	3
Official	Waco, TX	$105.00	06/14/02	3
Official	Lynchburg, VA	$52.93	06/17/02	2
Meetings	Madison. WI	$456.00	06/17/02	1
Speaking Engagement	Pittsburg, PA	$700.14	06/19/02	1
Speaking Engagement	Brooklyn, NY	$148.50	06/21/02	1
Speaking Engagement	Charlotte, NC	$312.93	06/21/02	1
Meetings	Phoenix, AZ/Scottsdale, AZ	$1,223.50	06/21/02	4
Official	Providence, RI	$238.80	06/22/02	1
Official	Lynchburg, VA	$57.93	06/24/02	1
Meetings	San Francisco, CA/Seattle, WA	$1,177.23	06/25/02	4
Official	Lynchburg, VA	$58.93	06/26/02	2

Speaking Engagement	Albuquerque, NM	$622.02	06/27/02	2
Official	Crawford, TX	$185.00	06/28/02	2
Official	Ripley, WV	$165.00	06/29/02	5
Official	Lynchburg, VA	$58.93	07/11/02	1
Official	Crawford, TX	$75.00	07/12/02	2
Meetings	New Orleans, LA	$997.21	07/12/02	3
Meetings	Boise, ID	$767.26	07/14/02	1
Meetings	New Orleans, LA	$690.07	07/14/02	1
Official	Lynchburg, VA	$52.93	07/16/02	1
Meetings	London, GBR/FRA	$1,559.72	07/18/02	5
Speaking Engagement	Los Angeles, CA	$416.50	07/20/02	1
Official	Charleston, SC	$273.00	07/23/02	6
Official	Charleston, SC	$273.00	07/23/02	6
Speaking Engagement	Cleveland, OH/Minneapolis, MN	$1,059.88	07/23/02	1
Meetings	Denver, CO	$704.12	07/23/02	3
Meetings	Denver, CO/Orlando, FL	$944.57	07/23/02	2
Official	Lynchburg, VA	$58.93	07/24/02	2
Official	Manhattan, NY	$143.50	07/24/02	1
Meetings	Atlanta, GA	$124.50	07/28/02	1
Meetings	MexicoCity, MEX	$1,076.36	07/28/02	3
Official	Lubbock, TX	$215.00	07/29/02	6
Meetings	Lynchburg, VA	$52.93	07/29/02	2
Meetings	Boston, MA	$431.35	07/30/02	1
Meetings	Ausitn, TX	$398.00	08/01/02	1
Meetings	Austin, TX	$398.00	08/01/02	1
Official	Waco, TX	$405.00	08/01/02	13
Official	Waco, TX	$45.00	08/01/02	1
Speaking Engagement	Hershey, PA	$209.00	08/03/02	1
Official	Lynchburg, VA	$52.93	08/05/02	2
Meetings	Manhattan, NY	$564.00	08/05/02	2
Meetings	Ft Lauderdale, FL	$638.00	08/06/02	2
Meetings	Orlando, FL	$1,080.50	08/06/02	3
Official	Waco, TX	$555.00	08/06/02	18
Official	Waco, TX	$225.00	08/06/02	7
Official	Waco, TX	$315.00	08/06/02	10
Official	Waco, TX	$410.79	08/11/02	14
Official	Des Moines, IA	$59.50	08/13/02	2
Conference Attendance	New Orleans, LA	$561.13	08/13/02	1
Official	Waco, TX	$75.00	08/13/02	2
Speaking Engagement	Charleston, WV	$827.27	08/15/02	1

Official	Waco, TX	$315.00	08/15/02	10
Official	Waco, TX	$525.00	08/15/02	17
Official	Las Cruces, NM	$195.00	08/19/02	6
Official	Las Cruses, NM	$165.00	08/19/02	5
Official	Monterey, CA	$605.00	08/19/02	11
Official	Hanoi, VIE/Honolulu, HI	$1,960.34	08/20/02	11
Official	Las Cruces, NM	$165.00	08/20/02	5
Speaking Engagement	Ft. Lauderdale, FL	$658.79	08/25/02	1
Speaking Engagement	Memphis, TN	$1,043.05	08/28/02	1
Speaking Engagement	Philadelphia, PA	$225.25	08/28/02	1
Official	Louisville, KY	$285.00	08/29/02	7
Official	Louisville, KY	$285.00	08/29/02	7
Official	Louisville, KY	$358.22	08/30/02	6
Official	South Bend, IN	$221.00	08/30/02	6
Official	South Bend, IN	$221.00	08/30/02	6
Official	South Bend, IN	$221.00	08/30/02	6
Official	Minneapolis, MN	$69.00	09/02/02	1
Speaking Engagement	Manhattan, NY/Kansas City, KS	$959.66	09/03/02	2
Speaking Engagement	Naples, FL/Orlando, FL	$1,025.63	09/03/02	2
Meetings	Lynchburg, VA	$52.93	09/04/02	2
Meetings	Manhattan, NY	$437.00	09/04/02	9
Speaking Engagement	Manhattan, NY	$226.70	09/05/02	1
Official	Manhattan, NY	$892.00	09/08/02	1
Official	Pittsburg, PA	$69.00	09/10/02	1
Official	Pittsburg, PA	$69.00	09/10/02	1
Official	Lynchburg, VA	$52.93	09/11/02	2
Official	Davenport, IA	$135.00	09/12/02	4
Meetings	Austin, TX	$276.00	09/13/02	2
Meetings	Los Angeles, CA	$520.31	09/13/02	1
Official	Pittsburg, PA	$34.50	09/13/02	1
Official	Lynchburg, VA	$58.93	09/16/02	2
Speaking Engagement	Baltimore, MD	$43.29	09/19/02	1
Speaking Engagement	Cedar Rapids, IA	$317.00	09/19/02	1
Speaking Engagement	Chicago, IL	$458.88	09/20/02	1
Speaking Engagement	Wintergreen, VA	$203.14	09/20/02	2
Speaking Engagement	Columbus, OH	$369.50	09/23/02	1

REV_00168536

Official	Milwaukee, WI	$626.29	09/23/02	1
Official	Lynchburg, VA	$58.93	09/25/02	2
Speaking Engagement	Orange County, CA	$42.00	09/25/02	2
Official	Waco, TX	$466.50	09/25/02	1
Speaking Engagement	Raleigh, NC	$499.38	09/26/02	1
Speaking Engagement	Pittsburg, PA	$872.83	09/27/02	2
Speaking Engagement	Boston, MA	$257.92	09/28/02	1
Speaking Engagement	Manhattan, NY	$39.70	09/30/02	1
Official	San Francisco, CA	$1,306.54	10/15/02	3
	Total	**$98,605.86**		

White House Office FY 2003 Staff Travel				
PURPOSE	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Meeting	Manhattan,NY	$345.10	10/01/02	1
Meeting	Chicago, IL	$327.30	10/02/02	1
Speaking Engagement	Columbus, OH	$434.21	10/02/02	1
Speaking Engagement	Syracuse, NY	$700.50	10/04/02	3
Speaking Engagement	Atlanta, GA	$626.00	10/05/02	2
Official	Lynchburg, VA	$52.93	10/07/02	2
Speaking Engagement	Orlando, FL	$1,708.38	10/07/02	4
Meeting	Atlanta, GA	$1,105.34	10/08/02	3
Speaking Engagement	Portsmouth, NH	$365.00	10/08/02	1
Meeting	Hague	$1,817.68	10/09/02	4
Meeting	Atlanta, GA	$880.36	10/09/02	2
Meeting	Atlanta, GA	$893.36	10/09/02	2
Meeting	Atlanta, GA	$336.93	10/09/02	1
Meeting	Atlanta, GA	$1,001.35	10/09/02	2
Meeting	Atlanta, GA	$937.28	10/09/02	2
Meeting	Atlanta, GA	$893.36	10/09/02	2
Meeting	Atlanta, GA	$659.58	10/09/02	2
Speaking Engagement	Sioux Falls Naval, SD	$722.96	10/09/02	2
Meeting	Washington, DC	$95.50	10/09/02	1
Meeting	Manhattan,NY	$164.10	10/10/02	1

REV_00168537

Meeting	Naples, FL	$819.61	10/10/02	1
Speaking Engagement	Ft. Lauderdale, FL	$1,010.59	10/10/02	1
Speaking Engagement	Ft. Lauderdale, FL	$838.72	10/10/02	1
Speaking Engagement	Milwaukee, WI	$553.75	10/13/02	1
Meeting	Daytona Beach, FL	$826.00	10/14/02	3
Official	Lynchburg, VA	$52.93	10/16/02	2
Meeting	Manhattan,NY	$448.06	10/17/02	1
Meeting	Philadelphia, PA	$188.00	10/17/02	1
Meeting	Manhattan,NY	$445.38	10/17/02	1
Speaking Engagement	Indianapolis, IN	$58.00	10/17/02	1
Speaking Engagement	Atlanta, GA	$41.00	10/19/02	1
Speaking Engagement	San Antonio, TX	$571.71	10/20/02	1
Meeting	Des Moines, IA	$1,111.05	10/20/02	2
Official	Lynchburg, VA	$58.93	10/21/02	2
Official	Waco, TX	$934.65	10/22/02	1
Meeting	Lynchburg, VA	$52.93	10/23/02	1
Meeting	Chicago, IL	$94.00	10/23/02	1
Speaking Engagement	St. Louis, MO	$773.64	10/24/02	1
Speaking Engagement	Los Angeles, CA	$667.83	10/24/02	2
Meeting	Charlotte, NC	$976.47	10/24/02	1
Meeting	Los Angeles, CA	$385.50	10/24/02	1
Official	Lynchburg, VA	$58.93	10/28/02	2
Meeting	Charlotte, NC	$823.42	10/28/02	1
Meeting	Cleveland, OH	$818.17	10/28/02	2
Meeting	Providence, RI	$0.00	10/28/02	1
Speaking Engagement	Pittsburgh, PA	$758.56	10/29/02	1
Official	Waco, TX	$888.79	10/31/02	1
Meeting	Miami, FL	$799.27	11/05/02	1
Meeting	West Point, NY	$442.41	11/07/02	2
Meeting	Providence, RI	$677.18	11/07/02	1
Speaking Engagement	Providence, RI	$698.18	11/07/02	1
Speaking Engagement	Los Angeles, CA	$785.40	11/07/02	3
Meeting	Manhattan,NY	$139.50	11/08/02	1

Speaking Engagement	San Diego, CA	$230.81	11/10/02	1
Speaking Engagement	Reno, NV	$831.97	11/11/02	2
Official	Lynchburg, VA	$52.93	11/12/02	1
Official	Lynchburg, VA	$52.93	11/13/02	1
Meeting	Charlotte, NC	$776.00	11/13/02	1
Speaking Engagement	Lansing, MI	$438.79	11/13/02	1
Speaking Engagement	Manchester, NH	$463.00	11/13/02	1
Speaking Engagement	Portland, OR	$705.10	11/14/02	2
Meeting	Austin, TX	$1,006.00	11/16/02	14
Meeting	Austin, TX	$995.47	11/16/02	14
Speaking Engagement	Albany, NY	$752.56	11/18/02	1
Speaking Engagement	Portland, OR	$410.50	11/18/02	1
Speaking Engagement	Newark, NJ	$520.92	11/19/02	1
Meeting	Manhattan,NY	$325.02	11/20/02	2
Speaking Engagement	Tallahassee, FL	$453.79	11/20/02	1
Speaking Engagement	Concord, NH	$1,040.22	11/20/02	2
Meeting	Manhattan,NY	$157.50	11/21/02	1
Meeting	Los Angeles, CA	$683.49	11/21/02	3
Meeting	Loudoun County, VA	$17.16	11/21/02	1
Speaking Engagement	West Palm Beach, FL	$661.45	11/22/02	2
Speaking Engagement	Springfield, MO	$619.13	11/24/02	1
Speaking Engagement	Ft. Lauderdale, FL	$129.00	11/24/02	1
Meeting	Manhattan,NY	$454.36	11/25/02	1
Speaking Engagement	Manhattan,NY	$369.50	11/25/02	1
Official	Waco, TX	$913.45	11/25/02	1
Speaking Engagement	Hershey, PA	$107.18	11/26/02	1
Meeting	New Orleans, LA	$1,254.32	12/01/02	4
Official	Ft. Lauderdale, FL	$1,242.99	12/01/02	4
Official	Manhattan,NY	$85.00	12/02/02	1

Speaking Engagement	Augusta Naval Ctr, ME	$815.35	12/02/02	1
Official	Jacksonville, Fl	$616.00	12/03/02	1
Speaking Engagement	Pensacola, FL	$436.00	12/03/02	1
Speaking Engagement	Tallahassee, FL	$559.31	12/04/02	2
Speaking Engagement	Lexington, KY	$390.00	12/04/02	1
Meeting	Philadelphia, PA	$259.50	12/06/02	1
Speaking Engagement	Ft. Wayne, IN	$53.50	12/06/02	1
Speaking Engagement	Richmond, VA	$104.50	12/07/02	1
Meeting	Manhattan,NY	$293.74	12/09/02	1
Official	Lynchburg, VA	$52.93	12/09/02	1
Meeting	Philadelphia, PA	$979.38	12/09/02	4
Speaking Engagement	Nashville, TN	$575.00	12/09/02	1
Meeting	Manhattan,NY	$216.60	12/10/02	1
Speaking Engagement	Duluth,, MN	$675.28	12/10/02	1
Official	Lynchburg, VA	$52.93	12/11/02	2
Meeting	Philadelphia, PA	$407.52	12/11/02	1
Meeting	Philadelphia, PA	$360.02	12/11/02	1
Meeting	Philadelphia, PA	$423.52	12/11/02	1
Meeting	Philadelphia, PA	$399.86	12/11/02	1
Speaking Engagement	Philadelphia, PA	$370.02	12/11/02	1
Speaking Engagement	Philadelphia, PA	$216.00	12/11/02	1
Meeting	Indianapolis, IN	$803.40	12/11/02	1
Meeting	Norfolk, VA	$775.50	12/17/02	1
Meeting	West Palm Beach, FL	$123.51	12/20/02	8
Meeting	Salt Lake City, UT	$949.00	01/01/03	3
Official	Chicago, IL	$311.00	01/02/03	5
Official	Reno, NV	$1,133.11	01/05/03	3
Official	Chicago, IL	$662.22	01/05/03	2
Meeting	Manhattan,NY	$439.36	01/07/03	1

REV_00168540

Meeting	Augusta Naval Ctr, ME	$605.49	01/08/03	1
Meeting	Albuquerque, NM	$778.68	01/09/03	5
Meeting	Denver, CO	$1,102.60	01/10/03	4
Meeting	Tampa, FL	$511.00	01/11/03	1
Meeting	Tampa, FL	$435.00	01/11/03	1
Meeting	Denver, CO	$1,442.21	01/11/03	3
Meeting	Denver, CO	$1,269.14	01/12/03	2
Meeting	Denver, CO	$660.64	01/12/03	2
Meeting	Denver, CO	$713.14	01/12/03	2
Meeting	Denver, CO	$902.07	01/12/03	1
Meeting	Denver, CO	$667.14	01/12/03	2
Meeting	Denver, CO	$1,082.49	01/12/03	1
Meeting	Salem Naval Ctr, OR	$370.00	01/12/03	1
Official	Lynchburg, VA	$52.93	01/15/03	2
Meeting	Manhattan,NY	$105.00	01/19/03	1
Speaking Engagement	Austin, TX	$83.00	01/20/03	2
Official	Lynchburg, VA	$52.93	01/21/03	1
Meeting	Manhattan,NY	$496.97	01/21/03	1
Speaking Engagement	Des Moines, IA	$416.04	01/21/03	1
Speaking Engagement	Oakland, CA	$0.00	01/23/03	2
Speaking Engagement	Chicago, IL	$940.07	01/26/03	2
Speaking Engagement	Norfolk, VA	$474.88	01/26/03	1
Meeting	Manhattan,NY	$1,381.21	01/28/03	3
Meeting	Las Vegas, NV	$804.11	01/31/03	3
Meeting	Manhattan,NY	$404.70	02/03/03	1
Meeting	Manhattan,NY	$106.50	02/03/03	1
Speaking Engagement	Boston, MA	$575.79	02/06/03	1
Meeting	Nashville, TN	$635.50	02/09/03	1
Official	Lynchburg, VA	$52.93	02/10/03	2
Speaking Engagement	Little Rock, AR	$875.33	02/10/03	1
Meeting	Tallahassee, FL	$562.25	02/11/03	1
Meeting	San Diego, CA	$894.88	02/13/03	6
Conference Attendance	San Diego, CA	$950.32	02/15/03	4
Speaking Engagement	San Diego, CA	$1,758.60	02/15/03	4
Meeting	Cincinnati, OH	$512.10	02/19/03	3

REV_00168541

Meeting	Montgomery, AL	$607.11	02/20/03	1
Speaking Engagement	Baton Rouge, LA	$968.15	02/20/03	1
Meeting	Lynchburg, VA	$52.93	02/24/03	2
Meeting	Santa Fe, NM	$823.57	02/24/03	2
Speaking Engagement	Houston, TX	$746.84	02/27/03	1
Meeting	Miami, FL	$785.37	02/27/03	3
Meeting	Portland, OR	$0.00	02/28/03	2
Meeting	Newport News, VA	$63.00	03/05/03	1
Official	Lynchburg, VA	$52.93	03/05/03	1
Speaking Engagement	Minneapolis, MN	$745.00	03/06/03	1
Meeting	King of Prussia, PA	$773.94	03/10/03	2
Speaking Engagement	Raleigh, NC	$348.85	03/11/03	1
Meeting	Chicago, IL	$804.20	03/12/03	4
Meeting	Chicago, IL	$757.06	03/12/03	2
Meeting	Philadelphia, PA	$341.00	03/12/03	2
Meeting	Chicago, IL	$365.72	03/13/03	1
Meeting	Chicago, IL	$476.20	03/13/03	1
Meeting	Chicago, IL	$431.10	03/13/03	1
Meeting	Chicago, IL	$452.15	03/13/03	1
Meeting	Chicago, IL	$453.10	03/13/03	1
Meeting	Chicago, IL	$427.10	03/13/03	1
Meeting	Chicago, IL	$391.50	03/14/03	1
Speaking Engagement	Charlottesville, VA	$155.87	03/14/03	1
Speaking Engagement	Montgomery, AL	$576.37	03/14/03	1
Speaking Engagement	Charlotte, NC	$868.87	03/16/03	1
Speaking Engagement	Columbus, OH	$279.50	03/17/03	1
Official	Lynchburg, VA	$52.93	03/19/03	2
Speaking Engagement	Harford County, MD	$12.25	03/21/03	1
Speaking Engagement	Atlanta, GA	$281.50	03/24/03	1
Meeting	Philadelphia, PA	$198.00	03/25/03	1
Meeting	Philadelphia, PA	$241.50	03/25/03	1
Meeting	Philadelphia, PA	$201.00	03/25/03	1

REV_00168542

Meeting	Lansing, MI	$438.50	03/25/03	1
Official	Lynchburg, VA	$52.93	03/26/03	2
Speaking Engagement	Princeton, NJ	$329.88	03/26/03	1
Speaking Engagement	Columbus, OH	$891.00	03/26/03	1
Speaking Engagement	Jackson, MS	$498.57	03/27/03	1
Meeting	Las Vegas, NV	$1,096.72	03/27/03	2
Speaking Engagement	Los Angeles, CA	$527.61	03/29/03	1
Speaking Engagement	Pittsburgh, PA	$735.76	03/29/03	2
Official	Lynchburg, VA	$52.93	03/31/03	2
Official	Lynchburg, VA	$52.93	04/02/03	2
Meeting	Manhattan,NY	$166.00	04/02/03	1
Speaking Engagement	Nashville, TN	$756.88	04/03/03	1
Official	Philadelphia, PA	$84.71	04/03/03	1
Speaking Engagement	Atlantic City, NJ	$231.16	04/04/03	1
Speaking Engagement	Tallahassee, FL	$547.29	04/06/03	2
Speaking Engagement	Hershey, PA	$221.14	04/06/03	1
Meeting	Houston, TX	$806.00	04/08/03	1
Speaking Engagement	Albuquerque, NM	$469.88	04/08/03	1
Speaking Engagement	Denver, CO	$38.50	04/11/03	1
Official	Elmendorf, AK	$2,998.75	04/12/03	7
Speaking Engagement	Detroit, MI	$965.87	04/13/03	3
Meeting	St. Louis, MO	$759.00	04/14/03	2
Speaking Engagement	Jefferson City, MO	$749.00	04/14/03	1
Meeting	Manhattan,NY	$630.67	04/15/03	1
Meeting	Dayton, OH	$365.00	04/22/03	2
Official	San Jose, CA	$633.79	04/22/03	2
Speaking Engagement	Houston, TX	$510.91	04/23/03	1
Speaking Engagement	Atlanta, GA	$409.35	04/24/03	1
Speaking Engagement	Houston, TX	$1,080.35	04/24/03	2
Meeting	Albuquerque, NM	$685.70	04/24/03	2

Speaking Engagement	Bridgeport, CT	$642.50	04/27/03	1
Meeting	Chicago, IL	$50.00	05/01/03	2
Speaking Engagement	Baton Rouge, LA	$800.85	05/05/03	1
Speaking Engagement	Portland, OR	$410.29	05/05/03	1
	Travel	**$117,171.05**		

Office of Homeland Security FY 2002 Staff Travel				
PURPOSE	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Meetings	Salt Lake City, UT	$139.73	01/01/00	1
Official	Manhattan, NY	$442.24	11/12/01	1
Meetings	Manhattan, NY	$382.24	11/15/01	1
Speaking Engagement	Manhattan, NY	$1,115.00	12/07/01	2
Meetings	Ottawa, CAN	$294.32	12/11/01	1
Meetings	Ottawa, CAN	$201.16	12/11/01	1
Meetings	Ottawa, CAN	$301.91	12/11/01	1
Meetings	Ottawa, CAN	$284.49	12/11/01	1
Accompany a Cabinet Head	Harrisburg, PA	$2,009.00	12/21/01	11
Accompany a Cabinet Head	Pittsburg, PA/Harrisburg, PA	$543.67	01/04/02	4
Meetings	Salt Lake City, UT	$153.94	01/09/02	1
Official	Harrisburg, PA	$579.18	01/11/02	2
Meetings	Manhattan, NY	$389.50	01/13/02	1
Official	Manhattan, NY	$633.43	01/13/02	1
Official	Manhattan, NY	$267.00	01/13/02	1
Official	Manhattan, NY	$148.90	01/14/02	1
Meetings	Ft. Lauderdale, FL	$841.71	01/22/02	1
Meetings	Manhattan, NY	$586.30	01/24/02	1
Accompany a Cabinet Head	Pittsburg, PA/Harrisburg, PA	$742.43	01/25/02	3
Meetings	Washington, DC	$303.00	01/30/02	1
Meetings	Manhattan, NY	$1,012.87	01/31/02	2
Meetings	Manhattan, NY	$519.89	01/31/02	2
Meetings	Manhattan, NY	$606.62	01/31/02	2
Meetings	Manhattan, NY	$511.00	01/31/02	2
Accompany a Cabinet Head	Manhattan, NY	$727.99	02/04/02	2

REV_00168544

Accompany a Cabinet Head	Manhattan, NY	$314.00	02/05/02	1
Accompany a Cabinet Head	Manhattan, NY	$378.70	02/05/02	1
Accompany a Cabinet Head	Salt Lake City, UT	$4,975.65	02/05/02	21
Meetings	Manhattan, NY	$649.25	02/05/02	1
Accompany a Cabinet Head	Harrisburg, PA	$646.41	02/08/02	2
Accompany a Cabinet Head	Harrisburg, PA	$277.22	02/14/02	2
Accompany a Cabinet Head	Miami, FL/Orlando, FL	$2,042.92	02/14/02	2
Accompany a Cabinet Head	Orlando, FL	$792.45	02/14/02	1
Accompany a Cabinet Head	Miami, FL/Orlando, FL	$1,148.83	02/14/02	2
Accompany a Cabinet Head	Miami, FL/Orlando, FL	$1,050.72	02/14/02	2
Accompany a Cabinet Head	Miami, FL/Orlando, FL	$1,306.56	02/14/02	2
Accompany a Cabinet Head	Miami, FL	$862.08	02/15/02	1
Accompany a Cabinet Head	Miami, FL	$768.88	02/15/02	1
Accompany a Cabinet Head	Harrisburg, PA	$638.16	02/16/02	2
Accompany a Cabinet Head	Cincinnati, OH	$1,047.68	02/18/02	2
Accompany a Cabinet Head	Houston, TX/Las Vegas, NV	$2,725.30	02/19/02	3
Accompany a Cabinet Head	Houston, TX/Las Vegas, NV	$428.82	02/20/02	2
Accompany a Cabinet Head	Houston, TX/Las Vegas, NV	$339.04	02/20/02	2
Official	Houston/Las Vegas, NV	$98.00	02/20/02	2
Accompany a Cabinet Head	Harrisburg, PA	$542.74	02/22/02	2
Meetings	Key West, FL	$1,205.83	02/22/02	1
Meetings	Colorado Springs, CO	$785.71	02/25/02	2
Meetings	Vancouver, CAN	$1,214.92	02/27/02	3
Accompany a Cabinet Head	Harrisburg, PA	$277.22	03/01/02	2
Accompany a Cabinet Head	Harrisburg, PA	$603.25	03/01/02	2
Accompany a Cabinet Head	Mexico City, MEX	$2,064.76	03/03/02	4

REV_00168545

Accompany a Cabinet Head	Mexico City, MEX	$432.00	03/03/02	4
Accompany a Cabinet Head	Mexico City, MEX	$587.80	03/04/02	2
Accompany a Cabinet Head	Mexico City, MEX	$1,161.85	03/04/02	3
Accompany a Cabinet Head	Mexico City, MEX	$587.80	03/04/02	2
Accompany a Cabinet Head	Mexico City, MEX	$587.80	03/04/02	2
Accompany a Cabinet Head	Mexico City, MEX	$587.80	03/04/02	2
Official	Mexico City, MEX	$240.00	03/04/02	2
Speaking Engagement	Orlando, GL	$342.99	03/04/02	1
Accompany a Cabinet Head	Boston, MA	$422.29	03/07/02	1
Accompany a Cabinet Head	Boston, MA	$378.00	03/08/02	1
Accompany a Cabinet Head	Boston, MA	$166.50	03/08/02	1
Accompany a Cabinet Head	Harrisburg, PA	$579.41	03/08/02	2
Official	Boston, MA	$462.50	03/08/02	1
Accompany a Cabinet Head	Orlando, FL	$2,551.10	03/11/02	3
Speaking Engagement	Birmingham, AL	$659.99	03/11/02	1
Accompany a Cabinet Head	Erie, PA/ Harrisburg, PA	$588.85	03/15/02	2
Speaking Engagement	Boston, MA	$379.50	03/17/02	3
Accompany a Cabinet Head	Key West, FL	$130.80	03/18/02	2
Meetings	Manhattan, NY	$442.41	03/20/02	2
Meetings	Manhattan, NY	$377.80	03/20/02	1
Accompany a Cabinet Head	Monterey, MEX	$913.00	03/21/02	2
Meetings	Manhattan, NY	$315.48	03/21/02	1
Accompany a Cabinet Head	Harrisburg, PA	$362.99	03/23/02	1
Meetings	St Petersburg, FL	$362.99	03/23/02	1
Meetings	Orlando, FL	$1,053.87	03/25/02	2
Meetings	Boston, MA	$175.50	03/25/02	1
Accompany a Cabinet Head	Key West, FL	$2,306.33	03/28/02	5
Meetings	Wilmington, DE	$167.00	03/29/02	1

REV_00168546

Speaking Engagement	Los Angeles, CA	$1,185.31	04/02/02	3
Meetings	Miami, FL	$750.57	04/04/02	1
Meetings	Miami, FL	$612.50	04/04/02	1
Accompany a Cabinet Head	Harrisburg, Pa	$444.41	04/05/02	2
Accompany a Cabinet Head	Annapolis, MD	$63.14	04/07/02	1
Meetings	Atlanta, GA	$614.37	04/07/02	2
Accompany a Cabinet Head	Chicago, IL	$990.19	04/08/02	2
Accompany a Cabinet Head	Chicago, IL	$712.71	04/08/02	2
Meetings	Manhattan, NY	$811.62	04/08/02	2
Accompany a Cabinet Head	Chicago, IL	$247.10	04/09/02	1
Accompany a Cabinet Head	Chicago, IL	$290.86	04/09/02	1
Accompany a Cabinet Head	Chicago, IL	$379.10	04/09/02	1
Meetings	Chicago, IL	$477.10	04/09/02	1
Meetings	Chicago, IL	$453.10	04/09/02	1
Meetings	Chicago, IL	$224.00	04/09/02	1
Accompany a Cabinet Head	Harrisburg, Pa	$831.69	04/11/02	3
Accompany a Cabinet Head	Harrisburg, Pa	$365.68	04/11/02	1
Accompany a Cabinet Head	Chicago, IL	$300.63	04/11/02	1
Accompany a Cabinet Head	Harrisburg, Pa	$288.00	04/11/02	1
Meetings	Charleston, SC	$878.26	04/11/02	2
Meetings	Charleston, SC	$980.62	04/11/02	2
Speaking Engagement	Oklahoma City, OK	$528.88	04/12/02	1
Accompany a Cabinet Head	Detroit, MI	$1,262.38	04/15/02	1
Meetings	Boston, MA	$1,249.42	04/15/02	3
Speaking Engagement	Baltimore, MD	$134.10	04/15/02	1
Accompany a Cabinet Head	Detroit, MI	$33.17	04/16/02	1
Accompany a Cabinet Head	Detroit, MI	$367.00	04/16/02	1
Meetings	Chicago, IL	$727.54	04/16/02	1
Meetings	Chicago, IL	$794.65	04/16/02	1
Meetings	Chicago, IL	$553.22	04/16/02	1
Meetings	Detroit, MI	$0.00	04/16/02	1

Accompany a Cabinet Head	Erie, PA/Harrisburg, PA	$412.96	04/18/02	3
Accompany a Cabinet Head	Harrisburg, Pa	$856.64	04/19/02	2
Meetings	Houston, TX	$612.48	04/20/02	2
Accompany a Cabinet Head	Phoenix, AZ	$2,023.87	04/24/02	5
Meetings	Toronto, CAN	$626.69	04/24/02	1
Accompany a Cabinet Head	New Orleans, LA	$857.86	04/28/02	2
Accompany a Cabinet Head	New Orleans, LA	$903.08	04/28/02	2
Accompany a Cabinet Head	New Orleans, LA	$1,214.96	04/28/02	2
Accompany a Cabinet Head	New Orleans, LA	$1,101.76	04/28/02	2
Accompany a Cabinet Head	New Orleans, LA	$1,286.01	04/28/02	2
Accompany a Cabinet Head	New Orleans, LA	$979.86	04/28/02	2
Meetings	New Orleans, LA	$1,028.41	04/28/02	2
Speaking Engagement	Boston, MA	$87.00	04/30/02	1
Speaking Engagement	Los Angeles, CA	$668.61	05/01/02	3
Accompany a Cabinet Head	Columbus, OH/Pittsburg, PA	$801.97	05/03/02	2
Accompany a Cabinet Head	Columbus, OH/Pittsburg, PA	$457.23	05/03/02	3
Meetings	Albuquerque, NM	$625.90	05/06/02	2
Speaking Engagement	Bangor, ME	$465.50	05/06/02	1
Meetings	Sacramento, CA	$515.50	05/07/02	1
Meetings	Sacramento, CA	$707.38	05/07/02	1
Speaking Engagement	Denver, CO	$426.71	05/07/02	1
Meetings	Burlington, VT	$979.84	05/08/02	2
Speaking Engagement	Wichita, KS	$434.21	05/08/02	1
Speaking Engagement	San Diego, CA	$805.50	05/08/02	1
Official	Columbus, OH/Pittsburg, PA	$178.00	05/13/02	2

REV_00168548

Meetings	Colorado Springs, CO	$652.21	06/25/02	2
Accompany a Cabinet Head	Erie, PA/ Harrisburg, PA	$1,016.84	11/18/02	4
Meetings	Miami, FL/Orlando, FL	$955.40	12/14/02	2
Accompany a Cabinet Head	Key West, FL	$2,204.31	03/27/20	7
Accompany a Cabinet Head	Anniston Army Dep., AL	$358.10	04/09/22	1
Accompany a Cabinet Head	Manhattan, NY	$649.25	02/005/02	1
	Total	**$100,692.33**		

OHS/Cyberspace Security Office FY 2002 Staff Travel				
PURPOSE	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Speaking Engagement	San Jose, CA	$1,483.45	10/27/01	5
Speaking Engagement	San Jose, CA	$4,114.24	10/27/01	12
Speaking Engagement	San Jose, CA	$1,101.04	10/28/01	4
Speaking Engagement	San Jose, CA	$1,948.64	02/17/02	3
Speaking Engagement	New Haven, CT	$879.00	02/20/02	4
Speaking Engagement	Philadelphia, PA	$149.31	02/22/02	1
Speaking Engagement	Palm Springs, CA	$371.00	03/04/02	1
Speaking Engagement	London, GBR	$1,611.83	03/17/02	3
Speaking Engagement	Manhattan, NY	$297.30	03/20/02	1
Meetings	Orlando, FL	$592.89	04/02/02	1
Speaking Engagement	Orlando, FL	$592.89	04/02/02	1
Meetings	Providence, RI	$875.74	04/03/02	1
Speaking Engagement	Providence, RI	$875.74	04/03/02	1
Speaking Engagement	Denver, CO	$1,288.87	04/05/02	3
Speaking Engagement	Williamsburg, VA	$261.00	04/08/02	1
Speaking Engagement	Albany, NY	$904.60	04/10/02	1

REV_00168549

Speaking Engagement	Orlando, FL	$1,279.00	04/12/02	5
Speaking Engagement	Orlando, FL	$757.75	04/16/02	1
Speaking Engagement	Orlando, FL	$1,663.74	04/21/02	3
Speaking Engagement	Chicago, IL	$524.42	05/07/02	1
Speaking Engagement	Las Vegas, NV	$1,009.00	05/08/02	1
Speaking Engagement	Boston, MA	$455.80	05/10/02	2
Speaking Engagement	Denver, CO	$1,390.93	05/12/02	5
Speaking Engagement	Denver, CO/Indianapolis, IN	$1,574.15	05/12/02	7
Meetings	Denver, CO	$1,711.17	05/14/02	3
Speaking Engagement	Chicago, IL	$328.00	05/16/02	1
Speaking Engagement	Honolulu, HI	$1,371.44	05/20/02	2
Meetings	Chicago, IL / Portland, OR	$2,874.45	05/27/02	11
Meetings	Chicago, IL	$711.20	05/29/02	2
Meetings	Chicago, IL	$717.20	05/29/02	2
Meetings	Portland/Seattle/San Diego	$1,436.79	05/31/02	9
Meetings	Portland, OR / Seattle, WA	$4,571.98	06/01/02	6
Speaking Engagement	Portland, OR	$241.00	06/05/02	1
Speaking Engagement	Buffalo, NY	$761.29	06/12/02	1
Meetings	Atlanta, GA	$1,333.54	06/16/02	3
Meetings	Atlanta, GA	$535.04	06/17/02	2
Meetings	Atlanta, GA	$653.04	06/17/02	2
Speaking Engagement	London, GBR	$1,687.92	06/19/02	3
Speaking Engagement	Isle of Hawaii	$3,082.83	06/23/02	6
Speaking Engagement	Las Vegas, NV	$982.06	06/26/02	1
Speaking Engagement	Manhattan, NY	$308.00	07/08/02	1
Speaking Engagement	Manhattan, NY	$175.20	07/11/02	1
Meetings	Monterey, CA	$1,352.72	07/20/02	3
Speaking Engagement	Chicago/Tulsa/Minneapolis	$1,602.04	07/20/02	8

REV_00168550

Speaking Engagement	Dallas/Tulsa	$877.15	07/21/02	2
Speaking Engagement	Las Vegas, NV	$2,353.38	07/24/02	9
Speaking Engagement	Las Vegas, NV	$1,148.96	07/30/02	2
Meetings	Roanoke, VA	$671.68	08/04/02	1
Speaking Engagement	Ft. Lauderdale, FL	$705.61	08/06/02	1
Speaking Engagement	Duluth, MN	$71.76	08/06/02	1
Speaking Engagement	San Francisco, CA	$811.92	08/06/02	2
Conference Attendance	San Francisco, CA	$3,362.76	08/12/02	6
Meetings	San Francisco / Vail	$4,362.25	08/12/02	6
Meetings	Phoenix, AZ	$1,128.18	08/13/02	3
Speaking Engagement	Aspen, CO	$287.00	08/17/02	4
Meetings	Manhattan, NY	$470.05	08/19/02	1
Speaking Engagement	Boston, MA	$462.40	08/22/02	1
Meetings	Ottawa, Canada	$1,056.24	08/26/02	1
Speaking Engagement	Nashville, TN	$730.23	08/26/02	1
Meetings	Chicago, IL	$312.50	08/30/02	1
Speaking Engagement	Seattle, WA	$1,251.44	09/03/02	3
Speaking Engagement	Manhattan, NY	$195.00	09/05/02	1
Meetings	Philadelphia, PA	$226.72	09/06/02	1
Official	San Jose, CA	$845.27	09/08/02	1
Speaking Engagement	Atlanta, GA	$122.00	09/12/02	1
Meetings	Palo Alto, CA	$2,987.46	09/15/02	6
Meetings	Palo Alto / Seattle	$2,388.45	09/15/02	6
Meetings	New London/San Francisco	$2,541.62	09/15/02	7
Meetings	San Francisco, CA	$1,643.49	09/16/02	3
Meetings	Palo Alto, CA	$1,459.11	09/17/02	2
Meetings	Minneapolis / San Francisco	$2,032.69	09/17/02	3
Meetings	Manhattan, NY	$186.62	09/19/02	1
Meetings	Albuquerque, NM	$901.52	09/21/02	4
Speaking Engagement	Chicago, IL	$1,092.55	09/24/02	1
Meetings	Austin/San Antonio	$740.79	09/24/02	3
Meetings	Austin/San Antonio	$1,234.81	09/24/02	3
Meetings	San Antonio, TX	$1,353.83	09/24/02	3

REV_00168551

Meetings	Denver/San Antonio	$1,680.02	09/24/02	6
Meetings	San Antonio, TX	$527.78	09/26/02	1
Speaking Engagement	Ft. Meyers, FL	$622.71	09/30/02	1
Meetings	Atlantic City, NJ	$375.09	09/30/02	1
	Total	**$95,660.28**		

OHS /Cyberspace Security Office FY 2003 Staff Travel				
PURPOSE	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Meetings	Philadelphia, PA	$375.31	10/02/02	1
Meetings	Philadelphia, PA	$660.04	10/02/02	4
Speaking Engagement	Minneapolis, MN	$750.71	10/08/02	1
Speaking Engagement	Brussels, Bel/London GBR	$3,903.77	10/08/02	8
Speaking Engagement	Pittsburg, Pa	$1,188.65	10/09/02	1
Meetings	Boston, MA	$2,287.09	10/14/02	6
Meetings	Boston, MA	$1,141.06	10/15/02	2
Meetings	Boston, MA	$308.38	10/17/02	1
Speaking Engagement		$257.56	10/17/02	1
Meetings	Chicago, IL	$312.50	10/17/02	1
Speaking Engagement	Miami, FL	$611.04	10/20/02	2
Meetings	Frederick, MD	$312.10	10/22/02	1
Meetings	Frederick, MD	$357.36	10/22/02	1
Meetings	Pittsburg, Pa	$821.92	10/23/02	2
Meetings	Pittsburg, Pa	$1,112.79	10/23/02	2
Speaking Engagement	Eugene, OR	$1,595.63	10/26/02	2
Speaking Engagement	Brussels, Bel	$6,650.41	10/26/02	6
Speaking Engagement	San Jose, CA	$4,114.24	10/27/02	12
Speaking Engagement	San Antonio, TX	$501.00	10/28/02	1
Speaking Engagement	Las Vegas, NV	$1,351.69	10/28/02	1
Speaking Engagement	Atlanta, GA	$1,024.90	11/05/02	1
Meetings	White Plains, NY	$965.79	11/06/02	2
Meetings	Chicago, IL	$257.56	11/07/02	1
Meetings	Chicago, IL	$461.10	11/07/02	1
Speaking Engagement	Chicago, IL	$547.57	11/07/02	2

Meetings	Manhattan, NY	$793.86	11/07/02	2
Meetings	Seattle, WA/Monterey, CA	$1,329.66	11/10/02	5
Meetings	Manhattan, NY	$697.49	11/12/02	1
Meetings	Manhattan, NY	$350.50	11/13/02	1
Meetings	Phoenix, AZ	$1,129.86	11/13/02	2
Meetings	Atlanta, GA	$463.06	11/17/02	1
Meetings	Ottawa, CAN/Phoenix, AZ	$2,418.32	11/17/02	5
Meetings	Manhattan, NY/Salt Lake City, UT	$877.25	11/19/02	1
Speaking Engagement	Manhattan, NY	$699.56	11/20/02	1
Meetings	Chicago, IL	$229.13	12/03/02	1
Meetings	San Francisco, CA	$2,293.66	12/03/02	4
Meetings	Phoenix, AZ	$1,246.33	12/04/02	2
Meetings	San Francisco, CA	$1,637.48	12/04/02	2
Meetings	Seattle, WA	$1,138.43	12/06/02	2
Meetings	Boston, MA	$401.00	12/09/02	1
Speaking Engagement	Charleston, SC	$825.27	12/09/02	1
Meetings	Manhattan, NY	$380.05	12/12/02	1
Meetings	Flemington, NJ	$181.00	12/17/02	1
Meetings	Flemington, NJ	$306.54	12/17/02	1
Meetings	Charlotte, NC	$919.59	01/09/03	1
Meetings	Charlotte, NC	$1,009.43	01/09/03	1
Meetings	Honolulu, HI	$1,610.34	01/14/03	3
Meetings	Boston, MA	$877.63	01/21/03	1
Meetings	Boston, MA	$920.06	01/21/03	3
Meetings	St. Petersburg, FL	$492.08	01/22/03	1
Meetings	Ft. Meyers, FL	$636.12	01/23/03	3
Meetings	Naples, FL	$864.08	01/23/03	4
Meetings	San Diego, CA	$1,603.59	01/24/03	5
Meetings	San Diego, CA	$1,104.78	01/27/03	2
Meetings	San Diego, CA	$1,946.57	01/27/03	2
Meetings	Williamsburg, VA	$239.34	01/28/03	1
Meetings	Chicago, IL	$306.37	01/29/03	1
Meetings	Manhattan, NY	$376.50	01/30/03	1
Meetings	Columbus, MS	$835.25	02/02/03	1
Speaking Engagement	San Francisco, CA	$1,211.37	02/02/03	1
Speaking Engagement	London, GBR	$1,473.61	02/10/03	2
Speaking Engagement	Tallahassee, FL	$582.94	02/11/03	1
Speaking Engagement	Atlanta, GA	$763.07	02/24/03	1
Meetings	Boca Raton, FL	$1,052.94	02/24/03	2
Meetings	Manhattan, NY	$607.86	03/03/03	1

REV_00168553

Meetings	San Diego, CA	$785.37	03/04/03	2
Meetings	Ottawa, CAN	$929.94	03/06/03	1
Meetings	Orlando, FL	$260.11	03/08/03	1
Meetings	San Antonio, TX/Atlanta, GA	$801.47	03/17/03	2
Meetings	Paris, FRA	$1,843.40	03/22/03	4
Meetings	Paris, FRA	$1,558.97	03/23/03	3
Meetings	Indianapolis, IN	$915.26	04/08/03	2
Meetings	San Francisco, CA	$1,186.99	04/15/03	1
Meetings	Indianapolis, IN	$664.28	04/17/03	1
Speaking Engagement	Manhattan, NY	$219.90	04/21/03	1
Speaking Engagement	Princeton, NJ/St. Louis, MO	$816.38	04/22/03	1
Meetings	Chicago, IL	$264.50	05/15/03	1
Meetings	Chicago/Los Angeles/Seattle	$982.00	06/23/03	3
Meetings	Boston, MA	$641.44	06/26/03	4
	Total	**$80,572.15**		

Office of the Vice President FY 2002 Staff Travel				
PURPOSE	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Meetings	London, GBR	$2,124.92	07/14/02	3
Official	Monterey, CA	$887.90	07/15/02	2
	Total	**$3,012.82**		

Office of the Vice President FY 2003 Staff Travel				
PURPOSE	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Invitational	Washington DC	$778.00	10/18/02	1
Meetings	London, GBR	$2,124.92	10/09/02	3
Meetings	London, GBR	$1,929.74	12/12/02	4
Meetings	Manhattan, NY	$37.50	01/15/03	1
Official	Raleigh, NC	$338.41	04/10/03	1
	Total	**$5,208.57**		

QUESTION 110: Please provide a list of all Presidential, First Lady and Vice Presidential travel for FY02 and FY03 (to date). For each trip, please provide the trip date, destination, designation (i.e., political, official), number of official EOP staff supporting the Principal and, the official cost of the trip. **(POC – Rothley Howard)**

REV_00168554

QUESTION 111: How much did OMB reimburse the White House Office for use of White House motorpool vehicles in FY02? How much is OMB projecting to reimburse in FY03 and FY04? **(POC – Brian Gillis)**

RESPONSE: For FY 2002, OMB reimbursed the Department of Defense $99,000 for the use of the White House motorpool. OMB is projecting a similar amount for FY 2003 and FY 2004.

In the hearing, Mr. Daniel mentioned that the FY03 vehicle lease and IT support contracts came in significantly below the original budget estimates.

QUESTION 112: Do you intend to return the unused funds to the Treasury at the end of the fiscal year? **(POC – Chuck Sigman)**

RESPONSE: The EOP plans to use the funds to implement other critical EOP priorities. The programs which were described by Mr. Daniel at the hearing were the FY 2003 vehicle lease (covering leases by OA, White House, and Office of the Vice President (OVP)), and the guard services contract for guard services at 1801 Pennsylvania Avenue. He did not refer to the IT support contract.

QUESTION 113: For these areas in which savings were realized, what are your plans for the funds? **(POC – Chuck Sigman)**

RESPONSE: Vehicle contract savings for FY 2003 amount to approximately $20,000 for OA, $43,000 for the White House, and $19,000 for OVP. These savings will be utilized to fund priority needs for these EOP entities. The guard service contract will result in savings of approximately $1.1 million.

For FY 2003, these funds are being applied to fund other priorities for the OA as well as common services for EOP entities. These other priorities include consolidation of information technology maintenance ($200,000), centralization of database services ($200,000), and common building service costs ($400,000). The remaining $300,000 of these savings will be used for an FY03 OA personnel shortfall.

Political Travel

QUESTION 114: Please explain the reimbursement procedures the White House intends to follow during the Presidential election season. **(POC – Andy Kalnins)**

RESPONSE: In accordance with a memo dated February 13, 1992, prepared by C. Boyden Gray, former Counsel to the President, "Allocation of the costs for "campaign-related" travel by senior Administration officials is governed by the Federal Election

REV_00168555

Commission (FEC) hypothetical trip rule." These regulations require that all "campaign-related" travel of a candidate seeking nomination, or re-election to the Office of the President, must be paid by the candidate's authorized campaign committee. Further, if any campaign activity is conducted at a stop, other than incidental contacts, "that stop shall be identified as campaign-related and, in general, all costs associated with it must be paid by the President's campaign committee."

QUESTION 115: Exactly when will the presidential-campaign procedures take effect? **(POC – Andy Kalnins)**

RESPONSE: The presidential-campaign procedures take effect after the President declares that he is a candidate for re-election.

QUESTION 116: How do you determine who the official travelers are on a campaign or political trip? Does the list of positions vary from trip to trip? **(POC – Andy Kalnins)**

RESPONSE: In accordance with a memo dated December 6, 1991 prepared by C. Boyden Gray, "officials are to be considered on official duty, regardless of the nature of the President's activities, only if it is determined by the Assistant to the President and Deputy Chief of Staff before the trip that (1) the official is traveling for the sole purpose of providing (a) clerical, logistical and administrative support, or (b) staff assistance in the management of paperwork and the records of decisions, or (c) consultation and guidance necessary solely for the transaction of Government business, and (2) the official will not engage in any political activity during the travel." A list of positions has been developed which are deemed to always be official. This list does not change from trip to trip.

QUESTION 117: On trips with political and official components, what is the procedure for determining which events are paid for using official funds and which events are reimbursed by the political entity? **(POC – Andy Kalnins)**

RESPONSE: In accordance with a memo dated February 12, 1990, from C. Boyden Gray, "With regard to non-Presidential election campaigns events (e.g., Congressional and State and local campaigns), applicable law and regulations do not provide a specific method for allocating the costs of mixed official and political travel by individuals other than the candidates. Neither is there a precise definition for distinguishing between "official" and "political" functions. As a result, the guidelines set forth below are based on general legal principles, policies established over a period of years by previous Administrations, and guidance from Federal Election Commission opinions and actions." A good faith apportionment of the costs of a trip based on the time spent on political activities and the time spent on official activities has been developed and has become know as the "hard-time" formula. This formula is based on the time spent in official meetings and receptions, etc, and time spent in political activities to determine total activity time. Based on this data, a ratio is developed based on total activity time which is allocated to political activity and official activities. The percentage that represents the

REV_00168556

political and official portions of the trip is then used as a multiplier to determine the allocation between official and political costs.

QUESTION 118: If the President gives virtually the same speech at a political event that he gave at an official event in that same city, what criteria is used to determine whether an event is "political" or "official"? **(POC – Andy Kalnins)**

RESPONSE: In accordance with a memo dated February 12, 1990, prepared by C. Boyden Gray, "Appearing at party functions, fundraising, and campaigning for specific candidates are principal examples of travel which should be considered political." The memo goes on to say that a precise definition for distinguishing between "official" and "political" functions does not exist. Further clarification is provided in the memo dated February 13, 1992, also prepared by C. Boyden Gray, "In determining whether an activity is political or official, all relevant factors should be considered, including, but not limited to, the identity of the sponsor of the event, the group or organization being addressed, other participants, whether the speech being delivered is partisan and political in nature, and whether it is a factual presentation or defense of the Administration's position on the issue."

QUESTION 119: If the President gives virtually the same speech at a political event that he gave at an official event in that same city, does the political entity reimburse the White House for the Speechwriters time? **(POC – WHO M&A)**

QUESTION 120: Have events been classified as "official" even if only members of the President's political party are invited to share the stage with the President? **(POC – WHO M&A)**

QUESTION 121: If so, what justification is used to argue that these events were not political events? **(POC – WHO M&A)**

QUESTION 122: Please provide information about reimbursement to the White House Office or other government agencies associated with local staff travel to political events attended by the President in FY02 or FY03. For each reimbursement made, please provide the date the bill was generated, the number of events reflected on the bill, the date payment was received, the political entity paying the charges and the total amount paid on each bill. **(POC – WHO M&A)**

Photographic Services (POC – Eric Lanman)

QUESTION 123: For FY02, FY03 and FY04, what was (or is projected to be) the total cost of photographic equipment purchased for use by the White House photographers?

RESPONSE: The total cost (actual and projected) of photographic equipment procured for use by White House photographers in FY 2002, FY 2003 and FY 2004 are displayed in the table below.

REV_00168557

	FY 2002	FY 2003	FY 2004
	Actual	Estimate	Estimate
Photographic Equipment	$137,057	$35,700	$36,300

FY 2002 actual costs are higher than the estimates for FY 2003 and FY 2004 due to the use of end of year sweep-up funds.

QUESTION 124: For FY02, FY03 and FY04, what was (or is projected to be) the total cost of photo lab equipment purchased for use by the WHCA photo lab?

RESPONSE: The total cost (actual and projected) of photo lab equipment purchased for use by the WHCA photo lab is itemized in the following chart:

	FY 2002	FY 2003	FY 2004
	Actual	Estimate	Estimate
Photo Lab Equipment	$492,720	$473,775	$375,000

QUESTION 125: For FY02, FY03 and FY04, what was (or is projected to be) the total travel cost associated with travel of White House Photographers?

RESPONSE: The FY 2002 travel costs of White House Photographers was $????. The estimated FY 2003 cost is $38,000 and the projected cost for FY 2004 is $38,760.

QUESTION 126: For FY02, FY03 and FY04, what was (or is projected to be) the total rent cost associated with the WHCA photo lab?

RESPONSE: There is no rent cost associated with the WHCA photo lab. However, there are utility and facility maintenance costs associated with the WHCA photo lab. Those costs were $73,600 for FY 2002, $76,650 estimated for FY 2003 and a projected $79,000 for FY 2004.

QUESTION 127: Please explain the procedures for determining when and how the government is to be reimbursed for photos released for non-official purposes. If these procedures have changed from those followed by the previous administration, please explain any changes that have been made.

RESPONSE: The procedures for obtaining reimbursements for photographs changed on October 1, 2000. The procedures now in place are designed to ensure that the government receives appropriate reimbursement for photographs sought for non-official purposes. Records are kept of all such requests, and appropriate reimbursement is then sought.

REV_00168558

It is the White House policy to provide two photographs to members of the general public upon request of photographs that include a principal (President, 1st Lady, Vice President or Mrs. Cheney) and the requestor. These requests are generally provided without consideration as to whether or not they are official or non-official. For requests for photos outside these general guidelines, a determination is made by the White House Office as to whether it is an official or non-official request. For non-official requests, the requestor is provided the cost to the government of the photograph and is required to provide reimbursement. The photographs are provided to the requestor and the reimbursement is credited to the White House Office salaries and expenses appropriation.

QUESTION 128: For FY02 and the first seven months of FY03, please provide the following information about each payment made to the White House, OA, WHCA, DISA (or other DoD organization) to reimburse for the release of photos or photo lab services that were provided:

- date reimbursement was made
- name of reimbursing organization
- amount of payment
- number of photos purchased by reimbursing organization
- size of photos purchased by reimbursing organization

RESPONSE: The requested information about each payment made to the White House, OA, WHCA, DISA (or other DoD organization) to reimburse for the release of photos is provided below.

Reimbursements for White House Photos

Date	*Reimbursing Organization*	*Amount of Payment*	*# of Photos*	*Size of Photos*
5/2002	Republican National Committee	$648.00	36	8x10
5/2002	Hector Irastorza, Jr.	$90.00	5	8x10
7/2002	Lee Terry for Congress	$36.00	2	8x10
7/2002	Republican Party of Florida	$90.00	5	8x10
7/2002	Republican National Committee	$72.00	4	8x10
8/2002	Republican National Committee	$252.00	14	8x10
9/2002	Kent County Republican Committee	$18.00	1	8x10
9/2002	Breckenridge Design Group	$18.00	1	8x10
9/2002	Portman for Congress	$36.00	2	8x10

REV_00168559

9/2002	Republican National Committee	$1,296.00	72	8x10
10/2002	Rick Clayburgh for Congress	$18.00	1	8x10
10/2002	Fisher for Governor	$18.00	1	8x10
10/2002	Wyoming Republican Party	$162.00	9	8x10
10/2002	Johnson for Congress	$72.00	4	8x10
10/2002	Talent for Senate	$18.00	1	8x10
10/2002	John Doolittle for Congress	$486.00	27	8x10
10/2002	National Federation of Republican Women	$18.00	1	8x10
10/2002	Republican National Committee	$342.00	19	8x10
11/2002	Talent for Senate	$18.00	1	8x10
11/2002	Ferguson for Congress	$18.00	1	8x10
11/2002	Mark Kennedy for Congress	$126.00	7	8x10
12/2002	Talent for Senate	$18.00	1	8x10
12/2002	Johnson for Congress	$72.00	4	8x10
12/2002	Wieczoren for Executive Council	$18.00	1	8x10
2/2003	Diane Thompson	$84.00	4	11x14
3/2003	Republican National Committee	$108.00	6	8x10
3/2003	Congressman Kenny Hulshof	$18.00	1	8x10
3/2003	Congressman James Greenwood	$18.00	1	8x10
3/2003	Senator Frank Murkowski	$18.00	1	8x10
3/2003	Mark Kennedy for Congress	$126.00	7	8x10
3/2003	George Bush Presidential Library	$1,117.00	2	20x30
			20	11x14
			47	8x10
3/2003	Office of President George Bush	$702.00	39	8x10
5/2003	National Federation of Republican Women	$18.00	1	8x10
Total		$6,169.00		

REV_00168560

Remote Delivery Site Reprogramming Request (POC – Paul Ehrhardt)

We recently received a reprogramming request to transfer $2m of the funds provided to the Office of Homeland Security to the Remote Delivery Site cleanup efforts.

QUESTION 129: What is the status of remediation efforts?

RESPONSE: We are in the process of Confirmatory Sampling. The sampling plan is intended to present a technical approach for (1) completing air and surface sampling for culturable *Bacillus anthracis* spores to verify the efficacy of the decontamination process: (2) providing for qualified laboratory analysis of the collected samples: and (3) presenting a protocol for data collection and reporting such that the results of the sampling effort are valid and defensible. In addition, the Plan provides for the site and personnel security, safety, health, and personal protection, equipment and collection methods, and sample handling.

QUESTION 130: Please provide the total budget estimate for this project.

RESPONSE: As the contractor responsible for returning the building to an environmentally safe workplace, Versar to date has not been able to develop or provide accurate cost estimates or time lines to EOP. Budget and schedule estimates for this project are especially difficult due to critical path activities taking place in a high-risk environment relying on the utilization of untested speculative technologies. However to date $2.422 million has been spent on the effort and we are currently requesting an additional $2 million, which is Versar's best estimate of what it will cost to complete the project. The total budget estimate for the project then comes to $4.422 million.

QUESTION 131: Please provide the anticipated schedule for this effort.

RESPONSE: Given many variables, including weather, our best current estimate of time to required complete the RDS project is 4 months. The confirmatory testing phase is estimated to take eight weeks from start up. The next phase would be for the ECC committee to ratify the confirmation process; we estimate this to be one month. After this is completed, our best estimate is thirty days to perform PM on the HVAC equipment, build out the office areas, and re-establish the building operation.

QUESTION 132: What caused this $2 million overrun?

RESPONSE: There is not a $2 million overrun. The request for $2 million is a result of anticipated costs and those unforeseen conditions as result of the environmental cleanup process, that OA, GSA or its contractors had available at the time of fumigation. The Environmental Clearance Committee has placed additional requirements that resulted in

REV_00168561

the additional costs. The proposed sampling plan utilizes the barrier divisions already in Building 410 (which provides discrete work areas) and presents proposed sampling location, quantity, and types of samples to be collected . Sampling will be carried out using a phased approach for each work area as follows:

Phase 1, Surface Sampling; Phase 2 Air Sampling: Phase 3, "Dymanic Sampling", Phase 4, Start Up of the Heating, Ventilation , and Air Conditioning (HVAC) Units; and Phase 5, Final Sampling with the Barriers Down.

QUESTION 133: Why have you stopped providing the monthly reports on the remediation efforts?

RESPONSE: Due to the process of establishing the Environmental Clearance Committee, it was an administrative error that the reports were inadvertently not forwarded.

Previously the Remote Delivery Site was used to screen incoming mail. It also used to serve as an off-site supply depot. With the Department of Homeland Security now assuming the mail processing function and with supply operations now established on the White House Complex, I'm curious about future plans for the RDS.

QUESTION 134: What will the facility be used for when remediation is finished?

RESPONSE: Prior to September 11, 2001 the Remote Delivery Site (RDS) was used as a centralized receiving facility for the White House Complex. All postage flat mail and packages, including UPS and FedEx deliveries, and all equipment and local deliveries were delivered to the RDS. All incoming deliveries, regardless of size, were screened by the U.S. Secret Service (USSS) via large X ray machines, and if any equipment was too large to fit on the X-ray conveyer belt, then the USSS used dogs to sniff for explosives. After initial USSS clearance, all of the items were sorted and delivered to their intended destination to the White House Complex. Supplies, equipment and furniture which were purchased for inventory for use at later time were housed at the RDS.

In addition to the screening of WHO Complex deliveries, the USSS Administrative Operations Division used RDS space to screen all of its incoming mail and packages that were intended for USSS personnel.

The EOP Supply store was operated within the confines of the RDS. Supplies were purchased and inventoried at the RDS and office supplies and copier paper were purchased in volume to take advantage of discounts. The WHO/EOP customers faxed supply requisitions to the RDS staff who then pulled and boxed office supplies for delivery to the WHO Complex. OA property supply staff made supply deliveries to the WHO complex at least twice a day, and more if needed.

REV_00168562

The EOP/OA Personal Property Program (excess, transfer, donation, and destruction of furniture and equipment) had its operations housed at the RDS. Excessed equipment and furniture were corralled at the RDS until enough equipment and furniture were gathered to make it economical to excess all at once. In addition, schools and nonprofit organizations were allowed to review equipment for donation under Executive Order 12999.

After September 11, as a precautionary move, the White House United States Postal Service was relocated from the Eisenhower Executive Office Building to the RDS. A separate room was built for the USPS's operation of opening and screening all White House mail. The RDS operations continued working around the new USPS area. These USPS operations continued until the RDS was closed due to the discovery of Anthrax. Since then the USPS operations have relocated to 1800 G. St. NW.

Once the remediation is finished, the RDS will resume its former function of screening all bulk deliveries (including equipment, furniture, boxes of supplies) sent to the EOP Complex. In addition the facility will be used to store supplies and an inventory of equipment and furniture. The RDS will also be used as a staging area for efficient loading and delivery of bulk items for all EOP agencies.

QUESTION 135: Will the DHS use the facility to screen the White House's mail?

RESPONSE: No.

QUESTION 136: Will you close the on-site supply stores and revert back to running the supply operation out of the Remote Delivery Site?

RESPONSE: When the RDS reopens after the remediation of the building, the RDS staff will resume the same functions prior to the Anthrax. However, there are major changes in the way the OA Supply Store operates and manages its supply inventory. The Office of Administration has entered into a new business relationship with GSA. The OA Supply operation will purchase its supplies from GSA who will provide a wide array of office supplies and maintain the level of supply inventory that is needed to support the WHO Complex. The GSA inventory will be housed at the RDS after relocation from Franconia, VA, the current, temporary RDS location. OA supply staff will pull supply orders based on customer's requisitions, and then box and deliver the supplies from the RDS to WHO complex. GSA will only charge for the supplies that EOP customers use at point of sale, otherwise the unsold inventory will still belong to GSA. GSA promises to maintain the supplies that the EOP customers may need. Inventories will be reviewed and adjusted to realize the kind and quantities of supplies the EOP customers expect. This business relationship will promote a more flexible inventory that allows the supply inventory to have the quantity or variety of supplies to meet our customer needs in a more proactive, real-time fashion.

REV_00168563

White House Access (POC – WHO M&A)

QUESTION 137: For the record, please provide the total number of visitors who passed through the White House as part of tours in 2000, 2001, 2002 and 2003 (to date).

QUESTION 138: Why are White House tours currently not open to the general public?

QUESTION 139: What is the status of the report on the status of White House Tours that was due to the Subcommittee by March 22nd?

QUESTION 140: Who has the lead on the efforts to decide whether public tours can be resumed?

QUESTION 141: Does the USSS do a background check on all individuals attending events and meetings at the White House Complex before access can be granted?

QUESTION 142: During this administration, have White House aides ever overruled a building-access recommendation made by the USSS?

Off-site EOP Support

QUESTION 143: How many EOP employees are based in Crawford, TX? **(POC – Stacia Cropper)**

RESPONSE: One.

QUESTION 144: How much space does the EOP pay rent for in Crawford, TX? **(POC James Daniel/Stacia Cropper)**

RESPONSE: There is one double-wide trailer. The cost of the trailer itself and all operating costs will be paid to GSA in a monthly rent payment of $8,496.83 for two years.

QUESTION 145: How many trailers were acquired for Crawford, TX? **(POC James Daniel/Stacia Cropper)**

RESPONSE: One trailer was acquired for the EOP.

QUESTION 146: What was the cost to purchase and renovate these trailers? **(POC James Daniel/Stacia Cropper)**

RESPONSE: The cost of the trailer shell was $72,745.28. The cost to apply finishes to the trailer interior was $20,976.62.

REV_00168564

QUESTION 147: What are the expected FY04 operating costs of facilities and staff permanently deployed to Crawford, TX? **(POC James Daniel/Stacia Cropper)**

RESPONSE: The following are the estimated operating costs for one year: Pest Control ($1,440), cleaning ($4,200), electricity ($4,211.75), and water ($2,286.38).

Rent (POC – Steve Beattie)

QUESTION 148: Please provide an accounting of all space on which the EOP currently pays rent. The list should include the number of staff in each building, the agencies which occupy space in each facility, the total square footage by agency in each facility, the total square footage of vacant space on which the EOP is currently paying rent in each facility and the GSA rent rates for each facility.

RESPONSE: See Attachment A *(chart will be inserted here).*

QUESTION 149: Under the procurement consolidation pilot that was approved in the FY03 Omnibus, is the rent for any EOP agency going to be paid out of funds contributed by other EOP agencies?

RESPONSE: No. The funds in the pilot will only be used to support the EOP components in the pilot; EOP funds not included in the pilot will not be used to support EOP components included in the pilot.

QUESTION 150: Under the procurement consolidation pilot that was approved in the FY03 Omnibus, are after hours utilities charges for any EOP agency going to be paid out of funds contributed by other EOP agencies?

RESPONSE: No. After hours utilities charges were not included in the procurement consolidation pilot funding.

Travel Office (POC – Mayra Segovia)

QUESTION 151: Please describe the current role the White House Travel Office plays in managing and arranging the financial aspects of White House Press Corps travel. Does the White House Travel Office operate as a "dollar-for-dollar" operation?

RESPONSE: The White House Travel Office provides the White House Press Corps with a range of travel services when they accompany the President, Vice President and

REV_00168565

First Lady. Services include air and ground transportation, hotel accommodations, and convention-type services associated with the Filing Center.

The White House Press Travel Fund operates as a dollar-for-dollar operation.

QUESTION 152: How many EOP staff work in the White House Travel Office?

RESPONSE: Eight EOP staff work in the White House Travel Office.

QUESTION 153: How many contractor travel agents support the White House Travel Office?

RESPONSE: Six contractor travel agents support the White House Travel Office.

QUESTION 154: Please include the most recent independent financial statement audit of the White House Travel Office's accounts for the record.

RESPONSE: The following document is the independent auditor's report. A copy of the original document with signature will be provided separately.

REV_00168566

White House Travel Office
Executive Office of the President

Order Number RWH21228

Task 1, Deliverable 1

Financial Statement Audit and Auditor's Report

December 31, 2001

Prepared by:

Martin & Wall, P.C Certified Public Accountants
1534 16th Street, NW, Washington, DC 20036-1402
Tel. 202.332.3566 Fax 202.332.3672

Contact: John J. Wall, CPA
E-Mail: jwall@martinwallcpa.com

REV_00168567

Tel: 202.332.3555 F• 202.332.3672 www.martinwallcpa.com

WHITE HOUSE TRAVEL OFFICE PRESS FUND

FINANCIAL STATEMENTS

DECEMBER 31, 2001

REV_00168568

1524 15th Street NW ~ Suite 100 – Washington, DC 20036-1402

WHITE HOUSE TRAVEL OFFICE PRESS FUND

FINANCIAL STATEMENTS

TABLE OF CONTENTS

Independent auditors' report..... 1

Statement of financial position..... 2

Statement of activities and changes in net assets..... 3

Statement of cash flows..... 4

Notes to financial statements..... 5-7

REV_00168569

Tel: 202.332.3566 ~ Fax: 202.332.3672 ~ www.martinwallcpa.com

INDEPENDENT AUDITORS REPORT

To the Management of
White House Travel Office Press Fund

We have audited the accompanying statement of financial position of the White House Travel Office Press Fund as of December 31, 2001, and the related statements of activities and cash flows for the year then ended. These financial statements are the responsibility of the White House Travel Office Press Fund's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the White House Travel Office Press Fund as of December 31, 2001, and the changes in its net assets and its cash flows for the nine months then ended in conformity with accounting principles generally accepted in the United States of America.

Washington, DC
March 27, 2003

1524 15th Street NW ~ Suite 100 – Washington, DC 20036-1402

REV_00168570

WHITE HOUSE TRAVEL OFFICE PRESS FUND
STATEMENT OF FINANCIAL POSITION
DECEMBER 31, 2001

ASSETS			
Current assets			
	Cash - Press Fund operating account (Note 3)	$85,455	
	Cash - Restricted Cash Account 2000 (Notes 3 and 4)	527,166	
	Total Cash		612,621
	Accounts receivable (Note 5)		2,105,176
	Other Receivables (Note 6)		3,328.761
TOTAL ASSETS			$6,046,558
LIABILITIES ANID NET ASSETS			
	Accounts payable	$5,358,675	
	Restricted Cash Account 2000 Liability (Note 4)	409,815	
	Restricted Cash Account 2001 Liability (Note 4)	209,456	
	Federal Excise Tax Payable	68,612	
	Total liabilities	6,046,558	
	Net assets		0
TOTAL LIABILITIES AND NET ASSETS		$6,046,558	

The accompanying notes are an integral part of these financial statements.

REV_00168571

WHITE HOUSE TRAVEL OFFICE PRESS FUND
STATEMENT OF ACTIVITIES
FOR THE YEAR ENDED DECEMBER 31, 2001

REVENUE	$10,828,890
EXPENDITURES	10,828,890
CHANGE IN NET ASSETS	$0
NET ASSETS, BEGINNING OF YEAR	0
NET ASSETS, END OF YEAR	$0

The accompanying notes are an Integral part of these financial statements.

REV_00168572

WHITE HOUSE TRAVEL OFFICE PRESS FUND
STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED DECEMBER 31, 2001

CASH FLOWS FROM OPERATIONAL ACTIVITIES:

Change in net assets		$0
Adjustments to reconcile change in net assets to net cash provided:		
Decrease In accounts receivable	4,986,501	
(Increase) in other receivables	(2,530,708)	
(Decrease) in accounts payable	(2,814,441)	
Increase In restricted cash account 2000 liability	4,096	
Increase in restricted cash account 2001 liability	209,456	
Increase in Federal Excise tax payable	68,612	
Net cash provided by operational activities	(76,484)	
Net increase in cash		(76,484)
Cash, beginning of year	689,105	
Cash, end of year	$612,621	

The accompanying notes are an integral part of these financial statements.

REV_00168573

WHITE HOUSE TRAVEL OFFICE PRESS FUND
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2001

NOTE 1 – ORGANIZATION

The White House Travel Office Press Fund ('WHTO") was established to manage expenses associated with travel for members of the press who accompany the President, Vice President, First Lady, and Second Lady on domestic and foreign trips. In May 1993, a new management team was hired to manage WHTO. Consequently, for accounting and reporting purposes, a new WHTO was established as of January 1, 1994.

NOTE 2- SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Revenue and expenditures are recognized using the accrual basis of accounting. The WHTO invoices the press organizations for their prorated share of the expenses associated with each trip. The WHTO then remits payment directly to the vendors whose services were used for the particular trip. The total amount invoiced to the press members equals the total of the amounts paid to the vendors. The WHTO does not own any fixed assets. Al! fixed assets are purchased through the White House's general fund and designated for the WHTO use. Similarly, all operating expenses of the WHTO, including salaries and office supplies, are paid directly by the White House's general fund.

NOTE 3- CASH

Gash is maintained in two non-interest checking accounts at the Riggs National Bank of Washington, D.C. The RCA 2000 cash account is explained in Note 4.

The total cash held by WHTO at December 31, 2001 includes $512,821 that is not covered by insurance provided by the federal government. It is the opinion of WHTO's management that the solvency of the referenced financial institution is not of particular concern at this time.

REV_00168574

NOTE 4 - RESTRICTED CASH ACCOUNT

Effective April 1, 2000, the management of the White House Travel Office implemented a Restricted Cash Account (RCA). RCA funds are encumbered for specific purposes set forth in written policies and procedures, most notably for payment of late arriving vendor invoices, bank charges and accounts receivable written off as uncollectible.

The RCA is funded through an RCA funding amount applied to every customer invoice, except those for government employees. Presently, that funding amount is two percent of the invoice amount

RCA funding amounts are not considered revenue for accounting purposes.

Under current policies and procedures, a separate RCA is established for each calendar year. The RCA 2000 account on the Statement of Financial Position reflects the total amount of cash in that account at December 31, 2001. The RCA liability accounts for 2000 and 2001 reflect the total RCA funding amount applied to all customer invoices during the respective calendar year, less any disbursements. RCA funding amounts that have been invoiced but not yet collected are included in the accounts receivable amount.

The RCA for each year will be terminated at a designated point in time after the conclusion of the applicable calendar year. At the time of dissolution, any excess funds will be refunded to the Press Fund's customers subject to the RCA funding amount in accordance with a formula based on the percentage of the total travel costs consumed during the year corresponding to the RCA. For example, if a customer were responsible for ten percent of all travel costs for the calendar year 2001, they would be entitled to ten percent of the remaining RCA 2001 funds at the time of dissolution.

NOTE 5 – ACCOUNTS RECEIVABLE

Currently, the WHTO writes off accounts receivable using the direct write-off method. Therefore, there is no allowance for uncollectible accounts.

REV_00168575

NOTE 6 - OTHER RECEIVABLES

As per note 2, the WHTO utilizes a system of dollar for dollar accounting. Under the current accounting process, vendor invoices for trip expenses are entered into accounts payable as they are received. Accordingly, there is an accumulation of unbilled trip expenses in accounts payable until such time that trip accounting is finalized and members of the press are invoiced for their pro rata share of trip expenses. This timing difference creates the need for an Other Receivables category. Other Receivables represents the obligations for normal trip expenses that have been entered into accounts payable, but not yet billed to the press.

REV_00168576

QUESTION 155: Please explain the formula you use to determine the rate of reimbursement for Press Corps travelers on the Press Charter?

RESPONSE: Each leg of the itinerary is assigned a proportionate cost, which is divided equally among all press passengers. The following formula is used to compute the proportionate cost for each leg of the trip: (Leg flight time / Total flight time) * Total Air Transportation Expense

QUESTION 156: Please explain the formula you use to determine the rate of reimbursement for Press Pool travelers on Air Force One?

RESPONSE: The cost of the fourteen members of the pool traveling on AF1 is added to the total air transportation expense and the total costs are spread on a pro-rata share among all of the press travelling on the trip. The following formula is used to compute the proportionate cost for each leg of the trip: (Leg flight time / Total flight time) * Total Air Transportation Expense

QUESTION 157: Please explain the formula used to identify the reimbursement rate that the Travel Office billed Press Corps travelers accompanying the President's travel to the USS Abraham Lincoln. In your response, please include the actual rate billed to individual press corps travelers on this trip.

RESPONSE: The cost of transporting press corps travelers from the North Island Naval Air Station to the USS Abraham Lincoln and back to the North Island Naval Air Station totaled $7,440.26. This cost will be added to the total air transportation expense and spread on a pro-rata share among all the press traveling on the trip. The formula for military aircraft reimbursement for the trip to the USS Abraham Lincoln is as follows: $X per hour per aircraft, divided by 60 minutes to get a per minute rate, multiplied by the flight time, divided by the total number of passengers, and then 7.5% excise tax plus $3.00 dollars per person was added.

Bonuses

QUESTION 158: Why did this administration reinstate the payments of bonuses to political appointees? **(POC – WHO M&A)**

QUESTION 159: Have any EOP political staff been given bonuses since the policy was reinstated in March of 2002? **(POC – Jon Laurich)**

RESPONSE: The term "political appointees" or "political staff" is somewhat of a misnomer because it narrowly defines the type of employees authorized under Chapter 2

REV_00168577

of Title 3 of the U.S. Code, for the White House Office, the Executive Residence, the Official Residence of the Vice President and the Office of Administration. These offices can hire personnel in various excepted service positions that are not subject to the rules of regular government employees. Many of these excepted service positions fall under the category of serving at the pleasure of the President while others do not. Using the term in the broadest possible sense, including all employees hired as Presidential Appointees, Administratively Determined, Non Career SES, or Schedule C's, the Executive Office of the President had a total of 28 political staff within 4 offices that received bonuses since March 2002.

QUESTION 160: Have any EOP political staff been given pay increases for a single pay period in FY02 or FY03 (to date) that would have the same effect as a bonus? **(POC – Jon Laurich)**

RESPONSE: No political staff within the EOP have been given pay increases for a single pay period in FY 02 or FY 03 (to date) that would have the same effect as a bonus.

Eisenhower Executive Office Building

QUESTION 161: Since 1/20/01, have any non-Federal funds been used for renovations and/or furnishings in the GSA facilities occupied by the Executive Office of the President? [this question does not apply to the White House residence.] **(POC –WHO M&A)**

QUESTION 162: Which Federal agency (i.e., GSA, OA/Facilitles) coordinated the work that was paid for using non-Federal funds? **(POC –WHO M&A)**

QUESTION 163: For the record, please provide the sources and amounts of the non-Federal funds used for renovations and/or furnishings. **POC –WHO M&A)**

QUESTION 164: For the record, please also provide a description of each project for which non-Federal funds were provided. **(POC –WHO M&A)**

QUESTION 165: Why were non-Federal funds used to renovate and/or furnish these GSA facilities? **(POC –WHO M&A)**

QUESTION 166: Which agency's gift authority was used to accept the contribution of non-Federal funds for renovations and/or furnishings? **(POC –WHO M&A)**

QUESTION 167: Please provide a list of all EOP and EOP-support-related agencies that occupied space in the Eisenhower Executive Office Building on 1/20/01 that have since been relocated to locations outside the EEOB. For each agency that relocated, please identify the agency that paid the move-related costs. **(POC – Steve Beattie)**

REV_00168578

RESPONSE: 167: See Attachment B. *(chart will be inserted here)*

QUESTION 168: What is the status of the vacant space on the 17th Street side of the Eisenhower Executive Office Building? **(POC – Steve Beattie)**

RESPONSE: 168: With the exception of the ground floor cafeteria and kitchen, several fourth floor offices, and a few storage areas, the space remains essentially vacant as progress continues on the Fire and Life Safety Improvements project.

EOP Staffing Levels:

QUESTION 169: By EOP agency, provide FTE and OGE. Itemize OGE by category (e.g. reimbursable detailee, PSC, etc). Include FY 2002 (actual) and FY03-FY04 (estimates). Please provide a list of the "historically provided" White House Office positions, the office to which these positions are assigned and the agency that pays the salary for each of these positions. **(POC – Jon Laurich)**

RESPONSE: The following chart provides the FTE and OGE information for FY 2002 to FY 2004 in addition to a listing of "historically provided" White House Office positions.

REV_00168579

R = Reimbursable N = Non Reimbursable	FY 2002 Actual FTE and OGE																		
		Agency Reps		Assignees		Detailees		Historically Provided Services		Others		Student Volunteers		White House Fellows		Pres. Mgmt Intern		OGE Grand Totals	
	FTE	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R + N
White House Office	440			1	20	79	9	1	17		4				3			81	53	134
Special Assistance to the President	23				7		1		6		26								40	40
Official Residence of the Vice President	1																			
Office of Administration	204					2					1							2	1	3
Office of Policy Development	31		1		3		3												7	7
National Security Council	62				38	1	106		4		3							1	151	152
Council of Economic Advisers	36					2	1			3	1		3					5	5	10
Office of Management and Budget	507					6	53						11					6	64	70
Office of National Drug Control Policy	138		13		16					3			2					3	31	34
Executive Residence	92																			
Office of Science and Technology Policy	26		6			4	1			2	3							6	10	16
Council on Environmental Quality	22		11				2										1		14	14
U.S Trade Representative	194						21				1				2				24	24
TOTAL	**1776**		**31**	**1**	**84**	**94**	**197**	**1**	**27**	**8**	**39**		**16**		**5**		**1**	**104**	**400**	**504**

*For FY02, the White House includes 65 OGE's for the Office of Homeland Security, which are funded from the Emergency Appropriation

R = Reimbursable N = Non Reimbursable	FY 2003 Estimate FTE and OGE *as of May 5, 2003*																		
		Agency Reps		Assignees		Detailees		Historically Provided Services		Others		Student Volunteers		White House Fellows		Pres. Mgmt Intern		OGE Grand Totals	
	FTE	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R + N
White House Office	406				7	5	11		19		1				2		1	5	41	46
Office of Homeland Security	40			2	1	23	3				1			1				26	5	31
Special Assistance to the President	24		3		7		1		18		25								54	54
Official Residence of the Vice President	1																			
Office of Administration	222										1								1	1
Office of Policy Development	35		1		3	1	1										1	1	6	7
National Security Council	71				36	4	104		4		3							4	147	151
Council of Economic Advisers	35					2	2			2			2				1	4	5	9
Office of Management and Budget	499					3	54						6					3	60	63
Office of National Drug Control Policy	115		19		14		4			3	9						2	3	48	51
Executive Residence	95																			
Office of Science and Technology Policy	40		6			2	3			2	5		1		1			4	16	20
Council on Environmental Quality	24		10				3				1								14	14
U.S Trade Representative	209						25				1				2				28	28
TOTAL	**1816**		**39**	**2**	**68**	**40**	**211**		**41**	**7**	**47**		**9**	**1**	**5**		**5**	**50**	**425**	**475**

R = Reimbursable N = Non Reimbursable	FY 2004 Estimate FTE and OGE																		
		Agency Reps		Assignees		Detailees		Historically Provided Services		Others		Student Volunteers		White House Fellows		Pres. Mgmt Intern		OGE Grand Totals	
	FTE	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R + N
White House Office	406				7	5	11		19		1				2		1	5	41	46
Office of Homeland Security	40			2	1	23	3				1			1				26	5	31
Special Assistance to the President	24		3		7		1		18		25								54	54
Official Residence of the Vice President	1																			
Office of Administration	222										1								1	1
Office of Policy Development	35		1		3	1	1										1	1	6	7
National Security Council	71				36	4	104		4		3							4	147	151
Council of Economic Advisers	35					2	2			2			2				1	4	5	9
Office of Management and Budget	516					3	54						6					3	60	63
Office of National Drug Control Policy	125		19		14		4			3	9						2	3	48	51
Executive Residence	95																			
Office of Science and Technology Policy	40		6			2	3			2	5		1		1			4	16	20
Council on Environmental Quality	24		10				3				1								14	14
U.S Trade Representative	217						25				1				2				28	28
TOTAL	**1851**		**39**	**2**	**68**	**40**	**211**		**41**	**7**	**47**		**9**	**1**	**5**		**5**	**50**	**425**	**475**

The following chart shows the 18 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 12, 2003*:

POSITION	OFFICE	HOME AGENCY
1. Assistant To The Presidential Diarist	Office Of Scheduling	NARA
2. Presidential Diarist	Office Of Scheduling	NARA

REV_00168580

3. Administrative Assistant	PFIAB *	CIA
4. Administrative Services Specialist	PFIAB *	DOD
5. Deputy Executive Director	PFIAB *	CIA
6. Deputy Director of Photography For Visuals	Photo Office	DIA
7. Visual Information Specialist	Photo Office	DOD
8. Official Photographer	Photo Office	DOD
9. Official Photographer	Photo Office	DIA
10. Photographer	Photo Office	DOD
11. IT Systems Administrator	Photo Office	DIA
12. Photo Editor	Photo Office	DIA
13. President's Photographer	Photo Office	DIA
14. Photographic Specialist	Photo Office	DIA
15. Admin Officer	Photo Office	DIA
16. Staff Assistant	Visitors Office	Dept Of Interior
17. Executive Assistant	Visitors Office	Dept Of Interior
18. Staff Assistant	Visitors Office	Dept Of Interior

*PFIAB is the President's Foreign Intelligence Advisory Board

REV_00168581

Document Produced Natively

Treasury, Postal Service and General
Government Appropriations for

Fiscal Year 2003
Hearing Record References

HOW TO USE THIS DOCUMENT

Several of the FY 2004 questions for the record refer to pages from last year's (FY 2003) hearing record. Below is the FY 2003 hearing record information.

Note that the Question # refers to this year's (FY 2004) question and the information that follows is what was in last year's (FY 2003) hearing record.

Hearing Record Reference for Question 6:

Issue: **Executive Office of the President**

Question: By EOP agency, provide FTE and OGE. Itemize OGE by category (e.g. reimbursable detailee, PSC, etc). Include FY 2001 (actual) and FY 2002-2003 (estimates).

Answer: The following tables provide the total FY 2001 actual, FY 2002 and FY 2003 estimates for full time equivalents (FTE) and other government employees (OGE) for each EOP and other entity as of April 5, 2002. The OGE numbers are itemized by category on the following page. The FY 2001 actual numbers should be viewed in the context of a Presidential transition year and may vary greatly from the FY 2002 figures. The FY 2002 and FY 2003 numbers are estimates only and therefore subject to change for a number of reasons.

REV_00168583

Program	FY 2001 Actual FTE and OGE			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office	400	369	35	**404**
Special Assistance to the President	22	16	42	**58**
Official Residence of the Vice President	1	1	0	**1**
Office of Administration	202	185	5	**190**
Office of Policy Development	31	27	3	**30**
National Security Council	60	44	137	**181**
Council of Economic Advisers	35	28	7	**35**
Office of Management and Budget	527	502	57	**559**
Office of National Drug Control Policy	125	114	38	**152**
Executive Residence	95	89	0	**89**
Office of Science and Technology Policy	40	23	17	**40**
Council on Environmental Quality	24	16	0	**16**
U.S. Trade Representative	203	173	29	**202**
TOTAL	**1,765**	**1,587**	**370**	**1,957**

FY 2002 as of April 5, 2002

Program	FY 2002 FTE and OGE Estimate			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office*	400		97	**497**
Special Assistance to the President	24		40	**64**
Official Residence of the Vice President	1		0	**1**
Office of Administration	202		1	**203**
Office of Policy Development	35		2	**37**
National Security Council	60		150	**210**
Council of Economic Advisers	35		11	**46**
Office of Management and Budget	527		46	**573**
Office of National Drug Control Policy	115		35	**150**
Executive Residence	95		0	**95**
Office of Science and Technology Policy	40		16	**56**
Council on Environmental Quality	24		3	**27**
U.S. Trade Representative	203		23	**226**
TOTAL	**1,761**	**0**	**424**	**2,185**

Program	FY 2003 FTE and OGE Estimate			
	FTE REQUEST	ACTUAL FTE	OGE	TOTAL
White House Office	446		127	**573**
Special Assistance to the President	24		40	**64**
Official Residence of the Vice President	1		0	**1**
Office of Administration	222		1	**223**
Office of Policy Development	35		2	**37**
National Security Council	71		150	**221**
Council of Economic Advisers	35		11	**46**
Office of Management and Budget	510		46	**556**
Office of National Drug Control Policy	115		35	**150**
Executive Residence	95		0	**95**
Office of Science and Technology Policy	40		16	**56**
Council on Environmental Quality	24		3	**27**
U.S. Trade Representative	209		23	**232**
TOTAL	**1,827**	**0**	**454**	**2,281**

* For FY 02, The White House Office includes 65 OGEs for the Office of Homeland Security which are funded from the Emergency Appropriation.

REV_00168584

R = Reimbursable
N = Non Reimbursable

FY 2001 FTE and OGE Actuals

	FTE	Agency Reps	Assignees	Detailees		Historically Provided Services	Others		Student Volunteers	White House Fellows	Pres. Mgmt Intern	OGE Grand Totals		
		N	N	R	N	N	R	N	N	N	N	R	N	R + N
White House Office	**369**	7	5	3	7	13						3	32	**35**
Special Assistance to the President	**16**		1		10	25		6					42	**42**
Official Residence of the Vice President	**1**													
Office of Administration	**185**							4	1				5	**5**
Office of Policy Development	**27**	2			1								3	**3**
National Security Council	**44**		32	1	90	4		8		2		1	136	**137**
Council of Economic Advisers	**28**				1		4		2			4	3	**7**
Office of Management and Budget	**502**			3	46				8			3	54	**57**
Office of National Drug Control Policy	**114**	13	20	3			2					5	33	**38**
Executive Residence	**89**													
Office of Science and Technology Policy	**23**	8		2	2	1	1	2	1			3	14	**17**
Council on Environmental Quality	**16**													
U.S. Trade Representative*	**173**				27			1		1			29	**29**
TOTAL	**1,587**	**30**	**58**	**12**	**184**	**43**	**7**	**21**	**12**	**3**		**19**	**351**	**370**

R = Reimbursable
N = Non Reimbursable

FY 2002 FTE and OGE *as of April 5, 2002*

	FTE	Agency Reps	Assignees	Detailees		Historically Provided Services	Others		Student Volunteers	White House Fellows	Pres. Mgmt Intern	OGE Grand Totals		
		N	N	R	N	N	R	N	N	N	N	R	N	R + N
White House Office**	**400**	1	4	68	8	15				1		68	29	**97**
Special Assistance to the President	**24**		9			1		29			1		40	**40**
Official Residence of the Vice President	**1**													
Office of Administration	**202**							1					1	**1**
Office of Policy Development	**35**		2										2	**2**
National Security Council	**60**		34	1	108	4		2		1		1	149	**150**
Council of Economic Advisers	**35**				1		4		6			4	7	**11**
Office of Management and Budget***	**527**			4	39				3			4	42	**46**
Office of National Drug Control Policy	**115**	13	17	1	1		3					4	31	**35**
Executive Residence	**95**													
Office of Science and Technology Policy	**40**	5		4			3	4				7	9	**16**
Council on Environmental Quality	**24**	3											3	**3**
U.S. Trade Representative*	**203**				21			1		1			23	**23**
TOTAL	**1,761**	**22**	**66**	**78**	**178**	**20**	**10**	**37**	**9**	**3**	**1**	**88**	**336**	**424**

R = Reimbursable
N = Non Reimbursable

FY 2003 FTE and OGE Estimate

	FTE	Agency Reps	Assignees	Detailees		Historically Provided Services	Others		Student Volunteers	White House Fellows	Pres. Mgmt Intern	OGE Grand Totals		
		N	N	R	N	N	R	N	N	N	N	R	N	R + N
White House Office	**446**	1	3	100	8	15						100	27	**127**
Special Assistance to the President	**24**		9			1		29			1		40	**40**
Official Residence of the Vice President	**1**													
Office of Administration	**222**							1					1	**1**
Office of Policy Development	**35**		2										2	**2**
National Security Council	**71**		34	1	108	4		2		1		1	149	**150**
Council of Economic Advisers	**35**				1		4		6			4	7	**11**
Office of Management and Budget***	**510**			4	39				3			4	42	**46**
Office of National Drug Control Policy	**115**	13	17	1	1		3					4	31	**35**
Executive Residence	**95**													
Office of Science and Technology Policy	**40**	5		4			3	4				7	9	**16**
Council on Environmental Quality	**24**	3											3	**3**
U.S. Trade Representative*	**209**				21			1		1			23	**23**
TOTAL	**1,827**	**22**	**65**	**110**	**178**	**20**	**10**	**37**	**9**	**2**	**1**	**120**	**334**	**454**

* USTR has nonreimbursable detailees in their Geneva, Switzerland offices (FY 2001 = 10, FY 2002 = 9) and are **not** included in the numbers above.
** For FY 02, The White House Office includes 65 OGEs for the Office of Homeland Security which are funded from the Emergency Appropriation.
*** The Office of Management and Budget's OGE number greatly increases during the preparation of the President's Budget. At other times, the OGE number can fall below 20.

REV_00168585

Hearing Record Reference for Question 7:

Question: For the Office of Administration provide FTE and OGE by organizational unit for FY 2001 (actual) and FY 2002-2003 (estimates).

Answer: The chart below displays the FTE and OGE distribution in the previous OA organizational structure for FY 2001. For FY 2002 and FY 2003, the FTE and OGE are displayed in the new streamlined OA organizational structure which reduced the number of operating units reporting to the Director from 10 to 4. All data is as of April 5, 2002.

R = Reimbursable N = Non Reimbursable	FY 2001 FTE and OGE Actuals						
	FTE	Others		Student Volunteers	OGE Grand Totals		
		R	N	N	R	N	R + N
Office of the Director	6		1			1	1
General Counsel	3						
Equal Employment Opportunity	1						
Financial Management	23						
Facilities Management	8						
Human Resources Management	22		3	1		4	4
General Services	54						
Library and Research Sciences	15						
Operations and Legislative Liasons	2						
Security	8						
Information Systems Technology	43						
TOTAL	**185**		**4**	**1**		**5**	**5**

R = Reimbursable N = Non Reimbursable	FY 2002 FTE and OGE Estimates						
	FTE	Others		Student Volunteers	OGE Grand Totals		
		R	N	N	R	N	R + N
Director	11						
Chief Operating Officer	96		1			1	1
Chief Financial Officer	37						
Chief Projects Officer	10						
Chief Information Officer	48						
TOTAL	**202**		**1**			**1**	**1**

R = Reimbursable N = Non Reimbursable	FY 2003 FTE and OGE Estimates						
	FTE	Others		Student Volunteers	OGE Grand Totals		
		R	N	N	R	N	R + N
Director	11						
Chief Operating Officer	103		1			1	1
Chief Financial Officer	39						
Chief Projects Officer	11						
Chief Information Officer	58						
TOTAL	**222**		**1**			**1**	**1**

REV_00168586

Hearing Record Reference for Question 8:

Question: For the Office of Management and Budget provide FTE and OGE by division for FY 2001 (actual) and FY 2002-2003 (estimates).

Answer: The chart below displays the FTE and OGE breakout by OMB division for FY 2001-2003. Most detailees and Student Volunteers are used during the peak budget production season. During the rest of the year, the OGE total can fall below 20.

R = Reimbursable N = Non Reimbursable	**FY 2001 FTE and OGE Actuals**								
	FTE	Assignees	Detailees		Student Volunteers	White House Fellows	OGE Grand Totals		
		N	R	N	N	N	R	N	R + N
OMB-Wide Offices*	**149**			18	2		0	20	**20**
General Government Programs	**61**			4			0	4	**4**
Human Resource Programs	**75**			2	1		0	3	**3**
National Security Programs	**65**		1	8			1	8	**9**
Natural Resource Programs	**62**			3	2		0	5	**5**
Office of Federal Financial Management	**17**		1	3	1		1	4	**5**
Office of Federal Procurement Policy	**24**		1	1			1	1	**2**
Office of Information and Regulatory Affairs	**49**			7	2		0	9	**9**
TOTAL	**502**	**0**	**3**	**46**	**8**	**0**	**3**	**54**	**57**

R = Reimbursable N = Non Reimbursable	**FY 2002 FTE and OGE Estimates** *(as of April 5, 2002)*								
	FTE	Assignees	Detailees		Student Volunteers	White House Fellows	OGE Grand Totals		
		N	R	N	N	N	R	N	R + N
OMB-Wide Offices*	**157**		1	19	1		1	20	**21**
General Government Programs	**64**			1			0	1	**1**
Human Resource Programs	**78**			1			0	1	**1**
National Security Programs	**67**		1	2			1	2	**3**
Natural Resource Programs	**63**			4			0	4	**4**
Office of Federal Financial Management	**22**		2	2			2	2	**4**
Office of Federal Procurement Policy	**22**			1			0	1	**1**
Office of Information and Regulatory Affairs	**54**			9	2		0	11	**11**
TOTAL	**527**	**0**	**4**	**39**	**3**	**0**	**4**	**42**	**46**

R = Reimbursable N = Non Reimbursable	**FY 2003 FTE and OGE Estimates**								
	FTE	Assignees	Detailees		Student Volunteers	White House Fellows	OGE Grand Totals		
		N	R	N	N	N	R	N	R + N
OMB-Wide Offices*	**151**		1	19	1		1	20	**21**
General Government Programs	**63**			1			0	1	**1**
Human Resource Programs	**75**			1			0	1	**1**
National Security Programs	**63**		1	2			1	2	**3**
Natural Resource Programs	**63**			4			0	4	**4**
Office of Federal Financial Management	**20**		2	2			2	2	**4**
Office of Federal Procurement Policy	**21**			1			0	1	**1**
Office of Information and Regulatory Affairs	**54**			9	2		0	11	**11**
TOTAL	**510**	**0**	**4**	**39**	**3**	**0**	**4**	**42**	**46**

* OMB-Wide Offices include the Director's; the Deputy Director, the Deputy Director for Management, the Executive Associate Director; Communications; General Counsel; Legislative Affairs; Economic Policy; Administration; the Legislative Reference Division; the Budget Review Divisions; and the Office of Information Technology and E-Government.

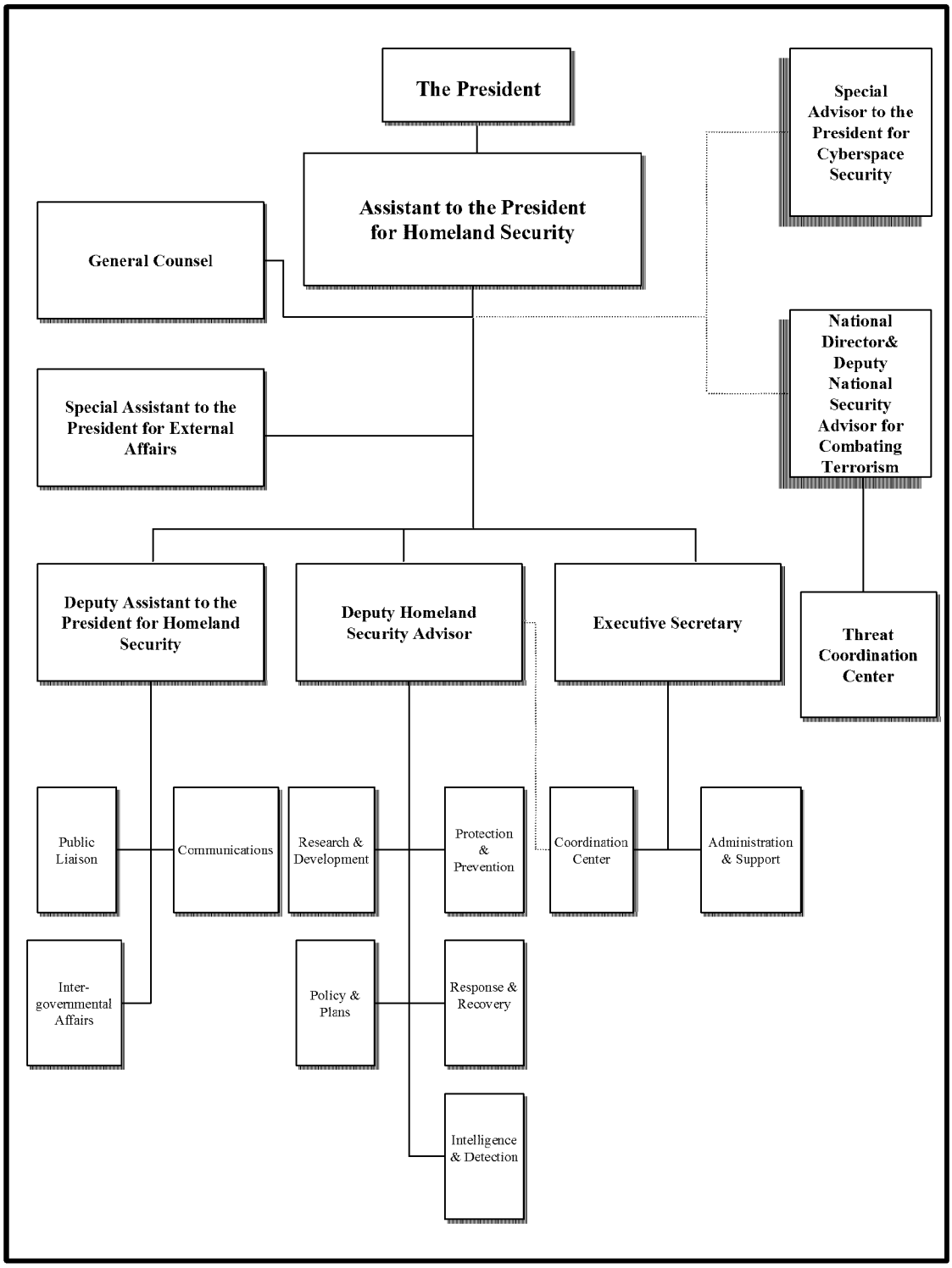
REV_00168587

Hearing Record Reference for Question 16:

Question: Provide an organizational chart for the OHS.

Answer: See chart below.

REV_00168588



REV_00168589

Hearing Record Reference for question 17:

Question: The President's request includes $1,337,000 for travel and transportation of persons, an increase of $976,000 from the estimated level of $361,000 in FY 2002. For FY 2002 and 2003 (estimates), provide a list of trips by location and purpose, including the number of staff traveling and staff position.

Answer: The FY 2002 travel and transportation of persons estimate and FY 2003 budget request provides funding for the Assistant to the President for Homeland Security and staff travel, Critical Infrastructure Protection Board (CIPB) activities and advisory board activities. Specific locations for FY 2003 are currently unavailable due to the fact that they are determined as requirements are finalized. FY 2002 and FY 2003 anticipated travel activities are in furtherance of the OHS mission promulgated in the Executive Orders.

Examples of FY 2003 estimated travel requirements include: per diem and travel for two-thirds of Advisory Board members to attend approximately 40 various meetings and activities; approximately 50 domestic trips for the Assistant to the President for Homeland Security and 3 staff members to fulfill outreach requirements; approximately 100 domestic trips for Homeland Security staff to fulfill mission functions as outlined in Executive Order 13228; approximately 24 domestic and 3 overseas trips for the Chair, Vice Chair and one staff member of the CIPB to fulfill outreach requirements as stated in Executive Order 13231; and approximately 12 CIPB staff (director level) trips to outreach the private sector. Of course, these are estimates only and are therefore subject to change for a variety of reasons.

FY 2002 travel expenses incurred to date include trips to Mexico and Canada for border discussions and various locations in the United States to visit first response, bioterrorism research facilities and other initiatives related to homeland security. The following table lists current (as of April 10, 2002) FY 2002 travel expenses as reflected in the accounting system.

Trip Cost Note: Estimated costs of trips will vary greatly from trip to trip to the same city and from one city to another city for four significant reasons; mode of transportation used/authorized, number of days TDY, number of personnel on trip, and whether costs recorded are actual or estimated expenses.

Office of Homeland Security Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Staff Position**
11/13/01	New York City, NY	1	$ 145	Dep Asst to President for OHS
11/15/01	New York City, NY	4	$ 1,287	Asst to President for OHS, Aide to Asst to President for OHS, Sr Director Response & Recovery and Sr Director Communications
12/07/01	New York City, NY	1	$ 767	Sr Dir Intergovernmental Affairs

REV_00168590

12/11/01	Ottawa, CAN	5	$	1,038	Asst to President for OHS, Aide to Asst to President for OHS, Asst Public Liaison, Sr Dir Policy & Plans, Sr Dir Communications
12/21/01	Harrisburg, PA	1	$	2,009	Comm Asst to Asst to President for OHS
01/04/02	Harrisburg, PA	1	$	544	Comm Asst to Asst to President for OHS
01/09/02	Salt Lake City, UT	4	$	738	Comm Asst to Asst to President for OHS, Dep Press Secretary, Spec Asst to the Chief of Staff, Aide to the Asst to President for OHS
01/11/02	Harrisburg, PA	1	$	525	Comm Asst
01/13/02	New York City, NY	4	$	1,606	Asst to President for OHS, Aide Dep Asst to President OHS, Dep Press Sec & Special Asst Public Liaison
01/14/02	New York City, NY	1	$	138	Sr Dir Communications
01/17/02	New York City, NY	3	$	323	Sr Dir Intergovernmental Affairs, Staff Dir, Dir
01/18/02	Harrisburg, PA	1	$	1,017	Comm Asst to Asst to President for OHS
01/22/02	Ft. Lauderdale, FL	1	$	850	Dr Policy & Plans
01/25/02	Brandson, MO	1	$	405	Sr Dir Intergovernmental Affairs
01/25/02	Harrisburg, PA	1	$	742	Watch Officer
01/30/02	Greensboro, NC	3	$	909	Asst to President for OHS, Sr Dir Communications, & Dep Asst Sec
01/31/02	New York City, NY	4	$	2,536	Asst to President OHS, Comm Asst to Asst to President for OHS, Aide to Asst to President OHS, Asst Public Liaison
02/02/02	New York City, NY	1	$	165	Sr Dir Policy & Plans
02/04/02	New York City, NY	1	$	728	Comm Asst
02/05/02	New York City, NY	4	$	1,699	Asst to President OHS, Comm Asst to Asst to President for OHS, Aide to Asst to President OHS, Sr Dir Communications Asst Public Liaison
02/05/02	Salt Lake City, UT	1	$	4,358	Comm Asst
02/08/02	Harrisburg, PA	2	$	909	Comm Asst to Asst to President for OHS, Watch Officer
02/13/02	Orlando, FL	1	$	1,593	Comm Asst to Asst to President for OHS
02/14/02	Miami, FL	1	$	653	Comm Asst
02/14/02	Orlando, FL	4	$	4,316	Asst to President for OHS, Sr Dir Intergovernmental Affairs, Aide to Asst to President OHS, Sr Dir Communications
02/15/02	Miami, FL	1	$	814	Special Asst Public Liaison
02/16/02	Harrisburg, PA	2	$	724	Watch Officer, Communications Asst

REV_00168591

02/17/02	Los Angeles, CA	1	$	719	Comm Asst to Asst to President for OHS
02/18/02	Cincinnati, OH	1	$	912	Special Asst Intergovernmental Affairs
02/19/02	Cincinnati, OH	1	$	715	Sr Dir Intergovernmental Affairs
02/19/02	Las Vegas, NV	1	$	2,725	Watch Officer
02/20/02	Houston, TX	3	$	903	Asst to President for OHS, Comm Asst to Asst to President for OHS, Aide to Asst to President for OHS
02/22/02	Harrisburg, PA	1	$	713	Comm Asst to Asst to President for OHS
02/22/02	Key West, FL	1	$	1,059	Sr Dir Intergovernmental Affairs
02/25/02	Colorado Springs, CO	2	$	1,575	Sr Advisor Prevention & Protection, Sr Dir Protection & Prevention
02/27/02	Vancouver, CA	1	$	1,212	Dir Policy & Plans
03/01/02	Harrisburg, PA	2	$	975	Communications Asst, Communications Asst
03/04/02	Mexico City, MEX	9	$	6,239	Asst to President for OHS, Asst Public Liaison, Aide to Asst to President for OHS, Dep Press Sec, Dep Asst to Pres for OHS, Sr Dir Policy & Plans, Communications Asst, Comm Asst to Asst to President for OHS, Dir Policy and Plans
03/04/02	Orlando, FL	1	$	325	Staff Dir
03/07/02	Boston, MA	3	$	1,111	Sr Dir Policy & Plans, Sr Dir Intergovernmental Affairs
03/08/02	Boston, MA	4	$	1,014	Asst to President for OHS, Sr Dir Communications, Aide to Asst to President for OHS, Staff Dir
03/08/02	Harrisburg, PA	1	$	600	Communications Asst
03/11/02	Birmingham	1	$	654	Sr Dir Response & Recovery
03/11/02	Orlando, FL	1	$	1,790	Comm Asst to Asst to President for OHS
03/15/02	Harrisburg, PA	1	$	589	Communications Asst
03/18/02	Las Vegas, NV	3	$	2,003	Comm Asst to Asst to President for OHS, Comm Asst, Comm Asst
03/20/02	New York City, NY	1	$	606	Special Asst
03/21/02	Monterrey, MEX	1	$	900	Aide to Asst to President for OHS
03/22/02	Harrisburg, PA	1	$	363	Communications Asst
03/27/02	Atlanta, GA	1	$	264	Aide to Asst to President for OHS
	Trip Cost Total		**$**	**59,503**	

REV_00168592

Cyberspace Security Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Staff Position**
10/27/01	San Jose, CA	2	$ 4,649	Special Advisor to President for Cyberspace Security, Deputy Chief of Staff Cyberspace
10/28/01	San Jose, CA	1	$ 1,663	Dir National Security Cyberspace
12/04/01	Boston, MA	3	$ 4,620	Special Advisor to President for Cyberspace Security, Deputy Chief of Staff Cyberspace, Sr Dir National Security Cyberspace
12/09/01	Boston, MA	1	$ 581	Dir National Security Cyberspace
12/09/01	Salt Lake City, UT	1	$ 1,219	Sr Dir National Security Cyberspace
01/17/02	San Jose, CA	2	$ 4,184	Sr Dir National Security Cyberspace, Special Advisor to President for Cyberspace Security
01/26/02	Honolulu, HI	1	$ 1,495	Sr Dir National Security Cyberspace
02/02/02	New Haven, CT	1	$ 809	Vice Chair CIPB
02/05/02	Norfolk, VA	1	$ 167	Sr Dir National Security Cyberspace
02/11/02	Austin, TX	1	$ 826	Special Advisor to President for Cyberspace Security
02/11/02	New York City, NY	1	$ 139	Sr Dir National Security Cyberspace
02/16/02	San Jose, CA	1	$ 807	Special Advisor to President for Cyberspace Security
02/22/02	Philadelphia, PA	1	$ 149	Vice Chair CIPB
03/02/02	JPN, IND, SIN, Hong Kong	1	$ 10,678	Sr Dir National Security Cyberspace
03/04/02	Palm Springs, CA	1	$ 371	Vice Chair CIPB
03/17/02	London, GBR	1	$ 1,273	Vice Chair CIPB
03/20/02	New York City, NY	1	$ 161	Sr Dir National Security Cyberspace
03/21/02	Seattle, WA	1	$ 161	Vice Chair CIPB
	Trip Cost Total		**$ 33,949**	

REV_00168593

Hearing Record Reference for Question 19:

Question: What Memorandums of Understanding have been signed by the Office of Homeland Security, or by any other EOP entity on behalf of the Office of Homeland Security and with whom? Describe the purpose of each MOU.

Answer: As of April 12, 2002, there is one signed Memorandum of Understanding (MOU), which is an agreement between OHS and the Office of Science and Technology Policy (OSTP). OSTP provides technical and personnel support for research and development and policy issues. There is no financial component to this MOU.

Hearing Record Reference for question 24:

Question: Is there a distinct organizational unit within the OHS for this function? If so, how many FTE are associated with this function? How many detailees? Where are these people located? Is this a permanent location? What is the total amount of space being used by the Cyber Security Office? What is the total cost of the Cyberspace Security office, including rent, office supplies, communications, etc.

Answer: The Special Advisor reports to both the Assistant to the President for Homeland Security and the Assistant to the President for National Security Affairs. The permanent location and amount of space allocated to the Board has not been determined, but they are currently located at the G Street office location. The total staff associated with this function is yet to be determined. The total estimated cost, for FY 2003, of the CIPB, including rent, office supplies, communications, etc., is approximately $2.85 million.

Hearing Record Reference for Question 39:

Question: To date, provide the total amount obligated from the FY 2002 appropriation "White House Repair and Restoration" by project.

Answer: Listed below is the status of each of the projects and the amounts obligated. No funds have been obligated to date in excess of the $100,000 project prospectus ceiling.

Pool Shelter Roof Reconstruction and Pool Deck Renovation - The preliminary architectural survey and design are completed, and structural engineering analysis and design is in progress. The two primary contractors required have committed to the project and an on-site meeting is scheduled. Construction is expected to begin in April. There have been no funds obligated. All work to date has been accomplished with National Park Service and Executive Residence staff.

Communication System Repairs / Phase 2 - Design work continues under Phase I (FY 2001 – $441,000 obligated) and Construction (Phase II) is expected to begin in August.

East and West Wing Exterior Restoration - Scaffolding installation for one elevation of the East and West Wing is nearly complete. Paint removal will begin shortly as outdoor temperatures permit. $84,500 has been obligated to date.

REV_00168594

Insulated Windows Replacement - Preliminary discussions are ongoing with manufacturers and fabrication should begin in May. Installation and related restoration requirements have been discussed with the prospective contractor, and the proposal should be received in April 2002. Work is expected to begin in July. No funds have been obligated for this project.

Kitchen Floor Replacement - The survey of existing conditions including utilities has been completed. An onsite meeting with the flooring installation contractor was completed and installation began in mid-March 2002. No funds have been obligated for this project.

North Portico Curtain Wall - The contractor began onsite work at the end of February 2002 and installation is 95% complete. Only the "punch" list and in house items remain. $83,000 has been obligated to date.

Stone Pavers Restoration - The contractor proposal has been received and is under review. Material ordering is expected in April 2002 and onsite work is expected to begin in May. No funds have been obligated for this project.

West Colonnade Restoration - There is continuing restoration of the first three columns and historically accurate replacement stone has been ordered for all columns. The newly discovered deteriorated structural steel has been evaluated. The recommended corrective actions will be accomplished this summer and no additional funds will be required. To date, $49,040 has been obligated for this project.

Hearing Record Reference for Question 51:

Issue: **President's Travel**

Question: For Presidential and First Lady travel, provide the following for FY 2001 and 2002 (to date):

- Trip date
- Destination
- Designation (political/official)
- Official Cost

Answer: The following charts summarize Presidential and First Lady travel for FY 2001 and FY 2002:

Presidential Travel FY 2001				
		Status		White House
Date	Destination	Official	Political	Travel cost
5-Oct	Princeton, NJ	100%		$ 9,983.00
8-Oct	New York, NY	100%		$ 4,986.00
11-Oct	Philadelphia, PA	44%	56%	$ 7,286.00
14-Oct	Denver, CO	31%	69%	$ 3,546.00
18-Oct	Norfolk, VA	100%		$ 3,301.00

REV_00168595

19-Oct	New Orleans, LA		100%	$ 974.00
20-Oct	Jefferson City, MO	37%	63%	$ 3,920.00
21-Oct	Boston, MA		100%	$ 259.00
22-Oct	Kingston, NY		100%	$ 1,078.00
25-Oct	Armonk, NY	100%		$ 8,617.00
31-Oct	Louisville, KY/New York		100%	$ 1,209.00
2-Nov	New York, NY		100%	$ 1,929.00
7-Nov	New York, NY		100%	$ 2,531.00
12-Nov	Waikoloa, HI	100%		$ 42,293.00
30-Nov	New York, NY	100%		$ 11,310.00
8-Dec	Omaha, NE	71%	29%	$ 13,188.00
18-Dec	New York, NY	100%		$ 15,390.00
4-Jan	Syracuse, NY	100%		$ 3,669.00
7-Jan	New York, NY	53%	47%	$ 4,835.00
9-Jan	Lansing, MI	100%		$ 7,730.00
9-Jan	Chicago, IL	100%		$ 8,470.00
11-Jan	Boston, MA	100%		$ 7,986.00
11-Jan	Dover, NH	100%		$ 4,918.00
11-Jan	Grand Canyon, AZ	100%		$ 18,342.00
17-Jan	New York, NY	100%		$ 12,283.00
17-Jan	Little Rock, AK	100%		$ 1,722.00
3-Feb	Williamsburg, VA	100%		$7,063
4-Feb	Nemacolin, PA	100%		$389
12-Feb	Savannah, GA	100%		$7,236
13-Feb	Norfolk, VA	100%		$7,293
14-Feb	Charleston, WV	100%		$9,692
18-Feb	Waco, TX	100%		$7,310
19-Feb	Oklahoma City, Ok	100%		$5,812
20-Feb	Columbus, OH	100%		$3,444
20-Feb	St. Louis, MO	100%		$9,324
21-Feb	Knoxville, TN	100%		$5,782
28-Feb	Pittsburg, PA	100%		$3,182
28-Feb	Council Bluff, IA	100%		$7,657
1-Mar	Little Rock, AK	100%		$8,450
1-Mar	Atlanta, GA	100%		$6,538
4-Mar	Newport News, VA	100%		$4,223
6-Mar	Chicago, IL	100%		$5,332
8-Mar	Sioux Falls, SD	100%		$12,542
8-Mar	Fargo, ND	100%		$2,976
9-Mar	Lafayette, LA	100%		$8,407
9-11 Mar	Waco, TX	100%		$18,435
12-Mar	Panama City, FL	100%		$3,314
14-Mar	Plainfield, NJ	100%		$4,724
21-Mar	Orlando, FL	100%		$9,568
23-Mar	Portland, MN	100%		$6,164

26-Mar	Kansas City, MO	100%		$6,390
26-Mar	Billings, MT	100%		$12,229
27-Mar	Kalamazoo, MI	100%		$3,765
3-Apr	Wilmington, DE	100%		$2,528
6-Apr	Milwaukee, WI	100%		$6,200
11-Apr	Greenville, NC	100%		$7,191
11-Apr	Charlotte, NC	100%		$6,509
15-Apr	Waco, TX	100%		$12,791
18-Apr	Waterbury, CT	100%		$7,527
25-Apr	Jacksonville, FL	100%		$3,719
25-Apr	New Orleans, LA	100%		$7,541
25-Apr	Little Rock, AK		100%	$ -
26-Apr	Houston, TX	100%		$2,647
27-Apr	Austin, TX	100%		$6,519
28-Apr	Waco, TX	100%		$12,700
14-May	Philadelphia, PA	100%		$6,440
17-May	Nevada, IA	100%		$7,838
17-May	St. Paul, MN	100%		$6,266
18-May	Lancaster, PA	100%		$6,858
20-May	South Bend, IA	100%		$8,333
20-May	New Haven, CT	100%		$19,631
24-May	Cleveland, OH	100%		$3,497
28-May	Mesa, AZ	100%		$2,828
29-May	Los Angeles, CA	100%		$24,073
29-May	San Diego, CA	100%		$14,326
30-May	Fresno, CA	100%		$16,108
1-Jun	Boston, MA	100%		$4,344
4-Jun	Tampa, FL	100%		$18,918
4-Jun	Homestead, FL	100%		$8,721
6-Jun	Bedford, VA	100%		$3,880
8-Jun	Des Moines, IA	100%		$5,952
8-Jun	Omaha, NE	100%		$8,761
10-Jun	Waco, TX	100%		$7,844
21-Jun	Birmingham, AL	58%	42%	$14,966
21-Jun	Waco, TX	100%		$12,374
25-Jun	Detroit, MI	100%		$8,956
4-Jul	Philadelphia, PA	100%		$9,267
5-Jul	Kennebunkport, ME	100%		$14,083
10-Jul	New York City, NY	100%		$18,036
13-Jul	Baltimore, MD	100%		$1,352
29-Jul	Fort A.P. Hill VA	100%		$2,087
4-Aug-2 Sep	Crawford, TX	100%		$89,092
14-Aug	Estes Park, CO	100%		$21,743
14-Aug	Denver, CO	50%	50%	$0
15-Aug	Albuquerque, M	68%	32%	$21,860

20-Aug	Milwaukee, WI	100%		$10,820
21-Aug	Kansas City, MO	100%		$21,636
26-Aug	Pittsburg, PA	100%		$8,858
26-Aug	Williamsport, PA	100%		$14,073
29-Aug	Honolulu, HI (pre-adv)	Cancelled due to 9/11		$4,480
30-Aug	San Antonio, TX	100%		$7,024
3-Sep	Detroit, MI	100%		$10,053
3-Sep	Green Bay, WI	100%		$10,812
6-Sep	Toledo, OH	100%		$4,710
10-Sep	Sarasota, FL	100%		$26,098
10-Sep	Jacksonville, FL	100%		$5,376
14-Sep	New York City, NY	100%		$6,767
27-Sep	Chicago, IL	100%		$9,438
	FY 2001 Total Costs			**$791,692**

Mrs. Clinton/Mrs. Bush's Travel FY 2001				
		Status		White House
Date	Destination	Official	Political	Travel Cost
16-Oct	New York, NY		100%	$ 346
27-Oct	New York, NY		100%	$ 236
10-Nov	New York, NY		100%	$ 234
20-Feb	Ohio/ Missouri	100%		$583
22-Mar	Los Angeles, CA	100%		$1,165
23-Mar	San Diego, CA	100%		$14,294
22-Apr	Quebec, Canada	100%		$8,673
1-May	New York, NY	100%		$52
8-May	Columbia, SC	100%		$434
14-May	Chicago, IL	100%		$1,637
1-Jun	Boston, MA	100%		$280
25-Sep	New York, NY	100%		$4,500
	Total Costs			**$31,618**

Presidential Travel FY 2002				
		Status		White House
Date	Destination	Official	Political	Travel Cost
3-Oct	New York, NY	100%		$8,060
7-Oct	Emmitsburg, MD	100%		$1,988
17-Oct	Sacramento, CA	100%		$16,678
30-Oct	New York, NY	100%		$13,043

REV_00168598

8-Nov	Atlanta, GA	100%		$17,920
10-Nov	New York, NY	100%		$6,525
14-Nov	Crawford. TX	100%		$44,535
21-Nov	Fort Campbell, KY	100%		$9,114
27-Nov	Salt Lake City, UT	100%		$4,328
1-Dec	Philadelphia, PA	100%		$13,669
4-Dec	Orlando, FL	70%	30%	$13,371
7-Dec	Norfolk, VA	100%		$5,271
11-Dec	Citadel, SC	100%		$11,498
26-Dec	Waco, TX	100%		$12,667
4-Jan	Austin, TX	100%		$5,356
5-Jan	Ontario, CA	100%		$10,240
5-Jan	Portland, OR	100%		$10,870
8-Jan	Hamilton, OH	100%		$6,588
8-Jan	Boston, MA	100%		$11,159
8-Jan	Portsmith, NH	54%	46%	$6,594
9-Jan	Washington, DC	100%		$0
11-Jan	Conshohoken, PA	100%		$5,321
14-Jan	Moline, IL	100%		$7,570
14-Jan	Springfield, MO	100%		$6,569
14-Jan	New Orleans, LA	100%		$32,494
22-Jan	Charleston, WV	71%	29%	$6,086
25-Jan	Portland, ME	100%		$7,698
30-Jan	Winston-Salem, NC	65%	35%	$8,799
30-Jan	Daytona Beach, FL	100%		$12,874
31-Jan	Atlanta, GA	100%		$13,869
1-Feb	White Sulpher Springs, WV	100%		$4,273
4-Feb	Eglin AFB,FL	100%		$7,666
5-Feb	Pittsburgh ,PA	100%		$7,918
6-Feb	New York, NY	54%	46%	$6,940
8-Feb	Denver, CO	100%		$7,644
8-Feb	Salt Lake City, UT	100%		$12,877
8-Feb	Jackson, WY	100%		$11,182
11-Feb	Milwaukee, WI	48%	52%	$9,360
16-Feb	Anchorage, AK	40%	60%	$9,181
27-Feb	Charlotte, NC			$7,048
	Totals through 2/28/02			**$414,843**

REV_00168599

Mrs. Bush's Travel FY 2002				
		Status		White House
Date	Destination	Official	Political	Travel Cost
3-Oct	Cincinnati, OH	100%		$339
16-Oct	Newark, NJ	100%		$1,790
18-Oct	Atlanta, GA	100%		$1,742
19-Oct	Baton Rouge, LA	100%		$1,568
30-Oct	New York, NY	100%		$1,652
16-Nov	Austin, TX	100%		$7,300
9-Jan	Topeka, KS	100%		$1,566
10-Jan	Houston, TX	100%		$1,915
11-Jan	Austin, TX	100%		$780
21-Jan	Atlanta, GA	100%		$1,060
10-Feb	Los Angeles, CA	100%		$5,021
	Total Costs through 2/28/02			**$24,733**

Hearing Record Reference for Question 53:

Question: For FY 2001, 2002 (estimate) and FY 2003 request, provide the total amount for outside consulting services, by appropriations account. Provide the specific definition of "consulting services" being used in response to this question as well as a description of the consulting service itself (dollar amount, purpose, deliverables, timeframe). If applicable, group the consulting services by category of service.

Answer: "Consulting services" or "Advisory and Assistance Services" as defined by OMB Circular A-11, Section 83, are services acquired by contract from non-Federal sources (that is, the private sector, foreign governments, State and local governments, tribes), as well as from other units within the Federal Government and consists of three types of services: 1) Management and professional support services; 2) Studies, analyses and evaluation; and 3) Engineering and technical services. Listed below are the EOP and other entities with Advisory and Assistance contracts.

White House Office

FY 2001 (Actual)

1. $15,300 for the Gift Unit of the White House Office of Correspondence. The deliverables included a final report recommending procedures, staffing and budget required for handling gifts to the White House from outside sources. This contract was from January - March, 2001.

REV_00168600

2. $13,200 for computer forensic consultant services to observe the Office of the Independent Counsel's use of a computer forensics technique. The consultant evaluated whether commonly accepted industry practices were being followed. The timeframe for this contract was from December, 2000 to January, 2001.
3. $1,650 for the compilation of records for the presidential library. This contract was during the month of January 2001.

FY 2002 as of April 5, 2002
There are currently no advisory and assistance contracts for the White House Office.

FY 2003 Request
1. $8,000,000 is the estimated requirement for the Office of Homeland Security advisory and assistance contracts. Exact contracts have not been determined at this time.

Office of Administration
FY 2001 (Actual)
1. $285,000 for an auditability assessment for the Chief Financial Officer operations. The deliverables included an assessment plan, auditability report and a gap analysis. The contract was awarded in late September 2001 with a period of performance through March 2002.
2. $196,379 for an assessment of the distributed computer environment including a final report. This contract lasted from August, 2001 to December 2001.
3. $12,600 for consulting services in support of workplace issues. The contract supported a National Partnership for Reinventing Government requirement to identify basic issues, best practices and barriers to success. The contract timeframe was from October 2000 to January 2001.
4. $143,000 for a study of options for an EOP financial management plan. The contract was awarded in September 2001 with a period of performance that extended through December 2001.

FY 2002 as of April 5, 2002
There are currently no advisory and assistance contracts for the Office of Administration.

FY 2003 Request
There are no advisory and assistance contracts planned for FY 2003.

Office of Management and Budget
FY 2001 (Actual)
1. $36,875 for information technology advisory services. The deliverables include providing expert IT research and advice as needed. The contract's duration is for the entire fiscal year.

FY 2002 as of April 5, 2002
1. $55,000 for information technology advisory services. The deliverables include providing expert IT research and advice as needed. The contract is a continuation of the same contract above and is for the entire fiscal year.

REV_00168601

FY 2003 Request

1. $55,000 for information technology advisory services. The deliverables include providing expert IT research and advice as needed. The contract is a continuation of the same contract above and is for the entire fiscal year.

Office of National Drug Control Policy

FY 2001 (Actual)

1. $2,250 for conference preparation support for an Anti-Doping agency meeting including overall logistical support. The contract was for 5 days in August, 2001.

FY 2002 as of April 5, 2002

1. $14,000 for office temps/consultants to assist with the ONDCP Strategy and Budget summary. This contract is part of an open blanket purchase agreement so there is no designated timeframe.

FY 2003 Request

1. $14,000 for office temps/consultants to assist with the ONDCP Strategy and Budget summary. This contract is part of an open blanket purchase agreement so there is no designated timeframe.

Council of Economic Advisers

FY 2001 (Actual)

1. $12,874 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from November 2000 to February 2001.

FY 2002 as of April 5, 2002

1. $14,276 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from November 2001 to February 2002.

FY 2003 Request

1. $15,000 estimated for editorial services for the Economic Report of the President. The consultant will provide expertise in editing the final publication. It is anticipated that the contract will last from November 2002 to February 2003.

Council on Environmental Quality

FY 2001 (Actual)

1. $17,150 for assistance in updating statistical tables, graphics, text and an annual report. The consultant started in FY 2000 and was extended through January 2001.

FY 2002 as of April 5, 2002

There are currently no advisory and assistance contracts for the Council on Environmental Quality.

REV_00168602

FY 2003 Request
There are no advisory and assistance contracts planned for FY 2003.

Office of the United States Trade Representative
FY 2001 (Actual)
1. $5,000 for a Staff Retreat for the Office of African Affairs to improve strategic planning, management, organization and teamwork in the office. The consultant served as retreat facilitator. The contract was for two days in March 2001.
2. $185,000 for information technology advisory services. Deliverables included a detailed assessment of USTR's information technology environment. The contract started in September 2001 and will be completed during FY 2002.

FY 2002 as of April 5, 2002
1. $20,000 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.
2. $5,000 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.

FY 2003 Request
There are no advisory and assistance contracts planned for FY 2003.

Hearing Record Reference for Question 56:

Question: For Object Class 25.2 for the White House Office, provide a detailed description of each project, program or initiative to be funded in support of the USA Freedom Corps Office.

Answer: The additional funds requested in Object Class 25.2 for the White House Office's USA Freedom Corps Office are primarily required to fund two program initiatives.

- Information Dissemination: The cost of this program initiative is estimated at $900,000 and will primarily consist of contracted services in partnership with other Freedom Corps coordinating council agencies. These contracted services will include both interactive website portals and telecommunication services such as information phone banks. These services will provide links and information concerning volunteer opportunities, Freedom Corps activities and other pertinent data.

- Recognition Materials: The cost of this program initiative is estimated at $275,000 and will primarily consist of contracted services to develop, provide and disseminate materials that will be used to recognize volunteer activities and accomplishments.

In addition, approximately $25,000 is required to fund increased general support Other Service costs within the White House that will occur as the result of the operations of this new office. These funds will be used for such things as office equipment maintenance contracts and GSA work requests.

REV_00168603

Hearing Record Reference for Question 63:

Issue: **White House Communications Agency**

Question: For FY 2001 and 2002 (estimates) itemize the reimbursements made to the WH Communications Agency.

Question: For FY 2003, what are the estimated reimbursements to the WH Communications Agency?

Answers to previous two questions: Reimbursements made to WHCA, for the non-telecommunications support they provide to the WHO, is broken down into two categories: personnel and audio visual support. The amount of planned reimbursement is initially set and agreed to via an inter-agency agreement (IAG). This IAG is then adjusted if needed as a result of actual execution. Reimbursement actuals and estimates follow:

	FY01 (actual)	FY02 (est.)	FY03 (est.)
Military Personnel	$3,946,779	$4,564,085	$4,754,346
Audiovisual Support	$3,514,528	$3,589.242	$3,953,848
Total	$7,461,307	$8,153,327	$8,708,194

Hearing Record Reference for Question 64:

Issue: **Office of Administration**

Question: Provide an organization chart for the Office of Administration, including the numbers of FTE in each office.

Answer: The Office of Administration organization chart provided below reflects the current streamlined organizational structure where the number of operating units reporting to the Director was reduced from 10 to 4. The FY 2003 FTE request includes an increase of 20 FTE over FY 2002 authorized levels. All additional FTEs support the ongoing requirements stemming from the events of September 11 including IT and facility support for dispersed offices, additional logistics responsibilities for the receipt and delivery of mail, and financial management support for the Office of Homeland Security (+7 Chief Operating Officer, +10 Chief Information Officer, +1 Chief Projects Officer, +2 Chief Financial Officer).

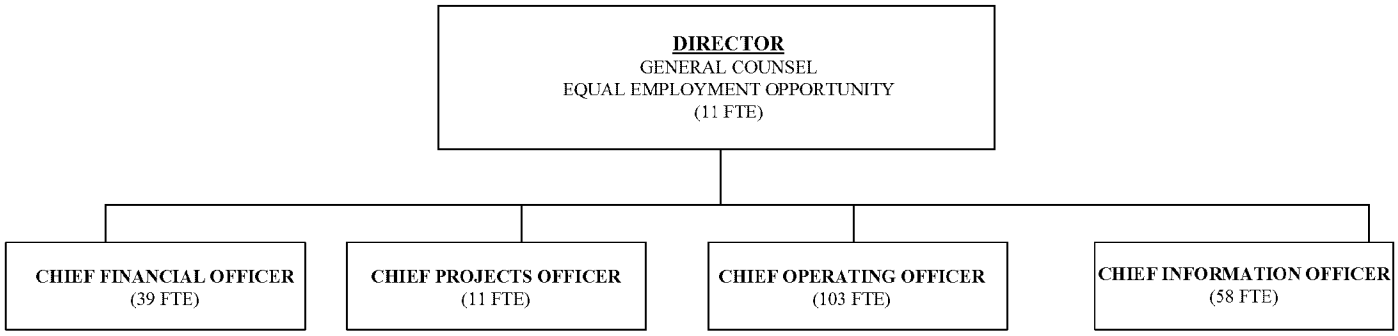
REV_00168604

Executive Office of the President

Office of Administration

Organization Chart

with FY 2003 Requested FTEs



Total 222 FTE

Hearing Record Reference for Question 72:

Issue: *White House Office*

Question: Provide a brief description of the duties and responsibilities of each office (e.g. Chief of Staff, Oval Office Operations, Office of the Press Secretary, Office of Homeland Security, etc.) within the appropriations account "White House Office". By office, provide obligations, FTE and OGE for FY 2001(actual) and FY 2002-2003 (estimated). Itemize OGE by category (e.g. reimbursable detailee, PSC, etc.).

Answer: The purpose of the White House Office is to provide advice and assistance to the President of the United States. This requires a range of professional and support staff. The White House Office is currently divided into the following major units:

Office of the Chief of Staff – Provides advice and assistance to the President and directs the activities of the White House staff.

Oval Office Operations – Provides assistance to the President by, among other things, managing the operations of the Oval Office.

REV_00168605

Advance – Provides advice and assistance to the President, principally by taking responsibility for the organization and implementation of the President and the First Lady's visits outside of the White House complex.

Cabinet Affairs – Provides advice and assistance to the President by, among other things, serving as the liaison between the White House and the President's Cabinet and agency heads.

Communications, Speechwriting, and Media Affairs – Provides advice and assistance to the President by, among other things, coordinating and supporting efforts to communicate and explain the President's views and decisions.

Office of Counsel to the President – Provides advice and assistance to the President and White House staff, principally on matters of law.

Faith-Based and Community Initiatives – Provides advice and assistance to the President by, among other things, coordinating and implementing the President's initiative to empower community and faith-based organizations to better confront poverty and social decay.

Office of the First Lady – Provides advice and assistance to Mrs. Bush in carrying out her official responsibilities as the First Lady.

Homeland Security – Provides advice and assistance to the President, principally by developing, coordinating, and advising the President on a comprehensive national strategy to secure the United States from terrorist threats or attacks and, in particular, by coordinating the Executive Branch's efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States. It has no operational role.

Intergovernmental Affairs – Provides advice and assistance to the President, principally by monitoring the views of State and local elected officials and serving as a liaison between the White House and the Executive Branch, on the one hand, and State and local governments, on the other.

Legislative Affairs – Provides advice and assistance to the President by, among other things, serving as the liaison between the White House and the Congress and developing the strategy used to promote and defend the President's legislative agenda.

Management and Administration – Provides advice and assistance to the President, principally by providing day-to-day administrative support to the White House staff.

Presidential Personnel – Provides advice and assistance to the President, principally by recruiting, screening, and recommending to the President qualified candidates for Presidential appointments to Federal departments and agencies.

REV_00168606

Office of the Press Secretary – Provides advice and assistance to the President, principally by providing information to the national and international press and by handling all national press inquiries such as interview requests, requests for transcripts or releases, and travel and scheduling information.

Scheduling – Provides advice and assistance to the President, principally by coordinating the planning, organization, and implementation of the President's daily and long-range schedules.

Office of the Staff Secretary – Provides advice and assistance to the President by, among other things, managing documents or other items addressed to the President, including correspondence and gifts.

Strategic Initiatives – Provides advice and assistance to the President by, among other things, coordinating the planning and development of a long-range strategy for achieving Presidential priorities; conducting research; and assisting in message development and other communications activities in conjunction with the Office of Public Liaison and the Office of Political Affairs.

USA Freedom Corps – Provides advice and assistance to the President on matters relating to enlisting Americans in public service at home and abroad; in particular, it provides advice and support on the work of, and recognizes participants in, three service efforts – the newly created Citizen Corps, AmeriCorps and Senior Corps, and the Peace Corps.

In addition to these major units, certain individuals – including certain individuals who work with the National Security Council, the Domestic Policy Council, and the National Economic Council – are also White House Office officers or employees, although the units within which they principally work are not themselves part of the White House Office.

The major units within the White House Office are administratively designated by the President's Chief of Staff and the number of employees within each unit and the work of each unit vary over time and as circumstances and needs change. Therefore, a detailed breakout of FTEs and OGEs by unit is not particularly meaningful. White House Office obligations, FTE and OGE are summarized below. The Office of Homeland Security is funded under the emergency supplemental this fiscal year, and therefore, the FY 2002 numbers below do not include OHS personnel or funding. FY 2002 estimates for the OHS are addressed separately in response to other committee questions.

REV_00168607

		FY01 act.		FY02 est.		FY03 est.
Total WHO – FTE		369		400		446
Total WHO – OGE		35		32*		127*
FY03 Congressional Request – FTE		400		400		446
(Dollars in thousands)						
Total WHO – Obligations		$53,084		$54,651		$84,579

* FY 2002 excludes the approximately 65 OGEs currently on board for the Office of Homeland Security.
The FY 2002 OGEs for the Office of Homeland Security are funded out of the emergency supplemental funding.
FY 2003 includes the 95 OGEs for the Office of Homeland Security requested in the FY 2003 Budget Request.

Issue: The Committee is resubmitting the following questions due to the lack of detailed information provided in the original responses

Question: Provide a brief description of the duties and responsibilities of each office (e.g. Chief of Staff, Oval Office Operations, Office of the Press Secretary, Office of Homeland Security, etc.) within the appropriations account "White House Office". By office, provide obligations, FTE and OGE for FY 2001(actual) and FY 2002-2003 (estimated). Itemize OGE by category (e.g. reimbursable detailee, PSC, etc.).

Answer: The purpose of the White House Office is to provide advice and assistance to the President of the United States. This requires a range of professional and support staff. The White House Office is currently divided into the following major units. A brief description of the duties and responsibilities of the major units is provided for the record.

Office of the Chief of Staff – Provides advice and assistance to the President and directs the activities of the White House staff.

Oval Office Operations – Provides assistance to the President by, among other things, managing the operations of the Oval Office.

Advance – Provides advice and assistance to the President, principally by taking responsibility for the organization and implementation of the President and the First Lady's visits outside of the White House complex.

Cabinet Affairs – Provides advice and assistance to the President by, among other things, serving as the liaison between the White House and the President's Cabinet and agency heads.

REV_00168608

Communications, Speechwriting, and Media Affairs – Provides advice and assistance to the President by, among other things, coordinating and supporting efforts to communicate and explain the President's views and decisions.

Office of Counsel to the President – Provides advice and assistance to the President and White House staff, principally on matters of law.

Faith-Based and Community Initiatives – Provides advice and assistance to the President by, among other things, coordinating and implementing the President's initiative to empower community and faith-based organizations to better confront poverty and social decay.

Office of the First Lady – Provides advice and assistance to Mrs. Bush in carrying out her official responsibilities as the First Lady.

Homeland Security – Provides advice and assistance to the President, principally by developing, coordinating, and advising the President on a comprehensive national strategy to secure the United States from terrorist threats or attacks and, in particular, by coordinating the Executive Branch's efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States.

Intergovernmental Affairs – Provides advice and assistance to the President, principally by monitoring the views of state and local elected officials and serving as a liaison between the White House and the Executive Branch, on the one hand, and state and local governments, on the other.

Legislative Affairs – Provides advice and assistance to the President by, among other things, serving as the liaison between the White House and the Congress and developing the strategy used to promote and defend the President's legislative agenda.

Management and Administration – Provides advice and assistance to the President, principally by providing day-to-day administrative support to the White House staff.

Presidential Personnel – Provides advice and assistance to the President, principally by recruiting, screening, and recommending qualified candidates for Presidential appointments to Federal departments and agencies.

Office of the Press Secretary – Provides advice and assistance to the President, principally by providing information to the national and international press and by handling all national press inquiries such as interview requests, requests for transcripts or releases, and travel and scheduling information.

REV_00168609

Scheduling – Provides advice and assistance to the President, principally by coordinating the planning, organization, and implementation of the President's daily and long-range schedules.

Office of the Staff Secretary – Provides advice and assistance to the President by, among other things, managing documents or other items addressed to the President, including correspondence and gifts.

Strategic Initiatives – Provides advice and assistance to the President by, among other things, coordinating the planning and development of a long-range strategy for achieving Presidential priorities; conducting research; and assisting in message development and other communications activities in conjunction with the Office of Public Liaison and the Office of Political Affairs.

USA Freedom Corps – Provides advice and assistance to the President on matters relating to enlisting Americans in public service at home and abroad; in particular, it provides advice and support on the work of, and recognizes participants in, three service efforts – the newly created Citizen Corps, AmeriCorps and Senior Corps, and the Peace Corps.

In addition to these major units, certain individuals – including certain individuals who work with the National Security Council, the Domestic Policy Council, and the National Economic Council – are also White House Office employees, although the units within which they principally work are not themselves part of the White House Office.

The major units within the White House Office are simply a creature of administrative convenience, and the number of employees within each unit and the work of each unit vary over time and as circumstances and needs change. Therefore a detailed breakout of FTEs and OGEs by unit is not particularly meaningful. Nevertheless, set forth below is a breakout based on current estimates and planning, which of course, may differ during the actual execution year.

	FY01	FY02	FY03
White House Office	**actual**	**est.**	**est.**
Office of Chief of Staff - FTE	11	12	12
Office of Chief of Staff - OGE (Agency Rep)	6	0	0
Oval Office Ops - FTE	5	5	5
Oval Office Ops - OGE	0	0	0
Advance - FTE	15	15	15
Advance - OGE	0	0	0
Office of Cabinet Affairs - FTE	6	6	6

REV_00168610

Office of Cabinet Affairs - OGE (Assignee)	3	1	1
Communications, Speechwriting & Media - FTE	32	35	35
Communications, Speechwriting & Media - OGE	0	0	0
Office of the Counsel to the President - FTE	17	19	19
Office of the Counsel to the President - OGE (Non-Reimb Detail)	4	2	2
Faith Based and Community Initiatives - FTE	7	8	8
Faith Based and Community Initiatives - OGE	0	0	0
Office of the First Lady - FTE	18	19	19
Office of the First Lady - OGE	0	0	0
Office of Homeland Security - FTE	0	0	40
Office of Homeland Security - OGE	0	0	95
Office of Intergovernmental Affairs - FTE	7	9	9
Office of Intergovernmental Affairs - OGE	0	0	0
Office of Legislative Affairs - FTE	23	24	24
Office of Legislative Affairs - OGE (Non-Reimb Detail)	0	1	1
Office of Legislative Affairs - OGE (Assignee)	0	1	1
Office of Management & Administration - FTE	34	38	38
Office of Management & Administration - OGE (Non-Reimb Detail)	1	0	0
Office of Management & Administration - OGE (HP Serv)	9	13	11
Office of Presidential Personnel - FTE	36	38	38
Office of Presidential Personnel - OGE (Assignee)	2	0	0
Office of Presidential Personnel - OGE (Reimb Detail)	0	1	1
Office of Presidential Personnel - OGE (Non-Reimb Detail)	1	1	1
Office of the Press Secretary - FTE	11	12	12
Office of the Press Secretary - OGE	0	0	0
Scheduling - FTE	10	11	11
Scheduling - OGE (HP Serv)	2	2	2
Office of the Staff Secretary - FTE	95	98	98

REV_00168611

Office of the Staff Secretary - OGE (Reimb Detail)	3	0	0
Office of the Staff Secretary - OGE (Non-Reimb Detail)	1	0	0
Office of Strategic Initiatives - FTE	34	35	35
Office of Strategic Initiatives - OGE (Reim Detail)	0	1	1
Office of Strategic Initiatives - OGE (Assignee)	0	1	1
USA Freedom Corps Office - FTE	0	5	6
USA Freedom Corps Office - OGE (Agency Rep)	0	1	1
USA Freedom Corps Office - OGE (Non-Reimb Detail)	0	2	2
USA Freedom Corps Office - OGE (Reimb Detail)	0	2	2
USA Freedom Corps Office - OGE (WH Fellow)	0	1	1
Other - FTE	8	11	16
Other - OGE (HP Serv)	2	3	3
Other - OGE (Agency Rep)	1	0	0
Other - OGE (Reimb Detail)	0	1	1

	FY01	**FY02**	**FY03**
	actual	**est.**	**est.**
Total WHO – FTE	369	400	446
Total WHO – OGE	35	34*	129**
FY03 Congressional Request – FTE	400	400	446

* FY 2002 excludes the approximately 65 OGEs currently on board for the Office of Homeland Security who are funded out of the FY 2002 Emergency Supplemental Appropriation. The WHO OGE number has been updated to reflect changes since we submitted the first set of responses to the questions for the record.

**FY 2003 includes the 95 OGEs for the Office of Homeland Security requested in the FY 2003 Budget Request.

Obligations (actual and estimated) are provided by individual White House office for FY 2001 thru FY 2003 in the table below. It must be emphasized that the FY 2002 and FY 2003 numbers are estimates only. As circumstances and needs change, so may these estimates in any actual year. Therefore, these estimates are not particularly meaningful.

REV_00168612

(dollars in thousands)					
White House Office		**FY01 act.**		**FY02 est.**	**FY03 est.**
Office of Chief of Staff		$1,473		$1,420	$1,474
Oval Office Ops		$550		$458	$476
Offices of Scheduling and Advance		$2,751		$3,398	$3,593
Office of Cabinet Affairs		$542		$592	$615
Communications, Speechwriting & Media		$2,202		$2,395	$2,486
Office of the Counsel to the President		$2,004		$1,895	$1,966
Faith Based and Community Initiatives		$366		$516	$536
Office of the First Lady		$1,354		$1,437	$1,492
Office of Homeland Security		$0		$0 *	$24,844
Office of Intergovernmental Affairs		$489		$518	$538
Office of Legislative Affairs		$1,870		$2,041	$2,118
Office of Management and Administration		$26,462		$25,735	$27,440
Office of Presidential Personnel		$2,137		$2,336	$2,425
Office of the Press Secretary		$1,062		$1,139	$1,182
Office of the Staff Secretary		$5,702		$6,232	$6,469
Office of Strategic Initiatives		$3,821		$4,167	$4,325
USA Freedom Corps Office - Obligations		$0		$372	$2,600
(dollars in thousands)					
Other Personnel Obligations - Prior administration org's		$299		$0	$0
Total WHO Obligations		$53,084		$54,651	$84,579

* FY 2002 obligations for the Office of Homeland Security are funded under the Emergency Supplemental Appropriation

It should be noted that a single budget is prepared for the WHO. This single budget is prepared based on a number of criteria such as: prior spending patterns, estimated requirements, OMB provided inflation factors, and the priorities of the President. During a given execution year, personnel costs are allocated based upon that year's sometimes unique staffing decisions. The remainder of the budget is allocated initially to two WHO offices. The travel budget is allocated in its entirety to Scheduling and Advance and obligated against this office if the travel is done in support of the President. Any travel undertaken that is not in support of a Presidential trip is charged to the office of the staff member in question. The remaining portion of the non-personnel, non-travel budget, including expenses for rent, supplies, equipment and other services is considered overhead and charged as such to the White House Office of Management and Administration.

The only exceptions are the Office of Homeland Security and the USA Freedom Corps Office. Since these are new offices requiring new budget authority, all new obligations (including travel and overhead) anticipated as a result of these offices are reflected in the FY 2003 estimates for these offices.

REV_00168613

Hearing Record Reference for question 73:

Question: Referencing the FTE/OGE tables that break-out personnel classifications by type of OGE, please explain why the number of "historically provided" employees decreased so significantly (from 25 to 1) for the Vice President's office between FY2001 and FY2002. Please provide the Subcommittee your definition of each OGE category listed on the table (agency reps, assignees, detailees, HP services, others, student volunteers, WH fellows, PMI). Please also provide a listing of the 15 "historically provided" White House Office positions identified on the FY2002 chart, the White House Office to which these positions are assigned, and the agency that pays the salary of each of the 15 positions.

Answer: The difference in the number of "Historically Provided" employees in the Vice President's Office from FY 2001 to FY 2002 is due to the redesignation of U.S. Senate employees. In FY 2001, the previous administration designated U.S. Senate employees in the Vice President's office as "Historically Provided". This was done in error and it has since been corrected. For FY 2002 and FY 2003, U. S. Senate employees are more accurately designated as "Other" since they do not fit into any other OGE category.

The following chart shows the 15 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 31, 2002*:

POSITION	OFFICE	HOME AGENCY
1. Deputy Executive Director	PFIAB*	Central Intelligence Agency
2. Administrative Services Spec.	PFIAB	Dept. of Defense
3. Administrative Assistant	PFIAB	U.S. Navy
4. Staff Assistant	Visitors Office	Dept. of Interior
5. Staff Assistant	Visitors Office	Dept. of Interior
6. Staff Assistant	Visitors Office	Dept. of Interior
7. Receptionist	Visitors Office	Dept. of Interior
8. President's Photographer	Photography Office	Defense Intelligence Agency
9. Visual Director	Photography Office	Defense Intelligence Agency
10. Photographer	Photography Office	Dept. of Defense
11. Official Photographer	Photography Office	Defense Intelligence Agency
12. Official Photographer	Photography Office	Dept. of Defense
13. Photo Editor	Photography Office	Dept. of Defense
14. Presidential Diarist	Scheduling Office	Nat'l Archive and Records Admin.
15. Asst. to the Presidential Diarist	Scheduling Office	Nat'l Archive and Records Admin.
16. Photographic Specialist**	Photography Office	Defense Intelligence Agency
17. Operations Manager**	Photography Office	Defense Intelligence Agency
18. Visual Information Specialist**	Photography Office	Defense Intelligence Agency

*PFIAB is the President's Foreign Intelligence Advisory Board
**Updated since the April 5, 2002 data was provided.

REV_00168614

Hearing Record Reference for Question 74:

The following chart shows the 15 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 31, 2002*:

POSITION	OFFICE	HOME AGENCY
1. Deputy Executive Director	PFIAB*	Central Intelligence Agency
2. Administrative Services Spec.	PFIAB	Dept. of Defense
3. Administrative Assistant	PFIAB	U.S. Navy
4. Staff Assistant	Visitors Office	Dept. of Interior
5. Staff Assistant	Visitors Office	Dept. of Interior
6. Staff Assistant	Visitors Office	Dept. of Interior
7. Receptionist	Visitors Office	Dept. of Interior
8. President's Photographer	Photography Office	Defense Intelligence Agency
9. Visual Director	Photography Office	Defense Intelligence Agency
10. Photographer	Photography Office	Dept. of Defense
11. Official Photographer	Photography Office	Defense Intelligence Agency
12. Official Photographer	Photography Office	Dept. of Defense
13. Photo Editor	Photography Office	Dept. of Defense
14. Presidential Diarist	Scheduling Office	Nat'l Archive and Records Admin.
15. Asst. to the Presidential Diarist	Scheduling Office	Nat'l Archive and Records Admin.
16. Photographic Specialist**	Photography Office	Defense Intelligence Agency
17. Operations Manager**	Photography Office	Defense Intelligence Agency
18. Visual Information Specialist**	Photography Office	Defense Intelligence Agency

*PFIAB is the President's Foreign Intelligence Advisory Board
**Updated since the April 5, 2002 data was provided.

Hearing Record Reference for Question 79:

Question: How many political appointees are currently employed within the Executive Office of the President?

Answer: The term "political appointees" is somewhat of a misnomer because it narrowly defines the type of employees authorized under Chapter 2 of Title 3 of the U.S. Code, for the White House Office, the Executive Residence, the Official Residence of the Vice President and the Office of Administration. These offices can hire personnel in various excepted service positions that are not subject to the rules of regular government employees. Many of these excepted service positions fall under the category of serving at the pleasure of the President while others do not. Using the term in the broadest possible sense, including all employees hired as Presidential Appointees, Administratively Determined, Non Career SES, or Schedule C's, the Executive Office of the President has the following number of political appointees directly hired

REV_00168615

within the EOP and serving in the EOP on detailed assignments from other agencies as of April 5, 2002:

As of April 5, 2002

Program	FY 2002 "POLITICAL APPOINTEES"					
	Admin. Determ.*	Schedule C	Non Career SES	Presidential Appointees	OGE** Political Appointees	TOTAL
White House Office	411				31	**442**
Special Assistance to the President	21				31	**52**
Official Residence of the Vice President		1				**1**
Office of Administration	8					**8**
Office of Policy Development	35				2	**37**
National Security Council				1	4	**5**
Council of Economic Advisers	18	3		3		**24**
Office of Management and Budget	2	23	13	5		**43**
Office of National Drug Control Policy		9	1	2		**12**
Executive Residence		94				**94**
Office of Science and Technology Policy		1	1	1	1	**4**
Council on Environmental Quality	6	4		1		**11**
U.S. Trade Representative	14	8	4	5		**31**
TOTAL	**515**	**143**	**19**	**18**	**69**	**764**

* Historically, Administratively Determined appointees within some agencies have served from one administration to another. Nevertheless, they serve at the pleasure of the entity head and may be terminated without cause.

** OGE = Other Government Employees

White House Office includes the Office of Homeland Security

Hearing Record Reference for Question 80:

Question: How many reimbursable details are currently employed within the Executive Office of the President?

Answer: There are currently 78 reimbursable detailees staffed within the Executive Office of the President including 63 reimbursable detailees for the Office of Homeland Security. The detailees for the Office of Homeland Security are funded through the FY 2002 Emergency Supplemental. Below is a listing of reimbursable detailees by agency as of April 5, 2002:

Agency	# Reimbursable Detailees
White House Office (incl. Homeland Security)	68
National Security Council	1
Office of Management and Budget	4
Office of National Drug Control Policy	1
Office of Science and Technology Policy	4
TOTAL	78

REV_00168616

Question: How many non-reimbursable details are currently employed within the Executive Office of the President?

Answer: There are currently 178 non-reimbursable detailees staffed within the Executive Office of the President. Below is a listing of non-reimbursable detailees by agency as of April 5, 2002:

Agency	# Non-Reimbursable Detailees
White House Office	8
National Security Council	108
Council of Economic Advisers	1
Office of Management and Budget	39
Office of National Drug Control Policy	1
United States Trade Representative	21
TOTAL	178

REV_00168617

From: Bumatay, Patrick J.
To: <Ullyot, Theodore W.>;<Bartolomucci, H. Christopher>;<Brosnahan, Jennifer R.>;<Francisco, Noel J.>;<Kavanaugh, Brett M.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>
Sent: 5/27/2003 12:56:28 PM
Subject: JSC this week

Please let me know if you plan on presenting anyone at tomorrow's JSC asap. Deadline is 4 pm today.

Thanks.

Bart - I have yours already.

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/27/2003 10:26:54 AM
Subject: : FW: LRM JAB99 - - OMB Request for Views on S1154 Women's Small Business Programs Improvement Act of 2003
Attachments: P_KA0QG003_WHO.TXT_1.pdf

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:27-MAY-2003 14:26:54.00
SUBJECT:: FW: LRM JAB99 - - OMB Request for Views on S1154 Women's Small Business Programs Improvement Act of 2003
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

-----Original Message-----
From: Brown, James A.
Sent: Tuesday, May 27, 2003 2:24 PM
To: dodlrs@osdgc.osd.mil; dol-sol-leg@dol.gov; cla@sba.gov; CLRM@doc.gov; justice.lrm@usdoj.gov
Cc: McMillin, Stephen S.; Rhinesmith, Alan B.; Lyon, Randolph M.; Rasetti, Lorenzo; Dennis, Yvette M.; Perry, Philip J.; Wood, John F.; Joseffer, Daryl L.; Rostker, David; Heath, Daniel D.; Reardon, Brian; Loper, Ginger G.; Call, Amy L.; Lobrano, Lauren C.; Whgc Lrm; Addington, David S.; Jukes, James J.; Green, Richard E.
Subject: LRM JAB99 - - OMB Request for Views on S1154 Women's Small Business Programs Improvement Act of 2003

LRM ID: JAB99
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, May 27, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: James A. Brown
PHONE: (202)395-3473 FAX: (202)395-3109
SUBJECT: OMB Request for Views on S1154 Women's Small Business Programs Improvement Act of 2003

DEADLINE: 10:00 A.M. Friday, May 30, 2003
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Reportedly, the Senate Small Business Committee will mark up this bill next week. The Committee is chaired by the bill's sponsor.

DISTRIBUTION LIST

AGENCIES:
029-DEFENSE - Vic Bernson - (703) 697-1305
062-LABOR - Robert A. Shapiro - (202) 693-5500
107-Small Business Administration - Richard Spence - (202) 205-6700

025-COMMERCE - Michael A. Levitt - (202) 482-3151
061-JUSTICE - William E. Moschella - (202) 514-2141

EOP:
Stephen S. McMillin
Alan B. Rhinesmith
Randolph M. Lyon
Lorenzo Rasetti
Yvette M. Dennis
Philip J. Perry
John F. Wood
Daryl L. Joseffer
David Rostker
Daniel D. Heath
Brian Reardon
Ginger G. Loper
Amy L. Call
Lauren C. Lobrano
WHGC LRM
David S. Addington
James J. Jukes
Richard E. Green

LRM ID: JAB99 SUBJECT: OMB Request for Views on S1154 Women's Small Business Programs Improvement Act of 2003
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) faxing us a memo or letter.
Please include the LRM number and subject shown above.

TO: James A. Brown Phone: 395-3473 Fax: 395-3109
Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet
ATT CREATION TIME/DATE: 0 00:00:00.00

File attachment <P_KA0QG003_WHO.TXT_1>

108TH CONGRESS
1ST SESSION

S. 1154

To provide for the reauthorization of programs administered by the Small Business Administration that assist small business concerns owned and controlled by women, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 23, 2003

Ms. SNOWE (for herself, Mr. BOND, and Mr. BURNS) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

---

A BILL

To provide for the reauthorization of programs administered by the Small Business Administration that assist small business concerns owned and controlled by women, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Women's Small Business Programs Improvement Act of 2003".

SEC. 2. OFFICE OF WOMEN'S BUSINESS OWNERSHIP.

Section 29(g) of the Small Business Act (15 U.S.C. 656(g)) is amended—

REV_00168794

(1) in paragraph (2)—

(A) in subparagraph (B)(i), by striking "in the areas of—

"(I) starting and operating"; and inserting the following:

"to solve problems concerning operations, manufacturing, technology, finance, international trade, and other disciplines required for—

"(I) starting, operating, and growing";

(B) in subparagraph (C), by inserting ", the National Women's Business Council, and the Association of Women's Business Centers" before the period at the end; and

(2) by adding at the end the following:

"(3) PROGRAMS AND SERVICES FOR WOMEN-OWNED SMALL BUSINESSES.—The Assistant Administrator, in consultation with the Association of Women's Business Centers, the National Women's Business Council, and the Interagency Committee on Women's Business Enterprise, shall develop programs and services for women-owned businesses (as defined in section 408 of the Women's Business

REV_00168795

Ownership Act of 1988 (15 U.S.C. 631 note)) that provide goods or services in the areas of—

"(A) manufacturing;

"(B) technology;

"(C) professional services;

"(D) travel and tourism;

"(E) international trade; and

"(F) Federal Government contract business development.

"(4) TRAINING.—The Administration shall provide sufficient training for business ownership representatives and technical representatives within the district offices of the Administration to enable these staffs to carry out their responsibilities under this section.".

SEC. 3. WOMEN'S BUSINESS CENTER PROGRAM.

(a) WOMEN'S BUSINESS CENTER GRANTS PROGRAM.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended by striking subsection (b) through (f) and inserting the following:

"(b) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Administration is authorized to award grants, to be known as 'Women's Business Center Grants', to private nonprofit organizations to conduct 3-year projects for the benefit

REV_00168796

of small business concerns owned and controlled by women. At the end of the initial 3-year grant period, and every 3 years thereafter, the grant recipient may apply to renew the grant in accordance with this subsection and subsection (e)(2).

"(2) CONTRACT AUTHORITY.—

"(A) IN GENERAL.—The Administration may enter into annual contracts with grant recipients under this subsection to perform the services described under paragraph (3) only to the extent and in the amount provided by appropriated funds.

"(B) TERMINATION.—If any grant recipient under this subsection does not fulfill its contractual obligations during the 3-year period of the grant, the Administration may terminate the grant.

"(3) USE OF FUNDS.—Grants awarded under paragraph (1) shall be used to provide—

"(A) financial assistance, including training and counseling in how to apply for and secure business credit and investment capital, preparing and presenting financial statements, and managing cash flow and other financial operations of a business concern;

REV_00168797

"(B) management assistance, including training and counseling in how to plan, organize, staff, direct, and control each major activity and function of a small business concern; and

"(C) marketing assistance, including training and counseling in identifying and segmenting domestic and international market opportunities, preparing and executing marketing plans, developing pricing strategies, locating contract opportunities, negotiating contracts, and utilizing varying public relations and advertising techniques.

"(4) MATCHING REQUIREMENT.—

"(A) WOMEN'S BUSINESS CENTER GRANTS.—As a condition of receiving financial assistance under this section, the grant recipient shall agree to obtain, after its application has been approved and notice of award has been issued, cash contributions from non-Federal sources as follows:

"(i) In the first and second years, 1 non-Federal dollar for each 2 Federal dollars provided under the grant.

REV_00168798

"(ii) In the third year, 1 non-Federal dollar for each Federal dollar provided under the grant.

"(iii) In each renewal period, 1 non-Federal dollar for each Federal dollar provided under the grant.

"(B) FORM OF NON-FEDERAL CONTRIBUTIONS.—Not more than ½ of the non-Federal sector matching assistance may be in the form of in-kind contributions that are budget line items only, including office equipment and office space.

"(C) FAILURE TO OBTAIN NON-FEDERAL FUNDING.—If any grant recipient fails to obtain the required non-Federal contribution during any project, it shall not be eligible thereafter for advance disbursements pursuant to subparagraph (D) during the remainder of that project, or for any other project for which it is or may be funded by the Administration. Before approving assistance to the grant recipient for any other projects, the Administration shall specifically determine whether the Administration believes that the grant recipient will be able to obtain the requisite non-Federal funding

REV_00168799

and enter a written finding setting forth the reasons for making such determination.

"(D) FORM OF FEDERAL CONTRIBUTIONS.—The financial assistance authorized pursuant to this section may be made by grant, contract, or cooperative agreement and may contain such provision, as necessary, to provide for payments in lump sum or installments, and in advance or by way of reimbursement. The Administration may disburse up to 25 percent of each year's Federal share awarded to a grant recipient after notice of the award has been issued and before the non-Federal sector matching funds are obtained.

"(5) APPLICATION SUBMISSION.—Each organization desiring a grant under this subsection, shall submit to the Administration an application that contains—

"(A) a certification that the applicant—

"(i) is a private nonprofit organization;

"(ii) employs an executive director or program manager to manage the center; and

REV_00168800

"(iii) as a condition of receiving a grant under this subsection, agrees—

"(I) to receive a site visit as part of the final selection process;

"(II) to undergo an annual programmatic and financial examination; and

"(III) to the maximum extent practicable, to remedy any problems identified pursuant to the site visit or examination under subclauses (I) and (II);

"(B) information demonstrating that the applicant has the ability and resources to meet the needs of the market to be served by the women's business center site for which a grant is sought, including the ability to comply with the matching requirement under paragraph (4);

"(C) information relating to assistance provided by the women's business center site for which a grant is sought in the area in which the site is located, including—

"(i) the number of individuals assisted;

REV_00168801

"(ii) the number of hours of counseling, training, and workshops provided; and

"(iii) the number of startup business concerns created;

"(D) information demonstrating the effective experience of the applicant in—

"(i) conducting financial, management, and marketing assistance programs, as described under paragraph (3), which are designed to teach or upgrade the business skills of women who are business owners or potential business owners;

"(ii) providing training and services to a representative number of women who are both socially and economically disadvantaged; and

"(iii) using resource partners of the Administration and other entities, such as universities;

"(E) a 3-year plan that projects the ability of the women's business center site for which a grant is sought—

"(i) to serve women business owners or potential owners in the future by im-

REV_00168802

proving training and counseling activities; and

"(ii) to provide training and services to a representative number of women who are both socially and economically disadvantaged; and

"(F) any additional information that the Administration may reasonably require.

"(6) REVIEW AND APPROVAL OF APPLICATIONS.—

"(A) IN GENERAL.—The Administration shall—

"(i) review each application submitted under paragraph (5) based on the information provided in such paragraph and the criteria set forth under subparagraph (B); and

"(ii) as part of the final selection process, conduct a site visit at each women's business center for which a grant is sought.

"(B) SELECTION CRITERIA.—

"(i) IN GENERAL.—The Administration shall evaluate and rank applicants in accordance with predetermined selection

REV_00168803

criteria that shall be stated in terms of relative importance. Such criteria and their relative importance shall be made publicly available and stated in each solicitation for applications made by the Administration.

"(ii) REQUIRED CRITERIA.—The selection criteria under clause (i) shall include—

"(I) the experience of the applicant in conducting programs or ongoing efforts designed to impart or upgrade the business skills of women business owners or potential owners;

"(II) the ability of the applicant to commence a project within a minimum amount of time;

"(III) the ability of the applicant to provide training and services to a representative number of women who are both socially and economically disadvantaged; and

"(IV) the location for the women's business center site proposed by the applicant.

REV_00168804

"(C) RECORD RETENTION.—The Administration shall maintain a copy of each application submitted under this subsection for not less than 7 years.

"(7) DATA COLLECTION.—Consistent with the annual report to Congress under subsection (g), each women's business center site that is awarded a grant shall, to the maximum extent practicable, collect information relating to—

"(A) the number of individuals assisted;

"(B) the number of hours of counseling and training provided and workshops conducted;

"(C) the number of startup business concerns formed;

"(D) any available gross receipts of assisted concerns; and

"(E) the number of jobs created, maintained, or lost at assisted concerns.

"(8) SAVINGS PROVISION.—Notwithstanding any other provision of law, a contract or cooperative agreement, in effect on the date of enactment of the Women's Small Business Programs Improvement Act of 2003, that awards a sustainability grant to a Women's Business Center, shall remain in full

REV_00168805

force and effect under the terms, and for the duration, of such contract or agreement.

"(c) ASSOCIATION OF WOMEN'S BUSINESS CENTERS.—

"(1) RECOGNITION.—The Administration shall recognize the existence and activities of an association formed by the Women's Business Centers to address matters of common concern.

"(2) CONSULTATION.—The Administration shall consult with the association described under paragraph (1) to develop—

"(A) a request for proposal to deliver assistance under this section;

"(B) a training program for the staff of the Women's Business Centers; and

"(C) policies and procedures for governing the general operations and administration of the Women's Business Center Program.".

(b) CONFORMING AMENDMENTS.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended—

(1) by redesignating subsections (g), (h), (i), (j), and (k) as subsections (d), (e), (f), (g), and (h), respectively.

REV_00168806

(2) in subsection (e)(2), as redesignated by paragraph (1), by striking "to award a contract (as a sustainability grant) under subsection (l) or";

(3) in subsection (h), as redesignated by paragraph (1)—

(A) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—There are authorized to be appropriated to carry out the provisions of this section, to remain available until expended—

"(A) $14,500,000 for fiscal year 2004;

"(B) $16,000,000 for fiscal year 2005; and

"(C) $17,500,000 for fiscal year 2006."; and

(B) by striking paragraph (4); and

(4) by striking subsection (l).

SEC. 4. NATIONAL WOMEN'S BUSINESS COUNCIL.

(a) COSPONSORSHIP AUTHORITY.—Section 406 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended by adding at the end the following:

"(e) COSPONSORSHIP AUTHORITY.—The Council is authorized to enter into cosponsorship agreements with public and private entities to carry out its duties under this section.".

REV_00168807

(b) MEMBERSHIP.—Section 407 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended by adding at the end the following:

"(j) REPRESENTATION OF MEMBER ORGANIZATIONS.—Notwithstanding subsection (b), a national women's business organization or small business that is represented on the Council may replace its representative member on the Council at any time during the service term to which that member was appointed.".

(c) ESTABLISHMENT OF COMMITTEES.—The Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended by inserting after section 407, the following new section:

"SEC. 408. COMMITTEES.

"(a) ESTABLISHMENT.—There are established within the Council—

"(1) the Committee on Manufacturing, Technology, and Professional Services;

"(2) the Committee on Travel, Tourism, and International Trade; and

"(3) the Committee on Federal Procurement and Contracting.

"(b) DUTIES.—The Committees established under subsection (a) shall perform such duties as the chairperson shall direct.".

REV_00168808

(d) REPOSITORY FOR HISTORICAL DOCUMENTS.—Section 409 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended by adding at the end the following:

"(c) REPOSITORY FOR HISTORICAL DOCUMENTS.—The Council shall establish a repository for historical documents relating to women's ownership of small businesses in the United States.".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 410(a) of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended by striking "2001 through 2003, of which $550,000" and inserting "2004 through 2006, of which 30 percent".

SEC. 5. INTERAGENCY COMMITTEE ON WOMEN'S BUSINESS ENTERPRISE.

(a) CHAIRPERSON.—Section 403(b) of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) by striking "Not later" and inserting the following:

"(1) IN GENERAL.—Not later"; and

(2) by adding at the end the following:

"(2) VACANCY.—In the event that a chairperson is not appointed under paragraph (1), the Deputy Administrator of the Small Business Admin-

REV_00168809

istration shall serve as acting chairperson of the Interagency Committee until a chairperson is appointed under paragraph (1).".

(b) POLICY ADVISORY GROUP.—Section 401 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) by striking "There" and inserting the following:

"(a) IN GENERAL.—There"; and

(2) by adding at the end the following:

"(b) POLICY ADVISORY GROUP.—

"(1) ESTABLISHMENT.—There is established within the Interagency Committee a Policy Advisory Group to assist the chairperson in developing policies and programs under this Act.

"(2) MEMBERSHIP.—The Policy Advisory Group shall be composed of—

"(A) 1 representative from the Small Business Administration;

"(B) 1 representative from the Department of Commerce;

"(C) 1 representative from the Department of Labor;

"(D) 1 representative from the Department of Defense;

REV_00168810

"(E) 1 representative from the Association of Women's Business Centers; and

"(F) 2 representatives from the National Women's Business Council.".

(c) ESTABLISHMENT OF SUBCOMMITTEES.—Section 401 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note), as amended by subsection (b), is further amended by adding at the end the following:

"(c) SUBCOMMITTEES.—

"(1) ESTABLISHMENT.—There are established within the Interagency Committee—

"(A) the Subcommittee on Manufacturing, Technology, and Professional Services;

"(B) the Subcommittee on Travel, Tourism, and International Trade; and

"(C) the Subcommittee on Federal Procurement and Contracting.

"(2) DUTIES.—The Subcommittees established under paragraph (1) shall perform such duties as the chairperson shall direct.".

SEC. 6. ANNUAL MANAGEMENT REPORT.

Section 29(g)(1) of the Small Business Act, as amended by this Act, is further amended by striking "The Administration" and inserting "Not later than November 1st of each year, the Administration".

REV_00168811

SEC. 7. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall take effect on October 1, 2003.

○

REV_00168812

From:	Leitch, David G.
To:	<Nelson, Carolyn>;adam ciongoli <adam.ciongoli@usdoj.gov>;<Bartolomucci, H. Christopher>; <Brosnahan, Jennifer R.>;<Bumatay, Patrick J.>;<Francisco, Noel J.>;<Grubbs, Wendy J.>;<Kavanaugh, Brett M.>;Kristi Remington <Kristi.I.Remington@usdoj.gov>;<Montiel, Charlotte L.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Sampson, Kyle>;<Ullyot, Theodore W.>;viet dinh <viet.dinh@usdoj.gov>
Sent:	5/27/2003 5:54:32 PM
Subject:	RE: WHJSC meeting CANCELLED for 5/28/03

In this regard, at least, Viet Dinh's tenure ends not with a bang but a whimper. Surely we'll have a chance to wish him a proper farewell?

-----Original Message-----

From: Nelson, Carolyn

Sent: Tuesday, May 27, 2003 5:51 PM

To: wendy keefer; adam ciongoli; albert brewster; amy bass; andrew beach; Bartolomucci, H. Christopher; Bennett, Melissa S.; Brilliant, Hana F.; Brosnahan, Jennifer R.; Bumatay, Patrick J.; Ellison, Kimberly; evelyn long; Francisco, Noel J.; Gray, Ann; Grubbs, Wendy J.; Heather McNaught; Jones, Alison ; Kavanaugh, Brett M.; Kristi Remington; Kyle, Ross M.; Leitch, David G.; Lockart, Sarah K.; McMaster, David; Montiel, Charlotte L.; Newstead, Jennifer G.; Powell, Benjamin A.; Ralston, Susan B.; Sampson, Kyle; tracy washington; Ullyot, Theodore W.; viet dinh

Subject: WHJSC meeting CANCELLED for 5/28/03

Thanks!

From: CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO]
To: Carolyn Nelson/WHO/EOP@Exchange [WHO] <Carolyn Nelson>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Alberto R. Gonzales/WHO /EOP@Exchange [WHO] <Alberto R. Gonzales>;Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>;Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>
Sent: 5/27/2003 2:33:46 PM
Subject: : An inspiring story

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME:27-MAY-2003 18:33:46.00
SUBJECT:: An inspiring story
TO:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Alberto R. Gonzales ( CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:H. Christopher Bartolomucci ( CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

This is a story regarding former Army Lacrosse captain John Fernandez,
featured this weekend on ESPN, who lost both legs in Iraq.

http://patriotleague.ocsn.com/sports/m-lacros/spec-rel/051303aab.html
<http://patriotleague.ocsn.com/sports/m-lacros/spec-rel/051303aab.html>
```

From: CN=David S. Addington/OU=OVP/O=EOP [OVP]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/27/2003 3:21:53 PM
Subject: : Re: Information Assurance Policy
Attachments: P_AUFQG003_WHO.TXT_1.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP [ OVP ] )
CREATION DATE/TIME:27-MAY-2003 19:21:53.00
SUBJECT:: Re: Information Assurance Policy
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Brett:

The Info Assurance Policy and Program Directive is an OA-originated item.
Attached above are the comments I sent to Adam Greenstone on the document.
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_AUFQG003_WHO.TXT_1>
```

5/22/03

RECOMMENDATIONS ON
DRAFT INFORMATION ASSURANCE PROGRAM AND POLICY

1. Change the cover memo to read as follows:

MEMORANDUM FOR: Administrative Contacts in the Executive Office of the President and the Office of the Vice President

FROM: Timothy Campen, Special Assistant to the President and Director of the Office of Administration

SUBJECT: Information Assurance Program and Policy

To facilitate information system security, information integrity, and effective use of information technology, the Office of Administration hereby issues the Information Assurance Program and Policy attached. Consistent with section 3534 of Title 31 of the United States Code, as enacted by the E-Government Act of 2002 (Public Law 107-347), this Program and Policy applies with respect to each agency within the Executive Office of the President to the extent such agency does not have in force a separate information assurance program and policy compliant with section 3534.

Entities within the Executive Office of the President that are not agencies (such as the White House Office, the Office of Policy Development, and the Executive Residence), and entities served by the Office of Administration that are not within the Executive Office of the President (such as the Office of the Vice President), may adopt in whole or in appropriate part this Program and Policy for their respective organizations.

Your continued support for an effective information assurance program and policy is very much appreciated.

2. On the issuance page, strike "**2. Personnel Concerned**. This policy provides procedures for OA administration of the EOP IA Program, as well as standards for users to follow in order to access the EOP network." and insert in lieu thereof:

2. Applicability. This policy applies to (a) each agency within the Executive Office of the President to the extent such agency does not have in force a separate information assurance program and policy compliant with section 3534 of title 31 of the United States Code and (b) the Office of Administration. Entities within the Executive Office of the President that are not agencies (such as the White House Office, the Office of Policy Development, and the Executive Residence), and entities served by the Office of Administration that are not within the Executive Office of the President (such as the Office of the Vice President), may adopt in whole or in appropriate part this Program and Policy for their respective organizations.

3. In the Executive Summary, strike "In order to provide such protection, the Office of Administration (OA) is responsible for administering an information assurance (IA) program for White House and EOP-wide information processing systems." and insert in lieu thereof "**In order to provide such protection, the Office of Administration (OA) administers an information assurance (IA) program for the information processing systems it operates for the organizations OA supports.**"

4. In part II.1 (p. 8), strike "Policy compliance is required for all personnel that manage, develop, implement, or access shared systems. This includes EOP employees, contractors, interns, detailees, temporary employees, volunteers or anyone else acting in an official capacity on behalf of EOP." and insert after the first paragraph under part II.1. the following new paragraphs:

> **This Information Assurance Program and Policy applies to (a) each agency within the Executive Office of the President to the extent such agency does not have in force a separate information assurance program and policy compliant with section 3534 of title 31 of the United States Code and (b) the Office of Administration. Entities within the Executive Office of the President that are not agencies (such as the White House Office, the Office of Policy Development, and the Executive Residence), and entities served by the Office of Administration that are not within the Executive Office of the President (such as the Office of the Vice President), may adopt in whole or in appropriate part this Program and Policy for their respective organizations.**
>
> **Because this Information Assurance Program and Policy has been adopted by the Office of Administration, it applies with respect to the operation and use of information systems managed by OA, consistent with applicable law. Thus, any employee (including a full-time, part-time and temporary employee), contractor, intern, detailee, assignee, intern volunteer or any other person authorized to use such information systems must do so consistent with this Information Assurance Program and Policy.**

5. At the end of part II.1 (page 8), insert: **"This directive is intended only to improve internal management and is not intended to, and does not, create any right or benefit, substantive or procedural, against the United States, any department, agency, entity, officer, employee or agent thereof, or any other person. Nothing in this directive shall be construed to limit access to or use of information systems or information for defense, protective, intelligence or law enforcement purposes, or in an emergency to protect life or limb."**

6. In part III.1.a. (page 10), strike "The OA Director is the final approval authority and the enforcement authority for all IA policies." and insert in lieu thereof "**The Director of OA issues and implements the Information Assurance Program and Policy.**"

7. In part III.b.14.c. strike "to oversight organizations, such as OMB and GAO".

8. In part 1 of Appendix A (page A-2) after "OMB Circular A-230" insert "**, which applies to agencies in the executive branch,**".

9. In part 2 of Appendix A (page A-3), strike "shall be strictly enforced" and insert in lieu thereof "**shall be strictly observed**".

10. Revise part 4.a. of Appendix A (page A-4) to read "**a. Ensure that no individual has access to any EOP network system without approval for such access in accordance with applicable personnel security policies.**"

11. In part 9 of Appendix A (page A-7), strike "All EOP personnel and personnel acting on behalf of EOP are required to undergo initial computer security training and annual refresher training to maintain active accounts on EOP systems." and insert in lieu thereof: "**OA shall conduct computer security training programs, including provision of written or on-line annual refresher materials, for individuals with authorized access to EOP information systems.**"

12. Add at the end of part 4.d. of Appendix B (page B-5) the following sentence: "**Such prohibited peer-to-peer communications that involve the constitutional, statutory or ceremonial functions of the President or the Vice President also fail to comply with Presidential Records Act requirements.**"

13. In part 7.d. of Appendix B (page B-8), strike "Personnel shall not share account passwords with anyone except the account owner."**An individual issued an account password for use of an information system shall not share that password with anyone, except authorized OA information systems management personnel and the authorized information system point of contact for the organization in which they are employed, assigned or detailed.**"

14. In part 13 of Appendix B (page B-11), after "Waivers to this policy may only be approved by the CIO" insert "**, and no such waiver may authorize communication of Presidential Records Act material by such messaging**".

15. Either (a) delete Appendix D. entirely, or (b) strike the introduction paragraph and the sentence at the beginning of part D. 1 and insert in lieu thereof "**The following table maps components of this document with related Federal statutes and policies of interest. To determine whether a particular legal requirement is applicable to your organization or to you official actions, consult the general counsel of your organization.**"

16. Strike from the matrix (page D-15) items numbered 17, 18, and 19 referring to PDD-63, the Enduring Constitutional Government document of October 21, 1998, and PDD-67.

17. In part 2 of Appendix E, strike "NIST is the legislated authority for information security in Civil Government, and therefore this template has not been modified in any way, and is intended as a sample guideline." and insert in lieu thereof "**NIST has prepared the template set forth below, which is intended as a sample guideline.**"

18. In part 1 of Appendix F, strike "an excessive waste of resources" and insert in lieu thereof "**a waste of resources**".

From: CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO]
To: kenneth_starr@dc.kirkland.com @ inet [UNKNOWN] <kenneth_starr@dc.kirkland.com @ inet>
Sent: 5/28/2003 11:57:52 AM
Subject: :
Attachments: P_T9FRG003_WHO.TXT_1

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:28-MAY-2003 15:57:52.00
SUBJECT::
TO:kenneth_starr@dc.kirkland.com @ inet ( kenneth_starr@dc.kirkland.com @ inet [ UNKNOWN ]
)
READ:UNKNOWN
###### End Original ARMS Header ######

- Newspaper Chart Filibuster.pdf



ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_T9FRG003_WHO.TXT_1>
```

Nation's Newspapers Demand End to Filibusters of Judicial Nominees

Updated through May 22, 2003

At least **179** editorials from **104** separate newspapers from **35** states and the District of Columbia have decried Democrats' use of the filibuster to block President Bush's judicial nominees and/or have called for the immediate confirmation of those nominees.

Only **25** editorials in **17** separate newspapers have argued that these nominees should be blocked by filibuster or that Senators need more information before voting up-or-down.

The following chart represents **every newspaper editorial published this year that could be located** – not including op-eds, even if signed by a member of the newspaper's own editorial staff – regarding the pending nomination. Each editorial is listed by date, and where a newspaper has editorialized more than once on the subject, a separate date is provided. Not all of the many editorial boards opposing this filibuster necessarily favor the ultimate confirmation of the nominees, and they are marked accordingly. In addition, some editorial boards have stopped short of commenting on the merits of the nomination or the filibuster, and are marked as "ambiguous" and not included in the totals above.

	Newspaper	Date	Substance
Alabama	Mobile Register	2/8/03	Anti-Filibuster
		2/13/03	Anti-Filibuster
		2/24/03	Anti-Filibuster
		3/7/03	Anti-Filibuster
		3/22/03	Anti-Filibuster/Pro-Estrada
		4/10/03	Pro-Pryor
		5/4/03	Pro-Pryor
		5/9/03	Anti-Filibuster
		5/12/03	Pro-Pryor
		5/21/03	Pro-Pryor
	The Crimson (University of Alabama)	4/18/03	Pro-Pryor
	Anniston Star	4/21/03	Pro-Pryor
	Tuscaloosa News	5/4/03	Pro-Pryor
	Gadsen Times	5/12/03	Anti-Filibuster
	Birmingham Post Herald	5/15/03	Ambiguous
Arizona	East Valley Tribune (Mesa)	2/25/03	Anti-Filibuster
	Arizona Daily Star	2/3/03	Pro-Filibuster/Opposes Estrada
Arkansas	The Arkansas Democrat-Gazette	2/19/02	Anti-Filibuster/Pro-Estrada
		5/13/03	Pro-Holmes
	Arkansas Times	2/21/03	Opposes-Estrada
California	San Diego Union Tribune	2/25/03	Anti-Filibuster
	Redding Searchlight	2/15/02	Anti-Filibuster/Pro-Estrada
	The Press Enterprise (Riverside)	2/18/03	Anti-Filibuster/Pro-Estrada
	Contra Costa Times (Walnut Creek)	2/28/03	Anti-Filibuster
	North County Times (San Diego Co.)	3/6/03	Anti-Filibuster
	Daily Breeze	3/21/03	Anti-Filibuster
	Orange County Register	3/27/03	Anti-Filibuster
	Los Angeles Times	5/8/03	Opposes-Kuhl
	The Stanford Daily Online	5/16/03	Anti-Reform
	The Mercury News	5/21/03	Pro-Filibuster/Anti-Kuhl
	The San Francisco Chronicle	5/11/03	Ambiguous

Colorado	Denver Post	2/13/02	Anti-Filibuster
		3/12/03	Anti-Filibuster
	Rocky Mountain News	2/14/03	Anti-Filibuster/Pro-Estrada
		3/16/03	Anti-Filibuster
Connecticut	The Hartford Courant	2/14/03	Anti-Filibuster
		3/11/03	Anti-Filibuster
	Republican-American (Waterbury)	3/14/03	Anti-Filibuster
	Connecticut Law Tribune	3/24/03	Ambiguous
Delaware	The News Journal (Delaware)	5/15/03	Ambiguous
District of Columbia	Washington Times	2/5/03	Anti-Filibuster/Pro-Estrada
		2/12/03	Anti-Filibuster/Pro-Estrada
		3/5/03	Anti-Filibuster
	Washington Post	2/5/03	Anti-Filibuster/Pro-Estrada
		2/18/03	Anti-Filibuster
		3/3/03	Anti-Filibuster
		3/7/03	Anti-Filibuster
		4/11/03	Opposes -Pryor
		5/9/03	Opposes -Holmes
		5/21/03	Anti-Filibuster
		5/21/03	Anti-Filibuster
Florida	The Tribune (Port St. Lucie)	2/8/03	Anti-Filibuster/Pro-Estrada
	Palm Beach Post	5/9/03	Pro-Filibuster
	Sun-Sentinel (Fort Lauderdale)	3/6/03	Anti-Filibuster
	The Tampa Tribune	2/8/03	Anti-Filibuster/Pro-Estrada
		3/8/03	Anti-Filibuster
		5/6/03	Anti-Filibuster
	The Florida Times-Union (Jacksonville)	2/8/03	Anti-Filibuster/Pro-Estrada
		3/5/03	Anti-Filibuster/Pro-Estrada
		3/15/03	Anti-Filibuster/Pro-Estrada
		3/31/03	Anti-Filibuster
		5/8/03	Anti-Filibuster
	Vero Beach Press Journal	5/13/03	Anti-Filibuster
Georgia	The Atlanta Journal Constitution	2/10/03	Anti-Filibuster/Pro-Estrada
		5/6/03	Pro-Pryor
	Augusta Chronicle	2/16/03	Anti-Filibuster/Pro-Estrada
		3/7/03	Anti-Filibuster/Pro-Estrada
	Savannah Morning News	2/13/03	Anti-Filibuster
		5/8/03	Anti-Filibuster/Pro-Estrada
Illinois	Chicago Tribune	2/10/03	Anti-Filibuster/Pro-Estrada
		2/26/03	Anti-Filibuster
	Chicago Sun-Times	2/14/03	Anti-Filibuster/Pro-Estrada
		5/6/03	Anti-Filibuster
	Freeport Journal Standard	2/20/03	Anti-Filibuster/Pro-Estrada
	Chicago Daily Herald	2/4/03	Ambiguous
	The Pantagraph (Bloomington-Normal)	3/24/03	Anti-Filibuster
Indiana	Elkhart Truth	2/25/03	Anti-Filibuster/Pro-Estrada
	Indianapolis Star	2/27/03	Anti-Filibuster/Pro-Estrada
		5/10/03	Anti-Filibuster
	Fort Wayne	3/5/03	Anti-Filibuster
Kansas	Wichita Eagle	2/25/03	Anti-Filibuster
Kentucky	Bowling Green Daily News	2/20/03	Anti-Filibuster/Pro-Estrada
Louisiana	The Advocate (Baton Rouge)	2/16/03	Anti-Filibuster/Anti-promise-breaking

Maine	Bangor News	2/19/03	Anti-Filibuster
Maryland	The Star Democrat (Easton	3/24/03	Ambiguous
Massachusetts	The Berkshire Eagle	2/1/03	Pro-Filibuster/Opposes Estrada
		3/8/03	Pro-Filibuster
		5/7/03	Pro-Filibuster
	Boston Herald	2/14/03	Anti-Filibuster
		3/7/03	Anti-Filibuster
	Boston Globe	2/15/03	Ambiguous
		5/6/03	Pro-Filibuster
	Lowell Sun	3/1/03	Anti-Filibuster/Pro-Estrada
	The Republican	5/3/03	Pro-Filibuster/Opposes Owen
Michigan	Detroit News	2/10/03	Anti-Filibuster/Pro-Estrada
	Grand Rapids Press	2/14/03	Anti-Filibuster/Pro-Estrada
	Kalamazoo Gazette	2/19/03	Ambiguous
	Lansing State Journal	3/17/03	Pro-Filibuster
	The Daily Mining Gazette (Houghton)	5/6/03	Ambiguous
Minnesota	Minnesota Daily via U-Wire	2/18/02	Pro-Filibuster/Opposes Estrada
	St. Paul Pioneer Press	5/13/03	Ambiguous
Mississippi	Hattiesburg American	5/3/03	Anti -Filibuster/Pro-Estrada
		5/11/03	Anti-Filibuster/Pro Pickering
	Northeast Mississippi Daily Journal	5/1/03	Anti-Filibuster/ Pro Pickering
	The Clarion-Ledger	5/9/03	Anti-Filibuster/Pro-Pickering
		5/13/03	Anti-Filibuster
Missouri	St. Louis Post-Dispatch	2/7/03	Anti-Filibuster/Pro-Estrada
	Southeast Missourian	3/19/03	Anti-Filibuster
Nebraska	Omaha World Herald	2/14/03	Pro-Filibuster
	Daily Nebraskan (U. Nebraska)	3/7/03	Ambiguous
	Lincoln Journal Star	3/19/03	Anti-Filibuster
Nevada	Las Vegas Review Journal	2/3/03	Anti-Filibuster/Pro-Estrada
		2/13/03	Anti-Filibuster/Pro-Estrada
		3/2/03	Pro-Estrada
		4/15/03	Anti-Filibuster/Pro-Owen
		5/1/03	Anti-Filibuster
	Reno Gazette Journal	2/18/03	Ambiguous
	Las Vegas Sun	5/11/03	Pro-Filibuster
New Mexico	Albuquerque Journal	2/23/03	Anti-Filibuster/Pro-Estrada
		5/10/03	Pro-Estrada/Anti-Reform
	Santa Fe New Mexican	2/24/03	Anti-Filibuster/Pro-Estrada

New York	New York Post	2/12/03	Anti-Filibuster/Pro-Estrada
		3/4/03	Anti-Filibuster
		3/9/03	Anti-Filibuster
		5/12/03	Anti-Filibuster
	Poughkeepsie Journal	3/6/03	Anti-Filibuster
	Rochester Democrat and Chronicle	2/7/03	Anti-Filibuster/Pro-Estrada
	The Post Standard (Syracuse)	1/30/03	Opposes Estrada
	New York Times	2/13/03	Pro-Filibuster/Opposes Estrada
		3/13/03	Pro-Filibuster/Opposes Estrada
		4/17/03	Pro-Filibuster/Opposes Owen
		4/24/03	Opposes-Kuhl
		5/5/03	Pro-Filibuster/Opposes Owen
		5/11/03	Pro-Filibuster
		5/19/03	Anti-Pryor
	Newsday (NYC)	2/13/03	Pro-Filibuster/Opposes Estrada
		5/9/03	Pro-Filibuster
	Gloversville Leader-Herald	2/24/03	Anti-Filibuster
	New York Sun	2/12/03	Anti-Filibuster/Pro-Estrada
	The Times Union (Albany)	3/7/03	Ambiguous
	Staten Island Advance	2/25/03	Pro-Filibuster
		3/11/03	Ambiguous
	Times Herald-Record (Middletown)	3/9/03	Anti-Filibuster
	The Record (Troy)	3/10/03	Pro-Filibuster
	The Buffalo News	3/19/03	Anti-Filibuster
		5/18/03	Ambiguous
North Carolina	Kinston Free Press	2/10/03	Anti-Filibuster
	Winston-Salem Journal	2/20/03	Anti-Filibuster/Pro-Estrada
North Dakota	Grand Forks Herald	2/15/03	Anti-Filibuster/Pro-Estrada
		3/13/03	Anti-Filibuster
Ohio	Cincinnati Post	2/7/03	Anti-Filibuster/Pro-Estrada
		3/10/03	Anti-Filibuster/Pro-Estrada
		5/12/03	Ambiguous
	Dayton Daily News	2/17/03	Ambiguous
		3/14/03	Ambiguous
		5/1/03	Ambiguous
	The Cincinnati Enquirer	5/6/03	Anti-Filibuster
	Lima News	2/27/03	Anti-Filibuster
	The Beacon Journal (Akron)	3/16/03	Anti-Filibuster
Oregon	Oregonian	3/3/03	Pro-Filibuster
Oklahoma	The Daily Oklahoman	2/4/03	Anti-Filibuster
		2/10/03	Anti-Filibuster/Pro-Estrada
		2/13/03	Anti-Filibuster
		2/19/03	Anti-Filibuster
		3/5/03	Anti-Filibuster
		3/6/03	Anti-Filibuster
		5/3/03	Anti-Filibuster
		5/17/03	Anti-Filibuster
Pennsylvania	Lancaster New Era	2/21/03	Anti-Filibuster- Pro-Estrada
	Philadelphia Inquirer	3/1/03	Anti-Filibuster
	Pittsburgh Tribune-Review	2/9/03	Anti-Filibuster/Pro-Estrada
		2/13/03	Anti-Filibuster/Pro-Estrada
		3/10/03	Anti-Filibuster
		5/3/03	Anti-Filibuster
	Pittsburgh Post-Gazette	2/7/03	Ambiguous
		3/6/03	Anti-Filibuster
		5/21/03	Anti-Filibuster/
	Scranton Times-Tribune	3/17/03	Anti-Filibuster
Rhode Island	Providence Journal	2/14/03	Anti-Filibuster/Pro-Estrada

South Carolina	The Post and Courier (Charleston)	1/21/03	Anti-Filibuster
		2/14/03	Anti-Filibuster/Pro-Estrada
		3/7/03	Anti-Filibuster
		5/19/03	Pro-Estrada/Pro-Owen
	Spartanburg Herald Journal	2/14/03	Anti-Filibuster/Pro-Estrada
		3/7/03	Anti-Filibuster/Pro-Estrada
South Dakota	Rapid City Journal	2/28/03	Anti-Filibuster
		5/20/03	Anti-Filibuster
	Sioux Falls Argus Leader	3/18/03	Ambiguous
Tennessee	Chattanooga Times Free Press	5/3/03	Anti-Filibuster
Texas	Waco Tribune-Herald	2/25/03	Anti-Filibuster
	El Paso Times	2/8/03	Anti-Filibuster/Pro-Estrada
		3/5/03	Anti-Filibuster
		5/1/03	Anti-Filibuster
	Fort Worth Star Telegram	2/13/03	Anti-Filibuster
		4/24/03	Anti-Filibuster
		5/3/03	Anti-Filibuster
	The Dallas Morning News	2/17/03	Anti-Filibuster
		3/16/03	Anti-Filibuster
		4/21/03	Anti-Filibuster
		5/13/03	Anti-Filibuster
	Austin American-Statesman	2/21/03	Anti-Filibuster
		4/29/03	Anti-Filibuster/Anti-Owen
	Victoria Advocate	2/26/03	Anti-Filibuster/Pro-Estrada
	Amarillo Globe-News	2/28/03	Anti-Filibuster/Pro-Estrada
		5/4/03	Anti-Filibuster
	San Antonio Express-News	2/28/03	Anti-Filibuster
	Tyler Morning Telegraph	2/16/03	Anti-Filibuster
	San Angelo Times	2/27/03	Ambiguous
	Corpus Christi Caller Times	3/10/03	Ambiguous
	The Beaumont Enterprise	3/28/03	Anti-Filibuster
	Houston Chronicle	5/12/03	Opposes-Owen
Utah	St. George Spectrum	3/3/03	Anti-Filibuster
	Deseret News	3/10/03	Anti-Filibuster
	The Salt-Lake Tribune	3/12/03	Anti-Filibuster
Virginia	Richmond Times Dispatch	2/19/03	Anti-Filibuster
		2/27/03	Anti-Filibuster
		3/20/03	Anti-Filibuster
		3/27/03	Anti-Filibuster
		5/12/03	Anti-Filibuster
		5/18/03	Anti-Filibuster
	Free-Lance Star (Fredericksburg)	2/9/03	Anti-Filibuster/Pro-Estrada
		2/14/03	Anti-Filibuster
		5/20/03	Anti-Filibuster
	Winchester Star	2/24/03	Anti-Filibuster/Pro-Estrada
		5/5/03	Ambiguous
	Roanoke Times	3/10/03	Ambiguous
	Manassas Journal Messenger	3/6/03	Anti-Filibuster
West Virginia	Wheeling News Register	2/24/03	Anti-Filibuster
	Charleston Gazette	5/20/03	Pro-Filibuster
Wisconsin	Capital Times (Madison)	2/13/03	Pro-Filibuster/Opposes Estrada
		3/11/03	Pro-Filibuster/Opposes Estrada
	Milwaukee Journal Sentinel	2/27/03	Ambiguous
		3/20/03	Ambiguous

National	Investor's Business Daily	2/5/03	Anti-Filibuster/Pro-Estrada
		3/3/03	Anti-Filibuster
	Wall Street Journal	2/6/03	Anti-Filibuster/Pro-Estrada
		2/26/03	Anti-Filibuster/Pro-Estrada
		3/6/03	Anti-Filibuster
		5/13/03	Anti-Filibuster

If you are aware of any other editorials that should be included in the above, regardless of position, please contact the Senate Republican Policy Committee at 224-2946.

From: CN=Peder Anderson/OU=WHO/O=EOP [WHO]
To: Tiffany A. Watkins/WHO/EOP@EOP [WHO] <Tiffany A. Watkins>
CC: Wade Plunkett/WHO/EOP@EOP [WHO] <Wade Plunkett>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>;Nanette Everson/WHO/EOP@EOP [WHO] <Nanette Everson>
Sent: 5/28/2003 12:17:13 PM
Subject: : Hatch Act - Making Financial Contributions to Political Campaign

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Peder Anderson ( CN=Peder Anderson/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:28-MAY-2003 16:17:13.00
SUBJECT:: Hatch Act - Making Financial Contributions to Political Campaign
TO:Tiffany A. Watkins ( CN=Tiffany A. Watkins/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Wade Plunkett ( CN=Wade Plunkett/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:Nanette Everson ( CN=Nanette Everson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######
```

You called our office and asked whether you could make financial contributions to a political organization or campaign. The answer is yes, provided your contribution remains within the political limits of the receiving organization. Please note that Brett Kavanaugh is our White House advisor on political campaign issues and future questions in this area should be directed to his attention.

From:	CN=Edward McNally/OU=WHO/O=EOP [WHO]
To:	Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Paul A. Ehrhardt/OA /EOP@EOP [OA] <Paul A. Ehrhardt>;Adam F. Greenstone/OA/EOP@Exchange@EOP [OA] <Adam F. Greenstone>;Monique L. Dilworth/OA/EOP@EOP [OA] <Monique L. Dilworth>
CC:	patrick j. bumatay/who/eop@exchange@eop [WHO] <patrick j. bumatay>;jennifer g. newstead/who/eop@eop [WHO] <jennifer g. newstead>;Timothy C. Stout/WHO/EOP@EOP [WHO] <Timothy C. Stout>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;faisal m. gill/who/eop@eop [WHO] <faisal m. gill>
BCC:	Catherine S. Anderson (Catherine S. Anderson/WHO/EOP [WHO]), Eric Leckey (Eric Leckey/WHO/EOP [WHO]), Ryan P. Stiles (Ryan P. Stiles/WHO/EOP [WHO])
Sent:	5/28/2003 1:54:10 PM
Subject:	: QFR request for copies of HSC MOUs

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:28-MAY-2003 17:54:10.00
SUBJECT:: QFR request for copies of HSC MOUs
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Paul A. Ehrhardt ( CN=Paul A. Ehrhardt/OU=OA/O=EOP@EOP [ OA ] )
READ:UNKNOWN
TO:Adam F. Greenstone ( CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange@EOP [ OA ] )
READ:UNKNOWN
TO:Monique L. Dilworth ( CN=Monique L. Dilworth/OU=OA/O=EOP@EOP [ OA ] )
READ:UNKNOWN
CC:patrick j. bumatay ( CN=patrick j. bumatay/OU=who/O=eop@exchange@eop [ WHO ] )
READ:UNKNOWN
CC:jennifer g. newstead ( CN=jennifer g. newstead/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:Timothy C. Stout ( CN=Timothy C. Stout/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:brett m. kavanaugh ( CN=brett m. kavanaugh/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:faisal m. gill ( CN=faisal m. gill/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
BCC:Catherine S. Anderson ( CN=Catherine S. Anderson/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Eric Leckey ( CN=Eric Leckey/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Ryan P. Stiles ( CN=Ryan P. Stiles/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Following up on Jen's note, I am told that although they requested the
OSTP/OHS MOU last year we did not provide a copy. For the reasons that've
been referenced, and unless Brett is aware of a different practice used
for similar requests for MOUs from other EOP offices, I concur that
neither of the 2 HSC MOUs shld be provided as part of the EOP response.




Benjamin A. Powell
05/28/2003 04:46:34 PM
Record Type: Record

To: Edward McNally/WHO/EOP@EOP
cc: Faisal M. Gill/WHO/EOP@EOP, Jennifer G. Newstead/WHO/EOP@EOP,
Brett M. Kavanaugh/WHO/EOP@EOP, Patrick J. Bumatay/WHO/EOP@Exchange@EOP
bcc:
Subject: Re: Cong questions
```

A few points:

-Answer to Q 19 states gives details of a signed MOU b/w OHS and OSTP and provides a copy of the MOU (and the next Q discusses a HSC/NSC MOU). You should check with Brett on whether it is appropriate to disclose such internal agreements. I also seem to recall other MOU type questions in other places in the list of questions.

-Typo in first sentence in Q 21 answer.

-Q 98 states that OA counsel (Greenstone) is going to suggest an answer to the question of whether Gen. Gordon supports the $2 mill "cut" in resources.
I would think this is a HSC/WHCO item to answer. IF it is answered (a question for Jennifer as it essentially asks for testimony from someone who we would not normally have testify/answer written questions), at most I would think the answer would simply not address the views of Gen. Gordon and state something like "The EOP budget proposal provides the necessary resources for HSC to advise and assist the President. The $2 mill "cut" reference is incorrect because . . . . ($2 mill reflects appropriate adjustments as a result of . . . . . creation of DHS, etc. -- whatever the case is.)"

From: Edward McNally on 05/28/2003 04:21:20 PM
Record Type: Record

To: Benjamin A. Powell/WHO/EOP@EOP
cc:
Subject: Cong questions

---------- Forwarded by Edward McNally/WHO/EOP on 05/28/2003 04:21 PM ----------
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Cong questions

Here are the revised comments for questions:

9-28, 91-99.

This is a clean version and includes comments from Ben Powell. If you would like a track changes version, I can provide that as well.

Faisal

From: CN=Faisal M. Gill/OU=WHO/O=EOP [WHO]
To: Monique L. Dilworth/OA/EOP@EOP [OA] <Monique L. Dilworth>;Paul A. Ehrhardt/OA /EOP@EOP [OA] <Paul A. Ehrhardt>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>
CC: adam f. greenstone/oa/eop@exchange@eop [OA] <adam f. greenstone>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>;faisal m. gill/who/eop@eop [WHO] <faisal m. gill>;ryan p. stiles/who/eop@eop [WHO] <ryan p. stiles>;patrick j. bumatay/who /eop@exchange@eop [WHO] <patrick j. bumatay>;jennifer g. newstead/who/eop@eop [WHO] <jennifer g. newstead>;benjamin a. powell/who/eop@eop [WHO] <benjamin a. powell>
Sent: 5/28/2003 2:56:10 PM
Subject: : Re: QFR question 98

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Faisal M. Gill ( CN=Faisal M. Gill/OU=WHO/O=EOP [ WHO ] )
CREATION DATE/TIME:28-MAY-2003 18:56:10.00
SUBJECT:: Re: QFR question 98
TO:Monique L. Dilworth ( CN=Monique L. Dilworth/OU=OA/O=EOP@EOP [ OA ] )
READ:UNKNOWN
TO:Paul A. Ehrhardt ( CN=Paul A. Ehrhardt/OU=OA/O=EOP@EOP [ OA ] )
READ:UNKNOWN
TO:Edward McNally ( CN=Edward McNally/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
CC:adam f. greenstone ( CN=adam f. greenstone/OU=oa/O=eop@exchange@eop [ OA ] )
READ:UNKNOWN
CC:brett m. kavanaugh ( CN=brett m. kavanaugh/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:faisal m. gill ( CN=faisal m. gill/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:ryan p. stiles ( CN=ryan p. stiles/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:patrick j. bumatay ( CN=patrick j. bumatay/OU=who/O=eop@exchange@eop [ WHO ] )
READ:UNKNOWN
CC:jennifer g. newstead ( CN=jennifer g. newstead/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
CC:benjamin a. powell ( CN=benjamin a. powell/OU=who/O=eop@eop [ WHO ] )
READ:UNKNOWN
###### End Original ARMS Header ######

Here is the answer for question for 98:

To begin with we should note that, General Gordon has not yet reported to
Homeland Security Council. Secondly, in any event, the EOP budget
proposal provides the necessary resources for HSC to advise and assist the
President. Third, we should also note that the reference to a $2 million
cut is incorrect. In fact, the resources of the Homeland Security Council
have not been cut by $2 million. The FY 2003 appropriations for the
Homeland Security Council included $2 million for decontamination of the
Remote Delivery Site (RDS) as agreed to by the Congress and the
Administration. Subsequent to the passage of the FY 2003 appropriations,
that $2 million was allocated to decontamination of the RDS per
agreement. This planned use of that appropriation is not a cut to HSC
resources.


Faisal
```

From: Edward McNally on 05/28/2003 05:06:13 PM
Record Type: Record

To: Benjamin A. Powell/WHO/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: QFR questions 19 (MOUs) and 98 ($2 mil/Gen Gordon)

Q 19 -- we're looking further into these 2 MOUs (e.g., to ID whether copies of either or both of them have previously been disclosed outside the EOP), and welcome Brett's views re: past practices on Congressional requests for docs such as these.

Q 98 -- The answer in the att'd draft is the wrong answer. I edited a very different answer to this question, which must have fallen out somehow in one of the many transfers involved in this cut & paste text. We'll retrieve the correct answer and re-submit. We're on the same page in terms of the substance Ben, which is that Gen. Gordon's views won't be part of any such answer.

Benjamin A. Powell
05/28/2003 04:46:34 PM
Record Type: Record

To: Edward McNally/WHO/EOP@EOP
cc: Faisal M. Gill/WHO/EOP@EOP, Jennifer G. Newstead/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP, Patrick J. Bumatay/WHO/EOP@Exchange@EOP
bcc:
Subject: Re: Cong questions

A few points:

-Answer to Q 19 states gives details of a signed MOU b/w OHS and OSTP and provides a copy of the MOU (and the next Q discusses a HSC/NSC MOU). You should check with Brett on whether it is appropriate to disclose such internal agreements. I also seem to recall other MOU type questions in other places in the list of questions.

-Typo in first sentence in Q 21 answer.

-Q 98 states that OA counsel (Greenstone) is going to suggest an answer to the question of whether Gen. Gordon supports the $2 mill "cut" in resources.
I would think this is a HSC/WHCO item to answer. IF it is answered (a question for Jennifer as it essentially asks for testimony from someone who we would not normally have testify/answer written questions), at most I would think the answer would simply not address the views of Gen. Gordon and state something like "The EOP budget proposal provides the necessary resources for HSC to advise and assist the President. The $2 mill "cut" reference is incorrect because . . . . ($2 mill reflects appropriate adjustments as a result of . . . . . creation of DHS, etc. -- whatever the case is.)"

From: Edward McNally on 05/28/2003 04:21:20 PM
Record Type: Record

To: Benjamin A. Powell/WHO/EOP@EOP
cc:

Subject: Cong questions

Message Sent
To:_____
Edward McNally/WHO/EOP@EOP
Ryan P. Stiles/WHO/EOP@EOP
Patrick J. Bumatay/WHO/EOP@Exchange@EOP
Monique L. Dilworth/OA/EOP@EOP
Paul A. Ehrhardt/OA/EOP@EOP

Message Copied
To:_____
faisal m. gill/who/eop@eop
jennifer g. newstead/who/eop@eop
brett m. kavanaugh/who/eop@eop
patrick j. bumatay/who/eop@exchange@eop
Adam F. Greenstone/OA/EOP@Exchange@EOP
Ryan P. Stiles/WHO/EOP@EOP

From: CN=Listi Arnold/OU=WHO/O=EOP@Exchange [WHO]
To: Colleen Litkenhaus/WHO/EOP@Exchange [WHO] <Colleen Litkenhaus>;Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>;Brett M. Kavanaugh/WHO /EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: James F. Daniel/OA/EOP@Exchange [OA] <James F. Daniel>;Linda M. Gambatesa/WHO /EOP@Exchange [WHO] <Linda M. Gambatesa>;Tim Campen/OA/EOP@Exchange [UNKNOWN] <Tim Campen>;Monique L. Dilworth/OA/EOP@EOP [OA] <Monique L. Dilworth>
Sent: 5/29/2003 5:06:07 AM
Subject: : RE: QFR Document Update

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Listi Arnold (CN=Listi Arnold/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:29-MAY-2003 09:06:07.00
SUBJECT:: RE: QFR Document Update
TO:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:James F. Daniel (CN=James F. Daniel/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
CC:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
CC:Tim Campen (CN=Tim Campen/OU=OA/O=EOP@Exchange [UNKNOWN])
READ:UNKNOWN
CC:Monique L. Dilworth (CN=Monique L. Dilworth/OU=OA/O=EOP@EOP [OA])
READ:UNKNOWN
End Original ARMS Header

Brett,

I think Monique must have sent this email before she realized what I brought to her.; She has the three pages of hard copy that Patrick brought down yesterday.;

I think we,ve got them all(Monique can you confirm?

Listi

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Thursday, May 29, 2003 8:58 AM
To: Litkenhaus, Colleen; Bumatay, Patrick J.
Cc: Dilworth, Monique L.; Gambatesa, Linda M.; Arnold, Listi; Campen, Tim; Daniel, James F.
Subject: RE: QFR Document Update

;;;;;;; I provided draft written answers to Patrick yesterday on my copy, who then gave them to Listi for inputting into master document -- along with my edits on several of the political questions preceding 119.; Both the edits to the questions before 119 and the draft answers to 119-122 were written on the draft we turned in yesterday.; Thanks and let me know if there is a problem.

From:;; Colleen Litkenhaus/WHO/EOP@Exchange on 05/29/2003 08:26:59 AM

Record Type:;;; Record

To:;;;; Monique L. Dilworth/OA/EOP@EOP, Linda M. Gambatesa/WHO/EOP@Exchange

cc:;;;; Listi Arnold/WHO/EOP@Exchange, Tim Campen/OA/EOP@Exchange, James F. Daniel/OA/EOP@Exchange

Subject:;;;;;;;; RE: QFR Document Update

I will follow up with Brett to get these answers.

;-----Original Message-----

From: ; Dilworth, Monique L.;

Sent:;; Thursday, May 29, 2003 6:56 AM

To:;;;; Gambatesa, Linda M.

Cc:;;;; Litkenhaus, Colleen; Arnold, Listi; Campen, Tim; Daniel, James F.

Subject:;;;;;;;; QFR Document Update

With still more editing to do, I believe we can get the "close to final" draft out by noon today, possibly earlier.; We only need responses for five more questions including QFR #1 and the following QFR's assigned to WHO M&A (Colleen is working to get these) -

Question 119:; If the President gives virtually the same speech at a political event that he gave at an official event in that same city, does the political entity reimburse the White House for the Speechwriters time? (POC - WHO M&A)

Question 120:; Have events been classified as &official8 even if only members of the President,s political party are invited to share the stage with the President? (POC - WHO M&A)

Question 121:; If so, what justification is used to argue that these events were not political events? (POC - WHO M&A)

Question 122:; Please provide information about reimbursement to the White House Office or other government agencies associated with local staff travel to political events attended by the President in FY02 or FY03.; For each reimbursement made, please provide the date the bill was generated, the number of events reflected on the bill, the date payment was received, the political entity paying the charges and the total amount paid on each bill. (POC - WHO M&A)

From:;; Linda M. Gambatesa/WHO/EOP@Exchange on 05/29/2003 06:27:13 AM

Record Type:;;; Record

To:;;;; Monique L. Dilworth/OA/EOP@EOP

cc:;;;; Colleen Litkenhaus/WHO/EOP@Exchange, Listi Arnold/WHO/EOP@Exchange

Subject:;;;;;;;; Comments from J. Newstead

Monique - More for inclusion.; Thanks.; << File: Comments on OA Qs Second.doc >>

From: CN=Monique L. Dilworth/OU=OA/O=EOP [OA]
To: Listi Arnold/WHO/EOP@Exchange [WHO] <Listi Arnold>
CC: james f. daniel/oa/eop@exchange [OA] <james f. daniel>;linda m. gambatesa/who /eop@exchange [WHO] <linda m. gambatesa>;colleen litkenhaus/who/eop@exchange [WHO] <colleen litkenhaus>;tim campen/oa/eop@exchange [UNKNOWN] <tim campen>;patrick j. bumatay/who/eop@exchange [WHO] <patrick j. bumatay>;brett m. kavanaugh/who/eop@eop [WHO] <brett m. kavanaugh>
Sent: 5/29/2003 5:16:33 AM
Subject: : RE: QFR Document Update

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Monique L. Dilworth (CN=Monique L. Dilworth/OU=OA/O=EOP [OA])
CREATION DATE/TIME:29-MAY-2003 09:16:33.00
SUBJECT:: RE: QFR Document Update
TO:Listi Arnold (CN=Listi Arnold/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
CC:james f. daniel (CN=james f. daniel/OU=oa/O=eop@exchange [OA])
READ:UNKNOWN
CC:linda m. gambatesa (CN=linda m. gambatesa/OU=who/O=eop@exchange [WHO])
READ:UNKNOWN
CC:colleen litkenhaus (CN=colleen litkenhaus/OU=who/O=eop@exchange [WHO])
READ:UNKNOWN
CC:tim campen (CN=tim campen/OU=oa/O=eop@exchange [UNKNOWN])
READ:UNKNOWN
CC:patrick j. bumatay (CN=patrick j. bumatay/OU=who/O=eop@exchange [WHO])
READ:UNKNOWN
CC:brett m. kavanaugh (CN=brett m. kavanaugh/OU=who/O=eop@eop [WHO])
READ:UNKNOWN
End Original ARMS Header

You're correct Listi. All WHO M&A responses have been provided.

From: Listi Arnold/WHO/EOP@Exchange on 05/29/2003 09:05:03 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Colleen Litkenhaus/WHO/EOP@Exchange, Patrick J. Bumatay/WHO/EOP@Exchange
cc: Monique L. Dilworth/OA/EOP@EOP, Linda M. Gambatesa/WHO/EOP@Exchange, Tim Campen/OA/EOP@Exchange, James F. Daniel/OA/EOP@Exchange
Subject: RE: QFR Document Update

Brett,

I think Monique must have sent this email before she realized what I brought to her.; She has the three pages of hard copy that Patrick brought down yesterday.;

I think we,ve got them all(Monique can you confirm?

Listi

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Thursday, May 29, 2003 8:58 AM
To: Litkenhaus, Colleen; Bumatay, Patrick J.
Cc: Dilworth, Monique L.; Gambatesa, Linda M.; Arnold, Listi; Campen, Tim; Daniel, James F.
Subject: RE: QFR Document Update

;;;;;;; I provided draft written answers to Patrick yesterday on my copy, who then gave them to Listi for inputting into master document -- along with my edits on several of the political questions preceding 119.; Both the edits to the questions before 119 and the draft answers to 119-122 were written on the draft we turned in yesterday.; Thanks and let me know if there is a problem.

From:;; Colleen Litkenhaus/WHO/EOP@Exchange on 05/29/2003 08:26:59 AM

Record Type:;;; Record

To:;;;; Monique L. Dilworth/OA/EOP@EOP, Linda M. Gambatesa/WHO/EOP@Exchange

cc:;;;; Listi Arnold/WHO/EOP@Exchange, Tim Campen/OA/EOP@Exchange, James F. Daniel/OA/EOP@Exchange

Subject:;;;;;;;; RE: QFR Document Update

I will follow up with Brett to get these answers.

;-----Original Message-----

From: ; Dilworth, Monique L.;

Sent:;; Thursday, May 29, 2003 6:56 AM

To:;;;; Gambatesa, Linda M.

Cc:;;;; Litkenhaus, Colleen; Arnold, Listi; Campen, Tim; Daniel, James F.

Subject:;;;;;;;; QFR Document Update

With still more editing to do, I believe we can get the "close to final" draft out by noon today, possibly earlier.; We only need responses for five more questions including QFR #1 and the following QFR's assigned to WHO M&A (Colleen is working to get these) -

Question 119:; If the President gives virtually the same speech at a political event that he gave at an official event in that same city, does the political entity reimburse the White House for the Speechwriters time? (POC - WHO M&A)

Question 120:; Have events been classified as &official8 even if only members of the President,s political party are invited to share the stage with the President? (POC - WHO M&A)

Question 121:; If so, what justification is used to argue that these events were not political events? (POC - WHO M&A)

Question 122:; Please provide information about reimbursement to the White House Office or other government agencies associated with local staff travel to political events attended by the President in FY02 or FY03.; For each reimbursement made, please provide the date the bill was generated, the number of events reflected on the bill, the date payment was received, the political entity paying the charges and the total amount paid on each bill. (POC - WHO M&A)

From:;; Linda M. Gambatesa/WHO/EOP@Exchange on 05/29/2003 06:27:13 AM

Record Type:;;; Record

To:;;;; Monique L. Dilworth/OA/EOP@EOP

cc:;;;; Colleen Litkenhaus/WHO/EOP@Exchange, Listi Arnold/WHO/EOP@Exchange

Subject:;;;;;;; Comments from J. Newstead

Monique - More for inclusion.; Thanks.; << File: Comments on OA Qs Second.doc >>

From: CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [OA]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Colleen Litkenhaus/WHO/EOP@Exchange [WHO] <Colleen Litkenhaus>
Sent: 5/29/2003 7:46:26 AM
Subject: : FW: OMB Budget Process
Attachments: P_LLBSG003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Adam F. Greenstone (CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [OA])
CREATION DATE/TIME:29-MAY-2003 11:46:26.00
SUBJECT:: FW: OMB Budget Process
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

Brett--This came to OA through OMB, so I am sending to you to advise us if approved;from the White House Office end.;;The big change here is in how they do the work--the WHO and OMB reviewers would be reviewing the document on the same system rather than giving OMB all the mark ups at one time.; I think this is really a work flow question--does White House want to resolve its comments within WHO and then give to OMB or do so in OMB's view?; I presume that you would want to discuss with Staff Secretary directly; let me know if otherwise or if I can assist in any way.; Adam, 5-1268

-----Original Message-----
From: Most, Markus K.
Sent: Thursday, May 22, 2003 1:16 PM
To: Greenstone, Adam F.
Subject: OMB Budget Process

Adam-
Here is the document that I gave you in paper format.
Thanks
Markus
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_LLBSG003_WHO.TXT_1>

West Wing Review during Budget Volume Authoring:
A Brief Background and Suggestions for Plans for the FY 2005 Budget Process

Budget Volume Authoring is the OMB process for preparing the chapters in the President's Budget. This process includes a review by designated staff from the Staff Secretary's Office, OVP, NEC, DPC, White House Counsel, and others -- collectively referred to as 'West Wing' reviewers -- that occurs towards the end of the authoring process after an initial review by OMB policy officials and before final OMB policy official review, publishing and typesetting. For the past two years, we have been using electronic collaborative authoring technologies to increase the automation of this process.

Background and Records Management Discussion:

Traditionally, the West Wing review step has been done through hand-markups of paper copies. These markups are then entered into the OMB-maintained document. A copy of the West Wing markups was kept by the Staff Secretary for Presidential Records Management purposes.

Two years ago, these hand-markups were entered into the electronic documents maintained by OMB using the track changes function in Microsoft Word. Markup attribution was recorded by the OMB enterer by temporarily changing their identity to that of the markup author.

During this past year, West Wing reviewers had the opportunity to directly mark-up documents electronically using the track changes function in Microsoft Word and have the mark-ups directly attributed to them. The documents were housed in a folder with limited access on an OMB file server. At the end of the process, a version of these electronic documents including the initial documents provided to the West Wing and the document provided back to OMB with all electronic markups and attributions was archived and submitted to the Presidential Records Management Office to be included for Presidential Records archives. Hard copy printouts of all mark-ups were also kept by the White House Staff Secretary.

After the West Wing review was finished, the documents (including the markups with attribution) were moved from the file server back into the document management system that OMB was using for the Budget Volume process -- Microsoft SharePoint Portal Services -- and became part of OMB's Federal Records. The Presidential Records Management Office requested a complete copy of the OMB Federal Budget Records and was provided a courtesy copy for historical completeness.

Plans for FY 2005 Budget Volume Process:

For the FY 2005 Budget, OMB is proposing to further automate the West Wing Review by including West Wing Reviewers in the document management system, Microsoft SharePoint Portal Services. Instead of putting documents on a separate file server and

then copying them back to an OMB server, West Wing Reviewers would work directly in the same arena with OMB staff. The document management system (DMS) will allow reviewers to check documents in and out, provide status and schedule for each document, and assist with overall project management for the Budget Volume. The Microsoft SharePoint DMS is provided and managed by OA IS&T.

Under this proposed DMS-based West Wing reviewing process, records management considerations would continue to be the same as described above -- i.e. all versions of documents that were part of the West Wing Review process would be distinctly identified and copies with all markups and attributions would be provided to the EOP and White House Office of Records Management for archiving as Presidential Records. A final copy of all OMB Federal Budget Records would be turned over to OA Records Management. The White House Office of Records Management would be free to request another courtesy copy of the OMB Federal Budget Records for historical completeness.

From: CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [OA]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Colleen Litkenhaus/WHO/EOP@Exchange [WHO] <Colleen Litkenhaus>
Sent: 5/29/2003 8:15:20 AM
Subject: : FW: OMB Budget Process
Attachments: P_51DSG003_WHO.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Adam F. Greenstone (CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [OA])
CREATION DATE/TIME:29-MAY-2003 12:15:20.00
SUBJECT:: FW: OMB Budget Process
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

P.S.--I've just been advised by our Records Management Office that last year OMB was able to see deliberations within the WHO on the system they had up.; However, I assume that you will still want to review directly with Staff Secretary to ensure WHO is are ok with this;system.;
-----Original Message-----
From: Greenstone, Adam F.
Sent: Thursday, May 29, 2003 11:45 AM
To: Kavanaugh, Brett M.
Cc: Litkenhaus, Colleen
Subject: FW: OMB Budget Process

Brett--This came to OA through OMB, so I am sending to you to advise us if approved;from the White House Office end.;;The big change here is in how they do the work--the WHO and OMB reviewers would be reviewing the document on the same system rather than giving OMB all the mark ups at one time.; I think this is really a work flow question--does White House want to resolve its comments within WHO and then give to OMB or do so in OMB's view?; I presume that you would want to discuss with Staff Secretary directly; let me know if otherwise or if I can assist in any way.; Adam, 5-1268
-----Original Message-----
From: Most, Markus K.
Sent: Thursday, May 22, 2003 1:16 PM
To: Greenstone, Adam F.
Subject: OMB Budget Process

Adam-
Here is the document that I gave you in paper format.
Thanks
Markus
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_51DSG003_WHO.TXT_1>

West Wing Review during Budget Volume Authoring:
A Brief Background and Suggestions for Plans for the FY 2005 Budget Process

Budget Volume Authoring is the OMB process for preparing the chapters in the President's Budget. This process includes a review by designated staff from the Staff Secretary's Office, OVP, NEC, DPC, White House Counsel, and others -- collectively referred to as 'West Wing' reviewers -- that occurs towards the end of the authoring process after an initial review by OMB policy officials and before final OMB policy official review, publishing and typesetting. For the past two years, we have been using electronic collaborative authoring technologies to increase the automation of this process.

Background and Records Management Discussion:

Traditionally, the West Wing review step has been done through hand-markups of paper copies. These markups are then entered into the OMB-maintained document. A copy of the West Wing markups was kept by the Staff Secretary for Presidential Records Management purposes.

Two years ago, these hand-markups were entered into the electronic documents maintained by OMB using the track changes function in Microsoft Word. Markup attribution was recorded by the OMB enterer by temporarily changing their identity to that of the markup author.

During this past year, West Wing reviewers had the opportunity to directly mark-up documents electronically using the track changes function in Microsoft Word and have the mark-ups directly attributed to them. The documents were housed in a folder with limited access on an OMB file server. At the end of the process, a version of these electronic documents including the initial documents provided to the West Wing and the document provided back to OMB with all electronic markups and attributions was archived and submitted to the Presidential Records Management Office to be included for Presidential Records archives. Hard copy printouts of all mark-ups were also kept by the White House Staff Secretary.

After the West Wing review was finished, the documents (including the markups with attribution) were moved from the file server back into the document management system that OMB was using for the Budget Volume process -- Microsoft SharePoint Portal Services -- and became part of OMB's Federal Records. The Presidential Records Management Office requested a complete copy of the OMB Federal Budget Records and was provided a courtesy copy for historical completeness.

Plans for FY 2005 Budget Volume Process:

For the FY 2005 Budget, OMB is proposing to further automate the West Wing Review by including West Wing Reviewers in the document management system, Microsoft SharePoint Portal Services. Instead of putting documents on a separate file server and

then copying them back to an OMB server, West Wing Reviewers would work directly in the same arena with OMB staff. The document management system (DMS) will allow reviewers to check documents in and out, provide status and schedule for each document, and assist with overall project management for the Budget Volume. The Microsoft SharePoint DMS is provided and managed by OA IS&T.

Under this proposed DMS-based West Wing reviewing process, records management considerations would continue to be the same as described above -- i.e. all versions of documents that were part of the West Wing Review process would be distinctly identified and copies with all markups and attributions would be provided to the EOP and White House Office of Records Management for archiving as Presidential Records. A final copy of all OMB Federal Budget Records would be turned over to OA Records Management. The White House Office of Records Management would be free to request another courtesy copy of the OMB Federal Budget Records for historical completeness.

From: CN=Monique L. Dilworth/OU=OA/O=EOP [OA]

To: Eric C. Pelletier/WHO/EOP@Exchange [WHO] <Eric C. Pelletier>;Steven R. Beattie/OA /EOP@Exchange [OA] <Steven R. Beattie>;Veronica Kitchen/OA/EOP@EOP [OA] <Veronica Kitchen>;Claire M. O'Donnell/OVP/EOP@Exchange [OVP] <Claire M. O'Donnell>;Lisa B. Fairhall/OMB/EOP@EOP [OMB] <Lisa B. Fairhall>;Adam F. Greenstone/OA/EOP@Exchange [OA] <Adam F. Greenstone>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Stacia L. Cropper/OA/EOP@Exchange [OA] <Stacia L. Cropper>;Jon S. Laurich/OA/EOP@Exchange [OA] <Jon S. Laurich>;Elizabeth Gelfer/OA/EOP@EOP [OA] <Elizabeth Gelfer>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>;Keith L. Roberts/OA/EOP@Exchange [OA] <Keith L. Roberts>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Benjamin A. Powell/WHO /EOP@EOP [WHO] <Benjamin A. Powell>

CC: Lonnie Hovey/OA/EOP@EOP [OA] <Lonnie Hovey>;Marilyn_Meyers@NPS.gov @ inet [UNKNOWN] <Marilyn_Meyers@NPS.gov @ inet>;Worthington W. White/WHO/EOP@EOP [WHO] <Worthington W. White>;Michele C. Marx/ONDCP/EOP@EOP [ONDCP] <Michele C. Marx>;Angela R. Stewart/CEQ/EOP@EOP [CEQ] <Angela R. Stewart>;Stanley S. Sokul/OSTP/EOP@EOP [OSTP] <Stanley S. Sokul>;Paul A. Wedderien/NSC/EOP@EOP [NSC] <Paul A. Wedderien>;Stephen A. Weigler/OMB/EOP@EOP [OMB] <Stephen A. Weigler>;Charles L. Sigman/OA/EOP@EOP [OA] <Charles L. Sigman>;Cheryl A. Reynolds/OA /EOP@EOP [OA] <Cheryl A. Reynolds>;Don J. Jansen/OMB/EOP@EOP [OMB] <Don J. Jansen>;Phuong DeSear/ONDCP/EOP@EOP [ONDCP] <Phuong DeSear>;Mary Fibich/CEA /EOP@EOP [CEA] <Mary Fibich>;Phil Cooney/CEQ/EOP@EOP [CEQ] <Phil Cooney>;Shana L. Dale/OSTP/EOP@EOP [OSTP] <Shana L. Dale>;Katherine J. Fertakis/NSC/EOP@EOP [NSC] <Katherine J. Fertakis>;Brian Gillis/OMB/EOP@EOP [OMB] <Brian Gillis>;Sandra K. Evans/OA/EOP@Exchange [OA] <Sandra K. Evans>

Sent: 5/29/2003 2:18:33 PM

Subject: : QFR Coordination - 2nd Round

Attachments: F_LPYSG003_NSC.TXT_1.doc; F_LPYSG003_NSC.TXT_2.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Monique L. Dilworth ( CN=Monique L. Dilworth/OU=OA/O=EOP [ OA ] )
CREATION DATE/TIME:29-MAY-2003 18:18:33.00
SUBJECT:: QFR Coordination - 2nd Round
TO:Eric C. Pelletier ( CN=Eric C. Pelletier/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Steven R. Beattie ( CN=Steven R. Beattie/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Veronica Kitchen ( CN=Veronica Kitchen/OU=OA/O=EOP@EOP [ OA ] )
READ:UNKNOWN
TO:Claire M. O'Donnell ( CN=Claire M. O'Donnell/OU=OVP/O=EOP@Exchange [ OVP ] )
READ:UNKNOWN
TO:Lisa B. Fairhall ( CN=Lisa B. Fairhall/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Adam F. Greenstone ( CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Stacia L. Cropper ( CN=Stacia L. Cropper/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Jon S. Laurich ( CN=Jon S. Laurich/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Elizabeth Gelfer ( CN=Elizabeth Gelfer/OU=OA/O=EOP@EOP [ OA ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Keith L. Roberts ( CN=Keith L. Roberts/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
```

TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Lonnie Hovey (CN=Lonnie Hovey/OU=OA/O=EOP@EOP [OA])
READ:UNKNOWN
CC:Marilyn_Meyers@NPS.gov @ inet (Marilyn_Meyers@NPS.gov @ inet [UNKNOWN])
READ:UNKNOWN
CC:Worthington W. White (CN=Worthington W. White/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Michele C. Marx (CN=Michele C. Marx/OU=ONDCP/O=EOP@EOP [ONDCP])
READ:UNKNOWN
CC:Angela R. Stewart (CN=Angela R. Stewart/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN
CC:Stanley S. Sokul (CN=Stanley S. Sokul/OU=OSTP/O=EOP@EOP [OSTP])
READ:UNKNOWN
CC:Paul A. Wedderien (CN=Paul A. Wedderien/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
CC:Stephen A. Weigler (CN=Stephen A. Weigler/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Charles L. Sigman (CN=Charles L. Sigman/OU=OA/O=EOP@EOP [OA])
READ:UNKNOWN
CC:Cheryl A. Reynolds (CN=Cheryl A. Reynolds/OU=OA/O=EOP@EOP [OA])
READ:UNKNOWN
CC:Don J. Jansen (CN=Don J. Jansen/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Phuong DeSear (CN=Phuong DeSear/OU=ONDCP/O=EOP@EOP [ONDCP])
READ:UNKNOWN
CC:Mary Fibich (CN=Mary Fibich/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
CC:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN
CC:Shana L. Dale (CN=Shana L. Dale/OU=OSTP/O=EOP@EOP [OSTP])
READ:UNKNOWN
CC:Katherine J. Fertakis (CN=Katherine J. Fertakis/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
CC:Brian Gillis (CN=Brian Gillis/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Sandra K. Evans (CN=Sandra K. Evans/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
End Original ARMS Header

Thank you for the edits and comments you provided. The attached document, &QFR Responses 28 reflects all edits, except where there are still issues to be resolved. (All outstanding issues will be dealt with in separate emails to the affected parties.) We need you to once again review the document for accuracy and consistency. Your edits and comments on the new document, &QFR Responses 28 are due by 3:00 p.m., Friday, May 30th. We received a short extention from the Subcommittee and must provide the final document to Congress by COB Monday, June 2nd. To assist in this effort, I have included listings below that may help while navigating through the document.

Responses to Questions
Previously Unanswered
51, 52, 76, 119, 120, 121,
122, 125, 137, 138, 139,
140, 141, 142, 148 (chart),
158, 161 to 166.

HRM/Personnel Related
6, 7, 8, 11, 13, 14, 15,
40, 58, 64, 65, 73, 74,
79, 80, 94, 159, 169

Space/Rent Related
5, 34, 35, 36, 37, 38,
102, 103, 104, 105,

148, 167, 168

The Hearing Record document is attached again for quick reference. Please call me you have questions and thanks again for your assistance.

Monique Dilworth
5-7638
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <F_LPYSG003_NSC.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <F_LPYSG003_NSC.TXT_2>

Treasury, Postal Service and General
Government Appropriations for

Fiscal Year 2003
Hearing Record References

HOW TO USE THIS DOCUMENT

Several of the FY 2004 questions for the record refer to pages from last year's (FY 2003) hearing record. Below is the FY 2003 hearing record information.

Note that the Question # refers to this year's (FY 2004) question and the information that follows is what was in last year's (FY 2003) hearing record.

Hearing Record Reference for Question 6:

Issue: **Executive Office of the President**

Question: By EOP agency, provide FTE and OGE. Itemize OGE by category (e.g. reimbursable detailee, PSC, etc). Include FY 2001 (actual) and FY 2002-2003 (estimates).

Answer: The following tables provide the total FY 2001 actual, FY 2002 and FY 2003 estimates for full time equivalents (FTE) and other government employees (OGE) for each EOP and other entity as of April 5, 2002. The OGE numbers are itemized by category on the following page. The FY 2001 actual numbers should be viewed in the context of a Presidential transition year and may vary greatly from the FY 2002 figures. The FY 2002 and FY 2003 numbers are estimates only and therefore subject to change for a number of reasons.

REV_00169100

Program	FY 2001 Actual FTE and OGE			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office	400	369	35	**404**
Special Assistance to the President	22	16	42	**58**
Official Residence of the Vice President	1	1	0	**1**
Office of Administration	202	185	5	**190**
Office of Policy Development	31	27	3	**30**
National Security Council	60	44	137	**181**
Council of Economic Advisers	35	28	7	**35**
Office of Management and Budget	527	502	57	**559**
Office of National Drug Control Policy	125	114	38	**152**
Executive Residence	95	89	0	**89**
Office of Science and Technology Policy	40	23	17	**40**
Council on Environmental Quality	24	16	0	**16**
U.S. Trade Representative	203	173	29	**202**
TOTAL	**1,765**	**1,587**	**370**	**1,957**

FY 2002 as of April 5, 2002

Program	FY 2002 FTE and OGE Estimate			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office*	400		97	**497**
Special Assistance to the President	24		40	**64**
Official Residence of the Vice President	1		0	**1**
Office of Administration	202		1	**203**
Office of Policy Development	35		2	**37**
National Security Council	60		150	**210**
Council of Economic Advisers	35		11	**46**
Office of Management and Budget	527		46	**573**
Office of National Drug Control Policy	115		35	**150**
Executive Residence	95		0	**95**
Office of Science and Technology Policy	40		16	**56**
Council on Environmental Quality	24		3	**27**
U.S. Trade Representative	203		23	**226**
TOTAL	**1,761**	**0**	**424**	**2,185**

Program	FY 2003 FTE and OGE Estimate			
	FTE REQUEST	ACTUAL FTE	OGE	TOTAL
White House Office	446		127	**573**
Special Assistance to the President	24		40	**64**
Official Residence of the Vice President	1		0	**1**
Office of Administration	222		1	**223**
Office of Policy Development	35		2	**37**
National Security Council	71		150	**221**
Council of Economic Advisers	35		11	**46**
Office of Management and Budget	510		46	**556**
Office of National Drug Control Policy	115		35	**150**
Executive Residence	95		0	**95**
Office of Science and Technology Policy	40		16	**56**
Council on Environmental Quality	24		3	**27**
U.S. Trade Representative	209		23	**232**
TOTAL	**1,827**	**0**	**454**	**2,281**

* For FY 02, The White House Office includes 65 OGEs for the Office of Homeland Security which are funded from the Emergency Appropriation.

REV_00169101

R = Reimbursable
N = Non Reimbursable

FY 2001 FTE and OGE Actuals

	FTE	Agency Reps	Assignees	Detailees		Historically Provided Services	Others		Student Volunteers	White House Fellows	Pres. Mgmt Intern	OGE Grand Totals		
		N	N	R	N	N	R	N	N	N	N	R	N	R + N
White House Office	**369**	7	5	3	7	13						3	32	**35**
Special Assistance to the President	**16**		1		10	25		6					42	**42**
Official Residence of the Vice President	**1**													
Office of Administration	**185**							4	1				5	**5**
Office of Policy Development	**27**	2			1								3	**3**
National Security Council	**44**		32	1	90	4		8		2		1	136	**137**
Council of Economic Advisers	**28**				1		4		2			4	3	**7**
Office of Management and Budget	**502**			3	46				8			3	54	**57**
Office of National Drug Control Policy	**114**	13	20	3			2					5	33	**38**
Executive Residence	**89**													
Office of Science and Technology Policy	**23**	8		2	2	1	1	2	1			3	14	**17**
Council on Environmental Quality	**16**													
U.S. Trade Representative*	**173**				27			1		1			29	**29**
TOTAL	**1,587**	**30**	**58**	**12**	**184**	**43**	**7**	**21**	**12**	**3**		**19**	**351**	**370**

R = Reimbursable
N = Non Reimbursable

FY 2002 FTE and OGE *as of April 5, 2002*

	FTE	Agency Reps	Assignees	Detailees		Historically Provided Services	Others		Student Volunteers	White House Fellows	Pres. Mgmt Intern	OGE Grand Totals		
		N	N	R	N	N	R	N	N	N	N	R	N	R + N
White House Office**	**400**	1	4	68	8	15				1		68	29	**97**
Special Assistance to the President	**24**		9			1		29			1		40	**40**
Official Residence of the Vice President	**1**													
Office of Administration	**202**							1					1	**1**
Office of Policy Development	**35**		2										2	**2**
National Security Council	**60**		34	1	108	4		2		1		1	149	**150**
Council of Economic Advisers	**35**				1		4		6			4	7	**11**
Office of Management and Budget***	**527**			4	39				3			4	42	**46**
Office of National Drug Control Policy	**115**	13	17	1	1		3					4	31	**35**
Executive Residence	**95**													
Office of Science and Technology Policy	**40**	5		4			3	4				7	9	**16**
Council on Environmental Quality	**24**	3											3	**3**
U.S. Trade Representative*	**203**				21			1		1			23	**23**
TOTAL	**1,761**	**22**	**66**	**78**	**178**	**20**	**10**	**37**	**9**	**3**	**1**	**88**	**336**	**424**

R = Reimbursable
N = Non Reimbursable

FY 2003 FTE and OGE Estimate

	FTE	Agency Reps	Assignees	Detailees		Historically Provided Services	Others		Student Volunteers	White House Fellows	Pres. Mgmt Intern	OGE Grand Totals		
		N	N	R	N	N	R	N	N	N	N	R	N	R + N
White House Office	**446**	1	3	100	8	15						100	27	**127**
Special Assistance to the President	**24**		9			1		29			1		40	**40**
Official Residence of the Vice President	**1**													
Office of Administration	**222**							1					1	**1**
Office of Policy Development	**35**		2										2	**2**
National Security Council	**71**		34	1	108	4		2		1		1	149	**150**
Council of Economic Advisers	**35**				1		4		6			4	7	**11**
Office of Management and Budget***	**510**			4	39				3			4	42	**46**
Office of National Drug Control Policy	**115**	13	17	1	1		3					4	31	**35**
Executive Residence	**95**													
Office of Science and Technology Policy	**40**	5		4			3	4				7	9	**16**
Council on Environmental Quality	**24**	3											3	**3**
U.S. Trade Representative*	**209**				21			1		1			23	**23**
TOTAL	**1,827**	**22**	**65**	**110**	**178**	**20**	**10**	**37**	**9**	**2**	**1**	**120**	**334**	**454**

* USTR has nonreimbursable detailees in their Geneva, Switzerland offices (FY 2001 = 10, FY 2002 = 9) and are **not** included in the numbers above.
** For FY 02, The White House Office includes 65 OGEs for the Office of Homeland Security which are funded from the Emergency Appropriation.
*** The Office of Management and Budget's OGE number greatly increases during the preparation of the President's Budget. At other times, the OGE number can fall below 20.

REV_00169102

Hearing Record Reference for Question 7:

Question: For the Office of Administration provide FTE and OGE by organizational unit for FY 2001 (actual) and FY 2002-2003 (estimates).

Answer: The chart below displays the FTE and OGE distribution in the previous OA organizational structure for FY 2001. For FY 2002 and FY 2003, the FTE and OGE are displayed in the new streamlined OA organizational structure which reduced the number of operating units reporting to the Director from 10 to 4. All data is as of April 5, 2002.

R = Reimbursable N = Non Reimbursable	FY 2001 FTE and OGE Actuals						
	FTE	Others		Student Volunteers	OGE Grand Totals		
		R	N	N	R	N	R + N
Office of the Director	6		1			1	1
General Counsel	3						
Equal Employment Opportunity	1						
Financial Management	23						
Facilities Management	8						
Human Resources Management	22		3	1		4	4
General Services	54						
Library and Research Sciences	15						
Operations and Legislative Liasons	2						
Security	8						
Information Systems Technology	43						
TOTAL	**185**		**4**	**1**		**5**	**5**

R = Reimbursable N = Non Reimbursable	FY 2002 FTE and OGE Estimates						
	FTE	Others		Student Volunteers	OGE Grand Totals		
		R	N	N	R	N	R + N
Director	11						
Chief Operating Officer	96		1			1	1
Chief Financial Officer	37						
Chief Projects Officer	10						
Chief Information Officer	48						
TOTAL	**202**		**1**			**1**	**1**

R = Reimbursable N = Non Reimbursable	FY 2003 FTE and OGE Estimates						
	FTE	Others		Student Volunteers	OGE Grand Totals		
		R	N	N	R	N	R + N
Director	11						
Chief Operating Officer	103		1			1	1
Chief Financial Officer	39						
Chief Projects Officer	11						
Chief Information Officer	58						
TOTAL	**222**		**1**			**1**	**1**

REV_00169103

Hearing Record Reference for Question 8:

Question: For the Office of Management and Budget provide FTE and OGE by division for FY 2001 (actual) and FY 2002-2003 (estimates).

Answer: The chart below displays the FTE and OGE breakout by OMB division for FY 2001-2003. Most detailees and Student Volunteers are used during the peak budget production season. During the rest of the year, the OGE total can fall below 20.

R = Reimbursable N = Non Reimbursable	**FY 2001 FTE and OGE Actuals**								
	FTE	Assignees	Detailees		Student Volunteers	White House Fellows	OGE Grand Totals		
		N	R	N	N	N	R	N	R + N
OMB-Wide Offices*	**149**			18	2		0	20	**20**
General Government Programs	**61**			4			0	4	**4**
Human Resource Programs	**75**			2	1		0	3	**3**
National Security Programs	**65**		1	8			1	8	**9**
Natural Resource Programs	**62**			3	2		0	5	**5**
Office of Federal Financial Management	**17**		1	3	1		1	4	**5**
Office of Federal Procurement Policy	**24**		1	1			1	1	**2**
Office of Information and Regulatory Affairs	**49**			7	2		0	9	**9**
TOTAL	**502**	**0**	**3**	**46**	**8**	**0**	**3**	**54**	**57**

R = Reimbursable N = Non Reimbursable	**FY 2002 FTE and OGE Estimates** *(as of April 5, 2002)*								
	FTE	Assignees	Detailees		Student Volunteers	White House Fellows	OGE Grand Totals		
		N	R	N	N	N	R	N	R + N
OMB-Wide Offices*	**157**		1	19	1		1	20	**21**
General Government Programs	**64**			1			0	1	**1**
Human Resource Programs	**78**			1			0	1	**1**
National Security Programs	**67**		1	2			1	2	**3**
Natural Resource Programs	**63**			4			0	4	**4**
Office of Federal Financial Management	**22**		2	2			2	2	**4**
Office of Federal Procurement Policy	**22**			1			0	1	**1**
Office of Information and Regulatory Affairs	**54**			9	2		0	11	**11**
TOTAL	**527**	**0**	**4**	**39**	**3**	**0**	**4**	**42**	**46**

R = Reimbursable N = Non Reimbursable	**FY 2003 FTE and OGE Estimates**								
	FTE	Assignees	Detailees		Student Volunteers	White House Fellows	OGE Grand Totals		
		N	R	N	N	N	R	N	R + N
OMB-Wide Offices*	**151**		1	19	1		1	20	**21**
General Government Programs	**63**			1			0	1	**1**
Human Resource Programs	**75**			1			0	1	**1**
National Security Programs	**63**		1	2			1	2	**3**
Natural Resource Programs	**63**			4			0	4	**4**
Office of Federal Financial Management	**20**		2	2			2	2	**4**
Office of Federal Procurement Policy	**21**			1			0	1	**1**
Office of Information and Regulatory Affairs	**54**			9	2		0	11	**11**
TOTAL	**510**	**0**	**4**	**39**	**3**	**0**	**4**	**42**	**46**

* OMB-Wide Offices include the Director's; the Deputy Director, the Deputy Director for Management, the Executive Associate Director; Communications; General Counsel; Legislative Affairs; Economic Policy; Administration; the Legislative Reference Division; the Budget Review Divisions; and the Office of Information Technology and E-Government.

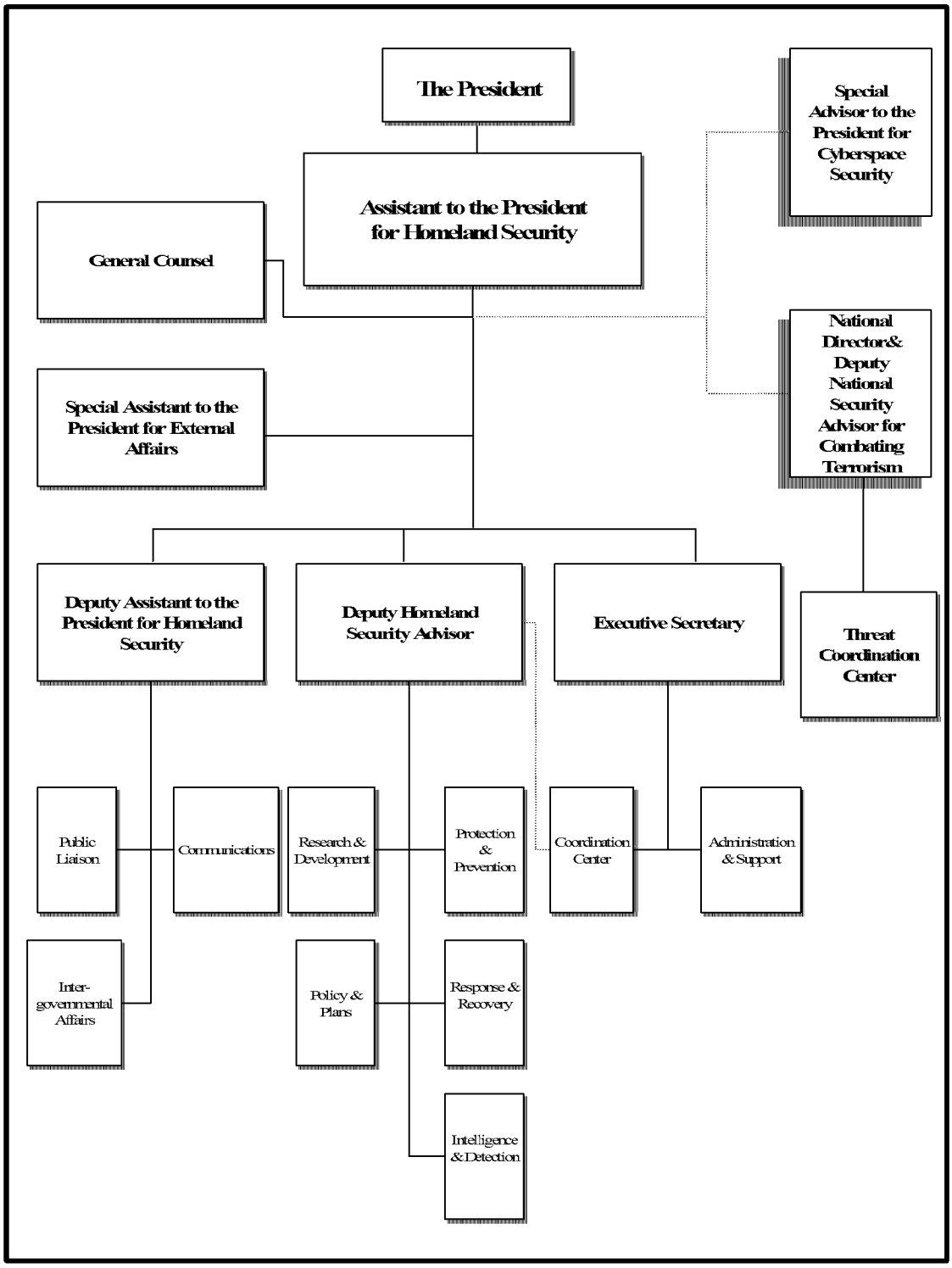
REV_00169104

Hearing Record Reference for Question 16:

Question: Provide an organizational chart for the OHS.

Answer: See chart below.

REV_00169105



REV_00169106

Hearing Record Reference for question 17:

Question: The President's request includes $1,337,000 for travel and transportation of persons, an increase of $976,000 from the estimated level of $361,000 in FY 2002. For FY 2002 and 2003 (estimates), provide a list of trips by location and purpose, including the number of staff traveling and staff position.

Answer: The FY 2002 travel and transportation of persons estimate and FY 2003 budget request provides funding for the Assistant to the President for Homeland Security and staff travel, Critical Infrastructure Protection Board (CIPB) activities and advisory board activities. Specific locations for FY 2003 are currently unavailable due to the fact that they are determined as requirements are finalized. FY 2002 and FY 2003 anticipated travel activities are in furtherance of the OHS mission promulgated in the Executive Orders.

Examples of FY 2003 estimated travel requirements include: per diem and travel for two-thirds of Advisory Board members to attend approximately 40 various meetings and activities; approximately 50 domestic trips for the Assistant to the President for Homeland Security and 3 staff members to fulfill outreach requirements; approximately 100 domestic trips for Homeland Security staff to fulfill mission functions as outlined in Executive Order 13228; approximately 24 domestic and 3 overseas trips for the Chair, Vice Chair and one staff member of the CIPB to fulfill outreach requirements as stated in Executive Order 13231; and approximately 12 CIPB staff (director level) trips to outreach the private sector. Of course, these are estimates only and are therefore subject to change for a variety of reasons.

FY 2002 travel expenses incurred to date include trips to Mexico and Canada for border discussions and various locations in the United States to visit first response, bioterrorism research facilities and other initiatives related to homeland security. The following table lists current (as of April 10, 2002) FY 2002 travel expenses as reflected in the accounting system.

Trip Cost Note: Estimated costs of trips will vary greatly from trip to trip to the same city and from one city to another city for four significant reasons; mode of transportation used/authorized, number of days TDY, number of personnel on trip, and whether costs recorded are actual or estimated expenses.

Office of Homeland Security Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Staff Position**
11/13/01	New York City, NY	1	$ 145	Dep Asst to President for OHS
11/15/01	New York City, NY	4	$ 1,287	Asst to President for OHS, Aide to Asst to President for OHS, Sr Director Response & Recovery and Sr Director Communications
12/07/01	New York City, NY	1	$ 767	Sr Dir Intergovernmental Affairs

REV_00169107

12/11/01	Ottawa, CAN	5	$ 1,038	Asst to President for OHS, Aide to Asst to President for OHS, Asst Public Liaison, Sr Dir Policy & Plans, Sr Dir Communications
12/21/01	Harrisburg, PA	1	$ 2,009	Comm Asst to Asst to President for OHS
01/04/02	Harrisburg, PA	1	$ 544	Comm Asst to Asst to President for OHS
01/09/02	Salt Lake City, UT	4	$ 738	Comm Asst to Asst to President for OHS, Dep Press Secretary, Spec Asst to the Chief of Staff, Aide to the Asst to President for OHS
01/11/02	Harrisburg, PA	1	$ 525	Comm Asst
01/13/02	New York City, NY	4	$ 1,606	Asst to President for OHS, Aide Dep Asst to President OHS, Dep Press Sec & Special Asst Public Liaison
01/14/02	New York City, NY	1	$ 138	Sr Dir Communications
01/17/02	New York City, NY	3	$ 323	Sr Dir Intergovernmental Affairs, Staff Dir, Dir
01/18/02	Harrisburg, PA	1	$ 1,017	Comm Asst to Asst to President for OHS
01/22/02	Ft. Lauderdale, FL	1	$ 850	Dr Policy & Plans
01/25/02	Brandson, MO	1	$ 405	Sr Dir Intergovernmental Affairs
01/25/02	Harrisburg, PA	1	$ 742	Watch Officer
01/30/02	Greensboro, NC	3	$ 909	Asst to President for OHS, Sr Dir Communications, & Dep Asst Sec
01/31/02	New York City, NY	4	$ 2,536	Asst to President OHS, Comm Asst to Asst to President for OHS, Aide to Asst to President OHS, Asst Public Liaison
02/02/02	New York City, NY	1	$ 165	Sr Dir Policy & Plans
02/04/02	New York City, NY	1	$ 728	Comm Asst
02/05/02	New York City, NY	4	$ 1,699	Asst to President OHS, Comm Asst to Asst to President for OHS, Aide to Asst to President OHS, Sr Dir Communications Asst Public Liaison
02/05/02	Salt Lake City, UT	1	$ 4,358	Comm Asst
02/08/02	Harrisburg, PA	2	$ 909	Comm Asst to Asst to President for OHS, Watch Officer
02/13/02	Orlando, FL	1	$ 1,593	Comm Asst to Asst to President for OHS
02/14/02	Miami, FL	1	$ 653	Comm Asst
02/14/02	Orlando, FL	4	$ 4,316	Asst to President for OHS, Sr Dir Intergovernmental Affairs, Aide to Asst to President OHS, Sr Dir Communications
02/15/02	Miami, FL	1	$ 814	Special Asst Public Liaison
02/16/02	Harrisburg, PA	2	$ 724	Watch Officer, Communications Asst

02/17/02	Los Angeles, CA	1	$	719	Comm Asst to Asst to President for OHS
02/18/02	Cincinnati, OH	1	$	912	Special Asst Intergovernmental Affairs
02/19/02	Cincinnati, OH	1	$	715	Sr Dir Intergovernmental Affairs
02/19/02	Las Vegas, NV	1	$	2,725	Watch Officer
02/20/02	Houston, TX	3	$	903	Asst to President for OHS, Comm Asst to Asst to President for OHS, Aide to Asst to President for OHS
02/22/02	Harrisburg, PA	1	$	713	Comm Asst to Asst to President for OHS
02/22/02	Key West, FL	1	$	1,059	Sr Dir Intergovernmental Affairs
02/25/02	Colorado Springs, CO	2	$	1,575	Sr Advisor Prevention & Protection, Sr Dir Protection & Prevention
02/27/02	Vancouver, CA	1	$	1,212	Dir Policy & Plans
03/01/02	Harrisburg, PA	2	$	975	Communications Asst, Communications Asst
03/04/02	Mexico City, MEX	9	$	6,239	Asst to President for OHS, Asst Public Liaison, Aide to Asst to President for OHS, Dep Press Sec, Dep Asst to Pres for OHS, Sr Dir Policy & Plans, Communications Asst, Comm Asst to Asst to President for OHS, Dir Policy and Plans
03/04/02	Orlando, FL	1	$	325	Staff Dir
03/07/02	Boston, MA	3	$	1,111	Sr Dir Policy & Plans, Sr Dir Intergovernmental Affairs
03/08/02	Boston, MA	4	$	1,014	Asst to President for OHS, Sr Dir Communications, Aide to Asst to President for OHS, Staff Dir
03/08/02	Harrisburg, PA	1	$	600	Communications Asst
03/11/02	Birmingham	1	$	654	Sr Dir Response & Recovery
03/11/02	Orlando, FL	1	$	1,790	Comm Asst to Asst to President for OHS
03/15/02	Harrisburg, PA	1	$	589	Communications Asst
03/18/02	Las Vegas, NV	3	$	2,003	Comm Asst to Asst to President for OHS, Comm Asst, Comm Asst
03/20/02	New York City, NY	1	$	606	Special Asst
03/21/02	Monterrey, MEX	1	$	900	Aide to Asst to President for OHS
03/22/02	Harrisburg, PA	1	$	363	Communications Asst
03/27/02	Atlanta, GA	1	$	264	Aide to Asst to President for OHS
	Trip Cost Total		**$**	**59,503**	

REV_00169109

Cyberspace Security Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Staff Position**
10/27/01	San Jose, CA	2	$ 4,649	Special Advisor to President for Cyberspace Security, Deputy Chief of Staff Cyberspace
10/28/01	San Jose, CA	1	$ 1,663	Dir National Security Cyberspace
12/04/01	Boston, MA	3	$ 4,620	Special Advisor to President for Cyberspace Security, Deputy Chief of Staff Cyberspace, Sr Dir National Security Cyberspace
12/09/01	Boston, MA	1	$ 581	Dir National Security Cyberspace
12/09/01	Salt Lake City, UT	1	$ 1,219	Sr Dir National Security Cyberspace
01/17/02	San Jose, CA	2	$ 4,184	Sr Dir National Security Cyberspace, Special Advisor to President for Cyberspace Security
01/26/02	Honolulu, HI	1	$ 1,495	Sr Dir National Security Cyberspace
02/02/02	New Haven, CT	1	$ 809	Vice Chair CIPB
02/05/02	Norfolk, VA	1	$ 167	Sr Dir National Security Cyberspace
02/11/02	Austin, TX	1	$ 826	Special Advisor to President for Cyberspace Security
02/11/02	New York City, NY	1	$ 139	Sr Dir National Security Cyberspace
02/16/02	San Jose, CA	1	$ 807	Special Advisor to President for Cyberspace Security
02/22/02	Philadelphia, PA	1	$ 149	Vice Chair CIPB
03/02/02	JPN, IND, SIN, Hong Kong	1	$ 10,678	Sr Dir National Security Cyberspace
03/04/02	Palm Springs, CA	1	$ 371	Vice Chair CIPB
03/17/02	London, GBR	1	$ 1,273	Vice Chair CIPB
03/20/02	New York City, NY	1	$ 161	Sr Dir National Security Cyberspace
03/21/02	Seattle, WA	1	$ 161	Vice Chair CIPB
	Trip Cost Total		**$ 33,949**	

REV_00169110

Hearing Record Reference for Question 19:

Question: What Memorandums of Understanding have been signed by the Office of Homeland Security, or by any other EOP entity on behalf of the Office of Homeland Security and with whom? Describe the purpose of each MOU.

Answer: As of April 12, 2002, there is one signed Memorandum of Understanding (MOU), which is an agreement between OHS and the Office of Science and Technology Policy (OSTP). OSTP provides technical and personnel support for research and development and policy issues. There is no financial component to this MOU.

Hearing Record Reference for question 24:

Question: Is there a distinct organizational unit within the OHS for this function? If so, how many FTE are associated with this function? How many detailees? Where are these people located? Is this a permanent location? What is the total amount of space being used by the Cyber Security Office? What is the total cost of the Cyberspace Security office, including rent, office supplies, communications, etc.

Answer: The Special Advisor reports to both the Assistant to the President for Homeland Security and the Assistant to the President for National Security Affairs. The permanent location and amount of space allocated to the Board has not been determined, but they are currently located at the G Street office location. The total staff associated with this function is yet to be determined. The total estimated cost, for FY 2003, of the CIPB, including rent, office supplies, communications, etc., is approximately $2.85 million.

Hearing Record Reference for Question 39:

Question: To date, provide the total amount obligated from the FY 2002 appropriation "White House Repair and Restoration" by project.

Answer: Listed below is the status of each of the projects and the amounts obligated. No funds have been obligated to date in excess of the $100,000 project prospectus ceiling.

Pool Shelter Roof Reconstruction and Pool Deck Renovation - The preliminary architectural survey and design are completed, and structural engineering analysis and design is in progress. The two primary contractors required have committed to the project and an on-site meeting is scheduled. Construction is expected to begin in April. There have been no funds obligated. All work to date has been accomplished with National Park Service and Executive Residence staff.

Communication System Repairs / Phase 2 - Design work continues under Phase I (FY 2001 – $441,000 obligated) and Construction (Phase II) is expected to begin in August.

East and West Wing Exterior Restoration - Scaffolding installation for one elevation of the East and West Wing is nearly complete. Paint removal will begin shortly as outdoor temperatures permit. $84,500 has been obligated to date.

REV_00169111

Insulated Windows Replacement - Preliminary discussions are ongoing with manufacturers and fabrication should begin in May. Installation and related restoration requirements have been discussed with the prospective contractor, and the proposal should be received in April 2002. Work is expected to begin in July. No funds have been obligated for this project.

Kitchen Floor Replacement - The survey of existing conditions including utilities has been completed. An onsite meeting with the flooring installation contractor was completed and installation began in mid-March 2002. No funds have been obligated for this project.

North Portico Curtain Wall - The contractor began onsite work at the end of February 2002 and installation is 95% complete. Only the "punch" list and in house items remain. $83,000 has been obligated to date.

Stone Pavers Restoration - The contractor proposal has been received and is under review. Material ordering is expected in April 2002 and onsite work is expected to begin in May. No funds have been obligated for this project.

West Colonnade Restoration - There is continuing restoration of the first three columns and historically accurate replacement stone has been ordered for all columns. The newly discovered deteriorated structural steel has been evaluated. The recommended corrective actions will be accomplished this summer and no additional funds will be required. To date, $49,040 has been obligated for this project.

Hearing Record Reference for Question 51:

Issue: **President's Travel**

Question: For Presidential and First Lady travel, provide the following for FY 2001 and 2002 (to date):

- Trip date
- Destination
- Designation (political/official)
- Official Cost

Answer: The following charts summarize Presidential and First Lady travel for FY 2001 and FY 2002:

Presidential Travel FY 2001				
		Status		White House
Date	Destination	Official	Political	Travel cost
5-Oct	Princeton, NJ	100%		$ 9,983.00
8-Oct	New York, NY	100%		$ 4,986.00
11-Oct	Philadelphia, PA	44%	56%	$ 7,286.00
14-Oct	Denver, CO	31%	69%	$ 3,546.00
18-Oct	Norfolk, VA	100%		$ 3,301.00

REV_00169112

19-Oct	New Orleans, LA		100%	$ 974.00
20-Oct	Jefferson City, MO	37%	63%	$ 3,920.00
21-Oct	Boston, MA		100%	$ 259.00
22-Oct	Kingston, NY		100%	$ 1,078.00
25-Oct	Armonk, NY	100%		$ 8,617.00
31-Oct	Louisville, KY/New York		100%	$ 1,209.00
2-Nov	New York, NY		100%	$ 1,929.00
7-Nov	New York, NY		100%	$ 2,531.00
12-Nov	Waikoloa, HI	100%		$ 42,293.00
30-Nov	New York, NY	100%		$ 11,310.00
8-Dec	Omaha, NE	71%	29%	$ 13,188.00
18-Dec	New York, NY	100%		$ 15,390.00
4-Jan	Syracuse, NY	100%		$ 3,669.00
7-Jan	New York, NY	53%	47%	$ 4,835.00
9-Jan	Lansing, MI	100%		$ 7,730.00
9-Jan	Chicago, IL	100%		$ 8,470.00
11-Jan	Boston, MA	100%		$ 7,986.00
11-Jan	Dover, NH	100%		$ 4,918.00
11-Jan	Grand Canyon, AZ	100%		$ 18,342.00
17-Jan	New York, NY	100%		$ 12,283.00
17-Jan	Little Rock, AK	100%		$ 1,722.00
3-Feb	Williamsburg, VA	100%		$7,063
4-Feb	Nemacolin, PA	100%		$389
12-Feb	Savannah, GA	100%		$7,236
13-Feb	Norfolk, VA	100%		$7,293
14-Feb	Charleston, WV	100%		$9,692
18-Feb	Waco, TX	100%		$7,310
19-Feb	Oklahoma City, Ok	100%		$5,812
20-Feb	Columbus, OH	100%		$3,444
20-Feb	St. Louis, MO	100%		$9,324
21-Feb	Knoxville, TN	100%		$5,782
28-Feb	Pittsburg, PA	100%		$3,182
28-Feb	Council Bluff, IA	100%		$7,657
1-Mar	Little Rock, AK	100%		$8,450
1-Mar	Atlanta, GA	100%		$6,538
4-Mar	Newport News, VA	100%		$4,223
6-Mar	Chicago, IL	100%		$5,332
8-Mar	Sioux Falls, SD	100%		$12,542
8-Mar	Fargo, ND	100%		$2,976
9-Mar	Lafayette, LA	100%		$8,407
9-11 Mar	Waco, TX	100%		$18,435
12-Mar	Panama City, FL	100%		$3,314
14-Mar	Plainfield, NJ	100%		$4,724
21-Mar	Orlando, FL	100%		$9,568
23-Mar	Portland, MN	100%		$6,164

26-Mar	Kansas City, MO	100%		$6,390
26-Mar	Billings, MT	100%		$12,229
27-Mar	Kalamazoo, MI	100%		$3,765
3-Apr	Wilmington, DE	100%		$2,528
6-Apr	Milwaukee, WI	100%		$6,200
11-Apr	Greenville, NC	100%		$7,191
11-Apr	Charlotte, NC	100%		$6,509
15-Apr	Waco, TX	100%		$12,791
18-Apr	Waterbury, CT	100%		$7,527
25-Apr	Jacksonville, FL	100%		$3,719
25-Apr	New Orleans, LA	100%		$7,541
25-Apr	Little Rock, AK		100%	$ -
26-Apr	Houston, TX	100%		$2,647
27-Apr	Austin, TX	100%		$6,519
28-Apr	Waco, TX	100%		$12,700
14-May	Philadelphia, PA	100%		$6,440
17-May	Nevada, IA	100%		$7,838
17-May	St. Paul, MN	100%		$6,266
18-May	Lancaster, PA	100%		$6,858
20-May	South Bend, IA	100%		$8,333
20-May	New Haven, CT	100%		$19,631
24-May	Cleveland, OH	100%		$3,497
28-May	Mesa, AZ	100%		$2,828
29-May	Los Angeles, CA	100%		$24,073
29-May	San Diego, CA	100%		$14,326
30-May	Fresno, CA	100%		$16,108
1-Jun	Boston, MA	100%		$4,344
4-Jun	Tampa, FL	100%		$18,918
4-Jun	Homestead, FL	100%		$8,721
6-Jun	Bedford, VA	100%		$3,880
8-Jun	Des Moines, IA	100%		$5,952
8-Jun	Omaha, NE	100%		$8,761
10-Jun	Waco, TX	100%		$7,844
21-Jun	Birmingham, AL	58%	42%	$14,966
21-Jun	Waco, TX	100%		$12,374
25-Jun	Detroit, MI	100%		$8,956
4-Jul	Philadelphia, PA	100%		$9,267
5-Jul	Kennebunkport, ME	100%		$14,083
10-Jul	New York City, NY	100%		$18,036
13-Jul	Baltimore, MD	100%		$1,352
29-Jul	Fort A.P. Hill VA	100%		$2,087
4-Aug-2 Sep	Crawford, TX	100%		$89,092
14-Aug	Estes Park, CO	100%		$21,743
14-Aug	Denver, CO	50%	50%	$0
15-Aug	Albuquerque, M	68%	32%	$21,860

20-Aug	Milwaukee, WI	100%		$10,820
21-Aug	Kansas City, MO	100%		$21,636
26-Aug	Pittsburg, PA	100%		$8,858
26-Aug	Williamsport, PA	100%		$14,073
29-Aug	Honolulu, HI (pre-adv)	Cancelled due to 9/11		$4,480
30-Aug	San Antonio, TX	100%		$7,024
3-Sep	Detroit, MI	100%		$10,053
3-Sep	Green Bay, WI	100%		$10,812
6-Sep	Toledo, OH	100%		$4,710
10-Sep	Sarasota, FL	100%		$26,098
10-Sep	Jacksonville, FL	100%		$5,376
14-Sep	New York City, NY	100%		$6,767
27-Sep	Chicago, IL	100%		$9,438
	FY 2001 Total Costs			**$791,692**

Mrs. Clinton/Mrs. Bush's Travel FY 2001				
		Status		White House
Date	Destination	Official	Political	Travel Cost
16-Oct	New York, NY		100%	$ 346
27-Oct	New York, NY		100%	$ 236
10-Nov	New York, NY		100%	$ 234
20-Feb	Ohio/ Missouri	100%		$583
22-Mar	Los Angeles, CA	100%		$1,165
23-Mar	San Diego, CA	100%		$14,294
22-Apr	Quebec, Canada	100%		$8,673
1-May	New York, NY	100%		$52
8-May	Columbia, SC	100%		$434
14-May	Chicago, IL	100%		$1,637
1-Jun	Boston, MA	100%		$280
25-Sep	New York, NY	100%		$4,500
	Total Costs			**$31,618**

Presidential Travel FY 2002				
		Status		White House
Date	Destination	Official	Political	Travel Cost
3-Oct	New York, NY	100%		$8,060
7-Oct	Emmitsburg, MD	100%		$1,988
17-Oct	Sacramento, CA	100%		$16,678
30-Oct	New York, NY	100%		$13,043

8-Nov	Atlanta, GA	100%		$17,920
10-Nov	New York, NY	100%		$6,525
14-Nov	Crawford. TX	100%		$44,535
21-Nov	Fort Campbell, KY	100%		$9,114
27-Nov	Salt Lake City, UT	100%		$4,328
1-Dec	Philadelphia, PA	100%		$13,669
4-Dec	Orlando, FL	70%	30%	$13,371
7-Dec	Norfolk, VA	100%		$5,271
11-Dec	Citadel, SC	100%		$11,498
26-Dec	Waco, TX	100%		$12,667
4-Jan	Austin, TX	100%		$5,356
5-Jan	Ontario, CA	100%		$10,240
5-Jan	Portland, OR	100%		$10,870
8-Jan	Hamilton, OH	100%		$6,588
8-Jan	Boston, MA	100%		$11,159
8-Jan	Portsmith, NH	54%	46%	$6,594
9-Jan	Washington, DC	100%		$0
11-Jan	Conshohoken, PA	100%		$5,321
14-Jan	Moline, IL	100%		$7,570
14-Jan	Springfield, MO	100%		$6,569
14-Jan	New Orleans, LA	100%		$32,494
22-Jan	Charleston, WV	71%	29%	$6,086
25-Jan	Portland, ME	100%		$7,698
30-Jan	Winston-Salem, NC	65%	35%	$8,799
30-Jan	Daytona Beach, FL	100%		$12,874
31-Jan	Atlanta, GA	100%		$13,869
1-Feb	White Sulpher Springs, WV	100%		$4,273
4-Feb	Eglin AFB,FL	100%		$7,666
5-Feb	Pittsburgh ,PA	100%		$7,918
6-Feb	New York, NY	54%	46%	$6,940
8-Feb	Denver, CO	100%		$7,644
8-Feb	Salt Lake City, UT	100%		$12,877
8-Feb	Jackson, WY	100%		$11,182
11-Feb	Milwaukee, WI	48%	52%	$9,360
16-Feb	Anchorage, AK	40%	60%	$9,181
27-Feb	Charlotte, NC			$7,048
	Totals through 2/28/02			**$414,843**

REV_00169116

Mrs. Bush's Travel FY 2002				
		Status		White House
Date	Destination	Official	Political	Travel Cost
3-Oct	Cincinnati, OH	100%		$339
16-Oct	Newark, NJ	100%		$1,790
18-Oct	Atlanta, GA	100%		$1,742
19-Oct	Baton Rouge, LA	100%		$1,568
30-Oct	New York, NY	100%		$1,652
16-Nov	Austin, TX	100%		$7,300
9-Jan	Topeka, KS	100%		$1,566
10-Jan	Houston, TX	100%		$1,915
11-Jan	Austin, TX	100%		$780
21-Jan	Atlanta, GA	100%		$1,060
10-Feb	Los Angeles, CA	100%		$5,021
	Total Costs through 2/28/02			**$24,733**

Hearing Record Reference for Question 53:

Question: For FY 2001, 2002 (estimate) and FY 2003 request, provide the total amount for outside consulting services, by appropriations account. Provide the specific definition of "consulting services" being used in response to this question as well as a description of the consulting service itself (dollar amount, purpose, deliverables, timeframe). If applicable, group the consulting services by category of service.

Answer: "Consulting services" or "Advisory and Assistance Services" as defined by OMB Circular A-11, Section 83, are services acquired by contract from non-Federal sources (that is, the private sector, foreign governments, State and local governments, tribes), as well as from other units within the Federal Government and consists of three types of services: 1) Management and professional support services; 2) Studies, analyses and evaluation; and 3) Engineering and technical services. Listed below are the EOP and other entities with Advisory and Assistance contracts.

White House Office

FY 2001 (Actual)

1. $15,300 for the Gift Unit of the White House Office of Correspondence. The deliverables included a final report recommending procedures, staffing and budget required for handling gifts to the White House from outside sources. This contract was from January - March, 2001.

REV_00169117

2. $13,200 for computer forensic consultant services to observe the Office of the Independent Counsel's use of a computer forensics technique. The consultant evaluated whether commonly accepted industry practices were being followed. The timeframe for this contract was from December, 2000 to January, 2001.
3. $1,650 for the compilation of records for the presidential library. This contract was during the month of January 2001.

FY 2002 as of April 5, 2002
There are currently no advisory and assistance contracts for the White House Office.

FY 2003 Request
1. $8,000,000 is the estimated requirement for the Office of Homeland Security advisory and assistance contracts. Exact contracts have not been determined at this time.

Office of Administration
FY 2001 (Actual)
1. $285,000 for an auditability assessment for the Chief Financial Officer operations. The deliverables included an assessment plan, auditability report and a gap analysis. The contract was awarded in late September 2001 with a period of performance through March 2002.
2. $196,379 for an assessment of the distributed computer environment including a final report. This contract lasted from August, 2001 to December 2001.
3. $12,600 for consulting services in support of workplace issues. The contract supported a National Partnership for Reinventing Government requirement to identify basic issues, best practices and barriers to success. The contract timeframe was from October 2000 to January 2001.
4. $143,000 for a study of options for an EOP financial management plan. The contract was awarded in September 2001 with a period of performance that extended through December 2001.

FY 2002 as of April 5, 2002
There are currently no advisory and assistance contracts for the Office of Administration.

FY 2003 Request
There are no advisory and assistance contracts planned for FY 2003.

Office of Management and Budget
FY 2001 (Actual)
1. $36,875 for information technology advisory services. The deliverables include providing expert IT research and advice as needed. The contract's duration is for the entire fiscal year.

FY 2002 as of April 5, 2002
1. $55,000 for information technology advisory services. The deliverables include providing expert IT research and advice as needed. The contract is a continuation of the same contract above and is for the entire fiscal year.

REV_00169118

FY 2003 Request

1. $55,000 for information technology advisory services. The deliverables include providing expert IT research and advice as needed. The contract is a continuation of the same contract above and is for the entire fiscal year.

Office of National Drug Control Policy

FY 2001 (Actual)

1. $2,250 for conference preparation support for an Anti-Doping agency meeting including overall logistical support. The contract was for 5 days in August, 2001.

FY 2002 as of April 5, 2002

1. $14,000 for office temps/consultants to assist with the ONDCP Strategy and Budget summary. This contract is part of an open blanket purchase agreement so there is no designated timeframe.

FY 2003 Request

1. $14,000 for office temps/consultants to assist with the ONDCP Strategy and Budget summary. This contract is part of an open blanket purchase agreement so there is no designated timeframe.

Council of Economic Advisers

FY 2001 (Actual)

1. $12,874 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from November 2000 to February 2001.

FY 2002 as of April 5, 2002

1. $14,276 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from November 2001 to February 2002.

FY 2003 Request

1. $15,000 estimated for editorial services for the Economic Report of the President. The consultant will provide expertise in editing the final publication. It is anticipated that the contract will last from November 2002 to February 2003.

Council on Environmental Quality

FY 2001 (Actual)

1. $17,150 for assistance in updating statistical tables, graphics, text and an annual report. The consultant started in FY 2000 and was extended through January 2001.

FY 2002 as of April 5, 2002

There are currently no advisory and assistance contracts for the Council on Environmental Quality.

REV_00169119

FY 2003 Request
There are no advisory and assistance contracts planned for FY 2003.

Office of the United States Trade Representative
FY 2001 (Actual)
1. $5,000 for a Staff Retreat for the Office of African Affairs to improve strategic planning, management, organization and teamwork in the office. The consultant served as retreat facilitator. The contract was for two days in March 2001.
2. $185,000 for information technology advisory services. Deliverables included a detailed assessment of USTR's information technology environment. The contract started in September 2001 and will be completed during FY 2002.

FY 2002 as of April 5, 2002
1. $20,000 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.
2. $5,000 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.

FY 2003 Request
There are no advisory and assistance contracts planned for FY 2003.

Hearing Record Reference for Question 56:

Question: For Object Class 25.2 for the White House Office, provide a detailed description of each project, program or initiative to be funded in support of the USA Freedom Corps Office.

Answer: The additional funds requested in Object Class 25.2 for the White House Office's USA Freedom Corps Office are primarily required to fund two program initiatives.

- Information Dissemination: The cost of this program initiative is estimated at $900,000 and will primarily consist of contracted services in partnership with other Freedom Corps coordinating council agencies. These contracted services will include both interactive website portals and telecommunication services such as information phone banks. These services will provide links and information concerning volunteer opportunities, Freedom Corps activities and other pertinent data.

- Recognition Materials: The cost of this program initiative is estimated at $275,000 and will primarily consist of contracted services to develop, provide and disseminate materials that will be used to recognize volunteer activities and accomplishments.

In addition, approximately $25,000 is required to fund increased general support Other Service costs within the White House that will occur as the result of the operations of this new office. These funds will be used for such things as office equipment maintenance contracts and GSA work requests.

REV_00169120

Hearing Record Reference for Question 63:

Issue: **White House Communications Agency**

Question: For FY 2001 and 2002 (estimates) itemize the reimbursements made to the WH Communications Agency.

Question: For FY 2003, what are the estimated reimbursements to the WH Communications Agency?

Answers to previous two questions: Reimbursements made to WHCA, for the non-telecommunications support they provide to the WHO, is broken down into two categories: personnel and audio visual support. The amount of planned reimbursement is initially set and agreed to via an inter-agency agreement (IAG). This IAG is then adjusted if needed as a result of actual execution. Reimbursement actuals and estimates follow:

	FY01 (actual)	FY02 (est.)	FY03 (est.)
Military Personnel	$3,946,779	$4,564,085	$4,754,346
Audiovisual Support	$3,514,528	$3,589.242	$3,953,848
Total	$7,461,307	$8,153,327	$8,708,194

Hearing Record Reference for Question 64:

Issue: **Office of Administration**

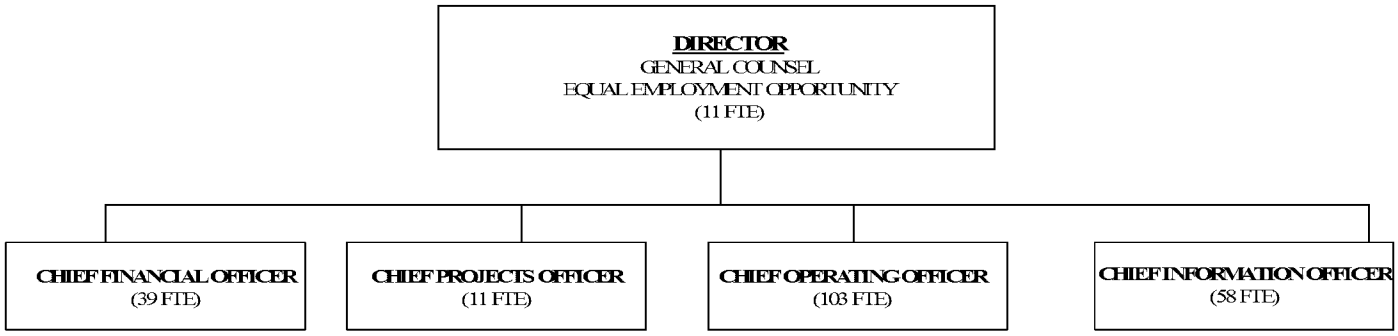
Question: Provide an organization chart for the Office of Administration, including the numbers of FTE in each office.

Answer: The Office of Administration organization chart provided below reflects the current streamlined organizational structure where the number of operating units reporting to the Director was reduced from 10 to 4. The FY 2003 FTE request includes an increase of 20 FTE over FY 2002 authorized levels. All additional FTEs support the ongoing requirements stemming from the events of September 11 including IT and facility support for dispersed offices, additional logistics responsibilities for the receipt and delivery of mail, and financial management support for the Office of Homeland Security (+7 Chief Operating Officer, +10 Chief Information Officer, +1 Chief Projects Officer, +2 Chief Financial Officer).

REV_00169121

Executive Office of the President

Office of Administration
Organization Chart
with FY 2003 Requested FTEs



Total 222 FTE

Hearing Record Reference for Question 72:

Issue: *White House Office*

Question: Provide a brief description of the duties and responsibilities of each office (e.g. Chief of Staff, Oval Office Operations, Office of the Press Secretary, Office of Homeland Security, etc.) within the appropriations account "White House Office". By office, provide obligations, FTE and OGE for FY 2001(actual) and FY 2002-2003 (estimated). Itemize OGE by category (e.g. reimbursable detailee, PSC, etc.).

Answer: The purpose of the White House Office is to provide advice and assistance to the President of the United States. This requires a range of professional and support staff. The White House Office is currently divided into the following major units:

Office of the Chief of Staff – Provides advice and assistance to the President and directs the activities of the White House staff.

Oval Office Operations – Provides assistance to the President by, among other things, managing the operations of the Oval Office.

REV_00169122

Advance – Provides advice and assistance to the President, principally by taking responsibility for the organization and implementation of the President and the First Lady's visits outside of the White House complex.

Cabinet Affairs – Provides advice and assistance to the President by, among other things, serving as the liaison between the White House and the President's Cabinet and agency heads.

Communications, Speechwriting, and Media Affairs – Provides advice and assistance to the President by, among other things, coordinating and supporting efforts to communicate and explain the President's views and decisions.

Office of Counsel to the President – Provides advice and assistance to the President and White House staff, principally on matters of law.

Faith-Based and Community Initiatives – Provides advice and assistance to the President by, among other things, coordinating and implementing the President's initiative to empower community and faith-based organizations to better confront poverty and social decay.

Office of the First Lady – Provides advice and assistance to Mrs. Bush in carrying out her official responsibilities as the First Lady.

Homeland Security – Provides advice and assistance to the President, principally by developing, coordinating, and advising the President on a comprehensive national strategy to secure the United States from terrorist threats or attacks and, in particular, by coordinating the Executive Branch's efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States. It has no operational role.

Intergovernmental Affairs – Provides advice and assistance to the President, principally by monitoring the views of State and local elected officials and serving as a liaison between the White House and the Executive Branch, on the one hand, and State and local governments, on the other.

Legislative Affairs – Provides advice and assistance to the President by, among other things, serving as the liaison between the White House and the Congress and developing the strategy used to promote and defend the President's legislative agenda.

Management and Administration – Provides advice and assistance to the President, principally by providing day-to-day administrative support to the White House staff.

Presidential Personnel – Provides advice and assistance to the President, principally by recruiting, screening, and recommending to the President qualified candidates for Presidential appointments to Federal departments and agencies.

REV_00169123

Office of the Press Secretary – Provides advice and assistance to the President, principally by providing information to the national and international press and by handling all national press inquiries such as interview requests, requests for transcripts or releases, and travel and scheduling information.

Scheduling – Provides advice and assistance to the President, principally by coordinating the planning, organization, and implementation of the President's daily and long-range schedules.

Office of the Staff Secretary – Provides advice and assistance to the President by, among other things, managing documents or other items addressed to the President, including correspondence and gifts.

Strategic Initiatives – Provides advice and assistance to the President by, among other things, coordinating the planning and development of a long-range strategy for achieving Presidential priorities; conducting research; and assisting in message development and other communications activities in conjunction with the Office of Public Liaison and the Office of Political Affairs.

USA Freedom Corps – Provides advice and assistance to the President on matters relating to enlisting Americans in public service at home and abroad; in particular, it provides advice and support on the work of, and recognizes participants in, three service efforts – the newly created Citizen Corps, AmeriCorps and Senior Corps, and the Peace Corps.

In addition to these major units, certain individuals – including certain individuals who work with the National Security Council, the Domestic Policy Council, and the National Economic Council – are also White House Office officers or employees, although the units within which they principally work are not themselves part of the White House Office.

The major units within the White House Office are administratively designated by the President's Chief of Staff and the number of employees within each unit and the work of each unit vary over time and as circumstances and needs change. Therefore, a detailed breakout of FTEs and OGEs by unit is not particularly meaningful. White House Office obligations, FTE and OGE are summarized below. The Office of Homeland Security is funded under the emergency supplemental this fiscal year, and therefore, the FY 2002 numbers below do not include OHS personnel or funding. FY 2002 estimates for the OHS are addressed separately in response to other committee questions.

REV_00169124

		FY01 act.		FY02 est.		FY03 est.
Total WHO – FTE		369		400		446
Total WHO – OGE		35		32*		127*
FY03 Congressional Request – FTE		400		400		446
(Dollars in thousands)						
Total WHO – Obligations		$53,084		$54,651		$84,579

* FY 2002 excludes the approximately 65 OGEs currently on board for the Office of Homeland Security.
The FY 2002 OGEs for the Office of Homeland Security are funded out of the emergency supplemental funding.
FY 2003 includes the 95 OGEs for the Office of Homeland Security requested in the FY 2003 Budget Request.

Issue: The Committee is resubmitting the following questions due to the lack of detailed information provided in the original responses

Question: Provide a brief description of the duties and responsibilities of each office (e.g. Chief of Staff, Oval Office Operations, Office of the Press Secretary, Office of Homeland Security, etc.) within the appropriations account "White House Office". By office, provide obligations, FTE and OGE for FY 2001(actual) and FY 2002-2003 (estimated). Itemize OGE by category (e.g. reimbursable detailee, PSC, etc.).

Answer: The purpose of the White House Office is to provide advice and assistance to the President of the United States. This requires a range of professional and support staff. The White House Office is currently divided into the following major units. A brief description of the duties and responsibilities of the major units is provided for the record.

Office of the Chief of Staff – Provides advice and assistance to the President and directs the activities of the White House staff.

Oval Office Operations – Provides assistance to the President by, among other things, managing the operations of the Oval Office.

Advance – Provides advice and assistance to the President, principally by taking responsibility for the organization and implementation of the President and the First Lady's visits outside of the White House complex.

Cabinet Affairs – Provides advice and assistance to the President by, among other things, serving as the liaison between the White House and the President's Cabinet and agency heads.

REV_00169125

Communications, Speechwriting, and Media Affairs – Provides advice and assistance to the President by, among other things, coordinating and supporting efforts to communicate and explain the President's views and decisions.

Office of Counsel to the President – Provides advice and assistance to the President and White House staff, principally on matters of law.

Faith-Based and Community Initiatives – Provides advice and assistance to the President by, among other things, coordinating and implementing the President's initiative to empower community and faith-based organizations to better confront poverty and social decay.

Office of the First Lady – Provides advice and assistance to Mrs. Bush in carrying out her official responsibilities as the First Lady.

Homeland Security – Provides advice and assistance to the President, principally by developing, coordinating, and advising the President on a comprehensive national strategy to secure the United States from terrorist threats or attacks and, in particular, by coordinating the Executive Branch's efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States.

Intergovernmental Affairs – Provides advice and assistance to the President, principally by monitoring the views of state and local elected officials and serving as a liaison between the White House and the Executive Branch, on the one hand, and state and local governments, on the other.

Legislative Affairs – Provides advice and assistance to the President by, among other things, serving as the liaison between the White House and the Congress and developing the strategy used to promote and defend the President's legislative agenda.

Management and Administration – Provides advice and assistance to the President, principally by providing day-to-day administrative support to the White House staff.

Presidential Personnel – Provides advice and assistance to the President, principally by recruiting, screening, and recommending qualified candidates for Presidential appointments to Federal departments and agencies.

Office of the Press Secretary – Provides advice and assistance to the President, principally by providing information to the national and international press and by handling all national press inquiries such as interview requests, requests for transcripts or releases, and travel and scheduling information.

REV_00169126

Scheduling – Provides advice and assistance to the President, principally by coordinating the planning, organization, and implementation of the President's daily and long-range schedules.

Office of the Staff Secretary – Provides advice and assistance to the President by, among other things, managing documents or other items addressed to the President, including correspondence and gifts.

Strategic Initiatives – Provides advice and assistance to the President by, among other things, coordinating the planning and development of a long-range strategy for achieving Presidential priorities; conducting research; and assisting in message development and other communications activities in conjunction with the Office of Public Liaison and the Office of Political Affairs.

USA Freedom Corps – Provides advice and assistance to the President on matters relating to enlisting Americans in public service at home and abroad; in particular, it provides advice and support on the work of, and recognizes participants in, three service efforts – the newly created Citizen Corps, AmeriCorps and Senior Corps, and the Peace Corps.

In addition to these major units, certain individuals – including certain individuals who work with the National Security Council, the Domestic Policy Council, and the National Economic Council – are also White House Office employees, although the units within which they principally work are not themselves part of the White House Office.

The major units within the White House Office are simply a creature of administrative convenience, and the number of employees within each unit and the work of each unit vary over time and as circumstances and needs change. Therefore a detailed breakout of FTEs and OGEs by unit is not particularly meaningful. Nevertheless, set forth below is a breakout based on current estimates and planning, which of course, may differ during the actual execution year.

	FY01	FY02	FY03
White House Office	**actual**	**est.**	**est.**
Office of Chief of Staff - FTE	11	12	12
Office of Chief of Staff - OGE (Agency Rep)	6	0	0
Oval Office Ops - FTE	5	5	5
Oval Office Ops - OGE	0	0	0
Advance - FTE	15	15	15
Advance - OGE	0	0	0
Office of Cabinet Affairs - FTE	6	6	6

REV_00169127

Office of Cabinet Affairs - OGE (Assignee)		3		1	1
Communications, Speechwriting & Media - FTE		32		35	35
Communications, Speechwriting & Media - OGE		0		0	0
Office of the Counsel to the President - FTE		17		19	19
Office of the Counsel to the President - OGE (Non-Reimb Detail)		4		2	2
Faith Based and Community Initiatives - FTE		7		8	8
Faith Based and Community Initiatives - OGE		0		0	0
Office of the First Lady - FTE		18		19	19
Office of the First Lady - OGE		0		0	0
Office of Homeland Security - FTE		0		0	40
Office of Homeland Security - OGE		0		0	95
Office of Intergovernmental Affairs - FTE		7		9	9
Office of Intergovernmental Affairs - OGE		0		0	0
Office of Legislative Affairs - FTE		23		24	24
Office of Legislative Affairs - OGE (Non-Reimb Detail)		0		1	1
Office of Legislative Affairs - OGE (Assignee)		0		1	1
Office of Management & Administration - FTE		34		38	38
Office of Management & Administration - OGE (Non-Reimb Detail)		1		0	0
Office of Management & Administration - OGE (HP Serv)		9		13	11
Office of Presidential Personnel - FTE		36		38	38
Office of Presidential Personnel - OGE (Assignee)		2		0	0
Office of Presidential Personnel - OGE (Reimb Detail)		0		1	1
Office of Presidential Personnel - OGE (Non-Reimb Detail)		1		1	1
Office of the Press Secretary - FTE		11		12	12
Office of the Press Secretary - OGE		0		0	0
Scheduling - FTE		10		11	11
Scheduling - OGE (HP Serv)		2		2	2
Office of the Staff Secretary - FTE		95		98	98

REV_00169128

Office of the Staff Secretary - OGE (Reimb Detail)	3	0	0
Office of the Staff Secretary - OGE (Non-Reimb Detail)	1	0	0
Office of Strategic Initiatives - FTE	34	35	35
Office of Strategic Initiatives - OGE (Reim Detail)	0	1	1
Office of Strategic Initiatives - OGE (Assignee)	0	1	1
USA Freedom Corps Office - FTE	0	5	6
USA Freedom Corps Office - OGE (Agency Rep)	0	1	1
USA Freedom Corps Office - OGE (Non-Reimb Detail)	0	2	2
USA Freedom Corps Office - OGE (Reimb Detail)	0	2	2
USA Freedom Corps Office - OGE (WH Fellow)	0	1	1
Other - FTE	8	11	16
Other - OGE (HP Serv)	2	3	3
Other - OGE (Agency Rep)	1	0	0
Other - OGE (Reimb Detail)	0	1	1

	FY01	**FY02**	**FY03**
	actual	**est.**	**est.**
Total WHO – FTE	369	400	446
Total WHO – OGE	35	34*	129**
FY03 Congressional Request – FTE	400	400	446

* FY 2002 excludes the approximately 65 OGEs currently on board for the Office of Homeland Security who are funded out of the FY 2002 Emergency Supplemental Appropriation. The WHO OGE number has been updated to reflect changes since we submitted the first set of responses to the questions for the record.

**FY 2003 includes the 95 OGEs for the Office of Homeland Security requested in the FY 2003 Budget Request.

Obligations (actual and estimated) are provided by individual White House office for FY 2001 thru FY 2003 in the table below. It must be emphasized that the FY 2002 and FY 2003 numbers are estimates only. As circumstances and needs change, so may these estimates in any actual year. Therefore, these estimates are not particularly meaningful.

REV_00169129

(dollars in thousands)					
White House Office	**FY01 act.**		**FY02 est.**		**FY03 est.**
Office of Chief of Staff	$1,473		$1,420		$1,474
Oval Office Ops	$550		$458		$476
Offices of Scheduling and Advance	$2,751		$3,398		$3,593
Office of Cabinet Affairs	$542		$592		$615
Communications, Speechwriting & Media	$2,202		$2,395		$2,486
Office of the Counsel to the President	$2,004		$1,895		$1,966
Faith Based and Community Initiatives	$366		$516		$536
Office of the First Lady	$1,354		$1,437		$1,492
Office of Homeland Security	$0		$0	*	$24,844
Office of Intergovernmental Affairs	$489		$518		$538
Office of Legislative Affairs	$1,870		$2,041		$2,118
Office of Management and Administration	$26,462		$25,735		$27,440
Office of Presidential Personnel	$2,137		$2,336		$2,425
Office of the Press Secretary	$1,062		$1,139		$1,182
Office of the Staff Secretary	$5,702		$6,232		$6,469
Office of Strategic Initiatives	$3,821		$4,167		$4,325
USA Freedom Corps Office - Obligations	$0		$372		$2,600
(dollars in thousands)					
Other Personnel Obligations - Prior administration org's	$299		$0		$0
Total WHO Obligations	$53,084		$54,651		$84,579

* FY 2002 obligations for the Office of Homeland Security are funded under the Emergency Supplemental Appropriation

It should be noted that a single budget is prepared for the WHO. This single budget is prepared based on a number of criteria such as: prior spending patterns, estimated requirements, OMB provided inflation factors, and the priorities of the President. During a given execution year, personnel costs are allocated based upon that year's sometimes unique staffing decisions. The remainder of the budget is allocated initially to two WHO offices. The travel budget is allocated in its entirety to Scheduling and Advance and obligated against this office if the travel is done in support of the President. Any travel undertaken that is not in support of a Presidential trip is charged to the office of the staff member in question. The remaining portion of the non-personnel, non-travel budget, including expenses for rent, supplies, equipment and other services is considered overhead and charged as such to the White House Office of Management and Administration.

The only exceptions are the Office of Homeland Security and the USA Freedom Corps Office. Since these are new offices requiring new budget authority, all new obligations (including travel and overhead) anticipated as a result of these offices are reflected in the FY 2003 estimates for these offices.

REV_00169130

Hearing Record Reference for question 73:

Question: Referencing the FTE/OGE tables that break-out personnel classifications by type of OGE, please explain why the number of "historically provided" employees decreased so significantly (from 25 to 1) for the Vice President's office between FY2001 and FY2002. Please provide the Subcommittee your definition of each OGE category listed on the table (agency reps, assignees, detailees, HP services, others, student volunteers, WH fellows, PMI). Please also provide a listing of the 15 "historically provided" White House Office positions identified on the FY2002 chart, the White House Office to which these positions are assigned, and the agency that pays the salary of each of the 15 positions.

Answer: The difference in the number of "Historically Provided" employees in the Vice President's Office from FY 2001 to FY 2002 is due to the redesignation of U.S. Senate employees. In FY 2001, the previous administration designated U.S. Senate employees in the Vice President's office as "Historically Provided". This was done in error and it has since been corrected. For FY 2002 and FY 2003, U. S. Senate employees are more accurately designated as "Other" since they do not fit into any other OGE category.

The following chart shows the 15 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 31, 2002*:

POSITION	OFFICE	HOME AGENCY
1. Deputy Executive Director	PFIAB*	Central Intelligence Agency
2. Administrative Services Spec.	PFIAB	Dept. of Defense
3. Administrative Assistant	PFIAB	U.S. Navy
4. Staff Assistant	Visitors Office	Dept. of Interior
5. Staff Assistant	Visitors Office	Dept. of Interior
6. Staff Assistant	Visitors Office	Dept. of Interior
7. Receptionist	Visitors Office	Dept. of Interior
8. President's Photographer	Photography Office	Defense Intelligence Agency
9. Visual Director	Photography Office	Defense Intelligence Agency
10. Photographer	Photography Office	Dept. of Defense
11. Official Photographer	Photography Office	Defense Intelligence Agency
12. Official Photographer	Photography Office	Dept. of Defense
13. Photo Editor	Photography Office	Dept. of Defense
14. Presidential Diarist	Scheduling Office	Nat'l Archive and Records Admin.
15. Asst. to the Presidential Diarist	Scheduling Office	Nat'l Archive and Records Admin.
16. Photographic Specialist**	Photography Office	Defense Intelligence Agency
17. Operations Manager**	Photography Office	Defense Intelligence Agency
18. Visual Information Specialist**	Photography Office	Defense Intelligence Agency

*PFIAB is the President's Foreign Intelligence Advisory Board
**Updated since the April 5, 2002 data was provided.

REV_00169131

Hearing Record Reference for Question 74:

The following chart shows the 15 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 31, 2002*:

POSITION	OFFICE	HOME AGENCY
1. Deputy Executive Director	PFIAB*	Central Intelligence Agency
2. Administrative Services Spec.	PFIAB	Dept. of Defense
3. Administrative Assistant	PFIAB	U.S. Navy
4. Staff Assistant	Visitors Office	Dept. of Interior
5. Staff Assistant	Visitors Office	Dept. of Interior
6. Staff Assistant	Visitors Office	Dept. of Interior
7. Receptionist	Visitors Office	Dept. of Interior
8. President's Photographer	Photography Office	Defense Intelligence Agency
9. Visual Director	Photography Office	Defense Intelligence Agency
10. Photographer	Photography Office	Dept. of Defense
11. Official Photographer	Photography Office	Defense Intelligence Agency
12. Official Photographer	Photography Office	Dept. of Defense
13. Photo Editor	Photography Office	Dept. of Defense
14. Presidential Diarist	Scheduling Office	Nat'l Archive and Records Admin.
15. Asst. to the Presidential Diarist	Scheduling Office	Nat'l Archive and Records Admin.
16. Photographic Specialist**	Photography Office	Defense Intelligence Agency
17. Operations Manager**	Photography Office	Defense Intelligence Agency
18. Visual Information Specialist**	Photography Office	Defense Intelligence Agency

*PFIAB is the President's Foreign Intelligence Advisory Board
**Updated since the April 5, 2002 data was provided.

Hearing Record Reference for Question 79:

Question: How many political appointees are currently employed within the Executive Office of the President?

Answer: The term "political appointees" is somewhat of a misnomer because it narrowly defines the type of employees authorized under Chapter 2 of Title 3 of the U.S. Code, for the White House Office, the Executive Residence, the Official Residence of the Vice President and the Office of Administration. These offices can hire personnel in various excepted service positions that are not subject to the rules of regular government employees. Many of these excepted service positions fall under the category of serving at the pleasure of the President while others do not. Using the term in the broadest possible sense, including all employees hired as Presidential Appointees, Administratively Determined, Non Career SES, or Schedule C's, the Executive Office of the President has the following number of political appointees directly hired

REV_00169132

within the EOP and serving in the EOP on detailed assignments from other agencies as of April 5, 2002:

As of April 5, 2002

Program	FY 2002 "POLITICAL APPOINTEES"					
	Admin. Determ.*	Schedule C	Non Career SES	Presidential Appointees	OGE** Political Appointees	TOTAL
White House Office	411				31	**442**
Special Assistance to the President	21				31	**52**
Official Residence of the Vice President		1				**1**
Office of Administration	8					**8**
Office of Policy Development	35				2	**37**
National Security Council				1	4	**5**
Council of Economic Advisers	18	3		3		**24**
Office of Management and Budget	2	23	13	5		**43**
Office of National Drug Control Policy		9	1	2		**12**
Executive Residence		94				**94**
Office of Science and Technology Policy		1	1	1	1	**4**
Council on Environmental Quality	6	4		1		**11**
U.S. Trade Representative	14	8	4	5		**31**
TOTAL	**515**	**143**	**19**	**18**	**69**	**764**

* Historically, Administratively Determined appointees within some agencies have served from one administration to another. Nevertheless, they serve at the pleasure of the entity head and may be terminated without cause.

** OGE = Other Government Employees

White House Office includes the Office of Homeland Security

Hearing Record Reference for Question 80:

Question: How many reimbursable details are currently employed within the Executive Office of the President?

Answer: There are currently 78 reimbursable detailees staffed within the Executive Office of the President including 63 reimbursable detailees for the Office of Homeland Security. The detailees for the Office of Homeland Security are funded through the FY 2002 Emergency Supplemental. Below is a listing of reimbursable detailees by agency as of April 5, 2002:

Agency	# Reimbursable Detailees
White House Office (incl. Homeland Security)	68
National Security Council	1
Office of Management and Budget	4
Office of National Drug Control Policy	1
Office of Science and Technology Policy	4
TOTAL	78

REV_00169133

Question: How many non-reimbursable details are currently employed within the Executive Office of the President?

Answer: There are currently 178 non-reimbursable detailees staffed within the Executive Office of the President. Below is a listing of non-reimbursable detailees by agency as of April 5, 2002:

Agency	# Non-Reimbursable Detailees
White House Office	8
National Security Council	108
Council of Economic Advisers	1
Office of Management and Budget	39
Office of National Drug Control Policy	1
United States Trade Representative	21
TOTAL	178

REV_00169134

Questions for the Record
Chairman Ernest J. Istook, Jr.
Hearing on the Executive Office of the President
April 30, 2003

Unobligated Balances (POC - Veronica Kitchen)

QUESTION 1: Please provide a listing of all unobligated balances, by fiscal year, appropriation and PPA, for all accounts within the Executive Office of the President. Please also show the original appropriation levels for these accounts.

Consolidation of Accounts (POC- Al Muhlbauer)

QUESTION 2: Sections 105 and 106 of title 3 U. S. Code describe expenses that may be accounted for solely on the certificate of the President and Vice President, respectively. Most of these expenses correspond to particular accounts. The Comptroller General may inspect documents related to these expenditures, but solely to verify that the expenditures were made for allowed purposes. When we asked last year how certified expenses would be identified for audit within a consolidated appropriation, the response was that the certification requirements would continue to be observed (p. 41). This does not answer the question of how the account structure will be maintained to provide an identifiable and auditable crosswalk between title 3-certifiable expenses and other expenses within the consolidated appropriation.

RESPONSE: As presented in the Congressional Budget Submission pages 4, 5, and 6, the Executive Office of the President (EOP) has established a Budget Activity structure that is consistent, beginning with the budget submission and extending through the accounting and reporting phases. The EOP accounting system will track and report obligations and expenditures consistent with this structure through the use of budget activity, program, sub-program, and line item codes assigned to each transaction. EOP has the ability to provide an identifiable and auditable crosswalk to the individual transactions authorized under sections 105 and 106 of Title 3 of the United States Code.

QUESTION 3: Please provide a listing of all appropriations language enacted in Public Law 108-7 which would be dropped in the proposed account consolidation, and provide a brief explanation of why that language is not necessary.

RESPONSE: The following appropriations in Public Law 108-7: Compensation of the President, White House Office Salaries and Expenses, Office of Homeland Security, Executive Residence at the White House, White House Repair and Restoration, Council of Economic Advisers, Office of Policy Development, National Security Council, Office of Administration would be combined into one appropriation entitled "The White House". The individual language in Public Law 108-7 for each of those appropriations would be removed. However, suggested language for the combined appropriation is

provided in the Appendix to the FY 2004 Budget (page 881) and states: "For the Compensation of the President and White House Office (including the Office of Homeland Security), Executive Residence, White House Repair and Restoration, Office of Policy and Development, Office of Administration, Council of Economic Advisers and the National Security Council, (hereinafter, and solely for the purposes of Title VI of this Act, "the White House"), $183,770,000, of which $24,803,000 shall remain available until expended, including compensation for the President, including an expense allowance of $50,000 as authorized by U.S.C. 102; for travel expense of $100,000 as authorized by 3 U.S.C. 103; for necessary expenses for the White House as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; for the necessary expenses of the Executive Residence at the White House as authorized by 3 U.S.C. 105,109,110, and 112-114; for the necessary expenses of the Offices and Councils in the White House account as authorized by 5 U.S.C. 3109, 15 U.S.C. 1021, and 3 U.S.C. 105 and 107 (including not to exceed $19,000 for official reception and representation expenses); and for the hire of passenger motor vehicles: Provided, That none of the funds made available to the President for official expenses shall be expended for any other purpose and any unused portion of such funds shall revert to the Treasury pursuant to 31 U.S.C. 1552: Provided further, That no such funds shall be considered as taxable to the President: Provided further, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities."

The suggested language, with the exception of a consolidated appropriation amount incorporates the same restrictions and clarifications as contained the language contained in the Public Law 108-7 for the appropriations being consolidated. The appropriations for Vice President's Salaries and Expense, Vice President's Residence Operating Expenses, Office of Management and Budget, Office of National Drug Control Policy, Unanticipated Needs will remain separate appropriations and will therefore not require any language changes as a result of the combination.

The White House (Consolidated Account) (POC – Chuck Sigman)

QUESTION 4: You are requesting $12,302,000 for object class 23.3 (communications, utilities, and miscellaneous services) in FY 2004. This is a large increase over the estimated $7,010,000 for FY 2003. What accounts for the increase?

RESPONSE: The FY 2004 White House (WH) consolidated budget net increase of $5,292,000 for communications is required in three major areas:

- **Most of the increase ($4,420,000) is needed in the OA Capital Investment Plan for offsite data center communications.** This facility will transition into full operation during FY 2004. The telecommunications between the offsite data center and the EOP complex are necessary to provide expanded, survivable and redundant connectivity, continuity of operations, disaster recovery and system support. These costs include funds for telecommunications lines, two additional

REV_00169136

DS-3 data paths, two T-1 lines, and backups to provide the communications bandwidth necessary for servicing the EOP complex.

- **$482,000 in the White House Office budget to provide a custom communications package which will enable the Homeland Security Council to establish a presence for its staff within the White House Situation Room.**

- **$100,000 for information assurance in the OA salaries/expenses budget.** In addition to the Offsite Data Center project, the OA FY 2004 budget also includes a request for an additional $100,000 for the information assurance program in the FY 2004 salaries/expenses account. This program will enable the CIO office to correct vulnerabilities in the EOP information security perimeter to secure internal systems, to perform real-time monitoring of perimeter network devices.

- **$151,000 in transfers of Lexis-Nexis database costs from nonconsolidated entities to the consolidated White House appropriation.** The FY 2004 budget envisions that $72,000 will be transferred from USTR, $56,000 from ONDCP, $15,000 from OMB, and $8,000 from CEQ so that the EOP can have a single funding source for EOP-wide Lexis-Nexis service.

- **$139,000 for adjustments to maintain the same level of services for the base funding during FY 2004**. This is calculated on the basis of the $7,010,000 in FY 2003 funding.

Rental Pricing (POC – Chuck Sigman)

QUESTION 5: The FY 2004 justifications state that, over the past year, EOP, GSA, and OMB have undertaken an assessment of space rental costs for all EOP entities. The result of this analysis is that the FY 2004 request includes additional funding to accommodate an "EOP average" rental rate. Please provide details of how this analysis was conducted, and specify the estimated rental rates for the various EOP entities, as determined by this analysis.

RESPONSE: The EOP space rental project began during the summer of 2002 at the request of OMB's budget examiners, who were working to ensure that EOP entities moved to the same market-based rent methodology used to determine space rental rates for GSA's other Federal properties. OMB requested that GSA and EOP review the space rental costs for each EOP property and each EOP entity so that the most up-to-date costs available were included in the FY 2004 budget proposal. Another significant concern in this project is to ensure that GSA will work with the EOP to ensure that the critical needs of the EOP are funded and executed.

As a result of the initial project, OA and GSA began a series of meetings which culminated in the space estimates which were included in the budget. GSA staff prepared a comprehensive listing of EOP properties, which itemized the space occupied by each

REV_00169137

EOP entity. This listing included commercial and government-owned space, current estimates of rentable square footage, and the annual rental rate per square foot. EOP staff provided updated estimates of the rentable square footage.

During this process, GSA blended the fair-market rates for the permanent EOP buildings into a single blended rate. This was done to simplify the administrative work when EOP staff are relocated. This is especially needed in the post-9/11 environment's unusually high number of large-scale EOP entity relocations driven by security considerations as well as the result of the legislation creating the Department of Homeland Security. The EOP average rental rate for Federally-owned properties (New Executive Office Building (NEOB), Eisenhower Executive Office Building (OEOB), White House, Winder Building, Jackson Place) is $29.60 annually per square foot. GSA adds an additional building security charge for buildings which are not protected by the US Secret Service. The average rental rates used to determine each entity's budget estimate for office space are as follows:

Entity	Locations	Owned or Leased	Average Rental Rate
OMB	EEOB, NEOB	owned	$29.60/sf
CEQ	EEOB	owned	$29.60
	718 Jackson Place	owned	$30.71
	722 Jackson Place	owned	$31.50
	730 Jackson Place	owned	$29.90
CEA	EEOB	owned	$29.60
NSC	EEOB	owned	$29.60
OPD	EEOB	owned	$29.60
	734 Jackson Place	owned	$29.60
OVP	EEOB	owned	$29.60
	Westbank Center, WY	leased	$21.80
WHO	1800 G Street	leased	$34.56
	EEOB, NEOB	owned	$29.60
	708 Jackson Place	owned	$29.60
	736 Jackson Place	owned	$30.58
USTR	Winder	owned	$30.50
	1724 F Street	owned	$37.38
	NEOB	owned	$29.60

REV_00169138

OA	1425 New York Ave	leased	$51.89
	1800 G Street	leased	$31.53-$37.37
	EEOB, NEOB	owned	$29.60
	1724 F Street	owned	$37.38
OSTP	1801 Pennsylvania Avenue	leased	$50.55
	EEOB	owned	$29.60
ONDCP	750 17th Street	leased	$45.78
HSC	EEOB	leased	$29.60

EOP Staffing (POC – Jon Laurich)

QUESTION 6: By EOP office, please provide FTE and OGE, similar in format to the tables found on pages 111 and 112 of last year's hearing record. Please provide data for FY 2002 through 2004.

RESPONSE: The following tables provide the total FY 2002 actual, FY 2003 and FY 2004, estimates for full time equivalents (FTE) and other government employees (OGE) for each EOP and other entity as of May 5, 2003. The OGE numbers are itemized by category on the following page. The FY 2003 numbers have the Office of Homeland Security in a separate category, which accordingly decreased the White House numbers. The FY 2003 and FY 2004 numbers are estimates only and are therefore subject to change.

REV_00169139

Office	FY 2002 Actual FTE and OGE			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office*	400	385	134	519
Special Assistance to the President	24	18	40	58
Official Residence of the Vice President	1	1	0	1
Office of Administration**	202	195	3	198
Office of Policy Development	35	30	7	37
National Security Council	60	50	140	190
Council of Economic Advisers	35	31	10	41
Office of Management and Budget	527	512	70	582
Office of National Drug Control Policy	115	106	34	140
Executive Residence	95	92	0	92
Office of Science and Technology Policy	40	23	16	39
Council on Environmental Quality	24	19	14	33
U.S Trade Representative	203	200	24	224
TOTAL	**1761**	**1662**	**492**	**2154**

Office	*as of May 5, 2003*			
	FY 2003 FTE and OGE Estimate			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office	406		46	452
Office of Homeland Security	40		31	71
Special Assistance to the President	24		54	78
Official Residence of the Vice President	1		0	1
Office of Administration	222		1	223
Office of Policy Development	35		7	42
National Security Council	71		145	216
Council of Economic Advisers	35		9	44
Office of Management and Budget	510		63	573
Office of National Drug Control Policy	115		51	166
Executive Residence	95		0	95
Office of Science and Technology Policy	40		20	60
Council on Environmental Quality	24		14	38
U.S Trade Representative	209		28	237
TOTAL	**1827**		**469**	**2296**

Office	FY 2004 FTE and OGE Estimate			
	AUTH FTE	ACTUAL FTE	OGE **	TOTAL
White House Office	406		46	452
Office of Homeland Security	40		31	71
Special Assistance to the President	24		54	78
Official Residence of the Vice President	1		0	1
Office of Administration	222		11	233
Office of Policy Development	35		7	42
National Security Council	71		145	216
Council of Economic Advisers	35		9	44
Office of Management and Budget	516		63	579
Office of National Drug Control Policy	125		51	176
Executive Residence	95		0	95
Office of Science and Technology Policy	40		20	60
Council on Environmental Quality	24		14	38
U.S Trade Representative	217		28	245
TOTAL	**1851**		**479**	**2330**

* For FY 2002, the White House Office figure excludes OGEs and FTEs for the Office of Homeland Security which were funded from the Emergency Appropriation.

** OA was funded for 20 additional FTE using Emergency Response Funds which are not shown in the figures above.

REV_00169140

R = Reimbursable
N = Non Reimbursable

FY 2002 Actual FTE and OGE

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**385**			1	20	79	9	1	17		4				3			81	53	**134**
Special Assistance to the President	**18**				7		1		6		26								40	**40**
Official Residence of the Vice President	**1**																			
Office of Administration	**195**					2					1							2	1	**3**
Office of Policy Development	**30**		1		3		3												7	**7**
National Security Council	**50**				33	1	102		4									1	139	**140**
Council of Economic Advisers	**31**					2	1			3	1		3					5	5	**10**
Office of Management and Budget	**512**					6	53						11					6	64	**70**
Office of National Drug Control Policy	**106**		13		16					3			2					3	31	**34**
Executive Residence	**92**																			
Office of Science and Technology Policy	**23**		6			4	1			2	3							6	10	**16**
Council on Environmental Quality	**19**		11				2										1		14	**14**
U.S Trade Representative	**200**						21				1				2				24	**24**
TOTAL	**1662**		**31**	**1**	**79**	**94**	**193**	**1**	**27**	**8**	**36**		**16**		**5**		**1**	**104**	**388**	**492**

*For FY02, the White House includes 65 OGE's for the Office of Homeland Security, which are funded from the Emergency Appropriation

R = Reimbursable
N = Non Reimbursable

FY 2003 Estimate FTE and OGE *as of May 5, 2003*

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**406**				7	5	11		19		1				2		1	5	41	**46**
Office of Homeland Security	**40**			2	1	23	3				1			1				26	5	**31**
Special Assistance to the President	**24**		3		7		1		18		25								54	**54**
Official Residence of the Vice President	**1**																			
Office of Administration	**222**										1								1	**1**
Office of Policy Development	**35**		1		3	1	1										1	1	6	**7**
National Security Council	**71**				33	5	103		4									5	140	**145**
Council of Economic Advisers	**35**					2	2			2			2				1	4	5	**9**
Office of Management and Budget	**499**					3	54						6					3	60	**63**
Office of National Drug Control Policy	**115**		19		14		4			3	9						2	3	48	**51**
Executive Residence	**95**																			
Office of Science and Technology Policy	**40**		6			2	3			2	5		1		1			4	16	**20**
Council on Environmental Quality	**24**		10				3				1								14	**14**
U.S Trade Representative	**209**						25				1				2				28	**28**
TOTAL	**1816**		**39**	**2**	**65**	**41**	**210**		**41**	**7**	**44**		**9**	**1**	**5**		**5**	**51**	**418**	**469**

R = Reimbursable
N = Non Reimbursable

FY 2004 Estimate FTE and OGE

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**406**				7	5	11		19		1				2		1	5	41	**46**
Office of Homeland Security	**40**			2	1	23	3				1			1				26	5	**31**
Special Assistance to the President	**24**		3		7		1		18		25								54	**54**
Official Residence of the Vice President	**1**																			
Office of Administration	**222**										1		10						11	**11**
Office of Policy Development	**35**		1		3	1	1										1	1	6	**7**
National Security Council	**71**				33	5	103		4									5	140	**145**
Council of Economic Advisers	**35**					2	2			2			2				1	4	5	**9**
Office of Management and Budget	**516**					3	54						6					3	60	**63**
Office of National Drug Control Policy	**125**		19		14		4			3	9						2	3	48	**51**
Executive Residence	**95**																			
Office of Science and Technology Policy	**40**		6			2	3			2	5		1		1			4	16	**20**
Council on Environmental Quality	**24**		10				3				1								14	**14**
U.S Trade Representative	**217**						25				1				2				28	**28**
TOTAL	**1851**		**39**	**2**	**65**	**41**	**210**		**41**	**7**	**44**		**19**	**1**	**5**		**5**	**51**	**428**	**479**

REV_00169141

OA Staffing (POC – Jon Laurich)

QUESTION 7: By OA office, please provide FTE and OGE, similar in format to the tables found on page 113 of last year's hearing record. Please provide data for FY 2002 through 2004.

RESPONSE: The following table provides the FTE and OGE for the Office of Administration.

R = Reimbursable N = Non Reimbursable	FY 2002 FTE and OGE Actuals							
		Others		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OA Director	12							
OA Chief Operating Officer	111							
OA Chief Financial Officer	30	1	1			1	1	2
OA Chief Projects Officer	5							
OA Chief Information Officer	46	1				1		1
TOTAL	**204**	**2**	**1**			**2**	**1**	**3**

as of May 5, 2003

R = Reimbursable N = Non Reimbursable	FY 2003 FTE and OGE Estimates							
		Others		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OA Director	11							
OA Chief Operating Officer	103				2		1	1
OA Chief Financial Officer	39		1				1	1
OA Chief Projects Officer	11							
OA Chief Information Officer	58				2			
TOTAL	**222**		**1**		**4**		**2**	**2**

R = Reimbursable N = Non Reimbursable	FY 2004 FTE and OGE Estimates							
		Others		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OA Director	25							
OA Chief Operating Officer	99				4		4	4
OA Chief Financial Officer	39		1		2		3	3
OA Chief Projects Officer	4							
OA Chief Information Officer	55				4		4	4
TOTAL	**222**		**1**		**10**		**11**	**11**

REV_00169142

OMB Staffing (POC – Jon Laurich/Brian Gillis)

QUESTION 8: By OMB office, please provide FTE and OGE, similar in format to the tables found on page 114 of last year's hearing record. Please provide data for FY 2002 through 2004.

RESPONSE: The charts below display the FTE and OGE breakout by OMB division for FY 2002-2004. Most detailees and student volunteers are used during the peak budget production season. During the rest of the year, the OGE total can fall below 20.

REV_00169143

R = Reimbursable N = Non Reimbursable	FY 2002 FTE and OGE Actuals							
		Detailees		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OMB-Wide Offices	159	1	19		2	1	21	22
General Government Programs	62		1				1	1
Human Resource Programs	71		4		1		5	5
National Security Programs	64	1	5		1	1	6	7
Natural Resource Programs	54		8		1		9	9
Office of Federal Financial Management	21	3	3			3	3	6
Office of Federal Procurement Policy	22	1	2		1	1	3	4
Office of Information and Requlatory Affairs	54		11		5		16	16
TOTAL	**507**	**6**	**53**		**11**	**6**	**64**	**70**

as of May 5, 2003

R = Reimbursable N = Non Reimbursable	FY 2003 Estimate FTE and OGE							
		Detailees		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OMB-Wide Offices	152	1	22		2	1	24	25
General Government Programs	60		3		1		4	4
Human Resource Programs	68		5				5	5
National Security Programs	61		9				9	9
Natural Resource Programs	60		5				5	5
Office of Federal Financial Management	21	1				1		1
Office of Federal Procurement Policy	20							
Office of Information and Requlatory Affairs	57	1	10		3	1	13	14
TOTAL	**499**	**3**	**54**		**6**	**3**	**60**	**63**

FY 2002 does not include staff temporarily detailed to the Transition Planning Office.

R = Reimbursable N = Non Reimbursable	FY 2004 Estimate FTE and OGE							
		Detailees		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OMB-Wide Offices	157	1	22		2	1	24	25
General Government Programs	63		3		1		4	4
Human Resource Programs	75		5				5	5
National Security Programs	63		9				9	9
Natural Resource Programs	63		5				5	5
Office of Federal Financial Management	20	1				1		1
Office of Federal Procurement Policy	21							
Office of Information and Requlatory Affairs	54	1	10		3	1	13	14
TOTAL	**516**	**3**	**54**		**6**	**3**	**60**	**63**

Office of Homeland Security (POC – Paul Ehrhardt)

QUESTION 9: Your FY 2004 budget requests $8,331,000 for the Office of Homeland Security. Please provide an object class breakdown of those costs and compare them to FY 2003 estimated levels.

RESPONSE: The Office of Homeland Security was created by the President on October 8, 2001, via Executive Order 13228 and serves as and is synonymous with the staff of the Homeland Security Council (HSC). An object class breakdown of estimated HSC costs in FY 2003 and FY 2004 is provided in the table below. Please note that the FY 2003 estimate covers only costs incurred after the enactment of the FY 2003 appropriation on February 20, 2003. Unlike other EOP offices which operated under continuing resolutions between October 1, 2003 and February 20, 2003, the Office of Homeland Security was not permitted to utilize the CR funding mechanism but instead continued to charge FY 2003 expenses against the no-year emergency funding (provided in FY2002) until the FY 2003 appropriation was enacted. Therefore the FY 2003 estimate reflects only seven months of activity, whereas the FY 2004 Request needs to cover HSC expenses for the full 12 months next fiscal year.

(Dollars in Thousands)	FY 2003 Appropriation	FY 2003 Estimate*	FY 2004 Request	2004 Request - 2003 Estimate
Homeland Security Council:				
Personnel	$4,403	$2,800	$5,550	$2,750
Travel	$300	$60	$588	$528
Transportation of Things	$24	$24	$10	-$14
Rent	$0	$0	$200	$200
Communications, Utilities, and Misc.	$209	$50	$1,080	$1,030
Printing and Reproduction	$69	$69	$50	-$19
Other Services	$3,267	$1,267	$528	-$739
Supplies and Materials	$0		$175	$175
Equipment	$0	$50	$150	$100
Subtotal	$8,272	$4,320	$8,331	$4,011

* FY 2003 Estimate covers only seven months vs. FY 2004 Request covering full 12 months

Rent was included in the Office of Administration budget in FY 2003, and is moved back to the Homeland Security Council in FY 2004. The Communications object class in FY 2004 includes funding to provide a custom communications package to establish an interface for the Homeland Security Council within the White House Situation Room. Supplies and Materials and Equipment object classes both were funded out of the Office of Administration Pilot Program in FY 2003 but show budgets in HSC for FY 2004.

QUESTION 10: In particular, how much are you requesting in FY 2004 for professional contracts, and how does that compare to the estimated FY 2003 level?

REV_00169145

RESPONSE: In FY 2004 HSC is requesting $528,000 for Other Services compared with $3,267,000 appropriated for the same category in FY 2003. The decrease is due to the creation of the Department of Homeland Security as the President's Security as the President's advisors and as the staff of HSC. Anticipated contractual needs in FY 2004 include maintenance, upgrades, and technical support for the classified computer network that will be extended to include HSC staff in FY 2003.

QUESTION 11: How many FTE and FTP are you requesting for this office in FY 2004, and how do these figures compare to current FY 2003 estimates and actuals for FY 2002?

RESPONSE: HSC is requesting resources to support 40 direct hire FTE and 26 Other Government Employees on its staff to fill the 66 positions HSC is projecting for FY 2004.

Office of Homeland Security / Homeland Security Council Personnel

	FY 2002 Actual	FY 2003 Estimate	FY 2004 Request
Direct Hire FTE	31	40	40
Other Government Employees (EOY headcount)	89	26	26
Total Personnel	120	66	66

QUESTION 12: How many positions in the office are filled today, and how many are vacant?

RESPONSE: As of May 15, 2003, 51 positions are filled and 15 are vacant.

QUESTION 13: Please provide a table comparing the number of detailees to OHS, by federal agency, for each of the fiscal years 2002 through 2004 (estimated).

RESPONSE: The table below provides the number other government employees assigned to the Homeland Security Council.

REV_00169146

Number of Other Government Employees at OHS/HSC
(Figures show end of year headcount)

	FY 2002	FY 2003 est.	FY 2004 est.
CIA	7	2	3
DHS	0	6	10
FEMA	3	na	na
USCG	19	na	na
US Customs	1	na	na
USSS	2	na	na
DOJ	10	1	5
DOC	5	1	0
DOD	12	3	2
DOE	1	1	1
DOI	3	1	0
DOL	1	0	0
DOS	4	2	1
DOT	1	0	1
EOP	1	1	0
EPA	1	2	0
FAA	1	1	0
GSA	1	0	0
HHS	3	3	2
HUD	3	0	0
NASA	1	0	0
NIMA	1	0	0
NSA	3	1	0
SBA	1	0	0
Sentencing Commission	1	0	0
SSA	1	0	0
Treasury	1	0	0
USDA	1	1	1
Total	89	26	26

QUESTION 14: How many detailees are on board today?

RESPONSE: As of May 15, 2003, there are 18 detailees on board at the Homeland Security Council.

QUESTION 15: Please provide a list of all positions in OHS, showing the incumbent's name, rate of annual salary, and position title. Please annotate any positions which are currently vacant.

RESPONSE: The President is authorized to appoint and fix pay of any member of the White House Staff without regard to any provision of law related to employees of the federal government. The individuals employed by the President represent a broad spectrum of experience and expertise and have been engaged to perform tasks ranging from clerical/support to complex, technical, scientific, medical, legal and other missions

REV_00169147

requiring specialized expertise. These individuals are being compensated at rates commensurate with their responsibilities, education and professional experience. The table below lists HSC positions and the positions which are currently vacant. The salaries provided are for White House Full Time Employees and Other Government Employees working at HSC.

	Name		
Position Title	**First**	**Last**	**Annual Salary**
Office of the Advisor			
Assistant to the President for Homeland Security and Homeland Security Advisor (Acting Until June 1)	Charles	Abbot	$ 124,000
Executive Assistant	VACANT		NA
Special Assistant to the APHS	Jon	Spaner	$ 80,816
Staff Assistant	A. Morgan	Middlemas	$ 51,600
Deputy Assistant to the President and Deputy Homeland Security Advisor	Richard	Falkenrath	$ 124,000
Special Assistant	Marianne	Burtnett	$ 85,000
Staff Assistant	Shelley	Reese	$ 30,000
Director, Programs and Resources	David	Aidekman	$ 61,900
Budget Assistant	VACANT		NA
Military Programs			
Special Assistant to the President (SAP) for Military Programs	VACANT		NA
Director, Military Programs	Chris	Hornbarger	$ 87,348
Staff Assistant	VACANT		NA
Executive Secretary			
Executive Secretary	Tim	Stout	$ 53,600
Executive Assistant	Margaret	Cousley	$ 35,000
Deputy Executive Secretary	VACANT		NA
Special Assistant to the Executive Secretary	Laura	Fullerton	$ 66,229
Director for Administration and Support	Kimberly	Badenhop	$ 65,000
Associate Director for Correspondence and Records Management	Eric	Leckey	$ 35,000
Special Assistant, Events	Rory	Cooper	$ 46,469
Associate Director for Security	Deborah	McRae	$ 87,043
Staff Assistant	VACANT		NA
Staff Assistant	VACANT		NA
General Counsel			
Senior Associate Counsel to the President and General Counsel for Homeland Security	Edward	McNally	$ 108,000
Deputy Counsel	Ryan	Stiles	$ 75,000

REV_00169148

Associate Counsel	Faisal	Gill	$	78,265
Associate Counsel	Catherine	Anderson	$	108,785
Staff Assistant	Gayle	Worthy	$	43,807
Legistative Affairs				
Special Assistant to the President for Legislative Affairs	Michael	Allen	$	82,000
Legislative Assistant	Jamie	Ellis	$	34,000
Intergovernmental Affairs				
Director, Intergovernmental Affairs	VACANT			NA
Director, HSC Public Liaison	Meredith	Terpeluk	$	50,000
Domestic Counterterrorism				
Special Assistant to the President and Senior Director, Domestic Counterterrorism	VACANT			NA
Special Assistant to the Director, Domestic Counterterrorism	Eric	Walker	$	46,460
DCI Representative to Homeland Security	Dennis	Bowden	$	120,261
Director, Incident Management	Richard	Irwin	$	118,384
Director, Incident Management	Joel	Bagnal	$	87,348
Director, Investigation and Law Enforcement	Stephen	King	$	119,600
Director, Domestic Counterterrorism Policy	Kirsten	Hildebrand	$	85,140
Director, Plans and Excercises	Kathleen	Packard	$	47,309
BioDefense				
Special Assistant to the President and Senior Director, Biodefense	Kenneth	Bernard	$	123,069
Staff Assistant	Josephine	Keenan	$	54,440
Director, Biodefense	Robert	Kadlec	$	103,000
Director, Biodefense	Rajeev	Venkayya	$	87,043
Director, Food, Agriculture and Water Safety	Curt	Mann	$	138,200
Critical Infrastructure Protection				
Special Assistant to the President and Senior Director, Critical Infrastructure Protection	Paul	Kurtz	$	108,300
Executive Assistant	Barbara	Howerton	$	58,800
Director, Cyber IP	VACANT			NA
Director, Cyber IP	Cheryl	Peace	$	117,061
Director, Physical IP	Patrick	Burns	$	99,186
Director, Physical IP	Paul	Nicholas	$	108,300
Director, IT Architecture	VACANT			NA
Response and Recovery				
Senior Director, Response and Recovery	David	Howe	$	108,300
Staff Assistant	Liz	Macnab	$	42,000
Director, First Responder Program	VACANT			NA
Director for Recovery	Lewis	Podolske	$	113,543

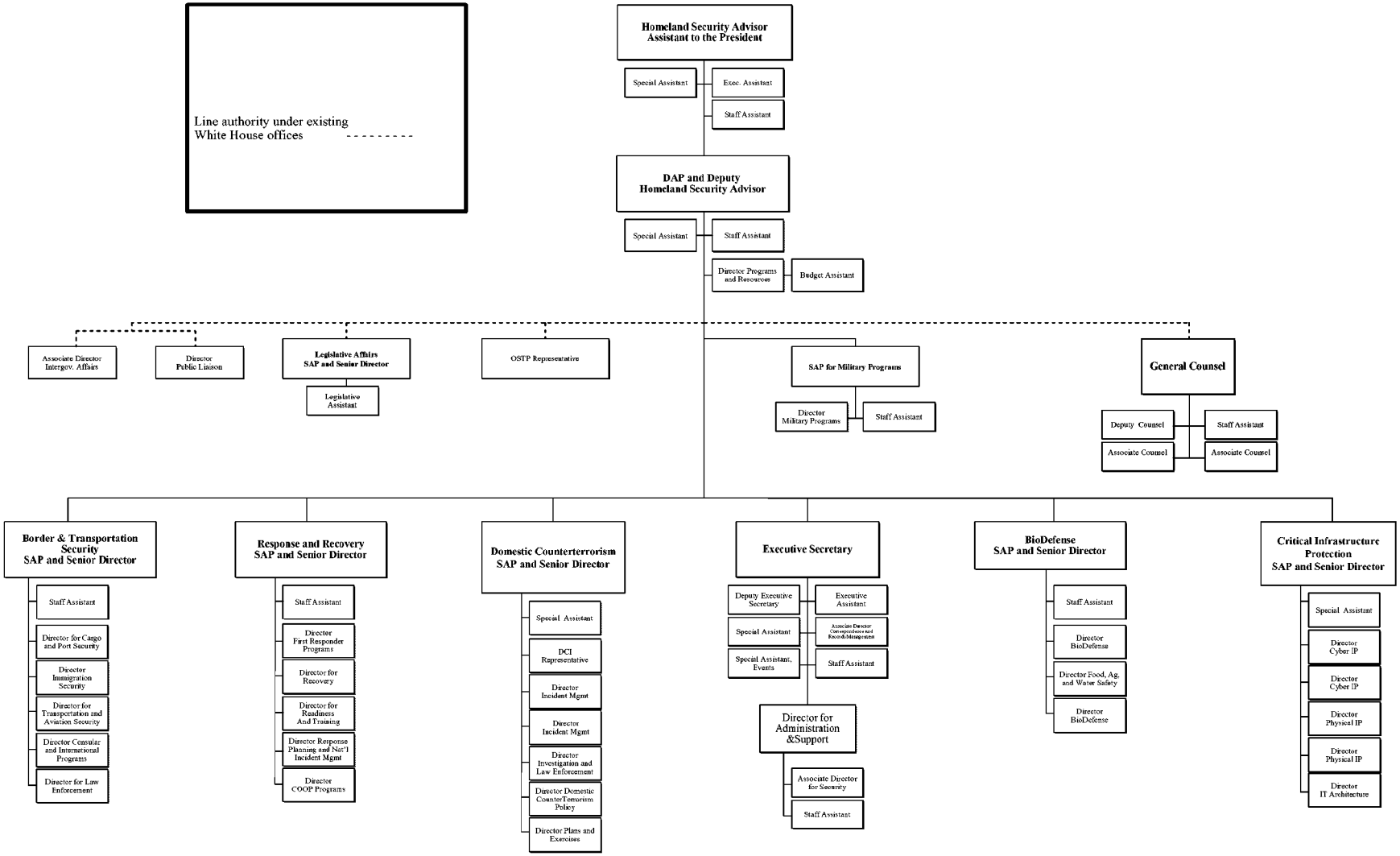
REV_00169149

Director for Readiness and Training	James	Kish	$	110,000
Director, Response Planning and Incident Management	James	Douglas	$	131,881
Director, COOP Programs	VACANT			NA
Border and Transportation Security				
Special Assistant to the President and Senior Director for Border and Transporation Security	Brian	Peterman	$	135,504
Staff Assistant	Katherine	Hildebrand	$	32,000
Director, Cargo and Port Security	VACANT			NA
Director of Immigration Security	Una	Brien	$	93,916
Director for Transportation and Aviation Security	Jan	Brecht-Clark	$	131,881
Director for Consular and International	Lisa Bobbie	Schreiber Hughes	$	109,925
Director for Law Enforcement	Ronald	Colburn	$	120,000

QUESTION 16: Please update the OHS organizational chart found on page 50 of last year's hearing record.

RESPONSE: The chart below shows the current Homeland Security Council's organization.

REV_00169150



REV_00169151

QUESTION 17: Please update the information shown on pages 44 through 47 of last year's hearing record concerning Office of Homeland Security travel. In addition to the information provided last year, please provide a brief descriptor of the travel purpose.

RESPONSE: All travel was conducted as part of the duties of the Office of Homeland Security and as such is considered official travel. The President and the Assistant to the President for Homeland Security have regularly stated that the homeland will not be secure unless the Federal government works closely with state and local officials. Official trips were approved for various purposes including the attendance of various conferences, to holding of meetings with state and local officials and the holding of town hall meetings. The HSC considers travel to different states and cities as a vital part of its mission.

The table below is an update to the travel information provided to Congress last year.

Homeland Security Council Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Staff Position**
04/02/02	Los Angeles, CA	1	$1,185.31	Special Assistant to the President and Executive Director, PHSAC
04/04/02	Miami, FL	2	$1,363.07	Special Assistant to the President and Senior Director for Policy and Plans, Special Assistant
04/05/02	Harrisburg, PA	1	$444.41	Communications Assistant
04/07/02	Annapolis, MD	1	$63.14	Communications Aide to the Assistant to the President for Homeland Security
04/07/02	Atlanta, GA	1	$614.37	Director for Weapons of Mass Destruction
04/08/02	Chicago, IL	2	$1,702.90	Communication Coordinator, Operations Officer
04/08/02	Manhattan, NY	1	$811.62	Director for Critical Recovery Infrastructure
04/09/02	Chicago, IL	6	$2,071.26	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security, Special Assistant to the President for Public Liaison,
				Special Assistant to the President and Director of Communications, Legislative Assistant,
				Communications Aide to the Assistant to the President for Homeland Security
04/11/02	Charleston, SC	2	$1,858.88	Special Assistant to the President and Senior Director for Policy and Plans, Associate Director
04/11/02	Chicago, IL	1	$300.63	Communications Assistant

04/11/02	Harrisburg, PA	3	$1,485.37	Senior Director for Intergovernmental Affairs, Communications Aide to the Assistant to the President for Homeland Security, Communications Assistant
04/12/02	Oklahoma City, OK	1	$528.88	Director for Medical and Public Health Security
04/15/02	Baltimore, MD	1	$134.10	Director for Weapons of Mass Destruction
04/15/02	Boston, MA	1	$1,249.42	Director, Economic Consequence Management
04/15/02	Detroit, MI	1	$1,262.38	Communications Assistant
04/16/02	Chicago, IL	3	$2,075.41	Special Assistant to the President and Senior Director for Policy and Plans, Senior Director for Response and Recovery, Special Assistant
04/16/02	Detroit, MI	2	$400.17	Special Assistant to the President for Public Liaison, Communications Aide to the Assistant to the President for Homeland Security
04/16/02	Detroit, MI	1	$0.00	Assistant to the President for Homeland Security
04/18/02	Erie, PA/Harrisburg, PA	1	$412.96	Communications Assistant
04/19/02	Harrisburg, PA	1	$856.64	Communications Assistant
04/20/02	Houston, TX	1	$612.48	Director, Policy and Plans
04/24/02	Phoenix, AZ	1	$2,023.87	Communications Aide to the Assistant to the President for Homeland Security
04/24/02	Toronto, CAN	1	$626.69	Director, Costal and Border Security
04/28/02	New Orleans, LA	7	$7,371.94	Communications Assistant, Special Assistant to the President for Public Liaison, Special Assistant to the Assistant to the President for Homeland Security,
				Deputy Press Secretary, Assistant to the President for Homeland Security, Communications Assistant, Communications Coordinator
04/30/02	Boston, MA	1	$87.00	Special Assistant to the President for Public Liaison
05/01/02	Los Angeles, CA	1	$668.61	Senior Director for Intergovernmental Affairs
05/03/02	Columbus, OH/Pittsburg, PA	2	$1,259.20	Communications Coordinator, Communications Assistant
05/06/02	Albuquerque, NM	1	$625.90	Director for Critical Recovery Infrastructure
05/06/02	Bangor, ME	1	$465.50	Senior Director for Intergovernmental Affairs
05/07/02	Denver, CO	1	$426.71	Special Assistant to the President and Senior Director for Information Integration
05/07/02	Sacramento, CA	2	$1,222.88	Senior Director for Response and Recovery, Special Assistant
05/08/02	Burlington, VT	1	$979.84	Director, Policy and Plans
05/08/02	San Diego, CA	1	$805.50	Director of Operations

REV_00169153

05/08/02	Wichita, KS	1	$434.21	Senior Director for Intergovernmental Affairs
05/10/02	Harrisburg, PA	1	$521.21	Communications Assistant
05/12/02	Charleston, SC	1	$842.93	Senior Director for Response and Recovery
05/14/02	Gulfport, MS	1	$469.12	Director, Protection and Prevention
05/15/02	Buffalo, NY	8	$4,789.28	Assistant to the President for Homeland Secuirty, Special Assistant to the President for Public Liaison, Operations Officer, Operations Officer, Operations Officer,
				Special Assistant to the Assistant to the President for Homeland Security, Director, Policy and Plans, Special Assistant to the President and Director of Communications,
				Communications aide to the Assistant to the President for Homeland Security, Communications Assistant
05/18/02	Pittsburgh, PA	3	$1,001.63	Assistant to the President for Homeland Security, Assistant Press Secretary, Special Assistant to the President for Homeland Security
05/20/02	Jackson, WY	1	$1,543.30	Special Assistant to the Deputy Assistant to the President for Homeland Security
05/21/02	Washington, DC	1	$709.50	Special Assistant
05/22/02	Dayton, OH	1	$688.76	Director, Protection and Prevention
05/30/02	Baltimore, MD	1	$434.30	Director, State and Local Affairs
05/30/02	Hershey, PA	1	$160.09	Special Assistant to the President for Public Liaison
05/31/02	Harrisburg, PA	1	$741.56	Communications Assistant
06/04/02	Manhattan, NY	4	$1,085.44	Assistant to the President for Homeland Security, Special Assistant to the President and Executive Director, PHSAC,
				Director, External Affairs, Communications Assistant
06/07/02	Harrisburg, PA	1	$563.64	Operations Officer
06/10/02	Manhattan, NY	2	$715.21	Senior Director for Response and Recovery, Senior Director for Protection and Provention
06/10/02	Sun Valley, ID	1	$1,709.80	Director for Readiness
06/10/02	Washington, DC	2	$1,205.50	Senior Director for Protection and Prevention and Senior Director for Response and Recovery
06/11/02	Kansas City, MO	1	$0.00	Assistant to the President for Homeland Security
06/11/02	Washington, DC	5	$3,655.99	President's Homeland Security Advisory Board
06/12/02	Chicago, IL	1	$623.05	Senior Director for Response and Recovery
06/14/02	Albuquerque,NM	1	$971.26	Senior Director for Protection and Prevention

REV_00169154

06/14/02	Harrisburg, PA	2	$912.67	Communications Assistant, Communications Aide to the Assistant to the President for Homeland Security
06/16/02	Erie, PA	1	$413.73	Operations Officer
06/16/02	Madison, WI	6	$2,071.19	Communications Assistant, Senior Director for Intergovernmental Affairs, Assistant to the President for Homeland Security,
				Special Assistant to the President for Homeland Security, Director of State and Local Affairs
06/17/02	Mexico City, Mexico	1	$1,163.26	Director for Critical Infrastructure Protection
06/17/02	New Orleans, LA	1	$884.36	Director, Training and Exercises
06/19/02	Virginia Beach, VA	1	$351.28	Communication Aide to the Assistant to the President for Homeland Security
06/20/02	Berkeley Springs, WV	1	$27.00	Deputy Assistant to the President for Homeland Securtiy
06/21/02	Tulsa, OK	1	$488.00	Senior Director for Intergovernmental Affairs
06/23/02	Phoenix, AZ	1	$1,036.22	Deputy Assistant to the President for Homeland Securtiy
06/24/02	Other, Canada	1	$494.40	Special Assistant to the President and Director of Communications
06/27/02	Albuquerque,NM	1	$871.00	Senior Director for Intergovernmental Affairs
06/27/02	Cambridge, MA	1	$876.11	Senior Director for Response and Recovery
06/27/02	Manhattan, NY	2	$308.70	Senior Director for Protection and Prevention, Director for Weapons of Mass Destruction
06/27/02	Other, Canada	2	$960.34	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
06/27/02	Toronto, Canada	1	$1,447.49	Communications Assistant
06/28/02	Buffalo, NY	1	$1,001.22	Special Assistant to the President for Public Liaison
06/30/02	Erie, PA	1	$895.44	Communications Assistant
06/30/02	Washington, DC	7	$5,072.38	President's Homeland Security Advisory Board
07/04/02	Erie, PA	1	$1,005.65	Communication Aide to the Assistant to the President for Homeland Security
07/10/02	Harrisburg, PA	2	$1,547.83	Communication Coordinator, Communications Assistant
07/10/02	Manhattan, NY	1	$738.76	Senior Director for Response and Recovery
07/11/02	Hershey, PA	1	$63.00	Assistant to the President for Homeland Security
07/12/02	Erie, PA	1	$559.28	Communications Aide to the Assistant to the President for Homeland Security
07/13/02	New Orleans, LA	1	$1,029.76	Director, State and Local Affairs

07/14/02	Boulder, CO	1	$762.26	Senior Director for Response and Recovery
07/14/02	Erie, PA	1	$599.85	Operations Officer
07/17/02	Colorado Springs, CO	1	$2,303.43	Communications Assistant
07/17/02	Raleigh, NC	1	$545.95	Director for Weapons of Mass Destruction
07/18/02	Colorado Springs, CO	2	$1,815.32	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
07/18/02	Dallas, TX	1	$631.00	Director, Cyberspace Security
07/19/02	Cleveland, OH	1	$1,481.12	Communications Assistant
07/19/02	Omaha, NE	1	$1,675.01	Director, Protection and Prevention
07/20/02	Cleveland, OH	1	$1,462.50	Communications Aide to the Assistant to the President for Homeland Security
07/20/02	Erie, PA	2	$3,832.24	Communications Assistant, Operations Officer
07/22/02	Du Page County, IL	1	$0.00	Assistant to the President for Homeland Security
07/22/02	Manhattan, NY	3	$2,555.98	Director for Cargo and Port Security, Director State and Local Affairs,
				Deputy Assistant to the President for Homeland Security
08/01/02	Austin, TX	1	$590.25	Director, Policy and Plans
08/04/02	Erie, PA	1	$1,049.32	Communications Assistant
08/06/02	Los Angeles, CA	1	$500.72	Director, Training and Exercises
08/09/02	Harrisburg, PA	1	$2,473.35	Communications Assistant
08/11/02	Erie, PA	1	$2,473.35	Communications Assistant
08/13/02	Burlington, VT	1	$800.01	Director for Cargo and Port Security
08/13/02	Cincinnati, OH	1	$738.73	Senior Director to Special Assistant to the President for Information Integration
08/14/02	Little Rock, AR	2	$2,359.87	Special Assistant to the President for Communications, Communications Assistant
08/15/02	Rapid City, SD	2	$291.80	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
08/18/02	Philadelphia, PA	2	$2,311.79	Senior Director for Intelligence and Detection, Director, Cyberspace Security
08/21/02	Manhattan, NY	1	$261.75	Director State and Local Affairs
08/22/02	Kansas City, MO	1	$878.73	Senior Director for Response and Recovery
08/24/02	Erie, PA	1	$706.35	Communications Assistant
08/26/02	Ottawa, Canada	1	$1,287.07	Director for Critical Infrastructure Protection
08/26/02	Washington, DC	2	$1,533.41	President's Homeland Security Advisory Board
08/27/02	Indianapolis, IN	1	$820.70	Senior Director for Intelligence and Detection
08/27/02	Philadelphia, PA	1	$451.57	Communications Assistant
08/27/02	Seattle, WA	1	$1,577.18	Senior Director for Response and

REV_00169156

				Recovery
08/28/02	Buffalo, NY	2	$1,953.73	Operations Officer, Operations Officer
08/28/02	Charlotte, NC	2	$1,217.86	Communications Aide to the Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
08/28/02	Seattle, WA	1	$646.49	Special Assistant, Intergovernmental Affairs
08/28/02	Washington, DC	5	$4,452.05	President's Homeland Security Advisory Board
08/29/02	Buffalo, NY	1	$173.00	Assistant to the President for Homeland Security
08/29/02	Milan, Italy	2	$11,192.97	Communications Assistant, Communications Aide to the Assistant to the President for Homeland Security
08/30/02	Atlanta,GA	1	$548.50	Director, Cyberspace Security
09/03/02	Asville Naval Reserve Ctr, NC	1	$674.84	Senior Director for Response and Recovery
09/04/02	Milan, Italy	1	$1,869.93	Special Assistant to the Assistant to the President for Homeland Security
09/04/02	San Diego, CA	1	$1,466.62	Director State and Local Affairs
09/05/02	Chicago, IL	1	$490.94	Director, Training and Exercises
09/05/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
09/06/02	Long Beach Naval Hosp, CA	1	$937.22	Director, Protection and Prevention
09/08/02	Columbus, OH	1	$365.81	Special Assistant to the President and Senior Director for Policy and Plans
09/08/02	Detroit, MI	1	$1,111.35	Special Assistant to the President for Public Liaison
09/09/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
09/09/02	Orlando, FL	1	$519.19	Special Assistant to the President and Executive Director, PHSAC
09/09/02	Paris, France	1	$1,156.36	Director, Policy and Plans
09/10/02	Pittsburgh, PA	3	$667.20	Assistant Press Secretary, Communications Aide to the Assistant to the President for Homeland Security,
				Assistant to the President for Homeland Security
09/15/02	Manhattan, NY	1	$191.47	Director, Biodefense
09/15/02	Suffolk County, NY	1	$356.66	Director, Biodefense
09/16/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
09/18/02	Atlanta,GA	1	$254.00	Deputy Assistant to the President for Homeland Securtiy
09/18/02	Denver, CO	1	$967.36	Executive Assistant, Response and Recovery
09/19/02	Austin, TX	1	$121.00	Special Assistant to the Deputy Assistant to the President for Homeland Security
09/19/02	Dallas, TX	1	$618.00	Director, Cyberspace Security
09/19/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans

REV_00169157

09/19/02	Minot AFB, ND	1	$1,121.00	Director State and Local Affairs
09/20/02	Atlanta,GA	2	$1,349.48	Sr. Director Research and Development, Director, Biodefense
09/21/02	Dover, DE	1	$592.94	Communications Aide to the Assistant to the President for Homeland Security
09/22/02	Lincoln Naval Reserve, NE	1	$849.94	Special Assistant to the President and Senior Director for Policy and Plans
09/24/02	Dallas, TX	1	$618.50	Deputy Assistant to the President for Homeland Securtiy
09/24/02	Kansas City, MO	1	$650.36	Director for Incident Management
09/24/02	Manhattan, NY	2	$285.15	Senior Director for Protection and Prevention, Director for Weapons of Mass Destruction
09/24/02	St. Louis, MO	1	$873.50	Senior Director for Response and Recovery
09/25/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
09/26/02	Erie, PA	1	$1,061.02	Communications Assistant
09/26/02	Williamsport Naval Ctr, PA	1	$337.92	Communications Aide to the Assistant to the President for Homeland Security
09/27/02	Atlanta,GA	1	$313.90	Special Assistant to the President for Public Liaison
09/27/02	Easton, PA	1	$202.21	Special Assistant to the Assistant to the President for Homeland Security
09/30/02	Manhattan, NY	1	$576.06	Senior Advisor to the Special Assistant to the President for Information Integration
09/30/02	White Plains, NY	1	$907.10	Executive Secretary
10/01/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
10/01/02	White Plains, NY	1	$702.73	Director for Critical Infrastructure Protection
10/02/02	Carlisle Barracks, PA	1	$132.30	Communications Aide to the Assistant to the President for Homeland Security
10/02/02	Charleston, WV	1	$154.94	Director, Cyberspace Security
10/03/02	Los Angeles, CA	1	$943.66	Director, State and Local Affairs
10/03/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
10/03/02	Miami, FL	1	$571.00	Sr. Director, Research and Development
10/04/02	Washington, DC	1	$169.48	Communications Aide
10/06/02	Minneapolis, MN	1	$768.50	Director for Incident Management
10/06/02	Orlando, FL	1	$432.31	Senior Advisor to the Special Assistant to the President for Information Integration
10/07/02	Las Vegas, NV	1	$874.73	Director of Critical Infrastructure
10/07/02	Oklahoma City, OK	1	$525.94	Sr. Director, Research and Development
10/07/02	Pittsburgh, PA	2	$1,663.50	Special Assistant to the President for Public Liaison, Communications Aide to the Assistant to the Presidnet for Homeland Security
10/07/02	San Diego, CA	1	$1,411.68	Senior Director for Response and Recovery
10/08/02	Minneapolis, MN	1	$914.14	Senior Director for Intergovernmental Affairs

10/08/02	Pittsburgh, PA	2	$1,571.22	Assistant to the President for Homeland Security, Special Assistant to the Assistant to President for Homeland Security
10/09/02	Dallas, TX	1	$704.65	Executive Assistant, Response and Recovery
10/09/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
10/10/02	Fort Lauderdale, FL	2	$2,958.00	Special Assistant to the President for Public Liaison, Director for Incident Management
10/11/02	Erie, PA	1	$930.69	Communications Assistant
10/11/02	Lynchburg, VA	1	$52.93	Director Policy and Plans
10/12/02	Erie, PA	1	$348.00	Operations Officer
10/14/02	Columbus, OH	1	$572.00	Senior Director for Response and Recovery
10/15/02	Atlanta,GA	1	$852.36	Director, Cyberspace Security
10/15/02	Key West, FL	1	$1,216.80	Director for Immigration Security
10/15/02	Sacramento, CA	1	$1,260.62	Director, Biodefense
10/15/02	Seattle, WA	1	$1,050.00	Senior Director for Protection and Prevention
10/15/02	Washington, DC	8	$4,481.76	President's Homeland Security Advisory Board
10/16/02	Raleigh, NC	1	$254.06	Senior Advisor to the Special Assistant to the President for Information Integration
10/16/02	Vancouver, Canada	1	$1,662.55	Director, Policy and Plans
10/18/02	Trenton, NJ	1	$1,310.12	Director, State and Local Affairs
10/18/02	Washington, DC	4	$2,385.93	Communications Assistant, President's Homeland Security Advisory Board
10/21/02	Houston, TX	1	$849.91	Senior Director for Protection and Prevention
10/21/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
10/21/02	Newark, NJ	2	$852.90	Senior Director for Intergovernmental Affairs, Director State and Local Affairs
10/21/02	Washington, DC	1	$87.50	President's Homeland Security Advisory Board
10/22/02	Frederick, MD	1	$291.15	Director of Critical Infrastructure
10/22/02	Reno, NV	1	$803.60	Special Assistant, Intergovernmental Affairs
10/22/02	Trenton, NJ	1	$153.00	Special Assistant
10/23/02	San Jose, CA	1	$931.76	Director, Cyberspace Security
10/24/02	Erie, PA	1	$1,001.53	Communications Aide to the Assistant to the President for Homeland Security
10/24/02	Ontarion, CA	1	$664.76	Senior Director for Response and Recovery
10/24/02	Orlando, FL	1	$547.06	Director, Policy and Plans
10/25/02	Albany, NY	1	$580.50	Senior Director for Protection and Prevention
10/25/02	Lynchburg, VA	1	$52.93	Director, Operations
10/26/02	Washington, DC	1	$214.03	Communications Assistant
10/28/02	Hershey, PA	1	$286.16	Senior Director for Response and Recovery

REV_00169159

10/28/02	Savannah, GA	1	$452.68	Senior Director for Intergovernmental Affairs
10/29/02	Manhattan, NY	1	$511.27	Deputy Assistant to the President for Homeland Securtiy
10/29/02	St. Louis, MO	1	$1,078.66	Director of Critical Infrastructure
10/30/02	Brussels, Bel	1	$4,853.38	Communications Aide to the Assistant to the President for Homeland Security
10/31/02	Cedar Rapids, IA	1	$2,173.70	Special Assistant to the President and Director of Communications
11/01/02	Atlantic City, NJ	1	$0.00	Sr. Director, Research and Development
11/01/02	Brussels, Bel	1	$2,173.70	Special Assistant to the President and Director of Communications
11/01/02	Pittsburgh, PA	2	$606.97	Communications Assistant, Operations Officer
11/02/02	San Jose, CA	1	$1,001.50	Senior Director for Protection and Prevention
11/03/02	Brussels, Bel	3	$4,534.72	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security, Director Policy and Plans
11/03/02	Washington, DC	1	$8.40	Communications Assistant
11/04/02	London, England	1	$2,536.36	Operations Officer
11/06/02	Santa Barbara, CA	1	$711.51	Director, Economic Consequence Management
11/09/02	Lynchburg, VA	1	$741.18	Director State and Local Affairs
11/09/02	Philadelphia, PA	1	$752.47	Communications Assistant
11/10/02	New Orleans, LA	1	$752.47	Communications Assistant
11/12/02	Philadelphia, PA	1	$244.80	Senior Director for Response and Recovery
11/13/02	Cincinnati, OH	1	$70.34	Communications Aide to the Assistant to the President for Homeland Security
11/14/02	Charlotte, NC	1	$992.48	Director of Critical Infrastructure
11/14/02	Erie, PA	1	$931.40	Operations Officer
11/14/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
11/15/02	Shepherdstown, WV	1	$79.60	Senior Director for Response and Recovery
11/16/02	Erie, PA	1	$613.64	Special Assistant
11/17/02	Las Vegas, NV	1	$2,074.06	Director, Biodefense
11/18/02	Manhattan, NY	1	$118.70	Special Assistant to the President and Senior Director for Policy and Plans
11/19/02	Philadelphia, PA	2	$1,051.46	Deputy Assistant to the President for Homeland Securtiy, Sr. Director, Research and Development
11/20/02	Los Angeles, CA	3	$4,199.59	Senior Director for Intergovernmental Affairs, Special Assistant to the President for Public Liaison,
				Deputy Press Secretary
11/22/02	Boston, MA	1	$467.20	Director, Policy and Plans
11/22/02	Scottsdale, AZ	1	$233.64	Special Assistant to the President for Public Liaison

REV_00169160

11/24/02	Mexico City, Mexico	1	$1,155.08	Director, Policy and Plans
11/24/02	Phoenix, AZ	1	$1,999.06	Communications Assistant
11/25/02	Manhattan, NY	1	$320.22	Director, Economic Consequence Management
11/26/02	London, England	1	$951.43	Special Assistant to the Deputy Assistant to the President for Homeland Security
12/01/02	St. Louis, MO	1	$1,579.63	Communications Assistant
12/02/02	Chicago, IL	1	$906.76	Deputy Assistant to the President for Homeland Securtiy
12/02/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
12/02/02	Washington, DC	10	$8,634.98	President's Homeland Security Advisory Board
12/03/02	Chicago, IL	1	$369.38	Director State and Local Affairs
12/03/02	Washington, DC	1	$50.50	President's Homeland Security Advisory Board
12/04/02	Cambridge, MA	1	$901.10	Director of Critical Infrastructure
12/06/02	Salt Lake City, UT	1	$822.14	Director State and Local Affairs
12/06/02	Seattle, WA	1	$992.06	Director Coordination Center
12/06/02	Washington, DC	1	$297.72	Communications Assistant
12/08/02	Manhattan, NY	1	$237.55	Operations Officer
12/09/02	Baltimore, MD	1	$327.32	Senior Director for Response and Recovery
12/09/02	Indianapolis, IN	1	$817.00	Director, Cyberspace Security
12/09/02	Manhattan, NY	1	$316.90	Operations Officer
12/09/02	San Francisco, CA	1	$237.54	Sr. Director, Research and Development
12/09/02	Seattle, WA	2	$1,505.08	Special Assistant to the Deputy Assistant to the President for Homeland Security, Deputy Director Coordination Center
12/11/02	Manhattan, NY	5	$3,154.69	Deputy Assistant to the President for Homeland Securtiy, Director State and Local Affairs, Executive Assistant Response and Recovery,
				Director for Critical Infrastructure Protection, Director for Cargo and Port Security,
				Executive Assistant Response and Recovery
12/13/02	Washington, DC	1	$307.77	Communications Assistant
12/18/02	Anniston Army Depot, AL	1	$219.00	Director, Biodefense
12/18/02	Atlanta,GA	1	$543.75	Director for Cargo and Port Security
12/19/02	Harrisburg, PA	1	$379.64	Communications Aide to the Assistant to the President for Homeland Security
12/19/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
12/20/02	Washington, DC	1	$135.22	Communications Assistant
12/21/02	Erie, PA	1	$3,369.44	Operations Officer
01/07/03	Las Vegas, NV	1	$1,128.64	Director, Cyberspace Security
01/09/03	Erie, PA	1	$938.50	Communications Aide to the Assistant to the President for Homeland Security

01/09/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/11/03	San Diego, CA	2	$1,945.55	Operations Officer, Operations Officer
01/14/03	Cape Canaveral, FL	2	$1,798.55	Senior Director for Response and Recovery, Deputy Director, Incident Management
01/15/03	Boston, MA	1	$1,248.78	Director of Critical Infrastructure
01/15/03	Jacksonville, FL	1	$767.86	Director for Weapons of Mass Destruction
01/15/03	New Orleans, LA	1	$968.98	Executive Assistant, Response and Recovery
01/16/03	Erie, PA	1	$672.78	Communications Aide to the Assistant to the President for Homeland Security
01/16/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/17/03	Erie, PA	1	$238.00	Operations Officer
01/20/03	San Antonio, TX	2	$1,549.64	Special Assistant to the President and Executive Director, PHSAC, Director, External Affairs
01/21/03	Harrisburg, PA	1	$150.00	Communications Aide to the Assistant to the President for Homeland Security
01/21/03	Manhattan, NY	1	$406.96	Senior Director for Response and Recovery
01/21/03	Mexico City, Mexico	1	$1,228.73	Director for Critical Infrastructure Protection
01/22/03	Manhattan, NY	1	$334.50	Director, Economic Consequence Management
01/22/03	Washington, DC	7	$3,930.05	President's Homeland Security Advisory Board
01/24/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/24/03	Shepherdstown, WV	1	$81.06	Director, Economic Consequence Management
01/28/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/29/03	Chicago, IL	1	$245.50	Director, Economic Consequence Management
01/30/03	Washington, DC	7	$4,952.27	President's Homeland Security Advisory Board
02/07/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
02/09/03	Seattle, WA	1	$1,877.78	Director, Cyberspace Security
02/10/03	Norfolk, VA	1	$105.06	Director of Critical Infrastructure
02/13/03	Manhattan, NY	1	$33.25	Director for Cargo and Port Security
02/20/03	Cambridge, MA	1	$2,579.47	Special Assistant to the President and Senior Director for Policy and Plans
02/20/03	Washington, DC	5	$3,647.25	President's Homeland Security Advisory Board
02/21/03	Washington, DC	3	$1,066.55	President's Homeland Security Advisory Board
02/25/03	Lynchburg, VA	1	$52.93	Director Policy and Plans
03/03/03	Albuquerque,NM	1	$982.87	Executive Assistant, Response and Recovery
03/09/03	Baltimore, MD	1	$897.11	Director, Biodefense
03/12/03	Houston, TX	1	$1,218.03	Director, Incident Management
03/25/03	Lynchburg, VA	1	$52.93	Director Policy and Plans

03/31/03	Charlottesville, VA	1	$189.00	Special Assistant to the Deputy Assistant to the President for Homeland Security
	Total		**$302,422.75**	

Cyberspace Security Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Staff Position**
04/02/02	Orlando, FL	1	$592.89	Director, Cyberspace Security
04/03/02	Providence, RI	1	$875.74	Vice Chairman, PCIPB
04/05/02	Denver, CO	1	$1,288.87	Vice Chairman, PCIPB
04/08/02	Williamsburg, VA	1	$261.00	Vice Chairman, PCIPB
04/10/02	Albany, NY	1	$904.60	Vice Chairman, PCIPB
04/12/02	Orlando, FL	1	$1,279.00	Vice Chairman, PCIPB
04/16/02	Orlando, FL	1	$757.75	Special Assistant to the President for Cyberspace Security, and Chair, PCIPB
04/21/02	Orlando, FL	1	$1,663.74	Special Assistant to the President for Cyberspace Security, and Chair, PCIPB
05/07/02	Chicago, IL	1	$524.42	Director, Cyberspace Security
05/08/02	Las Vegas, NV	1	$1,009.00	Senior Director, National Security
05/10/02	Boston, MA	1	$455.80	Chief of Staff
5/12/2002	Denver, CO	1	$1,390.93	Director, Cyberspace Security
05/12/02	Denver, CO/Indianapolis, IN	1	$1,574.15	Special Assistant to the President for Cyberspace Security, and Chair, PCIPB
5/14/2002	Denver, CO	1	$1,711.17	Deputy Chief of Staff
5/16/2002	Chicago, IL	1	$328.00	Chief of Staff
5/20/2002	Honolulu, HI	1	$1,371.44	Director, Cyberspace Security
5/27/2002	Chicago, IL	1	$2,874.45	Deputy Chief of Staff
5/29/2002	Chicago, IL	2	$1,489.16	Director for Cyberspace Security, Director for Cyberspace Security
5/31/2002	Portland, OR	1	$2,874.45	Deputy Chief of Staff
6/1/2002	Seattle, WA	1	$4,571.88	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
6/3/2002	Portland, OR	1	$4,571.98	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
6/3/2002	San Diego, CA	1	$1,436.79	Vice Chairman, PCIPB
6/5/2002	Portland, OR	1	$1,677.79	Vice Chairman, PCIPB
6/7/2002	Seattle, WA	1	$1,436.79	Vice Chairman, PCIPB
6/12/2002	Buffalo, NY	1	$761.29	Vice Chairman, PCIPB

REV_00169163

6/16/2002	Atlanta, GA	3	$2,522.62	Deputy Chief of Staff, Director, Legislative Affairs, Vice Chairman, PCIPB
6/19/2002	London, GBR	1	$1,687.92	Vice Chairman, PCIPB
6/24/2002	Seattle, WA	1	$982.09	Vice Chairman, PCIPB
6/26/2002	Boston, MA	1	$641.44	Chief of Staff
6/26/2002	Chicago, IL	1	$982.09	Vice Chairman, PCIPB
6/26/2002	Las Vegas, NV	1	$982.06	Senior Director, National Security
7/8/2002	Manhattan, NY	2	$483.20	Vice Chairman, PCIPB, Senior Director, National Security
7/20/2002	Monterey, CA	1	$1,352.72	Director, Cyberspace Security
7/20/2002	Tulsa, OK	2	$2,474.19	Special Assistant to the President for Cyberspace Security and Chair, PCIPB and Vice Chairman, PCIPB
7/22/2002	Dallas, TX	1	$877.15	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
7/23/2002	Minneapolis, MN	1	$1,602.04	Vice Chairman, PCIPB
7/30/2002	Las Vegas, NV	1	$1,148.96	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
8/4/2002	Roanoke, VA	1	$671.68	Vice Chairman, PCIPB
8/6/2002	Duluth, MN	1	$71.76	Vice Chairman, PCIPB
8/6/2002	Ft. Lauderdale, FL	1	$705.61	Director, Cyberspace Security
8/6/2002	San Francisco, CA	1	$811.92	Director for Cyberspace Security
8/12/2002	Beaver Creek, CO	1	$3,362.76	Chief of Staff
8/12/2002	Vail, Co	1	$3,362.76	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
8/13/2002	Phoenix, AZ	1	$1,128.18	Vice Chairman, PCIPB
8/13/2002	San Francisco, CA	1	$4,362.25	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
8/17/2002	Aspen, CO	1	$287.00	Senior Director, National Security
8/18/2002	San Francisco, CA	1	$3,362.76	Chief of Staff
8/19/2002	Manhattan, NY	1	$470.06	Director for Cyberspace Security
8/22/2002	Boston, MA	1	$462.04	Director for Cyberspace Security
8/26/2002	Nashville, TN	1	$730.23	Vice Chairman, PCIPB
8/26/2002	Ottawa, CAN	1	$1,056.24	Director, Cyberspace Security
8/30/2002	Chicago, IL	1	$1,602.40	Vice Chairman, PCIPB
9/3/2002	Seattle, WA	1	$251.44	Director, Cyberspace Security
9/5/2002	Manhattan, NY	1	$195.04	Senior Director, National Security
9/6/2002	Philadelphia, PA	1	$226.72	Director for Cyberspace Security
9/8/2002	San Jose, CA	1	$845.27	Director for Cyberspace Security
9/12/2002	Atlanta, GA	1	$122.00	Director for Cyberspace Security
9/15/2002	Minneapolis,	1	$2,388.45	Vice Chairman, PCIPB

REV_00169164

	MN			
9/15/2002	Palo Alto, CA	1	$2,987.46	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
9/15/2002	San Francisco, CA	2	$4,185.11	Deputy Chief of Staff, Executive Assistant
9/17/2002	Palo Alto, CA	2	$3,847.56	Vice Chairman, PCIPB and Director for Cyberspace Security
9/17/2002	San Francisco, CA	1	$2,032.69	Director for Cyberspace Security
9/18/2002	New London, CT	1	$2,541.62	Deputy Chief of Staff
9/18/2002	Seattle, WA	1	$2,388.45	Vice Chairman, PCIPB
9/19/2002	Manhattan, NY	1	$186.62	Director for Cyberspace Security
9/21/2002	Albuquerque, NM	1	$901.51	Director for Cyberspace Security
9/24/2002	Austin, TX	2	$1,975.60	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Vice Chairman, PCIPB
9/24/2002	Cleveland, OH	1	$1,092.55	Director for Cyberspace Security
9/24/2002	Denver, CO	1	$1,680.02	Vice Chairman, PCIPB
9/24/2002	San Antonio, TX	5	$5,537.03	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Vice Chairman, PCIPB, Deputy Chief of Staff, Senior Director,
				Senior Director, National Security, Director, Cyberspace Security
9/30/2002	Atlantic City, NJ	1	$375.09	Vice Chairman, PCIPB
9/30/2002	Ft. Meyers, FL	1	$622.71	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/2/2002	Philadelphia, PA	1	$660.04	Deputy Chief of Staff
10/7/2002	Minneapolis, MN	1	$750.71	Director for Cyberspace Security
10/8/2002	Brussels, Bel	1	$3,903.77	Vice Chairman, PCIPB
10/9/2002	Omaha, NE	1	$1,188.85	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/9/2002	Pittsburg, Pa	1	$1,188.65	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/11/2002	London, GBR	1	$3,903.77	Vice Chairman, PCIPB
10/14/2002	Boston, MA	2	$3,428.15	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Deputy Chief of Staff
10/17/2002	Boston, MA	1	$308.38	Director for Cyberspace Security
10/17/2002	Chicago, IL	1	$312.50	Deputy Chief of Staff
10/20/2002	Miami, FL	1	$611.04	Director for Cyberspace Security
10/22/2002	Frederick, MD	2	$669.46	Vice Chairman, PCIPB and Director for Cyberspace Security

REV_00169165

10/23/2002	Pittsburg, Pa	2	$1,934.71	Vice Chairman, PCIPB and Deputy Chief of Staff
10/26/2002	Brussels, Bel	1	$6,650.41	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/26/2002	Eugene, OR	1	$1,595.63	Director for Cyberspace Security
10/28/2002	Las Vegas, NV	1	$1,351.69	Director for Cyberspace Security
10/28/2002	San Antonio, TX	1	$501.00	Senior Director, National Security
11/5/2002	Atlanta, GA	1	$1,024.90	Vice Chairman, PCIPB
11/06/02	White Plains, NY	1	$965.79	Director for Cyberspace Security
11/7/2002	Chicago, IL	3	$1,266.23	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Director, Cyberspace Security, Director, National Security
11/7/2002	Manhattan, NY	1	$793.86	Vice Chairman, PCIPB
11/10/2002	Monterey, CA	1	$1,329.86	Director for Cyberspace Security
11/12/2002	Manhattan, NY	1	$697.49	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
11/13/2002	Manhattan, NY	1	$350.50	Senior Director, National Security
11/13/2002	Phoenix, AZ	2	$3,548.19	Director, Legislative Affairs, Vice Chairman, PCIPB
11/14/2002	Seattle, WA	1	$1,329.66	Director for Cyberspace Security
11/17/2002	Atlanta, GA	1	$436.06	Director for Cyberspace Security
11/17/2002	Ottawa, CAN	1	$2,418.32	Vice Chairman, PCIPB
11/19/2002	Manhattan, NY	1	$877.25	Director for Cyberspace Security
11/19/2002	Salt Lake City, UT	1	$877.25	Director for Cyberspace Security
11/20/2002	Manhattan, NY	1	$699.56	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
12/3/2002	Chicago, IL	1	$229.13	Director for Cyberspace Security
12/3/2002	San Francisco, CA	1	$2,293.66	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
12/4/2002	Phoenix, AZ	1	$1,264.33	Senior Director, National Security
12/4/2002	San Francisco, CA	1	$1,637.48	Director, Cyberspace Security
12/6/2002	Seattle, WA	1	$1,138.43	Vice Chairman, PCIPB
12/9/2002	Boston, MA	1	$401.00	Director for Cyberspace Security
12/9/2002	Charleston, SC	1	$825.27	Director for Cyberspace Security
12/12/2002	Manhattan, NY	1	$380.05	Vice Chairman, PCIPB
12/17/2002	Flemington, NJ	2	$487.54	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Senior Director, National Security
12/18/2002	Atlanta, GA	1	$64.50	Deputy Chief of Staff
1/9/2003	Charlotte, NC	2	$1,929.02	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Deputy Chief of Staff

REV_00169166

1/14/2003	Honolulu, HI	1	$1,610.34	Director for Cyberspace Security
1/21/2003	Boston, MA	2	$1,797.69	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Director for Cyberspace Security
1/22/2003	St. Petersburg, FL	1	$492.08	Vice Chairman, PCIPB
1/23/2003	Ft. Meyers, FL	1	$636.12	Director for Cyberspace Security
1/23/2003	Naples, FL	1	$864.08	Vice Chairman, PCIPB
1/24/2003	Philadelphia, PA	1	$864.08	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
1/24/2003	San Diego, CA	3	$4,654.94	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Deputy Chief of Staff, Director, Cyberspace Security
01/28/03	Williamsburg, VA	1	$239.34	Vice Chairman, PCIPB
1/29/2003	Chicago, IL	1	$306.37	Director for Cyberspace Security
1/30/2003	Manhattan, NY	1	$376.50	Vice Chairman, PCIPB
2/2/2003	Columbus, MS	1	$835.25	Vice Chairman, PCIPB
2/2/2003	San Francisco, CA	1	$1,211.37	Director for Cyberspace Security
2/10/2003	London, GBR	1	$1,473.61	Vice Chairman, PCIPB
02/11/03	Tallahassee, FL	1	$582.94	Director for Cyberspace Security
2/24/2003	Atlanta, GA	1	$768.07	Vice Chairman, PCIPB
2/24/2003	Boca Raton, FL	1	$1,052.94	Director for Cyberspace Security
2/25/2003	Chicago, IL	1	$522.44	Director for Cyberspace Security
3/3/2003	Manhattan, NY	1	$607.86	Director for Cyberspace Security
3/4/2003	San Diego, CA	1	$785.37	Director for Cyberspace Security
3/6/2003	Ottawa, CAN	1	$929.94	Vice Chairman, PCIPB
3/8/2003	Orlando, FL	1	$260.11	Vice Chairman, PCIPB
3/17/2003	San Antonio, TX	1	$801.47	Vice Chairman, PCIPB
3/18/2003	Atlanta, GA	1	$801.47	Vice Chairman, PCIPB
3/22/2003	Paris, FRA	2	$3,402.37	Vice Chairman, PCIPB, Director for Cyberspace Security
	Total		**$192,350.99**	

QUESTION 18: Currently, OHS costs are included in both the WHO and OA appropriations. Is that also the case in the FY 2004 request? If so, please provide a table, by appropriation, showing total OHS budgeted costs, for each of the fiscal years 2002 through 2004.

RESPONSE: For FY 2003, although funds were requested as part of the WHO budget activity, the Office of Homeland Security received for the first time its own appropriation, separate from the WHO appropriation. Funds supporting OHS / HSC

REV_00169167

requirements in FY 2003 were provided also to OA as part of the OA Pilot program. The FY 2004 Request identifies all requirements for OHS / HSC in the WHO Budget Activity, since the OA Pilot program is not certain to continue after FY 2003. See table below:

(Dollars in Thousands)

	Congressional Appropriations		
	FY 2002 Enacted*	FY 2003 Enacted	FY 2004 Request
OHS / HSC	$30,800	$8,272	$8,331
OA		$778	
	$30,800	$9,050	$8,331

*FY 2002 budget for OHS was based on the OHS mission and funding profile prior to the establishment of DHS and was provided by 3 sources of emergency appropriated funds: P.L. 107-38 for $25,000,000; P.L.107-117 for $2,000,000; and P.L. 107-206 for $3,800,000.

QUESTION 19: Last year, it was stated that one MOU existed between OHS and other EOP entities (p. 51). Please provide a copy of the MOU between MOU and the Office of Science and Technology Policy.

RESPONSE: The MOU between OHS and OSTP expired with the creation of the Department of Homeland Security as relevant responsibilities transferred from OHS to DHS, pursuant to the Homeland Security Act of November, 2002.

QUESTION 20: Have any other MOUs been signed since that time?

RESPONSE: A MOU between the Homeland Security Council and the National Security Council/White House Situation Support Staff was signed in May, 2003 providing for the expansion of NSC's classified computer network to include approved HSC staff with necessary security clearances.

In addition standard interagency agreements were signed between OHS/HSC and the Office of Administration (OA) and OMB to pay for detailees from these EOP entities to OHS/HSC and separately between OHS/HSC and OA to pay for miscellaneous supplies and materials.

QUESTION 21: At this time last year, OHS planned to establish a coordination center which would function 24 hours a day, 7 days a week, using a communications room and two incident management rooms. At the same time, the Administration made clear that the role of OHS was to establish and coordinate policy, and not to conduct operational activities. With the establishment of the Department of Homeland Security, have these specific activities been descoped or eliminated?

REV_00169168

RESPONSE: The role of the Homeland Security Council is to advise and assist the President, develop and coordinate the implementation of the *National Strategy for Homeland Security* to secure the United States from terrorist threats and attacks, and to help coordinate policy across the departments and agencies of the executive branch. The Homeland Security Council does not conduct operational activities. The Homeland Security Council does not operate a coordination center. With the establishment of the Department of Homeland Security, DHS is the lead federal agency for incident management. As such, DHS operates a Homeland Security Center with 24 hour/7 days per week coordination and communications capabilities. Those functions do not reside in the Homeland Security Council.

QUESTION 22: How many positions support these activities in the FY 2004 request, and what is the total budgeted amount?

RESPONSE: The FY 2004 budget will not fund any personnel or activities related to the DHS coordination center. However, virtually every member of the HSC staff has responsibilities to support and advise the President regarding incident response efforts, continuity of government and related coordination roles on behalf of the President.

QUESTION 23: How are such activities appropriate for a policymaking body, when DHS now exists to coordinate and execute operational activities related to specific homeland security incidents and activities?

RESPONSE: Just as the NSC was created by Congress in 1947 in the same act which created the Department of Defense and the CIA, Congress established the HSC within the EOP by statute at the same time as it created the Department of Homeland Security. The role of the Homeland Security Council is to advise and assist the President, develop and coordinate the implementation of the *National Strategy for Homeland Security* to secure the United States from terrorist threats and attacks, and to help coordinate policy across the departments and agencies of the executive branch. The Homeland Security Council does not conduct operational activities. The Homeland Security Council does not operate a coordination center. With the establishment of the Department of Homeland Security, DHS is the lead federal agency for incident management. As such, DHS operates a Homeland Security Center with 24 hour/7 days per week coordination and communications capabilities. Those functions do not reside in the Homeland Security Council.

QUESTION 24: At the time of last year's hearing, the permanent location and amount of space for the President's Critical Infrastructure Protection Board had not been determined (p. 77). Have these requirements been determined today?

REV_00169169

RESPONSE: The President's Critical Infrastructure Protection Board (PCIPB) no longer exists at the White House. Executive Order 13228, which created the PCIPB, was amended. Congress through the Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection (IAIP). One of the responsibilities of the IAIP directorate is the important issue of critical infrastructure protection. This is a robust directorate led by an under secretary.

QUESTION 25: Likewise, total CIPB staffing had not been determined. Do you have an estimate today? What staffing assumptions were made in the FY 2004 budget submission?

RESPONSE: The President's Critical Infrastructure Protection Board (PCIPB) no longer exists at the White House. Executive Order 13228, which created the PCIPB, was amended. Congress through the Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection (IAIP). One of the responsibilities of the IAIP directorate is the important issue of critical infrastructure protection. This is a robust directorate led by an under secretary.

QUESTION 26: How much funding is included in the FY 2004 request for CIPB, and how does that compare to the current estimate for FY 2003?

RESPONSE: The President's Critical Infrastructure Protection Board (PCIPB) no longer exists at the White House. Executive Order 13228, which created the PCIPB, was amended. Congress through the Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection (IAIP). One of the responsibilities of the IAIP directorate is the important issue of critical infrastructure protection. This is a robust directorate led by an under secretary.

QUESTION 27: Please provide a breakdown showing how those funds would be used.

RESPONSE: The President's Critical Infrastructure Protection Board (PCIPB) no longer exists at the White House. Executive Order 13228, which created the PCIPB, was amended. Congress through the Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection (IAIP). One of the responsibilities of the IAIP directorate is the important issue of critical infrastructure protection. This is a robust directorate led by an under secretary.

QUESTION 28: Please provide details on any government-industry partnerships that have been created in support of cyber security initiatives coordinated by, or carried out, through EOP or the CIPB.

RESPONSE: In 2002, the President's Critical Infrastructure Protection Board developed a *National Strategy to Secure Cyberspace.* To encourage broader participation and input

REV_00169170

into the development process, a draft strategy was released for public comment in September 2002. In addition, the PCIPB requested the National Infrastructure Assurance Council and the National Security Telecommunications Advisory Committee both provide comments on the draft strategy. Furthermore, there were 10 town hall meetings held in various portions of the country which brought industry, academia and private citizens together to focus on the complex issues related to cyber security. The final strategy thus integrated extensive public and industry comments and was released in February 2003.

The *National Strategy to Secure Cyberspace* emphasizes that government-industry partnerships will be a cornerstone to success. As the primary implementer of the Strategy, DHS will be a partner with industry and academia to accomplish the objectives identified by the President's strategy.

National Security Council (POC – Katherine Fertakis)

QUESTION 29: Your request includes a 10.8 percent increase to cover reimbursable detailee costs and additional support staff for the President's Foreign Intelligence Advisory Board. Please explain the need for these increases in detail.

RESPONSE: The requested increase covers reimbursable detailee costs of personnel from the Department of State. The National Security Council (NSC) may request detailed personnel performing at a high level in high priority positions to remain beyond their initial tour of duty because of their unique qualifications. The NSC is required to reimburse the Department of State for details to NSC that exceed the cap of 13 detailed into their second year and for all staff detailed longer than two years per Public Law 93-126. The FY 2003 increase in this category estimates for details becoming reimbursable during the Spring and the Summer. The FY 2004 increase represents an annualization of the expenses, minus the cost for the details that will not be renewed.

Since the events of September 11, 2001, the PFIAB support staff workload has been significantly increased and consumed by the homeland security effort. Thus far about 95% of the Board's current advisory work for the President has been directly related to homeland security and counter-terrorism. (Intelligence performance thereon, and support to the new department of homeland security) With only 4 staff members and an already overflowing Board work schedule, work on other important PFIAB priorities has been deferred—such as declassification review of PFIAB archived records. At least three additional staff members, including a GS-14 administrative manager, will be needed to adequately meet support requirements as the Board expands its review of intelligence support to homeland security beyond the more immediate structural and organizational issues, and also re-engages the more general intelligence performance issues across the full spectrum of pressing issues. The FY 2004 request includes $250,000 which will fund two reimbursable detailed staff members and one permanent, Schedule A, Excepted Service, GS-14 administrative management position.

REV_00169171

QUESTION 30: What are the dollar and percentage increases for each of the above items, compared to the FY 2003 estimated levels?

RESPONSE: The FY 2004 request for NSC reimbursable detailees represents an increase of $356,000, or 64%, over the FY 2003 estimated levels. The PFIAB increase of $250,000 will be 100% above the FY 2003 request since this is a new requirement for FY 2004.

QUESTION 31: The justifications indicate that 11 additional positions are being added to this office in FY 2003, raising the estimated from 60 in FY 2002 to an estimated 71 in FY 2003. What specific positions are being created?

RESPONSE: The 11 additional positions, which raise NSC's FTE from 60 to 71, are not new positions. In FY 2003, the Office for Combating Terrorism (OCT) was combined with the NSC budget request. The increased FTE request correlates with the continued funding for and operation of the OCT as a part of the NSC submission.

QUESTION 32: The FY 2004 request includes funds for a new GS-14 administrative manager for the PFIAB. Why is this new position needed at this time?

RESPONSE: PFIAB requires a permanent administrative position for continuity as well as efficiency reasons. The administrative staff constitutes the lifeblood of the Board: it fulfills all of the support responsibilities, including human resource management, budget, travel, procurement, research, publishing, protocol, and special assistance to the Executive Director, Chair and Vice Chair. With only two administrative people on staff, it is absolutely critical that both individuals be fully knowledgeable about and highly experienced at *White House* administrative policies, procedures and guidelines; equally important, *both* must possess highly honed administrative skills *and* be extremely efficient, effective and professionally dedicated.

The Board simply cannot attain this level of experience and competence by relying on detailees from other agencies, particularly non-reimbursed detailees. More often than not, we must accept whomever an agency can make available. Therefore, the Board will use this one permanent administrative billet to create a PFIAB office manager position. This individual not only will provide continuity of expertise and experience, but also will ensure that the other administrative person obtains the proper professional mentoring and supervision. We plan to make this a GS-14 position, but may start the individual we select at the GS-13 level to allow for personal advancement...and thereby also ensuring, hopefully, a fairly long term of service to the Board.

REV_00169172

Office of National Drug Control Policy (POC – Michelle Marx)

QUESTION 33: You are requesting 10 additional FTE in FY 2004 to replace 10 non-reimbursable detailees who are no longer available. Why are these positions no longer available, and what are the specific positions?

RESPONSE: ONDCP's FY 2004 request includes resources to support 125 FTEs, an increase of 10 FTEs over the FY 2003 request. This FTE increase is requested to offset the loss of approximately 20 - 25 of the 30 non-reimbursable military detailee positions the Department of Defense has supported at ONDCP since 1996. (The Department of Defense, as outlined in a December 28, 2001 memorandum, has adopted a general policy that approves of requests for details only on a reimbursable basis, with limited exceptions.)

This 10 FTE increase, along with distributing additional responsibilities among existing staff, will allow ONDCP to absorb the detailee staffing loss and meet its statutory responsibilities. The specific positions would be appointed within the following offices: Planning and Budget; State and Local Affairs; Intelligence; and Supply Reduction.

Renovation of the Eisenhower Executive Office Building (POC – Steve Beattie)

QUESTION 34: What is the status of funding provided in FY 2002 and 2003? Please provide a breakdown of funding by the type of activity or renovation performed.

RESPONSE: 34: The General Service Administration has used FY 2002 Emergency Response Funds in the amount of $1,674,000 for starting the Architects' and Engineers' design contract for the 17th Street Wing Security Modernization Project. GSA is currently in the process of reprogramming $7,500,000 for FY 2003 for design, management and inspection. The FY 2003 reprogramming is required to complete the Design/Build/Bridging documents and assist in managing the Design/Build/Bridging efforts.

QUESTION 35: How much remains unobligated, by appropriation?

RESPONSE: 35: The General Services Administration (GSA) awarded a portion of the design cost in the amount of $1,537,173 utilizing the FY 2002 Emergency Response Fund. $136,827 remains unobligated. GSA has not obligated any FY 2003 funding.

QUESTION 36: Please provide a detailed breakdown showing how funds requested in the GSA budget for FY 2004 would be used.

RESPONSE: 36: The following is a break down on how the funds will be used in FY 2004:

REV_00169173

Major Work Items:	
Electrical System	$ 10,244,000
Air conditioning system, chillers and piping	$ 12,530,000
Interior Construction	$ 13,163,000
Utility Vault (includes foundation construction)	$ 22,107,000
Window Blast Mitigation	$ 4,685,000
Mansard Roof Hardening	$ 802,000
Estimated Construction Cost (ECC)	$ 63,531,000
Management and Inspection	$ 2,226,000
Authorization Requested (ECC, M&I)	$ 65,757,000

QUESTION 37: Please provide a detailed schedule for activities planned in FY 2004.

RESPONSE: 37: The design/build/bridging contract is scheduled to be awarded in March 2004. The current schedule for the project is as follows:

Design Award:	04/03
Design/Build/Bridging Procurement Start:	09/03
A/E Bridging Documents Complete:	10/03
Design/Build/Bridging Contract Award:	03/04
Construction Complete:	06/06

QUESTION 38: How much are you currently paying GSA for the unoccupied space along the 17th Street side of EEOB, and how much rental cost are you incurring for the new locations where relocated employees are working?

RESPONSE: We are not paying for the unoccupied space along the 17th Street side of the EEOB in FY2003. Employees were relocated to 1800 G. Street where FY 2004 rental costs are estimated at $4,978,000 and to 1801 Pennsylvania Avenue where the FY 2004 rental costs are estimated at $792,000. Both rental cost estimates exclude parking space costs.

Executive Residence (POC – Worthington White)

QUESTION 39: Please provide a table, corresponding to the projects on page 81 of last year's hearing record, showing the original appropriation for each project, the amount obligated to date, and the project status. This involves projects funded in fiscal year 2002.

RESPONSE: The following table provides funding information on the FY 2002 projects.

REV_00169174

Executive Residence at the White House
FY2002 White House Repair and Restoration

Project	Original Appropriation	Obligated To Date	Status of Project
Pool Shelter Roof Reconstruction and Pool Deck Renovation	$430,000	$412,926	This project is completed, with only minor punch list items and related recurring maintenance items to be funded from the remaining funds.
Communication System Repairs/Phase 2*	$456,667 $4,544,000	$155,872	Modifications to the original design under Phase I (FY2001) are completed. The pre-bid meeting with prospective contractors is scheduled for mid-May, with contract award by late June, and construction commending by late July.
East and West Wing Exterior Restoration	$2,500,000	$2,398,433	The restoration is underway, all Phase I funds will be utilized this year.
Insulated Windows Replacement	$160,000	$162	The prototype utilizing historically accurate reproduction glass is in production, with manufacturing of actual replacement units expected to begin in June. Installation to be begin in August.
Kitchen Floor Replacement	$75,000	$60,815	This project is nearing completion with the remaining funds to be utilized for utility work.
North Portico Curtain Wall	$120,000	$106,751	The project is completed with remaining funds required to purchase spare parts inventory.
Stone Pavers Restoration	$277,000	$220,082	The project is currently underway and is scheduled for completion by September 2003.
West Colonnade Restoration	$275,000	$0	Planning has recently been completed; work will be accomplished in August and early September 2003.

*For the Comunication System Repairs/Phase 2 project, $456,667 was funded in FY 2001 for Architect and Engineering. The remaining $4,544,000 was for construction.

QUESTION 40: Please provide a listing of the 95 FTE positions at the Executive Residence requested for funding in FY 2004, showing the position title and the annual salary level.

RESPONSE: The position and salary information is provided in the table that follows.

REV_00169175

EXECUTIVE RESIDENCE AT THE WHITE HOUSE - FY 2003 -- 95 FTE				
USHERS OFFICE				
16 FTE	USHER	$96,880	CALLIGRAPHER	$68,939
	CALLIGRAPHER	$60,202	CALLIGRAPHER	$79,670
	SYSTEMS ADMIN	$99,152	USHER	$90,059
	PROJECT SUPERVISOR	$55,092	CALLIGRAPHER	$69,911
	ADMIN ASSISTANT	$44,244	CHIEF USHER	$142,500
	USHER	$112,347	ADMIN OFFICER	$83,132
	ACCOUNTANT	$56,711	GROUNDS SUPT	$139,297
	USHER	$92,786	NIGHT DOORMAN	VACANT
OFFICE OF THE CURATOR				
4 FTE	CURATOR	$87,328	ASSISTANT CURATOR	VACANT
	COLLECTIONS MANAGER	$50,230	ASSISTANT CURATOR	$65,056
FLOWER SHOP				
4 FTE	CHIEF FLORIST	$92,786	FLORIST	$60,565
	FLORIST	$68,266	FLORIST	$51,987
HOUSEKEEPING				
21 FTE	MAID	$44,452	ASST HOUSEKEEPER	$79,670
	LAUNDRY SPEC	$53,098	HOUSEMAN	$47,539
	HOUSEMAN	$30,541	MAID	$48,671
	MAID	$48,656	CHIEF HOUSEKEEPER	$102,720
	LAUNDRY SPEC	$44,857	HOUSEMAN	$50,441
	MAID	$41,826	MAID	$37,770
	MAID	$42,433	HOUSEMAN	$55,091
	MAID	$28,285	HOUSEMAN	$38,798
	HOUSEMAN	$41,826	MAID	$54,280
	CUSTODIAL SPEC	$48,626	HOUSEMAN	$44,861
			HOUSEMAN	VACANT
FOOD & BEVERAGE SRVCS				
18 FTE	BUTLER	$67,969	PASTRY CHEF	$124,113
	KITCHEN STEWARD	$49,102	ASSISTANT CHEF	$86,211
	ASSISTANT CHEF	$79,670	ASST PASTRY CHEF	$57,521
	BUTLER	$52,360	ASSISTANT CHEF	$46,200
	STOREKEEPER	$64,086	BUTLER	$65,056
	BUTLER	$49,548	BUTLER	$59,411
	STOREKEEPER	$70,558	BUTLER	$66,028
	MAITRE'D	$91,422	CHEF	$113,951
	STOREKEEPER	$55,091	ASSISTANT CHEF	$46,870
OPERATIONS				
7 FTE	OPERATIONS AIDE	$54,116	OPERATIONS AIDE	$33,747
	OPERATIONS AIDE	$54,679	OPERATIONS AIDE	$73,692
	SHOP FOREMAN	$77,449	OPERATIONS AIDE	$58,895
			OPERATIONS AIDE	$49,024
CARPENTER & PAINT SHOP				
6 FTE	CARPENTER	$60,669	CARPENTER	$49,399
	PAINTER	$72,523	CARPENTER	$50,255
	PAINTER FOREMAN	$90,304	CARPENTER FOREMAN	$78,763
ENGINEERS & PLUMBING SHOP				
12 FTE	ENGINEER	$84,878	ENGINEER	$65,532
	ENGINEER	$66,826	ENGINEER	$68,266
	ENGINEER	$63,236	ENGINEER	$52,905
	ENGINEER	$62,234	PLUMBING FOREMAN	$90,304
	PLUMBER	$71,355	ENGINEER FOREMAN	$91,422
	ENGINEER	$66,826	ENGINEER	$51,966
ELECTRIC SHOP				
7 FTE	ELECTRICIAN	$73,692	ELECTRICIAN	$73,692
	ELECTRICIAN	$46,937	ELECTRICIAN	$55,389
	ELECTRIC SHOP FOREMAN	$95,515	ELECTRICIAN	$66,826
			ELECTRICIAN	$45,351

REV_00169176

QUESTION 41: The justifications (p. 67) indicate an estimated unobligated balance of $7,023,000 in this appropriation at the beginning of FY 2003. Please explain the sources of this balance, and provide a schedule for obligation of increments of those funds.

RESPONSE: The majority ($4,388,127) of the unobligated funds are associated with the Communication System Repairs/Phase 2 which was delayed to unanticipated design requirements. The schedule for completion and obligation of all FY2002 projects is detailed in the table below.

Executive Residence at the White House
FY2002 White House Repair and Restoration

Project	Original Appropriation	Obligated To Date	Status of Project
Pool Shelter Roof Reconstruction and Pool Deck Renovation	$430,000	$412,926	This project is completed, with only minor punch list items and related recurring maintenance items to be funded from the remaining funds.
Communication System Repairs/Phase 2*	$456,667 $4,544,000	$155,872	Modifications to the original design under Phase I (FY2001) are completed. The pre-bid meeting with prospective contractors is scheduled for mid-May, with contract award by late June, and construction commending by late July.
East and West Wing Exterior Restoration	$2,500,000	$2,398,433	The restoration is underway, all Phase I funds will be utilized this year.
Insulated Windows Replacement	$160,000	$162	The prototype utilizing historically accurate reproduction glass is in production, with manufacturing of actual replacement units expected to begin in June. Installation to be begin in August.
Kitchen Floor Replacement	$75,000	$60,815	This project is nearing completion with the remaining funds to be utilized for utility work.
North Portico Curtain Wall	$120,000	$106,751	The project is completed with remaining funds required to purchase spare parts inventory.
Stone Pavers Restoration	$277,000	$220,082	The project is currently underway and is scheduled for completion by September 2003.
West Colonnade Restoration	$275,000	$0	Planning has recently been completed; work will be accomplished in August and early September 2003.

*For the Comunication System Repairs/Phase 2 project, $456,667 was funded in FY 2001 for Architect and Engineering. The remaining $4,544,000 was for construction.

As of this date, there are also 5 projects which have balances prior to FY 2002. They are as follows:

FY1996 – Roof Repair – balance of $9,227. These funds will be expended as needed for ongoing maintenance and corrective measures.

FY1998 – Repair/restoration of the Laundry Room – balance of $26,616. Purchase of replacement equipment and maintenance of equipment to be expended in FY2003.

REV_00169177

FY2000 – Purchase and Install Two Ironers – balance of $5,754. These funds will be expended to replace the drive belts in FY2003.

FY2000 – Renovation of Paint Shop – balance of $38,271. Funds will be used to purchase and update equipment to meet EPA and OSHA requirements in FY2003.

FY2000 – Third Floor Promenade – balance of $11,392. Funds will be expended to rehab and replace drainage system in late FY2003 or early FY2004.

White House Repair and Restoration (POC – Dennis Freemyer)

QUESTION 42: You are requesting $4,225,000 for repairs and restoration of the White House. Is there additional funding in the National Park Service budget or elsewhere in the President's budget request for FY 2004 for similar activities at the White House?

RESPONSE: There are no other budget requests for the same activities at the White House.

QUESTION 43: Of this request, $3,500,000 is for restoration of the east and west wing exterior. Please provide a detailed discussion and breakdown of this request.

RESPONSE: The funding requested is for the continuation (2nd phase) of the East and West Wing Restoration project, the first being funded in FY'02. This is consistent with the original planning for the execution of this project based on the experience of the completed Executive Residence Exterior Restoration completed in 1996. A breakdown of major work items follows:

Estimated Construction Costs:

Mobilization, scaffolding, rental equipment	150,000
Stone, stucco, wood restoration, insulated glass	1,580,000
Paint removal	1,660,000
Effluent/hazardous material disposal	150,000
Specialized window film including installation	400,000
Specialized stucco coating including installation	550,000
Painting	500,000
Site Restoration	260,000
Design, project management, project supervision, testing	350,000
Contingency	400,000
Estimated Total Cost	**$6,000,000**
FY 2002 Funding	$2,500,000
FY 2004 Funding Request	$3,500,000

REV_00169178

Pennsylvania Avenue Improvements (POC – Steve Beattie)

QUESTION 44: What is the total estimated cost of security and street improvements on Pennsylvania Avenue in front of the White House, for which funds were provided in FY 2003?

RESPONSE: This project is to be funded by the Federal Highway Administration (FHWA). The total estimated cost of security and street improvements on Pennsylvania Avenue in front of the White House is currently $26.1 million. The information below breaks out the estimated FY 2003 costs for the project.

Project Activity	**Projected FY 2003 Obligations**
Preliminary Activities	
Verification and Concept Studies	$ 605,150
Design Activities	
Ground Survey and Mapping	$ 57,524
Subsurface Utility Survey	$ 149,682
Environmental Documentation	$ 75,000
Final Design (Consultant)	$ 1,300,000
Crash Testing	$ 350,000
FHWA Contract Administration	$ 100,000
Design Contingency	$ 262,644
Construction Activities	
Construction Contract	$ 18,500,000
Utility Construction	$ 1,500,000
FHWA Contract Administration	$ 1,700,000
MVVA Construction Assistance	$ 500,000
Construction Contingency	$ 1,000,000
Grand Totals	**$26,100,000**

QUESTION 45: What is the status of that project? When will FY 2003 funds be obligated?

RESPONSE: 45: The status of the security and street improvements on Pennsylvania Avenue is as follows -

- Project's status is an ongoing iterative process as the Design team receives comments from the public and the various stakeholders on surrounding sites.
- Under the National Environmental Policy Act, the final public information meeting for the Environmental Impact Assessment was held on May 5, 2003, which is the last

REV_00169179

step before the final report is issued the week of May 27, 2003. It is expected that the report's concluding statement will find no significant impact.

- The design team is in the pre-design stage.
- The engineers are currently in the design stage for utility relocation in the project's vicinity.
- The Section 106 review as required by the Secretary of the Interior under the Historic Preservation Act is underway and will develop a Memorandum of Agreement in June 2003, which will address issues regarding the design details. The Section 106 review occurs when a project utilizing federal funds may have an effect upon natural, environmental, or cultural resources and looks at mitigation of any adverse effects to those resources.
- $1.5 million is expected to be obligated at the end of August or early September 2003 to start the utility relocation on Pennsylvania Avenue and at the north ends of Jackson and Madison Places.
- Arrangements have already been made for procurement of the trees to be used on the Avenue since it will require root and limb pruning over two calendar years prior to installation on the Avenue. The trees will be installed after inaugural events in the spring of 2005.
- Approximately, $2,675,000 has been obligated to date (under contract). The remaining $3,685,000 will be obligated within the next six months to have the construction contract awarded by the end of September or early October 2003.

QUESTION 46: How much funding is requested for this project in FY 2004, and where is it located in the budget?

RESPONSE: $15 million has been set aside under the Department of the Interior bill for FY 2004. However, discussions have been held between the Federal Highway Administration and EOP staff to make the money available for contract award this fiscal year. Discussions have included placing FY 2004 monies into the FY 2003 supplemental appropriation. With the highway legislation pending, there could be a delay in getting the funding moved into the supplemental appropriation to allow the project to get underway.

QUESTION 47: What is the schedule for studies of traffic congestion mitigation alternatives in the vicinity of the White House, as funded in FY 2003?

RESPONSE: The project administrators met with EOP staff on May 8, 2003 to begin outlining the scope of the study and a plan to involve the District of Columbia government and neighborhood stakeholders. A schedule for the study has not been developed, but will be prepared in the next three months.

REV_00169180

Remote Data Center (POC – Carlos Solari)

QUESTION 48: What is the status of establishment today of the remote data center?

RESPONSE: The remote data center project is on schedule and on budget. The project began last summer by conducting a systems development lifecycle analysis to determine and recommend the location for the facility. From this analysis, EOP decided on building the data center at a hardened FEMA facility located in Maryland. The project is being co-managed with FEMA and was established with three phases: (1) infrastructure build-out of the hardened facility (power, air handlers, etc), (2) construction of the data center itself (cabling, raised flooring, etc), and (3) the transition of EOP data systems (telecommunications, servers, etc). The project is approximately halfway through completion for the first two phases with a scheduled opening (initial operational capability) date of September 2003. The transition phase is on schedule preparing the systems and will proceed to begin the transfer September 2003 – with a planned transition of 12 months for all systems. The following chart shows the funding of the remote data center from FY 2002 thru FY 2004.

	FY 2002	FY 2003	FY 2004
CIP	$15,000,000	$5,000,000	$8,403,000
S&E	$ - 0 -	$ - 0 -	$ - 0 -
Total	$15,000,000	$5,000,000	$8,403,000

QUESTION 49: Last year, you estimated annual operating costs of this facility to be $7,500,000 (p. 88). Is that your current estimate?

RESPONSE: Last year OA provided a rough estimate of $7,500,000 for the future annual operating cost of the new data center facility. This was based upon the following estimated costs:

- $1,500,000 in communications to maintain connectivity for the EOP,
- $600,000 in space rental,
- $450,000 for hardware maintenance,
- $1,300,000 for software maintenance,
- $2,600,000 for contractor services,
- $300,000 for supplies/components,
- $75,000 for equipment, and
- $675,000 in salaries/benefits.

While most of these estimates remain valid, OA must revise the estimate for space rental to $1,258,000, bringing the revised estimated annual operating costs for the facility to $8,158,000.

REV_00169181

QUESTION 50: Your FY 2004 request includes $8,403,000 to transition the remote data center to full operational status (p. 75). What specific activities are required in FY 2004 to accomplish this? Can you provide a breakdown of the FY 2004 request consistent with these activities?

RESPONSE: The following table lists the FY2004 CIP funds requested for the completion of the remote data center construction and initial year operating costs.

Object Class	Object Class Title	Requested Funding ($ in 000)	Description
23.0	Space Rental Payments	$1,258	This estimate reflects $1,258,000 in rental for the offsite data center and will be the initial rent to be paid for the offsite data center. This cost was previously funded from emergency funds.
23.3	Communications, utilities, and miscellaneous charges	$4,420	$4,420,000 is for CIP networking/ telecommunications projects at the offsite data center. These projects include funds for a tap off of telecommunications lines, two additional DS-3 data paths, two T-1 lines, and backup to support required communications bandwidth, and availability requirements.
25.2	Other Services	$2,700	This estimate reflects Priority System Disaster Recovery costs, Secondary Systems Disaster Recovery costs, Hardware and Software for the Disaster Recovery Site, and Hardware and Software upgrades to support the data center move.
26.0	Supplies and materials	$25	The estimate reflects $25,000 in additional supplies necessary for start-up operations at the offsite data center. This will include start up costs for office equipment used for the new office spaces.
Total FY2004 Data Center CIP Request		**$8,403**	

President's Travel (POC - Rothley Howard)

QUESTION 51: Please update the information on pages 89 through 94 of last year's hearing record concerning travel by the President and the First Lady by continuing data from the final entry of last year's record to the present time.

RESPONSE: The following charts summarize Presidential, First Lady and Vice Presidential travel for Fiscal Years 2002 and 2003 (to date). They also reflect costs currently in the accounting system. Several of the trips listed below are awaiting additional costs, therefore, final costs may vary.

REV_00169182

Presidential Travel FY 2002					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
3-Oct	New York, NY	100%		6	$8,060
7-Oct	Emmitsburg, MD	100%		4	$1,988
17-Oct	Sacramento, CA	100%		5	$16,678
30-Oct	New York, NY	100%		4	$13,043
8-Nov	Atlanta, GA	100%		6	$17,920
10-Nov	New York, NY	100%		0	$6,525
14-Nov	Crawford. TX	100%		4	$44,535
21-Nov	Fort Campbell, KY	100%		3	$9,114
27-Nov	Salt Lake City, UT	100%		7	$4,328
1-Dec	Philadelphia, PA	100%		5	$13,669
4-Dec	Orlando, FL	70%	30%	7	$13,371
7-Dec	Norfolk, VA	100%		5	$5,271
11-Dec	Citadel, SC	100%		4	$11,498
26-Dec	Waco, TX	100%		7	$12,667
4-Jan	Austin, TX	100%		1	$5,356
5-Jan	Ontario, CA	100%		4	$10,240
5-Jan	Portland, OR	100%		7	$10,870
8-Jan	Hamilton, OH	100%		6	$6,588
8-Jan	Boston, MA	100%		6	$11,159
8-Jan	Portsmith, NH	54%	46%	4	$6,594
9-Jan	Washington, DC	100%		0	$0
11-Jan	Conshohoken, PA	100%		6	$5,321
14-Jan	Moline, IL	100%		6	$7,570
14-Jan	Springfield, MO	100%		4	$6,569
14-Jan	New Orleans, LA	100%		21	$32,494
22-Jan	Charleston, WV	71%	29%		$6,086
25-Jan	Portland, ME	100%		5	$7,698
30-Jan	Winston-Salem, NC	65%	35%	0	$8,799
30-Jan	Daytona Beach, FL	100%		16	$12,874
31-Jan	Atlanta, GA	100%		5	$13,869
1-Feb	White Sulpher Springs, WV	100%		4	$4,273
4-Feb	Eglin AFB,FL	100%		4	$7,666
5-Feb	Pittsburgh ,PA	100%		5	$7,918
6-Feb	New York, NY	54%	46%	6	$6,940
8-Feb	Denver, CO	100%		4	$7,644
8-Feb	Salt Lake City, UT	100%		13	$12,877

REV_00169183

8-Feb	Jackson, WY	100%		7	$11,182
11-Feb	Milwaukee, WI	48%	52%	1	$9,360
16-Feb	Anchorage, AK	40%	60%	1	$9,181
27-Feb	Charlotte, NC	52%	48%	1	$7,048
1-Mar	Des Moines, IA	53%	47%	**5**	$3,546
3-Mar	Minneapolis, MN	50%	50%	2	$7,127
8-Mar	St. Petersburg, FL	57%	43%	2	$6,093
12-Mar	Philadelphia, PA	100%		9	$11,102
15-Mar	Fayetteville, NC	100%		6	$1,218
16-Mar	Chicago, IL	100%		4	$11,217
18-Mar	St. Louis, MO	65%	35%	5	$5,835
21-Mar	El Paso, TX	100%		6	$129
27-Mar	Greenville, SC	45%	55%	5	$-3,217
27-Mar	Atlanta, GA	52%	48%	3	$166
27-Mar	Waco, TX	100%		8	$19,804
28-Mar	Dallas, TX	20%	80%	4	$224
2-Apr	Philadelphia, PA	59%	41%	6	$12,239
4-Apr	Waco, TX	100% State		0	$0
8-Apr	Knoxville, TN	100%		5	$743
9-Apr	Bridgeport, CT	52%	48%	6	$7,152
15-Apr	Cedar Rapids, IA	59%	41%	5	$7,819
17-Apr	Lexington, VA	100%		5	$8,505
22-Apr	Saranac, NY(Wilmington, NY)	100%		4	$13,029
19-Apr	Beltsville, MD	100%		0	$0
24-Apr	Sioux Falls, SD	45%	55%	5	$8,249
24-Apr	Waco, TX	100%		12	$13,741
29-Apr	Los Angeles, CA	48%	52%	17	$10,907
29-Apr	Albuquerque, NM	54%	46%	5	$7,054
30-Apr	San Jose, CA	42%	58%	6	$6,632
6-May	Southfield, MI	100%		5	$9,857
8-May	Milwaukee, WI	100%		6	$10,952
8-May	Lacrosse, WI	100%		7	$8,760
10-May	Columbus, OH	59%	41%	5	$4,992
13-May	Chicago, IL	42%	58%	6	$1,743
20-May	Miami, FL	42%	58%	7	$8,587
1-Jun	West Point, NY	100%		5	$13,593
3-Jun	Little Rock, AR	100%		6	$10,094
7-Jun	Des Moines, IA	100%		6	$13,895
11-Jun	Kansas City, MO	58%	42%	7	$8,179
14-Jun	Columbus,OH	100%		6	$4,031

REV_00169184

14-Jun	Houston, TX	45%	55%	**5**	$9,739
14-Jun	Waco, TX	100%		3	$14,955
17-Jun	Atlanta, GA	100%		5	$8,663
21-Jun	Orlando, FL	48%	52%	7	$12,111
24-Jun	Newark, NJ	48%	52%	7	$4,974
25-Jun	Phoenix, AZ	100%		0	$584
1-Jul	Cleveland, OH	100%		5	$7,823
2-Jun	Milwaukee, WI	100%		5	$6,411
4-Jul	Ripley, WV	100%		6	$7,129
5-Jul	Kennebunkport, MN	100%		0	$34,245
9-Jul	New York City, NY	100%		5	$7,706
11-Jul	Minneapolis, MN	62%	38%	7	$13,709
15-Jul	Birmingham, AL	62%	38%	6	$5,747
18-Jul	Troy, MI	100%		0	$3,197
19-Jul	Fort Drum, NY	100%		6	$7,133
22-Jul	Argonne, IL	100%		7	$10,510
25-Jul	Greensboro, NC	62%	38%	7	$5,342
29-Jul	Charleston, SC	59%	41%	5	$7,149
2-Aug	Kennebunkport, MN	75%	25%	14	$34,291
5-Aug	Pittsburg, PA	56%	44%	7	$11,138
6-Aug	Waco, TX	100%		21	$107,331
7-Aug	Jackson, MS	76%	24%	6	$9,750
13-Aug	Economic Forum Waco, TX	100%		0	$201
14-Aug	Milwaukee, WI	42%	58%	5	$5,217
14-Aug	Des Moines, IA	42%	58%	23	$6,630
14-Aug	South Dakota	100%		4	$8,029
16-Aug	Rapid City, SD	58%	42%	1	$65
22-Aug	Medford, OR	100%		5	$10,226
22-Aug	Portland, OR		100%	0	$2,429
23-Aug	Dana Point, CA	50%	50%	20	$21,873
23-Aug	Stockton, CA	38%	62%	5	$4,565
24-Aug	Thousand Oaks/Westwood, CA		100%	0	$955
24-Aug	Santa Anna, CA	100%			$0
24-Aug	Las Cruces, NM	42%	58%	6	$4,381
29-Aug	Oklahoma City, OK		100%	0	$0
29-Aug	Little Rock, AR	58%	42%	5	$10,649
2-Sep	Pittsburgh, PA	100%		4	$11,098
5-Sep	Louisville, KY	59%	41%	**7**	$8,684
5-Sep	South Bend, IN	42%	58%	3	$5,105
6-Sep	Delu	100%		0	$1,346

REV_00169185

6-Sep	Minneapolis, MN	100%		5	$3,387
9-Sep	Detroit, MI	100% State		0	$1,804
11-Sep	Somerset County, PA	100%		6	$1,611
11-Sep	New York City, NY	100%		8	$6,665
16-Sep	Davenport, IA	48%	52%	6	$6,573
17-Sep	Nashville, TN	38%	62%	6	$1,573
23-Sep	Trenton, NJ	38%	62%	5	$5,053
26-Sep	Houston, TX		100%	0	$0
26-Sep	Waco, TX	100%		9	$19,792
27-Sep	Denver, CO		100%	0	$0
27-Sep	Flagstaff, AZ		100%	0	$0
27-Sep	Phoenix, AZ		100%	0	$0
	Total Presidential FY 2002 Costs Through 09/30/02				**$1,146,388**

First Lady Travel FY 2002

		Status		# of EOP	White House
Date	Destination	Official	Political	Staff	Travel Cost
3-Oct	Cincinnati, OH	100%		0	$339
16-Oct	Newark, NJ	100%		0	$1,790
18-Oct	Atlanta, GA	100%		1	$1,742
19-Oct	Baton Rouge, LA	100%		0	$1,568
30-Oct	New York, NY	100%		3	$1,652
16-Nov	Austin, TX	100%		1	$7,300
9-Jan	Topeka, KS	100%		0	$1,566
10-Jan	Houston, TX	100%		0	$1,915
11-Jan	Austin, TX	100%		0	$780
21-Jan	Atlanta, GA	100%		0	$1,060
10-Feb	Los Angeles, CA	100%		1	$5,021
11-Feb	Hershey, PA	100%		0	$0
8-Mar	New York, NY	100%		3	$6,218
11-Mar	Richmond, VA	100%		4	$1,659
4-Apr	Dallas, TX	100%		1	$35
11-Apr	Hershey, PA	100%		1	$899
30-Apr	Little Rock, AR	100%		2	$1,839
30-Apr	Dallas, TX	100%		3	$365
9-May	New York, NY	100%		0	$1,898
28-May	Austin, TX	100%		1	$3,379
10-Jun	Boise, ID	100%		1	$3,456
11-Jun	Salt Lake City, UT	100%		1	$1,187

REV_00169186

11-Jun	San Francisco	61%	39%	0	$5,237
12-Jun	Austin, TX	100%		1	$3,693
6-Jun	Crawford, TX	100%		0	$0
20-Jun	Boston, MA	100%		1	$1,674
17-Jun	Cinncinati, OH	100%		2	$2,309
22-Jun	Midland, TX	100%		0	$0
7-Jul	Kennebunkport, ME	100%		0	$0
12-Jul	Norfolk, VA	100%		2	$969
18-Jul	Philadelphia, PA	100% State		0	$0
24-Jul	New York, NY			2	$236
2-Aug	Dallas, TX	100%		1	$1,773
3-Aug	Lubbock, TX	100%		4	$3,571
14-Aug	Austin, TX	100%		2	$3,231
22-Aug	Austin, TX	100%		2	$3,501
11-Sep	New York, NY	100%		4	$4,241
25-Sep	Greenville, MS	100%		0	$1,591
27-Sep	Waco, TX	100%		1	105
	Total First Lady FY 2002 Costs through 09/30/02				**$77,799**

Vice Presidential Travel FY 2002					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
7-Oct	Smithers, BC *(can./Adv. only)*			1	$449
18-Oct	New York, NY	100%		4	$2,063
21-Oct	Washington, DC	100%			$378
28-Oct	Poughkeepsie, NY	100%		5	$3,885
30-Oct	White Sulphur Springs, WV				$200
4-Nov	Pierre/Gettysburg, SD	100%		7	$5,676
2-Nov	Dallas, TX *(can. trip)*	100%		1	$115
2-Nov	Jackson, WY	100%		2	$11,195
27-Nov	Salt Lake City, UT	100%		3	$526
29-Nov	New York, NY	100%		17	$14,413
6-Dec	Dallas, TX		100%	9	$1,776
7-Dec	Oklahoma City, OK		100%	3	$4
14-Dec	Albany, GA	100%		9	$5,214
17-Dec	Jackson, WY *(no trip listed/noTA)*				$0
19-Dec	Trappe, MD	100%		9	$4,217
22-Dec	Jackson, WY	100%		14	$55,257
11-Jan	Albany, GA	100%		8	$5,447

REV_00169187

25-Jan	Cincinnati, OH		100%	4	$0
30-Jan	White Sulpher Springs, WV	100%		8	$4,353
6-Feb	Louisville, KY		100%	9	$5,392
6-Feb	Evansville, IN		100%		$0
7-Feb	Hopkinsville, KY	17%	83%	9	$700
15-Feb	Armstrong, TX	100%		1	$275
17-Feb	Carlsbad, CA	100%		1	$30,757
19-Feb	Fullerton, CA	100%			$2,700
19-Feb	Los Angeles, CA	15%	85%	2	$5,698
20-Feb	Sacramento, CA		100%	2	$2,514
20-Feb	Fresno, CA *(Mix?)*	100%			$817
20-Feb	Pleasantville, CA	100%			$0
21-Feb	San Jose, CA *(Mix)*	100%		2	$9,783
24-Feb	Salt Lake City, UT	100%		7	$9,544
25-Feb	Cheyenne, WY	30%	70%	27	$9,672
25-Feb	Jackson, WY	100%		4	$20,789
28-Mar	Jackson, WY	100%		1	$13,492
3-Apr	Denver, CO		100%	2	$447
4-Apr	Jackson, MS		100%	3	$1,047
4-Apr	Kansas City, MO		100%	1	$0
4-Apr	Fayetteville, AR		100%	1	$0
5-Apr	Dallas, TX	100%		21	$4,034
12-Apr	Charleston, WV		100%		$0
12-Apr	Richmond, VA		100%		$0
15-Apr	Grand Rapids, MI	100%		10	$5,770
15-Apr	Collinsville, IL		100%	1	$221
19-Apr	Allentown, WV		100%		$0
19-Apr	Islandia, NY		100%		$126
22-Apr	Ft. Lauderdale, FL		100%		$0
24-Apr	Houston, TX *(State-sponsored)*	100%			$0
25-Apr	Crawford, TX *(State-sponsored)*	100%			$0
2-May	Lansing, MI	100%		13	$4,903
2-May	South Bend, IN		100%	1	$57
9-May	Minneapolis, MN		100%		$0
11-May	Jackson, WY		100%	4	$666
21-May	Boston, MA		100%		$0
24-May	Jackson, WY	100%		8	$9,641
29-May	Nashville, TN		100%		$0
7-Jun	Harrisburg, PA		100%		$0
14-Jun	Columbia, SC		100%		$3,387

REV_00169188

14-Jun	Dallas, TX	100%		5	$11,223
20-Jun	Dayton, OH		100%		$0
20-Jun	Detroit, MI		100%		$0
21-Jun	Cody, WY	100%		3	$5,270
21-Jun	Beaver Creek, CO	100%		4	$8,941
23-Jun	Portland, OR		100%	7	$3,902
28-Jun	Charlotte, NC		100%		$0
20-Jun	Raleigh, NC		100%		$0
1-Jul	Wichita, KS		100%		$0
1-Jul	Dallas, TX		100%		$0
1-Jul	Jackson, WY	100%		8	$15,034
9-Jul	Ft. Bragg, NC	100%		1	$860
15-Jul	Hartford, CT		100%		$0
17-Jul	Atlanta, GA	100%		1	$1,805
18-Jul	Conshohocken, PA		100%		$0
18-Jul	Pittsburgh, PA		100%		$0
19-Jul	Macon, GA		100%		$0
19-Jul	Houston, TX		100%		$0
22-Jul	Montgomery, AL	100%		6	$5,498
22-Jul	Cape Canaveral, FL	100%		7	$4,072
29-Jul	Des Moines, IA		100%	5	$255
29-Jul	Cedar Rapids, IA		100%		$0
29-Jul	Fargo, ND		100%	5	$255
30-Jul	Jackson, WY	100%		15	$104,430
1-Aug	Meeker, CO	Cancelled		1	$1,287
6-Aug	San Francisco, CA	72%	28%	7	$13,202
7-Aug	Fresno, CA		100%		$0
8-Aug	Salt Lake City, UT		100%		$0
8-Aug	Albuquerque, NM		100%		$0
12-Aug	Minneapolis, MN		100%		$0
12-Aug	Waco, TX	100%		7	$6,757
12-Aug	Detroit, MI		100%		$0
13-Aug	Billings, MT		100%		$0
15-Aug	Montgomery, AL		100%		$0
17- Aug	Jackson, WY			3	$1,306
19-Aug	Big Horn, MT	Cancelled			$0
20-Aug	Waco, TX	100%		1	$1,641
26-Aug	Nashville, TN	53%	47%	3	$4,946
29-Aug	San Antonio, TX	100%		3	$2,518
6-Sep	New York, NY	100%		3	$5,447

REV_00169189

18-Sep	New London, CT		100%		$0
19-Sep	Burlington, VT	12%	88%	1	$437
19-Sep	New York, NY		100%		$0
20-Sep	Casper, WY	63%	37%	3	$4,840
20-Sep	Jackson, WY	100%		7	$1,830
23-Sep	Kansas City, MO	100%			$0
26-Sep	Memphis, TN		100%		$0
26-Sep	Dallas, TX		100%		$0
27-Sep	Boise, ID		100%	3	$462
26-Sep	Jackson. WY	100%		8	$11,395
27-Sep	Laramie, WY	100%		4	$761
	Total Costs through 9/30/02				**$475,974**

Presidential Travel FY 2003					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
1-Oct	Tampa, FL				$1,032
2-Oct	Baltimore, MD		100%	0	$0
4-Oct	Boston, MA		100%	0	$0
4-Oct	Kennebunkport, ME	100%		17	$37,055
5-Oct	Manchester, NH	32%	68%	4	$5,704
7-Oct	Cincinnati, OH	100%		10	$20,182
8-Oct	Knoxville, TN		100%	0	$798
14-Oct	Detroit, MI		100%	1	$677
17-Oct	Daytona Beach, FL	59%	41%	6	$9,308
17-Oct	Atlanta, GA		100%	0	$0
18-Oct	Rochester, MN		100%	0	$0
18-Oct	Springfield, MO		100%	0	$0
22-Oct	Chester County, PA		100%	0	$0
22-Oct	Bangore, ME		100%	0	$0
24-Oct	Charlotte, NC		100%	0	$0
24-Oct	Columbia, SC		100%	0	$0
24-Oct	Auburn, AL		100%	0	$0
24-Oct	Waco, TX (State Dept.)	100%		2	$2,168
26-Oct	Cabo San Lucas, Mex (State)	100%		0	$0
27-Oct	Phoenix, AZ (RON)		100%	4	$817
28-Oct	Alamogordo, NM		100%	0	$0
28-Oct	Denver, CO		100%	0	$0
31-Oct	Aberdeen, SD		100%	0	$0

REV_00169190

31-Oct	Southbend, IN		100%	0	$0
31-Oct	Charleston, WV		100%	0	$0
1-Nov	Louisville, KY		100%	0	$0
1-Nov	Portsmouth, NH		100%	0	$0
2-Nov	Johnson City, TN		100%	0	$0
2-Nov	Atlanta, GA		100%	0	$0
2-Nov	Tampa Bay, FL (RON)		100%	0	$0
3-Nov	Springfield, IL		100%	0	$0
3-Nov	Minneapolis, MN		100%	0	$0
3-Nov	South Falls, SD		100%	0	$0
3-Nov	Cedar Rapids, IA (RON)		100%	1	$738
4-Nov	St. Louis, MO		100%	0	$0
4-Nov	Bentonville, AR		100%	0	$0
4-Nov	Dallas, TX		100%	0	$0
4-Nov	Waco, TX (RON)	100%		18	$9,387
27-Nov	Waco, TX (RON)	100%		20	$21,899
3-Dec	Shreveport, LA		100%	0	$0
3-Dec	New Orleans, LA		100%	0	$0
12-Dec	Philadelphia, PA	100%		5	$10,793
26-Dec	Waco, TX (RON)	100%		13	$38,144
3-Jan	Ft. Hood, TX	100%		2	$1,777
7-Jan	Chicago, IL	100%		7	$10,516
16-Jan	Scranton, PA	100%		4	$11,184
22-Jan	St. Louis, MO	100%		7	$12,521
29-Jan	Grand Rapids, MI	100%		8	$12,918
31-Jan	Camp David, MD	100%		5	$646
4-Feb	Houston, TX	100%		6	$8,141
9-Feb	White Sulphur Springs, WV	100%		5	$11,968
10-Feb	Nashville, TN	100%		6	$13,069
13-Feb	Jacksonville, FL	100%		6	$15,211
20-Feb	Atlanta, GA	100%		7	$4,646
20-Feb	Waco, TX (State)	100%		1	$945
4-Mar	Washington, DC	100%		0	$0
5-Mar	Camp Lejeune, NC	100%		3	$5,218
26-Mar	Camp David, MD	100%		7	$350
26-Mar	Tampa Bay, FL	100%		7	$4,541
31-Mar	Philadelphia, PA	100%		5	$1,726
3-Apr	Camp Lejeune, NC	100%		8	$6,968
16-Apr	St. Louis, MO	100%		7	$1,095
16-Apr	Waco, TX	100%		16	$3,972

20-Apr	Ft. Hood, TX	100%		1	$0
24-Apr	Canton, OH	100%			$0
24-Apr	Lima, OH	100%			$0
28-Apr	Dearborn, MI	100%			$0
	Total Costs Through 09/30/03				**$286,114**

First Lady Travel FY 2003					
		Status		Number	White House
Date	Destination	Official	Political	Of Staff	Travel Cost
1-Oct	Tampa, FL	69%	31%	6	$820
4-Oct	Kennebunkport, ME			2	$210
5-Oct	Portland, ME	100%		3	$1,343
7-Oct	New York, NY	74%	26%	4	$5,625
16-Oct	Dayton, OH	100%		4	$2,281
17-Oct	Mobile, AL	77%	23%	8	$4,226
21-Oct	Boston, MA	100%		4	$6,528
23-Oct	St. Louis, MO	65%	35%	5	$5,610
2-Nov	Atlanta, GA	100%		2	$3,729
2-Nov	Raleigh, NC		100%		$0
2-Nov	Nashua, NH		100%		$0
2-Nov	Des Moines, IA		100%		$0
2-Nov	Minneapolis, MN		100%		$0
2-Nov	Sioux Falls, SD (RON)		100%		$0
3-Nov	Rapid City, SD		100%		$0
4-Nov	Waco, TX			1	$112
12-Nov	New York, NY				$295
16-Jan	New York, NY			1	$547
20-Jan	New York, NY			2	$5,668
4-Feb	Los Angeles, CA			3	$2,369
13-Feb	New York, NY			6	$5,163
19-Feb	Dallas, TX			2	$353
19-Feb	New Orleans, LA			2	$4,883
13-Mar	Austin, TX (RON)		100%	0	$0
8-May	Page, AZ	100%			
8-May	Kayenta, AZ	100%			

REV_00169192

8-May	Phoenix, AZ	100%			
9-May	Santa Fe, NM	100%			
	Total Costs through 09/30/03				**$49,762**

Vice Presidential Travel FY 2003					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
19-Sep	Burlington, VT **FY-02*	12%	88%	1	$21
4-Oct	Atlanta, GA		100%		$0
4-Oct	Warner Robbins, GA		100%		$0
4-Oct	Augusta, GA		100%		$0
7-Oct	Babine, BC, Canada	100%			$0
11-Oct	Colorado Springs, CO	79%	21%	7	$4,738
14-Oct	Roswell, NM		100%		$0
14-Oct	Tulsa, OK		100%		$0
14-Oct	Phoenix, AZ		100%		$0
14-Oct	Midwest City, OK	10%	90%		$0
21-Oct	Portland, ME		100%		$0
21-Oct	Newark, NJ		100%		$0
24-Oct	Dalton, GA	83%	17%	2	$374
24-Oct	Tampa, FL	76%	24%		$939
25-Oct	Philadelphia, PA	100%		1	$1,317
25-Oct	Reading, PA		100%		$1,416
29-Oct	Wilmington, NC		100%	1	$207
30-Oct	Chattanooga, TN		100%		$0
30-Oct	Little Rock, AR		100%		$0
30-Oct	Houston, TX		100%	3	$1,234
31-Oct	Cape Girardeau, MO		100%		$0
31-Oct	Sioux City, IA		100%		$0
31-Oct	Indianapolis, IN		100%		0
1-Nov	Duluth, MN		100%		$0
1-Nov	Rapid City, SD		100%		$0
1-Nov	Denver, CO		100%	1	$1,657
2-Nov	Salt Lake City, UT		100%		$0
2-Nov	Springfield, MO		100%		$0
2-Nov	Jackson Hole, WY		100%	3	$1,369
2-Nov	Albuquerque, NM		100%		$0

REV_00169193

3-Nov	Cheyenne, WY		100%		$0
3-Nov	Gettysburg, SD	100%		1	$6,096
16-Nov	Latrobe, PA	100%		2	$1,535
18-Nov	Monroe, LA		100%		$0
18-Nov	Lafayette, LA		100%		$0
22-Nov	Trappe, MD	100%		4	$594
29-Nov	Jackson Hole, WY	100%		5	$1,135
29-Nov	Casper, WY	100%		2	$1,948
2-Dec	Denver, CO	100%		3	$2,308
5-Dec	Stuttgart, AR	100%		4	$1,928
14-Dec	Jackson Hole, WY	100%		7	$9,417
21-Dec	Jackson Hole, WY	100%		6	$17,927
17-Jan	Albany, GA	100%		4	$3,427
24-Jan	Trappe, MD *(cancelled trip)*				$0
31-Jan	Armstrong, TX	100%		6	$2,002
3-Feb	College Station, TX				$0
6-Feb	White Sulphur Springs, WV	100%		2	$806
9-Feb	Honolulu, HI	100%		8	$1,440
14-Mar	Jackson Hole, WY *(Adv only)*	100%			$0
17-Feb	Jackson Hole, WY	100%		9	$8,137
8-Apr	New Orleans, LA	100%		11	$2,941
22-Apr	Jackson Hole, WY	100%		6	$1,399
6-May	Dallas, TX	100%			$0
	Total Costs through 5/16/03				**$76,312**

Summary: Presidential, First Lady and Vice Presidential travel for FY02 and FY03 (to date).

Principal	Fiscal Year 2002	Fiscal Year 2003 (To date)
President of the United States	**$1,146,388**	**$286,114**
First Lady of the United States	**$77,799**	**$49,762**
Vice President of the United States	**$475,974**	**$76,312**
Totals	**$1,700,161**	**$412,188**

REV_00169194

Presidential Staff Travel (POC – Rothley Howard)

QUESTION 52: Please provide a listing of staff travel not in support of the President for fiscal year 2002 and thus far in fiscal year 2003. For each entry, please include the name of traveler, the destination and purpose of trip, the number of days in travel status, and the trip cost.

RESPONSE: The following tables provide the FY 2002 and year to date FY 2003 staff travel information for the White House Office and the Office of the Vice President.

White House Office FY 2002 Staff Travel					
TRAVELER	**PURPOSE**	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Medina, Sonya	Meetings	Dallas, TX	$419.00	03/15/01	2
McMarlin, Doug	Official	Cincinnati, OH	$115.00	10/01/01	2
Koro	Official	Sacramento, CA	$483.00	10/11/01	11
Carlson-Thies, Stanley	Speaking Engagement	Atlantic City, NJ	$442.87	10/15/01	1
Goldman, Adam	Meetings	Los Angeles, CA	$630.75	10/17/01	4
Hawkins, Albert	Meetings	Reykjavik	$3,699.40	10/20/01	4
Galen, Reed	Official	Manhattan, NY	$299.00	10/25/01	6
Carlson-Thies, Stanley	Speaking Engagement	Austin, TX	$442.53	10/26/01	1
Baralles, Ruben	Speaking Engagement	Oakland, CA	$1,231.00	10/28/01	2
Rorriguez, Noelia	Official	Manhattan, NY	$34.50	10/30/01	1
Moss, Sarah	Official	Manhattan, NY	$34.50	10/30/01	1
Campbell, Thomas	Accompany a Cabinet Head	Boston, MA	$261.50	10/31/01	2
Bartolomucci, H	Official	Lynchburg, VA	$52.93	10/31/01	2
Carlson-Thies, Stanley	Speaking Engagement	Silver Spring, MD	$9.66	11/01/01	1
Lisaius, Kenneth	Meetings	Los Angeles, CA	$561.14	11/02/01	2
Wendel, Matthew	Official	Crawford, TX/Austin, TX	$532.50	11/07/01	11
Carlson-Thies, Stanley	Speaking Engagement	Atlanta, GA	$542.93	11/09/01	2
Henick, Henry	Meetings	Los Angeles, CA	$1,661.14	11/10/01	2
Smith, Matthew	Official	Manhattan, NY	$401.11	11/10/01	1
Bartolomucci, H	Official	Lynchburg, VA	$52.93	11/14/01	2
Giles	Official	Manhattan, NY	$382.24	11/15/01	1
Wilkinson, James	Official	Waco, TX	$60.00	11/16/01	2
Burkhart, Shannon	Official	Waco, TX	$60.00	11/16/01	2
Kleppee, Elizabeth	Official	Salt Lake City, UT	$63.00	11/27/01	1

REV_00169195

Baralles, Ruben	Official	Houston, TX/Sacramento, CA/Santa Fe, NM	$1,524.32	11/28/01	2
Dunn, Debra	Official	Manhattan, NY	$34.50	11/29/01	1
Thompson	Official	Manhattan, NY	$34.50	11/29/01	1
Cobb,Robert	Meetings	Virginia Beach, VA	$298.13	12/04/01	1
Baralles, Ruben	Meetings	Atlanta, GA	$496.00	12/05/01	1
Bartolomucci, H	Official	Lynchburg, VA	$52.93	12/05/01	2
Irastroza, Hector	Meetings	Philadelphia, PA	$202.00	12/05/01	1
Blalock, K	Speaking Engagement	Atlanta, GA	$428.50	12/06/01	1
Goeglein, Tim	Speaking Engagement	Ft. Wayne, IN	$28.00	12/06/01	1
Bartolomucci, H	Official	Lynchburg, VA	$52.93	12/12/01	1
Walker, Helegard	Meetings	Lynchburg, VA	$48.30	12/16/01	2
Baralles, Ruben	Official	Sacramento, CA	$816.50	12/18/01	2
Wendel, Matthew	Official	Camp David, MD	$495.00	12/21/01	16
Bartolomucci, H	Official	Lynchburg, VA	$53.93	12/24/01	1
Hagin, Joseph	Official	Waco, TX	$375.00	12/26/01	12
Christensen	Official	Minneapolis, MN	$383.34	12/27/01	5
Wendel, Matthew	Official	Camp David, MD	$45.00	12/28/01	1
Gonzales,Alberto	Speaking Engagement	Austin, TX	$58.50	01/03/02	3
Purcell, Christopher	Official	Hamilton, OH	$85.00	01/06/02	2
Berenson, Brad	Meetings	Lynchburg, VA	$48.30	01/07/02	2
Hagin, Joseph	Official	Salt Lake City, UT	$175.51	01/09/02	1
Baralles, Ruben	Speaking Engagement	Las Vegas, NV	$95.00	01/10/02	6
Healy, Erin	Official	Anchorage, AK	$63.00	01/14/02	1
Walker, Helegard	Meetings	Lynchburg, VA	$48.30	01/14/02	2
Poole, Kelly	Official	Mamphis, TN	$57.00	01/14/02	1
Jablonka, Chris	Official	New Orleans, LA	$63.00	01/14/02	1
Faraley, Jennifer	Speaking Engagement	Sacramento, CA	$263.00	01/17/02	1
Carlson-Thies, Stanley	Speaking Engagement	Dallas, TX	$931.52	01/18/02	2
Jewett, Eric	Official	Portland, ME	$171.00	01/21/02	1
O'Brien	Official	Atlanta, GA	$247.00	01/25/02	6
Baralles, Ruben	Meetings	Manhattan, NY	$524.39	01/25/02	1
O'Keefe	Official	Winston-Salem. NC	$247.00	01/25/02	6
Berenson, Brad	Meetings	Lynchburg, VA	$51.10	01/28/02	2
Mollman, Marcus	Meetings	Salt Lake City, UT	$1,726.25	01/28/02	31
Carlson-Thies, Stanley	Speaking Engagement	Chicago, IL	$402.42	01/30/02	1
Newstead, Jennifer	Official	Lynchburg, VA	$52.93	01/30/02	2
Ecklekamp	Official	Salt Lake City, UT	$357.00	02/01/02	8
Hughes, William	Official	Salt Lake City, UT	$357.00	02/01/02	8

REV_00169196

Guiterrez	Official	Denver, C0	$229.00	02/04/02	4
Becker, Kathleen	Official	Jackson, WY	$453.78	02/04/02	6
Walker, Helegard	Meetings	Lynchburg, VA	$51.10	02/04/02	2
Jewett, Eric	Official	Milwaukee, WI	$231.00	02/06/02	5
Baralles, Ruben	Meetings	Albuquerque, NM	$605.78	02/07/02	3
Jablonka, Chris	Official	Denver, CO/Jackson, WY/ Idaho Falls, ID	$183.14	02/07/02	3
Brand, Rachel	Meetings	New Haven, CT	$223.61	02/07/02	1
Gottesman, Blake	Official	Waco, TX	$75.00	02/08/02	2
Ecklekamp	Official	Anchorage, AK	$535.50	02/11/02	8
Bartolomucci, H	Official	Lynchburg, VA	$54.93	02/11/02	1
Gonzales,Alberto	Speaking Engagement	Denver, CO	$41.00	02/12/02	1
Francisco, Noel	Official	Lynchburg, VA	$52.93	02/13/02	2
Spagnoli, Debra	Speaking Engagement	Naples, FL	$0.00	02/14/02	3
Walker, Helegard	Speaking Engagement	Charlottesville, VA	$87.60	02/16/02	1
Carlson-Thies, Stanley	Speaking Engagement	Dallas, TX	$667.00	02/18/02	1
Moss, Sarah	Official	Jackson, WY/Los Angeles, CA	$200.00	02/18/02	4
Baralles, Ruben	Meetings	Kansas City, KS	$650.57	02/18/02	1
Ciccone, Christie	Accompany a USG Delegation	Rome, ITA	$1,380.48	02/18/02	5
Baralles, Ruben	Meetings	Key West, FL	$1,720.82	02/21/02	3
Baralles, Ruben	Meetings	Las Vegas, NV	$426.01	02/21/02	2
Walker, Helegard	Meetings	Lynchburg, VA	$52.93	02/27/02	2
Spagnoli, Debra	Speaking Engagement	Los Angeles, CA	$339.00	02/28/02	2
Wendel, Matthew	Official	Camp David, MD	$75.00	03/01/02	2
Goeglein, Tim	Speaking Engagement	Hartford, CT	$77.00	03/01/02	1
Burke, John	Speaking Engagement	Jackson, MS	$10.00	03/01/02	4
Berenson, Brad	Meetings	Lynchburg, VA	$52.93	03/04/02	2
Wendel, Matthew	Official	Camp David, MD	$75.00	03/05/02	2
Bartolomucci, H	Official	Lynchburg, VA	$55.93	03/06/02	1
Hughes, Karen	Speaking Engagement	Palm Springs, CA	$1,113.92	03/07/02	1
Berenson, Brad	Meetings	Lynchburg, VA	$52.93	03/08/02	1
Colby, Chad	Official	Norfolk, VA	$209.66	03/08/02	3
Poole, Kelly	Official	Richmond, VA	$208.20	03/08/02	3
Harden, Alison	Official	Richmond, VA	$161.37	03/08/02	3
Hanusa, Mary Ann	Official	College Station, TX	$1,624.41	03/09/02	4
Chapman	Official	Fayetteville, NC	$153.00	03/11/02	4

REV_00169197

Francisco, Noel	Official	Lynchburg, VA	$52.93	03/11/02	2
Ecklekamp	Official	St. Louis, MO	$299.00	03/13/02	6
Zanca, Bruce	Meetings	Washington DC	$315.55	03/15/02	1
Langley	Official	El Paso, TX	$247.00	03/16/02	6
O'Keefe	Official	Atlanta, GA	$265.00	03/22/02	6
Brand, Rachael	Meetings	Cedar Rapids, IA	$445.20	03/24/02	1
Wendel, Matthew	Official	Austin, TX/Waco, TX	$201.00	03/25/02	6
Camp. Elizabeth	Official	Dallas, TX	$161.00	03/25/02	3
Sampson, Kyle	Official	Lynchburg, VA	$52.93	03/25/02	2
Godfrey, Georgia	Official	Atlanta, GA/Waco, TX/Greenville, SC	$135.00	03/27/02	4
Walker, Helegard	Meetings	Lynchburg, VA	$109.93	03/27/02	1
Thompson	Official	Philadelphia, Pa	$375.00	03/27/02	8
Gottesman, Blake	Official	Waco, TX	$135.00	03/27/02	4
Gottesman, Blake	Official	Waco, TX	$165.00	04/04/02	5
Gottesman, Blake	Official	Waco, TX	$135.00	04/04/02	4
Wendel, Matthew	Official	Waco, TX	$105.00	04/04/02	3
Heiligenstein, Anne	Meetings	Boston, MA	$330.82	04/05/02	1
Goeglein, Tim	Speaking Engagement	Orlando, FL/Tampa, FL	$935.14	04/06/02	2
Baralles, Ruben	Meetings	Knoxville, TN	$392.94	04/07/02	1
Baralles, Ruben	Meetings	Denver. CO/Las Vegas, NV	$426.01	04/11/02	2
Wendel, Matthew	Official	Camp David, MD	$135.00	04/12/02	4
Wendel, Matthew	Official	Camp David, MD	$75.00	04/12/02	2
Baralles, Ruben	Meetings	Boston, MA	$150.50	04/15/02	1
Berenson, Brad	Meetings	Lynchburg, VA	$52.93	04/15/02	2
Goeglein, Tim	Meetings	Manhattan, NY	$409.30	04/15/02	1
Carlson-Thies, Stanley	Speaking Engagement	Oakland, CA/Seattle, WA	$956.54	04/16/02	1
Francisco, Noel	Official	Lynchburg, VA	$52.93	04/17/02	2
Sampson, Kyle	Official	Lynchburg, VA	$52.93	04/17/02	2
Wendel, Matthew	Official	Camp David, MD	$75.00	04/19/02	6
Wendel, Matthew	Official	Austin, TX/Waco, TX	$264.00	04/23/02	4
Walker, Helegard	Official	Lynchburg, VA	$52.93	04/23/02	1
Deckard, Josh	Official	Los Angeles, CA/Waco, TX	$223.00	04/24/02	6
McClellan, Scott	Official	Los Angeles, CA/Waco, TX	$223.00	04/24/02	6
Christie, Ronald	Speaking Engagement	Jackson, MS	$453.78	04/26/02	1
Goeglein, Tim	Meetings	Philadelphia, PA	$384.00	04/26/02	1
Rove, Karl	Meetings	San Marcos, TX	$45.00	04/27/02	1
Bartolomucci, H	Official	Lynchburg, VA	$56.93	04/29/02	1
Spagnoli, Debora	Meetings	San Jose, CA	$521.50	04/29/02	1
Spagnoli, Debora	Meetings	Tampa, FL	$537.62	04/30/02	1
Wendel, Matthew	Official	Camp David, MD	$45.00	05/03/02	6

Towey, Jim	Speaking Engagement	Miami, FL	$697.17	05/07/02	1
Francisco, Noel	Official	Lynchburg, VA	$52.93	05/08/02	2
Wendel, Matthew	Official	Camp David, MD	$75.00	05/10/02	12
Johnson, Clay	Speaking Engagement	College Station, TX	$60.00	05/10/02	1
Alberto, Gonzales	Official	Houston, TX	$83.00	05/10/02	2
Sampson, Kyle	Official	Lynchburg, VA	$52.93	05/13/02	2
Benyon, Rebecca	Speaking Engagement	New Orleans, LA	$686.00	05/13/02	1
Walker, Helegard	Official	Lynchburg, VA	$52.93	05/15/02	1
Wendel, Matthew	Official	Camp David, MD	$75.00	05/17/02	1
Baralles, Ruben	Meetings	Manhattan, NY/Phoenix, AZ	$458.00	05/21/02	1
Towey, Jim	Speaking Engagement	Atlanta, GA	$679.02	05/23/02	1
Johnson, Clay	Speaking Engagement	Birmingham, AL	$134.00	05/25/02	2
Ozburn, Charles	Official	West Point, NY	$221.00	05/26/02	6
Bourns	Official	Little Rock, AR	$255.00	05/27/02	7
Francisco, Noel	Official	Lynchburg, VA	$58.93	05/27/02	2
Jewett, Eric	Official	Little Rock, AR	$187.00	05/29/02	5
Kuo, David	Speaking Engagement	Pittsburg, PA	$732.94	05/29/02	1
Alix, Cathy	Official	Philadelphia, Pa	$210.00	05/30/02	1
Goldman, Adam	Speaking Engagement	Albuquerque, NM/Las Vegas, NV/Los Angeles, CA	$605.50	05/31/02	10
Wendel, Matthew	Official	Camp David, MD	$75.00	05/31/02	6
Campbell, Thomas	Invitational	Washington, DC	$1,007.50	05/31/02	
Hughes, William	Official	Des Moines, IA	$187.00	06/02/02	5
Chapman	Official	Des Moines, IA	$187.00	06/02/02	5
Fleischer, Ari	Meetings	Manhattan, NY	$358.56	06/02/02	1
Newstead, Jennifer	Meetings	Lynchburg, VA	$52.93	06/03/02	2
Newstead, Jennifer	Official	Lynchburg, VA	$52.93	06/03/02	1
Whitelaw, Amy	Official	Kansas City, KS	$273.00	06/06/02	6
Wendel, Matthew	Official	Camp David, MD	$75.00	06/07/02	2
Bartolomucci, H	Official	El Paso, TX	$553.42	06/07/02	1
Baralles, Ruben	Speaking Engagement	Ft. Meyers, FL	$342.50	06/07/02	1
White, J	Speaking Engagement	Salt Lake City, UT	$368.00	06/10/02	1
Jewett, Eric	Official	Atlanta, GA	$247.00	06/11/02	6
Wendel, Matthew	Official	Crawford, TX	$331.00	06/11/02	6
Baralles, Ruben	Meetings	Los Angeles, CA/Modesto, CA	$922.53	06/12/02	3
Sampson, Kyle	Official	Lynchburg, VA	$52.93	06/12/02	2
Atkiss, Stephen	Official	Waco, TX	$165.00	06/12/02	5

REV_00169199

Francisco, Joel	Meetings	New Orleans, LA	$760.68	06/13/02	1
Brand, Rachael	Official	Minneapolis, MN	$878.00	06/14/02	1
Suncarger, Rachael	Official	Waco, TX	$105.00	06/14/02	3
McClellan, Scott	Official	Waco, TX	$105.00	06/14/02	3
Walker, Helegard	Official	Lynchburg, VA	$52.93	06/17/02	2
Baralles, Ruben	Meetings	Madison. WI	$456.00	06/17/02	1
Spagnoli, Debra	Speaking Engagement	Pittsburg, PA	$700.14	06/19/02	1
Benyon, Rebecca	Speaking Engagement	Brooklyn, NY	$148.50	06/21/02	1
White, J	Speaking Engagement	Charlotte, NC	$312.93	06/21/02	1
Spagnoli, Debora	Meetings	Phoenix, AZ/Scottsdale, AZ	$1,223.50	06/21/02	4
Farley, Jennifer	Official	Providence, RI	$238.80	06/22/02	1
Bartolomucci, H	Official	Lynchburg, VA	$57.93	06/24/02	1
Westline, Lezlee	Meetings	San Francisco, CA/Seattle, WA	$1,177.23	06/25/02	4
Francisco, Noel	Official	Lynchburg, VA	$58.93	06/26/02	2
Baralles, Ruben	Speaking Engagement	Albuquerque, NM	$622.02	06/27/02	2
Wendel, Matthew	Official	Crawford, TX	$185.00	06/28/02	2
Nelson, Carolyn	Official	Ripley, WV	$165.00	06/29/02	5
Bartolomucci, H	Official	Lynchburg, VA	$58.93	07/11/02	1
Wendel, Matthew	Official	Crawford, TX	$75.00	07/12/02	2
Ciliberti, Eric	Meetings	New Orleans, LA	$997.21	07/12/02	3
Spagnoli, Debra	Meetings	Boise, ID	$767.26	07/14/02	1
Baralles, Ruben	Meetings	New Orleans, LA	$690.07	07/14/02	1
Walker, Helegard	Official	Lynchburg, VA	$52.93	07/16/02	1
Hobbs, David	Meetings	London, GBR/FRA	$1,559.72	07/18/02	5
White, J	Speaking Engagement	Los Angeles, CA	$416.50	07/20/02	1
Evans, Kendell	Official	Charleston, SC	$273.00	07/23/02	6
Hill, David	Official	Charleston, SC	$273.00	07/23/02	6
White, J	Speaking Engagement	Cleveland, OH/Minneapolis, MN	$1,059.88	07/23/02	1
Ciliberti, Eric	Meetings	Denver, CO	$704.12	07/23/02	3
Baralles, Ruben	Meetings	Denver, CO/Orlando, FL	$944.57	07/23/02	2
Francisco, Noel	Official	Lynchburg, VA	$58.93	07/24/02	2
Thomas, Juileanne	Official	Manhattan, NY	$143.50	07/24/02	1
Goldman, Adam	Meetings	Atlanta, GA	$124.50	07/28/02	1
Heilglienstein, Ann	Meetings	MexicoCity, MEX	$1,076.36	07/28/02	3
Lineweaver, Lindsey	Official	Lubbock, TX	$215.00	07/29/02	6
Sampson, Kyle	Meetings	Lynchburg, VA	$52.93	07/29/02	2
Garrison, Sarah	Meetings	Boston, MA	$431.35	07/30/02	1
Baralles, Ruben	Meetings	Ausitn, TX	$398.00	08/01/02	1

Baralles, Ruben	Meetings	Austin, TX	$398.00	08/01/02	1
Beyer, Leslie	Official	Waco, TX	$405.00	08/01/02	13
Blaylock, Kirk	Official	Waco, TX	$45.00	08/01/02	1
Baralles, Ruben	Speaking Engagement	Hershey, PA	$209.00	08/03/02	1
Sampson, Kyle	Official	Lynchburg, VA	$52.93	08/05/02	2
Deservi, Robert	Meetings	Manhattan, NY	$564.00	08/05/02	2
Baralles, Ruben	Meetings	Ft Lauderdale, FL	$638.00	08/06/02	2
Baralles, Ruben	Meetings	Orlando, FL	$1,080.50	08/06/02	3
Dickens, Reed	Official	Waco, TX	$555.00	08/06/02	18
McClellan, Scott	Official	Waco, TX	$225.00	08/06/02	7
Beyer, Leslie	Official	Waco, TX	$315.00	08/06/02	10
Jablonka, Chris	Official	Waco, TX	$410.79	08/11/02	14
Dayspring, Brad	Official	Des Moines, IA	$59.50	08/13/02	2
Ciliberti, Eric	Conference Attendance	New Orleans, LA	$561.13	08/13/02	1
Garrison, Sarah	Official	Waco, TX	$75.00	08/13/02	2
Towey, Jim	Speaking Engagement	Charleston, WV	$827.27	08/15/02	1
McArthur, David	Official	Waco, TX	$315.00	08/15/02	10
Dayspring, Brad	Official	Waco, TX	$525.00	08/15/02	17
Bilbao, Thomas	Official	Las Cruces, NM	$195.00	08/19/02	6
Echols, Sarah	Official	Las Cruses, NM	$165.00	08/19/02	5
Alberto, Gonzales	Official	Monterey, CA	$605.00	08/19/02	11
Calio, Nicholas	Official	Hanoi, VIE/Honolulu, HI	$1,960.34	08/20/02	11
Pitts, Greg	Official	Las Cruces, NM	$165.00	08/20/02	5
White, J	Speaking Engagement	Ft. Lauderdale, FL	$658.79	08/25/02	1
Towey, Jim	Speaking Engagement	Memphis, TN	$1,043.05	08/28/02	1
Towey, Jim	Speaking Engagement	Philadelphia, PA	$225.25	08/28/02	1
Ellis, Joe	Official	Louisville, KY	$285.00	08/29/02	7
Slade, Winfield	Official	Louisville, KY	$285.00	08/29/02	7
Fificos, George	Official	Louisville, KY	$358.22	08/30/02	6
Pfeifle, Lauren	Official	South Bend, IN	$221.00	08/30/02	6
Krenan, Robert	Official	South Bend, IN	$221.00	08/30/02	6
Leadroot, Phil	Official	South Bend, IN	$221.00	08/30/02	6
Walters Greg	Official	Minneapolis, MN	$69.00	09/02/02	1
White, J	Speaking Engagement	Manhattan, NY/Kansas City, KS	$959.66	09/03/02	2
Towey, Jim	Speaking Engagement	Naples, FL/Orlando, FL	$1,025.63	09/03/02	2
Newstead, Jennifer	Meetings	Lynchburg, VA	$52.93	09/04/02	2
Sforza, Scott	Meetings	Manhattan, NY	$437.00	09/04/02	9
Christie, Ronald	Speaking Engagement	Manhattan, NY	$226.70	09/05/02	1

Hagin, Joseph	Official	Manhattan, NY	$892.00	09/08/02	1
Pfeifle, Lauren	Official	Pittsburg, PA	$69.00	09/10/02	1
Leadroot, Phil	Official	Pittsburg, PA	$69.00	09/10/02	1
Sampson, Kyle	Official	Lynchburg, VA	$52.93	09/11/02	2
Ellis, Joe	Official	Davenport, IA	$135.00	09/12/02	4
Gonzales, Alberto	Meetings	Austin, TX	$276.00	09/13/02	2
Kozberg, Lindsey	Meetings	Los Angeles, CA	$520.31	09/13/02	1
Deckard, Josh	Official	Pittsburg, PA	$34.50	09/13/02	1
Walker, Helegard	Official	Lynchburg, VA	$58.93	09/16/02	2
White, J	Speaking Engagement	Baltimore, MD	$43.29	09/19/02	1
Ciliberti, Eric	Speaking Engagement	Cedar Rapids, IA	$317.00	09/19/02	1
Baralles, Ruben	Speaking Engagement	Chicago, IL	$458.88	09/20/02	1
Towey, Jim	Speaking Engagement	Wintergreen, VA	$203.14	09/20/02	2
Towey, Jim	Speaking Engagement	Columbus, OH	$369.50	09/23/02	1
Burke, John	Official	Milwaukee, WI	$626.29	09/23/02	1
Francisco, Noel	Official	Lynchburg, VA	$58.93	09/25/02	2
Goeglein, Tim	Speaking Engagement	Orange County, CA	$42.00	09/25/02	2
sechser, Scott	Official	Waco, TX	$466.50	09/25/02	1
White, J	Speaking Engagement	Raleigh, NC	$499.38	09/26/02	1
Kuo, David	Speaking Engagement	Pittsburg, PA	$872.83	09/27/02	2
Kelly, Jim	Speaking Engagement	Boston, MA	$257.92	09/28/02	1
Bridgeland, John	Speaking Engagement	Manhattan, NY	$39.70	09/30/02	1
DeServi, Robert	Official	San Francisco, CA	$1,306.54	10/15/02	3
		Total	**$98,605.86**		

White House Office FY 2003 Staff Travel					
TRAVELER	**PURPOSE**	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Westine, Lezlee	Meeting	Manhattan,NY	$345.10	10/01/02	1
Ciliberti, Eric	Meeting	Chicago, IL	$327.30	10/02/02	1
Burke, John	Speaking Engagement	Columbus, OH	$434.21	10/02/02	1
Francisco, Noel	Speaking Engagement	Syracuse, NY	$700.50	10/04/02	3

Christie, Ronald	Speaking Engagement	Atlanta, GA	$626.00	10/05/02	2
Samson, Kyle	Official	Lynchburg, VA	$52.93	10/07/02	2
Beynon, Rebecca	Speaking Engagement	Orlando, FL	$1,708.38	10/07/02	4
Stecher, Jennifer	Meeting	Atlanta, GA	$1,105.34	10/08/02	3
Barrales, Ruben	Speaking Engagement	Portsmouth, NH	$365.00	10/08/02	1
Hawkins, Albert	Meeting	Hague	$1,817.68	10/09/02	4
Kuo, David	Meeting	Atlanta, GA	$880.36	10/09/02	2
Ryun, Catherine	Meeting	Atlanta, GA	$893.36	10/09/02	2
Towey, Jim	Meeting	Atlanta, GA	$336.93	10/09/02	1
Click, Carrie	Meeting	Atlanta, GA	$1,001.35	10/09/02	2
Streeter, Ryan	Meeting	Atlanta, GA	$937.28	10/09/02	2
Ayyar, Balan	Meeting	Atlanta, GA	$893.36	10/09/02	2
White, Jeremy	Meeting	Atlanta, GA	$659.58	10/09/02	2
Ciliberti, Eric	Speaking Engagement	Sioux Falls Naval, SD	$722.96	10/09/02	2
Zanca, Bruce	Meeting	Washington, DC	$95.50	10/09/02	1
Kozberg, Lindsey	Meeting	Manhattan,NY	$164.10	10/10/02	1
Garrison, Stephen	Meeting	Naples, FL	$819.61	10/10/02	1
Bridgeland, John	Speaking Engagement	Ft. Lauderdale, FL	$1,010.59	10/10/02	1
Rowe, Ian	Speaking Engagement	Ft. Lauderdale, FL	$838.72	10/10/02	1
Burke, John	Speaking Engagement	Milwaukee, WI	$553.75	10/13/02	1
Sforza, Scott	Meeting	Daytona Beach, FL	$826.00	10/14/02	3
Bartolomucci, Chris	Official	Lynchburg, VA	$52.93	10/16/02	2
Towey, Jim	Meeting	Manhattan,NY	$448.06	10/17/02	1
Barrales, Ruben	Meeting	Philadelphia, PA	$188.00	10/17/02	1
Smith, Matthew	Meeting	Manhattan,NY	$445.38	10/17/02	1
Goeglein, Tim	Speaking Engagement	Indianapolis, IN	$58.00	10/17/02	1
Gonzales, Alberto	Speaking Engagement	Atlanta, GA	$41.00	10/19/02	1
Click, Carrie	Speaking Engagement	San Antonio, TX	$571.71	10/20/02	1
Ciliberti, Eric	Meeting	Des Moines, IA	$1,111.05	10/20/02	2

Francisco, Noel	Official	Lynchburg, VA	$58.93	10/21/02	2
Sechser, Scott	Official	Waco, TX	$934.65	10/22/02	1
Newstead, Jennifer	Meeting	Lynchburg, VA	$52.93	10/23/02	1
Goeglein, Tim	Meeting	Chicago, IL	$94.00	10/23/02	1
Towey, Jim	Speaking Engagement	St. Louis, MO	$773.64	10/24/02	1
White, Jeremy	Speaking Engagement	Los Angeles, CA	$667.83	10/24/02	2
Bridgeland, John	Meeting	Charlotte, NC	$976.47	10/24/02	1
Barrales, Ruben	Meeting	Los Angeles, CA	$385.50	10/24/02	1
Francisco, Noel	Official	Lynchburg, VA	$58.93	10/28/02	2
Towey, Jim	Meeting	Charlotte, NC	$823.42	10/28/02	1
Rowe, Ian	Meeting	Cleveland, OH	$818.17	10/28/02	2
Barrales, Ruben	Meeting	Providence, RI	$0.00	10/28/02	1
Towey, Jim	Speaking Engagement	Pittsburgh, PA	$758.56	10/29/02	1
Sechser, Scott	Official	Waco, TX	$888.79	10/31/02	1
Towey, Jim	Meeting	Miami, FL	$799.27	11/05/02	1
Contreras, Rebecca	Meeting	West Point, NY	$442.41	11/07/02	2
Kozberg, Lindsey	Meeting	Providence, RI	$677.18	11/07/02	1
Bridgeland, John	Speaking Engagement	Providence, RI	$698.18	11/07/02	1
Barrales, Ruben	Speaking Engagement	Los Angeles, CA	$785.40	11/07/02	3
Johnson, Clay	Meeting	Manhattan,NY	$139.50	11/08/02	1
Farley, Jennifer	Speaking Engagement	San Diego, CA	$230.81	11/10/02	1
Ciliberti, Eric	Speaking Engagement	Reno, NV	$831.97	11/11/02	2
Bartolomucci, Chris	Official	Lynchburg, VA	$52.93	11/12/02	1
Berenson, Bradford	Official	Lynchburg, VA	$52.93	11/13/02	1
Burke, John	Meeting	Charlotte, NC	$776.00	11/13/02	1
Kelly, Jim	Speaking Engagement	Lansing, MI	$438.79	11/13/02	1
Barrales, Ruben	Speaking Engagement	Manchester, NH	$463.00	11/13/02	1
Towey, Jim	Speaking Engagement	Portland, OR	$705.10	11/14/02	2
Spagnoli, Deborah	Meeting	Austin, TX	$1,006.00	11/16/02	14
Spagnoli,	Meeting	Austin, TX	$995.47	11/16/02	14

Deborah					
Christie, Ronald	Speaking Engagement	Albany, NY	$752.56	11/18/02	1
Ciliberti, Eric	Speaking Engagement	Portland, OR	$410.50	11/18/02	1
Towey, Jim	Speaking Engagement	Newark, NJ	$520.92	11/19/02	1
Rowe, Ian	Meeting	Manhattan,NY	$325.02	11/20/02	2
Kelly, Jim	Speaking Engagement	Tallahassee, FL	$453.79	11/20/02	1
Burke, John	Speaking Engagement	Concord, NH	$1,040.22	11/20/02	2
Bridgeland, John	Meeting	Manhattan,NY	$157.50	11/21/02	1
Barrales, Ruben	Meeting	Los Angeles, CA	$683.49	11/21/02	3
Brancato, Keith	Meeting	Loudoun County, VA	$17.16	11/21/02	1
Bartolomucci, Chris	Speaking Engagement	West Palm Beach, FL	$661.45	11/22/02	2
Ciliberti, Eric	Speaking Engagement	Springfield, MO	$619.13	11/24/02	1
Goldman, Adam	Speaking Engagement	Ft. Lauderdale, FL	$129.00	11/24/02	1
Garrison, Stephen	Meeting	Manhattan,NY	$454.36	11/25/02	1
Bridgeland, John	Speaking Engagement	Manhattan,NY	$369.50	11/25/02	1
Sechser, Scott	Official	Waco, TX	$913.45	11/25/02	1
Kelly, Jim	Speaking Engagement	Hershey, PA	$107.18	11/26/02	1
Burke, John	Meeting	New Orleans, LA	$1,254.32	12/01/02	4
Spagnoli, Deborah	Official	Ft. Lauderdale, FL	$1,242.99	12/01/02	4
Ralston, Susan	Official	Manhattan,NY	$85.00	12/02/02	1
Kelly, Jim	Speaking Engagement	Augusta Naval Ctr, ME	$815.35	12/02/02	1
Bartolomucci, Chris	Official	Jacksonville, Fl	$616.00	12/03/02	1
Ciliberti, Eric	Speaking Engagement	Pensacola, FL	$436.00	12/03/02	1
Towey, Jim	Speaking Engagement	Tallahassee, FL	$559.31	12/04/02	2
Kelly, Jim	Speaking Engagement	Lexington, KY	$390.00	12/04/02	1
Stecher, Jennifer	Meeting	Philadelphia, PA	$259.50	12/06/02	1

REV_00169205

Goeglein, Tim	Speaking Engagement	Ft. Wayne, IN	$53.50	12/06/02	1
Barrales, Ruben	Speaking Engagement	Richmond, VA	$104.50	12/07/02	1
Kavanaugh, Brett	Meeting	Manhattan,NY	$293.74	12/09/02	1
Francisco, Noel	Official	Lynchburg, VA	$52.93	12/09/02	1
Stecher, Jennifer	Meeting	Philadelphia, PA	$979.38	12/09/02	4
Kelly, Jim	Speaking Engagement	Nashville, TN	$575.00	12/09/02	1
Newstead, Jennifer	Meeting	Manhattan,NY	$216.60	12/10/02	1
Ciliberti, Eric	Speaking Engagement	Duluth,, MN	$675.28	12/10/02	1
Newstead, Jennifer	Official	Lynchburg, VA	$52.93	12/11/02	2
Streeter, Ryan	Meeting	Philadelphia, PA	$407.52	12/11/02	1
White, Jeremy	Meeting	Philadelphia, PA	$360.02	12/11/02	1
Click, Carrie	Meeting	Philadelphia, PA	$423.52	12/11/02	1
Ryun, Catherine	Meeting	Philadelphia, PA	$399.86	12/11/02	1
Kuo, David	Speaking Engagement	Philadelphia, PA	$370.02	12/11/02	1
Kuo, David	Speaking Engagement	Philadelphia, PA	$216.00	12/11/02	1
Christie, Ronald	Meeting	Indianapolis, IN	$803.40	12/11/02	1
Rowe, Ian	Meeting	Norfolk, VA	$775.50	12/17/02	1
Bartolomucci, Chris	Meeting	West Palm Beach, FL	$123.51	12/20/02	8
Samson, Kyle	Meeting	Salt Lake City, UT	$949.00	01/01/03	3
Deservi, Robert	Official	Chicago, IL	$311.00	01/02/03	5
Kelly, Jim	Official	Reno, NV	$1,133.11	01/05/03	3
Burke, John	Official	Chicago, IL	$662.22	01/05/03	2
Goldman, Adam	Meeting	Manhattan,NY	$439.36	01/07/03	1
Barrales, Ruben	Meeting	Augusta Naval Ctr, ME	$605.49	01/08/03	1
Farley, Jennifer	Meeting	Albuquerque, NM	$778.68	01/09/03	5
Stecher, Jennifer	Meeting	Denver, CO	$1,102.60	01/10/03	4
Deservi, Robert	Meeting	Tampa, FL	$511.00	01/11/03	1

Sforza, Scott	Meeting	Tampa, FL	$435.00	01/11/03	1
Beynon, Rebecca	Meeting	Denver, CO	$1,442.21	01/11/03	3
Kuo, David	Meeting	Denver, CO	$1,269.14	01/12/03	2
Streeter, Ryan	Meeting	Denver, CO	$660.64	01/12/03	2
Click, Carrie	Meeting	Denver, CO	$713.14	01/12/03	2
White, Jeremy	Meeting	Denver, CO	$902.07	01/12/03	1
Ayyar, Balan	Meeting	Denver, CO	$667.14	01/12/03	2
Towey, Jim	Meeting	Denver, CO	$1,082.49	01/12/03	1
Barrales, Ruben	Meeting	Salem Naval Ctr, OR	$370.00	01/12/03	1
Samson, Kyle	Official	Lynchburg, VA	$52.93	01/15/03	2
Goeglein, Tim	Meeting	Manhattan,NY	$105.00	01/19/03	1
Gonzales, Alberto	Speaking Engagement	Austin, TX	$83.00	01/20/03	2
Bartolomucci, Chris	Official	Lynchburg, VA	$52.93	01/21/03	1
Samson, Kyle	Meeting	Manhattan,NY	$496.97	01/21/03	1
Ciliberti, Eric	Speaking Engagement	Des Moines, IA	$416.04	01/21/03	1
Barrales, Ruben	Speaking Engagement	Oakland, CA	$0.00	01/23/03	2
Towey, Jim	Speaking Engagement	Chicago, IL	$940.07	01/26/03	2
Click, Carrie	Speaking Engagement	Norfolk, VA	$474.88	01/26/03	1
Samson, Kyle	Meeting	Manhattan,NY	$1,381.21	01/28/03	3
Rowe, Ian	Meeting	Las Vegas, NV	$804.11	01/31/03	3
Goeglein, Tim	Meeting	Manhattan,NY	$404.70	02/03/03	1
Goeglein, Tim	Meeting	Manhattan,NY	$106.50	02/03/03	1
Towey, Jim	Speaking Engagement	Boston, MA	$575.79	02/06/03	1
Smith, Matthew	Meeting	Nashville, TN	$635.50	02/09/03	1
Walker, Helgard	Official	Lynchburg, VA	$52.93	02/10/03	2
Kelly, Jim	Speaking Engagement	Little Rock, AR	$875.33	02/10/03	1
Towey, Jim	Meeting	Tallahassee, FL	$562.25	02/11/03	1
Stecher, Jennifer	Meeting	San Diego, CA	$894.88	02/13/03	6
Ryun, Catherine	Conference Attendance	San Diego, CA	$950.32	02/15/03	4
Beynon, Rebecca	Speaking Engagement	San Diego, CA	$1,758.60	02/15/03	4
Bridgeland, John	Meeting	Cincinnati, OH	$512.10	02/19/03	3
Powell, Ben	Meeting	Montgomery, AL	$607.11	02/20/03	1

REV_00169207

White, Jeremy	Speaking Engagement	Baton Rouge, LA	$968.15	02/20/03	1
Francisco, Noel	Meeting	Lynchburg, VA	$52.93	02/24/03	2
Kelly, Jim	Meeting	Santa Fe, NM	$823.57	02/24/03	2
White, Jeremy	Speaking Engagement	Houston, TX	$746.84	02/27/03	1
Christie, Ronald	Meeting	Miami, FL	$785.37	02/27/03	3
Barrales, Ruben	Meeting	Portland, OR	$0.00	02/28/03	2
Watkins, Peter	Meeting	Newport News, VA	$63.00	03/05/03	1
Samson, Kyle	Official	Lynchburg, VA	$52.93	03/05/03	1
Towey, Jim	Speaking Engagement	Minneapolis, MN	$745.00	03/06/03	1
Everson, Nannette	Meeting	King of Prussia, PA	$773.94	03/10/03	2
White, Jeremy	Speaking Engagement	Raleigh, NC	$348.85	03/11/03	1
Beynon, Rebecca	Meeting	Chicago, IL	$804.20	03/12/03	4
Stecher, Jennifer	Meeting	Chicago, IL	$757.06	03/12/03	2
Graham, Heather	Meeting	Philadelphia, PA	$341.00	03/12/03	2
White, Jeremy	Meeting	Chicago, IL	$365.72	03/13/03	1
Towey, Jim	Meeting	Chicago, IL	$476.20	03/13/03	1
Streeter, Ryan	Meeting	Chicago, IL	$431.10	03/13/03	1
Ryun, Catherine	Meeting	Chicago, IL	$452.15	03/13/03	1
Ayyar, Balan	Meeting	Chicago, IL	$453.10	03/13/03	1
Grace, Dennis	Meeting	Chicago, IL	$427.10	03/13/03	1
Loovis, Katie	Meeting	Chicago, IL	$391.50	03/14/03	1
Bridgeland, John	Speaking Engagement	Charlottesville, VA	$155.87	03/14/03	1
Kelly, Jim	Speaking Engagement	Montgomery, AL	$576.37	03/14/03	1
White, Jeremy	Speaking Engagement	Charlotte, NC	$868.87	03/16/03	1
Bridgeland, John	Speaking Engagement	Columbus, OH	$279.50	03/17/03	1
Francisco, Noel	Official	Lynchburg, VA	$52.93	03/19/03	2
White, Jeremy	Speaking Engagement	Harford County, MD	$12.25	03/21/03	1
White, Jeremy	Speaking Engagement	Atlanta, GA	$281.50	03/24/03	1
Beynon, Rebecca	Meeting	Philadelphia, PA	$198.00	03/25/03	1

REV_00169208

Graham, Heather	Meeting	Philadelphia, PA	$241.50	03/25/03	1
Bridgeland, John	Meeting	Philadelphia, PA	$201.00	03/25/03	1
Burke, John	Meeting	Lansing, MI	$438.50	03/25/03	1
Samson, Kyle	Official	Lynchburg, VA	$52.93	03/26/03	2
Towey, Jim	Speaking Engagement	Princeton, NJ	$329.88	03/26/03	1
Ciliberti, Eric	Speaking Engagement	Columbus, OH	$891.00	03/26/03	1
Christie, Ronald	Speaking Engagement	Jackson, MS	$498.57	03/27/03	1
Kelly, Jim	Meeting	Las Vegas, NV	$1,096.72	03/27/03	2
Towey, Jim	Speaking Engagement	Los Angeles, CA	$527.61	03/29/03	1
Kuo, David	Speaking Engagement	Pittsburgh, PA	$735.76	03/29/03	2
Powell, Ben	Official	Lynchburg, VA	$52.93	03/31/03	2
Bartolomucci, Chris	Official	Lynchburg, VA	$52.93	04/02/03	2
Towey, Jim	Meeting	Manhattan,NY	$166.00	04/02/03	1
Christie, Ronald	Speaking Engagement	Nashville, TN	$756.88	04/03/03	1
Kelly, Jim	Official	Philadelphia, PA	$84.71	04/03/03	1
Lyons, Therese	Speaking Engagement	Atlantic City, NJ	$231.16	04/04/03	1
Towey, Jim	Speaking Engagement	Tallahassee, FL	$547.29	04/06/03	2
Burke, John	Speaking Engagement	Hershey, PA	$221.14	04/06/03	1
Stecher, Jennifer	Meeting	Houston, TX	$806.00	04/08/03	1
White, Jeremy	Speaking Engagement	Albuquerque, NM	$469.88	04/08/03	1
Gonzales, Alberto	Speaking Engagement	Denver, CO	$38.50	04/11/03	1
Ojaklu, Zaid	Official	Elmendorf, AK	$2,998.75	04/12/03	7
White, Jeremy	Speaking Engagement	Detroit, MI	$965.87	04/13/03	3
Deservi, Robert	Meeting	St. Louis, MO	$759.00	04/14/03	2
Barrales, Ruben	Speaking Engagement	Jefferson City, MO	$749.00	04/14/03	1
Bridgeland, John	Meeting	Manhattan,NY	$630.67	04/15/03	1
Recher, Jason	Meeting	Dayton, OH	$365.00	04/22/03	2
Guerra, Abel	Official	San Jose, CA	$633.79	04/22/03	2
Burke, John	Speaking Engagement	Houston, TX	$510.91	04/23/03	1

Towey, Jim	Speaking Engagement	Atlanta, GA	$409.35	04/24/03	1
White, Jeremy	Speaking Engagement	Houston, TX	$1,080.35	04/24/03	2
Kelly, Jim	Meeting	Albuquerque, NM	$685.70	04/24/03	2
Towey, Jim	Speaking Engagement	Bridgeport, CT	$642.50	04/27/03	1
Ralston, Susan	Meeting	Chicago, IL	$50.00	05/01/03	2
Beynon, Rebecca	Speaking Engagement	Baton Rouge, LA	$800.85	05/05/03	1
White, Jeremy	Speaking Engagement	Portland, OR	$410.29	05/05/03	1
		Travel	**$117,171.05**		

Office of the Vice President FY 2002 Staff Travel					
TRAVELER	**PURPOSE**	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Ravich, Samantha	Meetings	London, GBR	$2,124.92	07/14/02	3
Yates, Stephen	Official	Monterey, CA	$887.90	07/15/02	2
		Total	**$3,012.82**		

Office of the Vice President FY 2003 Staff Travel					
PURPOSE/ Traveler	**PURPOSE**	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Makiya, Kenan	Invitational	Washington DC	$778.00	10/18/02	1
Ravich, Samantha	Meetings	London, GBR	$2,124.92	10/09/02	3
Ravich, Samantha	Meetings	London, GBR	$1,929.74	12/12/02	4
Addington, David	Meetings	Manhattan, NY	$37.50	01/15/03	1
McGrath, Dean	Official	Raleigh, NC	$338.41	04/10/03	1
		Total	**$5,208.57**		

Consulting Services (POC – Kathleen O'Halloran)

QUESTION 53: Updating the information on page 115 of last year's hearing record, please provide actual and estimated amounts for consulting services for fiscal years 2002 through 2004.

REV_00169210

RESPONSE: "Consulting services" or "Advisory and Assistance Services" as defined by OMB Circular A-11, Section 83, are services acquired by contract from non-Federal sources (that is, the private sector, foreign governments, State and local governments, tribes), as well as from other units within the Federal Government and consists of three types of services: 1) Management and professional support services; 2) Studies, analyses and evaluation; and 3) Engineering and technical services. Listed below are the EOP and other entities with Advisory and Assistance contracts.

White House Office
FY 2002 (Actual)
There were no advisory and assistance contracts for the White House Office.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the White House Office.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Office of Homeland Security/PCIPB
FY2002 (Actual)
1. $25,140 for independent information technology expertise. Deliverables include access to technical reports and analysis and recommendations. The period of performance is from September 2002 through August 2003.

Office of Administration
FY 2002 (Actual)
1. $1,083,308 for assistance in developing plans, technical architecture and disaster recovery for the relocation of the EOP data center. Deliverables include baseline assessment and analyses, business continuity and disaster recovery plan, data center design requirements report, phased planning, migration and implementation development plan, relocation and implementation plan, final recommendations and a report. The contract was awarded in March 2002 with a performance period through June 2003.

2. $748,988 for assistance in developing an enterprise architecture to incorporate and support the strategic IT vision, goals and objectives of the OA and the EOP. Deliverables include assistance and analysis as follows: critical information shortfall, impact, and trade-off analysis, concept of operations, architecture and enterprise architecture system toolsets, baseline definitions, report results for demonstration of architecture sustainment, and target technical architecture and migration plan. The contract was awarded January 2002 with a period of performance through December 2002 and permitted options to extend performance.

REV_00169211

3. $48,050 for training, consulting and editing support for EOP/CFO policies regarding financial statements, prompt payment, travel, and transportation act, interagency agreements and portal to portal documents. Deliverables include training materials and conduct of training, formatted and edited documents. The contract was awarded July 2002 and ran through March 2003.

FY 2003 as of May 15, 2003

1. $406,695 for continued assistance in developing an enterprise architecture to incorporate and support the strategic IT vision, goals and objectives of the OA and the EOP. Deliverables include assistance and analysis as follows: critical information shortfall, impact, and trade-off analysis, concept of operations, architecture and enterprise architecture system toolsets, baseline definitions, report results for demonstration of architecture sustainment, and target technical architecture and migration plan. The contract was amended in January and May 2003 to exercise the option to extend performance and funded through September 2003.

2. $149,968 for consultant services to help configure IT storage products and perform data migration and setup. Deliverables include recommendations concerning management and long term strategy for operating and planning architecture along with execution of the infrastructure support. The contract was awarded in May 2003 with a period of performance running through November 2003.

3. $60,000 for assistance in designing a new performance management system for the Office of Administration in order to improve dialogue between manager and employee. Deliverables included recommended performance evaluation system and form as well as training. The contract was awarded in December 2002 with a performance period ending March 2003.

4. $49,800 for consulting services of an electrical engineer. Deliverables included conceptual designs, drawings and specifications, suggested project schedules and cost estimates. The contract was awarded in May 2003 with a period of performance through June 2003.

5. $25,750 for assistance in writing a statement of work for the EOP telephone contract recompete. Deliverables include recommended draft language for technical requirements to be incorporated into the solicitation. The contract was awarded in November 2002 with the period of performance through December 2002.

6. $47,040 for independent information technology expertise. Deliverables include access to technical reports and analysis and recommendations. The period of performance is from September 2003 through August 2004.
7. $936,000 for IT engineering and technical support services. Deliverables include studies and technical evaluations, analyses, recommendations and reports. The period of performance is from May 2003 through April 2004.

REV_00169212

8. $1,400,000 anticipated for engineering, technical services and consulting for new IT systems design and implementation.

9. $300,000 anticipated for IT studies and evaluations.

10. $130,000 anticipated to assist CFO with auditing issues.

11. $50,000 anticipated to develop an asset management system.

FY 2004 Request

1. $2,300,000 anticipated for engineering, technical services and consulting for new IT systems design and implementation.

2. $1,600,000 anticipated for IT studies and evaluations.

3. $110,000 anticipated to continue development of an asset management system.

4. $390,000 anticipated to assist CFO with auditing issues.

5. $50,000 anticipated for continued independent information technology expertise.

Office of Management and Budget
FY 2002 (Actual)
1. $39,570 for independent information technology expertise. Deliverables include access to technical reports and analysis and recommendations. The period of performance is from September 2002 through August 2003.

FY 2003 as of May 15, 2003

1. $22,500 anticipated for independent information technology expertise. Deliverables include access to technical reports as well as customized analysis and recommendations. The period of performance is from September 2003 through August 2004.

FY 2004 Request

1. $22,500 anticipated for continued independent information technology expertise planned for FY 2004.

Office of National Drug Control Policy
FY 2002 (Actual)
l. $24,225 for assessment and analysis and recommendations concerning performance plans, organizational goals and objectives. Deliverables include meeting summaries, briefing materials and monthly progress report and report with base-line assessment,

REV_00169213

recommendations and expected results. The period of performance is from June 2002 through September 2002.

2. $104,387 for organizational effectiveness assessment and analysis. Deliverables include meeting summaries, briefing materials and monthly progress reports, a final report and recommendations and expected results. The period of performance was from June 2002 through November 2002.

3. $150,000 for design of a program performance monitoring system for OCDETF/DIDTA program. Deliverables include meeting summaries, briefing materials, monthly progress reports, summary of program elements for measurement, draft and final reports. The period of performance was from April 2002 through October 2002.

FY 2003 as of May 15, 2003

1. $29,411 for assistance with developing a strategic human capital plan. Deliverables include development of a management plan, a workforce profile and assessment of drivers, capacity and gaps, assessment and recommendations and a strategic human capital report. The period of performance is from February 2003 through March 2003.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Council of Economic Advisers
FY 2002 (Actual)
1. $13,631 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from December 2001 to February 2002.

FY 2003 as of May 15, 2003
1. $14,276 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from December 2002 to February 2002.

FY 2004 Request
1. $15,000 estimated for editorial services for the Economic Report of the President. The consultant will provide expertise in editing the final publication. It is anticipated that the contract will last from December 2003 to February 2004.

Council on Environmental Quality
FY 2002 (Actual)
There were no advisory and assistance contracts for the Council on Environmental Quality.

REV_00169214

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the Council on Environmental Quality.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Office of the United States Trade Representative
FY 2002 (Actual)
1. $6,600 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.
2. $5,000 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.
3. $1,980 for expert advice in area of personnel law. Deliverables include legal research, analysis and opinions. Period of performance was from July 2002 through September 2002

FY 2003 as of May 15, 2003

1. $10,000 for expert advice in the area of personnel law on an as-needed basis. Deliverables include legal research papers and recommendations. The contract was awarded for the period October 1, 2002 through September 30, 2003.

2. $10,000 for speech-writing services on an as-needed basis. Deliverables include draft speeches. The contract was awarded for the period May 2003 through September 2003.

FY 2004 Request

1. $10,000 for expert advice in the area of personnel law on an as-needed basis.

Office of Science and Technology Policy
FY 2002 (Actual)

1. $200,000 for independent evaluation of the integration of a variety of biometric identification system design options. Deliverables included a comprehensive report on the evaluation of technical options, sound design principles, testing procedures, interoperability issues as well as identification of implementation and procurement issues. The contract was awarded July 2002 with a completion date of October 2002 but the contract completion date was extended through December 2002. This contract was not funded with OSTP funds but by the Immigration and Naturalization Service.

REV_00169215

FY 2003 as of May 15, 2003

1. $300,000 for assistance in implementing a biometric identification system. Deliverables include analysis of NEXUS border technologies and international standards coordination. The contract is anticipated by June 2003 with an anticipated expiration date of June 2005. This contract was not funded with OSTP funds but by the Immigration and Naturalization Service (DHS).

FY 2004 Request

1. $125,000 for assistance with OSTP's National Security/Emergency Preparedness communications responsibilities.

National Security Council
FY 2002 (Actual)
There were no advisory and assistance contracts for the National Security Council.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the National Security Council.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Office of the Vice President
FY 2002 (Actual)

There were no advisory and assistance contracts for the Office of the Vice President.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the Office of the Vice President.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

REV_00169216

Freedom Corps (POC – Eric Lanman)

QUESTION 54: Please provide EOP budgeted funding for the Freedom Corps for fiscal years 2002 through 2004.

RESPONSE: The funding profile for the USA Freedom Corps from its inception through FY 2004 is as follows:

(Dollars in thousands) Category	FY02 Actual	FY03 Request	OA Pilot	FY03 Recission	FY03 Enacted	FY04 Estimate
Personnel	420	800	0	0	800	827
Travel	6	600	0	-330	270	102
Rent	99	0	0	0	0	157
Comm, Util & Misc	0	0	0	0	0	25
Printing & Reproduction	0	0	0	0	0	225
Other Services	0	1,200	-289	0	911	926
Supplies & Materials	0	0	0	0	0	9
Equipment	0	0	0	0	0	9
Total	525	2,600	-289	-330	1,981	2,280

Note: As part of a pilot program authorized by Congress in fiscal year 2003, general support costs such as rent, supplies, printing, information technology, etc., are centrally managed and charged against the Office of Administration.

QUESTION 55: Please provide a breakdown of the FY 2004 request for the Freedom Corps, and a brief description of the work to be accomplished under each item.

RESPONSE: The FY 2004 WHO request includes funding for the following USA Freedom Corps requirements.

Personnel: This category provides funding for the cost of the salaries and benefits for the staff of the USA Freedom Corps. The FY 2004 WHO request included $827,000 for this category.

Travel: The USA Freedom Corps office staff members are frequent travelers and often work at the national, state and local levels with organizations.~~, especially in organizing the Citizen Corps across the country~~ In addition, the Director of the USA Freedom Corps or the appropriate staff is required to address gatherings at national conferences, and of state and local officials in order to disseminate information about the President's Call to Service and the activities coordinated by the USA Freedom Corps.~~ and answer questions relating to the organization of USA Freedom Corps activities at the local level.~~ The FY 2004 WHO request included $102,000 for this category.

REV_00169217

Rent: This category funds the costs of the GSA office space utilized by the USA Freedom Corps. The FY 2004 WHO request included $157,000 for this category.

Printing: This category includes the costs of the creation and printing of documents regarding the USA Freedom Corps mission and policies and initiatives~~specific programs~~ coordinated by its Council. The FY 2004 WHO request included $225,000 for this category.

Other services: This category includes funds for the hiring of contractors to measure the nationwide effects of the USA Freedom Corps efforts through surveys and other measurement tools, and funds for information dissemination and the creation and production of materials used in the furtherance of the USA Freedom Corps mission and ~~specific programs,~~initiatives coordinated by its Council. The FY 2004 WHO request included $926,000 for this category.~~ and other activities that will further the mission of the USA Freedom Corps.~~

Communications and Misc.,~~;~~ Supplies and Materials, Equipment: These general categories are managed centrally by the White House Office of Management and Administration. Funds in these categories support the normal costs associated with day to day office operations. The FY 2004 WHO request included $43,000 for this category.

QUESTION 56: Last year, funds were requested for Freedom Corps information dissemination and recognition materials (p. 239). Are similar activities funded in FY 2004? If so, how much?

RESPONSE: The FY 2004 WHO request includes requirements for similar activities to those funded in FY 2003 and included are funds for information dissemination and recognition materials. Funds for these activities are included in the Other Services category of the WHO request. An estimated $926,000 of this portion of the request is for USA Freedom Corps requirements.

QUESTION 57: Are additional funds requested in FY 2004 outside the EOP?

RESPONSE: As a White House office and a coordinating council, the USA Freedom Corps does not run, fund, or administer programs. Instead, the USA Freedom Corps coordinates the development of policies and initiatives with various offices/entities in the Executive Branch in support of the President's goal to strengthen the American culture of service while helping all Americans find meaningful service opportunities. This role does not require outside funding and none have been requested by the WHO.

QUESTION 58: Please provide a listing of the staff in the USA Freedom Corps Office, showing the incumbent name and position. Please designate any detailees.

REV_00169218

RESPONSE: A listing of the current USA Freedom Corps Office staff is provided below.

John Bridgeland: Assistant to the President and Director, USA Freedom Corps
Ron Christie: Special Assistant to the President and Deputy Director, USAFC
Lindsey Kozberg: Special Assistant to the President for Policy/Public Affairs
Therese Lyons: Director of Public Liasion
Ian Rowe: Director of Management and Strategy
Kathleen Mynster: Deputy Press Secretary
Britt Grant: Special Assistant to the Director
Cornell Teague: Associate Director
Nique Fajors: Agency Liaison – Detailee
Ken Lanza: Agency Liaison - Detailee

Sensitive Compartmented Information Facilities (POC – Jeff Thompson)

QUESTION 59: Are any funds requested in any EOP office in the FY 2004 President's request for the construction of sensitive compartmented information facilities (SCIFs)?

RESPONSE: No funds are requested for SCIFs in FY 2004.

QUESTION 60: How many such facilities have been built within EOP offices since the terrorist attacks of September 11, 2001?

RESPONSE: Sixteen SCIFS have been built.

Data Center Relocation (POC – Carlos Solari)

QUESTION 61: What is the status of efforts to relocate the existing EOP data center, and what are plans for the coming year?

RESPONSE: The remote data center project is on track to achieve completion on budget and on schedule. The project began last summer by conducting a systems development lifecycle analysis to determine and recommend the location for the facility. From this analysis, EOP decided on building the data center at a hardened FEMA facility located in Maryland. The project is being co-managed with FEMA and was established with three phases: (1) infrastructure build-out of the hardened facility (power, air handlers, etc), (2) construction of the data center itself (cabling, raised flooring, etc), and (3) the transition of EOP data systems (telecommunications, servers, etc). The project is approximately halfway through completion for the first two phases with a scheduled opening (initial operational capability) date of September 2003. The transition phase is on schedule preparing the systems and will proceed to begin the transfer September 2003 – with a planned transition of 12 months for all systems.

REV_00169219

QUESTION 62: Are funds requested in the FY 2004 budget for this project?

RESPONSE: The following table displays the funds requested for this project in FY 2004.

Object Class	Object Class Title	Requested Funding (in $1000s)	Description
23.0	Space Rental Payments	$1,258	This estimate reflects $1,258 in rental for the offsite data center and will be the initial rent to be paid for the offsite data center. This cost was previously funded from emergency funds.
23.3	Communications, utilities, and miscellaneous charges	$4,420	$4,420 is for CIP networking/telecommunications projects at the offsite data center. These projects include funds for a tap off of telecommunications lines, two additional DS-3 data paths, two T-1 lines, and backup to support required communications bandwidth, and availability requirements.
25.2	Other Services	$2,700	This estimate reflects Priority System Disaster Recovery costs, Secondary Systems Disaster Recovery costs, Hardware and Software for the Disaster Recovery Site, and Hardware and Software upgrades to support the data center move.
26.0	Supplies and materials	$25	The estimate reflects $25 in additional supplies necessary for start-up operations at the offsite data center. This will include start up costs for office equipment used for the new office spaces.
Total FY2004 Data Center CIP Request		**$8,403**	

White House Communications Agency (POC – Eric Lanman)

QUESTION 63: Updating the information on page 133 of last year's hearing record, please provide estimated reimbursements for the White House Communications Agency for each of the fiscal years 2002 through 2004.

RESPONSE: Reimbursements made to the White House Communications Agency, for the non-telecommunications support they provide to the WHO, is broken down into two categories: military personnel and audiovisual support. The amount of planned reimbursement is initially set and agreed to via an inter-agency agreement (IAG). This IAG is then adjusted if needed as a result of actual execution. Reimbursement actuals and estimates follow:

	FY02 (actual)	FY03 (est.)	FY04 (est.)
Military Personnel	$4,376,085	$4,754,346	$4,858,942
Audiovisual Support	$4,543,643	$3,953,848	$2,743,915

REV_00169220

Total	$8,919,738	$8,708,194	$7,602,857

The FY04 estimate for audiovisual support shows a decrease from the FY 2003 estimate due to the move of audiovisual supplies and equipment from IAG reimbursed items to direct procurement through normal WHO channels.

Office of Administration (POC – Chuck Sigman)

QUESTION 64: Updating the information on page 134 of last year's hearing record, please provide a current organizational chart for the Office of Administration, including the associated numbers of FTEs requested for each office in the FY 2004 President's budget.

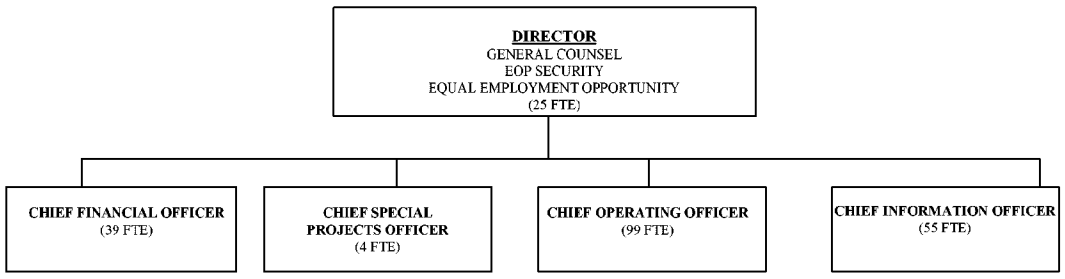
RESPONSE: The Office of Administration organization chart provided below reflects the current organizational structure. The FY 2004 FTE request remains constant with FY 2003 levels (222 FTE).

Executive Office of the President

Office of Administration

Organization Chart

FY 2004



Total 222 FTE

QUESTION 65: Last year, it was estimated that 4 FTE were needed to provide administrative services to the Office of Homeland Security. Since that office is substantially smaller due to establishment of the DHS, is there a lesser requirement for OA support? If so, is that reflected in FY 2004 staffing figures?

REV_00169221

RESPONSE: The FY 2003 budget proposal included the statement that there was "2 CFO staff to support Homeland Security" rather than the 4 FTE referred to in the question. These two Chief Financial Officer (CFO) staff were requested during FY 2003 because last year's OA budget request was a 49% increase over the previous year's spending – and security-related enhancements accounted for nearly all of that increase. The FY 2004 budget proposal included additional security-related enhancements beyond the FY 2003 level. Furthermore, even though the funding level of the Homeland Security Council is not as great as was originally envisioned, it is still a separate account for which the staff must perform the same number of administrative tasks in setting up and monitoring the status of the account. Therefore, the additional two FTE in the CFO office remain necessary to assist EOP offices in executing their new responsibilities.

QUESTION 66: Your salary and expenses request includes a transfer of $1,500 from Homeland Security for information technology services. What are these services?

RESPONSE: The part of OHS that remained with EOP (now called the Homeland Security Council) does not need the information technology contractor support that was previously planned. There is, however, an urgent need to expand the funding needed to support the White House website. The system security put in place to protect the whitehouse.gov website from cyber attack includes a web content distribution designed to make it highly resistant to denial of service type attacks. The cost of this service has increased dramatically, and is directly proportional to the volume of activity. The volume of activity, in turn, is a combination of the website hits and the level of cyber-attack activity directed against the site. The importance of the White House web site cannot be overstated. Along with the DHS website, the whitehouse.gov website is one of the primary government sites with a mission to communicate threat level information to the public.

Due to increased traffic on the White House website, the monthly cost of web caching service to maintain the website has risen from $30,000 per month to more than $75,000 per month. The estimated FY 2004 cost to maintain the website is $1,500,000. No funds were requested for this increased requirement in the FY 2004 budget. OA wishes to use the funds originally requested for the OHS information technology contract support for the White House website effort.

QUESTION 67: You are requesting additional funding for victim rescue units, which would be distributed to all White House staff (p. 82). What are these units, and what is the unit cost?

RESPONSE: Victim Rescue Units (VRUs) provide a 20-45 minute supply of pure oxygen to the wearer. This would be critical to the survival of EOP staff in the event of an incident which would require an evacuation to a safe area. VRUs were selected because they can be easily operated by a novice, while it takes a significant amount of training to teach staff to properly operate a gas mask. VRUs have a ten-year shelf life,

REV_00169222

which is significantly longer than gas mask filters. They provide protection from the entire threat spectrum from fire and smoke to chemical and biological agents. The VRUs are portable and small, and their expected cost is $375 each.

QUESTION 68: How is the requirement for additional safes and emergency evacuation chairs documented?

RESPONSE: The EOP Security Office conducted a review of security containers (safes) at the White House Complex and found that most of them were 1950's-vintage mechanical locks. During the aftermath of 9/11, it was deemed important that the White House adhere to the latest Federal regulations promulgated by the General Services Administration (FFL-2740A) for the protection of classified materials. Thus, the EOP recommends acquiring new security containers which are fully compliant with GSA standard which governs all changeable combination locks for the protection of national security information.

After 9/11, we reviewed all emergency evacuation procedures for the White House Complex. As we updated evacuation plans and reviewed procedures it was determined that evacuation chairs were needed in various buildings and on various floors to assist individuals who may need assistance or have special needs during an evacuation. This was an internal study performed by staff of the EOP security office.

Financial Audits (POC – Al Muhlbauer)

QUESTION 69: Last year, you advised us that EOP would plan to address the findings of the recent auditability assessment no later than FY 2003. What is the status of that effort today?

RESPONSE: EOP has initiated five major efforts to address the auditability assessment. They are:

- Development and publication of the EOP entity and reporting structure, which was completed and is and presented in the FY 2004 Budget Submission.
- Development and publication of the EOP financial management structure, which has been developed in draft and is currently being circulated for comment within EOP. Approval and issuance of the financial management structure is expected to occur within 30 days.
- Provide financial management policy and guidance to the EOP, and put in place consistent EOP-wide business practices and procedures. This effort is underway and is expected to be completed this fiscal year.
- Select a replacement for the current non-compliant financial accounting system. The Office of the Chief Financial Officer has reviewed various alternatives and has made a determination to be cross-serviced by another Federal agency that has implemented a compliant system, is currently receiving "clean" audit opinions, and has cross-servicing as an agency mission. Two such organizations were

REV_00169223

identified, a requirements document was provided, their proposals are currently being evaluated, and a decision is expected within the next two weeks.

- Accomplish a detailed review of the EOP general ledger and supporting documents for account balances, correct the data as necessary, and prepare the information for conversion to the replacement accounting system. A "clean-up" and conversion plan is in process and will be coordinated with the selected cross-servicing agency.

QUESTION 70: When will you be able to produce an auditable financial statement?

RESPONSE: The Chief Financial Officer completed an exercise that resulted in EOP-wide financial statements, that exercise identified various data problems that confirmed the auditability assessment. The "clean-up" exercise which is required prior to the conversion to the cross-servicing agency's system is addressing these problems and it is anticipated that the FY 2004 financial statements will be audited.

QUESTION 71: Last year, you stated that you had identified best practices for documented policies and procedures based upon one federal agency which has been recognized as one of the best in the Federal Government (p. 136). Which agency are you using as a model, and what are some examples of the specific best practices you intend to use?

RESPONSE: We were referring to the Department of Education and we conducted a pilot of their approach for developing policies and procedures within the Office of the CFO. While that pilot was helpful, we determined that three other tasks (identify reporting entity, develop financial management structure, and identifying our financial accounting system cross servicing provider) needed to be completed before our policies and procedures could be developed. Since those are near completion we anticipate again focusing on developing policies and procedures during the remainder of this fiscal year.

White House Office (POC – Eric Lanman)

QUESTION 72: Please provide a breakdown of the FY 2004 budget request for the White House Office by office or activity, as itemized on pages 137 and 138 of last year's hearing record. Please compare those amounts to corresponding amounts for FY 2002 (actual) and FY 2003 (estimated), similar in format to that shown on pages 246 and 247 of last year's hearing record.

RESPONSE: As noted last year, a single budget is prepared for the WHO. This single budget is prepared based on a number of criteria such as: prior spending patterns, estimated requirements, OMB provided inflation factors, and the priorities of the President. During a given execution year, personnel costs are allocated based upon that year's sometimes unique staffing decisions. The remainder of the budget is allocated

REV_00169224

initially to two WHO offices. The travel budget is allocated in its entirety to the Office of Advance and obligated against this office if the travel is done in support of the President. Any travel undertaken that is not in support of a Presidential trip is charged to the office of the staff member in question. The remaining portion of the non-personnel, non-travel budget, including expenses for rent, supplies, equipment and other services is considered overhead and in most years is charged as such to the White House Office of Management and Administration. In FY 2003 as part of a pilot program authorized by Congress, costs related to many of these "overhead" items were consolidated under the EOP Office of Administration. Obligations (actual and estimated) are provided by individual White House office for FY 2002 thru FY 2004 in the table below.

(dollars in thousands)			
as of 9 May 2003			
White House Office	**FY02 act.**	**FY03 est.**	**FY04 est.**
Office of Chief of Staff	1,239	1,474	1,507
Oval Office Ops	347	476	487
Offices of Scheduling and Advance	2,874	3,593	3,673
Office of Cabinet Affairs	665	615	629
Communications, Speechwriting & Media	2,611	2,486	2,541
Office of the Counsel to the President	1,775	1,966	2,010
Faith Based and Community Initiatives	612	536	548
Office of the First Lady	1,270	1,492	1,525
Office of Intergovernmental Affairs	568	538	550
Office of Legislative Affairs	2,242	2,118	2,165
Office of Management and Administration	26,867	19,620	30,651
Office of Presidential Personnel	1,950	2,425	2,479
Office of the Press Secretary	933	1,182	1,208
Office of the Staff Secretary	5,860	6,469	6,613
Office of Strategic Initiatives	3,952	4,325	4,421
USA Freedom Corps Office [1]	426	1,070	929
Total WHO Obligations [2]	54,191	50,385	61,937

Notes:

(1) $911K of the FY03 USA Freedom Corps estimate and $1,351K of the FY04 USA Freedom Corps estimate is included above within the Office of Management and Administration numbers as are similar funds for all other White House Offices.

(2) Because Congress has chosen to appropriate funds for the Office of Homeland Security (OHS)/ Homeland Security Council (HSC) separately from the WHO appropriation, numbers related to OHS/ HSC are not included above. FY03 and FY04 estimates for OHS/ HSC are addressed independently in response to other committee questions.

QUESTION 73: Please provide a corresponding breakdown for FTE staff years and OGE, similar in format to that shown on pages 152 through 154 of last year's hearing record.

REV_00169225

RESPONSE: As noted last year, the major units within the White House Office are simply a creature of administrative convenience. The number of employees within each unit and the work of each unit vary over time and as circumstances and needs change. With this kept in mind, a detailed breakout of FTEs and OGEs by unit, is provided below. This breakout is based on current estimates and planning and will differ during the actual execution year. In addition to these major units, certain individuals – including certain individuals who work with the National Security Council, the Domestic Policy Council, and the National Economic Council – are also White House Office employees, although the units within which they principally work are not themselves part of the White House Office. These individuals are included under the Other category.

	FY02	FY03	FY04
White House Office	actual	est.	est.
Office of Chief of Staff - FTE	12	12	12
Office of Chief of Staff - OGE (Agency Rep)	0	0	0
Oval Office Ops - FTE	4	5	5
Oval Office Ops - OGE	0	0	0
Advance - FTE	15	15	15
Advance - OGE	0	0	0
Office of Cabinet Affairs - FTE	7	6	6
Office of Cabinet Affairs - OGE (Assignee)	4	4	4
Communications, Speechwriting & Media - FTE	36	35	35
Communications, Speechwriting & Media – OGE (Detailee)	1	1	1
Communications, Speechwriting & Media – OGE (Assignee)	1	1	1
Office of the Counsel to the President - FTE	18	19	19
Office of the Counsel to the President - OGE (Detailee)	3	3	3
Faith Based and Community Initiatives - FTE	7	8	8
Faith Based and Community Initiatives – OGE (Detailee)	1	1	1
Faith Based and Community Initiatives – OGE (WH Fellow)	1	1	1
Office of the First Lady - FTE	20	19	19
Office of the First Lady - OGE	0	0	0
Office of Intergovernemental Affairs - FTE	8	9	9
Office of Intergovernemental Affairs - OGE	0	0	0
Office of Legislative Affairs - FTE	23	24	24
Office of Legislative Affairs - OGE (Detailee)	1	1	1
Office of Management & Administration - FTE	32	38	38
Office of Management & Administration - OGE (HP Serv)	14	14	14
Office of Political Affairs - FTE	11	11	11

REV_00169226

Office of Political Affairs - OGE	0	0	0
Office of Presidential Personnel - FTE	26	38	38
Office of Presidential Personnel - OGE (Detailee)	2	2	2
Office of Public Liaison - FTE	12	11	11
Office of Public Liaison - OGE (Assignee)	1	1	1
Office of the Press Secretary - FTE	12	12	12
Office of the Press Secretary - OGE	0	0	0
Scheduling - FTE	10	11	11
Scheduling - OGE (HP Serv)	2	2	2
Office of the Staff Secretary - FTE	98	98	98
Office of the Staff Secretary - OGE (Detailee)	2	2	2
Office of Strategic Initiatives - FTE	13	13	13
Office of Strategic Initiatives - OGE (Reim Detail)	1	1	1
USA Freedom Corps Office - FTE	8	6	6
USA Freedom Corps Office - OGE (Detailee)	5	5	5
USA Freedom Corps Office - OGE (WH Fellow)	1	1	1
Other - FTE	13	16	16
Other - OGE	4	4	4

White House Office obligations, FTE and OGE are summarized below.

	FY02 act.	FY03 est.	FY04 est.
Total WHO – FTE	385	406	406
Total WHO – OGE	44	44	44
FY03 Congressional Request – FTE	400	406	406

Notes: Because Congress has chosen to appropriate funds for the Office of Homeland Security (OHS)/ Homeland Security Council (HSC) separately from the WHO appropriation, numbers related to OHS/ HSC are not included above. FY03 and FY04 estimates for OHS/ HSC are addressed independently in response to other committee questions.

Historically Provided White House Office Positions (POC – Eric Lanman/Jon Laurich)

QUESTION 74: Updating the information on page 235 of last year's hearing record, please provide a listing of historically provided White House Office positions.

RESPONSE: The following chart shows the 18 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

REV_00169227

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 12, 2003*:

POSITION	OFFICE	HOME AGENCY
1. Assistant to the Presidential Diarist	Office Of Scheduling	NARA
2. Presidential Diarist	Office Of Scheduling	NARA
3. Administrative Assistant	PFIAB *	CIA
4. Administrative Services Specialist	PFIAB *	DOD
5. Deputy Executive Director	PFIAB *	CIA
6. Deputy Director of Photography For Visuals	Photo Office	DIA
7. Visual Information Specialist	Photo Office	DOD
8. Official Photographer	Photo Office	DOD
9. Official Photographer	Photo Office	DIA
10. Photographer	Photo Office	DOD
11. IT Systems Administrator	Photo Office	DIA
12. Photo Editor	Photo Office	DIA
13. President's Photographer	Photo Office	DIA
14. Photographic Specialist	Photo Office	DIA
15. Admin Officer	Photo Office	DIA
16. Staff Assistant	Visitors Office	Dept Of Interior
17. Executive Assistant	Visitors Office	Dept Of Interior
18. Staff Assistant	Visitors Office	Dept Of Interior

*PFIAB is the President's Foreign Intelligence Advisory Board

Other Services (POC – Chuck Sigman)

QUESTION 75: Similar to the information on page 236 et seq. of last year's hearing record, please provide a detailed description of each project, program, or initiative proposed to be funded in FY 2004 under object class 25.2 ("other services").

RESPONSE: Capital Investment Plan (CIP) - $5,220,000

The overall FY 2004 CIP requirement supports nine areas, as described below. The following "services" costs are included in the FY 2004 CIP request:

- **$690,000 for Customer Service and Desktop Systems.** This funding will be used to perform desktop software integration support.
- **$450,000 for New Technologies and Systems**. This includes "services" funding of $150,000 for server technology integration testing, and $300,000 for voice and data integration.

REV_00169228

- **$230,000 for EOP Systems and Support,** including "services" funding of $150,000 to develop external Local Area Networks, and $80,000 for production test lab development.
- **$700,000 for Information Security** for enterprise identity projects to allow the introduction of new authentication and identification mechanisms into the EOP IT infrastructure.
- **$650,000 for Web-Based Services** for web services application environment.
- **$2,500,000 for the Offsite Data Center** for services necessary to transition the offsite data center to full operational status
- **There are no services funds allocated to Campus Wiring, Networks and Data Communications Infrastructure, or Messaging and Scheduling.**

Salaries and Expenses - $2,150,000

There are three initiatives in the FY 2004 OA salaries/expense budget which comprise $2,150,000 in new programs under object class 25.2 ("other services"):

- **$1,800,000 for Technology and Systems Support Contract .** The Chief Information Officer (CIO) provides a wide range of computer services support to the EOP. These tasks are performed in large measure through an outsourcing contract that delivers IT services from PC deployment, to help desk and data center operations. During FY 2003, this IT systems support contract was competed with an increase in base labor rates due to the need for more advanced skills in IT disciplines such as XML and web services software development, Oracle database development and administration, and implementation of a new Enterprise Resources Planning (ERP) application covering finance, asset management and human resources. The CIO outsource contract is the vehicle used to maintain a 24 hour-a-day operation for mainframes, servers, help desk, local area networks, personal computers, applications; installation of end-user hardware and software; training; software application development and maintenance services. Altogether, this contract supports customers throughout the White House 18 acre complex, at remote and mobile locations, and at the planned Offsite Data Center. Key components driving the cost upward include: (1) higher labor rates for the DC area, which have risen since the previous IT 1997 facility contract; (2) the impact of the new data center operations in 2003 and thereafter; (3) an expanded EOP customer base which has more advanced, sophisticated, and security-conscious users.

- **$300,000 for Information Assurance Support.** The CIO has established the Information Assurance (IA) program to serve as a central location for information security serving all of EOP. FY 2002 and FY 2003 funds attended to the most critical concern with significant vulnerabilities in the perimeter and began the process of securing the internal systems. The IA program created real-time monitoring of perimeter network devices; it established the first formal documentation of IA program policy to bring the EOP in conformance with Federal guidelines and directives. However, the cyber threat facing EOP is

REV_00169229

dynamic because our systems are constantly assailed with a wide and unexpected range of attacks. The new state of defense must be active vigilance, to include the following components: (1) Perimeter Security, (2) Advanced Security Concepts, (3) Contingency Planning Support, (4) Network Monitor/Response Systems, and (5) Security Awareness, Assessments, and Education.

- **$50,000 for Security Enhancements: Videos.** There is a frequent and ongoing need for a security video – specific to the EOP and White House – which can be used in security briefings and new employee orientation meetings. This video will contain a brief overview of security responsibilities and procedures which must be understood by all personnel working in the EOP.

Salaries and Expenses (POC – Dilworth)

QUESTION 76: Please provide a detailed description of any expenses in the FY 2004 budget under "salaries and expenses" which are not directly related to personnel compensation and benefits.

RESPONSE: The following is an object class breakdown highlighting the major costs in each of the non pay related expense categories and a description of the unique aspects of some of these expenses found within the Executive Office of the President.

For reference, below are two tables that roll up all EOP component salaries and expenses funding information including the components not funded under the Subcommittee on Transportation, Treasury and Independent Agencies Appropriations.

REV_00169230

Executive Office of the President
Salaries and Expenses
Summary of all EOP Offices
Funding by Object Classification
($ in Thousands)

		FY 2002 Actual	FY 2003 Request	FY 2004 Estimate	FY 2004-2003 Difference	
	Direct obligations:					
10.0	Personnel Compensation and Benefits	159,566	185,182	190,971	*5,789*	*3.1%*
21.0	Travel and transportation of persons	6,449	9,218	9,571	*353*	*3.8%*
21.0	Travel of the President	0	102	100	*-2*	*-2.0%*
22.0	Transportation of things	218	246	233	*-13*	*-5.3%*
23.1	Rental payments to GSA	22,406	29,127	32,228	*3,101*	*10.6%*
23.3	Communications, utilities and misc. services	9,362	10,212	15,504	*5,292*	*51.8%*
24.0	Printing and reproduction	2,956	3,678	4,536	*858*	*23.3%*
25.2	Other services	45,159	70,440	66,099	*-4,341*	*-6.2%*
26.0	Supplies and materials	5,947	5,128	5,642	*514*	*10.0%*
26.0	Official entertainment	65	112	112	*0*	*0.0%*
31.0	Equipment	8,054	13,239	14,182	*943*	*7.1%*
40.04	Nat'l Alliance for Model State Drug Use	1,000	0	0	0	0.0%
40.05	Policy Research	1,350	1,350	1,350	0	0.0%
92.0	Undistributed	0	1,000	1,000	0	0.0%
99.0	**Subtotal, Direct obligations**	**$262,532**	**$329,034**	**$341,528**	***$ 12,494***	***3.8%***

Summary of the EOP FY 2004 Salaries and Expenses Budget Request
by Object Class
(excludes ONDCP Federal Drug Control Programs)
($ in Thousands)

		Comp Pres.	WHO	OHS/ HSC	VP	VP RES	OA S&E	OA CIP	OPD	NSC	CEA	OMB	ONDCP	EXEC RES	WH R & R	OSTP	CEQ	USTR	UN NEEDS	EOP Total	Percent of Total
	Total Personnel Compensation and Benefits	$400	$33,256	$5,550	$2,541	$100	$19,483		$3,040	$7,513	$3,537	$59,263	$14,562	$10,302		$4,484	$2,476	$24,464		**$190,971**	55.9%
21.0	Travel and transportation of persons		1,989	588	598	2	208		88	531	102	417	794	12		280	62	3,900		**$9,571**	2.8%
21.0	Travel of the President		100																	**$100**	0.0%
22.0	Transportation of things		10	10	2	1	137		1	2	1	2	38			3	1	25		**$233**	0.1%
23.1	Rental payments to GSA		7,047	200	885		6,755	1,258	508	1,613	497	6,575	2,591			833	462	3,004		**$32,228**	9.4%
23.3	Communications, utilities and misc. charges		2,826	1,080	186	26	2,759	4,520	192	197	118	680	785	610		102	86	1,337		**$15,504**	4.5%
24.0	Printing and reproduction		1,559	50	11	10	577		37	40	97	801	499			25	46	784		**$4,536**	1.3%
25.2	Other services	50	12,597	528	60	16	24,891	5,220	46	362	35	8,190	5,509	653	4,225	973	66	2,678		**$66,099**	19.4%
26.0	Supplies and materials		1,288	175	66	42	1,220	125	92	175	64	702	282	856		80	29	446		**$5,642**	1.7%
26.0	Official entertainment		19			90						3								**$112**	0.0%
31.0	Equipment		1,246	150	112	44	556	9,455	105	118	51	784	880	68		247	10	356		**$14,182**	4.2%
40.05	Policy Research *(ONDCP)*												1,350							**$1,350**	0.4%
92.0	Undistributed *(Unanticipated Needs)*																		1,000	**$1,000**	0.3%
99.0	**Subtotal, Direct obligations**	**$450**	**$61,937**	**$8,331**	**$4,461**	**$331**	**$56,586**	**$20,578**	**$4,109**	**$10,551**	**$4,502**	**$77,417**	**$27,290**	**$12,501**	**$4,225**	**$7,027**	**$3,238**	**$36,994**	**$1,000**	**$341,528**	**100.0%**
	Agency percentages of EOP total	*0.1%*	*18.1%*	*2.4%*	*1.3%*	*0.1%*	*16.6%*	*6.0%*	*1.2%*	*3.1%*	*1.3%*	*22.7%*	*8.0%*	*3.7%*	*1.2%*	*2.1%*	*0.9%*	*10.8%*	*0.3%*		

Travel and transportation of persons – The largest portion of this funding (41%) is for international staff travel in support of trade negotiations as coordinated by the U.S. Trade Representative (USTR). The next largest portion of this funding (21%) is for White House Office (WHO) staff travel including "Presidential travel", which is the term used to delineate those trips where staff members actually travel with or ahead of the President. Those traveling ahead, referred to as advance staff, are responsible for producing Presidential events, as well as establishing an on-site infrastructure similar to

REV_00169231

the support that is provided within the White House. In addition, EOP travel costs related to Presidential travel is tracked by the principals (President, First Lady, Vice President and Mrs. Cheney) and by location. The remaining EOP travel funds are used for staff travel in support of the various EOP offices and their missions.

Transportation of things – The EOP spends funds in this area for the costs of express delivery/shipping of items such as Freedom of Information Act documents and personnel documents for accountability, as well as other miscellaneous items. Vehicle fleet costs are also included in this category.

Rental payments to GSA – Funds paid to GSA are used to provide the EOP offices with space in the government-owned and leased buildings that comprise the White House complex. Although the General Services Administration manages the EOP buildings, including the East and West Wings of the White House, they cannot rent them out to other Federal departments or agencies.

Communications, utilities and miscellaneous services – The bulk of these costs are used for the EOP switchboard. Funding in this category is also used for the networking and telecommunications projects of the Offsite Data Center. These projects include funds for the primary and backup telecommunications lines connecting the remote data center with the EOP office campus, two additional DS-3 data paths, two T-1 lines, and backup to support required communications bandwidth, and availability requirements.

Printing and reproduction – The largest expense in this area is for Presidential stationery and greetings. Also included are the costs for printing in the Code of Federal Regulation and the Federal Register as well as the costs to print the President's Budget, the Economic Report of the President, the National Drug Control Strategy, free trade agreement documents and other publications, studies and reports.

Other services –The primary cost driver in this category is the information technology support contract that provides IT sustainment services, system development services, and system engineering services for the entire EOP. IT support for the EOP as supported by this contract is largely an outsourced activity that includes a broad range of services such as the Help Desk, network and data center operations.

Supplies and materials – Most of the EOP expenses in this category are for general office and IT supplies, as well as the costs for subscriptions to newspapers and magazines.

Equipment – The largest portion of the EOP equipment costs is for IT desktop replacement program and for investments in software and hardware infrastructure to support the EOP IT projects.

Unanticipated Needs – Expenditures from this fund may be authorized only by the President. The Director of OMB provides the necessary controls to ensure that only unforeseen priorities are financed and that funding from other sources is not available.

REV_00169232

ONDCP Policy Research – This is an ONDCP expense and funding is used to support the continuing policy research to better inform drug policy.

Security Guard Services for OSTP (POC – Chuck Sigman)

QUESTION 77: In FY 2003, you budgeted $1,798,000 for security guard services for the Office of Science and Technology Policy. Are similar funds requested in FY 2004? If so, how much?

RESPONSE: The FY 2004 OA budget proposes that the cost of the security guard service (estimated at $702,000) for OSTP be transferred to the OSTP appropriation. Thus, the proposed FY04 OA budget would contain the balance of the funds (approximately $1.1 million).

Since the FY 2003 budget was proposed, there have been additional reviews of the physical security of the White House complex by the US Secret Service, the Federal Protective Service, and the OA Security Office. As a result, the OA Security Office has been assigned the responsibility of correcting deficiencies in EOP physical security. There are some locations which do not currently have Secret Service protection (such as the Jackson Place White House Conference Center). Another location which does not have firm long-term security plans is the office at 1800 G Street. Thus, the Office of Administration has ongoing needs for the $1.1 million which remains in the OA budget. During FY03, these funds are being used for consolidation of information technology maintenance ($200,000), centralization of database services ($200,000), and common building service costs ($400,000). The remaining $300,000 of these savings will be used for an FY03 OA personnel shortfall.

QUESTION 78: Why aren't such funds in the OSTP budget?

RESPONSE: The estimated FY04 cost of 24-hour security guard services for OSTP is included in the FY04 OSTP budget request. This estimate is $702,000 for a full year.

Political Appointees (POC – Jon Laurich)

QUESTION 79: Please update the information on political appointees within EOP as shown on page 268 of last year's hearing record, using the same criteria and assumptions as last year.

RESPONSE: The term "political appointees" is somewhat of a misnomer because it narrowly defines the type of employees authorized under Chapter 2 of Title 3 of the U.S. Code, for the White House Office, the Executive Residence, the Official Residence of the Vice President and the Office of Administration. These offices can hire personnel in various excepted service positions that are not subject to the rules of regular government employees. Many of these excepted service positions fall under the category of serving

REV_00169233

at the pleasure of the President while others do not. Using the term in the broadest possible sense, including all employees hired as Presidential Appointees, Administratively Determined, Non Career SES, or Schedule C's, the Executive Office of the President has the following number of political appointees directly hired within the EOP and serving in the EOP on detailed assignments from other agencies as of May 5, 2003.

	FY 2003 "POLITICAL APPOINTEES" *as of May 5, 2003*					
Program	**Admin. Determ.***	**Schedule C**	**Non career SES**	**Presidential Appointees**	**OGE** Political Appointees**	**TOTAL**
White House Office	438				8	**446**
Office of Homeland Security/Homeland Security Council	20				9	**29**
Special Assistance to the President	24				1	**25**
Official Residence of the Vice President		1				**1**
Office of Administration	6					**6**
Office of Policy Development	30				2	**32**
National Security Council					3	**3**
Council of Economic Advisers	16	3		1		**20**
Office of Management and Budget	2	21	11	5		**39**
Office of National Drug Control Policy		10	2	5		**17**
Executive Residence						
Office of Science and Technology Policy		3	2	3	1	**9**
Council on Environmental Quality	10	2		1	2	**15**
U.S Trade Representative	19	5	3	4		**31**
TOTAL	**565**	**45**	**18**	**19**	**26**	**673**

* Historically, Administratively Determined appointees within some agencies have served from one administration to another. Nevertheless, they serve at the pleasure of the entity head and may be terminated without cause.

** OGE = Other Government Employees

Detailees (POC – Jon Laurich)

QUESTION 80: Please update the information on reimbursable and non-reimbursable detailees with EOP as shown on pages 268 and 269 of last year's hearing record.

RESPONSE: There are currently 251 detailees staffed within the Executive Office of the President. There are 41 reimbursable detailees and 210 non-reimbursable detailees as shown in the chart below, as of May 5, 2003:

REV_00169234

Program	FY 2003 Estimates		
	Reimbursable Detailees	Non-Reimbursable Detailees	TOTAL
White House Office	5	11	**16**
Office of Homeland Security	23	3	**26**
Special Assistance to the President		1	**1**
Official Residence of the Vice President			
Office of Administration			
Office of Policy Development	1	1	**2**
National Security Council	5	103	**108**
Council of Economic Advisers	2	2	**4**
Office of Management and Budget	3	54	**57**
Office of National Drug Control Policy		4	**4**
Executive Residence			
Office of Science and Technology Policy	2	3	**5**
Council on Environmental Quality		3	**3**
U.S Trade Representative		25	**25**
TOTAL	41	210	251

Office of the Vice President (POC – Kristen Savercool)

QUESTION 81: You are requesting an additional $70,000 (+1.7 percent) for the Vice President's travel, due to increased travel to undisclosed locations after the terrorist attacks of September 11, 2001. Weren't these type of increases baselined in FY 2002 and FY 2003, and if so, why are further increases needed in FY 2004?

RESPONSE: The FY 2003 budget was submitted in February 2002, prior to it becoming evident that the Vice President's travel requirements had increased more than originally estimated. Following the events of 9-11, the Vice President has been required to be outside the Washington, DC vicinity for significant periods of time. This travel has been 100 percent official, and operational in nature (i.e. the Vice President performs his regular duties in an off-site location). This travel has required the accompaniment of staff, who also perform operational duties.

Because the budget impact of these additional travel requirements was not fully realized until after the FY 2003 budget request was submitted, they were not included in the FY 2003 baseline. Continued security concerns related to the Vice President and the ensuing impact on the Vice President's travel costs necessitate the increase to the FY 2004 OVP travel budget. This increase will allow the Vice President the flexibility needed to adequately execute his official travel requirements.

Unanticipated Needs (POC – Eric Lanman)

QUESTION 82: Please provide a listing of the uses of Unanticipated Needs funds in FY 2002.

REV_00169235

RESPONSE: $757,000 of the $1,000,000 appropriated to the Unanticipated Needs account in FY 2002 was provided to OMB for Office of Homeland Security Transition Planning Office. The remaining appropriation was not utilized.

REV_00169236

Questions for the Record
Ranking Member, John Olver
Hearing on the Executive Office of the President
April 30, 2003

Account Consolidation and Transfer Proposals (POC – Al Muhlbauer/Jim Daniel)

When we centralized the funds within the Office of Administration, Congress intended that each agency would continue to receive a similar share of support and assistance under the consolidation.

QUESTION 83: Are any agencies going to receive diminished services or resources under the consolidation?

RESPONSE: No, currently the funding in the pilot has been allocated to be consistent with the FY 03 budget request. The service levels will be equal to or greater than pre-pilot levels; however, we are hopeful that the cost to procure the same level of service will decrease. Also, the Office of Administration is preparing service standards. For example, if the service standard for PC's would be one PC per desktop that is less than four years old and if one EOP component is currently at that standard for 95 % of its employees and another is currently at that standard for 50% of its employees, based on need, the second component would get a larger share of the services to bring it closer to the EOP standard. This allows EOP to consistently upgrade software and services across the entire organization as the total infrastructure permits.

QUESTION 84: Are any agencies to receive extra services above and beyond the amount of funds they contributed as part of the consolidation?

RESPONSE: Yes, based on need and to bring organizations that are lagging behind the approved standards up to a consistent standard, some organizations may receive extra services above and beyond the amount of funds they contributed to the consolidation. We anticipate some of those services will be funded from savings in the program.

QUESTION 85: Under the procurement consolidation pilot approved in the FY03 Omnibus, are IT or database services for any EOP agency going to be paid for by funds contributed by other EOP agencies?

RESPONSE: Yes, in addition to generating procurement savings and efficiencies, a major goal of the consolidation pilot is to bring all of the EOP components up to a standard of service which will allow us to implement technology evenly across the organization and to realize efficiencies and benefits from a consistent and even

REV_00169237

infrastructure. In reaching this goal, the funds may be applied in a manner which is not in the same ratio in which they were contributed.

QUESTION 86: In general, are the funds appropriated for this centralized procurement program going to be used to supplement the appropriation made to individual agencies?

RESPONSE: Yes, the individual entities will be the recipients of the services funded by the centralized procurement program without reimbursement in accordance with the Congressional appropriation provided to OA.

QUESTION 87: If so, which agencies will benefit and which agencies will receive less than their share of contributions?

RESPONSE: OA is currently establishing the allocation standards for the commodities included in the centralized procurement program. OA is also requesting that the entities assist us in developing a baseline against which we will measure the allocation standards. That will determine which, if any, entities will benefit and which entities will receive less than their share of contributions.

QUESTION 88: You recently submitted a very cursory report on the procurement pilot. When will you provide us with specific details on the progress of the pilot program?

RESPONSE: As mentioned above, progress is being made on the plan to implement the Common Services Program. We expect to be able to brief the Subcommittee in greater detail this summer.

Your budget also proposes a change that would permit EOP agencies to transfer up to 10% into or out of any agency's budget. Coupled with your account consolidation proposal, that would allow you to transfer in up to $18 million more into (or out of) the White House's budget.

QUESTION 89: Under the procurement consolidation program that we approved in the FY03 bill, don't you have a similar type of flexibility already? What other flexibility is needed?

RESPONSE: The flexibility of the procurement consolidation program is directed to certain defined common commodities. The 10% transfer authority provides flexibility for unexpected requirements and to address needs that may be outside the program.

QUESTION 90: What protection is there for smaller EOP agencies under this proposal? Don't they stand to lose critical resources if the White House or Vice President's Office decide to take 10% of their resources?

REV_00169238

RESPONSE: It is more likely that the smaller entities will benefit from the proposal, because their appropriations are small they are less likely to be able to adjust to unforeseen circumstances, this program will allow the EOP to address those circumstances without requesting supplemental funding. Also, as a practical matter, the issue of "protection" is immaterial as all the entities (setting the Office of the Vice President aside) work directly for the President.

Office of Homeland Security Questions (POC – Paul Ehrhardt)

We recently received a reprogramming request to transfer $2m of the funds provided to the Office of Homeland Security to the Remote Delivery Site cleanup efforts. The source of these funds would come from the Office of Homeland Security.

The Office of Homeland Security has gone from an initial $25m stated need when the initial FY03 bills passed the House and Senate to $11m when the FY03 Omnibus was passed to what will be $9m if the reprogramming is approved.

QUESTION 91: What exactly does the Office of Homeland Security do now that the Department of Homeland Security is in place?

RESPONSE: HSC advises and assists the President on homeland security matters and coordinates policy development and the interagency process regarding Administration policy on homeland security, including the development and coordination of implementation of the *National Strategy for Homeland Security* to secure the United States from terrorist threats and attacks.

QUESTION 92: Does OHS still have a presence at Nebraska Avenue?

RESPONSE: No.

QUESTION 93: Does the Office of Administration provide any support to agencies at Nebraska Avenue? If so, please describe the specific types of support provided. Is this support on a reimbursable basis?

RESPONSE: Since the transfer of the Nebraska Avenue facility to the Department of Homeland Security (DHS) on January 1, 2003, OA has not provided any support to entities at the Nebraska Avenue Complex (NAC). Pursuant to a Determination by the OMB Director, funds in the amount of $3,746,000 were transferred from the OHS Emergency Fund within OA to the Department of Homeland Security in March 2003 to support NAC activities.

QUESTION 94: How many personnel and detailees now work for OHS?

REV_00169239

RESPONSE: The Homeland Security Council currently consists of 66 staff positions which can be filled by either Direct Hire FTE or Other Government Employee (detailee and assignee) personnel. HSC is requesting resources to support up to 40 Direct Hire FTE and 26 OGE FTE on its staff for FY 2004. See table below for a comparison with fiscal years 2003 and 2002.

Office of Homeland Security / Homeland Security Council Personnel

	FY 2002 Actual	FY 2003 Estimate	FY 2004 Request
Direct Hire FTE	31	40	40
Other Government Employee (EOY headcount)	89	26	26
Total Personnel	120	66	66

QUESTION 95: What is the actual operational budget need for OHS in FY03?

RESPONSE: The Homeland Security Council budget requirement from the FY 2003 appropriation is estimated to be approximately $4.32 million. Please note that the FY 2003 estimate covers only costs incurred after the enactment of the FY 2003 appropriation on February 20, 2003. Unlike other EOP entities which operated under continuing resolutions between October 1, 2003 and February 20, 2003, the Office of Homeland Security was not permitted to utilize the CR funding mechanism but instead continued to charge FY 2003 expenses against the no-year emergency funding (provided in FY2002) until the FY 2003 appropriation was enacted. Therefore the FY 2003 estimate reflects only seven months of activity, whereas the FY 2004 Request needs to cover HSC expenses for the full 12 months next fiscal year.

QUESTION 96: For the record, please provide us a breakout by object class of the Office of Homeland Security's FY03 remaining budget.

RESPONSE: The breakout below reflects HSC's budget for the last seven months of FY 2003, from the enactment of the FY 2003 Appropriation on February 20, 2003 through September 30, 2003.

REV_00169240

(Dollars in Thousands)

Object Class	FY 2003 est.
Personnel	$2,800
Travel	$60
Transportation of Things	$24
Communications, Utilities, and Miscelaneous	$50
Printing and Reproduction	$69
Other Services	$1,267
Equipment	$50
Total,	$4,320

QUESTION 97: Any likelihood that these estimates will be revised downward again?

RESPONSE: The FY 2003 estimate provided above reflects the best assessment of HSC requirements from the OHS FY 2003 appropriation, and actual obligations against this appropriation will likely be close to this current estimate.

QUESTION 98: I understand that the President named General Gordon as his new Homeland Security Adviser. Does he support the latest $2 million cut to his office's resources?

RESPONSE: To begin with we should note that, General Gordon has not yet reported to Homeland Security Council. Secondly, in any event, the EOP budget proposal provides the necessary resources for HSC to advise and assist the President. Third, we should also note that the reference to a $2 million cut is incorrect. In fact, the resources of the Homeland Security Council have not been cut by $2 million. The FY 2003 appropriations for the Homeland Security Council included $2 million for decontamination of the Remote Delivery Site (RDS) as agreed to by the Congress and the Administration. Subsequent to the passage of the FY 2003 appropriations, that $2 million was allocated to decontamination of the RDS per agreement. This planned use of that appropriation is not a cut to HSC resources.

QUESTION 99: Have you validated the FY04 request recently to ensure it is an accurate figure?

RESPONSE: Yes, HSC reevaluated its FY 2004 requirements prior to submitting the final FY 2004 Request. Given the creation of the Department of Homeland Security, HSC's FY 2004 budget requirements are estimated at $8,331,000; as requested.

REV_00169241

Budget Questions:

After the FY03 enacted levels are adjusted to reflect the transfer of $9 million to the Office of Homeland Security, the Executive Office of the President's FY04 budget request reflects an 8% increase over FY03 levels. Your agency, the Office of Administration requests a 10% increase between FY03 and FY04.

When the budget was introduced, Mitch Daniels said that the overall growth of Federal programs would be pegged to the expected 4% growth in inflation. The administration also said the President wanted to "match government's growth with the growth of American family income."

QUESTION 100: When the rest of the government is forced to live with 4% growth, how can you justify an almost 10% increase in your office and an overall Executive Office of the President increase of 8%? **(POC – Chuck Sigman)**

RESPONSE: The Office of Administration's 10% budget increase amounts to approximately $7 million. This increase is necessitated by additional costs stemming from the enhanced security activities in the post-September 11 environment:

- The Capital Investment Plan has a net increase of $3.8 million required for the relocation of the EOP data center to an offsite location. The offsite data center has been determined to be a critical project in any contingency plan, and the communications requirements for the data center will be significantly higher in the new facility.
- $2.5 million is needed for the new information technology contract, driven by the information technology service labor increases, the relocation of the data center as well as by the increased security concerns for EOP systems.
- $0.5 million is required for the EOP information assurance program.
- $0.2 million for physical security improvements to the White House complex in providing resources for security education and evacuation resources.

The 8% growth in the overall EOP budget amounts to approximately $24.6 million. Primary components of this increase are mission-specific needs proposed by the different EOP entities:

- $6.3 million in OA programs described in the prior paragraph ($3.8 million for the capital investment plan, $2.5 million for the information technology contract, $0.5 million for information assurance, and $0.2 million for physical security).
- $2.5 million in EOP-wide space rental increases to conform with GSA's market-based rental rates.
- $3.0 million for USTR's additional staff for intensified trade negotiations.

REV_00169242

- $3.0 million in the Executive Residence's multiyear East and West Wing restoration projects.
- $2.7 million for OMB personnel needs.
- $1.5 million for OMB's budget system updates.
- $0.7 million for OMB's E-Government staff and the Office of Information Technology.
- $0.8 million for additional staff for ONDCP.
- $0.6 million in the NSC's funding for reimbursable detailees and President's Foreign Intelligence Advisory Board's request for additional staff.
- $0.5 million for OSTP's continuity of operations plan.

The White House Office's increase of 3.6% looks smaller because of a realignment of $1.85m in rent to the Office of Administration's account. Without the realignment, the White House Office's increase would be around 6.6%.

QUESTION 101: What is the justification for this realignment? **(POC – Eric Lanman)**

RESPONSE: The realignment of $1.85M in rent was made to the WHO from the Office of Administration. Without this and other realignments made as part of the FY 2004 WHO budget request, The White House Office's increase would have only been 1.7 percent.

QUESTION 102: How could the White House have been paying the bill for space that wasn't theirs? **(POC – Eric Lanman)**

RESPONSE: The WHO has not been paying rent on the 1800 G Street office spaces that this realignment involves. These office spaces were necessitated by the movement of certain White House staff offices following the events of September 11. In FY 2003 funds for these spaces were budgeted by the Office of Administration and are being paid for as part of a pilot program authorized by law.

QUESTION 103: Which EOP agencies occupied this space on which the White House Office has been paying rent? **(POC – Eric Lanman)**

RESPONSE: As indicated in the previous answers, White House staff have been occupying this space. Rent is being paid by the Office of Administration as part of the pilot program authorized by law.

QUESTION 104: Are these costs that had historically been paid by the White House Office? **(POC – Eric Lanman)**

REV_00169243

RESPONSE: No. The 1800 G Street Office spaces were not occupied by EOP staff until after the events of 9-11.

QUESTION 105: If so, why make the change this year? **(POC – Eric Lanman)**

RESPONSE: The realignment of these costs under the WHO is done to reflect the costs under the office whose staff occupies them.

Travel

The White House Office's request includes a decrease of $400,000 in Presidential Travel.

QUESTION 106: Was the FY03 estimate too high? **(POC – Eric Lanman)**

RESPONSE: As part of the FY 2003 WHO budget submission, $600,000 was requested to support the travel requirements of the new USA Freedom Corps Office. Actual experience subsequently determined this amount to be in excess of need. As a result, the FY 2003 WHO travel line was reduced $329,647 by the statutory recission, and the FY 2004 WHO budget submission requested $400,000 less in the travel line than the original FY 2003 estimate.

QUESTION 107: If so, how do you intend to use the surplus funds? **(POC – Eric Lanman)**

RESPONSE: The $400,000 reduction to the FY 2004 WHO budget request for travel requirements does not result in surplus funds. It instead results in an overall reduction to the FY 2004 WHO budget estimate.

QUESTION 108: Are you planning less travel in FY04 or will more of the travel just be paid for by political entities? **(POC – Eric Lanman)**

RESPONSE: Except as noted above, the amount of official travel conducted by the White House staff is expected to remain consistent with the FY 2003 estimate.

QUESTION 109: Please provide a list of all White House Office, Office of Homeland Security and Office of Vice President official staff travel for FY02 and FY03 (to date). Include a brief description of the official purpose of the trip. For FY04 estimates, provide estimated number of trips and trip purpose. **(POC – Rothley Howard)**

RESPONSE: The following tables provide the FY 2002 and FY 2003 (to date) staff travel information, where a staff member received government reimbursement, for the

REV_00169244

White House Office and the Office of the Vice President. No FY 2004 estimates are available at this time.

White House Office FY 2002 Staff Travel		
PURPOSE	**DESTINATION**	**DATE**
Meetings	Dallas, TX	03/15/01
Official	Cincinnati, OH	10/01/01
Official	Sacramento, CA	10/11/01
Speaking Engagement	Atlantic City, NJ	10/15/01
Meetings	Los Angeles, CA	10/17/01
Meetings	Reykjavik	10/20/01
Official	Manhattan, NY	10/25/01
Speaking Engagement	Austin, TX	10/26/01
Speaking Engagement	Oakland, CA	10/28/01
Official	Manhattan, NY	10/30/01
Official	Manhattan, NY	10/30/01
Accompany a Cabinet Head	Boston, MA	10/31/01
Official	Lynchburg, VA	10/31/01
Speaking Engagement	Silver Spring, MD	11/01/01
Meetings	Los Angeles, CA	11/02/01
Official	Crawford, TX/Austin, TX	11/07/01
Speaking Engagement	Atlanta, GA	11/09/01
Meetings	Los Angeles, CA	11/10/01
Official	Manhattan, NY	11/10/01
Official	Lynchburg, VA	11/14/01
Official	Manhattan, NY	11/15/01
Official	Waco, TX	11/16/01
Official	Waco, TX	11/16/01
Official	Salt Lake City, UT	11/27/01
Official	Houston, TX/Sacramento, CA/Santa Fe, NM	11/28/01
Official	Manhattan, NY	11/29/01
Official	Manhattan, NY	11/29/01
Meetings	Virginia Beach, VA	12/04/01
Meetings	Atlanta, GA	12/05/01
Official	Lynchburg, VA	12/05/01
Meetings	Philadelphia, PA	12/05/01

REV_00169245

Speaking Engagement	Atlanta, GA	12/06/01
Speaking Engagement	Ft. Wayne, IN	12/06/01
Official	Lynchburg, VA	12/12/01
Meetings	Lynchburg, VA	12/16/01
Official	Sacramento, CA	12/18/01
Official	Camp David, MD	12/21/01
Official	Lynchburg, VA	12/24/01
Official	Waco, TX	12/26/01
Official	Minneapolis, MN	12/27/01
Official	Camp David, MD	12/28/01
Speaking Engagement	Austin, TX	01/03/02
Official	Hamilton, OH	01/06/02
Meetings	Lynchburg, VA	01/07/02
Official	Salt Lake City, UT	01/09/02
Speaking Engagement	Las Vegas, NV	01/10/02
Official	Anchorage, AK	01/14/02
Meetings	Lynchburg, VA	01/14/02
Official	Mamphis, TN	01/14/02
Official	New Orleans, LA	01/14/02
Speaking Engagement	Sacramento, CA	01/17/02
Speaking Engagement	Dallas, TX	01/18/02
Official	Portland, ME	01/21/02
Official	Atlanta, GA	01/25/02
Meetings	Manhattan, NY	01/25/02
Official	Winston-Salem. NC	01/25/02
Meetings	Lynchburg, VA	01/28/02
Meetings	Salt Lake City, UT	01/28/02
Speaking Engagement	Chicago, IL	01/30/02
Official	Lynchburg, VA	01/30/02
Official	Salt Lake City, UT	02/01/02
Official	Salt Lake City, UT	02/01/02
Official	Denver, C0	02/04/02
Official	Jackson, WY	02/04/02
Meetings	Lynchburg, VA	02/04/02
Official	Milwaukee, WI	02/06/02
Meetings	Albuquerque, NM	02/07/02
Official	Denver, CO/Jackson, WY/ Idaho Falls, ID	02/07/02
Meetings	New Haven, CT	02/07/02
Official	Waco, TX	02/08/02

REV_00169246

Official	Anchorage, AK	02/11/02
Official	Lynchburg, VA	02/11/02
Speaking Engagement	Denver, CO	02/12/02
Official	Lynchburg, VA	02/13/02
Speaking Engagement	Naples, FL	02/14/02
Speaking Engagement	Charlottesville, VA	02/16/02
Speaking Engagement	Dallas, TX	02/18/02
Official	Jackson, WY/Los Angeles, CA	02/18/02
Meetings	Kansas City, KS	02/18/02
Accompany a USG Delegation	Rome, ITA	02/18/02
Meetings	Key West, FL	02/21/02
Meetings	Las Vegas, NV	02/21/02
Meetings	Lynchburg, VA	02/27/02
Speaking Engagement	Los Angeles, CA	02/28/02
Official	Camp David, MD	03/01/02
Speaking Engagement	Hartford, CT	03/01/02
Speaking Engagement	Jackson, MS	03/01/02
Meetings	Lynchburg, VA	03/04/02
Official	Camp David, MD	03/05/02
Official	Lynchburg, VA	03/06/02
Speaking Engagement	Palm Springs, CA	03/07/02
Meetings	Lynchburg, VA	03/08/02
Official	Norfolk, VA	03/08/02
Official	Richmond, VA	03/08/02
Official	Richmond, VA	03/08/02
Official	College Station, TX	03/09/02
Official	Fayetteville, NC	03/11/02
Official	Lynchburg, VA	03/11/02
Official	St. Louis, MO	03/13/02
Meetings	Washington DC	03/15/02
Official	El Paso, TX	03/16/02
Official	Atlanta, GA	03/22/02
Meetings	Cedar Rapids, IA	03/24/02
Official	Austin, TX/Waco, TX	03/25/02
Official	Dallas, TX	03/25/02
Official	Lynchburg, VA	03/25/02

REV_00169247

Official	Atlanta, GA/Waco, TX/Greenville, SC	03/27/02
Meetings	Lynchburg, VA	03/27/02
Official	Philadelphia, Pa	03/27/02
Official	Waco, TX	03/27/02
Official	Waco, TX	04/04/02
Official	Waco, TX	04/04/02
Official	Waco, TX	04/04/02
Meetings	Boston, MA	04/05/02
Speaking Engagement	Orlando, FL/Tampa, FL	04/06/02
Meetings	Knoxville, TN	04/07/02
Meetings	Denver. CO/Las Vegas, NV	04/11/02
Official	Camp David, MD	04/12/02
Official	Camp David, MD	04/12/02
Meetings	Boston, MA	04/15/02
Meetings	Lynchburg, VA	04/15/02
Meetings	Manhattan, NY	04/15/02
Speaking Engagement	Oakland, CA/Seattle, WA	04/16/02
Official	Lynchburg, VA	04/17/02
Official	Lynchburg, VA	04/17/02
Official	Camp David, MD	04/19/02
Official	Austin, TX/Waco, TX	04/23/02
Official	Lynchburg, VA	04/23/02
Official	Los Angeles, CA/Waco, TX	04/24/02
Official	Los Angeles, CA/Waco, TX	04/24/02
Speaking Engagement	Jackson, MS	04/26/02
Meetings	Philadelphia, PA	04/26/02
Meetings	San Marcos, TX	04/27/02
Official	Lynchburg, VA	04/29/02
Meetings	San Jose, CA	04/29/02
Meetings	Tampa, FL	04/30/02
Official	Camp David, MD	05/03/02
Speaking Engagement	Miami, FL	05/07/02
Official	Lynchburg, VA	05/08/02
Official	Camp David, MD	05/10/02
Speaking Engagement	College Station, TX	05/10/02
Official	Houston, TX	05/10/02
Official	Lynchburg, VA	05/13/02
Speaking Engagement	New Orleans, LA	05/13/02

REV_00169248

Official	Lynchburg, VA	05/15/02
Official	Camp David, MD	05/17/02
Meetings	Manhattan, NY/Phoenix, AZ	05/21/02
Speaking Engagement	Atlanta, GA	05/23/02
Speaking Engagement	Birmingham, AL	05/25/02
Official	West Point, NY	05/26/02
Official	Little Rock, AR	05/27/02
Official	Lynchburg, VA	05/27/02
Official	Little Rock, AR	05/29/02
Speaking Engagement	Pittsburg, PA	05/29/02
Official	Philadelphia, Pa	05/30/02
Speaking Engagement	Albuquerque, NM/Las Vegas, NV/Los Angeles, CA	05/31/02
Official	Camp David, MD	05/31/02
Invitational	Washington, DC	05/31/02
Official	Des Moines, IA	06/02/02
Official	Des Moines, IA	06/02/02
Meetings	Manhattan, NY	06/02/02
Meetings	Lynchburg, VA	06/03/02
Official	Lynchburg, VA	06/03/02
Official	Kansas City, KS	06/06/02
Official	Camp David, MD	06/07/02
Official	El Paso, TX	06/07/02
Speaking Engagement	Ft. Meyers, FL	06/07/02
Speaking Engagement	Salt Lake City, UT	06/10/02
Official	Atlanta, GA	06/11/02
Official	Crawford, TX	06/11/02
Meetings	Los Angeles, CA/Modesto, CA	06/12/02
Official	Lynchburg, VA	06/12/02
Official	Waco, TX	06/12/02
Meetings	New Orleans, LA	06/13/02
Official	Minneapolis, MN	06/14/02
Official	Waco, TX	06/14/02
Official	Waco, TX	06/14/02
Official	Lynchburg, VA	06/17/02
Meetings	Madison. WI	06/17/02
Speaking Engagement	Pittsburg, PA	06/19/02
Speaking Engagement	Brooklyn, NY	06/21/02

REV_00169249

Speaking Engagement	Charlotte, NC	06/21/02
Meetings	Phoenix, AZ/Scottsdale, AZ	06/21/02
Official	Providence, RI	06/22/02
Official	Lynchburg, VA	06/24/02
Meetings	San Francisco, CA/Seattle, WA	06/25/02
Official	Lynchburg, VA	06/26/02
Speaking Engagement	Albuquerque, NM	06/27/02
Official	Crawford, TX	06/28/02
Official	Ripley, WV	06/29/02
Official	Lynchburg, VA	07/11/02
Official	Crawford, TX	07/12/02
Meetings	New Orleans, LA	07/12/02
Meetings	Boise, ID	07/14/02
Meetings	New Orleans, LA	07/14/02
Official	Lynchburg, VA	07/16/02
Meetings	London, GBR/FRA	07/18/02
Speaking Engagement	Los Angeles, CA	07/20/02
Official	Charleston, SC	07/23/02
Official	Charleston, SC	07/23/02
Speaking Engagement	Cleveland, OH/Minneapolis, MN	07/23/02
Meetings	Denver, CO	07/23/02
Meetings	Denver, CO/Orlando, FL	07/23/02
Official	Lynchburg, VA	07/24/02
Official	Manhattan, NY	07/24/02
Meetings	Atlanta, GA	07/28/02
Meetings	MexicoCity, MEX	07/28/02
Official	Lubbock, TX	07/29/02
Meetings	Lynchburg, VA	07/29/02
Meetings	Boston, MA	07/30/02
Meetings	Ausitn, TX	08/01/02
Meetings	Austin, TX	08/01/02
Official	Waco, TX	08/01/02
Official	Waco, TX	08/01/02
Speaking Engagement	Hershey, PA	08/03/02
Official	Lynchburg, VA	08/05/02
Meetings	Manhattan, NY	08/05/02
Meetings	Ft Lauderdale, FL	08/06/02
Meetings	Orlando, FL	08/06/02
Official	Waco, TX	08/06/02
Official	Waco, TX	08/06/02

REV_00169250

Official	Waco, TX	08/06/02
Official	Waco, TX	08/11/02
Official	Des Moines, IA	08/13/02
Conference Attendance	New Orleans, LA	08/13/02
Official	Waco, TX	08/13/02
Speaking Engagement	Charleston, WV	08/15/02
Official	Waco, TX	08/15/02
Official	Waco, TX	08/15/02
Official	Las Cruces, NM	08/19/02
Official	Las Cruses, NM	08/19/02
Official	Monterey, CA	08/19/02
Official	Hanoi, VIE/Honolulu, HI	08/20/02
Official	Las Cruces, NM	08/20/02
Speaking Engagement	Ft. Lauderdale, FL	08/25/02
Speaking Engagement	Memphis, TN	08/28/02
Speaking Engagement	Philadelphia, PA	08/28/02
Official	Louisville, KY	08/29/02
Official	Louisville, KY	08/29/02
Official	Louisville, KY	08/30/02
Official	South Bend, IN	08/30/02
Official	South Bend, IN	08/30/02
Official	South Bend, IN	08/30/02
Official	Minneapolis, MN	09/02/02
Speaking Engagement	Manhattan, NY/Kansas City, KS	09/03/02
Speaking Engagement	Naples, FL/Orlando, FL	09/03/02
Meetings	Lynchburg, VA	09/04/02
Meetings	Manhattan, NY	09/04/02
Speaking Engagement	Manhattan, NY	09/05/02
Official	Manhattan, NY	09/08/02
Official	Pittsburg, PA	09/10/02
Official	Pittsburg, PA	09/10/02
Official	Lynchburg, VA	09/11/02
Official	Davenport, IA	09/12/02
Meetings	Austin, TX	09/13/02
Meetings	Los Angeles, CA	09/13/02
Official	Pittsburg, PA	09/13/02
Official	Lynchburg, VA	09/16/02
Speaking Engagement	Baltimore, MD	09/19/02

REV_00169251

Speaking Engagement	Cedar Rapids, IA	09/19/02
Speaking Engagement	Chicago, IL	09/20/02
Speaking Engagement	Wintergreen, VA	09/20/02
Speaking Engagement	Columbus, OH	09/23/02
Official	Milwaukee, WI	09/23/02
Official	Lynchburg, VA	09/25/02
Speaking Engagement	Orange County, CA	09/25/02
Official	Waco, TX	09/25/02
Speaking Engagement	Raleigh, NC	09/26/02
Speaking Engagement	Pittsburg, PA	09/27/02
Speaking Engagement	Boston, MA	09/28/02
Speaking Engagement	Manhattan, NY	09/30/02
Official	San Francisco, CA	10/15/02

White House Office FY 2003 Staff Travel		
PURPOSE	**DESTINATION**	**DATE**
Meeting	Manhattan,NY	10/01/02
Meeting	Chicago, IL	10/02/02
Speaking Engagement	Columbus, OH	10/02/02
Speaking Engagement	Syracuse, NY	10/04/02
Speaking Engagement	Atlanta, GA	10/05/02
Official	Lynchburg, VA	10/07/02
Speaking Engagement	Orlando, FL	10/07/02
Meeting	Atlanta, GA	10/08/02
Speaking Engagement	Portsmouth, NH	10/08/02
Meeting	Hague	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02

REV_00169252

Speaking Engagement	Sioux Falls Naval, SD	10/09/02
Meeting	Washington, DC	10/09/02
Meeting	Manhattan,NY	10/10/02
Meeting	Naples, FL	10/10/02
Speaking Engagement	Ft. Lauderdale, FL	10/10/02
Speaking Engagement	Ft. Lauderdale, FL	10/10/02
Speaking Engagement	Milwaukee, WI	10/13/02
Meeting	Daytona Beach, FL	10/14/02
Official	Lynchburg, VA	10/16/02
Meeting	Manhattan,NY	10/17/02
Meeting	Philadelphia, PA	10/17/02
Meeting	Manhattan,NY	10/17/02
Speaking Engagement	Indianapolis, IN	10/17/02
Speaking Engagement	Atlanta, GA	10/19/02
Speaking Engagement	San Antonio, TX	10/20/02
Meeting	Des Moines, IA	10/20/02
Official	Lynchburg, VA	10/21/02
Official	Waco, TX	10/22/02
Meeting	Lynchburg, VA	10/23/02
Meeting	Chicago, IL	10/23/02
Speaking Engagement	St. Louis, MO	10/24/02
Speaking Engagement	Los Angeles, CA	10/24/02
Meeting	Charlotte, NC	10/24/02
Meeting	Los Angeles, CA	10/24/02
Official	Lynchburg, VA	10/28/02
Meeting	Charlotte, NC	10/28/02
Meeting	Cleveland, OH	10/28/02
Meeting	Providence, RI	10/28/02
Speaking Engagement	Pittsburgh, PA	10/29/02
Official	Waco, TX	10/31/02
Meeting	Miami, FL	11/05/02
Meeting	West Point, NY	11/07/02
Meeting	Providence, RI	11/07/02
Speaking Engagement	Providence, RI	11/07/02
Speaking Engagement	Los Angeles, CA	11/07/02
Meeting	Manhattan,NY	11/08/02
Speaking Engagement	San Diego, CA	11/10/02
Speaking Engagement	Reno, NV	11/11/02
Official	Lynchburg, VA	11/12/02
Official	Lynchburg, VA	11/13/02
Meeting	Charlotte, NC	11/13/02
Speaking Engagement	Lansing, MI	11/13/02

REV_00169253

Speaking Engagement	Manchester, NH	11/13/02
Speaking Engagement	Portland, OR	11/14/02
Meeting	Austin, TX	11/16/02
Meeting	Austin, TX	11/16/02
Speaking Engagement	Albany, NY	11/18/02
Speaking Engagement	Portland, OR	11/18/02
Speaking Engagement	Newark, NJ	11/19/02
Meeting	Manhattan,NY	11/20/02
Speaking Engagement	Tallahassee, FL	11/20/02
Speaking Engagement	Concord, NH	11/20/02
Meeting	Manhattan,NY	11/21/02
Meeting	Los Angeles, CA	11/21/02
Meeting	Loudoun County, VA	11/21/02
Speaking Engagement	West Palm Beach, FL	11/22/02
Speaking Engagement	Springfield, MO	11/24/02
Speaking Engagement	Ft. Lauderdale, FL	11/24/02
Meeting	Manhattan,NY	11/25/02
Speaking Engagement	Manhattan,NY	11/25/02
Official	Waco, TX	11/25/02
Speaking Engagement	Hershey, PA	11/26/02
Meeting	New Orleans, LA	12/01/02
Official	Ft. Lauderdale, FL	12/01/02
Official	Manhattan,NY	12/02/02
Speaking Engagement	Augusta Naval Ctr, ME	12/02/02
Official	Jacksonville, Fl	12/03/02
Speaking Engagement	Pensacola, FL	12/03/02
Speaking Engagement	Tallahassee, FL	12/04/02
Speaking Engagement	Lexington, KY	12/04/02
Meeting	Philadelphia, PA	12/06/02
Speaking Engagement	Ft. Wayne, IN	12/06/02
Speaking Engagement	Richmond, VA	12/07/02
Meeting	Manhattan,NY	12/09/02
Official	Lynchburg, VA	12/09/02
Meeting	Philadelphia, PA	12/09/02
Speaking Engagement	Nashville, TN	12/09/02
Meeting	Manhattan,NY	12/10/02
Speaking Engagement	Duluth,, MN	12/10/02
Official	Lynchburg, VA	12/11/02
Meeting	Philadelphia, PA	12/11/02
Meeting	Philadelphia, PA	12/11/02
Meeting	Philadelphia, PA	12/11/02
Meeting	Philadelphia, PA	12/11/02
Speaking Engagement	Philadelphia, PA	12/11/02

Speaking Engagement	Philadelphia, PA	12/11/02
Meeting	Indianapolis, IN	12/11/02
Meeting	Norfolk, VA	12/17/02
Meeting	West Palm Beach, FL	12/20/02
Meeting	Salt Lake City, UT	01/01/03
Official	Chicago, IL	01/02/03
Official	Reno, NV	01/05/03
Official	Chicago, IL	01/05/03
Meeting	Manhattan,NY	01/07/03
Meeting	Augusta Naval Ctr, ME	01/08/03
Meeting	Albuquerque, NM	01/09/03
Meeting	Denver, CO	01/10/03
Meeting	Tampa, FL	01/11/03
Meeting	Tampa, FL	01/11/03
Meeting	Denver, CO	01/11/03
Meeting	Denver, CO	01/12/03
Meeting	Denver, CO	01/12/03
Meeting	Denver, CO	01/12/03
Meeting	Denver, CO	01/12/03
Meeting	Denver, CO	01/12/03
Meeting	Denver, CO	01/12/03
Meeting	Salem Naval Ctr, OR	01/12/03
Official	Lynchburg, VA	01/15/03
Meeting	Manhattan,NY	01/19/03
Speaking Engagement	Austin, TX	01/20/03
Official	Lynchburg, VA	01/21/03
Meeting	Manhattan,NY	01/21/03
Speaking Engagement	Des Moines, IA	01/21/03
Speaking Engagement	Oakland, CA	01/23/03
Speaking Engagement	Chicago, IL	01/26/03
Speaking Engagement	Norfolk, VA	01/26/03
Meeting	Manhattan,NY	01/28/03
Meeting	Las Vegas, NV	01/31/03
Meeting	Manhattan,NY	02/03/03
Meeting	Manhattan,NY	02/03/03
Speaking Engagement	Boston, MA	02/06/03
Meeting	Nashville, TN	02/09/03
Official	Lynchburg, VA	02/10/03
Speaking Engagement	Little Rock, AR	02/10/03
Meeting	Tallahassee, FL	02/11/03
Meeting	San Diego, CA	02/13/03
Conference Attendance	San Diego, CA	02/15/03
Speaking Engagement	San Diego, CA	02/15/03
Meeting	Cincinnati, OH	02/19/03

REV_00169255

Meeting	Montgomery, AL	02/20/03
Speaking Engagement	Baton Rouge, LA	02/20/03
Meeting	Lynchburg, VA	02/24/03
Meeting	Santa Fe, NM	02/24/03
Speaking Engagement	Houston, TX	02/27/03
Meeting	Miami, FL	02/27/03
Meeting	Portland, OR	02/28/03
Meeting	Newport News, VA	03/05/03
Official	Lynchburg, VA	03/05/03
Speaking Engagement	Minneapolis, MN	03/06/03
Meeting	King of Prussia, PA	03/10/03
Speaking Engagement	Raleigh, NC	03/11/03
Meeting	Chicago, IL	03/12/03
Meeting	Chicago, IL	03/12/03
Meeting	Philadelphia, PA	03/12/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/14/03
Speaking Engagement	Charlottesville, VA	03/14/03
Speaking Engagement	Montgomery, AL	03/14/03
Speaking Engagement	Charlotte, NC	03/16/03
Speaking Engagement	Columbus, OH	03/17/03
Official	Lynchburg, VA	03/19/03
Speaking Engagement	Harford County, MD	03/21/03
Speaking Engagement	Atlanta, GA	03/24/03
Meeting	Philadelphia, PA	03/25/03
Meeting	Philadelphia, PA	03/25/03
Meeting	Philadelphia, PA	03/25/03
Meeting	Lansing, MI	03/25/03
Official	Lynchburg, VA	03/26/03
Speaking Engagement	Princeton, NJ	03/26/03
Speaking Engagement	Columbus, OH	03/26/03
Speaking Engagement	Jackson, MS	03/27/03
Meeting	Las Vegas, NV	03/27/03
Speaking Engagement	Los Angeles, CA	03/29/03
Speaking Engagement	Pittsburgh, PA	03/29/03
Official	Lynchburg, VA	03/31/03
Official	Lynchburg, VA	04/02/03
Meeting	Manhattan,NY	04/02/03
Speaking Engagement	Nashville, TN	04/03/03

REV_00169256

Official	Philadelphia, PA	04/03/03
Speaking Engagement	Atlantic City, NJ	04/04/03
Speaking Engagement	Tallahassee, FL	04/06/03
Speaking Engagement	Hershey, PA	04/06/03
Meeting	Houston, TX	04/08/03
Speaking Engagement	Albuquerque, NM	04/08/03
Speaking Engagement	Denver, CO	04/11/03
Official	Elmendorf, AK	04/12/03
Speaking Engagement	Detroit, MI	04/13/03
Meeting	St. Louis, MO	04/14/03
Speaking Engagement	Jefferson City, MO	04/14/03
Meeting	Manhattan,NY	04/15/03
Meeting	Dayton, OH	04/22/03
Official	San Jose, CA	04/22/03
Speaking Engagement	Houston, TX	04/23/03
Speaking Engagement	Atlanta, GA	04/24/03
Speaking Engagement	Houston, TX	04/24/03
Meeting	Albuquerque, NM	04/24/03
Speaking Engagement	Bridgeport, CT	04/27/03
Meeting	Chicago, IL	05/01/03
Speaking Engagement	Baton Rouge, LA	05/05/03
Speaking Engagement	Portland, OR	05/05/03

Office of the Vice President FY 2002 Staff Travel		
PURPOSE	**DESTINATION**	**DATE**
Meetings	London, GBR	07/14/02
Official	Monterey, CA	07/15/02

Office of the Vice President FY 2003 Staff Travel		
PURPOSE	**DESTINATION**	**DATE**
Invitational	Washington DC	10/18/02
Meetings	London, GBR	10/09/02
Meetings	London, GBR	12/12/02
Meetings	Manhattan, NY	01/15/03
Official	Raleigh, NC	04/10/03

REV_00169257

QUESTION 110: Please provide a list of all Presidential, First Lady and Vice Presidential travel for FY02 and FY03 (to date). For each trip, please provide the trip date, destination, designation (i.e., political, official), number of official EOP staff supporting the Principal and, the official cost of the trip. **(POC – Rothley Howard)**

Answer: The following charts summarize Presidential, First Lady and Vice Presidential travel for Fiscal Years 2002 and 2003 (to date). They also reflect costs currently in the accounting system. Several of the trips listed below are awaiting additional costs, therefore, final costs may vary.

Presidential Travel FY 2002

		Status		# of EOP Staff	White House
Date	**Destination**	**Official**	**Political**		**Travel Cost**
3-Oct	New York, NY	100%		6	$8,060
7-Oct	Emmitsburg, MD	100%		4	$1,988
17-Oct	Sacramento, CA	100%		5	$16,678
30-Oct	New York, NY	100%		4	$13,043
8-Nov	Atlanta, GA	100%		6	$17,920
10-Nov	New York, NY	100%		0	$6,525
14-Nov	Crawford. TX	100%		4	$44,535
21-Nov	Fort Campbell, KY	100%		3	$9,114
27-Nov	Salt Lake City, UT	100%		7	$4,328
1-Dec	Philadelphia, PA	100%		5	$13,669
4-Dec	Orlando, FL	70%	30%	7	$13,371
7-Dec	Norfolk, VA	100%		5	$5,271
11-Dec	Citadel, SC	100%		4	$11,498
26-Dec	Waco, TX	100%		7	$12,667
4-Jan	Austin, TX	100%		1	$5,356
5-Jan	Ontario, CA	100%		4	$10,240
5-Jan	Portland, OR	100%		7	$10,870
8-Jan	Hamilton, OH	100%		6	$6,588
8-Jan	Boston, MA	100%		6	$11,159
8-Jan	Portsmith, NH	54%	46%	4	$6,594
9-Jan	Washington, DC	100%		0	$0
11-Jan	Conshohoken, PA	100%		6	$5,321
14-Jan	Moline, IL	100%		6	$7,570
14-Jan	Springfield, MO	100%		4	$6,569
14-Jan	New Orleans, LA	100%		21	$32,494
22-Jan	Charleston, WV	71%	29%		$6,086
25-Jan	Portland, ME	100%		5	$7,698

REV_00169258

30-Jan	Winston-Salem, NC	65%	35%	0	$8,799
30-Jan	Daytona Beach, FL	100%		16	$12,874
31-Jan	Atlanta, GA	100%		5	$13,869
1-Feb	White Sulpher Springs, WV	100%		4	$4,273
4-Feb	Eglin AFB,FL	100%		4	$7,666
5-Feb	Pittsburgh ,PA	100%		5	$7,918
6-Feb	New York, NY	54%	46%	6	$6,940
8-Feb	Denver, CO	100%		4	$7,644
8-Feb	Salt Lake City, UT	100%		13	$12,877
8-Feb	Jackson, WY	100%		7	$11,182
11-Feb	Milwaukee, WI	48%	52%	1	$9,360
16-Feb	Anchorage, AK	40%	60%	1	$9,181
27-Feb	Charlotte, NC	52%	48%	1	$7,048
1-Mar	Des Moines, IA	53%	47%	**5**	$3,546
3-Mar	Minneapolis, MN	50%	50%	2	$7,127
8-Mar	St. Petersburg, FL	57%	43%	2	$6,093
12-Mar	Philadelphia, PA	100%		9	$11,102
15-Mar	Fayetteville, NC	100%		6	$1,218
16-Mar	Chicago, IL	100%		4	$11,217
18-Mar	St. Louis, MO	65%	35%	5	$5,835
21-Mar	El Paso, TX	100%		6	$129
27-Mar	Greenville, SC	45%	55%	5	$-3,217
27-Mar	Atlanta, GA	52%	48%	3	$166
27-Mar	Waco, TX	100%		8	$19,804
28-Mar	Dallas, TX	20%	80%	4	$224
2-Apr	Philadelphia, PA	59%	41%	6	$12,239
4-Apr	Waco, TX	100% State		0	$0
8-Apr	Knoxville, TN	100%		5	$743
9-Apr	Bridgeport, CT	52%	48%	6	$7,152
15-Apr	Cedar Rapids, IA	59%	41%	5	$7,819
17-Apr	Lexington, VA	100%		5	$8,505
22-Apr	Saranac, NY(Wilmington, NY)	100%		4	$13,029
19-Apr	Beltsville, MD	100%		0	$0
24-Apr	Sioux Falls, SD	45%	55%	5	$8,249
24-Apr	Waco, TX	100%		12	$13,741
29-Apr	Los Angeles, CA	48%	52%	17	$10,907
29-Apr	Albuquerque, NM	54%	46%	5	$7,054
30-Apr	San Jose, CA	42%	58%	6	$6,632
6-May	Southfield, MI	100%		5	$9,857
8-May	Milwaukee, WI	100%		6	$10,952

REV_00169259

8-May	Lacrosse, WI	100%		7	$8,760
10-May	Columbus, OH	59%	41%	5	$4,992
13-May	Chicago, IL	42%	58%	6	$1,743
20-May	Miami, FL	42%	58%	7	$8,587
1-Jun	West Point, NY	100%		5	$13,593
3-Jun	Little Rock, AR	100%		6	$10,094
7-Jun	Des Moines, IA	100%		6	$13,895
11-Jun	Kansas City, MO	58%	42%	7	$8,179
14-Jun	Columbus,OH	100%		6	$4,031
14-Jun	Houston, TX	45%	55%	**5**	$9,739
14-Jun	Waco, TX	100%		3	$14,955
17-Jun	Atlanta, GA	100%		5	$8,663
21-Jun	Orlando, FL	48%	52%	7	$12,111
24-Jun	Newark, NJ	48%	52%	7	$4,974
25-Jun	Phoenix, AZ	100%		0	$584
1-Jul	Cleveland, OH	100%		5	$7,823
2-Jun	Milwaukee, WI	100%		5	$6,411
4-Jul	Ripley, WV	100%		6	$7,129
5-Jul	Kennebunkport, MN	100%		0	$34,245
9-Jul	New York City, NY	100%		5	$7,706
11-Jul	Minneapolis, MN	62%	38%	7	$13,709
15-Jul	Birmingham, AL	62%	38%	6	$5,747
18-Jul	Troy, MI	100%		0	$3,197
19-Jul	Fort Drum, NY	100%		6	$7,133
22-Jul	Argonne, IL	100%		7	$10,510
25-Jul	Greensboro, NC	62%	38%	7	$5,342
29-Jul	Charleston, SC	59%	41%	5	$7,149
2-Aug	Kennebunkport, MN	75%	25%	14	$34,291
5-Aug	Pittsburg, PA	56%	44%	7	$11,138
6-Aug	Waco, TX	100%		21	$107,331
7-Aug	Jackson, MS	76%	24%	6	$9,750
13-Aug	Economic Forum Waco, TX	100%		0	$201
14-Aug	Milwaukee, WI	42%	58%	5	$5,217
14-Aug	Des Moines, IA	42%	58%	23	$6,630
14-Aug	South Dakota	100%		4	$8,029
16-Aug	Rapid City, SD	58%	42%	1	$65
22-Aug	Medford, OR	100%		5	$10,226
22-Aug	Portland, OR		100%	0	$2,429
23-Aug	Dana Point, CA	50%	50%	20	$21,873
23-Aug	Stockton, CA	38%	62%	5	$4,565

REV_00169260

24-Aug	Thousand Oaks/Westwood, CA		100%	0	$955
24-Aug	Santa Anna, CA	100%			$0
24-Aug	Las Cruces, NM	42%	58%	6	$4,381
29-Aug	Oklahoma City, OK		100%	0	$0
29-Aug	Little Rock, AR	58%	42%	5	$10,649
2-Sep	Pittsburgh, PA	100%		4	$11,098
5-Sep	Louisville, KY	59%	41%	7	$8,684
5-Sep	South Bend, IN	42%	58%	3	$5,105
6-Sep	Delu	100%		0	$1,346
6-Sep	Minneapolis, MN	100%		5	$3,387
9-Sep	Detroit, MI	100% State		0	$1,804
11-Sep	Somerset County, PA	100%		6	$1,611
11-Sep	New York City, NY	100%		8	$6,665
16-Sep	Davenport, IA	48%	52%	6	$6,573
17-Sep	Nashville, TN	38%	62%	6	$1,573
23-Sep	Trenton, NJ	38%	62%	5	$5,053
26-Sep	Houston, TX		100%	0	$0
26-Sep	Waco, TX	100%		9	$19,792
27-Sep	Denver, CO		100%	0	$0
27-Sep	Flagstaff, AZ		100%	0	$0
27-Sep	Phoenix, AZ		100%	0	$0
	Total Presidential FY 2002 Costs Through 09/30/02				**$1,146,388**

First Lady Travel FY 2002					
		Status		# of EOP	White House
Date	Destination	Official	Political	Staff	Travel Cost
3-Oct	Cincinnati, OH	100%		0	$339
16-Oct	Newark, NJ	100%		0	$1,790
18-Oct	Atlanta, GA	100%		1	$1,742
19-Oct	Baton Rouge, LA	100%		0	$1,568
30-Oct	New York, NY	100%		3	$1,652
16-Nov	Austin, TX	100%		1	$7,300
9-Jan	Topeka, KS	100%		0	$1,566
10-Jan	Houston, TX	100%		0	$1,915
11-Jan	Austin, TX	100%		0	$780
21-Jan	Atlanta, GA	100%		0	$1,060
10-Feb	Los Angeles, CA	100%		1	$5,021
11-Feb	Hershey, PA	100%		0	$0
8-Mar	New York, NY	100%		3	$6,218

REV_00169261

11-Mar	Richmond, VA	100%		4	$1,659
4-Apr	Dallas, TX	100%		1	$35
11-Apr	Hershey, PA	100%		1	$899
30-Apr	Little Rock, AR	100%		2	$1,839
30-Apr	Dallas, TX	100%		3	$365
9-May	New York, NY	100%		0	$1,898
28-May	Austin, TX	100%		1	$3,379
10-Jun	Boise, ID	100%		1	$3,456
11-Jun	Salt Lake City, UT	100%		1	$1,187
11-Jun	San Francisco	61%	39%	0	$5,237
12-Jun	Austin, TX	100%		1	$3,693
6-Jun	Crawford, TX	100%		0	$0
20-Jun	Boston, MA	100%		1	$1,674
17-Jun	Cinncinati, OH	100%		2	$2,309
22-Jun	Midland, TX	100%		0	$0
7-Jul	Kennebunkport, ME	100%		0	$0
12-Jul	Norfolk, VA	100%		2	$969
18-Jul	Philadelphia, PA	100% State		0	$0
24-Jul	New York, NY			2	$236
2-Aug	Dallas, TX	100%		1	$1,773
3-Aug	Lubbock, TX	100%		4	$3,571
14-Aug	Austin, TX	100%		2	$3,231
22-Aug	Austin, TX	100%		2	$3,501
11-Sep	New York, NY	100%		4	$4,241
25-Sep	Greenville, MS	100%		0	$1,591
27-Sep	Waco, TX	100%		1	105
	Total First Lady FY 2002 Costs through 09/30/02				**$77,799**

Vice Presidential Travel FY 2002					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
7-Oct	Smithers, BC *(can./Adv. only)*			1	$449
18-Oct	New York, NY	100%		4	$2,063
21-Oct	Washington, DC	100%			$378
28-Oct	Poughkeepsie, NY	100%		5	$3,885
30-Oct	White Sulphur Springs, WV				$200
4-Nov	Pierre/Gettysburg, SD	100%		7	$5,676
2-Nov	Dallas, TX *(can. trip)*	100%		1	$115
2-Nov	Jackson, WY	100%		2	$11,195

REV_00169262

27-Nov	Salt Lake City, UT	100%		3	$526
29-Nov	New York, NY	100%		17	$14,413
6-Dec	Dallas, TX		100%	9	$1,776
7-Dec	Oklahoma City, OK		100%	3	$4
14-Dec	Albany, GA	100%		9	$5,214
17-Dec	Jackson, WY *(no trip listed/noTA)*				$0
19-Dec	Trappe, MD	100%		9	$4,217
22-Dec	Jackson, WY	100%		14	$55,257
11-Jan	Albany, GA	100%		8	$5,447
25-Jan	Cincinnati, OH		100%	4	$0
30-Jan	White Sulpher Springs, WV	100%		8	$4,353
6-Feb	Louisville, KY		100%	9	$5,392
6-Feb	Evansville, IN		100%		$0
7-Feb	Hopkinsville, KY	17%	83%	9	$700
15-Feb	Armstrong, TX	100%		1	$275
17-Feb	Carlsbad, CA	100%		1	$30,757
19-Feb	Fullerton, CA	100%			$2,700
19-Feb	Los Angeles, CA	15%	85%	2	$5,698
20-Feb	Sacramento, CA		100%	2	$2,514
20-Feb	Fresno, CA *(Mix?)*	100%			$817
20-Feb	Pleasantville, CA	100%			$0
21-Feb	San Jose, CA *(Mix)*	100%		2	$9,783
24-Feb	Salt Lake City, UT	100%		7	$9,544
25-Feb	Cheyenne, WY	30%	70%	27	$9,672
25-Feb	Jackson, WY	100%		4	$20,789
28-Mar	Jackson, WY	100%		1	$13,492
3-Apr	Denver, CO		100%	2	$447
4-Apr	Jackson, MS		100%	3	$1,047
4-Apr	Kansas City, MO		100%	1	$0
4-Apr	Fayetteville, AR		100%	1	$0
5-Apr	Dallas, TX	100%		21	$4,034
12-Apr	Charleston, WV		100%		$0
12-Apr	Richmond, VA		100%		$0
15-Apr	Grand Rapids, MI	100%		10	$5,770
15-Apr	Collinsville, IL		100%	1	$221
19-Apr	Allentown, WV		100%		$0
19-Apr	Islandia, NY		100%		$126
22-Apr	Ft. Lauderdale, FL		100%		$0
24-Apr	Houston, TX *(State-sponsored)*	100%			$0
25-Apr	Crawford, TX *(State-sponsored)*	100%			$0

REV_00169263

2-May	Lansing, MI	100%		13	$4,903
2-May	South Bend, IN		100%	1	$57
9-May	Minneapolis, MN		100%		$0
11-May	Jackson, WY		100%	4	$666
21-May	Boston, MA		100%		$0
24-May	Jackson, WY	100%		8	$9,641
29-May	Nashville, TN		100%		$0
7-Jun	Harrisburg, PA		100%		$0
14-Jun	Columbia, SC		100%		$3,387
14-Jun	Dallas, TX	100%		5	$11,223
20-Jun	Dayton, OH		100%		$0
20-Jun	Detroit, MI		100%		$0
21-Jun	Cody, WY	100%		3	$5,270
21-Jun	Beaver Creek, CO	100%		4	$8,941
23-Jun	Portland, OR		100%	7	$3,902
28-Jun	Charlotte, NC		100%		$0
20-Jun	Raleigh, NC		100%		$0
1-Jul	Wichita, KS		100%		$0
1-Jul	Dallas, TX		100%		$0
1-Jul	Jackson, WY	100%		8	$15,034
9-Jul	Ft. Bragg, NC	100%		1	$860
15-Jul	Hartford, CT		100%		$0
17-Jul	Atlanta, GA	100%		1	$1,805
18-Jul	Conshohocken, PA		100%		$0
18-Jul	Pittsburgh, PA		100%		$0
19-Jul	Macon, GA		100%		$0
19-Jul	Houston, TX		100%		$0
22-Jul	Montgomery, AL	100%		6	$5,498
22-Jul	Cape Canaveral, FL	100%		7	$4,072
29-Jul	Des Moines, IA		100%	5	$255
29-Jul	Cedar Rapids, IA		100%		$0
29-Jul	Fargo, ND		100%	5	$255
30-Jul	Jackson, WY	100%		15	$104,430
1-Aug	Meeker, CO	Cancelled		1	$1,287
6-Aug	San Francisco, CA	72%	28%	7	$13,202
7-Aug	Fresno, CA		100%		$0
8-Aug	Salt Lake City, UT		100%		$0
8-Aug	Albuquerque, NM		100%		$0
12-Aug	Minneapolis, MN		100%		$0
12-Aug	Waco, TX	100%		7	$6,757

12-Aug	Detroit, MI		100%		$0
13-Aug	Billings, MT		100%		$0
15-Aug	Montgomery, AL		100%		$0
17- Aug	Jackson, WY			3	$1,306
19-Aug	Big Horn, MT	Cancelled			$0
20-Aug	Waco, TX	100%		1	$1,641
26-Aug	Nashville, TN	53%	47%	3	$4,946
29-Aug	San Antonio, TX	100%		3	$2,518
6-Sep	New York, NY	100%		3	$5,447
18-Sep	New London, CT		100%		$0
19-Sep	Burlington, VT	12%	88%	1	$437
19-Sep	New York, NY		100%		$0
20-Sep	Casper, WY	63%	37%	3	$4,840
20-Sep	Jackson, WY	100%		7	$1,830
23-Sep	Kansas City, MO	100%			$0
26-Sep	Memphis, TN		100%		$0
26-Sep	Dallas, TX		100%		$0
27-Sep	Boise, ID		100%	3	$462
26-Sep	Jackson. WY	100%		8	$11,395
27-Sep	Laramie, WY	100%		4	$761
	Total Costs through 9/30/02				**$475,974**

Presidential Travel FY 2003					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
1-Oct	Tampa, FL				$1,032
2-Oct	Baltimore, MD		100%	0	$0
4-Oct	Boston, MA		100%	0	$0
4-Oct	Kennebunkport, ME	100%		17	$37,055
5-Oct	Manchester, NH	32%	68%	4	$5,704
7-Oct	Cincinnati, OH	100%		10	$20,182
8-Oct	Knoxville, TN		100%	0	$798
14-Oct	Detroit, MI		100%	1	$677
17-Oct	Daytona Beach, FL	59%	41%	6	$9,308
17-Oct	Atlanta, GA		100%	0	$0
18-Oct	Rochester, MN		100%	0	$0
18-Oct	Springfield, MO		100%	0	$0
22-Oct	Chester County, PA		100%	0	$0
22-Oct	Bangore, ME		100%	0	$0

REV_00169265

24-Oct	Charlotte, NC		100%	0	$0
24-Oct	Columbia, SC		100%	0	$0
24-Oct	Auburn, AL		100%	0	$0
24-Oct	Waco, TX (State Dept.)	100%		2	$2,168
26-Oct	Cabo San Lucas, Mex (State)	100%		0	$0
27-Oct	Phoenix, AZ (RON)		100%	4	$817
28-Oct	Alamogordo, NM		100%	0	$0
28-Oct	Denver, CO		100%	0	$0
31-Oct	Aberdeen, SD		100%	0	$0
31-Oct	Southbend, IN		100%	0	$0
31-Oct	Charleston, WV		100%	0	$0
1-Nov	Louisville, KY		100%	0	$0
1-Nov	Portsmouth, NH		100%	0	$0
2-Nov	Johnson City, TN		100%	0	$0
2-Nov	Atlanta, GA		100%	0	$0
2-Nov	Tampa Bay, FL (RON)		100%	0	$0
3-Nov	Springfield, IL		100%	0	$0
3-Nov	Minneapolis, MN		100%	0	$0
3-Nov	South Falls, SD		100%	0	$0
3-Nov	Cedar Rapids, IA (RON)		100%	1	$738
4-Nov	St. Louis, MO		100%	0	$0
4-Nov	Bentonville, AR		100%	0	$0
4-Nov	Dallas, TX		100%	0	$0
4-Nov	Waco, TX (RON)	100%		18	$9,387
27-Nov	Waco, TX (RON)	100%		20	$21,899
3-Dec	Shreveport, LA		100%	0	$0
3-Dec	New Orleans, LA		100%	0	$0
12-Dec	Philadelphia, PA	100%		5	$10,793
26-Dec	Waco, TX (RON)	100%		13	$38,144
3-Jan	Ft. Hood, TX	100%		2	$1,777
7-Jan	Chicago, IL	100%		7	$10,516
16-Jan	Scranton, PA	100%		4	$11,184
22-Jan	St. Louis, MO	100%		7	$12,521
29-Jan	Grand Rapids, MI	100%		8	$12,918
31-Jan	Camp David, MD	100%		5	$646
4-Feb	Houston, TX	100%		6	$8,141
9-Feb	White Sulphur Springs, WV	100%		5	$11,968
10-Feb	Nashville, TN	100%		6	$13,069
13-Feb	Jacksonville, FL	100%		6	$15,211
20-Feb	Atlanta, GA	100%		7	$4,646

REV_00169266

20-Feb	Waco, TX (State)	100%		1	$945
4-Mar	Washington, DC	100%		0	$0
5-Mar	Camp Lejeune, NC	100%		3	$5,218
26-Mar	Camp David, MD	100%		7	$350
26-Mar	Tampa Bay, FL	100%		7	$4,541
31-Mar	Philadelphia, PA	100%		5	$1,726
3-Apr	Camp Lejeune, NC	100%		8	$6,968
16-Apr	St. Louis, MO	100%		7	$1,095
16-Apr	Waco, TX	100%		16	$3,972
20-Apr	Ft. Hood, TX	100%		1	$0
24-Apr	Canton, OH	100%			$0
24-Apr	Lima, OH	100%			$0
28-Apr	Dearborn, MI	100%			$0
	Total Costs Through 09/30/03				**$286,114**

First Lady Travel FY 2003					
		Status		Number	White House
Date	Destination	Official	Political	Of Staff	Travel Cost
1-Oct	Tampa, FL	69%	31%	6	$820
4-Oct	Kennebunkport, ME			2	$210
5-Oct	Portland, ME	100%		3	$1,343
7-Oct	New York, NY	74%	26%	4	$5,625
16-Oct	Dayton, OH	100%		4	$2,281
17-Oct	Mobile, AL	77%	23%	8	$4,226
21-Oct	Boston, MA	100%		4	$6,528
23-Oct	St. Louis, MO	65%	35%	5	$5,610
2-Nov	Atlanta, GA	100%		2	$3,729
2-Nov	Raleigh, NC		100%		$0
2-Nov	Nashua, NH		100%		$0
2-Nov	Des Moines, IA		100%		$0
2-Nov	Minneapolis, MN		100%		$0
2-Nov	Sioux Falls, SD (RON)		100%		$0
3-Nov	Rapid City, SD		100%		$0
4-Nov	Waco, TX			1	$112
12-Nov	New York, NY				$295
16-Jan	New York, NY			1	$547
20-Jan	New York, NY			2	$5,668

REV_00169267

4-Feb	Los Angeles, CA			3	$2,369
13-Feb	New York, NY			6	$5,163
19-Feb	Dallas, TX			2	$353
19-Feb	New Orleans, LA			2	$4,883
13-Mar	Austin, TX (RON)		100%	0	$0
8-May	Page, AZ	100%			
8-May	Kayenta, AZ	100%			
8-May	Phoenix, AZ	100%			
9-May	Santa Fe, NM	100%			
	Total Costs through 09/30/03				**$49,762**

Vice Presidential Travel FY 2003					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
19-Sep	Burlington, VT **FY-02*	12%	88%	1	$21
4-Oct	Atlanta, GA		100%		$0
4-Oct	Warner Robbins, GA		100%		$0
4-Oct	Augusta, GA		100%		$0
7-Oct	Babine, BC, Canada	100%			$0
11-Oct	Colorado Springs, CO	79%	21%	7	$4,738
14-Oct	Roswell, NM		100%		$0
14-Oct	Tulsa, OK		100%		$0
14-Oct	Phoenix, AZ		100%		$0
14-Oct	Midwest City, OK	10%	90%		$0
21-Oct	Portland, ME		100%		$0
21-Oct	Newark, NJ		100%		$0
24-Oct	Dalton, GA	83%	17%	2	$374
24-Oct	Tampa, FL	76%	24%		$939
25-Oct	Philadelphia, PA	100%		1	$1,317
25-Oct	Reading, PA		100%		$1,416
29-Oct	Wilmington, NC		100%	1	$207
30-Oct	Chattanooga, TN		100%		$0
30-Oct	Little Rock, AR		100%		$0
30-Oct	Houston, TX		100%	3	$1,234
31-Oct	Cape Girardeau, MO		100%		$0
31-Oct	Sioux City, IA		100%		$0
31-Oct	Indianapolis, IN		100%		0
1-Nov	Duluth, MN		100%		$0
1-Nov	Rapid City, SD		100%		$0

REV_00169268

1-Nov	Denver, CO		100%	1	$1,657
2-Nov	Salt Lake City, UT		100%		$0
2-Nov	Springfield, MO		100%		$0
2-Nov	Jackson Hole, WY		100%	3	$1,369
2-Nov	Albuquerque, NM		100%		$0
3-Nov	Cheyenne, WY		100%		$0
3-Nov	Gettysburg, SD	100%		1	$6,096
16-Nov	Latrobe, PA	100%		2	$1,535
18-Nov	Monroe, LA		100%		$0
18-Nov	Lafayette, LA		100%		$0
22-Nov	Trappe, MD	100%		4	$594
29-Nov	Jackson Hole, WY	100%		5	$1,135
29-Nov	Casper, WY	100%		2	$1,948
2-Dec	Denver, CO	100%		3	$2,308
5-Dec	Stuttgart, AR	100%		4	$1,928
14-Dec	Jackson Hole, WY	100%		7	$9,417
21-Dec	Jackson Hole, WY	100%		6	$17,927
17-Jan	Albany, GA	100%		4	$3,427
24-Jan	Trappe, MD *(cancelled trip)*				$0
31-Jan	Armstrong, TX	100%		6	$2,002
3-Feb	College Station, TX				$0
6-Feb	White Sulphur Springs, WV	100%		2	$806
9-Feb	Honolulu, HI	100%		8	$1,440
14-Mar	Jackson Hole, WY *(Adv only)*	100%			$0
17-Feb	Jackson Hole, WY	100%		9	$8,137
8-Apr	New Orleans, LA	100%		11	$2,941
22-Apr	Jackson Hole, WY	100%		6	$1,399
6-May	Dallas, TX	100%			$0
	Total Costs through 5/16/03				**$76,312**

Summary: Presidential, First Lady and Vice Presidential travel for FY02 and FY03 (to date).

Principal	Fiscal Year 2002	Fiscal Year 2003 (To date)
President of the United States	**$1,146,388**	**$286,114**
First Lady of the United States	**$77,799**	**$49,762**
Vice President of the United States	**$475,974**	**$76,312**
Totals	**$1,700,161**	**$412,188**

REV_00169269

QUESTION 111: How much did OMB reimburse the White House Office for use of White House motorpool vehicles in FY02? How much is OMB projecting to reimburse in FY03 and FY04? **(POC – Brian Gillis)**

RESPONSE: For FY 2002, OMB reimbursed the Department of Defense $99,000 for the use of the White House motorpool. OMB is projecting a similar amount for FY 2003 and FY 2004.

In the hearing, Mr. Daniel mentioned that the FY03 vehicle lease and IT support contracts came in significantly below the original budget estimates.

QUESTION 112: Do you intend to return the unused funds to the Treasury at the end of the fiscal year? **(POC – Chuck Sigman)**

RESPONSE: The EOP plans to use the funds to implement other critical EOP priorities. The programs which were described by Mr. Daniel at the hearing were the FY 2003 vehicle lease and the guard services contract for guard services at 1801 Pennsylvania Avenue. He did not refer to the IT support contract.

QUESTION 113: For these areas in which savings were realized, what are your plans for the funds? **(POC – Chuck Sigman)**

RESPONSE: For FY 2003, these funds are being applied to fund other priorities for the OA as well as common services for EOP entities. These other priorities include consolidation of information technology maintenance ($200,000), centralization of database services ($200,000), and common building service costs ($400,000). The remaining $300,000 of these savings will be used for an FY03 OA personnel shortfall.

Political Travel

QUESTION 114: Please explain the reimbursement procedures the White House intends to follow during the Presidential election season. **(POC – Andy Kalnins)**

RESPONSE: Travel by senior Administration officials is governed by relevant statutes and regulations that have been followed for many years.

QUESTION 115: Exactly when will the presidential-campaign procedures take effect? **(POC – Andy Kalnins)**

REV_00169270

RESPONSE: The presidential-campaign procedures take effect when a President is a candidate for re-election.

QUESTION 116: How do you determine who the official travelers are on a campaign or political trip? Does the list of positions vary from trip to trip? **(POC – Andy Kalnins)**

RESPONSE: Consistent with governing statutes and regulations, and traditional practice, a list of positions has been developed which are deemed to always be official.

QUESTION 117: On trips with political and official components, what is the procedure for determining which events are paid for using official funds and which events are reimbursed by the political entity? **(POC – Andy Kalnins)**

RESPONSE: The guidelines are based on legal principles embodied in 5 CFR §734.503, policies established over a period of years by previous Administrations, and guidance from Federal Election Commission opinions.

QUESTION 118: If the President gives virtually the same speech at a political event that he gave at an official event in that same city, what criteria is used to determine whether an event is "political" or "official"? **(POC – Andy Kalnins)**

RESPONSE: Appearing at party functions, fundraising, and campaigning for specific candidates are principal examples of travel which ordinarily is considered political.

QUESTION 119: If the President gives virtually the same speech at a political event that he gave at an official event in that same city, does the political entity reimburse the White House for the Speechwriters time? **(POC – WHO M&A)**

RESPONSE: Ordinarily not. See 5 CFR §734.503(b)(1).

QUESTION 120: Have events been classified as "official" even if only members of the President's political party are invited to share the stage with the President? **(POC – WHO M&A)**

RESPONSE: The classification of an event as official or political depends on many factors. However, Presidents routinely have official events that may include members of only one party, for example, a speech or meeting about legislative activities or issues.

QUESTION 121: If so, what justification is used to argue that these events were not political events? **(POC – WHO M&A)**

REV_00169271

RESPONSE: The classification of an event as official or political depends on many factors. However, Presidents routinely have official events that may include members of only one party, for example, a speech or meeting about legislative activities or issues.

QUESTION 122: Please provide information about reimbursement to the White House Office or other government agencies associated with local staff travel to political events attended by the President in FY02 or FY03. For each reimbursement made, please provide the date the bill was generated, the number of events reflected on the bill, the date payment was received, the political entity paying the charges and the total amount paid on each bill. **(POC – WHO M&A)**

RESPONSE: The White House took steps to ensure appropriate reimbursements from the relevant political entities for political trips.

Photographic Services (POC – Eric Lanman)

QUESTION 123: For FY02, FY03 and FY04, what was (or is projected to be) the total cost of photographic equipment purchased for use by the White House photographers?

RESPONSE: The total cost (actual and projected) of photographic equipment procured for use by White House photographers in FY 2002, FY 2003 and FY 2004 are displayed in the table below.

	FY 2002	FY 2003	FY 2004
	Actual	Estimate	Estimate
Photographic Equipment	$137,057	$35,700	$36,300

FY 2002 actual costs are higher than the estimates for FY 2003 and FY 2004 due to the necessary life cycle replacement of photographic equipment.

QUESTION 124: For FY02, FY03 and FY04, what was (or is projected to be) the total cost of photo lab equipment purchased for use by the WHCA photo lab?

RESPONSE: The total cost (actual and projected) of photo lab equipment purchased for use by the WHCA photo lab is itemized in the following chart:

	FY 2002	FY 2003	FY 2004
	Actual	Estimate	Estimate
Photo Lab Equipment	$492,720	$473,775	$375,000

QUESTION 125: For FY02, FY03 and FY04, what was (or is projected to be) the total travel cost associated with travel of White House Photographers?

REV_00169272

RESPONSE: The FY 2002 travel costs of White House Photographers was $46,721. The estimated FY 2003 cost is $50,000 and the projected cost for FY 2004 is $55,000.

QUESTION 126: For FY02, FY03 and FY04, what was (or is projected to be) the total rent cost associated with the WHCA photo lab?

RESPONSE: There is no rent cost associated with the WHCA photo lab. However, there are utility and facility maintenance costs associated with the WHCA photo lab. Those costs were $73,600 for FY 2002, $76,650 estimated for FY 2003 and a projected $79,000 for FY 2004.

QUESTION 127: Please explain the procedures for determining when and how the government is to be reimbursed for photos released for non-official purposes. If these procedures have changed from those followed by the previous administration, please explain any changes that have been made.

RESPONSE: The procedures for obtaining reimbursements for photographs changed on October 1, 2000. The procedures now in place are designed to ensure that the government receives appropriate reimbursement for photographs sought for non-official purposes. Records are kept of all such requests, and appropriate reimbursement is then sought.

QUESTION 128: For FY02 and the first seven months of FY03, please provide the following information about each payment made to the White House, OA, WHCA, DISA (or other DoD organization) to reimburse for the release of photos or photo lab services that were provided:

- date reimbursement was made
- name of reimbursing organization
- amount of payment
- number of photos purchased by reimbursing organization
- size of photos purchased by reimbursing organization

RESPONSE: The requested information about each payment made to the White House, OA, WHCA, DISA (or other DoD organization) to reimburse for the release of photos is provided below.

REV_00169273

Reimbursements for White House Photos				
Date	***Reimbursing Organization***	***Amount of Payment***	***# of Photos***	***Size of Photos***
5/2002	Republican National Committee	$648.00	36	8x10
5/2002	Hector Irastorza, Jr.	$90.00	5	8x10
7/2002	Lee Terry for Congress	$36.00	2	8x10
7/2002	Republican Party of Florida	$90.00	5	8x10
7/2002	Republican National Committee	$72.00	4	8x10
8/2002	Republican National Committee	$252.00	14	8x10
9/2002	Kent County Republican Committee	$18.00	1	8x10
9/2002	Breckenridge Design Group	$18.00	1	8x10
9/2002	Portman for Congress	$36.00	2	8x10
9/2002	Republican National Committee	$1,296.00	72	8x10
10/2002	Rick Clayburgh for Congress	$18.00	1	8x10
10/2002	Fisher for Governor	$18.00	1	8x10
10/2002	Wyoming Republican Party	$162.00	9	8x10
10/2002	Johnson for Congress	$72.00	4	8x10
10/2002	Talent for Senate	$18.00	1	8x10
10/2002	John Doolittle for Congress	$486.00	27	8x10
10/2002	National Federation of Republican Women	$18.00	1	8x10
10/2002	Republican National Committee	$342.00	19	8x10
11/2002	Talent for Senate	$18.00	1	8x10
11/2002	Ferguson for Congress	$18.00	1	8x10
11/2002	Mark Kennedy for Congress	$126.00	7	8x10
12/2002	Talent for Senate	$18.00	1	8x10
12/2002	Johnson for Congress	$72.00	4	8x10
12/2002	Wieczoren for Executive Council	$18.00	1	8x10

REV_00169274

2/2003	Diane Thompson	$84.00	4	11x14
3/2003	Republican National Committee	$108.00	6	8x10
3/2003	Congressman Kenny Hulshof	$18.00	1	8x10
3/2003	Congressman James Greenwood	$18.00	1	8x10
3/2003	Senator Frank Murkowski	$18.00	1	8x10
3/2003	Mark Kennedy for Congress	$126.00	7	8x10
3/2003	George Bush Presidential Library	$1,117.00	2	20x30
			20	11x14
			47	8x10
3/2003	Office of President George Bush	$702.00	39	8x10
5/2003	National Federation of Republican Women	$18.00	1	8x10
Total		$6,169.00		

Remote Delivery Site Reprogramming Request (POC – Paul Ehrhardt)

We recently received a reprogramming request to transfer $2m of the funds provided to the Office of Homeland Security to the Remote Delivery Site cleanup efforts.

QUESTION 129: What is the status of remediation efforts?

RESPONSE: We are in the process of Confirmatory Sampling. The sampling plan is intended to present a technical approach for (1) completing air and surface sampling for culturable *Bacillus anthracis* spores to verify the efficacy of the decontamination process: (2) providing for qualified laboratory analysis of the collected samples: and (3) presenting a protocol for data collection and reporting such that the results of the sampling effort are valid and defensible. In addition, the Plan provides for the site and personnel security, safety, health, and personal protection, equipment and collection methods, and sample handling.

QUESTION 130: Please provide the total budget estimate for this project.

RESPONSE: As the contractor responsible for returning the building to an environmentally safe workplace, Versar to date has not been able to develop or provide accurate cost estimates or time lines to EOP. Budget and schedule estimates for this project are especially difficult due to critical path activities taking place in a high-risk

REV_00169275

environment relying on the utilization of untested speculative technologies. However to date $2.422 million has been spent on the effort and we are currently requesting an additional $2 million, which is Versar's best estimate of what it will cost to complete the project. The total budget estimate for the project then comes to $4.422 million.

QUESTION 131: Please provide the anticipated schedule for this effort.

RESPONSE: Given many variables, including weather, our best current estimate of time to required complete the RDS project is 4 months. The confirmatory testing phase is estimated to take eight weeks from start up. The next phase would be for the ECC committee to ratify the confirmation process; we estimate this to be one month. After this is completed, our best estimate is thirty days to perform PM on the HVAC equipment, build out the office areas, and re-establish the building operation.

QUESTION 132: What caused this $2 million overrun?

RESPONSE: There is not a $2 million overrun. The request for $2 million is a result of anticipated costs and those unforeseen conditions as result of the environmental cleanup process, that OA, GSA or its contractors had available at the time of fumigation. The Environmental Clearance Committee has placed additional requirements that resulted in the additional costs. The proposed sampling plan utilizes the barrier divisions already in Building 410 (which provides discrete work areas) and presents proposed sampling location, quantity, and types of samples to be collected . Sampling will be carried out using a phased approach for each work area as follows:

Phase 1, Surface Sampling; Phase 2 Air Sampling: Phase 3, "Dynamic Sampling", Phase 4, Start Up of the Heating, Ventilation , and Air Conditioning (HVAC) Units; and Phase 5, Final Sampling with the Barriers Down.

QUESTION 133: Why have you stopped providing the monthly reports on the remediation efforts?

RESPONSE: Due to the process of establishing the Environmental Clearance Committee, it was an administrative error that the reports were inadvertently not forwarded.

Previously the Remote Delivery Site was used to screen incoming mail. It also used to serve as an off-site supply depot. With the Department of Homeland Security now assuming the mail processing function and with supply operations now established on the White House Complex, I'm curious about future plans for the RDS.

REV_00169276

QUESTION 134: What will the facility be used for when remediation is finished?

RESPONSE: Prior to September 11, 2001 the Remote Delivery Site (RDS) was used as a centralized receiving facility for the White House Complex. All postage flat mail and packages, including UPS and FedEx deliveries, and all equipment and local deliveries were delivered to the RDS. All incoming deliveries, regardless of size, were screened by the U.S. Secret Service (USSS) via large X ray machines, and if any equipment was too large to fit on the X-ray conveyer belt, then the USSS used dogs to sniff for explosives. After initial USSS clearance, all of the items were sorted and delivered to their intended destination to the White House Complex. Supplies, equipment and furniture which were purchased for inventory for use at later time were housed at the RDS.

In addition to the screening of WHO Complex deliveries, the USSS Administrative Operations Division used RDS space to screen all of its incoming mail and packages that were intended for USSS personnel.

The EOP Supply store was operated within the confines of the RDS. Supplies were purchased and inventoried at the RDS and office supplies and copier paper were purchased in volume to take advantage of discounts. The WHO/EOP customers faxed supply requisitions to the RDS staff who then pulled and boxed office supplies for delivery to the WHO Complex. OA property supply staff made supply deliveries to the WHO complex at least twice a day, and more if needed.

The EOP/OA Personal Property Program (excess, transfer, donation, and destruction of furniture and equipment) had its operations housed at the RDS. Excessed equipment and furniture were corralled at the RDS until enough equipment and furniture were gathered to make it economical to excess all at once. In addition, schools and nonprofit organizations were allowed to review equipment for donation under Executive Order 12999.

After September 11, as a precautionary move, the White House United States Postal Service was relocated from the Eisenhower Executive Office Building to the RDS. A separate room was built for the USPS's operation of opening and screening all White House mail. The RDS operations continued working around the new USPS area. These USPS operations continued until the RDS was closed due to the discovery of Anthrax. Since then the USPS operations have relocated to 1800 G. St. NW.

Once the remediation is finished, the RDS will resume its former function of screening all bulk deliveries (including equipment, furniture, boxes of supplies) sent to the EOP Complex. In addition the facility will be used to store supplies and an inventory of equipment and furniture. The RDS will also be used as a staging area for efficient loading and delivery of bulk items for all EOP entities.

QUESTION 135: Will the DHS use the facility to screen the White House's mail?

REV_00169277

RESPONSE: No.

QUESTION 136: Will you close the on-site supply stores and revert back to running the supply operation out of the Remote Delivery Site?

RESPONSE: When the RDS reopens after the remediation of the building, the RDS staff will resume the same functions prior to the Anthrax. However, there are major changes in the way the OA Supply Store operates and manages its supply inventory. The Office of Administration has entered into a new business relationship with GSA. The OA Supply operation will purchase its supplies from GSA who will provide a wide array of office supplies and maintain the level of supply inventory that is needed to support the WHO Complex. The GSA inventory will be housed at the RDS after relocation from Franconia, VA, the current, temporary RDS location. OA supply staff will pull supply orders based on customer's requisitions, and then box and deliver the supplies from the RDS to WHO complex. GSA will only charge for the supplies that EOP customers use at point of sale, otherwise the unsold inventory will still belong to GSA. GSA promises to maintain the supplies that the EOP customers may need. Inventories will be reviewed and adjusted to realize the kind and quantities of supplies the EOP customers expect. This business relationship will promote a more flexible inventory that allows the supply inventory to have the quantity or variety of supplies to meet our customer needs in a more proactive, real-time fashion.

White House Access (POC – WHO M&A)

QUESTION 137: For the record, please provide the total number of visitors who passed through the White House as part of tours in 2000, 2001, 2002 and 2003 (to date).

RESPONSE: Listed below are total numbers of visitors that passed through the White House from 2000 to year to date FY 2003, as reported in National Park Service (NPS) statistical abstract:

2000: 1,175,714
2001: 856,042
2002: 178,092
2003: 43,434 (as of May 14)

Please note that the NPS records garden tours and egg roll events in their annual numbers for visitors to the White House even though the people attending these events do not go through the house. Since the numbers for the visitors that actually go through the house are not exclusively available, we have included the egg roll event in the numbers for 2003 for consistency. There was no a spring garden tour in 2003.

QUESTION 138: Why are White House tours currently not open to the general public?

REV_00169278

RESPONSE: White House special group tours were reopened for certain group tours on May 6, 2003. Over the past many months, the White House has operated a successful program, in partnership with Congressional offices, allowing special group tours to visit. We will continue to book groups using existing procedures unless circumstances dictate otherwise.

The White House is mindful of the request to fully resume public tours. We continue to consult with law enforcement and intelligence services on how to ensure the safety of the residents, staff and the general public while at the White House.

QUESTION 139: What is the status of the report on the status of White House Tours that was due to the Subcommittee by March 22nd?

RESPONSE: This question was answered and sent to the Subcommittee by the March 22nd deadline.

QUESTION 140: Who has the lead on the efforts to decide whether public tours can be resumed?

RESPONSE: The United States Secret Service constantly monitors and evaluates existing conditions to determine the level of security required at the White House complex including when and if tours can be resumed on a full schedule. Their recommendations, along with input from other law enforcement and intelligence services who monitor changing world events, are reviewed with White House management staff to schedule and structure tours in such a manner that will provide an appropriate level of security for general public taking the tours, in addition to the staff who work in and around the Complex, and the residents. This is an ongoing effort.

QUESTION 141: Does the USSS do a background check on all individuals attending events and meetings at the White House Complex before access can be granted?

RESPONSE: For security reasons, it is not appropriate to provide information about the specific nature of background checks and related security procedures in this context.

QUESTION 142: During this administration, have White House aides ever overruled a building-access recommendation made by the USSS?

RESPONSE: The USSS and EOP Staff collaborate in making decisions on access to the complex.

REV_00169279

Off-site EOP Support

QUESTION 143: How many EOP employees are based in Crawford, TX? **(POC – Stacia Cropper)**

RESPONSE: One.

QUESTION 144: How much space does the EOP pay rent for in Crawford, TX? **(POC James Daniel/Stacia Cropper)**

RESPONSE: There is one double-wide trailer. The cost of the trailer itself and all operating costs will be paid to GSA in a monthly rent payment of $8,496.83 for two years.

QUESTION 145: How many trailers were acquired for Crawford, TX? **(POC James Daniel/Stacia Cropper)**

RESPONSE: One trailer was acquired for the EOP.

QUESTION 146: What was the cost to purchase and renovate these trailers? **(POC James Daniel/Stacia Cropper)**

RESPONSE: The cost of the trailer shell was $72,745.28. The cost to apply finishes to the trailer interior was $20,976.62.

QUESTION 147: What are the expected FY04 operating costs of facilities and staff permanently deployed to Crawford, TX? **(POC James Daniel/Stacia Cropper)**

RESPONSE: The following are the estimated operating costs for one year: Pest Control ($1,440), cleaning ($4,200), electricity ($4,211.75), and water ($2,286.38).

Rent (POC – Steve Beattie)

QUESTION 148: Please provide an accounting of all space on which the EOP currently pays rent. The list should include the number of staff in each building, the agencies which occupy space in each facility, the total square footage by agency in each facility, the total square footage of vacant space on which the EOP is currently paying rent in each facility and the GSA rent rates for each facility.

RESPONSE: The following charts provide the information on EOP facilities and GSA rental rates as they stood during the formulation of the FY 2004 budget request. Since

REV_00169280

then, several offices have moved from the New Executive Office Building (NEOB) into the space in 1800 G. Street. In addition, several offices from the Eisenhower Executive Office building will be moving into the newly vacated space at the NEOB. Once all moves have been accomplished, the EOP will provide the Subcommittee with an update on the space utilization of the buildings on the White House complex.

REV_00169281

Executive Office of the President
GSA Rental Space Information

Building	EOP Info		Square Feet		Rate/Sq.Ft
	Office	# of Staff	Occupied	Vacant	
White House (East & West Wing)	White House Office	131	52,955		$29.60
Eisenhower Executive Office Building	White House Office	260	105,067		$29.60
	Office of the Vice President	66	29,035		$29.60
	Office of Management and Budget	53	20,663		$29.60
	Council on Environmental Quality	*Joint Use*	954		$29.60
	Council of Economic Advisers	40	16,804		$29.60
	National Security Council	165	54,106		$29.60
	Office of Policy Development	26	17,003		$29.60
	Office of Administration	28	9,907		$29.60
	Office of Science and Technology Policy		1,377		$29.60
	Subtotal	*638*	*254,916*		
New Executive Office Building	White House Office	8	2,316		$29.60
	Office of Management and Budget	451	191,664		$29.60
	Office of Administration	163	84,381		$29.60
	U.S. Trade Representative	*Joint Use*	4,979		$29.60
	Subtotal	*622*	*283,340*		
1800 G. Street	White House Office	102	53,593		$34.56
	Office of Administration	4	1,028		$37.37
	Office of Administration		24,184		$37.01
	Office of Administration		524		$34.37
	Office of Administration		46,593		$34.56
	Office of Administration		11,555		$31.53
	Office of Homeland Security		5,787		$34.56
	Subtotal	*106*	*143,264*		
1801 Pennsylvania Ave.	Office of Science and Technology Policy	41	15,666		$50.55
750 17th Street	Office of National Drug Control Policy	124	54,185		$45.78
	Office of National Drug Control Policy	n/a	1,212		$17.44
	Subtotal	*124*	*55,397*		
Remote Delivery Center/Anacostia	Office of Administration	11	41,510		$11.31
708 Jackson Place	White House Office	9	3,978		$29.60
718 Jackson Place	Council on Environmental Quality	6	4,758		$30.71
722 Jackson Place	Council on Environmental Quality	6	5,534		$31.50
730 Jackson Place	Council on Environmental Quality	9	3,779		$29.90
734 Jackson Place	Offfice of Policy Development	4	3,320		$29.60
736 Jackson Place	White House Office	15	5,093		$30.58
Winder Building	U.S. Trade Representative	177	70,393		$30.50
1724 F St.	U.S. Trade Representative	34	18,481		$37.38
	Office of Administration	10	5,631		$37.38
	Subtotal	*44*	*24,112*		
1425 New York Ave. (USA Kids)	Office of Administration	n/a	2,891		$51.89
Crawford, TX Trailer	White House Office	n/a	n/a		$13,000/yr
Wyoming/Westbank Center	Office of the Vice President	n/a	756		$21.80
	GRAND TOTALS	**1,943**	**971,662**		

REV_00169282

Executive Office of the President
GSA Rental Space Information

Building	EOP Info		Square Feet		Rate/Sq.Ft
	Office	# of Staff	Occupied	Vacant	
EOP Total by Building					
White House		131	52,955		
Eisenhower Executive Office Building		638	254,916		
New Executive Office Building		622	283,340		
1800 G. Street		106	143,264		
1801 Pennsylvania Ave.		41	15,666		
750 17th Street		124	55,397		
Remote Delivery Center/Anacostia		11	41,510		
708 Jackson Place		9	3,978		
718 Jackson Place		6	4,758		
722 Jackson Place		6	5,534		
730 Jackson Place		9	3,779		
734 Jackson Place		4	3,320		
736 Jackson Place		15	5,093		
Winder Building		177	70,393		
1724 F St.		44	24,112		
1425 New York Ave. (USA Kids)		n/a	2,891		
Crawford, TX Trailer		n/a	n/a		
Wyoming/Westbank Center		n/a	756		
	GRAND TOTALS	**1,943**	**971,662**		
EOP Total by EOP Office					
	White House Office	525	223,002		
	Office of the Vice President	66	29,791		
	Office of Management and Budget	504	212,327		
	Office of Administration	216	228,204		
	Office of Policy Development	30	20,323		
	Office of Homeland Security	0	5,787		
	National Security Council	165	54,106		
	Council of Economic Advisers	40	16,804		
	Council on Environmental Quality	21	15,025		
	Office of Science and Technology Policy	41	17,043		
	Office of National Drug Control Policy	124	55,397		
	U.S. Trade Representative	211	93,853		
	GRAND TOTALS	**1,943**	**971,662**		

QUESTION 149: Under the procurement consolidation pilot that was approved in the FY03 Omnibus, is the rent for any EOP agency going to be paid out of funds contributed by other EOP agencies?

RESPONSE: No. The funds in the pilot will only be used to support the EOP components in the pilot; EOP funds not included in the pilot will not be used to support EOP components included in the pilot for purposes that pilot funds were budgeted.

QUESTION 150: Under the procurement consolidation pilot that was approved in the FY03 Omnibus, are after hours utilities charges for any EOP agency going to be paid out of funds contributed by other EOP agencies?

RESPONSE: No. After hours utilities charges were not included in the procurement consolidation pilot funding.

REV_00169283

Travel Office (POC – Mayra Segovia)

QUESTION 151: Please describe the current role the White House Travel Office plays in managing and arranging the financial aspects of White House Press Corps travel. Does the White House Travel Office operate as a "dollar-for-dollar" operation?

RESPONSE: The White House Travel Office provides the White House Press Corps with a range of travel services when they accompany the President, Vice President and First Lady. Services include air and ground transportation, hotel accommodations, and convention-type services associated with the Filing Center.

The White House Press Travel Fund operates as a dollar-for-dollar operation.

QUESTION 152: How many EOP staff work in the White House Travel Office?

RESPONSE: Eight EOP staff work in the White House Travel Office.

QUESTION 153: How many contractor travel agents support the White House Travel Office?

RESPONSE: Six contractor travel agents support the White House Travel Office.

QUESTION 154: Please include the most recent independent financial statement audit of the White House Travel Office's accounts for the record.

RESPONSE: The following document is the independent auditor's report. A copy of the original document with signature will be provided separately.

REV_00169284

White House Travel Office
Executive Office of the President

Order Number RWH21228

Task 1, Deliverable 1

Financial Statement Audit and Auditor's Report

December 31, 2001

Prepared by:

Martin & Wall, P.C Certified Public Accountants
1534 16th Street, NW, Washington, DC 20036-1402
Tel. 202.332.3566 Fax 202.332.3672

Contact: John J. Wall, CPA
E-Mail: jwall@martinwallcpa.com

REV_00169285

Tel: 202.332.3555 F• 202.332.3672 www.martinwallcpa.com

WHITE HOUSE TRAVEL OFFICE PRESS FUND

FINANCIAL STATEMENTS

DECEMBER 31, 2001

REV_00169286

1524 15th Street NW ~ Suite 100 – Washington, DC 20036-1402

WHITE HOUSE TRAVEL OFFICE PRESS FUND

FINANCIAL STATEMENTS

TABLE OF CONTENTS

Independent auditors' report..... 1

Statement of financial position..... 2

Statement of activities and changes in net assets..... 3

Statement of cash flows..... 4

Notes to financial statements..... 5-7

REV_00169287

Tel: 202.332.3566 ~ Fax: 202.332.3672 ~ www.martinwallcpa.com

INDEPENDENT AUDITORS REPORT

To the Management of
White House Travel Office Press Fund

We have audited the accompanying statement of financial position of the White House Travel Office Press Fund as of December 31, 2001, and the related statements of activities and cash flows for the year then ended. These financial statements are the responsibility of the White House Travel Office Press Fund's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the White House Travel Office Press Fund as of December 31, 2001, and the changes in its net assets and its cash flows for the nine months then ended in conformity with accounting principles generally accepted in the United States of America.

Washington, DC
March 27, 2003

1524 15th Street NW ~ Suite 100 – Washington, DC 20036-1402

REV_00169288

WHITE HOUSE TRAVEL OFFICE PRESS FUND
STATEMENT OF FINANCIAL POSITION
DECEMBER 31, 2001

ASSETS			
Current assets			
	Cash - Press Fund operating account (Note 3)	$85,455	
	Cash - Restricted Cash Account 2000 (Notes 3 and 4)	527,166	
	Total Cash		612,621
	Accounts receivable (Note 5)		2,105,176
	Other Receivables (Note 6)		3,328.761
TOTAL ASSETS			$6,046,558
LIABILITIES ANID NET ASSETS			
	Accounts payable	$5,358,675	
	Restricted Cash Account 2000 Liability (Note 4)	409,815	
	Restricted Cash Account 2001 Liability (Note 4)	209,456	
	Federal Excise Tax Payable	68,612	
	Total liabilities	6,046,558	
	Net assets		0
TOTAL LIABILITIES AND NET ASSETS		$6,046,558	

The accompanying notes are an integral part of these financial statements.

REV_00169289

WHITE HOUSE TRAVEL OFFICE PRESS FUND
STATEMENT OF ACTIVITIES
FOR THE YEAR ENDED DECEMBER 31, 2001

REVENUE	$10,828,890
EXPENDITURES	10,828,890
CHANGE IN NET ASSETS	$0
NET ASSETS, BEGINNING OF YEAR	0
NET ASSETS, END OF YEAR	$0

The accompanying notes are an Integral part of these financial statements.

REV_00169290

WHITE HOUSE TRAVEL OFFICE PRESS FUND
STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED DECEMBER 31, 2001

CASH FLOWS FROM OPERATIONAL ACTIVITIES:

Change in net assets		$0
Adjustments to reconcile change in net assets to net cash provided:		
Decrease In accounts receivable	4,986,501	
(Increase) in other receivables	(2,530,708)	
(Decrease) in accounts payable	(2,814,441)	
Increase In restricted cash account 2000 liability	4,096	
Increase in restricted cash account 2001 liability	209,456	
Increase in Federal Excise tax payable	68,612	
Net cash provided by operational activities	(76,484)	
Net increase in cash		(76,484)
Cash, beginning of year	689,105	
Cash, end of year	$612,621	

The accompanying notes are an integral part of these financial statements.

REV_00169291

WHITE HOUSE TRAVEL OFFICE PRESS FUND
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2001

NOTE 1 – ORGANIZATION

The White House Travel Office Press Fund ('WHTO") was established to manage expenses associated with travel for members of the press who accompany the President, Vice President, First Lady, and Second Lady on domestic and foreign trips. In May 1993, a new management team was hired to manage WHTO. Consequently, for accounting and reporting purposes, a new WHTO was established as of January 1, 1994.

NOTE 2- SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Revenue and expenditures are recognized using the accrual basis of accounting. The WHTO invoices the press organizations for their prorated share of the expenses associated with each trip. The WHTO then remits payment directly to the vendors whose services were used for the particular trip. The total amount invoiced to the press members equals the total of the amounts paid to the vendors. The WHTO does not own any fixed assets. Al! fixed assets are purchased through the White House's general fund and designated for the WHTO use. Similarly, all operating expenses of the WHTO, including salaries and office supplies, are paid directly by the White House's general fund.

NOTE 3- CASH

Gash is maintained in two non-interest checking accounts at the Riggs National Bank of Washington, D.C. The RCA 2000 cash account is explained in Note 4.

The total cash held by WHTO at December 31, 2001 includes $512,821 that is not covered by insurance provided by the federal government. It is the opinion of WHTO's management that the solvency of the referenced financial institution is not of particular concern at this time.

REV_00169292

NOTE 4 - RESTRICTED CASH ACCOUNT

Effective April 1, 2000, the management of the White House Travel Office implemented a Restricted Cash Account (RCA). RCA funds are encumbered for specific purposes set forth in written policies and procedures, most notably for payment of late arriving vendor invoices, bank charges and accounts receivable written off as uncollectible.

The RCA is funded through an RCA funding amount applied to every customer invoice, except those for government employees. Presently, that funding amount is two percent of the invoice amount

RCA funding amounts are not considered revenue for accounting purposes.

Under current policies and procedures, a separate RCA is established for each calendar year. The RCA 2000 account on the Statement of Financial Position reflects the total amount of cash in that account at December 31, 2001. The RCA liability accounts for 2000 and 2001 reflect the total RCA funding amount applied to all customer invoices during the respective calendar year, less any disbursements. RCA funding amounts that have been invoiced but not yet collected are included in the accounts receivable amount.

The RCA for each year will be terminated at a designated point in time after the conclusion of the applicable calendar year. At the time of dissolution, any excess funds will be refunded to the Press Fund's customers subject to the RCA funding amount in accordance with a formula based on the percentage of the total travel costs consumed during the year corresponding to the RCA. For example, if a customer were responsible for ten percent of all travel costs for the calendar year 2001, they would be entitled to ten percent of the remaining RCA 2001 funds at the time of dissolution.

NOTE 5 – ACCOUNTS RECEIVABLE

Currently, the WHTO writes off accounts receivable using the direct write-off method. Therefore, there is no allowance for uncollectible accounts.

REV_00169293

NOTE 6 - OTHER RECEIVABLES

As per note 2, the WHTO utilizes a system of dollar for dollar accounting. Under the current accounting process, vendor invoices for trip expenses are entered into accounts payable as they are received. Accordingly, there is an accumulation of unbilled trip expenses in accounts payable until such time that trip accounting is finalized and members of the press are invoiced for their pro rata share of trip expenses. This timing difference creates the need for an Other Receivables category. Other Receivables represents the obligations for normal trip expenses that have been entered into accounts payable, but not yet billed to the press.

REV_00169294

QUESTION 155: Please explain the formula you use to determine the rate of reimbursement for Press Corps travelers on the Press Charter?

RESPONSE: Each leg of the itinerary is assigned a proportionate cost, which is divided equally among all press passengers. The following formula is used to compute the proportionate cost for each leg of the trip: (Leg flight time / Total flight time) * Total Air Transportation Expense

QUESTION 156: Please explain the formula you use to determine the rate of reimbursement for Press Pool travelers on Air Force One?

RESPONSE: The cost of the fourteen members of the pool traveling on AF1 is added to the total air transportation expense and the total costs are spread on a pro-rata share among all of the press travelling on the trip. The following formula is used to compute the proportionate cost for each leg of the trip: (Leg flight time / Total flight time) * Total Air Transportation Expense

QUESTION 157: Please explain the formula used to identify the reimbursement rate that the Travel Office billed Press Corps travelers accompanying the President's travel to the USS Abraham Lincoln. In your response, please include the actual rate billed to individual press corps travelers on this trip.

RESPONSE: The cost of transporting press corps travelers from the North Island Naval Air Station to the USS Abraham Lincoln and back to the North Island Naval Air Station totaled $7,440.26. This cost will be added to the total air transportation expense and spread on a pro-rata share among all the press traveling on the trip. The formula for military aircraft reimbursement for the trip to the USS Abraham Lincoln is as follows: $X per hour per aircraft, divided by 60 minutes to get a per minute rate, multiplied by the flight time, divided by the total number of passengers, and then 7.5% excise tax plus $3.00 dollars per person was added.

Bonuses

QUESTION 158: Why did this administration reinstate the payments of bonuses to political appointees? **(POC – WHO M&A)**

RESPONSE: The relevant statutes and regulations make clear that all Federal employees are eligible for bonuses. Therefore, like other Federal employees, Schedule C and non-career Senior Executive Service (SES) employees may receive bonuses. Consistent with law, this and past Administrations have made bonuses available to Schedule C and SES employees in appropriate circumstances.

REV_00169295

QUESTION 159: Have any EOP political staff been given bonuses since the policy was reinstated in March of 2002? **(POC – Jon Laurich)**

RESPONSE: Bonuses have been awarded to EOP political staff.

QUESTION 160: Have any EOP political staff been given pay increases for a single pay period in FY02 or FY03 (to date) that would have the same effect as a bonus? **(POC – Jon Laurich)**

RESPONSE: No.

Eisenhower Executive Office Building

QUESTION 161: Since 1/20/01, have any non-Federal funds been used for renovations and/or furnishings in the GSA facilities occupied by the Executive Office of the President? [this question does not apply to the White House residence.] **(POC –WHO M&A)**

RESPONSE: We understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 162: Which Federal agency (i.e., GSA, OA/Facilitles) coordinated the work that was paid for using non-Federal funds? **(POC –WHO M&A)**

RESPONSE: I understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park

REV_00169296

Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 163: For the record, please provide the sources and amounts of the non-Federal funds used for renovations and/or furnishings. **POC –WHO M&A)**

RESPONSE: I understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 164: For the record, please also provide a description of each project for which non-Federal funds were provided. **(POC –WHO M&A)**

RESPONSE: I understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was

REV_00169297

accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 165: Why were non-Federal funds used to renovate and/or furnish these GSA facilities? **(POC –WHO M&A)**

RESPONSE: I understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 166: Which agency's gift authority was used to accept the contribution of non-Federal funds for renovations and/or furnishings? (**POC –WHO M&A)**

RESPONSE: I understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 167: Please provide a list of all EOP and EOP-support-related agencies that occupied space in the Eisenhower Executive Office Building on 1/20/01 that have since

REV_00169298

been relocated to locations outside the EEOB. For each agency that relocated, please identify the agency that paid the move-related costs. **(POC – Steve Beattie)**

RESPONSE: There was no movement of EOP offices from the EEOB prior to September 11, 2001. After September 11, the Office of Administration, using Emergency Supplemental funding, paid for the moves of the following offices outside of the EEOB.

EOP Offices Previously in the EEOB	New Location
WHO Presidential Personnel	1800 G. Street
WHO Presidential Correspondence	1800 G. Street
Council on Environmental Quality	Jackson Place Townhouses
Office of Science and Technology Policy	1801 Pennsylvania Avenue

QUESTION 168: What is the status of the vacant space on the 17th Street side of the Eisenhower Executive Office Building? **(POC – Steve Beattie)**

RESPONSE: The vacant space along 17th street is under construction as part of the Fire and Life Safety Improvements project.

EOP Staffing Levels:

QUESTION 169: By EOP agency, provide FTE and OGE. Itemize OGE by category (e.g. reimbursable detailee, PSC, etc). Include FY 2002 (actual) and FY03-FY04 (estimates). Please provide a list of the "historically provided" White House Office positions, the office to which these positions are assigned and the agency that pays the salary for each of these positions. **(POC – Jon Laurich)**

RESPONSE: The following chart provides the FTE and OGE information for FY 2002 to FY 2004 in addition to a listing of "historically provided" White House Office positions.

REV_00169299

R = Reimbursable
N = Non Reimbursable

FY 2002 Actual FTE and OGE

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**385**			1	20	79	9	1	17		4				3			81	53	**134**
Special Assistance to the President	**18**				7		1		6		26								40	**40**
Official Residence of the Vice President	**1**																			
Office of Administration	**195**					2					1							2	1	**3**
Office of Policy Development	**30**		1		3		3												7	**7**
National Security Council	**50**				33	1	102		4									1	139	**140**
Council of Economic Advisers	**31**					2	1			3	1		3					5	5	**10**
Office of Management and Budget	**512**					6	53						11					6	64	**70**
Office of National Drug Control Policy	**106**		13		16					3			2					3	31	**34**
Executive Residence	**92**																			
Office of Science and Technology Policy	**23**		6			4	1			2	3							6	10	**16**
Council on Environmental Quality	**19**		11				2										1		14	**14**
U.S Trade Representative	**200**						21				1				2				24	**24**
TOTAL	**1662**		**31**	**1**	**79**	**94**	**193**	**1**	**27**	**8**	**36**		**16**		**5**		**1**	**104**	**388**	**492**

*For FY02, the White House includes 65 OGE's for the Office of Homeland Security, which are funded from the Emergency Appropriation

R = Reimbursable
N = Non Reimbursable

FY 2003 Estimate FTE and OGE *as of May 5, 2003*

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**406**				7	5	11		19		1				2		1	5	41	**46**
Office of Homeland Security	**40**			2	1	23	3				1			1				26	5	**31**
Special Assistance to the President	**24**		3		7		1		18		25								54	**54**
Official Residence of the Vice President	**1**																			
Office of Administration	**222**										1								1	**1**
Office of Policy Development	**35**		1		3	1	1										1	1	6	**7**
National Security Council	**71**				33	5	103		4									5	140	**145**
Council of Economic Advisers	**35**					2	2			2			2				1	4	5	**9**
Office of Management and Budget	**499**					3	54						6					3	60	**63**
Office of National Drug Control Policy	**115**		19		14		4			3	9						2	3	48	**51**
Executive Residence	**95**																			
Office of Science and Technology Policy	**40**		6			2	3			2	5		1		1			4	16	**20**
Council on Environmental Quality	**24**		10				3				1								14	**14**
U.S Trade Representative	**209**						25				1				2				28	**28**
TOTAL	**1816**		**39**	**2**	**65**	**41**	**210**		**41**	**7**	**44**		**9**	**1**	**5**		**5**	**51**	**418**	**469**

R = Reimbursable
N = Non Reimbursable

FY 2004 Estimate FTE and OGE

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**406**				7	5	11		19		1				2		1	5	41	**46**
Office of Homeland Security	**40**			2	1	23	3				1			1				26	5	**31**
Special Assistance to the President	**24**		3		7		1		18		25								54	**54**
Official Residence of the Vice President	**1**																			
Office of Administration	**222**										1		10						11	**11**
Office of Policy Development	**35**		1		3	1	1										1	1	6	**7**
National Security Council	**71**				33	5	103		4									5	140	**145**
Council of Economic Advisers	**35**					2	2			2			2				1	4	5	**9**
Office of Management and Budget	**516**					3	54						6					3	60	**63**
Office of National Drug Control Policy	**125**		19		14		4			3	9						2	3	48	**51**
Executive Residence	**95**																			
Office of Science and Technology Policy	**40**		6			2	3			2	5		1		1			4	16	**20**
Council on Environmental Quality	**24**		10				3				1								14	**14**
U.S Trade Representative	**217**						25				1				2				28	**28**
TOTAL	**1851**		**39**	**2**	**65**	**41**	**210**		**41**	**7**	**44**		**19**	**1**	**5**		**5**	**51**	**428**	**479**

The following chart shows the 18 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 12, 2003*:

POSITION	OFFICE	HOME AGENCY
1. Assistant to the Presidential Diarist	Office Of Scheduling	NARA
2. Presidential Diarist	Office Of Scheduling	NARA

REV_00169300

3. Administrative Assistant	PFIAB *	CIA
4. Administrative Services Specialist	PFIAB *	DOD
5. Deputy Executive Director	PFIAB *	CIA
6. Deputy Director of Photography For Visuals	Photo Office	DIA
7. Visual Information Specialist	Photo Office	DOD
8. Official Photographer	Photo Office	DOD
9. Official Photographer	Photo Office	DIA
10. Photographer	Photo Office	DOD
11. IT Systems Administrator	Photo Office	DIA
12. Photo Editor	Photo Office	DIA
13. President's Photographer	Photo Office	DIA
14. Photographic Specialist	Photo Office	DIA
15. Admin Officer	Photo Office	DIA
16. Staff Assistant	Visitors Office	Dept Of Interior
17. Executive Assistant	Visitors Office	Dept Of Interior
18. Staff Assistant	Visitors Office	Dept Of Interior

*PFIAB is the President's Foreign Intelligence Advisory Board

REV_00169301

From: CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [OA]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
CC: Colleen Litkenhaus/WHO/EOP@Exchange [WHO] <Colleen Litkenhaus>
Sent: 5/29/2003 2:00:41 PM
Subject: : RE: FW: OMB Budget Process

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Adam F. Greenstone (CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [OA])
CREATION DATE/TIME:29-MAY-2003 18:00:41.00
SUBJECT:: RE: FW: OMB Budget Process
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
End Original ARMS Header

I had some follow up discussions on this and it's not as tight as I was first told. While the system would be used in the November to December timeframe, implementation issues require a policy decision as to how it will be set up by August 1. OMB will be briefing the Staff Secretary's Office on what they propose to do before then, and I suggested that both of us be included so we can all focus on this at the same time. Accordingly, unless you prefer to review at this point, this will not require your action at this time as I had originally thought. Adam

-----Original Message-----
From: Kavanaugh, Brett M.
Sent: Thursday, May 29, 2003 1:50 PM
To: Greenstone, Adam F.
Cc: Litkenhaus, Colleen
Subject: Re: FW: OMB Budget Process

what is timing on this?

From: Adam F. Greenstone/OA/EOP@Exchange on 05/29/2003 11:45:27 AM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc: Colleen Litkenhaus/WHO/EOP@Exchange
Subject: FW: OMB Budget Process

Brett--This came to OA through OMB, so I am sending to you to advise us if approved from the White House Office end. The big change here is in how they do the work--the WHO and OMB reviewers would be reviewing the document on the same system rather than giving OMB all the mark ups at one time. I think this is really a work flow question--does White House want to resolve its comments within WHO and then give to OMB or do so in OMB's view? I presume that you would want to discuss with Staff Secretary directly; let me know if otherwise or if I can assist in any way. Adam, 5-1268
-----Original Message-----
From: Most, Markus K.
Sent: Thursday, May 22, 2003 1:16 PM
To: Greenstone, Adam F.
Subject: OMB Budget Process

Adam-
Here is the document that I gave you in paper format.
Thanks
Markus << File: West Wing Review Budget Volume Authoring.doc >>

From: CN=Monique L. Dilworth/OU=OA/O=EOP [OA]

To: Eric C. Pelletier/WHO/EOP@Exchange [WHO] <Eric C. Pelletier>;Steven R. Beattie/OA /EOP@Exchange [OA] <Steven R. Beattie>;Veronica Kitchen/OA/EOP@EOP [OA] <Veronica Kitchen>;Claire M. O'Donnell/OVP/EOP@Exchange [OVP] <Claire M. O'Donnell>;Lisa B. Fairhall/OMB/EOP@EOP [OMB] <Lisa B. Fairhall>;Adam F. Greenstone/OA/EOP@Exchange [OA] <Adam F. Greenstone>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Stacia L. Cropper/OA/EOP@Exchange [OA] <Stacia L. Cropper>;Jon S. Laurich/OA/EOP@Exchange [OA] <Jon S. Laurich>;Elizabeth Gelfer/OA/EOP@EOP [OA] <Elizabeth Gelfer>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>;Keith L. Roberts/OA/EOP@Exchange [OA] <Keith L. Roberts>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Benjamin A. Powell/WHO /EOP@EOP [WHO] <Benjamin A. Powell>

CC: Lonnie Hovey/OA/EOP@EOP [OA] <Lonnie Hovey>;Marilyn_Meyers@NPS.gov @ inet [UNKNOWN] <Marilyn_Meyers@NPS.gov @ inet>;Worthington W. White/WHO/EOP@EOP [WHO] <Worthington W. White>;Michele C. Marx/ONDCP/EOP@EOP [ONDCP] <Michele C. Marx>;Angela R. Stewart/CEQ/EOP@EOP [CEQ] <Angela R. Stewart>;Stanley S. Sokul/OSTP/EOP@EOP [OSTP] <Stanley S. Sokul>;Paul A. Wedderien/NSC/EOP@EOP [NSC] <Paul A. Wedderien>;Stephen A. Weigler/OMB/EOP@EOP [OMB] <Stephen A. Weigler>;Charles L. Sigman/OA/EOP@EOP [OA] <Charles L. Sigman>;Cheryl A. Reynolds/OA /EOP@EOP [OA] <Cheryl A. Reynolds>;Don J. Jansen/OMB/EOP@EOP [OMB] <Don J. Jansen>;Phuong DeSear/ONDCP/EOP@EOP [ONDCP] <Phuong DeSear>;Mary Fibich/CEA /EOP@EOP [CEA] <Mary Fibich>;Phil Cooney/CEQ/EOP@EOP [CEQ] <Phil Cooney>;Shana L. Dale/OSTP/EOP@EOP [OSTP] <Shana L. Dale>;Katherine J. Fertakis/NSC/EOP@EOP [NSC] <Katherine J. Fertakis>;Brian Gillis/OMB/EOP@EOP [OMB] <Brian Gillis>;Sandra K. Evans/OA/EOP@Exchange [OA] <Sandra K. Evans>

Sent: 5/29/2003 2:18:33 PM

Subject: : QFR Coordination - 2nd Round

Attachments: P_LPYSG003_CEA.TXT_1.doc; P_LPYSG003_CEA.TXT_2.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Monique L. Dilworth ( CN=Monique L. Dilworth/OU=OA/O=EOP [ OA ] )
CREATION DATE/TIME:29-MAY-2003 18:18:33.00
SUBJECT:: QFR Coordination - 2nd Round
TO:Eric C. Pelletier ( CN=Eric C. Pelletier/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Steven R. Beattie ( CN=Steven R. Beattie/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Veronica Kitchen ( CN=Veronica Kitchen/OU=OA/O=EOP@EOP [ OA ] )
READ:UNKNOWN
TO:Claire M. O'Donnell ( CN=Claire M. O'Donnell/OU=OVP/O=EOP@Exchange [ OVP ] )
READ:UNKNOWN
TO:Lisa B. Fairhall ( CN=Lisa B. Fairhall/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Adam F. Greenstone ( CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Stacia L. Cropper ( CN=Stacia L. Cropper/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Jon S. Laurich ( CN=Jon S. Laurich/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Elizabeth Gelfer ( CN=Elizabeth Gelfer/OU=OA/O=EOP@EOP [ OA ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Keith L. Roberts ( CN=Keith L. Roberts/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
```

TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Lonnie Hovey (CN=Lonnie Hovey/OU=OA/O=EOP@EOP [OA])
READ:UNKNOWN
CC:Marilyn_Meyers@NPS.gov @ inet (Marilyn_Meyers@NPS.gov @ inet [UNKNOWN])
READ:UNKNOWN
CC:Worthington W. White (CN=Worthington W. White/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Michele C. Marx (CN=Michele C. Marx/OU=ONDCP/O=EOP@EOP [ONDCP])
READ:UNKNOWN
CC:Angela R. Stewart (CN=Angela R. Stewart/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN
CC:Stanley S. Sokul (CN=Stanley S. Sokul/OU=OSTP/O=EOP@EOP [OSTP])
READ:UNKNOWN
CC:Paul A. Wedderien (CN=Paul A. Wedderien/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
CC:Stephen A. Weigler (CN=Stephen A. Weigler/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Charles L. Sigman (CN=Charles L. Sigman/OU=OA/O=EOP@EOP [OA])
READ:UNKNOWN
CC:Cheryl A. Reynolds (CN=Cheryl A. Reynolds/OU=OA/O=EOP@EOP [OA])
READ:UNKNOWN
CC:Don J. Jansen (CN=Don J. Jansen/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Phuong DeSear (CN=Phuong DeSear/OU=ONDCP/O=EOP@EOP [ONDCP])
READ:UNKNOWN
CC:Mary Fibich (CN=Mary Fibich/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
CC:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN
CC:Shana L. Dale (CN=Shana L. Dale/OU=OSTP/O=EOP@EOP [OSTP])
READ:UNKNOWN
CC:Katherine J. Fertakis (CN=Katherine J. Fertakis/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
CC:Brian Gillis (CN=Brian Gillis/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Sandra K. Evans (CN=Sandra K. Evans/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
End Original ARMS Header

Thank you for the edits and comments you provided. The attached document, &QFR Responses 28 reflects all edits, except where there are still issues to be resolved. (All outstanding issues will be dealt with in separate emails to the affected parties.) We need you to once again review the document for accuracy and consistency. Your edits and comments on the new document, &QFR Responses 28 are due by 3:00 p.m., Friday, May 30th. We received a short extention from the Subcommittee and must provide the final document to Congress by COB Monday, June 2nd. To assist in this effort, I have included listings below that may help while navigating through the document.

Responses to Questions
Previously Unanswered
51, 52, 76, 119, 120, 121,
122, 125, 137, 138, 139,
140, 141, 142, 148 (chart),
158, 161 to 166.

HRM/Personnel Related
6, 7, 8, 11, 13, 14, 15,
40, 58, 64, 65, 73, 74,
79, 80, 94, 159, 169

Space/Rent Related
5, 34, 35, 36, 37, 38,
102, 103, 104, 105,

148, 167, 168

The Hearing Record document is attached again for quick reference. Please call me you have questions and thanks again for your assistance.

Monique Dilworth
5-7638
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_LPYSG003_CEA.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_LPYSG003_CEA.TXT_2>

Treasury, Postal Service and General
Government Appropriations for

Fiscal Year 2003
Hearing Record References

HOW TO USE THIS DOCUMENT

Several of the FY 2004 questions for the record refer to pages from last year's (FY 2003) hearing record. Below is the FY 2003 hearing record information.

Note that the Question # refers to this year's (FY 2004) question and the information that follows is what was in last year's (FY 2003) hearing record.

Hearing Record Reference for Question 6:

Issue: **Executive Office of the President**

Question: By EOP agency, provide FTE and OGE. Itemize OGE by category (e.g. reimbursable detailee, PSC, etc). Include FY 2001 (actual) and FY 2002-2003 (estimates).

Answer: The following tables provide the total FY 2001 actual, FY 2002 and FY 2003 estimates for full time equivalents (FTE) and other government employees (OGE) for each EOP and other entity as of April 5, 2002. The OGE numbers are itemized by category on the following page. The FY 2001 actual numbers should be viewed in the context of a Presidential transition year and may vary greatly from the FY 2002 figures. The FY 2002 and FY 2003 numbers are estimates only and therefore subject to change for a number of reasons.

REV_00169328

Program	FY 2001 Actual FTE and OGE			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office	400	369	35	**404**
Special Assistance to the President	22	16	42	**58**
Official Residence of the Vice President	1	1	0	**1**
Office of Administration	202	185	5	**190**
Office of Policy Development	31	27	3	**30**
National Security Council	60	44	137	**181**
Council of Economic Advisers	35	28	7	**35**
Office of Management and Budget	527	502	57	**559**
Office of National Drug Control Policy	125	114	38	**152**
Executive Residence	95	89	0	**89**
Office of Science and Technology Policy	40	23	17	**40**
Council on Environmental Quality	24	16	0	**16**
U.S. Trade Representative	203	173	29	**202**
TOTAL	**1,765**	**1,587**	**370**	**1,957**

FY 2002 as of April 5, 2002

Program	FY 2002 FTE and OGE Estimate			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office*	400		97	**497**
Special Assistance to the President	24		40	**64**
Official Residence of the Vice President	1		0	**1**
Office of Administration	202		1	**203**
Office of Policy Development	35		2	**37**
National Security Council	60		150	**210**
Council of Economic Advisers	35		11	**46**
Office of Management and Budget	527		46	**573**
Office of National Drug Control Policy	115		35	**150**
Executive Residence	95		0	**95**
Office of Science and Technology Policy	40		16	**56**
Council on Environmental Quality	24		3	**27**
U.S. Trade Representative	203		23	**226**
TOTAL	**1,761**	**0**	**424**	**2,185**

Program	FY 2003 FTE and OGE Estimate			
	FTE REQUEST	ACTUAL FTE	OGE	TOTAL
White House Office	446		127	**573**
Special Assistance to the President	24		40	**64**
Official Residence of the Vice President	1		0	**1**
Office of Administration	222		1	**223**
Office of Policy Development	35		2	**37**
National Security Council	71		150	**221**
Council of Economic Advisers	35		11	**46**
Office of Management and Budget	510		46	**556**
Office of National Drug Control Policy	115		35	**150**
Executive Residence	95		0	**95**
Office of Science and Technology Policy	40		16	**56**
Council on Environmental Quality	24		3	**27**
U.S. Trade Representative	209		23	**232**
TOTAL	**1,827**	**0**	**454**	**2,281**

* For FY 02, The White House Office includes 65 OGEs for the Office of Homeland Security which are funded from the Emergency Appropriation.

REV_00169329

R = Reimbursable
N = Non Reimbursable

FY 2001 FTE and OGE Actuals

	FTE	Agency Reps	Assignees	Detailees		Historically Provided Services	Others		Student Volunteers	White House Fellows	Pres. Mgmt Intern	OGE Grand Totals		
		N	N	R	N	N	R	N	N	N	N	R	N	R + N
White House Office	**369**	7	5	3	7	13						3	32	**35**
Special Assistance to the President	**16**		1		10	25		6					42	**42**
Official Residence of the Vice President	**1**													
Office of Administration	**185**							4	1				5	**5**
Office of Policy Development	**27**	2			1								3	**3**
National Security Council	**44**		32	1	90	4		8		2		1	136	**137**
Council of Economic Advisers	**28**				1		4		2			4	3	**7**
Office of Management and Budget	**502**			3	46				8			3	54	**57**
Office of National Drug Control Policy	**114**	13	20	3			2					5	33	**38**
Executive Residence	**89**													
Office of Science and Technology Policy	**23**	8		2	2	1	1	2	1			3	14	**17**
Council on Environmental Quality	**16**													
U.S. Trade Representative*	**173**				27			1		1			29	**29**
TOTAL	**1,587**	**30**	**58**	**12**	**184**	**43**	**7**	**21**	**12**	**3**		**19**	**351**	**370**

R = Reimbursable
N = Non Reimbursable

FY 2002 FTE and OGE *as of April 5, 2002*

	FTE	Agency Reps	Assignees	Detailees		Historically Provided Services	Others		Student Volunteers	White House Fellows	Pres. Mgmt Intern	OGE Grand Totals		
		N	N	R	N	N	R	N	N	N	N	R	N	R + N
White House Office**	**400**	1	4	68	8	15				1		68	29	**97**
Special Assistance to the President	**24**		9			1		29			1		40	**40**
Official Residence of the Vice President	**1**													
Office of Administration	**202**							1					1	**1**
Office of Policy Development	**35**		2										2	**2**
National Security Council	**60**		34	1	108	4		2		1		1	149	**150**
Council of Economic Advisers	**35**				1		4		6			4	7	**11**
Office of Management and Budget***	**527**			4	39				3			4	42	**46**
Office of National Drug Control Policy	**115**	13	17	1	1		3					4	31	**35**
Executive Residence	**95**													
Office of Science and Technology Policy	**40**	5		4			3	4				7	9	**16**
Council on Environmental Quality	**24**	3											3	**3**
U.S. Trade Representative*	**203**				21			1		1			23	**23**
TOTAL	**1,761**	**22**	**66**	**78**	**178**	**20**	**10**	**37**	**9**	**3**	**1**	**88**	**336**	**424**

R = Reimbursable
N = Non Reimbursable

FY 2003 FTE and OGE Estimate

	FTE	Agency Reps	Assignees	Detailees		Historically Provided Services	Others		Student Volunteers	White House Fellows	Pres. Mgmt Intern	OGE Grand Totals		
		N	N	R	N	N	R	N	N	N	N	R	N	R + N
White House Office	**446**	1	3	100	8	15						100	27	**127**
Special Assistance to the President	**24**		9			1		29			1		40	**40**
Official Residence of the Vice President	**1**													
Office of Administration	**222**							1					1	**1**
Office of Policy Development	**35**		2										2	**2**
National Security Council	**71**		34	1	108	4		2		1		1	149	**150**
Council of Economic Advisers	**35**				1		4		6			4	7	**11**
Office of Management and Budget***	**510**			4	39				3			4	42	**46**
Office of National Drug Control Policy	**115**	13	17	1	1		3					4	31	**35**
Executive Residence	**95**													
Office of Science and Technology Policy	**40**	5		4			3	4				7	9	**16**
Council on Environmental Quality	**24**	3											3	**3**
U.S. Trade Representative*	**209**				21			1		1			23	**23**
TOTAL	**1,827**	**22**	**65**	**110**	**178**	**20**	**10**	**37**	**9**	**2**	**1**	**120**	**334**	**454**

* USTR has nonreimbursable detailees in their Geneva, Switzerland offices (FY 2001 = 10, FY 2002 = 9) and are **not** included in the numbers above.
** For FY 02, The White House Office includes 65 OGEs for the Office of Homeland Security which are funded from the Emergency Appropriation.
*** The Office of Management and Budget's OGE number greatly increases during the preparation of the President's Budget. At other times, the OGE number can fall below 20.

REV_00169330

Hearing Record Reference for Question 7:

Question: For the Office of Administration provide FTE and OGE by organizational unit for FY 2001 (actual) and FY 2002-2003 (estimates).

Answer: The chart below displays the FTE and OGE distribution in the previous OA organizational structure for FY 2001. For FY 2002 and FY 2003, the FTE and OGE are displayed in the new streamlined OA organizational structure which reduced the number of operating units reporting to the Director from 10 to 4. All data is as of April 5, 2002.

R = Reimbursable N = Non Reimbursable	FY 2001 FTE and OGE Actuals						
	FTE	Others		Student Volunteers	OGE Grand Totals		
		R	N	N	R	N	R + N
Office of the Director	6		1			1	1
General Counsel	3						
Equal Employment Opportunity	1						
Financial Management	23						
Facilities Management	8						
Human Resources Management	22		3	1		4	4
General Services	54						
Library and Research Sciences	15						
Operations and Legislative Liasons	2						
Security	8						
Information Systems Technology	43						
TOTAL	**185**		**4**	**1**		**5**	**5**

R = Reimbursable N = Non Reimbursable	FY 2002 FTE and OGE Estimates						
	FTE	Others		Student Volunteers	OGE Grand Totals		
		R	N	N	R	N	R + N
Director	11						
Chief Operating Officer	96		1			1	1
Chief Financial Officer	37						
Chief Projects Officer	10						
Chief Information Officer	48						
TOTAL	**202**		**1**			**1**	**1**

R = Reimbursable N = Non Reimbursable	FY 2003 FTE and OGE Estimates						
	FTE	Others		Student Volunteers	OGE Grand Totals		
		R	N	N	R	N	R + N
Director	11						
Chief Operating Officer	103		1			1	1
Chief Financial Officer	39						
Chief Projects Officer	11						
Chief Information Officer	58						
TOTAL	**222**		**1**			**1**	**1**

Hearing Record Reference for Question 8:

Question: For the Office of Management and Budget provide FTE and OGE by division for FY 2001 (actual) and FY 2002-2003 (estimates).

Answer: The chart below displays the FTE and OGE breakout by OMB division for FY 2001-2003. Most detailees and Student Volunteers are used during the peak budget production season. During the rest of the year, the OGE total can fall below 20.

R = Reimbursable N = Non Reimbursable	**FY 2001 FTE and OGE Actuals**								
	FTE	Assignees	Detailees		Student Volunteers	White House Fellows	OGE Grand Totals		
		N	R	N	N	N	R	N	R + N
OMB-Wide Offices*	**149**			18	2		0	20	**20**
General Government Programs	**61**			4			0	4	**4**
Human Resource Programs	**75**			2	1		0	3	**3**
National Security Programs	**65**		1	8			1	8	**9**
Natural Resource Programs	**62**			3	2		0	5	**5**
Office of Federal Financial Management	**17**		1	3	1		1	4	**5**
Office of Federal Procurement Policy	**24**		1	1			1	1	**2**
Office of Information and Regulatory Affairs	**49**			7	2		0	9	**9**
TOTAL	**502**	**0**	**3**	**46**	**8**	**0**	**3**	**54**	**57**

R = Reimbursable N = Non Reimbursable	**FY 2002 FTE and OGE Estimates** *(as of April 5, 2002)*								
	FTE	Assignees	Detailees		Student Volunteers	White House Fellows	OGE Grand Totals		
		N	R	N	N	N	R	N	R + N
OMB-Wide Offices*	**157**		1	19	1		1	20	**21**
General Government Programs	**64**			1			0	1	**1**
Human Resource Programs	**78**			1			0	1	**1**
National Security Programs	**67**		1	2			1	2	**3**
Natural Resource Programs	**63**			4			0	4	**4**
Office of Federal Financial Management	**22**		2	2			2	2	**4**
Office of Federal Procurement Policy	**22**			1			0	1	**1**
Office of Information and Regulatory Affairs	**54**			9	2		0	11	**11**
TOTAL	**527**	**0**	**4**	**39**	**3**	**0**	**4**	**42**	**46**

R = Reimbursable N = Non Reimbursable	**FY 2003 FTE and OGE Estimates**								
	FTE	Assignees	Detailees		Student Volunteers	White House Fellows	OGE Grand Totals		
		N	R	N	N	N	R	N	R + N
OMB-Wide Offices*	**151**		1	19	1		1	20	**21**
General Government Programs	**63**			1			0	1	**1**
Human Resource Programs	**75**			1			0	1	**1**
National Security Programs	**63**		1	2			1	2	**3**
Natural Resource Programs	**63**			4			0	4	**4**
Office of Federal Financial Management	**20**		2	2			2	2	**4**
Office of Federal Procurement Policy	**21**			1			0	1	**1**
Office of Information and Regulatory Affairs	**54**			9	2		0	11	**11**
TOTAL	**510**	**0**	**4**	**39**	**3**	**0**	**4**	**42**	**46**

* OMB-Wide Offices include the Director's; the Deputy Director, the Deputy Director for Management, the Executive Associate Director; Communications; General Counsel; Legislative Affairs; Economic Policy; Administration; the Legislative Reference Division; the Budget Review Divisions; and the Office of Information Technology and E-Government.

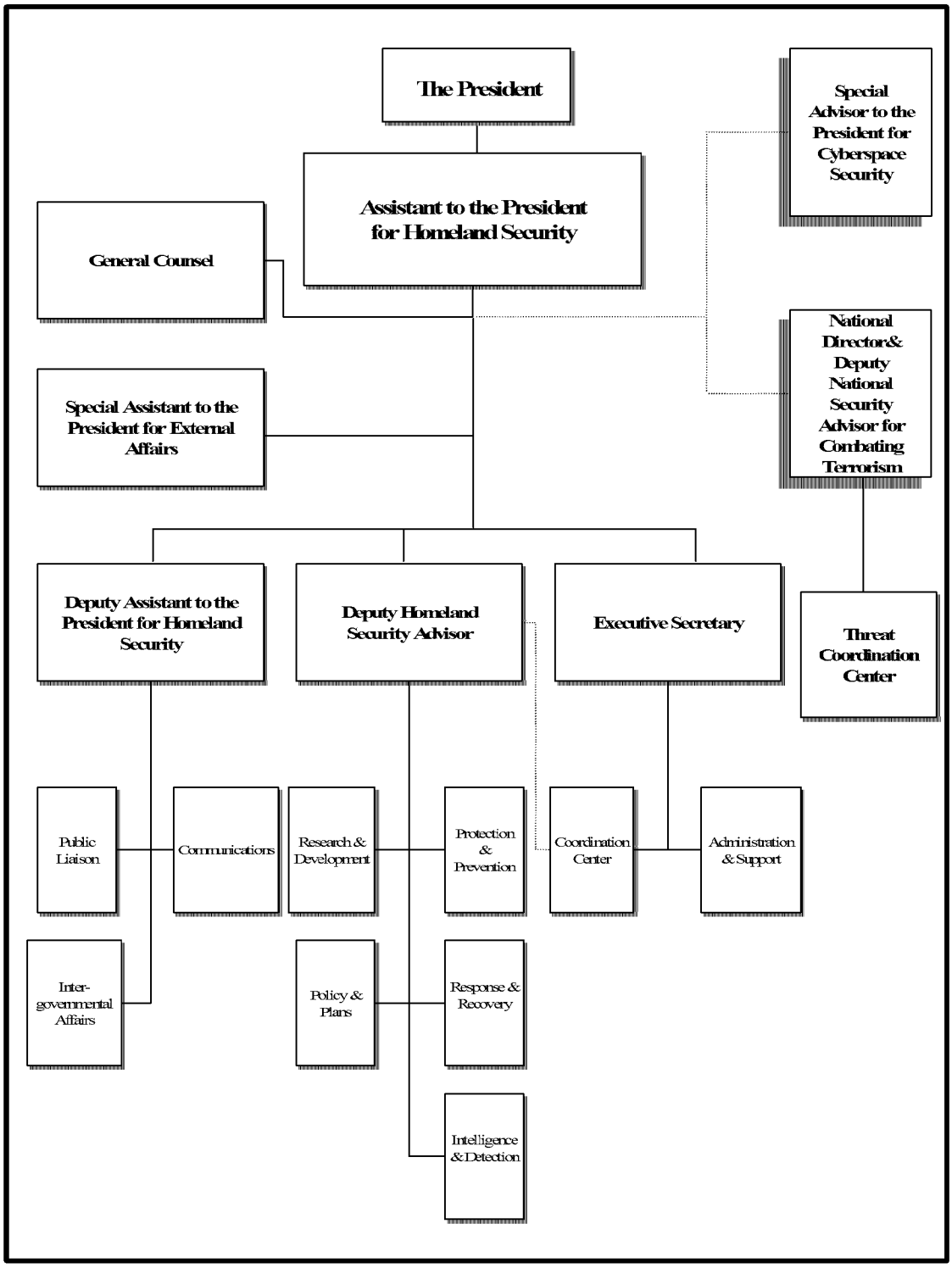
REV_00169332

Hearing Record Reference for Question 16:

Question: Provide an organizational chart for the OHS.

Answer: See chart below.

REV_00169333



REV_00169334

Hearing Record Reference for question 17:

Question: The President's request includes $1,337,000 for travel and transportation of persons, an increase of $976,000 from the estimated level of $361,000 in FY 2002. For FY 2002 and 2003 (estimates), provide a list of trips by location and purpose, including the number of staff traveling and staff position.

Answer: The FY 2002 travel and transportation of persons estimate and FY 2003 budget request provides funding for the Assistant to the President for Homeland Security and staff travel, Critical Infrastructure Protection Board (CIPB) activities and advisory board activities. Specific locations for FY 2003 are currently unavailable due to the fact that they are determined as requirements are finalized. FY 2002 and FY 2003 anticipated travel activities are in furtherance of the OHS mission promulgated in the Executive Orders.

Examples of FY 2003 estimated travel requirements include: per diem and travel for two-thirds of Advisory Board members to attend approximately 40 various meetings and activities; approximately 50 domestic trips for the Assistant to the President for Homeland Security and 3 staff members to fulfill outreach requirements; approximately 100 domestic trips for Homeland Security staff to fulfill mission functions as outlined in Executive Order 13228; approximately 24 domestic and 3 overseas trips for the Chair, Vice Chair and one staff member of the CIPB to fulfill outreach requirements as stated in Executive Order 13231; and approximately 12 CIPB staff (director level) trips to outreach the private sector. Of course, these are estimates only and are therefore subject to change for a variety of reasons.

FY 2002 travel expenses incurred to date include trips to Mexico and Canada for border discussions and various locations in the United States to visit first response, bioterrorism research facilities and other initiatives related to homeland security. The following table lists current (as of April 10, 2002) FY 2002 travel expenses as reflected in the accounting system.

Trip Cost Note: Estimated costs of trips will vary greatly from trip to trip to the same city and from one city to another city for four significant reasons; mode of transportation used/authorized, number of days TDY, number of personnel on trip, and whether costs recorded are actual or estimated expenses.

Office of Homeland Security Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Staff Position**
11/13/01	New York City, NY	1	$ 145	Dep Asst to President for OHS
11/15/01	New York City, NY	4	$ 1,287	Asst to President for OHS, Aide to Asst to President for OHS, Sr Director Response & Recovery and Sr Director Communications
12/07/01	New York City, NY	1	$ 767	Sr Dir Intergovernmental Affairs

REV_00169335

12/11/01	Ottawa, CAN	5	$ 1,038	Asst to President for OHS, Aide to Asst to President for OHS, Asst Public Liaison, Sr Dir Policy & Plans, Sr Dir Communications
12/21/01	Harrisburg, PA	1	$ 2,009	Comm Asst to Asst to President for OHS
01/04/02	Harrisburg, PA	1	$ 544	Comm Asst to Asst to President for OHS
01/09/02	Salt Lake City, UT	4	$ 738	Comm Asst to Asst to President for OHS, Dep Press Secretary, Spec Asst to the Chief of Staff, Aide to the Asst to President for OHS
01/11/02	Harrisburg, PA	1	$ 525	Comm Asst
01/13/02	New York City, NY	4	$ 1,606	Asst to President for OHS, Aide Dep Asst to President OHS, Dep Press Sec & Special Asst Public Liaison
01/14/02	New York City, NY	1	$ 138	Sr Dir Communications
01/17/02	New York City, NY	3	$ 323	Sr Dir Intergovernmental Affairs, Staff Dir, Dir
01/18/02	Harrisburg, PA	1	$ 1,017	Comm Asst to Asst to President for OHS
01/22/02	Ft. Lauderdale, FL	1	$ 850	Dr Policy & Plans
01/25/02	Brandson, MO	1	$ 405	Sr Dir Intergovernmental Affairs
01/25/02	Harrisburg, PA	1	$ 742	Watch Officer
01/30/02	Greensboro, NC	3	$ 909	Asst to President for OHS, Sr Dir Communications, & Dep Asst Sec
01/31/02	New York City, NY	4	$ 2,536	Asst to President OHS, Comm Asst to Asst to President for OHS, Aide to Asst to President OHS, Asst Public Liaison
02/02/02	New York City, NY	1	$ 165	Sr Dir Policy & Plans
02/04/02	New York City, NY	1	$ 728	Comm Asst
02/05/02	New York City, NY	4	$ 1,699	Asst to President OHS, Comm Asst to Asst to President for OHS, Aide to Asst to President OHS, Sr Dir Communications Asst Public Liaison
02/05/02	Salt Lake City, UT	1	$ 4,358	Comm Asst
02/08/02	Harrisburg, PA	2	$ 909	Comm Asst to Asst to President for OHS, Watch Officer
02/13/02	Orlando, FL	1	$ 1,593	Comm Asst to Asst to President for OHS
02/14/02	Miami, FL	1	$ 653	Comm Asst
02/14/02	Orlando, FL	4	$ 4,316	Asst to President for OHS, Sr Dir Intergovernmental Affairs, Aide to Asst to President OHS, Sr Dir Communications
02/15/02	Miami, FL	1	$ 814	Special Asst Public Liaison
02/16/02	Harrisburg, PA	2	$ 724	Watch Officer, Communications Asst

02/17/02	Los Angeles, CA	1	$	719	Comm Asst to Asst to President for OHS
02/18/02	Cincinnati, OH	1	$	912	Special Asst Intergovernmental Affairs
02/19/02	Cincinnati, OH	1	$	715	Sr Dir Intergovernmental Affairs
02/19/02	Las Vegas, NV	1	$	2,725	Watch Officer
02/20/02	Houston, TX	3	$	903	Asst to President for OHS, Comm Asst to Asst to President for OHS, Aide to Asst to President for OHS
02/22/02	Harrisburg, PA	1	$	713	Comm Asst to Asst to President for OHS
02/22/02	Key West, FL	1	$	1,059	Sr Dir Intergovernmental Affairs
02/25/02	Colorado Springs, CO	2	$	1,575	Sr Advisor Prevention & Protection, Sr Dir Protection & Prevention
02/27/02	Vancouver, CA	1	$	1,212	Dir Policy & Plans
03/01/02	Harrisburg, PA	2	$	975	Communications Asst, Communications Asst
03/04/02	Mexico City, MEX	9	$	6,239	Asst to President for OHS, Asst Public Liaison, Aide to Asst to President for OHS, Dep Press Sec, Dep Asst to Pres for OHS, Sr Dir Policy & Plans, Communications Asst, Comm Asst to Asst to President for OHS, Dir Policy and Plans
03/04/02	Orlando, FL	1	$	325	Staff Dir
03/07/02	Boston, MA	3	$	1,111	Sr Dir Policy & Plans, Sr Dir Intergovernmental Affairs
03/08/02	Boston, MA	4	$	1,014	Asst to President for OHS, Sr Dir Communications, Aide to Asst to President for OHS, Staff Dir
03/08/02	Harrisburg, PA	1	$	600	Communications Asst
03/11/02	Birmingham	1	$	654	Sr Dir Response & Recovery
03/11/02	Orlando, FL	1	$	1,790	Comm Asst to Asst to President for OHS
03/15/02	Harrisburg, PA	1	$	589	Communications Asst
03/18/02	Las Vegas, NV	3	$	2,003	Comm Asst to Asst to President for OHS, Comm Asst, Comm Asst
03/20/02	New York City, NY	1	$	606	Special Asst
03/21/02	Monterrey, MEX	1	$	900	Aide to Asst to President for OHS
03/22/02	Harrisburg, PA	1	$	363	Communications Asst
03/27/02	Atlanta, GA	1	$	264	Aide to Asst to President for OHS
	Trip Cost Total		**$**	**59,503**	

REV_00169337

Cyberspace Security Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Staff Position**
10/27/01	San Jose, CA	2	$ 4,649	Special Advisor to President for Cyberspace Security, Deputy Chief of Staff Cyberspace
10/28/01	San Jose, CA	1	$ 1,663	Dir National Security Cyberspace
12/04/01	Boston, MA	3	$ 4,620	Special Advisor to President for Cyberspace Security, Deputy Chief of Staff Cyberspace, Sr Dir National Security Cyberspace
12/09/01	Boston, MA	1	$ 581	Dir National Security Cyberspace
12/09/01	Salt Lake City, UT	1	$ 1,219	Sr Dir National Security Cyberspace
01/17/02	San Jose, CA	2	$ 4,184	Sr Dir National Security Cyberspace, Special Advisor to President for Cyberspace Security
01/26/02	Honolulu, HI	1	$ 1,495	Sr Dir National Security Cyberspace
02/02/02	New Haven, CT	1	$ 809	Vice Chair CIPB
02/05/02	Norfolk, VA	1	$ 167	Sr Dir National Security Cyberspace
02/11/02	Austin, TX	1	$ 826	Special Advisor to President for Cyberspace Security
02/11/02	New York City, NY	1	$ 139	Sr Dir National Security Cyberspace
02/16/02	San Jose, CA	1	$ 807	Special Advisor to President for Cyberspace Security
02/22/02	Philadelphia, PA	1	$ 149	Vice Chair CIPB
03/02/02	JPN, IND, SIN, Hong Kong	1	$ 10,678	Sr Dir National Security Cyberspace
03/04/02	Palm Springs, CA	1	$ 371	Vice Chair CIPB
03/17/02	London, GBR	1	$ 1,273	Vice Chair CIPB
03/20/02	New York City, NY	1	$ 161	Sr Dir National Security Cyberspace
03/21/02	Seattle, WA	1	$ 161	Vice Chair CIPB
	Trip Cost Total		**$ 33,949**	

REV_00169338

Hearing Record Reference for Question 19:

Question: What Memorandums of Understanding have been signed by the Office of Homeland Security, or by any other EOP entity on behalf of the Office of Homeland Security and with whom? Describe the purpose of each MOU.

Answer: As of April 12, 2002, there is one signed Memorandum of Understanding (MOU), which is an agreement between OHS and the Office of Science and Technology Policy (OSTP). OSTP provides technical and personnel support for research and development and policy issues. There is no financial component to this MOU.

Hearing Record Reference for question 24:

Question: Is there a distinct organizational unit within the OHS for this function? If so, how many FTE are associated with this function? How many detailees? Where are these people located? Is this a permanent location? What is the total amount of space being used by the Cyber Security Office? What is the total cost of the Cyberspace Security office, including rent, office supplies, communications, etc.

Answer: The Special Advisor reports to both the Assistant to the President for Homeland Security and the Assistant to the President for National Security Affairs. The permanent location and amount of space allocated to the Board has not been determined, but they are currently located at the G Street office location. The total staff associated with this function is yet to be determined. The total estimated cost, for FY 2003, of the CIPB, including rent, office supplies, communications, etc., is approximately $2.85 million.

Hearing Record Reference for Question 39:

Question: To date, provide the total amount obligated from the FY 2002 appropriation "White House Repair and Restoration" by project.

Answer: Listed below is the status of each of the projects and the amounts obligated. No funds have been obligated to date in excess of the $100,000 project prospectus ceiling.

Pool Shelter Roof Reconstruction and Pool Deck Renovation - The preliminary architectural survey and design are completed, and structural engineering analysis and design is in progress. The two primary contractors required have committed to the project and an on-site meeting is scheduled. Construction is expected to begin in April. There have been no funds obligated. All work to date has been accomplished with National Park Service and Executive Residence staff.

Communication System Repairs / Phase 2 - Design work continues under Phase I (FY 2001 – $441,000 obligated) and Construction (Phase II) is expected to begin in August.

East and West Wing Exterior Restoration - Scaffolding installation for one elevation of the East and West Wing is nearly complete. Paint removal will begin shortly as outdoor temperatures permit. $84,500 has been obligated to date.

REV_00169339

Insulated Windows Replacement - Preliminary discussions are ongoing with manufacturers and fabrication should begin in May. Installation and related restoration requirements have been discussed with the prospective contractor, and the proposal should be received in April 2002. Work is expected to begin in July. No funds have been obligated for this project.

Kitchen Floor Replacement - The survey of existing conditions including utilities has been completed. An onsite meeting with the flooring installation contractor was completed and installation began in mid-March 2002. No funds have been obligated for this project.

North Portico Curtain Wall - The contractor began onsite work at the end of February 2002 and installation is 95% complete. Only the "punch" list and in house items remain. $83,000 has been obligated to date.

Stone Pavers Restoration - The contractor proposal has been received and is under review. Material ordering is expected in April 2002 and onsite work is expected to begin in May. No funds have been obligated for this project.

West Colonnade Restoration - There is continuing restoration of the first three columns and historically accurate replacement stone has been ordered for all columns. The newly discovered deteriorated structural steel has been evaluated. The recommended corrective actions will be accomplished this summer and no additional funds will be required. To date, $49,040 has been obligated for this project.

Hearing Record Reference for Question 51:

Issue: **President's Travel**

Question: For Presidential and First Lady travel, provide the following for FY 2001 and 2002 (to date):

- Trip date
- Destination
- Designation (political/official)
- Official Cost

Answer: The following charts summarize Presidential and First Lady travel for FY 2001 and FY 2002:

Presidential Travel FY 2001				
		Status		White House
Date	Destination	Official	Political	Travel cost
5-Oct	Princeton, NJ	100%		$ 9,983.00
8-Oct	New York, NY	100%		$ 4,986.00
11-Oct	Philadelphia, PA	44%	56%	$ 7,286.00
14-Oct	Denver, CO	31%	69%	$ 3,546.00
18-Oct	Norfolk, VA	100%		$ 3,301.00

REV_00169340

19-Oct	New Orleans, LA		100%	$ 974.00
20-Oct	Jefferson City, MO	37%	63%	$ 3,920.00
21-Oct	Boston, MA		100%	$ 259.00
22-Oct	Kingston, NY		100%	$ 1,078.00
25-Oct	Armonk, NY	100%		$ 8,617.00
31-Oct	Louisville, KY/New York		100%	$ 1,209.00
2-Nov	New York, NY		100%	$ 1,929.00
7-Nov	New York, NY		100%	$ 2,531.00
12-Nov	Waikoloa, HI	100%		$ 42,293.00
30-Nov	New York, NY	100%		$ 11,310.00
8-Dec	Omaha, NE	71%	29%	$ 13,188.00
18-Dec	New York, NY	100%		$ 15,390.00
4-Jan	Syracuse, NY	100%		$ 3,669.00
7-Jan	New York, NY	53%	47%	$ 4,835.00
9-Jan	Lansing, MI	100%		$ 7,730.00
9-Jan	Chicago, IL	100%		$ 8,470.00
11-Jan	Boston, MA	100%		$ 7,986.00
11-Jan	Dover, NH	100%		$ 4,918.00
11-Jan	Grand Canyon, AZ	100%		$ 18,342.00
17-Jan	New York, NY	100%		$ 12,283.00
17-Jan	Little Rock, AK	100%		$ 1,722.00
3-Feb	Williamsburg, VA	100%		$7,063
4-Feb	Nemacolin, PA	100%		$389
12-Feb	Savannah, GA	100%		$7,236
13-Feb	Norfolk, VA	100%		$7,293
14-Feb	Charleston, WV	100%		$9,692
18-Feb	Waco, TX	100%		$7,310
19-Feb	Oklahoma City, Ok	100%		$5,812
20-Feb	Columbus, OH	100%		$3,444
20-Feb	St. Louis, MO	100%		$9,324
21-Feb	Knoxville, TN	100%		$5,782
28-Feb	Pittsburg, PA	100%		$3,182
28-Feb	Council Bluff, IA	100%		$7,657
1-Mar	Little Rock, AK	100%		$8,450
1-Mar	Atlanta, GA	100%		$6,538
4-Mar	Newport News, VA	100%		$4,223
6-Mar	Chicago, IL	100%		$5,332
8-Mar	Sioux Falls, SD	100%		$12,542
8-Mar	Fargo, ND	100%		$2,976
9-Mar	Lafayette, LA	100%		$8,407
9-11 Mar	Waco, TX	100%		$18,435
12-Mar	Panama City, FL	100%		$3,314
14-Mar	Plainfield, NJ	100%		$4,724
21-Mar	Orlando, FL	100%		$9,568
23-Mar	Portland, MN	100%		$6,164

26-Mar	Kansas City, MO	100%		$6,390
26-Mar	Billings, MT	100%		$12,229
27-Mar	Kalamazoo, MI	100%		$3,765
3-Apr	Wilmington, DE	100%		$2,528
6-Apr	Milwaukee, WI	100%		$6,200
11-Apr	Greenville, NC	100%		$7,191
11-Apr	Charlotte, NC	100%		$6,509
15-Apr	Waco, TX	100%		$12,791
18-Apr	Waterbury, CT	100%		$7,527
25-Apr	Jacksonville, FL	100%		$3,719
25-Apr	New Orleans, LA	100%		$7,541
25-Apr	Little Rock, AK		100%	$ -
26-Apr	Houston, TX	100%		$2,647
27-Apr	Austin, TX	100%		$6,519
28-Apr	Waco, TX	100%		$12,700
14-May	Philadelphia, PA	100%		$6,440
17-May	Nevada, IA	100%		$7,838
17-May	St. Paul, MN	100%		$6,266
18-May	Lancaster, PA	100%		$6,858
20-May	South Bend, IA	100%		$8,333
20-May	New Haven, CT	100%		$19,631
24-May	Cleveland, OH	100%		$3,497
28-May	Mesa, AZ	100%		$2,828
29-May	Los Angeles, CA	100%		$24,073
29-May	San Diego, CA	100%		$14,326
30-May	Fresno, CA	100%		$16,108
1-Jun	Boston, MA	100%		$4,344
4-Jun	Tampa, FL	100%		$18,918
4-Jun	Homestead, FL	100%		$8,721
6-Jun	Bedford, VA	100%		$3,880
8-Jun	Des Moines, IA	100%		$5,952
8-Jun	Omaha, NE	100%		$8,761
10-Jun	Waco, TX	100%		$7,844
21-Jun	Birmingham, AL	58%	42%	$14,966
21-Jun	Waco, TX	100%		$12,374
25-Jun	Detroit, MI	100%		$8,956
4-Jul	Philadelphia, PA	100%		$9,267
5-Jul	Kennebunkport, ME	100%		$14,083
10-Jul	New York City, NY	100%		$18,036
13-Jul	Baltimore, MD	100%		$1,352
29-Jul	Fort A.P. Hill VA	100%		$2,087
4-Aug-2 Sep	Crawford, TX	100%		$89,092
14-Aug	Estes Park, CO	100%		$21,743
14-Aug	Denver, CO	50%	50%	$0
15-Aug	Albuquerque, M	68%	32%	$21,860

20-Aug	Milwaukee, WI	100%		$10,820
21-Aug	Kansas City, MO	100%		$21,636
26-Aug	Pittsburg, PA	100%		$8,858
26-Aug	Williamsport, PA	100%		$14,073
29-Aug	Honolulu, HI (pre-adv)	Cancelled due to 9/11		$4,480
30-Aug	San Antonio, TX	100%		$7,024
3-Sep	Detroit, MI	100%		$10,053
3-Sep	Green Bay, WI	100%		$10,812
6-Sep	Toledo, OH	100%		$4,710
10-Sep	Sarasota, FL	100%		$26,098
10-Sep	Jacksonville, FL	100%		$5,376
14-Sep	New York City, NY	100%		$6,767
27-Sep	Chicago, IL	100%		$9,438
	FY 2001 Total Costs			**$791,692**

Mrs. Clinton/Mrs. Bush's Travel FY 2001				
		Status		White House
Date	Destination	Official	Political	Travel Cost
16-Oct	New York, NY		100%	$ 346
27-Oct	New York, NY		100%	$ 236
10-Nov	New York, NY		100%	$ 234
20-Feb	Ohio/ Missouri	100%		$583
22-Mar	Los Angeles, CA	100%		$1,165
23-Mar	San Diego, CA	100%		$14,294
22-Apr	Quebec, Canada	100%		$8,673
1-May	New York, NY	100%		$52
8-May	Columbia, SC	100%		$434
14-May	Chicago, IL	100%		$1,637
1-Jun	Boston, MA	100%		$280
25-Sep	New York, NY	100%		$4,500
	Total Costs			**$31,618**

Presidential Travel FY 2002				
		Status		White House
Date	Destination	Official	Political	Travel Cost
3-Oct	New York, NY	100%		$8,060
7-Oct	Emmitsburg, MD	100%		$1,988
17-Oct	Sacramento, CA	100%		$16,678
30-Oct	New York, NY	100%		$13,043

REV_00169343

8-Nov	Atlanta, GA	100%		$17,920
10-Nov	New York, NY	100%		$6,525
14-Nov	Crawford. TX	100%		$44,535
21-Nov	Fort Campbell, KY	100%		$9,114
27-Nov	Salt Lake City, UT	100%		$4,328
1-Dec	Philadelphia, PA	100%		$13,669
4-Dec	Orlando, FL	70%	30%	$13,371
7-Dec	Norfolk, VA	100%		$5,271
11-Dec	Citadel, SC	100%		$11,498
26-Dec	Waco, TX	100%		$12,667
4-Jan	Austin, TX	100%		$5,356
5-Jan	Ontario, CA	100%		$10,240
5-Jan	Portland, OR	100%		$10,870
8-Jan	Hamilton, OH	100%		$6,588
8-Jan	Boston, MA	100%		$11,159
8-Jan	Portsmith, NH	54%	46%	$6,594
9-Jan	Washington, DC	100%		$0
11-Jan	Conshohoken, PA	100%		$5,321
14-Jan	Moline, IL	100%		$7,570
14-Jan	Springfield, MO	100%		$6,569
14-Jan	New Orleans, LA	100%		$32,494
22-Jan	Charleston, WV	71%	29%	$6,086
25-Jan	Portland, ME	100%		$7,698
30-Jan	Winston-Salem, NC	65%	35%	$8,799
30-Jan	Daytona Beach, FL	100%		$12,874
31-Jan	Atlanta, GA	100%		$13,869
1-Feb	White Sulpher Springs, WV	100%		$4,273
4-Feb	Eglin AFB,FL	100%		$7,666
5-Feb	Pittsburgh ,PA	100%		$7,918
6-Feb	New York, NY	54%	46%	$6,940
8-Feb	Denver, CO	100%		$7,644
8-Feb	Salt Lake City, UT	100%		$12,877
8-Feb	Jackson, WY	100%		$11,182
11-Feb	Milwaukee, WI	48%	52%	$9,360
16-Feb	Anchorage, AK	40%	60%	$9,181
27-Feb	Charlotte, NC			$7,048
	Totals through 2/28/02			**$414,843**

REV_00169344

Mrs. Bush's Travel FY 2002				
		Status		White House
Date	Destination	Official	Political	Travel Cost
3-Oct	Cincinnati, OH	100%		$339
16-Oct	Newark, NJ	100%		$1,790
18-Oct	Atlanta, GA	100%		$1,742
19-Oct	Baton Rouge, LA	100%		$1,568
30-Oct	New York, NY	100%		$1,652
16-Nov	Austin, TX	100%		$7,300
9-Jan	Topeka, KS	100%		$1,566
10-Jan	Houston, TX	100%		$1,915
11-Jan	Austin, TX	100%		$780
21-Jan	Atlanta, GA	100%		$1,060
10-Feb	Los Angeles, CA	100%		$5,021
	Total Costs through 2/28/02			**$24,733**

Hearing Record Reference for Question 53:

Question: For FY 2001, 2002 (estimate) and FY 2003 request, provide the total amount for outside consulting services, by appropriations account. Provide the specific definition of "consulting services" being used in response to this question as well as a description of the consulting service itself (dollar amount, purpose, deliverables, timeframe). If applicable, group the consulting services by category of service.

Answer: "Consulting services" or "Advisory and Assistance Services" as defined by OMB Circular A-11, Section 83, are services acquired by contract from non-Federal sources (that is, the private sector, foreign governments, State and local governments, tribes), as well as from other units within the Federal Government and consists of three types of services: 1) Management and professional support services; 2) Studies, analyses and evaluation; and 3) Engineering and technical services. Listed below are the EOP and other entities with Advisory and Assistance contracts.

White House Office

FY 2001 (Actual)

1. $15,300 for the Gift Unit of the White House Office of Correspondence. The deliverables included a final report recommending procedures, staffing and budget required for handling gifts to the White House from outside sources. This contract was from January - March, 2001.

REV_00169345

2. $13,200 for computer forensic consultant services to observe the Office of the Independent Counsel's use of a computer forensics technique. The consultant evaluated whether commonly accepted industry practices were being followed. The timeframe for this contract was from December, 2000 to January, 2001.
3. $1,650 for the compilation of records for the presidential library. This contract was during the month of January 2001.

FY 2002 as of April 5, 2002
There are currently no advisory and assistance contracts for the White House Office.

FY 2003 Request
1. $8,000,000 is the estimated requirement for the Office of Homeland Security advisory and assistance contracts. Exact contracts have not been determined at this time.

Office of Administration
FY 2001 (Actual)
1. $285,000 for an auditability assessment for the Chief Financial Officer operations. The deliverables included an assessment plan, auditability report and a gap analysis. The contract was awarded in late September 2001 with a period of performance through March 2002.
2. $196,379 for an assessment of the distributed computer environment including a final report. This contract lasted from August, 2001 to December 2001.
3. $12,600 for consulting services in support of workplace issues. The contract supported a National Partnership for Reinventing Government requirement to identify basic issues, best practices and barriers to success. The contract timeframe was from October 2000 to January 2001.
4. $143,000 for a study of options for an EOP financial management plan. The contract was awarded in September 2001 with a period of performance that extended through December 2001.

FY 2002 as of April 5, 2002
There are currently no advisory and assistance contracts for the Office of Administration.

FY 2003 Request
There are no advisory and assistance contracts planned for FY 2003.

Office of Management and Budget
FY 2001 (Actual)
1. $36,875 for information technology advisory services. The deliverables include providing expert IT research and advice as needed. The contract's duration is for the entire fiscal year.

FY 2002 as of April 5, 2002
1. $55,000 for information technology advisory services. The deliverables include providing expert IT research and advice as needed. The contract is a continuation of the same contract above and is for the entire fiscal year.

REV_00169346

FY 2003 Request

1. $55,000 for information technology advisory services. The deliverables include providing expert IT research and advice as needed. The contract is a continuation of the same contract above and is for the entire fiscal year.

Office of National Drug Control Policy

FY 2001 (Actual)

1. $2,250 for conference preparation support for an Anti-Doping agency meeting including overall logistical support. The contract was for 5 days in August, 2001.

FY 2002 as of April 5, 2002

1. $14,000 for office temps/consultants to assist with the ONDCP Strategy and Budget summary. This contract is part of an open blanket purchase agreement so there is no designated timeframe.

FY 2003 Request

1. $14,000 for office temps/consultants to assist with the ONDCP Strategy and Budget summary. This contract is part of an open blanket purchase agreement so there is no designated timeframe.

Council of Economic Advisers

FY 2001 (Actual)

1. $12,874 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from November 2000 to February 2001.

FY 2002 as of April 5, 2002

1. $14,276 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from November 2001 to February 2002.

FY 2003 Request

1. $15,000 estimated for editorial services for the Economic Report of the President. The consultant will provide expertise in editing the final publication. It is anticipated that the contract will last from November 2002 to February 2003.

Council on Environmental Quality

FY 2001 (Actual)

1. $17,150 for assistance in updating statistical tables, graphics, text and an annual report. The consultant started in FY 2000 and was extended through January 2001.

FY 2002 as of April 5, 2002

There are currently no advisory and assistance contracts for the Council on Environmental Quality.

REV_00169347

FY 2003 Request
There are no advisory and assistance contracts planned for FY 2003.

Office of the United States Trade Representative
FY 2001 (Actual)
1. $5,000 for a Staff Retreat for the Office of African Affairs to improve strategic planning, management, organization and teamwork in the office. The consultant served as retreat facilitator. The contract was for two days in March 2001.
2. $185,000 for information technology advisory services. Deliverables included a detailed assessment of USTR's information technology environment. The contract started in September 2001 and will be completed during FY 2002.

FY 2002 as of April 5, 2002
1. $20,000 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.
2. $5,000 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.

FY 2003 Request
There are no advisory and assistance contracts planned for FY 2003.

Hearing Record Reference for Question 56:

Question: For Object Class 25.2 for the White House Office, provide a detailed description of each project, program or initiative to be funded in support of the USA Freedom Corps Office.

Answer: The additional funds requested in Object Class 25.2 for the White House Office's USA Freedom Corps Office are primarily required to fund two program initiatives.

- Information Dissemination: The cost of this program initiative is estimated at $900,000 and will primarily consist of contracted services in partnership with other Freedom Corps coordinating council agencies. These contracted services will include both interactive website portals and telecommunication services such as information phone banks. These services will provide links and information concerning volunteer opportunities, Freedom Corps activities and other pertinent data.

- Recognition Materials: The cost of this program initiative is estimated at $275,000 and will primarily consist of contracted services to develop, provide and disseminate materials that will be used to recognize volunteer activities and accomplishments.

In addition, approximately $25,000 is required to fund increased general support Other Service costs within the White House that will occur as the result of the operations of this new office. These funds will be used for such things as office equipment maintenance contracts and GSA work requests.

REV_00169348

Hearing Record Reference for Question 63:

Issue: **White House Communications Agency**

Question: For FY 2001 and 2002 (estimates) itemize the reimbursements made to the WH Communications Agency.

Question: For FY 2003, what are the estimated reimbursements to the WH Communications Agency?

Answers to previous two questions: Reimbursements made to WHCA, for the non-telecommunications support they provide to the WHO, is broken down into two categories: personnel and audio visual support. The amount of planned reimbursement is initially set and agreed to via an inter-agency agreement (IAG). This IAG is then adjusted if needed as a result of actual execution. Reimbursement actuals and estimates follow:

	FY01 (actual)	FY02 (est.)	FY03 (est.)
Military Personnel	$3,946,779	$4,564,085	$4,754,346
Audiovisual Support	$3,514,528	$3,589.242	$3,953,848
Total	$7,461,307	$8,153,327	$8,708,194

Hearing Record Reference for Question 64:

Issue: **Office of Administration**

Question: Provide an organization chart for the Office of Administration, including the numbers of FTE in each office.

Answer: The Office of Administration organization chart provided below reflects the current streamlined organizational structure where the number of operating units reporting to the Director was reduced from 10 to 4. The FY 2003 FTE request includes an increase of 20 FTE over FY 2002 authorized levels. All additional FTEs support the ongoing requirements stemming from the events of September 11 including IT and facility support for dispersed offices, additional logistics responsibilities for the receipt and delivery of mail, and financial management support for the Office of Homeland Security (+7 Chief Operating Officer, +10 Chief Information Officer, +1 Chief Projects Officer, +2 Chief Financial Officer).

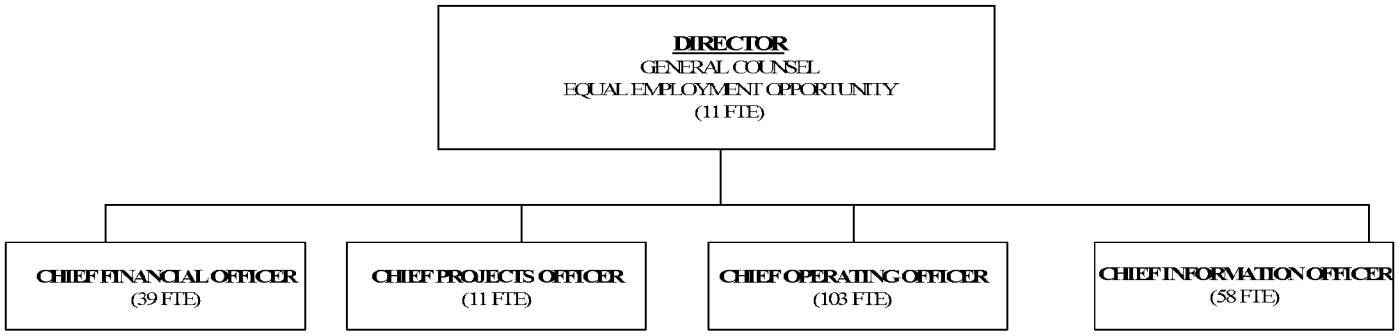
REV_00169349

Executive Office of the President

Office of Administration

Organization Chart

with FY 2003 Requested FTEs



Total 222 FTE

Hearing Record Reference for Question 72:

Issue: *White House Office*

Question: Provide a brief description of the duties and responsibilities of each office (e.g. Chief of Staff, Oval Office Operations, Office of the Press Secretary, Office of Homeland Security, etc.) within the appropriations account "White House Office". By office, provide obligations, FTE and OGE for FY 2001(actual) and FY 2002-2003 (estimated). Itemize OGE by category (e.g. reimbursable detailee, PSC, etc.).

Answer: The purpose of the White House Office is to provide advice and assistance to the President of the United States. This requires a range of professional and support staff. The White House Office is currently divided into the following major units:

Office of the Chief of Staff – Provides advice and assistance to the President and directs the activities of the White House staff.

Oval Office Operations – Provides assistance to the President by, among other things, managing the operations of the Oval Office.

REV_00169350

Advance – Provides advice and assistance to the President, principally by taking responsibility for the organization and implementation of the President and the First Lady's visits outside of the White House complex.

Cabinet Affairs – Provides advice and assistance to the President by, among other things, serving as the liaison between the White House and the President's Cabinet and agency heads.

Communications, Speechwriting, and Media Affairs – Provides advice and assistance to the President by, among other things, coordinating and supporting efforts to communicate and explain the President's views and decisions.

Office of Counsel to the President – Provides advice and assistance to the President and White House staff, principally on matters of law.

Faith-Based and Community Initiatives – Provides advice and assistance to the President by, among other things, coordinating and implementing the President's initiative to empower community and faith-based organizations to better confront poverty and social decay.

Office of the First Lady – Provides advice and assistance to Mrs. Bush in carrying out her official responsibilities as the First Lady.

Homeland Security – Provides advice and assistance to the President, principally by developing, coordinating, and advising the President on a comprehensive national strategy to secure the United States from terrorist threats or attacks and, in particular, by coordinating the Executive Branch's efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States. It has no operational role.

Intergovernmental Affairs – Provides advice and assistance to the President, principally by monitoring the views of State and local elected officials and serving as a liaison between the White House and the Executive Branch, on the one hand, and State and local governments, on the other.

Legislative Affairs – Provides advice and assistance to the President by, among other things, serving as the liaison between the White House and the Congress and developing the strategy used to promote and defend the President's legislative agenda.

Management and Administration – Provides advice and assistance to the President, principally by providing day-to-day administrative support to the White House staff.

Presidential Personnel – Provides advice and assistance to the President, principally by recruiting, screening, and recommending to the President qualified candidates for Presidential appointments to Federal departments and agencies.

REV_00169351

Office of the Press Secretary – Provides advice and assistance to the President, principally by providing information to the national and international press and by handling all national press inquiries such as interview requests, requests for transcripts or releases, and travel and scheduling information.

Scheduling – Provides advice and assistance to the President, principally by coordinating the planning, organization, and implementation of the President's daily and long-range schedules.

Office of the Staff Secretary – Provides advice and assistance to the President by, among other things, managing documents or other items addressed to the President, including correspondence and gifts.

Strategic Initiatives – Provides advice and assistance to the President by, among other things, coordinating the planning and development of a long-range strategy for achieving Presidential priorities; conducting research; and assisting in message development and other communications activities in conjunction with the Office of Public Liaison and the Office of Political Affairs.

USA Freedom Corps – Provides advice and assistance to the President on matters relating to enlisting Americans in public service at home and abroad; in particular, it provides advice and support on the work of, and recognizes participants in, three service efforts – the newly created Citizen Corps, AmeriCorps and Senior Corps, and the Peace Corps.

In addition to these major units, certain individuals – including certain individuals who work with the National Security Council, the Domestic Policy Council, and the National Economic Council – are also White House Office officers or employees, although the units within which they principally work are not themselves part of the White House Office.

The major units within the White House Office are administratively designated by the President's Chief of Staff and the number of employees within each unit and the work of each unit vary over time and as circumstances and needs change. Therefore, a detailed breakout of FTEs and OGEs by unit is not particularly meaningful. White House Office obligations, FTE and OGE are summarized below. The Office of Homeland Security is funded under the emergency supplemental this fiscal year, and therefore, the FY 2002 numbers below do not include OHS personnel or funding. FY 2002 estimates for the OHS are addressed separately in response to other committee questions.

REV_00169352

		FY01 act.		FY02 est.		FY03 est.
Total WHO – FTE		369		400		446
Total WHO – OGE		35		32*		127*
FY03 Congressional Request – FTE		400		400		446
(Dollars in thousands)						
Total WHO – Obligations		$53,084		$54,651		$84,579

* FY 2002 excludes the approximately 65 OGEs currently on board for the Office of Homeland Security.
The FY 2002 OGEs for the Office of Homeland Security are funded out of the emergency supplemental funding.
FY 2003 includes the 95 OGEs for the Office of Homeland Security requested in the FY 2003 Budget Request.

Issue: The Committee is resubmitting the following questions due to the lack of detailed information provided in the original responses

Question: Provide a brief description of the duties and responsibilities of each office (e.g. Chief of Staff, Oval Office Operations, Office of the Press Secretary, Office of Homeland Security, etc.) within the appropriations account "White House Office". By office, provide obligations, FTE and OGE for FY 2001(actual) and FY 2002-2003 (estimated). Itemize OGE by category (e.g. reimbursable detailee, PSC, etc.).

Answer: The purpose of the White House Office is to provide advice and assistance to the President of the United States. This requires a range of professional and support staff. The White House Office is currently divided into the following major units. A brief description of the duties and responsibilities of the major units is provided for the record.

Office of the Chief of Staff – Provides advice and assistance to the President and directs the activities of the White House staff.

Oval Office Operations – Provides assistance to the President by, among other things, managing the operations of the Oval Office.

Advance – Provides advice and assistance to the President, principally by taking responsibility for the organization and implementation of the President and the First Lady's visits outside of the White House complex.

Cabinet Affairs – Provides advice and assistance to the President by, among other things, serving as the liaison between the White House and the President's Cabinet and agency heads.

REV_00169353

Communications, Speechwriting, and Media Affairs – Provides advice and assistance to the President by, among other things, coordinating and supporting efforts to communicate and explain the President's views and decisions.

Office of Counsel to the President – Provides advice and assistance to the President and White House staff, principally on matters of law.

Faith-Based and Community Initiatives – Provides advice and assistance to the President by, among other things, coordinating and implementing the President's initiative to empower community and faith-based organizations to better confront poverty and social decay.

Office of the First Lady – Provides advice and assistance to Mrs. Bush in carrying out her official responsibilities as the First Lady.

Homeland Security – Provides advice and assistance to the President, principally by developing, coordinating, and advising the President on a comprehensive national strategy to secure the United States from terrorist threats or attacks and, in particular, by coordinating the Executive Branch's efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States.

Intergovernmental Affairs – Provides advice and assistance to the President, principally by monitoring the views of state and local elected officials and serving as a liaison between the White House and the Executive Branch, on the one hand, and state and local governments, on the other.

Legislative Affairs – Provides advice and assistance to the President by, among other things, serving as the liaison between the White House and the Congress and developing the strategy used to promote and defend the President's legislative agenda.

Management and Administration – Provides advice and assistance to the President, principally by providing day-to-day administrative support to the White House staff.

Presidential Personnel – Provides advice and assistance to the President, principally by recruiting, screening, and recommending qualified candidates for Presidential appointments to Federal departments and agencies.

Office of the Press Secretary – Provides advice and assistance to the President, principally by providing information to the national and international press and by handling all national press inquiries such as interview requests, requests for transcripts or releases, and travel and scheduling information.

REV_00169354

Scheduling – Provides advice and assistance to the President, principally by coordinating the planning, organization, and implementation of the President's daily and long-range schedules.

Office of the Staff Secretary – Provides advice and assistance to the President by, among other things, managing documents or other items addressed to the President, including correspondence and gifts.

Strategic Initiatives – Provides advice and assistance to the President by, among other things, coordinating the planning and development of a long-range strategy for achieving Presidential priorities; conducting research; and assisting in message development and other communications activities in conjunction with the Office of Public Liaison and the Office of Political Affairs.

USA Freedom Corps – Provides advice and assistance to the President on matters relating to enlisting Americans in public service at home and abroad; in particular, it provides advice and support on the work of, and recognizes participants in, three service efforts – the newly created Citizen Corps, AmeriCorps and Senior Corps, and the Peace Corps.

In addition to these major units, certain individuals – including certain individuals who work with the National Security Council, the Domestic Policy Council, and the National Economic Council – are also White House Office employees, although the units within which they principally work are not themselves part of the White House Office.

The major units within the White House Office are simply a creature of administrative convenience, and the number of employees within each unit and the work of each unit vary over time and as circumstances and needs change. Therefore a detailed breakout of FTEs and OGEs by unit is not particularly meaningful. Nevertheless, set forth below is a breakout based on current estimates and planning, which of course, may differ during the actual execution year.

	FY01	FY02	FY03
White House Office	**actual**	**est.**	**est.**
Office of Chief of Staff - FTE	11	12	12
Office of Chief of Staff - OGE (Agency Rep)	6	0	0
Oval Office Ops - FTE	5	5	5
Oval Office Ops - OGE	0	0	0
Advance - FTE	15	15	15
Advance - OGE	0	0	0
Office of Cabinet Affairs - FTE	6	6	6

REV_00169355

Office of Cabinet Affairs - OGE (Assignee)		3		1	1
Communications, Speechwriting & Media - FTE		32		35	35
Communications, Speechwriting & Media - OGE		0		0	0
Office of the Counsel to the President - FTE		17		19	19
Office of the Counsel to the President - OGE (Non-Reimb Detail)		4		2	2
Faith Based and Community Initiatives - FTE		7		8	8
Faith Based and Community Initiatives - OGE		0		0	0
Office of the First Lady - FTE		18		19	19
Office of the First Lady - OGE		0		0	0
Office of Homeland Security - FTE		0		0	40
Office of Homeland Security - OGE		0		0	95
Office of Intergovernmental Affairs - FTE		7		9	9
Office of Intergovernmental Affairs - OGE		0		0	0
Office of Legislative Affairs - FTE		23		24	24
Office of Legislative Affairs - OGE (Non-Reimb Detail)		0		1	1
Office of Legislative Affairs - OGE (Assignee)		0		1	1
Office of Management & Administration - FTE		34		38	38
Office of Management & Administration - OGE (Non-Reimb Detail)		1		0	0
Office of Management & Administration - OGE (HP Serv)		9		13	11
Office of Presidential Personnel - FTE		36		38	38
Office of Presidential Personnel - OGE (Assignee)		2		0	0
Office of Presidential Personnel - OGE (Reimb Detail)		0		1	1
Office of Presidential Personnel - OGE (Non-Reimb Detail)		1		1	1
Office of the Press Secretary - FTE		11		12	12
Office of the Press Secretary - OGE		0		0	0
Scheduling - FTE		10		11	11
Scheduling - OGE (HP Serv)		2		2	2
Office of the Staff Secretary - FTE		95		98	98

REV_00169356

Office of the Staff Secretary - OGE (Reimb Detail)	3	0	0
Office of the Staff Secretary - OGE (Non-Reimb Detail)	1	0	0
Office of Strategic Initiatives - FTE	34	35	35
Office of Strategic Initiatives - OGE (Reim Detail)	0	1	1
Office of Strategic Initiatives - OGE (Assignee)	0	1	1
USA Freedom Corps Office - FTE	0	5	6
USA Freedom Corps Office - OGE (Agency Rep)	0	1	1
USA Freedom Corps Office - OGE (Non-Reimb Detail)	0	2	2
USA Freedom Corps Office - OGE (Reimb Detail)	0	2	2
USA Freedom Corps Office - OGE (WH Fellow)	0	1	1
Other - FTE	8	11	16
Other - OGE (HP Serv)	2	3	3
Other - OGE (Agency Rep)	1	0	0
Other - OGE (Reimb Detail)	0	1	1

	FY01	**FY02**	**FY03**
	actual	**est.**	**est.**
Total WHO – FTE	369	400	446
Total WHO – OGE	35	34*	129**
FY03 Congressional Request – FTE	400	400	446

* FY 2002 excludes the approximately 65 OGEs currently on board for the Office of Homeland Security who are funded out of the FY 2002 Emergency Supplemental Appropriation. The WHO OGE number has been updated to reflect changes since we submitted the first set of responses to the questions for the record.

**FY 2003 includes the 95 OGEs for the Office of Homeland Security requested in the FY 2003 Budget Request.

Obligations (actual and estimated) are provided by individual White House office for FY 2001 thru FY 2003 in the table below. It must be emphasized that the FY 2002 and FY 2003 numbers are estimates only. As circumstances and needs change, so may these estimates in any actual year. Therefore, these estimates are not particularly meaningful.

REV_00169357

(dollars in thousands)					
White House Office	**FY01 act.**		**FY02 est.**		**FY03 est.**
Office of Chief of Staff	$1,473		$1,420		$1,474
Oval Office Ops	$550		$458		$476
Offices of Scheduling and Advance	$2,751		$3,398		$3,593
Office of Cabinet Affairs	$542		$592		$615
Communications, Speechwriting & Media	$2,202		$2,395		$2,486
Office of the Counsel to the President	$2,004		$1,895		$1,966
Faith Based and Community Initiatives	$366		$516		$536
Office of the First Lady	$1,354		$1,437		$1,492
Office of Homeland Security	$0		$0	*	$24,844
Office of Intergovernmental Affairs	$489		$518		$538
Office of Legislative Affairs	$1,870		$2,041		$2,118
Office of Management and Administration	$26,462		$25,735		$27,440
Office of Presidential Personnel	$2,137		$2,336		$2,425
Office of the Press Secretary	$1,062		$1,139		$1,182
Office of the Staff Secretary	$5,702		$6,232		$6,469
Office of Strategic Initiatives	$3,821		$4,167		$4,325
USA Freedom Corps Office - Obligations	$0		$372		$2,600
(dollars in thousands)					
Other Personnel Obligations - Prior administration org's	$299		$0		$0
Total WHO Obligations	$53,084		$54,651		$84,579

* FY 2002 obligations for the Office of Homeland Security are funded under the Emergency Supplemental Appropriation

It should be noted that a single budget is prepared for the WHO. This single budget is prepared based on a number of criteria such as: prior spending patterns, estimated requirements, OMB provided inflation factors, and the priorities of the President. During a given execution year, personnel costs are allocated based upon that year's sometimes unique staffing decisions. The remainder of the budget is allocated initially to two WHO offices. The travel budget is allocated in its entirety to Scheduling and Advance and obligated against this office if the travel is done in support of the President. Any travel undertaken that is not in support of a Presidential trip is charged to the office of the staff member in question. The remaining portion of the non-personnel, non-travel budget, including expenses for rent, supplies, equipment and other services is considered overhead and charged as such to the White House Office of Management and Administration.

The only exceptions are the Office of Homeland Security and the USA Freedom Corps Office. Since these are new offices requiring new budget authority, all new obligations (including travel and overhead) anticipated as a result of these offices are reflected in the FY 2003 estimates for these offices.

REV_00169358

Hearing Record Reference for question 73:

Question: Referencing the FTE/OGE tables that break-out personnel classifications by type of OGE, please explain why the number of "historically provided" employees decreased so significantly (from 25 to 1) for the Vice President's office between FY2001 and FY2002. Please provide the Subcommittee your definition of each OGE category listed on the table (agency reps, assignees, detailees, HP services, others, student volunteers, WH fellows, PMI). Please also provide a listing of the 15 "historically provided" White House Office positions identified on the FY2002 chart, the White House Office to which these positions are assigned, and the agency that pays the salary of each of the 15 positions.

Answer: The difference in the number of "Historically Provided" employees in the Vice President's Office from FY 2001 to FY 2002 is due to the redesignation of U.S. Senate employees. In FY 2001, the previous administration designated U.S. Senate employees in the Vice President's office as "Historically Provided". This was done in error and it has since been corrected. For FY 2002 and FY 2003, U. S. Senate employees are more accurately designated as "Other" since they do not fit into any other OGE category.

The following chart shows the 15 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 31, 2002*:

POSITION	OFFICE	HOME AGENCY
1. Deputy Executive Director	PFIAB*	Central Intelligence Agency
2. Administrative Services Spec.	PFIAB	Dept. of Defense
3. Administrative Assistant	PFIAB	U.S. Navy
4. Staff Assistant	Visitors Office	Dept. of Interior
5. Staff Assistant	Visitors Office	Dept. of Interior
6. Staff Assistant	Visitors Office	Dept. of Interior
7. Receptionist	Visitors Office	Dept. of Interior
8. President's Photographer	Photography Office	Defense Intelligence Agency
9. Visual Director	Photography Office	Defense Intelligence Agency
10. Photographer	Photography Office	Dept. of Defense
11. Official Photographer	Photography Office	Defense Intelligence Agency
12. Official Photographer	Photography Office	Dept. of Defense
13. Photo Editor	Photography Office	Dept. of Defense
14. Presidential Diarist	Scheduling Office	Nat'l Archive and Records Admin.
15. Asst. to the Presidential Diarist	Scheduling Office	Nat'l Archive and Records Admin.
16. Photographic Specialist**	Photography Office	Defense Intelligence Agency
17. Operations Manager**	Photography Office	Defense Intelligence Agency
18. Visual Information Specialist**	Photography Office	Defense Intelligence Agency

*PFIAB is the President's Foreign Intelligence Advisory Board
**Updated since the April 5, 2002 data was provided.

REV_00169359

Hearing Record Reference for Question 74:

The following chart shows the 15 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 31, 2002*:

POSITION	OFFICE	HOME AGENCY
1. Deputy Executive Director	PFIAB*	Central Intelligence Agency
2. Administrative Services Spec.	PFIAB	Dept. of Defense
3. Administrative Assistant	PFIAB	U.S. Navy
4. Staff Assistant	Visitors Office	Dept. of Interior
5. Staff Assistant	Visitors Office	Dept. of Interior
6. Staff Assistant	Visitors Office	Dept. of Interior
7. Receptionist	Visitors Office	Dept. of Interior
8. President's Photographer	Photography Office	Defense Intelligence Agency
9. Visual Director	Photography Office	Defense Intelligence Agency
10. Photographer	Photography Office	Dept. of Defense
11. Official Photographer	Photography Office	Defense Intelligence Agency
12. Official Photographer	Photography Office	Dept. of Defense
13. Photo Editor	Photography Office	Dept. of Defense
14. Presidential Diarist	Scheduling Office	Nat'l Archive and Records Admin.
15. Asst. to the Presidential Diarist	Scheduling Office	Nat'l Archive and Records Admin.
16. Photographic Specialist**	Photography Office	Defense Intelligence Agency
17. Operations Manager**	Photography Office	Defense Intelligence Agency
18. Visual Information Specialist**	Photography Office	Defense Intelligence Agency

*PFIAB is the President's Foreign Intelligence Advisory Board
**Updated since the April 5, 2002 data was provided.

Hearing Record Reference for Question 79:

Question: How many political appointees are currently employed within the Executive Office of the President?

Answer: The term "political appointees" is somewhat of a misnomer because it narrowly defines the type of employees authorized under Chapter 2 of Title 3 of the U.S. Code, for the White House Office, the Executive Residence, the Official Residence of the Vice President and the Office of Administration. These offices can hire personnel in various excepted service positions that are not subject to the rules of regular government employees. Many of these excepted service positions fall under the category of serving at the pleasure of the President while others do not. Using the term in the broadest possible sense, including all employees hired as Presidential Appointees, Administratively Determined, Non Career SES, or Schedule C's, the Executive Office of the President has the following number of political appointees directly hired

REV_00169360

within the EOP and serving in the EOP on detailed assignments from other agencies as of April 5, 2002:

As of April 5, 2002

Program	FY 2002 "POLITICAL APPOINTEES"					
	Admin. Determ.*	Schedule C	Non Career SES	Presidential Appointees	OGE** Political Appointees	TOTAL
White House Office	411				31	**442**
Special Assistance to the President	21				31	**52**
Official Residence of the Vice President		1				**1**
Office of Administration	8					**8**
Office of Policy Development	35				2	**37**
National Security Council				1	4	**5**
Council of Economic Advisers	18	3		3		**24**
Office of Management and Budget	2	23	13	5		**43**
Office of National Drug Control Policy		9	1	2		**12**
Executive Residence		94				**94**
Office of Science and Technology Policy		1	1	1	1	**4**
Council on Environmental Quality	6	4		1		**11**
U.S. Trade Representative	14	8	4	5		**31**
TOTAL	**515**	**143**	**19**	**18**	**69**	**764**

* Historically, Administratively Determined appointees within some agencies have served from one administration to another. Nevertheless, they serve at the pleasure of the entity head and may be terminated without cause.

** OGE = Other Government Employees

White House Office includes the Office of Homeland Security

Hearing Record Reference for Question 80:

Question: How many reimbursable details are currently employed within the Executive Office of the President?

Answer: There are currently 78 reimbursable detailees staffed within the Executive Office of the President including 63 reimbursable detailees for the Office of Homeland Security. The detailees for the Office of Homeland Security are funded through the FY 2002 Emergency Supplemental. Below is a listing of reimbursable detailees by agency as of April 5, 2002:

Agency	# Reimbursable Detailees
White House Office (incl. Homeland Security)	68
National Security Council	1
Office of Management and Budget	4
Office of National Drug Control Policy	1
Office of Science and Technology Policy	4
TOTAL	78

REV_00169361

Question: How many non-reimbursable details are currently employed within the Executive Office of the President?

Answer: There are currently 178 non-reimbursable detailees staffed within the Executive Office of the President. Below is a listing of non-reimbursable detailees by agency as of April 5, 2002:

Agency	# Non-Reimbursable Detailees
White House Office	8
National Security Council	108
Council of Economic Advisers	1
Office of Management and Budget	39
Office of National Drug Control Policy	1
United States Trade Representative	21
TOTAL	178

REV_00169362

Questions for the Record
Chairman Ernest J. Istook, Jr.
Hearing on the Executive Office of the President
April 30, 2003

Unobligated Balances (POC - Veronica Kitchen)

QUESTION 1: Please provide a listing of all unobligated balances, by fiscal year, appropriation and PPA, for all accounts within the Executive Office of the President. Please also show the original appropriation levels for these accounts.

Consolidation of Accounts (POC- Al Muhlbauer)

QUESTION 2: Sections 105 and 106 of title 3 U. S. Code describe expenses that may be accounted for solely on the certificate of the President and Vice President, respectively. Most of these expenses correspond to particular accounts. The Comptroller General may inspect documents related to these expenditures, but solely to verify that the expenditures were made for allowed purposes. When we asked last year how certified expenses would be identified for audit within a consolidated appropriation, the response was that the certification requirements would continue to be observed (p. 41). This does not answer the question of how the account structure will be maintained to provide an identifiable and auditable crosswalk between title 3-certifiable expenses and other expenses within the consolidated appropriation.

RESPONSE: As presented in the Congressional Budget Submission pages 4, 5, and 6, the Executive Office of the President (EOP) has established a Budget Activity structure that is consistent, beginning with the budget submission and extending through the accounting and reporting phases. The EOP accounting system will track and report obligations and expenditures consistent with this structure through the use of budget activity, program, sub-program, and line item codes assigned to each transaction. EOP has the ability to provide an identifiable and auditable crosswalk to the individual transactions authorized under sections 105 and 106 of Title 3 of the United States Code.

QUESTION 3: Please provide a listing of all appropriations language enacted in Public Law 108-7 which would be dropped in the proposed account consolidation, and provide a brief explanation of why that language is not necessary.

RESPONSE: The following appropriations in Public Law 108-7: Compensation of the President, White House Office Salaries and Expenses, Office of Homeland Security, Executive Residence at the White House, White House Repair and Restoration, Council of Economic Advisers, Office of Policy Development, National Security Council, Office of Administration would be combined into one appropriation entitled "The White House". The individual language in Public Law 108-7 for each of those appropriations would be removed. However, suggested language for the combined appropriation is

provided in the Appendix to the FY 2004 Budget (page 881) and states: "For the Compensation of the President and White House Office (including the Office of Homeland Security), Executive Residence, White House Repair and Restoration, Office of Policy and Development, Office of Administration, Council of Economic Advisers and the National Security Council, (hereinafter, and solely for the purposes of Title VI of this Act, "the White House"), $183,770,000, of which $24,803,000 shall remain available until expended, including compensation for the President, including an expense allowance of $50,000 as authorized by U.S.C. 102; for travel expense of $100,000 as authorized by 3 U.S.C. 103; for necessary expenses for the White House as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; for the necessary expenses of the Executive Residence at the White House as authorized by 3 U.S.C. 105,109,110, and 112-114; for the necessary expenses of the Offices and Councils in the White House account as authorized by 5 U.S.C. 3109, 15 U.S.C. 1021, and 3 U.S.C. 105 and 107 (including not to exceed $19,000 for official reception and representation expenses); and for the hire of passenger motor vehicles: Provided, That none of the funds made available to the President for official expenses shall be expended for any other purpose and any unused portion of such funds shall revert to the Treasury pursuant to 31 U.S.C. 1552: Provided further, That no such funds shall be considered as taxable to the President: Provided further, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities."

The suggested language, with the exception of a consolidated appropriation amount incorporates the same restrictions and clarifications as contained the language contained in the Public Law 108-7 for the appropriations being consolidated. The appropriations for Vice President's Salaries and Expense, Vice President's Residence Operating Expenses, Office of Management and Budget, Office of National Drug Control Policy, Unanticipated Needs will remain separate appropriations and will therefore not require any language changes as a result of the combination.

The White House (Consolidated Account) (POC – Chuck Sigman)

QUESTION 4: You are requesting $12,302,000 for object class 23.3 (communications, utilities, and miscellaneous services) in FY 2004. This is a large increase over the estimated $7,010,000 for FY 2003. What accounts for the increase?

RESPONSE: The FY 2004 White House (WH) consolidated budget net increase of $5,292,000 for communications is required in three major areas:

- **Most of the increase ($4,420,000) is needed in the OA Capital Investment Plan for offsite data center communications.** This facility will transition into full operation during FY 2004. The telecommunications between the offsite data center and the EOP complex are necessary to provide expanded, survivable and redundant connectivity, continuity of operations, disaster recovery and system support. These costs include funds for telecommunications lines, two additional

REV_00169364

DS-3 data paths, two T-1 lines, and backups to provide the communications bandwidth necessary for servicing the EOP complex.

- **$482,000 in the White House Office budget to provide a custom communications package which will enable the Homeland Security Council to establish a presence for its staff within the White House Situation Room.**

- **$100,000 for information assurance in the OA salaries/expenses budget.** In addition to the Offsite Data Center project, the OA FY 2004 budget also includes a request for an additional $100,000 for the information assurance program in the FY 2004 salaries/expenses account. This program will enable the CIO office to correct vulnerabilities in the EOP information security perimeter to secure internal systems, to perform real-time monitoring of perimeter network devices.

- **$151,000 in transfers of Lexis-Nexis database costs from nonconsolidated entities to the consolidated White House appropriation.** The FY 2004 budget envisions that $72,000 will be transferred from USTR, $56,000 from ONDCP, $15,000 from OMB, and $8,000 from CEQ so that the EOP can have a single funding source for EOP-wide Lexis-Nexis service.

- **$139,000 for adjustments to maintain the same level of services for the base funding during FY 2004**. This is calculated on the basis of the $7,010,000 in FY 2003 funding.

Rental Pricing (POC – Chuck Sigman)

QUESTION 5: The FY 2004 justifications state that, over the past year, EOP, GSA, and OMB have undertaken an assessment of space rental costs for all EOP entities. The result of this analysis is that the FY 2004 request includes additional funding to accommodate an "EOP average" rental rate. Please provide details of how this analysis was conducted, and specify the estimated rental rates for the various EOP entities, as determined by this analysis.

RESPONSE: The EOP space rental project began during the summer of 2002 at the request of OMB's budget examiners, who were working to ensure that EOP entities moved to the same market-based rent methodology used to determine space rental rates for GSA's other Federal properties. OMB requested that GSA and EOP review the space rental costs for each EOP property and each EOP entity so that the most up-to-date costs available were included in the FY 2004 budget proposal. Another significant concern in this project is to ensure that GSA will work with the EOP to ensure that the critical needs of the EOP are funded and executed.

As a result of the initial project, OA and GSA began a series of meetings which culminated in the space estimates which were included in the budget. GSA staff prepared a comprehensive listing of EOP properties, which itemized the space occupied by each

REV_00169365

EOP entity. This listing included commercial and government-owned space, current estimates of rentable square footage, and the annual rental rate per square foot. EOP staff provided updated estimates of the rentable square footage.

During this process, GSA blended the fair-market rates for the permanent EOP buildings into a single blended rate. This was done to simplify the administrative work when EOP staff are relocated. This is especially needed in the post-9/11 environment's unusually high number of large-scale EOP entity relocations driven by security considerations as well as the result of the legislation creating the Department of Homeland Security. The EOP average rental rate for Federally-owned properties (New Executive Office Building (NEOB), Eisenhower Executive Office Building (OEOB), White House, Winder Building, Jackson Place) is $29.60 annually per square foot. GSA adds an additional building security charge for buildings which are not protected by the US Secret Service. The average rental rates used to determine each entity's budget estimate for office space are as follows:

Entity	Locations	Owned or Leased	Average Rental Rate
OMB	EEOB, NEOB	owned	$29.60/sf
CEQ	EEOB	owned	$29.60
	718 Jackson Place	owned	$30.71
	722 Jackson Place	owned	$31.50
	730 Jackson Place	owned	$29.90
CEA	EEOB	owned	$29.60
NSC	EEOB	owned	$29.60
OPD	EEOB	owned	$29.60
	734 Jackson Place	owned	$29.60
OVP	EEOB	owned	$29.60
	Westbank Center, WY	leased	$21.80
WHO	1800 G Street	leased	$34.56
	EEOB, NEOB	owned	$29.60
	708 Jackson Place	owned	$29.60
	736 Jackson Place	owned	$30.58
USTR	Winder	owned	$30.50
	1724 F Street	owned	$37.38
	NEOB	owned	$29.60

REV_00169366

OA	1425 New York Ave	leased	$51.89
	1800 G Street	leased	$31.53-$37.37
	EEOB, NEOB	owned	$29.60
	1724 F Street	owned	$37.38
OSTP	1801 Pennsylvania Avenue	leased	$50.55
	EEOB	owned	$29.60
ONDCP	750 17th Street	leased	$45.78
HSC	EEOB	leased	$29.60

EOP Staffing (POC – Jon Laurich)

QUESTION 6: By EOP office, please provide FTE and OGE, similar in format to the tables found on pages 111 and 112 of last year's hearing record. Please provide data for FY 2002 through 2004.

RESPONSE: The following tables provide the total FY 2002 actual, FY 2003 and FY 2004, estimates for full time equivalents (FTE) and other government employees (OGE) for each EOP and other entity as of May 5, 2003. The OGE numbers are itemized by category on the following page. The FY 2003 numbers have the Office of Homeland Security in a separate category, which accordingly decreased the White House numbers. The FY 2003 and FY 2004 numbers are estimates only and are therefore subject to change.

REV_00169367

Office	FY 2002 Actual FTE and OGE			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office*	400	385	134	519
Special Assistance to the President	24	18	40	58
Official Residence of the Vice President	1	1	0	1
Office of Administration**	202	195	3	198
Office of Policy Development	35	30	7	37
National Security Council	60	50	140	190
Council of Economic Advisers	35	31	10	41
Office of Management and Budget	527	512	70	582
Office of National Drug Control Policy	115	106	34	140
Executive Residence	95	92	0	92
Office of Science and Technology Policy	40	23	16	39
Council on Environmental Quality	24	19	14	33
U.S Trade Representative	203	200	24	224
TOTAL	**1761**	**1662**	**492**	**2154**

Office	*as of May 5, 2003*			
	FY 2003 FTE and OGE Estimate			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office	406		46	452
Office of Homeland Security	40		31	71
Special Assistance to the President	24		54	78
Official Residence of the Vice President	1		0	1
Office of Administration	222		1	223
Office of Policy Development	35		7	42
National Security Council	71		145	216
Council of Economic Advisers	35		9	44
Office of Management and Budget	510		63	573
Office of National Drug Control Policy	115		51	166
Executive Residence	95		0	95
Office of Science and Technology Policy	40		20	60
Council on Environmental Quality	24		14	38
U.S Trade Representative	209		28	237
TOTAL	**1827**		**469**	**2296**

Office	FY 2004 FTE and OGE Estimate			
	AUTH FTE	ACTUAL FTE	OGE **	TOTAL
White House Office	406		46	452
Office of Homeland Security	40		31	71
Special Assistance to the President	24		54	78
Official Residence of the Vice President	1		0	1
Office of Administration	222		11	233
Office of Policy Development	35		7	42
National Security Council	71		145	216
Council of Economic Advisers	35		9	44
Office of Management and Budget	516		63	579
Office of National Drug Control Policy	125		51	176
Executive Residence	95		0	95
Office of Science and Technology Policy	40		20	60
Council on Environmental Quality	24		14	38
U.S Trade Representative	217		28	245
TOTAL	**1851**		**479**	**2330**

* For FY 2002, the White House Office figure excludes OGEs and FTEs for the Office of Homeland Security which were funded from the Emergency Appropriation.

** OA was funded for 20 additional FTE using Emergency Response Funds which are not shown in the figures above.

REV_00169368

R = Reimbursable
N = Non Reimbursable

FY 2002 Actual FTE and OGE

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**385**			1	20	79	9	1	17		4				3			81	53	**134**
Special Assistance to the President	**18**				7		1		6		26								40	**40**
Official Residence of the Vice President	**1**																			
Office of Administration	**195**					2					1							2	1	**3**
Office of Policy Development	**30**		1		3		3												7	**7**
National Security Council	**50**				33	1	102		4									1	139	**140**
Council of Economic Advisers	**31**					2	1			3	1		3					5	5	**10**
Office of Management and Budget	**512**					6	53						11					6	64	**70**
Office of National Drug Control Policy	**106**		13		16					3			2					3	31	**34**
Executive Residence	**92**																			
Office of Science and Technology Policy	**23**		6			4	1			2	3							6	10	**16**
Council on Environmental Quality	**19**		11				2										1		14	**14**
U.S Trade Representative	**200**						21				1				2				24	**24**
TOTAL	**1662**		**31**	**1**	**79**	**94**	**193**	**1**	**27**	**8**	**36**		**16**		**5**		**1**	**104**	**388**	**492**

*For FY02, the White House includes 65 OGE's for the Office of Homeland Security, which are funded from the Emergency Appropriation

R = Reimbursable
N = Non Reimbursable

FY 2003 Estimate FTE and OGE *as of May 5, 2003*

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**406**				7	5	11		19		1				2		1	5	41	**46**
Office of Homeland Security	**40**			2	1	23	3				1			1				26	5	**31**
Special Assistance to the President	**24**		3		7		1		18		25								54	**54**
Official Residence of the Vice President	**1**																			
Office of Administration	**222**										1								1	**1**
Office of Policy Development	**35**		1		3	1	1										1	1	6	**7**
National Security Council	**71**				33	5	103		4									5	140	**145**
Council of Economic Advisers	**35**					2	2			2			2				1	4	5	**9**
Office of Management and Budget	**499**					3	54						6					3	60	**63**
Office of National Drug Control Policy	**115**		19		14		4			3	9						2	3	48	**51**
Executive Residence	**95**																			
Office of Science and Technology Policy	**40**		6			2	3			2	5		1		1			4	16	**20**
Council on Environmental Quality	**24**		10				3				1								14	**14**
U.S Trade Representative	**209**						25				1				2				28	**28**
TOTAL	**1816**		**39**	**2**	**65**	**41**	**210**		**41**	**7**	**44**		**9**	**1**	**5**		**5**	**51**	**418**	**469**

R = Reimbursable
N = Non Reimbursable

FY 2004 Estimate FTE and OGE

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**406**				7	5	11		19		1				2		1	5	41	**46**
Office of Homeland Security	**40**			2	1	23	3				1			1				26	5	**31**
Special Assistance to the President	**24**		3		7		1		18		25								54	**54**
Official Residence of the Vice President	**1**																			
Office of Administration	**222**										1		10						11	**11**
Office of Policy Development	**35**		1		3	1	1										1	1	6	**7**
National Security Council	**71**				33	5	103		4									5	140	**145**
Council of Economic Advisers	**35**					2	2			2			2				1	4	5	**9**
Office of Management and Budget	**516**					3	54						6					3	60	**63**
Office of National Drug Control Policy	**125**		19		14		4			3	9						2	3	48	**51**
Executive Residence	**95**																			
Office of Science and Technology Policy	**40**		6			2	3			2	5		1		1			4	16	**20**
Council on Environmental Quality	**24**		10				3				1								14	**14**
U.S Trade Representative	**217**						25				1				2				28	**28**
TOTAL	**1851**		**39**	**2**	**65**	**41**	**210**		**41**	**7**	**44**		**19**	**1**	**5**		**5**	**51**	**428**	**479**

REV_00169369

OA Staffing (POC – Jon Laurich)

QUESTION 7: By OA office, please provide FTE and OGE, similar in format to the tables found on page 113 of last year's hearing record. Please provide data for FY 2002 through 2004.

RESPONSE: The following table provides the FTE and OGE for the Office of Administration.

R = Reimbursable N = Non Reimbursable	FY 2002 FTE and OGE Actuals							
		Others		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OA Director	12							
OA Chief Operating Officer	111							
OA Chief Financial Officer	30	1	1			1	1	2
OA Chief Projects Officer	5							
OA Chief Information Officer	46	1				1		1
TOTAL	**204**	**2**	**1**			**2**	**1**	**3**

as of May 5, 2003

R = Reimbursable N = Non Reimbursable	FY 2003 FTE and OGE Estimates							
		Others		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OA Director	11							
OA Chief Operating Officer	103				2		1	1
OA Chief Financial Officer	39		1				1	1
OA Chief Projects Officer	11							
OA Chief Information Officer	58				2			
TOTAL	**222**		**1**		**4**		**2**	**2**

R = Reimbursable N = Non Reimbursable	FY 2004 FTE and OGE Estimates							
		Others		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OA Director	25							
OA Chief Operating Officer	99				4		4	4
OA Chief Financial Officer	39		1		2		3	3
OA Chief Projects Officer	4							
OA Chief Information Officer	55				4		4	4
TOTAL	**222**		**1**		**10**		**11**	**11**

REV_00169370

OMB Staffing (POC – Jon Laurich/Brian Gillis)

QUESTION 8: By OMB office, please provide FTE and OGE, similar in format to the tables found on page 114 of last year's hearing record. Please provide data for FY 2002 through 2004.

RESPONSE: The charts below display the FTE and OGE breakout by OMB division for FY 2002-2004. Most detailees and student volunteers are used during the peak budget production season. During the rest of the year, the OGE total can fall below 20.

REV_00169371

R = Reimbursable N = Non Reimbursable	FY 2002 FTE and OGE Actuals							
		Detailees		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OMB-Wide Offices	159	1	19		2	1	21	22
General Government Programs	62		1				1	1
Human Resource Programs	71		4		1		5	5
National Security Programs	64	1	5		1	1	6	7
Natural Resource Programs	54		8		1		9	9
Office of Federal Financial Management	21	3	3			3	3	6
Office of Federal Procurement Policy	22	1	2		1	1	3	4
Office of Information and Requlatory Affairs	54		11		5		16	16
TOTAL	**507**	**6**	**53**		**11**	**6**	**64**	**70**

as of May 5, 2003

R = Reimbursable N = Non Reimbursable	FY 2003 Estimate FTE and OGE							
		Detailees		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OMB-Wide Offices	152	1	22		2	1	24	25
General Government Programs	60		3		1		4	4
Human Resource Programs	68		5				5	5
National Security Programs	61		9				9	9
Natural Resource Programs	60		5				5	5
Office of Federal Financial Management	21	1				1		1
Office of Federal Procurement Policy	20							
Office of Information and Requlatory Affairs	57	1	10		3	1	13	14
TOTAL	**499**	**3**	**54**		**6**	**3**	**60**	**63**

FY 2002 does not include staff temporarily detailed to the Transition Planning Office.

R = Reimbursable N = Non Reimbursable	FY 2004 Estimate FTE and OGE							
		Detailees		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OMB-Wide Offices	157	1	22		2	1	24	25
General Government Programs	63		3		1		4	4
Human Resource Programs	75		5				5	5
National Security Programs	63		9				9	9
Natural Resource Programs	63		5				5	5
Office of Federal Financial Management	20	1				1		1
Office of Federal Procurement Policy	21							
Office of Information and Requlatory Affairs	54	1	10		3	1	13	14
TOTAL	**516**	**3**	**54**		**6**	**3**	**60**	**63**

REV_00169372

Office of Homeland Security (POC – Paul Ehrhardt)

QUESTION 9: Your FY 2004 budget requests $8,331,000 for the Office of Homeland Security. Please provide an object class breakdown of those costs and compare them to FY 2003 estimated levels.

RESPONSE: The Office of Homeland Security was created by the President on October 8, 2001, via Executive Order 13228 and serves as and is synonymous with the staff of the Homeland Security Council (HSC). An object class breakdown of estimated HSC costs in FY 2003 and FY 2004 is provided in the table below. Please note that the FY 2003 estimate covers only costs incurred after the enactment of the FY 2003 appropriation on February 20, 2003. Unlike other EOP offices which operated under continuing resolutions between October 1, 2003 and February 20, 2003, the Office of Homeland Security was not permitted to utilize the CR funding mechanism but instead continued to charge FY 2003 expenses against the no-year emergency funding (provided in FY2002) until the FY 2003 appropriation was enacted. Therefore the FY 2003 estimate reflects only seven months of activity, whereas the FY 2004 Request needs to cover HSC expenses for the full 12 months next fiscal year.

(Dollars in Thousands)	FY 2003 Appropriation	FY 2003 Estimate*	FY 2004 Request	2004 Request - 2003 Estimate
Homeland Security Council:				
Personnel	$4,403	$2,800	$5,550	$2,750
Travel	$300	$60	$588	$528
Transportation of Things	$24	$24	$10	-$14
Rent	$0	$0	$200	$200
Communications, Utilities, and Misc.	$209	$50	$1,080	$1,030
Printing and Reproduction	$69	$69	$50	-$19
Other Services	$3,267	$1,267	$528	-$739
Supplies and Materials	$0		$175	$175
Equipment	$0	$50	$150	$100
Subtotal	$8,272	$4,320	$8,331	$4,011

* FY 2003 Estimate covers only seven months vs. FY 2004 Request covering full 12 months

Rent was included in the Office of Administration budget in FY 2003, and is moved back to the Homeland Security Council in FY 2004. The Communications object class in FY 2004 includes funding to provide a custom communications package to establish an interface for the Homeland Security Council within the White House Situation Room. Supplies and Materials and Equipment object classes both were funded out of the Office of Administration Pilot Program in FY 2003 but show budgets in HSC for FY 2004.

QUESTION 10: In particular, how much are you requesting in FY 2004 for professional contracts, and how does that compare to the estimated FY 2003 level?

REV_00169373

RESPONSE: In FY 2004 HSC is requesting $528,000 for Other Services compared with $3,267,000 appropriated for the same category in FY 2003. The decrease is due to the creation of the Department of Homeland Security as the President's Security as the President's advisors and as the staff of HSC. Anticipated contractual needs in FY 2004 include maintenance, upgrades, and technical support for the classified computer network that will be extended to include HSC staff in FY 2003.

QUESTION 11: How many FTE and FTP are you requesting for this office in FY 2004, and how do these figures compare to current FY 2003 estimates and actuals for FY 2002?

RESPONSE: HSC is requesting resources to support 40 direct hire FTE and 26 Other Government Employees on its staff to fill the 66 positions HSC is projecting for FY 2004.

Office of Homeland Security / Homeland Security Council Personnel

	FY 2002 Actual	FY 2003 Estimate	FY 2004 Request
Direct Hire FTE	31	40	40
Other Government Employees (EOY headcount)	89	26	26
Total Personnel	120	66	66

QUESTION 12: How many positions in the office are filled today, and how many are vacant?

RESPONSE: As of May 15, 2003, 51 positions are filled and 15 are vacant.

QUESTION 13: Please provide a table comparing the number of detailees to OHS, by federal agency, for each of the fiscal years 2002 through 2004 (estimated).

RESPONSE: The table below provides the number other government employees assigned to the Homeland Security Council.

REV_00169374

Number of Other Government Employees at OHS/HSC
(Figures show end of year headcount)

	FY 2002	FY 2003 est.	FY 2004 est.
CIA	7	2	3
DHS	0	6	10
FEMA	3	na	na
USCG	19	na	na
US Customs	1	na	na
USSS	2	na	na
DOJ	10	1	5
DOC	5	1	0
DOD	12	3	2
DOE	1	1	1
DOI	3	1	0
DOL	1	0	0
DOS	4	2	1
DOT	1	0	1
EOP	1	1	0
EPA	1	2	0
FAA	1	1	0
GSA	1	0	0
HHS	3	3	2
HUD	3	0	0
NASA	1	0	0
NIMA	1	0	0
NSA	3	1	0
SBA	1	0	0
Sentencing Commission	1	0	0
SSA	1	0	0
Treasury	1	0	0
USDA	1	1	1
Total	89	26	26

QUESTION 14: How many detailees are on board today?

RESPONSE: As of May 15, 2003, there are 18 detailees on board at the Homeland Security Council.

QUESTION 15: Please provide a list of all positions in OHS, showing the incumbent's name, rate of annual salary, and position title. Please annotate any positions which are currently vacant.

RESPONSE: The President is authorized to appoint and fix pay of any member of the White House Staff without regard to any provision of law related to employees of the federal government. The individuals employed by the President represent a broad spectrum of experience and expertise and have been engaged to perform tasks ranging from clerical/support to complex, technical, scientific, medical, legal and other missions

REV_00169375

requiring specialized expertise. These individuals are being compensated at rates commensurate with their responsibilities, education and professional experience. The table below lists HSC positions and the positions which are currently vacant. The salaries provided are for White House Full Time Employees and Other Government Employees working at HSC.

	Name		
Position Title	**First**	**Last**	**Annual Salary**
Office of the Advisor			
Assistant to the President for Homeland Security and Homeland Security Advisor (Acting Until June 1)	Charles	Abbot	$ 124,000
Executive Assistant	VACANT		NA
Special Assistant to the APHS	Jon	Spaner	$ 80,816
Staff Assistant	A. Morgan	Middlemas	$ 51,600
Deputy Assistant to the President and Deputy Homeland Security Advisor	Richard	Falkenrath	$ 124,000
Special Assistant	Marianne	Burtnett	$ 85,000
Staff Assistant	Shelley	Reese	$ 30,000
Director, Programs and Resources	David	Aidekman	$ 61,900
Budget Assistant	VACANT		NA
Military Programs			
Special Assistant to the President (SAP) for Military Programs	VACANT		NA
Director, Military Programs	Chris	Hornbarger	$ 87,348
Staff Assistant	VACANT		NA
Executive Secretary			
Executive Secretary	Tim	Stout	$ 53,600
Executive Assistant	Margaret	Cousley	$ 35,000
Deputy Executive Secretary	VACANT		NA
Special Assistant to the Executive Secretary	Laura	Fullerton	$ 66,229
Director for Administration and Support	Kimberly	Badenhop	$ 65,000
Associate Director for Correspondence and Records Management	Eric	Leckey	$ 35,000
Special Assistant, Events	Rory	Cooper	$ 46,469
Associate Director for Security	Deborah	McRae	$ 87,043
Staff Assistant	VACANT		NA
Staff Assistant	VACANT		NA
General Counsel			
Senior Associate Counsel to the President and General Counsel for Homeland Security	Edward	McNally	$ 108,000
Deputy Counsel	Ryan	Stiles	$ 75,000

REV_00169376

Associate Counsel	Faisal	Gill	$	78,265
Associate Counsel	Catherine	Anderson	$	108,785
Staff Assistant	Gayle	Worthy	$	43,807
Legistative Affairs				
Special Assistant to the President for Legislative Affairs	Michael	Allen	$	82,000
Legislative Assistant	Jamie	Ellis	$	34,000
Intergovernmental Affairs				
Director, Intergovernmental Affairs	VACANT			NA
Director, HSC Public Liaison	Meredith	Terpeluk	$	50,000
Domestic Counterterrorism				
Special Assistant to the President and Senior Director, Domestic Counterterrorism	VACANT			NA
Special Assistant to the Director, Domestic Counterterrorism	Eric	Walker	$	46,460
DCI Representative to Homeland Security	Dennis	Bowden	$	120,261
Director, Incident Management	Richard	Irwin	$	118,384
Director, Incident Management	Joel	Bagnal	$	87,348
Director, Investigation and Law Enforcement	Stephen	King	$	119,600
Director, Domestic Counterterrorism Policy	Kirsten	Hildebrand	$	85,140
Director, Plans and Excercises	Kathleen	Packard	$	47,309
BioDefense				
Special Assistant to the President and Senior Director, Biodefense	Kenneth	Bernard	$	123,069
Staff Assistant	Josephine	Keenan	$	54,440
Director, Biodefense	Robert	Kadlec	$	103,000
Director, Biodefense	Rajeev	Venkayya	$	87,043
Director, Food, Agriculture and Water Safety	Curt	Mann	$	138,200
Critical Infrastructure Protection				
Special Assistant to the President and Senior Director, Critical Infrastructure Protection	Paul	Kurtz	$	108,300
Executive Assistant	Barbara	Howerton	$	58,800
Director, Cyber IP	VACANT			NA
Director, Cyber IP	Cheryl	Peace	$	117,061
Director, Physical IP	Patrick	Burns	$	99,186
Director, Physical IP	Paul	Nicholas	$	108,300
Director, IT Architecture	VACANT			NA
Response and Recovery				
Senior Director, Response and Recovery	David	Howe	$	108,300
Staff Assistant	Liz	Macnab	$	42,000
Director, First Responder Program	VACANT			NA
Director for Recovery	Lewis	Podolske	$	113,543

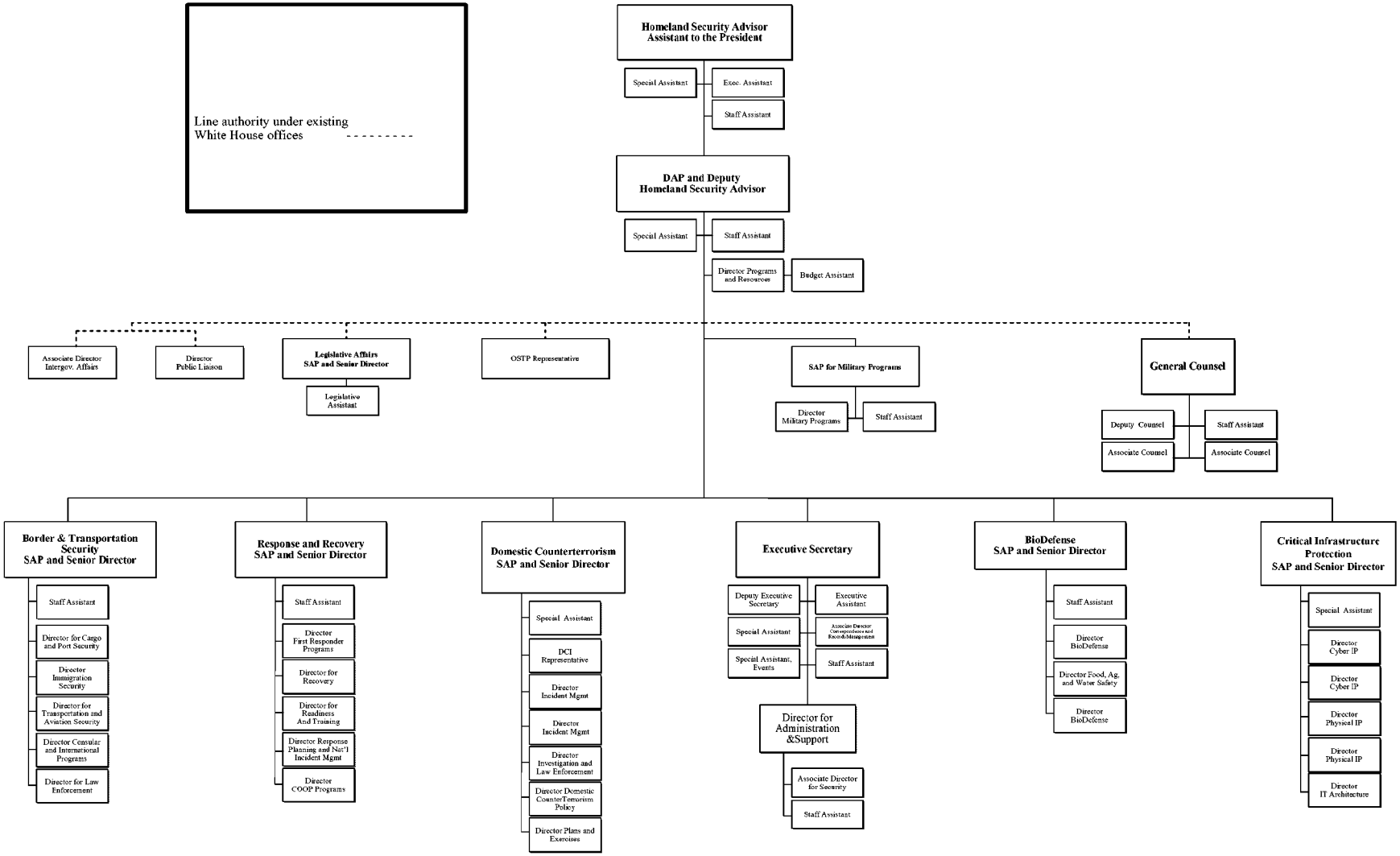
REV_00169377

Director for Readiness and Training	James	Kish	$	110,000
Director, Response Planning and Incident Management	James	Douglas	$	131,881
Director, COOP Programs	VACANT			NA
Border and Transportation Security				
Special Assistant to the President and Senior Director for Border and Transporation Security	Brian	Peterman	$	135,504
Staff Assistant	Katherine	Hildebrand	$	32,000
Director, Cargo and Port Security	VACANT			NA
Director of Immigration Security	Una	Brien	$	93,916
Director for Transportation and Aviation Security	Jan	Brecht-Clark	$	131,881
Director for Consular and International	Lisa Bobbie	Schreiber Hughes	$	109,925
Director for Law Enforcement	Ronald	Colburn	$	120,000

QUESTION 16: Please update the OHS organizational chart found on page 50 of last year's hearing record.

RESPONSE: The chart below shows the current Homeland Security Council's organization.

REV_00169378



REV_00169379

QUESTION 17: Please update the information shown on pages 44 through 47 of last year's hearing record concerning Office of Homeland Security travel. In addition to the information provided last year, please provide a brief descriptor of the travel purpose.

RESPONSE: All travel was conducted as part of the duties of the Office of Homeland Security and as such is considered official travel. The President and the Assistant to the President for Homeland Security have regularly stated that the homeland will not be secure unless the Federal government works closely with state and local officials. Official trips were approved for various purposes including the attendance of various conferences, to holding of meetings with state and local officials and the holding of town hall meetings. The HSC considers travel to different states and cities as a vital part of its mission.

The table below is an update to the travel information provided to Congress last year.

Homeland Security Council Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Staff Position**
04/02/02	Los Angeles, CA	1	$1,185.31	Special Assistant to the President and Executive Director, PHSAC
04/04/02	Miami, FL	2	$1,363.07	Special Assistant to the President and Senior Director for Policy and Plans, Special Assistant
04/05/02	Harrisburg, PA	1	$444.41	Communications Assistant
04/07/02	Annapolis, MD	1	$63.14	Communications Aide to the Assistant to the President for Homeland Security
04/07/02	Atlanta, GA	1	$614.37	Director for Weapons of Mass Destruction
04/08/02	Chicago, IL	2	$1,702.90	Communication Coordinator, Operations Officer
04/08/02	Manhattan, NY	1	$811.62	Director for Critical Recovery Infrastructure
04/09/02	Chicago, IL	6	$2,071.26	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security, Special Assistant to the President for Public Liaison,
				Special Assistant to the President and Director of Communications, Legislative Assistant,
				Communications Aide to the Assistant to the President for Homeland Security
04/11/02	Charleston, SC	2	$1,858.88	Special Assistant to the President and Senior Director for Policy and Plans, Associate Director
04/11/02	Chicago, IL	1	$300.63	Communications Assistant

04/11/02	Harrisburg, PA	3	$1,485.37	Senior Director for Intergovernmental Affairs, Communications Aide to the Assistant to the President for Homeland Security, Communications Assistant
04/12/02	Oklahoma City, OK	1	$528.88	Director for Medical and Public Health Security
04/15/02	Baltimore, MD	1	$134.10	Director for Weapons of Mass Destruction
04/15/02	Boston, MA	1	$1,249.42	Director, Economic Consequence Management
04/15/02	Detroit, MI	1	$1,262.38	Communications Assistant
04/16/02	Chicago, IL	3	$2,075.41	Special Assistant to the President and Senior Director for Policy and Plans, Senior Director for Response and Recovery, Special Assistant
04/16/02	Detroit, MI	2	$400.17	Special Assistant to the President for Public Liaison, Communications Aide to the Assistant to the President for Homeland Security
04/16/02	Detroit, MI	1	$0.00	Assistant to the President for Homeland Security
04/18/02	Erie, PA/Harrisburg, PA	1	$412.96	Communications Assistant
04/19/02	Harrisburg, PA	1	$856.64	Communications Assistant
04/20/02	Houston, TX	1	$612.48	Director, Policy and Plans
04/24/02	Phoenix, AZ	1	$2,023.87	Communications Aide to the Assistant to the President for Homeland Security
04/24/02	Toronto, CAN	1	$626.69	Director, Costal and Border Security
04/28/02	New Orleans, LA	7	$7,371.94	Communications Assistant, Special Assistant to the President for Public Liaison, Special Assistant to the Assistant to the President for Homeland Security,
				Deputy Press Secretary, Assistant to the President for Homeland Security, Communications Assistant, Communications Coordinator
04/30/02	Boston, MA	1	$87.00	Special Assistant to the President for Public Liaison
05/01/02	Los Angeles, CA	1	$668.61	Senior Director for Intergovernmental Affairs
05/03/02	Columbus, OH/Pittsburg, PA	2	$1,259.20	Communications Coordinator, Communications Assistant
05/06/02	Albuquerque, NM	1	$625.90	Director for Critical Recovery Infrastructure
05/06/02	Bangor, ME	1	$465.50	Senior Director for Intergovernmental Affairs
05/07/02	Denver, CO	1	$426.71	Special Assistant to the President and Senior Director for Information Integration
05/07/02	Sacramento, CA	2	$1,222.88	Senior Director for Response and Recovery, Special Assistant
05/08/02	Burlington, VT	1	$979.84	Director, Policy and Plans
05/08/02	San Diego, CA	1	$805.50	Director of Operations

REV_00169381

05/08/02	Wichita, KS	1	$434.21	Senior Director for Intergovernmental Affairs
05/10/02	Harrisburg, PA	1	$521.21	Communications Assistant
05/12/02	Charleston, SC	1	$842.93	Senior Director for Response and Recovery
05/14/02	Gulfport, MS	1	$469.12	Director, Protection and Prevention
05/15/02	Buffalo, NY	8	$4,789.28	Assistant to the President for Homeland Secuirty, Special Assistant to the President for Public Liaison, Operations Officer, Operations Officer, Operations Officer,
				Special Assistant to the Assistant to the President for Homeland Security, Director, Policy and Plans, Special Assistant to the President and Director of Communications,
				Communications aide to the Assistant to the President for Homeland Security, Communications Assistant
05/18/02	Pittsburgh, PA	3	$1,001.63	Assistant to the President for Homeland Security, Assistant Press Secretary, Special Assistant to the President for Homeland Security
05/20/02	Jackson, WY	1	$1,543.30	Special Assistant to the Deputy Assistant to the President for Homeland Security
05/21/02	Washington, DC	1	$709.50	Special Assistant
05/22/02	Dayton, OH	1	$688.76	Director, Protection and Prevention
05/30/02	Baltimore, MD	1	$434.30	Director, State and Local Affairs
05/30/02	Hershey, PA	1	$160.09	Special Assistant to the President for Public Liaison
05/31/02	Harrisburg, PA	1	$741.56	Communications Assistant
06/04/02	Manhattan, NY	4	$1,085.44	Assistant to the President for Homeland Security, Special Assistant to the President and Executive Director, PHSAC,
				Director, External Affairs, Communications Assistant
06/07/02	Harrisburg, PA	1	$563.64	Operations Officer
06/10/02	Manhattan, NY	2	$715.21	Senior Director for Response and Recovery, Senior Director for Protection and Provention
06/10/02	Sun Valley, ID	1	$1,709.80	Director for Readiness
06/10/02	Washington, DC	2	$1,205.50	Senior Director for Protection and Prevention and Senior Director for Response and Recovery
06/11/02	Kansas City, MO	1	$0.00	Assistant to the President for Homeland Security
06/11/02	Washington, DC	5	$3,655.99	President's Homeland Security Advisory Board
06/12/02	Chicago, IL	1	$623.05	Senior Director for Response and Recovery
06/14/02	Albuquerque,NM	1	$971.26	Senior Director for Protection and Prevention

REV_00169382

06/14/02	Harrisburg, PA	2	$912.67	Communications Assistant, Communications Aide to the Assistant to the President for Homeland Security
06/16/02	Erie, PA	1	$413.73	Operations Officer
06/16/02	Madison, WI	6	$2,071.19	Communications Assistant, Senior Director for Intergovernmental Affairs, Assistant to the President for Homeland Security,
				Special Assistant to the President for Homeland Security, Director of State and Local Affairs
06/17/02	Mexico City, Mexico	1	$1,163.26	Director for Critical Infrastructure Protection
06/17/02	New Orleans, LA	1	$884.36	Director, Training and Exercises
06/19/02	Virginia Beach, VA	1	$351.28	Communication Aide to the Assistant to the President for Homeland Security
06/20/02	Berkeley Springs, WV	1	$27.00	Deputy Assistant to the President for Homeland Securtiy
06/21/02	Tulsa, OK	1	$488.00	Senior Director for Intergovernmental Affairs
06/23/02	Phoenix, AZ	1	$1,036.22	Deputy Assistant to the President for Homeland Securtiy
06/24/02	Other, Canada	1	$494.40	Special Assistant to the President and Director of Communications
06/27/02	Albuquerque,NM	1	$871.00	Senior Director for Intergovernmental Affairs
06/27/02	Cambridge, MA	1	$876.11	Senior Director for Response and Recovery
06/27/02	Manhattan, NY	2	$308.70	Senior Director for Protection and Prevention, Director for Weapons of Mass Destruction
06/27/02	Other, Canada	2	$960.34	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
06/27/02	Toronto, Canada	1	$1,447.49	Communications Assistant
06/28/02	Buffalo, NY	1	$1,001.22	Special Assistant to the President for Public Liaison
06/30/02	Erie, PA	1	$895.44	Communications Assistant
06/30/02	Washington, DC	7	$5,072.38	President's Homeland Security Advisory Board
07/04/02	Erie, PA	1	$1,005.65	Communication Aide to the Assistant to the President for Homeland Security
07/10/02	Harrisburg, PA	2	$1,547.83	Communication Coordinator, Communications Assistant
07/10/02	Manhattan, NY	1	$738.76	Senior Director for Response and Recovery
07/11/02	Hershey, PA	1	$63.00	Assistant to the President for Homeland Security
07/12/02	Erie, PA	1	$559.28	Communications Aide to the Assistant to the President for Homeland Security
07/13/02	New Orleans, LA	1	$1,029.76	Director, State and Local Affairs

REV_00169383

07/14/02	Boulder, CO	1	$762.26	Senior Director for Response and Recovery
07/14/02	Erie, PA	1	$599.85	Operations Officer
07/17/02	Colorado Springs, CO	1	$2,303.43	Communications Assistant
07/17/02	Raleigh, NC	1	$545.95	Director for Weapons of Mass Destruction
07/18/02	Colorado Springs, CO	2	$1,815.32	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
07/18/02	Dallas, TX	1	$631.00	Director, Cyberspace Security
07/19/02	Cleveland, OH	1	$1,481.12	Communications Assistant
07/19/02	Omaha, NE	1	$1,675.01	Director, Protection and Prevention
07/20/02	Cleveland, OH	1	$1,462.50	Communications Aide to the Assistant to the President for Homeland Security
07/20/02	Erie, PA	2	$3,832.24	Communications Assistant, Operations Officer
07/22/02	Du Page County, IL	1	$0.00	Assistant to the President for Homeland Security
07/22/02	Manhattan, NY	3	$2,555.98	Director for Cargo and Port Security, Director State and Local Affairs,
				Deputy Assistant to the President for Homeland Security
08/01/02	Austin, TX	1	$590.25	Director, Policy and Plans
08/04/02	Erie, PA	1	$1,049.32	Communications Assistant
08/06/02	Los Angeles, CA	1	$500.72	Director, Training and Exercises
08/09/02	Harrisburg, PA	1	$2,473.35	Communications Assistant
08/11/02	Erie, PA	1	$2,473.35	Communications Assistant
08/13/02	Burlington, VT	1	$800.01	Director for Cargo and Port Security
08/13/02	Cincinnati, OH	1	$738.73	Senior Director to Special Assistant to the President for Information Integration
08/14/02	Little Rock, AR	2	$2,359.87	Special Assistant to the President for Communications, Communications Assistant
08/15/02	Rapid City, SD	2	$291.80	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
08/18/02	Philadelphia, PA	2	$2,311.79	Senior Director for Intelligence and Detection, Director, Cyberspace Security
08/21/02	Manhattan, NY	1	$261.75	Director State and Local Affairs
08/22/02	Kansas City, MO	1	$878.73	Senior Director for Response and Recovery
08/24/02	Erie, PA	1	$706.35	Communications Assistant
08/26/02	Ottawa, Canada	1	$1,287.07	Director for Critical Infrastructure Protection
08/26/02	Washington, DC	2	$1,533.41	President's Homeland Security Advisory Board
08/27/02	Indianapolis, IN	1	$820.70	Senior Director for Intelligence and Detection
08/27/02	Philadelphia, PA	1	$451.57	Communications Assistant
08/27/02	Seattle, WA	1	$1,577.18	Senior Director for Response and

REV_00169384

				Recovery
08/28/02	Buffalo, NY	2	$1,953.73	Operations Officer, Operations Officer
08/28/02	Charlotte, NC	2	$1,217.86	Communications Aide to the Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
08/28/02	Seattle, WA	1	$646.49	Special Assistant, Intergovernmental Affairs
08/28/02	Washington, DC	5	$4,452.05	President's Homeland Security Advisory Board
08/29/02	Buffalo, NY	1	$173.00	Assistant to the President for Homeland Security
08/29/02	Milan, Italy	2	$11,192.97	Communications Assistant, Communications Aide to the Assistant to the President for Homeland Security
08/30/02	Atlanta,GA	1	$548.50	Director, Cyberspace Security
09/03/02	Asville Naval Reserve Ctr, NC	1	$674.84	Senior Director for Response and Recovery
09/04/02	Milan, Italy	1	$1,869.93	Special Assistant to the Assistant to the President for Homeland Security
09/04/02	San Diego, CA	1	$1,466.62	Director State and Local Affairs
09/05/02	Chicago, IL	1	$490.94	Director, Training and Exercises
09/05/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
09/06/02	Long Beach Naval Hosp, CA	1	$937.22	Director, Protection and Prevention
09/08/02	Columbus, OH	1	$365.81	Special Assistant to the President and Senior Director for Policy and Plans
09/08/02	Detroit, MI	1	$1,111.35	Special Assistant to the President for Public Liaison
09/09/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
09/09/02	Orlando, FL	1	$519.19	Special Assistant to the President and Executive Director, PHSAC
09/09/02	Paris, France	1	$1,156.36	Director, Policy and Plans
09/10/02	Pittsburgh, PA	3	$667.20	Assistant Press Secretary, Communications Aide to the Assistant to the President for Homeland Security,
				Assistant to the President for Homeland Security
09/15/02	Manhattan, NY	1	$191.47	Director, Biodefense
09/15/02	Suffolk County, NY	1	$356.66	Director, Biodefense
09/16/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
09/18/02	Atlanta,GA	1	$254.00	Deputy Assistant to the President for Homeland Securtiy
09/18/02	Denver, CO	1	$967.36	Executive Assistant, Response and Recovery
09/19/02	Austin, TX	1	$121.00	Special Assistant to the Deputy Assistant to the President for Homeland Security
09/19/02	Dallas, TX	1	$618.00	Director, Cyberspace Security
09/19/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans

REV_00169385

09/19/02	Minot AFB, ND	1	$1,121.00	Director State and Local Affairs
09/20/02	Atlanta,GA	2	$1,349.48	Sr. Director Research and Development, Director, Biodefense
09/21/02	Dover, DE	1	$592.94	Communications Aide to the Assistant to the President for Homeland Security
09/22/02	Lincoln Naval Reserve, NE	1	$849.94	Special Assistant to the President and Senior Director for Policy and Plans
09/24/02	Dallas, TX	1	$618.50	Deputy Assistant to the President for Homeland Securtiy
09/24/02	Kansas City, MO	1	$650.36	Director for Incident Management
09/24/02	Manhattan, NY	2	$285.15	Senior Director for Protection and Prevention, Director for Weapons of Mass Destruction
09/24/02	St. Louis, MO	1	$873.50	Senior Director for Response and Recovery
09/25/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
09/26/02	Erie, PA	1	$1,061.02	Communications Assistant
09/26/02	Williamsport Naval Ctr, PA	1	$337.92	Communications Aide to the Assistant to the President for Homeland Security
09/27/02	Atlanta,GA	1	$313.90	Special Assistant to the President for Public Liaison
09/27/02	Easton, PA	1	$202.21	Special Assistant to the Assistant to the President for Homeland Security
09/30/02	Manhattan, NY	1	$576.06	Senior Advisor to the Special Assistant to the President for Information Integration
09/30/02	White Plains, NY	1	$907.10	Executive Secretary
10/01/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
10/01/02	White Plains, NY	1	$702.73	Director for Critical Infrastructure Protection
10/02/02	Carlisle Barracks, PA	1	$132.30	Communications Aide to the Assistant to the President for Homeland Security
10/02/02	Charleston, WV	1	$154.94	Director, Cyberspace Security
10/03/02	Los Angeles, CA	1	$943.66	Director, State and Local Affairs
10/03/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
10/03/02	Miami, FL	1	$571.00	Sr. Director, Research and Development
10/04/02	Washington, DC	1	$169.48	Communications Aide
10/06/02	Minneapolis, MN	1	$768.50	Director for Incident Management
10/06/02	Orlando, FL	1	$432.31	Senior Advisor to the Special Assistant to the President for Information Integration
10/07/02	Las Vegas, NV	1	$874.73	Director of Critical Infrastructure
10/07/02	Oklahoma City, OK	1	$525.94	Sr. Director, Research and Development
10/07/02	Pittsburgh, PA	2	$1,663.50	Special Assistant to the President for Public Liaison, Communications Aide to the Assistant to the Presidnet for Homeland Security
10/07/02	San Diego, CA	1	$1,411.68	Senior Director for Response and Recovery
10/08/02	Minneapolis, MN	1	$914.14	Senior Director for Intergovernmental Affairs

REV_00169386

10/08/02	Pittsburgh, PA	2	$1,571.22	Assistant to the President for Homeland Security, Special Assistant to the Assistant to President for Homeland Security
10/09/02	Dallas, TX	1	$704.65	Executive Assistant, Response and Recovery
10/09/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
10/10/02	Fort Lauderdale, FL	2	$2,958.00	Special Assistant to the President for Public Liaison, Director for Incident Management
10/11/02	Erie, PA	1	$930.69	Communications Assistant
10/11/02	Lynchburg, VA	1	$52.93	Director Policy and Plans
10/12/02	Erie, PA	1	$348.00	Operations Officer
10/14/02	Columbus, OH	1	$572.00	Senior Director for Response and Recovery
10/15/02	Atlanta,GA	1	$852.36	Director, Cyberspace Security
10/15/02	Key West, FL	1	$1,216.80	Director for Immigration Security
10/15/02	Sacramento, CA	1	$1,260.62	Director, Biodefense
10/15/02	Seattle, WA	1	$1,050.00	Senior Director for Protection and Prevention
10/15/02	Washington, DC	8	$4,481.76	President's Homeland Security Advisory Board
10/16/02	Raleigh, NC	1	$254.06	Senior Advisor to the Special Assistant to the President for Information Integration
10/16/02	Vancouver, Canada	1	$1,662.55	Director, Policy and Plans
10/18/02	Trenton, NJ	1	$1,310.12	Director, State and Local Affairs
10/18/02	Washington, DC	4	$2,385.93	Communications Assistant, President's Homeland Security Advisory Board
10/21/02	Houston, TX	1	$849.91	Senior Director for Protection and Prevention
10/21/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
10/21/02	Newark, NJ	2	$852.90	Senior Director for Intergovernmental Affairs, Director State and Local Affairs
10/21/02	Washington, DC	1	$87.50	President's Homeland Security Advisory Board
10/22/02	Frederick, MD	1	$291.15	Director of Critical Infrastructure
10/22/02	Reno, NV	1	$803.60	Special Assistant, Intergovernmental Affairs
10/22/02	Trenton, NJ	1	$153.00	Special Assistant
10/23/02	San Jose, CA	1	$931.76	Director, Cyberspace Security
10/24/02	Erie, PA	1	$1,001.53	Communications Aide to the Assistant to the President for Homeland Security
10/24/02	Ontarion, CA	1	$664.76	Senior Director for Response and Recovery
10/24/02	Orlando, FL	1	$547.06	Director, Policy and Plans
10/25/02	Albany, NY	1	$580.50	Senior Director for Protection and Prevention
10/25/02	Lynchburg, VA	1	$52.93	Director, Operations
10/26/02	Washington, DC	1	$214.03	Communications Assistant
10/28/02	Hershey, PA	1	$286.16	Senior Director for Response and Recovery

REV_00169387

10/28/02	Savannah, GA	1	$452.68	Senior Director for Intergovernmental Affairs
10/29/02	Manhattan, NY	1	$511.27	Deputy Assistant to the President for Homeland Securtiy
10/29/02	St. Louis, MO	1	$1,078.66	Director of Critical Infrastructure
10/30/02	Brussels, Bel	1	$4,853.38	Communications Aide to the Assistant to the President for Homeland Security
10/31/02	Cedar Rapids, IA	1	$2,173.70	Special Assistant to the President and Director of Communications
11/01/02	Atlantic City, NJ	1	$0.00	Sr. Director, Research and Development
11/01/02	Brussels, Bel	1	$2,173.70	Special Assistant to the President and Director of Communications
11/01/02	Pittsburgh, PA	2	$606.97	Communications Assistant, Operations Officer
11/02/02	San Jose, CA	1	$1,001.50	Senior Director for Protection and Prevention
11/03/02	Brussels, Bel	3	$4,534.72	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security, Director Policy and Plans
11/03/02	Washington, DC	1	$8.40	Communications Assistant
11/04/02	London, England	1	$2,536.36	Operations Officer
11/06/02	Santa Barbara, CA	1	$711.51	Director, Economic Consequence Management
11/09/02	Lynchburg, VA	1	$741.18	Director State and Local Affairs
11/09/02	Philadelphia, PA	1	$752.47	Communications Assistant
11/10/02	New Orleans, LA	1	$752.47	Communications Assistant
11/12/02	Philadelphia, PA	1	$244.80	Senior Director for Response and Recovery
11/13/02	Cincinnati, OH	1	$70.34	Communications Aide to the Assistant to the President for Homeland Security
11/14/02	Charlotte, NC	1	$992.48	Director of Critical Infrastructure
11/14/02	Erie, PA	1	$931.40	Operations Officer
11/14/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
11/15/02	Shepherdstown, WV	1	$79.60	Senior Director for Response and Recovery
11/16/02	Erie, PA	1	$613.64	Special Assistant
11/17/02	Las Vegas, NV	1	$2,074.06	Director, Biodefense
11/18/02	Manhattan, NY	1	$118.70	Special Assistant to the President and Senior Director for Policy and Plans
11/19/02	Philadelphia, PA	2	$1,051.46	Deputy Assistant to the President for Homeland Securtiy, Sr. Director, Research and Development
11/20/02	Los Angeles, CA	3	$4,199.59	Senior Director for Intergovernmental Affairs, Special Assistant to the President for Public Liaison,
				Deputy Press Secretary
11/22/02	Boston, MA	1	$467.20	Director, Policy and Plans
11/22/02	Scottsdale, AZ	1	$233.64	Special Assistant to the President for Public Liaison

REV_00169388

11/24/02	Mexico City, Mexico	1	$1,155.08	Director, Policy and Plans
11/24/02	Phoenix, AZ	1	$1,999.06	Communications Assistant
11/25/02	Manhattan, NY	1	$320.22	Director, Economic Consequence Management
11/26/02	London, England	1	$951.43	Special Assistant to the Deputy Assistant to the President for Homeland Security
12/01/02	St. Louis, MO	1	$1,579.63	Communications Assistant
12/02/02	Chicago, IL	1	$906.76	Deputy Assistant to the President for Homeland Securtiy
12/02/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
12/02/02	Washington, DC	10	$8,634.98	President's Homeland Security Advisory Board
12/03/02	Chicago, IL	1	$369.38	Director State and Local Affairs
12/03/02	Washington, DC	1	$50.50	President's Homeland Security Advisory Board
12/04/02	Cambridge, MA	1	$901.10	Director of Critical Infrastructure
12/06/02	Salt Lake City, UT	1	$822.14	Director State and Local Affairs
12/06/02	Seattle, WA	1	$992.06	Director Coordination Center
12/06/02	Washington, DC	1	$297.72	Communications Assistant
12/08/02	Manhattan, NY	1	$237.55	Operations Officer
12/09/02	Baltimore, MD	1	$327.32	Senior Director for Response and Recovery
12/09/02	Indianapolis, IN	1	$817.00	Director, Cyberspace Security
12/09/02	Manhattan, NY	1	$316.90	Operations Officer
12/09/02	San Francisco, CA	1	$237.54	Sr. Director, Research and Development
12/09/02	Seattle, WA	2	$1,505.08	Special Assistant to the Deputy Assistant to the President for Homeland Security, Deputy Director Coordination Center
12/11/02	Manhattan, NY	5	$3,154.69	Deputy Assistant to the President for Homeland Securtiy, Director State and Local Affairs, Executive Assistant Response and Recovery,
				Director for Critical Infrastructure Protection, Director for Cargo and Port Security,
				Executive Assistant Response and Recovery
12/13/02	Washington, DC	1	$307.77	Communications Assistant
12/18/02	Anniston Army Depot, AL	1	$219.00	Director, Biodefense
12/18/02	Atlanta,GA	1	$543.75	Director for Cargo and Port Security
12/19/02	Harrisburg, PA	1	$379.64	Communications Aide to the Assistant to the President for Homeland Security
12/19/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
12/20/02	Washington, DC	1	$135.22	Communications Assistant
12/21/02	Erie, PA	1	$3,369.44	Operations Officer
01/07/03	Las Vegas, NV	1	$1,128.64	Director, Cyberspace Security
01/09/03	Erie, PA	1	$938.50	Communications Aide to the Assistant to the President for Homeland Security

REV_00169389

01/09/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/11/03	San Diego, CA	2	$1,945.55	Operations Officer, Operations Officer
01/14/03	Cape Canaveral, FL	2	$1,798.55	Senior Director for Response and Recovery, Deputy Director, Incident Management
01/15/03	Boston, MA	1	$1,248.78	Director of Critical Infrastructure
01/15/03	Jacksonville, FL	1	$767.86	Director for Weapons of Mass Destruction
01/15/03	New Orleans, LA	1	$968.98	Executive Assistant, Response and Recovery
01/16/03	Erie, PA	1	$672.78	Communications Aide to the Assistant to the President for Homeland Security
01/16/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/17/03	Erie, PA	1	$238.00	Operations Officer
01/20/03	San Antonio, TX	2	$1,549.64	Special Assistant to the President and Executive Director, PHSAC, Director, External Affairs
01/21/03	Harrisburg, PA	1	$150.00	Communications Aide to the Assistant to the President for Homeland Security
01/21/03	Manhattan, NY	1	$406.96	Senior Director for Response and Recovery
01/21/03	Mexico City, Mexico	1	$1,228.73	Director for Critical Infrastructure Protection
01/22/03	Manhattan, NY	1	$334.50	Director, Economic Consequence Management
01/22/03	Washington, DC	7	$3,930.05	President's Homeland Security Advisory Board
01/24/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/24/03	Shepherdstown, WV	1	$81.06	Director, Economic Consequence Management
01/28/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/29/03	Chicago, IL	1	$245.50	Director, Economic Consequence Management
01/30/03	Washington, DC	7	$4,952.27	President's Homeland Security Advisory Board
02/07/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
02/09/03	Seattle, WA	1	$1,877.78	Director, Cyberspace Security
02/10/03	Norfolk, VA	1	$105.06	Director of Critical Infrastructure
02/13/03	Manhattan, NY	1	$33.25	Director for Cargo and Port Security
02/20/03	Cambridge, MA	1	$2,579.47	Special Assistant to the President and Senior Director for Policy and Plans
02/20/03	Washington, DC	5	$3,647.25	President's Homeland Security Advisory Board
02/21/03	Washington, DC	3	$1,066.55	President's Homeland Security Advisory Board
02/25/03	Lynchburg, VA	1	$52.93	Director Policy and Plans
03/03/03	Albuquerque,NM	1	$982.87	Executive Assistant, Response and Recovery
03/09/03	Baltimore, MD	1	$897.11	Director, Biodefense
03/12/03	Houston, TX	1	$1,218.03	Director, Incident Management
03/25/03	Lynchburg, VA	1	$52.93	Director Policy and Plans

REV_00169390

03/31/03	Charlottesville, VA	1	$189.00	Special Assistant to the Deputy Assistant to the President for Homeland Security
	Total		**$302,422.75**	

Cyberspace Security Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Staff Position**
04/02/02	Orlando, FL	1	$592.89	Director, Cyberspace Security
04/03/02	Providence, RI	1	$875.74	Vice Chairman, PCIPB
04/05/02	Denver, CO	1	$1,288.87	Vice Chairman, PCIPB
04/08/02	Williamsburg, VA	1	$261.00	Vice Chairman, PCIPB
04/10/02	Albany, NY	1	$904.60	Vice Chairman, PCIPB
04/12/02	Orlando, FL	1	$1,279.00	Vice Chairman, PCIPB
04/16/02	Orlando, FL	1	$757.75	Special Assistant to the President for Cyberspace Security, and Chair, PCIPB
04/21/02	Orlando, FL	1	$1,663.74	Special Assistant to the President for Cyberspace Security, and Chair, PCIPB
05/07/02	Chicago, IL	1	$524.42	Director, Cyberspace Security
05/08/02	Las Vegas, NV	1	$1,009.00	Senior Director, National Security
05/10/02	Boston, MA	1	$455.80	Chief of Staff
5/12/2002	Denver, CO	1	$1,390.93	Director, Cyberspace Security
05/12/02	Denver, CO/Indianapolis, IN	1	$1,574.15	Special Assistant to the President for Cyberspace Security, and Chair, PCIPB
5/14/2002	Denver, CO	1	$1,711.17	Deputy Chief of Staff
5/16/2002	Chicago, IL	1	$328.00	Chief of Staff
5/20/2002	Honolulu, HI	1	$1,371.44	Director, Cyberspace Security
5/27/2002	Chicago, IL	1	$2,874.45	Deputy Chief of Staff
5/29/2002	Chicago, IL	2	$1,489.16	Director for Cyberspace Security, Director for Cyberspace Security
5/31/2002	Portland, OR	1	$2,874.45	Deputy Chief of Staff
6/1/2002	Seattle, WA	1	$4,571.88	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
6/3/2002	Portland, OR	1	$4,571.98	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
6/3/2002	San Diego, CA	1	$1,436.79	Vice Chairman, PCIPB
6/5/2002	Portland, OR	1	$1,677.79	Vice Chairman, PCIPB
6/7/2002	Seattle, WA	1	$1,436.79	Vice Chairman, PCIPB
6/12/2002	Buffalo, NY	1	$761.29	Vice Chairman, PCIPB

REV_00169391

6/16/2002	Atlanta, GA	3	$2,522.62	Deputy Chief of Staff, Director, Legislative Affairs, Vice Chairman, PCIPB
6/19/2002	London, GBR	1	$1,687.92	Vice Chairman, PCIPB
6/24/2002	Seattle, WA	1	$982.09	Vice Chairman, PCIPB
6/26/2002	Boston, MA	1	$641.44	Chief of Staff
6/26/2002	Chicago, IL	1	$982.09	Vice Chairman, PCIPB
6/26/2002	Las Vegas, NV	1	$982.06	Senior Director, National Security
7/8/2002	Manhattan, NY	2	$483.20	Vice Chairman, PCIPB, Senior Director, National Security
7/20/2002	Monterey, CA	1	$1,352.72	Director, Cyberspace Security
7/20/2002	Tulsa, OK	2	$2,474.19	Special Assistant to the President for Cyberspace Security and Chair, PCIPB and Vice Chairman, PCIPB
7/22/2002	Dallas, TX	1	$877.15	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
7/23/2002	Minneapolis, MN	1	$1,602.04	Vice Chairman, PCIPB
7/30/2002	Las Vegas, NV	1	$1,148.96	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
8/4/2002	Roanoke, VA	1	$671.68	Vice Chairman, PCIPB
8/6/2002	Duluth, MN	1	$71.76	Vice Chairman, PCIPB
8/6/2002	Ft. Lauderdale, FL	1	$705.61	Director, Cyberspace Security
8/6/2002	San Francisco, CA	1	$811.92	Director for Cyberspace Security
8/12/2002	Beaver Creek, CO	1	$3,362.76	Chief of Staff
8/12/2002	Vail, Co	1	$3,362.76	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
8/13/2002	Phoenix, AZ	1	$1,128.18	Vice Chairman, PCIPB
8/13/2002	San Francisco, CA	1	$4,362.25	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
8/17/2002	Aspen, CO	1	$287.00	Senior Director, National Security
8/18/2002	San Francisco, CA	1	$3,362.76	Chief of Staff
8/19/2002	Manhattan, NY	1	$470.06	Director for Cyberspace Security
8/22/2002	Boston, MA	1	$462.04	Director for Cyberspace Security
8/26/2002	Nashville, TN	1	$730.23	Vice Chairman, PCIPB
8/26/2002	Ottawa, CAN	1	$1,056.24	Director, Cyberspace Security
8/30/2002	Chicago, IL	1	$1,602.40	Vice Chairman, PCIPB
9/3/2002	Seattle, WA	1	$251.44	Director, Cyberspace Security
9/5/2002	Manhattan, NY	1	$195.04	Senior Director, National Security
9/6/2002	Philadelphia, PA	1	$226.72	Director for Cyberspace Security
9/8/2002	San Jose, CA	1	$845.27	Director for Cyberspace Security
9/12/2002	Atlanta, GA	1	$122.00	Director for Cyberspace Security
9/15/2002	Minneapolis,	1	$2,388.45	Vice Chairman, PCIPB

REV_00169392

	MN			
9/15/2002	Palo Alto, CA	1	$2,987.46	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
9/15/2002	San Francisco, CA	2	$4,185.11	Deputy Chief of Staff, Executive Assistant
9/17/2002	Palo Alto, CA	2	$3,847.56	Vice Chairman, PCIPB and Director for Cyberspace Security
9/17/2002	San Francisco, CA	1	$2,032.69	Director for Cyberspace Security
9/18/2002	New London, CT	1	$2,541.62	Deputy Chief of Staff
9/18/2002	Seattle, WA	1	$2,388.45	Vice Chairman, PCIPB
9/19/2002	Manhattan, NY	1	$186.62	Director for Cyberspace Security
9/21/2002	Albuquerque, NM	1	$901.51	Director for Cyberspace Security
9/24/2002	Austin, TX	2	$1,975.60	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Vice Chairman, PCIPB
9/24/2002	Cleveland, OH	1	$1,092.55	Director for Cyberspace Security
9/24/2002	Denver, CO	1	$1,680.02	Vice Chairman, PCIPB
9/24/2002	San Antonio, TX	5	$5,537.03	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Vice Chairman, PCIPB, Deputy Chief of Staff, Senior Director,
				Senior Director, National Security, Director, Cyberspace Security
9/30/2002	Atlantic City, NJ	1	$375.09	Vice Chairman, PCIPB
9/30/2002	Ft. Meyers, FL	1	$622.71	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/2/2002	Philadelphia, PA	1	$660.04	Deputy Chief of Staff
10/7/2002	Minneapolis, MN	1	$750.71	Director for Cyberspace Security
10/8/2002	Brussels, Bel	1	$3,903.77	Vice Chairman, PCIPB
10/9/2002	Omaha, NE	1	$1,188.85	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/9/2002	Pittsburg, Pa	1	$1,188.65	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/11/2002	London, GBR	1	$3,903.77	Vice Chairman, PCIPB
10/14/2002	Boston, MA	2	$3,428.15	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Deputy Chief of Staff
10/17/2002	Boston, MA	1	$308.38	Director for Cyberspace Security
10/17/2002	Chicago, IL	1	$312.50	Deputy Chief of Staff
10/20/2002	Miami, FL	1	$611.04	Director for Cyberspace Security
10/22/2002	Frederick, MD	2	$669.46	Vice Chairman, PCIPB and Director for Cyberspace Security

REV_00169393

10/23/2002	Pittsburg, Pa	2	$1,934.71	Vice Chairman, PCIPB and Deputy Chief of Staff
10/26/2002	Brussels, Bel	1	$6,650.41	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/26/2002	Eugene, OR	1	$1,595.63	Director for Cyberspace Security
10/28/2002	Las Vegas, NV	1	$1,351.69	Director for Cyberspace Security
10/28/2002	San Antonio, TX	1	$501.00	Senior Director, National Security
11/5/2002	Atlanta, GA	1	$1,024.90	Vice Chairman, PCIPB
11/06/02	White Plains, NY	1	$965.79	Director for Cyberspace Security
11/7/2002	Chicago, IL	3	$1,266.23	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Director, Cyberspace Security, Director, National Security
11/7/2002	Manhattan, NY	1	$793.86	Vice Chairman, PCIPB
11/10/2002	Monterey, CA	1	$1,329.86	Director for Cyberspace Security
11/12/2002	Manhattan, NY	1	$697.49	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
11/13/2002	Manhattan, NY	1	$350.50	Senior Director, National Security
11/13/2002	Phoenix, AZ	2	$3,548.19	Director, Legislative Affairs, Vice Chairman, PCIPB
11/14/2002	Seattle, WA	1	$1,329.66	Director for Cyberspace Security
11/17/2002	Atlanta, GA	1	$436.06	Director for Cyberspace Security
11/17/2002	Ottawa, CAN	1	$2,418.32	Vice Chairman, PCIPB
11/19/2002	Manhattan, NY	1	$877.25	Director for Cyberspace Security
11/19/2002	Salt Lake City, UT	1	$877.25	Director for Cyberspace Security
11/20/2002	Manhattan, NY	1	$699.56	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
12/3/2002	Chicago, IL	1	$229.13	Director for Cyberspace Security
12/3/2002	San Francisco, CA	1	$2,293.66	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
12/4/2002	Phoenix, AZ	1	$1,264.33	Senior Director, National Security
12/4/2002	San Francisco, CA	1	$1,637.48	Director, Cyberspace Security
12/6/2002	Seattle, WA	1	$1,138.43	Vice Chairman, PCIPB
12/9/2002	Boston, MA	1	$401.00	Director for Cyberspace Security
12/9/2002	Charleston, SC	1	$825.27	Director for Cyberspace Security
12/12/2002	Manhattan, NY	1	$380.05	Vice Chairman, PCIPB
12/17/2002	Flemington, NJ	2	$487.54	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Senior Director, National Security
12/18/2002	Atlanta, GA	1	$64.50	Deputy Chief of Staff
1/9/2003	Charlotte, NC	2	$1,929.02	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Deputy Chief of Staff

REV_00169394

1/14/2003	Honolulu, HI	1	$1,610.34	Director for Cyberspace Security
1/21/2003	Boston, MA	2	$1,797.69	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Director for Cyberspace Security
1/22/2003	St. Petersburg, FL	1	$492.08	Vice Chairman, PCIPB
1/23/2003	Ft. Meyers, FL	1	$636.12	Director for Cyberspace Security
1/23/2003	Naples, FL	1	$864.08	Vice Chairman, PCIPB
1/24/2003	Philadelphia, PA	1	$864.08	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
1/24/2003	San Diego, CA	3	$4,654.94	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Deputy Chief of Staff, Director, Cyberspace Security
01/28/03	Williamsburg, VA	1	$239.34	Vice Chairman, PCIPB
1/29/2003	Chicago, IL	1	$306.37	Director for Cyberspace Security
1/30/2003	Manhattan, NY	1	$376.50	Vice Chairman, PCIPB
2/2/2003	Columbus, MS	1	$835.25	Vice Chairman, PCIPB
2/2/2003	San Francisco, CA	1	$1,211.37	Director for Cyberspace Security
2/10/2003	London, GBR	1	$1,473.61	Vice Chairman, PCIPB
02/11/03	Tallahassee, FL	1	$582.94	Director for Cyberspace Security
2/24/2003	Atlanta, GA	1	$768.07	Vice Chairman, PCIPB
2/24/2003	Boca Raton, FL	1	$1,052.94	Director for Cyberspace Security
2/25/2003	Chicago, IL	1	$522.44	Director for Cyberspace Security
3/3/2003	Manhattan, NY	1	$607.86	Director for Cyberspace Security
3/4/2003	San Diego, CA	1	$785.37	Director for Cyberspace Security
3/6/2003	Ottawa, CAN	1	$929.94	Vice Chairman, PCIPB
3/8/2003	Orlando, FL	1	$260.11	Vice Chairman, PCIPB
3/17/2003	San Antonio, TX	1	$801.47	Vice Chairman, PCIPB
3/18/2003	Atlanta, GA	1	$801.47	Vice Chairman, PCIPB
3/22/2003	Paris, FRA	2	$3,402.37	Vice Chairman, PCIPB, Director for Cyberspace Security
	Total		**$192,350.99**	

QUESTION 18: Currently, OHS costs are included in both the WHO and OA appropriations. Is that also the case in the FY 2004 request? If so, please provide a table, by appropriation, showing total OHS budgeted costs, for each of the fiscal years 2002 through 2004.

RESPONSE: For FY 2003, although funds were requested as part of the WHO budget activity, the Office of Homeland Security received for the first time its own appropriation, separate from the WHO appropriation. Funds supporting OHS / HSC

REV_00169395

requirements in FY 2003 were provided also to OA as part of the OA Pilot program. The FY 2004 Request identifies all requirements for OHS / HSC in the WHO Budget Activity, since the OA Pilot program is not certain to continue after FY 2003. See table below:

(Dollars in Thousands)

	Congressional Appropriations		
	FY 2002 Enacted*	FY 2003 Enacted	FY 2004 Request
OHS / HSC	$30,800	$8,272	$8,331
OA		$778	
	$30,800	$9,050	$8,331

*FY 2002 budget for OHS was based on the OHS mission and funding profile prior to the establishment of DHS and was provided by 3 sources of emergency appropriated funds: P.L. 107-38 for $25,000,000; P.L.107-117 for $2,000,000; and P.L. 107-206 for $3,800,000.

QUESTION 19: Last year, it was stated that one MOU existed between OHS and other EOP entities (p. 51). Please provide a copy of the MOU between MOU and the Office of Science and Technology Policy.

RESPONSE: The MOU between OHS and OSTP expired with the creation of the Department of Homeland Security as relevant responsibilities transferred from OHS to DHS, pursuant to the Homeland Security Act of November, 2002.

QUESTION 20: Have any other MOUs been signed since that time?

RESPONSE: A MOU between the Homeland Security Council and the National Security Council/White House Situation Support Staff was signed in May, 2003 providing for the expansion of NSC's classified computer network to include approved HSC staff with necessary security clearances.

In addition standard interagency agreements were signed between OHS/HSC and the Office of Administration (OA) and OMB to pay for detailees from these EOP entities to OHS/HSC and separately between OHS/HSC and OA to pay for miscellaneous supplies and materials.

QUESTION 21: At this time last year, OHS planned to establish a coordination center which would function 24 hours a day, 7 days a week, using a communications room and two incident management rooms. At the same time, the Administration made clear that the role of OHS was to establish and coordinate policy, and not to conduct operational activities. With the establishment of the Department of Homeland Security, have these specific activities been descoped or eliminated?

REV_00169396

RESPONSE: The role of the Homeland Security Council is to advise and assist the President, develop and coordinate the implementation of the *National Strategy for Homeland Security* to secure the United States from terrorist threats and attacks, and to help coordinate policy across the departments and agencies of the executive branch. The Homeland Security Council does not conduct operational activities. The Homeland Security Council does not operate a coordination center. With the establishment of the Department of Homeland Security, DHS is the lead federal agency for incident management. As such, DHS operates a Homeland Security Center with 24 hour/7 days per week coordination and communications capabilities. Those functions do not reside in the Homeland Security Council.

QUESTION 22: How many positions support these activities in the FY 2004 request, and what is the total budgeted amount?

RESPONSE: The FY 2004 budget will not fund any personnel or activities related to the DHS coordination center. However, virtually every member of the HSC staff has responsibilities to support and advise the President regarding incident response efforts, continuity of government and related coordination roles on behalf of the President.

QUESTION 23: How are such activities appropriate for a policymaking body, when DHS now exists to coordinate and execute operational activities related to specific homeland security incidents and activities?

RESPONSE: Just as the NSC was created by Congress in 1947 in the same act which created the Department of Defense and the CIA, Congress established the HSC within the EOP by statute at the same time as it created the Department of Homeland Security. The role of the Homeland Security Council is to advise and assist the President, develop and coordinate the implementation of the *National Strategy for Homeland Security* to secure the United States from terrorist threats and attacks, and to help coordinate policy across the departments and agencies of the executive branch. The Homeland Security Council does not conduct operational activities. The Homeland Security Council does not operate a coordination center. With the establishment of the Department of Homeland Security, DHS is the lead federal agency for incident management. As such, DHS operates a Homeland Security Center with 24 hour/7 days per week coordination and communications capabilities. Those functions do not reside in the Homeland Security Council.

QUESTION 24: At the time of last year's hearing, the permanent location and amount of space for the President's Critical Infrastructure Protection Board had not been determined (p. 77). Have these requirements been determined today?

REV_00169397

RESPONSE: The President's Critical Infrastructure Protection Board (PCIPB) no longer exists at the White House. Executive Order 13228, which created the PCIPB, was amended. Congress through the Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection (IAIP). One of the responsibilities of the IAIP directorate is the important issue of critical infrastructure protection. This is a robust directorate led by an under secretary.

QUESTION 25: Likewise, total CIPB staffing had not been determined. Do you have an estimate today? What staffing assumptions were made in the FY 2004 budget submission?

RESPONSE: The President's Critical Infrastructure Protection Board (PCIPB) no longer exists at the White House. Executive Order 13228, which created the PCIPB, was amended. Congress through the Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection (IAIP). One of the responsibilities of the IAIP directorate is the important issue of critical infrastructure protection. This is a robust directorate led by an under secretary.

QUESTION 26: How much funding is included in the FY 2004 request for CIPB, and how does that compare to the current estimate for FY 2003?

RESPONSE: The President's Critical Infrastructure Protection Board (PCIPB) no longer exists at the White House. Executive Order 13228, which created the PCIPB, was amended. Congress through the Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection (IAIP). One of the responsibilities of the IAIP directorate is the important issue of critical infrastructure protection. This is a robust directorate led by an under secretary.

QUESTION 27: Please provide a breakdown showing how those funds would be used.

RESPONSE: The President's Critical Infrastructure Protection Board (PCIPB) no longer exists at the White House. Executive Order 13228, which created the PCIPB, was amended. Congress through the Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection (IAIP). One of the responsibilities of the IAIP directorate is the important issue of critical infrastructure protection. This is a robust directorate led by an under secretary.

QUESTION 28: Please provide details on any government-industry partnerships that have been created in support of cyber security initiatives coordinated by, or carried out, through EOP or the CIPB.

RESPONSE: In 2002, the President's Critical Infrastructure Protection Board developed a *National Strategy to Secure Cyberspace.* To encourage broader participation and input

REV_00169398

into the development process, a draft strategy was released for public comment in September 2002. In addition, the PCIPB requested the National Infrastructure Assurance Council and the National Security Telecommunications Advisory Committee both provide comments on the draft strategy. Furthermore, there were 10 town hall meetings held in various portions of the country which brought industry, academia and private citizens together to focus on the complex issues related to cyber security. The final strategy thus integrated extensive public and industry comments and was released in February 2003.

The *National Strategy to Secure Cyberspace* emphasizes that government-industry partnerships will be a cornerstone to success. As the primary implementer of the Strategy, DHS will be a partner with industry and academia to accomplish the objectives identified by the President's strategy.

National Security Council (POC – Katherine Fertakis)

QUESTION 29: Your request includes a 10.8 percent increase to cover reimbursable detailee costs and additional support staff for the President's Foreign Intelligence Advisory Board. Please explain the need for these increases in detail.

RESPONSE: The requested increase covers reimbursable detailee costs of personnel from the Department of State. The National Security Council (NSC) may request detailed personnel performing at a high level in high priority positions to remain beyond their initial tour of duty because of their unique qualifications. The NSC is required to reimburse the Department of State for details to NSC that exceed the cap of 13 detailed into their second year and for all staff detailed longer than two years per Public Law 93-126. The FY 2003 increase in this category estimates for details becoming reimbursable during the Spring and the Summer. The FY 2004 increase represents an annualization of the expenses, minus the cost for the details that will not be renewed.

Since the events of September 11, 2001, the PFIAB support staff workload has been significantly increased and consumed by the homeland security effort. Thus far about 95% of the Board's current advisory work for the President has been directly related to homeland security and counter-terrorism. (Intelligence performance thereon, and support to the new department of homeland security) With only 4 staff members and an already overflowing Board work schedule, work on other important PFIAB priorities has been deferred—such as declassification review of PFIAB archived records. At least three additional staff members, including a GS-14 administrative manager, will be needed to adequately meet support requirements as the Board expands its review of intelligence support to homeland security beyond the more immediate structural and organizational issues, and also re-engages the more general intelligence performance issues across the full spectrum of pressing issues. The FY 2004 request includes $250,000 which will fund two reimbursable detailed staff members and one permanent, Schedule A, Excepted Service, GS-14 administrative management position.

REV_00169399

QUESTION 30: What are the dollar and percentage increases for each of the above items, compared to the FY 2003 estimated levels?

RESPONSE: The FY 2004 request for NSC reimbursable detailees represents an increase of $356,000, or 64%, over the FY 2003 estimated levels. The PFIAB increase of $250,000 will be 100% above the FY 2003 request since this is a new requirement for FY 2004.

QUESTION 31: The justifications indicate that 11 additional positions are being added to this office in FY 2003, raising the estimated from 60 in FY 2002 to an estimated 71 in FY 2003. What specific positions are being created?

RESPONSE: The 11 additional positions, which raise NSC's FTE from 60 to 71, are not new positions. In FY 2003, the Office for Combating Terrorism (OCT) was combined with the NSC budget request. The increased FTE request correlates with the continued funding for and operation of the OCT as a part of the NSC submission.

QUESTION 32: The FY 2004 request includes funds for a new GS-14 administrative manager for the PFIAB. Why is this new position needed at this time?

RESPONSE: PFIAB requires a permanent administrative position for continuity as well as efficiency reasons. The administrative staff constitutes the lifeblood of the Board: it fulfills all of the support responsibilities, including human resource management, budget, travel, procurement, research, publishing, protocol, and special assistance to the Executive Director, Chair and Vice Chair. With only two administrative people on staff, it is absolutely critical that both individuals be fully knowledgeable about and highly experienced at *White House* administrative policies, procedures and guidelines; equally important, *both* must possess highly honed administrative skills *and* be extremely efficient, effective and professionally dedicated.

The Board simply cannot attain this level of experience and competence by relying on detailees from other agencies, particularly non-reimbursed detailees. More often than not, we must accept whomever an agency can make available. Therefore, the Board will use this one permanent administrative billet to create a PFIAB office manager position. This individual not only will provide continuity of expertise and experience, but also will ensure that the other administrative person obtains the proper professional mentoring and supervision. We plan to make this a GS-14 position, but may start the individual we select at the GS-13 level to allow for personal advancement...and thereby also ensuring, hopefully, a fairly long term of service to the Board.

REV_00169400

Office of National Drug Control Policy (POC – Michelle Marx)

QUESTION 33: You are requesting 10 additional FTE in FY 2004 to replace 10 non-reimbursable detailees who are no longer available. Why are these positions no longer available, and what are the specific positions?

RESPONSE: ONDCP's FY 2004 request includes resources to support 125 FTEs, an increase of 10 FTEs over the FY 2003 request. This FTE increase is requested to offset the loss of approximately 20 - 25 of the 30 non-reimbursable military detailee positions the Department of Defense has supported at ONDCP since 1996. (The Department of Defense, as outlined in a December 28, 2001 memorandum, has adopted a general policy that approves of requests for details only on a reimbursable basis, with limited exceptions.)

This 10 FTE increase, along with distributing additional responsibilities among existing staff, will allow ONDCP to absorb the detailee staffing loss and meet its statutory responsibilities. The specific positions would be appointed within the following offices: Planning and Budget; State and Local Affairs; Intelligence; and Supply Reduction.

Renovation of the Eisenhower Executive Office Building (POC – Steve Beattie)

QUESTION 34: What is the status of funding provided in FY 2002 and 2003? Please provide a breakdown of funding by the type of activity or renovation performed.

RESPONSE: 34: The General Service Administration has used FY 2002 Emergency Response Funds in the amount of $1,674,000 for starting the Architects' and Engineers' design contract for the 17th Street Wing Security Modernization Project. GSA is currently in the process of reprogramming $7,500,000 for FY 2003 for design, management and inspection. The FY 2003 reprogramming is required to complete the Design/Build/Bridging documents and assist in managing the Design/Build/Bridging efforts.

QUESTION 35: How much remains unobligated, by appropriation?

RESPONSE: 35: The General Services Administration (GSA) awarded a portion of the design cost in the amount of $1,537,173 utilizing the FY 2002 Emergency Response Fund. $136,827 remains unobligated. GSA has not obligated any FY 2003 funding.

QUESTION 36: Please provide a detailed breakdown showing how funds requested in the GSA budget for FY 2004 would be used.

RESPONSE: 36: The following is a break down on how the funds will be used in FY 2004:

REV_00169401

Major Work Items:	
Electrical System	$ 10,244,000
Air conditioning system, chillers and piping	$ 12,530,000
Interior Construction	$ 13,163,000
Utility Vault (includes foundation construction)	$ 22,107,000
Window Blast Mitigation	$ 4,685,000
Mansard Roof Hardening	$ 802,000
Estimated Construction Cost (ECC)	$ 63,531,000
Management and Inspection	$ 2,226,000
Authorization Requested (ECC, M&I)	$ 65,757,000

QUESTION 37: Please provide a detailed schedule for activities planned in FY 2004.

RESPONSE: 37: The design/build/bridging contract is scheduled to be awarded in March 2004. The current schedule for the project is as follows:

Design Award:	04/03
Design/Build/Bridging Procurement Start:	09/03
A/E Bridging Documents Complete:	10/03
Design/Build/Bridging Contract Award:	03/04
Construction Complete:	06/06

QUESTION 38: How much are you currently paying GSA for the unoccupied space along the 17th Street side of EEOB, and how much rental cost are you incurring for the new locations where relocated employees are working?

RESPONSE: We are not paying for the unoccupied space along the 17th Street side of the EEOB in FY2003. Employees were relocated to 1800 G. Street where FY 2004 rental costs are estimated at $4,978,000 and to 1801 Pennsylvania Avenue where the FY 2004 rental costs are estimated at $792,000. Both rental cost estimates exclude parking space costs.

Executive Residence (POC – Worthington White)

QUESTION 39: Please provide a table, corresponding to the projects on page 81 of last year's hearing record, showing the original appropriation for each project, the amount obligated to date, and the project status. This involves projects funded in fiscal year 2002.

RESPONSE: The following table provides funding information on the FY 2002 projects.

REV_00169402

Executive Residence at the White House
FY2002 White House Repair and Restoration

Project	Original Appropriation	Obligated To Date	Status of Project
Pool Shelter Roof Reconstruction and Pool Deck Renovation	$430,000	$412,926	This project is completed, with only minor punch list items and related recurring maintenance items to be funded from the remaining funds.
Communication System Repairs/Phase 2*	$456,667 $4,544,000	$155,872	Modifications to the original design under Phase I (FY2001) are completed. The pre-bid meeting with prospective contractors is scheduled for mid-May, with contract award by late June, and construction commending by late July.
East and West Wing Exterior Restoration	$2,500,000	$2,398,433	The restoration is underway, all Phase I funds will be utilized this year.
Insulated Windows Replacement	$160,000	$162	The prototype utilizing historically accurate reproduction glass is in production, with manufacturing of actual replacement units expected to begin in June. Installation to be begin in August.
Kitchen Floor Replacement	$75,000	$60,815	This project is nearing completion with the remaining funds to be utilized for utility work.
North Portico Curtain Wall	$120,000	$106,751	The project is completed with remaining funds required to purchase spare parts inventory.
Stone Pavers Restoration	$277,000	$220,082	The project is currently underway and is scheduled for completion by September 2003.
West Colonnade Restoration	$275,000	$0	Planning has recently been completed; work will be accomplished in August and early September 2003.

*For the Comunication System Repairs/Phase 2 project, $456,667 was funded in FY 2001 for Architect and Engineering. The remaining $4,544,000 was for construction.

QUESTION 40: Please provide a listing of the 95 FTE positions at the Executive Residence requested for funding in FY 2004, showing the position title and the annual salary level.

RESPONSE: The position and salary information is provided in the table that follows.

REV_00169403

EXECUTIVE RESIDENCE AT THE WHITE HOUSE - FY 2003 -- 95 FTE				
USHERS OFFICE				
16 FTE	USHER	$96,880	CALLIGRAPHER	$68,939
	CALLIGRAPHER	$60,202	CALLIGRAPHER	$79,670
	SYSTEMS ADMIN	$99,152	USHER	$90,059
	PROJECT SUPERVISOR	$55,092	CALLIGRAPHER	$69,911
	ADMIN ASSISTANT	$44,244	CHIEF USHER	$142,500
	USHER	$112,347	ADMIN OFFICER	$83,132
	ACCOUNTANT	$56,711	GROUNDS SUPT	$139,297
	USHER	$92,786	NIGHT DOORMAN	VACANT
OFFICE OF THE CURATOR				
4 FTE	CURATOR	$87,328	ASSISTANT CURATOR	VACANT
	COLLECTIONS MANAGER	$50,230	ASSISTANT CURATOR	$65,056
FLOWER SHOP				
4 FTE	CHIEF FLORIST	$92,786	FLORIST	$60,565
	FLORIST	$68,266	FLORIST	$51,987
HOUSEKEEPING				
21 FTE	MAID	$44,452	ASST HOUSEKEEPER	$79,670
	LAUNDRY SPEC	$53,098	HOUSEMAN	$47,539
	HOUSEMAN	$30,541	MAID	$48,671
	MAID	$48,656	CHIEF HOUSEKEEPER	$102,720
	LAUNDRY SPEC	$44,857	HOUSEMAN	$50,441
	MAID	$41,826	MAID	$37,770
	MAID	$42,433	HOUSEMAN	$55,091
	MAID	$28,285	HOUSEMAN	$38,798
	HOUSEMAN	$41,826	MAID	$54,280
	CUSTODIAL SPEC	$48,626	HOUSEMAN	$44,861
			HOUSEMAN	VACANT
FOOD & BEVERAGE SRVCS				
18 FTE	BUTLER	$67,969	PASTRY CHEF	$124,113
	KITCHEN STEWARD	$49,102	ASSISTANT CHEF	$86,211
	ASSISTANT CHEF	$79,670	ASST PASTRY CHEF	$57,521
	BUTLER	$52,360	ASSISTANT CHEF	$46,200
	STOREKEEPER	$64,086	BUTLER	$65,056
	BUTLER	$49,548	BUTLER	$59,411
	STOREKEEPER	$70,558	BUTLER	$66,028
	MAITRE'D	$91,422	CHEF	$113,951
	STOREKEEPER	$55,091	ASSISTANT CHEF	$46,870
OPERATIONS				
7 FTE	OPERATIONS AIDE	$54,116	OPERATIONS AIDE	$33,747
	OPERATIONS AIDE	$54,679	OPERATIONS AIDE	$73,692
	SHOP FOREMAN	$77,449	OPERATIONS AIDE	$58,895
			OPERATIONS AIDE	$49,024
CARPENTER & PAINT SHOP				
6 FTE	CARPENTER	$60,669	CARPENTER	$49,399
	PAINTER	$72,523	CARPENTER	$50,255
	PAINTER FOREMAN	$90,304	CARPENTER FOREMAN	$78,763
ENGINEERS & PLUMBING SHOP				
12 FTE	ENGINEER	$84,878	ENGINEER	$65,532
	ENGINEER	$66,826	ENGINEER	$68,266
	ENGINEER	$63,236	ENGINEER	$52,905
	ENGINEER	$62,234	PLUMBING FOREMAN	$90,304
	PLUMBER	$71,355	ENGINEER FOREMAN	$91,422
	ENGINEER	$66,826	ENGINEER	$51,966
ELECTRIC SHOP				
7 FTE	ELECTRICIAN	$73,692	ELECTRICIAN	$73,692
	ELECTRICIAN	$46,937	ELECTRICIAN	$55,389
	ELECTRIC SHOP FOREMAN	$95,515	ELECTRICIAN	$66,826
			ELECTRICIAN	$45,351

REV_00169404

QUESTION 41: The justifications (p. 67) indicate an estimated unobligated balance of $7,023,000 in this appropriation at the beginning of FY 2003. Please explain the sources of this balance, and provide a schedule for obligation of increments of those funds.

RESPONSE: The majority ($4,388,127) of the unobligated funds are associated with the Communication System Repairs/Phase 2 which was delayed to unanticipated design requirements. The schedule for completion and obligation of all FY2002 projects is detailed in the table below.

Executive Residence at the White House
FY2002 White House Repair and Restoration

Project	Original Appropriation	Obligated To Date	Status of Project
Pool Shelter Roof Reconstruction and Pool Deck Renovation	$430,000	$412,926	This project is completed, with only minor punch list items and related recurring maintenance items to be funded from the remaining funds.
Communication System Repairs/Phase 2*	$456,667 $4,544,000	$155,872	Modifications to the original design under Phase I (FY2001) are completed. The pre-bid meeting with prospective contractors is scheduled for mid-May, with contract award by late June, and construction commending by late July.
East and West Wing Exterior Restoration	$2,500,000	$2,398,433	The restoration is underway, all Phase I funds will be utilized this year.
Insulated Windows Replacement	$160,000	$162	The prototype utilizing historically accurate reproduction glass is in production, with manufacturing of actual replacement units expected to begin in June. Installation to be begin in August.
Kitchen Floor Replacement	$75,000	$60,815	This project is nearing completion with the remaining funds to be utilized for utility work.
North Portico Curtain Wall	$120,000	$106,751	The project is completed with remaining funds required to purchase spare parts inventory.
Stone Pavers Restoration	$277,000	$220,082	The project is currently underway and is scheduled for completion by September 2003.
West Colonnade Restoration	$275,000	$0	Planning has recently been completed; work will be accomplished in August and early September 2003.

*For the Comunication System Repairs/Phase 2 project, $456,667 was funded in FY 2001 for Architect and Engineering. The remaining $4,544,000 was for construction.

As of this date, there are also 5 projects which have balances prior to FY 2002. They are as follows:

FY1996 – Roof Repair – balance of $9,227. These funds will be expended as needed for ongoing maintenance and corrective measures.

FY1998 – Repair/restoration of the Laundry Room – balance of $26,616. Purchase of replacement equipment and maintenance of equipment to be expended in FY2003.

REV_00169405

FY2000 – Purchase and Install Two Ironers – balance of $5,754. These funds will be expended to replace the drive belts in FY2003.

FY2000 – Renovation of Paint Shop – balance of $38,271. Funds will be used to purchase and update equipment to meet EPA and OSHA requirements in FY2003.

FY2000 – Third Floor Promenade – balance of $11,392. Funds will be expended to rehab and replace drainage system in late FY2003 or early FY2004.

White House Repair and Restoration (POC – Dennis Freemyer)

QUESTION 42: You are requesting $4,225,000 for repairs and restoration of the White House. Is there additional funding in the National Park Service budget or elsewhere in the President's budget request for FY 2004 for similar activities at the White House?

RESPONSE: There are no other budget requests for the same activities at the White House.

QUESTION 43: Of this request, $3,500,000 is for restoration of the east and west wing exterior. Please provide a detailed discussion and breakdown of this request.

RESPONSE: The funding requested is for the continuation (2nd phase) of the East and West Wing Restoration project, the first being funded in FY'02. This is consistent with the original planning for the execution of this project based on the experience of the completed Executive Residence Exterior Restoration completed in 1996. A breakdown of major work items follows:

Estimated Construction Costs:

Mobilization, scaffolding, rental equipment	150,000
Stone, stucco, wood restoration, insulated glass	1,580,000
Paint removal	1,660,000
Effluent/hazardous material disposal	150,000
Specialized window film including installation	400,000
Specialized stucco coating including installation	550,000
Painting	500,000
Site Restoration	260,000
Design, project management, project supervision, testing	350,000
Contingency	400,000
Estimated Total Cost	**$6,000,000**
FY 2002 Funding	$2,500,000
FY 2004 Funding Request	$3,500,000

REV_00169406

Pennsylvania Avenue Improvements (POC – Steve Beattie)

QUESTION 44: What is the total estimated cost of security and street improvements on Pennsylvania Avenue in front of the White House, for which funds were provided in FY 2003?

RESPONSE: This project is to be funded by the Federal Highway Administration (FHWA). The total estimated cost of security and street improvements on Pennsylvania Avenue in front of the White House is currently $26.1 million. The information below breaks out the estimated FY 2003 costs for the project.

Project Activity	**Projected FY 2003 Obligations**
Preliminary Activities	
Verification and Concept Studies	$ 605,150
Design Activities	
Ground Survey and Mapping	$ 57,524
Subsurface Utility Survey	$ 149,682
Environmental Documentation	$ 75,000
Final Design (Consultant)	$ 1,300,000
Crash Testing	$ 350,000
FHWA Contract Administration	$ 100,000
Design Contingency	$ 262,644
Construction Activities	
Construction Contract	$ 18,500,000
Utility Construction	$ 1,500,000
FHWA Contract Administration	$ 1,700,000
MVVA Construction Assistance	$ 500,000
Construction Contingency	$ 1,000,000
Grand Totals	**$26,100,000**

QUESTION 45: What is the status of that project? When will FY 2003 funds be obligated?

RESPONSE: 45: The status of the security and street improvements on Pennsylvania Avenue is as follows -

- Project's status is an ongoing iterative process as the Design team receives comments from the public and the various stakeholders on surrounding sites.
- Under the National Environmental Policy Act, the final public information meeting for the Environmental Impact Assessment was held on May 5, 2003, which is the last

REV_00169407

step before the final report is issued the week of May 27, 2003. It is expected that the report's concluding statement will find no significant impact.

- The design team is in the pre-design stage.
- The engineers are currently in the design stage for utility relocation in the project's vicinity.
- The Section 106 review as required by the Secretary of the Interior under the Historic Preservation Act is underway and will develop a Memorandum of Agreement in June 2003, which will address issues regarding the design details. The Section 106 review occurs when a project utilizing federal funds may have an effect upon natural, environmental, or cultural resources and looks at mitigation of any adverse effects to those resources.
- $1.5 million is expected to be obligated at the end of August or early September 2003 to start the utility relocation on Pennsylvania Avenue and at the north ends of Jackson and Madison Places.
- Arrangements have already been made for procurement of the trees to be used on the Avenue since it will require root and limb pruning over two calendar years prior to installation on the Avenue. The trees will be installed after inaugural events in the spring of 2005.
- Approximately, $2,675,000 has been obligated to date (under contract). The remaining $3,685,000 will be obligated within the next six months to have the construction contract awarded by the end of September or early October 2003.

QUESTION 46: How much funding is requested for this project in FY 2004, and where is it located in the budget?

RESPONSE: $15 million has been set aside under the Department of the Interior bill for FY 2004. However, discussions have been held between the Federal Highway Administration and EOP staff to make the money available for contract award this fiscal year. Discussions have included placing FY 2004 monies into the FY 2003 supplemental appropriation. With the highway legislation pending, there could be a delay in getting the funding moved into the supplemental appropriation to allow the project to get underway.

QUESTION 47: What is the schedule for studies of traffic congestion mitigation alternatives in the vicinity of the White House, as funded in FY 2003?

RESPONSE: The project administrators met with EOP staff on May 8, 2003 to begin outlining the scope of the study and a plan to involve the District of Columbia government and neighborhood stakeholders. A schedule for the study has not been developed, but will be prepared in the next three months.

REV_00169408

Remote Data Center (POC – Carlos Solari)

QUESTION 48: What is the status of establishment today of the remote data center?

RESPONSE: The remote data center project is on schedule and on budget. The project began last summer by conducting a systems development lifecycle analysis to determine and recommend the location for the facility. From this analysis, EOP decided on building the data center at a hardened FEMA facility located in Maryland. The project is being co-managed with FEMA and was established with three phases: (1) infrastructure build-out of the hardened facility (power, air handlers, etc), (2) construction of the data center itself (cabling, raised flooring, etc), and (3) the transition of EOP data systems (telecommunications, servers, etc). The project is approximately halfway through completion for the first two phases with a scheduled opening (initial operational capability) date of September 2003. The transition phase is on schedule preparing the systems and will proceed to begin the transfer September 2003 – with a planned transition of 12 months for all systems. The following chart shows the funding of the remote data center from FY 2002 thru FY 2004.

	FY 2002	FY 2003	FY 2004
CIP	$15,000,000	$5,000,000	$8,403,000
S&E	$ - 0 -	$ - 0 -	$ - 0 -
Total	$15,000,000	$5,000,000	$8,403,000

QUESTION 49: Last year, you estimated annual operating costs of this facility to be $7,500,000 (p. 88). Is that your current estimate?

RESPONSE: Last year OA provided a rough estimate of $7,500,000 for the future annual operating cost of the new data center facility. This was based upon the following estimated costs:

- $1,500,000 in communications to maintain connectivity for the EOP,
- $600,000 in space rental,
- $450,000 for hardware maintenance,
- $1,300,000 for software maintenance,
- $2,600,000 for contractor services,
- $300,000 for supplies/components,
- $75,000 for equipment, and
- $675,000 in salaries/benefits.

While most of these estimates remain valid, OA must revise the estimate for space rental to $1,258,000, bringing the revised estimated annual operating costs for the facility to $8,158,000.

REV_00169409

QUESTION 50: Your FY 2004 request includes $8,403,000 to transition the remote data center to full operational status (p. 75). What specific activities are required in FY 2004 to accomplish this? Can you provide a breakdown of the FY 2004 request consistent with these activities?

RESPONSE: The following table lists the FY2004 CIP funds requested for the completion of the remote data center construction and initial year operating costs.

Object Class	Object Class Title	Requested Funding ($ in 000)	Description
23.0	Space Rental Payments	$1,258	This estimate reflects $1,258,000 in rental for the offsite data center and will be the initial rent to be paid for the offsite data center. This cost was previously funded from emergency funds.
23.3	Communications, utilities, and miscellaneous charges	$4,420	$4,420,000 is for CIP networking/ telecommunications projects at the offsite data center. These projects include funds for a tap off of telecommunications lines, two additional DS-3 data paths, two T-1 lines, and backup to support required communications bandwidth, and availability requirements.
25.2	Other Services	$2,700	This estimate reflects Priority System Disaster Recovery costs, Secondary Systems Disaster Recovery costs, Hardware and Software for the Disaster Recovery Site, and Hardware and Software upgrades to support the data center move.
26.0	Supplies and materials	$25	The estimate reflects $25,000 in additional supplies necessary for start-up operations at the offsite data center. This will include start up costs for office equipment used for the new office spaces.
Total FY2004 Data Center CIP Request		**$8,403**	

President's Travel (POC - Rothley Howard)

QUESTION 51: Please update the information on pages 89 through 94 of last year's hearing record concerning travel by the President and the First Lady by continuing data from the final entry of last year's record to the present time.

RESPONSE: The following charts summarize Presidential, First Lady and Vice Presidential travel for Fiscal Years 2002 and 2003 (to date). They also reflect costs currently in the accounting system. Several of the trips listed below are awaiting additional costs, therefore, final costs may vary.

REV_00169410

Presidential Travel FY 2002					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
3-Oct	New York, NY	100%		6	$8,060
7-Oct	Emmitsburg, MD	100%		4	$1,988
17-Oct	Sacramento, CA	100%		5	$16,678
30-Oct	New York, NY	100%		4	$13,043
8-Nov	Atlanta, GA	100%		6	$17,920
10-Nov	New York, NY	100%		0	$6,525
14-Nov	Crawford. TX	100%		4	$44,535
21-Nov	Fort Campbell, KY	100%		3	$9,114
27-Nov	Salt Lake City, UT	100%		7	$4,328
1-Dec	Philadelphia, PA	100%		5	$13,669
4-Dec	Orlando, FL	70%	30%	7	$13,371
7-Dec	Norfolk, VA	100%		5	$5,271
11-Dec	Citadel, SC	100%		4	$11,498
26-Dec	Waco, TX	100%		7	$12,667
4-Jan	Austin, TX	100%		1	$5,356
5-Jan	Ontario, CA	100%		4	$10,240
5-Jan	Portland, OR	100%		7	$10,870
8-Jan	Hamilton, OH	100%		6	$6,588
8-Jan	Boston, MA	100%		6	$11,159
8-Jan	Portsmith, NH	54%	46%	4	$6,594
9-Jan	Washington, DC	100%		0	$0
11-Jan	Conshohoken, PA	100%		6	$5,321
14-Jan	Moline, IL	100%		6	$7,570
14-Jan	Springfield, MO	100%		4	$6,569
14-Jan	New Orleans, LA	100%		21	$32,494
22-Jan	Charleston, WV	71%	29%		$6,086
25-Jan	Portland, ME	100%		5	$7,698
30-Jan	Winston-Salem, NC	65%	35%	0	$8,799
30-Jan	Daytona Beach, FL	100%		16	$12,874
31-Jan	Atlanta, GA	100%		5	$13,869
1-Feb	White Sulpher Springs, WV	100%		4	$4,273
4-Feb	Eglin AFB,FL	100%		4	$7,666
5-Feb	Pittsburgh ,PA	100%		5	$7,918
6-Feb	New York, NY	54%	46%	6	$6,940
8-Feb	Denver, CO	100%		4	$7,644
8-Feb	Salt Lake City, UT	100%		13	$12,877

REV_00169411

8-Feb	Jackson, WY	100%		7	$11,182
11-Feb	Milwaukee, WI	48%	52%	1	$9,360
16-Feb	Anchorage, AK	40%	60%	1	$9,181
27-Feb	Charlotte, NC	52%	48%	1	$7,048
1-Mar	Des Moines, IA	53%	47%	**5**	$3,546
3-Mar	Minneapolis, MN	50%	50%	2	$7,127
8-Mar	St. Petersburg, FL	57%	43%	2	$6,093
12-Mar	Philadelphia, PA	100%		9	$11,102
15-Mar	Fayetteville, NC	100%		6	$1,218
16-Mar	Chicago, IL	100%		4	$11,217
18-Mar	St. Louis, MO	65%	35%	5	$5,835
21-Mar	El Paso, TX	100%		6	$129
27-Mar	Greenville, SC	45%	55%	5	$-3,217
27-Mar	Atlanta, GA	52%	48%	3	$166
27-Mar	Waco, TX	100%		8	$19,804
28-Mar	Dallas, TX	20%	80%	4	$224
2-Apr	Philadelphia, PA	59%	41%	6	$12,239
4-Apr	Waco, TX	100% State		0	$0
8-Apr	Knoxville, TN	100%		5	$743
9-Apr	Bridgeport, CT	52%	48%	6	$7,152
15-Apr	Cedar Rapids, IA	59%	41%	5	$7,819
17-Apr	Lexington, VA	100%		5	$8,505
22-Apr	Saranac, NY(Wilmington, NY)	100%		4	$13,029
19-Apr	Beltsville, MD	100%		0	$0
24-Apr	Sioux Falls, SD	45%	55%	5	$8,249
24-Apr	Waco, TX	100%		12	$13,741
29-Apr	Los Angeles, CA	48%	52%	17	$10,907
29-Apr	Albuquerque, NM	54%	46%	5	$7,054
30-Apr	San Jose, CA	42%	58%	6	$6,632
6-May	Southfield, MI	100%		5	$9,857
8-May	Milwaukee, WI	100%		6	$10,952
8-May	Lacrosse, WI	100%		7	$8,760
10-May	Columbus, OH	59%	41%	5	$4,992
13-May	Chicago, IL	42%	58%	6	$1,743
20-May	Miami, FL	42%	58%	7	$8,587
1-Jun	West Point, NY	100%		5	$13,593
3-Jun	Little Rock, AR	100%		6	$10,094
7-Jun	Des Moines, IA	100%		6	$13,895
11-Jun	Kansas City, MO	58%	42%	7	$8,179
14-Jun	Columbus,OH	100%		6	$4,031

REV_00169412

14-Jun	Houston, TX	45%	55%	**5**	$9,739
14-Jun	Waco, TX	100%		3	$14,955
17-Jun	Atlanta, GA	100%		5	$8,663
21-Jun	Orlando, FL	48%	52%	7	$12,111
24-Jun	Newark, NJ	48%	52%	7	$4,974
25-Jun	Phoenix, AZ	100%		0	$584
1-Jul	Cleveland, OH	100%		5	$7,823
2-Jun	Milwaukee, WI	100%		5	$6,411
4-Jul	Ripley, WV	100%		6	$7,129
5-Jul	Kennebunkport, MN	100%		0	$34,245
9-Jul	New York City, NY	100%		5	$7,706
11-Jul	Minneapolis, MN	62%	38%	7	$13,709
15-Jul	Birmingham, AL	62%	38%	6	$5,747
18-Jul	Troy, MI	100%		0	$3,197
19-Jul	Fort Drum, NY	100%		6	$7,133
22-Jul	Argonne, IL	100%		7	$10,510
25-Jul	Greensboro, NC	62%	38%	7	$5,342
29-Jul	Charleston, SC	59%	41%	5	$7,149
2-Aug	Kennebunkport, MN	75%	25%	14	$34,291
5-Aug	Pittsburg, PA	56%	44%	7	$11,138
6-Aug	Waco, TX	100%		21	$107,331
7-Aug	Jackson, MS	76%	24%	6	$9,750
13-Aug	Economic Forum Waco, TX	100%		0	$201
14-Aug	Milwaukee, WI	42%	58%	5	$5,217
14-Aug	Des Moines, IA	42%	58%	23	$6,630
14-Aug	South Dakota	100%		4	$8,029
16-Aug	Rapid City, SD	58%	42%	1	$65
22-Aug	Medford, OR	100%		5	$10,226
22-Aug	Portland, OR		100%	0	$2,429
23-Aug	Dana Point, CA	50%	50%	20	$21,873
23-Aug	Stockton, CA	38%	62%	5	$4,565
24-Aug	Thousand Oaks/Westwood, CA		100%	0	$955
24-Aug	Santa Anna, CA	100%			$0
24-Aug	Las Cruces, NM	42%	58%	6	$4,381
29-Aug	Oklahoma City, OK		100%	0	$0
29-Aug	Little Rock, AR	58%	42%	5	$10,649
2-Sep	Pittsburgh, PA	100%		4	$11,098
5-Sep	Louisville, KY	59%	41%	**7**	$8,684
5-Sep	South Bend, IN	42%	58%	3	$5,105
6-Sep	Delu	100%		0	$1,346

REV_00169413

6-Sep	Minneapolis, MN	100%		5	$3,387
9-Sep	Detroit, MI	100% State		0	$1,804
11-Sep	Somerset County, PA	100%		6	$1,611
11-Sep	New York City, NY	100%		8	$6,665
16-Sep	Davenport, IA	48%	52%	6	$6,573
17-Sep	Nashville, TN	38%	62%	6	$1,573
23-Sep	Trenton, NJ	38%	62%	5	$5,053
26-Sep	Houston, TX		100%	0	$0
26-Sep	Waco, TX	100%		9	$19,792
27-Sep	Denver, CO		100%	0	$0
27-Sep	Flagstaff, AZ		100%	0	$0
27-Sep	Phoenix, AZ		100%	0	$0
	Total Presidential FY 2002 Costs Through 09/30/02				**$1,146,388**

First Lady Travel FY 2002

		Status		# of EOP	White House
Date	Destination	Official	Political	Staff	Travel Cost
3-Oct	Cincinnati, OH	100%		0	$339
16-Oct	Newark, NJ	100%		0	$1,790
18-Oct	Atlanta, GA	100%		1	$1,742
19-Oct	Baton Rouge, LA	100%		0	$1,568
30-Oct	New York, NY	100%		3	$1,652
16-Nov	Austin, TX	100%		1	$7,300
9-Jan	Topeka, KS	100%		0	$1,566
10-Jan	Houston, TX	100%		0	$1,915
11-Jan	Austin, TX	100%		0	$780
21-Jan	Atlanta, GA	100%		0	$1,060
10-Feb	Los Angeles, CA	100%		1	$5,021
11-Feb	Hershey, PA	100%		0	$0
8-Mar	New York, NY	100%		3	$6,218
11-Mar	Richmond, VA	100%		4	$1,659
4-Apr	Dallas, TX	100%		1	$35
11-Apr	Hershey, PA	100%		1	$899
30-Apr	Little Rock, AR	100%		2	$1,839
30-Apr	Dallas, TX	100%		3	$365
9-May	New York, NY	100%		0	$1,898
28-May	Austin, TX	100%		1	$3,379
10-Jun	Boise, ID	100%		1	$3,456
11-Jun	Salt Lake City, UT	100%		1	$1,187

REV_00169414

11-Jun	San Francisco	61%	39%	0	$5,237
12-Jun	Austin, TX	100%		1	$3,693
6-Jun	Crawford, TX	100%		0	$0
20-Jun	Boston, MA	100%		1	$1,674
17-Jun	Cinncinati, OH	100%		2	$2,309
22-Jun	Midland, TX	100%		0	$0
7-Jul	Kennebunkport, ME	100%		0	$0
12-Jul	Norfolk, VA	100%		2	$969
18-Jul	Philadelphia, PA	100% State		0	$0
24-Jul	New York, NY			2	$236
2-Aug	Dallas, TX	100%		1	$1,773
3-Aug	Lubbock, TX	100%		4	$3,571
14-Aug	Austin, TX	100%		2	$3,231
22-Aug	Austin, TX	100%		2	$3,501
11-Sep	New York, NY	100%		4	$4,241
25-Sep	Greenville, MS	100%		0	$1,591
27-Sep	Waco, TX	100%		1	105
	Total First Lady FY 2002 Costs through 09/30/02				**$77,799**

Vice Presidential Travel FY 2002					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
7-Oct	Smithers, BC *(can./Adv. only)*			1	$449
18-Oct	New York, NY	100%		4	$2,063
21-Oct	Washington, DC	100%			$378
28-Oct	Poughkeepsie, NY	100%		5	$3,885
30-Oct	White Sulphur Springs, WV				$200
4-Nov	Pierre/Gettysburg, SD	100%		7	$5,676
2-Nov	Dallas, TX *(can. trip)*	100%		1	$115
2-Nov	Jackson, WY	100%		2	$11,195
27-Nov	Salt Lake City, UT	100%		3	$526
29-Nov	New York, NY	100%		17	$14,413
6-Dec	Dallas, TX		100%	9	$1,776
7-Dec	Oklahoma City, OK		100%	3	$4
14-Dec	Albany, GA	100%		9	$5,214
17-Dec	Jackson, WY *(no trip listed/noTA)*				$0
19-Dec	Trappe, MD	100%		9	$4,217
22-Dec	Jackson, WY	100%		14	$55,257
11-Jan	Albany, GA	100%		8	$5,447

REV_00169415

25-Jan	Cincinnati, OH		100%	4	$0
30-Jan	White Sulpher Springs, WV	100%		8	$4,353
6-Feb	Louisville, KY		100%	9	$5,392
6-Feb	Evansville, IN		100%		$0
7-Feb	Hopkinsville, KY	17%	83%	9	$700
15-Feb	Armstrong, TX	100%		1	$275
17-Feb	Carlsbad, CA	100%		1	$30,757
19-Feb	Fullerton, CA	100%			$2,700
19-Feb	Los Angeles, CA	15%	85%	2	$5,698
20-Feb	Sacramento, CA		100%	2	$2,514
20-Feb	Fresno, CA *(Mix?)*	100%			$817
20-Feb	Pleasantville, CA	100%			$0
21-Feb	San Jose, CA *(Mix)*	100%		2	$9,783
24-Feb	Salt Lake City, UT	100%		7	$9,544
25-Feb	Cheyenne, WY	30%	70%	27	$9,672
25-Feb	Jackson, WY	100%		4	$20,789
28-Mar	Jackson, WY	100%		1	$13,492
3-Apr	Denver, CO		100%	2	$447
4-Apr	Jackson, MS		100%	3	$1,047
4-Apr	Kansas City, MO		100%	1	$0
4-Apr	Fayetteville, AR		100%	1	$0
5-Apr	Dallas, TX	100%		21	$4,034
12-Apr	Charleston, WV		100%		$0
12-Apr	Richmond, VA		100%		$0
15-Apr	Grand Rapids, MI	100%		10	$5,770
15-Apr	Collinsville, IL		100%	1	$221
19-Apr	Allentown, WV		100%		$0
19-Apr	Islandia, NY		100%		$126
22-Apr	Ft. Lauderdale, FL		100%		$0
24-Apr	Houston, TX *(State-sponsored)*	100%			$0
25-Apr	Crawford, TX *(State-sponsored)*	100%			$0
2-May	Lansing, MI	100%		13	$4,903
2-May	South Bend, IN		100%	1	$57
9-May	Minneapolis, MN		100%		$0
11-May	Jackson, WY		100%	4	$666
21-May	Boston, MA		100%		$0
24-May	Jackson, WY	100%		8	$9,641
29-May	Nashville, TN		100%		$0
7-Jun	Harrisburg, PA		100%		$0
14-Jun	Columbia, SC		100%		$3,387

REV_00169416

14-Jun	Dallas, TX	100%		5	$11,223
20-Jun	Dayton, OH		100%		$0
20-Jun	Detroit, MI		100%		$0
21-Jun	Cody, WY	100%		3	$5,270
21-Jun	Beaver Creek, CO	100%		4	$8,941
23-Jun	Portland, OR		100%	7	$3,902
28-Jun	Charlotte, NC		100%		$0
20-Jun	Raleigh, NC		100%		$0
1-Jul	Wichita, KS		100%		$0
1-Jul	Dallas, TX		100%		$0
1-Jul	Jackson, WY	100%		8	$15,034
9-Jul	Ft. Bragg, NC	100%		1	$860
15-Jul	Hartford, CT		100%		$0
17-Jul	Atlanta, GA	100%		1	$1,805
18-Jul	Conshohocken, PA		100%		$0
18-Jul	Pittsburgh, PA		100%		$0
19-Jul	Macon, GA		100%		$0
19-Jul	Houston, TX		100%		$0
22-Jul	Montgomery, AL	100%		6	$5,498
22-Jul	Cape Canaveral, FL	100%		7	$4,072
29-Jul	Des Moines, IA		100%	5	$255
29-Jul	Cedar Rapids, IA		100%		$0
29-Jul	Fargo, ND		100%	5	$255
30-Jul	Jackson, WY	100%		15	$104,430
1-Aug	Meeker, CO	Cancelled		1	$1,287
6-Aug	San Francisco, CA	72%	28%	7	$13,202
7-Aug	Fresno, CA		100%		$0
8-Aug	Salt Lake City, UT		100%		$0
8-Aug	Albuquerque, NM		100%		$0
12-Aug	Minneapolis, MN		100%		$0
12-Aug	Waco, TX	100%		7	$6,757
12-Aug	Detroit, MI		100%		$0
13-Aug	Billings, MT		100%		$0
15-Aug	Montgomery, AL		100%		$0
17- Aug	Jackson, WY			3	$1,306
19-Aug	Big Horn, MT	Cancelled			$0
20-Aug	Waco, TX	100%		1	$1,641
26-Aug	Nashville, TN	53%	47%	3	$4,946
29-Aug	San Antonio, TX	100%		3	$2,518
6-Sep	New York, NY	100%		3	$5,447

REV_00169417

18-Sep	New London, CT		100%		$0
19-Sep	Burlington, VT	12%	88%	1	$437
19-Sep	New York, NY		100%		$0
20-Sep	Casper, WY	63%	37%	3	$4,840
20-Sep	Jackson, WY	100%		7	$1,830
23-Sep	Kansas City, MO	100%			$0
26-Sep	Memphis, TN		100%		$0
26-Sep	Dallas, TX		100%		$0
27-Sep	Boise, ID		100%	3	$462
26-Sep	Jackson. WY	100%		8	$11,395
27-Sep	Laramie, WY	100%		4	$761
	Total Costs through 9/30/02				**$475,974**

Presidential Travel FY 2003					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
1-Oct	Tampa, FL				$1,032
2-Oct	Baltimore, MD		100%	0	$0
4-Oct	Boston, MA		100%	0	$0
4-Oct	Kennebunkport, ME	100%		17	$37,055
5-Oct	Manchester, NH	32%	68%	4	$5,704
7-Oct	Cincinnati, OH	100%		10	$20,182
8-Oct	Knoxville, TN		100%	0	$798
14-Oct	Detroit, MI		100%	1	$677
17-Oct	Daytona Beach, FL	59%	41%	6	$9,308
17-Oct	Atlanta, GA		100%	0	$0
18-Oct	Rochester, MN		100%	0	$0
18-Oct	Springfield, MO		100%	0	$0
22-Oct	Chester County, PA		100%	0	$0
22-Oct	Bangore, ME		100%	0	$0
24-Oct	Charlotte, NC		100%	0	$0
24-Oct	Columbia, SC		100%	0	$0
24-Oct	Auburn, AL		100%	0	$0
24-Oct	Waco, TX (State Dept.)	100%		2	$2,168
26-Oct	Cabo San Lucas, Mex (State)	100%		0	$0
27-Oct	Phoenix, AZ (RON)		100%	4	$817
28-Oct	Alamogordo, NM		100%	0	$0
28-Oct	Denver, CO		100%	0	$0
31-Oct	Aberdeen, SD		100%	0	$0

REV_00169418

31-Oct	Southbend, IN		100%	0	$0
31-Oct	Charleston, WV		100%	0	$0
1-Nov	Louisville, KY		100%	0	$0
1-Nov	Portsmouth, NH		100%	0	$0
2-Nov	Johnson City, TN		100%	0	$0
2-Nov	Atlanta, GA		100%	0	$0
2-Nov	Tampa Bay, FL (RON)		100%	0	$0
3-Nov	Springfield, IL		100%	0	$0
3-Nov	Minneapolis, MN		100%	0	$0
3-Nov	South Falls, SD		100%	0	$0
3-Nov	Cedar Rapids, IA (RON)		100%	1	$738
4-Nov	St. Louis, MO		100%	0	$0
4-Nov	Bentonville, AR		100%	0	$0
4-Nov	Dallas, TX		100%	0	$0
4-Nov	Waco, TX (RON)	100%		18	$9,387
27-Nov	Waco, TX (RON)	100%		20	$21,899
3-Dec	Shreveport, LA		100%	0	$0
3-Dec	New Orleans, LA		100%	0	$0
12-Dec	Philadelphia, PA	100%		5	$10,793
26-Dec	Waco, TX (RON)	100%		13	$38,144
3-Jan	Ft. Hood, TX	100%		2	$1,777
7-Jan	Chicago, IL	100%		7	$10,516
16-Jan	Scranton, PA	100%		4	$11,184
22-Jan	St. Louis, MO	100%		7	$12,521
29-Jan	Grand Rapids, MI	100%		8	$12,918
31-Jan	Camp David, MD	100%		5	$646
4-Feb	Houston, TX	100%		6	$8,141
9-Feb	White Sulphur Springs, WV	100%		5	$11,968
10-Feb	Nashville, TN	100%		6	$13,069
13-Feb	Jacksonville, FL	100%		6	$15,211
20-Feb	Atlanta, GA	100%		7	$4,646
20-Feb	Waco, TX (State)	100%		1	$945
4-Mar	Washington, DC	100%		0	$0
5-Mar	Camp Lejeune, NC	100%		3	$5,218
26-Mar	Camp David, MD	100%		7	$350
26-Mar	Tampa Bay, FL	100%		7	$4,541
31-Mar	Philadelphia, PA	100%		5	$1,726
3-Apr	Camp Lejeune, NC	100%		8	$6,968
16-Apr	St. Louis, MO	100%		7	$1,095
16-Apr	Waco, TX	100%		16	$3,972

20-Apr	Ft. Hood, TX	100%		1	$0
24-Apr	Canton, OH	100%			$0
24-Apr	Lima, OH	100%			$0
28-Apr	Dearborn, MI	100%			$0
	Total Costs Through 09/30/03				**$286,114**

First Lady Travel FY 2003					
		Status		Number	White House
Date	Destination	Official	Political	Of Staff	Travel Cost
1-Oct	Tampa, FL	69%	31%	6	$820
4-Oct	Kennebunkport, ME			2	$210
5-Oct	Portland, ME	100%		3	$1,343
7-Oct	New York, NY	74%	26%	4	$5,625
16-Oct	Dayton, OH	100%		4	$2,281
17-Oct	Mobile, AL	77%	23%	8	$4,226
21-Oct	Boston, MA	100%		4	$6,528
23-Oct	St. Louis, MO	65%	35%	5	$5,610
2-Nov	Atlanta, GA	100%		2	$3,729
2-Nov	Raleigh, NC		100%		$0
2-Nov	Nashua, NH		100%		$0
2-Nov	Des Moines, IA		100%		$0
2-Nov	Minneapolis, MN		100%		$0
2-Nov	Sioux Falls, SD (RON)		100%		$0
3-Nov	Rapid City, SD		100%		$0
4-Nov	Waco, TX			1	$112
12-Nov	New York, NY				$295
16-Jan	New York, NY			1	$547
20-Jan	New York, NY			2	$5,668
4-Feb	Los Angeles, CA			3	$2,369
13-Feb	New York, NY			6	$5,163
19-Feb	Dallas, TX			2	$353
19-Feb	New Orleans, LA			2	$4,883
13-Mar	Austin, TX (RON)		100%	0	$0
8-May	Page, AZ	100%			
8-May	Kayenta, AZ	100%			

REV_00169420

8-May	Phoenix, AZ	100%			
9-May	Santa Fe, NM	100%			
	Total Costs through 09/30/03				**$49,762**

Vice Presidential Travel FY 2003					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
19-Sep	Burlington, VT **FY-02*	12%	88%	1	$21
4-Oct	Atlanta, GA		100%		$0
4-Oct	Warner Robbins, GA		100%		$0
4-Oct	Augusta, GA		100%		$0
7-Oct	Babine, BC, Canada	100%			$0
11-Oct	Colorado Springs, CO	79%	21%	7	$4,738
14-Oct	Roswell, NM		100%		$0
14-Oct	Tulsa, OK		100%		$0
14-Oct	Phoenix, AZ		100%		$0
14-Oct	Midwest City, OK	10%	90%		$0
21-Oct	Portland, ME		100%		$0
21-Oct	Newark, NJ		100%		$0
24-Oct	Dalton, GA	83%	17%	2	$374
24-Oct	Tampa, FL	76%	24%		$939
25-Oct	Philadelphia, PA	100%		1	$1,317
25-Oct	Reading, PA		100%		$1,416
29-Oct	Wilmington, NC		100%	1	$207
30-Oct	Chattanooga, TN		100%		$0
30-Oct	Little Rock, AR		100%		$0
30-Oct	Houston, TX		100%	3	$1,234
31-Oct	Cape Girardeau, MO		100%		$0
31-Oct	Sioux City, IA		100%		$0
31-Oct	Indianapolis, IN		100%		0
1-Nov	Duluth, MN		100%		$0
1-Nov	Rapid City, SD		100%		$0
1-Nov	Denver, CO		100%	1	$1,657
2-Nov	Salt Lake City, UT		100%		$0
2-Nov	Springfield, MO		100%		$0
2-Nov	Jackson Hole, WY		100%	3	$1,369
2-Nov	Albuquerque, NM		100%		$0

REV_00169421

3-Nov	Cheyenne, WY		100%		$0
3-Nov	Gettysburg, SD	100%		1	$6,096
16-Nov	Latrobe, PA	100%		2	$1,535
18-Nov	Monroe, LA		100%		$0
18-Nov	Lafayette, LA		100%		$0
22-Nov	Trappe, MD	100%		4	$594
29-Nov	Jackson Hole, WY	100%		5	$1,135
29-Nov	Casper, WY	100%		2	$1,948
2-Dec	Denver, CO	100%		3	$2,308
5-Dec	Stuttgart, AR	100%		4	$1,928
14-Dec	Jackson Hole, WY	100%		7	$9,417
21-Dec	Jackson Hole, WY	100%		6	$17,927
17-Jan	Albany, GA	100%		4	$3,427
24-Jan	Trappe, MD *(cancelled trip)*				$0
31-Jan	Armstrong, TX	100%		6	$2,002
3-Feb	College Station, TX				$0
6-Feb	White Sulphur Springs, WV	100%		2	$806
9-Feb	Honolulu, HI	100%		8	$1,440
14-Mar	Jackson Hole, WY *(Adv only)*	100%			$0
17-Feb	Jackson Hole, WY	100%		9	$8,137
8-Apr	New Orleans, LA	100%		11	$2,941
22-Apr	Jackson Hole, WY	100%		6	$1,399
6-May	Dallas, TX	100%			$0
	Total Costs through 5/16/03				**$76,312**

Summary: Presidential, First Lady and Vice Presidential travel for FY02 and FY03 (to date).

Principal	Fiscal Year 2002	Fiscal Year 2003 (To date)
President of the United States	**$1,146,388**	**$286,114**
First Lady of the United States	**$77,799**	**$49,762**
Vice President of the United States	**$475,974**	**$76,312**
Totals	**$1,700,161**	**$412,188**

REV_00169422

Presidential Staff Travel (POC – Rothley Howard)

QUESTION 52: Please provide a listing of staff travel not in support of the President for fiscal year 2002 and thus far in fiscal year 2003. For each entry, please include the name of traveler, the destination and purpose of trip, the number of days in travel status, and the trip cost.

RESPONSE: The following tables provide the FY 2002 and year to date FY 2003 staff travel information for the White House Office and the Office of the Vice President.

White House Office FY 2002 Staff Travel					
TRAVELER	**PURPOSE**	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Medina, Sonya	Meetings	Dallas, TX	$419.00	03/15/01	2
McMarlin, Doug	Official	Cincinnati, OH	$115.00	10/01/01	2
Koro	Official	Sacramento, CA	$483.00	10/11/01	11
Carlson-Thies, Stanley	Speaking Engagement	Atlantic City, NJ	$442.87	10/15/01	1
Goldman, Adam	Meetings	Los Angeles, CA	$630.75	10/17/01	4
Hawkins, Albert	Meetings	Reykjavik	$3,699.40	10/20/01	4
Galen, Reed	Official	Manhattan, NY	$299.00	10/25/01	6
Carlson-Thies, Stanley	Speaking Engagement	Austin, TX	$442.53	10/26/01	1
Baralles, Ruben	Speaking Engagement	Oakland, CA	$1,231.00	10/28/01	2
Rorriguez, Noelia	Official	Manhattan, NY	$34.50	10/30/01	1
Moss, Sarah	Official	Manhattan, NY	$34.50	10/30/01	1
Campbell, Thomas	Accompany a Cabinet Head	Boston, MA	$261.50	10/31/01	2
Bartolomucci, H	Official	Lynchburg, VA	$52.93	10/31/01	2
Carlson-Thies, Stanley	Speaking Engagement	Silver Spring, MD	$9.66	11/01/01	1
Lisaius, Kenneth	Meetings	Los Angeles, CA	$561.14	11/02/01	2
Wendel, Matthew	Official	Crawford, TX/Austin, TX	$532.50	11/07/01	11
Carlson-Thies, Stanley	Speaking Engagement	Atlanta, GA	$542.93	11/09/01	2
Henick, Henry	Meetings	Los Angeles, CA	$1,661.14	11/10/01	2
Smith, Matthew	Official	Manhattan, NY	$401.11	11/10/01	1
Bartolomucci, H	Official	Lynchburg, VA	$52.93	11/14/01	2
Giles	Official	Manhattan, NY	$382.24	11/15/01	1
Wilkinson, James	Official	Waco, TX	$60.00	11/16/01	2
Burkhart, Shannon	Official	Waco, TX	$60.00	11/16/01	2
Kleppee, Elizabeth	Official	Salt Lake City, UT	$63.00	11/27/01	1

REV_00169423

Baralles, Ruben	Official	Houston, TX/Sacramento, CA/Santa Fe, NM	$1,524.32	11/28/01	2
Dunn, Debra	Official	Manhattan, NY	$34.50	11/29/01	1
Thompson	Official	Manhattan, NY	$34.50	11/29/01	1
Cobb,Robert	Meetings	Virginia Beach, VA	$298.13	12/04/01	1
Baralles, Ruben	Meetings	Atlanta, GA	$496.00	12/05/01	1
Bartolomucci, H	Official	Lynchburg, VA	$52.93	12/05/01	2
Irastroza, Hector	Meetings	Philadelphia, PA	$202.00	12/05/01	1
Blalock, K	Speaking Engagement	Atlanta, GA	$428.50	12/06/01	1
Goeglein, Tim	Speaking Engagement	Ft. Wayne, IN	$28.00	12/06/01	1
Bartolomucci, H	Official	Lynchburg, VA	$52.93	12/12/01	1
Walker, Helegard	Meetings	Lynchburg, VA	$48.30	12/16/01	2
Baralles, Ruben	Official	Sacramento, CA	$816.50	12/18/01	2
Wendel, Matthew	Official	Camp David, MD	$495.00	12/21/01	16
Bartolomucci, H	Official	Lynchburg, VA	$53.93	12/24/01	1
Hagin, Joseph	Official	Waco, TX	$375.00	12/26/01	12
Christensen	Official	Minneapolis, MN	$383.34	12/27/01	5
Wendel, Matthew	Official	Camp David, MD	$45.00	12/28/01	1
Gonzales,Alberto	Speaking Engagement	Austin, TX	$58.50	01/03/02	3
Purcell, Christopher	Official	Hamilton, OH	$85.00	01/06/02	2
Berenson, Brad	Meetings	Lynchburg, VA	$48.30	01/07/02	2
Hagin, Joseph	Official	Salt Lake City, UT	$175.51	01/09/02	1
Baralles, Ruben	Speaking Engagement	Las Vegas, NV	$95.00	01/10/02	6
Healy, Erin	Official	Anchorage, AK	$63.00	01/14/02	1
Walker, Helegard	Meetings	Lynchburg, VA	$48.30	01/14/02	2
Poole, Kelly	Official	Mamphis, TN	$57.00	01/14/02	1
Jablonka, Chris	Official	New Orleans, LA	$63.00	01/14/02	1
Faraley, Jennifer	Speaking Engagement	Sacramento, CA	$263.00	01/17/02	1
Carlson-Thies, Stanley	Speaking Engagement	Dallas, TX	$931.52	01/18/02	2
Jewett, Eric	Official	Portland, ME	$171.00	01/21/02	1
O'Brien	Official	Atlanta, GA	$247.00	01/25/02	6
Baralles, Ruben	Meetings	Manhattan, NY	$524.39	01/25/02	1
O'Keefe	Official	Winston-Salem. NC	$247.00	01/25/02	6
Berenson, Brad	Meetings	Lynchburg, VA	$51.10	01/28/02	2
Mollman, Marcus	Meetings	Salt Lake City, UT	$1,726.25	01/28/02	31
Carlson-Thies, Stanley	Speaking Engagement	Chicago, IL	$402.42	01/30/02	1
Newstead, Jennifer	Official	Lynchburg, VA	$52.93	01/30/02	2
Ecklekamp	Official	Salt Lake City, UT	$357.00	02/01/02	8
Hughes, William	Official	Salt Lake City, UT	$357.00	02/01/02	8

REV_00169424

Guiterrez	Official	Denver, C0	$229.00	02/04/02	4
Becker, Kathleen	Official	Jackson, WY	$453.78	02/04/02	6
Walker, Helegard	Meetings	Lynchburg, VA	$51.10	02/04/02	2
Jewett, Eric	Official	Milwaukee, WI	$231.00	02/06/02	5
Baralles, Ruben	Meetings	Albuquerque, NM	$605.78	02/07/02	3
Jablonka, Chris	Official	Denver, CO/Jackson, WY/ Idaho Falls, ID	$183.14	02/07/02	3
Brand, Rachel	Meetings	New Haven, CT	$223.61	02/07/02	1
Gottesman, Blake	Official	Waco, TX	$75.00	02/08/02	2
Ecklekamp	Official	Anchorage, AK	$535.50	02/11/02	8
Bartolomucci, H	Official	Lynchburg, VA	$54.93	02/11/02	1
Gonzales,Alberto	Speaking Engagement	Denver, CO	$41.00	02/12/02	1
Francisco, Noel	Official	Lynchburg, VA	$52.93	02/13/02	2
Spagnoli, Debra	Speaking Engagement	Naples, FL	$0.00	02/14/02	3
Walker, Helegard	Speaking Engagement	Charlottesville, VA	$87.60	02/16/02	1
Carlson-Thies, Stanley	Speaking Engagement	Dallas, TX	$667.00	02/18/02	1
Moss, Sarah	Official	Jackson, WY/Los Angeles, CA	$200.00	02/18/02	4
Baralles, Ruben	Meetings	Kansas City, KS	$650.57	02/18/02	1
Ciccone, Christie	Accompany a USG Delegation	Rome, ITA	$1,380.48	02/18/02	5
Baralles, Ruben	Meetings	Key West, FL	$1,720.82	02/21/02	3
Baralles, Ruben	Meetings	Las Vegas, NV	$426.01	02/21/02	2
Walker, Helegard	Meetings	Lynchburg, VA	$52.93	02/27/02	2
Spagnoli, Debra	Speaking Engagement	Los Angeles, CA	$339.00	02/28/02	2
Wendel, Matthew	Official	Camp David, MD	$75.00	03/01/02	2
Goeglein, Tim	Speaking Engagement	Hartford, CT	$77.00	03/01/02	1
Burke, John	Speaking Engagement	Jackson, MS	$10.00	03/01/02	4
Berenson, Brad	Meetings	Lynchburg, VA	$52.93	03/04/02	2
Wendel, Matthew	Official	Camp David, MD	$75.00	03/05/02	2
Bartolomucci, H	Official	Lynchburg, VA	$55.93	03/06/02	1
Hughes, Karen	Speaking Engagement	Palm Springs, CA	$1,113.92	03/07/02	1
Berenson, Brad	Meetings	Lynchburg, VA	$52.93	03/08/02	1
Colby, Chad	Official	Norfolk, VA	$209.66	03/08/02	3
Poole, Kelly	Official	Richmond, VA	$208.20	03/08/02	3
Harden, Alison	Official	Richmond, VA	$161.37	03/08/02	3
Hanusa, Mary Ann	Official	College Station, TX	$1,624.41	03/09/02	4
Chapman	Official	Fayetteville, NC	$153.00	03/11/02	4

REV_00169425

Francisco, Noel	Official	Lynchburg, VA	$52.93	03/11/02	2
Ecklekamp	Official	St. Louis, MO	$299.00	03/13/02	6
Zanca, Bruce	Meetings	Washington DC	$315.55	03/15/02	1
Langley	Official	El Paso, TX	$247.00	03/16/02	6
O'Keefe	Official	Atlanta, GA	$265.00	03/22/02	6
Brand, Rachael	Meetings	Cedar Rapids, IA	$445.20	03/24/02	1
Wendel, Matthew	Official	Austin, TX/Waco, TX	$201.00	03/25/02	6
Camp. Elizabeth	Official	Dallas, TX	$161.00	03/25/02	3
Sampson, Kyle	Official	Lynchburg, VA	$52.93	03/25/02	2
Godfrey, Georgia	Official	Atlanta, GA/Waco, TX/Greenville, SC	$135.00	03/27/02	4
Walker, Helegard	Meetings	Lynchburg, VA	$109.93	03/27/02	1
Thompson	Official	Philadelphia, Pa	$375.00	03/27/02	8
Gottesman, Blake	Official	Waco, TX	$135.00	03/27/02	4
Gottesman, Blake	Official	Waco, TX	$165.00	04/04/02	5
Gottesman, Blake	Official	Waco, TX	$135.00	04/04/02	4
Wendel, Matthew	Official	Waco, TX	$105.00	04/04/02	3
Heiligenstein, Anne	Meetings	Boston, MA	$330.82	04/05/02	1
Goeglein, Tim	Speaking Engagement	Orlando, FL/Tampa, FL	$935.14	04/06/02	2
Baralles, Ruben	Meetings	Knoxville, TN	$392.94	04/07/02	1
Baralles, Ruben	Meetings	Denver. CO/Las Vegas, NV	$426.01	04/11/02	2
Wendel, Matthew	Official	Camp David, MD	$135.00	04/12/02	4
Wendel, Matthew	Official	Camp David, MD	$75.00	04/12/02	2
Baralles, Ruben	Meetings	Boston, MA	$150.50	04/15/02	1
Berenson, Brad	Meetings	Lynchburg, VA	$52.93	04/15/02	2
Goeglein, Tim	Meetings	Manhattan, NY	$409.30	04/15/02	1
Carlson-Thies, Stanley	Speaking Engagement	Oakland, CA/Seattle, WA	$956.54	04/16/02	1
Francisco, Noel	Official	Lynchburg, VA	$52.93	04/17/02	2
Sampson, Kyle	Official	Lynchburg, VA	$52.93	04/17/02	2
Wendel, Matthew	Official	Camp David, MD	$75.00	04/19/02	6
Wendel, Matthew	Official	Austin, TX/Waco, TX	$264.00	04/23/02	4
Walker, Helegard	Official	Lynchburg, VA	$52.93	04/23/02	1
Deckard, Josh	Official	Los Angeles, CA/Waco, TX	$223.00	04/24/02	6
McClellan, Scott	Official	Los Angeles, CA/Waco, TX	$223.00	04/24/02	6
Christie, Ronald	Speaking Engagement	Jackson, MS	$453.78	04/26/02	1
Goeglein, Tim	Meetings	Philadelphia, PA	$384.00	04/26/02	1
Rove, Karl	Meetings	San Marcos, TX	$45.00	04/27/02	1
Bartolomucci, H	Official	Lynchburg, VA	$56.93	04/29/02	1
Spagnoli, Debora	Meetings	San Jose, CA	$521.50	04/29/02	1
Spagnoli, Debora	Meetings	Tampa, FL	$537.62	04/30/02	1
Wendel, Matthew	Official	Camp David, MD	$45.00	05/03/02	6

Towey, Jim	Speaking Engagement	Miami, FL	$697.17	05/07/02	1
Francisco, Noel	Official	Lynchburg, VA	$52.93	05/08/02	2
Wendel, Matthew	Official	Camp David, MD	$75.00	05/10/02	12
Johnson, Clay	Speaking Engagement	College Station, TX	$60.00	05/10/02	1
Alberto, Gonzales	Official	Houston, TX	$83.00	05/10/02	2
Sampson, Kyle	Official	Lynchburg, VA	$52.93	05/13/02	2
Benyon, Rebecca	Speaking Engagement	New Orleans, LA	$686.00	05/13/02	1
Walker, Helegard	Official	Lynchburg, VA	$52.93	05/15/02	1
Wendel, Matthew	Official	Camp David, MD	$75.00	05/17/02	1
Baralles, Ruben	Meetings	Manhattan, NY/Phoenix, AZ	$458.00	05/21/02	1
Towey, Jim	Speaking Engagement	Atlanta, GA	$679.02	05/23/02	1
Johnson, Clay	Speaking Engagement	Birmingham, AL	$134.00	05/25/02	2
Ozburn, Charles	Official	West Point, NY	$221.00	05/26/02	6
Bourns	Official	Little Rock, AR	$255.00	05/27/02	7
Francisco, Noel	Official	Lynchburg, VA	$58.93	05/27/02	2
Jewett, Eric	Official	Little Rock, AR	$187.00	05/29/02	5
Kuo, David	Speaking Engagement	Pittsburg, PA	$732.94	05/29/02	1
Alix, Cathy	Official	Philadelphia, Pa	$210.00	05/30/02	1
Goldman, Adam	Speaking Engagement	Albuquerque, NM/Las Vegas, NV/Los Angeles, CA	$605.50	05/31/02	10
Wendel, Matthew	Official	Camp David, MD	$75.00	05/31/02	6
Campbell, Thomas	Invitational	Washington, DC	$1,007.50	05/31/02	
Hughes, William	Official	Des Moines, IA	$187.00	06/02/02	5
Chapman	Official	Des Moines, IA	$187.00	06/02/02	5
Fleischer, Ari	Meetings	Manhattan, NY	$358.56	06/02/02	1
Newstead, Jennifer	Meetings	Lynchburg, VA	$52.93	06/03/02	2
Newstead, Jennifer	Official	Lynchburg, VA	$52.93	06/03/02	1
Whitelaw, Amy	Official	Kansas City, KS	$273.00	06/06/02	6
Wendel, Matthew	Official	Camp David, MD	$75.00	06/07/02	2
Bartolomucci, H	Official	El Paso, TX	$553.42	06/07/02	1
Baralles, Ruben	Speaking Engagement	Ft. Meyers, FL	$342.50	06/07/02	1
White, J	Speaking Engagement	Salt Lake City, UT	$368.00	06/10/02	1
Jewett, Eric	Official	Atlanta, GA	$247.00	06/11/02	6
Wendel, Matthew	Official	Crawford, TX	$331.00	06/11/02	6
Baralles, Ruben	Meetings	Los Angeles, CA/Modesto, CA	$922.53	06/12/02	3
Sampson, Kyle	Official	Lynchburg, VA	$52.93	06/12/02	2
Atkiss, Stephen	Official	Waco, TX	$165.00	06/12/02	5

REV_00169427

Francisco, Joel	Meetings	New Orleans, LA	$760.68	06/13/02	1
Brand, Rachael	Official	Minneapolis, MN	$878.00	06/14/02	1
Suncarger, Rachael	Official	Waco, TX	$105.00	06/14/02	3
McClellan, Scott	Official	Waco, TX	$105.00	06/14/02	3
Walker, Helegard	Official	Lynchburg, VA	$52.93	06/17/02	2
Baralles, Ruben	Meetings	Madison. WI	$456.00	06/17/02	1
Spagnoli, Debra	Speaking Engagement	Pittsburg, PA	$700.14	06/19/02	1
Benyon, Rebecca	Speaking Engagement	Brooklyn, NY	$148.50	06/21/02	1
White, J	Speaking Engagement	Charlotte, NC	$312.93	06/21/02	1
Spagnoli, Debora	Meetings	Phoenix, AZ/Scottsdale, AZ	$1,223.50	06/21/02	4
Farley, Jennifer	Official	Providence, RI	$238.80	06/22/02	1
Bartolomucci, H	Official	Lynchburg, VA	$57.93	06/24/02	1
Westline, Lezlee	Meetings	San Francisco, CA/Seattle, WA	$1,177.23	06/25/02	4
Francisco, Noel	Official	Lynchburg, VA	$58.93	06/26/02	2
Baralles, Ruben	Speaking Engagement	Albuquerque, NM	$622.02	06/27/02	2
Wendel, Matthew	Official	Crawford, TX	$185.00	06/28/02	2
Nelson, Carolyn	Official	Ripley, WV	$165.00	06/29/02	5
Bartolomucci, H	Official	Lynchburg, VA	$58.93	07/11/02	1
Wendel, Matthew	Official	Crawford, TX	$75.00	07/12/02	2
Ciliberti, Eric	Meetings	New Orleans, LA	$997.21	07/12/02	3
Spagnoli, Debra	Meetings	Boise, ID	$767.26	07/14/02	1
Baralles, Ruben	Meetings	New Orleans, LA	$690.07	07/14/02	1
Walker, Helegard	Official	Lynchburg, VA	$52.93	07/16/02	1
Hobbs, David	Meetings	London, GBR/FRA	$1,559.72	07/18/02	5
White, J	Speaking Engagement	Los Angeles, CA	$416.50	07/20/02	1
Evans, Kendell	Official	Charleston, SC	$273.00	07/23/02	6
Hill, David	Official	Charleston, SC	$273.00	07/23/02	6
White, J	Speaking Engagement	Cleveland, OH/Minneapolis, MN	$1,059.88	07/23/02	1
Ciliberti, Eric	Meetings	Denver, CO	$704.12	07/23/02	3
Baralles, Ruben	Meetings	Denver, CO/Orlando, FL	$944.57	07/23/02	2
Francisco, Noel	Official	Lynchburg, VA	$58.93	07/24/02	2
Thomas, Juileanne	Official	Manhattan, NY	$143.50	07/24/02	1
Goldman, Adam	Meetings	Atlanta, GA	$124.50	07/28/02	1
Heilglienstein, Ann	Meetings	MexicoCity, MEX	$1,076.36	07/28/02	3
Lineweaver, Lindsey	Official	Lubbock, TX	$215.00	07/29/02	6
Sampson, Kyle	Meetings	Lynchburg, VA	$52.93	07/29/02	2
Garrison, Sarah	Meetings	Boston, MA	$431.35	07/30/02	1
Baralles, Ruben	Meetings	Ausitn, TX	$398.00	08/01/02	1

Baralles, Ruben	Meetings	Austin, TX	$398.00	08/01/02	1
Beyer, Leslie	Official	Waco, TX	$405.00	08/01/02	13
Blaylock, Kirk	Official	Waco, TX	$45.00	08/01/02	1
Baralles, Ruben	Speaking Engagement	Hershey, PA	$209.00	08/03/02	1
Sampson, Kyle	Official	Lynchburg, VA	$52.93	08/05/02	2
Deservi, Robert	Meetings	Manhattan, NY	$564.00	08/05/02	2
Baralles, Ruben	Meetings	Ft Lauderdale, FL	$638.00	08/06/02	2
Baralles, Ruben	Meetings	Orlando, FL	$1,080.50	08/06/02	3
Dickens, Reed	Official	Waco, TX	$555.00	08/06/02	18
McClellan, Scott	Official	Waco, TX	$225.00	08/06/02	7
Beyer, Leslie	Official	Waco, TX	$315.00	08/06/02	10
Jablonka, Chris	Official	Waco, TX	$410.79	08/11/02	14
Dayspring, Brad	Official	Des Moines, IA	$59.50	08/13/02	2
Ciliberti, Eric	Conference Attendance	New Orleans, LA	$561.13	08/13/02	1
Garrison, Sarah	Official	Waco, TX	$75.00	08/13/02	2
Towey, Jim	Speaking Engagement	Charleston, WV	$827.27	08/15/02	1
McArthur, David	Official	Waco, TX	$315.00	08/15/02	10
Dayspring, Brad	Official	Waco, TX	$525.00	08/15/02	17
Bilbao, Thomas	Official	Las Cruces, NM	$195.00	08/19/02	6
Echols, Sarah	Official	Las Cruses, NM	$165.00	08/19/02	5
Alberto, Gonzales	Official	Monterey, CA	$605.00	08/19/02	11
Calio, Nicholas	Official	Hanoi, VIE/Honolulu, HI	$1,960.34	08/20/02	11
Pitts, Greg	Official	Las Cruces, NM	$165.00	08/20/02	5
White, J	Speaking Engagement	Ft. Lauderdale, FL	$658.79	08/25/02	1
Towey, Jim	Speaking Engagement	Memphis, TN	$1,043.05	08/28/02	1
Towey, Jim	Speaking Engagement	Philadelphia, PA	$225.25	08/28/02	1
Ellis, Joe	Official	Louisville, KY	$285.00	08/29/02	7
Slade, Winfield	Official	Louisville, KY	$285.00	08/29/02	7
Fificos, George	Official	Louisville, KY	$358.22	08/30/02	6
Pfeifle, Lauren	Official	South Bend, IN	$221.00	08/30/02	6
Krenan, Robert	Official	South Bend, IN	$221.00	08/30/02	6
Leadroot, Phil	Official	South Bend, IN	$221.00	08/30/02	6
Walters Greg	Official	Minneapolis, MN	$69.00	09/02/02	1
White, J	Speaking Engagement	Manhattan, NY/Kansas City, KS	$959.66	09/03/02	2
Towey, Jim	Speaking Engagement	Naples, FL/Orlando, FL	$1,025.63	09/03/02	2
Newstead, Jennifer	Meetings	Lynchburg, VA	$52.93	09/04/02	2
Sforza, Scott	Meetings	Manhattan, NY	$437.00	09/04/02	9
Christie, Ronald	Speaking Engagement	Manhattan, NY	$226.70	09/05/02	1

REV_00169429

Hagin, Joseph	Official	Manhattan, NY	$892.00	09/08/02	1
Pfeifle, Lauren	Official	Pittsburg, PA	$69.00	09/10/02	1
Leadroot, Phil	Official	Pittsburg, PA	$69.00	09/10/02	1
Sampson, Kyle	Official	Lynchburg, VA	$52.93	09/11/02	2
Ellis, Joe	Official	Davenport, IA	$135.00	09/12/02	4
Gonzales, Alberto	Meetings	Austin, TX	$276.00	09/13/02	2
Kozberg, Lindsey	Meetings	Los Angeles, CA	$520.31	09/13/02	1
Deckard, Josh	Official	Pittsburg, PA	$34.50	09/13/02	1
Walker, Helegard	Official	Lynchburg, VA	$58.93	09/16/02	2
White, J	Speaking Engagement	Baltimore, MD	$43.29	09/19/02	1
Ciliberti, Eric	Speaking Engagement	Cedar Rapids, IA	$317.00	09/19/02	1
Baralles, Ruben	Speaking Engagement	Chicago, IL	$458.88	09/20/02	1
Towey, Jim	Speaking Engagement	Wintergreen, VA	$203.14	09/20/02	2
Towey, Jim	Speaking Engagement	Columbus, OH	$369.50	09/23/02	1
Burke, John	Official	Milwaukee, WI	$626.29	09/23/02	1
Francisco, Noel	Official	Lynchburg, VA	$58.93	09/25/02	2
Goeglein, Tim	Speaking Engagement	Orange County, CA	$42.00	09/25/02	2
sechser, Scott	Official	Waco, TX	$466.50	09/25/02	1
White, J	Speaking Engagement	Raleigh, NC	$499.38	09/26/02	1
Kuo, David	Speaking Engagement	Pittsburg, PA	$872.83	09/27/02	2
Kelly, Jim	Speaking Engagement	Boston, MA	$257.92	09/28/02	1
Bridgeland, John	Speaking Engagement	Manhattan, NY	$39.70	09/30/02	1
DeServi, Robert	Official	San Francisco, CA	$1,306.54	10/15/02	3
		Total	**$98,605.86**		

White House Office FY 2003 Staff Travel					
TRAVELER	**PURPOSE**	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Westine, Lezlee	Meeting	Manhattan,NY	$345.10	10/01/02	1
Ciliberti, Eric	Meeting	Chicago, IL	$327.30	10/02/02	1
Burke, John	Speaking Engagement	Columbus, OH	$434.21	10/02/02	1
Francisco, Noel	Speaking Engagement	Syracuse, NY	$700.50	10/04/02	3

Christie, Ronald	Speaking Engagement	Atlanta, GA	$626.00	10/05/02	2
Samson, Kyle	Official	Lynchburg, VA	$52.93	10/07/02	2
Beynon, Rebecca	Speaking Engagement	Orlando, FL	$1,708.38	10/07/02	4
Stecher, Jennifer	Meeting	Atlanta, GA	$1,105.34	10/08/02	3
Barrales, Ruben	Speaking Engagement	Portsmouth, NH	$365.00	10/08/02	1
Hawkins, Albert	Meeting	Hague	$1,817.68	10/09/02	4
Kuo, David	Meeting	Atlanta, GA	$880.36	10/09/02	2
Ryun, Catherine	Meeting	Atlanta, GA	$893.36	10/09/02	2
Towey, Jim	Meeting	Atlanta, GA	$336.93	10/09/02	1
Click, Carrie	Meeting	Atlanta, GA	$1,001.35	10/09/02	2
Streeter, Ryan	Meeting	Atlanta, GA	$937.28	10/09/02	2
Ayyar, Balan	Meeting	Atlanta, GA	$893.36	10/09/02	2
White, Jeremy	Meeting	Atlanta, GA	$659.58	10/09/02	2
Ciliberti, Eric	Speaking Engagement	Sioux Falls Naval, SD	$722.96	10/09/02	2
Zanca, Bruce	Meeting	Washington, DC	$95.50	10/09/02	1
Kozberg, Lindsey	Meeting	Manhattan,NY	$164.10	10/10/02	1
Garrison, Stephen	Meeting	Naples, FL	$819.61	10/10/02	1
Bridgeland, John	Speaking Engagement	Ft. Lauderdale, FL	$1,010.59	10/10/02	1
Rowe, Ian	Speaking Engagement	Ft. Lauderdale, FL	$838.72	10/10/02	1
Burke, John	Speaking Engagement	Milwaukee, WI	$553.75	10/13/02	1
Sforza, Scott	Meeting	Daytona Beach, FL	$826.00	10/14/02	3
Bartolomucci, Chris	Official	Lynchburg, VA	$52.93	10/16/02	2
Towey, Jim	Meeting	Manhattan,NY	$448.06	10/17/02	1
Barrales, Ruben	Meeting	Philadelphia, PA	$188.00	10/17/02	1
Smith, Matthew	Meeting	Manhattan,NY	$445.38	10/17/02	1
Goeglein, Tim	Speaking Engagement	Indianapolis, IN	$58.00	10/17/02	1
Gonzales, Alberto	Speaking Engagement	Atlanta, GA	$41.00	10/19/02	1
Click, Carrie	Speaking Engagement	San Antonio, TX	$571.71	10/20/02	1
Ciliberti, Eric	Meeting	Des Moines, IA	$1,111.05	10/20/02	2

Francisco, Noel	Official	Lynchburg, VA	$58.93	10/21/02	2
Sechser, Scott	Official	Waco, TX	$934.65	10/22/02	1
Newstead, Jennifer	Meeting	Lynchburg, VA	$52.93	10/23/02	1
Goeglein, Tim	Meeting	Chicago, IL	$94.00	10/23/02	1
Towey, Jim	Speaking Engagement	St. Louis, MO	$773.64	10/24/02	1
White, Jeremy	Speaking Engagement	Los Angeles, CA	$667.83	10/24/02	2
Bridgeland, John	Meeting	Charlotte, NC	$976.47	10/24/02	1
Barrales, Ruben	Meeting	Los Angeles, CA	$385.50	10/24/02	1
Francisco, Noel	Official	Lynchburg, VA	$58.93	10/28/02	2
Towey, Jim	Meeting	Charlotte, NC	$823.42	10/28/02	1
Rowe, Ian	Meeting	Cleveland, OH	$818.17	10/28/02	2
Barrales, Ruben	Meeting	Providence, RI	$0.00	10/28/02	1
Towey, Jim	Speaking Engagement	Pittsburgh, PA	$758.56	10/29/02	1
Sechser, Scott	Official	Waco, TX	$888.79	10/31/02	1
Towey, Jim	Meeting	Miami, FL	$799.27	11/05/02	1
Contreras, Rebecca	Meeting	West Point, NY	$442.41	11/07/02	2
Kozberg, Lindsey	Meeting	Providence, RI	$677.18	11/07/02	1
Bridgeland, John	Speaking Engagement	Providence, RI	$698.18	11/07/02	1
Barrales, Ruben	Speaking Engagement	Los Angeles, CA	$785.40	11/07/02	3
Johnson, Clay	Meeting	Manhattan,NY	$139.50	11/08/02	1
Farley, Jennifer	Speaking Engagement	San Diego, CA	$230.81	11/10/02	1
Ciliberti, Eric	Speaking Engagement	Reno, NV	$831.97	11/11/02	2
Bartolomucci, Chris	Official	Lynchburg, VA	$52.93	11/12/02	1
Berenson, Bradford	Official	Lynchburg, VA	$52.93	11/13/02	1
Burke, John	Meeting	Charlotte, NC	$776.00	11/13/02	1
Kelly, Jim	Speaking Engagement	Lansing, MI	$438.79	11/13/02	1
Barrales, Ruben	Speaking Engagement	Manchester, NH	$463.00	11/13/02	1
Towey, Jim	Speaking Engagement	Portland, OR	$705.10	11/14/02	2
Spagnoli, Deborah	Meeting	Austin, TX	$1,006.00	11/16/02	14
Spagnoli,	Meeting	Austin, TX	$995.47	11/16/02	14

Deborah					
Christie, Ronald	Speaking Engagement	Albany, NY	$752.56	11/18/02	1
Ciliberti, Eric	Speaking Engagement	Portland, OR	$410.50	11/18/02	1
Towey, Jim	Speaking Engagement	Newark, NJ	$520.92	11/19/02	1
Rowe, Ian	Meeting	Manhattan,NY	$325.02	11/20/02	2
Kelly, Jim	Speaking Engagement	Tallahassee, FL	$453.79	11/20/02	1
Burke, John	Speaking Engagement	Concord, NH	$1,040.22	11/20/02	2
Bridgeland, John	Meeting	Manhattan,NY	$157.50	11/21/02	1
Barrales, Ruben	Meeting	Los Angeles, CA	$683.49	11/21/02	3
Brancato, Keith	Meeting	Loudoun County, VA	$17.16	11/21/02	1
Bartolomucci, Chris	Speaking Engagement	West Palm Beach, FL	$661.45	11/22/02	2
Ciliberti, Eric	Speaking Engagement	Springfield, MO	$619.13	11/24/02	1
Goldman, Adam	Speaking Engagement	Ft. Lauderdale, FL	$129.00	11/24/02	1
Garrison, Stephen	Meeting	Manhattan,NY	$454.36	11/25/02	1
Bridgeland, John	Speaking Engagement	Manhattan,NY	$369.50	11/25/02	1
Sechser, Scott	Official	Waco, TX	$913.45	11/25/02	1
Kelly, Jim	Speaking Engagement	Hershey, PA	$107.18	11/26/02	1
Burke, John	Meeting	New Orleans, LA	$1,254.32	12/01/02	4
Spagnoli, Deborah	Official	Ft. Lauderdale, FL	$1,242.99	12/01/02	4
Ralston, Susan	Official	Manhattan,NY	$85.00	12/02/02	1
Kelly, Jim	Speaking Engagement	Augusta Naval Ctr, ME	$815.35	12/02/02	1
Bartolomucci, Chris	Official	Jacksonville, Fl	$616.00	12/03/02	1
Ciliberti, Eric	Speaking Engagement	Pensacola, FL	$436.00	12/03/02	1
Towey, Jim	Speaking Engagement	Tallahassee, FL	$559.31	12/04/02	2
Kelly, Jim	Speaking Engagement	Lexington, KY	$390.00	12/04/02	1
Stecher, Jennifer	Meeting	Philadelphia, PA	$259.50	12/06/02	1

REV_00169433

Goeglein, Tim	Speaking Engagement	Ft. Wayne, IN	$53.50	12/06/02	1
Barrales, Ruben	Speaking Engagement	Richmond, VA	$104.50	12/07/02	1
Kavanaugh, Brett	Meeting	Manhattan,NY	$293.74	12/09/02	1
Francisco, Noel	Official	Lynchburg, VA	$52.93	12/09/02	1
Stecher, Jennifer	Meeting	Philadelphia, PA	$979.38	12/09/02	4
Kelly, Jim	Speaking Engagement	Nashville, TN	$575.00	12/09/02	1
Newstead, Jennifer	Meeting	Manhattan,NY	$216.60	12/10/02	1
Ciliberti, Eric	Speaking Engagement	Duluth,, MN	$675.28	12/10/02	1
Newstead, Jennifer	Official	Lynchburg, VA	$52.93	12/11/02	2
Streeter, Ryan	Meeting	Philadelphia, PA	$407.52	12/11/02	1
White, Jeremy	Meeting	Philadelphia, PA	$360.02	12/11/02	1
Click, Carrie	Meeting	Philadelphia, PA	$423.52	12/11/02	1
Ryun, Catherine	Meeting	Philadelphia, PA	$399.86	12/11/02	1
Kuo, David	Speaking Engagement	Philadelphia, PA	$370.02	12/11/02	1
Kuo, David	Speaking Engagement	Philadelphia, PA	$216.00	12/11/02	1
Christie, Ronald	Meeting	Indianapolis, IN	$803.40	12/11/02	1
Rowe, Ian	Meeting	Norfolk, VA	$775.50	12/17/02	1
Bartolomucci, Chris	Meeting	West Palm Beach, FL	$123.51	12/20/02	8
Samson, Kyle	Meeting	Salt Lake City, UT	$949.00	01/01/03	3
Deservi, Robert	Official	Chicago, IL	$311.00	01/02/03	5
Kelly, Jim	Official	Reno, NV	$1,133.11	01/05/03	3
Burke, John	Official	Chicago, IL	$662.22	01/05/03	2
Goldman, Adam	Meeting	Manhattan,NY	$439.36	01/07/03	1
Barrales, Ruben	Meeting	Augusta Naval Ctr, ME	$605.49	01/08/03	1
Farley, Jennifer	Meeting	Albuquerque, NM	$778.68	01/09/03	5
Stecher, Jennifer	Meeting	Denver, CO	$1,102.60	01/10/03	4
Deservi, Robert	Meeting	Tampa, FL	$511.00	01/11/03	1

REV_00169434

Sforza, Scott	Meeting	Tampa, FL	$435.00	01/11/03	1
Beynon, Rebecca	Meeting	Denver, CO	$1,442.21	01/11/03	3
Kuo, David	Meeting	Denver, CO	$1,269.14	01/12/03	2
Streeter, Ryan	Meeting	Denver, CO	$660.64	01/12/03	2
Click, Carrie	Meeting	Denver, CO	$713.14	01/12/03	2
White, Jeremy	Meeting	Denver, CO	$902.07	01/12/03	1
Ayyar, Balan	Meeting	Denver, CO	$667.14	01/12/03	2
Towey, Jim	Meeting	Denver, CO	$1,082.49	01/12/03	1
Barrales, Ruben	Meeting	Salem Naval Ctr, OR	$370.00	01/12/03	1
Samson, Kyle	Official	Lynchburg, VA	$52.93	01/15/03	2
Goeglein, Tim	Meeting	Manhattan,NY	$105.00	01/19/03	1
Gonzales, Alberto	Speaking Engagement	Austin, TX	$83.00	01/20/03	2
Bartolomucci, Chris	Official	Lynchburg, VA	$52.93	01/21/03	1
Samson, Kyle	Meeting	Manhattan,NY	$496.97	01/21/03	1
Ciliberti, Eric	Speaking Engagement	Des Moines, IA	$416.04	01/21/03	1
Barrales, Ruben	Speaking Engagement	Oakland, CA	$0.00	01/23/03	2
Towey, Jim	Speaking Engagement	Chicago, IL	$940.07	01/26/03	2
Click, Carrie	Speaking Engagement	Norfolk, VA	$474.88	01/26/03	1
Samson, Kyle	Meeting	Manhattan,NY	$1,381.21	01/28/03	3
Rowe, Ian	Meeting	Las Vegas, NV	$804.11	01/31/03	3
Goeglein, Tim	Meeting	Manhattan,NY	$404.70	02/03/03	1
Goeglein, Tim	Meeting	Manhattan,NY	$106.50	02/03/03	1
Towey, Jim	Speaking Engagement	Boston, MA	$575.79	02/06/03	1
Smith, Matthew	Meeting	Nashville, TN	$635.50	02/09/03	1
Walker, Helgard	Official	Lynchburg, VA	$52.93	02/10/03	2
Kelly, Jim	Speaking Engagement	Little Rock, AR	$875.33	02/10/03	1
Towey, Jim	Meeting	Tallahassee, FL	$562.25	02/11/03	1
Stecher, Jennifer	Meeting	San Diego, CA	$894.88	02/13/03	6
Ryun, Catherine	Conference Attendance	San Diego, CA	$950.32	02/15/03	4
Beynon, Rebecca	Speaking Engagement	San Diego, CA	$1,758.60	02/15/03	4
Bridgeland, John	Meeting	Cincinnati, OH	$512.10	02/19/03	3
Powell, Ben	Meeting	Montgomery, AL	$607.11	02/20/03	1

REV_00169435

White, Jeremy	Speaking Engagement	Baton Rouge, LA	$968.15	02/20/03	1
Francisco, Noel	Meeting	Lynchburg, VA	$52.93	02/24/03	2
Kelly, Jim	Meeting	Santa Fe, NM	$823.57	02/24/03	2
White, Jeremy	Speaking Engagement	Houston, TX	$746.84	02/27/03	1
Christie, Ronald	Meeting	Miami, FL	$785.37	02/27/03	3
Barrales, Ruben	Meeting	Portland, OR	$0.00	02/28/03	2
Watkins, Peter	Meeting	Newport News, VA	$63.00	03/05/03	1
Samson, Kyle	Official	Lynchburg, VA	$52.93	03/05/03	1
Towey, Jim	Speaking Engagement	Minneapolis, MN	$745.00	03/06/03	1
Everson, Nannette	Meeting	King of Prussia, PA	$773.94	03/10/03	2
White, Jeremy	Speaking Engagement	Raleigh, NC	$348.85	03/11/03	1
Beynon, Rebecca	Meeting	Chicago, IL	$804.20	03/12/03	4
Stecher, Jennifer	Meeting	Chicago, IL	$757.06	03/12/03	2
Graham, Heather	Meeting	Philadelphia, PA	$341.00	03/12/03	2
White, Jeremy	Meeting	Chicago, IL	$365.72	03/13/03	1
Towey, Jim	Meeting	Chicago, IL	$476.20	03/13/03	1
Streeter, Ryan	Meeting	Chicago, IL	$431.10	03/13/03	1
Ryun, Catherine	Meeting	Chicago, IL	$452.15	03/13/03	1
Ayyar, Balan	Meeting	Chicago, IL	$453.10	03/13/03	1
Grace, Dennis	Meeting	Chicago, IL	$427.10	03/13/03	1
Loovis, Katie	Meeting	Chicago, IL	$391.50	03/14/03	1
Bridgeland, John	Speaking Engagement	Charlottesville, VA	$155.87	03/14/03	1
Kelly, Jim	Speaking Engagement	Montgomery, AL	$576.37	03/14/03	1
White, Jeremy	Speaking Engagement	Charlotte, NC	$868.87	03/16/03	1
Bridgeland, John	Speaking Engagement	Columbus, OH	$279.50	03/17/03	1
Francisco, Noel	Official	Lynchburg, VA	$52.93	03/19/03	2
White, Jeremy	Speaking Engagement	Harford County, MD	$12.25	03/21/03	1
White, Jeremy	Speaking Engagement	Atlanta, GA	$281.50	03/24/03	1
Beynon, Rebecca	Meeting	Philadelphia, PA	$198.00	03/25/03	1

REV_00169436

Graham, Heather	Meeting	Philadelphia, PA	$241.50	03/25/03	1
Bridgeland, John	Meeting	Philadelphia, PA	$201.00	03/25/03	1
Burke, John	Meeting	Lansing, MI	$438.50	03/25/03	1
Samson, Kyle	Official	Lynchburg, VA	$52.93	03/26/03	2
Towey, Jim	Speaking Engagement	Princeton, NJ	$329.88	03/26/03	1
Ciliberti, Eric	Speaking Engagement	Columbus, OH	$891.00	03/26/03	1
Christie, Ronald	Speaking Engagement	Jackson, MS	$498.57	03/27/03	1
Kelly, Jim	Meeting	Las Vegas, NV	$1,096.72	03/27/03	2
Towey, Jim	Speaking Engagement	Los Angeles, CA	$527.61	03/29/03	1
Kuo, David	Speaking Engagement	Pittsburgh, PA	$735.76	03/29/03	2
Powell, Ben	Official	Lynchburg, VA	$52.93	03/31/03	2
Bartolomucci, Chris	Official	Lynchburg, VA	$52.93	04/02/03	2
Towey, Jim	Meeting	Manhattan,NY	$166.00	04/02/03	1
Christie, Ronald	Speaking Engagement	Nashville, TN	$756.88	04/03/03	1
Kelly, Jim	Official	Philadelphia, PA	$84.71	04/03/03	1
Lyons, Therese	Speaking Engagement	Atlantic City, NJ	$231.16	04/04/03	1
Towey, Jim	Speaking Engagement	Tallahassee, FL	$547.29	04/06/03	2
Burke, John	Speaking Engagement	Hershey, PA	$221.14	04/06/03	1
Stecher, Jennifer	Meeting	Houston, TX	$806.00	04/08/03	1
White, Jeremy	Speaking Engagement	Albuquerque, NM	$469.88	04/08/03	1
Gonzales, Alberto	Speaking Engagement	Denver, CO	$38.50	04/11/03	1
Ojaklu, Zaid	Official	Elmendorf, AK	$2,998.75	04/12/03	7
White, Jeremy	Speaking Engagement	Detroit, MI	$965.87	04/13/03	3
Deservi, Robert	Meeting	St. Louis, MO	$759.00	04/14/03	2
Barrales, Ruben	Speaking Engagement	Jefferson City, MO	$749.00	04/14/03	1
Bridgeland, John	Meeting	Manhattan,NY	$630.67	04/15/03	1
Recher, Jason	Meeting	Dayton, OH	$365.00	04/22/03	2
Guerra, Abel	Official	San Jose, CA	$633.79	04/22/03	2
Burke, John	Speaking Engagement	Houston, TX	$510.91	04/23/03	1

REV_00169437

Towey, Jim	Speaking Engagement	Atlanta, GA	$409.35	04/24/03	1
White, Jeremy	Speaking Engagement	Houston, TX	$1,080.35	04/24/03	2
Kelly, Jim	Meeting	Albuquerque, NM	$685.70	04/24/03	2
Towey, Jim	Speaking Engagement	Bridgeport, CT	$642.50	04/27/03	1
Ralston, Susan	Meeting	Chicago, IL	$50.00	05/01/03	2
Beynon, Rebecca	Speaking Engagement	Baton Rouge, LA	$800.85	05/05/03	1
White, Jeremy	Speaking Engagement	Portland, OR	$410.29	05/05/03	1
		Travel	**$117,171.05**		

Office of the Vice President FY 2002 Staff Travel					
TRAVELER	**PURPOSE**	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Ravich, Samantha	Meetings	London, GBR	$2,124.92	07/14/02	3
Yates, Stephen	Official	Monterey, CA	$887.90	07/15/02	2
		Total	**$3,012.82**		

Office of the Vice President FY 2003 Staff Travel					
PURPOSE/ Traveler	**PURPOSE**	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Makiya, Kenan	Invitational	Washington DC	$778.00	10/18/02	1
Ravich, Samantha	Meetings	London, GBR	$2,124.92	10/09/02	3
Ravich, Samantha	Meetings	London, GBR	$1,929.74	12/12/02	4
Addington, David	Meetings	Manhattan, NY	$37.50	01/15/03	1
McGrath, Dean	Official	Raleigh, NC	$338.41	04/10/03	1
		Total	**$5,208.57**		

Consulting Services (POC – Kathleen O'Halloran)

QUESTION 53: Updating the information on page 115 of last year's hearing record, please provide actual and estimated amounts for consulting services for fiscal years 2002 through 2004.

REV_00169438

RESPONSE: "Consulting services" or "Advisory and Assistance Services" as defined by OMB Circular A-11, Section 83, are services acquired by contract from non-Federal sources (that is, the private sector, foreign governments, State and local governments, tribes), as well as from other units within the Federal Government and consists of three types of services: 1) Management and professional support services; 2) Studies, analyses and evaluation; and 3) Engineering and technical services. Listed below are the EOP and other entities with Advisory and Assistance contracts.

White House Office
FY 2002 (Actual)
There were no advisory and assistance contracts for the White House Office.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the White House Office.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Office of Homeland Security/PCIPB
FY2002 (Actual)
1. $25,140 for independent information technology expertise. Deliverables include access to technical reports and analysis and recommendations. The period of performance is from September 2002 through August 2003.

Office of Administration
FY 2002 (Actual)
1. $1,083,308 for assistance in developing plans, technical architecture and disaster recovery for the relocation of the EOP data center. Deliverables include baseline assessment and analyses, business continuity and disaster recovery plan, data center design requirements report, phased planning, migration and implementation development plan, relocation and implementation plan, final recommendations and a report. The contract was awarded in March 2002 with a performance period through June 2003.

2. $748,988 for assistance in developing an enterprise architecture to incorporate and support the strategic IT vision, goals and objectives of the OA and the EOP. Deliverables include assistance and analysis as follows: critical information shortfall, impact, and trade-off analysis, concept of operations, architecture and enterprise architecture system toolsets, baseline definitions, report results for demonstration of architecture sustainment, and target technical architecture and migration plan. The contract was awarded January 2002 with a period of performance through December 2002 and permitted options to extend performance.

REV_00169439

3. $48,050 for training, consulting and editing support for EOP/CFO policies regarding financial statements, prompt payment, travel, and transportation act, interagency agreements and portal to portal documents. Deliverables include training materials and conduct of training, formatted and edited documents. The contract was awarded July 2002 and ran through March 2003.

FY 2003 as of May 15, 2003

1. $406,695 for continued assistance in developing an enterprise architecture to incorporate and support the strategic IT vision, goals and objectives of the OA and the EOP. Deliverables include assistance and analysis as follows: critical information shortfall, impact, and trade-off analysis, concept of operations, architecture and enterprise architecture system toolsets, baseline definitions, report results for demonstration of architecture sustainment, and target technical architecture and migration plan. The contract was amended in January and May 2003 to exercise the option to extend performance and funded through September 2003.

2. $149,968 for consultant services to help configure IT storage products and perform data migration and setup. Deliverables include recommendations concerning management and long term strategy for operating and planning architecture along with execution of the infrastructure support. The contract was awarded in May 2003 with a period of performance running through November 2003.

3. $60,000 for assistance in designing a new performance management system for the Office of Administration in order to improve dialogue between manager and employee. Deliverables included recommended performance evaluation system and form as well as training. The contract was awarded in December 2002 with a performance period ending March 2003.

4. $49,800 for consulting services of an electrical engineer. Deliverables included conceptual designs, drawings and specifications, suggested project schedules and cost estimates. The contract was awarded in May 2003 with a period of performance through June 2003.

5. $25,750 for assistance in writing a statement of work for the EOP telephone contract recompete. Deliverables include recommended draft language for technical requirements to be incorporated into the solicitation. The contract was awarded in November 2002 with the period of performance through December 2002.

6. $47,040 for independent information technology expertise. Deliverables include access to technical reports and analysis and recommendations. The period of performance is from September 2003 through August 2004.
7. $936,000 for IT engineering and technical support services. Deliverables include studies and technical evaluations, analyses, recommendations and reports. The period of performance is from May 2003 through April 2004.

REV_00169440

8. $1,400,000 anticipated for engineering, technical services and consulting for new IT systems design and implementation.

9. $300,000 anticipated for IT studies and evaluations.

10. $130,000 anticipated to assist CFO with auditing issues.

11. $50,000 anticipated to develop an asset management system.

FY 2004 Request

1. $2,300,000 anticipated for engineering, technical services and consulting for new IT systems design and implementation.

2. $1,600,000 anticipated for IT studies and evaluations.

3. $110,000 anticipated to continue development of an asset management system.

4. $390,000 anticipated to assist CFO with auditing issues.

5. $50,000 anticipated for continued independent information technology expertise.

Office of Management and Budget
FY 2002 (Actual)
1. $39,570 for independent information technology expertise. Deliverables include access to technical reports and analysis and recommendations. The period of performance is from September 2002 through August 2003.

FY 2003 as of May 15, 2003

1. $22,500 anticipated for independent information technology expertise. Deliverables include access to technical reports as well as customized analysis and recommendations. The period of performance is from September 2003 through August 2004.

FY 2004 Request

1. $22,500 anticipated for continued independent information technology expertise planned for FY 2004.

Office of National Drug Control Policy
FY 2002 (Actual)
l. $24,225 for assessment and analysis and recommendations concerning performance plans, organizational goals and objectives. Deliverables include meeting summaries, briefing materials and monthly progress report and report with base-line assessment,

REV_00169441

recommendations and expected results. The period of performance is from June 2002 through September 2002.

2. $104,387 for organizational effectiveness assessment and analysis. Deliverables include meeting summaries, briefing materials and monthly progress reports, a final report and recommendations and expected results. The period of performance was from June 2002 through November 2002.

3. $150,000 for design of a program performance monitoring system for OCDETF/DIDTA program. Deliverables include meeting summaries, briefing materials, monthly progress reports, summary of program elements for measurement, draft and final reports. The period of performance was from April 2002 through October 2002.

FY 2003 as of May 15, 2003

1. $29,411 for assistance with developing a strategic human capital plan. Deliverables include development of a management plan, a workforce profile and assessment of drivers, capacity and gaps, assessment and recommendations and a strategic human capital report. The period of performance is from February 2003 through March 2003.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Council of Economic Advisers
FY 2002 (Actual)
1. $13,631 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from December 2001 to February 2002.

FY 2003 as of May 15, 2003
1. $14,276 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from December 2002 to February 2002.

FY 2004 Request
1. $15,000 estimated for editorial services for the Economic Report of the President. The consultant will provide expertise in editing the final publication. It is anticipated that the contract will last from December 2003 to February 2004.

Council on Environmental Quality
FY 2002 (Actual)
There were no advisory and assistance contracts for the Council on Environmental Quality.

REV_00169442

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the Council on Environmental Quality.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Office of the United States Trade Representative
FY 2002 (Actual)
1. $6,600 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.
2. $5,000 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.
3. $1,980 for expert advice in area of personnel law. Deliverables include legal research, analysis and opinions. Period of performance was from July 2002 through September 2002

FY 2003 as of May 15, 2003

1. $10,000 for expert advice in the area of personnel law on an as-needed basis. Deliverables include legal research papers and recommendations. The contract was awarded for the period October 1, 2002 through September 30, 2003.

2. $10,000 for speech-writing services on an as-needed basis. Deliverables include draft speeches. The contract was awarded for the period May 2003 through September 2003.

FY 2004 Request

1. $10,000 for expert advice in the area of personnel law on an as-needed basis.

Office of Science and Technology Policy
FY 2002 (Actual)

1. $200,000 for independent evaluation of the integration of a variety of biometric identification system design options. Deliverables included a comprehensive report on the evaluation of technical options, sound design principles, testing procedures, interoperability issues as well as identification of implementation and procurement issues. The contract was awarded July 2002 with a completion date of October 2002 but the contract completion date was extended through December 2002. This contract was not funded with OSTP funds but by the Immigration and Naturalization Service.

REV_00169443

FY 2003 as of May 15, 2003

1. $300,000 for assistance in implementing a biometric identification system. Deliverables include analysis of NEXUS border technologies and international standards coordination. The contract is anticipated by June 2003 with an anticipated expiration date of June 2005. This contract was not funded with OSTP funds but by the Immigration and Naturalization Service (DHS).

FY 2004 Request

1. $125,000 for assistance with OSTP's National Security/Emergency Preparedness communications responsibilities.

National Security Council
FY 2002 (Actual)
There were no advisory and assistance contracts for the National Security Council.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the National Security Council.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Office of the Vice President
FY 2002 (Actual)

There were no advisory and assistance contracts for the Office of the Vice President.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the Office of the Vice President.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

REV_00169444

Freedom Corps (POC – Eric Lanman)

QUESTION 54: Please provide EOP budgeted funding for the Freedom Corps for fiscal years 2002 through 2004.

RESPONSE: The funding profile for the USA Freedom Corps from its inception through FY 2004 is as follows:

(Dollars in thousands) Category	FY02 Actual	FY03 Request	OA Pilot	FY03 Recission	FY03 Enacted	FY04 Estimate
Personnel	420	800	0	0	800	827
Travel	6	600	0	-330	270	102
Rent	99	0	0	0	0	157
Comm, Util & Misc	0	0	0	0	0	25
Printing & Reproduction	0	0	0	0	0	225
Other Services	0	1,200	-289	0	911	926
Supplies & Materials	0	0	0	0	0	9
Equipment	0	0	0	0	0	9
Total	525	2,600	-289	-330	1,981	2,280

Note: As part of a pilot program authorized by Congress in fiscal year 2003, general support costs such as rent, supplies, printing, information technology, etc., are centrally managed and charged against the Office of Administration.

QUESTION 55: Please provide a breakdown of the FY 2004 request for the Freedom Corps, and a brief description of the work to be accomplished under each item.

RESPONSE: The FY 2004 WHO request includes funding for the following USA Freedom Corps requirements.

Personnel: This category provides funding for the cost of the salaries and benefits for the staff of the USA Freedom Corps. The FY 2004 WHO request included $827,000 for this category.

Travel: The USA Freedom Corps office staff members are frequent travelers and often work at the national, state and local levels with organizations.~~, especially in organizing the Citizen Corps across the country~~ In addition, the Director of the USA Freedom Corps or the appropriate staff is required to address gatherings at national conferences, and of state and local officials in order to disseminate information about the President's Call to Service and the activities coordinated by the USA Freedom Corps.~~ and answer questions relating to the organization of USA Freedom Corps activities at the local level.~~ The FY 2004 WHO request included $102,000 for this category.

REV_00169445

Rent: This category funds the costs of the GSA office space utilized by the USA Freedom Corps. The FY 2004 WHO request included $157,000 for this category.

Printing: This category includes the costs of the creation and printing of documents regarding the USA Freedom Corps mission and policies and initiatives~~specific programs~~ coordinated by its Council. The FY 2004 WHO request included $225,000 for this category.

Other services: This category includes funds for the hiring of contractors to measure the nationwide effects of the USA Freedom Corps efforts through surveys and other measurement tools, and funds for information dissemination and the creation and production of materials used in the furtherance of the USA Freedom Corps mission and ~~specific programs,~~initiatives coordinated by its Council. The FY 2004 WHO request included $926,000 for this category.~~ and other activities that will further the mission of the USA Freedom Corps.~~

Communications and Misc.,~~;~~ Supplies and Materials, Equipment: These general categories are managed centrally by the White House Office of Management and Administration. Funds in these categories support the normal costs associated with day to day office operations. The FY 2004 WHO request included $43,000 for this category.

QUESTION 56: Last year, funds were requested for Freedom Corps information dissemination and recognition materials (p. 239). Are similar activities funded in FY 2004? If so, how much?

RESPONSE: The FY 2004 WHO request includes requirements for similar activities to those funded in FY 2003 and included are funds for information dissemination and recognition materials. Funds for these activities are included in the Other Services category of the WHO request. An estimated $926,000 of this portion of the request is for USA Freedom Corps requirements.

QUESTION 57: Are additional funds requested in FY 2004 outside the EOP?

RESPONSE: As a White House office and a coordinating council, the USA Freedom Corps does not run, fund, or administer programs. Instead, the USA Freedom Corps coordinates the development of policies and initiatives with various offices/entities in the Executive Branch in support of the President's goal to strengthen the American culture of service while helping all Americans find meaningful service opportunities. This role does not require outside funding and none have been requested by the WHO.

QUESTION 58: Please provide a listing of the staff in the USA Freedom Corps Office, showing the incumbent name and position. Please designate any detailees.

REV_00169446

RESPONSE: A listing of the current USA Freedom Corps Office staff is provided below.

John Bridgeland: Assistant to the President and Director, USA Freedom Corps
Ron Christie: Special Assistant to the President and Deputy Director, USAFC
Lindsey Kozberg: Special Assistant to the President for Policy/Public Affairs
Therese Lyons: Director of Public Liasion
Ian Rowe: Director of Management and Strategy
Kathleen Mynster: Deputy Press Secretary
Britt Grant: Special Assistant to the Director
Cornell Teague: Associate Director
Nique Fajors: Agency Liaison – Detailee
Ken Lanza: Agency Liaison - Detailee

Sensitive Compartmented Information Facilities (POC – Jeff Thompson)

QUESTION 59: Are any funds requested in any EOP office in the FY 2004 President's request for the construction of sensitive compartmented information facilities (SCIFs)?

RESPONSE: No funds are requested for SCIFs in FY 2004.

QUESTION 60: How many such facilities have been built within EOP offices since the terrorist attacks of September 11, 2001?

RESPONSE: Sixteen SCIFS have been built.

Data Center Relocation (POC – Carlos Solari)

QUESTION 61: What is the status of efforts to relocate the existing EOP data center, and what are plans for the coming year?

RESPONSE: The remote data center project is on track to achieve completion on budget and on schedule. The project began last summer by conducting a systems development lifecycle analysis to determine and recommend the location for the facility. From this analysis, EOP decided on building the data center at a hardened FEMA facility located in Maryland. The project is being co-managed with FEMA and was established with three phases: (1) infrastructure build-out of the hardened facility (power, air handlers, etc), (2) construction of the data center itself (cabling, raised flooring, etc), and (3) the transition of EOP data systems (telecommunications, servers, etc). The project is approximately halfway through completion for the first two phases with a scheduled opening (initial operational capability) date of September 2003. The transition phase is on schedule preparing the systems and will proceed to begin the transfer September 2003 – with a planned transition of 12 months for all systems.

REV_00169447

QUESTION 62: Are funds requested in the FY 2004 budget for this project?

RESPONSE: The following table displays the funds requested for this project in FY 2004.

Object Class	Object Class Title	Requested Funding (in $1000s)	Description
23.0	Space Rental Payments	$1,258	This estimate reflects $1,258 in rental for the offsite data center and will be the initial rent to be paid for the offsite data center. This cost was previously funded from emergency funds.
23.3	Communications, utilities, and miscellaneous charges	$4,420	$4,420 is for CIP networking/telecommunications projects at the offsite data center. These projects include funds for a tap off of telecommunications lines, two additional DS-3 data paths, two T-1 lines, and backup to support required communications bandwidth, and availability requirements.
25.2	Other Services	$2,700	This estimate reflects Priority System Disaster Recovery costs, Secondary Systems Disaster Recovery costs, Hardware and Software for the Disaster Recovery Site, and Hardware and Software upgrades to support the data center move.
26.0	Supplies and materials	$25	The estimate reflects $25 in additional supplies necessary for start-up operations at the offsite data center. This will include start up costs for office equipment used for the new office spaces.
Total FY2004 Data Center CIP Request		**$8,403**	

White House Communications Agency (POC – Eric Lanman)

QUESTION 63: Updating the information on page 133 of last year's hearing record, please provide estimated reimbursements for the White House Communications Agency for each of the fiscal years 2002 through 2004.

RESPONSE: Reimbursements made to the White House Communications Agency, for the non-telecommunications support they provide to the WHO, is broken down into two categories: military personnel and audiovisual support. The amount of planned reimbursement is initially set and agreed to via an inter-agency agreement (IAG). This IAG is then adjusted if needed as a result of actual execution. Reimbursement actuals and estimates follow:

	FY02 (actual)	FY03 (est.)	FY04 (est.)
Military Personnel	$4,376,085	$4,754,346	$4,858,942
Audiovisual Support	$4,543,643	$3,953,848	$2,743,915

REV_00169448

Total	$8,919,738	$8,708,194	$7,602,857

The FY04 estimate for audiovisual support shows a decrease from the FY 2003 estimate due to the move of audiovisual supplies and equipment from IAG reimbursed items to direct procurement through normal WHO channels.

Office of Administration (POC – Chuck Sigman)

QUESTION 64: Updating the information on page 134 of last year's hearing record, please provide a current organizational chart for the Office of Administration, including the associated numbers of FTEs requested for each office in the FY 2004 President's budget.

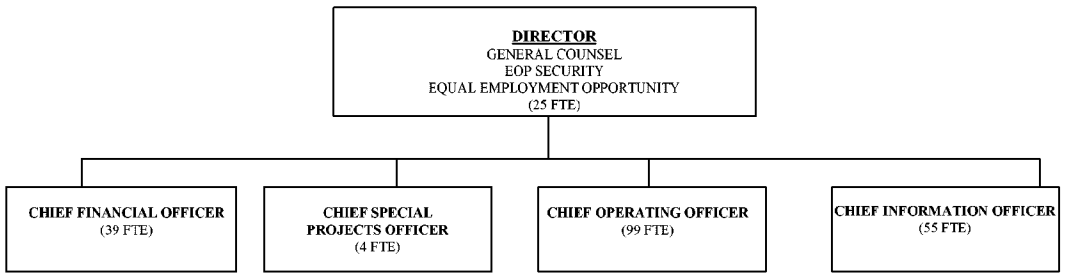
RESPONSE: The Office of Administration organization chart provided below reflects the current organizational structure. The FY 2004 FTE request remains constant with FY 2003 levels (222 FTE).

Executive Office of the President

Office of Administration

Organization Chart

FY 2004



Total 222 FTE

QUESTION 65: Last year, it was estimated that 4 FTE were needed to provide administrative services to the Office of Homeland Security. Since that office is substantially smaller due to establishment of the DHS, is there a lesser requirement for OA support? If so, is that reflected in FY 2004 staffing figures?

REV_00169449

RESPONSE: The FY 2003 budget proposal included the statement that there was "2 CFO staff to support Homeland Security" rather than the 4 FTE referred to in the question. These two Chief Financial Officer (CFO) staff were requested during FY 2003 because last year's OA budget request was a 49% increase over the previous year's spending – and security-related enhancements accounted for nearly all of that increase. The FY 2004 budget proposal included additional security-related enhancements beyond the FY 2003 level. Furthermore, even though the funding level of the Homeland Security Council is not as great as was originally envisioned, it is still a separate account for which the staff must perform the same number of administrative tasks in setting up and monitoring the status of the account. Therefore, the additional two FTE in the CFO office remain necessary to assist EOP offices in executing their new responsibilities.

QUESTION 66: Your salary and expenses request includes a transfer of $1,500 from Homeland Security for information technology services. What are these services?

RESPONSE: The part of OHS that remained with EOP (now called the Homeland Security Council) does not need the information technology contractor support that was previously planned. There is, however, an urgent need to expand the funding needed to support the White House website. The system security put in place to protect the whitehouse.gov website from cyber attack includes a web content distribution designed to make it highly resistant to denial of service type attacks. The cost of this service has increased dramatically, and is directly proportional to the volume of activity. The volume of activity, in turn, is a combination of the website hits and the level of cyber-attack activity directed against the site. The importance of the White House web site cannot be overstated. Along with the DHS website, the whitehouse.gov website is one of the primary government sites with a mission to communicate threat level information to the public.

Due to increased traffic on the White House website, the monthly cost of web caching service to maintain the website has risen from $30,000 per month to more than $75,000 per month. The estimated FY 2004 cost to maintain the website is $1,500,000. No funds were requested for this increased requirement in the FY 2004 budget. OA wishes to use the funds originally requested for the OHS information technology contract support for the White House website effort.

QUESTION 67: You are requesting additional funding for victim rescue units, which would be distributed to all White House staff (p. 82). What are these units, and what is the unit cost?

RESPONSE: Victim Rescue Units (VRUs) provide a 20-45 minute supply of pure oxygen to the wearer. This would be critical to the survival of EOP staff in the event of an incident which would require an evacuation to a safe area. VRUs were selected because they can be easily operated by a novice, while it takes a significant amount of training to teach staff to properly operate a gas mask. VRUs have a ten-year shelf life,

REV_00169450

which is significantly longer than gas mask filters. They provide protection from the entire threat spectrum from fire and smoke to chemical and biological agents. The VRUs are portable and small, and their expected cost is $375 each.

QUESTION 68: How is the requirement for additional safes and emergency evacuation chairs documented?

RESPONSE: The EOP Security Office conducted a review of security containers (safes) at the White House Complex and found that most of them were 1950's-vintage mechanical locks. During the aftermath of 9/11, it was deemed important that the White House adhere to the latest Federal regulations promulgated by the General Services Administration (FFL-2740A) for the protection of classified materials. Thus, the EOP recommends acquiring new security containers which are fully compliant with GSA standard which governs all changeable combination locks for the protection of national security information.

After 9/11, we reviewed all emergency evacuation procedures for the White House Complex. As we updated evacuation plans and reviewed procedures it was determined that evacuation chairs were needed in various buildings and on various floors to assist individuals who may need assistance or have special needs during an evacuation. This was an internal study performed by staff of the EOP security office.

Financial Audits (POC – Al Muhlbauer)

QUESTION 69: Last year, you advised us that EOP would plan to address the findings of the recent auditability assessment no later than FY 2003. What is the status of that effort today?

RESPONSE: EOP has initiated five major efforts to address the auditability assessment. They are:

- Development and publication of the EOP entity and reporting structure, which was completed and is and presented in the FY 2004 Budget Submission.
- Development and publication of the EOP financial management structure, which has been developed in draft and is currently being circulated for comment within EOP. Approval and issuance of the financial management structure is expected to occur within 30 days.
- Provide financial management policy and guidance to the EOP, and put in place consistent EOP-wide business practices and procedures. This effort is underway and is expected to be completed this fiscal year.
- Select a replacement for the current non-compliant financial accounting system. The Office of the Chief Financial Officer has reviewed various alternatives and has made a determination to be cross-serviced by another Federal agency that has implemented a compliant system, is currently receiving "clean" audit opinions, and has cross-servicing as an agency mission. Two such organizations were

REV_00169451

identified, a requirements document was provided, their proposals are currently being evaluated, and a decision is expected within the next two weeks.

- Accomplish a detailed review of the EOP general ledger and supporting documents for account balances, correct the data as necessary, and prepare the information for conversion to the replacement accounting system. A "clean-up" and conversion plan is in process and will be coordinated with the selected cross-servicing agency.

QUESTION 70: When will you be able to produce an auditable financial statement?

RESPONSE: The Chief Financial Officer completed an exercise that resulted in EOP-wide financial statements, that exercise identified various data problems that confirmed the auditability assessment. The "clean-up" exercise which is required prior to the conversion to the cross-servicing agency's system is addressing these problems and it is anticipated that the FY 2004 financial statements will be audited.

QUESTION 71: Last year, you stated that you had identified best practices for documented policies and procedures based upon one federal agency which has been recognized as one of the best in the Federal Government (p. 136). Which agency are you using as a model, and what are some examples of the specific best practices you intend to use?

RESPONSE: We were referring to the Department of Education and we conducted a pilot of their approach for developing policies and procedures within the Office of the CFO. While that pilot was helpful, we determined that three other tasks (identify reporting entity, develop financial management structure, and identifying our financial accounting system cross servicing provider) needed to be completed before our policies and procedures could be developed. Since those are near completion we anticipate again focusing on developing policies and procedures during the remainder of this fiscal year.

White House Office (POC – Eric Lanman)

QUESTION 72: Please provide a breakdown of the FY 2004 budget request for the White House Office by office or activity, as itemized on pages 137 and 138 of last year's hearing record. Please compare those amounts to corresponding amounts for FY 2002 (actual) and FY 2003 (estimated), similar in format to that shown on pages 246 and 247 of last year's hearing record.

RESPONSE: As noted last year, a single budget is prepared for the WHO. This single budget is prepared based on a number of criteria such as: prior spending patterns, estimated requirements, OMB provided inflation factors, and the priorities of the President. During a given execution year, personnel costs are allocated based upon that year's sometimes unique staffing decisions. The remainder of the budget is allocated

REV_00169452

initially to two WHO offices. The travel budget is allocated in its entirety to the Office of Advance and obligated against this office if the travel is done in support of the President. Any travel undertaken that is not in support of a Presidential trip is charged to the office of the staff member in question. The remaining portion of the non-personnel, non-travel budget, including expenses for rent, supplies, equipment and other services is considered overhead and in most years is charged as such to the White House Office of Management and Administration. In FY 2003 as part of a pilot program authorized by Congress, costs related to many of these "overhead" items were consolidated under the EOP Office of Administration. Obligations (actual and estimated) are provided by individual White House office for FY 2002 thru FY 2004 in the table below.

(dollars in thousands)			
as of 9 May 2003			
White House Office	**FY02 act.**	**FY03 est.**	**FY04 est.**
Office of Chief of Staff	1,239	1,474	1,507
Oval Office Ops	347	476	487
Offices of Scheduling and Advance	2,874	3,593	3,673
Office of Cabinet Affairs	665	615	629
Communications, Speechwriting & Media	2,611	2,486	2,541
Office of the Counsel to the President	1,775	1,966	2,010
Faith Based and Community Initiatives	612	536	548
Office of the First Lady	1,270	1,492	1,525
Office of Intergovernmental Affairs	568	538	550
Office of Legislative Affairs	2,242	2,118	2,165
Office of Management and Administration	26,867	19,620	30,651
Office of Presidential Personnel	1,950	2,425	2,479
Office of the Press Secretary	933	1,182	1,208
Office of the Staff Secretary	5,860	6,469	6,613
Office of Strategic Initiatives	3,952	4,325	4,421
USA Freedom Corps Office [1]	426	1,070	929
Total WHO Obligations [2]	54,191	50,385	61,937

Notes:

(1) $911K of the FY03 USA Freedom Corps estimate and $1,351K of the FY04 USA Freedom Corps estimate is included above within the Office of Management and Administration numbers as are similar funds for all other White House Offices.

(2) Because Congress has chosen to appropriate funds for the Office of Homeland Security (OHS)/ Homeland Security Council (HSC) separately from the WHO appropriation, numbers related to OHS/ HSC are not included above. FY03 and FY04 estimates for OHS/ HSC are addressed independently in response to other committee questions.

QUESTION 73: Please provide a corresponding breakdown for FTE staff years and OGE, similar in format to that shown on pages 152 through 154 of last year's hearing record.

REV_00169453

RESPONSE: As noted last year, the major units within the White House Office are simply a creature of administrative convenience. The number of employees within each unit and the work of each unit vary over time and as circumstances and needs change. With this kept in mind, a detailed breakout of FTEs and OGEs by unit, is provided below. This breakout is based on current estimates and planning and will differ during the actual execution year. In addition to these major units, certain individuals – including certain individuals who work with the National Security Council, the Domestic Policy Council, and the National Economic Council – are also White House Office employees, although the units within which they principally work are not themselves part of the White House Office. These individuals are included under the Other category.

	FY02	FY03	FY04
White House Office	actual	est.	est.
Office of Chief of Staff - FTE	12	12	12
Office of Chief of Staff - OGE (Agency Rep)	0	0	0
Oval Office Ops - FTE	4	5	5
Oval Office Ops - OGE	0	0	0
Advance - FTE	15	15	15
Advance - OGE	0	0	0
Office of Cabinet Affairs - FTE	7	6	6
Office of Cabinet Affairs - OGE (Assignee)	4	4	4
Communications, Speechwriting & Media - FTE	36	35	35
Communications, Speechwriting & Media – OGE (Detailee)	1	1	1
Communications, Speechwriting & Media – OGE (Assignee)	1	1	1
Office of the Counsel to the President - FTE	18	19	19
Office of the Counsel to the President - OGE (Detailee)	3	3	3
Faith Based and Community Initiatives - FTE	7	8	8
Faith Based and Community Initiatives – OGE (Detailee)	1	1	1
Faith Based and Community Initiatives – OGE (WH Fellow)	1	1	1
Office of the First Lady - FTE	20	19	19
Office of the First Lady - OGE	0	0	0
Office of Intergovernemental Affairs - FTE	8	9	9
Office of Intergovernemental Affairs - OGE	0	0	0
Office of Legislative Affairs - FTE	23	24	24
Office of Legislative Affairs - OGE (Detailee)	1	1	1
Office of Management & Administration - FTE	32	38	38
Office of Management & Administration - OGE (HP Serv)	14	14	14
Office of Political Affairs - FTE	11	11	11

REV_00169454

Office of Political Affairs - OGE	0	0	0
Office of Presidential Personnel - FTE	26	38	38
Office of Presidential Personnel - OGE (Detailee)	2	2	2
Office of Public Liaison - FTE	12	11	11
Office of Public Liaison - OGE (Assignee)	1	1	1
Office of the Press Secretary - FTE	12	12	12
Office of the Press Secretary - OGE	0	0	0
Scheduling - FTE	10	11	11
Scheduling - OGE (HP Serv)	2	2	2
Office of the Staff Secretary - FTE	98	98	98
Office of the Staff Secretary - OGE (Detailee)	2	2	2
Office of Strategic Initiatives - FTE	13	13	13
Office of Strategic Initiatives - OGE (Reim Detail)	1	1	1
USA Freedom Corps Office - FTE	8	6	6
USA Freedom Corps Office - OGE (Detailee)	5	5	5
USA Freedom Corps Office - OGE (WH Fellow)	1	1	1
Other - FTE	13	16	16
Other - OGE	4	4	4

White House Office obligations, FTE and OGE are summarized below.

	FY02 act.	FY03 est.	FY04 est.
Total WHO – FTE	385	406	406
Total WHO – OGE	44	44	44
FY03 Congressional Request – FTE	400	406	406

Notes: Because Congress has chosen to appropriate funds for the Office of Homeland Security (OHS)/ Homeland Security Council (HSC) separately from the WHO appropriation, numbers related to OHS/ HSC are not included above. FY03 and FY04 estimates for OHS/ HSC are addressed independently in response to other committee questions.

Historically Provided White House Office Positions (POC – Eric Lanman/Jon Laurich)

QUESTION 74: Updating the information on page 235 of last year's hearing record, please provide a listing of historically provided White House Office positions.

RESPONSE: The following chart shows the 18 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

REV_00169455

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 12, 2003*:

POSITION	OFFICE	HOME AGENCY
1. Assistant to the Presidential Diarist	Office Of Scheduling	NARA
2. Presidential Diarist	Office Of Scheduling	NARA
3. Administrative Assistant	PFIAB *	CIA
4. Administrative Services Specialist	PFIAB *	DOD
5. Deputy Executive Director	PFIAB *	CIA
6. Deputy Director of Photography For Visuals	Photo Office	DIA
7. Visual Information Specialist	Photo Office	DOD
8. Official Photographer	Photo Office	DOD
9. Official Photographer	Photo Office	DIA
10. Photographer	Photo Office	DOD
11. IT Systems Administrator	Photo Office	DIA
12. Photo Editor	Photo Office	DIA
13. President's Photographer	Photo Office	DIA
14. Photographic Specialist	Photo Office	DIA
15. Admin Officer	Photo Office	DIA
16. Staff Assistant	Visitors Office	Dept Of Interior
17. Executive Assistant	Visitors Office	Dept Of Interior
18. Staff Assistant	Visitors Office	Dept Of Interior

*PFIAB is the President's Foreign Intelligence Advisory Board

Other Services (POC – Chuck Sigman)

QUESTION 75: Similar to the information on page 236 et seq. of last year's hearing record, please provide a detailed description of each project, program, or initiative proposed to be funded in FY 2004 under object class 25.2 ("other services").

RESPONSE: Capital Investment Plan (CIP) - $5,220,000

The overall FY 2004 CIP requirement supports nine areas, as described below. The following "services" costs are included in the FY 2004 CIP request:

- **$690,000 for Customer Service and Desktop Systems.** This funding will be used to perform desktop software integration support.
- **$450,000 for New Technologies and Systems**. This includes "services" funding of $150,000 for server technology integration testing, and $300,000 for voice and data integration.

REV_00169456

- **$230,000 for EOP Systems and Support,** including "services" funding of $150,000 to develop external Local Area Networks, and $80,000 for production test lab development.
- **$700,000 for Information Security** for enterprise identity projects to allow the introduction of new authentication and identification mechanisms into the EOP IT infrastructure.
- **$650,000 for Web-Based Services** for web services application environment.
- **$2,500,000 for the Offsite Data Center** for services necessary to transition the offsite data center to full operational status
- **There are no services funds allocated to Campus Wiring, Networks and Data Communications Infrastructure, or Messaging and Scheduling.**

Salaries and Expenses - $2,150,000

There are three initiatives in the FY 2004 OA salaries/expense budget which comprise $2,150,000 in new programs under object class 25.2 ("other services"):

- **$1,800,000 for Technology and Systems Support Contract .** The Chief Information Officer (CIO) provides a wide range of computer services support to the EOP. These tasks are performed in large measure through an outsourcing contract that delivers IT services from PC deployment, to help desk and data center operations. During FY 2003, this IT systems support contract was competed with an increase in base labor rates due to the need for more advanced skills in IT disciplines such as XML and web services software development, Oracle database development and administration, and implementation of a new Enterprise Resources Planning (ERP) application covering finance, asset management and human resources. The CIO outsource contract is the vehicle used to maintain a 24 hour-a-day operation for mainframes, servers, help desk, local area networks, personal computers, applications; installation of end-user hardware and software; training; software application development and maintenance services. Altogether, this contract supports customers throughout the White House 18 acre complex, at remote and mobile locations, and at the planned Offsite Data Center. Key components driving the cost upward include: (1) higher labor rates for the DC area, which have risen since the previous IT 1997 facility contract; (2) the impact of the new data center operations in 2003 and thereafter; (3) an expanded EOP customer base which has more advanced, sophisticated, and security-conscious users.

- **$300,000 for Information Assurance Support.** The CIO has established the Information Assurance (IA) program to serve as a central location for information security serving all of EOP. FY 2002 and FY 2003 funds attended to the most critical concern with significant vulnerabilities in the perimeter and began the process of securing the internal systems. The IA program created real-time monitoring of perimeter network devices; it established the first formal documentation of IA program policy to bring the EOP in conformance with Federal guidelines and directives. However, the cyber threat facing EOP is

REV_00169457

dynamic because our systems are constantly assailed with a wide and unexpected range of attacks. The new state of defense must be active vigilance, to include the following components: (1) Perimeter Security, (2) Advanced Security Concepts, (3) Contingency Planning Support, (4) Network Monitor/Response Systems, and (5) Security Awareness, Assessments, and Education.

- **$50,000 for Security Enhancements: Videos.** There is a frequent and ongoing need for a security video – specific to the EOP and White House – which can be used in security briefings and new employee orientation meetings. This video will contain a brief overview of security responsibilities and procedures which must be understood by all personnel working in the EOP.

Salaries and Expenses (POC – Dilworth)

QUESTION 76: Please provide a detailed description of any expenses in the FY 2004 budget under "salaries and expenses" which are not directly related to personnel compensation and benefits.

RESPONSE: The following is an object class breakdown highlighting the major costs in each of the non pay related expense categories and a description of the unique aspects of some of these expenses found within the Executive Office of the President.

For reference, below are two tables that roll up all EOP component salaries and expenses funding information including the components not funded under the Subcommittee on Transportation, Treasury and Independent Agencies Appropriations.

REV_00169458

Executive Office of the President
Salaries and Expenses
Summary of all EOP Offices
Funding by Object Classification
($ in Thousands)

		FY 2002 Actual	FY 2003 Request	FY 2004 Estimate	FY 2004-2003 Difference	
	Direct obligations:					
10.0	Personnel Compensation and Benefits	159,566	185,182	190,971	*5,789*	*3.1%*
21.0	Travel and transportation of persons	6,449	9,218	9,571	*353*	*3.8%*
21.0	Travel of the President	0	102	100	*-2*	*-2.0%*
22.0	Transportation of things	218	246	233	*-13*	*-5.3%*
23.1	Rental payments to GSA	22,406	29,127	32,228	*3,101*	*10.6%*
23.3	Communications, utilities and misc. services	9,362	10,212	15,504	*5,292*	*51.8%*
24.0	Printing and reproduction	2,956	3,678	4,536	*858*	*23.3%*
25.2	Other services	45,159	70,440	66,099	*-4,341*	*-6.2%*
26.0	Supplies and materials	5,947	5,128	5,642	*514*	*10.0%*
26.0	Official entertainment	65	112	112	*0*	*0.0%*
31.0	Equipment	8,054	13,239	14,182	*943*	*7.1%*
40.04	Nat'l Alliance for Model State Drug Use	1,000	0	0	0	0.0%
40.05	Policy Research	1,350	1,350	1,350	0	0.0%
92.0	Undistributed	0	1,000	1,000	0	0.0%
99.0	**Subtotal, Direct obligations**	**$262,532**	**$329,034**	**$341,528**	***$ 12,494***	***3.8%***

Summary of the EOP FY 2004 Salaries and Expenses Budget Request
by Object Class
(excludes ONDCP Federal Drug Control Programs)
($ in Thousands)

		Comp Pres.	WHO	OHS/ HSC	VP	VP RES	OA S&E	OA CIP	OPD	NSC	CEA	OMB	ONDCP	EXEC RES	WH R & R	OSTP	CEQ	USTR	UN NEEDS	EOP Total	Percent of Total
	Total Personnel Compensation and Benefits	$400	$33,256	$5,550	$2,541	$100	$19,483		$3,040	$7,513	$3,537	$59,263	$14,562	$10,302		$4,484	$2,476	$24,464		**$190,971**	55.9%
21.0	Travel and transportation of persons		1,989	588	598	2	208		88	531	102	417	794	12		280	62	3,900		**$9,571**	2.8%
21.0	Travel of the President		100																	**$100**	0.0%
22.0	Transportation of things		10	10	2	1	137		1	2	1	2	38			3	1	25		**$233**	0.1%
23.1	Rental payments to GSA		7,047	200	885		6,755	1,258	508	1,613	497	6,575	2,591			833	462	3,004		**$32,228**	9.4%
23.3	Communications, utilities and misc. charges		2,826	1,080	186	26	2,759	4,520	192	197	118	680	785	610		102	86	1,337		**$15,504**	4.5%
24.0	Printing and reproduction		1,559	50	11	10	577		37	40	97	801	499			25	46	784		**$4,536**	1.3%
25.2	Other services	50	12,597	528	60	16	24,891	5,220	46	362	35	8,190	5,509	653	4,225	973	66	2,678		**$66,099**	19.4%
26.0	Supplies and materials		1,288	175	66	42	1,220	125	92	175	64	702	282	856		80	29	446		**$5,642**	1.7%
26.0	Official entertainment		19			90						3								**$112**	0.0%
31.0	Equipment		1,246	150	112	44	556	9,455	105	118	51	784	880	68		247	10	356		**$14,182**	4.2%
40.05	Policy Research *(ONDCP)*												1,350							**$1,350**	0.4%
92.0	Undistributed *(Unanticipated Needs)*																		1,000	**$1,000**	0.3%
99.0	**Subtotal, Direct obligations**	**$450**	**$61,937**	**$8,331**	**$4,461**	**$331**	**$56,586**	**$20,578**	**$4,109**	**$10,551**	**$4,502**	**$77,417**	**$27,290**	**$12,501**	**$4,225**	**$7,027**	**$3,238**	**$36,994**	**$1,000**	**$341,528**	**100.0%**
	Agency percentages of EOP total	*0.1%*	*18.1%*	*2.4%*	*1.3%*	*0.1%*	*16.6%*	*6.0%*	*1.2%*	*3.1%*	*1.3%*	*22.7%*	*8.0%*	*3.7%*	*1.2%*	*2.1%*	*0.9%*	*10.8%*	*0.3%*		

Travel and transportation of persons – The largest portion of this funding (41%) is for international staff travel in support of trade negotiations as coordinated by the U.S. Trade Representative (USTR). The next largest portion of this funding (21%) is for White House Office (WHO) staff travel including "Presidential travel", which is the term used to delineate those trips where staff members actually travel with or ahead of the President. Those traveling ahead, referred to as advance staff, are responsible for producing Presidential events, as well as establishing an on-site infrastructure similar to

REV_00169459

the support that is provided within the White House. In addition, EOP travel costs related to Presidential travel is tracked by the principals (President, First Lady, Vice President and Mrs. Cheney) and by location. The remaining EOP travel funds are used for staff travel in support of the various EOP offices and their missions.

Transportation of things – The EOP spends funds in this area for the costs of express delivery/shipping of items such as Freedom of Information Act documents and personnel documents for accountability, as well as other miscellaneous items. Vehicle fleet costs are also included in this category.

Rental payments to GSA – Funds paid to GSA are used to provide the EOP offices with space in the government-owned and leased buildings that comprise the White House complex. Although the General Services Administration manages the EOP buildings, including the East and West Wings of the White House, they cannot rent them out to other Federal departments or agencies.

Communications, utilities and miscellaneous services – The bulk of these costs are used for the EOP switchboard. Funding in this category is also used for the networking and telecommunications projects of the Offsite Data Center. These projects include funds for the primary and backup telecommunications lines connecting the remote data center with the EOP office campus, two additional DS-3 data paths, two T-1 lines, and backup to support required communications bandwidth, and availability requirements.

Printing and reproduction – The largest expense in this area is for Presidential stationery and greetings. Also included are the costs for printing in the Code of Federal Regulation and the Federal Register as well as the costs to print the President's Budget, the Economic Report of the President, the National Drug Control Strategy, free trade agreement documents and other publications, studies and reports.

Other services –The primary cost driver in this category is the information technology support contract that provides IT sustainment services, system development services, and system engineering services for the entire EOP. IT support for the EOP as supported by this contract is largely an outsourced activity that includes a broad range of services such as the Help Desk, network and data center operations.

Supplies and materials – Most of the EOP expenses in this category are for general office and IT supplies, as well as the costs for subscriptions to newspapers and magazines.

Equipment – The largest portion of the EOP equipment costs is for IT desktop replacement program and for investments in software and hardware infrastructure to support the EOP IT projects.

Unanticipated Needs – Expenditures from this fund may be authorized only by the President. The Director of OMB provides the necessary controls to ensure that only unforeseen priorities are financed and that funding from other sources is not available.

REV_00169460

ONDCP Policy Research – This is an ONDCP expense and funding is used to support the continuing policy research to better inform drug policy.

Security Guard Services for OSTP (POC – Chuck Sigman)

QUESTION 77: In FY 2003, you budgeted $1,798,000 for security guard services for the Office of Science and Technology Policy. Are similar funds requested in FY 2004? If so, how much?

RESPONSE: The FY 2004 OA budget proposes that the cost of the security guard service (estimated at $702,000) for OSTP be transferred to the OSTP appropriation. Thus, the proposed FY04 OA budget would contain the balance of the funds (approximately $1.1 million).

Since the FY 2003 budget was proposed, there have been additional reviews of the physical security of the White House complex by the US Secret Service, the Federal Protective Service, and the OA Security Office. As a result, the OA Security Office has been assigned the responsibility of correcting deficiencies in EOP physical security. There are some locations which do not currently have Secret Service protection (such as the Jackson Place White House Conference Center). Another location which does not have firm long-term security plans is the office at 1800 G Street. Thus, the Office of Administration has ongoing needs for the $1.1 million which remains in the OA budget. During FY03, these funds are being used for consolidation of information technology maintenance ($200,000), centralization of database services ($200,000), and common building service costs ($400,000). The remaining $300,000 of these savings will be used for an FY03 OA personnel shortfall.

QUESTION 78: Why aren't such funds in the OSTP budget?

RESPONSE: The estimated FY04 cost of 24-hour security guard services for OSTP is included in the FY04 OSTP budget request. This estimate is $702,000 for a full year.

Political Appointees (POC – Jon Laurich)

QUESTION 79: Please update the information on political appointees within EOP as shown on page 268 of last year's hearing record, using the same criteria and assumptions as last year.

RESPONSE: The term "political appointees" is somewhat of a misnomer because it narrowly defines the type of employees authorized under Chapter 2 of Title 3 of the U.S. Code, for the White House Office, the Executive Residence, the Official Residence of the Vice President and the Office of Administration. These offices can hire personnel in various excepted service positions that are not subject to the rules of regular government employees. Many of these excepted service positions fall under the category of serving

REV_00169461

at the pleasure of the President while others do not. Using the term in the broadest possible sense, including all employees hired as Presidential Appointees, Administratively Determined, Non Career SES, or Schedule C's, the Executive Office of the President has the following number of political appointees directly hired within the EOP and serving in the EOP on detailed assignments from other agencies as of May 5, 2003.

	FY 2003 "POLITICAL APPOINTEES" *as of May 5, 2003*					
Program	**Admin. Determ.***	**Schedule C**	**Non career SES**	**Presidential Appointees**	**OGE** Political Appointees**	**TOTAL**
White House Office	438				8	**446**
Office of Homeland Security/Homeland Security Council	20				9	**29**
Special Assistance to the President	24				1	**25**
Official Residence of the Vice President		1				**1**
Office of Administration	6					**6**
Office of Policy Development	30				2	**32**
National Security Council					3	**3**
Council of Economic Advisers	16	3		1		**20**
Office of Management and Budget	2	21	11	5		**39**
Office of National Drug Control Policy		10	2	5		**17**
Executive Residence						
Office of Science and Technology Policy		3	2	3	1	**9**
Council on Environmental Quality	10	2		1	2	**15**
U.S Trade Representative	19	5	3	4		**31**
TOTAL	**565**	**45**	**18**	**19**	**26**	**673**

* Historically, Administratively Determined appointees within some agencies have served from one administration to another. Nevertheless, they serve at the pleasure of the entity head and may be terminated without cause.

** OGE = Other Government Employees

Detailees (POC – Jon Laurich)

QUESTION 80: Please update the information on reimbursable and non-reimbursable detailees with EOP as shown on pages 268 and 269 of last year's hearing record.

RESPONSE: There are currently 251 detailees staffed within the Executive Office of the President. There are 41 reimbursable detailees and 210 non-reimbursable detailees as shown in the chart below, as of May 5, 2003:

REV_00169462

Program	FY 2003 Estimates		
	Reimbursable Detailees	Non-Reimbursable Detailees	TOTAL
White House Office	5	11	**16**
Office of Homeland Security	23	3	**26**
Special Assistance to the President		1	**1**
Official Residence of the Vice President			
Office of Administration			
Office of Policy Development	1	1	**2**
National Security Council	5	103	**108**
Council of Economic Advisers	2	2	**4**
Office of Management and Budget	3	54	**57**
Office of National Drug Control Policy		4	**4**
Executive Residence			
Office of Science and Technology Policy	2	3	**5**
Council on Environmental Quality		3	**3**
U.S Trade Representative		25	**25**
TOTAL	41	210	251

Office of the Vice President (POC – Kristen Savercool)

QUESTION 81: You are requesting an additional $70,000 (+1.7 percent) for the Vice President's travel, due to increased travel to undisclosed locations after the terrorist attacks of September 11, 2001. Weren't these type of increases baselined in FY 2002 and FY 2003, and if so, why are further increases needed in FY 2004?

RESPONSE: The FY 2003 budget was submitted in February 2002, prior to it becoming evident that the Vice President's travel requirements had increased more than originally estimated. Following the events of 9-11, the Vice President has been required to be outside the Washington, DC vicinity for significant periods of time. This travel has been 100 percent official, and operational in nature (i.e. the Vice President performs his regular duties in an off-site location). This travel has required the accompaniment of staff, who also perform operational duties.

Because the budget impact of these additional travel requirements was not fully realized until after the FY 2003 budget request was submitted, they were not included in the FY 2003 baseline. Continued security concerns related to the Vice President and the ensuing impact on the Vice President's travel costs necessitate the increase to the FY 2004 OVP travel budget. This increase will allow the Vice President the flexibility needed to adequately execute his official travel requirements.

Unanticipated Needs (POC – Eric Lanman)

QUESTION 82: Please provide a listing of the uses of Unanticipated Needs funds in FY 2002.

REV_00169463

RESPONSE: $757,000 of the $1,000,000 appropriated to the Unanticipated Needs account in FY 2002 was provided to OMB for Office of Homeland Security Transition Planning Office. The remaining appropriation was not utilized.

REV_00169464

Questions for the Record
Ranking Member, John Olver
Hearing on the Executive Office of the President
April 30, 2003

Account Consolidation and Transfer Proposals (POC – Al Muhlbauer/Jim Daniel)

When we centralized the funds within the Office of Administration, Congress intended that each agency would continue to receive a similar share of support and assistance under the consolidation.

QUESTION 83: Are any agencies going to receive diminished services or resources under the consolidation?

RESPONSE: No, currently the funding in the pilot has been allocated to be consistent with the FY 03 budget request. The service levels will be equal to or greater than pre-pilot levels; however, we are hopeful that the cost to procure the same level of service will decrease. Also, the Office of Administration is preparing service standards. For example, if the service standard for PC's would be one PC per desktop that is less than four years old and if one EOP component is currently at that standard for 95 % of its employees and another is currently at that standard for 50% of its employees, based on need, the second component would get a larger share of the services to bring it closer to the EOP standard. This allows EOP to consistently upgrade software and services across the entire organization as the total infrastructure permits.

QUESTION 84: Are any agencies to receive extra services above and beyond the amount of funds they contributed as part of the consolidation?

RESPONSE: Yes, based on need and to bring organizations that are lagging behind the approved standards up to a consistent standard, some organizations may receive extra services above and beyond the amount of funds they contributed to the consolidation. We anticipate some of those services will be funded from savings in the program.

QUESTION 85: Under the procurement consolidation pilot approved in the FY03 Omnibus, are IT or database services for any EOP agency going to be paid for by funds contributed by other EOP agencies?

RESPONSE: Yes, in addition to generating procurement savings and efficiencies, a major goal of the consolidation pilot is to bring all of the EOP components up to a standard of service which will allow us to implement technology evenly across the organization and to realize efficiencies and benefits from a consistent and even

REV_00169465

infrastructure. In reaching this goal, the funds may be applied in a manner which is not in the same ratio in which they were contributed.

QUESTION 86: In general, are the funds appropriated for this centralized procurement program going to be used to supplement the appropriation made to individual agencies?

RESPONSE: Yes, the individual entities will be the recipients of the services funded by the centralized procurement program without reimbursement in accordance with the Congressional appropriation provided to OA.

QUESTION 87: If so, which agencies will benefit and which agencies will receive less than their share of contributions?

RESPONSE: OA is currently establishing the allocation standards for the commodities included in the centralized procurement program. OA is also requesting that the entities assist us in developing a baseline against which we will measure the allocation standards. That will determine which, if any, entities will benefit and which entities will receive less than their share of contributions.

QUESTION 88: You recently submitted a very cursory report on the procurement pilot. When will you provide us with specific details on the progress of the pilot program?

RESPONSE: As mentioned above, progress is being made on the plan to implement the Common Services Program. We expect to be able to brief the Subcommittee in greater detail this summer.

Your budget also proposes a change that would permit EOP agencies to transfer up to 10% into or out of any agency's budget. Coupled with your account consolidation proposal, that would allow you to transfer in up to $18 million more into (or out of) the White House's budget.

QUESTION 89: Under the procurement consolidation program that we approved in the FY03 bill, don't you have a similar type of flexibility already? What other flexibility is needed?

RESPONSE: The flexibility of the procurement consolidation program is directed to certain defined common commodities. The 10% transfer authority provides flexibility for unexpected requirements and to address needs that may be outside the program.

QUESTION 90: What protection is there for smaller EOP agencies under this proposal? Don't they stand to lose critical resources if the White House or Vice President's Office decide to take 10% of their resources?

REV_00169466

RESPONSE: It is more likely that the smaller entities will benefit from the proposal, because their appropriations are small they are less likely to be able to adjust to unforeseen circumstances, this program will allow the EOP to address those circumstances without requesting supplemental funding. Also, as a practical matter, the issue of "protection" is immaterial as all the entities (setting the Office of the Vice President aside) work directly for the President.

Office of Homeland Security Questions (POC – Paul Ehrhardt)

We recently received a reprogramming request to transfer $2m of the funds provided to the Office of Homeland Security to the Remote Delivery Site cleanup efforts. The source of these funds would come from the Office of Homeland Security.

The Office of Homeland Security has gone from an initial $25m stated need when the initial FY03 bills passed the House and Senate to $11m when the FY03 Omnibus was passed to what will be $9m if the reprogramming is approved.

QUESTION 91: What exactly does the Office of Homeland Security do now that the Department of Homeland Security is in place?

RESPONSE: HSC advises and assists the President on homeland security matters and coordinates policy development and the interagency process regarding Administration policy on homeland security, including the development and coordination of implementation of the *National Strategy for Homeland Security* to secure the United States from terrorist threats and attacks.

QUESTION 92: Does OHS still have a presence at Nebraska Avenue?

RESPONSE: No.

QUESTION 93: Does the Office of Administration provide any support to agencies at Nebraska Avenue? If so, please describe the specific types of support provided. Is this support on a reimbursable basis?

RESPONSE: Since the transfer of the Nebraska Avenue facility to the Department of Homeland Security (DHS) on January 1, 2003, OA has not provided any support to entities at the Nebraska Avenue Complex (NAC). Pursuant to a Determination by the OMB Director, funds in the amount of $3,746,000 were transferred from the OHS Emergency Fund within OA to the Department of Homeland Security in March 2003 to support NAC activities.

QUESTION 94: How many personnel and detailees now work for OHS?

REV_00169467

RESPONSE: The Homeland Security Council currently consists of 66 staff positions which can be filled by either Direct Hire FTE or Other Government Employee (detailee and assignee) personnel. HSC is requesting resources to support up to 40 Direct Hire FTE and 26 OGE FTE on its staff for FY 2004. See table below for a comparison with fiscal years 2003 and 2002.

Office of Homeland Security / Homeland Security Council Personnel

	FY 2002 Actual	FY 2003 Estimate	FY 2004 Request
Direct Hire FTE	31	40	40
Other Government Employee (EOY headcount)	89	26	26
Total Personnel	120	66	66

QUESTION 95: What is the actual operational budget need for OHS in FY03?

RESPONSE: The Homeland Security Council budget requirement from the FY 2003 appropriation is estimated to be approximately $4.32 million. Please note that the FY 2003 estimate covers only costs incurred after the enactment of the FY 2003 appropriation on February 20, 2003. Unlike other EOP entities which operated under continuing resolutions between October 1, 2003 and February 20, 2003, the Office of Homeland Security was not permitted to utilize the CR funding mechanism but instead continued to charge FY 2003 expenses against the no-year emergency funding (provided in FY2002) until the FY 2003 appropriation was enacted. Therefore the FY 2003 estimate reflects only seven months of activity, whereas the FY 2004 Request needs to cover HSC expenses for the full 12 months next fiscal year.

QUESTION 96: For the record, please provide us a breakout by object class of the Office of Homeland Security's FY03 remaining budget.

RESPONSE: The breakout below reflects HSC's budget for the last seven months of FY 2003, from the enactment of the FY 2003 Appropriation on February 20, 2003 through September 30, 2003.

REV_00169468

(Dollars in Thousands)

Object Class	FY 2003 est.
Personnel	$2,800
Travel	$60
Transportation of Things	$24
Communications, Utilities, and Miscelaneous	$50
Printing and Reproduction	$69
Other Services	$1,267
Equipment	$50
Total,	$4,320

QUESTION 97: Any likelihood that these estimates will be revised downward again?

RESPONSE: The FY 2003 estimate provided above reflects the best assessment of HSC requirements from the OHS FY 2003 appropriation, and actual obligations against this appropriation will likely be close to this current estimate.

QUESTION 98: I understand that the President named General Gordon as his new Homeland Security Adviser. Does he support the latest $2 million cut to his office's resources?

RESPONSE: To begin with we should note that, General Gordon has not yet reported to Homeland Security Council. Secondly, in any event, the EOP budget proposal provides the necessary resources for HSC to advise and assist the President. Third, we should also note that the reference to a $2 million cut is incorrect. In fact, the resources of the Homeland Security Council have not been cut by $2 million. The FY 2003 appropriations for the Homeland Security Council included $2 million for decontamination of the Remote Delivery Site (RDS) as agreed to by the Congress and the Administration. Subsequent to the passage of the FY 2003 appropriations, that $2 million was allocated to decontamination of the RDS per agreement. This planned use of that appropriation is not a cut to HSC resources.

QUESTION 99: Have you validated the FY04 request recently to ensure it is an accurate figure?

RESPONSE: Yes, HSC reevaluated its FY 2004 requirements prior to submitting the final FY 2004 Request. Given the creation of the Department of Homeland Security, HSC's FY 2004 budget requirements are estimated at $8,331,000; as requested.

REV_00169469

Budget Questions:

After the FY03 enacted levels are adjusted to reflect the transfer of $9 million to the Office of Homeland Security, the Executive Office of the President's FY04 budget request reflects an 8% increase over FY03 levels. Your agency, the Office of Administration requests a 10% increase between FY03 and FY04.

When the budget was introduced, Mitch Daniels said that the overall growth of Federal programs would be pegged to the expected 4% growth in inflation. The administration also said the President wanted to "match government's growth with the growth of American family income."

QUESTION 100: When the rest of the government is forced to live with 4% growth, how can you justify an almost 10% increase in your office and an overall Executive Office of the President increase of 8%? **(POC – Chuck Sigman)**

RESPONSE: The Office of Administration's 10% budget increase amounts to approximately $7 million. This increase is necessitated by additional costs stemming from the enhanced security activities in the post-September 11 environment:

- The Capital Investment Plan has a net increase of $3.8 million required for the relocation of the EOP data center to an offsite location. The offsite data center has been determined to be a critical project in any contingency plan, and the communications requirements for the data center will be significantly higher in the new facility.
- $2.5 million is needed for the new information technology contract, driven by the information technology service labor increases, the relocation of the data center as well as by the increased security concerns for EOP systems.
- $0.5 million is required for the EOP information assurance program.
- $0.2 million for physical security improvements to the White House complex in providing resources for security education and evacuation resources.

The 8% growth in the overall EOP budget amounts to approximately $24.6 million. Primary components of this increase are mission-specific needs proposed by the different EOP entities:

- $6.3 million in OA programs described in the prior paragraph ($3.8 million for the capital investment plan, $2.5 million for the information technology contract, $0.5 million for information assurance, and $0.2 million for physical security).
- $2.5 million in EOP-wide space rental increases to conform with GSA's market-based rental rates.
- $3.0 million for USTR's additional staff for intensified trade negotiations.

REV_00169470

- $3.0 million in the Executive Residence's multiyear East and West Wing restoration projects.
- $2.7 million for OMB personnel needs.
- $1.5 million for OMB's budget system updates.
- $0.7 million for OMB's E-Government staff and the Office of Information Technology.
- $0.8 million for additional staff for ONDCP.
- $0.6 million in the NSC's funding for reimbursable detailees and President's Foreign Intelligence Advisory Board's request for additional staff.
- $0.5 million for OSTP's continuity of operations plan.

The White House Office's increase of 3.6% looks smaller because of a realignment of $1.85m in rent to the Office of Administration's account. Without the realignment, the White House Office's increase would be around 6.6%.

QUESTION 101: What is the justification for this realignment? **(POC – Eric Lanman)**

RESPONSE: The realignment of $1.85M in rent was made to the WHO from the Office of Administration. Without this and other realignments made as part of the FY 2004 WHO budget request, The White House Office's increase would have only been 1.7 percent.

QUESTION 102: How could the White House have been paying the bill for space that wasn't theirs? **(POC – Eric Lanman)**

RESPONSE: The WHO has not been paying rent on the 1800 G Street office spaces that this realignment involves. These office spaces were necessitated by the movement of certain White House staff offices following the events of September 11. In FY 2003 funds for these spaces were budgeted by the Office of Administration and are being paid for as part of a pilot program authorized by law.

QUESTION 103: Which EOP agencies occupied this space on which the White House Office has been paying rent? **(POC – Eric Lanman)**

RESPONSE: As indicated in the previous answers, White House staff have been occupying this space. Rent is being paid by the Office of Administration as part of the pilot program authorized by law.

QUESTION 104: Are these costs that had historically been paid by the White House Office? **(POC – Eric Lanman)**

REV_00169471

RESPONSE: No. The 1800 G Street Office spaces were not occupied by EOP staff until after the events of 9-11.

QUESTION 105: If so, why make the change this year? **(POC – Eric Lanman)**

RESPONSE: The realignment of these costs under the WHO is done to reflect the costs under the office whose staff occupies them.

Travel

The White House Office's request includes a decrease of $400,000 in Presidential Travel.

QUESTION 106: Was the FY03 estimate too high? **(POC – Eric Lanman)**

RESPONSE: As part of the FY 2003 WHO budget submission, $600,000 was requested to support the travel requirements of the new USA Freedom Corps Office. Actual experience subsequently determined this amount to be in excess of need. As a result, the FY 2003 WHO travel line was reduced $329,647 by the statutory recission, and the FY 2004 WHO budget submission requested $400,000 less in the travel line than the original FY 2003 estimate.

QUESTION 107: If so, how do you intend to use the surplus funds? **(POC – Eric Lanman)**

RESPONSE: The $400,000 reduction to the FY 2004 WHO budget request for travel requirements does not result in surplus funds. It instead results in an overall reduction to the FY 2004 WHO budget estimate.

QUESTION 108: Are you planning less travel in FY04 or will more of the travel just be paid for by political entities? **(POC – Eric Lanman)**

RESPONSE: Except as noted above, the amount of official travel conducted by the White House staff is expected to remain consistent with the FY 2003 estimate.

QUESTION 109: Please provide a list of all White House Office, Office of Homeland Security and Office of Vice President official staff travel for FY02 and FY03 (to date). Include a brief description of the official purpose of the trip. For FY04 estimates, provide estimated number of trips and trip purpose. **(POC – Rothley Howard)**

RESPONSE: The following tables provide the FY 2002 and FY 2003 (to date) staff travel information, where a staff member received government reimbursement, for the

REV_00169472

White House Office and the Office of the Vice President. No FY 2004 estimates are available at this time.

White House Office FY 2002 Staff Travel		
PURPOSE	**DESTINATION**	**DATE**
Meetings	Dallas, TX	03/15/01
Official	Cincinnati, OH	10/01/01
Official	Sacramento, CA	10/11/01
Speaking Engagement	Atlantic City, NJ	10/15/01
Meetings	Los Angeles, CA	10/17/01
Meetings	Reykjavik	10/20/01
Official	Manhattan, NY	10/25/01
Speaking Engagement	Austin, TX	10/26/01
Speaking Engagement	Oakland, CA	10/28/01
Official	Manhattan, NY	10/30/01
Official	Manhattan, NY	10/30/01
Accompany a Cabinet Head	Boston, MA	10/31/01
Official	Lynchburg, VA	10/31/01
Speaking Engagement	Silver Spring, MD	11/01/01
Meetings	Los Angeles, CA	11/02/01
Official	Crawford, TX/Austin, TX	11/07/01
Speaking Engagement	Atlanta, GA	11/09/01
Meetings	Los Angeles, CA	11/10/01
Official	Manhattan, NY	11/10/01
Official	Lynchburg, VA	11/14/01
Official	Manhattan, NY	11/15/01
Official	Waco, TX	11/16/01
Official	Waco, TX	11/16/01
Official	Salt Lake City, UT	11/27/01
Official	Houston, TX/Sacramento, CA/Santa Fe, NM	11/28/01
Official	Manhattan, NY	11/29/01
Official	Manhattan, NY	11/29/01
Meetings	Virginia Beach, VA	12/04/01
Meetings	Atlanta, GA	12/05/01
Official	Lynchburg, VA	12/05/01
Meetings	Philadelphia, PA	12/05/01

REV_00169473

Speaking Engagement	Atlanta, GA	12/06/01
Speaking Engagement	Ft. Wayne, IN	12/06/01
Official	Lynchburg, VA	12/12/01
Meetings	Lynchburg, VA	12/16/01
Official	Sacramento, CA	12/18/01
Official	Camp David, MD	12/21/01
Official	Lynchburg, VA	12/24/01
Official	Waco, TX	12/26/01
Official	Minneapolis, MN	12/27/01
Official	Camp David, MD	12/28/01
Speaking Engagement	Austin, TX	01/03/02
Official	Hamilton, OH	01/06/02
Meetings	Lynchburg, VA	01/07/02
Official	Salt Lake City, UT	01/09/02
Speaking Engagement	Las Vegas, NV	01/10/02
Official	Anchorage, AK	01/14/02
Meetings	Lynchburg, VA	01/14/02
Official	Mamphis, TN	01/14/02
Official	New Orleans, LA	01/14/02
Speaking Engagement	Sacramento, CA	01/17/02
Speaking Engagement	Dallas, TX	01/18/02
Official	Portland, ME	01/21/02
Official	Atlanta, GA	01/25/02
Meetings	Manhattan, NY	01/25/02
Official	Winston-Salem. NC	01/25/02
Meetings	Lynchburg, VA	01/28/02
Meetings	Salt Lake City, UT	01/28/02
Speaking Engagement	Chicago, IL	01/30/02
Official	Lynchburg, VA	01/30/02
Official	Salt Lake City, UT	02/01/02
Official	Salt Lake City, UT	02/01/02
Official	Denver, C0	02/04/02
Official	Jackson, WY	02/04/02
Meetings	Lynchburg, VA	02/04/02
Official	Milwaukee, WI	02/06/02
Meetings	Albuquerque, NM	02/07/02
Official	Denver, CO/Jackson, WY/ Idaho Falls, ID	02/07/02
Meetings	New Haven, CT	02/07/02
Official	Waco, TX	02/08/02

REV_00169474

Official	Anchorage, AK	02/11/02
Official	Lynchburg, VA	02/11/02
Speaking Engagement	Denver, CO	02/12/02
Official	Lynchburg, VA	02/13/02
Speaking Engagement	Naples, FL	02/14/02
Speaking Engagement	Charlottesville, VA	02/16/02
Speaking Engagement	Dallas, TX	02/18/02
Official	Jackson, WY/Los Angeles, CA	02/18/02
Meetings	Kansas City, KS	02/18/02
Accompany a USG Delegation	Rome, ITA	02/18/02
Meetings	Key West, FL	02/21/02
Meetings	Las Vegas, NV	02/21/02
Meetings	Lynchburg, VA	02/27/02
Speaking Engagement	Los Angeles, CA	02/28/02
Official	Camp David, MD	03/01/02
Speaking Engagement	Hartford, CT	03/01/02
Speaking Engagement	Jackson, MS	03/01/02
Meetings	Lynchburg, VA	03/04/02
Official	Camp David, MD	03/05/02
Official	Lynchburg, VA	03/06/02
Speaking Engagement	Palm Springs, CA	03/07/02
Meetings	Lynchburg, VA	03/08/02
Official	Norfolk, VA	03/08/02
Official	Richmond, VA	03/08/02
Official	Richmond, VA	03/08/02
Official	College Station, TX	03/09/02
Official	Fayetteville, NC	03/11/02
Official	Lynchburg, VA	03/11/02
Official	St. Louis, MO	03/13/02
Meetings	Washington DC	03/15/02
Official	El Paso, TX	03/16/02
Official	Atlanta, GA	03/22/02
Meetings	Cedar Rapids, IA	03/24/02
Official	Austin, TX/Waco, TX	03/25/02
Official	Dallas, TX	03/25/02
Official	Lynchburg, VA	03/25/02

REV_00169475

Official	Atlanta, GA/Waco, TX/Greenville, SC	03/27/02
Meetings	Lynchburg, VA	03/27/02
Official	Philadelphia, Pa	03/27/02
Official	Waco, TX	03/27/02
Official	Waco, TX	04/04/02
Official	Waco, TX	04/04/02
Official	Waco, TX	04/04/02
Meetings	Boston, MA	04/05/02
Speaking Engagement	Orlando, FL/Tampa, FL	04/06/02
Meetings	Knoxville, TN	04/07/02
Meetings	Denver. CO/Las Vegas, NV	04/11/02
Official	Camp David, MD	04/12/02
Official	Camp David, MD	04/12/02
Meetings	Boston, MA	04/15/02
Meetings	Lynchburg, VA	04/15/02
Meetings	Manhattan, NY	04/15/02
Speaking Engagement	Oakland, CA/Seattle, WA	04/16/02
Official	Lynchburg, VA	04/17/02
Official	Lynchburg, VA	04/17/02
Official	Camp David, MD	04/19/02
Official	Austin, TX/Waco, TX	04/23/02
Official	Lynchburg, VA	04/23/02
Official	Los Angeles, CA/Waco, TX	04/24/02
Official	Los Angeles, CA/Waco, TX	04/24/02
Speaking Engagement	Jackson, MS	04/26/02
Meetings	Philadelphia, PA	04/26/02
Meetings	San Marcos, TX	04/27/02
Official	Lynchburg, VA	04/29/02
Meetings	San Jose, CA	04/29/02
Meetings	Tampa, FL	04/30/02
Official	Camp David, MD	05/03/02
Speaking Engagement	Miami, FL	05/07/02
Official	Lynchburg, VA	05/08/02
Official	Camp David, MD	05/10/02
Speaking Engagement	College Station, TX	05/10/02
Official	Houston, TX	05/10/02
Official	Lynchburg, VA	05/13/02
Speaking Engagement	New Orleans, LA	05/13/02

REV_00169476

Official	Lynchburg, VA	05/15/02
Official	Camp David, MD	05/17/02
Meetings	Manhattan, NY/Phoenix, AZ	05/21/02
Speaking Engagement	Atlanta, GA	05/23/02
Speaking Engagement	Birmingham, AL	05/25/02
Official	West Point, NY	05/26/02
Official	Little Rock, AR	05/27/02
Official	Lynchburg, VA	05/27/02
Official	Little Rock, AR	05/29/02
Speaking Engagement	Pittsburg, PA	05/29/02
Official	Philadelphia, Pa	05/30/02
Speaking Engagement	Albuquerque, NM/Las Vegas, NV/Los Angeles, CA	05/31/02
Official	Camp David, MD	05/31/02
Invitational	Washington, DC	05/31/02
Official	Des Moines, IA	06/02/02
Official	Des Moines, IA	06/02/02
Meetings	Manhattan, NY	06/02/02
Meetings	Lynchburg, VA	06/03/02
Official	Lynchburg, VA	06/03/02
Official	Kansas City, KS	06/06/02
Official	Camp David, MD	06/07/02
Official	El Paso, TX	06/07/02
Speaking Engagement	Ft. Meyers, FL	06/07/02
Speaking Engagement	Salt Lake City, UT	06/10/02
Official	Atlanta, GA	06/11/02
Official	Crawford, TX	06/11/02
Meetings	Los Angeles, CA/Modesto, CA	06/12/02
Official	Lynchburg, VA	06/12/02
Official	Waco, TX	06/12/02
Meetings	New Orleans, LA	06/13/02
Official	Minneapolis, MN	06/14/02
Official	Waco, TX	06/14/02
Official	Waco, TX	06/14/02
Official	Lynchburg, VA	06/17/02
Meetings	Madison. WI	06/17/02
Speaking Engagement	Pittsburg, PA	06/19/02
Speaking Engagement	Brooklyn, NY	06/21/02

REV_00169477

Speaking Engagement	Charlotte, NC	06/21/02
Meetings	Phoenix, AZ/Scottsdale, AZ	06/21/02
Official	Providence, RI	06/22/02
Official	Lynchburg, VA	06/24/02
Meetings	San Francisco, CA/Seattle, WA	06/25/02
Official	Lynchburg, VA	06/26/02
Speaking Engagement	Albuquerque, NM	06/27/02
Official	Crawford, TX	06/28/02
Official	Ripley, WV	06/29/02
Official	Lynchburg, VA	07/11/02
Official	Crawford, TX	07/12/02
Meetings	New Orleans, LA	07/12/02
Meetings	Boise, ID	07/14/02
Meetings	New Orleans, LA	07/14/02
Official	Lynchburg, VA	07/16/02
Meetings	London, GBR/FRA	07/18/02
Speaking Engagement	Los Angeles, CA	07/20/02
Official	Charleston, SC	07/23/02
Official	Charleston, SC	07/23/02
Speaking Engagement	Cleveland, OH/Minneapolis, MN	07/23/02
Meetings	Denver, CO	07/23/02
Meetings	Denver, CO/Orlando, FL	07/23/02
Official	Lynchburg, VA	07/24/02
Official	Manhattan, NY	07/24/02
Meetings	Atlanta, GA	07/28/02
Meetings	MexicoCity, MEX	07/28/02
Official	Lubbock, TX	07/29/02
Meetings	Lynchburg, VA	07/29/02
Meetings	Boston, MA	07/30/02
Meetings	Ausitn, TX	08/01/02
Meetings	Austin, TX	08/01/02
Official	Waco, TX	08/01/02
Official	Waco, TX	08/01/02
Speaking Engagement	Hershey, PA	08/03/02
Official	Lynchburg, VA	08/05/02
Meetings	Manhattan, NY	08/05/02
Meetings	Ft Lauderdale, FL	08/06/02
Meetings	Orlando, FL	08/06/02
Official	Waco, TX	08/06/02
Official	Waco, TX	08/06/02

REV_00169478

Official	Waco, TX	08/06/02
Official	Waco, TX	08/11/02
Official	Des Moines, IA	08/13/02
Conference Attendance	New Orleans, LA	08/13/02
Official	Waco, TX	08/13/02
Speaking Engagement	Charleston, WV	08/15/02
Official	Waco, TX	08/15/02
Official	Waco, TX	08/15/02
Official	Las Cruces, NM	08/19/02
Official	Las Cruses, NM	08/19/02
Official	Monterey, CA	08/19/02
Official	Hanoi, VIE/Honolulu, HI	08/20/02
Official	Las Cruces, NM	08/20/02
Speaking Engagement	Ft. Lauderdale, FL	08/25/02
Speaking Engagement	Memphis, TN	08/28/02
Speaking Engagement	Philadelphia, PA	08/28/02
Official	Louisville, KY	08/29/02
Official	Louisville, KY	08/29/02
Official	Louisville, KY	08/30/02
Official	South Bend, IN	08/30/02
Official	South Bend, IN	08/30/02
Official	South Bend, IN	08/30/02
Official	Minneapolis, MN	09/02/02
Speaking Engagement	Manhattan, NY/Kansas City, KS	09/03/02
Speaking Engagement	Naples, FL/Orlando, FL	09/03/02
Meetings	Lynchburg, VA	09/04/02
Meetings	Manhattan, NY	09/04/02
Speaking Engagement	Manhattan, NY	09/05/02
Official	Manhattan, NY	09/08/02
Official	Pittsburg, PA	09/10/02
Official	Pittsburg, PA	09/10/02
Official	Lynchburg, VA	09/11/02
Official	Davenport, IA	09/12/02
Meetings	Austin, TX	09/13/02
Meetings	Los Angeles, CA	09/13/02
Official	Pittsburg, PA	09/13/02
Official	Lynchburg, VA	09/16/02
Speaking Engagement	Baltimore, MD	09/19/02

REV_00169479

Speaking Engagement	Cedar Rapids, IA	09/19/02
Speaking Engagement	Chicago, IL	09/20/02
Speaking Engagement	Wintergreen, VA	09/20/02
Speaking Engagement	Columbus, OH	09/23/02
Official	Milwaukee, WI	09/23/02
Official	Lynchburg, VA	09/25/02
Speaking Engagement	Orange County, CA	09/25/02
Official	Waco, TX	09/25/02
Speaking Engagement	Raleigh, NC	09/26/02
Speaking Engagement	Pittsburg, PA	09/27/02
Speaking Engagement	Boston, MA	09/28/02
Speaking Engagement	Manhattan, NY	09/30/02
Official	San Francisco, CA	10/15/02

White House Office FY 2003 Staff Travel		
PURPOSE	**DESTINATION**	**DATE**
Meeting	Manhattan,NY	10/01/02
Meeting	Chicago, IL	10/02/02
Speaking Engagement	Columbus, OH	10/02/02
Speaking Engagement	Syracuse, NY	10/04/02
Speaking Engagement	Atlanta, GA	10/05/02
Official	Lynchburg, VA	10/07/02
Speaking Engagement	Orlando, FL	10/07/02
Meeting	Atlanta, GA	10/08/02
Speaking Engagement	Portsmouth, NH	10/08/02
Meeting	Hague	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02

REV_00169480

Speaking Engagement	Sioux Falls Naval, SD	10/09/02
Meeting	Washington, DC	10/09/02
Meeting	Manhattan,NY	10/10/02
Meeting	Naples, FL	10/10/02
Speaking Engagement	Ft. Lauderdale, FL	10/10/02
Speaking Engagement	Ft. Lauderdale, FL	10/10/02
Speaking Engagement	Milwaukee, WI	10/13/02
Meeting	Daytona Beach, FL	10/14/02
Official	Lynchburg, VA	10/16/02
Meeting	Manhattan,NY	10/17/02
Meeting	Philadelphia, PA	10/17/02
Meeting	Manhattan,NY	10/17/02
Speaking Engagement	Indianapolis, IN	10/17/02
Speaking Engagement	Atlanta, GA	10/19/02
Speaking Engagement	San Antonio, TX	10/20/02
Meeting	Des Moines, IA	10/20/02
Official	Lynchburg, VA	10/21/02
Official	Waco, TX	10/22/02
Meeting	Lynchburg, VA	10/23/02
Meeting	Chicago, IL	10/23/02
Speaking Engagement	St. Louis, MO	10/24/02
Speaking Engagement	Los Angeles, CA	10/24/02
Meeting	Charlotte, NC	10/24/02
Meeting	Los Angeles, CA	10/24/02
Official	Lynchburg, VA	10/28/02
Meeting	Charlotte, NC	10/28/02
Meeting	Cleveland, OH	10/28/02
Meeting	Providence, RI	10/28/02
Speaking Engagement	Pittsburgh, PA	10/29/02
Official	Waco, TX	10/31/02
Meeting	Miami, FL	11/05/02
Meeting	West Point, NY	11/07/02
Meeting	Providence, RI	11/07/02
Speaking Engagement	Providence, RI	11/07/02
Speaking Engagement	Los Angeles, CA	11/07/02
Meeting	Manhattan,NY	11/08/02
Speaking Engagement	San Diego, CA	11/10/02
Speaking Engagement	Reno, NV	11/11/02
Official	Lynchburg, VA	11/12/02
Official	Lynchburg, VA	11/13/02
Meeting	Charlotte, NC	11/13/02
Speaking Engagement	Lansing, MI	11/13/02

Speaking Engagement	Manchester, NH	11/13/02
Speaking Engagement	Portland, OR	11/14/02
Meeting	Austin, TX	11/16/02
Meeting	Austin, TX	11/16/02
Speaking Engagement	Albany, NY	11/18/02
Speaking Engagement	Portland, OR	11/18/02
Speaking Engagement	Newark, NJ	11/19/02
Meeting	Manhattan,NY	11/20/02
Speaking Engagement	Tallahassee, FL	11/20/02
Speaking Engagement	Concord, NH	11/20/02
Meeting	Manhattan,NY	11/21/02
Meeting	Los Angeles, CA	11/21/02
Meeting	Loudoun County, VA	11/21/02
Speaking Engagement	West Palm Beach, FL	11/22/02
Speaking Engagement	Springfield, MO	11/24/02
Speaking Engagement	Ft. Lauderdale, FL	11/24/02
Meeting	Manhattan,NY	11/25/02
Speaking Engagement	Manhattan,NY	11/25/02
Official	Waco, TX	11/25/02
Speaking Engagement	Hershey, PA	11/26/02
Meeting	New Orleans, LA	12/01/02
Official	Ft. Lauderdale, FL	12/01/02
Official	Manhattan,NY	12/02/02
Speaking Engagement	Augusta Naval Ctr, ME	12/02/02
Official	Jacksonville, Fl	12/03/02
Speaking Engagement	Pensacola, FL	12/03/02
Speaking Engagement	Tallahassee, FL	12/04/02
Speaking Engagement	Lexington, KY	12/04/02
Meeting	Philadelphia, PA	12/06/02
Speaking Engagement	Ft. Wayne, IN	12/06/02
Speaking Engagement	Richmond, VA	12/07/02
Meeting	Manhattan,NY	12/09/02
Official	Lynchburg, VA	12/09/02
Meeting	Philadelphia, PA	12/09/02
Speaking Engagement	Nashville, TN	12/09/02
Meeting	Manhattan,NY	12/10/02
Speaking Engagement	Duluth,, MN	12/10/02
Official	Lynchburg, VA	12/11/02
Meeting	Philadelphia, PA	12/11/02
Meeting	Philadelphia, PA	12/11/02
Meeting	Philadelphia, PA	12/11/02
Meeting	Philadelphia, PA	12/11/02
Speaking Engagement	Philadelphia, PA	12/11/02

REV_00169482

Speaking Engagement	Philadelphia, PA	12/11/02
Meeting	Indianapolis, IN	12/11/02
Meeting	Norfolk, VA	12/17/02
Meeting	West Palm Beach, FL	12/20/02
Meeting	Salt Lake City, UT	01/01/03
Official	Chicago, IL	01/02/03
Official	Reno, NV	01/05/03
Official	Chicago, IL	01/05/03
Meeting	Manhattan,NY	01/07/03
Meeting	Augusta Naval Ctr, ME	01/08/03
Meeting	Albuquerque, NM	01/09/03
Meeting	Denver, CO	01/10/03
Meeting	Tampa, FL	01/11/03
Meeting	Tampa, FL	01/11/03
Meeting	Denver, CO	01/11/03
Meeting	Denver, CO	01/12/03
Meeting	Denver, CO	01/12/03
Meeting	Denver, CO	01/12/03
Meeting	Denver, CO	01/12/03
Meeting	Denver, CO	01/12/03
Meeting	Denver, CO	01/12/03
Meeting	Salem Naval Ctr, OR	01/12/03
Official	Lynchburg, VA	01/15/03
Meeting	Manhattan,NY	01/19/03
Speaking Engagement	Austin, TX	01/20/03
Official	Lynchburg, VA	01/21/03
Meeting	Manhattan,NY	01/21/03
Speaking Engagement	Des Moines, IA	01/21/03
Speaking Engagement	Oakland, CA	01/23/03
Speaking Engagement	Chicago, IL	01/26/03
Speaking Engagement	Norfolk, VA	01/26/03
Meeting	Manhattan,NY	01/28/03
Meeting	Las Vegas, NV	01/31/03
Meeting	Manhattan,NY	02/03/03
Meeting	Manhattan,NY	02/03/03
Speaking Engagement	Boston, MA	02/06/03
Meeting	Nashville, TN	02/09/03
Official	Lynchburg, VA	02/10/03
Speaking Engagement	Little Rock, AR	02/10/03
Meeting	Tallahassee, FL	02/11/03
Meeting	San Diego, CA	02/13/03
Conference Attendance	San Diego, CA	02/15/03
Speaking Engagement	San Diego, CA	02/15/03
Meeting	Cincinnati, OH	02/19/03

REV_00169483

Meeting	Montgomery, AL	02/20/03
Speaking Engagement	Baton Rouge, LA	02/20/03
Meeting	Lynchburg, VA	02/24/03
Meeting	Santa Fe, NM	02/24/03
Speaking Engagement	Houston, TX	02/27/03
Meeting	Miami, FL	02/27/03
Meeting	Portland, OR	02/28/03
Meeting	Newport News, VA	03/05/03
Official	Lynchburg, VA	03/05/03
Speaking Engagement	Minneapolis, MN	03/06/03
Meeting	King of Prussia, PA	03/10/03
Speaking Engagement	Raleigh, NC	03/11/03
Meeting	Chicago, IL	03/12/03
Meeting	Chicago, IL	03/12/03
Meeting	Philadelphia, PA	03/12/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/14/03
Speaking Engagement	Charlottesville, VA	03/14/03
Speaking Engagement	Montgomery, AL	03/14/03
Speaking Engagement	Charlotte, NC	03/16/03
Speaking Engagement	Columbus, OH	03/17/03
Official	Lynchburg, VA	03/19/03
Speaking Engagement	Harford County, MD	03/21/03
Speaking Engagement	Atlanta, GA	03/24/03
Meeting	Philadelphia, PA	03/25/03
Meeting	Philadelphia, PA	03/25/03
Meeting	Philadelphia, PA	03/25/03
Meeting	Lansing, MI	03/25/03
Official	Lynchburg, VA	03/26/03
Speaking Engagement	Princeton, NJ	03/26/03
Speaking Engagement	Columbus, OH	03/26/03
Speaking Engagement	Jackson, MS	03/27/03
Meeting	Las Vegas, NV	03/27/03
Speaking Engagement	Los Angeles, CA	03/29/03
Speaking Engagement	Pittsburgh, PA	03/29/03
Official	Lynchburg, VA	03/31/03
Official	Lynchburg, VA	04/02/03
Meeting	Manhattan,NY	04/02/03
Speaking Engagement	Nashville, TN	04/03/03

REV_00169484

Official	Philadelphia, PA	04/03/03
Speaking Engagement	Atlantic City, NJ	04/04/03
Speaking Engagement	Tallahassee, FL	04/06/03
Speaking Engagement	Hershey, PA	04/06/03
Meeting	Houston, TX	04/08/03
Speaking Engagement	Albuquerque, NM	04/08/03
Speaking Engagement	Denver, CO	04/11/03
Official	Elmendorf, AK	04/12/03
Speaking Engagement	Detroit, MI	04/13/03
Meeting	St. Louis, MO	04/14/03
Speaking Engagement	Jefferson City, MO	04/14/03
Meeting	Manhattan,NY	04/15/03
Meeting	Dayton, OH	04/22/03
Official	San Jose, CA	04/22/03
Speaking Engagement	Houston, TX	04/23/03
Speaking Engagement	Atlanta, GA	04/24/03
Speaking Engagement	Houston, TX	04/24/03
Meeting	Albuquerque, NM	04/24/03
Speaking Engagement	Bridgeport, CT	04/27/03
Meeting	Chicago, IL	05/01/03
Speaking Engagement	Baton Rouge, LA	05/05/03
Speaking Engagement	Portland, OR	05/05/03

Office of the Vice President FY 2002 Staff Travel		
PURPOSE	**DESTINATION**	**DATE**
Meetings	London, GBR	07/14/02
Official	Monterey, CA	07/15/02

Office of the Vice President FY 2003 Staff Travel		
PURPOSE	**DESTINATION**	**DATE**
Invitational	Washington DC	10/18/02
Meetings	London, GBR	10/09/02
Meetings	London, GBR	12/12/02
Meetings	Manhattan, NY	01/15/03
Official	Raleigh, NC	04/10/03

REV_00169485

QUESTION 110: Please provide a list of all Presidential, First Lady and Vice Presidential travel for FY02 and FY03 (to date). For each trip, please provide the trip date, destination, designation (i.e., political, official), number of official EOP staff supporting the Principal and, the official cost of the trip. **(POC – Rothley Howard)**

Answer: The following charts summarize Presidential, First Lady and Vice Presidential travel for Fiscal Years 2002 and 2003 (to date). They also reflect costs currently in the accounting system. Several of the trips listed below are awaiting additional costs, therefore, final costs may vary.

Presidential Travel FY 2002

		Status		# of EOP Staff	White House
Date	**Destination**	**Official**	**Political**		**Travel Cost**
3-Oct	New York, NY	100%		6	$8,060
7-Oct	Emmitsburg, MD	100%		4	$1,988
17-Oct	Sacramento, CA	100%		5	$16,678
30-Oct	New York, NY	100%		4	$13,043
8-Nov	Atlanta, GA	100%		6	$17,920
10-Nov	New York, NY	100%		0	$6,525
14-Nov	Crawford. TX	100%		4	$44,535
21-Nov	Fort Campbell, KY	100%		3	$9,114
27-Nov	Salt Lake City, UT	100%		7	$4,328
1-Dec	Philadelphia, PA	100%		5	$13,669
4-Dec	Orlando, FL	70%	30%	7	$13,371
7-Dec	Norfolk, VA	100%		5	$5,271
11-Dec	Citadel, SC	100%		4	$11,498
26-Dec	Waco, TX	100%		7	$12,667
4-Jan	Austin, TX	100%		1	$5,356
5-Jan	Ontario, CA	100%		4	$10,240
5-Jan	Portland, OR	100%		7	$10,870
8-Jan	Hamilton, OH	100%		6	$6,588
8-Jan	Boston, MA	100%		6	$11,159
8-Jan	Portsmith, NH	54%	46%	4	$6,594
9-Jan	Washington, DC	100%		0	$0
11-Jan	Conshohoken, PA	100%		6	$5,321
14-Jan	Moline, IL	100%		6	$7,570
14-Jan	Springfield, MO	100%		4	$6,569
14-Jan	New Orleans, LA	100%		21	$32,494
22-Jan	Charleston, WV	71%	29%		$6,086
25-Jan	Portland, ME	100%		5	$7,698

REV_00169486

30-Jan	Winston-Salem, NC	65%	35%	0	$8,799
30-Jan	Daytona Beach, FL	100%		16	$12,874
31-Jan	Atlanta, GA	100%		5	$13,869
1-Feb	White Sulpher Springs, WV	100%		4	$4,273
4-Feb	Eglin AFB,FL	100%		4	$7,666
5-Feb	Pittsburgh ,PA	100%		5	$7,918
6-Feb	New York, NY	54%	46%	6	$6,940
8-Feb	Denver, CO	100%		4	$7,644
8-Feb	Salt Lake City, UT	100%		13	$12,877
8-Feb	Jackson, WY	100%		7	$11,182
11-Feb	Milwaukee, WI	48%	52%	1	$9,360
16-Feb	Anchorage, AK	40%	60%	1	$9,181
27-Feb	Charlotte, NC	52%	48%	1	$7,048
1-Mar	Des Moines, IA	53%	47%	**5**	$3,546
3-Mar	Minneapolis, MN	50%	50%	2	$7,127
8-Mar	St. Petersburg, FL	57%	43%	2	$6,093
12-Mar	Philadelphia, PA	100%		9	$11,102
15-Mar	Fayetteville, NC	100%		6	$1,218
16-Mar	Chicago, IL	100%		4	$11,217
18-Mar	St. Louis, MO	65%	35%	5	$5,835
21-Mar	El Paso, TX	100%		6	$129
27-Mar	Greenville, SC	45%	55%	5	$-3,217
27-Mar	Atlanta, GA	52%	48%	3	$166
27-Mar	Waco, TX	100%		8	$19,804
28-Mar	Dallas, TX	20%	80%	4	$224
2-Apr	Philadelphia, PA	59%	41%	6	$12,239
4-Apr	Waco, TX	100% State		0	$0
8-Apr	Knoxville, TN	100%		5	$743
9-Apr	Bridgeport, CT	52%	48%	6	$7,152
15-Apr	Cedar Rapids, IA	59%	41%	5	$7,819
17-Apr	Lexington, VA	100%		5	$8,505
22-Apr	Saranac, NY(Wilmington, NY)	100%		4	$13,029
19-Apr	Beltsville, MD	100%		0	$0
24-Apr	Sioux Falls, SD	45%	55%	5	$8,249
24-Apr	Waco, TX	100%		12	$13,741
29-Apr	Los Angeles, CA	48%	52%	17	$10,907
29-Apr	Albuquerque, NM	54%	46%	5	$7,054
30-Apr	San Jose, CA	42%	58%	6	$6,632
6-May	Southfield, MI	100%		5	$9,857
8-May	Milwaukee, WI	100%		6	$10,952

REV_00169487

8-May	Lacrosse, WI	100%		7	$8,760
10-May	Columbus, OH	59%	41%	5	$4,992
13-May	Chicago, IL	42%	58%	6	$1,743
20-May	Miami, FL	42%	58%	7	$8,587
1-Jun	West Point, NY	100%		5	$13,593
3-Jun	Little Rock, AR	100%		6	$10,094
7-Jun	Des Moines, IA	100%		6	$13,895
11-Jun	Kansas City, MO	58%	42%	7	$8,179
14-Jun	Columbus,OH	100%		6	$4,031
14-Jun	Houston, TX	45%	55%	**5**	$9,739
14-Jun	Waco, TX	100%		3	$14,955
17-Jun	Atlanta, GA	100%		5	$8,663
21-Jun	Orlando, FL	48%	52%	7	$12,111
24-Jun	Newark, NJ	48%	52%	7	$4,974
25-Jun	Phoenix, AZ	100%		0	$584
1-Jul	Cleveland, OH	100%		5	$7,823
2-Jun	Milwaukee, WI	100%		5	$6,411
4-Jul	Ripley, WV	100%		6	$7,129
5-Jul	Kennebunkport, MN	100%		0	$34,245
9-Jul	New York City, NY	100%		5	$7,706
11-Jul	Minneapolis, MN	62%	38%	7	$13,709
15-Jul	Birmingham, AL	62%	38%	6	$5,747
18-Jul	Troy, MI	100%		0	$3,197
19-Jul	Fort Drum, NY	100%		6	$7,133
22-Jul	Argonne, IL	100%		7	$10,510
25-Jul	Greensboro, NC	62%	38%	7	$5,342
29-Jul	Charleston, SC	59%	41%	5	$7,149
2-Aug	Kennebunkport, MN	75%	25%	14	$34,291
5-Aug	Pittsburg, PA	56%	44%	7	$11,138
6-Aug	Waco, TX	100%		21	$107,331
7-Aug	Jackson, MS	76%	24%	6	$9,750
13-Aug	Economic Forum Waco, TX	100%		0	$201
14-Aug	Milwaukee, WI	42%	58%	5	$5,217
14-Aug	Des Moines, IA	42%	58%	23	$6,630
14-Aug	South Dakota	100%		4	$8,029
16-Aug	Rapid City, SD	58%	42%	1	$65
22-Aug	Medford, OR	100%		5	$10,226
22-Aug	Portland, OR		100%	0	$2,429
23-Aug	Dana Point, CA	50%	50%	20	$21,873
23-Aug	Stockton, CA	38%	62%	5	$4,565

REV_00169488

24-Aug	Thousand Oaks/Westwood, CA		100%	0	$955
24-Aug	Santa Anna, CA	100%			$0
24-Aug	Las Cruces, NM	42%	58%	6	$4,381
29-Aug	Oklahoma City, OK		100%	0	$0
29-Aug	Little Rock, AR	58%	42%	5	$10,649
2-Sep	Pittsburgh, PA	100%		4	$11,098
5-Sep	Louisville, KY	59%	41%	7	$8,684
5-Sep	South Bend, IN	42%	58%	3	$5,105
6-Sep	Delu	100%		0	$1,346
6-Sep	Minneapolis, MN	100%		5	$3,387
9-Sep	Detroit, MI	100% State		0	$1,804
11-Sep	Somerset County, PA	100%		6	$1,611
11-Sep	New York City, NY	100%		8	$6,665
16-Sep	Davenport, IA	48%	52%	6	$6,573
17-Sep	Nashville, TN	38%	62%	6	$1,573
23-Sep	Trenton, NJ	38%	62%	5	$5,053
26-Sep	Houston, TX		100%	0	$0
26-Sep	Waco, TX	100%		9	$19,792
27-Sep	Denver, CO		100%	0	$0
27-Sep	Flagstaff, AZ		100%	0	$0
27-Sep	Phoenix, AZ		100%	0	$0
	Total Presidential FY 2002 Costs Through 09/30/02				**$1,146,388**

First Lady Travel FY 2002					
		Status		# of EOP	White House
Date	Destination	Official	Political	Staff	Travel Cost
3-Oct	Cincinnati, OH	100%		0	$339
16-Oct	Newark, NJ	100%		0	$1,790
18-Oct	Atlanta, GA	100%		1	$1,742
19-Oct	Baton Rouge, LA	100%		0	$1,568
30-Oct	New York, NY	100%		3	$1,652
16-Nov	Austin, TX	100%		1	$7,300
9-Jan	Topeka, KS	100%		0	$1,566
10-Jan	Houston, TX	100%		0	$1,915
11-Jan	Austin, TX	100%		0	$780
21-Jan	Atlanta, GA	100%		0	$1,060
10-Feb	Los Angeles, CA	100%		1	$5,021
11-Feb	Hershey, PA	100%		0	$0
8-Mar	New York, NY	100%		3	$6,218

REV_00169489

11-Mar	Richmond, VA	100%		4	$1,659
4-Apr	Dallas, TX	100%		1	$35
11-Apr	Hershey, PA	100%		1	$899
30-Apr	Little Rock, AR	100%		2	$1,839
30-Apr	Dallas, TX	100%		3	$365
9-May	New York, NY	100%		0	$1,898
28-May	Austin, TX	100%		1	$3,379
10-Jun	Boise, ID	100%		1	$3,456
11-Jun	Salt Lake City, UT	100%		1	$1,187
11-Jun	San Francisco	61%	39%	0	$5,237
12-Jun	Austin, TX	100%		1	$3,693
6-Jun	Crawford, TX	100%		0	$0
20-Jun	Boston, MA	100%		1	$1,674
17-Jun	Cinncinati, OH	100%		2	$2,309
22-Jun	Midland, TX	100%		0	$0
7-Jul	Kennebunkport, ME	100%		0	$0
12-Jul	Norfolk, VA	100%		2	$969
18-Jul	Philadelphia, PA	100% State		0	$0
24-Jul	New York, NY			2	$236
2-Aug	Dallas, TX	100%		1	$1,773
3-Aug	Lubbock, TX	100%		4	$3,571
14-Aug	Austin, TX	100%		2	$3,231
22-Aug	Austin, TX	100%		2	$3,501
11-Sep	New York, NY	100%		4	$4,241
25-Sep	Greenville, MS	100%		0	$1,591
27-Sep	Waco, TX	100%		1	105
	Total First Lady FY 2002 Costs through 09/30/02				**$77,799**

Vice Presidential Travel FY 2002					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
7-Oct	Smithers, BC *(can./Adv. only)*			1	$449
18-Oct	New York, NY	100%		4	$2,063
21-Oct	Washington, DC	100%			$378
28-Oct	Poughkeepsie, NY	100%		5	$3,885
30-Oct	White Sulphur Springs, WV				$200
4-Nov	Pierre/Gettysburg, SD	100%		7	$5,676
2-Nov	Dallas, TX *(can. trip)*	100%		1	$115
2-Nov	Jackson, WY	100%		2	$11,195

REV_00169490

27-Nov	Salt Lake City, UT	100%		3	$526
29-Nov	New York, NY	100%		17	$14,413
6-Dec	Dallas, TX		100%	9	$1,776
7-Dec	Oklahoma City, OK		100%	3	$4
14-Dec	Albany, GA	100%		9	$5,214
17-Dec	Jackson, WY *(no trip listed/noTA)*				$0
19-Dec	Trappe, MD	100%		9	$4,217
22-Dec	Jackson, WY	100%		14	$55,257
11-Jan	Albany, GA	100%		8	$5,447
25-Jan	Cincinnati, OH		100%	4	$0
30-Jan	White Sulpher Springs, WV	100%		8	$4,353
6-Feb	Louisville, KY		100%	9	$5,392
6-Feb	Evansville, IN		100%		$0
7-Feb	Hopkinsville, KY	17%	83%	9	$700
15-Feb	Armstrong, TX	100%		1	$275
17-Feb	Carlsbad, CA	100%		1	$30,757
19-Feb	Fullerton, CA	100%			$2,700
19-Feb	Los Angeles, CA	15%	85%	2	$5,698
20-Feb	Sacramento, CA		100%	2	$2,514
20-Feb	Fresno, CA *(Mix?)*	100%			$817
20-Feb	Pleasantville, CA	100%			$0
21-Feb	San Jose, CA *(Mix)*	100%		2	$9,783
24-Feb	Salt Lake City, UT	100%		7	$9,544
25-Feb	Cheyenne, WY	30%	70%	27	$9,672
25-Feb	Jackson, WY	100%		4	$20,789
28-Mar	Jackson, WY	100%		1	$13,492
3-Apr	Denver, CO		100%	2	$447
4-Apr	Jackson, MS		100%	3	$1,047
4-Apr	Kansas City, MO		100%	1	$0
4-Apr	Fayetteville, AR		100%	1	$0
5-Apr	Dallas, TX	100%		21	$4,034
12-Apr	Charleston, WV		100%		$0
12-Apr	Richmond, VA		100%		$0
15-Apr	Grand Rapids, MI	100%		10	$5,770
15-Apr	Collinsville, IL		100%	1	$221
19-Apr	Allentown, WV		100%		$0
19-Apr	Islandia, NY		100%		$126
22-Apr	Ft. Lauderdale, FL		100%		$0
24-Apr	Houston, TX *(State-sponsored)*	100%			$0
25-Apr	Crawford, TX *(State-sponsored)*	100%			$0

REV_00169491

2-May	Lansing, MI	100%		13	$4,903
2-May	South Bend, IN		100%	1	$57
9-May	Minneapolis, MN		100%		$0
11-May	Jackson, WY		100%	4	$666
21-May	Boston, MA		100%		$0
24-May	Jackson, WY	100%		8	$9,641
29-May	Nashville, TN		100%		$0
7-Jun	Harrisburg, PA		100%		$0
14-Jun	Columbia, SC		100%		$3,387
14-Jun	Dallas, TX	100%		5	$11,223
20-Jun	Dayton, OH		100%		$0
20-Jun	Detroit, MI		100%		$0
21-Jun	Cody, WY	100%		3	$5,270
21-Jun	Beaver Creek, CO	100%		4	$8,941
23-Jun	Portland, OR		100%	7	$3,902
28-Jun	Charlotte, NC		100%		$0
20-Jun	Raleigh, NC		100%		$0
1-Jul	Wichita, KS		100%		$0
1-Jul	Dallas, TX		100%		$0
1-Jul	Jackson, WY	100%		8	$15,034
9-Jul	Ft. Bragg, NC	100%		1	$860
15-Jul	Hartford, CT		100%		$0
17-Jul	Atlanta, GA	100%		1	$1,805
18-Jul	Conshohocken, PA		100%		$0
18-Jul	Pittsburgh, PA		100%		$0
19-Jul	Macon, GA		100%		$0
19-Jul	Houston, TX		100%		$0
22-Jul	Montgomery, AL	100%		6	$5,498
22-Jul	Cape Canaveral, FL	100%		7	$4,072
29-Jul	Des Moines, IA		100%	5	$255
29-Jul	Cedar Rapids, IA		100%		$0
29-Jul	Fargo, ND		100%	5	$255
30-Jul	Jackson, WY	100%		15	$104,430
1-Aug	Meeker, CO	Cancelled		1	$1,287
6-Aug	San Francisco, CA	72%	28%	7	$13,202
7-Aug	Fresno, CA		100%		$0
8-Aug	Salt Lake City, UT		100%		$0
8-Aug	Albuquerque, NM		100%		$0
12-Aug	Minneapolis, MN		100%		$0
12-Aug	Waco, TX	100%		7	$6,757

REV_00169492

12-Aug	Detroit, MI		100%		$0
13-Aug	Billings, MT		100%		$0
15-Aug	Montgomery, AL		100%		$0
17- Aug	Jackson, WY			3	$1,306
19-Aug	Big Horn, MT	Cancelled			$0
20-Aug	Waco, TX	100%		1	$1,641
26-Aug	Nashville, TN	53%	47%	3	$4,946
29-Aug	San Antonio, TX	100%		3	$2,518
6-Sep	New York, NY	100%		3	$5,447
18-Sep	New London, CT		100%		$0
19-Sep	Burlington, VT	12%	88%	1	$437
19-Sep	New York, NY		100%		$0
20-Sep	Casper, WY	63%	37%	3	$4,840
20-Sep	Jackson, WY	100%		7	$1,830
23-Sep	Kansas City, MO	100%			$0
26-Sep	Memphis, TN		100%		$0
26-Sep	Dallas, TX		100%		$0
27-Sep	Boise, ID		100%	3	$462
26-Sep	Jackson. WY	100%		8	$11,395
27-Sep	Laramie, WY	100%		4	$761
	Total Costs through 9/30/02				**$475,974**

Presidential Travel FY 2003					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
1-Oct	Tampa, FL				$1,032
2-Oct	Baltimore, MD		100%	0	$0
4-Oct	Boston, MA		100%	0	$0
4-Oct	Kennebunkport, ME	100%		17	$37,055
5-Oct	Manchester, NH	32%	68%	4	$5,704
7-Oct	Cincinnati, OH	100%		10	$20,182
8-Oct	Knoxville, TN		100%	0	$798
14-Oct	Detroit, MI		100%	1	$677
17-Oct	Daytona Beach, FL	59%	41%	6	$9,308
17-Oct	Atlanta, GA		100%	0	$0
18-Oct	Rochester, MN		100%	0	$0
18-Oct	Springfield, MO		100%	0	$0
22-Oct	Chester County, PA		100%	0	$0
22-Oct	Bangore, ME		100%	0	$0

REV_00169493

24-Oct	Charlotte, NC		100%	0	$0
24-Oct	Columbia, SC		100%	0	$0
24-Oct	Auburn, AL		100%	0	$0
24-Oct	Waco, TX (State Dept.)	100%		2	$2,168
26-Oct	Cabo San Lucas, Mex (State)	100%		0	$0
27-Oct	Phoenix, AZ (RON)		100%	4	$817
28-Oct	Alamogordo, NM		100%	0	$0
28-Oct	Denver, CO		100%	0	$0
31-Oct	Aberdeen, SD		100%	0	$0
31-Oct	Southbend, IN		100%	0	$0
31-Oct	Charleston, WV		100%	0	$0
1-Nov	Louisville, KY		100%	0	$0
1-Nov	Portsmouth, NH		100%	0	$0
2-Nov	Johnson City, TN		100%	0	$0
2-Nov	Atlanta, GA		100%	0	$0
2-Nov	Tampa Bay, FL (RON)		100%	0	$0
3-Nov	Springfield, IL		100%	0	$0
3-Nov	Minneapolis, MN		100%	0	$0
3-Nov	South Falls, SD		100%	0	$0
3-Nov	Cedar Rapids, IA (RON)		100%	1	$738
4-Nov	St. Louis, MO		100%	0	$0
4-Nov	Bentonville, AR		100%	0	$0
4-Nov	Dallas, TX		100%	0	$0
4-Nov	Waco, TX (RON)	100%		18	$9,387
27-Nov	Waco, TX (RON)	100%		20	$21,899
3-Dec	Shreveport, LA		100%	0	$0
3-Dec	New Orleans, LA		100%	0	$0
12-Dec	Philadelphia, PA	100%		5	$10,793
26-Dec	Waco, TX (RON)	100%		13	$38,144
3-Jan	Ft. Hood, TX	100%		2	$1,777
7-Jan	Chicago, IL	100%		7	$10,516
16-Jan	Scranton, PA	100%		4	$11,184
22-Jan	St. Louis, MO	100%		7	$12,521
29-Jan	Grand Rapids, MI	100%		8	$12,918
31-Jan	Camp David, MD	100%		5	$646
4-Feb	Houston, TX	100%		6	$8,141
9-Feb	White Sulphur Springs, WV	100%		5	$11,968
10-Feb	Nashville, TN	100%		6	$13,069
13-Feb	Jacksonville, FL	100%		6	$15,211
20-Feb	Atlanta, GA	100%		7	$4,646

REV_00169494

20-Feb	Waco, TX (State)	100%		1	$945
4-Mar	Washington, DC	100%		0	$0
5-Mar	Camp Lejeune, NC	100%		3	$5,218
26-Mar	Camp David, MD	100%		7	$350
26-Mar	Tampa Bay, FL	100%		7	$4,541
31-Mar	Philadelphia, PA	100%		5	$1,726
3-Apr	Camp Lejeune, NC	100%		8	$6,968
16-Apr	St. Louis, MO	100%		7	$1,095
16-Apr	Waco, TX	100%		16	$3,972
20-Apr	Ft. Hood, TX	100%		1	$0
24-Apr	Canton, OH	100%			$0
24-Apr	Lima, OH	100%			$0
28-Apr	Dearborn, MI	100%			$0
	Total Costs Through 09/30/03				**$286,114**

First Lady Travel FY 2003					
		Status		Number	White House
Date	Destination	Official	Political	Of Staff	Travel Cost
1-Oct	Tampa, FL	69%	31%	6	$820
4-Oct	Kennebunkport, ME			2	$210
5-Oct	Portland, ME	100%		3	$1,343
7-Oct	New York, NY	74%	26%	4	$5,625
16-Oct	Dayton, OH	100%		4	$2,281
17-Oct	Mobile, AL	77%	23%	8	$4,226
21-Oct	Boston, MA	100%		4	$6,528
23-Oct	St. Louis, MO	65%	35%	5	$5,610
2-Nov	Atlanta, GA	100%		2	$3,729
2-Nov	Raleigh, NC		100%		$0
2-Nov	Nashua, NH		100%		$0
2-Nov	Des Moines, IA		100%		$0
2-Nov	Minneapolis, MN		100%		$0
2-Nov	Sioux Falls, SD (RON)		100%		$0
3-Nov	Rapid City, SD		100%		$0
4-Nov	Waco, TX			1	$112
12-Nov	New York, NY				$295
16-Jan	New York, NY			1	$547
20-Jan	New York, NY			2	$5,668

REV_00169495

4-Feb	Los Angeles, CA			3	$2,369
13-Feb	New York, NY			6	$5,163
19-Feb	Dallas, TX			2	$353
19-Feb	New Orleans, LA			2	$4,883
13-Mar	Austin, TX (RON)		100%	0	$0
8-May	Page, AZ	100%			
8-May	Kayenta, AZ	100%			
8-May	Phoenix, AZ	100%			
9-May	Santa Fe, NM	100%			
	Total Costs through 09/30/03				**$49,762**

Vice Presidential Travel FY 2003					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
19-Sep	Burlington, VT **FY-02*	12%	88%	1	$21
4-Oct	Atlanta, GA		100%		$0
4-Oct	Warner Robbins, GA		100%		$0
4-Oct	Augusta, GA		100%		$0
7-Oct	Babine, BC, Canada	100%			$0
11-Oct	Colorado Springs, CO	79%	21%	7	$4,738
14-Oct	Roswell, NM		100%		$0
14-Oct	Tulsa, OK		100%		$0
14-Oct	Phoenix, AZ		100%		$0
14-Oct	Midwest City, OK	10%	90%		$0
21-Oct	Portland, ME		100%		$0
21-Oct	Newark, NJ		100%		$0
24-Oct	Dalton, GA	83%	17%	2	$374
24-Oct	Tampa, FL	76%	24%		$939
25-Oct	Philadelphia, PA	100%		1	$1,317
25-Oct	Reading, PA		100%		$1,416
29-Oct	Wilmington, NC		100%	1	$207
30-Oct	Chattanooga, TN		100%		$0
30-Oct	Little Rock, AR		100%		$0
30-Oct	Houston, TX		100%	3	$1,234
31-Oct	Cape Girardeau, MO		100%		$0
31-Oct	Sioux City, IA		100%		$0
31-Oct	Indianapolis, IN		100%		0
1-Nov	Duluth, MN		100%		$0
1-Nov	Rapid City, SD		100%		$0

REV_00169496

1-Nov	Denver, CO		100%	1	$1,657
2-Nov	Salt Lake City, UT		100%		$0
2-Nov	Springfield, MO		100%		$0
2-Nov	Jackson Hole, WY		100%	3	$1,369
2-Nov	Albuquerque, NM		100%		$0
3-Nov	Cheyenne, WY		100%		$0
3-Nov	Gettysburg, SD	100%		1	$6,096
16-Nov	Latrobe, PA	100%		2	$1,535
18-Nov	Monroe, LA		100%		$0
18-Nov	Lafayette, LA		100%		$0
22-Nov	Trappe, MD	100%		4	$594
29-Nov	Jackson Hole, WY	100%		5	$1,135
29-Nov	Casper, WY	100%		2	$1,948
2-Dec	Denver, CO	100%		3	$2,308
5-Dec	Stuttgart, AR	100%		4	$1,928
14-Dec	Jackson Hole, WY	100%		7	$9,417
21-Dec	Jackson Hole, WY	100%		6	$17,927
17-Jan	Albany, GA	100%		4	$3,427
24-Jan	Trappe, MD *(cancelled trip)*				$0
31-Jan	Armstrong, TX	100%		6	$2,002
3-Feb	College Station, TX				$0
6-Feb	White Sulphur Springs, WV	100%		2	$806
9-Feb	Honolulu, HI	100%		8	$1,440
14-Mar	Jackson Hole, WY *(Adv only)*	100%			$0
17-Feb	Jackson Hole, WY	100%		9	$8,137
8-Apr	New Orleans, LA	100%		11	$2,941
22-Apr	Jackson Hole, WY	100%		6	$1,399
6-May	Dallas, TX	100%			$0
	Total Costs through 5/16/03				**$76,312**

Summary: Presidential, First Lady and Vice Presidential travel for FY02 and FY03 (to date).

Principal	Fiscal Year 2002	Fiscal Year 2003 (To date)
President of the United States	**$1,146,388**	**$286,114**
First Lady of the United States	**$77,799**	**$49,762**
Vice President of the United States	**$475,974**	**$76,312**
Totals	**$1,700,161**	**$412,188**

REV_00169497

QUESTION 111: How much did OMB reimburse the White House Office for use of White House motorpool vehicles in FY02? How much is OMB projecting to reimburse in FY03 and FY04? **(POC – Brian Gillis)**

RESPONSE: For FY 2002, OMB reimbursed the Department of Defense $99,000 for the use of the White House motorpool. OMB is projecting a similar amount for FY 2003 and FY 2004.

In the hearing, Mr. Daniel mentioned that the FY03 vehicle lease and IT support contracts came in significantly below the original budget estimates.

QUESTION 112: Do you intend to return the unused funds to the Treasury at the end of the fiscal year? **(POC – Chuck Sigman)**

RESPONSE: The EOP plans to use the funds to implement other critical EOP priorities. The programs which were described by Mr. Daniel at the hearing were the FY 2003 vehicle lease and the guard services contract for guard services at 1801 Pennsylvania Avenue. He did not refer to the IT support contract.

QUESTION 113: For these areas in which savings were realized, what are your plans for the funds? **(POC – Chuck Sigman)**

RESPONSE: For FY 2003, these funds are being applied to fund other priorities for the OA as well as common services for EOP entities. These other priorities include consolidation of information technology maintenance ($200,000), centralization of database services ($200,000), and common building service costs ($400,000). The remaining $300,000 of these savings will be used for an FY03 OA personnel shortfall.

Political Travel

QUESTION 114: Please explain the reimbursement procedures the White House intends to follow during the Presidential election season. **(POC – Andy Kalnins)**

RESPONSE: Travel by senior Administration officials is governed by relevant statutes and regulations that have been followed for many years.

QUESTION 115: Exactly when will the presidential-campaign procedures take effect? **(POC – Andy Kalnins)**

REV_00169498

RESPONSE: The presidential-campaign procedures take effect when a President is a candidate for re-election.

QUESTION 116: How do you determine who the official travelers are on a campaign or political trip? Does the list of positions vary from trip to trip? **(POC – Andy Kalnins)**

RESPONSE: Consistent with governing statutes and regulations, and traditional practice, a list of positions has been developed which are deemed to always be official.

QUESTION 117: On trips with political and official components, what is the procedure for determining which events are paid for using official funds and which events are reimbursed by the political entity? **(POC – Andy Kalnins)**

RESPONSE: The guidelines are based on legal principles embodied in 5 CFR §734.503, policies established over a period of years by previous Administrations, and guidance from Federal Election Commission opinions.

QUESTION 118: If the President gives virtually the same speech at a political event that he gave at an official event in that same city, what criteria is used to determine whether an event is "political" or "official"? **(POC – Andy Kalnins)**

RESPONSE: Appearing at party functions, fundraising, and campaigning for specific candidates are principal examples of travel which ordinarily is considered political.

QUESTION 119: If the President gives virtually the same speech at a political event that he gave at an official event in that same city, does the political entity reimburse the White House for the Speechwriters time? **(POC – WHO M&A)**

RESPONSE: Ordinarily not. See 5 CFR §734.503(b)(1).

QUESTION 120: Have events been classified as "official" even if only members of the President's political party are invited to share the stage with the President? **(POC – WHO M&A)**

RESPONSE: The classification of an event as official or political depends on many factors. However, Presidents routinely have official events that may include members of only one party, for example, a speech or meeting about legislative activities or issues.

QUESTION 121: If so, what justification is used to argue that these events were not political events? **(POC – WHO M&A)**

REV_00169499

RESPONSE: The classification of an event as official or political depends on many factors. However, Presidents routinely have official events that may include members of only one party, for example, a speech or meeting about legislative activities or issues.

QUESTION 122: Please provide information about reimbursement to the White House Office or other government agencies associated with local staff travel to political events attended by the President in FY02 or FY03. For each reimbursement made, please provide the date the bill was generated, the number of events reflected on the bill, the date payment was received, the political entity paying the charges and the total amount paid on each bill. **(POC – WHO M&A)**

RESPONSE: The White House took steps to ensure appropriate reimbursements from the relevant political entities for political trips.

Photographic Services (POC – Eric Lanman)

QUESTION 123: For FY02, FY03 and FY04, what was (or is projected to be) the total cost of photographic equipment purchased for use by the White House photographers?

RESPONSE: The total cost (actual and projected) of photographic equipment procured for use by White House photographers in FY 2002, FY 2003 and FY 2004 are displayed in the table below.

	FY 2002	FY 2003	FY 2004
	Actual	Estimate	Estimate
Photographic Equipment	$137,057	$35,700	$36,300

FY 2002 actual costs are higher than the estimates for FY 2003 and FY 2004 due to the necessary life cycle replacement of photographic equipment.

QUESTION 124: For FY02, FY03 and FY04, what was (or is projected to be) the total cost of photo lab equipment purchased for use by the WHCA photo lab?

RESPONSE: The total cost (actual and projected) of photo lab equipment purchased for use by the WHCA photo lab is itemized in the following chart:

	FY 2002	FY 2003	FY 2004
	Actual	Estimate	Estimate
Photo Lab Equipment	$492,720	$473,775	$375,000

QUESTION 125: For FY02, FY03 and FY04, what was (or is projected to be) the total travel cost associated with travel of White House Photographers?

REV_00169500

RESPONSE: The FY 2002 travel costs of White House Photographers was $46,721. The estimated FY 2003 cost is $50,000 and the projected cost for FY 2004 is $55,000.

QUESTION 126: For FY02, FY03 and FY04, what was (or is projected to be) the total rent cost associated with the WHCA photo lab?

RESPONSE: There is no rent cost associated with the WHCA photo lab. However, there are utility and facility maintenance costs associated with the WHCA photo lab. Those costs were $73,600 for FY 2002, $76,650 estimated for FY 2003 and a projected $79,000 for FY 2004.

QUESTION 127: Please explain the procedures for determining when and how the government is to be reimbursed for photos released for non-official purposes. If these procedures have changed from those followed by the previous administration, please explain any changes that have been made.

RESPONSE: The procedures for obtaining reimbursements for photographs changed on October 1, 2000. The procedures now in place are designed to ensure that the government receives appropriate reimbursement for photographs sought for non-official purposes. Records are kept of all such requests, and appropriate reimbursement is then sought.

QUESTION 128: For FY02 and the first seven months of FY03, please provide the following information about each payment made to the White House, OA, WHCA, DISA (or other DoD organization) to reimburse for the release of photos or photo lab services that were provided:

- date reimbursement was made
- name of reimbursing organization
- amount of payment
- number of photos purchased by reimbursing organization
- size of photos purchased by reimbursing organization

RESPONSE: The requested information about each payment made to the White House, OA, WHCA, DISA (or other DoD organization) to reimburse for the release of photos is provided below.

REV_00169501

Reimbursements for White House Photos				
Date	***Reimbursing Organization***	***Amount of Payment***	***# of Photos***	***Size of Photos***
5/2002	Republican National Committee	$648.00	36	8x10
5/2002	Hector Irastorza, Jr.	$90.00	5	8x10
7/2002	Lee Terry for Congress	$36.00	2	8x10
7/2002	Republican Party of Florida	$90.00	5	8x10
7/2002	Republican National Committee	$72.00	4	8x10
8/2002	Republican National Committee	$252.00	14	8x10
9/2002	Kent County Republican Committee	$18.00	1	8x10
9/2002	Breckenridge Design Group	$18.00	1	8x10
9/2002	Portman for Congress	$36.00	2	8x10
9/2002	Republican National Committee	$1,296.00	72	8x10
10/2002	Rick Clayburgh for Congress	$18.00	1	8x10
10/2002	Fisher for Governor	$18.00	1	8x10
10/2002	Wyoming Republican Party	$162.00	9	8x10
10/2002	Johnson for Congress	$72.00	4	8x10
10/2002	Talent for Senate	$18.00	1	8x10
10/2002	John Doolittle for Congress	$486.00	27	8x10
10/2002	National Federation of Republican Women	$18.00	1	8x10
10/2002	Republican National Committee	$342.00	19	8x10
11/2002	Talent for Senate	$18.00	1	8x10
11/2002	Ferguson for Congress	$18.00	1	8x10
11/2002	Mark Kennedy for Congress	$126.00	7	8x10
12/2002	Talent for Senate	$18.00	1	8x10
12/2002	Johnson for Congress	$72.00	4	8x10
12/2002	Wieczoren for Executive Council	$18.00	1	8x10

REV_00169502

2/2003	Diane Thompson	$84.00	4	11x14
3/2003	Republican National Committee	$108.00	6	8x10
3/2003	Congressman Kenny Hulshof	$18.00	1	8x10
3/2003	Congressman James Greenwood	$18.00	1	8x10
3/2003	Senator Frank Murkowski	$18.00	1	8x10
3/2003	Mark Kennedy for Congress	$126.00	7	8x10
3/2003	George Bush Presidential Library	$1,117.00	2	20x30
			20	11x14
			47	8x10
3/2003	Office of President George Bush	$702.00	39	8x10
5/2003	National Federation of Republican Women	$18.00	1	8x10
Total		$6,169.00		

Remote Delivery Site Reprogramming Request (POC – Paul Ehrhardt)

We recently received a reprogramming request to transfer $2m of the funds provided to the Office of Homeland Security to the Remote Delivery Site cleanup efforts.

QUESTION 129: What is the status of remediation efforts?

RESPONSE: We are in the process of Confirmatory Sampling. The sampling plan is intended to present a technical approach for (1) completing air and surface sampling for culturable *Bacillus anthracis* spores to verify the efficacy of the decontamination process: (2) providing for qualified laboratory analysis of the collected samples: and (3) presenting a protocol for data collection and reporting such that the results of the sampling effort are valid and defensible. In addition, the Plan provides for the site and personnel security, safety, health, and personal protection, equipment and collection methods, and sample handling.

QUESTION 130: Please provide the total budget estimate for this project.

RESPONSE: As the contractor responsible for returning the building to an environmentally safe workplace, Versar to date has not been able to develop or provide accurate cost estimates or time lines to EOP. Budget and schedule estimates for this project are especially difficult due to critical path activities taking place in a high-risk

REV_00169503

environment relying on the utilization of untested speculative technologies. However to date $2.422 million has been spent on the effort and we are currently requesting an additional $2 million, which is Versar's best estimate of what it will cost to complete the project. The total budget estimate for the project then comes to $4.422 million.

QUESTION 131: Please provide the anticipated schedule for this effort.

RESPONSE: Given many variables, including weather, our best current estimate of time to required complete the RDS project is 4 months. The confirmatory testing phase is estimated to take eight weeks from start up. The next phase would be for the ECC committee to ratify the confirmation process; we estimate this to be one month. After this is completed, our best estimate is thirty days to perform PM on the HVAC equipment, build out the office areas, and re-establish the building operation.

QUESTION 132: What caused this $2 million overrun?

RESPONSE: There is not a $2 million overrun. The request for $2 million is a result of anticipated costs and those unforeseen conditions as result of the environmental cleanup process, that OA, GSA or its contractors had available at the time of fumigation. The Environmental Clearance Committee has placed additional requirements that resulted in the additional costs. The proposed sampling plan utilizes the barrier divisions already in Building 410 (which provides discrete work areas) and presents proposed sampling location, quantity, and types of samples to be collected . Sampling will be carried out using a phased approach for each work area as follows:

Phase 1, Surface Sampling; Phase 2 Air Sampling: Phase 3, "Dynamic Sampling", Phase 4, Start Up of the Heating, Ventilation , and Air Conditioning (HVAC) Units; and Phase 5, Final Sampling with the Barriers Down.

QUESTION 133: Why have you stopped providing the monthly reports on the remediation efforts?

RESPONSE: Due to the process of establishing the Environmental Clearance Committee, it was an administrative error that the reports were inadvertently not forwarded.

Previously the Remote Delivery Site was used to screen incoming mail. It also used to serve as an off-site supply depot. With the Department of Homeland Security now assuming the mail processing function and with supply operations now established on the White House Complex, I'm curious about future plans for the RDS.

REV_00169504

QUESTION 134: What will the facility be used for when remediation is finished?

RESPONSE: Prior to September 11, 2001 the Remote Delivery Site (RDS) was used as a centralized receiving facility for the White House Complex. All postage flat mail and packages, including UPS and FedEx deliveries, and all equipment and local deliveries were delivered to the RDS. All incoming deliveries, regardless of size, were screened by the U.S. Secret Service (USSS) via large X ray machines, and if any equipment was too large to fit on the X-ray conveyer belt, then the USSS used dogs to sniff for explosives. After initial USSS clearance, all of the items were sorted and delivered to their intended destination to the White House Complex. Supplies, equipment and furniture which were purchased for inventory for use at later time were housed at the RDS.

In addition to the screening of WHO Complex deliveries, the USSS Administrative Operations Division used RDS space to screen all of its incoming mail and packages that were intended for USSS personnel.

The EOP Supply store was operated within the confines of the RDS. Supplies were purchased and inventoried at the RDS and office supplies and copier paper were purchased in volume to take advantage of discounts. The WHO/EOP customers faxed supply requisitions to the RDS staff who then pulled and boxed office supplies for delivery to the WHO Complex. OA property supply staff made supply deliveries to the WHO complex at least twice a day, and more if needed.

The EOP/OA Personal Property Program (excess, transfer, donation, and destruction of furniture and equipment) had its operations housed at the RDS. Excessed equipment and furniture were corralled at the RDS until enough equipment and furniture were gathered to make it economical to excess all at once. In addition, schools and nonprofit organizations were allowed to review equipment for donation under Executive Order 12999.

After September 11, as a precautionary move, the White House United States Postal Service was relocated from the Eisenhower Executive Office Building to the RDS. A separate room was built for the USPS's operation of opening and screening all White House mail. The RDS operations continued working around the new USPS area. These USPS operations continued until the RDS was closed due to the discovery of Anthrax. Since then the USPS operations have relocated to 1800 G. St. NW.

Once the remediation is finished, the RDS will resume its former function of screening all bulk deliveries (including equipment, furniture, boxes of supplies) sent to the EOP Complex. In addition the facility will be used to store supplies and an inventory of equipment and furniture. The RDS will also be used as a staging area for efficient loading and delivery of bulk items for all EOP entities.

QUESTION 135: Will the DHS use the facility to screen the White House's mail?

REV_00169505

RESPONSE: No.

QUESTION 136: Will you close the on-site supply stores and revert back to running the supply operation out of the Remote Delivery Site?

RESPONSE: When the RDS reopens after the remediation of the building, the RDS staff will resume the same functions prior to the Anthrax. However, there are major changes in the way the OA Supply Store operates and manages its supply inventory. The Office of Administration has entered into a new business relationship with GSA. The OA Supply operation will purchase its supplies from GSA who will provide a wide array of office supplies and maintain the level of supply inventory that is needed to support the WHO Complex. The GSA inventory will be housed at the RDS after relocation from Franconia, VA, the current, temporary RDS location. OA supply staff will pull supply orders based on customer's requisitions, and then box and deliver the supplies from the RDS to WHO complex. GSA will only charge for the supplies that EOP customers use at point of sale, otherwise the unsold inventory will still belong to GSA. GSA promises to maintain the supplies that the EOP customers may need. Inventories will be reviewed and adjusted to realize the kind and quantities of supplies the EOP customers expect. This business relationship will promote a more flexible inventory that allows the supply inventory to have the quantity or variety of supplies to meet our customer needs in a more proactive, real-time fashion.

White House Access (POC – WHO M&A)

QUESTION 137: For the record, please provide the total number of visitors who passed through the White House as part of tours in 2000, 2001, 2002 and 2003 (to date).

RESPONSE: Listed below are total numbers of visitors that passed through the White House from 2000 to year to date FY 2003, as reported in National Park Service (NPS) statistical abstract:

2000: 1,175,714
2001: 856,042
2002: 178,092
2003: 43,434 (as of May 14)

Please note that the NPS records garden tours and egg roll events in their annual numbers for visitors to the White House even though the people attending these events do not go through the house. Since the numbers for the visitors that actually go through the house are not exclusively available, we have included the egg roll event in the numbers for 2003 for consistency. There was no a spring garden tour in 2003.

QUESTION 138: Why are White House tours currently not open to the general public?

REV_00169506

RESPONSE: White House special group tours were reopened for certain group tours on May 6, 2003. Over the past many months, the White House has operated a successful program, in partnership with Congressional offices, allowing special group tours to visit. We will continue to book groups using existing procedures unless circumstances dictate otherwise.

The White House is mindful of the request to fully resume public tours. We continue to consult with law enforcement and intelligence services on how to ensure the safety of the residents, staff and the general public while at the White House.

QUESTION 139: What is the status of the report on the status of White House Tours that was due to the Subcommittee by March 22nd?

RESPONSE: This question was answered and sent to the Subcommittee by the March 22nd deadline.

QUESTION 140: Who has the lead on the efforts to decide whether public tours can be resumed?

RESPONSE: The United States Secret Service constantly monitors and evaluates existing conditions to determine the level of security required at the White House complex including when and if tours can be resumed on a full schedule. Their recommendations, along with input from other law enforcement and intelligence services who monitor changing world events, are reviewed with White House management staff to schedule and structure tours in such a manner that will provide an appropriate level of security for general public taking the tours, in addition to the staff who work in and around the Complex, and the residents. This is an ongoing effort.

QUESTION 141: Does the USSS do a background check on all individuals attending events and meetings at the White House Complex before access can be granted?

RESPONSE: For security reasons, it is not appropriate to provide information about the specific nature of background checks and related security procedures in this context.

QUESTION 142: During this administration, have White House aides ever overruled a building-access recommendation made by the USSS?

RESPONSE: The USSS and EOP Staff collaborate in making decisions on access to the complex.

REV_00169507

Off-site EOP Support

QUESTION 143: How many EOP employees are based in Crawford, TX? **(POC – Stacia Cropper)**

RESPONSE: One.

QUESTION 144: How much space does the EOP pay rent for in Crawford, TX? **(POC James Daniel/Stacia Cropper)**

RESPONSE: There is one double-wide trailer. The cost of the trailer itself and all operating costs will be paid to GSA in a monthly rent payment of $8,496.83 for two years.

QUESTION 145: How many trailers were acquired for Crawford, TX? **(POC James Daniel/Stacia Cropper)**

RESPONSE: One trailer was acquired for the EOP.

QUESTION 146: What was the cost to purchase and renovate these trailers? **(POC James Daniel/Stacia Cropper)**

RESPONSE: The cost of the trailer shell was $72,745.28. The cost to apply finishes to the trailer interior was $20,976.62.

QUESTION 147: What are the expected FY04 operating costs of facilities and staff permanently deployed to Crawford, TX? **(POC James Daniel/Stacia Cropper)**

RESPONSE: The following are the estimated operating costs for one year: Pest Control ($1,440), cleaning ($4,200), electricity ($4,211.75), and water ($2,286.38).

Rent (POC – Steve Beattie)

QUESTION 148: Please provide an accounting of all space on which the EOP currently pays rent. The list should include the number of staff in each building, the agencies which occupy space in each facility, the total square footage by agency in each facility, the total square footage of vacant space on which the EOP is currently paying rent in each facility and the GSA rent rates for each facility.

RESPONSE: The following charts provide the information on EOP facilities and GSA rental rates as they stood during the formulation of the FY 2004 budget request. Since

REV_00169508

then, several offices have moved from the New Executive Office Building (NEOB) into the space in 1800 G. Street. In addition, several offices from the Eisenhower Executive Office building will be moving into the newly vacated space at the NEOB. Once all moves have been accomplished, the EOP will provide the Subcommittee with an update on the space utilization of the buildings on the White House complex.

REV_00169509

Executive Office of the President
GSA Rental Space Information

Building	EOP Info		Square Feet		Rate/Sq.Ft
	Office	# of Staff	Occupied	Vacant	
White House (East & West Wing)	White House Office	131	52,955		$29.60
Eisenhower Executive Office Building	White House Office	260	105,067		$29.60
	Office of the Vice President	66	29,035		$29.60
	Office of Management and Budget	53	20,663		$29.60
	Council on Environmental Quality	*Joint Use*	954		$29.60
	Council of Economic Advisers	40	16,804		$29.60
	National Security Council	165	54,106		$29.60
	Office of Policy Development	26	17,003		$29.60
	Office of Administration	28	9,907		$29.60
	Office of Science and Technology Policy		1,377		$29.60
	Subtotal	*638*	*254,916*		
New Executive Office Building	White House Office	8	2,316		$29.60
	Office of Management and Budget	451	191,664		$29.60
	Office of Administration	163	84,381		$29.60
	U.S. Trade Representative	*Joint Use*	4,979		$29.60
	Subtotal	*622*	*283,340*		
1800 G. Street	White House Office	102	53,593		$34.56
	Office of Administration	4	1,028		$37.37
	Office of Administration		24,184		$37.01
	Office of Administration		524		$34.37
	Office of Administration		46,593		$34.56
	Office of Administration		11,555		$31.53
	Office of Homeland Security		5,787		$34.56
	Subtotal	*106*	*143,264*		
1801 Pennsylvania Ave.	Office of Science and Technology Policy	41	15,666		$50.55
750 17th Street	Office of National Drug Control Policy	124	54,185		$45.78
	Office of National Drug Control Policy	n/a	1,212		$17.44
	Subtotal	*124*	*55,397*		
Remote Delivery Center/Anacostia	Office of Administration	11	41,510		$11.31
708 Jackson Place	White House Office	9	3,978		$29.60
718 Jackson Place	Council on Environmental Quality	6	4,758		$30.71
722 Jackson Place	Council on Environmental Quality	6	5,534		$31.50
730 Jackson Place	Council on Environmental Quality	9	3,779		$29.90
734 Jackson Place	Offfice of Policy Development	4	3,320		$29.60
736 Jackson Place	White House Office	15	5,093		$30.58
Winder Building	U.S. Trade Representative	177	70,393		$30.50
1724 F St.	U.S. Trade Representative	34	18,481		$37.38
	Office of Administration	10	5,631		$37.38
	Subtotal	*44*	*24,112*		
1425 New York Ave. (USA Kids)	Office of Administration	n/a	2,891		$51.89
Crawford, TX Trailer	White House Office	n/a	n/a		$13,000/yr
Wyoming/Westbank Center	Office of the Vice President	n/a	756		$21.80
	GRAND TOTALS	**1,943**	**971,662**		

REV_00169510

Executive Office of the President
GSA Rental Space Information

Building	EOP Info		Square Feet		Rate/Sq.Ft
	Office	# of Staff	Occupied	Vacant	
EOP Total by Building					
White House		131	52,955		
Eisenhower Executive Office Building		638	254,916		
New Executive Office Building		622	283,340		
1800 G. Street		106	143,264		
1801 Pennsylvania Ave.		41	15,666		
750 17th Street		124	55,397		
Remote Delivery Center/Anacostia		11	41,510		
708 Jackson Place		9	3,978		
718 Jackson Place		6	4,758		
722 Jackson Place		6	5,534		
730 Jackson Place		9	3,779		
734 Jackson Place		4	3,320		
736 Jackson Place		15	5,093		
Winder Building		177	70,393		
1724 F St.		44	24,112		
1425 New York Ave. (USA Kids)		n/a	2,891		
Crawford, TX Trailer		n/a	n/a		
Wyoming/Westbank Center		n/a	756		
	GRAND TOTALS	**1,943**	**971,662**		
EOP Total by EOP Office					
	White House Office	525	223,002		
	Office of the Vice President	66	29,791		
	Office of Management and Budget	504	212,327		
	Office of Administration	216	228,204		
	Office of Policy Development	30	20,323		
	Office of Homeland Security	0	5,787		
	National Security Council	165	54,106		
	Council of Economic Advisers	40	16,804		
	Council on Environmental Quality	21	15,025		
	Office of Science and Technology Policy	41	17,043		
	Office of National Drug Control Policy	124	55,397		
	U.S. Trade Representative	211	93,853		
	GRAND TOTALS	**1,943**	**971,662**		

QUESTION 149: Under the procurement consolidation pilot that was approved in the FY03 Omnibus, is the rent for any EOP agency going to be paid out of funds contributed by other EOP agencies?

RESPONSE: No. The funds in the pilot will only be used to support the EOP components in the pilot; EOP funds not included in the pilot will not be used to support EOP components included in the pilot for purposes that pilot funds were budgeted.

QUESTION 150: Under the procurement consolidation pilot that was approved in the FY03 Omnibus, are after hours utilities charges for any EOP agency going to be paid out of funds contributed by other EOP agencies?

RESPONSE: No. After hours utilities charges were not included in the procurement consolidation pilot funding.

REV_00169511

Travel Office (POC – Mayra Segovia)

QUESTION 151: Please describe the current role the White House Travel Office plays in managing and arranging the financial aspects of White House Press Corps travel. Does the White House Travel Office operate as a "dollar-for-dollar" operation?

RESPONSE: The White House Travel Office provides the White House Press Corps with a range of travel services when they accompany the President, Vice President and First Lady. Services include air and ground transportation, hotel accommodations, and convention-type services associated with the Filing Center.

The White House Press Travel Fund operates as a dollar-for-dollar operation.

QUESTION 152: How many EOP staff work in the White House Travel Office?

RESPONSE: Eight EOP staff work in the White House Travel Office.

QUESTION 153: How many contractor travel agents support the White House Travel Office?

RESPONSE: Six contractor travel agents support the White House Travel Office.

QUESTION 154: Please include the most recent independent financial statement audit of the White House Travel Office's accounts for the record.

RESPONSE: The following document is the independent auditor's report. A copy of the original document with signature will be provided separately.

REV_00169512

White House Travel Office
Executive Office of the President

Order Number RWH21228

Task 1, Deliverable 1

Financial Statement Audit and Auditor's Report

December 31, 2001

Prepared by:

Martin & Wall, P.C Certified Public Accountants
1534 16th Street, NW, Washington, DC 20036-1402
Tel. 202.332.3566 Fax 202.332.3672

Contact: John J. Wall, CPA
E-Mail: jwall@martinwallcpa.com

REV_00169513

Tel: 202.332.3555 F• 202.332.3672 www.martinwallcpa.com

WHITE HOUSE TRAVEL OFFICE PRESS FUND

FINANCIAL STATEMENTS

DECEMBER 31, 2001

REV_00169514

1524 15th Street NW ~ Suite 100 – Washington, DC 20036-1402

WHITE HOUSE TRAVEL OFFICE PRESS FUND

FINANCIAL STATEMENTS

TABLE OF CONTENTS

Independent auditors' report..... 1

Statement of financial position..... 2

Statement of activities and changes in net assets..... 3

Statement of cash flows..... 4

Notes to financial statements..... 5-7

REV_00169515

Tel: 202.332.3566 ~ Fax: 202.332.3672 ~ www.martinwallcpa.com

INDEPENDENT AUDITORS REPORT

To the Management of
White House Travel Office Press Fund

We have audited the accompanying statement of financial position of the White House Travel Office Press Fund as of December 31, 2001, and the related statements of activities and cash flows for the year then ended. These financial statements are the responsibility of the White House Travel Office Press Fund's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the White House Travel Office Press Fund as of December 31, 2001, and the changes in its net assets and its cash flows for the nine months then ended in conformity with accounting principles generally accepted in the United States of America.

Washington, DC
March 27, 2003

1524 15th Street NW ~ Suite 100 – Washington, DC 20036-1402

REV_00169516

WHITE HOUSE TRAVEL OFFICE PRESS FUND
STATEMENT OF FINANCIAL POSITION
DECEMBER 31, 2001

ASSETS

Current assets			
	Cash - Press Fund operating account (Note 3)	$85,455	
	Cash - Restricted Cash Account 2000 (Notes 3 and 4)	527,166	
	Total Cash		612,621
	Accounts receivable (Note 5)		2,105,176
	Other Receivables (Note 6)		3,328.761
TOTAL ASSETS			$6,046,558
LIABILITIES ANID NET ASSETS			
	Accounts payable	$5,358,675	
	Restricted Cash Account 2000 Liability (Note 4)	409,815	
	Restricted Cash Account 2001 Liability (Note 4)	209,456	
	Federal Excise Tax Payable	68,612	
	Total liabilities	6,046,558	
	Net assets		0
TOTAL LIABILITIES AND NET ASSETS		$6,046,558	

The accompanying notes are an integral part of these financial statements.

REV_00169517

WHITE HOUSE TRAVEL OFFICE PRESS FUND
STATEMENT OF ACTIVITIES
FOR THE YEAR ENDED DECEMBER 31, 2001

REVENUE	$10,828,890
EXPENDITURES	10,828,890
CHANGE IN NET ASSETS	$0
NET ASSETS, BEGINNING OF YEAR	0
NET ASSETS, END OF YEAR	$0

The accompanying notes are an Integral part of these financial statements.

REV_00169518

WHITE HOUSE TRAVEL OFFICE PRESS FUND
STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED DECEMBER 31, 2001

CASH FLOWS FROM OPERATIONAL ACTIVITIES:

Change in net assets		$0
Adjustments to reconcile change in net assets to net cash provided:		
Decrease In accounts receivable	4,986,501	
(Increase) in other receivables	(2,530,708)	
(Decrease) in accounts payable	(2,814,441)	
Increase In restricted cash account 2000 liability	4,096	
Increase in restricted cash account 2001 liability	209,456	
Increase in Federal Excise tax payable	68,612	
Net cash provided by operational activities	(76,484)	
Net increase in cash		(76,484)
Cash, beginning of year	689,105	
Cash, end of year	$612,621	

The accompanying notes are an integral part of these financial statements.

REV_00169519

WHITE HOUSE TRAVEL OFFICE PRESS FUND
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2001

NOTE 1 – ORGANIZATION

The White House Travel Office Press Fund ('WHTO") was established to manage expenses associated with travel for members of the press who accompany the President, Vice President, First Lady, and Second Lady on domestic and foreign trips. In May 1993, a new management team was hired to manage WHTO. Consequently, for accounting and reporting purposes, a new WHTO was established as of January 1, 1994.

NOTE 2- SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Revenue and expenditures are recognized using the accrual basis of accounting. The WHTO invoices the press organizations for their prorated share of the expenses associated with each trip. The WHTO then remits payment directly to the vendors whose services were used for the particular trip. The total amount invoiced to the press members equals the total of the amounts paid to the vendors. The WHTO does not own any fixed assets. Al! fixed assets are purchased through the White House's general fund and designated for the WHTO use. Similarly, all operating expenses of the WHTO, including salaries and office supplies, are paid directly by the White House's general fund.

NOTE 3- CASH

Gash is maintained in two non-interest checking accounts at the Riggs National Bank of Washington, D.C. The RCA 2000 cash account is explained in Note 4.

The total cash held by WHTO at December 31, 2001 includes $512,821 that is not covered by insurance provided by the federal government. It is the opinion of WHTO's management that the solvency of the referenced financial institution is not of particular concern at this time.

REV_00169520

NOTE 4 - RESTRICTED CASH ACCOUNT

Effective April 1, 2000, the management of the White House Travel Office implemented a Restricted Cash Account (RCA). RCA funds are encumbered for specific purposes set forth in written policies and procedures, most notably for payment of late arriving vendor invoices, bank charges and accounts receivable written off as uncollectible.

The RCA is funded through an RCA funding amount applied to every customer invoice, except those for government employees. Presently, that funding amount is two percent of the invoice amount

RCA funding amounts are not considered revenue for accounting purposes.

Under current policies and procedures, a separate RCA is established for each calendar year. The RCA 2000 account on the Statement of Financial Position reflects the total amount of cash in that account at December 31, 2001. The RCA liability accounts for 2000 and 2001 reflect the total RCA funding amount applied to all customer invoices during the respective calendar year, less any disbursements. RCA funding amounts that have been invoiced but not yet collected are included in the accounts receivable amount.

The RCA for each year will be terminated at a designated point in time after the conclusion of the applicable calendar year. At the time of dissolution, any excess funds will be refunded to the Press Fund's customers subject to the RCA funding amount in accordance with a formula based on the percentage of the total travel costs consumed during the year corresponding to the RCA. For example, if a customer were responsible for ten percent of all travel costs for the calendar year 2001, they would be entitled to ten percent of the remaining RCA 2001 funds at the time of dissolution.

NOTE 5 – ACCOUNTS RECEIVABLE

Currently, the WHTO writes off accounts receivable using the direct write-off method. Therefore, there is no allowance for uncollectible accounts.

REV_00169521

NOTE 6 - OTHER RECEIVABLES

As per note 2, the WHTO utilizes a system of dollar for dollar accounting. Under the current accounting process, vendor invoices for trip expenses are entered into accounts payable as they are received. Accordingly, there is an accumulation of unbilled trip expenses in accounts payable until such time that trip accounting is finalized and members of the press are invoiced for their pro rata share of trip expenses. This timing difference creates the need for an Other Receivables category. Other Receivables represents the obligations for normal trip expenses that have been entered into accounts payable, but not yet billed to the press.

REV_00169522

QUESTION 155: Please explain the formula you use to determine the rate of reimbursement for Press Corps travelers on the Press Charter?

RESPONSE: Each leg of the itinerary is assigned a proportionate cost, which is divided equally among all press passengers. The following formula is used to compute the proportionate cost for each leg of the trip: (Leg flight time / Total flight time) * Total Air Transportation Expense

QUESTION 156: Please explain the formula you use to determine the rate of reimbursement for Press Pool travelers on Air Force One?

RESPONSE: The cost of the fourteen members of the pool traveling on AF1 is added to the total air transportation expense and the total costs are spread on a pro-rata share among all of the press travelling on the trip. The following formula is used to compute the proportionate cost for each leg of the trip: (Leg flight time / Total flight time) * Total Air Transportation Expense

QUESTION 157: Please explain the formula used to identify the reimbursement rate that the Travel Office billed Press Corps travelers accompanying the President's travel to the USS Abraham Lincoln. In your response, please include the actual rate billed to individual press corps travelers on this trip.

RESPONSE: The cost of transporting press corps travelers from the North Island Naval Air Station to the USS Abraham Lincoln and back to the North Island Naval Air Station totaled $7,440.26. This cost will be added to the total air transportation expense and spread on a pro-rata share among all the press traveling on the trip. The formula for military aircraft reimbursement for the trip to the USS Abraham Lincoln is as follows: $X per hour per aircraft, divided by 60 minutes to get a per minute rate, multiplied by the flight time, divided by the total number of passengers, and then 7.5% excise tax plus $3.00 dollars per person was added.

Bonuses

QUESTION 158: Why did this administration reinstate the payments of bonuses to political appointees? **(POC – WHO M&A)**

RESPONSE: The relevant statutes and regulations make clear that all Federal employees are eligible for bonuses. Therefore, like other Federal employees, Schedule C and non-career Senior Executive Service (SES) employees may receive bonuses. Consistent with law, this and past Administrations have made bonuses available to Schedule C and SES employees in appropriate circumstances.

REV_00169523

QUESTION 159: Have any EOP political staff been given bonuses since the policy was reinstated in March of 2002? **(POC – Jon Laurich)**

RESPONSE: Bonuses have been awarded to EOP political staff.

QUESTION 160: Have any EOP political staff been given pay increases for a single pay period in FY02 or FY03 (to date) that would have the same effect as a bonus? **(POC – Jon Laurich)**

RESPONSE: No.

Eisenhower Executive Office Building

QUESTION 161: Since 1/20/01, have any non-Federal funds been used for renovations and/or furnishings in the GSA facilities occupied by the Executive Office of the President? [this question does not apply to the White House residence.] **(POC –WHO M&A)**

RESPONSE: We understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 162: Which Federal agency (i.e., GSA, OA/Facilitles) coordinated the work that was paid for using non-Federal funds? **(POC –WHO M&A)**

RESPONSE: I understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park

REV_00169524

Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 163: For the record, please provide the sources and amounts of the non-Federal funds used for renovations and/or furnishings. **POC –WHO M&A)**

RESPONSE: I understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 164: For the record, please also provide a description of each project for which non-Federal funds were provided. **(POC –WHO M&A)**

RESPONSE: I understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was

REV_00169525

accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 165: Why were non-Federal funds used to renovate and/or furnish these GSA facilities? **(POC –WHO M&A)**

RESPONSE: I understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 166: Which agency's gift authority was used to accept the contribution of non-Federal funds for renovations and/or furnishings? (**POC –WHO M&A)**

RESPONSE: I understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 167: Please provide a list of all EOP and EOP-support-related agencies that occupied space in the Eisenhower Executive Office Building on 1/20/01 that have since

REV_00169526

been relocated to locations outside the EEOB. For each agency that relocated, please identify the agency that paid the move-related costs. **(POC – Steve Beattie)**

RESPONSE: There was no movement of EOP offices from the EEOB prior to September 11, 2001. After September 11, the Office of Administration, using Emergency Supplemental funding, paid for the moves of the following offices outside of the EEOB.

EOP Offices Previously in the EEOB	New Location
WHO Presidential Personnel	1800 G. Street
WHO Presidential Correspondence	1800 G. Street
Council on Environmental Quality	Jackson Place Townhouses
Office of Science and Technology Policy	1801 Pennsylvania Avenue

QUESTION 168: What is the status of the vacant space on the 17th Street side of the Eisenhower Executive Office Building? **(POC – Steve Beattie)**

RESPONSE: The vacant space along 17th street is under construction as part of the Fire and Life Safety Improvements project.

EOP Staffing Levels:

QUESTION 169: By EOP agency, provide FTE and OGE. Itemize OGE by category (e.g. reimbursable detailee, PSC, etc). Include FY 2002 (actual) and FY03-FY04 (estimates). Please provide a list of the "historically provided" White House Office positions, the office to which these positions are assigned and the agency that pays the salary for each of these positions. **(POC – Jon Laurich)**

RESPONSE: The following chart provides the FTE and OGE information for FY 2002 to FY 2004 in addition to a listing of "historically provided" White House Office positions.

REV_00169527

R = Reimbursable
N = Non Reimbursable

FY 2002 Actual FTE and OGE

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**385**			1	20	79	9	1	17		4				3			81	53	**134**
Special Assistance to the President	**18**				7		1		6		26								40	**40**
Official Residence of the Vice President	**1**																			
Office of Administration	**195**					2					1							2	1	**3**
Office of Policy Development	**30**		1		3		3												7	**7**
National Security Council	**50**				33	1	102		4									1	139	**140**
Council of Economic Advisers	**31**					2	1			3	1		3					5	5	**10**
Office of Management and Budget	**512**					6	53						11					6	64	**70**
Office of National Drug Control Policy	**106**		13		16					3			2					3	31	**34**
Executive Residence	**92**																			
Office of Science and Technology Policy	**23**		6			4	1			2	3							6	10	**16**
Council on Environmental Quality	**19**		11				2										1		14	**14**
U.S Trade Representative	**200**						21				1				2				24	**24**
TOTAL	**1662**		**31**	**1**	**79**	**94**	**193**	**1**	**27**	**8**	**36**		**16**		**5**		**1**	**104**	**388**	**492**

*For FY02, the White House includes 65 OGE's for the Office of Homeland Security, which are funded from the Emergency Appropriation

R = Reimbursable
N = Non Reimbursable

FY 2003 Estimate FTE and OGE *as of May 5, 2003*

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**406**				7	5	11		19		1				2		1	5	41	**46**
Office of Homeland Security	**40**			2	1	23	3				1			1				26	5	**31**
Special Assistance to the President	**24**		3		7		1		18		25								54	**54**
Official Residence of the Vice President	**1**																			
Office of Administration	**222**										1								1	**1**
Office of Policy Development	**35**		1		3	1	1										1	1	6	**7**
National Security Council	**71**				33	5	103		4									5	140	**145**
Council of Economic Advisers	**35**					2	2			2			2				1	4	5	**9**
Office of Management and Budget	**499**					3	54						6					3	60	**63**
Office of National Drug Control Policy	**115**		19		14		4			3	9						2	3	48	**51**
Executive Residence	**95**																			
Office of Science and Technology Policy	**40**		6			2	3			2	5		1		1			4	16	**20**
Council on Environmental Quality	**24**		10				3				1								14	**14**
U.S Trade Representative	**209**						25				1				2				28	**28**
TOTAL	**1816**		**39**	**2**	**65**	**41**	**210**		**41**	**7**	**44**		**9**	**1**	**5**		**5**	**51**	**418**	**469**

R = Reimbursable
N = Non Reimbursable

FY 2004 Estimate FTE and OGE

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**406**				7	5	11		19		1				2		1	5	41	**46**
Office of Homeland Security	**40**			2	1	23	3				1			1				26	5	**31**
Special Assistance to the President	**24**		3		7		1		18		25								54	**54**
Official Residence of the Vice President	**1**																			
Office of Administration	**222**										1		10						11	**11**
Office of Policy Development	**35**		1		3	1	1										1	1	6	**7**
National Security Council	**71**				33	5	103		4									5	140	**145**
Council of Economic Advisers	**35**					2	2			2			2				1	4	5	**9**
Office of Management and Budget	**516**					3	54						6					3	60	**63**
Office of National Drug Control Policy	**125**		19		14		4			3	9						2	3	48	**51**
Executive Residence	**95**																			
Office of Science and Technology Policy	**40**		6			2	3			2	5		1		1			4	16	**20**
Council on Environmental Quality	**24**		10				3				1								14	**14**
U.S Trade Representative	**217**						25				1				2				28	**28**
TOTAL	**1851**		**39**	**2**	**65**	**41**	**210**		**41**	**7**	**44**		**19**	**1**	**5**		**5**	**51**	**428**	**479**

The following chart shows the 18 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 12, 2003*:

POSITION	OFFICE	HOME AGENCY
1. Assistant to the Presidential Diarist	Office Of Scheduling	NARA
2. Presidential Diarist	Office Of Scheduling	NARA

REV_00169528

3. Administrative Assistant	PFIAB *	CIA
4. Administrative Services Specialist	PFIAB *	DOD
5. Deputy Executive Director	PFIAB *	CIA
6. Deputy Director of Photography For Visuals	Photo Office	DIA
7. Visual Information Specialist	Photo Office	DOD
8. Official Photographer	Photo Office	DOD
9. Official Photographer	Photo Office	DIA
10. Photographer	Photo Office	DOD
11. IT Systems Administrator	Photo Office	DIA
12. Photo Editor	Photo Office	DIA
13. President's Photographer	Photo Office	DIA
14. Photographic Specialist	Photo Office	DIA
15. Admin Officer	Photo Office	DIA
16. Staff Assistant	Visitors Office	Dept Of Interior
17. Executive Assistant	Visitors Office	Dept Of Interior
18. Staff Assistant	Visitors Office	Dept Of Interior

*PFIAB is the President's Foreign Intelligence Advisory Board

REV_00169529

From: CN=Monique L. Dilworth/OU=OA/O=EOP [OA]

To: Eric C. Pelletier/WHO/EOP@Exchange [WHO] <Eric C. Pelletier>;Steven R. Beattie/OA /EOP@Exchange [OA] <Steven R. Beattie>;Veronica Kitchen/OA/EOP@EOP [OA] <Veronica Kitchen>;Claire M. O'Donnell/OVP/EOP@Exchange [OVP] <Claire M. O'Donnell>;Lisa B. Fairhall/OMB/EOP@EOP [OMB] <Lisa B. Fairhall>;Adam F. Greenstone/OA/EOP@Exchange [OA] <Adam F. Greenstone>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Stacia L. Cropper/OA/EOP@Exchange [OA] <Stacia L. Cropper>;Jon S. Laurich/OA/EOP@Exchange [OA] <Jon S. Laurich>;Elizabeth Gelfer/OA/EOP@EOP [OA] <Elizabeth Gelfer>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>;Keith L. Roberts/OA/EOP@Exchange [OA] <Keith L. Roberts>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Benjamin A. Powell/WHO /EOP@EOP [WHO] <Benjamin A. Powell>

CC: Lonnie Hovey/OA/EOP@EOP [OA] <Lonnie Hovey>;Marilyn_Meyers@NPS.gov @ inet [UNKNOWN] <Marilyn_Meyers@NPS.gov @ inet>;Worthington W. White/WHO/EOP@EOP [WHO] <Worthington W. White>;Michele C. Marx/ONDCP/EOP@EOP [ONDCP] <Michele C. Marx>;Angela R. Stewart/CEQ/EOP@EOP [CEQ] <Angela R. Stewart>;Stanley S. Sokul/OSTP/EOP@EOP [OSTP] <Stanley S. Sokul>;Paul A. Wedderien/NSC/EOP@EOP [NSC] <Paul A. Wedderien>;Stephen A. Weigler/OMB/EOP@EOP [OMB] <Stephen A. Weigler>;Charles L. Sigman/OA/EOP@EOP [OA] <Charles L. Sigman>;Cheryl A. Reynolds/OA /EOP@EOP [OA] <Cheryl A. Reynolds>;Don J. Jansen/OMB/EOP@EOP [OMB] <Don J. Jansen>;Phuong DeSear/ONDCP/EOP@EOP [ONDCP] <Phuong DeSear>;Mary Fibich/CEA /EOP@EOP [CEA] <Mary Fibich>;Phil Cooney/CEQ/EOP@EOP [CEQ] <Phil Cooney>;Shana L. Dale/OSTP/EOP@EOP [OSTP] <Shana L. Dale>;Katherine J. Fertakis/NSC/EOP@EOP [NSC] <Katherine J. Fertakis>;Brian Gillis/OMB/EOP@EOP [OMB] <Brian Gillis>;Sandra K. Evans/OA/EOP@Exchange [OA] <Sandra K. Evans>

Sent: 5/29/2003 2:18:33 PM

Subject: : QFR Coordination - 2nd Round

Attachments: P_LPYSG003_WHO.TXT_1.doc; P_LPYSG003_WHO.TXT_2.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Monique L. Dilworth ( CN=Monique L. Dilworth/OU=OA/O=EOP [ OA ] )
CREATION DATE/TIME:29-MAY-2003 18:18:33.00
SUBJECT:: QFR Coordination - 2nd Round
TO:Eric C. Pelletier ( CN=Eric C. Pelletier/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Steven R. Beattie ( CN=Steven R. Beattie/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Veronica Kitchen ( CN=Veronica Kitchen/OU=OA/O=EOP@EOP [ OA ] )
READ:UNKNOWN
TO:Claire M. O'Donnell ( CN=Claire M. O'Donnell/OU=OVP/O=EOP@Exchange [ OVP ] )
READ:UNKNOWN
TO:Lisa B. Fairhall ( CN=Lisa B. Fairhall/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Adam F. Greenstone ( CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Stacia L. Cropper ( CN=Stacia L. Cropper/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Jon S. Laurich ( CN=Jon S. Laurich/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Elizabeth Gelfer ( CN=Elizabeth Gelfer/OU=OA/O=EOP@EOP [ OA ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Keith L. Roberts ( CN=Keith L. Roberts/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
```

TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Lonnie Hovey (CN=Lonnie Hovey/OU=OA/O=EOP@EOP [OA])
READ:UNKNOWN
CC:Marilyn_Meyers@NPS.gov @ inet (Marilyn_Meyers@NPS.gov @ inet [UNKNOWN])
READ:UNKNOWN
CC:Worthington W. White (CN=Worthington W. White/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Michele C. Marx (CN=Michele C. Marx/OU=ONDCP/O=EOP@EOP [ONDCP])
READ:UNKNOWN
CC:Angela R. Stewart (CN=Angela R. Stewart/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN
CC:Stanley S. Sokul (CN=Stanley S. Sokul/OU=OSTP/O=EOP@EOP [OSTP])
READ:UNKNOWN
CC:Paul A. Wedderien (CN=Paul A. Wedderien/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
CC:Stephen A. Weigler (CN=Stephen A. Weigler/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Charles L. Sigman (CN=Charles L. Sigman/OU=OA/O=EOP@EOP [OA])
READ:UNKNOWN
CC:Cheryl A. Reynolds (CN=Cheryl A. Reynolds/OU=OA/O=EOP@EOP [OA])
READ:UNKNOWN
CC:Don J. Jansen (CN=Don J. Jansen/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Phuong DeSear (CN=Phuong DeSear/OU=ONDCP/O=EOP@EOP [ONDCP])
READ:UNKNOWN
CC:Mary Fibich (CN=Mary Fibich/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
CC:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN
CC:Shana L. Dale (CN=Shana L. Dale/OU=OSTP/O=EOP@EOP [OSTP])
READ:UNKNOWN
CC:Katherine J. Fertakis (CN=Katherine J. Fertakis/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
CC:Brian Gillis (CN=Brian Gillis/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Sandra K. Evans (CN=Sandra K. Evans/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
End Original ARMS Header

Thank you for the edits and comments you provided. The attached document, &QFR Responses 28 reflects all edits, except where there are still issues to be resolved. (All outstanding issues will be dealt with in separate emails to the affected parties.) We need you to once again review the document for accuracy and consistency. Your edits and comments on the new document, &QFR Responses 28 are due by 3:00 p.m., Friday, May 30th. We received a short extention from the Subcommittee and must provide the final document to Congress by COB Monday, June 2nd. To assist in this effort, I have included listings below that may help while navigating through the document.

Responses to Questions
Previously Unanswered
51, 52, 76, 119, 120, 121,
122, 125, 137, 138, 139,
140, 141, 142, 148 (chart),
158, 161 to 166.

HRM/Personnel Related
6, 7, 8, 11, 13, 14, 15,
40, 58, 64, 65, 73, 74,
79, 80, 94, 159, 169

Space/Rent Related
5, 34, 35, 36, 37, 38,
102, 103, 104, 105,

148, 167, 168

The Hearing Record document is attached again for quick reference. Please call me you have questions and thanks again for your assistance.

Monique Dilworth
5-7638
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_LPYSG003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_LPYSG003_WHO.TXT_2>

Treasury, Postal Service and General
Government Appropriations for

Fiscal Year 2003
Hearing Record References

HOW TO USE THIS DOCUMENT

Several of the FY 2004 questions for the record refer to pages from last year's (FY 2003) hearing record. Below is the FY 2003 hearing record information.

Note that the Question # refers to this year's (FY 2004) question and the information that follows is what was in last year's (FY 2003) hearing record.

Hearing Record Reference for Question 6:

Issue: **Executive Office of the President**

Question: By EOP agency, provide FTE and OGE. Itemize OGE by category (e.g. reimbursable detailee, PSC, etc). Include FY 2001 (actual) and FY 2002-2003 (estimates).

Answer: The following tables provide the total FY 2001 actual, FY 2002 and FY 2003 estimates for full time equivalents (FTE) and other government employees (OGE) for each EOP and other entity as of April 5, 2002. The OGE numbers are itemized by category on the following page. The FY 2001 actual numbers should be viewed in the context of a Presidential transition year and may vary greatly from the FY 2002 figures. The FY 2002 and FY 2003 numbers are estimates only and therefore subject to change for a number of reasons.

REV_00169533

Program	FY 2001 Actual FTE and OGE			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office	400	369	35	**404**
Special Assistance to the President	22	16	42	**58**
Official Residence of the Vice President	1	1	0	**1**
Office of Administration	202	185	5	**190**
Office of Policy Development	31	27	3	**30**
National Security Council	60	44	137	**181**
Council of Economic Advisers	35	28	7	**35**
Office of Management and Budget	527	502	57	**559**
Office of National Drug Control Policy	125	114	38	**152**
Executive Residence	95	89	0	**89**
Office of Science and Technology Policy	40	23	17	**40**
Council on Environmental Quality	24	16	0	**16**
U.S. Trade Representative	203	173	29	**202**
TOTAL	**1,765**	**1,587**	**370**	**1,957**

FY 2002 as of April 5, 2002

Program	FY 2002 FTE and OGE Estimate			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office*	400		97	**497**
Special Assistance to the President	24		40	**64**
Official Residence of the Vice President	1		0	**1**
Office of Administration	202		1	**203**
Office of Policy Development	35		2	**37**
National Security Council	60		150	**210**
Council of Economic Advisers	35		11	**46**
Office of Management and Budget	527		46	**573**
Office of National Drug Control Policy	115		35	**150**
Executive Residence	95		0	**95**
Office of Science and Technology Policy	40		16	**56**
Council on Environmental Quality	24		3	**27**
U.S. Trade Representative	203		23	**226**
TOTAL	**1,761**	**0**	**424**	**2,185**

Program	FY 2003 FTE and OGE Estimate			
	FTE REQUEST	ACTUAL FTE	OGE	TOTAL
White House Office	446		127	**573**
Special Assistance to the President	24		40	**64**
Official Residence of the Vice President	1		0	**1**
Office of Administration	222		1	**223**
Office of Policy Development	35		2	**37**
National Security Council	71		150	**221**
Council of Economic Advisers	35		11	**46**
Office of Management and Budget	510		46	**556**
Office of National Drug Control Policy	115		35	**150**
Executive Residence	95		0	**95**
Office of Science and Technology Policy	40		16	**56**
Council on Environmental Quality	24		3	**27**
U.S. Trade Representative	209		23	**232**
TOTAL	**1,827**	**0**	**454**	**2,281**

* For FY 02, The White House Office includes 65 OGEs for the Office of Homeland Security which are funded from the Emergency Appropriation.

REV_00169534

R = Reimbursable
N = Non Reimbursable

FY 2001 FTE and OGE Actuals

	FTE	Agency Reps	Assignees	Detailees		Historically Provided Services	Others		Student Volunteers	White House Fellows	Pres. Mgmt Intern	OGE Grand Totals		
		N	N	R	N	N	R	N	N	N	N	R	N	R + N
White House Office	**369**	7	5	3	7	13						3	32	**35**
Special Assistance to the President	**16**		1		10	25		6					42	**42**
Official Residence of the Vice President	**1**													
Office of Administration	**185**							4	1				5	**5**
Office of Policy Development	**27**	2			1								3	**3**
National Security Council	**44**		32	1	90	4		8		2		1	136	**137**
Council of Economic Advisers	**28**				1		4		2			4	3	**7**
Office of Management and Budget	**502**			3	46				8			3	54	**57**
Office of National Drug Control Policy	**114**	13	20	3			2					5	33	**38**
Executive Residence	**89**													
Office of Science and Technology Policy	**23**	8		2	2	1	1	2	1			3	14	**17**
Council on Environmental Quality	**16**													
U.S. Trade Representative*	**173**				27			1		1			29	**29**
TOTAL	**1,587**	**30**	**58**	**12**	**184**	**43**	**7**	**21**	**12**	**3**		**19**	**351**	**370**

R = Reimbursable
N = Non Reimbursable

FY 2002 FTE and OGE *as of April 5, 2002*

	FTE	Agency Reps	Assignees	Detailees		Historically Provided Services	Others		Student Volunteers	White House Fellows	Pres. Mgmt Intern	OGE Grand Totals		
		N	N	R	N	N	R	N	N	N	N	R	N	R + N
White House Office**	**400**	1	4	68	8	15				1		68	29	**97**
Special Assistance to the President	**24**		9			1		29			1		40	**40**
Official Residence of the Vice President	**1**													
Office of Administration	**202**							1					1	**1**
Office of Policy Development	**35**		2										2	**2**
National Security Council	**60**		34	1	108	4		2		1		1	149	**150**
Council of Economic Advisers	**35**				1		4		6			4	7	**11**
Office of Management and Budget***	**527**			4	39				3			4	42	**46**
Office of National Drug Control Policy	**115**	13	17	1	1		3					4	31	**35**
Executive Residence	**95**													
Office of Science and Technology Policy	**40**	5		4			3	4				7	9	**16**
Council on Environmental Quality	**24**	3											3	**3**
U.S. Trade Representative*	**203**				21			1		1			23	**23**
TOTAL	**1,761**	**22**	**66**	**78**	**178**	**20**	**10**	**37**	**9**	**3**	**1**	**88**	**336**	**424**

R = Reimbursable
N = Non Reimbursable

FY 2003 FTE and OGE Estimate

	FTE	Agency Reps	Assignees	Detailees		Historically Provided Services	Others		Student Volunteers	White House Fellows	Pres. Mgmt Intern	OGE Grand Totals		
		N	N	R	N	N	R	N	N	N	N	R	N	R + N
White House Office	**446**	1	3	100	8	15						100	27	**127**
Special Assistance to the President	**24**		9			1		29			1		40	**40**
Official Residence of the Vice President	**1**													
Office of Administration	**222**							1					1	**1**
Office of Policy Development	**35**		2										2	**2**
National Security Council	**71**		34	1	108	4		2		1		1	149	**150**
Council of Economic Advisers	**35**				1		4		6			4	7	**11**
Office of Management and Budget***	**510**			4	39				3			4	42	**46**
Office of National Drug Control Policy	**115**	13	17	1	1		3					4	31	**35**
Executive Residence	**95**													
Office of Science and Technology Policy	**40**	5		4			3	4				7	9	**16**
Council on Environmental Quality	**24**	3											3	**3**
U.S. Trade Representative*	**209**				21			1		1			23	**23**
TOTAL	**1,827**	**22**	**65**	**110**	**178**	**20**	**10**	**37**	**9**	**2**	**1**	**120**	**334**	**454**

* USTR has nonreimbursable detailees in their Geneva, Switzerland offices (FY 2001 = 10, FY 2002 = 9) and are **not** included in the numbers above.
** For FY 02, The White House Office includes 65 OGEs for the Office of Homeland Security which are funded from the Emergency Appropriation.
*** The Office of Management and Budget's OGE number greatly increases during the preparation of the President's Budget. At other times, the OGE number can fall below 20.

REV_00169535

Hearing Record Reference for Question 7:

Question: For the Office of Administration provide FTE and OGE by organizational unit for FY 2001 (actual) and FY 2002-2003 (estimates).

Answer: The chart below displays the FTE and OGE distribution in the previous OA organizational structure for FY 2001. For FY 2002 and FY 2003, the FTE and OGE are displayed in the new streamlined OA organizational structure which reduced the number of operating units reporting to the Director from 10 to 4. All data is as of April 5, 2002.

R = Reimbursable N = Non Reimbursable	FY 2001 FTE and OGE Actuals						
	FTE	Others		Student Volunteers	OGE Grand Totals		
		R	N	N	R	N	R + N
Office of the Director	6		1			1	1
General Counsel	3						
Equal Employment Opportunity	1						
Financial Management	23						
Facilities Management	8						
Human Resources Management	22		3	1		4	4
General Services	54						
Library and Research Sciences	15						
Operations and Legislative Liasons	2						
Security	8						
Information Systems Technology	43						
TOTAL	**185**		**4**	**1**		**5**	**5**

R = Reimbursable N = Non Reimbursable	FY 2002 FTE and OGE Estimates						
	FTE	Others		Student Volunteers	OGE Grand Totals		
		R	N	N	R	N	R + N
Director	11						
Chief Operating Officer	96		1			1	1
Chief Financial Officer	37						
Chief Projects Officer	10						
Chief Information Officer	48						
TOTAL	**202**		**1**			**1**	**1**

R = Reimbursable N = Non Reimbursable	FY 2003 FTE and OGE Estimates						
	FTE	Others		Student Volunteers	OGE Grand Totals		
		R	N	N	R	N	R + N
Director	11						
Chief Operating Officer	103		1			1	1
Chief Financial Officer	39						
Chief Projects Officer	11						
Chief Information Officer	58						
TOTAL	**222**		**1**			**1**	**1**

REV_00169536

Hearing Record Reference for Question 8:

Question: For the Office of Management and Budget provide FTE and OGE by division for FY 2001 (actual) and FY 2002-2003 (estimates).

Answer: The chart below displays the FTE and OGE breakout by OMB division for FY 2001-2003. Most detailees and Student Volunteers are used during the peak budget production season. During the rest of the year, the OGE total can fall below 20.

R = Reimbursable N = Non Reimbursable	**FY 2001 FTE and OGE Actuals**								
	FTE	Assignees	Detailees		Student Volunteers	White House Fellows	OGE Grand Totals		
		N	R	N	N	N	R	N	R + N
OMB-Wide Offices*	**149**			18	2		0	20	**20**
General Government Programs	**61**			4			0	4	**4**
Human Resource Programs	**75**			2	1		0	3	**3**
National Security Programs	**65**		1	8			1	8	**9**
Natural Resource Programs	**62**			3	2		0	5	**5**
Office of Federal Financial Management	**17**		1	3	1		1	4	**5**
Office of Federal Procurement Policy	**24**		1	1			1	1	**2**
Office of Information and Regulatory Affairs	**49**			7	2		0	9	**9**
TOTAL	**502**	**0**	**3**	**46**	**8**	**0**	**3**	**54**	**57**

R = Reimbursable N = Non Reimbursable	**FY 2002 FTE and OGE Estimates** *(as of April 5, 2002)*								
	FTE	Assignees	Detailees		Student Volunteers	White House Fellows	OGE Grand Totals		
		N	R	N	N	N	R	N	R + N
OMB-Wide Offices*	**157**		1	19	1		1	20	**21**
General Government Programs	**64**			1			0	1	**1**
Human Resource Programs	**78**			1			0	1	**1**
National Security Programs	**67**		1	2			1	2	**3**
Natural Resource Programs	**63**			4			0	4	**4**
Office of Federal Financial Management	**22**		2	2			2	2	**4**
Office of Federal Procurement Policy	**22**			1			0	1	**1**
Office of Information and Regulatory Affairs	**54**			9	2		0	11	**11**
TOTAL	**527**	**0**	**4**	**39**	**3**	**0**	**4**	**42**	**46**

R = Reimbursable N = Non Reimbursable	**FY 2003 FTE and OGE Estimates**								
	FTE	Assignees	Detailees		Student Volunteers	White House Fellows	OGE Grand Totals		
		N	R	N	N	N	R	N	R + N
OMB-Wide Offices*	**151**		1	19	1		1	20	**21**
General Government Programs	**63**			1			0	1	**1**
Human Resource Programs	**75**			1			0	1	**1**
National Security Programs	**63**		1	2			1	2	**3**
Natural Resource Programs	**63**			4			0	4	**4**
Office of Federal Financial Management	**20**		2	2			2	2	**4**
Office of Federal Procurement Policy	**21**			1			0	1	**1**
Office of Information and Regulatory Affairs	**54**			9	2		0	11	**11**
TOTAL	**510**	**0**	**4**	**39**	**3**	**0**	**4**	**42**	**46**

* OMB-Wide Offices include the Director's; the Deputy Director, the Deputy Director for Management, the Executive Associate Director; Communications; General Counsel; Legislative Affairs; Economic Policy; Administration; the Legislative Reference Division; the Budget Review Divisions; and the Office of Information Technology and E-Government.

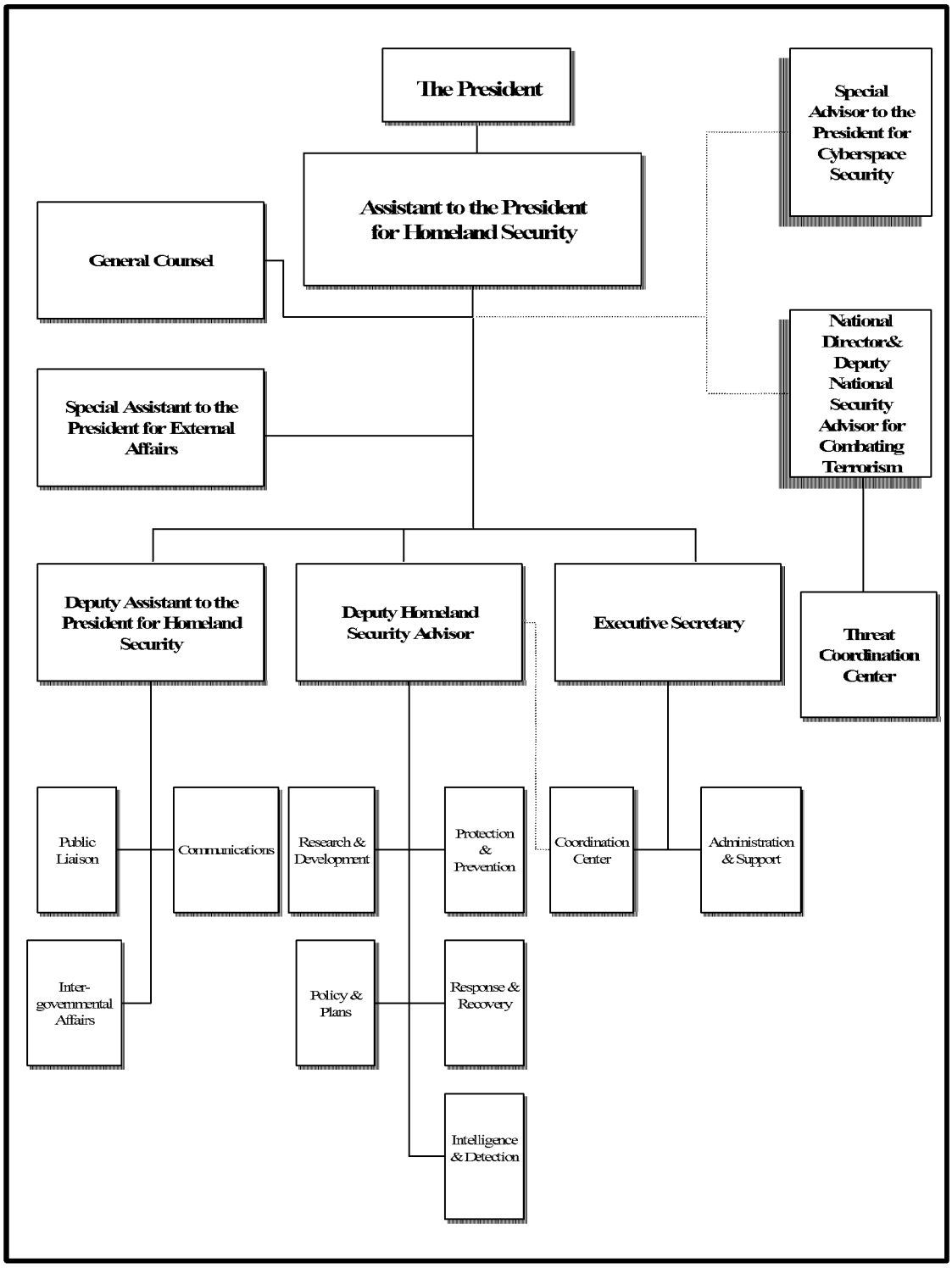
REV_00169537

Hearing Record Reference for Question 16:

Question: Provide an organizational chart for the OHS.

Answer: See chart below.

REV_00169538



REV_00169539

Hearing Record Reference for question 17:

Question: The President's request includes $1,337,000 for travel and transportation of persons, an increase of $976,000 from the estimated level of $361,000 in FY 2002. For FY 2002 and 2003 (estimates), provide a list of trips by location and purpose, including the number of staff traveling and staff position.

Answer: The FY 2002 travel and transportation of persons estimate and FY 2003 budget request provides funding for the Assistant to the President for Homeland Security and staff travel, Critical Infrastructure Protection Board (CIPB) activities and advisory board activities. Specific locations for FY 2003 are currently unavailable due to the fact that they are determined as requirements are finalized. FY 2002 and FY 2003 anticipated travel activities are in furtherance of the OHS mission promulgated in the Executive Orders.

Examples of FY 2003 estimated travel requirements include: per diem and travel for two-thirds of Advisory Board members to attend approximately 40 various meetings and activities; approximately 50 domestic trips for the Assistant to the President for Homeland Security and 3 staff members to fulfill outreach requirements; approximately 100 domestic trips for Homeland Security staff to fulfill mission functions as outlined in Executive Order 13228; approximately 24 domestic and 3 overseas trips for the Chair, Vice Chair and one staff member of the CIPB to fulfill outreach requirements as stated in Executive Order 13231; and approximately 12 CIPB staff (director level) trips to outreach the private sector. Of course, these are estimates only and are therefore subject to change for a variety of reasons.

FY 2002 travel expenses incurred to date include trips to Mexico and Canada for border discussions and various locations in the United States to visit first response, bioterrorism research facilities and other initiatives related to homeland security. The following table lists current (as of April 10, 2002) FY 2002 travel expenses as reflected in the accounting system.

Trip Cost Note: Estimated costs of trips will vary greatly from trip to trip to the same city and from one city to another city for four significant reasons; mode of transportation used/authorized, number of days TDY, number of personnel on trip, and whether costs recorded are actual or estimated expenses.

Office of Homeland Security Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Staff Position**
11/13/01	New York City, NY	1	$ 145	Dep Asst to President for OHS
11/15/01	New York City, NY	4	$ 1,287	Asst to President for OHS, Aide to Asst to President for OHS, Sr Director Response & Recovery and Sr Director Communications
12/07/01	New York City, NY	1	$ 767	Sr Dir Intergovernmental Affairs

REV_00169540

12/11/01	Ottawa, CAN	5	$	1,038	Asst to President for OHS, Aide to Asst to President for OHS, Asst Public Liaison, Sr Dir Policy & Plans, Sr Dir Communications
12/21/01	Harrisburg, PA	1	$	2,009	Comm Asst to Asst to President for OHS
01/04/02	Harrisburg, PA	1	$	544	Comm Asst to Asst to President for OHS
01/09/02	Salt Lake City, UT	4	$	738	Comm Asst to Asst to President for OHS, Dep Press Secretary, Spec Asst to the Chief of Staff, Aide to the Asst to President for OHS
01/11/02	Harrisburg, PA	1	$	525	Comm Asst
01/13/02	New York City, NY	4	$	1,606	Asst to President for OHS, Aide Dep Asst to President OHS, Dep Press Sec & Special Asst Public Liaison
01/14/02	New York City, NY	1	$	138	Sr Dir Communications
01/17/02	New York City, NY	3	$	323	Sr Dir Intergovernmental Affairs, Staff Dir, Dir
01/18/02	Harrisburg, PA	1	$	1,017	Comm Asst to Asst to President for OHS
01/22/02	Ft. Lauderdale, FL	1	$	850	Dr Policy & Plans
01/25/02	Brandson, MO	1	$	405	Sr Dir Intergovernmental Affairs
01/25/02	Harrisburg, PA	1	$	742	Watch Officer
01/30/02	Greensboro, NC	3	$	909	Asst to President for OHS, Sr Dir Communications, & Dep Asst Sec
01/31/02	New York City, NY	4	$	2,536	Asst to President OHS, Comm Asst to Asst to President for OHS, Aide to Asst to President OHS, Asst Public Liaison
02/02/02	New York City, NY	1	$	165	Sr Dir Policy & Plans
02/04/02	New York City, NY	1	$	728	Comm Asst
02/05/02	New York City, NY	4	$	1,699	Asst to President OHS, Comm Asst to Asst to President for OHS, Aide to Asst to President OHS, Sr Dir Communications Asst Public Liaison
02/05/02	Salt Lake City, UT	1	$	4,358	Comm Asst
02/08/02	Harrisburg, PA	2	$	909	Comm Asst to Asst to President for OHS, Watch Officer
02/13/02	Orlando, FL	1	$	1,593	Comm Asst to Asst to President for OHS
02/14/02	Miami, FL	1	$	653	Comm Asst
02/14/02	Orlando, FL	4	$	4,316	Asst to President for OHS, Sr Dir Intergovernmental Affairs, Aide to Asst to President OHS, Sr Dir Communications
02/15/02	Miami, FL	1	$	814	Special Asst Public Liaison
02/16/02	Harrisburg, PA	2	$	724	Watch Officer, Communications Asst

REV_00169541

02/17/02	Los Angeles, CA	1	$	719	Comm Asst to Asst to President for OHS
02/18/02	Cincinnati, OH	1	$	912	Special Asst Intergovernmental Affairs
02/19/02	Cincinnati, OH	1	$	715	Sr Dir Intergovernmental Affairs
02/19/02	Las Vegas, NV	1	$	2,725	Watch Officer
02/20/02	Houston, TX	3	$	903	Asst to President for OHS, Comm Asst to Asst to President for OHS, Aide to Asst to President for OHS
02/22/02	Harrisburg, PA	1	$	713	Comm Asst to Asst to President for OHS
02/22/02	Key West, FL	1	$	1,059	Sr Dir Intergovernmental Affairs
02/25/02	Colorado Springs, CO	2	$	1,575	Sr Advisor Prevention & Protection, Sr Dir Protection & Prevention
02/27/02	Vancouver, CA	1	$	1,212	Dir Policy & Plans
03/01/02	Harrisburg, PA	2	$	975	Communications Asst, Communications Asst
03/04/02	Mexico City, MEX	9	$	6,239	Asst to President for OHS, Asst Public Liaison, Aide to Asst to President for OHS, Dep Press Sec, Dep Asst to Pres for OHS, Sr Dir Policy & Plans, Communications Asst, Comm Asst to Asst to President for OHS, Dir Policy and Plans
03/04/02	Orlando, FL	1	$	325	Staff Dir
03/07/02	Boston, MA	3	$	1,111	Sr Dir Policy & Plans, Sr Dir Intergovernmental Affairs
03/08/02	Boston, MA	4	$	1,014	Asst to President for OHS, Sr Dir Communications, Aide to Asst to President for OHS, Staff Dir
03/08/02	Harrisburg, PA	1	$	600	Communications Asst
03/11/02	Birmingham	1	$	654	Sr Dir Response & Recovery
03/11/02	Orlando, FL	1	$	1,790	Comm Asst to Asst to President for OHS
03/15/02	Harrisburg, PA	1	$	589	Communications Asst
03/18/02	Las Vegas, NV	3	$	2,003	Comm Asst to Asst to President for OHS, Comm Asst, Comm Asst
03/20/02	New York City, NY	1	$	606	Special Asst
03/21/02	Monterrey, MEX	1	$	900	Aide to Asst to President for OHS
03/22/02	Harrisburg, PA	1	$	363	Communications Asst
03/27/02	Atlanta, GA	1	$	264	Aide to Asst to President for OHS
	Trip Cost Total		**$**	**59,503**	

REV_00169542

Cyberspace Security Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Staff Position**
10/27/01	San Jose, CA	2	$ 4,649	Special Advisor to President for Cyberspace Security, Deputy Chief of Staff Cyberspace
10/28/01	San Jose, CA	1	$ 1,663	Dir National Security Cyberspace
12/04/01	Boston, MA	3	$ 4,620	Special Advisor to President for Cyberspace Security, Deputy Chief of Staff Cyberspace, Sr Dir National Security Cyberspace
12/09/01	Boston, MA	1	$ 581	Dir National Security Cyberspace
12/09/01	Salt Lake City, UT	1	$ 1,219	Sr Dir National Security Cyberspace
01/17/02	San Jose, CA	2	$ 4,184	Sr Dir National Security Cyberspace, Special Advisor to President for Cyberspace Security
01/26/02	Honolulu, HI	1	$ 1,495	Sr Dir National Security Cyberspace
02/02/02	New Haven, CT	1	$ 809	Vice Chair CIPB
02/05/02	Norfolk, VA	1	$ 167	Sr Dir National Security Cyberspace
02/11/02	Austin, TX	1	$ 826	Special Advisor to President for Cyberspace Security
02/11/02	New York City, NY	1	$ 139	Sr Dir National Security Cyberspace
02/16/02	San Jose, CA	1	$ 807	Special Advisor to President for Cyberspace Security
02/22/02	Philadelphia, PA	1	$ 149	Vice Chair CIPB
03/02/02	JPN, IND, SIN, Hong Kong	1	$ 10,678	Sr Dir National Security Cyberspace
03/04/02	Palm Springs, CA	1	$ 371	Vice Chair CIPB
03/17/02	London, GBR	1	$ 1,273	Vice Chair CIPB
03/20/02	New York City, NY	1	$ 161	Sr Dir National Security Cyberspace
03/21/02	Seattle, WA	1	$ 161	Vice Chair CIPB
	Trip Cost Total		**$ 33,949**	

REV_00169543

Hearing Record Reference for Question 19:

Question: What Memorandums of Understanding have been signed by the Office of Homeland Security, or by any other EOP entity on behalf of the Office of Homeland Security and with whom? Describe the purpose of each MOU.

Answer: As of April 12, 2002, there is one signed Memorandum of Understanding (MOU), which is an agreement between OHS and the Office of Science and Technology Policy (OSTP). OSTP provides technical and personnel support for research and development and policy issues. There is no financial component to this MOU.

Hearing Record Reference for question 24:

Question: Is there a distinct organizational unit within the OHS for this function? If so, how many FTE are associated with this function? How many detailees? Where are these people located? Is this a permanent location? What is the total amount of space being used by the Cyber Security Office? What is the total cost of the Cyberspace Security office, including rent, office supplies, communications, etc.

Answer: The Special Advisor reports to both the Assistant to the President for Homeland Security and the Assistant to the President for National Security Affairs. The permanent location and amount of space allocated to the Board has not been determined, but they are currently located at the G Street office location. The total staff associated with this function is yet to be determined. The total estimated cost, for FY 2003, of the CIPB, including rent, office supplies, communications, etc., is approximately $2.85 million.

Hearing Record Reference for Question 39:

Question: To date, provide the total amount obligated from the FY 2002 appropriation "White House Repair and Restoration" by project.

Answer: Listed below is the status of each of the projects and the amounts obligated. No funds have been obligated to date in excess of the $100,000 project prospectus ceiling.

Pool Shelter Roof Reconstruction and Pool Deck Renovation - The preliminary architectural survey and design are completed, and structural engineering analysis and design is in progress. The two primary contractors required have committed to the project and an on-site meeting is scheduled. Construction is expected to begin in April. There have been no funds obligated. All work to date has been accomplished with National Park Service and Executive Residence staff.

Communication System Repairs / Phase 2 - Design work continues under Phase I (FY 2001 – $441,000 obligated) and Construction (Phase II) is expected to begin in August.

East and West Wing Exterior Restoration - Scaffolding installation for one elevation of the East and West Wing is nearly complete. Paint removal will begin shortly as outdoor temperatures permit. $84,500 has been obligated to date.

REV_00169544

Insulated Windows Replacement - Preliminary discussions are ongoing with manufacturers and fabrication should begin in May. Installation and related restoration requirements have been discussed with the prospective contractor, and the proposal should be received in April 2002. Work is expected to begin in July. No funds have been obligated for this project.

Kitchen Floor Replacement - The survey of existing conditions including utilities has been completed. An onsite meeting with the flooring installation contractor was completed and installation began in mid-March 2002. No funds have been obligated for this project.

North Portico Curtain Wall - The contractor began onsite work at the end of February 2002 and installation is 95% complete. Only the "punch" list and in house items remain. $83,000 has been obligated to date.

Stone Pavers Restoration - The contractor proposal has been received and is under review. Material ordering is expected in April 2002 and onsite work is expected to begin in May. No funds have been obligated for this project.

West Colonnade Restoration - There is continuing restoration of the first three columns and historically accurate replacement stone has been ordered for all columns. The newly discovered deteriorated structural steel has been evaluated. The recommended corrective actions will be accomplished this summer and no additional funds will be required. To date, $49,040 has been obligated for this project.

Hearing Record Reference for Question 51:

Issue: **President's Travel**

Question: For Presidential and First Lady travel, provide the following for FY 2001 and 2002 (to date):

- Trip date
- Destination
- Designation (political/official)
- Official Cost

Answer: The following charts summarize Presidential and First Lady travel for FY 2001 and FY 2002:

Presidential Travel FY 2001				
		Status		White House
Date	Destination	Official	Political	Travel cost
5-Oct	Princeton, NJ	100%		$ 9,983.00
8-Oct	New York, NY	100%		$ 4,986.00
11-Oct	Philadelphia, PA	44%	56%	$ 7,286.00
14-Oct	Denver, CO	31%	69%	$ 3,546.00
18-Oct	Norfolk, VA	100%		$ 3,301.00

REV_00169545

19-Oct	New Orleans, LA		100%	$ 974.00
20-Oct	Jefferson City, MO	37%	63%	$ 3,920.00
21-Oct	Boston, MA		100%	$ 259.00
22-Oct	Kingston, NY		100%	$ 1,078.00
25-Oct	Armonk, NY	100%		$ 8,617.00
31-Oct	Louisville, KY/New York		100%	$ 1,209.00
2-Nov	New York, NY		100%	$ 1,929.00
7-Nov	New York, NY		100%	$ 2,531.00
12-Nov	Waikoloa, HI	100%		$ 42,293.00
30-Nov	New York, NY	100%		$ 11,310.00
8-Dec	Omaha, NE	71%	29%	$ 13,188.00
18-Dec	New York, NY	100%		$ 15,390.00
4-Jan	Syracuse, NY	100%		$ 3,669.00
7-Jan	New York, NY	53%	47%	$ 4,835.00
9-Jan	Lansing, MI	100%		$ 7,730.00
9-Jan	Chicago, IL	100%		$ 8,470.00
11-Jan	Boston, MA	100%		$ 7,986.00
11-Jan	Dover, NH	100%		$ 4,918.00
11-Jan	Grand Canyon, AZ	100%		$ 18,342.00
17-Jan	New York, NY	100%		$ 12,283.00
17-Jan	Little Rock, AK	100%		$ 1,722.00
3-Feb	Williamsburg, VA	100%		$7,063
4-Feb	Nemacolin, PA	100%		$389
12-Feb	Savannah, GA	100%		$7,236
13-Feb	Norfolk, VA	100%		$7,293
14-Feb	Charleston, WV	100%		$9,692
18-Feb	Waco, TX	100%		$7,310
19-Feb	Oklahoma City, Ok	100%		$5,812
20-Feb	Columbus, OH	100%		$3,444
20-Feb	St. Louis, MO	100%		$9,324
21-Feb	Knoxville, TN	100%		$5,782
28-Feb	Pittsburg, PA	100%		$3,182
28-Feb	Council Bluff, IA	100%		$7,657
1-Mar	Little Rock, AK	100%		$8,450
1-Mar	Atlanta, GA	100%		$6,538
4-Mar	Newport News, VA	100%		$4,223
6-Mar	Chicago, IL	100%		$5,332
8-Mar	Sioux Falls, SD	100%		$12,542
8-Mar	Fargo, ND	100%		$2,976
9-Mar	Lafayette, LA	100%		$8,407
9-11 Mar	Waco, TX	100%		$18,435
12-Mar	Panama City, FL	100%		$3,314
14-Mar	Plainfield, NJ	100%		$4,724
21-Mar	Orlando, FL	100%		$9,568
23-Mar	Portland, MN	100%		$6,164

REV_00169546

26-Mar	Kansas City, MO	100%		$6,390
26-Mar	Billings, MT	100%		$12,229
27-Mar	Kalamazoo, MI	100%		$3,765
3-Apr	Wilmington, DE	100%		$2,528
6-Apr	Milwaukee, WI	100%		$6,200
11-Apr	Greenville, NC	100%		$7,191
11-Apr	Charlotte, NC	100%		$6,509
15-Apr	Waco, TX	100%		$12,791
18-Apr	Waterbury, CT	100%		$7,527
25-Apr	Jacksonville, FL	100%		$3,719
25-Apr	New Orleans, LA	100%		$7,541
25-Apr	Little Rock, AK		100%	$ -
26-Apr	Houston, TX	100%		$2,647
27-Apr	Austin, TX	100%		$6,519
28-Apr	Waco, TX	100%		$12,700
14-May	Philadelphia, PA	100%		$6,440
17-May	Nevada, IA	100%		$7,838
17-May	St. Paul, MN	100%		$6,266
18-May	Lancaster, PA	100%		$6,858
20-May	South Bend, IA	100%		$8,333
20-May	New Haven, CT	100%		$19,631
24-May	Cleveland, OH	100%		$3,497
28-May	Mesa, AZ	100%		$2,828
29-May	Los Angeles, CA	100%		$24,073
29-May	San Diego, CA	100%		$14,326
30-May	Fresno, CA	100%		$16,108
1-Jun	Boston, MA	100%		$4,344
4-Jun	Tampa, FL	100%		$18,918
4-Jun	Homestead, FL	100%		$8,721
6-Jun	Bedford, VA	100%		$3,880
8-Jun	Des Moines, IA	100%		$5,952
8-Jun	Omaha, NE	100%		$8,761
10-Jun	Waco, TX	100%		$7,844
21-Jun	Birmingham, AL	58%	42%	$14,966
21-Jun	Waco, TX	100%		$12,374
25-Jun	Detroit, MI	100%		$8,956
4-Jul	Philadelphia, PA	100%		$9,267
5-Jul	Kennebunkport, ME	100%		$14,083
10-Jul	New York City, NY	100%		$18,036
13-Jul	Baltimore, MD	100%		$1,352
29-Jul	Fort A.P. Hill VA	100%		$2,087
4-Aug-2 Sep	Crawford, TX	100%		$89,092
14-Aug	Estes Park, CO	100%		$21,743
14-Aug	Denver, CO	50%	50%	$0
15-Aug	Albuquerque, M	68%	32%	$21,860

REV_00169547

20-Aug	Milwaukee, WI	100%		$10,820
21-Aug	Kansas City, MO	100%		$21,636
26-Aug	Pittsburg, PA	100%		$8,858
26-Aug	Williamsport, PA	100%		$14,073
29-Aug	Honolulu, HI (pre-adv)	Cancelled due to 9/11		$4,480
30-Aug	San Antonio, TX	100%		$7,024
3-Sep	Detroit, MI	100%		$10,053
3-Sep	Green Bay, WI	100%		$10,812
6-Sep	Toledo, OH	100%		$4,710
10-Sep	Sarasota, FL	100%		$26,098
10-Sep	Jacksonville, FL	100%		$5,376
14-Sep	New York City, NY	100%		$6,767
27-Sep	Chicago, IL	100%		$9,438
	FY 2001 Total Costs			**$791,692**

Mrs. Clinton/Mrs. Bush's Travel FY 2001				
		Status		White House
Date	Destination	Official	Political	Travel Cost
16-Oct	New York, NY		100%	$ 346
27-Oct	New York, NY		100%	$ 236
10-Nov	New York, NY		100%	$ 234
20-Feb	Ohio/ Missouri	100%		$583
22-Mar	Los Angeles, CA	100%		$1,165
23-Mar	San Diego, CA	100%		$14,294
22-Apr	Quebec, Canada	100%		$8,673
1-May	New York, NY	100%		$52
8-May	Columbia, SC	100%		$434
14-May	Chicago, IL	100%		$1,637
1-Jun	Boston, MA	100%		$280
25-Sep	New York, NY	100%		$4,500
	Total Costs			**$31,618**

Presidential Travel FY 2002				
		Status		White House
Date	Destination	Official	Political	Travel Cost
3-Oct	New York, NY	100%		$8,060
7-Oct	Emmitsburg, MD	100%		$1,988
17-Oct	Sacramento, CA	100%		$16,678
30-Oct	New York, NY	100%		$13,043

REV_00169548

8-Nov	Atlanta, GA	100%		$17,920
10-Nov	New York, NY	100%		$6,525
14-Nov	Crawford. TX	100%		$44,535
21-Nov	Fort Campbell, KY	100%		$9,114
27-Nov	Salt Lake City, UT	100%		$4,328
1-Dec	Philadelphia, PA	100%		$13,669
4-Dec	Orlando, FL	70%	30%	$13,371
7-Dec	Norfolk, VA	100%		$5,271
11-Dec	Citadel, SC	100%		$11,498
26-Dec	Waco, TX	100%		$12,667
4-Jan	Austin, TX	100%		$5,356
5-Jan	Ontario, CA	100%		$10,240
5-Jan	Portland, OR	100%		$10,870
8-Jan	Hamilton, OH	100%		$6,588
8-Jan	Boston, MA	100%		$11,159
8-Jan	Portsmith, NH	54%	46%	$6,594
9-Jan	Washington, DC	100%		$0
11-Jan	Conshohoken, PA	100%		$5,321
14-Jan	Moline, IL	100%		$7,570
14-Jan	Springfield, MO	100%		$6,569
14-Jan	New Orleans, LA	100%		$32,494
22-Jan	Charleston, WV	71%	29%	$6,086
25-Jan	Portland, ME	100%		$7,698
30-Jan	Winston-Salem, NC	65%	35%	$8,799
30-Jan	Daytona Beach, FL	100%		$12,874
31-Jan	Atlanta, GA	100%		$13,869
1-Feb	White Sulpher Springs, WV	100%		$4,273
4-Feb	Eglin AFB,FL	100%		$7,666
5-Feb	Pittsburgh ,PA	100%		$7,918
6-Feb	New York, NY	54%	46%	$6,940
8-Feb	Denver, CO	100%		$7,644
8-Feb	Salt Lake City, UT	100%		$12,877
8-Feb	Jackson, WY	100%		$11,182
11-Feb	Milwaukee, WI	48%	52%	$9,360
16-Feb	Anchorage, AK	40%	60%	$9,181
27-Feb	Charlotte, NC			$7,048
	Totals through 2/28/02			**$414,843**

REV_00169549

Mrs. Bush's Travel FY 2002				
		Status		White House
Date	Destination	Official	Political	Travel Cost
3-Oct	Cincinnati, OH	100%		$339
16-Oct	Newark, NJ	100%		$1,790
18-Oct	Atlanta, GA	100%		$1,742
19-Oct	Baton Rouge, LA	100%		$1,568
30-Oct	New York, NY	100%		$1,652
16-Nov	Austin, TX	100%		$7,300
9-Jan	Topeka, KS	100%		$1,566
10-Jan	Houston, TX	100%		$1,915
11-Jan	Austin, TX	100%		$780
21-Jan	Atlanta, GA	100%		$1,060
10-Feb	Los Angeles, CA	100%		$5,021
	Total Costs through 2/28/02			**$24,733**

Hearing Record Reference for Question 53:

Question: For FY 2001, 2002 (estimate) and FY 2003 request, provide the total amount for outside consulting services, by appropriations account. Provide the specific definition of "consulting services" being used in response to this question as well as a description of the consulting service itself (dollar amount, purpose, deliverables, timeframe). If applicable, group the consulting services by category of service.

Answer: "Consulting services" or "Advisory and Assistance Services" as defined by OMB Circular A-11, Section 83, are services acquired by contract from non-Federal sources (that is, the private sector, foreign governments, State and local governments, tribes), as well as from other units within the Federal Government and consists of three types of services: 1) Management and professional support services; 2) Studies, analyses and evaluation; and 3) Engineering and technical services. Listed below are the EOP and other entities with Advisory and Assistance contracts.

White House Office

FY 2001 (Actual)

1. $15,300 for the Gift Unit of the White House Office of Correspondence. The deliverables included a final report recommending procedures, staffing and budget required for handling gifts to the White House from outside sources. This contract was from January - March, 2001.

REV_00169550

2. $13,200 for computer forensic consultant services to observe the Office of the Independent Counsel's use of a computer forensics technique. The consultant evaluated whether commonly accepted industry practices were being followed. The timeframe for this contract was from December, 2000 to January, 2001.
3. $1,650 for the compilation of records for the presidential library. This contract was during the month of January 2001.

FY 2002 as of April 5, 2002
There are currently no advisory and assistance contracts for the White House Office.

FY 2003 Request
1. $8,000,000 is the estimated requirement for the Office of Homeland Security advisory and assistance contracts. Exact contracts have not been determined at this time.

Office of Administration
FY 2001 (Actual)
1. $285,000 for an auditability assessment for the Chief Financial Officer operations. The deliverables included an assessment plan, auditability report and a gap analysis. The contract was awarded in late September 2001 with a period of performance through March 2002.
2. $196,379 for an assessment of the distributed computer environment including a final report. This contract lasted from August, 2001 to December 2001.
3. $12,600 for consulting services in support of workplace issues. The contract supported a National Partnership for Reinventing Government requirement to identify basic issues, best practices and barriers to success. The contract timeframe was from October 2000 to January 2001.
4. $143,000 for a study of options for an EOP financial management plan. The contract was awarded in September 2001 with a period of performance that extended through December 2001.

FY 2002 as of April 5, 2002
There are currently no advisory and assistance contracts for the Office of Administration.

FY 2003 Request
There are no advisory and assistance contracts planned for FY 2003.

Office of Management and Budget
FY 2001 (Actual)
1. $36,875 for information technology advisory services. The deliverables include providing expert IT research and advice as needed. The contract's duration is for the entire fiscal year.

FY 2002 as of April 5, 2002
1. $55,000 for information technology advisory services. The deliverables include providing expert IT research and advice as needed. The contract is a continuation of the same contract above and is for the entire fiscal year.

REV_00169551

FY 2003 Request

1. $55,000 for information technology advisory services. The deliverables include providing expert IT research and advice as needed. The contract is a continuation of the same contract above and is for the entire fiscal year.

Office of National Drug Control Policy

FY 2001 (Actual)

1. $2,250 for conference preparation support for an Anti-Doping agency meeting including overall logistical support. The contract was for 5 days in August, 2001.

FY 2002 as of April 5, 2002

1. $14,000 for office temps/consultants to assist with the ONDCP Strategy and Budget summary. This contract is part of an open blanket purchase agreement so there is no designated timeframe.

FY 2003 Request

1. $14,000 for office temps/consultants to assist with the ONDCP Strategy and Budget summary. This contract is part of an open blanket purchase agreement so there is no designated timeframe.

Council of Economic Advisers

FY 2001 (Actual)

1. $12,874 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from November 2000 to February 2001.

FY 2002 as of April 5, 2002

1. $14,276 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from November 2001 to February 2002.

FY 2003 Request

1. $15,000 estimated for editorial services for the Economic Report of the President. The consultant will provide expertise in editing the final publication. It is anticipated that the contract will last from November 2002 to February 2003.

Council on Environmental Quality

FY 2001 (Actual)

1. $17,150 for assistance in updating statistical tables, graphics, text and an annual report. The consultant started in FY 2000 and was extended through January 2001.

FY 2002 as of April 5, 2002

There are currently no advisory and assistance contracts for the Council on Environmental Quality.

REV_00169552

FY 2003 Request
There are no advisory and assistance contracts planned for FY 2003.

Office of the United States Trade Representative
FY 2001 (Actual)
1. $5,000 for a Staff Retreat for the Office of African Affairs to improve strategic planning, management, organization and teamwork in the office. The consultant served as retreat facilitator. The contract was for two days in March 2001.
2. $185,000 for information technology advisory services. Deliverables included a detailed assessment of USTR's information technology environment. The contract started in September 2001 and will be completed during FY 2002.

FY 2002 as of April 5, 2002
1. $20,000 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.
2. $5,000 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.

FY 2003 Request
There are no advisory and assistance contracts planned for FY 2003.

Hearing Record Reference for Question 56:

Question: For Object Class 25.2 for the White House Office, provide a detailed description of each project, program or initiative to be funded in support of the USA Freedom Corps Office.

Answer: The additional funds requested in Object Class 25.2 for the White House Office's USA Freedom Corps Office are primarily required to fund two program initiatives.

- Information Dissemination: The cost of this program initiative is estimated at $900,000 and will primarily consist of contracted services in partnership with other Freedom Corps coordinating council agencies. These contracted services will include both interactive website portals and telecommunication services such as information phone banks. These services will provide links and information concerning volunteer opportunities, Freedom Corps activities and other pertinent data.

- Recognition Materials: The cost of this program initiative is estimated at $275,000 and will primarily consist of contracted services to develop, provide and disseminate materials that will be used to recognize volunteer activities and accomplishments.

In addition, approximately $25,000 is required to fund increased general support Other Service costs within the White House that will occur as the result of the operations of this new office. These funds will be used for such things as office equipment maintenance contracts and GSA work requests.

REV_00169553

Hearing Record Reference for Question 63:

Issue: **White House Communications Agency**

Question: For FY 2001 and 2002 (estimates) itemize the reimbursements made to the WH Communications Agency.

Question: For FY 2003, what are the estimated reimbursements to the WH Communications Agency?

Answers to previous two questions: Reimbursements made to WHCA, for the non-telecommunications support they provide to the WHO, is broken down into two categories: personnel and audio visual support. The amount of planned reimbursement is initially set and agreed to via an inter-agency agreement (IAG). This IAG is then adjusted if needed as a result of actual execution. Reimbursement actuals and estimates follow:

	FY01 (actual)	FY02 (est.)	FY03 (est.)
Military Personnel	$3,946,779	$4,564,085	$4,754,346
Audiovisual Support	$3,514,528	$3,589.242	$3,953,848
Total	$7,461,307	$8,153,327	$8,708,194

Hearing Record Reference for Question 64:

Issue: **Office of Administration**

Question: Provide an organization chart for the Office of Administration, including the numbers of FTE in each office.

Answer: The Office of Administration organization chart provided below reflects the current streamlined organizational structure where the number of operating units reporting to the Director was reduced from 10 to 4. The FY 2003 FTE request includes an increase of 20 FTE over FY 2002 authorized levels. All additional FTEs support the ongoing requirements stemming from the events of September 11 including IT and facility support for dispersed offices, additional logistics responsibilities for the receipt and delivery of mail, and financial management support for the Office of Homeland Security (+7 Chief Operating Officer, +10 Chief Information Officer, +1 Chief Projects Officer, +2 Chief Financial Officer).

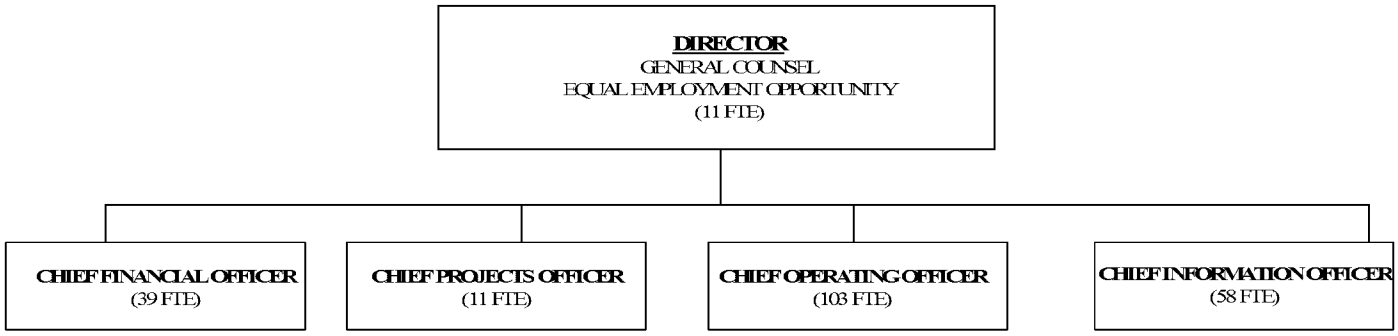
REV_00169554

Executive Office of the President

Office of Administration

Organization Chart

with FY 2003 Requested FTEs



Total 222 FTE

Hearing Record Reference for Question 72:

Issue: *White House Office*

Question: Provide a brief description of the duties and responsibilities of each office (e.g. Chief of Staff, Oval Office Operations, Office of the Press Secretary, Office of Homeland Security, etc.) within the appropriations account "White House Office". By office, provide obligations, FTE and OGE for FY 2001(actual) and FY 2002-2003 (estimated). Itemize OGE by category (e.g. reimbursable detailee, PSC, etc.).

Answer: The purpose of the White House Office is to provide advice and assistance to the President of the United States. This requires a range of professional and support staff. The White House Office is currently divided into the following major units:

Office of the Chief of Staff – Provides advice and assistance to the President and directs the activities of the White House staff.

Oval Office Operations – Provides assistance to the President by, among other things, managing the operations of the Oval Office.

REV_00169555

Advance – Provides advice and assistance to the President, principally by taking responsibility for the organization and implementation of the President and the First Lady's visits outside of the White House complex.

Cabinet Affairs – Provides advice and assistance to the President by, among other things, serving as the liaison between the White House and the President's Cabinet and agency heads.

Communications, Speechwriting, and Media Affairs – Provides advice and assistance to the President by, among other things, coordinating and supporting efforts to communicate and explain the President's views and decisions.

Office of Counsel to the President – Provides advice and assistance to the President and White House staff, principally on matters of law.

Faith-Based and Community Initiatives – Provides advice and assistance to the President by, among other things, coordinating and implementing the President's initiative to empower community and faith-based organizations to better confront poverty and social decay.

Office of the First Lady – Provides advice and assistance to Mrs. Bush in carrying out her official responsibilities as the First Lady.

Homeland Security – Provides advice and assistance to the President, principally by developing, coordinating, and advising the President on a comprehensive national strategy to secure the United States from terrorist threats or attacks and, in particular, by coordinating the Executive Branch's efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States. It has no operational role.

Intergovernmental Affairs – Provides advice and assistance to the President, principally by monitoring the views of State and local elected officials and serving as a liaison between the White House and the Executive Branch, on the one hand, and State and local governments, on the other.

Legislative Affairs – Provides advice and assistance to the President by, among other things, serving as the liaison between the White House and the Congress and developing the strategy used to promote and defend the President's legislative agenda.

Management and Administration – Provides advice and assistance to the President, principally by providing day-to-day administrative support to the White House staff.

Presidential Personnel – Provides advice and assistance to the President, principally by recruiting, screening, and recommending to the President qualified candidates for Presidential appointments to Federal departments and agencies.

REV_00169556

Office of the Press Secretary – Provides advice and assistance to the President, principally by providing information to the national and international press and by handling all national press inquiries such as interview requests, requests for transcripts or releases, and travel and scheduling information.

Scheduling – Provides advice and assistance to the President, principally by coordinating the planning, organization, and implementation of the President's daily and long-range schedules.

Office of the Staff Secretary – Provides advice and assistance to the President by, among other things, managing documents or other items addressed to the President, including correspondence and gifts.

Strategic Initiatives – Provides advice and assistance to the President by, among other things, coordinating the planning and development of a long-range strategy for achieving Presidential priorities; conducting research; and assisting in message development and other communications activities in conjunction with the Office of Public Liaison and the Office of Political Affairs.

USA Freedom Corps – Provides advice and assistance to the President on matters relating to enlisting Americans in public service at home and abroad; in particular, it provides advice and support on the work of, and recognizes participants in, three service efforts – the newly created Citizen Corps, AmeriCorps and Senior Corps, and the Peace Corps.

In addition to these major units, certain individuals – including certain individuals who work with the National Security Council, the Domestic Policy Council, and the National Economic Council – are also White House Office officers or employees, although the units within which they principally work are not themselves part of the White House Office.

The major units within the White House Office are administratively designated by the President's Chief of Staff and the number of employees within each unit and the work of each unit vary over time and as circumstances and needs change. Therefore, a detailed breakout of FTEs and OGEs by unit is not particularly meaningful. White House Office obligations, FTE and OGE are summarized below. The Office of Homeland Security is funded under the emergency supplemental this fiscal year, and therefore, the FY 2002 numbers below do not include OHS personnel or funding. FY 2002 estimates for the OHS are addressed separately in response to other committee questions.

REV_00169557

		FY01 act.		FY02 est.		FY03 est.
Total WHO – FTE		369		400		446
Total WHO – OGE		35		32*		127*
FY03 Congressional Request – FTE		400		400		446
(Dollars in thousands)						
Total WHO – Obligations		$53,084		$54,651		$84,579

* FY 2002 excludes the approximately 65 OGEs currently on board for the Office of Homeland Security.
The FY 2002 OGEs for the Office of Homeland Security are funded out of the emergency supplemental funding.
FY 2003 includes the 95 OGEs for the Office of Homeland Security requested in the FY 2003 Budget Request.

Issue: The Committee is resubmitting the following questions due to the lack of detailed information provided in the original responses

Question: Provide a brief description of the duties and responsibilities of each office (e.g. Chief of Staff, Oval Office Operations, Office of the Press Secretary, Office of Homeland Security, etc.) within the appropriations account "White House Office". By office, provide obligations, FTE and OGE for FY 2001(actual) and FY 2002-2003 (estimated). Itemize OGE by category (e.g. reimbursable detailee, PSC, etc.).

Answer: The purpose of the White House Office is to provide advice and assistance to the President of the United States. This requires a range of professional and support staff. The White House Office is currently divided into the following major units. A brief description of the duties and responsibilities of the major units is provided for the record.

Office of the Chief of Staff – Provides advice and assistance to the President and directs the activities of the White House staff.

Oval Office Operations – Provides assistance to the President by, among other things, managing the operations of the Oval Office.

Advance – Provides advice and assistance to the President, principally by taking responsibility for the organization and implementation of the President and the First Lady's visits outside of the White House complex.

Cabinet Affairs – Provides advice and assistance to the President by, among other things, serving as the liaison between the White House and the President's Cabinet and agency heads.

REV_00169558

Communications, Speechwriting, and Media Affairs – Provides advice and assistance to the President by, among other things, coordinating and supporting efforts to communicate and explain the President's views and decisions.

Office of Counsel to the President – Provides advice and assistance to the President and White House staff, principally on matters of law.

Faith-Based and Community Initiatives – Provides advice and assistance to the President by, among other things, coordinating and implementing the President's initiative to empower community and faith-based organizations to better confront poverty and social decay.

Office of the First Lady – Provides advice and assistance to Mrs. Bush in carrying out her official responsibilities as the First Lady.

Homeland Security – Provides advice and assistance to the President, principally by developing, coordinating, and advising the President on a comprehensive national strategy to secure the United States from terrorist threats or attacks and, in particular, by coordinating the Executive Branch's efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States.

Intergovernmental Affairs – Provides advice and assistance to the President, principally by monitoring the views of state and local elected officials and serving as a liaison between the White House and the Executive Branch, on the one hand, and state and local governments, on the other.

Legislative Affairs – Provides advice and assistance to the President by, among other things, serving as the liaison between the White House and the Congress and developing the strategy used to promote and defend the President's legislative agenda.

Management and Administration – Provides advice and assistance to the President, principally by providing day-to-day administrative support to the White House staff.

Presidential Personnel – Provides advice and assistance to the President, principally by recruiting, screening, and recommending qualified candidates for Presidential appointments to Federal departments and agencies.

Office of the Press Secretary – Provides advice and assistance to the President, principally by providing information to the national and international press and by handling all national press inquiries such as interview requests, requests for transcripts or releases, and travel and scheduling information.

REV_00169559

Scheduling – Provides advice and assistance to the President, principally by coordinating the planning, organization, and implementation of the President's daily and long-range schedules.

Office of the Staff Secretary – Provides advice and assistance to the President by, among other things, managing documents or other items addressed to the President, including correspondence and gifts.

Strategic Initiatives – Provides advice and assistance to the President by, among other things, coordinating the planning and development of a long-range strategy for achieving Presidential priorities; conducting research; and assisting in message development and other communications activities in conjunction with the Office of Public Liaison and the Office of Political Affairs.

USA Freedom Corps – Provides advice and assistance to the President on matters relating to enlisting Americans in public service at home and abroad; in particular, it provides advice and support on the work of, and recognizes participants in, three service efforts – the newly created Citizen Corps, AmeriCorps and Senior Corps, and the Peace Corps.

In addition to these major units, certain individuals – including certain individuals who work with the National Security Council, the Domestic Policy Council, and the National Economic Council – are also White House Office employees, although the units within which they principally work are not themselves part of the White House Office.

The major units within the White House Office are simply a creature of administrative convenience, and the number of employees within each unit and the work of each unit vary over time and as circumstances and needs change. Therefore a detailed breakout of FTEs and OGEs by unit is not particularly meaningful. Nevertheless, set forth below is a breakout based on current estimates and planning, which of course, may differ during the actual execution year.

	FY01	FY02	FY03
White House Office	**actual**	**est.**	**est.**
Office of Chief of Staff - FTE	11	12	12
Office of Chief of Staff - OGE (Agency Rep)	6	0	0
Oval Office Ops - FTE	5	5	5
Oval Office Ops - OGE	0	0	0
Advance - FTE	15	15	15
Advance - OGE	0	0	0
Office of Cabinet Affairs - FTE	6	6	6

REV_00169560

Office of Cabinet Affairs - OGE (Assignee)		3		1	1
Communications, Speechwriting & Media - FTE		32		35	35
Communications, Speechwriting & Media - OGE		0		0	0
Office of the Counsel to the President - FTE		17		19	19
Office of the Counsel to the President - OGE (Non-Reimb Detail)		4		2	2
Faith Based and Community Initiatives - FTE		7		8	8
Faith Based and Community Initiatives - OGE		0		0	0
Office of the First Lady - FTE		18		19	19
Office of the First Lady - OGE		0		0	0
Office of Homeland Security - FTE		0		0	40
Office of Homeland Security - OGE		0		0	95
Office of Intergovernmental Affairs - FTE		7		9	9
Office of Intergovernmental Affairs - OGE		0		0	0
Office of Legislative Affairs - FTE		23		24	24
Office of Legislative Affairs - OGE (Non-Reimb Detail)		0		1	1
Office of Legislative Affairs - OGE (Assignee)		0		1	1
Office of Management & Administration - FTE		34		38	38
Office of Management & Administration - OGE (Non-Reimb Detail)		1		0	0
Office of Management & Administration - OGE (HP Serv)		9		13	11
Office of Presidential Personnel - FTE		36		38	38
Office of Presidential Personnel - OGE (Assignee)		2		0	0
Office of Presidential Personnel - OGE (Reimb Detail)		0		1	1
Office of Presidential Personnel - OGE (Non-Reimb Detail)		1		1	1
Office of the Press Secretary - FTE		11		12	12
Office of the Press Secretary - OGE		0		0	0
Scheduling - FTE		10		11	11
Scheduling - OGE (HP Serv)		2		2	2
Office of the Staff Secretary - FTE		95		98	98

REV_00169561

Office of the Staff Secretary - OGE (Reimb Detail)	3	0	0
Office of the Staff Secretary - OGE (Non-Reimb Detail)	1	0	0
Office of Strategic Initiatives - FTE	34	35	35
Office of Strategic Initiatives - OGE (Reim Detail)	0	1	1
Office of Strategic Initiatives - OGE (Assignee)	0	1	1
USA Freedom Corps Office - FTE	0	5	6
USA Freedom Corps Office - OGE (Agency Rep)	0	1	1
USA Freedom Corps Office - OGE (Non-Reimb Detail)	0	2	2
USA Freedom Corps Office - OGE (Reimb Detail)	0	2	2
USA Freedom Corps Office - OGE (WH Fellow)	0	1	1
Other - FTE	8	11	16
Other - OGE (HP Serv)	2	3	3
Other - OGE (Agency Rep)	1	0	0
Other - OGE (Reimb Detail)	0	1	1

	FY01	**FY02**	**FY03**
	actual	**est.**	**est.**
Total WHO – FTE	369	400	446
Total WHO – OGE	35	34*	129**
FY03 Congressional Request – FTE	400	400	446

* FY 2002 excludes the approximately 65 OGEs currently on board for the Office of Homeland Security who are funded out of the FY 2002 Emergency Supplemental Appropriation. The WHO OGE number has been updated to reflect changes since we submitted the first set of responses to the questions for the record.

**FY 2003 includes the 95 OGEs for the Office of Homeland Security requested in the FY 2003 Budget Request.

Obligations (actual and estimated) are provided by individual White House office for FY 2001 thru FY 2003 in the table below. It must be emphasized that the FY 2002 and FY 2003 numbers are estimates only. As circumstances and needs change, so may these estimates in any actual year. Therefore, these estimates are not particularly meaningful.

REV_00169562

(dollars in thousands)					
White House Office	**FY01 act.**		**FY02 est.**		**FY03 est.**
Office of Chief of Staff	$1,473		$1,420		$1,474
Oval Office Ops	$550		$458		$476
Offices of Scheduling and Advance	$2,751		$3,398		$3,593
Office of Cabinet Affairs	$542		$592		$615
Communications, Speechwriting & Media	$2,202		$2,395		$2,486
Office of the Counsel to the President	$2,004		$1,895		$1,966
Faith Based and Community Initiatives	$366		$516		$536
Office of the First Lady	$1,354		$1,437		$1,492
Office of Homeland Security	$0		$0	*	$24,844
Office of Intergovernmental Affairs	$489		$518		$538
Office of Legislative Affairs	$1,870		$2,041		$2,118
Office of Management and Administration	$26,462		$25,735		$27,440
Office of Presidential Personnel	$2,137		$2,336		$2,425
Office of the Press Secretary	$1,062		$1,139		$1,182
Office of the Staff Secretary	$5,702		$6,232		$6,469
Office of Strategic Initiatives	$3,821		$4,167		$4,325
USA Freedom Corps Office - Obligations	$0		$372		$2,600
(dollars in thousands)					
Other Personnel Obligations - Prior administration org's	$299		$0		$0
Total WHO Obligations	$53,084		$54,651		$84,579

* FY 2002 obligations for the Office of Homeland Security are funded under the Emergency Supplemental Appropriation

It should be noted that a single budget is prepared for the WHO. This single budget is prepared based on a number of criteria such as: prior spending patterns, estimated requirements, OMB provided inflation factors, and the priorities of the President. During a given execution year, personnel costs are allocated based upon that year's sometimes unique staffing decisions. The remainder of the budget is allocated initially to two WHO offices. The travel budget is allocated in its entirety to Scheduling and Advance and obligated against this office if the travel is done in support of the President. Any travel undertaken that is not in support of a Presidential trip is charged to the office of the staff member in question. The remaining portion of the non-personnel, non-travel budget, including expenses for rent, supplies, equipment and other services is considered overhead and charged as such to the White House Office of Management and Administration.

The only exceptions are the Office of Homeland Security and the USA Freedom Corps Office. Since these are new offices requiring new budget authority, all new obligations (including travel and overhead) anticipated as a result of these offices are reflected in the FY 2003 estimates for these offices.

REV_00169563

Hearing Record Reference for question 73:

Question: Referencing the FTE/OGE tables that break-out personnel classifications by type of OGE, please explain why the number of "historically provided" employees decreased so significantly (from 25 to 1) for the Vice President's office between FY2001 and FY2002. Please provide the Subcommittee your definition of each OGE category listed on the table (agency reps, assignees, detailees, HP services, others, student volunteers, WH fellows, PMI). Please also provide a listing of the 15 "historically provided" White House Office positions identified on the FY2002 chart, the White House Office to which these positions are assigned, and the agency that pays the salary of each of the 15 positions.

Answer: The difference in the number of "Historically Provided" employees in the Vice President's Office from FY 2001 to FY 2002 is due to the redesignation of U.S. Senate employees. In FY 2001, the previous administration designated U.S. Senate employees in the Vice President's office as "Historically Provided". This was done in error and it has since been corrected. For FY 2002 and FY 2003, U. S. Senate employees are more accurately designated as "Other" since they do not fit into any other OGE category.

The following chart shows the 15 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 31, 2002*:

POSITION	OFFICE	HOME AGENCY
1. Deputy Executive Director	PFIAB*	Central Intelligence Agency
2. Administrative Services Spec.	PFIAB	Dept. of Defense
3. Administrative Assistant	PFIAB	U.S. Navy
4. Staff Assistant	Visitors Office	Dept. of Interior
5. Staff Assistant	Visitors Office	Dept. of Interior
6. Staff Assistant	Visitors Office	Dept. of Interior
7. Receptionist	Visitors Office	Dept. of Interior
8. President's Photographer	Photography Office	Defense Intelligence Agency
9. Visual Director	Photography Office	Defense Intelligence Agency
10. Photographer	Photography Office	Dept. of Defense
11. Official Photographer	Photography Office	Defense Intelligence Agency
12. Official Photographer	Photography Office	Dept. of Defense
13. Photo Editor	Photography Office	Dept. of Defense
14. Presidential Diarist	Scheduling Office	Nat'l Archive and Records Admin.
15. Asst. to the Presidential Diarist	Scheduling Office	Nat'l Archive and Records Admin.
16. Photographic Specialist**	Photography Office	Defense Intelligence Agency
17. Operations Manager**	Photography Office	Defense Intelligence Agency
18. Visual Information Specialist**	Photography Office	Defense Intelligence Agency

*PFIAB is the President's Foreign Intelligence Advisory Board
**Updated since the April 5, 2002 data was provided.

REV_00169564

Hearing Record Reference for Question 74:

The following chart shows the 15 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 31, 2002*:

POSITION	OFFICE	HOME AGENCY
1. Deputy Executive Director	PFIAB*	Central Intelligence Agency
2. Administrative Services Spec.	PFIAB	Dept. of Defense
3. Administrative Assistant	PFIAB	U.S. Navy
4. Staff Assistant	Visitors Office	Dept. of Interior
5. Staff Assistant	Visitors Office	Dept. of Interior
6. Staff Assistant	Visitors Office	Dept. of Interior
7. Receptionist	Visitors Office	Dept. of Interior
8. President's Photographer	Photography Office	Defense Intelligence Agency
9. Visual Director	Photography Office	Defense Intelligence Agency
10. Photographer	Photography Office	Dept. of Defense
11. Official Photographer	Photography Office	Defense Intelligence Agency
12. Official Photographer	Photography Office	Dept. of Defense
13. Photo Editor	Photography Office	Dept. of Defense
14. Presidential Diarist	Scheduling Office	Nat'l Archive and Records Admin.
15. Asst. to the Presidential Diarist	Scheduling Office	Nat'l Archive and Records Admin.
16. Photographic Specialist**	Photography Office	Defense Intelligence Agency
17. Operations Manager**	Photography Office	Defense Intelligence Agency
18. Visual Information Specialist**	Photography Office	Defense Intelligence Agency

*PFIAB is the President's Foreign Intelligence Advisory Board
**Updated since the April 5, 2002 data was provided.

Hearing Record Reference for Question 79:

Question: How many political appointees are currently employed within the Executive Office of the President?

Answer: The term "political appointees" is somewhat of a misnomer because it narrowly defines the type of employees authorized under Chapter 2 of Title 3 of the U.S. Code, for the White House Office, the Executive Residence, the Official Residence of the Vice President and the Office of Administration. These offices can hire personnel in various excepted service positions that are not subject to the rules of regular government employees. Many of these excepted service positions fall under the category of serving at the pleasure of the President while others do not. Using the term in the broadest possible sense, including all employees hired as Presidential Appointees, Administratively Determined, Non Career SES, or Schedule C's, the Executive Office of the President has the following number of political appointees directly hired

REV_00169565

within the EOP and serving in the EOP on detailed assignments from other agencies as of April 5, 2002:

As of April 5, 2002

Program	FY 2002 "POLITICAL APPOINTEES"					
	Admin. Determ.*	Schedule C	Non Career SES	Presidential Appointees	OGE** Political Appointees	TOTAL
White House Office	411				31	**442**
Special Assistance to the President	21				31	**52**
Official Residence of the Vice President		1				**1**
Office of Administration	8					**8**
Office of Policy Development	35				2	**37**
National Security Council				1	4	**5**
Council of Economic Advisers	18	3		3		**24**
Office of Management and Budget	2	23	13	5		**43**
Office of National Drug Control Policy		9	1	2		**12**
Executive Residence		94				**94**
Office of Science and Technology Policy		1	1	1	1	**4**
Council on Environmental Quality	6	4		1		**11**
U.S. Trade Representative	14	8	4	5		**31**
TOTAL	**515**	**143**	**19**	**18**	**69**	**764**

* Historically, Administratively Determined appointees within some agencies have served from one administration to another. Nevertheless, they serve at the pleasure of the entity head and may be terminated without cause.

** OGE = Other Government Employees

White House Office includes the Office of Homeland Security

Hearing Record Reference for Question 80:

Question: How many reimbursable details are currently employed within the Executive Office of the President?

Answer: There are currently 78 reimbursable detailees staffed within the Executive Office of the President including 63 reimbursable detailees for the Office of Homeland Security. The detailees for the Office of Homeland Security are funded through the FY 2002 Emergency Supplemental. Below is a listing of reimbursable detailees by agency as of April 5, 2002:

Agency	# Reimbursable Detailees
White House Office (incl. Homeland Security)	68
National Security Council	1
Office of Management and Budget	4
Office of National Drug Control Policy	1
Office of Science and Technology Policy	4
TOTAL	78

REV_00169566

Question: How many non-reimbursable details are currently employed within the Executive Office of the President?

Answer: There are currently 178 non-reimbursable detailees staffed within the Executive Office of the President. Below is a listing of non-reimbursable detailees by agency as of April 5, 2002:

Agency	# Non-Reimbursable Detailees
White House Office	8
National Security Council	108
Council of Economic Advisers	1
Office of Management and Budget	39
Office of National Drug Control Policy	1
United States Trade Representative	21
TOTAL	178

REV_00169567

Questions for the Record
Chairman Ernest J. Istook, Jr.
Hearing on the Executive Office of the President
April 30, 2003

Unobligated Balances (POC - Veronica Kitchen)

QUESTION 1: Please provide a listing of all unobligated balances, by fiscal year, appropriation and PPA, for all accounts within the Executive Office of the President. Please also show the original appropriation levels for these accounts.

Consolidation of Accounts (POC- Al Muhlbauer)

QUESTION 2: Sections 105 and 106 of title 3 U. S. Code describe expenses that may be accounted for solely on the certificate of the President and Vice President, respectively. Most of these expenses correspond to particular accounts. The Comptroller General may inspect documents related to these expenditures, but solely to verify that the expenditures were made for allowed purposes. When we asked last year how certified expenses would be identified for audit within a consolidated appropriation, the response was that the certification requirements would continue to be observed (p. 41). This does not answer the question of how the account structure will be maintained to provide an identifiable and auditable crosswalk between title 3-certifiable expenses and other expenses within the consolidated appropriation.

RESPONSE: As presented in the Congressional Budget Submission pages 4, 5, and 6, the Executive Office of the President (EOP) has established a Budget Activity structure that is consistent, beginning with the budget submission and extending through the accounting and reporting phases. The EOP accounting system will track and report obligations and expenditures consistent with this structure through the use of budget activity, program, sub-program, and line item codes assigned to each transaction. EOP has the ability to provide an identifiable and auditable crosswalk to the individual transactions authorized under sections 105 and 106 of Title 3 of the United States Code.

QUESTION 3: Please provide a listing of all appropriations language enacted in Public Law 108-7 which would be dropped in the proposed account consolidation, and provide a brief explanation of why that language is not necessary.

RESPONSE: The following appropriations in Public Law 108-7: Compensation of the President, White House Office Salaries and Expenses, Office of Homeland Security, Executive Residence at the White House, White House Repair and Restoration, Council of Economic Advisers, Office of Policy Development, National Security Council, Office of Administration would be combined into one appropriation entitled "The White House". The individual language in Public Law 108-7 for each of those appropriations would be removed. However, suggested language for the combined appropriation is

provided in the Appendix to the FY 2004 Budget (page 881) and states: "For the Compensation of the President and White House Office (including the Office of Homeland Security), Executive Residence, White House Repair and Restoration, Office of Policy and Development, Office of Administration, Council of Economic Advisers and the National Security Council, (hereinafter, and solely for the purposes of Title VI of this Act, "the White House"), $183,770,000, of which $24,803,000 shall remain available until expended, including compensation for the President, including an expense allowance of $50,000 as authorized by U.S.C. 102; for travel expense of $100,000 as authorized by 3 U.S.C. 103; for necessary expenses for the White House as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; for the necessary expenses of the Executive Residence at the White House as authorized by 3 U.S.C. 105,109,110, and 112-114; for the necessary expenses of the Offices and Councils in the White House account as authorized by 5 U.S.C. 3109, 15 U.S.C. 1021, and 3 U.S.C. 105 and 107 (including not to exceed $19,000 for official reception and representation expenses); and for the hire of passenger motor vehicles: Provided, That none of the funds made available to the President for official expenses shall be expended for any other purpose and any unused portion of such funds shall revert to the Treasury pursuant to 31 U.S.C. 1552: Provided further, That no such funds shall be considered as taxable to the President: Provided further, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities."

The suggested language, with the exception of a consolidated appropriation amount incorporates the same restrictions and clarifications as contained the language contained in the Public Law 108-7 for the appropriations being consolidated. The appropriations for Vice President's Salaries and Expense, Vice President's Residence Operating Expenses, Office of Management and Budget, Office of National Drug Control Policy, Unanticipated Needs will remain separate appropriations and will therefore not require any language changes as a result of the combination.

The White House (Consolidated Account) (POC – Chuck Sigman)

QUESTION 4: You are requesting $12,302,000 for object class 23.3 (communications, utilities, and miscellaneous services) in FY 2004. This is a large increase over the estimated $7,010,000 for FY 2003. What accounts for the increase?

RESPONSE: The FY 2004 White House (WH) consolidated budget net increase of $5,292,000 for communications is required in three major areas:

- **Most of the increase ($4,420,000) is needed in the OA Capital Investment Plan for offsite data center communications.** This facility will transition into full operation during FY 2004. The telecommunications between the offsite data center and the EOP complex are necessary to provide expanded, survivable and redundant connectivity, continuity of operations, disaster recovery and system support. These costs include funds for telecommunications lines, two additional

REV_00169569

DS-3 data paths, two T-1 lines, and backups to provide the communications bandwidth necessary for servicing the EOP complex.

- **$482,000 in the White House Office budget to provide a custom communications package which will enable the Homeland Security Council to establish a presence for its staff within the White House Situation Room.**

- **$100,000 for information assurance in the OA salaries/expenses budget.** In addition to the Offsite Data Center project, the OA FY 2004 budget also includes a request for an additional $100,000 for the information assurance program in the FY 2004 salaries/expenses account. This program will enable the CIO office to correct vulnerabilities in the EOP information security perimeter to secure internal systems, to perform real-time monitoring of perimeter network devices.

- **$151,000 in transfers of Lexis-Nexis database costs from nonconsolidated entities to the consolidated White House appropriation.** The FY 2004 budget envisions that $72,000 will be transferred from USTR, $56,000 from ONDCP, $15,000 from OMB, and $8,000 from CEQ so that the EOP can have a single funding source for EOP-wide Lexis-Nexis service.

- **$139,000 for adjustments to maintain the same level of services for the base funding during FY 2004**. This is calculated on the basis of the $7,010,000 in FY 2003 funding.

Rental Pricing (POC – Chuck Sigman)

QUESTION 5: The FY 2004 justifications state that, over the past year, EOP, GSA, and OMB have undertaken an assessment of space rental costs for all EOP entities. The result of this analysis is that the FY 2004 request includes additional funding to accommodate an "EOP average" rental rate. Please provide details of how this analysis was conducted, and specify the estimated rental rates for the various EOP entities, as determined by this analysis.

RESPONSE: The EOP space rental project began during the summer of 2002 at the request of OMB's budget examiners, who were working to ensure that EOP entities moved to the same market-based rent methodology used to determine space rental rates for GSA's other Federal properties. OMB requested that GSA and EOP review the space rental costs for each EOP property and each EOP entity so that the most up-to-date costs available were included in the FY 2004 budget proposal. Another significant concern in this project is to ensure that GSA will work with the EOP to ensure that the critical needs of the EOP are funded and executed.

As a result of the initial project, OA and GSA began a series of meetings which culminated in the space estimates which were included in the budget. GSA staff prepared a comprehensive listing of EOP properties, which itemized the space occupied by each

REV_00169570

EOP entity. This listing included commercial and government-owned space, current estimates of rentable square footage, and the annual rental rate per square foot. EOP staff provided updated estimates of the rentable square footage.

During this process, GSA blended the fair-market rates for the permanent EOP buildings into a single blended rate. This was done to simplify the administrative work when EOP staff are relocated. This is especially needed in the post-9/11 environment's unusually high number of large-scale EOP entity relocations driven by security considerations as well as the result of the legislation creating the Department of Homeland Security. The EOP average rental rate for Federally-owned properties (New Executive Office Building (NEOB), Eisenhower Executive Office Building (OEOB), White House, Winder Building, Jackson Place) is $29.60 annually per square foot. GSA adds an additional building security charge for buildings which are not protected by the US Secret Service. The average rental rates used to determine each entity's budget estimate for office space are as follows:

Entity	Locations	Owned or Leased	Average Rental Rate
OMB	EEOB, NEOB	owned	$29.60/sf
CEQ	EEOB	owned	$29.60
	718 Jackson Place	owned	$30.71
	722 Jackson Place	owned	$31.50
	730 Jackson Place	owned	$29.90
CEA	EEOB	owned	$29.60
NSC	EEOB	owned	$29.60
OPD	EEOB	owned	$29.60
	734 Jackson Place	owned	$29.60
OVP	EEOB	owned	$29.60
	Westbank Center, WY	leased	$21.80
WHO	1800 G Street	leased	$34.56
	EEOB, NEOB	owned	$29.60
	708 Jackson Place	owned	$29.60
	736 Jackson Place	owned	$30.58
USTR	Winder	owned	$30.50
	1724 F Street	owned	$37.38
	NEOB	owned	$29.60

REV_00169571

OA	1425 New York Ave	leased	$51.89
	1800 G Street	leased	$31.53-$37.37
	EEOB, NEOB	owned	$29.60
	1724 F Street	owned	$37.38
OSTP	1801 Pennsylvania Avenue	leased	$50.55
	EEOB	owned	$29.60
ONDCP	750 17th Street	leased	$45.78
HSC	EEOB	leased	$29.60

EOP Staffing (POC – Jon Laurich)

QUESTION 6: By EOP office, please provide FTE and OGE, similar in format to the tables found on pages 111 and 112 of last year's hearing record. Please provide data for FY 2002 through 2004.

RESPONSE: The following tables provide the total FY 2002 actual, FY 2003 and FY 2004, estimates for full time equivalents (FTE) and other government employees (OGE) for each EOP and other entity as of May 5, 2003. The OGE numbers are itemized by category on the following page. The FY 2003 numbers have the Office of Homeland Security in a separate category, which accordingly decreased the White House numbers. The FY 2003 and FY 2004 numbers are estimates only and are therefore subject to change.

REV_00169572

Office	FY 2002 Actual FTE and OGE			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office*	400	385	134	519
Special Assistance to the President	24	18	40	58
Official Residence of the Vice President	1	1	0	1
Office of Administration**	202	195	3	198
Office of Policy Development	35	30	7	37
National Security Council	60	50	140	190
Council of Economic Advisers	35	31	10	41
Office of Management and Budget	527	512	70	582
Office of National Drug Control Policy	115	106	34	140
Executive Residence	95	92	0	92
Office of Science and Technology Policy	40	23	16	39
Council on Environmental Quality	24	19	14	33
U.S Trade Representative	203	200	24	224
TOTAL	**1761**	**1662**	**492**	**2154**

Office	*as of May 5, 2003*			
	FY 2003 FTE and OGE Estimate			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office	406		46	452
Office of Homeland Security	40		31	71
Special Assistance to the President	24		54	78
Official Residence of the Vice President	1		0	1
Office of Administration	222		1	223
Office of Policy Development	35		7	42
National Security Council	71		145	216
Council of Economic Advisers	35		9	44
Office of Management and Budget	510		63	573
Office of National Drug Control Policy	115		51	166
Executive Residence	95		0	95
Office of Science and Technology Policy	40		20	60
Council on Environmental Quality	24		14	38
U.S Trade Representative	209		28	237
TOTAL	**1827**		**469**	**2296**

Office	FY 2004 FTE and OGE Estimate			
	AUTH FTE	ACTUAL FTE	OGE **	TOTAL
White House Office	406		46	452
Office of Homeland Security	40		31	71
Special Assistance to the President	24		54	78
Official Residence of the Vice President	1		0	1
Office of Administration	222		11	233
Office of Policy Development	35		7	42
National Security Council	71		145	216
Council of Economic Advisers	35		9	44
Office of Management and Budget	516		63	579
Office of National Drug Control Policy	125		51	176
Executive Residence	95		0	95
Office of Science and Technology Policy	40		20	60
Council on Environmental Quality	24		14	38
U.S Trade Representative	217		28	245
TOTAL	**1851**		**479**	**2330**

* For FY 2002, the White House Office figure excludes OGEs and FTEs for the Office of Homeland Security which were funded from the Emergency Appropriation.

** OA was funded for 20 additional FTE using Emergency Response Funds which are not shown in the figures above.

REV_00169573

R = Reimbursable
N = Non Reimbursable

FY 2002 Actual FTE and OGE

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**385**			1	20	79	9	1	17		4				3			81	53	**134**
Special Assistance to the President	**18**				7		1		6		26								40	**40**
Official Residence of the Vice President	**1**																			
Office of Administration	**195**					2					1							2	1	**3**
Office of Policy Development	**30**		1		3		3												7	**7**
National Security Council	**50**				33	1	102		4									1	139	**140**
Council of Economic Advisers	**31**					2	1			3	1		3					5	5	**10**
Office of Management and Budget	**512**					6	53						11					6	64	**70**
Office of National Drug Control Policy	**106**		13		16					3			2					3	31	**34**
Executive Residence	**92**																			
Office of Science and Technology Policy	**23**		6			4	1			2	3							6	10	**16**
Council on Environmental Quality	**19**		11				2										1		14	**14**
U.S Trade Representative	**200**						21				1				2				24	**24**
TOTAL	**1662**		**31**	**1**	**79**	**94**	**193**	**1**	**27**	**8**	**36**		**16**		**5**		**1**	**104**	**388**	**492**

*For FY02, the White House includes 65 OGE's for the Office of Homeland Security, which are funded from the Emergency Appropriation

R = Reimbursable
N = Non Reimbursable

FY 2003 Estimate FTE and OGE *as of May 5, 2003*

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**406**				7	5	11		19		1				2		1	5	41	**46**
Office of Homeland Security	**40**			2	1	23	3				1			1				26	5	**31**
Special Assistance to the President	**24**		3		7		1		18		25								54	**54**
Official Residence of the Vice President	**1**																			
Office of Administration	**222**										1								1	**1**
Office of Policy Development	**35**		1		3	1	1										1	1	6	**7**
National Security Council	**71**				33	5	103		4									5	140	**145**
Council of Economic Advisers	**35**					2	2			2			2				1	4	5	**9**
Office of Management and Budget	**499**					3	54						6					3	60	**63**
Office of National Drug Control Policy	**115**		19		14		4			3	9						2	3	48	**51**
Executive Residence	**95**																			
Office of Science and Technology Policy	**40**		6			2	3			2	5		1		1			4	16	**20**
Council on Environmental Quality	**24**		10				3				1								14	**14**
U.S Trade Representative	**209**						25				1				2				28	**28**
TOTAL	**1816**		**39**	**2**	**65**	**41**	**210**		**41**	**7**	**44**		**9**	**1**	**5**		**5**	**51**	**418**	**469**

R = Reimbursable
N = Non Reimbursable

FY 2004 Estimate FTE and OGE

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**406**				7	5	11		19		1				2		1	5	41	**46**
Office of Homeland Security	**40**			2	1	23	3				1			1				26	5	**31**
Special Assistance to the President	**24**		3		7		1		18		25								54	**54**
Official Residence of the Vice President	**1**																			
Office of Administration	**222**										1		10						11	**11**
Office of Policy Development	**35**		1		3	1	1										1	1	6	**7**
National Security Council	**71**				33	5	103		4									5	140	**145**
Council of Economic Advisers	**35**					2	2			2			2				1	4	5	**9**
Office of Management and Budget	**516**					3	54						6					3	60	**63**
Office of National Drug Control Policy	**125**		19		14		4			3	9						2	3	48	**51**
Executive Residence	**95**																			
Office of Science and Technology Policy	**40**		6			2	3			2	5		1		1			4	16	**20**
Council on Environmental Quality	**24**		10				3				1								14	**14**
U.S Trade Representative	**217**						25				1				2				28	**28**
TOTAL	**1851**		**39**	**2**	**65**	**41**	**210**		**41**	**7**	**44**		**19**	**1**	**5**		**5**	**51**	**428**	**479**

REV_00169574

OA Staffing (POC – Jon Laurich)

QUESTION 7: By OA office, please provide FTE and OGE, similar in format to the tables found on page 113 of last year's hearing record. Please provide data for FY 2002 through 2004.

RESPONSE: The following table provides the FTE and OGE for the Office of Administration.

R = Reimbursable N = Non Reimbursable	FY 2002 FTE and OGE Actuals							
		Others		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OA Director	12							
OA Chief Operating Officer	111							
OA Chief Financial Officer	30	1	1			1	1	2
OA Chief Projects Officer	5							
OA Chief Information Officer	46	1				1		1
TOTAL	**204**	**2**	**1**			**2**	**1**	**3**

as of May 5, 2003

R = Reimbursable N = Non Reimbursable	FY 2003 FTE and OGE Estimates							
		Others		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OA Director	11							
OA Chief Operating Officer	103				2		1	1
OA Chief Financial Officer	39		1				1	1
OA Chief Projects Officer	11							
OA Chief Information Officer	58				2			
TOTAL	**222**		**1**		**4**		**2**	**2**

R = Reimbursable N = Non Reimbursable	FY 2004 FTE and OGE Estimates							
		Others		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OA Director	25							
OA Chief Operating Officer	99				4		4	4
OA Chief Financial Officer	39		1		2		3	3
OA Chief Projects Officer	4							
OA Chief Information Officer	55				4		4	4
TOTAL	**222**		**1**		**10**		**11**	**11**

REV_00169575

OMB Staffing (POC – Jon Laurich/Brian Gillis)

QUESTION 8: By OMB office, please provide FTE and OGE, similar in format to the tables found on page 114 of last year's hearing record. Please provide data for FY 2002 through 2004.

RESPONSE: The charts below display the FTE and OGE breakout by OMB division for FY 2002-2004. Most detailees and student volunteers are used during the peak budget production season. During the rest of the year, the OGE total can fall below 20.

REV_00169576

R = Reimbursable N = Non Reimbursable	FY 2002 FTE and OGE Actuals							
		Detailees		Student Volunteers		OGE Grand Totals		
	FTE	R	**N**	R	**N**	R	**N**	**R + N**
OMB-Wide Offices	159	1	19		2	1	21	22
General Government Programs	62		1				1	1
Human Resource Programs	71		4		1		5	5
National Security Programs	64	1	5		1	1	6	7
Natural Resource Programs	54		8		1		9	9
Office of Federal Financial Management	21	3	3			3	3	6
Office of Federal Procurement Policy	22	1	2		1	1	3	4
Office of Information and Requlatory Affairs	54		11		5		16	16
TOTAL	**507**	**6**	**53**		**11**	**6**	**64**	**70**

as of May 5, 2003

R = Reimbursable N = Non Reimbursable	FY 2003 Estimate FTE and OGE							
		Detailees		Student Volunteers		OGE Grand Totals		
	FTE	R	**N**	R	**N**	R	**N**	**R + N**
OMB-Wide Offices	152	1	22		2	1	24	25
General Government Programs	60		3		1		4	4
Human Resource Programs	68		5				5	5
National Security Programs	61		9				9	9
Natural Resource Programs	60		5				5	5
Office of Federal Financial Management	21	1				1		1
Office of Federal Procurement Policy	20							
Office of Information and Requlatory Affairs	57	1	10		3	1	13	14
TOTAL	**499**	**3**	**54**		**6**	**3**	**60**	**63**

FY 2002 does not include staff temporarily detailed to the Transition Planning Office.

R = Reimbursable N = Non Reimbursable	FY 2004 Estimate FTE and OGE							
		Detailees		Student Volunteers		OGE Grand Totals		
	FTE	R	**N**	R	**N**	R	**N**	**R + N**
OMB-Wide Offices	157	1	22		2	1	24	25
General Government Programs	63		3		1		4	4
Human Resource Programs	75		5				5	5
National Security Programs	63		9				9	9
Natural Resource Programs	63		5				5	5
Office of Federal Financial Management	20	1				1		1
Office of Federal Procurement Policy	21							
Office of Information and Requlatory Affairs	54	1	10		3	1	13	14
TOTAL	**516**	**3**	**54**		**6**	**3**	**60**	**63**

REV_00169577

Office of Homeland Security (POC – Paul Ehrhardt)

QUESTION 9: Your FY 2004 budget requests $8,331,000 for the Office of Homeland Security. Please provide an object class breakdown of those costs and compare them to FY 2003 estimated levels.

RESPONSE: The Office of Homeland Security was created by the President on October 8, 2001, via Executive Order 13228 and serves as and is synonymous with the staff of the Homeland Security Council (HSC). An object class breakdown of estimated HSC costs in FY 2003 and FY 2004 is provided in the table below. Please note that the FY 2003 estimate covers only costs incurred after the enactment of the FY 2003 appropriation on February 20, 2003. Unlike other EOP offices which operated under continuing resolutions between October 1, 2003 and February 20, 2003, the Office of Homeland Security was not permitted to utilize the CR funding mechanism but instead continued to charge FY 2003 expenses against the no-year emergency funding (provided in FY2002) until the FY 2003 appropriation was enacted. Therefore the FY 2003 estimate reflects only seven months of activity, whereas the FY 2004 Request needs to cover HSC expenses for the full 12 months next fiscal year.

(Dollars in Thousands)	FY 2003 Appropriation	FY 2003 Estimate*	FY 2004 Request	2004 Request - 2003 Estimate
Homeland Security Council:				
Personnel	$4,403	$2,800	$5,550	$2,750
Travel	$300	$60	$588	$528
Transportation of Things	$24	$24	$10	-$14
Rent	$0	$0	$200	$200
Communications, Utilities, and Misc.	$209	$50	$1,080	$1,030
Printing and Reproduction	$69	$69	$50	-$19
Other Services	$3,267	$1,267	$528	-$739
Supplies and Materials	$0		$175	$175
Equipment	$0	$50	$150	$100
Subtotal	$8,272	$4,320	$8,331	$4,011

* FY 2003 Estimate covers only seven months vs. FY 2004 Request covering full 12 months

Rent was included in the Office of Administration budget in FY 2003, and is moved back to the Homeland Security Council in FY 2004. The Communications object class in FY 2004 includes funding to provide a custom communications package to establish an interface for the Homeland Security Council within the White House Situation Room. Supplies and Materials and Equipment object classes both were funded out of the Office of Administration Pilot Program in FY 2003 but show budgets in HSC for FY 2004.

QUESTION 10: In particular, how much are you requesting in FY 2004 for professional contracts, and how does that compare to the estimated FY 2003 level?

REV_00169578

RESPONSE: In FY 2004 HSC is requesting $528,000 for Other Services compared with $3,267,000 appropriated for the same category in FY 2003. The decrease is due to the creation of the Department of Homeland Security as the President's Security as the President's advisors and as the staff of HSC. Anticipated contractual needs in FY 2004 include maintenance, upgrades, and technical support for the classified computer network that will be extended to include HSC staff in FY 2003.

QUESTION 11: How many FTE and FTP are you requesting for this office in FY 2004, and how do these figures compare to current FY 2003 estimates and actuals for FY 2002?

RESPONSE: HSC is requesting resources to support 40 direct hire FTE and 26 Other Government Employees on its staff to fill the 66 positions HSC is projecting for FY 2004.

Office of Homeland Security / Homeland Security Council Personnel

	FY 2002 Actual	FY 2003 Estimate	FY 2004 Request
Direct Hire FTE	31	40	40
Other Government Employees (EOY headcount)	89	26	26
Total Personnel	120	66	66

QUESTION 12: How many positions in the office are filled today, and how many are vacant?

RESPONSE: As of May 15, 2003, 51 positions are filled and 15 are vacant.

QUESTION 13: Please provide a table comparing the number of detailees to OHS, by federal agency, for each of the fiscal years 2002 through 2004 (estimated).

RESPONSE: The table below provides the number other government employees assigned to the Homeland Security Council.

REV_00169579

Number of Other Government Employees at OHS/HSC
(Figures show end of year headcount)

	FY 2002	FY 2003 est.	FY 2004 est.
CIA	7	2	3
DHS	0	6	10
FEMA	3	na	na
USCG	19	na	na
US Customs	1	na	na
USSS	2	na	na
DOJ	10	1	5
DOC	5	1	0
DOD	12	3	2
DOE	1	1	1
DOI	3	1	0
DOL	1	0	0
DOS	4	2	1
DOT	1	0	1
EOP	1	1	0
EPA	1	2	0
FAA	1	1	0
GSA	1	0	0
HHS	3	3	2
HUD	3	0	0
NASA	1	0	0
NIMA	1	0	0
NSA	3	1	0
SBA	1	0	0
Sentencing Commission	1	0	0
SSA	1	0	0
Treasury	1	0	0
USDA	1	1	1
Total	89	26	26

QUESTION 14: How many detailees are on board today?

RESPONSE: As of May 15, 2003, there are 18 detailees on board at the Homeland Security Council.

QUESTION 15: Please provide a list of all positions in OHS, showing the incumbent's name, rate of annual salary, and position title. Please annotate any positions which are currently vacant.

RESPONSE: The President is authorized to appoint and fix pay of any member of the White House Staff without regard to any provision of law related to employees of the federal government. The individuals employed by the President represent a broad spectrum of experience and expertise and have been engaged to perform tasks ranging from clerical/support to complex, technical, scientific, medical, legal and other missions

REV_00169580

requiring specialized expertise. These individuals are being compensated at rates commensurate with their responsibilities, education and professional experience. The table below lists HSC positions and the positions which are currently vacant. The salaries provided are for White House Full Time Employees and Other Government Employees working at HSC.

	Name		
Position Title	**First**	**Last**	**Annual Salary**
Office of the Advisor			
Assistant to the President for Homeland Security and Homeland Security Advisor (Acting Until June 1)	Charles	Abbot	$ 124,000
Executive Assistant	VACANT		NA
Special Assistant to the APHS	Jon	Spaner	$ 80,816
Staff Assistant	A. Morgan	Middlemas	$ 51,600
Deputy Assistant to the President and Deputy Homeland Security Advisor	Richard	Falkenrath	$ 124,000
Special Assistant	Marianne	Burtnett	$ 85,000
Staff Assistant	Shelley	Reese	$ 30,000
Director, Programs and Resources	David	Aidekman	$ 61,900
Budget Assistant	VACANT		NA
Military Programs			
Special Assistant to the President (SAP) for Military Programs	VACANT		NA
Director, Military Programs	Chris	Hornbarger	$ 87,348
Staff Assistant	VACANT		NA
Executive Secretary			
Executive Secretary	Tim	Stout	$ 53,600
Executive Assistant	Margaret	Cousley	$ 35,000
Deputy Executive Secretary	VACANT		NA
Special Assistant to the Executive Secretary	Laura	Fullerton	$ 66,229
Director for Administration and Support	Kimberly	Badenhop	$ 65,000
Associate Director for Correspondence and Records Management	Eric	Leckey	$ 35,000
Special Assistant, Events	Rory	Cooper	$ 46,469
Associate Director for Security	Deborah	McRae	$ 87,043
Staff Assistant	VACANT		NA
Staff Assistant	VACANT		NA
General Counsel			
Senior Associate Counsel to the President and General Counsel for Homeland Security	Edward	McNally	$ 108,000
Deputy Counsel	Ryan	Stiles	$ 75,000

REV_00169581

Associate Counsel	Faisal	Gill	$	78,265
Associate Counsel	Catherine	Anderson	$	108,785
Staff Assistant	Gayle	Worthy	$	43,807
Legistative Affairs				
Special Assistant to the President for Legislative Affairs	Michael	Allen	$	82,000
Legislative Assistant	Jamie	Ellis	$	34,000
Intergovernmental Affairs				
Director, Intergovernmental Affairs	VACANT			NA
Director, HSC Public Liaison	Meredith	Terpeluk	$	50,000
Domestic Counterterrorism				
Special Assistant to the President and Senior Director, Domestic Counterterrorism	VACANT			NA
Special Assistant to the Director, Domestic Counterterrorism	Eric	Walker	$	46,460
DCI Representative to Homeland Security	Dennis	Bowden	$	120,261
Director, Incident Management	Richard	Irwin	$	118,384
Director, Incident Management	Joel	Bagnal	$	87,348
Director, Investigation and Law Enforcement	Stephen	King	$	119,600
Director, Domestic Counterterrorism Policy	Kirsten	Hildebrand	$	85,140
Director, Plans and Excercises	Kathleen	Packard	$	47,309
BioDefense				
Special Assistant to the President and Senior Director, Biodefense	Kenneth	Bernard	$	123,069
Staff Assistant	Josephine	Keenan	$	54,440
Director, Biodefense	Robert	Kadlec	$	103,000
Director, Biodefense	Rajeev	Venkayya	$	87,043
Director, Food, Agriculture and Water Safety	Curt	Mann	$	138,200
Critical Infrastructure Protection				
Special Assistant to the President and Senior Director, Critical Infrastructure Protection	Paul	Kurtz	$	108,300
Executive Assistant	Barbara	Howerton	$	58,800
Director, Cyber IP	VACANT			NA
Director, Cyber IP	Cheryl	Peace	$	117,061
Director, Physical IP	Patrick	Burns	$	99,186
Director, Physical IP	Paul	Nicholas	$	108,300
Director, IT Architecture	VACANT			NA
Response and Recovery				
Senior Director, Response and Recovery	David	Howe	$	108,300
Staff Assistant	Liz	Macnab	$	42,000
Director, First Responder Program	VACANT			NA
Director for Recovery	Lewis	Podolske	$	113,543

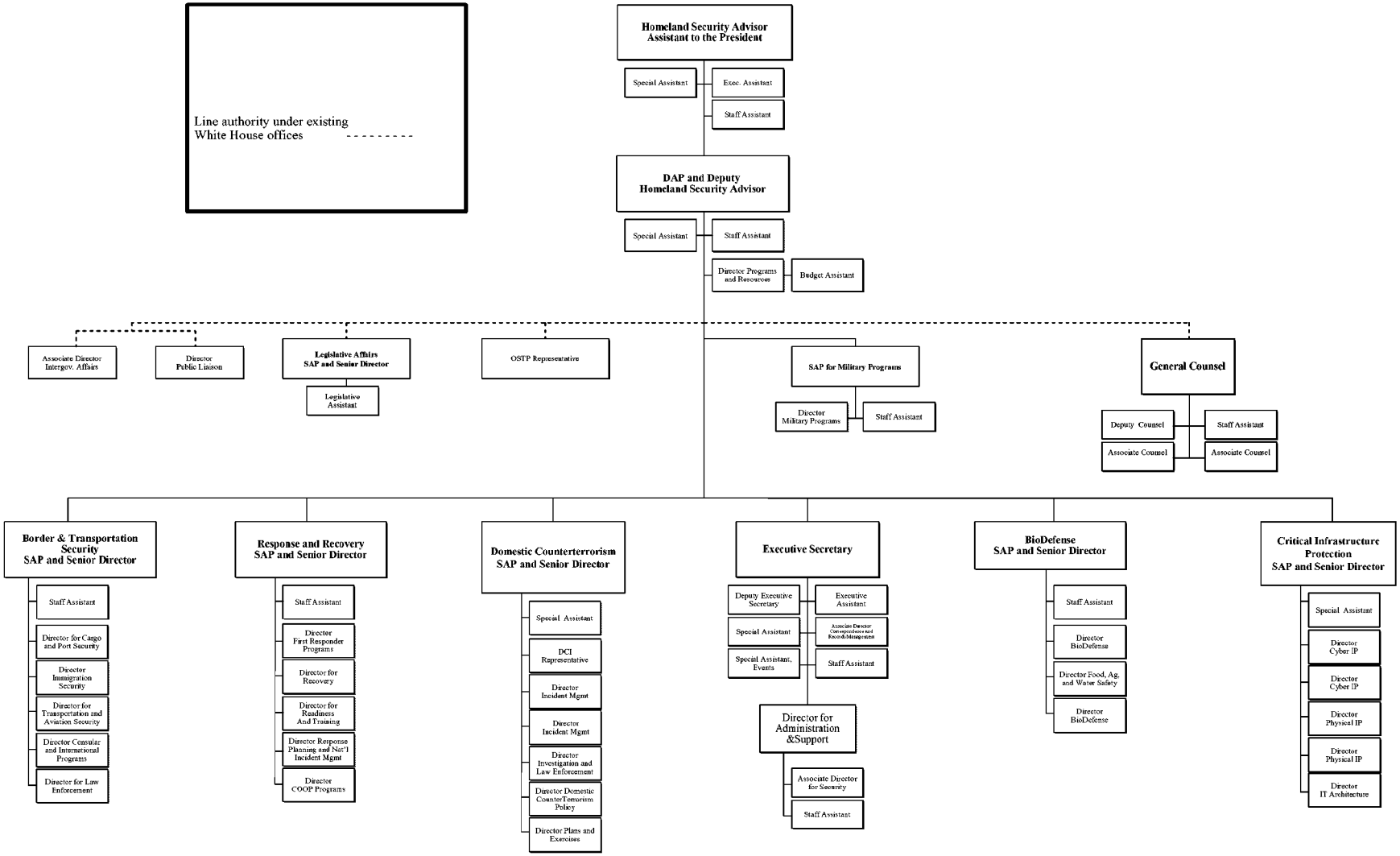
REV_00169582

Director for Readiness and Training	James	Kish	$	110,000
Director, Response Planning and Incident Management	James	Douglas	$	131,881
Director, COOP Programs	VACANT			NA
Border and Transportation Security				
Special Assistant to the President and Senior Director for Border and Transporation Security	Brian	Peterman	$	135,504
Staff Assistant	Katherine	Hildebrand	$	32,000
Director, Cargo and Port Security	VACANT			NA
Director of Immigration Security	Una	Brien	$	93,916
Director for Transportation and Aviation Security	Jan	Brecht-Clark	$	131,881
Director for Consular and International	Lisa Bobbie	Schreiber Hughes	$	109,925
Director for Law Enforcement	Ronald	Colburn	$	120,000

QUESTION 16: Please update the OHS organizational chart found on page 50 of last year's hearing record.

RESPONSE: The chart below shows the current Homeland Security Council's organization.

REV_00169583



REV_00169584

QUESTION 17: Please update the information shown on pages 44 through 47 of last year's hearing record concerning Office of Homeland Security travel. In addition to the information provided last year, please provide a brief descriptor of the travel purpose.

RESPONSE: All travel was conducted as part of the duties of the Office of Homeland Security and as such is considered official travel. The President and the Assistant to the President for Homeland Security have regularly stated that the homeland will not be secure unless the Federal government works closely with state and local officials. Official trips were approved for various purposes including the attendance of various conferences, to holding of meetings with state and local officials and the holding of town hall meetings. The HSC considers travel to different states and cities as a vital part of its mission.

The table below is an update to the travel information provided to Congress last year.

Homeland Security Council Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Staff Position**
04/02/02	Los Angeles, CA	1	$1,185.31	Special Assistant to the President and Executive Director, PHSAC
04/04/02	Miami, FL	2	$1,363.07	Special Assistant to the President and Senior Director for Policy and Plans, Special Assistant
04/05/02	Harrisburg, PA	1	$444.41	Communications Assistant
04/07/02	Annapolis, MD	1	$63.14	Communications Aide to the Assistant to the President for Homeland Security
04/07/02	Atlanta, GA	1	$614.37	Director for Weapons of Mass Destruction
04/08/02	Chicago, IL	2	$1,702.90	Communication Coordinator, Operations Officer
04/08/02	Manhattan, NY	1	$811.62	Director for Critical Recovery Infrastructure
04/09/02	Chicago, IL	6	$2,071.26	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security, Special Assistant to the President for Public Liaison,
				Special Assistant to the President and Director of Communications, Legislative Assistant,
				Communications Aide to the Assistant to the President for Homeland Security
04/11/02	Charleston, SC	2	$1,858.88	Special Assistant to the President and Senior Director for Policy and Plans, Associate Director
04/11/02	Chicago, IL	1	$300.63	Communications Assistant

04/11/02	Harrisburg, PA	3	$1,485.37	Senior Director for Intergovernmental Affairs, Communications Aide to the Assistant to the President for Homeland Security, Communications Assistant
04/12/02	Oklahoma City, OK	1	$528.88	Director for Medical and Public Health Security
04/15/02	Baltimore, MD	1	$134.10	Director for Weapons of Mass Destruction
04/15/02	Boston, MA	1	$1,249.42	Director, Economic Consequence Management
04/15/02	Detroit, MI	1	$1,262.38	Communications Assistant
04/16/02	Chicago, IL	3	$2,075.41	Special Assistant to the President and Senior Director for Policy and Plans, Senior Director for Response and Recovery, Special Assistant
04/16/02	Detroit, MI	2	$400.17	Special Assistant to the President for Public Liaison, Communications Aide to the Assistant to the President for Homeland Security
04/16/02	Detroit, MI	1	$0.00	Assistant to the President for Homeland Security
04/18/02	Erie, PA/Harrisburg, PA	1	$412.96	Communications Assistant
04/19/02	Harrisburg, PA	1	$856.64	Communications Assistant
04/20/02	Houston, TX	1	$612.48	Director, Policy and Plans
04/24/02	Phoenix, AZ	1	$2,023.87	Communications Aide to the Assistant to the President for Homeland Security
04/24/02	Toronto, CAN	1	$626.69	Director, Costal and Border Security
04/28/02	New Orleans, LA	7	$7,371.94	Communications Assistant, Special Assistant to the President for Public Liaison, Special Assistant to the Assistant to the President for Homeland Security,
				Deputy Press Secretary, Assistant to the President for Homeland Security, Communications Assistant, Communications Coordinator
04/30/02	Boston, MA	1	$87.00	Special Assistant to the President for Public Liaison
05/01/02	Los Angeles, CA	1	$668.61	Senior Director for Intergovernmental Affairs
05/03/02	Columbus, OH/Pittsburg, PA	2	$1,259.20	Communications Coordinator, Communications Assistant
05/06/02	Albuquerque, NM	1	$625.90	Director for Critical Recovery Infrastructure
05/06/02	Bangor, ME	1	$465.50	Senior Director for Intergovernmental Affairs
05/07/02	Denver, CO	1	$426.71	Special Assistant to the President and Senior Director for Information Integration
05/07/02	Sacramento, CA	2	$1,222.88	Senior Director for Response and Recovery, Special Assistant
05/08/02	Burlington, VT	1	$979.84	Director, Policy and Plans
05/08/02	San Diego, CA	1	$805.50	Director of Operations

REV_00169586

05/08/02	Wichita, KS	1	$434.21	Senior Director for Intergovernmental Affairs
05/10/02	Harrisburg, PA	1	$521.21	Communications Assistant
05/12/02	Charleston, SC	1	$842.93	Senior Director for Response and Recovery
05/14/02	Gulfport, MS	1	$469.12	Director, Protection and Prevention
05/15/02	Buffalo, NY	8	$4,789.28	Assistant to the President for Homeland Secuirty, Special Assistant to the President for Public Liaison, Operations Officer, Operations Officer, Operations Officer,
				Special Assistant to the Assistant to the President for Homeland Security, Director, Policy and Plans, Special Assistant to the President and Director of Communications,
				Communications aide to the Assistant to the President for Homeland Security, Communications Assistant
05/18/02	Pittsburgh, PA	3	$1,001.63	Assistant to the President for Homeland Security, Assistant Press Secretary, Special Assistant to the President for Homeland Security
05/20/02	Jackson, WY	1	$1,543.30	Special Assistant to the Deputy Assistant to the President for Homeland Security
05/21/02	Washington, DC	1	$709.50	Special Assistant
05/22/02	Dayton, OH	1	$688.76	Director, Protection and Prevention
05/30/02	Baltimore, MD	1	$434.30	Director, State and Local Affairs
05/30/02	Hershey, PA	1	$160.09	Special Assistant to the President for Public Liaison
05/31/02	Harrisburg, PA	1	$741.56	Communications Assistant
06/04/02	Manhattan, NY	4	$1,085.44	Assistant to the President for Homeland Security, Special Assistant to the President and Executive Director, PHSAC,
				Director, External Affairs, Communications Assistant
06/07/02	Harrisburg, PA	1	$563.64	Operations Officer
06/10/02	Manhattan, NY	2	$715.21	Senior Director for Response and Recovery, Senior Director for Protection and Provention
06/10/02	Sun Valley, ID	1	$1,709.80	Director for Readiness
06/10/02	Washington, DC	2	$1,205.50	Senior Director for Protection and Prevention and Senior Director for Response and Recovery
06/11/02	Kansas City, MO	1	$0.00	Assistant to the President for Homeland Security
06/11/02	Washington, DC	5	$3,655.99	President's Homeland Security Advisory Board
06/12/02	Chicago, IL	1	$623.05	Senior Director for Response and Recovery
06/14/02	Albuquerque,NM	1	$971.26	Senior Director for Protection and Prevention

REV_00169587

06/14/02	Harrisburg, PA	2	$912.67	Communications Assistant, Communications Aide to the Assistant to the President for Homeland Security
06/16/02	Erie, PA	1	$413.73	Operations Officer
06/16/02	Madison, WI	6	$2,071.19	Communications Assistant, Senior Director for Intergovernmental Affairs, Assistant to the President for Homeland Security,
				Special Assistant to the President for Homeland Security, Director of State and Local Affairs
06/17/02	Mexico City, Mexico	1	$1,163.26	Director for Critical Infrastructure Protection
06/17/02	New Orleans, LA	1	$884.36	Director, Training and Exercises
06/19/02	Virginia Beach, VA	1	$351.28	Communication Aide to the Assistant to the President for Homeland Security
06/20/02	Berkeley Springs, WV	1	$27.00	Deputy Assistant to the President for Homeland Securtiy
06/21/02	Tulsa, OK	1	$488.00	Senior Director for Intergovernmental Affairs
06/23/02	Phoenix, AZ	1	$1,036.22	Deputy Assistant to the President for Homeland Securtiy
06/24/02	Other, Canada	1	$494.40	Special Assistant to the President and Director of Communications
06/27/02	Albuquerque,NM	1	$871.00	Senior Director for Intergovernmental Affairs
06/27/02	Cambridge, MA	1	$876.11	Senior Director for Response and Recovery
06/27/02	Manhattan, NY	2	$308.70	Senior Director for Protection and Prevention, Director for Weapons of Mass Destruction
06/27/02	Other, Canada	2	$960.34	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
06/27/02	Toronto, Canada	1	$1,447.49	Communications Assistant
06/28/02	Buffalo, NY	1	$1,001.22	Special Assistant to the President for Public Liaison
06/30/02	Erie, PA	1	$895.44	Communications Assistant
06/30/02	Washington, DC	7	$5,072.38	President's Homeland Security Advisory Board
07/04/02	Erie, PA	1	$1,005.65	Communication Aide to the Assistant to the President for Homeland Security
07/10/02	Harrisburg, PA	2	$1,547.83	Communication Coordinator, Communications Assistant
07/10/02	Manhattan, NY	1	$738.76	Senior Director for Response and Recovery
07/11/02	Hershey, PA	1	$63.00	Assistant to the President for Homeland Security
07/12/02	Erie, PA	1	$559.28	Communications Aide to the Assistant to the President for Homeland Security
07/13/02	New Orleans, LA	1	$1,029.76	Director, State and Local Affairs

REV_00169588

07/14/02	Boulder, CO	1	$762.26	Senior Director for Response and Recovery
07/14/02	Erie, PA	1	$599.85	Operations Officer
07/17/02	Colorado Springs, CO	1	$2,303.43	Communications Assistant
07/17/02	Raleigh, NC	1	$545.95	Director for Weapons of Mass Destruction
07/18/02	Colorado Springs, CO	2	$1,815.32	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
07/18/02	Dallas, TX	1	$631.00	Director, Cyberspace Security
07/19/02	Cleveland, OH	1	$1,481.12	Communications Assistant
07/19/02	Omaha, NE	1	$1,675.01	Director, Protection and Prevention
07/20/02	Cleveland, OH	1	$1,462.50	Communications Aide to the Assistant to the President for Homeland Security
07/20/02	Erie, PA	2	$3,832.24	Communications Assistant, Operations Officer
07/22/02	Du Page County, IL	1	$0.00	Assistant to the President for Homeland Security
07/22/02	Manhattan, NY	3	$2,555.98	Director for Cargo and Port Security, Director State and Local Affairs,
				Deputy Assistant to the President for Homeland Security
08/01/02	Austin, TX	1	$590.25	Director, Policy and Plans
08/04/02	Erie, PA	1	$1,049.32	Communications Assistant
08/06/02	Los Angeles, CA	1	$500.72	Director, Training and Exercises
08/09/02	Harrisburg, PA	1	$2,473.35	Communications Assistant
08/11/02	Erie, PA	1	$2,473.35	Communications Assistant
08/13/02	Burlington, VT	1	$800.01	Director for Cargo and Port Security
08/13/02	Cincinnati, OH	1	$738.73	Senior Director to Special Assistant to the President for Information Integration
08/14/02	Little Rock, AR	2	$2,359.87	Special Assistant to the President for Communications, Communications Assistant
08/15/02	Rapid City, SD	2	$291.80	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
08/18/02	Philadelphia, PA	2	$2,311.79	Senior Director for Intelligence and Detection, Director, Cyberspace Security
08/21/02	Manhattan, NY	1	$261.75	Director State and Local Affairs
08/22/02	Kansas City, MO	1	$878.73	Senior Director for Response and Recovery
08/24/02	Erie, PA	1	$706.35	Communications Assistant
08/26/02	Ottawa, Canada	1	$1,287.07	Director for Critical Infrastructure Protection
08/26/02	Washington, DC	2	$1,533.41	President's Homeland Security Advisory Board
08/27/02	Indianapolis, IN	1	$820.70	Senior Director for Intelligence and Detection
08/27/02	Philadelphia, PA	1	$451.57	Communications Assistant
08/27/02	Seattle, WA	1	$1,577.18	Senior Director for Response and

REV_00169589

				Recovery
08/28/02	Buffalo, NY	2	$1,953.73	Operations Officer, Operations Officer
08/28/02	Charlotte, NC	2	$1,217.86	Communications Aide to the Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
08/28/02	Seattle, WA	1	$646.49	Special Assistant, Intergovernmental Affairs
08/28/02	Washington, DC	5	$4,452.05	President's Homeland Security Advisory Board
08/29/02	Buffalo, NY	1	$173.00	Assistant to the President for Homeland Security
08/29/02	Milan, Italy	2	$11,192.97	Communications Assistant, Communications Aide to the Assistant to the President for Homeland Security
08/30/02	Atlanta,GA	1	$548.50	Director, Cyberspace Security
09/03/02	Asville Naval Reserve Ctr, NC	1	$674.84	Senior Director for Response and Recovery
09/04/02	Milan, Italy	1	$1,869.93	Special Assistant to the Assistant to the President for Homeland Security
09/04/02	San Diego, CA	1	$1,466.62	Director State and Local Affairs
09/05/02	Chicago, IL	1	$490.94	Director, Training and Exercises
09/05/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
09/06/02	Long Beach Naval Hosp, CA	1	$937.22	Director, Protection and Prevention
09/08/02	Columbus, OH	1	$365.81	Special Assistant to the President and Senior Director for Policy and Plans
09/08/02	Detroit, MI	1	$1,111.35	Special Assistant to the President for Public Liaison
09/09/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
09/09/02	Orlando, FL	1	$519.19	Special Assistant to the President and Executive Director, PHSAC
09/09/02	Paris, France	1	$1,156.36	Director, Policy and Plans
09/10/02	Pittsburgh, PA	3	$667.20	Assistant Press Secretary, Communications Aide to the Assistant to the President for Homeland Security,
				Assistant to the President for Homeland Security
09/15/02	Manhattan, NY	1	$191.47	Director, Biodefense
09/15/02	Suffolk County, NY	1	$356.66	Director, Biodefense
09/16/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
09/18/02	Atlanta,GA	1	$254.00	Deputy Assistant to the President for Homeland Securtiy
09/18/02	Denver, CO	1	$967.36	Executive Assistant, Response and Recovery
09/19/02	Austin, TX	1	$121.00	Special Assistant to the Deputy Assistant to the President for Homeland Security
09/19/02	Dallas, TX	1	$618.00	Director, Cyberspace Security
09/19/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans

REV_00169590

09/19/02	Minot AFB, ND	1	$1,121.00	Director State and Local Affairs
09/20/02	Atlanta,GA	2	$1,349.48	Sr. Director Research and Development, Director, Biodefense
09/21/02	Dover, DE	1	$592.94	Communications Aide to the Assistant to the President for Homeland Security
09/22/02	Lincoln Naval Reserve, NE	1	$849.94	Special Assistant to the President and Senior Director for Policy and Plans
09/24/02	Dallas, TX	1	$618.50	Deputy Assistant to the President for Homeland Securtiy
09/24/02	Kansas City, MO	1	$650.36	Director for Incident Management
09/24/02	Manhattan, NY	2	$285.15	Senior Director for Protection and Prevention, Director for Weapons of Mass Destruction
09/24/02	St. Louis, MO	1	$873.50	Senior Director for Response and Recovery
09/25/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
09/26/02	Erie, PA	1	$1,061.02	Communications Assistant
09/26/02	Williamsport Naval Ctr, PA	1	$337.92	Communications Aide to the Assistant to the President for Homeland Security
09/27/02	Atlanta,GA	1	$313.90	Special Assistant to the President for Public Liaison
09/27/02	Easton, PA	1	$202.21	Special Assistant to the Assistant to the President for Homeland Security
09/30/02	Manhattan, NY	1	$576.06	Senior Advisor to the Special Assistant to the President for Information Integration
09/30/02	White Plains, NY	1	$907.10	Executive Secretary
10/01/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
10/01/02	White Plains, NY	1	$702.73	Director for Critical Infrastructure Protection
10/02/02	Carlisle Barracks, PA	1	$132.30	Communications Aide to the Assistant to the President for Homeland Security
10/02/02	Charleston, WV	1	$154.94	Director, Cyberspace Security
10/03/02	Los Angeles, CA	1	$943.66	Director, State and Local Affairs
10/03/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
10/03/02	Miami, FL	1	$571.00	Sr. Director, Research and Development
10/04/02	Washington, DC	1	$169.48	Communications Aide
10/06/02	Minneapolis, MN	1	$768.50	Director for Incident Management
10/06/02	Orlando, FL	1	$432.31	Senior Advisor to the Special Assistant to the President for Information Integration
10/07/02	Las Vegas, NV	1	$874.73	Director of Critical Infrastructure
10/07/02	Oklahoma City, OK	1	$525.94	Sr. Director, Research and Development
10/07/02	Pittsburgh, PA	2	$1,663.50	Special Assistant to the President for Public Liaison, Communications Aide to the Assistant to the Presidnet for Homeland Security
10/07/02	San Diego, CA	1	$1,411.68	Senior Director for Response and Recovery
10/08/02	Minneapolis, MN	1	$914.14	Senior Director for Intergovernmental Affairs

REV_00169591

10/08/02	Pittsburgh, PA	2	$1,571.22	Assistant to the President for Homeland Security, Special Assistant to the Assistant to President for Homeland Security
10/09/02	Dallas, TX	1	$704.65	Executive Assistant, Response and Recovery
10/09/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
10/10/02	Fort Lauderdale, FL	2	$2,958.00	Special Assistant to the President for Public Liaison, Director for Incident Management
10/11/02	Erie, PA	1	$930.69	Communications Assistant
10/11/02	Lynchburg, VA	1	$52.93	Director Policy and Plans
10/12/02	Erie, PA	1	$348.00	Operations Officer
10/14/02	Columbus, OH	1	$572.00	Senior Director for Response and Recovery
10/15/02	Atlanta,GA	1	$852.36	Director, Cyberspace Security
10/15/02	Key West, FL	1	$1,216.80	Director for Immigration Security
10/15/02	Sacramento, CA	1	$1,260.62	Director, Biodefense
10/15/02	Seattle, WA	1	$1,050.00	Senior Director for Protection and Prevention
10/15/02	Washington, DC	8	$4,481.76	President's Homeland Security Advisory Board
10/16/02	Raleigh, NC	1	$254.06	Senior Advisor to the Special Assistant to the President for Information Integration
10/16/02	Vancouver, Canada	1	$1,662.55	Director, Policy and Plans
10/18/02	Trenton, NJ	1	$1,310.12	Director, State and Local Affairs
10/18/02	Washington, DC	4	$2,385.93	Communications Assistant, President's Homeland Security Advisory Board
10/21/02	Houston, TX	1	$849.91	Senior Director for Protection and Prevention
10/21/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
10/21/02	Newark, NJ	2	$852.90	Senior Director for Intergovernmental Affairs, Director State and Local Affairs
10/21/02	Washington, DC	1	$87.50	President's Homeland Security Advisory Board
10/22/02	Frederick, MD	1	$291.15	Director of Critical Infrastructure
10/22/02	Reno, NV	1	$803.60	Special Assistant, Intergovernmental Affairs
10/22/02	Trenton, NJ	1	$153.00	Special Assistant
10/23/02	San Jose, CA	1	$931.76	Director, Cyberspace Security
10/24/02	Erie, PA	1	$1,001.53	Communications Aide to the Assistant to the President for Homeland Security
10/24/02	Ontarion, CA	1	$664.76	Senior Director for Response and Recovery
10/24/02	Orlando, FL	1	$547.06	Director, Policy and Plans
10/25/02	Albany, NY	1	$580.50	Senior Director for Protection and Prevention
10/25/02	Lynchburg, VA	1	$52.93	Director, Operations
10/26/02	Washington, DC	1	$214.03	Communications Assistant
10/28/02	Hershey, PA	1	$286.16	Senior Director for Response and Recovery

REV_00169592

10/28/02	Savannah, GA	1	$452.68	Senior Director for Intergovernmental Affairs
10/29/02	Manhattan, NY	1	$511.27	Deputy Assistant to the President for Homeland Securtiy
10/29/02	St. Louis, MO	1	$1,078.66	Director of Critical Infrastructure
10/30/02	Brussels, Bel	1	$4,853.38	Communications Aide to the Assistant to the President for Homeland Security
10/31/02	Cedar Rapids, IA	1	$2,173.70	Special Assistant to the President and Director of Communications
11/01/02	Atlantic City, NJ	1	$0.00	Sr. Director, Research and Development
11/01/02	Brussels, Bel	1	$2,173.70	Special Assistant to the President and Director of Communications
11/01/02	Pittsburgh, PA	2	$606.97	Communications Assistant, Operations Officer
11/02/02	San Jose, CA	1	$1,001.50	Senior Director for Protection and Prevention
11/03/02	Brussels, Bel	3	$4,534.72	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security, Director Policy and Plans
11/03/02	Washington, DC	1	$8.40	Communications Assistant
11/04/02	London, England	1	$2,536.36	Operations Officer
11/06/02	Santa Barbara, CA	1	$711.51	Director, Economic Consequence Management
11/09/02	Lynchburg, VA	1	$741.18	Director State and Local Affairs
11/09/02	Philadelphia, PA	1	$752.47	Communications Assistant
11/10/02	New Orleans, LA	1	$752.47	Communications Assistant
11/12/02	Philadelphia, PA	1	$244.80	Senior Director for Response and Recovery
11/13/02	Cincinnati, OH	1	$70.34	Communications Aide to the Assistant to the President for Homeland Security
11/14/02	Charlotte, NC	1	$992.48	Director of Critical Infrastructure
11/14/02	Erie, PA	1	$931.40	Operations Officer
11/14/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
11/15/02	Shepherdstown, WV	1	$79.60	Senior Director for Response and Recovery
11/16/02	Erie, PA	1	$613.64	Special Assistant
11/17/02	Las Vegas, NV	1	$2,074.06	Director, Biodefense
11/18/02	Manhattan, NY	1	$118.70	Special Assistant to the President and Senior Director for Policy and Plans
11/19/02	Philadelphia, PA	2	$1,051.46	Deputy Assistant to the President for Homeland Securtiy, Sr. Director, Research and Development
11/20/02	Los Angeles, CA	3	$4,199.59	Senior Director for Intergovernmental Affairs, Special Assistant to the President for Public Liaison,
				Deputy Press Secretary
11/22/02	Boston, MA	1	$467.20	Director, Policy and Plans
11/22/02	Scottsdale, AZ	1	$233.64	Special Assistant to the President for Public Liaison

REV_00169593

11/24/02	Mexico City, Mexico	1	$1,155.08	Director, Policy and Plans
11/24/02	Phoenix, AZ	1	$1,999.06	Communications Assistant
11/25/02	Manhattan, NY	1	$320.22	Director, Economic Consequence Management
11/26/02	London, England	1	$951.43	Special Assistant to the Deputy Assistant to the President for Homeland Security
12/01/02	St. Louis, MO	1	$1,579.63	Communications Assistant
12/02/02	Chicago, IL	1	$906.76	Deputy Assistant to the President for Homeland Securtiy
12/02/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
12/02/02	Washington, DC	10	$8,634.98	President's Homeland Security Advisory Board
12/03/02	Chicago, IL	1	$369.38	Director State and Local Affairs
12/03/02	Washington, DC	1	$50.50	President's Homeland Security Advisory Board
12/04/02	Cambridge, MA	1	$901.10	Director of Critical Infrastructure
12/06/02	Salt Lake City, UT	1	$822.14	Director State and Local Affairs
12/06/02	Seattle, WA	1	$992.06	Director Coordination Center
12/06/02	Washington, DC	1	$297.72	Communications Assistant
12/08/02	Manhattan, NY	1	$237.55	Operations Officer
12/09/02	Baltimore, MD	1	$327.32	Senior Director for Response and Recovery
12/09/02	Indianapolis, IN	1	$817.00	Director, Cyberspace Security
12/09/02	Manhattan, NY	1	$316.90	Operations Officer
12/09/02	San Francisco, CA	1	$237.54	Sr. Director, Research and Development
12/09/02	Seattle, WA	2	$1,505.08	Special Assistant to the Deputy Assistant to the President for Homeland Security, Deputy Director Coordination Center
12/11/02	Manhattan, NY	5	$3,154.69	Deputy Assistant to the President for Homeland Securtiy, Director State and Local Affairs, Executive Assistant Response and Recovery,
				Director for Critical Infrastructure Protection, Director for Cargo and Port Security,
				Executive Assistant Response and Recovery
12/13/02	Washington, DC	1	$307.77	Communications Assistant
12/18/02	Anniston Army Depot, AL	1	$219.00	Director, Biodefense
12/18/02	Atlanta,GA	1	$543.75	Director for Cargo and Port Security
12/19/02	Harrisburg, PA	1	$379.64	Communications Aide to the Assistant to the President for Homeland Security
12/19/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
12/20/02	Washington, DC	1	$135.22	Communications Assistant
12/21/02	Erie, PA	1	$3,369.44	Operations Officer
01/07/03	Las Vegas, NV	1	$1,128.64	Director, Cyberspace Security
01/09/03	Erie, PA	1	$938.50	Communications Aide to the Assistant to the President for Homeland Security

REV_00169594

01/09/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/11/03	San Diego, CA	2	$1,945.55	Operations Officer, Operations Officer
01/14/03	Cape Canaveral, FL	2	$1,798.55	Senior Director for Response and Recovery, Deputy Director, Incident Management
01/15/03	Boston, MA	1	$1,248.78	Director of Critical Infrastructure
01/15/03	Jacksonville, FL	1	$767.86	Director for Weapons of Mass Destruction
01/15/03	New Orleans, LA	1	$968.98	Executive Assistant, Response and Recovery
01/16/03	Erie, PA	1	$672.78	Communications Aide to the Assistant to the President for Homeland Security
01/16/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/17/03	Erie, PA	1	$238.00	Operations Officer
01/20/03	San Antonio, TX	2	$1,549.64	Special Assistant to the President and Executive Director, PHSAC, Director, External Affairs
01/21/03	Harrisburg, PA	1	$150.00	Communications Aide to the Assistant to the President for Homeland Security
01/21/03	Manhattan, NY	1	$406.96	Senior Director for Response and Recovery
01/21/03	Mexico City, Mexico	1	$1,228.73	Director for Critical Infrastructure Protection
01/22/03	Manhattan, NY	1	$334.50	Director, Economic Consequence Management
01/22/03	Washington, DC	7	$3,930.05	President's Homeland Security Advisory Board
01/24/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/24/03	Shepherdstown, WV	1	$81.06	Director, Economic Consequence Management
01/28/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/29/03	Chicago, IL	1	$245.50	Director, Economic Consequence Management
01/30/03	Washington, DC	7	$4,952.27	President's Homeland Security Advisory Board
02/07/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
02/09/03	Seattle, WA	1	$1,877.78	Director, Cyberspace Security
02/10/03	Norfolk, VA	1	$105.06	Director of Critical Infrastructure
02/13/03	Manhattan, NY	1	$33.25	Director for Cargo and Port Security
02/20/03	Cambridge, MA	1	$2,579.47	Special Assistant to the President and Senior Director for Policy and Plans
02/20/03	Washington, DC	5	$3,647.25	President's Homeland Security Advisory Board
02/21/03	Washington, DC	3	$1,066.55	President's Homeland Security Advisory Board
02/25/03	Lynchburg, VA	1	$52.93	Director Policy and Plans
03/03/03	Albuquerque,NM	1	$982.87	Executive Assistant, Response and Recovery
03/09/03	Baltimore, MD	1	$897.11	Director, Biodefense
03/12/03	Houston, TX	1	$1,218.03	Director, Incident Management
03/25/03	Lynchburg, VA	1	$52.93	Director Policy and Plans

REV_00169595

03/31/03	Charlottesville, VA	1	$189.00	Special Assistant to the Deputy Assistant to the President for Homeland Security
	Total		**$302,422.75**	

Cyberspace Security Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Staff Position**
04/02/02	Orlando, FL	1	$592.89	Director, Cyberspace Security
04/03/02	Providence, RI	1	$875.74	Vice Chairman, PCIPB
04/05/02	Denver, CO	1	$1,288.87	Vice Chairman, PCIPB
04/08/02	Williamsburg, VA	1	$261.00	Vice Chairman, PCIPB
04/10/02	Albany, NY	1	$904.60	Vice Chairman, PCIPB
04/12/02	Orlando, FL	1	$1,279.00	Vice Chairman, PCIPB
04/16/02	Orlando, FL	1	$757.75	Special Assistant to the President for Cyberspace Security, and Chair, PCIPB
04/21/02	Orlando, FL	1	$1,663.74	Special Assistant to the President for Cyberspace Security, and Chair, PCIPB
05/07/02	Chicago, IL	1	$524.42	Director, Cyberspace Security
05/08/02	Las Vegas, NV	1	$1,009.00	Senior Director, National Security
05/10/02	Boston, MA	1	$455.80	Chief of Staff
5/12/2002	Denver, CO	1	$1,390.93	Director, Cyberspace Security
05/12/02	Denver, CO/Indianapolis, IN	1	$1,574.15	Special Assistant to the President for Cyberspace Security, and Chair, PCIPB
5/14/2002	Denver, CO	1	$1,711.17	Deputy Chief of Staff
5/16/2002	Chicago, IL	1	$328.00	Chief of Staff
5/20/2002	Honolulu, HI	1	$1,371.44	Director, Cyberspace Security
5/27/2002	Chicago, IL	1	$2,874.45	Deputy Chief of Staff
5/29/2002	Chicago, IL	2	$1,489.16	Director for Cyberspace Security, Director for Cyberspace Security
5/31/2002	Portland, OR	1	$2,874.45	Deputy Chief of Staff
6/1/2002	Seattle, WA	1	$4,571.88	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
6/3/2002	Portland, OR	1	$4,571.98	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
6/3/2002	San Diego, CA	1	$1,436.79	Vice Chairman, PCIPB
6/5/2002	Portland, OR	1	$1,677.79	Vice Chairman, PCIPB
6/7/2002	Seattle, WA	1	$1,436.79	Vice Chairman, PCIPB
6/12/2002	Buffalo, NY	1	$761.29	Vice Chairman, PCIPB

REV_00169596

6/16/2002	Atlanta, GA	3	$2,522.62	Deputy Chief of Staff, Director, Legislative Affairs, Vice Chairman, PCIPB
6/19/2002	London, GBR	1	$1,687.92	Vice Chairman, PCIPB
6/24/2002	Seattle, WA	1	$982.09	Vice Chairman, PCIPB
6/26/2002	Boston, MA	1	$641.44	Chief of Staff
6/26/2002	Chicago, IL	1	$982.09	Vice Chairman, PCIPB
6/26/2002	Las Vegas, NV	1	$982.06	Senior Director, National Security
7/8/2002	Manhattan, NY	2	$483.20	Vice Chairman, PCIPB, Senior Director, National Security
7/20/2002	Monterey, CA	1	$1,352.72	Director, Cyberspace Security
7/20/2002	Tulsa, OK	2	$2,474.19	Special Assistant to the President for Cyberspace Security and Chair, PCIPB and Vice Chairman, PCIPB
7/22/2002	Dallas, TX	1	$877.15	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
7/23/2002	Minneapolis, MN	1	$1,602.04	Vice Chairman, PCIPB
7/30/2002	Las Vegas, NV	1	$1,148.96	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
8/4/2002	Roanoke, VA	1	$671.68	Vice Chairman, PCIPB
8/6/2002	Duluth, MN	1	$71.76	Vice Chairman, PCIPB
8/6/2002	Ft. Lauderdale, FL	1	$705.61	Director, Cyberspace Security
8/6/2002	San Francisco, CA	1	$811.92	Director for Cyberspace Security
8/12/2002	Beaver Creek, CO	1	$3,362.76	Chief of Staff
8/12/2002	Vail, Co	1	$3,362.76	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
8/13/2002	Phoenix, AZ	1	$1,128.18	Vice Chairman, PCIPB
8/13/2002	San Francisco, CA	1	$4,362.25	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
8/17/2002	Aspen, CO	1	$287.00	Senior Director, National Security
8/18/2002	San Francisco, CA	1	$3,362.76	Chief of Staff
8/19/2002	Manhattan, NY	1	$470.06	Director for Cyberspace Security
8/22/2002	Boston, MA	1	$462.04	Director for Cyberspace Security
8/26/2002	Nashville, TN	1	$730.23	Vice Chairman, PCIPB
8/26/2002	Ottawa, CAN	1	$1,056.24	Director, Cyberspace Security
8/30/2002	Chicago, IL	1	$1,602.40	Vice Chairman, PCIPB
9/3/2002	Seattle, WA	1	$251.44	Director, Cyberspace Security
9/5/2002	Manhattan, NY	1	$195.04	Senior Director, National Security
9/6/2002	Philadelphia, PA	1	$226.72	Director for Cyberspace Security
9/8/2002	San Jose, CA	1	$845.27	Director for Cyberspace Security
9/12/2002	Atlanta, GA	1	$122.00	Director for Cyberspace Security
9/15/2002	Minneapolis,	1	$2,388.45	Vice Chairman, PCIPB

REV_00169597

	MN			
9/15/2002	Palo Alto, CA	1	$2,987.46	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
9/15/2002	San Francisco, CA	2	$4,185.11	Deputy Chief of Staff, Executive Assistant
9/17/2002	Palo Alto, CA	2	$3,847.56	Vice Chairman, PCIPB and Director for Cyberspace Security
9/17/2002	San Francisco, CA	1	$2,032.69	Director for Cyberspace Security
9/18/2002	New London, CT	1	$2,541.62	Deputy Chief of Staff
9/18/2002	Seattle, WA	1	$2,388.45	Vice Chairman, PCIPB
9/19/2002	Manhattan, NY	1	$186.62	Director for Cyberspace Security
9/21/2002	Albuquerque, NM	1	$901.51	Director for Cyberspace Security
9/24/2002	Austin, TX	2	$1,975.60	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Vice Chairman, PCIPB
9/24/2002	Cleveland, OH	1	$1,092.55	Director for Cyberspace Security
9/24/2002	Denver, CO	1	$1,680.02	Vice Chairman, PCIPB
9/24/2002	San Antonio, TX	5	$5,537.03	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Vice Chairman, PCIPB, Deputy Chief of Staff, Senior Director,
				Senior Director, National Security, Director, Cyberspace Security
9/30/2002	Atlantic City, NJ	1	$375.09	Vice Chairman, PCIPB
9/30/2002	Ft. Meyers, FL	1	$622.71	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/2/2002	Philadelphia, PA	1	$660.04	Deputy Chief of Staff
10/7/2002	Minneapolis, MN	1	$750.71	Director for Cyberspace Security
10/8/2002	Brussels, Bel	1	$3,903.77	Vice Chairman, PCIPB
10/9/2002	Omaha, NE	1	$1,188.85	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/9/2002	Pittsburg, Pa	1	$1,188.65	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/11/2002	London, GBR	1	$3,903.77	Vice Chairman, PCIPB
10/14/2002	Boston, MA	2	$3,428.15	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Deputy Chief of Staff
10/17/2002	Boston, MA	1	$308.38	Director for Cyberspace Security
10/17/2002	Chicago, IL	1	$312.50	Deputy Chief of Staff
10/20/2002	Miami, FL	1	$611.04	Director for Cyberspace Security
10/22/2002	Frederick, MD	2	$669.46	Vice Chairman, PCIPB and Director for Cyberspace Security

REV_00169598

10/23/2002	Pittsburg, Pa	2	$1,934.71	Vice Chairman, PCIPB and Deputy Chief of Staff
10/26/2002	Brussels, Bel	1	$6,650.41	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/26/2002	Eugene, OR	1	$1,595.63	Director for Cyberspace Security
10/28/2002	Las Vegas, NV	1	$1,351.69	Director for Cyberspace Security
10/28/2002	San Antonio, TX	1	$501.00	Senior Director, National Security
11/5/2002	Atlanta, GA	1	$1,024.90	Vice Chairman, PCIPB
11/06/02	White Plains, NY	1	$965.79	Director for Cyberspace Security
11/7/2002	Chicago, IL	3	$1,266.23	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Director, Cyberspace Security, Director, National Security
11/7/2002	Manhattan, NY	1	$793.86	Vice Chairman, PCIPB
11/10/2002	Monterey, CA	1	$1,329.86	Director for Cyberspace Security
11/12/2002	Manhattan, NY	1	$697.49	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
11/13/2002	Manhattan, NY	1	$350.50	Senior Director, National Security
11/13/2002	Phoenix, AZ	2	$3,548.19	Director, Legislative Affairs, Vice Chairman, PCIPB
11/14/2002	Seattle, WA	1	$1,329.66	Director for Cyberspace Security
11/17/2002	Atlanta, GA	1	$436.06	Director for Cyberspace Security
11/17/2002	Ottawa, CAN	1	$2,418.32	Vice Chairman, PCIPB
11/19/2002	Manhattan, NY	1	$877.25	Director for Cyberspace Security
11/19/2002	Salt Lake City, UT	1	$877.25	Director for Cyberspace Security
11/20/2002	Manhattan, NY	1	$699.56	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
12/3/2002	Chicago, IL	1	$229.13	Director for Cyberspace Security
12/3/2002	San Francisco, CA	1	$2,293.66	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
12/4/2002	Phoenix, AZ	1	$1,264.33	Senior Director, National Security
12/4/2002	San Francisco, CA	1	$1,637.48	Director, Cyberspace Security
12/6/2002	Seattle, WA	1	$1,138.43	Vice Chairman, PCIPB
12/9/2002	Boston, MA	1	$401.00	Director for Cyberspace Security
12/9/2002	Charleston, SC	1	$825.27	Director for Cyberspace Security
12/12/2002	Manhattan, NY	1	$380.05	Vice Chairman, PCIPB
12/17/2002	Flemington, NJ	2	$487.54	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Senior Director, National Security
12/18/2002	Atlanta, GA	1	$64.50	Deputy Chief of Staff
1/9/2003	Charlotte, NC	2	$1,929.02	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Deputy Chief of Staff

REV_00169599

1/14/2003	Honolulu, HI	1	$1,610.34	Director for Cyberspace Security
1/21/2003	Boston, MA	2	$1,797.69	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Director for Cyberspace Security
1/22/2003	St. Petersburg, FL	1	$492.08	Vice Chairman, PCIPB
1/23/2003	Ft. Meyers, FL	1	$636.12	Director for Cyberspace Security
1/23/2003	Naples, FL	1	$864.08	Vice Chairman, PCIPB
1/24/2003	Philadelphia, PA	1	$864.08	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
1/24/2003	San Diego, CA	3	$4,654.94	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Deputy Chief of Staff, Director, Cyberspace Security
01/28/03	Williamsburg, VA	1	$239.34	Vice Chairman, PCIPB
1/29/2003	Chicago, IL	1	$306.37	Director for Cyberspace Security
1/30/2003	Manhattan, NY	1	$376.50	Vice Chairman, PCIPB
2/2/2003	Columbus, MS	1	$835.25	Vice Chairman, PCIPB
2/2/2003	San Francisco, CA	1	$1,211.37	Director for Cyberspace Security
2/10/2003	London, GBR	1	$1,473.61	Vice Chairman, PCIPB
02/11/03	Tallahassee, FL	1	$582.94	Director for Cyberspace Security
2/24/2003	Atlanta, GA	1	$768.07	Vice Chairman, PCIPB
2/24/2003	Boca Raton, FL	1	$1,052.94	Director for Cyberspace Security
2/25/2003	Chicago, IL	1	$522.44	Director for Cyberspace Security
3/3/2003	Manhattan, NY	1	$607.86	Director for Cyberspace Security
3/4/2003	San Diego, CA	1	$785.37	Director for Cyberspace Security
3/6/2003	Ottawa, CAN	1	$929.94	Vice Chairman, PCIPB
3/8/2003	Orlando, FL	1	$260.11	Vice Chairman, PCIPB
3/17/2003	San Antonio, TX	1	$801.47	Vice Chairman, PCIPB
3/18/2003	Atlanta, GA	1	$801.47	Vice Chairman, PCIPB
3/22/2003	Paris, FRA	2	$3,402.37	Vice Chairman, PCIPB, Director for Cyberspace Security
	Total		**$192,350.99**	

QUESTION 18: Currently, OHS costs are included in both the WHO and OA appropriations. Is that also the case in the FY 2004 request? If so, please provide a table, by appropriation, showing total OHS budgeted costs, for each of the fiscal years 2002 through 2004.

RESPONSE: For FY 2003, although funds were requested as part of the WHO budget activity, the Office of Homeland Security received for the first time its own appropriation, separate from the WHO appropriation. Funds supporting OHS / HSC

REV_00169600

requirements in FY 2003 were provided also to OA as part of the OA Pilot program. The FY 2004 Request identifies all requirements for OHS / HSC in the WHO Budget Activity, since the OA Pilot program is not certain to continue after FY 2003. See table below:

(Dollars in Thousands)

	Congressional Appropriations		
	FY 2002 Enacted*	FY 2003 Enacted	FY 2004 Request
OHS / HSC	$30,800	$8,272	$8,331
OA		$778	
	$30,800	$9,050	$8,331

*FY 2002 budget for OHS was based on the OHS mission and funding profile prior to the establishment of DHS and was provided by 3 sources of emergency appropriated funds: P.L. 107-38 for $25,000,000; P.L.107-117 for $2,000,000; and P.L. 107-206 for $3,800,000.

QUESTION 19: Last year, it was stated that one MOU existed between OHS and other EOP entities (p. 51). Please provide a copy of the MOU between MOU and the Office of Science and Technology Policy.

RESPONSE: The MOU between OHS and OSTP expired with the creation of the Department of Homeland Security as relevant responsibilities transferred from OHS to DHS, pursuant to the Homeland Security Act of November, 2002.

QUESTION 20: Have any other MOUs been signed since that time?

RESPONSE: A MOU between the Homeland Security Council and the National Security Council/White House Situation Support Staff was signed in May, 2003 providing for the expansion of NSC's classified computer network to include approved HSC staff with necessary security clearances.

In addition standard interagency agreements were signed between OHS/HSC and the Office of Administration (OA) and OMB to pay for detailees from these EOP entities to OHS/HSC and separately between OHS/HSC and OA to pay for miscellaneous supplies and materials.

QUESTION 21: At this time last year, OHS planned to establish a coordination center which would function 24 hours a day, 7 days a week, using a communications room and two incident management rooms. At the same time, the Administration made clear that the role of OHS was to establish and coordinate policy, and not to conduct operational activities. With the establishment of the Department of Homeland Security, have these specific activities been descoped or eliminated?

REV_00169601

RESPONSE: The role of the Homeland Security Council is to advise and assist the President, develop and coordinate the implementation of the *National Strategy for Homeland Security* to secure the United States from terrorist threats and attacks, and to help coordinate policy across the departments and agencies of the executive branch. The Homeland Security Council does not conduct operational activities. The Homeland Security Council does not operate a coordination center. With the establishment of the Department of Homeland Security, DHS is the lead federal agency for incident management. As such, DHS operates a Homeland Security Center with 24 hour/7 days per week coordination and communications capabilities. Those functions do not reside in the Homeland Security Council.

QUESTION 22: How many positions support these activities in the FY 2004 request, and what is the total budgeted amount?

RESPONSE: The FY 2004 budget will not fund any personnel or activities related to the DHS coordination center. However, virtually every member of the HSC staff has responsibilities to support and advise the President regarding incident response efforts, continuity of government and related coordination roles on behalf of the President.

QUESTION 23: How are such activities appropriate for a policymaking body, when DHS now exists to coordinate and execute operational activities related to specific homeland security incidents and activities?

RESPONSE: Just as the NSC was created by Congress in 1947 in the same act which created the Department of Defense and the CIA, Congress established the HSC within the EOP by statute at the same time as it created the Department of Homeland Security. The role of the Homeland Security Council is to advise and assist the President, develop and coordinate the implementation of the *National Strategy for Homeland Security* to secure the United States from terrorist threats and attacks, and to help coordinate policy across the departments and agencies of the executive branch. The Homeland Security Council does not conduct operational activities. The Homeland Security Council does not operate a coordination center. With the establishment of the Department of Homeland Security, DHS is the lead federal agency for incident management. As such, DHS operates a Homeland Security Center with 24 hour/7 days per week coordination and communications capabilities. Those functions do not reside in the Homeland Security Council.

QUESTION 24: At the time of last year's hearing, the permanent location and amount of space for the President's Critical Infrastructure Protection Board had not been determined (p. 77). Have these requirements been determined today?

REV_00169602

RESPONSE: The President's Critical Infrastructure Protection Board (PCIPB) no longer exists at the White House. Executive Order 13228, which created the PCIPB, was amended. Congress through the Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection (IAIP). One of the responsibilities of the IAIP directorate is the important issue of critical infrastructure protection. This is a robust directorate led by an under secretary.

QUESTION 25: Likewise, total CIPB staffing had not been determined. Do you have an estimate today? What staffing assumptions were made in the FY 2004 budget submission?

RESPONSE: The President's Critical Infrastructure Protection Board (PCIPB) no longer exists at the White House. Executive Order 13228, which created the PCIPB, was amended. Congress through the Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection (IAIP). One of the responsibilities of the IAIP directorate is the important issue of critical infrastructure protection. This is a robust directorate led by an under secretary.

QUESTION 26: How much funding is included in the FY 2004 request for CIPB, and how does that compare to the current estimate for FY 2003?

RESPONSE: The President's Critical Infrastructure Protection Board (PCIPB) no longer exists at the White House. Executive Order 13228, which created the PCIPB, was amended. Congress through the Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection (IAIP). One of the responsibilities of the IAIP directorate is the important issue of critical infrastructure protection. This is a robust directorate led by an under secretary.

QUESTION 27: Please provide a breakdown showing how those funds would be used.

RESPONSE: The President's Critical Infrastructure Protection Board (PCIPB) no longer exists at the White House. Executive Order 13228, which created the PCIPB, was amended. Congress through the Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection (IAIP). One of the responsibilities of the IAIP directorate is the important issue of critical infrastructure protection. This is a robust directorate led by an under secretary.

QUESTION 28: Please provide details on any government-industry partnerships that have been created in support of cyber security initiatives coordinated by, or carried out, through EOP or the CIPB.

RESPONSE: In 2002, the President's Critical Infrastructure Protection Board developed a *National Strategy to Secure Cyberspace.* To encourage broader participation and input

REV_00169603

into the development process, a draft strategy was released for public comment in September 2002. In addition, the PCIPB requested the National Infrastructure Assurance Council and the National Security Telecommunications Advisory Committee both provide comments on the draft strategy. Furthermore, there were 10 town hall meetings held in various portions of the country which brought industry, academia and private citizens together to focus on the complex issues related to cyber security. The final strategy thus integrated extensive public and industry comments and was released in February 2003.

The *National Strategy to Secure Cyberspace* emphasizes that government-industry partnerships will be a cornerstone to success. As the primary implementer of the Strategy, DHS will be a partner with industry and academia to accomplish the objectives identified by the President's strategy.

National Security Council (POC – Katherine Fertakis)

QUESTION 29: Your request includes a 10.8 percent increase to cover reimbursable detailee costs and additional support staff for the President's Foreign Intelligence Advisory Board. Please explain the need for these increases in detail.

RESPONSE: The requested increase covers reimbursable detailee costs of personnel from the Department of State. The National Security Council (NSC) may request detailed personnel performing at a high level in high priority positions to remain beyond their initial tour of duty because of their unique qualifications. The NSC is required to reimburse the Department of State for details to NSC that exceed the cap of 13 detailed into their second year and for all staff detailed longer than two years per Public Law 93-126. The FY 2003 increase in this category estimates for details becoming reimbursable during the Spring and the Summer. The FY 2004 increase represents an annualization of the expenses, minus the cost for the details that will not be renewed.

Since the events of September 11, 2001, the PFIAB support staff workload has been significantly increased and consumed by the homeland security effort. Thus far about 95% of the Board's current advisory work for the President has been directly related to homeland security and counter-terrorism. (Intelligence performance thereon, and support to the new department of homeland security) With only 4 staff members and an already overflowing Board work schedule, work on other important PFIAB priorities has been deferred—such as declassification review of PFIAB archived records. At least three additional staff members, including a GS-14 administrative manager, will be needed to adequately meet support requirements as the Board expands its review of intelligence support to homeland security beyond the more immediate structural and organizational issues, and also re-engages the more general intelligence performance issues across the full spectrum of pressing issues. The FY 2004 request includes $250,000 which will fund two reimbursable detailed staff members and one permanent, Schedule A, Excepted Service, GS-14 administrative management position.

REV_00169604

QUESTION 30: What are the dollar and percentage increases for each of the above items, compared to the FY 2003 estimated levels?

RESPONSE: The FY 2004 request for NSC reimbursable detailees represents an increase of $356,000, or 64%, over the FY 2003 estimated levels. The PFIAB increase of $250,000 will be 100% above the FY 2003 request since this is a new requirement for FY 2004.

QUESTION 31: The justifications indicate that 11 additional positions are being added to this office in FY 2003, raising the estimated from 60 in FY 2002 to an estimated 71 in FY 2003. What specific positions are being created?

RESPONSE: The 11 additional positions, which raise NSC's FTE from 60 to 71, are not new positions. In FY 2003, the Office for Combating Terrorism (OCT) was combined with the NSC budget request. The increased FTE request correlates with the continued funding for and operation of the OCT as a part of the NSC submission.

QUESTION 32: The FY 2004 request includes funds for a new GS-14 administrative manager for the PFIAB. Why is this new position needed at this time?

RESPONSE: PFIAB requires a permanent administrative position for continuity as well as efficiency reasons. The administrative staff constitutes the lifeblood of the Board: it fulfills all of the support responsibilities, including human resource management, budget, travel, procurement, research, publishing, protocol, and special assistance to the Executive Director, Chair and Vice Chair. With only two administrative people on staff, it is absolutely critical that both individuals be fully knowledgeable about and highly experienced at *White House* administrative policies, procedures and guidelines; equally important, *both* must possess highly honed administrative skills *and* be extremely efficient, effective and professionally dedicated.

The Board simply cannot attain this level of experience and competence by relying on detailees from other agencies, particularly non-reimbursed detailees. More often than not, we must accept whomever an agency can make available. Therefore, the Board will use this one permanent administrative billet to create a PFIAB office manager position. This individual not only will provide continuity of expertise and experience, but also will ensure that the other administrative person obtains the proper professional mentoring and supervision. We plan to make this a GS-14 position, but may start the individual we select at the GS-13 level to allow for personal advancement...and thereby also ensuring, hopefully, a fairly long term of service to the Board.

REV_00169605

Office of National Drug Control Policy (POC – Michelle Marx)

QUESTION 33: You are requesting 10 additional FTE in FY 2004 to replace 10 non-reimbursable detailees who are no longer available. Why are these positions no longer available, and what are the specific positions?

RESPONSE: ONDCP's FY 2004 request includes resources to support 125 FTEs, an increase of 10 FTEs over the FY 2003 request. This FTE increase is requested to offset the loss of approximately 20 - 25 of the 30 non-reimbursable military detailee positions the Department of Defense has supported at ONDCP since 1996. (The Department of Defense, as outlined in a December 28, 2001 memorandum, has adopted a general policy that approves of requests for details only on a reimbursable basis, with limited exceptions.)

This 10 FTE increase, along with distributing additional responsibilities among existing staff, will allow ONDCP to absorb the detailee staffing loss and meet its statutory responsibilities. The specific positions would be appointed within the following offices: Planning and Budget; State and Local Affairs; Intelligence; and Supply Reduction.

Renovation of the Eisenhower Executive Office Building (POC – Steve Beattie)

QUESTION 34: What is the status of funding provided in FY 2002 and 2003? Please provide a breakdown of funding by the type of activity or renovation performed.

RESPONSE: 34: The General Service Administration has used FY 2002 Emergency Response Funds in the amount of $1,674,000 for starting the Architects' and Engineers' design contract for the 17th Street Wing Security Modernization Project. GSA is currently in the process of reprogramming $7,500,000 for FY 2003 for design, management and inspection. The FY 2003 reprogramming is required to complete the Design/Build/Bridging documents and assist in managing the Design/Build/Bridging efforts.

QUESTION 35: How much remains unobligated, by appropriation?

RESPONSE: 35: The General Services Administration (GSA) awarded a portion of the design cost in the amount of $1,537,173 utilizing the FY 2002 Emergency Response Fund. $136,827 remains unobligated. GSA has not obligated any FY 2003 funding.

QUESTION 36: Please provide a detailed breakdown showing how funds requested in the GSA budget for FY 2004 would be used.

RESPONSE: 36: The following is a break down on how the funds will be used in FY 2004:

REV_00169606

Major Work Items:	
Electrical System	$ 10,244,000
Air conditioning system, chillers and piping	$ 12,530,000
Interior Construction	$ 13,163,000
Utility Vault (includes foundation construction)	$ 22,107,000
Window Blast Mitigation	$ 4,685,000
Mansard Roof Hardening	$ 802,000
Estimated Construction Cost (ECC)	$ 63,531,000
Management and Inspection	$ 2,226,000
Authorization Requested (ECC, M&I)	$ 65,757,000

QUESTION 37: Please provide a detailed schedule for activities planned in FY 2004.

RESPONSE: 37: The design/build/bridging contract is scheduled to be awarded in March 2004. The current schedule for the project is as follows:

Design Award:	04/03
Design/Build/Bridging Procurement Start:	09/03
A/E Bridging Documents Complete:	10/03
Design/Build/Bridging Contract Award:	03/04
Construction Complete:	06/06

QUESTION 38: How much are you currently paying GSA for the unoccupied space along the 17th Street side of EEOB, and how much rental cost are you incurring for the new locations where relocated employees are working?

RESPONSE: We are not paying for the unoccupied space along the 17th Street side of the EEOB in FY2003. Employees were relocated to 1800 G. Street where FY 2004 rental costs are estimated at $4,978,000 and to 1801 Pennsylvania Avenue where the FY 2004 rental costs are estimated at $792,000. Both rental cost estimates exclude parking space costs.

Executive Residence (POC – Worthington White)

QUESTION 39: Please provide a table, corresponding to the projects on page 81 of last year's hearing record, showing the original appropriation for each project, the amount obligated to date, and the project status. This involves projects funded in fiscal year 2002.

RESPONSE: The following table provides funding information on the FY 2002 projects.

REV_00169607

Executive Residence at the White House
FY2002 White House Repair and Restoration

Project	Original Appropriation	Obligated To Date	Status of Project
Pool Shelter Roof Reconstruction and Pool Deck Renovation	$430,000	$412,926	This project is completed, with only minor punch list items and related recurring maintenance items to be funded from the remaining funds.
Communication System Repairs/Phase 2*	$456,667 $4,544,000	$155,872	Modifications to the original design under Phase I (FY2001) are completed. The pre-bid meeting with prospective contractors is scheduled for mid-May, with contract award by late June, and construction commending by late July.
East and West Wing Exterior Restoration	$2,500,000	$2,398,433	The restoration is underway, all Phase I funds will be utilized this year.
Insulated Windows Replacement	$160,000	$162	The prototype utilizing historically accurate reproduction glass is in production, with manufacturing of actual replacement units expected to begin in June. Installation to be begin in August.
Kitchen Floor Replacement	$75,000	$60,815	This project is nearing completion with the remaining funds to be utilized for utility work.
North Portico Curtain Wall	$120,000	$106,751	The project is completed with remaining funds required to purchase spare parts inventory.
Stone Pavers Restoration	$277,000	$220,082	The project is currently underway and is scheduled for completion by September 2003.
West Colonnade Restoration	$275,000	$0	Planning has recently been completed; work will be accomplished in August and early September 2003.

*For the Comunication System Repairs/Phase 2 project, $456,667 was funded in FY 2001 for Architect and Engineering. The remaining $4,544,000 was for construction.

QUESTION 40: Please provide a listing of the 95 FTE positions at the Executive Residence requested for funding in FY 2004, showing the position title and the annual salary level.

RESPONSE: The position and salary information is provided in the table that follows.

REV_00169608

EXECUTIVE RESIDENCE AT THE WHITE HOUSE - FY 2003 -- 95 FTE				
USHERS OFFICE				
16 FTE	USHER	$96,880	CALLIGRAPHER	$68,939
	CALLIGRAPHER	$60,202	CALLIGRAPHER	$79,670
	SYSTEMS ADMIN	$99,152	USHER	$90,059
	PROJECT SUPERVISOR	$55,092	CALLIGRAPHER	$69,911
	ADMIN ASSISTANT	$44,244	CHIEF USHER	$142,500
	USHER	$112,347	ADMIN OFFICER	$83,132
	ACCOUNTANT	$56,711	GROUNDS SUPT	$139,297
	USHER	$92,786	NIGHT DOORMAN	VACANT
OFFICE OF THE CURATOR				
4 FTE	CURATOR	$87,328	ASSISTANT CURATOR	VACANT
	COLLECTIONS MANAGER	$50,230	ASSISTANT CURATOR	$65,056
FLOWER SHOP				
4 FTE	CHIEF FLORIST	$92,786	FLORIST	$60,565
	FLORIST	$68,266	FLORIST	$51,987
HOUSEKEEPING				
21 FTE	MAID	$44,452	ASST HOUSEKEEPER	$79,670
	LAUNDRY SPEC	$53,098	HOUSEMAN	$47,539
	HOUSEMAN	$30,541	MAID	$48,671
	MAID	$48,656	CHIEF HOUSEKEEPER	$102,720
	LAUNDRY SPEC	$44,857	HOUSEMAN	$50,441
	MAID	$41,826	MAID	$37,770
	MAID	$42,433	HOUSEMAN	$55,091
	MAID	$28,285	HOUSEMAN	$38,798
	HOUSEMAN	$41,826	MAID	$54,280
	CUSTODIAL SPEC	$48,626	HOUSEMAN	$44,861
			HOUSEMAN	VACANT
FOOD & BEVERAGE SRVCS				
18 FTE	BUTLER	$67,969	PASTRY CHEF	$124,113
	KITCHEN STEWARD	$49,102	ASSISTANT CHEF	$86,211
	ASSISTANT CHEF	$79,670	ASST PASTRY CHEF	$57,521
	BUTLER	$52,360	ASSISTANT CHEF	$46,200
	STOREKEEPER	$64,086	BUTLER	$65,056
	BUTLER	$49,548	BUTLER	$59,411
	STOREKEEPER	$70,558	BUTLER	$66,028
	MAITRE'D	$91,422	CHEF	$113,951
	STOREKEEPER	$55,091	ASSISTANT CHEF	$46,870
OPERATIONS				
7 FTE	OPERATIONS AIDE	$54,116	OPERATIONS AIDE	$33,747
	OPERATIONS AIDE	$54,679	OPERATIONS AIDE	$73,692
	SHOP FOREMAN	$77,449	OPERATIONS AIDE	$58,895
			OPERATIONS AIDE	$49,024
CARPENTER & PAINT SHOP				
6 FTE	CARPENTER	$60,669	CARPENTER	$49,399
	PAINTER	$72,523	CARPENTER	$50,255
	PAINTER FOREMAN	$90,304	CARPENTER FOREMAN	$78,763
ENGINEERS & PLUMBING SHOP				
12 FTE	ENGINEER	$84,878	ENGINEER	$65,532
	ENGINEER	$66,826	ENGINEER	$68,266
	ENGINEER	$63,236	ENGINEER	$52,905
	ENGINEER	$62,234	PLUMBING FOREMAN	$90,304
	PLUMBER	$71,355	ENGINEER FOREMAN	$91,422
	ENGINEER	$66,826	ENGINEER	$51,966
ELECTRIC SHOP				
7 FTE	ELECTRICIAN	$73,692	ELECTRICIAN	$73,692
	ELECTRICIAN	$46,937	ELECTRICIAN	$55,389
	ELECTRIC SHOP FOREMAN	$95,515	ELECTRICIAN	$66,826
			ELECTRICIAN	$45,351

REV_00169609

QUESTION 41: The justifications (p. 67) indicate an estimated unobligated balance of $7,023,000 in this appropriation at the beginning of FY 2003. Please explain the sources of this balance, and provide a schedule for obligation of increments of those funds.

RESPONSE: The majority ($4,388,127) of the unobligated funds are associated with the Communication System Repairs/Phase 2 which was delayed to unanticipated design requirements. The schedule for completion and obligation of all FY2002 projects is detailed in the table below.

Executive Residence at the White House
FY2002 White House Repair and Restoration

Project	Original Appropriation	Obligated To Date	Status of Project
Pool Shelter Roof Reconstruction and Pool Deck Renovation	$430,000	$412,926	This project is completed, with only minor punch list items and related recurring maintenance items to be funded from the remaining funds.
Communication System Repairs/Phase 2*	$456,667 $4,544,000	$155,872	Modifications to the original design under Phase I (FY2001) are completed. The pre-bid meeting with prospective contractors is scheduled for mid-May, with contract award by late June, and construction commending by late July.
East and West Wing Exterior Restoration	$2,500,000	$2,398,433	The restoration is underway, all Phase I funds will be utilized this year.
Insulated Windows Replacement	$160,000	$162	The prototype utilizing historically accurate reproduction glass is in production, with manufacturing of actual replacement units expected to begin in June. Installation to be begin in August.
Kitchen Floor Replacement	$75,000	$60,815	This project is nearing completion with the remaining funds to be utilized for utility work.
North Portico Curtain Wall	$120,000	$106,751	The project is completed with remaining funds required to purchase spare parts inventory.
Stone Pavers Restoration	$277,000	$220,082	The project is currently underway and is scheduled for completion by September 2003.
West Colonnade Restoration	$275,000	$0	Planning has recently been completed; work will be accomplished in August and early September 2003.

*For the Comunication System Repairs/Phase 2 project, $456,667 was funded in FY 2001 for Architect and Engineering. The remaining $4,544,000 was for construction.

As of this date, there are also 5 projects which have balances prior to FY 2002. They are as follows:

FY1996 – Roof Repair – balance of $9,227. These funds will be expended as needed for ongoing maintenance and corrective measures.

FY1998 – Repair/restoration of the Laundry Room – balance of $26,616. Purchase of replacement equipment and maintenance of equipment to be expended in FY2003.

REV_00169610

FY2000 – Purchase and Install Two Ironers – balance of $5,754. These funds will be expended to replace the drive belts in FY2003.

FY2000 – Renovation of Paint Shop – balance of $38,271. Funds will be used to purchase and update equipment to meet EPA and OSHA requirements in FY2003.

FY2000 – Third Floor Promenade – balance of $11,392. Funds will be expended to rehab and replace drainage system in late FY2003 or early FY2004.

White House Repair and Restoration (POC – Dennis Freemyer)

QUESTION 42: You are requesting $4,225,000 for repairs and restoration of the White House. Is there additional funding in the National Park Service budget or elsewhere in the President's budget request for FY 2004 for similar activities at the White House?

RESPONSE: There are no other budget requests for the same activities at the White House.

QUESTION 43: Of this request, $3,500,000 is for restoration of the east and west wing exterior. Please provide a detailed discussion and breakdown of this request.

RESPONSE: The funding requested is for the continuation (2nd phase) of the East and West Wing Restoration project, the first being funded in FY'02. This is consistent with the original planning for the execution of this project based on the experience of the completed Executive Residence Exterior Restoration completed in 1996. A breakdown of major work items follows:

Estimated Construction Costs:

Mobilization, scaffolding, rental equipment	150,000
Stone, stucco, wood restoration, insulated glass	1,580,000
Paint removal	1,660,000
Effluent/hazardous material disposal	150,000
Specialized window film including installation	400,000
Specialized stucco coating including installation	550,000
Painting	500,000
Site Restoration	260,000
Design, project management, project supervision, testing	350,000
Contingency	400,000
Estimated Total Cost	**$6,000,000**
FY 2002 Funding	$2,500,000
FY 2004 Funding Request	$3,500,000

REV_00169611

Pennsylvania Avenue Improvements (POC – Steve Beattie)

QUESTION 44: What is the total estimated cost of security and street improvements on Pennsylvania Avenue in front of the White House, for which funds were provided in FY 2003?

RESPONSE: This project is to be funded by the Federal Highway Administration (FHWA). The total estimated cost of security and street improvements on Pennsylvania Avenue in front of the White House is currently $26.1 million. The information below breaks out the estimated FY 2003 costs for the project.

Project Activity	**Projected FY 2003 Obligations**
Preliminary Activities	
Verification and Concept Studies	$ 605,150
Design Activities	
Ground Survey and Mapping	$ 57,524
Subsurface Utility Survey	$ 149,682
Environmental Documentation	$ 75,000
Final Design (Consultant)	$ 1,300,000
Crash Testing	$ 350,000
FHWA Contract Administration	$ 100,000
Design Contingency	$ 262,644
Construction Activities	
Construction Contract	$ 18,500,000
Utility Construction	$ 1,500,000
FHWA Contract Administration	$ 1,700,000
MVVA Construction Assistance	$ 500,000
Construction Contingency	$ 1,000,000
Grand Totals	**$26,100,000**

QUESTION 45: What is the status of that project? When will FY 2003 funds be obligated?

RESPONSE: 45: The status of the security and street improvements on Pennsylvania Avenue is as follows -

- Project's status is an ongoing iterative process as the Design team receives comments from the public and the various stakeholders on surrounding sites.
- Under the National Environmental Policy Act, the final public information meeting for the Environmental Impact Assessment was held on May 5, 2003, which is the last

REV_00169612

step before the final report is issued the week of May 27, 2003. It is expected that the report's concluding statement will find no significant impact.

- The design team is in the pre-design stage.
- The engineers are currently in the design stage for utility relocation in the project's vicinity.
- The Section 106 review as required by the Secretary of the Interior under the Historic Preservation Act is underway and will develop a Memorandum of Agreement in June 2003, which will address issues regarding the design details. The Section 106 review occurs when a project utilizing federal funds may have an effect upon natural, environmental, or cultural resources and looks at mitigation of any adverse effects to those resources.
- $1.5 million is expected to be obligated at the end of August or early September 2003 to start the utility relocation on Pennsylvania Avenue and at the north ends of Jackson and Madison Places.
- Arrangements have already been made for procurement of the trees to be used on the Avenue since it will require root and limb pruning over two calendar years prior to installation on the Avenue. The trees will be installed after inaugural events in the spring of 2005.
- Approximately, $2,675,000 has been obligated to date (under contract). The remaining $3,685,000 will be obligated within the next six months to have the construction contract awarded by the end of September or early October 2003.

QUESTION 46: How much funding is requested for this project in FY 2004, and where is it located in the budget?

RESPONSE: $15 million has been set aside under the Department of the Interior bill for FY 2004. However, discussions have been held between the Federal Highway Administration and EOP staff to make the money available for contract award this fiscal year. Discussions have included placing FY 2004 monies into the FY 2003 supplemental appropriation. With the highway legislation pending, there could be a delay in getting the funding moved into the supplemental appropriation to allow the project to get underway.

QUESTION 47: What is the schedule for studies of traffic congestion mitigation alternatives in the vicinity of the White House, as funded in FY 2003?

RESPONSE: The project administrators met with EOP staff on May 8, 2003 to begin outlining the scope of the study and a plan to involve the District of Columbia government and neighborhood stakeholders. A schedule for the study has not been developed, but will be prepared in the next three months.

REV_00169613

Remote Data Center (POC – Carlos Solari)

QUESTION 48: What is the status of establishment today of the remote data center?

RESPONSE: The remote data center project is on schedule and on budget. The project began last summer by conducting a systems development lifecycle analysis to determine and recommend the location for the facility. From this analysis, EOP decided on building the data center at a hardened FEMA facility located in Maryland. The project is being co-managed with FEMA and was established with three phases: (1) infrastructure build-out of the hardened facility (power, air handlers, etc), (2) construction of the data center itself (cabling, raised flooring, etc), and (3) the transition of EOP data systems (telecommunications, servers, etc). The project is approximately halfway through completion for the first two phases with a scheduled opening (initial operational capability) date of September 2003. The transition phase is on schedule preparing the systems and will proceed to begin the transfer September 2003 – with a planned transition of 12 months for all systems. The following chart shows the funding of the remote data center from FY 2002 thru FY 2004.

	FY 2002	FY 2003	FY 2004
CIP	$15,000,000	$5,000,000	$8,403,000
S&E	$ - 0 -	$ - 0 -	$ - 0 -
Total	$15,000,000	$5,000,000	$8,403,000

QUESTION 49: Last year, you estimated annual operating costs of this facility to be $7,500,000 (p. 88). Is that your current estimate?

RESPONSE: Last year OA provided a rough estimate of $7,500,000 for the future annual operating cost of the new data center facility. This was based upon the following estimated costs:

- $1,500,000 in communications to maintain connectivity for the EOP,
- $600,000 in space rental,
- $450,000 for hardware maintenance,
- $1,300,000 for software maintenance,
- $2,600,000 for contractor services,
- $300,000 for supplies/components,
- $75,000 for equipment, and
- $675,000 in salaries/benefits.

While most of these estimates remain valid, OA must revise the estimate for space rental to $1,258,000, bringing the revised estimated annual operating costs for the facility to $8,158,000.

REV_00169614

QUESTION 50: Your FY 2004 request includes $8,403,000 to transition the remote data center to full operational status (p. 75). What specific activities are required in FY 2004 to accomplish this? Can you provide a breakdown of the FY 2004 request consistent with these activities?

RESPONSE: The following table lists the FY2004 CIP funds requested for the completion of the remote data center construction and initial year operating costs.

Object Class	Object Class Title	Requested Funding ($ in 000)	Description
23.0	Space Rental Payments	$1,258	This estimate reflects $1,258,000 in rental for the offsite data center and will be the initial rent to be paid for the offsite data center. This cost was previously funded from emergency funds.
23.3	Communications, utilities, and miscellaneous charges	$4,420	$4,420,000 is for CIP networking/ telecommunications projects at the offsite data center. These projects include funds for a tap off of telecommunications lines, two additional DS-3 data paths, two T-1 lines, and backup to support required communications bandwidth, and availability requirements.
25.2	Other Services	$2,700	This estimate reflects Priority System Disaster Recovery costs, Secondary Systems Disaster Recovery costs, Hardware and Software for the Disaster Recovery Site, and Hardware and Software upgrades to support the data center move.
26.0	Supplies and materials	$25	The estimate reflects $25,000 in additional supplies necessary for start-up operations at the offsite data center. This will include start up costs for office equipment used for the new office spaces.
Total FY2004 Data Center CIP Request		**$8,403**	

President's Travel (POC - Rothley Howard)

QUESTION 51: Please update the information on pages 89 through 94 of last year's hearing record concerning travel by the President and the First Lady by continuing data from the final entry of last year's record to the present time.

RESPONSE: The following charts summarize Presidential, First Lady and Vice Presidential travel for Fiscal Years 2002 and 2003 (to date). They also reflect costs currently in the accounting system. Several of the trips listed below are awaiting additional costs, therefore, final costs may vary.

REV_00169615

Presidential Travel FY 2002					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
3-Oct	New York, NY	100%		6	$8,060
7-Oct	Emmitsburg, MD	100%		4	$1,988
17-Oct	Sacramento, CA	100%		5	$16,678
30-Oct	New York, NY	100%		4	$13,043
8-Nov	Atlanta, GA	100%		6	$17,920
10-Nov	New York, NY	100%		0	$6,525
14-Nov	Crawford. TX	100%		4	$44,535
21-Nov	Fort Campbell, KY	100%		3	$9,114
27-Nov	Salt Lake City, UT	100%		7	$4,328
1-Dec	Philadelphia, PA	100%		5	$13,669
4-Dec	Orlando, FL	70%	30%	7	$13,371
7-Dec	Norfolk, VA	100%		5	$5,271
11-Dec	Citadel, SC	100%		4	$11,498
26-Dec	Waco, TX	100%		7	$12,667
4-Jan	Austin, TX	100%		1	$5,356
5-Jan	Ontario, CA	100%		4	$10,240
5-Jan	Portland, OR	100%		7	$10,870
8-Jan	Hamilton, OH	100%		6	$6,588
8-Jan	Boston, MA	100%		6	$11,159
8-Jan	Portsmith, NH	54%	46%	4	$6,594
9-Jan	Washington, DC	100%		0	$0
11-Jan	Conshohoken, PA	100%		6	$5,321
14-Jan	Moline, IL	100%		6	$7,570
14-Jan	Springfield, MO	100%		4	$6,569
14-Jan	New Orleans, LA	100%		21	$32,494
22-Jan	Charleston, WV	71%	29%		$6,086
25-Jan	Portland, ME	100%		5	$7,698
30-Jan	Winston-Salem, NC	65%	35%	0	$8,799
30-Jan	Daytona Beach, FL	100%		16	$12,874
31-Jan	Atlanta, GA	100%		5	$13,869
1-Feb	White Sulpher Springs, WV	100%		4	$4,273
4-Feb	Eglin AFB,FL	100%		4	$7,666
5-Feb	Pittsburgh ,PA	100%		5	$7,918
6-Feb	New York, NY	54%	46%	6	$6,940
8-Feb	Denver, CO	100%		4	$7,644
8-Feb	Salt Lake City, UT	100%		13	$12,877

REV_00169616

8-Feb	Jackson, WY	100%		7	$11,182
11-Feb	Milwaukee, WI	48%	52%	1	$9,360
16-Feb	Anchorage, AK	40%	60%	1	$9,181
27-Feb	Charlotte, NC	52%	48%	1	$7,048
1-Mar	Des Moines, IA	53%	47%	**5**	$3,546
3-Mar	Minneapolis, MN	50%	50%	2	$7,127
8-Mar	St. Petersburg, FL	57%	43%	2	$6,093
12-Mar	Philadelphia, PA	100%		9	$11,102
15-Mar	Fayetteville, NC	100%		6	$1,218
16-Mar	Chicago, IL	100%		4	$11,217
18-Mar	St. Louis, MO	65%	35%	5	$5,835
21-Mar	El Paso, TX	100%		6	$129
27-Mar	Greenville, SC	45%	55%	5	$-3,217
27-Mar	Atlanta, GA	52%	48%	3	$166
27-Mar	Waco, TX	100%		8	$19,804
28-Mar	Dallas, TX	20%	80%	4	$224
2-Apr	Philadelphia, PA	59%	41%	6	$12,239
4-Apr	Waco, TX	100% State		0	$0
8-Apr	Knoxville, TN	100%		5	$743
9-Apr	Bridgeport, CT	52%	48%	6	$7,152
15-Apr	Cedar Rapids, IA	59%	41%	5	$7,819
17-Apr	Lexington, VA	100%		5	$8,505
22-Apr	Saranac, NY(Wilmington, NY)	100%		4	$13,029
19-Apr	Beltsville, MD	100%		0	$0
24-Apr	Sioux Falls, SD	45%	55%	5	$8,249
24-Apr	Waco, TX	100%		12	$13,741
29-Apr	Los Angeles, CA	48%	52%	17	$10,907
29-Apr	Albuquerque, NM	54%	46%	5	$7,054
30-Apr	San Jose, CA	42%	58%	6	$6,632
6-May	Southfield, MI	100%		5	$9,857
8-May	Milwaukee, WI	100%		6	$10,952
8-May	Lacrosse, WI	100%		7	$8,760
10-May	Columbus, OH	59%	41%	5	$4,992
13-May	Chicago, IL	42%	58%	6	$1,743
20-May	Miami, FL	42%	58%	7	$8,587
1-Jun	West Point, NY	100%		5	$13,593
3-Jun	Little Rock, AR	100%		6	$10,094
7-Jun	Des Moines, IA	100%		6	$13,895
11-Jun	Kansas City, MO	58%	42%	7	$8,179
14-Jun	Columbus,OH	100%		6	$4,031

REV_00169617

14-Jun	Houston, TX	45%	55%	**5**	$9,739
14-Jun	Waco, TX	100%		3	$14,955
17-Jun	Atlanta, GA	100%		5	$8,663
21-Jun	Orlando, FL	48%	52%	7	$12,111
24-Jun	Newark, NJ	48%	52%	7	$4,974
25-Jun	Phoenix, AZ	100%		0	$584
1-Jul	Cleveland, OH	100%		5	$7,823
2-Jun	Milwaukee, WI	100%		5	$6,411
4-Jul	Ripley, WV	100%		6	$7,129
5-Jul	Kennebunkport, MN	100%		0	$34,245
9-Jul	New York City, NY	100%		5	$7,706
11-Jul	Minneapolis, MN	62%	38%	7	$13,709
15-Jul	Birmingham, AL	62%	38%	6	$5,747
18-Jul	Troy, MI	100%		0	$3,197
19-Jul	Fort Drum, NY	100%		6	$7,133
22-Jul	Argonne, IL	100%		7	$10,510
25-Jul	Greensboro, NC	62%	38%	7	$5,342
29-Jul	Charleston, SC	59%	41%	5	$7,149
2-Aug	Kennebunkport, MN	75%	25%	14	$34,291
5-Aug	Pittsburg, PA	56%	44%	7	$11,138
6-Aug	Waco, TX	100%		21	$107,331
7-Aug	Jackson, MS	76%	24%	6	$9,750
13-Aug	Economic Forum Waco, TX	100%		0	$201
14-Aug	Milwaukee, WI	42%	58%	5	$5,217
14-Aug	Des Moines, IA	42%	58%	23	$6,630
14-Aug	South Dakota	100%		4	$8,029
16-Aug	Rapid City, SD	58%	42%	1	$65
22-Aug	Medford, OR	100%		5	$10,226
22-Aug	Portland, OR		100%	0	$2,429
23-Aug	Dana Point, CA	50%	50%	20	$21,873
23-Aug	Stockton, CA	38%	62%	5	$4,565
24-Aug	Thousand Oaks/Westwood, CA		100%	0	$955
24-Aug	Santa Anna, CA	100%			$0
24-Aug	Las Cruces, NM	42%	58%	6	$4,381
29-Aug	Oklahoma City, OK		100%	0	$0
29-Aug	Little Rock, AR	58%	42%	5	$10,649
2-Sep	Pittsburgh, PA	100%		4	$11,098
5-Sep	Louisville, KY	59%	41%	**7**	$8,684
5-Sep	South Bend, IN	42%	58%	3	$5,105
6-Sep	Delu	100%		0	$1,346

REV_00169618

6-Sep	Minneapolis, MN	100%		5	$3,387
9-Sep	Detroit, MI	100% State		0	$1,804
11-Sep	Somerset County, PA	100%		6	$1,611
11-Sep	New York City, NY	100%		8	$6,665
16-Sep	Davenport, IA	48%	52%	6	$6,573
17-Sep	Nashville, TN	38%	62%	6	$1,573
23-Sep	Trenton, NJ	38%	62%	5	$5,053
26-Sep	Houston, TX		100%	0	$0
26-Sep	Waco, TX	100%		9	$19,792
27-Sep	Denver, CO		100%	0	$0
27-Sep	Flagstaff, AZ		100%	0	$0
27-Sep	Phoenix, AZ		100%	0	$0
	Total Presidential FY 2002 Costs Through 09/30/02				**$1,146,388**

First Lady Travel FY 2002					
		Status		# of EOP	White House
Date	Destination	Official	Political	Staff	Travel Cost
3-Oct	Cincinnati, OH	100%		0	$339
16-Oct	Newark, NJ	100%		0	$1,790
18-Oct	Atlanta, GA	100%		1	$1,742
19-Oct	Baton Rouge, LA	100%		0	$1,568
30-Oct	New York, NY	100%		3	$1,652
16-Nov	Austin, TX	100%		1	$7,300
9-Jan	Topeka, KS	100%		0	$1,566
10-Jan	Houston, TX	100%		0	$1,915
11-Jan	Austin, TX	100%		0	$780
21-Jan	Atlanta, GA	100%		0	$1,060
10-Feb	Los Angeles, CA	100%		1	$5,021
11-Feb	Hershey, PA	100%		0	$0
8-Mar	New York, NY	100%		3	$6,218
11-Mar	Richmond, VA	100%		4	$1,659
4-Apr	Dallas, TX	100%		1	$35
11-Apr	Hershey, PA	100%		1	$899
30-Apr	Little Rock, AR	100%		2	$1,839
30-Apr	Dallas, TX	100%		3	$365
9-May	New York, NY	100%		0	$1,898
28-May	Austin, TX	100%		1	$3,379
10-Jun	Boise, ID	100%		1	$3,456
11-Jun	Salt Lake City, UT	100%		1	$1,187

REV_00169619

11-Jun	San Francisco	61%	39%	0	$5,237
12-Jun	Austin, TX	100%		1	$3,693
6-Jun	Crawford, TX	100%		0	$0
20-Jun	Boston, MA	100%		1	$1,674
17-Jun	Cinncinati, OH	100%		2	$2,309
22-Jun	Midland, TX	100%		0	$0
7-Jul	Kennebunkport, ME	100%		0	$0
12-Jul	Norfolk, VA	100%		2	$969
18-Jul	Philadelphia, PA	100% State		0	$0
24-Jul	New York, NY			2	$236
2-Aug	Dallas, TX	100%		1	$1,773
3-Aug	Lubbock, TX	100%		4	$3,571
14-Aug	Austin, TX	100%		2	$3,231
22-Aug	Austin, TX	100%		2	$3,501
11-Sep	New York, NY	100%		4	$4,241
25-Sep	Greenville, MS	100%		0	$1,591
27-Sep	Waco, TX	100%		1	105
	Total First Lady FY 2002 Costs through 09/30/02				**$77,799**

Vice Presidential Travel FY 2002					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
7-Oct	Smithers, BC *(can./Adv. only)*			1	$449
18-Oct	New York, NY	100%		4	$2,063
21-Oct	Washington, DC	100%			$378
28-Oct	Poughkeepsie, NY	100%		5	$3,885
30-Oct	White Sulphur Springs, WV				$200
4-Nov	Pierre/Gettysburg, SD	100%		7	$5,676
2-Nov	Dallas, TX *(can. trip)*	100%		1	$115
2-Nov	Jackson, WY	100%		2	$11,195
27-Nov	Salt Lake City, UT	100%		3	$526
29-Nov	New York, NY	100%		17	$14,413
6-Dec	Dallas, TX		100%	9	$1,776
7-Dec	Oklahoma City, OK		100%	3	$4
14-Dec	Albany, GA	100%		9	$5,214
17-Dec	Jackson, WY *(no trip listed/noTA)*				$0
19-Dec	Trappe, MD	100%		9	$4,217
22-Dec	Jackson, WY	100%		14	$55,257
11-Jan	Albany, GA	100%		8	$5,447

REV_00169620

25-Jan	Cincinnati, OH		100%	4	$0
30-Jan	White Sulpher Springs, WV	100%		8	$4,353
6-Feb	Louisville, KY		100%	9	$5,392
6-Feb	Evansville, IN		100%		$0
7-Feb	Hopkinsville, KY	17%	83%	9	$700
15-Feb	Armstrong, TX	100%		1	$275
17-Feb	Carlsbad, CA	100%		1	$30,757
19-Feb	Fullerton, CA	100%			$2,700
19-Feb	Los Angeles, CA	15%	85%	2	$5,698
20-Feb	Sacramento, CA		100%	2	$2,514
20-Feb	Fresno, CA *(Mix?)*	100%			$817
20-Feb	Pleasantville, CA	100%			$0
21-Feb	San Jose, CA *(Mix)*	100%		2	$9,783
24-Feb	Salt Lake City, UT	100%		7	$9,544
25-Feb	Cheyenne, WY	30%	70%	27	$9,672
25-Feb	Jackson, WY	100%		4	$20,789
28-Mar	Jackson, WY	100%		1	$13,492
3-Apr	Denver, CO		100%	2	$447
4-Apr	Jackson, MS		100%	3	$1,047
4-Apr	Kansas City, MO		100%	1	$0
4-Apr	Fayetteville, AR		100%	1	$0
5-Apr	Dallas, TX	100%		21	$4,034
12-Apr	Charleston, WV		100%		$0
12-Apr	Richmond, VA		100%		$0
15-Apr	Grand Rapids, MI	100%		10	$5,770
15-Apr	Collinsville, IL		100%	1	$221
19-Apr	Allentown, WV		100%		$0
19-Apr	Islandia, NY		100%		$126
22-Apr	Ft. Lauderdale, FL		100%		$0
24-Apr	Houston, TX *(State-sponsored)*	100%			$0
25-Apr	Crawford, TX *(State-sponsored)*	100%			$0
2-May	Lansing, MI	100%		13	$4,903
2-May	South Bend, IN		100%	1	$57
9-May	Minneapolis, MN		100%		$0
11-May	Jackson, WY		100%	4	$666
21-May	Boston, MA		100%		$0
24-May	Jackson, WY	100%		8	$9,641
29-May	Nashville, TN		100%		$0
7-Jun	Harrisburg, PA		100%		$0
14-Jun	Columbia, SC		100%		$3,387

REV_00169621

14-Jun	Dallas, TX	100%		5	$11,223
20-Jun	Dayton, OH		100%		$0
20-Jun	Detroit, MI		100%		$0
21-Jun	Cody, WY	100%		3	$5,270
21-Jun	Beaver Creek, CO	100%		4	$8,941
23-Jun	Portland, OR		100%	7	$3,902
28-Jun	Charlotte, NC		100%		$0
20-Jun	Raleigh, NC		100%		$0
1-Jul	Wichita, KS		100%		$0
1-Jul	Dallas, TX		100%		$0
1-Jul	Jackson, WY	100%		8	$15,034
9-Jul	Ft. Bragg, NC	100%		1	$860
15-Jul	Hartford, CT		100%		$0
17-Jul	Atlanta, GA	100%		1	$1,805
18-Jul	Conshohocken, PA		100%		$0
18-Jul	Pittsburgh, PA		100%		$0
19-Jul	Macon, GA		100%		$0
19-Jul	Houston, TX		100%		$0
22-Jul	Montgomery, AL	100%		6	$5,498
22-Jul	Cape Canaveral, FL	100%		7	$4,072
29-Jul	Des Moines, IA		100%	5	$255
29-Jul	Cedar Rapids, IA		100%		$0
29-Jul	Fargo, ND		100%	5	$255
30-Jul	Jackson, WY	100%		15	$104,430
1-Aug	Meeker, CO	Cancelled		1	$1,287
6-Aug	San Francisco, CA	72%	28%	7	$13,202
7-Aug	Fresno, CA		100%		$0
8-Aug	Salt Lake City, UT		100%		$0
8-Aug	Albuquerque, NM		100%		$0
12-Aug	Minneapolis, MN		100%		$0
12-Aug	Waco, TX	100%		7	$6,757
12-Aug	Detroit, MI		100%		$0
13-Aug	Billings, MT		100%		$0
15-Aug	Montgomery, AL		100%		$0
17- Aug	Jackson, WY			3	$1,306
19-Aug	Big Horn, MT	Cancelled			$0
20-Aug	Waco, TX	100%		1	$1,641
26-Aug	Nashville, TN	53%	47%	3	$4,946
29-Aug	San Antonio, TX	100%		3	$2,518
6-Sep	New York, NY	100%		3	$5,447

REV_00169622

18-Sep	New London, CT		100%		$0
19-Sep	Burlington, VT	12%	88%	1	$437
19-Sep	New York, NY		100%		$0
20-Sep	Casper, WY	63%	37%	3	$4,840
20-Sep	Jackson, WY	100%		7	$1,830
23-Sep	Kansas City, MO	100%			$0
26-Sep	Memphis, TN		100%		$0
26-Sep	Dallas, TX		100%		$0
27-Sep	Boise, ID		100%	3	$462
26-Sep	Jackson. WY	100%		8	$11,395
27-Sep	Laramie, WY	100%		4	$761
	Total Costs through 9/30/02				**$475,974**

Presidential Travel FY 2003					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
1-Oct	Tampa, FL				$1,032
2-Oct	Baltimore, MD		100%	0	$0
4-Oct	Boston, MA		100%	0	$0
4-Oct	Kennebunkport, ME	100%		17	$37,055
5-Oct	Manchester, NH	32%	68%	4	$5,704
7-Oct	Cincinnati, OH	100%		10	$20,182
8-Oct	Knoxville, TN		100%	0	$798
14-Oct	Detroit, MI		100%	1	$677
17-Oct	Daytona Beach, FL	59%	41%	6	$9,308
17-Oct	Atlanta, GA		100%	0	$0
18-Oct	Rochester, MN		100%	0	$0
18-Oct	Springfield, MO		100%	0	$0
22-Oct	Chester County, PA		100%	0	$0
22-Oct	Bangore, ME		100%	0	$0
24-Oct	Charlotte, NC		100%	0	$0
24-Oct	Columbia, SC		100%	0	$0
24-Oct	Auburn, AL		100%	0	$0
24-Oct	Waco, TX (State Dept.)	100%		2	$2,168
26-Oct	Cabo San Lucas, Mex (State)	100%		0	$0
27-Oct	Phoenix, AZ (RON)		100%	4	$817
28-Oct	Alamogordo, NM		100%	0	$0
28-Oct	Denver, CO		100%	0	$0
31-Oct	Aberdeen, SD		100%	0	$0

REV_00169623

31-Oct	Southbend, IN		100%	0	$0
31-Oct	Charleston, WV		100%	0	$0
1-Nov	Louisville, KY		100%	0	$0
1-Nov	Portsmouth, NH		100%	0	$0
2-Nov	Johnson City, TN		100%	0	$0
2-Nov	Atlanta, GA		100%	0	$0
2-Nov	Tampa Bay, FL (RON)		100%	0	$0
3-Nov	Springfield, IL		100%	0	$0
3-Nov	Minneapolis, MN		100%	0	$0
3-Nov	South Falls, SD		100%	0	$0
3-Nov	Cedar Rapids, IA (RON)		100%	1	$738
4-Nov	St. Louis, MO		100%	0	$0
4-Nov	Bentonville, AR		100%	0	$0
4-Nov	Dallas, TX		100%	0	$0
4-Nov	Waco, TX (RON)	100%		18	$9,387
27-Nov	Waco, TX (RON)	100%		20	$21,899
3-Dec	Shreveport, LA		100%	0	$0
3-Dec	New Orleans, LA		100%	0	$0
12-Dec	Philadelphia, PA	100%		5	$10,793
26-Dec	Waco, TX (RON)	100%		13	$38,144
3-Jan	Ft. Hood, TX	100%		2	$1,777
7-Jan	Chicago, IL	100%		7	$10,516
16-Jan	Scranton, PA	100%		4	$11,184
22-Jan	St. Louis, MO	100%		7	$12,521
29-Jan	Grand Rapids, MI	100%		8	$12,918
31-Jan	Camp David, MD	100%		5	$646
4-Feb	Houston, TX	100%		6	$8,141
9-Feb	White Sulphur Springs, WV	100%		5	$11,968
10-Feb	Nashville, TN	100%		6	$13,069
13-Feb	Jacksonville, FL	100%		6	$15,211
20-Feb	Atlanta, GA	100%		7	$4,646
20-Feb	Waco, TX (State)	100%		1	$945
4-Mar	Washington, DC	100%		0	$0
5-Mar	Camp Lejeune, NC	100%		3	$5,218
26-Mar	Camp David, MD	100%		7	$350
26-Mar	Tampa Bay, FL	100%		7	$4,541
31-Mar	Philadelphia, PA	100%		5	$1,726
3-Apr	Camp Lejeune, NC	100%		8	$6,968
16-Apr	St. Louis, MO	100%		7	$1,095
16-Apr	Waco, TX	100%		16	$3,972

REV_00169624

20-Apr	Ft. Hood, TX	100%		1	$0
24-Apr	Canton, OH	100%			$0
24-Apr	Lima, OH	100%			$0
28-Apr	Dearborn, MI	100%			$0
	Total Costs Through 09/30/03				**$286,114**

First Lady Travel FY 2003					
		Status		Number	White House
Date	Destination	Official	Political	Of Staff	Travel Cost
1-Oct	Tampa, FL	69%	31%	6	$820
4-Oct	Kennebunkport, ME			2	$210
5-Oct	Portland, ME	100%		3	$1,343
7-Oct	New York, NY	74%	26%	4	$5,625
16-Oct	Dayton, OH	100%		4	$2,281
17-Oct	Mobile, AL	77%	23%	8	$4,226
21-Oct	Boston, MA	100%		4	$6,528
23-Oct	St. Louis, MO	65%	35%	5	$5,610
2-Nov	Atlanta, GA	100%		2	$3,729
2-Nov	Raleigh, NC		100%		$0
2-Nov	Nashua, NH		100%		$0
2-Nov	Des Moines, IA		100%		$0
2-Nov	Minneapolis, MN		100%		$0
2-Nov	Sioux Falls, SD (RON)		100%		$0
3-Nov	Rapid City, SD		100%		$0
4-Nov	Waco, TX			1	$112
12-Nov	New York, NY				$295
16-Jan	New York, NY			1	$547
20-Jan	New York, NY			2	$5,668
4-Feb	Los Angeles, CA			3	$2,369
13-Feb	New York, NY			6	$5,163
19-Feb	Dallas, TX			2	$353
19-Feb	New Orleans, LA			2	$4,883
13-Mar	Austin, TX (RON)		100%	0	$0
8-May	Page, AZ	100%			
8-May	Kayenta, AZ	100%			

REV_00169625

8-May	Phoenix, AZ	100%			
9-May	Santa Fe, NM	100%			
	Total Costs through 09/30/03				**$49,762**

Vice Presidential Travel FY 2003					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
19-Sep	Burlington, VT **FY-02*	12%	88%	1	$21
4-Oct	Atlanta, GA		100%		$0
4-Oct	Warner Robbins, GA		100%		$0
4-Oct	Augusta, GA		100%		$0
7-Oct	Babine, BC, Canada	100%			$0
11-Oct	Colorado Springs, CO	79%	21%	7	$4,738
14-Oct	Roswell, NM		100%		$0
14-Oct	Tulsa, OK		100%		$0
14-Oct	Phoenix, AZ		100%		$0
14-Oct	Midwest City, OK	10%	90%		$0
21-Oct	Portland, ME		100%		$0
21-Oct	Newark, NJ		100%		$0
24-Oct	Dalton, GA	83%	17%	2	$374
24-Oct	Tampa, FL	76%	24%		$939
25-Oct	Philadelphia, PA	100%		1	$1,317
25-Oct	Reading, PA		100%		$1,416
29-Oct	Wilmington, NC		100%	1	$207
30-Oct	Chattanooga, TN		100%		$0
30-Oct	Little Rock, AR		100%		$0
30-Oct	Houston, TX		100%	3	$1,234
31-Oct	Cape Girardeau, MO		100%		$0
31-Oct	Sioux City, IA		100%		$0
31-Oct	Indianapolis, IN		100%		0
1-Nov	Duluth, MN		100%		$0
1-Nov	Rapid City, SD		100%		$0
1-Nov	Denver, CO		100%	1	$1,657
2-Nov	Salt Lake City, UT		100%		$0
2-Nov	Springfield, MO		100%		$0
2-Nov	Jackson Hole, WY		100%	3	$1,369
2-Nov	Albuquerque, NM		100%		$0

REV_00169626

3-Nov	Cheyenne, WY		100%		$0
3-Nov	Gettysburg, SD	100%		1	$6,096
16-Nov	Latrobe, PA	100%		2	$1,535
18-Nov	Monroe, LA		100%		$0
18-Nov	Lafayette, LA		100%		$0
22-Nov	Trappe, MD	100%		4	$594
29-Nov	Jackson Hole, WY	100%		5	$1,135
29-Nov	Casper, WY	100%		2	$1,948
2-Dec	Denver, CO	100%		3	$2,308
5-Dec	Stuttgart, AR	100%		4	$1,928
14-Dec	Jackson Hole, WY	100%		7	$9,417
21-Dec	Jackson Hole, WY	100%		6	$17,927
17-Jan	Albany, GA	100%		4	$3,427
24-Jan	Trappe, MD *(cancelled trip)*				$0
31-Jan	Armstrong, TX	100%		6	$2,002
3-Feb	College Station, TX				$0
6-Feb	White Sulphur Springs, WV	100%		2	$806
9-Feb	Honolulu, HI	100%		8	$1,440
14-Mar	Jackson Hole, WY *(Adv only)*	100%			$0
17-Feb	Jackson Hole, WY	100%		9	$8,137
8-Apr	New Orleans, LA	100%		11	$2,941
22-Apr	Jackson Hole, WY	100%		6	$1,399
6-May	Dallas, TX	100%			$0
	Total Costs through 5/16/03				**$76,312**

Summary: Presidential, First Lady and Vice Presidential travel for FY02 and FY03 (to date).

Principal	Fiscal Year 2002	Fiscal Year 2003 (To date)
President of the United States	**$1,146,388**	**$286,114**
First Lady of the United States	**$77,799**	**$49,762**
Vice President of the United States	**$475,974**	**$76,312**
Totals	**$1,700,161**	**$412,188**

REV_00169627

Presidential Staff Travel (POC – Rothley Howard)

QUESTION 52: Please provide a listing of staff travel not in support of the President for fiscal year 2002 and thus far in fiscal year 2003. For each entry, please include the name of traveler, the destination and purpose of trip, the number of days in travel status, and the trip cost.

RESPONSE: The following tables provide the FY 2002 and year to date FY 2003 staff travel information for the White House Office and the Office of the Vice President.

White House Office FY 2002 Staff Travel					
TRAVELER	**PURPOSE**	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Medina, Sonya	Meetings	Dallas, TX	$419.00	03/15/01	2
McMarlin, Doug	Official	Cincinnati, OH	$115.00	10/01/01	2
Koro	Official	Sacramento, CA	$483.00	10/11/01	11
Carlson-Thies, Stanley	Speaking Engagement	Atlantic City, NJ	$442.87	10/15/01	1
Goldman, Adam	Meetings	Los Angeles, CA	$630.75	10/17/01	4
Hawkins, Albert	Meetings	Reykjavik	$3,699.40	10/20/01	4
Galen, Reed	Official	Manhattan, NY	$299.00	10/25/01	6
Carlson-Thies, Stanley	Speaking Engagement	Austin, TX	$442.53	10/26/01	1
Baralles, Ruben	Speaking Engagement	Oakland, CA	$1,231.00	10/28/01	2
Rorriguez, Noelia	Official	Manhattan, NY	$34.50	10/30/01	1
Moss, Sarah	Official	Manhattan, NY	$34.50	10/30/01	1
Campbell, Thomas	Accompany a Cabinet Head	Boston, MA	$261.50	10/31/01	2
Bartolomucci, H	Official	Lynchburg, VA	$52.93	10/31/01	2
Carlson-Thies, Stanley	Speaking Engagement	Silver Spring, MD	$9.66	11/01/01	1
Lisaius, Kenneth	Meetings	Los Angeles, CA	$561.14	11/02/01	2
Wendel, Matthew	Official	Crawford, TX/Austin, TX	$532.50	11/07/01	11
Carlson-Thies, Stanley	Speaking Engagement	Atlanta, GA	$542.93	11/09/01	2
Henick, Henry	Meetings	Los Angeles, CA	$1,661.14	11/10/01	2
Smith, Matthew	Official	Manhattan, NY	$401.11	11/10/01	1
Bartolomucci, H	Official	Lynchburg, VA	$52.93	11/14/01	2
Giles	Official	Manhattan, NY	$382.24	11/15/01	1
Wilkinson, James	Official	Waco, TX	$60.00	11/16/01	2
Burkhart, Shannon	Official	Waco, TX	$60.00	11/16/01	2
Kleppee, Elizabeth	Official	Salt Lake City, UT	$63.00	11/27/01	1

REV_00169628

Baralles, Ruben	Official	Houston, TX/Sacramento, CA/Santa Fe, NM	$1,524.32	11/28/01	2
Dunn, Debra	Official	Manhattan, NY	$34.50	11/29/01	1
Thompson	Official	Manhattan, NY	$34.50	11/29/01	1
Cobb,Robert	Meetings	Virginia Beach, VA	$298.13	12/04/01	1
Baralles, Ruben	Meetings	Atlanta, GA	$496.00	12/05/01	1
Bartolomucci, H	Official	Lynchburg, VA	$52.93	12/05/01	2
Irastroza, Hector	Meetings	Philadelphia, PA	$202.00	12/05/01	1
Blalock, K	Speaking Engagement	Atlanta, GA	$428.50	12/06/01	1
Goeglein, Tim	Speaking Engagement	Ft. Wayne, IN	$28.00	12/06/01	1
Bartolomucci, H	Official	Lynchburg, VA	$52.93	12/12/01	1
Walker, Helegard	Meetings	Lynchburg, VA	$48.30	12/16/01	2
Baralles, Ruben	Official	Sacramento, CA	$816.50	12/18/01	2
Wendel, Matthew	Official	Camp David, MD	$495.00	12/21/01	16
Bartolomucci, H	Official	Lynchburg, VA	$53.93	12/24/01	1
Hagin, Joseph	Official	Waco, TX	$375.00	12/26/01	12
Christensen	Official	Minneapolis, MN	$383.34	12/27/01	5
Wendel, Matthew	Official	Camp David, MD	$45.00	12/28/01	1
Gonzales,Alberto	Speaking Engagement	Austin, TX	$58.50	01/03/02	3
Purcell, Christopher	Official	Hamilton, OH	$85.00	01/06/02	2
Berenson, Brad	Meetings	Lynchburg, VA	$48.30	01/07/02	2
Hagin, Joseph	Official	Salt Lake City, UT	$175.51	01/09/02	1
Baralles, Ruben	Speaking Engagement	Las Vegas, NV	$95.00	01/10/02	6
Healy, Erin	Official	Anchorage, AK	$63.00	01/14/02	1
Walker, Helegard	Meetings	Lynchburg, VA	$48.30	01/14/02	2
Poole, Kelly	Official	Mamphis, TN	$57.00	01/14/02	1
Jablonka, Chris	Official	New Orleans, LA	$63.00	01/14/02	1
Faraley, Jennifer	Speaking Engagement	Sacramento, CA	$263.00	01/17/02	1
Carlson-Thies, Stanley	Speaking Engagement	Dallas, TX	$931.52	01/18/02	2
Jewett, Eric	Official	Portland, ME	$171.00	01/21/02	1
O'Brien	Official	Atlanta, GA	$247.00	01/25/02	6
Baralles, Ruben	Meetings	Manhattan, NY	$524.39	01/25/02	1
O'Keefe	Official	Winston-Salem. NC	$247.00	01/25/02	6
Berenson, Brad	Meetings	Lynchburg, VA	$51.10	01/28/02	2
Mollman, Marcus	Meetings	Salt Lake City, UT	$1,726.25	01/28/02	31
Carlson-Thies, Stanley	Speaking Engagement	Chicago, IL	$402.42	01/30/02	1
Newstead, Jennifer	Official	Lynchburg, VA	$52.93	01/30/02	2
Ecklekamp	Official	Salt Lake City, UT	$357.00	02/01/02	8
Hughes, William	Official	Salt Lake City, UT	$357.00	02/01/02	8

REV_00169629

Guiterrez	Official	Denver, C0	$229.00	02/04/02	4
Becker, Kathleen	Official	Jackson, WY	$453.78	02/04/02	6
Walker, Helegard	Meetings	Lynchburg, VA	$51.10	02/04/02	2
Jewett, Eric	Official	Milwaukee, WI	$231.00	02/06/02	5
Baralles, Ruben	Meetings	Albuquerque, NM	$605.78	02/07/02	3
Jablonka, Chris	Official	Denver, CO/Jackson, WY/ Idaho Falls, ID	$183.14	02/07/02	3
Brand, Rachel	Meetings	New Haven, CT	$223.61	02/07/02	1
Gottesman, Blake	Official	Waco, TX	$75.00	02/08/02	2
Ecklekamp	Official	Anchorage, AK	$535.50	02/11/02	8
Bartolomucci, H	Official	Lynchburg, VA	$54.93	02/11/02	1
Gonzales,Alberto	Speaking Engagement	Denver, CO	$41.00	02/12/02	1
Francisco, Noel	Official	Lynchburg, VA	$52.93	02/13/02	2
Spagnoli, Debra	Speaking Engagement	Naples, FL	$0.00	02/14/02	3
Walker, Helegard	Speaking Engagement	Charlottesville, VA	$87.60	02/16/02	1
Carlson-Thies, Stanley	Speaking Engagement	Dallas, TX	$667.00	02/18/02	1
Moss, Sarah	Official	Jackson, WY/Los Angeles, CA	$200.00	02/18/02	4
Baralles, Ruben	Meetings	Kansas City, KS	$650.57	02/18/02	1
Ciccone, Christie	Accompany a USG Delegation	Rome, ITA	$1,380.48	02/18/02	5
Baralles, Ruben	Meetings	Key West, FL	$1,720.82	02/21/02	3
Baralles, Ruben	Meetings	Las Vegas, NV	$426.01	02/21/02	2
Walker, Helegard	Meetings	Lynchburg, VA	$52.93	02/27/02	2
Spagnoli, Debra	Speaking Engagement	Los Angeles, CA	$339.00	02/28/02	2
Wendel, Matthew	Official	Camp David, MD	$75.00	03/01/02	2
Goeglein, Tim	Speaking Engagement	Hartford, CT	$77.00	03/01/02	1
Burke, John	Speaking Engagement	Jackson, MS	$10.00	03/01/02	4
Berenson, Brad	Meetings	Lynchburg, VA	$52.93	03/04/02	2
Wendel, Matthew	Official	Camp David, MD	$75.00	03/05/02	2
Bartolomucci, H	Official	Lynchburg, VA	$55.93	03/06/02	1
Hughes, Karen	Speaking Engagement	Palm Springs, CA	$1,113.92	03/07/02	1
Berenson, Brad	Meetings	Lynchburg, VA	$52.93	03/08/02	1
Colby, Chad	Official	Norfolk, VA	$209.66	03/08/02	3
Poole, Kelly	Official	Richmond, VA	$208.20	03/08/02	3
Harden, Alison	Official	Richmond, VA	$161.37	03/08/02	3
Hanusa, Mary Ann	Official	College Station, TX	$1,624.41	03/09/02	4
Chapman	Official	Fayetteville, NC	$153.00	03/11/02	4

REV_00169630

Francisco, Noel	Official	Lynchburg, VA	$52.93	03/11/02	2
Ecklekamp	Official	St. Louis, MO	$299.00	03/13/02	6
Zanca, Bruce	Meetings	Washington DC	$315.55	03/15/02	1
Langley	Official	El Paso, TX	$247.00	03/16/02	6
O'Keefe	Official	Atlanta, GA	$265.00	03/22/02	6
Brand, Rachael	Meetings	Cedar Rapids, IA	$445.20	03/24/02	1
Wendel, Matthew	Official	Austin, TX/Waco, TX	$201.00	03/25/02	6
Camp. Elizabeth	Official	Dallas, TX	$161.00	03/25/02	3
Sampson, Kyle	Official	Lynchburg, VA	$52.93	03/25/02	2
Godfrey, Georgia	Official	Atlanta, GA/Waco, TX/Greenville, SC	$135.00	03/27/02	4
Walker, Helegard	Meetings	Lynchburg, VA	$109.93	03/27/02	1
Thompson	Official	Philadelphia, Pa	$375.00	03/27/02	8
Gottesman, Blake	Official	Waco, TX	$135.00	03/27/02	4
Gottesman, Blake	Official	Waco, TX	$165.00	04/04/02	5
Gottesman, Blake	Official	Waco, TX	$135.00	04/04/02	4
Wendel, Matthew	Official	Waco, TX	$105.00	04/04/02	3
Heiligenstein, Anne	Meetings	Boston, MA	$330.82	04/05/02	1
Goeglein, Tim	Speaking Engagement	Orlando, FL/Tampa, FL	$935.14	04/06/02	2
Baralles, Ruben	Meetings	Knoxville, TN	$392.94	04/07/02	1
Baralles, Ruben	Meetings	Denver. CO/Las Vegas, NV	$426.01	04/11/02	2
Wendel, Matthew	Official	Camp David, MD	$135.00	04/12/02	4
Wendel, Matthew	Official	Camp David, MD	$75.00	04/12/02	2
Baralles, Ruben	Meetings	Boston, MA	$150.50	04/15/02	1
Berenson, Brad	Meetings	Lynchburg, VA	$52.93	04/15/02	2
Goeglein, Tim	Meetings	Manhattan, NY	$409.30	04/15/02	1
Carlson-Thies, Stanley	Speaking Engagement	Oakland, CA/Seattle, WA	$956.54	04/16/02	1
Francisco, Noel	Official	Lynchburg, VA	$52.93	04/17/02	2
Sampson, Kyle	Official	Lynchburg, VA	$52.93	04/17/02	2
Wendel, Matthew	Official	Camp David, MD	$75.00	04/19/02	6
Wendel, Matthew	Official	Austin, TX/Waco, TX	$264.00	04/23/02	4
Walker, Helegard	Official	Lynchburg, VA	$52.93	04/23/02	1
Deckard, Josh	Official	Los Angeles, CA/Waco, TX	$223.00	04/24/02	6
McClellan, Scott	Official	Los Angeles, CA/Waco, TX	$223.00	04/24/02	6
Christie, Ronald	Speaking Engagement	Jackson, MS	$453.78	04/26/02	1
Goeglein, Tim	Meetings	Philadelphia, PA	$384.00	04/26/02	1
Rove, Karl	Meetings	San Marcos, TX	$45.00	04/27/02	1
Bartolomucci, H	Official	Lynchburg, VA	$56.93	04/29/02	1
Spagnoli, Debora	Meetings	San Jose, CA	$521.50	04/29/02	1
Spagnoli, Debora	Meetings	Tampa, FL	$537.62	04/30/02	1
Wendel, Matthew	Official	Camp David, MD	$45.00	05/03/02	6

Towey, Jim	Speaking Engagement	Miami, FL	$697.17	05/07/02	1
Francisco, Noel	Official	Lynchburg, VA	$52.93	05/08/02	2
Wendel, Matthew	Official	Camp David, MD	$75.00	05/10/02	12
Johnson, Clay	Speaking Engagement	College Station, TX	$60.00	05/10/02	1
Alberto, Gonzales	Official	Houston, TX	$83.00	05/10/02	2
Sampson, Kyle	Official	Lynchburg, VA	$52.93	05/13/02	2
Benyon, Rebecca	Speaking Engagement	New Orleans, LA	$686.00	05/13/02	1
Walker, Helegard	Official	Lynchburg, VA	$52.93	05/15/02	1
Wendel, Matthew	Official	Camp David, MD	$75.00	05/17/02	1
Baralles, Ruben	Meetings	Manhattan, NY/Phoenix, AZ	$458.00	05/21/02	1
Towey, Jim	Speaking Engagement	Atlanta, GA	$679.02	05/23/02	1
Johnson, Clay	Speaking Engagement	Birmingham, AL	$134.00	05/25/02	2
Ozburn, Charles	Official	West Point, NY	$221.00	05/26/02	6
Bourns	Official	Little Rock, AR	$255.00	05/27/02	7
Francisco, Noel	Official	Lynchburg, VA	$58.93	05/27/02	2
Jewett, Eric	Official	Little Rock, AR	$187.00	05/29/02	5
Kuo, David	Speaking Engagement	Pittsburg, PA	$732.94	05/29/02	1
Alix, Cathy	Official	Philadelphia, Pa	$210.00	05/30/02	1
Goldman, Adam	Speaking Engagement	Albuquerque, NM/Las Vegas, NV/Los Angeles, CA	$605.50	05/31/02	10
Wendel, Matthew	Official	Camp David, MD	$75.00	05/31/02	6
Campbell, Thomas	Invitational	Washington, DC	$1,007.50	05/31/02	
Hughes, William	Official	Des Moines, IA	$187.00	06/02/02	5
Chapman	Official	Des Moines, IA	$187.00	06/02/02	5
Fleischer, Ari	Meetings	Manhattan, NY	$358.56	06/02/02	1
Newstead, Jennifer	Meetings	Lynchburg, VA	$52.93	06/03/02	2
Newstead, Jennifer	Official	Lynchburg, VA	$52.93	06/03/02	1
Whitelaw, Amy	Official	Kansas City, KS	$273.00	06/06/02	6
Wendel, Matthew	Official	Camp David, MD	$75.00	06/07/02	2
Bartolomucci, H	Official	El Paso, TX	$553.42	06/07/02	1
Baralles, Ruben	Speaking Engagement	Ft. Meyers, FL	$342.50	06/07/02	1
White, J	Speaking Engagement	Salt Lake City, UT	$368.00	06/10/02	1
Jewett, Eric	Official	Atlanta, GA	$247.00	06/11/02	6
Wendel, Matthew	Official	Crawford, TX	$331.00	06/11/02	6
Baralles, Ruben	Meetings	Los Angeles, CA/Modesto, CA	$922.53	06/12/02	3
Sampson, Kyle	Official	Lynchburg, VA	$52.93	06/12/02	2
Atkiss, Stephen	Official	Waco, TX	$165.00	06/12/02	5

REV_00169632

Francisco, Joel	Meetings	New Orleans, LA	$760.68	06/13/02	1
Brand, Rachael	Official	Minneapolis, MN	$878.00	06/14/02	1
Suncarger, Rachael	Official	Waco, TX	$105.00	06/14/02	3
McClellan, Scott	Official	Waco, TX	$105.00	06/14/02	3
Walker, Helegard	Official	Lynchburg, VA	$52.93	06/17/02	2
Baralles, Ruben	Meetings	Madison. WI	$456.00	06/17/02	1
Spagnoli, Debra	Speaking Engagement	Pittsburg, PA	$700.14	06/19/02	1
Benyon, Rebecca	Speaking Engagement	Brooklyn, NY	$148.50	06/21/02	1
White, J	Speaking Engagement	Charlotte, NC	$312.93	06/21/02	1
Spagnoli, Debora	Meetings	Phoenix, AZ/Scottsdale, AZ	$1,223.50	06/21/02	4
Farley, Jennifer	Official	Providence, RI	$238.80	06/22/02	1
Bartolomucci, H	Official	Lynchburg, VA	$57.93	06/24/02	1
Westline, Lezlee	Meetings	San Francisco, CA/Seattle, WA	$1,177.23	06/25/02	4
Francisco, Noel	Official	Lynchburg, VA	$58.93	06/26/02	2
Baralles, Ruben	Speaking Engagement	Albuquerque, NM	$622.02	06/27/02	2
Wendel, Matthew	Official	Crawford, TX	$185.00	06/28/02	2
Nelson, Carolyn	Official	Ripley, WV	$165.00	06/29/02	5
Bartolomucci, H	Official	Lynchburg, VA	$58.93	07/11/02	1
Wendel, Matthew	Official	Crawford, TX	$75.00	07/12/02	2
Ciliberti, Eric	Meetings	New Orleans, LA	$997.21	07/12/02	3
Spagnoli, Debra	Meetings	Boise, ID	$767.26	07/14/02	1
Baralles, Ruben	Meetings	New Orleans, LA	$690.07	07/14/02	1
Walker, Helegard	Official	Lynchburg, VA	$52.93	07/16/02	1
Hobbs, David	Meetings	London, GBR/FRA	$1,559.72	07/18/02	5
White, J	Speaking Engagement	Los Angeles, CA	$416.50	07/20/02	1
Evans, Kendell	Official	Charleston, SC	$273.00	07/23/02	6
Hill, David	Official	Charleston, SC	$273.00	07/23/02	6
White, J	Speaking Engagement	Cleveland, OH/Minneapolis, MN	$1,059.88	07/23/02	1
Ciliberti, Eric	Meetings	Denver, CO	$704.12	07/23/02	3
Baralles, Ruben	Meetings	Denver, CO/Orlando, FL	$944.57	07/23/02	2
Francisco, Noel	Official	Lynchburg, VA	$58.93	07/24/02	2
Thomas, Juileanne	Official	Manhattan, NY	$143.50	07/24/02	1
Goldman, Adam	Meetings	Atlanta, GA	$124.50	07/28/02	1
Heilglienstein, Ann	Meetings	MexicoCity, MEX	$1,076.36	07/28/02	3
Lineweaver, Lindsey	Official	Lubbock, TX	$215.00	07/29/02	6
Sampson, Kyle	Meetings	Lynchburg, VA	$52.93	07/29/02	2
Garrison, Sarah	Meetings	Boston, MA	$431.35	07/30/02	1
Baralles, Ruben	Meetings	Ausitn, TX	$398.00	08/01/02	1

Baralles, Ruben	Meetings	Austin, TX	$398.00	08/01/02	1
Beyer, Leslie	Official	Waco, TX	$405.00	08/01/02	13
Blaylock, Kirk	Official	Waco, TX	$45.00	08/01/02	1
Baralles, Ruben	Speaking Engagement	Hershey, PA	$209.00	08/03/02	1
Sampson, Kyle	Official	Lynchburg, VA	$52.93	08/05/02	2
Deservi, Robert	Meetings	Manhattan, NY	$564.00	08/05/02	2
Baralles, Ruben	Meetings	Ft Lauderdale, FL	$638.00	08/06/02	2
Baralles, Ruben	Meetings	Orlando, FL	$1,080.50	08/06/02	3
Dickens, Reed	Official	Waco, TX	$555.00	08/06/02	18
McClellan, Scott	Official	Waco, TX	$225.00	08/06/02	7
Beyer, Leslie	Official	Waco, TX	$315.00	08/06/02	10
Jablonka, Chris	Official	Waco, TX	$410.79	08/11/02	14
Dayspring, Brad	Official	Des Moines, IA	$59.50	08/13/02	2
Ciliberti, Eric	Conference Attendance	New Orleans, LA	$561.13	08/13/02	1
Garrison, Sarah	Official	Waco, TX	$75.00	08/13/02	2
Towey, Jim	Speaking Engagement	Charleston, WV	$827.27	08/15/02	1
McArthur, David	Official	Waco, TX	$315.00	08/15/02	10
Dayspring, Brad	Official	Waco, TX	$525.00	08/15/02	17
Bilbao, Thomas	Official	Las Cruces, NM	$195.00	08/19/02	6
Echols, Sarah	Official	Las Cruses, NM	$165.00	08/19/02	5
Alberto, Gonzales	Official	Monterey, CA	$605.00	08/19/02	11
Calio, Nicholas	Official	Hanoi, VIE/Honolulu, HI	$1,960.34	08/20/02	11
Pitts, Greg	Official	Las Cruces, NM	$165.00	08/20/02	5
White, J	Speaking Engagement	Ft. Lauderdale, FL	$658.79	08/25/02	1
Towey, Jim	Speaking Engagement	Memphis, TN	$1,043.05	08/28/02	1
Towey, Jim	Speaking Engagement	Philadelphia, PA	$225.25	08/28/02	1
Ellis, Joe	Official	Louisville, KY	$285.00	08/29/02	7
Slade, Winfield	Official	Louisville, KY	$285.00	08/29/02	7
Fificos, George	Official	Louisville, KY	$358.22	08/30/02	6
Pfeifle, Lauren	Official	South Bend, IN	$221.00	08/30/02	6
Krenan, Robert	Official	South Bend, IN	$221.00	08/30/02	6
Leadroot, Phil	Official	South Bend, IN	$221.00	08/30/02	6
Walters Greg	Official	Minneapolis, MN	$69.00	09/02/02	1
White, J	Speaking Engagement	Manhattan, NY/Kansas City, KS	$959.66	09/03/02	2
Towey, Jim	Speaking Engagement	Naples, FL/Orlando, FL	$1,025.63	09/03/02	2
Newstead, Jennifer	Meetings	Lynchburg, VA	$52.93	09/04/02	2
Sforza, Scott	Meetings	Manhattan, NY	$437.00	09/04/02	9
Christie, Ronald	Speaking Engagement	Manhattan, NY	$226.70	09/05/02	1

REV_00169634

Hagin, Joseph	Official	Manhattan, NY	$892.00	09/08/02	1
Pfeifle, Lauren	Official	Pittsburg, PA	$69.00	09/10/02	1
Leadroot, Phil	Official	Pittsburg, PA	$69.00	09/10/02	1
Sampson, Kyle	Official	Lynchburg, VA	$52.93	09/11/02	2
Ellis, Joe	Official	Davenport, IA	$135.00	09/12/02	4
Gonzales, Alberto	Meetings	Austin, TX	$276.00	09/13/02	2
Kozberg, Lindsey	Meetings	Los Angeles, CA	$520.31	09/13/02	1
Deckard, Josh	Official	Pittsburg, PA	$34.50	09/13/02	1
Walker, Helegard	Official	Lynchburg, VA	$58.93	09/16/02	2
White, J	Speaking Engagement	Baltimore, MD	$43.29	09/19/02	1
Ciliberti, Eric	Speaking Engagement	Cedar Rapids, IA	$317.00	09/19/02	1
Baralles, Ruben	Speaking Engagement	Chicago, IL	$458.88	09/20/02	1
Towey, Jim	Speaking Engagement	Wintergreen, VA	$203.14	09/20/02	2
Towey, Jim	Speaking Engagement	Columbus, OH	$369.50	09/23/02	1
Burke, John	Official	Milwaukee, WI	$626.29	09/23/02	1
Francisco, Noel	Official	Lynchburg, VA	$58.93	09/25/02	2
Goeglein, Tim	Speaking Engagement	Orange County, CA	$42.00	09/25/02	2
sechser, Scott	Official	Waco, TX	$466.50	09/25/02	1
White, J	Speaking Engagement	Raleigh, NC	$499.38	09/26/02	1
Kuo, David	Speaking Engagement	Pittsburg, PA	$872.83	09/27/02	2
Kelly, Jim	Speaking Engagement	Boston, MA	$257.92	09/28/02	1
Bridgeland, John	Speaking Engagement	Manhattan, NY	$39.70	09/30/02	1
DeServi, Robert	Official	San Francisco, CA	$1,306.54	10/15/02	3
		Total	**$98,605.86**		

White House Office FY 2003 Staff Travel					
TRAVELER	**PURPOSE**	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Westine, Lezlee	Meeting	Manhattan,NY	$345.10	10/01/02	1
Ciliberti, Eric	Meeting	Chicago, IL	$327.30	10/02/02	1
Burke, John	Speaking Engagement	Columbus, OH	$434.21	10/02/02	1
Francisco, Noel	Speaking Engagement	Syracuse, NY	$700.50	10/04/02	3

Christie, Ronald	Speaking Engagement	Atlanta, GA	$626.00	10/05/02	2
Samson, Kyle	Official	Lynchburg, VA	$52.93	10/07/02	2
Beynon, Rebecca	Speaking Engagement	Orlando, FL	$1,708.38	10/07/02	4
Stecher, Jennifer	Meeting	Atlanta, GA	$1,105.34	10/08/02	3
Barrales, Ruben	Speaking Engagement	Portsmouth, NH	$365.00	10/08/02	1
Hawkins, Albert	Meeting	Hague	$1,817.68	10/09/02	4
Kuo, David	Meeting	Atlanta, GA	$880.36	10/09/02	2
Ryun, Catherine	Meeting	Atlanta, GA	$893.36	10/09/02	2
Towey, Jim	Meeting	Atlanta, GA	$336.93	10/09/02	1
Click, Carrie	Meeting	Atlanta, GA	$1,001.35	10/09/02	2
Streeter, Ryan	Meeting	Atlanta, GA	$937.28	10/09/02	2
Ayyar, Balan	Meeting	Atlanta, GA	$893.36	10/09/02	2
White, Jeremy	Meeting	Atlanta, GA	$659.58	10/09/02	2
Ciliberti, Eric	Speaking Engagement	Sioux Falls Naval, SD	$722.96	10/09/02	2
Zanca, Bruce	Meeting	Washington, DC	$95.50	10/09/02	1
Kozberg, Lindsey	Meeting	Manhattan,NY	$164.10	10/10/02	1
Garrison, Stephen	Meeting	Naples, FL	$819.61	10/10/02	1
Bridgeland, John	Speaking Engagement	Ft. Lauderdale, FL	$1,010.59	10/10/02	1
Rowe, Ian	Speaking Engagement	Ft. Lauderdale, FL	$838.72	10/10/02	1
Burke, John	Speaking Engagement	Milwaukee, WI	$553.75	10/13/02	1
Sforza, Scott	Meeting	Daytona Beach, FL	$826.00	10/14/02	3
Bartolomucci, Chris	Official	Lynchburg, VA	$52.93	10/16/02	2
Towey, Jim	Meeting	Manhattan,NY	$448.06	10/17/02	1
Barrales, Ruben	Meeting	Philadelphia, PA	$188.00	10/17/02	1
Smith, Matthew	Meeting	Manhattan,NY	$445.38	10/17/02	1
Goeglein, Tim	Speaking Engagement	Indianapolis, IN	$58.00	10/17/02	1
Gonzales, Alberto	Speaking Engagement	Atlanta, GA	$41.00	10/19/02	1
Click, Carrie	Speaking Engagement	San Antonio, TX	$571.71	10/20/02	1
Ciliberti, Eric	Meeting	Des Moines, IA	$1,111.05	10/20/02	2

Francisco, Noel	Official	Lynchburg, VA	$58.93	10/21/02	2
Sechser, Scott	Official	Waco, TX	$934.65	10/22/02	1
Newstead, Jennifer	Meeting	Lynchburg, VA	$52.93	10/23/02	1
Goeglein, Tim	Meeting	Chicago, IL	$94.00	10/23/02	1
Towey, Jim	Speaking Engagement	St. Louis, MO	$773.64	10/24/02	1
White, Jeremy	Speaking Engagement	Los Angeles, CA	$667.83	10/24/02	2
Bridgeland, John	Meeting	Charlotte, NC	$976.47	10/24/02	1
Barrales, Ruben	Meeting	Los Angeles, CA	$385.50	10/24/02	1
Francisco, Noel	Official	Lynchburg, VA	$58.93	10/28/02	2
Towey, Jim	Meeting	Charlotte, NC	$823.42	10/28/02	1
Rowe, Ian	Meeting	Cleveland, OH	$818.17	10/28/02	2
Barrales, Ruben	Meeting	Providence, RI	$0.00	10/28/02	1
Towey, Jim	Speaking Engagement	Pittsburgh, PA	$758.56	10/29/02	1
Sechser, Scott	Official	Waco, TX	$888.79	10/31/02	1
Towey, Jim	Meeting	Miami, FL	$799.27	11/05/02	1
Contreras, Rebecca	Meeting	West Point, NY	$442.41	11/07/02	2
Kozberg, Lindsey	Meeting	Providence, RI	$677.18	11/07/02	1
Bridgeland, John	Speaking Engagement	Providence, RI	$698.18	11/07/02	1
Barrales, Ruben	Speaking Engagement	Los Angeles, CA	$785.40	11/07/02	3
Johnson, Clay	Meeting	Manhattan,NY	$139.50	11/08/02	1
Farley, Jennifer	Speaking Engagement	San Diego, CA	$230.81	11/10/02	1
Ciliberti, Eric	Speaking Engagement	Reno, NV	$831.97	11/11/02	2
Bartolomucci, Chris	Official	Lynchburg, VA	$52.93	11/12/02	1
Berenson, Bradford	Official	Lynchburg, VA	$52.93	11/13/02	1
Burke, John	Meeting	Charlotte, NC	$776.00	11/13/02	1
Kelly, Jim	Speaking Engagement	Lansing, MI	$438.79	11/13/02	1
Barrales, Ruben	Speaking Engagement	Manchester, NH	$463.00	11/13/02	1
Towey, Jim	Speaking Engagement	Portland, OR	$705.10	11/14/02	2
Spagnoli, Deborah	Meeting	Austin, TX	$1,006.00	11/16/02	14
Spagnoli,	Meeting	Austin, TX	$995.47	11/16/02	14

Deborah					
Christie, Ronald	Speaking Engagement	Albany, NY	$752.56	11/18/02	1
Ciliberti, Eric	Speaking Engagement	Portland, OR	$410.50	11/18/02	1
Towey, Jim	Speaking Engagement	Newark, NJ	$520.92	11/19/02	1
Rowe, Ian	Meeting	Manhattan,NY	$325.02	11/20/02	2
Kelly, Jim	Speaking Engagement	Tallahassee, FL	$453.79	11/20/02	1
Burke, John	Speaking Engagement	Concord, NH	$1,040.22	11/20/02	2
Bridgeland, John	Meeting	Manhattan,NY	$157.50	11/21/02	1
Barrales, Ruben	Meeting	Los Angeles, CA	$683.49	11/21/02	3
Brancato, Keith	Meeting	Loudoun County, VA	$17.16	11/21/02	1
Bartolomucci, Chris	Speaking Engagement	West Palm Beach, FL	$661.45	11/22/02	2
Ciliberti, Eric	Speaking Engagement	Springfield, MO	$619.13	11/24/02	1
Goldman, Adam	Speaking Engagement	Ft. Lauderdale, FL	$129.00	11/24/02	1
Garrison, Stephen	Meeting	Manhattan,NY	$454.36	11/25/02	1
Bridgeland, John	Speaking Engagement	Manhattan,NY	$369.50	11/25/02	1
Sechser, Scott	Official	Waco, TX	$913.45	11/25/02	1
Kelly, Jim	Speaking Engagement	Hershey, PA	$107.18	11/26/02	1
Burke, John	Meeting	New Orleans, LA	$1,254.32	12/01/02	4
Spagnoli, Deborah	Official	Ft. Lauderdale, FL	$1,242.99	12/01/02	4
Ralston, Susan	Official	Manhattan,NY	$85.00	12/02/02	1
Kelly, Jim	Speaking Engagement	Augusta Naval Ctr, ME	$815.35	12/02/02	1
Bartolomucci, Chris	Official	Jacksonville, Fl	$616.00	12/03/02	1
Ciliberti, Eric	Speaking Engagement	Pensacola, FL	$436.00	12/03/02	1
Towey, Jim	Speaking Engagement	Tallahassee, FL	$559.31	12/04/02	2
Kelly, Jim	Speaking Engagement	Lexington, KY	$390.00	12/04/02	1
Stecher, Jennifer	Meeting	Philadelphia, PA	$259.50	12/06/02	1

REV_00169638

Goeglein, Tim	Speaking Engagement	Ft. Wayne, IN	$53.50	12/06/02	1
Barrales, Ruben	Speaking Engagement	Richmond, VA	$104.50	12/07/02	1
Kavanaugh, Brett	Meeting	Manhattan,NY	$293.74	12/09/02	1
Francisco, Noel	Official	Lynchburg, VA	$52.93	12/09/02	1
Stecher, Jennifer	Meeting	Philadelphia, PA	$979.38	12/09/02	4
Kelly, Jim	Speaking Engagement	Nashville, TN	$575.00	12/09/02	1
Newstead, Jennifer	Meeting	Manhattan,NY	$216.60	12/10/02	1
Ciliberti, Eric	Speaking Engagement	Duluth,, MN	$675.28	12/10/02	1
Newstead, Jennifer	Official	Lynchburg, VA	$52.93	12/11/02	2
Streeter, Ryan	Meeting	Philadelphia, PA	$407.52	12/11/02	1
White, Jeremy	Meeting	Philadelphia, PA	$360.02	12/11/02	1
Click, Carrie	Meeting	Philadelphia, PA	$423.52	12/11/02	1
Ryun, Catherine	Meeting	Philadelphia, PA	$399.86	12/11/02	1
Kuo, David	Speaking Engagement	Philadelphia, PA	$370.02	12/11/02	1
Kuo, David	Speaking Engagement	Philadelphia, PA	$216.00	12/11/02	1
Christie, Ronald	Meeting	Indianapolis, IN	$803.40	12/11/02	1
Rowe, Ian	Meeting	Norfolk, VA	$775.50	12/17/02	1
Bartolomucci, Chris	Meeting	West Palm Beach, FL	$123.51	12/20/02	8
Samson, Kyle	Meeting	Salt Lake City, UT	$949.00	01/01/03	3
Deservi, Robert	Official	Chicago, IL	$311.00	01/02/03	5
Kelly, Jim	Official	Reno, NV	$1,133.11	01/05/03	3
Burke, John	Official	Chicago, IL	$662.22	01/05/03	2
Goldman, Adam	Meeting	Manhattan,NY	$439.36	01/07/03	1
Barrales, Ruben	Meeting	Augusta Naval Ctr, ME	$605.49	01/08/03	1
Farley, Jennifer	Meeting	Albuquerque, NM	$778.68	01/09/03	5
Stecher, Jennifer	Meeting	Denver, CO	$1,102.60	01/10/03	4
Deservi, Robert	Meeting	Tampa, FL	$511.00	01/11/03	1

REV_00169639

Sforza, Scott	Meeting	Tampa, FL	$435.00	01/11/03	1
Beynon, Rebecca	Meeting	Denver, CO	$1,442.21	01/11/03	3
Kuo, David	Meeting	Denver, CO	$1,269.14	01/12/03	2
Streeter, Ryan	Meeting	Denver, CO	$660.64	01/12/03	2
Click, Carrie	Meeting	Denver, CO	$713.14	01/12/03	2
White, Jeremy	Meeting	Denver, CO	$902.07	01/12/03	1
Ayyar, Balan	Meeting	Denver, CO	$667.14	01/12/03	2
Towey, Jim	Meeting	Denver, CO	$1,082.49	01/12/03	1
Barrales, Ruben	Meeting	Salem Naval Ctr, OR	$370.00	01/12/03	1
Samson, Kyle	Official	Lynchburg, VA	$52.93	01/15/03	2
Goeglein, Tim	Meeting	Manhattan,NY	$105.00	01/19/03	1
Gonzales, Alberto	Speaking Engagement	Austin, TX	$83.00	01/20/03	2
Bartolomucci, Chris	Official	Lynchburg, VA	$52.93	01/21/03	1
Samson, Kyle	Meeting	Manhattan,NY	$496.97	01/21/03	1
Ciliberti, Eric	Speaking Engagement	Des Moines, IA	$416.04	01/21/03	1
Barrales, Ruben	Speaking Engagement	Oakland, CA	$0.00	01/23/03	2
Towey, Jim	Speaking Engagement	Chicago, IL	$940.07	01/26/03	2
Click, Carrie	Speaking Engagement	Norfolk, VA	$474.88	01/26/03	1
Samson, Kyle	Meeting	Manhattan,NY	$1,381.21	01/28/03	3
Rowe, Ian	Meeting	Las Vegas, NV	$804.11	01/31/03	3
Goeglein, Tim	Meeting	Manhattan,NY	$404.70	02/03/03	1
Goeglein, Tim	Meeting	Manhattan,NY	$106.50	02/03/03	1
Towey, Jim	Speaking Engagement	Boston, MA	$575.79	02/06/03	1
Smith, Matthew	Meeting	Nashville, TN	$635.50	02/09/03	1
Walker, Helgard	Official	Lynchburg, VA	$52.93	02/10/03	2
Kelly, Jim	Speaking Engagement	Little Rock, AR	$875.33	02/10/03	1
Towey, Jim	Meeting	Tallahassee, FL	$562.25	02/11/03	1
Stecher, Jennifer	Meeting	San Diego, CA	$894.88	02/13/03	6
Ryun, Catherine	Conference Attendance	San Diego, CA	$950.32	02/15/03	4
Beynon, Rebecca	Speaking Engagement	San Diego, CA	$1,758.60	02/15/03	4
Bridgeland, John	Meeting	Cincinnati, OH	$512.10	02/19/03	3
Powell, Ben	Meeting	Montgomery, AL	$607.11	02/20/03	1

REV_00169640

White, Jeremy	Speaking Engagement	Baton Rouge, LA	$968.15	02/20/03	1
Francisco, Noel	Meeting	Lynchburg, VA	$52.93	02/24/03	2
Kelly, Jim	Meeting	Santa Fe, NM	$823.57	02/24/03	2
White, Jeremy	Speaking Engagement	Houston, TX	$746.84	02/27/03	1
Christie, Ronald	Meeting	Miami, FL	$785.37	02/27/03	3
Barrales, Ruben	Meeting	Portland, OR	$0.00	02/28/03	2
Watkins, Peter	Meeting	Newport News, VA	$63.00	03/05/03	1
Samson, Kyle	Official	Lynchburg, VA	$52.93	03/05/03	1
Towey, Jim	Speaking Engagement	Minneapolis, MN	$745.00	03/06/03	1
Everson, Nannette	Meeting	King of Prussia, PA	$773.94	03/10/03	2
White, Jeremy	Speaking Engagement	Raleigh, NC	$348.85	03/11/03	1
Beynon, Rebecca	Meeting	Chicago, IL	$804.20	03/12/03	4
Stecher, Jennifer	Meeting	Chicago, IL	$757.06	03/12/03	2
Graham, Heather	Meeting	Philadelphia, PA	$341.00	03/12/03	2
White, Jeremy	Meeting	Chicago, IL	$365.72	03/13/03	1
Towey, Jim	Meeting	Chicago, IL	$476.20	03/13/03	1
Streeter, Ryan	Meeting	Chicago, IL	$431.10	03/13/03	1
Ryun, Catherine	Meeting	Chicago, IL	$452.15	03/13/03	1
Ayyar, Balan	Meeting	Chicago, IL	$453.10	03/13/03	1
Grace, Dennis	Meeting	Chicago, IL	$427.10	03/13/03	1
Loovis, Katie	Meeting	Chicago, IL	$391.50	03/14/03	1
Bridgeland, John	Speaking Engagement	Charlottesville, VA	$155.87	03/14/03	1
Kelly, Jim	Speaking Engagement	Montgomery, AL	$576.37	03/14/03	1
White, Jeremy	Speaking Engagement	Charlotte, NC	$868.87	03/16/03	1
Bridgeland, John	Speaking Engagement	Columbus, OH	$279.50	03/17/03	1
Francisco, Noel	Official	Lynchburg, VA	$52.93	03/19/03	2
White, Jeremy	Speaking Engagement	Harford County, MD	$12.25	03/21/03	1
White, Jeremy	Speaking Engagement	Atlanta, GA	$281.50	03/24/03	1
Beynon, Rebecca	Meeting	Philadelphia, PA	$198.00	03/25/03	1

REV_00169641

Graham, Heather	Meeting	Philadelphia, PA	$241.50	03/25/03	1
Bridgeland, John	Meeting	Philadelphia, PA	$201.00	03/25/03	1
Burke, John	Meeting	Lansing, MI	$438.50	03/25/03	1
Samson, Kyle	Official	Lynchburg, VA	$52.93	03/26/03	2
Towey, Jim	Speaking Engagement	Princeton, NJ	$329.88	03/26/03	1
Ciliberti, Eric	Speaking Engagement	Columbus, OH	$891.00	03/26/03	1
Christie, Ronald	Speaking Engagement	Jackson, MS	$498.57	03/27/03	1
Kelly, Jim	Meeting	Las Vegas, NV	$1,096.72	03/27/03	2
Towey, Jim	Speaking Engagement	Los Angeles, CA	$527.61	03/29/03	1
Kuo, David	Speaking Engagement	Pittsburgh, PA	$735.76	03/29/03	2
Powell, Ben	Official	Lynchburg, VA	$52.93	03/31/03	2
Bartolomucci, Chris	Official	Lynchburg, VA	$52.93	04/02/03	2
Towey, Jim	Meeting	Manhattan,NY	$166.00	04/02/03	1
Christie, Ronald	Speaking Engagement	Nashville, TN	$756.88	04/03/03	1
Kelly, Jim	Official	Philadelphia, PA	$84.71	04/03/03	1
Lyons, Therese	Speaking Engagement	Atlantic City, NJ	$231.16	04/04/03	1
Towey, Jim	Speaking Engagement	Tallahassee, FL	$547.29	04/06/03	2
Burke, John	Speaking Engagement	Hershey, PA	$221.14	04/06/03	1
Stecher, Jennifer	Meeting	Houston, TX	$806.00	04/08/03	1
White, Jeremy	Speaking Engagement	Albuquerque, NM	$469.88	04/08/03	1
Gonzales, Alberto	Speaking Engagement	Denver, CO	$38.50	04/11/03	1
Ojaklu, Zaid	Official	Elmendorf, AK	$2,998.75	04/12/03	7
White, Jeremy	Speaking Engagement	Detroit, MI	$965.87	04/13/03	3
Deservi, Robert	Meeting	St. Louis, MO	$759.00	04/14/03	2
Barrales, Ruben	Speaking Engagement	Jefferson City, MO	$749.00	04/14/03	1
Bridgeland, John	Meeting	Manhattan,NY	$630.67	04/15/03	1
Recher, Jason	Meeting	Dayton, OH	$365.00	04/22/03	2
Guerra, Abel	Official	San Jose, CA	$633.79	04/22/03	2
Burke, John	Speaking Engagement	Houston, TX	$510.91	04/23/03	1

REV_00169642

Towey, Jim	Speaking Engagement	Atlanta, GA	$409.35	04/24/03	1
White, Jeremy	Speaking Engagement	Houston, TX	$1,080.35	04/24/03	2
Kelly, Jim	Meeting	Albuquerque, NM	$685.70	04/24/03	2
Towey, Jim	Speaking Engagement	Bridgeport, CT	$642.50	04/27/03	1
Ralston, Susan	Meeting	Chicago, IL	$50.00	05/01/03	2
Beynon, Rebecca	Speaking Engagement	Baton Rouge, LA	$800.85	05/05/03	1
White, Jeremy	Speaking Engagement	Portland, OR	$410.29	05/05/03	1
		Travel	**$117,171.05**		

Office of the Vice President FY 2002 Staff Travel					
TRAVELER	**PURPOSE**	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Ravich, Samantha	Meetings	London, GBR	$2,124.92	07/14/02	3
Yates, Stephen	Official	Monterey, CA	$887.90	07/15/02	2
		Total	**$3,012.82**		

Office of the Vice President FY 2003 Staff Travel					
PURPOSE/ Traveler	**PURPOSE**	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Makiya, Kenan	Invitational	Washington DC	$778.00	10/18/02	1
Ravich, Samantha	Meetings	London, GBR	$2,124.92	10/09/02	3
Ravich, Samantha	Meetings	London, GBR	$1,929.74	12/12/02	4
Addington, David	Meetings	Manhattan, NY	$37.50	01/15/03	1
McGrath, Dean	Official	Raleigh, NC	$338.41	04/10/03	1
		Total	**$5,208.57**		

Consulting Services (POC – Kathleen O'Halloran)

QUESTION 53: Updating the information on page 115 of last year's hearing record, please provide actual and estimated amounts for consulting services for fiscal years 2002 through 2004.

REV_00169643

RESPONSE: "Consulting services" or "Advisory and Assistance Services" as defined by OMB Circular A-11, Section 83, are services acquired by contract from non-Federal sources (that is, the private sector, foreign governments, State and local governments, tribes), as well as from other units within the Federal Government and consists of three types of services: 1) Management and professional support services; 2) Studies, analyses and evaluation; and 3) Engineering and technical services. Listed below are the EOP and other entities with Advisory and Assistance contracts.

White House Office
FY 2002 (Actual)
There were no advisory and assistance contracts for the White House Office.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the White House Office.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Office of Homeland Security/PCIPB
FY2002 (Actual)
1. $25,140 for independent information technology expertise. Deliverables include access to technical reports and analysis and recommendations. The period of performance is from September 2002 through August 2003.

Office of Administration
FY 2002 (Actual)
1. $1,083,308 for assistance in developing plans, technical architecture and disaster recovery for the relocation of the EOP data center. Deliverables include baseline assessment and analyses, business continuity and disaster recovery plan, data center design requirements report, phased planning, migration and implementation development plan, relocation and implementation plan, final recommendations and a report. The contract was awarded in March 2002 with a performance period through June 2003.

2. $748,988 for assistance in developing an enterprise architecture to incorporate and support the strategic IT vision, goals and objectives of the OA and the EOP. Deliverables include assistance and analysis as follows: critical information shortfall, impact, and trade-off analysis, concept of operations, architecture and enterprise architecture system toolsets, baseline definitions, report results for demonstration of architecture sustainment, and target technical architecture and migration plan. The contract was awarded January 2002 with a period of performance through December 2002 and permitted options to extend performance.

REV_00169644

3. $48,050 for training, consulting and editing support for EOP/CFO policies regarding financial statements, prompt payment, travel, and transportation act, interagency agreements and portal to portal documents. Deliverables include training materials and conduct of training, formatted and edited documents. The contract was awarded July 2002 and ran through March 2003.

FY 2003 as of May 15, 2003

1. $406,695 for continued assistance in developing an enterprise architecture to incorporate and support the strategic IT vision, goals and objectives of the OA and the EOP. Deliverables include assistance and analysis as follows: critical information shortfall, impact, and trade-off analysis, concept of operations, architecture and enterprise architecture system toolsets, baseline definitions, report results for demonstration of architecture sustainment, and target technical architecture and migration plan. The contract was amended in January and May 2003 to exercise the option to extend performance and funded through September 2003.

2. $149,968 for consultant services to help configure IT storage products and perform data migration and setup. Deliverables include recommendations concerning management and long term strategy for operating and planning architecture along with execution of the infrastructure support. The contract was awarded in May 2003 with a period of performance running through November 2003.

3. $60,000 for assistance in designing a new performance management system for the Office of Administration in order to improve dialogue between manager and employee. Deliverables included recommended performance evaluation system and form as well as training. The contract was awarded in December 2002 with a performance period ending March 2003.

4. $49,800 for consulting services of an electrical engineer. Deliverables included conceptual designs, drawings and specifications, suggested project schedules and cost estimates. The contract was awarded in May 2003 with a period of performance through June 2003.

5. $25,750 for assistance in writing a statement of work for the EOP telephone contract recompete. Deliverables include recommended draft language for technical requirements to be incorporated into the solicitation. The contract was awarded in November 2002 with the period of performance through December 2002.

6. $47,040 for independent information technology expertise. Deliverables include access to technical reports and analysis and recommendations. The period of performance is from September 2003 through August 2004.
7. $936,000 for IT engineering and technical support services. Deliverables include studies and technical evaluations, analyses, recommendations and reports. The period of performance is from May 2003 through April 2004.

REV_00169645

8. $1,400,000 anticipated for engineering, technical services and consulting for new IT systems design and implementation.

9. $300,000 anticipated for IT studies and evaluations.

10. $130,000 anticipated to assist CFO with auditing issues.

11. $50,000 anticipated to develop an asset management system.

FY 2004 Request

1. $2,300,000 anticipated for engineering, technical services and consulting for new IT systems design and implementation.

2. $1,600,000 anticipated for IT studies and evaluations.

3. $110,000 anticipated to continue development of an asset management system.

4. $390,000 anticipated to assist CFO with auditing issues.

5. $50,000 anticipated for continued independent information technology expertise.

Office of Management and Budget
FY 2002 (Actual)
1. $39,570 for independent information technology expertise. Deliverables include access to technical reports and analysis and recommendations. The period of performance is from September 2002 through August 2003.

FY 2003 as of May 15, 2003

1. $22,500 anticipated for independent information technology expertise. Deliverables include access to technical reports as well as customized analysis and recommendations. The period of performance is from September 2003 through August 2004.

FY 2004 Request

1. $22,500 anticipated for continued independent information technology expertise planned for FY 2004.

Office of National Drug Control Policy
FY 2002 (Actual)
1. $24,225 for assessment and analysis and recommendations concerning performance plans, organizational goals and objectives. Deliverables include meeting summaries, briefing materials and monthly progress report and report with base-line assessment,

REV_00169646

recommendations and expected results. The period of performance is from June 2002 through September 2002.

2. $104,387 for organizational effectiveness assessment and analysis. Deliverables include meeting summaries, briefing materials and monthly progress reports, a final report and recommendations and expected results. The period of performance was from June 2002 through November 2002.

3. $150,000 for design of a program performance monitoring system for OCDETF/DIDTA program. Deliverables include meeting summaries, briefing materials, monthly progress reports, summary of program elements for measurement, draft and final reports. The period of performance was from April 2002 through October 2002.

FY 2003 as of May 15, 2003

1. $29,411 for assistance with developing a strategic human capital plan. Deliverables include development of a management plan, a workforce profile and assessment of drivers, capacity and gaps, assessment and recommendations and a strategic human capital report. The period of performance is from February 2003 through March 2003.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Council of Economic Advisers
FY 2002 (Actual)
1. $13,631 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from December 2001 to February 2002.

FY 2003 as of May 15, 2003
1. $14,276 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from December 2002 to February 2002.

FY 2004 Request
1. $15,000 estimated for editorial services for the Economic Report of the President. The consultant will provide expertise in editing the final publication. It is anticipated that the contract will last from December 2003 to February 2004.

Council on Environmental Quality
FY 2002 (Actual)
There were no advisory and assistance contracts for the Council on Environmental Quality.

REV_00169647

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the Council on Environmental Quality.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Office of the United States Trade Representative
FY 2002 (Actual)
1. $6,600 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.
2. $5,000 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.
3. $1,980 for expert advice in area of personnel law. Deliverables include legal research, analysis and opinions. Period of performance was from July 2002 through September 2002

FY 2003 as of May 15, 2003

1. $10,000 for expert advice in the area of personnel law on an as-needed basis. Deliverables include legal research papers and recommendations. The contract was awarded for the period October 1, 2002 through September 30, 2003.

2. $10,000 for speech-writing services on an as-needed basis. Deliverables include draft speeches. The contract was awarded for the period May 2003 through September 2003.

FY 2004 Request

1. $10,000 for expert advice in the area of personnel law on an as-needed basis.

Office of Science and Technology Policy
FY 2002 (Actual)

1. $200,000 for independent evaluation of the integration of a variety of biometric identification system design options. Deliverables included a comprehensive report on the evaluation of technical options, sound design principles, testing procedures, interoperability issues as well as identification of implementation and procurement issues. The contract was awarded July 2002 with a completion date of October 2002 but the contract completion date was extended through December 2002. This contract was not funded with OSTP funds but by the Immigration and Naturalization Service.

REV_00169648

FY 2003 as of May 15, 2003

1. $300,000 for assistance in implementing a biometric identification system. Deliverables include analysis of NEXUS border technologies and international standards coordination. The contract is anticipated by June 2003 with an anticipated expiration date of June 2005. This contract was not funded with OSTP funds but by the Immigration and Naturalization Service (DHS).

FY 2004 Request

1. $125,000 for assistance with OSTP's National Security/Emergency Preparedness communications responsibilities.

National Security Council
FY 2002 (Actual)
There were no advisory and assistance contracts for the National Security Council.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the National Security Council.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Office of the Vice President
FY 2002 (Actual)

There were no advisory and assistance contracts for the Office of the Vice President.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the Office of the Vice President.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

REV_00169649

Freedom Corps (POC – Eric Lanman)

QUESTION 54: Please provide EOP budgeted funding for the Freedom Corps for fiscal years 2002 through 2004.

RESPONSE: The funding profile for the USA Freedom Corps from its inception through FY 2004 is as follows:

(Dollars in thousands) Category	FY02 Actual	FY03 Request	OA Pilot	FY03 Recission	FY03 Enacted	FY04 Estimate
Personnel	420	800	0	0	800	827
Travel	6	600	0	-330	270	102
Rent	99	0	0	0	0	157
Comm, Util & Misc	0	0	0	0	0	25
Printing & Reproduction	0	0	0	0	0	225
Other Services	0	1,200	-289	0	911	926
Supplies & Materials	0	0	0	0	0	9
Equipment	0	0	0	0	0	9
Total	525	2,600	-289	-330	1,981	2,280

Note: As part of a pilot program authorized by Congress in fiscal year 2003, general support costs such as rent, supplies, printing, information technology, etc., are centrally managed and charged against the Office of Administration.

QUESTION 55: Please provide a breakdown of the FY 2004 request for the Freedom Corps, and a brief description of the work to be accomplished under each item.

RESPONSE: The FY 2004 WHO request includes funding for the following USA Freedom Corps requirements.

Personnel: This category provides funding for the cost of the salaries and benefits for the staff of the USA Freedom Corps. The FY 2004 WHO request included $827,000 for this category.

Travel: The USA Freedom Corps office staff members are frequent travelers and often work at the national, state and local levels with organizations.~~, especially in organizing the Citizen Corps across the country~~ In addition, the Director of the USA Freedom Corps or the appropriate staff is required to address gatherings at national conferences, and of state and local officials in order to disseminate information about the President's Call to Service and the activities coordinated by the USA Freedom Corps.~~ and answer questions relating to the organization of USA Freedom Corps activities at the local level.~~ The FY 2004 WHO request included $102,000 for this category.

REV_00169650

Rent: This category funds the costs of the GSA office space utilized by the USA Freedom Corps. The FY 2004 WHO request included $157,000 for this category.

Printing: This category includes the costs of the creation and printing of documents regarding the USA Freedom Corps mission and policies and initiatives~~specific programs~~ coordinated by its Council. The FY 2004 WHO request included $225,000 for this category.

Other services: This category includes funds for the hiring of contractors to measure the nationwide effects of the USA Freedom Corps efforts through surveys and other measurement tools, and funds for information dissemination and the creation and production of materials used in the furtherance of the USA Freedom Corps mission and ~~specific programs,~~initiatives coordinated by its Council. The FY 2004 WHO request included $926,000 for this category.~~ and other activities that will further the mission of the USA Freedom Corps.~~

Communications and Misc.,~~;~~ Supplies and Materials, Equipment: These general categories are managed centrally by the White House Office of Management and Administration. Funds in these categories support the normal costs associated with day to day office operations. The FY 2004 WHO request included $43,000 for this category.

QUESTION 56: Last year, funds were requested for Freedom Corps information dissemination and recognition materials (p. 239). Are similar activities funded in FY 2004? If so, how much?

RESPONSE: The FY 2004 WHO request includes requirements for similar activities to those funded in FY 2003 and included are funds for information dissemination and recognition materials. Funds for these activities are included in the Other Services category of the WHO request. An estimated $926,000 of this portion of the request is for USA Freedom Corps requirements.

QUESTION 57: Are additional funds requested in FY 2004 outside the EOP?

RESPONSE: As a White House office and a coordinating council, the USA Freedom Corps does not run, fund, or administer programs. Instead, the USA Freedom Corps coordinates the development of policies and initiatives with various offices/entities in the Executive Branch in support of the President's goal to strengthen the American culture of service while helping all Americans find meaningful service opportunities. This role does not require outside funding and none have been requested by the WHO.

QUESTION 58: Please provide a listing of the staff in the USA Freedom Corps Office, showing the incumbent name and position. Please designate any detailees.

REV_00169651

RESPONSE: A listing of the current USA Freedom Corps Office staff is provided below.

John Bridgeland: Assistant to the President and Director, USA Freedom Corps
Ron Christie: Special Assistant to the President and Deputy Director, USAFC
Lindsey Kozberg: Special Assistant to the President for Policy/Public Affairs
Therese Lyons: Director of Public Liasion
Ian Rowe: Director of Management and Strategy
Kathleen Mynster: Deputy Press Secretary
Britt Grant: Special Assistant to the Director
Cornell Teague: Associate Director
Nique Fajors: Agency Liaison – Detailee
Ken Lanza: Agency Liaison - Detailee

Sensitive Compartmented Information Facilities (POC – Jeff Thompson)

QUESTION 59: Are any funds requested in any EOP office in the FY 2004 President's request for the construction of sensitive compartmented information facilities (SCIFs)?

RESPONSE: No funds are requested for SCIFs in FY 2004.

QUESTION 60: How many such facilities have been built within EOP offices since the terrorist attacks of September 11, 2001?

RESPONSE: Sixteen SCIFS have been built.

Data Center Relocation (POC – Carlos Solari)

QUESTION 61: What is the status of efforts to relocate the existing EOP data center, and what are plans for the coming year?

RESPONSE: The remote data center project is on track to achieve completion on budget and on schedule. The project began last summer by conducting a systems development lifecycle analysis to determine and recommend the location for the facility. From this analysis, EOP decided on building the data center at a hardened FEMA facility located in Maryland. The project is being co-managed with FEMA and was established with three phases: (1) infrastructure build-out of the hardened facility (power, air handlers, etc), (2) construction of the data center itself (cabling, raised flooring, etc), and (3) the transition of EOP data systems (telecommunications, servers, etc). The project is approximately halfway through completion for the first two phases with a scheduled opening (initial operational capability) date of September 2003. The transition phase is on schedule preparing the systems and will proceed to begin the transfer September 2003 – with a planned transition of 12 months for all systems.

REV_00169652

QUESTION 62: Are funds requested in the FY 2004 budget for this project?

RESPONSE: The following table displays the funds requested for this project in FY 2004.

Object Class	Object Class Title	Requested Funding (in $1000s)	Description
23.0	Space Rental Payments	$1,258	This estimate reflects $1,258 in rental for the offsite data center and will be the initial rent to be paid for the offsite data center. This cost was previously funded from emergency funds.
23.3	Communications, utilities, and miscellaneous charges	$4,420	$4,420 is for CIP networking/telecommunications projects at the offsite data center. These projects include funds for a tap off of telecommunications lines, two additional DS-3 data paths, two T-1 lines, and backup to support required communications bandwidth, and availability requirements.
25.2	Other Services	$2,700	This estimate reflects Priority System Disaster Recovery costs, Secondary Systems Disaster Recovery costs, Hardware and Software for the Disaster Recovery Site, and Hardware and Software upgrades to support the data center move.
26.0	Supplies and materials	$25	The estimate reflects $25 in additional supplies necessary for start-up operations at the offsite data center. This will include start up costs for office equipment used for the new office spaces.
Total FY2004 Data Center CIP Request		**$8,403**	

White House Communications Agency (POC – Eric Lanman)

QUESTION 63: Updating the information on page 133 of last year's hearing record, please provide estimated reimbursements for the White House Communications Agency for each of the fiscal years 2002 through 2004.

RESPONSE: Reimbursements made to the White House Communications Agency, for the non-telecommunications support they provide to the WHO, is broken down into two categories: military personnel and audiovisual support. The amount of planned reimbursement is initially set and agreed to via an inter-agency agreement (IAG). This IAG is then adjusted if needed as a result of actual execution. Reimbursement actuals and estimates follow:

	FY02 (actual)	FY03 (est.)	FY04 (est.)
Military Personnel	$4,376,085	$4,754,346	$4,858,942
Audiovisual Support	$4,543,643	$3,953,848	$2,743,915

REV_00169653

Total	$8,919,738	$8,708,194	$7,602,857

The FY04 estimate for audiovisual support shows a decrease from the FY 2003 estimate due to the move of audiovisual supplies and equipment from IAG reimbursed items to direct procurement through normal WHO channels.

Office of Administration (POC – Chuck Sigman)

QUESTION 64: Updating the information on page 134 of last year's hearing record, please provide a current organizational chart for the Office of Administration, including the associated numbers of FTEs requested for each office in the FY 2004 President's budget.

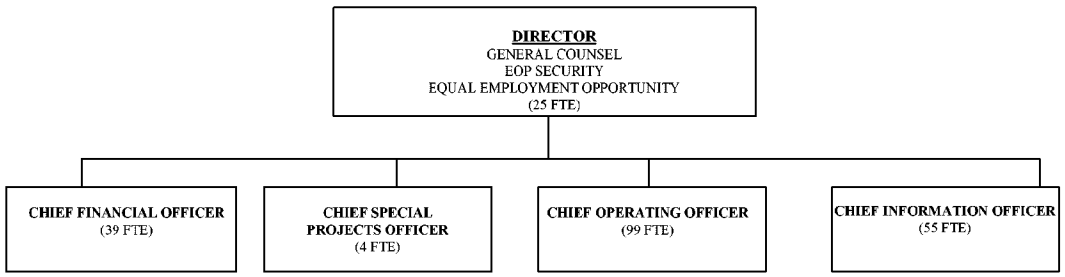
RESPONSE: The Office of Administration organization chart provided below reflects the current organizational structure. The FY 2004 FTE request remains constant with FY 2003 levels (222 FTE).

Executive Office of the President

Office of Administration

Organization Chart

FY 2004



Total 222 FTE

QUESTION 65: Last year, it was estimated that 4 FTE were needed to provide administrative services to the Office of Homeland Security. Since that office is substantially smaller due to establishment of the DHS, is there a lesser requirement for OA support? If so, is that reflected in FY 2004 staffing figures?

REV_00169654

RESPONSE: The FY 2003 budget proposal included the statement that there was "2 CFO staff to support Homeland Security" rather than the 4 FTE referred to in the question. These two Chief Financial Officer (CFO) staff were requested during FY 2003 because last year's OA budget request was a 49% increase over the previous year's spending – and security-related enhancements accounted for nearly all of that increase. The FY 2004 budget proposal included additional security-related enhancements beyond the FY 2003 level. Furthermore, even though the funding level of the Homeland Security Council is not as great as was originally envisioned, it is still a separate account for which the staff must perform the same number of administrative tasks in setting up and monitoring the status of the account. Therefore, the additional two FTE in the CFO office remain necessary to assist EOP offices in executing their new responsibilities.

QUESTION 66: Your salary and expenses request includes a transfer of $1,500 from Homeland Security for information technology services. What are these services?

RESPONSE: The part of OHS that remained with EOP (now called the Homeland Security Council) does not need the information technology contractor support that was previously planned. There is, however, an urgent need to expand the funding needed to support the White House website. The system security put in place to protect the whitehouse.gov website from cyber attack includes a web content distribution designed to make it highly resistant to denial of service type attacks. The cost of this service has increased dramatically, and is directly proportional to the volume of activity. The volume of activity, in turn, is a combination of the website hits and the level of cyber-attack activity directed against the site. The importance of the White House web site cannot be overstated. Along with the DHS website, the whitehouse.gov website is one of the primary government sites with a mission to communicate threat level information to the public.

Due to increased traffic on the White House website, the monthly cost of web caching service to maintain the website has risen from $30,000 per month to more than $75,000 per month. The estimated FY 2004 cost to maintain the website is $1,500,000. No funds were requested for this increased requirement in the FY 2004 budget. OA wishes to use the funds originally requested for the OHS information technology contract support for the White House website effort.

QUESTION 67: You are requesting additional funding for victim rescue units, which would be distributed to all White House staff (p. 82). What are these units, and what is the unit cost?

RESPONSE: Victim Rescue Units (VRUs) provide a 20-45 minute supply of pure oxygen to the wearer. This would be critical to the survival of EOP staff in the event of an incident which would require an evacuation to a safe area. VRUs were selected because they can be easily operated by a novice, while it takes a significant amount of training to teach staff to properly operate a gas mask. VRUs have a ten-year shelf life,

REV_00169655

which is significantly longer than gas mask filters. They provide protection from the entire threat spectrum from fire and smoke to chemical and biological agents. The VRUs are portable and small, and their expected cost is $375 each.

QUESTION 68: How is the requirement for additional safes and emergency evacuation chairs documented?

RESPONSE: The EOP Security Office conducted a review of security containers (safes) at the White House Complex and found that most of them were 1950's-vintage mechanical locks. During the aftermath of 9/11, it was deemed important that the White House adhere to the latest Federal regulations promulgated by the General Services Administration (FFL-2740A) for the protection of classified materials. Thus, the EOP recommends acquiring new security containers which are fully compliant with GSA standard which governs all changeable combination locks for the protection of national security information.

After 9/11, we reviewed all emergency evacuation procedures for the White House Complex. As we updated evacuation plans and reviewed procedures it was determined that evacuation chairs were needed in various buildings and on various floors to assist individuals who may need assistance or have special needs during an evacuation. This was an internal study performed by staff of the EOP security office.

Financial Audits (POC – Al Muhlbauer)

QUESTION 69: Last year, you advised us that EOP would plan to address the findings of the recent auditability assessment no later than FY 2003. What is the status of that effort today?

RESPONSE: EOP has initiated five major efforts to address the auditability assessment. They are:

- Development and publication of the EOP entity and reporting structure, which was completed and is and presented in the FY 2004 Budget Submission.
- Development and publication of the EOP financial management structure, which has been developed in draft and is currently being circulated for comment within EOP. Approval and issuance of the financial management structure is expected to occur within 30 days.
- Provide financial management policy and guidance to the EOP, and put in place consistent EOP-wide business practices and procedures. This effort is underway and is expected to be completed this fiscal year.
- Select a replacement for the current non-compliant financial accounting system. The Office of the Chief Financial Officer has reviewed various alternatives and has made a determination to be cross-serviced by another Federal agency that has implemented a compliant system, is currently receiving "clean" audit opinions, and has cross-servicing as an agency mission. Two such organizations were

REV_00169656

identified, a requirements document was provided, their proposals are currently being evaluated, and a decision is expected within the next two weeks.

- Accomplish a detailed review of the EOP general ledger and supporting documents for account balances, correct the data as necessary, and prepare the information for conversion to the replacement accounting system. A "clean-up" and conversion plan is in process and will be coordinated with the selected cross-servicing agency.

QUESTION 70: When will you be able to produce an auditable financial statement?

RESPONSE: The Chief Financial Officer completed an exercise that resulted in EOP-wide financial statements, that exercise identified various data problems that confirmed the auditability assessment. The "clean-up" exercise which is required prior to the conversion to the cross-servicing agency's system is addressing these problems and it is anticipated that the FY 2004 financial statements will be audited.

QUESTION 71: Last year, you stated that you had identified best practices for documented policies and procedures based upon one federal agency which has been recognized as one of the best in the Federal Government (p. 136). Which agency are you using as a model, and what are some examples of the specific best practices you intend to use?

RESPONSE: We were referring to the Department of Education and we conducted a pilot of their approach for developing policies and procedures within the Office of the CFO. While that pilot was helpful, we determined that three other tasks (identify reporting entity, develop financial management structure, and identifying our financial accounting system cross servicing provider) needed to be completed before our policies and procedures could be developed. Since those are near completion we anticipate again focusing on developing policies and procedures during the remainder of this fiscal year.

White House Office (POC – Eric Lanman)

QUESTION 72: Please provide a breakdown of the FY 2004 budget request for the White House Office by office or activity, as itemized on pages 137 and 138 of last year's hearing record. Please compare those amounts to corresponding amounts for FY 2002 (actual) and FY 2003 (estimated), similar in format to that shown on pages 246 and 247 of last year's hearing record.

RESPONSE: As noted last year, a single budget is prepared for the WHO. This single budget is prepared based on a number of criteria such as: prior spending patterns, estimated requirements, OMB provided inflation factors, and the priorities of the President. During a given execution year, personnel costs are allocated based upon that year's sometimes unique staffing decisions. The remainder of the budget is allocated

REV_00169657

initially to two WHO offices. The travel budget is allocated in its entirety to the Office of Advance and obligated against this office if the travel is done in support of the President. Any travel undertaken that is not in support of a Presidential trip is charged to the office of the staff member in question. The remaining portion of the non-personnel, non-travel budget, including expenses for rent, supplies, equipment and other services is considered overhead and in most years is charged as such to the White House Office of Management and Administration. In FY 2003 as part of a pilot program authorized by Congress, costs related to many of these "overhead" items were consolidated under the EOP Office of Administration. Obligations (actual and estimated) are provided by individual White House office for FY 2002 thru FY 2004 in the table below.

(dollars in thousands)			
as of 9 May 2003			
White House Office	**FY02 act.**	**FY03 est.**	**FY04 est.**
Office of Chief of Staff	1,239	1,474	1,507
Oval Office Ops	347	476	487
Offices of Scheduling and Advance	2,874	3,593	3,673
Office of Cabinet Affairs	665	615	629
Communications, Speechwriting & Media	2,611	2,486	2,541
Office of the Counsel to the President	1,775	1,966	2,010
Faith Based and Community Initiatives	612	536	548
Office of the First Lady	1,270	1,492	1,525
Office of Intergovernmental Affairs	568	538	550
Office of Legislative Affairs	2,242	2,118	2,165
Office of Management and Administration	26,867	19,620	30,651
Office of Presidential Personnel	1,950	2,425	2,479
Office of the Press Secretary	933	1,182	1,208
Office of the Staff Secretary	5,860	6,469	6,613
Office of Strategic Initiatives	3,952	4,325	4,421
USA Freedom Corps Office [1]	426	1,070	929
Total WHO Obligations [2]	54,191	50,385	61,937

Notes:

(1) $911K of the FY03 USA Freedom Corps estimate and $1,351K of the FY04 USA Freedom Corps estimate is included above within the Office of Management and Administration numbers as are similar funds for all other White House Offices.

(2) Because Congress has chosen to appropriate funds for the Office of Homeland Security (OHS)/ Homeland Security Council (HSC) separately from the WHO appropriation, numbers related to OHS/ HSC are not included above. FY03 and FY04 estimates for OHS/ HSC are addressed independently in response to other committee questions.

QUESTION 73: Please provide a corresponding breakdown for FTE staff years and OGE, similar in format to that shown on pages 152 through 154 of last year's hearing record.

REV_00169658

RESPONSE: As noted last year, the major units within the White House Office are simply a creature of administrative convenience. The number of employees within each unit and the work of each unit vary over time and as circumstances and needs change. With this kept in mind, a detailed breakout of FTEs and OGEs by unit, is provided below. This breakout is based on current estimates and planning and will differ during the actual execution year. In addition to these major units, certain individuals – including certain individuals who work with the National Security Council, the Domestic Policy Council, and the National Economic Council – are also White House Office employees, although the units within which they principally work are not themselves part of the White House Office. These individuals are included under the Other category.

	FY02	FY03	FY04
White House Office	actual	est.	est.
Office of Chief of Staff - FTE	12	12	12
Office of Chief of Staff - OGE (Agency Rep)	0	0	0
Oval Office Ops - FTE	4	5	5
Oval Office Ops - OGE	0	0	0
Advance - FTE	15	15	15
Advance - OGE	0	0	0
Office of Cabinet Affairs - FTE	7	6	6
Office of Cabinet Affairs - OGE (Assignee)	4	4	4
Communications, Speechwriting & Media - FTE	36	35	35
Communications, Speechwriting & Media – OGE (Detailee)	1	1	1
Communications, Speechwriting & Media – OGE (Assignee)	1	1	1
Office of the Counsel to the President - FTE	18	19	19
Office of the Counsel to the President - OGE (Detailee)	3	3	3
Faith Based and Community Initiatives - FTE	7	8	8
Faith Based and Community Initiatives – OGE (Detailee)	1	1	1
Faith Based and Community Initiatives – OGE (WH Fellow)	1	1	1
Office of the First Lady - FTE	20	19	19
Office of the First Lady - OGE	0	0	0
Office of Intergovernemental Affairs - FTE	8	9	9
Office of Intergovernemental Affairs - OGE	0	0	0
Office of Legislative Affairs - FTE	23	24	24
Office of Legislative Affairs - OGE (Detailee)	1	1	1
Office of Management & Administration - FTE	32	38	38
Office of Management & Administration - OGE (HP Serv)	14	14	14
Office of Political Affairs - FTE	11	11	11

REV_00169659

Office of Political Affairs - OGE	0	0	0
Office of Presidential Personnel - FTE	26	38	38
Office of Presidential Personnel - OGE (Detailee)	2	2	2
Office of Public Liaison - FTE	12	11	11
Office of Public Liaison - OGE (Assignee)	1	1	1
Office of the Press Secretary - FTE	12	12	12
Office of the Press Secretary - OGE	0	0	0
Scheduling - FTE	10	11	11
Scheduling - OGE (HP Serv)	2	2	2
Office of the Staff Secretary - FTE	98	98	98
Office of the Staff Secretary - OGE (Detailee)	2	2	2
Office of Strategic Initiatives - FTE	13	13	13
Office of Strategic Initiatives - OGE (Reim Detail)	1	1	1
USA Freedom Corps Office - FTE	8	6	6
USA Freedom Corps Office - OGE (Detailee)	5	5	5
USA Freedom Corps Office - OGE (WH Fellow)	1	1	1
Other - FTE	13	16	16
Other - OGE	4	4	4

White House Office obligations, FTE and OGE are summarized below.

	FY02 act.	FY03 est.	FY04 est.
Total WHO – FTE	385	406	406
Total WHO – OGE	44	44	44
FY03 Congressional Request – FTE	400	406	406

Notes: Because Congress has chosen to appropriate funds for the Office of Homeland Security (OHS)/ Homeland Security Council (HSC) separately from the WHO appropriation, numbers related to OHS/ HSC are not included above. FY03 and FY04 estimates for OHS/ HSC are addressed independently in response to other committee questions.

Historically Provided White House Office Positions (POC – Eric Lanman/Jon Laurich)

QUESTION 74: Updating the information on page 235 of last year's hearing record, please provide a listing of historically provided White House Office positions.

RESPONSE: The following chart shows the 18 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

REV_00169660

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 12, 2003*:

POSITION	OFFICE	HOME AGENCY
1. Assistant to the Presidential Diarist	Office Of Scheduling	NARA
2. Presidential Diarist	Office Of Scheduling	NARA
3. Administrative Assistant	PFIAB *	CIA
4. Administrative Services Specialist	PFIAB *	DOD
5. Deputy Executive Director	PFIAB *	CIA
6. Deputy Director of Photography For Visuals	Photo Office	DIA
7. Visual Information Specialist	Photo Office	DOD
8. Official Photographer	Photo Office	DOD
9. Official Photographer	Photo Office	DIA
10. Photographer	Photo Office	DOD
11. IT Systems Administrator	Photo Office	DIA
12. Photo Editor	Photo Office	DIA
13. President's Photographer	Photo Office	DIA
14. Photographic Specialist	Photo Office	DIA
15. Admin Officer	Photo Office	DIA
16. Staff Assistant	Visitors Office	Dept Of Interior
17. Executive Assistant	Visitors Office	Dept Of Interior
18. Staff Assistant	Visitors Office	Dept Of Interior

*PFIAB is the President's Foreign Intelligence Advisory Board

Other Services (POC – Chuck Sigman)

QUESTION 75: Similar to the information on page 236 et seq. of last year's hearing record, please provide a detailed description of each project, program, or initiative proposed to be funded in FY 2004 under object class 25.2 ("other services").

RESPONSE: Capital Investment Plan (CIP) - $5,220,000

The overall FY 2004 CIP requirement supports nine areas, as described below. The following "services" costs are included in the FY 2004 CIP request:

- **$690,000 for Customer Service and Desktop Systems.** This funding will be used to perform desktop software integration support.
- **$450,000 for New Technologies and Systems**. This includes "services" funding of $150,000 for server technology integration testing, and $300,000 for voice and data integration.

REV_00169661

- **$230,000 for EOP Systems and Support,** including "services" funding of $150,000 to develop external Local Area Networks, and $80,000 for production test lab development.
- **$700,000 for Information Security** for enterprise identity projects to allow the introduction of new authentication and identification mechanisms into the EOP IT infrastructure.
- **$650,000 for Web-Based Services** for web services application environment.
- **$2,500,000 for the Offsite Data Center** for services necessary to transition the offsite data center to full operational status
- **There are no services funds allocated to Campus Wiring, Networks and Data Communications Infrastructure, or Messaging and Scheduling.**

Salaries and Expenses - $2,150,000

There are three initiatives in the FY 2004 OA salaries/expense budget which comprise $2,150,000 in new programs under object class 25.2 ("other services"):

- **$1,800,000 for Technology and Systems Support Contract .** The Chief Information Officer (CIO) provides a wide range of computer services support to the EOP. These tasks are performed in large measure through an outsourcing contract that delivers IT services from PC deployment, to help desk and data center operations. During FY 2003, this IT systems support contract was competed with an increase in base labor rates due to the need for more advanced skills in IT disciplines such as XML and web services software development, Oracle database development and administration, and implementation of a new Enterprise Resources Planning (ERP) application covering finance, asset management and human resources. The CIO outsource contract is the vehicle used to maintain a 24 hour-a-day operation for mainframes, servers, help desk, local area networks, personal computers, applications; installation of end-user hardware and software; training; software application development and maintenance services. Altogether, this contract supports customers throughout the White House 18 acre complex, at remote and mobile locations, and at the planned Offsite Data Center. Key components driving the cost upward include: (1) higher labor rates for the DC area, which have risen since the previous IT 1997 facility contract; (2) the impact of the new data center operations in 2003 and thereafter; (3) an expanded EOP customer base which has more advanced, sophisticated, and security-conscious users.

- **$300,000 for Information Assurance Support.** The CIO has established the Information Assurance (IA) program to serve as a central location for information security serving all of EOP. FY 2002 and FY 2003 funds attended to the most critical concern with significant vulnerabilities in the perimeter and began the process of securing the internal systems. The IA program created real-time monitoring of perimeter network devices; it established the first formal documentation of IA program policy to bring the EOP in conformance with Federal guidelines and directives. However, the cyber threat facing EOP is

REV_00169662

dynamic because our systems are constantly assailed with a wide and unexpected range of attacks. The new state of defense must be active vigilance, to include the following components: (1) Perimeter Security, (2) Advanced Security Concepts, (3) Contingency Planning Support, (4) Network Monitor/Response Systems, and (5) Security Awareness, Assessments, and Education.

- **$50,000 for Security Enhancements: Videos.** There is a frequent and ongoing need for a security video – specific to the EOP and White House – which can be used in security briefings and new employee orientation meetings. This video will contain a brief overview of security responsibilities and procedures which must be understood by all personnel working in the EOP.

Salaries and Expenses (POC – Dilworth)

QUESTION 76: Please provide a detailed description of any expenses in the FY 2004 budget under "salaries and expenses" which are not directly related to personnel compensation and benefits.

RESPONSE: The following is an object class breakdown highlighting the major costs in each of the non pay related expense categories and a description of the unique aspects of some of these expenses found within the Executive Office of the President.

For reference, below are two tables that roll up all EOP component salaries and expenses funding information including the components not funded under the Subcommittee on Transportation, Treasury and Independent Agencies Appropriations.

REV_00169663

Executive Office of the President
Salaries and Expenses
Summary of all EOP Offices
Funding by Object Classification
($ in Thousands)

		FY 2002 Actual	FY 2003 Request	FY 2004 Estimate	FY 2004-2003 Difference	
Direct obligations:						
10.0	Personnel Compensation and Benefits	159,566	185,182	190,971	*5,789*	*3.1%*
21.0	Travel and transportation of persons	6,449	9,218	9,571	*353*	*3.8%*
21.0	Travel of the President	0	102	100	*-2*	*-2.0%*
22.0	Transportation of things	218	246	233	*-13*	*-5.3%*
23.1	Rental payments to GSA	22,406	29,127	32,228	*3,101*	*10.6%*
23.3	Communications, utilities and misc. services	9,362	10,212	15,504	*5,292*	*51.8%*
24.0	Printing and reproduction	2,956	3,678	4,536	*858*	*23.3%*
25.2	Other services	45,159	70,440	66,099	*-4,341*	*-6.2%*
26.0	Supplies and materials	5,947	5,128	5,642	*514*	*10.0%*
26.0	Official entertainment	65	112	112	*0*	*0.0%*
31.0	Equipment	8,054	13,239	14,182	*943*	*7.1%*
40.04	Nat'l Alliance for Model State Drug Use	1,000	0	0	0	0.0%
40.05	Policy Research	1,350	1,350	1,350	0	0.0%
92.0	Undistributed	0	1,000	1,000	0	0.0%
99.0	**Subtotal, Direct obligations**	**$262,532**	**$329,034**	**$341,528**	***$ 12,494***	***3.8%***

Summary of the EOP FY 2004 Salaries and Expenses Budget Request
by Object Class
(excludes ONDCP Federal Drug Control Programs)
($ in Thousands)

		Comp Pres.	WHO	OHS/ HSC	VP	VP RES	OA S&E	OA CIP	OPD	NSC	CEA	OMB	ONDCP	EXEC RES	WH R & R	OSTP	CEQ	USTR	UN NEEDS	EOP Total	Percent of Total
	Total Personnel Compensation and Benefits	$400	$33,256	$5,550	$2,541	$100	$19,483		$3,040	$7,513	$3,537	$59,263	$14,562	$10,302		$4,484	$2,476	$24,464		**$190,971**	55.9%
21.0	Travel and transportation of persons		1,989	588	598	2	208		88	531	102	417	794	12		280	62	3,900		**$9,571**	2.8%
21.0	Travel of the President		100																	**$100**	0.0%
22.0	Transportation of things		10	10	2	1	137		1	2	1	2	38			3	1	25		**$233**	0.1%
23.1	Rental payments to GSA		7,047	200	885		6,755	1,258	508	1,613	497	6,575	2,591			833	462	3,004		**$32,228**	9.4%
23.3	Communications, utilities and misc. charges		2,826	1,080	186	26	2,759	4,520	192	197	118	680	785	610		102	86	1,337		**$15,504**	4.5%
24.0	Printing and reproduction		1,559	50	11	10	577		37	40	97	801	499			25	46	784		**$4,536**	1.3%
25.2	Other services	50	12,597	528	60	16	24,891	5,220	46	362	35	8,190	5,509	653	4,225	973	66	2,678		**$66,099**	19.4%
26.0	Supplies and materials		1,288	175	66	42	1,220	125	92	175	64	702	282	856		80	29	446		**$5,642**	1.7%
26.0	Official entertainment		19			90						3								**$112**	0.0%
31.0	Equipment		1,246	150	112	44	556	9,455	105	118	51	784	880	68		247	10	356		**$14,182**	4.2%
40.05	Policy Research *(ONDCP)*												1,350							**$1,350**	0.4%
92.0	Undistributed *(Unanticipated Needs)*																		1,000	**$1,000**	0.3%
99.0	**Subtotal, Direct obligations**	**$450**	**$61,937**	**$8,331**	**$4,461**	**$331**	**$56,586**	**$20,578**	**$4,109**	**$10,551**	**$4,502**	**$77,417**	**$27,290**	**$12,501**	**$4,225**	**$7,027**	**$3,238**	**$36,994**	**$1,000**	**$341,528**	**100.0%**
	Agency percentages of EOP total	*0.1%*	*18.1%*	*2.4%*	*1.3%*	*0.1%*	*16.6%*	*6.0%*	*1.2%*	*3.1%*	*1.3%*	*22.7%*	*8.0%*	*3.7%*	*1.2%*	*2.1%*	*0.9%*	*10.8%*	*0.3%*		

Travel and transportation of persons – The largest portion of this funding (41%) is for international staff travel in support of trade negotiations as coordinated by the U.S. Trade Representative (USTR). The next largest portion of this funding (21%) is for White House Office (WHO) staff travel including "Presidential travel", which is the term used to delineate those trips where staff members actually travel with or ahead of the President. Those traveling ahead, referred to as advance staff, are responsible for producing Presidential events, as well as establishing an on-site infrastructure similar to

REV_00169664

the support that is provided within the White House. In addition, EOP travel costs related to Presidential travel is tracked by the principals (President, First Lady, Vice President and Mrs. Cheney) and by location. The remaining EOP travel funds are used for staff travel in support of the various EOP offices and their missions.

Transportation of things – The EOP spends funds in this area for the costs of express delivery/shipping of items such as Freedom of Information Act documents and personnel documents for accountability, as well as other miscellaneous items. Vehicle fleet costs are also included in this category.

Rental payments to GSA – Funds paid to GSA are used to provide the EOP offices with space in the government-owned and leased buildings that comprise the White House complex. Although the General Services Administration manages the EOP buildings, including the East and West Wings of the White House, they cannot rent them out to other Federal departments or agencies.

Communications, utilities and miscellaneous services – The bulk of these costs are used for the EOP switchboard. Funding in this category is also used for the networking and telecommunications projects of the Offsite Data Center. These projects include funds for the primary and backup telecommunications lines connecting the remote data center with the EOP office campus, two additional DS-3 data paths, two T-1 lines, and backup to support required communications bandwidth, and availability requirements.

Printing and reproduction – The largest expense in this area is for Presidential stationery and greetings. Also included are the costs for printing in the Code of Federal Regulation and the Federal Register as well as the costs to print the President's Budget, the Economic Report of the President, the National Drug Control Strategy, free trade agreement documents and other publications, studies and reports.

Other services –The primary cost driver in this category is the information technology support contract that provides IT sustainment services, system development services, and system engineering services for the entire EOP. IT support for the EOP as supported by this contract is largely an outsourced activity that includes a broad range of services such as the Help Desk, network and data center operations.

Supplies and materials – Most of the EOP expenses in this category are for general office and IT supplies, as well as the costs for subscriptions to newspapers and magazines.

Equipment – The largest portion of the EOP equipment costs is for IT desktop replacement program and for investments in software and hardware infrastructure to support the EOP IT projects.

Unanticipated Needs – Expenditures from this fund may be authorized only by the President. The Director of OMB provides the necessary controls to ensure that only unforeseen priorities are financed and that funding from other sources is not available.

REV_00169665

ONDCP Policy Research – This is an ONDCP expense and funding is used to support the continuing policy research to better inform drug policy.

Security Guard Services for OSTP (POC – Chuck Sigman)

QUESTION 77: In FY 2003, you budgeted $1,798,000 for security guard services for the Office of Science and Technology Policy. Are similar funds requested in FY 2004? If so, how much?

RESPONSE: The FY 2004 OA budget proposes that the cost of the security guard service (estimated at $702,000) for OSTP be transferred to the OSTP appropriation. Thus, the proposed FY04 OA budget would contain the balance of the funds (approximately $1.1 million).

Since the FY 2003 budget was proposed, there have been additional reviews of the physical security of the White House complex by the US Secret Service, the Federal Protective Service, and the OA Security Office. As a result, the OA Security Office has been assigned the responsibility of correcting deficiencies in EOP physical security. There are some locations which do not currently have Secret Service protection (such as the Jackson Place White House Conference Center). Another location which does not have firm long-term security plans is the office at 1800 G Street. Thus, the Office of Administration has ongoing needs for the $1.1 million which remains in the OA budget. During FY03, these funds are being used for consolidation of information technology maintenance ($200,000), centralization of database services ($200,000), and common building service costs ($400,000). The remaining $300,000 of these savings will be used for an FY03 OA personnel shortfall.

QUESTION 78: Why aren't such funds in the OSTP budget?

RESPONSE: The estimated FY04 cost of 24-hour security guard services for OSTP is included in the FY04 OSTP budget request. This estimate is $702,000 for a full year.

Political Appointees (POC – Jon Laurich)

QUESTION 79: Please update the information on political appointees within EOP as shown on page 268 of last year's hearing record, using the same criteria and assumptions as last year.

RESPONSE: The term "political appointees" is somewhat of a misnomer because it narrowly defines the type of employees authorized under Chapter 2 of Title 3 of the U.S. Code, for the White House Office, the Executive Residence, the Official Residence of the Vice President and the Office of Administration. These offices can hire personnel in various excepted service positions that are not subject to the rules of regular government employees. Many of these excepted service positions fall under the category of serving

REV_00169666

at the pleasure of the President while others do not. Using the term in the broadest possible sense, including all employees hired as Presidential Appointees, Administratively Determined, Non Career SES, or Schedule C's, the Executive Office of the President has the following number of political appointees directly hired within the EOP and serving in the EOP on detailed assignments from other agencies as of May 5, 2003.

	FY 2003 "POLITICAL APPOINTEES" *as of May 5, 2003*					
Program	**Admin. Determ.***	**Schedule C**	**Non career SES**	**Presidential Appointees**	**OGE** Political Appointees**	**TOTAL**
White House Office	438				8	**446**
Office of Homeland Security/Homeland Security Council	20				9	**29**
Special Assistance to the President	24				1	**25**
Official Residence of the Vice President		1				**1**
Office of Administration	6					**6**
Office of Policy Development	30				2	**32**
National Security Council					3	**3**
Council of Economic Advisers	16	3		1		**20**
Office of Management and Budget	2	21	11	5		**39**
Office of National Drug Control Policy		10	2	5		**17**
Executive Residence						
Office of Science and Technology Policy		3	2	3	1	**9**
Council on Environmental Quality	10	2		1	2	**15**
U.S Trade Representative	19	5	3	4		**31**
TOTAL	**565**	**45**	**18**	**19**	**26**	**673**

* Historically, Administratively Determined appointees within some agencies have served from one administration to another. Nevertheless, they serve at the pleasure of the entity head and may be terminated without cause.

** OGE = Other Government Employees

Detailees (POC – Jon Laurich)

QUESTION 80: Please update the information on reimbursable and non-reimbursable detailees with EOP as shown on pages 268 and 269 of last year's hearing record.

RESPONSE: There are currently 251 detailees staffed within the Executive Office of the President. There are 41 reimbursable detailees and 210 non-reimbursable detailees as shown in the chart below, as of May 5, 2003:

REV_00169667

Program	FY 2003 Estimates		
	Reimbursable Detailees	Non-Reimbursable Detailees	TOTAL
White House Office	5	11	**16**
Office of Homeland Security	23	3	**26**
Special Assistance to the President		1	**1**
Official Residence of the Vice President			
Office of Administration			
Office of Policy Development	1	1	**2**
National Security Council	5	103	**108**
Council of Economic Advisers	2	2	**4**
Office of Management and Budget	3	54	**57**
Office of National Drug Control Policy		4	**4**
Executive Residence			
Office of Science and Technology Policy	2	3	**5**
Council on Environmental Quality		3	**3**
U.S Trade Representative		25	**25**
TOTAL	41	210	251

Office of the Vice President (POC – Kristen Savercool)

QUESTION 81: You are requesting an additional $70,000 (+1.7 percent) for the Vice President's travel, due to increased travel to undisclosed locations after the terrorist attacks of September 11, 2001. Weren't these type of increases baselined in FY 2002 and FY 2003, and if so, why are further increases needed in FY 2004?

RESPONSE: The FY 2003 budget was submitted in February 2002, prior to it becoming evident that the Vice President's travel requirements had increased more than originally estimated. Following the events of 9-11, the Vice President has been required to be outside the Washington, DC vicinity for significant periods of time. This travel has been 100 percent official, and operational in nature (i.e. the Vice President performs his regular duties in an off-site location). This travel has required the accompaniment of staff, who also perform operational duties.

Because the budget impact of these additional travel requirements was not fully realized until after the FY 2003 budget request was submitted, they were not included in the FY 2003 baseline. Continued security concerns related to the Vice President and the ensuing impact on the Vice President's travel costs necessitate the increase to the FY 2004 OVP travel budget. This increase will allow the Vice President the flexibility needed to adequately execute his official travel requirements.

Unanticipated Needs (POC – Eric Lanman)

QUESTION 82: Please provide a listing of the uses of Unanticipated Needs funds in FY 2002.

REV_00169668

RESPONSE: $757,000 of the $1,000,000 appropriated to the Unanticipated Needs account in FY 2002 was provided to OMB for Office of Homeland Security Transition Planning Office. The remaining appropriation was not utilized.

REV_00169669

Questions for the Record
Ranking Member, John Olver
Hearing on the Executive Office of the President
April 30, 2003

Account Consolidation and Transfer Proposals (POC – Al Muhlbauer/Jim Daniel)

When we centralized the funds within the Office of Administration, Congress intended that each agency would continue to receive a similar share of support and assistance under the consolidation.

QUESTION 83: Are any agencies going to receive diminished services or resources under the consolidation?

RESPONSE: No, currently the funding in the pilot has been allocated to be consistent with the FY 03 budget request. The service levels will be equal to or greater than pre-pilot levels; however, we are hopeful that the cost to procure the same level of service will decrease. Also, the Office of Administration is preparing service standards. For example, if the service standard for PC's would be one PC per desktop that is less than four years old and if one EOP component is currently at that standard for 95 % of its employees and another is currently at that standard for 50% of its employees, based on need, the second component would get a larger share of the services to bring it closer to the EOP standard. This allows EOP to consistently upgrade software and services across the entire organization as the total infrastructure permits.

QUESTION 84: Are any agencies to receive extra services above and beyond the amount of funds they contributed as part of the consolidation?

RESPONSE: Yes, based on need and to bring organizations that are lagging behind the approved standards up to a consistent standard, some organizations may receive extra services above and beyond the amount of funds they contributed to the consolidation. We anticipate some of those services will be funded from savings in the program.

QUESTION 85: Under the procurement consolidation pilot approved in the FY03 Omnibus, are IT or database services for any EOP agency going to be paid for by funds contributed by other EOP agencies?

RESPONSE: Yes, in addition to generating procurement savings and efficiencies, a major goal of the consolidation pilot is to bring all of the EOP components up to a standard of service which will allow us to implement technology evenly across the organization and to realize efficiencies and benefits from a consistent and even

REV_00169670

infrastructure. In reaching this goal, the funds may be applied in a manner which is not in the same ratio in which they were contributed.

QUESTION 86: In general, are the funds appropriated for this centralized procurement program going to be used to supplement the appropriation made to individual agencies?

RESPONSE: Yes, the individual entities will be the recipients of the services funded by the centralized procurement program without reimbursement in accordance with the Congressional appropriation provided to OA.

QUESTION 87: If so, which agencies will benefit and which agencies will receive less than their share of contributions?

RESPONSE: OA is currently establishing the allocation standards for the commodities included in the centralized procurement program. OA is also requesting that the entities assist us in developing a baseline against which we will measure the allocation standards. That will determine which, if any, entities will benefit and which entities will receive less than their share of contributions.

QUESTION 88: You recently submitted a very cursory report on the procurement pilot. When will you provide us with specific details on the progress of the pilot program?

RESPONSE: As mentioned above, progress is being made on the plan to implement the Common Services Program. We expect to be able to brief the Subcommittee in greater detail this summer.

Your budget also proposes a change that would permit EOP agencies to transfer up to 10% into or out of any agency's budget. Coupled with your account consolidation proposal, that would allow you to transfer in up to $18 million more into (or out of) the White House's budget.

QUESTION 89: Under the procurement consolidation program that we approved in the FY03 bill, don't you have a similar type of flexibility already? What other flexibility is needed?

RESPONSE: The flexibility of the procurement consolidation program is directed to certain defined common commodities. The 10% transfer authority provides flexibility for unexpected requirements and to address needs that may be outside the program.

QUESTION 90: What protection is there for smaller EOP agencies under this proposal? Don't they stand to lose critical resources if the White House or Vice President's Office decide to take 10% of their resources?

REV_00169671

RESPONSE: It is more likely that the smaller entities will benefit from the proposal, because their appropriations are small they are less likely to be able to adjust to unforeseen circumstances, this program will allow the EOP to address those circumstances without requesting supplemental funding. Also, as a practical matter, the issue of "protection" is immaterial as all the entities (setting the Office of the Vice President aside) work directly for the President.

Office of Homeland Security Questions (POC – Paul Ehrhardt)

We recently received a reprogramming request to transfer $2m of the funds provided to the Office of Homeland Security to the Remote Delivery Site cleanup efforts. The source of these funds would come from the Office of Homeland Security.

The Office of Homeland Security has gone from an initial $25m stated need when the initial FY03 bills passed the House and Senate to $11m when the FY03 Omnibus was passed to what will be $9m if the reprogramming is approved.

QUESTION 91: What exactly does the Office of Homeland Security do now that the Department of Homeland Security is in place?

RESPONSE: HSC advises and assists the President on homeland security matters and coordinates policy development and the interagency process regarding Administration policy on homeland security, including the development and coordination of implementation of the *National Strategy for Homeland Security* to secure the United States from terrorist threats and attacks.

QUESTION 92: Does OHS still have a presence at Nebraska Avenue?

RESPONSE: No.

QUESTION 93: Does the Office of Administration provide any support to agencies at Nebraska Avenue? If so, please describe the specific types of support provided. Is this support on a reimbursable basis?

RESPONSE: Since the transfer of the Nebraska Avenue facility to the Department of Homeland Security (DHS) on January 1, 2003, OA has not provided any support to entities at the Nebraska Avenue Complex (NAC). Pursuant to a Determination by the OMB Director, funds in the amount of $3,746,000 were transferred from the OHS Emergency Fund within OA to the Department of Homeland Security in March 2003 to support NAC activities.

QUESTION 94: How many personnel and detailees now work for OHS?

REV_00169672

RESPONSE: The Homeland Security Council currently consists of 66 staff positions which can be filled by either Direct Hire FTE or Other Government Employee (detailee and assignee) personnel. HSC is requesting resources to support up to 40 Direct Hire FTE and 26 OGE FTE on its staff for FY 2004. See table below for a comparison with fiscal years 2003 and 2002.

Office of Homeland Security / Homeland Security Council Personnel

	FY 2002 Actual	FY 2003 Estimate	FY 2004 Request
Direct Hire FTE	31	40	40
Other Government Employee (EOY headcount)	89	26	26
Total Personnel	120	66	66

QUESTION 95: What is the actual operational budget need for OHS in FY03?

RESPONSE: The Homeland Security Council budget requirement from the FY 2003 appropriation is estimated to be approximately $4.32 million. Please note that the FY 2003 estimate covers only costs incurred after the enactment of the FY 2003 appropriation on February 20, 2003. Unlike other EOP entities which operated under continuing resolutions between October 1, 2003 and February 20, 2003, the Office of Homeland Security was not permitted to utilize the CR funding mechanism but instead continued to charge FY 2003 expenses against the no-year emergency funding (provided in FY2002) until the FY 2003 appropriation was enacted. Therefore the FY 2003 estimate reflects only seven months of activity, whereas the FY 2004 Request needs to cover HSC expenses for the full 12 months next fiscal year.

QUESTION 96: For the record, please provide us a breakout by object class of the Office of Homeland Security's FY03 remaining budget.

RESPONSE: The breakout below reflects HSC's budget for the last seven months of FY 2003, from the enactment of the FY 2003 Appropriation on February 20, 2003 through September 30, 2003.

REV_00169673

(Dollars in Thousands)

Object Class	FY 2003 est.
Personnel	$2,800
Travel	$60
Transportation of Things	$24
Communications, Utilities, and Miscelaneous	$50
Printing and Reproduction	$69
Other Services	$1,267
Equipment	$50
Total,	$4,320

QUESTION 97: Any likelihood that these estimates will be revised downward again?

RESPONSE: The FY 2003 estimate provided above reflects the best assessment of HSC requirements from the OHS FY 2003 appropriation, and actual obligations against this appropriation will likely be close to this current estimate.

QUESTION 98: I understand that the President named General Gordon as his new Homeland Security Adviser. Does he support the latest $2 million cut to his office's resources?

RESPONSE: To begin with we should note that, General Gordon has not yet reported to Homeland Security Council. Secondly, in any event, the EOP budget proposal provides the necessary resources for HSC to advise and assist the President. Third, we should also note that the reference to a $2 million cut is incorrect. In fact, the resources of the Homeland Security Council have not been cut by $2 million. The FY 2003 appropriations for the Homeland Security Council included $2 million for decontamination of the Remote Delivery Site (RDS) as agreed to by the Congress and the Administration. Subsequent to the passage of the FY 2003 appropriations, that $2 million was allocated to decontamination of the RDS per agreement. This planned use of that appropriation is not a cut to HSC resources.

QUESTION 99: Have you validated the FY04 request recently to ensure it is an accurate figure?

RESPONSE: Yes, HSC reevaluated its FY 2004 requirements prior to submitting the final FY 2004 Request. Given the creation of the Department of Homeland Security, HSC's FY 2004 budget requirements are estimated at $8,331,000; as requested.

REV_00169674

Budget Questions:

After the FY03 enacted levels are adjusted to reflect the transfer of $9 million to the Office of Homeland Security, the Executive Office of the President's FY04 budget request reflects an 8% increase over FY03 levels. Your agency, the Office of Administration requests a 10% increase between FY03 and FY04.

When the budget was introduced, Mitch Daniels said that the overall growth of Federal programs would be pegged to the expected 4% growth in inflation. The administration also said the President wanted to "match government's growth with the growth of American family income."

QUESTION 100: When the rest of the government is forced to live with 4% growth, how can you justify an almost 10% increase in your office and an overall Executive Office of the President increase of 8%? **(POC – Chuck Sigman)**

RESPONSE: The Office of Administration's 10% budget increase amounts to approximately $7 million. This increase is necessitated by additional costs stemming from the enhanced security activities in the post-September 11 environment:

- The Capital Investment Plan has a net increase of $3.8 million required for the relocation of the EOP data center to an offsite location. The offsite data center has been determined to be a critical project in any contingency plan, and the communications requirements for the data center will be significantly higher in the new facility.
- $2.5 million is needed for the new information technology contract, driven by the information technology service labor increases, the relocation of the data center as well as by the increased security concerns for EOP systems.
- $0.5 million is required for the EOP information assurance program.
- $0.2 million for physical security improvements to the White House complex in providing resources for security education and evacuation resources.

The 8% growth in the overall EOP budget amounts to approximately $24.6 million. Primary components of this increase are mission-specific needs proposed by the different EOP entities:

- $6.3 million in OA programs described in the prior paragraph ($3.8 million for the capital investment plan, $2.5 million for the information technology contract, $0.5 million for information assurance, and $0.2 million for physical security).
- $2.5 million in EOP-wide space rental increases to conform with GSA's market-based rental rates.
- $3.0 million for USTR's additional staff for intensified trade negotiations.

REV_00169675

- $3.0 million in the Executive Residence's multiyear East and West Wing restoration projects.
- $2.7 million for OMB personnel needs.
- $1.5 million for OMB's budget system updates.
- $0.7 million for OMB's E-Government staff and the Office of Information Technology.
- $0.8 million for additional staff for ONDCP.
- $0.6 million in the NSC's funding for reimbursable detailees and President's Foreign Intelligence Advisory Board's request for additional staff.
- $0.5 million for OSTP's continuity of operations plan.

The White House Office's increase of 3.6% looks smaller because of a realignment of $1.85m in rent to the Office of Administration's account. Without the realignment, the White House Office's increase would be around 6.6%.

QUESTION 101: What is the justification for this realignment? **(POC – Eric Lanman)**

RESPONSE: The realignment of $1.85M in rent was made to the WHO from the Office of Administration. Without this and other realignments made as part of the FY 2004 WHO budget request, The White House Office's increase would have only been 1.7 percent.

QUESTION 102: How could the White House have been paying the bill for space that wasn't theirs? **(POC – Eric Lanman)**

RESPONSE: The WHO has not been paying rent on the 1800 G Street office spaces that this realignment involves. These office spaces were necessitated by the movement of certain White House staff offices following the events of September 11. In FY 2003 funds for these spaces were budgeted by the Office of Administration and are being paid for as part of a pilot program authorized by law.

QUESTION 103: Which EOP agencies occupied this space on which the White House Office has been paying rent? **(POC – Eric Lanman)**

RESPONSE: As indicated in the previous answers, White House staff have been occupying this space. Rent is being paid by the Office of Administration as part of the pilot program authorized by law.

QUESTION 104: Are these costs that had historically been paid by the White House Office? **(POC – Eric Lanman)**

REV_00169676

RESPONSE: No. The 1800 G Street Office spaces were not occupied by EOP staff until after the events of 9-11.

QUESTION 105: If so, why make the change this year? **(POC – Eric Lanman)**

RESPONSE: The realignment of these costs under the WHO is done to reflect the costs under the office whose staff occupies them.

Travel

The White House Office's request includes a decrease of $400,000 in Presidential Travel.

QUESTION 106: Was the FY03 estimate too high? **(POC – Eric Lanman)**

RESPONSE: As part of the FY 2003 WHO budget submission, $600,000 was requested to support the travel requirements of the new USA Freedom Corps Office. Actual experience subsequently determined this amount to be in excess of need. As a result, the FY 2003 WHO travel line was reduced $329,647 by the statutory recission, and the FY 2004 WHO budget submission requested $400,000 less in the travel line than the original FY 2003 estimate.

QUESTION 107: If so, how do you intend to use the surplus funds? **(POC – Eric Lanman)**

RESPONSE: The $400,000 reduction to the FY 2004 WHO budget request for travel requirements does not result in surplus funds. It instead results in an overall reduction to the FY 2004 WHO budget estimate.

QUESTION 108: Are you planning less travel in FY04 or will more of the travel just be paid for by political entities? **(POC – Eric Lanman)**

RESPONSE: Except as noted above, the amount of official travel conducted by the White House staff is expected to remain consistent with the FY 2003 estimate.

QUESTION 109: Please provide a list of all White House Office, Office of Homeland Security and Office of Vice President official staff travel for FY02 and FY03 (to date). Include a brief description of the official purpose of the trip. For FY04 estimates, provide estimated number of trips and trip purpose. **(POC – Rothley Howard)**

RESPONSE: The following tables provide the FY 2002 and FY 2003 (to date) staff travel information, where a staff member received government reimbursement, for the

REV_00169677

White House Office and the Office of the Vice President. No FY 2004 estimates are available at this time.

White House Office FY 2002 Staff Travel		
PURPOSE	**DESTINATION**	**DATE**
Meetings	Dallas, TX	03/15/01
Official	Cincinnati, OH	10/01/01
Official	Sacramento, CA	10/11/01
Speaking Engagement	Atlantic City, NJ	10/15/01
Meetings	Los Angeles, CA	10/17/01
Meetings	Reykjavik	10/20/01
Official	Manhattan, NY	10/25/01
Speaking Engagement	Austin, TX	10/26/01
Speaking Engagement	Oakland, CA	10/28/01
Official	Manhattan, NY	10/30/01
Official	Manhattan, NY	10/30/01
Accompany a Cabinet Head	Boston, MA	10/31/01
Official	Lynchburg, VA	10/31/01
Speaking Engagement	Silver Spring, MD	11/01/01
Meetings	Los Angeles, CA	11/02/01
Official	Crawford, TX/Austin, TX	11/07/01
Speaking Engagement	Atlanta, GA	11/09/01
Meetings	Los Angeles, CA	11/10/01
Official	Manhattan, NY	11/10/01
Official	Lynchburg, VA	11/14/01
Official	Manhattan, NY	11/15/01
Official	Waco, TX	11/16/01
Official	Waco, TX	11/16/01
Official	Salt Lake City, UT	11/27/01
Official	Houston, TX/Sacramento, CA/Santa Fe, NM	11/28/01
Official	Manhattan, NY	11/29/01
Official	Manhattan, NY	11/29/01
Meetings	Virginia Beach, VA	12/04/01
Meetings	Atlanta, GA	12/05/01
Official	Lynchburg, VA	12/05/01
Meetings	Philadelphia, PA	12/05/01

REV_00169678

Speaking Engagement	Atlanta, GA	12/06/01
Speaking Engagement	Ft. Wayne, IN	12/06/01
Official	Lynchburg, VA	12/12/01
Meetings	Lynchburg, VA	12/16/01
Official	Sacramento, CA	12/18/01
Official	Camp David, MD	12/21/01
Official	Lynchburg, VA	12/24/01
Official	Waco, TX	12/26/01
Official	Minneapolis, MN	12/27/01
Official	Camp David, MD	12/28/01
Speaking Engagement	Austin, TX	01/03/02
Official	Hamilton, OH	01/06/02
Meetings	Lynchburg, VA	01/07/02
Official	Salt Lake City, UT	01/09/02
Speaking Engagement	Las Vegas, NV	01/10/02
Official	Anchorage, AK	01/14/02
Meetings	Lynchburg, VA	01/14/02
Official	Mamphis, TN	01/14/02
Official	New Orleans, LA	01/14/02
Speaking Engagement	Sacramento, CA	01/17/02
Speaking Engagement	Dallas, TX	01/18/02
Official	Portland, ME	01/21/02
Official	Atlanta, GA	01/25/02
Meetings	Manhattan, NY	01/25/02
Official	Winston-Salem. NC	01/25/02
Meetings	Lynchburg, VA	01/28/02
Meetings	Salt Lake City, UT	01/28/02
Speaking Engagement	Chicago, IL	01/30/02
Official	Lynchburg, VA	01/30/02
Official	Salt Lake City, UT	02/01/02
Official	Salt Lake City, UT	02/01/02
Official	Denver, C0	02/04/02
Official	Jackson, WY	02/04/02
Meetings	Lynchburg, VA	02/04/02
Official	Milwaukee, WI	02/06/02
Meetings	Albuquerque, NM	02/07/02
Official	Denver, CO/Jackson, WY/ Idaho Falls, ID	02/07/02
Meetings	New Haven, CT	02/07/02
Official	Waco, TX	02/08/02

REV_00169679

Official	Anchorage, AK	02/11/02
Official	Lynchburg, VA	02/11/02
Speaking Engagement	Denver, CO	02/12/02
Official	Lynchburg, VA	02/13/02
Speaking Engagement	Naples, FL	02/14/02
Speaking Engagement	Charlottesville, VA	02/16/02
Speaking Engagement	Dallas, TX	02/18/02
Official	Jackson, WY/Los Angeles, CA	02/18/02
Meetings	Kansas City, KS	02/18/02
Accompany a USG Delegation	Rome, ITA	02/18/02
Meetings	Key West, FL	02/21/02
Meetings	Las Vegas, NV	02/21/02
Meetings	Lynchburg, VA	02/27/02
Speaking Engagement	Los Angeles, CA	02/28/02
Official	Camp David, MD	03/01/02
Speaking Engagement	Hartford, CT	03/01/02
Speaking Engagement	Jackson, MS	03/01/02
Meetings	Lynchburg, VA	03/04/02
Official	Camp David, MD	03/05/02
Official	Lynchburg, VA	03/06/02
Speaking Engagement	Palm Springs, CA	03/07/02
Meetings	Lynchburg, VA	03/08/02
Official	Norfolk, VA	03/08/02
Official	Richmond, VA	03/08/02
Official	Richmond, VA	03/08/02
Official	College Station, TX	03/09/02
Official	Fayetteville, NC	03/11/02
Official	Lynchburg, VA	03/11/02
Official	St. Louis, MO	03/13/02
Meetings	Washington DC	03/15/02
Official	El Paso, TX	03/16/02
Official	Atlanta, GA	03/22/02
Meetings	Cedar Rapids, IA	03/24/02
Official	Austin, TX/Waco, TX	03/25/02
Official	Dallas, TX	03/25/02
Official	Lynchburg, VA	03/25/02

REV_00169680

Official	Atlanta, GA/Waco, TX/Greenville, SC	03/27/02
Meetings	Lynchburg, VA	03/27/02
Official	Philadelphia, Pa	03/27/02
Official	Waco, TX	03/27/02
Official	Waco, TX	04/04/02
Official	Waco, TX	04/04/02
Official	Waco, TX	04/04/02
Meetings	Boston, MA	04/05/02
Speaking Engagement	Orlando, FL/Tampa, FL	04/06/02
Meetings	Knoxville, TN	04/07/02
Meetings	Denver. CO/Las Vegas, NV	04/11/02
Official	Camp David, MD	04/12/02
Official	Camp David, MD	04/12/02
Meetings	Boston, MA	04/15/02
Meetings	Lynchburg, VA	04/15/02
Meetings	Manhattan, NY	04/15/02
Speaking Engagement	Oakland, CA/Seattle, WA	04/16/02
Official	Lynchburg, VA	04/17/02
Official	Lynchburg, VA	04/17/02
Official	Camp David, MD	04/19/02
Official	Austin, TX/Waco, TX	04/23/02
Official	Lynchburg, VA	04/23/02
Official	Los Angeles, CA/Waco, TX	04/24/02
Official	Los Angeles, CA/Waco, TX	04/24/02
Speaking Engagement	Jackson, MS	04/26/02
Meetings	Philadelphia, PA	04/26/02
Meetings	San Marcos, TX	04/27/02
Official	Lynchburg, VA	04/29/02
Meetings	San Jose, CA	04/29/02
Meetings	Tampa, FL	04/30/02
Official	Camp David, MD	05/03/02
Speaking Engagement	Miami, FL	05/07/02
Official	Lynchburg, VA	05/08/02
Official	Camp David, MD	05/10/02
Speaking Engagement	College Station, TX	05/10/02
Official	Houston, TX	05/10/02
Official	Lynchburg, VA	05/13/02
Speaking Engagement	New Orleans, LA	05/13/02

REV_00169681

Official	Lynchburg, VA	05/15/02
Official	Camp David, MD	05/17/02
Meetings	Manhattan, NY/Phoenix, AZ	05/21/02
Speaking Engagement	Atlanta, GA	05/23/02
Speaking Engagement	Birmingham, AL	05/25/02
Official	West Point, NY	05/26/02
Official	Little Rock, AR	05/27/02
Official	Lynchburg, VA	05/27/02
Official	Little Rock, AR	05/29/02
Speaking Engagement	Pittsburg, PA	05/29/02
Official	Philadelphia, Pa	05/30/02
Speaking Engagement	Albuquerque, NM/Las Vegas, NV/Los Angeles, CA	05/31/02
Official	Camp David, MD	05/31/02
Invitational	Washington, DC	05/31/02
Official	Des Moines, IA	06/02/02
Official	Des Moines, IA	06/02/02
Meetings	Manhattan, NY	06/02/02
Meetings	Lynchburg, VA	06/03/02
Official	Lynchburg, VA	06/03/02
Official	Kansas City, KS	06/06/02
Official	Camp David, MD	06/07/02
Official	El Paso, TX	06/07/02
Speaking Engagement	Ft. Meyers, FL	06/07/02
Speaking Engagement	Salt Lake City, UT	06/10/02
Official	Atlanta, GA	06/11/02
Official	Crawford, TX	06/11/02
Meetings	Los Angeles, CA/Modesto, CA	06/12/02
Official	Lynchburg, VA	06/12/02
Official	Waco, TX	06/12/02
Meetings	New Orleans, LA	06/13/02
Official	Minneapolis, MN	06/14/02
Official	Waco, TX	06/14/02
Official	Waco, TX	06/14/02
Official	Lynchburg, VA	06/17/02
Meetings	Madison. WI	06/17/02
Speaking Engagement	Pittsburg, PA	06/19/02
Speaking Engagement	Brooklyn, NY	06/21/02

REV_00169682

Speaking Engagement	Charlotte, NC	06/21/02
Meetings	Phoenix, AZ/Scottsdale, AZ	06/21/02
Official	Providence, RI	06/22/02
Official	Lynchburg, VA	06/24/02
Meetings	San Francisco, CA/Seattle, WA	06/25/02
Official	Lynchburg, VA	06/26/02
Speaking Engagement	Albuquerque, NM	06/27/02
Official	Crawford, TX	06/28/02
Official	Ripley, WV	06/29/02
Official	Lynchburg, VA	07/11/02
Official	Crawford, TX	07/12/02
Meetings	New Orleans, LA	07/12/02
Meetings	Boise, ID	07/14/02
Meetings	New Orleans, LA	07/14/02
Official	Lynchburg, VA	07/16/02
Meetings	London, GBR/FRA	07/18/02
Speaking Engagement	Los Angeles, CA	07/20/02
Official	Charleston, SC	07/23/02
Official	Charleston, SC	07/23/02
Speaking Engagement	Cleveland, OH/Minneapolis, MN	07/23/02
Meetings	Denver, CO	07/23/02
Meetings	Denver, CO/Orlando, FL	07/23/02
Official	Lynchburg, VA	07/24/02
Official	Manhattan, NY	07/24/02
Meetings	Atlanta, GA	07/28/02
Meetings	MexicoCity, MEX	07/28/02
Official	Lubbock, TX	07/29/02
Meetings	Lynchburg, VA	07/29/02
Meetings	Boston, MA	07/30/02
Meetings	Ausitn, TX	08/01/02
Meetings	Austin, TX	08/01/02
Official	Waco, TX	08/01/02
Official	Waco, TX	08/01/02
Speaking Engagement	Hershey, PA	08/03/02
Official	Lynchburg, VA	08/05/02
Meetings	Manhattan, NY	08/05/02
Meetings	Ft Lauderdale, FL	08/06/02
Meetings	Orlando, FL	08/06/02
Official	Waco, TX	08/06/02
Official	Waco, TX	08/06/02

REV_00169683

Official	Waco, TX	08/06/02
Official	Waco, TX	08/11/02
Official	Des Moines, IA	08/13/02
Conference Attendance	New Orleans, LA	08/13/02
Official	Waco, TX	08/13/02
Speaking Engagement	Charleston, WV	08/15/02
Official	Waco, TX	08/15/02
Official	Waco, TX	08/15/02
Official	Las Cruces, NM	08/19/02
Official	Las Cruses, NM	08/19/02
Official	Monterey, CA	08/19/02
Official	Hanoi, VIE/Honolulu, HI	08/20/02
Official	Las Cruces, NM	08/20/02
Speaking Engagement	Ft. Lauderdale, FL	08/25/02
Speaking Engagement	Memphis, TN	08/28/02
Speaking Engagement	Philadelphia, PA	08/28/02
Official	Louisville, KY	08/29/02
Official	Louisville, KY	08/29/02
Official	Louisville, KY	08/30/02
Official	South Bend, IN	08/30/02
Official	South Bend, IN	08/30/02
Official	South Bend, IN	08/30/02
Official	Minneapolis, MN	09/02/02
Speaking Engagement	Manhattan, NY/Kansas City, KS	09/03/02
Speaking Engagement	Naples, FL/Orlando, FL	09/03/02
Meetings	Lynchburg, VA	09/04/02
Meetings	Manhattan, NY	09/04/02
Speaking Engagement	Manhattan, NY	09/05/02
Official	Manhattan, NY	09/08/02
Official	Pittsburg, PA	09/10/02
Official	Pittsburg, PA	09/10/02
Official	Lynchburg, VA	09/11/02
Official	Davenport, IA	09/12/02
Meetings	Austin, TX	09/13/02
Meetings	Los Angeles, CA	09/13/02
Official	Pittsburg, PA	09/13/02
Official	Lynchburg, VA	09/16/02
Speaking Engagement	Baltimore, MD	09/19/02

REV_00169684

Speaking Engagement	Cedar Rapids, IA	09/19/02
Speaking Engagement	Chicago, IL	09/20/02
Speaking Engagement	Wintergreen, VA	09/20/02
Speaking Engagement	Columbus, OH	09/23/02
Official	Milwaukee, WI	09/23/02
Official	Lynchburg, VA	09/25/02
Speaking Engagement	Orange County, CA	09/25/02
Official	Waco, TX	09/25/02
Speaking Engagement	Raleigh, NC	09/26/02
Speaking Engagement	Pittsburg, PA	09/27/02
Speaking Engagement	Boston, MA	09/28/02
Speaking Engagement	Manhattan, NY	09/30/02
Official	San Francisco, CA	10/15/02

White House Office FY 2003 Staff Travel		
PURPOSE	**DESTINATION**	**DATE**
Meeting	Manhattan,NY	10/01/02
Meeting	Chicago, IL	10/02/02
Speaking Engagement	Columbus, OH	10/02/02
Speaking Engagement	Syracuse, NY	10/04/02
Speaking Engagement	Atlanta, GA	10/05/02
Official	Lynchburg, VA	10/07/02
Speaking Engagement	Orlando, FL	10/07/02
Meeting	Atlanta, GA	10/08/02
Speaking Engagement	Portsmouth, NH	10/08/02
Meeting	Hague	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02

REV_00169685

Speaking Engagement	Sioux Falls Naval, SD	10/09/02
Meeting	Washington, DC	10/09/02
Meeting	Manhattan,NY	10/10/02
Meeting	Naples, FL	10/10/02
Speaking Engagement	Ft. Lauderdale, FL	10/10/02
Speaking Engagement	Ft. Lauderdale, FL	10/10/02
Speaking Engagement	Milwaukee, WI	10/13/02
Meeting	Daytona Beach, FL	10/14/02
Official	Lynchburg, VA	10/16/02
Meeting	Manhattan,NY	10/17/02
Meeting	Philadelphia, PA	10/17/02
Meeting	Manhattan,NY	10/17/02
Speaking Engagement	Indianapolis, IN	10/17/02
Speaking Engagement	Atlanta, GA	10/19/02
Speaking Engagement	San Antonio, TX	10/20/02
Meeting	Des Moines, IA	10/20/02
Official	Lynchburg, VA	10/21/02
Official	Waco, TX	10/22/02
Meeting	Lynchburg, VA	10/23/02
Meeting	Chicago, IL	10/23/02
Speaking Engagement	St. Louis, MO	10/24/02
Speaking Engagement	Los Angeles, CA	10/24/02
Meeting	Charlotte, NC	10/24/02
Meeting	Los Angeles, CA	10/24/02
Official	Lynchburg, VA	10/28/02
Meeting	Charlotte, NC	10/28/02
Meeting	Cleveland, OH	10/28/02
Meeting	Providence, RI	10/28/02
Speaking Engagement	Pittsburgh, PA	10/29/02
Official	Waco, TX	10/31/02
Meeting	Miami, FL	11/05/02
Meeting	West Point, NY	11/07/02
Meeting	Providence, RI	11/07/02
Speaking Engagement	Providence, RI	11/07/02
Speaking Engagement	Los Angeles, CA	11/07/02
Meeting	Manhattan,NY	11/08/02
Speaking Engagement	San Diego, CA	11/10/02
Speaking Engagement	Reno, NV	11/11/02
Official	Lynchburg, VA	11/12/02
Official	Lynchburg, VA	11/13/02
Meeting	Charlotte, NC	11/13/02
Speaking Engagement	Lansing, MI	11/13/02

REV_00169686

Speaking Engagement	Manchester, NH	11/13/02
Speaking Engagement	Portland, OR	11/14/02
Meeting	Austin, TX	11/16/02
Meeting	Austin, TX	11/16/02
Speaking Engagement	Albany, NY	11/18/02
Speaking Engagement	Portland, OR	11/18/02
Speaking Engagement	Newark, NJ	11/19/02
Meeting	Manhattan,NY	11/20/02
Speaking Engagement	Tallahassee, FL	11/20/02
Speaking Engagement	Concord, NH	11/20/02
Meeting	Manhattan,NY	11/21/02
Meeting	Los Angeles, CA	11/21/02
Meeting	Loudoun County, VA	11/21/02
Speaking Engagement	West Palm Beach, FL	11/22/02
Speaking Engagement	Springfield, MO	11/24/02
Speaking Engagement	Ft. Lauderdale, FL	11/24/02
Meeting	Manhattan,NY	11/25/02
Speaking Engagement	Manhattan,NY	11/25/02
Official	Waco, TX	11/25/02
Speaking Engagement	Hershey, PA	11/26/02
Meeting	New Orleans, LA	12/01/02
Official	Ft. Lauderdale, FL	12/01/02
Official	Manhattan,NY	12/02/02
Speaking Engagement	Augusta Naval Ctr, ME	12/02/02
Official	Jacksonville, Fl	12/03/02
Speaking Engagement	Pensacola, FL	12/03/02
Speaking Engagement	Tallahassee, FL	12/04/02
Speaking Engagement	Lexington, KY	12/04/02
Meeting	Philadelphia, PA	12/06/02
Speaking Engagement	Ft. Wayne, IN	12/06/02
Speaking Engagement	Richmond, VA	12/07/02
Meeting	Manhattan,NY	12/09/02
Official	Lynchburg, VA	12/09/02
Meeting	Philadelphia, PA	12/09/02
Speaking Engagement	Nashville, TN	12/09/02
Meeting	Manhattan,NY	12/10/02
Speaking Engagement	Duluth,, MN	12/10/02
Official	Lynchburg, VA	12/11/02
Meeting	Philadelphia, PA	12/11/02
Meeting	Philadelphia, PA	12/11/02
Meeting	Philadelphia, PA	12/11/02
Meeting	Philadelphia, PA	12/11/02
Speaking Engagement	Philadelphia, PA	12/11/02

REV_00169687

Speaking Engagement	Philadelphia, PA	12/11/02
Meeting	Indianapolis, IN	12/11/02
Meeting	Norfolk, VA	12/17/02
Meeting	West Palm Beach, FL	12/20/02
Meeting	Salt Lake City, UT	01/01/03
Official	Chicago, IL	01/02/03
Official	Reno, NV	01/05/03
Official	Chicago, IL	01/05/03
Meeting	Manhattan,NY	01/07/03
Meeting	Augusta Naval Ctr, ME	01/08/03
Meeting	Albuquerque, NM	01/09/03
Meeting	Denver, CO	01/10/03
Meeting	Tampa, FL	01/11/03
Meeting	Tampa, FL	01/11/03
Meeting	Denver, CO	01/11/03
Meeting	Denver, CO	01/12/03
Meeting	Denver, CO	01/12/03
Meeting	Denver, CO	01/12/03
Meeting	Denver, CO	01/12/03
Meeting	Denver, CO	01/12/03
Meeting	Denver, CO	01/12/03
Meeting	Salem Naval Ctr, OR	01/12/03
Official	Lynchburg, VA	01/15/03
Meeting	Manhattan,NY	01/19/03
Speaking Engagement	Austin, TX	01/20/03
Official	Lynchburg, VA	01/21/03
Meeting	Manhattan,NY	01/21/03
Speaking Engagement	Des Moines, IA	01/21/03
Speaking Engagement	Oakland, CA	01/23/03
Speaking Engagement	Chicago, IL	01/26/03
Speaking Engagement	Norfolk, VA	01/26/03
Meeting	Manhattan,NY	01/28/03
Meeting	Las Vegas, NV	01/31/03
Meeting	Manhattan,NY	02/03/03
Meeting	Manhattan,NY	02/03/03
Speaking Engagement	Boston, MA	02/06/03
Meeting	Nashville, TN	02/09/03
Official	Lynchburg, VA	02/10/03
Speaking Engagement	Little Rock, AR	02/10/03
Meeting	Tallahassee, FL	02/11/03
Meeting	San Diego, CA	02/13/03
Conference Attendance	San Diego, CA	02/15/03
Speaking Engagement	San Diego, CA	02/15/03
Meeting	Cincinnati, OH	02/19/03

REV_00169688

Meeting	Montgomery, AL	02/20/03
Speaking Engagement	Baton Rouge, LA	02/20/03
Meeting	Lynchburg, VA	02/24/03
Meeting	Santa Fe, NM	02/24/03
Speaking Engagement	Houston, TX	02/27/03
Meeting	Miami, FL	02/27/03
Meeting	Portland, OR	02/28/03
Meeting	Newport News, VA	03/05/03
Official	Lynchburg, VA	03/05/03
Speaking Engagement	Minneapolis, MN	03/06/03
Meeting	King of Prussia, PA	03/10/03
Speaking Engagement	Raleigh, NC	03/11/03
Meeting	Chicago, IL	03/12/03
Meeting	Chicago, IL	03/12/03
Meeting	Philadelphia, PA	03/12/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/14/03
Speaking Engagement	Charlottesville, VA	03/14/03
Speaking Engagement	Montgomery, AL	03/14/03
Speaking Engagement	Charlotte, NC	03/16/03
Speaking Engagement	Columbus, OH	03/17/03
Official	Lynchburg, VA	03/19/03
Speaking Engagement	Harford County, MD	03/21/03
Speaking Engagement	Atlanta, GA	03/24/03
Meeting	Philadelphia, PA	03/25/03
Meeting	Philadelphia, PA	03/25/03
Meeting	Philadelphia, PA	03/25/03
Meeting	Lansing, MI	03/25/03
Official	Lynchburg, VA	03/26/03
Speaking Engagement	Princeton, NJ	03/26/03
Speaking Engagement	Columbus, OH	03/26/03
Speaking Engagement	Jackson, MS	03/27/03
Meeting	Las Vegas, NV	03/27/03
Speaking Engagement	Los Angeles, CA	03/29/03
Speaking Engagement	Pittsburgh, PA	03/29/03
Official	Lynchburg, VA	03/31/03
Official	Lynchburg, VA	04/02/03
Meeting	Manhattan,NY	04/02/03
Speaking Engagement	Nashville, TN	04/03/03

REV_00169689

Official	Philadelphia, PA	04/03/03
Speaking Engagement	Atlantic City, NJ	04/04/03
Speaking Engagement	Tallahassee, FL	04/06/03
Speaking Engagement	Hershey, PA	04/06/03
Meeting	Houston, TX	04/08/03
Speaking Engagement	Albuquerque, NM	04/08/03
Speaking Engagement	Denver, CO	04/11/03
Official	Elmendorf, AK	04/12/03
Speaking Engagement	Detroit, MI	04/13/03
Meeting	St. Louis, MO	04/14/03
Speaking Engagement	Jefferson City, MO	04/14/03
Meeting	Manhattan,NY	04/15/03
Meeting	Dayton, OH	04/22/03
Official	San Jose, CA	04/22/03
Speaking Engagement	Houston, TX	04/23/03
Speaking Engagement	Atlanta, GA	04/24/03
Speaking Engagement	Houston, TX	04/24/03
Meeting	Albuquerque, NM	04/24/03
Speaking Engagement	Bridgeport, CT	04/27/03
Meeting	Chicago, IL	05/01/03
Speaking Engagement	Baton Rouge, LA	05/05/03
Speaking Engagement	Portland, OR	05/05/03

Office of the Vice President FY 2002 Staff Travel		
PURPOSE	**DESTINATION**	**DATE**
Meetings	London, GBR	07/14/02
Official	Monterey, CA	07/15/02

Office of the Vice President FY 2003 Staff Travel		
PURPOSE	**DESTINATION**	**DATE**
Invitational	Washington DC	10/18/02
Meetings	London, GBR	10/09/02
Meetings	London, GBR	12/12/02
Meetings	Manhattan, NY	01/15/03
Official	Raleigh, NC	04/10/03

REV_00169690

QUESTION 110: Please provide a list of all Presidential, First Lady and Vice Presidential travel for FY02 and FY03 (to date). For each trip, please provide the trip date, destination, designation (i.e., political, official), number of official EOP staff supporting the Principal and, the official cost of the trip. **(POC – Rothley Howard)**

Answer: The following charts summarize Presidential, First Lady and Vice Presidential travel for Fiscal Years 2002 and 2003 (to date). They also reflect costs currently in the accounting system. Several of the trips listed below are awaiting additional costs, therefore, final costs may vary.

Presidential Travel FY 2002

		Status		# of EOP Staff	White House
Date	**Destination**	**Official**	**Political**		**Travel Cost**
3-Oct	New York, NY	100%		6	$8,060
7-Oct	Emmitsburg, MD	100%		4	$1,988
17-Oct	Sacramento, CA	100%		5	$16,678
30-Oct	New York, NY	100%		4	$13,043
8-Nov	Atlanta, GA	100%		6	$17,920
10-Nov	New York, NY	100%		0	$6,525
14-Nov	Crawford. TX	100%		4	$44,535
21-Nov	Fort Campbell, KY	100%		3	$9,114
27-Nov	Salt Lake City, UT	100%		7	$4,328
1-Dec	Philadelphia, PA	100%		5	$13,669
4-Dec	Orlando, FL	70%	30%	7	$13,371
7-Dec	Norfolk, VA	100%		5	$5,271
11-Dec	Citadel, SC	100%		4	$11,498
26-Dec	Waco, TX	100%		7	$12,667
4-Jan	Austin, TX	100%		1	$5,356
5-Jan	Ontario, CA	100%		4	$10,240
5-Jan	Portland, OR	100%		7	$10,870
8-Jan	Hamilton, OH	100%		6	$6,588
8-Jan	Boston, MA	100%		6	$11,159
8-Jan	Portsmith, NH	54%	46%	4	$6,594
9-Jan	Washington, DC	100%		0	$0
11-Jan	Conshohoken, PA	100%		6	$5,321
14-Jan	Moline, IL	100%		6	$7,570
14-Jan	Springfield, MO	100%		4	$6,569
14-Jan	New Orleans, LA	100%		21	$32,494
22-Jan	Charleston, WV	71%	29%		$6,086
25-Jan	Portland, ME	100%		5	$7,698

REV_00169691

30-Jan	Winston-Salem, NC	65%	35%	0	$8,799
30-Jan	Daytona Beach, FL	100%		16	$12,874
31-Jan	Atlanta, GA	100%		5	$13,869
1-Feb	White Sulpher Springs, WV	100%		4	$4,273
4-Feb	Eglin AFB,FL	100%		4	$7,666
5-Feb	Pittsburgh ,PA	100%		5	$7,918
6-Feb	New York, NY	54%	46%	6	$6,940
8-Feb	Denver, CO	100%		4	$7,644
8-Feb	Salt Lake City, UT	100%		13	$12,877
8-Feb	Jackson, WY	100%		7	$11,182
11-Feb	Milwaukee, WI	48%	52%	1	$9,360
16-Feb	Anchorage, AK	40%	60%	1	$9,181
27-Feb	Charlotte, NC	52%	48%	1	$7,048
1-Mar	Des Moines, IA	53%	47%	**5**	$3,546
3-Mar	Minneapolis, MN	50%	50%	2	$7,127
8-Mar	St. Petersburg, FL	57%	43%	2	$6,093
12-Mar	Philadelphia, PA	100%		9	$11,102
15-Mar	Fayetteville, NC	100%		6	$1,218
16-Mar	Chicago, IL	100%		4	$11,217
18-Mar	St. Louis, MO	65%	35%	5	$5,835
21-Mar	El Paso, TX	100%		6	$129
27-Mar	Greenville, SC	45%	55%	5	$-3,217
27-Mar	Atlanta, GA	52%	48%	3	$166
27-Mar	Waco, TX	100%		8	$19,804
28-Mar	Dallas, TX	20%	80%	4	$224
2-Apr	Philadelphia, PA	59%	41%	6	$12,239
4-Apr	Waco, TX	100% State		0	$0
8-Apr	Knoxville, TN	100%		5	$743
9-Apr	Bridgeport, CT	52%	48%	6	$7,152
15-Apr	Cedar Rapids, IA	59%	41%	5	$7,819
17-Apr	Lexington, VA	100%		5	$8,505
22-Apr	Saranac, NY(Wilmington, NY)	100%		4	$13,029
19-Apr	Beltsville, MD	100%		0	$0
24-Apr	Sioux Falls, SD	45%	55%	5	$8,249
24-Apr	Waco, TX	100%		12	$13,741
29-Apr	Los Angeles, CA	48%	52%	17	$10,907
29-Apr	Albuquerque, NM	54%	46%	5	$7,054
30-Apr	San Jose, CA	42%	58%	6	$6,632
6-May	Southfield, MI	100%		5	$9,857
8-May	Milwaukee, WI	100%		6	$10,952

REV_00169692

8-May	Lacrosse, WI	100%		7	$8,760
10-May	Columbus, OH	59%	41%	5	$4,992
13-May	Chicago, IL	42%	58%	6	$1,743
20-May	Miami, FL	42%	58%	7	$8,587
1-Jun	West Point, NY	100%		5	$13,593
3-Jun	Little Rock, AR	100%		6	$10,094
7-Jun	Des Moines, IA	100%		6	$13,895
11-Jun	Kansas City, MO	58%	42%	7	$8,179
14-Jun	Columbus,OH	100%		6	$4,031
14-Jun	Houston, TX	45%	55%	**5**	$9,739
14-Jun	Waco, TX	100%		3	$14,955
17-Jun	Atlanta, GA	100%		5	$8,663
21-Jun	Orlando, FL	48%	52%	7	$12,111
24-Jun	Newark, NJ	48%	52%	7	$4,974
25-Jun	Phoenix, AZ	100%		0	$584
1-Jul	Cleveland, OH	100%		5	$7,823
2-Jun	Milwaukee, WI	100%		5	$6,411
4-Jul	Ripley, WV	100%		6	$7,129
5-Jul	Kennebunkport, MN	100%		0	$34,245
9-Jul	New York City, NY	100%		5	$7,706
11-Jul	Minneapolis, MN	62%	38%	7	$13,709
15-Jul	Birmingham, AL	62%	38%	6	$5,747
18-Jul	Troy, MI	100%		0	$3,197
19-Jul	Fort Drum, NY	100%		6	$7,133
22-Jul	Argonne, IL	100%		7	$10,510
25-Jul	Greensboro, NC	62%	38%	7	$5,342
29-Jul	Charleston, SC	59%	41%	5	$7,149
2-Aug	Kennebunkport, MN	75%	25%	14	$34,291
5-Aug	Pittsburg, PA	56%	44%	7	$11,138
6-Aug	Waco, TX	100%		21	$107,331
7-Aug	Jackson, MS	76%	24%	6	$9,750
13-Aug	Economic Forum Waco, TX	100%		0	$201
14-Aug	Milwaukee, WI	42%	58%	5	$5,217
14-Aug	Des Moines, IA	42%	58%	23	$6,630
14-Aug	South Dakota	100%		4	$8,029
16-Aug	Rapid City, SD	58%	42%	1	$65
22-Aug	Medford, OR	100%		5	$10,226
22-Aug	Portland, OR		100%	0	$2,429
23-Aug	Dana Point, CA	50%	50%	20	$21,873
23-Aug	Stockton, CA	38%	62%	5	$4,565

REV_00169693

24-Aug	Thousand Oaks/Westwood, CA		100%	0	$955
24-Aug	Santa Anna, CA	100%			$0
24-Aug	Las Cruces, NM	42%	58%	6	$4,381
29-Aug	Oklahoma City, OK		100%	0	$0
29-Aug	Little Rock, AR	58%	42%	5	$10,649
2-Sep	Pittsburgh, PA	100%		4	$11,098
5-Sep	Louisville, KY	59%	41%	7	$8,684
5-Sep	South Bend, IN	42%	58%	3	$5,105
6-Sep	Delu	100%		0	$1,346
6-Sep	Minneapolis, MN	100%		5	$3,387
9-Sep	Detroit, MI	100% State		0	$1,804
11-Sep	Somerset County, PA	100%		6	$1,611
11-Sep	New York City, NY	100%		8	$6,665
16-Sep	Davenport, IA	48%	52%	6	$6,573
17-Sep	Nashville, TN	38%	62%	6	$1,573
23-Sep	Trenton, NJ	38%	62%	5	$5,053
26-Sep	Houston, TX		100%	0	$0
26-Sep	Waco, TX	100%		9	$19,792
27-Sep	Denver, CO		100%	0	$0
27-Sep	Flagstaff, AZ		100%	0	$0
27-Sep	Phoenix, AZ		100%	0	$0
	Total Presidential FY 2002 Costs Through 09/30/02				**$1,146,388**

First Lady Travel FY 2002					
		Status		# of EOP	White House
Date	Destination	Official	Political	Staff	Travel Cost
3-Oct	Cincinnati, OH	100%		0	$339
16-Oct	Newark, NJ	100%		0	$1,790
18-Oct	Atlanta, GA	100%		1	$1,742
19-Oct	Baton Rouge, LA	100%		0	$1,568
30-Oct	New York, NY	100%		3	$1,652
16-Nov	Austin, TX	100%		1	$7,300
9-Jan	Topeka, KS	100%		0	$1,566
10-Jan	Houston, TX	100%		0	$1,915
11-Jan	Austin, TX	100%		0	$780
21-Jan	Atlanta, GA	100%		0	$1,060
10-Feb	Los Angeles, CA	100%		1	$5,021
11-Feb	Hershey, PA	100%		0	$0
8-Mar	New York, NY	100%		3	$6,218

REV_00169694

11-Mar	Richmond, VA	100%		4	$1,659
4-Apr	Dallas, TX	100%		1	$35
11-Apr	Hershey, PA	100%		1	$899
30-Apr	Little Rock, AR	100%		2	$1,839
30-Apr	Dallas, TX	100%		3	$365
9-May	New York, NY	100%		0	$1,898
28-May	Austin, TX	100%		1	$3,379
10-Jun	Boise, ID	100%		1	$3,456
11-Jun	Salt Lake City, UT	100%		1	$1,187
11-Jun	San Francisco	61%	39%	0	$5,237
12-Jun	Austin, TX	100%		1	$3,693
6-Jun	Crawford, TX	100%		0	$0
20-Jun	Boston, MA	100%		1	$1,674
17-Jun	Cinncinati, OH	100%		2	$2,309
22-Jun	Midland, TX	100%		0	$0
7-Jul	Kennebunkport, ME	100%		0	$0
12-Jul	Norfolk, VA	100%		2	$969
18-Jul	Philadelphia, PA	100% State		0	$0
24-Jul	New York, NY			2	$236
2-Aug	Dallas, TX	100%		1	$1,773
3-Aug	Lubbock, TX	100%		4	$3,571
14-Aug	Austin, TX	100%		2	$3,231
22-Aug	Austin, TX	100%		2	$3,501
11-Sep	New York, NY	100%		4	$4,241
25-Sep	Greenville, MS	100%		0	$1,591
27-Sep	Waco, TX	100%		1	105
	Total First Lady FY 2002 Costs through 09/30/02				**$77,799**

Vice Presidential Travel FY 2002					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
7-Oct	Smithers, BC *(can./Adv. only)*			1	$449
18-Oct	New York, NY	100%		4	$2,063
21-Oct	Washington, DC	100%			$378
28-Oct	Poughkeepsie, NY	100%		5	$3,885
30-Oct	White Sulphur Springs, WV				$200
4-Nov	Pierre/Gettysburg, SD	100%		7	$5,676
2-Nov	Dallas, TX *(can. trip)*	100%		1	$115
2-Nov	Jackson, WY	100%		2	$11,195

REV_00169695

27-Nov	Salt Lake City, UT	100%		3	$526
29-Nov	New York, NY	100%		17	$14,413
6-Dec	Dallas, TX		100%	9	$1,776
7-Dec	Oklahoma City, OK		100%	3	$4
14-Dec	Albany, GA	100%		9	$5,214
17-Dec	Jackson, WY *(no trip listed/noTA)*				$0
19-Dec	Trappe, MD	100%		9	$4,217
22-Dec	Jackson, WY	100%		14	$55,257
11-Jan	Albany, GA	100%		8	$5,447
25-Jan	Cincinnati, OH		100%	4	$0
30-Jan	White Sulpher Springs, WV	100%		8	$4,353
6-Feb	Louisville, KY		100%	9	$5,392
6-Feb	Evansville, IN		100%		$0
7-Feb	Hopkinsville, KY	17%	83%	9	$700
15-Feb	Armstrong, TX	100%		1	$275
17-Feb	Carlsbad, CA	100%		1	$30,757
19-Feb	Fullerton, CA	100%			$2,700
19-Feb	Los Angeles, CA	15%	85%	2	$5,698
20-Feb	Sacramento, CA		100%	2	$2,514
20-Feb	Fresno, CA *(Mix?)*	100%			$817
20-Feb	Pleasantville, CA	100%			$0
21-Feb	San Jose, CA *(Mix)*	100%		2	$9,783
24-Feb	Salt Lake City, UT	100%		7	$9,544
25-Feb	Cheyenne, WY	30%	70%	27	$9,672
25-Feb	Jackson, WY	100%		4	$20,789
28-Mar	Jackson, WY	100%		1	$13,492
3-Apr	Denver, CO		100%	2	$447
4-Apr	Jackson, MS		100%	3	$1,047
4-Apr	Kansas City, MO		100%	1	$0
4-Apr	Fayetteville, AR		100%	1	$0
5-Apr	Dallas, TX	100%		21	$4,034
12-Apr	Charleston, WV		100%		$0
12-Apr	Richmond, VA		100%		$0
15-Apr	Grand Rapids, MI	100%		10	$5,770
15-Apr	Collinsville, IL		100%	1	$221
19-Apr	Allentown, WV		100%		$0
19-Apr	Islandia, NY		100%		$126
22-Apr	Ft. Lauderdale, FL		100%		$0
24-Apr	Houston, TX *(State-sponsored)*	100%			$0
25-Apr	Crawford, TX *(State-sponsored)*	100%			$0

REV_00169696

2-May	Lansing, MI	100%		13	$4,903
2-May	South Bend, IN		100%	1	$57
9-May	Minneapolis, MN		100%		$0
11-May	Jackson, WY		100%	4	$666
21-May	Boston, MA		100%		$0
24-May	Jackson, WY	100%		8	$9,641
29-May	Nashville, TN		100%		$0
7-Jun	Harrisburg, PA		100%		$0
14-Jun	Columbia, SC		100%		$3,387
14-Jun	Dallas, TX	100%		5	$11,223
20-Jun	Dayton, OH		100%		$0
20-Jun	Detroit, MI		100%		$0
21-Jun	Cody, WY	100%		3	$5,270
21-Jun	Beaver Creek, CO	100%		4	$8,941
23-Jun	Portland, OR		100%	7	$3,902
28-Jun	Charlotte, NC		100%		$0
20-Jun	Raleigh, NC		100%		$0
1-Jul	Wichita, KS		100%		$0
1-Jul	Dallas, TX		100%		$0
1-Jul	Jackson, WY	100%		8	$15,034
9-Jul	Ft. Bragg, NC	100%		1	$860
15-Jul	Hartford, CT		100%		$0
17-Jul	Atlanta, GA	100%		1	$1,805
18-Jul	Conshohocken, PA		100%		$0
18-Jul	Pittsburgh, PA		100%		$0
19-Jul	Macon, GA		100%		$0
19-Jul	Houston, TX		100%		$0
22-Jul	Montgomery, AL	100%		6	$5,498
22-Jul	Cape Canaveral, FL	100%		7	$4,072
29-Jul	Des Moines, IA		100%	5	$255
29-Jul	Cedar Rapids, IA		100%		$0
29-Jul	Fargo, ND		100%	5	$255
30-Jul	Jackson, WY	100%		15	$104,430
1-Aug	Meeker, CO	Cancelled		1	$1,287
6-Aug	San Francisco, CA	72%	28%	7	$13,202
7-Aug	Fresno, CA		100%		$0
8-Aug	Salt Lake City, UT		100%		$0
8-Aug	Albuquerque, NM		100%		$0
12-Aug	Minneapolis, MN		100%		$0
12-Aug	Waco, TX	100%		7	$6,757

REV_00169697

12-Aug	Detroit, MI		100%		$0
13-Aug	Billings, MT		100%		$0
15-Aug	Montgomery, AL		100%		$0
17- Aug	Jackson, WY			3	$1,306
19-Aug	Big Horn, MT	Cancelled			$0
20-Aug	Waco, TX	100%		1	$1,641
26-Aug	Nashville, TN	53%	47%	3	$4,946
29-Aug	San Antonio, TX	100%		3	$2,518
6-Sep	New York, NY	100%		3	$5,447
18-Sep	New London, CT		100%		$0
19-Sep	Burlington, VT	12%	88%	1	$437
19-Sep	New York, NY		100%		$0
20-Sep	Casper, WY	63%	37%	3	$4,840
20-Sep	Jackson, WY	100%		7	$1,830
23-Sep	Kansas City, MO	100%			$0
26-Sep	Memphis, TN		100%		$0
26-Sep	Dallas, TX		100%		$0
27-Sep	Boise, ID		100%	3	$462
26-Sep	Jackson. WY	100%		8	$11,395
27-Sep	Laramie, WY	100%		4	$761
	Total Costs through 9/30/02				**$475,974**

Presidential Travel FY 2003					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
1-Oct	Tampa, FL				$1,032
2-Oct	Baltimore, MD		100%	0	$0
4-Oct	Boston, MA		100%	0	$0
4-Oct	Kennebunkport, ME	100%		17	$37,055
5-Oct	Manchester, NH	32%	68%	4	$5,704
7-Oct	Cincinnati, OH	100%		10	$20,182
8-Oct	Knoxville, TN		100%	0	$798
14-Oct	Detroit, MI		100%	1	$677
17-Oct	Daytona Beach, FL	59%	41%	6	$9,308
17-Oct	Atlanta, GA		100%	0	$0
18-Oct	Rochester, MN		100%	0	$0
18-Oct	Springfield, MO		100%	0	$0
22-Oct	Chester County, PA		100%	0	$0
22-Oct	Bangore, ME		100%	0	$0

REV_00169698

24-Oct	Charlotte, NC		100%	0	$0
24-Oct	Columbia, SC		100%	0	$0
24-Oct	Auburn, AL		100%	0	$0
24-Oct	Waco, TX (State Dept.)	100%		2	$2,168
26-Oct	Cabo San Lucas, Mex (State)	100%		0	$0
27-Oct	Phoenix, AZ (RON)		100%	4	$817
28-Oct	Alamogordo, NM		100%	0	$0
28-Oct	Denver, CO		100%	0	$0
31-Oct	Aberdeen, SD		100%	0	$0
31-Oct	Southbend, IN		100%	0	$0
31-Oct	Charleston, WV		100%	0	$0
1-Nov	Louisville, KY		100%	0	$0
1-Nov	Portsmouth, NH		100%	0	$0
2-Nov	Johnson City, TN		100%	0	$0
2-Nov	Atlanta, GA		100%	0	$0
2-Nov	Tampa Bay, FL (RON)		100%	0	$0
3-Nov	Springfield, IL		100%	0	$0
3-Nov	Minneapolis, MN		100%	0	$0
3-Nov	South Falls, SD		100%	0	$0
3-Nov	Cedar Rapids, IA (RON)		100%	1	$738
4-Nov	St. Louis, MO		100%	0	$0
4-Nov	Bentonville, AR		100%	0	$0
4-Nov	Dallas, TX		100%	0	$0
4-Nov	Waco, TX (RON)	100%		18	$9,387
27-Nov	Waco, TX (RON)	100%		20	$21,899
3-Dec	Shreveport, LA		100%	0	$0
3-Dec	New Orleans, LA		100%	0	$0
12-Dec	Philadelphia, PA	100%		5	$10,793
26-Dec	Waco, TX (RON)	100%		13	$38,144
3-Jan	Ft. Hood, TX	100%		2	$1,777
7-Jan	Chicago, IL	100%		7	$10,516
16-Jan	Scranton, PA	100%		4	$11,184
22-Jan	St. Louis, MO	100%		7	$12,521
29-Jan	Grand Rapids, MI	100%		8	$12,918
31-Jan	Camp David, MD	100%		5	$646
4-Feb	Houston, TX	100%		6	$8,141
9-Feb	White Sulphur Springs, WV	100%		5	$11,968
10-Feb	Nashville, TN	100%		6	$13,069
13-Feb	Jacksonville, FL	100%		6	$15,211
20-Feb	Atlanta, GA	100%		7	$4,646

REV_00169699

20-Feb	Waco, TX (State)	100%		1	$945
4-Mar	Washington, DC	100%		0	$0
5-Mar	Camp Lejeune, NC	100%		3	$5,218
26-Mar	Camp David, MD	100%		7	$350
26-Mar	Tampa Bay, FL	100%		7	$4,541
31-Mar	Philadelphia, PA	100%		5	$1,726
3-Apr	Camp Lejeune, NC	100%		8	$6,968
16-Apr	St. Louis, MO	100%		7	$1,095
16-Apr	Waco, TX	100%		16	$3,972
20-Apr	Ft. Hood, TX	100%		1	$0
24-Apr	Canton, OH	100%			$0
24-Apr	Lima, OH	100%			$0
28-Apr	Dearborn, MI	100%			$0
	Total Costs Through 09/30/03				**$286,114**

First Lady Travel FY 2003					
		Status		Number	White House
Date	Destination	Official	Political	Of Staff	Travel Cost
1-Oct	Tampa, FL	69%	31%	6	$820
4-Oct	Kennebunkport, ME			2	$210
5-Oct	Portland, ME	100%		3	$1,343
7-Oct	New York, NY	74%	26%	4	$5,625
16-Oct	Dayton, OH	100%		4	$2,281
17-Oct	Mobile, AL	77%	23%	8	$4,226
21-Oct	Boston, MA	100%		4	$6,528
23-Oct	St. Louis, MO	65%	35%	5	$5,610
2-Nov	Atlanta, GA	100%		2	$3,729
2-Nov	Raleigh, NC		100%		$0
2-Nov	Nashua, NH		100%		$0
2-Nov	Des Moines, IA		100%		$0
2-Nov	Minneapolis, MN		100%		$0
2-Nov	Sioux Falls, SD (RON)		100%		$0
3-Nov	Rapid City, SD		100%		$0
4-Nov	Waco, TX			1	$112
12-Nov	New York, NY				$295
16-Jan	New York, NY			1	$547
20-Jan	New York, NY			2	$5,668

REV_00169700

4-Feb	Los Angeles, CA			3	$2,369
13-Feb	New York, NY			6	$5,163
19-Feb	Dallas, TX			2	$353
19-Feb	New Orleans, LA			2	$4,883
13-Mar	Austin, TX (RON)		100%	0	$0
8-May	Page, AZ	100%			
8-May	Kayenta, AZ	100%			
8-May	Phoenix, AZ	100%			
9-May	Santa Fe, NM	100%			
	Total Costs through 09/30/03				**$49,762**

Vice Presidential Travel FY 2003					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
19-Sep	Burlington, VT **FY-02*	12%	88%	1	$21
4-Oct	Atlanta, GA		100%		$0
4-Oct	Warner Robbins, GA		100%		$0
4-Oct	Augusta, GA		100%		$0
7-Oct	Babine, BC, Canada	100%			$0
11-Oct	Colorado Springs, CO	79%	21%	7	$4,738
14-Oct	Roswell, NM		100%		$0
14-Oct	Tulsa, OK		100%		$0
14-Oct	Phoenix, AZ		100%		$0
14-Oct	Midwest City, OK	10%	90%		$0
21-Oct	Portland, ME		100%		$0
21-Oct	Newark, NJ		100%		$0
24-Oct	Dalton, GA	83%	17%	2	$374
24-Oct	Tampa, FL	76%	24%		$939
25-Oct	Philadelphia, PA	100%		1	$1,317
25-Oct	Reading, PA		100%		$1,416
29-Oct	Wilmington, NC		100%	1	$207
30-Oct	Chattanooga, TN		100%		$0
30-Oct	Little Rock, AR		100%		$0
30-Oct	Houston, TX		100%	3	$1,234
31-Oct	Cape Girardeau, MO		100%		$0
31-Oct	Sioux City, IA		100%		$0
31-Oct	Indianapolis, IN		100%		0
1-Nov	Duluth, MN		100%		$0
1-Nov	Rapid City, SD		100%		$0

REV_00169701

1-Nov	Denver, CO		100%	1	$1,657
2-Nov	Salt Lake City, UT		100%		$0
2-Nov	Springfield, MO		100%		$0
2-Nov	Jackson Hole, WY		100%	3	$1,369
2-Nov	Albuquerque, NM		100%		$0
3-Nov	Cheyenne, WY		100%		$0
3-Nov	Gettysburg, SD	100%		1	$6,096
16-Nov	Latrobe, PA	100%		2	$1,535
18-Nov	Monroe, LA		100%		$0
18-Nov	Lafayette, LA		100%		$0
22-Nov	Trappe, MD	100%		4	$594
29-Nov	Jackson Hole, WY	100%		5	$1,135
29-Nov	Casper, WY	100%		2	$1,948
2-Dec	Denver, CO	100%		3	$2,308
5-Dec	Stuttgart, AR	100%		4	$1,928
14-Dec	Jackson Hole, WY	100%		7	$9,417
21-Dec	Jackson Hole, WY	100%		6	$17,927
17-Jan	Albany, GA	100%		4	$3,427
24-Jan	Trappe, MD *(cancelled trip)*				$0
31-Jan	Armstrong, TX	100%		6	$2,002
3-Feb	College Station, TX				$0
6-Feb	White Sulphur Springs, WV	100%		2	$806
9-Feb	Honolulu, HI	100%		8	$1,440
14-Mar	Jackson Hole, WY *(Adv only)*	100%			$0
17-Feb	Jackson Hole, WY	100%		9	$8,137
8-Apr	New Orleans, LA	100%		11	$2,941
22-Apr	Jackson Hole, WY	100%		6	$1,399
6-May	Dallas, TX	100%			$0
	Total Costs through 5/16/03				**$76,312**

Summary: Presidential, First Lady and Vice Presidential travel for FY02 and FY03 (to date).

Principal	Fiscal Year 2002	Fiscal Year 2003 (To date)
President of the United States	**$1,146,388**	**$286,114**
First Lady of the United States	**$77,799**	**$49,762**
Vice President of the United States	**$475,974**	**$76,312**
Totals	**$1,700,161**	**$412,188**

REV_00169702

QUESTION 111: How much did OMB reimburse the White House Office for use of White House motorpool vehicles in FY02? How much is OMB projecting to reimburse in FY03 and FY04? **(POC – Brian Gillis)**

RESPONSE: For FY 2002, OMB reimbursed the Department of Defense $99,000 for the use of the White House motorpool. OMB is projecting a similar amount for FY 2003 and FY 2004.

In the hearing, Mr. Daniel mentioned that the FY03 vehicle lease and IT support contracts came in significantly below the original budget estimates.

QUESTION 112: Do you intend to return the unused funds to the Treasury at the end of the fiscal year? **(POC – Chuck Sigman)**

RESPONSE: The EOP plans to use the funds to implement other critical EOP priorities. The programs which were described by Mr. Daniel at the hearing were the FY 2003 vehicle lease and the guard services contract for guard services at 1801 Pennsylvania Avenue. He did not refer to the IT support contract.

QUESTION 113: For these areas in which savings were realized, what are your plans for the funds? **(POC – Chuck Sigman)**

RESPONSE: For FY 2003, these funds are being applied to fund other priorities for the OA as well as common services for EOP entities. These other priorities include consolidation of information technology maintenance ($200,000), centralization of database services ($200,000), and common building service costs ($400,000). The remaining $300,000 of these savings will be used for an FY03 OA personnel shortfall.

Political Travel

QUESTION 114: Please explain the reimbursement procedures the White House intends to follow during the Presidential election season. **(POC – Andy Kalnins)**

RESPONSE: Travel by senior Administration officials is governed by relevant statutes and regulations that have been followed for many years.

QUESTION 115: Exactly when will the presidential-campaign procedures take effect? **(POC – Andy Kalnins)**

REV_00169703

RESPONSE: The presidential-campaign procedures take effect when a President is a candidate for re-election.

QUESTION 116: How do you determine who the official travelers are on a campaign or political trip? Does the list of positions vary from trip to trip? **(POC – Andy Kalnins)**

RESPONSE: Consistent with governing statutes and regulations, and traditional practice, a list of positions has been developed which are deemed to always be official.

QUESTION 117: On trips with political and official components, what is the procedure for determining which events are paid for using official funds and which events are reimbursed by the political entity? **(POC – Andy Kalnins)**

RESPONSE: The guidelines are based on legal principles embodied in 5 CFR §734.503, policies established over a period of years by previous Administrations, and guidance from Federal Election Commission opinions.

QUESTION 118: If the President gives virtually the same speech at a political event that he gave at an official event in that same city, what criteria is used to determine whether an event is "political" or "official"? **(POC – Andy Kalnins)**

RESPONSE: Appearing at party functions, fundraising, and campaigning for specific candidates are principal examples of travel which ordinarily is considered political.

QUESTION 119: If the President gives virtually the same speech at a political event that he gave at an official event in that same city, does the political entity reimburse the White House for the Speechwriters time? **(POC – WHO M&A)**

RESPONSE: Ordinarily not. See 5 CFR §734.503(b)(1).

QUESTION 120: Have events been classified as "official" even if only members of the President's political party are invited to share the stage with the President? **(POC – WHO M&A)**

RESPONSE: The classification of an event as official or political depends on many factors. However, Presidents routinely have official events that may include members of only one party, for example, a speech or meeting about legislative activities or issues.

QUESTION 121: If so, what justification is used to argue that these events were not political events? **(POC – WHO M&A)**

REV_00169704

RESPONSE: The classification of an event as official or political depends on many factors. However, Presidents routinely have official events that may include members of only one party, for example, a speech or meeting about legislative activities or issues.

QUESTION 122: Please provide information about reimbursement to the White House Office or other government agencies associated with local staff travel to political events attended by the President in FY02 or FY03. For each reimbursement made, please provide the date the bill was generated, the number of events reflected on the bill, the date payment was received, the political entity paying the charges and the total amount paid on each bill. **(POC – WHO M&A)**

RESPONSE: The White House took steps to ensure appropriate reimbursements from the relevant political entities for political trips.

Photographic Services (POC – Eric Lanman)

QUESTION 123: For FY02, FY03 and FY04, what was (or is projected to be) the total cost of photographic equipment purchased for use by the White House photographers?

RESPONSE: The total cost (actual and projected) of photographic equipment procured for use by White House photographers in FY 2002, FY 2003 and FY 2004 are displayed in the table below.

	FY 2002	FY 2003	FY 2004
	Actual	Estimate	Estimate
Photographic Equipment	$137,057	$35,700	$36,300

FY 2002 actual costs are higher than the estimates for FY 2003 and FY 2004 due to the necessary life cycle replacement of photographic equipment.

QUESTION 124: For FY02, FY03 and FY04, what was (or is projected to be) the total cost of photo lab equipment purchased for use by the WHCA photo lab?

RESPONSE: The total cost (actual and projected) of photo lab equipment purchased for use by the WHCA photo lab is itemized in the following chart:

	FY 2002	FY 2003	FY 2004
	Actual	Estimate	Estimate
Photo Lab Equipment	$492,720	$473,775	$375,000

QUESTION 125: For FY02, FY03 and FY04, what was (or is projected to be) the total travel cost associated with travel of White House Photographers?

REV_00169705

RESPONSE: The FY 2002 travel costs of White House Photographers was $46,721. The estimated FY 2003 cost is $50,000 and the projected cost for FY 2004 is $55,000.

QUESTION 126: For FY02, FY03 and FY04, what was (or is projected to be) the total rent cost associated with the WHCA photo lab?

RESPONSE: There is no rent cost associated with the WHCA photo lab. However, there are utility and facility maintenance costs associated with the WHCA photo lab. Those costs were $73,600 for FY 2002, $76,650 estimated for FY 2003 and a projected $79,000 for FY 2004.

QUESTION 127: Please explain the procedures for determining when and how the government is to be reimbursed for photos released for non-official purposes. If these procedures have changed from those followed by the previous administration, please explain any changes that have been made.

RESPONSE: The procedures for obtaining reimbursements for photographs changed on October 1, 2000. The procedures now in place are designed to ensure that the government receives appropriate reimbursement for photographs sought for non-official purposes. Records are kept of all such requests, and appropriate reimbursement is then sought.

QUESTION 128: For FY02 and the first seven months of FY03, please provide the following information about each payment made to the White House, OA, WHCA, DISA (or other DoD organization) to reimburse for the release of photos or photo lab services that were provided:

- date reimbursement was made
- name of reimbursing organization
- amount of payment
- number of photos purchased by reimbursing organization
- size of photos purchased by reimbursing organization

RESPONSE: The requested information about each payment made to the White House, OA, WHCA, DISA (or other DoD organization) to reimburse for the release of photos is provided below.

REV_00169706

Reimbursements for White House Photos				
Date	***Reimbursing Organization***	***Amount of Payment***	***# of Photos***	***Size of Photos***
5/2002	Republican National Committee	$648.00	36	8x10
5/2002	Hector Irastorza, Jr.	$90.00	5	8x10
7/2002	Lee Terry for Congress	$36.00	2	8x10
7/2002	Republican Party of Florida	$90.00	5	8x10
7/2002	Republican National Committee	$72.00	4	8x10
8/2002	Republican National Committee	$252.00	14	8x10
9/2002	Kent County Republican Committee	$18.00	1	8x10
9/2002	Breckenridge Design Group	$18.00	1	8x10
9/2002	Portman for Congress	$36.00	2	8x10
9/2002	Republican National Committee	$1,296.00	72	8x10
10/2002	Rick Clayburgh for Congress	$18.00	1	8x10
10/2002	Fisher for Governor	$18.00	1	8x10
10/2002	Wyoming Republican Party	$162.00	9	8x10
10/2002	Johnson for Congress	$72.00	4	8x10
10/2002	Talent for Senate	$18.00	1	8x10
10/2002	John Doolittle for Congress	$486.00	27	8x10
10/2002	National Federation of Republican Women	$18.00	1	8x10
10/2002	Republican National Committee	$342.00	19	8x10
11/2002	Talent for Senate	$18.00	1	8x10
11/2002	Ferguson for Congress	$18.00	1	8x10
11/2002	Mark Kennedy for Congress	$126.00	7	8x10
12/2002	Talent for Senate	$18.00	1	8x10
12/2002	Johnson for Congress	$72.00	4	8x10
12/2002	Wieczoren for Executive Council	$18.00	1	8x10

REV_00169707

2/2003	Diane Thompson	$84.00	4	11x14
3/2003	Republican National Committee	$108.00	6	8x10
3/2003	Congressman Kenny Hulshof	$18.00	1	8x10
3/2003	Congressman James Greenwood	$18.00	1	8x10
3/2003	Senator Frank Murkowski	$18.00	1	8x10
3/2003	Mark Kennedy for Congress	$126.00	7	8x10
3/2003	George Bush Presidential Library	$1,117.00	2	20x30
			20	11x14
			47	8x10
3/2003	Office of President George Bush	$702.00	39	8x10
5/2003	National Federation of Republican Women	$18.00	1	8x10
Total		$6,169.00		

Remote Delivery Site Reprogramming Request (POC – Paul Ehrhardt)

We recently received a reprogramming request to transfer $2m of the funds provided to the Office of Homeland Security to the Remote Delivery Site cleanup efforts.

QUESTION 129: What is the status of remediation efforts?

RESPONSE: We are in the process of Confirmatory Sampling. The sampling plan is intended to present a technical approach for (1) completing air and surface sampling for culturable *Bacillus anthracis* spores to verify the efficacy of the decontamination process: (2) providing for qualified laboratory analysis of the collected samples: and (3) presenting a protocol for data collection and reporting such that the results of the sampling effort are valid and defensible. In addition, the Plan provides for the site and personnel security, safety, health, and personal protection, equipment and collection methods, and sample handling.

QUESTION 130: Please provide the total budget estimate for this project.

RESPONSE: As the contractor responsible for returning the building to an environmentally safe workplace, Versar to date has not been able to develop or provide accurate cost estimates or time lines to EOP. Budget and schedule estimates for this project are especially difficult due to critical path activities taking place in a high-risk

REV_00169708

environment relying on the utilization of untested speculative technologies. However to date $2.422 million has been spent on the effort and we are currently requesting an additional $2 million, which is Versar's best estimate of what it will cost to complete the project. The total budget estimate for the project then comes to $4.422 million.

QUESTION 131: Please provide the anticipated schedule for this effort.

RESPONSE: Given many variables, including weather, our best current estimate of time to required complete the RDS project is 4 months. The confirmatory testing phase is estimated to take eight weeks from start up. The next phase would be for the ECC committee to ratify the confirmation process; we estimate this to be one month. After this is completed, our best estimate is thirty days to perform PM on the HVAC equipment, build out the office areas, and re-establish the building operation.

QUESTION 132: What caused this $2 million overrun?

RESPONSE: There is not a $2 million overrun. The request for $2 million is a result of anticipated costs and those unforeseen conditions as result of the environmental cleanup process, that OA, GSA or its contractors had available at the time of fumigation. The Environmental Clearance Committee has placed additional requirements that resulted in the additional costs. The proposed sampling plan utilizes the barrier divisions already in Building 410 (which provides discrete work areas) and presents proposed sampling location, quantity, and types of samples to be collected . Sampling will be carried out using a phased approach for each work area as follows:

Phase 1, Surface Sampling; Phase 2 Air Sampling: Phase 3, "Dynamic Sampling", Phase 4, Start Up of the Heating, Ventilation , and Air Conditioning (HVAC) Units; and Phase 5, Final Sampling with the Barriers Down.

QUESTION 133: Why have you stopped providing the monthly reports on the remediation efforts?

RESPONSE: Due to the process of establishing the Environmental Clearance Committee, it was an administrative error that the reports were inadvertently not forwarded.

Previously the Remote Delivery Site was used to screen incoming mail. It also used to serve as an off-site supply depot. With the Department of Homeland Security now assuming the mail processing function and with supply operations now established on the White House Complex, I'm curious about future plans for the RDS.

REV_00169709

QUESTION 134: What will the facility be used for when remediation is finished?

RESPONSE: Prior to September 11, 2001 the Remote Delivery Site (RDS) was used as a centralized receiving facility for the White House Complex. All postage flat mail and packages, including UPS and FedEx deliveries, and all equipment and local deliveries were delivered to the RDS. All incoming deliveries, regardless of size, were screened by the U.S. Secret Service (USSS) via large X ray machines, and if any equipment was too large to fit on the X-ray conveyer belt, then the USSS used dogs to sniff for explosives. After initial USSS clearance, all of the items were sorted and delivered to their intended destination to the White House Complex. Supplies, equipment and furniture which were purchased for inventory for use at later time were housed at the RDS.

In addition to the screening of WHO Complex deliveries, the USSS Administrative Operations Division used RDS space to screen all of its incoming mail and packages that were intended for USSS personnel.

The EOP Supply store was operated within the confines of the RDS. Supplies were purchased and inventoried at the RDS and office supplies and copier paper were purchased in volume to take advantage of discounts. The WHO/EOP customers faxed supply requisitions to the RDS staff who then pulled and boxed office supplies for delivery to the WHO Complex. OA property supply staff made supply deliveries to the WHO complex at least twice a day, and more if needed.

The EOP/OA Personal Property Program (excess, transfer, donation, and destruction of furniture and equipment) had its operations housed at the RDS. Excessed equipment and furniture were corralled at the RDS until enough equipment and furniture were gathered to make it economical to excess all at once. In addition, schools and nonprofit organizations were allowed to review equipment for donation under Executive Order 12999.

After September 11, as a precautionary move, the White House United States Postal Service was relocated from the Eisenhower Executive Office Building to the RDS. A separate room was built for the USPS's operation of opening and screening all White House mail. The RDS operations continued working around the new USPS area. These USPS operations continued until the RDS was closed due to the discovery of Anthrax. Since then the USPS operations have relocated to 1800 G. St. NW.

Once the remediation is finished, the RDS will resume its former function of screening all bulk deliveries (including equipment, furniture, boxes of supplies) sent to the EOP Complex. In addition the facility will be used to store supplies and an inventory of equipment and furniture. The RDS will also be used as a staging area for efficient loading and delivery of bulk items for all EOP entities.

QUESTION 135: Will the DHS use the facility to screen the White House's mail?

REV_00169710

RESPONSE: No.

QUESTION 136: Will you close the on-site supply stores and revert back to running the supply operation out of the Remote Delivery Site?

RESPONSE: When the RDS reopens after the remediation of the building, the RDS staff will resume the same functions prior to the Anthrax. However, there are major changes in the way the OA Supply Store operates and manages its supply inventory. The Office of Administration has entered into a new business relationship with GSA. The OA Supply operation will purchase its supplies from GSA who will provide a wide array of office supplies and maintain the level of supply inventory that is needed to support the WHO Complex. The GSA inventory will be housed at the RDS after relocation from Franconia, VA, the current, temporary RDS location. OA supply staff will pull supply orders based on customer's requisitions, and then box and deliver the supplies from the RDS to WHO complex. GSA will only charge for the supplies that EOP customers use at point of sale, otherwise the unsold inventory will still belong to GSA. GSA promises to maintain the supplies that the EOP customers may need. Inventories will be reviewed and adjusted to realize the kind and quantities of supplies the EOP customers expect. This business relationship will promote a more flexible inventory that allows the supply inventory to have the quantity or variety of supplies to meet our customer needs in a more proactive, real-time fashion.

White House Access (POC – WHO M&A)

QUESTION 137: For the record, please provide the total number of visitors who passed through the White House as part of tours in 2000, 2001, 2002 and 2003 (to date).

RESPONSE: Listed below are total numbers of visitors that passed through the White House from 2000 to year to date FY 2003, as reported in National Park Service (NPS) statistical abstract:

2000: 1,175,714
2001: 856,042
2002: 178,092
2003: 43,434 (as of May 14)

Please note that the NPS records garden tours and egg roll events in their annual numbers for visitors to the White House even though the people attending these events do not go through the house. Since the numbers for the visitors that actually go through the house are not exclusively available, we have included the egg roll event in the numbers for 2003 for consistency. There was no a spring garden tour in 2003.

QUESTION 138: Why are White House tours currently not open to the general public?

REV_00169711

RESPONSE: White House special group tours were reopened for certain group tours on May 6, 2003. Over the past many months, the White House has operated a successful program, in partnership with Congressional offices, allowing special group tours to visit. We will continue to book groups using existing procedures unless circumstances dictate otherwise.

The White House is mindful of the request to fully resume public tours. We continue to consult with law enforcement and intelligence services on how to ensure the safety of the residents, staff and the general public while at the White House.

QUESTION 139: What is the status of the report on the status of White House Tours that was due to the Subcommittee by March 22nd?

RESPONSE: This question was answered and sent to the Subcommittee by the March 22nd deadline.

QUESTION 140: Who has the lead on the efforts to decide whether public tours can be resumed?

RESPONSE: The United States Secret Service constantly monitors and evaluates existing conditions to determine the level of security required at the White House complex including when and if tours can be resumed on a full schedule. Their recommendations, along with input from other law enforcement and intelligence services who monitor changing world events, are reviewed with White House management staff to schedule and structure tours in such a manner that will provide an appropriate level of security for general public taking the tours, in addition to the staff who work in and around the Complex, and the residents. This is an ongoing effort.

QUESTION 141: Does the USSS do a background check on all individuals attending events and meetings at the White House Complex before access can be granted?

RESPONSE: For security reasons, it is not appropriate to provide information about the specific nature of background checks and related security procedures in this context.

QUESTION 142: During this administration, have White House aides ever overruled a building-access recommendation made by the USSS?

RESPONSE: The USSS and EOP Staff collaborate in making decisions on access to the complex.

REV_00169712

Off-site EOP Support

QUESTION 143: How many EOP employees are based in Crawford, TX? **(POC – Stacia Cropper)**

RESPONSE: One.

QUESTION 144: How much space does the EOP pay rent for in Crawford, TX? **(POC James Daniel/Stacia Cropper)**

RESPONSE: There is one double-wide trailer. The cost of the trailer itself and all operating costs will be paid to GSA in a monthly rent payment of $8,496.83 for two years.

QUESTION 145: How many trailers were acquired for Crawford, TX? **(POC James Daniel/Stacia Cropper)**

RESPONSE: One trailer was acquired for the EOP.

QUESTION 146: What was the cost to purchase and renovate these trailers? **(POC James Daniel/Stacia Cropper)**

RESPONSE: The cost of the trailer shell was $72,745.28. The cost to apply finishes to the trailer interior was $20,976.62.

QUESTION 147: What are the expected FY04 operating costs of facilities and staff permanently deployed to Crawford, TX? **(POC James Daniel/Stacia Cropper)**

RESPONSE: The following are the estimated operating costs for one year: Pest Control ($1,440), cleaning ($4,200), electricity ($4,211.75), and water ($2,286.38).

Rent (POC – Steve Beattie)

QUESTION 148: Please provide an accounting of all space on which the EOP currently pays rent. The list should include the number of staff in each building, the agencies which occupy space in each facility, the total square footage by agency in each facility, the total square footage of vacant space on which the EOP is currently paying rent in each facility and the GSA rent rates for each facility.

RESPONSE: The following charts provide the information on EOP facilities and GSA rental rates as they stood during the formulation of the FY 2004 budget request. Since

REV_00169713

then, several offices have moved from the New Executive Office Building (NEOB) into the space in 1800 G. Street. In addition, several offices from the Eisenhower Executive Office building will be moving into the newly vacated space at the NEOB. Once all moves have been accomplished, the EOP will provide the Subcommittee with an update on the space utilization of the buildings on the White House complex.

REV_00169714

Executive Office of the President
GSA Rental Space Information

Building	EOP Info		Square Feet		Rate/Sq.Ft
	Office	# of Staff	Occupied	Vacant	
White House (East & West Wing)	White House Office	131	52,955		$29.60
Eisenhower Executive Office Building	White House Office	260	105,067		$29.60
	Office of the Vice President	66	29,035		$29.60
	Office of Management and Budget	53	20,663		$29.60
	Council on Environmental Quality	*Joint Use*	954		$29.60
	Council of Economic Advisers	40	16,804		$29.60
	National Security Council	165	54,106		$29.60
	Office of Policy Development	26	17,003		$29.60
	Office of Administration	28	9,907		$29.60
	Office of Science and Technology Policy		1,377		$29.60
	Subtotal	*638*	*254,916*		
New Executive Office Building	White House Office	8	2,316		$29.60
	Office of Management and Budget	451	191,664		$29.60
	Office of Administration	163	84,381		$29.60
	U.S. Trade Representative	*Joint Use*	4,979		$29.60
	Subtotal	*622*	*283,340*		
1800 G. Street	White House Office	102	53,593		$34.56
	Office of Administration	4	1,028		$37.37
	Office of Administration		24,184		$37.01
	Office of Administration		524		$34.37
	Office of Administration		46,593		$34.56
	Office of Administration		11,555		$31.53
	Office of Homeland Security		5,787		$34.56
	Subtotal	*106*	*143,264*		
1801 Pennsylvania Ave.	Office of Science and Technology Policy	41	15,666		$50.55
750 17th Street	Office of National Drug Control Policy	124	54,185		$45.78
	Office of National Drug Control Policy	n/a	1,212		$17.44
	Subtotal	*124*	*55,397*		
Remote Delivery Center/Anacostia	Office of Administration	11	41,510		$11.31
708 Jackson Place	White House Office	9	3,978		$29.60
718 Jackson Place	Council on Environmental Quality	6	4,758		$30.71
722 Jackson Place	Council on Environmental Quality	6	5,534		$31.50
730 Jackson Place	Council on Environmental Quality	9	3,779		$29.90
734 Jackson Place	Offfice of Policy Development	4	3,320		$29.60
736 Jackson Place	White House Office	15	5,093		$30.58
Winder Building	U.S. Trade Representative	177	70,393		$30.50
1724 F St.	U.S. Trade Representative	34	18,481		$37.38
	Office of Administration	10	5,631		$37.38
	Subtotal	*44*	*24,112*		
1425 New York Ave. (USA Kids)	Office of Administration	n/a	2,891		$51.89
Crawford, TX Trailer	White House Office	n/a	n/a		$13,000/yr
Wyoming/Westbank Center	Office of the Vice President	n/a	756		$21.80
	GRAND TOTALS	**1,943**	**971,662**		

REV_00169715

Executive Office of the President
GSA Rental Space Information

Building	EOP Info		Square Feet		Rate/Sq.Ft
	Office	# of Staff	Occupied	Vacant	
EOP Total by Building					
White House		131	52,955		
Eisenhower Executive Office Building		638	254,916		
New Executive Office Building		622	283,340		
1800 G. Street		106	143,264		
1801 Pennsylvania Ave.		41	15,666		
750 17th Street		124	55,397		
Remote Delivery Center/Anacostia		11	41,510		
708 Jackson Place		9	3,978		
718 Jackson Place		6	4,758		
722 Jackson Place		6	5,534		
730 Jackson Place		9	3,779		
734 Jackson Place		4	3,320		
736 Jackson Place		15	5,093		
Winder Building		177	70,393		
1724 F St.		44	24,112		
1425 New York Ave. (USA Kids)		n/a	2,891		
Crawford, TX Trailer		n/a	n/a		
Wyoming/Westbank Center		n/a	756		
	GRAND TOTALS	**1,943**	**971,662**		
EOP Total by EOP Office					
	White House Office	525	223,002		
	Office of the Vice President	66	29,791		
	Office of Management and Budget	504	212,327		
	Office of Administration	216	228,204		
	Office of Policy Development	30	20,323		
	Office of Homeland Security	0	5,787		
	National Security Council	165	54,106		
	Council of Economic Advisers	40	16,804		
	Council on Environmental Quality	21	15,025		
	Office of Science and Technology Policy	41	17,043		
	Office of National Drug Control Policy	124	55,397		
	U.S. Trade Representative	211	93,853		
	GRAND TOTALS	**1,943**	**971,662**		

QUESTION 149: Under the procurement consolidation pilot that was approved in the FY03 Omnibus, is the rent for any EOP agency going to be paid out of funds contributed by other EOP agencies?

RESPONSE: No. The funds in the pilot will only be used to support the EOP components in the pilot; EOP funds not included in the pilot will not be used to support EOP components included in the pilot for purposes that pilot funds were budgeted.

QUESTION 150: Under the procurement consolidation pilot that was approved in the FY03 Omnibus, are after hours utilities charges for any EOP agency going to be paid out of funds contributed by other EOP agencies?

RESPONSE: No. After hours utilities charges were not included in the procurement consolidation pilot funding.

REV_00169716

Travel Office (POC – Mayra Segovia)

QUESTION 151: Please describe the current role the White House Travel Office plays in managing and arranging the financial aspects of White House Press Corps travel. Does the White House Travel Office operate as a "dollar-for-dollar" operation?

RESPONSE: The White House Travel Office provides the White House Press Corps with a range of travel services when they accompany the President, Vice President and First Lady. Services include air and ground transportation, hotel accommodations, and convention-type services associated with the Filing Center.

The White House Press Travel Fund operates as a dollar-for-dollar operation.

QUESTION 152: How many EOP staff work in the White House Travel Office?

RESPONSE: Eight EOP staff work in the White House Travel Office.

QUESTION 153: How many contractor travel agents support the White House Travel Office?

RESPONSE: Six contractor travel agents support the White House Travel Office.

QUESTION 154: Please include the most recent independent financial statement audit of the White House Travel Office's accounts for the record.

RESPONSE: The following document is the independent auditor's report. A copy of the original document with signature will be provided separately.

REV_00169717

White House Travel Office
Executive Office of the President

Order Number RWH21228

Task 1, Deliverable 1

Financial Statement Audit and Auditor's Report

December 31, 2001

Prepared by:

Martin & Wall, P.C Certified Public Accountants
1534 16th Street, NW, Washington, DC 20036-1402
Tel. 202.332.3566 Fax 202.332.3672

Contact: John J. Wall, CPA
E-Mail: jwall@martinwallcpa.com

REV_00169718

Tel: 202.332.3555 F• 202.332.3672 www.martinwallcpa.com

WHITE HOUSE TRAVEL OFFICE PRESS FUND

FINANCIAL STATEMENTS

DECEMBER 31, 2001

REV_00169719

1524 15th Street NW ~ Suite 100 – Washington, DC 20036-1402

WHITE HOUSE TRAVEL OFFICE PRESS FUND

FINANCIAL STATEMENTS

TABLE OF CONTENTS

Independent auditors' report..... 1

Statement of financial position..... 2

Statement of activities and changes in net assets..... 3

Statement of cash flows..... 4

Notes to financial statements..... 5-7

REV_00169720

Tel: 202.332.3566 ~ Fax: 202.332.3672 ~ www.martinwallcpa.com

INDEPENDENT AUDITORS REPORT

To the Management of
White House Travel Office Press Fund

We have audited the accompanying statement of financial position of the White House Travel Office Press Fund as of December 31, 2001, and the related statements of activities and cash flows for the year then ended. These financial statements are the responsibility of the White House Travel Office Press Fund's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the White House Travel Office Press Fund as of December 31, 2001, and the changes in its net assets and its cash flows for the nine months then ended in conformity with accounting principles generally accepted in the United States of America.

Washington, DC
March 27, 2003

1524 15th Street NW ~ Suite 100 – Washington, DC 20036-1402

REV_00169721

WHITE HOUSE TRAVEL OFFICE PRESS FUND
STATEMENT OF FINANCIAL POSITION
DECEMBER 31, 2001

ASSETS			
Current assets			
	Cash - Press Fund operating account (Note 3)	$85,455	
	Cash - Restricted Cash Account 2000 (Notes 3 and 4)	527,166	
	Total Cash		612,621
	Accounts receivable (Note 5)		2,105,176
	Other Receivables (Note 6)		3,328.761
TOTAL ASSETS			$6,046,558
LIABILITIES ANID NET ASSETS			
	Accounts payable	$5,358,675	
	Restricted Cash Account 2000 Liability (Note 4)	409,815	
	Restricted Cash Account 2001 Liability (Note 4)	209,456	
	Federal Excise Tax Payable	68,612	
	Total liabilities	6,046,558	
	Net assets		0
TOTAL LIABILITIES AND NET ASSETS		$6,046,558	

The accompanying notes are an integral part of these financial statements.

REV_00169722

WHITE HOUSE TRAVEL OFFICE PRESS FUND
STATEMENT OF ACTIVITIES
FOR THE YEAR ENDED DECEMBER 31, 2001

REVENUE	$10,828,890
EXPENDITURES	10,828,890
CHANGE IN NET ASSETS	$0
NET ASSETS, BEGINNING OF YEAR	0
NET ASSETS, END OF YEAR	$0

The accompanying notes are an Integral part of these financial statements.

REV_00169723

WHITE HOUSE TRAVEL OFFICE PRESS FUND
STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED DECEMBER 31, 2001

CASH FLOWS FROM OPERATIONAL ACTIVITIES:

Change in net assets		$0
Adjustments to reconcile change in net assets to net cash provided:		
Decrease In accounts receivable	4,986,501	
(Increase) in other receivables	(2,530,708)	
(Decrease) in accounts payable	(2,814,441)	
Increase In restricted cash account 2000 liability	4,096	
Increase in restricted cash account 2001 liability	209,456	
Increase in Federal Excise tax payable	68,612	
Net cash provided by operational activities	(76,484)	
Net increase in cash		(76,484)
Cash, beginning of year	689,105	
Cash, end of year	$612,621	

The accompanying notes are an integral part of these financial statements.

REV_00169724

WHITE HOUSE TRAVEL OFFICE PRESS FUND
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2001

NOTE 1 – ORGANIZATION

The White House Travel Office Press Fund ('WHTO") was established to manage expenses associated with travel for members of the press who accompany the President, Vice President, First Lady, and Second Lady on domestic and foreign trips. In May 1993, a new management team was hired to manage WHTO. Consequently, for accounting and reporting purposes, a new WHTO was established as of January 1, 1994.

NOTE 2- SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Revenue and expenditures are recognized using the accrual basis of accounting. The WHTO invoices the press organizations for their prorated share of the expenses associated with each trip. The WHTO then remits payment directly to the vendors whose services were used for the particular trip. The total amount invoiced to the press members equals the total of the amounts paid to the vendors. The WHTO does not own any fixed assets. Al! fixed assets are purchased through the White House's general fund and designated for the WHTO use. Similarly, all operating expenses of the WHTO, including salaries and office supplies, are paid directly by the White House's general fund.

NOTE 3- CASH

Gash is maintained in two non-interest checking accounts at the Riggs National Bank of Washington, D.C. The RCA 2000 cash account is explained in Note 4.

The total cash held by WHTO at December 31, 2001 includes $512,821 that is not covered by insurance provided by the federal government. It is the opinion of WHTO's management that the solvency of the referenced financial institution is not of particular concern at this time.

REV_00169725

NOTE 4 - RESTRICTED CASH ACCOUNT

Effective April 1, 2000, the management of the White House Travel Office implemented a Restricted Cash Account (RCA). RCA funds are encumbered for specific purposes set forth in written policies and procedures, most notably for payment of late arriving vendor invoices, bank charges and accounts receivable written off as uncollectible.

The RCA is funded through an RCA funding amount applied to every customer invoice, except those for government employees. Presently, that funding amount is two percent of the invoice amount

RCA funding amounts are not considered revenue for accounting purposes.

Under current policies and procedures, a separate RCA is established for each calendar year. The RCA 2000 account on the Statement of Financial Position reflects the total amount of cash in that account at December 31, 2001. The RCA liability accounts for 2000 and 2001 reflect the total RCA funding amount applied to all customer invoices during the respective calendar year, less any disbursements. RCA funding amounts that have been invoiced but not yet collected are included in the accounts receivable amount.

The RCA for each year will be terminated at a designated point in time after the conclusion of the applicable calendar year. At the time of dissolution, any excess funds will be refunded to the Press Fund's customers subject to the RCA funding amount in accordance with a formula based on the percentage of the total travel costs consumed during the year corresponding to the RCA. For example, if a customer were responsible for ten percent of all travel costs for the calendar year 2001, they would be entitled to ten percent of the remaining RCA 2001 funds at the time of dissolution.

NOTE 5 – ACCOUNTS RECEIVABLE

Currently, the WHTO writes off accounts receivable using the direct write-off method. Therefore, there is no allowance for uncollectible accounts.

REV_00169726

NOTE 6 - OTHER RECEIVABLES

As per note 2, the WHTO utilizes a system of dollar for dollar accounting. Under the current accounting process, vendor invoices for trip expenses are entered into accounts payable as they are received. Accordingly, there is an accumulation of unbilled trip expenses in accounts payable until such time that trip accounting is finalized and members of the press are invoiced for their pro rata share of trip expenses. This timing difference creates the need for an Other Receivables category. Other Receivables represents the obligations for normal trip expenses that have been entered into accounts payable, but not yet billed to the press.

REV_00169727

QUESTION 155: Please explain the formula you use to determine the rate of reimbursement for Press Corps travelers on the Press Charter?

RESPONSE: Each leg of the itinerary is assigned a proportionate cost, which is divided equally among all press passengers. The following formula is used to compute the proportionate cost for each leg of the trip: (Leg flight time / Total flight time) * Total Air Transportation Expense

QUESTION 156: Please explain the formula you use to determine the rate of reimbursement for Press Pool travelers on Air Force One?

RESPONSE: The cost of the fourteen members of the pool traveling on AF1 is added to the total air transportation expense and the total costs are spread on a pro-rata share among all of the press travelling on the trip. The following formula is used to compute the proportionate cost for each leg of the trip: (Leg flight time / Total flight time) * Total Air Transportation Expense

QUESTION 157: Please explain the formula used to identify the reimbursement rate that the Travel Office billed Press Corps travelers accompanying the President's travel to the USS Abraham Lincoln. In your response, please include the actual rate billed to individual press corps travelers on this trip.

RESPONSE: The cost of transporting press corps travelers from the North Island Naval Air Station to the USS Abraham Lincoln and back to the North Island Naval Air Station totaled $7,440.26. This cost will be added to the total air transportation expense and spread on a pro-rata share among all the press traveling on the trip. The formula for military aircraft reimbursement for the trip to the USS Abraham Lincoln is as follows: $X per hour per aircraft, divided by 60 minutes to get a per minute rate, multiplied by the flight time, divided by the total number of passengers, and then 7.5% excise tax plus $3.00 dollars per person was added.

Bonuses

QUESTION 158: Why did this administration reinstate the payments of bonuses to political appointees? **(POC – WHO M&A)**

RESPONSE: The relevant statutes and regulations make clear that all Federal employees are eligible for bonuses. Therefore, like other Federal employees, Schedule C and non-career Senior Executive Service (SES) employees may receive bonuses. Consistent with law, this and past Administrations have made bonuses available to Schedule C and SES employees in appropriate circumstances.

REV_00169728

QUESTION 159: Have any EOP political staff been given bonuses since the policy was reinstated in March of 2002? **(POC – Jon Laurich)**

RESPONSE: Bonuses have been awarded to EOP political staff.

QUESTION 160: Have any EOP political staff been given pay increases for a single pay period in FY02 or FY03 (to date) that would have the same effect as a bonus? **(POC – Jon Laurich)**

RESPONSE: No.

Eisenhower Executive Office Building

QUESTION 161: Since 1/20/01, have any non-Federal funds been used for renovations and/or furnishings in the GSA facilities occupied by the Executive Office of the President? [this question does not apply to the White House residence.] **(POC –WHO M&A)**

RESPONSE: We understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 162: Which Federal agency (i.e., GSA, OA/Facilitles) coordinated the work that was paid for using non-Federal funds? **(POC –WHO M&A)**

RESPONSE: I understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park

REV_00169729

Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 163: For the record, please provide the sources and amounts of the non-Federal funds used for renovations and/or furnishings. **POC –WHO M&A)**

RESPONSE: I understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 164: For the record, please also provide a description of each project for which non-Federal funds were provided. **(POC –WHO M&A)**

RESPONSE: I understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was

REV_00169730

accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 165: Why were non-Federal funds used to renovate and/or furnish these GSA facilities? **(POC –WHO M&A)**

RESPONSE: I understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 166: Which agency's gift authority was used to accept the contribution of non-Federal funds for renovations and/or furnishings? (**POC –WHO M&A)**

RESPONSE: I understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 167: Please provide a list of all EOP and EOP-support-related agencies that occupied space in the Eisenhower Executive Office Building on 1/20/01 that have since

REV_00169731

been relocated to locations outside the EEOB. For each agency that relocated, please identify the agency that paid the move-related costs. **(POC – Steve Beattie)**

RESPONSE: There was no movement of EOP offices from the EEOB prior to September 11, 2001. After September 11, the Office of Administration, using Emergency Supplemental funding, paid for the moves of the following offices outside of the EEOB.

EOP Offices Previously in the EEOB	New Location
WHO Presidential Personnel	1800 G. Street
WHO Presidential Correspondence	1800 G. Street
Council on Environmental Quality	Jackson Place Townhouses
Office of Science and Technology Policy	1801 Pennsylvania Avenue

QUESTION 168: What is the status of the vacant space on the 17th Street side of the Eisenhower Executive Office Building? **(POC – Steve Beattie)**

RESPONSE: The vacant space along 17th street is under construction as part of the Fire and Life Safety Improvements project.

EOP Staffing Levels:

QUESTION 169: By EOP agency, provide FTE and OGE. Itemize OGE by category (e.g. reimbursable detailee, PSC, etc). Include FY 2002 (actual) and FY03-FY04 (estimates). Please provide a list of the "historically provided" White House Office positions, the office to which these positions are assigned and the agency that pays the salary for each of these positions. **(POC – Jon Laurich)**

RESPONSE: The following chart provides the FTE and OGE information for FY 2002 to FY 2004 in addition to a listing of "historically provided" White House Office positions.

REV_00169732

R = Reimbursable N = Non Reimbursable	FY 2002 Actual FTE and OGE																			
		Agency Reps		Assignees		Detailees		Historically Provided Services		Others		Student Volunteers		White House Fellows		Pres. Mgmt Intern		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R + N
White House Office	385			1	20	79	9	1	17		4				3			81	53	134
Special Assistance to the President	18				7		1		6		26								40	40
Official Residence of the Vice President	1																			
Office of Administration	195					2					1							2	1	3
Office of Policy Development	30		1		3		3												7	7
National Security Council	50				33	1	102		4									1	139	140
Council of Economic Advisers	31					2	1			3	1		3					5	5	10
Office of Management and Budget	512					6	53						11					6	64	70
Office of National Drug Control Policy	106		13		16					3			2					3	31	34
Executive Residence	92																			
Office of Science and Technology Policy	23		6			4	1			2	3							6	10	16
Council on Environmental Quality	19		11				2										1		14	14
U.S Trade Representative	200						21				1				2				24	24
TOTAL	1662		31	1	79	94	193	1	27	8	36		16		5		1	104	388	492

*For FY02, the White House includes 65 OGE's for the Office of Homeland Security, which are funded from the Emergency Appropriation

R = Reimbursable N = Non Reimbursable	FY 2003 Estimate FTE and OGE *as of May 5, 2003*																			
		Agency Reps		Assignees		Detailees		Historically Provided Services		Others		Student Volunteers		White House Fellows		Pres. Mgmt Intern		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R + N
White House Office	406				7	5	11		19		1				2		1	5	41	46
Office of Homeland Security	40			2	1	23	3				1			1				26	5	31
Special Assistance to the President	24		3		7		1		18		25								54	54
Official Residence of the Vice President	1																			
Office of Administration	222										1								1	1
Office of Policy Development	35		1		3	1	1										1	1	6	7
National Security Council	71				33	5	103		4									5	140	145
Council of Economic Advisers	35					2	2			2			2				1	4	5	9
Office of Management and Budget	499					3	54						6					3	60	63
Office of National Drug Control Policy	115		19		14		4			3	9						2	3	48	51
Executive Residence	95																			
Office of Science and Technology Policy	40		6			2	3			2	5		1		1			4	16	20
Council on Environmental Quality	24		10				3				1								14	14
U.S Trade Representative	209						25				1				2				28	28
TOTAL	1816		39	2	65	41	210		41	7	44		9	1	5		5	51	418	469

R = Reimbursable N = Non Reimbursable	FY 2004 Estimate FTE and OGE																			
		Agency Reps		Assignees		Detailees		Historically Provided Services		Others		Student Volunteers		White House Fellows		Pres. Mgmt Intern		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R + N
White House Office	406				7	5	11		19		1				2		1	5	41	46
Office of Homeland Security	40			2	1	23	3				1			1				26	5	31
Special Assistance to the President	24		3		7		1		18		25								54	54
Official Residence of the Vice President	1																			
Office of Administration	222										1		10						11	11
Office of Policy Development	35		1		3	1	1										1	1	6	7
National Security Council	71				33	5	103		4									5	140	145
Council of Economic Advisers	35					2	2			2			2				1	4	5	9
Office of Management and Budget	516					3	54						6					3	60	63
Office of National Drug Control Policy	125		19		14		4			3	9						2	3	48	51
Executive Residence	95																			
Office of Science and Technology Policy	40		6			2	3			2	5		1		1			4	16	20
Council on Environmental Quality	24		10				3				1								14	14
U.S Trade Representative	217						25				1				2				28	28
TOTAL	1851		39	2	65	41	210		41	7	44		19	1	5		5	51	428	479

The following chart shows the 18 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 12, 2003*:

POSITION	OFFICE	HOME AGENCY
1. Assistant to the Presidential Diarist	Office Of Scheduling	NARA
2. Presidential Diarist	Office Of Scheduling	NARA

REV_00169733

3. Administrative Assistant	PFIAB *	CIA
4. Administrative Services Specialist	PFIAB *	DOD
5. Deputy Executive Director	PFIAB *	CIA
6. Deputy Director of Photography For Visuals	Photo Office	DIA
7. Visual Information Specialist	Photo Office	DOD
8. Official Photographer	Photo Office	DOD
9. Official Photographer	Photo Office	DIA
10. Photographer	Photo Office	DOD
11. IT Systems Administrator	Photo Office	DIA
12. Photo Editor	Photo Office	DIA
13. President's Photographer	Photo Office	DIA
14. Photographic Specialist	Photo Office	DIA
15. Admin Officer	Photo Office	DIA
16. Staff Assistant	Visitors Office	Dept Of Interior
17. Executive Assistant	Visitors Office	Dept Of Interior
18. Staff Assistant	Visitors Office	Dept Of Interior

*PFIAB is the President's Foreign Intelligence Advisory Board

REV_00169734

From: CN=Monique L. Dilworth/OU=OA/O=EOP [OA]

To: Eric C. Pelletier/WHO/EOP@Exchange [WHO] <Eric C. Pelletier>;Steven R. Beattie/OA /EOP@Exchange [OA] <Steven R. Beattie>;Veronica Kitchen/OA/EOP@EOP [OA] <Veronica Kitchen>;Claire M. O'Donnell/OVP/EOP@Exchange [OVP] <Claire M. O'Donnell>;Lisa B. Fairhall/OMB/EOP@EOP [OMB] <Lisa B. Fairhall>;Adam F. Greenstone/OA/EOP@Exchange [OA] <Adam F. Greenstone>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Stacia L. Cropper/OA/EOP@Exchange [OA] <Stacia L. Cropper>;Jon S. Laurich/OA/EOP@Exchange [OA] <Jon S. Laurich>;Elizabeth Gelfer/OA/EOP@EOP [OA] <Elizabeth Gelfer>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>;Keith L. Roberts/OA/EOP@Exchange [OA] <Keith L. Roberts>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>;Benjamin A. Powell/WHO /EOP@EOP [WHO] <Benjamin A. Powell>

CC: Lonnie Hovey/OA/EOP@EOP [OA] <Lonnie Hovey>;Marilyn_Meyers@NPS.gov @ inet [UNKNOWN] <Marilyn_Meyers@NPS.gov @ inet>;Worthington W. White/WHO/EOP@EOP [WHO] <Worthington W. White>;Michele C. Marx/ONDCP/EOP@EOP [ONDCP] <Michele C. Marx>;Angela R. Stewart/CEQ/EOP@EOP [CEQ] <Angela R. Stewart>;Stanley S. Sokul/OSTP/EOP@EOP [OSTP] <Stanley S. Sokul>;Paul A. Wedderien/NSC/EOP@EOP [NSC] <Paul A. Wedderien>;Stephen A. Weigler/OMB/EOP@EOP [OMB] <Stephen A. Weigler>;Charles L. Sigman/OA/EOP@EOP [OA] <Charles L. Sigman>;Cheryl A. Reynolds/OA /EOP@EOP [OA] <Cheryl A. Reynolds>;Don J. Jansen/OMB/EOP@EOP [OMB] <Don J. Jansen>;Phuong DeSear/ONDCP/EOP@EOP [ONDCP] <Phuong DeSear>;Mary Fibich/CEA /EOP@EOP [CEA] <Mary Fibich>;Phil Cooney/CEQ/EOP@EOP [CEQ] <Phil Cooney>;Shana L. Dale/OSTP/EOP@EOP [OSTP] <Shana L. Dale>;Katherine J. Fertakis/NSC/EOP@EOP [NSC] <Katherine J. Fertakis>;Brian Gillis/OMB/EOP@EOP [OMB] <Brian Gillis>;Sandra K. Evans/OA/EOP@Exchange [OA] <Sandra K. Evans>

Sent: 5/29/2003 2:18:33 PM

Subject: : QFR Coordination - 2nd Round

Attachments: F_LPYSG003_OA.TXT_1.doc; F_LPYSG003_OA.TXT_2.doc

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Monique L. Dilworth ( CN=Monique L. Dilworth/OU=OA/O=EOP [ OA ] )
CREATION DATE/TIME:29-MAY-2003 18:18:33.00
SUBJECT:: QFR Coordination - 2nd Round
TO:Eric C. Pelletier ( CN=Eric C. Pelletier/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Steven R. Beattie ( CN=Steven R. Beattie/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Veronica Kitchen ( CN=Veronica Kitchen/OU=OA/O=EOP@EOP [ OA ] )
READ:UNKNOWN
TO:Claire M. O'Donnell ( CN=Claire M. O'Donnell/OU=OVP/O=EOP@Exchange [ OVP ] )
READ:UNKNOWN
TO:Lisa B. Fairhall ( CN=Lisa B. Fairhall/OU=OMB/O=EOP@EOP [ OMB ] )
READ:UNKNOWN
TO:Adam F. Greenstone ( CN=Adam F. Greenstone/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Stacia L. Cropper ( CN=Stacia L. Cropper/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Jon S. Laurich ( CN=Jon S. Laurich/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Elizabeth Gelfer ( CN=Elizabeth Gelfer/OU=OA/O=EOP@EOP [ OA ] )
READ:UNKNOWN
TO:David S. Addington ( CN=David S. Addington/OU=OVP/O=EOP@EOP [ OVP ] )
READ:UNKNOWN
TO:Keith L. Roberts ( CN=Keith L. Roberts/OU=OA/O=EOP@Exchange [ OA ] )
READ:UNKNOWN
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
```

TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Lonnie Hovey (CN=Lonnie Hovey/OU=OA/O=EOP@EOP [OA])
READ:UNKNOWN
CC:Marilyn_Meyers@NPS.gov @ inet (Marilyn_Meyers@NPS.gov @ inet [UNKNOWN])
READ:UNKNOWN
CC:Worthington W. White (CN=Worthington W. White/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
CC:Michele C. Marx (CN=Michele C. Marx/OU=ONDCP/O=EOP@EOP [ONDCP])
READ:UNKNOWN
CC:Angela R. Stewart (CN=Angela R. Stewart/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN
CC:Stanley S. Sokul (CN=Stanley S. Sokul/OU=OSTP/O=EOP@EOP [OSTP])
READ:UNKNOWN
CC:Paul A. Wedderien (CN=Paul A. Wedderien/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
CC:Stephen A. Weigler (CN=Stephen A. Weigler/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Charles L. Sigman (CN=Charles L. Sigman/OU=OA/O=EOP@EOP [OA])
READ:UNKNOWN
CC:Cheryl A. Reynolds (CN=Cheryl A. Reynolds/OU=OA/O=EOP@EOP [OA])
READ:UNKNOWN
CC:Don J. Jansen (CN=Don J. Jansen/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Phuong DeSear (CN=Phuong DeSear/OU=ONDCP/O=EOP@EOP [ONDCP])
READ:UNKNOWN
CC:Mary Fibich (CN=Mary Fibich/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN
CC:Phil Cooney (CN=Phil Cooney/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN
CC:Shana L. Dale (CN=Shana L. Dale/OU=OSTP/O=EOP@EOP [OSTP])
READ:UNKNOWN
CC:Katherine J. Fertakis (CN=Katherine J. Fertakis/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
CC:Brian Gillis (CN=Brian Gillis/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN
CC:Sandra K. Evans (CN=Sandra K. Evans/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
End Original ARMS Header

Thank you for the edits and comments you provided. The attached document, &QFR Responses 28 reflects all edits, except where there are still issues to be resolved. (All outstanding issues will be dealt with in separate emails to the affected parties.) We need you to once again review the document for accuracy and consistency. Your edits and comments on the new document, &QFR Responses 28 are due by 3:00 p.m., Friday, May 30th. We received a short extention from the Subcommittee and must provide the final document to Congress by COB Monday, June 2nd. To assist in this effort, I have included listings below that may help while navigating through the document.

Responses to Questions
Previously Unanswered
51, 52, 76, 119, 120, 121,
122, 125, 137, 138, 139,
140, 141, 142, 148 (chart),
158, 161 to 166.

HRM/Personnel Related
6, 7, 8, 11, 13, 14, 15,
40, 58, 64, 65, 73, 74,
79, 80, 94, 159, 169

Space/Rent Related
5, 34, 35, 36, 37, 38,
102, 103, 104, 105,

148, 167, 168

The Hearing Record document is attached again for quick reference. Please call me you have questions and thanks again for your assistance.

Monique Dilworth
5-7638
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <F_LPYSG003_OA.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <F_LPYSG003_OA.TXT_2>

Treasury, Postal Service and General
Government Appropriations for

Fiscal Year 2003
Hearing Record References

HOW TO USE THIS DOCUMENT

Several of the FY 2004 questions for the record refer to pages from last year's (FY 2003) hearing record. Below is the FY 2003 hearing record information.

Note that the Question # refers to this year's (FY 2004) question and the information that follows is what was in last year's (FY 2003) hearing record.

Hearing Record Reference for Question 6:

Issue: **Executive Office of the President**

Question: By EOP agency, provide FTE and OGE. Itemize OGE by category (e.g. reimbursable detailee, PSC, etc). Include FY 2001 (actual) and FY 2002-2003 (estimates).

Answer: The following tables provide the total FY 2001 actual, FY 2002 and FY 2003 estimates for full time equivalents (FTE) and other government employees (OGE) for each EOP and other entity as of April 5, 2002. The OGE numbers are itemized by category on the following page. The FY 2001 actual numbers should be viewed in the context of a Presidential transition year and may vary greatly from the FY 2002 figures. The FY 2002 and FY 2003 numbers are estimates only and therefore subject to change for a number of reasons.

REV_00169738

Program	FY 2001 Actual FTE and OGE			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office	400	369	35	**404**
Special Assistance to the President	22	16	42	**58**
Official Residence of the Vice President	1	1	0	**1**
Office of Administration	202	185	5	**190**
Office of Policy Development	31	27	3	**30**
National Security Council	60	44	137	**181**
Council of Economic Advisers	35	28	7	**35**
Office of Management and Budget	527	502	57	**559**
Office of National Drug Control Policy	125	114	38	**152**
Executive Residence	95	89	0	**89**
Office of Science and Technology Policy	40	23	17	**40**
Council on Environmental Quality	24	16	0	**16**
U.S. Trade Representative	203	173	29	**202**
TOTAL	**1,765**	**1,587**	**370**	**1,957**

FY 2002 as of April 5, 2002

Program	FY 2002 FTE and OGE Estimate			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office*	400		97	**497**
Special Assistance to the President	24		40	**64**
Official Residence of the Vice President	1		0	**1**
Office of Administration	202		1	**203**
Office of Policy Development	35		2	**37**
National Security Council	60		150	**210**
Council of Economic Advisers	35		11	**46**
Office of Management and Budget	527		46	**573**
Office of National Drug Control Policy	115		35	**150**
Executive Residence	95		0	**95**
Office of Science and Technology Policy	40		16	**56**
Council on Environmental Quality	24		3	**27**
U.S. Trade Representative	203		23	**226**
TOTAL	**1,761**	**0**	**424**	**2,185**

Program	FY 2003 FTE and OGE Estimate			
	FTE REQUEST	ACTUAL FTE	OGE	TOTAL
White House Office	446		127	**573**
Special Assistance to the President	24		40	**64**
Official Residence of the Vice President	1		0	**1**
Office of Administration	222		1	**223**
Office of Policy Development	35		2	**37**
National Security Council	71		150	**221**
Council of Economic Advisers	35		11	**46**
Office of Management and Budget	510		46	**556**
Office of National Drug Control Policy	115		35	**150**
Executive Residence	95		0	**95**
Office of Science and Technology Policy	40		16	**56**
Council on Environmental Quality	24		3	**27**
U.S. Trade Representative	209		23	**232**
TOTAL	**1,827**	**0**	**454**	**2,281**

* For FY 02, The White House Office includes 65 OGEs for the Office of Homeland Security which are funded from the Emergency Appropriation.

REV_00169739

R = Reimbursable
N = Non Reimbursable

FY 2001 FTE and OGE Actuals

	FTE	Agency Reps	Assignees	Detailees		Historically Provided Services	Others		Student Volunteers	White House Fellows	Pres. Mgmt Intern	OGE Grand Totals		
		N	N	R	N	N	R	N	N	N	N	R	N	R + N
White House Office	**369**	7	5	3	7	13						3	32	**35**
Special Assistance to the President	**16**		1		10	25		6					42	**42**
Official Residence of the Vice President	**1**													
Office of Administration	**185**							4	1				5	**5**
Office of Policy Development	**27**	2			1								3	**3**
National Security Council	**44**		32	1	90	4		8		2		1	136	**137**
Council of Economic Advisers	**28**				1		4		2			4	3	**7**
Office of Management and Budget	**502**			3	46				8			3	54	**57**
Office of National Drug Control Policy	**114**	13	20	3			2					5	33	**38**
Executive Residence	**89**													
Office of Science and Technology Policy	**23**	8		2	2	1	1	2	1			3	14	**17**
Council on Environmental Quality	**16**													
U.S. Trade Representative*	**173**				27			1		1			29	**29**
TOTAL	**1,587**	**30**	**58**	**12**	**184**	**43**	**7**	**21**	**12**	**3**		**19**	**351**	**370**

R = Reimbursable
N = Non Reimbursable

FY 2002 FTE and OGE *as of April 5, 2002*

	FTE	Agency Reps	Assignees	Detailees		Historically Provided Services	Others		Student Volunteers	White House Fellows	Pres. Mgmt Intern	OGE Grand Totals		
		N	N	R	N	N	R	N	N	N	N	R	N	R + N
White House Office**	**400**	1	4	68	8	15				1		68	29	**97**
Special Assistance to the President	**24**		9			1		29			1		40	**40**
Official Residence of the Vice President	**1**													
Office of Administration	**202**							1					1	**1**
Office of Policy Development	**35**		2										2	**2**
National Security Council	**60**		34	1	108	4		2		1		1	149	**150**
Council of Economic Advisers	**35**				1		4		6			4	7	**11**
Office of Management and Budget***	**527**			4	39				3			4	42	**46**
Office of National Drug Control Policy	**115**	13	17	1	1		3					4	31	**35**
Executive Residence	**95**													
Office of Science and Technology Policy	**40**	5		4			3	4				7	9	**16**
Council on Environmental Quality	**24**	3											3	**3**
U.S. Trade Representative*	**203**				21			1		1			23	**23**
TOTAL	**1,761**	**22**	**66**	**78**	**178**	**20**	**10**	**37**	**9**	**3**	**1**	**88**	**336**	**424**

R = Reimbursable
N = Non Reimbursable

FY 2003 FTE and OGE Estimate

	FTE	Agency Reps	Assignees	Detailees		Historically Provided Services	Others		Student Volunteers	White House Fellows	Pres. Mgmt Intern	OGE Grand Totals		
		N	N	R	N	N	R	N	N	N	N	R	N	R + N
White House Office	**446**	1	3	100	8	15						100	27	**127**
Special Assistance to the President	**24**		9			1		29			1		40	**40**
Official Residence of the Vice President	**1**													
Office of Administration	**222**							1					1	**1**
Office of Policy Development	**35**		2										2	**2**
National Security Council	**71**		34	1	108	4		2		1		1	149	**150**
Council of Economic Advisers	**35**				1		4		6			4	7	**11**
Office of Management and Budget***	**510**			4	39				3			4	42	**46**
Office of National Drug Control Policy	**115**	13	17	1	1		3					4	31	**35**
Executive Residence	**95**													
Office of Science and Technology Policy	**40**	5		4			3	4				7	9	**16**
Council on Environmental Quality	**24**	3											3	**3**
U.S. Trade Representative*	**209**				21			1		1			23	**23**
TOTAL	**1,827**	**22**	**65**	**110**	**178**	**20**	**10**	**37**	**9**	**2**	**1**	**120**	**334**	**454**

* USTR has nonreimbursable detailees in their Geneva, Switzerland offices (FY 2001 = 10, FY 2002 = 9) and are **not** included in the numbers above.
** For FY 02, The White House Office includes 65 OGEs for the Office of Homeland Security which are funded from the Emergency Appropriation.
*** The Office of Management and Budget's OGE number greatly increases during the preparation of the President's Budget. At other times, the OGE number can fall below 20.

REV_00169740

Hearing Record Reference for Question 7:

Question: For the Office of Administration provide FTE and OGE by organizational unit for FY 2001 (actual) and FY 2002-2003 (estimates).

Answer: The chart below displays the FTE and OGE distribution in the previous OA organizational structure for FY 2001. For FY 2002 and FY 2003, the FTE and OGE are displayed in the new streamlined OA organizational structure which reduced the number of operating units reporting to the Director from 10 to 4. All data is as of April 5, 2002.

R = Reimbursable N = Non Reimbursable	FY 2001 FTE and OGE Actuals						
	FTE	Others		Student Volunteers	OGE Grand Totals		
		R	N	N	R	N	R + N
Office of the Director	6		1			1	1
General Counsel	3						
Equal Employment Opportunity	1						
Financial Management	23						
Facilities Management	8						
Human Resources Management	22		3	1		4	4
General Services	54						
Library and Research Sciences	15						
Operations and Legislative Liasons	2						
Security	8						
Information Systems Technology	43						
TOTAL	**185**		**4**	**1**		**5**	**5**

R = Reimbursable N = Non Reimbursable	FY 2002 FTE and OGE Estimates						
	FTE	Others		Student Volunteers	OGE Grand Totals		
		R	N	N	R	N	R + N
Director	11						
Chief Operating Officer	96		1			1	1
Chief Financial Officer	37						
Chief Projects Officer	10						
Chief Information Officer	48						
TOTAL	**202**		**1**			**1**	**1**

R = Reimbursable N = Non Reimbursable	FY 2003 FTE and OGE Estimates						
	FTE	Others		Student Volunteers	OGE Grand Totals		
		R	N	N	R	N	R + N
Director	11						
Chief Operating Officer	103		1			1	1
Chief Financial Officer	39						
Chief Projects Officer	11						
Chief Information Officer	58						
TOTAL	**222**		**1**			**1**	**1**

REV_00169741

Hearing Record Reference for Question 8:

Question: For the Office of Management and Budget provide FTE and OGE by division for FY 2001 (actual) and FY 2002-2003 (estimates).

Answer: The chart below displays the FTE and OGE breakout by OMB division for FY 2001-2003. Most detailees and Student Volunteers are used during the peak budget production season. During the rest of the year, the OGE total can fall below 20.

R = Reimbursable N = Non Reimbursable	**FY 2001 FTE and OGE Actuals**								
	FTE	Assignees	Detailees		Student Volunteers	White House Fellows	OGE Grand Totals		
		N	R	N	N	N	R	N	R + N
OMB-Wide Offices*	**149**			18	2		0	20	**20**
General Government Programs	**61**			4			0	4	**4**
Human Resource Programs	**75**			2	1		0	3	**3**
National Security Programs	**65**		1	8			1	8	**9**
Natural Resource Programs	**62**			3	2		0	5	**5**
Office of Federal Financial Management	**17**		1	3	1		1	4	**5**
Office of Federal Procurement Policy	**24**		1	1			1	1	**2**
Office of Information and Regulatory Affairs	**49**			7	2		0	9	**9**
TOTAL	**502**	**0**	**3**	**46**	**8**	**0**	**3**	**54**	**57**

R = Reimbursable N = Non Reimbursable	**FY 2002 FTE and OGE Estimates** *(as of April 5, 2002)*								
	FTE	Assignees	Detailees		Student Volunteers	White House Fellows	OGE Grand Totals		
		N	R	N	N	N	R	N	R + N
OMB-Wide Offices*	**157**		1	19	1		1	20	**21**
General Government Programs	**64**			1			0	1	**1**
Human Resource Programs	**78**			1			0	1	**1**
National Security Programs	**67**		1	2			1	2	**3**
Natural Resource Programs	**63**			4			0	4	**4**
Office of Federal Financial Management	**22**		2	2			2	2	**4**
Office of Federal Procurement Policy	**22**			1			0	1	**1**
Office of Information and Regulatory Affairs	**54**			9	2		0	11	**11**
TOTAL	**527**	**0**	**4**	**39**	**3**	**0**	**4**	**42**	**46**

R = Reimbursable N = Non Reimbursable	**FY 2003 FTE and OGE Estimates**								
	FTE	Assignees	Detailees		Student Volunteers	White House Fellows	OGE Grand Totals		
		N	R	N	N	N	R	N	R + N
OMB-Wide Offices*	**151**		1	19	1		1	20	**21**
General Government Programs	**63**			1			0	1	**1**
Human Resource Programs	**75**			1			0	1	**1**
National Security Programs	**63**		1	2			1	2	**3**
Natural Resource Programs	**63**			4			0	4	**4**
Office of Federal Financial Management	**20**		2	2			2	2	**4**
Office of Federal Procurement Policy	**21**			1			0	1	**1**
Office of Information and Regulatory Affairs	**54**			9	2		0	11	**11**
TOTAL	**510**	**0**	**4**	**39**	**3**	**0**	**4**	**42**	**46**

* OMB-Wide Offices include the Director's; the Deputy Director, the Deputy Director for Management, the Executive Associate Director; Communications; General Counsel; Legislative Affairs; Economic Policy; Administration; the Legislative Reference Division; the Budget Review Divisions; and the Office of Information Technology and E-Government.

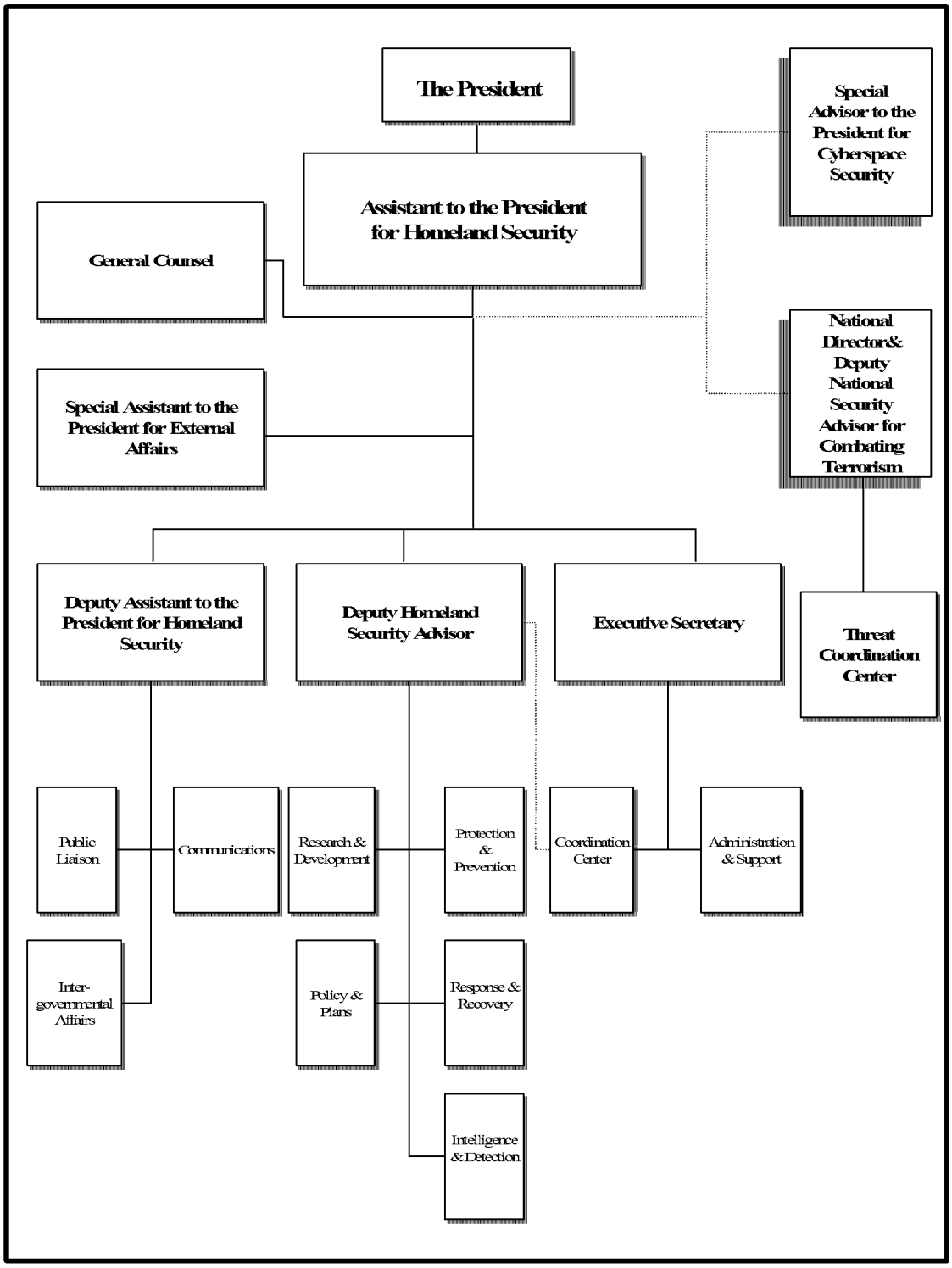
REV_00169742

Hearing Record Reference for Question 16:

Question: Provide an organizational chart for the OHS.

Answer: See chart below.

REV_00169743



REV_00169744

Hearing Record Reference for question 17:

Question: The President's request includes $1,337,000 for travel and transportation of persons, an increase of $976,000 from the estimated level of $361,000 in FY 2002. For FY 2002 and 2003 (estimates), provide a list of trips by location and purpose, including the number of staff traveling and staff position.

Answer: The FY 2002 travel and transportation of persons estimate and FY 2003 budget request provides funding for the Assistant to the President for Homeland Security and staff travel, Critical Infrastructure Protection Board (CIPB) activities and advisory board activities. Specific locations for FY 2003 are currently unavailable due to the fact that they are determined as requirements are finalized. FY 2002 and FY 2003 anticipated travel activities are in furtherance of the OHS mission promulgated in the Executive Orders.

Examples of FY 2003 estimated travel requirements include: per diem and travel for two-thirds of Advisory Board members to attend approximately 40 various meetings and activities; approximately 50 domestic trips for the Assistant to the President for Homeland Security and 3 staff members to fulfill outreach requirements; approximately 100 domestic trips for Homeland Security staff to fulfill mission functions as outlined in Executive Order 13228; approximately 24 domestic and 3 overseas trips for the Chair, Vice Chair and one staff member of the CIPB to fulfill outreach requirements as stated in Executive Order 13231; and approximately 12 CIPB staff (director level) trips to outreach the private sector. Of course, these are estimates only and are therefore subject to change for a variety of reasons.

FY 2002 travel expenses incurred to date include trips to Mexico and Canada for border discussions and various locations in the United States to visit first response, bioterrorism research facilities and other initiatives related to homeland security. The following table lists current (as of April 10, 2002) FY 2002 travel expenses as reflected in the accounting system.

Trip Cost Note: Estimated costs of trips will vary greatly from trip to trip to the same city and from one city to another city for four significant reasons; mode of transportation used/authorized, number of days TDY, number of personnel on trip, and whether costs recorded are actual or estimated expenses.

Office of Homeland Security Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Staff Position**
11/13/01	New York City, NY	1	$ 145	Dep Asst to President for OHS
11/15/01	New York City, NY	4	$ 1,287	Asst to President for OHS, Aide to Asst to President for OHS, Sr Director Response & Recovery and Sr Director Communications
12/07/01	New York City, NY	1	$ 767	Sr Dir Intergovernmental Affairs

REV_00169745

12/11/01	Ottawa, CAN	5	$ 1,038	Asst to President for OHS, Aide to Asst to President for OHS, Asst Public Liaison, Sr Dir Policy & Plans, Sr Dir Communications
12/21/01	Harrisburg, PA	1	$ 2,009	Comm Asst to Asst to President for OHS
01/04/02	Harrisburg, PA	1	$ 544	Comm Asst to Asst to President for OHS
01/09/02	Salt Lake City, UT	4	$ 738	Comm Asst to Asst to President for OHS, Dep Press Secretary, Spec Asst to the Chief of Staff, Aide to the Asst to President for OHS
01/11/02	Harrisburg, PA	1	$ 525	Comm Asst
01/13/02	New York City, NY	4	$ 1,606	Asst to President for OHS, Aide Dep Asst to President OHS, Dep Press Sec & Special Asst Public Liaison
01/14/02	New York City, NY	1	$ 138	Sr Dir Communications
01/17/02	New York City, NY	3	$ 323	Sr Dir Intergovernmental Affairs, Staff Dir, Dir
01/18/02	Harrisburg, PA	1	$ 1,017	Comm Asst to Asst to President for OHS
01/22/02	Ft. Lauderdale, FL	1	$ 850	Dr Policy & Plans
01/25/02	Brandson, MO	1	$ 405	Sr Dir Intergovernmental Affairs
01/25/02	Harrisburg, PA	1	$ 742	Watch Officer
01/30/02	Greensboro, NC	3	$ 909	Asst to President for OHS, Sr Dir Communications, & Dep Asst Sec
01/31/02	New York City, NY	4	$ 2,536	Asst to President OHS, Comm Asst to Asst to President for OHS, Aide to Asst to President OHS, Asst Public Liaison
02/02/02	New York City, NY	1	$ 165	Sr Dir Policy & Plans
02/04/02	New York City, NY	1	$ 728	Comm Asst
02/05/02	New York City, NY	4	$ 1,699	Asst to President OHS, Comm Asst to Asst to President for OHS, Aide to Asst to President OHS, Sr Dir Communications Asst Public Liaison
02/05/02	Salt Lake City, UT	1	$ 4,358	Comm Asst
02/08/02	Harrisburg, PA	2	$ 909	Comm Asst to Asst to President for OHS, Watch Officer
02/13/02	Orlando, FL	1	$ 1,593	Comm Asst to Asst to President for OHS
02/14/02	Miami, FL	1	$ 653	Comm Asst
02/14/02	Orlando, FL	4	$ 4,316	Asst to President for OHS, Sr Dir Intergovernmental Affairs, Aide to Asst to President OHS, Sr Dir Communications
02/15/02	Miami, FL	1	$ 814	Special Asst Public Liaison
02/16/02	Harrisburg, PA	2	$ 724	Watch Officer, Communications Asst

REV_00169746

02/17/02	Los Angeles, CA	1	$	719	Comm Asst to Asst to President for OHS
02/18/02	Cincinnati, OH	1	$	912	Special Asst Intergovernmental Affairs
02/19/02	Cincinnati, OH	1	$	715	Sr Dir Intergovernmental Affairs
02/19/02	Las Vegas, NV	1	$	2,725	Watch Officer
02/20/02	Houston, TX	3	$	903	Asst to President for OHS, Comm Asst to Asst to President for OHS, Aide to Asst to President for OHS
02/22/02	Harrisburg, PA	1	$	713	Comm Asst to Asst to President for OHS
02/22/02	Key West, FL	1	$	1,059	Sr Dir Intergovernmental Affairs
02/25/02	Colorado Springs, CO	2	$	1,575	Sr Advisor Prevention & Protection, Sr Dir Protection & Prevention
02/27/02	Vancouver, CA	1	$	1,212	Dir Policy & Plans
03/01/02	Harrisburg, PA	2	$	975	Communications Asst, Communications Asst
03/04/02	Mexico City, MEX	9	$	6,239	Asst to President for OHS, Asst Public Liaison, Aide to Asst to President for OHS, Dep Press Sec, Dep Asst to Pres for OHS, Sr Dir Policy & Plans, Communications Asst, Comm Asst to Asst to President for OHS, Dir Policy and Plans
03/04/02	Orlando, FL	1	$	325	Staff Dir
03/07/02	Boston, MA	3	$	1,111	Sr Dir Policy & Plans, Sr Dir Intergovernmental Affairs
03/08/02	Boston, MA	4	$	1,014	Asst to President for OHS, Sr Dir Communications, Aide to Asst to President for OHS, Staff Dir
03/08/02	Harrisburg, PA	1	$	600	Communications Asst
03/11/02	Birmingham	1	$	654	Sr Dir Response & Recovery
03/11/02	Orlando, FL	1	$	1,790	Comm Asst to Asst to President for OHS
03/15/02	Harrisburg, PA	1	$	589	Communications Asst
03/18/02	Las Vegas, NV	3	$	2,003	Comm Asst to Asst to President for OHS, Comm Asst, Comm Asst
03/20/02	New York City, NY	1	$	606	Special Asst
03/21/02	Monterrey, MEX	1	$	900	Aide to Asst to President for OHS
03/22/02	Harrisburg, PA	1	$	363	Communications Asst
03/27/02	Atlanta, GA	1	$	264	Aide to Asst to President for OHS
	Trip Cost Total		**$**	**59,503**	

REV_00169747

Cyberspace Security Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Staff Position**
10/27/01	San Jose, CA	2	$ 4,649	Special Advisor to President for Cyberspace Security, Deputy Chief of Staff Cyberspace
10/28/01	San Jose, CA	1	$ 1,663	Dir National Security Cyberspace
12/04/01	Boston, MA	3	$ 4,620	Special Advisor to President for Cyberspace Security, Deputy Chief of Staff Cyberspace, Sr Dir National Security Cyberspace
12/09/01	Boston, MA	1	$ 581	Dir National Security Cyberspace
12/09/01	Salt Lake City, UT	1	$ 1,219	Sr Dir National Security Cyberspace
01/17/02	San Jose, CA	2	$ 4,184	Sr Dir National Security Cyberspace, Special Advisor to President for Cyberspace Security
01/26/02	Honolulu, HI	1	$ 1,495	Sr Dir National Security Cyberspace
02/02/02	New Haven, CT	1	$ 809	Vice Chair CIPB
02/05/02	Norfolk, VA	1	$ 167	Sr Dir National Security Cyberspace
02/11/02	Austin, TX	1	$ 826	Special Advisor to President for Cyberspace Security
02/11/02	New York City, NY	1	$ 139	Sr Dir National Security Cyberspace
02/16/02	San Jose, CA	1	$ 807	Special Advisor to President for Cyberspace Security
02/22/02	Philadelphia, PA	1	$ 149	Vice Chair CIPB
03/02/02	JPN, IND, SIN, Hong Kong	1	$ 10,678	Sr Dir National Security Cyberspace
03/04/02	Palm Springs, CA	1	$ 371	Vice Chair CIPB
03/17/02	London, GBR	1	$ 1,273	Vice Chair CIPB
03/20/02	New York City, NY	1	$ 161	Sr Dir National Security Cyberspace
03/21/02	Seattle, WA	1	$ 161	Vice Chair CIPB
	Trip Cost Total		**$ 33,949**	

REV_00169748

Hearing Record Reference for Question 19:

Question: What Memorandums of Understanding have been signed by the Office of Homeland Security, or by any other EOP entity on behalf of the Office of Homeland Security and with whom? Describe the purpose of each MOU.

Answer: As of April 12, 2002, there is one signed Memorandum of Understanding (MOU), which is an agreement between OHS and the Office of Science and Technology Policy (OSTP). OSTP provides technical and personnel support for research and development and policy issues. There is no financial component to this MOU.

Hearing Record Reference for question 24:

Question: Is there a distinct organizational unit within the OHS for this function? If so, how many FTE are associated with this function? How many detailees? Where are these people located? Is this a permanent location? What is the total amount of space being used by the Cyber Security Office? What is the total cost of the Cyberspace Security office, including rent, office supplies, communications, etc.

Answer: The Special Advisor reports to both the Assistant to the President for Homeland Security and the Assistant to the President for National Security Affairs. The permanent location and amount of space allocated to the Board has not been determined, but they are currently located at the G Street office location. The total staff associated with this function is yet to be determined. The total estimated cost, for FY 2003, of the CIPB, including rent, office supplies, communications, etc., is approximately $2.85 million.

Hearing Record Reference for Question 39:

Question: To date, provide the total amount obligated from the FY 2002 appropriation "White House Repair and Restoration" by project.

Answer: Listed below is the status of each of the projects and the amounts obligated. No funds have been obligated to date in excess of the $100,000 project prospectus ceiling.

Pool Shelter Roof Reconstruction and Pool Deck Renovation - The preliminary architectural survey and design are completed, and structural engineering analysis and design is in progress. The two primary contractors required have committed to the project and an on-site meeting is scheduled. Construction is expected to begin in April. There have been no funds obligated. All work to date has been accomplished with National Park Service and Executive Residence staff.

Communication System Repairs / Phase 2 - Design work continues under Phase I (FY 2001 – $441,000 obligated) and Construction (Phase II) is expected to begin in August.

East and West Wing Exterior Restoration - Scaffolding installation for one elevation of the East and West Wing is nearly complete. Paint removal will begin shortly as outdoor temperatures permit. $84,500 has been obligated to date.

REV_00169749

Insulated Windows Replacement - Preliminary discussions are ongoing with manufacturers and fabrication should begin in May. Installation and related restoration requirements have been discussed with the prospective contractor, and the proposal should be received in April 2002. Work is expected to begin in July. No funds have been obligated for this project.

Kitchen Floor Replacement - The survey of existing conditions including utilities has been completed. An onsite meeting with the flooring installation contractor was completed and installation began in mid-March 2002. No funds have been obligated for this project.

North Portico Curtain Wall - The contractor began onsite work at the end of February 2002 and installation is 95% complete. Only the "punch" list and in house items remain. $83,000 has been obligated to date.

Stone Pavers Restoration - The contractor proposal has been received and is under review. Material ordering is expected in April 2002 and onsite work is expected to begin in May. No funds have been obligated for this project.

West Colonnade Restoration - There is continuing restoration of the first three columns and historically accurate replacement stone has been ordered for all columns. The newly discovered deteriorated structural steel has been evaluated. The recommended corrective actions will be accomplished this summer and no additional funds will be required. To date, $49,040 has been obligated for this project.

Hearing Record Reference for Question 51:

Issue: **President's Travel**

Question: For Presidential and First Lady travel, provide the following for FY 2001 and 2002 (to date):

- Trip date
- Destination
- Designation (political/official)
- Official Cost

Answer: The following charts summarize Presidential and First Lady travel for FY 2001 and FY 2002:

Presidential Travel FY 2001				
		Status		White House
Date	Destination	Official	Political	Travel cost
5-Oct	Princeton, NJ	100%		$ 9,983.00
8-Oct	New York, NY	100%		$ 4,986.00
11-Oct	Philadelphia, PA	44%	56%	$ 7,286.00
14-Oct	Denver, CO	31%	69%	$ 3,546.00
18-Oct	Norfolk, VA	100%		$ 3,301.00

REV_00169750

19-Oct	New Orleans, LA		100%	$ 974.00
20-Oct	Jefferson City, MO	37%	63%	$ 3,920.00
21-Oct	Boston, MA		100%	$ 259.00
22-Oct	Kingston, NY		100%	$ 1,078.00
25-Oct	Armonk, NY	100%		$ 8,617.00
31-Oct	Louisville, KY/New York		100%	$ 1,209.00
2-Nov	New York, NY		100%	$ 1,929.00
7-Nov	New York, NY		100%	$ 2,531.00
12-Nov	Waikoloa, HI	100%		$ 42,293.00
30-Nov	New York, NY	100%		$ 11,310.00
8-Dec	Omaha, NE	71%	29%	$ 13,188.00
18-Dec	New York, NY	100%		$ 15,390.00
4-Jan	Syracuse, NY	100%		$ 3,669.00
7-Jan	New York, NY	53%	47%	$ 4,835.00
9-Jan	Lansing, MI	100%		$ 7,730.00
9-Jan	Chicago, IL	100%		$ 8,470.00
11-Jan	Boston, MA	100%		$ 7,986.00
11-Jan	Dover, NH	100%		$ 4,918.00
11-Jan	Grand Canyon, AZ	100%		$ 18,342.00
17-Jan	New York, NY	100%		$ 12,283.00
17-Jan	Little Rock, AK	100%		$ 1,722.00
3-Feb	Williamsburg, VA	100%		$7,063
4-Feb	Nemacolin, PA	100%		$389
12-Feb	Savannah, GA	100%		$7,236
13-Feb	Norfolk, VA	100%		$7,293
14-Feb	Charleston, WV	100%		$9,692
18-Feb	Waco, TX	100%		$7,310
19-Feb	Oklahoma City, Ok	100%		$5,812
20-Feb	Columbus, OH	100%		$3,444
20-Feb	St. Louis, MO	100%		$9,324
21-Feb	Knoxville, TN	100%		$5,782
28-Feb	Pittsburg, PA	100%		$3,182
28-Feb	Council Bluff, IA	100%		$7,657
1-Mar	Little Rock, AK	100%		$8,450
1-Mar	Atlanta, GA	100%		$6,538
4-Mar	Newport News, VA	100%		$4,223
6-Mar	Chicago, IL	100%		$5,332
8-Mar	Sioux Falls, SD	100%		$12,542
8-Mar	Fargo, ND	100%		$2,976
9-Mar	Lafayette, LA	100%		$8,407
9-11 Mar	Waco, TX	100%		$18,435
12-Mar	Panama City, FL	100%		$3,314
14-Mar	Plainfield, NJ	100%		$4,724
21-Mar	Orlando, FL	100%		$9,568
23-Mar	Portland, MN	100%		$6,164

REV_00169751

26-Mar	Kansas City, MO	100%		$6,390
26-Mar	Billings, MT	100%		$12,229
27-Mar	Kalamazoo, MI	100%		$3,765
3-Apr	Wilmington, DE	100%		$2,528
6-Apr	Milwaukee, WI	100%		$6,200
11-Apr	Greenville, NC	100%		$7,191
11-Apr	Charlotte, NC	100%		$6,509
15-Apr	Waco, TX	100%		$12,791
18-Apr	Waterbury, CT	100%		$7,527
25-Apr	Jacksonville, FL	100%		$3,719
25-Apr	New Orleans, LA	100%		$7,541
25-Apr	Little Rock, AK		100%	$ -
26-Apr	Houston, TX	100%		$2,647
27-Apr	Austin, TX	100%		$6,519
28-Apr	Waco, TX	100%		$12,700
14-May	Philadelphia, PA	100%		$6,440
17-May	Nevada, IA	100%		$7,838
17-May	St. Paul, MN	100%		$6,266
18-May	Lancaster, PA	100%		$6,858
20-May	South Bend, IA	100%		$8,333
20-May	New Haven, CT	100%		$19,631
24-May	Cleveland, OH	100%		$3,497
28-May	Mesa, AZ	100%		$2,828
29-May	Los Angeles, CA	100%		$24,073
29-May	San Diego, CA	100%		$14,326
30-May	Fresno, CA	100%		$16,108
1-Jun	Boston, MA	100%		$4,344
4-Jun	Tampa, FL	100%		$18,918
4-Jun	Homestead, FL	100%		$8,721
6-Jun	Bedford, VA	100%		$3,880
8-Jun	Des Moines, IA	100%		$5,952
8-Jun	Omaha, NE	100%		$8,761
10-Jun	Waco, TX	100%		$7,844
21-Jun	Birmingham, AL	58%	42%	$14,966
21-Jun	Waco, TX	100%		$12,374
25-Jun	Detroit, MI	100%		$8,956
4-Jul	Philadelphia, PA	100%		$9,267
5-Jul	Kennebunkport, ME	100%		$14,083
10-Jul	New York City, NY	100%		$18,036
13-Jul	Baltimore, MD	100%		$1,352
29-Jul	Fort A.P. Hill VA	100%		$2,087
4-Aug-2 Sep	Crawford, TX	100%		$89,092
14-Aug	Estes Park, CO	100%		$21,743
14-Aug	Denver, CO	50%	50%	$0
15-Aug	Albuquerque, M	68%	32%	$21,860

20-Aug	Milwaukee, WI	100%		$10,820
21-Aug	Kansas City, MO	100%		$21,636
26-Aug	Pittsburg, PA	100%		$8,858
26-Aug	Williamsport, PA	100%		$14,073
29-Aug	Honolulu, HI (pre-adv)	Cancelled due to 9/11		$4,480
30-Aug	San Antonio, TX	100%		$7,024
3-Sep	Detroit, MI	100%		$10,053
3-Sep	Green Bay, WI	100%		$10,812
6-Sep	Toledo, OH	100%		$4,710
10-Sep	Sarasota, FL	100%		$26,098
10-Sep	Jacksonville, FL	100%		$5,376
14-Sep	New York City, NY	100%		$6,767
27-Sep	Chicago, IL	100%		$9,438
	FY 2001 Total Costs			**$791,692**

Mrs. Clinton/Mrs. Bush's Travel FY 2001				
		Status		White House
Date	Destination	Official	Political	Travel Cost
16-Oct	New York, NY		100%	$ 346
27-Oct	New York, NY		100%	$ 236
10-Nov	New York, NY		100%	$ 234
20-Feb	Ohio/ Missouri	100%		$583
22-Mar	Los Angeles, CA	100%		$1,165
23-Mar	San Diego, CA	100%		$14,294
22-Apr	Quebec, Canada	100%		$8,673
1-May	New York, NY	100%		$52
8-May	Columbia, SC	100%		$434
14-May	Chicago, IL	100%		$1,637
1-Jun	Boston, MA	100%		$280
25-Sep	New York, NY	100%		$4,500
	Total Costs			**$31,618**

Presidential Travel FY 2002				
		Status		White House
Date	Destination	Official	Political	Travel Cost
3-Oct	New York, NY	100%		$8,060
7-Oct	Emmitsburg, MD	100%		$1,988
17-Oct	Sacramento, CA	100%		$16,678
30-Oct	New York, NY	100%		$13,043

REV_00169753

8-Nov	Atlanta, GA	100%		$17,920
10-Nov	New York, NY	100%		$6,525
14-Nov	Crawford. TX	100%		$44,535
21-Nov	Fort Campbell, KY	100%		$9,114
27-Nov	Salt Lake City, UT	100%		$4,328
1-Dec	Philadelphia, PA	100%		$13,669
4-Dec	Orlando, FL	70%	30%	$13,371
7-Dec	Norfolk, VA	100%		$5,271
11-Dec	Citadel, SC	100%		$11,498
26-Dec	Waco, TX	100%		$12,667
4-Jan	Austin, TX	100%		$5,356
5-Jan	Ontario, CA	100%		$10,240
5-Jan	Portland, OR	100%		$10,870
8-Jan	Hamilton, OH	100%		$6,588
8-Jan	Boston, MA	100%		$11,159
8-Jan	Portsmith, NH	54%	46%	$6,594
9-Jan	Washington, DC	100%		$0
11-Jan	Conshohoken, PA	100%		$5,321
14-Jan	Moline, IL	100%		$7,570
14-Jan	Springfield, MO	100%		$6,569
14-Jan	New Orleans, LA	100%		$32,494
22-Jan	Charleston, WV	71%	29%	$6,086
25-Jan	Portland, ME	100%		$7,698
30-Jan	Winston-Salem, NC	65%	35%	$8,799
30-Jan	Daytona Beach, FL	100%		$12,874
31-Jan	Atlanta, GA	100%		$13,869
1-Feb	White Sulpher Springs, WV	100%		$4,273
4-Feb	Eglin AFB,FL	100%		$7,666
5-Feb	Pittsburgh ,PA	100%		$7,918
6-Feb	New York, NY	54%	46%	$6,940
8-Feb	Denver, CO	100%		$7,644
8-Feb	Salt Lake City, UT	100%		$12,877
8-Feb	Jackson, WY	100%		$11,182
11-Feb	Milwaukee, WI	48%	52%	$9,360
16-Feb	Anchorage, AK	40%	60%	$9,181
27-Feb	Charlotte, NC			$7,048
	Totals through 2/28/02			**$414,843**

REV_00169754

Mrs. Bush's Travel FY 2002				
		Status		White House
Date	Destination	Official	Political	Travel Cost
3-Oct	Cincinnati, OH	100%		$339
16-Oct	Newark, NJ	100%		$1,790
18-Oct	Atlanta, GA	100%		$1,742
19-Oct	Baton Rouge, LA	100%		$1,568
30-Oct	New York, NY	100%		$1,652
16-Nov	Austin, TX	100%		$7,300
9-Jan	Topeka, KS	100%		$1,566
10-Jan	Houston, TX	100%		$1,915
11-Jan	Austin, TX	100%		$780
21-Jan	Atlanta, GA	100%		$1,060
10-Feb	Los Angeles, CA	100%		$5,021
	Total Costs through 2/28/02			**$24,733**

Hearing Record Reference for Question 53:

Question: For FY 2001, 2002 (estimate) and FY 2003 request, provide the total amount for outside consulting services, by appropriations account. Provide the specific definition of "consulting services" being used in response to this question as well as a description of the consulting service itself (dollar amount, purpose, deliverables, timeframe). If applicable, group the consulting services by category of service.

Answer: "Consulting services" or "Advisory and Assistance Services" as defined by OMB Circular A-11, Section 83, are services acquired by contract from non-Federal sources (that is, the private sector, foreign governments, State and local governments, tribes), as well as from other units within the Federal Government and consists of three types of services: 1) Management and professional support services; 2) Studies, analyses and evaluation; and 3) Engineering and technical services. Listed below are the EOP and other entities with Advisory and Assistance contracts.

White House Office

FY 2001 (Actual)

1. $15,300 for the Gift Unit of the White House Office of Correspondence. The deliverables included a final report recommending procedures, staffing and budget required for handling gifts to the White House from outside sources. This contract was from January - March, 2001.

REV_00169755

2. $13,200 for computer forensic consultant services to observe the Office of the Independent Counsel's use of a computer forensics technique. The consultant evaluated whether commonly accepted industry practices were being followed. The timeframe for this contract was from December, 2000 to January, 2001.
3. $1,650 for the compilation of records for the presidential library. This contract was during the month of January 2001.

FY 2002 as of April 5, 2002
There are currently no advisory and assistance contracts for the White House Office.

FY 2003 Request
1. $8,000,000 is the estimated requirement for the Office of Homeland Security advisory and assistance contracts. Exact contracts have not been determined at this time.

Office of Administration
FY 2001 (Actual)
1. $285,000 for an auditability assessment for the Chief Financial Officer operations. The deliverables included an assessment plan, auditability report and a gap analysis. The contract was awarded in late September 2001 with a period of performance through March 2002.
2. $196,379 for an assessment of the distributed computer environment including a final report. This contract lasted from August, 2001 to December 2001.
3. $12,600 for consulting services in support of workplace issues. The contract supported a National Partnership for Reinventing Government requirement to identify basic issues, best practices and barriers to success. The contract timeframe was from October 2000 to January 2001.
4. $143,000 for a study of options for an EOP financial management plan. The contract was awarded in September 2001 with a period of performance that extended through December 2001.

FY 2002 as of April 5, 2002
There are currently no advisory and assistance contracts for the Office of Administration.

FY 2003 Request
There are no advisory and assistance contracts planned for FY 2003.

Office of Management and Budget
FY 2001 (Actual)
1. $36,875 for information technology advisory services. The deliverables include providing expert IT research and advice as needed. The contract's duration is for the entire fiscal year.

FY 2002 as of April 5, 2002
1. $55,000 for information technology advisory services. The deliverables include providing expert IT research and advice as needed. The contract is a continuation of the same contract above and is for the entire fiscal year.

REV_00169756

FY 2003 Request

1. $55,000 for information technology advisory services. The deliverables include providing expert IT research and advice as needed. The contract is a continuation of the same contract above and is for the entire fiscal year.

Office of National Drug Control Policy

FY 2001 (Actual)

1. $2,250 for conference preparation support for an Anti-Doping agency meeting including overall logistical support. The contract was for 5 days in August, 2001.

FY 2002 as of April 5, 2002

1. $14,000 for office temps/consultants to assist with the ONDCP Strategy and Budget summary. This contract is part of an open blanket purchase agreement so there is no designated timeframe.

FY 2003 Request

1. $14,000 for office temps/consultants to assist with the ONDCP Strategy and Budget summary. This contract is part of an open blanket purchase agreement so there is no designated timeframe.

Council of Economic Advisers

FY 2001 (Actual)

1. $12,874 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from November 2000 to February 2001.

FY 2002 as of April 5, 2002

1. $14,276 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from November 2001 to February 2002.

FY 2003 Request

1. $15,000 estimated for editorial services for the Economic Report of the President. The consultant will provide expertise in editing the final publication. It is anticipated that the contract will last from November 2002 to February 2003.

Council on Environmental Quality

FY 2001 (Actual)

1. $17,150 for assistance in updating statistical tables, graphics, text and an annual report. The consultant started in FY 2000 and was extended through January 2001.

FY 2002 as of April 5, 2002

There are currently no advisory and assistance contracts for the Council on Environmental Quality.

REV_00169757

FY 2003 Request
There are no advisory and assistance contracts planned for FY 2003.

Office of the United States Trade Representative
FY 2001 (Actual)
1. $5,000 for a Staff Retreat for the Office of African Affairs to improve strategic planning, management, organization and teamwork in the office. The consultant served as retreat facilitator. The contract was for two days in March 2001.
2. $185,000 for information technology advisory services. Deliverables included a detailed assessment of USTR's information technology environment. The contract started in September 2001 and will be completed during FY 2002.

FY 2002 as of April 5, 2002
1. $20,000 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.
2. $5,000 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.

FY 2003 Request
There are no advisory and assistance contracts planned for FY 2003.

Hearing Record Reference for Question 56:

Question: For Object Class 25.2 for the White House Office, provide a detailed description of each project, program or initiative to be funded in support of the USA Freedom Corps Office.

Answer: The additional funds requested in Object Class 25.2 for the White House Office's USA Freedom Corps Office are primarily required to fund two program initiatives.

- Information Dissemination: The cost of this program initiative is estimated at $900,000 and will primarily consist of contracted services in partnership with other Freedom Corps coordinating council agencies. These contracted services will include both interactive website portals and telecommunication services such as information phone banks. These services will provide links and information concerning volunteer opportunities, Freedom Corps activities and other pertinent data.

- Recognition Materials: The cost of this program initiative is estimated at $275,000 and will primarily consist of contracted services to develop, provide and disseminate materials that will be used to recognize volunteer activities and accomplishments.

In addition, approximately $25,000 is required to fund increased general support Other Service costs within the White House that will occur as the result of the operations of this new office. These funds will be used for such things as office equipment maintenance contracts and GSA work requests.

REV_00169758

Hearing Record Reference for Question 63:

Issue: **White House Communications Agency**

Question: For FY 2001 and 2002 (estimates) itemize the reimbursements made to the WH Communications Agency.

Question: For FY 2003, what are the estimated reimbursements to the WH Communications Agency?

Answers to previous two questions: Reimbursements made to WHCA, for the non-telecommunications support they provide to the WHO, is broken down into two categories: personnel and audio visual support. The amount of planned reimbursement is initially set and agreed to via an inter-agency agreement (IAG). This IAG is then adjusted if needed as a result of actual execution. Reimbursement actuals and estimates follow:

	FY01 (actual)	FY02 (est.)	FY03 (est.)
Military Personnel	$3,946,779	$4,564,085	$4,754,346
Audiovisual Support	$3,514,528	$3,589.242	$3,953,848
Total	$7,461,307	$8,153,327	$8,708,194

Hearing Record Reference for Question 64:

Issue: **Office of Administration**

Question: Provide an organization chart for the Office of Administration, including the numbers of FTE in each office.

Answer: The Office of Administration organization chart provided below reflects the current streamlined organizational structure where the number of operating units reporting to the Director was reduced from 10 to 4. The FY 2003 FTE request includes an increase of 20 FTE over FY 2002 authorized levels. All additional FTEs support the ongoing requirements stemming from the events of September 11 including IT and facility support for dispersed offices, additional logistics responsibilities for the receipt and delivery of mail, and financial management support for the Office of Homeland Security (+7 Chief Operating Officer, +10 Chief Information Officer, +1 Chief Projects Officer, +2 Chief Financial Officer).

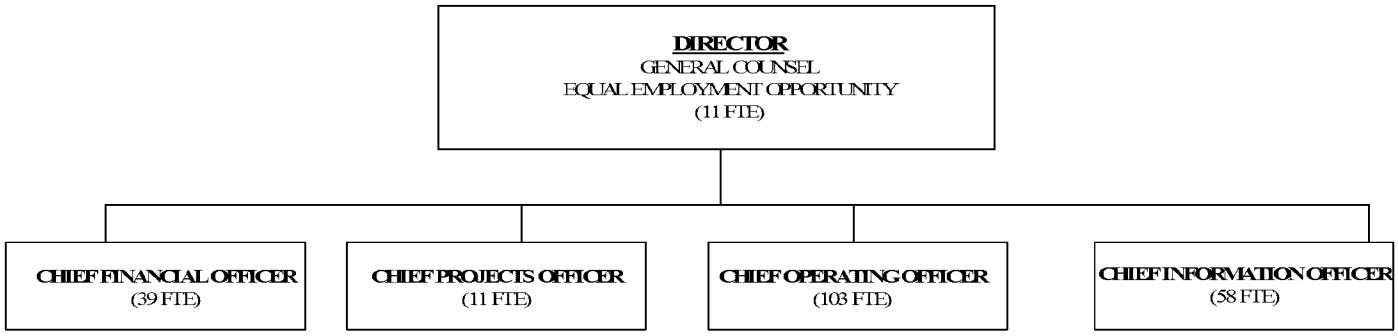
REV_00169759

Executive Office of the President

Office of Administration

Organization Chart

with FY 2003 Requested FTEs



Total 222 FTE

Hearing Record Reference for Question 72:

Issue: *White House Office*

Question: Provide a brief description of the duties and responsibilities of each office (e.g. Chief of Staff, Oval Office Operations, Office of the Press Secretary, Office of Homeland Security, etc.) within the appropriations account "White House Office". By office, provide obligations, FTE and OGE for FY 2001(actual) and FY 2002-2003 (estimated). Itemize OGE by category (e.g. reimbursable detailee, PSC, etc.).

Answer: The purpose of the White House Office is to provide advice and assistance to the President of the United States. This requires a range of professional and support staff. The White House Office is currently divided into the following major units:

Office of the Chief of Staff – Provides advice and assistance to the President and directs the activities of the White House staff.

Oval Office Operations – Provides assistance to the President by, among other things, managing the operations of the Oval Office.

REV_00169760

Advance – Provides advice and assistance to the President, principally by taking responsibility for the organization and implementation of the President and the First Lady's visits outside of the White House complex.

Cabinet Affairs – Provides advice and assistance to the President by, among other things, serving as the liaison between the White House and the President's Cabinet and agency heads.

Communications, Speechwriting, and Media Affairs – Provides advice and assistance to the President by, among other things, coordinating and supporting efforts to communicate and explain the President's views and decisions.

Office of Counsel to the President – Provides advice and assistance to the President and White House staff, principally on matters of law.

Faith-Based and Community Initiatives – Provides advice and assistance to the President by, among other things, coordinating and implementing the President's initiative to empower community and faith-based organizations to better confront poverty and social decay.

Office of the First Lady – Provides advice and assistance to Mrs. Bush in carrying out her official responsibilities as the First Lady.

Homeland Security – Provides advice and assistance to the President, principally by developing, coordinating, and advising the President on a comprehensive national strategy to secure the United States from terrorist threats or attacks and, in particular, by coordinating the Executive Branch's efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States. It has no operational role.

Intergovernmental Affairs – Provides advice and assistance to the President, principally by monitoring the views of State and local elected officials and serving as a liaison between the White House and the Executive Branch, on the one hand, and State and local governments, on the other.

Legislative Affairs – Provides advice and assistance to the President by, among other things, serving as the liaison between the White House and the Congress and developing the strategy used to promote and defend the President's legislative agenda.

Management and Administration – Provides advice and assistance to the President, principally by providing day-to-day administrative support to the White House staff.

Presidential Personnel – Provides advice and assistance to the President, principally by recruiting, screening, and recommending to the President qualified candidates for Presidential appointments to Federal departments and agencies.

REV_00169761

Office of the Press Secretary – Provides advice and assistance to the President, principally by providing information to the national and international press and by handling all national press inquiries such as interview requests, requests for transcripts or releases, and travel and scheduling information.

Scheduling – Provides advice and assistance to the President, principally by coordinating the planning, organization, and implementation of the President's daily and long-range schedules.

Office of the Staff Secretary – Provides advice and assistance to the President by, among other things, managing documents or other items addressed to the President, including correspondence and gifts.

Strategic Initiatives – Provides advice and assistance to the President by, among other things, coordinating the planning and development of a long-range strategy for achieving Presidential priorities; conducting research; and assisting in message development and other communications activities in conjunction with the Office of Public Liaison and the Office of Political Affairs.

USA Freedom Corps – Provides advice and assistance to the President on matters relating to enlisting Americans in public service at home and abroad; in particular, it provides advice and support on the work of, and recognizes participants in, three service efforts – the newly created Citizen Corps, AmeriCorps and Senior Corps, and the Peace Corps.

In addition to these major units, certain individuals – including certain individuals who work with the National Security Council, the Domestic Policy Council, and the National Economic Council – are also White House Office officers or employees, although the units within which they principally work are not themselves part of the White House Office.

The major units within the White House Office are administratively designated by the President's Chief of Staff and the number of employees within each unit and the work of each unit vary over time and as circumstances and needs change. Therefore, a detailed breakout of FTEs and OGEs by unit is not particularly meaningful. White House Office obligations, FTE and OGE are summarized below. The Office of Homeland Security is funded under the emergency supplemental this fiscal year, and therefore, the FY 2002 numbers below do not include OHS personnel or funding. FY 2002 estimates for the OHS are addressed separately in response to other committee questions.

REV_00169762

		FY01 act.		FY02 est.		FY03 est.
Total WHO – FTE		369		400		446
Total WHO – OGE		35		32*		127*
FY03 Congressional Request – FTE		400		400		446
(Dollars in thousands)						
Total WHO – Obligations		$53,084		$54,651		$84,579

* FY 2002 excludes the approximately 65 OGEs currently on board for the Office of Homeland Security.
The FY 2002 OGEs for the Office of Homeland Security are funded out of the emergency supplemental funding.
FY 2003 includes the 95 OGEs for the Office of Homeland Security requested in the FY 2003 Budget Request.

Issue: The Committee is resubmitting the following questions due to the lack of detailed information provided in the original responses

Question: Provide a brief description of the duties and responsibilities of each office (e.g. Chief of Staff, Oval Office Operations, Office of the Press Secretary, Office of Homeland Security, etc.) within the appropriations account "White House Office". By office, provide obligations, FTE and OGE for FY 2001(actual) and FY 2002-2003 (estimated). Itemize OGE by category (e.g. reimbursable detailee, PSC, etc.).

Answer: The purpose of the White House Office is to provide advice and assistance to the President of the United States. This requires a range of professional and support staff. The White House Office is currently divided into the following major units. A brief description of the duties and responsibilities of the major units is provided for the record.

Office of the Chief of Staff – Provides advice and assistance to the President and directs the activities of the White House staff.

Oval Office Operations – Provides assistance to the President by, among other things, managing the operations of the Oval Office.

Advance – Provides advice and assistance to the President, principally by taking responsibility for the organization and implementation of the President and the First Lady's visits outside of the White House complex.

Cabinet Affairs – Provides advice and assistance to the President by, among other things, serving as the liaison between the White House and the President's Cabinet and agency heads.

REV_00169763

Communications, Speechwriting, and Media Affairs – Provides advice and assistance to the President by, among other things, coordinating and supporting efforts to communicate and explain the President's views and decisions.

Office of Counsel to the President – Provides advice and assistance to the President and White House staff, principally on matters of law.

Faith-Based and Community Initiatives – Provides advice and assistance to the President by, among other things, coordinating and implementing the President's initiative to empower community and faith-based organizations to better confront poverty and social decay.

Office of the First Lady – Provides advice and assistance to Mrs. Bush in carrying out her official responsibilities as the First Lady.

Homeland Security – Provides advice and assistance to the President, principally by developing, coordinating, and advising the President on a comprehensive national strategy to secure the United States from terrorist threats or attacks and, in particular, by coordinating the Executive Branch's efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States.

Intergovernmental Affairs – Provides advice and assistance to the President, principally by monitoring the views of state and local elected officials and serving as a liaison between the White House and the Executive Branch, on the one hand, and state and local governments, on the other.

Legislative Affairs – Provides advice and assistance to the President by, among other things, serving as the liaison between the White House and the Congress and developing the strategy used to promote and defend the President's legislative agenda.

Management and Administration – Provides advice and assistance to the President, principally by providing day-to-day administrative support to the White House staff.

Presidential Personnel – Provides advice and assistance to the President, principally by recruiting, screening, and recommending qualified candidates for Presidential appointments to Federal departments and agencies.

Office of the Press Secretary – Provides advice and assistance to the President, principally by providing information to the national and international press and by handling all national press inquiries such as interview requests, requests for transcripts or releases, and travel and scheduling information.

REV_00169764

Scheduling – Provides advice and assistance to the President, principally by coordinating the planning, organization, and implementation of the President's daily and long-range schedules.

Office of the Staff Secretary – Provides advice and assistance to the President by, among other things, managing documents or other items addressed to the President, including correspondence and gifts.

Strategic Initiatives – Provides advice and assistance to the President by, among other things, coordinating the planning and development of a long-range strategy for achieving Presidential priorities; conducting research; and assisting in message development and other communications activities in conjunction with the Office of Public Liaison and the Office of Political Affairs.

USA Freedom Corps – Provides advice and assistance to the President on matters relating to enlisting Americans in public service at home and abroad; in particular, it provides advice and support on the work of, and recognizes participants in, three service efforts – the newly created Citizen Corps, AmeriCorps and Senior Corps, and the Peace Corps.

In addition to these major units, certain individuals – including certain individuals who work with the National Security Council, the Domestic Policy Council, and the National Economic Council – are also White House Office employees, although the units within which they principally work are not themselves part of the White House Office.

The major units within the White House Office are simply a creature of administrative convenience, and the number of employees within each unit and the work of each unit vary over time and as circumstances and needs change. Therefore a detailed breakout of FTEs and OGEs by unit is not particularly meaningful. Nevertheless, set forth below is a breakout based on current estimates and planning, which of course, may differ during the actual execution year.

	FY01	FY02	FY03
White House Office	**actual**	**est.**	**est.**
Office of Chief of Staff - FTE	11	12	12
Office of Chief of Staff - OGE (Agency Rep)	6	0	0
Oval Office Ops - FTE	5	5	5
Oval Office Ops - OGE	0	0	0
Advance - FTE	15	15	15
Advance - OGE	0	0	0
Office of Cabinet Affairs - FTE	6	6	6

REV_00169765

Office of Cabinet Affairs - OGE (Assignee)		3		1	1
Communications, Speechwriting & Media - FTE		32		35	35
Communications, Speechwriting & Media - OGE		0		0	0
Office of the Counsel to the President - FTE		17		19	19
Office of the Counsel to the President - OGE (Non-Reimb Detail)		4		2	2
Faith Based and Community Initiatives - FTE		7		8	8
Faith Based and Community Initiatives - OGE		0		0	0
Office of the First Lady - FTE		18		19	19
Office of the First Lady - OGE		0		0	0
Office of Homeland Security - FTE		0		0	40
Office of Homeland Security - OGE		0		0	95
Office of Intergovernmental Affairs - FTE		7		9	9
Office of Intergovernmental Affairs - OGE		0		0	0
Office of Legislative Affairs - FTE		23		24	24
Office of Legislative Affairs - OGE (Non-Reimb Detail)		0		1	1
Office of Legislative Affairs - OGE (Assignee)		0		1	1
Office of Management & Administration - FTE		34		38	38
Office of Management & Administration - OGE (Non-Reimb Detail)		1		0	0
Office of Management & Administration - OGE (HP Serv)		9		13	11
Office of Presidential Personnel - FTE		36		38	38
Office of Presidential Personnel - OGE (Assignee)		2		0	0
Office of Presidential Personnel - OGE (Reimb Detail)		0		1	1
Office of Presidential Personnel - OGE (Non-Reimb Detail)		1		1	1
Office of the Press Secretary - FTE		11		12	12
Office of the Press Secretary - OGE		0		0	0
Scheduling - FTE		10		11	11
Scheduling - OGE (HP Serv)		2		2	2
Office of the Staff Secretary - FTE		95		98	98

REV_00169766

Office of the Staff Secretary - OGE (Reimb Detail)	3	0	0
Office of the Staff Secretary - OGE (Non-Reimb Detail)	1	0	0
Office of Strategic Initiatives - FTE	34	35	35
Office of Strategic Initiatives - OGE (Reim Detail)	0	1	1
Office of Strategic Initiatives - OGE (Assignee)	0	1	1
USA Freedom Corps Office - FTE	0	5	6
USA Freedom Corps Office - OGE (Agency Rep)	0	1	1
USA Freedom Corps Office - OGE (Non-Reimb Detail)	0	2	2
USA Freedom Corps Office - OGE (Reimb Detail)	0	2	2
USA Freedom Corps Office - OGE (WH Fellow)	0	1	1
Other - FTE	8	11	16
Other - OGE (HP Serv)	2	3	3
Other - OGE (Agency Rep)	1	0	0
Other - OGE (Reimb Detail)	0	1	1

	FY01	**FY02**	**FY03**
	actual	**est.**	**est.**
Total WHO – FTE	369	400	446
Total WHO – OGE	35	34*	129**
FY03 Congressional Request – FTE	400	400	446

* FY 2002 excludes the approximately 65 OGEs currently on board for the Office of Homeland Security who are funded out of the FY 2002 Emergency Supplemental Appropriation. The WHO OGE number has been updated to reflect changes since we submitted the first set of responses to the questions for the record.

**FY 2003 includes the 95 OGEs for the Office of Homeland Security requested in the FY 2003 Budget Request.

Obligations (actual and estimated) are provided by individual White House office for FY 2001 thru FY 2003 in the table below. It must be emphasized that the FY 2002 and FY 2003 numbers are estimates only. As circumstances and needs change, so may these estimates in any actual year. Therefore, these estimates are not particularly meaningful.

REV_00169767

(dollars in thousands)					
White House Office		**FY01 act.**		**FY02 est.**	**FY03 est.**
Office of Chief of Staff		$1,473		$1,420	$1,474
Oval Office Ops		$550		$458	$476
Offices of Scheduling and Advance		$2,751		$3,398	$3,593
Office of Cabinet Affairs		$542		$592	$615
Communications, Speechwriting & Media		$2,202		$2,395	$2,486
Office of the Counsel to the President		$2,004		$1,895	$1,966
Faith Based and Community Initiatives		$366		$516	$536
Office of the First Lady		$1,354		$1,437	$1,492
Office of Homeland Security		$0		$0 *	$24,844
Office of Intergovernmental Affairs		$489		$518	$538
Office of Legislative Affairs		$1,870		$2,041	$2,118
Office of Management and Administration		$26,462		$25,735	$27,440
Office of Presidential Personnel		$2,137		$2,336	$2,425
Office of the Press Secretary		$1,062		$1,139	$1,182
Office of the Staff Secretary		$5,702		$6,232	$6,469
Office of Strategic Initiatives		$3,821		$4,167	$4,325
USA Freedom Corps Office - Obligations		$0		$372	$2,600
(dollars in thousands)					
Other Personnel Obligations - Prior administration org's		$299		$0	$0
Total WHO Obligations		$53,084		$54,651	$84,579

* FY 2002 obligations for the Office of Homeland Security are funded under the Emergency Supplemental Appropriation

It should be noted that a single budget is prepared for the WHO. This single budget is prepared based on a number of criteria such as: prior spending patterns, estimated requirements, OMB provided inflation factors, and the priorities of the President. During a given execution year, personnel costs are allocated based upon that year's sometimes unique staffing decisions. The remainder of the budget is allocated initially to two WHO offices. The travel budget is allocated in its entirety to Scheduling and Advance and obligated against this office if the travel is done in support of the President. Any travel undertaken that is not in support of a Presidential trip is charged to the office of the staff member in question. The remaining portion of the non-personnel, non-travel budget, including expenses for rent, supplies, equipment and other services is considered overhead and charged as such to the White House Office of Management and Administration.

The only exceptions are the Office of Homeland Security and the USA Freedom Corps Office. Since these are new offices requiring new budget authority, all new obligations (including travel and overhead) anticipated as a result of these offices are reflected in the FY 2003 estimates for these offices.

REV_00169768

Hearing Record Reference for question 73:

Question: Referencing the FTE/OGE tables that break-out personnel classifications by type of OGE, please explain why the number of "historically provided" employees decreased so significantly (from 25 to 1) for the Vice President's office between FY2001 and FY2002. Please provide the Subcommittee your definition of each OGE category listed on the table (agency reps, assignees, detailees, HP services, others, student volunteers, WH fellows, PMI). Please also provide a listing of the 15 "historically provided" White House Office positions identified on the FY2002 chart, the White House Office to which these positions are assigned, and the agency that pays the salary of each of the 15 positions.

Answer: The difference in the number of "Historically Provided" employees in the Vice President's Office from FY 2001 to FY 2002 is due to the redesignation of U.S. Senate employees. In FY 2001, the previous administration designated U.S. Senate employees in the Vice President's office as "Historically Provided". This was done in error and it has since been corrected. For FY 2002 and FY 2003, U. S. Senate employees are more accurately designated as "Other" since they do not fit into any other OGE category.

The following chart shows the 15 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 31, 2002*:

POSITION	OFFICE	HOME AGENCY
1. Deputy Executive Director	PFIAB*	Central Intelligence Agency
2. Administrative Services Spec.	PFIAB	Dept. of Defense
3. Administrative Assistant	PFIAB	U.S. Navy
4. Staff Assistant	Visitors Office	Dept. of Interior
5. Staff Assistant	Visitors Office	Dept. of Interior
6. Staff Assistant	Visitors Office	Dept. of Interior
7. Receptionist	Visitors Office	Dept. of Interior
8. President's Photographer	Photography Office	Defense Intelligence Agency
9. Visual Director	Photography Office	Defense Intelligence Agency
10. Photographer	Photography Office	Dept. of Defense
11. Official Photographer	Photography Office	Defense Intelligence Agency
12. Official Photographer	Photography Office	Dept. of Defense
13. Photo Editor	Photography Office	Dept. of Defense
14. Presidential Diarist	Scheduling Office	Nat'l Archive and Records Admin.
15. Asst. to the Presidential Diarist	Scheduling Office	Nat'l Archive and Records Admin.
16. Photographic Specialist**	Photography Office	Defense Intelligence Agency
17. Operations Manager**	Photography Office	Defense Intelligence Agency
18. Visual Information Specialist**	Photography Office	Defense Intelligence Agency

*PFIAB is the President's Foreign Intelligence Advisory Board
**Updated since the April 5, 2002 data was provided.

REV_00169769

Hearing Record Reference for Question 74:

The following chart shows the 15 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 31, 2002*:

POSITION	OFFICE	HOME AGENCY
1. Deputy Executive Director	PFIAB*	Central Intelligence Agency
2. Administrative Services Spec.	PFIAB	Dept. of Defense
3. Administrative Assistant	PFIAB	U.S. Navy
4. Staff Assistant	Visitors Office	Dept. of Interior
5. Staff Assistant	Visitors Office	Dept. of Interior
6. Staff Assistant	Visitors Office	Dept. of Interior
7. Receptionist	Visitors Office	Dept. of Interior
8. President's Photographer	Photography Office	Defense Intelligence Agency
9. Visual Director	Photography Office	Defense Intelligence Agency
10. Photographer	Photography Office	Dept. of Defense
11. Official Photographer	Photography Office	Defense Intelligence Agency
12. Official Photographer	Photography Office	Dept. of Defense
13. Photo Editor	Photography Office	Dept. of Defense
14. Presidential Diarist	Scheduling Office	Nat'l Archive and Records Admin.
15. Asst. to the Presidential Diarist	Scheduling Office	Nat'l Archive and Records Admin.
16. Photographic Specialist**	Photography Office	Defense Intelligence Agency
17. Operations Manager**	Photography Office	Defense Intelligence Agency
18. Visual Information Specialist**	Photography Office	Defense Intelligence Agency

*PFIAB is the President's Foreign Intelligence Advisory Board
**Updated since the April 5, 2002 data was provided.

Hearing Record Reference for Question 79:

Question: How many political appointees are currently employed within the Executive Office of the President?

Answer: The term "political appointees" is somewhat of a misnomer because it narrowly defines the type of employees authorized under Chapter 2 of Title 3 of the U.S. Code, for the White House Office, the Executive Residence, the Official Residence of the Vice President and the Office of Administration. These offices can hire personnel in various excepted service positions that are not subject to the rules of regular government employees. Many of these excepted service positions fall under the category of serving at the pleasure of the President while others do not. Using the term in the broadest possible sense, including all employees hired as Presidential Appointees, Administratively Determined, Non Career SES, or Schedule C's, the Executive Office of the President has the following number of political appointees directly hired

REV_00169770

within the EOP and serving in the EOP on detailed assignments from other agencies as of April 5, 2002:

As of April 5, 2002

Program	FY 2002 "POLITICAL APPOINTEES"					
	Admin. Determ.*	Schedule C	Non Career SES	Presidential Appointees	OGE** Political Appointees	TOTAL
White House Office	411				31	**442**
Special Assistance to the President	21				31	**52**
Official Residence of the Vice President		1				**1**
Office of Administration	8					**8**
Office of Policy Development	35				2	**37**
National Security Council				1	4	**5**
Council of Economic Advisers	18	3		3		**24**
Office of Management and Budget	2	23	13	5		**43**
Office of National Drug Control Policy		9	1	2		**12**
Executive Residence		94				**94**
Office of Science and Technology Policy		1	1	1	1	**4**
Council on Environmental Quality	6	4		1		**11**
U.S. Trade Representative	14	8	4	5		**31**
TOTAL	**515**	**143**	**19**	**18**	**69**	**764**

* Historically, Administratively Determined appointees within some agencies have served from one administration to another. Nevertheless, they serve at the pleasure of the entity head and may be terminated without cause.

** OGE = Other Government Employees

White House Office includes the Office of Homeland Security

Hearing Record Reference for Question 80:

Question: How many reimbursable details are currently employed within the Executive Office of the President?

Answer: There are currently 78 reimbursable detailees staffed within the Executive Office of the President including 63 reimbursable detailees for the Office of Homeland Security. The detailees for the Office of Homeland Security are funded through the FY 2002 Emergency Supplemental. Below is a listing of reimbursable detailees by agency as of April 5, 2002:

Agency	# Reimbursable Detailees
White House Office (incl. Homeland Security)	68
National Security Council	1
Office of Management and Budget	4
Office of National Drug Control Policy	1
Office of Science and Technology Policy	4
TOTAL	78

REV_00169771

Question: How many non-reimbursable details are currently employed within the Executive Office of the President?

Answer: There are currently 178 non-reimbursable detailees staffed within the Executive Office of the President. Below is a listing of non-reimbursable detailees by agency as of April 5, 2002:

Agency	# Non-Reimbursable Detailees
White House Office	8
National Security Council	108
Council of Economic Advisers	1
Office of Management and Budget	39
Office of National Drug Control Policy	1
United States Trade Representative	21
TOTAL	178

REV_00169772

Questions for the Record
Chairman Ernest J. Istook, Jr.
Hearing on the Executive Office of the President
April 30, 2003

Unobligated Balances (POC - Veronica Kitchen)

QUESTION 1: Please provide a listing of all unobligated balances, by fiscal year, appropriation and PPA, for all accounts within the Executive Office of the President. Please also show the original appropriation levels for these accounts.

Consolidation of Accounts (POC- Al Muhlbauer)

QUESTION 2: Sections 105 and 106 of title 3 U. S. Code describe expenses that may be accounted for solely on the certificate of the President and Vice President, respectively. Most of these expenses correspond to particular accounts. The Comptroller General may inspect documents related to these expenditures, but solely to verify that the expenditures were made for allowed purposes. When we asked last year how certified expenses would be identified for audit within a consolidated appropriation, the response was that the certification requirements would continue to be observed (p. 41). This does not answer the question of how the account structure will be maintained to provide an identifiable and auditable crosswalk between title 3-certifiable expenses and other expenses within the consolidated appropriation.

RESPONSE: As presented in the Congressional Budget Submission pages 4, 5, and 6, the Executive Office of the President (EOP) has established a Budget Activity structure that is consistent, beginning with the budget submission and extending through the accounting and reporting phases. The EOP accounting system will track and report obligations and expenditures consistent with this structure through the use of budget activity, program, sub-program, and line item codes assigned to each transaction. EOP has the ability to provide an identifiable and auditable crosswalk to the individual transactions authorized under sections 105 and 106 of Title 3 of the United States Code.

QUESTION 3: Please provide a listing of all appropriations language enacted in Public Law 108-7 which would be dropped in the proposed account consolidation, and provide a brief explanation of why that language is not necessary.

RESPONSE: The following appropriations in Public Law 108-7: Compensation of the President, White House Office Salaries and Expenses, Office of Homeland Security, Executive Residence at the White House, White House Repair and Restoration, Council of Economic Advisers, Office of Policy Development, National Security Council, Office of Administration would be combined into one appropriation entitled "The White House". The individual language in Public Law 108-7 for each of those appropriations would be removed. However, suggested language for the combined appropriation is

provided in the Appendix to the FY 2004 Budget (page 881) and states: "For the Compensation of the President and White House Office (including the Office of Homeland Security), Executive Residence, White House Repair and Restoration, Office of Policy and Development, Office of Administration, Council of Economic Advisers and the National Security Council, (hereinafter, and solely for the purposes of Title VI of this Act, "the White House"), $183,770,000, of which $24,803,000 shall remain available until expended, including compensation for the President, including an expense allowance of $50,000 as authorized by U.S.C. 102; for travel expense of $100,000 as authorized by 3 U.S.C. 103; for necessary expenses for the White House as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; for the necessary expenses of the Executive Residence at the White House as authorized by 3 U.S.C. 105,109,110, and 112-114; for the necessary expenses of the Offices and Councils in the White House account as authorized by 5 U.S.C. 3109, 15 U.S.C. 1021, and 3 U.S.C. 105 and 107 (including not to exceed $19,000 for official reception and representation expenses); and for the hire of passenger motor vehicles: Provided, That none of the funds made available to the President for official expenses shall be expended for any other purpose and any unused portion of such funds shall revert to the Treasury pursuant to 31 U.S.C. 1552: Provided further, That no such funds shall be considered as taxable to the President: Provided further, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities."

The suggested language, with the exception of a consolidated appropriation amount incorporates the same restrictions and clarifications as contained the language contained in the Public Law 108-7 for the appropriations being consolidated. The appropriations for Vice President's Salaries and Expense, Vice President's Residence Operating Expenses, Office of Management and Budget, Office of National Drug Control Policy, Unanticipated Needs will remain separate appropriations and will therefore not require any language changes as a result of the combination.

The White House (Consolidated Account) (POC – Chuck Sigman)

QUESTION 4: You are requesting $12,302,000 for object class 23.3 (communications, utilities, and miscellaneous services) in FY 2004. This is a large increase over the estimated $7,010,000 for FY 2003. What accounts for the increase?

RESPONSE: The FY 2004 White House (WH) consolidated budget net increase of $5,292,000 for communications is required in three major areas:

- **Most of the increase ($4,420,000) is needed in the OA Capital Investment Plan for offsite data center communications.** This facility will transition into full operation during FY 2004. The telecommunications between the offsite data center and the EOP complex are necessary to provide expanded, survivable and redundant connectivity, continuity of operations, disaster recovery and system support. These costs include funds for telecommunications lines, two additional

REV_00169774

DS-3 data paths, two T-1 lines, and backups to provide the communications bandwidth necessary for servicing the EOP complex.

- **$482,000 in the White House Office budget to provide a custom communications package which will enable the Homeland Security Council to establish a presence for its staff within the White House Situation Room.**

- **$100,000 for information assurance in the OA salaries/expenses budget.** In addition to the Offsite Data Center project, the OA FY 2004 budget also includes a request for an additional $100,000 for the information assurance program in the FY 2004 salaries/expenses account. This program will enable the CIO office to correct vulnerabilities in the EOP information security perimeter to secure internal systems, to perform real-time monitoring of perimeter network devices.

- **$151,000 in transfers of Lexis-Nexis database costs from nonconsolidated entities to the consolidated White House appropriation.** The FY 2004 budget envisions that $72,000 will be transferred from USTR, $56,000 from ONDCP, $15,000 from OMB, and $8,000 from CEQ so that the EOP can have a single funding source for EOP-wide Lexis-Nexis service.

- **$139,000 for adjustments to maintain the same level of services for the base funding during FY 2004**. This is calculated on the basis of the $7,010,000 in FY 2003 funding.

Rental Pricing (POC – Chuck Sigman)

QUESTION 5: The FY 2004 justifications state that, over the past year, EOP, GSA, and OMB have undertaken an assessment of space rental costs for all EOP entities. The result of this analysis is that the FY 2004 request includes additional funding to accommodate an "EOP average" rental rate. Please provide details of how this analysis was conducted, and specify the estimated rental rates for the various EOP entities, as determined by this analysis.

RESPONSE: The EOP space rental project began during the summer of 2002 at the request of OMB's budget examiners, who were working to ensure that EOP entities moved to the same market-based rent methodology used to determine space rental rates for GSA's other Federal properties. OMB requested that GSA and EOP review the space rental costs for each EOP property and each EOP entity so that the most up-to-date costs available were included in the FY 2004 budget proposal. Another significant concern in this project is to ensure that GSA will work with the EOP to ensure that the critical needs of the EOP are funded and executed.

As a result of the initial project, OA and GSA began a series of meetings which culminated in the space estimates which were included in the budget. GSA staff prepared a comprehensive listing of EOP properties, which itemized the space occupied by each

REV_00169775

EOP entity. This listing included commercial and government-owned space, current estimates of rentable square footage, and the annual rental rate per square foot. EOP staff provided updated estimates of the rentable square footage.

During this process, GSA blended the fair-market rates for the permanent EOP buildings into a single blended rate. This was done to simplify the administrative work when EOP staff are relocated. This is especially needed in the post-9/11 environment's unusually high number of large-scale EOP entity relocations driven by security considerations as well as the result of the legislation creating the Department of Homeland Security. The EOP average rental rate for Federally-owned properties (New Executive Office Building (NEOB), Eisenhower Executive Office Building (OEOB), White House, Winder Building, Jackson Place) is $29.60 annually per square foot. GSA adds an additional building security charge for buildings which are not protected by the US Secret Service. The average rental rates used to determine each entity's budget estimate for office space are as follows:

Entity	Locations	Owned or Leased	Average Rental Rate
OMB	EEOB, NEOB	owned	$29.60/sf
CEQ	EEOB	owned	$29.60
	718 Jackson Place	owned	$30.71
	722 Jackson Place	owned	$31.50
	730 Jackson Place	owned	$29.90
CEA	EEOB	owned	$29.60
NSC	EEOB	owned	$29.60
OPD	EEOB	owned	$29.60
	734 Jackson Place	owned	$29.60
OVP	EEOB	owned	$29.60
	Westbank Center, WY	leased	$21.80
WHO	1800 G Street	leased	$34.56
	EEOB, NEOB	owned	$29.60
	708 Jackson Place	owned	$29.60
	736 Jackson Place	owned	$30.58
USTR	Winder	owned	$30.50
	1724 F Street	owned	$37.38
	NEOB	owned	$29.60

REV_00169776

OA	1425 New York Ave	leased	$51.89
	1800 G Street	leased	$31.53-$37.37
	EEOB, NEOB	owned	$29.60
	1724 F Street	owned	$37.38
OSTP	1801 Pennsylvania Avenue	leased	$50.55
	EEOB	owned	$29.60
ONDCP	750 17th Street	leased	$45.78
HSC	EEOB	leased	$29.60

EOP Staffing (POC – Jon Laurich)

QUESTION 6: By EOP office, please provide FTE and OGE, similar in format to the tables found on pages 111 and 112 of last year's hearing record. Please provide data for FY 2002 through 2004.

RESPONSE: The following tables provide the total FY 2002 actual, FY 2003 and FY 2004, estimates for full time equivalents (FTE) and other government employees (OGE) for each EOP and other entity as of May 5, 2003. The OGE numbers are itemized by category on the following page. The FY 2003 numbers have the Office of Homeland Security in a separate category, which accordingly decreased the White House numbers. The FY 2003 and FY 2004 numbers are estimates only and are therefore subject to change.

REV_00169777

Office	FY 2002 Actual FTE and OGE			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office*	400	385	134	519
Special Assistance to the President	24	18	40	58
Official Residence of the Vice President	1	1	0	1
Office of Administration**	202	195	3	198
Office of Policy Development	35	30	7	37
National Security Council	60	50	140	190
Council of Economic Advisers	35	31	10	41
Office of Management and Budget	527	512	70	582
Office of National Drug Control Policy	115	106	34	140
Executive Residence	95	92	0	92
Office of Science and Technology Policy	40	23	16	39
Council on Environmental Quality	24	19	14	33
U.S Trade Representative	203	200	24	224
TOTAL	**1761**	**1662**	**492**	**2154**

Office	*as of May 5, 2003*			
	FY 2003 FTE and OGE Estimate			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office	406		46	452
Office of Homeland Security	40		31	71
Special Assistance to the President	24		54	78
Official Residence of the Vice President	1		0	1
Office of Administration	222		1	223
Office of Policy Development	35		7	42
National Security Council	71		145	216
Council of Economic Advisers	35		9	44
Office of Management and Budget	510		63	573
Office of National Drug Control Policy	115		51	166
Executive Residence	95		0	95
Office of Science and Technology Policy	40		20	60
Council on Environmental Quality	24		14	38
U.S Trade Representative	209		28	237
TOTAL	**1827**		**469**	**2296**

Office	FY 2004 FTE and OGE Estimate			
	AUTH FTE	ACTUAL FTE	OGE **	TOTAL
White House Office	406		46	452
Office of Homeland Security	40		31	71
Special Assistance to the President	24		54	78
Official Residence of the Vice President	1		0	1
Office of Administration	222		11	233
Office of Policy Development	35		7	42
National Security Council	71		145	216
Council of Economic Advisers	35		9	44
Office of Management and Budget	516		63	579
Office of National Drug Control Policy	125		51	176
Executive Residence	95		0	95
Office of Science and Technology Policy	40		20	60
Council on Environmental Quality	24		14	38
U.S Trade Representative	217		28	245
TOTAL	**1851**		**479**	**2330**

* For FY 2002, the White House Office figure excludes OGEs and FTEs for the Office of Homeland Security which were funded from the Emergency Appropriation.

** OA was funded for 20 additional FTE using Emergency Response Funds which are not shown in the figures above.

REV_00169778

R = Reimbursable
N = Non Reimbursable

FY 2002 Actual FTE and OGE

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**385**			1	20	79	9	1	17		4				3			81	53	**134**
Special Assistance to the President	**18**				7		1		6		26								40	**40**
Official Residence of the Vice President	**1**																			
Office of Administration	**195**					2					1							2	1	**3**
Office of Policy Development	**30**		1		3		3												7	**7**
National Security Council	**50**				33	1	102		4									1	139	**140**
Council of Economic Advisers	**31**					2	1			3	1		3					5	5	**10**
Office of Management and Budget	**512**					6	53						11					6	64	**70**
Office of National Drug Control Policy	**106**		13		16					3			2					3	31	**34**
Executive Residence	**92**																			
Office of Science and Technology Policy	**23**		6			4	1			2	3							6	10	**16**
Council on Environmental Quality	**19**		11				2										1		14	**14**
U.S Trade Representative	**200**						21				1				2				24	**24**
TOTAL	**1662**		**31**	**1**	**79**	**94**	**193**	**1**	**27**	**8**	**36**		**16**		**5**		**1**	**104**	**388**	**492**

*For FY02, the White House includes 65 OGE's for the Office of Homeland Security, which are funded from the Emergency Appropriation

R = Reimbursable
N = Non Reimbursable

FY 2003 Estimate FTE and OGE *as of May 5, 2003*

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**406**				7	5	11		19		1				2		1	5	41	**46**
Office of Homeland Security	**40**			2	1	23	3				1			1				26	5	**31**
Special Assistance to the President	**24**		3		7		1		18		25								54	**54**
Official Residence of the Vice President	**1**																			
Office of Administration	**222**										1								1	**1**
Office of Policy Development	**35**		1		3	1	1										1	1	6	**7**
National Security Council	**71**				33	5	103		4									5	140	**145**
Council of Economic Advisers	**35**					2	2			2			2				1	4	5	**9**
Office of Management and Budget	**499**					3	54						6					3	60	**63**
Office of National Drug Control Policy	**115**		19		14		4			3	9						2	3	48	**51**
Executive Residence	**95**																			
Office of Science and Technology Policy	**40**		6			2	3			2	5		1		1			4	16	**20**
Council on Environmental Quality	**24**		10				3				1								14	**14**
U.S Trade Representative	**209**						25				1				2				28	**28**
TOTAL	**1816**		**39**	**2**	**65**	**41**	**210**		**41**	**7**	**44**		**9**	**1**	**5**		**5**	**51**	**418**	**469**

R = Reimbursable
N = Non Reimbursable

FY 2004 Estimate FTE and OGE

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**406**				7	5	11		19		1				2		1	5	41	**46**
Office of Homeland Security	**40**			2	1	23	3				1			1				26	5	**31**
Special Assistance to the President	**24**		3		7		1		18		25								54	**54**
Official Residence of the Vice President	**1**																			
Office of Administration	**222**										1		10						11	**11**
Office of Policy Development	**35**		1		3	1	1										1	1	6	**7**
National Security Council	**71**				33	5	103		4									5	140	**145**
Council of Economic Advisers	**35**					2	2			2			2				1	4	5	**9**
Office of Management and Budget	**516**					3	54						6					3	60	**63**
Office of National Drug Control Policy	**125**		19		14		4			3	9						2	3	48	**51**
Executive Residence	**95**																			
Office of Science and Technology Policy	**40**		6			2	3			2	5		1		1			4	16	**20**
Council on Environmental Quality	**24**		10				3				1								14	**14**
U.S Trade Representative	**217**						25				1				2				28	**28**
TOTAL	**1851**		**39**	**2**	**65**	**41**	**210**		**41**	**7**	**44**		**19**	**1**	**5**		**5**	**51**	**428**	**479**

REV_00169779

OA Staffing (POC – Jon Laurich)

QUESTION 7: By OA office, please provide FTE and OGE, similar in format to the tables found on page 113 of last year's hearing record. Please provide data for FY 2002 through 2004.

RESPONSE: The following table provides the FTE and OGE for the Office of Administration.

R = Reimbursable N = Non Reimbursable	FY 2002 FTE and OGE Actuals							
		Others		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OA Director	12							
OA Chief Operating Officer	111							
OA Chief Financial Officer	30	1	1			1	1	2
OA Chief Projects Officer	5							
OA Chief Information Officer	46	1				1		1
TOTAL	**204**	**2**	**1**			**2**	**1**	**3**

as of May 5, 2003

R = Reimbursable N = Non Reimbursable	FY 2003 FTE and OGE Estimates							
		Others		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OA Director	11							
OA Chief Operating Officer	103				2		1	1
OA Chief Financial Officer	39		1				1	1
OA Chief Projects Officer	11							
OA Chief Information Officer	58				2			
TOTAL	**222**		**1**		**4**		**2**	**2**

R = Reimbursable N = Non Reimbursable	FY 2004 FTE and OGE Estimates							
		Others		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OA Director	25							
OA Chief Operating Officer	99				4		4	4
OA Chief Financial Officer	39		1		2		3	3
OA Chief Projects Officer	4							
OA Chief Information Officer	55				4		4	4
TOTAL	**222**		**1**		**10**		**11**	**11**

REV_00169780

OMB Staffing (POC – Jon Laurich/Brian Gillis)

QUESTION 8: By OMB office, please provide FTE and OGE, similar in format to the tables found on page 114 of last year's hearing record. Please provide data for FY 2002 through 2004.

RESPONSE: The charts below display the FTE and OGE breakout by OMB division for FY 2002-2004. Most detailees and student volunteers are used during the peak budget production season. During the rest of the year, the OGE total can fall below 20.

REV_00169781

R = Reimbursable N = Non Reimbursable	FY 2002 FTE and OGE Actuals							
		Detailees		Student Volunteers		OGE Grand Totals		
	FTE	R	**N**	R	**N**	R	**N**	**R + N**
OMB-Wide Offices	159	1	19		2	1	21	22
General Government Programs	62		1				1	1
Human Resource Programs	71		4		1		5	5
National Security Programs	64	1	5		1	1	6	7
Natural Resource Programs	54		8		1		9	9
Office of Federal Financial Management	21	3	3			3	3	6
Office of Federal Procurement Policy	22	1	2		1	1	3	4
Office of Information and Requlatory Affairs	54		11		5		16	16
TOTAL	**507**	**6**	**53**		**11**	**6**	**64**	**70**

as of May 5, 2003

R = Reimbursable N = Non Reimbursable	FY 2003 Estimate FTE and OGE							
		Detailees		Student Volunteers		OGE Grand Totals		
	FTE	R	**N**	R	**N**	R	**N**	**R + N**
OMB-Wide Offices	152	1	22		2	1	24	25
General Government Programs	60		3		1		4	4
Human Resource Programs	68		5				5	5
National Security Programs	61		9				9	9
Natural Resource Programs	60		5				5	5
Office of Federal Financial Management	21	1				1		1
Office of Federal Procurement Policy	20							
Office of Information and Requlatory Affairs	57	1	10		3	1	13	14
TOTAL	**499**	**3**	**54**		**6**	**3**	**60**	**63**

FY 2002 does not include staff temporarily detailed to the Transition Planning Office.

R = Reimbursable N = Non Reimbursable	FY 2004 Estimate FTE and OGE							
		Detailees		Student Volunteers		OGE Grand Totals		
	FTE	R	**N**	R	**N**	R	**N**	**R + N**
OMB-Wide Offices	157	1	22		2	1	24	25
General Government Programs	63		3		1		4	4
Human Resource Programs	75		5				5	5
National Security Programs	63		9				9	9
Natural Resource Programs	63		5				5	5
Office of Federal Financial Management	20	1				1		1
Office of Federal Procurement Policy	21							
Office of Information and Requlatory Affairs	54	1	10		3	1	13	14
TOTAL	**516**	**3**	**54**		**6**	**3**	**60**	**63**

REV_00169782

Office of Homeland Security (POC – Paul Ehrhardt)

QUESTION 9: Your FY 2004 budget requests $8,331,000 for the Office of Homeland Security. Please provide an object class breakdown of those costs and compare them to FY 2003 estimated levels.

RESPONSE: The Office of Homeland Security was created by the President on October 8, 2001, via Executive Order 13228 and serves as and is synonymous with the staff of the Homeland Security Council (HSC). An object class breakdown of estimated HSC costs in FY 2003 and FY 2004 is provided in the table below. Please note that the FY 2003 estimate covers only costs incurred after the enactment of the FY 2003 appropriation on February 20, 2003. Unlike other EOP offices which operated under continuing resolutions between October 1, 2003 and February 20, 2003, the Office of Homeland Security was not permitted to utilize the CR funding mechanism but instead continued to charge FY 2003 expenses against the no-year emergency funding (provided in FY2002) until the FY 2003 appropriation was enacted. Therefore the FY 2003 estimate reflects only seven months of activity, whereas the FY 2004 Request needs to cover HSC expenses for the full 12 months next fiscal year.

(Dollars in Thousands)	FY 2003 Appropriation	FY 2003 Estimate*	FY 2004 Request	2004 Request - 2003 Estimate
Homeland Security Council:				
Personnel	$4,403	$2,800	$5,550	$2,750
Travel	$300	$60	$588	$528
Transportation of Things	$24	$24	$10	-$14
Rent	$0	$0	$200	$200
Communications, Utilities, and Misc.	$209	$50	$1,080	$1,030
Printing and Reproduction	$69	$69	$50	-$19
Other Services	$3,267	$1,267	$528	-$739
Supplies and Materials	$0		$175	$175
Equipment	$0	$50	$150	$100
Subtotal	$8,272	$4,320	$8,331	$4,011

* FY 2003 Estimate covers only seven months vs. FY 2004 Request covering full 12 months

Rent was included in the Office of Administration budget in FY 2003, and is moved back to the Homeland Security Council in FY 2004. The Communications object class in FY 2004 includes funding to provide a custom communications package to establish an interface for the Homeland Security Council within the White House Situation Room. Supplies and Materials and Equipment object classes both were funded out of the Office of Administration Pilot Program in FY 2003 but show budgets in HSC for FY 2004.

QUESTION 10: In particular, how much are you requesting in FY 2004 for professional contracts, and how does that compare to the estimated FY 2003 level?

REV_00169783

RESPONSE: In FY 2004 HSC is requesting $528,000 for Other Services compared with $3,267,000 appropriated for the same category in FY 2003. The decrease is due to the creation of the Department of Homeland Security as the President's Security as the President's advisors and as the staff of HSC. Anticipated contractual needs in FY 2004 include maintenance, upgrades, and technical support for the classified computer network that will be extended to include HSC staff in FY 2003.

QUESTION 11: How many FTE and FTP are you requesting for this office in FY 2004, and how do these figures compare to current FY 2003 estimates and actuals for FY 2002?

RESPONSE: HSC is requesting resources to support 40 direct hire FTE and 26 Other Government Employees on its staff to fill the 66 positions HSC is projecting for FY 2004.

Office of Homeland Security / Homeland Security Council Personnel

	FY 2002 Actual	FY 2003 Estimate	FY 2004 Request
Direct Hire FTE	31	40	40
Other Government Employees (EOY headcount)	89	26	26
Total Personnel	120	66	66

QUESTION 12: How many positions in the office are filled today, and how many are vacant?

RESPONSE: As of May 15, 2003, 51 positions are filled and 15 are vacant.

QUESTION 13: Please provide a table comparing the number of detailees to OHS, by federal agency, for each of the fiscal years 2002 through 2004 (estimated).

RESPONSE: The table below provides the number other government employees assigned to the Homeland Security Council.

REV_00169784

Number of Other Government Employees at OHS/HSC
(Figures show end of year headcount)

	FY 2002	FY 2003 est.	FY 2004 est.
CIA	7	2	3
DHS	0	6	10
FEMA	3	na	na
USCG	19	na	na
US Customs	1	na	na
USSS	2	na	na
DOJ	10	1	5
DOC	5	1	0
DOD	12	3	2
DOE	1	1	1
DOI	3	1	0
DOL	1	0	0
DOS	4	2	1
DOT	1	0	1
EOP	1	1	0
EPA	1	2	0
FAA	1	1	0
GSA	1	0	0
HHS	3	3	2
HUD	3	0	0
NASA	1	0	0
NIMA	1	0	0
NSA	3	1	0
SBA	1	0	0
Sentencing Commission	1	0	0
SSA	1	0	0
Treasury	1	0	0
USDA	1	1	1
Total	89	26	26

QUESTION 14: How many detailees are on board today?

RESPONSE: As of May 15, 2003, there are 18 detailees on board at the Homeland Security Council.

QUESTION 15: Please provide a list of all positions in OHS, showing the incumbent's name, rate of annual salary, and position title. Please annotate any positions which are currently vacant.

RESPONSE: The President is authorized to appoint and fix pay of any member of the White House Staff without regard to any provision of law related to employees of the federal government. The individuals employed by the President represent a broad spectrum of experience and expertise and have been engaged to perform tasks ranging from clerical/support to complex, technical, scientific, medical, legal and other missions

REV_00169785

requiring specialized expertise. These individuals are being compensated at rates commensurate with their responsibilities, education and professional experience. The table below lists HSC positions and the positions which are currently vacant. The salaries provided are for White House Full Time Employees and Other Government Employees working at HSC.

	Name		
Position Title	**First**	**Last**	**Annual Salary**
Office of the Advisor			
Assistant to the President for Homeland Security and Homeland Security Advisor (Acting Until June 1)	Charles	Abbot	$ 124,000
Executive Assistant	VACANT		NA
Special Assistant to the APHS	Jon	Spaner	$ 80,816
Staff Assistant	A. Morgan	Middlemas	$ 51,600
Deputy Assistant to the President and Deputy Homeland Security Advisor	Richard	Falkenrath	$ 124,000
Special Assistant	Marianne	Burtnett	$ 85,000
Staff Assistant	Shelley	Reese	$ 30,000
Director, Programs and Resources	David	Aidekman	$ 61,900
Budget Assistant	VACANT		NA
Military Programs			
Special Assistant to the President (SAP) for Military Programs	VACANT		NA
Director, Military Programs	Chris	Hornbarger	$ 87,348
Staff Assistant	VACANT		NA
Executive Secretary			
Executive Secretary	Tim	Stout	$ 53,600
Executive Assistant	Margaret	Cousley	$ 35,000
Deputy Executive Secretary	VACANT		NA
Special Assistant to the Executive Secretary	Laura	Fullerton	$ 66,229
Director for Administration and Support	Kimberly	Badenhop	$ 65,000
Associate Director for Correspondence and Records Management	Eric	Leckey	$ 35,000
Special Assistant, Events	Rory	Cooper	$ 46,469
Associate Director for Security	Deborah	McRae	$ 87,043
Staff Assistant	VACANT		NA
Staff Assistant	VACANT		NA
General Counsel			
Senior Associate Counsel to the President and General Counsel for Homeland Security	Edward	McNally	$ 108,000
Deputy Counsel	Ryan	Stiles	$ 75,000

REV_00169786

Associate Counsel	Faisal	Gill	$	78,265
Associate Counsel	Catherine	Anderson	$	108,785
Staff Assistant	Gayle	Worthy	$	43,807
Legistative Affairs				
Special Assistant to the President for Legislative Affairs	Michael	Allen	$	82,000
Legislative Assistant	Jamie	Ellis	$	34,000
Intergovernmental Affairs				
Director, Intergovernmental Affairs	VACANT			NA
Director, HSC Public Liaison	Meredith	Terpeluk	$	50,000
Domestic Counterterrorism				
Special Assistant to the President and Senior Director, Domestic Counterterrorism	VACANT			NA
Special Assistant to the Director, Domestic Counterterrorism	Eric	Walker	$	46,460
DCI Representative to Homeland Security	Dennis	Bowden	$	120,261
Director, Incident Management	Richard	Irwin	$	118,384
Director, Incident Management	Joel	Bagnal	$	87,348
Director, Investigation and Law Enforcement	Stephen	King	$	119,600
Director, Domestic Counterterrorism Policy	Kirsten	Hildebrand	$	85,140
Director, Plans and Excercises	Kathleen	Packard	$	47,309
BioDefense				
Special Assistant to the President and Senior Director, Biodefense	Kenneth	Bernard	$	123,069
Staff Assistant	Josephine	Keenan	$	54,440
Director, Biodefense	Robert	Kadlec	$	103,000
Director, Biodefense	Rajeev	Venkayya	$	87,043
Director, Food, Agriculture and Water Safety	Curt	Mann	$	138,200
Critical Infrastructure Protection				
Special Assistant to the President and Senior Director, Critical Infrastructure Protection	Paul	Kurtz	$	108,300
Executive Assistant	Barbara	Howerton	$	58,800
Director, Cyber IP	VACANT			NA
Director, Cyber IP	Cheryl	Peace	$	117,061
Director, Physical IP	Patrick	Burns	$	99,186
Director, Physical IP	Paul	Nicholas	$	108,300
Director, IT Architecture	VACANT			NA
Response and Recovery				
Senior Director, Response and Recovery	David	Howe	$	108,300
Staff Assistant	Liz	Macnab	$	42,000
Director, First Responder Program	VACANT			NA
Director for Recovery	Lewis	Podolske	$	113,543

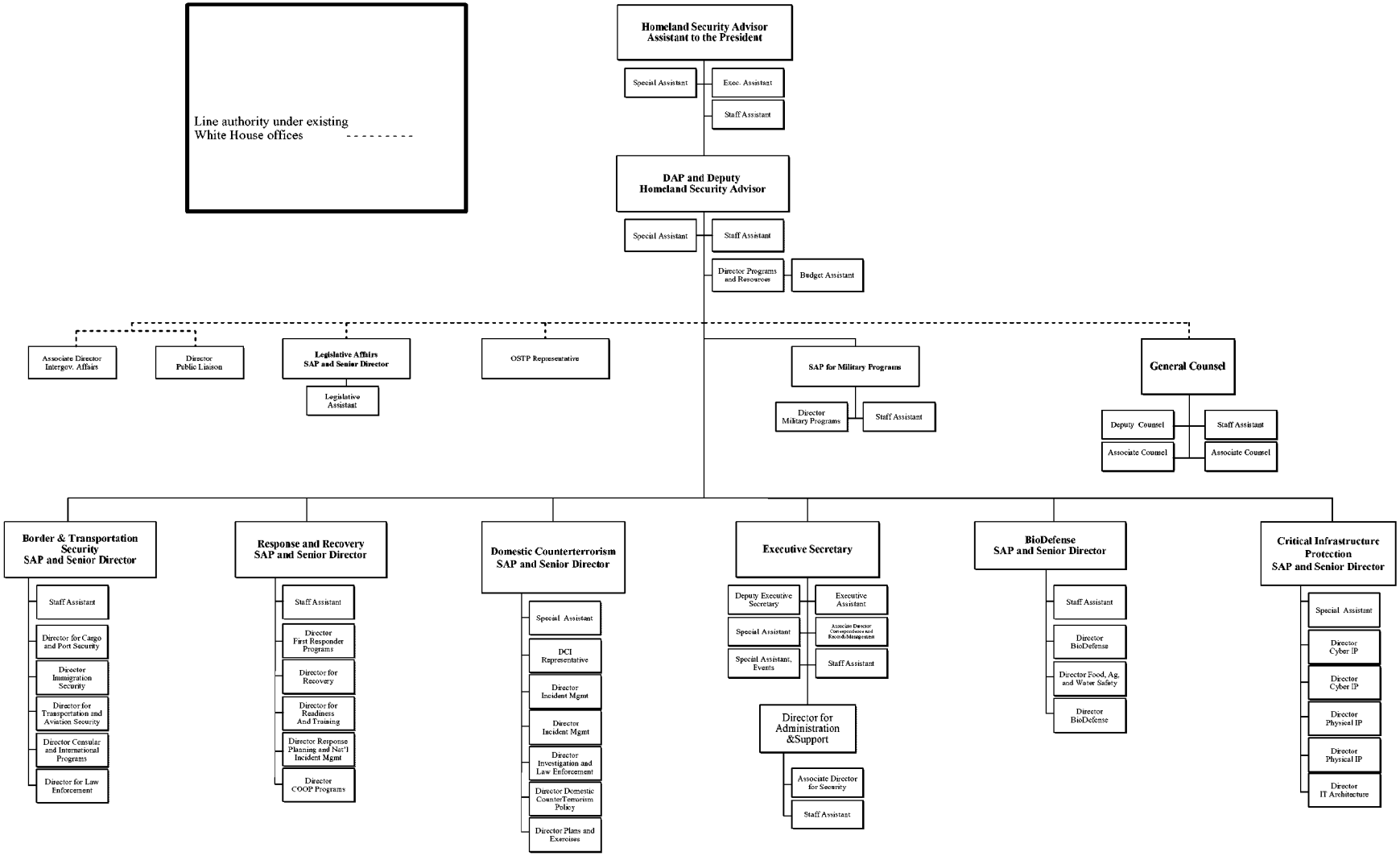
REV_00169787

Director for Readiness and Training	James	Kish	$	110,000
Director, Response Planning and Incident Management	James	Douglas	$	131,881
Director, COOP Programs	VACANT			NA
Border and Transportation Security				
Special Assistant to the President and Senior Director for Border and Transporation Security	Brian	Peterman	$	135,504
Staff Assistant	Katherine	Hildebrand	$	32,000
Director, Cargo and Port Security	VACANT			NA
Director of Immigration Security	Una	Brien	$	93,916
Director for Transportation and Aviation Security	Jan	Brecht-Clark	$	131,881
Director for Consular and International	Lisa Bobbie	Schreiber Hughes	$	109,925
Director for Law Enforcement	Ronald	Colburn	$	120,000

QUESTION 16: Please update the OHS organizational chart found on page 50 of last year's hearing record.

RESPONSE: The chart below shows the current Homeland Security Council's organization.

REV_00169788



REV_00169789

QUESTION 17: Please update the information shown on pages 44 through 47 of last year's hearing record concerning Office of Homeland Security travel. In addition to the information provided last year, please provide a brief descriptor of the travel purpose.

RESPONSE: All travel was conducted as part of the duties of the Office of Homeland Security and as such is considered official travel. The President and the Assistant to the President for Homeland Security have regularly stated that the homeland will not be secure unless the Federal government works closely with state and local officials. Official trips were approved for various purposes including the attendance of various conferences, to holding of meetings with state and local officials and the holding of town hall meetings. The HSC considers travel to different states and cities as a vital part of its mission.

The table below is an update to the travel information provided to Congress last year.

Homeland Security Council Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Staff Position**
04/02/02	Los Angeles, CA	1	$1,185.31	Special Assistant to the President and Executive Director, PHSAC
04/04/02	Miami, FL	2	$1,363.07	Special Assistant to the President and Senior Director for Policy and Plans, Special Assistant
04/05/02	Harrisburg, PA	1	$444.41	Communications Assistant
04/07/02	Annapolis, MD	1	$63.14	Communications Aide to the Assistant to the President for Homeland Security
04/07/02	Atlanta, GA	1	$614.37	Director for Weapons of Mass Destruction
04/08/02	Chicago, IL	2	$1,702.90	Communication Coordinator, Operations Officer
04/08/02	Manhattan, NY	1	$811.62	Director for Critical Recovery Infrastructure
04/09/02	Chicago, IL	6	$2,071.26	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security, Special Assistant to the President for Public Liaison,
				Special Assistant to the President and Director of Communications, Legislative Assistant,
				Communications Aide to the Assistant to the President for Homeland Security
04/11/02	Charleston, SC	2	$1,858.88	Special Assistant to the President and Senior Director for Policy and Plans, Associate Director
04/11/02	Chicago, IL	1	$300.63	Communications Assistant

04/11/02	Harrisburg, PA	3	$1,485.37	Senior Director for Intergovernmental Affairs, Communications Aide to the Assistant to the President for Homeland Security, Communications Assistant
04/12/02	Oklahoma City, OK	1	$528.88	Director for Medical and Public Health Security
04/15/02	Baltimore, MD	1	$134.10	Director for Weapons of Mass Destruction
04/15/02	Boston, MA	1	$1,249.42	Director, Economic Consequence Management
04/15/02	Detroit, MI	1	$1,262.38	Communications Assistant
04/16/02	Chicago, IL	3	$2,075.41	Special Assistant to the President and Senior Director for Policy and Plans, Senior Director for Response and Recovery, Special Assistant
04/16/02	Detroit, MI	2	$400.17	Special Assistant to the President for Public Liaison, Communications Aide to the Assistant to the President for Homeland Security
04/16/02	Detroit, MI	1	$0.00	Assistant to the President for Homeland Security
04/18/02	Erie, PA/Harrisburg, PA	1	$412.96	Communications Assistant
04/19/02	Harrisburg, PA	1	$856.64	Communications Assistant
04/20/02	Houston, TX	1	$612.48	Director, Policy and Plans
04/24/02	Phoenix, AZ	1	$2,023.87	Communications Aide to the Assistant to the President for Homeland Security
04/24/02	Toronto, CAN	1	$626.69	Director, Costal and Border Security
04/28/02	New Orleans, LA	7	$7,371.94	Communications Assistant, Special Assistant to the President for Public Liaison, Special Assistant to the Assistant to the President for Homeland Security,
				Deputy Press Secretary, Assistant to the President for Homeland Security, Communications Assistant, Communications Coordinator
04/30/02	Boston, MA	1	$87.00	Special Assistant to the President for Public Liaison
05/01/02	Los Angeles, CA	1	$668.61	Senior Director for Intergovernmental Affairs
05/03/02	Columbus, OH/Pittsburg, PA	2	$1,259.20	Communications Coordinator, Communications Assistant
05/06/02	Albuquerque, NM	1	$625.90	Director for Critical Recovery Infrastructure
05/06/02	Bangor, ME	1	$465.50	Senior Director for Intergovernmental Affairs
05/07/02	Denver, CO	1	$426.71	Special Assistant to the President and Senior Director for Information Integration
05/07/02	Sacramento, CA	2	$1,222.88	Senior Director for Response and Recovery, Special Assistant
05/08/02	Burlington, VT	1	$979.84	Director, Policy and Plans
05/08/02	San Diego, CA	1	$805.50	Director of Operations

REV_00169791

05/08/02	Wichita, KS	1	$434.21	Senior Director for Intergovernmental Affairs
05/10/02	Harrisburg, PA	1	$521.21	Communications Assistant
05/12/02	Charleston, SC	1	$842.93	Senior Director for Response and Recovery
05/14/02	Gulfport, MS	1	$469.12	Director, Protection and Prevention
05/15/02	Buffalo, NY	8	$4,789.28	Assistant to the President for Homeland Secuirty, Special Assistant to the President for Public Liaison, Operations Officer, Operations Officer, Operations Officer,
				Special Assistant to the Assistant to the President for Homeland Security, Director, Policy and Plans, Special Assistant to the President and Director of Communications,
				Communications aide to the Assistant to the President for Homeland Security, Communications Assistant
05/18/02	Pittsburgh, PA	3	$1,001.63	Assistant to the President for Homeland Security, Assistant Press Secretary, Special Assistant to the President for Homeland Security
05/20/02	Jackson, WY	1	$1,543.30	Special Assistant to the Deputy Assistant to the President for Homeland Security
05/21/02	Washington, DC	1	$709.50	Special Assistant
05/22/02	Dayton, OH	1	$688.76	Director, Protection and Prevention
05/30/02	Baltimore, MD	1	$434.30	Director, State and Local Affairs
05/30/02	Hershey, PA	1	$160.09	Special Assistant to the President for Public Liaison
05/31/02	Harrisburg, PA	1	$741.56	Communications Assistant
06/04/02	Manhattan, NY	4	$1,085.44	Assistant to the President for Homeland Security, Special Assistant to the President and Executive Director, PHSAC,
				Director, External Affairs, Communications Assistant
06/07/02	Harrisburg, PA	1	$563.64	Operations Officer
06/10/02	Manhattan, NY	2	$715.21	Senior Director for Response and Recovery, Senior Director for Protection and Provention
06/10/02	Sun Valley, ID	1	$1,709.80	Director for Readiness
06/10/02	Washington, DC	2	$1,205.50	Senior Director for Protection and Prevention and Senior Director for Response and Recovery
06/11/02	Kansas City, MO	1	$0.00	Assistant to the President for Homeland Security
06/11/02	Washington, DC	5	$3,655.99	President's Homeland Security Advisory Board
06/12/02	Chicago, IL	1	$623.05	Senior Director for Response and Recovery
06/14/02	Albuquerque,NM	1	$971.26	Senior Director for Protection and Prevention

REV_00169792

06/14/02	Harrisburg, PA	2	$912.67	Communications Assistant, Communications Aide to the Assistant to the President for Homeland Security
06/16/02	Erie, PA	1	$413.73	Operations Officer
06/16/02	Madison, WI	6	$2,071.19	Communications Assistant, Senior Director for Intergovernmental Affairs, Assistant to the President for Homeland Security,
				Special Assistant to the President for Homeland Security, Director of State and Local Affairs
06/17/02	Mexico City, Mexico	1	$1,163.26	Director for Critical Infrastructure Protection
06/17/02	New Orleans, LA	1	$884.36	Director, Training and Exercises
06/19/02	Virginia Beach, VA	1	$351.28	Communication Aide to the Assistant to the President for Homeland Security
06/20/02	Berkeley Springs, WV	1	$27.00	Deputy Assistant to the President for Homeland Securtiy
06/21/02	Tulsa, OK	1	$488.00	Senior Director for Intergovernmental Affairs
06/23/02	Phoenix, AZ	1	$1,036.22	Deputy Assistant to the President for Homeland Securtiy
06/24/02	Other, Canada	1	$494.40	Special Assistant to the President and Director of Communications
06/27/02	Albuquerque,NM	1	$871.00	Senior Director for Intergovernmental Affairs
06/27/02	Cambridge, MA	1	$876.11	Senior Director for Response and Recovery
06/27/02	Manhattan, NY	2	$308.70	Senior Director for Protection and Prevention, Director for Weapons of Mass Destruction
06/27/02	Other, Canada	2	$960.34	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
06/27/02	Toronto, Canada	1	$1,447.49	Communications Assistant
06/28/02	Buffalo, NY	1	$1,001.22	Special Assistant to the President for Public Liaison
06/30/02	Erie, PA	1	$895.44	Communications Assistant
06/30/02	Washington, DC	7	$5,072.38	President's Homeland Security Advisory Board
07/04/02	Erie, PA	1	$1,005.65	Communication Aide to the Assistant to the President for Homeland Security
07/10/02	Harrisburg, PA	2	$1,547.83	Communication Coordinator, Communications Assistant
07/10/02	Manhattan, NY	1	$738.76	Senior Director for Response and Recovery
07/11/02	Hershey, PA	1	$63.00	Assistant to the President for Homeland Security
07/12/02	Erie, PA	1	$559.28	Communications Aide to the Assistant to the President for Homeland Security
07/13/02	New Orleans, LA	1	$1,029.76	Director, State and Local Affairs

07/14/02	Boulder, CO	1	$762.26	Senior Director for Response and Recovery
07/14/02	Erie, PA	1	$599.85	Operations Officer
07/17/02	Colorado Springs, CO	1	$2,303.43	Communications Assistant
07/17/02	Raleigh, NC	1	$545.95	Director for Weapons of Mass Destruction
07/18/02	Colorado Springs, CO	2	$1,815.32	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
07/18/02	Dallas, TX	1	$631.00	Director, Cyberspace Security
07/19/02	Cleveland, OH	1	$1,481.12	Communications Assistant
07/19/02	Omaha, NE	1	$1,675.01	Director, Protection and Prevention
07/20/02	Cleveland, OH	1	$1,462.50	Communications Aide to the Assistant to the President for Homeland Security
07/20/02	Erie, PA	2	$3,832.24	Communications Assistant, Operations Officer
07/22/02	Du Page County, IL	1	$0.00	Assistant to the President for Homeland Security
07/22/02	Manhattan, NY	3	$2,555.98	Director for Cargo and Port Security, Director State and Local Affairs,
				Deputy Assistant to the President for Homeland Security
08/01/02	Austin, TX	1	$590.25	Director, Policy and Plans
08/04/02	Erie, PA	1	$1,049.32	Communications Assistant
08/06/02	Los Angeles, CA	1	$500.72	Director, Training and Exercises
08/09/02	Harrisburg, PA	1	$2,473.35	Communications Assistant
08/11/02	Erie, PA	1	$2,473.35	Communications Assistant
08/13/02	Burlington, VT	1	$800.01	Director for Cargo and Port Security
08/13/02	Cincinnati, OH	1	$738.73	Senior Director to Special Assistant to the President for Information Integration
08/14/02	Little Rock, AR	2	$2,359.87	Special Assistant to the President for Communications, Communications Assistant
08/15/02	Rapid City, SD	2	$291.80	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
08/18/02	Philadelphia, PA	2	$2,311.79	Senior Director for Intelligence and Detection, Director, Cyberspace Security
08/21/02	Manhattan, NY	1	$261.75	Director State and Local Affairs
08/22/02	Kansas City, MO	1	$878.73	Senior Director for Response and Recovery
08/24/02	Erie, PA	1	$706.35	Communications Assistant
08/26/02	Ottawa, Canada	1	$1,287.07	Director for Critical Infrastructure Protection
08/26/02	Washington, DC	2	$1,533.41	President's Homeland Security Advisory Board
08/27/02	Indianapolis, IN	1	$820.70	Senior Director for Intelligence and Detection
08/27/02	Philadelphia, PA	1	$451.57	Communications Assistant
08/27/02	Seattle, WA	1	$1,577.18	Senior Director for Response and

REV_00169794

				Recovery
08/28/02	Buffalo, NY	2	$1,953.73	Operations Officer, Operations Officer
08/28/02	Charlotte, NC	2	$1,217.86	Communications Aide to the Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
08/28/02	Seattle, WA	1	$646.49	Special Assistant, Intergovernmental Affairs
08/28/02	Washington, DC	5	$4,452.05	President's Homeland Security Advisory Board
08/29/02	Buffalo, NY	1	$173.00	Assistant to the President for Homeland Security
08/29/02	Milan, Italy	2	$11,192.97	Communications Assistant, Communications Aide to the Assistant to the President for Homeland Security
08/30/02	Atlanta,GA	1	$548.50	Director, Cyberspace Security
09/03/02	Asville Naval Reserve Ctr, NC	1	$674.84	Senior Director for Response and Recovery
09/04/02	Milan, Italy	1	$1,869.93	Special Assistant to the Assistant to the President for Homeland Security
09/04/02	San Diego, CA	1	$1,466.62	Director State and Local Affairs
09/05/02	Chicago, IL	1	$490.94	Director, Training and Exercises
09/05/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
09/06/02	Long Beach Naval Hosp, CA	1	$937.22	Director, Protection and Prevention
09/08/02	Columbus, OH	1	$365.81	Special Assistant to the President and Senior Director for Policy and Plans
09/08/02	Detroit, MI	1	$1,111.35	Special Assistant to the President for Public Liaison
09/09/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
09/09/02	Orlando, FL	1	$519.19	Special Assistant to the President and Executive Director, PHSAC
09/09/02	Paris, France	1	$1,156.36	Director, Policy and Plans
09/10/02	Pittsburgh, PA	3	$667.20	Assistant Press Secretary, Communications Aide to the Assistant to the President for Homeland Security,
				Assistant to the President for Homeland Security
09/15/02	Manhattan, NY	1	$191.47	Director, Biodefense
09/15/02	Suffolk County, NY	1	$356.66	Director, Biodefense
09/16/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
09/18/02	Atlanta,GA	1	$254.00	Deputy Assistant to the President for Homeland Securtiy
09/18/02	Denver, CO	1	$967.36	Executive Assistant, Response and Recovery
09/19/02	Austin, TX	1	$121.00	Special Assistant to the Deputy Assistant to the President for Homeland Security
09/19/02	Dallas, TX	1	$618.00	Director, Cyberspace Security
09/19/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans

REV_00169795

09/19/02	Minot AFB, ND	1	$1,121.00	Director State and Local Affairs
09/20/02	Atlanta,GA	2	$1,349.48	Sr. Director Research and Development, Director, Biodefense
09/21/02	Dover, DE	1	$592.94	Communications Aide to the Assistant to the President for Homeland Security
09/22/02	Lincoln Naval Reserve, NE	1	$849.94	Special Assistant to the President and Senior Director for Policy and Plans
09/24/02	Dallas, TX	1	$618.50	Deputy Assistant to the President for Homeland Securtiy
09/24/02	Kansas City, MO	1	$650.36	Director for Incident Management
09/24/02	Manhattan, NY	2	$285.15	Senior Director for Protection and Prevention, Director for Weapons of Mass Destruction
09/24/02	St. Louis, MO	1	$873.50	Senior Director for Response and Recovery
09/25/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
09/26/02	Erie, PA	1	$1,061.02	Communications Assistant
09/26/02	Williamsport Naval Ctr, PA	1	$337.92	Communications Aide to the Assistant to the President for Homeland Security
09/27/02	Atlanta,GA	1	$313.90	Special Assistant to the President for Public Liaison
09/27/02	Easton, PA	1	$202.21	Special Assistant to the Assistant to the President for Homeland Security
09/30/02	Manhattan, NY	1	$576.06	Senior Advisor to the Special Assistant to the President for Information Integration
09/30/02	White Plains, NY	1	$907.10	Executive Secretary
10/01/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
10/01/02	White Plains, NY	1	$702.73	Director for Critical Infrastructure Protection
10/02/02	Carlisle Barracks, PA	1	$132.30	Communications Aide to the Assistant to the President for Homeland Security
10/02/02	Charleston, WV	1	$154.94	Director, Cyberspace Security
10/03/02	Los Angeles, CA	1	$943.66	Director, State and Local Affairs
10/03/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
10/03/02	Miami, FL	1	$571.00	Sr. Director, Research and Development
10/04/02	Washington, DC	1	$169.48	Communications Aide
10/06/02	Minneapolis, MN	1	$768.50	Director for Incident Management
10/06/02	Orlando, FL	1	$432.31	Senior Advisor to the Special Assistant to the President for Information Integration
10/07/02	Las Vegas, NV	1	$874.73	Director of Critical Infrastructure
10/07/02	Oklahoma City, OK	1	$525.94	Sr. Director, Research and Development
10/07/02	Pittsburgh, PA	2	$1,663.50	Special Assistant to the President for Public Liaison, Communications Aide to the Assistant to the Presidnet for Homeland Security
10/07/02	San Diego, CA	1	$1,411.68	Senior Director for Response and Recovery
10/08/02	Minneapolis, MN	1	$914.14	Senior Director for Intergovernmental Affairs

REV_00169796

10/08/02	Pittsburgh, PA	2	$1,571.22	Assistant to the President for Homeland Security, Special Assistant to the Assistant to President for Homeland Security
10/09/02	Dallas, TX	1	$704.65	Executive Assistant, Response and Recovery
10/09/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
10/10/02	Fort Lauderdale, FL	2	$2,958.00	Special Assistant to the President for Public Liaison, Director for Incident Management
10/11/02	Erie, PA	1	$930.69	Communications Assistant
10/11/02	Lynchburg, VA	1	$52.93	Director Policy and Plans
10/12/02	Erie, PA	1	$348.00	Operations Officer
10/14/02	Columbus, OH	1	$572.00	Senior Director for Response and Recovery
10/15/02	Atlanta,GA	1	$852.36	Director, Cyberspace Security
10/15/02	Key West, FL	1	$1,216.80	Director for Immigration Security
10/15/02	Sacramento, CA	1	$1,260.62	Director, Biodefense
10/15/02	Seattle, WA	1	$1,050.00	Senior Director for Protection and Prevention
10/15/02	Washington, DC	8	$4,481.76	President's Homeland Security Advisory Board
10/16/02	Raleigh, NC	1	$254.06	Senior Advisor to the Special Assistant to the President for Information Integration
10/16/02	Vancouver, Canada	1	$1,662.55	Director, Policy and Plans
10/18/02	Trenton, NJ	1	$1,310.12	Director, State and Local Affairs
10/18/02	Washington, DC	4	$2,385.93	Communications Assistant, President's Homeland Security Advisory Board
10/21/02	Houston, TX	1	$849.91	Senior Director for Protection and Prevention
10/21/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
10/21/02	Newark, NJ	2	$852.90	Senior Director for Intergovernmental Affairs, Director State and Local Affairs
10/21/02	Washington, DC	1	$87.50	President's Homeland Security Advisory Board
10/22/02	Frederick, MD	1	$291.15	Director of Critical Infrastructure
10/22/02	Reno, NV	1	$803.60	Special Assistant, Intergovernmental Affairs
10/22/02	Trenton, NJ	1	$153.00	Special Assistant
10/23/02	San Jose, CA	1	$931.76	Director, Cyberspace Security
10/24/02	Erie, PA	1	$1,001.53	Communications Aide to the Assistant to the President for Homeland Security
10/24/02	Ontarion, CA	1	$664.76	Senior Director for Response and Recovery
10/24/02	Orlando, FL	1	$547.06	Director, Policy and Plans
10/25/02	Albany, NY	1	$580.50	Senior Director for Protection and Prevention
10/25/02	Lynchburg, VA	1	$52.93	Director, Operations
10/26/02	Washington, DC	1	$214.03	Communications Assistant
10/28/02	Hershey, PA	1	$286.16	Senior Director for Response and Recovery

REV_00169797

10/28/02	Savannah, GA	1	$452.68	Senior Director for Intergovernmental Affairs
10/29/02	Manhattan, NY	1	$511.27	Deputy Assistant to the President for Homeland Securtiy
10/29/02	St. Louis, MO	1	$1,078.66	Director of Critical Infrastructure
10/30/02	Brussels, Bel	1	$4,853.38	Communications Aide to the Assistant to the President for Homeland Security
10/31/02	Cedar Rapids, IA	1	$2,173.70	Special Assistant to the President and Director of Communications
11/01/02	Atlantic City, NJ	1	$0.00	Sr. Director, Research and Development
11/01/02	Brussels, Bel	1	$2,173.70	Special Assistant to the President and Director of Communications
11/01/02	Pittsburgh, PA	2	$606.97	Communications Assistant, Operations Officer
11/02/02	San Jose, CA	1	$1,001.50	Senior Director for Protection and Prevention
11/03/02	Brussels, Bel	3	$4,534.72	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security, Director Policy and Plans
11/03/02	Washington, DC	1	$8.40	Communications Assistant
11/04/02	London, England	1	$2,536.36	Operations Officer
11/06/02	Santa Barbara, CA	1	$711.51	Director, Economic Consequence Management
11/09/02	Lynchburg, VA	1	$741.18	Director State and Local Affairs
11/09/02	Philadelphia, PA	1	$752.47	Communications Assistant
11/10/02	New Orleans, LA	1	$752.47	Communications Assistant
11/12/02	Philadelphia, PA	1	$244.80	Senior Director for Response and Recovery
11/13/02	Cincinnati, OH	1	$70.34	Communications Aide to the Assistant to the President for Homeland Security
11/14/02	Charlotte, NC	1	$992.48	Director of Critical Infrastructure
11/14/02	Erie, PA	1	$931.40	Operations Officer
11/14/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
11/15/02	Shepherdstown, WV	1	$79.60	Senior Director for Response and Recovery
11/16/02	Erie, PA	1	$613.64	Special Assistant
11/17/02	Las Vegas, NV	1	$2,074.06	Director, Biodefense
11/18/02	Manhattan, NY	1	$118.70	Special Assistant to the President and Senior Director for Policy and Plans
11/19/02	Philadelphia, PA	2	$1,051.46	Deputy Assistant to the President for Homeland Securtiy, Sr. Director, Research and Development
11/20/02	Los Angeles, CA	3	$4,199.59	Senior Director for Intergovernmental Affairs, Special Assistant to the President for Public Liaison,
				Deputy Press Secretary
11/22/02	Boston, MA	1	$467.20	Director, Policy and Plans
11/22/02	Scottsdale, AZ	1	$233.64	Special Assistant to the President for Public Liaison

REV_00169798

11/24/02	Mexico City, Mexico	1	$1,155.08	Director, Policy and Plans
11/24/02	Phoenix, AZ	1	$1,999.06	Communications Assistant
11/25/02	Manhattan, NY	1	$320.22	Director, Economic Consequence Management
11/26/02	London, England	1	$951.43	Special Assistant to the Deputy Assistant to the President for Homeland Security
12/01/02	St. Louis, MO	1	$1,579.63	Communications Assistant
12/02/02	Chicago, IL	1	$906.76	Deputy Assistant to the President for Homeland Securtiy
12/02/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
12/02/02	Washington, DC	10	$8,634.98	President's Homeland Security Advisory Board
12/03/02	Chicago, IL	1	$369.38	Director State and Local Affairs
12/03/02	Washington, DC	1	$50.50	President's Homeland Security Advisory Board
12/04/02	Cambridge, MA	1	$901.10	Director of Critical Infrastructure
12/06/02	Salt Lake City, UT	1	$822.14	Director State and Local Affairs
12/06/02	Seattle, WA	1	$992.06	Director Coordination Center
12/06/02	Washington, DC	1	$297.72	Communications Assistant
12/08/02	Manhattan, NY	1	$237.55	Operations Officer
12/09/02	Baltimore, MD	1	$327.32	Senior Director for Response and Recovery
12/09/02	Indianapolis, IN	1	$817.00	Director, Cyberspace Security
12/09/02	Manhattan, NY	1	$316.90	Operations Officer
12/09/02	San Francisco, CA	1	$237.54	Sr. Director, Research and Development
12/09/02	Seattle, WA	2	$1,505.08	Special Assistant to the Deputy Assistant to the President for Homeland Security, Deputy Director Coordination Center
12/11/02	Manhattan, NY	5	$3,154.69	Deputy Assistant to the President for Homeland Securtiy, Director State and Local Affairs, Executive Assistant Response and Recovery,
				Director for Critical Infrastructure Protection, Director for Cargo and Port Security,
				Executive Assistant Response and Recovery
12/13/02	Washington, DC	1	$307.77	Communications Assistant
12/18/02	Anniston Army Depot, AL	1	$219.00	Director, Biodefense
12/18/02	Atlanta,GA	1	$543.75	Director for Cargo and Port Security
12/19/02	Harrisburg, PA	1	$379.64	Communications Aide to the Assistant to the President for Homeland Security
12/19/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
12/20/02	Washington, DC	1	$135.22	Communications Assistant
12/21/02	Erie, PA	1	$3,369.44	Operations Officer
01/07/03	Las Vegas, NV	1	$1,128.64	Director, Cyberspace Security
01/09/03	Erie, PA	1	$938.50	Communications Aide to the Assistant to the President for Homeland Security

REV_00169799

01/09/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/11/03	San Diego, CA	2	$1,945.55	Operations Officer, Operations Officer
01/14/03	Cape Canaveral, FL	2	$1,798.55	Senior Director for Response and Recovery, Deputy Director, Incident Management
01/15/03	Boston, MA	1	$1,248.78	Director of Critical Infrastructure
01/15/03	Jacksonville, FL	1	$767.86	Director for Weapons of Mass Destruction
01/15/03	New Orleans, LA	1	$968.98	Executive Assistant, Response and Recovery
01/16/03	Erie, PA	1	$672.78	Communications Aide to the Assistant to the President for Homeland Security
01/16/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/17/03	Erie, PA	1	$238.00	Operations Officer
01/20/03	San Antonio, TX	2	$1,549.64	Special Assistant to the President and Executive Director, PHSAC, Director, External Affairs
01/21/03	Harrisburg, PA	1	$150.00	Communications Aide to the Assistant to the President for Homeland Security
01/21/03	Manhattan, NY	1	$406.96	Senior Director for Response and Recovery
01/21/03	Mexico City, Mexico	1	$1,228.73	Director for Critical Infrastructure Protection
01/22/03	Manhattan, NY	1	$334.50	Director, Economic Consequence Management
01/22/03	Washington, DC	7	$3,930.05	President's Homeland Security Advisory Board
01/24/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/24/03	Shepherdstown, WV	1	$81.06	Director, Economic Consequence Management
01/28/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/29/03	Chicago, IL	1	$245.50	Director, Economic Consequence Management
01/30/03	Washington, DC	7	$4,952.27	President's Homeland Security Advisory Board
02/07/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
02/09/03	Seattle, WA	1	$1,877.78	Director, Cyberspace Security
02/10/03	Norfolk, VA	1	$105.06	Director of Critical Infrastructure
02/13/03	Manhattan, NY	1	$33.25	Director for Cargo and Port Security
02/20/03	Cambridge, MA	1	$2,579.47	Special Assistant to the President and Senior Director for Policy and Plans
02/20/03	Washington, DC	5	$3,647.25	President's Homeland Security Advisory Board
02/21/03	Washington, DC	3	$1,066.55	President's Homeland Security Advisory Board
02/25/03	Lynchburg, VA	1	$52.93	Director Policy and Plans
03/03/03	Albuquerque,NM	1	$982.87	Executive Assistant, Response and Recovery
03/09/03	Baltimore, MD	1	$897.11	Director, Biodefense
03/12/03	Houston, TX	1	$1,218.03	Director, Incident Management
03/25/03	Lynchburg, VA	1	$52.93	Director Policy and Plans

REV_00169800

03/31/03	Charlottesville, VA	1	$189.00	Special Assistant to the Deputy Assistant to the President for Homeland Security
	Total		**$302,422.75**	

Cyberspace Security Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Staff Position**
04/02/02	Orlando, FL	1	$592.89	Director, Cyberspace Security
04/03/02	Providence, RI	1	$875.74	Vice Chairman, PCIPB
04/05/02	Denver, CO	1	$1,288.87	Vice Chairman, PCIPB
04/08/02	Williamsburg, VA	1	$261.00	Vice Chairman, PCIPB
04/10/02	Albany, NY	1	$904.60	Vice Chairman, PCIPB
04/12/02	Orlando, FL	1	$1,279.00	Vice Chairman, PCIPB
04/16/02	Orlando, FL	1	$757.75	Special Assistant to the President for Cyberspace Security, and Chair, PCIPB
04/21/02	Orlando, FL	1	$1,663.74	Special Assistant to the President for Cyberspace Security, and Chair, PCIPB
05/07/02	Chicago, IL	1	$524.42	Director, Cyberspace Security
05/08/02	Las Vegas, NV	1	$1,009.00	Senior Director, National Security
05/10/02	Boston, MA	1	$455.80	Chief of Staff
5/12/2002	Denver, CO	1	$1,390.93	Director, Cyberspace Security
05/12/02	Denver, CO/Indianapolis, IN	1	$1,574.15	Special Assistant to the President for Cyberspace Security, and Chair, PCIPB
5/14/2002	Denver, CO	1	$1,711.17	Deputy Chief of Staff
5/16/2002	Chicago, IL	1	$328.00	Chief of Staff
5/20/2002	Honolulu, HI	1	$1,371.44	Director, Cyberspace Security
5/27/2002	Chicago, IL	1	$2,874.45	Deputy Chief of Staff
5/29/2002	Chicago, IL	2	$1,489.16	Director for Cyberspace Security, Director for Cyberspace Security
5/31/2002	Portland, OR	1	$2,874.45	Deputy Chief of Staff
6/1/2002	Seattle, WA	1	$4,571.88	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
6/3/2002	Portland, OR	1	$4,571.98	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
6/3/2002	San Diego, CA	1	$1,436.79	Vice Chairman, PCIPB
6/5/2002	Portland, OR	1	$1,677.79	Vice Chairman, PCIPB
6/7/2002	Seattle, WA	1	$1,436.79	Vice Chairman, PCIPB
6/12/2002	Buffalo, NY	1	$761.29	Vice Chairman, PCIPB

REV_00169801

6/16/2002	Atlanta, GA	3	$2,522.62	Deputy Chief of Staff, Director, Legislative Affairs, Vice Chairman, PCIPB
6/19/2002	London, GBR	1	$1,687.92	Vice Chairman, PCIPB
6/24/2002	Seattle, WA	1	$982.09	Vice Chairman, PCIPB
6/26/2002	Boston, MA	1	$641.44	Chief of Staff
6/26/2002	Chicago, IL	1	$982.09	Vice Chairman, PCIPB
6/26/2002	Las Vegas, NV	1	$982.06	Senior Director, National Security
7/8/2002	Manhattan, NY	2	$483.20	Vice Chairman, PCIPB, Senior Director, National Security
7/20/2002	Monterey, CA	1	$1,352.72	Director, Cyberspace Security
7/20/2002	Tulsa, OK	2	$2,474.19	Special Assistant to the President for Cyberspace Security and Chair, PCIPB and Vice Chairman, PCIPB
7/22/2002	Dallas, TX	1	$877.15	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
7/23/2002	Minneapolis, MN	1	$1,602.04	Vice Chairman, PCIPB
7/30/2002	Las Vegas, NV	1	$1,148.96	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
8/4/2002	Roanoke, VA	1	$671.68	Vice Chairman, PCIPB
8/6/2002	Duluth, MN	1	$71.76	Vice Chairman, PCIPB
8/6/2002	Ft. Lauderdale, FL	1	$705.61	Director, Cyberspace Security
8/6/2002	San Francisco, CA	1	$811.92	Director for Cyberspace Security
8/12/2002	Beaver Creek, CO	1	$3,362.76	Chief of Staff
8/12/2002	Vail, Co	1	$3,362.76	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
8/13/2002	Phoenix, AZ	1	$1,128.18	Vice Chairman, PCIPB
8/13/2002	San Francisco, CA	1	$4,362.25	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
8/17/2002	Aspen, CO	1	$287.00	Senior Director, National Security
8/18/2002	San Francisco, CA	1	$3,362.76	Chief of Staff
8/19/2002	Manhattan, NY	1	$470.06	Director for Cyberspace Security
8/22/2002	Boston, MA	1	$462.04	Director for Cyberspace Security
8/26/2002	Nashville, TN	1	$730.23	Vice Chairman, PCIPB
8/26/2002	Ottawa, CAN	1	$1,056.24	Director, Cyberspace Security
8/30/2002	Chicago, IL	1	$1,602.40	Vice Chairman, PCIPB
9/3/2002	Seattle, WA	1	$251.44	Director, Cyberspace Security
9/5/2002	Manhattan, NY	1	$195.04	Senior Director, National Security
9/6/2002	Philadelphia, PA	1	$226.72	Director for Cyberspace Security
9/8/2002	San Jose, CA	1	$845.27	Director for Cyberspace Security
9/12/2002	Atlanta, GA	1	$122.00	Director for Cyberspace Security
9/15/2002	Minneapolis,	1	$2,388.45	Vice Chairman, PCIPB

REV_00169802

	MN			
9/15/2002	Palo Alto, CA	1	$2,987.46	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
9/15/2002	San Francisco, CA	2	$4,185.11	Deputy Chief of Staff, Executive Assistant
9/17/2002	Palo Alto, CA	2	$3,847.56	Vice Chairman, PCIPB and Director for Cyberspace Security
9/17/2002	San Francisco, CA	1	$2,032.69	Director for Cyberspace Security
9/18/2002	New London, CT	1	$2,541.62	Deputy Chief of Staff
9/18/2002	Seattle, WA	1	$2,388.45	Vice Chairman, PCIPB
9/19/2002	Manhattan, NY	1	$186.62	Director for Cyberspace Security
9/21/2002	Albuquerque, NM	1	$901.51	Director for Cyberspace Security
9/24/2002	Austin, TX	2	$1,975.60	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Vice Chairman, PCIPB
9/24/2002	Cleveland, OH	1	$1,092.55	Director for Cyberspace Security
9/24/2002	Denver, CO	1	$1,680.02	Vice Chairman, PCIPB
9/24/2002	San Antonio, TX	5	$5,537.03	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Vice Chairman, PCIPB, Deputy Chief of Staff, Senior Director,
				Senior Director, National Security, Director, Cyberspace Security
9/30/2002	Atlantic City, NJ	1	$375.09	Vice Chairman, PCIPB
9/30/2002	Ft. Meyers, FL	1	$622.71	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/2/2002	Philadelphia, PA	1	$660.04	Deputy Chief of Staff
10/7/2002	Minneapolis, MN	1	$750.71	Director for Cyberspace Security
10/8/2002	Brussels, Bel	1	$3,903.77	Vice Chairman, PCIPB
10/9/2002	Omaha, NE	1	$1,188.85	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/9/2002	Pittsburg, Pa	1	$1,188.65	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/11/2002	London, GBR	1	$3,903.77	Vice Chairman, PCIPB
10/14/2002	Boston, MA	2	$3,428.15	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Deputy Chief of Staff
10/17/2002	Boston, MA	1	$308.38	Director for Cyberspace Security
10/17/2002	Chicago, IL	1	$312.50	Deputy Chief of Staff
10/20/2002	Miami, FL	1	$611.04	Director for Cyberspace Security
10/22/2002	Frederick, MD	2	$669.46	Vice Chairman, PCIPB and Director for Cyberspace Security

REV_00169803

10/23/2002	Pittsburg, Pa	2	$1,934.71	Vice Chairman, PCIPB and Deputy Chief of Staff
10/26/2002	Brussels, Bel	1	$6,650.41	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/26/2002	Eugene, OR	1	$1,595.63	Director for Cyberspace Security
10/28/2002	Las Vegas, NV	1	$1,351.69	Director for Cyberspace Security
10/28/2002	San Antonio, TX	1	$501.00	Senior Director, National Security
11/5/2002	Atlanta, GA	1	$1,024.90	Vice Chairman, PCIPB
11/06/02	White Plains, NY	1	$965.79	Director for Cyberspace Security
11/7/2002	Chicago, IL	3	$1,266.23	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Director, Cyberspace Security, Director, National Security
11/7/2002	Manhattan, NY	1	$793.86	Vice Chairman, PCIPB
11/10/2002	Monterey, CA	1	$1,329.86	Director for Cyberspace Security
11/12/2002	Manhattan, NY	1	$697.49	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
11/13/2002	Manhattan, NY	1	$350.50	Senior Director, National Security
11/13/2002	Phoenix, AZ	2	$3,548.19	Director, Legislative Affairs, Vice Chairman, PCIPB
11/14/2002	Seattle, WA	1	$1,329.66	Director for Cyberspace Security
11/17/2002	Atlanta, GA	1	$436.06	Director for Cyberspace Security
11/17/2002	Ottawa, CAN	1	$2,418.32	Vice Chairman, PCIPB
11/19/2002	Manhattan, NY	1	$877.25	Director for Cyberspace Security
11/19/2002	Salt Lake City, UT	1	$877.25	Director for Cyberspace Security
11/20/2002	Manhattan, NY	1	$699.56	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
12/3/2002	Chicago, IL	1	$229.13	Director for Cyberspace Security
12/3/2002	San Francisco, CA	1	$2,293.66	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
12/4/2002	Phoenix, AZ	1	$1,264.33	Senior Director, National Security
12/4/2002	San Francisco, CA	1	$1,637.48	Director, Cyberspace Security
12/6/2002	Seattle, WA	1	$1,138.43	Vice Chairman, PCIPB
12/9/2002	Boston, MA	1	$401.00	Director for Cyberspace Security
12/9/2002	Charleston, SC	1	$825.27	Director for Cyberspace Security
12/12/2002	Manhattan, NY	1	$380.05	Vice Chairman, PCIPB
12/17/2002	Flemington, NJ	2	$487.54	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Senior Director, National Security
12/18/2002	Atlanta, GA	1	$64.50	Deputy Chief of Staff
1/9/2003	Charlotte, NC	2	$1,929.02	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Deputy Chief of Staff

REV_00169804

1/14/2003	Honolulu, HI	1	$1,610.34	Director for Cyberspace Security
1/21/2003	Boston, MA	2	$1,797.69	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Director for Cyberspace Security
1/22/2003	St. Petersburg, FL	1	$492.08	Vice Chairman, PCIPB
1/23/2003	Ft. Meyers, FL	1	$636.12	Director for Cyberspace Security
1/23/2003	Naples, FL	1	$864.08	Vice Chairman, PCIPB
1/24/2003	Philadelphia, PA	1	$864.08	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
1/24/2003	San Diego, CA	3	$4,654.94	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Deputy Chief of Staff, Director, Cyberspace Security
01/28/03	Williamsburg, VA	1	$239.34	Vice Chairman, PCIPB
1/29/2003	Chicago, IL	1	$306.37	Director for Cyberspace Security
1/30/2003	Manhattan, NY	1	$376.50	Vice Chairman, PCIPB
2/2/2003	Columbus, MS	1	$835.25	Vice Chairman, PCIPB
2/2/2003	San Francisco, CA	1	$1,211.37	Director for Cyberspace Security
2/10/2003	London, GBR	1	$1,473.61	Vice Chairman, PCIPB
02/11/03	Tallahassee, FL	1	$582.94	Director for Cyberspace Security
2/24/2003	Atlanta, GA	1	$768.07	Vice Chairman, PCIPB
2/24/2003	Boca Raton, FL	1	$1,052.94	Director for Cyberspace Security
2/25/2003	Chicago, IL	1	$522.44	Director for Cyberspace Security
3/3/2003	Manhattan, NY	1	$607.86	Director for Cyberspace Security
3/4/2003	San Diego, CA	1	$785.37	Director for Cyberspace Security
3/6/2003	Ottawa, CAN	1	$929.94	Vice Chairman, PCIPB
3/8/2003	Orlando, FL	1	$260.11	Vice Chairman, PCIPB
3/17/2003	San Antonio, TX	1	$801.47	Vice Chairman, PCIPB
3/18/2003	Atlanta, GA	1	$801.47	Vice Chairman, PCIPB
3/22/2003	Paris, FRA	2	$3,402.37	Vice Chairman, PCIPB, Director for Cyberspace Security
	Total		**$192,350.99**	

QUESTION 18: Currently, OHS costs are included in both the WHO and OA appropriations. Is that also the case in the FY 2004 request? If so, please provide a table, by appropriation, showing total OHS budgeted costs, for each of the fiscal years 2002 through 2004.

RESPONSE: For FY 2003, although funds were requested as part of the WHO budget activity, the Office of Homeland Security received for the first time its own appropriation, separate from the WHO appropriation. Funds supporting OHS / HSC

REV_00169805

requirements in FY 2003 were provided also to OA as part of the OA Pilot program. The FY 2004 Request identifies all requirements for OHS / HSC in the WHO Budget Activity, since the OA Pilot program is not certain to continue after FY 2003. See table below:

(Dollars in Thousands)

	Congressional Appropriations		
	FY 2002 Enacted*	FY 2003 Enacted	FY 2004 Request
OHS / HSC	$30,800	$8,272	$8,331
OA		$778	
	$30,800	$9,050	$8,331

*FY 2002 budget for OHS was based on the OHS mission and funding profile prior to the establishment of DHS and was provided by 3 sources of emergency appropriated funds: P.L. 107-38 for $25,000,000; P.L.107-117 for $2,000,000; and P.L. 107-206 for $3,800,000.

QUESTION 19: Last year, it was stated that one MOU existed between OHS and other EOP entities (p. 51). Please provide a copy of the MOU between MOU and the Office of Science and Technology Policy.

RESPONSE: The MOU between OHS and OSTP expired with the creation of the Department of Homeland Security as relevant responsibilities transferred from OHS to DHS, pursuant to the Homeland Security Act of November, 2002.

QUESTION 20: Have any other MOUs been signed since that time?

RESPONSE: A MOU between the Homeland Security Council and the National Security Council/White House Situation Support Staff was signed in May, 2003 providing for the expansion of NSC's classified computer network to include approved HSC staff with necessary security clearances.

In addition standard interagency agreements were signed between OHS/HSC and the Office of Administration (OA) and OMB to pay for detailees from these EOP entities to OHS/HSC and separately between OHS/HSC and OA to pay for miscellaneous supplies and materials.

QUESTION 21: At this time last year, OHS planned to establish a coordination center which would function 24 hours a day, 7 days a week, using a communications room and two incident management rooms. At the same time, the Administration made clear that the role of OHS was to establish and coordinate policy, and not to conduct operational activities. With the establishment of the Department of Homeland Security, have these specific activities been descoped or eliminated?

REV_00169806

RESPONSE: The role of the Homeland Security Council is to advise and assist the President, develop and coordinate the implementation of the *National Strategy for Homeland Security* to secure the United States from terrorist threats and attacks, and to help coordinate policy across the departments and agencies of the executive branch. The Homeland Security Council does not conduct operational activities. The Homeland Security Council does not operate a coordination center. With the establishment of the Department of Homeland Security, DHS is the lead federal agency for incident management. As such, DHS operates a Homeland Security Center with 24 hour/7 days per week coordination and communications capabilities. Those functions do not reside in the Homeland Security Council.

QUESTION 22: How many positions support these activities in the FY 2004 request, and what is the total budgeted amount?

RESPONSE: The FY 2004 budget will not fund any personnel or activities related to the DHS coordination center. However, virtually every member of the HSC staff has responsibilities to support and advise the President regarding incident response efforts, continuity of government and related coordination roles on behalf of the President.

QUESTION 23: How are such activities appropriate for a policymaking body, when DHS now exists to coordinate and execute operational activities related to specific homeland security incidents and activities?

RESPONSE: Just as the NSC was created by Congress in 1947 in the same act which created the Department of Defense and the CIA, Congress established the HSC within the EOP by statute at the same time as it created the Department of Homeland Security. The role of the Homeland Security Council is to advise and assist the President, develop and coordinate the implementation of the *National Strategy for Homeland Security* to secure the United States from terrorist threats and attacks, and to help coordinate policy across the departments and agencies of the executive branch. The Homeland Security Council does not conduct operational activities. The Homeland Security Council does not operate a coordination center. With the establishment of the Department of Homeland Security, DHS is the lead federal agency for incident management. As such, DHS operates a Homeland Security Center with 24 hour/7 days per week coordination and communications capabilities. Those functions do not reside in the Homeland Security Council.

QUESTION 24: At the time of last year's hearing, the permanent location and amount of space for the President's Critical Infrastructure Protection Board had not been determined (p. 77). Have these requirements been determined today?

REV_00169807

RESPONSE: The President's Critical Infrastructure Protection Board (PCIPB) no longer exists at the White House. Executive Order 13228, which created the PCIPB, was amended. Congress through the Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection (IAIP). One of the responsibilities of the IAIP directorate is the important issue of critical infrastructure protection. This is a robust directorate led by an under secretary.

QUESTION 25: Likewise, total CIPB staffing had not been determined. Do you have an estimate today? What staffing assumptions were made in the FY 2004 budget submission?

RESPONSE: The President's Critical Infrastructure Protection Board (PCIPB) no longer exists at the White House. Executive Order 13228, which created the PCIPB, was amended. Congress through the Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection (IAIP). One of the responsibilities of the IAIP directorate is the important issue of critical infrastructure protection. This is a robust directorate led by an under secretary.

QUESTION 26: How much funding is included in the FY 2004 request for CIPB, and how does that compare to the current estimate for FY 2003?

RESPONSE: The President's Critical Infrastructure Protection Board (PCIPB) no longer exists at the White House. Executive Order 13228, which created the PCIPB, was amended. Congress through the Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection (IAIP). One of the responsibilities of the IAIP directorate is the important issue of critical infrastructure protection. This is a robust directorate led by an under secretary.

QUESTION 27: Please provide a breakdown showing how those funds would be used.

RESPONSE: The President's Critical Infrastructure Protection Board (PCIPB) no longer exists at the White House. Executive Order 13228, which created the PCIPB, was amended. Congress through the Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection (IAIP). One of the responsibilities of the IAIP directorate is the important issue of critical infrastructure protection. This is a robust directorate led by an under secretary.

QUESTION 28: Please provide details on any government-industry partnerships that have been created in support of cyber security initiatives coordinated by, or carried out, through EOP or the CIPB.

RESPONSE: In 2002, the President's Critical Infrastructure Protection Board developed a *National Strategy to Secure Cyberspace.* To encourage broader participation and input

REV_00169808

into the development process, a draft strategy was released for public comment in September 2002. In addition, the PCIPB requested the National Infrastructure Assurance Council and the National Security Telecommunications Advisory Committee both provide comments on the draft strategy. Furthermore, there were 10 town hall meetings held in various portions of the country which brought industry, academia and private citizens together to focus on the complex issues related to cyber security. The final strategy thus integrated extensive public and industry comments and was released in February 2003.

The *National Strategy to Secure Cyberspace* emphasizes that government-industry partnerships will be a cornerstone to success. As the primary implementer of the Strategy, DHS will be a partner with industry and academia to accomplish the objectives identified by the President's strategy.

National Security Council (POC – Katherine Fertakis)

QUESTION 29: Your request includes a 10.8 percent increase to cover reimbursable detailee costs and additional support staff for the President's Foreign Intelligence Advisory Board. Please explain the need for these increases in detail.

RESPONSE: The requested increase covers reimbursable detailee costs of personnel from the Department of State. The National Security Council (NSC) may request detailed personnel performing at a high level in high priority positions to remain beyond their initial tour of duty because of their unique qualifications. The NSC is required to reimburse the Department of State for details to NSC that exceed the cap of 13 detailed into their second year and for all staff detailed longer than two years per Public Law 93-126. The FY 2003 increase in this category estimates for details becoming reimbursable during the Spring and the Summer. The FY 2004 increase represents an annualization of the expenses, minus the cost for the details that will not be renewed.

Since the events of September 11, 2001, the PFIAB support staff workload has been significantly increased and consumed by the homeland security effort. Thus far about 95% of the Board's current advisory work for the President has been directly related to homeland security and counter-terrorism. (Intelligence performance thereon, and support to the new department of homeland security) With only 4 staff members and an already overflowing Board work schedule, work on other important PFIAB priorities has been deferred—such as declassification review of PFIAB archived records. At least three additional staff members, including a GS-14 administrative manager, will be needed to adequately meet support requirements as the Board expands its review of intelligence support to homeland security beyond the more immediate structural and organizational issues, and also re-engages the more general intelligence performance issues across the full spectrum of pressing issues. The FY 2004 request includes $250,000 which will fund two reimbursable detailed staff members and one permanent, Schedule A, Excepted Service, GS-14 administrative management position.

REV_00169809

QUESTION 30: What are the dollar and percentage increases for each of the above items, compared to the FY 2003 estimated levels?

RESPONSE: The FY 2004 request for NSC reimbursable detailees represents an increase of $356,000, or 64%, over the FY 2003 estimated levels. The PFIAB increase of $250,000 will be 100% above the FY 2003 request since this is a new requirement for FY 2004.

QUESTION 31: The justifications indicate that 11 additional positions are being added to this office in FY 2003, raising the estimated from 60 in FY 2002 to an estimated 71 in FY 2003. What specific positions are being created?

RESPONSE: The 11 additional positions, which raise NSC's FTE from 60 to 71, are not new positions. In FY 2003, the Office for Combating Terrorism (OCT) was combined with the NSC budget request. The increased FTE request correlates with the continued funding for and operation of the OCT as a part of the NSC submission.

QUESTION 32: The FY 2004 request includes funds for a new GS-14 administrative manager for the PFIAB. Why is this new position needed at this time?

RESPONSE: PFIAB requires a permanent administrative position for continuity as well as efficiency reasons. The administrative staff constitutes the lifeblood of the Board: it fulfills all of the support responsibilities, including human resource management, budget, travel, procurement, research, publishing, protocol, and special assistance to the Executive Director, Chair and Vice Chair. With only two administrative people on staff, it is absolutely critical that both individuals be fully knowledgeable about and highly experienced at *White House* administrative policies, procedures and guidelines; equally important, *both* must possess highly honed administrative skills *and* be extremely efficient, effective and professionally dedicated.

The Board simply cannot attain this level of experience and competence by relying on detailees from other agencies, particularly non-reimbursed detailees. More often than not, we must accept whomever an agency can make available. Therefore, the Board will use this one permanent administrative billet to create a PFIAB office manager position. This individual not only will provide continuity of expertise and experience, but also will ensure that the other administrative person obtains the proper professional mentoring and supervision. We plan to make this a GS-14 position, but may start the individual we select at the GS-13 level to allow for personal advancement...and thereby also ensuring, hopefully, a fairly long term of service to the Board.

REV_00169810

Office of National Drug Control Policy (POC – Michelle Marx)

QUESTION 33: You are requesting 10 additional FTE in FY 2004 to replace 10 non-reimbursable detailees who are no longer available. Why are these positions no longer available, and what are the specific positions?

RESPONSE: ONDCP's FY 2004 request includes resources to support 125 FTEs, an increase of 10 FTEs over the FY 2003 request. This FTE increase is requested to offset the loss of approximately 20 - 25 of the 30 non-reimbursable military detailee positions the Department of Defense has supported at ONDCP since 1996. (The Department of Defense, as outlined in a December 28, 2001 memorandum, has adopted a general policy that approves of requests for details only on a reimbursable basis, with limited exceptions.)

This 10 FTE increase, along with distributing additional responsibilities among existing staff, will allow ONDCP to absorb the detailee staffing loss and meet its statutory responsibilities. The specific positions would be appointed within the following offices: Planning and Budget; State and Local Affairs; Intelligence; and Supply Reduction.

Renovation of the Eisenhower Executive Office Building (POC – Steve Beattie)

QUESTION 34: What is the status of funding provided in FY 2002 and 2003? Please provide a breakdown of funding by the type of activity or renovation performed.

RESPONSE: 34: The General Service Administration has used FY 2002 Emergency Response Funds in the amount of $1,674,000 for starting the Architects' and Engineers' design contract for the 17th Street Wing Security Modernization Project. GSA is currently in the process of reprogramming $7,500,000 for FY 2003 for design, management and inspection. The FY 2003 reprogramming is required to complete the Design/Build/Bridging documents and assist in managing the Design/Build/Bridging efforts.

QUESTION 35: How much remains unobligated, by appropriation?

RESPONSE: 35: The General Services Administration (GSA) awarded a portion of the design cost in the amount of $1,537,173 utilizing the FY 2002 Emergency Response Fund. $136,827 remains unobligated. GSA has not obligated any FY 2003 funding.

QUESTION 36: Please provide a detailed breakdown showing how funds requested in the GSA budget for FY 2004 would be used.

RESPONSE: 36: The following is a break down on how the funds will be used in FY 2004:

REV_00169811

Major Work Items:	
Electrical System	$ 10,244,000
Air conditioning system, chillers and piping	$ 12,530,000
Interior Construction	$ 13,163,000
Utility Vault (includes foundation construction)	$ 22,107,000
Window Blast Mitigation	$ 4,685,000
Mansard Roof Hardening	$ 802,000
Estimated Construction Cost (ECC)	$ 63,531,000
Management and Inspection	$ 2,226,000
Authorization Requested (ECC, M&I)	$ 65,757,000

QUESTION 37: Please provide a detailed schedule for activities planned in FY 2004.

RESPONSE: 37: The design/build/bridging contract is scheduled to be awarded in March 2004. The current schedule for the project is as follows:

Design Award:	04/03
Design/Build/Bridging Procurement Start:	09/03
A/E Bridging Documents Complete:	10/03
Design/Build/Bridging Contract Award:	03/04
Construction Complete:	06/06

QUESTION 38: How much are you currently paying GSA for the unoccupied space along the 17th Street side of EEOB, and how much rental cost are you incurring for the new locations where relocated employees are working?

RESPONSE: We are not paying for the unoccupied space along the 17th Street side of the EEOB in FY2003. Employees were relocated to 1800 G. Street where FY 2004 rental costs are estimated at $4,978,000 and to 1801 Pennsylvania Avenue where the FY 2004 rental costs are estimated at $792,000. Both rental cost estimates exclude parking space costs.

Executive Residence (POC – Worthington White)

QUESTION 39: Please provide a table, corresponding to the projects on page 81 of last year's hearing record, showing the original appropriation for each project, the amount obligated to date, and the project status. This involves projects funded in fiscal year 2002.

RESPONSE: The following table provides funding information on the FY 2002 projects.

REV_00169812

Executive Residence at the White House
FY2002 White House Repair and Restoration

Project	Original Appropriation	Obligated To Date	Status of Project
Pool Shelter Roof Reconstruction and Pool Deck Renovation	$430,000	$412,926	This project is completed, with only minor punch list items and related recurring maintenance items to be funded from the remaining funds.
Communication System Repairs/Phase 2*	$456,667 $4,544,000	$155,872	Modifications to the original design under Phase I (FY2001) are completed. The pre-bid meeting with prospective contractors is scheduled for mid-May, with contract award by late June, and construction commending by late July.
East and West Wing Exterior Restoration	$2,500,000	$2,398,433	The restoration is underway, all Phase I funds will be utilized this year.
Insulated Windows Replacement	$160,000	$162	The prototype utilizing historically accurate reproduction glass is in production, with manufacturing of actual replacement units expected to begin in June. Installation to be begin in August.
Kitchen Floor Replacement	$75,000	$60,815	This project is nearing completion with the remaining funds to be utilized for utility work.
North Portico Curtain Wall	$120,000	$106,751	The project is completed with remaining funds required to purchase spare parts inventory.
Stone Pavers Restoration	$277,000	$220,082	The project is currently underway and is scheduled for completion by September 2003.
West Colonnade Restoration	$275,000	$0	Planning has recently been completed; work will be accomplished in August and early September 2003.

*For the Comunication System Repairs/Phase 2 project, $456,667 was funded in FY 2001 for Architect and Engineering. The remaining $4,544,000 was for construction.

QUESTION 40: Please provide a listing of the 95 FTE positions at the Executive Residence requested for funding in FY 2004, showing the position title and the annual salary level.

RESPONSE: The position and salary information is provided in the table that follows.

REV_00169813

EXECUTIVE RESIDENCE AT THE WHITE HOUSE - FY 2003 -- 95 FTE				
USHERS OFFICE				
16 FTE	USHER	$96,880	CALLIGRAPHER	$68,939
	CALLIGRAPHER	$60,202	CALLIGRAPHER	$79,670
	SYSTEMS ADMIN	$99,152	USHER	$90,059
	PROJECT SUPERVISOR	$55,092	CALLIGRAPHER	$69,911
	ADMIN ASSISTANT	$44,244	CHIEF USHER	$142,500
	USHER	$112,347	ADMIN OFFICER	$83,132
	ACCOUNTANT	$56,711	GROUNDS SUPT	$139,297
	USHER	$92,786	NIGHT DOORMAN	VACANT
OFFICE OF THE CURATOR				
4 FTE	CURATOR	$87,328	ASSISTANT CURATOR	VACANT
	COLLECTIONS MANAGER	$50,230	ASSISTANT CURATOR	$65,056
FLOWER SHOP				
4 FTE	CHIEF FLORIST	$92,786	FLORIST	$60,565
	FLORIST	$68,266	FLORIST	$51,987
HOUSEKEEPING				
21 FTE	MAID	$44,452	ASST HOUSEKEEPER	$79,670
	LAUNDRY SPEC	$53,098	HOUSEMAN	$47,539
	HOUSEMAN	$30,541	MAID	$48,671
	MAID	$48,656	CHIEF HOUSEKEEPER	$102,720
	LAUNDRY SPEC	$44,857	HOUSEMAN	$50,441
	MAID	$41,826	MAID	$37,770
	MAID	$42,433	HOUSEMAN	$55,091
	MAID	$28,285	HOUSEMAN	$38,798
	HOUSEMAN	$41,826	MAID	$54,280
	CUSTODIAL SPEC	$48,626	HOUSEMAN	$44,861
			HOUSEMAN	VACANT
FOOD & BEVERAGE SRVCS				
18 FTE	BUTLER	$67,969	PASTRY CHEF	$124,113
	KITCHEN STEWARD	$49,102	ASSISTANT CHEF	$86,211
	ASSISTANT CHEF	$79,670	ASST PASTRY CHEF	$57,521
	BUTLER	$52,360	ASSISTANT CHEF	$46,200
	STOREKEEPER	$64,086	BUTLER	$65,056
	BUTLER	$49,548	BUTLER	$59,411
	STOREKEEPER	$70,558	BUTLER	$66,028
	MAITRE'D	$91,422	CHEF	$113,951
	STOREKEEPER	$55,091	ASSISTANT CHEF	$46,870
OPERATIONS				
7 FTE	OPERATIONS AIDE	$54,116	OPERATIONS AIDE	$33,747
	OPERATIONS AIDE	$54,679	OPERATIONS AIDE	$73,692
	SHOP FOREMAN	$77,449	OPERATIONS AIDE	$58,895
			OPERATIONS AIDE	$49,024
CARPENTER & PAINT SHOP				
6 FTE	CARPENTER	$60,669	CARPENTER	$49,399
	PAINTER	$72,523	CARPENTER	$50,255
	PAINTER FOREMAN	$90,304	CARPENTER FOREMAN	$78,763
ENGINEERS & PLUMBING SHOP				
12 FTE	ENGINEER	$84,878	ENGINEER	$65,532
	ENGINEER	$66,826	ENGINEER	$68,266
	ENGINEER	$63,236	ENGINEER	$52,905
	ENGINEER	$62,234	PLUMBING FOREMAN	$90,304
	PLUMBER	$71,355	ENGINEER FOREMAN	$91,422
	ENGINEER	$66,826	ENGINEER	$51,966
ELECTRIC SHOP				
7 FTE	ELECTRICIAN	$73,692	ELECTRICIAN	$73,692
	ELECTRICIAN	$46,937	ELECTRICIAN	$55,389
	ELECTRIC SHOP FOREMAN	$95,515	ELECTRICIAN	$66,826
			ELECTRICIAN	$45,351

REV_00169814

QUESTION 41: The justifications (p. 67) indicate an estimated unobligated balance of $7,023,000 in this appropriation at the beginning of FY 2003. Please explain the sources of this balance, and provide a schedule for obligation of increments of those funds.

RESPONSE: The majority ($4,388,127) of the unobligated funds are associated with the Communication System Repairs/Phase 2 which was delayed to unanticipated design requirements. The schedule for completion and obligation of all FY2002 projects is detailed in the table below.

Executive Residence at the White House
FY2002 White House Repair and Restoration

Project	Original Appropriation	Obligated To Date	Status of Project
Pool Shelter Roof Reconstruction and Pool Deck Renovation	$430,000	$412,926	This project is completed, with only minor punch list items and related recurring maintenance items to be funded from the remaining funds.
Communication System Repairs/Phase 2*	$456,667 $4,544,000	$155,872	Modifications to the original design under Phase I (FY2001) are completed. The pre-bid meeting with prospective contractors is scheduled for mid-May, with contract award by late June, and construction commending by late July.
East and West Wing Exterior Restoration	$2,500,000	$2,398,433	The restoration is underway, all Phase I funds will be utilized this year.
Insulated Windows Replacement	$160,000	$162	The prototype utilizing historically accurate reproduction glass is in production, with manufacturing of actual replacement units expected to begin in June. Installation to be begin in August.
Kitchen Floor Replacement	$75,000	$60,815	This project is nearing completion with the remaining funds to be utilized for utility work.
North Portico Curtain Wall	$120,000	$106,751	The project is completed with remaining funds required to purchase spare parts inventory.
Stone Pavers Restoration	$277,000	$220,082	The project is currently underway and is scheduled for completion by September 2003.
West Colonnade Restoration	$275,000	$0	Planning has recently been completed; work will be accomplished in August and early September 2003.

*For the Comunication System Repairs/Phase 2 project, $456,667 was funded in FY 2001 for Architect and Engineering. The remaining $4,544,000 was for construction.

As of this date, there are also 5 projects which have balances prior to FY 2002. They are as follows:

FY1996 – Roof Repair – balance of $9,227. These funds will be expended as needed for ongoing maintenance and corrective measures.

FY1998 – Repair/restoration of the Laundry Room – balance of $26,616. Purchase of replacement equipment and maintenance of equipment to be expended in FY2003.

REV_00169815

FY2000 – Purchase and Install Two Ironers – balance of $5,754. These funds will be expended to replace the drive belts in FY2003.

FY2000 – Renovation of Paint Shop – balance of $38,271. Funds will be used to purchase and update equipment to meet EPA and OSHA requirements in FY2003.

FY2000 – Third Floor Promenade – balance of $11,392. Funds will be expended to rehab and replace drainage system in late FY2003 or early FY2004.

White House Repair and Restoration (POC – Dennis Freemyer)

QUESTION 42: You are requesting $4,225,000 for repairs and restoration of the White House. Is there additional funding in the National Park Service budget or elsewhere in the President's budget request for FY 2004 for similar activities at the White House?

RESPONSE: There are no other budget requests for the same activities at the White House.

QUESTION 43: Of this request, $3,500,000 is for restoration of the east and west wing exterior. Please provide a detailed discussion and breakdown of this request.

RESPONSE: The funding requested is for the continuation (2nd phase) of the East and West Wing Restoration project, the first being funded in FY'02. This is consistent with the original planning for the execution of this project based on the experience of the completed Executive Residence Exterior Restoration completed in 1996. A breakdown of major work items follows:

Estimated Construction Costs:

Mobilization, scaffolding, rental equipment	150,000
Stone, stucco, wood restoration, insulated glass	1,580,000
Paint removal	1,660,000
Effluent/hazardous material disposal	150,000
Specialized window film including installation	400,000
Specialized stucco coating including installation	550,000
Painting	500,000
Site Restoration	260,000
Design, project management, project supervision, testing	350,000
Contingency	400,000
Estimated Total Cost	**$6,000,000**
FY 2002 Funding	$2,500,000
FY 2004 Funding Request	$3,500,000

REV_00169816

Pennsylvania Avenue Improvements (POC – Steve Beattie)

QUESTION 44: What is the total estimated cost of security and street improvements on Pennsylvania Avenue in front of the White House, for which funds were provided in FY 2003?

RESPONSE: This project is to be funded by the Federal Highway Administration (FHWA). The total estimated cost of security and street improvements on Pennsylvania Avenue in front of the White House is currently $26.1 million. The information below breaks out the estimated FY 2003 costs for the project.

Project Activity	**Projected FY 2003 Obligations**
Preliminary Activities	
Verification and Concept Studies	$ 605,150
Design Activities	
Ground Survey and Mapping	$ 57,524
Subsurface Utility Survey	$ 149,682
Environmental Documentation	$ 75,000
Final Design (Consultant)	$ 1,300,000
Crash Testing	$ 350,000
FHWA Contract Administration	$ 100,000
Design Contingency	$ 262,644
Construction Activities	
Construction Contract	$ 18,500,000
Utility Construction	$ 1,500,000
FHWA Contract Administration	$ 1,700,000
MVVA Construction Assistance	$ 500,000
Construction Contingency	$ 1,000,000
Grand Totals	**$26,100,000**

QUESTION 45: What is the status of that project? When will FY 2003 funds be obligated?

RESPONSE: 45: The status of the security and street improvements on Pennsylvania Avenue is as follows -

- Project's status is an ongoing iterative process as the Design team receives comments from the public and the various stakeholders on surrounding sites.
- Under the National Environmental Policy Act, the final public information meeting for the Environmental Impact Assessment was held on May 5, 2003, which is the last

REV_00169817

step before the final report is issued the week of May 27, 2003. It is expected that the report's concluding statement will find no significant impact.

- The design team is in the pre-design stage.
- The engineers are currently in the design stage for utility relocation in the project's vicinity.
- The Section 106 review as required by the Secretary of the Interior under the Historic Preservation Act is underway and will develop a Memorandum of Agreement in June 2003, which will address issues regarding the design details. The Section 106 review occurs when a project utilizing federal funds may have an effect upon natural, environmental, or cultural resources and looks at mitigation of any adverse effects to those resources.
- $1.5 million is expected to be obligated at the end of August or early September 2003 to start the utility relocation on Pennsylvania Avenue and at the north ends of Jackson and Madison Places.
- Arrangements have already been made for procurement of the trees to be used on the Avenue since it will require root and limb pruning over two calendar years prior to installation on the Avenue. The trees will be installed after inaugural events in the spring of 2005.
- Approximately, $2,675,000 has been obligated to date (under contract). The remaining $3,685,000 will be obligated within the next six months to have the construction contract awarded by the end of September or early October 2003.

QUESTION 46: How much funding is requested for this project in FY 2004, and where is it located in the budget?

RESPONSE: $15 million has been set aside under the Department of the Interior bill for FY 2004. However, discussions have been held between the Federal Highway Administration and EOP staff to make the money available for contract award this fiscal year. Discussions have included placing FY 2004 monies into the FY 2003 supplemental appropriation. With the highway legislation pending, there could be a delay in getting the funding moved into the supplemental appropriation to allow the project to get underway.

QUESTION 47: What is the schedule for studies of traffic congestion mitigation alternatives in the vicinity of the White House, as funded in FY 2003?

RESPONSE: The project administrators met with EOP staff on May 8, 2003 to begin outlining the scope of the study and a plan to involve the District of Columbia government and neighborhood stakeholders. A schedule for the study has not been developed, but will be prepared in the next three months.

REV_00169818

Remote Data Center (POC – Carlos Solari)

QUESTION 48: What is the status of establishment today of the remote data center?

RESPONSE: The remote data center project is on schedule and on budget. The project began last summer by conducting a systems development lifecycle analysis to determine and recommend the location for the facility. From this analysis, EOP decided on building the data center at a hardened FEMA facility located in Maryland. The project is being co-managed with FEMA and was established with three phases: (1) infrastructure build-out of the hardened facility (power, air handlers, etc), (2) construction of the data center itself (cabling, raised flooring, etc), and (3) the transition of EOP data systems (telecommunications, servers, etc). The project is approximately halfway through completion for the first two phases with a scheduled opening (initial operational capability) date of September 2003. The transition phase is on schedule preparing the systems and will proceed to begin the transfer September 2003 – with a planned transition of 12 months for all systems. The following chart shows the funding of the remote data center from FY 2002 thru FY 2004.

	FY 2002	FY 2003	FY 2004
CIP	$15,000,000	$5,000,000	$8,403,000
S&E	$ - 0 -	$ - 0 -	$ - 0 -
Total	$15,000,000	$5,000,000	$8,403,000

QUESTION 49: Last year, you estimated annual operating costs of this facility to be $7,500,000 (p. 88). Is that your current estimate?

RESPONSE: Last year OA provided a rough estimate of $7,500,000 for the future annual operating cost of the new data center facility. This was based upon the following estimated costs:

- $1,500,000 in communications to maintain connectivity for the EOP,
- $600,000 in space rental,
- $450,000 for hardware maintenance,
- $1,300,000 for software maintenance,
- $2,600,000 for contractor services,
- $300,000 for supplies/components,
- $75,000 for equipment, and
- $675,000 in salaries/benefits.

While most of these estimates remain valid, OA must revise the estimate for space rental to $1,258,000, bringing the revised estimated annual operating costs for the facility to $8,158,000.

REV_00169819

QUESTION 50: Your FY 2004 request includes $8,403,000 to transition the remote data center to full operational status (p. 75). What specific activities are required in FY 2004 to accomplish this? Can you provide a breakdown of the FY 2004 request consistent with these activities?

RESPONSE: The following table lists the FY2004 CIP funds requested for the completion of the remote data center construction and initial year operating costs.

Object Class	Object Class Title	Requested Funding ($ in 000)	Description
23.0	Space Rental Payments	$1,258	This estimate reflects $1,258,000 in rental for the offsite data center and will be the initial rent to be paid for the offsite data center. This cost was previously funded from emergency funds.
23.3	Communications, utilities, and miscellaneous charges	$4,420	$4,420,000 is for CIP networking/ telecommunications projects at the offsite data center. These projects include funds for a tap off of telecommunications lines, two additional DS-3 data paths, two T-1 lines, and backup to support required communications bandwidth, and availability requirements.
25.2	Other Services	$2,700	This estimate reflects Priority System Disaster Recovery costs, Secondary Systems Disaster Recovery costs, Hardware and Software for the Disaster Recovery Site, and Hardware and Software upgrades to support the data center move.
26.0	Supplies and materials	$25	The estimate reflects $25,000 in additional supplies necessary for start-up operations at the offsite data center. This will include start up costs for office equipment used for the new office spaces.
Total FY2004 Data Center CIP Request		**$8,403**	

President's Travel (POC - Rothley Howard)

QUESTION 51: Please update the information on pages 89 through 94 of last year's hearing record concerning travel by the President and the First Lady by continuing data from the final entry of last year's record to the present time.

RESPONSE: The following charts summarize Presidential, First Lady and Vice Presidential travel for Fiscal Years 2002 and 2003 (to date). They also reflect costs currently in the accounting system. Several of the trips listed below are awaiting additional costs, therefore, final costs may vary.

REV_00169820

Presidential Travel FY 2002					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
3-Oct	New York, NY	100%		6	$8,060
7-Oct	Emmitsburg, MD	100%		4	$1,988
17-Oct	Sacramento, CA	100%		5	$16,678
30-Oct	New York, NY	100%		4	$13,043
8-Nov	Atlanta, GA	100%		6	$17,920
10-Nov	New York, NY	100%		0	$6,525
14-Nov	Crawford. TX	100%		4	$44,535
21-Nov	Fort Campbell, KY	100%		3	$9,114
27-Nov	Salt Lake City, UT	100%		7	$4,328
1-Dec	Philadelphia, PA	100%		5	$13,669
4-Dec	Orlando, FL	70%	30%	7	$13,371
7-Dec	Norfolk, VA	100%		5	$5,271
11-Dec	Citadel, SC	100%		4	$11,498
26-Dec	Waco, TX	100%		7	$12,667
4-Jan	Austin, TX	100%		1	$5,356
5-Jan	Ontario, CA	100%		4	$10,240
5-Jan	Portland, OR	100%		7	$10,870
8-Jan	Hamilton, OH	100%		6	$6,588
8-Jan	Boston, MA	100%		6	$11,159
8-Jan	Portsmith, NH	54%	46%	4	$6,594
9-Jan	Washington, DC	100%		0	$0
11-Jan	Conshohoken, PA	100%		6	$5,321
14-Jan	Moline, IL	100%		6	$7,570
14-Jan	Springfield, MO	100%		4	$6,569
14-Jan	New Orleans, LA	100%		21	$32,494
22-Jan	Charleston, WV	71%	29%		$6,086
25-Jan	Portland, ME	100%		5	$7,698
30-Jan	Winston-Salem, NC	65%	35%	0	$8,799
30-Jan	Daytona Beach, FL	100%		16	$12,874
31-Jan	Atlanta, GA	100%		5	$13,869
1-Feb	White Sulpher Springs, WV	100%		4	$4,273
4-Feb	Eglin AFB,FL	100%		4	$7,666
5-Feb	Pittsburgh ,PA	100%		5	$7,918
6-Feb	New York, NY	54%	46%	6	$6,940
8-Feb	Denver, CO	100%		4	$7,644
8-Feb	Salt Lake City, UT	100%		13	$12,877

REV_00169821

8-Feb	Jackson, WY	100%		7	$11,182
11-Feb	Milwaukee, WI	48%	52%	1	$9,360
16-Feb	Anchorage, AK	40%	60%	1	$9,181
27-Feb	Charlotte, NC	52%	48%	1	$7,048
1-Mar	Des Moines, IA	53%	47%	**5**	$3,546
3-Mar	Minneapolis, MN	50%	50%	2	$7,127
8-Mar	St. Petersburg, FL	57%	43%	2	$6,093
12-Mar	Philadelphia, PA	100%		9	$11,102
15-Mar	Fayetteville, NC	100%		6	$1,218
16-Mar	Chicago, IL	100%		4	$11,217
18-Mar	St. Louis, MO	65%	35%	5	$5,835
21-Mar	El Paso, TX	100%		6	$129
27-Mar	Greenville, SC	45%	55%	5	$-3,217
27-Mar	Atlanta, GA	52%	48%	3	$166
27-Mar	Waco, TX	100%		8	$19,804
28-Mar	Dallas, TX	20%	80%	4	$224
2-Apr	Philadelphia, PA	59%	41%	6	$12,239
4-Apr	Waco, TX	100% State		0	$0
8-Apr	Knoxville, TN	100%		5	$743
9-Apr	Bridgeport, CT	52%	48%	6	$7,152
15-Apr	Cedar Rapids, IA	59%	41%	5	$7,819
17-Apr	Lexington, VA	100%		5	$8,505
22-Apr	Saranac, NY(Wilmington, NY)	100%		4	$13,029
19-Apr	Beltsville, MD	100%		0	$0
24-Apr	Sioux Falls, SD	45%	55%	5	$8,249
24-Apr	Waco, TX	100%		12	$13,741
29-Apr	Los Angeles, CA	48%	52%	17	$10,907
29-Apr	Albuquerque, NM	54%	46%	5	$7,054
30-Apr	San Jose, CA	42%	58%	6	$6,632
6-May	Southfield, MI	100%		5	$9,857
8-May	Milwaukee, WI	100%		6	$10,952
8-May	Lacrosse, WI	100%		7	$8,760
10-May	Columbus, OH	59%	41%	5	$4,992
13-May	Chicago, IL	42%	58%	6	$1,743
20-May	Miami, FL	42%	58%	7	$8,587
1-Jun	West Point, NY	100%		5	$13,593
3-Jun	Little Rock, AR	100%		6	$10,094
7-Jun	Des Moines, IA	100%		6	$13,895
11-Jun	Kansas City, MO	58%	42%	7	$8,179
14-Jun	Columbus,OH	100%		6	$4,031

REV_00169822

14-Jun	Houston, TX	45%	55%	**5**	$9,739
14-Jun	Waco, TX	100%		3	$14,955
17-Jun	Atlanta, GA	100%		5	$8,663
21-Jun	Orlando, FL	48%	52%	7	$12,111
24-Jun	Newark, NJ	48%	52%	7	$4,974
25-Jun	Phoenix, AZ	100%		0	$584
1-Jul	Cleveland, OH	100%		5	$7,823
2-Jun	Milwaukee, WI	100%		5	$6,411
4-Jul	Ripley, WV	100%		6	$7,129
5-Jul	Kennebunkport, MN	100%		0	$34,245
9-Jul	New York City, NY	100%		5	$7,706
11-Jul	Minneapolis, MN	62%	38%	7	$13,709
15-Jul	Birmingham, AL	62%	38%	6	$5,747
18-Jul	Troy, MI	100%		0	$3,197
19-Jul	Fort Drum, NY	100%		6	$7,133
22-Jul	Argonne, IL	100%		7	$10,510
25-Jul	Greensboro, NC	62%	38%	7	$5,342
29-Jul	Charleston, SC	59%	41%	5	$7,149
2-Aug	Kennebunkport, MN	75%	25%	14	$34,291
5-Aug	Pittsburg, PA	56%	44%	7	$11,138
6-Aug	Waco, TX	100%		21	$107,331
7-Aug	Jackson, MS	76%	24%	6	$9,750
13-Aug	Economic Forum Waco, TX	100%		0	$201
14-Aug	Milwaukee, WI	42%	58%	5	$5,217
14-Aug	Des Moines, IA	42%	58%	23	$6,630
14-Aug	South Dakota	100%		4	$8,029
16-Aug	Rapid City, SD	58%	42%	1	$65
22-Aug	Medford, OR	100%		5	$10,226
22-Aug	Portland, OR		100%	0	$2,429
23-Aug	Dana Point, CA	50%	50%	20	$21,873
23-Aug	Stockton, CA	38%	62%	5	$4,565
24-Aug	Thousand Oaks/Westwood, CA		100%	0	$955
24-Aug	Santa Anna, CA	100%			$0
24-Aug	Las Cruces, NM	42%	58%	6	$4,381
29-Aug	Oklahoma City, OK		100%	0	$0
29-Aug	Little Rock, AR	58%	42%	5	$10,649
2-Sep	Pittsburgh, PA	100%		4	$11,098
5-Sep	Louisville, KY	59%	41%	**7**	$8,684
5-Sep	South Bend, IN	42%	58%	3	$5,105
6-Sep	Delu	100%		0	$1,346

REV_00169823

6-Sep	Minneapolis, MN	100%		5	$3,387
9-Sep	Detroit, MI	100% State		0	$1,804
11-Sep	Somerset County, PA	100%		6	$1,611
11-Sep	New York City, NY	100%		8	$6,665
16-Sep	Davenport, IA	48%	52%	6	$6,573
17-Sep	Nashville, TN	38%	62%	6	$1,573
23-Sep	Trenton, NJ	38%	62%	5	$5,053
26-Sep	Houston, TX		100%	0	$0
26-Sep	Waco, TX	100%		9	$19,792
27-Sep	Denver, CO		100%	0	$0
27-Sep	Flagstaff, AZ		100%	0	$0
27-Sep	Phoenix, AZ		100%	0	$0
	Total Presidential FY 2002 Costs Through 09/30/02				**$1,146,388**

First Lady Travel FY 2002

		Status		# of EOP	White House
Date	Destination	Official	Political	Staff	Travel Cost
3-Oct	Cincinnati, OH	100%		0	$339
16-Oct	Newark, NJ	100%		0	$1,790
18-Oct	Atlanta, GA	100%		1	$1,742
19-Oct	Baton Rouge, LA	100%		0	$1,568
30-Oct	New York, NY	100%		3	$1,652
16-Nov	Austin, TX	100%		1	$7,300
9-Jan	Topeka, KS	100%		0	$1,566
10-Jan	Houston, TX	100%		0	$1,915
11-Jan	Austin, TX	100%		0	$780
21-Jan	Atlanta, GA	100%		0	$1,060
10-Feb	Los Angeles, CA	100%		1	$5,021
11-Feb	Hershey, PA	100%		0	$0
8-Mar	New York, NY	100%		3	$6,218
11-Mar	Richmond, VA	100%		4	$1,659
4-Apr	Dallas, TX	100%		1	$35
11-Apr	Hershey, PA	100%		1	$899
30-Apr	Little Rock, AR	100%		2	$1,839
30-Apr	Dallas, TX	100%		3	$365
9-May	New York, NY	100%		0	$1,898
28-May	Austin, TX	100%		1	$3,379
10-Jun	Boise, ID	100%		1	$3,456
11-Jun	Salt Lake City, UT	100%		1	$1,187

REV_00169824

11-Jun	San Francisco	61%	39%	0	$5,237
12-Jun	Austin, TX	100%		1	$3,693
6-Jun	Crawford, TX	100%		0	$0
20-Jun	Boston, MA	100%		1	$1,674
17-Jun	Cinncinati, OH	100%		2	$2,309
22-Jun	Midland, TX	100%		0	$0
7-Jul	Kennebunkport, ME	100%		0	$0
12-Jul	Norfolk, VA	100%		2	$969
18-Jul	Philadelphia, PA	100% State		0	$0
24-Jul	New York, NY			2	$236
2-Aug	Dallas, TX	100%		1	$1,773
3-Aug	Lubbock, TX	100%		4	$3,571
14-Aug	Austin, TX	100%		2	$3,231
22-Aug	Austin, TX	100%		2	$3,501
11-Sep	New York, NY	100%		4	$4,241
25-Sep	Greenville, MS	100%		0	$1,591
27-Sep	Waco, TX	100%		1	105
	Total First Lady FY 2002 Costs through 09/30/02				**$77,799**

Vice Presidential Travel FY 2002					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
7-Oct	Smithers, BC *(can./Adv. only)*			1	$449
18-Oct	New York, NY	100%		4	$2,063
21-Oct	Washington, DC	100%			$378
28-Oct	Poughkeepsie, NY	100%		5	$3,885
30-Oct	White Sulphur Springs, WV				$200
4-Nov	Pierre/Gettysburg, SD	100%		7	$5,676
2-Nov	Dallas, TX *(can. trip)*	100%		1	$115
2-Nov	Jackson, WY	100%		2	$11,195
27-Nov	Salt Lake City, UT	100%		3	$526
29-Nov	New York, NY	100%		17	$14,413
6-Dec	Dallas, TX		100%	9	$1,776
7-Dec	Oklahoma City, OK		100%	3	$4
14-Dec	Albany, GA	100%		9	$5,214
17-Dec	Jackson, WY *(no trip listed/noTA)*				$0
19-Dec	Trappe, MD	100%		9	$4,217
22-Dec	Jackson, WY	100%		14	$55,257
11-Jan	Albany, GA	100%		8	$5,447

REV_00169825

25-Jan	Cincinnati, OH		100%	4	$0
30-Jan	White Sulpher Springs, WV	100%		8	$4,353
6-Feb	Louisville, KY		100%	9	$5,392
6-Feb	Evansville, IN		100%		$0
7-Feb	Hopkinsville, KY	17%	83%	9	$700
15-Feb	Armstrong, TX	100%		1	$275
17-Feb	Carlsbad, CA	100%		1	$30,757
19-Feb	Fullerton, CA	100%			$2,700
19-Feb	Los Angeles, CA	15%	85%	2	$5,698
20-Feb	Sacramento, CA		100%	2	$2,514
20-Feb	Fresno, CA *(Mix?)*	100%			$817
20-Feb	Pleasantville, CA	100%			$0
21-Feb	San Jose, CA *(Mix)*	100%		2	$9,783
24-Feb	Salt Lake City, UT	100%		7	$9,544
25-Feb	Cheyenne, WY	30%	70%	27	$9,672
25-Feb	Jackson, WY	100%		4	$20,789
28-Mar	Jackson, WY	100%		1	$13,492
3-Apr	Denver, CO		100%	2	$447
4-Apr	Jackson, MS		100%	3	$1,047
4-Apr	Kansas City, MO		100%	1	$0
4-Apr	Fayetteville, AR		100%	1	$0
5-Apr	Dallas, TX	100%		21	$4,034
12-Apr	Charleston, WV		100%		$0
12-Apr	Richmond, VA		100%		$0
15-Apr	Grand Rapids, MI	100%		10	$5,770
15-Apr	Collinsville, IL		100%	1	$221
19-Apr	Allentown, WV		100%		$0
19-Apr	Islandia, NY		100%		$126
22-Apr	Ft. Lauderdale, FL		100%		$0
24-Apr	Houston, TX *(State-sponsored)*	100%			$0
25-Apr	Crawford, TX *(State-sponsored)*	100%			$0
2-May	Lansing, MI	100%		13	$4,903
2-May	South Bend, IN		100%	1	$57
9-May	Minneapolis, MN		100%		$0
11-May	Jackson, WY		100%	4	$666
21-May	Boston, MA		100%		$0
24-May	Jackson, WY	100%		8	$9,641
29-May	Nashville, TN		100%		$0
7-Jun	Harrisburg, PA		100%		$0
14-Jun	Columbia, SC		100%		$3,387

REV_00169826

14-Jun	Dallas, TX	100%		5	$11,223
20-Jun	Dayton, OH		100%		$0
20-Jun	Detroit, MI		100%		$0
21-Jun	Cody, WY	100%		3	$5,270
21-Jun	Beaver Creek, CO	100%		4	$8,941
23-Jun	Portland, OR		100%	7	$3,902
28-Jun	Charlotte, NC		100%		$0
20-Jun	Raleigh, NC		100%		$0
1-Jul	Wichita, KS		100%		$0
1-Jul	Dallas, TX		100%		$0
1-Jul	Jackson, WY	100%		8	$15,034
9-Jul	Ft. Bragg, NC	100%		1	$860
15-Jul	Hartford, CT		100%		$0
17-Jul	Atlanta, GA	100%		1	$1,805
18-Jul	Conshohocken, PA		100%		$0
18-Jul	Pittsburgh, PA		100%		$0
19-Jul	Macon, GA		100%		$0
19-Jul	Houston, TX		100%		$0
22-Jul	Montgomery, AL	100%		6	$5,498
22-Jul	Cape Canaveral, FL	100%		7	$4,072
29-Jul	Des Moines, IA		100%	5	$255
29-Jul	Cedar Rapids, IA		100%		$0
29-Jul	Fargo, ND		100%	5	$255
30-Jul	Jackson, WY	100%		15	$104,430
1-Aug	Meeker, CO	Cancelled		1	$1,287
6-Aug	San Francisco, CA	72%	28%	7	$13,202
7-Aug	Fresno, CA		100%		$0
8-Aug	Salt Lake City, UT		100%		$0
8-Aug	Albuquerque, NM		100%		$0
12-Aug	Minneapolis, MN		100%		$0
12-Aug	Waco, TX	100%		7	$6,757
12-Aug	Detroit, MI		100%		$0
13-Aug	Billings, MT		100%		$0
15-Aug	Montgomery, AL		100%		$0
17- Aug	Jackson, WY			3	$1,306
19-Aug	Big Horn, MT	Cancelled			$0
20-Aug	Waco, TX	100%		1	$1,641
26-Aug	Nashville, TN	53%	47%	3	$4,946
29-Aug	San Antonio, TX	100%		3	$2,518
6-Sep	New York, NY	100%		3	$5,447

REV_00169827

18-Sep	New London, CT		100%		$0
19-Sep	Burlington, VT	12%	88%	1	$437
19-Sep	New York, NY		100%		$0
20-Sep	Casper, WY	63%	37%	3	$4,840
20-Sep	Jackson, WY	100%		7	$1,830
23-Sep	Kansas City, MO	100%			$0
26-Sep	Memphis, TN		100%		$0
26-Sep	Dallas, TX		100%		$0
27-Sep	Boise, ID		100%	3	$462
26-Sep	Jackson. WY	100%		8	$11,395
27-Sep	Laramie, WY	100%		4	$761
	Total Costs through 9/30/02				**$475,974**

Presidential Travel FY 2003					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
1-Oct	Tampa, FL				$1,032
2-Oct	Baltimore, MD		100%	0	$0
4-Oct	Boston, MA		100%	0	$0
4-Oct	Kennebunkport, ME	100%		17	$37,055
5-Oct	Manchester, NH	32%	68%	4	$5,704
7-Oct	Cincinnati, OH	100%		10	$20,182
8-Oct	Knoxville, TN		100%	0	$798
14-Oct	Detroit, MI		100%	1	$677
17-Oct	Daytona Beach, FL	59%	41%	6	$9,308
17-Oct	Atlanta, GA		100%	0	$0
18-Oct	Rochester, MN		100%	0	$0
18-Oct	Springfield, MO		100%	0	$0
22-Oct	Chester County, PA		100%	0	$0
22-Oct	Bangore, ME		100%	0	$0
24-Oct	Charlotte, NC		100%	0	$0
24-Oct	Columbia, SC		100%	0	$0
24-Oct	Auburn, AL		100%	0	$0
24-Oct	Waco, TX (State Dept.)	100%		2	$2,168
26-Oct	Cabo San Lucas, Mex (State)	100%		0	$0
27-Oct	Phoenix, AZ (RON)		100%	4	$817
28-Oct	Alamogordo, NM		100%	0	$0
28-Oct	Denver, CO		100%	0	$0
31-Oct	Aberdeen, SD		100%	0	$0

REV_00169828

31-Oct	Southbend, IN		100%	0	$0
31-Oct	Charleston, WV		100%	0	$0
1-Nov	Louisville, KY		100%	0	$0
1-Nov	Portsmouth, NH		100%	0	$0
2-Nov	Johnson City, TN		100%	0	$0
2-Nov	Atlanta, GA		100%	0	$0
2-Nov	Tampa Bay, FL (RON)		100%	0	$0
3-Nov	Springfield, IL		100%	0	$0
3-Nov	Minneapolis, MN		100%	0	$0
3-Nov	South Falls, SD		100%	0	$0
3-Nov	Cedar Rapids, IA (RON)		100%	1	$738
4-Nov	St. Louis, MO		100%	0	$0
4-Nov	Bentonville, AR		100%	0	$0
4-Nov	Dallas, TX		100%	0	$0
4-Nov	Waco, TX (RON)	100%		18	$9,387
27-Nov	Waco, TX (RON)	100%		20	$21,899
3-Dec	Shreveport, LA		100%	0	$0
3-Dec	New Orleans, LA		100%	0	$0
12-Dec	Philadelphia, PA	100%		5	$10,793
26-Dec	Waco, TX (RON)	100%		13	$38,144
3-Jan	Ft. Hood, TX	100%		2	$1,777
7-Jan	Chicago, IL	100%		7	$10,516
16-Jan	Scranton, PA	100%		4	$11,184
22-Jan	St. Louis, MO	100%		7	$12,521
29-Jan	Grand Rapids, MI	100%		8	$12,918
31-Jan	Camp David, MD	100%		5	$646
4-Feb	Houston, TX	100%		6	$8,141
9-Feb	White Sulphur Springs, WV	100%		5	$11,968
10-Feb	Nashville, TN	100%		6	$13,069
13-Feb	Jacksonville, FL	100%		6	$15,211
20-Feb	Atlanta, GA	100%		7	$4,646
20-Feb	Waco, TX (State)	100%		1	$945
4-Mar	Washington, DC	100%		0	$0
5-Mar	Camp Lejeune, NC	100%		3	$5,218
26-Mar	Camp David, MD	100%		7	$350
26-Mar	Tampa Bay, FL	100%		7	$4,541
31-Mar	Philadelphia, PA	100%		5	$1,726
3-Apr	Camp Lejeune, NC	100%		8	$6,968
16-Apr	St. Louis, MO	100%		7	$1,095
16-Apr	Waco, TX	100%		16	$3,972

REV_00169829

20-Apr	Ft. Hood, TX	100%		1	$0
24-Apr	Canton, OH	100%			$0
24-Apr	Lima, OH	100%			$0
28-Apr	Dearborn, MI	100%			$0
	Total Costs Through 09/30/03				**$286,114**

First Lady Travel FY 2003					
		Status		Number	White House
Date	Destination	Official	Political	Of Staff	Travel Cost
1-Oct	Tampa, FL	69%	31%	6	$820
4-Oct	Kennebunkport, ME			2	$210
5-Oct	Portland, ME	100%		3	$1,343
7-Oct	New York, NY	74%	26%	4	$5,625
16-Oct	Dayton, OH	100%		4	$2,281
17-Oct	Mobile, AL	77%	23%	8	$4,226
21-Oct	Boston, MA	100%		4	$6,528
23-Oct	St. Louis, MO	65%	35%	5	$5,610
2-Nov	Atlanta, GA	100%		2	$3,729
2-Nov	Raleigh, NC		100%		$0
2-Nov	Nashua, NH		100%		$0
2-Nov	Des Moines, IA		100%		$0
2-Nov	Minneapolis, MN		100%		$0
2-Nov	Sioux Falls, SD (RON)		100%		$0
3-Nov	Rapid City, SD		100%		$0
4-Nov	Waco, TX			1	$112
12-Nov	New York, NY				$295
16-Jan	New York, NY			1	$547
20-Jan	New York, NY			2	$5,668
4-Feb	Los Angeles, CA			3	$2,369
13-Feb	New York, NY			6	$5,163
19-Feb	Dallas, TX			2	$353
19-Feb	New Orleans, LA			2	$4,883
13-Mar	Austin, TX (RON)		100%	0	$0
8-May	Page, AZ	100%			
8-May	Kayenta, AZ	100%			

REV_00169830

8-May	Phoenix, AZ	100%			
9-May	Santa Fe, NM	100%			
	Total Costs through 09/30/03				**$49,762**

Vice Presidential Travel FY 2003					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
19-Sep	Burlington, VT **FY-02*	12%	88%	1	$21
4-Oct	Atlanta, GA		100%		$0
4-Oct	Warner Robbins, GA		100%		$0
4-Oct	Augusta, GA		100%		$0
7-Oct	Babine, BC, Canada	100%			$0
11-Oct	Colorado Springs, CO	79%	21%	7	$4,738
14-Oct	Roswell, NM		100%		$0
14-Oct	Tulsa, OK		100%		$0
14-Oct	Phoenix, AZ		100%		$0
14-Oct	Midwest City, OK	10%	90%		$0
21-Oct	Portland, ME		100%		$0
21-Oct	Newark, NJ		100%		$0
24-Oct	Dalton, GA	83%	17%	2	$374
24-Oct	Tampa, FL	76%	24%		$939
25-Oct	Philadelphia, PA	100%		1	$1,317
25-Oct	Reading, PA		100%		$1,416
29-Oct	Wilmington, NC		100%	1	$207
30-Oct	Chattanooga, TN		100%		$0
30-Oct	Little Rock, AR		100%		$0
30-Oct	Houston, TX		100%	3	$1,234
31-Oct	Cape Girardeau, MO		100%		$0
31-Oct	Sioux City, IA		100%		$0
31-Oct	Indianapolis, IN		100%		0
1-Nov	Duluth, MN		100%		$0
1-Nov	Rapid City, SD		100%		$0
1-Nov	Denver, CO		100%	1	$1,657
2-Nov	Salt Lake City, UT		100%		$0
2-Nov	Springfield, MO		100%		$0
2-Nov	Jackson Hole, WY		100%	3	$1,369
2-Nov	Albuquerque, NM		100%		$0

REV_00169831

3-Nov	Cheyenne, WY		100%		$0
3-Nov	Gettysburg, SD	100%		1	$6,096
16-Nov	Latrobe, PA	100%		2	$1,535
18-Nov	Monroe, LA		100%		$0
18-Nov	Lafayette, LA		100%		$0
22-Nov	Trappe, MD	100%		4	$594
29-Nov	Jackson Hole, WY	100%		5	$1,135
29-Nov	Casper, WY	100%		2	$1,948
2-Dec	Denver, CO	100%		3	$2,308
5-Dec	Stuttgart, AR	100%		4	$1,928
14-Dec	Jackson Hole, WY	100%		7	$9,417
21-Dec	Jackson Hole, WY	100%		6	$17,927
17-Jan	Albany, GA	100%		4	$3,427
24-Jan	Trappe, MD *(cancelled trip)*				$0
31-Jan	Armstrong, TX	100%		6	$2,002
3-Feb	College Station, TX				$0
6-Feb	White Sulphur Springs, WV	100%		2	$806
9-Feb	Honolulu, HI	100%		8	$1,440
14-Mar	Jackson Hole, WY *(Adv only)*	100%			$0
17-Feb	Jackson Hole, WY	100%		9	$8,137
8-Apr	New Orleans, LA	100%		11	$2,941
22-Apr	Jackson Hole, WY	100%		6	$1,399
6-May	Dallas, TX	100%			$0
	Total Costs through 5/16/03				**$76,312**

Summary: Presidential, First Lady and Vice Presidential travel for FY02 and FY03 (to date).

Principal	Fiscal Year 2002	Fiscal Year 2003 (To date)
President of the United States	**$1,146,388**	**$286,114**
First Lady of the United States	**$77,799**	**$49,762**
Vice President of the United States	**$475,974**	**$76,312**
Totals	**$1,700,161**	**$412,188**

REV_00169832

Presidential Staff Travel (POC – Rothley Howard)

QUESTION 52: Please provide a listing of staff travel not in support of the President for fiscal year 2002 and thus far in fiscal year 2003. For each entry, please include the name of traveler, the destination and purpose of trip, the number of days in travel status, and the trip cost.

RESPONSE: The following tables provide the FY 2002 and year to date FY 2003 staff travel information for the White House Office and the Office of the Vice President.

White House Office FY 2002 Staff Travel					
TRAVELER	**PURPOSE**	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Medina, Sonya	Meetings	Dallas, TX	$419.00	03/15/01	2
McMarlin, Doug	Official	Cincinnati, OH	$115.00	10/01/01	2
Koro	Official	Sacramento, CA	$483.00	10/11/01	11
Carlson-Thies, Stanley	Speaking Engagement	Atlantic City, NJ	$442.87	10/15/01	1
Goldman, Adam	Meetings	Los Angeles, CA	$630.75	10/17/01	4
Hawkins, Albert	Meetings	Reykjavik	$3,699.40	10/20/01	4
Galen, Reed	Official	Manhattan, NY	$299.00	10/25/01	6
Carlson-Thies, Stanley	Speaking Engagement	Austin, TX	$442.53	10/26/01	1
Baralles, Ruben	Speaking Engagement	Oakland, CA	$1,231.00	10/28/01	2
Rorriguez, Noelia	Official	Manhattan, NY	$34.50	10/30/01	1
Moss, Sarah	Official	Manhattan, NY	$34.50	10/30/01	1
Campbell, Thomas	Accompany a Cabinet Head	Boston, MA	$261.50	10/31/01	2
Bartolomucci, H	Official	Lynchburg, VA	$52.93	10/31/01	2
Carlson-Thies, Stanley	Speaking Engagement	Silver Spring, MD	$9.66	11/01/01	1
Lisaius, Kenneth	Meetings	Los Angeles, CA	$561.14	11/02/01	2
Wendel, Matthew	Official	Crawford, TX/Austin, TX	$532.50	11/07/01	11
Carlson-Thies, Stanley	Speaking Engagement	Atlanta, GA	$542.93	11/09/01	2
Henick, Henry	Meetings	Los Angeles, CA	$1,661.14	11/10/01	2
Smith, Matthew	Official	Manhattan, NY	$401.11	11/10/01	1
Bartolomucci, H	Official	Lynchburg, VA	$52.93	11/14/01	2
Giles	Official	Manhattan, NY	$382.24	11/15/01	1
Wilkinson, James	Official	Waco, TX	$60.00	11/16/01	2
Burkhart, Shannon	Official	Waco, TX	$60.00	11/16/01	2
Kleppee, Elizabeth	Official	Salt Lake City, UT	$63.00	11/27/01	1

REV_00169833

Baralles, Ruben	Official	Houston, TX/Sacramento, CA/Santa Fe, NM	$1,524.32	11/28/01	2
Dunn, Debra	Official	Manhattan, NY	$34.50	11/29/01	1
Thompson	Official	Manhattan, NY	$34.50	11/29/01	1
Cobb,Robert	Meetings	Virginia Beach, VA	$298.13	12/04/01	1
Baralles, Ruben	Meetings	Atlanta, GA	$496.00	12/05/01	1
Bartolomucci, H	Official	Lynchburg, VA	$52.93	12/05/01	2
Irastroza, Hector	Meetings	Philadelphia, PA	$202.00	12/05/01	1
Blalock, K	Speaking Engagement	Atlanta, GA	$428.50	12/06/01	1
Goeglein, Tim	Speaking Engagement	Ft. Wayne, IN	$28.00	12/06/01	1
Bartolomucci, H	Official	Lynchburg, VA	$52.93	12/12/01	1
Walker, Helegard	Meetings	Lynchburg, VA	$48.30	12/16/01	2
Baralles, Ruben	Official	Sacramento, CA	$816.50	12/18/01	2
Wendel, Matthew	Official	Camp David, MD	$495.00	12/21/01	16
Bartolomucci, H	Official	Lynchburg, VA	$53.93	12/24/01	1
Hagin, Joseph	Official	Waco, TX	$375.00	12/26/01	12
Christensen	Official	Minneapolis, MN	$383.34	12/27/01	5
Wendel, Matthew	Official	Camp David, MD	$45.00	12/28/01	1
Gonzales,Alberto	Speaking Engagement	Austin, TX	$58.50	01/03/02	3
Purcell, Christopher	Official	Hamilton, OH	$85.00	01/06/02	2
Berenson, Brad	Meetings	Lynchburg, VA	$48.30	01/07/02	2
Hagin, Joseph	Official	Salt Lake City, UT	$175.51	01/09/02	1
Baralles, Ruben	Speaking Engagement	Las Vegas, NV	$95.00	01/10/02	6
Healy, Erin	Official	Anchorage, AK	$63.00	01/14/02	1
Walker, Helegard	Meetings	Lynchburg, VA	$48.30	01/14/02	2
Poole, Kelly	Official	Mamphis, TN	$57.00	01/14/02	1
Jablonka, Chris	Official	New Orleans, LA	$63.00	01/14/02	1
Faraley, Jennifer	Speaking Engagement	Sacramento, CA	$263.00	01/17/02	1
Carlson-Thies, Stanley	Speaking Engagement	Dallas, TX	$931.52	01/18/02	2
Jewett, Eric	Official	Portland, ME	$171.00	01/21/02	1
O'Brien	Official	Atlanta, GA	$247.00	01/25/02	6
Baralles, Ruben	Meetings	Manhattan, NY	$524.39	01/25/02	1
O'Keefe	Official	Winston-Salem. NC	$247.00	01/25/02	6
Berenson, Brad	Meetings	Lynchburg, VA	$51.10	01/28/02	2
Mollman, Marcus	Meetings	Salt Lake City, UT	$1,726.25	01/28/02	31
Carlson-Thies, Stanley	Speaking Engagement	Chicago, IL	$402.42	01/30/02	1
Newstead, Jennifer	Official	Lynchburg, VA	$52.93	01/30/02	2
Ecklekamp	Official	Salt Lake City, UT	$357.00	02/01/02	8
Hughes, William	Official	Salt Lake City, UT	$357.00	02/01/02	8

REV_00169834

Guiterrez	Official	Denver, C0	$229.00	02/04/02	4
Becker, Kathleen	Official	Jackson, WY	$453.78	02/04/02	6
Walker, Helegard	Meetings	Lynchburg, VA	$51.10	02/04/02	2
Jewett, Eric	Official	Milwaukee, WI	$231.00	02/06/02	5
Baralles, Ruben	Meetings	Albuquerque, NM	$605.78	02/07/02	3
Jablonka, Chris	Official	Denver, CO/Jackson, WY/ Idaho Falls, ID	$183.14	02/07/02	3
Brand, Rachel	Meetings	New Haven, CT	$223.61	02/07/02	1
Gottesman, Blake	Official	Waco, TX	$75.00	02/08/02	2
Ecklekamp	Official	Anchorage, AK	$535.50	02/11/02	8
Bartolomucci, H	Official	Lynchburg, VA	$54.93	02/11/02	1
Gonzales,Alberto	Speaking Engagement	Denver, CO	$41.00	02/12/02	1
Francisco, Noel	Official	Lynchburg, VA	$52.93	02/13/02	2
Spagnoli, Debra	Speaking Engagement	Naples, FL	$0.00	02/14/02	3
Walker, Helegard	Speaking Engagement	Charlottesville, VA	$87.60	02/16/02	1
Carlson-Thies, Stanley	Speaking Engagement	Dallas, TX	$667.00	02/18/02	1
Moss, Sarah	Official	Jackson, WY/Los Angeles, CA	$200.00	02/18/02	4
Baralles, Ruben	Meetings	Kansas City, KS	$650.57	02/18/02	1
Ciccone, Christie	Accompany a USG Delegation	Rome, ITA	$1,380.48	02/18/02	5
Baralles, Ruben	Meetings	Key West, FL	$1,720.82	02/21/02	3
Baralles, Ruben	Meetings	Las Vegas, NV	$426.01	02/21/02	2
Walker, Helegard	Meetings	Lynchburg, VA	$52.93	02/27/02	2
Spagnoli, Debra	Speaking Engagement	Los Angeles, CA	$339.00	02/28/02	2
Wendel, Matthew	Official	Camp David, MD	$75.00	03/01/02	2
Goeglein, Tim	Speaking Engagement	Hartford, CT	$77.00	03/01/02	1
Burke, John	Speaking Engagement	Jackson, MS	$10.00	03/01/02	4
Berenson, Brad	Meetings	Lynchburg, VA	$52.93	03/04/02	2
Wendel, Matthew	Official	Camp David, MD	$75.00	03/05/02	2
Bartolomucci, H	Official	Lynchburg, VA	$55.93	03/06/02	1
Hughes, Karen	Speaking Engagement	Palm Springs, CA	$1,113.92	03/07/02	1
Berenson, Brad	Meetings	Lynchburg, VA	$52.93	03/08/02	1
Colby, Chad	Official	Norfolk, VA	$209.66	03/08/02	3
Poole, Kelly	Official	Richmond, VA	$208.20	03/08/02	3
Harden, Alison	Official	Richmond, VA	$161.37	03/08/02	3
Hanusa, Mary Ann	Official	College Station, TX	$1,624.41	03/09/02	4
Chapman	Official	Fayetteville, NC	$153.00	03/11/02	4

REV_00169835

Francisco, Noel	Official	Lynchburg, VA	$52.93	03/11/02	2
Ecklekamp	Official	St. Louis, MO	$299.00	03/13/02	6
Zanca, Bruce	Meetings	Washington DC	$315.55	03/15/02	1
Langley	Official	El Paso, TX	$247.00	03/16/02	6
O'Keefe	Official	Atlanta, GA	$265.00	03/22/02	6
Brand, Rachael	Meetings	Cedar Rapids, IA	$445.20	03/24/02	1
Wendel, Matthew	Official	Austin, TX/Waco, TX	$201.00	03/25/02	6
Camp. Elizabeth	Official	Dallas, TX	$161.00	03/25/02	3
Sampson, Kyle	Official	Lynchburg, VA	$52.93	03/25/02	2
Godfrey, Georgia	Official	Atlanta, GA/Waco, TX/Greenville, SC	$135.00	03/27/02	4
Walker, Helegard	Meetings	Lynchburg, VA	$109.93	03/27/02	1
Thompson	Official	Philadelphia, Pa	$375.00	03/27/02	8
Gottesman, Blake	Official	Waco, TX	$135.00	03/27/02	4
Gottesman, Blake	Official	Waco, TX	$165.00	04/04/02	5
Gottesman, Blake	Official	Waco, TX	$135.00	04/04/02	4
Wendel, Matthew	Official	Waco, TX	$105.00	04/04/02	3
Heiligenstein, Anne	Meetings	Boston, MA	$330.82	04/05/02	1
Goeglein, Tim	Speaking Engagement	Orlando, FL/Tampa, FL	$935.14	04/06/02	2
Baralles, Ruben	Meetings	Knoxville, TN	$392.94	04/07/02	1
Baralles, Ruben	Meetings	Denver. CO/Las Vegas, NV	$426.01	04/11/02	2
Wendel, Matthew	Official	Camp David, MD	$135.00	04/12/02	4
Wendel, Matthew	Official	Camp David, MD	$75.00	04/12/02	2
Baralles, Ruben	Meetings	Boston, MA	$150.50	04/15/02	1
Berenson, Brad	Meetings	Lynchburg, VA	$52.93	04/15/02	2
Goeglein, Tim	Meetings	Manhattan, NY	$409.30	04/15/02	1
Carlson-Thies, Stanley	Speaking Engagement	Oakland, CA/Seattle, WA	$956.54	04/16/02	1
Francisco, Noel	Official	Lynchburg, VA	$52.93	04/17/02	2
Sampson, Kyle	Official	Lynchburg, VA	$52.93	04/17/02	2
Wendel, Matthew	Official	Camp David, MD	$75.00	04/19/02	6
Wendel, Matthew	Official	Austin, TX/Waco, TX	$264.00	04/23/02	4
Walker, Helegard	Official	Lynchburg, VA	$52.93	04/23/02	1
Deckard, Josh	Official	Los Angeles, CA/Waco, TX	$223.00	04/24/02	6
McClellan, Scott	Official	Los Angeles, CA/Waco, TX	$223.00	04/24/02	6
Christie, Ronald	Speaking Engagement	Jackson, MS	$453.78	04/26/02	1
Goeglein, Tim	Meetings	Philadelphia, PA	$384.00	04/26/02	1
Rove, Karl	Meetings	San Marcos, TX	$45.00	04/27/02	1
Bartolomucci, H	Official	Lynchburg, VA	$56.93	04/29/02	1
Spagnoli, Debora	Meetings	San Jose, CA	$521.50	04/29/02	1
Spagnoli, Debora	Meetings	Tampa, FL	$537.62	04/30/02	1
Wendel, Matthew	Official	Camp David, MD	$45.00	05/03/02	6

Towey, Jim	Speaking Engagement	Miami, FL	$697.17	05/07/02	1
Francisco, Noel	Official	Lynchburg, VA	$52.93	05/08/02	2
Wendel, Matthew	Official	Camp David, MD	$75.00	05/10/02	12
Johnson, Clay	Speaking Engagement	College Station, TX	$60.00	05/10/02	1
Alberto, Gonzales	Official	Houston, TX	$83.00	05/10/02	2
Sampson, Kyle	Official	Lynchburg, VA	$52.93	05/13/02	2
Benyon, Rebecca	Speaking Engagement	New Orleans, LA	$686.00	05/13/02	1
Walker, Helegard	Official	Lynchburg, VA	$52.93	05/15/02	1
Wendel, Matthew	Official	Camp David, MD	$75.00	05/17/02	1
Baralles, Ruben	Meetings	Manhattan, NY/Phoenix, AZ	$458.00	05/21/02	1
Towey, Jim	Speaking Engagement	Atlanta, GA	$679.02	05/23/02	1
Johnson, Clay	Speaking Engagement	Birmingham, AL	$134.00	05/25/02	2
Ozburn, Charles	Official	West Point, NY	$221.00	05/26/02	6
Bourns	Official	Little Rock, AR	$255.00	05/27/02	7
Francisco, Noel	Official	Lynchburg, VA	$58.93	05/27/02	2
Jewett, Eric	Official	Little Rock, AR	$187.00	05/29/02	5
Kuo, David	Speaking Engagement	Pittsburg, PA	$732.94	05/29/02	1
Alix, Cathy	Official	Philadelphia, Pa	$210.00	05/30/02	1
Goldman, Adam	Speaking Engagement	Albuquerque, NM/Las Vegas, NV/Los Angeles, CA	$605.50	05/31/02	10
Wendel, Matthew	Official	Camp David, MD	$75.00	05/31/02	6
Campbell, Thomas	Invitational	Washington, DC	$1,007.50	05/31/02	
Hughes, William	Official	Des Moines, IA	$187.00	06/02/02	5
Chapman	Official	Des Moines, IA	$187.00	06/02/02	5
Fleischer, Ari	Meetings	Manhattan, NY	$358.56	06/02/02	1
Newstead, Jennifer	Meetings	Lynchburg, VA	$52.93	06/03/02	2
Newstead, Jennifer	Official	Lynchburg, VA	$52.93	06/03/02	1
Whitelaw, Amy	Official	Kansas City, KS	$273.00	06/06/02	6
Wendel, Matthew	Official	Camp David, MD	$75.00	06/07/02	2
Bartolomucci, H	Official	El Paso, TX	$553.42	06/07/02	1
Baralles, Ruben	Speaking Engagement	Ft. Meyers, FL	$342.50	06/07/02	1
White, J	Speaking Engagement	Salt Lake City, UT	$368.00	06/10/02	1
Jewett, Eric	Official	Atlanta, GA	$247.00	06/11/02	6
Wendel, Matthew	Official	Crawford, TX	$331.00	06/11/02	6
Baralles, Ruben	Meetings	Los Angeles, CA/Modesto, CA	$922.53	06/12/02	3
Sampson, Kyle	Official	Lynchburg, VA	$52.93	06/12/02	2
Atkiss, Stephen	Official	Waco, TX	$165.00	06/12/02	5

REV_00169837

Francisco, Joel	Meetings	New Orleans, LA	$760.68	06/13/02	1
Brand, Rachael	Official	Minneapolis, MN	$878.00	06/14/02	1
Suncarger, Rachael	Official	Waco, TX	$105.00	06/14/02	3
McClellan, Scott	Official	Waco, TX	$105.00	06/14/02	3
Walker, Helegard	Official	Lynchburg, VA	$52.93	06/17/02	2
Baralles, Ruben	Meetings	Madison. WI	$456.00	06/17/02	1
Spagnoli, Debra	Speaking Engagement	Pittsburg, PA	$700.14	06/19/02	1
Benyon, Rebecca	Speaking Engagement	Brooklyn, NY	$148.50	06/21/02	1
White, J	Speaking Engagement	Charlotte, NC	$312.93	06/21/02	1
Spagnoli, Debora	Meetings	Phoenix, AZ/Scottsdale, AZ	$1,223.50	06/21/02	4
Farley, Jennifer	Official	Providence, RI	$238.80	06/22/02	1
Bartolomucci, H	Official	Lynchburg, VA	$57.93	06/24/02	1
Westline, Lezlee	Meetings	San Francisco, CA/Seattle, WA	$1,177.23	06/25/02	4
Francisco, Noel	Official	Lynchburg, VA	$58.93	06/26/02	2
Baralles, Ruben	Speaking Engagement	Albuquerque, NM	$622.02	06/27/02	2
Wendel, Matthew	Official	Crawford, TX	$185.00	06/28/02	2
Nelson, Carolyn	Official	Ripley, WV	$165.00	06/29/02	5
Bartolomucci, H	Official	Lynchburg, VA	$58.93	07/11/02	1
Wendel, Matthew	Official	Crawford, TX	$75.00	07/12/02	2
Ciliberti, Eric	Meetings	New Orleans, LA	$997.21	07/12/02	3
Spagnoli, Debra	Meetings	Boise, ID	$767.26	07/14/02	1
Baralles, Ruben	Meetings	New Orleans, LA	$690.07	07/14/02	1
Walker, Helegard	Official	Lynchburg, VA	$52.93	07/16/02	1
Hobbs, David	Meetings	London, GBR/FRA	$1,559.72	07/18/02	5
White, J	Speaking Engagement	Los Angeles, CA	$416.50	07/20/02	1
Evans, Kendell	Official	Charleston, SC	$273.00	07/23/02	6
Hill, David	Official	Charleston, SC	$273.00	07/23/02	6
White, J	Speaking Engagement	Cleveland, OH/Minneapolis, MN	$1,059.88	07/23/02	1
Ciliberti, Eric	Meetings	Denver, CO	$704.12	07/23/02	3
Baralles, Ruben	Meetings	Denver, CO/Orlando, FL	$944.57	07/23/02	2
Francisco, Noel	Official	Lynchburg, VA	$58.93	07/24/02	2
Thomas, Juileanne	Official	Manhattan, NY	$143.50	07/24/02	1
Goldman, Adam	Meetings	Atlanta, GA	$124.50	07/28/02	1
Heilglienstein, Ann	Meetings	MexicoCity, MEX	$1,076.36	07/28/02	3
Lineweaver, Lindsey	Official	Lubbock, TX	$215.00	07/29/02	6
Sampson, Kyle	Meetings	Lynchburg, VA	$52.93	07/29/02	2
Garrison, Sarah	Meetings	Boston, MA	$431.35	07/30/02	1
Baralles, Ruben	Meetings	Ausitn, TX	$398.00	08/01/02	1

Baralles, Ruben	Meetings	Austin, TX	$398.00	08/01/02	1
Beyer, Leslie	Official	Waco, TX	$405.00	08/01/02	13
Blaylock, Kirk	Official	Waco, TX	$45.00	08/01/02	1
Baralles, Ruben	Speaking Engagement	Hershey, PA	$209.00	08/03/02	1
Sampson, Kyle	Official	Lynchburg, VA	$52.93	08/05/02	2
Deservi, Robert	Meetings	Manhattan, NY	$564.00	08/05/02	2
Baralles, Ruben	Meetings	Ft Lauderdale, FL	$638.00	08/06/02	2
Baralles, Ruben	Meetings	Orlando, FL	$1,080.50	08/06/02	3
Dickens, Reed	Official	Waco, TX	$555.00	08/06/02	18
McClellan, Scott	Official	Waco, TX	$225.00	08/06/02	7
Beyer, Leslie	Official	Waco, TX	$315.00	08/06/02	10
Jablonka, Chris	Official	Waco, TX	$410.79	08/11/02	14
Dayspring, Brad	Official	Des Moines, IA	$59.50	08/13/02	2
Ciliberti, Eric	Conference Attendance	New Orleans, LA	$561.13	08/13/02	1
Garrison, Sarah	Official	Waco, TX	$75.00	08/13/02	2
Towey, Jim	Speaking Engagement	Charleston, WV	$827.27	08/15/02	1
McArthur, David	Official	Waco, TX	$315.00	08/15/02	10
Dayspring, Brad	Official	Waco, TX	$525.00	08/15/02	17
Bilbao, Thomas	Official	Las Cruces, NM	$195.00	08/19/02	6
Echols, Sarah	Official	Las Cruses, NM	$165.00	08/19/02	5
Alberto, Gonzales	Official	Monterey, CA	$605.00	08/19/02	11
Calio, Nicholas	Official	Hanoi, VIE/Honolulu, HI	$1,960.34	08/20/02	11
Pitts, Greg	Official	Las Cruces, NM	$165.00	08/20/02	5
White, J	Speaking Engagement	Ft. Lauderdale, FL	$658.79	08/25/02	1
Towey, Jim	Speaking Engagement	Memphis, TN	$1,043.05	08/28/02	1
Towey, Jim	Speaking Engagement	Philadelphia, PA	$225.25	08/28/02	1
Ellis, Joe	Official	Louisville, KY	$285.00	08/29/02	7
Slade, Winfield	Official	Louisville, KY	$285.00	08/29/02	7
Fificos, George	Official	Louisville, KY	$358.22	08/30/02	6
Pfeifle, Lauren	Official	South Bend, IN	$221.00	08/30/02	6
Krenan, Robert	Official	South Bend, IN	$221.00	08/30/02	6
Leadroot, Phil	Official	South Bend, IN	$221.00	08/30/02	6
Walters Greg	Official	Minneapolis, MN	$69.00	09/02/02	1
White, J	Speaking Engagement	Manhattan, NY/Kansas City, KS	$959.66	09/03/02	2
Towey, Jim	Speaking Engagement	Naples, FL/Orlando, FL	$1,025.63	09/03/02	2
Newstead, Jennifer	Meetings	Lynchburg, VA	$52.93	09/04/02	2
Sforza, Scott	Meetings	Manhattan, NY	$437.00	09/04/02	9
Christie, Ronald	Speaking Engagement	Manhattan, NY	$226.70	09/05/02	1

REV_00169839

Hagin, Joseph	Official	Manhattan, NY	$892.00	09/08/02	1
Pfeifle, Lauren	Official	Pittsburg, PA	$69.00	09/10/02	1
Leadroot, Phil	Official	Pittsburg, PA	$69.00	09/10/02	1
Sampson, Kyle	Official	Lynchburg, VA	$52.93	09/11/02	2
Ellis, Joe	Official	Davenport, IA	$135.00	09/12/02	4
Gonzales, Alberto	Meetings	Austin, TX	$276.00	09/13/02	2
Kozberg, Lindsey	Meetings	Los Angeles, CA	$520.31	09/13/02	1
Deckard, Josh	Official	Pittsburg, PA	$34.50	09/13/02	1
Walker, Helegard	Official	Lynchburg, VA	$58.93	09/16/02	2
White, J	Speaking Engagement	Baltimore, MD	$43.29	09/19/02	1
Ciliberti, Eric	Speaking Engagement	Cedar Rapids, IA	$317.00	09/19/02	1
Baralles, Ruben	Speaking Engagement	Chicago, IL	$458.88	09/20/02	1
Towey, Jim	Speaking Engagement	Wintergreen, VA	$203.14	09/20/02	2
Towey, Jim	Speaking Engagement	Columbus, OH	$369.50	09/23/02	1
Burke, John	Official	Milwaukee, WI	$626.29	09/23/02	1
Francisco, Noel	Official	Lynchburg, VA	$58.93	09/25/02	2
Goeglein, Tim	Speaking Engagement	Orange County, CA	$42.00	09/25/02	2
sechser, Scott	Official	Waco, TX	$466.50	09/25/02	1
White, J	Speaking Engagement	Raleigh, NC	$499.38	09/26/02	1
Kuo, David	Speaking Engagement	Pittsburg, PA	$872.83	09/27/02	2
Kelly, Jim	Speaking Engagement	Boston, MA	$257.92	09/28/02	1
Bridgeland, John	Speaking Engagement	Manhattan, NY	$39.70	09/30/02	1
DeServi, Robert	Official	San Francisco, CA	$1,306.54	10/15/02	3
		Total	**$98,605.86**		

White House Office FY 2003 Staff Travel					
TRAVELER	**PURPOSE**	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Westine, Lezlee	Meeting	Manhattan,NY	$345.10	10/01/02	1
Ciliberti, Eric	Meeting	Chicago, IL	$327.30	10/02/02	1
Burke, John	Speaking Engagement	Columbus, OH	$434.21	10/02/02	1
Francisco, Noel	Speaking Engagement	Syracuse, NY	$700.50	10/04/02	3

Christie, Ronald	Speaking Engagement	Atlanta, GA	$626.00	10/05/02	2
Samson, Kyle	Official	Lynchburg, VA	$52.93	10/07/02	2
Beynon, Rebecca	Speaking Engagement	Orlando, FL	$1,708.38	10/07/02	4
Stecher, Jennifer	Meeting	Atlanta, GA	$1,105.34	10/08/02	3
Barrales, Ruben	Speaking Engagement	Portsmouth, NH	$365.00	10/08/02	1
Hawkins, Albert	Meeting	Hague	$1,817.68	10/09/02	4
Kuo, David	Meeting	Atlanta, GA	$880.36	10/09/02	2
Ryun, Catherine	Meeting	Atlanta, GA	$893.36	10/09/02	2
Towey, Jim	Meeting	Atlanta, GA	$336.93	10/09/02	1
Click, Carrie	Meeting	Atlanta, GA	$1,001.35	10/09/02	2
Streeter, Ryan	Meeting	Atlanta, GA	$937.28	10/09/02	2
Ayyar, Balan	Meeting	Atlanta, GA	$893.36	10/09/02	2
White, Jeremy	Meeting	Atlanta, GA	$659.58	10/09/02	2
Ciliberti, Eric	Speaking Engagement	Sioux Falls Naval, SD	$722.96	10/09/02	2
Zanca, Bruce	Meeting	Washington, DC	$95.50	10/09/02	1
Kozberg, Lindsey	Meeting	Manhattan,NY	$164.10	10/10/02	1
Garrison, Stephen	Meeting	Naples, FL	$819.61	10/10/02	1
Bridgeland, John	Speaking Engagement	Ft. Lauderdale, FL	$1,010.59	10/10/02	1
Rowe, Ian	Speaking Engagement	Ft. Lauderdale, FL	$838.72	10/10/02	1
Burke, John	Speaking Engagement	Milwaukee, WI	$553.75	10/13/02	1
Sforza, Scott	Meeting	Daytona Beach, FL	$826.00	10/14/02	3
Bartolomucci, Chris	Official	Lynchburg, VA	$52.93	10/16/02	2
Towey, Jim	Meeting	Manhattan,NY	$448.06	10/17/02	1
Barrales, Ruben	Meeting	Philadelphia, PA	$188.00	10/17/02	1
Smith, Matthew	Meeting	Manhattan,NY	$445.38	10/17/02	1
Goeglein, Tim	Speaking Engagement	Indianapolis, IN	$58.00	10/17/02	1
Gonzales, Alberto	Speaking Engagement	Atlanta, GA	$41.00	10/19/02	1
Click, Carrie	Speaking Engagement	San Antonio, TX	$571.71	10/20/02	1
Ciliberti, Eric	Meeting	Des Moines, IA	$1,111.05	10/20/02	2

Francisco, Noel	Official	Lynchburg, VA	$58.93	10/21/02	2
Sechser, Scott	Official	Waco, TX	$934.65	10/22/02	1
Newstead, Jennifer	Meeting	Lynchburg, VA	$52.93	10/23/02	1
Goeglein, Tim	Meeting	Chicago, IL	$94.00	10/23/02	1
Towey, Jim	Speaking Engagement	St. Louis, MO	$773.64	10/24/02	1
White, Jeremy	Speaking Engagement	Los Angeles, CA	$667.83	10/24/02	2
Bridgeland, John	Meeting	Charlotte, NC	$976.47	10/24/02	1
Barrales, Ruben	Meeting	Los Angeles, CA	$385.50	10/24/02	1
Francisco, Noel	Official	Lynchburg, VA	$58.93	10/28/02	2
Towey, Jim	Meeting	Charlotte, NC	$823.42	10/28/02	1
Rowe, Ian	Meeting	Cleveland, OH	$818.17	10/28/02	2
Barrales, Ruben	Meeting	Providence, RI	$0.00	10/28/02	1
Towey, Jim	Speaking Engagement	Pittsburgh, PA	$758.56	10/29/02	1
Sechser, Scott	Official	Waco, TX	$888.79	10/31/02	1
Towey, Jim	Meeting	Miami, FL	$799.27	11/05/02	1
Contreras, Rebecca	Meeting	West Point, NY	$442.41	11/07/02	2
Kozberg, Lindsey	Meeting	Providence, RI	$677.18	11/07/02	1
Bridgeland, John	Speaking Engagement	Providence, RI	$698.18	11/07/02	1
Barrales, Ruben	Speaking Engagement	Los Angeles, CA	$785.40	11/07/02	3
Johnson, Clay	Meeting	Manhattan,NY	$139.50	11/08/02	1
Farley, Jennifer	Speaking Engagement	San Diego, CA	$230.81	11/10/02	1
Ciliberti, Eric	Speaking Engagement	Reno, NV	$831.97	11/11/02	2
Bartolomucci, Chris	Official	Lynchburg, VA	$52.93	11/12/02	1
Berenson, Bradford	Official	Lynchburg, VA	$52.93	11/13/02	1
Burke, John	Meeting	Charlotte, NC	$776.00	11/13/02	1
Kelly, Jim	Speaking Engagement	Lansing, MI	$438.79	11/13/02	1
Barrales, Ruben	Speaking Engagement	Manchester, NH	$463.00	11/13/02	1
Towey, Jim	Speaking Engagement	Portland, OR	$705.10	11/14/02	2
Spagnoli, Deborah	Meeting	Austin, TX	$1,006.00	11/16/02	14
Spagnoli,	Meeting	Austin, TX	$995.47	11/16/02	14

Deborah					
Christie, Ronald	Speaking Engagement	Albany, NY	$752.56	11/18/02	1
Ciliberti, Eric	Speaking Engagement	Portland, OR	$410.50	11/18/02	1
Towey, Jim	Speaking Engagement	Newark, NJ	$520.92	11/19/02	1
Rowe, Ian	Meeting	Manhattan,NY	$325.02	11/20/02	2
Kelly, Jim	Speaking Engagement	Tallahassee, FL	$453.79	11/20/02	1
Burke, John	Speaking Engagement	Concord, NH	$1,040.22	11/20/02	2
Bridgeland, John	Meeting	Manhattan,NY	$157.50	11/21/02	1
Barrales, Ruben	Meeting	Los Angeles, CA	$683.49	11/21/02	3
Brancato, Keith	Meeting	Loudoun County, VA	$17.16	11/21/02	1
Bartolomucci, Chris	Speaking Engagement	West Palm Beach, FL	$661.45	11/22/02	2
Ciliberti, Eric	Speaking Engagement	Springfield, MO	$619.13	11/24/02	1
Goldman, Adam	Speaking Engagement	Ft. Lauderdale, FL	$129.00	11/24/02	1
Garrison, Stephen	Meeting	Manhattan,NY	$454.36	11/25/02	1
Bridgeland, John	Speaking Engagement	Manhattan,NY	$369.50	11/25/02	1
Sechser, Scott	Official	Waco, TX	$913.45	11/25/02	1
Kelly, Jim	Speaking Engagement	Hershey, PA	$107.18	11/26/02	1
Burke, John	Meeting	New Orleans, LA	$1,254.32	12/01/02	4
Spagnoli, Deborah	Official	Ft. Lauderdale, FL	$1,242.99	12/01/02	4
Ralston, Susan	Official	Manhattan,NY	$85.00	12/02/02	1
Kelly, Jim	Speaking Engagement	Augusta Naval Ctr, ME	$815.35	12/02/02	1
Bartolomucci, Chris	Official	Jacksonville, Fl	$616.00	12/03/02	1
Ciliberti, Eric	Speaking Engagement	Pensacola, FL	$436.00	12/03/02	1
Towey, Jim	Speaking Engagement	Tallahassee, FL	$559.31	12/04/02	2
Kelly, Jim	Speaking Engagement	Lexington, KY	$390.00	12/04/02	1
Stecher, Jennifer	Meeting	Philadelphia, PA	$259.50	12/06/02	1

REV_00169843

Goeglein, Tim	Speaking Engagement	Ft. Wayne, IN	$53.50	12/06/02	1
Barrales, Ruben	Speaking Engagement	Richmond, VA	$104.50	12/07/02	1
Kavanaugh, Brett	Meeting	Manhattan,NY	$293.74	12/09/02	1
Francisco, Noel	Official	Lynchburg, VA	$52.93	12/09/02	1
Stecher, Jennifer	Meeting	Philadelphia, PA	$979.38	12/09/02	4
Kelly, Jim	Speaking Engagement	Nashville, TN	$575.00	12/09/02	1
Newstead, Jennifer	Meeting	Manhattan,NY	$216.60	12/10/02	1
Ciliberti, Eric	Speaking Engagement	Duluth,, MN	$675.28	12/10/02	1
Newstead, Jennifer	Official	Lynchburg, VA	$52.93	12/11/02	2
Streeter, Ryan	Meeting	Philadelphia, PA	$407.52	12/11/02	1
White, Jeremy	Meeting	Philadelphia, PA	$360.02	12/11/02	1
Click, Carrie	Meeting	Philadelphia, PA	$423.52	12/11/02	1
Ryun, Catherine	Meeting	Philadelphia, PA	$399.86	12/11/02	1
Kuo, David	Speaking Engagement	Philadelphia, PA	$370.02	12/11/02	1
Kuo, David	Speaking Engagement	Philadelphia, PA	$216.00	12/11/02	1
Christie, Ronald	Meeting	Indianapolis, IN	$803.40	12/11/02	1
Rowe, Ian	Meeting	Norfolk, VA	$775.50	12/17/02	1
Bartolomucci, Chris	Meeting	West Palm Beach, FL	$123.51	12/20/02	8
Samson, Kyle	Meeting	Salt Lake City, UT	$949.00	01/01/03	3
Deservi, Robert	Official	Chicago, IL	$311.00	01/02/03	5
Kelly, Jim	Official	Reno, NV	$1,133.11	01/05/03	3
Burke, John	Official	Chicago, IL	$662.22	01/05/03	2
Goldman, Adam	Meeting	Manhattan,NY	$439.36	01/07/03	1
Barrales, Ruben	Meeting	Augusta Naval Ctr, ME	$605.49	01/08/03	1
Farley, Jennifer	Meeting	Albuquerque, NM	$778.68	01/09/03	5
Stecher, Jennifer	Meeting	Denver, CO	$1,102.60	01/10/03	4
Deservi, Robert	Meeting	Tampa, FL	$511.00	01/11/03	1

REV_00169844

Sforza, Scott	Meeting	Tampa, FL	$435.00	01/11/03	1
Beynon, Rebecca	Meeting	Denver, CO	$1,442.21	01/11/03	3
Kuo, David	Meeting	Denver, CO	$1,269.14	01/12/03	2
Streeter, Ryan	Meeting	Denver, CO	$660.64	01/12/03	2
Click, Carrie	Meeting	Denver, CO	$713.14	01/12/03	2
White, Jeremy	Meeting	Denver, CO	$902.07	01/12/03	1
Ayyar, Balan	Meeting	Denver, CO	$667.14	01/12/03	2
Towey, Jim	Meeting	Denver, CO	$1,082.49	01/12/03	1
Barrales, Ruben	Meeting	Salem Naval Ctr, OR	$370.00	01/12/03	1
Samson, Kyle	Official	Lynchburg, VA	$52.93	01/15/03	2
Goeglein, Tim	Meeting	Manhattan,NY	$105.00	01/19/03	1
Gonzales, Alberto	Speaking Engagement	Austin, TX	$83.00	01/20/03	2
Bartolomucci, Chris	Official	Lynchburg, VA	$52.93	01/21/03	1
Samson, Kyle	Meeting	Manhattan,NY	$496.97	01/21/03	1
Ciliberti, Eric	Speaking Engagement	Des Moines, IA	$416.04	01/21/03	1
Barrales, Ruben	Speaking Engagement	Oakland, CA	$0.00	01/23/03	2
Towey, Jim	Speaking Engagement	Chicago, IL	$940.07	01/26/03	2
Click, Carrie	Speaking Engagement	Norfolk, VA	$474.88	01/26/03	1
Samson, Kyle	Meeting	Manhattan,NY	$1,381.21	01/28/03	3
Rowe, Ian	Meeting	Las Vegas, NV	$804.11	01/31/03	3
Goeglein, Tim	Meeting	Manhattan,NY	$404.70	02/03/03	1
Goeglein, Tim	Meeting	Manhattan,NY	$106.50	02/03/03	1
Towey, Jim	Speaking Engagement	Boston, MA	$575.79	02/06/03	1
Smith, Matthew	Meeting	Nashville, TN	$635.50	02/09/03	1
Walker, Helgard	Official	Lynchburg, VA	$52.93	02/10/03	2
Kelly, Jim	Speaking Engagement	Little Rock, AR	$875.33	02/10/03	1
Towey, Jim	Meeting	Tallahassee, FL	$562.25	02/11/03	1
Stecher, Jennifer	Meeting	San Diego, CA	$894.88	02/13/03	6
Ryun, Catherine	Conference Attendance	San Diego, CA	$950.32	02/15/03	4
Beynon, Rebecca	Speaking Engagement	San Diego, CA	$1,758.60	02/15/03	4
Bridgeland, John	Meeting	Cincinnati, OH	$512.10	02/19/03	3
Powell, Ben	Meeting	Montgomery, AL	$607.11	02/20/03	1

REV_00169845

White, Jeremy	Speaking Engagement	Baton Rouge, LA	$968.15	02/20/03	1
Francisco, Noel	Meeting	Lynchburg, VA	$52.93	02/24/03	2
Kelly, Jim	Meeting	Santa Fe, NM	$823.57	02/24/03	2
White, Jeremy	Speaking Engagement	Houston, TX	$746.84	02/27/03	1
Christie, Ronald	Meeting	Miami, FL	$785.37	02/27/03	3
Barrales, Ruben	Meeting	Portland, OR	$0.00	02/28/03	2
Watkins, Peter	Meeting	Newport News, VA	$63.00	03/05/03	1
Samson, Kyle	Official	Lynchburg, VA	$52.93	03/05/03	1
Towey, Jim	Speaking Engagement	Minneapolis, MN	$745.00	03/06/03	1
Everson, Nannette	Meeting	King of Prussia, PA	$773.94	03/10/03	2
White, Jeremy	Speaking Engagement	Raleigh, NC	$348.85	03/11/03	1
Beynon, Rebecca	Meeting	Chicago, IL	$804.20	03/12/03	4
Stecher, Jennifer	Meeting	Chicago, IL	$757.06	03/12/03	2
Graham, Heather	Meeting	Philadelphia, PA	$341.00	03/12/03	2
White, Jeremy	Meeting	Chicago, IL	$365.72	03/13/03	1
Towey, Jim	Meeting	Chicago, IL	$476.20	03/13/03	1
Streeter, Ryan	Meeting	Chicago, IL	$431.10	03/13/03	1
Ryun, Catherine	Meeting	Chicago, IL	$452.15	03/13/03	1
Ayyar, Balan	Meeting	Chicago, IL	$453.10	03/13/03	1
Grace, Dennis	Meeting	Chicago, IL	$427.10	03/13/03	1
Loovis, Katie	Meeting	Chicago, IL	$391.50	03/14/03	1
Bridgeland, John	Speaking Engagement	Charlottesville, VA	$155.87	03/14/03	1
Kelly, Jim	Speaking Engagement	Montgomery, AL	$576.37	03/14/03	1
White, Jeremy	Speaking Engagement	Charlotte, NC	$868.87	03/16/03	1
Bridgeland, John	Speaking Engagement	Columbus, OH	$279.50	03/17/03	1
Francisco, Noel	Official	Lynchburg, VA	$52.93	03/19/03	2
White, Jeremy	Speaking Engagement	Harford County, MD	$12.25	03/21/03	1
White, Jeremy	Speaking Engagement	Atlanta, GA	$281.50	03/24/03	1
Beynon, Rebecca	Meeting	Philadelphia, PA	$198.00	03/25/03	1

REV_00169846

Graham, Heather	Meeting	Philadelphia, PA	$241.50	03/25/03	1
Bridgeland, John	Meeting	Philadelphia, PA	$201.00	03/25/03	1
Burke, John	Meeting	Lansing, MI	$438.50	03/25/03	1
Samson, Kyle	Official	Lynchburg, VA	$52.93	03/26/03	2
Towey, Jim	Speaking Engagement	Princeton, NJ	$329.88	03/26/03	1
Ciliberti, Eric	Speaking Engagement	Columbus, OH	$891.00	03/26/03	1
Christie, Ronald	Speaking Engagement	Jackson, MS	$498.57	03/27/03	1
Kelly, Jim	Meeting	Las Vegas, NV	$1,096.72	03/27/03	2
Towey, Jim	Speaking Engagement	Los Angeles, CA	$527.61	03/29/03	1
Kuo, David	Speaking Engagement	Pittsburgh, PA	$735.76	03/29/03	2
Powell, Ben	Official	Lynchburg, VA	$52.93	03/31/03	2
Bartolomucci, Chris	Official	Lynchburg, VA	$52.93	04/02/03	2
Towey, Jim	Meeting	Manhattan,NY	$166.00	04/02/03	1
Christie, Ronald	Speaking Engagement	Nashville, TN	$756.88	04/03/03	1
Kelly, Jim	Official	Philadelphia, PA	$84.71	04/03/03	1
Lyons, Therese	Speaking Engagement	Atlantic City, NJ	$231.16	04/04/03	1
Towey, Jim	Speaking Engagement	Tallahassee, FL	$547.29	04/06/03	2
Burke, John	Speaking Engagement	Hershey, PA	$221.14	04/06/03	1
Stecher, Jennifer	Meeting	Houston, TX	$806.00	04/08/03	1
White, Jeremy	Speaking Engagement	Albuquerque, NM	$469.88	04/08/03	1
Gonzales, Alberto	Speaking Engagement	Denver, CO	$38.50	04/11/03	1
Ojaklu, Zaid	Official	Elmendorf, AK	$2,998.75	04/12/03	7
White, Jeremy	Speaking Engagement	Detroit, MI	$965.87	04/13/03	3
Deservi, Robert	Meeting	St. Louis, MO	$759.00	04/14/03	2
Barrales, Ruben	Speaking Engagement	Jefferson City, MO	$749.00	04/14/03	1
Bridgeland, John	Meeting	Manhattan,NY	$630.67	04/15/03	1
Recher, Jason	Meeting	Dayton, OH	$365.00	04/22/03	2
Guerra, Abel	Official	San Jose, CA	$633.79	04/22/03	2
Burke, John	Speaking Engagement	Houston, TX	$510.91	04/23/03	1

REV_00169847

Towey, Jim	Speaking Engagement	Atlanta, GA	$409.35	04/24/03	1
White, Jeremy	Speaking Engagement	Houston, TX	$1,080.35	04/24/03	2
Kelly, Jim	Meeting	Albuquerque, NM	$685.70	04/24/03	2
Towey, Jim	Speaking Engagement	Bridgeport, CT	$642.50	04/27/03	1
Ralston, Susan	Meeting	Chicago, IL	$50.00	05/01/03	2
Beynon, Rebecca	Speaking Engagement	Baton Rouge, LA	$800.85	05/05/03	1
White, Jeremy	Speaking Engagement	Portland, OR	$410.29	05/05/03	1
		Travel	**$117,171.05**		

Office of the Vice President FY 2002 Staff Travel					
TRAVELER	**PURPOSE**	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Ravich, Samantha	Meetings	London, GBR	$2,124.92	07/14/02	3
Yates, Stephen	Official	Monterey, CA	$887.90	07/15/02	2
		Total	**$3,012.82**		

Office of the Vice President FY 2003 Staff Travel					
PURPOSE/ Traveler	**PURPOSE**	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Makiya, Kenan	Invitational	Washington DC	$778.00	10/18/02	1
Ravich, Samantha	Meetings	London, GBR	$2,124.92	10/09/02	3
Ravich, Samantha	Meetings	London, GBR	$1,929.74	12/12/02	4
Addington, David	Meetings	Manhattan, NY	$37.50	01/15/03	1
McGrath, Dean	Official	Raleigh, NC	$338.41	04/10/03	1
		Total	**$5,208.57**		

Consulting Services (POC – Kathleen O'Halloran)

QUESTION 53: Updating the information on page 115 of last year's hearing record, please provide actual and estimated amounts for consulting services for fiscal years 2002 through 2004.

REV_00169848

RESPONSE: "Consulting services" or "Advisory and Assistance Services" as defined by OMB Circular A-11, Section 83, are services acquired by contract from non-Federal sources (that is, the private sector, foreign governments, State and local governments, tribes), as well as from other units within the Federal Government and consists of three types of services: 1) Management and professional support services; 2) Studies, analyses and evaluation; and 3) Engineering and technical services. Listed below are the EOP and other entities with Advisory and Assistance contracts.

White House Office
FY 2002 (Actual)
There were no advisory and assistance contracts for the White House Office.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the White House Office.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Office of Homeland Security/PCIPB
FY2002 (Actual)
1. $25,140 for independent information technology expertise. Deliverables include access to technical reports and analysis and recommendations. The period of performance is from September 2002 through August 2003.

Office of Administration
FY 2002 (Actual)
1. $1,083,308 for assistance in developing plans, technical architecture and disaster recovery for the relocation of the EOP data center. Deliverables include baseline assessment and analyses, business continuity and disaster recovery plan, data center design requirements report, phased planning, migration and implementation development plan, relocation and implementation plan, final recommendations and a report. The contract was awarded in March 2002 with a performance period through June 2003.

2. $748,988 for assistance in developing an enterprise architecture to incorporate and support the strategic IT vision, goals and objectives of the OA and the EOP. Deliverables include assistance and analysis as follows: critical information shortfall, impact, and trade-off analysis, concept of operations, architecture and enterprise architecture system toolsets, baseline definitions, report results for demonstration of architecture sustainment, and target technical architecture and migration plan. The contract was awarded January 2002 with a period of performance through December 2002 and permitted options to extend performance.

REV_00169849

3. $48,050 for training, consulting and editing support for EOP/CFO policies regarding financial statements, prompt payment, travel, and transportation act, interagency agreements and portal to portal documents. Deliverables include training materials and conduct of training, formatted and edited documents. The contract was awarded July 2002 and ran through March 2003.

FY 2003 as of May 15, 2003

1. $406,695 for continued assistance in developing an enterprise architecture to incorporate and support the strategic IT vision, goals and objectives of the OA and the EOP. Deliverables include assistance and analysis as follows: critical information shortfall, impact, and trade-off analysis, concept of operations, architecture and enterprise architecture system toolsets, baseline definitions, report results for demonstration of architecture sustainment, and target technical architecture and migration plan. The contract was amended in January and May 2003 to exercise the option to extend performance and funded through September 2003.

2. $149,968 for consultant services to help configure IT storage products and perform data migration and setup. Deliverables include recommendations concerning management and long term strategy for operating and planning architecture along with execution of the infrastructure support. The contract was awarded in May 2003 with a period of performance running through November 2003.

3. $60,000 for assistance in designing a new performance management system for the Office of Administration in order to improve dialogue between manager and employee. Deliverables included recommended performance evaluation system and form as well as training. The contract was awarded in December 2002 with a performance period ending March 2003.

4. $49,800 for consulting services of an electrical engineer. Deliverables included conceptual designs, drawings and specifications, suggested project schedules and cost estimates. The contract was awarded in May 2003 with a period of performance through June 2003.

5. $25,750 for assistance in writing a statement of work for the EOP telephone contract recompete. Deliverables include recommended draft language for technical requirements to be incorporated into the solicitation. The contract was awarded in November 2002 with the period of performance through December 2002.

6. $47,040 for independent information technology expertise. Deliverables include access to technical reports and analysis and recommendations. The period of performance is from September 2003 through August 2004.
7. $936,000 for IT engineering and technical support services. Deliverables include studies and technical evaluations, analyses, recommendations and reports. The period of performance is from May 2003 through April 2004.

REV_00169850

8. $1,400,000 anticipated for engineering, technical services and consulting for new IT systems design and implementation.

9. $300,000 anticipated for IT studies and evaluations.

10. $130,000 anticipated to assist CFO with auditing issues.

11. $50,000 anticipated to develop an asset management system.

FY 2004 Request

1. $2,300,000 anticipated for engineering, technical services and consulting for new IT systems design and implementation.

2. $1,600,000 anticipated for IT studies and evaluations.

3. $110,000 anticipated to continue development of an asset management system.

4. $390,000 anticipated to assist CFO with auditing issues.

5. $50,000 anticipated for continued independent information technology expertise.

Office of Management and Budget
FY 2002 (Actual)
1. $39,570 for independent information technology expertise. Deliverables include access to technical reports and analysis and recommendations. The period of performance is from September 2002 through August 2003.

FY 2003 as of May 15, 2003

1. $22,500 anticipated for independent information technology expertise. Deliverables include access to technical reports as well as customized analysis and recommendations. The period of performance is from September 2003 through August 2004.

FY 2004 Request

1. $22,500 anticipated for continued independent information technology expertise planned for FY 2004.

Office of National Drug Control Policy
FY 2002 (Actual)
1. $24,225 for assessment and analysis and recommendations concerning performance plans, organizational goals and objectives. Deliverables include meeting summaries, briefing materials and monthly progress report and report with base-line assessment,

REV_00169851

recommendations and expected results. The period of performance is from June 2002 through September 2002.

2. $104,387 for organizational effectiveness assessment and analysis. Deliverables include meeting summaries, briefing materials and monthly progress reports, a final report and recommendations and expected results. The period of performance was from June 2002 through November 2002.

3. $150,000 for design of a program performance monitoring system for OCDETF/DIDTA program. Deliverables include meeting summaries, briefing materials, monthly progress reports, summary of program elements for measurement, draft and final reports. The period of performance was from April 2002 through October 2002.

FY 2003 as of May 15, 2003

1. $29,411 for assistance with developing a strategic human capital plan. Deliverables include development of a management plan, a workforce profile and assessment of drivers, capacity and gaps, assessment and recommendations and a strategic human capital report. The period of performance is from February 2003 through March 2003.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Council of Economic Advisers
FY 2002 (Actual)
1. $13,631 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from December 2001 to February 2002.

FY 2003 as of May 15, 2003
1. $14,276 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from December 2002 to February 2002.

FY 2004 Request
1. $15,000 estimated for editorial services for the Economic Report of the President. The consultant will provide expertise in editing the final publication. It is anticipated that the contract will last from December 2003 to February 2004.

Council on Environmental Quality
FY 2002 (Actual)
There were no advisory and assistance contracts for the Council on Environmental Quality.

REV_00169852

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the Council on Environmental Quality.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Office of the United States Trade Representative
FY 2002 (Actual)
1. $6,600 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.
2. $5,000 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.
3. $1,980 for expert advice in area of personnel law. Deliverables include legal research, analysis and opinions. Period of performance was from July 2002 through September 2002

FY 2003 as of May 15, 2003

1. $10,000 for expert advice in the area of personnel law on an as-needed basis. Deliverables include legal research papers and recommendations. The contract was awarded for the period October 1, 2002 through September 30, 2003.

2. $10,000 for speech-writing services on an as-needed basis. Deliverables include draft speeches. The contract was awarded for the period May 2003 through September 2003.

FY 2004 Request

1. $10,000 for expert advice in the area of personnel law on an as-needed basis.

Office of Science and Technology Policy
FY 2002 (Actual)

1. $200,000 for independent evaluation of the integration of a variety of biometric identification system design options. Deliverables included a comprehensive report on the evaluation of technical options, sound design principles, testing procedures, interoperability issues as well as identification of implementation and procurement issues. The contract was awarded July 2002 with a completion date of October 2002 but the contract completion date was extended through December 2002. This contract was not funded with OSTP funds but by the Immigration and Naturalization Service.

REV_00169853

FY 2003 as of May 15, 2003

1. $300,000 for assistance in implementing a biometric identification system. Deliverables include analysis of NEXUS border technologies and international standards coordination. The contract is anticipated by June 2003 with an anticipated expiration date of June 2005. This contract was not funded with OSTP funds but by the Immigration and Naturalization Service (DHS).

FY 2004 Request

1. $125,000 for assistance with OSTP's National Security/Emergency Preparedness communications responsibilities.

National Security Council
FY 2002 (Actual)
There were no advisory and assistance contracts for the National Security Council.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the National Security Council.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Office of the Vice President
FY 2002 (Actual)

There were no advisory and assistance contracts for the Office of the Vice President.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the Office of the Vice President.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

REV_00169854

Freedom Corps (POC – Eric Lanman)

QUESTION 54: Please provide EOP budgeted funding for the Freedom Corps for fiscal years 2002 through 2004.

RESPONSE: The funding profile for the USA Freedom Corps from its inception through FY 2004 is as follows:

(Dollars in thousands) Category	FY02 Actual	FY03 Request	OA Pilot	FY03 Recission	FY03 Enacted	FY04 Estimate
Personnel	420	800	0	0	800	827
Travel	6	600	0	-330	270	102
Rent	99	0	0	0	0	157
Comm, Util & Misc	0	0	0	0	0	25
Printing & Reproduction	0	0	0	0	0	225
Other Services	0	1,200	-289	0	911	926
Supplies & Materials	0	0	0	0	0	9
Equipment	0	0	0	0	0	9
Total	525	2,600	-289	-330	1,981	2,280

Note: As part of a pilot program authorized by Congress in fiscal year 2003, general support costs such as rent, supplies, printing, information technology, etc., are centrally managed and charged against the Office of Administration.

QUESTION 55: Please provide a breakdown of the FY 2004 request for the Freedom Corps, and a brief description of the work to be accomplished under each item.

RESPONSE: The FY 2004 WHO request includes funding for the following USA Freedom Corps requirements.

Personnel: This category provides funding for the cost of the salaries and benefits for the staff of the USA Freedom Corps. The FY 2004 WHO request included $827,000 for this category.

Travel: The USA Freedom Corps office staff members are frequent travelers and often work at the national, state and local levels with organizations.~~, especially in organizing the Citizen Corps across the country~~ In addition, the Director of the USA Freedom Corps or the appropriate staff is required to address gatherings at national conferences, and of state and local officials in order to disseminate information about the President's Call to Service and the activities coordinated by the USA Freedom Corps.~~ and answer questions relating to the organization of USA Freedom Corps activities at the local level.~~ The FY 2004 WHO request included $102,000 for this category.

REV_00169855

Rent: This category funds the costs of the GSA office space utilized by the USA Freedom Corps. The FY 2004 WHO request included $157,000 for this category.

Printing: This category includes the costs of the creation and printing of documents regarding the USA Freedom Corps mission and policies and initiatives~~specific programs~~ coordinated by its Council. The FY 2004 WHO request included $225,000 for this category.

Other services: This category includes funds for the hiring of contractors to measure the nationwide effects of the USA Freedom Corps efforts through surveys and other measurement tools, and funds for information dissemination and the creation and production of materials used in the furtherance of the USA Freedom Corps mission and ~~specific programs,~~initiatives coordinated by its Council. The FY 2004 WHO request included $926,000 for this category.~~ and other activities that will further the mission of the USA Freedom Corps.~~

Communications and Misc.,~~;~~ Supplies and Materials, Equipment: These general categories are managed centrally by the White House Office of Management and Administration. Funds in these categories support the normal costs associated with day to day office operations. The FY 2004 WHO request included $43,000 for this category.

QUESTION 56: Last year, funds were requested for Freedom Corps information dissemination and recognition materials (p. 239). Are similar activities funded in FY 2004? If so, how much?

RESPONSE: The FY 2004 WHO request includes requirements for similar activities to those funded in FY 2003 and included are funds for information dissemination and recognition materials. Funds for these activities are included in the Other Services category of the WHO request. An estimated $926,000 of this portion of the request is for USA Freedom Corps requirements.

QUESTION 57: Are additional funds requested in FY 2004 outside the EOP?

RESPONSE: As a White House office and a coordinating council, the USA Freedom Corps does not run, fund, or administer programs. Instead, the USA Freedom Corps coordinates the development of policies and initiatives with various offices/entities in the Executive Branch in support of the President's goal to strengthen the American culture of service while helping all Americans find meaningful service opportunities. This role does not require outside funding and none have been requested by the WHO.

QUESTION 58: Please provide a listing of the staff in the USA Freedom Corps Office, showing the incumbent name and position. Please designate any detailees.

REV_00169856

RESPONSE: A listing of the current USA Freedom Corps Office staff is provided below.

John Bridgeland: Assistant to the President and Director, USA Freedom Corps
Ron Christie: Special Assistant to the President and Deputy Director, USAFC
Lindsey Kozberg: Special Assistant to the President for Policy/Public Affairs
Therese Lyons: Director of Public Liasion
Ian Rowe: Director of Management and Strategy
Kathleen Mynster: Deputy Press Secretary
Britt Grant: Special Assistant to the Director
Cornell Teague: Associate Director
Nique Fajors: Agency Liaison – Detailee
Ken Lanza: Agency Liaison - Detailee

Sensitive Compartmented Information Facilities (POC – Jeff Thompson)

QUESTION 59: Are any funds requested in any EOP office in the FY 2004 President's request for the construction of sensitive compartmented information facilities (SCIFs)?

RESPONSE: No funds are requested for SCIFs in FY 2004.

QUESTION 60: How many such facilities have been built within EOP offices since the terrorist attacks of September 11, 2001?

RESPONSE: Sixteen SCIFS have been built.

Data Center Relocation (POC – Carlos Solari)

QUESTION 61: What is the status of efforts to relocate the existing EOP data center, and what are plans for the coming year?

RESPONSE: The remote data center project is on track to achieve completion on budget and on schedule. The project began last summer by conducting a systems development lifecycle analysis to determine and recommend the location for the facility. From this analysis, EOP decided on building the data center at a hardened FEMA facility located in Maryland. The project is being co-managed with FEMA and was established with three phases: (1) infrastructure build-out of the hardened facility (power, air handlers, etc), (2) construction of the data center itself (cabling, raised flooring, etc), and (3) the transition of EOP data systems (telecommunications, servers, etc). The project is approximately halfway through completion for the first two phases with a scheduled opening (initial operational capability) date of September 2003. The transition phase is on schedule preparing the systems and will proceed to begin the transfer September 2003 – with a planned transition of 12 months for all systems.

REV_00169857

QUESTION 62: Are funds requested in the FY 2004 budget for this project?

RESPONSE: The following table displays the funds requested for this project in FY 2004.

Object Class	Object Class Title	Requested Funding (in $1000s)	Description
23.0	Space Rental Payments	$1,258	This estimate reflects $1,258 in rental for the offsite data center and will be the initial rent to be paid for the offsite data center. This cost was previously funded from emergency funds.
23.3	Communications, utilities, and miscellaneous charges	$4,420	$4,420 is for CIP networking/telecommunications projects at the offsite data center. These projects include funds for a tap off of telecommunications lines, two additional DS-3 data paths, two T-1 lines, and backup to support required communications bandwidth, and availability requirements.
25.2	Other Services	$2,700	This estimate reflects Priority System Disaster Recovery costs, Secondary Systems Disaster Recovery costs, Hardware and Software for the Disaster Recovery Site, and Hardware and Software upgrades to support the data center move.
26.0	Supplies and materials	$25	The estimate reflects $25 in additional supplies necessary for start-up operations at the offsite data center. This will include start up costs for office equipment used for the new office spaces.
Total FY2004 Data Center CIP Request		**$8,403**	

White House Communications Agency (POC – Eric Lanman)

QUESTION 63: Updating the information on page 133 of last year's hearing record, please provide estimated reimbursements for the White House Communications Agency for each of the fiscal years 2002 through 2004.

RESPONSE: Reimbursements made to the White House Communications Agency, for the non-telecommunications support they provide to the WHO, is broken down into two categories: military personnel and audiovisual support. The amount of planned reimbursement is initially set and agreed to via an inter-agency agreement (IAG). This IAG is then adjusted if needed as a result of actual execution. Reimbursement actuals and estimates follow:

	FY02 (actual)	FY03 (est.)	FY04 (est.)
Military Personnel	$4,376,085	$4,754,346	$4,858,942
Audiovisual Support	$4,543,643	$3,953,848	$2,743,915

REV_00169858

Total	$8,919,738	$8,708,194	$7,602,857

The FY04 estimate for audiovisual support shows a decrease from the FY 2003 estimate due to the move of audiovisual supplies and equipment from IAG reimbursed items to direct procurement through normal WHO channels.

Office of Administration (POC – Chuck Sigman)

QUESTION 64: Updating the information on page 134 of last year's hearing record, please provide a current organizational chart for the Office of Administration, including the associated numbers of FTEs requested for each office in the FY 2004 President's budget.

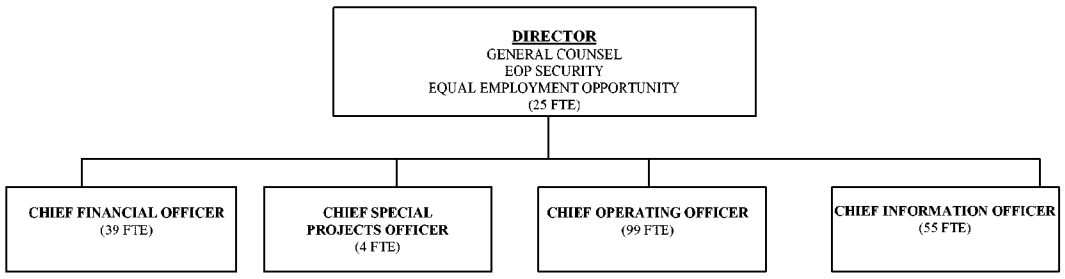
RESPONSE: The Office of Administration organization chart provided below reflects the current organizational structure. The FY 2004 FTE request remains constant with FY 2003 levels (222 FTE).

Executive Office of the President

Office of Administration

Organization Chart

FY 2004



Total 222 FTE

QUESTION 65: Last year, it was estimated that 4 FTE were needed to provide administrative services to the Office of Homeland Security. Since that office is substantially smaller due to establishment of the DHS, is there a lesser requirement for OA support? If so, is that reflected in FY 2004 staffing figures?

REV_00169859

RESPONSE: The FY 2003 budget proposal included the statement that there was "2 CFO staff to support Homeland Security" rather than the 4 FTE referred to in the question. These two Chief Financial Officer (CFO) staff were requested during FY 2003 because last year's OA budget request was a 49% increase over the previous year's spending – and security-related enhancements accounted for nearly all of that increase. The FY 2004 budget proposal included additional security-related enhancements beyond the FY 2003 level. Furthermore, even though the funding level of the Homeland Security Council is not as great as was originally envisioned, it is still a separate account for which the staff must perform the same number of administrative tasks in setting up and monitoring the status of the account. Therefore, the additional two FTE in the CFO office remain necessary to assist EOP offices in executing their new responsibilities.

QUESTION 66: Your salary and expenses request includes a transfer of $1,500 from Homeland Security for information technology services. What are these services?

RESPONSE: The part of OHS that remained with EOP (now called the Homeland Security Council) does not need the information technology contractor support that was previously planned. There is, however, an urgent need to expand the funding needed to support the White House website. The system security put in place to protect the whitehouse.gov website from cyber attack includes a web content distribution designed to make it highly resistant to denial of service type attacks. The cost of this service has increased dramatically, and is directly proportional to the volume of activity. The volume of activity, in turn, is a combination of the website hits and the level of cyber-attack activity directed against the site. The importance of the White House web site cannot be overstated. Along with the DHS website, the whitehouse.gov website is one of the primary government sites with a mission to communicate threat level information to the public.

Due to increased traffic on the White House website, the monthly cost of web caching service to maintain the website has risen from $30,000 per month to more than $75,000 per month. The estimated FY 2004 cost to maintain the website is $1,500,000. No funds were requested for this increased requirement in the FY 2004 budget. OA wishes to use the funds originally requested for the OHS information technology contract support for the White House website effort.

QUESTION 67: You are requesting additional funding for victim rescue units, which would be distributed to all White House staff (p. 82). What are these units, and what is the unit cost?

RESPONSE: Victim Rescue Units (VRUs) provide a 20-45 minute supply of pure oxygen to the wearer. This would be critical to the survival of EOP staff in the event of an incident which would require an evacuation to a safe area. VRUs were selected because they can be easily operated by a novice, while it takes a significant amount of training to teach staff to properly operate a gas mask. VRUs have a ten-year shelf life,

REV_00169860

which is significantly longer than gas mask filters. They provide protection from the entire threat spectrum from fire and smoke to chemical and biological agents. The VRUs are portable and small, and their expected cost is $375 each.

QUESTION 68: How is the requirement for additional safes and emergency evacuation chairs documented?

RESPONSE: The EOP Security Office conducted a review of security containers (safes) at the White House Complex and found that most of them were 1950's-vintage mechanical locks. During the aftermath of 9/11, it was deemed important that the White House adhere to the latest Federal regulations promulgated by the General Services Administration (FFL-2740A) for the protection of classified materials. Thus, the EOP recommends acquiring new security containers which are fully compliant with GSA standard which governs all changeable combination locks for the protection of national security information.

After 9/11, we reviewed all emergency evacuation procedures for the White House Complex. As we updated evacuation plans and reviewed procedures it was determined that evacuation chairs were needed in various buildings and on various floors to assist individuals who may need assistance or have special needs during an evacuation. This was an internal study performed by staff of the EOP security office.

Financial Audits (POC – Al Muhlbauer)

QUESTION 69: Last year, you advised us that EOP would plan to address the findings of the recent auditability assessment no later than FY 2003. What is the status of that effort today?

RESPONSE: EOP has initiated five major efforts to address the auditability assessment. They are:

- Development and publication of the EOP entity and reporting structure, which was completed and is and presented in the FY 2004 Budget Submission.
- Development and publication of the EOP financial management structure, which has been developed in draft and is currently being circulated for comment within EOP. Approval and issuance of the financial management structure is expected to occur within 30 days.
- Provide financial management policy and guidance to the EOP, and put in place consistent EOP-wide business practices and procedures. This effort is underway and is expected to be completed this fiscal year.
- Select a replacement for the current non-compliant financial accounting system. The Office of the Chief Financial Officer has reviewed various alternatives and has made a determination to be cross-serviced by another Federal agency that has implemented a compliant system, is currently receiving "clean" audit opinions, and has cross-servicing as an agency mission. Two such organizations were

REV_00169861

identified, a requirements document was provided, their proposals are currently being evaluated, and a decision is expected within the next two weeks.

- Accomplish a detailed review of the EOP general ledger and supporting documents for account balances, correct the data as necessary, and prepare the information for conversion to the replacement accounting system. A "clean-up" and conversion plan is in process and will be coordinated with the selected cross-servicing agency.

QUESTION 70: When will you be able to produce an auditable financial statement?

RESPONSE: The Chief Financial Officer completed an exercise that resulted in EOP-wide financial statements, that exercise identified various data problems that confirmed the auditability assessment. The "clean-up" exercise which is required prior to the conversion to the cross-servicing agency's system is addressing these problems and it is anticipated that the FY 2004 financial statements will be audited.

QUESTION 71: Last year, you stated that you had identified best practices for documented policies and procedures based upon one federal agency which has been recognized as one of the best in the Federal Government (p. 136). Which agency are you using as a model, and what are some examples of the specific best practices you intend to use?

RESPONSE: We were referring to the Department of Education and we conducted a pilot of their approach for developing policies and procedures within the Office of the CFO. While that pilot was helpful, we determined that three other tasks (identify reporting entity, develop financial management structure, and identifying our financial accounting system cross servicing provider) needed to be completed before our policies and procedures could be developed. Since those are near completion we anticipate again focusing on developing policies and procedures during the remainder of this fiscal year.

White House Office (POC – Eric Lanman)

QUESTION 72: Please provide a breakdown of the FY 2004 budget request for the White House Office by office or activity, as itemized on pages 137 and 138 of last year's hearing record. Please compare those amounts to corresponding amounts for FY 2002 (actual) and FY 2003 (estimated), similar in format to that shown on pages 246 and 247 of last year's hearing record.

RESPONSE: As noted last year, a single budget is prepared for the WHO. This single budget is prepared based on a number of criteria such as: prior spending patterns, estimated requirements, OMB provided inflation factors, and the priorities of the President. During a given execution year, personnel costs are allocated based upon that year's sometimes unique staffing decisions. The remainder of the budget is allocated

REV_00169862

initially to two WHO offices. The travel budget is allocated in its entirety to the Office of Advance and obligated against this office if the travel is done in support of the President. Any travel undertaken that is not in support of a Presidential trip is charged to the office of the staff member in question. The remaining portion of the non-personnel, non-travel budget, including expenses for rent, supplies, equipment and other services is considered overhead and in most years is charged as such to the White House Office of Management and Administration. In FY 2003 as part of a pilot program authorized by Congress, costs related to many of these "overhead" items were consolidated under the EOP Office of Administration. Obligations (actual and estimated) are provided by individual White House office for FY 2002 thru FY 2004 in the table below.

(dollars in thousands)			
as of 9 May 2003			
White House Office	**FY02 act.**	**FY03 est.**	**FY04 est.**
Office of Chief of Staff	1,239	1,474	1,507
Oval Office Ops	347	476	487
Offices of Scheduling and Advance	2,874	3,593	3,673
Office of Cabinet Affairs	665	615	629
Communications, Speechwriting & Media	2,611	2,486	2,541
Office of the Counsel to the President	1,775	1,966	2,010
Faith Based and Community Initiatives	612	536	548
Office of the First Lady	1,270	1,492	1,525
Office of Intergovernmental Affairs	568	538	550
Office of Legislative Affairs	2,242	2,118	2,165
Office of Management and Administration	26,867	19,620	30,651
Office of Presidential Personnel	1,950	2,425	2,479
Office of the Press Secretary	933	1,182	1,208
Office of the Staff Secretary	5,860	6,469	6,613
Office of Strategic Initiatives	3,952	4,325	4,421
USA Freedom Corps Office (1)	426	1,070	929
Total WHO Obligations (2)	54,191	50,385	61,937

Notes:

(1) $911K of the FY03 USA Freedom Corps estimate and $1,351K of the FY04 USA Freedom Corps estimate is included above within the Office of Management and Administration numbers as are similar funds for all other White House Offices.

(2) Because Congress has chosen to appropriate funds for the Office of Homeland Security (OHS)/ Homeland Security Council (HSC) separately from the WHO appropriation, numbers related to OHS/ HSC are not included above. FY03 and FY04 estimates for OHS/ HSC are addressed independently in response to other committee questions.

QUESTION 73: Please provide a corresponding breakdown for FTE staff years and OGE, similar in format to that shown on pages 152 through 154 of last year's hearing record.

REV_00169863

RESPONSE: As noted last year, the major units within the White House Office are simply a creature of administrative convenience. The number of employees within each unit and the work of each unit vary over time and as circumstances and needs change. With this kept in mind, a detailed breakout of FTEs and OGEs by unit, is provided below. This breakout is based on current estimates and planning and will differ during the actual execution year. In addition to these major units, certain individuals – including certain individuals who work with the National Security Council, the Domestic Policy Council, and the National Economic Council – are also White House Office employees, although the units within which they principally work are not themselves part of the White House Office. These individuals are included under the Other category.

	FY02	FY03	FY04
White House Office	actual	est.	est.
Office of Chief of Staff - FTE	12	12	12
Office of Chief of Staff - OGE (Agency Rep)	0	0	0
Oval Office Ops - FTE	4	5	5
Oval Office Ops - OGE	0	0	0
Advance - FTE	15	15	15
Advance - OGE	0	0	0
Office of Cabinet Affairs - FTE	7	6	6
Office of Cabinet Affairs - OGE (Assignee)	4	4	4
Communications, Speechwriting & Media - FTE	36	35	35
Communications, Speechwriting & Media – OGE (Detailee)	1	1	1
Communications, Speechwriting & Media – OGE (Assignee)	1	1	1
Office of the Counsel to the President - FTE	18	19	19
Office of the Counsel to the President - OGE (Detailee)	3	3	3
Faith Based and Community Initiatives - FTE	7	8	8
Faith Based and Community Initiatives – OGE (Detailee)	1	1	1
Faith Based and Community Initiatives – OGE (WH Fellow)	1	1	1
Office of the First Lady - FTE	20	19	19
Office of the First Lady - OGE	0	0	0
Office of Intergovernemental Affairs - FTE	8	9	9
Office of Intergovernemental Affairs - OGE	0	0	0
Office of Legislative Affairs - FTE	23	24	24
Office of Legislative Affairs - OGE (Detailee)	1	1	1
Office of Management & Administration - FTE	32	38	38
Office of Management & Administration - OGE (HP Serv)	14	14	14
Office of Political Affairs - FTE	11	11	11

REV_00169864

Office of Political Affairs - OGE	0	0	0
Office of Presidential Personnel - FTE	26	38	38
Office of Presidential Personnel - OGE (Detailee)	2	2	2
Office of Public Liaison - FTE	12	11	11
Office of Public Liaison - OGE (Assignee)	1	1	1
Office of the Press Secretary - FTE	12	12	12
Office of the Press Secretary - OGE	0	0	0
Scheduling - FTE	10	11	11
Scheduling - OGE (HP Serv)	2	2	2
Office of the Staff Secretary - FTE	98	98	98
Office of the Staff Secretary - OGE (Detailee)	2	2	2
Office of Strategic Initiatives - FTE	13	13	13
Office of Strategic Initiatives - OGE (Reim Detail)	1	1	1
USA Freedom Corps Office - FTE	8	6	6
USA Freedom Corps Office - OGE (Detailee)	5	5	5
USA Freedom Corps Office - OGE (WH Fellow)	1	1	1
Other - FTE	13	16	16
Other - OGE	4	4	4

White House Office obligations, FTE and OGE are summarized below.

	FY02 act.	FY03 est.	FY04 est.
Total WHO – FTE	385	406	406
Total WHO – OGE	44	44	44
FY03 Congressional Request – FTE	400	406	406

Notes: Because Congress has chosen to appropriate funds for the Office of Homeland Security (OHS)/ Homeland Security Council (HSC) separately from the WHO appropriation, numbers related to OHS/ HSC are not included above. FY03 and FY04 estimates for OHS/ HSC are addressed independently in response to other committee questions.

Historically Provided White House Office Positions (POC – Eric Lanman/Jon Laurich)

QUESTION 74: Updating the information on page 235 of last year's hearing record, please provide a listing of historically provided White House Office positions.

RESPONSE: The following chart shows the 18 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

REV_00169865

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 12, 2003*:

POSITION	OFFICE	HOME AGENCY
1. Assistant to the Presidential Diarist	Office Of Scheduling	NARA
2. Presidential Diarist	Office Of Scheduling	NARA
3. Administrative Assistant	PFIAB *	CIA
4. Administrative Services Specialist	PFIAB *	DOD
5. Deputy Executive Director	PFIAB *	CIA
6. Deputy Director of Photography For Visuals	Photo Office	DIA
7. Visual Information Specialist	Photo Office	DOD
8. Official Photographer	Photo Office	DOD
9. Official Photographer	Photo Office	DIA
10. Photographer	Photo Office	DOD
11. IT Systems Administrator	Photo Office	DIA
12. Photo Editor	Photo Office	DIA
13. President's Photographer	Photo Office	DIA
14. Photographic Specialist	Photo Office	DIA
15. Admin Officer	Photo Office	DIA
16. Staff Assistant	Visitors Office	Dept Of Interior
17. Executive Assistant	Visitors Office	Dept Of Interior
18. Staff Assistant	Visitors Office	Dept Of Interior

*PFIAB is the President's Foreign Intelligence Advisory Board

Other Services (POC – Chuck Sigman)

QUESTION 75: Similar to the information on page 236 et seq. of last year's hearing record, please provide a detailed description of each project, program, or initiative proposed to be funded in FY 2004 under object class 25.2 ("other services").

RESPONSE: Capital Investment Plan (CIP) - $5,220,000

The overall FY 2004 CIP requirement supports nine areas, as described below. The following "services" costs are included in the FY 2004 CIP request:

- **$690,000 for Customer Service and Desktop Systems.** This funding will be used to perform desktop software integration support.
- **$450,000 for New Technologies and Systems**. This includes "services" funding of $150,000 for server technology integration testing, and $300,000 for voice and data integration.

REV_00169866

- **$230,000 for EOP Systems and Support,** including "services" funding of $150,000 to develop external Local Area Networks, and $80,000 for production test lab development.
- **$700,000 for Information Security** for enterprise identity projects to allow the introduction of new authentication and identification mechanisms into the EOP IT infrastructure.
- **$650,000 for Web-Based Services** for web services application environment.
- **$2,500,000 for the Offsite Data Center** for services necessary to transition the offsite data center to full operational status
- **There are no services funds allocated to Campus Wiring, Networks and Data Communications Infrastructure, or Messaging and Scheduling.**

Salaries and Expenses - $2,150,000

There are three initiatives in the FY 2004 OA salaries/expense budget which comprise $2,150,000 in new programs under object class 25.2 ("other services"):

- **$1,800,000 for Technology and Systems Support Contract .** The Chief Information Officer (CIO) provides a wide range of computer services support to the EOP. These tasks are performed in large measure through an outsourcing contract that delivers IT services from PC deployment, to help desk and data center operations. During FY 2003, this IT systems support contract was competed with an increase in base labor rates due to the need for more advanced skills in IT disciplines such as XML and web services software development, Oracle database development and administration, and implementation of a new Enterprise Resources Planning (ERP) application covering finance, asset management and human resources. The CIO outsource contract is the vehicle used to maintain a 24 hour-a-day operation for mainframes, servers, help desk, local area networks, personal computers, applications; installation of end-user hardware and software; training; software application development and maintenance services. Altogether, this contract supports customers throughout the White House 18 acre complex, at remote and mobile locations, and at the planned Offsite Data Center. Key components driving the cost upward include: (1) higher labor rates for the DC area, which have risen since the previous IT 1997 facility contract; (2) the impact of the new data center operations in 2003 and thereafter; (3) an expanded EOP customer base which has more advanced, sophisticated, and security-conscious users.

- **$300,000 for Information Assurance Support.** The CIO has established the Information Assurance (IA) program to serve as a central location for information security serving all of EOP. FY 2002 and FY 2003 funds attended to the most critical concern with significant vulnerabilities in the perimeter and began the process of securing the internal systems. The IA program created real-time monitoring of perimeter network devices; it established the first formal documentation of IA program policy to bring the EOP in conformance with Federal guidelines and directives. However, the cyber threat facing EOP is

REV_00169867

dynamic because our systems are constantly assailed with a wide and unexpected range of attacks. The new state of defense must be active vigilance, to include the following components: (1) Perimeter Security, (2) Advanced Security Concepts, (3) Contingency Planning Support, (4) Network Monitor/Response Systems, and (5) Security Awareness, Assessments, and Education.

- **$50,000 for Security Enhancements: Videos.** There is a frequent and ongoing need for a security video – specific to the EOP and White House – which can be used in security briefings and new employee orientation meetings. This video will contain a brief overview of security responsibilities and procedures which must be understood by all personnel working in the EOP.

Salaries and Expenses (POC – Dilworth)

QUESTION 76: Please provide a detailed description of any expenses in the FY 2004 budget under "salaries and expenses" which are not directly related to personnel compensation and benefits.

RESPONSE: The following is an object class breakdown highlighting the major costs in each of the non pay related expense categories and a description of the unique aspects of some of these expenses found within the Executive Office of the President.

For reference, below are two tables that roll up all EOP component salaries and expenses funding information including the components not funded under the Subcommittee on Transportation, Treasury and Independent Agencies Appropriations.

REV_00169868

Executive Office of the President
Salaries and Expenses
Summary of all EOP Offices
Funding by Object Classification
($ in Thousands)

		FY 2002 Actual	FY 2003 Request	FY 2004 Estimate	FY 2004-2003 Difference	
Direct obligations:						
10.0	Personnel Compensation and Benefits	159,566	185,182	190,971	*5,789*	*3.1%*
21.0	Travel and transportation of persons	6,449	9,218	9,571	*353*	*3.8%*
21.0	Travel of the President	0	102	100	*-2*	*-2.0%*
22.0	Transportation of things	218	246	233	*-13*	*-5.3%*
23.1	Rental payments to GSA	22,406	29,127	32,228	*3,101*	*10.6%*
23.3	Communications, utilities and misc. services	9,362	10,212	15,504	*5,292*	*51.8%*
24.0	Printing and reproduction	2,956	3,678	4,536	*858*	*23.3%*
25.2	Other services	45,159	70,440	66,099	*-4,341*	*-6.2%*
26.0	Supplies and materials	5,947	5,128	5,642	*514*	*10.0%*
26.0	Official entertainment	65	112	112	*0*	*0.0%*
31.0	Equipment	8,054	13,239	14,182	*943*	*7.1%*
40.04	Nat'l Alliance for Model State Drug Use	1,000	0	0	0	0.0%
40.05	Policy Research	1,350	1,350	1,350	0	0.0%
92.0	Undistributed	0	1,000	1,000	0	0.0%
99.0	**Subtotal, Direct obligations**	**$262,532**	**$329,034**	**$341,528**	***$ 12,494***	***3.8%***

Summary of the EOP FY 2004 Salaries and Expenses Budget Request
by Object Class
(excludes ONDCP Federal Drug Control Programs)
($ in Thousands)

		Comp Pres.	WHO	OHS/ HSC	VP	VP RES	OA S&E	OA CIP	OPD	NSC	CEA	OMB	ONDCP	EXEC RES	WH R & R	OSTP	CEQ	USTR	UN NEEDS	EOP Total	Percent of Total
	Total Personnel Compensation and Benefits	$400	$33,256	$5,550	$2,541	$100	$19,483		$3,040	$7,513	$3,537	$59,263	$14,562	$10,302		$4,484	$2,476	$24,464		**$190,971**	55.9%
21.0	Travel and transportation of persons		1,989	588	598	2	208		88	531	102	417	794	12		280	62	3,900		**$9,571**	2.8%
21.0	Travel of the President		100																	**$100**	0.0%
22.0	Transportation of things		10	10	2	1	137		1	2	1	2	38			3	1	25		**$233**	0.1%
23.1	Rental payments to GSA		7,047	200	885		6,755	1,258	508	1,613	497	6,575	2,591			833	462	3,004		**$32,228**	9.4%
23.3	Communications, utilities and misc. charges		2,826	1,080	186	26	2,759	4,520	192	197	118	680	785	610		102	86	1,337		**$15,504**	4.5%
24.0	Printing and reproduction		1,559	50	11	10	577		37	40	97	801	499			25	46	784		**$4,536**	1.3%
25.2	Other services	50	12,597	528	60	16	24,891	5,220	46	362	35	8,190	5,509	653	4,225	973	66	2,678		**$66,099**	19.4%
26.0	Supplies and materials		1,288	175	66	42	1,220	125	92	175	64	702	282	856		80	29	446		**$5,642**	1.7%
26.0	Official entertainment		19			90						3								**$112**	0.0%
31.0	Equipment		1,246	150	112	44	556	9,455	105	118	51	784	880	68		247	10	356		**$14,182**	4.2%
40.05	Policy Research *(ONDCP)*												1,350							**$1,350**	0.4%
92.0	Undistributed *(Unanticipated Needs)*																		1,000	$1,000	0.3%
99.0	**Subtotal, Direct obligations**	**$450**	**$61,937**	**$8,331**	**$4,461**	**$331**	**$56,586**	**$20,578**	**$4,109**	**$10,551**	**$4,502**	**$77,417**	**$27,290**	**$12,501**	**$4,225**	**$7,027**	**$3,238**	**$36,994**	**$1,000**	**$341,528**	**100.0%**
	Agency percentages of EOP total	*0.1%*	*18.1%*	*2.4%*	*1.3%*	*0.1%*	*16.6%*	*6.0%*	*1.2%*	*3.1%*	*1.3%*	*22.7%*	*8.0%*	*3.7%*	*1.2%*	*2.1%*	*0.9%*	*10.8%*	*0.3%*		

Travel and transportation of persons – The largest portion of this funding (41%) is for international staff travel in support of trade negotiations as coordinated by the U.S. Trade Representative (USTR). The next largest portion of this funding (21%) is for White House Office (WHO) staff travel including "Presidential travel", which is the term used to delineate those trips where staff members actually travel with or ahead of the President. Those traveling ahead, referred to as advance staff, are responsible for producing Presidential events, as well as establishing an on-site infrastructure similar to

REV_00169869

the support that is provided within the White House. In addition, EOP travel costs related to Presidential travel is tracked by the principals (President, First Lady, Vice President and Mrs. Cheney) and by location. The remaining EOP travel funds are used for staff travel in support of the various EOP offices and their missions.

Transportation of things – The EOP spends funds in this area for the costs of express delivery/shipping of items such as Freedom of Information Act documents and personnel documents for accountability, as well as other miscellaneous items. Vehicle fleet costs are also included in this category.

Rental payments to GSA – Funds paid to GSA are used to provide the EOP offices with space in the government-owned and leased buildings that comprise the White House complex. Although the General Services Administration manages the EOP buildings, including the East and West Wings of the White House, they cannot rent them out to other Federal departments or agencies.

Communications, utilities and miscellaneous services – The bulk of these costs are used for the EOP switchboard. Funding in this category is also used for the networking and telecommunications projects of the Offsite Data Center. These projects include funds for the primary and backup telecommunications lines connecting the remote data center with the EOP office campus, two additional DS-3 data paths, two T-1 lines, and backup to support required communications bandwidth, and availability requirements.

Printing and reproduction – The largest expense in this area is for Presidential stationery and greetings. Also included are the costs for printing in the Code of Federal Regulation and the Federal Register as well as the costs to print the President's Budget, the Economic Report of the President, the National Drug Control Strategy, free trade agreement documents and other publications, studies and reports.

Other services –The primary cost driver in this category is the information technology support contract that provides IT sustainment services, system development services, and system engineering services for the entire EOP. IT support for the EOP as supported by this contract is largely an outsourced activity that includes a broad range of services such as the Help Desk, network and data center operations.

Supplies and materials – Most of the EOP expenses in this category are for general office and IT supplies, as well as the costs for subscriptions to newspapers and magazines.

Equipment – The largest portion of the EOP equipment costs is for IT desktop replacement program and for investments in software and hardware infrastructure to support the EOP IT projects.

Unanticipated Needs – Expenditures from this fund may be authorized only by the President. The Director of OMB provides the necessary controls to ensure that only unforeseen priorities are financed and that funding from other sources is not available.

REV_00169870

ONDCP Policy Research – This is an ONDCP expense and funding is used to support the continuing policy research to better inform drug policy.

Security Guard Services for OSTP (POC – Chuck Sigman)

QUESTION 77: In FY 2003, you budgeted $1,798,000 for security guard services for the Office of Science and Technology Policy. Are similar funds requested in FY 2004? If so, how much?

RESPONSE: The FY 2004 OA budget proposes that the cost of the security guard service (estimated at $702,000) for OSTP be transferred to the OSTP appropriation. Thus, the proposed FY04 OA budget would contain the balance of the funds (approximately $1.1 million).

Since the FY 2003 budget was proposed, there have been additional reviews of the physical security of the White House complex by the US Secret Service, the Federal Protective Service, and the OA Security Office. As a result, the OA Security Office has been assigned the responsibility of correcting deficiencies in EOP physical security. There are some locations which do not currently have Secret Service protection (such as the Jackson Place White House Conference Center). Another location which does not have firm long-term security plans is the office at 1800 G Street. Thus, the Office of Administration has ongoing needs for the $1.1 million which remains in the OA budget. During FY03, these funds are being used for consolidation of information technology maintenance ($200,000), centralization of database services ($200,000), and common building service costs ($400,000). The remaining $300,000 of these savings will be used for an FY03 OA personnel shortfall.

QUESTION 78: Why aren't such funds in the OSTP budget?

RESPONSE: The estimated FY04 cost of 24-hour security guard services for OSTP is included in the FY04 OSTP budget request. This estimate is $702,000 for a full year.

Political Appointees (POC – Jon Laurich)

QUESTION 79: Please update the information on political appointees within EOP as shown on page 268 of last year's hearing record, using the same criteria and assumptions as last year.

RESPONSE: The term "political appointees" is somewhat of a misnomer because it narrowly defines the type of employees authorized under Chapter 2 of Title 3 of the U.S. Code, for the White House Office, the Executive Residence, the Official Residence of the Vice President and the Office of Administration. These offices can hire personnel in various excepted service positions that are not subject to the rules of regular government employees. Many of these excepted service positions fall under the category of serving

REV_00169871

at the pleasure of the President while others do not. Using the term in the broadest possible sense, including all employees hired as Presidential Appointees, Administratively Determined, Non Career SES, or Schedule C's, the Executive Office of the President has the following number of political appointees directly hired within the EOP and serving in the EOP on detailed assignments from other agencies as of May 5, 2003.

	FY 2003 "POLITICAL APPOINTEES" *as of May 5, 2003*					
Program	**Admin. Determ.***	**Schedule C**	**Non career SES**	**Presidential Appointees**	**OGE** Political Appointees**	**TOTAL**
White House Office	438				8	**446**
Office of Homeland Security/Homeland Security Council	20				9	**29**
Special Assistance to the President	24				1	**25**
Official Residence of the Vice President		1				**1**
Office of Administration	6					**6**
Office of Policy Development	30				2	**32**
National Security Council					3	**3**
Council of Economic Advisers	16	3		1		**20**
Office of Management and Budget	2	21	11	5		**39**
Office of National Drug Control Policy		10	2	5		**17**
Executive Residence						
Office of Science and Technology Policy		3	2	3	1	**9**
Council on Environmental Quality	10	2		1	2	**15**
U.S Trade Representative	19	5	3	4		**31**
TOTAL	**565**	**45**	**18**	**19**	**26**	**673**

* Historically, Administratively Determined appointees within some agencies have served from one administration to another. Nevertheless, they serve at the pleasure of the entity head and may be terminated without cause.

** OGE = Other Government Employees

Detailees (POC – Jon Laurich)

QUESTION 80: Please update the information on reimbursable and non-reimbursable detailees with EOP as shown on pages 268 and 269 of last year's hearing record.

RESPONSE: There are currently 251 detailees staffed within the Executive Office of the President. There are 41 reimbursable detailees and 210 non-reimbursable detailees as shown in the chart below, as of May 5, 2003:

REV_00169872

Program	FY 2003 Estimates		
	Reimbursable Detailees	Non-Reimbursable Detailees	TOTAL
White House Office	5	11	**16**
Office of Homeland Security	23	3	**26**
Special Assistance to the President		1	**1**
Official Residence of the Vice President			
Office of Administration			
Office of Policy Development	1	1	**2**
National Security Council	5	103	**108**
Council of Economic Advisers	2	2	**4**
Office of Management and Budget	3	54	**57**
Office of National Drug Control Policy		4	**4**
Executive Residence			
Office of Science and Technology Policy	2	3	**5**
Council on Environmental Quality		3	**3**
U.S Trade Representative		25	**25**
TOTAL	41	210	251

Office of the Vice President (POC – Kristen Savercool)

QUESTION 81: You are requesting an additional $70,000 (+1.7 percent) for the Vice President's travel, due to increased travel to undisclosed locations after the terrorist attacks of September 11, 2001. Weren't these type of increases baselined in FY 2002 and FY 2003, and if so, why are further increases needed in FY 2004?

RESPONSE: The FY 2003 budget was submitted in February 2002, prior to it becoming evident that the Vice President's travel requirements had increased more than originally estimated. Following the events of 9-11, the Vice President has been required to be outside the Washington, DC vicinity for significant periods of time. This travel has been 100 percent official, and operational in nature (i.e. the Vice President performs his regular duties in an off-site location). This travel has required the accompaniment of staff, who also perform operational duties.

Because the budget impact of these additional travel requirements was not fully realized until after the FY 2003 budget request was submitted, they were not included in the FY 2003 baseline. Continued security concerns related to the Vice President and the ensuing impact on the Vice President's travel costs necessitate the increase to the FY 2004 OVP travel budget. This increase will allow the Vice President the flexibility needed to adequately execute his official travel requirements.

Unanticipated Needs (POC – Eric Lanman)

QUESTION 82: Please provide a listing of the uses of Unanticipated Needs funds in FY 2002.

REV_00169873

RESPONSE: $757,000 of the $1,000,000 appropriated to the Unanticipated Needs account in FY 2002 was provided to OMB for Office of Homeland Security Transition Planning Office. The remaining appropriation was not utilized.

REV_00169874

Questions for the Record
Ranking Member, John Olver
Hearing on the Executive Office of the President
April 30, 2003

Account Consolidation and Transfer Proposals (POC – Al Muhlbauer/Jim Daniel)

When we centralized the funds within the Office of Administration, Congress intended that each agency would continue to receive a similar share of support and assistance under the consolidation.

QUESTION 83: Are any agencies going to receive diminished services or resources under the consolidation?

RESPONSE: No, currently the funding in the pilot has been allocated to be consistent with the FY 03 budget request. The service levels will be equal to or greater than pre-pilot levels; however, we are hopeful that the cost to procure the same level of service will decrease. Also, the Office of Administration is preparing service standards. For example, if the service standard for PC's would be one PC per desktop that is less than four years old and if one EOP component is currently at that standard for 95 % of its employees and another is currently at that standard for 50% of its employees, based on need, the second component would get a larger share of the services to bring it closer to the EOP standard. This allows EOP to consistently upgrade software and services across the entire organization as the total infrastructure permits.

QUESTION 84: Are any agencies to receive extra services above and beyond the amount of funds they contributed as part of the consolidation?

RESPONSE: Yes, based on need and to bring organizations that are lagging behind the approved standards up to a consistent standard, some organizations may receive extra services above and beyond the amount of funds they contributed to the consolidation. We anticipate some of those services will be funded from savings in the program.

QUESTION 85: Under the procurement consolidation pilot approved in the FY03 Omnibus, are IT or database services for any EOP agency going to be paid for by funds contributed by other EOP agencies?

RESPONSE: Yes, in addition to generating procurement savings and efficiencies, a major goal of the consolidation pilot is to bring all of the EOP components up to a standard of service which will allow us to implement technology evenly across the organization and to realize efficiencies and benefits from a consistent and even

REV_00169875

infrastructure. In reaching this goal, the funds may be applied in a manner which is not in the same ratio in which they were contributed.

QUESTION 86: In general, are the funds appropriated for this centralized procurement program going to be used to supplement the appropriation made to individual agencies?

RESPONSE: Yes, the individual entities will be the recipients of the services funded by the centralized procurement program without reimbursement in accordance with the Congressional appropriation provided to OA.

QUESTION 87: If so, which agencies will benefit and which agencies will receive less than their share of contributions?

RESPONSE: OA is currently establishing the allocation standards for the commodities included in the centralized procurement program. OA is also requesting that the entities assist us in developing a baseline against which we will measure the allocation standards. That will determine which, if any, entities will benefit and which entities will receive less than their share of contributions.

QUESTION 88: You recently submitted a very cursory report on the procurement pilot. When will you provide us with specific details on the progress of the pilot program?

RESPONSE: As mentioned above, progress is being made on the plan to implement the Common Services Program. We expect to be able to brief the Subcommittee in greater detail this summer.

Your budget also proposes a change that would permit EOP agencies to transfer up to 10% into or out of any agency's budget. Coupled with your account consolidation proposal, that would allow you to transfer in up to $18 million more into (or out of) the White House's budget.

QUESTION 89: Under the procurement consolidation program that we approved in the FY03 bill, don't you have a similar type of flexibility already? What other flexibility is needed?

RESPONSE: The flexibility of the procurement consolidation program is directed to certain defined common commodities. The 10% transfer authority provides flexibility for unexpected requirements and to address needs that may be outside the program.

QUESTION 90: What protection is there for smaller EOP agencies under this proposal? Don't they stand to lose critical resources if the White House or Vice President's Office decide to take 10% of their resources?

REV_00169876

RESPONSE: It is more likely that the smaller entities will benefit from the proposal, because their appropriations are small they are less likely to be able to adjust to unforeseen circumstances, this program will allow the EOP to address those circumstances without requesting supplemental funding. Also, as a practical matter, the issue of "protection" is immaterial as all the entities (setting the Office of the Vice President aside) work directly for the President.

Office of Homeland Security Questions (POC – Paul Ehrhardt)

We recently received a reprogramming request to transfer $2m of the funds provided to the Office of Homeland Security to the Remote Delivery Site cleanup efforts. The source of these funds would come from the Office of Homeland Security.

The Office of Homeland Security has gone from an initial $25m stated need when the initial FY03 bills passed the House and Senate to $11m when the FY03 Omnibus was passed to what will be $9m if the reprogramming is approved.

QUESTION 91: What exactly does the Office of Homeland Security do now that the Department of Homeland Security is in place?

RESPONSE: HSC advises and assists the President on homeland security matters and coordinates policy development and the interagency process regarding Administration policy on homeland security, including the development and coordination of implementation of the *National Strategy for Homeland Security* to secure the United States from terrorist threats and attacks.

QUESTION 92: Does OHS still have a presence at Nebraska Avenue?

RESPONSE: No.

QUESTION 93: Does the Office of Administration provide any support to agencies at Nebraska Avenue? If so, please describe the specific types of support provided. Is this support on a reimbursable basis?

RESPONSE: Since the transfer of the Nebraska Avenue facility to the Department of Homeland Security (DHS) on January 1, 2003, OA has not provided any support to entities at the Nebraska Avenue Complex (NAC). Pursuant to a Determination by the OMB Director, funds in the amount of $3,746,000 were transferred from the OHS Emergency Fund within OA to the Department of Homeland Security in March 2003 to support NAC activities.

QUESTION 94: How many personnel and detailees now work for OHS?

REV_00169877

RESPONSE: The Homeland Security Council currently consists of 66 staff positions which can be filled by either Direct Hire FTE or Other Government Employee (detailee and assignee) personnel. HSC is requesting resources to support up to 40 Direct Hire FTE and 26 OGE FTE on its staff for FY 2004. See table below for a comparison with fiscal years 2003 and 2002.

Office of Homeland Security / Homeland Security Council Personnel

	FY 2002 Actual	FY 2003 Estimate	FY 2004 Request
Direct Hire FTE	31	40	40
Other Government Employee (EOY headcount)	89	26	26
Total Personnel	120	66	66

QUESTION 95: What is the actual operational budget need for OHS in FY03?

RESPONSE: The Homeland Security Council budget requirement from the FY 2003 appropriation is estimated to be approximately $4.32 million. Please note that the FY 2003 estimate covers only costs incurred after the enactment of the FY 2003 appropriation on February 20, 2003. Unlike other EOP entities which operated under continuing resolutions between October 1, 2003 and February 20, 2003, the Office of Homeland Security was not permitted to utilize the CR funding mechanism but instead continued to charge FY 2003 expenses against the no-year emergency funding (provided in FY2002) until the FY 2003 appropriation was enacted. Therefore the FY 2003 estimate reflects only seven months of activity, whereas the FY 2004 Request needs to cover HSC expenses for the full 12 months next fiscal year.

QUESTION 96: For the record, please provide us a breakout by object class of the Office of Homeland Security's FY03 remaining budget.

RESPONSE: The breakout below reflects HSC's budget for the last seven months of FY 2003, from the enactment of the FY 2003 Appropriation on February 20, 2003 through September 30, 2003.

REV_00169878

(Dollars in Thousands)

Object Class	FY 2003 est.
Personnel	$2,800
Travel	$60
Transportation of Things	$24
Communications, Utilities, and Miscelaneous	$50
Printing and Reproduction	$69
Other Services	$1,267
Equipment	$50
Total,	$4,320

QUESTION 97: Any likelihood that these estimates will be revised downward again?

RESPONSE: The FY 2003 estimate provided above reflects the best assessment of HSC requirements from the OHS FY 2003 appropriation, and actual obligations against this appropriation will likely be close to this current estimate.

QUESTION 98: I understand that the President named General Gordon as his new Homeland Security Adviser. Does he support the latest $2 million cut to his office's resources?

RESPONSE: To begin with we should note that, General Gordon has not yet reported to Homeland Security Council. Secondly, in any event, the EOP budget proposal provides the necessary resources for HSC to advise and assist the President. Third, we should also note that the reference to a $2 million cut is incorrect. In fact, the resources of the Homeland Security Council have not been cut by $2 million. The FY 2003 appropriations for the Homeland Security Council included $2 million for decontamination of the Remote Delivery Site (RDS) as agreed to by the Congress and the Administration. Subsequent to the passage of the FY 2003 appropriations, that $2 million was allocated to decontamination of the RDS per agreement. This planned use of that appropriation is not a cut to HSC resources.

QUESTION 99: Have you validated the FY04 request recently to ensure it is an accurate figure?

RESPONSE: Yes, HSC reevaluated its FY 2004 requirements prior to submitting the final FY 2004 Request. Given the creation of the Department of Homeland Security, HSC's FY 2004 budget requirements are estimated at $8,331,000; as requested.

REV_00169879

Budget Questions:

After the FY03 enacted levels are adjusted to reflect the transfer of $9 million to the Office of Homeland Security, the Executive Office of the President's FY04 budget request reflects an 8% increase over FY03 levels. Your agency, the Office of Administration requests a 10% increase between FY03 and FY04.

When the budget was introduced, Mitch Daniels said that the overall growth of Federal programs would be pegged to the expected 4% growth in inflation. The administration also said the President wanted to "match government's growth with the growth of American family income."

QUESTION 100: When the rest of the government is forced to live with 4% growth, how can you justify an almost 10% increase in your office and an overall Executive Office of the President increase of 8%? **(POC – Chuck Sigman)**

RESPONSE: The Office of Administration's 10% budget increase amounts to approximately $7 million. This increase is necessitated by additional costs stemming from the enhanced security activities in the post-September 11 environment:

- The Capital Investment Plan has a net increase of $3.8 million required for the relocation of the EOP data center to an offsite location. The offsite data center has been determined to be a critical project in any contingency plan, and the communications requirements for the data center will be significantly higher in the new facility.
- $2.5 million is needed for the new information technology contract, driven by the information technology service labor increases, the relocation of the data center as well as by the increased security concerns for EOP systems.
- $0.5 million is required for the EOP information assurance program.
- $0.2 million for physical security improvements to the White House complex in providing resources for security education and evacuation resources.

The 8% growth in the overall EOP budget amounts to approximately $24.6 million. Primary components of this increase are mission-specific needs proposed by the different EOP entities:

- $6.3 million in OA programs described in the prior paragraph ($3.8 million for the capital investment plan, $2.5 million for the information technology contract, $0.5 million for information assurance, and $0.2 million for physical security).
- $2.5 million in EOP-wide space rental increases to conform with GSA's market-based rental rates.
- $3.0 million for USTR's additional staff for intensified trade negotiations.

REV_00169880

- $3.0 million in the Executive Residence's multiyear East and West Wing restoration projects.
- $2.7 million for OMB personnel needs.
- $1.5 million for OMB's budget system updates.
- $0.7 million for OMB's E-Government staff and the Office of Information Technology.
- $0.8 million for additional staff for ONDCP.
- $0.6 million in the NSC's funding for reimbursable detailees and President's Foreign Intelligence Advisory Board's request for additional staff.
- $0.5 million for OSTP's continuity of operations plan.

The White House Office's increase of 3.6% looks smaller because of a realignment of $1.85m in rent to the Office of Administration's account. Without the realignment, the White House Office's increase would be around 6.6%.

QUESTION 101: What is the justification for this realignment? **(POC – Eric Lanman)**

RESPONSE: The realignment of $1.85M in rent was made to the WHO from the Office of Administration. Without this and other realignments made as part of the FY 2004 WHO budget request, The White House Office's increase would have only been 1.7 percent.

QUESTION 102: How could the White House have been paying the bill for space that wasn't theirs? **(POC – Eric Lanman)**

RESPONSE: The WHO has not been paying rent on the 1800 G Street office spaces that this realignment involves. These office spaces were necessitated by the movement of certain White House staff offices following the events of September 11. In FY 2003 funds for these spaces were budgeted by the Office of Administration and are being paid for as part of a pilot program authorized by law.

QUESTION 103: Which EOP agencies occupied this space on which the White House Office has been paying rent? **(POC – Eric Lanman)**

RESPONSE: As indicated in the previous answers, White House staff have been occupying this space. Rent is being paid by the Office of Administration as part of the pilot program authorized by law.

QUESTION 104: Are these costs that had historically been paid by the White House Office? **(POC – Eric Lanman)**

REV_00169881

RESPONSE: No. The 1800 G Street Office spaces were not occupied by EOP staff until after the events of 9-11.

QUESTION 105: If so, why make the change this year? **(POC – Eric Lanman)**

RESPONSE: The realignment of these costs under the WHO is done to reflect the costs under the office whose staff occupies them.

Travel

The White House Office's request includes a decrease of $400,000 in Presidential Travel.

QUESTION 106: Was the FY03 estimate too high? **(POC – Eric Lanman)**

RESPONSE: As part of the FY 2003 WHO budget submission, $600,000 was requested to support the travel requirements of the new USA Freedom Corps Office. Actual experience subsequently determined this amount to be in excess of need. As a result, the FY 2003 WHO travel line was reduced $329,647 by the statutory recission, and the FY 2004 WHO budget submission requested $400,000 less in the travel line than the original FY 2003 estimate.

QUESTION 107: If so, how do you intend to use the surplus funds? **(POC – Eric Lanman)**

RESPONSE: The $400,000 reduction to the FY 2004 WHO budget request for travel requirements does not result in surplus funds. It instead results in an overall reduction to the FY 2004 WHO budget estimate.

QUESTION 108: Are you planning less travel in FY04 or will more of the travel just be paid for by political entities? **(POC – Eric Lanman)**

RESPONSE: Except as noted above, the amount of official travel conducted by the White House staff is expected to remain consistent with the FY 2003 estimate.

QUESTION 109: Please provide a list of all White House Office, Office of Homeland Security and Office of Vice President official staff travel for FY02 and FY03 (to date). Include a brief description of the official purpose of the trip. For FY04 estimates, provide estimated number of trips and trip purpose. **(POC – Rothley Howard)**

RESPONSE: The following tables provide the FY 2002 and FY 2003 (to date) staff travel information, where a staff member received government reimbursement, for the

REV_00169882

White House Office and the Office of the Vice President. No FY 2004 estimates are available at this time.

White House Office FY 2002 Staff Travel		
PURPOSE	**DESTINATION**	**DATE**
Meetings	Dallas, TX	03/15/01
Official	Cincinnati, OH	10/01/01
Official	Sacramento, CA	10/11/01
Speaking Engagement	Atlantic City, NJ	10/15/01
Meetings	Los Angeles, CA	10/17/01
Meetings	Reykjavik	10/20/01
Official	Manhattan, NY	10/25/01
Speaking Engagement	Austin, TX	10/26/01
Speaking Engagement	Oakland, CA	10/28/01
Official	Manhattan, NY	10/30/01
Official	Manhattan, NY	10/30/01
Accompany a Cabinet Head	Boston, MA	10/31/01
Official	Lynchburg, VA	10/31/01
Speaking Engagement	Silver Spring, MD	11/01/01
Meetings	Los Angeles, CA	11/02/01
Official	Crawford, TX/Austin, TX	11/07/01
Speaking Engagement	Atlanta, GA	11/09/01
Meetings	Los Angeles, CA	11/10/01
Official	Manhattan, NY	11/10/01
Official	Lynchburg, VA	11/14/01
Official	Manhattan, NY	11/15/01
Official	Waco, TX	11/16/01
Official	Waco, TX	11/16/01
Official	Salt Lake City, UT	11/27/01
Official	Houston, TX/Sacramento, CA/Santa Fe, NM	11/28/01
Official	Manhattan, NY	11/29/01
Official	Manhattan, NY	11/29/01
Meetings	Virginia Beach, VA	12/04/01
Meetings	Atlanta, GA	12/05/01
Official	Lynchburg, VA	12/05/01
Meetings	Philadelphia, PA	12/05/01

REV_00169883

Speaking Engagement	Atlanta, GA	12/06/01
Speaking Engagement	Ft. Wayne, IN	12/06/01
Official	Lynchburg, VA	12/12/01
Meetings	Lynchburg, VA	12/16/01
Official	Sacramento, CA	12/18/01
Official	Camp David, MD	12/21/01
Official	Lynchburg, VA	12/24/01
Official	Waco, TX	12/26/01
Official	Minneapolis, MN	12/27/01
Official	Camp David, MD	12/28/01
Speaking Engagement	Austin, TX	01/03/02
Official	Hamilton, OH	01/06/02
Meetings	Lynchburg, VA	01/07/02
Official	Salt Lake City, UT	01/09/02
Speaking Engagement	Las Vegas, NV	01/10/02
Official	Anchorage, AK	01/14/02
Meetings	Lynchburg, VA	01/14/02
Official	Mamphis, TN	01/14/02
Official	New Orleans, LA	01/14/02
Speaking Engagement	Sacramento, CA	01/17/02
Speaking Engagement	Dallas, TX	01/18/02
Official	Portland, ME	01/21/02
Official	Atlanta, GA	01/25/02
Meetings	Manhattan, NY	01/25/02
Official	Winston-Salem. NC	01/25/02
Meetings	Lynchburg, VA	01/28/02
Meetings	Salt Lake City, UT	01/28/02
Speaking Engagement	Chicago, IL	01/30/02
Official	Lynchburg, VA	01/30/02
Official	Salt Lake City, UT	02/01/02
Official	Salt Lake City, UT	02/01/02
Official	Denver, C0	02/04/02
Official	Jackson, WY	02/04/02
Meetings	Lynchburg, VA	02/04/02
Official	Milwaukee, WI	02/06/02
Meetings	Albuquerque, NM	02/07/02
Official	Denver, CO/Jackson, WY/ Idaho Falls, ID	02/07/02
Meetings	New Haven, CT	02/07/02
Official	Waco, TX	02/08/02

REV_00169884

Official	Anchorage, AK	02/11/02
Official	Lynchburg, VA	02/11/02
Speaking Engagement	Denver, CO	02/12/02
Official	Lynchburg, VA	02/13/02
Speaking Engagement	Naples, FL	02/14/02
Speaking Engagement	Charlottesville, VA	02/16/02
Speaking Engagement	Dallas, TX	02/18/02
Official	Jackson, WY/Los Angeles, CA	02/18/02
Meetings	Kansas City, KS	02/18/02
Accompany a USG Delegation	Rome, ITA	02/18/02
Meetings	Key West, FL	02/21/02
Meetings	Las Vegas, NV	02/21/02
Meetings	Lynchburg, VA	02/27/02
Speaking Engagement	Los Angeles, CA	02/28/02
Official	Camp David, MD	03/01/02
Speaking Engagement	Hartford, CT	03/01/02
Speaking Engagement	Jackson, MS	03/01/02
Meetings	Lynchburg, VA	03/04/02
Official	Camp David, MD	03/05/02
Official	Lynchburg, VA	03/06/02
Speaking Engagement	Palm Springs, CA	03/07/02
Meetings	Lynchburg, VA	03/08/02
Official	Norfolk, VA	03/08/02
Official	Richmond, VA	03/08/02
Official	Richmond, VA	03/08/02
Official	College Station, TX	03/09/02
Official	Fayetteville, NC	03/11/02
Official	Lynchburg, VA	03/11/02
Official	St. Louis, MO	03/13/02
Meetings	Washington DC	03/15/02
Official	El Paso, TX	03/16/02
Official	Atlanta, GA	03/22/02
Meetings	Cedar Rapids, IA	03/24/02
Official	Austin, TX/Waco, TX	03/25/02
Official	Dallas, TX	03/25/02
Official	Lynchburg, VA	03/25/02

REV_00169885

Official	Atlanta, GA/Waco, TX/Greenville, SC	03/27/02
Meetings	Lynchburg, VA	03/27/02
Official	Philadelphia, Pa	03/27/02
Official	Waco, TX	03/27/02
Official	Waco, TX	04/04/02
Official	Waco, TX	04/04/02
Official	Waco, TX	04/04/02
Meetings	Boston, MA	04/05/02
Speaking Engagement	Orlando, FL/Tampa, FL	04/06/02
Meetings	Knoxville, TN	04/07/02
Meetings	Denver. CO/Las Vegas, NV	04/11/02
Official	Camp David, MD	04/12/02
Official	Camp David, MD	04/12/02
Meetings	Boston, MA	04/15/02
Meetings	Lynchburg, VA	04/15/02
Meetings	Manhattan, NY	04/15/02
Speaking Engagement	Oakland, CA/Seattle, WA	04/16/02
Official	Lynchburg, VA	04/17/02
Official	Lynchburg, VA	04/17/02
Official	Camp David, MD	04/19/02
Official	Austin, TX/Waco, TX	04/23/02
Official	Lynchburg, VA	04/23/02
Official	Los Angeles, CA/Waco, TX	04/24/02
Official	Los Angeles, CA/Waco, TX	04/24/02
Speaking Engagement	Jackson, MS	04/26/02
Meetings	Philadelphia, PA	04/26/02
Meetings	San Marcos, TX	04/27/02
Official	Lynchburg, VA	04/29/02
Meetings	San Jose, CA	04/29/02
Meetings	Tampa, FL	04/30/02
Official	Camp David, MD	05/03/02
Speaking Engagement	Miami, FL	05/07/02
Official	Lynchburg, VA	05/08/02
Official	Camp David, MD	05/10/02
Speaking Engagement	College Station, TX	05/10/02
Official	Houston, TX	05/10/02
Official	Lynchburg, VA	05/13/02
Speaking Engagement	New Orleans, LA	05/13/02

REV_00169886

Official	Lynchburg, VA	05/15/02
Official	Camp David, MD	05/17/02
Meetings	Manhattan, NY/Phoenix, AZ	05/21/02
Speaking Engagement	Atlanta, GA	05/23/02
Speaking Engagement	Birmingham, AL	05/25/02
Official	West Point, NY	05/26/02
Official	Little Rock, AR	05/27/02
Official	Lynchburg, VA	05/27/02
Official	Little Rock, AR	05/29/02
Speaking Engagement	Pittsburg, PA	05/29/02
Official	Philadelphia, Pa	05/30/02
Speaking Engagement	Albuquerque, NM/Las Vegas, NV/Los Angeles, CA	05/31/02
Official	Camp David, MD	05/31/02
Invitational	Washington, DC	05/31/02
Official	Des Moines, IA	06/02/02
Official	Des Moines, IA	06/02/02
Meetings	Manhattan, NY	06/02/02
Meetings	Lynchburg, VA	06/03/02
Official	Lynchburg, VA	06/03/02
Official	Kansas City, KS	06/06/02
Official	Camp David, MD	06/07/02
Official	El Paso, TX	06/07/02
Speaking Engagement	Ft. Meyers, FL	06/07/02
Speaking Engagement	Salt Lake City, UT	06/10/02
Official	Atlanta, GA	06/11/02
Official	Crawford, TX	06/11/02
Meetings	Los Angeles, CA/Modesto, CA	06/12/02
Official	Lynchburg, VA	06/12/02
Official	Waco, TX	06/12/02
Meetings	New Orleans, LA	06/13/02
Official	Minneapolis, MN	06/14/02
Official	Waco, TX	06/14/02
Official	Waco, TX	06/14/02
Official	Lynchburg, VA	06/17/02
Meetings	Madison. WI	06/17/02
Speaking Engagement	Pittsburg, PA	06/19/02
Speaking Engagement	Brooklyn, NY	06/21/02

REV_00169887

Speaking Engagement	Charlotte, NC	06/21/02
Meetings	Phoenix, AZ/Scottsdale, AZ	06/21/02
Official	Providence, RI	06/22/02
Official	Lynchburg, VA	06/24/02
Meetings	San Francisco, CA/Seattle, WA	06/25/02
Official	Lynchburg, VA	06/26/02
Speaking Engagement	Albuquerque, NM	06/27/02
Official	Crawford, TX	06/28/02
Official	Ripley, WV	06/29/02
Official	Lynchburg, VA	07/11/02
Official	Crawford, TX	07/12/02
Meetings	New Orleans, LA	07/12/02
Meetings	Boise, ID	07/14/02
Meetings	New Orleans, LA	07/14/02
Official	Lynchburg, VA	07/16/02
Meetings	London, GBR/FRA	07/18/02
Speaking Engagement	Los Angeles, CA	07/20/02
Official	Charleston, SC	07/23/02
Official	Charleston, SC	07/23/02
Speaking Engagement	Cleveland, OH/Minneapolis, MN	07/23/02
Meetings	Denver, CO	07/23/02
Meetings	Denver, CO/Orlando, FL	07/23/02
Official	Lynchburg, VA	07/24/02
Official	Manhattan, NY	07/24/02
Meetings	Atlanta, GA	07/28/02
Meetings	MexicoCity, MEX	07/28/02
Official	Lubbock, TX	07/29/02
Meetings	Lynchburg, VA	07/29/02
Meetings	Boston, MA	07/30/02
Meetings	Ausitn, TX	08/01/02
Meetings	Austin, TX	08/01/02
Official	Waco, TX	08/01/02
Official	Waco, TX	08/01/02
Speaking Engagement	Hershey, PA	08/03/02
Official	Lynchburg, VA	08/05/02
Meetings	Manhattan, NY	08/05/02
Meetings	Ft Lauderdale, FL	08/06/02
Meetings	Orlando, FL	08/06/02
Official	Waco, TX	08/06/02
Official	Waco, TX	08/06/02

REV_00169888

Official	Waco, TX	08/06/02
Official	Waco, TX	08/11/02
Official	Des Moines, IA	08/13/02
Conference Attendance	New Orleans, LA	08/13/02
Official	Waco, TX	08/13/02
Speaking Engagement	Charleston, WV	08/15/02
Official	Waco, TX	08/15/02
Official	Waco, TX	08/15/02
Official	Las Cruces, NM	08/19/02
Official	Las Cruses, NM	08/19/02
Official	Monterey, CA	08/19/02
Official	Hanoi, VIE/Honolulu, HI	08/20/02
Official	Las Cruces, NM	08/20/02
Speaking Engagement	Ft. Lauderdale, FL	08/25/02
Speaking Engagement	Memphis, TN	08/28/02
Speaking Engagement	Philadelphia, PA	08/28/02
Official	Louisville, KY	08/29/02
Official	Louisville, KY	08/29/02
Official	Louisville, KY	08/30/02
Official	South Bend, IN	08/30/02
Official	South Bend, IN	08/30/02
Official	South Bend, IN	08/30/02
Official	Minneapolis, MN	09/02/02
Speaking Engagement	Manhattan, NY/Kansas City, KS	09/03/02
Speaking Engagement	Naples, FL/Orlando, FL	09/03/02
Meetings	Lynchburg, VA	09/04/02
Meetings	Manhattan, NY	09/04/02
Speaking Engagement	Manhattan, NY	09/05/02
Official	Manhattan, NY	09/08/02
Official	Pittsburg, PA	09/10/02
Official	Pittsburg, PA	09/10/02
Official	Lynchburg, VA	09/11/02
Official	Davenport, IA	09/12/02
Meetings	Austin, TX	09/13/02
Meetings	Los Angeles, CA	09/13/02
Official	Pittsburg, PA	09/13/02
Official	Lynchburg, VA	09/16/02
Speaking Engagement	Baltimore, MD	09/19/02

REV_00169889

Speaking Engagement	Cedar Rapids, IA	09/19/02
Speaking Engagement	Chicago, IL	09/20/02
Speaking Engagement	Wintergreen, VA	09/20/02
Speaking Engagement	Columbus, OH	09/23/02
Official	Milwaukee, WI	09/23/02
Official	Lynchburg, VA	09/25/02
Speaking Engagement	Orange County, CA	09/25/02
Official	Waco, TX	09/25/02
Speaking Engagement	Raleigh, NC	09/26/02
Speaking Engagement	Pittsburg, PA	09/27/02
Speaking Engagement	Boston, MA	09/28/02
Speaking Engagement	Manhattan, NY	09/30/02
Official	San Francisco, CA	10/15/02

White House Office FY 2003 Staff Travel		
PURPOSE	**DESTINATION**	**DATE**
Meeting	Manhattan,NY	10/01/02
Meeting	Chicago, IL	10/02/02
Speaking Engagement	Columbus, OH	10/02/02
Speaking Engagement	Syracuse, NY	10/04/02
Speaking Engagement	Atlanta, GA	10/05/02
Official	Lynchburg, VA	10/07/02
Speaking Engagement	Orlando, FL	10/07/02
Meeting	Atlanta, GA	10/08/02
Speaking Engagement	Portsmouth, NH	10/08/02
Meeting	Hague	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02

REV_00169890

Speaking Engagement	Sioux Falls Naval, SD	10/09/02
Meeting	Washington, DC	10/09/02
Meeting	Manhattan,NY	10/10/02
Meeting	Naples, FL	10/10/02
Speaking Engagement	Ft. Lauderdale, FL	10/10/02
Speaking Engagement	Ft. Lauderdale, FL	10/10/02
Speaking Engagement	Milwaukee, WI	10/13/02
Meeting	Daytona Beach, FL	10/14/02
Official	Lynchburg, VA	10/16/02
Meeting	Manhattan,NY	10/17/02
Meeting	Philadelphia, PA	10/17/02
Meeting	Manhattan,NY	10/17/02
Speaking Engagement	Indianapolis, IN	10/17/02
Speaking Engagement	Atlanta, GA	10/19/02
Speaking Engagement	San Antonio, TX	10/20/02
Meeting	Des Moines, IA	10/20/02
Official	Lynchburg, VA	10/21/02
Official	Waco, TX	10/22/02
Meeting	Lynchburg, VA	10/23/02
Meeting	Chicago, IL	10/23/02
Speaking Engagement	St. Louis, MO	10/24/02
Speaking Engagement	Los Angeles, CA	10/24/02
Meeting	Charlotte, NC	10/24/02
Meeting	Los Angeles, CA	10/24/02
Official	Lynchburg, VA	10/28/02
Meeting	Charlotte, NC	10/28/02
Meeting	Cleveland, OH	10/28/02
Meeting	Providence, RI	10/28/02
Speaking Engagement	Pittsburgh, PA	10/29/02
Official	Waco, TX	10/31/02
Meeting	Miami, FL	11/05/02
Meeting	West Point, NY	11/07/02
Meeting	Providence, RI	11/07/02
Speaking Engagement	Providence, RI	11/07/02
Speaking Engagement	Los Angeles, CA	11/07/02
Meeting	Manhattan,NY	11/08/02
Speaking Engagement	San Diego, CA	11/10/02
Speaking Engagement	Reno, NV	11/11/02
Official	Lynchburg, VA	11/12/02
Official	Lynchburg, VA	11/13/02
Meeting	Charlotte, NC	11/13/02
Speaking Engagement	Lansing, MI	11/13/02

REV_00169891

Speaking Engagement	Manchester, NH	11/13/02
Speaking Engagement	Portland, OR	11/14/02
Meeting	Austin, TX	11/16/02
Meeting	Austin, TX	11/16/02
Speaking Engagement	Albany, NY	11/18/02
Speaking Engagement	Portland, OR	11/18/02
Speaking Engagement	Newark, NJ	11/19/02
Meeting	Manhattan,NY	11/20/02
Speaking Engagement	Tallahassee, FL	11/20/02
Speaking Engagement	Concord, NH	11/20/02
Meeting	Manhattan,NY	11/21/02
Meeting	Los Angeles, CA	11/21/02
Meeting	Loudoun County, VA	11/21/02
Speaking Engagement	West Palm Beach, FL	11/22/02
Speaking Engagement	Springfield, MO	11/24/02
Speaking Engagement	Ft. Lauderdale, FL	11/24/02
Meeting	Manhattan,NY	11/25/02
Speaking Engagement	Manhattan,NY	11/25/02
Official	Waco, TX	11/25/02
Speaking Engagement	Hershey, PA	11/26/02
Meeting	New Orleans, LA	12/01/02
Official	Ft. Lauderdale, FL	12/01/02
Official	Manhattan,NY	12/02/02
Speaking Engagement	Augusta Naval Ctr, ME	12/02/02
Official	Jacksonville, Fl	12/03/02
Speaking Engagement	Pensacola, FL	12/03/02
Speaking Engagement	Tallahassee, FL	12/04/02
Speaking Engagement	Lexington, KY	12/04/02
Meeting	Philadelphia, PA	12/06/02
Speaking Engagement	Ft. Wayne, IN	12/06/02
Speaking Engagement	Richmond, VA	12/07/02
Meeting	Manhattan,NY	12/09/02
Official	Lynchburg, VA	12/09/02
Meeting	Philadelphia, PA	12/09/02
Speaking Engagement	Nashville, TN	12/09/02
Meeting	Manhattan,NY	12/10/02
Speaking Engagement	Duluth,, MN	12/10/02
Official	Lynchburg, VA	12/11/02
Meeting	Philadelphia, PA	12/11/02
Meeting	Philadelphia, PA	12/11/02
Meeting	Philadelphia, PA	12/11/02
Meeting	Philadelphia, PA	12/11/02
Speaking Engagement	Philadelphia, PA	12/11/02

REV_00169892

Speaking Engagement	Philadelphia, PA	12/11/02
Meeting	Indianapolis, IN	12/11/02
Meeting	Norfolk, VA	12/17/02
Meeting	West Palm Beach, FL	12/20/02
Meeting	Salt Lake City, UT	01/01/03
Official	Chicago, IL	01/02/03
Official	Reno, NV	01/05/03
Official	Chicago, IL	01/05/03
Meeting	Manhattan,NY	01/07/03
Meeting	Augusta Naval Ctr, ME	01/08/03
Meeting	Albuquerque, NM	01/09/03
Meeting	Denver, CO	01/10/03
Meeting	Tampa, FL	01/11/03
Meeting	Tampa, FL	01/11/03
Meeting	Denver, CO	01/11/03
Meeting	Denver, CO	01/12/03
Meeting	Denver, CO	01/12/03
Meeting	Denver, CO	01/12/03
Meeting	Denver, CO	01/12/03
Meeting	Denver, CO	01/12/03
Meeting	Denver, CO	01/12/03
Meeting	Salem Naval Ctr, OR	01/12/03
Official	Lynchburg, VA	01/15/03
Meeting	Manhattan,NY	01/19/03
Speaking Engagement	Austin, TX	01/20/03
Official	Lynchburg, VA	01/21/03
Meeting	Manhattan,NY	01/21/03
Speaking Engagement	Des Moines, IA	01/21/03
Speaking Engagement	Oakland, CA	01/23/03
Speaking Engagement	Chicago, IL	01/26/03
Speaking Engagement	Norfolk, VA	01/26/03
Meeting	Manhattan,NY	01/28/03
Meeting	Las Vegas, NV	01/31/03
Meeting	Manhattan,NY	02/03/03
Meeting	Manhattan,NY	02/03/03
Speaking Engagement	Boston, MA	02/06/03
Meeting	Nashville, TN	02/09/03
Official	Lynchburg, VA	02/10/03
Speaking Engagement	Little Rock, AR	02/10/03
Meeting	Tallahassee, FL	02/11/03
Meeting	San Diego, CA	02/13/03
Conference Attendance	San Diego, CA	02/15/03
Speaking Engagement	San Diego, CA	02/15/03
Meeting	Cincinnati, OH	02/19/03

REV_00169893

Meeting	Montgomery, AL	02/20/03
Speaking Engagement	Baton Rouge, LA	02/20/03
Meeting	Lynchburg, VA	02/24/03
Meeting	Santa Fe, NM	02/24/03
Speaking Engagement	Houston, TX	02/27/03
Meeting	Miami, FL	02/27/03
Meeting	Portland, OR	02/28/03
Meeting	Newport News, VA	03/05/03
Official	Lynchburg, VA	03/05/03
Speaking Engagement	Minneapolis, MN	03/06/03
Meeting	King of Prussia, PA	03/10/03
Speaking Engagement	Raleigh, NC	03/11/03
Meeting	Chicago, IL	03/12/03
Meeting	Chicago, IL	03/12/03
Meeting	Philadelphia, PA	03/12/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/14/03
Speaking Engagement	Charlottesville, VA	03/14/03
Speaking Engagement	Montgomery, AL	03/14/03
Speaking Engagement	Charlotte, NC	03/16/03
Speaking Engagement	Columbus, OH	03/17/03
Official	Lynchburg, VA	03/19/03
Speaking Engagement	Harford County, MD	03/21/03
Speaking Engagement	Atlanta, GA	03/24/03
Meeting	Philadelphia, PA	03/25/03
Meeting	Philadelphia, PA	03/25/03
Meeting	Philadelphia, PA	03/25/03
Meeting	Lansing, MI	03/25/03
Official	Lynchburg, VA	03/26/03
Speaking Engagement	Princeton, NJ	03/26/03
Speaking Engagement	Columbus, OH	03/26/03
Speaking Engagement	Jackson, MS	03/27/03
Meeting	Las Vegas, NV	03/27/03
Speaking Engagement	Los Angeles, CA	03/29/03
Speaking Engagement	Pittsburgh, PA	03/29/03
Official	Lynchburg, VA	03/31/03
Official	Lynchburg, VA	04/02/03
Meeting	Manhattan,NY	04/02/03
Speaking Engagement	Nashville, TN	04/03/03

REV_00169894

Official	Philadelphia, PA	04/03/03
Speaking Engagement	Atlantic City, NJ	04/04/03
Speaking Engagement	Tallahassee, FL	04/06/03
Speaking Engagement	Hershey, PA	04/06/03
Meeting	Houston, TX	04/08/03
Speaking Engagement	Albuquerque, NM	04/08/03
Speaking Engagement	Denver, CO	04/11/03
Official	Elmendorf, AK	04/12/03
Speaking Engagement	Detroit, MI	04/13/03
Meeting	St. Louis, MO	04/14/03
Speaking Engagement	Jefferson City, MO	04/14/03
Meeting	Manhattan,NY	04/15/03
Meeting	Dayton, OH	04/22/03
Official	San Jose, CA	04/22/03
Speaking Engagement	Houston, TX	04/23/03
Speaking Engagement	Atlanta, GA	04/24/03
Speaking Engagement	Houston, TX	04/24/03
Meeting	Albuquerque, NM	04/24/03
Speaking Engagement	Bridgeport, CT	04/27/03
Meeting	Chicago, IL	05/01/03
Speaking Engagement	Baton Rouge, LA	05/05/03
Speaking Engagement	Portland, OR	05/05/03

Office of the Vice President FY 2002 Staff Travel		
PURPOSE	**DESTINATION**	**DATE**
Meetings	London, GBR	07/14/02
Official	Monterey, CA	07/15/02

Office of the Vice President FY 2003 Staff Travel		
PURPOSE	**DESTINATION**	**DATE**
Invitational	Washington DC	10/18/02
Meetings	London, GBR	10/09/02
Meetings	London, GBR	12/12/02
Meetings	Manhattan, NY	01/15/03
Official	Raleigh, NC	04/10/03

REV_00169895

QUESTION 110: Please provide a list of all Presidential, First Lady and Vice Presidential travel for FY02 and FY03 (to date). For each trip, please provide the trip date, destination, designation (i.e., political, official), number of official EOP staff supporting the Principal and, the official cost of the trip. **(POC – Rothley Howard)**

Answer: The following charts summarize Presidential, First Lady and Vice Presidential travel for Fiscal Years 2002 and 2003 (to date). They also reflect costs currently in the accounting system. Several of the trips listed below are awaiting additional costs, therefore, final costs may vary.

Presidential Travel FY 2002

		Status		# of EOP Staff	White House
Date	**Destination**	**Official**	**Political**		**Travel Cost**
3-Oct	New York, NY	100%		6	$8,060
7-Oct	Emmitsburg, MD	100%		4	$1,988
17-Oct	Sacramento, CA	100%		5	$16,678
30-Oct	New York, NY	100%		4	$13,043
8-Nov	Atlanta, GA	100%		6	$17,920
10-Nov	New York, NY	100%		0	$6,525
14-Nov	Crawford. TX	100%		4	$44,535
21-Nov	Fort Campbell, KY	100%		3	$9,114
27-Nov	Salt Lake City, UT	100%		7	$4,328
1-Dec	Philadelphia, PA	100%		5	$13,669
4-Dec	Orlando, FL	70%	30%	7	$13,371
7-Dec	Norfolk, VA	100%		5	$5,271
11-Dec	Citadel, SC	100%		4	$11,498
26-Dec	Waco, TX	100%		7	$12,667
4-Jan	Austin, TX	100%		1	$5,356
5-Jan	Ontario, CA	100%		4	$10,240
5-Jan	Portland, OR	100%		7	$10,870
8-Jan	Hamilton, OH	100%		6	$6,588
8-Jan	Boston, MA	100%		6	$11,159
8-Jan	Portsmith, NH	54%	46%	4	$6,594
9-Jan	Washington, DC	100%		0	$0
11-Jan	Conshohoken, PA	100%		6	$5,321
14-Jan	Moline, IL	100%		6	$7,570
14-Jan	Springfield, MO	100%		4	$6,569
14-Jan	New Orleans, LA	100%		21	$32,494
22-Jan	Charleston, WV	71%	29%		$6,086
25-Jan	Portland, ME	100%		5	$7,698

REV_00169896

30-Jan	Winston-Salem, NC	65%	35%	0	$8,799
30-Jan	Daytona Beach, FL	100%		16	$12,874
31-Jan	Atlanta, GA	100%		5	$13,869
1-Feb	White Sulpher Springs, WV	100%		4	$4,273
4-Feb	Eglin AFB,FL	100%		4	$7,666
5-Feb	Pittsburgh ,PA	100%		5	$7,918
6-Feb	New York, NY	54%	46%	6	$6,940
8-Feb	Denver, CO	100%		4	$7,644
8-Feb	Salt Lake City, UT	100%		13	$12,877
8-Feb	Jackson, WY	100%		7	$11,182
11-Feb	Milwaukee, WI	48%	52%	1	$9,360
16-Feb	Anchorage, AK	40%	60%	1	$9,181
27-Feb	Charlotte, NC	52%	48%	1	$7,048
1-Mar	Des Moines, IA	53%	47%	**5**	$3,546
3-Mar	Minneapolis, MN	50%	50%	2	$7,127
8-Mar	St. Petersburg, FL	57%	43%	2	$6,093
12-Mar	Philadelphia, PA	100%		9	$11,102
15-Mar	Fayetteville, NC	100%		6	$1,218
16-Mar	Chicago, IL	100%		4	$11,217
18-Mar	St. Louis, MO	65%	35%	5	$5,835
21-Mar	El Paso, TX	100%		6	$129
27-Mar	Greenville, SC	45%	55%	5	$-3,217
27-Mar	Atlanta, GA	52%	48%	3	$166
27-Mar	Waco, TX	100%		8	$19,804
28-Mar	Dallas, TX	20%	80%	4	$224
2-Apr	Philadelphia, PA	59%	41%	6	$12,239
4-Apr	Waco, TX	100% State		0	$0
8-Apr	Knoxville, TN	100%		5	$743
9-Apr	Bridgeport, CT	52%	48%	6	$7,152
15-Apr	Cedar Rapids, IA	59%	41%	5	$7,819
17-Apr	Lexington, VA	100%		5	$8,505
22-Apr	Saranac, NY(Wilmington, NY)	100%		4	$13,029
19-Apr	Beltsville, MD	100%		0	$0
24-Apr	Sioux Falls, SD	45%	55%	5	$8,249
24-Apr	Waco, TX	100%		12	$13,741
29-Apr	Los Angeles, CA	48%	52%	17	$10,907
29-Apr	Albuquerque, NM	54%	46%	5	$7,054
30-Apr	San Jose, CA	42%	58%	6	$6,632
6-May	Southfield, MI	100%		5	$9,857
8-May	Milwaukee, WI	100%		6	$10,952

REV_00169897

8-May	Lacrosse, WI	100%		7	$8,760
10-May	Columbus, OH	59%	41%	5	$4,992
13-May	Chicago, IL	42%	58%	6	$1,743
20-May	Miami, FL	42%	58%	7	$8,587
1-Jun	West Point, NY	100%		5	$13,593
3-Jun	Little Rock, AR	100%		6	$10,094
7-Jun	Des Moines, IA	100%		6	$13,895
11-Jun	Kansas City, MO	58%	42%	7	$8,179
14-Jun	Columbus,OH	100%		6	$4,031
14-Jun	Houston, TX	45%	55%	**5**	$9,739
14-Jun	Waco, TX	100%		3	$14,955
17-Jun	Atlanta, GA	100%		5	$8,663
21-Jun	Orlando, FL	48%	52%	7	$12,111
24-Jun	Newark, NJ	48%	52%	7	$4,974
25-Jun	Phoenix, AZ	100%		0	$584
1-Jul	Cleveland, OH	100%		5	$7,823
2-Jun	Milwaukee, WI	100%		5	$6,411
4-Jul	Ripley, WV	100%		6	$7,129
5-Jul	Kennebunkport, MN	100%		0	$34,245
9-Jul	New York City, NY	100%		5	$7,706
11-Jul	Minneapolis, MN	62%	38%	7	$13,709
15-Jul	Birmingham, AL	62%	38%	6	$5,747
18-Jul	Troy, MI	100%		0	$3,197
19-Jul	Fort Drum, NY	100%		6	$7,133
22-Jul	Argonne, IL	100%		7	$10,510
25-Jul	Greensboro, NC	62%	38%	7	$5,342
29-Jul	Charleston, SC	59%	41%	5	$7,149
2-Aug	Kennebunkport, MN	75%	25%	14	$34,291
5-Aug	Pittsburg, PA	56%	44%	7	$11,138
6-Aug	Waco, TX	100%		21	$107,331
7-Aug	Jackson, MS	76%	24%	6	$9,750
13-Aug	Economic Forum Waco, TX	100%		0	$201
14-Aug	Milwaukee, WI	42%	58%	5	$5,217
14-Aug	Des Moines, IA	42%	58%	23	$6,630
14-Aug	South Dakota	100%		4	$8,029
16-Aug	Rapid City, SD	58%	42%	1	$65
22-Aug	Medford, OR	100%		5	$10,226
22-Aug	Portland, OR		100%	0	$2,429
23-Aug	Dana Point, CA	50%	50%	20	$21,873
23-Aug	Stockton, CA	38%	62%	5	$4,565

REV_00169898

24-Aug	Thousand Oaks/Westwood, CA		100%	0	$955
24-Aug	Santa Anna, CA	100%			$0
24-Aug	Las Cruces, NM	42%	58%	6	$4,381
29-Aug	Oklahoma City, OK		100%	0	$0
29-Aug	Little Rock, AR	58%	42%	5	$10,649
2-Sep	Pittsburgh, PA	100%		4	$11,098
5-Sep	Louisville, KY	59%	41%	7	$8,684
5-Sep	South Bend, IN	42%	58%	3	$5,105
6-Sep	Delu	100%		0	$1,346
6-Sep	Minneapolis, MN	100%		5	$3,387
9-Sep	Detroit, MI	100% State		0	$1,804
11-Sep	Somerset County, PA	100%		6	$1,611
11-Sep	New York City, NY	100%		8	$6,665
16-Sep	Davenport, IA	48%	52%	6	$6,573
17-Sep	Nashville, TN	38%	62%	6	$1,573
23-Sep	Trenton, NJ	38%	62%	5	$5,053
26-Sep	Houston, TX		100%	0	$0
26-Sep	Waco, TX	100%		9	$19,792
27-Sep	Denver, CO		100%	0	$0
27-Sep	Flagstaff, AZ		100%	0	$0
27-Sep	Phoenix, AZ		100%	0	$0
	Total Presidential FY 2002 Costs Through 09/30/02				**$1,146,388**

First Lady Travel FY 2002					
		Status		# of EOP	White House
Date	Destination	Official	Political	Staff	Travel Cost
3-Oct	Cincinnati, OH	100%		0	$339
16-Oct	Newark, NJ	100%		0	$1,790
18-Oct	Atlanta, GA	100%		1	$1,742
19-Oct	Baton Rouge, LA	100%		0	$1,568
30-Oct	New York, NY	100%		3	$1,652
16-Nov	Austin, TX	100%		1	$7,300
9-Jan	Topeka, KS	100%		0	$1,566
10-Jan	Houston, TX	100%		0	$1,915
11-Jan	Austin, TX	100%		0	$780
21-Jan	Atlanta, GA	100%		0	$1,060
10-Feb	Los Angeles, CA	100%		1	$5,021
11-Feb	Hershey, PA	100%		0	$0
8-Mar	New York, NY	100%		3	$6,218

REV_00169899

11-Mar	Richmond, VA	100%		4	$1,659
4-Apr	Dallas, TX	100%		1	$35
11-Apr	Hershey, PA	100%		1	$899
30-Apr	Little Rock, AR	100%		2	$1,839
30-Apr	Dallas, TX	100%		3	$365
9-May	New York, NY	100%		0	$1,898
28-May	Austin, TX	100%		1	$3,379
10-Jun	Boise, ID	100%		1	$3,456
11-Jun	Salt Lake City, UT	100%		1	$1,187
11-Jun	San Francisco	61%	39%	0	$5,237
12-Jun	Austin, TX	100%		1	$3,693
6-Jun	Crawford, TX	100%		0	$0
20-Jun	Boston, MA	100%		1	$1,674
17-Jun	Cinncinati, OH	100%		2	$2,309
22-Jun	Midland, TX	100%		0	$0
7-Jul	Kennebunkport, ME	100%		0	$0
12-Jul	Norfolk, VA	100%		2	$969
18-Jul	Philadelphia, PA	100% State		0	$0
24-Jul	New York, NY			2	$236
2-Aug	Dallas, TX	100%		1	$1,773
3-Aug	Lubbock, TX	100%		4	$3,571
14-Aug	Austin, TX	100%		2	$3,231
22-Aug	Austin, TX	100%		2	$3,501
11-Sep	New York, NY	100%		4	$4,241
25-Sep	Greenville, MS	100%		0	$1,591
27-Sep	Waco, TX	100%		1	105
	Total First Lady FY 2002 Costs through 09/30/02				**$77,799**

Vice Presidential Travel FY 2002					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
7-Oct	Smithers, BC *(can./Adv. only)*			1	$449
18-Oct	New York, NY	100%		4	$2,063
21-Oct	Washington, DC	100%			$378
28-Oct	Poughkeepsie, NY	100%		5	$3,885
30-Oct	White Sulphur Springs, WV				$200
4-Nov	Pierre/Gettysburg, SD	100%		7	$5,676
2-Nov	Dallas, TX *(can. trip)*	100%		1	$115
2-Nov	Jackson, WY	100%		2	$11,195

REV_00169900

27-Nov	Salt Lake City, UT	100%		3	$526
29-Nov	New York, NY	100%		17	$14,413
6-Dec	Dallas, TX		100%	9	$1,776
7-Dec	Oklahoma City, OK		100%	3	$4
14-Dec	Albany, GA	100%		9	$5,214
17-Dec	Jackson, WY *(no trip listed/noTA)*				$0
19-Dec	Trappe, MD	100%		9	$4,217
22-Dec	Jackson, WY	100%		14	$55,257
11-Jan	Albany, GA	100%		8	$5,447
25-Jan	Cincinnati, OH		100%	4	$0
30-Jan	White Sulpher Springs, WV	100%		8	$4,353
6-Feb	Louisville, KY		100%	9	$5,392
6-Feb	Evansville, IN		100%		$0
7-Feb	Hopkinsville, KY	17%	83%	9	$700
15-Feb	Armstrong, TX	100%		1	$275
17-Feb	Carlsbad, CA	100%		1	$30,757
19-Feb	Fullerton, CA	100%			$2,700
19-Feb	Los Angeles, CA	15%	85%	2	$5,698
20-Feb	Sacramento, CA		100%	2	$2,514
20-Feb	Fresno, CA *(Mix?)*	100%			$817
20-Feb	Pleasantville, CA	100%			$0
21-Feb	San Jose, CA *(Mix)*	100%		2	$9,783
24-Feb	Salt Lake City, UT	100%		7	$9,544
25-Feb	Cheyenne, WY	30%	70%	27	$9,672
25-Feb	Jackson, WY	100%		4	$20,789
28-Mar	Jackson, WY	100%		1	$13,492
3-Apr	Denver, CO		100%	2	$447
4-Apr	Jackson, MS		100%	3	$1,047
4-Apr	Kansas City, MO		100%	1	$0
4-Apr	Fayetteville, AR		100%	1	$0
5-Apr	Dallas, TX	100%		21	$4,034
12-Apr	Charleston, WV		100%		$0
12-Apr	Richmond, VA		100%		$0
15-Apr	Grand Rapids, MI	100%		10	$5,770
15-Apr	Collinsville, IL		100%	1	$221
19-Apr	Allentown, WV		100%		$0
19-Apr	Islandia, NY		100%		$126
22-Apr	Ft. Lauderdale, FL		100%		$0
24-Apr	Houston, TX *(State-sponsored)*	100%			$0
25-Apr	Crawford, TX *(State-sponsored)*	100%			$0

REV_00169901

2-May	Lansing, MI	100%		13	$4,903
2-May	South Bend, IN		100%	1	$57
9-May	Minneapolis, MN		100%		$0
11-May	Jackson, WY		100%	4	$666
21-May	Boston, MA		100%		$0
24-May	Jackson, WY	100%		8	$9,641
29-May	Nashville, TN		100%		$0
7-Jun	Harrisburg, PA		100%		$0
14-Jun	Columbia, SC		100%		$3,387
14-Jun	Dallas, TX	100%		5	$11,223
20-Jun	Dayton, OH		100%		$0
20-Jun	Detroit, MI		100%		$0
21-Jun	Cody, WY	100%		3	$5,270
21-Jun	Beaver Creek, CO	100%		4	$8,941
23-Jun	Portland, OR		100%	7	$3,902
28-Jun	Charlotte, NC		100%		$0
20-Jun	Raleigh, NC		100%		$0
1-Jul	Wichita, KS		100%		$0
1-Jul	Dallas, TX		100%		$0
1-Jul	Jackson, WY	100%		8	$15,034
9-Jul	Ft. Bragg, NC	100%		1	$860
15-Jul	Hartford, CT		100%		$0
17-Jul	Atlanta, GA	100%		1	$1,805
18-Jul	Conshohocken, PA		100%		$0
18-Jul	Pittsburgh, PA		100%		$0
19-Jul	Macon, GA		100%		$0
19-Jul	Houston, TX		100%		$0
22-Jul	Montgomery, AL	100%		6	$5,498
22-Jul	Cape Canaveral, FL	100%		7	$4,072
29-Jul	Des Moines, IA		100%	5	$255
29-Jul	Cedar Rapids, IA		100%		$0
29-Jul	Fargo, ND		100%	5	$255
30-Jul	Jackson, WY	100%		15	$104,430
1-Aug	Meeker, CO	Cancelled		1	$1,287
6-Aug	San Francisco, CA	72%	28%	7	$13,202
7-Aug	Fresno, CA		100%		$0
8-Aug	Salt Lake City, UT		100%		$0
8-Aug	Albuquerque, NM		100%		$0
12-Aug	Minneapolis, MN		100%		$0
12-Aug	Waco, TX	100%		7	$6,757

12-Aug	Detroit, MI		100%		$0
13-Aug	Billings, MT		100%		$0
15-Aug	Montgomery, AL		100%		$0
17- Aug	Jackson, WY			3	$1,306
19-Aug	Big Horn, MT	Cancelled			$0
20-Aug	Waco, TX	100%		1	$1,641
26-Aug	Nashville, TN	53%	47%	3	$4,946
29-Aug	San Antonio, TX	100%		3	$2,518
6-Sep	New York, NY	100%		3	$5,447
18-Sep	New London, CT		100%		$0
19-Sep	Burlington, VT	12%	88%	1	$437
19-Sep	New York, NY		100%		$0
20-Sep	Casper, WY	63%	37%	3	$4,840
20-Sep	Jackson, WY	100%		7	$1,830
23-Sep	Kansas City, MO	100%			$0
26-Sep	Memphis, TN		100%		$0
26-Sep	Dallas, TX		100%		$0
27-Sep	Boise, ID		100%	3	$462
26-Sep	Jackson. WY	100%		8	$11,395
27-Sep	Laramie, WY	100%		4	$761
	Total Costs through 9/30/02				**$475,974**

Presidential Travel FY 2003					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
1-Oct	Tampa, FL				$1,032
2-Oct	Baltimore, MD		100%	0	$0
4-Oct	Boston, MA		100%	0	$0
4-Oct	Kennebunkport, ME	100%		17	$37,055
5-Oct	Manchester, NH	32%	68%	4	$5,704
7-Oct	Cincinnati, OH	100%		10	$20,182
8-Oct	Knoxville, TN		100%	0	$798
14-Oct	Detroit, MI		100%	1	$677
17-Oct	Daytona Beach, FL	59%	41%	6	$9,308
17-Oct	Atlanta, GA		100%	0	$0
18-Oct	Rochester, MN		100%	0	$0
18-Oct	Springfield, MO		100%	0	$0
22-Oct	Chester County, PA		100%	0	$0
22-Oct	Bangore, ME		100%	0	$0

REV_00169903

24-Oct	Charlotte, NC		100%	0	$0
24-Oct	Columbia, SC		100%	0	$0
24-Oct	Auburn, AL		100%	0	$0
24-Oct	Waco, TX (State Dept.)	100%		2	$2,168
26-Oct	Cabo San Lucas, Mex (State)	100%		0	$0
27-Oct	Phoenix, AZ (RON)		100%	4	$817
28-Oct	Alamogordo, NM		100%	0	$0
28-Oct	Denver, CO		100%	0	$0
31-Oct	Aberdeen, SD		100%	0	$0
31-Oct	Southbend, IN		100%	0	$0
31-Oct	Charleston, WV		100%	0	$0
1-Nov	Louisville, KY		100%	0	$0
1-Nov	Portsmouth, NH		100%	0	$0
2-Nov	Johnson City, TN		100%	0	$0
2-Nov	Atlanta, GA		100%	0	$0
2-Nov	Tampa Bay, FL (RON)		100%	0	$0
3-Nov	Springfield, IL		100%	0	$0
3-Nov	Minneapolis, MN		100%	0	$0
3-Nov	South Falls, SD		100%	0	$0
3-Nov	Cedar Rapids, IA (RON)		100%	1	$738
4-Nov	St. Louis, MO		100%	0	$0
4-Nov	Bentonville, AR		100%	0	$0
4-Nov	Dallas, TX		100%	0	$0
4-Nov	Waco, TX (RON)	100%		18	$9,387
27-Nov	Waco, TX (RON)	100%		20	$21,899
3-Dec	Shreveport, LA		100%	0	$0
3-Dec	New Orleans, LA		100%	0	$0
12-Dec	Philadelphia, PA	100%		5	$10,793
26-Dec	Waco, TX (RON)	100%		13	$38,144
3-Jan	Ft. Hood, TX	100%		2	$1,777
7-Jan	Chicago, IL	100%		7	$10,516
16-Jan	Scranton, PA	100%		4	$11,184
22-Jan	St. Louis, MO	100%		7	$12,521
29-Jan	Grand Rapids, MI	100%		8	$12,918
31-Jan	Camp David, MD	100%		5	$646
4-Feb	Houston, TX	100%		6	$8,141
9-Feb	White Sulphur Springs, WV	100%		5	$11,968
10-Feb	Nashville, TN	100%		6	$13,069
13-Feb	Jacksonville, FL	100%		6	$15,211
20-Feb	Atlanta, GA	100%		7	$4,646

REV_00169904

20-Feb	Waco, TX (State)	100%		1	$945
4-Mar	Washington, DC	100%		0	$0
5-Mar	Camp Lejeune, NC	100%		3	$5,218
26-Mar	Camp David, MD	100%		7	$350
26-Mar	Tampa Bay, FL	100%		7	$4,541
31-Mar	Philadelphia, PA	100%		5	$1,726
3-Apr	Camp Lejeune, NC	100%		8	$6,968
16-Apr	St. Louis, MO	100%		7	$1,095
16-Apr	Waco, TX	100%		16	$3,972
20-Apr	Ft. Hood, TX	100%		1	$0
24-Apr	Canton, OH	100%			$0
24-Apr	Lima, OH	100%			$0
28-Apr	Dearborn, MI	100%			$0
	Total Costs Through 09/30/03				**$286,114**

First Lady Travel FY 2003					
		Status		Number	White House
Date	Destination	Official	Political	Of Staff	Travel Cost
1-Oct	Tampa, FL	69%	31%	6	$820
4-Oct	Kennebunkport, ME			2	$210
5-Oct	Portland, ME	100%		3	$1,343
7-Oct	New York, NY	74%	26%	4	$5,625
16-Oct	Dayton, OH	100%		4	$2,281
17-Oct	Mobile, AL	77%	23%	8	$4,226
21-Oct	Boston, MA	100%		4	$6,528
23-Oct	St. Louis, MO	65%	35%	5	$5,610
2-Nov	Atlanta, GA	100%		2	$3,729
2-Nov	Raleigh, NC		100%		$0
2-Nov	Nashua, NH		100%		$0
2-Nov	Des Moines, IA		100%		$0
2-Nov	Minneapolis, MN		100%		$0
2-Nov	Sioux Falls, SD (RON)		100%		$0
3-Nov	Rapid City, SD		100%		$0
4-Nov	Waco, TX			1	$112
12-Nov	New York, NY				$295
16-Jan	New York, NY			1	$547
20-Jan	New York, NY			2	$5,668

REV_00169905

4-Feb	Los Angeles, CA			3	$2,369
13-Feb	New York, NY			6	$5,163
19-Feb	Dallas, TX			2	$353
19-Feb	New Orleans, LA			2	$4,883
13-Mar	Austin, TX (RON)		100%	0	$0
8-May	Page, AZ	100%			
8-May	Kayenta, AZ	100%			
8-May	Phoenix, AZ	100%			
9-May	Santa Fe, NM	100%			
	Total Costs through 09/30/03				**$49,762**

Vice Presidential Travel FY 2003					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
19-Sep	Burlington, VT **FY-02*	12%	88%	1	$21
4-Oct	Atlanta, GA		100%		$0
4-Oct	Warner Robbins, GA		100%		$0
4-Oct	Augusta, GA		100%		$0
7-Oct	Babine, BC, Canada	100%			$0
11-Oct	Colorado Springs, CO	79%	21%	7	$4,738
14-Oct	Roswell, NM		100%		$0
14-Oct	Tulsa, OK		100%		$0
14-Oct	Phoenix, AZ		100%		$0
14-Oct	Midwest City, OK	10%	90%		$0
21-Oct	Portland, ME		100%		$0
21-Oct	Newark, NJ		100%		$0
24-Oct	Dalton, GA	83%	17%	2	$374
24-Oct	Tampa, FL	76%	24%		$939
25-Oct	Philadelphia, PA	100%		1	$1,317
25-Oct	Reading, PA		100%		$1,416
29-Oct	Wilmington, NC		100%	1	$207
30-Oct	Chattanooga, TN		100%		$0
30-Oct	Little Rock, AR		100%		$0
30-Oct	Houston, TX		100%	3	$1,234
31-Oct	Cape Girardeau, MO		100%		$0
31-Oct	Sioux City, IA		100%		$0
31-Oct	Indianapolis, IN		100%		0
1-Nov	Duluth, MN		100%		$0
1-Nov	Rapid City, SD		100%		$0

REV_00169906

1-Nov	Denver, CO		100%	1	$1,657
2-Nov	Salt Lake City, UT		100%		$0
2-Nov	Springfield, MO		100%		$0
2-Nov	Jackson Hole, WY		100%	3	$1,369
2-Nov	Albuquerque, NM		100%		$0
3-Nov	Cheyenne, WY		100%		$0
3-Nov	Gettysburg, SD	100%		1	$6,096
16-Nov	Latrobe, PA	100%		2	$1,535
18-Nov	Monroe, LA		100%		$0
18-Nov	Lafayette, LA		100%		$0
22-Nov	Trappe, MD	100%		4	$594
29-Nov	Jackson Hole, WY	100%		5	$1,135
29-Nov	Casper, WY	100%		2	$1,948
2-Dec	Denver, CO	100%		3	$2,308
5-Dec	Stuttgart, AR	100%		4	$1,928
14-Dec	Jackson Hole, WY	100%		7	$9,417
21-Dec	Jackson Hole, WY	100%		6	$17,927
17-Jan	Albany, GA	100%		4	$3,427
24-Jan	Trappe, MD *(cancelled trip)*				$0
31-Jan	Armstrong, TX	100%		6	$2,002
3-Feb	College Station, TX				$0
6-Feb	White Sulphur Springs, WV	100%		2	$806
9-Feb	Honolulu, HI	100%		8	$1,440
14-Mar	Jackson Hole, WY *(Adv only)*	100%			$0
17-Feb	Jackson Hole, WY	100%		9	$8,137
8-Apr	New Orleans, LA	100%		11	$2,941
22-Apr	Jackson Hole, WY	100%		6	$1,399
6-May	Dallas, TX	100%			$0
	Total Costs through 5/16/03				**$76,312**

Summary: Presidential, First Lady and Vice Presidential travel for FY02 and FY03 (to date).

Principal	Fiscal Year 2002	Fiscal Year 2003 (To date)
President of the United States	**$1,146,388**	**$286,114**
First Lady of the United States	**$77,799**	**$49,762**
Vice President of the United States	**$475,974**	**$76,312**
Totals	**$1,700,161**	**$412,188**

REV_00169907

QUESTION 111: How much did OMB reimburse the White House Office for use of White House motorpool vehicles in FY02? How much is OMB projecting to reimburse in FY03 and FY04? **(POC – Brian Gillis)**

RESPONSE: For FY 2002, OMB reimbursed the Department of Defense $99,000 for the use of the White House motorpool. OMB is projecting a similar amount for FY 2003 and FY 2004.

In the hearing, Mr. Daniel mentioned that the FY03 vehicle lease and IT support contracts came in significantly below the original budget estimates.

QUESTION 112: Do you intend to return the unused funds to the Treasury at the end of the fiscal year? **(POC – Chuck Sigman)**

RESPONSE: The EOP plans to use the funds to implement other critical EOP priorities. The programs which were described by Mr. Daniel at the hearing were the FY 2003 vehicle lease and the guard services contract for guard services at 1801 Pennsylvania Avenue. He did not refer to the IT support contract.

QUESTION 113: For these areas in which savings were realized, what are your plans for the funds? **(POC – Chuck Sigman)**

RESPONSE: For FY 2003, these funds are being applied to fund other priorities for the OA as well as common services for EOP entities. These other priorities include consolidation of information technology maintenance ($200,000), centralization of database services ($200,000), and common building service costs ($400,000). The remaining $300,000 of these savings will be used for an FY03 OA personnel shortfall.

Political Travel

QUESTION 114: Please explain the reimbursement procedures the White House intends to follow during the Presidential election season. **(POC – Andy Kalnins)**

RESPONSE: Travel by senior Administration officials is governed by relevant statutes and regulations that have been followed for many years.

QUESTION 115: Exactly when will the presidential-campaign procedures take effect? **(POC – Andy Kalnins)**

REV_00169908

RESPONSE: The presidential-campaign procedures take effect when a President is a candidate for re-election.

QUESTION 116: How do you determine who the official travelers are on a campaign or political trip? Does the list of positions vary from trip to trip? **(POC – Andy Kalnins)**

RESPONSE: Consistent with governing statutes and regulations, and traditional practice, a list of positions has been developed which are deemed to always be official.

QUESTION 117: On trips with political and official components, what is the procedure for determining which events are paid for using official funds and which events are reimbursed by the political entity? **(POC – Andy Kalnins)**

RESPONSE: The guidelines are based on legal principles embodied in 5 CFR §734.503, policies established over a period of years by previous Administrations, and guidance from Federal Election Commission opinions.

QUESTION 118: If the President gives virtually the same speech at a political event that he gave at an official event in that same city, what criteria is used to determine whether an event is "political" or "official"? **(POC – Andy Kalnins)**

RESPONSE: Appearing at party functions, fundraising, and campaigning for specific candidates are principal examples of travel which ordinarily is considered political.

QUESTION 119: If the President gives virtually the same speech at a political event that he gave at an official event in that same city, does the political entity reimburse the White House for the Speechwriters time? **(POC – WHO M&A)**

RESPONSE: Ordinarily not. See 5 CFR §734.503(b)(1).

QUESTION 120: Have events been classified as "official" even if only members of the President's political party are invited to share the stage with the President? **(POC – WHO M&A)**

RESPONSE: The classification of an event as official or political depends on many factors. However, Presidents routinely have official events that may include members of only one party, for example, a speech or meeting about legislative activities or issues.

QUESTION 121: If so, what justification is used to argue that these events were not political events? **(POC – WHO M&A)**

REV_00169909

RESPONSE: The classification of an event as official or political depends on many factors. However, Presidents routinely have official events that may include members of only one party, for example, a speech or meeting about legislative activities or issues.

QUESTION 122: Please provide information about reimbursement to the White House Office or other government agencies associated with local staff travel to political events attended by the President in FY02 or FY03. For each reimbursement made, please provide the date the bill was generated, the number of events reflected on the bill, the date payment was received, the political entity paying the charges and the total amount paid on each bill. **(POC – WHO M&A)**

RESPONSE: The White House took steps to ensure appropriate reimbursements from the relevant political entities for political trips.

Photographic Services (POC – Eric Lanman)

QUESTION 123: For FY02, FY03 and FY04, what was (or is projected to be) the total cost of photographic equipment purchased for use by the White House photographers?

RESPONSE: The total cost (actual and projected) of photographic equipment procured for use by White House photographers in FY 2002, FY 2003 and FY 2004 are displayed in the table below.

	FY 2002	FY 2003	FY 2004
	Actual	Estimate	Estimate
Photographic Equipment	$137,057	$35,700	$36,300

FY 2002 actual costs are higher than the estimates for FY 2003 and FY 2004 due to the necessary life cycle replacement of photographic equipment.

QUESTION 124: For FY02, FY03 and FY04, what was (or is projected to be) the total cost of photo lab equipment purchased for use by the WHCA photo lab?

RESPONSE: The total cost (actual and projected) of photo lab equipment purchased for use by the WHCA photo lab is itemized in the following chart:

	FY 2002	FY 2003	FY 2004
	Actual	Estimate	Estimate
Photo Lab Equipment	$492,720	$473,775	$375,000

QUESTION 125: For FY02, FY03 and FY04, what was (or is projected to be) the total travel cost associated with travel of White House Photographers?

REV_00169910

RESPONSE: The FY 2002 travel costs of White House Photographers was $46,721. The estimated FY 2003 cost is $50,000 and the projected cost for FY 2004 is $55,000.

QUESTION 126: For FY02, FY03 and FY04, what was (or is projected to be) the total rent cost associated with the WHCA photo lab?

RESPONSE: There is no rent cost associated with the WHCA photo lab. However, there are utility and facility maintenance costs associated with the WHCA photo lab. Those costs were $73,600 for FY 2002, $76,650 estimated for FY 2003 and a projected $79,000 for FY 2004.

QUESTION 127: Please explain the procedures for determining when and how the government is to be reimbursed for photos released for non-official purposes. If these procedures have changed from those followed by the previous administration, please explain any changes that have been made.

RESPONSE: The procedures for obtaining reimbursements for photographs changed on October 1, 2000. The procedures now in place are designed to ensure that the government receives appropriate reimbursement for photographs sought for non-official purposes. Records are kept of all such requests, and appropriate reimbursement is then sought.

QUESTION 128: For FY02 and the first seven months of FY03, please provide the following information about each payment made to the White House, OA, WHCA, DISA (or other DoD organization) to reimburse for the release of photos or photo lab services that were provided:

- date reimbursement was made
- name of reimbursing organization
- amount of payment
- number of photos purchased by reimbursing organization
- size of photos purchased by reimbursing organization

RESPONSE: The requested information about each payment made to the White House, OA, WHCA, DISA (or other DoD organization) to reimburse for the release of photos is provided below.

REV_00169911

Reimbursements for White House Photos				
Date	***Reimbursing Organization***	***Amount of Payment***	***# of Photos***	***Size of Photos***
5/2002	Republican National Committee	$648.00	36	8x10
5/2002	Hector Irastorza, Jr.	$90.00	5	8x10
7/2002	Lee Terry for Congress	$36.00	2	8x10
7/2002	Republican Party of Florida	$90.00	5	8x10
7/2002	Republican National Committee	$72.00	4	8x10
8/2002	Republican National Committee	$252.00	14	8x10
9/2002	Kent County Republican Committee	$18.00	1	8x10
9/2002	Breckenridge Design Group	$18.00	1	8x10
9/2002	Portman for Congress	$36.00	2	8x10
9/2002	Republican National Committee	$1,296.00	72	8x10
10/2002	Rick Clayburgh for Congress	$18.00	1	8x10
10/2002	Fisher for Governor	$18.00	1	8x10
10/2002	Wyoming Republican Party	$162.00	9	8x10
10/2002	Johnson for Congress	$72.00	4	8x10
10/2002	Talent for Senate	$18.00	1	8x10
10/2002	John Doolittle for Congress	$486.00	27	8x10
10/2002	National Federation of Republican Women	$18.00	1	8x10
10/2002	Republican National Committee	$342.00	19	8x10
11/2002	Talent for Senate	$18.00	1	8x10
11/2002	Ferguson for Congress	$18.00	1	8x10
11/2002	Mark Kennedy for Congress	$126.00	7	8x10
12/2002	Talent for Senate	$18.00	1	8x10
12/2002	Johnson for Congress	$72.00	4	8x10
12/2002	Wieczoren for Executive Council	$18.00	1	8x10

REV_00169912

2/2003	Diane Thompson	$84.00	4	11x14
3/2003	Republican National Committee	$108.00	6	8x10
3/2003	Congressman Kenny Hulshof	$18.00	1	8x10
3/2003	Congressman James Greenwood	$18.00	1	8x10
3/2003	Senator Frank Murkowski	$18.00	1	8x10
3/2003	Mark Kennedy for Congress	$126.00	7	8x10
3/2003	George Bush Presidential Library	$1,117.00	2	20x30
			20	11x14
			47	8x10
3/2003	Office of President George Bush	$702.00	39	8x10
5/2003	National Federation of Republican Women	$18.00	1	8x10
Total		$6,169.00		

Remote Delivery Site Reprogramming Request (POC – Paul Ehrhardt)

We recently received a reprogramming request to transfer $2m of the funds provided to the Office of Homeland Security to the Remote Delivery Site cleanup efforts.

QUESTION 129: What is the status of remediation efforts?

RESPONSE: We are in the process of Confirmatory Sampling. The sampling plan is intended to present a technical approach for (1) completing air and surface sampling for culturable *Bacillus anthracis* spores to verify the efficacy of the decontamination process: (2) providing for qualified laboratory analysis of the collected samples: and (3) presenting a protocol for data collection and reporting such that the results of the sampling effort are valid and defensible. In addition, the Plan provides for the site and personnel security, safety, health, and personal protection, equipment and collection methods, and sample handling.

QUESTION 130: Please provide the total budget estimate for this project.

RESPONSE: As the contractor responsible for returning the building to an environmentally safe workplace, Versar to date has not been able to develop or provide accurate cost estimates or time lines to EOP. Budget and schedule estimates for this project are especially difficult due to critical path activities taking place in a high-risk

REV_00169913

environment relying on the utilization of untested speculative technologies. However to date $2.422 million has been spent on the effort and we are currently requesting an additional $2 million, which is Versar's best estimate of what it will cost to complete the project. The total budget estimate for the project then comes to $4.422 million.

QUESTION 131: Please provide the anticipated schedule for this effort.

RESPONSE: Given many variables, including weather, our best current estimate of time to required complete the RDS project is 4 months. The confirmatory testing phase is estimated to take eight weeks from start up. The next phase would be for the ECC committee to ratify the confirmation process; we estimate this to be one month. After this is completed, our best estimate is thirty days to perform PM on the HVAC equipment, build out the office areas, and re-establish the building operation.

QUESTION 132: What caused this $2 million overrun?

RESPONSE: There is not a $2 million overrun. The request for $2 million is a result of anticipated costs and those unforeseen conditions as result of the environmental cleanup process, that OA, GSA or its contractors had available at the time of fumigation. The Environmental Clearance Committee has placed additional requirements that resulted in the additional costs. The proposed sampling plan utilizes the barrier divisions already in Building 410 (which provides discrete work areas) and presents proposed sampling location, quantity, and types of samples to be collected . Sampling will be carried out using a phased approach for each work area as follows:

Phase 1, Surface Sampling; Phase 2 Air Sampling: Phase 3, "Dynamic Sampling", Phase 4, Start Up of the Heating, Ventilation , and Air Conditioning (HVAC) Units; and Phase 5, Final Sampling with the Barriers Down.

QUESTION 133: Why have you stopped providing the monthly reports on the remediation efforts?

RESPONSE: Due to the process of establishing the Environmental Clearance Committee, it was an administrative error that the reports were inadvertently not forwarded.

Previously the Remote Delivery Site was used to screen incoming mail. It also used to serve as an off-site supply depot. With the Department of Homeland Security now assuming the mail processing function and with supply operations now established on the White House Complex, I'm curious about future plans for the RDS.

REV_00169914

QUESTION 134: What will the facility be used for when remediation is finished?

RESPONSE: Prior to September 11, 2001 the Remote Delivery Site (RDS) was used as a centralized receiving facility for the White House Complex. All postage flat mail and packages, including UPS and FedEx deliveries, and all equipment and local deliveries were delivered to the RDS. All incoming deliveries, regardless of size, were screened by the U.S. Secret Service (USSS) via large X ray machines, and if any equipment was too large to fit on the X-ray conveyer belt, then the USSS used dogs to sniff for explosives. After initial USSS clearance, all of the items were sorted and delivered to their intended destination to the White House Complex. Supplies, equipment and furniture which were purchased for inventory for use at later time were housed at the RDS.

In addition to the screening of WHO Complex deliveries, the USSS Administrative Operations Division used RDS space to screen all of its incoming mail and packages that were intended for USSS personnel.

The EOP Supply store was operated within the confines of the RDS. Supplies were purchased and inventoried at the RDS and office supplies and copier paper were purchased in volume to take advantage of discounts. The WHO/EOP customers faxed supply requisitions to the RDS staff who then pulled and boxed office supplies for delivery to the WHO Complex. OA property supply staff made supply deliveries to the WHO complex at least twice a day, and more if needed.

The EOP/OA Personal Property Program (excess, transfer, donation, and destruction of furniture and equipment) had its operations housed at the RDS. Excessed equipment and furniture were corralled at the RDS until enough equipment and furniture were gathered to make it economical to excess all at once. In addition, schools and nonprofit organizations were allowed to review equipment for donation under Executive Order 12999.

After September 11, as a precautionary move, the White House United States Postal Service was relocated from the Eisenhower Executive Office Building to the RDS. A separate room was built for the USPS's operation of opening and screening all White House mail. The RDS operations continued working around the new USPS area. These USPS operations continued until the RDS was closed due to the discovery of Anthrax. Since then the USPS operations have relocated to 1800 G. St. NW.

Once the remediation is finished, the RDS will resume its former function of screening all bulk deliveries (including equipment, furniture, boxes of supplies) sent to the EOP Complex. In addition the facility will be used to store supplies and an inventory of equipment and furniture. The RDS will also be used as a staging area for efficient loading and delivery of bulk items for all EOP entities.

QUESTION 135: Will the DHS use the facility to screen the White House's mail?

REV_00169915

RESPONSE: No.

QUESTION 136: Will you close the on-site supply stores and revert back to running the supply operation out of the Remote Delivery Site?

RESPONSE: When the RDS reopens after the remediation of the building, the RDS staff will resume the same functions prior to the Anthrax. However, there are major changes in the way the OA Supply Store operates and manages its supply inventory. The Office of Administration has entered into a new business relationship with GSA. The OA Supply operation will purchase its supplies from GSA who will provide a wide array of office supplies and maintain the level of supply inventory that is needed to support the WHO Complex. The GSA inventory will be housed at the RDS after relocation from Franconia, VA, the current, temporary RDS location. OA supply staff will pull supply orders based on customer's requisitions, and then box and deliver the supplies from the RDS to WHO complex. GSA will only charge for the supplies that EOP customers use at point of sale, otherwise the unsold inventory will still belong to GSA. GSA promises to maintain the supplies that the EOP customers may need. Inventories will be reviewed and adjusted to realize the kind and quantities of supplies the EOP customers expect. This business relationship will promote a more flexible inventory that allows the supply inventory to have the quantity or variety of supplies to meet our customer needs in a more proactive, real-time fashion.

White House Access (POC – WHO M&A)

QUESTION 137: For the record, please provide the total number of visitors who passed through the White House as part of tours in 2000, 2001, 2002 and 2003 (to date).

RESPONSE: Listed below are total numbers of visitors that passed through the White House from 2000 to year to date FY 2003, as reported in National Park Service (NPS) statistical abstract:

2000: 1,175,714
2001: 856,042
2002: 178,092
2003: 43,434 (as of May 14)

Please note that the NPS records garden tours and egg roll events in their annual numbers for visitors to the White House even though the people attending these events do not go through the house. Since the numbers for the visitors that actually go through the house are not exclusively available, we have included the egg roll event in the numbers for 2003 for consistency. There was no a spring garden tour in 2003.

QUESTION 138: Why are White House tours currently not open to the general public?

REV_00169916

RESPONSE: White House special group tours were reopened for certain group tours on May 6, 2003. Over the past many months, the White House has operated a successful program, in partnership with Congressional offices, allowing special group tours to visit. We will continue to book groups using existing procedures unless circumstances dictate otherwise.

The White House is mindful of the request to fully resume public tours. We continue to consult with law enforcement and intelligence services on how to ensure the safety of the residents, staff and the general public while at the White House.

QUESTION 139: What is the status of the report on the status of White House Tours that was due to the Subcommittee by March 22nd?

RESPONSE: This question was answered and sent to the Subcommittee by the March 22nd deadline.

QUESTION 140: Who has the lead on the efforts to decide whether public tours can be resumed?

RESPONSE: The United States Secret Service constantly monitors and evaluates existing conditions to determine the level of security required at the White House complex including when and if tours can be resumed on a full schedule. Their recommendations, along with input from other law enforcement and intelligence services who monitor changing world events, are reviewed with White House management staff to schedule and structure tours in such a manner that will provide an appropriate level of security for general public taking the tours, in addition to the staff who work in and around the Complex, and the residents. This is an ongoing effort.

QUESTION 141: Does the USSS do a background check on all individuals attending events and meetings at the White House Complex before access can be granted?

RESPONSE: For security reasons, it is not appropriate to provide information about the specific nature of background checks and related security procedures in this context.

QUESTION 142: During this administration, have White House aides ever overruled a building-access recommendation made by the USSS?

RESPONSE: The USSS and EOP Staff collaborate in making decisions on access to the complex.

REV_00169917

Off-site EOP Support

QUESTION 143: How many EOP employees are based in Crawford, TX? **(POC – Stacia Cropper)**

RESPONSE: One.

QUESTION 144: How much space does the EOP pay rent for in Crawford, TX? **(POC James Daniel/Stacia Cropper)**

RESPONSE: There is one double-wide trailer. The cost of the trailer itself and all operating costs will be paid to GSA in a monthly rent payment of $8,496.83 for two years.

QUESTION 145: How many trailers were acquired for Crawford, TX? **(POC James Daniel/Stacia Cropper)**

RESPONSE: One trailer was acquired for the EOP.

QUESTION 146: What was the cost to purchase and renovate these trailers? **(POC James Daniel/Stacia Cropper)**

RESPONSE: The cost of the trailer shell was $72,745.28. The cost to apply finishes to the trailer interior was $20,976.62.

QUESTION 147: What are the expected FY04 operating costs of facilities and staff permanently deployed to Crawford, TX? **(POC James Daniel/Stacia Cropper)**

RESPONSE: The following are the estimated operating costs for one year: Pest Control ($1,440), cleaning ($4,200), electricity ($4,211.75), and water ($2,286.38).

Rent (POC – Steve Beattie)

QUESTION 148: Please provide an accounting of all space on which the EOP currently pays rent. The list should include the number of staff in each building, the agencies which occupy space in each facility, the total square footage by agency in each facility, the total square footage of vacant space on which the EOP is currently paying rent in each facility and the GSA rent rates for each facility.

RESPONSE: The following charts provide the information on EOP facilities and GSA rental rates as they stood during the formulation of the FY 2004 budget request. Since

REV_00169918

then, several offices have moved from the New Executive Office Building (NEOB) into the space in 1800 G. Street. In addition, several offices from the Eisenhower Executive Office building will be moving into the newly vacated space at the NEOB. Once all moves have been accomplished, the EOP will provide the Subcommittee with an update on the space utilization of the buildings on the White House complex.

REV_00169919

Executive Office of the President
GSA Rental Space Information

Building	EOP Info		Square Feet		Rate/Sq.Ft
	Office	# of Staff	Occupied	Vacant	
White House (East & West Wing)	White House Office	131	52,955		$29.60
Eisenhower Executive Office Building	White House Office	260	105,067		$29.60
	Office of the Vice President	66	29,035		$29.60
	Office of Management and Budget	53	20,663		$29.60
	Council on Environmental Quality	*Joint Use*	954		$29.60
	Council of Economic Advisers	40	16,804		$29.60
	National Security Council	165	54,106		$29.60
	Office of Policy Development	26	17,003		$29.60
	Office of Administration	28	9,907		$29.60
	Office of Science and Technology Policy		1,377		$29.60
	Subtotal	*638*	*254,916*		
New Executive Office Building	White House Office	8	2,316		$29.60
	Office of Management and Budget	451	191,664		$29.60
	Office of Administration	163	84,381		$29.60
	U.S. Trade Representative	*Joint Use*	4,979		$29.60
	Subtotal	*622*	*283,340*		
1800 G. Street	White House Office	102	53,593		$34.56
	Office of Administration	4	1,028		$37.37
	Office of Administration		24,184		$37.01
	Office of Administration		524		$34.37
	Office of Administration		46,593		$34.56
	Office of Administration		11,555		$31.53
	Office of Homeland Security		5,787		$34.56
	Subtotal	*106*	*143,264*		
1801 Pennsylvania Ave.	Office of Science and Technology Policy	41	15,666		$50.55
750 17th Street	Office of National Drug Control Policy	124	54,185		$45.78
	Office of National Drug Control Policy	n/a	1,212		$17.44
	Subtotal	*124*	*55,397*		
Remote Delivery Center/Anacostia	Office of Administration	11	41,510		$11.31
708 Jackson Place	White House Office	9	3,978		$29.60
718 Jackson Place	Council on Environmental Quality	6	4,758		$30.71
722 Jackson Place	Council on Environmental Quality	6	5,534		$31.50
730 Jackson Place	Council on Environmental Quality	9	3,779		$29.90
734 Jackson Place	Offfice of Policy Development	4	3,320		$29.60
736 Jackson Place	White House Office	15	5,093		$30.58
Winder Building	U.S. Trade Representative	177	70,393		$30.50
1724 F St.	U.S. Trade Representative	34	18,481		$37.38
	Office of Administration	10	5,631		$37.38
	Subtotal	*44*	*24,112*		
1425 New York Ave. (USA Kids)	Office of Administration	n/a	2,891		$51.89
Crawford, TX Trailer	White House Office	n/a	n/a		$13,000/yr
Wyoming/Westbank Center	Office of the Vice President	n/a	756		$21.80
	GRAND TOTALS	**1,943**	**971,662**		

REV_00169920

Executive Office of the President
GSA Rental Space Information

Building	EOP Info		Square Feet		Rate/Sq.Ft
	Office	# of Staff	Occupied	Vacant	
EOP Total by Building					
White House		131	52,955		
Eisenhower Executive Office Building		638	254,916		
New Executive Office Building		622	283,340		
1800 G. Street		106	143,264		
1801 Pennsylvania Ave.		41	15,666		
750 17th Street		124	55,397		
Remote Delivery Center/Anacostia		11	41,510		
708 Jackson Place		9	3,978		
718 Jackson Place		6	4,758		
722 Jackson Place		6	5,534		
730 Jackson Place		9	3,779		
734 Jackson Place		4	3,320		
736 Jackson Place		15	5,093		
Winder Building		177	70,393		
1724 F St.		44	24,112		
1425 New York Ave. (USA Kids)		n/a	2,891		
Crawford, TX Trailer		n/a	n/a		
Wyoming/Westbank Center		n/a	756		
	GRAND TOTALS	**1,943**	**971,662**		
EOP Total by EOP Office					
	White House Office	525	223,002		
	Office of the Vice President	66	29,791		
	Office of Management and Budget	504	212,327		
	Office of Administration	216	228,204		
	Office of Policy Development	30	20,323		
	Office of Homeland Security	0	5,787		
	National Security Council	165	54,106		
	Council of Economic Advisers	40	16,804		
	Council on Environmental Quality	21	15,025		
	Office of Science and Technology Policy	41	17,043		
	Office of National Drug Control Policy	124	55,397		
	U.S. Trade Representative	211	93,853		
	GRAND TOTALS	**1,943**	**971,662**		

QUESTION 149: Under the procurement consolidation pilot that was approved in the FY03 Omnibus, is the rent for any EOP agency going to be paid out of funds contributed by other EOP agencies?

RESPONSE: No. The funds in the pilot will only be used to support the EOP components in the pilot; EOP funds not included in the pilot will not be used to support EOP components included in the pilot for purposes that pilot funds were budgeted.

QUESTION 150: Under the procurement consolidation pilot that was approved in the FY03 Omnibus, are after hours utilities charges for any EOP agency going to be paid out of funds contributed by other EOP agencies?

RESPONSE: No. After hours utilities charges were not included in the procurement consolidation pilot funding.

REV_00169921

Travel Office (POC – Mayra Segovia)

QUESTION 151: Please describe the current role the White House Travel Office plays in managing and arranging the financial aspects of White House Press Corps travel. Does the White House Travel Office operate as a "dollar-for-dollar" operation?

RESPONSE: The White House Travel Office provides the White House Press Corps with a range of travel services when they accompany the President, Vice President and First Lady. Services include air and ground transportation, hotel accommodations, and convention-type services associated with the Filing Center.

The White House Press Travel Fund operates as a dollar-for-dollar operation.

QUESTION 152: How many EOP staff work in the White House Travel Office?

RESPONSE: Eight EOP staff work in the White House Travel Office.

QUESTION 153: How many contractor travel agents support the White House Travel Office?

RESPONSE: Six contractor travel agents support the White House Travel Office.

QUESTION 154: Please include the most recent independent financial statement audit of the White House Travel Office's accounts for the record.

RESPONSE: The following document is the independent auditor's report. A copy of the original document with signature will be provided separately.

REV_00169922

White House Travel Office
Executive Office of the President

Order Number RWH21228

Task 1, Deliverable 1

Financial Statement Audit and Auditor's Report

December 31, 2001

Prepared by:

Martin & Wall, P.C Certified Public Accountants
1534 16th Street, NW, Washington, DC 20036-1402
Tel. 202.332.3566 Fax 202.332.3672

Contact: John J. Wall, CPA
E-Mail: jwall@martinwallcpa.com

REV_00169923

Tel: 202.332.3555 F• 202.332.3672 www.martinwallcpa.com

WHITE HOUSE TRAVEL OFFICE PRESS FUND

FINANCIAL STATEMENTS

DECEMBER 31, 2001

REV_00169924

1524 15th Street NW ~ Suite 100 – Washington, DC 20036-1402

WHITE HOUSE TRAVEL OFFICE PRESS FUND

FINANCIAL STATEMENTS

TABLE OF CONTENTS

Independent auditors' report..... 1

Statement of financial position..... 2

Statement of activities and changes in net assets..... 3

Statement of cash flows..... 4

Notes to financial statements..... 5-7

REV_00169925

Tel: 202.332.3566 ~ Fax: 202.332.3672 ~ www.martinwallcpa.com

INDEPENDENT AUDITORS REPORT

To the Management of
White House Travel Office Press Fund

We have audited the accompanying statement of financial position of the White House Travel Office Press Fund as of December 31, 2001, and the related statements of activities and cash flows for the year then ended. These financial statements are the responsibility of the White House Travel Office Press Fund's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the White House Travel Office Press Fund as of December 31, 2001, and the changes in its net assets and its cash flows for the nine months then ended in conformity with accounting principles generally accepted in the United States of America.

Washington, DC
March 27, 2003

1524 15th Street NW ~ Suite 100 – Washington, DC 20036-1402

REV_00169926

WHITE HOUSE TRAVEL OFFICE PRESS FUND
STATEMENT OF FINANCIAL POSITION
DECEMBER 31, 2001

ASSETS			
Current assets			
	Cash - Press Fund operating account (Note 3)	$85,455	
	Cash - Restricted Cash Account 2000 (Notes 3 and 4)	527,166	
	Total Cash		612,621
	Accounts receivable (Note 5)		2,105,176
	Other Receivables (Note 6)		3,328.761
TOTAL ASSETS			$6,046,558
LIABILITIES ANID NET ASSETS			
	Accounts payable	$5,358,675	
	Restricted Cash Account 2000 Liability (Note 4)	409,815	
	Restricted Cash Account 2001 Liability (Note 4)	209,456	
	Federal Excise Tax Payable	68,612	
	Total liabilities	6,046,558	
	Net assets		0
TOTAL LIABILITIES AND NET ASSETS		$6,046,558	

The accompanying notes are an integral part of these financial statements.

REV_00169927

WHITE HOUSE TRAVEL OFFICE PRESS FUND
STATEMENT OF ACTIVITIES
FOR THE YEAR ENDED DECEMBER 31, 2001

REVENUE	$10,828,890
EXPENDITURES	10,828,890
CHANGE IN NET ASSETS	$0
NET ASSETS, BEGINNING OF YEAR	0
NET ASSETS, END OF YEAR	$0

The accompanying notes are an Integral part of these financial statements.

REV_00169928

WHITE HOUSE TRAVEL OFFICE PRESS FUND
STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED DECEMBER 31, 2001

CASH FLOWS FROM OPERATIONAL ACTIVITIES:

Change in net assets		$0
Adjustments to reconcile change in net assets to net cash provided:		
Decrease In accounts receivable	4,986,501	
(Increase) in other receivables	(2,530,708)	
(Decrease) in accounts payable	(2,814,441)	
Increase In restricted cash account 2000 liability	4,096	
Increase in restricted cash account 2001 liability	209,456	
Increase in Federal Excise tax payable	68,612	
Net cash provided by operational activities	(76,484)	
Net increase in cash		(76,484)
Cash, beginning of year	689,105	
Cash, end of year	$612,621	

The accompanying notes are an integral part of these financial statements.

REV_00169929

WHITE HOUSE TRAVEL OFFICE PRESS FUND
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2001

NOTE 1 – ORGANIZATION

The White House Travel Office Press Fund ('WHTO") was established to manage expenses associated with travel for members of the press who accompany the President, Vice President, First Lady, and Second Lady on domestic and foreign trips. In May 1993, a new management team was hired to manage WHTO. Consequently, for accounting and reporting purposes, a new WHTO was established as of January 1, 1994.

NOTE 2- SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Revenue and expenditures are recognized using the accrual basis of accounting. The WHTO invoices the press organizations for their prorated share of the expenses associated with each trip. The WHTO then remits payment directly to the vendors whose services were used for the particular trip. The total amount invoiced to the press members equals the total of the amounts paid to the vendors. The WHTO does not own any fixed assets. Al! fixed assets are purchased through the White House's general fund and designated for the WHTO use. Similarly, all operating expenses of the WHTO, including salaries and office supplies, are paid directly by the White House's general fund.

NOTE 3- CASH

Gash is maintained in two non-interest checking accounts at the Riggs National Bank of Washington, D.C. The RCA 2000 cash account is explained in Note 4.

The total cash held by WHTO at December 31, 2001 includes $512,821 that is not covered by insurance provided by the federal government. It is the opinion of WHTO's management that the solvency of the referenced financial institution is not of particular concern at this time.

REV_00169930

NOTE 4 - RESTRICTED CASH ACCOUNT

Effective April 1, 2000, the management of the White House Travel Office implemented a Restricted Cash Account (RCA). RCA funds are encumbered for specific purposes set forth in written policies and procedures, most notably for payment of late arriving vendor invoices, bank charges and accounts receivable written off as uncollectible.

The RCA is funded through an RCA funding amount applied to every customer invoice, except those for government employees. Presently, that funding amount is two percent of the invoice amount

RCA funding amounts are not considered revenue for accounting purposes.

Under current policies and procedures, a separate RCA is established for each calendar year. The RCA 2000 account on the Statement of Financial Position reflects the total amount of cash in that account at December 31, 2001. The RCA liability accounts for 2000 and 2001 reflect the total RCA funding amount applied to all customer invoices during the respective calendar year, less any disbursements. RCA funding amounts that have been invoiced but not yet collected are included in the accounts receivable amount.

The RCA for each year will be terminated at a designated point in time after the conclusion of the applicable calendar year. At the time of dissolution, any excess funds will be refunded to the Press Fund's customers subject to the RCA funding amount in accordance with a formula based on the percentage of the total travel costs consumed during the year corresponding to the RCA. For example, if a customer were responsible for ten percent of all travel costs for the calendar year 2001, they would be entitled to ten percent of the remaining RCA 2001 funds at the time of dissolution.

NOTE 5 – ACCOUNTS RECEIVABLE

Currently, the WHTO writes off accounts receivable using the direct write-off method. Therefore, there is no allowance for uncollectible accounts.

REV_00169931

NOTE 6 - OTHER RECEIVABLES

As per note 2, the WHTO utilizes a system of dollar for dollar accounting. Under the current accounting process, vendor invoices for trip expenses are entered into accounts payable as they are received. Accordingly, there is an accumulation of unbilled trip expenses in accounts payable until such time that trip accounting is finalized and members of the press are invoiced for their pro rata share of trip expenses. This timing difference creates the need for an Other Receivables category. Other Receivables represents the obligations for normal trip expenses that have been entered into accounts payable, but not yet billed to the press.

REV_00169932

QUESTION 155: Please explain the formula you use to determine the rate of reimbursement for Press Corps travelers on the Press Charter?

RESPONSE: Each leg of the itinerary is assigned a proportionate cost, which is divided equally among all press passengers. The following formula is used to compute the proportionate cost for each leg of the trip: (Leg flight time / Total flight time) * Total Air Transportation Expense

QUESTION 156: Please explain the formula you use to determine the rate of reimbursement for Press Pool travelers on Air Force One?

RESPONSE: The cost of the fourteen members of the pool traveling on AF1 is added to the total air transportation expense and the total costs are spread on a pro-rata share among all of the press travelling on the trip. The following formula is used to compute the proportionate cost for each leg of the trip: (Leg flight time / Total flight time) * Total Air Transportation Expense

QUESTION 157: Please explain the formula used to identify the reimbursement rate that the Travel Office billed Press Corps travelers accompanying the President's travel to the USS Abraham Lincoln. In your response, please include the actual rate billed to individual press corps travelers on this trip.

RESPONSE: The cost of transporting press corps travelers from the North Island Naval Air Station to the USS Abraham Lincoln and back to the North Island Naval Air Station totaled $7,440.26. This cost will be added to the total air transportation expense and spread on a pro-rata share among all the press traveling on the trip. The formula for military aircraft reimbursement for the trip to the USS Abraham Lincoln is as follows: $X per hour per aircraft, divided by 60 minutes to get a per minute rate, multiplied by the flight time, divided by the total number of passengers, and then 7.5% excise tax plus $3.00 dollars per person was added.

Bonuses

QUESTION 158: Why did this administration reinstate the payments of bonuses to political appointees? **(POC – WHO M&A)**

RESPONSE: The relevant statutes and regulations make clear that all Federal employees are eligible for bonuses. Therefore, like other Federal employees, Schedule C and non-career Senior Executive Service (SES) employees may receive bonuses. Consistent with law, this and past Administrations have made bonuses available to Schedule C and SES employees in appropriate circumstances.

REV_00169933

QUESTION 159: Have any EOP political staff been given bonuses since the policy was reinstated in March of 2002? **(POC – Jon Laurich)**

RESPONSE: Bonuses have been awarded to EOP political staff.

QUESTION 160: Have any EOP political staff been given pay increases for a single pay period in FY02 or FY03 (to date) that would have the same effect as a bonus? **(POC – Jon Laurich)**

RESPONSE: No.

Eisenhower Executive Office Building

QUESTION 161: Since 1/20/01, have any non-Federal funds been used for renovations and/or furnishings in the GSA facilities occupied by the Executive Office of the President? [this question does not apply to the White House residence.] **(POC –WHO M&A)**

RESPONSE: We understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 162: Which Federal agency (i.e., GSA, OA/Facilitles) coordinated the work that was paid for using non-Federal funds? **(POC –WHO M&A)**

RESPONSE: I understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park

REV_00169934

Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 163: For the record, please provide the sources and amounts of the non-Federal funds used for renovations and/or furnishings. **POC –WHO M&A)**

RESPONSE: I understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 164: For the record, please also provide a description of each project for which non-Federal funds were provided. **(POC –WHO M&A)**

RESPONSE: I understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was

REV_00169935

accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 165: Why were non-Federal funds used to renovate and/or furnish these GSA facilities? **(POC –WHO M&A)**

RESPONSE: I understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 166: Which agency's gift authority was used to accept the contribution of non-Federal funds for renovations and/or furnishings? (**POC –WHO M&A)**

RESPONSE: I understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 167: Please provide a list of all EOP and EOP-support-related agencies that occupied space in the Eisenhower Executive Office Building on 1/20/01 that have since

REV_00169936

been relocated to locations outside the EEOB. For each agency that relocated, please identify the agency that paid the move-related costs. **(POC – Steve Beattie)**

RESPONSE: There was no movement of EOP offices from the EEOB prior to September 11, 2001. After September 11, the Office of Administration, using Emergency Supplemental funding, paid for the moves of the following offices outside of the EEOB.

EOP Offices Previously in the EEOB	New Location
WHO Presidential Personnel	1800 G. Street
WHO Presidential Correspondence	1800 G. Street
Council on Environmental Quality	Jackson Place Townhouses
Office of Science and Technology Policy	1801 Pennsylvania Avenue

QUESTION 168: What is the status of the vacant space on the 17th Street side of the Eisenhower Executive Office Building? **(POC – Steve Beattie)**

RESPONSE: The vacant space along 17th street is under construction as part of the Fire and Life Safety Improvements project.

EOP Staffing Levels:

QUESTION 169: By EOP agency, provide FTE and OGE. Itemize OGE by category (e.g. reimbursable detailee, PSC, etc). Include FY 2002 (actual) and FY03-FY04 (estimates). Please provide a list of the "historically provided" White House Office positions, the office to which these positions are assigned and the agency that pays the salary for each of these positions. **(POC – Jon Laurich)**

RESPONSE: The following chart provides the FTE and OGE information for FY 2002 to FY 2004 in addition to a listing of "historically provided" White House Office positions.

REV_00169937

R = Reimbursable
N = Non Reimbursable

FY 2002 Actual FTE and OGE

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**385**			1	20	79	9	1	17		4				3			81	53	**134**
Special Assistance to the President	**18**				7		1		6		26								40	**40**
Official Residence of the Vice President	**1**																			
Office of Administration	**195**					2					1							2	1	**3**
Office of Policy Development	**30**		1		3		3												7	**7**
National Security Council	**50**				33	1	102		4									1	139	**140**
Council of Economic Advisers	**31**					2	1			3	1		3					5	5	**10**
Office of Management and Budget	**512**					6	53						11					6	64	**70**
Office of National Drug Control Policy	**106**		13		16					3			2					3	31	**34**
Executive Residence	**92**																			
Office of Science and Technology Policy	**23**		6			4	1			2	3							6	10	**16**
Council on Environmental Quality	**19**		11				2										1		14	**14**
U.S Trade Representative	**200**						21				1				2				24	**24**
TOTAL	**1662**		**31**	**1**	**79**	**94**	**193**	**1**	**27**	**8**	**36**		**16**		**5**		**1**	**104**	**388**	**492**

*For FY02, the White House includes 65 OGE's for the Office of Homeland Security, which are funded from the Emergency Appropriation

R = Reimbursable
N = Non Reimbursable

FY 2003 Estimate FTE and OGE *as of May 5, 2003*

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**406**				7	5	11		19		1				2		1	5	41	**46**
Office of Homeland Security	**40**			2	1	23	3				1			1				26	5	**31**
Special Assistance to the President	**24**		3		7		1		18		25								54	**54**
Official Residence of the Vice President	**1**																			
Office of Administration	**222**										1								1	**1**
Office of Policy Development	**35**		1		3	1	1										1	1	6	**7**
National Security Council	**71**				33	5	103		4									5	140	**145**
Council of Economic Advisers	**35**					2	2			2			2				1	4	5	**9**
Office of Management and Budget	**499**					3	54						6					3	60	**63**
Office of National Drug Control Policy	**115**		19		14		4			3	9						2	3	48	**51**
Executive Residence	**95**																			
Office of Science and Technology Policy	**40**		6			2	3			2	5		1		1			4	16	**20**
Council on Environmental Quality	**24**		10				3				1								14	**14**
U.S Trade Representative	**209**						25				1				2				28	**28**
TOTAL	**1816**		**39**	**2**	**65**	**41**	**210**		**41**	**7**	**44**		**9**	**1**	**5**		**5**	**51**	**418**	**469**

R = Reimbursable
N = Non Reimbursable

FY 2004 Estimate FTE and OGE

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**406**				7	5	11		19		1				2		1	5	41	**46**
Office of Homeland Security	**40**			2	1	23	3				1			1				26	5	**31**
Special Assistance to the President	**24**		3		7		1		18		25								54	**54**
Official Residence of the Vice President	**1**																			
Office of Administration	**222**										1		10						11	**11**
Office of Policy Development	**35**		1		3	1	1										1	1	6	**7**
National Security Council	**71**				33	5	103		4									5	140	**145**
Council of Economic Advisers	**35**					2	2			2			2				1	4	5	**9**
Office of Management and Budget	**516**					3	54						6					3	60	**63**
Office of National Drug Control Policy	**125**		19		14		4			3	9						2	3	48	**51**
Executive Residence	**95**																			
Office of Science and Technology Policy	**40**		6			2	3			2	5		1		1			4	16	**20**
Council on Environmental Quality	**24**		10				3				1								14	**14**
U.S Trade Representative	**217**						25				1				2				28	**28**
TOTAL	**1851**		**39**	**2**	**65**	**41**	**210**		**41**	**7**	**44**		**19**	**1**	**5**		**5**	**51**	**428**	**479**

The following chart shows the 18 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 12, 2003*:

POSITION	OFFICE	HOME AGENCY
1. Assistant to the Presidential Diarist	Office Of Scheduling	NARA
2. Presidential Diarist	Office Of Scheduling	NARA

REV_00169938

3. Administrative Assistant	PFIAB *	CIA
4. Administrative Services Specialist	PFIAB *	DOD
5. Deputy Executive Director	PFIAB *	CIA
6. Deputy Director of Photography For Visuals	Photo Office	DIA
7. Visual Information Specialist	Photo Office	DOD
8. Official Photographer	Photo Office	DOD
9. Official Photographer	Photo Office	DIA
10. Photographer	Photo Office	DOD
11. IT Systems Administrator	Photo Office	DIA
12. Photo Editor	Photo Office	DIA
13. President's Photographer	Photo Office	DIA
14. Photographic Specialist	Photo Office	DIA
15. Admin Officer	Photo Office	DIA
16. Staff Assistant	Visitors Office	Dept Of Interior
17. Executive Assistant	Visitors Office	Dept Of Interior
18. Staff Assistant	Visitors Office	Dept Of Interior

*PFIAB is the President's Foreign Intelligence Advisory Board

REV_00169939

From: CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO]
To: Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Noel J. Francisco/WHO /EOP@EOP [WHO] <Noel J. Francisco>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;John B. Bellinger/NSC/EOP@EOP [NSC] <John B. Bellinger>;Faisal M. Gill/WHO/EOP@EOP [WHO] <Faisal M. Gill>;David S. Addington/OVP/EOP@EOP [OVP] <David S. Addington>;Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Holly T. Moore/NSC/EOP@EOP [NSC] <Holly T. Moore>;Edward McNally/WHO/EOP@EOP [WHO] <Edward McNally>
Sent: 5/29/2003 3:12:50 PM
Subject: : FW: Draft Responses 2 File
Attachments: F_431TG003_NSC.TXT_1.doc

Begin Original ARMS Header
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:29-MAY-2003 19:12:50.00
SUBJECT:: FW: Draft Responses 2 File
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Theodore W. Ullyot (CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Faisal M. Gill (CN=Faisal M. Gill/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:David S. Addington (CN=David S. Addington/OU=OVP/O=EOP@EOP [OVP])
READ:UNKNOWN
TO:Jennifer R. Brosnahan (CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Holly T. Moore (CN=Holly T. Moore/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN
TO:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Here is an updated version of the OA testimony. Please review to make sure your edits have made it to this next draft. Apparently deadline has been pushed from this Friday to this Monday. Please let me know if there are any changes, otherwise I will assume you are okay with this draft.

Thanks,
Patrick

-----Original Message-----
From: Arnold, Listi
Sent: Thursday, May 29, 2003 5:11 PM
To: Bumatay, Patrick J.; Newstead, Jennifer G.
Subject: FW: Draft Responses 2 File

Patrick and Jennifer,
I wanted to forward you all the final draft 2. They extended the deadline to Monday COB, so if your staff has any additional comments from their edits, again please send them to Monique Dilworth. I will be out of the office tomorrow, but if you need anything, Monique or Colleen will be available. Again, many, many thanks to all of you!
Listi

-----Original Message-----
From: Dilworth, Monique L.
Sent: Thursday, May 29, 2003 2:49 PM
To: Arnold, Listi
Cc: Campen, Tim; Daniel, James F.
Subject: Draft Responses 2 File

This is the file that the hard copies were printed from.

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <F_431TG003_NSC.TXT_1>

Questions for the Record
Chairman Ernest J. Istook, Jr.
Hearing on the Executive Office of the President
April 30, 2003

Unobligated Balances (POC - Veronica Kitchen)

QUESTION 1: Please provide a listing of all unobligated balances, by fiscal year, appropriation and PPA, for all accounts within the Executive Office of the President. Please also show the original appropriation levels for these accounts.

Consolidation of Accounts (POC- Al Muhlbauer)

QUESTION 2: Sections 105 and 106 of title 3 U. S. Code describe expenses that may be accounted for solely on the certificate of the President and Vice President, respectively. Most of these expenses correspond to particular accounts. The Comptroller General may inspect documents related to these expenditures, but solely to verify that the expenditures were made for allowed purposes. When we asked last year how certified expenses would be identified for audit within a consolidated appropriation, the response was that the certification requirements would continue to be observed (p. 41). This does not answer the question of how the account structure will be maintained to provide an identifiable and auditable crosswalk between title 3-certifiable expenses and other expenses within the consolidated appropriation.

RESPONSE: As presented in the Congressional Budget Submission pages 4, 5, and 6, the Executive Office of the President (EOP) has established a Budget Activity structure that is consistent, beginning with the budget submission and extending through the accounting and reporting phases. The EOP accounting system will track and report obligations and expenditures consistent with this structure through the use of budget activity, program, sub-program, and line item codes assigned to each transaction. EOP has the ability to provide an identifiable and auditable crosswalk to the individual transactions authorized under sections 105 and 106 of Title 3 of the United States Code.

QUESTION 3: Please provide a listing of all appropriations language enacted in Public Law 108-7 which would be dropped in the proposed account consolidation, and provide a brief explanation of why that language is not necessary.

RESPONSE: The following appropriations in Public Law 108-7: Compensation of the President, White House Office Salaries and Expenses, Office of Homeland Security, Executive Residence at the White House, White House Repair and Restoration, Council of Economic Advisers, Office of Policy Development, National Security Council, Office of Administration would be combined into one appropriation entitled "The White House". The individual language in Public Law 108-7 for each of those appropriations would be removed. However, suggested language for the combined appropriation is

provided in the Appendix to the FY 2004 Budget (page 881) and states: "For the Compensation of the President and White House Office (including the Office of Homeland Security), Executive Residence, White House Repair and Restoration, Office of Policy and Development, Office of Administration, Council of Economic Advisers and the National Security Council, (hereinafter, and solely for the purposes of Title VI of this Act, "the White House"), $183,770,000, of which $24,803,000 shall remain available until expended, including compensation for the President, including an expense allowance of $50,000 as authorized by U.S.C. 102; for travel expense of $100,000 as authorized by 3 U.S.C. 103; for necessary expenses for the White House as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; for the necessary expenses of the Executive Residence at the White House as authorized by 3 U.S.C. 105,109,110, and 112-114; for the necessary expenses of the Offices and Councils in the White House account as authorized by 5 U.S.C. 3109, 15 U.S.C. 1021, and 3 U.S.C. 105 and 107 (including not to exceed $19,000 for official reception and representation expenses); and for the hire of passenger motor vehicles: Provided, That none of the funds made available to the President for official expenses shall be expended for any other purpose and any unused portion of such funds shall revert to the Treasury pursuant to 31 U.S.C. 1552: Provided further, That no such funds shall be considered as taxable to the President: Provided further, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities."

The suggested language, with the exception of a consolidated appropriation amount incorporates the same restrictions and clarifications as contained the language contained in the Public Law 108-7 for the appropriations being consolidated. The appropriations for Vice President's Salaries and Expense, Vice President's Residence Operating Expenses, Office of Management and Budget, Office of National Drug Control Policy, Unanticipated Needs will remain separate appropriations and will therefore not require any language changes as a result of the combination.

The White House (Consolidated Account) (POC – Chuck Sigman)

QUESTION 4: You are requesting $12,302,000 for object class 23.3 (communications, utilities, and miscellaneous services) in FY 2004. This is a large increase over the estimated $7,010,000 for FY 2003. What accounts for the increase?

RESPONSE: The FY 2004 White House (WH) consolidated budget net increase of $5,292,000 for communications is required in three major areas:

- **Most of the increase ($4,420,000) is needed in the OA Capital Investment Plan for offsite data center communications.** This facility will transition into full operation during FY 2004. The telecommunications between the offsite data center and the EOP complex are necessary to provide expanded, survivable and redundant connectivity, continuity of operations, disaster recovery and system support. These costs include funds for telecommunications lines, two additional

REV_00169943

DS-3 data paths, two T-1 lines, and backups to provide the communications bandwidth necessary for servicing the EOP complex.

- **$482,000 in the White House Office budget to provide a custom communications package which will enable the Homeland Security Council to establish a presence for its staff within the White House Situation Room.**

- **$100,000 for information assurance in the OA salaries/expenses budget.** In addition to the Offsite Data Center project, the OA FY 2004 budget also includes a request for an additional $100,000 for the information assurance program in the FY 2004 salaries/expenses account. This program will enable the CIO office to correct vulnerabilities in the EOP information security perimeter to secure internal systems, to perform real-time monitoring of perimeter network devices.

- **$151,000 in transfers of Lexis-Nexis database costs from nonconsolidated entities to the consolidated White House appropriation.** The FY 2004 budget envisions that $72,000 will be transferred from USTR, $56,000 from ONDCP, $15,000 from OMB, and $8,000 from CEQ so that the EOP can have a single funding source for EOP-wide Lexis-Nexis service.

- **$139,000 for adjustments to maintain the same level of services for the base funding during FY 2004**. This is calculated on the basis of the $7,010,000 in FY 2003 funding.

Rental Pricing (POC – Chuck Sigman)

QUESTION 5: The FY 2004 justifications state that, over the past year, EOP, GSA, and OMB have undertaken an assessment of space rental costs for all EOP entities. The result of this analysis is that the FY 2004 request includes additional funding to accommodate an "EOP average" rental rate. Please provide details of how this analysis was conducted, and specify the estimated rental rates for the various EOP entities, as determined by this analysis.

RESPONSE: The EOP space rental project began during the summer of 2002 at the request of OMB's budget examiners, who were working to ensure that EOP entities moved to the same market-based rent methodology used to determine space rental rates for GSA's other Federal properties. OMB requested that GSA and EOP review the space rental costs for each EOP property and each EOP entity so that the most up-to-date costs available were included in the FY 2004 budget proposal. Another significant concern in this project is to ensure that GSA will work with the EOP to ensure that the critical needs of the EOP are funded and executed.

As a result of the initial project, OA and GSA began a series of meetings which culminated in the space estimates which were included in the budget. GSA staff prepared a comprehensive listing of EOP properties, which itemized the space occupied by each

REV_00169944

EOP entity. This listing included commercial and government-owned space, current estimates of rentable square footage, and the annual rental rate per square foot. EOP staff provided updated estimates of the rentable square footage.

During this process, GSA blended the fair-market rates for the permanent EOP buildings into a single blended rate. This was done to simplify the administrative work when EOP staff are relocated. This is especially needed in the post-9/11 environment's unusually high number of large-scale EOP entity relocations driven by security considerations as well as the result of the legislation creating the Department of Homeland Security. The EOP average rental rate for Federally-owned properties (New Executive Office Building (NEOB), Eisenhower Executive Office Building (OEOB), White House, Winder Building, Jackson Place) is $29.60 annually per square foot. GSA adds an additional building security charge for buildings which are not protected by the US Secret Service. The average rental rates used to determine each entity's budget estimate for office space are as follows:

Entity	Locations	Owned or Leased	Average Rental Rate
OMB	EEOB, NEOB	owned	$29.60/sf
CEQ	EEOB	owned	$29.60
	718 Jackson Place	owned	$30.71
	722 Jackson Place	owned	$31.50
	730 Jackson Place	owned	$29.90
CEA	EEOB	owned	$29.60
NSC	EEOB	owned	$29.60
OPD	EEOB	owned	$29.60
	734 Jackson Place	owned	$29.60
OVP	EEOB	owned	$29.60
	Westbank Center, WY	leased	$21.80
WHO	1800 G Street	leased	$34.56
	EEOB, NEOB	owned	$29.60
	708 Jackson Place	owned	$29.60
	736 Jackson Place	owned	$30.58
USTR	Winder	owned	$30.50
	1724 F Street	owned	$37.38
	NEOB	owned	$29.60

REV_00169945

OA	1425 New York Ave	leased	$51.89
	1800 G Street	leased	$31.53-$37.37
	EEOB, NEOB	owned	$29.60
	1724 F Street	owned	$37.38
OSTP	1801 Pennsylvania Avenue	leased	$50.55
	EEOB	owned	$29.60
ONDCP	750 17th Street	leased	$45.78
HSC	EEOB	leased	$29.60

EOP Staffing (POC – Jon Laurich)

QUESTION 6: By EOP office, please provide FTE and OGE, similar in format to the tables found on pages 111 and 112 of last year's hearing record. Please provide data for FY 2002 through 2004.

RESPONSE: The following tables provide the total FY 2002 actual, FY 2003 and FY 2004, estimates for full time equivalents (FTE) and other government employees (OGE) for each EOP and other entity as of May 5, 2003. The OGE numbers are itemized by category on the following page. The FY 2003 numbers have the Office of Homeland Security in a separate category, which accordingly decreased the White House numbers. The FY 2003 and FY 2004 numbers are estimates only and are therefore subject to change.

REV_00169946

Office	FY 2002 Actual FTE and OGE			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office*	400	385	134	519
Special Assistance to the President	24	18	40	58
Official Residence of the Vice President	1	1	0	1
Office of Administration**	202	195	3	198
Office of Policy Development	35	30	7	37
National Security Council	60	50	140	190
Council of Economic Advisers	35	31	10	41
Office of Management and Budget	527	512	70	582
Office of National Drug Control Policy	115	106	34	140
Executive Residence	95	92	0	92
Office of Science and Technology Policy	40	23	16	39
Council on Environmental Quality	24	19	14	33
U.S Trade Representative	203	200	24	224
TOTAL	**1761**	**1662**	**492**	**2154**

Office	*as of May 5, 2003*			
	FY 2003 FTE and OGE Estimate			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office	406		46	452
Office of Homeland Security	40		31	71
Special Assistance to the President	24		54	78
Official Residence of the Vice President	1		0	1
Office of Administration	222		1	223
Office of Policy Development	35		7	42
National Security Council	71		145	216
Council of Economic Advisers	35		9	44
Office of Management and Budget	510		63	573
Office of National Drug Control Policy	115		51	166
Executive Residence	95		0	95
Office of Science and Technology Policy	40		20	60
Council on Environmental Quality	24		14	38
U.S Trade Representative	209		28	237
TOTAL	**1827**		**469**	**2296**

Office	FY 2004 FTE and OGE Estimate			
	AUTH FTE	ACTUAL FTE	OGE **	TOTAL
White House Office	406		46	452
Office of Homeland Security	40		31	71
Special Assistance to the President	24		54	78
Official Residence of the Vice President	1		0	1
Office of Administration	222		11	233
Office of Policy Development	35		7	42
National Security Council	71		145	216
Council of Economic Advisers	35		9	44
Office of Management and Budget	516		63	579
Office of National Drug Control Policy	125		51	176
Executive Residence	95		0	95
Office of Science and Technology Policy	40		20	60
Council on Environmental Quality	24		14	38
U.S Trade Representative	217		28	245
TOTAL	**1851**		**479**	**2330**

* For FY 2002, the White House Office figure excludes OGEs and FTEs for the Office of Homeland Security which were funded from the Emergency Appropriation.

** OA was funded for 20 additional FTE using Emergency Response Funds which are not shown in the figures above.

REV_00169947

R = Reimbursable
N = Non Reimbursable

FY 2002 Actual FTE and OGE

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**385**			1	20	79	9	1	17		4				3			81	53	**134**
Special Assistance to the President	**18**				7		1		6		26								40	**40**
Official Residence of the Vice President	**1**																			
Office of Administration	**195**					2					1							2	1	**3**
Office of Policy Development	**30**		1		3		3												7	**7**
National Security Council	**50**				33	1	102		4									1	139	**140**
Council of Economic Advisers	**31**					2	1			3	1		3					5	5	**10**
Office of Management and Budget	**512**					6	53						11					6	64	**70**
Office of National Drug Control Policy	**106**		13		16					3			2					3	31	**34**
Executive Residence	**92**																			
Office of Science and Technology Policy	**23**		6			4	1			2	3							6	10	**16**
Council on Environmental Quality	**19**		11				2										1		14	**14**
U.S Trade Representative	**200**						21				1				2				24	**24**
TOTAL	**1662**		**31**	**1**	**79**	**94**	**193**	**1**	**27**	**8**	**36**		**16**		**5**		**1**	**104**	**388**	**492**

*For FY02, the White House includes 65 OGE's for the Office of Homeland Security, which are funded from the Emergency Appropriation

R = Reimbursable
N = Non Reimbursable

FY 2003 Estimate FTE and OGE *as of May 5, 2003*

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**406**				7	5	11		19		1				2		1	5	41	**46**
Office of Homeland Security	**40**			2	1	23	3				1			1				26	5	**31**
Special Assistance to the President	**24**		3		7		1		18		25								54	**54**
Official Residence of the Vice President	**1**																			
Office of Administration	**222**										1								1	**1**
Office of Policy Development	**35**		1		3	1	1										1	1	6	**7**
National Security Council	**71**				33	5	103		4									5	140	**145**
Council of Economic Advisers	**35**					2	2			2			2				1	4	5	**9**
Office of Management and Budget	**499**					3	54						6					3	60	**63**
Office of National Drug Control Policy	**115**		19		14		4			3	9						2	3	48	**51**
Executive Residence	**95**																			
Office of Science and Technology Policy	**40**		6			2	3			2	5		1		1			4	16	**20**
Council on Environmental Quality	**24**		10				3				1								14	**14**
U.S Trade Representative	**209**						25				1				2				28	**28**
TOTAL	**1816**		**39**	**2**	**65**	**41**	**210**		**41**	**7**	**44**		**9**	**1**	**5**		**5**	**51**	**418**	**469**

R = Reimbursable
N = Non Reimbursable

FY 2004 Estimate FTE and OGE

	FTE	Agency Reps R	Agency Reps N	Assignees R	Assignees N	Detailees R	Detailees N	Historically Provided Services R	Historically Provided Services N	Others R	Others N	Student Volunteers R	Student Volunteers N	White House Fellows R	White House Fellows N	Pres. Mgmt Intern R	Pres. Mgmt Intern N	OGE Grand Totals R	OGE Grand Totals N	OGE Grand Totals R + N
White House Office	**406**				7	5	11		19		1				2		1	5	41	**46**
Office of Homeland Security	**40**			2	1	23	3				1			1				26	5	**31**
Special Assistance to the President	**24**		3		7		1		18		25								54	**54**
Official Residence of the Vice President	**1**																			
Office of Administration	**222**										1		10						11	**11**
Office of Policy Development	**35**		1		3	1	1										1	1	6	**7**
National Security Council	**71**				33	5	103		4									5	140	**145**
Council of Economic Advisers	**35**					2	2			2			2				1	4	5	**9**
Office of Management and Budget	**516**					3	54						6					3	60	**63**
Office of National Drug Control Policy	**125**		19		14		4			3	9						2	3	48	**51**
Executive Residence	**95**																			
Office of Science and Technology Policy	**40**		6			2	3			2	5		1		1			4	16	**20**
Council on Environmental Quality	**24**		10				3				1								14	**14**
U.S Trade Representative	**217**						25				1				2				28	**28**
TOTAL	**1851**		**39**	**2**	**65**	**41**	**210**		**41**	**7**	**44**		**19**	**1**	**5**		**5**	**51**	**428**	**479**

REV_00169948

OA Staffing (POC – Jon Laurich)

QUESTION 7: By OA office, please provide FTE and OGE, similar in format to the tables found on page 113 of last year's hearing record. Please provide data for FY 2002 through 2004.

RESPONSE: The following table provides the FTE and OGE for the Office of Administration.

R = Reimbursable N = Non Reimbursable	FY 2002 FTE and OGE Actuals							
		Others		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OA Director	12							
OA Chief Operating Officer	111							
OA Chief Financial Officer	30	1	1			1	1	2
OA Chief Projects Officer	5							
OA Chief Information Officer	46	1				1		1
TOTAL	**204**	**2**	**1**			**2**	**1**	**3**

as of May 5, 2003

R = Reimbursable N = Non Reimbursable	FY 2003 FTE and OGE Estimates							
		Others		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OA Director	11							
OA Chief Operating Officer	103				2		1	1
OA Chief Financial Officer	39		1				1	1
OA Chief Projects Officer	11							
OA Chief Information Officer	58				2			
TOTAL	**222**		**1**		**4**		**2**	**2**

R = Reimbursable N = Non Reimbursable	FY 2004 FTE and OGE Estimates							
		Others		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OA Director	25							
OA Chief Operating Officer	99				4		4	4
OA Chief Financial Officer	39		1		2		3	3
OA Chief Projects Officer	4							
OA Chief Information Officer	55				4		4	4
TOTAL	**222**		**1**		**10**		**11**	**11**

REV_00169949

OMB Staffing (POC – Jon Laurich/Brian Gillis)

QUESTION 8: By OMB office, please provide FTE and OGE, similar in format to the tables found on page 114 of last year's hearing record. Please provide data for FY 2002 through 2004.

RESPONSE: The charts below display the FTE and OGE breakout by OMB division for FY 2002-2004. Most detailees and student volunteers are used during the peak budget production season. During the rest of the year, the OGE total can fall below 20.

REV_00169950

R = Reimbursable N = Non Reimbursable	FY 2002 FTE and OGE Actuals							
		Detailees		Student Volunteers		OGE Grand Totals		
	FTE	R	**N**	R	**N**	R	**N**	**R + N**
OMB-Wide Offices	159	1	19		2	1	21	22
General Government Programs	62		1				1	1
Human Resource Programs	71		4		1		5	5
National Security Programs	64	1	5		1	1	6	7
Natural Resource Programs	54		8		1		9	9
Office of Federal Financial Management	21	3	3			3	3	6
Office of Federal Procurement Policy	22	1	2		1	1	3	4
Office of Information and Requlatory Affairs	54		11		5		16	16
TOTAL	**507**	**6**	**53**		**11**	**6**	**64**	**70**

as of May 5, 2003

R = Reimbursable N = Non Reimbursable	FY 2003 Estimate FTE and OGE							
		Detailees		Student Volunteers		OGE Grand Totals		
	FTE	R	**N**	R	**N**	R	**N**	**R + N**
OMB-Wide Offices	152	1	22		2	1	24	25
General Government Programs	60		3		1		4	4
Human Resource Programs	68		5				5	5
National Security Programs	61		9				9	9
Natural Resource Programs	60		5				5	5
Office of Federal Financial Management	21	1				1		1
Office of Federal Procurement Policy	20							
Office of Information and Requlatory Affairs	57	1	10		3	1	13	14
TOTAL	**499**	**3**	**54**		**6**	**3**	**60**	**63**

FY 2002 does not include staff temporarily detailed to the Transition Planning Office.

R = Reimbursable N = Non Reimbursable	FY 2004 Estimate FTE and OGE							
		Detailees		Student Volunteers		OGE Grand Totals		
	FTE	R	**N**	R	**N**	R	**N**	**R + N**
OMB-Wide Offices	157	1	22		2	1	24	25
General Government Programs	63		3		1		4	4
Human Resource Programs	75		5				5	5
National Security Programs	63		9				9	9
Natural Resource Programs	63		5				5	5
Office of Federal Financial Management	20	1				1		1
Office of Federal Procurement Policy	21							
Office of Information and Requlatory Affairs	54	1	10		3	1	13	14
TOTAL	**516**	**3**	**54**		**6**	**3**	**60**	**63**

REV_00169951

Office of Homeland Security (POC – Paul Ehrhardt)

QUESTION 9: Your FY 2004 budget requests $8,331,000 for the Office of Homeland Security. Please provide an object class breakdown of those costs and compare them to FY 2003 estimated levels.

RESPONSE: The Office of Homeland Security was created by the President on October 8, 2001, via Executive Order 13228 and serves as and is synonymous with the staff of the Homeland Security Council (HSC). An object class breakdown of estimated HSC costs in FY 2003 and FY 2004 is provided in the table below. Please note that the FY 2003 estimate covers only costs incurred after the enactment of the FY 2003 appropriation on February 20, 2003. Unlike other EOP offices which operated under continuing resolutions between October 1, 2003 and February 20, 2003, the Office of Homeland Security was not permitted to utilize the CR funding mechanism but instead continued to charge FY 2003 expenses against the no-year emergency funding (provided in FY2002) until the FY 2003 appropriation was enacted. Therefore the FY 2003 estimate reflects only seven months of activity, whereas the FY 2004 Request needs to cover HSC expenses for the full 12 months next fiscal year.

(Dollars in Thousands)	FY 2003 Appropriation	FY 2003 Estimate*	FY 2004 Request	2004 Request - 2003 Estimate
Homeland Security Council:				
Personnel	$4,403	$2,800	$5,550	$2,750
Travel	$300	$60	$588	$528
Transportation of Things	$24	$24	$10	-$14
Rent	$0	$0	$200	$200
Communications, Utilities, and Misc.	$209	$50	$1,080	$1,030
Printing and Reproduction	$69	$69	$50	-$19
Other Services	$3,267	$1,267	$528	-$739
Supplies and Materials	$0		$175	$175
Equipment	$0	$50	$150	$100
Subtotal	$8,272	$4,320	$8,331	$4,011

* FY 2003 Estimate covers only seven months vs. FY 2004 Request covering full 12 months

Rent was included in the Office of Administration budget in FY 2003, and is moved back to the Homeland Security Council in FY 2004. The Communications object class in FY 2004 includes funding to provide a custom communications package to establish an interface for the Homeland Security Council within the White House Situation Room. Supplies and Materials and Equipment object classes both were funded out of the Office of Administration Pilot Program in FY 2003 but show budgets in HSC for FY 2004.

QUESTION 10: In particular, how much are you requesting in FY 2004 for professional contracts, and how does that compare to the estimated FY 2003 level?

REV_00169952

RESPONSE: In FY 2004 HSC is requesting $528,000 for Other Services compared with $3,267,000 appropriated for the same category in FY 2003. The decrease is due to the creation of the Department of Homeland Security as the President's Security as the President's advisors and as the staff of HSC. Anticipated contractual needs in FY 2004 include maintenance, upgrades, and technical support for the classified computer network that will be extended to include HSC staff in FY 2003.

QUESTION 11: How many FTE and FTP are you requesting for this office in FY 2004, and how do these figures compare to current FY 2003 estimates and actuals for FY 2002?

RESPONSE: HSC is requesting resources to support 40 direct hire FTE and 26 Other Government Employees on its staff to fill the 66 positions HSC is projecting for FY 2004.

Office of Homeland Security / Homeland Security Council Personnel

	FY 2002 Actual	FY 2003 Estimate	FY 2004 Request
Direct Hire FTE	31	40	40
Other Government Employees (EOY headcount)	89	26	26
Total Personnel	120	66	66

QUESTION 12: How many positions in the office are filled today, and how many are vacant?

RESPONSE: As of May 15, 2003, 51 positions are filled and 15 are vacant.

QUESTION 13: Please provide a table comparing the number of detailees to OHS, by federal agency, for each of the fiscal years 2002 through 2004 (estimated).

RESPONSE: The table below provides the number other government employees assigned to the Homeland Security Council.

REV_00169953

Number of Other Government Employees at OHS/HSC
(Figures show end of year headcount)

	FY 2002	FY 2003 est.	FY 2004 est.
CIA	7	2	3
DHS	0	6	10
FEMA	3	na	na
USCG	19	na	na
US Customs	1	na	na
USSS	2	na	na
DOJ	10	1	5
DOC	5	1	0
DOD	12	3	2
DOE	1	1	1
DOI	3	1	0
DOL	1	0	0
DOS	4	2	1
DOT	1	0	1
EOP	1	1	0
EPA	1	2	0
FAA	1	1	0
GSA	1	0	0
HHS	3	3	2
HUD	3	0	0
NASA	1	0	0
NIMA	1	0	0
NSA	3	1	0
SBA	1	0	0
Sentencing Commission	1	0	0
SSA	1	0	0
Treasury	1	0	0
USDA	1	1	1
Total	89	26	26

QUESTION 14: How many detailees are on board today?

RESPONSE: As of May 15, 2003, there are 18 detailees on board at the Homeland Security Council.

QUESTION 15: Please provide a list of all positions in OHS, showing the incumbent's name, rate of annual salary, and position title. Please annotate any positions which are currently vacant.

RESPONSE: The President is authorized to appoint and fix pay of any member of the White House Staff without regard to any provision of law related to employees of the federal government. The individuals employed by the President represent a broad spectrum of experience and expertise and have been engaged to perform tasks ranging from clerical/support to complex, technical, scientific, medical, legal and other missions

REV_00169954

requiring specialized expertise. These individuals are being compensated at rates commensurate with their responsibilities, education and professional experience. The table below lists HSC positions and the positions which are currently vacant. The salaries provided are for White House Full Time Employees and Other Government Employees working at HSC.

	Name		
Position Title	**First**	**Last**	**Annual Salary**
Office of the Advisor			
Assistant to the President for Homeland Security and Homeland Security Advisor (Acting Until June 1)	Charles	Abbot	$ 124,000
Executive Assistant	VACANT		NA
Special Assistant to the APHS	Jon	Spaner	$ 80,816
Staff Assistant	A. Morgan	Middlemas	$ 51,600
Deputy Assistant to the President and Deputy Homeland Security Advisor	Richard	Falkenrath	$ 124,000
Special Assistant	Marianne	Burtnett	$ 85,000
Staff Assistant	Shelley	Reese	$ 30,000
Director, Programs and Resources	David	Aidekman	$ 61,900
Budget Assistant	VACANT		NA
Military Programs			
Special Assistant to the President (SAP) for Military Programs	VACANT		NA
Director, Military Programs	Chris	Hornbarger	$ 87,348
Staff Assistant	VACANT		NA
Executive Secretary			
Executive Secretary	Tim	Stout	$ 53,600
Executive Assistant	Margaret	Cousley	$ 35,000
Deputy Executive Secretary	VACANT		NA
Special Assistant to the Executive Secretary	Laura	Fullerton	$ 66,229
Director for Administration and Support	Kimberly	Badenhop	$ 65,000
Associate Director for Correspondence and Records Management	Eric	Leckey	$ 35,000
Special Assistant, Events	Rory	Cooper	$ 46,469
Associate Director for Security	Deborah	McRae	$ 87,043
Staff Assistant	VACANT		NA
Staff Assistant	VACANT		NA
General Counsel			
Senior Associate Counsel to the President and General Counsel for Homeland Security	Edward	McNally	$ 108,000
Deputy Counsel	Ryan	Stiles	$ 75,000

REV_00169955

Associate Counsel	Faisal	Gill	$	78,265
Associate Counsel	Catherine	Anderson	$	108,785
Staff Assistant	Gayle	Worthy	$	43,807
Legistative Affairs				
Special Assistant to the President for Legislative Affairs	Michael	Allen	$	82,000
Legislative Assistant	Jamie	Ellis	$	34,000
Intergovernmental Affairs				
Director, Intergovernmental Affairs	VACANT			NA
Director, HSC Public Liaison	Meredith	Terpeluk	$	50,000
Domestic Counterterrorism				
Special Assistant to the President and Senior Director, Domestic Counterterrorism	VACANT			NA
Special Assistant to the Director, Domestic Counterterrorism	Eric	Walker	$	46,460
DCI Representative to Homeland Security	Dennis	Bowden	$	120,261
Director, Incident Management	Richard	Irwin	$	118,384
Director, Incident Management	Joel	Bagnal	$	87,348
Director, Investigation and Law Enforcement	Stephen	King	$	119,600
Director, Domestic Counterterrorism Policy	Kirsten	Hildebrand	$	85,140
Director, Plans and Excercises	Kathleen	Packard	$	47,309
BioDefense				
Special Assistant to the President and Senior Director, Biodefense	Kenneth	Bernard	$	123,069
Staff Assistant	Josephine	Keenan	$	54,440
Director, Biodefense	Robert	Kadlec	$	103,000
Director, Biodefense	Rajeev	Venkayya	$	87,043
Director, Food, Agriculture and Water Safety	Curt	Mann	$	138,200
Critical Infrastructure Protection				
Special Assistant to the President and Senior Director, Critical Infrastructure Protection	Paul	Kurtz	$	108,300
Executive Assistant	Barbara	Howerton	$	58,800
Director, Cyber IP	VACANT			NA
Director, Cyber IP	Cheryl	Peace	$	117,061
Director, Physical IP	Patrick	Burns	$	99,186
Director, Physical IP	Paul	Nicholas	$	108,300
Director, IT Architecture	VACANT			NA
Response and Recovery				
Senior Director, Response and Recovery	David	Howe	$	108,300
Staff Assistant	Liz	Macnab	$	42,000
Director, First Responder Program	VACANT			NA
Director for Recovery	Lewis	Podolske	$	113,543

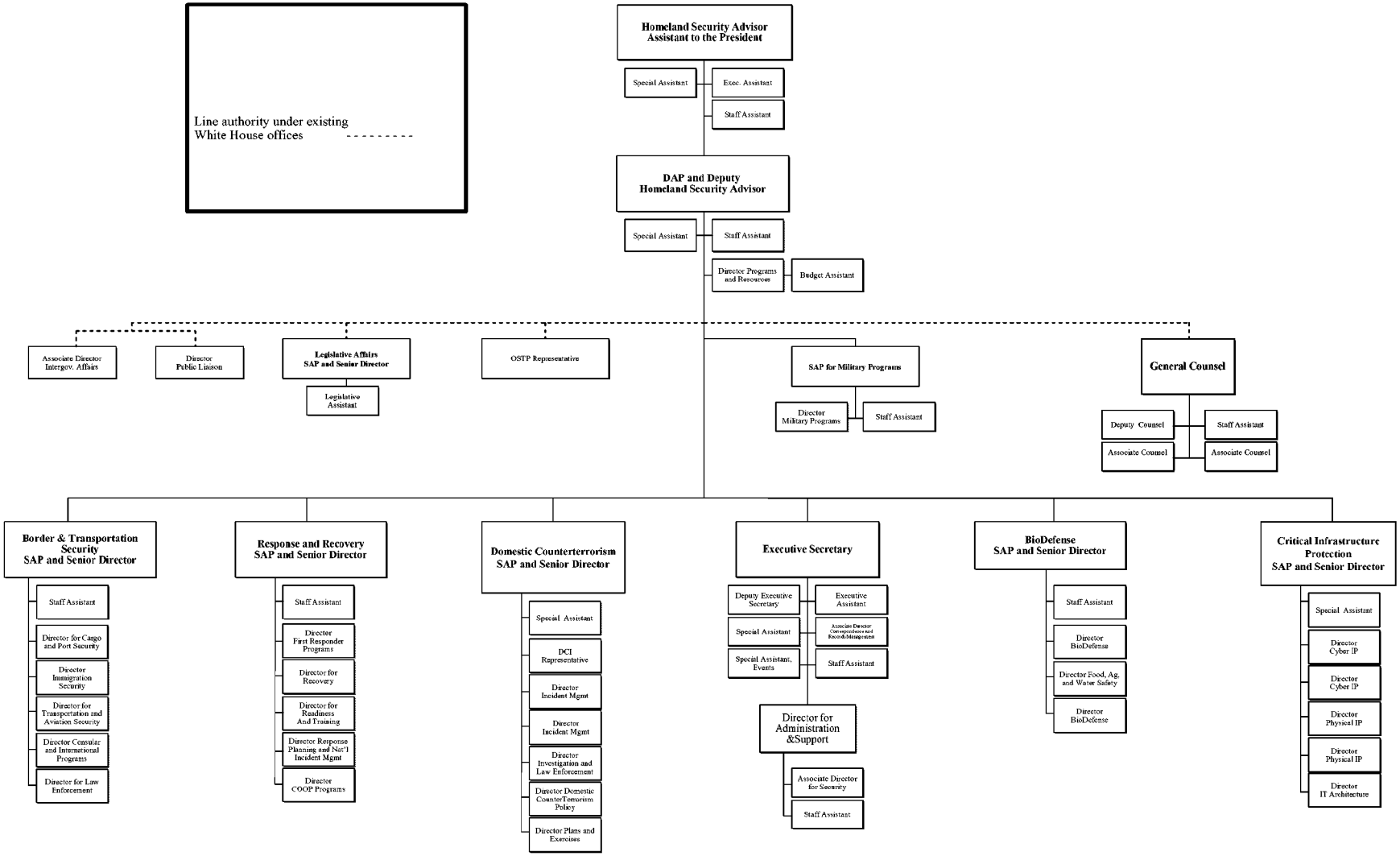
REV_00169956

Director for Readiness and Training	James	Kish	$	110,000
Director, Response Planning and Incident Management	James	Douglas	$	131,881
Director, COOP Programs	VACANT			NA
Border and Transportation Security				
Special Assistant to the President and Senior Director for Border and Transporation Security	Brian	Peterman	$	135,504
Staff Assistant	Katherine	Hildebrand	$	32,000
Director, Cargo and Port Security	VACANT			NA
Director of Immigration Security	Una	Brien	$	93,916
Director for Transportation and Aviation Security	Jan	Brecht-Clark	$	131,881
Director for Consular and International	Lisa Bobbie	Schreiber Hughes	$	109,925
Director for Law Enforcement	Ronald	Colburn	$	120,000

QUESTION 16: Please update the OHS organizational chart found on page 50 of last year's hearing record.

RESPONSE: The chart below shows the current Homeland Security Council's organization.

REV_00169957



REV_00169958

QUESTION 17: Please update the information shown on pages 44 through 47 of last year's hearing record concerning Office of Homeland Security travel. In addition to the information provided last year, please provide a brief descriptor of the travel purpose.

RESPONSE: All travel was conducted as part of the duties of the Office of Homeland Security and as such is considered official travel. The President and the Assistant to the President for Homeland Security have regularly stated that the homeland will not be secure unless the Federal government works closely with state and local officials. Official trips were approved for various purposes including the attendance of various conferences, to holding of meetings with state and local officials and the holding of town hall meetings. The HSC considers travel to different states and cities as a vital part of its mission.

The table below is an update to the travel information provided to Congress last year.

Homeland Security Council Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Staff Position**
04/02/02	Los Angeles, CA	1	$1,185.31	Special Assistant to the President and Executive Director, PHSAC
04/04/02	Miami, FL	2	$1,363.07	Special Assistant to the President and Senior Director for Policy and Plans, Special Assistant
04/05/02	Harrisburg, PA	1	$444.41	Communications Assistant
04/07/02	Annapolis, MD	1	$63.14	Communications Aide to the Assistant to the President for Homeland Security
04/07/02	Atlanta, GA	1	$614.37	Director for Weapons of Mass Destruction
04/08/02	Chicago, IL	2	$1,702.90	Communication Coordinator, Operations Officer
04/08/02	Manhattan, NY	1	$811.62	Director for Critical Recovery Infrastructure
04/09/02	Chicago, IL	6	$2,071.26	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security, Special Assistant to the President for Public Liaison,
				Special Assistant to the President and Director of Communications, Legislative Assistant,
				Communications Aide to the Assistant to the President for Homeland Security
04/11/02	Charleston, SC	2	$1,858.88	Special Assistant to the President and Senior Director for Policy and Plans, Associate Director
04/11/02	Chicago, IL	1	$300.63	Communications Assistant

04/11/02	Harrisburg, PA	3	$1,485.37	Senior Director for Intergovernmental Affairs, Communications Aide to the Assistant to the President for Homeland Security, Communications Assistant
04/12/02	Oklahoma City, OK	1	$528.88	Director for Medical and Public Health Security
04/15/02	Baltimore, MD	1	$134.10	Director for Weapons of Mass Destruction
04/15/02	Boston, MA	1	$1,249.42	Director, Economic Consequence Management
04/15/02	Detroit, MI	1	$1,262.38	Communications Assistant
04/16/02	Chicago, IL	3	$2,075.41	Special Assistant to the President and Senior Director for Policy and Plans, Senior Director for Response and Recovery, Special Assistant
04/16/02	Detroit, MI	2	$400.17	Special Assistant to the President for Public Liaison, Communications Aide to the Assistant to the President for Homeland Security
04/16/02	Detroit, MI	1	$0.00	Assistant to the President for Homeland Security
04/18/02	Erie, PA/Harrisburg, PA	1	$412.96	Communications Assistant
04/19/02	Harrisburg, PA	1	$856.64	Communications Assistant
04/20/02	Houston, TX	1	$612.48	Director, Policy and Plans
04/24/02	Phoenix, AZ	1	$2,023.87	Communications Aide to the Assistant to the President for Homeland Security
04/24/02	Toronto, CAN	1	$626.69	Director, Costal and Border Security
04/28/02	New Orleans, LA	7	$7,371.94	Communications Assistant, Special Assistant to the President for Public Liaison, Special Assistant to the Assistant to the President for Homeland Security,
				Deputy Press Secretary, Assistant to the President for Homeland Security, Communications Assistant, Communications Coordinator
04/30/02	Boston, MA	1	$87.00	Special Assistant to the President for Public Liaison
05/01/02	Los Angeles, CA	1	$668.61	Senior Director for Intergovernmental Affairs
05/03/02	Columbus, OH/Pittsburg, PA	2	$1,259.20	Communications Coordinator, Communications Assistant
05/06/02	Albuquerque, NM	1	$625.90	Director for Critical Recovery Infrastructure
05/06/02	Bangor, ME	1	$465.50	Senior Director for Intergovernmental Affairs
05/07/02	Denver, CO	1	$426.71	Special Assistant to the President and Senior Director for Information Integration
05/07/02	Sacramento, CA	2	$1,222.88	Senior Director for Response and Recovery, Special Assistant
05/08/02	Burlington, VT	1	$979.84	Director, Policy and Plans
05/08/02	San Diego, CA	1	$805.50	Director of Operations

REV_00169960

05/08/02	Wichita, KS	1	$434.21	Senior Director for Intergovernmental Affairs
05/10/02	Harrisburg, PA	1	$521.21	Communications Assistant
05/12/02	Charleston, SC	1	$842.93	Senior Director for Response and Recovery
05/14/02	Gulfport, MS	1	$469.12	Director, Protection and Prevention
05/15/02	Buffalo, NY	8	$4,789.28	Assistant to the President for Homeland Secuirty, Special Assistant to the President for Public Liaison, Operations Officer, Operations Officer, Operations Officer,
				Special Assistant to the Assistant to the President for Homeland Security, Director, Policy and Plans, Special Assistant to the President and Director of Communications,
				Communications aide to the Assistant to the President for Homeland Security, Communications Assistant
05/18/02	Pittsburgh, PA	3	$1,001.63	Assistant to the President for Homeland Security, Assistant Press Secretary, Special Assistant to the President for Homeland Security
05/20/02	Jackson, WY	1	$1,543.30	Special Assistant to the Deputy Assistant to the President for Homeland Security
05/21/02	Washington, DC	1	$709.50	Special Assistant
05/22/02	Dayton, OH	1	$688.76	Director, Protection and Prevention
05/30/02	Baltimore, MD	1	$434.30	Director, State and Local Affairs
05/30/02	Hershey, PA	1	$160.09	Special Assistant to the President for Public Liaison
05/31/02	Harrisburg, PA	1	$741.56	Communications Assistant
06/04/02	Manhattan, NY	4	$1,085.44	Assistant to the President for Homeland Security, Special Assistant to the President and Executive Director, PHSAC,
				Director, External Affairs, Communications Assistant
06/07/02	Harrisburg, PA	1	$563.64	Operations Officer
06/10/02	Manhattan, NY	2	$715.21	Senior Director for Response and Recovery, Senior Director for Protection and Provention
06/10/02	Sun Valley, ID	1	$1,709.80	Director for Readiness
06/10/02	Washington, DC	2	$1,205.50	Senior Director for Protection and Prevention and Senior Director for Response and Recovery
06/11/02	Kansas City, MO	1	$0.00	Assistant to the President for Homeland Security
06/11/02	Washington, DC	5	$3,655.99	President's Homeland Security Advisory Board
06/12/02	Chicago, IL	1	$623.05	Senior Director for Response and Recovery
06/14/02	Albuquerque,NM	1	$971.26	Senior Director for Protection and Prevention

REV_00169961

06/14/02	Harrisburg, PA	2	$912.67	Communications Assistant, Communications Aide to the Assistant to the President for Homeland Security
06/16/02	Erie, PA	1	$413.73	Operations Officer
06/16/02	Madison, WI	6	$2,071.19	Communications Assistant, Senior Director for Intergovernmental Affairs, Assistant to the President for Homeland Security,
				Special Assistant to the President for Homeland Security, Director of State and Local Affairs
06/17/02	Mexico City, Mexico	1	$1,163.26	Director for Critical Infrastructure Protection
06/17/02	New Orleans, LA	1	$884.36	Director, Training and Exercises
06/19/02	Virginia Beach, VA	1	$351.28	Communication Aide to the Assistant to the President for Homeland Security
06/20/02	Berkeley Springs, WV	1	$27.00	Deputy Assistant to the President for Homeland Securtiy
06/21/02	Tulsa, OK	1	$488.00	Senior Director for Intergovernmental Affairs
06/23/02	Phoenix, AZ	1	$1,036.22	Deputy Assistant to the President for Homeland Securtiy
06/24/02	Other, Canada	1	$494.40	Special Assistant to the President and Director of Communications
06/27/02	Albuquerque,NM	1	$871.00	Senior Director for Intergovernmental Affairs
06/27/02	Cambridge, MA	1	$876.11	Senior Director for Response and Recovery
06/27/02	Manhattan, NY	2	$308.70	Senior Director for Protection and Prevention, Director for Weapons of Mass Destruction
06/27/02	Other, Canada	2	$960.34	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
06/27/02	Toronto, Canada	1	$1,447.49	Communications Assistant
06/28/02	Buffalo, NY	1	$1,001.22	Special Assistant to the President for Public Liaison
06/30/02	Erie, PA	1	$895.44	Communications Assistant
06/30/02	Washington, DC	7	$5,072.38	President's Homeland Security Advisory Board
07/04/02	Erie, PA	1	$1,005.65	Communication Aide to the Assistant to the President for Homeland Security
07/10/02	Harrisburg, PA	2	$1,547.83	Communication Coordinator, Communications Assistant
07/10/02	Manhattan, NY	1	$738.76	Senior Director for Response and Recovery
07/11/02	Hershey, PA	1	$63.00	Assistant to the President for Homeland Security
07/12/02	Erie, PA	1	$559.28	Communications Aide to the Assistant to the President for Homeland Security
07/13/02	New Orleans, LA	1	$1,029.76	Director, State and Local Affairs

REV_00169962

07/14/02	Boulder, CO	1	$762.26	Senior Director for Response and Recovery
07/14/02	Erie, PA	1	$599.85	Operations Officer
07/17/02	Colorado Springs, CO	1	$2,303.43	Communications Assistant
07/17/02	Raleigh, NC	1	$545.95	Director for Weapons of Mass Destruction
07/18/02	Colorado Springs, CO	2	$1,815.32	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
07/18/02	Dallas, TX	1	$631.00	Director, Cyberspace Security
07/19/02	Cleveland, OH	1	$1,481.12	Communications Assistant
07/19/02	Omaha, NE	1	$1,675.01	Director, Protection and Prevention
07/20/02	Cleveland, OH	1	$1,462.50	Communications Aide to the Assistant to the President for Homeland Security
07/20/02	Erie, PA	2	$3,832.24	Communications Assistant, Operations Officer
07/22/02	Du Page County, IL	1	$0.00	Assistant to the President for Homeland Security
07/22/02	Manhattan, NY	3	$2,555.98	Director for Cargo and Port Security, Director State and Local Affairs,
				Deputy Assistant to the President for Homeland Security
08/01/02	Austin, TX	1	$590.25	Director, Policy and Plans
08/04/02	Erie, PA	1	$1,049.32	Communications Assistant
08/06/02	Los Angeles, CA	1	$500.72	Director, Training and Exercises
08/09/02	Harrisburg, PA	1	$2,473.35	Communications Assistant
08/11/02	Erie, PA	1	$2,473.35	Communications Assistant
08/13/02	Burlington, VT	1	$800.01	Director for Cargo and Port Security
08/13/02	Cincinnati, OH	1	$738.73	Senior Director to Special Assistant to the President for Information Integration
08/14/02	Little Rock, AR	2	$2,359.87	Special Assistant to the President for Communications, Communications Assistant
08/15/02	Rapid City, SD	2	$291.80	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
08/18/02	Philadelphia, PA	2	$2,311.79	Senior Director for Intelligence and Detection, Director, Cyberspace Security
08/21/02	Manhattan, NY	1	$261.75	Director State and Local Affairs
08/22/02	Kansas City, MO	1	$878.73	Senior Director for Response and Recovery
08/24/02	Erie, PA	1	$706.35	Communications Assistant
08/26/02	Ottawa, Canada	1	$1,287.07	Director for Critical Infrastructure Protection
08/26/02	Washington, DC	2	$1,533.41	President's Homeland Security Advisory Board
08/27/02	Indianapolis, IN	1	$820.70	Senior Director for Intelligence and Detection
08/27/02	Philadelphia, PA	1	$451.57	Communications Assistant
08/27/02	Seattle, WA	1	$1,577.18	Senior Director for Response and

REV_00169963

				Recovery
08/28/02	Buffalo, NY	2	$1,953.73	Operations Officer, Operations Officer
08/28/02	Charlotte, NC	2	$1,217.86	Communications Aide to the Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security
08/28/02	Seattle, WA	1	$646.49	Special Assistant, Intergovernmental Affairs
08/28/02	Washington, DC	5	$4,452.05	President's Homeland Security Advisory Board
08/29/02	Buffalo, NY	1	$173.00	Assistant to the President for Homeland Security
08/29/02	Milan, Italy	2	$11,192.97	Communications Assistant, Communications Aide to the Assistant to the President for Homeland Security
08/30/02	Atlanta,GA	1	$548.50	Director, Cyberspace Security
09/03/02	Asville Naval Reserve Ctr, NC	1	$674.84	Senior Director for Response and Recovery
09/04/02	Milan, Italy	1	$1,869.93	Special Assistant to the Assistant to the President for Homeland Security
09/04/02	San Diego, CA	1	$1,466.62	Director State and Local Affairs
09/05/02	Chicago, IL	1	$490.94	Director, Training and Exercises
09/05/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
09/06/02	Long Beach Naval Hosp, CA	1	$937.22	Director, Protection and Prevention
09/08/02	Columbus, OH	1	$365.81	Special Assistant to the President and Senior Director for Policy and Plans
09/08/02	Detroit, MI	1	$1,111.35	Special Assistant to the President for Public Liaison
09/09/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
09/09/02	Orlando, FL	1	$519.19	Special Assistant to the President and Executive Director, PHSAC
09/09/02	Paris, France	1	$1,156.36	Director, Policy and Plans
09/10/02	Pittsburgh, PA	3	$667.20	Assistant Press Secretary, Communications Aide to the Assistant to the President for Homeland Security,
				Assistant to the President for Homeland Security
09/15/02	Manhattan, NY	1	$191.47	Director, Biodefense
09/15/02	Suffolk County, NY	1	$356.66	Director, Biodefense
09/16/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
09/18/02	Atlanta,GA	1	$254.00	Deputy Assistant to the President for Homeland Securtiy
09/18/02	Denver, CO	1	$967.36	Executive Assistant, Response and Recovery
09/19/02	Austin, TX	1	$121.00	Special Assistant to the Deputy Assistant to the President for Homeland Security
09/19/02	Dallas, TX	1	$618.00	Director, Cyberspace Security
09/19/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans

REV_00169964

09/19/02	Minot AFB, ND	1	$1,121.00	Director State and Local Affairs
09/20/02	Atlanta,GA	2	$1,349.48	Sr. Director Research and Development, Director, Biodefense
09/21/02	Dover, DE	1	$592.94	Communications Aide to the Assistant to the President for Homeland Security
09/22/02	Lincoln Naval Reserve, NE	1	$849.94	Special Assistant to the President and Senior Director for Policy and Plans
09/24/02	Dallas, TX	1	$618.50	Deputy Assistant to the President for Homeland Securtiy
09/24/02	Kansas City, MO	1	$650.36	Director for Incident Management
09/24/02	Manhattan, NY	2	$285.15	Senior Director for Protection and Prevention, Director for Weapons of Mass Destruction
09/24/02	St. Louis, MO	1	$873.50	Senior Director for Response and Recovery
09/25/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
09/26/02	Erie, PA	1	$1,061.02	Communications Assistant
09/26/02	Williamsport Naval Ctr, PA	1	$337.92	Communications Aide to the Assistant to the President for Homeland Security
09/27/02	Atlanta,GA	1	$313.90	Special Assistant to the President for Public Liaison
09/27/02	Easton, PA	1	$202.21	Special Assistant to the Assistant to the President for Homeland Security
09/30/02	Manhattan, NY	1	$576.06	Senior Advisor to the Special Assistant to the President for Information Integration
09/30/02	White Plains, NY	1	$907.10	Executive Secretary
10/01/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
10/01/02	White Plains, NY	1	$702.73	Director for Critical Infrastructure Protection
10/02/02	Carlisle Barracks, PA	1	$132.30	Communications Aide to the Assistant to the President for Homeland Security
10/02/02	Charleston, WV	1	$154.94	Director, Cyberspace Security
10/03/02	Los Angeles, CA	1	$943.66	Director, State and Local Affairs
10/03/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
10/03/02	Miami, FL	1	$571.00	Sr. Director, Research and Development
10/04/02	Washington, DC	1	$169.48	Communications Aide
10/06/02	Minneapolis, MN	1	$768.50	Director for Incident Management
10/06/02	Orlando, FL	1	$432.31	Senior Advisor to the Special Assistant to the President for Information Integration
10/07/02	Las Vegas, NV	1	$874.73	Director of Critical Infrastructure
10/07/02	Oklahoma City, OK	1	$525.94	Sr. Director, Research and Development
10/07/02	Pittsburgh, PA	2	$1,663.50	Special Assistant to the President for Public Liaison, Communications Aide to the Assistant to the Presidnet for Homeland Security
10/07/02	San Diego, CA	1	$1,411.68	Senior Director for Response and Recovery
10/08/02	Minneapolis, MN	1	$914.14	Senior Director for Intergovernmental Affairs

10/08/02	Pittsburgh, PA	2	$1,571.22	Assistant to the President for Homeland Security, Special Assistant to the Assistant to President for Homeland Security
10/09/02	Dallas, TX	1	$704.65	Executive Assistant, Response and Recovery
10/09/02	Lynchburg, VA	1	$52.93	Director, Protection and Prevention
10/10/02	Fort Lauderdale, FL	2	$2,958.00	Special Assistant to the President for Public Liaison, Director for Incident Management
10/11/02	Erie, PA	1	$930.69	Communications Assistant
10/11/02	Lynchburg, VA	1	$52.93	Director Policy and Plans
10/12/02	Erie, PA	1	$348.00	Operations Officer
10/14/02	Columbus, OH	1	$572.00	Senior Director for Response and Recovery
10/15/02	Atlanta,GA	1	$852.36	Director, Cyberspace Security
10/15/02	Key West, FL	1	$1,216.80	Director for Immigration Security
10/15/02	Sacramento, CA	1	$1,260.62	Director, Biodefense
10/15/02	Seattle, WA	1	$1,050.00	Senior Director for Protection and Prevention
10/15/02	Washington, DC	8	$4,481.76	President's Homeland Security Advisory Board
10/16/02	Raleigh, NC	1	$254.06	Senior Advisor to the Special Assistant to the President for Information Integration
10/16/02	Vancouver, Canada	1	$1,662.55	Director, Policy and Plans
10/18/02	Trenton, NJ	1	$1,310.12	Director, State and Local Affairs
10/18/02	Washington, DC	4	$2,385.93	Communications Assistant, President's Homeland Security Advisory Board
10/21/02	Houston, TX	1	$849.91	Senior Director for Protection and Prevention
10/21/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
10/21/02	Newark, NJ	2	$852.90	Senior Director for Intergovernmental Affairs, Director State and Local Affairs
10/21/02	Washington, DC	1	$87.50	President's Homeland Security Advisory Board
10/22/02	Frederick, MD	1	$291.15	Director of Critical Infrastructure
10/22/02	Reno, NV	1	$803.60	Special Assistant, Intergovernmental Affairs
10/22/02	Trenton, NJ	1	$153.00	Special Assistant
10/23/02	San Jose, CA	1	$931.76	Director, Cyberspace Security
10/24/02	Erie, PA	1	$1,001.53	Communications Aide to the Assistant to the President for Homeland Security
10/24/02	Ontarion, CA	1	$664.76	Senior Director for Response and Recovery
10/24/02	Orlando, FL	1	$547.06	Director, Policy and Plans
10/25/02	Albany, NY	1	$580.50	Senior Director for Protection and Prevention
10/25/02	Lynchburg, VA	1	$52.93	Director, Operations
10/26/02	Washington, DC	1	$214.03	Communications Assistant
10/28/02	Hershey, PA	1	$286.16	Senior Director for Response and Recovery

REV_00169966

10/28/02	Savannah, GA	1	$452.68	Senior Director for Intergovernmental Affairs
10/29/02	Manhattan, NY	1	$511.27	Deputy Assistant to the President for Homeland Securtiy
10/29/02	St. Louis, MO	1	$1,078.66	Director of Critical Infrastructure
10/30/02	Brussels, Bel	1	$4,853.38	Communications Aide to the Assistant to the President for Homeland Security
10/31/02	Cedar Rapids, IA	1	$2,173.70	Special Assistant to the President and Director of Communications
11/01/02	Atlantic City, NJ	1	$0.00	Sr. Director, Research and Development
11/01/02	Brussels, Bel	1	$2,173.70	Special Assistant to the President and Director of Communications
11/01/02	Pittsburgh, PA	2	$606.97	Communications Assistant, Operations Officer
11/02/02	San Jose, CA	1	$1,001.50	Senior Director for Protection and Prevention
11/03/02	Brussels, Bel	3	$4,534.72	Assistant to the President for Homeland Security, Special Assistant to the Assistant to the President for Homeland Security, Director Policy and Plans
11/03/02	Washington, DC	1	$8.40	Communications Assistant
11/04/02	London, England	1	$2,536.36	Operations Officer
11/06/02	Santa Barbara, CA	1	$711.51	Director, Economic Consequence Management
11/09/02	Lynchburg, VA	1	$741.18	Director State and Local Affairs
11/09/02	Philadelphia, PA	1	$752.47	Communications Assistant
11/10/02	New Orleans, LA	1	$752.47	Communications Assistant
11/12/02	Philadelphia, PA	1	$244.80	Senior Director for Response and Recovery
11/13/02	Cincinnati, OH	1	$70.34	Communications Aide to the Assistant to the President for Homeland Security
11/14/02	Charlotte, NC	1	$992.48	Director of Critical Infrastructure
11/14/02	Erie, PA	1	$931.40	Operations Officer
11/14/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
11/15/02	Shepherdstown, WV	1	$79.60	Senior Director for Response and Recovery
11/16/02	Erie, PA	1	$613.64	Special Assistant
11/17/02	Las Vegas, NV	1	$2,074.06	Director, Biodefense
11/18/02	Manhattan, NY	1	$118.70	Special Assistant to the President and Senior Director for Policy and Plans
11/19/02	Philadelphia, PA	2	$1,051.46	Deputy Assistant to the President for Homeland Securtiy, Sr. Director, Research and Development
11/20/02	Los Angeles, CA	3	$4,199.59	Senior Director for Intergovernmental Affairs, Special Assistant to the President for Public Liaison,
				Deputy Press Secretary
11/22/02	Boston, MA	1	$467.20	Director, Policy and Plans
11/22/02	Scottsdale, AZ	1	$233.64	Special Assistant to the President for Public Liaison

REV_00169967

11/24/02	Mexico City, Mexico	1	$1,155.08	Director, Policy and Plans
11/24/02	Phoenix, AZ	1	$1,999.06	Communications Assistant
11/25/02	Manhattan, NY	1	$320.22	Director, Economic Consequence Management
11/26/02	London, England	1	$951.43	Special Assistant to the Deputy Assistant to the President for Homeland Security
12/01/02	St. Louis, MO	1	$1,579.63	Communications Assistant
12/02/02	Chicago, IL	1	$906.76	Deputy Assistant to the President for Homeland Securtiy
12/02/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
12/02/02	Washington, DC	10	$8,634.98	President's Homeland Security Advisory Board
12/03/02	Chicago, IL	1	$369.38	Director State and Local Affairs
12/03/02	Washington, DC	1	$50.50	President's Homeland Security Advisory Board
12/04/02	Cambridge, MA	1	$901.10	Director of Critical Infrastructure
12/06/02	Salt Lake City, UT	1	$822.14	Director State and Local Affairs
12/06/02	Seattle, WA	1	$992.06	Director Coordination Center
12/06/02	Washington, DC	1	$297.72	Communications Assistant
12/08/02	Manhattan, NY	1	$237.55	Operations Officer
12/09/02	Baltimore, MD	1	$327.32	Senior Director for Response and Recovery
12/09/02	Indianapolis, IN	1	$817.00	Director, Cyberspace Security
12/09/02	Manhattan, NY	1	$316.90	Operations Officer
12/09/02	San Francisco, CA	1	$237.54	Sr. Director, Research and Development
12/09/02	Seattle, WA	2	$1,505.08	Special Assistant to the Deputy Assistant to the President for Homeland Security, Deputy Director Coordination Center
12/11/02	Manhattan, NY	5	$3,154.69	Deputy Assistant to the President for Homeland Securtiy, Director State and Local Affairs, Executive Assistant Response and Recovery,
				Director for Critical Infrastructure Protection, Director for Cargo and Port Security,
				Executive Assistant Response and Recovery
12/13/02	Washington, DC	1	$307.77	Communications Assistant
12/18/02	Anniston Army Depot, AL	1	$219.00	Director, Biodefense
12/18/02	Atlanta,GA	1	$543.75	Director for Cargo and Port Security
12/19/02	Harrisburg, PA	1	$379.64	Communications Aide to the Assistant to the President for Homeland Security
12/19/02	Lynchburg, VA	1	$52.93	Director, Policy and Plans
12/20/02	Washington, DC	1	$135.22	Communications Assistant
12/21/02	Erie, PA	1	$3,369.44	Operations Officer
01/07/03	Las Vegas, NV	1	$1,128.64	Director, Cyberspace Security
01/09/03	Erie, PA	1	$938.50	Communications Aide to the Assistant to the President for Homeland Security

REV_00169968

01/09/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/11/03	San Diego, CA	2	$1,945.55	Operations Officer, Operations Officer
01/14/03	Cape Canaveral, FL	2	$1,798.55	Senior Director for Response and Recovery, Deputy Director, Incident Management
01/15/03	Boston, MA	1	$1,248.78	Director of Critical Infrastructure
01/15/03	Jacksonville, FL	1	$767.86	Director for Weapons of Mass Destruction
01/15/03	New Orleans, LA	1	$968.98	Executive Assistant, Response and Recovery
01/16/03	Erie, PA	1	$672.78	Communications Aide to the Assistant to the President for Homeland Security
01/16/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/17/03	Erie, PA	1	$238.00	Operations Officer
01/20/03	San Antonio, TX	2	$1,549.64	Special Assistant to the President and Executive Director, PHSAC, Director, External Affairs
01/21/03	Harrisburg, PA	1	$150.00	Communications Aide to the Assistant to the President for Homeland Security
01/21/03	Manhattan, NY	1	$406.96	Senior Director for Response and Recovery
01/21/03	Mexico City, Mexico	1	$1,228.73	Director for Critical Infrastructure Protection
01/22/03	Manhattan, NY	1	$334.50	Director, Economic Consequence Management
01/22/03	Washington, DC	7	$3,930.05	President's Homeland Security Advisory Board
01/24/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/24/03	Shepherdstown, WV	1	$81.06	Director, Economic Consequence Management
01/28/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
01/29/03	Chicago, IL	1	$245.50	Director, Economic Consequence Management
01/30/03	Washington, DC	7	$4,952.27	President's Homeland Security Advisory Board
02/07/03	Lynchburg, VA	1	$52.93	Director, Policy and Plans
02/09/03	Seattle, WA	1	$1,877.78	Director, Cyberspace Security
02/10/03	Norfolk, VA	1	$105.06	Director of Critical Infrastructure
02/13/03	Manhattan, NY	1	$33.25	Director for Cargo and Port Security
02/20/03	Cambridge, MA	1	$2,579.47	Special Assistant to the President and Senior Director for Policy and Plans
02/20/03	Washington, DC	5	$3,647.25	President's Homeland Security Advisory Board
02/21/03	Washington, DC	3	$1,066.55	President's Homeland Security Advisory Board
02/25/03	Lynchburg, VA	1	$52.93	Director Policy and Plans
03/03/03	Albuquerque,NM	1	$982.87	Executive Assistant, Response and Recovery
03/09/03	Baltimore, MD	1	$897.11	Director, Biodefense
03/12/03	Houston, TX	1	$1,218.03	Director, Incident Management
03/25/03	Lynchburg, VA	1	$52.93	Director Policy and Plans

REV_00169969

03/31/03	Charlottesville, VA	1	$189.00	Special Assistant to the Deputy Assistant to the President for Homeland Security
	Total		**$302,422.75**	

Cyberspace Security Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Staff Position**
04/02/02	Orlando, FL	1	$592.89	Director, Cyberspace Security
04/03/02	Providence, RI	1	$875.74	Vice Chairman, PCIPB
04/05/02	Denver, CO	1	$1,288.87	Vice Chairman, PCIPB
04/08/02	Williamsburg, VA	1	$261.00	Vice Chairman, PCIPB
04/10/02	Albany, NY	1	$904.60	Vice Chairman, PCIPB
04/12/02	Orlando, FL	1	$1,279.00	Vice Chairman, PCIPB
04/16/02	Orlando, FL	1	$757.75	Special Assistant to the President for Cyberspace Security, and Chair, PCIPB
04/21/02	Orlando, FL	1	$1,663.74	Special Assistant to the President for Cyberspace Security, and Chair, PCIPB
05/07/02	Chicago, IL	1	$524.42	Director, Cyberspace Security
05/08/02	Las Vegas, NV	1	$1,009.00	Senior Director, National Security
05/10/02	Boston, MA	1	$455.80	Chief of Staff
5/12/2002	Denver, CO	1	$1,390.93	Director, Cyberspace Security
05/12/02	Denver, CO/Indianapolis, IN	1	$1,574.15	Special Assistant to the President for Cyberspace Security, and Chair, PCIPB
5/14/2002	Denver, CO	1	$1,711.17	Deputy Chief of Staff
5/16/2002	Chicago, IL	1	$328.00	Chief of Staff
5/20/2002	Honolulu, HI	1	$1,371.44	Director, Cyberspace Security
5/27/2002	Chicago, IL	1	$2,874.45	Deputy Chief of Staff
5/29/2002	Chicago, IL	2	$1,489.16	Director for Cyberspace Security, Director for Cyberspace Security
5/31/2002	Portland, OR	1	$2,874.45	Deputy Chief of Staff
6/1/2002	Seattle, WA	1	$4,571.88	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
6/3/2002	Portland, OR	1	$4,571.98	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
6/3/2002	San Diego, CA	1	$1,436.79	Vice Chairman, PCIPB
6/5/2002	Portland, OR	1	$1,677.79	Vice Chairman, PCIPB
6/7/2002	Seattle, WA	1	$1,436.79	Vice Chairman, PCIPB
6/12/2002	Buffalo, NY	1	$761.29	Vice Chairman, PCIPB

REV_00169970

6/16/2002	Atlanta, GA	3	$2,522.62	Deputy Chief of Staff, Director, Legislative Affairs, Vice Chairman, PCIPB
6/19/2002	London, GBR	1	$1,687.92	Vice Chairman, PCIPB
6/24/2002	Seattle, WA	1	$982.09	Vice Chairman, PCIPB
6/26/2002	Boston, MA	1	$641.44	Chief of Staff
6/26/2002	Chicago, IL	1	$982.09	Vice Chairman, PCIPB
6/26/2002	Las Vegas, NV	1	$982.06	Senior Director, National Security
7/8/2002	Manhattan, NY	2	$483.20	Vice Chairman, PCIPB, Senior Director, National Security
7/20/2002	Monterey, CA	1	$1,352.72	Director, Cyberspace Security
7/20/2002	Tulsa, OK	2	$2,474.19	Special Assistant to the President for Cyberspace Security and Chair, PCIPB and Vice Chairman, PCIPB
7/22/2002	Dallas, TX	1	$877.15	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
7/23/2002	Minneapolis, MN	1	$1,602.04	Vice Chairman, PCIPB
7/30/2002	Las Vegas, NV	1	$1,148.96	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
8/4/2002	Roanoke, VA	1	$671.68	Vice Chairman, PCIPB
8/6/2002	Duluth, MN	1	$71.76	Vice Chairman, PCIPB
8/6/2002	Ft. Lauderdale, FL	1	$705.61	Director, Cyberspace Security
8/6/2002	San Francisco, CA	1	$811.92	Director for Cyberspace Security
8/12/2002	Beaver Creek, CO	1	$3,362.76	Chief of Staff
8/12/2002	Vail, Co	1	$3,362.76	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
8/13/2002	Phoenix, AZ	1	$1,128.18	Vice Chairman, PCIPB
8/13/2002	San Francisco, CA	1	$4,362.25	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
8/17/2002	Aspen, CO	1	$287.00	Senior Director, National Security
8/18/2002	San Francisco, CA	1	$3,362.76	Chief of Staff
8/19/2002	Manhattan, NY	1	$470.06	Director for Cyberspace Security
8/22/2002	Boston, MA	1	$462.04	Director for Cyberspace Security
8/26/2002	Nashville, TN	1	$730.23	Vice Chairman, PCIPB
8/26/2002	Ottawa, CAN	1	$1,056.24	Director, Cyberspace Security
8/30/2002	Chicago, IL	1	$1,602.40	Vice Chairman, PCIPB
9/3/2002	Seattle, WA	1	$251.44	Director, Cyberspace Security
9/5/2002	Manhattan, NY	1	$195.04	Senior Director, National Security
9/6/2002	Philadelphia, PA	1	$226.72	Director for Cyberspace Security
9/8/2002	San Jose, CA	1	$845.27	Director for Cyberspace Security
9/12/2002	Atlanta, GA	1	$122.00	Director for Cyberspace Security
9/15/2002	Minneapolis,	1	$2,388.45	Vice Chairman, PCIPB

REV_00169971

	MN			
9/15/2002	Palo Alto, CA	1	$2,987.46	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
9/15/2002	San Francisco, CA	2	$4,185.11	Deputy Chief of Staff, Executive Assistant
9/17/2002	Palo Alto, CA	2	$3,847.56	Vice Chairman, PCIPB and Director for Cyberspace Security
9/17/2002	San Francisco, CA	1	$2,032.69	Director for Cyberspace Security
9/18/2002	New London, CT	1	$2,541.62	Deputy Chief of Staff
9/18/2002	Seattle, WA	1	$2,388.45	Vice Chairman, PCIPB
9/19/2002	Manhattan, NY	1	$186.62	Director for Cyberspace Security
9/21/2002	Albuquerque, NM	1	$901.51	Director for Cyberspace Security
9/24/2002	Austin, TX	2	$1,975.60	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Vice Chairman, PCIPB
9/24/2002	Cleveland, OH	1	$1,092.55	Director for Cyberspace Security
9/24/2002	Denver, CO	1	$1,680.02	Vice Chairman, PCIPB
9/24/2002	San Antonio, TX	5	$5,537.03	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Vice Chairman, PCIPB, Deputy Chief of Staff, Senior Director,
				Senior Director, National Security, Director, Cyberspace Security
9/30/2002	Atlantic City, NJ	1	$375.09	Vice Chairman, PCIPB
9/30/2002	Ft. Meyers, FL	1	$622.71	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/2/2002	Philadelphia, PA	1	$660.04	Deputy Chief of Staff
10/7/2002	Minneapolis, MN	1	$750.71	Director for Cyberspace Security
10/8/2002	Brussels, Bel	1	$3,903.77	Vice Chairman, PCIPB
10/9/2002	Omaha, NE	1	$1,188.85	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/9/2002	Pittsburg, Pa	1	$1,188.65	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/11/2002	London, GBR	1	$3,903.77	Vice Chairman, PCIPB
10/14/2002	Boston, MA	2	$3,428.15	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Deputy Chief of Staff
10/17/2002	Boston, MA	1	$308.38	Director for Cyberspace Security
10/17/2002	Chicago, IL	1	$312.50	Deputy Chief of Staff
10/20/2002	Miami, FL	1	$611.04	Director for Cyberspace Security
10/22/2002	Frederick, MD	2	$669.46	Vice Chairman, PCIPB and Director for Cyberspace Security

REV_00169972

10/23/2002	Pittsburg, Pa	2	$1,934.71	Vice Chairman, PCIPB and Deputy Chief of Staff
10/26/2002	Brussels, Bel	1	$6,650.41	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
10/26/2002	Eugene, OR	1	$1,595.63	Director for Cyberspace Security
10/28/2002	Las Vegas, NV	1	$1,351.69	Director for Cyberspace Security
10/28/2002	San Antonio, TX	1	$501.00	Senior Director, National Security
11/5/2002	Atlanta, GA	1	$1,024.90	Vice Chairman, PCIPB
11/06/02	White Plains, NY	1	$965.79	Director for Cyberspace Security
11/7/2002	Chicago, IL	3	$1,266.23	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Director, Cyberspace Security, Director, National Security
11/7/2002	Manhattan, NY	1	$793.86	Vice Chairman, PCIPB
11/10/2002	Monterey, CA	1	$1,329.86	Director for Cyberspace Security
11/12/2002	Manhattan, NY	1	$697.49	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
11/13/2002	Manhattan, NY	1	$350.50	Senior Director, National Security
11/13/2002	Phoenix, AZ	2	$3,548.19	Director, Legislative Affairs, Vice Chairman, PCIPB
11/14/2002	Seattle, WA	1	$1,329.66	Director for Cyberspace Security
11/17/2002	Atlanta, GA	1	$436.06	Director for Cyberspace Security
11/17/2002	Ottawa, CAN	1	$2,418.32	Vice Chairman, PCIPB
11/19/2002	Manhattan, NY	1	$877.25	Director for Cyberspace Security
11/19/2002	Salt Lake City, UT	1	$877.25	Director for Cyberspace Security
11/20/2002	Manhattan, NY	1	$699.56	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
12/3/2002	Chicago, IL	1	$229.13	Director for Cyberspace Security
12/3/2002	San Francisco, CA	1	$2,293.66	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
12/4/2002	Phoenix, AZ	1	$1,264.33	Senior Director, National Security
12/4/2002	San Francisco, CA	1	$1,637.48	Director, Cyberspace Security
12/6/2002	Seattle, WA	1	$1,138.43	Vice Chairman, PCIPB
12/9/2002	Boston, MA	1	$401.00	Director for Cyberspace Security
12/9/2002	Charleston, SC	1	$825.27	Director for Cyberspace Security
12/12/2002	Manhattan, NY	1	$380.05	Vice Chairman, PCIPB
12/17/2002	Flemington, NJ	2	$487.54	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Senior Director, National Security
12/18/2002	Atlanta, GA	1	$64.50	Deputy Chief of Staff
1/9/2003	Charlotte, NC	2	$1,929.02	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Deputy Chief of Staff

REV_00169973

1/14/2003	Honolulu, HI	1	$1,610.34	Director for Cyberspace Security
1/21/2003	Boston, MA	2	$1,797.69	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Director for Cyberspace Security
1/22/2003	St. Petersburg, FL	1	$492.08	Vice Chairman, PCIPB
1/23/2003	Ft. Meyers, FL	1	$636.12	Director for Cyberspace Security
1/23/2003	Naples, FL	1	$864.08	Vice Chairman, PCIPB
1/24/2003	Philadelphia, PA	1	$864.08	Special Assistant to the President for Cyberspace Security and Chair, PCIPB
1/24/2003	San Diego, CA	3	$4,654.94	Special Assistant to the President for Cyberspace Security and Chair, PCIPB, Deputy Chief of Staff, Director, Cyberspace Security
01/28/03	Williamsburg, VA	1	$239.34	Vice Chairman, PCIPB
1/29/2003	Chicago, IL	1	$306.37	Director for Cyberspace Security
1/30/2003	Manhattan, NY	1	$376.50	Vice Chairman, PCIPB
2/2/2003	Columbus, MS	1	$835.25	Vice Chairman, PCIPB
2/2/2003	San Francisco, CA	1	$1,211.37	Director for Cyberspace Security
2/10/2003	London, GBR	1	$1,473.61	Vice Chairman, PCIPB
02/11/03	Tallahassee, FL	1	$582.94	Director for Cyberspace Security
2/24/2003	Atlanta, GA	1	$768.07	Vice Chairman, PCIPB
2/24/2003	Boca Raton, FL	1	$1,052.94	Director for Cyberspace Security
2/25/2003	Chicago, IL	1	$522.44	Director for Cyberspace Security
3/3/2003	Manhattan, NY	1	$607.86	Director for Cyberspace Security
3/4/2003	San Diego, CA	1	$785.37	Director for Cyberspace Security
3/6/2003	Ottawa, CAN	1	$929.94	Vice Chairman, PCIPB
3/8/2003	Orlando, FL	1	$260.11	Vice Chairman, PCIPB
3/17/2003	San Antonio, TX	1	$801.47	Vice Chairman, PCIPB
3/18/2003	Atlanta, GA	1	$801.47	Vice Chairman, PCIPB
3/22/2003	Paris, FRA	2	$3,402.37	Vice Chairman, PCIPB, Director for Cyberspace Security
	Total		**$192,350.99**	

QUESTION 18: Currently, OHS costs are included in both the WHO and OA appropriations. Is that also the case in the FY 2004 request? If so, please provide a table, by appropriation, showing total OHS budgeted costs, for each of the fiscal years 2002 through 2004.

RESPONSE: For FY 2003, although funds were requested as part of the WHO budget activity, the Office of Homeland Security received for the first time its own appropriation, separate from the WHO appropriation. Funds supporting OHS / HSC

REV_00169974

requirements in FY 2003 were provided also to OA as part of the OA Pilot program. The FY 2004 Request identifies all requirements for OHS / HSC in the WHO Budget Activity, since the OA Pilot program is not certain to continue after FY 2003. See table below:

(Dollars in Thousands)

	Congressional Appropriations		
	FY 2002 Enacted*	FY 2003 Enacted	FY 2004 Request
OHS / HSC	$30,800	$8,272	$8,331
OA		$778	
	$30,800	$9,050	$8,331

*FY 2002 budget for OHS was based on the OHS mission and funding profile prior to the establishment of DHS and was provided by 3 sources of emergency appropriated funds: P.L. 107-38 for $25,000,000; P.L.107-117 for $2,000,000; and P.L. 107-206 for $3,800,000.

QUESTION 19: Last year, it was stated that one MOU existed between OHS and other EOP entities (p. 51). Please provide a copy of the MOU between MOU and the Office of Science and Technology Policy.

RESPONSE: The MOU between OHS and OSTP expired with the creation of the Department of Homeland Security as relevant responsibilities transferred from OHS to DHS, pursuant to the Homeland Security Act of November, 2002.

QUESTION 20: Have any other MOUs been signed since that time?

RESPONSE: A MOU between the Homeland Security Council and the National Security Council/White House Situation Support Staff was signed in May, 2003 providing for the expansion of NSC's classified computer network to include approved HSC staff with necessary security clearances.

In addition standard interagency agreements were signed between OHS/HSC and the Office of Administration (OA) and OMB to pay for detailees from these EOP entities to OHS/HSC and separately between OHS/HSC and OA to pay for miscellaneous supplies and materials.

QUESTION 21: At this time last year, OHS planned to establish a coordination center which would function 24 hours a day, 7 days a week, using a communications room and two incident management rooms. At the same time, the Administration made clear that the role of OHS was to establish and coordinate policy, and not to conduct operational activities. With the establishment of the Department of Homeland Security, have these specific activities been descoped or eliminated?

REV_00169975

RESPONSE: The role of the Homeland Security Council is to advise and assist the President, develop and coordinate the implementation of the *National Strategy for Homeland Security* to secure the United States from terrorist threats and attacks, and to help coordinate policy across the departments and agencies of the executive branch. The Homeland Security Council does not conduct operational activities. The Homeland Security Council does not operate a coordination center. With the establishment of the Department of Homeland Security, DHS is the lead federal agency for incident management. As such, DHS operates a Homeland Security Center with 24 hour/7 days per week coordination and communications capabilities. Those functions do not reside in the Homeland Security Council.

QUESTION 22: How many positions support these activities in the FY 2004 request, and what is the total budgeted amount?

RESPONSE: The FY 2004 budget will not fund any personnel or activities related to the DHS coordination center. However, virtually every member of the HSC staff has responsibilities to support and advise the President regarding incident response efforts, continuity of government and related coordination roles on behalf of the President.

QUESTION 23: How are such activities appropriate for a policymaking body, when DHS now exists to coordinate and execute operational activities related to specific homeland security incidents and activities?

RESPONSE: Just as the NSC was created by Congress in 1947 in the same act which created the Department of Defense and the CIA, Congress established the HSC within the EOP by statute at the same time as it created the Department of Homeland Security. The role of the Homeland Security Council is to advise and assist the President, develop and coordinate the implementation of the *National Strategy for Homeland Security* to secure the United States from terrorist threats and attacks, and to help coordinate policy across the departments and agencies of the executive branch. The Homeland Security Council does not conduct operational activities. The Homeland Security Council does not operate a coordination center. With the establishment of the Department of Homeland Security, DHS is the lead federal agency for incident management. As such, DHS operates a Homeland Security Center with 24 hour/7 days per week coordination and communications capabilities. Those functions do not reside in the Homeland Security Council.

QUESTION 24: At the time of last year's hearing, the permanent location and amount of space for the President's Critical Infrastructure Protection Board had not been determined (p. 77). Have these requirements been determined today?

REV_00169976

RESPONSE: The President's Critical Infrastructure Protection Board (PCIPB) no longer exists at the White House. Executive Order 13228, which created the PCIPB, was amended. Congress through the Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection (IAIP). One of the responsibilities of the IAIP directorate is the important issue of critical infrastructure protection. This is a robust directorate led by an under secretary.

QUESTION 25: Likewise, total CIPB staffing had not been determined. Do you have an estimate today? What staffing assumptions were made in the FY 2004 budget submission?

RESPONSE: The President's Critical Infrastructure Protection Board (PCIPB) no longer exists at the White House. Executive Order 13228, which created the PCIPB, was amended. Congress through the Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection (IAIP). One of the responsibilities of the IAIP directorate is the important issue of critical infrastructure protection. This is a robust directorate led by an under secretary.

QUESTION 26: How much funding is included in the FY 2004 request for CIPB, and how does that compare to the current estimate for FY 2003?

RESPONSE: The President's Critical Infrastructure Protection Board (PCIPB) no longer exists at the White House. Executive Order 13228, which created the PCIPB, was amended. Congress through the Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection (IAIP). One of the responsibilities of the IAIP directorate is the important issue of critical infrastructure protection. This is a robust directorate led by an under secretary.

QUESTION 27: Please provide a breakdown showing how those funds would be used.

RESPONSE: The President's Critical Infrastructure Protection Board (PCIPB) no longer exists at the White House. Executive Order 13228, which created the PCIPB, was amended. Congress through the Homeland Security Act created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection (IAIP). One of the responsibilities of the IAIP directorate is the important issue of critical infrastructure protection. This is a robust directorate led by an under secretary.

QUESTION 28: Please provide details on any government-industry partnerships that have been created in support of cyber security initiatives coordinated by, or carried out, through EOP or the CIPB.

RESPONSE: In 2002, the President's Critical Infrastructure Protection Board developed a *National Strategy to Secure Cyberspace.* To encourage broader participation and input

REV_00169977

into the development process, a draft strategy was released for public comment in September 2002. In addition, the PCIPB requested the National Infrastructure Assurance Council and the National Security Telecommunications Advisory Committee both provide comments on the draft strategy. Furthermore, there were 10 town hall meetings held in various portions of the country which brought industry, academia and private citizens together to focus on the complex issues related to cyber security. The final strategy thus integrated extensive public and industry comments and was released in February 2003.

The *National Strategy to Secure Cyberspace* emphasizes that government-industry partnerships will be a cornerstone to success. As the primary implementer of the Strategy, DHS will be a partner with industry and academia to accomplish the objectives identified by the President's strategy.

National Security Council (POC – Katherine Fertakis)

QUESTION 29: Your request includes a 10.8 percent increase to cover reimbursable detailee costs and additional support staff for the President's Foreign Intelligence Advisory Board. Please explain the need for these increases in detail.

RESPONSE: The requested increase covers reimbursable detailee costs of personnel from the Department of State. The National Security Council (NSC) may request detailed personnel performing at a high level in high priority positions to remain beyond their initial tour of duty because of their unique qualifications. The NSC is required to reimburse the Department of State for details to NSC that exceed the cap of 13 detailed into their second year and for all staff detailed longer than two years per Public Law 93-126. The FY 2003 increase in this category estimates for details becoming reimbursable during the Spring and the Summer. The FY 2004 increase represents an annualization of the expenses, minus the cost for the details that will not be renewed.

Since the events of September 11, 2001, the PFIAB support staff workload has been significantly increased and consumed by the homeland security effort. Thus far about 95% of the Board's current advisory work for the President has been directly related to homeland security and counter-terrorism. (Intelligence performance thereon, and support to the new department of homeland security) With only 4 staff members and an already overflowing Board work schedule, work on other important PFIAB priorities has been deferred—such as declassification review of PFIAB archived records. At least three additional staff members, including a GS-14 administrative manager, will be needed to adequately meet support requirements as the Board expands its review of intelligence support to homeland security beyond the more immediate structural and organizational issues, and also re-engages the more general intelligence performance issues across the full spectrum of pressing issues. The FY 2004 request includes $250,000 which will fund two reimbursable detailed staff members and one permanent, Schedule A, Excepted Service, GS-14 administrative management position.

REV_00169978

QUESTION 30: What are the dollar and percentage increases for each of the above items, compared to the FY 2003 estimated levels?

RESPONSE: The FY 2004 request for NSC reimbursable detailees represents an increase of $356,000, or 64%, over the FY 2003 estimated levels. The PFIAB increase of $250,000 will be 100% above the FY 2003 request since this is a new requirement for FY 2004.

QUESTION 31: The justifications indicate that 11 additional positions are being added to this office in FY 2003, raising the estimated from 60 in FY 2002 to an estimated 71 in FY 2003. What specific positions are being created?

RESPONSE: The 11 additional positions, which raise NSC's FTE from 60 to 71, are not new positions. In FY 2003, the Office for Combating Terrorism (OCT) was combined with the NSC budget request. The increased FTE request correlates with the continued funding for and operation of the OCT as a part of the NSC submission.

QUESTION 32: The FY 2004 request includes funds for a new GS-14 administrative manager for the PFIAB. Why is this new position needed at this time?

RESPONSE: PFIAB requires a permanent administrative position for continuity as well as efficiency reasons. The administrative staff constitutes the lifeblood of the Board: it fulfills all of the support responsibilities, including human resource management, budget, travel, procurement, research, publishing, protocol, and special assistance to the Executive Director, Chair and Vice Chair. With only two administrative people on staff, it is absolutely critical that both individuals be fully knowledgeable about and highly experienced at *White House* administrative policies, procedures and guidelines; equally important, *both* must possess highly honed administrative skills *and* be extremely efficient, effective and professionally dedicated.

The Board simply cannot attain this level of experience and competence by relying on detailees from other agencies, particularly non-reimbursed detailees. More often than not, we must accept whomever an agency can make available. Therefore, the Board will use this one permanent administrative billet to create a PFIAB office manager position. This individual not only will provide continuity of expertise and experience, but also will ensure that the other administrative person obtains the proper professional mentoring and supervision. We plan to make this a GS-14 position, but may start the individual we select at the GS-13 level to allow for personal advancement...and thereby also ensuring, hopefully, a fairly long term of service to the Board.

REV_00169979

Office of National Drug Control Policy (POC – Michelle Marx)

QUESTION 33: You are requesting 10 additional FTE in FY 2004 to replace 10 non-reimbursable detailees who are no longer available. Why are these positions no longer available, and what are the specific positions?

RESPONSE: ONDCP's FY 2004 request includes resources to support 125 FTEs, an increase of 10 FTEs over the FY 2003 request. This FTE increase is requested to offset the loss of approximately 20 - 25 of the 30 non-reimbursable military detailee positions the Department of Defense has supported at ONDCP since 1996. (The Department of Defense, as outlined in a December 28, 2001 memorandum, has adopted a general policy that approves of requests for details only on a reimbursable basis, with limited exceptions.)

This 10 FTE increase, along with distributing additional responsibilities among existing staff, will allow ONDCP to absorb the detailee staffing loss and meet its statutory responsibilities. The specific positions would be appointed within the following offices: Planning and Budget; State and Local Affairs; Intelligence; and Supply Reduction.

Renovation of the Eisenhower Executive Office Building (POC – Steve Beattie)

QUESTION 34: What is the status of funding provided in FY 2002 and 2003? Please provide a breakdown of funding by the type of activity or renovation performed.

RESPONSE: 34: The General Service Administration has used FY 2002 Emergency Response Funds in the amount of $1,674,000 for starting the Architects' and Engineers' design contract for the 17th Street Wing Security Modernization Project. GSA is currently in the process of reprogramming $7,500,000 for FY 2003 for design, management and inspection. The FY 2003 reprogramming is required to complete the Design/Build/Bridging documents and assist in managing the Design/Build/Bridging efforts.

QUESTION 35: How much remains unobligated, by appropriation?

RESPONSE: 35: The General Services Administration (GSA) awarded a portion of the design cost in the amount of $1,537,173 utilizing the FY 2002 Emergency Response Fund. $136,827 remains unobligated. GSA has not obligated any FY 2003 funding.

QUESTION 36: Please provide a detailed breakdown showing how funds requested in the GSA budget for FY 2004 would be used.

RESPONSE: 36: The following is a break down on how the funds will be used in FY 2004:

REV_00169980

Major Work Items:	
Electrical System	$ 10,244,000
Air conditioning system, chillers and piping	$ 12,530,000
Interior Construction	$ 13,163,000
Utility Vault (includes foundation construction)	$ 22,107,000
Window Blast Mitigation	$ 4,685,000
Mansard Roof Hardening	$ 802,000
Estimated Construction Cost (ECC)	$ 63,531,000
Management and Inspection	$ 2,226,000
Authorization Requested (ECC, M&I)	$ 65,757,000

QUESTION 37: Please provide a detailed schedule for activities planned in FY 2004.

RESPONSE: 37: The design/build/bridging contract is scheduled to be awarded in March 2004. The current schedule for the project is as follows:

Design Award:	04/03
Design/Build/Bridging Procurement Start:	09/03
A/E Bridging Documents Complete:	10/03
Design/Build/Bridging Contract Award:	03/04
Construction Complete:	06/06

QUESTION 38: How much are you currently paying GSA for the unoccupied space along the 17th Street side of EEOB, and how much rental cost are you incurring for the new locations where relocated employees are working?

RESPONSE: We are not paying for the unoccupied space along the 17th Street side of the EEOB in FY2003. Employees were relocated to 1800 G. Street where FY 2004 rental costs are estimated at $4,978,000 and to 1801 Pennsylvania Avenue where the FY 2004 rental costs are estimated at $792,000. Both rental cost estimates exclude parking space costs.

Executive Residence (POC – Worthington White)

QUESTION 39: Please provide a table, corresponding to the projects on page 81 of last year's hearing record, showing the original appropriation for each project, the amount obligated to date, and the project status. This involves projects funded in fiscal year 2002.

RESPONSE: The following table provides funding information on the FY 2002 projects.

REV_00169981

Executive Residence at the White House
FY2002 White House Repair and Restoration

Project	Original Appropriation	Obligated To Date	Status of Project
Pool Shelter Roof Reconstruction and Pool Deck Renovation	$430,000	$412,926	This project is completed, with only minor punch list items and related recurring maintenance items to be funded from the remaining funds.
Communication System Repairs/Phase 2*	$456,667 $4,544,000	$155,872	Modifications to the original design under Phase I (FY2001) are completed. The pre-bid meeting with prospective contractors is scheduled for mid-May, with contract award by late June, and construction commending by late July.
East and West Wing Exterior Restoration	$2,500,000	$2,398,433	The restoration is underway, all Phase I funds will be utilized this year.
Insulated Windows Replacement	$160,000	$162	The prototype utilizing historically accurate reproduction glass is in production, with manufacturing of actual replacement units expected to begin in June. Installation to be begin in August.
Kitchen Floor Replacement	$75,000	$60,815	This project is nearing completion with the remaining funds to be utilized for utility work.
North Portico Curtain Wall	$120,000	$106,751	The project is completed with remaining funds required to purchase spare parts inventory.
Stone Pavers Restoration	$277,000	$220,082	The project is currently underway and is scheduled for completion by September 2003.
West Colonnade Restoration	$275,000	$0	Planning has recently been completed; work will be accomplished in August and early September 2003.

*For the Comunication System Repairs/Phase 2 project, $456,667 was funded in FY 2001 for Architect and Engineering. The remaining $4,544,000 was for construction.

QUESTION 40: Please provide a listing of the 95 FTE positions at the Executive Residence requested for funding in FY 2004, showing the position title and the annual salary level.

RESPONSE: The position and salary information is provided in the table that follows.

REV_00169982

EXECUTIVE RESIDENCE AT THE WHITE HOUSE - FY 2003 -- 95 FTE				
USHERS OFFICE				
16 FTE	USHER	$96,880	CALLIGRAPHER	$68,939
	CALLIGRAPHER	$60,202	CALLIGRAPHER	$79,670
	SYSTEMS ADMIN	$99,152	USHER	$90,059
	PROJECT SUPERVISOR	$55,092	CALLIGRAPHER	$69,911
	ADMIN ASSISTANT	$44,244	CHIEF USHER	$142,500
	USHER	$112,347	ADMIN OFFICER	$83,132
	ACCOUNTANT	$56,711	GROUNDS SUPT	$139,297
	USHER	$92,786	NIGHT DOORMAN	VACANT
OFFICE OF THE CURATOR				
4 FTE	CURATOR	$87,328	ASSISTANT CURATOR	VACANT
	COLLECTIONS MANAGER	$50,230	ASSISTANT CURATOR	$65,056
FLOWER SHOP				
4 FTE	CHIEF FLORIST	$92,786	FLORIST	$60,565
	FLORIST	$68,266	FLORIST	$51,987
HOUSEKEEPING				
21 FTE	MAID	$44,452	ASST HOUSEKEEPER	$79,670
	LAUNDRY SPEC	$53,098	HOUSEMAN	$47,539
	HOUSEMAN	$30,541	MAID	$48,671
	MAID	$48,656	CHIEF HOUSEKEEPER	$102,720
	LAUNDRY SPEC	$44,857	HOUSEMAN	$50,441
	MAID	$41,826	MAID	$37,770
	MAID	$42,433	HOUSEMAN	$55,091
	MAID	$28,285	HOUSEMAN	$38,798
	HOUSEMAN	$41,826	MAID	$54,280
	CUSTODIAL SPEC	$48,626	HOUSEMAN	$44,861
			HOUSEMAN	VACANT
FOOD & BEVERAGE SRVCS				
18 FTE	BUTLER	$67,969	PASTRY CHEF	$124,113
	KITCHEN STEWARD	$49,102	ASSISTANT CHEF	$86,211
	ASSISTANT CHEF	$79,670	ASST PASTRY CHEF	$57,521
	BUTLER	$52,360	ASSISTANT CHEF	$46,200
	STOREKEEPER	$64,086	BUTLER	$65,056
	BUTLER	$49,548	BUTLER	$59,411
	STOREKEEPER	$70,558	BUTLER	$66,028
	MAITRE'D	$91,422	CHEF	$113,951
	STOREKEEPER	$55,091	ASSISTANT CHEF	$46,870
OPERATIONS				
7 FTE	OPERATIONS AIDE	$54,116	OPERATIONS AIDE	$33,747
	OPERATIONS AIDE	$54,679	OPERATIONS AIDE	$73,692
	SHOP FOREMAN	$77,449	OPERATIONS AIDE	$58,895
			OPERATIONS AIDE	$49,024
CARPENTER & PAINT SHOP				
6 FTE	CARPENTER	$60,669	CARPENTER	$49,399
	PAINTER	$72,523	CARPENTER	$50,255
	PAINTER FOREMAN	$90,304	CARPENTER FOREMAN	$78,763
ENGINEERS & PLUMBING SHOP				
12 FTE	ENGINEER	$84,878	ENGINEER	$65,532
	ENGINEER	$66,826	ENGINEER	$68,266
	ENGINEER	$63,236	ENGINEER	$52,905
	ENGINEER	$62,234	PLUMBING FOREMAN	$90,304
	PLUMBER	$71,355	ENGINEER FOREMAN	$91,422
	ENGINEER	$66,826	ENGINEER	$51,966
ELECTRIC SHOP				
7 FTE	ELECTRICIAN	$73,692	ELECTRICIAN	$73,692
	ELECTRICIAN	$46,937	ELECTRICIAN	$55,389
	ELECTRIC SHOP FOREMAN	$95,515	ELECTRICIAN	$66,826
			ELECTRICIAN	$45,351

REV_00169983

QUESTION 41: The justifications (p. 67) indicate an estimated unobligated balance of $7,023,000 in this appropriation at the beginning of FY 2003. Please explain the sources of this balance, and provide a schedule for obligation of increments of those funds.

RESPONSE: The majority ($4,388,127) of the unobligated funds are associated with the Communication System Repairs/Phase 2 which was delayed to unanticipated design requirements. The schedule for completion and obligation of all FY2002 projects is detailed in the table below.

Executive Residence at the White House
FY2002 White House Repair and Restoration

Project	Original Appropriation	Obligated To Date	Status of Project
Pool Shelter Roof Reconstruction and Pool Deck Renovation	$430,000	$412,926	This project is completed, with only minor punch list items and related recurring maintenance items to be funded from the remaining funds.
Communication System Repairs/Phase 2*	$456,667 $4,544,000	$155,872	Modifications to the original design under Phase I (FY2001) are completed. The pre-bid meeting with prospective contractors is scheduled for mid-May, with contract award by late June, and construction commending by late July.
East and West Wing Exterior Restoration	$2,500,000	$2,398,433	The restoration is underway, all Phase I funds will be utilized this year.
Insulated Windows Replacement	$160,000	$162	The prototype utilizing historically accurate reproduction glass is in production, with manufacturing of actual replacement units expected to begin in June. Installation to be begin in August.
Kitchen Floor Replacement	$75,000	$60,815	This project is nearing completion with the remaining funds to be utilized for utility work.
North Portico Curtain Wall	$120,000	$106,751	The project is completed with remaining funds required to purchase spare parts inventory.
Stone Pavers Restoration	$277,000	$220,082	The project is currently underway and is scheduled for completion by September 2003.
West Colonnade Restoration	$275,000	$0	Planning has recently been completed; work will be accomplished in August and early September 2003.

*For the Comunication System Repairs/Phase 2 project, $456,667 was funded in FY 2001 for Architect and Engineering. The remaining $4,544,000 was for construction.

As of this date, there are also 5 projects which have balances prior to FY 2002. They are as follows:

FY1996 – Roof Repair – balance of $9,227. These funds will be expended as needed for ongoing maintenance and corrective measures.

FY1998 – Repair/restoration of the Laundry Room – balance of $26,616. Purchase of replacement equipment and maintenance of equipment to be expended in FY2003.

REV_00169984

FY2000 – Purchase and Install Two Ironers – balance of $5,754. These funds will be expended to replace the drive belts in FY2003.

FY2000 – Renovation of Paint Shop – balance of $38,271. Funds will be used to purchase and update equipment to meet EPA and OSHA requirements in FY2003.

FY2000 – Third Floor Promenade – balance of $11,392. Funds will be expended to rehab and replace drainage system in late FY2003 or early FY2004.

White House Repair and Restoration (POC – Dennis Freemyer)

QUESTION 42: You are requesting $4,225,000 for repairs and restoration of the White House. Is there additional funding in the National Park Service budget or elsewhere in the President's budget request for FY 2004 for similar activities at the White House?

RESPONSE: There are no other budget requests for the same activities at the White House.

QUESTION 43: Of this request, $3,500,000 is for restoration of the east and west wing exterior. Please provide a detailed discussion and breakdown of this request.

RESPONSE: The funding requested is for the continuation (2nd phase) of the East and West Wing Restoration project, the first being funded in FY'02. This is consistent with the original planning for the execution of this project based on the experience of the completed Executive Residence Exterior Restoration completed in 1996. A breakdown of major work items follows:

Estimated Construction Costs:

Mobilization, scaffolding, rental equipment	150,000
Stone, stucco, wood restoration, insulated glass	1,580,000
Paint removal	1,660,000
Effluent/hazardous material disposal	150,000
Specialized window film including installation	400,000
Specialized stucco coating including installation	550,000
Painting	500,000
Site Restoration	260,000
Design, project management, project supervision, testing	350,000
Contingency	400,000
Estimated Total Cost	**$6,000,000**
FY 2002 Funding	$2,500,000
FY 2004 Funding Request	$3,500,000

REV_00169985

Pennsylvania Avenue Improvements (POC – Steve Beattie)

QUESTION 44: What is the total estimated cost of security and street improvements on Pennsylvania Avenue in front of the White House, for which funds were provided in FY 2003?

RESPONSE: This project is to be funded by the Federal Highway Administration (FHWA). The total estimated cost of security and street improvements on Pennsylvania Avenue in front of the White House is currently $26.1 million. The information below breaks out the estimated FY 2003 costs for the project.

Project Activity	**Projected FY 2003 Obligations**
Preliminary Activities	
Verification and Concept Studies	$ 605,150
Design Activities	
Ground Survey and Mapping	$ 57,524
Subsurface Utility Survey	$ 149,682
Environmental Documentation	$ 75,000
Final Design (Consultant)	$ 1,300,000
Crash Testing	$ 350,000
FHWA Contract Administration	$ 100,000
Design Contingency	$ 262,644
Construction Activities	
Construction Contract	$ 18,500,000
Utility Construction	$ 1,500,000
FHWA Contract Administration	$ 1,700,000
MVVA Construction Assistance	$ 500,000
Construction Contingency	$ 1,000,000
Grand Totals	**$26,100,000**

QUESTION 45: What is the status of that project? When will FY 2003 funds be obligated?

RESPONSE: 45: The status of the security and street improvements on Pennsylvania Avenue is as follows -

- Project's status is an ongoing iterative process as the Design team receives comments from the public and the various stakeholders on surrounding sites.
- Under the National Environmental Policy Act, the final public information meeting for the Environmental Impact Assessment was held on May 5, 2003, which is the last

REV_00169986

step before the final report is issued the week of May 27, 2003. It is expected that the report's concluding statement will find no significant impact.

- The design team is in the pre-design stage.
- The engineers are currently in the design stage for utility relocation in the project's vicinity.
- The Section 106 review as required by the Secretary of the Interior under the Historic Preservation Act is underway and will develop a Memorandum of Agreement in June 2003, which will address issues regarding the design details. The Section 106 review occurs when a project utilizing federal funds may have an effect upon natural, environmental, or cultural resources and looks at mitigation of any adverse effects to those resources.
- $1.5 million is expected to be obligated at the end of August or early September 2003 to start the utility relocation on Pennsylvania Avenue and at the north ends of Jackson and Madison Places.
- Arrangements have already been made for procurement of the trees to be used on the Avenue since it will require root and limb pruning over two calendar years prior to installation on the Avenue. The trees will be installed after inaugural events in the spring of 2005.
- Approximately, $2,675,000 has been obligated to date (under contract). The remaining $3,685,000 will be obligated within the next six months to have the construction contract awarded by the end of September or early October 2003.

QUESTION 46: How much funding is requested for this project in FY 2004, and where is it located in the budget?

RESPONSE: $15 million has been set aside under the Department of the Interior bill for FY 2004. However, discussions have been held between the Federal Highway Administration and EOP staff to make the money available for contract award this fiscal year. Discussions have included placing FY 2004 monies into the FY 2003 supplemental appropriation. With the highway legislation pending, there could be a delay in getting the funding moved into the supplemental appropriation to allow the project to get underway.

QUESTION 47: What is the schedule for studies of traffic congestion mitigation alternatives in the vicinity of the White House, as funded in FY 2003?

RESPONSE: The project administrators met with EOP staff on May 8, 2003 to begin outlining the scope of the study and a plan to involve the District of Columbia government and neighborhood stakeholders. A schedule for the study has not been developed, but will be prepared in the next three months.

REV_00169987

Remote Data Center (POC – Carlos Solari)

QUESTION 48: What is the status of establishment today of the remote data center?

RESPONSE: The remote data center project is on schedule and on budget. The project began last summer by conducting a systems development lifecycle analysis to determine and recommend the location for the facility. From this analysis, EOP decided on building the data center at a hardened FEMA facility located in Maryland. The project is being co-managed with FEMA and was established with three phases: (1) infrastructure build-out of the hardened facility (power, air handlers, etc), (2) construction of the data center itself (cabling, raised flooring, etc), and (3) the transition of EOP data systems (telecommunications, servers, etc). The project is approximately halfway through completion for the first two phases with a scheduled opening (initial operational capability) date of September 2003. The transition phase is on schedule preparing the systems and will proceed to begin the transfer September 2003 – with a planned transition of 12 months for all systems. The following chart shows the funding of the remote data center from FY 2002 thru FY 2004.

	FY 2002	FY 2003	FY 2004
CIP	$15,000,000	$5,000,000	$8,403,000
S&E	$ - 0 -	$ - 0 -	$ - 0 -
Total	$15,000,000	$5,000,000	$8,403,000

QUESTION 49: Last year, you estimated annual operating costs of this facility to be $7,500,000 (p. 88). Is that your current estimate?

RESPONSE: Last year OA provided a rough estimate of $7,500,000 for the future annual operating cost of the new data center facility. This was based upon the following estimated costs:

- $1,500,000 in communications to maintain connectivity for the EOP,
- $600,000 in space rental,
- $450,000 for hardware maintenance,
- $1,300,000 for software maintenance,
- $2,600,000 for contractor services,
- $300,000 for supplies/components,
- $75,000 for equipment, and
- $675,000 in salaries/benefits.

While most of these estimates remain valid, OA must revise the estimate for space rental to $1,258,000, bringing the revised estimated annual operating costs for the facility to $8,158,000.

REV_00169988

QUESTION 50: Your FY 2004 request includes $8,403,000 to transition the remote data center to full operational status (p. 75). What specific activities are required in FY 2004 to accomplish this? Can you provide a breakdown of the FY 2004 request consistent with these activities?

RESPONSE: The following table lists the FY2004 CIP funds requested for the completion of the remote data center construction and initial year operating costs.

Object Class	Object Class Title	Requested Funding ($ in 000)	Description
23.0	Space Rental Payments	$1,258	This estimate reflects $1,258,000 in rental for the offsite data center and will be the initial rent to be paid for the offsite data center. This cost was previously funded from emergency funds.
23.3	Communications, utilities, and miscellaneous charges	$4,420	$4,420,000 is for CIP networking/ telecommunications projects at the offsite data center. These projects include funds for a tap off of telecommunications lines, two additional DS-3 data paths, two T-1 lines, and backup to support required communications bandwidth, and availability requirements.
25.2	Other Services	$2,700	This estimate reflects Priority System Disaster Recovery costs, Secondary Systems Disaster Recovery costs, Hardware and Software for the Disaster Recovery Site, and Hardware and Software upgrades to support the data center move.
26.0	Supplies and materials	$25	The estimate reflects $25,000 in additional supplies necessary for start-up operations at the offsite data center. This will include start up costs for office equipment used for the new office spaces.
Total FY2004 Data Center CIP Request		**$8,403**	

President's Travel (POC - Rothley Howard)

QUESTION 51: Please update the information on pages 89 through 94 of last year's hearing record concerning travel by the President and the First Lady by continuing data from the final entry of last year's record to the present time.

RESPONSE: The following charts summarize Presidential, First Lady and Vice Presidential travel for Fiscal Years 2002 and 2003 (to date). They also reflect costs currently in the accounting system. Several of the trips listed below are awaiting additional costs, therefore, final costs may vary.

REV_00169989

Presidential Travel FY 2002					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
3-Oct	New York, NY	100%		6	$8,060
7-Oct	Emmitsburg, MD	100%		4	$1,988
17-Oct	Sacramento, CA	100%		5	$16,678
30-Oct	New York, NY	100%		4	$13,043
8-Nov	Atlanta, GA	100%		6	$17,920
10-Nov	New York, NY	100%		0	$6,525
14-Nov	Crawford. TX	100%		4	$44,535
21-Nov	Fort Campbell, KY	100%		3	$9,114
27-Nov	Salt Lake City, UT	100%		7	$4,328
1-Dec	Philadelphia, PA	100%		5	$13,669
4-Dec	Orlando, FL	70%	30%	7	$13,371
7-Dec	Norfolk, VA	100%		5	$5,271
11-Dec	Citadel, SC	100%		4	$11,498
26-Dec	Waco, TX	100%		7	$12,667
4-Jan	Austin, TX	100%		1	$5,356
5-Jan	Ontario, CA	100%		4	$10,240
5-Jan	Portland, OR	100%		7	$10,870
8-Jan	Hamilton, OH	100%		6	$6,588
8-Jan	Boston, MA	100%		6	$11,159
8-Jan	Portsmith, NH	54%	46%	4	$6,594
9-Jan	Washington, DC	100%		0	$0
11-Jan	Conshohoken, PA	100%		6	$5,321
14-Jan	Moline, IL	100%		6	$7,570
14-Jan	Springfield, MO	100%		4	$6,569
14-Jan	New Orleans, LA	100%		21	$32,494
22-Jan	Charleston, WV	71%	29%		$6,086
25-Jan	Portland, ME	100%		5	$7,698
30-Jan	Winston-Salem, NC	65%	35%	0	$8,799
30-Jan	Daytona Beach, FL	100%		16	$12,874
31-Jan	Atlanta, GA	100%		5	$13,869
1-Feb	White Sulpher Springs, WV	100%		4	$4,273
4-Feb	Eglin AFB,FL	100%		4	$7,666
5-Feb	Pittsburgh ,PA	100%		5	$7,918
6-Feb	New York, NY	54%	46%	6	$6,940
8-Feb	Denver, CO	100%		4	$7,644
8-Feb	Salt Lake City, UT	100%		13	$12,877

REV_00169990

8-Feb	Jackson, WY	100%		7	$11,182
11-Feb	Milwaukee, WI	48%	52%	1	$9,360
16-Feb	Anchorage, AK	40%	60%	1	$9,181
27-Feb	Charlotte, NC	52%	48%	1	$7,048
1-Mar	Des Moines, IA	53%	47%	**5**	$3,546
3-Mar	Minneapolis, MN	50%	50%	2	$7,127
8-Mar	St. Petersburg, FL	57%	43%	2	$6,093
12-Mar	Philadelphia, PA	100%		9	$11,102
15-Mar	Fayetteville, NC	100%		6	$1,218
16-Mar	Chicago, IL	100%		4	$11,217
18-Mar	St. Louis, MO	65%	35%	5	$5,835
21-Mar	El Paso, TX	100%		6	$129
27-Mar	Greenville, SC	45%	55%	5	$-3,217
27-Mar	Atlanta, GA	52%	48%	3	$166
27-Mar	Waco, TX	100%		8	$19,804
28-Mar	Dallas, TX	20%	80%	4	$224
2-Apr	Philadelphia, PA	59%	41%	6	$12,239
4-Apr	Waco, TX	100% State		0	$0
8-Apr	Knoxville, TN	100%		5	$743
9-Apr	Bridgeport, CT	52%	48%	6	$7,152
15-Apr	Cedar Rapids, IA	59%	41%	5	$7,819
17-Apr	Lexington, VA	100%		5	$8,505
22-Apr	Saranac, NY(Wilmington, NY)	100%		4	$13,029
19-Apr	Beltsville, MD	100%		0	$0
24-Apr	Sioux Falls, SD	45%	55%	5	$8,249
24-Apr	Waco, TX	100%		12	$13,741
29-Apr	Los Angeles, CA	48%	52%	17	$10,907
29-Apr	Albuquerque, NM	54%	46%	5	$7,054
30-Apr	San Jose, CA	42%	58%	6	$6,632
6-May	Southfield, MI	100%		5	$9,857
8-May	Milwaukee, WI	100%		6	$10,952
8-May	Lacrosse, WI	100%		7	$8,760
10-May	Columbus, OH	59%	41%	5	$4,992
13-May	Chicago, IL	42%	58%	6	$1,743
20-May	Miami, FL	42%	58%	7	$8,587
1-Jun	West Point, NY	100%		5	$13,593
3-Jun	Little Rock, AR	100%		6	$10,094
7-Jun	Des Moines, IA	100%		6	$13,895
11-Jun	Kansas City, MO	58%	42%	7	$8,179
14-Jun	Columbus,OH	100%		6	$4,031

REV_00169991

14-Jun	Houston, TX	45%	55%	**5**	$9,739
14-Jun	Waco, TX	100%		3	$14,955
17-Jun	Atlanta, GA	100%		5	$8,663
21-Jun	Orlando, FL	48%	52%	7	$12,111
24-Jun	Newark, NJ	48%	52%	7	$4,974
25-Jun	Phoenix, AZ	100%		0	$584
1-Jul	Cleveland, OH	100%		5	$7,823
2-Jun	Milwaukee, WI	100%		5	$6,411
4-Jul	Ripley, WV	100%		6	$7,129
5-Jul	Kennebunkport, MN	100%		0	$34,245
9-Jul	New York City, NY	100%		5	$7,706
11-Jul	Minneapolis, MN	62%	38%	7	$13,709
15-Jul	Birmingham, AL	62%	38%	6	$5,747
18-Jul	Troy, MI	100%		0	$3,197
19-Jul	Fort Drum, NY	100%		6	$7,133
22-Jul	Argonne, IL	100%		7	$10,510
25-Jul	Greensboro, NC	62%	38%	7	$5,342
29-Jul	Charleston, SC	59%	41%	5	$7,149
2-Aug	Kennebunkport, MN	75%	25%	14	$34,291
5-Aug	Pittsburg, PA	56%	44%	7	$11,138
6-Aug	Waco, TX	100%		21	$107,331
7-Aug	Jackson, MS	76%	24%	6	$9,750
13-Aug	Economic Forum Waco, TX	100%		0	$201
14-Aug	Milwaukee, WI	42%	58%	5	$5,217
14-Aug	Des Moines, IA	42%	58%	23	$6,630
14-Aug	South Dakota	100%		4	$8,029
16-Aug	Rapid City, SD	58%	42%	1	$65
22-Aug	Medford, OR	100%		5	$10,226
22-Aug	Portland, OR		100%	0	$2,429
23-Aug	Dana Point, CA	50%	50%	20	$21,873
23-Aug	Stockton, CA	38%	62%	5	$4,565
24-Aug	Thousand Oaks/Westwood, CA		100%	0	$955
24-Aug	Santa Anna, CA	100%			$0
24-Aug	Las Cruces, NM	42%	58%	6	$4,381
29-Aug	Oklahoma City, OK		100%	0	$0
29-Aug	Little Rock, AR	58%	42%	5	$10,649
2-Sep	Pittsburgh, PA	100%		4	$11,098
5-Sep	Louisville, KY	59%	41%	**7**	$8,684
5-Sep	South Bend, IN	42%	58%	3	$5,105
6-Sep	Delu	100%		0	$1,346

REV_00169992

6-Sep	Minneapolis, MN	100%		5	$3,387
9-Sep	Detroit, MI	100% State		0	$1,804
11-Sep	Somerset County, PA	100%		6	$1,611
11-Sep	New York City, NY	100%		8	$6,665
16-Sep	Davenport, IA	48%	52%	6	$6,573
17-Sep	Nashville, TN	38%	62%	6	$1,573
23-Sep	Trenton, NJ	38%	62%	5	$5,053
26-Sep	Houston, TX		100%	0	$0
26-Sep	Waco, TX	100%		9	$19,792
27-Sep	Denver, CO		100%	0	$0
27-Sep	Flagstaff, AZ		100%	0	$0
27-Sep	Phoenix, AZ		100%	0	$0
	Total Presidential FY 2002 Costs Through 09/30/02				**$1,146,388**

First Lady Travel FY 2002

		Status		# of EOP	White House
Date	Destination	Official	Political	Staff	Travel Cost
3-Oct	Cincinnati, OH	100%		0	$339
16-Oct	Newark, NJ	100%		0	$1,790
18-Oct	Atlanta, GA	100%		1	$1,742
19-Oct	Baton Rouge, LA	100%		0	$1,568
30-Oct	New York, NY	100%		3	$1,652
16-Nov	Austin, TX	100%		1	$7,300
9-Jan	Topeka, KS	100%		0	$1,566
10-Jan	Houston, TX	100%		0	$1,915
11-Jan	Austin, TX	100%		0	$780
21-Jan	Atlanta, GA	100%		0	$1,060
10-Feb	Los Angeles, CA	100%		1	$5,021
11-Feb	Hershey, PA	100%		0	$0
8-Mar	New York, NY	100%		3	$6,218
11-Mar	Richmond, VA	100%		4	$1,659
4-Apr	Dallas, TX	100%		1	$35
11-Apr	Hershey, PA	100%		1	$899
30-Apr	Little Rock, AR	100%		2	$1,839
30-Apr	Dallas, TX	100%		3	$365
9-May	New York, NY	100%		0	$1,898
28-May	Austin, TX	100%		1	$3,379
10-Jun	Boise, ID	100%		1	$3,456
11-Jun	Salt Lake City, UT	100%		1	$1,187

REV_00169993

11-Jun	San Francisco	61%	39%	0	$5,237
12-Jun	Austin, TX	100%		1	$3,693
6-Jun	Crawford, TX	100%		0	$0
20-Jun	Boston, MA	100%		1	$1,674
17-Jun	Cinncinati, OH	100%		2	$2,309
22-Jun	Midland, TX	100%		0	$0
7-Jul	Kennebunkport, ME	100%		0	$0
12-Jul	Norfolk, VA	100%		2	$969
18-Jul	Philadelphia, PA	100% State		0	$0
24-Jul	New York, NY			2	$236
2-Aug	Dallas, TX	100%		1	$1,773
3-Aug	Lubbock, TX	100%		4	$3,571
14-Aug	Austin, TX	100%		2	$3,231
22-Aug	Austin, TX	100%		2	$3,501
11-Sep	New York, NY	100%		4	$4,241
25-Sep	Greenville, MS	100%		0	$1,591
27-Sep	Waco, TX	100%		1	105
	Total First Lady FY 2002 Costs through 09/30/02				**$77,799**

Vice Presidential Travel FY 2002					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
7-Oct	Smithers, BC *(can./Adv. only)*			1	$449
18-Oct	New York, NY	100%		4	$2,063
21-Oct	Washington, DC	100%			$378
28-Oct	Poughkeepsie, NY	100%		5	$3,885
30-Oct	White Sulphur Springs, WV				$200
4-Nov	Pierre/Gettysburg, SD	100%		7	$5,676
2-Nov	Dallas, TX *(can. trip)*	100%		1	$115
2-Nov	Jackson, WY	100%		2	$11,195
27-Nov	Salt Lake City, UT	100%		3	$526
29-Nov	New York, NY	100%		17	$14,413
6-Dec	Dallas, TX		100%	9	$1,776
7-Dec	Oklahoma City, OK		100%	3	$4
14-Dec	Albany, GA	100%		9	$5,214
17-Dec	Jackson, WY *(no trip listed/noTA)*				$0
19-Dec	Trappe, MD	100%		9	$4,217
22-Dec	Jackson, WY	100%		14	$55,257
11-Jan	Albany, GA	100%		8	$5,447

REV_00169994

25-Jan	Cincinnati, OH		100%	4	$0
30-Jan	White Sulpher Springs, WV	100%		8	$4,353
6-Feb	Louisville, KY		100%	9	$5,392
6-Feb	Evansville, IN		100%		$0
7-Feb	Hopkinsville, KY	17%	83%	9	$700
15-Feb	Armstrong, TX	100%		1	$275
17-Feb	Carlsbad, CA	100%		1	$30,757
19-Feb	Fullerton, CA	100%			$2,700
19-Feb	Los Angeles, CA	15%	85%	2	$5,698
20-Feb	Sacramento, CA		100%	2	$2,514
20-Feb	Fresno, CA *(Mix?)*	100%			$817
20-Feb	Pleasantville, CA	100%			$0
21-Feb	San Jose, CA *(Mix)*	100%		2	$9,783
24-Feb	Salt Lake City, UT	100%		7	$9,544
25-Feb	Cheyenne, WY	30%	70%	27	$9,672
25-Feb	Jackson, WY	100%		4	$20,789
28-Mar	Jackson, WY	100%		1	$13,492
3-Apr	Denver, CO		100%	2	$447
4-Apr	Jackson, MS		100%	3	$1,047
4-Apr	Kansas City, MO		100%	1	$0
4-Apr	Fayetteville, AR		100%	1	$0
5-Apr	Dallas, TX	100%		21	$4,034
12-Apr	Charleston, WV		100%		$0
12-Apr	Richmond, VA		100%		$0
15-Apr	Grand Rapids, MI	100%		10	$5,770
15-Apr	Collinsville, IL		100%	1	$221
19-Apr	Allentown, WV		100%		$0
19-Apr	Islandia, NY		100%		$126
22-Apr	Ft. Lauderdale, FL		100%		$0
24-Apr	Houston, TX *(State-sponsored)*	100%			$0
25-Apr	Crawford, TX *(State-sponsored)*	100%			$0
2-May	Lansing, MI	100%		13	$4,903
2-May	South Bend, IN		100%	1	$57
9-May	Minneapolis, MN		100%		$0
11-May	Jackson, WY		100%	4	$666
21-May	Boston, MA		100%		$0
24-May	Jackson, WY	100%		8	$9,641
29-May	Nashville, TN		100%		$0
7-Jun	Harrisburg, PA		100%		$0
14-Jun	Columbia, SC		100%		$3,387

REV_00169995

14-Jun	Dallas, TX	100%		5	$11,223
20-Jun	Dayton, OH		100%		$0
20-Jun	Detroit, MI		100%		$0
21-Jun	Cody, WY	100%		3	$5,270
21-Jun	Beaver Creek, CO	100%		4	$8,941
23-Jun	Portland, OR		100%	7	$3,902
28-Jun	Charlotte, NC		100%		$0
20-Jun	Raleigh, NC		100%		$0
1-Jul	Wichita, KS		100%		$0
1-Jul	Dallas, TX		100%		$0
1-Jul	Jackson, WY	100%		8	$15,034
9-Jul	Ft. Bragg, NC	100%		1	$860
15-Jul	Hartford, CT		100%		$0
17-Jul	Atlanta, GA	100%		1	$1,805
18-Jul	Conshohocken, PA		100%		$0
18-Jul	Pittsburgh, PA		100%		$0
19-Jul	Macon, GA		100%		$0
19-Jul	Houston, TX		100%		$0
22-Jul	Montgomery, AL	100%		6	$5,498
22-Jul	Cape Canaveral, FL	100%		7	$4,072
29-Jul	Des Moines, IA		100%	5	$255
29-Jul	Cedar Rapids, IA		100%		$0
29-Jul	Fargo, ND		100%	5	$255
30-Jul	Jackson, WY	100%		15	$104,430
1-Aug	Meeker, CO	Cancelled		1	$1,287
6-Aug	San Francisco, CA	72%	28%	7	$13,202
7-Aug	Fresno, CA		100%		$0
8-Aug	Salt Lake City, UT		100%		$0
8-Aug	Albuquerque, NM		100%		$0
12-Aug	Minneapolis, MN		100%		$0
12-Aug	Waco, TX	100%		7	$6,757
12-Aug	Detroit, MI		100%		$0
13-Aug	Billings, MT		100%		$0
15-Aug	Montgomery, AL		100%		$0
17- Aug	Jackson, WY			3	$1,306
19-Aug	Big Horn, MT	Cancelled			$0
20-Aug	Waco, TX	100%		1	$1,641
26-Aug	Nashville, TN	53%	47%	3	$4,946
29-Aug	San Antonio, TX	100%		3	$2,518
6-Sep	New York, NY	100%		3	$5,447

REV_00169996

18-Sep	New London, CT		100%		$0
19-Sep	Burlington, VT	12%	88%	1	$437
19-Sep	New York, NY		100%		$0
20-Sep	Casper, WY	63%	37%	3	$4,840
20-Sep	Jackson, WY	100%		7	$1,830
23-Sep	Kansas City, MO	100%			$0
26-Sep	Memphis, TN		100%		$0
26-Sep	Dallas, TX		100%		$0
27-Sep	Boise, ID		100%	3	$462
26-Sep	Jackson. WY	100%		8	$11,395
27-Sep	Laramie, WY	100%		4	$761
	Total Costs through 9/30/02				**$475,974**

Presidential Travel FY 2003					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
1-Oct	Tampa, FL				$1,032
2-Oct	Baltimore, MD		100%	0	$0
4-Oct	Boston, MA		100%	0	$0
4-Oct	Kennebunkport, ME	100%		17	$37,055
5-Oct	Manchester, NH	32%	68%	4	$5,704
7-Oct	Cincinnati, OH	100%		10	$20,182
8-Oct	Knoxville, TN		100%	0	$798
14-Oct	Detroit, MI		100%	1	$677
17-Oct	Daytona Beach, FL	59%	41%	6	$9,308
17-Oct	Atlanta, GA		100%	0	$0
18-Oct	Rochester, MN		100%	0	$0
18-Oct	Springfield, MO		100%	0	$0
22-Oct	Chester County, PA		100%	0	$0
22-Oct	Bangore, ME		100%	0	$0
24-Oct	Charlotte, NC		100%	0	$0
24-Oct	Columbia, SC		100%	0	$0
24-Oct	Auburn, AL		100%	0	$0
24-Oct	Waco, TX (State Dept.)	100%		2	$2,168
26-Oct	Cabo San Lucas, Mex (State)	100%		0	$0
27-Oct	Phoenix, AZ (RON)		100%	4	$817
28-Oct	Alamogordo, NM		100%	0	$0
28-Oct	Denver, CO		100%	0	$0
31-Oct	Aberdeen, SD		100%	0	$0

REV_00169997

31-Oct	Southbend, IN		100%	0	$0
31-Oct	Charleston, WV		100%	0	$0
1-Nov	Louisville, KY		100%	0	$0
1-Nov	Portsmouth, NH		100%	0	$0
2-Nov	Johnson City, TN		100%	0	$0
2-Nov	Atlanta, GA		100%	0	$0
2-Nov	Tampa Bay, FL (RON)		100%	0	$0
3-Nov	Springfield, IL		100%	0	$0
3-Nov	Minneapolis, MN		100%	0	$0
3-Nov	South Falls, SD		100%	0	$0
3-Nov	Cedar Rapids, IA (RON)		100%	1	$738
4-Nov	St. Louis, MO		100%	0	$0
4-Nov	Bentonville, AR		100%	0	$0
4-Nov	Dallas, TX		100%	0	$0
4-Nov	Waco, TX (RON)	100%		18	$9,387
27-Nov	Waco, TX (RON)	100%		20	$21,899
3-Dec	Shreveport, LA		100%	0	$0
3-Dec	New Orleans, LA		100%	0	$0
12-Dec	Philadelphia, PA	100%		5	$10,793
26-Dec	Waco, TX (RON)	100%		13	$38,144
3-Jan	Ft. Hood, TX	100%		2	$1,777
7-Jan	Chicago, IL	100%		7	$10,516
16-Jan	Scranton, PA	100%		4	$11,184
22-Jan	St. Louis, MO	100%		7	$12,521
29-Jan	Grand Rapids, MI	100%		8	$12,918
31-Jan	Camp David, MD	100%		5	$646
4-Feb	Houston, TX	100%		6	$8,141
9-Feb	White Sulphur Springs, WV	100%		5	$11,968
10-Feb	Nashville, TN	100%		6	$13,069
13-Feb	Jacksonville, FL	100%		6	$15,211
20-Feb	Atlanta, GA	100%		7	$4,646
20-Feb	Waco, TX (State)	100%		1	$945
4-Mar	Washington, DC	100%		0	$0
5-Mar	Camp Lejeune, NC	100%		3	$5,218
26-Mar	Camp David, MD	100%		7	$350
26-Mar	Tampa Bay, FL	100%		7	$4,541
31-Mar	Philadelphia, PA	100%		5	$1,726
3-Apr	Camp Lejeune, NC	100%		8	$6,968
16-Apr	St. Louis, MO	100%		7	$1,095
16-Apr	Waco, TX	100%		16	$3,972

REV_00169998

20-Apr	Ft. Hood, TX	100%		1	$0
24-Apr	Canton, OH	100%			$0
24-Apr	Lima, OH	100%			$0
28-Apr	Dearborn, MI	100%			$0
	Total Costs Through 09/30/03				**$286,114**

First Lady Travel FY 2003					
		Status		Number	White House
Date	Destination	Official	Political	Of Staff	Travel Cost
1-Oct	Tampa, FL	69%	31%	6	$820
4-Oct	Kennebunkport, ME			2	$210
5-Oct	Portland, ME	100%		3	$1,343
7-Oct	New York, NY	74%	26%	4	$5,625
16-Oct	Dayton, OH	100%		4	$2,281
17-Oct	Mobile, AL	77%	23%	8	$4,226
21-Oct	Boston, MA	100%		4	$6,528
23-Oct	St. Louis, MO	65%	35%	5	$5,610
2-Nov	Atlanta, GA	100%		2	$3,729
2-Nov	Raleigh, NC		100%		$0
2-Nov	Nashua, NH		100%		$0
2-Nov	Des Moines, IA		100%		$0
2-Nov	Minneapolis, MN		100%		$0
2-Nov	Sioux Falls, SD (RON)		100%		$0
3-Nov	Rapid City, SD		100%		$0
4-Nov	Waco, TX			1	$112
12-Nov	New York, NY				$295
16-Jan	New York, NY			1	$547
20-Jan	New York, NY			2	$5,668
4-Feb	Los Angeles, CA			3	$2,369
13-Feb	New York, NY			6	$5,163
19-Feb	Dallas, TX			2	$353
19-Feb	New Orleans, LA			2	$4,883
13-Mar	Austin, TX (RON)		100%	0	$0
8-May	Page, AZ	100%			
8-May	Kayenta, AZ	100%			

REV_00169999

8-May	Phoenix, AZ	100%			
9-May	Santa Fe, NM	100%			
	Total Costs through 09/30/03				**$49,762**

Vice Presidential Travel FY 2003					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
19-Sep	Burlington, VT **FY-02*	12%	88%	1	$21
4-Oct	Atlanta, GA		100%		$0
4-Oct	Warner Robbins, GA		100%		$0
4-Oct	Augusta, GA		100%		$0
7-Oct	Babine, BC, Canada	100%			$0
11-Oct	Colorado Springs, CO	79%	21%	7	$4,738
14-Oct	Roswell, NM		100%		$0
14-Oct	Tulsa, OK		100%		$0
14-Oct	Phoenix, AZ		100%		$0
14-Oct	Midwest City, OK	10%	90%		$0
21-Oct	Portland, ME		100%		$0
21-Oct	Newark, NJ		100%		$0
24-Oct	Dalton, GA	83%	17%	2	$374
24-Oct	Tampa, FL	76%	24%		$939
25-Oct	Philadelphia, PA	100%		1	$1,317
25-Oct	Reading, PA		100%		$1,416
29-Oct	Wilmington, NC		100%	1	$207
30-Oct	Chattanooga, TN		100%		$0
30-Oct	Little Rock, AR		100%		$0
30-Oct	Houston, TX		100%	3	$1,234
31-Oct	Cape Girardeau, MO		100%		$0
31-Oct	Sioux City, IA		100%		$0
31-Oct	Indianapolis, IN		100%		0
1-Nov	Duluth, MN		100%		$0
1-Nov	Rapid City, SD		100%		$0
1-Nov	Denver, CO		100%	1	$1,657
2-Nov	Salt Lake City, UT		100%		$0
2-Nov	Springfield, MO		100%		$0
2-Nov	Jackson Hole, WY		100%	3	$1,369
2-Nov	Albuquerque, NM		100%		$0

REV_00170000

3-Nov	Cheyenne, WY		100%		$0
3-Nov	Gettysburg, SD	100%		1	$6,096
16-Nov	Latrobe, PA	100%		2	$1,535
18-Nov	Monroe, LA		100%		$0
18-Nov	Lafayette, LA		100%		$0
22-Nov	Trappe, MD	100%		4	$594
29-Nov	Jackson Hole, WY	100%		5	$1,135
29-Nov	Casper, WY	100%		2	$1,948
2-Dec	Denver, CO	100%		3	$2,308
5-Dec	Stuttgart, AR	100%		4	$1,928
14-Dec	Jackson Hole, WY	100%		7	$9,417
21-Dec	Jackson Hole, WY	100%		6	$17,927
17-Jan	Albany, GA	100%		4	$3,427
24-Jan	Trappe, MD *(cancelled trip)*				$0
31-Jan	Armstrong, TX	100%		6	$2,002
3-Feb	College Station, TX				$0
6-Feb	White Sulphur Springs, WV	100%		2	$806
9-Feb	Honolulu, HI	100%		8	$1,440
14-Mar	Jackson Hole, WY *(Adv only)*	100%			$0
17-Feb	Jackson Hole, WY	100%		9	$8,137
8-Apr	New Orleans, LA	100%		11	$2,941
22-Apr	Jackson Hole, WY	100%		6	$1,399
6-May	Dallas, TX	100%			$0
	Total Costs through 5/16/03				**$76,312**

Summary: Presidential, First Lady and Vice Presidential travel for FY02 and FY03 (to date).

Principal	Fiscal Year 2002	Fiscal Year 2003 (To date)
President of the United States	**$1,146,388**	**$286,114**
First Lady of the United States	**$77,799**	**$49,762**
Vice President of the United States	**$475,974**	**$76,312**
Totals	**$1,700,161**	**$412,188**

REV_00170001

Presidential Staff Travel (POC – Rothley Howard)

QUESTION 52: Please provide a listing of staff travel not in support of the President for fiscal year 2002 and thus far in fiscal year 2003. For each entry, please include the name of traveler, the destination and purpose of trip, the number of days in travel status, and the trip cost.

RESPONSE: The following tables provide the FY 2002 and year to date FY 2003 staff travel information for the White House Office and the Office of the Vice President.

White House Office FY 2002 Staff Travel					
TRAVELER	**PURPOSE**	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Medina, Sonya	Meetings	Dallas, TX	$419.00	03/15/01	2
McMarlin, Doug	Official	Cincinnati, OH	$115.00	10/01/01	2
Koro	Official	Sacramento, CA	$483.00	10/11/01	11
Carlson-Thies, Stanley	Speaking Engagement	Atlantic City, NJ	$442.87	10/15/01	1
Goldman, Adam	Meetings	Los Angeles, CA	$630.75	10/17/01	4
Hawkins, Albert	Meetings	Reykjavik	$3,699.40	10/20/01	4
Galen, Reed	Official	Manhattan, NY	$299.00	10/25/01	6
Carlson-Thies, Stanley	Speaking Engagement	Austin, TX	$442.53	10/26/01	1
Baralles, Ruben	Speaking Engagement	Oakland, CA	$1,231.00	10/28/01	2
Rorriguez, Noelia	Official	Manhattan, NY	$34.50	10/30/01	1
Moss, Sarah	Official	Manhattan, NY	$34.50	10/30/01	1
Campbell, Thomas	Accompany a Cabinet Head	Boston, MA	$261.50	10/31/01	2
Bartolomucci, H	Official	Lynchburg, VA	$52.93	10/31/01	2
Carlson-Thies, Stanley	Speaking Engagement	Silver Spring, MD	$9.66	11/01/01	1
Lisaius, Kenneth	Meetings	Los Angeles, CA	$561.14	11/02/01	2
Wendel, Matthew	Official	Crawford, TX/Austin, TX	$532.50	11/07/01	11
Carlson-Thies, Stanley	Speaking Engagement	Atlanta, GA	$542.93	11/09/01	2
Henick, Henry	Meetings	Los Angeles, CA	$1,661.14	11/10/01	2
Smith, Matthew	Official	Manhattan, NY	$401.11	11/10/01	1
Bartolomucci, H	Official	Lynchburg, VA	$52.93	11/14/01	2
Giles	Official	Manhattan, NY	$382.24	11/15/01	1
Wilkinson, James	Official	Waco, TX	$60.00	11/16/01	2
Burkhart, Shannon	Official	Waco, TX	$60.00	11/16/01	2
Kleppee, Elizabeth	Official	Salt Lake City, UT	$63.00	11/27/01	1

REV_00170002

Baralles, Ruben	Official	Houston, TX/Sacramento, CA/Santa Fe, NM	$1,524.32	11/28/01	2
Dunn, Debra	Official	Manhattan, NY	$34.50	11/29/01	1
Thompson	Official	Manhattan, NY	$34.50	11/29/01	1
Cobb,Robert	Meetings	Virginia Beach, VA	$298.13	12/04/01	1
Baralles, Ruben	Meetings	Atlanta, GA	$496.00	12/05/01	1
Bartolomucci, H	Official	Lynchburg, VA	$52.93	12/05/01	2
Irastroza, Hector	Meetings	Philadelphia, PA	$202.00	12/05/01	1
Blalock, K	Speaking Engagement	Atlanta, GA	$428.50	12/06/01	1
Goeglein, Tim	Speaking Engagement	Ft. Wayne, IN	$28.00	12/06/01	1
Bartolomucci, H	Official	Lynchburg, VA	$52.93	12/12/01	1
Walker, Helegard	Meetings	Lynchburg, VA	$48.30	12/16/01	2
Baralles, Ruben	Official	Sacramento, CA	$816.50	12/18/01	2
Wendel, Matthew	Official	Camp David, MD	$495.00	12/21/01	16
Bartolomucci, H	Official	Lynchburg, VA	$53.93	12/24/01	1
Hagin, Joseph	Official	Waco, TX	$375.00	12/26/01	12
Christensen	Official	Minneapolis, MN	$383.34	12/27/01	5
Wendel, Matthew	Official	Camp David, MD	$45.00	12/28/01	1
Gonzales,Alberto	Speaking Engagement	Austin, TX	$58.50	01/03/02	3
Purcell, Christopher	Official	Hamilton, OH	$85.00	01/06/02	2
Berenson, Brad	Meetings	Lynchburg, VA	$48.30	01/07/02	2
Hagin, Joseph	Official	Salt Lake City, UT	$175.51	01/09/02	1
Baralles, Ruben	Speaking Engagement	Las Vegas, NV	$95.00	01/10/02	6
Healy, Erin	Official	Anchorage, AK	$63.00	01/14/02	1
Walker, Helegard	Meetings	Lynchburg, VA	$48.30	01/14/02	2
Poole, Kelly	Official	Mamphis, TN	$57.00	01/14/02	1
Jablonka, Chris	Official	New Orleans, LA	$63.00	01/14/02	1
Faraley, Jennifer	Speaking Engagement	Sacramento, CA	$263.00	01/17/02	1
Carlson-Thies, Stanley	Speaking Engagement	Dallas, TX	$931.52	01/18/02	2
Jewett, Eric	Official	Portland, ME	$171.00	01/21/02	1
O'Brien	Official	Atlanta, GA	$247.00	01/25/02	6
Baralles, Ruben	Meetings	Manhattan, NY	$524.39	01/25/02	1
O'Keefe	Official	Winston-Salem. NC	$247.00	01/25/02	6
Berenson, Brad	Meetings	Lynchburg, VA	$51.10	01/28/02	2
Mollman, Marcus	Meetings	Salt Lake City, UT	$1,726.25	01/28/02	31
Carlson-Thies, Stanley	Speaking Engagement	Chicago, IL	$402.42	01/30/02	1
Newstead, Jennifer	Official	Lynchburg, VA	$52.93	01/30/02	2
Ecklekamp	Official	Salt Lake City, UT	$357.00	02/01/02	8
Hughes, William	Official	Salt Lake City, UT	$357.00	02/01/02	8

Guiterrez	Official	Denver, C0	$229.00	02/04/02	4
Becker, Kathleen	Official	Jackson, WY	$453.78	02/04/02	6
Walker, Helegard	Meetings	Lynchburg, VA	$51.10	02/04/02	2
Jewett, Eric	Official	Milwaukee, WI	$231.00	02/06/02	5
Baralles, Ruben	Meetings	Albuquerque, NM	$605.78	02/07/02	3
Jablonka, Chris	Official	Denver, CO/Jackson, WY/ Idaho Falls, ID	$183.14	02/07/02	3
Brand, Rachel	Meetings	New Haven, CT	$223.61	02/07/02	1
Gottesman, Blake	Official	Waco, TX	$75.00	02/08/02	2
Ecklekamp	Official	Anchorage, AK	$535.50	02/11/02	8
Bartolomucci, H	Official	Lynchburg, VA	$54.93	02/11/02	1
Gonzales,Alberto	Speaking Engagement	Denver, CO	$41.00	02/12/02	1
Francisco, Noel	Official	Lynchburg, VA	$52.93	02/13/02	2
Spagnoli, Debra	Speaking Engagement	Naples, FL	$0.00	02/14/02	3
Walker, Helegard	Speaking Engagement	Charlottesville, VA	$87.60	02/16/02	1
Carlson-Thies, Stanley	Speaking Engagement	Dallas, TX	$667.00	02/18/02	1
Moss, Sarah	Official	Jackson, WY/Los Angeles, CA	$200.00	02/18/02	4
Baralles, Ruben	Meetings	Kansas City, KS	$650.57	02/18/02	1
Ciccone, Christie	Accompany a USG Delegation	Rome, ITA	$1,380.48	02/18/02	5
Baralles, Ruben	Meetings	Key West, FL	$1,720.82	02/21/02	3
Baralles, Ruben	Meetings	Las Vegas, NV	$426.01	02/21/02	2
Walker, Helegard	Meetings	Lynchburg, VA	$52.93	02/27/02	2
Spagnoli, Debra	Speaking Engagement	Los Angeles, CA	$339.00	02/28/02	2
Wendel, Matthew	Official	Camp David, MD	$75.00	03/01/02	2
Goeglein, Tim	Speaking Engagement	Hartford, CT	$77.00	03/01/02	1
Burke, John	Speaking Engagement	Jackson, MS	$10.00	03/01/02	4
Berenson, Brad	Meetings	Lynchburg, VA	$52.93	03/04/02	2
Wendel, Matthew	Official	Camp David, MD	$75.00	03/05/02	2
Bartolomucci, H	Official	Lynchburg, VA	$55.93	03/06/02	1
Hughes, Karen	Speaking Engagement	Palm Springs, CA	$1,113.92	03/07/02	1
Berenson, Brad	Meetings	Lynchburg, VA	$52.93	03/08/02	1
Colby, Chad	Official	Norfolk, VA	$209.66	03/08/02	3
Poole, Kelly	Official	Richmond, VA	$208.20	03/08/02	3
Harden, Alison	Official	Richmond, VA	$161.37	03/08/02	3
Hanusa, Mary Ann	Official	College Station, TX	$1,624.41	03/09/02	4
Chapman	Official	Fayetteville, NC	$153.00	03/11/02	4

Francisco, Noel	Official	Lynchburg, VA	$52.93	03/11/02	2
Ecklekamp	Official	St. Louis, MO	$299.00	03/13/02	6
Zanca, Bruce	Meetings	Washington DC	$315.55	03/15/02	1
Langley	Official	El Paso, TX	$247.00	03/16/02	6
O'Keefe	Official	Atlanta, GA	$265.00	03/22/02	6
Brand, Rachael	Meetings	Cedar Rapids, IA	$445.20	03/24/02	1
Wendel, Matthew	Official	Austin, TX/Waco, TX	$201.00	03/25/02	6
Camp. Elizabeth	Official	Dallas, TX	$161.00	03/25/02	3
Sampson, Kyle	Official	Lynchburg, VA	$52.93	03/25/02	2
Godfrey, Georgia	Official	Atlanta, GA/Waco, TX/Greenville, SC	$135.00	03/27/02	4
Walker, Helegard	Meetings	Lynchburg, VA	$109.93	03/27/02	1
Thompson	Official	Philadelphia, Pa	$375.00	03/27/02	8
Gottesman, Blake	Official	Waco, TX	$135.00	03/27/02	4
Gottesman, Blake	Official	Waco, TX	$165.00	04/04/02	5
Gottesman, Blake	Official	Waco, TX	$135.00	04/04/02	4
Wendel, Matthew	Official	Waco, TX	$105.00	04/04/02	3
Heiligenstein, Anne	Meetings	Boston, MA	$330.82	04/05/02	1
Goeglein, Tim	Speaking Engagement	Orlando, FL/Tampa, FL	$935.14	04/06/02	2
Baralles, Ruben	Meetings	Knoxville, TN	$392.94	04/07/02	1
Baralles, Ruben	Meetings	Denver. CO/Las Vegas, NV	$426.01	04/11/02	2
Wendel, Matthew	Official	Camp David, MD	$135.00	04/12/02	4
Wendel, Matthew	Official	Camp David, MD	$75.00	04/12/02	2
Baralles, Ruben	Meetings	Boston, MA	$150.50	04/15/02	1
Berenson, Brad	Meetings	Lynchburg, VA	$52.93	04/15/02	2
Goeglein, Tim	Meetings	Manhattan, NY	$409.30	04/15/02	1
Carlson-Thies, Stanley	Speaking Engagement	Oakland, CA/Seattle, WA	$956.54	04/16/02	1
Francisco, Noel	Official	Lynchburg, VA	$52.93	04/17/02	2
Sampson, Kyle	Official	Lynchburg, VA	$52.93	04/17/02	2
Wendel, Matthew	Official	Camp David, MD	$75.00	04/19/02	6
Wendel, Matthew	Official	Austin, TX/Waco, TX	$264.00	04/23/02	4
Walker, Helegard	Official	Lynchburg, VA	$52.93	04/23/02	1
Deckard, Josh	Official	Los Angeles, CA/Waco, TX	$223.00	04/24/02	6
McClellan, Scott	Official	Los Angeles, CA/Waco, TX	$223.00	04/24/02	6
Christie, Ronald	Speaking Engagement	Jackson, MS	$453.78	04/26/02	1
Goeglein, Tim	Meetings	Philadelphia, PA	$384.00	04/26/02	1
Rove, Karl	Meetings	San Marcos, TX	$45.00	04/27/02	1
Bartolomucci, H	Official	Lynchburg, VA	$56.93	04/29/02	1
Spagnoli, Debora	Meetings	San Jose, CA	$521.50	04/29/02	1
Spagnoli, Debora	Meetings	Tampa, FL	$537.62	04/30/02	1
Wendel, Matthew	Official	Camp David, MD	$45.00	05/03/02	6

Towey, Jim	Speaking Engagement	Miami, FL	$697.17	05/07/02	1
Francisco, Noel	Official	Lynchburg, VA	$52.93	05/08/02	2
Wendel, Matthew	Official	Camp David, MD	$75.00	05/10/02	12
Johnson, Clay	Speaking Engagement	College Station, TX	$60.00	05/10/02	1
Alberto, Gonzales	Official	Houston, TX	$83.00	05/10/02	2
Sampson, Kyle	Official	Lynchburg, VA	$52.93	05/13/02	2
Benyon, Rebecca	Speaking Engagement	New Orleans, LA	$686.00	05/13/02	1
Walker, Helegard	Official	Lynchburg, VA	$52.93	05/15/02	1
Wendel, Matthew	Official	Camp David, MD	$75.00	05/17/02	1
Baralles, Ruben	Meetings	Manhattan, NY/Phoenix, AZ	$458.00	05/21/02	1
Towey, Jim	Speaking Engagement	Atlanta, GA	$679.02	05/23/02	1
Johnson, Clay	Speaking Engagement	Birmingham, AL	$134.00	05/25/02	2
Ozburn, Charles	Official	West Point, NY	$221.00	05/26/02	6
Bourns	Official	Little Rock, AR	$255.00	05/27/02	7
Francisco, Noel	Official	Lynchburg, VA	$58.93	05/27/02	2
Jewett, Eric	Official	Little Rock, AR	$187.00	05/29/02	5
Kuo, David	Speaking Engagement	Pittsburg, PA	$732.94	05/29/02	1
Alix, Cathy	Official	Philadelphia, Pa	$210.00	05/30/02	1
Goldman, Adam	Speaking Engagement	Albuquerque, NM/Las Vegas, NV/Los Angeles, CA	$605.50	05/31/02	10
Wendel, Matthew	Official	Camp David, MD	$75.00	05/31/02	6
Campbell, Thomas	Invitational	Washington, DC	$1,007.50	05/31/02	
Hughes, William	Official	Des Moines, IA	$187.00	06/02/02	5
Chapman	Official	Des Moines, IA	$187.00	06/02/02	5
Fleischer, Ari	Meetings	Manhattan, NY	$358.56	06/02/02	1
Newstead, Jennifer	Meetings	Lynchburg, VA	$52.93	06/03/02	2
Newstead, Jennifer	Official	Lynchburg, VA	$52.93	06/03/02	1
Whitelaw, Amy	Official	Kansas City, KS	$273.00	06/06/02	6
Wendel, Matthew	Official	Camp David, MD	$75.00	06/07/02	2
Bartolomucci, H	Official	El Paso, TX	$553.42	06/07/02	1
Baralles, Ruben	Speaking Engagement	Ft. Meyers, FL	$342.50	06/07/02	1
White, J	Speaking Engagement	Salt Lake City, UT	$368.00	06/10/02	1
Jewett, Eric	Official	Atlanta, GA	$247.00	06/11/02	6
Wendel, Matthew	Official	Crawford, TX	$331.00	06/11/02	6
Baralles, Ruben	Meetings	Los Angeles, CA/Modesto, CA	$922.53	06/12/02	3
Sampson, Kyle	Official	Lynchburg, VA	$52.93	06/12/02	2
Atkiss, Stephen	Official	Waco, TX	$165.00	06/12/02	5

Francisco, Joel	Meetings	New Orleans, LA	$760.68	06/13/02	1
Brand, Rachael	Official	Minneapolis, MN	$878.00	06/14/02	1
Suncarger, Rachael	Official	Waco, TX	$105.00	06/14/02	3
McClellan, Scott	Official	Waco, TX	$105.00	06/14/02	3
Walker, Helegard	Official	Lynchburg, VA	$52.93	06/17/02	2
Baralles, Ruben	Meetings	Madison. WI	$456.00	06/17/02	1
Spagnoli, Debra	Speaking Engagement	Pittsburg, PA	$700.14	06/19/02	1
Benyon, Rebecca	Speaking Engagement	Brooklyn, NY	$148.50	06/21/02	1
White, J	Speaking Engagement	Charlotte, NC	$312.93	06/21/02	1
Spagnoli, Debora	Meetings	Phoenix, AZ/Scottsdale, AZ	$1,223.50	06/21/02	4
Farley, Jennifer	Official	Providence, RI	$238.80	06/22/02	1
Bartolomucci, H	Official	Lynchburg, VA	$57.93	06/24/02	1
Westline, Lezlee	Meetings	San Francisco, CA/Seattle, WA	$1,177.23	06/25/02	4
Francisco, Noel	Official	Lynchburg, VA	$58.93	06/26/02	2
Baralles, Ruben	Speaking Engagement	Albuquerque, NM	$622.02	06/27/02	2
Wendel, Matthew	Official	Crawford, TX	$185.00	06/28/02	2
Nelson, Carolyn	Official	Ripley, WV	$165.00	06/29/02	5
Bartolomucci, H	Official	Lynchburg, VA	$58.93	07/11/02	1
Wendel, Matthew	Official	Crawford, TX	$75.00	07/12/02	2
Ciliberti, Eric	Meetings	New Orleans, LA	$997.21	07/12/02	3
Spagnoli, Debra	Meetings	Boise, ID	$767.26	07/14/02	1
Baralles, Ruben	Meetings	New Orleans, LA	$690.07	07/14/02	1
Walker, Helegard	Official	Lynchburg, VA	$52.93	07/16/02	1
Hobbs, David	Meetings	London, GBR/FRA	$1,559.72	07/18/02	5
White, J	Speaking Engagement	Los Angeles, CA	$416.50	07/20/02	1
Evans, Kendell	Official	Charleston, SC	$273.00	07/23/02	6
Hill, David	Official	Charleston, SC	$273.00	07/23/02	6
White, J	Speaking Engagement	Cleveland, OH/Minneapolis, MN	$1,059.88	07/23/02	1
Ciliberti, Eric	Meetings	Denver, CO	$704.12	07/23/02	3
Baralles, Ruben	Meetings	Denver, CO/Orlando, FL	$944.57	07/23/02	2
Francisco, Noel	Official	Lynchburg, VA	$58.93	07/24/02	2
Thomas, Juileanne	Official	Manhattan, NY	$143.50	07/24/02	1
Goldman, Adam	Meetings	Atlanta, GA	$124.50	07/28/02	1
Heilglienstein, Ann	Meetings	MexicoCity, MEX	$1,076.36	07/28/02	3
Lineweaver, Lindsey	Official	Lubbock, TX	$215.00	07/29/02	6
Sampson, Kyle	Meetings	Lynchburg, VA	$52.93	07/29/02	2
Garrison, Sarah	Meetings	Boston, MA	$431.35	07/30/02	1
Baralles, Ruben	Meetings	Ausitn, TX	$398.00	08/01/02	1

Baralles, Ruben	Meetings	Austin, TX	$398.00	08/01/02	1
Beyer, Leslie	Official	Waco, TX	$405.00	08/01/02	13
Blaylock, Kirk	Official	Waco, TX	$45.00	08/01/02	1
Baralles, Ruben	Speaking Engagement	Hershey, PA	$209.00	08/03/02	1
Sampson, Kyle	Official	Lynchburg, VA	$52.93	08/05/02	2
Deservi, Robert	Meetings	Manhattan, NY	$564.00	08/05/02	2
Baralles, Ruben	Meetings	Ft Lauderdale, FL	$638.00	08/06/02	2
Baralles, Ruben	Meetings	Orlando, FL	$1,080.50	08/06/02	3
Dickens, Reed	Official	Waco, TX	$555.00	08/06/02	18
McClellan, Scott	Official	Waco, TX	$225.00	08/06/02	7
Beyer, Leslie	Official	Waco, TX	$315.00	08/06/02	10
Jablonka, Chris	Official	Waco, TX	$410.79	08/11/02	14
Dayspring, Brad	Official	Des Moines, IA	$59.50	08/13/02	2
Ciliberti, Eric	Conference Attendance	New Orleans, LA	$561.13	08/13/02	1
Garrison, Sarah	Official	Waco, TX	$75.00	08/13/02	2
Towey, Jim	Speaking Engagement	Charleston, WV	$827.27	08/15/02	1
McArthur, David	Official	Waco, TX	$315.00	08/15/02	10
Dayspring, Brad	Official	Waco, TX	$525.00	08/15/02	17
Bilbao, Thomas	Official	Las Cruces, NM	$195.00	08/19/02	6
Echols, Sarah	Official	Las Cruses, NM	$165.00	08/19/02	5
Alberto, Gonzales	Official	Monterey, CA	$605.00	08/19/02	11
Calio, Nicholas	Official	Hanoi, VIE/Honolulu, HI	$1,960.34	08/20/02	11
Pitts, Greg	Official	Las Cruces, NM	$165.00	08/20/02	5
White, J	Speaking Engagement	Ft. Lauderdale, FL	$658.79	08/25/02	1
Towey, Jim	Speaking Engagement	Memphis, TN	$1,043.05	08/28/02	1
Towey, Jim	Speaking Engagement	Philadelphia, PA	$225.25	08/28/02	1
Ellis, Joe	Official	Louisville, KY	$285.00	08/29/02	7
Slade, Winfield	Official	Louisville, KY	$285.00	08/29/02	7
Fificos, George	Official	Louisville, KY	$358.22	08/30/02	6
Pfeifle, Lauren	Official	South Bend, IN	$221.00	08/30/02	6
Krenan, Robert	Official	South Bend, IN	$221.00	08/30/02	6
Leadroot, Phil	Official	South Bend, IN	$221.00	08/30/02	6
Walters Greg	Official	Minneapolis, MN	$69.00	09/02/02	1
White, J	Speaking Engagement	Manhattan, NY/Kansas City, KS	$959.66	09/03/02	2
Towey, Jim	Speaking Engagement	Naples, FL/Orlando, FL	$1,025.63	09/03/02	2
Newstead, Jennifer	Meetings	Lynchburg, VA	$52.93	09/04/02	2
Sforza, Scott	Meetings	Manhattan, NY	$437.00	09/04/02	9
Christie, Ronald	Speaking Engagement	Manhattan, NY	$226.70	09/05/02	1

Hagin, Joseph	Official	Manhattan, NY	$892.00	09/08/02	1
Pfeifle, Lauren	Official	Pittsburg, PA	$69.00	09/10/02	1
Leadroot, Phil	Official	Pittsburg, PA	$69.00	09/10/02	1
Sampson, Kyle	Official	Lynchburg, VA	$52.93	09/11/02	2
Ellis, Joe	Official	Davenport, IA	$135.00	09/12/02	4
Gonzales, Alberto	Meetings	Austin, TX	$276.00	09/13/02	2
Kozberg, Lindsey	Meetings	Los Angeles, CA	$520.31	09/13/02	1
Deckard, Josh	Official	Pittsburg, PA	$34.50	09/13/02	1
Walker, Helegard	Official	Lynchburg, VA	$58.93	09/16/02	2
White, J	Speaking Engagement	Baltimore, MD	$43.29	09/19/02	1
Ciliberti, Eric	Speaking Engagement	Cedar Rapids, IA	$317.00	09/19/02	1
Baralles, Ruben	Speaking Engagement	Chicago, IL	$458.88	09/20/02	1
Towey, Jim	Speaking Engagement	Wintergreen, VA	$203.14	09/20/02	2
Towey, Jim	Speaking Engagement	Columbus, OH	$369.50	09/23/02	1
Burke, John	Official	Milwaukee, WI	$626.29	09/23/02	1
Francisco, Noel	Official	Lynchburg, VA	$58.93	09/25/02	2
Goeglein, Tim	Speaking Engagement	Orange County, CA	$42.00	09/25/02	2
sechser, Scott	Official	Waco, TX	$466.50	09/25/02	1
White, J	Speaking Engagement	Raleigh, NC	$499.38	09/26/02	1
Kuo, David	Speaking Engagement	Pittsburg, PA	$872.83	09/27/02	2
Kelly, Jim	Speaking Engagement	Boston, MA	$257.92	09/28/02	1
Bridgeland, John	Speaking Engagement	Manhattan, NY	$39.70	09/30/02	1
DeServi, Robert	Official	San Francisco, CA	$1,306.54	10/15/02	3
		Total	**$98,605.86**		

White House Office FY 2003 Staff Travel					
TRAVELER	**PURPOSE**	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Westine, Lezlee	Meeting	Manhattan,NY	$345.10	10/01/02	1
Ciliberti, Eric	Meeting	Chicago, IL	$327.30	10/02/02	1
Burke, John	Speaking Engagement	Columbus, OH	$434.21	10/02/02	1
Francisco, Noel	Speaking Engagement	Syracuse, NY	$700.50	10/04/02	3

Christie, Ronald	Speaking Engagement	Atlanta, GA	$626.00	10/05/02	2
Samson, Kyle	Official	Lynchburg, VA	$52.93	10/07/02	2
Beynon, Rebecca	Speaking Engagement	Orlando, FL	$1,708.38	10/07/02	4
Stecher, Jennifer	Meeting	Atlanta, GA	$1,105.34	10/08/02	3
Barrales, Ruben	Speaking Engagement	Portsmouth, NH	$365.00	10/08/02	1
Hawkins, Albert	Meeting	Hague	$1,817.68	10/09/02	4
Kuo, David	Meeting	Atlanta, GA	$880.36	10/09/02	2
Ryun, Catherine	Meeting	Atlanta, GA	$893.36	10/09/02	2
Towey, Jim	Meeting	Atlanta, GA	$336.93	10/09/02	1
Click, Carrie	Meeting	Atlanta, GA	$1,001.35	10/09/02	2
Streeter, Ryan	Meeting	Atlanta, GA	$937.28	10/09/02	2
Ayyar, Balan	Meeting	Atlanta, GA	$893.36	10/09/02	2
White, Jeremy	Meeting	Atlanta, GA	$659.58	10/09/02	2
Ciliberti, Eric	Speaking Engagement	Sioux Falls Naval, SD	$722.96	10/09/02	2
Zanca, Bruce	Meeting	Washington, DC	$95.50	10/09/02	1
Kozberg, Lindsey	Meeting	Manhattan,NY	$164.10	10/10/02	1
Garrison, Stephen	Meeting	Naples, FL	$819.61	10/10/02	1
Bridgeland, John	Speaking Engagement	Ft. Lauderdale, FL	$1,010.59	10/10/02	1
Rowe, Ian	Speaking Engagement	Ft. Lauderdale, FL	$838.72	10/10/02	1
Burke, John	Speaking Engagement	Milwaukee, WI	$553.75	10/13/02	1
Sforza, Scott	Meeting	Daytona Beach, FL	$826.00	10/14/02	3
Bartolomucci, Chris	Official	Lynchburg, VA	$52.93	10/16/02	2
Towey, Jim	Meeting	Manhattan,NY	$448.06	10/17/02	1
Barrales, Ruben	Meeting	Philadelphia, PA	$188.00	10/17/02	1
Smith, Matthew	Meeting	Manhattan,NY	$445.38	10/17/02	1
Goeglein, Tim	Speaking Engagement	Indianapolis, IN	$58.00	10/17/02	1
Gonzales, Alberto	Speaking Engagement	Atlanta, GA	$41.00	10/19/02	1
Click, Carrie	Speaking Engagement	San Antonio, TX	$571.71	10/20/02	1
Ciliberti, Eric	Meeting	Des Moines, IA	$1,111.05	10/20/02	2

Francisco, Noel	Official	Lynchburg, VA	$58.93	10/21/02	2
Sechser, Scott	Official	Waco, TX	$934.65	10/22/02	1
Newstead, Jennifer	Meeting	Lynchburg, VA	$52.93	10/23/02	1
Goeglein, Tim	Meeting	Chicago, IL	$94.00	10/23/02	1
Towey, Jim	Speaking Engagement	St. Louis, MO	$773.64	10/24/02	1
White, Jeremy	Speaking Engagement	Los Angeles, CA	$667.83	10/24/02	2
Bridgeland, John	Meeting	Charlotte, NC	$976.47	10/24/02	1
Barrales, Ruben	Meeting	Los Angeles, CA	$385.50	10/24/02	1
Francisco, Noel	Official	Lynchburg, VA	$58.93	10/28/02	2
Towey, Jim	Meeting	Charlotte, NC	$823.42	10/28/02	1
Rowe, Ian	Meeting	Cleveland, OH	$818.17	10/28/02	2
Barrales, Ruben	Meeting	Providence, RI	$0.00	10/28/02	1
Towey, Jim	Speaking Engagement	Pittsburgh, PA	$758.56	10/29/02	1
Sechser, Scott	Official	Waco, TX	$888.79	10/31/02	1
Towey, Jim	Meeting	Miami, FL	$799.27	11/05/02	1
Contreras, Rebecca	Meeting	West Point, NY	$442.41	11/07/02	2
Kozberg, Lindsey	Meeting	Providence, RI	$677.18	11/07/02	1
Bridgeland, John	Speaking Engagement	Providence, RI	$698.18	11/07/02	1
Barrales, Ruben	Speaking Engagement	Los Angeles, CA	$785.40	11/07/02	3
Johnson, Clay	Meeting	Manhattan,NY	$139.50	11/08/02	1
Farley, Jennifer	Speaking Engagement	San Diego, CA	$230.81	11/10/02	1
Ciliberti, Eric	Speaking Engagement	Reno, NV	$831.97	11/11/02	2
Bartolomucci, Chris	Official	Lynchburg, VA	$52.93	11/12/02	1
Berenson, Bradford	Official	Lynchburg, VA	$52.93	11/13/02	1
Burke, John	Meeting	Charlotte, NC	$776.00	11/13/02	1
Kelly, Jim	Speaking Engagement	Lansing, MI	$438.79	11/13/02	1
Barrales, Ruben	Speaking Engagement	Manchester, NH	$463.00	11/13/02	1
Towey, Jim	Speaking Engagement	Portland, OR	$705.10	11/14/02	2
Spagnoli, Deborah	Meeting	Austin, TX	$1,006.00	11/16/02	14
Spagnoli,	Meeting	Austin, TX	$995.47	11/16/02	14

Deborah					
Christie, Ronald	Speaking Engagement	Albany, NY	$752.56	11/18/02	1
Ciliberti, Eric	Speaking Engagement	Portland, OR	$410.50	11/18/02	1
Towey, Jim	Speaking Engagement	Newark, NJ	$520.92	11/19/02	1
Rowe, Ian	Meeting	Manhattan,NY	$325.02	11/20/02	2
Kelly, Jim	Speaking Engagement	Tallahassee, FL	$453.79	11/20/02	1
Burke, John	Speaking Engagement	Concord, NH	$1,040.22	11/20/02	2
Bridgeland, John	Meeting	Manhattan,NY	$157.50	11/21/02	1
Barrales, Ruben	Meeting	Los Angeles, CA	$683.49	11/21/02	3
Brancato, Keith	Meeting	Loudoun County, VA	$17.16	11/21/02	1
Bartolomucci, Chris	Speaking Engagement	West Palm Beach, FL	$661.45	11/22/02	2
Ciliberti, Eric	Speaking Engagement	Springfield, MO	$619.13	11/24/02	1
Goldman, Adam	Speaking Engagement	Ft. Lauderdale, FL	$129.00	11/24/02	1
Garrison, Stephen	Meeting	Manhattan,NY	$454.36	11/25/02	1
Bridgeland, John	Speaking Engagement	Manhattan,NY	$369.50	11/25/02	1
Sechser, Scott	Official	Waco, TX	$913.45	11/25/02	1
Kelly, Jim	Speaking Engagement	Hershey, PA	$107.18	11/26/02	1
Burke, John	Meeting	New Orleans, LA	$1,254.32	12/01/02	4
Spagnoli, Deborah	Official	Ft. Lauderdale, FL	$1,242.99	12/01/02	4
Ralston, Susan	Official	Manhattan,NY	$85.00	12/02/02	1
Kelly, Jim	Speaking Engagement	Augusta Naval Ctr, ME	$815.35	12/02/02	1
Bartolomucci, Chris	Official	Jacksonville, Fl	$616.00	12/03/02	1
Ciliberti, Eric	Speaking Engagement	Pensacola, FL	$436.00	12/03/02	1
Towey, Jim	Speaking Engagement	Tallahassee, FL	$559.31	12/04/02	2
Kelly, Jim	Speaking Engagement	Lexington, KY	$390.00	12/04/02	1
Stecher, Jennifer	Meeting	Philadelphia, PA	$259.50	12/06/02	1

Goeglein, Tim	Speaking Engagement	Ft. Wayne, IN	$53.50	12/06/02	1
Barrales, Ruben	Speaking Engagement	Richmond, VA	$104.50	12/07/02	1
Kavanaugh, Brett	Meeting	Manhattan,NY	$293.74	12/09/02	1
Francisco, Noel	Official	Lynchburg, VA	$52.93	12/09/02	1
Stecher, Jennifer	Meeting	Philadelphia, PA	$979.38	12/09/02	4
Kelly, Jim	Speaking Engagement	Nashville, TN	$575.00	12/09/02	1
Newstead, Jennifer	Meeting	Manhattan,NY	$216.60	12/10/02	1
Ciliberti, Eric	Speaking Engagement	Duluth,, MN	$675.28	12/10/02	1
Newstead, Jennifer	Official	Lynchburg, VA	$52.93	12/11/02	2
Streeter, Ryan	Meeting	Philadelphia, PA	$407.52	12/11/02	1
White, Jeremy	Meeting	Philadelphia, PA	$360.02	12/11/02	1
Click, Carrie	Meeting	Philadelphia, PA	$423.52	12/11/02	1
Ryun, Catherine	Meeting	Philadelphia, PA	$399.86	12/11/02	1
Kuo, David	Speaking Engagement	Philadelphia, PA	$370.02	12/11/02	1
Kuo, David	Speaking Engagement	Philadelphia, PA	$216.00	12/11/02	1
Christie, Ronald	Meeting	Indianapolis, IN	$803.40	12/11/02	1
Rowe, Ian	Meeting	Norfolk, VA	$775.50	12/17/02	1
Bartolomucci, Chris	Meeting	West Palm Beach, FL	$123.51	12/20/02	8
Samson, Kyle	Meeting	Salt Lake City, UT	$949.00	01/01/03	3
Deservi, Robert	Official	Chicago, IL	$311.00	01/02/03	5
Kelly, Jim	Official	Reno, NV	$1,133.11	01/05/03	3
Burke, John	Official	Chicago, IL	$662.22	01/05/03	2
Goldman, Adam	Meeting	Manhattan,NY	$439.36	01/07/03	1
Barrales, Ruben	Meeting	Augusta Naval Ctr, ME	$605.49	01/08/03	1
Farley, Jennifer	Meeting	Albuquerque, NM	$778.68	01/09/03	5
Stecher, Jennifer	Meeting	Denver, CO	$1,102.60	01/10/03	4
Deservi, Robert	Meeting	Tampa, FL	$511.00	01/11/03	1

Sforza, Scott	Meeting	Tampa, FL	$435.00	01/11/03	1
Beynon, Rebecca	Meeting	Denver, CO	$1,442.21	01/11/03	3
Kuo, David	Meeting	Denver, CO	$1,269.14	01/12/03	2
Streeter, Ryan	Meeting	Denver, CO	$660.64	01/12/03	2
Click, Carrie	Meeting	Denver, CO	$713.14	01/12/03	2
White, Jeremy	Meeting	Denver, CO	$902.07	01/12/03	1
Ayyar, Balan	Meeting	Denver, CO	$667.14	01/12/03	2
Towey, Jim	Meeting	Denver, CO	$1,082.49	01/12/03	1
Barrales, Ruben	Meeting	Salem Naval Ctr, OR	$370.00	01/12/03	1
Samson, Kyle	Official	Lynchburg, VA	$52.93	01/15/03	2
Goeglein, Tim	Meeting	Manhattan,NY	$105.00	01/19/03	1
Gonzales, Alberto	Speaking Engagement	Austin, TX	$83.00	01/20/03	2
Bartolomucci, Chris	Official	Lynchburg, VA	$52.93	01/21/03	1
Samson, Kyle	Meeting	Manhattan,NY	$496.97	01/21/03	1
Ciliberti, Eric	Speaking Engagement	Des Moines, IA	$416.04	01/21/03	1
Barrales, Ruben	Speaking Engagement	Oakland, CA	$0.00	01/23/03	2
Towey, Jim	Speaking Engagement	Chicago, IL	$940.07	01/26/03	2
Click, Carrie	Speaking Engagement	Norfolk, VA	$474.88	01/26/03	1
Samson, Kyle	Meeting	Manhattan,NY	$1,381.21	01/28/03	3
Rowe, Ian	Meeting	Las Vegas, NV	$804.11	01/31/03	3
Goeglein, Tim	Meeting	Manhattan,NY	$404.70	02/03/03	1
Goeglein, Tim	Meeting	Manhattan,NY	$106.50	02/03/03	1
Towey, Jim	Speaking Engagement	Boston, MA	$575.79	02/06/03	1
Smith, Matthew	Meeting	Nashville, TN	$635.50	02/09/03	1
Walker, Helgard	Official	Lynchburg, VA	$52.93	02/10/03	2
Kelly, Jim	Speaking Engagement	Little Rock, AR	$875.33	02/10/03	1
Towey, Jim	Meeting	Tallahassee, FL	$562.25	02/11/03	1
Stecher, Jennifer	Meeting	San Diego, CA	$894.88	02/13/03	6
Ryun, Catherine	Conference Attendance	San Diego, CA	$950.32	02/15/03	4
Beynon, Rebecca	Speaking Engagement	San Diego, CA	$1,758.60	02/15/03	4
Bridgeland, John	Meeting	Cincinnati, OH	$512.10	02/19/03	3
Powell, Ben	Meeting	Montgomery, AL	$607.11	02/20/03	1

REV_00170014

White, Jeremy	Speaking Engagement	Baton Rouge, LA	$968.15	02/20/03	1
Francisco, Noel	Meeting	Lynchburg, VA	$52.93	02/24/03	2
Kelly, Jim	Meeting	Santa Fe, NM	$823.57	02/24/03	2
White, Jeremy	Speaking Engagement	Houston, TX	$746.84	02/27/03	1
Christie, Ronald	Meeting	Miami, FL	$785.37	02/27/03	3
Barrales, Ruben	Meeting	Portland, OR	$0.00	02/28/03	2
Watkins, Peter	Meeting	Newport News, VA	$63.00	03/05/03	1
Samson, Kyle	Official	Lynchburg, VA	$52.93	03/05/03	1
Towey, Jim	Speaking Engagement	Minneapolis, MN	$745.00	03/06/03	1
Everson, Nannette	Meeting	King of Prussia, PA	$773.94	03/10/03	2
White, Jeremy	Speaking Engagement	Raleigh, NC	$348.85	03/11/03	1
Beynon, Rebecca	Meeting	Chicago, IL	$804.20	03/12/03	4
Stecher, Jennifer	Meeting	Chicago, IL	$757.06	03/12/03	2
Graham, Heather	Meeting	Philadelphia, PA	$341.00	03/12/03	2
White, Jeremy	Meeting	Chicago, IL	$365.72	03/13/03	1
Towey, Jim	Meeting	Chicago, IL	$476.20	03/13/03	1
Streeter, Ryan	Meeting	Chicago, IL	$431.10	03/13/03	1
Ryun, Catherine	Meeting	Chicago, IL	$452.15	03/13/03	1
Ayyar, Balan	Meeting	Chicago, IL	$453.10	03/13/03	1
Grace, Dennis	Meeting	Chicago, IL	$427.10	03/13/03	1
Loovis, Katie	Meeting	Chicago, IL	$391.50	03/14/03	1
Bridgeland, John	Speaking Engagement	Charlottesville, VA	$155.87	03/14/03	1
Kelly, Jim	Speaking Engagement	Montgomery, AL	$576.37	03/14/03	1
White, Jeremy	Speaking Engagement	Charlotte, NC	$868.87	03/16/03	1
Bridgeland, John	Speaking Engagement	Columbus, OH	$279.50	03/17/03	1
Francisco, Noel	Official	Lynchburg, VA	$52.93	03/19/03	2
White, Jeremy	Speaking Engagement	Harford County, MD	$12.25	03/21/03	1
White, Jeremy	Speaking Engagement	Atlanta, GA	$281.50	03/24/03	1
Beynon, Rebecca	Meeting	Philadelphia, PA	$198.00	03/25/03	1

Graham, Heather	Meeting	Philadelphia, PA	$241.50	03/25/03	1
Bridgeland, John	Meeting	Philadelphia, PA	$201.00	03/25/03	1
Burke, John	Meeting	Lansing, MI	$438.50	03/25/03	1
Samson, Kyle	Official	Lynchburg, VA	$52.93	03/26/03	2
Towey, Jim	Speaking Engagement	Princeton, NJ	$329.88	03/26/03	1
Ciliberti, Eric	Speaking Engagement	Columbus, OH	$891.00	03/26/03	1
Christie, Ronald	Speaking Engagement	Jackson, MS	$498.57	03/27/03	1
Kelly, Jim	Meeting	Las Vegas, NV	$1,096.72	03/27/03	2
Towey, Jim	Speaking Engagement	Los Angeles, CA	$527.61	03/29/03	1
Kuo, David	Speaking Engagement	Pittsburgh, PA	$735.76	03/29/03	2
Powell, Ben	Official	Lynchburg, VA	$52.93	03/31/03	2
Bartolomucci, Chris	Official	Lynchburg, VA	$52.93	04/02/03	2
Towey, Jim	Meeting	Manhattan,NY	$166.00	04/02/03	1
Christie, Ronald	Speaking Engagement	Nashville, TN	$756.88	04/03/03	1
Kelly, Jim	Official	Philadelphia, PA	$84.71	04/03/03	1
Lyons, Therese	Speaking Engagement	Atlantic City, NJ	$231.16	04/04/03	1
Towey, Jim	Speaking Engagement	Tallahassee, FL	$547.29	04/06/03	2
Burke, John	Speaking Engagement	Hershey, PA	$221.14	04/06/03	1
Stecher, Jennifer	Meeting	Houston, TX	$806.00	04/08/03	1
White, Jeremy	Speaking Engagement	Albuquerque, NM	$469.88	04/08/03	1
Gonzales, Alberto	Speaking Engagement	Denver, CO	$38.50	04/11/03	1
Ojaklu, Zaid	Official	Elmendorf, AK	$2,998.75	04/12/03	7
White, Jeremy	Speaking Engagement	Detroit, MI	$965.87	04/13/03	3
Deservi, Robert	Meeting	St. Louis, MO	$759.00	04/14/03	2
Barrales, Ruben	Speaking Engagement	Jefferson City, MO	$749.00	04/14/03	1
Bridgeland, John	Meeting	Manhattan,NY	$630.67	04/15/03	1
Recher, Jason	Meeting	Dayton, OH	$365.00	04/22/03	2
Guerra, Abel	Official	San Jose, CA	$633.79	04/22/03	2
Burke, John	Speaking Engagement	Houston, TX	$510.91	04/23/03	1

Towey, Jim	Speaking Engagement	Atlanta, GA	$409.35	04/24/03	1
White, Jeremy	Speaking Engagement	Houston, TX	$1,080.35	04/24/03	2
Kelly, Jim	Meeting	Albuquerque, NM	$685.70	04/24/03	2
Towey, Jim	Speaking Engagement	Bridgeport, CT	$642.50	04/27/03	1
Ralston, Susan	Meeting	Chicago, IL	$50.00	05/01/03	2
Beynon, Rebecca	Speaking Engagement	Baton Rouge, LA	$800.85	05/05/03	1
White, Jeremy	Speaking Engagement	Portland, OR	$410.29	05/05/03	1
		Travel	**$117,171.05**		

Office of the Vice President FY 2002 Staff Travel					
TRAVELER	**PURPOSE**	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Ravich, Samantha	Meetings	London, GBR	$2,124.92	07/14/02	3
Yates, Stephen	Official	Monterey, CA	$887.90	07/15/02	2
		Total	**$3,012.82**		

Office of the Vice President FY 2003 Staff Travel					
PURPOSE/ Traveler	**PURPOSE**	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Makiya, Kenan	Invitational	Washington DC	$778.00	10/18/02	1
Ravich, Samantha	Meetings	London, GBR	$2,124.92	10/09/02	3
Ravich, Samantha	Meetings	London, GBR	$1,929.74	12/12/02	4
Addington, David	Meetings	Manhattan, NY	$37.50	01/15/03	1
McGrath, Dean	Official	Raleigh, NC	$338.41	04/10/03	1
		Total	**$5,208.57**		

Consulting Services (POC – Kathleen O'Halloran)

QUESTION 53: Updating the information on page 115 of last year's hearing record, please provide actual and estimated amounts for consulting services for fiscal years 2002 through 2004.

REV_00170017

RESPONSE: "Consulting services" or "Advisory and Assistance Services" as defined by OMB Circular A-11, Section 83, are services acquired by contract from non-Federal sources (that is, the private sector, foreign governments, State and local governments, tribes), as well as from other units within the Federal Government and consists of three types of services: 1) Management and professional support services; 2) Studies, analyses and evaluation; and 3) Engineering and technical services. Listed below are the EOP and other entities with Advisory and Assistance contracts.

White House Office
FY 2002 (Actual)
There were no advisory and assistance contracts for the White House Office.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the White House Office.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Office of Homeland Security/PCIPB
FY2002 (Actual)
1. $25,140 for independent information technology expertise. Deliverables include access to technical reports and analysis and recommendations. The period of performance is from September 2002 through August 2003.

Office of Administration
FY 2002 (Actual)
1. $1,083,308 for assistance in developing plans, technical architecture and disaster recovery for the relocation of the EOP data center. Deliverables include baseline assessment and analyses, business continuity and disaster recovery plan, data center design requirements report, phased planning, migration and implementation development plan, relocation and implementation plan, final recommendations and a report. The contract was awarded in March 2002 with a performance period through June 2003.

2. $748,988 for assistance in developing an enterprise architecture to incorporate and support the strategic IT vision, goals and objectives of the OA and the EOP. Deliverables include assistance and analysis as follows: critical information shortfall, impact, and trade-off analysis, concept of operations, architecture and enterprise architecture system toolsets, baseline definitions, report results for demonstration of architecture sustainment, and target technical architecture and migration plan. The contract was awarded January 2002 with a period of performance through December 2002 and permitted options to extend performance.

REV_00170018

3. $48,050 for training, consulting and editing support for EOP/CFO policies regarding financial statements, prompt payment, travel, and transportation act, interagency agreements and portal to portal documents. Deliverables include training materials and conduct of training, formatted and edited documents. The contract was awarded July 2002 and ran through March 2003.

FY 2003 as of May 15, 2003

1. $406,695 for continued assistance in developing an enterprise architecture to incorporate and support the strategic IT vision, goals and objectives of the OA and the EOP. Deliverables include assistance and analysis as follows: critical information shortfall, impact, and trade-off analysis, concept of operations, architecture and enterprise architecture system toolsets, baseline definitions, report results for demonstration of architecture sustainment, and target technical architecture and migration plan. The contract was amended in January and May 2003 to exercise the option to extend performance and funded through September 2003.

2. $149,968 for consultant services to help configure IT storage products and perform data migration and setup. Deliverables include recommendations concerning management and long term strategy for operating and planning architecture along with execution of the infrastructure support. The contract was awarded in May 2003 with a period of performance running through November 2003.

3. $60,000 for assistance in designing a new performance management system for the Office of Administration in order to improve dialogue between manager and employee. Deliverables included recommended performance evaluation system and form as well as training. The contract was awarded in December 2002 with a performance period ending March 2003.

4. $49,800 for consulting services of an electrical engineer. Deliverables included conceptual designs, drawings and specifications, suggested project schedules and cost estimates. The contract was awarded in May 2003 with a period of performance through June 2003.

5. $25,750 for assistance in writing a statement of work for the EOP telephone contract recompete. Deliverables include recommended draft language for technical requirements to be incorporated into the solicitation. The contract was awarded in November 2002 with the period of performance through December 2002.

6. $47,040 for independent information technology expertise. Deliverables include access to technical reports and analysis and recommendations. The period of performance is from September 2003 through August 2004.
7. $936,000 for IT engineering and technical support services. Deliverables include studies and technical evaluations, analyses, recommendations and reports. The period of performance is from May 2003 through April 2004.

REV_00170019

8. $1,400,000 anticipated for engineering, technical services and consulting for new IT systems design and implementation.

9. $300,000 anticipated for IT studies and evaluations.

10. $130,000 anticipated to assist CFO with auditing issues.

11. $50,000 anticipated to develop an asset management system.

FY 2004 Request

1. $2,300,000 anticipated for engineering, technical services and consulting for new IT systems design and implementation.

2. $1,600,000 anticipated for IT studies and evaluations.

3. $110,000 anticipated to continue development of an asset management system.

4. $390,000 anticipated to assist CFO with auditing issues.

5. $50,000 anticipated for continued independent information technology expertise.

Office of Management and Budget
FY 2002 (Actual)
1. $39,570 for independent information technology expertise. Deliverables include access to technical reports and analysis and recommendations. The period of performance is from September 2002 through August 2003.

FY 2003 as of May 15, 2003

1. $22,500 anticipated for independent information technology expertise. Deliverables include access to technical reports as well as customized analysis and recommendations. The period of performance is from September 2003 through August 2004.

FY 2004 Request

1. $22,500 anticipated for continued independent information technology expertise planned for FY 2004.

Office of National Drug Control Policy
FY 2002 (Actual)
l. $24,225 for assessment and analysis and recommendations concerning performance plans, organizational goals and objectives. Deliverables include meeting summaries, briefing materials and monthly progress report and report with base-line assessment,

REV_00170020

recommendations and expected results. The period of performance is from June 2002 through September 2002.

2. $104,387 for organizational effectiveness assessment and analysis. Deliverables include meeting summaries, briefing materials and monthly progress reports, a final report and recommendations and expected results. The period of performance was from June 2002 through November 2002.

3. $150,000 for design of a program performance monitoring system for OCDETF/DIDTA program. Deliverables include meeting summaries, briefing materials, monthly progress reports, summary of program elements for measurement, draft and final reports. The period of performance was from April 2002 through October 2002.

FY 2003 as of May 15, 2003

1. $29,411 for assistance with developing a strategic human capital plan. Deliverables include development of a management plan, a workforce profile and assessment of drivers, capacity and gaps, assessment and recommendations and a strategic human capital report. The period of performance is from February 2003 through March 2003.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Council of Economic Advisers
FY 2002 (Actual)
1. $13,631 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from December 2001 to February 2002.

FY 2003 as of May 15, 2003
1. $14,276 for editorial services for the Economic Report of the President. The consultant provided expertise in editing the final publication. This contract lasted from December 2002 to February 2002.

FY 2004 Request
1. $15,000 estimated for editorial services for the Economic Report of the President. The consultant will provide expertise in editing the final publication. It is anticipated that the contract will last from December 2003 to February 2004.

Council on Environmental Quality
FY 2002 (Actual)
There were no advisory and assistance contracts for the Council on Environmental Quality.

REV_00170021

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the Council on Environmental Quality.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Office of the United States Trade Representative
FY 2002 (Actual)
1. $6,600 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.
2. $5,000 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices. The contract lasted from February to March 2002.
3. $1,980 for expert advice in area of personnel law. Deliverables include legal research, analysis and opinions. Period of performance was from July 2002 through September 2002

FY 2003 as of May 15, 2003

1. $10,000 for expert advice in the area of personnel law on an as-needed basis. Deliverables include legal research papers and recommendations. The contract was awarded for the period October 1, 2002 through September 30, 2003.

2. $10,000 for speech-writing services on an as-needed basis. Deliverables include draft speeches. The contract was awarded for the period May 2003 through September 2003.

FY 2004 Request

1. $10,000 for expert advice in the area of personnel law on an as-needed basis.

Office of Science and Technology Policy
FY 2002 (Actual)

1. $200,000 for independent evaluation of the integration of a variety of biometric identification system design options. Deliverables included a comprehensive report on the evaluation of technical options, sound design principles, testing procedures, interoperability issues as well as identification of implementation and procurement issues. The contract was awarded July 2002 with a completion date of October 2002 but the contract completion date was extended through December 2002. This contract was not funded with OSTP funds but by the Immigration and Naturalization Service.

REV_00170022

FY 2003 as of May 15, 2003

1. $300,000 for assistance in implementing a biometric identification system. Deliverables include analysis of NEXUS border technologies and international standards coordination. The contract is anticipated by June 2003 with an anticipated expiration date of June 2005. This contract was not funded with OSTP funds but by the Immigration and Naturalization Service (DHS).

FY 2004 Request

1. $125,000 for assistance with OSTP's National Security/Emergency Preparedness communications responsibilities.

National Security Council
FY 2002 (Actual)
There were no advisory and assistance contracts for the National Security Council.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the National Security Council.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Office of the Vice President
FY 2002 (Actual)

There were no advisory and assistance contracts for the Office of the Vice President.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the Office of the Vice President.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

REV_00170023

Freedom Corps (POC – Eric Lanman)

QUESTION 54: Please provide EOP budgeted funding for the Freedom Corps for fiscal years 2002 through 2004.

RESPONSE: The funding profile for the USA Freedom Corps from its inception through FY 2004 is as follows:

(Dollars in thousands) Category	FY02 Actual	FY03 Request	OA Pilot	FY03 Recission	FY03 Enacted	FY04 Estimate
Personnel	420	800	0	0	800	827
Travel	6	600	0	-330	270	102
Rent	99	0	0	0	0	157
Comm, Util & Misc	0	0	0	0	0	25
Printing & Reproduction	0	0	0	0	0	225
Other Services	0	1,200	-289	0	911	926
Supplies & Materials	0	0	0	0	0	9
Equipment	0	0	0	0	0	9
Total	525	2,600	-289	-330	1,981	2,280

Note: As part of a pilot program authorized by Congress in fiscal year 2003, general support costs such as rent, supplies, printing, information technology, etc., are centrally managed and charged against the Office of Administration.

QUESTION 55: Please provide a breakdown of the FY 2004 request for the Freedom Corps, and a brief description of the work to be accomplished under each item.

RESPONSE: The FY 2004 WHO request includes funding for the following USA Freedom Corps requirements.

Personnel: This category provides funding for the cost of the salaries and benefits for the staff of the USA Freedom Corps. The FY 2004 WHO request included $827,000 for this category.

Travel: The USA Freedom Corps office staff members are frequent travelers and often work at the national, state and local levels with organizations.~~, especially in organizing the Citizen Corps across the country~~ In addition, the Director of the USA Freedom Corps or the appropriate staff is required to address gatherings at national conferences, and of state and local officials in order to disseminate information about the President's Call to Service and the activities coordinated by the USA Freedom Corps.~~ and answer questions relating to the organization of USA Freedom Corps activities at the local level.~~ The FY 2004 WHO request included $102,000 for this category.

REV_00170024

Rent: This category funds the costs of the GSA office space utilized by the USA Freedom Corps. The FY 2004 WHO request included $157,000 for this category.

Printing: This category includes the costs of the creation and printing of documents regarding the USA Freedom Corps mission and policies and initiatives~~specific programs~~ coordinated by its Council. The FY 2004 WHO request included $225,000 for this category.

Other services: This category includes funds for the hiring of contractors to measure the nationwide effects of the USA Freedom Corps efforts through surveys and other measurement tools, and funds for information dissemination and the creation and production of materials used in the furtherance of the USA Freedom Corps mission and ~~specific programs,~~initiatives coordinated by its Council. The FY 2004 WHO request included $926,000 for this category.~~ and other activities that will further the mission of the USA Freedom Corps.~~

Communications and Misc.,~~;~~ Supplies and Materials, Equipment: These general categories are managed centrally by the White House Office of Management and Administration. Funds in these categories support the normal costs associated with day to day office operations. The FY 2004 WHO request included $43,000 for this category.

QUESTION 56: Last year, funds were requested for Freedom Corps information dissemination and recognition materials (p. 239). Are similar activities funded in FY 2004? If so, how much?

RESPONSE: The FY 2004 WHO request includes requirements for similar activities to those funded in FY 2003 and included are funds for information dissemination and recognition materials. Funds for these activities are included in the Other Services category of the WHO request. An estimated $926,000 of this portion of the request is for USA Freedom Corps requirements.

QUESTION 57: Are additional funds requested in FY 2004 outside the EOP?

RESPONSE: As a White House office and a coordinating council, the USA Freedom Corps does not run, fund, or administer programs. Instead, the USA Freedom Corps coordinates the development of policies and initiatives with various offices/entities in the Executive Branch in support of the President's goal to strengthen the American culture of service while helping all Americans find meaningful service opportunities. This role does not require outside funding and none have been requested by the WHO.

QUESTION 58: Please provide a listing of the staff in the USA Freedom Corps Office, showing the incumbent name and position. Please designate any detailees.

REV_00170025

RESPONSE: A listing of the current USA Freedom Corps Office staff is provided below.

John Bridgeland: Assistant to the President and Director, USA Freedom Corps
Ron Christie: Special Assistant to the President and Deputy Director, USAFC
Lindsey Kozberg: Special Assistant to the President for Policy/Public Affairs
Therese Lyons: Director of Public Liasion
Ian Rowe: Director of Management and Strategy
Kathleen Mynster: Deputy Press Secretary
Britt Grant: Special Assistant to the Director
Cornell Teague: Associate Director
Nique Fajors: Agency Liaison – Detailee
Ken Lanza: Agency Liaison - Detailee

Sensitive Compartmented Information Facilities (POC – Jeff Thompson)

QUESTION 59: Are any funds requested in any EOP office in the FY 2004 President's request for the construction of sensitive compartmented information facilities (SCIFs)?

RESPONSE: No funds are requested for SCIFs in FY 2004.

QUESTION 60: How many such facilities have been built within EOP offices since the terrorist attacks of September 11, 2001?

RESPONSE: Sixteen SCIFS have been built.

Data Center Relocation (POC – Carlos Solari)

QUESTION 61: What is the status of efforts to relocate the existing EOP data center, and what are plans for the coming year?

RESPONSE: The remote data center project is on track to achieve completion on budget and on schedule. The project began last summer by conducting a systems development lifecycle analysis to determine and recommend the location for the facility. From this analysis, EOP decided on building the data center at a hardened FEMA facility located in Maryland. The project is being co-managed with FEMA and was established with three phases: (1) infrastructure build-out of the hardened facility (power, air handlers, etc), (2) construction of the data center itself (cabling, raised flooring, etc), and (3) the transition of EOP data systems (telecommunications, servers, etc). The project is approximately halfway through completion for the first two phases with a scheduled opening (initial operational capability) date of September 2003. The transition phase is on schedule preparing the systems and will proceed to begin the transfer September 2003 – with a planned transition of 12 months for all systems.

REV_00170026

QUESTION 62: Are funds requested in the FY 2004 budget for this project?

RESPONSE: The following table displays the funds requested for this project in FY 2004.

Object Class	Object Class Title	Requested Funding (in $1000s)	Description
23.0	Space Rental Payments	$1,258	This estimate reflects $1,258 in rental for the offsite data center and will be the initial rent to be paid for the offsite data center. This cost was previously funded from emergency funds.
23.3	Communications, utilities, and miscellaneous charges	$4,420	$4,420 is for CIP networking/telecommunications projects at the offsite data center. These projects include funds for a tap off of telecommunications lines, two additional DS-3 data paths, two T-1 lines, and backup to support required communications bandwidth, and availability requirements.
25.2	Other Services	$2,700	This estimate reflects Priority System Disaster Recovery costs, Secondary Systems Disaster Recovery costs, Hardware and Software for the Disaster Recovery Site, and Hardware and Software upgrades to support the data center move.
26.0	Supplies and materials	$25	The estimate reflects $25 in additional supplies necessary for start-up operations at the offsite data center. This will include start up costs for office equipment used for the new office spaces.
Total FY2004 Data Center CIP Request		**$8,403**	

White House Communications Agency (POC – Eric Lanman)

QUESTION 63: Updating the information on page 133 of last year's hearing record, please provide estimated reimbursements for the White House Communications Agency for each of the fiscal years 2002 through 2004.

RESPONSE: Reimbursements made to the White House Communications Agency, for the non-telecommunications support they provide to the WHO, is broken down into two categories: military personnel and audiovisual support. The amount of planned reimbursement is initially set and agreed to via an inter-agency agreement (IAG). This IAG is then adjusted if needed as a result of actual execution. Reimbursement actuals and estimates follow:

	FY02 (actual)	FY03 (est.)	FY04 (est.)
Military Personnel	$4,376,085	$4,754,346	$4,858,942
Audiovisual Support	$4,543,643	$3,953,848	$2,743,915

REV_00170027

Total	$8,919,738	$8,708,194	$7,602,857

The FY04 estimate for audiovisual support shows a decrease from the FY 2003 estimate due to the move of audiovisual supplies and equipment from IAG reimbursed items to direct procurement through normal WHO channels.

Office of Administration (POC – Chuck Sigman)

QUESTION 64: Updating the information on page 134 of last year's hearing record, please provide a current organizational chart for the Office of Administration, including the associated numbers of FTEs requested for each office in the FY 2004 President's budget.

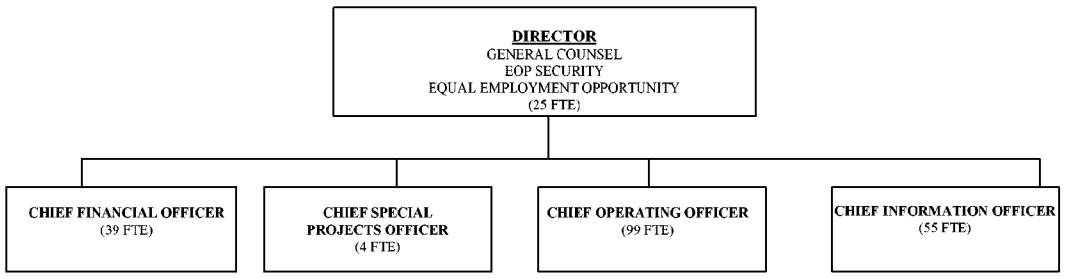
RESPONSE: The Office of Administration organization chart provided below reflects the current organizational structure. The FY 2004 FTE request remains constant with FY 2003 levels (222 FTE).

Executive Office of the President

Office of Administration

Organization Chart

FY 2004



Total 222 FTE

QUESTION 65: Last year, it was estimated that 4 FTE were needed to provide administrative services to the Office of Homeland Security. Since that office is substantially smaller due to establishment of the DHS, is there a lesser requirement for OA support? If so, is that reflected in FY 2004 staffing figures?

REV_00170028

RESPONSE: The FY 2003 budget proposal included the statement that there was "2 CFO staff to support Homeland Security" rather than the 4 FTE referred to in the question. These two Chief Financial Officer (CFO) staff were requested during FY 2003 because last year's OA budget request was a 49% increase over the previous year's spending – and security-related enhancements accounted for nearly all of that increase. The FY 2004 budget proposal included additional security-related enhancements beyond the FY 2003 level. Furthermore, even though the funding level of the Homeland Security Council is not as great as was originally envisioned, it is still a separate account for which the staff must perform the same number of administrative tasks in setting up and monitoring the status of the account. Therefore, the additional two FTE in the CFO office remain necessary to assist EOP offices in executing their new responsibilities.

QUESTION 66: Your salary and expenses request includes a transfer of $1,500 from Homeland Security for information technology services. What are these services?

RESPONSE: The part of OHS that remained with EOP (now called the Homeland Security Council) does not need the information technology contractor support that was previously planned. There is, however, an urgent need to expand the funding needed to support the White House website. The system security put in place to protect the whitehouse.gov website from cyber attack includes a web content distribution designed to make it highly resistant to denial of service type attacks. The cost of this service has increased dramatically, and is directly proportional to the volume of activity. The volume of activity, in turn, is a combination of the website hits and the level of cyber-attack activity directed against the site. The importance of the White House web site cannot be overstated. Along with the DHS website, the whitehouse.gov website is one of the primary government sites with a mission to communicate threat level information to the public.

Due to increased traffic on the White House website, the monthly cost of web caching service to maintain the website has risen from $30,000 per month to more than $75,000 per month. The estimated FY 2004 cost to maintain the website is $1,500,000. No funds were requested for this increased requirement in the FY 2004 budget. OA wishes to use the funds originally requested for the OHS information technology contract support for the White House website effort.

QUESTION 67: You are requesting additional funding for victim rescue units, which would be distributed to all White House staff (p. 82). What are these units, and what is the unit cost?

RESPONSE: Victim Rescue Units (VRUs) provide a 20-45 minute supply of pure oxygen to the wearer. This would be critical to the survival of EOP staff in the event of an incident which would require an evacuation to a safe area. VRUs were selected because they can be easily operated by a novice, while it takes a significant amount of training to teach staff to properly operate a gas mask. VRUs have a ten-year shelf life,

REV_00170029

which is significantly longer than gas mask filters. They provide protection from the entire threat spectrum from fire and smoke to chemical and biological agents. The VRUs are portable and small, and their expected cost is $375 each.

QUESTION 68: How is the requirement for additional safes and emergency evacuation chairs documented?

RESPONSE: The EOP Security Office conducted a review of security containers (safes) at the White House Complex and found that most of them were 1950's-vintage mechanical locks. During the aftermath of 9/11, it was deemed important that the White House adhere to the latest Federal regulations promulgated by the General Services Administration (FFL-2740A) for the protection of classified materials. Thus, the EOP recommends acquiring new security containers which are fully compliant with GSA standard which governs all changeable combination locks for the protection of national security information.

After 9/11, we reviewed all emergency evacuation procedures for the White House Complex. As we updated evacuation plans and reviewed procedures it was determined that evacuation chairs were needed in various buildings and on various floors to assist individuals who may need assistance or have special needs during an evacuation. This was an internal study performed by staff of the EOP security office.

Financial Audits (POC – Al Muhlbauer)

QUESTION 69: Last year, you advised us that EOP would plan to address the findings of the recent auditability assessment no later than FY 2003. What is the status of that effort today?

RESPONSE: EOP has initiated five major efforts to address the auditability assessment. They are:

- Development and publication of the EOP entity and reporting structure, which was completed and is and presented in the FY 2004 Budget Submission.
- Development and publication of the EOP financial management structure, which has been developed in draft and is currently being circulated for comment within EOP. Approval and issuance of the financial management structure is expected to occur within 30 days.
- Provide financial management policy and guidance to the EOP, and put in place consistent EOP-wide business practices and procedures. This effort is underway and is expected to be completed this fiscal year.
- Select a replacement for the current non-compliant financial accounting system. The Office of the Chief Financial Officer has reviewed various alternatives and has made a determination to be cross-serviced by another Federal agency that has implemented a compliant system, is currently receiving "clean" audit opinions, and has cross-servicing as an agency mission. Two such organizations were

REV_00170030

identified, a requirements document was provided, their proposals are currently being evaluated, and a decision is expected within the next two weeks.

- Accomplish a detailed review of the EOP general ledger and supporting documents for account balances, correct the data as necessary, and prepare the information for conversion to the replacement accounting system. A "clean-up" and conversion plan is in process and will be coordinated with the selected cross-servicing agency.

QUESTION 70: When will you be able to produce an auditable financial statement?

RESPONSE: The Chief Financial Officer completed an exercise that resulted in EOP-wide financial statements, that exercise identified various data problems that confirmed the auditability assessment. The "clean-up" exercise which is required prior to the conversion to the cross-servicing agency's system is addressing these problems and it is anticipated that the FY 2004 financial statements will be audited.

QUESTION 71: Last year, you stated that you had identified best practices for documented policies and procedures based upon one federal agency which has been recognized as one of the best in the Federal Government (p. 136). Which agency are you using as a model, and what are some examples of the specific best practices you intend to use?

RESPONSE: We were referring to the Department of Education and we conducted a pilot of their approach for developing policies and procedures within the Office of the CFO. While that pilot was helpful, we determined that three other tasks (identify reporting entity, develop financial management structure, and identifying our financial accounting system cross servicing provider) needed to be completed before our policies and procedures could be developed. Since those are near completion we anticipate again focusing on developing policies and procedures during the remainder of this fiscal year.

White House Office (POC – Eric Lanman)

QUESTION 72: Please provide a breakdown of the FY 2004 budget request for the White House Office by office or activity, as itemized on pages 137 and 138 of last year's hearing record. Please compare those amounts to corresponding amounts for FY 2002 (actual) and FY 2003 (estimated), similar in format to that shown on pages 246 and 247 of last year's hearing record.

RESPONSE: As noted last year, a single budget is prepared for the WHO. This single budget is prepared based on a number of criteria such as: prior spending patterns, estimated requirements, OMB provided inflation factors, and the priorities of the President. During a given execution year, personnel costs are allocated based upon that year's sometimes unique staffing decisions. The remainder of the budget is allocated

REV_00170031

initially to two WHO offices. The travel budget is allocated in its entirety to the Office of Advance and obligated against this office if the travel is done in support of the President. Any travel undertaken that is not in support of a Presidential trip is charged to the office of the staff member in question. The remaining portion of the non-personnel, non-travel budget, including expenses for rent, supplies, equipment and other services is considered overhead and in most years is charged as such to the White House Office of Management and Administration. In FY 2003 as part of a pilot program authorized by Congress, costs related to many of these "overhead" items were consolidated under the EOP Office of Administration. Obligations (actual and estimated) are provided by individual White House office for FY 2002 thru FY 2004 in the table below.

(dollars in thousands)			
as of 9 May 2003			
White House Office	**FY02 act.**	**FY03 est.**	**FY04 est.**
Office of Chief of Staff	1,239	1,474	1,507
Oval Office Ops	347	476	487
Offices of Scheduling and Advance	2,874	3,593	3,673
Office of Cabinet Affairs	665	615	629
Communications, Speechwriting & Media	2,611	2,486	2,541
Office of the Counsel to the President	1,775	1,966	2,010
Faith Based and Community Initiatives	612	536	548
Office of the First Lady	1,270	1,492	1,525
Office of Intergovernmental Affairs	568	538	550
Office of Legislative Affairs	2,242	2,118	2,165
Office of Management and Administration	26,867	19,620	30,651
Office of Presidential Personnel	1,950	2,425	2,479
Office of the Press Secretary	933	1,182	1,208
Office of the Staff Secretary	5,860	6,469	6,613
Office of Strategic Initiatives	3,952	4,325	4,421
USA Freedom Corps Office [1]	426	1,070	929
Total WHO Obligations [2]	54,191	50,385	61,937

Notes:

(1) $911K of the FY03 USA Freedom Corps estimate and $1,351K of the FY04 USA Freedom Corps estimate is included above within the Office of Management and Administration numbers as are similar funds for all other White House Offices.

(2) Because Congress has chosen to appropriate funds for the Office of Homeland Security (OHS)/ Homeland Security Council (HSC) separately from the WHO appropriation, numbers related to OHS/ HSC are not included above. FY03 and FY04 estimates for OHS/ HSC are addressed independently in response to other committee questions.

QUESTION 73: Please provide a corresponding breakdown for FTE staff years and OGE, similar in format to that shown on pages 152 through 154 of last year's hearing record.

REV_00170032

RESPONSE: As noted last year, the major units within the White House Office are simply a creature of administrative convenience. The number of employees within each unit and the work of each unit vary over time and as circumstances and needs change. With this kept in mind, a detailed breakout of FTEs and OGEs by unit, is provided below. This breakout is based on current estimates and planning and will differ during the actual execution year. In addition to these major units, certain individuals – including certain individuals who work with the National Security Council, the Domestic Policy Council, and the National Economic Council – are also White House Office employees, although the units within which they principally work are not themselves part of the White House Office. These individuals are included under the Other category.

	FY02	FY03	FY04
White House Office	actual	est.	est.
Office of Chief of Staff - FTE	12	12	12
Office of Chief of Staff - OGE (Agency Rep)	0	0	0
Oval Office Ops - FTE	4	5	5
Oval Office Ops - OGE	0	0	0
Advance - FTE	15	15	15
Advance - OGE	0	0	0
Office of Cabinet Affairs - FTE	7	6	6
Office of Cabinet Affairs - OGE (Assignee)	4	4	4
Communications, Speechwriting & Media - FTE	36	35	35
Communications, Speechwriting & Media – OGE (Detailee)	1	1	1
Communications, Speechwriting & Media – OGE (Assignee)	1	1	1
Office of the Counsel to the President - FTE	18	19	19
Office of the Counsel to the President - OGE (Detailee)	3	3	3
Faith Based and Community Initiatives - FTE	7	8	8
Faith Based and Community Initiatives – OGE (Detailee)	1	1	1
Faith Based and Community Initiatives – OGE (WH Fellow)	1	1	1
Office of the First Lady - FTE	20	19	19
Office of the First Lady - OGE	0	0	0
Office of Intergovernemental Affairs - FTE	8	9	9
Office of Intergovernemental Affairs - OGE	0	0	0
Office of Legislative Affairs - FTE	23	24	24
Office of Legislative Affairs - OGE (Detailee)	1	1	1
Office of Management & Administration - FTE	32	38	38
Office of Management & Administration - OGE (HP Serv)	14	14	14
Office of Political Affairs - FTE	11	11	11

REV_00170033

Office of Political Affairs - OGE	0	0	0
Office of Presidential Personnel - FTE	26	38	38
Office of Presidential Personnel - OGE (Detailee)	2	2	2
Office of Public Liaison - FTE	12	11	11
Office of Public Liaison - OGE (Assignee)	1	1	1
Office of the Press Secretary - FTE	12	12	12
Office of the Press Secretary - OGE	0	0	0
Scheduling - FTE	10	11	11
Scheduling - OGE (HP Serv)	2	2	2
Office of the Staff Secretary - FTE	98	98	98
Office of the Staff Secretary - OGE (Detailee)	2	2	2
Office of Strategic Initiatives - FTE	13	13	13
Office of Strategic Initiatives - OGE (Reim Detail)	1	1	1
USA Freedom Corps Office - FTE	8	6	6
USA Freedom Corps Office - OGE (Detailee)	5	5	5
USA Freedom Corps Office - OGE (WH Fellow)	1	1	1
Other - FTE	13	16	16
Other - OGE	4	4	4

White House Office obligations, FTE and OGE are summarized below.

	FY02 act.	FY03 est.	FY04 est.
Total WHO – FTE	385	406	406
Total WHO – OGE	44	44	44
FY03 Congressional Request – FTE	400	406	406

Notes: Because Congress has chosen to appropriate funds for the Office of Homeland Security (OHS)/ Homeland Security Council (HSC) separately from the WHO appropriation, numbers related to OHS/ HSC are not included above. FY03 and FY04 estimates for OHS/ HSC are addressed independently in response to other committee questions.

Historically Provided White House Office Positions (POC – Eric Lanman/Jon Laurich)

QUESTION 74: Updating the information on page 235 of last year's hearing record, please provide a listing of historically provided White House Office positions.

RESPONSE: The following chart shows the 18 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

REV_00170034

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 12, 2003*:

POSITION	OFFICE	HOME AGENCY
1. Assistant to the Presidential Diarist	Office Of Scheduling	NARA
2. Presidential Diarist	Office Of Scheduling	NARA
3. Administrative Assistant	PFIAB *	CIA
4. Administrative Services Specialist	PFIAB *	DOD
5. Deputy Executive Director	PFIAB *	CIA
6. Deputy Director of Photography For Visuals	Photo Office	DIA
7. Visual Information Specialist	Photo Office	DOD
8. Official Photographer	Photo Office	DOD
9. Official Photographer	Photo Office	DIA
10. Photographer	Photo Office	DOD
11. IT Systems Administrator	Photo Office	DIA
12. Photo Editor	Photo Office	DIA
13. President's Photographer	Photo Office	DIA
14. Photographic Specialist	Photo Office	DIA
15. Admin Officer	Photo Office	DIA
16. Staff Assistant	Visitors Office	Dept Of Interior
17. Executive Assistant	Visitors Office	Dept Of Interior
18. Staff Assistant	Visitors Office	Dept Of Interior

*PFIAB is the President's Foreign Intelligence Advisory Board

Other Services (POC – Chuck Sigman)

QUESTION 75: Similar to the information on page 236 et seq. of last year's hearing record, please provide a detailed description of each project, program, or initiative proposed to be funded in FY 2004 under object class 25.2 ("other services").

RESPONSE: Capital Investment Plan (CIP) - $5,220,000

The overall FY 2004 CIP requirement supports nine areas, as described below. The following "services" costs are included in the FY 2004 CIP request:

- **$690,000 for Customer Service and Desktop Systems.** This funding will be used to perform desktop software integration support.
- **$450,000 for New Technologies and Systems**. This includes "services" funding of $150,000 for server technology integration testing, and $300,000 for voice and data integration.

REV_00170035

- **$230,000 for EOP Systems and Support,** including "services" funding of $150,000 to develop external Local Area Networks, and $80,000 for production test lab development.
- **$700,000 for Information Security** for enterprise identity projects to allow the introduction of new authentication and identification mechanisms into the EOP IT infrastructure.
- **$650,000 for Web-Based Services** for web services application environment.
- **$2,500,000 for the Offsite Data Center** for services necessary to transition the offsite data center to full operational status
- **There are no services funds allocated to Campus Wiring, Networks and Data Communications Infrastructure, or Messaging and Scheduling.**

Salaries and Expenses - $2,150,000

There are three initiatives in the FY 2004 OA salaries/expense budget which comprise $2,150,000 in new programs under object class 25.2 ("other services"):

- **$1,800,000 for Technology and Systems Support Contract .** The Chief Information Officer (CIO) provides a wide range of computer services support to the EOP. These tasks are performed in large measure through an outsourcing contract that delivers IT services from PC deployment, to help desk and data center operations. During FY 2003, this IT systems support contract was competed with an increase in base labor rates due to the need for more advanced skills in IT disciplines such as XML and web services software development, Oracle database development and administration, and implementation of a new Enterprise Resources Planning (ERP) application covering finance, asset management and human resources. The CIO outsource contract is the vehicle used to maintain a 24 hour-a-day operation for mainframes, servers, help desk, local area networks, personal computers, applications; installation of end-user hardware and software; training; software application development and maintenance services. Altogether, this contract supports customers throughout the White House 18 acre complex, at remote and mobile locations, and at the planned Offsite Data Center. Key components driving the cost upward include: (1) higher labor rates for the DC area, which have risen since the previous IT 1997 facility contract; (2) the impact of the new data center operations in 2003 and thereafter; (3) an expanded EOP customer base which has more advanced, sophisticated, and security-conscious users.

- **$300,000 for Information Assurance Support.** The CIO has established the Information Assurance (IA) program to serve as a central location for information security serving all of EOP. FY 2002 and FY 2003 funds attended to the most critical concern with significant vulnerabilities in the perimeter and began the process of securing the internal systems. The IA program created real-time monitoring of perimeter network devices; it established the first formal documentation of IA program policy to bring the EOP in conformance with Federal guidelines and directives. However, the cyber threat facing EOP is

REV_00170036

dynamic because our systems are constantly assailed with a wide and unexpected range of attacks. The new state of defense must be active vigilance, to include the following components: (1) Perimeter Security, (2) Advanced Security Concepts, (3) Contingency Planning Support, (4) Network Monitor/Response Systems, and (5) Security Awareness, Assessments, and Education.

- **$50,000 for Security Enhancements: Videos.** There is a frequent and ongoing need for a security video – specific to the EOP and White House – which can be used in security briefings and new employee orientation meetings. This video will contain a brief overview of security responsibilities and procedures which must be understood by all personnel working in the EOP.

Salaries and Expenses (POC – Dilworth)

QUESTION 76: Please provide a detailed description of any expenses in the FY 2004 budget under "salaries and expenses" which are not directly related to personnel compensation and benefits.

RESPONSE: The following is an object class breakdown highlighting the major costs in each of the non pay related expense categories and a description of the unique aspects of some of these expenses found within the Executive Office of the President.

For reference, below are two tables that roll up all EOP component salaries and expenses funding information including the components not funded under the Subcommittee on Transportation, Treasury and Independent Agencies Appropriations.

REV_00170037

Executive Office of the President
Salaries and Expenses
Summary of all EOP Offices
Funding by Object Classification
($ in Thousands)

		FY 2002 Actual	FY 2003 Request	FY 2004 Estimate	FY 2004-2003 Difference	
Direct obligations:						
10.0	Personnel Compensation and Benefits	159,566	185,182	190,971	*5,789*	*3.1%*
21.0	Travel and transportation of persons	6,449	9,218	9,571	*353*	*3.8%*
21.0	Travel of the President	0	102	100	*-2*	*-2.0%*
22.0	Transportation of things	218	246	233	*-13*	*-5.3%*
23.1	Rental payments to GSA	22,406	29,127	32,228	*3,101*	*10.6%*
23.3	Communications, utilities and misc. services	9,362	10,212	15,504	*5,292*	*51.8%*
24.0	Printing and reproduction	2,956	3,678	4,536	*858*	*23.3%*
25.2	Other services	45,159	70,440	66,099	*-4,341*	*-6.2%*
26.0	Supplies and materials	5,947	5,128	5,642	*514*	*10.0%*
26.0	Official entertainment	65	112	112	*0*	*0.0%*
31.0	Equipment	8,054	13,239	14,182	*943*	*7.1%*
40.04	Nat'l Alliance for Model State Drug Use	1,000	0	0	0	0.0%
40.05	Policy Research	1,350	1,350	1,350	0	0.0%
92.0	Undistributed	0	1,000	1,000	0	0.0%
99.0	**Subtotal, Direct obligations**	**$262,532**	**$329,034**	**$341,528**	***$ 12,494***	***3.8%***

Summary of the EOP FY 2004 Salaries and Expenses Budget Request
by Object Class
(excludes ONDCP Federal Drug Control Programs)
($ in Thousands)

		Comp Pres.	WHO	OHS/ HSC	VP	VP RES	OA S&E	OA CIP	OPD	NSC	CEA	OMB	ONDCP	EXEC RES	WH R & R	OSTP	CEQ	USTR	UN NEEDS	EOP Total	Percent of Total
	Total Personnel Compensation and Benefits	$400	$33,256	$5,550	$2,541	$100	$19,483		$3,040	$7,513	$3,537	$59,263	$14,562	$10,302		$4,484	$2,476	$24,464		**$190,971**	55.9%
21.0	Travel and transportation of persons		1,989	588	598	2	208		88	531	102	417	794	12		280	62	3,900		**$9,571**	2.8%
21.0	Travel of the President		100																	**$100**	0.0%
22.0	Transportation of things		10	10	2	1	137		1	2	1	2	38			3	1	25		**$233**	0.1%
23.1	Rental payments to GSA		7,047	200	885		6,755	1,258	508	1,613	497	6,575	2,591			833	462	3,004		**$32,228**	9.4%
23.3	Communications, utilities and misc. charges		2,826	1,080	186	26	2,759	4,520	192	197	118	680	785	610		102	86	1,337		**$15,504**	4.5%
24.0	Printing and reproduction		1,559	50	11	10	577		37	40	97	801	499			25	46	784		**$4,536**	1.3%
25.2	Other services	50	12,597	528	60	16	24,891	5,220	46	362	35	8,190	5,509	653	4,225	973	66	2,678		**$66,099**	19.4%
26.0	Supplies and materials		1,288	175	66	42	1,220	125	92	175	64	702	282	856		80	29	446		**$5,642**	1.7%
26.0	Official entertainment		19			90						3								**$112**	0.0%
31.0	Equipment		1,246	150	112	44	556	9,455	105	118	51	784	880	68		247	10	356		**$14,182**	4.2%
40.05	Policy Research *(ONDCP)*												1,350							**$1,350**	0.4%
92.0	Undistributed *(Unanticipated Needs)*																		1,000	**$1,000**	0.3%
99.0	**Subtotal, Direct obligations**	**$450**	**$61,937**	**$8,331**	**$4,461**	**$331**	**$56,586**	**$20,578**	**$4,109**	**$10,551**	**$4,502**	**$77,417**	**$27,290**	**$12,501**	**$4,225**	**$7,027**	**$3,238**	**$36,994**	**$1,000**	**$341,528**	**100.0%**
	Agency percentages of EOP total	*0.1%*	*18.1%*	*2.4%*	*1.3%*	*0.1%*	*16.6%*	*6.0%*	*1.2%*	*3.1%*	*1.3%*	*22.7%*	*8.0%*	*3.7%*	*1.2%*	*2.1%*	*0.9%*	*10.8%*	*0.3%*		

Travel and transportation of persons – The largest portion of this funding (41%) is for international staff travel in support of trade negotiations as coordinated by the U.S. Trade Representative (USTR). The next largest portion of this funding (21%) is for White House Office (WHO) staff travel including "Presidential travel", which is the term used to delineate those trips where staff members actually travel with or ahead of the President. Those traveling ahead, referred to as advance staff, are responsible for producing Presidential events, as well as establishing an on-site infrastructure similar to

REV_00170038

the support that is provided within the White House. In addition, EOP travel costs related to Presidential travel is tracked by the principals (President, First Lady, Vice President and Mrs. Cheney) and by location. The remaining EOP travel funds are used for staff travel in support of the various EOP offices and their missions.

Transportation of things – The EOP spends funds in this area for the costs of express delivery/shipping of items such as Freedom of Information Act documents and personnel documents for accountability, as well as other miscellaneous items. Vehicle fleet costs are also included in this category.

Rental payments to GSA – Funds paid to GSA are used to provide the EOP offices with space in the government-owned and leased buildings that comprise the White House complex. Although the General Services Administration manages the EOP buildings, including the East and West Wings of the White House, they cannot rent them out to other Federal departments or agencies.

Communications, utilities and miscellaneous services – The bulk of these costs are used for the EOP switchboard. Funding in this category is also used for the networking and telecommunications projects of the Offsite Data Center. These projects include funds for the primary and backup telecommunications lines connecting the remote data center with the EOP office campus, two additional DS-3 data paths, two T-1 lines, and backup to support required communications bandwidth, and availability requirements.

Printing and reproduction – The largest expense in this area is for Presidential stationery and greetings. Also included are the costs for printing in the Code of Federal Regulation and the Federal Register as well as the costs to print the President's Budget, the Economic Report of the President, the National Drug Control Strategy, free trade agreement documents and other publications, studies and reports.

Other services –The primary cost driver in this category is the information technology support contract that provides IT sustainment services, system development services, and system engineering services for the entire EOP. IT support for the EOP as supported by this contract is largely an outsourced activity that includes a broad range of services such as the Help Desk, network and data center operations.

Supplies and materials – Most of the EOP expenses in this category are for general office and IT supplies, as well as the costs for subscriptions to newspapers and magazines.

Equipment – The largest portion of the EOP equipment costs is for IT desktop replacement program and for investments in software and hardware infrastructure to support the EOP IT projects.

Unanticipated Needs – Expenditures from this fund may be authorized only by the President. The Director of OMB provides the necessary controls to ensure that only unforeseen priorities are financed and that funding from other sources is not available.

REV_00170039

ONDCP Policy Research – This is an ONDCP expense and funding is used to support the continuing policy research to better inform drug policy.

Security Guard Services for OSTP (POC – Chuck Sigman)

QUESTION 77: In FY 2003, you budgeted $1,798,000 for security guard services for the Office of Science and Technology Policy. Are similar funds requested in FY 2004? If so, how much?

RESPONSE: The FY 2004 OA budget proposes that the cost of the security guard service (estimated at $702,000) for OSTP be transferred to the OSTP appropriation. Thus, the proposed FY04 OA budget would contain the balance of the funds (approximately $1.1 million).

Since the FY 2003 budget was proposed, there have been additional reviews of the physical security of the White House complex by the US Secret Service, the Federal Protective Service, and the OA Security Office. As a result, the OA Security Office has been assigned the responsibility of correcting deficiencies in EOP physical security. There are some locations which do not currently have Secret Service protection (such as the Jackson Place White House Conference Center). Another location which does not have firm long-term security plans is the office at 1800 G Street. Thus, the Office of Administration has ongoing needs for the $1.1 million which remains in the OA budget. During FY03, these funds are being used for consolidation of information technology maintenance ($200,000), centralization of database services ($200,000), and common building service costs ($400,000). The remaining $300,000 of these savings will be used for an FY03 OA personnel shortfall.

QUESTION 78: Why aren't such funds in the OSTP budget?

RESPONSE: The estimated FY04 cost of 24-hour security guard services for OSTP is included in the FY04 OSTP budget request. This estimate is $702,000 for a full year.

Political Appointees (POC – Jon Laurich)

QUESTION 79: Please update the information on political appointees within EOP as shown on page 268 of last year's hearing record, using the same criteria and assumptions as last year.

RESPONSE: The term "political appointees" is somewhat of a misnomer because it narrowly defines the type of employees authorized under Chapter 2 of Title 3 of the U.S. Code, for the White House Office, the Executive Residence, the Official Residence of the Vice President and the Office of Administration. These offices can hire personnel in various excepted service positions that are not subject to the rules of regular government employees. Many of these excepted service positions fall under the category of serving

REV_00170040

at the pleasure of the President while others do not. Using the term in the broadest possible sense, including all employees hired as Presidential Appointees, Administratively Determined, Non Career SES, or Schedule C's, the Executive Office of the President has the following number of political appointees directly hired within the EOP and serving in the EOP on detailed assignments from other agencies as of May 5, 2003.

	FY 2003 "POLITICAL APPOINTEES" *as of May 5, 2003*					
Program	**Admin. Determ.***	**Schedule C**	**Non career SES**	**Presidential Appointees**	**OGE** Political Appointees**	**TOTAL**
White House Office	438				8	**446**
Office of Homeland Security/Homeland Security Council	20				9	**29**
Special Assistance to the President	24				1	**25**
Official Residence of the Vice President		1				**1**
Office of Administration	6					**6**
Office of Policy Development	30				2	**32**
National Security Council					3	**3**
Council of Economic Advisers	16	3		1		**20**
Office of Management and Budget	2	21	11	5		**39**
Office of National Drug Control Policy		10	2	5		**17**
Executive Residence						
Office of Science and Technology Policy		3	2	3	1	**9**
Council on Environmental Quality	10	2		1	2	**15**
U.S Trade Representative	19	5	3	4		**31**
TOTAL	**565**	**45**	**18**	**19**	**26**	**673**

* Historically, Administratively Determined appointees within some agencies have served from one administration to another. Nevertheless, they serve at the pleasure of the entity head and may be terminated without cause.

** OGE = Other Government Employees

Detailees (POC – Jon Laurich)

QUESTION 80: Please update the information on reimbursable and non-reimbursable detailees with EOP as shown on pages 268 and 269 of last year's hearing record.

RESPONSE: There are currently 251 detailees staffed within the Executive Office of the President. There are 41 reimbursable detailees and 210 non-reimbursable detailees as shown in the chart below, as of May 5, 2003:

REV_00170041

Program	FY 2003 Estimates		
	Reimbursable Detailees	Non-Reimbursable Detailees	TOTAL
White House Office	5	11	**16**
Office of Homeland Security	23	3	**26**
Special Assistance to the President		1	**1**
Official Residence of the Vice President			
Office of Administration			
Office of Policy Development	1	1	**2**
National Security Council	5	103	**108**
Council of Economic Advisers	2	2	**4**
Office of Management and Budget	3	54	**57**
Office of National Drug Control Policy		4	**4**
Executive Residence			
Office of Science and Technology Policy	2	3	**5**
Council on Environmental Quality		3	**3**
U.S Trade Representative		25	**25**
TOTAL	41	210	251

Office of the Vice President (POC – Kristen Savercool)

QUESTION 81: You are requesting an additional $70,000 (+1.7 percent) for the Vice President's travel, due to increased travel to undisclosed locations after the terrorist attacks of September 11, 2001. Weren't these type of increases baselined in FY 2002 and FY 2003, and if so, why are further increases needed in FY 2004?

RESPONSE: The FY 2003 budget was submitted in February 2002, prior to it becoming evident that the Vice President's travel requirements had increased more than originally estimated. Following the events of 9-11, the Vice President has been required to be outside the Washington, DC vicinity for significant periods of time. This travel has been 100 percent official, and operational in nature (i.e. the Vice President performs his regular duties in an off-site location). This travel has required the accompaniment of staff, who also perform operational duties.

Because the budget impact of these additional travel requirements was not fully realized until after the FY 2003 budget request was submitted, they were not included in the FY 2003 baseline. Continued security concerns related to the Vice President and the ensuing impact on the Vice President's travel costs necessitate the increase to the FY 2004 OVP travel budget. This increase will allow the Vice President the flexibility needed to adequately execute his official travel requirements.

Unanticipated Needs (POC – Eric Lanman)

QUESTION 82: Please provide a listing of the uses of Unanticipated Needs funds in FY 2002.

REV_00170042

RESPONSE: $757,000 of the $1,000,000 appropriated to the Unanticipated Needs account in FY 2002 was provided to OMB for Office of Homeland Security Transition Planning Office. The remaining appropriation was not utilized.

REV_00170043

Questions for the Record
Ranking Member, John Olver
Hearing on the Executive Office of the President
April 30, 2003

Account Consolidation and Transfer Proposals (POC – Al Muhlbauer/Jim Daniel)

When we centralized the funds within the Office of Administration, Congress intended that each agency would continue to receive a similar share of support and assistance under the consolidation.

QUESTION 83: Are any agencies going to receive diminished services or resources under the consolidation?

RESPONSE: No, currently the funding in the pilot has been allocated to be consistent with the FY 03 budget request. The service levels will be equal to or greater than pre-pilot levels; however, we are hopeful that the cost to procure the same level of service will decrease. Also, the Office of Administration is preparing service standards. For example, if the service standard for PC's would be one PC per desktop that is less than four years old and if one EOP component is currently at that standard for 95 % of its employees and another is currently at that standard for 50% of its employees, based on need, the second component would get a larger share of the services to bring it closer to the EOP standard. This allows EOP to consistently upgrade software and services across the entire organization as the total infrastructure permits.

QUESTION 84: Are any agencies to receive extra services above and beyond the amount of funds they contributed as part of the consolidation?

RESPONSE: Yes, based on need and to bring organizations that are lagging behind the approved standards up to a consistent standard, some organizations may receive extra services above and beyond the amount of funds they contributed to the consolidation. We anticipate some of those services will be funded from savings in the program.

QUESTION 85: Under the procurement consolidation pilot approved in the FY03 Omnibus, are IT or database services for any EOP agency going to be paid for by funds contributed by other EOP agencies?

RESPONSE: Yes, in addition to generating procurement savings and efficiencies, a major goal of the consolidation pilot is to bring all of the EOP components up to a standard of service which will allow us to implement technology evenly across the organization and to realize efficiencies and benefits from a consistent and even

REV_00170044

infrastructure. In reaching this goal, the funds may be applied in a manner which is not in the same ratio in which they were contributed.

QUESTION 86: In general, are the funds appropriated for this centralized procurement program going to be used to supplement the appropriation made to individual agencies?

RESPONSE: Yes, the individual entities will be the recipients of the services funded by the centralized procurement program without reimbursement in accordance with the Congressional appropriation provided to OA.

QUESTION 87: If so, which agencies will benefit and which agencies will receive less than their share of contributions?

RESPONSE: OA is currently establishing the allocation standards for the commodities included in the centralized procurement program. OA is also requesting that the entities assist us in developing a baseline against which we will measure the allocation standards. That will determine which, if any, entities will benefit and which entities will receive less than their share of contributions.

QUESTION 88: You recently submitted a very cursory report on the procurement pilot. When will you provide us with specific details on the progress of the pilot program?

RESPONSE: As mentioned above, progress is being made on the plan to implement the Common Services Program. We expect to be able to brief the Subcommittee in greater detail this summer.

Your budget also proposes a change that would permit EOP agencies to transfer up to 10% into or out of any agency's budget. Coupled with your account consolidation proposal, that would allow you to transfer in up to $18 million more into (or out of) the White House's budget.

QUESTION 89: Under the procurement consolidation program that we approved in the FY03 bill, don't you have a similar type of flexibility already? What other flexibility is needed?

RESPONSE: The flexibility of the procurement consolidation program is directed to certain defined common commodities. The 10% transfer authority provides flexibility for unexpected requirements and to address needs that may be outside the program.

QUESTION 90: What protection is there for smaller EOP agencies under this proposal? Don't they stand to lose critical resources if the White House or Vice President's Office decide to take 10% of their resources?

REV_00170045

RESPONSE: It is more likely that the smaller entities will benefit from the proposal, because their appropriations are small they are less likely to be able to adjust to unforeseen circumstances, this program will allow the EOP to address those circumstances without requesting supplemental funding. Also, as a practical matter, the issue of "protection" is immaterial as all the entities (setting the Office of the Vice President aside) work directly for the President.

Office of Homeland Security Questions (POC – Paul Ehrhardt)

We recently received a reprogramming request to transfer $2m of the funds provided to the Office of Homeland Security to the Remote Delivery Site cleanup efforts. The source of these funds would come from the Office of Homeland Security.

The Office of Homeland Security has gone from an initial $25m stated need when the initial FY03 bills passed the House and Senate to $11m when the FY03 Omnibus was passed to what will be $9m if the reprogramming is approved.

QUESTION 91: What exactly does the Office of Homeland Security do now that the Department of Homeland Security is in place?

RESPONSE: HSC advises and assists the President on homeland security matters and coordinates policy development and the interagency process regarding Administration policy on homeland security, including the development and coordination of implementation of the *National Strategy for Homeland Security* to secure the United States from terrorist threats and attacks.

QUESTION 92: Does OHS still have a presence at Nebraska Avenue?

RESPONSE: No.

QUESTION 93: Does the Office of Administration provide any support to agencies at Nebraska Avenue? If so, please describe the specific types of support provided. Is this support on a reimbursable basis?

RESPONSE: Since the transfer of the Nebraska Avenue facility to the Department of Homeland Security (DHS) on January 1, 2003, OA has not provided any support to entities at the Nebraska Avenue Complex (NAC). Pursuant to a Determination by the OMB Director, funds in the amount of $3,746,000 were transferred from the OHS Emergency Fund within OA to the Department of Homeland Security in March 2003 to support NAC activities.

QUESTION 94: How many personnel and detailees now work for OHS?

REV_00170046

RESPONSE: The Homeland Security Council currently consists of 66 staff positions which can be filled by either Direct Hire FTE or Other Government Employee (detailee and assignee) personnel. HSC is requesting resources to support up to 40 Direct Hire FTE and 26 OGE FTE on its staff for FY 2004. See table below for a comparison with fiscal years 2003 and 2002.

Office of Homeland Security / Homeland Security Council Personnel

	FY 2002 Actual	FY 2003 Estimate	FY 2004 Request
Direct Hire FTE	31	40	40
Other Government Employee (EOY headcount)	89	26	26
Total Personnel	120	66	66

QUESTION 95: What is the actual operational budget need for OHS in FY03?

RESPONSE: The Homeland Security Council budget requirement from the FY 2003 appropriation is estimated to be approximately $4.32 million. Please note that the FY 2003 estimate covers only costs incurred after the enactment of the FY 2003 appropriation on February 20, 2003. Unlike other EOP entities which operated under continuing resolutions between October 1, 2003 and February 20, 2003, the Office of Homeland Security was not permitted to utilize the CR funding mechanism but instead continued to charge FY 2003 expenses against the no-year emergency funding (provided in FY2002) until the FY 2003 appropriation was enacted. Therefore the FY 2003 estimate reflects only seven months of activity, whereas the FY 2004 Request needs to cover HSC expenses for the full 12 months next fiscal year.

QUESTION 96: For the record, please provide us a breakout by object class of the Office of Homeland Security's FY03 remaining budget.

RESPONSE: The breakout below reflects HSC's budget for the last seven months of FY 2003, from the enactment of the FY 2003 Appropriation on February 20, 2003 through September 30, 2003.

REV_00170047

(Dollars in Thousands)

Object Class	FY 2003 est.
Personnel	$2,800
Travel	$60
Transportation of Things	$24
Communications, Utilities, and Miscelaneous	$50
Printing and Reproduction	$69
Other Services	$1,267
Equipment	$50
Total,	$4,320

QUESTION 97: Any likelihood that these estimates will be revised downward again?

RESPONSE: The FY 2003 estimate provided above reflects the best assessment of HSC requirements from the OHS FY 2003 appropriation, and actual obligations against this appropriation will likely be close to this current estimate.

QUESTION 98: I understand that the President named General Gordon as his new Homeland Security Adviser. Does he support the latest $2 million cut to his office's resources?

RESPONSE: To begin with we should note that, General Gordon has not yet reported to Homeland Security Council. Secondly, in any event, the EOP budget proposal provides the necessary resources for HSC to advise and assist the President. Third, we should also note that the reference to a $2 million cut is incorrect. In fact, the resources of the Homeland Security Council have not been cut by $2 million. The FY 2003 appropriations for the Homeland Security Council included $2 million for decontamination of the Remote Delivery Site (RDS) as agreed to by the Congress and the Administration. Subsequent to the passage of the FY 2003 appropriations, that $2 million was allocated to decontamination of the RDS per agreement. This planned use of that appropriation is not a cut to HSC resources.

QUESTION 99: Have you validated the FY04 request recently to ensure it is an accurate figure?

RESPONSE: Yes, HSC reevaluated its FY 2004 requirements prior to submitting the final FY 2004 Request. Given the creation of the Department of Homeland Security, HSC's FY 2004 budget requirements are estimated at $8,331,000; as requested.

REV_00170048

Budget Questions:

After the FY03 enacted levels are adjusted to reflect the transfer of $9 million to the Office of Homeland Security, the Executive Office of the President's FY04 budget request reflects an 8% increase over FY03 levels. Your agency, the Office of Administration requests a 10% increase between FY03 and FY04.

When the budget was introduced, Mitch Daniels said that the overall growth of Federal programs would be pegged to the expected 4% growth in inflation. The administration also said the President wanted to "match government's growth with the growth of American family income."

QUESTION 100: When the rest of the government is forced to live with 4% growth, how can you justify an almost 10% increase in your office and an overall Executive Office of the President increase of 8%? **(POC – Chuck Sigman)**

RESPONSE: The Office of Administration's 10% budget increase amounts to approximately $7 million. This increase is necessitated by additional costs stemming from the enhanced security activities in the post-September 11 environment:

- The Capital Investment Plan has a net increase of $3.8 million required for the relocation of the EOP data center to an offsite location. The offsite data center has been determined to be a critical project in any contingency plan, and the communications requirements for the data center will be significantly higher in the new facility.
- $2.5 million is needed for the new information technology contract, driven by the information technology service labor increases, the relocation of the data center as well as by the increased security concerns for EOP systems.
- $0.5 million is required for the EOP information assurance program.
- $0.2 million for physical security improvements to the White House complex in providing resources for security education and evacuation resources.

The 8% growth in the overall EOP budget amounts to approximately $24.6 million. Primary components of this increase are mission-specific needs proposed by the different EOP entities:

- $6.3 million in OA programs described in the prior paragraph ($3.8 million for the capital investment plan, $2.5 million for the information technology contract, $0.5 million for information assurance, and $0.2 million for physical security).
- $2.5 million in EOP-wide space rental increases to conform with GSA's market-based rental rates.
- $3.0 million for USTR's additional staff for intensified trade negotiations.

REV_00170049

- $3.0 million in the Executive Residence's multiyear East and West Wing restoration projects.
- $2.7 million for OMB personnel needs.
- $1.5 million for OMB's budget system updates.
- $0.7 million for OMB's E-Government staff and the Office of Information Technology.
- $0.8 million for additional staff for ONDCP.
- $0.6 million in the NSC's funding for reimbursable detailees and President's Foreign Intelligence Advisory Board's request for additional staff.
- $0.5 million for OSTP's continuity of operations plan.

The White House Office's increase of 3.6% looks smaller because of a realignment of $1.85m in rent to the Office of Administration's account. Without the realignment, the White House Office's increase would be around 6.6%.

QUESTION 101: What is the justification for this realignment? **(POC – Eric Lanman)**

RESPONSE: The realignment of $1.85M in rent was made to the WHO from the Office of Administration. Without this and other realignments made as part of the FY 2004 WHO budget request, The White House Office's increase would have only been 1.7 percent.

QUESTION 102: How could the White House have been paying the bill for space that wasn't theirs? **(POC – Eric Lanman)**

RESPONSE: The WHO has not been paying rent on the 1800 G Street office spaces that this realignment involves. These office spaces were necessitated by the movement of certain White House staff offices following the events of September 11. In FY 2003 funds for these spaces were budgeted by the Office of Administration and are being paid for as part of a pilot program authorized by law.

QUESTION 103: Which EOP agencies occupied this space on which the White House Office has been paying rent? **(POC – Eric Lanman)**

RESPONSE: As indicated in the previous answers, White House staff have been occupying this space. Rent is being paid by the Office of Administration as part of the pilot program authorized by law.

QUESTION 104: Are these costs that had historically been paid by the White House Office? **(POC – Eric Lanman)**

REV_00170050

RESPONSE: No. The 1800 G Street Office spaces were not occupied by EOP staff until after the events of 9-11.

QUESTION 105: If so, why make the change this year? **(POC – Eric Lanman)**

RESPONSE: The realignment of these costs under the WHO is done to reflect the costs under the office whose staff occupies them.

Travel

The White House Office's request includes a decrease of $400,000 in Presidential Travel.

QUESTION 106: Was the FY03 estimate too high? **(POC – Eric Lanman)**

RESPONSE: As part of the FY 2003 WHO budget submission, $600,000 was requested to support the travel requirements of the new USA Freedom Corps Office. Actual experience subsequently determined this amount to be in excess of need. As a result, the FY 2003 WHO travel line was reduced $329,647 by the statutory recission, and the FY 2004 WHO budget submission requested $400,000 less in the travel line than the original FY 2003 estimate.

QUESTION 107: If so, how do you intend to use the surplus funds? **(POC – Eric Lanman)**

RESPONSE: The $400,000 reduction to the FY 2004 WHO budget request for travel requirements does not result in surplus funds. It instead results in an overall reduction to the FY 2004 WHO budget estimate.

QUESTION 108: Are you planning less travel in FY04 or will more of the travel just be paid for by political entities? **(POC – Eric Lanman)**

RESPONSE: Except as noted above, the amount of official travel conducted by the White House staff is expected to remain consistent with the FY 2003 estimate.

QUESTION 109: Please provide a list of all White House Office, Office of Homeland Security and Office of Vice President official staff travel for FY02 and FY03 (to date). Include a brief description of the official purpose of the trip. For FY04 estimates, provide estimated number of trips and trip purpose. **(POC – Rothley Howard)**

RESPONSE: The following tables provide the FY 2002 and FY 2003 (to date) staff travel information, where a staff member received government reimbursement, for the

REV_00170051

White House Office and the Office of the Vice President. No FY 2004 estimates are available at this time.

White House Office FY 2002 Staff Travel		
PURPOSE	**DESTINATION**	**DATE**
Meetings	Dallas, TX	03/15/01
Official	Cincinnati, OH	10/01/01
Official	Sacramento, CA	10/11/01
Speaking Engagement	Atlantic City, NJ	10/15/01
Meetings	Los Angeles, CA	10/17/01
Meetings	Reykjavik	10/20/01
Official	Manhattan, NY	10/25/01
Speaking Engagement	Austin, TX	10/26/01
Speaking Engagement	Oakland, CA	10/28/01
Official	Manhattan, NY	10/30/01
Official	Manhattan, NY	10/30/01
Accompany a Cabinet Head	Boston, MA	10/31/01
Official	Lynchburg, VA	10/31/01
Speaking Engagement	Silver Spring, MD	11/01/01
Meetings	Los Angeles, CA	11/02/01
Official	Crawford, TX/Austin, TX	11/07/01
Speaking Engagement	Atlanta, GA	11/09/01
Meetings	Los Angeles, CA	11/10/01
Official	Manhattan, NY	11/10/01
Official	Lynchburg, VA	11/14/01
Official	Manhattan, NY	11/15/01
Official	Waco, TX	11/16/01
Official	Waco, TX	11/16/01
Official	Salt Lake City, UT	11/27/01
Official	Houston, TX/Sacramento, CA/Santa Fe, NM	11/28/01
Official	Manhattan, NY	11/29/01
Official	Manhattan, NY	11/29/01
Meetings	Virginia Beach, VA	12/04/01
Meetings	Atlanta, GA	12/05/01
Official	Lynchburg, VA	12/05/01
Meetings	Philadelphia, PA	12/05/01

REV_00170052

Speaking Engagement	Atlanta, GA	12/06/01
Speaking Engagement	Ft. Wayne, IN	12/06/01
Official	Lynchburg, VA	12/12/01
Meetings	Lynchburg, VA	12/16/01
Official	Sacramento, CA	12/18/01
Official	Camp David, MD	12/21/01
Official	Lynchburg, VA	12/24/01
Official	Waco, TX	12/26/01
Official	Minneapolis, MN	12/27/01
Official	Camp David, MD	12/28/01
Speaking Engagement	Austin, TX	01/03/02
Official	Hamilton, OH	01/06/02
Meetings	Lynchburg, VA	01/07/02
Official	Salt Lake City, UT	01/09/02
Speaking Engagement	Las Vegas, NV	01/10/02
Official	Anchorage, AK	01/14/02
Meetings	Lynchburg, VA	01/14/02
Official	Mamphis, TN	01/14/02
Official	New Orleans, LA	01/14/02
Speaking Engagement	Sacramento, CA	01/17/02
Speaking Engagement	Dallas, TX	01/18/02
Official	Portland, ME	01/21/02
Official	Atlanta, GA	01/25/02
Meetings	Manhattan, NY	01/25/02
Official	Winston-Salem. NC	01/25/02
Meetings	Lynchburg, VA	01/28/02
Meetings	Salt Lake City, UT	01/28/02
Speaking Engagement	Chicago, IL	01/30/02
Official	Lynchburg, VA	01/30/02
Official	Salt Lake City, UT	02/01/02
Official	Salt Lake City, UT	02/01/02
Official	Denver, C0	02/04/02
Official	Jackson, WY	02/04/02
Meetings	Lynchburg, VA	02/04/02
Official	Milwaukee, WI	02/06/02
Meetings	Albuquerque, NM	02/07/02
Official	Denver, CO/Jackson, WY/ Idaho Falls, ID	02/07/02
Meetings	New Haven, CT	02/07/02
Official	Waco, TX	02/08/02

Official	Anchorage, AK	02/11/02
Official	Lynchburg, VA	02/11/02
Speaking Engagement	Denver, CO	02/12/02
Official	Lynchburg, VA	02/13/02
Speaking Engagement	Naples, FL	02/14/02
Speaking Engagement	Charlottesville, VA	02/16/02
Speaking Engagement	Dallas, TX	02/18/02
Official	Jackson, WY/Los Angeles, CA	02/18/02
Meetings	Kansas City, KS	02/18/02
Accompany a USG Delegation	Rome, ITA	02/18/02
Meetings	Key West, FL	02/21/02
Meetings	Las Vegas, NV	02/21/02
Meetings	Lynchburg, VA	02/27/02
Speaking Engagement	Los Angeles, CA	02/28/02
Official	Camp David, MD	03/01/02
Speaking Engagement	Hartford, CT	03/01/02
Speaking Engagement	Jackson, MS	03/01/02
Meetings	Lynchburg, VA	03/04/02
Official	Camp David, MD	03/05/02
Official	Lynchburg, VA	03/06/02
Speaking Engagement	Palm Springs, CA	03/07/02
Meetings	Lynchburg, VA	03/08/02
Official	Norfolk, VA	03/08/02
Official	Richmond, VA	03/08/02
Official	Richmond, VA	03/08/02
Official	College Station, TX	03/09/02
Official	Fayetteville, NC	03/11/02
Official	Lynchburg, VA	03/11/02
Official	St. Louis, MO	03/13/02
Meetings	Washington DC	03/15/02
Official	El Paso, TX	03/16/02
Official	Atlanta, GA	03/22/02
Meetings	Cedar Rapids, IA	03/24/02
Official	Austin, TX/Waco, TX	03/25/02
Official	Dallas, TX	03/25/02
Official	Lynchburg, VA	03/25/02

REV_00170054

Official	Atlanta, GA/Waco, TX/Greenville, SC	03/27/02
Meetings	Lynchburg, VA	03/27/02
Official	Philadelphia, Pa	03/27/02
Official	Waco, TX	03/27/02
Official	Waco, TX	04/04/02
Official	Waco, TX	04/04/02
Official	Waco, TX	04/04/02
Meetings	Boston, MA	04/05/02
Speaking Engagement	Orlando, FL/Tampa, FL	04/06/02
Meetings	Knoxville, TN	04/07/02
Meetings	Denver. CO/Las Vegas, NV	04/11/02
Official	Camp David, MD	04/12/02
Official	Camp David, MD	04/12/02
Meetings	Boston, MA	04/15/02
Meetings	Lynchburg, VA	04/15/02
Meetings	Manhattan, NY	04/15/02
Speaking Engagement	Oakland, CA/Seattle, WA	04/16/02
Official	Lynchburg, VA	04/17/02
Official	Lynchburg, VA	04/17/02
Official	Camp David, MD	04/19/02
Official	Austin, TX/Waco, TX	04/23/02
Official	Lynchburg, VA	04/23/02
Official	Los Angeles, CA/Waco, TX	04/24/02
Official	Los Angeles, CA/Waco, TX	04/24/02
Speaking Engagement	Jackson, MS	04/26/02
Meetings	Philadelphia, PA	04/26/02
Meetings	San Marcos, TX	04/27/02
Official	Lynchburg, VA	04/29/02
Meetings	San Jose, CA	04/29/02
Meetings	Tampa, FL	04/30/02
Official	Camp David, MD	05/03/02
Speaking Engagement	Miami, FL	05/07/02
Official	Lynchburg, VA	05/08/02
Official	Camp David, MD	05/10/02
Speaking Engagement	College Station, TX	05/10/02
Official	Houston, TX	05/10/02
Official	Lynchburg, VA	05/13/02
Speaking Engagement	New Orleans, LA	05/13/02

Official	Lynchburg, VA	05/15/02
Official	Camp David, MD	05/17/02
Meetings	Manhattan, NY/Phoenix, AZ	05/21/02
Speaking Engagement	Atlanta, GA	05/23/02
Speaking Engagement	Birmingham, AL	05/25/02
Official	West Point, NY	05/26/02
Official	Little Rock, AR	05/27/02
Official	Lynchburg, VA	05/27/02
Official	Little Rock, AR	05/29/02
Speaking Engagement	Pittsburg, PA	05/29/02
Official	Philadelphia, Pa	05/30/02
Speaking Engagement	Albuquerque, NM/Las Vegas, NV/Los Angeles, CA	05/31/02
Official	Camp David, MD	05/31/02
Invitational	Washington, DC	05/31/02
Official	Des Moines, IA	06/02/02
Official	Des Moines, IA	06/02/02
Meetings	Manhattan, NY	06/02/02
Meetings	Lynchburg, VA	06/03/02
Official	Lynchburg, VA	06/03/02
Official	Kansas City, KS	06/06/02
Official	Camp David, MD	06/07/02
Official	El Paso, TX	06/07/02
Speaking Engagement	Ft. Meyers, FL	06/07/02
Speaking Engagement	Salt Lake City, UT	06/10/02
Official	Atlanta, GA	06/11/02
Official	Crawford, TX	06/11/02
Meetings	Los Angeles, CA/Modesto, CA	06/12/02
Official	Lynchburg, VA	06/12/02
Official	Waco, TX	06/12/02
Meetings	New Orleans, LA	06/13/02
Official	Minneapolis, MN	06/14/02
Official	Waco, TX	06/14/02
Official	Waco, TX	06/14/02
Official	Lynchburg, VA	06/17/02
Meetings	Madison. WI	06/17/02
Speaking Engagement	Pittsburg, PA	06/19/02
Speaking Engagement	Brooklyn, NY	06/21/02

REV_00170056

Speaking Engagement	Charlotte, NC	06/21/02
Meetings	Phoenix, AZ/Scottsdale, AZ	06/21/02
Official	Providence, RI	06/22/02
Official	Lynchburg, VA	06/24/02
Meetings	San Francisco, CA/Seattle, WA	06/25/02
Official	Lynchburg, VA	06/26/02
Speaking Engagement	Albuquerque, NM	06/27/02
Official	Crawford, TX	06/28/02
Official	Ripley, WV	06/29/02
Official	Lynchburg, VA	07/11/02
Official	Crawford, TX	07/12/02
Meetings	New Orleans, LA	07/12/02
Meetings	Boise, ID	07/14/02
Meetings	New Orleans, LA	07/14/02
Official	Lynchburg, VA	07/16/02
Meetings	London, GBR/FRA	07/18/02
Speaking Engagement	Los Angeles, CA	07/20/02
Official	Charleston, SC	07/23/02
Official	Charleston, SC	07/23/02
Speaking Engagement	Cleveland, OH/Minneapolis, MN	07/23/02
Meetings	Denver, CO	07/23/02
Meetings	Denver, CO/Orlando, FL	07/23/02
Official	Lynchburg, VA	07/24/02
Official	Manhattan, NY	07/24/02
Meetings	Atlanta, GA	07/28/02
Meetings	MexicoCity, MEX	07/28/02
Official	Lubbock, TX	07/29/02
Meetings	Lynchburg, VA	07/29/02
Meetings	Boston, MA	07/30/02
Meetings	Ausitn, TX	08/01/02
Meetings	Austin, TX	08/01/02
Official	Waco, TX	08/01/02
Official	Waco, TX	08/01/02
Speaking Engagement	Hershey, PA	08/03/02
Official	Lynchburg, VA	08/05/02
Meetings	Manhattan, NY	08/05/02
Meetings	Ft Lauderdale, FL	08/06/02
Meetings	Orlando, FL	08/06/02
Official	Waco, TX	08/06/02
Official	Waco, TX	08/06/02

Official	Waco, TX	08/06/02
Official	Waco, TX	08/11/02
Official	Des Moines, IA	08/13/02
Conference Attendance	New Orleans, LA	08/13/02
Official	Waco, TX	08/13/02
Speaking Engagement	Charleston, WV	08/15/02
Official	Waco, TX	08/15/02
Official	Waco, TX	08/15/02
Official	Las Cruces, NM	08/19/02
Official	Las Cruses, NM	08/19/02
Official	Monterey, CA	08/19/02
Official	Hanoi, VIE/Honolulu, HI	08/20/02
Official	Las Cruces, NM	08/20/02
Speaking Engagement	Ft. Lauderdale, FL	08/25/02
Speaking Engagement	Memphis, TN	08/28/02
Speaking Engagement	Philadelphia, PA	08/28/02
Official	Louisville, KY	08/29/02
Official	Louisville, KY	08/29/02
Official	Louisville, KY	08/30/02
Official	South Bend, IN	08/30/02
Official	South Bend, IN	08/30/02
Official	South Bend, IN	08/30/02
Official	Minneapolis, MN	09/02/02
Speaking Engagement	Manhattan, NY/Kansas City, KS	09/03/02
Speaking Engagement	Naples, FL/Orlando, FL	09/03/02
Meetings	Lynchburg, VA	09/04/02
Meetings	Manhattan, NY	09/04/02
Speaking Engagement	Manhattan, NY	09/05/02
Official	Manhattan, NY	09/08/02
Official	Pittsburg, PA	09/10/02
Official	Pittsburg, PA	09/10/02
Official	Lynchburg, VA	09/11/02
Official	Davenport, IA	09/12/02
Meetings	Austin, TX	09/13/02
Meetings	Los Angeles, CA	09/13/02
Official	Pittsburg, PA	09/13/02
Official	Lynchburg, VA	09/16/02
Speaking Engagement	Baltimore, MD	09/19/02

REV_00170058

Speaking Engagement	Cedar Rapids, IA	09/19/02
Speaking Engagement	Chicago, IL	09/20/02
Speaking Engagement	Wintergreen, VA	09/20/02
Speaking Engagement	Columbus, OH	09/23/02
Official	Milwaukee, WI	09/23/02
Official	Lynchburg, VA	09/25/02
Speaking Engagement	Orange County, CA	09/25/02
Official	Waco, TX	09/25/02
Speaking Engagement	Raleigh, NC	09/26/02
Speaking Engagement	Pittsburg, PA	09/27/02
Speaking Engagement	Boston, MA	09/28/02
Speaking Engagement	Manhattan, NY	09/30/02
Official	San Francisco, CA	10/15/02

White House Office FY 2003 Staff Travel		
PURPOSE	**DESTINATION**	**DATE**
Meeting	Manhattan,NY	10/01/02
Meeting	Chicago, IL	10/02/02
Speaking Engagement	Columbus, OH	10/02/02
Speaking Engagement	Syracuse, NY	10/04/02
Speaking Engagement	Atlanta, GA	10/05/02
Official	Lynchburg, VA	10/07/02
Speaking Engagement	Orlando, FL	10/07/02
Meeting	Atlanta, GA	10/08/02
Speaking Engagement	Portsmouth, NH	10/08/02
Meeting	Hague	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02

Speaking Engagement	Sioux Falls Naval, SD	10/09/02
Meeting	Washington, DC	10/09/02
Meeting	Manhattan,NY	10/10/02
Meeting	Naples, FL	10/10/02
Speaking Engagement	Ft. Lauderdale, FL	10/10/02
Speaking Engagement	Ft. Lauderdale, FL	10/10/02
Speaking Engagement	Milwaukee, WI	10/13/02
Meeting	Daytona Beach, FL	10/14/02
Official	Lynchburg, VA	10/16/02
Meeting	Manhattan,NY	10/17/02
Meeting	Philadelphia, PA	10/17/02
Meeting	Manhattan,NY	10/17/02
Speaking Engagement	Indianapolis, IN	10/17/02
Speaking Engagement	Atlanta, GA	10/19/02
Speaking Engagement	San Antonio, TX	10/20/02
Meeting	Des Moines, IA	10/20/02
Official	Lynchburg, VA	10/21/02
Official	Waco, TX	10/22/02
Meeting	Lynchburg, VA	10/23/02
Meeting	Chicago, IL	10/23/02
Speaking Engagement	St. Louis, MO	10/24/02
Speaking Engagement	Los Angeles, CA	10/24/02
Meeting	Charlotte, NC	10/24/02
Meeting	Los Angeles, CA	10/24/02
Official	Lynchburg, VA	10/28/02
Meeting	Charlotte, NC	10/28/02
Meeting	Cleveland, OH	10/28/02
Meeting	Providence, RI	10/28/02
Speaking Engagement	Pittsburgh, PA	10/29/02
Official	Waco, TX	10/31/02
Meeting	Miami, FL	11/05/02
Meeting	West Point, NY	11/07/02
Meeting	Providence, RI	11/07/02
Speaking Engagement	Providence, RI	11/07/02
Speaking Engagement	Los Angeles, CA	11/07/02
Meeting	Manhattan,NY	11/08/02
Speaking Engagement	San Diego, CA	11/10/02
Speaking Engagement	Reno, NV	11/11/02
Official	Lynchburg, VA	11/12/02
Official	Lynchburg, VA	11/13/02
Meeting	Charlotte, NC	11/13/02
Speaking Engagement	Lansing, MI	11/13/02

Speaking Engagement	Manchester, NH	11/13/02
Speaking Engagement	Portland, OR	11/14/02
Meeting	Austin, TX	11/16/02
Meeting	Austin, TX	11/16/02
Speaking Engagement	Albany, NY	11/18/02
Speaking Engagement	Portland, OR	11/18/02
Speaking Engagement	Newark, NJ	11/19/02
Meeting	Manhattan,NY	11/20/02
Speaking Engagement	Tallahassee, FL	11/20/02
Speaking Engagement	Concord, NH	11/20/02
Meeting	Manhattan,NY	11/21/02
Meeting	Los Angeles, CA	11/21/02
Meeting	Loudoun County, VA	11/21/02
Speaking Engagement	West Palm Beach, FL	11/22/02
Speaking Engagement	Springfield, MO	11/24/02
Speaking Engagement	Ft. Lauderdale, FL	11/24/02
Meeting	Manhattan,NY	11/25/02
Speaking Engagement	Manhattan,NY	11/25/02
Official	Waco, TX	11/25/02
Speaking Engagement	Hershey, PA	11/26/02
Meeting	New Orleans, LA	12/01/02
Official	Ft. Lauderdale, FL	12/01/02
Official	Manhattan,NY	12/02/02
Speaking Engagement	Augusta Naval Ctr, ME	12/02/02
Official	Jacksonville, Fl	12/03/02
Speaking Engagement	Pensacola, FL	12/03/02
Speaking Engagement	Tallahassee, FL	12/04/02
Speaking Engagement	Lexington, KY	12/04/02
Meeting	Philadelphia, PA	12/06/02
Speaking Engagement	Ft. Wayne, IN	12/06/02
Speaking Engagement	Richmond, VA	12/07/02
Meeting	Manhattan,NY	12/09/02
Official	Lynchburg, VA	12/09/02
Meeting	Philadelphia, PA	12/09/02
Speaking Engagement	Nashville, TN	12/09/02
Meeting	Manhattan,NY	12/10/02
Speaking Engagement	Duluth,, MN	12/10/02
Official	Lynchburg, VA	12/11/02
Meeting	Philadelphia, PA	12/11/02
Meeting	Philadelphia, PA	12/11/02
Meeting	Philadelphia, PA	12/11/02
Meeting	Philadelphia, PA	12/11/02
Speaking Engagement	Philadelphia, PA	12/11/02

Speaking Engagement	Philadelphia, PA	12/11/02
Meeting	Indianapolis, IN	12/11/02
Meeting	Norfolk, VA	12/17/02
Meeting	West Palm Beach, FL	12/20/02
Meeting	Salt Lake City, UT	01/01/03
Official	Chicago, IL	01/02/03
Official	Reno, NV	01/05/03
Official	Chicago, IL	01/05/03
Meeting	Manhattan,NY	01/07/03
Meeting	Augusta Naval Ctr, ME	01/08/03
Meeting	Albuquerque, NM	01/09/03
Meeting	Denver, CO	01/10/03
Meeting	Tampa, FL	01/11/03
Meeting	Tampa, FL	01/11/03
Meeting	Denver, CO	01/11/03
Meeting	Denver, CO	01/12/03
Meeting	Denver, CO	01/12/03
Meeting	Denver, CO	01/12/03
Meeting	Denver, CO	01/12/03
Meeting	Denver, CO	01/12/03
Meeting	Denver, CO	01/12/03
Meeting	Salem Naval Ctr, OR	01/12/03
Official	Lynchburg, VA	01/15/03
Meeting	Manhattan,NY	01/19/03
Speaking Engagement	Austin, TX	01/20/03
Official	Lynchburg, VA	01/21/03
Meeting	Manhattan,NY	01/21/03
Speaking Engagement	Des Moines, IA	01/21/03
Speaking Engagement	Oakland, CA	01/23/03
Speaking Engagement	Chicago, IL	01/26/03
Speaking Engagement	Norfolk, VA	01/26/03
Meeting	Manhattan,NY	01/28/03
Meeting	Las Vegas, NV	01/31/03
Meeting	Manhattan,NY	02/03/03
Meeting	Manhattan,NY	02/03/03
Speaking Engagement	Boston, MA	02/06/03
Meeting	Nashville, TN	02/09/03
Official	Lynchburg, VA	02/10/03
Speaking Engagement	Little Rock, AR	02/10/03
Meeting	Tallahassee, FL	02/11/03
Meeting	San Diego, CA	02/13/03
Conference Attendance	San Diego, CA	02/15/03
Speaking Engagement	San Diego, CA	02/15/03
Meeting	Cincinnati, OH	02/19/03

Meeting	Montgomery, AL	02/20/03
Speaking Engagement	Baton Rouge, LA	02/20/03
Meeting	Lynchburg, VA	02/24/03
Meeting	Santa Fe, NM	02/24/03
Speaking Engagement	Houston, TX	02/27/03
Meeting	Miami, FL	02/27/03
Meeting	Portland, OR	02/28/03
Meeting	Newport News, VA	03/05/03
Official	Lynchburg, VA	03/05/03
Speaking Engagement	Minneapolis, MN	03/06/03
Meeting	King of Prussia, PA	03/10/03
Speaking Engagement	Raleigh, NC	03/11/03
Meeting	Chicago, IL	03/12/03
Meeting	Chicago, IL	03/12/03
Meeting	Philadelphia, PA	03/12/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/13/03
Meeting	Chicago, IL	03/14/03
Speaking Engagement	Charlottesville, VA	03/14/03
Speaking Engagement	Montgomery, AL	03/14/03
Speaking Engagement	Charlotte, NC	03/16/03
Speaking Engagement	Columbus, OH	03/17/03
Official	Lynchburg, VA	03/19/03
Speaking Engagement	Harford County, MD	03/21/03
Speaking Engagement	Atlanta, GA	03/24/03
Meeting	Philadelphia, PA	03/25/03
Meeting	Philadelphia, PA	03/25/03
Meeting	Philadelphia, PA	03/25/03
Meeting	Lansing, MI	03/25/03
Official	Lynchburg, VA	03/26/03
Speaking Engagement	Princeton, NJ	03/26/03
Speaking Engagement	Columbus, OH	03/26/03
Speaking Engagement	Jackson, MS	03/27/03
Meeting	Las Vegas, NV	03/27/03
Speaking Engagement	Los Angeles, CA	03/29/03
Speaking Engagement	Pittsburgh, PA	03/29/03
Official	Lynchburg, VA	03/31/03
Official	Lynchburg, VA	04/02/03
Meeting	Manhattan,NY	04/02/03
Speaking Engagement	Nashville, TN	04/03/03

REV_00170063

Official	Philadelphia, PA	04/03/03
Speaking Engagement	Atlantic City, NJ	04/04/03
Speaking Engagement	Tallahassee, FL	04/06/03
Speaking Engagement	Hershey, PA	04/06/03
Meeting	Houston, TX	04/08/03
Speaking Engagement	Albuquerque, NM	04/08/03
Speaking Engagement	Denver, CO	04/11/03
Official	Elmendorf, AK	04/12/03
Speaking Engagement	Detroit, MI	04/13/03
Meeting	St. Louis, MO	04/14/03
Speaking Engagement	Jefferson City, MO	04/14/03
Meeting	Manhattan,NY	04/15/03
Meeting	Dayton, OH	04/22/03
Official	San Jose, CA	04/22/03
Speaking Engagement	Houston, TX	04/23/03
Speaking Engagement	Atlanta, GA	04/24/03
Speaking Engagement	Houston, TX	04/24/03
Meeting	Albuquerque, NM	04/24/03
Speaking Engagement	Bridgeport, CT	04/27/03
Meeting	Chicago, IL	05/01/03
Speaking Engagement	Baton Rouge, LA	05/05/03
Speaking Engagement	Portland, OR	05/05/03

Office of the Vice President FY 2002 Staff Travel		
PURPOSE	**DESTINATION**	**DATE**
Meetings	London, GBR	07/14/02
Official	Monterey, CA	07/15/02

Office of the Vice President FY 2003 Staff Travel		
PURPOSE	**DESTINATION**	**DATE**
Invitational	Washington DC	10/18/02
Meetings	London, GBR	10/09/02
Meetings	London, GBR	12/12/02
Meetings	Manhattan, NY	01/15/03
Official	Raleigh, NC	04/10/03

REV_00170064

QUESTION 110: Please provide a list of all Presidential, First Lady and Vice Presidential travel for FY02 and FY03 (to date). For each trip, please provide the trip date, destination, designation (i.e., political, official), number of official EOP staff supporting the Principal and, the official cost of the trip. **(POC – Rothley Howard)**

Answer: The following charts summarize Presidential, First Lady and Vice Presidential travel for Fiscal Years 2002 and 2003 (to date). They also reflect costs currently in the accounting system. Several of the trips listed below are awaiting additional costs, therefore, final costs may vary.

Presidential Travel FY 2002

		Status		# of EOP Staff	White House
Date	**Destination**	**Official**	**Political**		**Travel Cost**
3-Oct	New York, NY	100%		6	$8,060
7-Oct	Emmitsburg, MD	100%		4	$1,988
17-Oct	Sacramento, CA	100%		5	$16,678
30-Oct	New York, NY	100%		4	$13,043
8-Nov	Atlanta, GA	100%		6	$17,920
10-Nov	New York, NY	100%		0	$6,525
14-Nov	Crawford. TX	100%		4	$44,535
21-Nov	Fort Campbell, KY	100%		3	$9,114
27-Nov	Salt Lake City, UT	100%		7	$4,328
1-Dec	Philadelphia, PA	100%		5	$13,669
4-Dec	Orlando, FL	70%	30%	7	$13,371
7-Dec	Norfolk, VA	100%		5	$5,271
11-Dec	Citadel, SC	100%		4	$11,498
26-Dec	Waco, TX	100%		7	$12,667
4-Jan	Austin, TX	100%		1	$5,356
5-Jan	Ontario, CA	100%		4	$10,240
5-Jan	Portland, OR	100%		7	$10,870
8-Jan	Hamilton, OH	100%		6	$6,588
8-Jan	Boston, MA	100%		6	$11,159
8-Jan	Portsmith, NH	54%	46%	4	$6,594
9-Jan	Washington, DC	100%		0	$0
11-Jan	Conshohoken, PA	100%		6	$5,321
14-Jan	Moline, IL	100%		6	$7,570
14-Jan	Springfield, MO	100%		4	$6,569
14-Jan	New Orleans, LA	100%		21	$32,494
22-Jan	Charleston, WV	71%	29%		$6,086
25-Jan	Portland, ME	100%		5	$7,698

REV_00170065

30-Jan	Winston-Salem, NC	65%	35%	0	$8,799
30-Jan	Daytona Beach, FL	100%		16	$12,874
31-Jan	Atlanta, GA	100%		5	$13,869
1-Feb	White Sulpher Springs, WV	100%		4	$4,273
4-Feb	Eglin AFB,FL	100%		4	$7,666
5-Feb	Pittsburgh ,PA	100%		5	$7,918
6-Feb	New York, NY	54%	46%	6	$6,940
8-Feb	Denver, CO	100%		4	$7,644
8-Feb	Salt Lake City, UT	100%		13	$12,877
8-Feb	Jackson, WY	100%		7	$11,182
11-Feb	Milwaukee, WI	48%	52%	1	$9,360
16-Feb	Anchorage, AK	40%	60%	1	$9,181
27-Feb	Charlotte, NC	52%	48%	1	$7,048
1-Mar	Des Moines, IA	53%	47%	**5**	$3,546
3-Mar	Minneapolis, MN	50%	50%	2	$7,127
8-Mar	St. Petersburg, FL	57%	43%	2	$6,093
12-Mar	Philadelphia, PA	100%		9	$11,102
15-Mar	Fayetteville, NC	100%		6	$1,218
16-Mar	Chicago, IL	100%		4	$11,217
18-Mar	St. Louis, MO	65%	35%	5	$5,835
21-Mar	El Paso, TX	100%		6	$129
27-Mar	Greenville, SC	45%	55%	5	$-3,217
27-Mar	Atlanta, GA	52%	48%	3	$166
27-Mar	Waco, TX	100%		8	$19,804
28-Mar	Dallas, TX	20%	80%	4	$224
2-Apr	Philadelphia, PA	59%	41%	6	$12,239
4-Apr	Waco, TX	100% State		0	$0
8-Apr	Knoxville, TN	100%		5	$743
9-Apr	Bridgeport, CT	52%	48%	6	$7,152
15-Apr	Cedar Rapids, IA	59%	41%	5	$7,819
17-Apr	Lexington, VA	100%		5	$8,505
22-Apr	Saranac, NY(Wilmington, NY)	100%		4	$13,029
19-Apr	Beltsville, MD	100%		0	$0
24-Apr	Sioux Falls, SD	45%	55%	5	$8,249
24-Apr	Waco, TX	100%		12	$13,741
29-Apr	Los Angeles, CA	48%	52%	17	$10,907
29-Apr	Albuquerque, NM	54%	46%	5	$7,054
30-Apr	San Jose, CA	42%	58%	6	$6,632
6-May	Southfield, MI	100%		5	$9,857
8-May	Milwaukee, WI	100%		6	$10,952

REV_00170066

8-May	Lacrosse, WI	100%		7	$8,760
10-May	Columbus, OH	59%	41%	5	$4,992
13-May	Chicago, IL	42%	58%	6	$1,743
20-May	Miami, FL	42%	58%	7	$8,587
1-Jun	West Point, NY	100%		5	$13,593
3-Jun	Little Rock, AR	100%		6	$10,094
7-Jun	Des Moines, IA	100%		6	$13,895
11-Jun	Kansas City, MO	58%	42%	7	$8,179
14-Jun	Columbus,OH	100%		6	$4,031
14-Jun	Houston, TX	45%	55%	**5**	$9,739
14-Jun	Waco, TX	100%		3	$14,955
17-Jun	Atlanta, GA	100%		5	$8,663
21-Jun	Orlando, FL	48%	52%	7	$12,111
24-Jun	Newark, NJ	48%	52%	7	$4,974
25-Jun	Phoenix, AZ	100%		0	$584
1-Jul	Cleveland, OH	100%		5	$7,823
2-Jun	Milwaukee, WI	100%		5	$6,411
4-Jul	Ripley, WV	100%		6	$7,129
5-Jul	Kennebunkport, MN	100%		0	$34,245
9-Jul	New York City, NY	100%		5	$7,706
11-Jul	Minneapolis, MN	62%	38%	7	$13,709
15-Jul	Birmingham, AL	62%	38%	6	$5,747
18-Jul	Troy, MI	100%		0	$3,197
19-Jul	Fort Drum, NY	100%		6	$7,133
22-Jul	Argonne, IL	100%		7	$10,510
25-Jul	Greensboro, NC	62%	38%	7	$5,342
29-Jul	Charleston, SC	59%	41%	5	$7,149
2-Aug	Kennebunkport, MN	75%	25%	14	$34,291
5-Aug	Pittsburg, PA	56%	44%	7	$11,138
6-Aug	Waco, TX	100%		21	$107,331
7-Aug	Jackson, MS	76%	24%	6	$9,750
13-Aug	Economic Forum Waco, TX	100%		0	$201
14-Aug	Milwaukee, WI	42%	58%	5	$5,217
14-Aug	Des Moines, IA	42%	58%	23	$6,630
14-Aug	South Dakota	100%		4	$8,029
16-Aug	Rapid City, SD	58%	42%	1	$65
22-Aug	Medford, OR	100%		5	$10,226
22-Aug	Portland, OR		100%	0	$2,429
23-Aug	Dana Point, CA	50%	50%	20	$21,873
23-Aug	Stockton, CA	38%	62%	5	$4,565

REV_00170067

24-Aug	Thousand Oaks/Westwood, CA		100%	0	$955
24-Aug	Santa Anna, CA	100%			$0
24-Aug	Las Cruces, NM	42%	58%	6	$4,381
29-Aug	Oklahoma City, OK		100%	0	$0
29-Aug	Little Rock, AR	58%	42%	5	$10,649
2-Sep	Pittsburgh, PA	100%		4	$11,098
5-Sep	Louisville, KY	59%	41%	7	$8,684
5-Sep	South Bend, IN	42%	58%	3	$5,105
6-Sep	Delu	100%		0	$1,346
6-Sep	Minneapolis, MN	100%		5	$3,387
9-Sep	Detroit, MI	100% State		0	$1,804
11-Sep	Somerset County, PA	100%		6	$1,611
11-Sep	New York City, NY	100%		8	$6,665
16-Sep	Davenport, IA	48%	52%	6	$6,573
17-Sep	Nashville, TN	38%	62%	6	$1,573
23-Sep	Trenton, NJ	38%	62%	5	$5,053
26-Sep	Houston, TX		100%	0	$0
26-Sep	Waco, TX	100%		9	$19,792
27-Sep	Denver, CO		100%	0	$0
27-Sep	Flagstaff, AZ		100%	0	$0
27-Sep	Phoenix, AZ		100%	0	$0
	Total Presidential FY 2002 Costs Through 09/30/02				**$1,146,388**

First Lady Travel FY 2002					
		Status		# of EOP	White House
Date	Destination	Official	Political	Staff	Travel Cost
3-Oct	Cincinnati, OH	100%		0	$339
16-Oct	Newark, NJ	100%		0	$1,790
18-Oct	Atlanta, GA	100%		1	$1,742
19-Oct	Baton Rouge, LA	100%		0	$1,568
30-Oct	New York, NY	100%		3	$1,652
16-Nov	Austin, TX	100%		1	$7,300
9-Jan	Topeka, KS	100%		0	$1,566
10-Jan	Houston, TX	100%		0	$1,915
11-Jan	Austin, TX	100%		0	$780
21-Jan	Atlanta, GA	100%		0	$1,060
10-Feb	Los Angeles, CA	100%		1	$5,021
11-Feb	Hershey, PA	100%		0	$0
8-Mar	New York, NY	100%		3	$6,218

REV_00170068

11-Mar	Richmond, VA	100%		4	$1,659
4-Apr	Dallas, TX	100%		1	$35
11-Apr	Hershey, PA	100%		1	$899
30-Apr	Little Rock, AR	100%		2	$1,839
30-Apr	Dallas, TX	100%		3	$365
9-May	New York, NY	100%		0	$1,898
28-May	Austin, TX	100%		1	$3,379
10-Jun	Boise, ID	100%		1	$3,456
11-Jun	Salt Lake City, UT	100%		1	$1,187
11-Jun	San Francisco	61%	39%	0	$5,237
12-Jun	Austin, TX	100%		1	$3,693
6-Jun	Crawford, TX	100%		0	$0
20-Jun	Boston, MA	100%		1	$1,674
17-Jun	Cinncinati, OH	100%		2	$2,309
22-Jun	Midland, TX	100%		0	$0
7-Jul	Kennebunkport, ME	100%		0	$0
12-Jul	Norfolk, VA	100%		2	$969
18-Jul	Philadelphia, PA	100% State		0	$0
24-Jul	New York, NY			2	$236
2-Aug	Dallas, TX	100%		1	$1,773
3-Aug	Lubbock, TX	100%		4	$3,571
14-Aug	Austin, TX	100%		2	$3,231
22-Aug	Austin, TX	100%		2	$3,501
11-Sep	New York, NY	100%		4	$4,241
25-Sep	Greenville, MS	100%		0	$1,591
27-Sep	Waco, TX	100%		1	105
	Total First Lady FY 2002 Costs through 09/30/02				**$77,799**

Vice Presidential Travel FY 2002					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
7-Oct	Smithers, BC *(can./Adv. only)*			1	$449
18-Oct	New York, NY	100%		4	$2,063
21-Oct	Washington, DC	100%			$378
28-Oct	Poughkeepsie, NY	100%		5	$3,885
30-Oct	White Sulphur Springs, WV				$200
4-Nov	Pierre/Gettysburg, SD	100%		7	$5,676
2-Nov	Dallas, TX *(can. trip)*	100%		1	$115
2-Nov	Jackson, WY	100%		2	$11,195

REV_00170069

27-Nov	Salt Lake City, UT	100%		3	$526
29-Nov	New York, NY	100%		17	$14,413
6-Dec	Dallas, TX		100%	9	$1,776
7-Dec	Oklahoma City, OK		100%	3	$4
14-Dec	Albany, GA	100%		9	$5,214
17-Dec	Jackson, WY *(no trip listed/noTA)*				$0
19-Dec	Trappe, MD	100%		9	$4,217
22-Dec	Jackson, WY	100%		14	$55,257
11-Jan	Albany, GA	100%		8	$5,447
25-Jan	Cincinnati, OH		100%	4	$0
30-Jan	White Sulpher Springs, WV	100%		8	$4,353
6-Feb	Louisville, KY		100%	9	$5,392
6-Feb	Evansville, IN		100%		$0
7-Feb	Hopkinsville, KY	17%	83%	9	$700
15-Feb	Armstrong, TX	100%		1	$275
17-Feb	Carlsbad, CA	100%		1	$30,757
19-Feb	Fullerton, CA	100%			$2,700
19-Feb	Los Angeles, CA	15%	85%	2	$5,698
20-Feb	Sacramento, CA		100%	2	$2,514
20-Feb	Fresno, CA *(Mix?)*	100%			$817
20-Feb	Pleasantville, CA	100%			$0
21-Feb	San Jose, CA *(Mix)*	100%		2	$9,783
24-Feb	Salt Lake City, UT	100%		7	$9,544
25-Feb	Cheyenne, WY	30%	70%	27	$9,672
25-Feb	Jackson, WY	100%		4	$20,789
28-Mar	Jackson, WY	100%		1	$13,492
3-Apr	Denver, CO		100%	2	$447
4-Apr	Jackson, MS		100%	3	$1,047
4-Apr	Kansas City, MO		100%	1	$0
4-Apr	Fayetteville, AR		100%	1	$0
5-Apr	Dallas, TX	100%		21	$4,034
12-Apr	Charleston, WV		100%		$0
12-Apr	Richmond, VA		100%		$0
15-Apr	Grand Rapids, MI	100%		10	$5,770
15-Apr	Collinsville, IL		100%	1	$221
19-Apr	Allentown, WV		100%		$0
19-Apr	Islandia, NY		100%		$126
22-Apr	Ft. Lauderdale, FL		100%		$0
24-Apr	Houston, TX *(State-sponsored)*	100%			$0
25-Apr	Crawford, TX *(State-sponsored)*	100%			$0

REV_00170070

2-May	Lansing, MI	100%		13	$4,903
2-May	South Bend, IN		100%	1	$57
9-May	Minneapolis, MN		100%		$0
11-May	Jackson, WY		100%	4	$666
21-May	Boston, MA		100%		$0
24-May	Jackson, WY	100%		8	$9,641
29-May	Nashville, TN		100%		$0
7-Jun	Harrisburg, PA		100%		$0
14-Jun	Columbia, SC		100%		$3,387
14-Jun	Dallas, TX	100%		5	$11,223
20-Jun	Dayton, OH		100%		$0
20-Jun	Detroit, MI		100%		$0
21-Jun	Cody, WY	100%		3	$5,270
21-Jun	Beaver Creek, CO	100%		4	$8,941
23-Jun	Portland, OR		100%	7	$3,902
28-Jun	Charlotte, NC		100%		$0
20-Jun	Raleigh, NC		100%		$0
1-Jul	Wichita, KS		100%		$0
1-Jul	Dallas, TX		100%		$0
1-Jul	Jackson, WY	100%		8	$15,034
9-Jul	Ft. Bragg, NC	100%		1	$860
15-Jul	Hartford, CT		100%		$0
17-Jul	Atlanta, GA	100%		1	$1,805
18-Jul	Conshohocken, PA		100%		$0
18-Jul	Pittsburgh, PA		100%		$0
19-Jul	Macon, GA		100%		$0
19-Jul	Houston, TX		100%		$0
22-Jul	Montgomery, AL	100%		6	$5,498
22-Jul	Cape Canaveral, FL	100%		7	$4,072
29-Jul	Des Moines, IA		100%	5	$255
29-Jul	Cedar Rapids, IA		100%		$0
29-Jul	Fargo, ND		100%	5	$255
30-Jul	Jackson, WY	100%		15	$104,430
1-Aug	Meeker, CO	Cancelled		1	$1,287
6-Aug	San Francisco, CA	72%	28%	7	$13,202
7-Aug	Fresno, CA		100%		$0
8-Aug	Salt Lake City, UT		100%		$0
8-Aug	Albuquerque, NM		100%		$0
12-Aug	Minneapolis, MN		100%		$0
12-Aug	Waco, TX	100%		7	$6,757

12-Aug	Detroit, MI		100%		$0
13-Aug	Billings, MT		100%		$0
15-Aug	Montgomery, AL		100%		$0
17- Aug	Jackson, WY			3	$1,306
19-Aug	Big Horn, MT	Cancelled			$0
20-Aug	Waco, TX	100%		1	$1,641
26-Aug	Nashville, TN	53%	47%	3	$4,946
29-Aug	San Antonio, TX	100%		3	$2,518
6-Sep	New York, NY	100%		3	$5,447
18-Sep	New London, CT		100%		$0
19-Sep	Burlington, VT	12%	88%	1	$437
19-Sep	New York, NY		100%		$0
20-Sep	Casper, WY	63%	37%	3	$4,840
20-Sep	Jackson, WY	100%		7	$1,830
23-Sep	Kansas City, MO	100%			$0
26-Sep	Memphis, TN		100%		$0
26-Sep	Dallas, TX		100%		$0
27-Sep	Boise, ID		100%	3	$462
26-Sep	Jackson. WY	100%		8	$11,395
27-Sep	Laramie, WY	100%		4	$761
	Total Costs through 9/30/02				**$475,974**

Presidential Travel FY 2003					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
1-Oct	Tampa, FL				$1,032
2-Oct	Baltimore, MD		100%	0	$0
4-Oct	Boston, MA		100%	0	$0
4-Oct	Kennebunkport, ME	100%		17	$37,055
5-Oct	Manchester, NH	32%	68%	4	$5,704
7-Oct	Cincinnati, OH	100%		10	$20,182
8-Oct	Knoxville, TN		100%	0	$798
14-Oct	Detroit, MI		100%	1	$677
17-Oct	Daytona Beach, FL	59%	41%	6	$9,308
17-Oct	Atlanta, GA		100%	0	$0
18-Oct	Rochester, MN		100%	0	$0
18-Oct	Springfield, MO		100%	0	$0
22-Oct	Chester County, PA		100%	0	$0
22-Oct	Bangore, ME		100%	0	$0

REV_00170072

24-Oct	Charlotte, NC		100%	0	$0
24-Oct	Columbia, SC		100%	0	$0
24-Oct	Auburn, AL		100%	0	$0
24-Oct	Waco, TX (State Dept.)	100%		2	$2,168
26-Oct	Cabo San Lucas, Mex (State)	100%		0	$0
27-Oct	Phoenix, AZ (RON)		100%	4	$817
28-Oct	Alamogordo, NM		100%	0	$0
28-Oct	Denver, CO		100%	0	$0
31-Oct	Aberdeen, SD		100%	0	$0
31-Oct	Southbend, IN		100%	0	$0
31-Oct	Charleston, WV		100%	0	$0
1-Nov	Louisville, KY		100%	0	$0
1-Nov	Portsmouth, NH		100%	0	$0
2-Nov	Johnson City, TN		100%	0	$0
2-Nov	Atlanta, GA		100%	0	$0
2-Nov	Tampa Bay, FL (RON)		100%	0	$0
3-Nov	Springfield, IL		100%	0	$0
3-Nov	Minneapolis, MN		100%	0	$0
3-Nov	South Falls, SD		100%	0	$0
3-Nov	Cedar Rapids, IA (RON)		100%	1	$738
4-Nov	St. Louis, MO		100%	0	$0
4-Nov	Bentonville, AR		100%	0	$0
4-Nov	Dallas, TX		100%	0	$0
4-Nov	Waco, TX (RON)	100%		18	$9,387
27-Nov	Waco, TX (RON)	100%		20	$21,899
3-Dec	Shreveport, LA		100%	0	$0
3-Dec	New Orleans, LA		100%	0	$0
12-Dec	Philadelphia, PA	100%		5	$10,793
26-Dec	Waco, TX (RON)	100%		13	$38,144
3-Jan	Ft. Hood, TX	100%		2	$1,777
7-Jan	Chicago, IL	100%		7	$10,516
16-Jan	Scranton, PA	100%		4	$11,184
22-Jan	St. Louis, MO	100%		7	$12,521
29-Jan	Grand Rapids, MI	100%		8	$12,918
31-Jan	Camp David, MD	100%		5	$646
4-Feb	Houston, TX	100%		6	$8,141
9-Feb	White Sulphur Springs, WV	100%		5	$11,968
10-Feb	Nashville, TN	100%		6	$13,069
13-Feb	Jacksonville, FL	100%		6	$15,211
20-Feb	Atlanta, GA	100%		7	$4,646

20-Feb	Waco, TX (State)	100%		1	$945
4-Mar	Washington, DC	100%		0	$0
5-Mar	Camp Lejeune, NC	100%		3	$5,218
26-Mar	Camp David, MD	100%		7	$350
26-Mar	Tampa Bay, FL	100%		7	$4,541
31-Mar	Philadelphia, PA	100%		5	$1,726
3-Apr	Camp Lejeune, NC	100%		8	$6,968
16-Apr	St. Louis, MO	100%		7	$1,095
16-Apr	Waco, TX	100%		16	$3,972
20-Apr	Ft. Hood, TX	100%		1	$0
24-Apr	Canton, OH	100%			$0
24-Apr	Lima, OH	100%			$0
28-Apr	Dearborn, MI	100%			$0
	Total Costs Through 09/30/03				**$286,114**

First Lady Travel FY 2003					
		Status		Number	White House
Date	Destination	Official	Political	Of Staff	Travel Cost
1-Oct	Tampa, FL	69%	31%	6	$820
4-Oct	Kennebunkport, ME			2	$210
5-Oct	Portland, ME	100%		3	$1,343
7-Oct	New York, NY	74%	26%	4	$5,625
16-Oct	Dayton, OH	100%		4	$2,281
17-Oct	Mobile, AL	77%	23%	8	$4,226
21-Oct	Boston, MA	100%		4	$6,528
23-Oct	St. Louis, MO	65%	35%	5	$5,610
2-Nov	Atlanta, GA	100%		2	$3,729
2-Nov	Raleigh, NC		100%		$0
2-Nov	Nashua, NH		100%		$0
2-Nov	Des Moines, IA		100%		$0
2-Nov	Minneapolis, MN		100%		$0
2-Nov	Sioux Falls, SD (RON)		100%		$0
3-Nov	Rapid City, SD		100%		$0
4-Nov	Waco, TX			1	$112
12-Nov	New York, NY				$295
16-Jan	New York, NY			1	$547
20-Jan	New York, NY			2	$5,668

REV_00170074

4-Feb	Los Angeles, CA			3	$2,369
13-Feb	New York, NY			6	$5,163
19-Feb	Dallas, TX			2	$353
19-Feb	New Orleans, LA			2	$4,883
13-Mar	Austin, TX (RON)		100%	0	$0
8-May	Page, AZ	100%			
8-May	Kayenta, AZ	100%			
8-May	Phoenix, AZ	100%			
9-May	Santa Fe, NM	100%			
	Total Costs through 09/30/03				**$49,762**

Vice Presidential Travel FY 2003					
		Status		# of EOP Staff	White House
Date	Destination	Official	Political		Travel Cost
19-Sep	Burlington, VT **FY-02*	12%	88%	1	$21
4-Oct	Atlanta, GA		100%		$0
4-Oct	Warner Robbins, GA		100%		$0
4-Oct	Augusta, GA		100%		$0
7-Oct	Babine, BC, Canada	100%			$0
11-Oct	Colorado Springs, CO	79%	21%	7	$4,738
14-Oct	Roswell, NM		100%		$0
14-Oct	Tulsa, OK		100%		$0
14-Oct	Phoenix, AZ		100%		$0
14-Oct	Midwest City, OK	10%	90%		$0
21-Oct	Portland, ME		100%		$0
21-Oct	Newark, NJ		100%		$0
24-Oct	Dalton, GA	83%	17%	2	$374
24-Oct	Tampa, FL	76%	24%		$939
25-Oct	Philadelphia, PA	100%		1	$1,317
25-Oct	Reading, PA		100%		$1,416
29-Oct	Wilmington, NC		100%	1	$207
30-Oct	Chattanooga, TN		100%		$0
30-Oct	Little Rock, AR		100%		$0
30-Oct	Houston, TX		100%	3	$1,234
31-Oct	Cape Girardeau, MO		100%		$0
31-Oct	Sioux City, IA		100%		$0
31-Oct	Indianapolis, IN		100%		0
1-Nov	Duluth, MN		100%		$0
1-Nov	Rapid City, SD		100%		$0

REV_00170075

1-Nov	Denver, CO		100%	1	$1,657
2-Nov	Salt Lake City, UT		100%		$0
2-Nov	Springfield, MO		100%		$0
2-Nov	Jackson Hole, WY		100%	3	$1,369
2-Nov	Albuquerque, NM		100%		$0
3-Nov	Cheyenne, WY		100%		$0
3-Nov	Gettysburg, SD	100%		1	$6,096
16-Nov	Latrobe, PA	100%		2	$1,535
18-Nov	Monroe, LA		100%		$0
18-Nov	Lafayette, LA		100%		$0
22-Nov	Trappe, MD	100%		4	$594
29-Nov	Jackson Hole, WY	100%		5	$1,135
29-Nov	Casper, WY	100%		2	$1,948
2-Dec	Denver, CO	100%		3	$2,308
5-Dec	Stuttgart, AR	100%		4	$1,928
14-Dec	Jackson Hole, WY	100%		7	$9,417
21-Dec	Jackson Hole, WY	100%		6	$17,927
17-Jan	Albany, GA	100%		4	$3,427
24-Jan	Trappe, MD *(cancelled trip)*				$0
31-Jan	Armstrong, TX	100%		6	$2,002
3-Feb	College Station, TX				$0
6-Feb	White Sulphur Springs, WV	100%		2	$806
9-Feb	Honolulu, HI	100%		8	$1,440
14-Mar	Jackson Hole, WY *(Adv only)*	100%			$0
17-Feb	Jackson Hole, WY	100%		9	$8,137
8-Apr	New Orleans, LA	100%		11	$2,941
22-Apr	Jackson Hole, WY	100%		6	$1,399
6-May	Dallas, TX	100%			$0
	Total Costs through 5/16/03				**$76,312**

Summary: Presidential, First Lady and Vice Presidential travel for FY02 and FY03 (to date).

Principal	Fiscal Year 2002	Fiscal Year 2003 (To date)
President of the United States	**$1,146,388**	**$286,114**
First Lady of the United States	**$77,799**	**$49,762**
Vice President of the United States	**$475,974**	**$76,312**
Totals	**$1,700,161**	**$412,188**

REV_00170076

QUESTION 111: How much did OMB reimburse the White House Office for use of White House motorpool vehicles in FY02? How much is OMB projecting to reimburse in FY03 and FY04? **(POC – Brian Gillis)**

RESPONSE: For FY 2002, OMB reimbursed the Department of Defense $99,000 for the use of the White House motorpool. OMB is projecting a similar amount for FY 2003 and FY 2004.

In the hearing, Mr. Daniel mentioned that the FY03 vehicle lease and IT support contracts came in significantly below the original budget estimates.

QUESTION 112: Do you intend to return the unused funds to the Treasury at the end of the fiscal year? **(POC – Chuck Sigman)**

RESPONSE: The EOP plans to use the funds to implement other critical EOP priorities. The programs which were described by Mr. Daniel at the hearing were the FY 2003 vehicle lease and the guard services contract for guard services at 1801 Pennsylvania Avenue. He did not refer to the IT support contract.

QUESTION 113: For these areas in which savings were realized, what are your plans for the funds? **(POC – Chuck Sigman)**

RESPONSE: For FY 2003, these funds are being applied to fund other priorities for the OA as well as common services for EOP entities. These other priorities include consolidation of information technology maintenance ($200,000), centralization of database services ($200,000), and common building service costs ($400,000). The remaining $300,000 of these savings will be used for an FY03 OA personnel shortfall.

Political Travel

QUESTION 114: Please explain the reimbursement procedures the White House intends to follow during the Presidential election season. **(POC – Andy Kalnins)**

RESPONSE: Travel by senior Administration officials is governed by relevant statutes and regulations that have been followed for many years.

QUESTION 115: Exactly when will the presidential-campaign procedures take effect? **(POC – Andy Kalnins)**

REV_00170077

RESPONSE: The presidential-campaign procedures take effect when a President is a candidate for re-election.

QUESTION 116: How do you determine who the official travelers are on a campaign or political trip? Does the list of positions vary from trip to trip? **(POC – Andy Kalnins)**

RESPONSE: Consistent with governing statutes and regulations, and traditional practice, a list of positions has been developed which are deemed to always be official.

QUESTION 117: On trips with political and official components, what is the procedure for determining which events are paid for using official funds and which events are reimbursed by the political entity? **(POC – Andy Kalnins)**

RESPONSE: The guidelines are based on legal principles embodied in 5 CFR §734.503, policies established over a period of years by previous Administrations, and guidance from Federal Election Commission opinions.

QUESTION 118: If the President gives virtually the same speech at a political event that he gave at an official event in that same city, what criteria is used to determine whether an event is "political" or "official"? **(POC – Andy Kalnins)**

RESPONSE: Appearing at party functions, fundraising, and campaigning for specific candidates are principal examples of travel which ordinarily is considered political.

QUESTION 119: If the President gives virtually the same speech at a political event that he gave at an official event in that same city, does the political entity reimburse the White House for the Speechwriters time? **(POC – WHO M&A)**

RESPONSE: Ordinarily not. See 5 CFR §734.503(b)(1).

QUESTION 120: Have events been classified as "official" even if only members of the President's political party are invited to share the stage with the President? **(POC – WHO M&A)**

RESPONSE: The classification of an event as official or political depends on many factors. However, Presidents routinely have official events that may include members of only one party, for example, a speech or meeting about legislative activities or issues.

QUESTION 121: If so, what justification is used to argue that these events were not political events? **(POC – WHO M&A)**

REV_00170078

RESPONSE: The classification of an event as official or political depends on many factors. However, Presidents routinely have official events that may include members of only one party, for example, a speech or meeting about legislative activities or issues.

QUESTION 122: Please provide information about reimbursement to the White House Office or other government agencies associated with local staff travel to political events attended by the President in FY02 or FY03. For each reimbursement made, please provide the date the bill was generated, the number of events reflected on the bill, the date payment was received, the political entity paying the charges and the total amount paid on each bill. **(POC – WHO M&A)**

RESPONSE: The White House took steps to ensure appropriate reimbursements from the relevant political entities for political trips.

Photographic Services (POC – Eric Lanman)

QUESTION 123: For FY02, FY03 and FY04, what was (or is projected to be) the total cost of photographic equipment purchased for use by the White House photographers?

RESPONSE: The total cost (actual and projected) of photographic equipment procured for use by White House photographers in FY 2002, FY 2003 and FY 2004 are displayed in the table below.

	FY 2002	FY 2003	FY 2004
	Actual	Estimate	Estimate
Photographic Equipment	$137,057	$35,700	$36,300

FY 2002 actual costs are higher than the estimates for FY 2003 and FY 2004 due to the necessary life cycle replacement of photographic equipment.

QUESTION 124: For FY02, FY03 and FY04, what was (or is projected to be) the total cost of photo lab equipment purchased for use by the WHCA photo lab?

RESPONSE: The total cost (actual and projected) of photo lab equipment purchased for use by the WHCA photo lab is itemized in the following chart:

	FY 2002	FY 2003	FY 2004
	Actual	Estimate	Estimate
Photo Lab Equipment	$492,720	$473,775	$375,000

QUESTION 125: For FY02, FY03 and FY04, what was (or is projected to be) the total travel cost associated with travel of White House Photographers?

REV_00170079

RESPONSE: The FY 2002 travel costs of White House Photographers was $46,721. The estimated FY 2003 cost is $50,000 and the projected cost for FY 2004 is $55,000.

QUESTION 126: For FY02, FY03 and FY04, what was (or is projected to be) the total rent cost associated with the WHCA photo lab?

RESPONSE: There is no rent cost associated with the WHCA photo lab. However, there are utility and facility maintenance costs associated with the WHCA photo lab. Those costs were $73,600 for FY 2002, $76,650 estimated for FY 2003 and a projected $79,000 for FY 2004.

QUESTION 127: Please explain the procedures for determining when and how the government is to be reimbursed for photos released for non-official purposes. If these procedures have changed from those followed by the previous administration, please explain any changes that have been made.

RESPONSE: The procedures for obtaining reimbursements for photographs changed on October 1, 2000. The procedures now in place are designed to ensure that the government receives appropriate reimbursement for photographs sought for non-official purposes. Records are kept of all such requests, and appropriate reimbursement is then sought.

QUESTION 128: For FY02 and the first seven months of FY03, please provide the following information about each payment made to the White House, OA, WHCA, DISA (or other DoD organization) to reimburse for the release of photos or photo lab services that were provided:

- date reimbursement was made
- name of reimbursing organization
- amount of payment
- number of photos purchased by reimbursing organization
- size of photos purchased by reimbursing organization

RESPONSE: The requested information about each payment made to the White House, OA, WHCA, DISA (or other DoD organization) to reimburse for the release of photos is provided below.

REV_00170080

Reimbursements for White House Photos				
Date	***Reimbursing Organization***	***Amount of Payment***	***# of Photos***	***Size of Photos***
5/2002	Republican National Committee	$648.00	36	8x10
5/2002	Hector Irastorza, Jr.	$90.00	5	8x10
7/2002	Lee Terry for Congress	$36.00	2	8x10
7/2002	Republican Party of Florida	$90.00	5	8x10
7/2002	Republican National Committee	$72.00	4	8x10
8/2002	Republican National Committee	$252.00	14	8x10
9/2002	Kent County Republican Committee	$18.00	1	8x10
9/2002	Breckenridge Design Group	$18.00	1	8x10
9/2002	Portman for Congress	$36.00	2	8x10
9/2002	Republican National Committee	$1,296.00	72	8x10
10/2002	Rick Clayburgh for Congress	$18.00	1	8x10
10/2002	Fisher for Governor	$18.00	1	8x10
10/2002	Wyoming Republican Party	$162.00	9	8x10
10/2002	Johnson for Congress	$72.00	4	8x10
10/2002	Talent for Senate	$18.00	1	8x10
10/2002	John Doolittle for Congress	$486.00	27	8x10
10/2002	National Federation of Republican Women	$18.00	1	8x10
10/2002	Republican National Committee	$342.00	19	8x10
11/2002	Talent for Senate	$18.00	1	8x10
11/2002	Ferguson for Congress	$18.00	1	8x10
11/2002	Mark Kennedy for Congress	$126.00	7	8x10
12/2002	Talent for Senate	$18.00	1	8x10
12/2002	Johnson for Congress	$72.00	4	8x10
12/2002	Wieczoren for Executive Council	$18.00	1	8x10

REV_00170081

2/2003	Diane Thompson	$84.00	4	11x14
3/2003	Republican National Committee	$108.00	6	8x10
3/2003	Congressman Kenny Hulshof	$18.00	1	8x10
3/2003	Congressman James Greenwood	$18.00	1	8x10
3/2003	Senator Frank Murkowski	$18.00	1	8x10
3/2003	Mark Kennedy for Congress	$126.00	7	8x10
3/2003	George Bush Presidential Library	$1,117.00	2	20x30
			20	11x14
			47	8x10
3/2003	Office of President George Bush	$702.00	39	8x10
5/2003	National Federation of Republican Women	$18.00	1	8x10
Total		$6,169.00		

Remote Delivery Site Reprogramming Request (POC – Paul Ehrhardt)

We recently received a reprogramming request to transfer $2m of the funds provided to the Office of Homeland Security to the Remote Delivery Site cleanup efforts.

QUESTION 129: What is the status of remediation efforts?

RESPONSE: We are in the process of Confirmatory Sampling. The sampling plan is intended to present a technical approach for (1) completing air and surface sampling for culturable *Bacillus anthracis* spores to verify the efficacy of the decontamination process: (2) providing for qualified laboratory analysis of the collected samples: and (3) presenting a protocol for data collection and reporting such that the results of the sampling effort are valid and defensible. In addition, the Plan provides for the site and personnel security, safety, health, and personal protection, equipment and collection methods, and sample handling.

QUESTION 130: Please provide the total budget estimate for this project.

RESPONSE: As the contractor responsible for returning the building to an environmentally safe workplace, Versar to date has not been able to develop or provide accurate cost estimates or time lines to EOP. Budget and schedule estimates for this project are especially difficult due to critical path activities taking place in a high-risk

REV_00170082

environment relying on the utilization of untested speculative technologies. However to date $2.422 million has been spent on the effort and we are currently requesting an additional $2 million, which is Versar's best estimate of what it will cost to complete the project. The total budget estimate for the project then comes to $4.422 million.

QUESTION 131: Please provide the anticipated schedule for this effort.

RESPONSE: Given many variables, including weather, our best current estimate of time to required complete the RDS project is 4 months. The confirmatory testing phase is estimated to take eight weeks from start up. The next phase would be for the ECC committee to ratify the confirmation process; we estimate this to be one month. After this is completed, our best estimate is thirty days to perform PM on the HVAC equipment, build out the office areas, and re-establish the building operation.

QUESTION 132: What caused this $2 million overrun?

RESPONSE: There is not a $2 million overrun. The request for $2 million is a result of anticipated costs and those unforeseen conditions as result of the environmental cleanup process, that OA, GSA or its contractors had available at the time of fumigation. The Environmental Clearance Committee has placed additional requirements that resulted in the additional costs. The proposed sampling plan utilizes the barrier divisions already in Building 410 (which provides discrete work areas) and presents proposed sampling location, quantity, and types of samples to be collected . Sampling will be carried out using a phased approach for each work area as follows:

Phase 1, Surface Sampling; Phase 2 Air Sampling: Phase 3, "Dynamic Sampling", Phase 4, Start Up of the Heating, Ventilation , and Air Conditioning (HVAC) Units; and Phase 5, Final Sampling with the Barriers Down.

QUESTION 133: Why have you stopped providing the monthly reports on the remediation efforts?

RESPONSE: Due to the process of establishing the Environmental Clearance Committee, it was an administrative error that the reports were inadvertently not forwarded.

Previously the Remote Delivery Site was used to screen incoming mail. It also used to serve as an off-site supply depot. With the Department of Homeland Security now assuming the mail processing function and with supply operations now established on the White House Complex, I'm curious about future plans for the RDS.

REV_00170083

QUESTION 134: What will the facility be used for when remediation is finished?

RESPONSE: Prior to September 11, 2001 the Remote Delivery Site (RDS) was used as a centralized receiving facility for the White House Complex. All postage flat mail and packages, including UPS and FedEx deliveries, and all equipment and local deliveries were delivered to the RDS. All incoming deliveries, regardless of size, were screened by the U.S. Secret Service (USSS) via large X ray machines, and if any equipment was too large to fit on the X-ray conveyer belt, then the USSS used dogs to sniff for explosives. After initial USSS clearance, all of the items were sorted and delivered to their intended destination to the White House Complex. Supplies, equipment and furniture which were purchased for inventory for use at later time were housed at the RDS.

In addition to the screening of WHO Complex deliveries, the USSS Administrative Operations Division used RDS space to screen all of its incoming mail and packages that were intended for USSS personnel.

The EOP Supply store was operated within the confines of the RDS. Supplies were purchased and inventoried at the RDS and office supplies and copier paper were purchased in volume to take advantage of discounts. The WHO/EOP customers faxed supply requisitions to the RDS staff who then pulled and boxed office supplies for delivery to the WHO Complex. OA property supply staff made supply deliveries to the WHO complex at least twice a day, and more if needed.

The EOP/OA Personal Property Program (excess, transfer, donation, and destruction of furniture and equipment) had its operations housed at the RDS. Excessed equipment and furniture were corralled at the RDS until enough equipment and furniture were gathered to make it economical to excess all at once. In addition, schools and nonprofit organizations were allowed to review equipment for donation under Executive Order 12999.

After September 11, as a precautionary move, the White House United States Postal Service was relocated from the Eisenhower Executive Office Building to the RDS. A separate room was built for the USPS's operation of opening and screening all White House mail. The RDS operations continued working around the new USPS area. These USPS operations continued until the RDS was closed due to the discovery of Anthrax. Since then the USPS operations have relocated to 1800 G. St. NW.

Once the remediation is finished, the RDS will resume its former function of screening all bulk deliveries (including equipment, furniture, boxes of supplies) sent to the EOP Complex. In addition the facility will be used to store supplies and an inventory of equipment and furniture. The RDS will also be used as a staging area for efficient loading and delivery of bulk items for all EOP entities.

QUESTION 135: Will the DHS use the facility to screen the White House's mail?

REV_00170084

RESPONSE: No.

QUESTION 136: Will you close the on-site supply stores and revert back to running the supply operation out of the Remote Delivery Site?

RESPONSE: When the RDS reopens after the remediation of the building, the RDS staff will resume the same functions prior to the Anthrax. However, there are major changes in the way the OA Supply Store operates and manages its supply inventory. The Office of Administration has entered into a new business relationship with GSA. The OA Supply operation will purchase its supplies from GSA who will provide a wide array of office supplies and maintain the level of supply inventory that is needed to support the WHO Complex. The GSA inventory will be housed at the RDS after relocation from Franconia, VA, the current, temporary RDS location. OA supply staff will pull supply orders based on customer's requisitions, and then box and deliver the supplies from the RDS to WHO complex. GSA will only charge for the supplies that EOP customers use at point of sale, otherwise the unsold inventory will still belong to GSA. GSA promises to maintain the supplies that the EOP customers may need. Inventories will be reviewed and adjusted to realize the kind and quantities of supplies the EOP customers expect. This business relationship will promote a more flexible inventory that allows the supply inventory to have the quantity or variety of supplies to meet our customer needs in a more proactive, real-time fashion.

White House Access (POC – WHO M&A)

QUESTION 137: For the record, please provide the total number of visitors who passed through the White House as part of tours in 2000, 2001, 2002 and 2003 (to date).

RESPONSE: Listed below are total numbers of visitors that passed through the White House from 2000 to year to date FY 2003, as reported in National Park Service (NPS) statistical abstract:

2000: 1,175,714
2001: 856,042
2002: 178,092
2003: 43,434 (as of May 14)

Please note that the NPS records garden tours and egg roll events in their annual numbers for visitors to the White House even though the people attending these events do not go through the house. Since the numbers for the visitors that actually go through the house are not exclusively available, we have included the egg roll event in the numbers for 2003 for consistency. There was no a spring garden tour in 2003.

QUESTION 138: Why are White House tours currently not open to the general public?

REV_00170085

RESPONSE: White House special group tours were reopened for certain group tours on May 6, 2003. Over the past many months, the White House has operated a successful program, in partnership with Congressional offices, allowing special group tours to visit. We will continue to book groups using existing procedures unless circumstances dictate otherwise.

The White House is mindful of the request to fully resume public tours. We continue to consult with law enforcement and intelligence services on how to ensure the safety of the residents, staff and the general public while at the White House.

QUESTION 139: What is the status of the report on the status of White House Tours that was due to the Subcommittee by March 22nd?

RESPONSE: This question was answered and sent to the Subcommittee by the March 22nd deadline.

QUESTION 140: Who has the lead on the efforts to decide whether public tours can be resumed?

RESPONSE: The United States Secret Service constantly monitors and evaluates existing conditions to determine the level of security required at the White House complex including when and if tours can be resumed on a full schedule. Their recommendations, along with input from other law enforcement and intelligence services who monitor changing world events, are reviewed with White House management staff to schedule and structure tours in such a manner that will provide an appropriate level of security for general public taking the tours, in addition to the staff who work in and around the Complex, and the residents. This is an ongoing effort.

QUESTION 141: Does the USSS do a background check on all individuals attending events and meetings at the White House Complex before access can be granted?

RESPONSE: For security reasons, it is not appropriate to provide information about the specific nature of background checks and related security procedures in this context.

QUESTION 142: During this administration, have White House aides ever overruled a building-access recommendation made by the USSS?

RESPONSE: The USSS and EOP Staff collaborate in making decisions on access to the complex.

REV_00170086

Off-site EOP Support

QUESTION 143: How many EOP employees are based in Crawford, TX? **(POC – Stacia Cropper)**

RESPONSE: One.

QUESTION 144: How much space does the EOP pay rent for in Crawford, TX? **(POC James Daniel/Stacia Cropper)**

RESPONSE: There is one double-wide trailer. The cost of the trailer itself and all operating costs will be paid to GSA in a monthly rent payment of $8,496.83 for two years.

QUESTION 145: How many trailers were acquired for Crawford, TX? **(POC James Daniel/Stacia Cropper)**

RESPONSE: One trailer was acquired for the EOP.

QUESTION 146: What was the cost to purchase and renovate these trailers? **(POC James Daniel/Stacia Cropper)**

RESPONSE: The cost of the trailer shell was $72,745.28. The cost to apply finishes to the trailer interior was $20,976.62.

QUESTION 147: What are the expected FY04 operating costs of facilities and staff permanently deployed to Crawford, TX? **(POC James Daniel/Stacia Cropper)**

RESPONSE: The following are the estimated operating costs for one year: Pest Control ($1,440), cleaning ($4,200), electricity ($4,211.75), and water ($2,286.38).

Rent (POC – Steve Beattie)

QUESTION 148: Please provide an accounting of all space on which the EOP currently pays rent. The list should include the number of staff in each building, the agencies which occupy space in each facility, the total square footage by agency in each facility, the total square footage of vacant space on which the EOP is currently paying rent in each facility and the GSA rent rates for each facility.

RESPONSE: The following charts provide the information on EOP facilities and GSA rental rates as they stood during the formulation of the FY 2004 budget request. Since

REV_00170087

then, several offices have moved from the New Executive Office Building (NEOB) into the space in 1800 G. Street. In addition, several offices from the Eisenhower Executive Office building will be moving into the newly vacated space at the NEOB. Once all moves have been accomplished, the EOP will provide the Subcommittee with an update on the space utilization of the buildings on the White House complex.

REV_00170088

Executive Office of the President
GSA Rental Space Information

Building	EOP Info		Square Feet		Rate/Sq.Ft
	Office	# of Staff	Occupied	Vacant	
White House (East & West Wing)	White House Office	131	52,955		$29.60
Eisenhower Executive Office Building	White House Office	260	105,067		$29.60
	Office of the Vice President	66	29,035		$29.60
	Office of Management and Budget	53	20,663		$29.60
	Council on Environmental Quality	*Joint Use*	954		$29.60
	Council of Economic Advisers	40	16,804		$29.60
	National Security Council	165	54,106		$29.60
	Office of Policy Development	26	17,003		$29.60
	Office of Administration	28	9,907		$29.60
	Office of Science and Technology Policy		1,377		$29.60
	Subtotal	*638*	*254,916*		
New Executive Office Building	White House Office	8	2,316		$29.60
	Office of Management and Budget	451	191,664		$29.60
	Office of Administration	163	84,381		$29.60
	U.S. Trade Representative	*Joint Use*	4,979		$29.60
	Subtotal	*622*	*283,340*		
1800 G. Street	White House Office	102	53,593		$34.56
	Office of Administration	4	1,028		$37.37
	Office of Administration		24,184		$37.01
	Office of Administration		524		$34.37
	Office of Administration		46,593		$34.56
	Office of Administration		11,555		$31.53
	Office of Homeland Security		5,787		$34.56
	Subtotal	*106*	*143,264*		
1801 Pennsylvania Ave.	Office of Science and Technology Policy	41	15,666		$50.55
750 17th Street	Office of National Drug Control Policy	124	54,185		$45.78
	Office of National Drug Control Policy	n/a	1,212		$17.44
	Subtotal	*124*	*55,397*		
Remote Delivery Center/Anacostia	Office of Administration	11	41,510		$11.31
708 Jackson Place	White House Office	9	3,978		$29.60
718 Jackson Place	Council on Environmental Quality	6	4,758		$30.71
722 Jackson Place	Council on Environmental Quality	6	5,534		$31.50
730 Jackson Place	Council on Environmental Quality	9	3,779		$29.90
734 Jackson Place	Offfice of Policy Development	4	3,320		$29.60
736 Jackson Place	White House Office	15	5,093		$30.58
Winder Building	U.S. Trade Representative	177	70,393		$30.50
1724 F St.	U.S. Trade Representative	34	18,481		$37.38
	Office of Administration	10	5,631		$37.38
	Subtotal	*44*	*24,112*		
1425 New York Ave. (USA Kids)	Office of Administration	n/a	2,891		$51.89
Crawford, TX Trailer	White House Office	n/a	n/a		$13,000/yr
Wyoming/Westbank Center	Office of the Vice President	n/a	756		$21.80
	GRAND TOTALS	**1,943**	**971,662**		

REV_00170089

Executive Office of the President
GSA Rental Space Information

Building	EOP Info		Square Feet		Rate/Sq.Ft
	Office	# of Staff	Occupied	Vacant	
EOP Total by Building					
White House		131	52,955		
Eisenhower Executive Office Building		638	254,916		
New Executive Office Building		622	283,340		
1800 G. Street		106	143,264		
1801 Pennsylvania Ave.		41	15,666		
750 17th Street		124	55,397		
Remote Delivery Center/Anacostia		11	41,510		
708 Jackson Place		9	3,978		
718 Jackson Place		6	4,758		
722 Jackson Place		6	5,534		
730 Jackson Place		9	3,779		
734 Jackson Place		4	3,320		
736 Jackson Place		15	5,093		
Winder Building		177	70,393		
1724 F St.		44	24,112		
1425 New York Ave. (USA Kids)		n/a	2,891		
Crawford, TX Trailer		n/a	n/a		
Wyoming/Westbank Center		n/a	756		
	GRAND TOTALS	**1,943**	**971,662**		
EOP Total by EOP Office					
	White House Office	525	223,002		
	Office of the Vice President	66	29,791		
	Office of Management and Budget	504	212,327		
	Office of Administration	216	228,204		
	Office of Policy Development	30	20,323		
	Office of Homeland Security	0	5,787		
	National Security Council	165	54,106		
	Council of Economic Advisers	40	16,804		
	Council on Environmental Quality	21	15,025		
	Office of Science and Technology Policy	41	17,043		
	Office of National Drug Control Policy	124	55,397		
	U.S. Trade Representative	211	93,853		
	GRAND TOTALS	**1,943**	**971,662**		

QUESTION 149: Under the procurement consolidation pilot that was approved in the FY03 Omnibus, is the rent for any EOP agency going to be paid out of funds contributed by other EOP agencies?

RESPONSE: No. The funds in the pilot will only be used to support the EOP components in the pilot; EOP funds not included in the pilot will not be used to support EOP components included in the pilot for purposes that pilot funds were budgeted.

QUESTION 150: Under the procurement consolidation pilot that was approved in the FY03 Omnibus, are after hours utilities charges for any EOP agency going to be paid out of funds contributed by other EOP agencies?

RESPONSE: No. After hours utilities charges were not included in the procurement consolidation pilot funding.

REV_00170090

Travel Office (POC – Mayra Segovia)

QUESTION 151: Please describe the current role the White House Travel Office plays in managing and arranging the financial aspects of White House Press Corps travel. Does the White House Travel Office operate as a "dollar-for-dollar" operation?

RESPONSE: The White House Travel Office provides the White House Press Corps with a range of travel services when they accompany the President, Vice President and First Lady. Services include air and ground transportation, hotel accommodations, and convention-type services associated with the Filing Center.

The White House Press Travel Fund operates as a dollar-for-dollar operation.

QUESTION 152: How many EOP staff work in the White House Travel Office?

RESPONSE: Eight EOP staff work in the White House Travel Office.

QUESTION 153: How many contractor travel agents support the White House Travel Office?

RESPONSE: Six contractor travel agents support the White House Travel Office.

QUESTION 154: Please include the most recent independent financial statement audit of the White House Travel Office's accounts for the record.

RESPONSE: The following document is the independent auditor's report. A copy of the original document with signature will be provided separately.

REV_00170091

White House Travel Office
Executive Office of the President

Order Number RWH21228

Task 1, Deliverable 1

Financial Statement Audit and Auditor's Report

December 31, 2001

Prepared by:

Martin & Wall, P.C Certified Public Accountants
1534 16th Street, NW, Washington, DC 20036-1402
Tel. 202.332.3566 Fax 202.332.3672

Contact: John J. Wall, CPA
E-Mail: jwall@martinwallcpa.com

REV_00170092

Tel: 202.332.3555 F• 202.332.3672 www.martinwallcpa.com

WHITE HOUSE TRAVEL OFFICE PRESS FUND

FINANCIAL STATEMENTS

DECEMBER 31, 2001

REV_00170093

1524 15th Street NW ~ Suite 100 – Washington, DC 20036-1402

WHITE HOUSE TRAVEL OFFICE PRESS FUND

FINANCIAL STATEMENTS

TABLE OF CONTENTS

Independent auditors' report..... 1

Statement of financial position..... 2

Statement of activities and changes in net assets..... 3

Statement of cash flows..... 4

Notes to financial statements..... 5-7

REV_00170094

Tel: 202.332.3566 ~ Fax: 202.332.3672 ~ www.martinwallcpa.com

INDEPENDENT AUDITORS REPORT

To the Management of
White House Travel Office Press Fund

We have audited the accompanying statement of financial position of the White House Travel Office Press Fund as of December 31, 2001, and the related statements of activities and cash flows for the year then ended. These financial statements are the responsibility of the White House Travel Office Press Fund's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the White House Travel Office Press Fund as of December 31, 2001, and the changes in its net assets and its cash flows for the nine months then ended in conformity with accounting principles generally accepted in the United States of America.

Washington, DC
March 27, 2003

1524 15th Street NW ~ Suite 100 – Washington, DC 20036-1402

REV_00170095

WHITE HOUSE TRAVEL OFFICE PRESS FUND
STATEMENT OF FINANCIAL POSITION
DECEMBER 31, 2001

ASSETS			
Current assets			
	Cash - Press Fund operating account (Note 3)	$85,455	
	Cash - Restricted Cash Account 2000 (Notes 3 and 4)	527,166	
	Total Cash		612,621
	Accounts receivable (Note 5)		2,105,176
	Other Receivables (Note 6)		3,328.761
TOTAL ASSETS			$6,046,558
LIABILITIES ANID NET ASSETS			
	Accounts payable	$5,358,675	
	Restricted Cash Account 2000 Liability (Note 4)	409,815	
	Restricted Cash Account 2001 Liability (Note 4)	209,456	
	Federal Excise Tax Payable	68,612	
	Total liabilities	6,046,558	
	Net assets		0
TOTAL LIABILITIES AND NET ASSETS		$6,046,558	

The accompanying notes are an integral part of these financial statements.

REV_00170096

WHITE HOUSE TRAVEL OFFICE PRESS FUND
STATEMENT OF ACTIVITIES
FOR THE YEAR ENDED DECEMBER 31, 2001

REVENUE	$10,828,890
EXPENDITURES	10,828,890
CHANGE IN NET ASSETS	$0
NET ASSETS, BEGINNING OF YEAR	0
NET ASSETS, END OF YEAR	$0

The accompanying notes are an Integral part of these financial statements.

REV_00170097

WHITE HOUSE TRAVEL OFFICE PRESS FUND
STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED DECEMBER 31, 2001

CASH FLOWS FROM OPERATIONAL ACTIVITIES:

Change in net assets		$0
Adjustments to reconcile change in net assets to net cash provided:		
Decrease In accounts receivable	4,986,501	
(Increase) in other receivables	(2,530,708)	
(Decrease) in accounts payable	(2,814,441)	
Increase In restricted cash account 2000 liability	4,096	
Increase in restricted cash account 2001 liability	209,456	
Increase in Federal Excise tax payable	68,612	
Net cash provided by operational activities	(76,484)	
Net increase in cash		(76,484)
Cash, beginning of year	689,105	
Cash, end of year	$612,621	

The accompanying notes are an integral part of these financial statements.

REV_00170098

WHITE HOUSE TRAVEL OFFICE PRESS FUND
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2001

NOTE 1 – ORGANIZATION

The White House Travel Office Press Fund ('WHTO") was established to manage expenses associated with travel for members of the press who accompany the President, Vice President, First Lady, and Second Lady on domestic and foreign trips. In May 1993, a new management team was hired to manage WHTO. Consequently, for accounting and reporting purposes, a new WHTO was established as of January 1, 1994.

NOTE 2- SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Revenue and expenditures are recognized using the accrual basis of accounting. The WHTO invoices the press organizations for their prorated share of the expenses associated with each trip. The WHTO then remits payment directly to the vendors whose services were used for the particular trip. The total amount invoiced to the press members equals the total of the amounts paid to the vendors. The WHTO does not own any fixed assets. Al! fixed assets are purchased through the White House's general fund and designated for the WHTO use. Similarly, all operating expenses of the WHTO, including salaries and office supplies, are paid directly by the White House's general fund.

NOTE 3- CASH

Gash is maintained in two non-interest checking accounts at the Riggs National Bank of Washington, D.C. The RCA 2000 cash account is explained in Note 4.

The total cash held by WHTO at December 31, 2001 includes $512,821 that is not covered by insurance provided by the federal government. It is the opinion of WHTO's management that the solvency of the referenced financial institution is not of particular concern at this time.

REV_00170099

NOTE 4 - RESTRICTED CASH ACCOUNT

Effective April 1, 2000, the management of the White House Travel Office implemented a Restricted Cash Account (RCA). RCA funds are encumbered for specific purposes set forth in written policies and procedures, most notably for payment of late arriving vendor invoices, bank charges and accounts receivable written off as uncollectible.

The RCA is funded through an RCA funding amount applied to every customer invoice, except those for government employees. Presently, that funding amount is two percent of the invoice amount

RCA funding amounts are not considered revenue for accounting purposes.

Under current policies and procedures, a separate RCA is established for each calendar year. The RCA 2000 account on the Statement of Financial Position reflects the total amount of cash in that account at December 31, 2001. The RCA liability accounts for 2000 and 2001 reflect the total RCA funding amount applied to all customer invoices during the respective calendar year, less any disbursements. RCA funding amounts that have been invoiced but not yet collected are included in the accounts receivable amount.

The RCA for each year will be terminated at a designated point in time after the conclusion of the applicable calendar year. At the time of dissolution, any excess funds will be refunded to the Press Fund's customers subject to the RCA funding amount in accordance with a formula based on the percentage of the total travel costs consumed during the year corresponding to the RCA. For example, if a customer were responsible for ten percent of all travel costs for the calendar year 2001, they would be entitled to ten percent of the remaining RCA 2001 funds at the time of dissolution.

NOTE 5 – ACCOUNTS RECEIVABLE

Currently, the WHTO writes off accounts receivable using the direct write-off method. Therefore, there is no allowance for uncollectible accounts.

REV_00170100

NOTE 6 - OTHER RECEIVABLES

As per note 2, the WHTO utilizes a system of dollar for dollar accounting. Under the current accounting process, vendor invoices for trip expenses are entered into accounts payable as they are received. Accordingly, there is an accumulation of unbilled trip expenses in accounts payable until such time that trip accounting is finalized and members of the press are invoiced for their pro rata share of trip expenses. This timing difference creates the need for an Other Receivables category. Other Receivables represents the obligations for normal trip expenses that have been entered into accounts payable, but not yet billed to the press.

QUESTION 155: Please explain the formula you use to determine the rate of reimbursement for Press Corps travelers on the Press Charter?

RESPONSE: Each leg of the itinerary is assigned a proportionate cost, which is divided equally among all press passengers. The following formula is used to compute the proportionate cost for each leg of the trip: (Leg flight time / Total flight time) * Total Air Transportation Expense

QUESTION 156: Please explain the formula you use to determine the rate of reimbursement for Press Pool travelers on Air Force One?

RESPONSE: The cost of the fourteen members of the pool traveling on AF1 is added to the total air transportation expense and the total costs are spread on a pro-rata share among all of the press travelling on the trip. The following formula is used to compute the proportionate cost for each leg of the trip: (Leg flight time / Total flight time) * Total Air Transportation Expense

QUESTION 157: Please explain the formula used to identify the reimbursement rate that the Travel Office billed Press Corps travelers accompanying the President's travel to the USS Abraham Lincoln. In your response, please include the actual rate billed to individual press corps travelers on this trip.

RESPONSE: The cost of transporting press corps travelers from the North Island Naval Air Station to the USS Abraham Lincoln and back to the North Island Naval Air Station totaled $7,440.26. This cost will be added to the total air transportation expense and spread on a pro-rata share among all the press traveling on the trip. The formula for military aircraft reimbursement for the trip to the USS Abraham Lincoln is as follows: $X per hour per aircraft, divided by 60 minutes to get a per minute rate, multiplied by the flight time, divided by the total number of passengers, and then 7.5% excise tax plus $3.00 dollars per person was added.

Bonuses

QUESTION 158: Why did this administration reinstate the payments of bonuses to political appointees? **(POC – WHO M&A)**

RESPONSE: The relevant statutes and regulations make clear that all Federal employees are eligible for bonuses. Therefore, like other Federal employees, Schedule C and non-career Senior Executive Service (SES) employees may receive bonuses. Consistent with law, this and past Administrations have made bonuses available to Schedule C and SES employees in appropriate circumstances.

REV_00170102

QUESTION 159: Have any EOP political staff been given bonuses since the policy was reinstated in March of 2002? **(POC – Jon Laurich)**

RESPONSE: Bonuses have been awarded to EOP political staff.

QUESTION 160: Have any EOP political staff been given pay increases for a single pay period in FY02 or FY03 (to date) that would have the same effect as a bonus? **(POC – Jon Laurich)**

RESPONSE: No.

Eisenhower Executive Office Building

QUESTION 161: Since 1/20/01, have any non-Federal funds been used for renovations and/or furnishings in the GSA facilities occupied by the Executive Office of the President? [this question does not apply to the White House residence.] **(POC –WHO M&A)**

RESPONSE: We understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 162: Which Federal agency (i.e., GSA, OA/Facilitles) coordinated the work that was paid for using non-Federal funds? **(POC –WHO M&A)**

RESPONSE: I understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park

REV_00170103

Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 163: For the record, please provide the sources and amounts of the non-Federal funds used for renovations and/or furnishings. **POC –WHO M&A)**

RESPONSE: I understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 164: For the record, please also provide a description of each project for which non-Federal funds were provided. **(POC –WHO M&A)**

RESPONSE: I understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was

REV_00170104

accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 165: Why were non-Federal funds used to renovate and/or furnish these GSA facilities? **(POC –WHO M&A)**

RESPONSE: I understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 166: Which agency's gift authority was used to accept the contribution of non-Federal funds for renovations and/or furnishings? (**POC –WHO M&A)**

RESPONSE: I understand this question to refer to buildings within the White House complex that are managed by GSA, including the EEOB, and the East and West Wings. As the Committee is aware, two federal agencies – the GSA, and the National Park Service -- have authority to accept gifts donated to the United States for use in various buildings in the White House complex.

Historically these agencies have on occasion accepted gifts to the United States donated for use in these facilities. For example, in the past, furnishings have been donated to renovate the Oval Office, located in the West Wing. That has also occurred in this Administration. To illustrate: in 2002 a donation was made of three sofas, including sofa fabric, and fabric for two chairs, all for use in the Oval Office. This donation was accepted by the National Park Service under its gift acceptance authority, on behalf of the United States. The donated items became part of the White House collection and will be cared for by the White House Curator.

QUESTION 167: Please provide a list of all EOP and EOP-support-related agencies that occupied space in the Eisenhower Executive Office Building on 1/20/01 that have since

REV_00170105

been relocated to locations outside the EEOB. For each agency that relocated, please identify the agency that paid the move-related costs. **(POC – Steve Beattie)**

RESPONSE: There was no movement of EOP offices from the EEOB prior to September 11, 2001. After September 11, the Office of Administration, using Emergency Supplemental funding, paid for the moves of the following offices outside of the EEOB.

EOP Offices Previously in the EEOB	New Location
WHO Presidential Personnel	1800 G. Street
WHO Presidential Correspondence	1800 G. Street
Council on Environmental Quality	Jackson Place Townhouses
Office of Science and Technology Policy	1801 Pennsylvania Avenue

QUESTION 168: What is the status of the vacant space on the 17th Street side of the Eisenhower Executive Office Building? **(POC – Steve Beattie)**

RESPONSE: The vacant space along 17th street is under construction as part of the Fire and Life Safety Improvements project.

EOP Staffing Levels:

QUESTION 169: By EOP agency, provide FTE and OGE. Itemize OGE by category (e.g. reimbursable detailee, PSC, etc). Include FY 2002 (actual) and FY03-FY04 (estimates). Please provide a list of the "historically provided" White House Office positions, the office to which these positions are assigned and the agency that pays the salary for each of these positions. **(POC – Jon Laurich)**

RESPONSE: The following chart provides the FTE and OGE information for FY 2002 to FY 2004 in addition to a listing of "historically provided" White House Office positions.

REV_00170106

R = Reimbursable N = Non Reimbursable	FY 2002 Actual FTE and OGE																		
		Agency Reps		Assignees		Detailees		Historically Provided Services		Others		Student Volunteers		White House Fellows		Pres. Mgmt Intern		OGE Grand Totals	
	FTE	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R + N
White House Office	385			1	20	79	9	1	17		4				3			81	53	134
Special Assistance to the President	18				7		1		6		26								40	40
Official Residence of the Vice President	1																			
Office of Administration	195					2					1							2	1	3
Office of Policy Development	30		1		3		3												7	7
National Security Council	50				33	1	102		4									1	139	140
Council of Economic Advisers	31					2	1			3	1		3					5	5	10
Office of Management and Budget	512					6	53						11					6	64	70
Office of National Drug Control Policy	106		13		16					3			2					3	31	34
Executive Residence	92																			
Office of Science and Technology Policy	23		6			4	1			2	3							6	10	16
Council on Environmental Quality	19		11				2										1		14	14
U.S Trade Representative	200						21				1				2				24	24
TOTAL	1662		31	1	79	94	193	1	27	8	36		16		5		1	104	388	492

*For FY02, the White House includes 65 OGE's for the Office of Homeland Security, which are funded from the Emergency Appropriation

R = Reimbursable N = Non Reimbursable	FY 2003 Estimate FTE and OGE *as of May 5, 2003*																		
		Agency Reps		Assignees		Detailees		Historically Provided Services		Others		Student Volunteers		White House Fellows		Pres. Mgmt Intern		OGE Grand Totals	
	FTE	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R + N
White House Office	406				7	5	11		19		1				2		1	5	41	46
Office of Homeland Security	40			2	1	23	3				1			1				26	5	31
Special Assistance to the President	24		3		7		1		18		25								54	54
Official Residence of the Vice President	1																			
Office of Administration	222										1								1	1
Office of Policy Development	35		1		3	1	1										1	1	6	7
National Security Council	71				33	5	103		4									5	140	145
Council of Economic Advisers	35					2	2			2			2				1	4	5	9
Office of Management and Budget	499					3	54						6					3	60	63
Office of National Drug Control Policy	115		19		14		4			3	9						2	3	48	51
Executive Residence	95																			
Office of Science and Technology Policy	40		6			2	3			2	5		1		1			4	16	20
Council on Environmental Quality	24		10				3				1								14	14
U.S Trade Representative	209						25				1				2				28	28
TOTAL	1816		39	2	65	41	210		41	7	44		9	1	5		5	51	418	469

R = Reimbursable N = Non Reimbursable	FY 2004 Estimate FTE and OGE																		
		Agency Reps		Assignees		Detailees		Historically Provided Services		Others		Student Volunteers		White House Fellows		Pres. Mgmt Intern		OGE Grand Totals	
	FTE	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R	N	R + N
White House Office	406				7	5	11		19		1				2		1	5	41	46
Office of Homeland Security	40			2	1	23	3				1			1				26	5	31
Special Assistance to the President	24		3		7		1		18		25								54	54
Official Residence of the Vice President	1																			
Office of Administration	222										1		10						11	11
Office of Policy Development	35		1		3	1	1										1	1	6	7
National Security Council	71				33	5	103		4									5	140	145
Council of Economic Advisers	35					2	2			2			2				1	4	5	9
Office of Management and Budget	516					3	54						6					3	60	63
Office of National Drug Control Policy	125		19		14		4			3	9						2	3	48	51
Executive Residence	95																			
Office of Science and Technology Policy	40		6			2	3			2	5		1		1			4	16	20
Council on Environmental Quality	24		10				3				1								14	14
U.S Trade Representative	217						25				1				2				28	28
TOTAL	1851		39	2	65	41	210		41	7	44		19	1	5		5	51	428	479

The following chart shows the 18 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 12, 2003*:

POSITION	OFFICE	HOME AGENCY
1. Assistant to the Presidential Diarist	Office Of Scheduling	NARA
2. Presidential Diarist	Office Of Scheduling	NARA

REV_00170107

3. Administrative Assistant	PFIAB *	CIA
4. Administrative Services Specialist	PFIAB *	DOD
5. Deputy Executive Director	PFIAB *	CIA
6. Deputy Director of Photography For Visuals	Photo Office	DIA
7. Visual Information Specialist	Photo Office	DOD
8. Official Photographer	Photo Office	DOD
9. Official Photographer	Photo Office	DIA
10. Photographer	Photo Office	DOD
11. IT Systems Administrator	Photo Office	DIA
12. Photo Editor	Photo Office	DIA
13. President's Photographer	Photo Office	DIA
14. Photographic Specialist	Photo Office	DIA
15. Admin Officer	Photo Office	DIA
16. Staff Assistant	Visitors Office	Dept Of Interior
17. Executive Assistant	Visitors Office	Dept Of Interior
18. Staff Assistant	Visitors Office	Dept Of Interior

*PFIAB is the President's Foreign Intelligence Advisory Board

REV_00170108

From: Miranda, Manuel (Frist) <Manuel_Miranda@frist.senate.gov>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 5/30/2003 8:30:31 AM
Subject: : Leon Homes and Learned Hand
Attachments: P_6NLTG003_WHO.TXT_1.html

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Miranda, Manuel (Frist)" <Manuel_Miranda@frist.senate.gov> ("Miranda, Manuel (Frist)" <Manuel_Miranda@frist.senate.gov> [UNKNOWN])
CREATION DATE/TIME:30-MAY-2003 12:30:31.00
SUBJECT:: Leon Homes and Learned Hand
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

This is an extraordinary editorial by Pulitzer-prize winning editorialist Paul Greenberger, from December 2002 comparing Leon Holmes to Learned Hand.

ARKANSAS DEMOCRAT GAZETTE

EDITORIALS : Name on a list
In a field of seven, one stands out

THAT WAS quite an impressive list of possibles for the next opening on the federal bench in Arkansas. Tim Hutchinson, an outgoing U.S. senator in more ways than one, must have run through the names of every outstanding Republican lawyer he knew and, instead of backing just one and disappointing the rest, he passed the whole list on to the White House. No sense offending anybody on his way out.

Or as the legendary Spider Rowland might have said when he was churning out his must-read column for the old Arkansas Gazette between sessions at the track, the senator didn't just bet across the board but on every filly, mare, colt and stallion in the race. That way, he couldn't lose-even if he couldn't win much, either. And he certainly wasn't going to make his decision before the election, when he needed all the support he could get. (As one sage politician once put it, every time he recommended someone for a coveted appointment, he created a hundred enemies and one ingrate.)

Naturally a spokesman in Washington, more fluent in polspeak than we ever were or wanted to be, explained the senator's decision in much more elevated tones: "All seven Arkansans will be given full consideration.. The senator views his role as submitting recommendations to the White House. They've got the infrastructure to then fully vet the potential nominees and, of course, it's their constitutional prerogative to make the nomination."

Goodness. We haven't seen so many terms of the poli-techno-juridicial lingo packed into so tight a space since the last time we filled out a government form. Full Consideration. Vet. Infrastructure. Constitutional Prerogative. The only piece of jargon missing was The Process. On the whole, or even in any part, we much prefer Spider's simple Oaklawntested vocabulary. It offers more traction. Like a hard, fast track. Besides, once you get beyond Win, Show and Place, you lose us. Why didn't the senator just settle for three possibles, give one of 'em the secret handshake, and at least leave the other two feeling like contenders?

WE RAN an eye down this field of seven, and had a familiar sensation. It had been a while since we experienced it, so it took a moment to

conjure it up again. It's the feeling we get whenever sitting in on a legal seminar, or a ceremonial swearing-in or mustering-out of a distinguished judge, or attending one of those banquets that attracts local luminaries, and spot the honorable Richard S. Arnold in the crowd, which fades away around him.

Judge Arnold has now stepped down as chief judge of the Eighth Circuit Court of Appeals-and has been a grey eminence since he was, oh, in his 30s. It's not that others do not shine, but that his is the kind of light that illuminates, not just glares. It isn't agreeing or disagreeing with where Judge Arnold has come out on a legal question that educates, but seeing how he got there. Great judges are like that.

One of the (we would say many) disappointments of the Clinton administration was that, given more than one opportunity to put The Hon. Richard Sheppard Arnold on the Supreme Court of the United States, it never did. And so the uniformly pedestrian quality of the high court's jurisprudence remains unbroken except for the regular opinions of Antonin Scalia, which come and go in its law like momentary spasms of lucidity.

Bill Clinton twice passed over his fellow Arkansan in favor of one politically correct mediocrity after another, which was a shame but no surprise. There was always something about Arkansas' prodigal president that attracted popularity but repelled excellence. Indeed, we bet a friend a good dinner at the best restaurant in town that Bill Clinton would never pick Richard Arnold for the court, but we've never had the heart to collect. We would love to have lost that bet. The dinner would've been a celebration.

And so Richard S. Arnold remains the most incisive jurist, with the exception of Learned Hand, never to have served on the Supreme Court of the United States. For him it is doubtless another wry fact of life, and Judge Arnold has always been one to appreciate the wry in life.

But for the country, Judge Arnold's not having been named to the high court was a tragedy we'll never know the extent of. Though we think about it now and then, always with a sigh. American law is still in need of the clarity and concision he has always lent it. We still feel a great regret and a great happiness in his presence, or just when reading one of his decisions. It's like being in the light.

THE SAME light settled on one name when we read the story out of Washington that listed the field of seven up for federal district judge as The Hon. Stephen M. Reasoner takes senior status. The name might as well have been in italics: Leon Holmes.

It wasn't just the long list of academic distinctions that drew our eye to his name-from being first in his law school class at Fayetteville to his various scholarly honors. (Counselor Holmes has had a career teaching political philosophy as well as in the law.) What distinguishes Mr. Holmes is the rare blend of qualities he brings to the law-intellect, scholarship, conviction, and detachment. A reverence not just for the law but for ideas, for the life of the mind. All of that would shine through the clutter of argument that awaits any judge.

We hasten to add that Counselor Holmes has in the past represented the Democrat-Gazette, and while that fact might understandably prejudice us in his favor, it also gave us an opportunity to spend some time in his pleasant but challenging company, to rest in his competence, to examine our own motives under his penetrating gaze, and to regularly discover his strengths. Always a little grave, he also seems always about to smile. Not a simple man, Mr. Holmes, but he simply appeals. We're not sure we've ever met anyone quite like him, which is the same feeling we get around Richard Arnold.

Learned Hand once said that a great judge must know more than the law, that he must have "at least a bowing acquaintance" with great ideas, and Leon Holmes has more than that. He has a sophisticated interest in ideas, yet a simplicity in their pursuit. He would not only bring distinction to the bench but promise. Which is why his inclusion in this list is not just a seven-shared honor for him, but a test of the

Bush administration's own judgment. The appointment it makes in this instance will say something about the legacy this president leaves the American judiciary. In choosing Leon Holmes, he could bequeath a promise of greatness.

Their politics and their approach to many aspects of the law may be different, yet Richard Arnold and Leon Holmes cast the same, illuminating light. In passing over Judge Arnold, the Clinton administration missed a great opportunity for American jurisprudence. Let's hope this president seizes this one.

- EDITORIALS Name on a list In a field of seven, one stands out.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_6NLTG003_WHO.TXT_1>

Search the digital archi
ves of the Arkansas Democrat-Gazette

&nb sp; "Arkansas' Voice on the Internet" Lo gged in : jleonholmes :: (Log out)

Original publication date : **Sunday, December 01, 2002**
Delivery date : **Friday, May 30, 2003 11:02:2 9 am**
Username : **jleonholmes :: (Log out)< /b>**
Your query : **"leon Holmes" "Learne d Hand"**
Charge for this story: **$1.95**

EDITORIALS : Name on a list

In a field of sev en, one stands out

THAT WAS quite an impressive list of possibles for t he next opening on the f ederal bench in Arkansas. Tim Hutchinson, an outgoing U.S. senator in more ways than one, must have run through the names of every outstanding Republican lawy er he knew and, instead of backing just one and disappointing the rest, he pass ed the whole list on to the White House.. No sense offending anybody on his way out.

Or as the legendary Spider Rowland might have said when he was churning out his must-read column for the old Arkansas Gazette between s essions at the track, the senator didn t just bet across the board but on every filly, mare, colt and stallion in the race. That way, he couldnt loseeven if he couldnt win much, either. And he cert ainly wasnt going to make his decision before the election, when he needed all the support he could get. (As one sage politician once put it, every time he re commended someone for a coveted appointment, he created a hundred enemies and o ne ingrate.)

Naturally a spokesman in Washington, more fluent in polspeak than we ever were or w anted to be, explained the senators decision in much more elevated tones: "All seven Arkansans will be given full consideration. The senator views his role as submitting recommendations to the White House.. Theyve got the infrastructure to then fully vet the potential nominees and, of course, its their constitution al prerogative to make the nomination."

Goodness. We havent se en so many terms of the poli-techno-juridicial lingo packed into so tight a spa ce since the last time we filled ou t a government form. Full Consideration. Vet. Infrastructure. Constitutional Pr erogative. The only piece of jargon missing was The Process.. On the whole, or even in any part, we much prefer Spiders simple Oaklawntested vocabulary. It of fers more traction. Like a hard, fast track. Besides, once you get beyond Win, Show and Place, you lose us.. Why didnt the senator just settle for three possi bles, give one of em the secret handshake, and a t least leave the other two feeling l ike contenders?

WE RAN an eye down this field of seven, and ha d a familiar sensation. It had been a while since we experienced it, so it took a

moment to conjure it up again. Its the feeling we get whenever sitting in on a legal seminar, or a ceremonial swearing-in or mustering-out of a distinguish ed judge, or attending one of those banquets that attracts local luminaries, an d spot the honorable Richard S. Arnold in the crowd, which fades away around hi m.

Judge Arnold has now stepped down as chief judge of the Eighth Circuit Court of Appealsand has b een a grey eminence since he was, oh, in his 30s. Its not that others do not sh ine, but that his is the kind of light that illuminates, not just glares. It is nt agreeing or disagreeing with where Judge Arnold has come out on a legal ques tion that educates, but seeing how he got there. Great judges are like that.

One of the (we would say many) disappointments of the Clinton ad ministration was that, given more t han one opportunity to put The Hon. Richard Sheppard Arnold on the Supreme Cour t of the United States, it never did. And so the uniformly pedestrian quality o f the high courts jurisprudence remains unbroken except for the regular opinion s of Antonin Scalia, which come and go in its law like momentary spasms of luci dity.

Bill Clinton twice passed over his fellow Arkansan in fa vor of one politically correct mediocrity after another, which was a shame but no surprise. There was always somethi ng about Arkansas prodigal president that attracted popularity but repelled exc ellence. Indeed, we bet a friend a good dinner at the best restaurant in town t hat Bill Clinton would never pick Richard Arnold for the court, but weve never had the heart to collect. We would love to have lost that bet. The dinner would ve been a celebration.

And so Richard S. Arnold remains the mo st incisive jurist, with the exception of Learned Hand, never to have served on the Supreme Court of the United States. For him it is doubtless another wry fact of life, and Judge Arnold has always been one to appreciate the wry in life.

But for the country, Judge Arnolds not having been named to the high court was a tragedy well never know the exte nt of. Though we think about it now and then, always with a sigh. American law is still in need of the clarity and concision he has always lent it. We still f eel a great regret and a great happi ness in his presence, or just when reading one of his decisions. Its like being in the light.

THE SAME light settled on one name when we read the story out of Washington that listed the field of seven up for federal dist rict judge as The Hon. Stephen M. Reasoner takes senior status. The name might as well have been in italics: Leon Holmes.

It wasnt just the long list of acade mic distinctions that drew our eye t o his namefrom being first in his law school class at Fayetteville to his vario us scholarly honors. (Counselor Holmes has had a career teaching political philosophy as well as in the law.) What distinguishe s Mr. Holmes is the rare blend of qualities he b rings to the lawintellect, scholarship, conviction, and detachment. A reverence not just for the law but for ideas, for the life of the mind. All of that woul d shine through the clutter of argum ent that awaits any judge.

We hasten to add that Counselor Holmes has in the past represented the Democrat-Gaz ette, and while that fact might understandably prejudice us in his favor, it al so gave us an opportunity to spend some

time in his pleasant but challenging co mpany, to rest in his competence, to examine our own motives under his penetrat ing gaze, and to regularly discover his strengths. Always a little grave, he al so seems always about to smile. Not a simple man, Mr. Holmes, but he simply appeals. W ere not sure weve ever met anyone quite like him, which is the same feeling we get around Richard Arnold.

Learned Hand once said that a great judge must know more than the law, that he must have "at least a bowing acquaintance" with grea t ideas, and Leon Holmes has more than that. He has a sophisticated interest in ideas, yet a simplicity in their pursuit. He would n ot only bring distinction to the bench but promise. Which is why his inclusion in this list is not just a seven-shared honor for him, but a test of the Bush a dministrations own judgment. The appointment it makes in this instance will say something about the legacy this president leaves the American judiciary. In ch oosing Leon Holmes, he could bequeath a promise of gre atness.

Their politics and their approach to many aspects of t he law may be different, yet Richard Arnold and Leon Holmes cast the same, illuminating light. I n passing over Judge Arnold, the Clinton administration missed a great opportun ity for American jurisprudence. Lets hope this president seizes this one.

This story was published Sunday, Decem ber 01, 2002

< /p>

Copyright and permissio ns
Copyright © 2002, Arkansas Democrat-Gazette, Inc. All rights reserved.
This document may not be reprinted without the express written permission of Ar kansas Democrat-Gazette, Inc.

Materia l from the Associated Press is Copyright © 2002, Associated Press and may not be published, broadcast, rewritt en, or redistributed. Associated Press text, photo, graphic, audio and/or video material shall not be published, broadcast, rewritten for broadcast or publica tion or redistributed directly or indirectly in any medium. Neither these AP ma terials nor any portion thereof may be stored in a computer except for personal and noncommercial use. The AP will not be held liable for any delays, inaccura cies, errors or omissions therefrom or in the transmission or delivery of all o r any part thereof or for any damages arising from any of the foregoing. All rights reserved.

From: CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [WHO]
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 5/30/2003 5:23:41 AM
Subject: : FW: Message Meeting Room Change

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:30-MAY-2003 09:23:41.00
SUBJECT:: FW: Message Meeting Room Change
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

;
-----Original Message-----
From: Ritacco, Krista L.
Sent: Friday, May 30, 2003 9:20 AM
To: Yunker, Jacob H.; Allgood, Lauren K.; Ball, Andrea G.; Barrales, Ruben S.; Bennett, Melissa S.; Besanceney, Brian R.; Buchan, Claire ; Burkhart, Shannon; Burks, Jonathan W.; Campbell, Anne E.; Christie, Ronald I.; Ciafardini, Andrew D.; Conde, Roberta L.; Cooper, Rory S.; DeFrancis, Suzy; Devenish, Nicolle; Douglas, Penny G.; Duffy, Trent D.; Ellison, Kimberly; Eskew, Tucker A.; Figg, Kara G.; Gerdelman, Sue H.; Gillmor, Eleanor L.; Grant, Britt; Gray, Adrian G.; Gray, Ann ; Hager, Henry C; Healy, Erin E.; Hennessey, Keith; Hernandez, Israel; Hughes, Taylor A.; Ingle, Edward; Jackson, Barry S.; Kaplan, Joel; Kozberg, Lindsey C.; Kupfer, Jeffrey F.; Kyle, Ross M.; Lawrimore, Emily A.; Lefkowitz, Jay P.; Lineberry, Stephen M.; Litkenhaus, Colleen; Mallea, Jose; Martin, Catherine J.; McClellan, Scott ; McCord, Lauren; McDonald, Rebekah; McQuade, Vickie A.; Mehlman, Ken; Middlemas, A. Morgan; Millerwise, Jennifer; Millison, Cathy L.; Montiel, Charlotte L.; Nelson, Carolyn; Nipper, Wendy L.; Parell, Christie; Pelletier, Eric C.; Perez, Anna M.; Ralston, Susan B.; Reese, Shelley; Riepenhoff, Allison L.; Rodriguez, Noelia ; Rogers, Edwina C.; Rust, Kathryn E.; Ryun, Catharine A.; Schulte, Gregory L.; Sforza, Scott N.; Smith, Heidi M.; Snee, Ashley; Torgerson, Karin B.; Towey, Jim; Vestewig, Lauren J.; Walters, Katherine M.; Wehner, Peter H.; Westine, Lezlee J.; Williams, Mary C.; Wozniak, Natalie S.
Subject: Message Meeting Room Change

Message Meeting for Monday will be moved to EEOB 180
;
;
Thanks

From: CN=PostMaster/O=EOP [OA]

BCC: Ziad S. Ojakli (Ziad S. Ojakli/WHO/EOP@Exchange [WHO]), Zalmay M. Khalilzad (Zalmay M. Khalilzad/NSC/EOP [NSC]), William D. Badger (William D. Badger/OPD/EOP [OPD]), Wendy J. Grubbs (Wendy J. Grubbs/WHO/EOP@Exchange [WHO]), Tucker A. Eskew (Tucker A. Eskew/WHO/EOP [WHO]), Todd W. Beyer (Todd W. Beyer/WHO/EOP [WHO]), Tim Campen (Tim Campen/OA/EOP@Exchange [UNKNOWN]), Tim Goeglein (Tim Goeglein/WHO/EOP [WHO]), Thomas A. Shannon Jr. (Thomas A. Shannon Jr./NSC/EOP [NSC]), Theodore W. Ullyot (Theodore W. Ullyot/WHO/EOP [WHO]), Tevi Troy (Tevi Troy/WHO/EOP@Exchange [WHO]), Terrell L. Halaska (Terrell L. Halaska/OPD/EOP [OPD]), Suzy DeFrancis (Suzy DeFrancis/WHO/EOP@Exchange [WHO]), Stephen J. Hadley (Stephen J. Hadley/NSC/EOP [NSC]), Stephen Friedman (Stephen Friedman/OPD /EOP@Exchange [OPD]), Scott N. Sforza (Scott N. Sforza/WHO/EOP [WHO]), Scott McClellan (Scott McClellan/WHO/EOP@Exchange [WHO]), Ruben S. Barrales (Ruben S. Barrales/WHO/EOP [WHO]), Ronald I. Christie (Ronald I. Christie/OPD/EOP [OPD]), Robert Marsh (Robert Marsh/WHO/EOP@Exchange [WHO]), Robert G. Joseph (Robert G. Joseph/NSC/EOP [NSC]), Robert C. McNally (Robert C. McNally/OPD/EOP [OPD]), Richard Falkenrath (Richard Falkenrath/WHO/EOP@Exchange [WHO]), Rebecca Contreras (Rebecca Contreras/WHO/EOP [WHO]), Rebecca A. Beynon (Rebecca A. Beynon/WHO/EOP [WHO]), Peter H. Wehner (Peter H. Wehner/WHO/EOP [WHO]), Paul B. Kurtz (Paul B. Kurtz/NSC/EOP [NSC]), Noel J. Francisco (Noel J. Francisco/WHO/EOP [WHO]), Noam M. Neusner (Noam M. Neusner/WHO/EOP [WHO]), Nicolle Devenish (Nicolle Devenish/WHO/EOP [WHO]), Nanette Everson (Nanette Everson/WHO/EOP [WHO]), Monica V. Kladakis (Monica V. Kladakis/WHO/EOP [WHO]), Michael J. Gerson (Michael J. Gerson/WHO/EOP@Exchange [WHO]), Michael H. Miller (Michael H. Miller/WHO /EOP@Exchange [WHO]), Michael E. Meece (Michael E. Meece/WHO/EOP [WHO]), Michael Allen (Michael Allen/WHO/EOP [WHO]), Matthew O. Scully (Matthew O. Scully/WHO/EOP [UNKNOWN]), Matthew Kirk (Matthew Kirk/WHO/EOP@Exchange [WHO]), Matthew A. Schlapp (Matthew A. Schlapp/WHO/EOP [WHO]), Mary K. Sturtevant (Mary K. Sturtevant/NSC/EOP [NSC]), Margaret M. Spellings (Margaret M. Spellings/OPD /EOP@Exchange [OPD]), Liza Wright (Liza Wright/WHO/EOP [WHO]), Lindsey C. Kozberg (Lindsey C. Kozberg/WHO/EOP [WHO]), Linda M. Gambatesa (Linda M. Gambatesa/WHO /EOP@Exchange [WHO]), Lezlee J. Westine (Lezlee J. Westine/WHO/EOP [WHO]), Lewis Libby (Lewis Libby/OVP/EOP@Exchange [OVP]), Lawrence A. Fleischer (Lawrence A. Fleischer/WHO/EOP@Exchange [WHO]), Kyle Sampson (Kyle Sampson/WHO/EOP [WHO]), Kristen Silverberg (Kristen Silverberg/WHO/EOP@Exchange [WHO]), Kirsten A. Chadwick (Kirsten A. Chadwick/WHO/EOP@Exchange [WHO]), Kevin Warsh (Kevin Warsh/OPD/EOP [OPD]), Kenneth Bernard (Kenneth Bernard/WHO/EOP [WHO]), Kenneth B. Mehlman (Kenneth B. Mehlman/WHO/EOP [UNKNOWN]), Kelley Gannon (Kelley Gannon/WHO/EOP [WHO]), Keith Hennessey (Keith Hennessey/OPD/EOP@Exchange [OPD]), Katja Bullock (Katja Bullock/WHO/EOP [WHO]), Kathleen E. Ohalloran (Kathleen E. Ohalloran/OA/EOP [OA]), Karl C. Rove (Karl C. Rove/WHO/EOP@Exchange [WHO]), Karin B. Torgerson (Karin B. Torgerson/WHO/EOP@Exchange [WHO]), Joshua B. Bolten (Joshua B. Bolten/WHO /EOP@Exchange [WHO]), Joseph W. Hagin (Joseph W. Hagin/WHO/EOP@Exchange [WHO]), Jonathan W. Burks (Jonathan W. Burks/WHO/EOP@Exchange [WHO]), John P. Walters (John P. Walters/ONDCP/EOP [ONDCP]), John P. McConnell (John P. McConnell/WHO/EOP [WHO]), John M. Bridgeland (John M. Bridgeland/OPD/EOP [OPD]), John H. Marburger (John H. Marburger/OSTP/EOP [OSTP]), John Gordon (John Gordon/WHO/EOP@Exchange [WHO]), John G. Burke (John G. Burke/WHO/EOP [WHO]), John B. Bellinger (John B. Bellinger/NSC/EOP [NSC]), John A. Gordon (John A. Gordon/NSC/EOP [NSC]), Joel D. Kaplan (Joel D. Kaplan/WHO/EOP@Exchange [WHO]), Jim Towey (Jim Towey/WHO/EOP [WHO]), Jennifer R. Brosnahan (Jennifer R. Brosnahan/WHO/EOP [WHO]), Jennifer G. Newstead (Jennifer G. Newstead/WHO/EOP [WHO]), Jendayi E. Frazer (Jendayi E. Frazer/NSC/EOP [NSC]), Jay P. Lefkowitz (Jay P. Lefkowitz/OPD/EOP@Exchange [OPD]), James M. Kelly (James M. Kelly/WHO/EOP [WHO]), James F. Moriarty (James F. Moriarty/NSC/EOP [NSC]), James Connaughton (James Connaughton/CEQ/EOP [CEQ]), Jackie Arends (Jackie Arends/WHO/EOP [WHO]), Israel Hernandez (Israel Hernandez/WHO /EOP@Exchange [WHO]), Harriet Miers (Harriet Miers/WHO/EOP@Exchange [WHO]), H. Christopher Bartolomucci (H. Christopher Bartolomucci/WHO/EOP [WHO]), Gregory L. Schulte (Gregory L. Schulte/NSC/EOP [NSC]), Gregory J. Jenkins (Gregory J. Jenkins/WHO/EOP [WHO]), Ginger G. Loper (Ginger G. Loper/WHO/EOP@Exchange [WHO]), George M. Andricos (George M. Andricos/NSC/EOP [NSC]), Gary R. Edson (Gary R. Edson/NSC/EOP [

NSC]), Franklin C. Miller (Franklin C. Miller/NSC/EOP [NSC]), Faryar Shirzad (Faryar Shirzad/NSC/EOP [NSC]), Eric C. Pelletier (Eric C. Pelletier/WHO/EOP@Exchange [WHO]), Elliott Abrams (Elliott Abrams/NSC/EOP [NSC]), Elizabeth S. Dougherty (Elizabeth S. Dougherty/OPD/EOP [OPD]), Elan Liang (Elan Liang/WHO/EOP@Exchange [WHO]), Edward McNally (Edward McNally/WHO/EOP [WHO]), Edward Ingle (Edward Ingle/WHO/EOP [WHO]), Edmund C. Moy (Edmund C. Moy/WHO/EOP [WHO]), Dina Powell (Dina Powell/WHO/EOP@Exchange [WHO]), Diana L. Schacht (Diana L. Schacht/OPD/EOP [OPD]), Desiree T. Sayle (Desiree T. Sayle/WHO/EOP [WHO]), David W. Hobbs (David W. Hobbs/WHO/EOP@Exchange [WHO]), David Kuo (David Kuo/WHO/EOP [WHO]), David Higbee (David Higbee/WHO/EOP [WHO]), David G. Leitch (David G. Leitch/WHO/EOP@Exchange [WHO]), David Dunn (David Dunn/OPD/EOP [OPD]), Daniel J. Keniry (Daniel J. Keniry/WHO/EOP@Exchange [WHO]), Daniel J. Bartlett (Daniel J. Bartlett/WHO/EOP@Exchange [WHO]), Daniel Fried (Daniel Fried/NSC/EOP [NSC]), Daniel D. Faoro (Daniel D. Faoro/OA/EOP@Exchange [OA]), Condoleezza Rice (Condoleezza Rice/NSC/EOP [NSC]), Colleen Litkenhaus (Colleen Litkenhaus/WHO/EOP@Exchange [WHO]), Clay Johnson III (Clay Johnson III/WHO/EOP@Exchange [WHO]), Claire E. Buchan (Claire E. Buchan/WHO/EOP@Exchange [WHO]), Christopher C. Cox (Christopher C. Cox/WHO/EOP@Exchange [WHO]), Christine M. Burgeson (Christine M. Burgeson/WHO /EOP@Exchange [WHO]), Charles S. Abbot (Charles S. Abbot/WHO/EOP@Exchange [WHO]), Charles P. Blahous (Charles P. Blahous/OPD/EOP [OPD]), Charles Conner (Charles Conner/OPD/EOP [OPD]), Catherine S. Fenton (Catherine S. Fenton/WHO/EOP@Exchange [WHO]), Brian Reardon (Brian Reardon/OPD/EOP [OPD]), Brian R. Besanceney (Brian R. Besanceney/WHO/EOP [WHO]), Brian Peterman (Brian Peterman/WHO/EOP [WHO]), Brian D. Montgomery (Brian D. Montgomery/WHO/EOP@Exchange [WHO]), Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO]), Bradley A. Blakeman (Bradley A. Blakeman/WHO /EOP@Exchange [WHO]), Benjamin Powell (Benjamin Powell/OMB/EOP [OMB]), Barry S. Jackson (Barry S. Jackson/WHO/EOP [WHO]), Anna M. Perez (Anna M. Perez/NSC/EOP [NSC]), Andrew H. Card (Andrew H. Card/WHO/EOP@Exchange [WHO]), Andrea G. Ball (Andrea G. Ball/WHO/EOP@Exchange [WHO]), Amy Jensen (Amy Jensen/WHO /EOP@Exchange [WHO]), Alicia P. Clark (Alicia P. Clark/WHO/EOP [WHO]), Alberto R. Gonzales (Alberto R. Gonzales/WHO/EOP@Exchange [WHO]), Alan Gilbert (Alan Gilbert/OPD/EOP [OPD]), Adam B. Goldman (Adam B. Goldman/WHO/EOP [WHO])

Sent: 5/30/2003 10:41:19 AM

Subject: : Homeland Security Threat Level Lowered

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME:30-MAY-2003 14:41:19.00
SUBJECT:: Homeland Security Threat Level Lowered
BCC:Ziad S. Ojakli ( CN=Ziad S. Ojakli/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
BCC:Zalmay M. Khalilzad ( CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
BCC:William D. Badger ( CN=William D. Badger/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
BCC:Wendy J. Grubbs ( CN=Wendy J. Grubbs/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
BCC:Tucker A. Eskew ( CN=Tucker A. Eskew/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Todd W. Beyer ( CN=Todd W. Beyer/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Tim Campen ( CN=Tim Campen/OU=OA/O=EOP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
BCC:Tim Goeglein ( CN=Tim Goeglein/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Thomas A. Shannon Jr. ( CN=Thomas A. Shannon Jr./OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
BCC:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Tevi Troy ( CN=Tevi Troy/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
BCC:Terrell L. Halaska ( CN=Terrell L. Halaska/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
```

BCC:Suzy DeFrancis (CN=Suzy DeFrancis/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Stephen Friedman (CN=Stephen Friedman/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
BCC:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Ronald I. Christie (CN=Ronald I. Christie/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Noam M. Neusner (CN=Noam M. Neusner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Monica V. Kladakis (CN=Monica V. Kladakis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Michael E. Meece (CN=Michael E. Meece/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Michael Allen (CN=Michael Allen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Matthew O. Scully (CN=Matthew O. Scully/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
BCC:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
BCC:Liza Wright (CN=Liza Wright/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Lindsey C. Kozberg (CN=Lindsey C. Kozberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP@Exchange [OVP])
READ:UNKNOWN

BCC:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Kenneth Bernard (CN=Kenneth Bernard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Kenneth B. Mehlman (CN=Kenneth B. Mehlman/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
BCC:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
BCC:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Kathleen E. Ohalloran (CN=Kathleen E. Ohalloran/OU=OA/O=EOP [OA])
READ:UNKNOWN
BCC:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Karin B. Torgerson (CN=Karin B. Torgerson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Jonathan W. Burks (CN=Jonathan W. Burks/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:John P. Walters (CN=John P. Walters/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
BCC:John P. McConnell (CN=John P. McConnell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:John H. Marburger (CN=John H. Marburger/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
BCC:John Gordon (CN=John Gordon/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:John G. Burke (CN=John G. Burke/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:John A. Gordon (CN=John A. Gordon/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Jennifer R. Brosnahan (CN=Jennifer R. Brosnahan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
BCC:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:James Connaughton (CN=James Connaughton/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
BCC:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

BCC:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Gregory L. Schulte (CN=Gregory L. Schulte/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Gregory J. Jenkins (CN=Gregory J. Jenkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Faryar Shirzad (CN=Faryar Shirzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Eric C. Pelletier (CN=Eric C. Pelletier/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Elan Liang (CN=Elan Liang/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:David Higbee (CN=David Higbee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:David Dunn (CN=David Dunn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Daniel D. Faoro (CN=Daniel D. Faoro/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
BCC:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Christopher C. Cox (CN=Christopher C. Cox/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN

BCC:Christine M. Burgeson (CN=Christine M. Burgeson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Charles S. Abbot (CN=Charles S. Abbot/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Brian Reardon (CN=Brian Reardon/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Brian R. Besanceney (CN=Brian R. Besanceney/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Brian Peterman (CN=Brian Peterman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Benjamin Powell (CN=Benjamin Powell/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
BCC:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Amy Jensen (CN=Amy Jensen/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Adam B. Goldman (CN=Adam B. Goldman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Effective 1500 EDT on Friday, 30 May 2003, the Homeland Security Threat Level will be LOWERED from ORANGE (high risk of terrorist attack) to YELLOW (elevated risk of terrorist attack).

From: FindLaw.com <listadmin@LEGALMINDS.ORG>
To: TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN] <TOPHEADLINES@LEGALMINDS.ORG>
BCC: Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO])
Sent: 5/30/2003 11:13:12 AM
Subject: : [TOPHEADLINES] Today's Top Legal Stories - Fri, May 30, 2003

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"FindLaw.com" <listadmin@LEGALMINDS.ORG> ("FindLaw.com" <listadmin@LEGALMINDS.ORG> [UNKNOWN])
CREATION DATE/TIME:30-MAY-2003 15:13:12.00
SUBJECT:: [TOPHEADLINES] Today's Top Legal Stories - Fri, May 30, 2003
TO:TOPHEADLINES@LEGALMINDS.ORG (TOPHEADLINES@LEGALMINDS.ORG [UNKNOWN])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

FINDLAW Fri, May 30, 2003

TOP LEGAL NEWS HEADLINES

For all of the day's legal news go to: http://news.findlaw.com

****

Tired of sleepless nights spent worrying about your law practice? Get
Abacus Law and sleep well again! Over 100,001 attorneys can't be wrong.
Missed deadlines, irate clients, and malpractice threats go away when
you use Abacus Law. Take back control. Start enjoying your practice.
It's not too late!
http://rd.findlaw.com/scripts/nl.pl?url=10510812001_nl

****

POLITICS
FEC Gets Complaint On Campaign Donations
http://news.findlaw.com/ap/a/w/1155/5-30-2003/20030530093001_01.html

Bush Visit Caps Poland's Shift To West
http://news.findlaw.com/ap/i/1103/5-30-2003/20030530000002_1.html

LEGAL COMMENTARY
Forgotten 4th Amendment: The Missing Piece In
The 2002-2003 Supreme Court Term
http://writ.news.findlaw.com/amar/20030530.html

A Review Of "Law, Pragmatism, & Democracy"
http://writ.news.findlaw.com/books/reviews/20030530_horwitz.html

CIVIL RIGHTS
Attorney: Woman's Pregnancy Terminated
http://news.findlaw.com/ap/o/1110/5-30-2003/20030530083007_10.html

Texas Court Revives School Funding Case
http://news.findlaw.com/ap/o/1110/5-30-2003/20030530071506_14.html

PERSONAL INJURY
Rite Aid Ordered To Pay Md. Woman $250K
http://news.findlaw.com/ap/f/1310/5-30-2003/20030530061500_03.html

Canada Broadens Definition Of SARS Cases
http://news.findlaw.com/ap/o/1500/5-30-2003/20030530051500_04.html

MICROSOFT
Microsoft, AOL Settle Browser Battle
http://news.findlaw.com/ap/ht/1700/5-30-2003/20030530051500_09.html

LABOR AND EMPLOYMENT
Kodak Names Acting President In Division
http://news.findlaw.com/ap/f/1310/5-30-2003/20030530074502_27.html

ENVIRONMENT
Group Files Complaint Over Swan Ruling
http://news.findlaw.com/ap/o/1110/5-30-2003/20030530003001_8.html

TELECOMMUNICATIONS
Calif. May Limit Drivers' Cell Phone Use
http://news.findlaw.com/ap/ht/1700/5-30-2003/20030530090004_17.html

BUSINESS
Halliburton Agrees To Settle Lawsuits
http://news.findlaw.com/ap/f/1310/5-30-2003/20030530104501_08.html

Protesters Challenge Proposed Media Rules
http://news.findlaw.com/ap/f/1310/5-30-2003/20030530004501_06.html

INTERNATIONAL LAW
Iranian Refugee Ends Deportation Protest
http://news.findlaw.com/ap/i/1103/5-30-2003/20030530100004_13.html

Vatican Surprised By EU Constitution
http://news.findlaw.com/ap/i/1103/5-30-2003/20030530053001_02.html

WAR ON TERRORISM
Americans Warned Of Gaza Kidnap Threats
http://news.findlaw.com/ap/i/1107/5-30-2003/20030530094502_09.html

U.S. May Lower Terror Level From 'High'
http://news.findlaw.com/ap/a/w/1152/5-30-2003/20030530081502_19.html

IRAQ
British Soldier Accused Of Abuses In Iraq
http://news.findlaw.com/ap/i/1103/5-30-2003/20030530003001_1.html

Senator Rips Lack Of Iraqi Weapons Finds
http://news.findlaw.com/ap/a/w/1153/5-30-2003/20030530061500_01.html

CRIME & TRIALS
Autopsy Leak 'Devastates' Laci's Family
http://news.findlaw.com/ap/o/1110/5-30-2003/20030530063004_07.html

Terry Nichols Trial Set For March 2004
http://news.findlaw.com/ap/o/1110/5-30-2003/20030530094502_11.html

ENTERTAINMENT
P. Diddy Pleads For Repeal Of Drug Laws
http://news.findlaw.com/ap/e/1403/5-30-2003/20030530040001_04.html

SPORTS
Report: Jets' DT Tests Positive For Pot
http://news.findlaw.com/ap/s/2020/5-30-2003/20030530030001_08.html

****

TABS III

Not satisfied with your billing software? Switch to TABS III. In our last user survey, TABS III software and support achieved a 97% satisfaction level. Over 16,000 solo to mid-sized firms have experienced the benefits of using this award winning software. TABS III integrates with QuickBooks and major practice management software. Get your FREE TRIAL today!
http://rd.findlaw.com/scripts/nl.pl?url=10530684000_nl

********** West LegalEdcenter *******

Receive updates about NEW ONLINE CLE PROGRAMS

Register with West LegalEdcenter for monthly email updates about new online CLE programs in your practice areas and jurisdictions. West LegalEdcenter currently has more than 1,400 courses, with more added daily!

http://rd.findlaw.com/scripts/nl.pl?url=gen_cle_010402

********** west.thomson.com *********

Come shop over 5,000 law books, legal forms, Westlaw resources, textbooks, and more--right from your desktop.
http://rd.findlaw.com/scripts/nl.pl?url=gen_ads_040102

****

FEEDBACK

We value your comments! Please take a moment to tell us what you think by sending an e-mail to:
mailto:newsletters@findlaw.com?subject=TopHeadlines. Please include "Top Headlines" in the subject line.

SUBSCRIPTION INFORMATION

To subscribe to a FindLaw Newsletter, visit the FindLaw Newsletter Subscription Center at http://newsletters.findlaw.com

To unsubscribe, go to http://newsletters.findlaw.com/unsubscribe.html
---
ADVERTISING INFORMATION

For more information about advertising in FindLaw Newsletters, please contact us at:

mailto:sales@findlaw.com

FindLaw Top Headlines http://news.findlaw.com
Copyright (c) 2003 FindLaw, Inc.

From: Lefkowitz, Jay P.
To: <Perry, Philip J.>;<Kavanaugh, Brett M.>;<Wood, John F.>
Sent: 5/30/2003 12:12:38 PM
Subject: FW: State transmittal of Compensation for Victims of International Terrorism legislation
Attachments: State ltr victims.PDF

pls review carefully.

thanks

-----Original Message-----

From: Rooney, Annette E.

Sent: Friday, May 30, 2003 11:37 AM

To: Lefkowitz, Jay P.; Vestewig, Lauren J.; Keller, Karen E.; Cleveland, Robin; Carson, Karyn T.; McMillin, Stephen S.; Schwartz, Kenneth L.; Boden, James; Perry, Philip J.; Wood, John F.; Whgc Lrm; Ovp Lrm

Cc: Bent, Rodney G.; Kulikowski, James M.; Pipan, Joseph G.; Rossman, Elizabeth L.; Lobrano, Lauren C.; Burnim, John D.; Green, Richard E.; Jukes, James J.

Subject: State transmittal of Compensation for Victims of International Terrorism legislation

On May 21st, we provided State the final approved version of the Victims of International Terrorism legislation for their informal transmittal to the appropriators (Rep. Wolf in particular). We advised State that it was not to be formally transmitted.

State now requests clearance of the following letter (by COB today) to which State will attach the draft approved Victims of Terrorism legislation. State advises that their Committees of jurisdiction (authorizers and appropriators) have asked for a formal transmittal before they will consider the legislation. State further indicates that its authorization bill is likely to be on the Senate floor in the next two weeks, and the SFRC may be willing to consider a floor "Victims of Terrorism" amendment after receiving the Administration's bill.

Please provide your comments/clearance on the attached letter.

<>

Dear Mr. Chairman:

On May 21, 2003, the Office of Management and Budget approved the attached draft legislative language to establish a comprehensive program to provide benefits for United States victims of international terrorism. We are providing it to you with the request that it be considered for inclusion as either a floor amendment to the FY 04 Foreign Relations Authorization Act when the full Senate considers the bill in June or, as stand-alone legislation.

We recognize the congressional interest in this matter, as reflected in section 626 of the FY02 Commerce-Justice-State Appropriations Bill, (P. L. 107-77 (2001)). Section 626 called upon the President to submit a legislative proposal to establish "a comprehensive program to ensure fair, equitable, and prompt compensation for all United States victims of international terrorism" that occurred on or after November 1, 1979.

The proposed legislation is based on the following three principles:

(1) The program should provide the same benefits to those with low incomes as those with greater means;
(2) Victims should receive compensation as quickly as possible;
(3) The amount of compensation should be on par with that provided to families of public safety officers killed in the line of duty (currently $262,000) Thus, the government program should not be designed as the primary means of

The Honorable
Richard G. Lugar, Chairman,
Committee on Foreign Relations,
United States Senate.

compensating victims and victims' families for their losses, but rather should complement life insurance, savings, and other private financial measures.

In contrast to a mechanism that uses blocked assets and rewards those that can secure judgements before such assets are exhausted, a fund based on the above principles would provide compensation for all victims fairly and equitably. It also preserves the President's prerogatives in the area of foreign affairs.

The proposed fund would be administered within the Department of State. Authorization for appropriations necessary to compensate victims will be required. In addition to these costs, a benefits adjudication unit will need to be established within the Department soon after enactment and we will take steps in the current budget planning cycle to ensure that adequate resources are available for this purpose.

We urge your support for passage of this important legislation which provides compensation for U.S. victims of international terrorism in a comprehensive, fair and rational way.

Sincerely,

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Attachment: "Benefits for Victims of Terrorism Act of 2003"

From: CN=PostMaster/O=EOP [OA]

BCC: Ziad S. Ojakli (Ziad S. Ojakli/WHO/EOP@Exchange [WHO]), Zalmay M. Khalilzad (Zalmay M. Khalilzad/NSC/EOP [NSC]), William D. Badger (William D. Badger/OPD/EOP [OPD]), Wendy J. Grubbs (Wendy J. Grubbs/WHO/EOP@Exchange [WHO]), Tucker A. Eskew (Tucker A. Eskew/WHO/EOP [WHO]), Todd W. Beyer (Todd W. Beyer/WHO/EOP [WHO]), Tim Campen (Tim Campen/OA/EOP@Exchange [UNKNOWN]), Tim Goeglein (Tim Goeglein/WHO/EOP [WHO]), Thomas A. Shannon Jr. (Thomas A. Shannon Jr./NSC/EOP [NSC]), Theodore W. Ullyot (Theodore W. Ullyot/WHO/EOP [WHO]), Tevi Troy (Tevi Troy/WHO/EOP@Exchange [WHO]), Terrell L. Halaska (Terrell L. Halaska/OPD/EOP [OPD]), Suzy DeFrancis (Suzy DeFrancis/WHO/EOP@Exchange [WHO]), Stephen J. Hadley (Stephen J. Hadley/NSC/EOP [NSC]), Stephen Friedman (Stephen Friedman/OPD /EOP@Exchange [OPD]), Scott N. Sforza (Scott N. Sforza/WHO/EOP [WHO]), Scott McClellan (Scott McClellan/WHO/EOP@Exchange [WHO]), Ruben S. Barrales (Ruben S. Barrales/WHO/EOP [WHO]), Ronald I. Christie (Ronald I. Christie/OPD/EOP [OPD]), Robert Marsh (Robert Marsh/WHO/EOP@Exchange [WHO]), Robert G. Joseph (Robert G. Joseph/NSC/EOP [NSC]), Robert C. McNally (Robert C. McNally/OPD/EOP [OPD]), Richard Falkenrath (Richard Falkenrath/WHO/EOP@Exchange [WHO]), Rebecca Contreras (Rebecca Contreras/WHO/EOP [WHO]), Rebecca A. Beynon (Rebecca A. Beynon/WHO/EOP [WHO]), Peter H. Wehner (Peter H. Wehner/WHO/EOP [WHO]), Paul B. Kurtz (Paul B. Kurtz/NSC/EOP [NSC]), Noel J. Francisco (Noel J. Francisco/WHO/EOP [WHO]), Noam M. Neusner (Noam M. Neusner/WHO/EOP [WHO]), Nicolle Devenish (Nicolle Devenish/WHO/EOP [WHO]), Nanette Everson (Nanette Everson/WHO/EOP [WHO]), Monica V. Kladakis (Monica V. Kladakis/WHO/EOP [WHO]), Michael J. Gerson (Michael J. Gerson/WHO/EOP@Exchange [WHO]), Michael H. Miller (Michael H. Miller/WHO /EOP@Exchange [WHO]), Michael E. Meece (Michael E. Meece/WHO/EOP [WHO]), Michael Allen (Michael Allen/WHO/EOP [WHO]), Matthew O. Scully (Matthew O. Scully/WHO/EOP [UNKNOWN]), Matthew Kirk (Matthew Kirk/WHO/EOP@Exchange [WHO]), Matthew A. Schlapp (Matthew A. Schlapp/WHO/EOP [WHO]), Mary K. Sturtevant (Mary K. Sturtevant/NSC/EOP [NSC]), Margaret M. Spellings (Margaret M. Spellings/OPD /EOP@Exchange [OPD]), Liza Wright (Liza Wright/WHO/EOP [WHO]), Lindsey C. Kozberg (Lindsey C. Kozberg/WHO/EOP [WHO]), Linda M. Gambatesa (Linda M. Gambatesa/WHO /EOP@Exchange [WHO]), Lezlee J. Westine (Lezlee J. Westine/WHO/EOP [WHO]), Lewis Libby (Lewis Libby/OVP/EOP@Exchange [OVP]), Lawrence A. Fleischer (Lawrence A. Fleischer/WHO/EOP@Exchange [WHO]), Kyle Sampson (Kyle Sampson/WHO/EOP [WHO]), Kristen Silverberg (Kristen Silverberg/WHO/EOP@Exchange [WHO]), Kirsten A. Chadwick (Kirsten A. Chadwick/WHO/EOP@Exchange [WHO]), Kevin Warsh (Kevin Warsh/OPD/EOP [OPD]), Kenneth Bernard (Kenneth Bernard/WHO/EOP [WHO]), Kenneth B. Mehlman (Kenneth B. Mehlman/WHO/EOP [UNKNOWN]), Kelley Gannon (Kelley Gannon/WHO/EOP [WHO]), Keith Hennessey (Keith Hennessey/OPD/EOP@Exchange [OPD]), Katja Bullock (Katja Bullock/WHO/EOP [WHO]), Kathleen E. Ohalloran (Kathleen E. Ohalloran/OA/EOP [OA]), Karl C. Rove (Karl C. Rove/WHO/EOP@Exchange [WHO]), Karin B. Torgerson (Karin B. Torgerson/WHO/EOP@Exchange [WHO]), Joshua B. Bolten (Joshua B. Bolten/WHO /EOP@Exchange [WHO]), Joseph W. Hagin (Joseph W. Hagin/WHO/EOP@Exchange [WHO]), Jonathan W. Burks (Jonathan W. Burks/WHO/EOP@Exchange [WHO]), John P. Walters (John P. Walters/ONDCP/EOP [ONDCP]), John P. McConnell (John P. McConnell/WHO/EOP [WHO]), John M. Bridgeland (John M. Bridgeland/OPD/EOP [OPD]), John H. Marburger (John H. Marburger/OSTP/EOP [OSTP]), John Gordon (John Gordon/WHO/EOP@Exchange [WHO]), John G. Burke (John G. Burke/WHO/EOP [WHO]), John B. Bellinger (John B. Bellinger/NSC/EOP [NSC]), John A. Gordon (John A. Gordon/NSC/EOP [NSC]), Joel D. Kaplan (Joel D. Kaplan/WHO/EOP@Exchange [WHO]), Jim Towey (Jim Towey/WHO/EOP [WHO]), Jennifer R. Brosnahan (Jennifer R. Brosnahan/WHO/EOP [WHO]), Jennifer G. Newstead (Jennifer G. Newstead/WHO/EOP [WHO]), Jendayi E. Frazer (Jendayi E. Frazer/NSC/EOP [NSC]), Jay P. Lefkowitz (Jay P. Lefkowitz/OPD/EOP@Exchange [OPD]), James M. Kelly (James M. Kelly/WHO/EOP [WHO]), James F. Moriarty (James F. Moriarty/NSC/EOP [NSC]), James Connaughton (James Connaughton/CEQ/EOP [CEQ]), Jackie Arends (Jackie Arends/WHO/EOP [WHO]), Israel Hernandez (Israel Hernandez/WHO /EOP@Exchange [WHO]), Harriet Miers (Harriet Miers/WHO/EOP@Exchange [WHO]), H. Christopher Bartolomucci (H. Christopher Bartolomucci/WHO/EOP [WHO]), Gregory L. Schulte (Gregory L. Schulte/NSC/EOP [NSC]), Gregory J. Jenkins (Gregory J. Jenkins/WHO/EOP [WHO]), Ginger G. Loper (Ginger G. Loper/WHO/EOP@Exchange [WHO]), George M. Andricos (George M. Andricos/NSC/EOP [NSC]), Gary R. Edson (Gary R. Edson/NSC/EOP [

NSC]), Franklin C. Miller (Franklin C. Miller/NSC/EOP [NSC]), Faryar Shirzad (Faryar Shirzad/NSC/EOP [NSC]), Eric C. Pelletier (Eric C. Pelletier/WHO/EOP@Exchange [WHO]), Elliott Abrams (Elliott Abrams/NSC/EOP [NSC]), Elizabeth S. Dougherty (Elizabeth S. Dougherty/OPD/EOP [OPD]), Elan Liang (Elan Liang/WHO/EOP@Exchange [WHO]), Edward McNally (Edward McNally/WHO/EOP [WHO]), Edward Ingle (Edward Ingle/WHO/EOP [WHO]), Edmund C. Moy (Edmund C. Moy/WHO/EOP [WHO]), Dina Powell (Dina Powell/WHO/EOP@Exchange [WHO]), Diana L. Schacht (Diana L. Schacht/OPD/EOP [OPD]), Desiree T. Sayle (Desiree T. Sayle/WHO/EOP [WHO]), David W. Hobbs (David W. Hobbs/WHO/EOP@Exchange [WHO]), David Kuo (David Kuo/WHO/EOP [WHO]), David Higbee (David Higbee/WHO/EOP [WHO]), David G. Leitch (David G. Leitch/WHO/EOP@Exchange [WHO]), David Dunn (David Dunn/OPD/EOP [OPD]), Daniel J. Keniry (Daniel J. Keniry/WHO/EOP@Exchange [WHO]), Daniel J. Bartlett (Daniel J. Bartlett/WHO/EOP@Exchange [WHO]), Daniel Fried (Daniel Fried/NSC/EOP [NSC]), Daniel D. Faoro (Daniel D. Faoro/OA/EOP@Exchange [OA]), Condoleezza Rice (Condoleezza Rice/NSC/EOP [NSC]), Colleen Litkenhaus (Colleen Litkenhaus/WHO/EOP@Exchange [WHO]), Clay Johnson III (Clay Johnson III/WHO/EOP@Exchange [WHO]), Claire E. Buchan (Claire E. Buchan/WHO/EOP@Exchange [WHO]), Christopher C. Cox (Christopher C. Cox/WHO/EOP@Exchange [WHO]), Christine M. Burgeson (Christine M. Burgeson/WHO /EOP@Exchange [WHO]), Charles S. Abbot (Charles S. Abbot/WHO/EOP@Exchange [WHO]), Charles P. Blahous (Charles P. Blahous/OPD/EOP [OPD]), Charles Conner (Charles Conner/OPD/EOP [OPD]), Catherine S. Fenton (Catherine S. Fenton/WHO/EOP@Exchange [WHO]), Brian Reardon (Brian Reardon/OPD/EOP [OPD]), Brian R. Besanceney (Brian R. Besanceney/WHO/EOP [WHO]), Brian Peterman (Brian Peterman/WHO/EOP [WHO]), Brian D. Montgomery (Brian D. Montgomery/WHO/EOP@Exchange [WHO]), Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO]), Bradley A. Blakeman (Bradley A. Blakeman/WHO /EOP@Exchange [WHO]), Benjamin Powell (Benjamin Powell/OMB/EOP [OMB]), Barry S. Jackson (Barry S. Jackson/WHO/EOP [WHO]), Anna M. Perez (Anna M. Perez/NSC/EOP [NSC]), Andrew H. Card (Andrew H. Card/WHO/EOP@Exchange [WHO]), Andrea G. Ball (Andrea G. Ball/WHO/EOP@Exchange [WHO]), Amy Jensen (Amy Jensen/WHO /EOP@Exchange [WHO]), Alicia P. Clark (Alicia P. Clark/WHO/EOP [WHO]), Alberto R. Gonzales (Alberto R. Gonzales/WHO/EOP@Exchange [WHO]), Alan Gilbert (Alan Gilbert/OPD/EOP [OPD]), Adam B. Goldman (Adam B. Goldman/WHO/EOP [WHO])

Sent: 5/30/2003 10:41:19 AM

Subject: : Homeland Security Threat Level Lowered

```
###### Begin Original ARMS Header ######
RECORD TYPE: FEDERAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME:30-MAY-2003 14:41:19.00
SUBJECT:: Homeland Security Threat Level Lowered
BCC:Ziad S. Ojakli ( CN=Ziad S. Ojakli/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
BCC:Zalmay M. Khalilzad ( CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
BCC:William D. Badger ( CN=William D. Badger/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
BCC:Wendy J. Grubbs ( CN=Wendy J. Grubbs/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
BCC:Tucker A. Eskew ( CN=Tucker A. Eskew/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Todd W. Beyer ( CN=Todd W. Beyer/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Tim Campen ( CN=Tim Campen/OU=OA/O=EOP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
BCC:Tim Goeglein ( CN=Tim Goeglein/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Thomas A. Shannon Jr. ( CN=Thomas A. Shannon Jr./OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
BCC:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Tevi Troy ( CN=Tevi Troy/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
BCC:Terrell L. Halaska ( CN=Terrell L. Halaska/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
```

BCC:Suzy DeFrancis (CN=Suzy DeFrancis/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Stephen Friedman (CN=Stephen Friedman/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
BCC:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Ronald I. Christie (CN=Ronald I. Christie/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Noam M. Neusner (CN=Noam M. Neusner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Monica V. Kladakis (CN=Monica V. Kladakis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Michael E. Meece (CN=Michael E. Meece/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Michael Allen (CN=Michael Allen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Matthew O. Scully (CN=Matthew O. Scully/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
BCC:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
BCC:Liza Wright (CN=Liza Wright/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Lindsey C. Kozberg (CN=Lindsey C. Kozberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP@Exchange [OVP])
READ:UNKNOWN

BCC:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Kenneth Bernard (CN=Kenneth Bernard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Kenneth B. Mehlman (CN=Kenneth B. Mehlman/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
BCC:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
BCC:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Kathleen E. Ohalloran (CN=Kathleen E. Ohalloran/OU=OA/O=EOP [OA])
READ:UNKNOWN
BCC:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Karin B. Torgerson (CN=Karin B. Torgerson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Jonathan W. Burks (CN=Jonathan W. Burks/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:John P. Walters (CN=John P. Walters/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
BCC:John P. McConnell (CN=John P. McConnell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:John H. Marburger (CN=John H. Marburger/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
BCC:John Gordon (CN=John Gordon/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:John G. Burke (CN=John G. Burke/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:John A. Gordon (CN=John A. Gordon/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Jennifer R. Brosnahan (CN=Jennifer R. Brosnahan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
BCC:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:James Connaughton (CN=James Connaughton/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
BCC:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

BCC:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Gregory L. Schulte (CN=Gregory L. Schulte/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Gregory J. Jenkins (CN=Gregory J. Jenkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Faryar Shirzad (CN=Faryar Shirzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Eric C. Pelletier (CN=Eric C. Pelletier/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Elan Liang (CN=Elan Liang/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:David Higbee (CN=David Higbee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:David Dunn (CN=David Dunn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Daniel D. Faoro (CN=Daniel D. Faoro/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
BCC:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Christopher C. Cox (CN=Christopher C. Cox/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN

BCC:Christine M. Burgeson (CN=Christine M. Burgeson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Charles S. Abbot (CN=Charles S. Abbot/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Brian Reardon (CN=Brian Reardon/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Brian R. Besanceney (CN=Brian R. Besanceney/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Brian Peterman (CN=Brian Peterman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Benjamin Powell (CN=Benjamin Powell/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
BCC:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Amy Jensen (CN=Amy Jensen/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Adam B. Goldman (CN=Adam B. Goldman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Effective 1500 EDT on Friday, 30 May 2003, the Homeland Security Threat Level will be LOWERED from ORANGE (high risk of terrorist attack) to YELLOW (elevated risk of terrorist attack).

From: CN=PostMaster/O=EOP [OA]

BCC: Ziad S. Ojakli (Ziad S. Ojakli/WHO/EOP@Exchange [WHO]), Zalmay M. Khalilzad (Zalmay M. Khalilzad/NSC/EOP [NSC]), William D. Badger (William D. Badger/OPD/EOP [OPD]), Wendy J. Grubbs (Wendy J. Grubbs/WHO/EOP@Exchange [WHO]), Tucker A. Eskew (Tucker A. Eskew/WHO/EOP [WHO]), Todd W. Beyer (Todd W. Beyer/WHO/EOP [WHO]), Tim Campen (Tim Campen/OA/EOP@Exchange [UNKNOWN]), Tim Goeglein (Tim Goeglein/WHO/EOP [WHO]), Thomas A. Shannon Jr. (Thomas A. Shannon Jr./NSC/EOP [NSC]), Theodore W. Ullyot (Theodore W. Ullyot/WHO/EOP [WHO]), Tevi Troy (Tevi Troy/WHO/EOP@Exchange [WHO]), Terrell L. Halaska (Terrell L. Halaska/OPD/EOP [OPD]), Suzy DeFrancis (Suzy DeFrancis/WHO/EOP@Exchange [WHO]), Stephen J. Hadley (Stephen J. Hadley/NSC/EOP [NSC]), Stephen Friedman (Stephen Friedman/OPD /EOP@Exchange [OPD]), Scott N. Sforza (Scott N. Sforza/WHO/EOP [WHO]), Scott McClellan (Scott McClellan/WHO/EOP@Exchange [WHO]), Ruben S. Barrales (Ruben S. Barrales/WHO/EOP [WHO]), Ronald I. Christie (Ronald I. Christie/OPD/EOP [OPD]), Robert Marsh (Robert Marsh/WHO/EOP@Exchange [WHO]), Robert G. Joseph (Robert G. Joseph/NSC/EOP [NSC]), Robert C. McNally (Robert C. McNally/OPD/EOP [OPD]), Richard Falkenrath (Richard Falkenrath/WHO/EOP@Exchange [WHO]), Rebecca Contreras (Rebecca Contreras/WHO/EOP [WHO]), Rebecca A. Beynon (Rebecca A. Beynon/WHO/EOP [WHO]), Peter H. Wehner (Peter H. Wehner/WHO/EOP [WHO]), Paul B. Kurtz (Paul B. Kurtz/NSC/EOP [NSC]), Noel J. Francisco (Noel J. Francisco/WHO/EOP [WHO]), Noam M. Neusner (Noam M. Neusner/WHO/EOP [WHO]), Nicolle Devenish (Nicolle Devenish/WHO/EOP [WHO]), Nanette Everson (Nanette Everson/WHO/EOP [WHO]), Monica V. Kladakis (Monica V. Kladakis/WHO/EOP [WHO]), Michael J. Gerson (Michael J. Gerson/WHO/EOP@Exchange [WHO]), Michael H. Miller (Michael H. Miller/WHO /EOP@Exchange [WHO]), Michael E. Meece (Michael E. Meece/WHO/EOP [WHO]), Michael Allen (Michael Allen/WHO/EOP [WHO]), Matthew O. Scully (Matthew O. Scully/WHO/EOP [UNKNOWN]), Matthew Kirk (Matthew Kirk/WHO/EOP@Exchange [WHO]), Matthew A. Schlapp (Matthew A. Schlapp/WHO/EOP [WHO]), Mary K. Sturtevant (Mary K. Sturtevant/NSC/EOP [NSC]), Margaret M. Spellings (Margaret M. Spellings/OPD /EOP@Exchange [OPD]), Liza Wright (Liza Wright/WHO/EOP [WHO]), Lindsey C. Kozberg (Lindsey C. Kozberg/WHO/EOP [WHO]), Linda M. Gambatesa (Linda M. Gambatesa/WHO /EOP@Exchange [WHO]), Lezlee J. Westine (Lezlee J. Westine/WHO/EOP [WHO]), Lewis Libby (Lewis Libby/OVP/EOP@Exchange [OVP]), Lawrence A. Fleischer (Lawrence A. Fleischer/WHO/EOP@Exchange [WHO]), Kyle Sampson (Kyle Sampson/WHO/EOP [WHO]), Kristen Silverberg (Kristen Silverberg/WHO/EOP@Exchange [WHO]), Kirsten A. Chadwick (Kirsten A. Chadwick/WHO/EOP@Exchange [WHO]), Kevin Warsh (Kevin Warsh/OPD/EOP [OPD]), Kenneth Bernard (Kenneth Bernard/WHO/EOP [WHO]), Kenneth B. Mehlman (Kenneth B. Mehlman/WHO/EOP [UNKNOWN]), Kelley Gannon (Kelley Gannon/WHO/EOP [WHO]), Keith Hennessey (Keith Hennessey/OPD/EOP@Exchange [OPD]), Katja Bullock (Katja Bullock/WHO/EOP [WHO]), Kathleen E. Ohalloran (Kathleen E. Ohalloran/OA/EOP [OA]), Karl C. Rove (Karl C. Rove/WHO/EOP@Exchange [WHO]), Karin B. Torgerson (Karin B. Torgerson/WHO/EOP@Exchange [WHO]), Joshua B. Bolten (Joshua B. Bolten/WHO /EOP@Exchange [WHO]), Joseph W. Hagin (Joseph W. Hagin/WHO/EOP@Exchange [WHO]), Jonathan W. Burks (Jonathan W. Burks/WHO/EOP@Exchange [WHO]), John P. Walters (John P. Walters/ONDCP/EOP [ONDCP]), John P. McConnell (John P. McConnell/WHO/EOP [WHO]), John M. Bridgeland (John M. Bridgeland/OPD/EOP [OPD]), John H. Marburger (John H. Marburger/OSTP/EOP [OSTP]), John Gordon (John Gordon/WHO/EOP@Exchange [WHO]), John G. Burke (John G. Burke/WHO/EOP [WHO]), John B. Bellinger (John B. Bellinger/NSC/EOP [NSC]), John A. Gordon (John A. Gordon/NSC/EOP [NSC]), Joel D. Kaplan (Joel D. Kaplan/WHO/EOP@Exchange [WHO]), Jim Towey (Jim Towey/WHO/EOP [WHO]), Jennifer R. Brosnahan (Jennifer R. Brosnahan/WHO/EOP [WHO]), Jennifer G. Newstead (Jennifer G. Newstead/WHO/EOP [WHO]), Jendayi E. Frazer (Jendayi E. Frazer/NSC/EOP [NSC]), Jay P. Lefkowitz (Jay P. Lefkowitz/OPD/EOP@Exchange [OPD]), James M. Kelly (James M. Kelly/WHO/EOP [WHO]), James F. Moriarty (James F. Moriarty/NSC/EOP [NSC]), James Connaughton (James Connaughton/CEQ/EOP [CEQ]), Jackie Arends (Jackie Arends/WHO/EOP [WHO]), Israel Hernandez (Israel Hernandez/WHO /EOP@Exchange [WHO]), Harriet Miers (Harriet Miers/WHO/EOP@Exchange [WHO]), H. Christopher Bartolomucci (H. Christopher Bartolomucci/WHO/EOP [WHO]), Gregory L. Schulte (Gregory L. Schulte/NSC/EOP [NSC]), Gregory J. Jenkins (Gregory J. Jenkins/WHO/EOP [WHO]), Ginger G. Loper (Ginger G. Loper/WHO/EOP@Exchange [WHO]), George M. Andricos (George M. Andricos/NSC/EOP [NSC]), Gary R. Edson (Gary R. Edson/NSC/EOP [

NSC]), Franklin C. Miller (Franklin C. Miller/NSC/EOP [NSC]), Faryar Shirzad (Faryar Shirzad/NSC/EOP [NSC]), Eric C. Pelletier (Eric C. Pelletier/WHO/EOP@Exchange [WHO]), Elliott Abrams (Elliott Abrams/NSC/EOP [NSC]), Elizabeth S. Dougherty (Elizabeth S. Dougherty/OPD/EOP [OPD]), Elan Liang (Elan Liang/WHO/EOP@Exchange [WHO]), Edward McNally (Edward McNally/WHO/EOP [WHO]), Edward Ingle (Edward Ingle/WHO/EOP [WHO]), Edmund C. Moy (Edmund C. Moy/WHO/EOP [WHO]), Dina Powell (Dina Powell/WHO/EOP@Exchange [WHO]), Diana L. Schacht (Diana L. Schacht/OPD/EOP [OPD]), Desiree T. Sayle (Desiree T. Sayle/WHO/EOP [WHO]), David W. Hobbs (David W. Hobbs/WHO/EOP@Exchange [WHO]), David Kuo (David Kuo/WHO/EOP [WHO]), David Higbee (David Higbee/WHO/EOP [WHO]), David G. Leitch (David G. Leitch/WHO/EOP@Exchange [WHO]), David Dunn (David Dunn/OPD/EOP [OPD]), Daniel J. Keniry (Daniel J. Keniry/WHO/EOP@Exchange [WHO]), Daniel J. Bartlett (Daniel J. Bartlett/WHO/EOP@Exchange [WHO]), Daniel Fried (Daniel Fried/NSC/EOP [NSC]), Daniel D. Faoro (Daniel D. Faoro/OA/EOP@Exchange [OA]), Condoleezza Rice (Condoleezza Rice/NSC/EOP [NSC]), Colleen Litkenhaus (Colleen Litkenhaus/WHO/EOP@Exchange [WHO]), Clay Johnson III (Clay Johnson III/WHO/EOP@Exchange [WHO]), Claire E. Buchan (Claire E. Buchan/WHO/EOP@Exchange [WHO]), Christopher C. Cox (Christopher C. Cox/WHO/EOP@Exchange [WHO]), Christine M. Burgeson (Christine M. Burgeson/WHO /EOP@Exchange [WHO]), Charles S. Abbot (Charles S. Abbot/WHO/EOP@Exchange [WHO]), Charles P. Blahous (Charles P. Blahous/OPD/EOP [OPD]), Charles Conner (Charles Conner/OPD/EOP [OPD]), Catherine S. Fenton (Catherine S. Fenton/WHO/EOP@Exchange [WHO]), Brian Reardon (Brian Reardon/OPD/EOP [OPD]), Brian R. Besanceney (Brian R. Besanceney/WHO/EOP [WHO]), Brian Peterman (Brian Peterman/WHO/EOP [WHO]), Brian D. Montgomery (Brian D. Montgomery/WHO/EOP@Exchange [WHO]), Brett M. Kavanaugh (Brett M. Kavanaugh/WHO/EOP [WHO]), Bradley A. Blakeman (Bradley A. Blakeman/WHO /EOP@Exchange [WHO]), Benjamin Powell (Benjamin Powell/OMB/EOP [OMB]), Barry S. Jackson (Barry S. Jackson/WHO/EOP [WHO]), Anna M. Perez (Anna M. Perez/NSC/EOP [NSC]), Andrew H. Card (Andrew H. Card/WHO/EOP@Exchange [WHO]), Andrea G. Ball (Andrea G. Ball/WHO/EOP@Exchange [WHO]), Amy Jensen (Amy Jensen/WHO /EOP@Exchange [WHO]), Alicia P. Clark (Alicia P. Clark/WHO/EOP [WHO]), Alberto R. Gonzales (Alberto R. Gonzales/WHO/EOP@Exchange [WHO]), Alan Gilbert (Alan Gilbert/OPD/EOP [OPD]), Adam B. Goldman (Adam B. Goldman/WHO/EOP [WHO])

Sent: 5/30/2003 10:41:19 AM

Subject: : Homeland Security Threat Level Lowered

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:PostMaster ( CN=PostMaster/O=EOP [ OA ] )
CREATION DATE/TIME:30-MAY-2003 14:41:19.00
SUBJECT:: Homeland Security Threat Level Lowered
BCC:Ziad S. Ojakli ( CN=Ziad S. Ojakli/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
BCC:Zalmay M. Khalilzad ( CN=Zalmay M. Khalilzad/OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
BCC:William D. Badger ( CN=William D. Badger/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
BCC:Wendy J. Grubbs ( CN=Wendy J. Grubbs/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
BCC:Tucker A. Eskew ( CN=Tucker A. Eskew/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Todd W. Beyer ( CN=Todd W. Beyer/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Tim Campen ( CN=Tim Campen/OU=OA/O=EOP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
BCC:Tim Goeglein ( CN=Tim Goeglein/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Thomas A. Shannon Jr. ( CN=Thomas A. Shannon Jr./OU=NSC/O=EOP [ NSC ] )
READ:UNKNOWN
BCC:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP [ WHO ] )
READ:UNKNOWN
BCC:Tevi Troy ( CN=Tevi Troy/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
BCC:Terrell L. Halaska ( CN=Terrell L. Halaska/OU=OPD/O=EOP [ OPD ] )
READ:UNKNOWN
```

BCC:Suzy DeFrancis (CN=Suzy DeFrancis/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Stephen J. Hadley (CN=Stephen J. Hadley/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Stephen Friedman (CN=Stephen Friedman/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
BCC:Scott N. Sforza (CN=Scott N. Sforza/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Scott McClellan (CN=Scott McClellan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Ruben S. Barrales (CN=Ruben S. Barrales/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Ronald I. Christie (CN=Ronald I. Christie/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Robert Marsh (CN=Robert Marsh/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Robert G. Joseph (CN=Robert G. Joseph/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Robert C. McNally (CN=Robert C. McNally/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Richard Falkenrath (CN=Richard Falkenrath/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Rebecca Contreras (CN=Rebecca Contreras/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Rebecca A. Beynon (CN=Rebecca A. Beynon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Peter H. Wehner (CN=Peter H. Wehner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Paul B. Kurtz (CN=Paul B. Kurtz/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Noam M. Neusner (CN=Noam M. Neusner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Nicolle Devenish (CN=Nicolle Devenish/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Nanette Everson (CN=Nanette Everson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Monica V. Kladakis (CN=Monica V. Kladakis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Michael J. Gerson (CN=Michael J. Gerson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Michael H. Miller (CN=Michael H. Miller/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Michael E. Meece (CN=Michael E. Meece/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Michael Allen (CN=Michael Allen/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Matthew O. Scully (CN=Matthew O. Scully/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
BCC:Matthew Kirk (CN=Matthew Kirk/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Matthew A. Schlapp (CN=Matthew A. Schlapp/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Mary K. Sturtevant (CN=Mary K. Sturtevant/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Margaret M. Spellings (CN=Margaret M. Spellings/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
BCC:Liza Wright (CN=Liza Wright/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Lindsey C. Kozberg (CN=Lindsey C. Kozberg/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Linda M. Gambatesa (CN=Linda M. Gambatesa/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Lezlee J. Westine (CN=Lezlee J. Westine/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Lewis Libby (CN=Lewis Libby/OU=OVP/O=EOP@Exchange [OVP])
READ:UNKNOWN

BCC:Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Kirsten A. Chadwick (CN=Kirsten A. Chadwick/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Kevin Warsh (CN=Kevin Warsh/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Kenneth Bernard (CN=Kenneth Bernard/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Kenneth B. Mehlman (CN=Kenneth B. Mehlman/OU=WHO/O=EOP [UNKNOWN])
READ:UNKNOWN
BCC:Kelley Gannon (CN=Kelley Gannon/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Keith Hennessey (CN=Keith Hennessey/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
BCC:Katja Bullock (CN=Katja Bullock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Kathleen E. Ohalloran (CN=Kathleen E. Ohalloran/OU=OA/O=EOP [OA])
READ:UNKNOWN
BCC:Karl C. Rove (CN=Karl C. Rove/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Karin B. Torgerson (CN=Karin B. Torgerson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Joshua B. Bolten (CN=Joshua B. Bolten/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Joseph W. Hagin (CN=Joseph W. Hagin/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Jonathan W. Burks (CN=Jonathan W. Burks/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:John P. Walters (CN=John P. Walters/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN
BCC:John P. McConnell (CN=John P. McConnell/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:John M. Bridgeland (CN=John M. Bridgeland/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:John H. Marburger (CN=John H. Marburger/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN
BCC:John Gordon (CN=John Gordon/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:John G. Burke (CN=John G. Burke/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:John B. Bellinger (CN=John B. Bellinger/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:John A. Gordon (CN=John A. Gordon/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Joel D. Kaplan (CN=Joel D. Kaplan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Jim Towey (CN=Jim Towey/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Jennifer R. Brosnahan (CN=Jennifer R. Brosnahan/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Jendayi E. Frazer (CN=Jendayi E. Frazer/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Jay P. Lefkowitz (CN=Jay P. Lefkowitz/OU=OPD/O=EOP@Exchange [OPD])
READ:UNKNOWN
BCC:James M. Kelly (CN=James M. Kelly/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:James F. Moriarty (CN=James F. Moriarty/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:James Connaughton (CN=James Connaughton/OU=CEQ/O=EOP [CEQ])
READ:UNKNOWN
BCC:Jackie Arends (CN=Jackie Arends/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

BCC:Israel Hernandez (CN=Israel Hernandez/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Harriet Miers (CN=Harriet Miers/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Gregory L. Schulte (CN=Gregory L. Schulte/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Gregory J. Jenkins (CN=Gregory J. Jenkins/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Ginger G. Loper (CN=Ginger G. Loper/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:George M. Andricos (CN=George M. Andricos/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Gary R. Edson (CN=Gary R. Edson/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Franklin C. Miller (CN=Franklin C. Miller/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Faryar Shirzad (CN=Faryar Shirzad/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Eric C. Pelletier (CN=Eric C. Pelletier/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Elliott Abrams (CN=Elliott Abrams/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Elizabeth S. Dougherty (CN=Elizabeth S. Dougherty/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Elan Liang (CN=Elan Liang/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Edward McNally (CN=Edward McNally/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Edward Ingle (CN=Edward Ingle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Edmund C. Moy (CN=Edmund C. Moy/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Dina Powell (CN=Dina Powell/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Diana L. Schacht (CN=Diana L. Schacht/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Desiree T. Sayle (CN=Desiree T. Sayle/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:David W. Hobbs (CN=David W. Hobbs/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:David Kuo (CN=David Kuo/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:David Higbee (CN=David Higbee/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:David Dunn (CN=David Dunn/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Daniel J. Keniry (CN=Daniel J. Keniry/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Daniel Fried (CN=Daniel Fried/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Daniel D. Faoro (CN=Daniel D. Faoro/OU=OA/O=EOP@Exchange [OA])
READ:UNKNOWN
BCC:Condoleezza Rice (CN=Condoleezza Rice/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Colleen Litkenhaus (CN=Colleen Litkenhaus/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Clay Johnson III (CN=Clay Johnson III/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Claire E. Buchan (CN=Claire E. Buchan/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Christopher C. Cox (CN=Christopher C. Cox/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN

BCC:Christine M. Burgeson (CN=Christine M. Burgeson/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Charles S. Abbot (CN=Charles S. Abbot/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Charles P. Blahous (CN=Charles P. Blahous/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Charles Conner (CN=Charles Conner/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Catherine S. Fenton (CN=Catherine S. Fenton/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Brian Reardon (CN=Brian Reardon/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Brian R. Besanceney (CN=Brian R. Besanceney/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Brian Peterman (CN=Brian Peterman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Brian D. Montgomery (CN=Brian D. Montgomery/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Bradley A. Blakeman (CN=Bradley A. Blakeman/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Benjamin Powell (CN=Benjamin Powell/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
BCC:Barry S. Jackson (CN=Barry S. Jackson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Anna M. Perez (CN=Anna M. Perez/OU=NSC/O=EOP [NSC])
READ:UNKNOWN
BCC:Andrew H. Card (CN=Andrew H. Card/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Andrea G. Ball (CN=Andrea G. Ball/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Amy Jensen (CN=Amy Jensen/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Alicia P. Clark (CN=Alicia P. Clark/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
BCC:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
BCC:Alan Gilbert (CN=Alan Gilbert/OU=OPD/O=EOP [OPD])
READ:UNKNOWN
BCC:Adam B. Goldman (CN=Adam B. Goldman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Effective 1500 EDT on Friday, 30 May 2003, the Homeland Security Threat Level will be LOWERED from ORANGE (high risk of terrorist attack) to YELLOW (elevated risk of terrorist attack).

From: Mamo, Jeanie S.
To: <Johnson, Collister W.>;<Rachelson, David B.>;<Snee, Ashley>;<Kavanaugh, Brett M.>
Sent: 6/1/2003 8:42:35 PM
Subject: Raleigh News & Observer (5/30/03) re: Edwards weighs in on FCC

UNDER THE DOME Edwards weighs in on FCC

Raleigh News & Observer

May 30, 2003

U.S. Sen. John Edwards has added his voice to the chorus of those seeking to stop the Federal Communications Commission from relaxing rules on media ownership.

The FCC is expected to vote Monday on a package of rule changes, including one that would raise the cap on the number of local TV stations that can be owned by large media companies.

"Diversity in the media is enormously important to our democracy," Edwards said in a letter to FCC Chairman Michael Powell and the four other panel members. "Americans should have choices in the music they can hear and the television programs they can watch."

Edwards, who has emphasized his rural roots in his White House run, argued that increased network ownership could jeopardize local programming.

U.S. Rep. Richard Burr, a Winston-Salem Republican, and U.S. Rep. David Price, a Chapel Hill Democrat, are pushing legislation to overturn the expected FCC decision. Elizabeth Dole is a co-sponsor of a similar bill in the Senate.

Jones assails ruling

U.S. Rep. Walter Jones, a Farmville Republican, is trying to protect pre-supper prayer in the nation's military schools.

In a letter this week to President Bush, Jones says he was "disappointed and outraged" upon learning of a court ruling last month that saying grace at the Virginia Military Institute violated First Amendment protections. Jones is urging Bush to sign an executive order to allow nondenominational activity to continue.

"By virtue of educations rooted in the principles of our Founding Fathers and steeped in the traditions of our great military services, our future officers gained respect for God and country," Jones wrote. "Now one of those traditions, the act of community prayer before meals ... , is under serious attack from groups like the ACLU."

Dole, Duncan lunch

U.S. Sen. Elizabeth Dole had lunch Thursday in Raleigh with Allyson Duncan, a lawyer with Kilpatrick Stockton and one of President Bush's two North Carolina nominees to the U.S. 4th Circuit Court of Appeals.

Duncan's nomination, made last month, has become intertwined with that of U.S. District Court Judge Terrence Boyle, whom Bush first nominated in May 2001 but whose fortunes have stalled because Edwards has not yet returned the "blue slip" that home senators must sign before hearings will proceed.

Edwards has urged the nomination of Duncan to move ahead, which could lead to her appointment sooner than Boyle's.

Dole spokeswoman Mary Brown Brewer said Thursday that the senator's lunch with Duncan on Thursday was in no way a sign that Dole wants Duncan appointed first. Dole supports both nominees, Brewer said.

Still, Dole and Duncan have something in common, Brewer said: Dole was the first woman elected to the Senate from North Carolina, and Duncan would be the first black woman appointed to the 4th Circuit.

From: Leitch, David G.
To: <Kavanaugh, Brett M.>
Sent: 6/1/2003 10:06:57 PM
Subject: Re: Roberts

Sorry about my error. I thought it was an even 19 SG and 19 private.

.

-----Original Message-----
From: Kavanaugh, Brett M.
To: Leitch, David G.
Sent: Sun Jun 01 21:36:04 2003
Subject: Roberts

Checked and he actually now has argued 39 SCt cases -- and I double-checked that with him tonight. The change will be reflected in Judge's op-ed tomorrow. Just wanted you to know before you pick up the paper in a.m.

From: CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO]

To: Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>;Kyle Sampson/WHO /EOP@EOP [WHO] <Kyle Sampson>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>;David G. Leitch/WHO/EOP@Exchange [WHO] <David G. Leitch>;Kristi Remington <Kristi.l.Remington@usdoj.gov>;Tracy Jucas/WHO/EOP@EOP [WHO] <Tracy Jucas>;Heather McNaught <Heather.McNaught@usdoj.gov.>;Ann Gray/WHO/EOP@Exchange [WHO] <Ann Gray>;Noel J. Francisco/WHO/EOP@EOP [WHO] <Noel J. Francisco>;evelyn long <evelyn.v.long@usdoj.gov>;Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>;Hana F. Brilliant/WHO/EOP@EOP [WHO] <Hana F. Brilliant>;Melissa S. Bennett/WHO/EOP@Exchange [WHO] <Melissa S. Bennett>;andrew beach <andrew.beach@usdoj.gov>;adam ciongoli <adam.ciongoli@usdoj.gov>;viet dinh <viet.dinh@usdoj.gov>;tracy washington <tracy.t.washington@usdoj.gov>;Susan B. Ralston/WHO /EOP@Exchange [WHO] <Susan B. Ralston>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;Lockart, Sarah K. <Sarah_K._Lockart@who.eop.gov>;Ross M. Kyle/WHO/EOP@Exchange [WHO] <Ross M. Kyle>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Alison Jones/WHO/EOP@Exchange [WHO] <Alison Jones>;Wendy J. Grubbs/WHO/EOP@Exchange [WHO] <Wendy J. Grubbs>;Jonathan F. Ganter/WHO/EOP@EOP [WHO] <Jonathan F. Ganter>;J. Elizabeth Farrell/WHO/EOP@EOP [WHO] <J. Elizabeth Farrell>;Kimberly Ellison/WHO/EOP@EOP [WHO] <Kimberly Ellison>;Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;Brian Benczkowski <brian.a.benczkowski@usdoj.gov>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;amy bass <amy.bass@usdoj.gov>;Adam Charnes <adam.charnes@usdoj.gov>;Barbara J. Goergen/EOPEXCH@Exchange [UNKNOWN] <Barbara J. Goergen>

Sent: 6/2/2003 11:14:30 AM

Subject: : WHJSC - Wednesday June 4- please note slight time change

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME: 2-JUN-2003 15:14:30.00
SUBJECT:: WHJSC - Wednesday June 4- please note slight time change
TO:Theodore W. Ullyot ( CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Kyle Sampson ( CN=Kyle Sampson/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Benjamin A. Powell ( CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Charlotte L. Montiel ( CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Kristi Remington <Kristi.l.Remington@usdoj.gov>@SMTP@Exchange ( Kristi Remington
<Kristi.l.Remington@usdoj.gov>@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
TO:Tracy Jucas ( CN=Tracy Jucas/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Heather McNaught <Heather.McNaught@usdoj.gov.>@SMTP@Exchange ( Heather McNaught
<Heather.McNaught@usdoj.gov.>@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
TO:Ann Gray ( CN=Ann Gray/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Noel J. Francisco ( CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:evelyn long <evelyn.v.long@usdoj.gov>@SMTP@Exchange ( evelyn long
<evelyn.v.long@usdoj.gov>@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Hana F. Brilliant ( CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Melissa S. Bennett ( CN=Melissa S. Bennett/OU=WHO/O=EOP@Exchange [ WHO ] )
```

READ:UNKNOWN
TO:andrew beach <andrew.beach@usdoj.gov>@SMTP@Exchange (andrew beach
<andrew.beach@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:adam ciongoli <adam.ciongoli@usdoj.gov>@SMTP@Exchange (adam ciongoli
<adam.ciongoli@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:viet dinh <viet.dinh@usdoj.gov>@SMTP@Exchange (viet dinh
<viet.dinh@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:tracy washington <tracy.t.washington@usdoj.gov>@SMTP@Exchange (tracy washington
<tracy.t.washington@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:Susan B. Ralston (CN=Susan B. Ralston/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:"Lockart, Sarah K." <Sarah_K._Lockart@who.eop.gov>@SMTP@Exchange ("Lockart, Sarah K."
<Sarah_K._Lockart@who.eop.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:Ross M. Kyle (CN=Ross M. Kyle/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Jonathan F. Ganter (CN=Jonathan F. Ganter/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:J. Elizabeth Farrell (CN=J. Elizabeth Farrell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kimberly Ellison (CN=Kimberly Ellison/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Jennifer R. Brosnahan (CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Brian Benczkowski <brian.a.benczkowski@usdoj.gov>@SMTP@Exchange (Brian Benczkowski
<brian.a.benczkowski@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:amy bass <amy.bass@usdoj.gov>@SMTP@Exchange (amy bass
<amy.bass@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:Adam Charnes <adam.charnes@usdoj.gov>@SMTP@Exchange (Adam Charnes
<adam.charnes@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:Barbara J. Goergen (CN=Barbara J. Goergen/O=EOPEXCH@Exchange [UNKNOWN])
READ:UNKNOWN
End Original ARMS Header

WHJSC will meet on Wednesday, June 4,;at 2:00pm in the Roosevelt Room.
;
Thanks!

From: Kavanaugh, Brett M.
To: <Snee, Ashley>;womacka@sec.gov <womacka@sec.gov>
Sent: 6/2/2003 5:42:09 PM
Subject:

Only you two can really appreciate this . . .

Bush judicial nominees:

Judge Gonzales has another op-ed — today's is in the *Washington Post* — calling for an end to the Estrada filibuster.

From: Weissmann, Henry <WeissmannHX@mto.com>
To: Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>
Sent: 6/3/2003 9:30:04 AM
Subject: : FW: Daily Journal Article
Attachments: P_OIEWG003_WHO.TXT_1.htm

Begin Original ARMS Header
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Weissmann, Henry" <WeissmannHX@mto.com> ("Weissmann, Henry" <WeissmannHX@mto.com>
[UNKNOWN])
CREATION DATE/TIME: 3-JUN-2003 13:30:04.00
SUBJECT:: FW: Daily Journal Article
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

FYI.
-----Original Message-----
From: Becker, Marc
Sent: Tuesday, June 03, 2003 9:19 AM
To: Weissmann, Henry; Martinez, Vilma
Subject: FW: Daily Journal Article

From today's edition.

-----Original Message-----
From: beckerma@mto.com [mailto:beckerma@mto.com]
Sent: Tuesday, June 03, 2003 9:18 AM
To: beckerma@mto.com
Subject: Daily Journal Article

DAILY JOURNAL NEWSWIRE ARTICLE
http://www.dailyjournal.com
(c) 2003 The Daily Journal Corporation.
All rights reserved.

June 03, 2003

UNFAIR TREATMENT?
Kuhl Epitomizes 'Mainstream' of Appropriate Conduct for Judiciary

Forum Column

By John C. Eastman

Stellar credentials and a "well-qualified" rating from the American Bar Association, its highest, following her nomination to the 9th U.S. Circuit Court of Appeals should have made the road to confirmation an easy one for Judge Carolyn Kuhl.
But the path since Kuhl's nomination June 22, 2001 - two years ago -
has been anything but easy. Indeed, for 21 months, she was not even given the courtesy of a hearing by the Senate Judiciary Committee, and a month after she finally did receive a hearing April 1, 2003, her nomination was "reported out" to the Senate floor on only the barest, 10-9 vote, with not

a
single Democrat siding with what Sen. Patrick Leahy, D-Vt., once called the "gold standard" of the ABA's well-qualified rating.
Her credentials are impeccable. Bachelor's degree in chemistry from Princeton, graduated cum laude. Law degree from Duke, graduated with distinction, inducted into the prestigious Order of the Coif, served as an editor of the Duke Law Journal. Law clerk in California on the 9th Circuit with then judge, now Supreme Court justice, Anthony Kennedy. High-ranking official at the U.S. Department of Justice, served as deputy solicitor general, deputy assistant attorney general and special assistant to the attorney general. Partner in one of Los Angeles' most prestigious firms, Munger, Tolles & Olson. Eight years of service as a judge on the Los Angeles
Superior Court, in both the criminal and civil divisions.
And she's a woman, which means she accomplished all this at a time when women were just beginning to break through the glass ceiling that had for far too long limited opportunities for women in the legal profession.
So why all the opposition? Some self-proclaimed "women's groups" have apparently decided that this impeccably well-qualified woman is ... anti-woman! She might even, they fear, have conservative leanings.
There are three key pieces of "evidence" in this frontal assault on Kuhl. First, while a young, 29-year-old attorney at the Department of Justice with no policy-making authority, Kuhl helped urge the attorney general to reverse an Internal Revenue Service policy denying tax-exempt status to Bob Jones University.
She did so on two grounds, neither of which had anything to do with defending the university's racial policies. She believed that Congress, not an administrative agency like the IRS, ought to be making such determinations. She also was concerned lest the IRS use its power to define "public policy" to deprive tax-exempt status to all-girls schools (such as the high school Kuhl herself had attended) or all-women colleges.
Harvard Law professor Laurence Tribe, in a 1984 letter to Attorney General William French Smith, praised the quality of the brief submitted by the Department of Justice in the case.
Tribe noted that he "thought it was a powerful and, in most respects, entirely compelling legal document."
Second, while serving on the Los Angeles Superior Court, Kuhl dismissed one of several counts in a case brought by a woman alleging the tort of intrusion after her doctor, while conducting a breast exam, had invited into the examining room a pharmaceutical company representative who was observing the doctor's work as part of his participation in an oncology mentorship program designed to improve care for breast-cancer patients.
Kuhl ruled that the remaining counts could proceed to trial, and the case ultimately settled with the plaintiff receiving an undisclosed sum.
Her ruling dismissing the intrusion count was well-grounded in existing precedent of the state Supreme Court, which had held that the tort of intrusion encompassed only unconsented-to physical intrusion.
Although her decision dismissing the intrusion count was reversed on appeal, state Court of Appeal Justice Paul Turner, who wrote the appellate opinion in the case, has acknowledged that "a strong argument can be made that [Kuhl] correctly assessed the competing societal interests the California Supreme Court requires all jurists in this state to weigh in determining whether the tort of intrusion has occurred."
Finally, Kuhl had a limited role in the drafting of the brief filed by acting Solicitor General Charles Fried in Thornburgh v. American College of Obstetricians and Gynecologists, 476 U.S. 747 (1986), in which Fried, acting on behalf of President Reagan, urged the Supreme Court to overturn Roe v. Wade. Her name appears third on the brief, though, so abortion rights
groups have attributed the position to her.
Most troubling about this attack on Kuhl is the disparity of treatment it represents. Charles Fried, whose name appears first on the brief, has acknowledged that he wrote the "overrule-Roe part of the brief" himself. Yet Fried's nomination as solicitor general later that year was approved unanimously by the Senate Judiciary Committee. He was confirmed by the full Senate by a voice vote, without debate, by several of the same Democrats opposing Kuhl, including Sens. Joseph Biden, D-Del., Edward

Kennedy, D-Mass. and Leahy.
Moreover, the initial draft of the brief was written by John Rogers,
whose name appears second on the brief, yet Rogers is sitting as judge on the 6th Circuit. Rogers was not even questioned about his role in the case during his confirmation hearing. He was approved by the Judiciary Committee and confirmed by the full Senate on a voice vote.
What are we to make of this opposition to Kuhl? For some reason, the
confirmation bar seems higher for her than for other, equally qualified male
nominees. Perhaps it is no surprise that a woman jurist who is not lock step
in line with the abortion-on-demand policies of the National Abortion Rights
Action League would not get its support - although Kuhl has vowed that she is "fully committed to following the precedent established by [Roe v. Wade] and would do so fairly and properly."
But it is somewhat surprising that Sen. Dianne Feinstein, D.-Calif.,
would go along - the same Feinstein who first was elected in the 1992 "year of the woman" with a campaign message of sending more women to the men's club of the U.S. Senate.
Or that Sen. Barbara Boxer, D.-Calif., elected that same year with a similar campaign message, would not at least support a vote on this extremely well-qualified woman nominee.
Is this the same Boxer who just nine months before Kuhl was nominated held a press conference decrying the "shameful way that women nominees to the federal judiciary were being treated" by the Senate and who had vigorously contended for years that every judicial nominee should receive an up or down vote?
"Whether the delays are on the Republican side or the Democrat side," she said in 1998, "let these names come up, let us have debate, let us vote."
Boxer finds Kuhl to be "outside the mainstream." Yet the overwhelming consensus among people who actually know her is just the opposite.
Two years ago, Vilma Martinez, former director of the Mexican American Legal Defense and Educational Fund and lifelong Democrat, wrote of Kuhl, "I consider her mainstream. ... She's careful and she's thoughtful. She's been an excellent Superior Court judge, and I think she will be an excellent 9th Circuit judge."
A year ago, a bipartisan group of 23 women judges who work with Kuhl
at the Los Angeles Superior Court, in a letter to the Senate Judiciary Committee, wrote in support of her nomination: "As sitting judges, we more than anyone appreciate the importance of an independent, fair-minded and principled judiciary. We believe that Carolyn Kuhl represents the best values of such a judiciary."
Leo James Terrell, who has litigated before Kuhl, informed Boxer in
May, 2001 that he "vigorously" recommended Kuhl's appointment to the 9th Circuit.
Terrell, an attorney for the National Association for the Advancement of Colored People, found that "Judge Kuhl was fair, impartial, competent and at all times extremely professional."
With such impeccable credentials and widespread testament to a demonstrably stellar judicial temperament by litigators of every political persuasion, including leading environmental, trial and civil rights attorneys - traditional Democrat allies all - Kuhl epitomizes the "mainstream" of appropriate judicial conduct.
The real question for Boxer and Feinstein is whether they will listen to such longtime allies and permit a vote on this well-qualified nominee from their home state or whether they will heed the slanders being propounded by the National Abortion Rights Action League and erect a new glass ceiling against any woman nominee who does not fully support the most extreme of the group's positions.

John C. Eastman teaches constitutional law at Chapman University School of Law and is the director of the Claremont Institute Center for Constitutional Jurisprudence.

1344950856

- att1.htm
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_OIEWG003_WHO.TXT_1>

FYI.
-----Original Message-----
From: Becker, Marc
Sent: Tuesday, June 03, 2003 9:19 AM
To: Weissmann, Henry; Martinez, Vilma
Subject: FW: Daily Journal Article

From today's edition.

-----Original Message-----
From: beckerma@mto.com [mailto:beckerma@mto.com]
Sent: Tuesday, June 03, 2003 9:18 AM
To: beckerma@mto.com
Subject: Daily Journal Article

DAILY JOURNAL NEWSWIRE ARTICLE
http://www.dailyjournal.com
© 2003 The Daily Journal Corporation.
All rights reserved.

June 03, 2003

UNFAIR TREATMENT?
Kuhl Epitomizes 'Mainstream' of Appropriate Conduct for Judiciary

Forum Column

& nbsp; By John C. Eastman

&nbs p; Stellar credentials and a "well-qualified" rating from the American Bar Association, its highest, following her nomination to the 9th U.S. Circuit Court of Appeal s should have made the road to confirmation an easy one for Judge Carolyn Kuhl.

But the path since Kuhl's nomination June 22, 2001 - two years ago - has been anything but easy. Indeed, for 21 months, she was not even given the courtesy of a hearing by th e Senate Judiciary Committee, and a month after she finally did receive a hearing April 1, 2003, her nomination was "reported out" to the Senate floor on only the barest, 10-9 vote, with not a single Democrat siding with what Sen. Patrick Leahy, D-Vt., once called the "gold standard" of the ABA's well-qualified rating.

Her credentials are impeccable. Bachelor's degree in chemistry from Princeton, graduated cum laude. Law degree from Duke, graduated with distinction, inducted into the prestigious Order of the Coif, served as an editor of the Duke Law Journal. Law clerk in California on the 9th Circuit with then judge, now Supreme Court justice, Anthony Kennedy. High-ranking official at the U.S. Department of Justice, served as deputy solicitor general, deputy assistant attorney general and special assistant to the attorney general. Partner in on e of Los Angeles' most prestigious firms, Munger, Tolles & Olson. Eight years of service as a judge on the Los Angeles Superior Court, in both the criminal and civil divisions.

And she's a woman, which means she accomplished all this at a time when women were just beginning to break through the glass ceiling that had for far too long limite d opportunities for women in the legal profession.

So why all the opposition? Some self-proclaimed "women's groups" have apparently decided tha t this impeccably well-qualified woman is ... anti-woman! She might even, they fear, have conservative leanings.

There are three key pieces of "evidence" in this frontal assault on Kuhl. First, while a young, 29-year-old attorney at the Department of Justice with no policy-makin g authority, Kuhl helped urge the attorney general to reverse an Internal Revenue

Service policy denying tax-exempt status to Bob Jones University.

She did so on two grounds, neither of which had anything to do with defending the university's racial policies. She believed that Congress, not an administrative agency like the IRS, ought to be making such determinations. She also was concerned lest the IRS use its power to define "public policy" t o deprive tax-exempt status to all-girls schools (such as the high school Kuhl herself had attended) or all-women colleges.

Harvard Law professor Laurence Tribe, in a 1984 letter to Attorney General William French Smith, praised the quality of the brief submitted by the Department of Justic e in the case.

Tribe noted that he "thought it was a powerful and, in most respects, entirely compelling legal document."

Second, while serving on the Los Angeles Superior Court, Kuhl dismissed one of severa l counts in a case brought by a woman alleging the tort of intrusion after her doctor, while conducting a breast exam, had invited into the examining room a pharmaceutical company representative who was observing the doctor's work as part of his participation in an oncology mentorship program designed to improve care for breast-cancer patients.

Kuhl ruled that the remaining counts could proceed to trial, and the case ultimately settled with the plaintiff receiving an undisclosed sum.

Her ruling dismissing the intrusion count was well-grounded in existing precedent of the state Supreme Court, which had held that the tort of intrusion encompassed only unconsented-to physical intrusion.

Although her decision dismissing the intrusion count was reversed on appeal, state Court o f Appeal Justice Paul Turner, who wrote the appellate opinion in the case, has acknowledged that "a strong argument can be made that [Kuhl] correctly assessed the competing societal interests the California Supreme Court requires all jurists in this state to weigh in determining whether the tort o f intrusion has occurred."

Finally, Kuhl had a limited role in the drafting of the brief filed by acting Solicitor General Charles Fried in *Thornburgh v. American College of Obstetricians and Gynecologists*, 476 U.S. 747 (1986), in which Fried, acting on behalf of President Reagan, urged the Supreme Court to overturn *Roe v. Wade*. Her name appears third on the brief, though, so abortion rights groups have attributed the position to her.

Most troubling about this attack on Kuhl is the disparity of treatment it represents. Charles Fried, whose name appears first on the brief, has acknowledged that he wrote the "overrule-*Roe* part of the brief" himself. Yet Fried's nomination a s solicitor general later that year was approved unanimously by the Senate Judiciary Committee. He was confirmed by the full Senate by a voice vote, without debate, by several of the same Democrats opposing Kuhl, including Sens. Joseph Biden, D-Del., Edward Kennedy, D-Mass. and Leahy.

Moreover, the initial draft of the brief was written by John Rogers, whose name appears second on the brief, yet Rogers is sitting as judge on the 6th Circuit. Roger s was not even questioned about his role in the case during his confirmation hearing. He was approved by the Judiciary Committee and confirmed by the full Senate on a voice vote.

What are we to make of this opposition to Kuhl? For some reason, the confirmation bar seems highe r for her than for other, equally qualified male nominees. Perhaps it is no surprise that a woman jurist who is not lock step in line with the abortion-on-demand policies of the National Abortion Rights Action League would not get its support - although Kuhl has vowed that she is "fully committed to following the precedent established by [*Roe v. Wade*] and would do so fairly and properly."

But it is somewhat surprising that Sen. Dianne Feinstein, D.-Calif., would go along - the same Feinstein who first was elected in the 1992 "year of the woman" with a campaign message of sending more women to the men's club of the U.S. Senate.

Or that Sen. Barbara Boxer, D.-Calif., elected that same year with a similar campaign message, would not at least support a vote on this extremely well-qualified woman nominee.

Is this th e same Boxer who just nine months before Kuhl was nominated held a press conference decrying the "shameful way that women nominees to the federal judiciary were being treated" by the Senate and who had vigorously contended for years that every judicial nominee should receive an up or down vote?

"Whether the delays are on the Republican side or the Democrat side," she said in 1998, "let thes e names come up, let us have debate, let us vote."

Boxer finds Kuhl to be "outside the mainstream." Yet the overwhelming consensus among people who actually know her is just the opposite.

Two years ago, Vilma Martinez, former director of the Mexican American Legal Defense and Educational Fund and lifelong Democrat, wrote of Kuhl, "I consider her mainstream. ... She's careful and she's thoughtful. She's been an excellent Superior Court judge, and I think she will be an excellent 9th Circuit judge."

A year ago, a bipartisan group of 23 women judges who work with Kuhl at the Los Angeles Superior Court, in a letter to the Senate Judiciary Committee, wrote in support of her nomination: "As sitting judges, we more than anyone appreciate the importance of an independent, fair-minded and principled judiciary. We believe that Carolyn Kuhl represents the best values of such a judiciary."

Leo James Terrell, who has litigated before Kuhl, informed Boxer in May, 2001 that he "vigorously" recommended Kuhl's appointment to the 9th Circuit.

Terrell, an attorney for the National Association for the Advancement of Colored People, found that "Judge Kuhl was

fair, impartial, competent and at all times extremely professional."

With such impeccable credentials and widespread testament to a demonstrably stellar judicial temperament by litigators of every political persuasion, including leading environmental, trial and civil rights attorneys - traditional Democra t allies all - Kuhl epitomizes the "mainstream" of appropriate judicial conduct.

The real questio n for Boxer and Feinstein is whether they will listen to such longtime allies and permit a vote on this well-qualified nominee from their home state or whether they will heed the slanders being propounded by the National Abortion Rights Action League and erect a new glass ceiling against any woman nominee who does not fully support the most extreme of the group's positions.

& nbsp; **John C. Eastman** teaches constitutional law at Chapman University School of Law and is the director of the Claremont Institute Cente r for Constitutional Jurisprudence.

1344950856

From:	Nelson, Carolyn
To:	<Ullyot, Theodore W.>;Adam Charnes <adam.charnes@usdoj.gov>;adam ciongoli <adam.ciongoli@usdoj.gov>;amy bass <amy.bass@usdoj.gov>;andrew beach <andrew.beach@usdoj.gov>;<Bartolomucci, H. Christopher>;<Bennett, Melissa S.>;Brian Benczkowski <brian.a.benczkowski@usdoj.gov>;<Brilliant, Hana F.>;<Brosnahan, Jennifer R.>;<Brown, Reginald J.>;<Bumatay, Patrick J.>;<Ellison, Kimberly>;evelyn long <evelyn.v.long@usdoj.gov>;<Farrell, J. Elizabeth>;<Ganter, Jonathan F.>;<Goergen, Barbara J.>;<Gray, Ann>;<Grubbs, Wendy J.>;Heather McNaught <Heather.McNaught@usdoj.gov.>; <Jones, Alison>;<Jucas, Tracy>;<Kavanaugh, Brett M.>;Kristi Remington <Kristi.l.Remington@usdoj.gov>;<Kyle, Ross M.>;<Leitch, David G.>;<Montiel, Charlotte L.>;<Newstead, Jennifer G.>;<Powell, Benjamin A.>;<Ralston, Susan B.>;<Sampson, Kyle>;tracy washington <tracy.t.washington@usdoj.gov>
Sent:	6/3/2003 5:27:33 PM
Subject:	NOTE TIME CHANGE! WHJSC - Wednesday June 4

WHJSC will now begin at 4:45 pm in the Roosevelt Room.

Thanks!

-----Original Message-----
From: Nelson, Carolyn
Sent: Monday, June 02, 2003 3:13 PM
To: Goergen, Barbara J.; viet dinh; Adam Charnes; adam ciongoli; amy bass; andrew beach; Bartolomucci, H. Christopher; Bennett, Melissa S.; Brian Benczkowski; Brilliant, Hana F.; Brosnahan, Jennifer R.; Bumatay, Patrick J.; Ellison, Kimberly; evelyn long; Farrell, J. Elizabeth; Francisco, Noel J.; Ganter, Jonathan F.; Gray, Ann; Grubbs, Wendy J.; Heather McNaught; Jones, Alison ; Jucas, Tracy; Kavanaugh, Brett M.; Kristi Remington; Kyle, Ross M.; Leitch, David G.; Lockart, Sarah K.; Montiel, Charlotte L.; Newstead, Jennifer G.; Powell, Benjamin A.; Ralston, Susan B.; Sampson, Kyle; tracy washington; Ullyot, Theodore W.
Subject: WHJSC - Wednesday June 4- please note slight time change

WHJSC will meet on Wednesday, June 4, at 2:00pm in the Roosevelt Room.

Thanks!

From: CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [WHO]

To: tracy washington <tracy.t.washington@usdoj.gov>;Susan B. Ralston/WHO/EOP@Exchange [WHO] <Susan B. Ralston>;Jennifer G. Newstead/WHO/EOP@EOP [WHO] <Jennifer G. Newstead>;David G. Leitch/WHO/EOP@Exchange [WHO] <David G. Leitch>;Kristi Remington <Kristi.l.Remington@usdoj.gov>;Tracy Jucas/WHO/EOP@EOP [WHO] <Tracy Jucas>;Heather McNaught <Heather.McNaught@usdoj.gov.>;Ann Gray/WHO/EOP@Exchange [WHO] <Ann Gray>;Jonathan F. Ganter/WHO/EOP@EOP [WHO] <Jonathan F. Ganter>;evelyn long <evelyn.v.long@usdoj.gov>;Patrick J. Bumatay/WHO/EOP@Exchange [WHO] <Patrick J. Bumatay>;Jennifer R. Brosnahan/WHO/EOP@EOP [WHO] <Jennifer R. Brosnahan>;Brian Benczkowski <brian.a.benczkowski@usdoj.gov>;H. Christopher Bartolomucci/WHO/EOP@EOP [WHO] <H. Christopher Bartolomucci>;amy bass <amy.bass@usdoj.gov>;Adam Charnes <adam.charnes@usdoj.gov>;Kyle Sampson/WHO/EOP@EOP [WHO] <Kyle Sampson>;Benjamin A. Powell/WHO/EOP@EOP [WHO] <Benjamin A. Powell>;Charlotte L. Montiel/WHO/EOP@Exchange [WHO] <Charlotte L. Montiel>;Ross M. Kyle/WHO /EOP@Exchange [WHO] <Ross M. Kyle>;Brett M. Kavanaugh/WHO/EOP@EOP [WHO] <Brett M. Kavanaugh>;Alison Jones/WHO/EOP@Exchange [WHO] <Alison Jones>;Wendy J. Grubbs/WHO/EOP@Exchange [WHO] <Wendy J. Grubbs>;Barbara J. Goergen/WHO /EOP@Exchange [WHO] <Barbara J. Goergen>;J. Elizabeth Farrell/WHO/EOP@EOP [WHO] <J. Elizabeth Farrell>;Kimberly Ellison/WHO/EOP@EOP [WHO] <Kimberly Ellison>;Reginald J. Brown/WHO/EOP@EOP [WHO] <Reginald J. Brown>;Hana F. Brilliant/WHO/EOP@EOP [WHO] <Hana F. Brilliant>;Melissa S. Bennett/WHO/EOP@Exchange [WHO] <Melissa S. Bennett>;andrew beach <andrew.beach@usdoj.gov>;adam ciongoli <adam.ciongoli@usdoj.gov>;Theodore W. Ullyot/WHO/EOP@EOP [WHO] <Theodore W. Ullyot>

Sent: 6/3/2003 1:28:37 PM

Subject: : NOTE TIME CHANGE! WHJSC - Wednesday June 4

```
###### Begin Original ARMS Header ######
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Carolyn Nelson ( CN=Carolyn Nelson/OU=WHO/O=EOP@Exchange [ WHO ] )
CREATION DATE/TIME: 3-JUN-2003 17:28:37.00
SUBJECT:: NOTE TIME CHANGE! WHJSC - Wednesday June 4
TO:tracy washington <tracy.t.washington@usdoj.gov>@SMTP@Exchange ( tracy washington
<tracy.t.washington@usdoj.gov>@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
TO:Susan B. Ralston ( CN=Susan B. Ralston/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Jennifer G. Newstead ( CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:David G. Leitch ( CN=David G. Leitch/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Kristi Remington <Kristi.l.Remington@usdoj.gov>@SMTP@Exchange ( Kristi Remington
<Kristi.l.Remington@usdoj.gov>@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
TO:Tracy Jucas ( CN=Tracy Jucas/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Heather McNaught <Heather.McNaught@usdoj.gov.>@SMTP@Exchange ( Heather McNaught
<Heather.McNaught@usdoj.gov.>@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
TO:Ann Gray ( CN=Ann Gray/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Jonathan F. Ganter ( CN=Jonathan F. Ganter/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:evelyn long <evelyn.v.long@usdoj.gov>@SMTP@Exchange ( evelyn long
<evelyn.v.long@usdoj.gov>@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
TO:Patrick J. Bumatay ( CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [ WHO ] )
READ:UNKNOWN
TO:Jennifer R. Brosnahan ( CN=Jennifer R. Brosnahan/OU=WHO/O=EOP@EOP [ WHO ] )
READ:UNKNOWN
TO:Brian Benczkowski <brian.a.benczkowski@usdoj.gov>@SMTP@Exchange ( Brian Benczkowski
<brian.a.benczkowski@usdoj.gov>@SMTP@Exchange [ UNKNOWN ] )
READ:UNKNOWN
```

TO:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:amy bass <amy.bass@usdoj.gov>@SMTP@Exchange (amy bass
<amy.bass@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:Adam Charnes <adam.charnes@usdoj.gov>@SMTP@Exchange (Adam Charnes
<adam.charnes@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:Kyle Sampson (CN=Kyle Sampson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Charlotte L. Montiel (CN=Charlotte L. Montiel/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Ross M. Kyle (CN=Ross M. Kyle/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Alison Jones (CN=Alison Jones/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Wendy J. Grubbs (CN=Wendy J. Grubbs/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:Barbara J. Goergen (CN=Barbara J. Goergen/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:J. Elizabeth Farrell (CN=J. Elizabeth Farrell/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Kimberly Ellison (CN=Kimberly Ellison/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Reginald J. Brown (CN=Reginald J. Brown/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Hana F. Brilliant (CN=Hana F. Brilliant/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
TO:Melissa S. Bennett (CN=Melissa S. Bennett/OU=WHO/O=EOP@Exchange [WHO])
READ:UNKNOWN
TO:andrew beach <andrew.beach@usdoj.gov>@SMTP@Exchange (andrew beach
<andrew.beach@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:adam ciongoli <adam.ciongoli@usdoj.gov>@SMTP@Exchange (adam ciongoli
<adam.ciongoli@usdoj.gov>@SMTP@Exchange [UNKNOWN])
READ:UNKNOWN
TO:Theodore W. Ullyot (CN=Theodore W. Ullyot/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

WHJSC will now begin at 4:45 pm in the Roosevelt Room.
;
Thanks!
;
-----Original Message-----
From: Nelson, Carolyn
Sent: Monday, June 02, 2003 3:13 PM
To: Goergen, Barbara J.; viet dinh; Adam Charnes; adam ciongoli; amy bass;
andrew beach; Bartolomucci, H. Christopher; Bennett, Melissa S.; Brian
Benczkowski; Brilliant, Hana F.; Brosnahan, Jennifer R.; Bumatay, Patrick
J.; Ellison, Kimberly; evelyn long; Farrell, J. Elizabeth; Francisco, Noel
J.; Ganter, Jonathan F.; Gray, Ann; Grubbs, Wendy J.; Heather McNaught;
Jones, Alison ; Jucas, Tracy; Kavanaugh, Brett M.; Kristi Remington; Kyle,
Ross M.; Leitch, David G.; Lockart, Sarah K.; Montiel, Charlotte L.;
Newstead, Jennifer G.; Powell, Benjamin A.; Ralston, Susan B.; Sampson,
Kyle; tracy washington; Ullyot, Theodore W.
Subject: WHJSC - Wednesday June 4- please note slight time change

WHJSC will meet on Wednesday, June 4,;at 2:00pm in the Roosevelt Room.
;
Thanks!

From:	Dilworth, Monique L.
To:	Marilyn_Meyers@NPS.GOV <Powell, Benjamin A.>;Marilyn_Meyers@NPS.GOV <McNally, Edward>;Marilyn_Meyers@NPS.GOV <Kavanaugh, Brett M.>;Marilyn_Meyers@NPS.GOV <Ullyot, Theodore W.>;Marilyn_Meyers@NPS.GOV <Greenstone, Adam F.>;Marilyn_Meyers@NPS.GOV <Roberts, Keith L.>;Marilyn_Meyers@NPS.GOV <Fairhall, Lisa B.>;Marilyn_Meyers@NPS.GOV <Addington, David S.>;Marilyn_Meyers@NPS.GOV <O'Donnell, Claire M.>;Marilyn_Meyers@NPS.GOV <Gelfer, Elizabeth>;Marilyn_Meyers@NPS.GOV <Kitchen, Veronica>;Marilyn_Meyers@NPS.GOV <Laurich, Jon S.>;Marilyn_Meyers@NPS.GOV <Beattie, Steven R.>;Marilyn_Meyers@NPS.GOV <Cropper, Stacia L.>;Marilyn_Meyers@NPS.GOV <Pelletier, Eric C.>
CC:	<Evans, Sandra K>;<Sigman, Charles L.>;<Gillis, Brian>;<Weigler, Stephen A.>;<Fertakis, Katherine J.>;<Wedderien, Paul A.>;<Dale, Shana L.>;<Sokul, Stanley S.>;<Cooney, Phil>; <Stewart, Angela R.>;<Fibich, Mary>;<Marx, Michele C.>;<Desear, Phuong>;<White, Worthington W.>;<Jansen, Don J.>;<Reynolds, Cheryl A.>;<Hovey, Lonnie>;<Gill, Faisal M.>;<Lanman, Eric D.>;<Savercool, Kristin A.>;<Ehrhardt, Paul A.>;<Hopkins, John>;SHOCKLEY_WILLIAM@USTR.GOV <SHOCKLEY_WILLIAM@USTR.GOV>;Marilyn_Meyers@NPS.GOV <Marilyn_Meyers@NPS.GOV>
Sent:	6/4/2003 9:49:42 AM
Subject:	QFR Coordination - Round 4
Attachments:	Hearing Record References.doc; QFR Responses 4.doc

<>

Please review the attached document "QFR Responses 4" which incorporates all changes approved by EOP Leadership. Please make sure that all personnel related data (i.e. FTE and OGE data), space related data (GSA rental rates, square footage), and funding data for your office are correct. Also make sure that any changes that you requested have been made. This is the last opportunity for changes before you see the absolute final document, which should be available tomorrow for your review. **We need your comments or concurrence no later than 5:00 p.m. today.** Please call if you have questions.

The Hearing Record document is attached again for quick reference.

<>

Monique Dilworth

5-7638

TRANSPORTATION, TREASURY, AND INDEPENDENT AGENCIES
EXECUTIVE OFFICE OF THE PRESIDENT
FY 2004 PRESIDENT'S BUDGET
QUESTIONS FOR THE RECORD FROM CHAIRMAN ERNEST J. ISTOOK, JR.

UNOBLIGATED BALANCES

QUESTION 1: Please provide a listing of all unobligated balances, by fiscal year, appropriation and PPA, for all accounts within the Executive Office of the President. Please also show the original appropriation levels for these accounts.

RESPONSE: The following tables list the EOP unobligated balances in two different formats. The first format shows the FY 2003 information in the new financial structure as presented in the EOP FY 2004 Congressional budget submission. The remaining fiscal years are shown in a format that summarizes the information at the appropriation level only.

Executive Office of the President
FY 2003 Unobligated Balances
as of May 31, 2003

Program and Appropriation	Original Budget	Unobligated Balances
White House		
Compensation of the President		
Salaries and Expenses	400,000	33,333
Expense Allowance	50,000	46,999
Compensation of the President Total	*450,000*	*80,332*
White House Office		
Salaries and Expenses	50,715,000	15,309,238
Office of Homeland Security - Salaries and Expenses		
Salaries and Expenses	19,398,000	9,029,449

Executive Office of the President

FY 2003 Unobligated Balances

as of May 31, 2003

Program and Appropriation	Original Budget	Unobligated Balances
White House Repair and Restoration		
Water Treatment Plant equipment replacement	400,000	397,400
Fire Alarm and Notification System replacement	350,000	263,083
Door and Window hardware design and replacement	150,000	149,025
North Portico canopy design and installation	300,000	179,912
White House Repair and Restoration Total	*1,200,000*	*989,420*
Council of Economic Advisers		
Salaries and Expenses	3,763,000	1,526,964
Office of Policy Development		
OPD - Salaries and Expenses	154,132	14,923
NEC - Salaries and Expenses	1,530,500	711,987
DPC - Salaries and Expenses	1,566,368	731,713
Office of Policy Development Total	*3,251,000*	*1,458,623*
National Security Council		
Salaries and Expenses	7,519,000	3,234,754
President's Foreign Intelligence Advisory Board	302,000	225,570
National Security Council Total	*7,821,000*	*3,460,324*

REV_00170640

Executive Office of the President

FY 2003 Unobligated Balances

as of May 31, 2003

Program and Appropriation	Original Budget	Unobligated Balances
Office of Administration		
Salaries and Expenses	37,632,000	12,906,250
Office of the Chief Financial Officer	4,913,000	2,605,788
Capital Investment Program		
Campus Wiring	500,000	500,000
Networks and Telecommunications	5,550,000	5,301,392
Automated Records Management System redesign/replacement	1,418,000	1,418,000
New Technologies and Systems	1,611,000	1,592,288
EOP Systems and Support	6,166,000	5,853,041
Common Services Program		
Commodity Total	33,495,853	9,984,614
Office of Administration Total	*91,285,853*	*40,161,373*
Unanticipated Needs		
Expenses	1,000,000	741,500
Office of the Vice President		
Special Assistance to the President		
Salaries and Expenses	4,066,000	1,680,554
Official Residence of the Vice President		
Operating Expenses	324,000	178,194
Office of Management and Budget		
Office of Management and Budget		
National Security Programs	8,691,000	4,091,160
Natural Resource Programs	8,961,000	4,836,725
Office of Federal Financial Management	2,841,000	1,209,628
Office of Federal Procurement Policy	3,301,000	1,722,106
General Government Programs	8,078,000	3,829,044
Human Resource Programs	9,698,000	4,928,182
Office of Information and Regulatory Affairs	7,001,000	3,021,173
OMB Wide Offices*	13,823,000	(3,385,638)
Office of Management and Budget Total	*62,394,000*	*20,252,381*

**The unobligated balance in this program is caused by mis-classified obligations that should be assigned other programs within OMB. OMB is reviewing these transactions and will provide the correct classific*

REV_00170641

Executive Office of the President

FY 2003 Unobligated Balances

as of May 31, 2003

Program and Appropriation	Original Budget	Unobligated Balances
Office of National Drug Control Policy		
Office of National Drug Control Policy		
Salaries and Expenses	24,106,000	7,795,560
Office of National Drug Control Policy		
Policy Research and Evaluation	1,350,000	709,335
National Alliance for Model State Drug Laws	1,000,000	993,500
Counterdrug Technology Assessment Center		
Operating Expenses		
Counternarcotics Research and Development	22,000,000	-
Technology Transfer Program	26,000,000	-
Counterdrug Technology Assessment Center Total	*48,000,000*	-
High Intensity Drug Trafficking Areas Program		
State and Local Grants	188,250,000	15,998,942
Auditing - Data Performance Measures and Services	2,100,000	2,086,350
High Intensity Drug Trafficking Areas Program		
Federal Transfers	36,000,000	7,605,423
High Intensity Drug Trafficking Areas Program Total	*226,350,000*	*25,690,715*
Special Forfeiture Fund		
National Media Campaign	150,000,000	1,625,341
Drug Free Communities	60,000,000	2,649,795
Counterdrug Intelligence Executive Secretariat	3,000,000	2,980,500
Performance Measures Research and Development	2,000,000	1,987,000
National Drug Court Institute	1,000,000	993,500
US Anti-doping Agency	6,400,000	-
World Anti-doping Membership Dues	800,000	-
Special Forfeiture Fund Total	*223,200,000*	*10,236,136*

REV_00170642

Executive Office of the President

FY 2003 Unobligated Balances

as of May 31, 2003

Program and Appropriation	Original Budget	Unobligated Balances
Office of Science and Technology Policy		
Office of Science and Technology Policy		
Operating Expenses	5,368,000	1,822,493
Council on Environmental Quality		
Council on Environmental Quality		
Operating Expenses	3,031,000	1,094,239
United States Trade Representative		
United States Trade Representative		
Operating Expenses (FY 2003 Appropriation)	33,999,000	14,213,473
Operating Expenses (FY X Appropriation)	1,000,000	980,614
United States Trade Representative Total	*34,999,000*	*15,194,087*
Grand Total Congressional Budget	**825,299,853**	**165,187,231**

REV_00170643

Executive Office of the President
FY 1999 - FY 2002 and X Year Unobligated Balances
$ in Thousands

Appropriation	Fiscal Year	Program Year	Original Budget	Unobligated Balance
Armstrong Resolution Account				
Operating Expenses	**X**	1999	-	0
Operating Expenses	**X**	2000	-	0
Operating Expenses	**X**	2001	-	0
Operating Expenses	**X**	2002	-	110
Compensation of the President				
Salaries and Expense Account	**1999**		250	47
Salaries and Expense Account	**2000**		250	46
Salaries and Expense Account	**2001**		390	39
Salaries and Expense Account	**2002**		450	32
Council of Economic Advisers				
Salaries and Expenses	**1999**		3,666	10
Salaries and Expenses	**2000**		3,840	14
Salaries and Expenses	**2001**		4,110	249
Salaries and Expenses	**2002**		4,211	20
Emergency Response Fund				
Emergency Response Fund	**X**	2001	87,500	10
Emergency Supplemental				
Emergency Supplemental	**X**	2002	86,564	14,489
Combatting Terrorism (NSC)	X	2002	4,800	1,792
High Intensity Drug Trafficking Areas	X	2002	2,300	0
Subtotal Emergency Supplemental			*93,664*	*16,281*

REV_00170644

Executive Office of the President
FY 1999 - FY 2002 and X Year Unobligated Balances
$ in Thousands

Appropriation	Fiscal Year	Program Year	Original Budget	Unobligated Balance
Office of Administraion				
Salaries and Expenses	**1999**		28,350	198
Salaries and Expenses	**2000**		30,392	29
Salaries and Expenses	**2001**		33,832	707
Salaries and Expenses	**2002**		35,180	312
Capital Investments Plans				
CIP 11X0038 1999	**9901**		29,791	21
CIP 11X0038 2000	**0001**		8,772	36
CIP 11X0038 2001	**0102**		9,883	96
CIP 11X0038 2002	**X**	2002	11,775	2,574
Tape Restoration 11 0/2 0032	**0002**		8,400	951
National Security Council				
Salaries and Expenses	**1999**		6,806	22
Salaries and Expenses	**2000**		6,997	90
Salaries and Expenses	**2001**		7,165	490
Salaries and Expenses	**2002**		7,494	7
Office of Management and Budget				
Salaries and Expenses	**1999**		59,017	5
Salaries and Expenses	**2000**		63,495	31
Salaries and Expenses	**2001**		68,786	89
Salaries and Expenses	**2002**		70,521	21

REV_00170645

Executive Office of the President
FY 1999 - FY 2002 and X Year Unobligated Balances
$ in Thousands

Appropriation	Fiscal Year	Program Year	Original Budget	Unobligated Balance
Office of National Drug Control Policy				
Salaries and Expenses	**1999**		19,442	112
Salaries and Expenses	**2000**		21,933	41
Salaries and Expenses	**2001**		23,300	104
Salaries and Expenses	**2002**		22,913	82
Gifts and Donations				
Gifts and Donations	**X**	1999	-	0
Gifts and Donations	**X**	2000	-	187
Gifts and Donations	**X**	2001	-	0
Gifts and Donations	**X**	2002	-	0
High Intensity Drug Trafficking Areas Program (HIDTA)				
Operating Expenses	**1999**		162,007	0
Operating Expenses	**2000**		185,777	0
Operating Expenses	**2001**		192,000	0
Operating Expenses	**2002**		188,250	1,230
Special Forfeiture Fund				
Operating Expenses	**X**	1999	251,000	14,591
Operating Expenses	**X**	2000	225,300	1,807
Operating Expenses	**X**	2001	259,000	2,078
Operating Expenses	**X**	2002	239,400	11,713
Violent Crime Reduction Task Force - HIDTA				
Operating Expenses	**X**	1999	-	54
Operating Expenses	**X**	2000	-	0
Operating Expenses	**X**	2001	-	16
Operating Expenses	**X**	2002	-	0

REV_00170646

Executive Office of the President
FY 1999 - FY 2002 and X Year Unobligated Balances
$ in Thousands

Appropriation	Fiscal Year	Program Year	Original Budget	Unobligated Balance
Research and Evaluation				
Operating Expenses	**X**	1999	17,000	0
Operating Expenses	**X**	2000	2,200	0
Operating Expenses	**X**	2001	2,100	0
Operating Expenses	**X**	2002	2,350	50
Counterdrug Technology Assessment Center - Research and Development				
Operating Expenses	**X**	1999	29,000	0
Operating Expenses	**X**	2000	19,000	0
Operating Expenses	**X**	2001	20,400	764
Operating Expenses	**X**	2002	42,300	0
Office of Policy Development				
Salaries and Expenses	**1999**		4,032	72
Salaries and Expenses	**2000**		4,032	89
Salaries and Expenses	**2001**		4,032	1,018
Salaries and Expenses	**2002**		4,139	618
Office of the Vice President				
Salaries and Expenses	**1999**		3,512	16
Salaries and Expenses	**2000**		3,617	81
Salaries and Expenses	**2001**		3,673	173
Salaries and Expenses	**2002**		3,929	483
Official Residence of the Vice President				
Salaries and Expenses	**1999**		334	5
Salaries and Expenses	**2000**		345	32
Salaries and Expenses	**2001**		354	39
Salaries and Expenses	**2002**		318	47

REV_00170647

Executive Office of the President
FY 1999 - FY 2002 and X Year Unobligated Balances
$ in Thousands

Appropriation	Fiscal Year	Program Year	Original Budget	Unobligated Balance
White House Office				
Salaries and Expenses	**1999**		51,199	44
Salaries and Expenses	**2000**		52,444	15
Salaries and Expenses	**2001**		53,288	214
Salaries and Expenses	**2002**		54,651	534
Executive Residence				
Operating Expenses	**1999**		8,691	951
Operating Expenses	**2000**		9,260	868
Operating Expenses	**2001**		10,900	19
Operating Expenses	**2002**		11,695	11
White House Repair and Restoration				-
Operating Expenses	**1999**		200	56
Operating Expenses	**2000**		810	371
Operating Expenses	**2001**		5,510	3,435
Operating Expenses	**2002**		8,625	8,625
Unanticipated Needs				
Operating Expenses	**1999**		1,000	1,000
Operating Expenses	**2000**		1,000	671
Operating Expenses	**2001**		3,500	3,492
Operating Expenses	**2002**		-	243
Operating Expenses	**X**	2002	1,000	0
IT Systems and Related Expenses (Y2K)	**9901**	1999	2,250,000	328,342
Unanticipated Disaster Assistance 11X0033	**X**		-	11,789

REV_00170648

Executive Office of the President
FY 1999 - FY 2002 and X Year Unobligated Balances
$ in Thousands

Appropriation	Fiscal Year	Program Year	Original Budget	Unobligated Balance
Council on Environmental Quality				
Salaries and Expenses	**1999**		3,020	146
Salaries and Expenses	**2000**		3,020	7
Salaries and Expenses	**2001**		3,020	500
Salaries and Expenses	**2002**		2,974	194
Office of Science and Technology Policy				
Salaries and Expenses	**1999**		5,026	100
Salaries and Expenses	**2000**		5,201	14
Salaries and Expenses	**2001**		5,201	1,114
Salaries and Expenses	**2002**		5,267	512
Office of the United States Trade Representative				
Salaries and Expenses	**1999**		22,336	9
Salaries and Expenses	**2000**		25,501	77
Salaries and Expenses	**2001**		27,300	7
Salaries and Expenses	**2002**		30,097	691
Exchange Account				
Operating Expenses	**X**	1999	2,500	525
Operating Expenses	**X**	2000	1,000	101
Operating Expenses	**X**	2001	1,000	459
Operating Expenses	**X**	2002	1,000	0

REV_00170649

CONSOLIDATION OF ACCOUNTS

QUESTION 2: Sections 105 and 106 of title 3 U. S. Code describe expenses that may be accounted for solely on the certificate of the President and Vice President, respectively. Most of these expenses correspond to particular accounts. The Comptroller General may inspect documents related to these expenditures, but solely to verify that the expenditures were made for allowed purposes. When we asked last year how certified expenses would be identified for audit within a consolidated appropriation, the response was that the certification requirements would continue to be observed (p. 41). This does not answer the question of how the account structure will be maintained to provide an identifiable and auditable crosswalk between title 3-certifiable expenses and other expenses within the consolidated appropriation.

RESPONSE: As presented in the Congressional Budget Submission (pages 4, 5, and 6,) the Executive Office of the President (EOP) has established a Budget Activity structure that is consistent, beginning with the budget submission and extending through the accounting and reporting phases. The EOP accounting system will track and report obligations and expenditures consistent with this structure through the use of budget activity, program, sub-program, and line item codes assigned to each transaction. EOP has the ability to provide an identifiable and auditable crosswalk to the individual transactions authorized under sections 105 and 106 of Title 3 of the United States Code.

QUESTION 3: Please provide a listing of all appropriations language enacted in Public Law 108-7 which would be dropped in the proposed account consolidation, and provide a brief explanation of why that language is not necessary.

RESPONSE: The following appropriations in Public Law 108-7: Compensation of the President, White House Office Salaries and Expenses, Office of Homeland Security, Executive Residence, White House Repair and Restoration, Council of Economic Advisers, Office of Policy Development, National Security Council, and the Office of Administration would be combined into one appropriation entitled "The White House." The individual language in Public Law 108-7 for each of those appropriations would be removed. However, suggested language for the combined appropriation is provided in the Appendix to the FY 2004 Budget (page 881) and states: "For the Compensation of the President and White House Office (including the Office of Homeland Security), Executive Residence, White House Repair and Restoration, Office of Policy and Development, Office of Administration, Council of Economic Advisers and the National Security Council, (hereinafter, and solely for the purposes of Title VI of this Act, "the White House"), $183,770,000, of which $24,803,000 shall remain available until expended, including compensation for the President, including an expense allowance of $50,000 as authorized by U.S.C. 102; for travel expense of $100,000 as authorized by 3 U.S.C. 103; for necessary expenses for the White House as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; for the necessary expenses of the Executive Residence at the White House as authorized by 3 U.S.C. 105,109,110, and 112-114; for the necessary expenses of the Offices and Councils in the White House account as authorized by 5 U.S.C. 3109,

REV_00170650

15 U.S.C. 1021, and 3 U.S.C. 105 and 107 (including not to exceed $19,000 for official reception and representation expenses); and for the hire of passenger motor vehicles: Provided, That none of the funds made available to the President for official expenses shall be expended for any other purpose and any unused portion of such funds shall revert to the Treasury pursuant to 31 U.S.C. 1552: Provided further, That no such funds shall be considered as taxable to the President: Provided further, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities."

The suggested language, with the exception of a consolidated appropriation amount incorporates the same restrictions and clarifications as contained in the language contained in the Public Law 108-7 for the appropriations being consolidated. The appropriations for Vice President's Salaries and Expense, Vice President's Residence Operating Expenses, Office of Management and Budget, Office of National Drug Control Policy, and Unanticipated Needs will remain separate appropriations and will therefore not require any language changes as a result of the combination.

THE WHITE HOUSE (CONSOLIDATED ACCOUNT)

QUESTION 4: You are requesting $12,302,000 for object class 23.3 (communications, utilities, and miscellaneous services) in FY 2004. This is a large increase over the estimated $7,010,000 for FY 2003. What accounts for the increase?

RESPONSE: The FY 2004 White House (WH) consolidated budget net increase of $5,292,000 for communications is required in three major areas:

- **Most of the increase ($4,420,000) is needed in the OA Capital Investment Plan for offsite data center communications.** This facility will transition into full operation during FY 2004. The telecommunications between the offsite data center and the EOP complex are necessary to provide expanded, survivable and redundant connectivity, continuity of operations, disaster recovery and system support. These costs include funds for telecommunications lines, two additional DS-3 data paths, two T-1 lines, and backups to provide the communications bandwidth necessary for servicing the EOP complex.

- **$482,000 in the White House Office budget to provide a custom communications package which will enable the Homeland Security Council to establish a presence for its staff within the White House Situation Room.**

- **$100,000 for information assurance in the OA salaries/expenses budget.** In addition to the Offsite Data Center project, the OA FY 2004 budget also includes a request for an additional $100,000 for the information assurance program in the FY 2004 salaries/expenses account. This program will enable the CIO office to correct vulnerabilities in the EOP information security perimeter to secure internal systems, and to perform real-time monitoring of perimeter network devices.

REV_00170651

- **$151,000 in transfers of Lexis-Nexis database costs from nonconsolidated entities to the consolidated White House appropriation.** The FY 2004 budget envisions that $72,000 will be transferred from USTR, $56,000 from ONDCP, $15,000 from OMB, and $8,000 from CEQ so that the EOP can have a single funding source for EOP-wide Lexis-Nexis service.

- **$139,000 for adjustments to maintain the same level of services for the base funding during FY 2004**. This is calculated on the basis of the $7,010,000 in FY 2003 funding.

RENTAL PRICING

QUESTION 5: The FY 2004 justifications state that over the past year, EOP, GSA, and OMB have undertaken an assessment of space rental costs for all EOP entities. The result of this analysis is that the FY 2004 request includes additional funding to accommodate an "EOP average" rental rate. Please provide details of how this analysis was conducted, and specify the estimated rental rates for the various EOP entities, as determined by this analysis.

RESPONSE: The EOP space rental project began during the summer of 2002 at the request of OMB's budget examiners, who were working to ensure that EOP entities moved to the same market-based rent methodology used to determine space rental rates for GSA's other Federal properties. OMB requested that GSA and EOP review the space rental costs for each EOP property and each EOP entity so that the most up-to-date costs available were included in the FY 2004 budget proposal. Another significant concern in this project is to ensure that GSA will work with the EOP to ensure that the critical needs of the EOP are funded and executed.

As a result of the initial project, OA and GSA began a series of meetings which culminated in the space estimates which were included in the budget. GSA staff prepared a comprehensive listing of EOP properties, which itemized the space occupied by each EOP entity. This listing included commercial and government-owned space, current estimates of rentable square footage, and the annual rental rate per square foot. EOP staff provided updated estimates of the rentable square footage.

During this process, GSA blended the fair-market rates for the permanent EOP buildings into a single blended rate. This was done to simplify the administrative work when EOP staff are relocated. This is especially needed in the post-9/11 environment's unusually high number of large-scale EOP entity relocations driven by security considerations, as well as the result of the legislation creating the Department of Homeland Security. The EOP average rental rate for Federally-owned properties (New Executive Office Building (NEOB), Eisenhower Executive Office Building (EEOB), White House, Winder Building, Jackson Place) is $29.60 annually per square foot. GSA adds an additional building security charge for buildings which are not protected by the US Secret Service.

REV_00170652

The average rental rates used to determine each entity's budget estimate for office space are as follows:

Entity	Locations	Owned or Leased	Average Rental Rate
OMB	EEOB, NEOB	owned	$29.60/sf
CEQ	EEOB	owned	$29.60
	718 Jackson Place	owned	$30.71
	722 Jackson Place	owned	$31.50
	730 Jackson Place	owned	$29.90
CEA	EEOB	owned	$29.60
NSC	EEOB	owned	$29.60
OPD	EEOB	owned	$29.60
	734 Jackson Place	owned	$29.60
OVP	EEOB	owned	$29.60
	Westbank Center, WY	leased	$21.80
WHO	1800 G Street	leased	$34.56
	EEOB, NEOB	owned	$29.60
	708 Jackson Place	owned	$29.60
	736 Jackson Place	owned	$30.58
USTR	Winder	owned	$30.50
	1724 F Street	owned	$37.38
	NEOB	owned	$29.60
OA	1425 New York Ave	leased	$51.89
	1800 G Street	leased	$31.53-$37.37
	EEOB, NEOB	owned	$29.60
	1724 F Street	owned	$37.38
OSTP	1801 Pennsylvania Avenue	leased	$50.55
	EEOB	owned	$29.60
ONDCP	750 17th Street	leased	$47.82
HSC	EEOB	leased	$29.60

REV_00170653

EOP STAFFING

QUESTION 6: By EOP office, please provide FTE and OGE, similar in format to the tables found on pages 111 and 112 of last year's hearing record. Please provide data for FY 2002 through 2004.

RESPONSE: The following tables provide the total FY 2002 actual, FY 2003 and FY 2004 estimates for full time equivalents (FTE) and other government employees (OGE) for each EOP and other entity as of May 5, 2003. The OGE numbers are itemized by category on the following page. The FY 2003 numbers have the Office of Homeland Security in a separate category, which accordingly decreased the White House numbers. The FY 2003 and FY 2004 numbers are estimates only and are therefore subject to change.

REV_00170654

Office	FY 2002 Actual FTE and OGE			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office*	400	385	133	518
Special Assistance to the President	24	18	40	58
Official Residence of the Vice President	1	1	0	1
Office of Administration**	202	195	3	198
Office of Policy Development	35	30	7	37
National Security Council	60	50	140	190
Council of Economic Advisers	35	31	9	40
Office of Management and Budget	527	512	70	582
Office of National Drug Control Policy	115	106	34	140
Executive Residence	95	92	0	92
Office of Science and Technology Policy	40	23	16	39
Council on Environmental Quality	24	19	14	33
U.S Trade Representative	203	200	24	224
TOTAL	**1761**	**1662**	**490**	**2152**

Office	*as of May 5, 2003*			
	FY 2003 FTE and OGE Estimate			
	AUTH FTE	ACTUAL FTE	OGE	TOTAL
White House Office	406		44	450
Office of Homeland Security	40		26	66
Special Assistance to the President	24		53	77
Official Residence of the Vice President	1		0	1
Office of Administration	222		1	223
Office of Policy Development	35		7	42
National Security Council	71		145	216
Council of Economic Advisers	35		8	43
Office of Management and Budget	510		63	573
Office of National Drug Control Policy	115		51	166
Executive Residence	95		0	95
Office of Science and Technology Policy	40		20	60
Council on Environmental Quality	24		14	38
U.S Trade Representative	209		28	237
TOTAL	**1827**		**460**	**2287**

Office	FY 2004 FTE and OGE Estimate			
	AUTH FTE	ACTUAL FTE	OGE **	TOTAL
White House Office	406		44	450
Office of Homeland Security	40		26	66
Special Assistance to the President	24		53	77
Official Residence of the Vice President	1		0	1
Office of Administration	222		11	233
Office of Policy Development	35		7	42
National Security Council	71		145	216
Council of Economic Advisers	35		8	43
Office of Management and Budget	516		63	579
Office of National Drug Control Policy	125		44	169
Executive Residence	95		0	95
Office of Science and Technology Policy	40		20	60
Council on Environmental Quality	24		14	38
U.S Trade Representative	217		28	245
TOTAL	**1851**		**463**	**2314**

* For FY 2002, the White House Office figure excludes OGEs and FTEs for the Office of Homeland Security which were funded from the Emergency Appropriation.

** OA was funded for 20 additional FTEs using Emergency Response Funds which are not shown in the figures above.

REV_00170655

R = Reimbursable
N = Non Reimbursable

FY 2002 Actual FTE and OGE

		Agency Reps		Assignees		Detailees		Historically Provided Services		Others		Student Volunteers		White House Fellows		Pres. Mgmt Intern		OGE Grand Totals		
	FTE	R	**N**	R	**N**	R	**N**	R	**N**	R	**N**	R	**N**	R	**N**	R	**N**	R	**N**	**R + N**
White House Office	**385**				20	79	9	1	17		4				3			80	53	**133**
Special Assistance to the President	**18**				7		1		6		26								40	**40**
Official Residence of the Vice President	**1**																			
Office of Administration	**195**					2					1							2	1	**3**
Office of Policy Development	**30**		1		3		3												7	**7**
National Security Council	**50**				33	1	102		4									1	139	**140**
Council of Economic Advisers	**31**					2	1			3			3					5	4	**9**
Office of Management and Budget	**512**					6	53						11					6	64	**70**
Office of National Drug Control Policy	**106**		13		16					3			2					3	31	**34**
Executive Residence	**92**																			
Office of Science and Technology Policy	**23**		6			4	1			2	3							6	10	**16**
Council on Environmental Quality	**19**		11				2										1		14	**14**
U.S Trade Representative	**200**						21				1				2				24	**24**
TOTAL	**1662**		**31**		**79**	**94**	**193**	**1**	**27**	**8**	**35**		**16**		**5**		**1**	**103**	**387**	**490**

*For FY02, the White House includes 89 OGEs for the Office of Homeland Security, which are funded from the Emergency Appropriation

R = Reimbursable
N = Non Reimbursable

FY 2003 Estimate FTE and OGE *as of May 5, 2003*

		Agency Reps		Assignees		Detailees		Historically Provided Services		Others		Student Volunteers		White House Fellows		Pres. Mgmt Intern		OGE Grand Totals		
	FTE	R	**N**	R	**N**	R	**N**	R	**N**	R	**N**	R	**N**	R	**N**	R	**N**	R	**N**	**R + N**
White House Office	**406**				8	1	15		18						2			1	43	**44**
Office of Homeland Security	**40**				7	18								1				19	7	**26**
Special Assistance to the President	**24**		3		7		1		17		25								53	**53**
Official Residence of the Vice President	**1**																			
Office of Administration	**222**										1								1	**1**
Office of Policy Development	**35**		1		3	1	1										1	1	6	**7**
National Security Council	**71**				33	5	103		4									5	140	**145**
Council of Economic Advisers	**27**					2	1			2			2				1	4	4	**8**
Office of Management and Budget	**499**					3	54						6					3	60	**63**
Office of National Drug Control Policy	**115**		19		14		4			3	9						2	3	48	**51**
Executive Residence	**95**																			
Office of Science and Technology Policy	**26**		6			4	3			2	5							6	14	**20**
Council on Environmental Quality	**24**		10				3				1								14	**14**
U.S Trade Representative	**209**						25				1				2				28	**28**
TOTAL	**1794**		**39**		**72**	**34**	**210**		**39**	**7**	**42**		**8**	**1**	**4**		**4**	**42**	**418**	**460**

R = Reimbursable
N = Non Reimbursable

FY 2004 Estimate FTE and OGE

		Agency Reps		Assignees		Detailees		Historically Provided Services		Others		Student Volunteers		White House Fellows		Pres. Mgmt Intern		OGE Grand Totals		
	FTE	R	**N**	R	**N**	R	**N**	R	**N**	R	**N**	R	**N**	R	**N**	R	**N**	R	**N**	**R + N**
White House Office	**406**				8	1	15		18						2			1	43	**44**
Office of Homeland Security	**40**				7	18								1				19	7	**26**
Special Assistance to the President	**24**		3		7		1		17		25								53	**53**
Official Residence of the Vice President	**1**																			
Office of Administration	**222**										1		10						11	**11**
Office of Policy Development	**35**		1		3	1	1										1	1	6	**7**
National Security Council	**71**				33	5	103		4									5	140	**145**
Council of Economic Advisers	**35**					2	1			2			2				1	4	4	**8**
Office of Management and Budget	**516**					3	54						6					3	60	**63**
Office of National Drug Control Policy	**125**		19		7		4			3	9						2	3	41	**44**
Executive Residence	**95**																			
Office of Science and Technology Policy	**40**		6			4	3			2	5							6	14	**20**
Council on Environmental Quality	**24**		10				3				1								14	**14**
U.S Trade Representative	**217**						25				1				2				28	**28**
TOTAL	**1851**		**39**		**65**	**34**	**210**		**39**	**7**	**42**		**18**	**1**	**4**		**4**	**42**	**421**	**463**

REV_00170656

OA STAFFING

QUESTION 7: By OA office, please provide FTE and OGE, similar in format to the tables found on page 113 of last year's hearing record. Please provide data for FY 2002 through 2004.

RESPONSE: The following table provides the FTE and OGE for the Office of Administration.

R = Reimbursable N = Non Reimbursable	FY 2002 FTE and OGE Actuals							
		Others		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OA Director	12							
OA Chief Operating Officer	111							
OA Chief Financial Officer	30	1	1			1	1	2
OA Chief Projects Officer	5							
OA Chief Information Officer	46	1				1		1
TOTAL	**204**	**2**	**1**			**2**	**1**	**3**

as of May 5, 2003

R = Reimbursable N = Non Reimbursable	FY 2003 FTE and OGE Estimates							
		Others		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OA Director	11							
OA Chief Operating Officer	103				2		1	1
OA Chief Financial Officer	39		1				1	1
OA Chief Projects Officer	11							
OA Chief Information Officer	58				2			
TOTAL	**222**		**1**		**4**		**2**	**2**

R = Reimbursable N = Non Reimbursable	FY 2004 FTE and OGE Estimates							
		Others		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OA Director	25							
OA Chief Operating Officer	99				4		4	4
OA Chief Financial Officer	39		1		2		3	3
OA Chief Projects Officer	4							
OA Chief Information Officer	55				4		4	4
TOTAL	**222**		**1**		**10**		**11**	**11**

REV_00170657

OMB STAFFING

QUESTION 8: By OMB office, please provide FTE and OGE, similar in format to the tables found on page 114 of last year's hearing record. Please provide data for FY 2002 through 2004.

RESPONSE: The charts below display the FTE and OGE breakout by OMB division for FY 2002-2004. Most detailees and student volunteers are used during the peak budget production season. During the rest of the year, the OGE total can fall below 20.

REV_00170658

R = Reimbursable N = Non Reimbursable	FY 2002 FTE and OGE Actuals							
		Detailees		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OMB-Wide Offices	157	1	19		2	1	21	22
General Government Programs	62		1				1	1
Human Resource Programs	75		4		1		5	5
National Security Programs	63	1	5		1	1	6	7
Natural Resource Programs	59		8		1		9	9
Office of Federal Financial Management	19	3	3			3	3	6
Office of Federal Procurement Policy	22	1	2		1	1	3	4
Office of Information and Requlatory Affairs	55		11		5		16	16
TOTAL	**512**	**6**	**53**		**11**	**6**	**64**	**70**

as of May 5, 2003

R = Reimbursable N = Non Reimbursable	FY 2003 Estimate FTE and OGE							
		Detailees		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OMB-Wide Offices	152	1	22		2	1	24	25
General Government Programs	60		3		1		4	4
Human Resource Programs	68		5				5	5
National Security Programs	61		9				9	9
Natural Resource Programs	60		5				5	5
Office of Federal Financial Management	21	1				1		1
Office of Federal Procurement Policy	20							
Office of Information and Requlatory Affairs	57	1	10		3	1	13	14
TOTAL	**499**	**3**	**54**		**6**	**3**	**60**	**63**

FY 2002 does not include staff temporarily detailed to the Transition Planning Office.

R = Reimbursable N = Non Reimbursable	FY 2004 Estimate FTE and OGE							
		Detailees		Student Volunteers		OGE Grand Totals		
	FTE	R	N	R	N	R	N	R + N
OMB-Wide Offices	157	1	22		2	1	24	25
General Government Programs	63		3		1		4	4
Human Resource Programs	75		5				5	5
National Security Programs	63		9				9	9
Natural Resource Programs	63		5				5	5
Office of Federal Financial Management	20	1				1		1
Office of Federal Procurement Policy	21							
Office of Information and Requlatory Affairs	54	1	10		3	1	13	14
TOTAL	**516**	**3**	**54**		**6**	**3**	**60**	**63**

REV_00170659

OFFICE OF HOMELAND SECURITY

QUESTION 9: Your FY 2004 budget requests $8,331,000 for the Office of Homeland Security. Please provide an object class breakdown of those costs and compare them to FY 2003 estimated levels.

RESPONSE: The Office of Homeland Security was created by the President on October 8, 2001, via Executive Order 13228 and is synonymous with the staff of the Homeland Security Council (HSC). An object class breakdown of estimated HSC costs in FY 2003 and FY 2004 is provided in the table below. Please note that the FY 2003 estimate covers only costs incurred after the enactment of the FY 2003 appropriation on February 20, 2003. Unlike other EOP offices which operated under continuing resolutions between October 1, 2003 and February 20, 2003, the Office of Homeland Security was not permitted to utilize the CR funding mechanism but instead continued to charge FY 2003 expenses against the no-year emergency funding (provided in FY2002) until the FY 2003 appropriation was enacted. Therefore the FY 2003 estimate reflects only seven months of activity, whereas the FY 2004 Request needs to cover HSC expenses for the full 12 months next fiscal year.

(Dollars in Thousands)	FY 2003 Appropriation	FY 2003 Estimate*	FY 2004 Request	2004 Request - 2003 Estimate
Homeland Security Council:				
Personnel	$4,403	$2,800	$5,550	$2,750
Travel	$300	$60	$588	$528
Transportation of Things	$24	$24	$10	-$14
Rent	$0	$0	$200	$200
Communications, Utilities, and Misc.	$209	$50	$1,080	$1,030
Printing and Reproduction	$69	$69	$50	-$19
Other Services	$3,267	$1,267	$528	-$739
Supplies and Materials	$0		$175	$175
Equipment	$0	$50	$150	$100
Subtotal	$8,272	$4,320	$8,331	$4,011

* FY 2003 Estimate covers only seven months vs. FY 2004 Request covering full 12 months

Rent was included in the Office of Administration budget in FY 2003, and is moved back to the Homeland Security Council in FY 2004. The Communications object class in FY 2004 includes funding to provide a custom communications package to establish an interface for the Homeland Security Council within the White House Situation Room. Supplies and Materials and Equipment object classes both were funded out of the Office of Administration Pilot Program in FY 2003 but show budgets in HSC for FY 2004.

QUESTION 10: In particular, how much are you requesting in FY 2004 for professional contracts, and how does that compare to the estimated FY 2003 level?

REV_00170660

RESPONSE: In FY 2004 HSC is requesting $528,000 for Other Services compared with $3,267,000 appropriated for the same category in FY 2003. The decrease is due to the reduction in the size of the staff of HSC. Anticipated contractual needs in FY 2004 include maintenance, upgrades, and technical support for the classified computer network that will be extended to include HSC staff in FY 2003.

QUESTION 11: How many FTE and FTP are you requesting for this office in FY 2004, and how do these figures compare to current FY 2003 estimates and actuals for FY 2002?

RESPONSE: HSC is requesting resources to support 40 direct hire FTE and 26 Other Government Employees on its staff to fill the 66 positions HSC is projecting for FY 2004.

Office of Homeland Security / Homeland Security Council Personnel

	FY 2002 Actual	FY 2003 Estimate	FY 2004 Request
Direct Hire FTE	31	40	40
Other Government Employees (EOY headcount)	89	26	26
Total Personnel	120	66	66

QUESTION 12: How many positions in the office are filled today, and how many are vacant?

RESPONSE: As of June 2, 2003, 51 positions are filled and 16 are vacant.

QUESTION 13: Please provide a table comparing the number of detailees to OHS, by Federal agency, for each of the fiscal years 2002 through 2004 (estimated).

RESPONSE: The table below provides the number of Other Government Employees assigned to the Homeland Security Council.

REV_00170661

Number of Other Government Employees at OHS/HSC
(Figures show end of year headcount)

	FY 2002	FY 2003 est.	FY 2004 est.
CIA	7	2	3
DHS	0	6	10
FEMA	3	na	na
USCG	19	na	na
US Customs	1	na	na
USSS	2	na	na
DOJ	10	1	5
DOC	5	1	0
DOD	12	3	2
DOE	1	1	1
DOI	3	1	0
DOL	1	0	0
DOS	4	2	1
DOT	1	0	1
EOP	1	1	0
EPA	1	2	0
FAA	1	1	0
GSA	1	0	0
HHS	3	3	2
HUD	3	0	0
NASA	1	0	0
NIMA	1	0	0
NSA	3	1	0
SBA	1	0	0
Sentencing Commission	1	0	0
SSA	1	0	0
Treasury	1	0	0
USDA	1	1	1
Total	89	26	26

QUESTION 14: How many detailees are on board today?

RESPONSE: As of May 15, 2003, there are 18 detailees on board at the Homeland Security Council.

QUESTION 15: Please provide a list of all positions in OHS, showing the incumbent's name, rate of annual salary, and position title. Please annotate any positions which are currently vacant.

RESPONSE: The President is authorized to appoint and fix pay of any member of the White House Staff without regard to any provision of law related to employees of the federal government. The individuals employed by the President represent a broad spectrum of experience and expertise and have been engaged to perform tasks ranging from clerical/support to complex, technical, scientific, medical, legal and other missions

REV_00170662

requiring specialized expertise. These individuals are being compensated at rates commensurate with their responsibilities, education and professional experience. The table below lists HSC positions and the positions which are currently vacant. The salaries provided are for White House Full Time Employees and Other Government Employees working at HSC.

	Name		
Position Title	**First**	**Last**	**Annual Salary**
Office of the Advisor			
Assistant to the President for Homeland Security and Homeland Security Advisor (Acting Until June 1)	John	Gordon	$ 149,000
Executive Assistant	VACANT		NA
Special Assistant to the APHS	Jon	Spaner	$ 80,816
Staff Assistant	A. Morgan	Middlemas	$ 51,600
Deputy Assistant to the President and Deputy Homeland Security Advisor	Richard	Falkenrath	$ 124,000
Special Assistant	VACANT		NA
Staff Assistant	Shelley	Reese	$ 30,000
Director, Programs and Resources	David	Aidekman	$ 61,900
Budget Assistant	VACANT		NA
Military Programs			
Special Assistant to the President (SAP) for Military Programs	VACANT		NA
Director, Military Programs	Chris	Hornbarger	$ 87,348
Staff Assistant	VACANT		NA
Executive Secretary			
Executive Secretary	Tim	Stout	$ 53,600
Executive Assistant	Margaret	Cousley	$ 35,000
Deputy Executive Secretary	VACANT		NA
Special Assistant to the Executive Secretary	Laura	Fullerton	$ 66,229
Director for Administration and Support	Kimberly	Badenhop	$ 65,000
Associate Director for Correspondence and Records Management	Eric	Leckey	$ 35,000
Special Assistant, Events	Rory	Cooper	$ 46,469
Associate Director for Security	Deborah	McRae	$ 87,043
Staff Assistant	VACANT		NA
Staff Assistant	VACANT		NA
General Counsel			
Senior Associate Counsel to the President and General Counsel for Homeland Security	Edward	McNally	$ 108,000
Deputy Counsel	Ryan	Stiles	$ 75,000
Associate Counsel	Faisal	Gill	$ 78,265
Associate Counsel	Catherine	Anderson	$ 108,785

REV_00170663

	Name		
Position Title	**First**	**Last**	**Annual Salary**
Staff Assistant	Gayle	Worthy	$ 49,388
Legislative Affairs			
Special Assistant to the President for Legislative Affairs	Michael	Allen	$ 82,000
Legislative Assistant	Jamie	Ellis	$ 34,000
Intergovernmental Affairs			
Director, Intergovernmental Affairs	VACANT		NA
Director, HSC Public Liaison	Meredith	Terpeluk	$ 50,000
Domestic Counterterrorism			
Special Assistant to the President and Senior Director, Domestic Counterterrorism	VACANT		NA
Special Assistant to the Director, Domestic Counterterrorism	Eric	Walker	$ 46,460
DCI Representative to Homeland Security	Dennis	Bowden	$ 120,261
Director, Incident Management	Richard	Irwin	$ 118,384
Director, Incident Management	Joel	Bagnal	$ 87,348
Director, Investigation and Law Enforcement	Stephen	King	$ 119,600
Director, Domestic Counterterrorism Policy	Kirsten	Hildebrand	$ 85,140
Director, Plans and Excercises	Kathleen	Packard	$ 47,309
BioDefense			
Special Assistant to the President and Senior Director, Biodefense	Kenneth	Bernard	$ 123,069
Staff Assistant	Josephine	Keenan	$ 54,440
Director, Biodefense	Robert	Kadlec	$ 103,000
Director, Biodefense	Rajeev	Venkayya	$ 87,043
Director, Food, Agriculture and Water Safety	Curt	Mann	$ 138,200
Critical Infrastructure Protection			
Special Assistant to the President and Senior Director, Critical Infrastructure Protection	Paul	Kurtz	$ 108,300
Executive Assistant	Barbara	Howerton	$ 58,800
Director, Cyber IP	VACANT		NA
Director, Cyber IP	Cheryl	Peace	$ 117,061
Director, Physical IP	Patrick	Burns	$ 99,186
Director, Physical IP	Paul	Nicholas	$ 108,300
Director, IT Architecture	VACANT		NA
Response and Recovery			
Senior Director, Response and Recovery	David	Howe	$ 108,300
Staff Assistant	Liz	Macnab	$ 42,000
Director, First Responder Program	VACANT		NA
Director for Recovery	Lewis	Podolske	$ 113,543

REV_00170664

	Name		
Position Title	**First**	**Last**	**Annual Salary**
Director for Readiness and Training	James	Kish	$ 110,000
Director, Response Planning and Incident Management	James	Douglas	$ 131,881
Director, COOP Programs	VACANT		NA
Border and Transportation Security			
Special Assistant to the President and Senior Director for Border and Transportation Security	Brian	Peterman	$ 135,504
Staff Assistant	Katherine	Hildebrand	$ 32,000
Director, Cargo and Port Security	VACANT		NA
Director of Immigration Security	Una	Brien	$ 93,916
Director for Transportation and Aviation Security	Jan	Brecht-Clark	$ 131,881
Director for Consular and International	Lisa Bobbie	Schreiber Hughes	$ 109,925
Director for Law Enforcement	Ronald	Colburn	$ 120,000
Office of Science and Technology Policy Representative	VACANT		NA

QUESTION 16: Please update to the OHS organizational chart found on page 50 of last year's hearing record.

RESPONSE: The Homeland Security Council currently consists of the Homeland Security Advisor, the Deputy Homeland Security Advisor and their support staff. Within the Homeland Security Council there are offices and staff for Intergovernmental Affairs, Public Liaison, Legislative Affairs, Military Programs, the Executive Secretary, and the General Counsel's office. In addition, there are five policy coordinating directorates each headed by a Senior Director with director level and support staff within each directorate. The policy directorates include; 1) Border & Transportation Security, 2) Response and Recovery, 3) Domestic Counterterrorism, 4) Biodefense, and 5) Critical Infrastructure Protection.

QUESTION 17: Please update the information shown on pages 44 through 47 of last year's hearing record concerning Office of Homeland Security travel. In addition to the information provided last year, please provide a brief descriptor of the travel purpose.

RESPONSE: All travel was conducted as part of the duties of the Office of Homeland Security and as such is considered official travel. The President and the Assistant to the President for Homeland Security have regularly stated that the homeland will not be secure unless the Federal government works closely with state and local officials. Official trips were approved for various purposes including the attendance of various conferences, holding of meetings with state and local officials and the holding of town

REV_00170665

hall meetings. The HSC considers travel to different states and cities as a vital part of its mission.

The table below is an update to the travel information provided to Congress last year.

Office of Homeland Security FY 2002 Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Purpose**
04/02/02	Los Angeles, CA	1	$1,185	Speaking Engagement
04/04/02	Miami, FL	2	$1,363	Meetings
04/05/02	Harrisburg, PA	1	$444	Accompany a Cabinet Head
04/07/02	Annapolis, MD	1	$63	Accompany a Cabinet Head
04/07/02	Atlanta, GA	1	$614	Meetings
04/08/02	Chicago, IL	2	$1,703	Accompany a Cabinet Head
04/08/02	New York, NY	1	$812	Meetings
04/09/02	Chicago, IL	6	$2,071	Meetings, Accompany a Cabinet Head
04/11/02	Charleston, SC	2	$1,859	Meetings
04/11/02	Chicago, IL	1	$301	Accompany a Cabinet Head
04/11/02	Harrisburg, PA	3	$1,485	Accompany a Cabinet Head
04/12/02	Oklahoma City, OK	1	$529	Speaking Engagement
04/15/02	Baltimore, MD	1	$134	Speaking Engagement
04/15/02	Boston, MA	1	$1,249	Meetings
04/15/02	Detroit, MI	1	$1,262	Accompany a Cabinet Head
04/16/02	Chicago, IL	3	$2,075	Meetings
04/16/02	Detroit, MI	2	$400	Accompany a Cabinet Head
04/16/02	Detroit, MI	1	$0	Meetings
04/18/02	Erie, PA / Harrisburg, PA	1	$413	Accompany a Cabinet Head
04/19/02	Harrisburg, PA	1	$857	Accompany a Cabinet Head
04/20/02	Houston, TX	1	$612	Meetings
04/24/02	Phoenix, AZ	1	$2,024	Accompany a Cabinet Head
04/24/02	Toronto, CAN	1	$627	Meetings
04/28/02	New Orleans, LA	7	$7,372	Meetings, Accompany a Cabinet Head
04/30/02	Boston, MA	1	$87	Speaking Engagement
05/01/02	Los Angeles, CA	1	$669	Speaking Engagement
05/03/02	Columbus, OH / Pittsburgh, PA	2	$1,259	Accompany a Cabinet Head

REV_00170666

05/06/02	Albuquerque, NM	1	$626	Meetings
05/06/02	Bangor, ME	1	$466	Speaking Engagement
05/07/02	Denver, CO	1	$427	Speaking Engagement
05/07/02	Sacramento, CA	2	$1,223	Meetings
05/08/02	Burlington, VT	1	$980	Meetings
05/08/02	San Diego, CA	1	$806	Speaking Engagement
05/08/02	Wichita, KS	1	$434	Speaking Engagement
05/10/02	Harrisburg, PA	1	$521	Accompany a Cabinet Head
05/12/02	Charleston, SC	1	$843	Speaking Engagement
05/14/02	Gulfport, MS	1	$469	Meetings
05/15/02	Buffalo, NY	8	$4,789	Accompany a Cabinet Head
05/18/02	Pittsburgh, PA	3	$1,002	Accompany a Cabinet Head
05/20/02	Jackson, WY	1	$1,543	Speaking Engagement
05/21/02	Washington D.C.	1	$710	Meetings
05/22/02	Dayton, OH	1	$689	Speaking Engagement
05/30/02	Baltimore, MD	1	$434	Meetings
05/30/02	Hershey, PA	1	$160	Speaking Engagement
05/31/02	Harrisburg, PA	1	$742	Accompany a Cabinet Head
06/04/02	New York, NY	4	$1,085	Meetings
06/07/02	Harrisburg, PA	1	$564	Accompany a Cabinet Head
06/10/02	New York, NY	2	$715	Speaking Engagement, Meetings
06/10/02	Sun Valley, ID	1	$1,710	Meetings
06/10/02	Washington D.C.	2	$1,206	Meetings
06/11/02	Kansas City, MO	1	$0	Meetings
06/11/02	Washington D.C.	5	$3,656	Meetings
06/12/02	Chicago, IL	1	$623	Speaking Engagement, Meetings
06/14/02	Albuquerque, NM	1	$971	Meetings
06/14/02	Harrisburg, PA	2	$913	Accompany a Cabinet Head
06/16/02	Erie, PA	1	$414	Meetings
06/16/02	Madison, WI	6	$2,071	Accompany a Cabinet Head
06/17/02	Mexico City, Mexico	1	$1,163	Meetings
06/17/02	New Orleans, LA	1	$884	Speaking Engagement
06/19/02	Virginia Beach, VA	1	$351	Meetings
06/20/02	Berkeley Springs, WV	1	$27	Meetings
06/21/02	Tulsa, OK	1	$488	Speaking Engagement
06/23/02	Phoenix, AZ	1	$1,036	Meetings
06/24/02	Other, Canada	1	$494	Accompany a Cabinet Head

REV_00170667

06/25/02	Colorado Springs, CO	1	$652	Meetings
06/27/02	Albuquerque, NM	1	$871	Speaking Engagement
06/27/02	Cambridge, MA	1	$876	Meetings
06/27/02	New York, NY	2	$309	Meetings
06/27/02	Other, Canada	2	$960	Meetings, Accompany a Cabinet Head
06/27/02	Toronto, Canada	1	$1,447	Accompany a Cabinet Head
06/28/02	Buffalo, NY	1	$1,001	Accompany a Cabinet Head
06/30/02	Erie, PA	1	$895	Accompany a Cabinet Head
06/30/02	Washington D.C.	7	$5,072	Meetings, Accompany a Cabinet Head
07/04/02	Erie, PA	1	$1,006	Accompany a Cabinet Head
07/10/02	Harrisburg, PA	2	$1,548	Accompany a Cabinet Head
07/10/02	New York, NY	1	$739	Speaking Engagement
07/11/02	Hershey, PA	1	$63	Speaking Engagement
07/12/02	Erie, PA	1	$559	Meetings
07/13/02	New Orleans, LA	1	$1,030	Speaking Engagement
07/14/02	Boulder, CO	1	$762	Speaking Engagement
07/14/02	Erie, PA	1	$600	Accompany a Cabinet Head
07/17/02	Colorado Springs, CO	1	$2,303	Accompany a Cabinet Head
07/17/02	Raleigh, NC	1	$546	Speaking Engagement
07/18/02	Colorado Springs, CO	2	$1,815	Speaking Engagement, Accompany a Cabinet Head
07/18/02	Dallas, TX	1	$631	Speaking Engagement
07/19/02	Cleveland, OH	1	$1,481	Accompany a Cabinet Head
07/19/02	Omaha, NE	1	$1,675	Speaking Engagement
07/20/02	Cleveland, OH	1	$1,463	Accompany a Cabinet Head
07/20/02	Erie, PA	2	$3,832	Meetings, Accompany a Cabinet Head
07/22/02	Du Page County, IL	1	$0	
07/22/02	New York, NY	3	$2,556	Meetings, Speaking Engagement
08/01/02	Austin, TX	1	$590	Speaking Engagement
08/04/02	Erie, PA	1	$1,049	Accompany a Cabinet Head
08/06/02	Los Angeles, CA	1	$501	Meetings
08/09/02	Harrisburg, PA	1	$2,473	Accompany a Cabinet Head
08/11/02	Erie, PA	1	$2,473	Accompany a Cabinet Head
08/13/02	Burlington, VT	1	$800	Meetings

REV_00170668

08/13/02	Cincinnati, OH	1	$739	Speaking Engagement
08/14/02	Little Rock, AR	2	$2,360	Meetings, Accompany a Cabinet Head
08/15/02	Rapid City, SD	2	$292	Speaking Engagement, Accompany a Cabinet Head
08/18/02	Philadelphia, PA	2	$2,312	Speaking Engagement, Meetings
08/21/02	New York, NY	1	$262	Meetings
08/22/02	Kansas City, MO	1	$879	Speaking Engagement
08/24/02	Erie, PA	1	$706	Accompany a Cabinet Head
08/26/02	Ottawa, Canada	1	$1,287	Speaking Engagement
08/26/02	Washington D.C.	2	$1,533	Meetings, Accompany a Cabinet Head
08/27/02	Indianapolis, IN	1	$821	Speaking Engagement
08/27/02	Philadelphia, PA	1	$452	Accompany a Cabinet Head
08/27/02	Seattle, WA	1	$1,577	Speaking Engagement
08/28/02	Buffalo, NY	2	$1,954	Meetings
08/28/02	Charlotte, NC	2	$1,218	Meetings, Accompany a Cabinet Head
08/28/02	Seattle, WA	1	$646	Meetings
08/28/02	Washington D.C.	5	$4,452	Speaking Engagement, Meetings
08/29/02	Buffalo, NY	1	$173	Meetings
08/29/02	Milan, Italy	2	$11,193	Accompany a Cabinet Head
08/30/02	Atlanta, GA	1	$549	Meetings
09/03/02	Ashville Naval Reserve Ctr, NC	1	$675	Speaking Engagement
09/04/02	Milan, Italy	1	$1,870	Accompany a Cabinet Head
09/04/02	San Diego, CA	1	$1,467	Meetings
09/05/02	Chicago, IL	1	$491	Speaking Engagement
09/05/02	Washington D.C. Metro Area	1	$53	Meetings
09/06/02	Long Beach Naval Hosp, CA	1	$937	Speaking Engagement
09/08/02	Columbus, OH	1	$366	Speaking Engagement
09/08/02	Detroit, MI	1	$1,111	Meetings
09/09/02	Orlando, FL	1	$519	Meetings
09/09/02	Paris, France	1	$1,156	Meetings
09/09/02	Washington D.C. Metro Area	1	$53	Meetings

REV_00170669

09/10/02	Pittsburgh, PA	3	$667	Meetings, Accompany a Cabinet Head
09/15/02	New York, NY	1	$191	Meetings
09/15/02	Suffolk County, NY	1	$357	Meetings
09/16/02	Washington D.C. Metro Area	1	$53	Meetings
09/18/02	Atlanta, GA	1	$254	Speaking Engagement
09/18/02	Denver, CO	1	$967	Speaking Engagement
09/19/02	Austin, TX	1	$121	Meetings
09/19/02	Dallas, TX	1	$618	Meetings
09/19/02	Minot AFB, ND	1	$1,121	Speaking Engagement
09/19/02	Washington D.C. Metro Area	1	$53	Meetings
09/20/02	Atlanta, GA	2	$1,349	Meetings
09/21/02	Dover, DE	1	$593	Accompany a Cabinet Head
09/22/02	Lincoln Naval Reserve, NE	1	$850	Meetings
09/24/02	Dallas, TX	1	$619	Speaking Engagement
09/24/02	Kansas City, MO	1	$650	Speaking Engagement
09/24/02	New York, NY	2	$285	Meetings
09/24/02	St. Louis, MO	1	$874	Speaking Engagement
09/25/02	Washington D.C. Metro Area	1	$53	Meetings
09/26/02	Erie, PA	1	$1,061	Accompany a Cabinet Head
09/26/02	Williamsport Naval Ctr, PA	1	$338	Accompany a Cabinet Head
09/27/02	Atlanta, GA	1	$314	Speaking Engagement
09/27/02	Easton, PA	1	$202	Accompany a Cabinet Head
09/30/02	New York, NY	1	$576	Speaking Engagement
09/30/02	White Plains, NY	1	$907	Meetings
FY 2002 Total from April 2, 2002			**$164,461**	

REV_00170670

Office of Homeland Security FY 2003 Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Purpose**
10/01/02	Washington D.C. Metro Area	1	$53	Meetings
10/01/02	White Plains, NY	1	$703	Meetings
10/02/02	Carlisle Barracks, PA	1	$132	Accompany a Cabinet Head
10/02/02	Charleston, WV	1	$155	Meetings
10/03/02	Los Angeles, CA	1	$944	Speaking Engagement
10/03/02	Miami, FL	1	$571	Meetings
10/03/02	Washington D.C. Metro Area	1	$53	Meetings
10/04/02	Washington D.C.	1	$169	Accompany a Cabinet Head
10/06/02	Minneapolis, MN	1	$769	Speaking Engagement
10/06/02	Orlando, FL	1	$432	Speaking Engagement
10/07/02	Las Vegas, NV	1	$875	Speaking Engagement
10/07/02	Oklahoma City, OK	1	$526	Meetings
10/07/02	Pittsburgh, PA	2	$1,664	Accompany a Cabinet Head
10/07/02	San Diego, CA	1	$1,412	Speaking Engagement
10/08/02	Minneapolis, MN	1	$914	Speaking Engagement
10/08/02	Pittsburgh, PA	2	$1,571	Speaking Engagement, Accompany a Cabinet Head
10/09/02	Dallas, TX	1	$705	Meetings
10/09/02	Washington D.C. Metro Area	1	$53	Meetings
10/10/02	Fort Lauderdale, FL	2	$2,958	Speaking Engagement, Meetings
10/11/02	Erie, PA	1	$931	Accompany a Cabinet Head
10/11/02	Washington D.C. Metro Area	1	$53	Meetings
10/12/02	Erie, PA	1	$348	Accompany a Cabinet Head
10/14/02	Columbus, OH	1	$572	Speaking Engagement
10/15/02	Atlanta, GA	1	$852	Meetings
10/15/02	Key West, FL	1	$1,217	Meetings
10/15/02	Sacramento, CA	1	$1,261	Meetings
10/15/02	Seattle, WA	1	$1,050	Speaking Engagement
10/15/02	Washington D.C.	8	$4,482	Meetings
10/16/02	Raleigh, NC	1	$254	Speaking Engagement
10/16/02	Vancouver, Canada	1	$1,663	Meetings
10/18/02	Trenton, NJ	1	$1,310	Meetings

REV_00170671

10/18/02	Washington D.C.	4	$2,386	Meetings
10/21/02	Houston, TX	1	$850	Speaking Engagement
10/21/02	Newark, NJ	2	$853	Meetings
10/21/02	Washington D.C. Metro Area	1	$53	Meetings
10/21/02	Washington D.C.	1	$88	Meetings
10/22/02	Frederick, MD	1	$291	Speaking Engagement
10/22/02	Reno, NV	1	$804	Meetings
10/22/02	Trenton, NJ	1	$153	Meetings
10/23/02	San Jose, CA	1	$932	Meetings
10/24/02	Erie, PA	1	$1,002	Meetings
10/24/02	Ontario, CA	1	$665	Speaking Engagement
10/24/02	Orlando, FL	1	$547	Meetings
10/25/02	Albany, NY	1	$581	Speaking Engagement
10/25/02	Washington D.C. Metro Area	1	$53	Meetings
10/26/02	Washington D.C.	1	$214	Accompany a Cabinet Head
10/28/02	Hershey, PA	1	$286	Meetings
10/28/02	Savannah, GA	1	$453	Speaking Engagement
10/29/02	New York, NY	1	$511	Speaking Engagement
10/29/02	St. Louis, MO	1	$1,079	Meetings
10/30/02	Brussels, Belgium	1	$4,853	Accompany a Cabinet Head
11/01/02	Atlantic City, NJ	1	$0	Meetings
11/01/02	Brussels, Belgium	1	$2,174	Meetings
11/01/02	Brussels, Belgium	1	$2,174	Accompany a Cabinet Head
11/01/02	Pittsburgh, PA	2	$607	Accompany a Cabinet Head
11/02/02	San Jose, CA	1	$1,002	Accompany a Cabinet Head
11/03/02	Brussels, Belgium	3	$4,535	Meetings
11/03/02	Washington D.C.	1	$8	Accompany a Cabinet Head
11/04/02	London, England	1	$2,536	Accompany a Cabinet Head
11/06/02	Santa Barbara, CA	1	$712	Accompany a Cabinet Head
11/09/02	Philadelphia, PA	1	$752	Meetings
11/09/02	Washington D.C. Metro Area	1	$741	Meetings
11/10/02	New Orleans, LA	1	$752	Speaking Engagement
11/12/02	Philadelphia, PA	1	$245	Meetings
11/13/02	Cincinnati, OH	1	$70	Speaking Engagement
11/14/02	Charlotte, NC	1	$992	Speaking Engagement
11/14/02	Erie, PA	1	$931	Accompany a Cabinet Head

REV_00170672

11/14/02	Washington D.C. Metro Area	1	$53	Meetings
11/15/02	Shepherdstown, WV	1	$80	Speaking Engagement
11/16/02	Erie, PA	1	$614	Accompany a Cabinet Head
11/17/02	Las Vegas, NV	1	$2,074	Speaking Engagement
11/18/02	New York, NY	1	$119	Accompany a Cabinet Head
11/18/02	Erie, PA / Harrisburg, PA	1	$4,528	Accompany a Cabinet Head
11/19/02	Philadelphia, PA	2	$1,051	Speaking Engagement
11/20/02	Los Angeles, CA	3	$4,200	
11/22/02	Boston, MA	1	$467	Meetings
11/22/02	Scottsdale, AZ	1	$234	Speaking Engagement
11/24/02	Mexico City, Mexico	1	$1,155	Meetings
11/24/02	Phoenix, AZ	1	$1,999	Accompany a Cabinet Head
11/25/02	New York, NY	1	$320	Meetings
11/26/02	London, England	1	$951	Accompany a Cabinet Head
12/01/02	St. Louis, MO	1	$1,580	Meetings
12/02/02	Chicago, IL	1	$907	Speaking Engagement
12/02/02	Washington D.C. Metro Area	1	$53	Meetings
12/02/02	Washington D.C.	10	$8,635	Meetings
12/03/02	Chicago, IL	1	$369	Meetings
12/03/02	Washington D.C.	1	$51	Meetings
12/04/02	Cambridge, MA	1	$901	Meetings
12/06/02	Salt Lake City, UT	1	$822	Meetings
12/06/02	Seattle, WA	1	$992	Meetings
12/06/02	Washington D.C.	1	$298	Accompany a Cabinet Head
12/08/02	New York, NY	1	$238	Meetings
12/09/02	Baltimore, MD	1	$327	Meetings
12/09/02	Indianapolis, IN	1	$817	Meetings
12/09/02	New York, NY	1	$317	Meetings
12/09/02	San Francisco, CA	1	$238	Speaking Engagement
12/09/02	Seattle, WA	2	$2,092	Meetings
12/11/02	New York, NY	5	$3,155	Speaking Engagement, Meetings
12/13/02	Washington D.C.	1	$308	Meetings
12/18/02	Anniston Army Depot, AL	1	$219	Meetings
12/18/02	Atlanta, GA	1	$544	Meetings
12/19/02	Harrisburg, PA	1	$380	Accompany a Cabinet Head

REV_00170673

12/19/02	Washington D.C. Metro Area	1	$53	Meetings
12/20/02	Washington D.C.	1	$135	Meetings
12/21/02	Erie, PA	1	$3,369	Accompany a Cabinet Head
01/07/03	Las Vegas, NV	1	$1,129	Speaking Engagement
01/09/03	Erie, PA	1	$939	Meetings
01/09/03	Washington D.C. Metro Area	1	$53	Meetings
01/11/03	San Diego, CA	2	$1,946	Speaking Engagement
01/14/03	Cape Canaveral, FL	2	$1,799	Meetings
01/15/03	Boston, MA	1	$1,249	Meetings
01/15/03	Jacksonville, FL	1	$768	Meetings
01/15/03	New Orleans, LA	1	$969	Meetings
01/16/03	Erie, PA	1	$673	Meetings
01/16/03	Washington D.C. Metro Area	1	$53	Meetings
01/17/03	Erie, PA	1	$238	Meetings
01/20/03	San Antonio, TX	2	$1,550	Speaking Engagement
01/21/03	Harrisburg, PA	1	$150	Meetings
01/21/03	New York, NY	1	$407	Meetings
01/21/03	Mexico City, Mexico	1	$1,229	Accompany a Cabinet Head
01/22/03	New York, NY	1	$335	Meetings
01/22/03	Washington D.C.	7	$3,930	Meetings
01/24/03	Shepherdstown, WV	1	$81	Meetings
01/24/03	Washington D.C. Metro Area	1	$53	Meetings
01/28/03	Washington D.C. Metro Area	1	$53	Meetings
01/29/03	Chicago, IL	1	$246	Meetings
01/30/03	Washington D.C.	7	$4,952	Meetings
02/07/03	Washington D.C. Metro Area	1	$53	Meetings
02/09/03	Seattle, WA	1	$1,878	Meetings
02/10/03	Norfolk, VA	1	$105	Meetings
02/13/03	New York, NY	1	$33	Meetings
02/20/03	Cambridge, MA	1	$2,579	Speaking Engagement
02/20/03	Washington D.C.	5	$3,647	Meetings
02/21/03	Washington D.C.	3	$1,067	Meetings
02/25/03	Washington D.C. Metro Area	1	$53	Meetings

REV_00170674

03/03/03	Albuquerque, NM	1	$983	Meetings
03/09/03	Baltimore, MD	1	$897	Meetings
03/12/03	Houston, TX	1	$1,218	Speaking Engagement
03/25/03	Washington D.C. Metro Area	1	$53	Meetings
03/31/03	Charlottesville, VA	1	$189	Meetings
	FY 2003 Total		**$143,729**	

Cyberspace Security FY 2002 Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Purpose**
04/02/02	Orlando, FL	1	$593	Meetings
04/03/02	Providence, RI	1	$876	Meetings
04/05/02	Denver, CO	1	$1,289	Speaking Engagement
04/08/02	Williamsburg, VA	1	$261	Speaking Engagement
04/10/02	Albany, NY	1	$905	Speaking Engagement
04/12/02	Orlando, FL	1	$1,279	Speaking Engagement
04/16/02	Orlando, FL	1	$758	Speaking Engagement
04/21/02	Orlando, FL	1	$1,664	Speaking Engagement
05/07/02	Chicago, IL	1	$524	Speaking Engagement
05/08/02	Las Vegas, NV	1	$1,009	Speaking Engagement
05/10/02	Boston, MA	1	$456	Speaking Engagement
05/12/02	Denver, CO	1	$1,391	Speaking Engagement
05/12/02	Denver, CO / Indianapolis, IN	1	$1,574	Speaking Engagement
05/14/02	Denver, CO	1	$1,711	Meetings
05/16/02	Chicago, IL	1	$328	Speaking Engagement
05/20/02	Honolulu, HI	1	$1,371	Speaking Engagement
05/27/02	Chicago, IL	1	$2,874	Meetings
05/29/02	Chicago, IL	2	$1,489	Meetings
05/31/02	Portland, OR	1	$2,874	Meetings
06/01/02	Seattle, WA	1	$4,572	Meetings
06/03/02	Portland, OR	1	$4,572	Meetings
06/03/02	San Diego, CA	1	$1,437	Meetings
06/05/02	Portland, OR	1	$1,678	Speaking Engagement
06/07/02	Seattle, WA	1	$1,437	Meetings
06/12/02	Buffalo, NY	1	$761	Speaking Engagement
06/16/02	Atlanta, GA	3	$2,523	Meetings

REV_00170675

06/19/02	London, GBR	1	$1,688	Speaking Engagement
06/23/02	Isle of Hawaii	1	$3,083	
06/24/02	Seattle, WA	1	$982	Meetings
06/26/02	Boston, MA	1	$641	Meetings
06/26/02	Chicago, IL	1	$982	Meetings
06/26/02	Las Vegas, NV	1	$982	Speaking Engagement
07/08/02	New York, NY	2	$483	Speaking Engagement
07/20/02	Monterey, CA	1	$1,353	Meetings
07/20/02	Tulsa, OK	2	$2,474	Speaking Engagement
07/22/02	Dallas, TX	1	$877	Speaking Engagement
07/23/02	Minneapolis, MN	1	$1,602	Speaking Engagement
07/24/02	Las Vegas, NV	1	$2,353	Speaking Engagement
07/30/02	Las Vegas, NV	1	$1,149	Speaking Engagement
08/04/02	Roanoke, VA	1	$672	Meetings
08/06/02	Duluth, MN	1	$72	Speaking Engagement
08/06/02	Ft. Lauderdale, FL	1	$706	Speaking Engagement
08/06/02	San Francisco, CA	1	$812	Speaking Engagement
08/12/02	Beaver Creek, CO	1	$3,363	Conference Attendance
08/12/02	Vail, Co	1	$3,363	Conference Attendance
08/13/02	Phoenix, AZ	1	$1,128	Meetings
08/13/02	San Francisco, CA	1	$4,362	Meetings
08/17/02	Aspen, CO	1	$287	Speaking Engagement
08/18/02	San Francisco, CA	1	$3,363	Conference Attendance
08/19/02	New York, NY	1	$470	Meetings
08/22/02	Boston, MA	1	$462	Speaking Engagement
08/26/02	Nashville, TN	1	$730	Speaking Engagement
08/26/02	Ottawa, Canada	1	$1,056	Meetings
08/30/02	Chicago, IL	1	$1,602	Meetings
09/03/02	Seattle, WA	1	$1,251	Speaking Engagement
09/05/02	New York, NY	1	$195	Speaking Engagement
09/06/02	Philadelphia, PA	1	$227	Meetings
09/08/02	San Jose, CA	1	$845	Meetings
09/12/02	Atlanta, GA	1	$122	Speaking Engagement
09/15/02	Minneapolis, MN	1	$2,388	Meetings
09/15/02	Palo Alto, CA	1	$2,987	Meetings
09/15/02	San Francisco, CA	2	$4,185	Meetings
09/17/02	Palo Alto, CA	2	$3,848	Meetings
09/17/02	San Francisco, CA	1	$2,033	Meetings
09/18/02	New London, CT	1	$2,542	Meetings

REV_00170676

09/18/02	Seattle, WA	1	$2,388	Meetings
09/19/02	New York, NY	1	$187	Meetings
09/21/02	Albuquerque, NM	1	$902	Meetings
09/24/02	Austin, TX	2	$1,976	Meetings
09/24/02	Cleveland, OH	1	$1,093	Speaking Engagement
09/24/02	Denver, CO	1	$1,680	Meetings
09/24/02	San Antonio, TX	5	$5,537	Meetings
09/30/02	Atlantic City, NJ	1	$375	Meetings
09/30/02	Ft. Meyers, FL	1	$623	Speaking Engagement
FY 2002 Total from April 4, 2002			**$116,686**	

Cyberspace Security FY 2003 Travel				
Trip Date	**Destination**	**# of Staff**	**Trip Cost**	**Purpose**
10/02/02	Philadelphia, PA	3	$1,475	Meetings
10/07/02	Minneapolis, MN	1	$751	Speaking Engagement
10/08/02	Brussels, Belgium	1	$3,904	Speaking Engagement
10/09/02	Omaha, NE	1	$1,189	Speaking Engagement
10/09/02	Pittsburgh, PA	1	$1,189	Speaking Engagement
10/11/02	London, GBR	1	$3,904	Speaking Engagement
10/14/02	Boston, MA	2	$3,428	Meetings
10/17/02	Boston, MA	1	$308	Meetings
10/17/02	Chicago, IL	1	$313	Meetings
10/20/02	Miami, FL	1	$611	Speaking Engagement
10/22/02	Frederick, MD	2	$669	Meetings
10/23/02	Pittsburgh, PA	2	$1,935	Meetings
10/26/02	Brussels, Belgium	1	$6,650	Speaking Engagement
10/26/02	Eugene, OR	1	$1,596	Speaking Engagement
10/28/02	Las Vegas, NV	1	$1,352	Speaking Engagement
10/28/02	San Antonio, TX	1	$501	Speaking Engagement
11/05/02	Atlanta, GA	1	$1,025	Speaking Engagement
11/06/02	White Plains, NY	1	$966	Meetings
11/07/02	Chicago, IL	3	$1,266	Meetings, Speaking Engagement
11/07/02	New York, NY	1	$794	Meetings

REV_00170677

11/10/02	Monterey, CA	1	$1,330	Meetings
11/12/02	New York, NY	1	$697	Meetings
11/13/02	New York, NY	1	$351	Meetings
11/13/02	Phoenix, AZ	2	$3,548	Meetings
11/14/02	Seattle, WA	1	$1,330	Meetings
11/17/02	Atlanta, GA	1	$436	Meetings
11/17/02	Ottawa, Canada	1	$2,418	Meetings
11/19/02	New York, NY	1	$877	Meetings
11/19/02	Salt Lake City, UT	1	$0	Meetings
11/20/02	New York, NY	1	$700	Speaking Engagement
12/03/02	Chicago, IL	1	$229	Meetings
12/03/02	San Francisco, CA	1	$2,294	Meetings
12/04/02	Phoenix, AZ	1	$1,264	Meetings
12/04/02	San Francisco, CA	1	$1,637	Meetings
12/06/02	Seattle, WA	1	$1,138	Meetings
12/09/02	Boston, MA	1	$401	Meetings
12/09/02	Charleston, SC	1	$825	Speaking Engagement
12/12/02	New York, NY	1	$380	Meetings
12/17/02	Flemington, NJ	2	$488	Meetings
12/18/02	Atlanta, GA	1	$65	Meetings
01/09/03	Charlotte, NC	2	$1,929	Meetings
01/14/03	Honolulu, HI	1	$1,610	Meetings
01/21/03	Boston, MA	2	$1,798	Meetings
01/22/03	St. Petersburg, FL	1	$492	Meetings
01/23/03	Ft. Meyers, FL	1	$636	Meetings
01/23/03	Naples, FL	1	$864	Meetings
01/24/03	Philadelphia, PA	1	$864	Meetings
01/24/03	San Diego, CA	3	$4,655	Meetings
01/28/03	Williamsburg, VA	1	$239	Meetings
01/29/03	Chicago, IL	1	$306	Meetings
01/30/03	New York, NY	1	$377	Meetings
02/02/03	Columbus, MS	1	$835	Meetings
02/02/03	San Francisco, CA	1	$1,211	Speaking Engagement
02/10/03	London, GBR	1	$1,474	Speaking Engagement
02/11/03	Tallahassee, FL	1	$583	Speaking Engagement

REV_00170678

02/24/03	Atlanta, GA	1	$768	Speaking Engagement
02/24/03	Boca Raton, FL	1	$1,053	Meetings
02/25/03	Chicago, IL	1	$522	Speaking Engagement
03/03/03	New York, NY	1	$608	Meetings
03/04/03	San Diego, CA	1	$785	Meetings
03/06/03	Ottawa, Canada	1	$930	Meetings
03/08/03	Orlando, FL	1	$260	Meetings
03/17/03	San Antonio, TX	1	$801	Meetings
03/18/03	Atlanta, GA	1	$801	Meetings
03/22/03	Paris, France	2	$3,402	Meetings
	FY 2003 Total		**$82,039**	

QUESTION 18: Currently, OHS costs are included in both the WHO and OA appropriations. Is that also the case in the FY 2004 request? If so, please provide a table, by appropriation, showing total OHS budgeted costs, for each of the fiscal years 2002 through 2004.

RESPONSE: For FY 2003, although funds were requested as part of the WHO budget activity, the Office of Homeland Security received for the first time its own appropriation, separate from the WHO appropriation. Funds supporting OHS / HSC requirements in FY 2003 were provided also to OA as part of the OA Pilot program. The FY 2004 Request identifies all requirements for OHS / HSC in the WHO Budget Activity, since the OA Pilot program is not certain to continue after FY 2003. See table below:

(Dollars in Thousands)

	Congressional Appropriations		
	FY 2002 Enacted*	FY 2003 Enacted	FY 2004 Request
OHS / HSC	$30,800	$8,272	$8,331
OA		$778	
	$30,800	$9,050	$8,331

*FY 2002 budget for OHS was based on the OHS mission and funding profile prior to the establishment of DHS and was provided by 3 sources of emergency appropriated funds: P.L. 107-38 for $25,000,000; P.L. 107-117 for $2,000,000; and P.L. 107-206 for $3,800,000.

QUESTION 19: Last year, it was stated that one MOU existed between OHS and other EOP entities (p. 51). Please provide a copy of the MOU between OHS and the Office of Science and Technology Policy.

REV_00170679

RESPONSE: The MOU between OHS and OSTP expired with the creation of the Department of Homeland Security as relevant responsibilities transferred from OHS to DHS, pursuant to the Homeland Security Act of November 2002.

QUESTION 20: Have any other MOUs been signed since that time?

RESPONSE: An MOU between the Homeland Security Council and the National Security Council/White House Situation Support Staff was signed in May 2003 providing for the expansion of NSC's classified computer network to include approved HSC staff with necessary security clearances.

In addition standard agreements were signed between OHS/HSC and the Office of Administration (OA) and OMB to pay for detailees from these EOP entities to OHS/HSC, and separately between OHS/HSC and OA to pay for miscellaneous supplies and materials.

QUESTION 21: At this time last year, OHS planned to establish a coordination center which would function 24 hours a day, 7 days a week, using a communications room and two incident management rooms. At the same time, the Administration made clear that the role of OHS was to establish and coordinate policy, and not to conduct operational activities. With the establishment of the Department of Homeland Security, have these specific activities been descoped or eliminated?

RESPONSE: The role of the Homeland Security Council is to advise and assist the President, develop and coordinate the implementation of the *National Strategy for Homeland Security* to secure the United States from terrorist threats and attacks, and to help coordinate policy across the departments and agencies of the Executive Branch. The Homeland Security Council does not conduct operational activities. The Homeland Security Council does not operate a coordination center. With the establishment of the Department of Homeland Security (DHS), DHS is the lead federal agency for incident management. As such, DHS operates a Homeland Security Center with 24 hour/7 days per week coordination and communications capabilities. Those functions do not reside in the Homeland Security Council.

QUESTION 22: How many positions support these activities in the FY 2004 request, and what is the total budgeted amount?

RESPONSE: The FY 2004 budget will not fund any personnel or activities related to the DHS coordination center. However, every member of the HSC staff has responsibilities to support and advise the President regarding incident response efforts, continuity of government and related coordination roles on behalf of the President.

REV_00170680

QUESTION 23: How are such activities appropriate for a policymaking body, when DHS now exists to coordinate and execute operational activities related to specific homeland security incidents and activities?

RESPONSE: Just as the NSC was created by Congress in 1947 in the same act which created the Department of Defense and the CIA, Congress established the HSC within the EOP by statute at the same time as it created the Department of Homeland Security. The role of the Homeland Security Council is to advise and assist the President, develop and coordinate the implementation of the *National Strategy for Homeland Security* to secure the United States from terrorist threats and attacks, and to help coordinate policy across the departments and agencies of the Executive Branch. The Homeland Security Council does not conduct operational activities. The Homeland Security Council does not operate a coordination center. With the establishment of the Department of Homeland Security, DHS is the lead federal agency for incident management. As such, DHS operates a Homeland Security Center with 24 hour/7 days per week coordination and communications capabilities. Those functions do not reside in the Homeland Security Council.

QUESTION 24: At the time of last year's hearing, the permanent location and amount of space for the President's Critical Infrastructure Protection Board had not been determined (p. 77). Have these requirements been determined today?

RESPONSE: The President's Critical Infrastructure Protection Board (PCIPB) no longer exists at the White House. Executive Order 13228, which created the PCIPB, was amended. Congress, through the Homeland Security Act, created within Department of Homeland Security the Directorate for Information Analysis and Infrastructure Protection (IAIP). One of the responsibilities of the IAIP directorate is the important issue of critical infrastructure protection. This is a robust directorate led by an under secretary.

QUESTION 25: Likewise, total CIPB staffing had not been determined. Do you have an estimate today? What staffing assumptions were made in the FY 2004 budget submission?

RESPONSE: See above.

QUESTION 26: How much funding is included in the FY 2004 request for CIPB, and how does that compare to the current estimate for FY 2003?

RESPONSE: See above.

QUESTION 27: Please provide a breakdown showing how those funds would be used.

RESPONSE: See above.

REV_00170681

QUESTION 28: Please provide details on any government-industry partnerships that have been created in support of cyber security initiatives coordinated by, or carried out, through EOP or the CIPB.

RESPONSE: In 2002, the President's Critical Infrastructure Protection Board developed a *National Strategy to Secure Cyberspace.* To encourage broader participation and input into the development process, a draft strategy was released for public comment in September 2002. In addition, the PCIPB requested the National Infrastructure Assurance Council and the National Security Telecommunications Advisory Committee both provide comments on the draft strategy. Furthermore, there were ten town hall meetings held in various portions of the country which brought industry, academia and private citizens together to focus on the complex issues related to cyber security. The final strategy thus integrated extensive public and industry comments and was released in February 2003.

The *National Strategy to Secure Cyberspace* emphasizes that government-industry partnerships will be a cornerstone to success. As the primary implementer of the Strategy, DHS will be a partner with industry and academia to accomplish the objectives identified by the President's strategy.

NATIONAL SECURITY COUNCIL

QUESTION 29: Your request includes a 10.8 percent increase to cover reimbursable detailee costs and additional support staff for the President's Foreign Intelligence Advisory Board. Please explain the need for these increases in detail.

RESPONSE: The requested increase covers reimbursable detailee costs of personnel from the Department of State. The National Security Council (NSC) may request detailed personnel performing at a high level in high priority positions to remain beyond their initial tour of duty because of their unique qualifications. The NSC reimburses the Department of State for details to the NSC that exceed a cap of 13 detailed into their second year and for all staff detailed longer than two years. The FY 2003 increase in this category is an estimate for details becoming reimbursable during the Spring and the Summer. The FY 2004 increase represents an annualization of the expenses, minus the cost for the details that will not be renewed.

Since the events of September 11, 2001, the President's Foreign Intelligence Advisory Board (PFIAB) support staff workload has been significantly increased and consumed by the homeland security effort. Thus far, about 95% of the Board's current advisory work for the President has been directly related to homeland security and counter-terrorism; intelligence performance thereon, and support to the new Department of Homeland Security. With only 4 staff members and an already overflowing Board work schedule, continuing work on important PFIAB priorities requires additional resources. At least

REV_00170682

three additional staff members, including a GS-14 administrative manager, will be needed to adequately meet support requirements as the Board expands its review of intelligence support to homeland security beyond the more immediate structural and organizational issues, and also re-engages the more general intelligence performance issues across the full spectrum of pressing issues. The FY 2004 request includes $250,000 which will fund two reimbursable detailed staff members and one permanent, Schedule A, Excepted Service, GS-14 administrative management position.

QUESTION 30: What are the dollar and percentage increases for each of the above items, compared to the FY 2003 estimated levels?

RESPONSE: The FY 2004 request for NSC reimbursable detailees represents an increase of $356,000, or 64 percent, over the FY 2003 estimated levels. The PFIAB increase of $250,000 will be 100 percent above the FY 2003 request since this is a new requirement for FY 2004.

QUESTION 31: The justifications indicate that 11 additional positions are being added to this office in FY 2003, raising the estimated from 60 in FY 2002 to an estimated 71 in FY 2003. What specific positions are being created?

RESPONSE: The 11 additional positions, which raise NSC's FTE from 60 to 71, are not new positions. In FY 2003, the Office for Combating Terrorism (OCT) was combined with the NSC budget request. The increased FTE request correlates with the continued funding for, and operation of, the OCT as a part of the NSC submission.

QUESTION 32: The FY 2004 request includes funds for a new GS-14 administrative manager for the PFIAB. Why is this new position needed at this time?

RESPONSE: PFIAB requires a permanent administrative position for continuity as well as efficiency reasons. The administrative staff constitutes the lifeblood of the Board: it fulfills all of the support responsibilities, including human resource management, budget, travel, procurement, research, publishing, protocol, and special assistance to the Executive Director, Chair and Vice Chair. With only two administrative people on staff, it is absolutely critical that both individuals be fully knowledgeable about, and highly experienced with *White House* administrative policies, procedures and guidelines; equally important, *both* must possess highly honed administrative skills *and* be extremely efficient, effective and professionally dedicated.

The Board simply cannot attain this level of experience and competence by relying on detailees from other agencies, particularly non-reimbursed detailees. More often than not, we must accept whomever an agency can make available. Therefore, the Board will use this one permanent administrative billet to create a PFIAB office manager position. This individual not only will provide continuity of expertise and experience but also will ensure that the other administrative person obtains the proper professional mentoring and

REV_00170683

supervision. We plan to make this a GS-14 position but may start the individual we select at the GS-13 level to allow for personal advancement, thereby also ensuring, a long term of service to the Board.

OFFICE OF NATIONAL DRUG CONTROL POLICY

QUESTION 33: You are requesting 10 additional FTE in FY 2004 to replace 10 non-reimbursable detailees who are no longer available. Why are these positions no longer available, and what are the specific positions?

RESPONSE: ONDCP's FY 2004 request includes resources to support 125 FTEs, an increase of 10 FTEs over the FY 2003 request. This FTE increase is requested to offset the loss of approximately 20 - 25 of the 30 non-reimbursable military detailee positions the Department of Defense has supported at ONDCP since 1996. (The Department of Defense, as outlined in a December 28, 2001 memorandum, has adopted a general policy that approves of requests for details only on a reimbursable basis, with limited exceptions.)

This 10 FTE increase, along with distributing additional responsibilities among existing staff, will allow ONDCP to absorb the detailee staffing loss and meet its statutory responsibilities. The specific positions would be appointed within the following offices: Planning and Budget; State and Local Affairs; Intelligence; and Supply Reduction.

RENOVATION OF THE EISENHOWER EXECUTIVE OFFICE BUILDING

QUESTION 34: What is the status of funding provided in FY 2002 and 2003? Please provide a breakdown of funding by the type of activity or renovation performed.

RESPONSE: The General Service Administration (GSA) has used FY 2002 Emergency Response Funds in the amount of $1,674,000 for starting the Architects' and Engineers' design contract for the 17th Street Wing Security Modernization Project. GSA is currently in the process of reprogramming $7,500,000 for FY 2003 for design, management and inspection. The FY 2003 reprogramming is required to complete the Design/Build/Bridging documents and assist in managing the Design/Build/Bridging efforts.

QUESTION 35: How much remains unobligated, by appropriation?

RESPONSE: The General Services Administration (GSA) awarded a portion of the design cost in the amount of $1,537,173 utilizing the FY 2002 Emergency Response Fund. $136,827 remains unobligated. GSA has not obligated any FY 2003 funding.

REV_00170684

QUESTION 36: Please provide a detailed breakdown showing how funds requested in the GSA budget for FY 2004 would be used.

RESPONSE: The following is a break down on how the funds will be used in FY 2004:

Major Work Items:	
Electrical System	$ 10,244,000
Air conditioning system, chillers and piping	$ 12,530,000
Interior Construction	$ 13,163,000
Utility Vault (includes foundation construction)	$ 22,107,000
Window Blast Mitigation	$ 4,685,000
Mansard Roof Hardening	$ 802,000
Estimated Construction Cost (ECC)	$ 63,531,000
Management and Inspection	$ 2,226,000
Authorization Requested (ECC, M&I)	$ 65,757,000

QUESTION 37: Please provide a detailed schedule for activities planned in FY 2004.

RESPONSE: The design/build/bridging contract is scheduled to be awarded in March 2004. The current schedule for the project is as follows:

Design Award:	04/03
Design/Build/Bridging Procurement Start:	09/03
A/E Bridging Documents Complete:	10/03
Design/Build/Bridging Contract Award:	03/04
Construction Complete:	06/06

QUESTION 38: How much are you currently paying GSA for the unoccupied space along the 17th Street side of EEOB, and how much rental cost are you incurring for the new locations where relocated employees are working?

RESPONSE: We are not paying for the unoccupied space along the 17th Street side of the EEOB in FY2003. Employees were relocated to 1800 G Street where FY 2004 rental costs are estimated at $4,978,000 and to 1801 Pennsylvania Avenue where the FY 2004 rental costs are estimated at $792,000. Both rental cost estimates exclude parking space costs.

EXECUTIVE RESIDENCE

QUESTION 39: Please provide a table, corresponding to the projects on page 81 of last year's hearing record, showing the original appropriation for each project, the amount obligated to date, and the project status. This involves projects funded in fiscal year 2002.

REV_00170685

RESPONSE: The following table provides funding information on the FY 2002 projects.

Executive Residence at the White House
FY2002 White House Repair and Restoration

Project	Original Appropriation	Obligated To Date	Status of Project
Pool Shelter Roof Reconstruction and Pool Deck Renovation	$430,000	$412,926	This project is completed, with only minor punch list items and related recurring maintenance items to be funded from the remaining funds.
Communication System Repairs/Phase 2*	$456,667 $4,544,000	$155,872	Modifications to the original design under Phase I (FY2001) are completed. The pre-bid meeting with prospective contractors is scheduled for mid-May, with contract award by late June, and construction commencing by late July.
East and West Wing Exterior Restoration	$2,500,000	$2,398,433	The restoration is underway and all Phase I funds will be utilized this year.
Insulated Windows Replacement	$160,000	$162	The prototype utilizing historically accurate reproduction glass is in production, with manufacturing of actual replacement units expected to begin in June. Installation to begin in August.
Kitchen Floor Replacement	$75,000	$60,815	This project is nearing completion with the remaining funds to be utilized for utility work.
North Portico Curtain Wall	$120,000	$106,751	The project is completed with remaining funds required to purchase spare parts inventory.
Stone Pavers Restoration	$277,000	$220,082	The project is currently underway and is scheduled for completion by September 2003.
West Colonnade Restoration	$275,000	$0	Planning has recently been completed; work will be accomplished in August and early September 2003.

*For the Comunication System Repairs/Phase 2 project, $456,667 was funded in FY 2001 for Architect and Engineering. The remaining $4,544,000 was for construction.

QUESTION 40: Please provide a listing of the 95 FTE positions at the Executive Residence requested for funding in FY 2004, showing the position title and the annual salary level.

RESPONSE: The position and salary information is provided in the table that follows.

REV_00170686

EXECUTIVE RESIDENCE AT THE WHITE HOUSE - FY 2003 -- 95 FTE				
USHERS OFFICE				
16 FTE	USHER	$96,880	CALLIGRAPHER	$68,939
	CALLIGRAPHER	$60,202	CALLIGRAPHER	$79,670
	SYSTEMS ADMIN	$99,152	USHER	$90,059
	PROJECT SUPERVISOR	$55,092	CALLIGRAPHER	$69,911
	ADMIN ASSISTANT	$44,244	CHIEF USHER	$142,500
	USHER	$112,347	ADMIN OFFICER	$83,132
	ACCOUNTANT	$56,711	GROUNDS SUPT	$139,297
	USHER	$92,786	NIGHT DOORMAN	VACANT
OFFICE OF THE CURATOR				
4 FTE	CURATOR	$87,328	ASSISTANT CURATOR	VACANT
	COLLECTIONS MANAGER	$50,230	ASSISTANT CURATOR	$65,056
FLOWER SHOP				
4 FTE	CHIEF FLORIST	$92,786	FLORIST	$60,565
	FLORIST	$68,266	FLORIST	$51,987
HOUSEKEEPING				
21 FTE	MAID	$44,452	ASST HOUSEKEEPER	$79,670
	LAUNDRY SPEC	$53,098	HOUSEMAN	$47,539
	HOUSEMAN	$30,541	MAID	$48,671
	MAID	$48,656	CHIEF HOUSEKEEPER	$102,720
	LAUNDRY SPEC	$44,857	HOUSEMAN	$50,441
	MAID	$41,826	MAID	$37,770
	MAID	$42,433	HOUSEMAN	$55,091
	MAID	$28,285	HOUSEMAN	$38,798
	HOUSEMAN	$41,826	MAID	$54,280
	CUSTODIAL SPEC	$48,626	HOUSEMAN	$44,861
			HOUSEMAN	VACANT
FOOD & BEVERAGE SRVCS				
18 FTE	BUTLER	$67,969	PASTRY CHEF	$124,113
	KITCHEN STEWARD	$49,102	ASSISTANT CHEF	$86,211
	ASSISTANT CHEF	$79,670	ASST PASTRY CHEF	$57,521
	BUTLER	$52,360	ASSISTANT CHEF	$46,200
	STOREKEEPER	$64,086	BUTLER	$65,056
	BUTLER	$49,548	BUTLER	$59,411
	STOREKEEPER	$70,558	BUTLER	$66,028
	MAITRE'D	$91,422	CHEF	$113,951
	STOREKEEPER	$55,091	ASSISTANT CHEF	$46,870
OPERATIONS				
7 FTE	OPERATIONS AIDE	$54,116	OPERATIONS AIDE	$33,747
	OPERATIONS AIDE	$54,679	OPERATIONS AIDE	$73,692
	SHOP FOREMAN	$77,449	OPERATIONS AIDE	$58,895
			OPERATIONS AIDE	$49,024
CARPENTER & PAINT SHOP				
6 FTE	CARPENTER	$60,669	CARPENTER	$49,399
	PAINTER	$72,523	CARPENTER	$50,255
	PAINTER FOREMAN	$90,304	CARPENTER FOREMAN	$78,763
ENGINEERS & PLUMBING SHOP				
12 FTE	ENGINEER	$84,878	ENGINEER	$65,532
	ENGINEER	$66,826	ENGINEER	$68,266
	ENGINEER	$63,236	ENGINEER	$52,905
	ENGINEER	$62,234	PLUMBING FOREMAN	$90,304
	PLUMBER	$71,355	ENGINEER FOREMAN	$91,422
	ENGINEER	$66,826	ENGINEER	$51,966
ELECTRIC SHOP				
7 FTE	ELECTRICIAN	$73,692	ELECTRICIAN	$73,692
	ELECTRICIAN	$46,937	ELECTRICIAN	$55,389
	ELECTRIC SHOP FOREMAN	$95,515	ELECTRICIAN	$66,826
			ELECTRICIAN	$45,351

REV_00170687

QUESTION 41: The justifications (p. 67) indicate an estimated unobligated balance of $7,023,000 in this appropriation at the beginning of FY 2003. Please explain the sources of this balance, and provide a schedule for obligation of increments of those funds.

RESPONSE: The majority ($4,388,127) of the unobligated funds are associated with the Communication System Repairs/Phase 2 which was delayed due to unanticipated design requirements. The schedule for completion and obligation of all FY2002 projects is detailed in the table below.

Executive Residence at the White House
FY2002 White House Repair and Restoration

Project	Original Appropriation	Obligated To Date	Status of Project
Pool Shelter Roof Reconstruction and Pool Deck Renovation	$430,000	$412,926	This project is completed, with only minor punch list items and related recurring maintenance items to be funded from the remaining funds.
Communication System Repairs/Phase 2*	$456,667 $4,544,000	$155,872	Modifications to the original design under Phase I (FY2001) are completed. The pre-bid meeting with prospective contractors is scheduled for mid-May, with contract award by late June, and construction commencing by late July.
East and West Wing Exterior Restoration	$2,500,000	$2,398,433	The restoration is underway and all Phase I funds will be utilized this year.
Insulated Windows Replacement	$160,000	$162	The prototype utilizing historically accurate reproduction glass is in production, with manufacturing of actual replacement units expected to begin in June. Installation to begin in August.
Kitchen Floor Replacement	$75,000	$60,815	This project is nearing completion with the remaining funds to be utilized for utility work.
North Portico Curtain Wall	$120,000	$106,751	The project is completed with remaining funds required to purchase spare parts inventory.
Stone Pavers Restoration	$277,000	$220,082	The project is currently underway and is scheduled for completion by September 2003.
West Colonnade Restoration	$275,000	$0	Planning has recently been completed; work will be accomplished in August and early September 2003.

*For the Comunication System Repairs/Phase 2 project, $456,667 was funded in FY 2001 for Architect and Engineering. The remaining $4,544,000 was for construction.

As of this date, there are also 5 projects which have balances prior to FY 2002. They are as follows:

FY1996 – Roof Repair – balance of $9,227. These funds will be expended as needed for ongoing maintenance and corrective measures.

FY1998 – Repair/restoration of the Laundry Room – balance of $26,616. Purchase of replacement equipment and maintenance of equipment to be expended in FY2003.

REV_00170688

FY2000 – Purchase and Install Two Ironers – balance of $5,754. These funds will be expended to replace the drive belts in FY2003.

FY2000 – Renovation of Paint Shop – balance of $38,271. Funds will be used to purchase and update equipment to meet EPA and OSHA requirements in FY2003.

FY2000 – Third Floor Promenade – balance of $11,392. Funds will be expended to rehab and replace drainage system in late FY2003 or early FY2004.

WHITE HOUSE REPAIR AND RESTORATION

QUESTION 42: You are requesting $4,225,000 for repairs and restoration of the White House. Is there additional funding in the National Park Service budget or elsewhere in the President's budget request for FY 2004 for similar activities at the White House?

RESPONSE: There are no other budget requests for the same activities at the White House.

QUESTION 43: Of this request, $3,500,000 is for restoration of the East and West Wing exterior. Please provide a detailed discussion and breakdown of this request.

RESPONSE: The funding requested is for the continuation (2nd phase) of the East and West Wing Restoration project, the first being funded in FY 2002. This is consistent with the original planning for the execution of this project based on the experience of the completed Executive Residence Exterior Restoration completed in 1996. A breakdown of major work items follows:

Estimated Construction Costs:

Mobilization, scaffolding, rental equipment	150,000
Stone, stucco, wood restoration, insulated glass	1,580,000
Paint removal	1,660,000
Effluent/hazardous material disposal	150,000
Specialized window film including installation	400,000
Specialized stucco coating including installation	550,000
Painting	500,000
Site Restoration	260,000
Design, project management, project supervision, testing	350,000
Contingency	400,000
Estimated Total Cost	**$6,000,000**
FY 2002 Funding	$2,500,000
FY 2004 Funding Request	$3,500,000

REV_00170689

PENNSYLVANIA AVENUE IMPROVEMENTS

QUESTION 44: What is the total estimated cost of security and street improvements on Pennsylvania Avenue in front of the White House, for which funds were provided in FY 2003?

RESPONSE: This project is not funded with EOP resources. Please refer all questions on this project to the Department of Transportation/Federal Highway Administration.

QUESTION 45: What is the status of that project? When will FY 2003 funds be obligated?

RESPONSE: See above.

QUESTION 46: How much funding is requested for this project in FY 2004, and where is it located in the budget?

RESPONSE: See above

QUESTION 47: What is the schedule for studies of traffic congestion mitigation alternatives in the vicinity of the White House, as funded in FY 2003?

RESPONSE: See above.

REMOTE DATA CENTER

QUESTION 48: What is the status of establishment today of the remote data center?

RESPONSE: The remote data center project is on schedule and on budget. The project is approximately halfway through completion for the first two phases with a scheduled opening (initial operational capability) date of September 2003. The following chart shows the funding of the remote data center from FY 2002 thru FY 2004.

	FY 2002	FY 2003	FY 2004
CIP	$15,000,000	$5,000,000	$8,403,000
S&E	$ - 0 -	$ - 0 -	$ - 0 -
Total	$15,000,000	$5,000,000	$8,403,000

QUESTION 49: Last year, you estimated annual operating costs of this facility to be $7,500,000 (p. 88). Is that your current estimate?

REV_00170690

RESPONSE: Last year OA provided a rough estimate of $7,500,000 for the future annual operating cost of the new data center facility. This was based upon the following estimated costs:

- $1,500,000 in communications to maintain connectivity for the EOP,
- $600,000 in space rental,
- $450,000 for hardware maintenance,
- $1,300,000 for software maintenance,
- $2,600,000 for contractor services,
- $300,000 for supplies/components,
- $75,000 for equipment, and
- $675,000 in salaries/benefits.

While most of these estimates remain valid, OA must revise the estimate for space rental to $1,258,000, bringing the revised estimated annual operating costs for the facility to $8,158,000.

QUESTION 50: Your FY 2004 request includes $8,403,000 to transition the remote data center to full operational status (p. 75). What specific activities are required in FY 2004 to accomplish this? Can you provide a breakdown of the FY 2004 request consistent with these activities?

RESPONSE: The following table lists the FY2004 CIP funds requested for the completion of the remote data center construction and initial year operating costs.

Object Class	Object Class Title	Requested Funding ($ in 000)	Description
23.0	Space Rental Payments	$1,258	This estimate reflects $1,258,000 in rental for the offsite data center and will be the initial rent to be paid for the offsite data center. This cost was previously funded from emergency funds.
23.3	Communications, utilities, and miscellaneous charges	$4,420	$4,420,000 is for CIP networking/ telecommunications projects at the offsite data center. These projects include funds for a tap off of telecommunications lines, two additional DS-3 data paths, two T-1 lines, and backup to support required communications bandwidth, and availability requirements.
25.2	Other Services	$2,700	This estimate reflects Priority System Disaster Recovery costs, Secondary Systems Disaster Recovery costs, Hardware and Software for the Disaster Recovery Site, and Hardware and Software upgrades to support the data center move.

REV_00170691

Object Class	Object Class Title	Requested Funding ($ in 000)	Description
26.0	Supplies and materials	$25	The estimate reflects $25,000 in additional supplies necessary for start-up operations at the offsite data center. This will include start up costs for office equipment used for the new office spaces.
Total FY 2004 Data Center CIP Request		**$8,403**	

PRESIDENT'S TRAVEL

QUESTION 51: Please update the information on pages 89 through 94 of last year's hearing record concerning travel by the President and the First Lady by continuing data from the final entry of last year's record to the present time.

RESPONSE: The following charts summarize Presidential and First Lady travel for Fiscal Years 2002 and 2003 (to date). They also reflect costs currently in the accounting system. We are waiting for additional cost information on several trips, therefore, final costs may vary.

Presidential Travel FY 2002			
Date	**Destination**	**Status**	**White House Travel Cost**
27-Feb	Charlotte, NC	Mixed	$7,048
1-Mar	Des Moines, IA	Mixed	$3,546
3-Mar	Minneapolis, MN	Mixed	$7,127
8-Mar	St. Petersburg, FL	Mixed	$6,093
12-Mar	Philadelphia, PA	Official	$11,102
15-Mar	Fayetteville, NC	Official	$1,218
16-Mar	Chicago, IL	Official	$11,217
18-Mar	St. Louis, MO	Mixed	$5,835
21-Mar	El Paso, TX	Official	$129
27-Mar	Greenville, SC	Mixed	$0
27-Mar	Atlanta, GA	Mixed	$166
27-Mar	Waco, TX	Official	$19,804
28-Mar	Dallas, TX	Mixed	$224
2-Apr	Philadelphia, PA	Mixed	$12,239
4-Apr	Waco, TX	Official (State)	$0

REV_00170692

8-Apr	Knoxville, TN	Official	$743
9-Apr	Bridgeport, CT	Mixed	$7,152
15-Apr	Cedar Rapids, IA	Mixed	$7,819
17-Apr	Lexington, VA	Official	$8,505
22-Apr	Saranac, NY(Wilmington, NY)	Official	$13,029
19-Apr	Beltsville, MD	Official	$0
24-Apr	Sioux Falls, SD	Mixed	$8,249
24-Apr	Waco, TX	Official	$13,741
29-Apr	Los Angeles, CA	Mixed	$10,907
29-Apr	Albuquerque, NM	Mixed	$7,054
30-Apr	San Jose, CA	Mixed	$6,632
6-May	Southfield, MI	Official	$9,857
8-May	Milwaukee, WI	Official	$10,952
8-May	Lacrosse, WI	Official	$8,760
10-May	Columbus, OH	Mixed	$4,992
13-May	Chicago, IL	Mixed	$1,743
20-May	Miami, FL	Mixed	$8,587
1-Jun	West Point, NY	Official	$13,593
3-Jun	Little Rock, AR	Official	$10,094
7-Jun	Des Moines, IA	Official	$13,895
11-Jun	Kansas City, MO	Mixed	$8,179
14-Jun	Columbus, OH	Official	$4,031
14-Jun	Houston, TX	Mixed	$9,739
14-Jun	Waco, TX	Official	$14,955
17-Jun	Atlanta, GA	Official	$8,663
21-Jun	Orlando, FL	Mixed	$9,010
24-Jun	Newark, NJ	Mixed	$4,974
25-Jun	Phoenix, AZ	Official	$584
1-Jul	Cleveland, OH	Official	$7,823
2-Jun	Milwaukee, WI	Official	$6,411
4-Jul	Ripley, WV	Official	$7,129
5-Jul	Kennebunkport, MN	Official	$34,245
9-Jul	New York City, NY	Official	$7,706
11-Jul	Minneapolis, MN	Mixed	$13,709
15-Jul	Birmingham, AL	Mixed	$5,747
18-Jul	Troy, MI	Official	$3,197
19-Jul	Fort Drum, NY	Official	$7,133
22-Jul	Argonne, IL	Official	$10,510
25-Jul	Greensboro, NC	Mixed	$5,342

REV_00170693

29-Jul	Charleston, SC	Mixed	$7,149
2-Aug	Kennebunkport, MN	Mixed	$34,291
5-Aug	Pittsburgh, PA	Mixed	$11,138
6-Aug	Waco, TX	Official	$107,331
7-Aug	Jackson, MS	Mixed	$9,750
13-Aug	Economic Forum Waco, TX	Official	$201
14-Aug	Milwaukee, WI	Mixed	$5,217
14-Aug	Des Moines, IA	Mixed	$6,630
15-Aug	South Dakota	Official	$8,029
16-Aug	Rapid City, SD	Mixed	$65
22-Aug	Medford, OR	Official	$10,226
22-Aug	Portland, OR	Political	$2,429
23-Aug	Dana Point, CA	Mixed	$21,873
23-Aug	Stockton, CA	Mixed	$4,565
24-Aug	Thousand Oaks / Westwood, CA	Political	$955
24-Aug	Santa Anna, CA	Official	$0
24-Aug	Las Cruces, NM	Mixed	$4,381
29-Aug	Oklahoma City, OK	Political	$0
29-Aug	Little Rock, AR	Mixed	$10,649
2-Sep	Pittsburgh, PA	Official	$11,098
5-Sep	Louisville, KY	Mixed	$8,684
5-Sep	South Bend, IN	Mixed	$5,105
6-Sep	Minneapolis, MN	Official	$4,733
9-Sep	Detroit, MI	Official (State)	$1,804
11-Sep	Somerset County, PA	Official	$1,611
11-Sep	New York City, NY	Official	$6,665
16-Sep	Davenport, IA	Mixed	$6,573
17-Sep	Nashville, TN	Mixed	$1,573
23-Sep	Trenton, NJ	Mixed	$5,053
26-Sep	Houston, TX	Political	$0
26-Sep	Waco, TX	Official	$19,792
27-Sep	Denver, CO	Political	$0
27-Sep	Flagstaff, AZ	Political	$0
27-Sep	Phoenix, AZ	Political	$0
FY 2002 Total from February 27, 2002			**$738,709**

REV_00170694

Presidential Travel FY 2003			
Date	Destination	Status	White House Travel Cost
1-Oct	Tampa, FL		$1,032
2-Oct	Baltimore, MD	Political	$0
4-Oct	Boston, MA	Political	$0
4-Oct	Kennebunkport, ME	Official	$37,055
5-Oct	Manchester, NH	Mixed	$5,704
7-Oct	Cincinnati, OH	Official	$20,182
8-Oct	Knoxville, TN	Political	$798
14-Oct	Detroit, MI	Political	$677
17-Oct	Daytona Beach, FL	Mixed	$9,308
17-Oct	Atlanta, GA	Political	$0
18-Oct	Rochester, MN	Political	$0
18-Oct	Springfield, MO	Political	$0
22-Oct	Chester County, PA	Political	$0
22-Oct	Bangore, ME	Political	$0
24-Oct	Charlotte, NC	Political	$0
24-Oct	Columbia, SC	Political	$0
24-Oct	Auburn, AL	Political	$0
24-Oct	Waco, TX (State Dept.)	Official	$2,168
26-Oct	Cabo San Lucas, Mexico (State)	Official	$0
27-Oct	Phoenix, AZ (RON)	Political	$817
28-Oct	Alamogordo, NM	Political	$0
28-Oct	Denver, CO	Political	$0
31-Oct	Aberdeen, SD	Political	$0
31-Oct	Southbend, IN	Political	$0
31-Oct	Charleston, WV	Political	$0
1-Nov	Louisville, KY	Political	$0
1-Nov	Portsmouth, NH	Political	$0
2-Nov	Johnson City, TN	Political	$0
2-Nov	Atlanta, GA	Political	$0
2-Nov	Tampa Bay, FL (RON)	Political	$0
3-Nov	Springfield, IL	Political	$0
3-Nov	Minneapolis, MN	Political	$0
3-Nov	South Falls, SD	Political	$0

REV_00170695

3-Nov	Cedar Rapids, IA (RON)	Political	$738
4-Nov	St. Louis, MO	Political	$0
4-Nov	Bentonville, AR	Political	$0
4-Nov	Dallas, TX	Political	$0
4-Nov	Waco, TX (RON)	Official	$9,387
27-Nov	Waco, TX (RON)	Official	$21,899
3-Dec	Shreveport, LA	Political	$0
3-Dec	New Orleans, LA	Political	$0
12-Dec	Philadelphia, PA	Official	$10,793
26-Dec	Waco, TX (RON)	Official	$38,144
3-Jan	Ft. Hood, TX	Official	$1,777
7-Jan	Chicago, IL	Official	$10,516
16-Jan	Scranton, PA	Official	$11,184
22-Jan	St. Louis, MO	Official	$12,521
29-Jan	Grand Rapids, MI	Official	$12,918
31-Jan	Camp David, MD	Official	$646
4-Feb	Houston, TX	Official	$8,141
9-Feb	White Sulphur Springs, WV	Official	$11,968
10-Feb	Nashville, TN	Official	$13,069
13-Feb	Jacksonville, FL	Official	$15,211
20-Feb	Atlanta, GA	Official	$4,646
20-Feb	Waco, TX (State)	Official	$945
4-Mar	Washington, DC	Official	$0
5-Mar	Camp Lejeune, NC	Official	$5,218
26-Mar	Camp David, MD	Official	$350
26-Mar	Tampa Bay, FL	Official	$4,624
31-Mar	Philadelphia, PA	Official	$1,726
3-Apr	Camp Lejeune, NC	Official	$6,968
16-Apr	St. Louis, MO	Official	$1,832
16-Apr	Waco, TX	Official	$3,972
20-Apr	Ft. Hood, TX	Official	$0
24-Apr	Canton, OH	Official	$1,269
24-Apr	Lima, OH	Official	$374
28-Apr	Dearborn, MI	Official	$1,427
1-May	San Diego, CA	no trip sum	$960
5-May	Little Rock, AR	no trip sum	$1,063
9-May	Columbia, SC	no trip sum	$965
Total Presidential Costs Through 05/30/03			**$292,992**

REV_00170696

Mrs. Bush's Travel FY 2002			
Date	**Destination**	**Status**	**White House Travel Cost**
10-Feb	Los Angeles, CA	Official	$5,021
11-Feb	Hershey, PA	Official	$0
8-Mar	New York, NY	Official	$6,218
11-Mar	Richmond, VA	Official	$1,659
4-Apr	Dallas, TX	Official	$35
11-Apr	Hershey, PA	Official	$899
30-Apr	Little Rock, AR	Official	$1,839
30-Apr	Dallas, TX	Official	$366
9-May	New York, NY	Official	$1,898
28-May	Austin, TX	Official	$3,379
10-Jun	Boise, ID	Official	$3,456
11-Jun	Salt Lake City, UT	Official	$1,187
11-Jun	San Francisco	Mixed	$5,237
12-Jun	Austin, TX	Official	$3,693
6-Jun	Crawford, TX	Official	$0
20-Jun	Boston, MA	Official	$1,674
17-Jun	Cincinnati, OH	Official	$2,309
22-Jun	Midland, TX	Official	$0
7-Jul	Kennebunkport, ME	Official	$0
12-Jul	Norfolk, VA	Official	$969
18-Jul	Philadelphia, PA	Official (State)	$0
24-Jul	New York, NY		$236
2-Aug	Dallas, TX	Official	$1,773
3-Aug	Lubbock, TX	Official	$3,571
14-Aug	Austin, TX	Official	$3,231
22-Aug	Austin, TX	Official	$3,501
11-Sep	New York, NY	Official	$4,241
25-Sep	Greenville, MS	Official	$1,591
27-Sep	Waco, TX	Official	$105
FY 2002 Total from February 10, 2002			**$58,088**

REV_00170697

Mrs. Bush's Travel FY 2003			
Date	**Destination**	**Official**	**White House Travel Cost**
1-Oct	Tampa, FL	Mixed	$820
4-Oct	Kennebunkport, ME		$210
5-Oct	Portland, ME	Official	$1,343
7-Oct	New York, NY	Mixed	$5,625
16-Oct	Dayton, OH	Official	$2,281
17-Oct	Mobile, AL	Mixed	$4,226
21-Oct	Boston, MA	Official	$6,528
23-Oct	St. Louis, MO	Mixed	$5,610
2-Nov	Atlanta, GA	Official	$3,729
2-Nov	Raleigh, NC	Political	$0
2-Nov	Nashua, NH	Political	$0
2-Nov	Des Moines, IA	Political	$0
2-Nov	Minneapolis, MN	Political	$0
2-Nov	Sioux Falls, SD (RON)	Political	$0
3-Nov	Rapid City, SD	Political	$0
4-Nov	Waco, TX		$112
12-Nov	New York, NY		$295
16-Jan	New York, NY		$547
20-Jan	New York, NY		$5,668
4-Feb	Los Angeles, CA		$2,369
13-Feb	New York, NY		$5,163
19-Feb	Dallas, TX		$353
19-Feb	New Orleans, LA		$4,883
13-Mar	Austin, TX (RON)	Political	$0
8-May	Page, AZ	Official	In process
8-May	Kayenta, AZ	Official	In process
8-May	Phoenix, AZ	Official	In process
9-May	Santa Fe, NM	Official	In process
Total First Lady Costs through 05/30/03			**$49,762**

REV_00170698

PRESIDENTIAL STAFF TRAVEL

QUESTION 52: Please provide a listing of staff travel not in support of the President for fiscal year 2002 and thus far in fiscal year 2003. For each entry, please include the name of traveler, the destination and purpose of trip, the number of days in travel status, and the trip cost.

RESPONSE: The following tables provide the FY 2002 and year to date FY 2003 travel expenses as reflected in the accounting system. This data does not include travel made in direct support of a Presidential trip.

White House Office FY 2002 Staff Travel				
PURPOSE	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Speaking Engagement	Atlantic City, NJ	$443	10/15/01	1
Meetings	Los Angeles, CA	$631	10/17/01	4
Meetings	Reykjavik, Iceland	$3,699	10/20/01	4
Speaking Engagement	Austin, TX	$443	10/26/01	1
Speaking Engagement	Oakland, CA	$1,231	10/28/01	2
Accompany a Cabinet Head	Boston, MA	$262	10/31/01	2
Meetings	Washington D.C. Metro	$53	10/31/01	2
Speaking Engagement	Silver Spring, MD	$10	11/01/01	1
Meetings	Los Angeles, CA	$561	11/02/01	2
Speaking Engagement	Atlanta, GA	$543	11/09/01	2
Meetings	Los Angeles, CA	$1,661	11/10/01	2
Meetings	New York, NY	$401	11/10/01	1
Meetings	Washington D.C. Metro	$53	11/14/01	2
Meetings	Salt Lake City, UT	$63	11/27/01	1
Meetings	Houston, TX / Sacramento, CA / Santa Fe, NM	$1,524	11/28/01	2
Meetings	Virginia Beach, VA	$298	12/04/01	1
Meetings	Atlanta, GA	$496	12/05/01	1
Meetings	Philadelphia, PA	$202	12/05/01	1
Meetings	Washington D.C. Metro	$53	12/05/01	2

REV_00170699

Speaking Engagement	Atlanta, GA	$429	12/06/01	1
Speaking Engagement	Ft. Wayne, IN	$28	12/06/01	1
Meetings	Washington D.C. Metro	$53	12/12/01	1
Meetings	Washington D.C. Metro	$48	12/16/01	2
Meetings	Sacramento, CA	$817	12/18/01	2
Meetings	Washington D.C. Metro	$54	12/24/01	1
Speaking Engagement	Austin, TX	$59	01/03/02	3
Speaking Engagement	Austin, TX	$59	01/03/02	3
Meetings	Washington D.C. Metro	$48	01/07/02	2
Speaking Engagement	Las Vegas, NV	$95	01/10/02	6
Meetings	Washington D.C. Metro	$48	01/14/02	2
Speaking Engagement	Sacramento, CA	$263	01/17/02	1
Speaking Engagement	Dallas, TX	$932	01/18/02	2
Meetings	New York, NY	$524	01/25/02	1
Meetings	Salt Lake City, UT	$1,726	01/28/02	31
Meetings	Washington D.C. Metro	$51	01/28/02	2
Speaking Engagement	Chicago, IL	$402	01/30/02	1
Meetings	Washington D.C. Metro	$53	01/30/02	2
Meetings	Washington D.C. Metro	$51	02/04/02	2
Meetings	Albuquerque, NM	$606	02/07/02	3
Meetings	New Haven, CT	$224	02/07/02	1
Meetings	Washington D.C. Metro	$55	02/11/02	1
Speaking Engagement	Denver, CO	$41	02/12/02	1
Meetings	Washington D.C. Metro	$53	02/13/02	2
Speaking Engagement	Naples, FL	$0	02/14/02	3
Speaking Engagement	Charlottesville, VA	$88	02/16/02	1
Speaking Engagement	Dallas, TX	$667	02/18/02	1
Meetings	Kansas City, KS	$651	02/18/02	1
Accompany a USG Delegation	Rome, ITA	$1,380	02/18/02	5
Meetings	Key West, FL	$1,721	02/21/02	3
Meetings	Las Vegas, NV	$426	02/21/02	2
Meetings	Minneapolis, MN	$383	02/27/02	5
Meetings	Washington D.C. Metro	$53	02/27/02	2
Speaking Engagement	Los Angeles, CA	$339	02/28/02	2
Speaking Engagement	Hartford, CT	$77	03/01/02	1

Speaking Engagement	Jackson, MS	$10	03/01/02	4
Meetings	Washington D.C. Metro	$53	03/04/02	2
Meetings	Washington D.C. Metro	$56	03/06/02	1
Speaking Engagement	Palm Springs, CA	$1,114	03/07/02	1
Meetings	Washington D.C. Metro	$53	03/08/02	1
Meetings	College Station, TX	$1,624	03/09/02	4
Meetings	Washington D.C. Metro	$53	03/11/02	2
Meetings	Dallas, TX	$419	03/15/02	2
Meetings	Washington D.C.	$316	03/15/02	1
Meetings	Cedar Rapids, IA	$445	03/24/02	1
Meetings	Washington D.C. Metro	$53	03/25/02	2
Meetings	Philadelphia, PA	$375	03/27/02	8
Meetings	Washington D.C. Metro	$110	03/27/02	1
Meetings	Boston, MA	$331	04/05/02	1
Speaking Engagement	Orlando, FL / Tampa, FL	$935	04/06/02	2
Meetings	Knoxville, TN	$393	04/07/02	1
Meetings	Denver. CO / Las Vegas, NV	$426	04/11/02	2
Meetings	Boston, MA	$151	04/15/02	1
Meetings	New York, NY	$409	04/15/02	1
Meetings	Washington D.C. Metro	$53	04/15/02	2
Speaking Engagement	Oakland, CA / Seattle, WA	$957	04/16/02	1
Meetings	Washington D.C. Metro	$53	04/17/02	2
Meetings	Washington D.C. Metro	$53	04/17/02	2
Meetings	Washington D.C. Metro	$53	04/23/02	1
Speaking Engagement	Jackson, MS	$454	04/26/02	1
Meetings	Philadelphia, PA	$384	04/26/02	1
Meetings	San Marcos, TX	$45	04/27/02	1
Meetings	San Jose, CA	$522	04/29/02	1
Meetings	Washington D.C. Metro	$57	04/29/02	1
Meetings	Tampa, FL	$538	04/30/02	1
Speaking Engagement	Miami, FL	$697	05/07/02	1
Meetings	Washington D.C. Metro	$53	05/08/02	2
Speaking Engagement	College Station, TX	$60	05/10/02	1
Meetings	Houston, TX	$83	05/10/02	2
Speaking Engagement	New Orleans, LA	$686	05/13/02	1

Meetings	Washington D.C. Metro	$53	05/13/02	2
Meetings	Washington D.C. Metro	$53	05/15/02	1
Meetings	New York, NY / Phoenix, AZ	$458	05/21/02	1
Speaking Engagement	Atlanta, GA	$679	05/23/02	1
Speaking Engagement	Birmingham, AL	$134	05/25/02	2
Meetings	Washington D.C. Metro	$59	05/27/02	2
Speaking Engagement	Pittsburgh, PA	$733	05/29/02	1
Meetings	Philadelphia, PA	$210	05/30/02	1
Speaking Engagement	Albuquerque, NM / Las Vegas, NV / Los Angeles, CA	$606	05/31/02	10
Invitational	Washington D.C.	$1,008	05/31/02	
Meetings	New York, NY	$359	06/02/02	1
Meetings	Washington D.C. Metro	$53	06/03/02	2
Meetings	Washington D.C. Metro	$53	06/03/02	1
Meetings	El Paso, TX	$553	06/07/02	1
Speaking Engagement	Ft. Meyers, FL	$343	06/07/02	1
Speaking Engagement	Salt Lake City, UT	$368	06/10/02	1
Meetings	Los Angeles, CA / Modesto, CA	$923	06/12/02	3
Meetings	Washington D.C. Metro	$53	06/12/02	2
Meetings	New Orleans, LA	$761	06/13/02	1
Meetings	Minneapolis, MN	$878	06/14/02	1
Meetings	Madison. WI	$456	06/17/02	1
Speaking Engagement	Pittsburgh, PA	$700	06/19/02	1
Speaking Engagement	Brooklyn, NY	$149	06/21/02	1
Speaking Engagement	Charlotte, NC	$313	06/21/02	1
Meetings	Phoenix, AZ / Scottsdale, AZ	$1,224	06/21/02	4
Meetings	Providence, RI	$239	06/22/02	1
Meetings	Washington D.C. Metro	$58	06/24/02	1
Meetings	San Francisco, CA / Seattle, WA	$1,177	06/25/02	4
Meetings	Washington D.C. Metro	$59	06/26/02	2
Speaking Engagement	Albuquerque, NM	$622	06/27/02	2
Meetings	Washington D.C. Metro	$59	07/11/02	1

REV_00170702

Meetings	New Orleans, LA	$997	07/12/02	3
Meetings	Boise, ID	$767	07/14/02	1
Meetings	New Orleans, LA	$690	07/14/02	1
Meetings	Washington D.C. Metro	$53	07/16/02	1
Meetings	London, GBR / France	$1,560	07/18/02	5
Speaking Engagement	Los Angeles, CA	$417	07/20/02	1
Speaking Engagement	Cleveland, OH / Minneapolis, MN	$1,060	07/23/02	1
Meetings	Denver, CO	$704	07/23/02	3
Meetings	Denver, CO / Orlando, FL	$945	07/23/02	2
Meetings	New York, NY	$144	07/24/02	1
Meetings	Washington D.C. Metro	$59	07/24/02	2
Meetings	Atlanta, GA	$125	07/28/02	1
Meetings	Mexico City, Mexico	$1,076	07/28/02	3
Meetings	Washington D.C. Metro	$53	07/29/02	2
Meetings	Boston, MA	$431	07/30/02	1
Meetings	Austin, TX	$398	08/01/02	1
Meetings	Austin, TX	$398	08/01/02	1
Speaking Engagement	Hershey, PA	$209	08/03/02	1
Meetings	Washington D.C. Metro	$53	08/05/02	2
Meetings	Ft Lauderdale, FL	$638	08/06/02	2
Meetings	Orlando, FL	$1,081	08/06/02	3
Conference Attendance	New Orleans, LA	$561	08/13/02	1
Speaking Engagement	Charleston, WV	$827	08/15/02	1
Meetings	Monterey, CA	$605	08/19/02	11
Meetings	Hanoi, Vietnam / Honolulu, HI	$1,960	08/20/02	11
Speaking Engagement	Ft. Lauderdale, FL	$659	08/25/02	1
Speaking Engagement	Memphis, TN	$1,043	08/28/02	1
Speaking Engagement	Philadelphia, PA	$225	08/28/02	1
Meetings	Minneapolis, MN	$69	09/02/02	1
Speaking Engagement	New York, NY / Kansas City, KS	$960	09/03/02	2
Speaking Engagement	Naples, FL / Orlando, FL	$1,026	09/03/02	2
Meetings	Washington D.C. Metro	$53	09/04/02	2
Speaking Engagement	New York, NY	$227	09/05/02	1
Meetings	Washington D.C. Metro	$53	09/11/02	2

Meetings	Austin, TX	$276	09/13/02	2
Meetings	Los Angeles, CA	$520	09/13/02	1
Meetings	Washington D.C. Metro	$59	09/16/02	2
Speaking Engagement	Baltimore, MD	$43	09/19/02	1
Speaking Engagement	Cedar Rapids, IA	$317	09/19/02	1
Speaking Engagement	Chicago, IL	$459	09/20/02	1
Speaking Engagement	Wintergreen, VA	$203	09/20/02	2
Speaking Engagement	Columbus, OH	$370	09/23/02	1
Meetings	Milwaukee, WI	$626	09/23/02	1
Speaking Engagement	Orange County, CA	$42	09/25/02	2
Meetings	Washington D.C. Metro	$59	09/25/02	2
Speaking Engagement	Raleigh, NC	$499	09/26/02	1
Speaking Engagement	Pittsburgh, PA	$873	09/27/02	2
Speaking Engagement	Boston, MA	$258	09/28/02	1
Speaking Engagement	New York, NY	$40	09/30/02	1
	FY 2002 Total	**$75,357**		

White House Office FY 2003 Staff Travel				
PURPOSE	**DESTINATION**	**COST**	**DATE**	**TRIP DURATION (# of Days)**
Meeting	New York, NY	$345	10/01/02	1
Meeting	Chicago, IL	$327	10/02/02	1
Speaking Engagement	Columbus, OH	$434	10/02/02	1
Speaking Engagement	Syracuse, NY	$701	10/04/02	3
Speaking Engagement	Atlanta, GA	$626	10/05/02	2
Speaking Engagement	Orlando, FL	$1,708	10/07/02	4
Meetings	Washington D.C. Metro	$53	10/07/02	2
Meeting	Atlanta, GA	$1,105	10/08/02	3
Speaking Engagement	Portsmouth, NH	$365	10/08/02	1
Meeting	Atlanta, GA	$893	10/09/02	2
Meeting	Atlanta, GA	$1,001	10/09/02	2
Meeting	Atlanta, GA	$880	10/09/02	2
Meeting	Atlanta, GA	$893	10/09/02	2
Meeting	Atlanta, GA	$937	10/09/02	2
Meeting	Atlanta, GA	$337	10/09/02	1

REV_00170704

Meeting	Atlanta, GA	$660	10/09/02	2
Meeting	Hague	$1,818	10/09/02	4
Speaking Engagement	Sioux Falls Naval, SD	$723	10/09/02	2
Meeting	Washington D.C.	$96	10/09/02	1
Speaking Engagement	Ft. Lauderdale, FL	$1,011	10/10/02	1
Speaking Engagement	Ft. Lauderdale, FL	$839	10/10/02	1
Meeting	New York, NY	$164	10/10/02	1
Meeting	Naples, FL	$820	10/10/02	1
Speaking Engagement	Milwaukee, WI	$554	10/13/02	1
Meetings	Washington D.C. Metro	$53	10/16/02	2
Speaking Engagement	Indianapolis, IN	$58	10/17/02	1
Meeting	New York, NY	$445	10/17/02	1
Meeting	New York, NY	$448	10/17/02	1
Meeting	Philadelphia, PA	$188	10/17/02	1
Speaking Engagement	Atlanta, GA	$41	10/19/02	1
Meeting	Des Moines, IA	$1,111	10/20/02	2
Speaking Engagement	San Antonio, TX	$572	10/20/02	1
Meetings	Washington D.C. Metro	$59	10/21/02	2
Meeting	Chicago, IL	$94	10/23/02	1
Meeting	Washington D.C. Metro	$53	10/23/02	1
Meeting	Charlotte, NC	$976	10/24/02	1
Meeting	Los Angeles, CA	$386	10/24/02	1
Speaking Engagement	Los Angeles, CA	$668	10/24/02	2
Speaking Engagement	St. Louis, MO	$774	10/24/02	1
Meeting	Charlotte, NC	$823	10/28/02	1
Meeting	Cleveland, OH	$818	10/28/02	2
Meeting	Providence, RI	$0	10/28/02	1
Meetings	Washington D.C. Metro	$59	10/28/02	2
Speaking Engagement	Pittsburgh, PA	$759	10/29/02	1
Meeting	Miami, FL	$799	11/05/02	1
Speaking Engagement	Los Angeles, CA	$785	11/07/02	3
Speaking Engagement	Providence, RI	$698	11/07/02	1
Meeting	Providence, RI	$677	11/07/02	1
Meeting	West Point, NY	$442	11/07/02	2
Meeting	New York, NY	$140	11/08/02	1
Speaking Engagement	San Diego, CA	$231	11/10/02	1

REV_00170705

Speaking Engagement	Reno, NV	$832	11/11/02	2
Meetings	Washington D.C. Metro	$53	11/12/02	1
Meeting	Charlotte, NC	$776	11/13/02	1
Speaking Engagement	Lansing, MI	$439	11/13/02	1
Speaking Engagement	Manchester, NH	$463	11/13/02	1
Meetings	Washington D.C. Metro	$53	11/13/02	1
Speaking Engagement	Portland, OR	$705	11/14/02	2
Meeting	Austin, TX	$1,006	11/16/02	14
Meeting	Austin, TX	$995	11/16/02	14
Speaking Engagement	Albany, NY	$753	11/18/02	1
Speaking Engagement	Portland, OR	$411	11/18/02	1
Speaking Engagement	Newark, NJ	$521	11/19/02	1
Speaking Engagement	Concord, NH	$1,040	11/20/02	2
Meeting	New York, NY	$325	11/20/02	2
Speaking Engagement	Tallahassee, FL	$454	11/20/02	1
Meeting	Los Angeles, CA	$683	11/21/02	3
Meeting	Loudoun County, VA	$17	11/21/02	1
Meeting	New York, NY	$158	11/21/02	1
Speaking Engagement	West Palm Beach, FL	$661	11/22/02	2
Speaking Engagement	Ft. Lauderdale, FL	$129	11/24/02	1
Speaking Engagement	Springfield, MO	$619	11/24/02	1
Speaking Engagement	New York, NY	$370	11/25/02	1
Meeting	New York, NY	$454	11/25/02	1
Speaking Engagement	Hershey, PA	$107	11/26/02	1
Meetings	Ft. Lauderdale, FL	$1,243	12/01/02	4
Meeting	New Orleans, LA	$1,254	12/01/02	4
Speaking Engagement	Augusta Naval Ctr, ME	$815	12/02/02	1
Meetings	New York, NY	$85	12/02/02	1
Meetings	Jacksonville, Fl	$616	12/03/02	1
Speaking Engagement	Pensacola, FL	$436	12/03/02	1
Speaking Engagement	Lexington, KY	$390	12/04/02	1
Speaking Engagement	Tallahassee, FL	$559	12/04/02	2
Speaking Engagement	Ft. Wayne, IN	$54	12/06/02	1
Meeting	Philadelphia, PA	$260	12/06/02	1
Speaking Engagement	Richmond, VA	$105	12/07/02	1
Meeting	New York, NY	$294	12/09/02	1
Speaking Engagement	Nashville, TN	$575	12/09/02	1

REV_00170706

Meeting	Philadelphia, PA	$979	12/09/02	4
Meetings	Washington D.C. Metro	$53	12/09/02	1
Speaking Engagement	Duluth, MN	$675	12/10/02	1
Meeting	New York, NY	$217	12/10/02	1
Meeting	Indianapolis, IN	$803	12/11/02	1
Meeting	Philadelphia, PA	$424	12/11/02	1
Speaking Engagement	Philadelphia, PA	$370	12/11/02	1
Speaking Engagement	Philadelphia, PA	$216	12/11/02	1
Meeting	Philadelphia, PA	$400	12/11/02	1
Meeting	Philadelphia, PA	$408	12/11/02	1
Meeting	Philadelphia, PA	$360	12/11/02	1
Meetings	Washington D.C. Metro	$53	12/11/02	2
Meeting	Norfolk, VA	$776	12/17/02	1
Meeting	West Palm Beach, FL	$124	12/20/02	8
Meeting	Salt Lake City, UT	$949	01/01/03	3
Meetings	Chicago, IL	$662	01/05/03	2
Meetings	Reno, NV	$1,133	01/05/03	3
Meeting	New York, NY	$439	01/07/03	1
Meeting	Augusta Naval Ctr, ME	$605	01/08/03	1
Meeting	Albuquerque, NM	$779	01/09/03	5
Meeting	Denver, CO	$1,103	01/10/03	4
Meeting	Denver, CO	$1,442	01/11/03	3
Meeting	Tampa, FL	$511	01/11/03	1
Meeting	Tampa, FL	$435	01/11/03	1
Meeting	Denver, CO	$667	01/12/03	2
Meeting	Denver, CO	$713	01/12/03	2
Meeting	Denver, CO	$1,269	01/12/03	2
Meeting	Denver, CO	$661	01/12/03	2
Meeting	Denver, CO	$1,082	01/12/03	1
Meeting	Denver, CO	$902	01/12/03	1
Meeting	Salem Naval Ctr, OR	$370	01/12/03	1
Meetings	Washington D.C. Metro	$53	01/15/03	2
Meeting	New York, NY	$105	01/19/03	1
Speaking Engagement	Austin, TX	$83	01/20/03	2
Speaking Engagement	Des Moines, IA	$416	01/21/03	1
Meeting	New York, NY	$497	01/21/03	1

REV_00170707

Meetings	Washington D.C. Metro	$53	01/21/03	1
Speaking Engagement	Oakland, CA	$0	01/23/03	2
Speaking Engagement	Chicago, IL	$940	01/26/03	2
Speaking Engagement	Norfolk, VA	$475	01/26/03	1
Meeting	New York, NY	$1,381	01/28/03	3
Meeting	Las Vegas, NV	$804	01/31/03	3
Meeting	New York, NY	$405	02/03/03	1
Meeting	New York, NY	$107	02/03/03	1
Speaking Engagement	Boston, MA	$576	02/06/03	1
Meeting	Nashville, TN	$636	02/09/03	1
Speaking Engagement	Little Rock, AR	$875	02/10/03	1
Meetings	Washington D.C. Metro	$53	02/10/03	2
Meeting	Tallahassee, FL	$562	02/11/03	1
Meeting	San Diego, CA	$895	02/13/03	6
Speaking Engagement	San Diego, CA	$1,759	02/15/03	4
Conference Attendance	San Diego, CA	$950	02/15/03	4
Meeting	Cincinnati, OH	$512	02/19/03	3
Speaking Engagement	Baton Rouge, LA	$968	02/20/03	1
Meeting	Montgomery, AL	$607	02/20/03	1
Meeting	Santa Fe, NM	$824	02/24/03	2
Meeting	Washington D.C. Metro	$53	02/24/03	2
Speaking Engagement	Houston, TX	$747	02/27/03	1
Meeting	Miami, FL	$785	02/27/03	3
Meeting	Portland, OR	$0	02/28/03	2
Meetings	Washington D.C. Metro	$53	03/05/03	1
Speaking Engagement	Minneapolis, MN	$745	03/06/03	1
Meeting	King of Prussia, PA	$774	03/10/03	2
Speaking Engagement	Raleigh, NC	$349	03/11/03	1
Meeting	Chicago, IL	$804	03/12/03	4
Meeting	Chicago, IL	$757	03/12/03	2
Meeting	Philadelphia, PA	$341	03/12/03	2
Meeting	Chicago, IL	$453	03/13/03	1
Meeting	Chicago, IL	$427	03/13/03	1
Meeting	Chicago, IL	$452	03/13/03	1
Meeting	Chicago, IL	$431	03/13/03	1

REV_00170708

Meeting	Chicago, IL	$476	03/13/03	1
Meeting	Chicago, IL	$366	03/13/03	1
Speaking Engagement	Charlottesville, VA	$156	03/14/03	1
Meeting	Chicago, IL	$392	03/14/03	1
Speaking Engagement	Montgomery, AL	$576	03/14/03	1
Speaking Engagement	Charlotte, NC	$869	03/16/03	1
Speaking Engagement	Columbus, OH	$280	03/17/03	1
Meetings	Washington D.C. Metro	$53	03/19/03	2
Speaking Engagement	Hartford County, MD	$12	03/21/03	1
Speaking Engagement	Atlanta, GA	$282	03/24/03	1
Meeting	Lansing, MI	$439	03/25/03	1
Meeting	Philadelphia, PA	$198	03/25/03	1
Meeting	Philadelphia, PA	$201	03/25/03	1
Meeting	Philadelphia, PA	$242	03/25/03	1
Speaking Engagement	Columbus, OH	$891	03/26/03	1
Speaking Engagement	Princeton, NJ	$330	03/26/03	1
Meetings	Washington D.C. Metro	$53	03/26/03	2
Speaking Engagement	Jackson, MS	$499	03/27/03	1
Meeting	Las Vegas, NV	$1,097	03/27/03	2
Speaking Engagement	Los Angeles, CA	$528	03/29/03	1
Speaking Engagement	Pittsburgh, PA	$736	03/29/03	2
Meetings	Washington D.C. Metro	$53	03/31/03	2
Meeting	New York, NY	$166	04/02/03	1
Meetings	Washington D.C. Metro	$53	04/02/03	2
Speaking Engagement	Nashville, TN	$757	04/03/03	1
Meetings	Philadelphia, PA	$85	04/03/03	1
Speaking Engagement	Atlantic City, NJ	$231	04/04/03	1
Speaking Engagement	Hershey, PA	$221	04/06/03	1
Speaking Engagement	Tallahassee, FL	$547	04/06/03	2
Speaking Engagement	Albuquerque, NM	$470	04/08/03	1
Meeting	Houston, TX	$806	04/08/03	1
Speaking Engagement	Denver, CO	$39	04/11/03	1
Meetings	Elmendorf, AK	$2,999	04/12/03	7
Speaking Engagement	Detroit, MI	$966	04/13/03	3
Speaking Engagement	Jefferson City, MO	$749	04/14/03	1
Meeting	New York, NY	$631	04/15/03	1

Meetings	San Jose, CA	$634	04/22/03	2
Speaking Engagement	Houston, TX	$511	04/23/03	1
Meeting	Albuquerque, NM	$686	04/24/03	2
Speaking Engagement	Atlanta, GA	$409	04/24/03	1
Speaking Engagement	Houston, TX	$1,080	04/24/03	2
Speaking Engagement	Bridgeport, CT	$643	04/27/03	1
Meeting	Chicago, IL	$50	05/01/03	2
Speaking Engagement	Baton Rouge, LA	$801	05/05/03	1
Speaking Engagement	Portland, OR	$410	05/05/03	1
	FY 2003 Total	**$112,110**		

CONSULTING SERVICES

QUESTION 53: Updating the information on page 115 of last year's hearing record, please provide actual and estimated amounts for consulting services for fiscal years 2002 through 2004.

RESPONSE: "Consulting services" or "Advisory and Assistance Services" as defined by OMB Circular A-11, Section 83, are services acquired by contract from non-Federal sources (that is, the private sector, foreign governments, State and local governments, tribes), as well as from other units within the Federal Government and consists of three types of services: 1) Management and professional support services; 2) Studies, analyses and evaluation; and 3) Engineering and technical services. Listed below are the EOP and other entities with Advisory and Assistance contracts.

White House Office
FY 2002 (Actual)
There were no advisory and assistance contracts for the White House Office.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the White House Office.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Office of Homeland Security/President's Critical Infrastructure Protection Board
FY 2002 (Actual)
1. $25,140 for independent information technology expertise.

REV_00170710

Office of Administration

FY 2002 (Actual)

1. $1,083,308 for assistance in developing plans, technical architecture and disaster recovery for the relocation of the EOP data center.

2. $748,988 for assistance in developing an enterprise architecture to incorporate and support the strategic IT vision, goals and objectives of the OA and the EOP.

3. $48,050 for training, consulting and editing support for EOP/CFO policies regarding financial statements, prompt payment, travel and transportation act, interagency agreements and portal to portal documents.

FY 2003 as of May 15, 2003

1. $406,695 for continued assistance in developing an enterprise architecture to incorporate and support the strategic IT vision, goals and objectives of OA and the EOP.

2. $149,968 for consultant services to help configure IT storage products and perform data migration and setup.

3. $60,000 for assistance in designing a new performance management system for OA in order to improve dialogue between manager and employee.

4. $49,800 for consulting services of an electrical engineer.

5. $25,750 for assistance in writing a statement of work for the EOP telephone contract recompetition.

6. $47,040 for independent information technology expertise.

7. $936,000 for IT engineering and technical support services.

8. $1,400,000 anticipated for engineering, technical services and consulting for new IT systems design and implementation.

9. $300,000 anticipated for IT studies and evaluations.

10. $130,000 anticipated to assist CFO with auditing issues.

11. $50,000 anticipated to develop an asset management system.

FY 2004 Request

1. $2,300,000 anticipated for engineering, technical services and consulting for new IT systems design and implementation.

REV_00170711

2. $1,600,000 anticipated for IT studies and evaluations.

3. $110,000 anticipated to continue development of an asset management system.

4. $390,000 anticipated to assist CFO with auditing issues.

5. $50,000 anticipated for continued independent information technology expertise.

Office of Management and Budget
FY 2002 (Actual)
1. $39,570 for independent information technology expertise.

FY 2003 as of May 15, 2003

1. $22,500 anticipated for independent information technology expertise.

FY 2004 Request

1. $22,500 anticipated for continued independent information technology expertise planned for FY 2004.

Office of National Drug Control Policy
FY 2002 (Actual)
l. $24,225 for assessment and analysis and recommendations concerning performance plans, organizational goals and objectives.

2. $104,387 for organizational effectiveness assessment and analysis.

3. $150,000 for design of a program performance monitoring system for OCDETF/DIDTA program.

FY 2003 as of May 15, 2003

1. $29,411 for assistance with developing a strategic human capital plan.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Council of Economic Advisers
FY 2002 (Actual)
1. $14,276 for editorial services for the Economic Report of the President.

FY 2003 as of May 15, 2003

1. $14,940 for editorial services for the Economic Report of the President.

REV_00170712

FY 2004 Request

1. $15,000 estimated for editorial services for the Economic Report of the President.

Council on Environmental Quality
FY 2002 (Actual)
There were no advisory and assistance contracts for the Council on Environmental Quality.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the Council on Environmental Quality.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Office of the United States Trade Representative
FY 2002 (Actual)
1. $6,600 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices.

2. $5,000 for expert witness testimony in connection with a World Trade Organization dispute panel involving Canadian dairy export practices.

3. $1,980 for expert advice in the area of personnel law.

FY 2003 as of May 15, 2003

1. $10,000 for expert advice in the area of personnel law on an as-needed basis.

2. $10,000 for speech-writing services on an as-needed basis.

FY 2004 Request

1. $10,000 for expert advice in the area of personnel law on an as-needed basis.

Office of Science and Technology Policy
FY 2002 (Actual)
1. $200,000 for independent evaluation of the integration of a variety of biometric identification system design options.

REV_00170713

FY 2003 as of May 15, 2003

1. $300,000 for assistance in implementing a biometric identification system.

FY 2004 Request

1. $125,000 for assistance with OSTP's National Security/Emergency Preparedness communications responsibilities.

National Security Council
FY 2002 (Actual)
There were no advisory and assistance contracts for the National Security Council.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the National Security Council.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

Office of the Vice President
FY 2002 (Actual)
There were no advisory and assistance contracts for the Office of the Vice President.

FY 2003 as of May 15, 2003

There are currently no advisory and assistance contracts for the Office of the Vice President.

FY 2004 Request

There are no advisory and assistance contracts planned for FY 2004.

USA FREEDOM CORPS

QUESTION 54: Please provide EOP budgeted funding for the Freedom Corps for fiscal years 2002 through 2004.

RESPONSE: The funding profile for the USA Freedom Corps from its inception through FY 2004 is as follows:

REV_00170714

(Dollars in thousands) Category	FY02 Actual	FY03 Request	OA Pilot	FY03 Recission	FY03 Enacted	FY04 Estimate
Personnel	420	800	0	0	800	827
Travel	6	600	0	-330	270	102
Rent	99	0	0	0	0	157
Comm, Util & Misc	0	0	0	0	0	25
Printing & Reproduction	0	0	0	0	0	225
Other Services	0	1,200	-289	0	911	926
Supplies & Materials	0	0	0	0	0	9
Equipment	0	0	0	0	0	9
Total	525	2,600	-289	-330	1,981	2,280

Note: As part of a pilot program authorized by Congress in fiscal year 2003, general support costs such as rent, supplies, printing, information technology, etc., are centrally managed and charged against the Office of Administration.

QUESTION 55: Please provide a breakdown of the FY 2004 request for the Freedom Corps, and a brief description of the work to be accomplished under each item.

RESPONSE: The FY 2004 WHO request includes funding for the following USA Freedom Corps requirements.

Personnel: This category provides funding for the cost of the salaries and benefits for the staff of the USA Freedom Corps. The FY 2004 WHO request included $827,000 for this category.

Travel: The USA Freedom Corps office staff members are frequent travelers and often work at the national, state and local levels with organizations.~~, especially in organizing the Citizen Corps across the country~~ In addition, the Director of the USA Freedom Corps or the appropriate staff is required to address gatherings at national conferences, and gatherings of state and local officials in order to disseminate information about the President's Call to Service and the activities coordinated by the USA Freedom Corps.~~ and answer questions relating to the organization of USA Freedom Corps activities at the local level.~~ The FY 2004 WHO request included $102,000 for this category.

Rent: This category funds the costs of the GSA office space utilized by the USA Freedom Corps. The FY 2004 WHO request included $157,000 for this category.

Printing: This category includes the costs of the creation and printing of documents regarding the USA Freedom Corps mission and policies and initiatives~~specific programs~~ coordinated by its Council. The FY 2004 WHO request included $225,000 for this category.

REV_00170715

Other services: This category includes funds for the hiring of contractors to measure the nationwide effects of the USA Freedom Corps efforts through surveys and other measurement tools, and funds for information dissemination and the creation and production of materials used in the furtherance of the USA Freedom Corps mission and ~~specific programs,~~initiatives coordinated by its Council. The FY 2004 WHO request included $926,000 for this category. ~~and other activities that will further the mission of the USA Freedom Corps.~~

Communications and Misc.,; Supplies and Materials, Equipment: These general categories are managed centrally by the White House Office of Management and Administration. Funds in these categories support the normal costs associated with day to day office operations. The FY 2004 WHO request included $43,000 for this category.

QUESTION 56: Last year, funds were requested for Freedom Corps information dissemination and recognition materials (p. 239). Are similar activities funded in FY 2004? If so, how much?

RESPONSE: The FY 2004 WHO request includes requirements for similar activities to those funded in FY 2003 and included are funds for information dissemination and recognition materials. Funds for these activities are included in the Other Services category of the WHO request. An estimated $926,000 of this portion of the request is for USA Freedom Corps requirements.

QUESTION 57: Are additional funds requested in FY 2004 outside the EOP?

RESPONSE: As a White House office and a coordinating council, the USA Freedom Corps does not run, fund, or administer programs. Instead, the USA Freedom Corps coordinates the development of policies and initiatives with various offices/entities in the Executive Branch in support of the President's goal to strengthen the American culture of service while helping all Americans find meaningful service opportunities. This role does not require outside funding and none have been requested by the WHO.

QUESTION 58: Please provide a listing of the staff in the USA Freedom Corps Office, showing the incumbent name and position. Please designate any detailees.

RESPONSE: A listing of the current USA Freedom Corps Office staff is provided below.

John Bridgeland: Assistant to the President and Director, USA Freedom Corps
Ron Christie: Special Assistant to the President and Deputy Director, USAFC
Lindsey Kozberg: Special Assistant to the President for Policy/Public Affairs
Therese Lyons: Director of Public Liasion
Ian Rowe: Director of Management and Strategy

REV_00170716

Kathleen Mynster: Deputy Press Secretary
Britt Grant: Special Assistant to the Director
Cornell Teague: Associate Director
Nique Fajors: Agency Liaison – Detailee
Ken Lanza: Agency Liaison - Detailee

SENSITIVE COMPARTMENTED INFORMATION FACILITIES

QUESTION 59: Are any funds requested in any EOP office in the FY 2004 President's request for the construction of sensitive compartmented information facilities (SCIFs)?

RESPONSE: No funds are requested for SCIFs in FY 2004.

QUESTION 60: How many such facilities have been built within EOP offices since the terrorist attacks of September 11, 2001?

RESPONSE: Sixteen SCIFS have been built.

DATA CENTER RELOCATION

QUESTION 61: What is the status of efforts to relocate the existing EOP data center, and what are plans for the coming year?

RESPONSE: The remote data center project is on schedule and on budget. The project is approximately halfway through completion for the first two phases with a scheduled opening (initial operational capability) date of September 2003. The following chart shows the funding of the remote data center from FY 2002 thru FY 2004.

	FY 2002	FY 2003	FY 2004
CIP	$15,000,000	$5,000,000	$8,403,000
S&E	$ - 0 -	$ - 0 -	$ - 0 -
Total	$15,000,000	$5,000,000	$8,403,000

QUESTION 62: Are funds requested in the FY 2004 budget for this project?

RESPONSE: The following table displays the funds requested for this project in FY 2004.

Object Class	Object Class Title	Requested Funding (in $1000s)	Description

REV_00170717

Object Class	Object Class Title	Requested Funding (in $1000s)	Description
23.0	Space Rental Payments	$1,258	This estimate reflects $1,258 in rental for the offsite data center and will be the initial rent to be paid for the offsite data center. This cost was previously funded from emergency funds.
23.3	Communications, utilities, and miscellaneous charges	$4,420	$4,420 is for CIP networking/telecommunications projects at the offsite data center. These projects include funds for a tap-off of telecommunications lines, two additional DS-3 data paths, two T-1 lines, and backup to support required communications bandwidth, and availability requirements.
25.2	Other Services	$2,700	This estimate reflects Priority System Disaster Recovery costs, Secondary Systems Disaster Recovery costs, Hardware and Software for the Disaster Recovery Site, and Hardware and Software upgrades to support the data center move.
26.0	Supplies and materials	$25	The estimate reflects $25 in additional supplies necessary for start-up operations at the offsite data center. This will include start-up costs for office equipment used for the new office spaces.
Total FY2004 Data Center CIP Request		**$8,403**	

WHITE HOUSE COMMUNICATIONS AGENCY

QUESTION 63: Updating the information on page 133 of last year's hearing record, please provide estimated reimbursements for the White House Communications Agency for each of the fiscal years 2002 through 2004.

RESPONSE: Reimbursements made to the White House Communications Agency, for the non-telecommunications support they provide to the WHO, is broken down into two categories: military personnel and audiovisual support. The amount of planned reimbursement is initially set and agreed to via an inter-agency agreement (IAG). This IAG is then adjusted if needed as a result of actual execution. Reimbursement actuals and estimates follow:

	FY02 (actual)	FY03 (est.)	FY04 (est.)
Military Personnel	$4,376,085	$4,754,346	$4,858,942
Audiovisual Support	$4,543,643	$3,953,848	$2,743,915
Total	$8,919,738	$8,708,194	$7,602,857

REV_00170718

The FY04 estimate for audiovisual support shows a decrease from the FY 2003 estimate due to the move of audiovisual supplies and equipment from IAG reimbursed items to direct procurement through normal WHO channels.

OFFICE OF ADMINISTRATION

QUESTION 64: Updating the information on page 134 of last year's hearing record, please provide a current organizational chart for the Office of Administration, including the associated numbers of FTEs requested for each office in the FY 2004 President's budget.

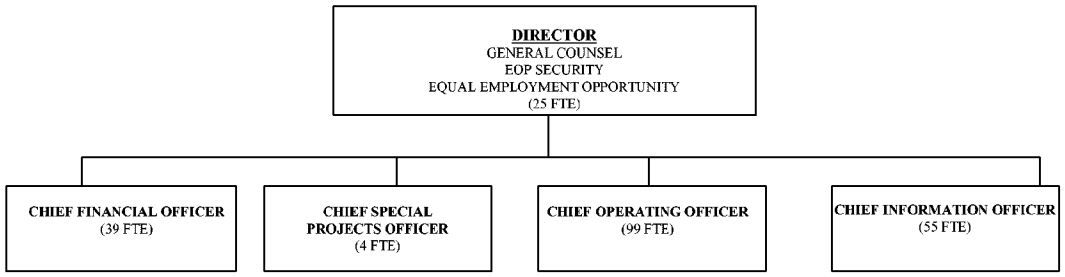
RESPONSE: The Office of Administration organization chart provided below reflects the current organizational structure. The FY 2004 FTE request remains constant with FY 2003 levels (222 FTE).

Executive Office of the President

Office of Administration

Organization Chart

FY 2004



Total 222 FTE

QUESTION 65: Last year, it was estimated that 4 FTE were needed to provide administrative services to the Office of Homeland Security. Since that office is substantially smaller due to establishment of the DHS, is there a lesser requirement for OA support? If so, is that reflected in FY 2004 staffing figures?

RESPONSE: The FY 2003 budget proposal included the statement that there was "2 CFO staff to support Homeland Security" rather than the 4 FTEs referred to in the question. These two Chief Financial Officer (CFO) staff were requested during FY 2003

REV_00170719

because last year's OA budget request was a 49% increase over the previous year's spending – and security-related enhancements accounted for nearly all of that increase. The FY 2004 budget proposal included additional security-related enhancements beyond the FY 2003 level. Furthermore, even though the funding level of the Homeland Security Council is not as great as was originally envisioned, it is still a separate account for which the staff must perform the same number of administrative tasks in setting up and monitoring the status of the account. Therefore, the additional two FTE in the CFO office remain necessary to assist EOP offices in executing their new responsibilities.

QUESTION 66: Your salary and expenses request includes a transfer of $1,500,000 from Homeland Security for information technology services. What are these services?

RESPONSE: The part of OHS that remained with EOP (now called the Homeland Security Council) does not need the information technology contractor support that was previously planned. There is, however, an urgent need to expand the funding needed to support the White House website. The system security put in place to protect the whitehouse.gov website from cyber attack includes a web content distribution designed to make it highly resistant to denial of service type attacks. The cost of this service has increased dramatically, and is directly proportional to the volume of activity. The volume of activity, in turn, is a combination of the website hits and the level of cyber-attack activity directed against the site. The importance of the White House web site cannot be overstated. Along with the DHS website, the whitehouse.gov website is one of the primary government sites with a mission to communicate threat level information to the public.

Due to increased traffic on the White House website, the monthly cost of web caching service to maintain the website has risen from $30,000 per month to more than $75,000 per month. The estimated FY 2004 cost to maintain the website is $1,500,000. No funds were requested for this increased requirement in the FY 2004 budget. OA wishes to use the funds originally requested for the OHS information technology contract support for the White House website effort.

QUESTION 67: You are requesting additional funding for victim rescue units, which would be distributed to all White House staff (p. 82). What are these units, and what is the unit cost?

RESPONSE: The unit cost is $375. We are available to brief the Subcommittee about these units.

QUESTION 68: How is the requirement for additional safes and emergency evacuation chairs documented?

REV_00170720

RESPONSE: The EOP Security Office conducted a review of security containers (safes) at the White House complex and found that most of them were 1950's-vintage mechanical locks. During the aftermath of 9/11, it was deemed important that the White House adhere to the latest Federal regulations promulgated by the General Services Administration (FFL-2740A) for the protection of classified materials. Thus, the EOP recommends acquiring new security containers which are fully compliant with GSA standard which governs all changeable combination locks for the protection of national security information.

After 9/11 we reviewed all emergency evacuation procedures for the White House complex. As we updated evacuation plans and reviewed procedures, it was determined that evacuation chairs were needed in various buildings and on various floors to assist individuals who may need assistance or have special needs during an evacuation. This was an internal study performed by staff of the EOP Security Office.

FINANCIAL AUDITS

QUESTION 69: Last year, you advised us that EOP would plan to address the findings of the recent auditability assessment no later than FY 2003. What is the status of that effort today?

RESPONSE: The EOP has initiated five major efforts to address the auditability assessment. They are:

- Development and publication of the EOP entity and reporting structure, which was completed and is presented in the FY 2004 Budget Submission.
- Development and publication of the EOP financial management structure, which has been developed in draft and is currently being circulated for comment within EOP. Approval and issuance of the financial management structure is expected to occur within 30 days.
- Provide financial management policy and guidance to the EOP and put in place consistent EOP-wide business practices and procedures. This effort is underway and is expected to be completed this fiscal year.
- Select a replacement for the current non-compliant financial accounting system. The Office of the Chief Financial Officer has reviewed various alternatives and has made a determination to be cross-serviced by another Federal agency that has implemented a compliant system, is currently receiving "clean" audit opinions, and has cross-servicing as an agency mission. Two such organizations were identified, a requirements document was provided, (their proposals are currently being evaluated), and a decision is expected within the next two weeks.
- Accomplish a detailed review of the EOP general ledger and supporting documents for account balances, correct the data as necessary, and prepare the information for conversion to the replacement accounting system. A "clean-up" and conversion plan is in process and will be coordinated with the selected cross-servicing agency.

REV_00170721

QUESTION 70: When will you be able to produce an auditable financial statement?

RESPONSE: The Chief Financial Officer completed an exercise that resulted in EOP-wide financial statements. That exercise identified various data problems that confirmed the auditability assessment. The "clean-up" exercise which is required prior to the conversion to the cross-servicing agency's system is addressing these problems and it is anticipated that the FY 2004 financial statements will be audited.

QUESTION 71: Last year, you stated that you had identified best practices for documented policies and procedures based upon one federal agency which has been recognized as one of the best in the Federal government (p. 136). Which agency are you using as a model, and what are some examples of the specific best practices you intend to use?

RESPONSE: We were referring to the Department of Education and we conducted a pilot of their approach for developing policies and procedures within the Office of the CFO. While that pilot was helpful, we determined that three other tasks (identify reporting entity, develop financial management structure, and identifying our financial accounting system cross servicing provider) needed to be completed before our policies and procedures could be developed. Since those are near completion, we anticipate again focusing on developing policies and procedures during the remainder of this fiscal year.

WHITE HOUSE OFFICE

QUESTION 72: Please provide a breakdown of the FY 2004 budget request for the White House Office by office or activity, as itemized on pages 137 and 138 of last year's hearing record. Please compare those amounts to corresponding amounts for FY 2002 (actual) and FY 2003 (estimated), similar in format to that shown on pages 246 and 247 of last year's hearing record.

RESPONSE: As noted last year, a single budget is prepared for the WHO. This single budget is prepared based on a number of criteria such as: prior spending patterns, estimated requirements, OMB provided inflation factors, and the priorities of the President. During a given execution year, personnel costs are allocated based upon that year's unique staffing decisions. The remainder of the budget is allocated initially to two WHO offices. The travel budget is allocated in its entirety to the Office of Advance and obligated against this office if the travel is done in support of the President. Any travel undertaken that is not in support of a Presidential trip is charged to the office of the staff member in question. The remaining portion of the non-personnel, non-travel budget, including expenses for rent, supplies, equipment and other services is considered overhead and in most years is charged as such to the White House Office of Management and Administration. In FY 2003 as part of a pilot program authorized by Congress, costs

REV_00170722

related to many of these "overhead" items were consolidated under the EOP Office of Administration. Obligations (actual and estimated) are provided by individual White House office for FY 2002 thru FY 2004 in the table below.

(dollars in thousands)			
as of 9 May 2003			
White House Office	**FY02 act.**	**FY03 est.**	**FY04 est.**
Office of Chief of Staff	1,239	1,474	1,507
Oval Office Ops	347	476	487
Offices of Scheduling and Advance	2,874	3,593	3,673
Office of Cabinet Affairs	665	615	629
Communications, Speechwriting & Media	2,611	2,486	2,541
Office of the Counsel to the President	1,775	1,966	2,010
Faith Based and Community Initiatives	612	536	548
Office of the First Lady	1,270	1,492	1,525
Office of Intergovernmental Affairs	568	538	550
Office of Legislative Affairs	2,242	2,118	2,165
Office of Management and Administration	26,867	19,620	30,651
Office of Presidential Personnel	1,950	2,425	2,479
Office of the Press Secretary	933	1,182	1,208
Office of the Staff Secretary	5,860	6,469	6,613
Office of Strategic Initiatives	3,952	4,325	4,421
USA Freedom Corps Office [1]	426	1,070	929
Total WHO Obligations [2]	54,191	50,385	61,937

Notes:

(1) $911K of the FY03 USA Freedom Corps estimate and $1,351K of the FY04 USA Freedom Corps estimate is included above within the Office of Management and Administration numbers as are similar funds for all other White House offices.

(2) Because Congress has chosen to appropriate funds for the Office of Homeland Security (OHS)/ Homeland Security Council (HSC) separately from the WHO appropriation, numbers related to OHS/ HSC are not included above. FY03 and FY04 estimates for OHS/ HSC are addressed independently in response to other committee questions.

QUESTION 73: Please provide a corresponding breakdown for FTE staff years and OGE, similar in format to that shown on pages 152 through 154 of last year's hearing record.

RESPONSE: As noted last year, the major units within the White House Office are simply a creature of administrative convenience. The number of employees within each unit and the work of each unit vary over time and as circumstances and needs change. With this kept in mind, a detailed breakout of FTEs and OGEs by unit is provided below. This breakout is based on current estimates and planning and will differ during the actual execution year. In addition to these major units, certain individuals – including certain

REV_00170723

individuals who work with the National Security Council, the Domestic Policy Council, and the National Economic Council – are also White House Office employees, although the units within which they principally work are not themselves part of the White House Office. These individuals are included under the Other category.

	FY02	FY03	FY04
White House Office	actual	est.	est.
Office of Chief of Staff - FTE	12	12	12
Office of Chief of Staff - OGE (Agency Rep)	0	0	0
Oval Office Ops - FTE	4	5	5
Oval Office Ops - OGE	0	0	0
Advance - FTE	15	15	15
Advance - OGE	0	0	0
Office of Cabinet Affairs - FTE	7	6	6
Office of Cabinet Affairs - OGE (Assignee)	4	4	4
Communications, Speechwriting & Media - FTE	36	35	35
Communications, Speechwriting & Media – OGE (Detailee)	1	1	1
Communications, Speechwriting & Media – OGE (Assignee)	1	1	1
Office of the Counsel to the President - FTE	18	19	19
Office of the Counsel to the President - OGE (Detailee)	3	3	3
Faith Based and Community Initiatives - FTE	7	8	8
Faith Based and Community Initiatives – OGE (Detailee)	1	1	1
Faith Based and Community Initiatives – OGE (WH Fellow)	1	1	1
Office of the First Lady - FTE	20	19	19
Office of the First Lady - OGE	0	0	0
Office of Intergovernemental Affairs - FTE	8	9	9
Office of Intergovernemental Affairs - OGE	0	0	0
Office of Legislative Affairs - FTE	23	24	24
Office of Legislative Affairs - OGE (Detailee)	1	1	1
Office of Management & Administration - FTE	32	38	38
Office of Management & Administration - OGE (HP Serv)	14	14	14
Office of Political Affairs - FTE	11	11	11
Office of Political Affairs - OGE	0	0	0
Office of Presidential Personnel - FTE	26	38	38
Office of Presidential Personnel - OGE (Detailee)	2	2	2
Office of Public Liaison - FTE	12	11	11

REV_00170724

Office of Public Liaison - OGE (Assignee)	1	1	1
Office of the Press Secretary - FTE	12	12	12
Office of the Press Secretary - OGE	0	0	0
Scheduling - FTE	10	11	11
Scheduling - OGE (HP Serv)	2	2	2
Office of the Staff Secretary - FTE	98	98	98
Office of the Staff Secretary - OGE (Detailee)	2	2	2
Office of Strategic Initiatives - FTE	13	13	13
Office of Strategic Initiatives - OGE (Detailee)	1	1	1
USA Freedom Corps Office - FTE	8	6	6
USA Freedom Corps Office - OGE (Detailee)	5	5	5
USA Freedom Corps Office - OGE (WH Fellow)	1	1	1
Other - FTE	13	16	16
Other - OGE	4	4	4

White House Office obligations, FTE and OGE are summarized below.

	FY02 act.	FY03 est.	FY04 est.
Total WHO – FTE	385	406	406
Total WHO – OGE	44	44	44
FY03 Congressional Request – FTE	400	406	406

Notes: Because Congress has chosen to appropriate funds for the Office of Homeland Security (OHS)/ Homeland Security Council (HSC) separately from the WHO appropriation, numbers related to OHS/ HSC are not included above. FY03 and FY04 estimates for OHS/ HSC are addressed independently in response to other committee questions.

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS

QUESTION 74: Updating the information on page 235 of last year's hearing record, please provide a listing of historically provided White House Office positions.

RESPONSE: The following chart shows the 18 "Historically Provided" White House Office positions, the associated office and the agency that pays their salaries.

HISTORICALLY PROVIDED WHITE HOUSE OFFICE POSITIONS *as of May 12, 2003*:

POSITION	OFFICE	HOME AGENCY
1. Assistant to the Presidential Diarist	Office of Scheduling	NARA
2. Presidential Diarist	Office of Scheduling	NARA

REV_00170725

3. Administrative Assistant	PFIAB *	CIA
4. Administrative Services Specialist	PFIAB *	DOD
5. Deputy Executive Director	PFIAB *	CIA
6. Deputy Director of Photography for Visuals	Photo Office	DIA
7. Visual Information Specialist	Photo Office	DOD
8. Official Photographer	Photo Office	DOD
9. Official Photographer	Photo Office	DIA
10. Photographer	Photo Office	DOD
11. IT Systems Administrator	Photo Office	DIA
12. Photo Editor	Photo Office	DIA
13. President's Photographer	Photo Office	DIA
14. Photographic Specialist	Photo Office	DIA
15. Admin Officer	Photo Office	DIA
16. Staff Assistant	Visitors Office	Dept of Interior
17. Executive Assistant	Visitors Office	Dept of Interior
18. Staff Assistant	Visitors Office	Dept of Interior

*PFIAB is the President's Foreign Intelligence Advisory Board

OTHER SERVICES

QUESTION 75: Similar to the information on page 236 et seq. of last year's hearing record, please provide a detailed description of each project, program, or initiative proposed to be funded in FY 2004 under object class 25.2 ("other services").

RESPONSE: Capital Investment Plan (CIP) - $5,220,000

The overall FY 2004 CIP requirement supports nine areas, as described below. The following "services" costs are included in the FY 2004 CIP request:

- **$690,000 for Customer Service and Desktop Systems.** This funding will be used to perform desktop software integration support.
- **$450,000 for New Technologies and Systems**. This includes "services" funding of $150,000 for server technology integration testing and $300,000 for voice and data integration.
- **$230,000 for EOP Systems and Support.** This includes "services" funding of $150,000 to develop external Local Area Networks, and $80,000 for production test lab development.
- **$700,000 for Information Security.** This is for enterprise identity projects to allow the introduction of new authentication and identification mechanisms into the EOP IT infrastructure.

REV_00170726

- **$650,000 for Web-Based Services.** This is for web services application environment.
- **$2,500,000 for the Offsite Data Center.** This is for services necessary to transition the offsite data center to full operational status
- **There are no services funds allocated to Campus Wiring, Networks and Data Communications Infrastructure, or Messaging and Scheduling.**

Salaries and Expenses - $2,150,000

There are three initiatives in the FY 2004 OA salaries/expense budget which comprise $2,150,000 in new programs under object class 25.2 ("other services"):

- **$1,800,000 for Technology and Systems Support Contract.** The Chief Information Officer (CIO) provides a wide range of computer services support to the EOP. These tasks are performed in large measure through an outsourcing contract that delivers IT services from PC deployment to help desk and data center operations. During FY 2003, this IT systems support contract was competed with an increase in base labor rates due to the need for more advanced skills in IT disciplines such as XML and web services software development, Oracle database development and administration, and implementation of a new Enterprise Resources Planning (ERP) application covering finance, asset management and human resources. The CIO outsource contract is the vehicle used to maintain a 24 hour-a-day operation for mainframes, servers, help desk, local area networks, personal computers, applications; installation of end-user hardware and software; training; software application development and maintenance services. Altogether, this contract supports customers throughout the White House 18-acre complex, at remote and mobile locations, and at the planned Offsite Data Center. Key components driving the cost upward include: (1) higher labor rates for the DC area, which have risen since the previous IT 1997 facility contract; (2) the impact of the new data center operations in 2003 and thereafter; (3) an expanded EOP customer base which has more advanced, sophisticated, and security-conscious users.

- **$300,000 for Information Assurance Support.** The CIO has established the Information Assurance (IA) program to serve as a central location for information security serving all of EOP. FY 2002 and FY 2003 funds attended to the most critical concern with significant vulnerabilities in the perimeter and began the process of securing the internal systems. The IA program created real-time monitoring of perimeter network devices; it established the first formal documentation of IA program policy to bring the EOP in conformance with Federal guidelines and directives. However, the cyber threat facing EOP is dynamic because our systems are constantly assailed with a wide and unexpected range of attacks. The new state of defense must be active vigilance, to include the following components: (1) Perimeter Security, (2) Advanced Security Concepts, (3) Contingency Planning Support, (4) Network Monitor/Response Systems, and (5) Security Awareness, Assessments, and Education.

REV_00170727

- **$50,000 for Security Enhancements: Videos.** There is a frequent and ongoing need for a security video – specific to the EOP and White House – which can be used in security briefings and new employee orientation meetings. This video will contain a brief overview of security responsibilities and procedures which must be understood by all personnel working in the EOP.

SALARIES AND EXPENSES

QUESTION 76: Please provide a detailed description of any expenses in the FY 2004 budget under "salaries and expenses" which are not directly related to personnel compensation and benefits.

RESPONSE: The following is an object class breakdown highlighting the major costs in each of the non-pay-related expense categories and a description of the unique aspects of some of these expenses found within the Executive Office of the President.

For reference, below are two tables that roll up all EOP component salaries and expenses funding information including the components not funded under the Subcommittee on Transportation, Treasury and Independent Agencies Appropriations.

Executive Office of the President
Salaries and Expenses
Summary of all EOP Offices
Funding by Object Classification
($ in Thousands)

		FY 2002 Actual	FY 2003 Request	FY 2004 Estimate	FY 2004-2003 Difference	
	Direct obligations:					
10.0	Personnel compensation and benefits	159,566	185,182	190,971	*5,789*	*3.1%*
21.0	Travel and transportation of persons	6,449	9,218	9,571	*353*	*3.8%*
21.0	Travel of the President	0	102	100	*-2*	*-2.0%*
22.0	Transportation of things	218	246	233	*-13*	*-5.3%*
23.1	Rental payments to GSA	22,406	29,127	32,228	*3,101*	*10.6%*
23.3	Communications, utilities and misc. services	9,362	10,212	15,504	*5,292*	*51.8%*
24.0	Printing and reproduction	2,956	3,678	4,536	*858*	*23.3%*
25.2	Other services	45,159	70,440	66,099	*-4,341*	*-6.2%*
26.0	Supplies and materials	5,947	5,128	5,642	*514*	*10.0%*
26.0	Official entertainment	65	112	112	*0*	*0.0%*
31.0	Equipment	8,054	13,239	14,182	*943*	*7.1%*
40.04	Nat'l Alliance for Model State Drug Use	1,000	0	0	0	0.0%
40.05	Policy Research	1,350	1,350	1,350	0	0.0%
92.0	Undistributed	0	1,000	1,000	0	0.0%
99.0	**Subtotal, Direct obligations**	**$262,532**	**$329,034**	**$341,528**	***$ 12,494***	***3.8%***

REV_00170728

Summary of the EOP FY 2004 Salaries and Expenses Budget Request
by Object Class
(excludes ONDCP Federal Drug Control Programs)
($ in Thousands)

		Comp		OHS/		VP	OA							EXEC	WH				UN	EOP	Percent of
		Pres.	WHO	HSC	VP	RES	S&E	CIP	OPD	NSC	CEA	OMB	ONDCP	RES	R & R	OSTP	CEQ	USTR	NEEDS	Total	Total
	Total Personnel Compensation and Benefits	$400	$33,256	$5,550	$2,541	$100	$19,483		$3,040	$7,513	$3,537	$59,263	$14,562	$10,302		$4,484	$2,476	$24,464		**$190,971**	55.9%
21.0	Travel and transportation of persons		1,989	588	598	2	208		88	531	102	417	794	12		280	62	3,900		**$9,571**	2.8%
21.0	Travel of the President		100																	**$100**	0.0%
22.0	Transportation of things		10	10	2	1	137		1	2	1	2	38			3	1	25		**$233**	0.1%
23.1	Rental payments to GSA		7,047	200	885		6,755	1,258	508	1,613	497	6,575	2,591			833	462	3,004		**$32,228**	9.4%
23.3	Communications, utilities and misc. charges		2,826	1,080	186	26	2,759	4,520	192	197	118	680	785	610		102	86	1,337		**$15,504**	4.5%
24.0	Printing and reproduction		1,559	50	11	10	577		37	40	97	801	499			25	46	784		**$4,536**	1.3%
25.2	Other services	50	12,597	528	60	16	24,891	5,220	46	362	35	8,190	5,509	653	4,225	973	66	2,678		**$66,099**	19.4%
26.0	Supplies and materials		1,288	175	66	42	1,220	125	92	175	64	702	282	856		80	29	446		**$5,642**	1.7%
26.0	Official entertainment		19			90						3								**$112**	0.0%
31.0	Equipment		1,246	150	112	44	556	9,455	105	118	51	784	880	68		247	10	356		**$14,182**	4.2%
40.05	Policy Research *(ONDCP)*												1,350							**$1,350**	0.4%
92.0	Undistributed *(Unanticipated Needs)*																		1,000	**$1,000**	0.3%
99.0	**Subtotal, Direct obligations**	**$450**	**$61,937**	**$8,331**	**$4,461**	**$331**	**$56,586**	**$20,578**	**$4,109**	**$10,551**	**$4,502**	**$77,417**	**$27,290**	**$12,501**	**$4,225**	**$7,027**	**$3,238**	**$36,994**	**$1,000**	**$341,528**	**100.0%**
	Agency percentages of EOP total	*0.1%*	*18.1%*	*2.4%*	*1.3%*	*0.1%*	*16.6%*	*6.0%*	*1.2%*	*3.1%*	*1.3%*	*22.7%*	*8.0%*	*3.7%*	*1.2%*	*2.1%*	*0.9%*	*10.8%*	*0.3%*		

Travel and transportation of persons – The largest portion of this funding (41%) is for international staff travel in support of trade negotiations as coordinated by the U.S. Trade Representative (USTR). The next largest portion of this funding (21%) is for White House Office (WHO) staff travel including "Presidential travel," which is the term used to delineate those trips where staff members actually travel with or ahead of the President. Those traveling ahead, referred to as advance staff, are responsible for producing Presidential events, as well as establishing an on-site infrastructure similar to the support that is provided within the White House. The remaining EOP travel funds are used for staff travel in support of the various EOP offices and their missions.

Transportation of things – The EOP spends funds in this area for the costs of express delivery/shipping of items such as Freedom of Information Act documents and personnel documents for accountability, as well as other miscellaneous items. Vehicle fleet costs are also included in this category.

Rental payments to GSA – Funds paid to GSA are used to provide the EOP offices with space in the government-owned and leased buildings that comprise the White House complex. Although the General Services Administration manages the EOP buildings, including the East and West Wings of the White House, they cannot rent them out to other Federal departments or agencies.

Communications, utilities and miscellaneous services – The bulk of these costs are used for the EOP switchboard. Funding in this category is also used for the networking and telecommunications projects of the Offsite Data Center. These projects include funds for the primary and backup telecommunications lines connecting the remote data center with the EOP office campus, two additional DS-3 data paths, two T-1 lines, and backup to support required communications bandwidth, and availability requirements.

Printing and reproduction – The largest expense in this area is for Presidential stationery and greetings. Also included are the costs for printing in the Code of Federal Regulation and the Federal Register as well as the costs to print the President's Budget, the

REV_00170729

Economic Report of the President, the National Drug Control Strategy, free trade agreement documents and other publications, studies and reports.

Other services –The primary cost driver in this category is the information technology support contract that provides IT sustainment services, system development services, and system engineering services for the entire EOP. IT support for the EOP as supported by this contract is largely an outsourced activity that includes a broad range of services such as the Help Desk, network and data center operations.

Supplies and materials – Most of the EOP expenses in this category are for general office and IT supplies, as well as the costs for subscriptions to newspapers and magazines.

Equipment – The largest portion of the EOP equipment costs is for IT desktop replacement program and for investments in software and hardware infrastructure to support the EOP IT projects.

Unanticipated Needs – Expenditures from this fund may be authorized only by the President. The Director of OMB provides the necessary controls to ensure that only unforeseen priorities are financed and that funding from other sources is not available.

ONDCP Policy Research – This is an ONDCP expense and funding is used to support the continuing policy research to better inform drug policy.

SECURITY GUARD SERVICES FOR OSTP

QUESTION 77: In FY 2003, you budgeted $1,798,000 for security guard services for the Office of Science and Technology Policy. Are similar funds requested in FY 2004? If so, how much?

RESPONSE: The FY 2004 OA budget proposes that the cost of the security guard service (now estimated at only $702,000) for OSTP be transferred to the OSTP appropriation. Thus, the proposed FY04 OA budget would contain the balance of the funds (approximately $1.1 million).

Since the FY 2003 budget was proposed, there have been additional reviews of the physical security of the White House complex by the US Secret Service, the Federal Protective Service, and the OA Security Office. As a result, the OA Security Office has been assigned the responsibility of correcting deficiencies in EOP physical security. There are some locations which do not currently have Secret Service protection (such as the Jackson Place White House Conference Center). Another location which does not have firm long-term security plans is the office at 1800 G Street. Thus, the Office of Administration has ongoing needs for the $1.1 million which remains in the OA budget. During FY03, these funds are being used for consolidation of information technology maintenance ($200,000), centralization of database services ($200,000), and common building service costs ($400,000). The remaining $300,000 of these savings will be used for an FY03 OA personnel shortfall.

REV_00170730

QUESTION 78: Why aren't such funds in the OSTP budget?

RESPONSE: The estimated FY04 cost of 24-hour security guard services for OSTP is included in the FY04 OSTP budget request. This estimate is $702,000 for a full year.

POLITICAL APPOINTEES

QUESTION 79: Please update the information on political appointees within EOP as shown on page 268 of last year's hearing record, using the same criteria and assumptions as last year.

RESPONSE: The term "political appointees" is somewhat of a misnomer because it narrowly defines the type of employees authorized under Chapter 2 of Title 3 of the U.S. Code, for the White House Office, the Executive Residence, the Official Residence of the Vice President and the Office of Administration. These offices can hire personnel in various excepted service positions that are not subject to the rules of regular government employees. Many of these excepted service positions fall under the category of serving at the pleasure of the President while others do not. Using the term in the broadest possible sense, including all employees hired as Presidential Appointees, Administratively Determined, Non Career SES, or Schedule C's, the Executive Office of the President has the following number of political appointees directly hired within the EOP and serving in the EOP on detailed assignments from other agencies as of May 5, 2003.

	FY 2003 "POLITICAL APPOINTEES" *as of May 5, 2003*					
Program	**Admin. Determ.***	**Schedule C**	**Non career SES**	**Presidential Appointees**	**OGE** Political Appointees**	**TOTAL**
White House Office	438				8	**446**
Office of Homeland Security/Homeland Security Council	20				9	**29**
Special Assistance to the President	24				1	**25**
Official Residence of the Vice President		1				**1**
Office of Administration	6					**6**
Office of Policy Development	30				2	**32**
National Security Council					3	**3**
Council of Economic Advisers	16	3		1		**20**
Office of Management and Budget	2	21	11	5		**39**
Office of National Drug Control Policy		10	2	5		**17**
Executive Residence						
Office of Science and Technology Policy		5	2	3	1	**11**
Council on Environmental Quality	10	2		1	2	**15**
U.S Trade Representative	19	5	3	4		**31**
TOTAL	**565**	**47**	**18**	**19**	**26**	**675**

* Historically, Administratively Determined appointees within some agencies have served from one administration to another. Nevertheless, they serve at the pleasure of the entity head and may be terminated without cause.

** OGE = Other Government Employees

REV_00170731

DETAILEES

QUESTION 80: Please update the information on reimbursable and non-reimbursable detailees with EOP as shown on pages 268 and 269 of last year's hearing record.

RESPONSE: There are currently 244 detailees staffed within the Executive Office of the President. There are 34 reimbursable detailees and 210 non-reimbursable detailees as shown in the chart below, as of May 5, 2003:

Program	FY 2003 Estimates		
	Reimbursable Detailees	Non-Reimbursable Detailees	TOTAL
White House Office	1	15	**16**
Office of Homeland Security	18		**18**
Special Assistance to the President		1	**1**
Official Residence of the Vice President			
Office of Administration			
Office of Policy Development	1	1	**2**
National Security Council	5	103	**108**
Council of Economic Advisers	2	1	**3**
Office of Management and Budget	3	54	**57**
Office of National Drug Control Policy		4	**4**
Executive Residence			
Office of Science and Technology Policy	4	3	**7**
Council on Environmental Quality		3	**3**
U.S Trade Representative		25	**25**
TOTAL	34	210	244

OFFICE OF THE VICE PRESIDENT

QUESTION 81: You are requesting an additional $70,000 (+1.7 percent) for the Vice President's travel, due to increased travel to undisclosed locations after the terrorist attacks of September 11, 2001. Weren't these type of increases baselined in FY 2002 and FY 2003, and if so, why are further increases needed in FY 2004?

RESPONSE: The FY 2003 budget was submitted in February 2002, prior to it becoming evident that the Vice President's travel requirements had increased more than originally estimated. Following the events of 9-11, the Vice President has been required to be outside the Washington, DC vicinity for significant periods of time. This travel has been 100 percent official, and operational in nature (i.e. the Vice President performs his regular duties in an off-site location). This travel has required the accompaniment of staff, who also perform operational duties.

REV_00170732

Because the budget impact of these additional travel requirements was not fully realized until after the FY 2003 budget request was submitted, they were not included in the FY 2003 baseline. Continued security concerns related to the Vice President and the ensuing impact on the Vice President's travel costs necessitate the increase to the FY 2004 OVP travel budget. This increase will allow the Vice President the flexibility needed to adequately execute his official travel requirements.

UNANTICIPATED NEEDS

QUESTION 82: Please provide a listing of the uses of Unanticipated Needs funds in FY 2002.

RESPONSE: $757,000 of the $1,000,000 appropriated to the Unanticipated Needs account in FY 2002 was provided to OMB for the Department of Homeland Security Transition Planning Office. The remaining appropriation was not utilized.

REV_00170733

TRANSPORTATION, TREASURY, AND INDEPENDENT AGENCIES
EXECUTIVE OFFICE OF THE PRESIDENT
FY 2004 PRESIDENT'S BUDGET
QUESTIONS FOR THE RECORD FROM CONGRESSMAN JOHN W. OLVER

ACCOUNT CONSOLIDATION AND TRANSFER PROPOSALS

When we centralized the funds within the Office of Administration, Congress intended that each agency would continue to receive a similar share of support and assistance under the consolidation.

QUESTION 83: Are any agencies going to receive diminished services or resources under the consolidation?

RESPONSE: No, currently the funding in the pilot has been allocated to be consistent with the FY 03 budget request. The service levels will be equal to or greater than pre-pilot levels; however, we are hopeful that the cost to procure the same level of service will decrease. Also, the Office of Administration is preparing service standards. For example, if the service standard for PC's would be one PC per desktop that is less than four years old, and if one EOP component is currently at that standard for 95 % of its employees and another is currently at that standard for 50% of its employees, based on need, the second component would get a larger share of the services to bring it closer to the EOP standard. This allows EOP to consistently upgrade software and services across the entire organization as the total infrastructure permits.

QUESTION 84: Are any agencies to receive extra services above and beyond the amount of funds they contributed as part of the consolidation?

RESPONSE: Yes, based on need and to bring organizations that are lagging behind the approved standards up to a consistent standard, some organizations may receive extra services above and beyond the amount of funds they contributed to the consolidation. We anticipate some of those services will be funded from savings in the program.

QUESTION 85: Under the procurement consolidation pilot approved in the FY03 Omnibus, are IT or database services for any EOP agency going to be paid for by funds contributed by other EOP agencies?

RESPONSE: Yes, in addition to generating procurement savings and efficiencies, a major goal of the consolidation pilot is to bring all of the EOP components up to a standard of service which will allow us to implement technology evenly across the organization and to realize efficiencies and benefits from a consistent and even

REV_00170734

infrastructure. In reaching this goal, the funds may be applied in a manner which is not in the same ratio in which they were contributed.

QUESTION 86: In general, are the funds appropriated for this centralized procurement program going to be used to supplement the appropriation made to individual agencies?

RESPONSE: Yes, the individual entities will be the recipients of the services funded by the centralized procurement program without reimbursement in accordance with the Congressional appropriation provided to OA.

QUESTION 87: If so, which agencies will benefit and which agencies will receive less than their share of contributions?

RESPONSE: OA is currently establishing the allocation standards for the commodities included in the centralized procurement program. OA is also requesting that the entities assist us in developing a baseline against which we will measure the allocation standards. That will determine which, if any, entities will benefit and which entities will receive less than their share of contributions.

QUESTION 88: You recently submitted a very cursory report on the procurement pilot. When will you provide us with specific details on the progress of the pilot program?

RESPONSE: As mentioned above, progress is being made on the plan to implement the Common Services Program. We expect to be able to brief the Subcommittee in greater detail this summer.

Your budget also proposes a change that would permit EOP agencies to transfer up to 10% into or out of any agency's budget. Coupled with your account consolidation proposal, that would allow you to transfer in up to $18 million more into (or out of) the White House's budget.

QUESTION 89: Under the procurement consolidation program that we approved in the FY03 bill, don't you have a similar type of flexibility already? What other flexibility is needed?

RESPONSE: The flexibility of the procurement consolidation program is directed to certain defined common commodities. The 10% transfer authority provides flexibility for unexpected requirements and to address needs that may be outside the program.

QUESTION 90: What protection is there for smaller EOP agencies under this proposal? Don't they stand to lose critical resources if the White House or Vice President's Office decide to take 10% of their resources?

REV_00170735

RESPONSE: It is more likely that the smaller entities will benefit from the proposal. Because their appropriations are small, they are less able to adjust to unforeseen circumstances such as unexpected retirements requiring large lump sum payments. This program will allow the EOP to address these unforeseen circumstances without requesting supplemental funding. Also, as a practical matter, the issue of "protection" is immaterial as all the entities (setting the Office of the Vice President aside) work directly for the President.

OFFICE OF HOMELAND SECURITY QUESTIONS

We recently received a reprogramming request to transfer $2M of the funds provided to the Office of Homeland Security to the Remote Delivery Site cleanup efforts. The source of these funds would come from the Office of Homeland Security.

The Office of Homeland Security has gone from an initial $25M stated need when the initial FY03 bills passed the House and Senate, to $11M when the FY03 Omnibus was passed to what will be $9M if the reprogramming is approved.

QUESTION 91: What exactly does the Office of Homeland Security do now that the Department of Homeland Security is in place?

RESPONSE: HSC advises and assists the President on homeland security matters and coordinates policy development and the interagency process regarding Administration policy on homeland security, including the development and coordination of implementation of the *National Strategy for Homeland Security* to secure the United States from terrorist threats and attacks.

QUESTION 92: Does OHS still have a presence at Nebraska Avenue?

RESPONSE: No.

QUESTION 93: Does the Office of Administration provide any support to agencies at Nebraska Avenue? If so, please describe the specific types of support provided. Is this support on a reimbursable basis?

RESPONSE: Since the transfer of the Nebraska Avenue facility to the Department of Homeland Security (DHS) on January 1, 2003, OA has not provided any support to entities at the Nebraska Avenue Complex (NAC). Pursuant to a Determination by the OMB Director, funds in the amount of $3,746,000 were transferred from the OHS Emergency Fund within OA to the Department of Homeland Security in March 2003 to support NAC activities.

REV_00170736

QUESTION 94: How many personnel and detailees now work for OHS?

RESPONSE: The Homeland Security Council currently consists of 66 staff positions which can be filled by either Direct Hire FTE or Other Government Employee (detailee and assignee) personnel. HSC is requesting resources to support up to 40 Direct Hire FTE and 26 OGE FTE on its staff for FY 2004. See table below for a comparison with fiscal years 2003 and 2002.

Office of Homeland Security / Homeland Security Council Personnel

	FY 2002 Actual	FY 2003 Estimate	FY 2004 Request
Direct Hire FTE	31	40	40
Other Government Employee (EOY headcount)	89	26	26
Total Personnel	120	66	66

QUESTION 95: What is the actual operational budget need for OHS in FY03?

RESPONSE: The Homeland Security Council budget requirement from the FY 2003 appropriation is estimated to be approximately $4.32 million. Please note that the FY 2003 estimate covers only costs incurred after the enactment of the FY 2003 appropriation on February 20, 2003. Unlike other EOP entities which operated under continuing resolutions between October 1, 2002 and February 20, 2003, the Office of Homeland Security was not permitted to utilize the CR funding mechanism but instead continued to charge FY 2003 expenses against the no-year emergency funding (provided in FY2002) until the FY 2003 appropriation was enacted. Therefore the FY 2003 estimate reflects only seven months of activity, whereas the FY 2004 Request needs to cover HSC expenses for the full 12 months of the next fiscal year.

QUESTION 96: For the record, please provide us a breakout by object class of the Office of Homeland Security's FY03 remaining budget.

RESPONSE: The breakout below reflects HSC's budget for the last seven months of FY 2003; from the enactment of the FY 2003 Appropriation on February 20, 2003, through September 30, 2003.

(Dollars in Thousands)

Object Class	FY 2003 est.
Personnel	$2,800
Travel	$60
Transportation of things	$24
Communications, utilities, and miscelaneous	$50
Printing and reproduction	$69
Other Services	$1,267
Equipment	$50
Total	$4,320

REV_00170737

QUESTION 97: Any likelihood that these estimates will be revised downward again?

RESPONSE: The FY 2003 estimate provided above reflects the best assessment of HSC requirements from the OHS FY 2003 appropriation, and actual obligations against this appropriation will likely be close to this current estimate.

QUESTION 98: I understand that the President named General Gordon as his new Homeland Security Adviser. Does he support the latest $2 million cut to his office's resources?

RESPONSE: The EOP budget proposal provides the necessary resources for HSC to advise and assist the President. The reference to a $2 million cut is incorrect. In fact, the resources of the Homeland Security Council have not been cut by $2 million. The FY 2003 appropriations for the Homeland Security Council included $2 million for decontamination of the Remote Delivery Site (RDS) as agreed to by the Congress and the Administration. Subsequent to the passage of the FY 2003 appropriations, that $2 million was allocated to decontamination of the RDS per agreement. This planned use of that appropriation is not a cut to HSC resources.

QUESTION 99: Have you validated the FY04 request recently to ensure it is an accurate figure?

RESPONSE: Yes, HSC reevaluated its FY 2004 requirements prior to submitting the final FY 2004 Request. Given the creation of the Department of Homeland Security, HSC's FY 2004 budget requirements are estimated at $8,331,000, as requested.

BUDGET QUESTIONS

After the FY03 enacted levels are adjusted to reflect the transfer of $9 million to the Office of Homeland Security, the Executive Office of the President's FY04 budget request reflects an 8% increase over FY03 levels. Your agency, the Office of Administration requests a 10% increase between FY03 and FY04.

When the budget was introduced, Mitch Daniels said that the overall growth of Federal programs would be pegged to the expected 4% growth in inflation. The Administration also said the President wanted to "match government's growth with the growth of American family income."

REV_00170738

QUESTION 100: When the rest of the government is forced to live with 4% growth, how can you justify an almost 10% increase in your office and an overall Executive Office of the President increase of 8%?

RESPONSE: The Office of Administration's 10% budget increase amounts to approximately $7 million. This increase is necessitated by additional costs stemming from the enhanced security activities in the post-September 11 environment:

- The Capital Investment Plan has a net increase of $3.8 million required for the relocation of the EOP data center to an offsite location. The offsite data center has been determined to be a critical project in any contingency plan, and the communications requirements for the data center will be significantly higher in the new facility.
- $2.5 million is needed for the new information technology contract, driven by the information technology service labor increases, the relocation of the data center as well as by the increased security concerns for EOP systems.
- $0.5 million is required for the EOP information assurance program.
- $0.2 million for physical security improvements to the White House complex in providing resources for security education and evacuation resources.

The 8% growth in the overall EOP budget amounts to approximately $24.6 million. Primary components of this increase are mission-specific needs proposed by the different EOP entities:

- $6.3 million in OA programs described in the prior paragraph ($3.8 million for the capital investment plan, $2.5 million for the information technology contract, $0.5 million for information assurance, and $0.2 million for physical security).
- $2.5 million in EOP-wide space rental increases to conform with GSA's market-based rental rates.
- $3.0 million for USTR's additional staff for intensified trade negotiations.
- $3.0 million in the Executive Residence's multiyear East and West Wing restoration projects.
- $4.3 million for OMB personnel needs.
- $1.5 million for OMB's budget system updates.
- $0.7 million for OMB's E-Government staff and the Office of Information Technology.
- $0.8 million for additional staff for ONDCP.
- $0.6 million in the NSC's funding for reimbursable detailees and President's Foreign Intelligence Advisory Board's request for additional staff.
- $0.5 million for OSTP's continuity of operations plan.

The White House Office's increase of 3.6% looks smaller because of a realignment of $1.85M in rent to the Office of Administration's account. Without the realignment, the White House Office's increase would be around 6.6%.

REV_00170739

QUESTION 101: What is the justification for this realignment?

RESPONSE: The realignment of $1.85M in rent was made to the WHO from the Office of Administration. Without this and other realignments made as part of the FY 2004 WHO budget request, the WHO's increase would have only been 1.7 percent.

QUESTION 102: How could the White House have been paying the bill for space that wasn't theirs?

RESPONSE: The WHO has not been paying rent on the 1800 G Street office spaces that this realignment involves. These office spaces were necessitated by the movement of certain White House staff offices following the events of September 11. In FY 2003, funds for these spaces were budgeted by the Office of Administration and are being paid for as part of a pilot program authorized by law.

QUESTION 103: Which EOP agencies occupied this space on which the White House Office has been paying rent?

RESPONSE: As indicated in the previous answers, White House staff have been occupying this space. Rent is being paid by the Office of Administration as part of the pilot program authorized by law.

QUESTION 104: Are these costs that had historically been paid by the White House Office?

RESPONSE: No. The 1800 G Street Office spaces were not occupied by EOP staff until after the events of 9-11.

QUESTION 105: If so, why make the change this year?

RESPONSE: The realignment of these costs under the WHO is done to reflect the costs under the office whose staff occupies them.

TRAVEL

The White House Office's request includes a decrease of $400,000 in Presidential Travel.

QUESTION 106: Was the FY03 estimate too high?

REV_00170740

RESPONSE: As part of the FY 2003 WHO budget submission, $600,000 was requested to support the travel requirements of the new USA Freedom Corps Office. Actual experience subsequently determined this amount to be in excess of need. As a result, the FY 2003 WHO travel line was reduced $329,647 by the statutory recission, and the FY 2004 WHO budget submission requested $400,000 less in the travel line than the original FY 2003 estimate.

QUESTION 107: If so, how do you intend to use the surplus funds?

RESPONSE: The $400,000 reduction to the FY 2004 WHO budget request for travel requirements does not result in surplus funds. It instead results in an overall reduction to the FY 2004 WHO budget estimate.

QUESTION 108: Are you planning less travel in FY04 or will more of the travel just be paid for by political entities?

RESPONSE: Except as noted above, the amount of official travel conducted by the White House staff is expected to remain consistent with the FY 2003 estimate.

QUESTION 109: Please provide a list of all White House Office, Office of Homeland Security and Office of Vice President official staff travel for FY02 and FY03 (to date). Include a brief description of the official purpose of the trip. For FY04 estimates, provide estimated number of trips and trip purpose.

RESPONSE: The following tables provide the FY 2002 and FY 2003 (to date) staff travel as reflected in the accounting system for the White House Office, the Office of Homeland Security, and the Office of the Vice President. FY 2004 estimates are not available at this time.

White House Office FY 2002 Staff Travel		
PURPOSE	**DESTINATION**	**DATE**
Speaking Engagement	Atlantic City, NJ	10/15/01
Meetings	Los Angeles, CA	10/17/01
Meetings	Reykjavik, Iceland	10/20/01
Speaking Engagement	Austin, TX	10/26/01
Speaking Engagement	Oakland, CA	10/28/01
Accompany a Cabinet Head	Boston, MA	10/31/01

REV_00170741

Meetings	Washington D.C. Metro	10/31/01
Speaking Engagement	Silver Spring, MD	11/01/01
Meetings	Los Angeles, CA	11/02/01
Speaking Engagement	Atlanta, GA	11/09/01
Meetings	Los Angeles, CA	11/10/01
Meetings	New York, NY	11/10/01
Meetings	Washington D.C. Metro	11/14/01
Meetings	Salt Lake City, UT	11/27/01
Meetings	Houston, TX / Sacramento, CA / Santa Fe, NM	11/28/01
Meetings	Virginia Beach, VA	12/04/01
Meetings	Atlanta, GA	12/05/01
Meetings	Philadelphia, PA	12/05/01
Meetings	Washington D.C. Metro	12/05/01
Speaking Engagement	Atlanta, GA	12/06/01
Speaking Engagement	Ft. Wayne, IN	12/06/01
Meetings	Washington D.C. Metro	12/12/01
Meetings	Washington D.C. Metro	12/16/01
Meetings	Sacramento, CA	12/18/01
Meetings	Washington D.C. Metro	12/24/01
Speaking Engagement	Austin, TX	01/03/02
Speaking Engagement	Austin, TX	01/03/02
Meetings	Washington D.C. Metro	01/07/02
Speaking Engagement	Las Vegas, NV	01/10/02
Meetings	Washington D.C. Metro	01/14/02
Speaking Engagement	Sacramento, CA	01/17/02
Speaking Engagement	Dallas, TX	01/18/02
Meetings	New York, NY	01/25/02
Meetings	Salt Lake City, UT	01/28/02
Meetings	Washington D.C. Metro	01/28/02
Speaking Engagement	Chicago, IL	01/30/02
Meetings	Washington D.C. Metro	01/30/02
Meetings	Washington D.C. Metro	02/04/02
Meetings	Albuquerque, NM	02/07/02

REV_00170742

Meetings	New Haven, CT	02/07/02
Meetings	Washington D.C. Metro	02/11/02
Speaking Engagement	Denver, CO	02/12/02
Meetings	Washington D.C. Metro	02/13/02
Speaking Engagement	Naples, FL	02/14/02
Speaking Engagement	Charlottesville, VA	02/16/02
Speaking Engagement	Dallas, TX	02/18/02
Meetings	Kansas City, KS	02/18/02
Accompany a USG Delegation	Rome, ITA	02/18/02
Meetings	Key West, FL	02/21/02
Meetings	Las Vegas, NV	02/21/02
Meetings	Minneapolis, MN	02/27/02
Meetings	Washington D.C. Metro	02/27/02
Speaking Engagement	Los Angeles, CA	02/28/02
Speaking Engagement	Hartford, CT	03/01/02
Speaking Engagement	Jackson, MS	03/01/02
Meetings	Washington D.C. Metro	03/04/02
Meetings	Washington D.C. Metro	03/06/02
Speaking Engagement	Palm Springs, CA	03/07/02
Meetings	Washington D.C. Metro	03/08/02
Meetings	College Station, TX	03/09/02
Meetings	Washington D.C. Metro	03/11/02
Meetings	Dallas, TX	03/15/02
Meetings	Washington D.C.	03/15/02
Meetings	Cedar Rapids, IA	03/24/02
Meetings	Washington D.C. Metro	03/25/02
Meetings	Philadelphia, PA	03/27/02
Meetings	Washington D.C. Metro	03/27/02
Meetings	Boston, MA	04/05/02
Speaking Engagement	Orlando, FL / Tampa, FL	04/06/02
Meetings	Knoxville, TN	04/07/02
Meetings	Denver. CO / Las Vegas, NV	04/11/02
Meetings	Boston, MA	04/15/02
Meetings	New York, NY	04/15/02
Meetings	Washington D.C. Metro	04/15/02

REV_00170743

Speaking Engagement	Oakland, CA / Seattle, WA	04/16/02
Meetings	Washington D.C. Metro	04/17/02
Meetings	Washington D.C. Metro	04/17/02
Meetings	Washington D.C. Metro	04/23/02
Speaking Engagement	Jackson, MS	04/26/02
Meetings	Philadelphia, PA	04/26/02
Meetings	San Marcos, TX	04/27/02
Meetings	San Jose, CA	04/29/02
Meetings	Washington D.C. Metro	04/29/02
Meetings	Tampa, FL	04/30/02
Speaking Engagement	Miami, FL	05/07/02
Meetings	Washington D.C. Metro	05/08/02
Speaking Engagement	College Station, TX	05/10/02
Meetings	Houston, TX	05/10/02
Speaking Engagement	New Orleans, LA	05/13/02
Meetings	Washington D.C. Metro	05/13/02
Meetings	Washington D.C. Metro	05/15/02
Meetings	New York, NY / Phoenix, AZ	05/21/02
Speaking Engagement	Atlanta, GA	05/23/02
Speaking Engagement	Birmingham, AL	05/25/02
Meetings	Washington D.C. Metro	05/27/02
Speaking Engagement	Pittsburgh, PA	05/29/02
Meetings	Philadelphia, PA	05/30/02
Speaking Engagement	Albuquerque, NM / Las Vegas, NV / Los Angeles, CA	05/31/02
Invitational	Washington D.C.	05/31/02
Meetings	New York, NY	06/02/02
Meetings	Washington D.C. Metro	06/03/02
Meetings	Washington D.C. Metro	06/03/02
Meetings	El Paso, TX	06/07/02
Speaking Engagement	Ft. Meyers, FL	06/07/02
Speaking Engagement	Salt Lake City, UT	06/10/02
Meetings	Los Angeles, CA / Modesto, CA	06/12/02
Meetings	Washington D.C. Metro	06/12/02

REV_00170744

Meetings	New Orleans, LA	06/13/02
Meetings	Minneapolis, MN	06/14/02
Meetings	Madison. WI	06/17/02
Speaking Engagement	Pittsburgh, PA	06/19/02
Speaking Engagement	Brooklyn, NY	06/21/02
Speaking Engagement	Charlotte, NC	06/21/02
Meetings	Phoenix, AZ / Scottsdale, AZ	06/21/02
Meetings	Providence, RI	06/22/02
Meetings	Washington D.C. Metro	06/24/02
Meetings	San Francisco, CA / Seattle, WA	06/25/02
Meetings	Washington D.C. Metro	06/26/02
Speaking Engagement	Albuquerque, NM	06/27/02
Meetings	Washington D.C. Metro	07/11/02
Meetings	New Orleans, LA	07/12/02
Meetings	Boise, ID	07/14/02
Meetings	New Orleans, LA	07/14/02
Meetings	Washington D.C. Metro	07/16/02
Meetings	London, GBR / France	07/18/02
Speaking Engagement	Los Angeles, CA	07/20/02
Speaking Engagement	Cleveland, OH / Minneapolis, MN	07/23/02
Meetings	Denver, CO	07/23/02
Meetings	Denver, CO / Orlando, FL	07/23/02
Meetings	New York, NY	07/24/02
Meetings	Washington D.C. Metro	07/24/02
Meetings	Atlanta, GA	07/28/02
Meetings	Mexico City, Mexico	07/28/02
Meetings	Washington D.C. Metro	07/29/02
Meetings	Boston, MA	07/30/02
Meetings	Ausitn, TX	08/01/02
Meetings	Austin, TX	08/01/02
Speaking Engagement	Hershey, PA	08/03/02
Meetings	Washington D.C. Metro	08/05/02
Meetings	Ft Lauderdale, FL	08/06/02
Meetings	Orlando, FL	08/06/02

REV_00170745

Conference Attendance	New Orleans, LA	08/13/02
Speaking Engagement	Charleston, WV	08/15/02
Meetings	Monterey, CA	08/19/02
Meetings	Hanoi, Vietnam / Honolulu, HI	08/20/02
Speaking Engagement	Ft. Lauderdale, FL	08/25/02
Speaking Engagement	Memphis, TN	08/28/02
Speaking Engagement	Philadelphia, PA	08/28/02
Meetings	Minneapolis, MN	09/02/02
Speaking Engagement	New York, NY / Kansas City, KS	09/03/02
Speaking Engagement	Naples, FL / Orlando, FL	09/03/02
Meetings	Washington D.C. Metro	09/04/02
Speaking Engagement	New York, NY	09/05/02
Meetings	Washington D.C. Metro	09/11/02
Meetings	Austin, TX	09/13/02
Meetings	Los Angeles, CA	09/13/02
Meetings	Washington D.C. Metro	09/16/02
Speaking Engagement	Baltimore, MD	09/19/02
Speaking Engagement	Cedar Rapids, IA	09/19/02
Speaking Engagement	Chicago, IL	09/20/02
Speaking Engagement	Wintergreen, VA	09/20/02
Speaking Engagement	Columbus, OH	09/23/02
Meetings	Milwaukee, WI	09/23/02
Speaking Engagement	Orange County, CA	09/25/02
Meetings	Washington D.C. Metro	09/25/02
Speaking Engagement	Raleigh, NC	09/26/02
Speaking Engagement	Pittsburgh, PA	09/27/02
Speaking Engagement	Boston, MA	09/28/02
Speaking Engagement	New York, NY	09/30/02

REV_00170746

White House Office FY 2003 Staff Travel		
PURPOSE	**DESTINATION**	**DATE**
Meeting	New York, NY	10/01/02
Meeting	Chicago, IL	10/02/02
Speaking Engagement	Columbus, OH	10/02/02
Speaking Engagement	Syracuse, NY	10/04/02
Speaking Engagement	Atlanta, GA	10/05/02
Speaking Engagement	Orlando, FL	10/07/02
Meetings	Washington D.C. Metro	10/07/02
Meeting	Atlanta, GA	10/08/02
Speaking Engagement	Portsmouth, NH	10/08/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Atlanta, GA	10/09/02
Meeting	Hague	10/09/02
Speaking Engagement	Sioux Falls Naval, SD	10/09/02
Meeting	Washington D.C.	10/09/02
Speaking Engagement	Ft. Lauderdale, FL	10/10/02
Speaking Engagement	Ft. Lauderdale, FL	10/10/02
Meeting	New York, NY	10/10/02
Meeting	Naples, FL	10/10/02
Speaking Engagement	Milwaukee, WI	10/13/02
Meetings	Washington D.C. Metro	10/16/02
Speaking Engagement	Indianapolis, IN	10/17/02
Meeting	New York, NY	10/17/02
Meeting	New York, NY	10/17/02
Meeting	Philadelphia, PA	10/17/02
Speaking Engagement	Atlanta, GA	10/19/02
Meeting	Des Moines, IA	10/20/02
Speaking Engagement	San Antonio, TX	10/20/02
Meetings	Washington D.C. Metro	10/21/02
Meeting	Chicago, IL	10/23/02
Meeting	Washington D.C. Metro	10/23/02

REV_00170747

Meeting	Charlotte, NC	10/24/02
Meeting	Los Angeles, CA	10/24/02
Speaking Engagement	Los Angeles, CA	10/24/02
Speaking Engagement	St. Louis, MO	10/24/02
Meeting	Charlotte, NC	10/28/02
Meeting	Cleveland, OH	10/28/02
Meeting	Providence, RI	10/28/02
Meetings	Washington D.C. Metro	10/28/02
Speaking Engagement	Pittsburgh, PA	10/29/02
Meeting	Miami, FL	11/05/02
Speaking Engagement	Los Angeles, CA	11/07/02
Speaking Engagement	Providence, RI	11/07/02
Meeting	Providence, RI	11/07/02
Meeting	West Point, NY	11/07/02
Meeting	New York, NY	11/08/02
Speaking Engagement	San Diego, CA	11/10/02
Speaking Engagement	Reno, NV	11/11/02
Meetings	Washington D.C. Metro	11/12/02
Meeting	Charlotte, NC	11/13/02
Speaking Engagement	Lansing, MI	11/13/02
Speaking Engagement	Manchester, NH	11/13/02
Meetings	Washington D.C. Metro	11/13/02
Speaking Engagement	Portland, OR	11/14/02
Meeting	Austin, TX	11/16/02
Meeting	Austin, TX	11/16/02
Speaking Engagement	Albany, NY	11/18/02
Speaking Engagement	Portland, OR	11/18/02
Speaking Engagement	Newark, NJ	11/19/02
Speaking Engagement	Concord, NH	11/20/02
Meeting	New York, NY	11/20/02
Speaking Engagement	Tallahassee, FL	11/20/02
Meeting	Los Angeles, CA	11/21/02
Meeting	Loudoun County, VA	11/21/02
Meeting	New York, NY	11/21/02
Speaking Engagement	West Palm Beach, FL	11/22/02
Speaking Engagement	Ft. Lauderdale, FL	11/24/02
Speaking Engagement	Springfield, MO	11/24/02
Speaking Engagement	New York, NY	11/25/02
Meeting	New York, NY	11/25/02

REV_00170748